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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—*Thursday, June 21, 1990*

(Legislative day of Monday, June 11, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we prepare to reverence our Father in Heaven, the Senate will be led in prayer by the Reverend Richard C. Halverson; the Senate chaplain. Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Righteousness exalteth a nation: but sin is a reproach to any people.—Proverbs 14:34.

Almighty God, perfect in holiness, truth, and justice, with simple and profound insight, Proverbs gives us the diagnosis of a declining culture. We are becoming a "no fault" society: no fault insurance, no fault divorce, no fault choice, no fault freedom. We are degenerating into a no fault democracy, a contradiction in terms. Without order, individual as well as corporate, we have anarchy, not democracy.

We demand freedom without restraint, rights without responsibility, choice without consequences, pleasure without pain. Forgive our hedonistic, narcissistic, valueless obsession dominated by lust, avarice, and greed. We demand the right to sin but deny the right to promote righteousness. We demand the right to discredit religion but deny the right to propagate it. In our consumerism culture, we are driven by acquisition and accumulation while poverty and homelessness abound.

Forgive us, Lord, for forgetting that "Righteousness exalteth a nation: but sin is a reproach to any people." In the name of Jesus, the Righteous One. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the standing order, the majority leader is to be recognized, to be followed by the Republican leader, each for 10 minutes.

Without objection, the time of the two leaders will be reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma [Mr. BOREN] is to be recognized to speak for not to exceed 15 minutes. Without prejudice to the order recognizing the Senator from Oklahoma, the Senate will now proceed to the consideration of morning business, the time for which under the order will extend until the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Who seeks recognition?

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, I ask unanimous consent that after Senator DURENBERGER speaks, I may be permitted to speak in morning business for 5 minutes.

The PRESIDENT pro tempore. The Senator has that right.

The Senator from Minnesota [Mr. DURENBERGER] is recognized for not to exceed 5 minutes.

THE FLAG PROTECTION AMENDMENT

Mr. DURENBERGER. Mr. President, I rise this morning to indicate my intention to vote against Senate Joint Resolution 332, the constitutional amendment on the American flag, when that matter is before the Senate. I will have more to say at that time, but I wanted to briefly state my reasons today.

The argument over this amendment has and will continue to be fraught with emotion and conflict. Like any red-blooded American, I cannot watch the film clips of those who burn our flag without anger welling up inside me. The individuals who sparked this controversy, who have already received mountains of attention more than they deserve, engaged in a cynical and hateful act against America. But in an era of shock journalism and mass merchandized politics, the acts of an infinitesimal minority are magnified hundreds fold and pushed onto the American consciousness. Our challenge here in the Congress is to react in the proper way.

This boils down to a choice between fundamentals. Justice Frankfurter wrote in 1940:

> The Flag is the symbol of our national unity, transcending differences, however large, within the framework of the Constitution.

I believe that sets the issue very well. The flag symbolizes our unity. The Constitution is the substance of that unity. I am afraid the proponents of the amendment are elevating the symbol above substance, in a way that may end up diminishing both.

History will no doubt judge that the first amendment to the Constitution is the single greatest contribution to world civilization that we have made as a people. It enshrines the individual, his words, his beliefs and associations, in a place above government, beyond control. That is the powerful idea that draws millions from around the world to our shores; that is what, in the past few years, has inspired millions to risk everything to bring down repressive regimes.

Free speech carries with it costs to the society which embraces it. First and foremost, there is the eventuality that some will exercise that right in repulsive, obnoxious ways. Free speech protects "the thought we hate" as Justice Holmes wrote. But free speech also guarantees that there will be an answer, and each patriotic American has a duty to respond. Offensive ideas do not go away when we try to silence them or put them in jail; they go away when they are either ignored or drowned out by better ideas. That is the essence of our marketplace of ideas in America.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

There are two somewhat related international events which shed light on our decision here. The first is a statute recently passed in the Soviet Union, making it illegal to criticize the Soviet Presidency. In the People's Republic of China, two men were recently sentenced to long jail terms for splashing black paint across a large picture of Mao. And word even comes to us this week that the Chinese Parliament is passing its own flag protection legislation. Those two societies, which are still unfree, are fighting to protect national symbols against dissent, but we hope and we know that those voices will not be silenced.

Mr. President, I think there are three key questions we have to ask ourselves as we consider this amendment.

We have only amended our Constitution 16 times in the 199 years since the Bill of Rights was added. Never before have we attempted to cut back on the liberties provided in the first amendment. Is this the time to start?

James Madison established the standard that the Constitution deals only with "great and extraordinary" matters. Can we really believe a few malcontents are so powerful, or that the rest of us are so weak, that we face a threat only the Constitution can fix?

Eleven years ago, I swore an oath to protect and defend the Constitution of the United States. To me that means I am to guard its integrity and its cohesion, even in instances where it is politically unpopular to do so. Does this amendment enhance the Constitution and is it worthy to be inscribed in our permanent national charter?

I conclude that the answer to all these questions is "no."

When the Supreme Court handed down its unpopular school prayer decision in 1962, President Kennedy said this:

> The Supreme Court has made its judgement. A good many people will disagree with it; others will agree * * *. We have in this case an easy remedy, and that is to pray ourselves. And I think it would be a welcome reminder to every American family that we can pray a good deal more at home, we can attend our churches with a good deal more fidelity and we can make the true meaning of prayer more important to our children.

We have the same remedy in this situation: that we show the flag burners what America stands for by honoring the flag far more than we already do in our daily lives, and dedicate ourselves with greater energy to our patriotic duties.

I close, Mr. President, with the story of an American POW James Warner. As part of his interrogation by the Vietnamese, his captors tried to break his spirit by showing him a photograph of antiwar protestors burning the American flag. "There. People in your own country protest against your cause. That proves you are wrong," the officer said. Warner's answer says it all. He replied, "No, that proves I am right. In my country we are not afraid of freedom, even if it means people disagree with us."

Such is our flag that the very freedom it stands for defeats those who seek to destroy it.

Mr. SPECTER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Pennsylvania, Mr. SPECTER, is recognized for not to exceed 5 minutes.

FUNDING THE V-22 OSPREY

Mr. SPECTER. Mr. President, the controversy over funding of the V-22 Osprey illustrates some serious problems regarding the availability of Department of Defense information needed by Congress to make informed decisions on the authorization and appropriations for specific programs. Consider the following:

First, the facts, when they are finally extracted, show clearly that the V-22 is a cost-effective aircraft;

Second, the Congress has to spend inordinate time and effort just to extract the facts, which are within the control of the Department of Defense; and

Third, there is probable cause to conclude that undue pressure has been exerted on the Institute for Defense Analysis to produce a so-called independent study to justify the preconception of the Department of Defense against the V-22.

While all of those factors are important, the question regarding undue influence on an independent analysis is the most important, and the most troubling.

In the course of questioning many witnesses, including the Secretary of Defense, in hearings before the Defense Appropriations Subcommittee, this Senator has sought to find the facts on the V-22 Osprey. In a series of letters, appended to the end of this statement, this Senator has sought access to the relevant reports on the V-22 Osprey. At the conclusion of the testimony by Secretary of Defense Cheney last Tuesday on June 12, 1990, this Senator sought prompt access to the findings of the Institute for Defense Analysis in order to have time to do the potentially complex followup necessary for the Defense Appropriations Subcommittee markup.

From sources within the Institute for Defense Analysis, this Senator has confirmed previous reports and rumors that the V-22 Osprey is more cost effective than any available alternatives, based on the following facts:

First, for the Marines, the V-22 is preferable to the UH60 or the CH53 at approximately the same cost. More precisely, production of the V-22 can be accomplished within the 5-year (1990-94) funding profile of approximately $3.4 billion designated to meet the Marine Corps medium life requirement.

The V-22 flies considerably faster at approximately 250-300 knots compared to the UH60 and CH53, which can travel only at 130-160 knots.

The V-22 is superior to the CH53 in vehicle carrying capability and is similarly superior to the UH60 in carrying Marines on amphibious operations. Therefore, for the critical first 90 minutes of an amphibious assault, the V-22 can carry approximately twice the combat firepower, troops, and equipment than the proposed alternative. The V-22 is also considerably more survivable than the CH53 and UH60 and also requires fewer personnel to operate.

Second, for the Air Force, the V-22 has significant advantages for special operations and drug interdiction over the C-130 and existing helicopters. For many special operations missions, such as contingencies in Central America, the V-22 can self-deploy. The CH53's and UH60's would require dismantling and transport aboard C-5's in order to reach the combat area. Then, of course, the C-5's would have to find available landing areas. With regard to drug interdiction, the V-22 can perform the role of three separate aircraft: surveillance, pursuit, and apprehension.

Third, while the V-22 might have had similar advantages for the Navy and the Army, neither of those branches pursued acquisition of the V-22, although initially the V-22 was envisioned to fullfill joint services requirements with the Army as the lead service. It is also important to note that in 1984, the Department of Defense identified some 26 additional joint services missions for the aircraft. The Institute for Defense Analysis did not undertake a detailed analysis of the V-22 for the Army which had abandoned consideration of the purchase of 200 V22's and chose instead to modernize the CH47 Chinook. The Navy chose to retain its S3 fleet for antisubmarine activities instead of considering the V-22.

The findings of the Institute for Defense Analysis demonstrate the value of proceeding with procurement of the V-22 Osprey.

Efforts to secure documentation of these conclusions have, as yet, been unsuccessful. When efforts were made to obtain the report of the Institute for Defense Analysis, allegedly completed on April 16, 1990, Dr. David C. Chu, Assistant DOD Secretary for Program Analysis and Evaluation, advised that the Institute for Defense Analysis on April 16 presented only "preliminary results" including charts and other unspecified data. When pressed, Dr. Chu advised that it was more than preliminary and actually in

the nature of "illustrative findings." The consultation on April 16 was, according to Dr. Chu, in the nature of DOD oversight to be sure that the institute had the full range of assumptions. That session, for example, took into account a report by a company which had a competing product and, the Marine Corps, a proponent of the V-22, was represented for an expression of Marine Corps views.

When asked why congressional representatives were not invited to provide inputs on the "full range of assumptions," Dr. Chu answered that the event was limited to executive branch participants.

When this Senator was told that the IDA report would be available on June 22 and asked for a copy on that date, Dr. Chu reported that the IDA report would first be available only to the Secretary of Defense so that he could make up his mind on the matter before access was granted to the Congress.

I am very concerned about this process. There are obviously many aspects of the V-22 Osprey to be considered and all interested parties ought to have access to the relevant data at the earliest possible time in order to analyze it and undertake additional study were indicated.

It is not appropriate, as I see it, for the Defense Appropriation Subcommittee, or a member of that committee, to be denied access to key findings which are available as early as April 16 notwithstanding repeated requests for that information.

It is, of course, understandable that representatives of the Institute for Defense Analysis are reluctant to discuss the details of the institute's findings in advance of authorization or at least acquiescence by the Department of Defense. Without a congressional presence at the April 16 session, it is impossible to gauge the pressures however subtle on the institute. It is further impossible to monitor the collateral contacts between DOD and IDA which follow such a session.

Congress is entitled to an on-going partnership position in the process. On this state of the record, there is probable cause to conclude that DOD is trying to cook the facts and/or analysis to support DOD's predetermined position.

It may be that Congress will be compelled to spend more time investigating DOD and IDA contacts and procedures than the V-22 itself.

I make this statement now because I consider it important to get the facts on the V-22 Osprey from the Institute for Defense Analysis at the earliest possible moment; and thereafter to take a hard look at the DOD procedures to see if they have the requisite integrity to produce an accurate, impartial analysis with appropriate congressional access.

Mr. President, I ask unanimous consent that a sequence of correspondence, statements, and extracts of hearing be printed in the RECORD which show the ongoing and detailed effort made by this Senator and others to find the facts on the V-22 Osprey, unfortunately, at this point in time without avail.

I thank the Chair. I yield floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX TO V-22 FLOOR STATEMENT

1. Letter dated October 26, 1989, to Secretary Cheney from Senators Specter and 25 other Senators regarding COEA on V-22 aircraft and other possible helicopter alternatives.

2. Letter dated November 13, 1989, to Secretary Cheney from Senator Specter regarding Defense Appropriations Conferee's actions with regard to V-22.

3. Letter dated April 20, 1990, to Secretary Cheney from Senator Specter on COEA preliminary results performed by IDA on V-22 and proposed alternative.

5. Letter dated May 25, 1990, to Secretary Cheney from Senator Specter and 17 other Senators on COEA study.

6. Testimony of General Al Gray before the House Armed Services Committee, February 20, 1990.

7. Testimony of Deputy Secretary of Defense Donald Atwood before the Subcommittee on Defense, Committee on Appropriation, February 20, 1990.

8. Testimony of General Al Gray, Commandant USMC, before Defense Subcommittee on Appropriations, April 5, 1990.

9. Testimony of Secretary Cheney before Defense Subcommittee, Committee on Appropriations, June 12, 1990.

10. Article in Inside the Pentagon dated January 12, 1990, entitled "Cheney to Ignore IDA Study on the Cost Effectiveness of the Navy's V-22."

11. Article in Navy Time dated March 5, 1990, entitled "Gray: V-22 substitute scheme 'ridiculous'."

12. Article in Aerospace Daily dated May 18, 1990, entitled "Cheney Won't Reinstate V-22, Even if IDA says it's Cost-Effective."

13. Fiscal year 1990 DOD Appropriations Conference Report.

14. Cost Comparison Trade.

U.S. SENATE,
Washington, DC, October 26, 1989.

Hon. RICHARD CHENEY,
Secretary of Defense,
Department of Defense,
Washington, DC.

DEAR MR. SECRETARY: We are aware that you have directed the Institute for Defense Analysis (IDA) to conduct a Cost and Operations Effectiveness Analysis (COEA) on the V-22 aircraft and other possible helicopter alternatives.

This analysis will have a significant impact on pending decisions before Congress to retain or cancel the V-22 Program. Given the importance of this decision to the structure and military capability of tomorrow's armed forces, not to mention the extensive commercial applications, we are concerned that it be conducted in as fair and thorough a manner as possible.

Accordingly, we believe it is important that the analysis address several key factors:

(1) The mission analysis of the V-22 should be broader in scope than the Marine Corps' amphibious ship-to-shore movement. At a minimum, long range special operations, over the horizon landings, follow-on operations, and combat search and rescue operations should be examined.

(2) Survivability and the cost of attrition aircraft should be considered.

(3) Collateral costs such as increased manpower requirements, increased pilot requirements, and the impact on both strategic and amphibious lift should be addressed.

(4) The date which the V-22 or an alternative can be fielded and ready for deployment should be considered. There are increased risks and cost penalties to be paid the longer this requirement is not met.

We know you agree that this COEA is critical to the V-22 Program and that it should be a comprehensive and accurate analysis.

Thank you for your consideration of this important matter.

Sincerely,

Arlen Specter, John Heinz, Slade Gorton, Frank R. Lautenberg, John McCain, Dan Coats, Richard G. Lugar, J. Bennett Johnston, Claiborne Pell, Brock Adams, Joseph R. Biden, Jr., John Glenn, Steve Symms, Lloyd Bentsen, Alfonse D'Amato, Pete Wilson, Carl Levin, Robert W. Kasten, Jr., Tom Harkin, Edward M. Kennedy, Wendell H. Ford, James A. McClure, David L. Boren, James, M. Jeffords, Bill Bradley, John Breaux, John H. Chafee.

U.S. SENATE,
Washington, DC, November 13, 1989.

Hon. DICK CHENEY,
Secretary of Defense,
The Pentagon,
Washington, DC.

DEAR MR. SECRETARY: I am writing to apprise you of my interpretation of the spirit of the Defense Appropriations Conferees' actions with regard to the V-22.

As I'm sure you are aware, the Defense Appropriations Conference recommendations on the V-22 paralleled the authorization levels. Nevertheless, there was much discussion about whether the authorized levels were sufficient to sustain this program pending the outcome of the Cost and Operations Effectiveness Analysis (COEA) being performed by the Institute for Defense Analysis. In a joint letter sent on October 26, 1989, 26 senators and I expressed our concern about the scope of this study.

I take this opportunity to reiterate my concern that this study be sufficiently comprehensive to consider all the alternative missions that could be performed by the V-22, and not just the opposed amphibious assault mission.

It is my understanding that with the obligation of the remainder of the FY 1989 funds and the provision of FY 1990 R&D money, the V-22 program is situated such that if the COEA results indicate that the program is cost-effective, procurement could be initiated in FY 1991. The Conference Report language reflects the significance of the COEA study and the importance of broadening its scope. Enclosed is a copy of this language for your convenience.

Therefore, I request that you accord your full and personal attention to ensuring that the COEA study include the four factors mentioned in the Conference Report.

Thank you for your attention to this matter.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, April 20, 1990.

Hon. DICK CHENEY,
Secretary of Defense, Department of Defense, Washington, DC.

DEAR DICK: I am advised that preliminary results of the Cost and Operations Effectiveness Analysis (COEA) performed by the Institute for Defense Analysis on the V-22 and the proposed alternative have been provided in a briefing to the study's steering committee.

Given the extreme importance of these results to decisions pending before the Defense Appropriations Subcommittee regarding how the Marine Corps can most effectively meet various mission requirements, I request that you arrange for a briefing for Senators on the study's results as soon as possible. We are interested in receiving the full briefing as it was presented to the steering group.

Thank you for your consideration of this request.

My best.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, May 25, 1990.

Hon. DICK CHENEY,
Secretary, Department of Defense, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: Since findings from the Cost and Operational Effectiveness Analysis (COEA) study on the V-22 and alternative aircraft continue to be released to the press, we the undersigned believe it would be helpful if Dr. Dean Simmons, the study's director, could conduct a briefing for Members of Congress on the study's results. We are also interested in receiving copies of the study as soon as they are available.

Further, we are concerned by the remarks made by Mr. Pete Williams, a DoD spokesman, regarding the V-22 program at a May 17, 1990 Pentagon press briefing. Mr. Williams stated that the expected conclusion of the Institute for Defense Analysis study on the V-22 and alternative aircraft—that the V-22 is cheaper to own in the long run than an alternative helicopter mix—is "an old argument" and that these results ". . . would not be grounds for us to change our mind." He further stated that he was unaware of any plans for the DoD to reconsider the decision to terminate the V-22 program.

Because the intent of this study was to determine the most cost effective solution to addressing Marine Corps medium lift aircraft requirements, the results of this study are of critical importance to the future of this aircraft. As such, they should be viewed in an objective manner and considered in any future review of the V-22 program.

Your prompt attention to this matter would be appreciated.

Sincerely,

Arlen Specter, Lloyd Bentsen, John Heinz, Richard G. Lugar, John Glenn, Slade Gorton, Dan Coats, Jim Jeffords, Phil Gramm, Pete Wilson, Jake Garn, John Breaux, Wendell H. Ford, Alfonse M. D'Amato, Claiborne Pell, Conrad Burns, Orrin G. Hatch, David L. Boren.

GEN. AL GRAY, COMMANDANT, U.S. MARINE CORPS, TESTIMONY BEFORE HOUSE ARMED SERVICES COMMITTEE, FEBRUARY 20, 1990

General GRAY. With all due respect, Mr. Congressman, and for my colleagues in the Pentagon, I consider this whole dialog on dual-sling options totally ridiculous. It has nothing to do with coming from the sea in a wide variety of situations and scenarios. It has nothing to do with war-fighting. It is only indirectly related to sustainability when you are already established ashore and it really, I think, brings great discredit upon an otherwise pretty good military strategic thought process on both sides of the river.

TESTIMONY OF DEPUTY SECRETARY OF DEFENSE, DONALD ATWOOD, SUBCOMMITTEE ON DEFENSE, FEBRUARY 20, 1990

Senator SPECTER. Thank you very much, Mr. Chairman.

Mr. Secretary, I would like to pick up on a theme developed by the Chairman with repect to the Department's response to the congressional direction, the congressional bill language as it relates specifically to the V-22 Osprey. In both the 1990 Defense Authorization and Appropriations bills, the Congress in effect put the future of the V-22 into the hands of a study to be conducted by the Institute for Defense Analysis, and that directed the roles and missions of the V-22 including special operations forces and counternarcotics applications as well as a cost benefit comparison of a V-22 versus the proposed use of the CH-53 and CH-60 helicopters.

The Department has subsequently terminated and deobligated all prior year advance procurement funds and has steadfastly maintained the position that the V-22 is dead. Before coming to the substantive merits of the V-22, I would like to ask you how you justified that position on the part of the executive branch in the face of specific congressional direction on legislation report language which is signed by the President?

Mr. ATWOOD. Let me alter just a bit, if I may, your premise. One is, I do not think that we have said, or least I have not said, that the V-22 is dead. The V-22 continues. The flight test program is continuing, and the study and analysis done by the Institute for the Defense Analysis is ongoing. The only steps that we have taken are to eliminate the procurement of long lead production items.

To me, that is a prudent step to take to ensure that we preserve the money and do not go ahead and spend that on items. The money is held in reserve, deferred. It is not recommended that we spend it on anything else in case the analysis from the Institute for Defense Analysis and the flight test and Congress and ourselves determine that that program should go forward. So we have not killed the program as such.

Senator SPECTER. You have three "ands" in there, Mr. Secretary, the Institute study, the Congress and the Department.

The report says so far as the Congress is concerned, and the President has signed the legislation, that the V-22 ought to be maintained if the study by the Institute for Defense Analysis supports it. Now are you saying that the Department of Defense will abide by the results of the Institute of Defense Analysis?

Mr. ATWOOD. I am saying that the Institute for Defense Analysis provides one input. Also, the amount of money we have available—I do not want anyone to think for a moment that we have recommended termination of the V-22 because it was a bad program or because there was no need for it. It was recommended for termination because of the availability of resources. When you make available a lot fewer resources, which is the situation we faced a year ago and the situation even more than we are facing today, then of course you should drop off those which are the least critical.

Senator SPECTER. Well, Mr. Secretary, the decision on resources is a relative thing, and the Congress has a view. We have made our decision. Again, I come back to the report on the bill being signed by the President. We are really talking about two things. You have joined the merits of the V-22 program in your response.

I would emphasize what Senator Inouye, the Chairman, has emphasized, that if there is a congressional direction, it seems to me even beyond the matter of comity and working together that it becomes the law. I know we can get into a lot of discussions. We talk about the deferrals, and you have your legal opinion, and GAO comes out with one conclusion. We are not going to go to court anywhere. There are too many lawyers around here to do that.

There is a lot of support. Senator Stevens, I think, put it most bluntly when he said last year he would not vote for a bill that excluded the V-22. I am perhaps slightly encouraged by what you said, that the V-22 is still alive, if not alive and well.

Senator INOUYE. Would the Senator yield?

Senator SPECTER. I would.

Senator INOUYE. At this point I am reminded that many, many years ago Andrew Jackson is reported to have said the Congress passed the law, let the Congress enforce it. I hope that is not the attitude of the Department, because if we are forced to enforce the law no one wins.

Mr. ATWOOD. I would hope that that is not the attitude of the Department of Defense, and I can assure you it is not our attitude. I believe that we followed what Congress asked us to do, and that was to fund the continuing R&D and flight test program on the V-22 and that, in fact, we have and are conducting this study with IDA, the Institute for Defense Analysis, and those were the two actions that were passed into law, if I am not mistaken. We are not asking that we do anything different from that.

Senator SPECTER. I have one other subject I would like to pursue briefly. Many of my colleagues are waiting, so I will conclude my comments on the V-22 Osprey at this point, Mr. Secretary, by observing the congressional direction, I would say, more than requests a direction, the very strong support that exists in the Congress for the V-22.

We understand the allocation of funds is a matter of priorities and judgment, but I would just like to emphasize what I have sensed in the Congress not only in this committee but on the floor of the Senate and in conference last year with the House.

Mr. Chairman, I would like to include in the record three very good articles about the Osprey since we have last convened for any hearings to be made a part of the record with the request that you or your staff review them, Mr. Secretary: One from the Washington Post on October 19, 1989, "Let the Osprey Fly"; one from the Baltimore Sun on November 7, 1989, "Penny Pinchers Declare Open Season on the Osprey; and third, from the New York Times on January 28, 1990, "The Tilt Rotor, Wall Street to Capitol Hill in 45 minutes."

GEN. AL GRAY, COMMANDANT, USMC, TESTIMONY BEFORE DEFENSE SUBCOMMITTEE ON APPROPRIATIONS

Senator SPECTER. General Gray, I would like to direct this question to you concerning the V-22. You and I chatted about it for a moment or two before the formal hearing started.

With respect to the recent military action in Panama, I have seen the statistics on what our comparison is between the V-22, which could fly nonstop to Panama, accomplish within a few hours what existing mechanisms permit, loading helicopters onto the C-5, disassembling them, reassembling them, testing them, et cetera.

Let me ask the question in perhaps an unusual way, General Gray. I know the concerns about budget, and I know the difficulties with the V-22. I understand that the preliminaries of the study really show it to be very effective on a cost comparison, but I would like you to respond to this question. If you had to put the strongest case forward for the V-22 in terms of its long-range effectiveness, cost effectiveness, how would you characterize it?

General GRAY. I think what we really have to consider here is that the advance technology encompassed in the tilt rotor idea and as expressed in the V-22 concept really, in my judgment, should be viewed as a national capability. It really is unfortunate in a way that this has become known as a Marine program, a Marine-only, et cetera. The reason for that is because the Marines, I suppose you could say, had the foresight to look at this kind of technology.

A decade ago when we examined our need for coming from the sea in the future and being able to exercise influence over large land masses and the like as part of what we believed the military needs would be, we examined the helicopters in great detail, all of the existing helicopter technology, and we examined all of the advanced technologies that were known at the time.

We came down on the side of tilt rotor technology and the V-22 for all the reasons that I think everybody is well familiar with, twice the range and the payload capability and the ability to go long distances to refuel and the like, and in our case primarily it opened up the entire area for us to be able to maneuver and to operate with far greater effectiveness.

It was, in our view, the answer, and when we did the cost effective analysis and all that, compared it with helicopter technology, our analysis indicated to us it was by far over the long haul the most cost effective as well as efficient way to go. So we went for that technology.

Again, I really think it is a national kind of an asset. My own view here is that, as I said last year, it is a hell of a time to have a new program, an expensive program. I felt that the decision made last year based on the information that was given to the Secretary of Defense was probably a good one. They were difficult times, but we really need to look at all of the helicopter technology.

Helicopters, in my view, are at the upper end of the technology exploitation arena. In other words, there is very little you can do with helicopters to make them faster and more versatile. You can put a bigger engine in them, and you can fool around a little bit with advanced blades and that kind of thing, but you are at the upper bound of physics.

So all of the military and, I submit, Federal agencies need new helicopters. Again, we are talking about the year 2000. The Army has to take another look, in my view. Certainly the Coast Guard should. Clearly, the Navy-Marine Corps team has to have a new something to replace what we are operating today. It is the answer, in my judgment, to the drug enforcement requirement, to the Customs requirement, et cetera, not to mention the commercial aspects of the regional airport and all that kind of thing, commuter service and so on.

It seems to me we ought to look at those requirements in toto. That is the way to make darn sure you have solved the affordability issue. If the answer is helicopters, if you want to fly on a job with helicopter type technology in the years 2000, 2015, 2020 and 2030 and that is the decision, then fine. Let us get the best helicopters we can get for both military and commercial use.

I would submit that it would make a lot of sense to look at advanced technology; and if so, then certainly the tilt rotor, the V-22, would be high candidate. That is sort of what I have tried to suggest on both sides of the river. Hopefully something like that will take place.

Again, if the decision is made for the Marines to be again on the lead and on the point of introducing this technology and to provide for us getting the MV-22, I would hope that it comes from on top, if you will; that is, we in the Department of the Navy have already paid once for having faith in this program and lost, and I can say that if we have to take it out of our hide again, I would be very concerned that it would force the Marines to be dramatically out of balance for what the Nation needs.

So it is a tough choice and a tough situation.

Senator SPECTER. Thank you very much, General Gray. We will be watching the report, and if the preliminary indicators are as represented and very strongly supportive of the V-22, I think you will find a lot of support here.

Mr. Chairman, I have some questions to submit for the record. I would just like to make a brief statement as to the issue of maintaining our industrial base as it relates to air circuit breakers and the testimony of Vice Admiral Heckman where we have a British company which he has highlighted selling circuit breakers very inexpensively, really below cost and dumping, placing domestic producers at risk, one of which is SPD Technologies in my state.

My final comment relates to another question which is in the record, and I ask for your special consideration about an NJ ROTC program in Harbor Creek, Pennsylvania. Having been an ROTC student myself, I would ask that they be given another year to try to beef up their enrollment, because I think it is very good in the long run for the Navy and obviously very good for this small school.

Thank you very much.

V-22 TESTIMONY, SUBCOMMITTEE ON DEFENSE, SECRETARY CHENEY, JUNE 12, 1990

Senator SPECTER. Thank you, Mr. Chairman.

Mr. Secretary, I will pick up on the questioning by Senator Inouye on the V-22 and the comments by Senator Stevens because I believe that this item is illustrative of the need for the Congress and this Subcommittee to get the facts, so that we can then make the complex judgments.

The facts ought to be available to the full Congress, or at least to Members of this Subcommittee, at an early time.

Now the information that I have is that the report on the V-22 was available to your office on April 16. I then questioned representatives of DOD, General Pittman specifically, when he appeared before this Committee on May 8, and asked him for the results of the report. I then wrote to you on May 25. Together with 17 other Senators, I initiated the letter asking for the report on the V-22.

Then, in the absence of any responses, I had my staff call directly Dr. Simmons, who made the report, because I wanted to have access to it so that I would be able to discuss the matter with you today because of its great importance. At each step of the procedure, I have been unable to get the facts to have this discussion.

Now, it seems to me that there has been a predisposition against the V-22, and a rather conclusive one, on the part of the Department of Defense. I understand what you are saying when you articulate the proposition that whenever you cut something out, then the Congress wants to put it back in. That makes it very difficult for you to make cuts.

But there are a great many items on your list. Senator Inouye started with the V-22, and, of course, that was on the top of your list. Senator Stevens mentioned it, and I pursue it further.

But this is what General Pittman had to say when I questioned him on the subject on May 9 in this Subcommittee. He said, "Basically, IDA has completed their study. I have been privy to the Executive Summary of how that came out, and it was quite favorable in all categories to the V-22. There are a lot of numbers that can be thrown around and they may be reevaluated when they get back to OSD."

Now, when General Pittman says that they "may be reevaluated when they get back to OSD," it appears to me that there is an effort by OSD to support the conclusion which has already been announced, and that is to eliminate the V-22 program. Then General Pittman goes on a little later to say that OSD has to apply other criteria.

I ask him at that time for access to the report.

Now, when that was not forthcoming by May 25, as I say, I initiated a letter signed by 18 Senators. In the text of the letter, I point out that Mr. Peter Williams, a DOD spokesman, says that the results are "an old argument and that there were no plans for DOD to reconsider the decision to terminate the V-22 program."

There are proposals for an alternative, and the proposals are to use the so-called "double sling" operation, the CH-53Es and the UH-60Ss. There was testimony given by General Gray before the House Committee to this effect: "With all due respect, Mr. Congressman and for my colleagues in the Pentagon, I consider this whole dialogue on the dual sling options totally ridiculous."

The questions that I have, Mr. Secretary, are really two-fold. First, as to process, I understand the difficulty of your job in proposing cuts. But it seems to me fundamental that this Subcommittee and a Member of this Subcommittee ought to have access to the facts, so that when you make your one appearance before the Subcommittee, we can have a public discussion because it is important as to how others view this entire matter.

You have a judgment; we individually have a judgment; the Committee has a judgment. But this matter is so important that

it has to be played before the public and have other judgments made before it.

Before getting to the substance of the dual sling, which I will come to, let me just focus now on the process and ask you isn't it fundamental that this Senator, this Subcommittee, ought to have access to this report, so that we can have an appropriate dialogue with you at this time?

Secretary CHENEY. Senator, I will reiterate what I said before. To my knowledge, the report has not yet been completed. IDA still has it, internally. Their own internal review process directed them to undertake some additional work.

I have not seen the report. I do not have the report physically. When I have the report, I will then take a look at it.

It is not my desire or my intention to deny the Senator or the Committee any information. I think you ought to have all the information available.

I think that the information on the capabilities of the V-22 is something you ought to consider. I would not argue with that at all.

I will reiterate again what I said previously when I made the decision and when I spoke before the Congress last year about it. The reason I recommended to the Congress that we not go forward with the V-22 is cost. I don't think that report is going to tell us where to go and find the $26 billion to build the V-22.

My difficulty is finding ways to shrink the defense budget down to the size that it appears it is going to be after Congress completes consideration of it.

In the final analysis, Congress will make the decision. It is not my final decision with respect to what happens to the V-22. My recommendation to the President, which he concurred in and then forwarded to the Congress, was that it was a system we cannot afford and, therefore, the recommendation we made has been undertaken accordingly.

The Congress mandated the study. The study is underway. The study I am sure will be very interesting. If it shows some truly phenomenal results, obviously we'll take a look at it. But I don't want to hold out a false hope that somehow I can find $26 billion to build the V-22. I don't know where I am going to get it.

Senator SPECTER. Well, Mr. Secretary, I shall not pursue at this time the question of whether the report is finished. You say that it is not.

Secretary CHENEY. That is what I'm told.

Senator SPECTER. We have the testimony of General Pittman that it was. I would ask that it be made available at the earliest time, and that we have an opportunity to have a public discussion with you about its findings, so that we can put all the facts on the table and have the kind of analysis which is appropriate before a final judgment is made.

Secretary CHENEY. Fine.

Senator SPECTER. Mr. Secretary, are you in a position to comment about this dual sling option, as to what it means, and to comment on General Gray's conclusion that it is ridiculous have that as an option to the V-22?

Secretary CHENEY. The question has to do—and I would have to go back; I remember that this came up in some of the original briefings on the program—it has to do with how you move marines, not only the personnel, but also their equipment, to the beach, and what kinds of capabilities are required, how much of a load you have to get there, under what conditions you would have to carry it. The number of aircraft—helicopters, V-22, whatever—that you need or require obviously has a lot to do with how you load out the systems. I assume that he is referring to some aspect of that debate, which is a significant one.

Senator SPECTER. Well, it is doubtless a technical matter. But I would hope in our next discussion that we would have the specifics as to how it works mechanically so that we can explore that question.

Secretary CHENEY. I am sure the Marines would be happy to provide that, Senator.

Senator SPECTER. Do we have your authorization for them to do that?

Secretary CHENEY. Yes, sir.

Senator SPECTER. Fine.

When you talk about cost, Mr. Secretary, we are considering quite a number of strategic lines. There are a half dozen in the budget, and I would not deny the need for preparedness and for not cutting back in the face of a Soviet threat. But when you take a look at the multiplicity of programs on the strategic line and the tremendous importance of flexibility and consider that the cost of one B-2 bomber can pay for 35 V-22s, that is the kind of question which I focus on. And I have not made a judgment on it.

I just want to know what the facts are, as to how well this system works. Then we have to make the comparisons with the V-22, with the B-2, as to whether we think one B-2 is worth 35 V-22s.

[Inside the Pentagon, Vol. 6 No. 2, Jan. 12, 1990]

MEMO TO BETTI OUTLINES SECRETARY'S PLAN: CHENEY TO IGNORE IDA STUDY ON THE COST EFFECTIVENESS OF THE NAVY'S V-22

Secretary of Defense Richard Cheney will ignore a study on the cost effectiveness of the Navy's V-22 Osprey and will move to kill the program during the FY 91 budget process, arguing the tilt-rotor aircraft simply is unaffordable and other systems have a higher priority, according to an internal Defense Dept. memo obtained by Inside the Pentagon. A Cost and Operational Effectiveness Analysis (COEA) of the V-22 and possible alternatives being crafted by the Institute for Defense Analysis (IDA) is expected to carry much weight on Capitol Hill, and V-22 proponents had expected Cheney to at least review the recommendations in the study when it is completed later this year. Congressional sources say Cheney has "promised" V-22 proponents on Capitol Hill he would take the COEA into account and his failure to do so will anger many lawmakers.

In a Dec. 15 memo to Under Secretary of Defense for Acquisition John Betti, Andrus Viilu, director of land warfare in the Pentagon's defense research & engineering office, says the COEA "will not affect the SECDEF'S decision since the affordability and priority issues for a new production start will probably again prevail." Viilu also notes there is no procurement or research, development, test and evaluation (RDT&E) funds in the FY 91 budget for the V-22. Viilu predicts the COEA will have "emerging results" by April with a final report out by the end of June. The FY 91 defense budget will be sent to Congress on Jan. 29.

The Pentagon was required to commission the COEA by both the FY 90 defense authorization and appropriations conference reports. Both reports note the COEA is key to determining the future of the V-22 and Congress wanted the study to examine a broad range of missions for the Osprey in order to assess the real value of the aircraft. Pentagon officials maintain the COEA is intended to explore "alternatives to the V-22" and say Congress has mischaracterized the intent of the IDA study.

The Pentagon created a furor on Capitol Hill last month (Dec. 1, 1989) when Deputy Secretary of Defense Donald Atwood instructed the Navy to kill V-22 long-lead contracts funded with FY 89 procurement money (*Inside the Pentagon* Dec. 8 (1989), p1). FY 89 funding is considered crucial to the V-22 program—without it, program costs will increase and production of the aircraft will be delayed, Osprey supporters say.

Viilu's memo to Betti details a meeting between Defense Dept. officials and congressional staff on Dec. 13, 1989, at which termination of the long-lead contracts was the topic. The memo says the meeting was requested by John Hamre, a Senate Armed Services Committee professional staff member, to answer questions on the impact of the loss of FY 89 procurement funds. Viilu says Hamre asked why the FY 89 contracts were killed when the conference reports specifically call for the contracts to be funded. Viilu says he told Hamre the decision to terminate the contracts "came late in the budget process when we needed to find funding to support higher priority requirements." Viilu also said the FY 89 Osprey funds "were later rolled into a list of items being cut to meet other needs" and the procurement-associated contracts could not be reinstated.

Close to $335-million was appropriated in FY 1989 for the V-22 long-lead items. According to the Viilu memo, "approximately $200-million could be recovered by the government and the remaining funds have either been expended or are being held to cover termination liability. Sen. Lloyd Bentsen (D-TX), a V-22 supporter, estimates roughly $56-million is unrecoverable and $78-million will be needed for termination costs (Inside the Pentagon, Jan. 5, p12).

Currently, "few existing jobs will be lost at the prime contractors' facilities or those subcontractors' facilities where work continues on the FSED [full-scale engineering development] contract," the Viilu memo states. The personnel who were working on Osprey production preparation for the prime contractors will be moved to other positions. Viilu concedes, however a large number of jobs "planned in the build-up for production will be lost." Subcontractors working only on the production contract have been terminated and this job impact is unknown, he says. Viilu notes the V-22, which is a Bell-Boeing project, is about 80% of Bell's business base and 40% to 50% of Boeing Helicopters' base.

Congressional staff asked the Pentagon officials if the decision to kill the contracts was brought about by the FY 1990 Gramm-Rudman-Hollings partial sequester. Viilu told the staff that to his knowledge Gramm-Rudman did not factor into the decision—the decision was based on affordability and priority. DOD does not have the $1.5-billion available for V-22 production in FY 91, "or across the rest of the FYDP [five-year defense program], so it does not make sense to spend the FY 89 dollars that could be used for other requirements," Viilu said. If the decision is made to proceed with V-22 production, the program would still need to be restructured due to a change in acquisition strategy to meet a lower funding level.

Viilu said FY 90 RDT&E funds had not been pulled, but approximately $300-million in research funding will be needed in the

FY 91/92 timeframe in order to complete the FSED program.—RICHARD LARDNER.

[From the Navy Times, Mar. 5, 1990]

GRAY: V-22 SUBSTITUTE SCHEME "RIDICULOUS"

(By Elizabeth Donovan and David Steigman)

WASHINGTON.—Gen. Al Gray says a Pentagon plan to meet the Corps' lift needs with helicopters carrying twice the equipment they now haul is "totally ridiculous" and tactically flawed.

The Marine Commandant urged Congress to take a new look at the affordability issue surrounding the V-22 Osprey.

Gray's remarks were made Feb. 20 before a House Armed Services Committee bearing in response to repeated questions about the V-22 Osprey program cancelled by the Bush administration.

The administration would replace plans for 602 Ospreys with a mix of CH-53E and HH-60 helicopters to meet the Corps' medium and heavy lift needs.

A Pentagon cost comparison done last year showed that buying 376 CH-53Es and 590 HH-60 helicopters would cost $6 billion more than the Ospreys, if produced jointly by Bell-Boeing, And, if there were competition between Bell and Boeing for the Osprey line, the V-22 savings would be about $8.5 billion over the helicopters, DOD officials said.

But the helicopters would be cheaper, DOD said, if the CH-53Es were used in a "double sling" needs—meaning they were rigged to carry two armored vehicles instead of one.

Under the double sling proposal, the Corps would need only 225 CH-53Es and 478 HH-60s to meet its needs, saving about 32.2 billion over the competitive Osprey line.

"I consider this whole dialogue of dual sing options totally ridiculous," Gray said. "It has nothing to do with coming from the sea in a wide variety of scenarios . . . It has nothing to do with warfighting".

To make the double sling work, armored vehicles must be bolted together on ship before they may be carried ashore, creating an extra logistical and administrative burden, said a Marine official who asked not to be identified.

Once ashore, the equipment must be unbolted before it can be used, which would impede the speed and flexibility of an assault, the official said.

The Pentagon ordered another study by a private defense analysis agency, to provide a more in-depth comparison of the cost and capabilities of the Osprey and helicopter alternatives. It is due in April.

The study will include other coats associated with the helicopter mix, such as increased manpower and support equipment, that were not factored in to the first comparison. Officials say those costs are estimated at an extra $3.4 billion.

Gray testified that both helicopters raise concerns for the Corps. The CH-53E, for instance, was built for logistics and endurance on the battlefield.

"When you talk about using the 53E as an assault helicopter, that in my judgment is wrong." Gray said.

"Sure, you can haul troops with it in a certain kind of environment. We have done that many times. But it's a logistics helicopter. It's not designed to land on the ridgelines at serious angles in the assault. And it's got a radar signature that's bigger than Capitol Hill."

The Blackhawk carries about half the troops as the Osprey. "So we're going to have to get twice as many helicopters, and we're not going to get (that) are we?" Gray said. "Nor are we going to get twice as many pilots and twice as many crew chiefs in the kind of environment that we're in today. So we're concerned."

Gray said finding an aircraft to meet the Corps' medium lift needs is the most "pressing" issue for Marines this year.

"The aging CH-48 helicopter is entering its 26th year of service life. While it has served us well, we can no longer expect it to carry Marines in harm's way on the modern battlefield," Gray said. "Precision-guided munitions and hand-held surface-to-air missiles place these 30-year-old helicopters and the Marines they carry at risk."

He warned that replacing Osprey with helicopters won't be cheap, because they must be able to meet six mission needs. One is the avionics to navigate and communicate at night and in adverse weather.

"If you want to go with helicopters, then dammit, let's get the very best helicopters that warriors need," he said.

Navy Secretary Lawrence Garrett, when asked about the Osprey, testified that the Navy stands by the Pentagon decision to cancel the program.

"The Secretary of Defense has recently testified that it's a great concept, but that it's an affordability issue," Gray said. "It seems to me what's needed is to go back and look where we are and look where we're trying to go, given the helicopter capability we have today."

The Osprey would not be affordable if bought for Marine Corps use alone, Gray said, but it should be viewed in a larger context.

"Fundamentally, you're at the upper edge of the helicopter technology envelope," the Marine commandant said. "Therefore, if you want to make a significant leap (in capability), . . . you're going to have to go a different way."

Given the era of declining budgets, the Pentagon must consider multi-mission aircraft for the future, Gray said. Officials should consider the V-22's potential for missions like antisubmarine warfare and drug interdiction, he said.

A bipartisan coalition of 11 lawmakers, led by Sen. John Heinz, R-Pa., Rep. Curt Weldon, R-Pa., Sen. Arlen Specter, R-Pa., and Sen. Phil Gramm, R-Texas, said it's prepared to fight for continued funding of the V-22. The lawmakers held a pro-Osprey press conference in front of the National Air and Space Museum Feb. 21.

"The 1990 (defense) bill had specific language for the Department of Defense regarding the V-22," said Specter, "but they blithely ignored the direction of the legislative branch" and canceled contracting for the aircraft.

Although the Defense Department did not ask for any money for the V-22 in the current budget, Congress appropriated $255 million, telling the Pentagon to study the V-22's costs compared to other aircraft. In December 1989, however, Deputy Defense Secretary Donald Atwood ordered a halt to further spending on the program.

Weldon said almost $200 million from 1989 funding had not been spent when the Pentagon halted the V-22 program. He will move to have this money shifted to the fiscal year 1991 budget.

Jan Bodanyi, a Defense Department spokeswoman, said the Pentagon's position is that the V-22 program is finished and there are no plans to ask for any more 22 funding for it. She would not comment on congressional plans to insert V-22 funding in the 1991 budget.

The V-22 takes off like a helicopter, shifts its rotors forward and flies like a fixed-wing aircraft, with a speed of 345 mph. It is faster and longer ranged than any present Marine Corps helicopter and was developed as a vertical assault cargo and troop transport.

Weldon said aside from its military role, the aircraft has many commercial benefits. "We can't sell the B-2 bomber to TWA, and we can't sell a missile submarine to Carnival Cruise Lines. But the V-22 can be used as a civil air transport," he said.

Still, he said, without a guaranteed military market, the V-22's manufacturers would not continue spending money on the aircraft. Weldon said it is unlikely any U.S. airline will order the V-22 until they see it in production and operation.

As a way to keep the V-22 alive, Weldon said he will seek to have the Federal Aviation Administration use one of the V-22 prototypes as a new technology demonstration and evaluation aircraft. He also wants the FAA to continue its present research studies into tilt-rotor technology.

Gramm called the V-22's tilt-rotor technology the way of the future and said Japanese, West German and French companies are all considering production of such aircraft. He warned if the United States does not produce the V-22, "We could lose thousands of jobs and sales to foreign companies in the 1990s."

Frank Gaffney, director of the Center for Security Policy, said one Japanese company, the Tahida Group, has hired several designers from Bell Helicopter to develop a similar aircraft, the TW-68, for commercial and military markets Gaffney is one of the director of the Tiltrotor Technology Coalitions, a private coalition fighting to save the V-22.

Other congressional coalition members are: Sen. Lloyd Bentsen, D-Texas; Sen. Alfonse D'Amato, R-N.Y., Rep. Pete Geren, D-Texas; Rep. Martin Frost, D-Texas; Rep. Lane Evans, D-Ill; Rep. George Hochbrueckner, D-N.Y.; and Rep. Thomas M. Foglietta, R-Pa. The Tiltrotor Technology Coalition's leaders include Ross Perot Jr., Donald Trump and Dr. Hans Mark.

[From Aerospace Daily, May 18, 1990]

CHENEY WON'T REINSTATE V-22, EVEN IF IDA SAYS IT'S COST-EFFECTIVE

Defense Secretary Richard B. Cheney won't reverse his decision to kill the V-22 tilt-rotor, even if a new report commissioned by the Pentagon concludes that the aircraft is cheaper than alternatives, spokesman Pete Williams said yesterday.

Williams, at a Pentagon press briefing, said the report's expected conclusion—that the V-22 is cheaper to own in the long run than an alternative helicopter mix—is "an old argument."

"If indeed the report makes the same argument, that's not a new one and that would not be grounds for us to change our minds. . . . I'm unaware now of any plans for us to reconsider that decision," he said.

The report, prepared by the Institute for Defense Analysis, was commissioned by the Pentagon at the direction of Congress in the wake of Cheney's V-22 termination. Pentagon officials said its conclusions closely parallel those in a recent BDM study of the V-22 (Daily, April 17) which found it more cost-effective than Cheney's alternate plan

of a mix of CH-46/CH-53/UH-60 helicopters for the Marine Corps airborne assault and resupply mission.

As the "customer" for the analysis, the Pentagon is entitled to draw its own conclusions from it, and may choose to ignore its findings, DOD officials said.

A Pentagon spokesman said that once IDA completes the study, it will be reviewed by an executive steering group comprised of representatives of the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Navy and the Marine Corps. The group "will provide a forum for response by all (its) members," he said. He added that the study will be classified.

Lt. Gen. Charles Pitman, Marine Corps deputy chief of staff for aviation, told the Senate Appropriations defense subcommittee last week that he thought the Pentagon would alter the report to support the cancel decision.

But Williams yesterday said "I can't imagine that we would alter the report. There may be a program analysis and evaluation. . . . If it goes the way it usually goes, Dr. (David S.C.) Chu's boys may have a chance to offer their insights." Chu, the Pentagon's PA&E chief, is considered the architect of the V-22 cancellation.

Williams said the Pentagon would "take a look at it again . . . if there (are) additional insights" but if the conclusions turn out in the V-22's favor, "that's not a new line of analysis."

Asked if the Pentagon would deliberately ignore an opportunity to save money if that meant reinstating the V-22, Williams said "It's a little more complicated than that. The issue is lift capability, distance from shore capability, sustainment. . . . There are a lot of other arguments."

He also said conclusions of such reports are a product of basic assumptions. "It depends on how you define the mission. . . . If you get to define the mission, your study comes out one way, if I get to define the mission it comes out another way."

Williams said that Cheney would "like to have" the V-22, and that "It's an outstanding piece of equipment," but isn't affordable "in context of the budget (compared) with everything else."

Rep. Pete Geren (D-Tex.)—whose district includes the Ft. Worth plant of Bell Helicopter, teamed with Boeing Helicopters on the V-22—yesterday said he has written to Cheney asking that the Pentagon prepare an impact statement on how the V-22 cancellation would affect U.S. competitiveness.

Geren said the Omnibus Trade and Competitiveness Act of 1988 requires government agencies to report to Congress when their plans might impact the U.S.'s competitive position in domestic and international markets. Geren cited tiltrotor efforts underway in Japan and Europe as justification for invoking the law and requiring the report from Cheney. The Japanese tiltrotor would be in production in 1995, he said.

FY 90 DOD APPROPRIATIONS CONFERENCE REPORT

V-22 OSPREY

The conferees note that the Secretary of Defense has directed the Institute of Defense Analysis (IDA) to conduct a Cost and Operations Effectiveness Analysis (COEA) on the V-22 and other possible helicopter alternatives. The conferees believe that this study should be used as a basis for a decision to begin production of the V-22 in fiscal year 1991. Accordingly, it is important that the Department obligate the remainder of the fiscal year 1989 advance procurement funds in order to retain the option to execute a production decision in fiscal year 1991. The conferees also note that the V-22 program is currently behind schedule and that the Initial Operating Capability (IOC) has already been delayed by at least one year.

Given the significance of the COEA study for future procurement decisions, the conferees believe that it should address all aspects of operations that could be performed by the V-22 or its alternative, not just the opposed amphibious assault mission. Therefore, it is particularly important that the advantages of the V-22 for special operations forces and drug smuggling interdiction missions be examined in full.

In order to ensure a comprehensive COEA study, the conferees therefore recommend that the analysis be extended to include the following key factors:

Mission analysis of the V-22 should be expanded beyond the Marine Corps' amphibious ship-to-shore movement to include long-range special operations, over-the-horizon landings, follow-on operations, combat search and rescue operations, and drug interdiction operations;

Survivability and the cost of attrition;

Collateral costs such as increased manpower requirements, increased pilot requirement, and the impact on both strategic and amphibious lift;

The date which the V-22 or an alternative can be fielded and ready for deployment.

The conferees recognize the need for new and innovative solutions to the force planning problems our military currently faces. This is especially important given the uncertainty surrounding anticipated future conflict scenarios. Therefore, the conferees express keen regret that the V-22, a program providing great flexibility in mission, is jeopardized at precisely the time that our military planning must be tailored to account for change in the strategic environment.

Finally, the conferees believe that tiltrotor technology contains significant potential commercial applications, but it is also understood that commercial adaptability cannot be explored in a timely fashion without a military program.

The PRESIDENT pro tempore. Under the order previously entered, the Senator from Oklahoma is recognized for 15 minutes.

Mr. BOREN. I thank the Chair.

Mr. McCAIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BOREN. I am happy to yield to the Senator from Arizona.

EXTENSION OF MORNING BUSINESS

Mr. McCAIN. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes to allow those of us here on the floor to have an opportunity to make statements this morning.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Accordingly, morning business will be extended for 10 additional minutes beyond the hour of 9:30 a.m.

The Senator from Oklahoma.

OPPOSING A CONSTITUTIONAL AMENDMENT TO BAN FLAG BURNING

Mr. BOREN. Mr. President, Congress will soon vote on an amendment to the Constitution of the United States. The House of Representatives is expected to vote today. If that amendment is adopted it will mark the first time in 200 years that we will have changed the first amendment, the very cornerstone of our Bill of Rights, engraved into our Constitution and the heart of our political system by Thomas Jefferson and George Washington and other leaders, whose ideas and ideals have served us well and have stood the test of time.

You might ask how could we even consider tampering with the language of the Bill of Rights. The short answer is that we have been swept along by a tide of anger at acts desecrating our Nation's flag. I understand that anger because I share it. I feel it too. I grew up in a home where from an early age I was taught to honor the flag to always display it properly, to protect it from the elements, and to keep it from touching the ground.

I read about its history, and studied what it symbolized. I can never see our flag pass without feeling a sense of pride and inspiration, and without remembering how many have risked and indeed even given their lives to protect the freedom it represents. Every time I see scenes in the media of people dishonoring our flag I feel anger boil up inside myself. If such an act took place in my presence it would be very difficult for me to restrain myself from physically intervening to stop it. My first reaction was to support this constitutional amendment.

But just like many other Americans who are angry about flag burning, I stopped to think and began to ask myself some questions.

I asked myself, if we should allow the outrageous acts of a few attention seeking radicals to drive us to the action of tampering with the liberties provided in our Bill of Rights. As a conservative who believes in changing our government only with great care, I asked myself if we should allow our anger to lead us to discard language which has been in our Constitution for 200 years, strongly urged by Thomas Jefferson and advocated by George Washington in his first inaugural address.

I began to worry that in the name of protecting the flag, we were about to chip away at the liberties for which it stands and for which Americans have fought and died. I realized that we cannot honor our flag if we do not protect the freedom it represents.

As I listened to the voices raised in the national debate I realized that it is not a debate that separates those who love their country from those who do

not. There are honest patriots on both sides of the issue. For example, the only Member of the U.S. Senate to receive the Congressional Medal of Honor for bravery in combat, Senator ROBERT KERREY of Nebraska, opposes it as an infringement of the Bill of Rights.

Nor is this an issue which divides liberals and conservatives. In fact most of those columnists usually called conservative are opposing it including the following:

James J. Kilpatrick, who wrote:

When we pledge allegiance to the flag, we are not pledging allegiance only to a piece of cloth. Our allegiance is to the Republic for which it stands. Our allegiance is to liberty. In that deeper allegiance let us stand without flinching against the gathering stampede.

Joseph Sobran who wrote that there is "no question that the flag amendment would deface the Constitution," and that "amending the Constitution is no substitute for understanding it."

William Safire who wrote very convincing words when he said:

Flag burners by infuriating most of us seek repression, but by fooling with the Bill of Rights we would play into their hands. The way to frustrate those who test the strength of our Constitution is to ignore them, to tune them out and not to make prime time political martyrs of them.

No, in spite of my anger at flag burners, I will not allow them to goad me into tampering with the Bill of Rights that it symbolizes.

I took an oath when I entered this body to preserve, protect, and defend the Constitution of the United States. If the time should ever come when I do not have the political courage to keep my oath as I see it, then it will be time for me to give up this seat to someone who has that commitment.

Some say that it is politically unwise to oppose this amendment because such a vote could be twisted in 30-second television commercials to influence the voters. Such a cynical fear underestimates the intelligence of the American people and their dedication to our Constitution. Sooner or later good common sense of the people will lead a large majority to oppose this amendment.

I never enter this Chamber without some sense of awe. I think of the giants who seved here and whose desks we still use. Senators like Webster, Clay, Calhoun, LaFollete, Taft, and Truman. I have had the privilege for 2 years of using a desk once used by Harry Truman. He was never swept away by fear of the polls or temporary tides of emotion. Forty-five years ago he launched the Marshall plan which halted the spread of communism in Western Europe and sowed the seeds of the collapse of the Marxist system which we have witnessed in the last 12 months. Had he kept his eye on the polls instead of the history books, future generations would have found it hard to forgive his lack of courage. Instead today, he is revered for what he had the moral courage to accomplish.

We should each ask ourselves if 100 years from now we want to be remembered for tampering with the Bill of Rights for the first time in our history. Can we be true to those who gave their lives for our country if we compromise the freedoms for which they sacrificed? Do we want to have it recorded that we put more attention to last weeks polls than we did to the teachings of Jefferson and George Washington? Do we really feel that 200 years of experience under our Bill of Rights should be cast aside in favor of uncertain and dangerous tampering with the language of our Constitution?

No, we must find ways to honor and protect our flag without doing damage to the Constitution. William Safire is right, the best way to frustrate those who infuriate us by desecrating our flag is to ignore them, to refuse to give them the attention they crave, to refuse to make prime time martyrs of them.

The best way to honor our flag is to commit ourselves to the values included in our Bill of Rights and to pass on those human liberties to our children and their children. We have sworn an oath to defend the Constitution. We must do our duty.

I thank the Chair.

Mr. JEFFORDS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Vermont [Mr. JEFFORDS] is recognized.

TRIBUTE TO VIC MAERKI

Mr. JEFFORDS. Mr. President, many Senators and staff were saddened at the news that Vic Maerki, a longtime staffer for former U.S. Senator Robert Stafford, had died following a bout with cancer.

Vic Maerki and I had been on the same side of the fence, at least from a congressional perspective, for 14 years before he returned to his old home in Burlington, VT. I was in the House when Vic was the legislative director for Senator Robert Stafford, the man whose seat I now hold. Vic made quite an impression on folks here in the Senate. Everyone knew about Vic's get-tough approach on the environment, and his lingering disdain for politicians, left from the time when he was a reporter at the Burlington Free Press, Vermont's largest paper. I was serving in the State senate and then as attorney general when Vic was on the political beat, and he was at that time probably the finest reporter in the State of Vermont.

When he moved back to Vermont after Senator Stafford retired, Vic started up his old column, "Once Over Lightly." More than once during the past year I had Vic's get-tough approach unleashed on me in the pages of the Free Press. One time I wrote Vic a note about one of his columns I found particularly hard to swallow. It was accurate, but I wanted to fill him in on some of my thoughts. While some other columnist might have made an office wastebasket-ball out of that note, Vic took the time to respond with a lengthy letter. When I made votes that were not particularly easy to make, on the other hand, he would call with encouraging words, and praising me for my courage. He cared that much about the issues, and what I was doing here in the Senate.

Vic held himself to some pretty tough standards as well. When he was a Senate staffer, he never forgot for one moment who was putting the bread on his table. While he was faultless in his knowledge of the issues, and skilled at intercommittee politics, he always took the perspective of the little guy, and how legislation might affect him or her.

While other staff complained as large groups of tourists jammed the halls and elevators in the spring and summer, Vic would make room and go out of his way to help them out. "It's their property," he would say, in reference to the Senate buildings. "They paid for it, they ought to be able to do whatever they like." Vic would always eschew the holiday care packages that came to Senate stafff from lobbyists—not on the grounds of attending to his meticulously healthy diet, but on the grounds of not accepting any favors.

When Vic become ill, many people in Vermont and in Washington, wanted to call and let him know they were concerned. What is very telling about the kind of person Vic was is that one of his such opponents, a Senator, called here looking for his phone number in Vermont. Vic had that Senator's respect, and the respect of almost everyone who ever found himself up against Vic's very powerful and very passionate human spirit.

Mr. President, I am saddened by the passage of Vic.

I am always here to help other Members of this body to celebrate the most impressive activities of a staff member of this august body.

VIC MAERKI, LEGISLATIVE DIRECTOR TO SENATOR ROBERT T. STAFFORD

Mr. CHAFEE. Mr. President, the Senate belongs to the people.

We exercise power lent to us by the people. Our duty is to them.

Few understood this better than Vic Maerki, who died on Wednesday, May 23, 1990. He worked in the Senate for nearly 20 years as legislative director to Senator Robert T. Stafford. But he

would wish to be remembered principally as a father and news reporter.

Vic and his wife Chris were blessed with two daughters, Susan and Leslie, whom he loved deeply, and with a son, Stevenson, who died in 1965 at the age of 12.

He was a reporter of news—one of the outstanding in Vermont's history. That was his craft before joining Senator Stafford's office, and it was what he chose to return to after he, and the Senator, retired.

Words fail to capture the intense morality and conviction of Vic Maerki, who demanded the best of all whom he met. Vic was a man of unyielding conviction and honesty. He demanded only one outcome: right. There were no excuses for anything less, either as a goal or a result. He rejected compromise unless the alternative was defeat. Even then, for him, compromise was temporary.

A fire burned in Vic. He was a passionate advocate of justice. He refused to rationalize right and wrong with dollars. To him children deserved a quality education—regardless of cost—because it was the right thing to do.

Morality carries a price, and Vic paid it willingly. He wasn't always liked, and he knew it. But he was respected. And he knew that, too.

The source of his tremendous strength was not anger, but compassion. The wellspring of Vic was a deep caring. He shunned compromise when it would inflict human suffering. His ultimate measure of right and wrong was whether people—especially the poor, the young, the handicapped, and the helpless—would be better or worse off. His was a fierceness born of an insistence on the good rather than mere mitigation of the bad.

If he were here, Vic would likely reject these words as high blown rhetoric. But those of us who worked with him know that they are what Vic treasured most: the truth.

Finally, Vic was a man of intense privacy and modesty. Typically, he wrote his own obituary and it may say more about his spartan nature than my words. Mr. President, I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VICTOR W. MAERKI

Victor W. Maerki, 64, of Burlington died of cancer at home Wednesday, May 23, after a long illness. He was a news reporter.

Mr. Maerki was born in Astoria, N.Y., July 23, 1925.

He came to Vermont in 1951 to join the news staff of The Burlington Free Press. He worked on that paper until 1968, mainly covering politics and government. He wrote a weekly column, "Once Over Lightly." Mr. Maerki became managing editor of news for television station WVNY in Burlington when that station began broadcasting in 1968. He went to Washington, D.C. in 1970 to become a reporter and managing editor of an experimental public broadcasting program, "Newsroom," on WETA-TV. In 1972 he became the legislative assistant to U.S. Sen. Robert T. Stafford of Vermont. Mr. Maerki retired to Vermont in 1989 when Sen. Stafford retired from the Senate. The Free Press resumed weekly publication of his column on government and politics on a free-lance basis in 1989.

Mr. Maerki leaves his wife, Chris Maerki of Burlington; two daughters, Susan Maerki of San Francisco and Leslie Maerki of Leverett, Mass. A son, Stevenson Maerki, died in 1965 at the age of 12.

Visiting hours will be held at the Corbin and Palmer Funeral Home, 71 South Union St., Burlington, today from 5:30 to 8:30 p.m. A private service will be held Friday with a memorial service to be scheduled at a later date. In lieu of flowers, gifts may be made to St. Michael's College, Winooski Park, Colchester 05489, for the purpose of funding the Vic Maerki Vermont Journalism Award or Hospice VNA, 284 East Ave., Burlington, 05401.

The family greatly appreciates all notes, kindnesses and expressions of friendship during his illness.

VIC MAERKI

Mr. BURDICK. Mr. President, I too sadly note the passing of Vic Maerki. Vic worked closely with the Committee on Environment and Public Works on many issues when he was on the staff of my predecessor as chairman, Senator Stafford.

Those who worked with Vic on environmental issues will always remember his dedication to preserving and protecting our environment. While with the committee, Vic made a lasting mark on environmental legislation, and our environment has been made better because of his work.

Those of us who were lucky enough to work closely with Vic know that underneath his tough exterior was real warmth. He liked people and politics. He always was willing to listen to others, always open to other ideas, but always committed to doing what was right. He was honest and fair.

I know that my staff enjoyed working with Vic on a daily basis. His humor, wit and legacy to the environment will be long remembered on the committee.

Mr. President, Vic Maerki was a friend of the environment. We will miss him.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Arizona is recognized.

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. McCAIN pertaining to the introduction of S. 2766 and S. 2767 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

THE JOURNAL

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

(The remarks of Mr. LIEBERMAN pertaining to the introduction of S. 2765 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MANKIND'S EXPLORATION OF OUR SOLAR SYSTEM

Mr. GARN. Mr. President, last July 20, President Bush announced America's commitment to take the next steps in mankind's exploration of our solar system. He said we would return to the Moon, send a manned mission to Mars, and build the basis for our expansion beyond. At last—after a 20-year hiatus—our space program has been given a long-term goal and a vision.

George Bush has given us the leadership we need by clearly delineating a long-term plan for our Nation's civil space program. He has repeatedly demonstrated his deep, personal commitment, and determination that we make the necessary investments to maintain our leadership in the peaceful exploration of space. He has called the joint leadership of the Congress to the White House to underscore his concern. And he has given Congress a budget request which proves he is willing to put his money where his mouth is.

It galls me to see so many Members of Congress make an aboutface on this issue. The very initiative which they have urged be undertaken in the recent past, they now dismiss. They say it is too expensive. They worry that it will cause irreparable harm to other aspects of our space program. And they question the program's value. You do not have to be a rocket scientist to figure out that these charges have no foundation whatsoever.

Fiscal critics of space exploration cite costs in the hundreds of billions of dollars. Where do they get these numbers? No one knows what space exploration will cost because we have not chosen specific mission plans and system yet. Indeed, President Bush's

agenda outlines the broadest possible considerations to advance human exploration of our solar system. It is not a purchase order for specific hardware and technologies. Furthermore, the President is addressing a continuing program of exploration. Trying to set a price tag on space exploration would be like Spain doing cost estimates of "New World" exploration in 1492.

The administration's proposed program will develop the new technologies which are necessary to make our exploration program feasible. The proposal also requires that we spend the next few years identifying the alternate approaches for accomplishing our objectives. These alternatives will be evaluated on the basis of cost, performance, risk and schedule. Only after we have examined a range of approaches will we select a specific set of mission proposals.

The critics wonder where the money for space exploration is going to come from. The National Research Council has agreed that while we cannot give specific cost estimates now, an appropriate exploration program would run a few tenths of a percent of our gross national product. This amount, for the next several years, will not exceed even a few percent of the NASA space budget, which itself is only a mere one percent of the Federal budget. In overall budgetary terms, the amounts are almost infinitesimal.

Many of the naysayers protest that investments in space will rob other Federal programs. Every dime that is spent on space research is spent here on earth. For every dollar that the government spends on space research, the private sector receives $8 or $9. What other Federal program gives you that kind of return on your investment?

Not only do we receive a positive financial return on our space dollar, we receive countless other benefits everyday as a result of space research, and in ways we cannot predict. The technology from the Apollo mission made possible the development of implantable and computer programmable heart pacemakers. Technology from rocket propellent control was used to develop an implantable insulin pump which responds to the fluctuating hourly need of diabetics. These products, and tens of thousands more, which are a direct result from our space investment, dramatically improve our quality of life.

It also is a fallacy to think that exploration hurts other NASA programs. Experience shows that unmanned scientific missions are best supported when our manned programs are most active and stimulating public interest. As man's presence is extended into our solar system, automated and robotic missions will travel still further into the universe.

One of the most critical elements of our new space agenda is that it gives us a blueprint to move forward with a program which recognizes humankind's inexorable curiosity and common yearning to expand our understanding of the universe. This curiosity and yearning is not limited to age, background, or gender. It is part of the frontiering spirit which is the foundation of our national experience. But it needs to be nurtured.

How can we expect our children to continue in the pioneering tradition of our Nation? Will they be inspired to perform better in math and science if we tell them that the number of Americans receiving postgraduate degrees in physical sciences has dramatically declined? Will demographic data on the declining pool of potential doctoral candidates in engineering persuade them to take electives in hard subjects like calculus, chemistry, and physics? I do not think so, and as a father of seven, I think I qualify as somewhat of an expert. But as someone who has spoken often in schools, I am amazed how space exploration captivates children and sparks their imagination as to their individual potential. We in Washington can throw money at curricula and teacher preparation but those dollars we devote to space exploration are what really get our kids' attention.

Today we stand at a crossroads—20 years following mankind's first footstep beyond our home planet, and perhaps 20 years before our next step further into our solar system. I thank God that President Kennedy had the vision to set such an ambitious goal for our Nation's space program and was not dissuaded by the naysayers and bean counters in 1961. And I congratulate President Bush, for shrugging aside the critics who have grown legion in the past 30 years, and flatly declaring that this Nation still has the capacity and the need to continue its pursuit of exploration and growth.

Thirty years ago John Kennedy was confronted with the shock of Sputnik and a Soviet threat to bury us. While the challenges confronting the United States today have dramatically changed, our trade deficit and preoccupation with "asking what your country can do for you" is at least as serious as that which prompted President Kennedy's forceful call to action. President Bush's space exploration initiative rekindles our dedication to our Nation's future. It merits our support.

I ask unanimous consent that the remarks of the President, delivered at the Marshall Space Flight Center, June 20, 1990, be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

TEXT OF REMARKS BY THE PRESIDENT AT THE MARSHALL SPACE FLIGHT CENTER, HUNTSVILLE, AL, JUNE 20, 1990

It's great to be back in Alabama, and great to be back in Huntsville. I'm very proud of this State, and this facility. The Marshall Space Flight Center is the birthplace of America's first satellite, America's first space station—and the world's first Moon rocket. It was here, with the Saturn Five, that humankind began its historic journey to the stars.

Because of these traditions, Huntsville has a special importance to America and to the world. And it has a special importance to me, as well. It was to Huntsville that I journeyed in the Fall of 1987, to give the campaign's first major address on space.

On that October day, two and a half years ago, I promised to create a National Space Council, chaired by the Vice President. I pledged to underwrite Mission to Planet Earth, to boost space science, and to launch a dynamic new program of both manned and unmanned exploration of the Solar System.

And today I'm pleased to return to Marshall to report that my Administration has made good these promises. And we've done it the old-fashioned way—the American way—step-by-step, program-by-program, all adding up to the most ambitious and far-reaching effort since Marshall and Apollo took America to the Moon.

The Space Council I proposed is not only up and running, but—under the dynamic leadership of America's outstanding Vice President—leading the way into the 21st Century. Mission to Planet Earth—a bold and unprecedented initiative to preserve our precious environmental heritage—has been plucked off the drawing board and placed in the hands of the scientists who will make it happen. And now that the Shuttle Program has put America back in space, we stand at the dawn of a new era in space science, with wonders like the Hubble Space Telescope, and the fantastic voyage of Galileo to Jupiter.

Exactly 11 months ago, I stood before the Air and Space Museum in Washington to commemorate a special anniversary for you who work at the Marshall Space Flight Center—the 20th anniversary of Apollo 11's thunderous journey to the Moon. And standing with Neil Armstrong and dozens of other astronauts, I announced three major space policy objectives: First, to have Space Station Freedom up before the century is out. Second, for the new century, a permanent lunar base. We're going "back to the Moon, back to the future—and this time—back to stay."

The third objective was refined last month in Texas, where I went to announce a new Age of Exploration, with not only a goal, but a 30-year timetable. I declared that: "Before Apollo celebrates the 50th anniversary of its landing on the Moon—the American flag should be planted on Mars."

Being first in space is not just America's dream—it is America's destiny. And to see this happen, we've matched rhetoric with resources. Our budget proposes $15.2 billion for NASA—an increase of nearly 25 percent—and the largest increase for any major agency of the government.

Unfortunately, not everyone on Capitol Hill shares this commitment to investing in America's future. Last week, the House Appropriations Sub-Committee for Space voted to pull the plug on this historic under-

taking, completely gutting the seed money we proposed for the Moon/Mars mission.

But you know, space used to be a bi-partisan effort—an American effort. The last time a President visited Marshall, John F. Kennedy compared those who were uncertain about America's leadership in space to those in Queen Isabella's Court who counseled, in effect, "Turn back! Leave the riches and rewards for other nations and braver hearts!"

Some say the space program should wait—that we should only go forward once the social problems of today are completely solved. But history proves that attitude is self-defeating. Had Columbus waited until all the problems of his time were solved—the timbers of the Santa Maria would be rotting on the Spanish coast to this day. Instead he ventured forth—and his travels brought Spain to the zenith of her statute as a nation.

Many an American schoolkid has read the story of Columbus' doubters, and shook their heads in disbelief that these naysayers could have been so short-sighted.

My friends, we must not let the children of the future shake their heads at our behavior. Right now, in the funding wars in Congress, we face a central question—the question of whether America will continue to be a pioneering nation.

When John F. Kennedy stood before the Congress in 1961 and spoke about the moon, he spoke to a nation of pioneers. Now some in Congress appear ready to give up on that pioneering spirit—to turn their sights inward, to concede that America's days as a leader in space have passed.

I, for one, am not ready to give up. America has always been, and will always be, a nation of pioneers. I may not be here in 2019—but some of you young people in the audience will be. And on that special day 30 years from now, I want you to think back to the commitment we made here today, as you look at the T.V. monitors—maybe right here at Marshall Space Center—and watch the first American plant his feet on Mars.

During the Apollo era, America's space efforts grew at unprecedented rates, the government hired the biggest and the best scientific force in history, and colleges and universities swelled with applicants and graduates in science and engineering. It produced a golden age of American technology advancement—an age that, today, we can recapture and begin anew.

Wernher Von Braun was the giant who put Huntsville on the map. When someone asked him what it would take to build a rocket to reach the Moon, Von Braun replied simply: "The will to do it."

And so I stand today at this monument to daring and imagination that Von Braun built—and call on the American Congress to step forward with the will that the moment requires. Don't postpone greatness. History tells us what happens to nations that forget how to dream. The American people wants us in space. So let us continue the dream—for our students, for ourselves, and for all humankind.

RECOGNITION OF THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS—LULAC

Mr. BINGAMAN. Mr. President, I rise today to acknowledge and congratulate the League of United Latin American Citizens [LULAC] as they convene in my home State, New Mexico, for their National Convention. LULAC is the Nation's oldest and largest Hispanic organization with over 110,000 members in 45 States and Puerto Rico. It was founded in 1929 with its central concern being full social, political, economic and educational rights for Hispanics in the United States.

As the Hispanic population grows, so does our responsibility to ensure full participation by all of our citizens. LULAC has been fulfilling that responsibility since those early days when its members struggled to form themselves into a viable organization that would not divide but strengthen their membership.

As a leading Hispanic advocate, LULAC is very often called upon to testify before Congress and is the one organization most frequently sought out and the one most often heard when it comes to issues that affect Hispanics.

In my home State of New Mexico, Hispanics comprise 39 percent of the entire population. It is only fitting, then, that LULAC convene in New Mexico. Their theme this year is "Corporate Partnerships in Education." If service and advocacy have been the organization's trademark, education has been the longstanding key to its efforts to achieve full parity for Hispanics. If their theme is to be carried out, not only will we be forging new coalitions with corporate America but we will be strengthening our great Nation for the future. The tremendous dividends that would be realized would have resounding impact on societal contributions in many professions. Additionally, through their ongoing efforts, inroads have been made toward decreasing, and perhaps someday eradicating, dropout rates and low educational attainment levels.

LULAC, in its earliest endeavors, had to fight against and dispel the belief that Hispanics should not get an education. Its aggressive efforts to increase Hispanic student enrollments at the college level is impressive and needs to be endorsed.

LULAC, through its advocate activities, has joined forces with many other groups on social and domestic issues in order to exert their collective influence. They are creating informed constituencies through voter registration efforts; encouragement of voter participation in elections; by changing the face of those who are political officeholders; preparing Hispanics for achievement in the labor market; providing basic health screening for Hispanics through health fairs throughout the country; developing leadership skills; strengthening their power and influence by waging battles against ethnic discrimination in the schools and other public facilities and services.

LULAC is the epitome of optimism and hope for the future of our great Nation and I plan on continuing the push for legislation here in the Senate that will work toward meeting many of the goals set forth by the LULAC traditions, goals, and purpose. Only through these joint efforts can we achieve the highest ideals of our American society.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,923d day that Terry Anderson has been held in captivity in Beirut.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

HATCH ACT REFORM AMENDMENTS OF 1990—VETO

The PRESIDING OFFICER. Under the previous order, the time of 9:45 having arrived, the Senate will proceed to the consideration of the veto message accompanying H.R. 20.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

The House of Representatives having proceeded to reconsider the bill (H.R. 20) entitled "An Act to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The PRESIDING OFFICER laid before the Senate a message from the President of the United States to the House of Representatives, as follows:

To the House of Representatives:

I am returning herewith without my approval H.R. 20, the "Hatch Act Reform Amendments of 1990." This bill would alter unacceptably the provisions of Federal law, commonly known as the Hatch Act, that bar Federal employees from active participation in partisan politics.

As one who has devoted much of his life to public service, I take great pride in the integrity of our Federal work force. Thus, to protect Federal employees from political pressure and preserve the impartial, evenhanded conduct of Government business, I am obligated to disapprove H.R. 20.

Originally enacted in 1939 as a bulwark against political coercion, the Hatch Act has successfully insulated the Federal service from the undue po-

litical influence that would destroy its essential political neutrality. It has been manifestly successful over the years in shielding civil servants, and the programs they administer, from political exploitation and abuse. The Hatch Act has upheld the integrity of the civil service by assuring that Federal employees are hired and promoted based upon their qualifications and not their political loyalties. It also has assured that Federal programs are administered in a nonpartisan manner, which is critical to maintaining the public's confidence and trust in the operations of Government.

H.R. 20 would effectively repeal the Hatch Act's essential prohibitions on partisan political activity by Federal civil servants. It also would convert the present rule that partisan politicking by Federal civil servants is prohibited, into a presumption that such partisan campaigning should be encouraged.

Under this legislation, Federal employees would be able to participate actively in partisan political campaigns and hold official positions in political parties; actively endorse partisan political candidates in the public media; and solicit political contributions in most situations from other employees who are members of the same "employee labor organization" for that organization's political action committee. The obvious result of the enactment of H.R. 20 would be unstated but enormous pressure to participate in partisan political activity.

History shows that such a reversal in the role of partisan politics in the ethic of public service would inevitably lead to repoliticizing the Federal work force. The sanctions provided in the bill would add little if anything to the effectiveness of existing criminal prohibitions. Moreover, experience with enforcement of criminal anti-patronage laws shows that the Federal criminal justice process is ill-suited to the task of protecting Federal employees from subtle political coercion. Public servants who are subjected to direct or indirect partisan political pressures understandably would often be reluctant to file criminal complaints against their superiors or peers, possibly putting their livelihoods in jeopardy. They deserve better protection than that.

Overt coercion is difficult enough by itself to guard against and detect. The more subtle forms of coercion are almost impossible to regulate, especially when they arise in a climate in which the unspoken assumption is that political conformity is the route to achievement and security. Such a climate leads inexorably to subtle, self-imposed pressures on employees to conform, or appear to conform, to whatever political tendency will assure greater job security.

After all the debate, no real need to repeal the existing Hatch Act has been demonstrated. Under present law, the Hatch Act allows Federal employees to engage in a variety of forms of political expression. Only forms of active participation on behalf of partisan political causes and candidates are barred. The Supreme Court has twice determined that these limits on active partisan political activity are constitutional. These rules provide reasonable balance between participation in the political process by Federal civil servants and the need to protect them from harassment and coercion that would jeopardize the fair and impartial operation of the Government. H.R. 20 poses a grave threat to that delicate balance.

Indeed, the lack of any grass-roots clamor for repeal of the Hatch Act either now, or at any time during its 50-year existence, testifies to the support this statute has received within the ranks of the Federal civil service and among the general public.

I am firmly convinced that any appreciable lessening of the current protections afforded to Federal civil servants by the Hatch Act will lead to the repoliticization of the civil service and of the programs it administers. We cannot afford, in the final decade of this century, to embark on a retreat into the very worst aspects of public administration from the last century.

GEORGE BUSH.

THE WHITE HOUSE, *June 15, 1990.*

The Senate proceeded to reconsider the bill (H.R. 20), the Hatch Act Reform Amendments of 1990, returned to the House by the President on June 15, 1990, with his objections, and passed by the House of Representatives, on reconsideration, on June 20, 1990.

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour and 45 minutes of debate to be equally divided and controlled by the Senator from Ohio and the Senator from Delaware.

Mr. GLENN. Mr. President, I suggest the absence of a quorum and ask that the time that elapses under the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. One hour thirty minutes remains on the bill.

Mr. GLENN. Evenly divided I believe; is that correct? I would have 45 minutes and Senator ROTH has 45.

The PRESIDING OFFICER. The Senator is correct.

Mr. GLENN. I believe Senator STEVENS is prepared to speak. I yield 10 minutes to Senator STEVENS.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I thank the chairman. I may not take that full amount of time.

It is with great regret that I find myself on the floor today for the first time to ask the Senate not to sustain a veto of this President. That is a sincere regret.

But it is no news to the President; no news to the administration. I have tried my best to get from the administration the types of amendments that would be necessary to make this bill acceptable to the administration. I feel, just from the conversations I have had in the past, that the problem this bill faces is not in the White House; it is in the Department of Justice. I think that is unfortunate. The restrictions that are in the Hatch Act were necessary ones. That time has passed.

I think it is now time for us to recognize that our Federal employees must be first-class citizens. People from all over the world are trying to adopt our system of government. Yet, we have a defect in our system of government in that we, in my judgment; deny the constitutional rights of fellow Americans who work for the Federal Government on the basis that somehow or other it is necessary to protect the Government from the employee.

I do not share that feeling. I have a significant background in employment with the executive branch. I think many here have had that type of experience. I served not only in Civil Service, but I also served as an exempted employee and as a Presidential appointee in the executive branch. I have heard for a substantial portion of my adult life the complaints of people who loyally serve our Government who are denied some of the rights of their fellow citizens.

This bill does not repeal the Hatch Act. It relaxes some of the restrictions on the basic rights of these citizens who serve our Government to be involved in the political process, which is the essence of our Government. It is important to remember that significant restrictions will remain in effect, even if this bill becomes law.

Federal employees could not engage in any political activity while on duty, while in a Federal building, while wearing a uniform, or an official insignia, or while using a Government vehicle. Federal employees could not solicit political contributions from the public.

Federal employees could not run for partisan political office at any level of Government.

Federal employees could not give a political contribution to anyone in order to encourage that person to vote or not to vote.

Federal employees could not give, solicit, or accept a contribution while engaged in the Federal activity.

Federal employees could not wear political buttons. That is something they now are allowed to do.

Employees of the Federal Elections Commission would remain subject to all of the current restrictions.

The coercion of political activity of Federal employees is strictly prohibited. No one could coerce a Federal employee in terms of political activity. Penalties, such as removal, will result in the event an employee violates these prohibitions on political activities.

This bill will not allow political activity on the job, period. No political activity while you are working for the Federal Government. When off duty or on vacation, Federal employees may be involved up to but not including running for partisan office themselves. I think that is a simple solution. It is easy to understand.

The bill does nothing to ease the penalties against coercion or political activity on the part of Federal employees. Two amendments agreed to by the Senate strengthened the penalties under existing law for violation of this law.

The bill allows Federal employees to participate in the political process, including soliciting campaign contributions from members of the same union or organization for a multicandidate political action committee, and those political action committees will be subject to whatever decision the Congress and the President make with regard to the future of political action committees. They will be treated like all other political action committees.

In response to some concerns expressed during the Senate debate, supervisors will not be able to solicit contributions from subordinates.

This issue needs to be resolved. The bill amended by the Senate last month tries to strike a balance between repeal of the Hatch Act and continuation of some restrictions. I believe this is a fair bill, and I urged the Senate once before to support it and I urge the Senate again to support it.

When the Communist world is reeling, why should we send a message that employees of a free government have fewer rights than the citizens who live under that government? I think that is wrong. We set a good example for the rest of the world. Our democratic way of life is spreading. I think we ought to let Federal employees be as involved in the political process as possible, subject to only those restrictions that are necessary to protect the integrity of the Government itself and to protect the people from being coerced by Federal employees.

We must take care to set proper standards providing for freedom. We are going to be talking about freedom of speech here soon on the part of those people who might want to destroy flags. What about the freedom of speech of those people who are trying to uphold the Government?

I think it is necessary that this bill becomes law. As I said, I regret that the President has seen fit to veto it. I was here once before with similar regret when President Ford vetoed it. I firmly believe that these people who work for the Federal Government have the same political rights as all other Americans, and they should be protected, not inhibited, in the political process.

Mr. GLENN. Mr. President, I yield 10 minutes to Senator LIEBERMAN.

Mr. LIEBERMAN. Mr. President, though I was not surprised by the President's decision to veto H.R. 20, the Hatch Act Reform Amendments of 1990, I was disappointed by that decision. I was particularly disappointed by the President's reasoning. I say so respectfully, of course. His reasoning was that essentially the bill would "inevitably lead" to coercion of Federal employees to engage in political activities and it would also lead to repoliticizing the Federal work force.

Mr. President, I cannot tell you how deeply I am convinced that that reasoning reflects a fundamental misunderstanding of current law under the Hatch Act and also results in a complete disregard for the political rights of 3 million of our fellow Americans who happen to be employees of the U.S. Government.

Mr. President, the law today is manifestly unfair to Federal workers. Supposedly, it is intended to protect them from political coercion. The Hatch Act actually strips them of some of the most basic political freedoms that other Americans and, indeed, citizens in other countries throughout the world take for granted, making it unlawful for them to engage in political activity, even on their own time and with their own resources.

This notion of protecting the Federal employees from coercion, in my opinion, is an unsettling, modern-day version of paternalism, the likes of which we do not normally see any more. It is protecting the wrong people from a coercion that the law and clearly they themselves can protect themselves from. It does so at the price of their basic liberty, which they, through their organizations, are almost unanimously asking us to expand.

The Hatch Act is unhealthy for our political system. I state that very briefly. Our system depends on popular participation. Yet, we deprive ourselves of the participation of anybody who works for the Federal Government. That means that in communities throughout America, Federal employees who might serve on local boards of education, finance boards, zoning boards, local legislative bodies are prohibited from doing so and, of necessity, our communities suffer from that prohibition.

Ultimately, when you exclude whole segments of the population from the political process, you inevitably weaken that process.

This bill, H.R. 20, would make the restrictions of the Hatch Act reasonable and comprehensible. The President, in his veto message, lauded the Hatch Act but he ignored the massive confusion that has resulted from trying to interpret and apply prohibitions that cut against the basic grain of our society and our political credo.

In America, it is just not natural for us to limit political freedoms, and when we try to do so, the results are ridiculous, as they are in the Hatch Act. A worker today can express a political opinion publicly, but he cannot give a speech. He can display signs of stated dimensions on his lawn and car, but he cannot hold a sign at a rally.

As Senator LEVIN noted on the floor during earlier consideration of this bill, under the current rules, whether a worker violates the Hatch Act and thereby subjects himself to prosecution by inviting a friend or a neighbor to attend a political rally with him actually might depend on what his intent was in extending that invitation, and that is a ridiculous state of circumstances.

H.R. 20 would attempt to clarify the law essentially by prohibiting all political activity on the job, in uniform, and in a Federal building, and by permitting most political activity off the job and on an employee's own time.

I point out, Mr. President, that this bill does not repeal the Hatch Act. In fact, it maintains the prohibition against Federal employees running for political office—mistakenly so, I believe—but it does that, and there would continue to be very tight restrictions on the soliciting of funds. I believe strongly that the President's fear of coercion if this bill passes are totally unfounded.

Federal employees can now engage in many political activities. They can, for instance, back a candidate or go to a political rally or put a sign on their cars. You would have to bar virtually every form of political action and speech to try to eliminate the subtle forms of coercion based on political preference about which the President is concerned.

Allowing employees to stuff envelopes or speak at a political rally will give them more rights, but it will not

change the situation that exists now with the limited rights that they have. The opportunities for coercion are there now and they have not happened. This bill would not compel employees to undertake any political activities. I repeat that. This bill would not compel employees of the Federal Government to undertake any political activities.

There is no evidence that loosening the Hatch Act restrictions will result in such coercion. Let us look at the States which have done it. Since 1974, 41 States have liberalized their so-called baby Hatch Act restrictions on their own employees, often allowing many more political freedoms than this bill will allow, and they have not had any problems.

As noted in the House committee report on this bill, a 1987 survey of State attorneys general said, "The attorneys general reported no adverse reactions as a result of loosening the restrictions on political activities of State and local government employees. Not one attorney general voiced concern that by easing restrictions on State or local employees they had opened the door to coercion or impropriety."

Mr. President, this bill would not eliminate the numerous civil and criminal laws that today, tomorrow, and forever, hopefully, would prohibit coercion of employees and protect the integrity of the civil service. On the contrary, this bill actually adds provisions to protect against coercion. A supervisor, for example, is prohibited from soliciting contributions from his own employees. An amendment by Senator ROBB explicitly prohibited intimidation or coercion by anyone to get any employee to participate or not to participate in any political activity. So any of the real forms of coercion that might occur are already made illegal in the current state of the law or by amendment to this bill.

The President is concerned, as he says in his message, about preserving the impartial, evenhanded conduct of Government business. But as Senator PRYOR I know will say in some more detail, the Hatch Act now only strips the rank and file of their political rights. All other officials and appointees subject to Senate confirmation—the people who actually run our Government and direct the conduct of Government business—are exempt from the Hatch Act.

So we are at a point where we worry about the truck driver or the cafeteria worker and prohibit that person from engaging in political activity, but we do not worry about those who really run our Government. If the President is really concerned about coercion, he ought to begin by looking close to his own shop.

Mr. President, whenever I get into debate on an issue, particularly I suppose as a lawyer, I always try to look at it from the side of those who are opposed to my position.

Mr. President, I have gone over and over these arguments and I honestly see no merit to them. I hear the fears, but I see in the law protections against every one of those fears. What I see in the veto of this bill is an overreaching. It is the old slogan of using an elephant gun to kill an ant. We have ants we are worried about and there are ant killers in the law. We do not need to use a cannon to obliterate the political freedoms of 3 million of our fellow citizens who are Federal employees.

Mr. President, we are in a week in Congress when a lot of us are thinking a lot about the Bill of Rights as we decide how to vote on the so-called flag amendment. I must say that there is a lot of concern about whether the discussion on the flag amendment is symbolic, and as a symbol it is important, but its real effect on people, because of the small number of flag burners, thank God, is obviously going to be limited.

In this bill we have an opportunity to make the Bill of Rights real for more than 3 million American citizens who are employees of the Federal Government, who live today with less than equal rights. I cannot think of a more substantial way to make the Bill of Rights real in this week than by having the Senate override the President's veto.

Mr. President, I thank the Chair for this opportunity and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I rise today in support of President Bush's veto of the Hatch Act Reform Amendments Act of 1989. Today, the Senate again considers whether or not to discard 50 years' worth of experience under the Hatch Act in favor of an untried and, in this Senator's view, ill-considered distinction between on and off the job activities. Before we take this imprudent step, I think it is worth our while to consider a couple of questions that were left unanswered last month.

First, Mr. President, who really wants the so-called Hatch Act reform? Are there legions of Federal workers out there clamoring for the opportunity to man a phone bank? Clearly not, at least if they are not in the union hierarchy. Survey after survey demonstrates that Federal workers do not want Hatch Act reform. Proponents of Hatch Act reform sometimes seem to suggest that opponents of Hatch Act reform are a collection of Simon Legrees anxious to deprive Federal workers of their political rights. Frankly, nothing could be further from the truth.

Others point to changes in Eastern Europe and other democracy movements across the world and ask if these nations are moving toward freedom, if their people are fighting for freedom and democracy, why can we not extend these modest reforms to 3 million Federal workers?

I do not think anything in this entire debate has offended me more than these claims. Tell me that the letter carrier stuffing envelopes at the candidate's office after hours, that the IRS agent soliciting campaign contributions from his fellow workers, or that any Federal employee manning a phone bank or participating in a partisan get-out-the-vote drive are in the same class as those struggling for freedom in Eastern Europe.

Show me that these workers are comparable to the student standing before the tank in Tiananmen Square, or the crowds in the streets of Bucharest, Prague, or Budapest. It is an insult of the lowest kind to compare these brave men and women who risked—and in some cases lost—their lives in the pursuit of freedom and democracy to the small minority of would-be soft money warriors who actually want Hatch Act reform.

The grand irony in all of this is that proponents of Hatch Act reform simply miss the point altogether. The Hatch Act is not designed to deprive Federal workers of rights—it is designed to protect Federal workers—those who interpret and implement our laws—and serve as guardians of our domestic and international security—from the influence and pressure of politics.

So who is favoring Hatch Act reform? Who else, but the Federal employee unions. It should be noted, however, that they are not backing Hatch Act reform out of the kindness of their hearts—under H.R. 20, members of Federal employee unions better run for the hills—your fellow union members are going to be coming after you during your off-duty hours not only to man their phone banks, but also to fill their political coffers.

The manifest disinterest of the union-backed supporters of this legislation for anything approaching reasonable reform was evident in the rejection of two amendments offered by the Senator from Kentucky. The first amendment sought to address the argument that Federal employees are so confused about—and ill-informed regarding the provisions of the Hatch Act that they are in effect "chilled" in the exercise of their existing political rights. I proposed that all Federal agencies be required to take affirmative steps to educate and inform their work force as to their rights of political activity under the Hatch Act.

Taken together with the underlying amendment offered by my friend, the distinguished minority manager of this legislation, Senator ROTH, the

Roth-McConnell substitute amendment would have addressed the Hatch Act's problems in a precise and limited manner appropriate to the subject matter regulated. Unfortunately, it was rejected by a vote of 67 to 30.

In this Senator's opinion, Mr. President, it is truly ironic that we are considering Hatch Act reform in isolation from the campaign finance debate. In fact, H.R. 20 appears to this Senator to be nothing less than a soft or "sewer" money, to use a Washington term, enablization act.

Mr. President, I sought in my second amendment offered when this matter was on the floor earlier, to address a basic inequity suffered by Federal employees. Although Federal employee unions cannot presently collect compulsory union dues, Federal employees are faced with the Hobson's choice of forfeiting their vote on collective bargaining matters vital to the terms of their employment if they wish to avoid having a portion of their dues support candidates and causes they oppose. My amendment would have provided workers with the opportunity to refuse to pay dues for political purposes they oppose without losing the right to vote on collective bargaining matters. Unfortunately, this amendment was also tabled by a vote of 63-35.

The dangers are no less apparent in the context of hard or open money. Several of my colleagues have previously discussed the PAC implications of this legislation—particularly the legislative machinations which will only allow Federal employee union members to solicit PAC contributions from other Federal employee union members. In effect, this legislation creates a private preserve in which union members can solicit PAC contributions from other union members for later delivery in the form of a PAC check to Democratic candidates.

In last month's debate, my distinguished colleague, the junior Senator from Ohio, wondered why alarm bells ring and fox holes are dug on this side when Hatch Act reform is discussed. If I may respond—if you combine enhanced, but one-sided fundraising capabilities, new soft money opportunities, together with a genuine threat to the integrity of the civil service, you have a rather frightening bill.

During the course of this debate, I have discussed at some length my concerns regarding H.R. 20. At root, we have before us a political bill, brought before us for partisan reasons, and with partisan timing, which ultimately could engender a partisan advantage at the expense of the Republican Party—to say nothing of H.R. 20's assult on the integrity of the civil service.

Let me say again, that this is bad legislation which should be opposed by all those who care about the integrity of both the civil service, as well as the political arena.

Mr. President, I rarely read and certainly do not often put into the RECORD editorials of the New York Times. But I am sure someone else may do this in the course of the day. There is an interesting editorial, dated today, saying "Don't destroy the Hatch Act" on the New York Times editorial page, bastion of Republicanism, which indicates its agreement with the President on the question of whether or not this Hatch Act Reform Act should become law.

Mr. President, I ask unanimous consent that it appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 21, 1990]

DON'T DESTROY THE HATCH ACT

President Bush was right to veto legislation easing Hatch Act restrictions on political activity by Federal employees. Now that the House has overridden his veto, a showdown looms in the Senate. The Senate would be well advised to uphold the veto and then consider a more modest revision of the act, preserving its valid protections against political abuse.

The act, passed in 1939 to forestall political exploitation of the expanding Federal work force, prohibits Government workers from "active" participation in partisan campaigns. Critics tend to exaggerate the extent to which the law is stifling, just as supporters overstate its benefits. Even "Hatched" employees remain free to vote, contribute money to candidates and volunteer in their off hours in nonpartisan political activities.

The measure Mr. Bush vetoed would, like the Hatch Act, prohibit Federal employees from running for political office and soliciting public funds. However, it would lift other important restrictions on off-duty political activity. Civil servants would be free to serve as campaign and party officials and run as delegates to party conventions. More troubling, employees would no longer be barred from soliciting co-workers for contributions to the political action committees of the various Federal employee and postal unions.

Senator John Glenn, who supports the Hatch Act overhaul, says the bill offers sufficient protection against political coercion. But that ignores reality. Mr. Bush rightly feared that without the Hatch Act excuse, Federal employees, including tax auditors and prosecutors, would inevitably confront subtle pressures to contribute money and time to partisan causes.

Proponents of reform argue that the present curbs on partisan activity, though held by the Supreme Court, abridge free speech. But creating a climate in which government employees are likely to feel compelled to engage in politics also offends free speech.

Even so, there's widespread agreement that the Hatch Act is unduly restrictive and needlessly complex. Surely it's possible for Congress to devise a bill that simplifies the act while preserving its sensible protections against politicizing the Federal work force.

Mr. McCONNELL. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I yield 10 minutes to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished chairman of the Governmental Affairs Committee, and the Chair for recognizing me.

I would like to touch briefly on several of the points contained in the President's veto message explaining why he felt obligated to veto H.R. 20:

"To protect Federal employees from political pressure and to preserve the impartial, evenhanded conduct of Government business. * * *"

Because the Hatch Act is the "bulwark against political coersion. * * *"

To ensure "essential political neutrality. * * *."

To "shield employees and the programs they administer from political exploitation and abuse. * * *"

Because even now "the Federal criminal justice system * * * is ill-suited to protecting (against) subtle coersion," and

To ensure government "programs are administered in a nonpartisan manner. * * *"

I, for one, do not question the sincerity of the President's rationale for vetoing the Hatch Act Reform of 1990. I do not think there is a single Member of this body who would stand up and support any change in the law, if he or she felt the result would be to diminish that "essential political neutrality," to allow "political exploitation" or to cause any thing less than "nonpartisan administration" of Federal programs.

However, if President Bush or any of my colleagues believe, or really think that the Hatch Act protects Federal employees and the American public from political exploitation or subtle, even overt political coersion, then they just don't know the current law.

The 50-year-old Hatch Act was poorly designed and achieves few, if any of its objectives or the goals to which the President and the rest of us subscribe.

Fifty some years ago, there was a problem involving political coersion in a New Deal program, the WPA. Presidential appointees were extracting political pledges and commitments from rank and file employees, and that was wrong.

So what did Congress do?

To protect the public employee from political manipulation by those in control of the jobs, the politicians, the political appointees, the Congress took away the rights of the abused employees.

In other words, Mr. President, we fenced them off to protect them. We said you cannot be involved in the political process. To put it more in modern jargon the Hatch Act incarcerated the very victims, those who had been abused by political pressure in

order to protect them and the American public from the abuse and from the abusers.

While the current law prohibits the rank and file Federal employee from the most basic and simple aspect of the American political process, like stuffing envelopes, having a meeting in one's den, putting up signs in the yard, bumper sticker on your car, the Hatch Act today allows the very highest level officials—those who make the policy decisions, those who decide who gets the grants and the loans, and the Federal dollars—it gives these individuals an absolutely free rein to do the very things that lead to enactment of the Hatch Act 50 years ago. Employees, appointed by the President, with the advice and consent of the Senate, today can still be fully and actively involved in partisan political activities, even to the point of soliciting campaign contributions.

Think of it. Current law today allows a Cabinet official like, say, Sam Pierce, former Secretary of Housing and Urban Development, to go out and to solicit campaign contributions.

Additionally, employees paid from the appropriations of the Office of the President today can still be fully and actively involved in partisan activities. The problem here is, I am not just sure who these people are because, as it turns out, the President of the United States does not seek appropriated funds for such an office. Neither does the U.S. Government Manual show the existence of any such office.

Just what do these Presidential appointees and White House operatives actually do? Those officials who make the policy and who decide where the Federal dollars go, how do they go about ensuring the President's own desire, as he stated in his veto message, that programs are administered in a nonpartisan manner, devoid of exploitation.

Let us look at a couple of cases.

The Secretary of Agriculture is a good man; he is a jovial man. He spent recent time in Belleville, IL, in April 1990, soliciting political contributions for a Senate candidate.

Our own drug czar, William Bennett, with one of the greatest menacing problems this country ever faced, went to Des Moines, IA, twice last winter, "tagging along in George Bush's Air Force One," as the newspaper put it, and waving around grant money while he was there. But the drug czar did not even respond to three of my letters of request to attend a hearing on rural drug problems in Little Rock, AR.

Is this nonpartisanship? I do not think that it is. When the drug czar is not on a campaign trail in Iowa, you are likely to find our drug czar where? In the State of New York, in June 1990, a few days ago, getting a "twofer"; trashing the incumbent Governor and daring Governor Cuomo, that same individual, to enter the 1992 Presidential race.

Is that nonpartisanship? Is that what we want our drug czar to be doing with his time and resources?

Mr. President, I do not know if the distinguished occupant of the chair was here when a man named Gerald Carmen ran the General Services Administration. Ultimately, he became Director of the FADA, Federal Assets Deposit Agency. That agency was to dispose of all of the S&L property.

I used to call Mr. Carmen back in the summer of 1988 to see what was going on in the disposal of some of the assets of the S&L's. Do you know the answer? "Well, Mr. Carmen is not in the office."

"Where is Mr. Carmen?"

"Well, he is out working on the campaign. He will not be back in his office until after the 1988 elections."

The White House Chief of Staff, John Sununu, Mr. President, is also a busy man these days. No sooner did he get back from New Hampshire recently from a fundraiser for a senatorial candidate, then he got involved in the gubernatorial race down in the State of Arkansas. Well, is that nonpartisanship? Is that what President Bush asked for in his veto message to ensure the nonpartisanship of these Federal programs, that the White House Chief of Staff has such a tremendous say-so about?

Now, Mr. President, I do not know where you are going to be next Monday. I think I will be right here, but if you are not too busy, you can be in Albuquerque, NM. You can fork over $100 to attend a fundraising breakfast in Albuquerque, and you can have breakfast with the Secretary of the Interior and his senior policy staff from Washington. They are all going to Albuquerque to raise money for a political party. They are all listed on the invitation.

One-half, I might say, on that invitation are "Hatched" political appointees that I imagine have been coerced by the Secretary of the Interior or someone in this administration to participate in this fundraiser.

Is that the nonpartisanship the President is asking for in his veto message?

Mr. President, ask the junior Senator from Alabama, Senator SHELBY, about those visits and promises made by Jim Miller, then the Director of OMB, back in 1986. Ask about whether that was nonpartisan or not.

In the last month, Mr. President, in Puerto Rico—and we know there is a very volatile issue in Puerto Rico right now between commonwealth and statehood—three top White House officials, top officials, have recently visited to hold and to attend fundraising events for a particular political party. I guarantee you, it was not the Democratic Party. Check the names.

On the list of the Maryland delegates to the 1984 Republican Convention, whose name will you find? Don Devine. Who is Don Devine? Well, at that time, he was the Director of the Office of Personnel Management, OPM; the official responsible for ensuring that we have a nonpartisan merit civil service system, who has opposed any changes in the Hatch Act, I might say. He was politicking at the national convention as a delegate.

Mr. President, if the President feels compelled today to veto, if he continues to want to insulate Federal employees and the American public, Federal programs and those who administer those programs, from partisan politics, I think it is time that we look at the entirety of this issue. I think, Mr. President, also, it is time that we consider saying what is good for the goose is good for the gander.

I am against exploitation. I am against partisanship in program decisions, Mr. President. I am for full and equal rights of all to participate fully in the political process our President says he wants to protect.

That GS-5 secretary who types the letters should have at least the same rights as the Cabinet Secretary appointed by the President of the United States. That individual who wants to put up a yard sign or a bumper sticker should have that right, Mr. President, where today it is denied; and where today, those people who are appointed by the President, oftentimes confirmed by this body are going all across this country, all across this country, engaged in blatant political partnership.

Mr. President, I do not think we will override the President's veto today. If we fail to override the veto, I will introduce, this afternoon, legislation which will extend the Hatch Act to members of the Cabinet and to Presidential appointees. I may even consider adding another part to that, and that is to extend it to all members of our legislative staffs in the House and the Senate.

I think it is time we examine this issue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I suggest the absence of a quorum, and ask that the time under the quorum call be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I rise today to urge my colleagues to support the President and sustain his veto of the Hatch Act legislation. In 1976, President Ford vetoed Hatch Act legislation because it was "bad for the employee, bad for the Government, and bad for the public." This legislation is bad for the employee, bad for the Government, and bad for the public.

This legislation is bad for the Federal employee because it unleashes irresistable, subtle pressures to become active participants in partisan elections and causes they might not otherwise support.

This legislation is bad for the Federal Government because it would undercut the neutral, nonpartisan administration of programs by civil servants. It would nourish a working environment where politics replaces merit.

This legislation is bad for the public because it would foster the creation of employee interest groups inside the Government that might sabotage the will of the American people. The Federal work force is the servant of the American people, to act as their instrument not as their foil.

In his veto message on H.R. 20, President Bush stated:

> Originally enacted in 1939 as a bulwark against political coercion, the Hatch Act has successfully insulated the Federal service from the undue political influence that would destroy its essential political neutrality. It has been manifestly successful over the years in shielding civil servants, and the programs they administer, from political exploitation and abuse. The Hatch Act has upheld the integrity of the civil service by assuring that Federal employees are hired and promoted based upon their qualifications and not their political loyalties. It also has assured that Federal programs are administered in a nonpartisan manner, which is critical to maintaining the public's confidence and trust in the operations of Government.

The President is absolutely right. More than 50 years ago, a Democratic Congress under the stewardship of a Democratic President voted to remove partisan politics from the Federal work force and protect Federal employees from coercive pressures to be involved in partisan activity. Today the Senate is poised to effectively repeal this law which has served us so well.

Despite the 8 days of debate on this matter in the Senate, proponents of this legislation continue to ignore the adverse impact of this legislation on the Government and on the American people and focus attention exclusively on the Federal employee. They would have you believe that the Hatch Act oppresses Federal employees and that H.R. 20 would set them free. The truth is the very opposite. The Hatch Act protects Federal employees from inside and outside coercion. And this legislation would, in practice, restrict their freedom.

Mr. President, a similar debate might be held regarding section 603 of title 18, United States Code. That provision, among other things, forbids the staff of the Senate from making campaign contributions to their respective Senators. This provision, it might be argued, robs Senate staffers of the right to contribute to Senate campaigns, a right enjoyed by the entire American populace except for the oppressed few.

But we all know why this provision was passed and has been retained on the books. Section 603 was not enacted to oppress, or even to trade employee rights for the honor and privilege of Government service, but to protect the employee. Were it not for section 603 and similar provisions, it might become expected of Senate staffers to make such contributions. Since it is not possible to outlaw expectations, the only way to protect Senate staffers is to prohibit this form of political activity. Similar expectations will arise if Hatch Act protections are removed. It does little to solve the problem to declare against coercion.

After two centuries of trial and error, America and Federal employees have come to appreciate the genius of a politically neutral Federal work force responsible to an elected President and his political appointees. This system allows Government to be both responsive to popular will yet fair and impartial in the administration of our laws. This system rests squarely upon the Hatch Act. It is the reason why a politically neutral work force can function subordinate to political appointees without itself becoming politicized. This legislation is indeed a serious threat to the delicate balance of this much admired system.

In his veto message, President Bush stated that:

> The obvious result of the enactment of H.R. 20 would be unstated but enormous pressure to participate in partisan political activity. . . . Overt coercion is difficult enough by itself to guard against and detect. The more subtle forms of coercion are almost impossible to regulate, especially when they arise in a climate in which the unspoken assumption is that political conformity is the route to achievement and security. Such a climate leads inexorably to subtle, self-imposed pressures on employees to conform, or appear to conform, to whatever political tendency will assure greater job security.

In my opinion, this would be the inevitable result of this legislation. Proponents of this legislation do not seem to appreciate the expectations, the pressures, and the coercion that will spring forth if the President's veto is overturned.

Once Federal employees are free to engage in partisan political activity, it will only be human nature for them to believe that it would please their politically appointed superior to exercise their new political rights under this legislation in a manner that pleases the superior. And let me remind my colleagues that not only does this legislation permit Federal employees to become actively involved in political activity, but it encourages such participation.

It will only be human nature for employees to try to get an edge on their competition by engaging in the partisan politics of the superior. It will only be human nature for other employees who had not engaged in the partisan politics of the superior to feel it is necessary to do so to eliminate the edge of their competitors. Since it is only human nature to try to get ahead, employees will engage in political activity pleasing to the political hierarchy.

Suppose there are two GS-15s in the Labor Department both of whom hope to earn the same promotion. Under this legislation, one of them engages in partisan political activity to please his superior. The other who belongs to the opposite party nevertheless undertakes similar political activity to eliminate his competitor's supposed edge. The superior is, in fact, oblivious to the political activity of either subordinate.

Is the activity of the GS-15, a member of the opposite political party, voluntary? How can it be voluntary when it is something he does not want to do? Is it coerced? As far as the GS-15 is concerned, he has been coerced. Yet no one has coerced him.

This example will recur countless times under this legislation. Yet there will be no legal evidence of a coercion violation. No cases will be brought. No cases should be brought, since there are no violations of law, only violations of the values of the first amendment.

I am hardly persuaded that the lack of prosecutions by the various States after repeal of their Hatch Acts is proof that repeal works. Rather, I find the absence of cases rather troubling. It means to me that there are many employees suffering in quiet anxiety, who are engaging in partisan political activity because of subtle pressures "beyond the reach of any anticoercion statute," as President Ford so perceptively observed in his veto of Hatch Act legislation.

Human nature does not change. It does not matter whether the time or place is Kentucky in the 1930's, or the Department of Labor next year. People are ever striving to get ahead, to better themselves. That makes them vulnerable to the subtle pressures I have noted.

Congress understood this in 1939 when it enacted the Hatch Act. The central idea, the core principle, of the Hatch Act is that a simple anticoercion statute will not effectively control coercion. That was the lesson—the

hard lesson—of history. If we ignore history, we are doomed to repeat it.

Mr. President, the Hatch Act has served us well. I believe even the chairman of the Governmental Affairs Committee so stated several times during the 8 days of Senate debate. In spite of all the efforts of Presidents through the years and in spite of all the civil service regulations, the problem of the spoils system was not ultimately solved until Congress enacted the Hatch Act in 1939. Since then, the Hatch Act has protected the Federal employee, fostered a more efficient and effective work force, and enhanced the confidence of the citizenry in the fairness of their Government. It has been good for the employee, good for the Government, and good for the public.

Why do we now risk a return to the spoils system? Why do we risk repealing the only remedy that has worked? Why do we risk undermining the merit system?

Each Senator will have to decide whether there is sufficient cause to scuttle the only effective remedy for the spoils system this Nation has known. In addition, it should be noted that there has been no clamor for change. As President Bush stated in his veto message, there has been no grassroots clamor for change in the law.

While the Federal employee unions and the postal groups support change, the weight of other testimony given during hearings held by the committee in the 100th and 101st Congress stands in opposition to this legislation. In addition to the President, Common Cause, the American Bar Association, the Federal Bar Association, the National Academy of Public Administration, the Chamber of Commerce, and the American Farm Bureau have all voiced strong opposition to this legislation.

Mr. President, I yielded 5 minutes to myself. How much time do I have remaining?

The PRESIDING OFFICER (Mr. REID). The Senator has 24 minutes remaining.

Mr. ROTH. Mr. President, at this time I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio has 14 minutes remaining. Who yields time? Time will be charged equally between the 2 sides.

Mr. ROTH. I will yield myself 4 minutes. Mr. President, I originally only yielded myself 5 minutes, but I was not notified on the expiration.

The PRESIDING OFFICER. I am told that the previous Presiding Officer tried to stop you and was not able to.

Mr. ROTH. I think if I had heard him I would have yielded.

The PRESIDING OFFICER. The Senator has 23 minutes and 26 seconds remaining.

Mr. ROTH. Mr. President, the central question before us is the quality of Government service that the American people should receive and the protection from political pressure that the Federal employee should enjoy. That is why organizations not normally outspoken on these types of issues have come forward to voice vigorous opposition to this legislation.

Some have cited first amendment concerns with the present law. The American Civil Liberties Union testified last Congress that they believe the Hatch Act violates the Constitution. However, on two occasions, the Supreme Court has specifically rejected the ACLU argument. Thus, there is no constitutional imperative to vote for this legislation.

Proponents believe they have answered the problem of how to draw a bright line between permissible and impermissible conduct. They would permit partisan political activity off duty and prohibit such conduct on duty. Simple, isn't it? The problem is that the bright line between on duty and off duty has little to do with Hatch Act concerns. As the Federal Bar Association made clear to the Governmental Affairs Committee, the concern is not the time of day certain political activity takes place, but rather whether expectations, pressures, and coercion are imposed upon the Federal employee. The fact that an employee engages in political conduct off duty does not answer the question whether he has been pressured on duty.

Equally important to the effect this legislation will have on Federal employees, all Senators must consider the effect this legislation will have on the public's perception of a politically active work force.

Few, if any of us, would find it appropriate for an employee of the Internal Revenue Service to be soliciting support for a partisan candidate at night and conducting an audit of local businesses by day.

Few, if any of us, would find it appropriate for an assistant U.S. attorney to be a campaign manager for a partisan campaign at night and prosecuting political corruption during the day.

These, Mr. President, are but a few examples of what we could expect if this legislation is enacted.

In upholding the constitutionality of the Hatch Act in United Public Workers, CIO versus Mitchell, the Supreme Court considered the question of off duty political activity. The majority held that:

> We do not find persuasion in appellant's argument that such activities during free time are not subject to regulation even though admittedly political activities cannot be indulged in during working hours. The influence of political activity by government employees, if evil in its effects on the service, the employees or people dealing with them, is hardly less so because that activity takes place after hours.

Mr. President, the bright line of on duty and off duty of H.R. 20 is a mirage.

Proponents also argue that this legislation is not a repeal of the Hatch Act protections, but simply a reform. I disagree. One only has to look at what Federal employees can do now and what they could do under this legislation to understand that this is a 180-degree change in the direction of the law. I submit that this is repeal, Mr. President. Today the Federal employee cannot become involved in partisan political activity. What H.R. 20 proposes to do is reverse that trend and encourage—not permit, but encourage—Federal employees to indulge in partisan political activity.

Section 9 of the current law, which the committee report readily admits is the "Heart of the Hatch Act," states that "An employee may not take an active part in political management or in political campaigns." H.R. 20 states that "an employee may take an active part in political management or in political campaigns." Mr. President, this is the complete opposite, and repeal, of current law.

H.R. 20 would prohibit any Federal employee from knowingly soliciting, accepting, or receiving a political contribution from any person with one significant, and telling, exception. That exception is for the solicitation of any other person who is a member of the same Federal labor organization.

This language makes clear the overt partisan nature of this legislation. Today, Federal employees may not solicit political contributions at all. That is the way it should be. The legislation accepts this principle but makes one glaring exception for labor employee PAC's. I offered an amendment to strike this provision, as did my distinguished colleague from New Mexico, Senator DOMENICI. Both of these amendments were defeated, which highlights even more, Mr. President, the overt motivation behind this legislation.

This legislation has the potential to create national Federal and postal PAC's. It would clearly create the situation where far more money could be collected than is currently possible. Isn't it ironical that at the same time the Senate is considering campaign finance reform, including the possibility of eliminating PAC's all together, this legislation would expand PAC's to make it possible for Federal employees to solicit other Federal employees for contributions to a PAC.

Not only would this legislation expand PAC's, when one examines

where Federal employee and postal employee PAC contributions go, one begins to understand the very impetus behind this legislation. Of the total political contributions given by these PAC's in 1987 and 1988, 88 percent went to Democratic candidates and 12 percent went to Republicans. In 1985-86, 92.2 percent went to Democrats and 7.8 percent went to Republicans. This legislation will expand by almost 1 million individuals the number of people who could solicit contributions for these PAC's. Make no mistake regarding this provision. It creates an additional political power for labor organizations, an awesome power.

Under this scenario, any members of the network can solicit contributions, pledges, payment for services, or services themselves from any other member of the network. Congress will have created a much greater political force in postal and Federal employees organizations. On the basis of my previous political experience, it would be my judgment that this new political force would devote its efforts to electing Democratic Party candidates.

Mr. President, the proponents of H.R. 20 argue that Federal employees are confused by the regulations and opinions issued under the Hatch Act. The confusion, it is argued, has a chilling effect on permissible political activity.

In fact, the regulations governing the Hatch Act include simply 13 permissible activities and 16 impermissible activities found in these regulations.

While Federal employees may be confused by what is and is not permissible activity, the regulations are not as confusing as the proponents purport them to be. Proponents of reform frequently mention the several thousand administrative decisions of the former Civil Service Commission which predated the passage of the Hatch Act in 1940, and the effect of these rulings on current interpretation and enforcement of the act. As the Office of Special Counsel has pointed out, "Some individuals have erroneously referred to these decisions as 'rules' or 'regulations,' creating the false impression that there are some 3,000 rules or regulations currently governing political activity by Federal employees. Such individuals clearly misapprehend the legal and historical significance of those decisions."

In addition, Mr. President, I do not understand the logic of the argument that if the implementation of a law is confusing, the law should be repealed. One would hate to see this argument applied to the Bill of Rights, which has for nearly two centuries raised an endless stream of litigation designed to clarify its application. The appropriate response to the argument is to do what is necessary to eliminate the confusion.

Recent Federal appellate court cases in the second and eleventh circuits have further clarified the issue of what is and is not permissible political activity. The distinction drawn by the courts appears very straightforward to me. The court in Blaylock versus United States Merit System Protection Board held that the Hatch Act's prohibition against taking an active part in political management or in political campaigns encompasses only active participation in, on behalf of, in connection with, organized efforts of political parties or partisan committees, clubs, and candidates. In an effort to clarify the existing regulations in light of these appellate court decisions, the Office of Personnel Management, in conjunction with the Office of Special Counsel, is promulgating new regulations to clarify the restrictions on political activity.

We do not have to effectively repeal the Hatch Act to satisfy the concerns of the majority—but this legislation does effectively repeal the heart of the Hatch Act, and that is why the President vetoed the legislation and why I am urging my colleagues to sustain his action. We do not have to repeal the Hatch Act to meet these concerns.

Proponents suggest that the legislation is a modest proposal. Proponents argue that this legislation represents the middle ground between the administration, on the one hand, and the House passed bill on the other.

This legislation tracks the House version in all its particulars with only two major exceptions. Whereas the House version would have permitted Federal employees to engage in virtually any political activity off duty, this legislation would not permit an employee: First, to run for partisan political office; or second, to solicit campaign contributions except from fellow employee-members of a union or group for their own PAC. I do not believe it can accurately be called a mild or toned down change in the Hatch Act.

Mr. President, the issue is not what time of day a Federal employee can wear a button or the size of a sign a Federal employee can place in front of his house. The issue is that this legislation renounces the principle of a neutral, nonpolitical Federal work force. It is oblivious to the expectations, pressures, and coercion that would be borne with this legislation. It would strike the keystone from the arch of our merit system and scuttle the only remedy that has worked to vanquish the evils of the spoils system.

The President's veto should be sustained. I urge my colleagues to do so.

The PRESIDING OFFICER. The Senator's 4 minutes has expired.

Mr. ROTH. Mr. President, I yield 8 minutes to the distinguished minority whip.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 8 minutes.

Mr. SIMPSON. Thank you, Mr. President, and I thank my colleague from Delaware. I commend him on his work and effort in connection with this measure.

Mr. President, I have obviously formed an opinion in this matter and urge my colleagues to sustain the President's recent veto of H.R. 20, this measure to revise the Hatch Act.

As we all know so well, it passed this body, under the very capable sponsorship of Senator JOHN GLENN of Ohio, over some spirited opposition, mine included, after which the House accepted the Senate version of the legislation. We are, therefore, right back to square one.

Nothing has been altered in this legislation that would ameliorate the objections which I, and many of my colleagues, have for this bill. Those objections are voiced the last time around by some who voted in favor, as well as those who voted against. But they have not been met. So now there is no way left for us to eliminate the troublesome provisions of this legislation except by sustaining the veto of it.

I stress that point because some of my colleagues did attempt to amend this legislation in order to remove provisions which were of great concern to many of us on this side of the aisle. Those concerns are more widespread than many would admit, spreading far beyond the Republican Party. Even some who are in support of this legislation have editorialized that it is a mixed blessing—that political activity by our Federal work force needs to be permitted to expand, and if that introduces the side effect of increased PAC contributions to the Democratic Party—well, I guess that is an evil, they say, we are just going to have to grin and bear, much as it pains us. It is bitter medicine, but we will force it down.

It was never necessary, however, that we "grin and bear" the political ramifications of this legislation. The amendments that were offered to this bill—all of them rejected, many of them; a few taken—by many who wanted to support it, who wanted to be counted on the side of greater political freedom for our Federal employees, would have eliminated merely those provisions which created new solicitors for Federal employee union PAC's.

Those amendments were voted down. This body had the choice between revising the Hatch Act without expanding PAC solicitation and revising it with such a provision. The majority of my colleagues chose the former. So, if political gain is not the centerpiece of this legislation, it is

surely knowingly included and greatly a portion of it.

I accept completely the sincere assertions by the bill's sponsors that there is no intent here to politicize the Federal work force but that intent will provide precious little consolation to any of us in this measure because the legislation has the effect of doing just exactly that. We have argued about whether it will. I suppose something may have happened in the human conscious over the last years, the last 50 years—I rather doubt it. We once had a system where there was a mysterious correlation—I know it was a mysterious one—between the political work which Government employees did and the speed with which they rose through the ranks. But that "ain't going to happen again this time around." Apparently, people have changed. Well, who believes that?

I think there is a grave problem with perspective here. For as long as anyone in this body can remember, the Federal work force has been partisan Democratic in its allegiance, anyway at least as far as you can measure by political contributions and activity, both of which are very substantial, in spite of the presence of the Hatch Act. Perhaps the prospect of 2.9 million Federal employees being permitted to solicit each other—off duty, of course—for political contributions, does not seem quite so insidious if those funds are coming to you as a candidate. That insight does not require a cynical frame of mind but I venture to say it might not seem too imperative to correct those solicitation limitations and abuses on the eve of an election if those bucks were going to a Republican National Committee. Not a single Democrat will vote to sustain this veto and they have not had a hand in anything to fix this one up; nothing.

Picture that 2.9 million Federal workers with the ability and desire to pound the pavement to advance the political ideals of President George Bush. Would this body tolerate that? Would the Democratic majority? And when the administration sends an appointment up here we are oh-so-careful to make certain the individual is going to faithfully and impartially discharge the duties of his office and is not going to be picked because he is willing to "carry out the agenda." We scrutinize executive and judicial branch appointments in order to make certain they are not merely being rewarded for political service. But the employees we discussed today, postal workers, FBI employees, IRS auditors, are not even political appointments. Their capacity is supposed to be purely administrative. Their promotions merit-based. The sponsors do not wish to undermine that, certainly. But if that 2.9 million were contributing 90 percent to the Republican Party would they be inclined to take the risk? I think that is a question that deserves an answer.

The Washington Post in a recent editorial noted the general absence of pressure from individual Federal employees to revise the Hatch Act but they concluded that it should be nonetheless revised because it is enough that "some employees feel constrained."

Those "some employees" are the Federal employees union leadership and nobody else. They got burned in the last campaign. They got sued in the last campaign. They want off the hook in the next one. So we can have the minions of the Post Office running around on the Sunday before election with their pouches around their necks pretending they are off duty, doing God's work. I think that is a poor excuse for everything I know of, especially when we are trying to do campaign reform and get rid of PAC's.

So, there we are. They do feel constrained, indeed, because those leaders want their members to be able to go beyond basic citizen participation, which they currently enjoy, to political hack work. And they cannot do that now. They just cannot do it and that kind of fun and games was what was ruled out 51 years ago. It was good and right and just to do then; and now. And these employees are charged to carry out the administrative work of doing the Government's business and making democracy work. Not hacking around, off duty, doing things that got them in trouble before we passed the Hatch Act 51 years ago.

The Hatch Act protects their rights as citizens but it does constrain them from performing the work of party regulars or party hacks. That is why the Hatch Act is in existence. That is why it was done. Let us keep it that way.

I urge my colleagues to sustain the President's veto and I yield the floor and thank the managers.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Who yields time? The Senator from Ohio.

Mr. GLENN. I yield myself 10 minutes.

Mr. President, the distinguished Senator from Kentucky a little while ago quoted me as saying, "When you mention the Hatch Act you batten down the hatches, you go for the foxholes, you put the helmet on and everybody gets ready to hunker down." Because we are "changing the Hatch Act."

We are modifying the Hatch Act to a minor degree, as I see it. It is not a repeal, as the Senator from Delaware said. He kept using that in our debate before, the 8 days of debate we had on the floor.

This is not a repeal of the Hatch Act. It is not, as the New York Times in their little editorial today said, when they said "don't destroy the Hatch Act," which indicates repeal.

I was a little surprised to find that institution that usually would be in the forefront of demanding that excessive restrictions on employees in or out of the Government should not be permitted to continue, and that freedom of speech, freedom of action, as much as possible within some restrictions, should be permitted—I was a little surprised to see the New York Times coming down on the other side of that one, as I read their editorial today. But that is a little bit beside the point.

Mr. President, when the lines get drawn on the Hatch Act it seems we cannot really suggest any changes, no matter how minor, without being subjected to a lot of criticism. H.R. 20, the original H.R. 20, in the House, let me clarify, was a repeal of the Hatch Act de facto. It basically took all restrictions as far as raising money, running for office, doing everything else.

But that is not the bill we have before us today. I must say that the White House comments made ever since we passed the bill here in the Senate, I think, have been addressing the original H.R. 20, because I do not see how they could really read the bill that we passed here and still say the things about the Hatch Act that they said. This is a very modest proposal.

The legislative procedure was, H.R. 20 came over to us, we substituted the Senate bill for it. So it is called H.R. 20 now but this is not the original H.R. 20 the White House keeps referring to. This is not that kind of a bill. This is a very modest bill. It developed in the committee with a lot of bipartisan support.

What it does is eliminate many of the complicated and restrictive rulings that presently govern the political activities of Federal civilian and postal employees. We held hearings on it in 1988 and 1989; we had 8 days of debate here on the floor.

When we were in committee, much of the testimony focused on the fact that back through the years of the Hatch Act we had had some 3,000 rules and regulations come up, many of them conflicting. So Federal employees do not have any idea which one to go with and which one not, because they are conflicting. Most of those were prior to 1940. Some of them were eliminated, but not all of them. And there were all kinds of political activities that these rules and regulations applied to. The rulings were confusing, illogical and in many cases trivial.

I will tell my colleagues right now I was lukewarm to Hatch Act changes until we got into it and looked at it and found out how ludicrous some of these things were and decided that simple fairness, just plain old simple

fairness, demands that we make the changes, just to clarify it to make it workable, if nothing else.

Let me give a couple of examples. If Hatched you can wear a campaign button on the job, you can write a $1,000 check to a candidate, but you cannot give any in-kind contribution of time.

You can say, "I want my thousand dollars to be used to hire somebody to stuff envelopes," but you cannot stuff envelopes yourself. Is that not a little ridiculous? Or circulate a nomination petition, for instance. Or if Hatched, you cannot wave a political poster at a rally, but you can post it on your car or front lawn. If you are Hatched, you can express your opinion about a candidate public, but you cannot make a speech or campaign for or against a candidate. What is the difference there? You can make a speech. You can express your opinion. But when does an opinion become a speech? Once you express it? There is a fine line. It is out there in fiction someplace.

In the last election, the State of Washington, when the Navy shipyard workers were notified they could not actively participate in the State's Presidential caucuses without violating the Hatch Act, were even prevented from voting.

The current Hatch Act even extends to letters of the editors on partisan politics. If Hatched, you may not write letters in connection with political parties or partisan groups or candidates. You can submit under these rules not more than one letter to five publications or five letters to one publication. Try and figure that one out.

So many people were chuckling, but it is not a joke. The point being that we should encourage people to participate in the politics of the Nation; that it is a serious business. It is a constitutional right, a right that if restricted—and I do not say there should not be restrictions—but if restricted, it should be restricted only to the extent necessary to prevent more profound violations from occurring.

As my distinguished colleague from Delaware pointed out, the Hatch Act was passed some 50 years ago. Professional civil service was being undermined by patronage, political influence, and stacking some 60 new Federal agencies that had been created. By the end of 1934, only five had been placed under the jurisdiction of civil service. So there was rampant favoritism. It should never have occurred.

We estimate now some 300,000 jobs were created then by civil servants who were working for partisan, perhaps for more than national interests. In 1939, a special Senate investigation disclosed special appointees in the WPA had, in fact, coerced relief workers into making political contributions in return for their jobs. The Hatch Act quickly passed. They did not even have hearings on it. It passed so fast, in fact, that they had to come back and correct it later because an interpretation of the Hatch Act at that time would have prevented Federal candidates for office—the President, Vice President, and Members of Congress—from even running for reelection because they would have violated the Hatch Act. That is how fast the thing was passed.

We have a different situation now. Most of our people, some 80 percent, are covered under civil service. Under the bill, a Hatched employee would enjoy more freedoms after hours, only after hours. Nothing can be done of a political nature while you are on the job during the day. Nothing. Zero. That is it.

The editorial in the Times, I believe, indicates that you might be able to solicit fellow employees. We are providing two qualifications to that under this legislation. You could not ask them for contributions unless they were members of the same union that you were a member of or an employee's organization.

And, No. 2, you cannot do it during the day on the job. Period. You cannot even do that even for a fellow union member. You cannot ask him for a contribution on the job.

So we protect against some of the restrictions. Some restrictions on off-the-job activity provided for in current law would remain.

First, current law prohibitions against Federal and postal employees soliciting campaign contributions from the general public remain.

Second, this bill would keep current law prohibitions against Hatched employees running for partisan elective office. At the same time, it would allow them to run for offices within party organizations or affiliated groups. An employee could be a precinct chairman, convention delegate, a privilege Federal and postal workers do not enjoy now.

H.R. 20—which I repeat, again, is really S. 135 that we substituted for over here—would ensure the continued protection of Hatched employees from political coercion by making a clear distinction between activity on the job and activity away from work on an employee's own time. All political activity on the job is banned. Everything. You could not even wear a campaign button. That is allowed under current law.

In some respect we have tightened it up. H.R. 20 would retain all current prohibitions and penalties against the use of one's official position to influence other employees and increases the criminal penalties for those convicted of such abuse.

Senator ROBB had an amendment. The Robb amendment put the penalties up to a $5,000 fine and 3 years in jail. That was an increase. So we have very stiff penalties against the use of one's official position to coerce or use or try and influence the position to get other employees to do what you want them to do of a political nature or make a contribution, or whatever. So it is a very tough law. We have tightened it up in many respects, not loosened up.

H.R. 20 would prohibit Federal workers from engaging in any political activity while wearing a uniform or insignia that identifies him as a Federal or postal employee.

The PRESIDING OFFICER. The Senator has used his 10 minutes.

Mr. GLENN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Three minutes and fifty seconds.

Mr. ROTH. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Delaware has 12 minutes.

Mr. ROTH. I yield myself 2 minutes, Mr. President.

The PRESIDING OFFICER. The Senator may proceed.

Mr. ROTH. "Don't Destroy the Hatch Act," that is the headline contained in the editorial of the New York Times today.

Mr. President, that says it all: "Don't Destroy the Hatch Act."

My distinguished colleague, the chairman of the Governmental Affairs Committee, argues that this is merely reform and not repeal. It reminds me a little bit of the old argument about being a little bit pregnant. What the editorial says is President Bush was right to veto legislation easing Hatch Act restrictions on political activity by Federal employees. With that I agree.

Mr. President, this legislation will foster a return to a time when pressures on employees replace protections for them and to a time when politics replace merit. It facilitates a return to the spoils system and politicizes the civil service. Let there be no doubt that this will have a dramatic negative impact on both the Federal employee and the public's perception of a nonpartisan administration of Government. Pressures will be brought to bear on the very employees who are currently protected under the Hatch Act.

At a time when the American people are becoming more and more concerned that the Government does not work for them, it is my strongest belief that passage of this legislation will only deepen this problem. The creation of interest groups within the Government will give the public an even stronger feeling that the Government is not working for the public interest but only for their own interests.

Finally, at a time when we are considering campaign finance reform, in-

cluding a complete ban on PAC's, why are we expanding PAC's as this bill does? The public's concern about the way we fund elections will only deepen if this legislation becomes law. For the Federal employee, the American public, and the nonpartisan administration of Government, I urge my colleagues to support the President and sustain his veto.

Mr. President, I ask unanimous consent that the New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 21, 1990]

DON'T DESTROY THE HATCH ACT

President Bush was right to veto legislation easing Hatch Act restrictions on political activity by Federal employees. Now that the House has overridden his veto, a showdown looms in the Senate. The Senate would be well advised to uphold the veto and then consider a more modest revision of the act, preserving its valid protections against political abuse.

The act, passed in 1939 to forestall political exploitation of the expanding Federal work force, prohibits Government workers from "active" participation in partisan campaigns. Critics tend to exaggerate the extent to which the law is stifling, just as supporters overstate its benefits. Even "Hatched" employees remain free to vote, contribute money to candidates and volunteer in their off hours in nonpartisan political activities.

The measure Mr. Bush vetoed would, like the Hatch Act, prohibit Federal employees from running for political office and soliciting public funds. However, it would lift other important restrictions on off-duty political activity. Civil servants would be free to serve as campaign and party officials and run as delegates to party conventions. More troubling, employees would be no longer be barred from soliciting co-workers for contributions to the political action committees of the various Federal employee and postal unions.

Senator John Glenn, who supports the Hatch Act overhaul, says the bill offers sufficient protection against political coercion. But that ignores reality. Mr. Bush rightly feared that without the Hatch Act excuse, Federal employees, including tax auditors and prosecutors, would inevitably confront subtle pressures to contribute money and time to partisan causes.

Proponents of reform argue that the present curbs on partisan activity, though upheld by the Supreme Court, abridge free speech. But creating a climate in which government employees are likely to feel compelled to engage in politics also offends free speech.

Even so, there's widespread agreement that the Hatch Act is unduly restrictive and needlessly complex. Surely it's possible for Congress to devise a bill that simplifies the act while preserving its sensible protections against politicizing the Federal work force.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. ROTH. I yield the remainder of my time to the distinguished Republican leader, Senator DOLE.

The PRESIDING OFFICER. The Republican leader may proceed.

Mr. DOLE. Mr. President, last week the President followed through on his promise to veto the Hatch Act. He declared:

As one who has devoted much of his life to public service, I take great pride in the integrity of our Federal work force. Thus, to protect Federal employees from political pressure and preserve the impartial, even-handed conduct of Government business, I am obligated to disapprove H.R. 20.

The Senate will vote in a few moments on whether or not to override the President's veto. I strongly urge all of my colleagues, or at least 34, 35 or 36 or more, to join me in voting to sustain the President's action.

I urge my colleagues to do so because H.R. 20 is bad legislation. It is bad for the Government; it is bad for the Federal worker; and it is bad for the American people.

POLITICIZATION OF FEDERAL GOVERNMENT

Mr. President, the Hatch Act has deep historical roots and was enacted as a much needed and long overdue remedy to years of increasingly gross patronage abuses within the Federal Government.

The problems, conditions, and temptations that necessitated the Hatch Act 51 years ago still exist today—the only difference being that because of the Hatch Act—these problems, conditions, and temptations are under control.

But without the Hatch Act, we will be right back where we started with a politicized Federal Government and a civil service where merit is subverted to political affiliation. It probably will not happen overnight but it will happen. It will happen as certain as we are debating this issue today.

Politics and coercive tactics are often subtle, emotional, and devious. It is an environment where perception can be as powerful and commanding as action.

I remind all of my colleagues that under this bill—while partisan political activity may be prohibited during work hours or on work premises—just about anything goes after hours and off premises.

Under this bill, an employee can hold a party position, can solicit votes, and can for all intent and purpose make it clear to the world that they are a diehard Democrat or Republican and will go to the mat on any issue that affects their candidate or their political agenda.

This can only lead to the politicization of the Federal work force and to the politicization of the administration of Federal programs.

We have already seen all the problems they have had over at HUD. If this bill is passed, we are only putting out the welcome mat to other such problems.

CAMPAIGN SOLICITATION

Of particular concern to me is that under this bill, a Federal worker will be able to solicit campaign contributions from fellow employees who belong to the same union organization for contribution to the PAC.

Just think, Mr. President, under the bill, employees can basically go out and solicit one another for campaign contributions. It is no wonder the Federal employee unions have been stalking the Halls of Congress in support of this bill.

And believe me, the issue for them is not free speech or the political emancipation of the Federal worker. The issue for them is the emancipation of the Federal employee checkbook.

Last year, the chief lobbyist for the National Association of Letter Carriers—Mr. Gould—helped hand out almost $769,000. That is a lot of money and I can assure you that if the President's veto is not sustained, there will be a lot more money next year.

And do not forget that between 1987 and 1988, about 88 percent of Federal union PAC money went to Democrats and about 12 percent went to Republicans.

So the Federal work force should be forewarned—that if this bill becomes law—to get their pens out because they are going to be asked to start writing those checks.

REPUBLICAN AMENDMENTS

Mr. President, I just want to conclude my remarks by reminding my colleagues that a number of Senators, including myself, offered several amendments which raised important issues and to some extent would have helped to improve this legislation.

None of these particular amendments passed, except one offered by myself which excluded the Federal Election Commission from the liberal standards set forth in the bill.

In this case, I was pleased to see that at least those Senators supporting the bill were able to appreciate the wisdom of excluding those individuals responsible for regulating politics from being able to actively and publicly participate in partisan political activities.

But amendments that would have alllowed workers to vote for themselves on whether they want to fall under current Hatch Act standards or under this bill, that would have eliminated the ability of Federal workers belonging to the same unions to solicit campaign contributions from one another, and that would have excluded from the liberal standards of the bill employees of certain other sensitive Government agencies—such as the Internal Revenue Service and those handling issues of national security—were not passed.

As an aside, maybe it is just a happy coincidence, but since I was leading the effort to do some of these things I have been notified that my tax re-

turns will be audited for the last 3 years.

While none of these amendments would have solved the basic and fundamental problem that active and public political activity by Federal workers, regardless of what agency or bureau they work for, impairs effective and impartial government, I regret that supporters of the bill were unable to address even these simple and straightforward examples where such activity is so obviously and patently troubling.

I regret in a sense that those who wanted no change in this bill, accepted only one meaningful change, the FEC, an agency of about 240 people when we are talking about 3 million Federal workers. We finally did accept one agency. We would not accept the CIA or the IRS or the FBI or a lot of other agencies that I think deal with rather sensitive matters.

It seems to me that these were straightforward examples that were not even listened to by the other side. Let us face it, this was a party line, almost 100 percent party line effort, by the Democrats. They are the big recipients of all the Federal employee unions' money and they want to get this bill passed. They want to get it done before this election.

Mr. President, for the reasons that I have just stated and discussed—and for the reasons we also discussed during the 8 days of debate we had on this bill—it seems to me that this veto ought to be sustained. By doing so, we will be voting to ensure both the efficient and nonpartisan operation of the Federal Government and the maintenance of the public's confidence in that Government.

I have never seen any surveys that indicate Federal employees really want to change the Hatch Act. I think many Federal employees are satisfied with the way it is. But obviously those at the top and those who have the power want more power. That is what this bill is about: more power for those on top, not the average Federal worker that many of us know, not the man or the woman working out in some ASC office in Kansas or some other office around the country. These are the beltway boys. This is what they want. They want to raise more money and to give more money to Democrats. They want to elect more Democrats and to get more benefits. It is that simple.

I believe President Bush was exactly right. We need to protect the Federal employees, protect the Federal employees from those who would use the system and change the system in a way that would give them more influence. That is how it works around here.

At the very time we are trying to eliminate political action committees in other legislation, here we are considering making it easier to collect from your fellow union members for the political action committee of the letter carriers or some other union.

I whole heartedly agree with the reasons my friend from Delaware has stated over the past several weeks—he has done an outstanding job, as has the manager, the distinguished Senator from Ohio [Mr. GLENN]. But notwithstanding the Senator from Ohio's good work, I think this time President Bush should prevail and the veto should be sustained.

Mr. GLENN. Mr. President, I yield 2 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I urge the Senate to override President Bush's veto of the Hatch Act reform. The time has come for us to act decisively and finally to restore basic democratic rights to the men and women in the civilian Federal work force.

The principle that Government functions best when all citizens are given the widest possible opportunity to participate in the political process is a fundamental principle of American democracy. Yet Federal workers are denied this basic right that all other Americans enjoy—the right to full participation in the political process of this country. There is no justification for the confusing set of legislative and regulatory restrictions that no longer serve the purposes for which the Hatch Act was originally enacted. Congress has carefully addressed the basic inequities in these restrictions.

We have voted to restore the rights of Federal workers, and give them the ability to exercise the fundamental responsibilities of citizens in a free society.

By vetoing this legislation, President Bush has chosen to deny these dedicated public servants their long-awaited freedom from these obsolete and demeaning restraints.

As a long-time advocate of Hatch Act reform, I commend Senator GLEEN and many others for their skill in developing legislation which fairly balances the rights of Federal employees to participate voluntarily in political activities, against the need to prevent unfair political pressure in the Federal workplace. The Hatch Act reforms will allow Federal employees to engage in a variety of political activities—on their own time, off duty, and away from the workplace. We continue to prohibit such employees from running for partisan elective office, or from soliciting campaign contributions from the general public. Most important, Federal employees will continue to be prohibited from using their official positions to coerce or intimidate workers whom they supervise. These are fair and reasonable restrictions that every member of this body can support. It is unfair and unreasonable to retain the indefensible restrictions of current law.

When the Hatch Act was passed in 1939, almost 40 percent of the Federal work force was exempt from the civil service. Today, the vast majority of Federal employees are hired—not by patronage, not by the spoils system the Hatch Act was enacted to prevent, but under a merit system which protects Federal workers from political coercion and partisan abuse.

The reforms contained in this legislation in no way weaken the protections provided under the civil service merit system or the civil and criminal statutes that prohibit official misuse of office. But these reforms will eliminate the confusing maze of illogical restrictions that regulatory agencies have adopted over the past 50 years.

It is time to replace those restrictions with clear rules allowing maximum opportunity to participate in our democracy.

Hatch Act reform is long overdue. I urge the Senate to adopt this legislation without further delay by overriding the President's ill-advised and unwarranted veto.

All of us regret that the merits of this struggle are now being overshadowed by partisan appeals to preserve the President's unbroken string of consecutive vetoes sustained by Congress.

Loyalty to the President is admirable. But what about the higher loyalty we owe to the millions of Federal workers who make this Government work, and who make our democracy work?

Who speaks for them? I say, the Senate must speak for them, even if the President does not—even if it means the time has come for the U.S. Senate to override for the first time a veto of President George Bush.

Federal employees are first-class citizens too. They are dedicated workers, too. It is within our power, on this day, with this vote, to end their second-class status in American democracy.

Mr. KOHL. Mr. President, throughout this debate on Hatch Act reform, we have heard a number of our colleagues talk about the need to reform the Hatch Act. And there are a lot of very good reasons. But in my mind, there is one preeminent reason for Hatch Act reform: the growing trend toward political apathy in this country. The number of Americans who choose to actively participate in our Nation's political system is at an all-time low, and getting lower. In my view, this is a trend which must be reversed in order to preserve the democratic spirit of our political system. We need to do everything we can to encourage, not discourage, participation in the American political process.

The 1939 Hatch Act law discourages 3 million Federal employees from par-

ticipating in the political process, 3 million of the most well-informed and civic-minded citizens in our society. The legislation which the President vetoed, however, would help bring those people into the political process. That is the direction in which we should be moving, and that is why I am voting to override the President's veto.

The American people are some of the luckiest people anywhere, because we have the right to participate openly and freely in our country's political process. We have the privilege of participating in the world's greatest democratic system. The value of that privilege cannot be overstated.

As some have already pointed out during this debate, we need only look at the countries in Eastern Europe, and in Central America to fully appreciate the value of our political freedoms. We need only look at the long, difficult struggles of many people in many countries, and on many continents, to appreciate the importance of the political and civil rights which we often take for granted.

That is why I find it so offensive that the same administration which is always willing to focus on the symbols of patriotism, like the flag, is unwilling to provide real political freedom to a major segment of the American public, simply because they work for the Federal Government. The President claims that "there is no real need" and there has been no "grassroots clamor" to relax the Hatch Act. I would just like to note that, at least in Wisconsin, the "grassroots clamor" is loud and clear. And based on yesterday's 327 to 93 vote in the House of Representatives to override the President's veto, it appears that the "grassroots clamor" is evident nationwide.

Furthermore, the administration's concerns that this legislation would "repoliticize" the Federal work force are unfounded. Today, unlike the situation in 1939 when the Hatch Act was enacted, there are many laws in place to prevent political coercion in the workplace. In fact, this legislation increases penalties against violators of those laws.

In sum, S. 135, legislation to reform the Hatch Act, represents a fair balance between the need to protect the integrity of the civil service and the need to protect the democratic rights of 3 million Federal employees. It is my strong hope that the Senate will join the House of Representatives this morning in overriding the President's veto of this important legislation.

Mr. GLENN. Mr. President, I have trouble recognizing the legislation in the way in which it is referred. My distinguished friend from Kansas says that anything goes after hours. Nothing could be further from the truth.

It frees the individual to personally be active, but he cannot ask anyone, even off the job, for contributions, except a fellow union member, and then he cannot ask him for anything if they are subordinate to him in the organization for which he works.

The term "political contribution," that he is prohibited from dealing with, it says in the language, "means any gift, subscription, loan, advance, or deposit of money, or anything of value made for any political purpose, any contract, promise," et cetera, et cetera. The provision of "personal services," he cannot even solicit for that. Personal services includes "paid and unpaid services," so in some ways even off the job we have tightened this up, not loosened it.

What we did basically with this legislation is we have said that on the job nothing is permitted of a political nature, period.

(The VICE PRESIDENT assumed the chair.)

Mr. GLENN. You cannot even put on a campaign button, which you can do now, off the job; with very, very careful restrictions on not being able to run for office, not soliciting the general public, not being able to solicit anyone who is a subordinate of that particular person. All of these things are written into this legislation.

I believe we have strengthened the protections in that we have made them understandable for the first time. There are some 3,000 rules and regulations, many of them conflicting: what you can put on your car, what you cannot; what you can put on your yard, the yard sign sizes. If you go to a political rally, do not get caught with a sign in your hand. Even if somebody hands it to you for a minute, you are breaking the law. And in the process of just saying anything on the job; limited activity off the job, that is permitted now. That is what this bill does. Nothing else.

It does not repeal the Hatch Act. It does not destroy the Hatch Act. I wish we had a lot more time to debate that one this morning because we are winding down here in the final few seconds here.

I urge my colleagues to override the President's veto on this. I think it is important for all of our Government employees.

I yield the remainder of my time.

WE MUST OVERRIDE THE HATCH ACT VETO

Mr. DECONCINI. Mr. President, I strongly oppose President Bush's veto of H.R. 20, the Hatch Act reform legislation and I will vote to override this veto. The President has expressed his concerns that this bill poses a serious threat by jeopardizing the essential political neutrality of Federal workers. Additionally, he has stated that these workers would be subject to undue pressure to take an active role in partisan political activity.

I strongly disagree with the President's position. By attempting to ensure the political neutrality of Federal workers through the Hatch Act, the U.S. Government is denying to 3 million of its own workers the very same democratic rights it provides under the Constitution to the general citizenry.

It is unlikely that Federal employees will feel any greater increase in pressure from political organizations, senior employees, or others to participate in any partisan political activity. The bill that passed this body last month and which was sent to the President has strong prohibitions against political coercion and places stronger penalties against those who would attempt to coerce their fellow workers.

In his veto message, the President stated that "the more subtle forms of coercion are almost impossible to regulate." But as a Washington Post editorial noted, if this is true, then these subtle forms of coercion are equally impossible to regulate now.

The existing Hatch Act is plagued with trivial regulations and is a confusing compilation of bureaucratic decisions that render ludicrous what was originally a well-intended law. The size of campaign yard signs and whether or not a person may wear a campaign button is not something that needs to be regulated by the long arm of the bureaucrats in Washington.

Nonetheless, the President has demonstrated that he still feels no real need to reform the existing Hatch Act. He chooses instead to continue the existing law with its bureaucratic jumble of conflicting and confusing regulations. Currently, the outdated Hatch Act has the effect of freezing out Federal and postal employees who may try to exercise those few political rights that they are now allowed under the law.

I strongly urge my colleagues to override the President's veto and to restate our support for extending first amendment rights to every American.

Mr. DURENBERGER. Mr. President, this vote is not an easy one for me. I dislike voting against my good friend and ally, George Bush, but feel that this change in law is absolutely necessary in order to give further political rights to those citizens who have already proven their strong patriotism by working for the Federal Government. I did not enjoy telling President Bush that I could not support his veto. I truly regret that the bill was vetoed in the first place. However, I firmly believe that these reforms are in the best interests of Federal workers, both political parties, and our democratic system. This bill balances the rights of workers to take part in political activities without turning the Federal workplace into a partisan battleground.

While S. 135 would loosen many restrictions on the political activities of Federal Government workers, it keeps several important prohibitions in place. Federal employees would continue to be barred from soliciting campaign contributions from the general public. The bill would not change current prohibitions against Federal workers running for partisan political office. But, S. 135 would change the law and allow Federal employees to participate in a Presidential caucus, or serve as a delegate to a political convention.

While allowing Federal workers greater freedom of political expression outside of the workplace, S. 135 would prohibit all political activity on the job. In my view, S. 135 thus allows Federal workers to exercise their constitutional rights while remaining faithful to the original intent of the Hatch Act—to ensure a nonpartisan public service free from political coercion and manipulation.

The Hatch Act was born in 1939 during an era of pervasive political corruption. President Franklin D. Roosevelt's programs were rapidly expanding the size and scope of Federal Government activities and memories of Tammany Hall, the Teapot Dome scandal and the prohibition fiasco were still fresh in the minds of Americans. In that era, Americans wanted, needed, and received assurances that the Federal Government would not take partisan advantage of its newfound influence on everyday life. Happily, much has changed since the 1930's. While we certainly have far to go, these are very different times, calling for new standards. Administrative tinkering with the act is not sufficient. Congress should act to set out clearly what the political rights of Federal employees should be.

I have heard from numerous Federal employees in Minnesota who resent restriction on their political activities. These citizens serve the Nation everyday in jobs from postal workers to border guards to park rangers. They display unusually high civic pride and have chosen to dedicate their careers to bettering our country. I believe that it's time to stop treating these public employees like second class citizens where participation in the democratic process is concerned.

These Hatch Act reforms will allow Federal employees into the mainstream of American politics. As we continue to witness widespread voter apathy and dropping rates of voter turnout, we need to encourage more groups of citizens to get involved in the democratic process. S. 135 will infuse new enthusiasm and energy into American politics, and that is good for Federal employees, the general public and the democratic system.

Mr. SARBANES. Mr. President, as a cosponsor of S. 135, I rise today in strong support of overriding the President's veto of this important legislation, H.R. 20, which would let Federal civilian and postal employees participate more fully in the democratic process. H.R. 20 is identical to S. 135, Hatch Act reform legislation, which was strongly debated and passed by this distinguished body just last month.

Sixty-seven of my colleagues supported S. 135 when it came before the Senate at that time. I only hope that they continue to support this important legislation which would give a small segment of America's work force, Federal and postal workers—who have been disenfranchised since enactment of the 1939 law, a chance to fully exercise their political rights like any other American citizen.

During the 94th Congress, as a Member of the House of Representatives, I supported legislation to restore to Federal civilian and postal employees their rights to participate fully in our Nation's political process. As with the proposal we are considering today, H.R. 20, it was vetoed by President Ford. Regrettably, the House failed to override President Ford's veto, but I was pleased to hear that yesterday my colleagues in the House did what we were unable to do in 1976, and voted, 327-93, to override President Bush's veto of the Hatch Act reform bill.

The issue is before the Senate today, and I want to reiterate my strong support for Hatch Act reform and urge my colleagues in the Senate to concur with Members of the House of Representatives and vote to override the President's veto. The President says he is committed to assisting the citizens of new democracies in reforming their political systems and participating fully in their countries' elections. Yet he is determined to continue unnecessary restrictions on certain citizens of this country, simply because they work for the Government. According to Wednesday's Washington Post, President Bush said he vetoed H.R. 20 because it would present a serious threat of "repoliticizing the Federal work force," that its "obvious result" would be "unstated but enormous pressure to participate in partisan political activity" to the detriment of "the impartial * * * conduct of government business."

Contrary to what the President would have us believe, this legislation would protect Federal employees from partisan, political pressures and coercion. In my view, H.R. 20 would preserve the integrity of the civil service while ensuring against narrow interpretations of the law which lead to political coercion. It clarifies current law by specifically stating what is permitted and what is prohibited under the act. The legislation before us today makes a clear distinction between what is considered partisan political coercion and the expression of opinions. Employees can be fined, fired, or suspended for using their authority to intimidate other employees. H.R. 20 would let Federal and postal workers exercise their political rights on their own time and protect their political integrity on the Government's time.

Most importantly, it would restore the rights of 3 million Federal and postal employees to participate fully and freely in the political process. Participation in the political process is a fundamental right guaranteed all Americans and no one should have to forfeit his or her political rights because of the work he chooses to do. H.R. 20 gives Government employees the same opportunity afforded other employeess of America's work force.

Mr. President, all American citizens should have the right and opportunity to participate in the political process and should be permitted to go out and express their positions and opinions on political subjects. Certainly it was not the intention of the 76th Congress, when it enacted the Hatch Act, to prohibit such actions. When Congress passed the Hatch Act in 1939, it was to protect employees from political coercion, not open the door for intimidation.

H.R. 20 would ensure that a special segment of America's work force, Federal and postal workers, have the same opportunity as all other American citizens—to exercise their political rights, without the fear of harassment or intimidation. Current law restricts these employees too severely, and I urge my colleagues to vote to override the President's veto of this very important legislation.

The VICE PRESIDENT. All time has expired.

The question is, Shall the bill (H.R. 20) pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory under the Constitution.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 65, nays 35, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—65

Adams	Fowler	Metzenbaum
Akaka	Glenn	Mikulski
Baucus	Gore	Mitchell
Bentsen	Graham	Moynihan
Biden	Harkin	Nunn
Bingaman	Hatfield	Packwood
Boren	Heflin	Pell
Bradley	Heinz	Pryor
Breaux	Hollings	Reid
Bryan	Inouye	Riegle
Bumpers	Jeffords	Robb
Burdick	Johnston	Rockefeller
Byrd	Kasten	Sanford
Conrad	Kennedy	Sarbanes
Cranston	Kerrey	Sasser
Daschle	Kerry	Shelby
DeConcini	Kohl	Simon
Dixon	Lautenberg	Specter
Dodd	Leahy	Stevens
Durenberger	Levin	Warner
Exon	Lieberman	Wirth
Ford	McCain	

NAYS—35

Armstrong	Garn	McConnell
Bond	Gorton	Murkowski
Boschwitz	Gramm	Nickles
Burns	Grassley	Pressler
Chafee	Hatch	Roth
Coats	Helms	Rudman
Cochran	Humphrey	Simpson
Cohen	Kassebaum	Symms
D'Amato	Lott	Thurmond
Danforth	Lugar	Wallop
Dole	Mack	Wilson
Domenici	McClure	

The VICE PRESIDENT. On this vote, the yeas are 65 and the nays 35. Two-thirds of the Senators present and voting not having voted in the affirmative, the bill, on reconsideration, fails of passage.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may proceed as if in morning business not to extend beyond 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. I thank the Chair.

(The remarks of Mr. PRYOR pertaining to the introduction of S. 2768 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

THE SAVANNAH RIVER SITE RESTART AND NEW PRODUCTION REACTOR

Mr. THURMOND. Mr. President, as the world and the United States celebrate the downfall of the Warsaw Pact and the shredding of the Iron Curtain, there are increasing calls for the United States to stop its nuclear weapons production. I rise today to caution against this dangerous trend and urge my colleagues not to succumb to the siren's tempting song.

Many of our colleagues—most recently, the esteemed senior Senator from Hawaii, Senator INOUYE—have cautioned against reducing our nuclear deterrence. In his June 12, 1990 floor speech, Senator INOUYE stated:

> The United States is struggling to maintain and improve its nuclear deterrent forces to meet its need for the 1990's and beyond. As we struggle, the Soviets march steadily onward and make more progress toward that same goal.

Mr. President, the Department of Energy is currently reviewing both environmental and safety issues with the goal to restart the reactors at the Savannah River Site. The reactors have been shut down for safety and environmental reasons since 1988. Because of this shut down, our nuclear weapons complex has no readily available source of tritium gas, an essential ingredient of nuclear weapons which decays at a rate of 5 percent a year. If this condition is allowed to continue, the United States would, in the near term, have to retire about 1,200 warheads a year, which would effectively eliminate our nuclear weapons over a 20-year period. We cannot allow that to happen.

The safe restart of the Savannah River site reactors is only the first step in maintaining our nuclear deterrence. The second step is to replace the 40-year-old reactors with a new production reactor. If the United States is to continue maintaining a viable nuclear deterrence into the 21st century, we must aggressively pursue this new technology or be faced with continuing the production of tritium with reactor technology nearing the end of its original design lifetime.

Mr. President, I ask unanimous consent that three articles relating to the Nation's nuclear programs be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. the first article, titled, "Nuclear Threat from Soviets Real Despite Summit Talks," is an editorial from the Aiken Standard.

The second article, by Dr. Kolar, chairman of the department of mechanical engineering at the University of Pittsburgh, is titled "Let's Move Ahead with NPR" and was published in the State newspaper. This article provides a short synopsis of our need to produce tritium if we are to retain a robust and credible nuclear deterrence.

The third is an article by Dr. James B. Edwards, a former governor of South Carolina and Secretary of Energy, who now serves as the president of the Medical University of South Carolina at Charleston. Dr. Edwards' article is titled, "Congress Can Save Threatened Uranium Enrichment Enterprise."

EXHIBIT 1

[FROM THE AIKEN (SC) STANDARD, JUNE 13, 1990]

NUCLEAR THREAT FROM SOVIETS REAL DESPITE SUMMIT TALKS

In environmental impact hearings at Savannah, Columbia and Aiken, representatives of various anti-nuclear organizations have made their pitch against the restart of the Savannah River Site's production reactors.

In addition to the well-worn arguments over technicalities, the opponents—as their principal case against restart—seized on the recent arms control agreements reached by President George Bush and Soviet President Mikhail Gorbachev concluded just before the final hearings in Aiken last Friday.

If they or anyone else is convinced that the U.S. can abandon its nuclear deterrent, they have been vastly misled by news of the Bush-Gorbachev summit meeting. As Newsweek magazine points out, "Mikhail Gorbachev needed a victory—and the Bush administration was determined he should have one."

". . . Gorbachev and George Bush," the magazine stated, "approved a series of agreements designed to make the Soviet leader look like a winner in arms control."

What actually happened was "less than met the eye," however.

While strategic arms reduction talks suggested a 50 percent reduction in strategic forces by both sides, in fact the reductions will be "at most a quarter by 1998," said Newsweek, ". . . and given the increased accuracy of today's delivery systems, the capabilities of both sides will even be greater than when the START talks began in 1982."

At the Aiken hearing, an authoritative report on Soviet nuclear capabilities was presented by U.S. Sen. Strom Thurmond in prepared remarks read by former Aiken County Councilman Ralph Cullinan.

Sen. Thurmond, ranking Republican member of the Senate and of the Senate's Armed Services Committee, set the record straight.

"Although the Soviet conventional threat is on the decline in Eastern Europe," he wrote, "its nuclear forces are not. All indications are that the Soviet Union is relentlessly pursuing modernization of its nuclear forces.

"Last year, the Soviet Union produced 140 new ICBMs; the U.S. produced only 12 ICBMs. The Soviet Union currently has two types of mobile missiles—the SS-24 and SS-25; the United States Congress is still debating whether we should build any mobile missiles at all.

"Most importantly, the Soviet Union is vigorously modernizing those weapons allowed under the provisions of the Strategic Arms Reduction Agreement. Under that agreement, the Soviet Union will still maintain over 6,000 nuclear warheads—a significant threat by any standard."

The senator believes the reactors must be restarted as soon as possible if the U.S. is to maintain its nuclear arsenal.

Significantly, he added, "As the ranking member of the Subcommittee on Strategic Forces and Nuclear Deterrence, I am confident that all measures have been taken to ensure the well-being of the workers and the environment at the Savannah River Site."

The potential Soviet threat alone justifies continued operation of the SRS reactors. Newsweek cites, for example, the Soviet SS-18 Model 5, "an ICBM that the Soviets claim is simply an improved version of the SS-18s that Gorbachev agreed to reduce by half in 1986. In reality, there is evidence that the Model 5 is a new and more capable system: it has the throw-weight to carry an enormous number of warheads . . ."

While the present regime in Moscow declares the Cold War ended, there is a reasonable doubt that it will still be in power by year end.

Nor is the Soviet Union the only reason for the U.S. to maintain a nuclear deterrent. Several major powers and also some upstarts like Iraq and Libya have the potential for using nuclear weapons to impose their will on other countries.

In reviewing the comments presented in the environmental impact hearings, we trust that the Department of Energy and the administration in Washington will recognize the anti-nuclear coalition as the least qualified body on which to base a nuclear policy for this country.

[From the Columbia (SC) State, June 1, 1990]

LET'S MOVE AHEAD WITH NPR

(By Michael J. Kolar)

Presumably, the 1990s will be the decade of the peace dividend. President Bush has said that he wants military spending in the 1990s to drop by 2 percent a year, or $6 billion.

Indeed, as a threat from the Soviet Union wanes, the need for a global U.S. Military presence subsides. We now have an opportunity to significantly downsize the U.S. military, thereby reducing the federal budget deficit, while allowing modest increases in domestic programs and perhaps some assistance to the fragile new democracies in Eastern Europe and elsewhere.

As history speeds ahead, U.S.-Soviet arms-control agreements could pave the way toward a mutual reduction in nuclear warheads. But simply deactivating many of our warheads unilaterally by depriving them of strategic nuclear materials, as some disarmament groups have proposed, is irresponsible and dangerous. The fact is, the large Soviet nuclear force remains intact, and the modernization and expansion of Soviet, air-defense and anti-ballistic missile systems continue.

In the future as in the past, what can go wrong might go wrong some day. The United States must maintain a robust and credible nuclear deterrent. Abrupt, poorly planned cuts would pose great dangers to our long-term security. An inadequate defense structure cannot be rebuilt quickly should a revitalized threat require it.

For the near term, to be sure, we need to hold on to our massive deterrent as insurance, and develop strategic defenses while guarding our best technology as leverage. Paradoxically, problems in our nuclear weapons production complex now endanger national security. The immediate problem is that the United States has at present lost its capacity to make perishable tritium gas, an essential ingredient of nuclear weapons.

Aging federal weapons reactors which are our only adequate source of tritium—have been shut down since mid-1988 because of safety and environmental concerns. The reactors are located at the Savannah River Site in South Carolina. Fixing up the reactors, and starting immediate construction of a modern tritium reactor at Savannah River, is the most urgent task.

A radioactive form of hydrogen, tritium decays fairly quickly at a rate of 5.5 percent a year. Hence, weapons must be replenished with it within six years. If supplies of the material were totally exhausted, the United States would be forced to retire about 1,200 warheads a year, effectively disarming us over a 20-year period. Even a temporary shortage could force the United States to reduce its existing arsenal by removing tritium from some warheads to stretch existing supplies of the material.

In the short tun, the reactors at Savannah River must be restarted as soon as safety permits. Chances are that full production of tritium will not begin until the summer of 1992.

Beyond that, these reactors are about 40 years old, and they are approaching the end of their original-design lifetimes. Therefore, the time to start moving ahead with a new production reactor (NPR) is now, since it will be at least 10 years before one can begin producing tritium.

Because of the considerable cost required to build a production reactor, there might be good reason not to build a second reactor in Idaho. This additional reactor would provide an alternative supply of tritium, but the need for it does not seem as compelling as the Pentagon and the Department of Energy originally believed. Scrapping plans for the second reactor would save more than $4 billion. The money might be used for better purposes, particularly environmental cleanup of the weapons sites.

The world is changing, and with it should change our priorities. The challenge facing the Bush administration and Congress is to build new institutions to link Washington and Moscow in the prevention of nuclear war. For example, the U.S.-Soviet arrangements for verification might eventually lead to effective controls on nuclear arms. But it is not enough to say now that the Cold War is over, and therefore we do not need strategic nuclear defenses. The successful pursuit of arms reductions requires us to maintain a healthy nuclear deterrent.

(Dr. Kolar is professor and chairman of the Department of Mechanical Engineering at the University of Pittsburgh.)

[From the Columbia (SC) State, May 25, 1990]

CONGRESS CAN SAVE THREATENED URANIUM ENRICHMENT ENTERPRISE

(By James B. Edwards)

Time is running out on our nation's nuclear fuels industry, which is crucial to our national defense and energy security. Unknown to many Americans, this multi-billion-dollar industry—which is operated by the U.S. government—is collapsing under the weigh of the federal bureaucracy.

As recently as the mid-1970s, the United States was the sole commercial supplier of enriched uranium in the West, and business boomed. Since then, artificially high prices and uncertainty about services in the future have forced utility customers of the uranium enrichment enterprise into the hands of foreign competitors.

The fundamental weakness of the enrichment enterprise is its organization. As a relatively small component of the Department of Energy, the enrichment enterprise must try to conduct its mission in the context of the annual federal budgeting process, congressional reviews and the even more pressing priorities of DOE.

Congress has a chance to save our floundering enrichment program by getting it out from under the control of government bureaucrats and into a more competitive posture. The Senate has approved comprehensive legislation that will allow this important energy industry to operate under competitive ground rules and hold its own in the marketplace here and abroad. The measure is now before the House, and it should act fast, while a workable plan to save the industry is within its grasp.

Recent events show just how serious the problem is. At least 12 major electric utilities—which operate nearly half of the nation's 112 nuclear power plants—have notified DOE that they intend to look elsewhere for enrichment services as soon as their current contracts allow. The future of DOE's program is so uncertain that a foreign consortium also announced plans for a joint venture with two U.S. utilities to construct a commercial enrichment facility in Louisiana.

As recently as the mid-1970s, the United States held a worldwide monopoly on commercial enrichment. Since then, foreign competitors in Western Europe and the Soviet Union have taken away 45 percent of our foreign enrichment business and at least 10 percent of our domestic business as well—resulting in contract terminations with a sales value of $5 billion. DOE's share of the domestic market could drop even more dramatically if a number of utilities decide to obtain all or part of their enriched uranium from foreign suppliers.

To head off these threats from foreign competitors, steps need to be taken now, in order for the United States to take advantage of a revolutionary new enrichment process based on lasers to replace the aging and uneconomical enrichment facilities that are currently in operation. Although the United States has a lead of about four years in developing laser enrichment technology, other countries—Japan and France, in particular—are gaining ground.

As secretary of energy during the first years of the Reagan administration, I know that a strong U.S. uranium enrichment enterprise is an essential factor in meeting the security needs of the nation—including the 40 percent of our naval fleet that is nuclear-powered. We cannot afford to depend on other countries for our nuclear defense materials, nor for the nuclear fuel we now use to make one-fifth of our nation's electricity.

Importantly, by using existing facilities to meet defense and commercial needs, the costs to taxpayers for defense enrichment have been reduced by billions of dollars. In fact, revenues to the Federal Government from commercial customers here and abroad have exceeded $16 billion since 1969. Also, sales to foreign customers—currently about $500 million of enriched uranium yearly—have helped to reduce our trade deficit. For these reasons, the United States cannot afford to lose this vital industry to foreign competitors.

Even now, the sharp decline in the U.S. share of the world enrichment market has extracted a heavy price in lost jobs, lost income for the federal government and sharply higher costs to taxpayers for defense enrichment.

What's more, the collapse of this American industry could be more than a financial disaster. Selling competitively priced enriched uranium to other countries is a principal means of persuading them not to divert nuclear material to military uses.

The Senate has approved a plan to rescue the U.S. enrichment program by removing it from the governmental bureaucracy and placing it in the control of a new government-owned U.S. Enrichment Corporation. USEC would be patterned in larger part after other successful government-owned corporations, such as Conrail and Comsat. The federal treasury would own all of USEC's stock and would receive dividends based on the corporation's revenues. The corporation would sell enrichment services to the U.S. government for defense programs and to foreign and domestic utilities for their nuclear power programs.

With the authority to set its own prices for enriched uranium, the corporation could respond to market forces and keep pace with foreign competitors. Removing enrichment from the federal appropriations process would mean that construction of laser enrichment facilities could be financed by borrowing on the capital markets rather than from current revenues. Without a bureaucratic ball-and-chain, the USEC could take advantage of the opportunity that laser enrichment offers and therefore compete successfully with other nations that are moving rapidly toward this new capability.

Still and all, there needs to be assurance that USEC doesn't become saddled with the liabilities of DOE's existing uranium enrichment plants. USEC cannot be expected to assume the full liabilities of DOE's three aging gaseous diffusion plants. Accordingly, Congress may need to limit this liability.

All those who have studied the situation—supporters and critics, insiders and independent observers—agree that the current organizational framework and management structure of the uranium enrichment enterprise is fundamentally flawed. U.S. dominance in the multi-billion dollar a year market will collapse before the decade is out if the calls for restructuring go unheeded and we cannot establish a private business management structure for the enrichment enterprise.

If that happens, we will be giving away our competitive edge in another vital industry to foreign competitors—and drastically increasing our defense enrichment costs in the process.

Opponents of the restructuring legislation have argued that the measure would bail out the indebtedness that the enrichment program has run up and somehow forgive billions of dollars in debt that nuclear utilities owe the government. But a new, higher fee for enrichment cannot be imposed retroactively. Any such attempt would be comparable to an automobile company deciding that it did not charge enough money for its products over the past two decades and asking all customers over that period of time to pay an additonal amount now. Utilities have lived up to their obligations under the enrichment contracts just as has DOE.

Clearly, Congress should act promptly, while there is still time to preserve a secure domestic supply of resources essential to our national interests and energy security.

(Dr. Edwards was Governor of South Carolina from 1975 to 1979 and U.S. secretary of energy from January 1981 to November 1982. He now is president of the Medical University of South Carolina in Charleston.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that I be allowed to address the Senate for 5 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, I pose the same request and ask unanimous consent that I be allowed to follow the Senator for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair will also take the prerogative to add 5 minutes for the Senator from Arizona, now occupying the Chair, to speak after the Senator from New Mexico.

The Senator from Iowa is recognized.

THE CONSTITUTIONAL AMENDMENT TO PROTECT THE FLAG

Mr. GRASSLEY. Mr. President, within 1 hour, the Senate Judiciary Committee will be holding hearings on the constitutional amendment to protect the flag, and also later today the other body is expected to vote on this matter. I want to say to my colleagues that some of the arguments that have been used by opposition to this constitutional amendment ought to extremely embarrass a number in this body.

In recent days, we have heard a lot of very high minded rhetoric from opponents of the constitutional amendment to protect the flag. These opponents argue that we should not amend the Constitution for something as simple as protecting the flag of the United States. They argue that we must not amend, what they say we are doing, the Bill of Rights and particularly not amend the free speech clause. You almost get the opinion that offering any amendment to the Constitution is bad.

Mr. President, Americans deserve to know the truth. And Amereicans deserve an explanation from Members of Congress who oppose this amendment. The reason is simple. How can you support tampering with the first amendment speech clause of the Constitution in order to protect the incumbency of politicans, yet denounce and aggressively oppose a constitutional amendment to protect the flag?

I hope nobody missed that point.

So let me rephrase it in a clearer way to drive home the point that I am making for this 5 minutes. We have in this body today at least 52 Senators who have either sponsored, cosponsored, or voted to facilitate the passage of a constitutional amendment which would amend the free speech clause of the first amendment. Many are opponents of the flag amendment and say it is just a disgrace that others in the body are trying to amend the speech clause to save the flag. During the last Congress, this constitutional amendment was tied to S. 2, the Campaign Finance Reform Act, better known to most of us as the incumbency protection bill. Ironically, many of these same Senators—not all, but many—are strongly opposed to a constitutional amendment to protect the flag.

Now what does this say? Does it raise a question of patriotism? It has been suggested that only veterans have a right to ask the question about patriotism and the flag amendment. OK, if those happen to be the new ground rules, all I can say is there are millions of American veterans who do have the right to ask that question.

Mr. President, it may have absolutely nothing to do with patriotism but it certainly raises very, very serious questions about priorities and, I dare say, values.

This constitutional amendment has been reintroduced to the 101st Congress. So far it has 25 sponsors and cosponsors. I am submitting for the RECORD a copy of these names. Some have joined as cosponsors as recently as April 25, 1990, a few short weeks ago.

Mr. President, where are our priorities? How is it we can support constitutional amendments for everything under the Sun, but refuse to do so to protect the American flag?

Last week, the Library of Congress provided me with a report on constitutional amendments offered by Senators and Congressmen. This report reveals that between 1969 and 1984, over 3,000 constitutional amendments covering every cause from A through Z were introduced during that period of 15 years by over 660 Congressmen and Senators.

In fact, since 1789, over 10,000 constitutional amendments have been introduced.

But our detractors say, "No, no, you cannot have a constitutional amendment to protect the flag!"

I found it interesting that of these 660 Members of Congress who have sponsored constitutional amendments through 1984, 174 still serve in Congress.

I decided to have this list updated to see who has cosponsored and sponsored constitutional amendments since 1984.

I thought it might help jar the memories of some of us in Congress who are interested in maintaning some sense of consistency.

Therefore, my intention was to release the names of these Members.

I was astonished to find, however, it would be far simpler to list those who have apparently not sponsored or cosponsored constitutional amendments.

There is only 1 Member of this body of 100 who has not cosponsored or sponsored a constitutional amendment.

In the House, there are only nine who have apparently not sponsored or cosponsored constitutional amendments.

This means that out of 535 Congressmen and Senators, 525 have sponsored or cosponsored constitutional amendments.

And many of these are about to cast their votes against protecting our flag.

Americans deserve an answer as to why some have this double standard. They deserve an explanation; they have the right to know.

And these politicians owe them an answer. They should not be allowed to dodge this tough question.

It is a hollow argument and excuse to suggest if politicians are asked to be held accountable on this matter of protecting the flag, that the questioner is somehow disgracing the flag by politicizing the controversy.

That's hogwash. This should be a bipartisan supported constitutional amendment. Veterans and nonveterans alike should be able to support protecting the flag through a constitu-

tional amendment. Politics should not get in the way of doing what is right—protecting the flag.

Mr. President, I ask unanimous consent that the list of names that I referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEGISLATIVE INFORMATION, 101ST CONGRESS

Bill number: S.J. Res. 48.

Date introduced: February 2, 1989.

Sponsor: Sen. Hollings.

Official title as introduced: A joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional and Presidential elections.

Cosponsor(s) (date of cosponsorship follows name): Sen. Specter, 2/2/89; Sen. Cranston, 2/2/89; Sen. Kassebaum, 2/2/89; Sen. Roth, 2/2/89; Sen. DeConcini, 2/2/89; Sen. Dodd, 2/2/89; Sen. Heflin, 4/18/89; Sen. Shelby, 4/18/89; Sen. Exon, 7/12/89; Sen. Conrad, 7/18/89; Sen. Adams, 7/20/89; Sen. Burdick, 7/20/89; Sen. Daschle, 7/20/89; Sen. Ford, 7/20/89; Sen. Bentsen, 7/26/89; Sen. Inouye, 7/31/89; Sen. Sanford, 9/7/89; Sen. Reid, 2/22/90; Sen. Breaux, 4/25/90; Sen. Nunn, 4/25/90; Sen. Dixon, 4/25/90; Sen. Kerrey, 4/25/90; Sen. Wirth, 4/25/90.

Committee(s) of referral: Senate Judiciary.

Status of bill—reverse chronology:

February 28, 1990—Subcommittee on Constitution. Hearings held.

February 14, 1989—Referred to Subcommittee on Constitution.

February 2, 1989—Read twice and referred to the Committee on Judiciary.

Digest of bill as introduced: Constitutional Amendment—Declares that the Congress has the power to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office. Declares that the States have such power with respect to State or local elections.

Mr. DOMENICI. Mr. President, I want to say to the distinguished Senator from Iowa, I commend him for his statement.

It should be noted for the 25 Senators who are on a constitutional amendment with reference to campaign reform, that that is a first amendment issue. The Valeo case, in the Supreme Court, was a Bill of Rights issue, a first amendment issue. So if we can amend it to give us more authority in campaign reform, it does affect the speech provision, the right to speak. That is a Bill of Rights issue. I think he made that point, but the Senator from New Mexico would like to make that clear.

(Mr. LIEBERMAN assumed the chair.)

THE HATCH ACT VETO

Mr. DOMENICI. Mr. President, let me discuss for a moment the very difficult vote that we just took here in the Senate. I voted to sustain the President. I am supporting him in his veto.

I think most Members of the Senate know that I was one of those who wanted to see reform of the Hatch Act. When the bill was before the Senate, I offered an amendment to delete two provisions that I think have been determinative. I am not convinced beyond a doubt that these are the two reasons the President was opposed to the bill, but I have a very, very significant understanding of the difficult dynamics and I believe these two had as much to do with it as anything.

I said when I spoke to the Senate back when we were debating an amendment on behalf of myself and Senator D'AMATO that the amendment that I was offering was probably very, very important and might be a conclusive amendment. It was a simple amendment but I found with the passage of time it became very, very important. Essentially it said, return the law to where it is with reference to soliciting funds from Federal employees; that is PAC solicitation or union solicitation. Currently under the law it is all voluntary.

The bill before us that was vetoed changed that voluntary solicitation to permissive solicitation, and permits employees so long as it is within their employee organizations to actually solicit. I am not suggesting that managers can solicit. I understand that you cannot have that. But essentially we have gone from a voluntary system to a mandatory system in terms of solicitation. I do not think this is desired by Federal employees. Frankly they want the other reforms.

I am going to put in the RECORD the result of a poll I took in my State. It is absolutely astonishing to me how few Federal employees want that provision, the provision that will permit organizations unions or PAC's to solicit. They want it voluntary, as is.

	Yes	No	No answer
I believe the Hatch Act should be left alone	147	62	49
I favor the reforms contained in the House bill	30	142	86
I favor the reforms contained in the Senate bill	53	123	82
I agree with your amendment that:			
Keeps political contributions voluntary and prohibits solicitation of contributions by coworkers	198	11	49
Excludes employees of the IRS, CIA, FBI, and other agencies	169	32	57
Without your amendment, I oppose reform to the Hatch Act	185	27	46

Second, I suggested in my amendment that there were critical organizations, such as the CIA, the FBI, all of the Justice Department, and others that ought to remain under the old Hatch Act inhibitions. I believe that, too, is a very popular position among Federal employees and among our people. They cannot understand why employees of the Federal Bureau of Investigation ought to be permitted to involve themselves more in politics than they can today under the Hatch Act.

So it is with regret that we have not reformed in some way the Hatch Act. But I believe the message was rather clear. I believe it was rather straightforward.

I do not think there is any question that others may have different reasons, but I speak from my standpoint and a number of Senators who have talked to me, and I believe those two issues are critical. I do not think in the name of reform that we should in any way increase pressure on Federal employees by expanding solicitation rights for PAC's, unions, or other organizations. It all should be voluntary; no pressure implied or otherwise. I think the people in my State understand this. I think they understand that we could have some reform without those kinds of changes, and we did not get that. I blame no one. I merely suggest that that is the way it turned out.

This was a very difficult vote for me. I am supporting the President in his veto of H.R. 20, the so-called Hatch Act reform. The bill before us is too broad, and it is a PAC promotion bill.

When the bill was before the Senate I offered an amendment to delete the campaign solicitation provisions and to exempt certain law enforcement employees from the Hatch Act reforms. This would have made the bill a reasonable Hatch Act reform.

My amendment was defeated 58 to 39. At that time there was some discussion of working out some of these issues. That did not happen.

I do not think it is in the best interests of the civil service and good government for the CIA, the FBI, and DEA, the Secret Service, the NSC, the Bureau of Tobacco, Alcohol and Firearms, the Customs Service and the IRS to get political.

I am for appropriate Hatch Act reform. For that reason I voted for the bill the first time around because I believed it would be improved in conference.

Under current law, Federal employees can make voluntary campaign contributions to candidates they support. It is a personal decision, and no one at work gets involved.

But the bill before us is a pro-PAC bill. It would allow Federal employees who are members of associations and unions to solicit contributions from other Federal employee members of the same associations.

I see at least two things wrong with that.

First, it promotes PAC's; and second, it could subject employees to subtle pressure and not so subtle coercion to join associations and unions and then to contribute to their PAC's.

A supervisor is not supposed to solicit an employee, but there is nothing to keep a supervisor from finding out which of his or her employees contrib-

uted. It would be impossible to ensure that job performance evaluations and promotions weren't influenced by contribution records of the various associations. Campaign solicitation provisions set the stage for a bad situation.

Not only is it bad policy, it is an unwanted policy.

Federal employees never asked to be solicited by Federal association PAC's.

After the bill was before the Senate for consideration, I sent out 500 letters to New Mexico Federal employees asking if they wanted the contribution solicitation rules changed. Over 70 percent of those responding said "no."

Pending before the Congress is campaign financing reform. One of the underlying premises is that voluntary individual contributions to candidates is the best way to ensure good government. An attendant premise is that the role of political action committees, PAC's, should be greatly reduced and that PAC contribution limits should be substantially lowered or eliminated.

Under current law, Federal employees can make voluntary campaign contributions. This is consistent with the good government premise of campaign financing reform. That is a good policy contained in the current law Hatch Act and we should leave it alone.

If a good campaign reform bill passes we will probably encourage more voluntary contributions by people who live in the State where the candidate is from. We will probably limit PAC's. It makes no sense to be cutting back on PAC's for everyone else, and at the same time to be encouraging them for Federal employees.

I am really sorry this bill was not fixed in conference. I expect that the Hatch Act will remain on the books at least for this year and since that is the case, I am pleased that OPM is clarifying its rules and regulations. Much of the alleged confusion surrounding the Hatch Act which was discussed on the Senate floor during the debate of H.R. 20 was not the intent of the Hatch Act's primary author—Carl A. Hatch, one of the distinguished men who served as a Senator from New Mexico.

I ask unanimous consent that the editorial that appeared in today's New Mexican be printed in the RECORD. While I do not agree necessarily with each and every contention, I think it is a very good historic summary of the Hatch Act and has some very significant and relevant statements with reference to the Hatch Act and its positive aspects.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Santa Fe New Mexican, June 21, 1990]

DON'T GUT THE HATCH ACT

The shade of one of the great figures in New Mexico history will be watching what happens on the floor of the U.S. Senate this afternoon.

The shade will be that of the late U.S. Sen. Carl A. Hatch of Hatch, N.M., author of the Hatch Act, enacted 51 years ago to keep federal employees out of politics.

This afternoon's debate will be on a motion to override President Bush's veto of a bill to gut the Hatch Act.

The shade will be watching how each of today's 100 Senators votes, especially how his two successor Senators from New Mexico votes.

The president was correct in his veto of the bill. Through his veto, Mr. Bush resisted caving in to the powerful lobby of federal and postal unions. The same cannot be said of some members of the U.S. House and Senate.

It is in the public interst to preserve the integrity and independence of the non-partisan federal Civil Service. Since it became law in 1939, the Hatch Act has done just that.

Federal employees—many of whom are political appointees who yearn for more active political involvement—should remember at the same time that the act now in force also protects them from undue political influence. The original Hatch Act was passed in response to overzealous political employees of President Franklin D. Roosevelt requiring enrollees in the Works Progress Administration to contribute to the 1938 re-election campaign of then Democratic Sen. Alben Barkley of Kentucky.

Now, more than a half century later, greed and lust for power in politics are still the same. Protection for Civil Service employees is needed as much as ever. The Hatch Act should be kept in full force. To chip away at its provisions will only weaken this safeguard to the point that the whole shield of protection could crumble.

The act keeps federal workers from taking part in most partisan political activities. The bill which Mr. Bush vetoed would allow federal employees to engage in partisan political activity in off-duty hours, to solicit funds from fellow union members and to canvass neighbors door-to-door for political candidates. Provisions in the act that bar civil servants from running for public office and from soliciting funds from the public would not be changed.

On Wednesday, the House voted 327-93 to override the veto.

The vetoed bill now returns to the Senate, where a fight is expected today on the override issue. The Senate passed the bill with the minimum of 67 votes needed to override a veto, but some Democratic staff members doubt that all those votes will hold up when the override vote is taken.

Mr. Bush is being consistent with one of his predecessors. Nearly identical legislation was passed by Congress in 1976, but was vetoed by then-President Gerald Ford, who declared that it would politicize the Civil Service because workers would "inevitably feel compelled to engage in partisan political activities."

The same argument is even more valid today. Sen. William Roth, R-Del., warns that the proposed changes in the Hatch Act would "risk a return to the spoils system."

It would be a shame if either New Mexico senator voted to change an act that was authored by one of the great statesmen from New Mexico.

Public confidence in the integrity of government and a non-political Civil Service is shaky enough without tampering with the Hatch Act, which has proven its worth in the past 51 years. It should be left alone.

Keep the Hatch Act unchanged. President Bush is right.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona [Mr. DECONCINI] is recognized.

Mr. DECONCINI. Mr. President, I regret the judgment of the Senate not to override the President's veto on the Hatch Act. I think it is a shame we have to penalize Federal employees and make them second-class citizens. I am sure we will visit this again.

THREATENED VETO OF THE FAMILY AND MEDICAL LEAVE ACT

Mr. DECONCINI. Mr. President, I also rise again to urge President Bush to reconsider his statement that he intends to veto the Family and Medical Leave Act. Should he do so, I hope the courage of my colleagues would amount to more than 67 votes here to override that.

I think the President's statement on the issue of this particular legislation is most unfortunate. President Bush ran as a family President with an American family program. I happen to agree with him on many of the issues he talked about. But he talked about this and now he says he is not inconsistent with his statement.

In 1988, George Bush ran on this issue. He said and I want to quote:

> We need to assure that women don't have to worry about getting their jobs back after having a child or caring for a child during serious illness.
>
> This is what I mean by the kinder, gentler Nation.

It seems to me, Mr. President, you cannot leave that up to collective bargaining, to make such an assurance. If you want to have an assurance, sometimes you have to take a bold step and you have to lead and you have to offer legislation.

Working mothers should not have to choose between a job they need and a child who needs them. George Bush recognized this in 1988. In 1988 he saw parental leave as something that the family needed. Now he sees it as a Federal mandate.

To George Bush I would like to quote the words of Republican Representative MARGE ROUKEMA. A number of things she says are so good that the President's own party and principles should support her. It happens that she also cared for her own son when he was dying of leukemia and she said:

> The debate over the Family and Medical Leave Act is not about mandates or benefit packages. It is about values and a standard of decency.

Another Republican Congressman, HENRY HYDE from Illinois also has a response to the President when he said:

I am not appalled that this is a Federal mandate. We mandate job security for jury services * * * and for ROTC duty. It seems to me for motherhood, for caring for a sick member of your family, that our economy and our society should be compassionate enough to include them.

Dr. T. Berry Brazelton, America's pediatrician, "the" pediatrician in America, charges that the United States is the "least child-oriented society in the world." Think of this, the "least child-oriented society in the world," coming from the premier expert of children's doctors in the world and certainly in the United States. I implore my colleagues to think of this if they are confronted with a veto override.

Failure to override will only continue a public policy that puts the needs of children and families of this Nation on the back burner. It is a fact almost two-thirds of the mothers in this country now work. Yet we are the only industrialized nation, the only one, with the exception of South Africa, that does not provide mothers who want to stay home and care for their newborn children, some assurance they can return to the job that they left. More than 75 nations have family leave policies, most with pay.

This list includes nations with the strongest national economies. Workers in West Germany and Japan—our toughest competitors—get 14 weeks of leave with pay.

Even countries like Libya, Iran, and Cuba provide maternity leave with pay.

The bill President Bush has threatened to veto would provide minimum family leave protection for America's workers. Specifically, it would give workers up to 12 weeks of unpaid leave—to repeat, unpaid leave—when a child is born or adopted, or when a spouse, child, or parent has a medical emergency that requires family care.

I would remind my colleagues that the family leave bill passed by both Houses of Congress is a compromise bill. It is a bipartisan compromise bill which was changed significantly from the original legislation introduced in 1985.

Those who forged this compromise worked long and hard to satisfy what they thought might be legitimate business fears. The revised legislation affects fewer businesses—it provides less leave time—than the original bill.

Mr. President, the legislation we are talking about covers only firms with 50 or more employees—roughly 5 percent of all companies. The bill provides no more than 12 weeks leave in any 1 year. The original bill provided twice as much leave—up to 25 weeks in a given year.

The bill we are talking about requires medical certification of serious illness. We are not talking about a child with a cold. We are not talking about a parent with the flu.

We are talking about a child with cancer who must have radiation treatments. We are talking about an elderly parent recovering from a stroke who needs home care.

As MARGE ROUKEMA says, and I repeat, "the debate over the Family and Medical Leave Act is not about mandates or benefit packages. It is about values and a standard of decency."

All of us support the President's desire for a kinder and gentler nation. But we must have the courage to vote our values into public policy.

Senator CHRIS DODD says it well.

The President wants Federal policies which help parents stay home with their children. That is what this legislation is all about.

The President does everything possible to ban abortions and push adoption—and that is what this legislation is all about.

Mr. President, make no mistake—America's families are stressed out. All the statistics we have—increasing divorce rates, drugs, rising teen pregnancies, school dropouts, suicides—show that we are in deep, deep trouble in America. As Dr. Brazelton states, "the family is where we've got to turn to try to give kids a different future than the one we've provided in the past generation."

Let us start here and now. National polls show that 4 out of every 5 American voters favor mandated unpaid leave. Let us show our commitment to children and families by providing our workers some measure of protected job leave. Let us show our commitment by offering some assurance to young people who want children and who need jobs to raise them. Let us show our commitment to working families by overriding the President's veto should he take that course of action.

I think this is a crucial issue for a kinder, gentler nation, and something we ought to take pride in and not have a political battle as we have just had over this, whether or not the President's prestige is going to be maintained. it is not a matter of prestige here. it is a matter of children.

This issue ought to be law, and I hope if the President should follow through with his threat of veto, that our colleagues would override it.

I yield the floor.

NATIONAL AFFORDABLE HOUSING ACT

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, S. 566, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 566) to authorize a New Housing Opportunities Partnerships Program to support State and local strategies for achieving more affordable housing to increase home ownership, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Cranston (for D'Amato) amendment No. 2041, to express the sense of the Senate regarding the Mutual Mortgage Insurance Fund of the Federal Housing Administration.

(2) D'Amato amendment No. 2042 (to amendment No. 2041), in the nature of a substitute.

The PRESIDING OFFICER. Under the order, the pending amendments are laid aside, and the Senator from Kentucky [Mr. MCCONNELL] is recognized to offer an amendment.

AMENDMENT NO. 2051

(Purpose: to amend title V of the Housing Act of 1949 to provide that excess rental payments may be used to provide rental assistance)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. WARNER, and Mr. ROCKEFELLER, proposes an amendment numbered 2051.

Mr. McCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII, add the following:

SEC. . ASSISTANCE TO REDUCE RENT OVERBURDEN.

Section 521(a)(2)(C) of the Housing Act of 1949 is amended by adding at the end the following: "Notwithstanding the preceding sentence, excess funds received from tenants in projects financed under section 515 during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with respect to very low-income and low-income families to reduce housing rentals to the levels specified in subparagraph (A).".

Mr. McCONNELL. Mr. President, there are 3,000 families and senior citizens in Kentucky and more than 127,000 nationwide who need our help. Actually, they have needed our help for some time. They live in Farmers Home Administration rental housing and are paying rent in excess of 30 percent of their incomes. They are overburdened with the amount of rent that they pay.

The Farmers Home Administration, an agency within USDA, finances rental apartment complexes in rural areas for low-income families and senior citizens. Many of the rents are

subsidized by FmHA through rental assistance so tenants do not have to pay over 30 percent of their adjusted income. But, where rental assistance is not available, many tenants do pay for more than 30 percent.

In Kentucky, FmHA has financed 317 rural rental housing complexes for senior citizens and families, including the handicapped and disabled. About 9,000 rural Kentucky households live in these section 515 program apartments. But over one-third of these rural Kentucky households pay more than 30 percent of their adjusted income for rent. In two of Kentucky's eight FmHA districts, over 42 percent of the households are overburdened, which indicates a critical need for these families.

Remember, Mr. President, these are lower income families and elderly; this is not an issue of disposable income and consumption, but paying for a necessity. Because they are overburdened by the rent, they are eligible for rental assistance. However, none is available through FmHA.

Mr. President, I have a proposal to assist them by lowering their monthly rent payments. This legislation increases the affordability for renters in FmHA's 515 rural housing program by lowering the rent for overburdened families and elderly in our rural communities. It increases the marketability of rental units for owners with no impact on mortgage payments.

Let me give an example of how I expect this legislation to work.

A couple with two children have an adjusted monthly income of $631, 30 percent of which affords a monthly rent payment of $189. The rent, however is $208. They are eligible for FmHA rental assistance, but not enough rental assistance is available. Thus they pay $208, which is 33 percent of their income.

This amendment that I am offering now provides affordability assistance for reduction of their rent to the 30-percent level. My focus on the 515 program is well-founded. The program provides apartments in rural areas for low-income elderly families. It provides an option for living in substandard housing such as exist in rural Kentucky and the other 49 States.

It provides housing where people live so they can live there, and not have to leave their town in search of decent housing. Rural Kentucky is filled with small towns which are viable; there are jobs in these towns; it is always with great pride that I see another rural town which has added a new plant or facility because it provides support to the economic base. The people need someplace to live, and Farmers Home has a program to provide the rental apartments.

The FmHA 515 Multifamily Housing Program has been heralded as the best working model for the delivery of rural multifamily housing in the United States. It operates with minimal Federal Government involvement. It has proven to be the least costly means to provide housing to the very poor, and yet the program has a default record of under 1 percent.

I believe that most areas in rural America need more adequate rental housing. Some people live in substandard housing that is cold in the winter and hot in the summer because adequate housing at a reasonable rent is not available. Other people commute long distances to work because they can't find decent housing in the community where they work.

The 515 Program delivers housing and housing assistance to rural America. According to a 1987 GAO report, over 90 percent of the complexes are located in rural areas with populations under 10,000; more than half of the complexes are in towns of 2,500 or less. Close to half of the renters reduced their rent burden when they moved into a section 515 apartment. Over 40 percent of the households were headed by senior citizens.

Mr. President, we can do more to make this much-needed housing affordable. We can provide affordability assistance to help the overburdened rural households living in the decent housing provided under the 515 Program.

I am hopeful that this proposal will receive full support of the Senate. Congress has funded the program to assist low-income rural households, and the Congress has provided rental assistance for a number of households, and this Congress should provide affordability assistance to close the gap for overburdened families and the elderly.

Mr. President, this amendment, I understand, has been cleared on both sides.

This is consensus language which was achieved with the cooperation of many individuals, including John Meyers in Louisville, KY; Bob Rapoza of the National Rural Housing Coalition; Anna Moser of the Council of Rural Housing and Development; Johanna Shreve and Melody Fennel of the National Home Builders; and John Linfield of the Housing Assistance Council.

Mr. President, I ask unanimous consent to print in the RECORD a chart of overburdened tenants.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Overburdened tenants

State:	*Total units*
Alabama	5,620
Alaska	178
Arizona	567
Arkansas	3,093
California	3,689
Colorado	920
Connecticut	335
Delaware	258
Florida	6,409
Georgia	4,829
Hawaii	75
Idaho	921
Illinois	2,184
Indiana	4,817
Iowa	3,028
Kansas	1,938
Kentucky	3,444
Louisiana	4,767
Maine	1,328
Maryland	1,068
Massachusetts	123
Michigan	6,883
Minnesota	4,728
Mississippi	7,638
Missouri	5,177
Montana	510
Nebraska	491
Nevada	490
New Hampshire	874
New Jersey	915
New Mexico	769
New York	2,211
North Carolina	4,988
North Dakota	334
Ohio	3,425
Oklahoma	2,717
Oregon	1,130
Pennsylvania	1,999
Rhode Island	10
South Carolina	3,882
South Dakota	1,200
Tennessee	5,717
Texas	10,326
Utah	442
Vermont	245
Virginia	2,745
Washington	2,728
West Virginia	1,942
Wisconsin	3,071
Wyoming	384
Total	127,562

Source: Farmers Home Administration, Occupancy Survey, September 1989.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, the purpose of this amendment is to help reduce the rent of low-income rural tenants who now pay in excess of 30 percent of their income for rent. Many such tenants are currently not provided rental assistance due to a lack of adequate funding for our rental assistance program.

I opposed an earlier version of this proposal because the new subsidy was to be drawn out of a maintenance used for future upkeep costs in federally assisted rural housing. This, however, may not be able to satisfy its current role, let alone draining it for rent subsidies.

In addition, the original language did not target this new assistance to those most in need. The Senator from Kentucky has resolved both of these problems. The funding will now come from an overage account that now goes to the Treasury. For those of us who have long supported an increase in rental assistance in rural areas, this diversion of funds makes good sense.

And the Senator from Kentucky has tightened the language to specify that this rental assistance would be directed to very low-income tenants or oth-

erwise consistent with low-income requirements of the rental assistance program.

For these reasons, I now support the Senator's amendment. There is no objection that I am aware of on our side. I urge its adoption.

The PRESIDING OFFICER. Does the Senator from New York wish to speak?

Mr. D'AMATO. Thank you very much, Mr President. Mr. President, I was just speaking to Secretary Kemp in an attempt to see if we could not get some more agreement on this. It is my understanding that this amendment attempts to assist rural families.

Let me say that many times people have a misconception of the State of New York. They tend to think of it as only New York City. They think of our State—and I hate to be parochial—as upstate being Westchester, not recognizing that there are 7 million people who live north and west of Westchester. It is a far different State than many perceive. It is not just the high-rises of New York City, or the mass transit systems, et cetera. We are a great agricultural State, and we have large expanses that are truly rural in every sense.

I want to pay tribute to Senator McCONNELL for putting forth this amendment so that the rural families pay an affordable rent. While I may have some reservations about all aspects of it, it certainly is moving in the right position. I think it is going to help the plight of rural Americans who need afforable housing and, again, we oftentimes forget about that. We think these problems are concentrated in urban areas and suburban areas. That happens not to be the case.

Farmers Home does an excellent job, as the Senator from Kentucky has indicated. Their default ratios as relates to this program are less than 1 percent. So we support this amendment. The administration has no positions on it, but I do, and the committee does support this amendment on this side.

The PRESIDING OFFICER. Is there further debate?

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2051) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I believe that Senator MACK may be coming to the floor very soon to offer his amendment relating to vouchers. There is one other Senator who may be ready. The alternative is Senator CHAFEE with his amendment. I guess we will see who arrives first on the floor and proceed the moment one of them arrives.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 2042 TO AMENDMENT NO. 2041

Mr. D'AMATO. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 2042 offered by the Senator from New York.

Mr. D'AMATO. Mr. President, I mention that at this point in time because at some point in time, I believe that we are going to have to deal with this. I will ask that it be dealt with. It has been pending since last evening. As long as we are making progress on relevant and germane amendments, this Senator is certainly not going to impede or take time, but it may take time and, indeed, it may be a full debate, as it relates to my apprehension that the FHA system is in trouble now and that as every day goes by, it becomes deeper in debt.

As long as we are making mortgages—and I will cease my comments as soon as one of the Senators who has an amendment wants to present it, or until or unless the distinguished manager of the bill wants the floor for some purpose—as long as we continue to make mortgages, about 3,500, give or take, a day, in the manner prescribed under law now, we continue to cost the taxpayers of America, depending upon whose formula you believe may be accurate, millions of dollars a day.

Mr. CRANSTON. Will the Senator yield?

Mr. D'AMATO. Certainly.

Mr. CRANSTON. I appreciate my friend from New York yielding. Let me just say one thing and then ask a couple questions. First, every Senator wishes to get the FHA on a sound, actuarial basis. We must do that; we will do that. The administration wants it. That is one of the three main points. The question is how we do it. There are some varying approaches in regard to that.

I hope that the Senator from New York will wait until we see if in a meeting that I hope will occur this afternoon with Mr. Darman or his representative and with Mr. Kemp and his people and with Senator D'AMATO, myself, and other Senators who are interested, we may be able to work out a common agreement on how to go about dealing with the FHA problem.

So I would like to ask the Senator, as I have asked him already before, to continue to delay bringing up his amendment until we see if we can work out an agreement. Then we might not have controversy. If he brings up his amendment before we have had that opportunity, there obviously will be a rather stiff debate and some controversy.

Relevant to that, let me ask another question. I talked to Secretary Kemp last night, and the consequence of that was we had a staff meeting which went on until 2 or 3 o'clock in the morning where much progress was made and some tentative agreements reached on some major and some lesser issues. The hope was that we would have a meeting this morning with a top person from OMB and Secretary Kemp. It turned out that was impossible, so Senators met. We are hoping to have such a meeting this afternoon to see if we can resolve the remaining differences. I would like to ask the Senator from New York if in his phone conversation just now with Secretary Kemp he received any clue as to whether that meeting will happen and when?

Mr. D'AMATO. Mr. President, this Senator has no information as it relates to a meeting or rescheduling of a meeting. In my conversation with the Secretary, I indicated to him that it was my purpose to attempt to ascertain what areas outstanding there were, if it looked like we could make progress, and what were the problem areas that we could address.

He basically indicated to me the administration found that in the area of any construction, it had objection. I asked him if he could not be more specific in making comments on the outlines of the agreement or compromise that staff was working with until late into the evening and has submitted to HUD for their comments. He indicated to me that the main point of contention, or at least a major point was still the question of whether or not the housing bill would open the door to new construction in a way which was not acceptable to the administration.

He pointedly referred me to the conversation that we had with the head of OMB, Mr. Darman, at which time Mr. Darman indicated that the issue of funding and the levels of funding would fall into place, he felt, or had a good opportunity of being achieved and dealt with if the underlying issue as it related to new construction was dealt with.

I think everybody recognizes that the administration starts off with a point and says no new construction, but we recognize, in the area of negotiations, obviously that that is not going to be the case, that they would entertain new construction under certain limited cases, but it would have to be tightly controlled. That is still an area of open contention which has not been solved.

Mr. CRANSTON. Will the Senator yield on that point?

Mr. D'AMATO. I ask specifically for the Secretary and for HUD to outline those objections so that we could find a vehicle by which to continue to move the process, whether it be continued

negotiations or whether it be by offering amendments to attempt to deal with that situation. So that is where we stand as it relates to this particular area.

Mr. CRANSTON. May I comment on that one area?

Mr. D'AMATO. Certainly.

Mr. CRANSTON. I appreciate the Senator yielding. In regard to new construction, the majority side has never wanted the main emphasis to be on new construction. The administration, as Senator D'AMATO indicated, wanted now new construction. They have indicated they recognize that there will be some and probably should be some under certain circumstances. At least they recognize that they have to compromise to a degree on that issue.

We have endeavored to go a long, long way to meet their concerns about how easy it would be to go to new construction instead of rehabilitation to provide housing. I am delighted the Senator from New York has asked them what fault they find with what we have sought to do to meet their concerns. I am very hopeful we can work out the remaining differences once we hear from them what differences remain.

Mr. D'AMATO. This Senator is attempting to find out what areas remain outstanding to be settled. Let me say I think it is going to be difficult, indeed, to attempt to effectuate compromise in these areas. But that sometimes is our lot, and we will have to wait it out and we will have to have staffs working. Right now, the staffs are not working in this area.

Mr. President, again, if we can come up with a compromise package of reforms as it relates to FHA, this Senator stands ready to do that. But I have to indicate, to be fair, so that I do not attempt to be saying one thing and doing another, that I do not believe, as it relates to the seven provisions that we have touched on in the proposal, there is room to diminish the requirements, the minimum requirements that we ask for as it relates to FHA.

Now, what do we do? If we examine what is taking place today, we find out that a person who buys a home with FHA insurance can get 100 percent financing—100 percent. How can that be possible? You say if you are buying a home for $100,000, how could you have a $103,000 mortgage? That is in essence what we are saying. It takes place because closing costs are put into the mortgage, because the insurance costs, the premiums for FHA, are put into the mortgage, because the down payment is 3 percent on the first $25,000. Working middle-class families in America do not have that opportunity. I want to see them get mortgages with 3 percent down. It does not happen. And then thereafter 5 percent for the balance over $25,000.

Now you have a situation where you have a deteriorated real estate market. A person buys that home at $100,000 and has a $103,000 mortgage. In other words, if they were going to sell it, if they could get $100,000, they have a $3,000 loss. They pay 1 month, 2 months, 3 months. They are in difficulty. Why? Because the financing requirements are not related to the ability of a person to pay on that mortgage. Because you are putting in people who do not have enough equity. They are not going to fight hard enough to save it because they do not have anything in it. It does not make them bad. It makes the loaning practices bad. The lending practices are inadequate.

The mortgage mills that induce people to buy homes under these conditions are nothing but mills. What are they doing? They are robbing the taxpayer as well as that family that they induce to participate.

Price Waterhouse says that we are losing up to $700 for each mortgage we make. I think that figure is wrong. I think it is much more, because that is predicated on a real estate market at today's values, not looking into the fact that the market has been dropping precipitously. I do not care whether it is New York, whether it is the President's home State of Connecticut, wherever it may be. I do not know of any markets that are going up. They are going down.

This study says that unless the real estate market goes up by 4 percent per annum, the fund is going to be losing money even with the recommendations that it makes. Those recommendations are very modest.

What does the Senator's proposal do? I will tell you what it does. It takes the five modest changes that Price Waterhouse has suggested, established a risk-based premium. In other words, if the likelihood of that loan defaulting is greater than someone else's, why should another person pay more than the person who has a greater likelihood of defaulting? It puts that risk-based premium into effect.

I do not think anybody has a question about that. It says that closing costs should not be put into the mortgage. It means that people have to put more money in the downpayment. You do not have a higher mortgage to pay. You have more money into it. You have more reason to fight to pay for it.

It suspends future payments on premiums that the FHA supposedly is earning so that the fund begins to build up, because the fund is deteriorating.

It makes current mortgage limits permanent. This is not a time to be raising the mortgage limits. It increases the downpayment.

The administration has talked about 3 percent for the first $25,000, 5 percent for the balance thereafter, and looking at ways of maybe increasing that. The time to do it is now. We are going to have taxpayers saying, "My gosh, did you not learn with the S&L's? How come you are still risking our money? How come you are letting people purchase homes who do not have the ability to pay for them?"

Three percent down? We raise it to 5 percent. That is only $500 more; 5 percent on the first $25,000. So instead of putting up 3 percent of $25,000, which is $750 down, we are saying for the first $25,000 of that mortgage, you have to put 5 percent down. That is $1,250; $500 more— $500 more, and thereafter the balance of the mortgage is at 5 percent. I do not believe that this is inordinate. I do not believe that setting capital requirements for the fund, getting the fund up to 2 percent after 9 years, is inordinate. We said to banks, "You cannot operate unless you have 6 percent." We are willing to allow the FHA if it can build up to 2 percent.

If you ask me what that fund is today, I have to tell you, based upon the experience—and, remember, this report has taken a period of time to put together. It is dated June 6. It certainly is between the 6th and today, and the real estate markets of America during the time it took to put this report together have not improved. They have not moved at an annual rate of 4 percent.

We said to them "What would happen if you only had growth of 2 percent?" They said, "Well, then the fund would actuarially be unsound." It did not increase in value by 2 percent. We dropped 5 percent during this period of time. We are in deep trouble. We are talking about billions of dollars.

If we continue this present program or modify it slightly, slightly to the extent that we just at the margins increase a little bit of the equity that people have to put in, then we are kidding ourselves. The fact of the matter is we are losing $1,000 for every mortgage today. We are losing $3.5 million a day. You multiply that times 300 days, that is over $1 billion a year that we are piling up right now on the taxpayer.

So, Mr. President, I am suggesting, unless these modest reforms are made, this Senator is not going to support this bill. That is No. 1.

Number 2, I will urge, and I believe the White House will, a veto on this bill. They may in any event as it relates to other avenues.

I hope we can work out those agreements as to how much new construction should be authorized or what limitations should be placed on them. Reasonable people can disagree on that. I do not think reasonable people can disagree on the fact that the fund

is unsound, that we have to take action now, that it is overdue, and if it does not pass and the House bill does not, we had better pass freestanding legislation dealing with the FHA crisis. I guess the medial likes to see the crisis take place before they comment on it, before they really say, "Hey, listen." That makes better news. We can show people massive evictions, because that is what you are going to have if you continue this policy.

As a matter of fact, you have too much in the way of evictions. We are just going to be piling it up. It does no good to say at least we are making 1 million mortgages a year when a greater percentage of those every year are bound and destined to go into default.

While we have been seeking in every manner possible to work out accommodations as it relates to amendments and as it relates to the provisions of the housing bill, this is one area where this Senator does not feel that he can move in an area to minimize these very basic requirements.

Let me say something else. Price Waterhouse also says that unless you really put 10 percent into the equity, you are flirting with danger, that the greatest defaults take place between 90 and 95 percent, that the defaults thereafter where people have put in 15 percent or 10 or 11, 12, 13, 14 percent, 15 percent, 20 percent into their property, into their downpayments, the default ratio goes down tremendously. The risk to the taxpayer then is reduced tremendously.

So to go to 5 percent, I have to suggest to you, is not a stringent requirement as far as this Senator is concerned in light of what is taking place out there in the real estate markets today, and in the economic community that America is dealing with.

I hope that we can act on this. I think it sends a clear signal that we are aware of the problem. Again, this Senator intends to pursue this FHA reform regardless of what takes place with this bill. But unless we get reform, I could not support the bill. I have been a cosponsor of this bill. I have worked on this bill for 3 years. But I will not be a party to saying that we have done what we are supposed to do if, indeed, we fail to take meaningful steps to reform the system.

Mr. President, we are awaiting two Senators who have amendments to offer, I believe Senator CHAFEE and Senator MACK. Senator CHAFEE is on his way to the floor. So I will not continue to go on in great detail about this although I can.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, in March 1989 I joined as cosponsor of S. 566, the National Affordable Housing Act, an early version of the bill which is before the Senate today.

But in the months that followed, this country witnessed a series of disturbing events which casts merciless light on the inadequacies and inefficiencies of the programs which I now believe that S. 566 would perpetuate.

Dozens of allegations of influence-peddling at the Department of Housing and Urban Development abound out of the very programs that the bill before us would reauthorize.

Unfortunately, the housing bill we are considering today would entrench those precise programs which have proven to attract a long line of developers, lawyers, and consultants, who worm themselves between HUD and low-income families, charge outrageous fees, and reduce the dollars of financial assistance that ultimately reaches the poor.

These relevations, and my growing concern over the actuarial soundness of the FHA, led me to withdraw my cosponsorship of S. 566 last fall.

Since then, S. 566 has been repackaged in a desperate attempt to garner support. But too many of the intents are the same. Despite the inclusion of some of the administration's HOPE package, S. 566 still lacks critical components needed to recreate an atmosphere in which Federal housing policy will serve our Nation's poorest, most needy citizens.

Mr. President, the bill before us today, the national affordable housing bill, turns back the clock on Federal housing policy—back toward the policies prone to abuse and to outright failure.

The American people deserve better.

The Senate has a opportunity to enact new policies promoted by Secretary Kemp and President Bush, to focus on people instead of units; to promote self-sufficiency over dependence; and to create opportunities to move up and out of poverty.

Four provisions need to be incorporated into any new Federal housing legislation.

First, the bill must focus on our "worst case" or most needy individuals. The greatest number of those in need are at or below 30 percent of median income for the areas in which they live.

Mr. President, these are the poorest of the poor. Nothing is more important in restructuring our Federal housing assistance than to create pipelines which provide help for these families.

Second, it is time that Federal housing assistance is awarded with the condition that families show a good faith effort to work their way off public assistance—from dependence to independence.

The Bush-Kemp package offers an expansion of Operation Bootstrap—a program proven to be successful in prior demonstrations—which requires public housing authorities to link housing assistance to a commitment to work toward self-sufficiency.

Yet, the bill before us offers only a fraction of that program which is so essential if we are to offer poor families a way up and out of poverty.

Third, a housing bill must adequately fund the administration's HOPE Program. President Bush and Secretary Kemp have proposed legislation to move toward new policies and programs—a chance to revamp the system.

But the bill before us today authorizes only a handful of the administration's new ideas and slashes funding for its HOPE Program to about 25 percent.

The Bush-Kemp legislation proposed new programs funded at a modest $250 million in the first year, $650 million in the second year, and $1 billion in the third.

Yet the bill before us today offers HUD little more than a demonstration program.

Fourth, any new housing bill must take steps to solve the growing crisis at the FHA. Mr. President, the Senate can and should enact a better housing bill than the one before us today.

More important, the American people deserve better.

I am prepared to offer and support a number of amendments later today which will achieve these objectives. I hope that they will receive the careful consideration of my colleagues.

I yield the floor.

Mr. SASSER. Mr. President, it is with great pride that we take up consideration of the National Affordable Housing Act. The path to this bill today has been long and arduous—yet well worth the trip. Senator CRANSTON and Senator RIEGLE have demonstrated superior leadership and tenacity in guiding this bill to the floor.

It is high time that our Nation's housing problems receive the attention they merit. Basic shelter is something that we in this body can take for granted. However, millions of Americans are not so fortunate. Our Nation's stock of low-income housing stock is shrinking every year. More and more people are finding themselves on the streets because they cannot afford to pay rent.

Many studies that have examined housing data present an appalling story. A December 1988 study by the Congressional Budget Office found that over 20 million low and very low income American households either pay more than 30 percent of their in-

comes on housing or live in substandard or overcrowded conditions.

A study by the center on budget and policy priorities in April 1989 found that 45 percent of all poor renter households and over 30 percent of all poor homeowner households paid at least 70 percent of income for housing costs. Put another way, almost 7.5 million of our Nation's poorest families face crushing rental payments. These families are only a paycheck or an unforeseen expense away from joining the ranks of the homeless.

And, it is important to note, Mr. President, that these already compelling statistics omit the uncountable homeless population. When we talk about the sheer size of our Nation's housing needs, we must add to the totals at least the 600,000, or perhaps 2 to 3 million, people that spend their nights in shelters, under railroad bridges or in cardboard houses. This is a national disgrace.

Mr. President, this housing crisis does not limit itself to the poorest of the poor, either. Since 1980, there has been a 20-percent decrease in the number of persons ages 25–34 who own homes. The American dream of homeownership is slipping beyond the grasp of the middle-class as fewer young families are able to scrape together a downpayment to buy their first home.

Mr. President, in short, we are not meeting the goal of the 1937 housing act of decent, safe and sanitary housing for all Americans. We need to do more.

Mr. President, why are we in this situation? It's fairly simple to grasp. Under the Reagan administration, we saw a concentrated attack on housing. In 8 years, Federal funds for assisted housing were cut by about 80 percent. And as the mod-rehab scandal has shown us, what little funds were available were often squandered through fraud and mismanagement. Often it was not the housing programs themselves that were flawed, but rather the conduct by the appointees of the past administration.

Let us look for a minute at the Reagan record and compare this record with the needs that I have identified above. Mr. President, in 1979, we appropriated enough money for HUD and farmers home housing programs to assist nearly 450,000 families. In 1990, the appropriations level for low-income housing programs in these two agencies will assist only 120,000 new families. According to CBO, it would take 167 years to meet the Nation's present housing needs.

As chairman of the budget committee, I have placed housing needs among the top of my budget priorities. The bill we are addressing today, the National Affordable Housing Act, represents an important first step forward toward meeting our Nation's housing needs. Indeed, it is my hope to see that much more room is made in the budget in future years for housing programs.

Mr. President, the National Affordable Housing Act also reflects a changing perspective on the way to best deliver housing. The bill advances public/private partnerships as a way to maximize Federal dollars. By making money available to State and local governments and nonprofit groups on a matching basis, this bill provides a flexible mechanism—the Housing Opportunity Partnership or HOP—to deliver housing to areas of great need.

The HOP model has proven itself successful in the city of Chattanooga, TN, where I have seen the opportunities that a local nonprofit can provide to persons in need. Chattanooga neighborhood enterprise is a national model for HOP. That city and its leaders deserve great credit for its innovation and foresight.

Indeed, the central idea of HOP is that a community can use funds for rehabilitation or new construction for the development of rental housing or to help individuals become homeowners. HOP addresses the problem that plagues so many Federal housing programs—that housing needs vary greatly from community to community. HOP will provide cities and States with flexibility.

Mr. President, I also applaud the bill's provisions that seek to preserve the housing stock threatened by mortgage prepayments. I realize that the Senate's provisions with respect to the prepayments issue are a first attempt at solving a very complicated problem. Before enactment, modifications will have to be made to further refine the package of incentives offered to owners. We must balance the large long-term costs with the importance of not losing available low-income housing resources.

Project Retrofit, a program targeted for elderly housing projects, is an important example of features found throughout the bill that seeks to recognize that housing is merely a strand in the social safety net. Project Retrofit provides for social service coordinators and improvements that make way for services to the elderly. This program becomes part of a trend that I fully support: housing and social services for the poor should be better integrated.

I strongly support the bill. However, if I have any regrets, it is that we have not done more to help the first-time homebuyer. As I said earlier, the number of new homeowners has been on a decline since 1980. Overall, the decline means that over 2 million households are still renting that should be enjoying the benefits of home ownership. Indeed, many families are paying levels of rent that would be sufficient to support a mortgage and other ongoing home ownership costs.

Therefore, I am watching very carefully the efforts to respond to the need to strengthen the FHA fund. As we look at the FHA fund, we must remember its mission—to help individuals on the fringe of home ownership break into the American dream. In light of the softening real estate market, I am hopeful that we will be able to do more in this legislation to advance, rather than restrict, home ownership.

Mr. President, this is a red-letter day in the Senate. The National Affordable Housing Act represents the most comprehensive revision of our Nation's housing programs in the last decade. I urge its speedy passage by the Senate.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, is there an amendment pending that has to be set aside?

The PRESIDING OFFICER. There is amendment No. 2042 offered by the Senator from New York which is pending.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the pending amendment be set aside for the consideration of the amendment that I will submit.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2052

(Purpose: To improve the availability and affordability of low-income housing by encouraging increased competition for United States Department of Housing and Urban Development contracts and providing more cost-effective construction, alteration, rehabilitations, and repair of Federal housing projects and developments)

Mr. CHAFEE. Mr. President, I send an amendment to the desk on behalf of myself, Senators SIMPSON, WARNER, MACK, and WALLOP, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. SIMPSON, Mr. WARNER, Mr. MACK, and Mr. WALLOP proposes amendment numbered 2052.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —LOW-INCOME HOUSING REFORM

SEC. —01. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Low-income Housing Reform Act of 1990".

(b) REFERENCE.—The provisons of the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed in public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (commonly referred to as the "Davis-Bacon Act") (40 U.S.C. 276a-5) shall apply with the modifications described in this title to the extent that such Act applies to the following provisions of law:

(1) title I of the Housing and Community Development Act of 1974,

(2) section 802 of the Housing and Community Development Act of 1974,

(3) the United States Housing Act of 1937,

(4) the National Housing Act,

(5) section 202 of the Housing Act of 1959, and

(6) section 312 of the Housing Act of 1964.

SEC. —02. INCREASE IN THRESHOLD AMOUNT.

The Davis-Bacon Act shall apply only to projects or contracts as the case may be in excess of $1,000,000, or that meets the threshold contained or referred to in the provisions of law listed in section —01, whichever is higher.

SEC. —03. PROHIBITION ON CONTRACT-SPLITTING.

(a) Any person entering into a contract under which wages are to be determined in accordance with this Act shall not divide any project into contracts of $1,000,000 or less if the project would not have been so divided but for the purpose of avoiding application of this title.

(b) Whenever the Secretary of Labor determines that a division for such purpose has occurred, the Secretary may—

(1) require that the contracts, grants, or other instruments providing Federal financing or assistance to be amended so as to incorporate retroactively all the provisions which would have been required under this Act or other applicable prevailing wage statute, and

(2) require the contracting or assisting agency, the recipient of Federal financing or assistance, or any other entity which awarded the contract or instrument providing Federal financing or assistance in violation of this section, to compensate the contractor, the grantee, or other recipient of Federal assistance, as appropriate, for payment to each affected laborer and mechanic, of an amount equal to the difference between the rate received and the applicable prevailing wage rate, with interest on wages due at the rate specified in section 6621(c) of the Internal Revenue Code of 1986 from the date the work was performed by such laborers and mechanics. The Secretary shall make such a determination only where the Secretary has notified the agency or entity in question no later than 180 days after completion of construction on the project that an investigation will be conducted concerning an alleged violation of this subsection.

SEC. —04. REPORTS REQUIRED.

Beginning 1 year after the effective date of this Act, and at intervals of 1 year thereafter, the Secretary of Housing and Urban Development and the Comptroller General of the United States shall each prepare and transmit to the Congress a report describing the results of a review of the implementation, enforcement, administration, impact on local wages, and impact on local and national economies of the Davis-Bacon Act (the Copeland Act) as they apply to the Acts referred to in section —01 and the amendments made by this Act during the preceding 12-month period, including recommendations for such further legislation as may be appropriate.

SEC. —05. EFFECTIVE DATE.

This title shall take effect 30 days after the date of enactment of this Act but shall not affect any contract in existence on that date or made pursuant to invitations for bids outstanding on that date.

Mr. CHAFEE. Mr. President, let me explain this amendment to my colleagues and those who perhaps are listening and watching.

What this amendment does is attempt to deal with the terrible problem we have in our Nation due to the lack of adequate low-income housing. I think we all recognize that the dearth of decent, safe, and affordable, I stress that word "affordable," housing has reached crisis proportions in our country. All of us are familiar with the great numbers of homeless that we see not only in this city but in our home cities back in our home States.

Recently I met with members of the Right for Housing Coalition, and like other Senators I have had the opportunity to witness scores of homeless individuals and even families who sleep near Federal offices and outside the U.S. Capitol.

The message was clear. This is no secret; I am not bringing any great news here. The Nation needs additional low-income housing. it seems to me we have a responsibility to our country and to those who lack adequate shelter to provide that to the extent we can. This, of course, requires that every dollar go as far as it possibly can.

The amendment that I have submitted under the estimates of the Department of Housing and Urban Development will create nearly 1,600 additional housing units in the next 5 years, will make moneys available for them, without increasing the current program that has been suggested one iota.

What does this small amendment do? It deals with the Davis-Bacon Act. Since 1931, with the passage of the Davis-Bacon Act most federally financed construction above $2,000 has been required to pay what they call the prevailing wage. This prevailing wage, which in nearly all cases is the union wage, has to be paid to various classes of workers. When this was adopted, in 1931, 59 years ago, this was an effort to prevent what they called itinerant, cheap bootleg labor from undermining local wage practices.

Now let us see how it applies to low-income housing. The effect of the Davis-Bacon Act in recent years has had just the opposite effect of producing more housing. What it has done is it has inflated the cost of housing construction because all too often prevailing wages are well above the local averages and well above what those who could and would bid on the projects would charge.

I have letters from low-income builders, and indeed from local governments, all across our Nation that say that the Davis-Bacon requirements add from 15 to 30 percent to the project costs.

Mr. President, let me read if I might into the RECORD a couple of these letters.

This is from the city of Santa Ana, CA. It is a position paper that has been submitted regarding the Davis-Bacon amendments.

This is what that letter says:

The Davis-Bacon Act dramatically impacts a city's ability to stimulate the development of low-moderate income housing for its poorer residents. Cities who previously welcomed federal funds for new and rehabilitative construction are now finding the cost of such projects substantially increased due to Davis-Bacon. As a result many—

Meaning cities—

are cancelling projects that would require Davis-Bacon wages, and/or avoid any new project which could possibly trigger Davis-Bacon. Thus a direct impact of Davis-Bacon is a decline in government assisted low-moderate income housing development.

And subsequently, Mr. President, I will ask for approval to submit these letters in the RECORD.

This was a letter from Jubilee Housing, Inc., a support group. And this is a group that rehabilitates low-income housing.

This is what this letter says:

Before concluding this section on physical property rehabilitation and aspects of construction management, one problem alluded to in earlier reports should be restated. We estimate conservatively, that Davis-Bacon requirements have inflated total construction costs by 12 to 15 percent.

Now you note that this is a lower figure than the city of Santa Ana estimated. But I am not going to quarrel over whether it is 12 or 30 percent. The point that one will notice through all of these letters is that the Davis-Bacon requirement substantially increased the cost of housing. And when the costs go up and there is a limited amount of money, obviously, not as much housing is built.

The required rates are far in excess of even liberal market wages for the various trades. This fact has diminished the value of every dollar spent to accomplish needed rehabilitation for very low-income families at the lowest possible cost. This and other aspects of the Davis-Bacon requirements have effectively prevented us from employing trades people or laborers in helper or training capacities. This fact has prevented us from hiring many neighborhood people who otherwise would have been employed.

This is a letter, Mr. President, dated yesterday from the National Federation of Independent Business:

DEAR SEN. CHAFEE: I understand that you intend to offer an amendment to the Hous-

ing bill which would result in significant cost savings on Federal housing construction and rehabilitation projects by raising the current contract threshold to $1,000,000, permitting the use of helpers, and making other important technical changes.

Mr. President, this amendment that I have does not deal with helpers. It just deals with a million-dollar limitation. Whatever is concerned about with the trades below that is dealt with in the normal practices that contractors have. I do not deal with the use of helpers in place of laborers for any other contract above the $1 million.

The changes your amendment encompasses are very important for small business owners across the Nation.

This, I think, is the important point, Mr. President.

If enacted, it will permit small business owners to compete fairly in obtaining Federal contracts.

On behalf of the more than 500,000 members of the National Federation of Independent Business, I commend you on your efforts and offer our full support.

Mr. President, I have a host of other letters. I will just read one other. This is from Emmer Development Corp., Gainesville, FL, dated yesterday.

I understand that you are a sponsor of an amendment . . . to increase the exclusion from the law from $2,000 to $1,000,000.

He goes on to say—the writer in this letter:

I would heartily suggest that the entire bill—

That is the entire Davis-Bacon—

be stricken from the law of the land, but failing that, I want to vigorously support your position.

Then he goes on to recite what Davis-Bacon does.

1. The administration of Davis-Bacon became a nightmare and it was very costly for us to manage.

2. Because of the often wide variance between costs that had to be paid to tradesmen in these jobs as opposed to the conventional market, many subcontractors would not bid on Davis-Bacon jobs. They were not particularly thrilled with $12 per hour journeymen going to $17 per hour.

He is referring to a Davis-Bacon job—

and then trying to pay them $12 per hour again after the job was done.

Mr. President, this amendment would allow the Government and the American taxpayer to get more bang for their buck and would lead to desperately needed housing opportunities for thousands of American families.

Let us go into a couple of details of the bill. What would it do? What is this amendment all about?

What it says is very simple. It is not complicated. All HUD contracts of less than $1 million would be exempted from Davis-Bacon. The Congressional Budget Office estimates this change could save the American taxpayers $111 million over the next 5 years.

Now you might say, well, $111 million over 5 years, that is not very much money. Well, try to tell that to the folks at home. Try to tell that to the fellow who is homeless or who is seeking low-income housing and say we do not care about you. Sure, we could get $111 million and that would provide about 1,500 more additional public housing units, but we are not going to do that because we are sunk in concrete. We are devoted to this so-called Davis-Bacon Act that has been around for 59 years.

Now there are those—we can anticipate the arguments that will be given here today—that will say this legislation is an effort to chip away at worker protection. But actually this legislation will create more jobs. When you are building 1,500 more units, obviously, you are going to have more people employed. So this creates jobs. This does not lose jobs. Every single Senator who gets up on this floor and gives speeches at home lists as one of the highest national priorities that has to be met, that we have to do something about the homeless. Well, here is a chance to do something about them. Here is a chance to give them a hand. And I hope every Senator will support this.

First, I want to stress that in raising the Davis-Bacon Act threshold to $1 million, as this act does, it leaves a great number of workers covered by the Davis-Bacon. But it will at least allow HUD to finance smaller projects without requiring excessive labor costs.

But there is another factor that this act deals with. There is no question, as has been pointed out in a letter from the National Federation of Independent Business, that small and frequently minority-owned businesses are unable to compete for Davis-Bacon jobs now.

You might say why? Because to qualify for Davis-Bacon you have to have a history of paying the wages, you have to show in detail the wages you are currently paying out. There is a mammoth amount of bookkeeping and recordkeeping that has to be submitted. For the big operators, that is fine. They can do it. They are all geared up for that. But for the small business, where the wife is the bookkeeper, it is impossible to meet the requirements.

So you do not find small businesses bidding on these jobs. I can report that from my own experience in my own State, what we have seen there, and I think every Senator will bear witness to the same.

So under this legislation, without having the Davis-Bacon requirements for those jobs of less than $1 million, the small and hopefully the minority-owned businesses will be more likely to compete for Federal contracts under this lower threshold.

Now, you might say, well, there are liable to be abuses here. I mean there will be a $5 million job, and so HUD might split it up into five separate contracts. Thus, the whole job is exempt from Davis-Bacon because they bid on each of the five $1 million separate contracts rather than a $5 million job.

We have taken care of that, Mr. President. In order to prevent the potential abuse of this threshold, we prevent this contract splitting. Any builder who attempts to divide the $2 million contract into two $1 million apiece contracts would be guilty of a violation because that is prohibited under this legislation.

Finally, Mr. President, this amendment calls for a study of these changes. In other words, what has the result been? We get a little experience and see how it goes.

Mr. President, this is a good amendment. During this period of budget restraint, right as we talk now, I suspect that the summit is trying to do something about the Federal deficit. So we have to consider that. But just as importantly, we have to consider all those who are unable to obtain housing and who, as a result of this amendment, would obtain housing without the Federal Government spending one nickel more.

Mr. President, our objective, as we consider this legislation, is to provide more low-income housing and to assist the homeless. This amendment forges ahead on both of those top priorities.

So I hope that my colleagues would join me in support of this amendment. All those who rise on the floor and have spoken so often on conditions for low income or the homeless, those who talk about helping small business, those who talk about minority employers getting a better chance, and the disadvantaged, here is an opportunity for every one of those groups to be assisted. This is sound, much-needed legislation. I urge its adoption.

Mr. President, I will hold these letters here that I read from and later on will ask for permission for them to be printed in the RECORD.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. METZENBAUM. I am going to have to leave because of the flag-burning issue.

Mr. WIRTH. Are you having a flag burning or——

Mr. METZENBAUM. The issue is in the committee. Could I say a word or two?

Mr. WIRTH. I will yield without losing my right.

Mr. METZENBAUM. Mr. President, I rise to indicate my strong opposition to this amendment. Why is it every time we get into an area that deals with public housing or try to move forward with programs that this country

needs so badly, at the very same time we find an effort to change the basic labor laws of this country? The Davis-Bacon Act has been in effect for almost 60 years and it has worked well.

The question really is, Do we now come along on this housing bill and attempt to make a basic change with respect to the labor laws for virtually all of the public housing built in this country? There is not any reason to be doing that. Yet the argument is let us do it in this instance because we are going to do so much for housing; we are going to do so much more for the worker.

The fact is, if you are asking people to work for substandard wages you are not going to help those you are trying to help with the housing in the first instance. I urge my colleague from Rhode Island that this is not the time to be discussing changes in the Davis-Bacon Act. If we are going to change the Davis-Bacon Act we ought to propose a piece of legislation, send it to the proper committee, the Labor and Human Resources Committee, let us conduct hearings, and let us discuss whether or not there is any reason to make changes in the basic law. But let us not come out here with an amendment on the floor on a housing bill that is so much needed, so much in demand, and one that so many of us would like to pass, and attempt to change a basic labor law of this country.

I know my colleague from Colorado is about to speak at some length on the subject and I respect what he is about to say. But I say to my colleague: Is it not time we move forward on the housing bill? Yesterday we had to deal with an amendment, with the same kind of thrust, from the distinguished Senator from Oklahoma. The Senate indicated very strongly it was not prepared to agree to that amendment and tabled it in an overwhelming fashion.

I hope at an appropriate time I or some other Member of this body will move to table this amendment. I hope the housing bill could move forward toward providing that commodity that so many millions of Americans are crying out for, and that we could help in that important endeavor without at the same time paying the price of endangering one of the basic labor laws of this country.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, if we are going to debate this I hope we will use some wisdom in our statements. First, the Senator from Ohio says "We are not going to have substandard wages."

Where does he get that one from? Is the suggestion that everybody in the United States of America who is not working for the union wage, the so-called prevailing wage, is being paid substandard? That is nonsense and he knows it.

I suspect his house, the very house he is living in now, was built by workers getting the wage that was being paid in the area; not a union wage, not the so-called prevailing wage that is plucked by the Davis-Bacon statute and set up there so you have electricians at $25.55 an hour.

I am perfectly prepared to debate this in a reasonable way, but let us not hurl around charges about "substandard."

There is nobody, I think, who speaks on this floor more often then the Senator from Ohio, about the plight of the homeless. He is concerned about it. I recognize that and I pay tribute to him for that.

But here we have an opportunity to increase housing, and he will not debate that. He will not gainsay what I have said about providing more housing. Because we all recognize it.

Here we have an opportunity to provide more housing. It is not me who is saying this. It is the General Accounting Office that is saying it. We can get more housing for the same amount of money.

Let us not talk about the houses that are going to come tumbling down, substandard wages, inferior housing—that is nonsense and we recognize it.

Mr. President, I do not mind debating this. I am delighted. But I hope we can remain away from intemperate statements.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, I rise in opposition to the Chafee amendment which, as pointed out by the distinguished Senator from Rhode Island, would increase the Davis-Bacon coverage threshold from $2,000 to $1 million.

The Davis-Bacon law, as all of us who have been through this battle over and over again know, requires the Federal Government to pay the prevailing wage in a locality when it lets a construction contract; the prevailing wage.

The Federal Government, which has, in communities like my own, massive purchasing power, it seems to me, should not be allowed to pay substandard wages and, maybe more importantly in this day and age, Mr. President, when we are seeing so many shifts and changes in defense contracting and impacts on our communities, we should not have the Federal Government, through its example, undercutting a whole variety of employers in that particular already-impacted area, driving wages down as a result, and that is effectively what would happen.

This is the point. Private contractors should not be permitted to use the shield of Federal contracts to engage in such activities that are going to have such a significant impact on the economy overall. That is my greatest concern, the impact which the Federal Government and its purchasing power can have.

This amendment in one fell swoop causes a 500-fold increase in the threshold for Davis-Bacon coverage, from $2,000 to $1 million.

There may well be legitimate need for Davis-Bacon reform, and I understand the House of Representatives is working on such a bill right now. I cannot speak for the Labor Committee on the Senate side. But it seems to me that a sudden, radical shift, 500 times over, is unreasonable and disruptive.

This unwarranted jump in the threshold which would occur under this amendment would also expand employers' ability to use lower-payed, less-skilled helpers instead of journeymen. In this way I think the amendment encourages the displacement of skilled workers with less skilled workers, all for the sake of saving a buck.

The Chafee amendment also changes the way in which the prevailing wage, under Davis-Bacon, is determined. This amendment would exclude wages paid on Federal projects from the wage data equation and such a change would only skew the resulting prevailing wage data and likely lead to reduced wages for thousands of other construction workers. Again that is my concern, Mr. President.

Mr. CHAFEE. Mr. President, could I make one point?

Mr. WIRTH. Let me finish my statement and then we can come back. I appreciate the efforts of the Senator from Rhode Island on this. I just happen to disagree.

This amendment effectively guts Davis-Bacon protection. By increasing the threshold to $1 million, virtually all the housing construction contracts will be exempted. Davis-Bacon, as intended, has worked for over 50 years, Mr. President, and we should think long and hard before overturning more than a half century of established practice. But that is what this amendment would do, without even the benefit, as I understand it, of a single hearing before the committee of jurisdiction.

That has been the pattern that I have seen. I have been in this institution and on the other side for 16 years. This has been the pattern on this Davis-Bacon issue: repeated efforts to undermine the act. Representatives and Senators rush to the floor with amendments to defense bills or amendments to housing bills or amendments to appropriations bills, without going through the process of looking at what the overall impact is on the overall community.

Again, the process issue is an important one. We can always do a process two-step. But in this particular situa-

tion the impacts of Davis-Bacon are significant and we ought to know about them.

There was discussion earlier in the brief colloquy between the Senator from Ohio and the Senator from Rhode Island about affordable housing. There is a crying need for affordable housing. We all share the goal of eliminating homelessness in the society and many of us are cosponsoring legislation that meets the shelter needs of the homeless and near homeless. But I do not think this amendment is about providing more housing. It is about eliminating some significant worker protections.

The average construction worker, Mr. President, earns well below $20,000 per year. If the prevailing wage is eliminated, that modern wage level will be slashed by lower wage contractors. Local communities are going to be impacted as a consequence and I, again, do not think that is going to be helpful or constructive.

Finally, Mr. President, this spills over into a set of other issues related to how we are going to go about balancing the budget of the United States. If the argument is made that one of the reasons for this is that we ought to be balancing the budget, what we are doing is balancing the budget again in precisely the wrong place.

We have been debating in the last week extensively, and the Presiding Officer has been involved in this. We are bailing out the savings and loan industry at a cost of hundreds of billions of dollars. We gave away, effectively—the last administration as it was getting out of town—gave away distressed thrifts with incredibly good deals to a handful of insiders. We are investigating that. I bet you anything that is going to be found to have happened.

We are giving away this enormous pot to a few insiders, and yet what is happening related to people who are working and working on construction projects? It seems to me we want to keep that in mind, as well, Mr. President. This is a tough issue; it is an important issue. It seems to me Davis-Bacon has a track record that has worked well for over 50 years. I do not think we should be changing it on the floor. If there are changes, let us do it in the necessary and appropriate spot.

Mr. President, I hope we will turn down the Chafee amendment. We can urge the Labor Committee to do whatever it is the Labor Committee is doing on this. I know on the House side, there are some very significant efforts to rewrite the Davis-Bacon legislation, to look at reform and change. We ought to let that process do the job.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the amendment that I offered is a little bit different from the one that was circulated that the distinguished Senator from Colorado referred to when he indicated that some other changes in the calculation of the Davis-Bacon standards were included within the amendment I have. That was eliminated. There is no reason the Senator from Ohio should have known about that, but it is in the amendment we have before us.

The other point I would like to make is that—perhaps people do not know it—in this very bill, the committee has made very substantial changes in Davis-Bacon. If you look on page 217 of the act that we have before us—that is, the printed bill—it provides that Davis-Bacon requirements do not apply to the construction of 11 or fewer units. So we are not breaking any great new ground here, Mr. President. It says that in section 385 the Secretary may waive Davis-Bacon requirements. First it starts off by saying, "Davis-Bacon wage requirements would apply to threshold of construction of 12 or more units."

Mr. President, that is all right, if they are building 11 or fewer units. Somehow it is all right there. But if they are engaged in building, which is quite possible and probably normal that they do not build as few units as 11 at a time, you would permit somebody to bid on a contract, $4 million or less, in those increased number of units. It might be for the painting; it might be for the plastering and, indeed, it might even be for the landscaping of the project. I would like to have the floor manager of the bill explain to me why they put a limit of Davis-Bacon not applying at 11 or fewer units. A minority or a small businessman cannot come in and bid on the painting for an area where there might be 50 units. What is the magic of it? That is my first question. I would appreciate it if some of the managers could give me an answer to that.

The second point is, I do not think anybody argues that you are going to get more housing here. It is all well and good for us to stand up on this floor and in lengthy speeches and emotional speeches decry the fact there is not enough housing in the country. Here we have a chance to do something about it. As I say, this is not just me saying it; this is the Congressional Budget Office.

I believe previously I said it was the GAO. That was a mistake. The letter I have dealing on this subject is from the CBO.

So, Mr. President, I think it would be a shame if we passed up this opportunity. We are not talking about enshrining Davis-Bacon for 59 years, and it should remain in perpetuity. As I read the very bill before us, that is changed anyway. Let us make it so the small business man has a crack at it.

So for those reasons, Mr. President, I urge adoption of my amendment.

Mr. D'AMATO. Mr. President, I do not know if my distinguished colleague and friend from Rhode Island is going to ask for a rollcall vote on this.

Mr. CHAFEE. I will.

Mr. D'AMATO. He will. If there is no other debate on it, I am ready to vote. I do not know if anybody else wants to speak on the issue.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I will respond, before we have a vote, to the question that was addressed by the Senator from Rhode Island. Meanwhile, Senator KENNEDY intends to speak in about 2 minutes. So I suggest the absence of a quorum for the moment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I hope that the Senate will not vote in favor of the amendment of my good friend from Rhode Island, Senator CHAFEE.

This amendment offered today is an issue generally considered before the Labor and Human Resources Committee, yet the Senator has never introduced any legislation or requested that our Labor and Human Resources Committee consider this particular subject. The question raised here would best be resolved through the traditional hearing process.

The establishment of the Davis-Bacon concept and procedure was to ensure that when American taxpayers' funds were being spent on any Federal projects, whether for building military bases or, in this instance, homes, that the Federal taxpayers' money would not be used to increase or depress the wages of workers employed on the project—often skilled construction workers.

There is a process for determining the prevailing wage on Federal and non-Federal programs as well.

The Davis-Bacon Act established a procedure for establishing a figure for skilled individuals and that standard has been maintained. However, there may be reasons to adjust or alter or change the particular threshold for eligible contracts—it is obviously a question that we should consider, and one Congress has considered previously. We are always open to consider what the appropriate threshold should be if Congress determines through legislation that an adjustment is necessary.

With all due respect to the Budget Office, I would refer my friend and colleague to the studies that have been done by Republican John Dunlop, a former Secretary of Labor and distinguished professor of industrial relations at Harvard. He has pointed out consistently, while serving in a Republican administration and subsequently, that these studies which make an evaluation of cost saving which would result from amendments like this one are basically flawed because they do not take into consideration the value of the work that is done and the productivity of the higher skilled workers employed, had the prevailing wage been paid.

Therefore, Mr. President, these figures in terms of the savings are flawed, because the basic concept implicit in Davis-Bacon is that contractors are going to be dealing with skilled individuals. Davis-Bacon tries to ensure that those people who are going to construct housing for needy, low-income people, are going to be quality workers, not the lower skilled work force which would be the result of some fly-by-night construction company paying lousy wages. Then do you know what you are going to get? You are going to get a lousy product. And who is going to have to pick up the expense? It is either going to be the low-income individuals left to live in substandard housing or it will come back to the Federal Government.

We have had the opportunity to debate the issue of shoddy workmanship, over a very considerable period of time. I am not going to delay the Senate by reviewing the different examples that we have put in the RECORD in the past except to say they are just as applicable now.

Mr. President, I hope the Senator will introduce legislation with whatever adjustments or changes he thinks should be made to the Davis-Bacon Act. We will be glad to review those particular measures. But, Mr. President, this is neither the time nor the place to be talking about a 500-fold increase in the threshold. Arguing that the use of the prevailing wage is an inflated wage does not take into account the unique nature of the construction industry, for example, construction workers do not work full time. Because construction work is seasonal, they work a little better than 50 percent of the hours of the average office worker in most places in the country. Individuals like my friend from Oklahoma mentioned yesterday, who are getting $15 in Tulsa, OK, even if they are working 52 weeks a year and 40 hours a week, make about $31,000 a year. Yes, $31,000 is good money, but many of these is people who are getting $15 are in urban areas where the cost of living is higher. If you recalculate using the 1,300 hours the average construction worker puts in a year, the same worker getting paid $15 an hour would be making about $19,000. That is still a lot, but will not make any worker rich who has to support a family on this modest wage. The idea that a lot of working people are getting excessively wealthy because of the prevailing wage is just preposterous. There has been no evidence from the Senator from Rhode Island that that is the fact, nor was there when the Senator from Oklahoma offered it.

What we are basically talking about is ensuring that we are going to get quality work and for that quality work we are going to pay the prevailing wage in that locality. I think it is interesting that we are trying to do something in a housing act for low-income people yet this amendment would endanger the quality of these programs by allowing fly-by-night contractors to exploit cheap and lesser skilled labor. The low-income people who need these homes deserve better than second-class workmanship. So I hope the amendment will be defeated.

Mr. CHAFEE. Mr. President, the Senator from Massachusetts, in a very vigorous fashion, has set up a wonderful strawman. The suggestion always is fly-by-night contractors, shoddy workmanship, and nonsense like that. I do not know why the Senator has not addressed the fact that the very bill he is protecting, in section 385, provides that Davis-Bacon does not apply if it is 11 or fewer units. Is that totally shoddy workmanship?

Mr. KENNEDY addressed the Chair.

Mr. CHAFEE. Let me finish.

Mr. KENNEDY. I thought the Senator was asking me a question. I was prepared to respond.

Mr. CHAFEE. All right, go ahead and answer it.

Mr. KENNEDY. As the Senator knows, even under Davis-Bacon you have a threshold below which its provisions will not be applied. I do not know why this startles the Senator.

Mr. CHAFEE. My question is——

Mr. KENNEDY. I did not understand the Senator's argument the first time and, quite frankly, I did not understand it when he made it the second time.

Mr. CHAFEE. We will go through it slower.

Mr. KENNEDY. I caught it both times.

Mr. CHAFEE. If you accept the Senator's premise that everybody in the United States who is not working at the prevailing wage, or the so-called prevailing wage as defined by Davis-Bacon, is doing shoddy workmanship, every one of us who builds a house, for example, or has a house built for us, is not receiving a quality house. If you accept the Senator's thesis that that is all shoddy workmanship, all done by fly-by-night contractors, then why is he supporting a law whch in itself allows 11 or fewer units to be built without the Davis-Bacon requirements? This is my question. Are we wandering into a situation here where we are supporting shoddy workmanship on these 11 or fewer units?

Mr. KENNEDY. As the Senator knows, under Davis-Bacon there is a threshold figure. I understand that what the managers of this bill were attempting to do is apply a threshold number of units. Now, if the Senator would propose to reduce the threshold to two units, or not include a threshold at all, I certainly would not be troubled by that. But, quite frankly, we have consistently accepted the concept of a threshold in past Davis-Bacon debates, providing an exemption for contracts falling below. As I understand, that is basically the concept that was included in this bill.

Now, if for example four units are too many and two are better, that is fine with me. But to make the argument that we do not have a threshold existing in Davis-Bacon, is fallacious.

Mr. CHAFEE. Let us review the bidding. In the Senator's statement, he indicated that anything built without the Davis-Bacon requirements was built by shoddy workmanship, fly-by-night contractors. And yet he says he does not get bothered at all. If you follow his thesis through that that is shoddy, improper workmanship, that the American public should not countenance and the American taxpayers should not support, he is perfectly prepared to have 11 or fewer units be constructed with this shoddy workmanship as he declares it. Now, I do not think that it all is shoddy workmanship. I think it is perfectly——

Mr. KENNEDY. Will the Senator yield?

Mr. CHAFEE. Let me just finish. I would increase the number. I would say let everybody in to bid, and if they are not qualified bidders or if they are improper—after all, we have clerks in the works on every one of these jobs, somebody who supervises how it is done. What my bill says is that, on this housing, any contract less than $1 million would not be subject to Davis-Bacon.

Mr. KENNEDY. Mr. President, my response is, if the Senator wants to offer an amendment, to eliminate the threshold altogether, that is fine with me. I will be a cosponsor and hope that the amendment would be accepted.

Mr. CHAFEE. I am not for that at all. But the Senator attacks my proposal as being so wicked and yet in the very bill it goes part way; it does not go far enough.

So why does he not revise his proposed amendment, say put it up to 60 or more units?

Mr. KENNEDY. It is not my legislation. I am addressing the concept which the Senator from Rhode Island

has embraced in many other measures. He has supported minimum wage in which we exclude about 600,000 or 700,000 agricultural workers because we have found that certain situations warrant exemptions.

The Senator knows the use of thresholds is as old as this institution. There is a threshold built into Davis-Bacon. As I understand, that same concept is incorporated into the housing bill. But I am not troubled, if the Senator wants to close that exemption down. Yet I know the Senator will not propose this. The reality is that thresholds exist in Davis-Bacon and this housing bill, and are sometimes necessary to forge important legislation.

Mr. CHAFEE. My point, Mr. President, is this: I am perfectly prepared to debate the threshold level. As you know, I proposed going above. But I do not agree with the idea that anything below the threshold level is shoddy, is done by fly-by-night contractors, is improper, and unfit for human habitation. That is nonsense.

So what I propose here, Mr. President, that I hope this Senate will adopt, is to open it up for smaller contractors to be able to bid on projects that are more than 11 or fewer units.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I am perfectly prepared to go to a vote at any time the managers wish.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, the Senator from Rhode Island referred to a provision of the bill which clarifies that the Davis-Bacon requirements only apply to construction of housing of 12 or more units. This provision reflects existing housing law, and is a simple unit exemption.

However, the amendment offered by the Senator constitutes a major revision of Davis-Bacon on fundamental policy issues relating to threshold amounts, to reporting, to record keeping, to helpers, and so forth. We are not prepared to accept such fundamental changes in the housing bill. There have not been hearings on this. For that reason, at 2 o'clock, I will move to table, but I am not going to do so now. I will suggest the absence of a quorum.

Mr. CHAFEE. Mr. President, could I ask the floor manager?

The PRESIDING OFFICER. Does the Senator from California withhold the suggestion for a quorum?

Mr. CRANSTON. Yes. Of course.

Mr. CHAFEE. I would like to ask the Senator from California a question. Is it his thought we have a quorum call and then vote at 2?

Mr. CRANSTON. That is right. We will have a quorum call and start a rollcall at 2 o'clock on a tabling motion.

We will start at 2 minutes to 2 to accommodate the Senator from New York.

Mr. CHAFEE. Mr. President, it seems to me it would be much more satisfying if we had an up or down vote. I find that far more pleasant.

Mr. CRANSTON. I know the Senator would. But I will have to move to table.

Mr. CHAFEE. It is regrettable.

Mr. CRANSTON. I regret ever differing with the Senator from Rhode Island, with whom I find myself in agreement on many, many issues. He is a great Senator. He does wonderful things. We agree on many matters. On this one we do not happen to agree, both on substance and on procedure, I am sorry to say.

Mr. CHAFEE. I see the distinguished chairman of the Labor Committee here, and in his remarks previously, he indicated that this has not been heard in his committee, and while we are, if I might say, killing a little time, I would be interested in his reaction to having hearings on this proposal within his committee.

I wonder how receptive he would be to hearings on this subject sometime in his committee. As has been previously pointed out, this Davis-Bacon comes up with not just housing. It comes up with defense installations.

Mr. KENNEDY. I am always glad to respond to a request of a colleague on matters that are in our committee's jurisdiction. Quite frankly however, although this issue has been raised fairly often by two or three Members of this body, as a matter of public policy we do not find there is great anxiety or frustration about Davis-Bacon thresholds. I doubt if we have had five letters on this subject this year.

Our primary focus has been in the areas of education, child care, parental leave, the Civil Rights Restoration Act, the Americans for Disability Act, which affects the rights of some 43 million disabled Americans.

But we are interested in this matter, and will try to accommodate the Senator from Rhode Island's reasonable request.

I know the Senator from Rhode Island, the Senator from Oklahoma, and the Senator from Texas, are the three, I believe, over the period of the last 5 or 7 years, who offered Davis-Bacon amendments. We just have not found that there is that sort of interest either within the Senate or out there in the workplace. But I certainly would not dismiss it out of hand.

I will consult with my colleagues on the committee to find out what their sense is about this. However, I would like to accomplish the agenda which we are currently marking up, before we turn to new matters. But I will be glad to take it up with my colleagues.

Mr. CHAFEE. The only reason I mentioned it, we have seen it in the past on defense bills and I have heard some suggestions that—I cannot say this for an absolute fact, but I have heard some suggestions—the Secretary of Defense might have some thoughts in asking for the same exemption on defense construction.

That is my understanding. I may be inaccurate. So perhaps in the future it will be done.

Mr. KENNEDY. I am informed by my staff that the House at the present time is marking up comprehensive Davis-Bacon legislation. I am not qualified to speak about its particular provisions, but should that matter get through the House, it would be something that we would certainly consider addressing.

I think the comprehensive approach, as the Senator has mentioned, is the way to go. I will be glad to update the Senator, as progress is made in the House.

Mr. CHAFEE. I thank the Senator. I do not want anybody to think that I agree the comprehensive approach is the only way to go. I believe very strongly in this amendment. I believe this amendment will provide—I do not only believe, I know—more housing for the homeless, for the low-income people in America. That has been substantiated by the information we have received, not just anecdotal information, but from our own experience seeing it in our own States, but also in a letter from the CBO.

So I urge my colleagues to support this amendment when it comes or, should this be a tabling motion, to vote against the tabling motion.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I just want to rise to compliment the Senator from Rhode Island. He really has summed up the issue admirably. This is a question of whether or not you want to put the needs of the people who are seeking affordable housing first, or give precedence to other considerations.

You know that is the same issue that will be addressed later in an amendment to be offered by the Senator from Florida. It is the implicit underlying question. If we are dead serious about doing something about the housing problems of this country, it appears to me we ought to start by taking the Hippocratic oath, "You are a Member first, do no harm."

We have built into the statute, in the existing regulatory scheme, a lot

of impediments that make the job difficult, and in many cases almost impossible. One of them is addressed by a reform amendment suggested by the Senator from Rhode Island. I think he is on the right track. I just wanted to rise and express my appreciation for him taking the lead on this issue.

Mr. CHAFEE. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CRANSTON. I regret to say that I have been requested to delay the tabling motion briefly.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, for the reasons advanced by Senator KENNEDY, Senator WIRTH, Senator METZENBAUM, and myself, I now move to table the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The motion to table has been made and it is not debatable.

Mr. CRANSTON. Will the Chair wait one moment for the Senator from Rhode Island?

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. CHAFEE. Mr. President, I referred to some documents in the course of my remarks. I never did ask for unanimous consent to print them in the RECORD. So I do so now.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUBILEE HOUSING, INC.,
SUPPORT GROUP,
Washington, DC, July 14, 1981.

To: Marcus Dasher, Contract Representative D.C. Department of Housing and Community Development.

From: Robert Boulter, Director, Jubilee Support Group.

Re Quarterly Report #11, Final Update on Activities and Evaluation of Contract Performance.

As the eleventh quarter of work under Jubilee's Innovative Grant contract draws to a close, we are submitting financial requisition #31 by which we have elected following discussion with DHCD staff, to draw down the final balance of project funds. We expect phased construction in the Ritz to be completed approximately August 31. Construction costs not covered by contract funds, due to an increased scope of work, will be funded by Jubilee as part of our ongoing construction effort. Detailed summary financial information and a rehab description of our program are included in this report. Because all activities initiated under the innovative grant will continue after contract monies are expended, and because the primary rehabilitation project is essentially complete, it was agreed by Jubilee and the Department to prepare a final report and overall project evaluation at this time. Voluminous files have been created of support material during the past thirty-three months. We have worked to prepare the attachments which accompany this report, for the purpose of presenting an accurate but manageable overview of the work accomplished, its effects, and a measure of its cost.

Before concluding this section on physical property rehabilitation and aspects of construction management, one problem alluded to in earlier reports should be restated. Finally, the Davis-Bacon requirements have essentially eliminated our ability to exchange personnel and even subcontractors between the various construction and maintenance tasks in Jubilee buildings. Particularly in a small nonprofit, self-help oriented organization, this has resulted in significant lack of economy, and operational confusion. While we are deeply grateful for the Innovate Grant, we would highly recommend that consideration be given to waiving at least certain aspects of the Davis-Bacon requirements under carefully considered circumstances. Still, in spite of these serious limitations, more than seventeen (17) residents of the Jubilee buildings have been employed as either full or part time construction workers, cleaners or movers during various stages of construction. One resident of the Mozart has been on-site superintendent.

CITY OF SANTA ANA,
Santa Ana, CA, May 5, 1989.

Ms. PATRICIA JORDAN,
The Ferguson Co., Washington, DC.

DEAR PAT: Enclosed is a position paper on the proposed amendment to Davis-Bacon which you requested. I know it's a bit later than you asked for and I apologize.

Please let me know if any further information is necessary. My telephone number is (714) 667-2200.

Sincerely,

MIKE LINARES,
Programs Analyst,
Community Development Agency.

DAVIS-BACON ACT: POSITION PAPER

BACKGROUND

The Davis-Bacon Act (S. 3303), passed in the 74th Congress, required that federally funded public works projects in excess of $2,000 or 8 units must adhere to certain prevailing wage scales. The Act mandated that when federal monies are used for the ". . . construction, alteration, and/or repair, including painting and decorating, of public buildings or public works . . ," the agency must pay its laborers the same salary that a corresponding class of laborers are paid on similar projects in the city. In 1987, the Davis-Bacon Amendments Act (HR2216) redefined the dollar amount triggering Davis-Bacon. The Act established a two-tier system whereby a $50,000 project for new construction or $15,000 project for rehabilitation work would trigger Davis-Bacon. At this time Senator Chaffee (R-R.I.) is reviewing proposals to amend the Act which would waive Davis-Bacon salary requirements for government assisted low-moderate housing development thus reducing the burden the Act puts on local housing development agencies.

REASON FOR ATTENTION

The Davis-Bacon Act dramatically impacts a city's ability to stimulate the development of low-moderate income housing for its poorer residents. Cities who previously welcomed federal funds for new and rehabilitative construction are now finding the cost of such projects substantially increased due to Davis-Bacon. As a result many are cancelling projects that would require Davis-Bacon wages, and/or avoid any new project which could possibly trigger Davis-Bacon. Thus a direct impact of Davis-Bacon is a decline in government assisted low-moderate income housing development.

Cities which use Davis-Bacon, such as Los Angeles, are finding that the difference between construction and administrative costs of a Davis-Bacon project and a non Davis-Bacon project are significant. For example, a rehabilitation project which the City of Los Angeles is currently involved in, originally was estimated to cost $1.4 million; however, because the project involved 300 units Davis-Bacon was triggered. This caused a rise in cost of approximately $400,000. The city was also confronted with higher administrative costs of handling a Davis-Bacon project. What has become evident is as cities face mounting construction costs they may opt not to finance a public works or housing project which would trigger Davis-Bacon. This in turn hurts the same low-moderate income families that Congress set out to help by raising wages through the Act.

Although the impact of Davis-Bacon on a large city such as Los Angeles is significant, it dramatically increases when applied to a mid-size city such as Santa Ana. For example, a local nonprofit housing development organization states that Davis-Bacon poses the single largest cost when bidding a project. If a project triggers the Act, a nonprofit organization faces an increase of approximately $5,000-$8,000 in costs per project. This increase is ultimately passed on to the city and low-moderate income families.

In addition to higher costs to the city and residents, local Santa Ana contractors are also negatively affected by Davis-Bacon. Whereas before the average cost for rehabilitation was $45-$55 per square foot and $65 per square foot for new construction, with Davis-Bacon the estimate increases to approximatey $85-$100 per square foot. Some contractors have begun to bid two ways on the same project, one which may trigger Davis-Bacon and one which does not, hence another added cost to the contractor.

In summary, although Davis-Bacon has a positive impact on the wages of laborers, it negatively impacts local city efforts to create more affordable housing opportunities. The Act increases construction costs thus causing higher housing costs for low to moderate income residents. It increases the administrative costs due to extra paperwork and larger manpower needed to ensure that a project is abiding by Davis-Bacon guidelines. Ultimately, the burden of financing these housing projects falls on lower income persons who are unable to realize decent safe housing because of increased cost and on the states and local governments who in turn must seek new funds to cover Davis-Bacon costs. The result is twofold, first, other non-housing city projects suffer because money which may have been appropriated to it is now needed for a Davis-Bacon housing project and secondly, affordable housing stock suffers as the amount of

units that can be constructed given limited funds is reduced.

INSTITUTION TO UNDERTAKE CORRECTIVE ACTION

Senator Chaffee (R-R.I.) is considering legislation which would waive the Davis-Bacon requirements for low-moderate income housing projects. Such a bill would be of significant impact on Santa Ana's housing programs. Eventually, Congress as a whole would need to vote on an amendment to the Davis-Bacon Act and program guidelines would need to be developed.

BENEFICIARIES AND LOSERS

The beneficiaries of this possible amendment would be low to moderate income families who could potentially benefit from lower housing costs. The local development agency may also benefit from this legislation in that the overall cost of a government assisted housing rehabilitation/development project will decrease allowing for further subsidy of the project or for funding of other worthy projects.

GOALS AND OBJECTIVES

The goal of the City of Santa Ana is to support legislation which would waive the Davis-Bacon Act for low to moderate income housing projects. Furthermore, the city wants to make Congress aware of the negative impact of Davis-Bacon Act on housing. Congress should clearly see that for housing the requirements established by Davis-Bacon are detrimental not only to low income housing projects but to other community projects which need funding.

RECOMMENDATION

Utilize available resources to encourage any federal legislation to amend the Davis-Bacon Act in favor of low-moderate cost housing. Formulate written testimony to the subcommittee on housing explaining the impact of Davis-Bacon on the city of Santa Ana.

EMMER DEVELOPMENT CORP.,
Gainesville, FL, June 20, 1990.

Re S. 566, Davis-Bacon Amendment.

Hon. JOHN H. CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: I understand that you are a sponsor of an amendment on the above captioned to increase the exclusion from the law from $2,000 to $1,000,000. I would heartily suggest that the entire bill be stricken from the law of the land, but failing that, I want to vigorously support your position.

For a period of about twenty years I built under various HUD programs in Florida. The fact that we had to deal with Davis-Bacon not only increased the cost of each job out of all proportion to the value, but added to the abuses as well. This act added millions upon millions of dollars to the cost of HUD programs thereby reducing by thousands the number of units that could be built. It also did not do much for inflation.

Other problems I encountered included the following:

1. The administration of Davis-Bacon became a nightmare and it was very costly for us to manage.

2. Because of the often wide variance between costs that had to be paid to tradesmen in these jobs as opposed to the conventional market, many subcontractors would not bid on Davis-Bacon jobs. They were not particularly thrilled with $12 per hour journeymen going to $17 per hour and then trying to pay them $12 per hour again after the job was done.

3. In spite of the law to the contrary, there was lots of cheating by some unscrupulous subs who filed false reports. This resulted in either the workers being paid below the required wage or the builder getting stuck after the job was over. Davis-Bacon is an abomination. It is about as useful as rebuilding the Berlin Wall. If you can't fully dismantle it then please work hard to get your amendment passed.

Sincerely yours,

PHILIP I. EMMER,
President.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, June 20, 1990.

Hon. JOHN CHAFEE,
U.S. Senate, Washington, DC.

DEAR SENATOR CHAFEE: I understand that you intend to offer an amendment to the Housing bill which would result in significant cost savings on Federal housing construction and rehabilitation projects by raising the current contract threshold to $1,000,000, permitting the use of helpers, and making other important technical changes.

The changes your amendment encompasses are very important for small business owners across the nation. If enacted, it will permit small businesses to compete fairly in obtaining Federal contracts.

On behalf of the more than 500,000 members of the National Federation of Independent Business, I commend you on your efforts and offer our full support.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Affairs.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 20, 1990.

Hon. JOHN CHAFEE,
U.S. Senate,
Washington, DC.

DEAR SENATOR: In response to your letter of December 6, 1989, the Congressional Budget Office (CBO) is providing information on the potential budgetary effects of coverage changes under the Davis-Bacon Act for programs run by the Department of Housing and Urban Development (HUD). Previously, these data has been provided to your staff on a preliminary basis.

Under current law, the Davis-Bacon Act (DBA) imposes certain requirements on the wages paid on most construction projects involving either the direct or indirect use of federal funds. In general, any such construction contracts of $2,000 or more require contractors to pay workers the prevailing wage rates, as determined by the Department of Labor (DOL), for comparable workers in the local labor market. The prevailing wage rates are determined through DOL surveys of local labor markets. For each classification of workers, a prevailing wage is either a single wage rate that is paid to at least 50 percent of the workers or if wages are more disperse, a wage calculated as the weighted average of the wages paid to all workers in the classification.

As you requested, we have estimated the effects of raising the DBA thresholds from $2,000 to $1,000,000 and to allow the use of "helpers" for construction contracts receiving funds under HUD programs. (These estimates are presented in the attached table.) The CBO estimates that the DBA raises federal construction costs by 3.3 percent. Therefore, costs are assumed to be reduced by 3.3 percent on projects that would be exempted under the proposed $1,000,000 threshold. For contracts over the proposed threshold, the helper provision is assumed to save 1.6 percent of construction costs. The budget savings are assumed to be achieved through appropriations actions that reduce spending authority in these programs accordingly. If enacted for contract awards beginning in fiscal year 1991, these changes would reduce federal outlays by about $1 million in 1991 and about $155 million over the 1991-1995 period.

About 60 percent of the total savings come from the public housing construction and modernization programs. Because only a small proportion (an assumed 10 percent) of these funds are in projects of less than $1,000,000, the overwhelming share of the savings in these programs flows from the provision allowing the use of helpers.

Much higher proportions of spending in the other programs you specified are in smaller projects, thereby increasing the share of saving associated with the higher DBA threshold. For example, the CBO assumes that three-quarters of spending in the Community Development Block Grant (CDBG) currently covered under the DBA would become exempt if the threshold were raised to $1,000,000. Since we have been unable to obtain detailed information on the distribution of actual contracts, I should emphasize the considerable uncertainty surrounding this particular assumption. The relatively small average contract awards in the Rental Rehabilitation Grants program and in the Rehabilitation Loan program leads us to conclude that the proposed threshold would effectively exempt all construction contracts in these programs.

Your staff also indicated that we should indicate how many additional households might benefit from federal housing assistance if the budgetary resources freed up through the proposed changes in the DBA were used to expand the existing programs. Using an estimated assistance cost in 1989 of $3,160 per household and inflating this average to 1991, the estimated $62 million savings in budget authority translated into assistance for an additional 18,000 households.

If you wish further details, we will be pleased to provide them. The CBO contracts are Paul Cullinan for the Davis-Bacon Act (226-2820), Brent Shipp for the public housing programs (226-2880), and Marta Morgan for the Community Development Block Grant and the residential rehabilitation grant and loan programs (226-2880).

Sincerely,

ROBERT D. REISCHAUER,
Director.

FEDERAL BUDGET EFFECTS

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995	Total 1991-95
Savings by Program						
Public housing						
Estimated authorization level	44	46	48	49	51	238
Estimated outlays	0	5	20	31	40	95
Community development block grant:						
Estimated authorization level	15	15	15	16	16	77
Estimated outlays	1	7	13	15	15	50
Rental rehabilitation grants:						
Estimated authorization level	(1)	(1)	(1)	(1)	1	2
Estimated outlays	(1)	(1)	(1)	(1)	(1)	2

FEDERAL BUDGET EFFECTS—Continued

	1991	1992	1993	1994	1995	Total 1991–95
Rehabilitation loans:						
Estimated authorization level	2	2	2	2	2	12
Estimated outlays	(1)	1	2	2	2	8
Total:						
Estimated authorization level	62	64	66	68	70	330
Estimated outlays	1	12	35	49	57	155
Savings by Policy Change						
Increase applicable minimum contract threshold to $1,000,000:						
Estimated authorization level	22	22	22	22	22	111
Estimated outlays	1	7	16	19	20	61
Permit use of helpers:						
Estimated authorization level	40	42	44	46	48	219
Estimated outlays	(1)	6	20	30	38	93
Total:						
Estimated authorization level	62	64	66	68	70	330
Estimated outlays	1	12	35	49	57	155

[1] Less than $500,000.

Note: Components may not add to totals due to rounding.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California to lay on the table the amendment of the Senator from Rhode Island.

On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

I also announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—59

Adams	Durenberger	Lieberman
Akaka	Exon	Metzenbaum
Baucus	Ford	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Murkowski
Bingaman	Graham	Packwood
Bond	Harkin	Pell
Bradley	Hatfield	Pryor
Breaux	Heflin	Reid
Bryan	Heinz	Riegle
Burdick	Inouye	Rockefeller
Byrd	Jeffords	Sanford
Conrad	Johnston	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Specter
Dixon	Lautenberg	Stevens
Dodd	Leahy	Wirth
Domenici	Levin	

NAYS—39

Armstrong	Coats	Fowler
Boschwitz	Cochran	Garn
Bumpers	Cohen	Gorton
Burns	DeConcini	Gramm
Chafee	Dole	Grassley
Hatch	Mack	Roth
Helms	McCain	Rudman
Hollings	McClure	Simpson
Humphrey	McConnell	Symms
Kassebaum	Nickles	Thurmond
Kasten	Nunn	Wallop
Lott	Pressler	Warner
Lugar	Robb	Wilson

NOT VOTING—2

Boren Mikulski

So the motion to lay on the table amendment No. 2052 was agreed to.

Mr. KENNEDY. Mr. President, I move to consider the vote by which the motion was agreed to.

Mr. MACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2042 TO AMENDMENT NO. 2041

The PRESIDING OFFICER. The pending business at this time is the D'Amato amendment No. 2042 in the second degree to the D'Amato amendment No. 2041.

Mr. CRANSTON. Mr. President, I have discussed this matter with Senator D'AMATO, the floor manager of this bill for the Republican side. CONNIE MACK is now in that role. Senator D'AMATO has no objection to laying his amendment aside. I ask unanimous consent that Senator MACK's amendment now be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Fiorida.

AMENDMENT NO. 2053

(Purpose: To permit HOP funds to be used for rental assistance)

Mr. MACK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for himself, Mr. KASTEN, Mr. COATS, Mr. BURNS, Mr. BOSCHWITZ, Mr. ARMSTRONG, Mr. GORTON, Mr. D'AMATO, and Mr. MCCAIN, proposes an amendment numbered 2053.

Mr. MACK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 266, line 24, before the period insert ", and to provide tenant-based housing assistance".

On page 267, strike line 17, and renumber accordingly.

Mr. MACK. The cosponsors of this amendment are Senators KASTEN, COATS, BURNS, BOSCHWITZ, ARMSTRONG, GORTON, D'AMATO, and MCCAIN.

Mr. President, before I get into discussing the details and the objective of my amendment, I would like to give a little background as to how I came to the conclusion that this was an important amendment to offer.

I have been on the Banking Committee and the subcommittee dealing with housing now for approximately a year and a half. This being a new area for me, I thought it made sense to travel around my State to find out what the issues truly are, what the problems are that need to be dealt with.

In my travels from Jacksonville to Miami, from Fort Myers to Tallahassee to Pensacola, I met with not only individuals who are responsible for the oversight of public housing in their communities, but I also had the opportunity to meet with individuals who live in public housing and publicly assisted housing in our State.

In addition to that, I had the opportunity to see a number of different types of publicly assisted housing in the State of Florida—public housing authority conventional units—projects that have been supported by certificates. I have gone to what are referred to as 202 projects, which are communities, if you will, for the elderly of our State.

Again, I have had the opportunity to go not only to the public housing authority units, but I have had the opportunity to go into the homes of the people who live in these publicly assisted projects, communities, as we should be referring to them. I have had an opportunity to meet the children who live in those homes, and I have had the opportunity to listen to the aspirations and the hopes of both the parents and the children.

Two stories come to mind as a result of that experience, the first of which was at a recent visit to the public housing authority in Tampa, FL. I had an opportunity to meet Essie Mae Read. I was, frankly, a little bit surprised to see Essie Mae was able to attend this meeting because she recently suffered a stroke. But she was so determined to make her point and to express her pride in the accomplishments of one of her daughters that there was no way she was goint to miss the meeting.

The reason Essie Mae Read was proud of her daughter, Sheila, was because Sheila had been awarded the first tenant contract or resident contract in public housing in Tampa, FL. That is the public housing organization. Audley Evans said it made no sense to use dollars that we are presently investing in our communities and hiring outside people to do the work. If we cand find individuals who live within the community who need work, need employment and indicate an initiative to make a change in their lives, we ought to try to find ways to provide them with work and opportunity. In fact, that is what was accomplished as a result of this resident contracting idea.

So Sheila Read was the first recipient of such a contract. Essie Mae Read wanted to be there to express her pride in what her daughter had accomplished, and she made the comment that she has taught all of her children that their objective in life

should be that they should be taxpayers, not tax burdens. That is an attitude that I found as I traveled around our State that exists all throughout publicly assisted housing.

The second story has to do with a fellow by the name of Eddie Taylor. Eddie Taylor is in charge of the public housing authority in Melbourne, FL. He had taken me to, again, visit one of the public housing authority projects in Melbourne. Two things occurred.

In one particular apartment, a resident told me her major concern was she had no control over who came into that community; that next to her there could be people involved in drug trafficking, and she had no way to screen those people out before they came in, and, once they got in, it was very difficult to get them out.

The other story which comes to mind with respect to Eddie Taylor was that as we were leaving one of the units that was in total disrepair, we happened to look down the walkway between two of these multistory buildings. There was a little boy, maybe 3 or 4 years old. Eddie said to me:

The problem we are dealing with, Senator, is that that little boy, as he walks down between these two buildings and sees this burned out apartment, looks to his right and left and all he sees his entire life is, in essence, the environment in which that little boy lives; the only things he can see are the buildings around him in total disprepair.

He said:

Can you imagine what it must be like? What kind of dreams can you have if you live in that environment? What kind of hopes for the future can you possibly have if you saw that kind of environment that little boy was living in?

So I say to my colleagues, while we talk about different numbers and different programs, we ought to be consumed with the idea that what we are all interested in, what we are involved in, is trying to change the lives of those little boys and little girls to give them an opportunity for the future. I hope that as we go through the rest of this bill, we will approach it from that perspective.

I want to make four points as a result of the experiences that I have had. First, is having to do with the issue of affordable housing itself; second, to raise the point that there are no stereotypes in publicly assisted housing today; third, that there are some issues that I think we need to revisit, not necessarily today but at some point; and the fourth point is that we spend way too much time and effort with respect to bricks and mortar and not enough time focused in on the needs of people.

So let me address each one of those and expand on them.

The question of affordable housing:

The issue goes way beyond whether an individual is at 50 percent of median income or below. I think we need to recognize that affordable housing in this country has been impacted by many other actions around this country, whether that be changes in tax law, whether that be policies that we have impacted and have an impact as well on interest rates, building codes, environmental regulation and growth management laws. I might add that we just got through with the debate on the floor of the Senate about the Davis-Bacon legislation, another artificial barrier, another piece of legislation that artificially drives up the cost of housing.

(Mr. BURDICK assumed the chair.)

Mr. MACK. There are scholars on both sides who indicate that in fact these artificial barriers do exist and that each one of them can force up the cost of housing and as a result push millions of families out of the opportunity to afford their own home. Just as a way of example, earlier this month we held a conference in Tampa, FL, on the affordable housing issue. One of the individuals who spoke at that conference shared with us what was called the affordability profile for Hillsborough County.

I make two points from it. First, it showed that if interest rates were to drop from 10.5 percent to 8.5 percent, some 31,000 additional families would be able to afford a home of $68,000 in value; or at the price of $60,000 another 54,000 families—not individuals but families—would be eligible to purchase that home.

We also saw that as the price of housing—that is if you could impact the housing, if you reduce the cost of housing by 15 percent, the number of families eligible, again, would increase by 32,000.

My point there is that I think each of us needs to be aware of the fact that while we may not be addressing the question of affordable housing when we are dealing with a series of other issues, the fact is that what we have done through interest rates, environmental regulation, building codes, growth management, Davis-Bacon, have an impact, driving up the cost of the homes, and around the country we are forcing people away. We are making it almost impossible for them to own their own home.

The second point. There are no stereotypes living in public housing. People living in public housing today are young and old; they are black; they are white; they are educated and they are uneducated; they are people who have aspirations and those who have no aspirations at all. In addition to that, there are people who are living there because, frankly, they do not want to give up. They are not going to allow the community in which they are living to be taken over by undesirables.

Meeting Reverend Washington in Orlando, again brings that to mind. Reverend Washington was offered the opportunity to leave this project that was basically funded because of certificates, project-based certificates. He would not leave. I asked him the question, if your church was prepared to build you a home and move your family from that project into your own home, why would you not leave? His response was he was not going to give up. He was not going to move away. He was not going to desert the children who lived in that project. He felt that strongly.

So again I make the case that there really are no stereotypes living in public housing. Oliver Hill would be another example. Oliver Hill up in Tallahassee has the potential of being another Bertha Gilkey or Kimmy Gray.

The third point, some issues need to be revisited. In Jacksonville, FL, at a meeting with the tenants of public housing, a young, very large man, stood up in the back of the room and in essence pointed a finger at me and said:

Senator, the kinds of policies and the issues that you all are pursuing up in Washington are acting as a disincentive for me to work as opposed to encouraging me to work.

I said, "What do you mean by that?"

He said, "my wife and I went out, each of us got a part-time job." He said, "Do you know what happened? The end result of getting a part-time job was that I had fewer dollars to take care of my children as a result of working. What would you do?" he said. "Would you work or would you not?"

There is the issue of whether we should be requiring people to pay 30 percent of their income toward public housing. Some make the argument it should be less than that. Some make the argument there ought to be some kind of transition period that would allow people to accumulate funds so that they could move toward home ownership. I raise the issue about whether eligibility for public housing or publicly assisted housing should be 50 percent of median income, or whether it should be 80 percent of median income.

At 80 percent of median income, you in fact have a different environment for the people to live in. There is a different society, if you will. There is an opportunity for role models for the children. So I think those are some issues at which we ought to take a look.

The fourth point that I made was that we spend too much time on the issue of bricks and mortar, the idea of building more buildings and not enough time on people. Secretary Kemp has proposed the idea of Operation Bootstrap, which basically says we should look at the housing and the problems of housing in a much broader perspective. We ought to look at

people. We ought to ask ourselves the question, what are the needs of people? What do they have to have in order to move out of public housing toward independence and home ownership?

Again, I had the opportunity, in Orlando, to meet two young women in their homes with their kids, neither married, both with an education only through the 11th year, both with a desire to have a job, but neither one of them possessing any skills to carry out a job, both with a hope that 3 to 5 years from then they would have an opportunity to own their own home.

If we would start approaching the issue of affordable housing, the issue of public housing, publicly assisted housing, from the perspective of what we need to provide to individuals to get them moving and giving them an opportunity to take the first step on the ladder of opportunity, it would make a real difference.

It is with that background, Mr. President, that I have offered the amendment which in essence says that the way the bill is presently written, which prohibits the use of direct assistance to tenants, or prohibits the use of vouchers, is wrong. It is wrong because it does not give the individual the freedom to choose the best environment for themselves and their family. It is wrong because it does not provide the flexibility to the local communities, whether that is the State or the city or the county, to make a decision to use vouchers.

Why is that of particular concern to me? One of the parts of the State of Florida that comes to mind is the area from Miami to Fort Lauderdale. Believe it or not, in the Fort Lauderdale-Miami area, the vacancy rate of apartments that rent for $500 a month or less is 16.6 percent. Under this bill, Miami-Fort Lauderdale basically would be required to use those funds for some kind of new construction, when in fact the best use would be to issue vouchers to individuals, not constructing new units.

So I urge my colleagues to look closely at the amendment. I think it is a positive amendment. As it has been rumored, I do not offer this amendment to say that the $2 billion that are available in the HOP Program for 1991 are to be used only for vouchers. That is not what I am saying at all.

I am just saying that in addition to the listed and eligible activities of the HOP Program that we should include vouchers as well to give individuals and communities the flexibility of choosing what is the best way for them to go about providing decent affordable housing for individuals.

Thank you, Mr. President. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. DIXON). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. Mr. President, I rise in opposition to the amendment. I say to my distinguished colleague from Florida that I certainly do not take issue with him on the human stories which he outlined in the beginning in a very feeling way, and with the goals or objectives which he has stated with respect to those incidents.

I think what is at issue here though is a very important necessity to understand the concept of this legislation and what we are trying to do. We do not pit support for HOP against support for tenant-based assistance such as vouchers or certificates. The bill is structured to treat them as two streams or two efforts to try to come to grips with the housing problem.

This is an existing voucher program. It functions at the Federal level. It is the premise of this bill that involvement should continue, and that in addition to that involvement we have folded into HOP other programs and have sought to create a partnership with the State and local governments, and with the private sector which will expand the amount of affordable housing existing in the country.

My distinguished colleague from Florida in a letter which he circulated with respect to his amendment took the view that the HOP Program permitted only new construction. In fact he said in that letter he questioned whether it make sense to arbitrarily commit Federal housing funds only for new construction? Of course HOP does not do that. In fact, HOP puts the very strong preference on the rehabilitation of housing, and on upgrading the code standards. In fact, part of the negotiations with HUD which are now taking place is to underscore that commitment to rehabilitation since HUD has some concern about the question of new construction.

At the time these concepts were put together, one of the things that the National Housing Task Force recommended was keeping separate the HOP approach and the voucher or certificate approach. They did not want to move the voucher or certificate approach into HOP because it in effect would consume or had the potential to consume the HOP Program. The HOP Program represented a different string to our bow from the voucher certificate approach.

Let me just read on this issue a very thoughtful letter from Jim Rouse, the head of the Enterprise Foundation, and in my view the most thoughtful person in the country on these issues.

In its March 1988 report to Congress the National Housing Task Force recommended a series of proposals comprising a new comprehensive housing policy for the country. Central to the new system for delivering affordable housing was the recommendation that the Federal Government create and invest in a housing opportunity program designed to foster and stimulate State and local initiatives to renovate, build, and acquire low-income housing.

The HOP program was designed due to the conclusion that it was essential for a separate program to add to the supply of affordable housing given the incontrovertible evidence that millions of low-income units were being lost to demolition, conversion or substandard conditions. A decade long decline of 70 percent in HUD appropriations had reduced production of low-income housing to nominal levels. In addition, some 5.5 million Americans rented their own homes with substantial deficiencies.

Given this widespread scarcity of decent and affordable units, the task force acknowledged the supply gap needed to be filled and called for significant funds from State and local governments to match the increased Federal investment. The task force believed it was essential that States and localities have flexibility to address this particular aspect of the supply gap, whether it be new construction, rehabilitation of existing stock, acquisition of available stock for low income use or a combination.

The task force considered and explicitly rejected the notion of granting States and localities the ability to use HOP funds for direct tenant rental subsidies. The task force felt strongly that tenant-based rental assistance should continue to be an important but separate element of comprehensive housing policy.

The HOP program also takes into consideration in its distribution formula factors specific to the lack of low income housing. These factors include measures of housing market tightness, inadequate housing, poverty, and housing production costs. Thus the amount of the jurisdictions HOP grant objectively reflects its level of need for an expanded supply of low-income housing.

Mr. President, this is a carefully worked out comprehensive package to try to meet the affordable housing needs in this country. In fact, the emphasis in HOP is on rehabilitation to try to maximize that, and the emphasis in HOP is on a comprehensive housing affordability strategy on a neighborhood approach that recognizes many of the arguments that have been made that we need a more comprehensive approach. In fact, the HOP Program has been designed as has the voucher and certificate program which is also contained in legislation; designed to interrelate with one another.

There is additional flexibility provided for the voucher and certificate program in order to enhance the ability to interrelate them. But to bring the certificate or voucher program into HOP would in effect undercut the very purposes of HOP because it would open it up to another use separate and apart from the need for affordable housing.

We have heard from mayors and Governors across the country about the mixture of these things. Their view is very clear that the HOP has been worked out with specific defined purposes. It provides important flexibility at the local level. At the same time this bill maintains the voucher

and certificate approach, and therefore it enhances our ability to deal with the housing problem.

The amendment that is before us would in my judgment diminish that approach. It in effect, instead of giving us two supportive streams for trying to come at the housing policy by mixing them, I think would diminish the commitment and the support. We need to maintain the Federal responsibility for vouchers and certificates.

We need to maintain that commitment. And at the same time, we need to develop a commitment that is contained in HOP, which represents the partnership concept which perceives a leveraging value to the Federal moneys and, therefore, gives us an opportunity to obtain a result many times over the Federal commitment. That is what HOP intended to do, by drawing in State and local money, by drawing in private sector participation.

Therefore, the effort to bring the direct rental assistance into that program, in a sense, cuts across the objectives that we are trying to achieve. This is a balanced bill. It has been worked out very carefully over 3 years, after great consultation. It reflects a sensitivity to a lot of the administration's concerns, including its concern about new construction, a concern I do not fully share but am willing to try to accommodate. It contains provisions for the approach which Secretary Kemp put forward in the HOPE proposals.

I urge the Members of the Senate, in considering this amendment, to come back to basic reference points in terms of how the legislation has been put together.

From all across the country this legislation has gained support. A tremendous consensus has been built with respect to this legislation. State and local people believe that it offers an opportunity for them to move forward in a strong and positive way, and the bill, in fact, posits that they will be intimately involved. Yet, those same people who were very strongly in support of this legislation have written and communicated with us that the amendment that is now before us would, in effect, cut across and undermine the objectives.

I urge my colleagues not to support this amendment. As I said at the outset, I understand the deep concern of the Senator from Florida about addressing the housing issue. I say to him that it is being addressed in this legislation, and it is being addressed in a comprehensive way, and it is being addressed with a package approach that I think makes sense.

So let us keep the voucher and certificate program on track, and let us place, in addition, this track of HOP, which is designed through the Housing Opportunity Partnership, is designed through a limited Federal involvement of funds to precipitate a State and local and private sector commitment of funds, which will represent an opportunity to make a major advance in dealing with the Nation's housing problems.

I yield the floor.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. I rise in support of the pending amendment, and I do so for several reasons. The first and most important to me is that we have a lot of risks, risks that we increase by putting a lot of money into a relatively new concept, the HOP program, which—when I say "a lot of money," I mean $4 billion, which is still a lot of money—is structured in many, many ways to invite, albeit at the State and local level, a repetition of exactly the same kinds of scandals that we had with programs of this type administered at the Federal level.

What we should be concerned about foremost of all is making sure that we help the people who need housing assistance in his country today.

The Senator from Florida proposes to do just that. His amendment makes rental assistance one of the eligible activities under HOP.

Mr. President, if we believe that our housing program should be tenant-based, if we believe that it is important to empower people, if we believe it is important to give people the maximum amount of control over their lives, we should look very skeptically on the HOP program, which is a housing production program, not a tenant assistance program. It emphasizes new construction. And we run the risk not only of producing housing based on the amount of money available to produce it, irrespective of relative need, but we tell people that they must become, in effect, somehow a ward of the politicians who will dole this housing out as, ultimately, they and whoever manages it will see fit.

There is a better alternative. We know full well that our voucher and certificate programs have given people a good deal more in the way of choice and empowerment—maybe not as much as we would all like. But those programs that we would like to build upon—and the amendment of the Senator from Florida specifically provides for an expansion of the voucher program, the section 8 voucher program, under HOP—are, from a human and philosophical point of view, the right way to go.

In program after program in this country we have gotten away from so-called institutional support. One of the first votes I cast when I became a Member in the 92d Congress was to end institutional support for higher education. Believe it or not, up until 1972, we simply put money in boxes and shipped it off to universities for universities to do what they wanted.

We shortly after that wised up because we realized that we were telling the students where to go to college; we were making that choice when we decided to give one college more money than another. Fortunately we decided that was not the right way to do, that we should empower students to make the choice based on their ability and go to that institution of learning that best fit their needs as they saw it, not as we saw it; and the HOP Program, while I am willing to support it on a modest basis, is a return to that old shopworn philosophy that big brother knows best.

There is another aspect of the HOP Program that cannot be emphasized too strongly and it is a very grave potential weakness, and that is that first we are never going to have a clear idea of what the tenant is getting in the way of value from this program. It is going to pass through so many hands. There are going to be so many levels involved. There are going to be the same consultants involved all over again, but at the local level, that we are not going to have a clue, at least any time soon, if ever, as to the dollar amount that actually goes to help the tenant.

But I do not think you have to be a Ph.D. in mathematics or statistics to figure that out, because you can be sure there are going to be a lot of middlemen all the way along the line that are going to have their palms out.

At the same time we will have no idea as to how much actually gets through to help those who are in need. We are also going to see that this money, a lot of money, $4 billion, unless we adopt this amendment, is going to be spread out over a very wide and broad population. It is going to be spread out because, frankly, nobody wants a low, low income public housing unit or multifamily unit in their backyard.

We are not very tolerant, I am sorry to say, in this country of poor people. People do not like them living right next door. So the people who come to our State capitals or to the other administering authorities are going to say, "Well, we need a mix of tenants here. We need some people of 100 percent of median income, we need some of 80 percent of median income and, yes, we will take some people who are below 50 percent of median income."

What that really means is that a lot of these moneys are going to go to help people who are not the neediest. I think we betray our commitment to the poor if we say that people of median income—and that is someone in the middle—are going to be just as entitled to this housing as those who are truly poor and destitute and do not have a roof over their heads.

So the lack of targeting, that is inherent in this program, is a serious proposition and those who defend the HOPE Program are yet to defend to my satisfaction by providing an answer to this very understandably serious problem.

Finally, I want to say that it is highly desirable to do our best to empower tenants, to allow them to take control of their lives. It is a good idea particularly when we have, as we do in my home State, and in the city of Philadelphia, tens of thousands of units which the public housing authority cannot account for, does not know whether there is anyone in them, does not even know where they are. The thrust of the tenant based rental assistance, among other things, is to allow the people the flexivility to move around and find housing where it exists.

All of this is about making a lot more out of the housing stock we have rather than a lot less. When I say a "lot less," anyone who has ever visited a major public housing authority in one of our big cities knows that the biggest problem is deterioration. There simply are not incentives for the people who live in that housing to treat it as if it is their own, because it is not theirs; it belongs to somebody else.

Until we recognize unless people have a stake in making their situation better, they will, 9 out of 10 times, think, "Why bother." We will continue to find ourselves being asked to put up billions of dollars more for so-called public housing modernization. So there is a term of great invention, modernization.

I can take any Member of this Senate to any of the highrise public housing that we have in our cities, particularly Philadelphia, and I can show you how we are going to spend in excess of $100,000 a unit to modernize. What we are really doing is trying to make them something other than the place people go to escape from the violence in the hallways, from the violence in elevators. That is not modernization. That is survival, and that is not my idea of what we ought to be doing for people in need.

We should be giving them the kind of stake in their own lives that makes their lives worthwhile and makes the public investment in public housing worth it. So that is why this Senator feels very strongly about the amendment of the Senator from Florida, and I urge that our colleagues adopt it.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, the Senator from Pennsylvania suggests that the HOP partnerships would replicate at the State and local level the scandals that have plagued HUD in recent years. This simply misstates the distinctive features and the main thrust of the bill.

The HUD scandals resulted when highly placed appointees were permitted to circumvent or dismantle established systems of accountability. Funds were distributed in ways that were mysterious except to people who hired consultants with inside connections.

Because of lax oversight, developers were permitted to layer subsidies from several programs and reap unintended profits. The HUD Reform Act of 1989 eliminates those conditions and provides stiff penalties for abuse.

The committee bill provides additional protections to avoid any repeat of those failures. At the national level, the bill eliminates the root sources of the recent scandals. The bill would allocate housing assistance through an open, objective process to States and local governments. Procedures for distributing funds would be publicly established and fully documented.

The bill would remove HUD from the process of granting funds to individual projects and therefore free HUD for impartial monitoring and oversight of State and local housing activities.

The committee bill decentralizes the choice of housing activities, but it does not decentralize responsibility for program accountability and funding control. Since HOP is a new initiative, HUD's chief financial officer could establish high-quality accounting and accountability systems from the very beginning.

HOP would be administered by a one-stop office that would have responsibility for HOP alone and would therefore have a strong incentive to ensure that HOP is administered well for the long term.

HOP activities would be subject to extraordinary oversight. The HOP Advisory Board, comprised of 18 members with established reputations of leadership, would have access to all important information. Advisory Board reports to Congress would include minority views to increase the likelihood that concerns would be identified.

The bill also requires annual financial audits either by an independent auditor or by GAO. The bill gives GAO full access to HUD's program records. Therefore, any pattern of abuse would be brought quickly to light.

At the State and local levels also, the committee bill would avoid any replication of the conditions that led to the HUD scandal. HOP funds could be used only in compliance with strategies approved after public hearings.

Project selection would have to be done in the sunlight, according to public procedures with full documentation. The basis on which any funding award is made or denied would have to be fully documented.

HUD would have powerful tools for overseeing State and local activities and could impose tough penalties for abuse. The public, local news media, and competitors for scarce housing resources would have full access to information regarding the use of HOP funds.

For 8 long years under the previous administration, housing was under attack by an administration that was busy denying problems and appointing incompetents. They were mismanaging programs and squandering scarce resources. They were slashing funds for housing the most needy and diverting much of what little remained to benefit their political friends.

The enemies of housing will succeed if the scandal is allowed to distract us from enacting major housing legislation—legislation that thoroughly reforms Federal housing programs—legislation that mobilizes the country's ability to provide affordable housing for this and future generations of Americans.

Mr. KASTEN. Mr. President, I rise in strong support of the amendment offered by Senator MACK.

Evidence shows that the problem of affordable housing is not in the supply of housing—but in the lack of sufficient income to rent the existing housing units that are currently being wasted. At this point, building still more low-income housing would be like dealing with hunger by opening new grocery stores—instead of just giving poor people the money they need to buy food already available.

What usually happens when a problem is misdiagnosed is that the solution itself becomes a problem. And this has certainly happened in the area of low-income housing.

Federal spending on unnecessary construction has perpetuated the inner-city cycle of social decay and welfare dependency. Since the 1960's, we have spent about a quarter of a trillion dollars on the construction of more than 4 million low-income housing units. The result has been the de facto segregation of low-income people into blighted and crime-infested neighborhoods. Black activist Robert Woodson has observed that housing projects "have turned into social dumping grounds"—big prisons that serve only to isolate low-income people from the opportunities they need.

We can do better than that. We can create a new approach that reallocates resources into initiatives that directly benefit the working poor. The big developers don't need our money. The influence peddlers and the ex-HUD officials don't need our money. The working poor do need our money if they are going to be able to afford housing.

The great majority of the poor are now renters. Almost half of these renters—a full 45 percent—pay more than 70 percent of their incomes in rent. We have to empower these low-income families. They need jobs and opportunities—they need self-sufficiency and a stake in their communities.

What they need is housing vouchers. Instead of warehousing low-income people in the ghetto, vouchers allow recipients themselves to decide where they choose to live. Vouchers boost the purchasing power of the poor—and give low-income people the mobility to pursue job opportunities.

Unfortunately, the HOP Program would prohibit the funds to be used for vouchers. Why should cities with high vacancy rates be required to construct housing in order to use HOP funds?

The Mack amendment would allow HOP funds to be used for vouchers—and other rental assistance programs.

It would expand vouchers for low-income families, thereby expanding their choices and their freedom.

Tenant-based assistance is the most cost-effective way to meet low-income housing needs.

I urge that the Senate adopt the Mack amendment.

Mr. BOND. Mr. President, I also rise in support of the amendment by the Senator from Florida. As Senators know, I have been one on this side of the aisle who very much wants to see this bill adopted, improved, ultimately enacted, and signed into law. I think the time has come for us to make a major step forward and revise the housing laws of the United States.

I have already spoken on this floor of my gratitude and admiration for the Senator from California and the other members of the Housing Subcommittee who brought the bill to this point. I have noted that we have made some very significant progress in changing a flawed system.

As I have said before, there were major steps that had to be taken in Federal housing policy. I believe that with the Bush administration and the appointment of Secretary Jack Kemp, we have a Secretary of Housing and Urban Development who is totally committed to the objective of serving those people in our Nation, low-income and with other special needs, who must have housing assistance.

In addition, last year we passed a HUD reform bill. I think that was a very important move foward. But now we have before us the adoption of the final revision that is necessary to make this work. We have to clean away the underbrush, the thicket into which so much money has been lost in the past.

Certainly, there are evidences of abuse, misuse, and waste in the system in the past administration, the administration before that, and administration long before that. I submit that many of the problems arose because of the way that we structured the laws under which Federal funds were used to assist housing. When Congress layers too many requirements, too much bureaucracy, too much red tape onto a program, the result is that only by going to an outside consultant, somebody who can leapfrog the system, can you get anything done.

Well, I believe that the bill as reported out of committee takes a major step in the right direction. And that is why I have been working with my colleagues on both sides of the aisle to improve this bill, to move it forward, to react to and we hope accommodate the concerns, legitimate concerns, that have been raised by the administration. Because we want to see this bill go forward.

I believe that the Mack amendment is a significant improvement in the bill. This is one of the items where we said we are going to talk about it on the floor.

I want to call my colleagues' attention to some of the needs that the Senator from Florida has addressed.

Objection to the amendment was made by our good friend from Maryland, who has done a good bit of work on this, who is deeply committed to housing, who talked about the goals of this legislation to provide affordable housing, to emphasize the neighborhood approach, to assure that we move forward in a partnership with State, local, Federal, and the private sector, and to ensure that there is a comprehensive strategy.

I agree with all of those points. I think the Mack amendment furthers those points.

No, I do not believe it undercuts the purpose of HOP, the need for affordable housing. This amendment, by empowering tenants to rent available housing, does make housing affordable. I think it is extremely important.

My colleague on the other side of the aisle said mayors and Governors have made their voices clear. Well, he must have been hearing a different voice than I have heard, because I do not hear them saying we want to be prohibited from using HOP funds to assist tenants if that is the need in our community, in our State.

What they have said is that they want the flexibility to work with the Federal Government to design programs that meet the needs in their States and in their local communities. Let me repeat again, I think we have made tremendous strides in that direction. But this is another step and a very important step that I think we can take to make sure that the strategy is locally determined.

Who is better able to determine the needs in Kansas City or St. Louis? We here on the floor of this body, or the people who are responsible for providing the housing, seeing that those in need get housing? Who is better able to determine the needs in Philadelphia, or Pittsburgh, or Chicago, or Springfield, IL; or Baltimore, MD; or Los Angeles, or San Francisco? I think it is the people who are responsible as local officials, elected and appointed, who have the responsibility in that jurisdiction for seeing what the need is.

Mr. President, my commitment and concern about this bill comes from an extensive series of visits, discussions, and face-to-face dealings with people who are involved in housing, both officials in charge, representatives of the residents themselves who have expressed their concern, and representatives of groups who speak for those who need housing assistance. They have told me about a need for more Federal housing assistance.

I have said that we must change the law and we must put more money in. I believe very strongly in changing the law and in putting more money in. But what does that money go to? When we asked the people in Kansas City what they needed: Do you need more housing construction? How about more rehab money?

They said "No, we have more people who need housing and we have available housing, but we cannot provide them the assistance to move into that housing."

Do you always need to rehabilitate or to construct more? No, you do not. I believe in both St. Louis and Kansas City, and I daresay a number of cities—not all of them, but a number of cities around this country—you will find that there is no shortage of people in need of housing and there is no shortage of housing. But there has been a shortage of funds to assist people to move into that housing.

As I understand the amendment of the Senator from Florida, it would say if you happen to be like one of those communties, if you happen to be like Kansas City or if you happen to be like St. Louis, and you do not need to rehab more housing, or you do not need to build more housing, then you can use these funds, these HOP funds, to assist tenants so they can move into housing. To me, that makes good, common sense.

A couple of years down the line, it may change. They may need to use those funds for rehabilitation. We should not be telling them, from Washington, how they are going to use their funds. The distinguished manager of the bill, the chairman of the subcommittee, has pointed out that there is a very thorough reporting and monitoring system, and we must assure that the funds are monitored, that we have full accountability, and that those basic requirements are met.

But, as to what the needs are, I suggest that those can best be determined at the local level. Families whose housing is not adequate, or want to move, ought to have funds available so they can move if there is housing. This amendment will allow them to do so.

There has been a suggestion of the leveraging effect of Federal dollars and how the HOP Program will be in additional local dollars. Mr. President, some of the best leveraging we can do is to use tenant-based rental assistance. Our figures indicate it is less than half as costly to provide assistance to tenants where there is housing available than it is to provide new housing. Tenant-based assistance can be targeted to the very low-income people, without raising questions about concentrating too many more poor people in one location. And that should be part of the comprehensive housing strategy.

We have talked in this bill about neighbors, about bringing them together to deal with their problems, to see how best to meet the needs of citizens who seek better housing, who seek housing for themselves and their families. I believe the amendment by the Senator from Florida allows us to assure those communities where there is an abundance of decent housing, an abundance of needy people, but a lack of resources to put those people in those homes, that communities can do so. Therefore, I strongly urge my colleagues to support the amendment of the Senator from Florida.

I hope, also, we can work on the other matters which we have discussed with the administration. I hope the administration will be conferring with Members on both sides of the aisle to work out the further details on the compromise that we have discussed.

In my own discussions with representatives of OMB and HUD, I have noted their interest. Certainly Senator CRANSTON has been willing to move forward and has shown a willingness to discuss it. I hope we can proceed today to make further improvements in the bill and finally pass a measure which will meet the goal of achieving affordable housing for the citizens of the United States. I think in addition, as I said earlier, the Mack amendment would help achieve that need.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, at the conclusion of my remarks I will be proposing a second-degree amendment to the amendment that is before us. But before doing that I would like to indicate my support for this amendment because I believe it frames the standard by which we should evaluate Federal housing policy. That is not an issue based on process. It is not an issue based on things. It is an issue that is a standard of assistance, of help to low-income families. Our objective should be to use public resources in a manner that will optimize the number of low-income families who can be given access to affordable, decent housing.

For that reason, I am a strong supporter of the principle of the HOP Program, and that is a principle which I would describe as being built around two items. One is partnership. It recognizes the fact that, if we are going to provide access to affordable, decent housing for the optimum number of American families, we must have a partnership and that partnership must include citizens at the State, at the local, as well as at the Federal level.

Second, the HOP Program underscores the need for local flexibility. We must allow that partnership to have the ability to assess the conditions in the individual community in which it will serve and then to allocate its resources against that standard of how can we provide affordable, decent housing to the optimum number of families within this community.

Mr. President, I believe the debate we are having on this issue is going to be germane to a debate we may be having shortly hereafter, and that is on the question of restrictions on new construction. It makes no more sense to say we ought to be restricting the use of these funds for new construction, in my opinion, than it does to say we ought to be restricting their use for purposes of enhancing the ability of low-income families to acquire housing through the provision of a certificate or a voucher or other demand enhancement mechanism.

I am going to support this provision in the context that I believe we ought to be giving maximum flexibility to the jurisdictions that are going to be created under HOP, the partnerships that we are attempting to energize in order to accomplish our objective.

I want to share with the Senate when I became especially and acutely aware of the need for this type of approach. Senator MACK serves as the ranking Republican and I as the chairman of the Select Committee of the Banking, Housing, and Urban Affairs Committee with responsibility to look into the department of HUD, and specifically its management of the moderate rehabilitation program.

The Presiding Officer is well aware it is this program that has been the object of so much public outcry and outrage over the numerous abuses. The Secretary of this Department during the last administration is now the object of an investigation by special prosecutor for his handling of that and other programs within the Department. We held a series of hearings, the last of which will occur next week. One of these hearings, Mr. President, we called the anatomy of a deal, in which we took some of these moderate rehabilitation transactions and tried to get inside and understand just what had gone on. Why was it these programs were so vulnerable to abuse? One of those that was subject to this autopsy during the anatomy of a deal was a project in Las Vegas, NV, called Sierra Point.

We had testimony on that project by a number of people, including the executive director of the housing authority of Clark County, NV, which is the county of which Las Vegas is the county seat. We also had testimony from Mr. John Ols, Director of Housing and Community Development Issues, Resources and Community Development Division of the U.S. General Accounting Office.

As my colleagues will recall, it was the inspector general within HUD and the General Accounting Office which largely surfaced the abuse within HUD which have led to all of the subsequent events.

In assessing this particular project, Sierra Point, which turned out to be a project that was substantially abused in terms of developers taking advantage, walking away with large amounts of profits in relationship to the effort that they had expanded, one of the interesting points was made regarding Mr. Cottrell. I am now quoting from the testimony of Mr. Ols, of the General Accounting Office. He is recounting conversations with the executive director of the housing authority:

> Mr. Cottrell had told us, during our work, when the Sierra Point project was approved low-income families were not experiencing any difficulty finding housing, using HUD section 8 certificate programs.

That is to say, at the time of this proposal to spend what turned out to be several million public dollars to rehabilitate a project for housing, there already was a significant amount of housing available to low-income people in the Las Vegas area if they had a certificate to pay for it.

Proceeding on with Mr. Ols' testimony:

> Our analysis shows that if certificates had been used instead of the mod/rehab program and tax credits, about 419 households could have been assisted rather than the 160 households assisted in the Sierra Point project.
>
> In essence, Mr. Chairman, that would be another additional 259 households that could have been assisted.

Mr. President, what we have is a system that is so structured in terms of the specific categories of funding that we have lost sight of our objective, which is to provide housing for people. Essentially, what HOP intends to do is to bring those resources to a common point in the community that is going to be served, against the standard of how are we going to use those resources to maximize the

number of families that will be served, and then be able to look at all the alternatives that can be elected to accomplish that single objective.

In Las Vegas, we would have had 259 more families housed had they been able to use a certificate program, rather than be straitjacketed into what turned out to be a boondoggle moderate rehabilitation program. Hopefully, not with that additional element of abuse of public funds and abuse of trust, but with the common element that there are many other communities in which the option of a demand enhancement certificate is more appropriate and the most cost-effective way of achieving an objective than is the goal of either new or rehabilitory construction.

I believe we ought to give these new HOP partnerships that latitude; that we should give them the maximum latitude.

Mr. President, before I offer my second-degree amendment, I conclude these remarks by saying that I believe this program of HOP is an extremely exciting one. It is a new, exciting one that is being born into the public policy family of America. I believe it is a child of great potential. I believe that this new focus will give us an increased sense of ownership at the local and State level. It will allow us to leverage public funds to maximum ability. It will give us greater flexibility to respond to changing circumstances and, most fundamentally, it will be a people-oriented program.

The question that will be asked is not how many bricks did you lay, how many units did you rehabilitate? The question will be: How many families would you help be able to raise their children with some standard of decency and respect and, therefore, all the benefits that will come to society from achieving that objective?

AMENDMENT NO. 2054 TO AMENDMENT NO. 2053

Mr. GRAHAM. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2054 to amendment No. 2053.

After the word "assistance", insert the following:

"Funds used under this title shall not be used to renew expiring contracts for rental assistance executed under section 8 of the United States Housing Act of 1937.".

Mr. GRAHAM. Mr. President, I have discussed this amendment with both sides of the aisle. I believe that it is acceptable. It is designed to deal with a question that was raised about this proposal; that is, how it would relate to the large number of section 8 certificates which, coincidently, happen to be expiring about this time.

There has been apprehension that there might be some misapplication of this authority; that the amendment of Senator MACK, my colleague from Florida, would allow to divert these funds to be used for the renewal of these existing certificates which the department has stated explicitly it is its intention to renew within existing authority and existing funds, not the newly established HOP Program and what we hope will be the newly authorized and appropriated funds for HOP. I offer this second-degree amendment.

The PRESIDING OFFICER. Is there further discussion on the second-degree amendment offered by the senior Senator from Florida? The Senator from Florida.

Mr. MACK. I agree with the statement made by Senator GRAHAM. He is right on target. We accept the amendment.

The PRESIDING OFFICER. Is there any further discussion on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2054) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I see my colleagues both from the State of Washington and the State of Michigan. I am going to be required to be here for a while. I guess they have time constraints and they are pushing. I will yield the floor at this time, Mr. President, but I would like to speak to the underlying amendment, the amendment of my colleague, the junior Senator from the State of Florida, as it relates to this important issue, before my colleagues say anything. This is a very important issue. I promise I will make this observation in less than 30 seconds.

If this amendment fails, that is, the amendment Senator MACK from Florida has offered, then we are not going to have a housing bill. We are just not going to have a bill because the administration is absolutely saying—and this comes from the White House, it comes from the Secretary—that we are not going to limit this program or we will not support a program that limits it just to new construction. That is a fact. We are here. Our staffs have negotiated. We talked about this for weeks and weeks and weeks, and we are here. I can tell you it is ridiculous. There should be no opposition to this amendment. Why? On the one hand, we are going to say, yes, we want to give flexibility and, on the other hand, we say, no, no, you can only construct, you can only rehabilitate. It does not make sense.

I want to tell my colleagues something. For those people who get in a straight, long path, if you want to keep on that path, then we can send everybody home and let us get on to other business. The leader can take the bill down and wait for another day, because this is a killer. Unless this amendment is agreed to, we are wasting time. I am not going to offer my FHA amendment. We should forget about it. That is what it comes down to. If you want to kill the housing bill, vote against this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from New York yields the floor. Who seeks recognition?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I believe, as I followed the debate on this bill, that there are two distinct and separate issues involved in determining how to vote on the amendment offered by the junior Senator from Florida and improved by the senior Senator from Florida. One of those is, of course, exactly the issue which has been so eloquently stated by the Senator from New York. It has to do with whether we are discussing a number of political debating points on this floor or whether we are serious about passing a major sweeping reauthorization of housing programs with a real chance of becoming law and starting us off on a new direction.

The second issue, and it is an important issue as well, Mr. President, is whether or not the kind of flexibility which is offered by this amendment is appropriate, whether or not it improves a program designed by its sponsors to provide for some new and separate directions.

I think I will speak briefly on each of those two issues, Mr. President, taking the second of the two first because whatever the political threats, one should be convinced that a proposal is good in substance, as well as productive politically, before one agrees to forward it.

In this case, I agree wholeheartedly with the sponsor of the amendment and with his colleague from the State of Florida that this is at the heart of the kind of flexibility which we should offer to housing authorities, the communities and the people of the United States.

What this amendment says, in short, is that the States, the cities, and housing authorities who will make the determination as to how this money is to be spent have the right, exactly to the extent that they wish to do so, to spend some portion of this money on vouchers for tenants to seek their own housing.

We have had such a voucher program in the past. It has been work-

able. It has been criticized in my presence, in my own State by people from housing authorities, only that it is inadequate and falls short for people who are eligible and could use such vouchers.

As a consequence, it seems to me to be self-evident to allow each individual State, community, and housing authority to make its own choice on how much of this money will be spent on construction, how much on rehabilitation and how much directly to help tenants. The case for it, it seems to me, Mr. President, is simply overwhelming.

Will any Member stand on this floor and seriously assert that we know more about the priorities in a community, in a State other than our own than do the people of that community? I certainly would not assert that I know more, that I know one-tenth as much about housing needs in the city of Chicago or the State of Illinois, represented by the distinguished Presiding Officer, than he does. I know that he is modest enough to say that he does not know as much about those needs as do his own citizens in those communities.

I do not know as much about the needs in my own State in my own communities as do the hard-working people who work to provide housing for lower income groups.

This voucher program is, of course, as its sponsor said, aimed at the neediest of the needy, at the lowest income groups, to provide them with the opportunity to have decent housing so that they can begin to repair the rest of their lives, to secure employment, to become contributing members of our society.

I do believe that the voucher system has proved itself in the past. I believe that the voucher system should be extended. But most fundamentally of all, I believe that the people who are in the field and in the communities should be allowed the right to make these choices.

It is certainly possible that there are some markets in this country in which housing is so tight that vouchers are not an answer, not a complete answer, perhaps in a few places not an answer at all. In those communities the housing authorities will not choose to use this authority. They are not required to do so by the amendment. There are far more communities in which this kind of authority will be utilized and will be utilized effectively and well.

Returning the right to make these decisions to our local communities is one of the most important parts of any housing reform. I believe that the amendment has been vastly improved by the second-degree amendment of the distinguished senior Senator from Florida because what we attempt to do here is to get new money into vouchers and not simply to substitute money from the sources from which it comes at the present time.

The other argument in favor of this amendment, Mr. President, was made just a few minutes ago most eloquently by the Senator from New York. This is a serious issue. This housing bill is a serious bill. It is an expensive bill. It involves a great deal of money.

Perhaps equally significant, it amounts to a great deal of money in a field which has been rife with corruption and mismanagement, one in which we wish a new and a fresh start, a start which is of more benefit to the people in lower income groups who need housing than it is to developers and lawyers and fixers and all of that discouraging parade which we have seen over the course of the last many years.

Mr. President, we know how strongly both the President and the Secretary of the Department of Housing and Urban Development feel about the programs which they have backed. This amendment and the amendments which will succeed it do not substitute in entirety their program for that of the committee majority. They do add to flexibility. They do add to the balance in those programs. They are a series of amendments which, if they are accepted, will create a bill which can be passed with a wide bipartisan majority in this body and which has some chance for success.

So, Mr. President, I join my friend, the distinguished Senator from New York, in saying that in a very real sense the vote on this amendment, if there is a vote, is a test case. The test simply is do we wish to have a housing bill this year which goes into law or do we wish for one reason or another, to have political talking points to particular groups at home. I am convinced that a majority of the Members of this body do wish a constructive and a forward-looking housing bill. I am convinced that that majority, when they have thought about this amendment carefully, will support it as enthusiastically as I do.

Mr. D'AMATO. Mr. President, I see my friend from Michigan and I will hold my remarks down because I know he, too, wants to speak to the amendment. I do not know what his position is.

Again let me reemphasize—and it is not a threat—I have worked for 3 years, with my colleague Senator CRANSTON in a bipartisan fashion, with groups throughout this country, to bring in a bill we can pass which begins to meet some of the needs that tragically have not been met. When the administration said, look, if you are talking about giving to local government the opportunity to do that which oftentimes we find impossible because of the categorical grant program, a program which limits and ties our hands and calls upon people to come down to Washington to lobby and to work to get their fair share—and that does not make sense; we have to have a program that gives to State and local government the ability to meet the special needs they have—that is why I supported the HOP Program.

But the administration rightfully points out that where we fail to allow rental assistance to be an eligible activity under the HOP Program, we are restricting the ability of the local communities, the towns, the counties, the cities, and the villages to do just that. We are really saying to them, all you can do is rehabilitate, all you can do is construct new units, but you cannot enter any program of rental assistance.

Let us talk about the kinds of programs that may be coming up. What about the homeless? What about emergency shelter? Are we really saying that you cannot use these funds to supplement the funds already available under the McKinney Act—a program of rental assistance to a homeless family, to a family that is in need of short-term assistance, the emergency assistance programs.

We talked about accepting an amendment, and we did, that would establish a conference for the homeless to be held within 18 months throughout the various communities, 25 communities, 25 States throughout our Nation where they would talk with people as to what the problems are, how to deal with them in the homeless. Do we have to wait 18 months before they say look, in New York City we can deal with a program in a much more advantageous manner with rental assistance, with vouchers as opposed to building new shelters? It does not make sense.

To conclude, let me simply say if we are talking about flexibility, that flexibility should be, yes, to construct. The administration says they want no new construction. This Senator has said you have to give some construction, some leverage, some opportunity for communities, for cities, for towns, for counties to enter into construction and rehabilitation.

I am not trying to have it two ways. I am not trying to say it has to be all the administration's way. I will argue with the administration when I believe they are wrong. To simply say no new construction, that is wrong, because it may be that one community has a need for construction funds, for rehabilitation, for construction, whether it is new housing, or to rehabilitate. To simply say no, that is a disservice. That is absurd.

But on the other side, Mr. President, to simply say, no, no rental, no voucher, no assistance of any kind, our communities cannot use it, notwithstanding that the mayor comes and says

look, we can provide desperately needed shelter if you give us the flexibility to use these HOP funds, it is intellectually dishonest, I say, for us to take the position to say we want to give maximum flexibility and yet we tie the hands of the community whether it relates to construction or rental.

I have to say to my colleagues, we work together in a bipartisan manner. If you want a bill, you have to give some. If the administration wants a bill, they are going to have to give some.

There will be other issues that will come up later on today, maybe early in the morning, tomorrow, that will necessitate that we give and take. Otherwise, there will not be a bill. The efforts that we have expended will be for naught, and more importantly than the efforts we have expended, that does not matter. That is our job. Sometimes we are able to do it in some sense of gratification. Sometimes we do not win our point.

But the fact of the matter is that the people's business is not going to be done. We are not going to be advancing, and there are a lot of good things in this bill.

Sometimes we take pride of authorship. It can be a very damaging kind of thing. It is our ego, prestige, and it is our staffs. I do not say that in the pejorative. They have worked hard. Believe me. They have seen, studied, and they understand. They see some of the shortcomings and are attempting to make it up.

In that zeal we become wedded to the language. This is mine. I am not going to let it be changed.

I want to know why communities should not be permitted to use vouchers. Tell me why. Give me a really logical answer. This Senator will support this amendment. I have not heard it. I have really not heard why.

I have not heard a reason for the administration's position as to why they should stop all new construction. They should not. They say you have construction programs. Are you going to say simply because there are rental rehab programs already, rental assistance, voucher, certificate programs there should be no others if this should be applied in XYZ? I think that is preposterous.

Mr. CRANSTON. Will the Senator yield to me?

Mr. D'AMATO. No, only for the purpose of concluding. And I want to make the comparison. I am not attempting to on one side say that the administration's proposal as it relates to another area of contention is any more correct than the position that says no vouchers, no rental assistance. It does not make sense, or that both of them are wrong. They have an opportunity to start the ball in the right direction.

I suggest to my colleagues that if we are to show some deference to what I think the Senator from Florida has crafted, and the senior Senator, in terms of perfecting, to see this does not supplement an existing rental program—and I commend both of them for that—it seems to me this demonstrates good faith. If the administration on the other hand does not want to, I say the administration, if they want to hold to an absolutely no new construction rehabilitation program under any circumstances, any time, the Senator is going to take to the floor and say that is ill conceived as well.

I am not going to play it one way, say, for one or you have all the right on your side. We ought to call them the way they are. This does not take great genius here to come down with people with some great housing expertise. If you had any experience in Government today, you know we say we want to give to the people on the front line the ability to deal with the program, give them that flexibility, yes, within guidelines, targeting the funds, to see to it that they go to the distressed areas, I think a certain amount of them should be targeted. That is another provision that will be coming up.

I wish we could make an accord on that. I do not think we should be battling it up here so it is going to be Republicans on one side, Democrats on the other. That is a terrible mistake. What it will lead to again without that spirit of compromise is to a vetoing of this bill.

There is enough in here that is controversial that the administration can very easily do it. We gave them that opportunity to do that if we do not show the kind of flexibility that I believe. And, by the way, if we cannot accept this, then I have to tell you something. I am going to recommend to Senator DOLE, and to the majority leader, that we are wasting our time because we have other issues out there are that are equally contentious—more contentious. If we cannot settle on something like this, we ought to pull this bill down, and take up something else. Whether it is the crime bill or whether it is the campaign finance reform, or whatever the leader feels, there are other issues vital and important. That will be the recommendation of this Senator.

I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. I thank the Chair, the distinguished Senator from Virginia.

I listen with great interest to my colleague from New York. I appreciate his point of view as he expressed it, and as well the view of the Senator from Florida, both Senators from Florida that have spoken on this issue.

My own views are in line with those earlier expressed by the Senator from Maryland [Mr. SARBANES]. I think that the weight of argument—and there is argument and one can make a case I think from both sides of this issue. This is not an issue that I think that is zero in terms of how the merits of the argument fall. But I think the weight of the argument clearly falls on the side of sticking with the package that the committee has brought forward.

I was interested to hear the comments of the Senator from New York saying he thought that, in effect, the failure to enact this would be a killer amendment. We used to think of killer amendments as one that are adopted and wipe out the bill. He is saying unless this one is adopted the bill will not go forward. So that obviously is a judgment he is offering. He may or may not be correct in that observation.

But I think it is not the soundest policy here to put the rental assistance as an eligible activity under the Housing Opportunity Partnerships, with the HOP category as it is called. I think HOP is intended to serve as a cornerstone of a new partnership between the States, localities, and the Federal Government. And its primary intent is to expand the supply of affordable housing in the Nation. The reason we need to expand it is there is not enough of it.

So we can talk about the notion of trying to figure out ways and means to shoehorn people into what available housing there might be that can be found, and provide a way and a means for people to be able to identify it and be able to afford it. In fact of matter in order to do this job in any comprehensive way there is going to have to be some expansion of the supply. Otherwise, inadequate supply even with the vouchers is going to drive prices up.

So the point is I think there has to be some flexibility here. The HOP Program was designed to be a flexible tool that could respond to local conditions, and as others have said making their own arguments of locality is different and unique. Some markets are tight, and some are weak. But we need tools that can sort of move back and forth, and can fit the circumstances in all areas simultaneously.

So rental assistance is an important tool that we have to work with to fight the affordable housing crisis. S. 566 proposes an increase of 22,000 units of rental assistance in the form of vouchers and certificates.

But I think anybody who has studied this, and certainly the experts in the field, counsel, would say rental assistance by itself is just not enough. That is why in addition to rental assistance we have to have the option open to have some modest and reason-

able expansion of the supply of affordable housing.

This bill, of course, has been a long time in the development. It has been 3 years that we have been working to construct the philosophy and the direction of this very differently designed and aimed housing program. Over that time, we have solicited the input of hundreds of people and organizations, and we have been determined from the very beginning of the process to build legislation on the broadest possible consensus that we could establish that would be aimed at providing an effective national housing policy incorporating the thinking of people who have been out there the longest who are committed to it and who we think know it best. That includes not just those who are housing advocates or in the private sector, but people at State and local governments as well.

That is where this concept has come from in terms of the clear requirement to have within the flexibility the means for having some expansion of the supply of housing out in the country.

So the intent of HOP is to do exactly that and to amend the program to allow rental assistance to fall into that category as ineligible activity that cuts against the basic purpose of that part of the bill as we have drafted it.

So I think, as I say, I am respectful of the arguments those on the other side have made. I think, in their judgment, they feel that it makes sense to treat this in the other fashion, and I understand their arguments. As I say, I think there is some weight to their position, although I do not think that their position carries the convincing weight in this matter.

So I oppose the amendment and hope that it will not be adopted. I think that there is some chance that it may be—we will see when the votes are taken—just based on the debate that has taken place here on the floor. But I will say this, that with respect to the view of the Senator from New York a moment ago about the failure to incorporate this having the effect of being, in a sense, a killer amendment, in his view, I think we do face some possible and probable amendments coming down the track a little later that clearly are killer amendments; and were they to be adopted and try to in some way, under a Senate motion, accomplish a radical shift of the meager resources that we now allocate out to the critical programs across the country, I think we would clearly find ourselves in a situation where the bill would be so impaired, it would not go forward.

So I speak now about things that may come later. But we ought not to kid ourselves about the notion about what the parameters are. We are all going to have to make adjustments, and accommodations here in order to have the kind of base of support we need to go ahead. In some areas that kind of compromise is not desirable, nor pleasant, to some of us that may have to be part of it. But that cuts both ways.

We find ourselves in a situation where we are getting into sort of radical amendments that really take this whole area of legislative effort way off course. We are going to be here a long time, and we will not get a bill that way either.

I yield the floor.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from California [Mr. CRANSTON].

Mr. CRANSTON. Mr. President, it has been suggested that we should be totally flexible and give local people a full range of choice. If we were to convert HOP to vouchers, I would think we should convert HOPE to vouchers and give the total choice.

Mr. MACK. I want to make the point that this amendment is not designed to make HOP into a vouchers program. It is basically saying we just want to add tenant-based assistance as one of the alternative uses.

Mr. CRANSTON. Why should that not be done with HOPE, also?

Mr. MACK. This is the program in which you have some $7.5 billion over the next 3 years. That is the major thrust of the program. I just think with that kind of commitment in dollars, to be so restrictive as to not be able to allow communities that are experiencing large vacancies—and I already told the Senator the problem that we have in Florida, but there are other areas around the country as well that are experiencing high vacancies: Atlanta, 10 percent; Houston, 19 percent; Chicago, St. Louis, Seattle at 8 percent. It seems to me that we need to give these communities the opportunity and the flexibility to make that kind of a choice.

Mr. CRANSTON. Then we should give the same flexibility on the HOPE Program. The administration wants to get a lot of money in that. That is the program they like the most of all. But if we are going to give flexibility to the local people in principle, then we should do it on everything. This bill, instead, tries to have a balanced program, where various things can be done, and rehabilitation can occur through the HOP Program, where new construction can occur through the HOP Program. It is designed to not only help people who need help with housing now availabile, but to get some new housing.

We need to preserve what we have, and we need more because we are short at the present time.

I am disappointed to hear suggestions from across the aisle that if this particular amendment is not adopted, then the whole thing is hopeless, and we might as well take the bill down. I am not taking that position on any particular matter that is before us. We do it the best we can, and we win or lose and we go on.

The bill is not in the final form when it leaves the Senate. We have to go through a conference with the House. There is ongoing consultation with the administration.

I am disappointed, I am frank to say, that the Secretary of HUD, Secretary Kemp, spoke to me last night about being willing to get together the first thing today, after the staff had done its best to reach agreements. The staff met until 2 or 3 a.m. and reached quite a few agreements, and now Secretary Kemp is unavailable, will not return my phone calls, and will not meet with us.

OMB, to the contrary, stated that OMB in the person of either Mr. Darman or Mr. Diefenderfer, his top assistant, is willing to meet at any time with us that the HUD Secretary is ready to meet with us. This leads me to wonder about how eager the Secretary or other people in HUD, who are filling him in on meetings—perhaps not always accurately—are about moving the bill forward.

We have moved a long way toward what the administration has requested on major issues that they want. They want more and more. There is a limit as to how far we were willing to go.

I oppose the amendment offered by the Senator from Florida. It would gut, totally gut, the promising new Housing Opportunity Partnerships Program that has been carefully developed over a 3-year period by mayors, Governors, State housing agencies, by local housing experts, nonprofit community organizations, private industry, top housing researchers, and by many other leaders in the housing field.

This amendment would undercut 3 years of careful work to devise an investment partnership among the Federal Government, States, localities, and private sector to expand the supply of affordable housing. We need to expand that supply. This amendment was never subject to a hearing, never subjected to even a comment or a proposal in any comment in the committee meeting in all the time the committee was working on this bill. That time went over a 3-year period. It was sprung in the last few days by those in the administration working diligently to derail the Housing Opportunity Partnership Program. This amendment should be rejected.

This amendment may seem to have a harmless sugar coating on it. It may seem to be a simple effort to give mayors and Governors a bit more flexibility in choosing how to provide

housing. Instead, it would take a program that was designed to be a useful new tool in the hands of mayors and Governors, a tool they welcome, and turn it into a weapon pointed at their heads. Let there be no mistake about it, this amendment would do grave damage to a promising new thrust of this housing bill.

This amendment would permit the HOP Program to be converted into vouchers or a voucher-like form of rental assistance. On its face, that may seem to be giving the mayor or a Governor some more flexibility. Actually, the bill now before us already includes over $2.3 billion for vouchers and other forms of rental assistance, and the bill gives Governors and mayors increased flexibility in using vouchers as a tool for meeting their housing needs.

HOP was created because there was no office, no other Federal program to achieve the purpose that HOP is set out to accomplish. It is intended to regain at least a portion of the Federal responsibility—and I believe it is a Federal responsibility, and so do the other authors who support this bill—to work with States and local governments to provide more affordable housing.

The HOP Program was carefully designed to expand the supply of affordable housing, through rehabilitation through new construction and acquisition. It is structured as an investment partnership. Funds will be made available to States and localities through revolving housing investment trust funds. Those investment trust funds would be used to provide specific housing—and funds could be repaid from projects back into the trust funds for reuse by the same State or locality. That is what it was designed to do.

From the very beginning of our work on the National Affordable Housing Act, virtually everyone working on the bill warned that the requirements of tenant rental assistance and the requirements of investment funds to provide more housing are very different—and the two activities need to be kept separate.

First, they realized that rental assistance requires long-term commitments to the most needy families. That has to remain a Federal responsibility. Vouchers require 5-year funding at a time. But HOP will provide funds for only 1 year at a time. That is appropriate for funds that are made available for capital investment.

However, once HOP funds are converted into vouchers to help a needy family, the assistance cannot then be pulled back at the end of a year. The assistance will have to be renewed for years to come.

Second, all of those who worked on this bill were very aware of a major danger of shifting important responsibility for rental assistance to the States and localities. The danger is that State and local government will be dumped with responsibility for renewing tenant assistance which is about to expire.

A huge volume of budget authority will be needed in the next few years to renew expiring contracts and to avoid shutting off assistance to poor families who are already receiving assistance. The budget for fiscal 1991 will have to provide $6.6 billion in budget authority—just to stand still—just to avoid losing ground—just to avoid creating a catastrophe for hundreds of thousands of poor families. The requirement over the next 5 years will total $31.7 billion.

Part of that funding need is created by the fact that tenant rental assistance contracts that were entered into 15 years ago, back in the Ford administration—are now about to expire.

State and local governments would never be able to step in if the Federal Government does not fulfill its responsibility to renew those contracts.

Watch out, however.

If this amendment is adopted, the administration will be able to say, "We don't need to renew all of those expiring vouchers and certificates. Let the States and localities pick up the slack with the HOP funds." Then, not only will the HOP Program be swamped, the very existence of the HOP Program would be used as an excuse to palm off a huge Federal responsibility onto the States and localities.

Senator GRAHAM'S amendment recognizes this danger. It was intended to remove it. I know it was offered to improve what I believe is a very harmful amendment.

However, in the hands of an administration that is hostile to housing rehabilitation or production and is trying to squeeze down any funding for housing, I am very afraid that the Graham amendment will offer very little protection to States and localities.

Third, all of those who worked on this bill knew that HOP would have to provide ongoing oversight and monitoring by HUD, to make sure the funds are used to achieve national objectives.

That means—under an administration that is hostile to housing supply programs—States and localities will be under constant, intense pressure to use HOP funds to provide vouchers rather than to expand the supply of affordable housing through needed rehabilitation and production.

HOP is now designed to make it clear that Congress wants to establish and strengthen a new partnership to expand the supply of affordable housing.

First, the supply of affordable housing has been sustantially depleted due to gentrification and conversion of low income units to market rate use on one hand and the deterioration and abandonment of such units on the other. Experts estimate that we have been losing low-cost housing at the astonishing rate of 1.5 million units a decade.

The second major change in the affordable housing marketplace is the phenomenal growth in the capacity and expertise of State and local governments and nonprofit organizations. These public and private entities have sparked a new waive of partnerships that is delivering affordable housing throughout our Nation.

The committee wanted to build on these lessons. That is why the centerpiece of the National Affordable Housing Act is the Housing Opportunity Partnerships [HOP] Program. It will strengthen the new wave of local housing partnerships that have arisen across the country among States, local government, private industry, and nonprofit organizations. The Federal Government would make available the necessary forms of housing assistance—capital subsidies, rental assistance, credit enhancement, technical assistance—to States and localities that devise long-term affordable housing strategies. States and localities would be given the flexibility to design housing programs that meet differing local circumstances and changing economic conditions.

It is, in short, a supply program which will give States and localities the tools and incentives to address the issue of low-income housing over the long haul.

The key here is long term. One of the arguments used is that there currently is an oversupply of housing in certain markets like Houston or Tulsa or Denver.

Well, of course that is true. But we all know too well the boom and bust nature of local and regional economies. The Houston market of today—loose, overbuilt, depressed—is certain to be a wholly different market 5 or 10 years from today—probably tight, constrained, expensive. Now we have a chance—by purchasing and rehabilitating available units housing relatively cheaply to make an affordable housing segment of the marketplace available for low-income tenants in good times and in bad times.

Vouchers are not intended to serve this supply function, and they do not. It will give short-term gratification. But 5 years down the line, as the market begins to contract and landlords raise the rents or convert the housing to alternative use, the poor will be under intense pressure. The homelessness that is rampant in the District of Columbia and New York and Los Angeles will make its way to Houston and Tulsa and Denver.

Finally, the allocation system for vouchers is designed to send vouchers more heavily to areas where they work

well, just as the allocation system for HOP is designed to send HOP funds to areas that need to expand the supply of affordable housing.

That makes it very unlikely that under HOP a participating jurisdiction will be awash in HOP funds that cannot be used effectively for rehabilitation of substandard housing.

It is unreasonable to believe that a State or locality anywhere in the country will receive more of these limited HOP funds than it can use effectively for rehabilitation of substandard housing if not for new production or acquisition—the need throughout the country is far greater than can be exhausted by the HOP Program.

It, therefore, makes no sense to expose HOP—and local efforts to provide more decent affordable housing—to all of the dangers that this amendment would do.

I urge my colleagues to reject it.

I ask unanimous consent to have printed in the RECORD letters from the U.S. Conference of Mayors, the National League of Cities, the National Low-Income Housing Coalition, the Enterprise Foundation, the North Carolina Department of Economic and Community Development, and the Council of State Community Affairs Agencies which have been written to us in opposition to the Mack amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE U.S. CONFERENCE OF MAYORS,
Washington, DC, June 20, 1990.

Senator ALAN CRANSTON,
Chairman, Subcommittee on Housing and Urban Affairs, U.S. Senate.

DEAR SENATOR CRANSTON: I write to you as 230 mayors of our nation's largest cities close out the annual conference of The U.S. Conference of Mayors in Chicago.

I write as the Chair of the Housing Committee of this organization in support of S. 566, The National Affordable Housing Act.

We are concerned, however, about attempts to make fundamental changes in the Housing Opportunity Program (HOP). Specifically, we are concerned about a proposal that would allow HOP funds to be converted into housing vouchers. We oppose this provision which would mix a new construction and/or rehabilitation program with rental assistance. These, clearly are two separate programs.

In the development of our recommendations for a national policy over the years, The U.S. Conference of Mayors has never recommended the inclusion of new construction/rehabilitation and rental assistance in one program. Our principal concern is that by including the two types of housing approaches in one program one would be lost over time when clearly both are needed. Moreover, HOP is one year money, a one shot commitment, whereas by converting to vouchers, HOP funds would have to be committed for five years or more.

Mayors have called for a program such as HOP for nearly a decade. We urge you not to make this unnecessary change in the program.

Sincerely,

JESSIE M. RATTLEY,
Chair, Mayor of Newport News.

NATIONAL LEAGUE OF CITIES,
Washington, DC, June 20, 1990.

Hon. ALAN CRANSTON,
U.S. Senate, Chairman, Subcommittee on Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: The National League of Cities is in support of your efforts to provide affordable housing opportunities to the nation's cities and towns as demonstrated in S. 566—the National Affordable Housing Act.

As the full Senate begins debate on this important piece of national legislation, we would like to go on record opposed to any changes which negatively impact on your bill as reported out of the Banking Committee. Specifically, we are concerned about a proposal that would allow HOP funds to be converted into housing vouchers. We have long-standing policy which opposes any attempt to mix a new construction and/or rehabilitation program with rental assistance. We view these programs as being separate and any attempt to merge the two should be avoided.

In addition, the HOP has a one year level of funding. To convert the HOP to voucher would require an additional commitment of funding for five years or more years.

We would greatly appreciate your assistance in urging your colleagues against making any unnecessary changes in the program.

Sincerely,

BOB BOLEN,
Mayor of Fort Worth.

THE ENTERPRISE FOUNDATION,
Columbia, MD, June 21, 1990.

Hon. ALAN CRANSTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: In its March 1988 report to Congress, the National Housing Task Force recommended a series of proposals comprising a new comprehensive housing policy for the country. Central to the new system for delivering affordable housing was the recommendation that the federal government create and invest in a $3 billion Housing Opportunity Program (H.O.P.) designed to foster and stimulate state and local initiatives to renovate, build and acquire low-income housing.

The H.O.P. program was designed due to the conclusion that it was essential for a separate program to add to the supply of affordable housing given the incontrovertible evidence that millions of low-income units were being lost to demolition, conversion or substandard conditions. A decade long decline of 70% in HUD appropriations had reduced production of low-income housing to nominal levels. In addition, some 5.5 million Americans rented or owned homes with substantial deficiencies.

Given this widespread scarcity of decent and affordable units, the Task Force acknowledged the supply gap needed to be filled and called for significant funds from state and local governments to match the increased federal investment. The Task Force believed it was essential that states and localities have flexibility to address their particular aspect of the supply gap—whether it be new construction, rehabilitation of existing stock, acquisition of available stock for low-income use, or a combination.

The Task Force considered and explicitly rejected the notion of granting states and localities the ability to use H.O.P. funds for direct tenant rental subsidies. The Task Force felt strongly that tenant-based rental assistance should continue to be an important, but separate, element of a comprehensive housing policy. The H.O.P. program also takes into consideration in its distribution formula factors specific to the lack of low-income housing. These factors include measures of housing market tightness, inadequate housing, poverty, and housing production costs. Thus, the amount of a jurisdiction's H.O.P. grant objectively reflects its level of need for an expanded supply of low-income housing.

We urge you to maintain the integrity of the H.O.P. as a vital means of increasing the supply of affordable housing.

Sincerely,

JAMES W. ROUSE.

NATIONAL LOW-INCOME HOUSING COALITION,
Washington, DC, June 20, 1990.

To: Interested parties.
From: Barry Zigas, President.
Subject: Eligible activities in the Housing Opportunities Partnership Program, S. 566.

Amendments may be offered during floor consideration of S. 566, the National Affordable Housing Act, to broaden the eligible activities under the Housing Opportunities Partnership (HOP) program to include tenant-based rental assistance. The National Low Income Housing Coalition strongly opposes such an amendment. Our objections are summarized below.

1. The HOP program was designed to provide direct funding to finance acquisition, renovation and construction of affordable housing for low and moderate income people. It provides annual grants that can be used in a wide variety of ways through strategies designed by state and local administrators most familiar with their communities' housing needs. It is an inappropriate means through which to meet the ongoing need for tenant-based assistance to help very low income people afford the economic cost of decent housing. The separation of funding for development—which can be administered easily at the state and local level through mechanisms and programs already in place—and for broadly based income assistance to very low income persons is critical. Development funding needs will be diverse and can be accommodated in different ways; the issues around tenant-based assistance are consistent throughout the country and require an ongoing and undiluted federal commitment.

2. The funding cycles provided in HOP are completely inappropriate for financing tenant-based subsidies. Annual appropriations designed to provide capital financing can easily be cut or increased with little serious damage to development plans. But fluctuations in funding can and will completely disrupt ongoing tenant-based assistance. Congress should maintain the separation of these subsidies and continue to provide long term budget authority to assure the continuation of tenant-based subsidies.

3. Tenant-based housing assistance must have clear and uniform standards for housing quality, rent levels, and tenant contributions. State and local governments are not qualified to design and operate tenant-based

assistance programs that will be equitable and uniformly administered. Experience with the shelter allowances in AFDC have shown that high rents and subsidies are often paid for substandard housing over which agencies exercise little oversight when state and local agencies are responsible for designing and operating such programs.

4. The factors that should be taken into account in designing a national distribution system for capital subsidies as provided in the HOP are completely different than those that should be used to fairly allocate tenant-based assistance. As drafted, S. 566 appropriately emphasizes such issues as vacancy rates, substandard housing and other indices that are associated with problems in the housing supply. These are not appropriate indices to use in allocating assistance that will be used to provide tenant-based assistance.

5. The McKinney Act amendments included in S. 566 already permit substantial funds to be used by localities to meet emergency needs to prevent or alleviate homelessness, including cash payments to assist in rental or other payments. Broader discretion within the HOP to meet the same needs is not necessary.

6. Congress addressed this same question in designing the Community Development Block Grant in program in 1974 by prohibiting the use of CDBG funds for income assistance or welfare payments. It should apply the same reasoning to the HOP grants.

7. The consolidation of development/preservation funding and tenant-based assistance into a single grant inevitably undermines support for the large expansion of the Section 8 program that is still necessary to provide desperately needed tenant-based assistance to the millions of very low income renters who receive no federal housing benefits at all.

The nonpartisan National Housing Task Force whose recommendations contributed to many of the ideas in S. 566 considered and explicitly rejected proposals to consolidate development and tenant-based funding in a single grant for many of these reasons.

S. 566 provides additional, incremental funding to initiate new programs to expand the supply of affordable housing. The HOP should remain a clear, focused effort to deliver capital that will be used for this purpose, and the Section 8 program should continue to be used to finance and expand a national system of tenant-based assistance.

Mr. CRANSTON. I would like to read very briefly from a few of those letters.

One is from Jessie M. Rattley, mayor of Newport News, chair of the Housing Subcommittee of the Conference of Mayors. Among other points she says:

We are concerned, however, about attempts to make fundamental changes in the Housing Opportunity Program (HOP). Specifically, we are concerned about a proposal that would allow HOP funds to be converted into housing vouchers. We oppose this provision which would mix a new construction and/or rehabilitation program with rental assistance. These, clearly are two separate programs.

A letter from Bob Bolen, mayor of Fort Worth. Among other things he says:

As the full Senate begins debate on this important piece of national legislation, we would like to go on record opposed to any changes which negatively impact on your bill as reported out of the Banking Committee. Specifically, we are concerned about a proposal that would allow HOP funds to be converted into housing vouchers. We have long-standing policy which opposes any attempt to mix a new construction and/or rehabilitation program with rental assistance. We view these programs as being separate and any attempt to merge the two should be avoided.

Finally, let me read a letter from James Rouse, of Enterprise Foundation, who along with David Maxwell of Fannie Mae, did excellent work, the head of the task force that Senator D'AMATO and I created 3 years ago to take testimony across the country involving the thinking of most creative people in housing in our country and to make recommendations to us. In his letter he said, and I will read just one sentence:

The Task Force considered and explicitly rejected the notion of granting states and localities the ability to use H.O.P. funds for direct tenant rental subsidies.

I am going to move to table but I see the Senator from Maryland is standing. If he wishes to speak I will of course not move to table at this time.

Mr. SARBANES. I briefly want to say I understand during the debate when I had to leave the floor some reference was made to the fact that I had cited local officials as being opposed to this amendment, the inclusion of vouchers in HOP, and it has been asserted that others are not heard.

I was making particular reference to the letters from the National League of Cities and the U.S. Conference of Mayors, which the manager of the bill has just cited in support of the position that we have taken here on the floor.

Mr. MACK. Mr. President, I just want to make one additional comment with respect to some of the points that were made by Senator CRANSTON. The impression was given that this is an amendment that would gut the HOP Program. I would suggest that the only way that it could be gutted, in the sense that the direction here under HOP is to provide for construction and rehabbing, the only way it could be gutted would be if the mayors and the Governors around the country felt that the best use of those funds would be to go toward tenant assistance. If that were the case, they would take the money away from construction and rehab.

But I have to ask the question, if they made that decision, and we want them to have that kind of flexibility and we are providing that assistance to those who need it most, it seems to me this is not an amendment that would gut the HOP Program. So I encourage a vote against the tabling amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I am now going to move to table the pending amendment. I do this with reluctance because of the positive role played by Senator GRAHAM in the long process of developing this bill. But, as I just stated, the amendment, even in its amended form, would do grave damage to the HOP program. I, therefore, move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from California [Mr. CRANSTON] to table the amendment of the Senator from Florida [Mr. MACK]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

I also announce that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting, the Senator from Maryland [Ms. MIKULSKI], would vote "yea."

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. SYMMS] is necessarily absent.

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 45, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—52

Adams	Dole	Lieberman
Akaka	Exon	Metzenbaum
Baucus	Ford	Mitchell
Bentsen	Fowler	Moynihan
Biden	Glenn	Pell
Bingaman	Gore	Pryor
Bradley	Harkin	Reid
Breaux	Heflin	Riegle
Bryan	Hollings	Robb
Bumpers	Inouye	Rockefeller
Burdick	Johnston	Sanford
Byrd	Kennedy	Sarbanes
Conrad	Kerrey	Sasser
Cranston	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Wirth
Dixon	Leahy	
Dodd	Levin	

NAYS—45

Armstrong	Gramm	McConnell
Bond	Grassley	Murkowski
Boschwitz	Hatch	Nickles
Burns	Hatfield	Nunn
Chafee	Heinz	Packwood
Coats	Helms	Pressler
Cochran	Humphrey	Roth
Cohen	Jeffords	Rudman
D'Amato	Kassebaum	Simpson
Danforth	Kasten	Specter
Domenici	Lott	Stevens
Durenberger	Lugar	Thurmond
Garn	Mack	Wallop
Gorton	McCain	Warner
Graham	McClure	Wilson

NOT VOTING—3

Boren	Mikulski	Symms

So the motion to lay on the table amendment No. 2053, as amended, was agreed to.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. I enter a motion to reconsider the vote by which the Mack amendment was tabled.

Mr. METZENBAUM. Mr. President, I move to lay that on the table.

The PRESIDING OFFICER. The Senator from Kansas entered a motion for future disposition.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, the distinguished Republican leader made a motion to reconsider. While there may be some on the floor who voted to table this amendment—and I do not expect any great changes of votes as it relates to my speech—let me say this to you. If you want a housing bill, then do not allow the amendment that the Senator from Florida put forth, which simply gives flexibility to local communities, which this HOP Program was supposed to be about, not be passed.

Mr. ARMSTRONG. Mr. President, the Senate is not order.

The PRESIDING OFFICER. The point of order is well taken. The Senate is not order. The Senate will be in order.

Mr. D'AMATO. To simply continue to say by way of party discipline we are going to vote a particular way because somehow we have developed a philosophy that all of the funds that are in the HOP Program are going to be used for new construction and rehabilitation and that at no time will a community have the ability to say, look, we have a program, whether it be emergency assistance program for the homeless, a McKinney bill that we can supplement, we can get more housing, we can get more services by rental assistance programs, and what we say is, look, no discretion; your town, your country, your city, your local mayors, all we give you is a pot of money and all you can do is build, that is all. Let me tell you something, then this whole thing is an exercise in futility, our saying that we are going to streamline the categorical grants program, that we are going to put in a HOP Program so that we can get those moneys to local, State, and county officials and town officials so they have their flexibility.

Mr. CRANSTON. Will the Senator yield on one point of fact?

Mr. D'AMATO. No. No. No.

Mr. CRANSTON. The Senator made a misstatement of what would be the circumstance.

Mr. D'AMATO. My good friend and distinguished manager of the bill can state it any way he wants. But let me tell you what Secretary Kemp said in a letter: "Flexibility of HOP"—and this is the letter which I received in which he indicates—I am not going to take the time but to say that he does not feel that the administration's proposals basically, which would provide flexibility for the use of vouchers, has really been considered and that the program is tilted too much for all construction.

Now, we are not going to have a bill if we insist and say it has to be my way. I tried to make that point. I tried to argue, and I have been arguing, with the administration that they should similarly allow flexibility for new construction. It is pretty darned hard that the administration should allow flexibility for new construction when my colleagues on the other side of the aisle say that there should be no flexibility in the HOP Program as it relates to vouchers.

Mr. SARBANES. Will the Senator yield?

Mr. D'AMATO. No. No. Let me say this. The Secretary wrote to me in a letter that we received just a short time ago, "Flexibility of HOP." This is point 5. "Senate Democrat proposals don't permit vouchers as an eligible use. We want HOP to include tenant-based assistance as an eligible activity." I go on: "In many jurisdictions vouchers and certificates not only work but they are also the cheapest alternative."

Now, look, my friends.

Mr. SARBANES. Will the Senator share the Secretary's letter with us?

Mr. D'AMATO. Certainly.

Mr. SARBANES. I thank the Senator very much.

Mr. D'AMATO. Let me say this. If we want a bill we are going to have to make some accommodations. It seems to me when we turn down this amendment, there may have been ways to protect interests and modify it, and indeed the distinguished Senator from Florida did that. He said he did not want to see this be used as the vehicle by which you take the present rental assistance program, cut it down on one side, and then say well, you can fill the hole by using the HOP funds.

Again, we control the appropriations process here as well. So if there are any other safeguards to see that this is not used as a vehicle to replace an existing program and undermine the basis of which HOP was brought about, fine, let us talk about it. Let us have those amendments. Let us make those suggestions. But to simply vote this down at this point in time when the administration is saying look, we have serious problems, I think is one of the easiest problems for us to deal.

There are about six or seven income targets, for example, as it relates to putting money and seeing to it that it goes to those most in need. We have not even addressed that. If we cannot address this problem, I am going to suggest to you once again that we are not going to have a housing bill, that you can pass the bill maybe; that is if colleagues on my side do not become so exacerbated that they say the situation is intolerable, we will offer our own amendments, and we will keep here and talk and talk, or maybe it is better to take it down.

I would suggest that we really maybe should take a break, and should consider this. I do not see any sense in going forward on this. If we are going to by strength of party discipline, let me tell you, there are colleagues of mine on the other side who wanted to vote for this amendment, who knew this amendment made good sense. But you know there is party loyalty. There is party discipline. I understand that. I respect that. But I have to tell you if we want a bill, this is not the time to do it.

Mr. ARMSTRONG. Will the Senator yield to me for a moment?

Mr. D'AMATO. Yes.

Mr. ARMSTRONG. I followed intently the Senator's discussion and agree with everything he has said. But I fear he was about to pass over too lightly the point he was making. I just want to encourage him to amplify it.

We have had what is tantamount to a party line vote. Our party is on record in favor of vouchers. That is freedom of choice, giving the people who are most affected a chance at least in some jurisdictions to spend the money in a way that they think is in their best interests.

The other party is on record in this near party line vote in favor of constructing more public housing, more of the kind of things that have proven to be such a scandalous extravagance over the years.

Personally, I would hope that when the minority leader's motion is voted on there would be some people on the other side who would think not only about the housing policy involved but also about the politics, because I guess candidates for public office on the other party's ticket really would want to think twice before they lock themselves into being the party of more public housing when the alternative is choice and vouchers.

I thank my colleague for yielding.

Mr. D'AMATO. I would like to commend the Senator for his observation, and make a little point. Maybe it is redundant. I do not think it is going to sway any votes but I think it has to be said for the record.

I do not understand how we say we want a program that is going to give greater flexibility to communities, States, and then when there is an amendment that would do just that, we vote it down. I do not understand how we can be telling them, whether it is the city of Denver, New York City, or Miami, that they should not be able to use a program by which they have to come up with money, the State has to come up with money, for rental assistance if they determine that as a result of all of the vacancies they have in their communities there are better uses to make of rental assistance available to help the people.

But, no, we say you have to have a construction program. What logic is that? That is just saying no, all you can do is rent. That would be wrong. If you say all you can do is rent, but you cannot rehabilitate an existing facility that is in need of rehabilitation, and for cost effectiveness you can put in many people who need housing, who are homeless, and you say oh, no, you cannot use any of the money for rental rehabilitation. I do not believe it.

We are saying we want to give local government the ability and flexibility to deal with the problem. But when we turn down Senator MACK's amendment we are saying no, you should get the use of these dollars.

I commend the Senator.

Mr. MACK. I thought there was a convincing and I think telling argument during the debate. The comment was made that if my amendment were adopted, that is if HOP were allowed to use vouchers, that it would gut the HOP Program.

When you question further how it would gut the HOP Program, the response basically was because the mayors and the Governors of the States would make the decisions that they wanted to use it for vouchers. They would choose the flexibility, and say the most effective way of providing assistance to those most in need is the use of vouchers. But yet, we are going to say, oh, no, because we are more interested in construction, more interested in rehab, more interested in all the areas that have to do with construction and adding supply, you cannot use those funds.

Three years, and $7.5 billion is going to be available. Communities like Fort Lauderdale to Miami that are experiencing today vacancy rates of over 16 percent will not be able to use any of these funds for housing for the poor. That is wrong. I hope the Senators who did not vote with us earlier will reconsider their position.

Mr. D'AMATO. Mr. President, I commend again the Senator from Florida for his amendment. I cosponsored it because I think it makes sense.

I also would like to take this opportunity—maybe the Senator from Florida would give us a response—to say that there are cities in the country that have literally little if any vacancy rate. In other words, there are no occupancies. In those cities, rental rehab, rehabilitation, new construction, would be not only appropriate but would be deemed to be the only feasible way to deal with many of these problems, with many of them.

They might have some program of rental assistance, but in many cases there should be construction. They can demonstrate needs.

I hope that the Senator will also be willing to go to those who have put up a blank wall, and there are. We are not blameless in this. I am not suggesting to you that I think some of the administration's objections to this bill are appropriate.

I share this with Senator CRANSTON, the distinguished manager of the bill. I think for the administration simply to say "no new construction" is wrong. I think that would be as tremendous an error as the one that is taking place here now.

I think, where there are demonstrated needs, rental rehab is the answer; where new construction is the answer, the communities should certainly be permitted provided that they demonstrate there is that need.

So I am not for saying there should not be provisions that demonstrate as it relates to the vacancy rate other reasonable suggestions, that new construction should not be available. It should. I hope the Senator would be in a position to recommend that where there are demonstrated needs that cannot be met by the vouchers that rehabilitation program and new construction programs would be an option the community could use.

Mr. MACK. I say to the Senator that I would certainly be pleased to be involved in discussions to try to bring to a conclusion an agreement which we all can move forward with. I make two points, if I could.

One, again I want to stress that while we have been pointing out the importance of flexibility for—in my case, I mentioned Fort Lauderdale to Miami, high vacancies; therefore what we really ought to be doing is supporting the demand side, the need, that there are other communities in the country that find themselves in the situation where they have short supply.

I would offer as an alternative—and I am not suggesting this as a compromise position, but I make the point that there are section 8 project-based vouchers out there that could in fact provide for new construction. There is the tax credit approach that could provide for new construction, but also section 202 for the elderly.

I say to those who have focused in on this amendment that the proposal is, under HOP, to provide $7.5 billion over the next 3 years, the way it is written now, only for construction and rehab, with no opportunity for flexibility with respect to vouchers.

Under my amendment, all we are saying is that the cities and States could have the choice, if they thought that was in the best interest of their States, cities, and people, to choose vouchers. But, on the other hand, if Senators represent States that find themselves in need of construction, under my proposal they would still have the funds available. I beg them to reconsider the vote.

Mr. ARMSTRONG. Mr. President, I do not want to take too much time, but I want to add one thought. First of all, I congratulate the Senator for his statement. Particularly, I say that the Senator from Florida and the Senator from New York really have done us a service by bringing this issue into focus.

I have followed this debate with interest through the afternoon. They have done a magnificent job, and we are all indebted to them for what they have done. I agree with what the Senator from New York and the Senator from Florida said about the desirability of local self-determination. If some local jurisdiction thinks what they need is more construction, then I think they ought to make that decision.

By gosh, if there is anybody in local government or State government who is following this debate, who has some overriding impulse that they really need some new construction, I wish they would take 6 months off and visit 200 or 300 public housing projects around this country and figure out what it is that they will be constructing—slums, for the most part. What happens is the minute you construct one of these, it starts to turn, from day one, into a slum. That is not just because of crooked or venal management; it is because of the inherent nature of these programs.

By contrast, you cannot say the same thing about the vouchers programs. The difference is, just at the practical level, that the voucher level programs work. The construction programs, with a handful of exceptions, do not. It is practically a legend in American life how bad these programs have been.

Moreover, I want to make this point, and I make it cautiously. You cannot escape it. The construction programs have been riddled with scandal, fraud, and abuse. Maybe somebody can give me an example of where the voucher

program has been abused. I am not aware of it.

On the other hand, the construction programs, by their very nature, invite that kind of scandal. I am not just talking about the sort of thing coming to light in the last 6 months or a year. I am talking about what has been going on right from the beginning.

In fact, about 8 or 9 years ago, I collected newspaper clippings from around the country about what happened on the last day of the Carter administration, the way they doled out as political rewards, according to the newspapers, these various kinds of construction grants and housing subsidies, and so on.

It is inevitable in the process, when you give away money in that way, it invites corruption. I am not saying it is all corrupt, but we have enough experience with it that that ought to be a factor we think about. Local development determination, yes, but if any of these localities are really getting seriously interested in building more of this kind of construction projects in preference to vouchers, they ought to think twice. I encourage them to look carefully at the experience of other areas.

Again, my thanks to the Senator from New York for his leadership on this, which has been very strong and insightful.

Mr. D'AMATO. Mr. President, again I thank my distinguished colleague from Colorado. Let me say that in the spirit of compromise, I do not know how we can reach a compromise as it relates to limiting new construction to areas of tight markets if, on one hand, we say we would like there to be sufficient flexibility and yet, on the other hand, we say there will be no flexibility from HOP as it relates to rental assistance. That is one.

I do not know how we can come to an agreement, when the Secretary says to me that income targeting under the Senate proposal is unacceptable, a step back from previous offers; it requires 60 percent of the units to be occupied by very low income, versus their initial offer of 95 percent very low.

We have asked that the 95 percent be very low with the current worst-case preference rules: People who pay more than 50 percent of income in rent—homeless or those who live in substandard housing. I am commenting on some of the matters that the Secretary has sent to me.

Then he says, of course, there is the question of FHA, and that is the pending amendment before us. I have not pushed on that amendment, because it seems to me that what we are going to be bringing about is the same fate, the same fate of a party-line vote, and not a recognition of the fact that the FHA is in deep trouble. We have to do something about that. We are not willing to stand up and do it.

And then, point 5, I say it again, flexibility of the HOP proposal does not permit vouchers as an eligible use.

This is the Secretary saying, look, before we get to the funding level of his HOPE Program, of the administration's HOPE Program, the administration's initiative, before we even discuss how much it is going to be for HOP and how much for HOPE—and that is an open problem, and we are not even going to get there, unless these other areas are taken care of. This is a program which does not give us the flexibility to include tenant-based assistance. I will quote: "We want HOP to include tenant-based assistance as an eligible activity."

Some of my colleagues do not believe there should be any new construction. You heard it, basically. They have said that. I disagree with them. I do not think you can have a bill based upon saying there should not be any new construction, that all construction is bad, that all construction is going to turn into a slum.

As a matter of fact, if you give the localities and the States the flexibility to work together, I think they can achieve the kind of development, low-density places, where people take pride in a homeownership opportunity. And that construction need not necessarily be the development of the old, symbolic terrible projects that we have come to know and dread. They can be different. They can be an oasis, a safe haven for poor people who need a decent place to raise their families.

So I reject the contention that all new housing should be put aside. What I am saying, and I am really pleading, I am imploring my colleagues, who have worked so diligently to come as far as we have, if you cannot give latitude and an opportunity to demonstrate some good will—and I say that is what it is, a demonstration of good will—on this amendment, then we ought to close up. Let us move on to something else; let us be constructive and not waste our time, because there obviously are other matters that are important that we can deal with.

That is where we are. This is a simple one. But what it may do is give a signal that, yes, we have crossed over the line. We are willing, in spite of some reservations that we have, to deal with the administration because we want the bill.

We send the wrong signal, the wrong message, by rejecting it as it has been rejected. Let me tell you as to anyone who has voted because they honestly believe, and there are some who I understand honestly, philosophically believe, this should be a building program and that is all because they have vouchers and assistance perhaps that come from another area, I respect that. I can understand that. But you cannot tell me that 50-plus Members of this Senate all share that philosophy. It is impossible.

So what we have seen is party-line discipline. I understand that. This Senator himself has given leeway to that, has voted in those kinds of political situations. I do not think that this is one that mitigates this. If later on in the bill there is inflexibility offered by the administration and exercised that party discipline, then let me say to you, if there is that kind of inflexibility, this Senator will join ranks with my colleagues on the other side. I will move over for that particular occasion.

This is not something where Republicans are going to look better or Democrats are going to look better. I tell you, we all look bad, we all look bad to work on this for 2½ years and not be able to accomplish the business of the people. It does not make sense to me.

If I am going on, it is because I feel I have worked too long and put in too much time and there are too many people who know what I am saying is basically correct. We should change it. I do not know why we cannot find a formula to change it.

If someone wants to offer this amendment with some variations, with some changes which basically will give to local communities the ability to have a rental assistance program so that certificates or vouchers can be utilized, if another author wants to put it forth, this Senator will support it. If it is a Democrat who wants to put it forth, I will support him. As a matter of fact, I will do anything they want. How can I help most? By voting for it or against it? But I think we have to get it passed because, if we do not get it passed, then we are not going to have a bill. That is what it comes down to.

I think it is a terrible mistake for us to kill this bill on this point. I would also say that this Senator is not going to be willing to continue to make work. In other words, there is no sense for us to continue to talk about making compromises and moving in different areas. I asked the Secretary to send his people over, come meet at a high level with us, the Secretary himself and Mr. Darman. And I was a bit surprised, but now I am not surprised, by their attitude. They obviously feel there is not enough movement taking place.

Some people can say something concisely in a few words and it comes through. It may take me a little longer, but I may also be concerned that sometimes, in order to get somebody's attention, you may have to do that. You may have to drive it home until it hurts, until you say, "My God, enough. We have heard it over and over and over and over again. Stop it.

It is painful." I intend to make it painful. I do. If that is what it takes to say, "Hey, fellows, wake up," then I am going to do it.

I do not understand. Somehow we muddle through things, and at 11½ hours, everybody will come together, and I think we are taking that for granted. We have been able to do that. We have done some pretty good things. I have had some Senators say, "Listen, let me tell you, when it comes down to the final crunch over here, if you are having obstacles from certain people in the administration, I want to help and I want to get involved. Tell me when."

I cannot say that. I cannot accuse the administration and OMB; they never want to spend anything. I cannot accuse them as being the guys who have broken a possible deal or compromise. They are not. They happen to be blameless as it relates to this particular matter. All the blame is here, in our inability to put aside whatever it is to force us—the fear factor, fear factor. Somehow the big, bad Republicans who do not want construction are going to do away with vouchers on the one side of the ledger and use the HOP Program to fill it in.

Who controls the appropriation process here? If that would take place, I say to my friends and colleagues, I want to tell you that the Republicans whom we saw voting for this amendment would, I believe, a majority of them, join with all of the Democrats on the appropriations bill to see to it that that did not take place. They would not permit it to take place. It would not be reasonable. And the Governors, the mayors, and the county executives of all the communities that make up this great Nation would not let it take place, and there would be a hue and cry. So, my gosh, we have to have some faith in the laws that we pass.

I see that the former Governor from St. Louis has taken the floor. I know there are others who would like to be heard.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Missouri.

Mr. BOND. Mr. President, now that my colleague from New York has the attention of the body, I want to make what I hope will be a very simple appeal that can be understood by my colleagues. I want to see this bill passed.

We have been working on it for a long time. We have made a great deal of progress. The whole idea in this bill is to provide flexibility to allow local communities, to allow States to develop housing strategies that meet the needs of the people in their States.

You have heard from the Senators from Florida. I can assure you the situation is the same in Missouri. We have a lot of people who need housing. We have available housing. It is not a question in our States of needing money to build new housing or to rehabilitate housing. What we need are the resources to move those needy people into available housing. It is that simple.

What we are asking for is the consideration of our colleagues to say yes in those situations so you can have the flexibility to use HOP funds to assist tenants.

I, for one, am not willing to adopt the administration's strong prohibition against new construction because I know there are situations in areas in which you will have some construction, and I do not think that we ought to say to the local communities that are developing the housing strategy that they cannot use some funds for construction.

OK, let us take that approach. Let us give them the flexibility. I am just asking on the other side that you say to communities in which there is plenty of housing they are not precluded from using HOP funds, where they do not need them for rehabilitation or construction, to move people who are in need, low-income, other special needs, into housing which is already available.

I had the opportunity to talk to a number of my colleagues during and after the last vote. I am willing to talk with them and others who may have concerns to try to explain to them or answer their questions about what the amendment would do.

I hope we can overcome this hurdle and adopt the flexibility, put the responsibility on the local communities to develop what strategy is best in their area. There are going to be different needs in different parts of the country. I expect that there may be other States, in addition to Florida and Missouri, where the problem is not a lack of decent housing, where the problem is not a lack of funds to rehabilitate the housing; where the problem is simply we have the houses, we have the people, we need the resources to put the people in the houses. That very simply is what the amendment seeks to do.

A good friend and former colleague in the Governors Council, the senior Senator from Florida, has pointed out that Florida needs that flexibility. We need it in Missouri. I imagine we need it in many other States. I hope we will have the opportunity to discuss this. Let us talk about it in terms of carrying out the goals and objectives of this legislation, which is to put people in housing, make housing affordable. Quite simply, the amendment of the junior Senator from Florida is designed to do that.

I hope we can carry on a reasoned discussion on that amendment, and I assure the Senate I will do everything I can to facilitate discussions with the administration so that the other concerns can be addressed and so that sometime before dawn tomorrow morning we can get this bill in shape and pass it and have a bill that we can all go back and say this is going to meet the housing needs of the people of this country. We can make a positive contribution.

Mr. President, I offer to talk individually with my colleagues. I hope we can resolve this question and go on to complete action and make this bill an even better bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I regret the Senator from New York seems to be saying take it or leave it on this amendment that was just defeated. We have certainly not said take it or leave it on any aspect of this bill.

The administration and the Senator from New York suggested, at one stage or another, including the remarks recently made by the Senator from New York, that all we will get is new construction if we do not change the HOP Program by inserting vouchers into the system. The administration has charged that the bill is heavily biased to new construction.

That simply is not the case. HOP clearly establishes a preference for rehabilitation. Jurisdictions receiving HOP funds are clearly required to give preference to rehabilitation of substandard housing where that is most cost effective. Housing markets are very diverse in our country. No one approach can make sense across the diversity of local housing markets. A blanket position against new production is too simplistic to be a responsible national housing policy. States and localitites in newer growing areas can achieve an adequate supply of affordable housing only by providing it with new structures. Vouchers will not produce new structures.

Leading nonprofit housing organizations argue that some new construction is often an indispensable stimulus for neighborhood rehabilitation, particularly in older city neighborhoods that have many dilapidated housing units and vacant lots. That is a fundamental reason why some new construction is needed along with rehabilitation.

Senator D'AMATO said, to say that no new construction should occur is wrong. I am delighted that he has recognized that fact. He has said rehabilitation should be permitted where it is needed. I am glad he recognizes that fact. But the further fact is that if we insert a free approach to using vouchers instead of construction or rehab, that is what would occur. The bill has $2.3 billion in it for vouchers now.

That is very substantial support for vouchers.

I would like to ask the Senator from Texas if he is ready with his amendment at this point. I will stop talking if he is.

It would be most helpful if we could proceed to deal with amendments that are pending, while we also ascertain if the administration is willing to sit down with us and talk over the problems that presently confront us on the bill between the views of the administration, and the majority, and some of the minority with their differences with the administration.

I have been trying to catch up to Secretary Kemp by telephone all day, without success. Republican Senators have tried to reach him today, without success. It is difficult to find out what the administration is really thinking if they are unwilling to talk to you.

If Senator DECONCINI is ready now with his amendment, I would appreciate very much his sending it to the desk.

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment?

Mr. D'AMATO. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. Mr. President, that amendment has been laid down now for, I think, more than 24 hours. I permitted a whole host of amendments to move through. I did so because I felt if there was an opportunity of compromise, that we could deal with the amendments that had been agreed upon and that we could move the process, that that would be the correct thing to do. But Mr. President, at this point, I am forced to object. I find it very difficult, because my admiration for the person offering this amendment, the Senator from Arizona, is second to none, but, I am going to do that.

Mr. President, maybe it is because I am going to attempt to say that, and I say very candidly, I do object, and my colleague certainly is entitled to an explanation.

For all of us, the accepting of amendments that we can agree upon or debating those that we cannot agree on is going to come to nil. I have asked the administration to send over a letter reconfirming that which the Secretary has indicated to me in a memo, in which he laid out seven or eight different points.

Mr. CRANSTON. Will the Senator yield for a question?

Mr. D'AMATO. Certainly.

Mr. CRANSTON. Since the Senator objected to Senator DECONCINI being given an opportunity to proceed with his amendment, will the Senator now proceed with his amendment?

Mr. D'AMATO. I would be prepared to begin debate and consideration. The fact of the matter is that we really are now at a point in time when I think we have to decide, the managers of the bill, the staffs, whether or not they really want a bill. If they want a bill, they are going to have to compromise. That might mean that this Senator is going to have to make some compromises. I am prepared to do it, and urge the administration to do it, on points that they may not particularly agree with on the other side. But, I am going to have to say again—and if it is a broken record, then so be it, it is a broken record—there was no compromise put forward as it related to a total rejection of an amemdment that called for allowing communities to have some rental assistance.

Now, I cannot hope to be able to get the Secretary, who I have called several times, or OMB, to come on over and to sit and to negotiate out some of the points as it relates to dollars and funding levels if we cannot dispose of and come to some agreement of matters that are absolutely crucial and essential to the bill. These are not nongermane matters. These are not peripheral matters, and we can argue whether or not those should or should not be taken in. As far as this Senator is concerned, I look to accommodate.

Mr. DECONCINI. Will the Senator yield?

Mr. D'AMATO. Yes.

The PRESIDING OFFICER. The Chair would note the Senator from New York is speaking on his reservation. The Senator from Arizona had asked unanimous consent that the amendment of the Senator from New York be set aside so the Senator from Arizona could offer his amendment. That unanimous-consent request is still pending. The Senator from New York reserved the right to object. The Chair believes the Senator from New York is still speaking on his reservation.

Mr. DECONCINI. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DECONCINI. Does the Senator from Arizona still have the floor?

The PRESIDING OFFICER. The Senator from Arizona has pending a unanimous consent request on which the Senator from New York has reserved the right to object, and is speaking on his reservation.

Is there objection?

Mr. D'AMATO. Yes, there is.

The PRESIDING OFFICER. Objection is heard. Who seeks recognition?

The Senator from Arizona.

Mr. DECONCINI. Mr. President, I would be glad to yield to the manager of the bill if he wants.

Mr. President, with that objection, I understand what is going on here, and I can appreciate it, but let me just talk for a minute.

If there were no objection to this amendment, I would like to talk a little bit about it. This amendment reads as follows:

It is the sense of the Senate that in areas where the FHA morgage insurance is not accessible for a significant number of home buyers because of the diverse economies in the area the Secretary of Housing and Urban Development has sufficient authority under law to redefine the term "area ", in establishing mortgage limits under section 203 of the National Housing Act.

Mr. President, this is an amendment that, had it been agreed to bring it up, I believe was acceptable on both sides. The amendment is a sense-of-the-Senate provision to clarify that the Secretary of the Department of Housing and Urban Development possesses the authority to recorrect an inequity in the method used to determine FHA loan limits. I believe it is really a noncontroversial amendment and one which is sorely needed. It is more of a definition here in spending, the proper intent, in the manner that we want. I think both the manager and the ranking member agree to it. Seeing that there is a little lull here, I would be glad to talk about this amendment.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. DECONCINI. I will be delighted to.

Mr. D'AMATO. I take it what the Senator's amendment does, it addresses a problem where FHA is not being utilized, cannot be utilized, because of unique circumstances. This would give to the Secretary the ability to open that market in fairness, so people will not be penalized and give them that opportunity?

Mr. DECONCINI. Mr. President, the Senator from New York is exactly correct.

Mr. D'AMATO. I do not believe there is any opposition to that. This Senator will be supportive, and as far as I am concerned at the first opportunity that we have to move forward with the bill, I would be pleased to be supportive of that amendment.

However, at the present time, because I think we want to make a point, our guys want to say: Listen, fellows, are we really going to work on this? Are we really going to deal? If we are not going to, then maybe we are just going to tread water for a while.

Mr. DECONCINI. Mr. President, I appreciate immensely that the Senator from New York has agreed to talk about the amendment, and of course, I also appreciate that the Senator from California, the author of the bill, has agreed to it. If we were not in the predicament we are in I realize it would be accepted, and I realize sometimes there must be innocent victims.

This clearly clarifies, as the Senator from New York says, and had said in his question, the Secretary does have the authority to redefine the term "area" that is in the law now to prevent injustices to home buyers seeking to purchase housing units that are impacted by the housing values of neighboring counties.

It is important that this be corrected before this bill becomes final legislation.

Federal mortgage insurance limits are determined according to a formula which takes into account the median home price of the geographical area of the home. The geographical area used is "a county or a metropolitan statistical area as established by the Office of Management and Budget, whichever results in the higher dollar amount," as provided in title 12, section 1790 of the National Housing Act. In areas with dense populations, the MSA's are relatively closely contained, and the median housing cost within the MSA reflects the living costs of the area.

Out West, however, where the population is smaller and is spread out, the MSA's are large areas. In some cases, a county's boundaries and the MSA boundaries are the same. The MSA's fail to break the county down into smaller areas and they fail to provide the needed differentiation between the housing costs in an urban city largely surrounded by miles and miles of rural country. The result is that urban areas with high-cost urban homes that fall within an MSA which is predominantly rural is subjected to an FHA loan limit that is much lower than the actual housing costs of the area.

Similarly, the current definition unfairly impacts large metropolitan areas which outgrow county boundaries. In such cases the outgrowth area is impacted by high income prices in the metropolitan area, but is subject to the median sales price and in turn, the FHA loan limit, of its own county, which is determined by sales made in the rural communities, which are often geographically removed by great distances from the overgrown metropolitan area. Consequently, the home buyer seeking to buy in the overgrowth area, who is unfortunate enough to live on the wrong side of the county line, is denied an FHA mortgage since housing prices greatly exceed the FHA loan limits for the county containing the overgrowth.

OMB Bulletin No. 89-11, states that:

* * * if any agency uses the MSA definitions in a nonstatistical program, it is that agency's responsibility to ensure that the definitions are appropriate for such use. In cases where an agency is publishing for comment a proposed regulation that would use the MSA definitions for a nonstatistical purpose, the agency should seek public comment on the proposed use of the MSA definitions. Agencies that use the MSA definitions in a nonstatistical program may modify the MSA definitions, exclusively for the purpose of that program. (Subject: Metropolitan Statistical Areas, June 29, 1989.)

Mr. President, I ask unanimous consent that OMB Bulletin No. 89-11 be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DECONCINI. HUD's regulations for this program—24 CFR 203.18b(a)(1)(i)—states, in pertinent part, that:

* * * an "area" (A) must be the size of a county whether or not the area is located within a metropolitan statistical area, as established by the Office of Management and Budget; and (B) an area for which the mortgage limits contained in (Section) 203.18b(a) apply.

Mr. President, I believe it is clear from the language in the National Housing Act and the authority expressed in the OMB bulletin to alter MSA's for particular uses, that the Secretary of the Department of Housing and Urban Development has the authority needed to correct the blatant injustice facing home buyers in high-cost urban areas that are contained in huge, mostly rural counties. And I believe it is clear from the language of the regulations that the Secretary has not taken steps to correct this inequity.

Mr. President, last year I wrote to Secretary Kemp regarding this issue and I attempted to work with him to rectify this very unfair situation. In a response to my inquiry the Secretary responded that "by statute, increases are limited to individual counties or Metropolitan Statistical Areas." The Secretary did not utilize the authority outlined in the OMB bulletin to redraw the MSA boundaries to include high-cost urban areas in the MSA to more accurately reflect the area's actual housing costs.

I ask unanimous consent that the letter, dated May 25, 1989, to me from Secretary Kemp, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. DECONCINI. In working with the Department on this issue, it has become clear to me that, for whatever reason, the Department does not believe the Secretary has the authority to change the MSA boundaries.

From the information I have discussed here, I believe it is clear that the Secretary does have that authority, and that is the purpose behind my clarifying amendment.

EXHIBIT 1

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 29, 1989.

Bulletin No. 89-11.

To the Heads of Executive Departments and Establishments.

Subject: Metropolitan Statistical Areas.

1. Purpose: This Bulletin establishes a new Metropolitan Statistical Area (MSA) and two new central cities of existing MSAs. The Bulletin also provides guidance on the use of the definitions of MSAs.

2. Background: Pursuant to 44 U.S.C. 3504(d)(3) and 31 U.S.C. 1104(d), the Office of Management and Budget (OMB) defines MSAs for use in Federal statistical activities. In June 1983, OMB issued new MSA definitions based on data from the 1980 Census of Population and Housing and criteria that had been developed by the Federal Committee on Metropolitan Statistical Areas (45 Fed. Reg. 956, January 3, 1980). OMB has updated these definitions each June, adding new areas that qualified as MSAs and cities that qualified as central cities of MSAs on the basis of the Bureau of the Census' intercensal population estimates or special census population counts.

3. New MSAs: Jamestown-Dunkirk, NY, is defined as a Level C MSA (FIPS Code 3610) effective June 30, 1989. The Jamestown-Dunkirk, NY, MSA comprises the county of Chautauqua, NY, and its central cities are Jamestown, NY, and Dunkirk, NY.

4. New Central Cities: The city of Pharr, TX, is designated a new central city of the McAllen-Edinburg-Mission, TX MSA (FIPS Code 4880). Pharr is the fourth central city of this MSA.

The city of Alliance, OH, is designated a new central city of the Canton, OH, MSA (FIPS Code 1320). Alliance is the third central city of this MSA.

5. Use of MSA Definitions: All agencies that conduct statistical activities to collect and publish data for MSAs should use the most recent definitions of MSAs established by OMB.

OMB establishes and maintains the definitions of MSAs solely for statistical purposes. In periodically reviewing and revising the MSA definitions, OMB does not take into account or attempt to anticipate any nonstatistical uses that may be made of the definitions, nor will OMB modify the definitions to meet the requirements of any nonstatistical program.

Therefore, if an agency uses the MSA definitions in a nonstatistical program, it is that agency's responsibility to ensure that the definitions are appropriate for such use. In cases where an agency is publishing for comment a proposed regulation that would use the MSA definitions for a nonstatistical purpose, the agency should seek public comment on the proposed use of the MSA definitions. Agencies that use the MSA definitions in a nonstatistical program may modify the MSA definitions, exclusively for the purposes of that program. However, in order to avoid confusion with the standard statistical definitions, all such modifications should be clearly identified as deviations from the OMB standard definitions of MSAs.

6. List of MSA Definitions: A complete listing of metropolitan statistical areas as of June 30, 1989 is available from National Technical Information Service Document Sales, 5205 Port Royal Road, Springfield, VA 22161 (703-487-4650) (accession Number PB89-192-546).

7. Inquiries: Inquiries concerning MSA standards and the statistical uses of MSA definitions should be directed to Maria E. Gonzalez (202-395-7313).

RICHARD G. DARMAN,
Director.

EXHIBIT 2

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, THE SECRETARY, WASHINGTON, DC, MAY 25, 1989.

Hon. DENNIS DECONCINI,
U.S. Senate, Washington, DC.

DEAR SENATOR DECONCINI: Thank you for your letter of April 18, 1989, regarding the FHA maximum mortgage limits for Apache Junction, Arizona.

Section 203(b) of the National Housing Act establishes $67,500 as the highest mortgage amount the Department of Housing and Urban Development (HUD) may insure for a one-family dwelling. An exception to this ceiling is also set forth in this section, which provides that the Secretary of HUD may increase the mortgage limits in an area where moderate- and middle-income people have limited housing opportunities due to high prevailing housing sales prices. In such "high cost" areas, HUD can increase the mortgage limit to 95 percent of the median house sales price in the area. With the passage of the Housing and Community Development Act of 1987, the ceiling for a one-family dwelling in these high cost areas was increased to $101,250.

I can appreciate the impact the present maximum mortgage limits for Apache Junction and Pinal County have on competing with neighboring housing markets. However, by statute, increases are limited to individual counties or Metropolitan Statistical Areas (MSAs). To date, the housing sales data for Pinal County that accompanied requests for mortgage limit increases did not support an increase.

As you are aware, several proposals regarding maximum mortgage limits are being analyzed by Congress. It is too early to ascertain what will be reflected in the final legislation, however, I hope that it will address the concerns mentioned in your letter.

Very sincerely yours,

JACK KEMP.

Mr. SARBANES. Will the Senator yield? Do I understand the Senator from New York, who is managing the bill on the other side, is in favor of the Senator's amendment?

Mr. D'AMATO. Yes; I think the amendment makes sense. I am willing to support the amendment.

Mr. SARBANES. Could I ask the manager of the bill whether he supports the amendment? The Senator from California?

Mr. CRANSTON. I am for the amendment.

Mr. SARBANES. Why do we not go ahead and adopt the amendment?

Mr. DECONCINI. If the Senator wants an answer, it is pretty clear to me the Senator from New York supports the amendment. He is opposing it only on his procedural rights to get into whatever negotiations he wants to get into.

Mr. D'AMATO. Let me say this. The amendment has been checked out by both sides. It makes good sense. The Secretary, I believe, is supportive of it.

For purposes of considering this amendment as is, without any second-degree amendments, this Senator would consent to the previous request by the Senator from Arizona to lay aside the pending amendment for the consideration of this amendment as is, without any second-degree amendments being permitted.

Mr. SARBANES. I think that is progress. I would like to ask the Senator, because I was not on the floor, what was the basis for objecting to the consideration of the amendment in the first instance?

Mr. D'AMATO. There is a pending amendment. We have not disposed of it. It has been laying at the table for 24 hours.

I have permitted other amendments to be acted on, agreed to lay it aside for any amendment coming from anyone at any time. I have never objected. The purpose was so we could attempt to work out an accommodation. Hopefully we could handle whatever differences there were with the pending legislation dealing with FHA reform and those which the managers and others might think would be more appropriate.

But I have to say we reached a particular point in time where we see an amendment that I believe is so clear on its face that should have been adopted—and maybe with some modifications to provide protection, and I think the Senator from Florida attempted to do that, Senator GRAHAM, in offering his second-degree amendment to replace the existing certificate and voucher program from thereby being used as a subterfuge for HOP and preventing any new construction or rehabilitation. It becomes obvious to this Senator, if we cannot deal with that matter we may as well determine that right now and have it out whether or not we are going to face the same position, the same opposition as it relates to FHA reform. Therefore I want to press forward to consider the proposal that is now pending at the desk.

Mr. DECONCINI. Mr. President, parliamentary inquiry. Who has the floor?

The PRESIDING OFFICER (Mr. HARKIN). The Senator from Arizona has the floor.

Mr. DECONCINI. I yield to the Senator from Maryland for a question, without losing my right to the floor.

Mr. SARBANES. If the Senator would just yield for one further observation. I take it from what the Senator from New York has said, and I understand that he has had his amendment pending here for quite a while, I guess, and he has been laying it aside for other amendments to be considered, and I take it he is about to do that so the Senator from Arizona's amendment can be adopted, but it is the Senator's feeling we need to address his amendment which has been pending around here for quite a while. Is that correct?

Mr. D'AMATO. That is correct.

Mr. SARBANES. I just wanted to know.

Mr. DECONCINI. I appreciate the attitude of the Senator from New York and the situation as it relates to my amendment. I do not want to press the Senator. He has already agreed to the amendment. I appreciate the Senator from Maryland attempting to get it approved here but I understand the managers of the bill have other procedural concerns.

Since I thought they were going to try to resolve some of those procedural hangups, I would take the opportunity to talk about this amendment. However, I can easily sit down so the Senator from California, or the Senator from New York, if they want to can proceed on any other business.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. DECONCINI. Without losing the right to the floor I yield to the Senator from New York.

Mr. D'AMATO. If the Senator is desirous, in the nomenclature of golf play, to play through, I am certainly willing to move aside, as I have withdrawn my objection, for the purposes of having his amendment considered with the proviso there be no second-degree amendments. I withdraw any objection I had.

Mr. DECONCINI. Mr. President, I thank the Senator from New York. I do play golf and I have a terrible hook, but I promise no hook on this shot. It is the amendment that has been represented to the Senator from New York and I am most grateful to him for his willingness to accept the amendment.

AMENDMENT NO. 2055

(Purpose: To require a study of using registered mail for preforeclosure notices)

Mr. DECONCINI. Mr. President, I send to the desk an amendment that I sent once before and I ask for its immediate consideration.

I will ask unanimous consent for no second-degree amendments.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 2055.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title X add the following:

SEC. . CLARIFICATION OF THE AUTHORITY OF THE SECRETARY TO REDEFINE THE TERM "AREA".

It is the sense of the Senate that in areas where FHA mortgage insurance is not accessible for a significant number of homebuyers because of diverse economies in the area the Secretary of Housing and Urban Development has sufficient authority under law to redefine the term "area", in establishing mortgage limits under section 203 of the National Housing Act.

Mr. DECONCINI. I ask unanimous consent that this be considered and that no amendments thereto be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, as I was saying, out in the West, and other States that have a lot of large geographical areas and counties and where the population is smaller and spread out, the MSA's are often vast areas. In some cases, the county boundaries and the MSA boundaries can be the same. When the county and NSA boundaries coincide, the usefulness of the term MSA often fails to provide the needed differentiation between housing costs in a urban city largely surrounded by miles and miles of rural countryside.

The result is that urban areas with high-cost urban homes that fall within the MSA, which is predominantly rural, are subjected to an FHA loan limit that is much lower than the actual housing cost of the particular area. Similarly, the current definition unfairly impacts large metropolitan areas which outgrow the county boundaries.

In such cases, the outgrowth area is impacted by high-income prices in the metropolitan areas but is subject to the median sales price and, in turn, the FHA loan limit of its own county, which is determined by the sales made in the rural counties which are often geographically removed by great distances from the overgrown metropolitan areas.

So, consequently, the home buyer seeking to buy in the overgrowth area, who is unfortunate enough to live on the wrong side of the county line, is denied an FHA mortgage since housing prices greatly exceed the FHA loan limits for the county containing the overgrowth area.

OMB Bulletin No. 89-11 states that "* * * if any agency uses the MSA definition in a nonstatistical program, it is that agency's responsibility to ensure that the definitions are appropriate for such use. In cases where any agency is publishing a comment or proposed regulation that would use the MSA definitions for a nonstatistical purpose, the agency should seek public comment on the proposed use of the MSA definitions. Agencies using MSA definitions in a nonstatistical programs may modify the MSA definitions, exclusively for the purpose of that program."

Mr. President, that sound very complicated, but what it really amounts to is in my State, the small communities in the metropolitan county, Maricopa County, are not being able to be satisfied with the statistical data that is put together by FHA because that is overweighted so heavily by the metropolitan Phoenix area. The county is comprised of about six different incorporated cities that has some very high cost of housing.

When the MSA boundaries are applied the western part of this county or, in this particular case that I know of, in the eastern part of the county known as Apache Junction, these communities are effectively barred from the benefits under the FHA mortgage insurance program.

Thus, the HUD regulation for this program needs to be interpreted in a way that allows the Secretary to correct such injustice—and this amendment merely permits the Secretary to make that determination. If the Secretary is convinced there is no merit to it, then, of course, that is the ultimate decision. The Secretary's office has indicated that they would like to have the authority to make this kind of a judgment. Without it, their counsel advises them, they cannot do it. Consequently, we have many homeowners who cannot qualify.

Mr. President, I believe it is clear from the language in the National Housing Act and the authority expressed in the OMB bulletin to alter MSA for particular uses that the Secretary of the Department of Housing and Urban Development already has that authority. In my opinion, it is just a blatant injustice facing home buyers in the high-cost urban areas that are contained in the huge, mostly rural part of the particular county.

Last year, I wrote to Secretary Kemp regarding this particular issue, and I attempted to work with him to rectify this very unfair situation. In a response to my inquiry, the Secretary responded that, by statute, increases are limited to individual counties or metropolitan statistical areas. That is taken right out of the Secretary's letter. The Secretary did not and has yet to utilize the authority I believe he has, as outlined in the OMB bulletin, to redraw the MSA. In short, that is why the Senate needs to clarify that authority in order for this Senator, and any other, to similarly address important concerns of his constituents affected by the current definition utilized by the FHA.

Mr. President, I urge the adoption of the amendment.

Mr. CRANSTON. As I already indicated, I am perfectly willing to accept the amendment.

Mr. D'AMATO. Mr. President, we are supportive of the amendment. I want to commend the Senator from Arizona for coming forth in attempting to answer a problem that not only confronts his constituents in his area, but I think there are a number of areas throughout the country that will have application to. We support the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 2055) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Will the Senator yield for 30 seconds?

Mr. CRANSTON. I will yield without losing my right to the floor.

Mr. DECONCINI. Mr. President, I want to thank the ranking member for his help, and his staff, and also the Senator from New York, in accepting this amendment. I regret taking their time on this amendment. It is considered a minor amendment but it is extremely important to the State of Arizona.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 2042 TO AMENDMENT NO. 2041

Mr. CRANSTON. Mr. President, the pending amendment is now the D'Amato amendment that relates to FHA. I am going to speak to that amendment now.

I oppose the amendment offered by the Senator from New York. I am convinced that there are ways to return FHA to full financial health without placing that draconian burden on millions of middle-income families who are trying to buy a home.

I want to let Senators know that immediately after this amendment is disposed of, I will offer an amendment that would ensure the full actuarial soundness of the FHA Program in a wiser, better way.

Very briefly, my amendment will address all of the concerns that the Senator from New York and I and other Senators and the administration have about the need to correct FHA's financial difficulties. It is a slight modification of a proposal suggested in the Price Waterhouse report. It is consistent with the findings of Price Waterhouse that we have been relying on as we consider how to put FHA on a sound basis.

First, my amendment will increase the FHA premium to a level equal to or higher than the level proposed by the administration.

Second, my amendment will require explicitly in law that the Secretary shall set an annual premium that will,

at the very least, achieve the actuarial soundness goals proposed by the administration. It will do so with a smaller up front fee and a stream of annual premium payments over the term of the mortgage.

Third, my amendment will end the practice of allowing the mortgage loan to exceed the value of the house.

Fourth, it would require the Secretary to work with independent actuaries to recommend ways to base the premium on the level of equity that the home buyer invests in the house.

Finally, it would shut off two needless drains on the FHA fund while the fund is in financial difficulty.

Mr. President, for half a century the FHA has been the premier national housing institution. FHA has helped over 17 million American families become home buyers and has provided favorable financing terms for over 4 million units of affordable rental housing. FHA created the modern long-term flat payment mortgage. FHA has taken the lead in making mortgages into safe and standardized loans.

FHA has improved the quality of housing construction by developing building requirements that set a standard for the industry.

I will offer this amendment because I am determined to make sure that FHA remains a strong and responsive institution that is able to serve the housing needs of future generations in all parts of this country as magnificently as it has served the needs of the American people years ago. I will be satisfied with nothing less.

I am sure that a large majority of Senators join me in this concern.

This amendment is necessary because very disturbing evidence has come to light over the last year that FHA suffered losses during the Reagan years that were dramatically larger than almost anyone had expected. Even the Mutual Mortgage Insurance Fund, the vital source of mortgage insurance serving middle-income home buyers, had become financially unsound. That is the fund that my amendment would return to actuarial soundness, as it was designed to operate.

Mr. President, on June 6, 1990, I chaired a hearing at which Price Waterhouse released its massive audit and actuarial analysis of FHA's Mutual Mortage Insurance Fund. The study found that the fund currently is solvent only because the FHA had accumulated the equivalent of a hefty $8 billion surplus when the Reagan administration took over in 1980. That was the situation when Ronald Reagan became President, an $8 billion surplus in FHA. But then during 8 years of mismanagement by Secretary Pierce and other Reagan appointees, FHA's financial condition eroded to an alarming degree. By 1989, the Fund's potential economic value had fallen from $8 billion to only $2.6 billion, a huge decline.

According to the Price Waterhouse report, "Declining house price appreciation, a major recession, and severe stress in the oil patch States has caused substantial losses through the 1980's. Combine this with past poor management practices and lax monitoring and one is left with a fund that may not survive even moderately poor conditions, much less a major economic problem."

The report pointed to several elements of current policy that are contributing to the drain on the fund. First, the mortgage insurance premium of 3.8 percent now charged by FHA has proven to be too low to cover expected losses. Price Waterhouse recommended that the premium be increased to about 6 percent to bring FHA reserves to a level of 1.25 percent of insurance in force. The administration wants, at a minimum to have the reserves grow to 2 percent of insurance in force over the next decade.

That is not an unrealistic goal. It is a standard that FHA greatly exceeded in the past. In fact, in 1980, FHA reserves equaled 5.3 percent of amortized insurance in force.

The second source of the problem was that in 1983, the law regarding FHA premium payments was changed. Up until that point, home buyers had been paying the premium on a pay-as-you-go basis. The Reagan administration proposed what turned out to be a fateful change: They wanted the premium to be paid up front at the time of closing.

An interesting question is why did the administration suggest this? Well, as has too often been the case, it was done simply as a smoke and mirrors budget gimmick to make the budget deficit look smaller artificially. The books showed a large increase in revenues without any increase in taxes. The change was counted as a savings.

The reality was very, very different. The change actually exposed FHA to greater losses. Although the up-front premium charge looked good for the Treasury, it was just too high for most home buyers to pay, so home buyers were permitted to finance the premium within the mortgage loan.

In some cases that permitted the home buyer to borrow more than the house was worth. That increased the risk of default.

I want to point out that the source of that problem was not Congress, but the Reagan administration. In fact, both in 1982 and again in 1983, Congress placed a clear legal responsibility on the HUD Secretary, one that he ignored. The Housing and Urban Rural Recovery Act of 1983 stated in section 424(b) that:

> The amendment shall take effect only if the Secretary finds and reports to the Congress that such amendment, taking into account the higher loan-to-value ratio resulting from the advance payment of mortgage insurance premiums, will not adversely affect the actuarial soundness of the Federal Housing Administration mortgage insurance program.

In other words, action along these lines was contingent upon the Secretary finding and reporting that the amendment if implemented would not adversely affect FHA. That was ignored by HUD.

HUD at the time employed only one actuary—rather unbelievable, only one actuary. The HUD Secretary never made a determination that the premium charge was actuarially sound. It just implemented the change in violation of the law—not the only law that was violated during this time that HUD was in the hands of the Reagan administration and Secretary Pierce.

The result of violating that law? It cost the FHA fund billions of dollars—a violation of the law, a billion plus billions loss.

A third source of FHA's problem is that FHA continues to pay out what are called distributive shares to borrowers who pay off mortgages insured in years that have not resulted in losses. This is an important feature of FHA insurance that permits borrowers with a good payment record to benefit when the fund is doing well. But this feature is now administered in a way that creates a cash drain of $140 million annually when the fund as a whole is unsound. I would note that the administration proposal would do nothing to correct this problem. It reduces FHA's present value by about $1.3 billion.

A fourth source of the FHA problem is that FHA also fully refunds the unearned portion of premiums when a mortgage is prepaid, even though the premiums have actually been too low to cover the fund's expected losses. That is another large cash drain of $80 to $100 million per year.

The problem created by these factors is so important that an effective remedy should be taken without any delay. But I believe that a solution to that problem does not have to brush aside all concern for families who are now struggling to buy their first home, many of them families with enough income to sustain and meet significant mortgage payments, but families, new families, often with husband and wife working, getting pretty good income, who have not accumulated a sizable pot for the down payment cost, and fees, and so forth.

This is a serious problem. For 40 years the homeownership rate in America soared. But beginning in 1980, the rate began to drop, tragically, and has continued to drop tragically, especially among young families trying to buy their first home.

It is now up to Congress and the administration to clean up the mess at FHA left by the last administration.

One proposal for solving the problem emerged from negotiations between HUD and OMB 2 weeks ago. That proposal would continue the 3.8-percent up-front premium for all borrowers but charge an additional annual premium of 0.5 percent to borrowers who have low down payment mortgages.

Loans with a loan to value ratio of less than 90 percent would have no additional premium. Loans with loan to values between 90 percent and 93 percent would pay the annual premium for 4 years. Loans with loan to values between 93 percent and 95 percent would pay the annual premium for 10 years. Loans with loan to values greater than 95 percent would pay the annual premium for 15 years.

The HUD-OMB proposal would require the borrower to pay two-thirds of the closing costs in cash. The proposal would make no change in FHA's policy related to repayment of distributed shares or unearned premiums, two matters that, as I explained, are costing us a lot of money, more than $200 million annually, taken together.

Unfortunately, over 40 percent of families who are currently homeowners would have been prevented from becoming homeowners under the HUD proposal. That is a pretty shocking fact. Over 40 percent, to repeat, of families who are currently homeowners would not be homeowners had this been the system now proposed by HUD in past years.

HUD's solution would place the heaviest burden on first-time home buyers and others who are struggling to save for a down payment. I have many of those people in my State. There are many in every State in the Union.

A typical family, using FHA insurance, would need to come up with an additional $900 in closing on top of about $3,550 that must now be provided. For many, that would mean the dream of homeownership will drift further and further out of reach. Homeownership will decline still more in our country.

We all know that homeownership is the very foundation of our society, of the family, of stability in our country.

Now, the Senator from New York has come up with another proposal, different from the administration's proposal, even more draconian. His proposal, the pending amendment, would impose an even heavier burden on homebuyers than the administration's proposal would impose.

Now, when a large problem like FHA emerges, I will understand the temptation to act in a way which shows our toughness, our determination to take some kind of firm action. But—it is a great big "but"—we have to remember that FHA's financial health must be regained within an enormously complex environment. We have to make sure that in our haste to solve the problem right now we do not create even bigger problems in the future.

I am particularly concerned that this amendment will drive up the cost of FHA insurance so high that FHA will no longer be attractive to those borrowers who are the best credit risks, and since the Senator's amendment would impose requirements that are almost the same as private mortgage insurance, the amendment would open up large new business opportunities to private companies to come in and skim off the best business, and leave FHA insuring only riskier borrowers in riskier markets where private mortgage insurers are not willing to do business. The result could leave FHA even more weakened.

The Senator's amendment would continue the practice of paying distributive shares from the FHA fund at a time when the fund, as I pointed out, is losing money in very, very high amounts—tens of millions of dollars.

The Price Waterhouse report indicates that there are other better alternatives that would regain the fund's actuarial soundness, and have a less severe impact on first-time home buyers.

Taking up that suggestion in Price Waterhouse, the amendment I will offer provides such an alternative. First, my amendment would propose an FHA premium with a value at least equal to the premium in the administration's proposal. It will move ultimately to a lower up-front premium of 1.35 percent. It would also provide for an annual pay-as-you-go premium to be paid for the life of the mortgage. The annual premium would move to not less than 0.6 percent, but the Secretary would be required periodically to carry out independent actuarial analyses, and to set the FHA premium at a level that is no less than is necessary to achieve actuarial soundness of the fund.

I want to stress that point, that the Secretary, under my proposed amendment, would have the power to carry out an independent actuarial analysis, and then to proceed to set the FHA permium at a level that is no less than is necessary to achieve actuarial soundness for the fund. It would not responsibility where it belongs, on the Secretary.

If the way we have outlined in the amendment proves not within its prescriptions to do exactly what is needed to get FHA on a sound basis, then the Secretary would have the power to take the steps that are necessary.

The amendment would define actuarial soundness as it is defined in the Price Waterhouse report: fund reserves of not less than 1.25 percent of insurance in force. It also includes the administration's further goal of moving to 2 percent of insurance in force by the end of the 1990's. A change in the required annual premium would take effect 90 days after the Secretary notifies Congress of the change and the reasons for it.

The amendment would give the Secretary 2 months to recommend adjustments to the premium system, and to take account of different levels of homebuyer equity and risk. Due to budget considerations, my amendment would make the transition to this new premium over a 5-year period. During the next 2 years, homebuyers would need the same out-of-pocket cash as they do now under FHA. In subsequent years, the out-of-pocket cash requirements could slightly decline as the premium shifts to a pay as you go system.

Second, the amendment would make some or all of the up-front premium nonrefundable, taking into account the fact that FHA's risk to default is higher in the earlier years of a mortgage. The remaining unearned portion of the premium would be repaid at 50 percent, unless the FHA fund is clearly returned to actuarial soundness.

Third, the amendment would base any payment of distributor shares on the performance of FHA's entire book of business. Unlike the administration proposal, that provision would stop a needless cash drain on the fund while the fund remains unsound.

Fourth, the amendment would limit FHA-insured loans to the value of the mortgaged property beginning immediately, except in the case of first-time homebuyers who would be given a 2-year transitional period. The delay is necessary because of the budgetary need to phase down the up-front premium over several years. Nevertheless, even in fiscal years 1991 and 1992, the amendment would reduce FHA's risk of default somewhat from current policy and increased FHA's compensation for that risk.

Finally, the amendment, according to CBO, would achieve budgetary savings of $256 million in fiscal 1991, and a total of $612 million over the next 5 years. In this time of budgetary constraint, and the need to do all we can to reduce costs, I am proud that we have an amendment here that would achieve budgetary savings of $256 million in fiscal 1991, when we desperately need savings, and a total of $612 million over the next 5 years.

My amendment will offer a sound, prudent way to regain FHA's financial health while meeting the needs of American homebuyers, whom FHA was created to serve.

I intend to offer my colleagues an opportunity to vote for this amendment, my amendment, soon after the Senate takes action on the pending amendment.

Let me say, Mr. President, that the amendment the Senator from New York has offered, and that I have an alternative approach to, covers one of the four major issues brought up by the administration when we met with them on Monday in the person of Mr. Kemp.

Incidentally, we did not get into the matter of vouchers at that time. What we did get into, and their concerns are related to the FHA, which this matter covers, related to targeting the poor people. It related to emphasis under what circumstances there should be for new construction and to how much money would be authorized in the bill. But Mr. Darman said that if we worked out the policy matters on the first three things, then the amount of money, presuming reason prevailed, and it will, would not be a subject. We are talking, I think rather obviously, about something slightly above 43 million, which is authorized by this bill, by the House bill, and by the Budget Committee measure that passed the House and passed the Senate.

The Senator from New York has suggested that perhaps the bill should be taken down because of the vote on vouchers. He suggested that perhaps we should not do any more business on this bill. Well, the majority feels otherwise. We feel that we should proceed to do what we can on whatever amendments are pending and deal with these four major points of concern that the administration has raised.

Since the administration has been unwilling to talk to us all day long, all that we can do at this stage is proceed with amendments that represent what we have offered to them, what we have worked out ourselves, to try to deal with the problems that they have presented to us. That is the only way I can figure out for us to proceed at the present time.

So that we can move expeditiously and dispose of one after the other, if that is possible, I am going to propose that the D'Amato amendment be tabled so that we can find out whether it has support or does not. The only way we can expedite business in this body is to go to tabling motions, when we seem to be having difficulty in moving along. Depending what happens there, we can proceed to the consideration of the alternative that I have suggested and will present after we have dealt with the D'Amato measure.

The Senator form New York has spoken at considerable length both yesterday and today about his amendment. I am sure he will have more to say, and I am glad to yield to him for that purpose. But I want to retain the right to the floor, so that at the appropriate time I can move to table. I do not yield for an everlasting period of time, but I am glad to yield for whatever reasonable amount of time the Senator from New York feels is appropriate for him to present what he wants to present, on top of the many statements he has already made on the subject.

Mr. D'AMATO. Mr. President, let me say that, if I can have the floor in my own right, fine, I would be pleased to make some observations. I am not intending to do anything else. I do not know whether the Senator can pass the floor over for a limited period of time or not. I am not even going to make a parliamentary inquiry. I will not attempt to take advantage of that.

I will yield the floor back to the Senator and say to him that I do not look to take the floor in what I would consider almost second-class citizenry. I understand that for the purposes of my asking the Senator to yield so I may put forth a question or propound a question or make a statement, et cetera, that obviously he should have it yielded back to him. But, if it is his intent to yield me the floor and be able to take it back at any point in time, so that I am precluded from doing whatever, I do not understand that. I have great respect for my colleague, but I am kind of befuddled by this.

I will yield the floor. There are other Senators here—let me say this.

The PRESIDING OFFICER. The Chair will attempt to clarify something. The Senator from California has the floor. The Senator from California can yield to the Senator from New York for a question.

Mr. D'AMATO. Let me say this: If the distinguished Senator from the great State of California—has he yielded the floor to me? Can he yield the floor in the manner in which he suggested?

The PRESIDING OFFICER. The Senator can only yield for a question. Of course, with unanimous consent the Senator from California can yield. But the Senator from California can only yield for a question.

Mr. CRANSTON. As the Senator knows, the question is, Will he proceed for a long time?

Mr. D'AMATO. I am not looking to do that. I have some observations as relates to my amendment. I have some observations to make as relates to other Senators amendments. I appreciate the opportunity, but if he is simply going to say to me that, thereafter, I am going to make a motion to table, whatever it is, that is fine. I do not want to speak with the floor not really being yielded, but being on a basis that it is at his convenience. If I have to wait, in other words, to find an opportunity to make my statements and respond, I will wait and take whatever time is appropriate.

I see we have other colleagues on the floor. So I will sit down at this time. I thank the Senator. I will sit down. If at my own time I can have the floor to make my observations, to put forth arguments, I know there are other colleagues, like Senator HEINZ, who is a cosponsor, who would like to be heard with respect to this, and there are other Senators, like Senator GRAMM, who would like to be heard.

If he is going to make a motion to table after the remarks, that is fine. We can continue this. The Senator from New York can offer another amendment or make other amendments, and I am not going to consider it after I have attempted to move in this manner. The Senator can do what he wants. I will sit down and yield the floor. Do what the Senator wants.

Mr. CRANSTON. I am happy to yield the floor to the Senator from New York, if he assures me it is not going to go on. I understand his views on the subject. He is not a second-class citizen. He is first class, along with every other Senator. I would like an understanding that we are not going to have an endless discussion now of this amendment by the Senator, that is all.

Mr. SARBANES. Will the Senator yield? Why do we not reach an agreement on voting on or in relation to the D'Amato amendment, which has been pending now, as the Senator from New York pointed out, for more than a day? Would the Senator from New York be willing to do that?

Mr. D'AMATO. If I just have an opportunity to speak to staff and confer as it relates to the parliamentary position.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. CRANSTON. I will hold the floor while Senator D'AMATO has an opportunity to consult with staff.

Mr. D'AMATO. Let me say this, if I might, in response to the question that has been raised. I will certainly consider attempting to enter into an agreement, but let me say that I have a number of colleagues wishing to speak. Senator HEINZ has indicated he wishes to address this matter, and other Senators, and I know that they do. I know there are a number of Senators who probably would like to be heard on the other side, as it relates to this matter.

I am not going to attempt to limit myself at this point in time, but I certainly will yield back the floor to my colleague. I am not going to attempt to just filibuster this, without giving my colleague ample notice of what the intentions are. We want to be heard. This is the first time—I believe it started at about 20 minutes to 6—that we even discussed bringing up the bill. Heretofore, we have moved it aside. So now it is 7 o'clock, and I have not spent a major part of the time as it relates to that.

There was another amendment that played through during this period of

time, which was Senator DECONCINI's. To say, limit yourself now and when you agree to it, otherwise we are going to do what we want to do, whatever that might be, which might be a tabling motion immediately, I am not willing to make that kind of agreement at this point in time.

Mr. SARBANES. How much time does the Senator feel that he needs to address the issue?

Mr. D'AMATO. I think we are talking about a minimum of 2 or 3 hours. We have Senator HEINZ, who wants to be heard; Senator GRAMM, who wants to be heard; Senator DOMENICI, who wants to be heard. Those are Senators who have expressed an opinion to me that they want to be heard. I am not so certain there may not be others. At least those three have expressed a desire to be heard.

I am not really willing to limit it at this time. Yet I am not going to attempt to grab the floor or seek the floor for the purpose of having a filibuster, protracted debate. If I wanted to do that, I could have done that before.

Mr. SARBANES. I will take the Senator at his statement. Why do we not set a time at quarter of 9—that would be approximately 2 hours from now—to vote on or in relation to the D'Amato amendment which, as the Senator pointed out earlier in the day, has been pending now for more than a day. As I understood it, he had considerable frustration because he kept setting it aside for other amendments to be considered. We can just enter an agreement here and have debate and take the vote.

Mr. D'AMATO. Let me say, with the permission of the Chair, that I am not suggesting that I would not be willing to enter into a time agreement. However, to say at this period of time that we are going to limit ourselves to 2 hours, I could not agree to that.

I would suggest that when the other Senators have had an opportunity to be heard, and we put out a call, if the Senator is saying would I be willing to enter into an agreement, the answer is "yes". Would I be willing to have a vote on this matter? The answer is "yes." This Senator has no objection. I do not know of any other objection. But I really want to give those Senators who would like an opportunity to deal with this issue, a fair opportunity to be heard in fullness, to raise questions.

Mr. SARBANES. I do not quarrel with that. That is why I used the Senator's own estimation of 2 hours instead of suggesting 8 o'clock or something of that sort.

Mr. D'AMATO. I said 2 to 3 hours. The Senator responded with 2 hours, and again, Senator HEINZ is here on the floor and with the give and take of debate, I would simply say this: That if we are going to just treat this amendment in a manner in which I have seen the previous amendment dealt with, Senators have a right to be heard.

Mr. SARBANES. On that very point I do not understand the Senator's point on the previous amendment. That amendment was considered fairly. No one on this side got up and said, "If this amendment is accepted we are going to recommend taking down the bill." The first time I heard that kind of discussion came from the Senator from New York. No one else had introduced that into this discussion, and all of a sudden it was said, "If this does not turn out the way I want it, I am going to stop working on this bill." I never said anything. I never came to floor and said, "Now, if this amendment is adopted, I am going to go to the leader and tell him to take down the bill," which is exactly what the Senator from New York said in reverse.

Mr. D'AMATO. Let me say this: I am not willing at this point in time, nor can I, enter into a time agreement. The Senator from California and the Senator from Maryland can do whatever they want. If they want to make a motion to table, then make a motion to table, but I am not a second-class citizen. I am not going to have the floor on the basis of some kind of lend-lease operation.

Senator HEINZ is here, who would like to debate, and other Senators are here, who would like to debate on it.

I simply attempted to give the body the information which I received from the administration, and sometimes I get information on which I disagree with the administration. I gave the Senate that information, for better or for worse.

The fact of the matter is they indicated that this is the stuff of which vetoes are made, and it seems to me that we should attempt to work out a settlement. It seems to me that we are going to be spending a lot of time and we are not going to achieve any purpose if we did that.

That was my intention. I attempted to get people to recognize it is give and take. And, if this Senator was willing to take on the administration as it related to their reluctance to enter into building, I do not know why we want to attempt to go through that. If we want that to be the argument, fine.

In the meantime I am impeding the flow of debate. Senator HEINZ would like to debate, and others would like to debate.

I take it on good faith and good will that we will have a vote on this. If the Senator says, "We want you to restrict yourself right now to 2 hours," this Senator cannot do that because there are Senators who would like to be heard. I said Senator HEINZ wants to be heard. He is down here. This is the first opportunity. We just literally raised this 20 minutes ago.

I yield the floor. I do not know if I had it to yield.

The PRESIDING OFFICER. The Senator from California had the floor.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on the amendment on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

The Senator from California still has the floor.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. Is there no pending business?

Mr. D'AMATO. Mr. President, I believe I do have the floor.

The PRESIDING OFFICER. The Senator from New York has the floor.

AMENDMENT NO. 2042, AS MODIFIED, TO AMENDMENT NO. 2041

Mr. D'AMATO. Mr. President, I send a modification of my second-degree amendment to the desk.

The PRESIDING OFFICER. It is an amendment to the amendment.

Mr. D'AMATO. It is a modification to the second-degree amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment No. 2042, as modified, to amendment No. 2041, is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . ACTUARIAL SOUNDNESS FOR THE MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act is amended by adding at the end the following:

"(e)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains—

"(A) a capital ratio of at least 1.25 percent not later than 18 months after the date of enactment of this subsection,

"(B) a capital ratio of at least 1.50 percent not later than 3 years after the date of enactment of this subsection,

"(C) a capital ratio of at least 1.75 percent not later than 5 years after the date of enactment of this subsection, and

"(D) a capital ratio of at least 2.00 percent not later than 7 years after the date of enactment of this subsection.

If the Secretary determines that the Fund does not have the capital ratio required under this subsection at any time, the Secretary shall report to the Congress on the financial status of the Fund, advise the Congress of any administrative measures being taken to attain and maintain the capital ratio required at the time of the Secretary's determination, and make any legislative recommendations that the Secretary deems appropriate.

"(2) Beginning 2 years after the date of enactment of this subsection, the Secretary shall report annually to the Congress on the financial status of the Mutual Mortgage Insurance Fund.

"(3) For purposes of this subsection—

"(A) the term 'capital' means the total governmental equity of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required by section 538 of this Act;

"(B) the term 'capital ratio' means the ratio of capital to unamortized insurance-in-force; and

"(C) the term 'unamortized insurance-in-force' means the Secretary's estimate of the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund.

"(f) The Secretary shall conduct an annual actuarial study of the Mutual Mortgage Insurance Fund.".

SEC. . FHA SINGLE-FAMILY MORTGAGE INSURANCE LIMITS.

Section 203(b)(2) of the National Housing Act is amended by striking out "(A) 150 percent (185 percent during fiscal year 1990)" and inserting in lieu thereof "(A) 185 percent".

SEC. . PROHIBITION ON DISTRIBUTABLE SHARES.

Section 205(c) of the National Housing Act is amended by inserting before the period at the end the following: ": *Provided further*, That the Secretary shall not distribute any such share with regard to any mortgage executed on or after January 1, 1991".

SEC. . RISK-BASED PERIODIC MORTGAGE INSURANCE PREMIUM.

Section 203(c) of the National Housing Act is amended by adding the following at the end thereof: "Notwithstanding any limit on the amount of a premium charge under this subsection and the provisions of the previous sentence, the Secretary may require payment of an additional premium charge for the insurance of any mortgage that is secured by a one- to four-family dwelling and is an obligation of the Mutual Mortgage Insurance Fund, as determined by the Secretary to be consistent with sound actuarial practice and taking into account high loan-to-value ratios. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(f). The additional premium charge shall be payable on a periodic basis, and may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments, and may be required (A) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 95 percent, (B) for up to 10 years if the initial loan-to-value ratio is equal to or less than 95 percent but equal to or greater than 93 percent, and (C) for up to 4 years if the initial loan-to-value ratio is less than 93 percent but greater than or equal to 90 percent. The Secretary shall not require payment of an additional premium charge where the initial loan-to-value ratio of the mortgage is less than 90 percent. For purposes of this paragraph, the premium charge shall not be included in the determination of the initial loan-to-value ratio of the mortgage.".

SEC. . MORTGAGEE NET WORTH.

Section 203 of the National Housing Act is amended by adding at the end the following:

"(t) Any direct endorsement lender which acts in the capacity of a mortgagee, as defined in section 201(b) of this title, must maintain adequate net worth in order to be eligible to enter into mortgage contracts which qualify for insurance under this title in an amount equal to not less than 1 percent of the total dollar amount of contracts that are written by the lender and insured under this title.".

SEC. 204. Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by deleting "the sum of (i) 97 per centum of $25,000" and inserting in lieu thereof the following: "95 per centum"; and, at line 19, deleting the comma following the word "insurance" and inserting a period in lieu thereof; and deleting at lines 19 and 20 the following: "and (ii) 95 per centum of such value in excess of $25,000".

SEC. 205. Section 203(b)(2) of the National Housing Act, (12 U.S.C. 1709(b)(2)) is amended by adding at the end thereof the following sentence: "The FHA insured mortgage amount shall not include any monies used for payment of closing costs. 'Closing costs' include any costs other than the principal of the loan and any mortgage insurance premium charged by the Federal Housing Administration.".

Mr. D'AMATO. Mr. President, I do not want to get into a situation where, because I have a feeling that there may be an immediate motion to table without giving Senator HEINZ and others the opportunity for fair and full debate, to then hold the floor and do the very same thing that I really did not want to do, nor do I want to have a situation where we cut that off, cut debate off and just go into one of these who has the most votes and not discuss something on the merits.

I would be most willing to say that if we have an opportunity to have all sides heard with the deliberateness attendant and with the kind of respect I think that everyone is entitled to, without attempting to cut it off, and that is any Member's right, I would be willing to yield the floor.

Mr. CRANSTON. Will the Senator yield for a brief question?

Mr. D'AMATO. I yield.

Mr. CRANSTON. I assume the Senator is aware I could have made a motion to table. I refrained from doing so because I wanted to give Senators an opportunity to express their views, but not all night.

Mr. D'AMATO. I do not intend to express them all night. We could argue on other amendments all night, and the next amendment that goes up, all night. And I could take the floor on another amendment but I think this amendment is of sufficient import that we would like to have all of our Members participate. There are, I believe, many Members who would like to be heard. All I am asking is consideration of this amendment, and I am indicating that I am not going to take the floor and just continue. I will shortly yield to demonstrate that. But I would like there to be an acknowledgement of that situation.

Anyone can take the floor then and say, "I move to table." I think that would be a disservice. Then we place ourselves in a situation of how do we attempt to move this.

I understand right now there may be negotiations going on to deal with the defeat of that one amendment and the melding of that into the construction element, so maybe both sides have an opportunity to achieve what they believe are important ingredients. That does not come from this Senator. Senators from the Senator's side have made that offer. I think that is important.

While we are here, let us have full and fair debate on it. If that can be the case, I will yield the floor. I will take it on the basis of that is the way we want to proceed.

I give the Senator my assurance that this Senator will yield the floor after there is sufficient time. In other words, if I gain the floor again, I will not attempt to prolong or have a filibuster here at this point in time.

I would just like to be assured there is full and fair debate and then, if the Senator makes his motion, if there are things I would like to say, new elements I would like to touch on, things Senator HEINZ would like to touch on, and Senator DOMENICI indicated his wish to speak, and others, they would like to be heard, that I think should be the procedure to participate.

Without looking for consent, I say that is the way I would like to see this proceed. But anybody and everybody has a right to do whatever they deem appropriate.

I yield the floor.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Pennsylvania is recognized.

Mr. HEINZ. Mr. President, I know that both the Senator from California and the Senator from New York have been engaged in a lengthy discussion. I appreciate, on both their parts, their giving me the opportunity to speak on this amendment of which I am a principal cosponsor.

I say to my colleagues, I would have been here, indeed I had been here on and off the floor, but every time I thought we were about to return to the D'Amato-Heinz amendment, we have gone on to another amendment. I think they were all amendments that were perfectly in order, but the net effect has been that the Senator from Pennsylvania has not been able to express himself on this legislation.

I thank the Senator from California [Mr. CRANSTON], for withholding his tabling motion, and hopefully we could have the kind of debate we need on this. At the conclusion of that debate, we can dispose of the amendment. I obviously hope that we dispose of it affirmatively. Because this amendment, Mr. President, is necessary in order to repair the damage already done to the Federal Housing Administration's mortgage insurance fund, and to make sure that worse damage is not done; in fact, to take tough measures that are going to reform the FHA's mutual mortgage insurance fund so that we can prevent

the equivalent of another savings and loan debacle. We do not want history to repeat itself.

Mr. President, the reason for this amendment, the reason it is not in the Senate bill is that it was not until literally just over 2 weeks ago, on June 6, that we received the first actuarial review of the FHA's mutual mortgage insurance fund.

By the way, to the best of my knowledge, and certainly in the time that I have served on the Banking Committee, this is the first time to my knowledge that that fund has ever been reviewed by an independent and authoritative outside expert, in this case Price Waterhouse, a very nationally known accounting firm. I suppose the fact that we not only have legislation that was not considered in committee but have this compendium of information of a couple of hundred pages that was not part of the hearing record, that people have not had a chance to study—that, frankly, since it is written by an accountant, is not exactly Hamlet; it is not exactly exciting prose; it is a little dull to read; it is kind of a struggle to wade through all the text and tables—I am not at all surprised that there is some concern that this amendment may not have been carefully thought through. I disagree with those who may think that.

But let me share with you, Mr. President, what we learned from the study. What we learned is that the Federal Housing Administration insurance fund is actuarially unsound—unsound; is in the process of going broke. Furthermore, that the business that is being written each year is money losing business. So not only are we on a down slope to illiquidity, to bankruptcy in this fund, but, as they say, we are not exactly making it up on volume.

The situation is getting worse evey year. Indeed, we learned that in the year 1990 alone, the insurance underwritten this calendar year is expected to result in a loss of between $208 and $667 million, two-thirds of $1 billion in just 1 year. So, as they say, two-thirds of a billion here and two-thirds of a billion their, pretty soon we are talking about real money.

That is how we got into the savings and loan disaster, a little forebearance in 1982, a little forebearance in 1983, to the tune of $1 or $2 billion in terms of net worth certificates and, this problem will get better in the future if we just nurse it along.

Mr. President, we have been down that road before and we do not want to travel it again. So when people say this is a vital and important issue for us to address, indeed it is. And it would be perilous, dangerous, even irresponsible for us to let this bill proceed from the Senate floor without addressing the actuarial soundness of the Federal Housing Administration's insurance program.

I might add, dark as that picture is right now, there is another problem to compound the problem. The Federal Housing Administration has already lost $5 billion in its net worth since 1980, and as I said a moment ago, we are going to lose between a quarter of a billion and maybe as much as three-quarters of a billion each year. So if we do not do something about it, we could expect to double the amount of loss that the FHA already has, go from $5 to $10 billion, and that indeed is real money.

And I believe it was a conservative study. I do not know anybody who has looked at it who has said, well, those projections are unduly pessimistic. Indeed, the projections on which most of the numbers are based assumes that there is going to be an annual increase in real estate values of about 4 percent.

Now I mention that because we had a hearing in the Senate Banking Committee today, starting at 10 a.m., with the four principal financial institution regulators, Alan Greenspan, the Chairman of Fed; Mr. Robert Clarke, the Comptroller of the Currency; the head of oversight for the FDIC, Mr. Fritts, sitting in for Bill Seidman; and Tim Ryan, the head of the Office of Thrift Supervision, OTS.

The subject of our hearing was something called the credit crunch. If there is a Senator in this Chamber who has not heard about the credit crunch, I would like to talk to him because I would like to meet a truly happy man. I have received numerous calls, as recently as 6:30 this evening, from people who think, "I will not be going under, but I know a lot of people who are going to go under because the way loans are suddenly being supervised and reserves are creating serious problems." That is another subject for another time.

But the moment and the importance of this is that we have a series of institutions that are undergoing great scrutiny. Our financial institutions, our S&L's, our banks, our regulators, if they were not doing their jobs before, they are doing them now. And we would be derelict in our duty, as I said, not to look at this problem and recognize that the 4-percent growth that Price Waterhouse assumes in their study does not seem to be the direction in which real estate values are going. Real estate values do not appear to be going up at 1 percent, 2 percent, 4 percent or 8 percent. Whether it is in New England, or the Southwest, or in Pennsylvania, or maybe in Illinois, real estate values, if they are staying even, they are in really good shape. In most of those areas they are going down.

So, point No. 1 on this study is that, since it is mainly based on 4 percent projections, it is conservative in the sense that if there is a problem that it predicts it is underpredicting the size of the problem.

Nevertheless, it is the best study we have, and I am not going to quarrel with it.

So what do they recommend? Well, what Price Waterhouse recommended is that we take one or two of several options, they suggested we increase the premium from what it is now, 3.8 percent, to 6 percent. They also suggested we require an 11 percent downpayment on the house price or restructure the mortgage insurance premium to be 1.6 percent up front and a half a percent annually through the term of the mortgage; charge a risk premium for loans with loan to value ratios of less than 90 percent. The premium, under that recommendation, would be a half a percent per year and would run for a definite term based on the amount of initial loan-to-value ratio ranging anywhere for an initial loan to value ratio that might be 90 percent or less for no years at all up to 15 years for a loan-to-value ratio that would be 95 percent or more.

The amendment that Senator D'AMATO and I offered which has just been modified in one very important respect by the Senator from New York builds upon and somewhat strengthens the FHA reform proposal. What we do is improve the actuarial soundness of the FHA insurance fund by somewhat increasing the cash downpayment required under the FHA program, namely, 3 percent as modified, now, for the first $50,000 and 5 percent for the rest of the loan.

In other words, each FHA borrower would have to pay somewhat more on each $100,000 borrowed, about $400 per $100,000 borrowed. And it would be that $400 increase on average—not a lot of money, particularly when you factor in the fact that that would help us ensure the survival of this fund while ensuring at the same time that buyers are less likely to default.

I might add there is a very important public policy question about the role we want the FHA insurance fund to play in facilitating, particularly, first time home ownership. The reason we have the fund in the first place is we want first time homeowners, who obviously are riskier as a group and riskier, generally speaking, to the extent that their income is lower, their attachment to the work force less certain and/or their downpayment is lower—we want to have a sharing of that risk so individuals are not written out of the opportunity to own a home.

That is why we have this program in the first place. But not only do we face the danger of having a fund that actuarially is unsound, but if we get incentives to own a home that are so great,

where the homeowner has so little at risk—to them it may be a lot, it may be the only $1,000 or $2,000 or $3,000 they have in the world—but, nonetheless, it is a sufficiently low threshold amount that, in effect, the capacity of that homeowner to keep that home through thick and thin is so very, very constrained that they are highly likely with just a little bit of bad luck to lose that home and lose that $1,000 or $2,000 or $3,000. We have done that homeowner no favor by making a program, a series of incentives to help people afford that first home, that is so attractive that indeed we invite them more than we ever intended to be a party to their own financial demise.

So, there is a commonsense limit on how good, how fair, how redistributive, how helpful to low income, first time homeowners, these programs ought to be. Because a first time homeowner who loses his home is likely never to want to own a home again. Not to mention a lot is lost, in terms well beyond the money.

So, I want to make that point, that we are trying to achieve a balance here. That brings me back to the question of the loan-to-value ratio and how we should attempt to at least somewhat lower it from where it is today because that clearly will decrease the likelihood of a default. On that point the authors of this actuarially study, Price Waterhouse, noted:

> Borrowers with an initial downpayment of 3 percent or less had a claim rate more than five times higher than the rate for those with more than 25 percent down. The FHA experience indicates that homeowners have higher likelihood of default and foreclosure as the loan-to-value ratio increases with the effect accelerating when the loan-to-value ratio moves to about 90 percent.
>
> Conversely, borrowers with low loan-to-value ratios, and thus a significant equity investment at the time of the loan origination, are much less likely to walk away from the mortgage.

Price Waterhouse goes on to note that defaults are roughly twice as common for loans with a 97-percent loan-to-value ratio—you might call it in simplistic terms a 3-percent downpayment—than loans with a 90-percent loan-to-value ratio, the equivalent of a 10-percent downpayment, roughly stated.

Very clearly, particularly in this sensitive area between 90 and 95 and 97 percent, the higher the downpayment, the lower the chances of default, and the lower the downpayment, the higher the chances of default.

Mr. President, some will claim that any improvement made to assure the actuarial soundness of the Federal Housing Administration's mutual mortgage insurance fund will reduce home ownership and maybe they will even claim they will reduce home ownership rates dramatically and force many low-income borrowers out of the program. I think, to the extent there was a concern about that, that the modification that the Senator from New York made to his amendment a moment ago, permitting or requiring only 1 percent downpayment for the first $50,000, addresses that problem.

But my view is that, in general, you are not foreclosing people from buying a home by having a higher downpayment. You are probably postponing it or deferring it somewhat. And, while nobody likes to say you may have to save a bit more, maybe for another year or another 2 years to have a home, neither are all the other taxpayers in the country obligated to subsidize somebody having their home 1 year or 2 or 3 earlier than they might properly afford to purchase that home.

That is really the issue, because if the FHA insurance fund goes broke, guess who is going to have to come along and bail it out? The taxpayer. The same taxpayers who are being asked to bail out the S&L's; the same taxpayers who have been forking out to cover our budget and, I assume, our budget deficit one way or the other with higher interest rates. We should not put any additional burdens on those taxpayers that are not rightfully theirs.

Mr. President, even if we did what was originally proposed by the D'Amato-Heinz amendment, FHA insurance would still be at least 10 percent cheaper than any private mortgage insurance and would still insure 100 percent of property. Under our amendment, an FHA home buyer would still have lower cash requirements and lower monthly payments than a private sector borrower and remain operative in all housing markets.

So our amendment, in short, Mr. President, would ensure that within 7 years after the enactment of this bill that the mutual mortgage insurance fund would achieve a 2-percent capital level and that that would be a reality and not some kind of nebulous ideal.

Mr. President, also in its study, the Price Waterhouse analysis stated that the mortgage insurance fund, in order to be solvent, would have to maintain a capital reserve that is equal to at least 1.25 percent of the insurance in force. By the way, that is equal to about $3.75 billion. The authors noted that the fund was currently worth only $2.6 billion or about 1 percent of the insurance currently in force. Remember, we are losing money to the tune of about $200 million to $700 million a year.

Our amendment does not call just for 1.25 percent insurance in force. We call for 2 percent, ultimately for a reserve in the MMI fund. It is this capital investment level which will ensure a base of money on which to build a sound financial foundation for the continued solvency of the fund.

Our amendment sets a clear timetable for capital rquirements and makes interim targets that will ensure that there is enough money in the fund to cover any defaults that might arise.

So our amendment requires that after 18 months, the fund must reach the 1.25 percent level of capital; after 3 years, a capital level of 1.5 percent; after 5 years, a capital level of 1.75 percent; and after 7 years, a capital level of 2 percent. In that sense, in particular, we build upon the administration's original proposal sent to us by Secretary Kemp of reaching a capital level in the first 2 years of 1.25 percent and a 2-percent level at what he asked for at some time in the future.

Our timetable is set at 7 years, which we believe is eminently reasonable.

Mr. President, the authors of the study by Price Waterhouse also suggested as well:

> At the begining of the 1980's, business already insured by the mortgage insurance fund and an economic value of $3.4 billion. This represented 5.3 percent of unamortized insurance in force. Invested at 1 year Treasury rates, this value would have grown to $8 billion by the end of the 1980's. However, this potential value has been eroded to about $2.6 billion in 1989, or only 1 percent of the unamortized insurance in force.

Even if you are not a whiz at mathematics, you can figure out the $2.6 billion subtracted from the $8 billion, had we been running the fund right, represents a decrement, a loss of $5.4 billion, and what the fund's value would have and should have been had we had the same level of capital as we did in the early 1980's.

Price Waterhouse goes on to say:

> There is no single standard of actuarial soundness We have derived guidelines for the insurnce fund's soundness based on the need to withstand adverse conditions. These guidelines require the insurance fund to have positive economic value, even if adverse economic conditions develop. The capital requirement to meet this test with some margin of error is $3.75 billion, or 1.25 percent of the insurance in force. Current economic value of $2.6 billion is short of this requirement; that is, the insurance fund is not currently sound.

I guess we can all argue about what the right level of capital for the fund is then. It used to be roughly 4 percent for FHA and private insurers in the 1980's. The Senator from New York and I are not saying we have to return to 4 percent. We are saying, though, that we should get somewhat closer to that standard by 1997 and within 18 months at least get up to the 1.25 percent that the authors, our consultants to the Government, believe is the minimum standard for soundness.

Let me take one moment to talk briefly about what is going to happen

if the fund becomes insolvent. The first thing that will happen if it becomes insolvent is that the taxpayers are going to have to put up more money. That might be a large and it might be a medium-size financial calamity, but it is one more that we certainly do not need.

It will also mean, as a practical matter, that the fund will go out of business. Maybe someone will rush in with some band aids but, as a practical matter, if those band aids are applied after the fund goes bankrupt, they are probably going to be pretty slapdash; people will probably run in and say we have to make sure this never happens again, and we will have draconian measures to assure the solvency of a bankrupt fund at some point in the future.

We may, as a result, really kill off the prospects not only of the fund returning any kind of reasonable protection, but the prospects of any first-time homeowners being first-time homeowners any time shortly thereafter. That is a disaster that we should not take even the slightest chance of visiting upon millions of Americans who hope to buy a home.

In sum and substance, our amendment ensures the fund is put back on its feet and will continue to serve many millions of Americans.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I rise today in support of the D'Amato amendment. If we are going to err in our solution to the FHA problem, we should err on the side of toughness rather than laxness. We must not let the appealing rhetoric about homeownership, which we all support and which is the American way, blind us to the fact that we are dealing with an insurance fund that is actuarially unsound.

How many Members of this body would like to go back and recast votes on the Farm Credit System, when we thought, because the Farm Credit System provides such a worthwhile service, we do not want to be too tough on them? How many of us would like to go back and revisit votes on the savings and loan institutions, saying that they provide a valuable service and we must forebear?

We are faced, once again, with a very tough choice, a choice between letting our hearts take over or our heads take over. Our hearts tell us we want to have everybody we can in homes, owning their own homes, realizing the American dream of homeownership. Our heads tell us, or our heads ought to tell us, that we must be sure that the fund that is providing the loans for these homeowners is sound so that we do not stick taxpayers with another multibillion-dollar bailout.

According to Price Waterhouse, the most important variable which affects the likelihood of a default is the amount of cash that a borrower has to put down on a house. If you do not have a significant downpayment or if you have a situation, as has occurred very frequently in the past, where the loan is more than the value of the house, there is too great a temptation, too great a tendency for the borrower to walk away. The FHA is left with property which is not worth the outstanding loan.

FHA has a very important social purpose, and that is to help home buyers who could not otherwise afford a house. That is one that we all support, and we understand it. Purchasing that house is a very important driving machine for our economy. Buying houses, selling houses, is a very important, significant economic activity that we all support. Building new homes is important. These activities are benefited when the FHA is making loans.

So we all have a very strong incentive to see FHA make loans and to see people moving into new houses or buying their first house. But this important social purpose has to be weighed against the need to protect the fund and ultimately the taxpayers.

But let us not forget, Mr. President, we also need to protect the first-time home buyers against the pain, the foreclosure, and default. We do not serve people well, we do not do them any favors, when we lure them into buying homes they cannot afford.

What is the greater tragedy, to tell a potential home buyer that he or she or they must wait a few more months and save several hundred more dollars to make a downpayment or to bring them in with a very juicy sounding loan package and find out a couple of years later they cannot meet the payments and have to move them out of the house they bought? I think that asking that question is to answer it. It is a rhetorical question.

We want to see people own their own homes, but we want to see them take on an obligation they can afford.

Price Waterhouse developed guidelines for the soundness of the Mutual Mortgage Insurance Fund based on the need to withstand adverse economic conditions. I believe the proposal before us meets those standards for actuarial soundness. I do not think we can afford to fail to meet those standards. This proposal would establish a minimum capital requirement of 1.25 percent within 2 years, which would be sufficient to withstand a moderately adverse economic scenario. Any proposal that delays achieving that standard, that capital requirement, or anyone who does not meet that requirement exposes the fund and all of us who support it to risk.

The D'Amato-Heinz proposal requires a real equity contribution by FHA borrowers, and they recognize that the up-front contribution is an important factor in determining whether or not a default will occur. It also establishes a system of insurance premium levels based on risk. The more risky the loan, the more the premium that will have to be charged.

We are looking at a number of ways of revising our systems of insurance, and we will be debating deposit insurance next year. But certainly one of the things we ought to consider is saying that for those activities which are the riskiest, we must charge more of a premium. For somebody who is taking out a loan with a much larger up-front downpayment, with less at risk, they ought to have to pay less in terms of the risk premium.

I think this proposal is strong medicine. It is tough medicine. But I think it is medicine that we must take and the FHA must take to address the FHA fund's growing default disease.

Mr. President, you will hear, and certainly a lot of our friends from outside are claiming, that these changes are going to reduce homeownership rates dramatically, and they are going to force many low-income borrowers out of the program. This need not be the case. While it does require more in downpayments, while it does require more up front in cash, I believe it will only delay, not deny homeownership. This amendment would require home buyers to accumulate more cash than the current FHA system. Perhaps 5 to 8 percent of the normal FHA borrowers may have to delay their home buying plans. But as I said earlier, when they do qualify, they are much less likely to go into default and be driven from their homes.

I believe, in sum, that is what we must be about. We do no favors to the homebuyers to lure them into something that is a bad risk. We certainly do not do our job to our constituents, to the taxpayers of this country, if we let yet another Government enterprise go down the tubes.

This is a chance, Mr. President, to make sure it does not. I hope my colleagues will join me in supporting this amendment.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Missouri is recognized.

Mr. DANFORTH. I thank the Chair.

(The remarks of Mr. DANFORTH and Mr. MOYNIHAN pertaining to the introduction of S. 2774 are located in today's RECORD under "Statements on

Introduced Bills and Joint Resolutions.")

NATIONAL AFFORDABLE HOUSING ACT

The Senate continued with the consideration of the bill.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise to speak on behalf of the pending D'Amato-Heinz amendment.

Mr. President, nobody likes to raise the cost of doing anything, even when the real cost of doing things rises astronomically. The Congress, unfortunately, likes to pretend that the costs do not change when risks have increased.

One of the reasons I decided to come over and speak on this subject is that this subject calls up, in my mind, the haunting memories of the savings and loan bailout. It calls it up in my mind because the parallel between the two, I think, is fairly straightforward. In both cases, we are talking about a Federal guarantee. We are talking about a contingent liability for the taxpayer.

Second, I cannot get out of my mind, as the billion dollar totals on the savings and loan bailout rise, the memories of how for 3 years the President begged Congress to act, and for 3 years Congress refused to act. The result was the imposition of billions of dollars of cost on the taxpayers.

Mr. President, let me try to define the problem in very simple terms. I do not want to get into all the complicated parts of the amendment and the debate, because I think the issue is very simple. In the 1980's, it did not matter how much the fees were on FHA, and it did not matter whether they were built into the mortgage. It really did not matter whether people had a downpayment or not. The reason it did not matter was that in the 1980's, the inflation rate was so high and a single family dwelling was such a good hedge against inflation, that even if a person had no equity in a home whatsever, by the time that the house closed and the people moved into it, and by the time they made a payment or two, inflation had created an equity position for them. As a result, only an idiot in the decade of the 1980's could lose money making mortgage loans.

We have stopped the runaway inflation of the 1980's. As a result, we have ended the situation where inflation automatically creates equity in a relatively short period of time in any house that is purchased. In fact, because of the savings and loan problem, and the financial instability in the country we have seen in the turn of the decade as the 1980's have ended and the nineties have started, we have seen a situation where the Federal Government has become the not-so-proud owner of a lot of single-family dwellings that are guaranteed by the FHA. Today in the FHA Program, people can, in essence, finance more than the value of their home.

I have sadly seen this experience in my State. It is a sad experience for the people who lose their homes. I do not in any way want to understate that. But it is a very sad experience for the taxpayer who ends up holding the home and taking a terrible financial beating in trying to sell off a home that it has repossessed.

Basically, what happens when people finance their home for 103 percent of its value is that if something happens financially, or if something happens within the family structure, what tends to happen is that they end up walking away and leaving the house, and the taxpayer takes it over, and the taxpayer tends to take a beating in terms of the house's sale.

Everybody in the Senate knows this is a problem. We are currently losing as much as $1,000 per mortgage made by the FHA. The capital of the FHA has recently eroded by a total of over $4 billion. There is not a person in the Senate that has any doubt about the fact that if this economy, as fragile as it is, slipped into a recession tomorrow, we would end up losing billions and tens of billions of dollars on FHA loan guarantees.

I am not only prayerfully hopeful that we will not slip into a recession, but I have joined the other 99 Members of the Senate in trying to work to prevent it from happening.

The point is, we have an unreasonable exposure. No private interest would ever put itself into the liability position of the Federal Government on FHA. FHA is another savings and loan or farm credit bailout waiting to happen.

We have an amendment before us that has already been altered to make it less onerous, where the authors have sought to respond to the concerns that have been raised. But, Mr. President, I do not understand why asking people to pay the fees on the closing costs that do not represent equity, up front, is cruel and unusual punishment. I do not understand why we should not ask people to have a small downpayment. Granted, I wish it were possible for people to move into a house with no equity. You might say, Mr. President, that it would be wonderful if we could simply give these houses away. But the plain truth is that we are subjecting the taxpayer to an unreasonable and unjustifiable risk.

All this amendment does, in my humble opinion, is the absolute minimum that any degree of prudence dictates as to what we ought to do in light of our experience with savings and loans, where we are losing $1 billion a month on that bailout. We have pumped several billion dollars into the Farm Credit System. We are looking at literally tens of billions of dollars of contingent liability, and the taxpayer is being left holding the bag.

This amendment simply asks that there be at least enough equity in the house so that the owner of the house will have an incentive to stay with it; so that the owner of the house will have the incentive to try to make it work. I believe that if we do not adopt the amendment of the Senator from New York, we are inviting another financial bailout. I think we are imposing an unreasonable risk on the taxpayer, and I think, again, we are succumbing to the drumbeat of political pressure.

We are here to represent a broader public interest, and I do not believe that you can justify not requiring the minimum levels of equity required in this amendment when the FHA has already lost $4 billion of capital, when we are losing on average up to $1,000 per mortgage.

So I urge my colleagues to adopt this amendment. If we fail to adopt this amendment, we are failing to respond to an early warning of a financial bailout, a bailout that, if we are unlucky and the economy goes south, we could end up in a position by this vote tonight costing the taxpayer billions and billions of dollars.

This is a reasonable amendment. This is not an onerous provision. It is clearly something that ought to be done, and I urge my colleagues look at the public interest, to try to give the taxpayer a little bit of protection from what can be a multibillion dollar blood bath.

Is it unreasonable when someone is getting his loan guaranteed by the taxpayer to ask that the loan not be for more than the value of the house, to ask the person, who after all is the principal beneficiary, the homeowner, at least to have some stake in making the payment? I think clearly the answer is we should require that.

I commend our dear colleague from New York for offering this amendment. I know this is not a popular amendment today. I am hopeful that there will be those in this Chamber who are prudent enough to look beyond today, remembering the same arguments that were made 5 years ago against dealing with the savings and loan problem.

But whether it is popular today or not popular today, I commend our colleague from New York, because this amendment is desperately needed. It is the right thing to do. We are being irresponsible with the public trust tonight if we do not adopt this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I thank my distinguished colleague and friend from Texas, Senator GRAMM, for his support of this, for his kind words and, more importantly, to have the courage to stand up and give support to legislation that will not endear him to many special interests, and I do not use special in the pejorative, but to those who have their own narrow vested interest to take care of, real estate brokers may not be happy. I think the good ones, the successful ones who do not want to make a profit at any cost and put people into homes that they are soon going to lose, they are not going to take exception to requiring reasonableness and prudence as it relates to financing and mortgages, particularly when in the long run they will be doing violence to their customers, to the very people who they may be assisting in providing a home and an opportunity, too.

So those who really care, those who take the time, those who are not just merchants of mortgages and public be damned and homeowner be damned if you are put out 6 months or 1 year from now because you cannot afford the mortgage cost, and then public and taxpayer be damned because when the Government has to take that house and board it up and put it on the market instead of a value of $100,000 or $100,000 it had been sold for they get 60 cents on the dollar, and the Government winds up, and the taxpayer winds up, paying that $40,000.

I commend the Senator for coming to the floor, for adding his force of knowledge, because this is very appropriate to discuss this bill in the light of the economic condition that exists today.

If I might be permitted, and I have touched on it briefly, this report in actuarial review of the Federal Housing Administration mutual mortgage insurance fund, dated June 6, came in at a point in time when we could not include the recommendations that we now put forth in the legislation which is at the desk.

Those recommendations, as it relates to seven points I am going to touch upon, basically are confined to an area which it does not take a great economist to figure out what is wrong where you have a declining housing market and the precariousness of the fund.

It says that unless there is an economic growth in real property, or in value, of 4 percent per annum, even the suggestions which they put forth, the recommendations which they put forth, will not be sufficient to carry the day, that the fund will become actuarially unsound. It is today, but if you have less than a 4-percent growth or appreciation in housing values even the modest recommendations which they put forth, and they are very modest, will not be sufficient to sustain the fund.

I would like to ask, Mr. President, is there any colleague here who can tell this Senator that given the situation we face today, given the past declines, and the present situation, and the future as anticipated today, that they see anything but declines as it relates to the value of home ownership today throughout this Nation? And therefore in the immediate future at least that decline is substantial and in some areas 20- and 25-percent market declines. Does anyone really believe that this is going to turn around in 6 months or in a year, with the RTC dumping properties and abandonment of properties and the foreclosures which are going on?

What do we need? Do we want another savings and loan debacle? That is what we are going to have. Do we want to totally put FHA out of business? That is exactly what is going to happen. You are going to have it because the taxpayers are going to rise up and say, "What have you turkeys been doing? You saw the S&L debacle. Is that not enough for you? You have to study the Price Waterhouse study that says you have to do something, and you have to do it now."

I do not understand. Is it because we want to hold out a false illusion to people that we are for home ownership for working families, for the poor, but you are not because you offer a reform that says you have to put some money down that you just cannot mortgage out? The average mortgage that is being made today is 103 percent of the value of the home. That means that if I purchase a home for $100,000 that has a value of $100,000 I get a $103,000 mortgage. Boy, that is interesting. I wonder how that happens? We are going to touch on how that happens and what a travesty and injustice we are doing.

Let me tell you, some of those people who come in on the minimum level with the smallest downpayment have a significant foreclosure rate, and this is when real estate was doing pretty good. You take this report 6 months from now and you are going to find a bigger foreclosure rate, a greater one of almost 20 percent. One out of five in those charts fail, and I will refer you to the page. Twenty percent, one out of five people. If we keep making them, the mortgage mills do not give a darn. They do not care. The guy gets $500 for processing the application, putting the poor family into a house. He does not care. He does not care if they are going to foreclose. This is not your banker who has been working with the family who is working to get a mortgage.

You know what? The proposal that is raised in opposition to us will keep the mortgage downpayment the same, 3 percent for the first $25,000.

I am going to yield the floor at this time, Mr. President, to the distinguished Senator from New Mexico, who I know wants to talk on this. Then I would like to begin to go into some detail, a little more on just what is taking place.

I can tell you something: Some Members said to me, "you know, Senator, you should not say unless such and such amendment is accepted that the bill is dead.

I am going to read to you what the Secretary indicated what the administration says. If we are going to do housing legislation and we cannot really address the FHA problem on a bipartisan basis, and we are saying what has happened is insufficient, and the administration has not come to the table before but they are here now, and we better do something, then this bill is not worthy of being signed into law.

How can we say that we are trying to provide housing for American people when indeed we are providing a format for disaster. It is taking place today. Today over 3,000 mortgages were made. That is the average. We are going to lose $1,000 on every one of those mortgages; $3 million we lost today, and we want to continue losing $3 million a day.

And that is if you take these fellows who are predicting that in order for the fund not to go bust, you have to have a 4-percent growth in value of each home. Homes are not going up 4 percent annually. They are going down.

I yield the floor, Mr. President.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Are there any time constraints this evening?

The PRESIDING OFFICER (Mr. BREAUX]. There are no time constraints.

Mr. DOMENICI. Nonetheless, so I do not use too much of the Senate's time, I would like to yield myself 10 minutes.

The PRESIDING OFFICER. The Chair will notify the Senator when 10 minutes have expired.

Mr. DOMENICI. Mr. President, I come to the floor tonight because it is not frequent that one can come to the floor and predict a disaster. Normally, the way we have created these kinds of financing mechanisms and the way we report them in our budget processes, or fail to, normally the disaster occurs and we try to fix the disaster. There is a lot in the air these days about the S&L crisis, a lot of history about that. People are talking about that crisis now, but there was a lot of history, a lot of red flags.

I came down here tonight because I predict that if we do not reform and fix the Federal Housing Administra-

tion's mutual mortgage insurance fund—a big name. If we do not fix it, and I am quick to say that I do not have the formula for the fix. But I do understand that both the administration and the distinguished Senator from New York, Senator D'AMATO, joined with others, are recommending significant, positive reform. Clearly, the reform they recommend is absolute common sense and cannot hurt things; it must make them better. So why would we not do it?

Let me go back to the prediction. Every sign is there that the next financial disaster in the United States, not one for New York City or Albuquerque, NM, or 40 or 50 savings and loan institutions around the country. But a major, major fiscal crisis, billions and billions of dollars of contingent U.S. Government liabilities are going to leave the contingent column and become real if we do not do something.

Now let me tell you why it is obvious to this Senator.

First of all, I will go back through how we currently handle FHA. It has been articulated here at 103 percent of the mortgage amount versus 100. So borrowers can put less than 3 percent down and you can totally finance the premium and closing costs and you have put virtually nothing down.

But, Mr. President, the handwriting is on the wall. Eighteen months ago, experts on American demographics and on housing in the United States sent some nice, little, quiet signals out there to the country. I think what they said was the dramatic inflation in housing in the United States is gone. You all remember the day that anybody that bought a house and could keep it for a while made money because we were living in a demographic and housing supply demand market, where housing went up in value all the time.

There is a high probability that has left the American scene. I do not like to stand up here and say that because it has been marvelous for Americans to invest in a house for 10 or 15 years and find that when they got ready to move up to a better one or sell it, they made a lot of money. But the point is that was happening in the market where we had FHA financing of the type we are trying to reform tonight. And during that period, it did not work very well.

Now if that period of inflation is over, where values are not going to go up and we are currently losing the millions of dollars per year right up front on the financing, and we are also told that foreclosures are getting more serious, and the huge portfolio of housing that is in FHA, is not growing, because we have just established the fact that the values are not going to go up, they are rather stagnant—you can bet on it that we are going to be in a bailout posture for billions and billions of dollars for this program.

Mr. President, when it happens, people are going to say, how did it happen? Why did it happen? Well, this time, before it got to a point where we could absolutely no longer hide from it, we at least have an outside source of information that has told us it will not work.

Now I do not vouch for Price Waterhouse. But they are an outside group of experts in the accounting and auditing business and they wrote this report. And it is absolutely filled with predictions that you can count on and with recommendations that you ought to follow.

So I come here tonight urging that in our quest to pass a housing bill, which many people in this country and in this Congress think is public housing. Certainly public housing is important, but the FHA provides more housing for more low-income Americans, 10 times over per year, than all the public housing we supply. And we are helping no one. We are helping no one if we permit this institution to go into an insolvency posture where we have to begin to pour money into it. There was a lot of verbiage around here tonight, talk about making sure that FHA insurance is available to those who need it.

I am here tonight saying the Americans who are going to have to pay the bill are the poor Americans. They are the ones that are going to say, "Where were you when this event occurred that is making us poor?" And they are poor in the sense that once again we are going to ask them to pay the bill. I do not think we ought to do that.

It is my custom that I do not talk about things very often that I do not know something about. So I am awful frank tonight. I am not even sure we know how to fix this. But I am sure with real estate prices in the United States going down—how many people have spoken of the depressed real estate market?

Well, does a depressed real estate market mean Rockefeller Center? Or the offices in Houston, Texas? Real estate market means the real estate market, and most of it is housing. And if it is depressed, it is depressed. It is not just the office buildings that are depressed. I know in New Mexico it is depressed, but I am reading in Northeastern United States it is tremendously depressed.

I say to my good friend from New York, 2½ years ago, I was in Northeastern United States—in fact, it was New Hampshire, after having been to Connecticut. The principal question, on the minds of those who were asking national people, what they were going to do about increasing housing prices. "How are you going to help us get the price of housing down because it has accelerated so fast that we cannot supply housing for people that want to move here to get jobs?"

Is it not interesting, that 2½ years later, that same part of the United States is suffering from a depressed housing market? In fact, I assume, all other things being equal, if one happened into the same community, interrogated by the same editors about politics at the national level, the question today would be, What can you do to hold up the price?

If that is the case, and we have a system of financing a significant portion of that real estate under this mutual mortgage insurance fund, that we are contingently liable for, as a people. How in the world can we sit by, and not say, if it is in trouble today, it is going to be in bigger trouble tomorrow and possibly in irretrievable trouble?

So, I believe a housing bill ought to be used to try to fix the most significant contingent liability of the U.S. Government, and an important way of financing housing. So I join in applauding the Senator from New York, Senator D'AMATO.

I repeat: We should not table an amendment that moves in the right direction. But, if anyone here in the Senate has more constructive ideas, that could find a way to do this better, should come forward. To table the amendment and do nothing seems to me to be highly irresponsible.

I do not know that the administration has said a housing bill, without an attempt to rectify the situation described in this Price Waterhouse audit, would be vetoed. My friend from New York seems to indicate that the administration is saying that. But if they are, I think they are entirely justified. I believe the U.S. Senate and the U.S. House, if they do not want to do it on this housing bill, ought to make a commitment that they are going to fix this as best they can, and stop the hemorrhage as best they can, soon.

Perhaps, instead of tabling this, a commitment ought to be made that if this is not the right proposal, we are going to find something that is acceptable and together we are going to pass it.

Mr. President, who can be against fixing this? There may be some crosscurrents, that as we fix it, we do not want to make housing harder to get. But, frankly, to say we have to help our poor people, so we are not going to fix this, is an invitation to provide the poor with another costly bailout. It is going to be insolvent in 10 years from now if we keep on this way.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. DOMENICI. I would be pleased. I am just about finished but I yield for a question.

Mr. D'AMATO. As it relates to the issue of helping poor people, this Sen-

ator, prior to having this information from Price Waterhouse in terms of the deterioration of the fund, 6 months ago was pushing to increase the limits.

I said we have to help people because I have people in my community who cannot get a home. They need that FHA. I believe in giving people an opportunity.

Is the Senator aware that under our proposal, poor people, particularly as it relates to the depressed areas where you can get a house for $50,000, will still be able to put 3 percent down for the entire $50,000 and all we are saying is they have to pay the closing costs? Put something into it. Do not have a 103-percent mortgage.

I do not know if the Senator was aware we still retain a 3 percent downpayment. The home builders have put out information that says this is a bad thing because the proposal to reform the FHA would even have people pay their mortgage insurance premiums up front. That is not true. They are financed over the life of the mortgage.

I am not saying this is a cure-all. I do not believe it is. I do not know actually if we can work one out. But it is certainly not going to make the situation worse. It is certainly an improvement and it is desperately needed and we should do it now.

Was my colleague aware we still retain the 3 percent for $50,000?

Mr. DOMENICI. I might say, Mr. President, I was aware of it. In alluding to the fact there are cross-currents, there is also cross-rhetoric. Some would say we ought to do more. Some would say it does not help where it ought to.

But when you have a market like we have in the United States, and I have tried my best to describe it, and I think I am right, with reference to the real estate market we have demise of the rapid inflationary quality, that was attendant to housing for the past 30 years in the United States, has changed dramatically. When we look at housing market trends, clearly there are some in the marketplace who want to focus on stimulating the housing market. They say it is possible to make FHA solvent, while encouraging first time homebuyers, and we can stimulate the market. Take care of the solvency problem some other way. So that would lend itself to "you are not doing enough," for first-time buyers, to stimulate real estate, or make FHA sound. The point is, my colleague has a balanced amendment, from what I can understand.

I said I am for it because it is better than what we have. I do not think the Senator from New York is saying with the cooperation and help and working together we could not do better. Of course we could. But we have the issue now and the issue is do we get rid of this amendment, table it, which in a sense, I think is an acknowledgment we do not want to do anything about it, we do not want to take a real step? All I am suggesting is I do not want to be part of that, because it is not what we ought to do.

If not this, what? If my colleagues do not like this, then something. But something significant to address the issue and the problem.

I yield the floor.

Mr. FORD. Mr. President, will the distinguished Senator from New Mexico answer a question or enter a colloquy with the Senator from Kentucky for a moment?

Mr. DOMENICI. I surely will try, Mr. President.

Mr. FORD. Mr. President, the Senator from New Mexico is one I respect. He has been chairman of the Budget Committee. He is now ranking member of the Budget Committee. He has just come to the floor and said to us that we are ready to face another catastrophe.

I say to my friend: Is it time, maybe, we step back? We are $3 trillion in debt and owe $200 billion in interest. We are borrowing from the Social Security. We are spending the trust funds in highway and airport improvement trust funds. We keep accelerating with the billions and billions of dollars, now, in savings and loan costs. I hear my friend from New York say RTC—we are heading for a disaster there.

What is our remedy? No one seems to know. We play with smoke and mirrors. The President sends a budget up here and says it is $35 billion we have to work on. Now it is $55 billion, and that has not been 6 months.

I am beginning to believe that we are just still band-aiding and I was a little bit concerned the Senator was saying let us do this because it seems to be better than the other. There may be suggestions out there to make it even better.

We do not have the time in the budget process to think it through. I wonder if the Senator could help us. Am I beginning to get too nervous? The Senator came here and said there is a disaster waiting to happen in 6 months. Can the Senator help me out and calm my nerves a little?

Mr. DOMENICI. Sure. First, I say to my colleague let me suggest that whatever we thought about the President's budget, when it came up here, it did something very interesting for the first time, it brought up the topic of contingent liabilities. It will get results, and they will be positive.

I think we now, depending on what one thinks about Richard Darman, the Budget Director of the United States—I happen to think he is an excellent, excellent public servant, and I am pleased this President has him there. He provided a contingent liability addendum to this year's budget. Some people refer to it now as the PAC-man concept. But he had contingent liabilities described, as people are seeing it.

Mr. FORD. I did not particularly like the second page of his proposal, but go ahead.

Mr. DOMENICI. I understand. One need not like it all, but nonetheless, he tried to tell us something. I believe we have to fix the credit budget of the United States with a substantive law change that clearly reveals the contingent liability. In fact, I believe, if we get a summit agreement, we are probably going to seriously consider credit reform.

No. What it is, we are going to establish is the subsidy value annually, and we are going to appropriate it so we do not find ourselves where contingent liabilities run on until the contingency becomes a liability. But rather every year we get to vote up or down or do we want to pay the actual amount, the subsidized amount. You have to appropriate it each year.

So I think we are moving in the right direction. From the standpoint of the American economy, far be it from me to tell a good friend and good Senator, who has been my friend for years, that we have not had serious problems in this country. I think if we fix the fiscal deficit, so that we are in balance and staying there, and it is done real—things will be more positive.

Mr. FORD. Where are we going to get the money? What are we going to cut? What taxes are we going to raise? And how are we going to real fix? The real fix is fine, but getting there is another thing.

Mr. DOMENICI. I can only tell the Senator that I am very optimistic that if there is a will, we will do it. It will be a very significant fiscal policy change, and a very real fix on the deficit, and the way we budget things. If I had the answer here today, I do not know that I would be able to tell my colleague, because we have not put them all on the table yet in this summit. We are still talking about ideas.

But I believe if we want to, we will take the first step by fixing the fiscal deficit. The second will be to fix the credit deficit, as I described it, and then get on with looking at other things that can keep America productive.

Mr. FORD. Is it important, then, I ask my friends, that we complete the summit before we get into other things, because I am sitting here listening—not many of us are around here listening to the Senator. Maybe some of them are back in their hideaways and offices listening, but the Senator from New Mexico came in here and said we are about to collapse; FHA is about gone.

Mr. DOMENICI. No.

Mr. FORD. Those are exactly his words. I sat here listening to my friend

that in 6 months, if we do not do something now, it is down the tubes.

Mr. DOMENICI. I said we have a big contingent liability.

Mr. FORD. Another savings and loan is what he has indicated. Now he is talking about doing all these things, and the possibility of doing it as it relates to the budget. And yet we are getting ready to pass a housing bill here, and the Senator is saying FHA is in a strained condition.

Mr. DOMENICI. That is right.

Mr. FORD. At best.

Mr. DOMENICI. That is right.

Mr. FORD. Then he wants to fix that in the budget proposal with contingent liability or deficit liability; or a contingent liability. I am wondering if we should not give some consideration to finishing the budget before we have people trotting out here and scaring us to death.

My colleague is asking me to vote on something here tonight and I respect his judgment—and my friend says go ahead and pass it. The Senator is telling me that if I do not pass it, we are in real trouble, and in 6 months, we will see another saving and loan crisis. If it is not as large, it will be similar to that; am I correct?

Mr. DOMENICI. I do not know I said 6 months, but I said there is a crisis, if we did not fix it. It is very large.

Mr. FORD. What I am trying to say, I am sitting here trying to make my best judgment. When I try to make my best judgment, and I see a person who has been chairman of the Budget Committee, ranking member, has been involved in all this, come out on the floor and say we have a real problem, I think I will take a step back to see if we cannot fix the problem before I start voting to spend the taxpayers' money. We do not have to do it tonight.

Mr. DOMENICI. I give my answer: I think we ought to fix FHA as best we can; do it as best we can with this housing bill. Frankly, how much money we are going to have to spend on this HUD bill is not what I am talking about. I am addressing changing the way we finance FHA.

We probably are not going to know where we are on the HUD bill until we get a budget summit, because that will tell us how much money we have to spend in the discretionary accounts.

Mr. FORD. I understand that. We may attempt to fix the problem, but it is an authorization bill and not an appropriations bill. We can authorize it, but not appropriate it.

Mr. DOMENICI. Let me just finish. Let me just say I have an awful lot of confidence in the greatest economy in the world. I still think we have that.

Mr. FORD. It is carrying a $3 trillion debt right now.

Mr. DOMENICI. That is the part we ought to address. Get on with it, so we begin to build the capital formation side instead of further depleting it. It is a phenomenal economy. It has more vigor, more energy, more diversity than any of them around.

Mr. FORD. I understand that. For the last 10 years, we have been going down hill. We have not been getting ahead. We are getting deeper and deeper in debt. Now we have the savings and loans, and they tell us $500 billion. That will make $4 trillion, and we just keep right on. I do not see where it is stopping. I just do not see where we are ending the downward slide as it relates to debt and interest; $200 billion a year, and we do not get a dime out of it and a big portion of it goes oveseas. That is interest on the debt.

Mr. DOMENICI. Let me just say to my friend, again, I have the greatest respect for him.

Mr. FORD. I am trying to enter into a colloquy. Help me out here tonight.

Mr. DOMENICI. I want to get on with fixing the fiscal deficit under a 4- or 5-year plan; that is the very best we can do. But I do not think we can sit back and say we should not do anything, anywhere, because there are a lot of problems around. I just said tonight, fix this as best we can. Just do not do the least, and do not take a position which will cause us to be doing nothing about this.

It will be fixed if we do it right and work at it, but I think we ought to start tonight down that path. I hope we do. I think if we table this, we are starting the wrong path.

I thank the Senator for his question.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I believe the distinguished Senator from Wisconsin would like to make some remarks as it relates to the pending amendment. I yield the floor to him.

And in my conclusion, I would like to have the right to make some observations as it relates to some of the misinformation that has been spread by some of the realtors organizations in relationship to what the bill would do and what the impact would do, and then also comment on what OMB and Secretary Kemp have observed as it relates to our proposal and the alternative that has been suggested.

Mr. BRYAN. Mr. President, will the distinguished Senator from New York yield for the purpose of a question?

Mr. D'AMATO. Certainly.

Mr. BRYAN. Will there be, in the Senator's view, an opportunity for us to offer an unrelated amendment?

Mr. D'AMATO. Is the Senator talking about the Bryan amendment?

Mr. BRYAN. We are talking about the amendment the Senator and I had——

Mr. D'AMATO. Absolutely. I would suggest if there is any break in conversation, the Senator certainly has no objection, or after the rollcall vote.

Mr. BRYAN. I appreciate that. I ask the question only because this Senator is expected to relieve the distinguished Presiding Officer at 9 p.m., and I would appreciate the Senator's making that possible.

Mr. D'AMATO. Certainly.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. I thank the Chair.

Mr. President, the amendment before us raises a number of complex issues. But it is a response to a very simple and stark reality. The FHA mortgage insurance program, a program which has played a critical role in helping millions of Americans achieve the dream of home ownership, is clearly in serious trouble.

No one wants to see FHA fail. However, unless basic reforms are made in the structure of the program, it clearly will. As my colleagues know, a recently released Price Waterhouse study found that FHA is not financially sound. The net worth of the FHA fund that guarantees the mortgages of low-income home buyers has plunged from $8 billion in 1979 to $2.6 billion today. Under current practices, this fund stands to lose over $200 million a year.

If we do not deal with this problem and deal with it soon and decisively, we are going to lose the program. We do not serve anybody by putting off reform of FHA or taking half measures. Delay will not serve potential low-income home buyers. If FHA fails, many of them will not be able to borrow the money to buy a home. Delay will not serve the taxpayer. If FHA fails, the Government will have to find a new way to cover its $300 billion in liabilities.

I hope the S&L disaster has taught us something we should never have needed to learn. We have no right to needlessly gamble with taxpayers' money. If we do not reform FHA now, we will not be just rolling the dice. We will roll them even though we know they are shaved, the table is crooked, and the odds are 100 to 1 against us.

The Price Waterhouse study spurred a number of solid FHA reform proposals. The administration, Senator CRANSTON, and Senators D'AMATO and HEINZ have all developed reform proposals. They all share the same goals, but they use radically different methods to get there. While each proposal contains desirable elements, there appears to be no way to bridge the differing assumptions upon which they are based

Given the problems we face, I believe we have to support the plan that offers the most immediate and comprehensive assistance to FHA. I believe that plan is contained in the D'Amato amendment.

Unlike the Cranston alternative, the proposal offered by the Senator from New York includes two essential reforms.

First, in a sharp, departure from both the present system and the Cranston alternative, the D'Amato amendment requires borrowers to put a considerable amount of equity into their home before FHA insures their loan. Currently, FHA allows buyers to take out loans that are greater than the values of the houses that secure those loans. In short, FHA will insure a mortgage for as much as 103 percent of the value of the home. Senator CRANSTON's proposal recognizes the need to correct that situation, but it makes only minimal progress toward the goal.

The failure to require real equity interest before ensuring loans is wrong. The Price Waterhouse study confirmed what all of us knew intuitively, that there is a direct relationship between the equity that a buyer has in his home and the rate of default on mortgages. The lower the level of equity, the higher the default rate.

While we all want to make it possible for low-income families to have homes, I do not believe we should encourage these families to get into debt over their heads to get their homes. The result of that sort of policy is not more homeowners; it is more defaults and foreclosures. Ensuring mortgages worth 103 percent of a home's value does not further the American dream of home ownership—it shatters it. Neither the present system nor the Cranston proposal address this problem as clearly as the D'Amato amendment.

The D'Amato amendment requires a 5 percent downpayment and precludes financing of closing costs. That will reduce the rate of default and increase the soundness of the FHA system.

Second, the D'Amato amendment explicitly extends the current mortgage limit. Senator CRANSTON's proposal is silent on this point, but it clearly leaves open the possibility of an increase in the limit.

Such an increase cannot be justified by the hope that it would increase the flow of revenues to FHA. The Price Waterhouse study clearly states that raising the loan limit would have little or no effect on the economic value of the FHA mortgage insurance fund. In other words, most of the additional capital produced by raising the limits would be used to cover defaults on the larger loans.

In addition, raising loan limits diminishes the FHA's status as a housing program for low-income people. For example, some have suggested that we raise the limit as high as $160,000. A family would have to make almost $70,000 a year to qualify for that mortgage. That family would be earning in the top 20 percent of all families in this country. I would be the first to acknowledge that these people may still need help if they are to buy a home, but with all the cuts low-income housing programs have endured, how can we justify turning FHA insurance into a subsidy for upper- and middle-class homeowners? I cannot. That is why I conclude that the mortgage limits should stay at their current reasonable levels.

As a result of these and other changes, the D'Amato amendment allows us to achieve the goal of building a capital level of 2 percent in the FHA single-family mortgage fund. In my opinion, this is the minimum that we must do. Private mortgage insurers are required to maintain capital of about 4 percent. We owe it to taxpayers, and to those low-income families who hope to get an FHA-insured mortgage, to operate an FHA fund at least half as safe as private funds. And only the D'Amato amendment assures at least that much protection.

After the S&L crisis, I do not believe Americans are going to put up or accept any excuses for doing too little reform too late. Let us not make the same costly mistakes all over again. We need to reform FHA comprehensively and responsibly, and we need to do it today. In my opinion, the way to do that is to adopt the D'Amato amendment. I urge my colleagues to do just that.

I thank the Chair.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I commend the Senator from Wisconsin for obviously not just a statement that came on the basis of intuition or feelings but well grounded, well supported. It is a statement that others I hope have heard and will have an opportunity to reflect upon because he has said it more eloquently and more cogently than this Senator, who has been talking to this issue for hours, has been able to put together. I commend Senator KOHL not just because it is supportive of this Senator's amendment but because he makes a statement on behalf of the American people, on behalf of home buyers, on behalf of those who would like to avail themselves of this fund, on behalf of taxpayers, on behalf of all of those who will be disadvantaged if we allow the situation to continue to dissipate and do nothing.

I know that there are others who would like to be heard, and the Senator from Iowa is one of those. But I wanted to say that to the Senator. I think he has made remarks that are so important as it relates to doing the business of all of the people in the best interest of all of those people demagoging on one side or the other. Oftentimes we fall victim to that. He has done it with great clarity, and I commend him for his support of this amendment.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, I think with all of us very concerned about our handling and other people's handling of the savings and loan situation, we have to look very carefully at what looks to be a very serious problem, that maybe if we bite into the bullet now we can save a lot of problems in the FHA area that we did not in the savings and loan area.

I think, if you like the saving and loan debacle, you are going to love the one at the Federal Housing Administration because, in my judgment, that is what we are headed for if we do not deal with the financial soundness of the Federal Housing Administration insurance fund. I can see the media already trying to name the newest crisis. They may call it "FHAgate" or maybe they will refer to it as "HUDgate II," since we have already gone through "HUDgate I," or maybe some of them will even refer to it as the "Teapot Home" scandal.

Mr. President, there is something that we can do today to avoid the use of these annoying monikers that we tend to be hit with, and that is to support the reasonable proposal put forth by these Senators. Senators D'AMATO and HEINZ have an approach, a very reasonable approach to deal with this upcoming crisis.

I say reasonable, because the alternative to not dealing with this problem, is totally unreasonable. Have we not learned our lesson? Have we not learned that half solutions to our problems only lead to more problems down the road? I suppose some of us ought to legitimately wonder whether we in Congress ever will.

The Heinz-D'Amato proposal offers the following items to get the Federal Housing Administration on a path toward a strong future. I doubt if even the sponsors would say that this will take care of the problem totally, but this might be a case where showing recognition and trying to accomplish something early enough the seeds of solution being sown now will reap great harvest down the road.

First of all, this amendment establishes a risk-base premium. It requires that all closing costs must be paid up front. It suspends future payment on distributive shares. It makes current mortgage limits permanent. It strengthens lender requirements. And it increases capital requirements for the mutual mortgage insurance fund.

Mr. President, these are, in fact, reasonable solutions. Some would almost have us believe they are draconian measures. They do not, in fact, debilitate the FHA insurance fund. This is a reasonable approach to what is every day becoming a more serious problem.

So I urge my colleagues to support this Heinz-D'Amato proposal. If we do not act today, we will pay a price down the road. And some of that is a political price, although that is not my main concern. But worse than that, if we do not act today, the people of America who turn to the Federal Housing Administration to assist with the purchase of homes will surely pay a higher price tomorrow.

I yield the floor.

Mr. D'AMATO. Mr. President, I commend the distinguished Senator from Iowa for hs remarks and for his position. He understands the nature of home ownership and how important that is. Yet he understands that balance that we seek which I think the American people are going to expect us to seek.

Mr. BRYAN addressed the Chair.

Mr. D'AMATO. Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. BRYAN. Mr. President, I ask unanimous consent at this time that the pending amendments offered by the Senator from New York be temporarily set aside for the purpose of my offering an amendment which I believe has been cleared by both sides of the aisle, which I have heretofore have had the honor to discuss with Senator D'AMATO, to which I think there will be no objection.

The PRESIDING OFFICER. Is there objection?

Mr. D'AMATO. Mr. President, let me say this. I believe that, without getting into the specifics, there are two amendments that the Senator has.

Mr. BRYAN. One, if I might respond, which Senator COATS has a concern with, is unrelated, I can assure the distinguished Senator.

Mr. D'AMATO. I know that. Let me, if I might, ask that the present amendment be set aside, and I ask unanimous consent, just for the purposes of dealing with the Bryan amendment—if I can propound this as I ask unanimous consent——

The PRESIDING OFFICER. The Chair would point out that there is a unanimous-consent request pending from the Senator from Nevada.

Mr. D'AMATO. I am asking if I might be able to modify his request that his amendment be sent to the desk, his amendment be held, that we consider his amendment prior to any action on the pending amendment which is the D'Amato amendment, which has been amended in the second degree.

Then, if we could return to the debate on the amendment presently pending, in this manner, because I believe the managers, when we have this straightened out, could accept it.

Mr. BRYAN. That is agreeable with us, Mr. President.

The PRESIDING OFFICER. Without objection, the unanimous-consent request propounded by the Senator from New York is agreed to.

AMENDMENT NO. 2056

(Purpose: To regulate certain marketing activities engaged in on the premises of federally insured depository institutions)

Mr. BRYAN. Pursuant to that unanimous-consent request, Mr. President, I send this amendment to the desk under the circumstances as outlined by the Senator from New York. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN] proposes an amendment numbered 2056.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —DEPOSITOR PROTECTION AND ANTI-FRAUD ACT

SEC. 01. SHORT TITLE.

This title may be cited as the "Depositor Protection and Anti-Fraud Act of 1990".

SEC. 02. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FDIC-INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED DEPOSITORY INSTITUTIONS.—

"(1) PROHIBITION ON SELLING CERTAIN INSTRUMENTS.—No insured depository institution may pemit any evidence of indebtedness of, or ownership interest in, that institution or any affiliate to be sold or offered for sale in any of the following:

"(A) A domestic branch of that institution at which insured deposits are accepted.

"(B) That institution's head office, if it accepts insured deposits and is located in the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any of the following:

"(A) A deposit in an insured depository institution.

"(B) A traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by insured depository institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940, or otherwise regulated by the appropriate Federal banking agency.

"(D) A sale of instruments in minimum amounts of $100,000 to a sophisticated investor.

"(E) A sale of instruments pursuant to converting a depository institution from mutual to stock ownership if that conversion has been approved by the appropriate Federal banking agency and, where applicable, any appropriate State agency.

"(3) REGULATORY EXEMPTIONS.—The appropriate federal banking agency may be regulation provide exemptions from paragraph (1) if at a minimum:

"(A) the exemption is in the public interest'

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured deposit because of the manner in which it is sold or offered for sale, or for any other reason;

"(C) the evidence of indebtedness or ownership interest would be sold or offered for sale on terms (including price) no less favorable for depositors than for persons similarly situated who are not depositors;

"(D) the seller or offeror institutes and follows procedures to determine before selling the instrument whether the instrument is appropriate for the purchaser, except to the extent that the agency determines that, in particular cases or classes of transactions, such procedures are not necessary to protect the public;

"(E) no broker or dealer registered under the Securities Exchange Act of 1934 (or any associated person) receives a greater sales commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1); and

"(F) none of the following persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured depository institution.

"(ii) An affiliate of the insured depository institution.

"(iii) An employee of the insured depository institution or any of its affiliates, or a person under the direction and control of the insured depository institution or any of its affiliates.

"(4) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences between that agency's regulations under this subsection and the regulations adopted by the other agencies under this subsection. Each report shall explain the reasons for any such differences, and shall be published in the Federal Register.".

(b) REGULATIONS.—Not less than 180 days after the date of enactment of this Act, each appropriate Federal banking agency shall promulgate regulations to administer and carry out the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to depository institutions regulated by each appropriate Federal banking agency immediately upon the effectiveness of final regulations promulgated by that agency under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

SEC. _03. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FEDERALLY INSURED CREDIT UNIONS.

(a) IN GENERAL.—Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end of the following new subsection:

"(j) REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED CREDIT UNIONS.—

"(1) PROHIBITION ON SELLING CERTAIN INSTRUMENTS.—No insured credit union may permit any evidence of indebtedness of that credit union or any evidence of indebtedness of, or ownership interest in any affiliate of that credit union to be sold or offered for sale in any of the following:

"(A) A domestic branch of that credit union at which insured shares are accepted.

"(B) That credit union's head office, if it accepts insured deposits and is located in the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any of the following:

"(A) An insured share in an insured credit union.

"(B) A traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by federally insured depository institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940, or otherwise regulated by the Board.

"(D) A sale of instruments in minimum amounts of $100,000 to a sophisticated investor.

"(3) REGULATORY EXEMPTIONS.—The Board may by regulation provide exemptions from paragraph (1) if at a minimum:

"(A) the exemption is in the public interest;

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured share because of the manner in which it is sold or offered for sale, or for any other reason;

"(C) the evidence of indebtedness or ownership interest would be sold or offered for sale on terms (including price) no less favorable for shareholders than for persons similarly situated who are not shareholders;

"(D) the seller or offeror institutes and follows procedures to determine before selling the instrument whether the instrument is appropriate for the purchaser, except to the extent that the Board determines that, in particular cases or classes of transactions, such procedures are not necessary to protect the public;

"(E) no broker or a dealer registered under the Securities Exchange Act of 1934 (or any associated person) receives a greater commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1); and

"(F) none of the following persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured credit union.

"(ii) An affiliate of the insured credit union.

"(iii) An employee of the insured credit union or any of its affiliates, or any person under the direction or control of the insured credit union or any of its affiliates.

"(4) AFFILIATE DEFINED.—For the purposes of this subsection, the term 'affiliate' means any company that controls, is controlled by, or is under common control with another company.

"(5) ANNUAL REPORTS REQUIRED.—The Board shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences between the Board's regulations under this subsection and the regulations adopted by the Federal banking agencies under section 18(o) of the Federal Deposit Insurance Act. The report shall explain the reasons for any such differences, and shall be published in the Federal Register.".

(b) REGULATIONS.—Not less than 180 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate regulations to administer and carry out the purposes of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective immediately upon the effectiveness of final regulations promulgated under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

The PRESIDING OFFICER. The Senator is recognized.

Is there debate on the amendment of the Senator from Nevada? If not, the question is on agreeing to the amendment of the Senator from Nevada.

Mr. D'AMATO. Mr. President, if we would withhold the consideration of this amendment and return to the present amendment, and once that is disposed of we will then go to the next order of business. We will go to the consideration of the Bryan amendment.

Mr. BRYAN. Mr. President, that is agreeable with this Senator.

Mr. D'AMATO. I ask unanimous consent that the amendment be laid aside, and that we proceed on the D'Amato amendment.

The PRESIDING OFFICER. The Chair would ask the Senator from New York if it was his request to proceed on both of those amendments of the Senator from Nevada and of the Senator from New York?

Mr. D'AMATO. That we proceed on the second-degree amendment, the substitute second-degree amendment to the D'Amato amendment, the underlying amendment, that we continue to proceed on that amendment; in other words, that is now before the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2042, AS MODIFIED, TO AMENDMENT NO. 2041

Mr. D'AMATO. I thank the President. I thank my distinguished colleague from Nevada. Mr. President, in this manner we will be able to dispose of his amendment. I do not believe there is going to be any objection. We can deal with this amendment that is presently pending.

Mr. President, let me touch on a number of things that have been said. One of the groups that campaigned against this amendment has put out information that says, and it is misinformation, the present amendment would require not only a 5-percent downpayment but also that homebuyers pay all closing costs, calculated up front, and assuming that the premiums would also be paid up front.

The fact of the matter is that we are not asking for the premiums—that is, the insurance premiums—to be paid up front.

They go on to say that this would make FHA like a private mortgage insurer. I would have required that the premiums be paid in cash up front.

That may have been the case. But this proposal does not do that. It makes the insurance—which amounts to something in the area of about $3,800, if you have a $100,000 mortgage—financeable. I am not suggesting we are doing the right thing by making that financeable by the way, but that is what it does.

To assume that it is paid up front, to make that assumption, and to send out these details is just plain wrong. It is absolutely not right. It does a great disservice.

Mr. President, the fact of the matter is the Price Waterhouse people have done a pretty good job. When we are talking about loan default rates that takes place with loans which have between 97 and 103 percent equity—in other words, they put up maybe 3 percent at the most, and in some cases, in most of the loans being made, it is 103 percent mortgage. There is no equity in it. We have a default rate of almost 20 percent. So one out of five of the mortgages that we are making will default. That was in economic times that are not as dangerous and precipitous with the sinking real estate market.

So I suggest that if we continue to make these mortgages, you are going to have even greater defaults.

Where there is 93 to 95 percent, which means that the purchaser has put in anywhere from 5 to 7 percent in terms of equity, the default rate falls to less than 12 percent.

We almost cut the default rate in half. I say to my colleagues, look, I am not saying that this is going to cure the problem. It may not be enough. It may be that we have to put an infusion of money. I hope not, but it may come to pass. But I am saying that we are costing the taxpayers, every day when we make 3,000 mortgages, an average—this is Price Waterhouse, which is conservative—of $200 to $700 loss for every single mortgage. That is the average. If you have one out of five defaultings, obviously, and if you take one out of five of those which are at the 97 to 103 percent, and you have a default rate which falls to 12 percent for those who are 93 to 95 percent, you have more than one out of five defaulting. You have about 20-plus per-

cent defaulting. That does not make sense.

I have to tell you something. We better get some management reforms in there, and we had better see to it that the lenders originating these mortgages really care, and that they have something at risk, instead of all the risk being placed on the Federal Government.

This Senator has not had an opportunity to propound that kind of legislative initiative, but I suggest that it should be done. I suggest to the staff that if we are going to come up with any compromise, part of that compromise should see to it that the lenders have something at risk, if we are going to have any substitutions or compromises, the lenders should have something to risk.

Theirs should not be just a profit center for themselves where they make hundreds of dollars per mortgage that they can push through. Push them through the mills. They do not care about the public, the people buying the house, about the taxpayer, if these people are going to be evicted, and there is a good likelihood of that. That is what we are talking about.

There is talk about an alternative that is going to meet objections of Price Waterhouse. I will read you parts of a letter which I received from Secretary Kemp. "While we continue to support the proposals that we presented to the committee on June 6," he said, "we find your proposal to be the best of the alternatives now considered by the Senate." He goes on to say, "In addition, the proposal advanced by Senator CRANSTON has been found to fall short of the minimum capital needed for actuarial soundness."

It does less than the proposals which were put forth by Price Waterhouse. I do not know why we paid hundreds of thousands of dollars, and some of the best experts in the country came in to put this together, and then to put in a substitute, an alternative that does not even go as far as what Price Waterhouse is saying you have to do. By the way, Price Waterhouse says that if you have a market that is sinking, that even its minimum alternatives will not fill the bill. It will not do the job.

Mr. President, I am going to make an appeal. I really appeal to my colleagues to put aside partisanship. There are certain issues on which you can do it. Put the interest of the people here. Put aside private authorship. Certain times we should all come to the floor and answer the call of the people to do what is right.

If the reform package which the administration has requested and supports is turned down, it is not a question of a victory over the administration; it is a question of not doing the business of the people. If we are going to accept in its place a watered down compromise package which compromises principles and does not address the fundamental deficiencies of the fund or the operation—by the way, we may not be able to address the deficiencies of the fund, but what we may be able to do is keep the fund from losing more money. We may have to revisit this question and come to the floor and provide additional funds.

But at least let us not exacerbate the problem of the fund by having it operate on the basis which is guaranteed today, lost money with the Government, with the average of all the mortgages put out and guaranteed that this operation tomorrow will do the same, and guaranteed that the alternative being put forth by my distinguished friend and colleague, will do the same, will continue to guarantee that the fund can lose this money on a daily basis.

That does not make sense. Actuarially, the Price Waterhouse people can say or give license to the proposition that not only is this better than what we are doing now, but will reduce that deficit, that it is moving in the right direction, that it is adequate dealing with the circumstances—we do not know about the future, because even the Price Waterhouse people said, if the real estate market continues to decline, then even the modest suggestions or the suggestions that we have put forth will not be adequate.

I do not know what it takes, but I certainly hope that it will call forth us acting on this in the spirit of saying let us do the business of the people. I have to say to the real estate people that I understand; I have been there. I have been fighting for homeownership since the first day I arrived at this body. It is an important concept.

What a terrible injustice we do to the entire community, to the builders, to the real estate agents, the developers, the potential homeowners, by saying that we should continue a program at this point in time that has provided to be economically unsound, proved to be harmful to so many Americans, and proved to be, and will be in the future, more harmful and detrimental to the entire program.

We will finally get a situation where people say that Government should not be in the business of providing any of these guarantees. If one looks at the Wall Street Journal, you will begin to see there are very real questions about FNMA, GNMA, and Government guarantees in various areas.

I say to my friends, what do we need to wake up? This is a harbinger of ill will, particularly if we refuse to make modest requests, if we are talking about the poorest of the poor, and there are many homes in different regions and areas.

I have heard my colleagues from Iowa and other areas talk about $125,000 homes. The average home in our area sells for $67,000, and I have certain areas where they sell for $45,000. We have not changed. The financing and the downpayment for those homes which will be purchased with less than $50,000, 3 percent—if you have a $50,000 mortgage, you can get that mortgage and put 3 percent down. I would like to know what program in the private sector does anyone know about that can match that kind of situation of 3 percent? I do not know of any. So we are not going to drive people in to the private sector and hurt the fund.

Second, when we fail to do the proper kind of risk analysis for the insurance premiums, what we do—and I will conclude now, Mr. President—that is what the alternative does not do; it says everybody is charged one-half percent, regardless of the risk. So if a person who puts down 20 percent, that person pays one-half a percent, one-half a percent for their mortgage. If a person put down 5 or 3 percent, they paid the same. The fact of the matter is, what we will do is force those people, if the alternative proposition is accepted, those people who will be paying this risk premium when they should not be, because we have not distinguished between a high risk and a low risk, we assign everyone one-half of 1 percent, those people who can afford to go the private area, those people whose default ratios are the least, these people who throw off a profit, a profit to the system will move to the private sector jeopardizing the FHA fund.

So, Mr. President, this is a complex matter. But when we look at it and examine it, it was one of the reasons Price Waterhouse said they could not support the Cranston proposal because it does violence and forces the very people you want to keep in the fund to leave because there is no risk assessment and they will be picking up the cost for those who are in greatest risk of default.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. FORD). The Senator from Nevada.

Mr. BRYAN. Thank you very much, Mr. President.

I ask unanimous consent that we set aside the pending D'Amato amendment for the purpose of considering at this time a Bryan amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, we get one objection cleared away with and then we have another one and there is a Senator who would like to speak. I have to ask that the UC be continued and I ask the indulgence of

my good friend from Nevada. He has been patient. He has really attempted to work this out, and I want to work it out for him. But there is another Senator I have just been advised who asked to make comments. I ask with his indulgence if he could not retain the same status and his amendment will be the first amendment up right after and will be the business.

The PRESIDING OFFICER. The Chair will say to the Senator from New York there is no other Senator on the floor to speak and to make remarks and the Senator from Nevada is prepared to go ahead and propose his amendment.

Mr. D'AMATO. Mr. President, I understand that. I have been asked by a colleague who wishes to speak to this issue. And this will, by the way, come up, if I might ask a parliamentary inquiry, after the disposal of the present amendment which I believe is going to be voted on at 9:15. The Bryan amendment will come up. I made every effort to attempt to expedite. I think the Senator will indicate that. I have no objection myself. Another Senator indicated he would like to be heard and he will be here.

I object.

The PRESIDING OFFICER. There has been an objection.

The Senator from New York.

Mr. D'AMATO. Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). In my capacity as a Senator from the State of Nevada, I object.

The clerk will continue to call the roll.

The legislative clerk resumed the call of the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I ask further unanimous consent that the Bryan amendment now be in order, and that the D'Amato amendments, which are the pending amendments, be temporarily set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2056

Mr. BRYAN. Mr. President, all of us recognize the enormity of the savings and loan bailout. It will cost anywhere from $500 billion to more than $1 trillion, from the estimates we have heard. Tonight is not the night to raise the debate as to how we got into this situation, but it is an opportunity for us to learn from some of the mistakes that have been made, and from some of the practices which have occurred.

The amendment which I offer this evening addresses one of those practices. It is the practice of insured financial institutions, savings and loans, being allowed on the premises to issue junk bonds. That has created a good deal of confusion on the part of the public, many believing that the institution, which itself is insured and proudly emblazons on the front door the new "safe" logo, which I know the distinguished Senator from New York is familiar with because we worked on it during the course of the Banking Committee proceedings, which indicates, "Deposits are federally insured to $100,000; backed by the full faith and credit of the U.S. Government."

Some 23,000 individual investors that we know of, depositors, have been misled at a cost of some $300 million. and many others out there may have been similarly mislead that their purchase of junk bonds was covered by the Federal guarantee of "safe" or the predecessor, in this instance, "FSLIC" or the FDIC logo.

The purpose of my amendment is simply to prohibit a depository institution from issuing junk bonds, in itself or its affiliated parents. There are some exceptions provided in the case of travelers checks and that sort of thing that are spelled out in the provisions of the amendment. There is a further provision that the regulatory agency may, upon a series of findings contained in the amendment, make such an exception of those findings are supported by the applicant who seeks an exemption.

I think this makes a lot of sense. It has been cleared on both sides of the aisle. Indeed, a number of my colleagues have cosponsored the original legislation from which this amendment has been drawn.

I also make an assurance with respect to an inquiry that did come up. The question has been asked whether this bill covers insurance products. Let me assure my colleagues, it does not. Neither the intent nor the language of this amendment would have any effect on current law with respect to the sale of insurance products.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I want to commend the Senator from Nevada for the legislation which I was proud to cosponsor with him. It makes sense. It is prudent. It is wise to undertake it.

I also want to commend him for his patience, as it relates to finally being able to get some of the objections that some Senators raised dealt with, and the manner in which he has persevered.

I think it is good legislation, and certainly is something we should have had in effect. It will make it impossible, or certainly limit the opportunities where people will be led to believe that the taxpayer, FDIC, or FSLIC, is insuring these funds.

We know some felt that. Some fell victim to that. Whether or not it was intentional on the part of the institutions who were dealing these, the fact it has taken place is well documented.

We support the amendment on this side.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I am delighted to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If there be no further debate, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment (No. 2056) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2042, AS MODIFIED, TO AMENDMENT NO. 2041

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I wish to rise for a couple of moments and compliment my good friend and colleague from New York for his amendment. I also ask unanimous consent to be added as a cosponsor to Senator D'AMATO's amendment.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. NICKLES. Mr. President, a year ago when we dealt with the HUD appropriation bill, there was an effort to increase the FHA insured amount. As a matter of fact, the amount was $101,000, if my memory serves me correctly. There was an amendment that was in the Appropriations Committee to take that to an unlimited amount, basically 85 percent of the median value. That would mean, in some regions of the country, the insured amount could go up to $200,000.

I opposed that amendment very vigorously. As a matter of fact, we had three or four amendments on the floor of the Senate where I worked to reduce that amount. We finally ended up with $124,800, I think which is the present insured amount.

The reason why I opposed raising the amount of insurance was twofold. Primarily, first and foremost was the fact the insurance fund, I felt, was in jeopardy. We were making Govern-

ment guarantees on loans throughout the country for billions and billions of dollars. I was concerned about the health of the fund. I was concerned about the loss to the taxpayers.

We had a study going but the study was not completed, and I said: Does it make sense for us to be increasing the amount of insured guarantees, maybe up to $200,000 in some regions of the country, without having the study?

Ultimately, we were successful and we limited the amount to $124,000. I think that was a prudent move by Congress, and I think actually we have been successful in saving some money by doing so.

I also stated at the time that I thought FHA had to be reformed. It needed to be reformed, because it was making a lot of loans. The loans, in effect, as Senator D'AMATO said several times on the floor, were of greater value than the property. The Federal Government was actually guaranteeing loans of 103 percent of the appraised value of the property. That made no sense. It was an invitation for a disaster, if housing values would decline. They have in my part of the country. Now they have on the east coast. They may well decline in other areas, as well. And Uncle Sam is left holding the bag, insuring property for values greater than what the actual value of the property. So we needed to reform the actual value of the property is. So we needed to reform the system.

I compliment my friend and colleague from New York because he came up with some good commonsense reforms. I am not sure they are enough. Maybe we needed to go further in some areas. I do not know. I do not serve on the committee. I do not share his expertise, but I have looked at his reforms. They are giant steps in the right direction, and I urge my colleagues to support them.

This should not be a partisan issue. It should be an issue. We agree we need to make some fiscally prudent reforms on FHA, and that is exactly what the amendment of the Senator from New York does.

So I urge my colleagues to adopt this amendment. We are looking at a serious, serious problem if we do not. We are looking at hundreds of millions of dollars of losses on an annual basis on new loans.

Let us reform the process so we do not continue to pile future obligations and debts on American taxpayers. We saw it happen with the S&L crisis when Congress increased the insured amount rather dramatically without a lot of study.

The Senator from New York said let us come up with some reforms. It is supported by the administration. I hope it will be supported tonight by the U.S. Senate.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. CHAFEE] is recognized.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the pending amendment might be set-aside. I have an amendment to send to the desk that has been agreed to by both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator may proceed.

AMENDMENT NO. 2057

(Purpose: To provide for a GAO study).

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself, Mr. KENNEDY, and Mr. METZENBAUM, proposes an amendment numbered 2057.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title X, add the following:

SEC. . GAO STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall carry out a study of the Davis-Bacon Act as it applies to Federal housing contracts. In the course of such study, the Comptroller General shall consider—

(1) the original aims of the Davis-Bacon Act;

(2) possible changes in the Davis-Bacon Act;

(3) an analysis of the relevant construction industry labor market including geographic variations, skills, training, productivity, and quality of work product;

(4) any productivity or quality differences between private and government sponsored construction;

(5) the effects of the Davis-Bacon Act on Federal housing construction costs, construction wages, construction quality, the local and national economy, and the ability to create low-income housing;

(6) the effects of business practices designed to avoid coverage of the Davis-Bacon Act; and

(b) OPTIONS TO BE CONSIDERED IN MAKING RECOMMENDATIONS.—The Comptroller General shall examine and make recommendations regarding the following possible congressional actions with respect to the housing construction industry:

(1) reform of the Davis-Bacon Act;

(2) changing the dollar threshold;

(3) changing the definition of "prevailing wage";

(4) expanding or restricting the use of helpers;

(5) reducing or expanding required compliance activities for contractors;

(6) changes in administrative or other enforcement;

(7) regulating the splitting of contracts; and

(8) any other recommendations.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report setting forth the results of the study required by this section.

Mr. CHAFEE. Mr. President, this amendment that I have worked out with Senators KENNEDY and METZENBAUM deals with the problem that we voted on twice in the last couple of days, and that is Davis-Bacon. What it does is provide for a study by the GAO as to what are the effects of Davis-Bacon on housing. It is an amendment that I believe will be very helpful to us. The GAO study is to be returned in a year. I have spoken with Members on both sides on this, and I seek its immediate approval.

Mr. D'AMATO. Mr. President, we have no objection to the study. As a matter of fact, I think it is long overdue. I think it makes sense. I want to commend the Senator from Rhode Island because we have heard lots of things one way or the other, so why not a study to ascertain if we cannot achieve one-way benefits, as the Senator suggests?

The PRESIDING OFFICER. Is there further debate? If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2057) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from California and the distinguished Senator from New York, the senior Senator from Massachusetts and the junior Senator from Ohio for their help on this amendment. We look forward to this study.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. In light of the disposition of the Chafee amendment, what is the pending business?

The PRESIDING OFFICER. The pending business will be the D'Amato amendments in the first and second degree.

Mr. GORTON. Mr. President, I wish to commend and add my support to the amendments of the distinguished Senator from New York. This body, during the course of the last 2 days—technically during the course of the entire year—has listened to a great deal of impassioned oratory over the tremendous losses which have been suffered due to mistakes which we and various administrators have made in connection with savings and loan associations over the last several years.

I trust that we have learned from that disaster, a disaster which is partly a combination of poor oversight and

partly due to the fact that we allowed many institutions to enter into business relationships for which they were not equipped. If we left aside all of the deliberate fraud in the savings and loan bailout crisis, we would still have billions of dollars in losses entered into in good faith by people who simply did not belong in the business in which they found themselves engaged.

I am convinced, Mr. President, that we must learn a lesson from this savings and loan crisis. The FHA is losing money at the rate of $350 million a year, according to the General Accounting Office. Its overall balance has been reduced by two-thirds during the course of the last several years, and we are asked here tonight if we reject the D'Amato amendment simply to cure our addiction by the hair of the dog which put us in the disposition in the first place.

Drastic and severe reforms are necessary in connection with the FHA. The FHA is no longer an organization which orients itself toward low- and marginal-income recipients. Most of its insured loans are for upper income groups, many of them for second homes, some of them for second mortgages. Every time the FHA engages in a transaction today, it losses business.

The Senator from New York has proposed a thoughtful and, I think, moderate reform which, with a reasonable degree of good fortune and a reasonably successful economy, will turn the FHA around and rebuild its reserves rather than simply run them into the ground. It should be accepted unanimously by this body.

Let us not simply be facing 4 or 5 or 8 years from now the same kind of debate directed at who is at fault for the bankruptcy of the FHA; who is at fault for the bailout we have to come up with in connection with the FHA? Let us learn from the S&L disaster and prevent such a disaster here. We can do that by voting for the amendment which is before the body now.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I thank my distinguished friend and colleague from the State of Washington. I might add as an aside, Mr. President, again for the benefit of some who received these little printouts that have been given by one of the organizations, I think it may be the mortgage bankers. I do not want to do them a disservice, but one of the trade associations passed this out. I had a colleague approach me. He said, "This is going to make this program unworkable because you have asked that the insurance premium which, if you have a $100,000 mortgage, is $3,600 or $3,800, you are going to require that it be financed up front."

That is not correct. We do not ask that the mortgage premium be financed up front. We do say, though, that there should be risk-base insurance. Let me tell my colleague why we do that. If we do not, if we charge everybody the same one-half of 1 percent, then those people who have the least chance of failure—who we want to keep in the program because they do pay—those are the very same people who have access to alternatives. Net one-half percent will be the difference and may be the difference, actuarially, and they will go into the private sector where they do not have to pay that half a percent. They can afford it. We do not want to drive them out.

No. 1, we do not require the financing of the insurance up front; No. 2, Price Waterhouse said there should be risk-base premium funding. It makes the most sense. No. 3, the greatest failure rate is from people who do not put up adequate downpayments. No. 4, as it relates to the low-income people who buy homes $150,000 and under, do my colleagues know what we ask for a downpayment, Mr. President? Three percent. Shame on those who say we are going to make it impossible for the poorest of the poor to buy a home.

What we are saying is we do not want to bilk the poor and the taxpayer by deceiving them and putting them into a situation where they will be defaulting and then sticking John Q. Public with the bill. That does not make sense.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2055, AS MODIFIED

Mr. CRANSTON. Mr. President, I ask unanimous consent that the DeConcini amendment No. 2055, adopted earlier, be modified with a technical amendment that I send to the desk. All it does is change the title of the bill.

Mr. D'AMATO. Mr. President, we have no objection. It is a technical amendment. It is fine. We have looked at it. We do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of title X add the following:

SEC. . CLARIFICATION OF THE TERM "AREA".

It is the sense of the Senate that in areas where FHA mortgage insurance is not accessible for a significant number of homebuyers because of diverse economies in the area, the Secretary of Housing and Urban Development has sufficient authority under law to redefine the term "area", in establishing mortgage limits under section 203 of the National Housing Act.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have had the opportunity now to consult with the managers of the bill, the distinguished Senators from California and New York. And it is evident that no further progress will be possible on this bill this evening.

I regret that very much. Progress has been very slow. It is my hope that we will be able to have further action in the morning. I am advised that the distinguished Senator from Minnesota will be here in the morning ready to offer an amendment that will require a vote.

As I indicated last week, it is imperative that we attempt to move on the several important measures that remain for action during the few weeks we have remaining of legislative session.

One of the procedures which I indicated I was considering was for the first time to begin to have votes on procedural matters to encourage the attendance of Senators on certain days.

Accordingly, tomorrow morning, at 9:30 a.m., there will be a vote, a rollcall vote, on a motion to compel the attendance of Senators; and following that, I am advised that there will be at least one, and possibly additional amendments, that will be considered which will require rollcall votes.

I further advise that following a day of unsuccessful efforts to convene the interested principals to attempt to negotiate some of the differences that remain on several provisions of this bill, that there is the likelihood that at least a meeting can take place tomorrow.

The distinguished Senator from California, earlier today, referred to the difficulty in getting the Secretary of Housing and Urban Development to a meeting for that purpose. I am now advised that he may be available some time tomorrow for that purpose, and I encourage all involved to do the best they can in that regard, to see if some agreement can be reached.

Furthermore, I will, tomorrow morning, be in a postiion to announce a decision regarding what action the Senate will consider next week. Of course, as is my practice, I will consult with the Republican leader before making any decision and my announcement.

So, Mr. President, there will be no further rollcall votes this evening. The Senate will come into session at 9 o'clock, and then at 9:30, there will be a rollcall vote on a motion to require the attendance of Senators. Then I am advised that there will be at least one, possibly more, amendments to be offered that will require rollcall votes.

I yield.

Mr. BOSCHWITZ. May I ask of the majority leader or the Republican manager, is the amendment that I am going to offer been accepted?

Mr. D'AMATO. I believe there may be objection from the other side. We are prepared to accept it and, indeed, I am prepared to support the Senator's amendment. I understand there may be objection from the other side and that might necessitate a rollcall vote.

Mr. BOSCHWITZ. It is not my intention to offer on Friday an amendment that is going to necessitate a rollcall vote. I was of the understanding that this may be accepted. I hope that the Senator does not count on me to do that.

May I ask the Democratic leader of the bill; the housing bill, whether or not this is going to be a contested amendment?

Mr. CRANSTON. At this time, I cannot give assurances that we will accept the amendment. Perhaps we can work something out on it tomorrow in the course of the debate. If not, we will have a rollcall vote on it tomorrow.

Mr. BOSCHWITZ. I thank the Senator.

Mr. AKAKA. Mr. President, I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2058

(Purpose: To replace section 201)

Mr. AKAKA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA], for himself, Mr. INOUYE, and Mr. LIEBERMAN, proposes an amendment numbered 2058.

Mr. AKAKA. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 201 and insert the following:

SEC. 201. FHA AMENDMENTS.

(a) INSURANCE CEILINGS.—Section 203(b)(2) of the National Housing Act is amended by striking all through "value in excess of $25,000." the first place it appears and inserting the following:

"(2) Involve, in the case of property upon which there is located a dwelling designed principally for a one-family residence, an insured principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed—

"(A) the appraised value of the property;

"(B) 80 percent of the maximum amount of a one-family conventional mortgage eligible for purchase by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

"(C) an amount equal to the sum of (i) 97 percent of $25,000 of the appraised value of the property (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve), as of the date the mortgage is accepted for insurance, (ii) 95 percent of such value is excess of $25,000 that does not exceed $124,875, and (iii) 90 percent of such value in excess of $124,875.

The Secretary shall prescribe limitations for two, three, and four family dwelling for each area so that the allowable dollar amount for a two-family dwelling shall be 107 percent of the applicable dollar amount provided under subparagraph (B) of the previous sentence for a one-family dwelling, for a three-family dwelling shall be 130 percent of such amount, and for a four-family dwelling shall be 150 percent of such amount.".

(b) INSURANCE OF MORTGAGES IN ALASKA, GUAM, AND HAWAII.—The first sentence of section 214 of the National Housing Act is amended to read as follows: "If the Secretary of Housing and Urban Development finds that, because of higher costs prevailing in Alaska, Guam, or Hawaii, it is not feasible to construct dwellings or mobile home courts or parks on property located in Alaska, Guam, or Hawaii without sacrifice of sound standards of construction, design, or livability, within the limitations as to maximum or maxima mortgage amounts provided for in this Act, the Secretary shall, by regulation or otherwise, prescribe, with respect to dollar amount, a higher maximum or maxima for the principal obligation of mortgages insured under this Act covering property located in Alaska, Guam, or Hawaii in such amounts as he shall find necessary to compensate for such higher costs but not to exceed, in any event, the maximum or maxima otherwise applicable (including increased mortgage amounts in geographical areas where cost levels so require) by more than one-half thereof.".

Mr. AKAKA. Mr. President, our Nation is facing a serious housing crisis, and the American people are depending on us. It is heartbreaking when constituents call to say that their children and grandchildren cannot afford to buy homes in Hawaii. However, this inability to locate affordable housing is a problem not only in my State, where the median sales price in May was $342,000, but in California, Connecticut, Alaska and New Jersey, Massachusetts and New York, as well.

Mr. President, I strongly support S. 566 and plan to vote for it. The people of Hawaii believe that affordable housing is one of their highest, if not highest priority, requiring immediate Government action. With that in mind, however, I believe this legislation does not go far enough.

One of the principal components of Federal housing policy over the past 20 years has been mortgages insured by the Federal Housing Administration. These mortgages have enabled millions of low- moderate-, and middle-income Americans to purchase homes.

As written, the committee bill extends the current FHA mortgage ceiling of $124,875 for single-family residences through the end of fiscal year 1992. This extension is important but falls far short of addressing the problem facing many areas where the median sales prices of homes have soared to levels far higher than the FHA eligibility limit.

While FHA assistance is still available to home buyers purchasing houses within the ceiling limit, there is a growing disparity between market realities and the established ceiling on eligibility. This, in turn, distorts the geographical distribution of the FHA loan portfolio.

Mr. President, in States such as Hawaii, the median price of a home is substantially higher than the FHA limit of $124,785. Young and first-time home buyers are forced to accumulate substantial downpayments or forgo FHA assistance. With housing prices continuing to rise across the Nation, it is only a matter of time before many States and cities will join the list of those median housing prices at or above $124,785.

If we are going to tell our constituents that we have done something to make housing more affordable and home ownership more obtainable, then I submit that we must amend this bill to raise the limit on FHA home mortgages. My amendment proposes to raise the FHA ceiling to 80 percent of Fannie Mae and Freddie Mac maximum loan limits for localities with high housing costs. At the present time, their limit is $187,450. This means that home buyers in States with a median home purchase price of approximately $150,000 would be eligible for FHA loans.

My amendment would also extend provisions of current law under which the HUD Secretary has created special limits for unusually high-cost areas such as Hawaii. Some argue that increasing the FHA loan limit will have a negative impact on the default rate.

Again, I believe the opposite would occur and point to my home State of Hawaii where the median sales price of a home in May was $342,800. In spite of extraordinarily high mortgages, the State also has one of the lowest mortgage default rates. Why should the people in Hawaii and other States be denied the opportunity to afford the American dream just because the median sales price of homes in their areas outstrip the FHA limit?

Recent articles from the Honolulu newspapers bring into sharp focus the

housing problem in Hawaii. One article tells how tourism has affected the market values of homes on the island of Kauai. As a result, county housing officials there are scrambling to find new homes for the many displaced families. Another article highlights the impact of rising real property assessments on big island residents and the urgency for reforms to thwart these growing tax burdens.

I ask unanimous consent that these articles be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. AKAKA. In my judgment, this amendment will help make homes more available and affordable to Americans living in high-cost areas. Hawaii's high housing costs and low mortgage default rate serve as a good example that larger mortgages do not cause default rates to rise.

The time has come to increase the FHA mortgage ceiling so that the residents of Hawaii and other high-cost areas can enjoy the benefits of home ownership. The Senate should pass this amendment.

The leadership is in the process of negotiating an agreement on this bill that will permit the Senate to pass the National Affordable Housing Act. Unfortunately, because of opposition from the administration, this compromise did not include raising the FHA limit for high-cost areas. This is regrettable. As much as I want relief for Hawaii's housing problems, I also want to pass this legislation to reform and extend the Nation's housing programs.

However, I am compelled to raise this issue because the people of Hawaii deserve access to affordable housing just as much as any other area. Our problem is that affordable housing has a different meaning in Hawaii than in the rest of the country. If this amendment does not succeed, I will introduce its provisions as a separate bill.

Hawaii's housing needs will not go away. Unless we take steps like increasing the FHA limit, they will only get worse, not better. Mr. President, I would like to ask the chairman of the Housing Subcommittee whether there would be an opportunity to have the Banking Committee address this issue in the near future.

I yield to the chairman.

Mr. CRANSTON. Yes, there will be. The Senator from Hawaii has correctly identified a very serious problem for areas like Hawaii, my State of California, and other States with high housing costs. The FHA mortgage program that is currently capped at $124,785 has little meaning for a place like Hawaii where a median price of home purchase is $350,000.

The National Affordable Housing Act is intended to expand housing opportunities to low- and moderate-income families throughout the country, including Hawaii.

The Senator's idea of introducing the amendment as a separate bill I think makes good sense. It does require further thought.

I assure the Senator that we will hold hearings and provide an opportunity to fully examine the need to increase the FHA loan limit for high-cost aeas like Hawaii, California, and a good many other States.

Mr. AKAKA. I thank the Senator from California. He clearly understands this problem as much as anyone.

I welcome the opportunity to hold hearings on this issue. It will provide an excellent opportunity to focus greater attention on the problem faced by high-cost areas.

With that assurance, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment is withdrawn.

The amendment (No. 2058) was withdrawn.

Mr. AKAKA. Mr. President, I also take the time to thank the chairman of the subcommittee and also the ranking member of the subcommittee for excellent work they have done on this bill and I look forward to its passage.

Mr. CRANSTON. I thank the Senator very, very much.

EXHIBIT 1

[From the Honolulu Sunday Star-Bulletin & Advertiser, June 17, 1990]

TANIGUCHI COMES HOME TO TACKLE HOUSING CRISIS

(By Jan TenBruggencate)

LIHUE, KAUAI.—Mayor JoAnn Yukimura has turned to a Kauai-raised former Stanford classmate for one of the most thankless jobs in her administration: heading the county housing agency.

Housing has been short on Kauai for several years and has reached crisis proportions more than once.

In one situation, the construction and opening of the Westin Kauai Hotel and an influx of new employees pushed Lihue area rents up and families out when they could not afford higher rents.

In another, when the owner of a residential complex in a rental assistance program decided to take his project out of the program, county housing officials scrambled to try to find new homes for the batch of displaced families.

At least one more crunch is expected later this year, with the opening of the Hyatt Regency Kauai Hotel.

Chad Taniguchi, in his third week on the job as Yukimura's housing administrator, is already trying to make plans for dealing with that one.

"We're trying to anticipate that impact, trying to see how we can mitigate the effect we saw when the Westin opened," Taniguchi said.

Taniguchi might have seemed an unlikely prospect for the housing slot. He was in the fifth year of a law practice, with an emphasis in litigation, at the firm of Paul, Johnson, Alston & Hunt. He had been in law school at the University of Hawaii from 1982 to 1985, after a stint heading the University of Hawaii's Ethnic Studies Oral History Project.

A large part of the decision to leave Honolulu and lawyering behind had to do with his relationship with Yukimura and their mutual commitment to the island, he said.

"The mayor asked me to take the position and it was serious decision, relocating here, getting out of law for the time being," he said.

Taniguchi met Yukimura about 1970 when she was a senior and he a freshman at Stanford. Both were from Kauai, but had not met on their home turf. Even then, Taniguchi said, he was impressed by her concern for the island.

What sold him on coming home and taking the housing job, he said, was "her commitment to maintaining the quality of life on the island."

He had a leg up, in his friendship with former Housing Director Peter Nakamura, who moved over to head the Kauai Planning Department. He has been staying with Nakamura while buying a home and waiting for his family to move over from Honolulu later this month.

And Taniguchi received some direct experience in the housing problem as he shopped for a house on Kauai. He found one in Lawai.

"It was an experience, the Kauai housing market," he said.

At his office, now situated in a row of temporary buildings across from the Kauai War Memorial Convention Hall, Taniguchi's first goal is not to get in the way of the housing agency's ongoing projects, he said.

There are plenty of complaints, in this political season, that the county is accomplishing little or nothing in resolving the housing crisis. But Taniguchi is optimistic. Much of the activity in the past few years has involved doing groundwork and, with that background, all the pieces appear to be in place to build a strong housing development program, he said.

"The Housing Finance and Development Corporation has the money, the state has the land and private developers have an interest in market-priced housing and (they) recognize the need at the lower end of the scale," he said.

Taniguchi said that one thing that could change under his administration is the mix of different types of housing. There has been little residential development other than single-family homes on individual lots, largely because developers perceived there was no market on the island for apartments, townhouses and the like.

That assessment was probably accurate in the past, but Taniguchi said he believes times have changed. People are open to different types of housing and they can make it easier for people to begin the home ownership process, he said.

"Being from Honolulu these past 17 years, I'm used to the idea that a first home is an apartment, then maybe a townhouse, and then, if they want a single-family home. Later, as people grow older and family size shrinks, it may go in the reverse order.

"I'm encouraged to see developers being willing to build condos and townhouses, feeling that the market will now support them," Taniguchi said.

Taniguchi said that while his office could generally support housing projects in all price ranges, its emphasis must continue to push for lower-cost units.

"I think that it is going to be possible to work with the state and private developers to build more projects that are going to be affordable to people who cannot afford to buy on the open market," he said.

[From the Honolulu Star-Bulletin & Advertiser, June 16, 1990]

BIG ISLE TOURISM NEED CITED—URGED TO WIDEN ITS SEARCH FOR VISITORS

(By Hugh Clark)

HILO, HAWAII.—The Big Island needs to broaden its geographic target in the search for tourists if it is to fill its rapidly growing number of hotel rooms.

That was part of the message of Stanley Hong, president of the Hawaii Visitors Bureau, in a weekend speech at the 39th annual meeting of the Japanese Chamber of Commerce and Industry of Hawaii.

While Big Island tourism has done well lately, Hong said it is in need of "new directions and ideas," including beyond the West Coast, in seeking tourists.

Seventy-five percent of Mainland residents have not been to Hawaii and most of that group live east of the Rocky Mountains. "Why not go for the whole United States?" asked Hong.

The Big Island had its first one-million-visitor year in 1989, according to Hong. He added that the prospect for this year looks just as good. The visitor count is up 6 percent for the first four months of this year compared to the same period last year. Visitors were up by 14 percent in Hilo and 5 percent in Kona.

Hong said tourism on the Big Island is different from that of either Maui or Oahu—both in length of stay and how often tourists return.

Big Island visitors are mostly older and they stay longer than those who visit Oahu, he said. Also, more second-, third- and fourth-time Isle visitors go to the Big Island than elsewhere in the state.

Most are professional and technical people who stay 10 or 11 days.

Hong credited the Big Island with maturing, dropping the Hilo versus Kona in-fighting.

That has helped lead to a $1.2 million comprehensive advertising campaign for 1990, including $150,000 each from Hawaii County and the HVB. The remaining funds came from the private sector.

The strength of the Big Island in the overall Hawaii market, Hong told the Big Island business leaders, is its "diversity of climate, terrain and wide open spaces." He also praised the revitalization of downtown Hilo and the preservation of historical features.

Despite recent successes, Hong said the Big Island still has an average room occupancy rate of 60 percent compared to Waikiki's 87 percent.

"There's room for growth," he said.

[From the Honolulu Star-Bulletin & Advertiser, June 16, 1990]

MANY FACTORS IN BIG ISLE'S RISING PROPERTY VALUES

(By Hugh Clark)

HILO, HAWAII.—With overall real property assessments on the Big Island rising by 14.56 percent, Hawaii County taxpayers are naturally asking why.

Is the South Kohala building boom the cause? Are foreign investors to blame? And who is hardest hit? For starters, the notion that rising assessments reflect a surge of building and buying in South Kohala doesn't seem to hold water, based on preliminary numbers recently provided by county officials.

While South Kohala's rising property values are a key part of why the islandwide assessment total is going up, statistically Ka'u contributes more to the overall rise.

Kaiu's total valuation is up by 34 percent from the year before. That is proportionately ahead of second-place South Kohala, which recorded a 24.5 percent rise in assessments.

In terms of dollar values, South Kohala (Waimea and Kawaihae) heads the list with $338 million in increased valuations. South Kona is second with $208.6 million.

Other quick gainers were South Kona and North Kohala with increases of 21 and 16 percent respectively.

Valuations increased overall by $806.9 million.

The 14.56 percent increase in appraisals for 1990-91 follows on the heels of a 13.4 percent rise in 1989. The increase was only 6.7 percent in 1985 and 1.4 percent in 1986.

Foreign investors aren't fully to blame.

Of the 14.56 percent increase in the past year, the biggest rise comes from almost $222 million in construction, not the result of inflation from sales to Mainland and Japanese buyers, according to Gary Kiyota, administrator of the county real property tax division.

The fastest-rising category was conservation lands, with a 67 percent increase.

Tax appraisals applied against property tax rates set by the County Council determine how much property owners ultimately pay.

Appraisals are based essentially on sales two years previous and tax experts warn that Big Island property owners have yet to feel the full brunt of recent skyrocketing sales.

That will come in April-May 1991 when the impact of fast-rising values in 1989-90 will be reflected in tax valuations.

Rising taxes is a major issue before the Hawaii County Council, which is now analyzing a variety of special provisions.

The Council last week deferred action on a proposal to double the homeowner's property tax exemption.

The Council also kept alive a proposal by Councilman Steve Yamashiro to impose a cap on rising real property residential taxes.

Both proposals were deferred until a July 5 workshop on real property taxes to be conducted by Finance Director Barry Mizuno.

Yamashiro's package includes putting a cap on the rise of homeowner taxes to 2 percent a year—a la California's Proposition 13.

Council Chairman Russell Kokubun has other ideas for tax relief. A key one would create a new taxing category for the owner-occupied residence, for which a reduced tax rate would apply.

Most Council members said taxpayers shouldn't look for relief immediately.

The pending county budget has to be in place before July 1 and there is too little time to make major alterations to the tax structure for 1990-91.

Most Council members agree they must devise a plan to protect longtime and elderly landowners from rising valuations.

Mr. INOUYE. Mr. President, I rise in support of Senator AKAKA's amendment to raise the current FHA mortgage loan ceiling from $124,875 to $149,960. When the Senate considered the fiscal year 1990 HUD-independent agencies appropriations bill, I supported a provision that would have eliminated the cap on FHA mortgage for first time homebuyers and set the FHA mortgage rate at 95 percent of an area's median home price. Although Congress chose to continue the cap, it did raise the mortgage ceiling limit. I supported a higher limit then and continue to do so now.

In today's housing market, as housing prices continue to rise, many potential homebuyers are finding it increasingly difficult to accumulate the cash necessary to meet the conventional loan requirements. For many States, the FHA Program provides homeownership opportunities to those individuals who are unable to purchase a home without FHA assistance. However, the FHA Program is not readily accessible to potential homebuyers residing in high cost areas. In Hawaii, where the median sales price of a single family home is nearing $300,000, the availability of FHA loans are extremely limited. Hawaii's home prices simply exceed the maximum FHA mortgage limit of $185,000 for our State. A higher limit, in my view, would help eliminate the large gaps which exist between the median home prices and the FHA loan limit.

Opponents will argue that there is greater risk of default and foreclosure when the ceiling amount is increased. Although Hawaii is considered one of the highest priced areas for single family homes, we have the lowest default and foreclosure rates in the Nation. Our default rate is less than 1 percent of the national average of 2.2 percent and one-tenth of 1 percent as compared to the 0.734 percent of the national rate in foreclosure.

In a time where the actuarial soundness of the FHA's mortgage insurance fund remains in jeopardy, Hawaii has contributed a positive share into the fund due to our minimal default and foreclosure rates. Yet, accessibility to the FHA Program is limited because of the current mortgage limit ceiling.

I believe raising the limit will help strengthen the FHA portfolio, and provide better accessibility of the program to high cost areas.

MANUFACTURED HOUSING

Mr. BRYAN. Mr. President, it had been my intention at this time to offer a further amendment to the Housing legislation and to include therein specific references to changes in manufactured housing. As the Presiding Officer knows, serving with this Senator on the committee, that is not presently a part of S. 566. The counterpart legislation being processed in the other body has made several changes to the existing law as it relates to manufactured housing and modular housing. That has raised a serious concern with this Senate. Under the existing law a manufacturer of a mobile home

is required to notify and to correct the manufacturing defect.

Under the amendments which have been processed by the other body, it will be necessary to notify any defect but to correct only those defects that deal with public safety. So, for example, the mobile home owner who finds his roof leaking as a result of a factory defect, a leak which may not constitute a public health issue, would not have the ability to require the manufacturer to make such a correction.

Another change which has been approved relates to the use of moneys collected by the Department on inspection fees paid by the manufacturer at the plant site.

Under current law those fees are used to handle the program of inspection and to do certain research with respect to certain standard improvements and evaluation of the program. Under the amendment which has been approved, the use of those inspection fees would be greatly limited.

Perhaps the primary concern raised by the action taken by the other body is the elimination of the distinction between manufactured housing and modular housing. Manufactured housing is a subject of preemptive Federal law insofar as standards are imposed. That is to say that there are no State standards. On the other hand, modular housing is not the subject of a Federal preemption and there is a comprehensive State network of modular home standards. By eliminating the distinction, in effect the Federal law preempts the State modular standards.

Mr. President, I would like to enter into a colloquy with my colleague, the chairman of the Housing Subcommittee, Senator ALAN CRANSTON, on the subject of manufactured housing.

I am very disturbed about an action that was taken in the other body, in the Housing Subcommittee, to weaken the Federal construction and safety standards for mobile homes. I understand that a compromise has been made on the House side and the most onerous provisions of the anticonsumer amendment have been deleted.

Senator CRANSTON, my concern for this issue is twofold. In the State of Nevada, there are 448 mobile home parks. Over 26,000 mobile homes exist in Nevada, housing approximately 66,000 individuals. With the State's growing population of 1.2 million, this represents about 18 percent of Nevada's residents. Older households account for 22 percent of all households residing in mobile homes. Older mobile home residents, tend to have modest incomes. Almost half have annual incomes below $10,000 and 81 percent have annual incomes below $20,000. These are among Nevada's, and the Nation's, most vulnerable citizens, and they are most deserving of Federal protections.

As my colleague from California knows, I am also the chairman of the Consumer Subcommittee of the Committee on Commerce. In that capacity, I oversee several Federal agencies that are directly responsible for the protection of American consumers. I believe that mobile home owners, as consumers, need Federal laws to be strong in this arena.

Manufactured housing may be one of the last forms of affordable housing left in many parts of the country. According to industry figures, the average price of manufactured home in 1989 was about $25,000. Manufactured homes house 7 percent of all U.S. households. In 1987, the average income of owner-occupants was $18,232. Manufactured homes account for 80 percent of all new homes priced at less than $50,000.

Of course, the initial acquisition cost of a home is only one aspect of its affordability. To be affordable, housing must also be well-made, durable, and safe. Affordable housing does not crumple in high winds, become a sieve during a storm, or heat the outside air, rather than the occupants inside, during the cold winter months. Oftentimes, the added cost of producing a quality, energy efficient home will save the homeowner several times that much in maintenance and depreciation costs down the road.

The manufactured home owner's basic protection against shoddy workmanship is the Manufactured Home Construction and Safety Standards Act of 1974. Under that landmark legislation, the Department of Housing and Urban Development established quality, durability, and safety standards for manufactured homes. HUD also inspects homes to make sure they conform with these standards.

These standards must be strong, and must be followed. Homes that do not comply with these standards must be fixed, at no expense to the homeowner. Why? Because these Federal standards are the only standards that apply to manufactured housing. The 1974 law, in a bow to the manufactured housing industry, preempts the right of States to enact their own standards.

These standards must also be strong because manufactured homes present severe safety risks in the event of a fire. According to the National Fire Protection Association, the death rate per 100 fires is 2½ times higher for manufactured homes than for other dwellings. According to a 1986 report, Consumer Product Safety Commission records indicate manufactured homes ranked 5th in 1984 and 1985 on a list of consumer products associated with death among people over age 50.

The Federal law and the Federal program created by the 1974 law are by no means perfect. The Federal standards are out-of-date and far less than comprehensive. Inspections to ensure compliance with the standards occur far too infrequently, and the training of the personnel conducting the inspections should be improved. HUD has devoted far less than the resources necessary to ensure that manufacturers notify homeowners about defects in the home, and correct them.

The Federal law needs to be strengthened. Unfortunately, a certain effort in the other body sought to eviscerate the consumer protections that we should, instead, be fortifying.

I believe the Senate ought to stand on record in firm opposition to any effort to weaken the Federal program. Since the Senate did not address these issues in S. 566, we stand by current law. I would like to see the Senate go into conference with the House in strong opposition to the amendment incorporated into the House bill that will seriously narrow the circumstances under which manufacturers must notify homeowners about defects in their home, and fix them. Any assembly or design error serious enough to make the home, or a part of the home, unfit for its intended purpose should be fixed by the manufacturer, as current law requires. Indeed, any manufacturing or design error should be also fixed.

The manufacturer's duty to correct defects should not be limited to defects that pose safety hazards, as the House bill would allow. We certainly do not promote the affordability of this important form of housing if consumers are forced to correct a manufacturer's mistakes.

We should also be opposed to the change adopted by our colleagues in the House that would sweep other forms of housing, such as modular housing, into the Federal manufactured housing program. Many States effectively and comprehensively regulate modular housing already. It is simply bad public policy to preempt well-established regulatory programs at the State and local level without extensive hearings and full consideration.

Proponents of the onerous amendment in the House justified their anticonsumer deeds by pointing to a 1-year warranty provision for all manufactured homes, but without Federal standards for what such a warranty should cover. The compromise currently in the House bill provides for a 2-year warranty. However, this warranty does not specify the parts and systems in the home that must be covered by the warranty. Manufacturers can comply with that provision with a warranty that only covers the screen door. We need to advocate the strongest and longest warranty possible in the conference.

Because of these concerns, I would like to request the distinguished chairman of our Subcommittee on Housing

to hold a hearing on this important subject before the Senate goes to conference with the other body so that we may be aware of the impact of the effects on manufactured housing as a consequence of language adopted by the other body.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I thank the Senator from Nevada for raising this important issue on S. 566, especially in view of what occurred in the other body. I appreciate the work of the Senator from Nevada on this issue and I will work to uphold the Senate's position in conference.

I would be pleased to arrange a hearing on manufactured housing within the next several weeks, and I ask my colleague if he would be able, willing, and interested in chairing that hearing.

Mr. BRYAN. Thank you very much, Mr. President.

I thank the distinguished subcommittee chairman. I appreciate his interest and his concern, and I understand that we have not had an opportunity to process this at the time that the measure of which he is the prime sponsor was processed because we did not deal with that area of the law.

I would be delighted to chair such a hearing and to work with him and our other colleagues in making sure that the Senate is fully informed as to the impact by the changes made by that body so that our case in behalf of those who live in manufactured housing can be forcefully presented at the time of any conference on this legislation.

Mr. CRANSTON. I appreciate that response. I am glad the Senator has spoken out on this issue of manufactured housing, and I look forward with interest at the conclusions reached in that hearing.

AMENDMENT NO. 2063

Mr. President, on behalf of Senator LEVIN, I send an amendment to the desk and ask for its immediate consideration. I understand it has been cleared on the other side.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for Mr. LEVIN, proposes an amendment numbered 2063.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 283, line 8, insert the term "unemployment" before the term "and".

FORMULA FOR THE ALLOCATION OF HOP GRANT MONEY

Mr. LEVIN. Mr. President, I would like to thank the chairman of the Housing Subcommittee, Senator CRANSTON, for his cooperation in inserting an additional factor to be considered in the development of a formula for the allocation of money to the States and localities under the Housing Opportunity Partnership [HOP] Program. Under the committee amendment which I suggested, unemployment rate would be added to the other factors already in the bill to reflect each jurisdiction's need for an increased supply of affordable housing. This is a significant addition because it recognizes the reality that whether workers are actually employed bears a direct relationship to their ability to afford housing. This factor is particularly important to Michigan's receiving its fair share of HOP money because Michigan has historically had an unemployment rate which has been above the national average.

Again, I want to thank the floor managers for their assistance, and urge them to continue to work in the conference committee for a HOP formula which will increase the supply of affordable housing in areas of the country in which the existing housing stock is particularly in need of rehabilitation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2063) was agreed to.

Mr. CRANSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I rise today to talk about the National Affordable Housing Act. I believe that every mom, dad, and child in the country should have a home—a home that is affordable and safe. I believe that we have a responsibility to American families—to ensure that everyone has an opportunity to participate in the American dream of homeownership.

As the Chair of the Senate's VA, HUD, and Independent Agencies Subcommittee of the Appropriations Committee, I work with my colleagues to find the dollars to build those opportunities. I know that my deep and passionate commitment to homeownership is shared by many of the people who worked on this legislation, and I want to take a moment to thank them for their hard work.

First, I want to thank my colleagues Senator CRANSTON and Senator SARBANES. Senator ALAN CRANSTON is the leading sponsor of this legislation, and he deserves thanks from all of us for taking on this challenge. The senior Member from my State, Senator PAUL SARBANES, must also be commended. He was in there working every day to make this bill match the vision of the National Housing Task Force.

I also want to thank the co-chairs of that task force, Jim Rouse and David Maxwell. Their inspiration and shared commitment to decent and affordable housing were the foundation of the Housing Opportunity Program and this bill. I want to say a special thanks to Jim Rouse, a valued friend and advisor. He has spent a lifetime not just talking about opportunity, but creating it. I am proud to call him a full partner in building the American dream.

I support the goals of this bill. But as I work with my subcommittee, I want to make sure that we fund all of the vital programs that are out there making a difference right now. We must expand, preserve, and protect those programs that are already putting families into homes.

The most pressing needs in low-income housing are retention, modernization, and safety. Just to retain the section 8 housing we have right now, we have to renew contracts on over 250,000 units. That's going to take $7.7 billion in fiscal year 1991, $6.6 billion above the fiscal year 1990 appropriations.

We must make sure that the Federal Government is a model landlord, not a slum landlord. HUD tells me that there is a $22 billion backlog of repairs to modernize our existing public housing. And that does not include anything for the multi-billion dollar problem of lead abatement.

Lead robs our kids of their future—it steals their energy, loots their brain power, and poisons their blood. To get rid of lead poisoning, it takes 12,000 dollars' worth of treatments—and we cannot repair all of the damage. That is just for one child, from just lead dust. Lead is not a disease—it does not strike at random, so when one child is breathing lead dust, a whole family is breathing lead dust.

This is going to be the environmental issue in the 1990's. And it's not just in public housing—there is lead in homes across every State, and across every economic line. Before we tell the private sector to get the lead out, we've got to clean up the Government's share.

And safety means getting the drugs out, too. Public housing administrators across the country are using their operating funds to increase security,

but HUD's fiscal year 1991 budget underestimates the price by as much as $300 million. That is what the subcommittee is working with—programs that are uncounted, underestimated, and underfunded.

Funding new initiatives in the fiscal year 1991 HUD appropriations would depend on this bill being signed into law before our appropriations markup. Given the current pressing needs, we cannot fund new programs before we enact the authorization bill.

In addition, the Senate Budget Resolution assumes 1991 funding at current 1990 levels. That does not even include anything for inflation. We are going to have to play catch up just to stay in place. There is no room for new initiatives under that appropriations plan.

So I offer a few words of caution about this bill's approach: "If it's not broken, don't break it."

I am concerned about programs that are terminated or consolidated in this bill—programs like new construction of public housing. There are 800,000 people on waiting lists for homes in this Nation. That's just their first step into the opportunity structure.

And programs like Nehemiah, which create partnerships for neighborhood revitalization. Jim Rouse and I were just at the inauguration of Nehemiah in Baltimore. For the families of that neighborhood, Nehemiah means hope, opportunity, and a better future. Let us not stop it just as it is getting started.

I am also concerned about losing the 312 program. Nonprofits are using that to preserve and restore houses—so that low-income families can make them homes.

I strongly hope that these programs will be restored in conference, with funding levels adequate to meet the needs of those Americans for which they were designed.

Let us build new opportunities. But let us not tear down opportunities that are already in place, building homes for moms and dads and kids, and building communities that they can grow in.

Mr. KASTEN. Mr. President, I rise to commend the Committee on Banking, Housing, and Urban Affairs for bringing housing legislation to the floor of the Senate. Now more than ever, America needs a new housing policy, one that brings the dream of homeownership to all Americans.

However, I have several reservations about the committee-reported bill. The bill emphasizes housing production over empowerment strategies that help the poor become self-sufficient.

It provides the same opportunities for the kind of fraud and influence-peddling that have riddled HUD production programs in the past. And finally, this legislation fails to take the steps that are needed to restore financial soundness to the Federal Housing Administration [FHA].

On this last point, Mr. President, the failure to address the FHA's growing financial problems is perhaps one of the most glaring deficiencies of this legislation.

The amendment offered by the Senator from New York provides us with an opportunity to put FHA back on the road to solvency.

I strongly support the FHA mortgage insurance program. FHA was created to provide homeownership opportunities for low- and middle-income Americans. And since its inception in 1934, FHA performed its task very well, bringing the dream of homeownership to millions of moderate income Americans.

But in recent years, the FHA balance sheet has run into a sea of red ink. Earlier this month, a GAO and Price Waterhouse audit reported that FHA is posting annual losses of $350 million and that the fund could be insolvent by the end of the decade. The fund's net worth has declined over the past few years from $7.8 billion in 1980 to only $2.6 billion this year.

FHA's financial problems may well become a carbon copy of the S&L financial disaster.

To be sure, the disinflation of the 1980's and the reduction in house price increases which resulted in higher loan default rates contributed to FHA's problems. But most of the FHA's troubles are the direct result of the basic structure of the program.

First, FHA's premiums did not accurately reflect the risk it insured. Over the past 10 years, FHA incurred losses far greater than its current premium can support.

Second, FHA had strayed from its original mission, insuring mortgages for many upper-income homebuyers. For example, FHA insures mortgages on second homes, vacation homes, investor properties.

According to the Mortgage Insurers Companies of America [MICA], since 1982, 60 percent of FHA's mortgages have been to upper income homebuyers earning 120 percent over the median national income level.

MICA goes on to note that wealthy homebuyers show an alarming tendency to buy homes with minimal downpayments and then walk away from their homes when housing prices fall, leaving FHA and taxpayers with large liabilities.

Mr. President, unless we do something soon to reform and strengthen the FHA fund, its financial losses could skyrocket into the billions of dollars by the end of the decade, leaving low-income homebuyers without mortgage insurance—and the American taxpayer with the multi-billion dollar tab.

HUD Secretary Kemp has put forward a 5-point plan to strengthen the FHA program. First of all, Secretary Kemp strongly recommends that FHA's loan limit should remain at the present level—$124,785. Higher loan limits would result in more insurance coverage for upper income homebuyers, moving FHA further away from its original intent and exposing FHA to riskier mortgages.

Another important reform is to set insurance premiums to more accurately reflect risk. The key measure of risk is the amount of the downpayment put into a home. Studies show that the FHA takes greater risks, and faces greater potential losses, on mortgages with low downpayments. Secretary Kemp's proposal would assess an extra risk premium on mortgages with low downpayments.

Risked-rated insurance is a common sense solution to put FHA back on sound financial footing. We ought to enact this reform—along with Secretary Kemp's other FHA proposals—as part of this housing bill.

Mr. President, the American people are sick and tired of paying for the mistakes of others. We simply must reign-in the Federal Government's credit programs. If these programs go broke, the taxpayers of this country will have to pay for the losses.

We cannot afford another S&L bailout disaster.

Let's fix FHA now. We should tighten FHA rules. We should bring FHA back to its original intent, focusing on first-time homebuyers of modest means. Above all, we should not raise the FHA limits and expose the fund to riskier mortgages.

Raising FHA loan limits would not benefit homebuyers in Wisconsin where the median house price is only $73,300. Higher limits would only benefit homes in high-cost areas in other parts of the country.

If we do not enact proposals to strength FHA as part of this legislation, we will be faced with another outrageous taxpayer bailout down the road.

The amendment before us offered by Senator D'AMATO incorporates all of Secretary Kemp's FHA reforms.

I strongly urge the adoption of the D'Amato amendment. I yield the floor.

HOP FORMULA ALLOCATION CRITERIA

Mr. RIEGLE. Mr. President, as chairman of the Committee on Banking, Housing, and Urban Affairs, I wholeheartedly support the passage of the National Affordable Housing Act. The bill establishes an effective new direction in providing affordable housing for all Americans. I would like to commend my colleague from California for his able leadership in the development of this legislation.

Mr. CRANSTON. I thank the Senator. I appreciate his efforts in support of the National Affordable Housing Act.

Mr. RIEGLE. I am a strong supporter of Senator LEVIN's amendment to add unemployment as an additional criteria for allocation of funds under the Housing Opportunity Partnerships Program in the bill. I appreciate your support of this amendment. Unemployment is an important criteria for consideraton to assure that a community's affordable housing needs are considered in the context of that community's broader economic difficulties. This is of particular concern in my home State of Michigan.

Mr. CRANSTON. The HOP Program is designed to expand the supply of affordable housing. There are a number of factors which affect a communities need for affordable housing. Tightness in housing markets, inadequate housing, poverty, and the costs of producing housing are all important criteria which have been incorporated in the bill. I also recognize the importance of unemployment in the scope of the affordable housing problem confronting the citizens of our Nation.

Mr. RIEGLE. I am concerned that unemployment is but one of a number of other factors which effect the affordable housing problem throughout the Nation particularly, in Michigan and much of the Midwest which the HOP criteria does not recognize. For example, age of the housing stock and depressed markets in distressed communities are both issues which are very significant factors in the affordable housing problem in my State. The fact that these criteria are not recognized in the HOP criteria gives me pause. I am concerned that the HOP Program will not equitably provide assistance throughout the entire Nation based on the unique needs of individual communities. I would like the chairman to work with me and address these issues in the conference on this bill.

Mr. CRANSTON. I am sensitive to the diverse and unique needs of our Nation's communities. I am willing to work with the Senator from Michigan in order to address his concern that the HOP criteria be responsive to the unique circumstances which create the affordable housing needs in the varying communities throughout the Nation.

AUCTION PROCESS AND ASSET DISPOSITION

Mr. WIRTH. Mr. President, I want to address a question to my colleagues, the chairman of the Banking Committee, Senator RIEGLE, and the chairman of the Housing and Urban Affairs Subcommittee, Senator CRANSTON. Recently, the RTC announced plans to auction off certain residential properties. I am concerned that there may be a conflict between these plans and FIRREA's requirement that certain priorities for low-income housing be assigned in the asset disposition process. I wonder whether the Senators are aware of the potential problem and share my concern.

Mr. RIEGLE. I think I am familiar with Senator WIRTH's concern, but I wonder whether he might elaborate a little further.

Mr. WIRTH. I would be happy to do so. As the Senators know, FIRREA requires the RTC to give low-income purchasers a first crack at properties with appraised values below FHA limits, currently about $67,000. Now, suppose the RTC puts a property with an appraised value of $100,000 up for auction and it ultimately sells for $60,000. My concern is that such a property should have been included in the affordable housing program, but would not have been because its initial appraisal was too high.

Mr. RIEGLE. I understand the point that the Senator from Colorado is making, and I agree that he has identified a potential conflict between the auction process and the affordable housing program.

Mr. CRANSTON. Surely, the RTC has discretion to resolve this potential conflict by regulation. For example, couldn't the RTC simply establish the FHA limit as its reserve price on any property included in the auction, so that if the bidding dropped below the FHA limit, no sale would be made at the auction and the property would be turned over to the RTC's low-income housing program. If the RTC could avoid this problem through regulation, I would certainly encourage them to do so.

Mr. RIEGLE. The Senator from California is correct. The RTC can and should resolve this potential problem through regulation. The Senator from California's proposed solution sounds workable, and I am sure the RTC could devise other, workable, alternatives as well.

Mr. WIRTH. I thank the Senators for their interest and support. I join them in urging the RTC to address this issue as soon as possible.

THE MC CONNELL AMENDMENT NO. 2051

Mr. WARNER. Mr. President, I rise in support of the amendment by the Senator from Kentucky [Mr. MCCONNELL].

This amendment, in my judgment, addresses an important and often overlooked need in our Nation's rural areas. By providing this extra measure of financial assistance to financially distressed rural families through the section 515 program, Senator MCCONNELL's amendment seeks to plug a gap in our Nation's rural housing programs.

Section 515 rural rental housing loans are considered to be the best working model for the delivery of rural multifamily housing in the United States. In contrast to many of our housing programs, the section 515 program has proven to be the least costly means to provide housing targeted to the rural poor, while having a default record of under 1 percent. Senator MCCONNELL's amendment seeks only to expand this program modestly with a redirecting of available resources.

In the Commonwealth of Virginia there are 2,745 tenants paying over 30 percent of their income for section 515 housing. Under this proposal they would be qualified as being "rent overburdened." In fact, nationwide, I understand that 36 percent or 127,615 of all section 515 participants are overburdened. This amendment offers these overburdened tenants the chance to be assisted by the Federal Government at no additional cost to the taxpayer.

I hope this modest, yet important, amendment will receive the full support of the Senate.

MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUSTAIN PRESIDENT'S VETO OF HATCH ACT AMENDMENTS

Mr. ARMSTRONG. Mr. President, the Senate should uphold the President's veto of H.R. 20, the legislation to make changes in the Hatch Act.

The Hatch Act limits Federal employees' participation in partisan political activity. Under the Hatch Act, Federal employees can vote, attend rallies, express opinions, join political clubs, and contribute money to campaigns. Federal employees cannot run for public office, hold office in a political party, organize a rally, make campaign speeches, distribute campaign information, or raise funds for a candidate. The legislation would repeal most of the restrictions on partisan political activity by Federal employees.

The need for the Hatch Act goes back to some of the founding precepts of our country. Our early settlers left Europe to escape one form or another of restriction placed on their lives by Government—whether it be economic, social, or theological. The Founding Fathers also knew well and fought the tyranny and arbitrariness from the rule of British kings. These experiences with government power led to the idea of empowering the people and limiting government.

The Hatch Act is a logical and practical extension of our concern about government power. It recognizes that officials in government positions have access to power not available to ordinary citizens. If these government officials could also be actively involved in

managing political parties and campaigns and soliciting funds, their influence over peoples' lives would be much greater. For instance, how would a citizen feel about an Internal Revenue Service auditor, with access to your tax records, who also manages a local congressional race and knows whether or not you contributed to the race? This could happen unless the President's veto is sustained.

The power of the Government could also be used against the Federal employee. If a senior manager, or a group of employees, feel strongly about a candidate and are actively working on the candidate's behalf, they might also expect and judge other employees by their political beliefs and activity. The Federal employee might feel compelled to attend a rally or write a check simply to keep in good standing with superiors and colleagues, even though their political views are different. In such a situation, the Federal employee loses a measure of his or her freedom.

The Hatch Act, by prohibiting political activity, avoids the conflict and temptation for government officials to influence the political activities of others. An editorial in the Rocky Mountain News points out Thomas Jefferson first established the principal of separating Federal employes from political campaigning. Jefferson's concept is embodied in the Hatch Act, it is a good one, and I think we should keep it.

Mr. President, I ask the Rocky Mountain News editorial be entered in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HATCH ACT WEAKENING DESERVES VETO

The idea of insulating the federal civil service from partisan politics is almost as old as the country itself. Thomas Jefferson, among other 19th-century presidents, championed the concept. So did Theodore Roosevelt, who in 1907 issued the following rule:

"Persons who are in the (civil) service, while retaining the right to vote as they please and to express privately their opinions on all political subjects, shall take no part in political management or in political campaigns."

This fundamental principle of good government is now in danger of being overturned. By wide margins, Congress has voted to weaken the Hatch Act, which bars federal employees from active participation in partisan politics. President Bush has vowed to veto the weakening legislation, and the override votes will be close. Bush should do whatever he can to garner the votes necessary to sustain his veto.

Why shouldn't civil servants be free to be politically active? Consider the scandal that inspired the Hatch Act in 1939. In a prize-winning series of articles, Scripps Howard reporter Thomas Stokes revealed that New Deal political appointees were forcing government employees to campaign for Democratic politicians—or else. This not-so-subtle blackmail nullified the minimum standards of impartiality the public expects from its government servants.

The Hatch Act enshrines those standards, for the benefit not only of the public but federal employees too. Like Roosevelt's rules, the Hatch Act preserves the fundamental rights of government workers: They can discuss politics and vote as they please. But the act guarantees that no supervisor can punish them for holding their political beliefs.

Postal and government employee unions want the act repealed because it will greatly enlarge their power. During off-hours, government workers will be allowed to solicit funds for their unions' political action committees.

President Bush should stop this power-grab. Government employees are meant to serve the public, not the narrow interests of partisan politics.

REAL FLAG BURNING

Mr. DASCHLE. Mr. President we all love our flag dearly, we pledge allegiance to it, we fly it proudly, so it's no mystery to see America become angry when it is desecrated.

But I will vote against any amendment, any amendment of any kind, that would burn the most important clause of the document that makes the United States of America what she is, the free speech clause of the Bill of Rights.

Because, Mr. President, that vote would be flag burning, real flag burning, and it is wrong.

If we tamper with the Bill of Rights on the 200th anniversary of our Constitution we are diminishing every flag in America. We are demeaning the sacrifices of the brave men and women who have fought to keep us free. We are violating our oaths of office and our standing as men and women sworn to protect the freedom of the United States.

How easy it is, Mr. President, to see the votes we might gain on this issue if we play the 30-second ad game with our Nations flag.

Or to quake in fear at the votes we may lose if we do not.

And how hard it sometimes is to admit who the real flag burners are when we play this self-serving game.

How, I ask you, how can we not be diminishing the great symbol of our Nation when we diminish the very freedom for which it stands.

Why, if we become the first to occupy this Chamber in 200 years who have lacked the courage to defend free speech, will it not be we who are truly the flag burners.

We do not celebrate cloth and thread when we honor our flag. We celebrate the freedom for which it stands, the Bill of Rights for which so many have died.

Here we are, almost in the shadow of those terrible black marble walls on which are inscribed the names of 50,000 of my generation who fell in Vietnam.

And we propose to tamper with the rights for which they fell?

If we decide that the flag-waving campaign commercial we can make is more important than the Bill of Rights, we will have to amend to do it, what will we tell our future? What will we tell our children?

Will we add an asterisk to those marble walls of Vietnam dead?

Will we put a disclaimer on every headstone in Arlington Cemetery?

Will we pen a footnote to the freedoms for which so many died, a footnote that says when the hot winds of false patriotism blew, we broke and ran to save ourselves?

What footnote will we write to explain why we were more afraid of a Roger Ailes commercial than our forefathers were of a Nazi bullet?

What chapter will we have ghosted for our autobiographies to explain away our writing a loophole into the free speech clause of the Bill of Rights of the Constitution of the United States?

Mr. President, I do not want to have to write that explanation.

I know it is easier to put a disgusting kid burning a flag into a TV ad and say that's what TOM DASCHLE favors than it is for me to explain why protecting the Bill of Rights is what I believe my job is all about.

But that is what I believe, the same thing patriots from Thomas Jefferson to Abraham Lincoln have believed, that America's greatness is her freedom, that that freedom is more than just a piece of cloth.

It is that freedom I will be defending, and my own integrity, when I vote to honor the men and women who have served this great Nation by voting to protect the Bill of Rights for which so many died.

Mr. President, I believe the proposed amendment to the Bill of Rights is an attack on the heart and soul of the Constitution. That we would trade almost 200 years of protection under the Bill of Rights for a 30-second commercial on the flag is demeaning, and I have anger and disdain for those who would exploit the flag for cheap political gain.

We've got a savings and loan crisis that is out of control, the biggest budget deficit in history and education and health problems which boggle the mind. That we spend precious time on an issue like this is just plain wrong. It robs us. Robs us of time, of a true sense of priorities and it robs us of respect.

This has turned into nothing more than a political game of chicken, with losers all the way around. And while the game is being played these challenges go unmet.

AMENDMENT NO. 237

Mr. ROTH. Mr. President, I rise to express my opposition to the amendment of the Senator from Tennessee [Mr. GORE] calling for a White House Conference on the Homeless.

I understand there has been an agreement reached on behalf of the administration and the managers of the bill to accept the Gore amendment with further discussion to continue during conference consideration.

Since this issue was not, in my opinion, addressed satisfactorily at the committee level—believing there would be further discussion when brought to the floor—and now seeing it move in the form of a nongermane amendment to the Housing bill into conference—I would like to provide some facts that I think have been ignored to this point.

When this proposal was considered by the Governmental Affairs Committee during its markup session on June 7, 1990, I noted that it was placed on the markup agenda with no hearing having been held, or any other record being established by the committee to provide justification for the measure.

I would like to make it clear today, as I did during committee consideration, that my opposition to this measure is not to the ultimate goal of coordinating a national effort to address the needs of the homeless. Rather, it is based on the fact that the Governmental Affairs Committee, through the reauthorization of the McKinney Act in the fall of 1988 specifically charged the Interagency Council on the Homeless, through the Department of Housing and Urban Development, with the responsibility of scheduling regional workshops, and with being a clearinghouse for receiving and disseminating information regarding all relevant homeless programs.

I recognize that some have expressed the view that the role of the Interagency Council is to provide professional and technical assistance in understanding the Federal programs available to serve the homeless community, and not to develop recommendations for legislative initiatives; but that is clearly not the way the statute was written and signed into law.

Just briefly, let me outline the provisions of the McKinney Act regarding the mandate for the Council:

(A) interpret regulations and assist in the application process for Federal assistance, including grants;

(B) provide assistance on the ways in which Federal programs, other than those authorized under this Act, may best be coordinated to complement the objectives of this Act;

"(C) develop recommendations and program ideas based on regional specific issues in serving the homeless population; and

(D) establish a schedule for biennial regional workshops to be held by the Council in each of the 10 standard Federal regions to further carry out and provide the assistance * * *.

The Interagency Council has been organizing the regional workshops, as opposed to individual conferences in each of the 50 States as called for in the Gore proposal, but each State has designated an individual to serve as a contact person. Also, the Interagency Council makes field visits to individual States to address special needs of a particular State.

There is a regional workshop underway today in Philadelphia, and the agenda includes topics such as:

Employment job training/promoting self-sufficiency;

Discussing the obtaining of Federal real and personal property for use by the homeless;

An overview of McKinney housing programs; providing assistance through HUD, and

Analyzing non-McKinney funding and the use of other Federal programs

Also, the 1989 Annual Report of the Interagency Council indicates that 23 States have actually established their own Council, with several other States designating a lead agency.

This all gives me the impression that the Interagency Council is currently working in both an active and productive manner to carry out the mandate it was given in the 1988 law. The Council has been reaching out to State and local groups, as well as national organizations as a part of their effort to receive input from all interested parties. And frankly, I think this raises a substantial question as to the merits of the Gore proposal.

I sincerely believe we should allow the Interagency Council to fulfill it's current mandate under the McKinney Act, and we should review and evaluate the information currently being gathered to determine whether or not a separate set of additional workshops or a National White House Conference is the most productive use of our resources on behalf of the homeless. The Interagency Council is a direct result of recommendations from a previous White House Council on the Homeless. And we need to let it work.

Perhaps there will be a need in the future to bring together representatives from all the departments and agencies with jurisdiction over portions of the homeless program with the highest levels of the administration to receive the recommendations of the Interagency Council. And if it turns out that the current workshops are not providing adequate information, we can entertain the idea of changing or adding to the requirements of the Interagency Council. But we have no evidence to warrant the expansion at this time as proposed in Senator GORE's amendment.

I would just like to add that the Bush administration has supported full funding to carry out the programs under the McKinney Act's current authorization. I am not aware of any request from them or the Interagency Council to expand it's staff and add additional conferences.

Several comments received from Delaware providers in response to the Gore proposal have been that they do not need any more conferences.

Therefore, I would hope that the Housing conferees would take into consideration some of the points I am making today. I reiterate, that I am not opposed to a coordinated effort to address the problems of the homeless But I believe we currently have in a place a mechanism to carry out that purpose, and I also believe we should not repeat and duplicate current efforts.

HATCH ACT REFORM AMENDMENTS OF 1990

Mr. CONRAD. Mr. President, I will vote today to override the President's veto of S. 135, which seeks to provide much-needed reform of the Hatch Act. By a lopsided margin of 327 to 93, the House yesterday voted to override, and it is my hope that with our votes today, this important legislation will become law.

A chief purpose of the Hatch Act was to protect Federal employees from coercion and prevent the abuse of power. When the law was enacted in 1939, the civil service was governed by very different rules than those which apply today. In 1939, many jobs were not awarded on the basis of merit, and the need to protect one's job often governed the actions of Federal employees. In this respect, the Hatch Act accomplished its intended goal.

In order to protect Federal workers from coercion, however, the act sharply limited the rights of Federal workers to participate in our Nation's political processes. In fact, as originally passed in the Senate, the Hatch Act did not even allow the President, Vice President, or Members of Congress to seek reelection. Over the past 50 years, as the rules which govern the civil service have changed, many of the restrictions provided by the Hatch Act have become outdated and illogical.

I find it unreasonable that a postal worker can make a $1,000 contribution to a political campaign, but that same worker cannot stuff envelopes. If "Hatched," a worker can go to a rally, but he or she cannot speak or wave a sign. That same worker, however, can display a sign on a car or on a front lawn. These types of regulations are unnecessary and unjustly infringe upon the first amendment rights of Federal workers and postal employees to freedom of speech.

I believe that the Hatch Act reform legislation which passed the Senate on May 10, 1990, strikes an appropriate

balance between two competing goals. This legislation would ensure that all Americans can enjoy their constitutional right to participate in the Nation's political process. It also, however, retains the restrictions on coercion and on-the-job political activities that are necessary to prevent the politicization of the Federal bureaucracy.

Specifically, the bill allows Federal and postal workers to engage in afterhours political activities but retains the current law prohibition against these workers seeking political office. It also retains the prohibition against Federal and postal employees soliciting campaign contributions from the general public. Finally, the legislation strengthens the provisions protecting Federal employees from coercion by their superiors and prohibits all political activity on the job.

Opponents of this legislation argue that this legislation goes too far in relaxing the restrictions on political participation by Federal workers. They claim that passage of this legislation would increase the potential for the coercion and politicization of the civil service. These statements simply are not true. Rather, passage of this bill would provide for the much-needed clarification of current law, and would allow Federal workers to fully participate in our Nation's political processes for the first time in 50 years.

I support efforts to clarify the right of Federal and postal workers to participate in political activities outside of work, so long as those who do not wish to participate are adequately protected, and I believe that the legislation which the Congress passed achieves this goal. I urge my colleagues to join me in overriding the President's veto.

RHODE ISLAND STATE COUNCIL OF CHURCHES STATEMENT OF ADVOCACY ON CENTRAL AMERICA

Mr. PELL. Mr. President, recently I was presented with the Rhode Island State Council of Churches "Statement of Advocacy on Central America." The presentation was made in Washington in connection with a visit by the Rhode Island Peace Mission, an organization dedicated to the causes of peace, human rights, and international understanding across the globe.

Each week, I meet personally with representatives of the Peace Mission in my office. I am impressed continually by their tenacious commitment to the peaceful resolution of conflicts in such areas as Central America, Africa, and Southeast Asia. The Peace Mission has also been a very strong voice in support of effective arms control measures and the reduction of defense budgets.

In its "Statement of Advocacy on Central America," the Rhode Island State Council of Churches has articulated for the Peace Mission a series of principles for Central America. In presenting the statement to me, the Peace Mission indicated its hope that these principles would become a cornerstone of U.S. policy in the region.

Mr. President, as we enter into a new era of international relations, I believe it extremely important that we weigh all points of view in the formulation of U.S. policy toward other nations. In Central America, major developments have occurred during the past year, and as we consider the course for the future, I believe that the Rhode Island State Council of Churches statement on Central America offers an alternative perspective that warrants the attention of my colleagues. In this connection, I ask unanimous consent that the full text of the statement appear in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD as follows:

STATEMENT OF ADVOCACY ON CENTRAL AMERICA

The Advocacy, Justice and Service Department of the Rhode Island State Council of Churches believes that the welfare of the 120,000,000 [1] people of Central America is a vital social concern.

We believe that the United States has been responsible for exacerbating the problems of poverty and war through ill-conceived economic strategies and military interventions [2] in an attempt to control the affairs of sovereign states.[3]

Therefore, we believe that fundamental changes are needed in our relationships with Central American nations. As a nation, we need:

1. A foreign policy which recognizes the sovereignty and equality of Central American nations [4] and their interdependence with each other and the United States;

2. Cessation of all United States military aid to governments which participate in or tolerate the violation of human rights of their citizens; [5]

3. Legislation requiring an equitable business environment in which indigenous peoples receive just wages for their labor;

4. Respect for the Organization of American States and compliance with its charter rather than unilateral military actions in violation of the charter;

5. Recognition that the concentration of wealth in the hands of a few wealthy families throughout many Central American nations is ill-gotten and unjust;

6. A willingness to reflect upon how racial and ethnic discrimination affects our relations with Central America, recognizing that the peoples of Central America are primarily Hispanics, Native Americans and Creoles whose language and culture differ significantly from our own.

7. Economic support for governments which seek land reform, economic justice and promote and observe human rights for its peoples;

8. Economic reparations for countries we have violated through military intervention, including covert actions, which provide sufficient relief for individuals and institutions that suffered from that intervention.

As individuals and churches, we need:

1. A lifestyle which recognizes that cash crops such as sugar, coffee and cotton are responsible for using the valuable land of others for our own economic gain rather than using the land so indigenous peoples can attain self-sufficiency; [6]

2. Prayer, study and actions which demonstrate care on the part of the Christian community for the peoples of Central America, including our brothers and sisters in the faith. May the voice of the Prince of Peace, who ministered among the poor and oppressed in Palestine, be heard calling us to faith and action likewise in Central America.

[1] "The World Almanac and Book of Facts 1990," Pharos Books, NY 1989, p.773.

[2] Since 1848 the United States has invaded and occupied Central American nations more than 100 times.

[3] U.S. control of Central America is a long-standing policy. As long ago as 1927, Under-Secretary of State Robert Olds stated, "We do control the destinies of Central America, and we do so for the simple reason that the national interest absolutely dictates such a course . . . Until now, Central America has always understood that governments which we recognize and support stay in power, while those which we do not recognize and support fail." Quoted by Walter LaFeber, Inevitable Revolutions, W.W. Norton & Company, New York, 1984.

[4] These countries are not simply in our "backyard," a concept which suggests the United States is an empire which can control the destinies of nations on its periphery.

[5] Over 200,000 people have been killed in Central America in the 1980's by governments and guerrillas receiving military support from the United States. Millions of Central Americans live as refugees. Detailed descriptions and statistics are available for each nation from Amnesty International with annual updates of information.

[6] "The World Almanac and Book of Facts 1990" identifies the major crops for each country. See p. 685ff.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:15 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1862. An act for the relief of Merrill L. Johnson-Lannen;

H.R. 3298. An act for the relief of Benjamin H. Fonorow;

H.R. 3242. An act for the relief of Izzydor Shever;

H.R. 4327. An act for the relief of Eunice E. Choate; and

H.R. 5019. An act making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes.

At 12:45 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3791. An act for the relief of Beulah C. Shifflett;

H.R. 4378. An act for the relief of Rebecca T. Zagraniski; and

H.J. Res. 575. Joint resolution to designate June 25, 1990, as "Korean War Remembrance Day".

MEASURES REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1862. An act for the relief of Merrill L. Johnson-Lannen; to the Committee on Governmental Affairs.

H.R. 3298. An act for the relief of Benjamin H. Fonorow; to the Committee on the Judiciary.

H.R. 3642. An act for the relief of Izzydor Shever; to the Committee on Governmental) Affairs.

H.R. 3791. An act for the relief of Beulah C. Shifflett; to the Committee on the Judiciary.

H.R. 4378. An act for the relief of Rebecca T. Zagraniski; to the Committee on Governmental Affairs.

H.R. 5019. An act making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations, with an amendment and with a preamble:

S. Con. Res. 124. Concurrent resolution expressing the sense of the Congress regarding human rights violations against the Albanian ethnic minority in southern Yugoslavia.

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amended preamble:

S. Con. Res. 131: Concurrent resolution urging free and fair elections and respect for fundamental human rights in Romania.

By Mr. PELL, from the Committee on Foreign Relations, with an amendment and an amended preamble:

S. Con. Res. 138. Concurrent resolution expressing the sense of the Senate that contacts between the United States and the Palestine Liberation Organization should be suspended if the PLO has not taken certain actions.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

David Passage, of North Carolina, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: David Passage.

Post: U.S. Ambassador to Botswana.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, I'm single.

4. Parents, John T. Passage, none; Virginia B. Passage, none.

5. Grandparents, deceased.

6. Brothers and spouses, James T. Passage, none; Barbara K. Passage, none; Stephen S. Passage, none; Ellen S. Passage, none.

Richard Wayne Bogosian, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Richard W. Bogosian.

Post: U.S. Ambassador to Chad.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, David W. none; Catherine M., none; Jill M., none.

4. Parents, Karekin J., deceased; Aurora, none.

5. Grandparents, Hagop Bogosian, deceased; Anna Bogosian, deceased; George Stambolian, deceased; Anna Stambolian, deceased.

6. Brothers and spouses, Anthony and Nellie Bogosian, none; Henry and Edwina Bogosian, none.

7. Sisters and spouses, June Bogosian Piranian, none; Malcolm Piranian, deceased.

William B. Milam, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee, William B. Milam.

Post, Bangladesh.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, Erika Wuensch, none; Fred Wuensch, none.

4. Parents, Burl V. Milam, deceased; Alice V. Milam, deceased.

5. Grandparents, Alfred Milam, deceased; Grace Milam, deceased; William A. Pierce, deceased; Martha Pierce, deceased.

6. Brothers and spouses, Robert and Joyce Milam, none; Carlin and Phyllis Milam, none; Howard Milam, none.

James Daniel Phillips, of Kansas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of the Congo.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee, James Daniel Phillips.

Post, Ambassador to the People's Republic of the Congo.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Lucie G. Phillips, none.

3. Children and spouses, David R., none; Charles A., none; Catherine C., none; Michael D., none; Madolyn C., none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses, none.

7. Sisters and spouses, Patricia and James R. Daniels, $250, 1986, IADC-PAC; $50, 1987, Republican National Committee; $25, 1987, Sen. Joseph F. Norvell; $50, 1987, Republican National Committee; $250, 1987, Dole for President; $250, 1988, Dole for President; $200, 1988, IADC-PAC; $250, 1988, Dan Schafer U.S. Rep. Co.; $100, 1988, Roberts for Congress; $50, 1988, Republican National Committee; $100, 1988, Glickman for Congress; $150, 1988, IADC-PAC; $50, 1989, Republican National Committee; $50, 1989, Glickman for Congress (D); $50, 1989, Republican National Committee. Rosemary Partridge, none (sister); Loren Partridge, none.

Roger Gran Harrison, of Colorado, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Roger G. Harrison.

Post: Ambassador to Jordan.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.

3. Children and spouses, Emily, Scott, none.

4. Parents, deceased.

5. Grandparents, deceased.

6. Brothers and spouses, brother deceased; wife Susan, none.

7. Sisters and spouses, Jennifer Jennings, and Lee Jennings, none.

William Bodde, Jr., of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Marshall Islands.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: William Bodde, Jr.

Post: Republic of The Marshall Islands.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, none.
3. Children and spouses, Barbara, none; Peter William none; Christopher none.
4. Parents, William Bodde, deceased; Georgianna Bodde, deceased.
5. Grandparents, deceased.
6. Brothers and spouses, none.
7. Sisters and spouses, Dorothy Sain (husband Fred deceased), none; Anna Ryan (husband James deceased), none.

Joseph Edward Lake, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Mongolian People's Republic.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Joseph Edward Lake.

Post: Ambassador to Mongolia.

Contributions, amount, date, and donee:

1. Self, Joseph Edward Lake, none.
2. Spouse, Jo Ann Kessler Lake, none.
3. Children and spouses, Joseph E. and Erica J. Szeifert-Lake, none; Mary Elizabeth Lake, none; Michael Allen Lake, none.
4. Parents, Dr. Lloyd E. and Marie Allen Lake, Sr., deceased.
5. Grandparents, Joseph M. and Perneta F. Lake, deceased; Royl J. and Pearl E. Allen, deceased.
6. Brothers and spouses, Dr. Lloyd E. and E. and Betty J. Lake, Jr., $50, 1984, Reagan-Bush; $25,000 1988, Bush Victory 88.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. GORE, from the Committee on Armed Services:

The following named officer for reappointment to the grade of admiral and as Chief of Naval Operations under the provisions of title 10, United States Code, sections 601 and 5033:

IN THE NAVY

To be admiral

Adm. Frank B. Kelso,* II, U.S. Navy, [redacted]

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to request to appear and testify before any duly constitued committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

The following named officer for appointment to the grade indicated while serving in a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 601, and to be appointed as Chief of Staff, U.S. Air Force under the provisions of title 10, United States Code, section 8033:

IN THE AIR FORCE

To be general

Gen. Michael J. Dugan,* [redacted], U.S. Air Force.

The following named officer for appointment as Commander in Chief, U.S. Special Operations Command, and appointment to the grade of general while serving in that position under the provisions of title 10, United States Code, sections 167 and 601:

IN THE ARMY

To be general

Lt. Gen. Carl W. Stiner,* [redacted], U.S. Army.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk are printed in the RECORDS of April 20, May 10, May 16, May 18, May 23, and June 6, 1990, at the end of the Senate proceedings.)

*In the Naval Reserve there are 3 promotions to the grade of rear admiral (list begins with Wilson F. Flagg) (Reference No. 975).

*Col. Gerald E. Galloway, Jr., USA, to be brigadier general (Reference No. 1062).

*In the Navy there are 4 promotions to the grade of rear admiral (list begins with Robert Benson Halder) (Reference No. 1114).

*Lt. Gen. Charles W. Brown, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 1147).

*Lt. Gen. Allen K. Ono, USA, to be placed on the retired list in the grade of lieutenant general (Reference No. 1148).

*Maj. Gen. Teddy G. Allen, USA, to be lieutenant general (Reference No. 1149).

*Brig. Gen. Matthew A. Zimmerman, USA, to be major general (Reference No. 1151).

*Lt. Gen. Gary E. Luck, USA, to be reappointed in the grade of lieutenant general (Reference No. 1198).

**In the Marine Corps Reserve there are 166 transfers into the regular Marine Corps in the grades of captain and below (list begins with Matthew J. Baker) (Reference No. 1206).

*Lt. Gen. George L. Monahan, Jr., USAF, to be placed on the retired list in the grade of lieutenant general (Reference No. 1213).

*Gen. Joseph J. Went, USMC, to be placed on the retired list in the grade of general (Reference No. 1221).

*Lt. Gen. William G. Carson, Jr., USMC, to be placed on the retired list in the grade of lieutenant general (Reference No. 1222).

*Lt. Gen. Charles H. Pitman, USMC, to be placed on the retired list in the grade of lieutenant general (Reference No. 1223).

*Rear Adm. James G. Reynolds, USN, to be vice admiral (Reference No. 1228).

*Gen. Larry D. Welch, USAF, to be placed on the retired list in the grade of general (Reference No. 1237).

*Maj. Gen. Michael F. Spigelmire, USA to be lieutenant general (Reference No. 1238).

**In the Army there are 18 promotions to the grade of colonel (list begins with Joseph R. Barnes) (Reference No., 1249).

**In the Marine Corps there are 365 appointments to the grade of lieutenant colonel (list begins with Charles R. Abney) (Reference No. 1254).

*Lt. Gen. John R. Dailey, USMC, to be general and to be Assistant Commandant of the Marine Corps (Reference No. 1265).

*Lt. Gen. William R. Etnyre, USMC, to be placed on the retired list in the grade of Lieutenant general (Reference No. 1266).

**In the Army Reserve there are 69 promotions to the grade of colonel and below (list begins with Frank Q. Bertagnolli) (Reference No. 1281).

**In the Air Force there are 3 appointments to a grade to be determined by the Secretary of the Air Force, or in two cases to the grade of second lieutenant, (list begins with Robert A. Schmitz) (Reference No. 1284).

**Daniel J. Kaufman for appointment as permanent professor at the United States Military Academy (Reference No. 1285).

**In the Marine Corps there are 619 appointments to the grade of major (list begins with William S. Aitken) (Reference No. 1286).

*Lt. Gen. Robert C. Oaks, USAF, to be general (Reference No. 1294).

*Maj. Gen. William H. Reno, USA, to be lieutenant general (Reference No. 1295).

**In the Air Force there are 38 appointments to the grade of second lieutenant (list begins with Gerald S. Alonge) (Reference No. 1296).

**In the Army there are 5 promotions to the grade of colonel and below (list begins with Preston L. Funkhouser III) (Reference No. 1297).

**In the Army Reserve there are 8 appointments to the grade of colonel and below (list begins with Jose A. Castrillo-Cruz) (Reference No. 1298).

**In the Air Force Reserve there are 78 promotions to the grade of lieutenant colonel (list begins with Robert L. Alsleben) (Reference No. 1299).

**In the Army Reserve there are 63 promotions to the grade of colonel and below (list begins with Henry J. Cook, III) (Reference No. 1300).

**In the Army there are 198 promotions to the grade of lieutenant colonel and below (list begins with Arnold A. Asp) (Reference No. 1301).

**In the Navy there are 359 reappointments to the grade of lieutenant (list begins with Rodante P. Allanigue) (Reference No. 1303).

*Lt. Gen. Joseph W. Ashy, USAF, to be reappointed in the grade of lieutenant general (Reference No. 1304).

*Lt. Gen. Thomas A. Baker, USAF, to be reappointed in the grade of lieutenant general (Reference No. 1306).

*Lt. Gen. August M. Cianciolo, USA, to be reappointed in the grade of lieutenant general (Reference No. 1307).

*Maj. Gen. (Sel) Duane A. Wills, USMC, to be lieutenant general (Reference No. 1308).

*Maj. Gen. Robert J. Winglass, USMC, to be lieutenant general (Reference No. 1309).

*Maj. Gen. Ronald R. Fogleman, USAF, to be lieutenant general (Reference No. 1311).

*Maj. Gen. Billy M. Thomas, USA, to be lieutenant general (Reference No. 1325).

*Maj. Gen. Joseph P. Hoar, USMC, to be lieutenant general (Reference No. 1326).

*Lt. Gen. Carl E. Mundy, Jr., USMC, to be lieutenant general (Reference No. 1327).

**In the Army there are 6 appointments and promotions to the grade of lieutenant colonel and below (list begins with Thomas D. Challender) (Reference No. 1328).

**In the Army there are 4 appointments and promotions to the grade of lieutenant colonel and below (list begins with Albert D. Cain) (Reference No. 1329).

**In the Navy there are 5 promotions to the grade of lieutenant commander (list begins with Bradley A. Bailey) (Reference No. 1330).

Total—2,038.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN:

S. 2765. A bill to provide for the economic growth and industrial revitalization of the United States by establishing tax-exempt industrial recapitalization funds for manufacturing industries, by providing investment and savings incentives, and by promoting worker training and research and development, and for other purposes; to the Committee on Finance.

By Mr. McCAIN (for himself and Mr. GORTON):

S. 2766. A bill to provide for the restoration of certain medicare catastrophic benefits, plus addition of colon cancer screening benefit; to the Committee on Finance.

S. 2767. A bill to provide for retention of certain medicare catastrophic benefits provided by health maintenance organization; to the Committee on Finance.

By Mr. PRYOR:

S. 2768. A bill to amend subchapter III of chapter 73 of title 5, United States Code, to provide that the provisions relating to political activities of Federal employees shall apply to all Federal employees; to the Committee on Governmental Affairs.

By Mr. KERRY:

S. 2769. A bill for the relief of Michael Houtmeyers; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2770. A bill to establish the Indian Finance Corporation; to the Select Committee on Indian Affairs.

By Mr. ADAMS (for himself and Mr. GORTON):

S. 2771. A bill to establish the Vancouver National Historical Reserve in the State of Washington, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KASTEN:

S. 2772. A bill to establish a National Fishery Conservation System administered by the United States Fish and Wildlife Service to maintain and develop self-sustaining fish populations for the continued benefit of recreational and commercial users and the general public, educational, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BREAUX (for himself and Mr. LOTT) (by request):

S. 2773. A bill to amend the Merchant Marine Act, 1936, so as to revitalize the U.S.-flag merchant marine; to the Committee on Commerce, Science, and Transportation.

By Mr. DANFORTH (for himself and Mr. MOYNIHAN):

S. 2774. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on the sale of any international route; to the Committee on Finance.

By Mr. ROTH (by request):

S. 2775. A bill to provide for Government-wide procurement ethics reform, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SIMON:

S.J. Res. 337. Joint resolution designating Labor Day weekend, September 1 through 3, 1990, as "National Drive for Life Weekend"; to the Committee on the Judiciary.

By Mr. BOSCHWITZ (for himself, Mr. DURENBERGER, Mr. THURMOND, Mr. DOMENICI, Mr. SHELBY, Mr. BURNS, Mr. BREAUX, Mr. BOND, Mr. JEFFORDS, Mr. ROBB, Mr. BURDICK, Mr. JOHNSTON, Mr. MURKOWSKI, Mr. HOLLINGS, Mr. STEVENS, Mr. COCHRAN, Mr. KASTEN, Mr. McCLURE, and Mr. SYMMS):

S.J. Res. 338. Joint resolution to designate July 1, 1990, as "National Ducks and Wetlands Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WILSON:

S. Res. 302. Resolution relating to asylum rights for refugees from Vietnam; to the Committee on Foreign Relations.

By Mr. D'AMATO (for Mr. DANFORTH):

S. Res. 303. Resolution relating to the Washington National Cathedral; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN:

S. 2765. A bill to provide for the economic growth and industrial revitalization of the United States by establishing tax-exempt industrial recapitalization funds for manufacturing, industries, by providing investment and savings incentives, and by promoting worker training and research and development, and for other purposes; to the Committee on Finance.

ECONOMIC GROWTH ACT

Mr. LIEBERMAN. Mr. President, I rise today to introduce the Economic Growth Act of 1990, which I believe can help make America more competitive in our global economy.

In writing about another age and another place, Charles Dickens said, "It was the best of times; it was the worst of times." Those words could be used to describe the State of our economy over the last decade. For years, the American economy grew in unprecedented fashion, without recession, and unemployment went down. We also broke the destructive pattern of high inflation and high interest rates.

But in the midst of all that good news there was some bad news as well. We lagged behind in savings and investment, and research and development; educational performance was low. And our budget and trade deficits became huge. The real income of most Americans stalled. Poverty grew in both inner cities and rural communities, and homelessness became a visible and pervasive problem in our country.

We ran our economy on borrowed capital. While we consumed, nations like Japan and Germany saved, invested, and produced. As the eighties ended, we began to sink in what might be called a crisis of economic confidence.

Now, as we enter the nineties and the cold war seems to be coming to an end, we all agree here in this Congress, and I guess generally in the country, that our national security in the years ahead will be determined as much by the competitiveness of our economy as by the strength of our military.

I think it is time that we turn that understanding of ours on which there seems to be a consensus, into law and policy. This is particularly important in this session of Congress, where we are understandably preoccupied with budget discussions and with how large the peace dividend will be, and how we will spend it once we determine how large it will be.

It is crucial that Congress does not adjourn without a strong program of action that will make America economically competitive in decades ahead. I offer this legislation today as an attempt to contribute to that discussion, and hopefully to that action.

It is based on the premise that we can best meet this historic challenge by laying groundwork for a new partnership between business and government, a partnership that will not be intrusive, but supportive of the best efforts of American business to be globally competitive and create more high-value jobs here at home.

This bill attempts to achieve this in two fundamental ways: by encouraging savings and investment, and by supporting the research, and particularly the development efforts, of American firms.

The bill has five titles. The first establishes an industrial recapitalization fund [IRF] for manufacturing firms. This program would enable manufacturing firms to put their annual depreciation allowances into tax-free accounts for a period of 5 years. They would be permitted to withdraw money from this account, tax free, for a period of 10-years, as long as the money is used for investment in new plant and equipment, promoting both manufacturing growth and modernization.

The IRF is really a business IRA, an account that combines both investment and savings for manufacturing firms. The emphasis on both is key to

the ability of American manufacturing firms to compete.

Title II of the bill would give a capital gains tax break for new stock offerings by manufacturing firms. The rate would be 21 percent for equities held for 3 years and 15 percent for those held for 6 years. It would apply to stock held by both corporations and individuals. This kind of targeted approach to a capital gains tax cut is the best way to direct investment to where it is needed the most: our high technology and manufacturing firms now facing a very tough global marketplace. It would enhance their ability to obtain low cost, long-term patient capital.

In addition, I intend to support a broader based capital gains tax cut that will surely be considered by the Senate. A capital gains tax cut will help to stimulate our economy and foster economic growth.

We must also increase our personal savings rate if our economy is to grow. Other provisions in title II complement the idea of broadening existing eligibility for IRA's by creating a checkoff on income tax returns that would ask the IRS to deposit any tax refund into an individual's IRA. This simple concept originated by Rob Shapiro of the Progressive Policy Institute is premised on the fact that the one time in the year most individuals have a lump sum of money available is when they get back their tax refund. An IRA checkoff on the tax return makes it easier and more likely to deposit that return into an investment and savings account, rather than spending it.

Title III of the bill helps U.S. firms with their R&D efforts by making the R&D tax credit permanent, by making the tax credit for employer-sponsored math and science education programs permanent, and by expanding the applied research portion of the R&D tax credit to promote development and to help companies bring new products to market.

Title IV of the bill expands antitrust exemptions to enable firms to join together to develop high-technology products without fear of antitrust "per se" violations. If American firms are going to compete in a global economy, they are going to have to be able to work together. The provision is based on a bill that recently passed the House.

Title V of the bill is intended to complement the far-reaching bill that was introduced by Senators GLENN and LEVIN and House Majority Leader DICK GEPHARDT and Representative MEL LEVINE, S. 1978, the Trade and Technology Act of 1989. That bill would, among other things, create a civilian counterpart to the Defense Advanced Research Projects Agency [DARPA].

The bill I am introducing today does three things: it provides a statutory basis for the existing Defense Advanced Research Projects Agency [DARPA], it creates a National Technology Policy Council, and it establishes a National Advanced Technology Fund. By writing DARPA into law and by making the head of DARPA an Assistant Secretary of Defense, we protect its current mission and elevate its position within DOD. Since DARPA is one of the most effective and successful Government agencies dealing with high-technology issues, a better defined role is not only useful but necessary.

The Technology Council would be a group of technology experts—"wise men and women"—from the private sector charged with the responsibility of examining what our technology policy is and what it should be. The Council would set priorities for Government technology support and would help define the priorities and goals of DARPA and the Technology Fund.

The Technology Fund would, in effect, act as a civilian DARPA. It would support high technology and innovative projects in the civilian economy in the same way that DARPA does for the defense industry. Over time, the fund would become self-sufficient through a return and recapture of Government support funds. If we are to compete with Japan and the nations of the European Community, we must stand firmly behind American high-technology companies; a strengthened DARPA, a Technology Policy Council, and a Technology Fund are three good ways of achieving that goal.

We have a choice to make about our economic future: will we accept the status quo and just hope for the best or will we forge ahead and accept the challenge put to us by Japan and Europe? We can and will prosper as a nation if we recognize our problems and work together: business and Government. The business community must do its part by making changes of its own to meet the challenges of a global economy and a domestic educational deficit, but we in Government must do what we can to make sure that our Government supports and promotes the best competitive efforts of American business.

At the end of the day, to paraphrase the poet William Henley, we are the master of our fate, the captain of our soul. We can offer our children the promise of a bright economic future if we choose to do so. The choice is ours to make and in my opinion it is an obvious one: we must once again take charge of our economic destiny.

Mr. President, I ask unanimous consent that the full text of the bill as well as the text of the title-by-title summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth Act of 1990".

TITLE I—INDUSTRIAL RECAPITALIZATION FUNDS

SEC. 101. ESTABLISHMENT OF INDUSTRIAL RECAPITALIZATION FUNDS.

(a) IN GENERAL.—Subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end thereof the following new part:

"PART VIII—INDUSTRIAL RECAPITALIZATION FUNDS

"Sec. 529. Industrial recapitalization funds.
"Sec. 530. Taxability of funds.
"Sec. 530A. Definitions; records and reports.

"SEC. 529. INDUSTRIAL RECAPITALIZATION FUNDS.

"(a) ESTABLISHMENT OF FUNDS.—Each eligible taxpayer may establish an industrial recapitalization fund (hereafter in this part referred to as a 'fund').

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any person—

"(1) substantially all of the activities of which consist of the active conduct of the trade or business of manufacturing, and

"(2) more than 50 percent of the stock or other ownership interests of which is held by United States persons (as defined in section 7701(a)(30)).

"(c) DEPOSIT REQUIREMENTS.—

"(1) IN GENERAL.—Amounts may be deposited into a fund during each of the taxable years in the 5-taxable year period beginning with the taxable year in which the fund is established.

"(2) LIMITATION ON AMOUNT OF DEPOSITS.—The amount which may be deposited into a fund for any taxable year shall not exceed the sum of—

"(A) amounts allowable as a deduction to the taxpayer under section 167 (or as amortization in lieu of depreciation) for such taxable year with respect to eligible plant and equipment; plus

"(B) the net proceeds from the sale or other disposition of any such eligible plant and equipment, or insurance or indemnity attributable to any such eligible plant and equipment.

"(3) CREDITS.—In addition to amounts which may be deposited into a fund, the fund shall be credited each taxable year with the receipts from the investment or reinvestment of amounts held in such fund.

"(4) NO DEPOSIT FROM LOAN PROCEEDS.—No amount may be deposited into a fund from the proceeds of any indebtedness incurred or continued to make such deposit.

"(d) REQUIREMENTS AS TO INVESTMENTS.—

"(1) IN GENERAL.—Except as provided in this subsection, amounts in a fund shall be kept in the depository or depositories specified by the Secretary, and shall be subject to such trustee and other fiduciary requirements as may be specified by the Secretary.

"(2) ASSETS.—Assets in a fund may be invested only in interest-bearing securities

issued by the United States Government; except that, if the Secretary consents thereto, a percentage (not in excess of 60 percent) of the assets of the fund may be invested in the stock of domestic corporations. Such stock shall—

"(A) be currently fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange, and

"(B) be stock which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital.

"(3) EXCESS EQUITY INVESTMENTS.—If at any time the fair market value of the stock in a fund is more than the percentage of the assets in the fund specified under paragraph (2), any subsequent investment or withdrawal from the fund shall be made in such a way as to tend to restore the fund to a situation in which the fair market value of the stock does not exceed such agreed percentage.

"(4) PREFERRED STOCK.—For purposes of this subsection, if the common stock of a corporation is described in paragraph (2)(A) and if the preferred stock of such corporation would be so described but for the fact that it cannot be listed and registered as required because it is nonvoting stock, such preferred stock shall be treated as described in paragraph (2)(A).

"(e) WITHDRAWALS.—

"(1) IN GENERAL.—Only qualified withdrawals may be made from a fund.

"(2) QUALIFIED WITHDRAWALS.—For purposes of this section, the term 'qualified withdrawal' means a withdrawal for—

"(A) the acquisition, construction, reconstruction, modernization, or refurbishment of eligible plant and equipment,

"(B) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, reconstruction, modernization, or refurbishment of eligible plant and equipment; or

"(C) the payment of expenditures for job training programs for employees of the eligible taxpayer maintaining the fund which are approved by the Federal Government or any State, or local government, or any agency or instrumentality thereof.

"SEC. 430. TAXABILITY OF FUNDS.

"(a) NONTAXABILITY OF FUND.—Except as otherwise provided in this section, a fund is exempt from taxation under this subtitle.

"(b) TAX TREATMENT OF ELIGIBLE TAXPAYERS.—

"(1) DEDUCTION FOR DEPOSITS.—There shall be allowed as a deduction for any taxable year the amount an eligible taxpayer deposits into a fund under section 529(c)(2)(A).

"(2) NONREALIZATION OF GAIN.—Gain from a sale, exchange, or other disposition described in section 529(c)(2)(B) shall not be includible in the gross income of an eligible taxpayer to the extent of the amount of such gain deposited into the fund.

"(3) EARNINGS OF FUND.—For purposes of this subtitle—

"(A) gross income of an eligible taxpayer shall not include earnings (including gains and losses) of the fund,

"(B) the earnings and profits of such taxpayer shall be determined without regard to the assets and earnings of the fund, and

"(C) the assets and earnings of the fund shall not be taken into account in applying section 531 to such taxpayer.

"(c) ESTABLISHMENT OF ACCOUNTS.—

"(1) IN GENERAL.—Within a fund established pursuant to this part, 3 accounts shall be maintained—

"(A) the capital account,

"(B) the capital gain account, and

"(C) the ordinary income account.

"(2) CAPITAL ACCOUNT.—The capital account shall consist of—

"(A) amounts deposited into the fund under section 529(c)(2)(A),

"(B) amounts referred to in section 529(c)(2)(B) other than that portion thereof which represents gain not taken into account by reason of subsection (b)(2),

"(C) the percentage applicable under section 243(a)(1) of any dividend received by the fund with respect to which the person maintaining the fund would (but for subsection (b)(3)(B)) be allowed a deduction under section 243, and

"(D) interest income exempt from taxation under section 103.

"(3) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

"(A) amounts representing capital gain—

"(i) on assets held in the fund for more than 1 year, or

"(ii) excluded from gross income under subsection (b)(2) which is attributable to assets held more than 1 year, reduced by

"(B) amounts representing capital losses on assets held in the fund for more than 1 year.

"(4) ORDINARY INCOME ACCOUNT.—The ordinary income account shall consist of—

"(A)(i) amounts representing capital gain—

"(I) on assets held in the fund for 1 year or less, or

"(II) excluded from gross income under subsection (b)(2) which is attributable to assets held for 1 year or less, reduced by

"(ii) amounts representing capital losses on assets held in the fund for 1 year or less,

"(B) interest (not including any tax-exempt interest referred to in paragraph (2)(D)) and other ordinary income (not including any dividend referred to in subparagraph (C)) received on assets held in the fund, and

"(C) the portion of any dividend referred to in paragraph (2)(C) not taken into account under such paragraph.

"(5) NO LOSSES ALLOWED.—Except on termination of a fund, capital losses referred to in paragraph (3)(B) or in paragraph (4)(B)(ii) shall be allowed only as an offset to gains referred to in paragraph (3)(A) or (4)(B)(i), respectively.

"(d) TAX TREATMENT OF QUALIFIED WITHDRAWALS.—

"(1) IN GENERAL.—Any qualified withdrawal from a fund shall be treated—

"(A) first as made out of the capital account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the ordinary income account.

"(2) ORDINARY INCOME ACCOUNT WITHDRAWAL.—If any portion of a qualified withdrawal for eligible plant and equipment is made out of the ordinary income account, the basis of such plant and equipment shall be reduced by an amount equal to such portion.

"(3) CAPITAL GAIN ACCOUNT WITHDRAWAL.—If any portion of a qualified withdrawal for eligible plant and equipment is made out of the capital gain account, the basis of such plant and equipment shall be reduced by an amount equal to such portion.

"(4) WITHDRAWALS TO REPAY LOANS.—If any portion of a qualified withdrawal to pay the principal on any indebtedness described in section 529(e)(2)(B) is made out of the ordinary income account or the capital gain account, then an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) shall be applied, in the order provided in regulations, to reduce the basis of plant and equipment owned by the eligible taxpayer maintaining the fund. Any amount of a withdrawal remaining after the application of the preceding sentence shall be treated as a nonqualified withdrawal.

"(5) GAIN ON DISPOSITION.—If any property the basis of which was reduced under paragraph (2), (3), or (4) is disposed of, any gain realized on such disposition, to the extent it does not exceed the aggregate reduction in the basis of such property under such paragraphs, shall be treated as an amount referred to in subsection (e)(4)(A) which was withdrawn on the date of such disposition. Subject to such conditions and requirements as may be provided in regulations, the preceding sentence shall not apply to a disposition where there is a redeposit in an amount determined under such regulations which will, insofar as practicable, restore the fund to the position it was in before the withdrawal.

"(e) TAX TREATMENT OF NONQUALIFIED WITHDRAWALS.—

"(1) IN GENERAL.—Except as provided in subsection (f), any withdrawal from a fund which is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

"(2) TREATMENT OF WITHDRAWALS.—Any nonqualified withdrawal from a fund shall be treated—

"(A) first as made out of the ordinary income account,

"(B) second as made out of the capital gain account, and

"(C) third as made out of the capital account.

"(3) ORDER OF WITHDRAWALS.—For purposes of this subsection, items withdrawn from any account shall be treated as withdrawn on a first-in-first-out basis; except that—

"(A) any nonqualified withdrawal for research, development, and design expenses incident to new and advanced eligible plant and equipment, and

"(B) any amount treated as a nonqualified withdrawal under the second sentence of subsection (d)(4),

shall be treated as withdrawn on a last-in-first-out basis.

"(4) SPECIAL RULES.—For purposes of this subtitle—

"(A) any amount referred to in paragraph (2)(A) shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made,

"(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during such year from the disposition of an asset held for more than 1 year, and

"(C) for the period on or before the last date prescribed for payment of tax for the taxable year in which the withdrawal is made—

"(i) no interest shall be payable under section 6601 and no addition to the tax shall be payable under section 6651,

"(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be paid at the applicable rate (as defined in paragraph (5)) from the last date prescribed for payment of the tax for the taxable year for

which such item was deposited in the fund, and

"(iii) no interest shall be payable on amounts referred to in subparagraphs (A) and (B) of paragraph (3).

"(5) RATE OF INTEREST.—For purposes of paragraph (4)(C)(ii), the applicable rate of interest for any nonqualified withdrawal shall be the rate established under section 6621(a)(2).

"(6) DEEMED WITHDRAWALS.—

"(A) IN GENERAL.—The applicable percentage of any amount which remains in a fund as of the close of the 10th, 11th, or 12th taxable year following the taxable year in which an agreement was entered into shall be treated as a nonqualified withdrawal in accordance with the following table:

If the amount remains in the fund at the close of the—	The applicable percentage is:
10th taxable year	20 percent
11th taxable year	60 percent
12th taxable year	100 percent.

"(B) EARNINGS.—The earnings of a fund for any taxable year (other than net gains) shall be treated for purposes of this paragraph as an amount remaining in the fund for such taxable year.

"(C) BINDING CONTRACTS.—For purposes of subparagraph (A), an amount shall not be treated as remaining in a fund as of the close of any taxable year to the extent there is a binding contract at the close of such year for a qualified withdrawal of such amount with respect to an identified item for which such withdrawal may be made.

"(D) EXCESS BALANCES.—If the Secretary determines that the balance in a fund exceeds the amount which is appropriate to meet the fund's program objectives, the amount of such excess shall be treated as a nonqualified withdrawal under subparagraph (A) unless such person develops appropriate program objectives within 3 years to dissipate such excess.

"(7) DETERMINATION OF TAX.—

"(A) IN GENERAL.—In the case of any taxable year for which there is a nonqualified withdrawal (including any amount so treated under paragraph (6)), the tax imposed by chapter 1 shall be determined—

"(i) by excluding such withdrawal from gross income, and

"(ii) by increasing the tax imposed by chapter 1 by the product of the amount of such withdrawal and the highest rate of tax specified in section 11.

With respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year to which section 1201(a) applies, the rate of tax taken into account under the preceding sentence shall not exceed 34 percent.

"(B) WITHDRAWAL OF AFTER-TAX AMOUNTS.—If any portion of a nonqualified withdrawal is properly attributable to deposits (other than earnings on deposits) made by the taxpayer in any taxable year which did not reduce the taxpayer's liability for tax under this subtitle for any taxable year preceding the taxable year in which such withdrawal occurs—

"(i) such portion shall not be taken into account under subparagraph (A), and

"(ii) an amount equal to such portion shall be treated as allowed as a deduction under section 172 for the taxable year in which such withdrawal occurs.

"(C) EXCLUDED AMOUNTS.—Any nonqualified withdrawal excluded from gross income under subparagraph (B) shall be excluded in determining taxable income under section 172(b)(2).

"(f) CORPORATE REORGANIZATIONS.—Under regulations, if a transfer of a fund occurs from one person to another person in a transaction to which section 381 applies, such transfer shall not constitute a nonqualified withdrawal. However, if the transaction results in the transfer to a corporation with respect to which the requirements of this part are not met, all amounts in the fund shall be treated as having been withdrawn in a nonqualified withdrawal at the time of the transaction.

"SEC. 530A. DEFINITIONS; RECORDS AND REPORTS.

"(a) ELIGIBLE PLANT AND EQUIPMENT.—For purposes of this part, the term 'eligible plant and equipment' means any plant and equipment which is used as an integral part of the active conduct of the trade or business of manufacturing.

"(b) RECORDS AND REGULATIONS.—

"(1) RECORDS.—Each person maintaining a fund under this part shall keep such records and shall make such reports as the Secretary shall require.

"(2) REGULATIONS.—The Secretary shall prescribe such rules and regulations as may be necessary or appropriate to carry out the provisions of this part.

"(c) REPORTS.—

"(1) IN GENERAL.—The Secretary shall, within 120 days after the close of each calendar year, provide to the Congress a written report with respect to the funds under this section.

"(2) CONTENTS OF REPORT.—Each report under paragraph (1) shall set forth the number of persons—

"(A) establishing a fund during such calendar year,

"(B) maintaining a fund as of the last day of such calendar year,

"(C) terminating a fund during such calendar year, or

"(D) making any withdrawal from or deposit into (and the amounts thereof) a fund during such calendar year.".

(b) CONFORMING AMENDMENT.—The table of parts for subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"PART VIII—INDUSTRIAL RECAPITALIZATION FUNDS."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1990.

TITLE II—INVESTMENT INCENTIVES

Subtitle A—Investment in Stock of Manufacturers

SEC. 201. RESTORATION OF CAPITAL GAINS EXCLUSION FOR CERTAIN STOCK OF MANUFACTURERS.

(a) TAXPAYERS OTHER THAN CORPORATIONS.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after section 1201 the following new section:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS ON STOCK OF MANUFACTURERS HELD MORE THAN 3 YEARS.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a qualified net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(1) 25 percent of the 3-year gain, plus

"(2) 46.5 percent of the 6-year gain.

"(b) QUALIFIED NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from qualified stock with a holding period of at least 3 years at the time of the disposition.

"(2) 3-YEAR GAIN.—The term '3-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) such gain determined by taking into account only gain or loss from qualified stock with a holding period of at least 3 years but less than 6 years.

"(3) 6-YEAR GAIN.—The term '6-year gain' means the lesser of—

"(A) the net capital gain for the taxable year, reduced by the 3-year gain, or

"(B) the net capital gain for the taxable year determined by taking into account gain or loss from qualified stock with a holding period of at least 6 years.

"(3) QUALIFIED STOCK.—

"(A) IN GENERAL.—The term 'qualified stock' means stock which—

"(i) is issued by a qualified business after the date which is 6 months after the date of the enactment of this section,

"(ii) is first acquired (whether directly or through an underwriter) by the taxpayer, and

"(iii) is not issued in redemption of (or otherwise exchanged for) stock not issued during the period described in clause (i).

"(B) QUALIFIED BUSINESS.—For purposes of subparagraph (A)—

"(i) ACTIVE TRADE OR BUSINESS REQUIREMENT.—A corporation shall not be treated as a qualified business unless—

"(I) during the 5-year period ending on the date of issuance described in subparagraph (A) (or if shorter, its period of existence) substantially all of the activities of such corporation consisted of the active conduct of the trade or business of manufacturing, and

"(II) immediately after such date substantially all of the activities of such corporation consist of such active conduct.

"(ii) EXCEPTION FOR PERSONAL SERVICE CORPORATIONS.—The term 'qualified business' shall not include a personal service corporation (within the meaning of section 269A(b)(1)).

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.".

(b) CORPORATIONS.—Section 1201 of the Internal Revenue Code of 1986 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) DEDUCTION FOR NET CAPITAL GAIN.—

"(1) IN GENERAL.—If for any taxable year a corporation has a qualified net capital gain—

"(A) there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(i) 25 percent of the 3-year gain, plus

"(ii) 46.5 percent of the 6-year gain, and

"(B) paragraph (2) of subsection (a) shall be applied as if it read as follows:

'(2) a tax equal to the sum of—

'(A) 18.2 percent of the 6-year gain, plus

'(B) 25.5 percent of the 3-year gain, plus

'(C) 34 percent of the net capital gain, reduced by the amounts taken into account under subparagraphs (A) and (B).'

"(2) QUALIFIED NET CAPITAL GAIN.—For purposes of this subsection, the terms 'qualified net capital gain', '3-year gain', and '6-year gain' have the meanings given such terms by section 1202(b).".

(c) MAXIMUM 15 PERCENT RATE.—Section 1(j) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WHERE TAXPAYER HAS QUALIFIED NET CAPITAL GAIN.—

"(A) IN GENERAL.—If a taxpayer has qualified net capital gain for any taxable year, then the tax imposed by this section shall not exceed the lesser of—

"(i) the amount determined under paragraph (1), or

"(ii) the sum of—

"(I) the amount determined under paragraph (1) without taking into account qualified net capital gain for purposes of subparagraphs (A) and (B) thereof, plus

"(II) 15 percent of the 6-year gain, plus

"(III) 21 percent of the 3-year gain.

"(B) QUALIFIED NET CAPITAL GAIN.—For purposes of this paragraph, the terms 'qualified net capital gain', '3-year gain', and '6-year gain' have the meanings given such terms by section 1202(b)."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 1(j)(3) of such Code, as redesignated by paragraph (1), is amended by inserting "paragraph (2) applies for such taxable year or if" after "if".

(d) TREATMENT AS PREFERENCE ITEM FOR MINIMUM TAX.—Section 57(a) of the Internal Revenue Code of 1986 (relating to items of tax preference under the alternative minimum tax) is amended by adding at the end thereof the following new paragraph:

"(8) CAPITAL GAINS ON SALE OF CERTAIN STOCK.—An amount equal to the deduction for the taxable year determined under section 1201(b) or 1202."

(e) CONFORMING AMENDMENTS.—

(1) Section 62(a) of such Code is amended by adding after paragraph (12) the following new paragraph:

"(13) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(2) Subparagraph (B) of section 170(e)(1) of such Code is amended by inserting "(or, in the case of qualified stock under section 1202(b)(2), 75 percent (85 percent in the case of 6-year gain) of)" before "the amount of gain".

(3) Section 172(d)(2) of such Code (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1202 shall not be allowed."

(4) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 221 of such Code (relating to cross reference) is amended to read as follows:

"SEC. 221. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691.".

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 221 and inserting "references".

(6) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for excess capital gains over capital losses) shall not be taken into account."

(8) Paragraph (4) of section 691(c) of such Code is amended by striking out "1(j), 1201, and 1211" and inserting in lieu thereof "1(j), 1201, 1202, and 1211, and for purposes of section 57(a)(8)".

(9) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking out "66 percent" and inserting "the rate differential portion (within the meaning of section 904(b)(3)(E))".

(10) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for qualified net capital gains) and" after "except that".

(11) Section 904(b)(3)(E) of such Code is amended by striking out "1201(a)" in clause (iii)(II) thereof and inserting "1201 (a) or (b)".

(12) Section 1402(i)(1) of such Code is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(13) Section 1445(e)(1) of such Code is amended by striking out "34 percent (or, to the extent provided in regulations, 28 percent)" and inserting "34 percent (or, to the extent provided in regulations, the alternative tax rate determined under section 904(b)(3)(E)(iii))".

(14) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Deduction for capital gains on stock of manufacturers held for more than 3 years."

(15)(A) The heading for section 1201 of such Code is amended by inserting "; DEDUCTION FOR GAIN ON QUALIFIED STOCK" after "Corporations".

(B) The item relating to section 1201 in the table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting "; deduction for gain on qualified stock" after "corporations".

SEC. 202. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to stock issued after the date which is 6 months after the date of the enactment of this Act.

Subtitle B—Savings Incentives

SEC. 211. DESIGNATION OF OVERPAYMENTS TO INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS FOR INDIVIDUAL RETIREMENT ACCOUNTS

"SEC. 6097. AMOUNTS FOR INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that any portion of any overpayment of such tax for such taxable year be paid over to an individual retirement account established and maintained on behalf of the taxpayer.

"(b) JOINT RETURNS.—In the case of a joint return showing an overpayment, each spouse may designate any portion of such overpayment under subsection (a).

"(c) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made on the first page of the return and shall include any accompanying form the Secretary determines necessary to adequately identify the individual retirement account (and the trustee thereof) to which the overpayment is to be transferred.

"(d) TRANSFERS OF ACCOUNTS.—The Secretary shall transfer any portion of any overpayment designated under subsection (a) to the trustee of the individual retirement account designated by the taxpayer under subsection (a).

"(e) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

"PART IX—DESIGNATION OF OVERPAYMENTS TO INDIVIDUAL RETIREMENT ACCOUNTS."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

TITLE III—INCENTIVES FOR RESEARCH AND EDUCATIONAL ASSISTANCE

SEC. 301. RESEARCH CREDIT.

(a) CREDIT MADE PERMANENT.—

(1) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(2) CONFORMING AMENDMENTS.—

(A) Section 7110(a) of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(B) Section 28(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(b) CREDIT TO APPLY TO RESEARCH TO BRING PRODUCTS TO MARKET.—

(1) IN GENERAL.—Subparagraph (A) of section 41(d)(3) of the Internal Revenue Code of 1986 is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iv) the development and improvement of commercial products."

(2) CERTAIN RESTRICTIONS REPEALED.—Section 41(d)(4) of such Code is amended by striking subparagraphs (A) and (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 302. EXCLUSION FOR EDUCATIONAL ASSISTANCE PROGRAMS.

(a) EXCLUSION MADE PERMANENT.—

(1) IN GENERAL.—Section 127 of the Internal Revenue Code of 1986 (relating to educational assistance programs) is amended by striking subsection (d).

(2) CONFORMING AMENDMENT.—Section 7101(a) of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

(b) RESTRICTIONS RELATING TO EDUCATION AT THE GRADUATE LEVEL.—

(1) IN GENERAL.—The last sentence of paragraph (1) of section 127(c) of the Internal Revenue Code of 1986 is amended by inserting "(other than a degree in engineering, science, or mathematics)" before the period.

(2) CONFORMING AMENDMENT.—Section 117(d)(5) of such Code (relating to application of section to otherwise taxable employer-provided educational assistance) is amended by inserting "or who is pursuing a program leading to an advanced academic or professional degree in engineering, science, or mathematics" after "such organization".

(c) EFFECTIVE DATES.—

(1) PERMANENT EXCLUSION.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1989.

(2) GRADUATE LEVEL ASSISTANCE.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1990.

TITLE IV—AMENDMENTS TO NATIONAL COOPERATIVE RESEARCH ACT OF 1984.

SECTION 401. SHORT TITLE.

This Act may be cited as the "National Cooperative Production Amendments of 1990".

SEC. 402. AMENDMENTS.

(a) SHORT TITLE.—Section 1 of the National Cooperative Research Act of 1984 (15 U.S.C. 4301 note) is amended by striking "National Cooperative Research Act of 1984" and inserting "National Cooperative Research and Production Act of 1990".

(b) DEFINITION.—Section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6)) is amended—

(1) in the matter preceding subparagraph (A) by striking "research and development";

(2) in subparagraph (B) by inserting "or production" after "engineering";

(3) in subparagraph (C) by—

(A) striking "for experimental and demonstration purposes, including the experimental production and" and inserting ", including the development,"; and

(B) inserting ", and production or implementation" after "testing";

(4) in subparagraph (D) by—

(A) inserting ", development, or production" after "research"; and

(B) striking "or" after "information,";

(5) in subparagraph (E)—

(A) by striking "(E)" and inserting "(F)"; and

(B) by striking "and (D)" and inserting "(D), and (E)";

(6) by inserting after subparagraph (D) the following:

"(E) the production of any product, process, or service, or"; and

(7) in the matter following subparagraph (F) by inserting after "research," the first place it appears the following: "development, or production,".

(c) EXCLUSIONS.—Section 2(b) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(b)) is amended—

(1) in the matter preceding paragraph (1) by striking "research and development";

(2) in paragraph (1)—

(A) by inserting "production," after "prices,", and

(B) by striking "conduct the research and development that is" and inserting "carry out";

(3) in paragraph (2)—

(A) by striking "or marketing" the first place it appears and inserting ", marketing, or distribution";

(B) by striking "or marketing of" and inserting ", marketing, or distribution of any product, process, service, or";

(C) by striking "such as patents and trade secrets,"; and

(D) by inserting "(including patents and trade secrets)" after "proprietary information"; and

(4) in paragraph (3) by striking "other research and development activities" and inserting "any other joint venture activity".

(d) RULE OF REASON STANDARD.—Section 3 of the National Cooperative Research Act of 1984 (15 U.S.C. 4302) is amended by adding at the end the following: "For the purpose of determining a properly defined, relevant market, the worldwide capacity of suppliers to provide a product, process, or service shall be considered.".

(e) TECHNICAL AMENDMENTS.—(1) Section 3 of the National Cooperative Research Act of 1984 (15 U.S.C. 4302) is amended by striking "research and development" each place it appears.

(2) Section 4 of the National Cooperative Research Act of 1984 (15 U.S.C. 4303) is amended in subsections (a)(1), (b)(1), (c)(1), and (e) by striking "research and development" each place it appears.

(3) Section 5(a) of the National Cooperative Research Act of 1984 (15 U.S.C. 4304(a)) is amended in the matter preceding paragraph (1) by striking "research and development".

(4) Section 6 of the National Cooperative Research Act of 1984 (15 U.S.C. 4305) is amended—

(A) in the heading by striking "RESEARCH AND DEVELOPMENT",

(B) in the first sentence of subsection (a) by striking "this Act" and inserting "the National Cooperative Production Amendments of 1990", and

(C) in subsections (a), (d)(2), and (e) by striking "research and development" each place it appears.

(f) APPLICATIONS OF AMENDMENTS.—The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended by adding at the end the following:

"APPLICATION OF AMENDMENTS RELATING TO PRODUCTION OF PRODUCTS, PROCESSES, AND SERVICES

"SEC. 7. The amendments to this Act made by the National Cooperative Production Amendments of 1990 shall not apply with respect to any activity in connection with the production of a product, process, or service by a joint venture if at any time substantially all such activities are not conducted within the United States or its territories.".

TITLE V—ADVANCED RESEARCH AND DEVELOPMENT

SEC. 500. SHORT TITLE

This title may be cited as the "National Advanced Research and Development Act of 1990".

SUBTITLE A—DECLARATION OF POLICY

SEC. 501. FINDINGS

Congress makes the following findings:

(1) The national security, industrial leadership, and general welfare of the United States require the maintenance of a strong technology base to support production of defense weapons and systems, manufacturing technology, and technologically-advanced products and services.

(2) The national security of the United States requires that adequate provision be made for research in and development of basic and applied technology relating to weapons systems and military operations necessary for the defense of the United States.

(3) The Federal Government has no department or agency to evaluate effectively advances in technology or technological development or to assess the impact of such advances or development upon the industrial base of the United States.

(4) Similarities in civilian and defense production processes result in parallel advances in technology developed from such production.

(5) Provision should be made for the effective exchange of technological information between the civilian and defense sectors.

(6) The general welfare and security of the United States require that the unique capabilities in science and engineering of the Defense Advanced Research Projects Agency of the Department of Defense be directed toward—

(A) conducting advanced general and applied research and development projects for the Department of Defense;

(B) conducting prototype projects that embody technology having the potential for incorporation into joint defense programs, programs supporting deployed units of the Armed Forces of the United States (including unified combatant commands and specified combatant commands), and selected projects for military departments; and

(C) conducting activities that support and assist the development of technology having potential future application in civilian and defense production.

(7) Adequate provision should be made for adapting the results of Government-sponsored advanced technological and industrial research and development to commercial applications.

(8) Cooperation between the Government and the civilian sector is essential to revitalizing the industrial base of the United States and establishing and maintaining the industrial competitiveness of the United States.

(9) Access to mid- to long-term capital by advanced technology entities would greatly

facilitate development by the civilian sector of products and services incorporating advanced technologies.

(10) An educated workforce with technological expertise is essential to the national security and economic well-being of the United States.

(11) Greater efforts must be made to encourage the teaching and study of mathematics, science, and engineering at all levels in the Nation's educational system.

SUBTITLE B—DEFENSE ADVANCE RESEARCH PROJECTS AGENCY

SEC. 521. ESTABLISHMENT OF A DEFENSE ADVANCED RESEARCH PROJECTS AGENCY

Title 10, United States Code, is amended by inserting after chapter 139 the following new chapter:

"CHAPTER 140—DEFENSE ADVANCED RESEARCH PROJECTS AGENCY

"Sec.
"2371. Definitions.
"2372. Defense Advanced Research Projects Agency.
"2373. Agency functions.
"2374. Authority of Assistant Secretary.
"2375. Cooperative agreements and other arrangements.
"2376. Pay bonuses.
"2377. Use of appropriations.
"2378. Authority to conduct research projects for other departments and agencies; Interagency cooperation.
"2379. Revolving Fund.

"§ 2371. Definitions

"In this chapter:

"(1) The term 'Agency' means the Defense Advanced Research Projects Agency.

"(2) The term 'Assistant Secretary' means the Assistant Secretary of Defense for Advanced Research.

"(3) The term 'Fund' means the Defense Advanced Research Projects Revolving Fund established by section 2379 of this title.

"§ 2372. Defense Advanced Research Projects Agency

"There is established in the Department of Defense an agency to be known as the Defense Advanced Research Projects Agency. The Assistant Secretary of Defense for Advanced Research shall be the head of the Agency.

"§ 2373. Agency functions

"It shall be the function of the Agency—

"(1) to conduct advanced research and development projects for the Department of Defense;

"(2) to oversee planning within the Department of Defense for research and development relating to advanced technology;

"(3) to support and assist the development of technology having potential future application in both defense and civilian production;

"(4) to conduct advanced technology demonstration projects;

"(5) to coordinate the exchange of technological information between the military departments and Defense Agencies;

"(6) to support continuing research and development of advanced technologies by industrial, academic, and governmental and non-governmental entities;

"(7) to monitor on a continuing basis the research and development being conducted on advanced technologies by private industry in the United States; and

"(8) to promote continuing development of a technological industrial base in the United States.

"§ 2374. Authority of Assistant Secretary

"(a) AUTHORITY.—In carrying out the functions of the Agency, the Assistant Secretary may—

"(1) notwithstanding section 3324(b) of title 31, enter into, perform, and guarantee contracts, leases, grants, and cooperative agreements with any agency or instrumentality of the United States or with any person;

"(2) use the services, equipment, personnel, or facilities of any other department or agency of the Federal Government, upon the consent of the head of the department or agency, with or without reimbursement, and cooperate with public and private agencies and instrumentalities in the use of such services, equipment, and facilities;

"(3) supervise, administer, and control the activities within the Agency and within the Office of Secretary of Defense relating to patents, inventions, trademarks, copyrights, and royalty payments, and matters connected therewith; and

"(4) appoint one or more advisory committees to consult with and advise the Assistant Secretary.

"(b) TRANSFER OF TECHNOLOGY.—The Assistant Secretary may transfer to the domestic civilian sector technology developed by or with the support of the Agency if the Assistant Secretary determines that the technology may have potential application in civilian production.

"§ 2375. Cooperative agreements and other arrangements

"(a) IN GENERAL.—In carrying out the functions of the Agency, the Assistant Secretary may enter into cooperative agreements and other arrangements with any person, any department, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, or any other entity.

"(b) AUTHORITY TO REQUIRE PAYMENT; DISPOSITION OF FUNDS.—(1) A cooperative agreement or other arrangement entered into under subsection (a) may include a provision that requires a person or other entity to make payments to the Department of Defense (or any other department or agency of the Federal Government) as a condition for receiving assistance from the Agency under the agreement or other arrangement.

"(2) The amount of any payment received by the Federal Government pursuant to a provision referred to in paragraph (1) may be credited to the Fund in such amount as may be specified by the Assistant Secretary.

"(c) NONDUPLICATION AND OTHER CONDITIONS.—The Assistant Secretary shall ensure—

"(1) that the authority under this section is used only when the use of standard contracts or grants is not feasible or appropriate; and

"(2) to the maximum extent practicable, that a cooperative agreement or other arrangement entered into under this section—

"(A) does not provide for research that duplicates research being conducted under other programs carried out by the Department of Defense; and

"(B) requires the other party to the agreement or arrangement to share the cost of the project or activity concerned.

"§ 2376. Pay bonuses

"(a) IN GENERAL.—(1) The Assistant Secretary shall provide by regulation for payment to employees of the Agency—

"(A) awards for exceptional achievement; and

"(B) recruitment and retention bonuses.

"(2) Awards for exceptional achievement under paragraph (1)(A) may not exceed $20,000 in the case of any employee in any year.

"(3) Recruitment and retention bonuses under paragraph (1)(B) may not exceed $20,000 in the case of any employee in any year and payment thereof shall be conditioned upon the employee entering into an agreement with the Agency to serve in the Agency not less than one year for each $10,000 of bonus paid to the employee.

"(b) BONUS FUND.—To the extent authorized in appropriation Acts, the Assistant Secretary may utilize not more than $2,000,000 a year in money from the Fund to pay for awards and bonuses authorized by subsection (a).

"§ 2377. Use of appropriations

"Unless otherwise authorized by law, funds appropriated to the Department of Defense may not be used to finance any research study or project conducted or assisted by the Agency unless the Assistant Secretary determines that the study or project relates to an existing or potential military mission or function.

"§ 2378. Authority to conduct research projects for other departments and agencies; Interagency cooperation

"(a) GENERAL AUTHORITY.—The Agency may conduct research projects for departments and agencies of the Federal Government other than the Department of Defense on a reimbursable basis.

"(b) AUTHORITY OF OTHER DEPARTMENTS AND AGENCIES TO CONTRACT WITH AGENCY.—Any other department or agency of the Federal Government may contract with the Agency to carry out authorized research projects of that department or agency.

"(c) INTERAGENCY COOPERATION.—In carrying out its function under this chapter, the Agency shall cooperate with the National Technology Policy Coordinating Council and the National Advanced Technology Fund.

"§ 2379. Revolving Fund

"(a) CREATION OF REVOLVING FUND.—There is established in the Treasury of the United States a revolving fund to be known as the "Defense Advanced Research Projects Revolving Fund". The Fund shall consist of such amounts as may be appropriated or credited to it from time to time.

"(b) EXPENDITURES FROM THE FUND.—Amounts in the Fund shall be available, as provided in appropriations Acts, to carry out the purposes of this chapter.

"(c) LOANS; GRANTS.—(1) The Assistant Secretary may use the Fund for the purpose of making loans or otherwise providing financial support necessary to carry out the purposes of this chapter.

"(2) Loans made under this section shall bear interest at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the loan is made) to be 3 per cent less than the current market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the periods for which the loans are made.

"(3) Repayments on loans made under this section and the proceeds from any other agreement entered into by the Assistant Secretary under this chapter shall be credited to the Fund.

"(d) MANAGEMENT OF FUND.—(1) The Secretary of the Treasury shall manage the Fund established by this section and, after consul-

tation with the Assistant Secretary, report to Congress each year on the financial condition and the results of the operation of the Fund during the preceding fiscal year and on the expected condition and operations of the Fund during the next five fiscal years.

"(2) The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States.".

SEC. 522. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE

Section 136 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "eleven" and inserting in lieu thereof "twelve"; and

(2) in subsection (b), by adding at the end the following new paragraph:

"(5) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Advanced Research. He shall have as his principal duty the overall supervision of advanced research projects of the Department of Defense. The Assistant Secretary of Defense for Advanced Research shall have experience in a scientific or engineering discipline and management experience in the field of advanced research and development".

SEC. 523. REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS

Section 114 of title 10, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for the Defense Advanced Research Projects Agency and the Fund shall be set forth separately from other amounts requested for the Department of Defense.".

SEC. 524. CONTINUED EFFECT OF EXISTING RULES AND REGULATIONS; REFERENCES TO DARPA

(a) EXISTING RULES, REGULATIONS, ETC.—Any rule, regulation, instruction, directive, or other document applicable to the Defense Advanced Research Projects Agency of the Department of Defense as in effect on September 30, 1990, that is not inconsistent with the provisions of chapter 140 (as added by section 521) of title 10, United States Code, shall remain applicable to the Agency until revoked or modified by the Assistant Secretary of Defense for Advanced Research.

(b) REFERENCES TO DARPA.—Any reference in any law, regulation, directive, or other document to the Defense Advanced Research Projects Agency as in effect on September 30, 1990, shall be deemed to refer to the agency established by chapter 140 of title 10, United States Code, as added by section 521.

SEC. 525. TRANSFER OF PERSONNEL, PROPERTY, AND ALLOCATIONS OF APPROPRIATIONS

All personnel employed in connection with, and all assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to the Defense Advanced Research Projects Agency on September 30, 1990, shall be transferred to the Defense Advanced Research Projects Agency established by section 521. Unexpended funds transferred pursuant to this section shall be used for the purposes provided in chapter 140 of title 10, United States Code, as added by section 521.

SEC. 526. EMPLOYEES

Subject to the availability of appropriations therefor, the Defense Advanced Research Projects Agency established by chapter 140 (as added by section 521) of title 10, United States Code, may employ not more than 200 employees to discharge the responsibilities of the Agency. Such employees shall be of the various classifications provided for in chapter 51 of title 5, United States Code.

SEC. 527. REPORT TO CONGRESS

Not later than September 30, 1991, the Assistant Secretary of Defense for Advanced Research shall submit to Congress recommendations for such legislation as the Assistant Secretary determines necessary or desirable to carry out more effectively the purposes of chapter 140 of title 10, United States Code, as added by section 521.

SEC. 528. TECHNICAL AND CONFORMING AMENDMENTS

(a) TECHNICAL AMENDMENT.—The table of chapters at the beginning of title 10, United States Code, and part IV of such title are each amended by inserting after the item relating to chapter 139, the following new matter:

"140. Defense Advanced Research Projects Agency. 2371".

(b) CONFORMING AMENDMENTS.—(1) Section 2371 of such title is repealed.

(2) Section 5315 of title 5, United States Code, is amended by striking out

"Assistant Secretaries of Defense (11)."

and inserting in lieu thereof

"Assistant Secretaries of Defense (12).".

SEC. 529. EFFECTIVE DATE; INCUMBENT DIRECTOR

(a) EFFECTIVE DATE.—The amendments made by sections 521, 522, 523, and 528 shall take effect October 1, 1990.

(b) INCUMBENT DIRECTOR.—The person holding the position of Director of the Defense Advanced Research Projects Agency of the Department of Defense on September 30, 1990, may serve as acting Assistant Secretary of Defense for Advanced Research, without the advice and consent of the Senate, until such time as an Assistant Secretary is appointed, but in no event may any person serve as acting Assistant Secretary under authority of this subsection for more than one year.

SEC. 530. AUTHORIZATION OF APPROPRIATIONS

There are hereby authorized to be appropriated such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle.

SUBTITLE C—NATIONAL TECHNOLOGY POLICY COORDINATING COUNCIL

SEC. 531. ESTABLISHMENT

(a) ESTABLISHMENT.—There is established in the Department of Commerce a council to be known as the National Technology Policy Coordinating Council (hereafter in this subtitle referred to as the "Council").

SEC. 532. FUNCTION

(a) IN GENERAL.—It shall be the function of the Council to act as a forum for the study and discussion of how the Federal Government and the private sector can effectively utilize advanced technology to help meet the economic and security needs, improve the industrial competitiveness, and improve the general welfare of the United States.

(b) SPECIFIC DUTIES.—In carrying out its function under subsection (a), the Council shall—

(1) study the potential of particular advanced technologies for development and production and assess priorities for providing Federal support for such technologies;

(2) study the interrelationship between government policy decisions and the development of technology by civilian entities;

(3) study means and methods for improving the industrial base of the United States;

(4) advise and make recommendations to Congress, the National Advanced Technology Fund, the Defense Advanced Research Projects Agency, and other departments and agencies concerned with advanced technological research and development regarding the national policy of the United States on the development of technology;

(5) evaluate the potential for technology development by consortia and other cooperative entities in the United States;

(6) solicit comments and recommendations from private businesses, industry associations, and other entities regarding policies for federally-funded research and development programs;

(7) study the effectiveness of the support provided by Federal laboratories and other Federal research and development organizations in promoting the utilization of developing technology by the private sector;

(8) assess the effect of foreign ownership and control of industry in the United States on the technological industrial base and the national security of the United States;

(9) assess the impact of the transfer of technology between nations on the availability of investment capital and the location of jobs and production capacity in the United States;

(10) assess the impact of the United States educational system and labor market on advanced technology industries;

(11) study the benefits of international cooperation on the development of technology in various industries in the United States; and

(12) study obstacles within industrial organizations that receive research and development funds from the Federal Government that obstruct or impede the utilization of technology in industrial production.

SEC. 533. MEMBERS

(a) MEMBERS.—The Council shall consist of 15 voting members as follows:

(1) Eleven members appointed by the President, by and with the advice and consent of the Senate, five of whom shall be professional engineers or scientists having knowledge or experience regarding advanced technologies, and six of whom shall have substantial experience in conducting or administering research and development activities in industry or academia. Not more than three such members shall be full-time employees of the Federal Government.

(2) Four members appointed one each by—

(A) the Majority Leader of the Senate;

(B) the Minority Leader of the Senate;

(C) the Speaker of the House of Representatives; and

(D) the Minority Leader of the House of Representatives.

Each member appointed pursuant to this paragraph shall have knowledge or experience regarding advanced technologies or have substantial experience in conducting or administering research or development activities in industry or academia.

(b) EX OFFICIO MEMBERS.—(1) There shall be six ex officio members of the Council as follows:

(A) The Assistant Secretary of Commerce for Technology.

(B) The Assistant Secretary of Defense for Advanced Technology.

(C) The Administrator of the National Aeronautics and Space Administration, or the Administrator's designee.

(D) The Director of the National Science Foundation, or the Director's designee.

(E) The Director of the Office of Technology Assessment, or the Director's designee.

(F) The Director of the Office of Science and Technology Policy, or the Director's designee.

(2) Ex officio members may participate in the deliberations of the Council but shall have no vote.

(c) COMPENSATION OF MEMBERS.—A member of the Council may not be paid compensation for service performed as a member of the Council.

(d) TRAVEL EXPENSES.—Members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57, title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(e) TEMPORARY EMPLOYEES.—The Council may accept, on temporary or intermittent assignment, and with or without reimbursement, the services of employees of academic institutions, industry associations, and private firms. Such employees shall be considered special Government employees for the purposes of section 208 of title 18, United States Code.

SEC. 534. CHAIRMAN

The President shall designate one of the members of the Council to serve as chairman.

SEC. 535. EXECUTIVE DIRECTOR

The Council shall have an Executive Director who shall be appointed by the Chairman. The Executive Director, subject to the supervision and direction of the Chairman, shall exercise all powers and discharge all duties assigned to the Executive Director by the Council and shall exercise authority and control over all personnel and facilities employed by or detailed to the Council.

SEC. 536. COUNCIL AUTHORITY

In carrying out its function under this subtitle, the Council may—

(1) make, promulgate, issue, rescind, and amend rules and regulations governing its operation and the exercise of the powers vested in it by law;

(2) appoint such advisory committees as the Council considers appropriate to assist the Council in carrying out its functions under this subtitle;

(3) obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) contract for such studies, surveys, analyses, the collection of data, and other activities as may be necessary to carry out its function under this subtitle;

(5) appoint and fix in accordance with the provisions of chapter 33 of title 5, United States Code, the compensation of such officers and employees as may be necessary to carry out the function of the Council, except not more than five scientific, engineering, or administrative personnel may be appointed without regard to such laws and the compensation of such personnel fixed, notwithstanding any other law, at a rate not to exceed the rate for grade 18 of the General Schedule.

SEC. 537. SUPPORT FOR COUNCIL ACTIVITIES

(a) INTERAGENCY COOPERATION.—(1) The Council may secure directly from any department or agency of the Federal Government information necessary to enable the Council to carry out its function under this subtitle. Upon request of the Chairman, the head of any such department or agency shall furnish such information to the Council.

(2) Any department or agency of the Federal Government (including the Defense Advanced Research Projects Agency established by subtitle B of this title) is authorized to provide to the Council, with or without reimbursement, any supplies, services, equipment and facilities, personnel, and resources necessary for the Council to carry out its function under this subtitle. The Council may accept such supplies, services, equipment, facilities, personnel, and other resources for such purpose.

(3) In carrying out its function under this subtitle, the Council shall coordinate activities of the Council with other economic councils and organizations of the Federal Government so as to avoid unnecessary duplication of effort by the Council and such councils and organizations.

(b) COOPERATION WITH NATIONAL ADVANCED TECHNOLOGY FUND.—In carrying out its function under this subtitle, the Council shall cooperate with the National Advanced Technology Fund (established by subtitle D of this title) and, to the maximum extent practicable, shall conduct such studies or analyses as may be requested by the Fund.

SEC. 538. REPORT

Not later than one year after the date of the enactment of this title, and annually thereafter, the Council shall submit to the President, the Congress, and the National Advanced Technology Fund (established by subtitle D of this title) a report addressing the relative priority of the funding allocations made for federally-sponsored research and development, including a review of past allocation priorities and proposals for future allocation priorities.

SEC. 539. AUTHORIZATIONS

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subtitle.

SUBTITLE D—NATIONAL ADVANCED TECHNOLOGY FUND

SEC. 541. NATIONAL ADVANCED TECHNOLOGY FUND

There is established in the Treasury of the United States a trust fund to be known as the National Advanced Technology Trust Fund (hereafter in this subtitle referred to as the "Technology Trust Fund"), consisting of such amounts as may be appropriated or credited to that fund.

SEC. 542. ADMINISTRATOR AND DEPUTY ADMINISTRATOR

(a) FUND ADMINISTRATOR.—The Technology Trust Fund shall be administered by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall exercise the powers and duties provided in this subtitle.

(b) DEPUTY ADMINISTRATOR.—The Technology Trust Fund shall have a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such duties and exercise such powers as the Administrator may prescribe. The Deputy Administrator shall act for and exercise the powers of the Administrator during the absence or disability of the Administrator.

(c) EMPLOYMENT LIMITATION.—The Administrator and Deputy Administrator, while so serving, shall not engage in any business or employment other than the administration of the Technology Trust Fund.

SEC. 543. DUTIES OF ADMINISTRATOR

(a) IN GENERAL.—In carrying out this subtitle, and to the maximum extent practicable, the Administrator shall—

(1) adhere to the funding priorities established by the National Technology Policy Coordinating Council (established by subtitle C of this title);

(2) carry out funding arrangements through the Defense Advanced Research Projects Agency, the National Institute of Standards and Technology, and other research and development entities of the Federal Government;

(3) consult with the National Technology Policy Coordinating Council regarding the activities of consortia and cooperative entities engaged in advanced technology programs in order to determine the effectiveness of such entities in supporting national goals relating to the development of technology;

(4) consult with other departments and agencies of the Federal Government that support Small Business Innovative Research programs for the purposes of identifying potential candidates for financial support from the Fund;

(5) sponsor or participate in national, regional, and industry association conferences and symposia and disseminate information concerning activities of the Fund;

(6) consistent with technology priorities and national goals and strategies, manage the Fund with the long-term objective of creating a self-perpetuating source of funds to support research and development relating to advanced technologies; and

(7) tailor funding arrangements to the particular circumstances involved by considering—

(A) other sources of funding,

(B) the allocation of intellectual property rights among the parties or related entities,

(C) the technical risks of the research involved,

(D) the relevance of technological research and development to Government needs and requirements,

(E) the opportunity to recapture, or obtain a return on, the Government's financial expenditures, and

(F) the relevance of the research and development activities supported by the Fund to achieving national goals and strategies.

(b) AUTHORITY OF OTHER FEDERAL AGENCIES.—When acting on behalf of the Technology Trust Fund, another Federal agency or instrumentality may exercise the same authority provided the Administrator under section 544(2). Such authority shall be exercised in a manner consistent with paragraph (7) of subsection (a).

SEC. 544. AUTHORITY OF THE ADMINISTRATOR

In carrying out this subtitle, the Administrator may—

(1) issue, rescind, and amend rules and regulations to govern the operation of the Technology Trust Fund;

(2) enter into contracts, grants, cooperative agreements, and other arrangements with any person, with any State, territory or possession, with any agency or instrumentality of the United States, any educational institution, or any other entity, under such terms as the Administrator considers appropriate to carry out the provisions of this subtitle;

(3) obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) appoint and fix in accordance with chapter 33 of title 5, United States Code, the compensation of such officers and employees as may be necessary to carry out this subtitle, except that not more than 10 scientific, engineering or administrative personnel may be appointed without regard to such laws and their compensation fixed, notwithstanding any other law, at a rate not to exceed the rate for grade 18 of the General Schedule;

(5) make and guarantee loans; and

(6) receive proceeds, reimbursements, or payments from any entity supported by the Technology Trust Fund or from any entity participating in a cooperative or joint funding arrangement with the Administrator.

SEC. 545. EXPENDITURES FROM TECHNOLOGY TRUST FUND

Amounts in the Technology Trust Fund shall be available, as provided by appropriations Acts, for the following purposes:

(1) To support advanced basic and applied technological research and development having the potential to contribute substantially to strengthening the industrial base and improving the industrial competitiveness of the United States; and

(2) To support advanced basic and applied research and development of technology products in the United States for the purpose of—

(A) maintaining the industrial base and competitiveness of the United States, and

(B) reducing substantially environmental and health risks associated with industrial production.

SEC. 546. SUPPORT FOR FUND ACTIVITIES

Any department or agency of the Federal Government (including the Defense Advanced Research Projects Agency established by subtitle B of this title) may provide the Technology Trust Fund, with or without reimbursement, any supplies, services, equipment, facilities, personnel, and other resources to allow the Technology Trust Fund to carry out its function under this subtitle. The Technology Trust Fund may accept such supplies, services, equipment, facilities, personnel, and other resources as may be necessary to carry out its function under this subtitle.

SEC. 547. AUTHORIZATION OF APPROPRIATIONS

There are hereby authorized to be appropriated such funds as may be necessary to carry out this subtitle.

BILL SUMMARY—S. 2765

TITLE I—INDUSTRIAL RECAPITALIZATION FUND

Establish a business IRA. Briefly put, a manufacturer can put a tax deductible amount equal to his annual depreciation allowance in an interest bearing account each year for a period of five years. Funds from the account can be withdrawn for a period of ten years without penalty, as long as the money is used for the purchase of new plant and equipment or job training for the firm's workers. Normal depreciation is still permitted.

TITLE II—INVESTMENT INCENTIVES

Subtitle A—Capital Gains Tax Cut

This is a targeted proposal, covering new issues from manufacturing firms. It gives a 21% rate for such stock held for three years and 15% for stock held for six years. Stock held by corporations and individuals stock is covered.

Subtitle B—Savings Incentives

This provision would provide a check off on an individual (whether filing jointly or separately) income tax return, to enable the individual to have the IRS deposit any or all of a tax refund in an individual's already existing IRA.

TITLE III—INCENTIVES FOR RESEARCH AND FOR EDUCATIONAL ASSISTANCE

This title makes the R&D tax credit permanent. It also expands the credit to include applied research, putting more of an emphasis on development, that is, bringing products to production. It also makes the tax credit for employer sponsored education programs permanent. It also expands it to include graduate education in math, science, and engineering.

TITLE IV—ANTITRUST AMENDMENT TO ALLOW JOINT PRODUCTION

This title expands antitrust exemptions to allow a "rule of reason" antitrust test instead of "per se" test to apply to joint production efforts between firms. This proposal would help firms that need to pool capital resources to get new products into production. It represents an alternative to the merger movement. Joint R&D efforts are already given similar antitrust coverage.

TITLE V—ADVANCED TECHNOLOGICAL RESEARCH AND DEVELOPMENT

This title provides the Defense Advanced Research Production Agency (DARPA) with a statutory charter keeping its functions the same. It makes clear that DARPA retains the ability to undertake "dual use" civilian and defense research. In addition, it sets up a National Technology Policy Council that will be housed for administrative purposes in the Department of Commerce. The Council will consist of scientists and engineers appointed by the President and Congress whose responsibility it will be to look into advanced technology issues and U.S. competitiveness and to offer recommendations as to what U.S technology support policy should be, as well as to establish priorities for technology support. The final section of the bill would set up a fund that would act like a civilian DARPA to promote civilian technology projects based on priorities set by the Council. This new program would be a revolving fund that over time would be self-financing.

By Mr. McCAIN (for himself and Mr. GORTON):

S. 2766. A bill to provide for the restoration of certain Medicare catastrophic benefits, plus addition of colon cancer screening benefit; to the Committee on Finance.

S. 2767. A bill to provide for retention of certain Medicare catastrophic benefits provided by health maintenance organizations; to the Committee on Finance.

MEDICARE ENHANCED BENEFITS ACT AND MEDICARE MANAGED CARE INCENTIVE ACT

Mr. McCAIN. Mr. President, today, I rise to introduce two pieces of legislation—one which would restore core catastrophic benefits that we repealed last year in an action concerning the Catastrophic Health Insurance Act, and the other to retain catastrophic benefits for the 1.2 million Americans who are presently under the protection of Medicare HMO's.

Mr. President, last year as we all know, after about 9 months of sometimes emotional debate, the Senate adopted by a vote of 99 to 0, a repeal of the surtax associated with the catastrophic health care insurance bill. This action was supported by all major seniors organizations over the House's action.

In spite of all our efforts to eliminate the surtax and retain many of the core benefits, in the end the House, the other body, insisted on repeal, and in the wanning hours of the session prevailed.

Since repeal, we have seen Medigap rates rise an average of 19.5 percent; some increases have been a staggering 52 percent. This is clearly attributable to a large degree, although not totally, to the repeal of all the core benefits that were embodied in the catastrophic health care insurance bill.

I am introducing legislation to restore many of those core benefits, such as expanded home health care, respite care, hospice care, the so-called Mitchell drugs, mammogram screening benefits, and adding one additional benefit, and that is the colon cancer screening benefit.

Let me quickly point out that the premium increases entailed in restoring these benefits would be $1 a month in 1991, and up to $2 a month in 1995. And, no surtax.

Mr. President, I do not want to get into too many personal stories. But, I have recently visited a couple. The wife is afflicted with Parkinson's and Alzheimer's diseases. Because of the repeal of the catastrophic bill, the husband is tied by a 24-hour tether to his wife.

I do not want to go into detail about the fact that 5,000 elderly women this year will die because of lack of access to mammograms. I do not want to go into the fact that our taxpayers are paying incredibly higher amounts of money because terminally ill people are denied access to adequate care organizations.

At most, many people are unable to receive health care services at home, so therefore they have to go to the hospital at a much higher cost to patient, family, and taxpayer, and they suffer the loss of an often more appropriate and preferred modality of care. Those in need of intravenous drug therapy must stay in a hospital because now they cannot get the drugs and that treatment at home.

Expensive immunosuppressive drugs for cancer and followup to transplants, once again, are not covered.

Mr. President, the seniors out there wanted a repeal of the surtax. That message was clear. It was received by the Congress of the United States and it was repealed.

They did not, however, and they do not now, want repeal of those core

benefits which I just described. In fact, they want them restored, and I believe they want them restored as rapidly as possible.

Mr. President, we have an obligation to those 5,000 elderly women who need access to mammograms. We have an obligation to that couple to provide that husband with some kind of respite so that he can have some possibility of leading a normal life, and his story and her story is repeated all over our Nation.

Mr. President, we can do it at a relatively low price. I hope we will get about correcting the inequities of total repeal of those core benefits.

I ask unanimous consent that a copy of the bills follow my remarks in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Enhanced Benefits Act of 1990".

SEC. 2. MEDICARE COVERAGE OF MAMMOGRAPHY SCREENING

(a) COVERAGE OF ANNUAL MAMMOGRAPHY SCREENING.—

(1) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989 and as amended by Omnibus Budget Reconciliation Act of 1989, is amended—

(A) in subsection (s)—

(i) in paragraph (11), by striking all that follows "(bb))" and inserting a semicolon,

(ii) in paragraph (12)(C), by striking all that follows "area)" and inserting "; and", and

(iii) by inserting after paragraph (12) the following new paragraph:

"(13) screening mammography (as defined in subsection (jj));"; and

(B) by inserting after subsection (ii) the following new subsection:

"SCREENING MAMMOGRAPHY

"(jj) The term 'screening mammography' is defined as a radiologic procedure provided to a woman for the purpose of early detection of breast cancer and includes a physician's interpretation of the results of the procedure.".

(2) PAYMENT AND COVERAGE.—Section 1834 of such Act (42 U.S.C. 1395m), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(A) in subsection (b)(1)(B), by inserting "and subject to subsection (c)(1)(A)" after "conversion factors"; and

(B) by inserting after subsection (b) the following new subsection:

"(c) PAYMENTS AND STANDARDS FOR SCREENING MAMMOGRAPHY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Section, with respect to expenses incurred for screening mammography (as defined in section 1861(jj))—

"(A) payment may be made only for mammography screening services provided for those eligible for participation in Medicare Part B;

"(B) payment may be made only for mammography screening conducted consistent with the frequency permitted under paragraph (2);

"(C) payment may be made only if the mammography screening meets the quality standards established under paragraph (3); and

"(D) the amount of the payment under this section shall, subject to the deductible established under section 1833(b), be equal to 80 percent of the least of—

"(i) the actual charge for the screening,

"(ii) the fee schedule established under subsection (b) with respect to both the profession and technical components of the mammography screening, in the case of mammography screening subject to such schedule but for this paragraph, or

"(iii) the limit established under paragraph (4) for the mammography screening.

"(2) FREQUENCY COVERED.—

"(A) IN GENERAL.—Subject to revision by the Secretary under subparagraph (B)—

"(i) No payment may be made under this section for screening mammography performed on a woman under 35 years of age.

"(ii) Payment may be made under this section for only 1 screening mammography performed on a woman age 35 to 40.

"(iii) In the case of a woman age 41 to 50 who—

"(I) is at high risk of developing breast cancer (as determined pursuant to factors identified by the Secretary), payment may not be made under this section for mammography screening performed within the 11 months of a previous screening mammography, or

"(II) is not at a high risk of developing breast cancer, payment may not be made under this part for a screening mammography performed within the months after a previous screening mammography.

"(iv) In the case of a woman age 50 to 65, payment may not be made under this part for screening mammography performed within 11 months after a previous screening mammography.

"(v) In the case of a woman age 65 or over, payment may not be made for screening mammography performed within 23 months after a previous screening mammography.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing mammography screening, based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which screening mammography may be paid for under this subsection, but no such revision shall apply to mammography screening performed before January 1, 1993.

"(3) QUALITY STANDARDS.—The Secretary shall establish standards to assure the safety and accuracy of mammography performed under this part. Such standards shall include the requirements that—

"(A) the equipment used to perform the mammography must be designed specifically for mammography and must meet radiologic standards established by the Secretary for mammography;

"(B) the mammography screening must be performed by an individual who—

"(i) is licensed by a State to perform radiological procedures, or

"(ii) is certified as qualified to perform radiological procedures by an organization the Secretary specifies as appropriate in regulations;

"(C) the results of the mammography screening must be interpreted by a physician—

"(i) who is certified as qualified to interpret radiological procedures by such an appropriate board as the Secretary specifies in regulations, or

"(ii) who is certified as qualified to interpret mammography screening procedures by such a program as the Secretary recognizes in regulation as assuring the qualifications of the individual with respect to such interpretation; and

"(D) with respect to the first mammography screening performed on a woman for which payment is made under this section, there are satisfactory assurances that the results of the mammography screening will be placed in permanent medical records maintained with respect to the woman.

"(4) LIMIT.—

"(A) $50, INDEXED.—Except as provided by the Secretary under subparagraph (B), the limit established under this paragraph—

"(i) for mammography screening performed in 1991, is $50, and

"(ii) for mammography screening performed in a subsequent year is the limit established under this paragraph for the preceding year increased by the percentage increase in the Medical Economic Index for that subsequent year.

"(B) REDUCTION OF LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the limit established under this paragraph. The Secretary may, with respect to mammography screening performed in a year after 1992, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that mammography screening of an appropriate quality is readily and conveniently available during the year.

"(C) APPLICATION OF LIMIT IN HOSPITAL OUTPATIENT SETTING.—The Secretary shall provide for an appropriate allocation of the limit established under this paragraph between professional and technical components in the case of hospital outpatient mammography screening (and comparable situations) where there is a claim for professional services separate from the claim for the radiologic procedure.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of mammography screening performed on or before January 1, 1991, for which payment is made under this subsection, if a nonparticipating physicial or supplier provides the screening to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more that the limiting charge (as defined in subparagraph (B), or, if less, as defined in subsection (b)(5)(B) or as defined in section 1848(g)(2)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to mammography screening performed—

"(i) in 1991, 125 percent of the limit established under paragraph (4),

"(ii) in 1992, 120 percent of the limit established under paragraph (4), or

"(iii) in 1992, 115 percent of the limit established under paragraph (4).

"(C) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such phy-

sician or supplier in accordance with section 1842(j)(2).".

(3) CERTIFICATION OF MAMMOGRAPHY SCREENING QUALITY STANDARDS.—

(A) Section 1863 of such Act (42 U.S.C. 1395z), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by inserting "or whether mammography screening meets the standards established under section 1834(c)(3)," after "1832(a)(2)(F)(i),".

(B) The first sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by inserting before the period the following: ", or whether mammography screening meets standards established under section 1843(c)(3)".

(C) Section 1865(a) of such Act (42 U.S.C. 1395bb(a)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by inserting "1834(c)(3)," after "1832(a)(2)(F)(i),".

SEC. 3. COVERAGE OF COLON-RECTAL SCREENING EXAMINATIONS.

(a) IN GENERAL.—is amended by inserting after subsection (b) the following new subsection:

"(c) FREQUENCY AND PAYMENT LIMITS FOR SCREENING STOOL-BLOOD TESTS AND SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(1) SCREENING STOOL-BLOOD TESTS.—

"(A) PAYMENT LIMIT.—In establishing fee schedules under section 1833(h) with respect to screening stool-blood test provided for the purpose of early detection of colon cancer, except as provided by the Secretary under paragraph (3)(A), the payment amount established for tests performed—

"(i) in 1991 shall not exceed $5, and

"(ii) in a subsequent year, shall not exceed the limit on payment amount established under this subsection for such tests for the preceding year increased by the percentage increase in the MEI for that subsequent year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (3)(B), payment may be made under this part for a screening stool-blood test provided to an individual for the purpose of early detection of colon cancer only—

"(i) if the individual is eligible for benefits under this title and over 50, and

"(ii) if Medicare has not paid for a test performed within 11 months from the previous screening stool-blood test.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) PAYMENT LIMIT.—In establishing the payment basis (under section 1843(b) or under a fee schedule under section 1848) with respect to the screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer, except as provided by the Secretary under paragraph (3)(A), the payment basis established for such procedures performed—

"(i) in 1991 shall not exceed $150, and

"(ii) in a subsequent year, shall not exceed the limit on payment basis established under this subsection for such procedures for the preceding year increased by the percentage increase in the Medical Economic Index for that subsequent year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (3)(B), payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer only—

"(i) if the individual is Medicare eligible, and

"(ii) if Medicare has not paid for the procedure within the 59 months after a previous screening flexible sigmoidoscopy.

"(3) REDUCTIONS IN PAYMENT LIMITS AND ADJUSTMENT IN FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMITS.—The Secretary shall review from time to time the appropriateness of the amount of the payment limits established (2)(A). The Secretary may, with respect to tests and procedures performed in a year after 1992, reduce the amount of such a limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests and procedures of an appropriate quality are readily and conveniently available during the year.

"(B) Revision of frequency.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening stool-blood tests and screening flexible sigmoidoscopies based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection, but no such revision shall apply to tests or procedures performed before January 1, 1993.

"(4) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual entitled to benefits under this part, the physician may not charge the individual more than the limiting charge (as defined in subparagraph (B), or, if less, as defined in section 1848(g)(2)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to a procedure performed—

"(i) in 1991, 125 percent of the applicable limit in payment basis established under this subsection with respect to a procedure performed—

"(ii) in 1992, 120 percent of such applicable limit, or

"(iii) after 1992, 115 percent of such applicable limit.

"(C) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2)."

(b) CONFORMING AMENDMENTS.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "subparagraph (B), (C), (D), (E)" and inserting "a succeding subparagraph",

(B) in subparagraph (D), by striking "and" at the end,

(C) in subparagraph (E), by striking the semicolon at the end and inserting a comma, and

(D) by adding at the end the following new subparagraphs:

"(F) in the case of screening stool-blood tests and screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(2) in paragraph (7), by striking "paragraph (1)(B)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to screening mammography, screening stool-blood tests, and screening flexible sigmoidoscopies performed on or after January 1, 1991.

SEC. 4. EXTENDING HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by adding at the end the following new sentence: "For purposes of paragraph (1) and (4) and sections 1814(a)(2)(C) and 1835(a)(2)(A), nursing care and home health aide services shall be considered to be provided or needed on an 'intermittent' basis if they are provided or needed less than 7 days each week and, in the case they are provided or needed for 7 days each week, if they are provided or needed for a period of up to 38 consecutive days."

(b) PAYMENT UNDER PART B.—Section 1833(d) of the Social Security Act (42 U.S.C. 13951(d)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(1) by striking "(d) No payment" and inserting "(d)(1) Except as provided in paragraph (2), no payment"; and (2) by adding at the end the following new paragraph:

"(2) In the case of home health services furnished to an individual enrolled under Part B for which payment is made only as a result of the application of the last sentence of section 1861(m), payment shall be made under Part B."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to those services for which initial periods of delivery commence on or after January 1, 1991.

SEC. 5. IN-HOME RESPITE CARE FOR CHRONICALLY DEPENDENT INDIVIDUALS.

(a) IN GENERAL.—Section 1832(a) of the Social Security Act (42 U.S.C. 1395k(a)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "(A)", and

(B) by inserting before the semicolon at the end the following: ", and (ii) in-home respite care for up to 80 hours in any period described in section 1861(jj)(4), but not to exceed 80 hours in any calender year"; and

(2) by adding at the end the following new sentence: "In the case of in-home respite care (described in paragraph (2)(A)(ii)) provided on any day, such care provided for 3 hours or less shall be counted as 3 hours."

(b) DEFINITION OF IN-HOME RESPITE CARE FOR CHRONICALLY DEPENDENT INDIVIDUAL.—Section 1861 of such Act (42 U.S.C. 1395x), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989 and as amended by the Omnibus Budget Reconciliation Act of 1989, is amended by inserting after subsection (ii) the following new subsection:

"(jj)(1) The term "in-home respite care" is defined as the following items and services furnished in a place of residence used as the individual's 'home', under the supervision of a registered professional nurse, to a chronically dependent individual (as defined in paragraph (2)) during the period described in paragraph (4) by a home health agency

or by others providing such care under arrangements made with such agency:

"(A) Service of a homemaker/home health aide (who has successfully completed a training program approved by the Secretary).

"(B) Personal care services.

"(C) Nursing care provided by a licensed professional nurse.

"(2) The term 'chronically dependent individual' is defined as an individual who—

"(A) is dependent on a daily basis on a primary caregiver living with the individual and assisting the individual in the performance of at least 2 of the activities of daily living (described in paragraph (3)) without monetary compensation, and

"(B) unable to perform such activities of daily living without such assistance.

"(3) The 'activities of daily living', referred to in paragraph (2), are as follows:

"(i) Eating.

"(ii) Toileting.

"(iii) Transferring in and out of a bed or in and out of a chair.

"(iv) Bathing.

"(v) Dressing.

"(4)(A) The period described in this paragraph begins on the date that the Secretary determines that a chronically dependent individual has incurred out-of-pocket Medicare part B cost sharing (as defined in paragraph (5)(A)) in an amount equal to the part B limit (as determined under paragraph (5)(B)) for the specific calendar year.

"(B) In the case of an individual who qualifies under subparagraph (A), if the hour limitation for the calendar year applies, the period described in subparagraph (A) shall begin on the first day of the succeeding calendar year.

"(5) For purposes of this subsection—

"(A) The term 'out-of-pocket Part B cost sharing' is defined as the amount of expenses an individual covered under Part B incurs that are attributable to—

"(i) the deductions established under section 1833(b), and

"(ii) the difference between the payment amount provided under part B and the payment amount that would be provided under part B if '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, in each place either appears in sections 1833(a), 1833(i)(2), 1834(c)(1)(C), 1835(b)(2), 1866(a)(2)(A), 1881(b)(2), and 1881(b)(3).

"(B)(i) The part B limit for 1991 is $1,780. The part B limit for any succeeding year shall be such an amount (rounded to the nearest multiple of $1) as the Secretary estimates, for that succeeding year, reflecting a level of out-of-pocket Part B expenses that only 5.5 percent of the average number of individuals enrolled under part B (other than individuals enrolled with an eligible organization under section 1876 or an organization described in section 1833(a)(1)(A)) will equal or exceed in that succeeding year.".

(c) PAYMENTS.—Section 1833(a) of such Act (42 U.S.C. 13951(a)), as restored by the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(1) in paragraph (2), by inserting "(A)(ii)," after "subparagraphs" the first place it appears,

(2) in paragraph (3), by striking "(D)" and inserting "(A)(ii)(D)," and

(3) by adding at the end the following: "Payments for in-home respite care for chronically dependent individuals shall be paid on the basis of each hour such care is provided. In applying paragraph (2) in the case of an organization receiving payment under subparagraph (A) of paragraph (1) or under a reasonable cost reimbursement contract under section 1876 and providing coverage of in-home respite care, the Secretary shall provide for an appropriate adjustment in the amount of payments to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in the organization if payments were made other than under such clause or such a contract and if payments were to be made on an individual-by-individual basis.

(d) CERTIFICATION.—Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)), as restored by the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting "; and"; and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) in the case of in-home respite care provided during a period described in section 1861(jj)(4), the individual was chronically dependent for 3 months immediately preceding the beginning of the period described in such section."

(e) STANDARDS FOR UTILIZATION.—

(1) Section 1862(a) of such Act (42 U.S.C. 1395y(a)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(A) in paragraph (1)—

(i) in subparagraph (D), by striking "and" at the end,

(ii) in subparagraph (E), by striking the semicolon at the end and inserting ", and", and

(iii) by adding at the end the following new subparagraph:

"(F) in the case of in-home respite care, which is not reasonable and necessary to assure the health and condition of the individual is maintained in the individual's noninstitutional residence; "; and

(B) in paragraph (6), by inserting "and except, in the case of in-home respite care, as is otherwise permitted under paragraph (1)(F)" after "paragraph (1)(C)".

(2) The Secretary of Health and Human Services shall take appropriate steps to monitor and be assured that quality of in-home respite care is being delivered under the amendments made by this section and to provide for appropriate utilization of said services.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1991.

SEC. 6. EXPANSION OF HOSPICE BENEFIT.

(a) IN GENERAL.—Section 1812 of the Social Security Act (42 U.S.C. 1395d), as restored by section 101(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989 and as amended by the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) in subsection (a)(4), by striking "90 days each" and all that follows through "with respect to" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to"; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "90 days each" and all that follows through "lifetime" and inserting the following: "90 days each, a subsequent period of 30 days, a subsequent extension period during the individual's lifetime", and

(B) in paragraph (2)(B), by striking "a 90 or 30 day period," and inserting "a 90 or 30 day period or a subsequent extension period,".

(b) CONFORMING AMENDMENT.—Section 1814(a)(7)(A) of such Act (42 U.S.C. 1395f(a)(7)(A)), as restored by section 101(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end of the following new clause:

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care and services furnished on or after January 1, 1991.

SEC. 7. COVERAGE OF HOME INTRAVENOUS DRUG THERAPY SERVICES.

(a) IN GENERAL.—Section 1832(a)(2)(A) (42 U.S.C. 1395k(a)(2)(A)) as amended by section 2(a)(1) of this Act, is further amended—

(1) by striking ", and (ii)" and inserting ", (ii)"; and

(2) by striking "calendar year" and inserting ", calendar year, and (iii) home intravenous drug therapy services".

(b) DEFINITION OF HOME INTRAVENOUS DRUG THERAPY SERVICES.—Section 1861 (42 U.S.C. 1395x) as amended by section (2)(b) of this Act, is further amended by adding at the end the following new subsection:

"(kk)(1) The term 'home intravenous drug therapy service' is defined as the items and services described in paragraph (2) furnished to an individual who is under the care of a physician—

"(A) in a place of residence used as the individual's 'home';

"(B) by a qualified home intravenous drug therapy provider (as defined in paragraph (4)) or by others under arrangements made with them by such provider; and

"(C) under a plan established and periodically reviewed by a physician.

"(2) The items and services described in this paragraph include such nursing, pharmacy, and related services (including medical supplies, intravenous fluids, delivery and equipment) as are necessary to safely and effectively conduct an intravenously administered drug regimen through use of a covered home intravenous drug.

"(3)(A) The term 'covered home intravenous drug' is defined as a drug dispensed to an individual that—

"(i) is an antibiotic drug for which the Secretary has not determined, for the specific drug or for the use which it is applied, that the drug is unable to be administered safely and effectively in a home setting, or,

"(ii) is not an antibiotic drug for which the Secretary has determined, for the specific drug and use for which the drug is being applied, that the drug can generally be administered safely and effectively in a home setting.

"(B) Not later than January 1, 1991 (and periodically thereafter), the Secretary shall publish a list of home intravenous drugs which shall be covered for home intravenous drug therapy under this title.

"(4) The term 'qualified home intravenous drug therapy provider' defined as any entity the Secretary determines to meet the following requirements:

"(i) Is capable of providing or arranging for the items and services described in paragraph (2) and covered home intravenous drugs.

"(ii) Maintain clinical records on all patients.

"(iii) Adheres to written protocols and policies with respect to the provision of items and services.

"(iv) Makes services available (as needed) 7 days a week on a 24 hour basis.

"(v) Coordinates all services with the patient's physician.

"(vii) Assures that only trained personnel provide covered home intravenous drugs (and any other service for which training is required to safely provide the service).

"(viii) Assumes responsibility for the quality of services provided by others under arrangements with the agency or entity.

"(ix) In the case of an entity in any State in which State or applicable law provides for the licensing of entities of this nature, the entity is licensed pursuant to such law, or is approved by the agency of such State or locality responsible for licensing entities of this nature as meeting the standards established for such licensing.

"(x) Meets such other requirements as the Secretary may determine are necessary to assure the safe and effective provision of home intravenous drug therapy services and the efficient administration of the home intravenous drug therapy benefit.".

(c) PAYMENT.—

(1) IN GENERAL.—Part B of such Act, as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(A) in subsection (a)(2)(B) of section 1833 (42 U.S.C. 13951), by striking "or (E)" and inserting "(E), or (F)";

(B) in subsection (a)(2)(D) of such section, by striking "and" at the end;

(C) in subsection (a)(2)(E) of such section, by striking the semicolon and inserting "; and";

(D) by inserting after subsection (a)(2)(E) of such section the following new subparagraph:

(F) with respect to home intravenous drug therapy services, the amounts described in section 1834(d)(1);"

(E) in subsection (b) of such section, by striking "services, (3)" and inserting "services and home intravenous drug therapy services, (3)"; and

(F) by adding at the end of section 1834, the following new subsection:

"(c) HOME INTRAVENOUS DRUG THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to home intravenous drug therapy services, subject to paragraph (3), payment under this Act shall be made in an amount equal to the lesser of the actual charges for such services or the fee schedule established under paragraph (2).

"(2) ESTABLISHMENT OF FEE SCHEDULE.—The Secretary shall establish by regulation before the beginning of calendar year 1991, and each succeeding calendar year, a fee schedule for home intravenous drug therapy services for which payment is made under this section. The fee schedule established under this subsection shall be on a per diem basis.

"(3) LIMITATION ON ACCEPTANCE OF, AND PAYMENTS FOR, CERTAIN REFERRALS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a home intravenous drug therapy provider may not provide home intravenous drug therapy services under this section to an individual if the individual's referring physician (as defined in subpargraph (D)), or an immediate family member of the physician—

"(i) has an ownership interest in the provider, or

"(ii) receives compensation from the provider.

"(B) EXCEPTIONS.—

"(i) Subparagraph (A)(1) shall not apply—

"(I) if the ownership interest is the ownership of stock traded over a publicly regulated exchange and was purchased on terms generally available to the public, or

"(II) if the provider is a sole home intravenous drug therapy provider (as defined by the Secretary) in a rural area.

"(ii) Subparagraph (A)(ii) shall not apply if the compensation is reasonably related to items or services actually provided by the physician and does not vary in proportion to the number of referrals made by the referring physician, but such exemption shall not apply to compensation provided for direct patient care services.

"(iii) Subparagraph (A) shall not be construed to apply to a referring physician whose only ownership or financial relationship with the provider is as an uncompensated officer or director of the provider.

"(iv) Subparagraph (A) also shall not apply in such cases, established by the Secretary in regulations, in which the nature of the ownership or compensation does not pose a substantial risk of program abuse.

"(C) SANCTIONS.—

"(i) DENIAL OF PAYMENT.—No payment may be made under this part for home intravenous drug therapy services which are provided in violation of subparagraph (A).

"(ii) CIVIL MONEY PENALTY FOR IMPROPER CLAIMS.—Any person (including a home intravenous drug therapy provider or physician) that knowingly, or should have known, presents or causes to be presented a claim for an item or service for which payment may not be made under subparagraph (A) shall be subject to a civil money penalty of not more than $15,000 for each such item or service. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil monetary penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) REFERRING PHYSICIAN DEFINED.—In this paragraph, with respect to providing home intravenous drug therapy services to an individual the term 'referring physician' is defined as a physician who.—

"(i) prescribed the covered home intravenous drug for which the services are to be provided, or

"(ii) established the plan of care of such services."

"(2) PROPAC STUDY.—The Prospective Payment Assessment Commission shall conduct a study, and make recommendations to Congress and the Secretary of Health and Human Services by not later than June 1, 1992, concerning appropriate adjustment to the payment amounts provided under section 1886(d) of the Social Security Act for inpatient hospital services to account for reduced costs to hospitals resulting from the amendments made by this section.

"(3) INSPECTOR GENERAL REPORT ON POTENTIALLY ABUSIVE OWNERSHIP OR COMPENSATION ARRANGEMENTS.—The Inspector General of the Department of Health and Human Services shall study and report to Congress, by not later than July 1, 1991, concerning—

"(A) physician ownership of, or compensation from, an entity providing items or services to which the physican makes referrals and for which payment may be made under the medicare program;

"(B) the range of such arrangement and the means by which they are marketed to physicians;

"(C) the potential of such ownership or compensation to influence the decision of a physician regading referrals and to lead to inappropriate utilization of such items and services; and

"(D) the practical difficulties invoved in enforcement actions against such ownership and compensation arrangements that violate current anti-kickback provisions.

Report shall include such recommendations as may be appropriate to strengthen current law provisions to prevent program abuse.

(d) CERTIFICATION.—

(1) IN GENERAL.—Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) as amended by section 2(d) of this Act, is further amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting "; and "; and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) in the case of home intravenous drug therapy services, (i) such services are or were required because the individual needed such services or the administration of a covered home intravenous drug, (ii) a plan for furnishing such services have been established and is reviewed periodically by a physician, (iii) such services are or were furnished while the individual is or was under the care of a physician, (iv), such services are administered in a place of residences used as such as the individual's home', and (v) with respect to such services initiated before January 1, 1993, such services have been reviewed and approved by a utilization and peer view organization under section 1154(a)(16) before the date such services were initiated (or, in the case of services first initiated on an outpatient basis, within 1 working day (except in exceptional circumstances) of the date of initiation of the services).".

(2) PEER REVIEW ORGANIZATION PRIOR APPROVAL REQUIRED.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by adding at the end the following new paragraph:

"(16) The organization shall perform the review described in paragraph (1) with respect to home intravenous drug therapy services (as defined in section 1861(kk)(1)) initiated before January 1, 1993, within 1 working day of the date of the organization's receipt of a request for such review. The Secretary shall establish criteria to be used by such an organization in conducting reviews with respect to the appropriateness of home intravenous drug therapy services under this paragraph."

(e) CERTIFICATION OF HOME INTRAVENOUS DRUG THERAPY PROVIDERS; INTERMEDIATE SANCTIONS FOR NONCOMPLIANCE.—

(1) TREATMENT AS PROVIDER OF SERVICES.—Section 1861(u) of such Act (42 U.S.C. 1395x(u)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by inserting "home intravenous drug therapy provider," after "hospice program,".

(2) CONSULTATION WITH STATE AGENCIES AND OTHER ORGANIZATIONS.—Section 1863 of such

Act (42 U.S.C. 1395z), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by striking "and (dd)(2); and inserting "(dd)(2), and (kk)(4)".

(3) USE OF STATE AGENCIES IN DETERMINING COMPLIANCE.—Section 1864(a) of such Act (42 U.S.C. 1395aa(a)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(A) in the first sentence, by inserting "or a home intravenous drug therapy provider," after "hospice program", and

(B) in the second sentence, by striking "or hospice program" and inserting "hospice program, or home intravenous drug therapy provider".

(4) APPLICATION OF INTERMEDIATE SANCTIONS.—Section 1846 of such Act (42 U.S.C. 1395w-2), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(A) in the heading, by adding "And For Qualified Home Intravenous Drug Therapy Providers" at the end;

(B) in subsection (a), by inserting "or that a qualified home intravenous drug therapy provider that is certified for participation under this title no longer substantially meets the requirements of section 1861(kk)(4)" after "under this part"; and

(C) in subsection (b)(2)(A)(iv) by inserting or home intravenous drug therapy services" after "clinical diagnostic laboratory tests".

(f) USE OF REGIONAL INTERMEDIARIES IN ADMINISTRATION OF BENEFIT.—Section 1816 of such Act (42 U.S.C. 1395h), as restored by section 201(A)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by adding at the end thereof the following new subsection:

"(k) With respect to carrying out functions relating to payment for home intravenous drug therapy services and covered home intravenous drugs, the Secretary may enter into contracts with agencies or organizations under this section to perform such functions on a regional basis.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1991.

SEC. 8. FINANCING THROUGH INCREASE IN MEDICARE PART B PREMIUM.

(a) INCREASE IN PREMIUM.—Section 1839 of the Social Security Act (42 U.S.C. 1395r), as restored by section 202(a) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended by adding at the end of the following new subsection:

"(g)(1) Except as provided in subsection (f), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased (for months occuring in 1991 through 1995) by the following additional premium or (for months after December 1995) by such an additional premium determined in accordance with paragraph (2):

"(A) For months in 1991, $1.00.

"(B) For months in 1992, $1.15.

"(C) For months in 1993, $1.30.

"(D) For months in 1994, $1.45.

"(E) For months in 1995, $1.60.

"(2)(A) The Secretary shall, during September of 1995 and September of each year thereafter, determine and promulgate the additional premium under this subsection for months in the succeeding year. Such premium amount shall be equal to the amount the Secretary estimates to be necessary so that the aggregate amount of premiums collected under this subsection for months in the year will equal the total of the benefits and administrative costs which the Secretary estimates will be payable in such year from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund that are attributable to the amendments made by the Medicare Home Benefits Improvement Act of 1990. In calculating such an additional premium, the Secretary shall include an appropriate amount for a contingency margin, and shall adjust such premium to take into account the amounts by which the additional premiums established under this subection with respect to months in any year are greater or less than the amounts required to pay for benefits paid and such administrative costs incurred in such year that are attributable to the Medicare Home Benefits Improvement Act of 1990.

"(B) If any premium increase for a month under this paragraph is not a multiple of 10 cents, the Secretary shall round the increase to the nearest multiple of 10 cents.".

SEC. 9. ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.

The Secretary of Health and Human Services shall—

(1) modify contracts under sections 1833(a)(1)(A) and 1876 of the Social Security Act, for portions of contract years occurring after December 31, 1988, to take into account the amendments made by this act; and

(2) require such organizations to make appropriate adjustments (including adjustments in premiums and benefits) in the terms of their agreements with medicare beneficiaries to take into account such amendments.

The Secretary shall also provide for appropriate modifications of contracts with health maintenance organizations under section 1876(i)(2)(A) of the Social Security Act (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972, for portions of contract years occurring after December 31, 1988, so as to apply to such organizations and contracts the requirements imposed by the amendments made by this Act upon an organization with a risk-sharing contract under section 1876 of the Social Security Act.

S. 2767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act shall be referred to as the "Medicare Managed Care Incentive Act of 1990".

SEC. 2. RETENTION OF CERTAIN MEDICARE CATASTROPHIC BENEFITS PROVIDED BY HEALTH MAINTENANCE ORGANIZATIONS.

(a) IN GENERAL.—Section 203(b) of the Medicare Catastrophic Coverage Repeal Act of 1989 is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1) and (2) subparagraphs (A) and (B); and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this Act, the amendments made by this Act (other than repeal of sections 102, 201 (except repeal of section 1833(c)(5) of the Social Security Act), 202(a), 203, 204, 205, and 206 of MCCA) shall at the option of the contractor apply to risksharing contracts, for contract years after 1990—

"(A) with eligible organizations under section 1876 of the Social Security Act or

"(B) with health maintenance organizations under section 1876(i)(2)(A) of such Act (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972."

(b) CONFORMING AMENDMENT.—Section 1816(t) of the Social Security Act (42 U.S.C. 1395x(t)), as amended by section 202(a) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(1) in paragraph (2)(A), by striking "drug which" and inserting "drug used in immunosuppressive therapy which"; and

(2) in paragraph (3), by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective as if included in the provisions of the Medicare Catastrophic Coverage Repeal Act of 1989.

SEC. 3. COVERAGE OF COLON-RECTAL SCREENING EXAMINATIONS.

(a) IN GENERAL.—is amended by inserting after subsection (b) the following new subsection:

"(c) FREQUENCY AND PAYMENT LIMITS FOR SCREENING STOOL-BLOOD TESTS AND SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(1) SCREENING STOOL-BLOOD TESTS.—

"(A) PAYMENT LIMIT.—In establishing fee schedules under section 1833(h) with respect to screening stool-blood test provided for the purpose of early detection of colon cancer, except as provided by the Secretary under paragraph (3)(A), the payment amount established for tests performed—

"(i) in 1991 shall not exceed $5, and

"(ii) in a subsequent year, shall not exceed the limit on payment amount established under this subsection for such tests for the preceding year increased by the percentage increase in the MEI for that subsequent year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (3)(B), payment may be made under this part for a screening stool-blood test provided to an individual for the purpose of early detection of colon cancer only—

"(i) if the individual is eligible for benefits under this title and over 50, and

"(ii) if Medicare has not paid for a test performed within 11 months from the previous screening stool-blood test.

"(2) SCREENING FLEXIBLE SIGMOIDOSCOPIES.—

"(A) PAYMENT LIMIT.—In establishing the payment basis (under section 1842(b) or under a fee schedule under section 1848) with respect to screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer, except as provided by the Secretary under paragraph (3)(A), the payment basis established for such procedures performed—

"(i) in 1991 shall not exceed $150, and

"(ii) in a subsequent year, shall not exceed the limit on payment basis established under this subsection for such procedures for the preceding year increased by the percentage increase in the Medical Economic Index for that subsequent year.

"(B) FREQUENCY LIMIT.—Subject to revision by the Secretary under paragraph (3)(B), payment may be made under paragraph (3)(B), payment may be made under this part for a screening flexible sigmoidoscopy provided to an individual for the pur-

pose of early detection of colon cancer only—

"(i) if the individual is Medicare eligible, and

"(ii) if Medicare has not paid for the procedure within the 59 months after a previous screening flexible sigmoidoscopy.

"(3) REDUCTIONS IN PAYMENT LIMITS AND ADJUSTMENT IN FREQUENCY.—

"(A) REDUCTIONS IN PAYMENT LIMITS.—The Secretary shall review from time to time the appropriateness of the amount of payment limits established (2)(A). The Secretary may, with respect to tests and procedures performed in a year after 1992, reduce the amount of such a limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that such tests and procedures of an appropriate quality are readily and conveniently available during the year.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening stool-blood tests and screening flexible sigmoidoscopies based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which such tests and procedures may be paid for under this subsection, but no such revision shall apply to tests or procedures performed before January 1, 1993.

"(4) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of a screening flexible sigmoidoscopy provided to an individual for the purpose of early detection of colon cancer for which payment may be made under this part, if a nonparticipating physician provides the procedure to an individual entitled to benefits under this part, the physician may not charge the individual more than the limiting charge (as defined in subparagraph (B), or, if less, as defined in section 1848(g)(2)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' mean, with respect to a procedure performed—

"(i) in 1991, 125 percnet of the applicable limit in payment basis established under this subsection with respect to a procedure performed—

"(ii) in 1992, 120 percent of such applicable limit, or

"(iii) after 1992, 115 percent of such applicable limit.

"(C) ENFORCEMENT.—If a physician or supplier knowing and willfuly imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(20)."

(b) CONFORMING AMENDMENTS.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)), as restored by section 201(a)(1) of the Medicare Catastrophic Coverage Repeal Act of 1989, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "subparagraph (B), (C), (D), (E)" and inserting "a succeeding subparagraph",

(B) in subparagraph (D), by striking "and" at the end,

(C) in subparagraph (E), by striking the semicolon at the end and inserting a comma, and

(D) by adding at the end the following new subparagraphs:

"(F) in the case of screening stool-blood tests and screening flexible sigmoidoscopies provided for the purpose of early detection of colon cancer, which are performed more frequently than is covered under section 1834(d);"; and

(2) in paragraph (7), by striking "paragraph (1)(B)" and inserting "subparagraphs (B), (F), or (G) of paragraph (1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to screening mammography, screening stool-blood tests, and screening flexible sigmoidoscopies performed on or after January 1, 1991.

SEC. 4. ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.

The Secretary of Health and Human Services shall—

(1) modify contracts under sections 1833(a)(1)(A) and 1876 of the Social Security Act, for portions of contract years occurring after December 31, 1988, to take into account the amendments made by this act; and

(2) require such organizations to make appropriate adjustments (including adjustments in premiums and benefits) in the terms of their agreements with medicare beneficiaries to take into account such amendments.

The Secretary shall also provide for appropriate modifications of contracts with health maintenance organizations under section 1876(i)(2)(A) of the Social Security Act (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972, for portions of contract years occurring after Decemer 31, 1988, so as to apply to such organizations and contracts the requirements imposed by the amendments made by this Act upon an organization with a risk-sharing contract under section 1876 of the Social Security Act.

By Mr. PRYOR:

S. 2769. A bill to amend subchapter III of chapter 73 of title 5, United States Code, to provide that the provisions relating to political activities of Federal employees shall apply to all Federal employees; to the Committee on Governmental Affairs.

EXTENSION OF HATCH ACT PROVISIONS TO CERTAIN FEDERAL APPOINTEES

Mr. PRYOR. Mr. President, now that the 50-year-old Hatch Act has been basically retained in its archaic form and many, many thousands of Federal employees at the lower echelons have been denied the opportunity to participate in our Government, I am sending to the desk at this time a bill which extends Hatch Act restrictions to Presidential appointees confirmed by the Senate, members of the Cabinet, and all members of the White House staff.

By Mr. KERRY:

S. 2769. A bill for the relief of Michael Houtmeyers; to the Committee on the Judiciary.

RELIEF OF MICHAEL HOUTMEYERS

● Mr. KERRY. Mr. President, I am introducing a private bill today for the relief of Michael Houtmeyers.

Mr. Houtmeyers is married to a constituent of mine, Deidre O'Doherty-Houtmeyers. Mr. Houtmeyers is a U.S. citizen and resident of Brookline, MA.

The Houtmeyers were married while he was in exclusion proceedings. Thus, under section 204(h) of the Immigration and Nationality Act, Mr. Houtmeyers must now leave the United States before his wife can sponsor him as an immediate relative. The Houtmeyers have a 1-year-old child who was born with PKU. Mrs. Houtmeyers is scheduled for carpal tunnel syndrome surgery next month.

Mrs. Houtmeyers' physical condition and that of her son Nicolas are dependent on a normal and stable home environment. For this reason, I believe it is important, on humanitarian grounds, that the 2-year requirement that Mr. Houtmeyers leave the country, be waived.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF LIMITATIONS ON ADJUSTMENT OF STATUS FOR MICHAEL HOUTMEYERS.

(a) IN GENERAL.—Subject to subsection (b), sections 204(h) and 245(e) of the Immigration and Nationality Act shall not apply in the case of Michael Houtmeyers.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall only apply if Michael Houtmeyers applies to the Attorney General for permanent residence status under the Immigration and Nationality Act within 2 years after the date of the enactment of this act.●

By Mr. INOUYE (for himself and Mr. MCCAIN):

S. 2770. A bill to establish the Indian Finance Corporation; to the Select Committee on Indian Affairs.

INDIAN FINANCE CORPORATION ACT

● Mr. INOUYE. Mr. President, I am introducing today the Indian Finance Corporation Act. This legislation is the result of successful, albeit inconclusive negotiations between the Select Committee on Indian Affairs and representatives of the administration. On May 1 of this year the select committee conducted a markup on S. 143, the Indian Finance Corporation Act. S. 143 was identical to legislation which was approved at the end of the 100th Congress but the subject of a pocket veto by President Reagan. In his veto message, the President took the position that this legislation duplicated already existing Federal services, primarily the Credit and Finance Program of the Bureau of Indian Affairs authorized by the 1974 Indian Financing Act.

I introduced identical legislation at the beginning of the 101st Congress because of my conviction that the proposal merited serious consideration

and that the existing governmental assistance for economic development on Indian reservations suffered from serious and fundamental deficiencies. The Indian Development Finance Corporation is a proposal that resulted from years of effort by Indian business development specialists and is designed to take an innovative approach to the economic development needs in Indian country by relying on the successful experience of the World Bank. The critical difference between this proposal and previous efforts by the Federal Government is that the Indian tribes themselves will be directly involved in administering an independent, federally chartered financial institution that can bridge the gap between the established sources of private capital and Indian country.

During the committee's May 1 markup, I invited the representative of the administration, Assistant Secretary of the Interior Department, Dr. Eddie Brown, to engage in negotiations with committee representatives and make a serious attempt to resolve our differences over this legislation. I am pleased to report that Dr. Brown received the support of Secretary Lujan and other administration officials in these efforts and the bill I am introducing today reflects extensive input on their part. As chairman of the select committee, I am introducing this bill as a discussion vehicle and representatives of the Indian tribes will be asked for their comments at a hearing of the select committee which is now scheduled for July 23, 1990.

There is a good possibility that the House Interior Committee will join us and make this a joint House-Senate hearing. Copies of this discussion bill will be sent to Indian tribes and organizations across the country and as time allows selected representatives will be invited to present their views and recommendations with the objective of moving expeditiously on this legislation before adjournment of this session of Congress. At that time the administration will also have an opportunity to present official comments as a followup on the negotiation proposals.

I am pleased that the vice chairman, Senator JOHN MCCAIN, is joining me as a cosponsor of this legislation and his support has been critical throughout this process. Senator MCCAIN is dedicated to supporting the efforts of Indian tribes to advance their economic interests as a matter of the highest priority. As his statement points out, we have also been presented with a preliminary report on the Bureau of Indian Affairs Credit and Finance Program which documents the serious and ongoing problems that have been experienced in administering this program. Thus, the committee's effort to move in a new and promising direction can be seen as most opportune from the view of the serious problems that have been documented with the administration of the current program.

In closing, Mr. President, I am most encouraged by the developments which are represented by this very important Indian economic development proposal, and I look forward to the consideration of the Senate Select Committee on Indian Affairs of this legislation.●

● Mr. MCCAIN. Mr. President, I am pleased to join today with my good friend, Senator INOUYE, the chairman of the Select Committee on Indian Affairs, in the introduction of a bill to establish an Indian Finance Corporation.

This bill reflects nearly 4 years of intense effort by Senator INOUYE and others to find a means to provide financial and technical assistance to promote economic development in Indian country. During the 100th Congress, we passed S. 721, a bill to establish the Indian Development Finance Corporation. Unfortunately, President Reagan vetoed S. 721 because he believed it to be duplicative of the programs administered by the Bureau of Indian Affairs under the authority of the Indian Finance Act.

Early in this Congress, Senator INOUYE introduced a bill, S. 143, identical to that which the President had vetoed. At that time, I indicated that while I was very supportive of the concept of an Indian Development Finance Corporation, I could not cosponsor S. 143 because it did not address the objection raised by President Reagan. For the past year, I have worked with all interested parties to see if we could find a consensus which would permit us to revise S. 143 and proceed with enactment. The bill we are introducing today reflects an emerging consensus on an approach that I believe is workable and deserving of serious consideration.

This bill reflects the best ideas of Indian leaders and business development experts. It also reflects the years of experience under the Indian Finance Act. It addresses most, if not quite all, of the concerns which have previously been stated by the administration. I commend Senator INOUYE for his outstanding leadership on this bill. I believe that the bill will provide the basis for further discussion and refinement of the issues which we are seeking to address.

I also want to extend my compliments to Secretary Lujan and Assistant Secretary Brown for their leadership in this area. Assistant Secretary Brown has directed an internal review of the Indian Finance Act programs as part of Secretary Lujan's policy to promote Indian economic development. While the final results of this review have not yet been published, the preliminary drafts reveal the need for prompt reform of these programs. Failure to bring about reform will result in the loss of the many valuable services provided under the Indian Finance Act.

The bill we are introducing today proposes to establish a federally chartered corporation to administer the Indian Finance Act. All of the evidence before us supports this approach. It is time to provide a means whereby these programs are administered on a businesslike basis, rather than as Federal services. We believe that it is possible for the Indian Finance Act loan programs to be self-sustaining. They are not at present, but they would be if administered in a businesslike manner. We also believe that the Indian Finance Corporation can be self-sustaining. Accordingly, we authorize appropriations for a 7-year period at the end of which the Corporation will fund its activities from the return on its loans and investments. Ultimately, all of Indian country should benefit greatly from this approach.

I look forward to working closely with all interested parties as we deliberate on this bill.●

By Mr. ADAMS (for himself and Mr. GORTON):

S. 2771. A bill to establish the Vancouver National Historical Reserve in the State of Washington, and for other purposes; to the Committee on the Energy and Natural Resources.

VANCOUVER NATIONAL HISTORICAL RESERVE

● Mr. ADAMS. Mr. President, I am very pleased to introduce a bill on behalf of Senator GORTON and myself which establishes a National Historical Reserve in Vancouver, WA.

The city of Vancouver is fortunate to have a tremendous historical heritage. Since the time that Lewis and Clark first explored this area, its location along a bend in the mighty Columbia River which separates Washington and Oregon proved to be an excellent location for both trading and military operations. It is the site of Fort Vancouver, and the location of a Hudson's Bay trading post established in 1825. It is also home to the Vancouver barracks, an active military site since 1849. Twenty one of the military officers quarters have been proudly preserved as part of the Officers' Row National Register Historic District. In addition, Vancouver is the site of the Pearson Airpark which is an early U.S. Army airfield and one of the oldest operating airports in the country. Pearson Airpark also was the site of the first transpolar flight between Moscow and Vancouver which took place June 20, 1937. The event is commemorated by a monument at the airfield.

Currently, these important historical structures are owned and managed by several entities, including the National Park Service, the city of Van-

couver and the U.S. Army. This area is facing increasing pressures as a result of population growth and industrial development. The community is concerned that this pressure ultimately may result in lost opportunities to preserve unique historic sites. In addition, the historic area attracts more than 275,000 visitors annually, a figure which is expected to increase in the future.

The bill that I am introducing today establishes a Vancouver National Historical Reserve Coordinating Commission to coordinate the activities of these management entities so that we do not inadvertently destroy the special nature of this area. This Commission would assist Federal, State, and local entities in developing and implementing a management plan for the reserve. This plan will include policy guidelines and programs proposals for the conservation and protection of the values in the reserve, educational interpretation programs and commercial uses as appropriate. In addition, the Commission will recommend possible exchanges or transfers of Federal property to meet the goals of the reserve. Members of this Commission would include representatives from the National Park Service, the city of Vancouver, the U.S. Army, the State of Washington and Clark County.

Mr. President, today we have an opportunity to protect these historical areas for the use, enjoyment and education of future generations. I hope that Congress will recognize the advantages of this arrangement and the need to move forward quickly. In closing, I would like to commend Congresswoman JOLENE UNSOELD for her outstanding work on this project. Her diligence and creativity coupled with the assistance of the city of Vancouver and the National Park Service are responsible for moving this project closer to fruition.●

● Mr. GORTON. Mr. President, today Senator ADAMS and I are introducing a Senate bill to create the Fort Vancouver National Historic Reserve in Vancouver, WA. This act would include nearly 300 acres of key historic sites in Vancouver.

The bill would preserve and enhance the historic and natural assets of the Fort Vancouver National Historic Site; coordinate management and planning for the site through a cooperative management agreement; and encourage use of the area by enhancing their value to visitors, school groups, and others interested in the historic component of the area.

Historical treasures, like those found in Vancouver, are a vital part of our culture. They teach us about the past, allowing us to understand our roots. The Fort Vancouver Historical Site still conveys the essence of an era important to our Pacific Northwest heritage. This site is a perfect gift to preserve today and then to offer intact to our children and grandchildren.

It is for these reasons, Mr. President, that I join with Senator ADAMS and our House colleage Congresswoman UNSOELD in introducing this bill, and urge my colleagues to support the proposed bill for the Vancouver National Historic Reserve.●

By Mr. KASTEN:

S. 2772. A bill to establish a National Fishery Conservation System administered by the U.S. Fish and Wildlife Service to maintain and develop self-sustaining fish populations for the continued benefit of recreational and commercial users and the general public, educational, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL FISHERY RESOURCE CONSERVATION SYSTEM ACT

Mr. KASTEN. Mr. President, I rise to introduce legislation that would establish the National Fishery Resource Conservation System within the Fish and Wildlife Service. The System will protect and preserve the Nation's fishery resources.

Over 60 million Americans fish. Fishing is the second most popular outdoor recreational activity in America. It is the single most popular outdoor recreational activity of adult males, the fifth most popular among adult women.

Recreational fishing contributes $30 billion to the Nation's economy each year.

Commercial fishing employs 200,000 people and contributes $28 billion to the economy.

However, despite mandates and regulations to control harvests, fish populations continue to decline. Loss of habitat and lack of effective management play key roles in the decline of fish populations.

My bill will provide for the protection and management of high priority fish habitat. The Fish Conservation System will perform the following functions:

First, acquire, protect, and manage priority fish habitat;

Second, establishes authority for cooperative agreements between the Fish and Wildlife Service and other Federal agencies, States, and Indian Tribes to provide for the management of fish;

Third, establishes authority to conduct land exchanges;

Fourth, establishes authority for the Fish and Wildlife Service to assist States in habitat acquisition; and

Fifth, establishes a system to set priorities for fish habitat restoration, management and acquisition.

My bill will also require an annual report to Congress on the actions of the System, and the status of fisheries in the United States. This report will also specify the measures necessary to manage the problems identified.

Finally, this legislation is supported by a wide variety of recreational and commercial fishing interests. I hope we can act quickly on this legislation to protect our Nation's fish resources.

By Mr. BREAUX (for himself and Mr. LOTT) (by request):

S. 2773. A bill to amend the Merchant Marine Act, 1936, so as to revitalize the U.S.-flag merchant marine; to the Committee on Commerce, Science, and Transportation.

MERCHANT MARINE REVITALIZATION ACT

● Mr. BREAUX. Mr. President, it is with pleasure that I introduce legislation today, by request, that would amend the program in the Maritime Administration [MarAd] that provides for the payment of operating differential subsidy, or ODS, to U.S.-flag operators engaged in the foreign commerce of the United States. I am pleased to have Senator LOTT as an original cosponsor on the bill.

Introducing this bill is the first step in enacting legislation that is long overdue. I do not pretend that this legislation, as written, is the correct formula for subsidy reform. It does, however, represent a consensus among almost all U.S.-flag carriers engaged in the foreign commerce of the United States and it will provide a starting point to begin discussions with other vital components of the industry such as the maritime labor unions and the U.S. shipbuilders.

ODS is paid to U.S. ship operators to help place U.S.-flag vessels on a parity with their foreign competitors. Subsidy is based on the difference between U.S.-flag vessel costs for insurance, maintenance, repairs not compensated by insurance, wages of officers and crews, and the estimated costs of these items if the vessels were foreign-flagged. Subsidy is paid pursuant to contracts between MarAd and the operators. In 1985, total subsidy paid was $351.7 million. In 1989, $212.3 million in subsidy was paid under the ODS program.

Despite the payment of subsidy, which has decreased with the decrease in the number of subsidized operators, the U.S.-fleet continues to decline. A reform of the ODS program is essential if the U.S.-flag fleet is to compete internationally. Growth of the U.S.-flag fleet is essentially precluded since the administration has a policy banning any new ODS contracts. The continued maintenance of the existing fleet is also precluded as vessels cannot qualify for ODS after they reach 25 years of age. Many of the subsidized U.S.-flag vessels are reaching that age and will, therefore, be unable to continue to operate. Also, under existing law, the term of ODS contracts may not exceed 20 years.

Many of these contracts will expire within the next few years, with no possibility of renewal, given the administration's policy of not granting any new contracts.

The administration continues to drag its feet on ODS reform. We have been hearing commitments for years from MarAd that an administration bill would be approved very soon. Well, very soon has come and gone with no bill from the administration. The administration did not include an amount for ODS reform in their fiscal year 1991 budget request and we will not know if they will include an ODS reform item in their fiscal year 1992 budget until at least January 1992.

The administration's constant delays are unacceptable. It is time to bring in all of the players—the administration, the U.S.-flag operators, the labor unions, and the shipbuilders—to begin serious discussions on ODS reform. The most notable missing component of that equation is the administration since the industry has already begun discussions on its own. This bill should provide the opportunity for all interests to be addressed and resolved.

I intend to hold hearings on ODS reform after the upcoming recess. At that time, I expect the administration to appear and provide comments on this bill. There is simply no time left to delay passage of this desperately needed legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Merchant Marine Revitalization Act of 1990".

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provison of the Merchant Marine Act, 1936, as amended.

SEC. 3. Section 211(a) (46 U.S.C. App. 1121(a)) is amended as follows:

(1) By striking out "the number of sailings and types of vessels that should be employed in such lines,".

2. By changing the semi-colon at the end to a colon and adding thereafter "*Provided, however,* That the ocean services, routes, and lines determined essential pursuant to this section 211(a) shall include within their coverage all United States and foreign locations encompassed in the services, routes, and lines determined essential pursuant to this section 211(a) on the date this proviso was enacted: *Provided, further,* That for purposes of Title VI of this Act, vessel operations between and among foreign ports on the ocean services, routes, and lines determined essential pursuant to this section 211(a) shall be deemed vessel operations on such services, routes, and lines;".

SEC. 4. Section 211(c) (46 U.S.C. App. 1121(c)) is amended by striking out "or on such routes or lines, and the frequency and regularity of the sailings of such vessels, with a view to furnishing adequate, regular, certain, and permanent service," and inserting in lieu thereof ", routes, and lines,".

SEC. 5. Section 601(a) (46 U.S.C. App. 1171(a)) is amended as follows:

(1) By striking out in the second sentence "a service, route, or line described in section 211(a)" and inserting in lieu thereof "the services, routes, and lines described in section 211(a),".

(2) By changing "No" to "no" at the beginning of the third sentence, and inserting at the beginning of the sentence, "Except as provided in section 616(a),".

(3) By inserting after the second "and" in subsection (1) "with respect to bulk cargo carrying service described in section 211(b)".

SEC. 6. Section 602 (46 U.S.C. App. 1172) is amended by inserting after "title" "and contracts entered into pursuant to section 616,".

SEC. 7. Section 603(b) (46 U.S.C. App. 1173(b)) is amended as follows:

(1) By inserting "with respect to a contract for the operation of a vessel in bulk cargo carrying service described in section 211(b)," following "as the parties should agree upon a lesser amount".

(2) By changing the period at the end to a colon and adding thereafter "and *Provided, further,* That with respect to any operating-differential subsidy contract entered into pursuant to section 616 or entered into at any time subsequent to the enactment of section 616 for the operation of a vessel on the essential services, routes and lines described in section 211(a), operating-differential subsidy shall be paid for the cost of insurance, subsistence, maintenance, and/or repairs only for a vessel receiving operating-differential subsidy on such a cost or costs pursuant to an operating-differential subsidy contract in effect on the date section 616 was enacted.".

SEC. 8. Section 603(c)(1) (46 U.S.C. App. 1173(c)(1)) is amended as follows:

(1) By changing "The" to "the" at the beginning of subsection (A) and inserting immediately following (A) "Except as provided in (B),".

(2) By inserting a new subparagraph (B) as follows:

"(B) With respect to any vessel operated pursuant to an operating-differential subsidy contract entered into under section 616, or entered into at any time subsequent to the enactment of section 616 for the operation of a vessel on the essential services, routes and lines described in section 211(a), excluding a vessel that was being operated pursuant to an operating-differential subsidy contract as of the date section 616 was enacted (the subsidizable manning of which vessel as determined prior to the date of enactment of section 616 pursuant to subsection (c)(1)(A) of this Section 603 shall be retained so long as the vessel is operated in subsidized service), the term 'collective bargaining costs' means the annual cost, calculated on the basis of the per diem rate of expense as of any date, of all items of expense required of the applicant through collective bargaining or other agreement, covering the employment of United States officers and crew of a vessel, including payments required by law to assure old-age pensions, unemployment benefits, or similar benefits and taxes or other governmental assessments on crew payrolls, but excluding costs relating to the officers or members of the crew that the Secretary of Transportation has found, prior to award of a contract for the construction of the vessel in the case of a new vessel, or prior to its first entry into service under an operating-differential subsidy contract in the case of an existing vessel, to be in excess of (i) the complement of licensed individuals and crew set forth in the vessel's certificate of inspection, (ii) steward's department personnel consistent in number and position to that which should be employed on the vessel under good commercial practice on United States documented vessels, and (iii) such additional personnel that are required, under good commercial practice on United States documented vessels, to maintain the vessel and meet unusual conditions that may exist in the trade in which the vessel is operated.".

(3) By redesignating subparagraphs (B), (C) and (D) as subparagraphs (C), (D) and (E).

SEC. 9. Section 603 (46 U.S.C. App. 1173) is amended by adding a new subsection (g) as follows:

"(g)(1) No operating-differential subsidy contract for the operation of a vessel on the essential services, routes and lines described in section 211(a) shall limit the contractor's carriage of cargoes reserved to United States documented vessels by the Cargo Preference Act of 1904 (10 U.S.C. 2631), Public Resolution 17 (46 U.S.C. App. 1241-1), and Section 901(b) and Sections 901a through 901k of this Act.

"(2) Except to the extent and on the terms established in regulations at 46 Code of Federal Regulation Part 280 as in effect on July 1, 1989, there shall be no reduction in operating-differential subsidy paid under an operating-differential subsidy contract for the operation of a vessel on the essential services, routes, and lines described in section 211(a) because of the contractors carriage of cargoes reserved to United States documented vessels pursuant to the statutes referenced in subsection (1) of this section 603(g).

"(3) Operating-differential subsidy paid to a contractor under an operating-differential subsidy contract for the operation of a vessel on the essential services, routes and lines described in section 211(a) shall not be a factor that may be considered in any evaluation of whether the contractor's rates are fair and/or reasonable within the meaning of the statutes referenced in subsection 1 of this section 603(g).".

SEC. 10. Section 605(a) (46 U.S.C. App. 1174(a)) is amended as follows:

(1) By inserting "(excluding gross revenue earned by reason of such trade between any State and the State of Hawaii)" following "if the subsidized vessel earns any gross revenue on the carriage of mail, passengers, or cargo by reason of such coastal or intercoastal trade".

(2) By changing the period at the end of the first sentence to a colon and adding thereafter "*Provided, further,* That in the case of a voyage on which the vessel engages in coastwise or intercoastal trade between any State and the State of Hawaii, operating-differential subsidy shall not be paid for the period of the voyage during which the vessel is engaged in sailing directly between a port in the North American continent and a port in the State of Hawaii or is engaged in port activities attributable to coastwise or intercoastal trade between any State and the State of Hawaii."

SEC. 11. Section 605(b) (46 U.S.C. App. 1175(b)) is amended by changing the period at the end to a colon and adding thereafter

"*Provided, however,* That the subsidizable life of a vessel that was more than twenty years of age as of the date of enactment of section 616 and as of that date was being operated pursuant to an operating-differential subsidy contract on an essential service, route or line described in section 211(a), shall for purposes of this Tile VI be extended for two years beyond the final date that the vessel was eligible to earn operating-differential subsidy as of the date of enactment of section 616: *Provided, further,* That the subsidizable life of a vessel subject to the first proviso of this section 605(b) shall for purposes of this Title VI be extended for an additional three years, or until replaced by the operator under its operating-differential subsidy contract, whichever should occur first, if prior to the date of expiration of the two year extension granted in the first proviso the operator of the vessel has entered into a binding contract for the construction or acquisition of a vessel that is determined by the Secretary of Transportation to provide a suitable replacement under the operator's operating-differential subsidy contract.".

SEC. 12. Section 605(c) (46 U.S.C. App. 1175(c)) is amended by substituting "an essential bulk cargo carrying service as described in section 211(b)" for "an essential service" or "essential service" wherever it appears.

SEC. 13. Section 608 is amended by changing the period at the end of the first sentence to a colon and adding following the colon "*Provided, however,* That written consent shall be granted for the sale, assignment or transfer of a contract entered into pursuant to section 616 (including the entirety of the authority specified in such contract or otherwise conferred by this Act in relation to such contract to own, operate or charter vessels) or for a portion of the vessel day operating-differential subsidy authority established in such a contract, to a purchaser, assignee or transferee that is a citizen of the United States, that is determined by the Secretary of Transportation to meet the requirements of subsections (2) and (3) of section 601(a), and, if not already a party to an operating-differential subsidy contract entered into pursuant to section 616, that has been granted the waivers and permission required by sections 804 and 805(a) of this Act for any foreign-flag and domestic service activities, affiliations or interests of such purchaser: *Provided, further,* That, where less than the entirety of the vessel day operating-differential subsidy authority established in a contract entered into pursuant to section 616 is sold, assigned or transferred, (i) the vessel day operating-differential subsidy authority of such contract shall be reduced by the number of the vessel day operating-differential subsidy authorities sold, assigned or transferred, and (ii) any ancillary authority specified in such contract or otherwise conferred by this Act in relation to such contract to own, operate or charter vessels may, at the contractor's option, be included in the sale, assignment or transfer, subject to the limitation that there shall be no increase in the totality of such ancillary authority by virtue of such transfer.

SEC. 14. Section 610 (46 U.S.C. App. 1180) is amended by inserting "with respect to a vessel in bulk cargo carrying service described in section 211(b)" following "shall be as nearly fireproof as practicable,".

SEC. 15. Title VI is amended by adding a new Section 616 as follows:

"SEC. 616. (a) Upon application filed within one year following the date of enactment of this section 616, the Secretary of Transportation is authorized and directed to enter into a contract for the payment of an operating-differential subsidy pursuant to section 603(a) with an applicant (or with a corporate affiliate of an applicant) that (i) is a citizen of the United States, (ii) meets the requirements of subsections (2) and (3) of section 601(a), (iii) as of July 1, 1989, or during some substantial period of time prior to that date, was operating or had operated United States documented vessels as an ocean common carrier within the meaning of section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) and (iv) as of July 1, 1989, operated one or more self-propelled cargo carrying vessels documented under the laws of the United States in such ocean common carrier service or temporarily under charter to the Military Sealift Command. A contract authorized and directed by this subsection (a) shall be made and become effective no later than 30 days after the filing of an application.

"(b) Such contract shall grant operating-differential subsidy determined and paid in accordance with the provisions of subsections (b) through (f) of section 603 in a total annual amount that shall be established as follows:

"(i) For an applicant that was providing service pursuant to one or more operating-differential subsidy contracts as of July 1, 1989, subsidy shall be paid for every day a subsidizable vessel, as defined in section 616(c), is operated in subsidizable service, as defined in section 616(d), subject to a maximum number of vessel days in any year that shall be calculated by multiplying the number of days in the year by the maximum number of vessels the applicant was authorized to operate in subsidized service under its operating-differential subsidy contract or contracts in effect as of July 1, 1989: *Provided,* That if an applicant's operating-differential subsidy contract or contracts in effect as of July 1, 1989, did not specify a maximum number of vessels to be operated in subsidized service, the number of vessels to be used in the calculation shall be the number of vessels, as determined by the Secretary of Transportation, that would be reasonably required to perform the maximum number of subsidized sailings authorized in such operating-differential subsidy contract or contracts: *Provided, further,* That if an application was providing subsidized service with fewer than 10 vessels under an operating-differential subsidy contract or contracts as of July 1, 1989, the number of vessels to be used in the calculation shall be 10: and *Provided, further,* That in any event the number of vessels to be used in the calculation shall be no greater than 30;

"(ii) For an applicant that was not providing service pursuant to an operating-differential subsidy contract as of July 1, 1989, subsidy shall be paid for every day a subsidizable vessel, as defined in section 616(c), is operated in subsidizable service, as defined in section 616(d), subject to a maximum number of vessel days in any year that shall be calculated by multiplying the number of days in the year by the number determined by adding the number of United States documented self-propelled cargo carrying vessels and one-half of the number of United States documented non-self-propelled cargo carrying vessels the applicant was operating as of July 1, 1989, in its ocean common carrier services referenced in section 616(a) or under temporary charter to a shipper, the Military Sealift Command, or both: *Provided,* That non-self-propelled barges designed to be carried aboard a vessel shall not be included in the number of vessels to be used in the calculation: *Provided, further,* That the number of vessels to be used in the calculation shall be no greater than 23.

"(c) Any existing or future vessel that meets the requirements of sections 601(a)(2), 605(b) and 610, whenever or wherever built or rebuilt, may be operated in subsidized service under an operating-differential subsidy contract entered into pursuant to this section 616. Any such vessel shall be deemed to have been built in the United States for purposes of this title (except section 607) and sections 901(b) and 901a through 901k of this Act. There shall be no limitation on the number of such vessels an applicant may operate in subsidized service under such a contract: *Provided, however,* That the applicant shall not be paid operating-differential subsidy applicable to any annual period for a total number of days of vessel operations that is greater than the maximum number established for the applicant pursuant to subsection (b) of this section 616, as such maximum number of days of subsidized vessel operations may be increased as provided for in subsection (h) of this section 616.

"(d) Such contract shall authorize the applicant to perform subsidized service on any or all of the essential ocean services, routes, and lines described in section 211(a), without any requirement that service be performed on a particular ocean service, route, or line and without any limitation on the number of sailings that may be performed on any such ocean services, routes and lines: *Provided, however,* That the applicant shall not be paid operating-differential subsidy in any annual period for a total number of days of vessel operations that is greater than the maximum number established for the applicant pursuant to subsection (b) of this section 616, as such maximum number of days of subsidized vessel operations may be increased as provided for in subsection (h) of this section 616. Such contract shall not restrict the applicant's operation of United States documented vessels in foreign commerce on sailings for which no operating-differential subsidy is paid.

"(e) Such contract shall have an initial term ending twenty years from the date of enactment of this section 616, and may be renewed in accordance with the provisions of this Title VI.

"(f) An applicant that is a party to an operating-differential subsidy contract on the date of enactment of this section 16 may elect, in lieu of entering into a new contract, to amend its existing operating-differential contract to conform to the provisions of this section 616, which amendment shall be deemed the equivalent of entering into a contract pursuant to this section 616 for purposes of this Act. If such an applicant is a party to more than one operating-differential subsidy contract on the date of enactment of this section 616, only one of such contracts shall be so amended, and all operating-differential subsidy contracts of the applicant, other than a contract that has been amended as herein provided, shall terminate concurrent with applicant's entry into a new or amended contract pursuant to this section 616 except with respect to voyages in progress as of that time, which shall be governed by the provisions of the applicant's existing contract or contracts. The term of an amended contract shall be that established in section 616(e). An amended contract shall include no obligation or re-

striction on the contractor, and shall provide no limitation on the payment of subsidy, nor shall it confer any greater right, than could be included or provided in a new contract entered into under this section 616.

"(g) All operating-differential subsidy contracts entered into pursuant to this section 616 shall constitute binding legal and contractual obligations of the United States for all purposes. No such contract, nor the authority of the Secretary to enter into such contract, nor the entitlement of a citizen of the United States to enter into such contract, shall be conditioned or limited in any manner on receiving budget authority for such contract in advance in an appropriations act, or conditioned or limited in any manner on the extent to which amounts to liquidate the obligations incurred under such contracts are provided in an appropriations act, or otherwise so limited. No contract amendment under this section 616 shall affect the status of an operating-differential subsidy contract in effect at the time of enactment as a binding legal and contractual obligation of the United States or relieve the United States of any obligation to make payment under such contract. All contracts entered into under this section 616 shall have the same force and effect as binding legal and contractual obligations of the United States as contracts entered into before enactment of this Act.

"(h) Subject to the provisions of section 608 of this Act, a party to an operating-differential subsidy contract entered into pursuant to this section 616 may sell, assign or transfer the operating-differential subsidy contract (inclusive of the entirety of the authority specified in the contract or otherwise conferred by this Act in relation to such contract to own, operate or charter vessels) to another party to such a contract or to a person that is not a party to such a contract, or may sell, assign or transfer a portion of the vessel day operating-differential subsidy authority established in such a contract. Nothing in this section 616 shall be deemed to preclude the Secretary of Transportation, in accordance with the provisions of section 601(a), from considering an application for operating-differential subsidy for the operation of a vessel on the essential services, routes and lines described in section 211(a) that would be additional to that authorized and directed in this section 616.".

SEC. 16. Section 804 (46 U.S.C. App. 1222) is amended as follows:

(1) By amending the introductory clause to subsection (a) to read "Except as provided in subsections (b), (c) and (f) of this section,".

(2) By adding a new sentence at the end of subsection (b) "The Secretary shall render a decision on an application for a waiver filed pursuant to this subsection (b) within 90 days from the date the application is filed.".

(3) By adding a new subsection (f) at the end of the section as follows:

"(f) Subsection (a) of this section shall not apply to the following activities of a contractor to an operating-differential subsidy contract entered into pursuant to section 616 of this Act or to a renewal contract provided for in section 616(e) of this Act, or of such other person or concern affiliated with such contractor described in subsection (a) of this section 804:

"(1) all activities covered by a waiver under subsection (b) of this section 804 that was outstanding as of the date of enactment of section 616 of this Act without regard to the termination date of any such waiver;

"(2) the ownership, charter or operation of any foreign-flag vessel insofar as the vessel carries cargo between foreign ports that does not move in foreign commerce; and

"(3) the ownership, charter and operation of:

"(A) any foreign-flag vessel that was owned, chartered or operated by the contractor (or by another person or concern affiliated with such contractor described in subsection (a) of this section 804) on the date three months prior to the date of enactment of the Merchant Marine Revitalization Act of 1990, or

"(B) any foreign-flag vessel replacing a vessel referenced in subsection (A) of this section 804(f)(3) when the latter such vessel is retired from service by the contractor (or by the above referenced affiliated person) or is operated by the contractor (or by the above referenced affiliated person) under a waiver granted pursuant to subsection (b) of this section 804 or in a service permitted by subsections (1)-(2) of this section 804(f): *Provided, however,* That such vessel or replacement vessel shall be excepted from the provisions of subsection (a) of this section 804 pursuant to this subsection (3) only to the extent that it provides service between the same U.S. coastal region and ports in the foreign range of the same essential trade route (as said trade route was determined on July 1, 1989) that were being served by the vessel referenced in subsection (A) of this section 804(f)(3) on the date three months prior to the date of enactment of the Merchant Marine Revitalization Act of 1990: *Provided, further,* That the preceding proviso shall not limit activities that are otherwise authorized by subsections (1)-(2) of this section 804(f).".

SEC. 17. Section 805 (46 U.S.C. App. 1233) is amended as follows:

(1) By designating the second paragraph of subsection (a) subsection (d).

(2) By redesignating subsections (b), (d), (e) and (f) as subsections (e), (f), (g) and (h).

(3) By striking "If such application be allowed," from redesignated subsection (d) and changing "it" to "It".

(4) By inserting after subsection (a) new subsections (b) and (c) as follows:

"(b) Neither subsection (a) of this section 805, nor any other provision of this Act empowering the Secretary of Transportation to authorize or condition ocean transportation service between United States states, territories and/or possessions, shall apply to any voyage performed by a contractor (or other person or concern affiliated with such contractor described in subsection (a) of this section 805) to an operating-differential subsidy contract entered into pursuant to section 616 of this Act or to a renewal contract provided for in section 616(e) of this Act that (i) does not call at a foreign port, (ii) is in contract rather than common carriage, and (iii) is performed using a vessel, including a non-self propelled vessel, that was built without construction-differential subsidy (or if built with construction-differential subsidy, is at least 25 years of age)."

"(c) To the extent that permission or authority is required pursuant to subsection (a) of this section 805 or any other provision of this Act empowering the Secretary of Transportation to authorize or condition ocean transportation service between United States states, territories, and/or possessions, unconditional permission and authority shall be deemed to have been granted to a contractor to an operating-differential subsidy contract entered into pursuant to section 616 of this Act or to a renewal contract provided for in section 616(e) of this Act for the ownership, operation or charter of any vessel by such contractor or other person or concern affiliated with such contractor described in subsection (a) of this section 805 (or any successor in interest), and for all relationships or pecuniary interests involving such contractor, person or concern (or successor in interest), with respect to the following:

"(i) vessel operations of the same frequency and character as those that (a) were being performed by such contractor or other person or concern on the date three months prior to the date of enactment of the Merchant Marine Revitalization Act of 1990, or (b) were permitted or approved by the Secretary of Transportation prior to enactment of this section 805(c); and

"(ii) vessel operations by the applicant in any application under section 805(a) that is pending at the Maritime Administration on January 2, 1990 of the same frequency and character as those for which permission was sought under that application (including operations with vessels that receive operating-differential subsidy), regardless of the decision on the application or on judicial review thereof:

Provided, That, for purposes of this section 805(c), vessel operations may be of the same character even if performed by different vessels of the same basic type: *Provided further,* That nothing in this section 805(c) shall be deemed to affect the power of the Secretary of Transportation set forth in the second sentence of section 506.".

SEC. 18. Section 809(a) (46 U.S.C. App. 1213) is amended as follows:

(1) By inserting "with respect to bulk cargo carrying service as described in section 211(b)" after "Contracts" in the first sentence, and after "Act" where it appears for the second time in the second sentence.

(2) By striking the fourth sentence.

SEC. 19. Section 901(b)(1) (46 U.S.C. App. 1241(b)(1)) is amended by changing the period at the end to a colon and adding after the colon *"Provided further,* That for purposes of this section 901(b) and sections 901a through 901k of this Act this sentence shall be inapplicable to vessels that are operated in ocean common carrier service within the meaning of section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702) on the ocean services, routes and lines described in section 211(a) of the Act.".

SEC. 20. Section 1101(b) (46 U.S.C. App. 1271(b)) is amended by inserting "wherever built," following the introductory clause "The term vessel includes all types,".

SEC. 21. To assist and expedite the important objective of construction and/or charter of new vessels for operation under the U.S flag, the Secretary of Transportation is hereby authorized and directed to lend the sum of up to twenty-five million dollars to an operating-differential subsidy contractor that on July 1, 1989 was authorized by its contract or contracts to provide service between the U.S. Atlantic Coast and West African and/or Mediterranean nations and that was on that date operating an aggregate of no more than 4 vessels in its subsidized services: *Provided, however,* That the terms of such loan shall require the contractor (1) to place such sum in a fund specifically designated for the construction and/or charter of a new vessel or vessels that will be documented and operated by such contractor under the U.S. flag on the services, routes, and lines described in section 211(a),

(2) to use such fund (including any interest accrued thereon) exclusively for such construction and/or charter, and (3) to repay such sum, without interest, after a term of twenty years.

SEC. 22. Operating-differential subsidy contracts in effect as of the date of enactment of this Merchant Marine Revitalization Act of 1989 shall continue to be subject to the terms of the Merchant Marine Act, 1936, as amended, without reference to the amendments enacted by this Merchant Marine Revitalization Act of 1989, until and unless such contracts are amended in accordance with section 616(f) of the Merchant Marine Act, 1936 as enacted herein.●

By Mr. DANFORTH (for himself and Mr. MOYNIHAN):

S. 2774. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on the sale of any international route; to the Committee on Finance.

EXCISE TAX ON SALE OF INTERNATIONAL ROUTES

Mr. DANFORTH. Mr. President, this bill is introduced today by Senator MOYNIHAN and I to impose a 50-percent excise tax on the sale of international route certificates by airlines. It is a tax bill. We understand that a single tax bill on its own is not destined for great success, and therefore it is our intention to offer this bill as an amendment to the next major tax bill that is going through Congress that will be enacted into law.

The effective date of this legislation will be the day of introduction, which is today. Mr. President, presently airlines can sell international route certificates at sometimes a very substantial profit. These international route certificates have been given to the airlines free of charge by the Federal Government. They are gifts from the American people to the airlines. With the use of the international certificates, the airlines can operate a very profitable business in international markets. That is how airlines make money, by and large, these days.

What we are saying in this legislation is that once the airline stops or wants to stop operating in international markets, then the sale of that certificate should yield a substantial return to the Federal Government which granted the certificate in the first place.

Under the present state of affairs the unforetold result of the ability of airlines to traffic in certificates is that the Federal Government has created, by an artificial means of restricting the use of international routes, a valuable asset in the hands of the airlines which tempt the airlines to sell off their parts on a piecemeal basis.

This, in fact, is a threat at TWA at this very moment. Trans World Airlines is an airline which is controlled by Carl Icahn. He has made no secret of his interests of selling the airline in pieces. He anticipates a sale of the Chicago-to-London route for $195 million. This is the sale of a certificate which cost him nothing, which was furnished free of charge by the Federal Government.

The concern of those who depend on TWA, its employees and communities that are dependent on it, is that TWA is going to be sold off in bits and pieces. Indeed, if free gifts from the Federal Government can be sold for $195 million, that, in fact, will be the case and the American people will be the losers.

This bill simply provides an excise tax, one that is not deductible for income tax purposes. It would still be possible for Mr. Icahn to make a profit, but it would be only a percentage of what he would otherwise anticipate in the sale of this route if that is what the Department of Transportation permits him to do.

Mr. MOYNIHAN. Mr. President, I rise to join my distinguished colleague from Missouri, cosponsoring this legislation to create a 50-percent excise tax on the sale or transfer of international route certificates. I will simply comment on the point he raised.

When the Government grants the authority to any particular international route—and these are by definition public goods which are limited in quantity, only so many airlines can land in a given airport at a given time. The route certificates have to be allocated. In the same manner, broadcast licenses are limited by the frequency spectrums in which they are broadcast. They have to be allocated. When this allocation is made, a valuable asset is created. The right is given free. Yet, the market value can be very substantial and imposes on the corporation, and ultimately the individuals involved, a civic responsibility to perform the function for which it is granted rather than to use the franchise, the right, as a capital asset to be used for other purposes.

If I had one small distinction I would make with my friend from Missouri, it would be to take a slight exception to the thought that a substantial profit is made when these rights are sold. It is hardly profit. Nothing has been invested. It is a total windfall. It is as if, in return for nothing, a large sum of money can be realized in sales in one form or another.

Indeed, Mr. President, in the last 60 years from the time these rights began to be granted by the various Federal agencies, we have never really reviewed the question of what rights the public may have in the grant of such assets? Does it not have some right of recapture of the value automatically created? There have been many discussions of auctions, of other forms of determining at the outset the true market value as against the regulatory process, which seeks to ignore that and make decisions on the basis of criteria which are at best arbitrary and have outcomes which cannot be said to be equitable. One corporation wins, all others lose.

I point out again that when this bill becomes law, and it will, Mr. President, the effective date is this day. Let those involved in this kind of manipulation take notice the Senator and I are both members of the Committee on Finance. We will be offering the measure in the Finance Committee when we next prepare tax legislation, and, of course, we will pursue it here on the floor.

It is a large issue of public policy which this measure opens up and a very specific one of the condition of TWA. I do not hesitate to point out that St. Louis is the largest center of TWA activities, but Kennedy Airport, in New York, is the second largest center. The employees have a right to think that here in the Congress we are considering the ways in which the perhaps unintended consequences of Federal regulatory policy are placing individual managers in the situation where they can act contrary to the public interest that was intended when the original grant of the license was made.

Mr. President, we look forward to an extensive inquiry into this matter, and I hope our voices will be heard with respect to both the specifics and to the larger issue of public policy.

I thank the Chair. I yield the floor.

By Mr. ROTH (by request):

S. 2775. A bill to provide for Governmentwide procurement ethics reform, and for other purposes; to the Committee on Governmental Affairs.

PROCUREMENT ETHICS REFORM ACT

● Mr. ROTH. Mr. President, I rise today to introduce, at the request of the Administration, a bill titled the "Procurement Ethics Reform Act."

The administration believes that because of Governmentwide ethics changes made by the Ethics Reform Act of 1989, certain procurement specific statutes are no longer needed. These statutes were suspended for 1 year by the Ethics Reform Act. This proposal would repeal those statutes. However, it does take the position that legislation regarding the release of procurement sensitive information is needed.

I want to study the changes contained in this proposal to determine their force and effect. However, I think the administration's proposal is a good starting point and will permit the Senate to proceed with the debate and negotiations that are necessary to reaching consensus on reforming procurement integrity statutes.

I would remind my colleagues that if we fail to reach agreement on changes, the suspended statutes will become operative on December 1, 1990.

Mr. President, I ask unanimous consent that the bill be printed in full in

the RECORD along with a section-by-section analysis and the administration's statement of purpose and need. I think these documents will provide an excellent reference for our upcoming debate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Procurement Ethics Reform Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) The Congress finds that enacting a statute addressing the disclosure and receipt of contractor bid or proposal information and source selection information will clarify existing law. By focusing on the information to be protected, rather than the status of persons who might disclose or obtain the information, or the stage of a Federal agency procurement when the information may be generated, this Act will increase the general understanding of the conduct expected and limitations imposed.

(b) The purpose of this Act is to clarify existing law governing participation in Federal agency procurements by adding a new provision addressing the disclosure and receipt of contractor bid or proposal information or source selection information and repealing certain conflict of interest statutes that apply to individual employees on a selective basis.

SEC. 3. DISCLOSING AND OBTAINING CONTRACTOR BID OR PROPOSAL INFORMATION OR SOURCE SELECTION INFORMATION.

(a) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended to read as follows:

"SEC. 27. Disclosing and obtaining contractor bid or proposal information or source selection information.

"(a) A present or former officer or employee of the United States, or a person who is acting or has acted for or on behalf of or who is advising or has advised the United States with respect to a Federal agency procurement and who—

"(1) by virtue of that office, employment, or relationship has or had access to contractor bid or proposal information or source selection information, and

"(2) other than as provided by law, knowingly and willfully discloses that information before the award of a Federal agency procurement contract to which the information relates,

is subject to the penalties and administrative actions set forth in subsection (d).

"(b) Whoever, other than as provided by law, knowingly and willfully obtains contractor bid or proposal information or source selection information before the award of a Federal agency procurement contract to which the information relates is subject to the penalties and administrative actions set forth in subsection (d).

"(c) Whoever, other than as provided by law, knowingly and willfully violates the terms of a protective order, issued by the Comptroller General or the board of contract appeals of the General Services Administration in connection with a protest against the award or proposed award of a Federal agency procurement contract, by disclosing or obtaining contractor bid or proposal information or source selection information is subject to the penalties and administrative actions set forth ih subsection (d).

"(d) The penalties and administrative actions for an offense under subsection (a), (b), or (c), are as follows:

"(1) Criminal penalties.

"(A) Whoever engages in the conduct constituting the offense shall be imprisoned for not more than one year or fined in the amount set forth in 18 U.S.C. 2571, or both.

"(B) Whoever engages in the conduct constituting the offense for the purpose of either—

"(i) exchanging the information covered by subsections (a), (b), and (c), for anything of value, or

"(ii) obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract,

shall be imprisoned for not more than five years or fined in the amount set forth in 18 U.S.C. 3571, or both.

"(2) Civil penalties. The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under subsection (a), (b), or (c). Upon proof of such conduct by a preponderance of the evidence, the person is subject to a civil penalty. An individual who engages in such conduct is subject to a civil penalty of not more than $50,000 for each violation plus twice the amount of compensation which the individual received or offered for the prohibited conduct. An organization that engages in such conduct is subject to a civil penalty of not more than $500,000 for each violation plus twice the amount of compensation which the organization received or offered for the prohibited conduct.

"(3) Administrative actions. If a Federal agency receives information that a contractor or a person has engaged in conduct constituting an offense under subsection (a), (b), or (c), the Federal agency shall consider one or more of the following actions, as appropriate:

"(A) Canceling the Federal agency procurement when a contract has not been awarded;

"(B) Declaring void and rescinding a contract in relation to which there has been either—

"(i) a conviction for an offense under subsection (a), (b), or (c), committed by the contractor or someone acting for the contractor, or

"(ii) a determination by the head of the agency based upon clear and convincing evidence that the contractor or someone acting for the contractor has engaged in such conduct.

If such action is taken, the United States is entitled to recover in addition to any penalty prescribed by law, the amount expended under the contract;

"(C) Initiating suspension or debarment proceedings for the protection of the Government in accordance with procedures in the Federal Acquisition Regulation. In this regard, engaging in conduct constituting an offense under subsection (a), (b), or (c), affects the present responsibility of a Government contractor or subcontractor; or

"(D) Initiating adverse personnel action, pursuant to the procedures in chapter 75 of title 5, United States Code, or other applicable law or regulation.

"(e) For purposes of this section:

"(1) The term 'contracting officer' means a person who, by appointment in accordance with applicable regulations, has the authority to enter into a Federal agency procurement contract on behalf of the Government and to make determinations and findings with respect to such a contract.

"(2) The term 'contractor bid or proposal information' means the following information submitted to a Federal agency as part of or in connection with a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

"(A) Cost or pricing data;

"(B) Indirect costs and direct labor rates;

"(C) Proprietary information about manufacturing processes, operations, or techniques marked by the contractor in accordance with applicable law or regulation; or

"(D) Information marked by the contractor as 'contractor bid or proposal information,' in accordance with applicable law or regulation.

"(3) The term 'Federal agency' has the meaning given that term in section 3 of the Federal Property and Administrative Services Act (40 U.S.C. 472).

"(4) The term 'Federal agency procurement' means the competitive acquisition by contract of supplies or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

"(5) The term 'protest' means a written objection by an interested party to the award or proposed award of a Federal agency procurement contract, pursuant to section 111 of the Federal Property and Administrative Services Act (40 U.S.C. 759) or subchapter V of chapter 35 of title 31, United States Code.

"(6) The term 'source selection informatioin' means the following information prepared for use by a Federal agency for the purpose of evaluating a bid or proposal to enter into a Federal agency procurement contract, if that information has not been previously made available to the public or disclosed publicly:

"(A) Bid prices submitted in response to a Federal agency solicitation for sealed bids or lists of those bid prices prior to public bid opening;

"(B) Proposed costs or prices submitted in response to a Federal agency solicitation or lists of those proposed costs or prices;

"(C) Source selection plans;

"(D) Technical evaluation plans;

"(E) Technical evaluations of proposals;

"(F) Cost or price evaluations of proposals;

"(G) Competitive range determinations which identify proposals that have a reasonable chance of being selected for award of a contract;

"(H) Rankings of bids, proposals, or competitors;

"(I) The reports and evaluations of source selection panels or boards or advisory councils; or

"(J) Other information marked as 'source selection information' based upon a case-by-case determination by the head of the agency, his designee, or the contracting officer that its disclosure would jeopardize the integrity or successful completion of the Federal agency procurement to which the information relates.

"(f) No person may file a protest against the award or proposed award of a Federal agency procurement contract alleging an offense under subsection (a), (b), or (c), of this section, nor may the Comptroller General or the board of contract appeals of the General Services Administration consider such an allegation in deciding such a protest, unless that person reported information to

the Federal agency responsible for the procurement that he believed constituted evidence of the offense no later than ten working days after he first discovered the possible offense.

"(g) This section does not:

"(1) Restrict the disclosure of information to or its receipt by any person or class of persons authorized, in accordance with applicable agency regulations or procedures, to receive that information;

"(2) Restrict a contractor from disclosing its own bid or proposal information or the recipient from receiving that information;

"(3) Restrict the disclosure or receipt of information relating to the Federal agency procurement after it has been cancelled by the Federal agency prior to contract award unless the Federal agency plans on resuming the procurement;

"(4) Authorize the withholding of information from nor restrict its receipt by the Congress, a committee or subcommittee thereof, the Comptroller General, a Federal agency, or an Inspector General of a Federal agency;

"(5) Authorize the withholding of information from nor restrict its receipt by any board of contract appeals of a Federal agency or the Comptroller General in the course of a protest against the award or proposed award of a Federal agency procurement contract; or

"(6) Limit the applicability of the requirements, sanctions, contract penalties, and remedies established under any other law or regulation.".

(b) Government-wide regulations and guidelines deemed appropriate to carry out this Act shall be issued in the Federal Acquisition Regulation by the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration, in coordination with the Federal Acquisition Regulatory Council. Proposed regulations and guidelines shall be issued within 120 days after the date of enactment. Implementing regulations and guidelines shall be issued within 180 days of enactment.

SEC. 4. REPEALS.

The following laws are repealed:

(a) Sections 2397, 2397a, 2397b, and 2397c of title 10, United States Code.

(b) Section 281 of title 18, United States Code.

(c) Section 801 of title 37, United States Code.

(d) Sections 604, 605, 606, and 608(c) of the Department of Energy Organization Act (42 U.S.C. 7214-7216 and 7218(c)).

SEC. 5. CONFORMING AMENDMENTS.

(a) Chapter 141 of title 10, United States Code, is amended by striking the item relating to sections 2397, 2397a, 2397b, and 2397c in the table of sections at its beginning.

(b) Chapter 15 of title 18, United States Code, is amended by striking the item relating to section 281 in the table of sections at its beginning.

(c) Chapter 15 of title 37, United States Code, is amended by striking the item relating to section 801 in the table of sections at its beginning.

(d) The Department of Energy Organization Act is amended:

(1) In section 601(c)(1) by striking "through 606" and inserting "and 603";

(2) In section 601(d) by striking ", 603(a), 605(a), and 606" and inserting "and 603(a)";

(3) In section 607(a) by striking ", 604, or 605";

(4) In section 607(b) by striking "sections 603, 604, and 605" and inserting "section 603", and by striking "Personnel Management" wherever it appears and inserting "Government Ethics";

(5) In section 607(c) by striking ", 603(c), 605(a), or 606(c)" and inserting "and 603(c)"; and

(6) In section 608(b) by striking ", 603, 604, 605, or 606" and inserting "or 603".

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED PROCUREMENT ETHICS REFORM ACT

SECTION 1—SHORT TITLE

Section 1 provides that the proposed Act may be cited as the "Procurement Ethics Reform Act."

SECTION 2—FINDINGS AND PURPOSE

Section 2(a) states the finding of Congress that enacting a statute addressing the disclosure and receipt of contractor bid or proposal information and source selection information would clarify existing law. By focusing on the information to be protected, rather than the status of persons who might disclose or obtain the information, or the stage of a Federal agency procurement when the information is generated, the proposed Act would increase the general understanding of the conduct expected and limitations imposed.

Enactment of individual statutes addressing conflicts of interest in Federal agency procurements has, over time, contributed a measure of uncertainty and complexity to the body of conflict of interest law. These statutes were intended, in part, to protect the integrity of the procurement process. They help to ensure that no bidder or offeror for a Federal agency procurement will gain an unfair competitive advantage by unauthorized access to procurement-sensitive information or by the inappropriate use of influence. In many cases, however, the restrictions they impose overlap similar restrictions imposed by Government-wide statutes. As a net result of the accretion of these statutes, officers and employees of executive branch agencies are subject to multiple layers of seemingly inconsistent rules, and the executive branch ethics program is encumbered by a complex, multi-tiered system of statutory restrictions that make it difficult to provide effective ethics training and counseling.

There are four sets of statutes that are directed specifically at the conduct of personnel involved in procurement-related activities, either as current or former officers or employees: the procurement integrity provisions (section 27 of the Office of Federal Procurement Policy Act); the Department of Defense restrictions at 10 U.S.C. §§ 2397 through 2397c; the military selling statutes at 18 U.S.C. § 281 and 37 U.S.C. § 801; and the Department of Energy statutes at sections 604 through 606 of the Department of Energy Organization Act. At the time of their enactment, most of these statutes served to supplement existing Government-wide remedies by creating civil remedies for conduct similar to that prohibited by the criminal conflict of interest statutes. However, with the addition of 18 U.S.C. § 216 as part of the Ethics Reform Act of 1989, Congress created a new class of misdemeanor violations and added civil penalties and injunctive relief for violations of most of the conflict of interest statutes at Chapter 11 of title 18 of the United States Code.

To a great extent, these four sets of statutes are duplicative in purpose of the general conflict of interest statutes, 18 U.S.C. §§ 201, 207, and 208. For example, the restrictions on seeking employment imposed by the procurement integrity provisions and 10 U.S.C. § 2397a are similar in their application to the prohibitions that apply to all executive branch personnel under 18 U.S.C. § 208 and the standards of conduct. The post-employment restrictions imposed by the procurement integrity provisions, 10 U.S.C. § 2397b, the military selling statutes, and section 605 of the Department of Energy statute mirror the purpose, but not the scope and coverage of the Government-wide post-employment statute, 18 U.S.C. § 207.

The overlapping of the various statutory requirements result in considerable confusion for those who must follow the rules and who risk stiff criminal, civil, and administrative sanctions for failure to do so. The overlapping statutory requirements also create considerable administrative burden for those charged with administering agency ethics programs.

Section 2(b) states that the purpose of the proposed Act is to reduce the confusion resulting from the overlapping statutory requirements, while protecting the Government from potential conflicts of interest by those who participate in Federal agency procurements. To accomplish this purpose, the proposed Act would replace the protections afforded proprietary and source selection information by the procurement integrity provisions with less complex provisions that would prohibit disclosing or obtaining contractor bid or proposal information or source selection information. The proposed Act would also repeal several conflict of interest statutes that are duplicative of general conflict of interest laws.

SECTION 3—DISCLOSING AND OBTAINING CONTRACTOR BID OR PROPOSAL INFORMATION OR SOURCE SELECTION INFORMATION

Section 3 would replace section 27 of the Office of Federal Procurement Policy Act (the procurement integrity provisions) with a new section 27 which would prohibit improperly disclosing or obtaining contractor bid or proposal information or source selection information. The current procurement integrity provisions were suspended for one year, until December 1, 1990, by the Ethics Reform Act of 1989. One who violates the prohibitions of section 27 of the proposed Act would be subject to criminal and civil penalties and to appropriate administrative actions. In terms of the conduct it circumscribes, the proposed Act is similar in scope to the prohibitions on disclosing and obtaining proprietary and source selection information contained in the procurement integrity provisions.

Unauthorized access to a competitor's bid or proposal information or the agency's source selection information may provide a bidder or offeror an opportunity to obtain an unfair advantage in competing for a Government contract. The Government has a substantial interest in maintaining a level playing field for all competitors for Government contracts and any perception that the process is unfair is likely to discourage potential competitors. The net result of diminished competition in Government procurements is increased costs to the Government, whether because of a higher contract price or less satisfactory products or performance. The proposed Act would provide needed protections to ensure that competing contractors do not obtain access to information that would give them an unfair competitive advantage and, thereby, jeopardize the integrity of the procurement process.

The proposed Act would simplify the application of protections similar to the procurement integrity provisions. The proposed prohibitions would focus on the information protected, rather than on whether it was disclosed or obtained by a person having the status of a "procurement official" or a "competing contractor" or at a particular point in the procurement process. Until the contract to which it pertains is awarded, contractor bid or proposal information and source selection information would be protected by proposed subsection 27(a) from unauthorized disclosure. Anyone who had access to that information by reason of being an employee of the United States or acting for or advising the United States with respect to the particular procurement would be prohibited from such disclosure. The corollary restriction of proposed subsection 27(b) would make it a violation for anyone to obtain such information prior to contract award. Subsection 27(c) would prohibit anyone from violating the terms of a protective order, issued in the course of a protest to the award or proposed award of a Federal agency procurement contract, by disclosing or obtaining information protected by the Act. An offense under subsections 27 (a), (b), or (c), would occur only if the information is disclosed or obtained "knowingly and willfully," in violation of the Act.

Proposed subsection 27(d) establishes both criminal and civil penalties for violations of subsections 27(a), 27(b), and 27(c), and prescribes appropriate administrative actions that may be taken by the procuring agency. Subsection 27(d)(1)(A) would make persons who engage in conduct proscribed by subsection 27(a), 27(b), or 27(c) subject to imprisonment for up to one year and fines set forth in 18 U.S.C. § 3571, or both. Subsection 27(d)(1)(B) would make persons who engage in such conduct for the purpose of either exchanging the information covered by subsection 27(a), 27(b), or 27(c) for anything of value, or obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract subject to imprisonment for up to five years and fines set forth in 18 U.S.C. § 3571, or both. Subsection 27(d)(2) would allow the Attorney General to bring a civil action to recover from an individual up to $50,000 for each violation plus twice the amount of any compensation received or offered for the prohibited conduct. An organization that engages in the prohibited conduct would be subject to a civil fine of up to $500,000 for each violation plus twice the amount of any compensation received or offered for the prohibited conduct.

When a Federal agency receives information that a contractor or any person has engaged in conduct constituting an offense under the Act, subsection 27(d)(3) provides that the procuring agency shall consider appropriate administrative action. Prior to contract award, and without regard to whether any penalty has been imposed, appropriate action may include cancelling the procurement. Appropriate action may also include declaring the contract void and rescinding the contract, where there has been a conviction related to the procurement for an offense committed by the contractor or someone acting for the contractor, or where the head of the procuring agency makes a determination that such an offense has occurred.

Regardless of the stage of the procurement, appropriate action may include debarment or suspension, i.e., excluding or temporarily excluding a contractor or person from Government contracting and Government-approved subcontracting for a specific period. Subsection 27(d)(3) facilitates the initiation of debarment or suspension proceedings by making it clear that an offense under the proposed Act affects the present responsibility of a Government contractor or subcontractor. In the case of a Government employee who engages in conduct constituting an offense under the Act, appropriate administrative action may include initiating adverse personnel action. It is anticipated that regulations implementing Subsection 27(d)(3) would provide further guidance to procuring agencies on taking appropriate administrative actions.

Proposed subsection 27(e) provides definitions of the information protected, along with definitions of the terms "contracting officer," "Federal agency," "Federal agency procurement," and "protest." By the definition at subsection 27(e)(2), two categories of information are specifically protected as bid or proposal information and there is provision for extending the statute's protections to other information marked by the contractor in accordance with applicable law or regulation. Proposed section 27 uses the term "contractor bid or proposal information", rather than "proprietary information" used in the procurement integrity provisions, to characterize more precisely the class of information protected. The term "source selection information" is the same as that used in the procurement integrity provisions. However, unlike the procurement integrity provisions' generic definition, subsection 27(e)(6) lists nine specific categories of information generated within the agency or for use by the agency in selecting the successful bid or proposal. There is provision for extending the statute's protections to other information that is marked as source selection information based on the determination that its disclosure would jeopardize the integrity or successful completion of the procurement.

Proposed subsection 27(f) would preclude the filing of a protest alleging a violation of the substantive restrictions of subsection 27 (a), (b), or (c), unless the protestor reported information to the Federal agency responsible for the procurement that he believed constituted evidence of the offense no later than 10 days after he first discovered the possible offense. This restriction is intended to provide the agency an opportunity to take administrative action or initiate investigations, as appropriate, where the information gives the agency reason to believe that a violation has occurred.

Proposed subsection 27(g)(1) contains language to ensure that contractor bid or proposal information and source selection information may properly be disclosed in accordance with applicable procedures and regulations. Subsection 27(g)(2) would make it clear that the Act is not intended to restrict a contractor from disclosing its own bid or proposal information. Subsection 27(g)(3) provides that otherwise protected information may be disclosed when a procurement has been cancelled prior to award and the agency does not plan on resuming the procurement. Subsection 27(g)(4) would ensure that the proposed Act is not construed to authorize the withholding of information from the Congress, the Comptroller General, a Federal agency, or an Inspector General of a Federal agency. Subsection 27(g)(5) would make it clear that the proposed Act would not authorize withholding information from a board of contract appeals or the Comptroller General incident to the bid protest process. Subsection 27(g)(6) is intended to preserve the applicability of any requirements, sanctions, contract penalties and remedies provided by other law or regulation.

Subsection 3(b) of the proposed Act would require that appropriate implementing regulations and guidelines be issued in the Federal Acquisition Regulation in coordination with the Federal Acquisition Regulatory Council. This subsection would require that proposed regulations and guidelines be issued within 120 days of enactment, and that implementing regulations and guidelines be issued within 180 days of enactment.

While portions of the procurement integrity provisions served a similar purpose to proposed section 27, the procurement integrity provisions used definitions and imposed certification requirements that introduced a measure of uncertainty and complexity not presented by the proposed Act.

SECTION 4—REPEALS

Section 4 would repeal three sets of statutes that, on a selective basis, impose additional restrictions upon the conflict of interest standards that apply to all personnel in the executive branch. Together with the proposed changes to section 27 of the Office of Federal Procurement Policy Act, repeal of these statutes would eliminate much of the complexity that now burdens the executive branch ethics program and encumbers agency efforts to provide meaningful ethics training and counseling.

The Ethics Reform Act of 1989 was passed in the wake of comprehensive executive and legislative branch reviews of the conflict of interest statutes that apply to all three branches of Government. As a result of that review, major amendments were made to 18 U.S.C. § 207 to establish a single, comprehensive, post-employment statute applicable to executive and legislative branch personnel who leave Government service; the basic conflict of interest statute, 18 U.S.C. § 208 was modified; new misdemeanor and civil remedies were added for violations of 18 U.S.C. §§ 207 and 208; and 5 U.S.C. § 7353 was added to establish uniform standards for the receipt of gifts by all Government personnel. A major purpose of the Ethics Reform Act of 1989 was to create a comprehensive body of conflict of interest restrictions applicable to employees throughout the three branches of the Government. That purpose is thwarted by the continued existence of the overlapping sets of statutes that would be repealed by this section.

Those portions of the procurement integrity provisions designed to protect procurement-sensitive information would be superseded by the new protections for bid or proposal information and source selection information added by section 3. The gratuities and revolving door restrictions of the procurement integrity provisions would be eliminated as duplicative in purpose of gratuities and revolving door statutes that apply to personnel throughout the executive branch.

To reduce the multiple layers of overlapping restrictions that burden the Defense Department ethics program, section 4 would repeal several revolving door statutes targeted at Defense Department personnel and their employment with contractors who do work for the Defense Department. The restrictions on seeking employment contained in 10 U.S.C. § 2397a and the post-employment restrictions of 10 U.S.C. § 2397b would be repealed because they are duplicative in

purpose of the revolving door restrictions that apply to all executive branch personnel under 18 U.S.C. §§ 207 and 208. The post-employment reporting requirements of 10 U.S.C. §§ 2397 and 2397c would be repealed because they encumber the Defense Department's ethics program with procedural requirements that do not contribute to the enforcement of the substantive post-employment restrictions.

Because they have been superseded in purpose by the more appropriate post-employment restrictions of 18 U.S.C. § 207, the military selling statutes, 18 U.S.C. § 281 and 37 U.S.C. § 801, would also be repealed. Their repeal would eliminate the unfairness of burdening retired military officers with two more layers of overlapping post-employment restrictions than apply to any other officers or employee in the executive branch.

Finally, section 4 would repeal the Energy Department revolving door statutes, sections 605 and 606 of the Department of Energy Organization Act (42 U.S.C. §§ 7215 and 7216), and their related sanctions and reporting and disclosure provisions. Enacted as a prototype for the one-year no-contact ban contained in 18 U.S.C. § 207(c), the Energy Department post-employment statute, section 605, makes Energy Department supervisory employees the only employees in the executive branch below pay grade 17 to be subject to a one-year no-contact ban. Under section 606, Energy Department employees are the only employees subject to a "reverse" revolving door statute that mandates their recusal from matters affecting a former employer with whom they have severed all financial ties.

SECTION 5—CONFORMING AMENDMENTS

Section 5 would amend the appropriate tables of sections in titles 10, 18, and 37, to strike references to the repealed provisions, and would amend the Department of Energy Organization Act to conform to the repeal of the provisions of that Act identified in section 4.

STATEMENT OF PURPOSE AND NEED

The purpose of the attached bill is two-fold. First, it would replace the procurement integrity provisions, section 27 of the Office of Federal Procurement Policy Act, with a new provision that more squarely addresses the same basic concerns: unauthorized disclosure and receipt of contractor bid or proposal information and source selection information. Second, it would remove section 27's gratuities and revolving door restrictions, and repeal three other sets of revolving door statutes applicable to officers and employees of the Department of Defense (DOD) and the Department of Energy (DOE).

Congress passed the Ethics Reform Act in November, 1989. The Ethics Reform Act added provisions to the existing body of conflict of interest laws applicable throughout the executive branch, and extended the application of many of those laws to all three branches of the Government. The Ethics Reform Act added a new provision restricting the receipt of gifts by officers and employees of all three branches and amended most of the basic statutes underlying the Government's ethics program. Amendments were made to 18 U.S.C. § 208, which places restrictions on negotiating for other employment while still in Government service, and 18 U.S.C. § 207, which restricts activities after Government service has ended. In addition, a new statute, 18 U.S.C. § 216, created a new class of misdemeanor violations and added civil remedies and injunctive relief for violations of most of the conflict of interest statutes in Chapter 11 of title 18 of the United States Code.

Section 507 of the Ethics Reform Act of 1989 suspended for one year, until December 1, 1990, section 27 and three other sets of statutes that impose additional and overlapping conflict of interest restrictions applicable to narrow classes of executive branch personnel. The suspended statutes include the DOD revolving door statutes at 10 U.S.C. §§ 2397a and 2397b, the military selling statute at 18 U.S.C. § 281, and most of the DOE conflict of interest statutes at 42 U.S.C. §§ 7211-7218. The perpetuation of these ethics statutes addressing similar conduct but applying different prohibitions to limited classes of officers and employees is at odds with the comprehensive purpose and structure of the Ethics Reform Act of 1989.

THE PROCUREMENT INTEGRITY PROVISIONS

Section 27 subjects Government procurement officials (i.e., those who participate personally and substantially in the conduct of a procurement prior to award) to four separate restrictions, with three corollary restrictions made applicable to competing contractors. Throughout the conduct of a procurement prior to award, it prohibits a procurement official from (1) seeking employment with a competing contractor; (2) soliciting or receiving gratuities from a competing contractor; and (3) making an unauthorized disclosure of proprietary or source selection information. For each of these three restrictions, there is a corollary restriction applicable to competing contractors. A separate provision extends the prohibition on unauthorized disclosure of proprietary and source selection information to anyone who has authorized or unauthorized access to such information. An additional restriction prohibits a former procurement official for two years from participating on behalf of a competing contractor (1) in any negotiations leading to award or modification of any contract for such procurement or (2) in the performance of such contract. There are a number of definitions and certification requirements that, in combination with recusal procedures and requirements to issue "safe harbor" opinions, make it difficult to integrate section 27 into the executive branch ethics program.

Protection of procurement-sensitive information

Although section 27 is broader in scope, its focus and important contribution to the scheme of Federal ethics-related legislation lies in its prohibitions on disclosing and obtaining procurement-sensitive information. The draft bill is a modified version of subsections 27(a)(3), (b)(3) and (d) (formerly (c)), constituting those portions of section 27 that protect proprietary and source selection information. It strengthens those protections while at the same time simplifying their application. The draft bill substitutes the phrase "contractor bid or proposal information" for "proprietary information" and provides a more specific definition of the information protected. It identifies nine categories of "source selection information" and includes a provision under which other information can be marked and protected as source selection information based on a case-by-case determination that its disclosure would jeopardize the integrity or successful completion of the procurement to which it relates.

One of the difficulties encountered in implementing section 27 has been the definitional problem of determining whether and when its substantive prohibitions have been triggered. Because of the variety of procedures under which procurement is conducted, it is often difficult to determine whether a particular procurement has begun or whether a particular individual is a procurement official and, thus, whether the prohibitions apply. For purposes of protecting procurement-sensitive information, the draft bill eliminates those difficulties by prohibiting the knowing and willful pre-award disclosure, other than as provided by law, of bid or proposal information and source selection information by anyone who, by reason of his office, employment, or relationship with the United States, has access to such information. The draft bill would include remedies similar to those contained in subsections 27 (h), (i), and (j) (formerly (g), (h), and (i)).

The recent "Ill Wind" investigations are frequently cited as justification for the restrictions imposed by section 27. A review of those completed to date indicates that the Justice Department has been successful in obtaining convictions using statutes such as the criminal conspiracy and conversion statutes that have long been on the books. Nevertheless, the fact that many of the Ill Wind cases involved individuals or companies who were trafficking in procurement-sensitive information tends to confirm the value of a statute designed to provide clear notice that those who improperly disclose or obtain bid or proposal or source selection information will be subject to criminal prosecution, civil fines, and appropriate administration action.

Unlike section 27, the draft bill does not rely on a complex system of certifications to ensure compliance. A primary lesson learned from the Ill Wind investigations to date has been that the conduct prosecuted has been conscious, deliberate, and in some cases, highly sophisticated criminal conduct. Such deliberate criminal conduct is unlikely to be deterred by the risk of additional penalties resulting from false statement violations under 18 U.S.C. § 1001. Furthermore, such deliberate criminal conduct is unlikely to be detected as part of the certification process required of the vast majority of individuals who have not engaged in criminal conduct. The practical value of certifications, then, would be to force procurement officials and contractor personnel periodically to consider the matters prohibited by the bill. This practical value must be weighed against the administrative costs involved.

The cumulative effect of the various certifications required of contracting officers, procurement officials, and contractor personnel by section 27 is to create an administrative burden that focuses limited agency resources on procedural rather than substantive requirements. To the extent that persons gained some knowledge of section 27 in the certification process, they would have learned that the wisest course of action would be to seek advice from agency ethics officials on specific matters. Statutory requirements to certify familiarity and compliance with a complex statute, coupled with requirements to report any information concerning a violation or possible violation of the statutory provisions, do not ensure that clear guidance is provided to the great majority of Government and contractor employees who want to abide by the rules. The time spent on completing certifications would be better spent on ethics training.

Restrictions on seeking employment

Given the effect of other statutes and standards of conduct that apply to officers and employees throughout the executive branch, the restrictions on seeking or offering employment imposed by subsections 27(a)(1) and 27(b)(1) are unnecessary. At the time of its enactment, section 27 supplemented these statutes and standards by creating civil remedies for conduct similar to that already prohibited. With the enactment of 18 U.S.C. § 216 as part of the Ethics Reform Act of 1989, Congress added new civil remedies to the existing criminal remedies of 18 U.S.C. § 208, thus eliminating much of the purpose of Subsections 27 (a)(1) and 27(b)(1). The draft bill would remove those prohibitions based on the enactment of 18 U.S.C. § 216 and the understanding that the subject of seeking employment is addressed in agency standards of conduct and is soon to be dealt with comprehensively across the executive branch in the uniform standards of ethical conduct soon to be issued under Executive Order 12674, April 12, 1989.

Every officer and employee in the executive branch is subject to 18 U.S.C. § 208(a), a criminal statute that prohibits his participation in a matter affecting the financial interests of any person with whom he is negotiating for or has an arrangement concerning future employment. Under this statute, any employee who is participating in a procurement on behalf of his agency must recuse—disqualify—himself from further participation in that procurement if he wishes to engage in employment negotiations with a competing contractor. Both the Department of Justice and the Office of Government Ethics view even the unilateral submission of a resume to a competing contractor—conduct short of "negotiating"—as conduct requiring an employee's recusal from further involvement in a procurement under the standards of conduct. A contractor's offer of employment to an executive branch employee who is working on a procurement that affects the contractor's interests may, depending on the circumstances, also constitute a bribe or illegal gratuity.

The prohibitions of subsection 27(a)(1) and 27(b)(1) on seeking and offering employment are, thus, largely duplicative of standards now applicable throughout the executive branch. Consistent with these standards, the Defense Authorization Act of 1990 amended section 27 to establish procedures that would allow many procurement officials to recuse themselves form further involvement in a procurement in order to seek employment with a competing contractor. As amended, section 27 imposes an absolute ban on employment negotiations with a competing contractor for only those procurement officials who have participated personally and substantially in (1) evaluation of bids or proposals; (2) selection of sources; or (3) conduct of negotiations.

The recusal of an employee from any further participation in a procurement ensures that an employee seeking outside employment cannot use his Government position to take action that might benefit a potential employer. Thus, the absolute restrictions on seeking employment imposed by section 27 serve only the collateral purpose of reducing the opportunities for employees and competing contractors to engage in communications that might result in disclosure of procurement-sensitive information. Upon the enactment of a statute that prohibits unauthorized disclosure and receipt of bid or proposal or source selection information, even those concerns become redundant.

As applied to DOD personnel whose duties relate to procurement, the prohibitions of subsection 27(b)(1) compound with 10 U.S.C. § 2397a, discussed below, and Government-wide standards on seeking employment to create a structure consisting of three sets of rules governing essentially the same conduct. Because each involves different procedural requirements, they result in DOD personnel having to learn and comply with three overlapping sets of rules. This layering of restrictions is counterproductive to efforts to provide meaningful training and administer an overall agency ethics program.

Post-employment restrictions

The draft bill would remove as unnecessary the post-employment restrictions imposed upon former procurement personnel by subsection 27(f) (formerly (e)). A review of the factual information underlying the "Ill Wind" indictments and pleas to date indicates that none of the individuals or companies involved had engaged in conduct that would have violated subsection 27(f). Specifically, there is no indication that, after leaving Government service, any individual performed work under a contract or assisted a competing contractor in negotiations leading to the award of a contract on which he had participated during Government service.

Every former officer or employee within the executive branch is subject to the criminal post-employment statue, 18 U.S.C. § 207. This statute was recently subject to extensive review. As part of the Ethics Reform Act of 1989, major amendments were made to 18 U.S.C. § 207 to establish a single, comprehensive, post-employment statute applicable to former executive and legislative branch personnel. Among its several proscriptions is a lifetime bar that prohibits a former officer or employee who participated personally and substantially in a procurement from representing any other person before a department or agency of the United States in connection with that same contract.

Potentially, there are three ways in which Government personnel can abuse the trust of their public office when seeking employment with Government contractors. Before leaving government, they may seek to curry favor with a potential employer by acting in a procurement with less than the perfect impartiality required of Government service. The disqualification requirements, discussed above, are an effective check on this type of conduct. After leaving the Government, there are the dual concerns that they may take unfair advantage of their former positions to benefit a new employer either by using their influence with former associates or by revealing or using nonpublic information obtained as a result of their Federal employment. By banning contacts back with their former associates on matters in which former employees were involved, 18 U.S.C. § 207 adequately addresses the potential for improper use of influence. The draft bill squarely addresses the latter concern that a former employee, advisor, or consultant will reveal procurement-sensitive information.

Given the Government-wide post-employment statute and assuming the existence of legislation such as the draft bill, there is no need for post-employment restrictions that single out procurement personnel for restrictions more onerous than those imposed upon other employees whose actions may have an equally significant impact upon potential employers. Because it does not involve contacts with former associates and because source selection and bid and proposal information lose their importance with respect to a particular procurement once a company has been awarded a contract, the prohibition at subsection 27(f)(2) on performing work under a contract circumscribes conduct that poses no potential for abuse of former position. After award, the Government and the contractor instead have a shared interest in successful performance, and the efforts of former Government employees devoted to that end are ultimately beneficial to the Government. Arguably, the prohibition at subsection 27(f)(1) on participation in negotiations may provide some collateral insurance that procurement-sensitive information is not disclosed. That additional insurance is needed, however, only if the information is not adequately protected, as it would be under the draft bill. And, that insurance comes at a high cost to executive branch efforts to administer a meaningful ethics program and to recruit and retain qualified personnel.

For individual employees, the post-employment proscriptions of subsection 27(f) add a second, third or fourth layer of post-employment restrictions. The net effect of imposing multiple overlapping and inconsistent post-employment restrictions is to render the post-employment portion of the executive branch ethics program so complex that even senior agency ethics officials are challenged to master the matrix of applicable restrictions. A military officer retiring from a position that involves procurement responsibilities is subject to 5 different post-employment statutes, three of which contain multiple prohibitions; DOD and DOE civilians are subject to three. In view of the complexities of 18 U.S.C. § 207 and section 27(f), even the double layering of post-employment restrictions that applies to non-DOD and non-DOE agencies is counterproductive to efforts to provide ethics training and advice regarding the responsibilities of former employees.

Congress recognized the complexity of section 27's post-employment restrictions and concluded that education and counseling alone cannot be expected to provide notice of whether particular employment arrangements will violate those restrictions. The Defense Authorization Act of 1990 amended section 27 to add a new subsection (k), which requires agency ethics officials to provide procurement officials with "safe harbor" opinions regarding the applicability of section 27. Because the statute provides other mechanisms for employees to determine whether they may seek employment or disclose information, the safe harbor opinions required by subsection 27(k) will deal primarily with the post-employment restrictions at subsection 27(f).

DOD has now had considerable experience in issuing safe-harbor opinions under 10 U.S.C. § 2397b to DOD employees who have performed procurement functions. DOD contractors as a matter of practice refuse to hire former DOD personnel who have not obtained a safe-harbor opinion guaranteeing that their employment cannot be challenged. These opinions are not pro forma. Each must be written by a lawyer and tailored to address the propriety of employment with a specific contractor based on the particular procurement duties the employee performed. At a considerable cost in terms of lawyer hours expended, DOD has provided approximately 4,400 of these

safe harbor opinions over the past 2½ years. In only about two hundred cases, would the employee's post-employment activities have been restricted by 10 U.S.C. § 2397b.

Based on the DOD experience, it is unlikely that any Government contractor would offer employment to a Government employee who has had purcurement-related responsibilities without first obtaining a safe harbor opinion under subsection 27(k). Thus, agency ethics officials, particularly those in the procurement agencies, can expect to be inundated with requests for these opinions. The very substantial effort expended on these opinions will redirect resources better used in implementing other aspects of agency ethics programs. As a matter of principle, safe harbor opinions should be unecessary in the ethics arena. Ethics laws must be sufficiently straightforward that most employees can understand and comply with their limitations without obtaining a written legal opinion.

Gratuities restrictions

The draft bill would repeal the gratuities prohibitions contained in subsection 27(e)(2) and 27(b)(2). There are a number of statutes other than section 27 that restrict the ability of Federal officers and employees to accept gratuities. Executive branch employees, including those with responsibilities relating to procurements, are prohibited by 18 U.S.C. § 209 from accepting any supplementation of salary as compensation for their services. The statute contains corollary restrictions that prohibit contractors from supplementing the salary of Federal employees. Subsection 201(c) of title 18 subjects both the donor and the public official recipient of an illegal gratuity to criminal prosecution. As defined in that statute, the term "public official" would extend the provision's coverage to contractors, experts or advisors assisting an agency with respect to a procurement. 18 U.S.C. § 218 provides authority for voiding contracts where there is a related violation of 18 U.S.C. §§ 201 or 209. The clause inserted into many contracts pursuant to 10 U.S.C. § 2207 gives the Government a contractual remedy against a contractor who offers or gives any gratuity to an officer or employee of the United States in order to receive favorable treatment in connection with a Government procurement.

In addition to these longstanding statutory prohibitions, executive branch employees are subject to the standards of conduct regulations issued under Executive Order 11222. Under agency implementing regulations, officers and employees who have responsibilities relating to a particular procurement are prohibited from accepting gifts from a contractor with an interest in the procurement, unless the gift comes within one of a very few narrowly-drawn exceptions.

The gift restrictions imposed by Executive Order 11222 are carried forward and broadened by the new Principles of Ethical Conduct for Government Officers and Employees contained in Executive Order 12674 of April 12, 1989 and in 5 U.S.C. § 7353 which was added by the Ethics Reform Act of 1989. The Office of Government Ethics is drafting new standards of ethical conduct that, as required by the new Executive order, will establish "a single, comprehensive and clear set of executive branch standards of conduct that shall be objective, reasonable and enforceable." The new standards of ethical conduct will concurrently implement the gift restrictions contained in the Executive order and in the new statute. Because they will apply uniformly throughout the executive branch and supersede individual agency regulations that adopt varying exceptions to the basic gift prohibitions, the uniform standards of conduct will eliminate the problem of contractors having to learn different gift rules for each agency they contract with.

In terms of substantive restrictions, subsections 27(a)(2) and 27(b)(2) largely duplicate the standards of conduct. They impose a stricter standard by mandating the issuance of an implementing regulation defining prohibited gifts from competing contractors to include "a single uniform Government exclusion at a specified minimal dollar amount." The new standards of conduct will achieve the uniformity contemplated by this requirement. Because it would be unworkable and unjustifiably restrictive, however, their exclusions will not be limited to a single exclusion at a specified minimal dollar amount. A single exclusion of this nature would not provide appropriate exceptions such as those necessary to allow employees to accept entertainment and gifts from family members who happen to be employed by prohibited sources. Nor would a single exclusion allow employees to accept certain generally-available commercial discounts. The necessity for reasonable exceptions such as these makes it unnecessarily harsh to restrict gifts to procurement personnel to those that meet a single de minimis standard. Moreover, any such requirement targeted only at procurement personnel defeats a major goal of the President's ethics program—a uniform set of gift and other standards of conduct applicable to all personnel within the executive branch.

THE DOD STATUTES

The draft bill would repeal the four sections of title 10 directed at DOD personnel and their potential or actual employment with DOD contractors. Sections 2397a and 2397b were suspended by section 507 of the Ethics Reform Act of 1989. The former imposes recusal and related procedural requirements applicable to mid-level and senior-level DOD personnel who have performed a procurement function in connection with a defense contract and who wish to seek other employment. The latter imposes a set of post-employment restrictions directed at a selected subclass of those same personnel. The other two statutes impose post-employment reporting requirements. Section 2397 requires former mid-level and senior-level DOD personnel to file reports if they are employed by a major defense contractor at an annual pay rate of $25,000 within the two years after leaving DOD. Section 2397c, a corollary to section 2397, requires major defense contractors to submit annual reports identifying former DOD personnel who, within two years after leaving DOD, were compensated by the contractor.

Restrictions on seeking employment

The draft bill would repeal section 2397a on the basis that it is duplicative and subjects a selected class of employees to unnecessary procedural requirements intended to ensure that they do not improperly use their positions to further the interests of a potential employer.

The procedures required by section 2397a apply to DOD personnel in positions at GS-11 or 0-4 and higher who have performed a procurement function with respect to a contract awarded by DOD and who contact or are contacted regarding future employment opportunities by the defense contractor to whom the contract was awarded. Unless the employee simply rejects an unsolicited employment overture by the contractor, he must file a written report of the contact and recuse himself from further participation in the performance of procurement functions relating to contracts of that defense contractor for any period during which the future employment opportunity has not been rejected.

18 U.S.C. § 208 and the standards of conduct already require the employee's recusal under essentially the same conditions. To this substantive requirement of recusal, section 2397a adds only the procedural requirement that the employee give written notice of the contact and file a written recusal statement. It mandates compliance with these procedures even though an employee is no longer performing duties that impact upon his prospective employer and, as a consequence, is recused in fact from the performance of procurement functions relating to the contracts of that particular defense contractor. Section 2397a imposes significant penalties for a DOD employee's failure to comply with these procedural requirements.

The subject of seeking employment is to be dealt with comprehensively in the standards of ethical conduct soon to be issued under Executive Order 12674 for application to all personnel in the executive branch. In the interest of uniformity and because it is discriminatory to subject DOD procurement personnel to procedural requirements and penalties that differ from those applicable to other officers and employees of the executive branch, the draft bill would repeal section 2397a.

Post-employment restrictions

The draft bill would repeal the cumbersome post-employment restrictions contained in 10 U.S.C. § 2397b for the reason that they burden DOD's ethics program with an additional layer of complex post-employment restrictions applicable only to a selected class of officers and employees.

Section 2397b prohibits former mid-level and senior-level DOD personnel from receiving compensation from particular major defense contractors for two years after separating from DOD if, during their last two years of DOD service, they performed certain procurement-related functions with respect to those contractors. The prohibitions apply to those SES and 0-7 level personnel who, during the two-year period prior to separation, served as a primary representative of the United States in the negotiation of a contract or settlement of a claim over $10,000,000 and to employees who, during a majority of their working days during the 2 year period prior to separation, performed a procurement function:

(1) at a contractor's plant which was the employee's principal location of work on that procurement; or

(2) relating to a major weapons system and participated in a manner involving decision-making responsibilities with respect to a contract for that system through contact with a contractor.

Subsection 2397b(e) provides that any person may request that the designated agency ethics official provide advice on the applicability of section 2397b and requires issuance of a written opinion not later than 30 days after receipt of all relevant information pertaining to the request.

DOD experience indicates that these restrictions have a potential for application to very few DOD personnel. Notwithstanding

its narrow application, section 2397b has created an administrative burden that probably was not envisioned and that would appear to be dispropritionate to the purpose it serves. Because of the penalties to which they may be subject (up to $500,000 for a single violation by a contractor), most defense contractors, as a matter of practice, now refuse to hire any former DOD officer or employee who, regardless of his activities while in Government service, has not obtained a safe harbor opinion under subsection 2397b(e). From April 6, 1987, when the section became effective, through December 1, 1989, when it was suspended, DOD was required to prepare approximately 4,400 lengthy written opinions, only 4 percent of which indicate that any limitations were applicable under the law.

Section 2397b uses concepts and definitions of such complexity that it would probably be unfair to leave employees and contractors to their own resources to determine whether a particular employment relationship is precluded. Yet, the necessity to provide definitive legal advice has diverted thousands of manhours that could better be used in providing ethics training and counseling. This complexity, when layered on top of the Government-wide post-employment standards which all DOD employees must learn makes it difficult for DOD to provide meaningful training to its many employees involved in procurements. With the three layers of post-employment statutes (18 U.S.C. § 207, 10 U.S.C. § 2397b and section 27) applicable to civilians, the best that ethics training can hope to accomplish is to give employees the impression that employment after Government service has so many pitfalls that they must seek individualized counseling before leaving government. The challenge of providing meaningful training for military officers is compounded by two additional layers of post-employment restrictions imposed by 18 U.S.C. § 281 and 37 U.S.C. § 801 (discussed below).

Reporting requirements

The draft bill would repeal the reporting provisions of 10 U.S.C. §§ 2397 and 2397c because they encumber DOD's ethics program with procedural requirements that do not contribute to the enforcement of the post-employment restrictions.

The reporting requirements of section 2397 are imposed upon current and former military officers in grade O-4 and above and current and former employees at the GS-13 level and above. If employed by a major defense contractor at an annual pay rate of at least $25,000 within the two-year period after leaving DOD, they must file a report which, among other things, describes their current duties and the duties they performed within their last two years of service with DOD. During a two year period after leaving DOD, a new report must be filed each time there is a significant change in the employee's duties and upon employment with a different contractor. Current DOD employees must file reports if they were employed by a major defense contractor at an annual rate of at least $25,000 within the two-year period prior to beginning employment with DOD.

Section 2397c requires a major defense contractor to submit an annual report to the Secretary of Defense identifying former or retired DOD officers and employees who have been compensated by the contractor during the period covered by the report and received that compensation within two years after leaving DOD. Contractor reports contain information similar to that reported by former employees under section 2397.

These two statutes single out DOD personnel and contractors for the imposition of requirements not applicable to personnel and contractors of other agencies. Such differential treatment is at odds with Congressional and Administration efforts to provide uniformity in ethical standards that apply throughout the executive branch. The reports they elicit have not proved to be of value in enforcing any of the substantive conflict of interest provisions. Neither section has provided a basis for initiating action for violation of any requirement other than the requirement to file the reports themselves.

The burden of collecting, analyzing and obtaining clarifications on the information required to be filed under both sections is substantial. The General Accounting Office has estimated that compliance with the individual filing requirements of section 2397 has been as low as 30% and DOD ethics personnel have on several occasions been diverted from other duties in attempts to contact thousands of non-filers. The resources dedicated to collecting these reports would be better spent in more productive areas, such as providing ethics advice and training relating to the substantive post-employment restrictions of 18 U.S.C. § 207.

THE MILITARY SELLING STATUTES

The draft bill would repeal two post-employment statutes which are generally referred to as the "selling statutes." These statutes, 18 U.S.C. § 281 and 37 U.S.C. § 801, apply only to certain retired military officers and have been superseded in purpose by the Government-wide post-employment statute, 18 U.S.C. § 207.

The criminal selling section of the statute, 18 U.S.C. § 281(a), prohibits a retired officer of the armed forces, for two years after retirement, from representing anyone in the sale of anything, including services, to the United States through the military department in which he retired. Section 281(b) prohibits a retired officer of the armed forces, for two years after retirement, from acting as agent or attorney for prosecuting or assisting in the prosecution of any claim against the United States involving the department in which he retired or involving any subject matter with which he was directly connected while on active duty. Section 281(b) affects very few individuals, but adds to the confusion of laws. Although it is a representation restriction rather than a selling restriction, the considerations discussed below apply to section 281(b), as well as section 281(a).

18 U.S.C. § 281 was suspended for one year by the Ethics Reform Act of 1989. The civil companion to the criminal selling statute, 37 U.S.C. § 801, provides for the loss of retired pay by a retired regular officer of the uniformed services if, within three years after his name is placed on the retired list, he engages in activities involving the sale of supplies or war materials do DOD, the Coast Guard, NOAA or the Public Health Service. This particular section was not suspended.

Like 18 U.S.C. § 207, the two selling statutes are directed at the improper use of influence by former Government officials and, thus, prohibit representational activities. The Government-wide post-employment statute, however, establishes a more appropriate scheme of restrictions. Section 207 provides a comprehensive series of bans on post-Government activities that relate directly to both the level and nature of a former official's Government service and to the particular matters on which he worked as a Government official.

Under 18 U.S.C. § 207, certain very senior personnel including former officers at O-9 and above, are subject to a one-year ban on contracts back with their former agencies. It is an anomaly that all retired officers, including those at lower ranks, are subject to two-year and three-year restrictions, respectively, on contacts made for the purpose of selling to their former agencies or departments. Under subsections 207(a) and (b)(i), applicable to former officers and employees regardless of grade, the prohibitions on representational activities are triggered only if the employee has participated personally and substantially in a particular matter involving specific parties, or if that matter fell under his official responsibility while in Government service. His representational activities are only limited with respect to that same matter. The sort of nexus which makes this restriction appropriate and meaningful is lacking in both selling statutes. For example, a retired Regular officer with a career of operational fleet assignments and no involvement with procurement is restricted in his selling activities on behalf of a DOD contractor for 2 and 3 years, respectively, under the criminal and civil selling statutes. At at time when most of the procurement work of DOD is conducted by civilians, there would seem to be no basis for singling out subclasses of retired military personnel for more restrictive post-employment rules regarding sales to the Government.

Military officers are subject to an unbelievably complex and confusing scheme of post-employment restrictions. Retired Regular officers of the armed forces can, immediately following their retirement, represent others in the sale of services to each military department except that in which they hold retired status. They may sell their own services directly to the military department in which they hold retired status. Representing others in the sale of anything to that department would, however, violate 18 U.S.C. § 281; selling supplies and war materials to any agency of the DOD or to any uniformed service not under the jurisdiction of the Department would violate 37 U.S.C. § 801. Two years after their retirement, they can legally begin to represent others in selling services, but not supplies or war materials, to the military department in which they hold retired status, to the other DOD agencies, and to the uniformed services not under the jurisdiction of DOD. One year later, they can represent themselves or others in selling anything to any agency of DOD and to the uniformed services not under the jurisdiction of DOD. None of these restrictions apply to former civilian employees of DOD, officers leaving prior to retirement, or retired enlisted personnel regardless of the nature of their prior duties.

Notably, the selling statutes are only two of five layers of post-employment restrictions that former officers must take care not to violate. In addition, each is subject to the Government-wide post-employment statute, 18 U.S.C. § 207 and, if his duties related to procurement, section 27 and 10 U.S.C. § 2397b may apply. These five layers of post employment statutes create a system of restrictions of such complexity as to be destructive of efforts to administer a meaningful ethics program and provide training and counseling for officers.

THE DEPARTMENT OF ENERGY STATUTES

The draft bill would repeal two DOE revolving door statutes, sections 605(a) and 606 of the DOE Organization Act (42 U.S.C. §§ 7215(a) and 7216), and the related reporting requirements of sections 604 and 605(b) (42 U.S.C. §§ 7214 and 7215(b)).

Post-employment restrictions

The draft bill would repeal the substantive post-employment restrictions of section 605(a) on the basis that they have been superseded in purpose by the Government-wide post-employment statute, 18 U.S.C. §207, and result in a layering of restrictions that encumber the DOE ethics program. It would repeal the related reporting requirements of section 605(b), along with the relevant sanctions at sections 608(b) and (c), on the basis that these procedural requirements and sanctions do not aid in the enforcement of any of the substantive post-employment restrictions.

For one year after their DOE employment has ceased, section 605(a) provides that former "supervisory employees" of DOE may not knowingly "(A) make any appearance or attendance before, or (B) make any written or oral communication to, and with the intent to influence the action of the Department" in a matter pending before DOE. In terms of the activity it restricts, the DOE statute is virtually identical to the one-year no-contact ban imposed by 18 U.S.C. § 207(c) on higher-level employees throughout the executive branch. As part of a comprehensive revision of the Government-wide post-employment statute, the one-year no-contact ban will apply as of January 1, 1991, to anyone in a position for which the basic rate of pay is equal to or greater than the basic rate for GS-17.

The DOE statute has the practical effect of extending the one-year no-contact ban to lower level DOE employees. Within the statutory definition of "supervisory employees" are all employees holding GS-16 or comparable positions, Directors and Deputy Directors of field offices, any employee who has primary responsibility for the award, review, modification, or termination of any grant, contract, award, or fund transfer and other employees designated by the Secretary.

The DOE statute pre-dates the major revisions to 18 U.S.C. § 207 made by the Ethics in Government Act of 1978. In a sense, section 605(a) served as the prototype for the one-year no-contact ban enacted in 1978 as 18 U.S.C. § 207(c). Because 18 U.S.C. § 207 was intended to establish uniform standards for application throughout the executive branch, the DOE statute should have been repealed at that time. There appears to be no rational basis for extending to DOE employees at lower grades the same restriction that Congress, after much deliberation, concluded should apply only to those at GS-17 and above. It is discriminatory to single out former DOE employees as the only employees in the Government barred from contacting their former agency for one year based on their former employment in certain positions below GS-17.

For DOE employees, section 605 adds a layer of post-employment restrictions atop the procurement integrity provisions of section 27 and the Government-wide post-employment statute, 18 U.S.C. § 207. This triple layering of post-employment restrictions compounds the difficulty of providing ethics training and advice for DOE personnel.

The second part of the same statute, section 605(b) creates a post-employment reporting system applicable to former supervisory DOE employees. It requires former DOE supervisory personnel to report any employment with an energy concern for two years after DOE employment. The reports filed under section 605(b) identify the energy concern that employs or will employ the former DOE employee and the nature of the duties performed or to be performed by the former DOE employee. As with the DOD post-employment reports filed under 10 U.S.C. § 2397, these reports are of no value for the purpose of identifying violations of the substantive post-employment restrictions.

Participation restrictions

The draft bill would repeal the one-year participation restrictions of section 606 applicable to supervisory employees of DOE. Along with the relevant sanctions at section 608(b), it would repeal the related reporting and disclosure requirements of sections 604 and 607 (42 U.S.C. §§ 7214 and 7217).

In the nature of a "reverse" revolving door restriction, section 606 imposes one-year cooling-off periods upon newly-appointed supervisory employees. These prohibit participation in Departmental proceedings if a former employer which is an energy concern is involved. Specifically, a supervisory employee is prohibited from participating:

(1) for a period of one year after terminating any employment with an energy concern, in a DOE proceeding, other than rulemaking, in which his or her former employer is involved; and

(2) for a period of one year after commencing service with DOE, in a DOE proceeding for which, within the previous five years, the employee had direct responsibility or participated personally and substantially as an employee of the energy concern.

Employees of DOE are the only employees in the executive branch subject to a recusal requirement of this nature. The Government-wide conflict of interest statute, 18 U.S.C. § 208, requires all executive branch employees to recuse themselves from participation in matters affecting their own financial interests. Those who come to Government service while retaining a financial interest in a former employer, as through continued participation in a retirement or insurance plan, are subject to a recusal obligation under 18 U.S.C. § 208 that continues for as long as the employee retains the interest. Others who have severed all ties with a former employer at the time they enter Government service are subject to the standards of conduct which require them to avoid even the appearance of lack of impartiality or preferential treatment. Depending on the circumstances, this may require employees to recuse themselves from participation in matters affecting their former employers.

For DOE employees, the participation restrictions of section 606 add one more layer of selective restrictions that have failed to prove their effectiveness in protecting the Government's interests. To administer these participation restrictions, section 604 imposes an additional reporting requirement upon newly-appointed supervisory employees requiring them to describe former relationships with energy concerns. Those reports are required to be made available to the public under section 607(a) and partially duplicate financial disclosure requirements under the Ethics in Government Act. The DOE ethics program would function more efficiently with no loss of effectiveness without the reporting and disclosure burdens imposed by these sections.●

● Mr. GLENN. Mr. President, in November 1989 the Bush administration sought the repeal, and then proposed the suspension of the procurement integrity statute [section 27 of the Office of Federal Procurement Policy Act, codified at 41 USC 423, as amended by the 1990-91 Defense Authorization Bill, Public Law 101-189 (November 29, 1989)] supported by the Reagan administration and the Congress. In order to obtain a pay raise, Congress grudgingly agreed to the suspension of procurement integrity in the Ethics Reform Act—Public Law 101-194, November 30, 1989.

I did not agree with the suspension because I believed it vitally necessary to prevent the inappropriate flow of proprietary and source selection information that might threaten the integrity of the Government procurement process. Now 8 months later the administration has produced a draft bill as a proposed replacement for procurement integrity, confirming that statutory coverage is necessary to provide criminal, civil, contractual, and administrative penalties for those who solicit, give, or obtain procurement information which should be protected from inappropriate disclosure.

Let me focus the attention of my colleagues in the Senate on some of the salient differences between the administration's proposal and the procurement integrity statute as it currently exists. These differences will have to be resolved by the Congress. Because of the administrative's tardiness in presenting this package, we have little time to work on these issues in this Congress. So in setting out these differences I would like to start the debate process by providing some preliminary comments on some of these issues. I look forward to learning more about the administration's proposal, and agreeing where we can.

First, the current statute prohibits the giving or solicitation of gratuities in the contracts arena. The administration bill drops all coverage of gratuities.

Second, the current statute prohibits the making of job offers or solicitation of such offers for persons who are personally and substantially involved on the government side of the procurement. The administration's bill drops all coverage of such actions.

In both cases, the administration claims it will issue adequate standards of conduct to replace the statutory coverage. Unfortunately, these standards of conduct do not yet exist. Draft standards have been provided by the Office of Government Ethics to the White House and Justice Department on February 12, 1990. They still sit there today. Congress has not seen them.

The Congress of the United States cannot accept the promise of administrative standards it has not seen. If the administration is serious about the efficacy of its package, and I believe their proposal is a serious attempt to bridge the current gap of disagreement, the relevant portions of these standards must be provided to the Congress immediately. We need to know how these standards will be enforced. Furthermore, these standards, if acceptable substitutes, must insure that coverage becomes effective prior to the date any substitute package is created by the Senate.

Third, current law contains a revolving door restriction which prohibits government procurement officials from working on the same contract for a contractor for a 2-year period. Again, the administration bill has no statutory coverage in this area. They believe last years amendments to 18 U.S.C. 207 in the Ethics Reform Act provide sufficient coverage.

Fourth, current law contains a felony penalty for those who knowingly and willfully traffic in protected information. The administration bill weakens this provision, making the felony a misdemeanor. They provide a new felony which adds elments of proof—the prosecution would be required to prove an exchange of value—bribe, gratuity, job offer et cetera—or that the information unlawfully obtained provides a "competitive advantage". Presumably some people will be so inept in their criminal activity as to knowingly and willfully solicit or offer information that will not be of assistance.

Fifth, the current statute contains provisions which would allow the Government to recapture profits on contracts which had been unlawfully obtained by contractors obtaining prohibited information. The administration proposal drops this nonmandatory remedy from the bill. I cannot understand what objection the administration has to having such a penalty in the enforcement menu. The taxpayers deserve to have such a penalty provision in contracts to protect them. I believe the administration will have to come up with a very persuasive rationale on this point.

Sixth, the current statute permits civil fines of $100,000 for individuals and $1,000,000 for corporate entities. The administration proposal halves these penalties to $50,000 and $500,000 respectively. I look forward to hearing the administration's rational for this reduction.

Seventh, current law requires two types of certifications to be made. First, it requires Government and industry procurement officials once in their career to certify that they understand their obligations to internally report possible violations of the law. These certificates were the end result of requiring some training so that legal and ethical obligations imposed by the statute are met. Personally, I have never been certain that these individual certificates are worth the paperwork burden they imposed. But the administration's corresponding failure to require training needs to be reviewed.

Second, in each procurement one top official on each side was required to disclose any possible violations which may have occurred so these matters can be investigated prior to award, or certify that they had no such information. The administration has dropped all certifications in their proposal. I see substantial utility in this procurement specific certificate—their purpose is to prevent the award of a contract which is tainted by creating a duty to disclose.

While deliberate law breakers may be glad to perjure themselves, corporations and the Government as a whole are characterized by lawful honest behavior. The disclosure provision, requiring as it does some level of inquiry, and the affirmative obligation to disclose, seems both useful and necessary. That is not to say that some changes might not be helpful. Perhaps we should retain but amend this provision—for example, by exempting those contractors who have agreed to voluntarily disclose violations.

Similarly, at the heart of the objections of Government officials is the belief that such certifications are demeaning. That is not the intent of the section. The Government employee's obligations to disclose, which already exist implicitly as part of their fiduciary and trust responsibilities can be made explicit in the Federal Acquisition Regulation, and other methods found to effectuate such a FAR requirement.

I look forward to working with thoughtful persons in Government and industry to seek an appropriate solution to this problem, but one which keeps the taxpayers interest at heart.

Finally, the heart of the administration's bill is a different but not dissimilar restriction against disclosures of procurement information. The administration believes its proposal is less cumbersome than existing law, because once they jettisoned the gratuity, revolving door, and job offer issues, there was no longer a need to provide instruction as to when a procurement begins, or who is a procurement official. There does appear to be advantages to this approach with respect to the information provisions.●

By Mr. SIMON:

S.J. Res. 337. Joint resolution designating Labor Day weekend, September 1 through 3, 1990, as "National Drive for Life Weekend"; to the Committee on the Judiciary.

NATIONAL DRIVE FOR LIFE WEEKEND

Mr. SIMON. Mr. President, I rise today to introduce a joint resolution to designate September 1-3, 1990, as "National Drive for Life Weekend."

This resolution, which is similar to the one I have introduced for the last 2 years, will designate Labor Day weekend as the focus of the fourth annual Drive for Life. This national public service campaign is sponsored by Mothers Against Drunk Drivers [MADD] and Volkswagon United States, Inc. and ask all Americans to pledge to be responsible by driving sober and encouraging others to do the same.

More than 23,000 people were killed in the United States last year as a result of alcohol-related accidents, an average of 65 individuals each day. Statistics indicate that 2 out of every 5 individuals in this country will be involved in a drunk-driving related accident as some point in their lives.

The Drive for Life campaign seeks to reduce the very high number of alcohol-related car accidents in the United States by implementing a month-long public awareness program aimed at educating the public on the dangers of drunk driving.

Drive for Life focuses on the Labor Day weekend, a time when the number of alcohol-related accidents traditionally runs 10 percent above the average. During the Third Annual Drive for Life Day the death toll for drunk-driving related crashes was down 25.7 percent from Labor Day weekend Saturday in 1988. By declaring September 1-3 as "National Drive for Life Weekend," Congress will assist the campaign's effort to continue focusing national attention on the dangers of drunk driving.

I would also like to thank both MADD and Volkswagon United States, Inc. for their continuing efforts to promote Drive for Life. The success of this campaign to safeguard American lives requires the cooperative effort of us all.

By Mr. BOSCHWITZ (for himself and Mr. DURENBERGER, THURMOND, DOMENICI, SHELBY, BURNS, BREAUX, BOND, JEFFORDS, ROBB, BURDICK, JOHNSTON, MURKOWSKI, HOLLINGS, STEVENS, COCHRAN, KASTEN, MCCLURE, and SYMMS):

S.J. Res. 338. Joint resolution designating July 1, 1990, as "National Ducks and Wetlands Day"; to the Committee on the Judiciary.

NATIONAL DUCKS AND WETLANDS DAY

● Mr. BOSCHWITZ. Mr. President, I rise today with my colleagues Senator DURENBERGER, THURMOND, DOMENICI, SHELBY, BURNS, BREAUX, BOND, JEFFORDS, ROBB, BURDICK, JOHNSTON, MURKOWSKI, HOLLINGS, STEVEN, COCHRAN, KASTEN, MCCLURE, and SYMMS to

introduce a joint resolution designating July 1, 1990, as "National Ducks and Wetlands Day."

Each year, the United States loses almost 500,000 acres of wetlands. Through the Federal Duck Stamp Program, however, the U.S. Department of the Interior has been able to acquire almost 4 million acres of prime habitat for the National Refuge System.

Americans purchase more than 1.5 million duck stamps annually at a cost of $12.50 each to support the conservation benefits of saving wetlands. Duck stamps are not postage stamps, but are used by hunters to validate their licenses. During the past 56 years, the Federal Duck Stamp Program has raised more than $400 million for preservation.

On July 1, the Fish and Wildlife Service will issue the 57th annual duck stamp to go on sale at post offices nationwide. This year's duck stamp artist, Jim Hautman of Plymount, MN, is the 14 duck stamp designer from Minnesota. He will be honored at a first day of sale ceremony in Bloomington, MN, with information and family activities to support the conservation of wetlands and waterfowl. Also honored at this ceremony will be Les Kouba, friend to many duck and wetlands supporters, an outstanding artist, and a good friend of mine.

Mr. President, we believe it's important to encourage Americans to recognize and support conservation efforts. This resolution is also supported by Secretary of the Interior Manuel Lujan, the U.S. Fish and Wildlife Service, the Federal Duck Stamp Office, and Ducks Unlimited.

Undeniably, the Federal duck stamp has been one of our Government's most successful programs. To recognize the outstanding contributions of the duck stamp and the importance of our Nation's wetlands, I urge my colleagues to join us as cosponsors of National Ducks and Wetlands Day.

Save our wetlands, purchase a duck stamp.●

ADDITIONAL COSPONSORS

S. 513

At the the request of Ms. MIKULSKI, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 513, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend certain retirement provisions of such chapters which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.

S. 874

At the request of Mr. FORD, the name of the Senator from Colorado [Mr. WIRTH] was added as a consponor of S. 874, a bill to establish national voter registration procedures for Presidential and Congressional elections, and for other purposes.

S. 982

At the request of Mr. REID, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 982, a bill to repeal a provision of Federal tort claim law relating to the Civil liability of Government contractors for certain injuries, losses to property, and deaths and for other purposes.

S. 985

At the request of Mr. LEVIN, THE NAME OF THE SENATOR FROM CONNECTICUT [MR. DODD] was added as a cosponsor of S. 985, a bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to release information to participants of a qualified pension plan.

S. 1076

At the request of Mr. BURDICK, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1076, a bill to increase public understanding of the natural environment and to advance and develop environmental education and training.

S. 1273

At the request of Mr. BOREN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets.

S. 1577

At the request of Mr. BOREN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1577, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 1653

At the request of Mr. BAUCUS, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1653 a bill to preserve the solvency of the railroad retirement system.

S. 1675

At the request of Mr. KENNEDY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1675 a bill to provide financial assistance for teacher recruitment and training, and for other purposes.

S. 1676

At the request of Mr. PELL, the names of the Senator from New Mexico [Mr. DOMENICI] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

S. 1766

At the request of Mr. DANFORTH, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1766, a bill to amend titles XVIII and XIX of the Social Security Act to require providers of services under such titles to enter into agreements assuring that individuals receiving services from such providers will be provided an opportunity to participate in and direct health care decisions affecting such individuals.

S. 1931

At the request of Mr. DANFORTH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1931, a bill to prevent the discharge in a chapter 13 bankruptcy proceeding of certain debts arising out of the debtor's operation of a motor vehicle while legally intoxicated.

S. 1942

At the request of Mr. ROCKEFELLER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1942, a bill to provide for home and community care as optional State-wide service, and for other purposes.

S. 1946

At the request of Mr. CRANSTON, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1946, a bill to amend various provisions of law to ensure that services related to abortion are made available in the same manner as are all other pregnancy-related services under Federally funded programs.

S. 2044

At the request of Mr. BIDEN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2283

At the request of Mr. WILSON, his name was added as a cosponsor of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2317

At the request of Mr. MCCONNELL, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2317, a bill to require Federal, State, and local law enforcement agencies to report all cases of missing persons under age 18 to the National Crime Information Center of the Department of Justice.

S. 2414

At the request of Mr. WILSON, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2414, a bill to amend the Public Health Service Act to establish a program of formula grants for compensating certain trauma care centers for unreimbursed costs incurred with respect to undocumented aliens.

S. 2584

At the request of Mr. BOREN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2584, a bill to amend the Internal Revenue Code of 1986 to provide that the deduction for State and local income and franchise taxes shall not be allocated to foreign source income.

S. 2653

At the request of Mr. BURNS, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 2653, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

S. 2734

At the request of Mr. ADAMS, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2734, a bill to direct the Administrator of the Environmental Protection Agency to make grants to the State of Washington Puget Sound Water Quality Authority to implement the Puget Sound Water Quality Management Plan.

S. 2735

At the request of Mrs. KASSEBAUM, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2735, a bill to enhance the ability of the Federal Government to successfully prosecute financial crimes and gain increased recoveries at failed financial institutions.

S. 2736

At the request of Mr. SIMON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2736, a bill to amend the Follow Through Act, and for other purposes.

S. 2745

At the request of Mr. EXON, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Virginia [Mr. WARNER], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 2745, a bill to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

S. 2754

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

SENATE JOINT RESOLUTION 183

At the request of Mr. SIMON, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 183, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 279

At the request of Mr. SPECTER, the names of the Senator from Florida [Mr. GRAHAM], the Senator from Hawaii [Mr. INOUYE], the Senator from Florida [Mr. MACK], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Illinois [Mr. DIXON], the Senator from Alaska [Mr. STEVENS], the Senator from Indiana [Mr. COATS], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 279, a joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 292

At the request of Mr. PELL, the names of the Senator from California [Mr. WILSON] and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 292, a joint resolution to designate the year 1991 as the "Year of the Lifetime Reader."

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the names of the Senator from Idaho [Mr. MCCLURE], the Senator from Massachusetts [Mr. KERRY], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 316

At the request of Mr. HATFIELD, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 316, a joint resolution to designate the second Sunday in October of 1990 as "National Children's Day."

SENATE JOINT RESOLUTION 324

At the request of Mr. DOLE, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 324, a joint resolution to designate June 3, 1990, as "Week of the National Observance of the 50th Anniversary of World War II."

SENATE JOINT RESOLUTION 328

At the request of Mr. SPECTER, the names of the Senator from Utah [Mr. HATCH], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Illinois [Mr. SIMON], the Senator from Kansas [Mr. DOLE], the Senator from Michigan [Mr. LEVIN], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. RIEGLE], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 328, a joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-33," and to commemorate the Ukrainian famine of 1932-33 and the policies of russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 336

At the request of Mr. LEVIN, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Joint Resolution 336, a joint resolution designating the week in 1990 which coincides with the first visit of Nelson Mandela to the United States after his release from prison in South Africa as "South African Freedom Week."

At the request of Mrs. KASSEBAUM, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 336, supra.

SENATE CONCURRENT RESOLUTION 125

At the request of Mr. COHEN, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Concurrent Resolution 125, a concurrent resolution expressing the sense of Congress regarding adequate funding for long-term health care services provided through the Medicare and Medicaid Programs.

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. PELL, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Concurrent Resolution 126, a concurrent resolution calling for a U.S. policy of promoting the continuation, for a minimum of an additional 10 years, of the International Whaling Commission's moratorium on the commercial killing of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale population.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the names of the Senator from Tennessee [Mr. SASSER] and the Senator from Tennessee [Mr. GORE] were added as

cosponsors of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. HEINZ, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Concurrent Resolution 134, a concurrent resolution expressing the sense of Congress concerning a 1991 White House Conference on Aging.

SENATE CONCURRENT RESOLUTION 138

At the request of Mr. MACK, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Mr. SIMON], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Nevada [Mr. Bryan], the Senator from Georgia [Mr. NUNN], the Senator from Wyoming [Mr. WALLOP], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Concurrent Resolution 138, a concurrent resolution expressing the sense of the Senate that contacts between the United States and the Palestine Liberation Organization should be suspended if the PLO has not taken certain actions.

SENATE RESOLUTION 302—ASYLUM RIGHTS FOR VIETNAMESE REFUGEES

Mr. WILSON submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 302

Whereas the six member governments of the Association of Southeast Asian Nations (ASEAN) have jointly declared that they will discontinue the practice of extending first asylum to political refugees from the Socialist Republic of Vietnam (SRV) as of July 1990 unless the United States agrees to the mandatory repatriation of thousands of nonpolitical Vietnamese refugees back to their country of origin;

Whereas the government of Malaysia recently turned away nearly 8,000 Vietnamese civilians who were seeking refuge from the oppression of their native government;

Whereas the SRV, according to Amnesty International, violates the fundamental human and civil rights of its own citizens through arbitrary arrests, detentions without trial, and the censorship of peaceful expressions of political or religious belief;

Whereas the United States leads the world in its commitment to assist men and women fleeing from persecution in their homelands;

Whereas international human rights organizations have determined that political conditions in Vietnam would subject involuntarily repatriated refugees to persecution;

Whereas totalitarian governments may deny basic human freedoms to individuals through political persecution or economic deprivation;

Whereas the vast majority of nonpolitical Vietnamese refugees currently hosted by ASEAN governments have refused to return to their homeland voluntarily;

Whereas the denial of first asylum rights to Vietnamese refugees by the ASEAN community could result in the forced return to communist Vietnam or the death at sea of thousands of civilians;

Resolved, That it is the Sense of the Senate that:

(a) the United States categorically oppose any qualifications or limitations proposed by ASEAN governments on the provision of first asylum rights to political refugees from the Socialist Republic of Vietnam;

(b) the President initiate efforts to designate a location as a temporary holding center for Vietnamese refugees unwilling to return to Vietnam at this time;

(c) the President secure the agreement of all international parties to such negotiations that occupants of the temporary holding center will not have to return to Vietnam until either Vietnamese political conditions improve to the extent that they will not be persecuted by the Communist government or they voluntarily go back to their homeland.

● Mr. WILSON. Mr. President, I rise today to submit a resolution on behalf of thousands of refugees from Vietnam who have bravely escaped the grip of the Hanoi government's tyranny but now face the prospect returning involuntarily to their homeland.

I speak of the so-called boat people, innocent families who over the last 10 years have sought to move out from under the shadow of Communist rule by boarding rickety vessels destined for the South China Sea.

Although these men and women expected rough and unfriendly waters, they did not anticipate the same treatment on the shores of the countries where they landed.

But last month, Mr. President, six Southeast Asian nations informed the United States that they will no longer accept any more Vietnamese boat people unless we agree to force thousands of these unwilling refugees back to Vietnam.

This announcement resulted from a refugee admissions process, used by most countries that accept the boat people, to differentiate those who have left Vietnam because of a fear of political repression from those who have left for reasons not considered to be political in nature.

Despite the fact that it remains extremely difficult to impose this distinction on people fleeing from the indiscriminate repression of totalitarian rule, the United States struck a compromise with the Association of Southeast Asian Nations [ASEAN] last year called the Comprehensive Plan of Action [CPA].

The CPA permitted all nations receiving boat people to screen out political from nonpolitical refugees. Individuals who failed to meet the required criteria would at some point have to go back to Vietnam.

In agreeing to the CPA, however, the United States Government did not give its consent to the involuntary repatriation of anyone who feared that a return to Vietnam would only bring persecution, imprisonment, or any other unwarranted punishment. Rather, our Government had the understanding that people who failed to qualify as political refugees could stay in their host countries for an unspecified period of time until they either voluntarily went back to Vietnam for reasons of their own or could go back to Vietnam as a result of a more tolerant legal and humanitarian climate.

But today, Mr. President, this understanding, and therefore the lives of thousands of innocent Vietnamese citizens, hang in the balance.

ASEAN members have told the United States that they will not accept even authentic political refugees from Vietnam starting next month unless America agrees to the forced expulsion from their nations of innocent men and women who somehow could not provide adequate political reasons for their flight. Malaysia just turned away 7,700 Vietnamese asylum-seekers last month and up to 30,000 people in Hong Kong face the threat of expulsion from that territory.

Yet we must realize, Mr. President, that while the immigration bureaucrats of the ASEAN countries stay busy deciding if a boatload of terrified Vietnamese people can be considered victims of political repression, the Communist rulers in Hanoi do not trouble themselves with this question as they close the prison doors, fill the reeducation camps, steal a farmer's land, or burn a professor's books.

The resolution I submit today simply reaffirms the CPA agreement that the United States and ASEAN concluded last year. It calls on the President to continue his policy of opposing any limitations on the extension of asylum rights to genuine political refugees from Vietnam and to initiate efforts, in cooperation with the ASEAN states, to find a temporary holding center for boat people who fail to quality for permanent residence in countries other than their native land.

Finally, the resolution states that no Vietnamese refugees should be forced back into Vietnam unless they choose to do so or if political conditions would permit their safe reentry.

We would visit a cruel irony on the boat people, Mr. President, if during this age of worldwide triumph for the democratic idea, we permitted a tide of indifference to wash away these coura-

geous men and women to a fate of death on the high seas or persecution at home. I therefore solicit the enthusiastic support of my colleagues for this resolution as a sign that Congress will back every diplomatic effort on the part of the President to preserve the lives of these tired but determined Vietnamese refugees who have dared to reach across the international waters for their freedom.●

SENATE RESOLUTION 303—RELATIVE TO THE WASHINGTON NATIONAL CATHEDRAL

Mr. D'AMATO (for Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 303

Whereas provision for a "great church for National purposes" dates to 1791, when Major Pierre L'Enfant, who was commissioned by President George Washington to prepare a comprehensive plan for the seat of the Federal Government, included in that plan a proposal for a cathedral to serve the Nation;

Whereas in 1891 a group of private citizens, out of respect for the principle of the separation of church and state, undertook the challenge of building a National cathedral;

Whereas on January 6, 1893, Congress embraced the goal of building such a cathedral by enacting legislation, signed by President Benjamin Harrison, to create the Protestant Episcopal Cathedral Foundation of the District of Columbia and to enable the foundation to construct a cathedral in the Nation's Capital;

Whereas on September 29, 1907, President Theodore Roosevelt and members of Congress participated in ceremonies marking the laying of the foundation stone for the Washington National Cathedral;

Whereas in succeeding years the Washington National Cathedral has served as a place of worship for Presidents and Members of Congress of the United States and for religious leaders from around the world;

Whereas The Washington National Cathedral serves as the burial place for many prominent Americans who devoted their lives to public service, including Cordell Hull, Frank Kellogg, Helen Keller, and President Woodrow Wilson, the only United States President who is buried in the District of Columbia;

Whereas The Washington National Cathedral has been constructed exclusively with private funds;

Whereas the 20,000 members of the National Cathedral Association and other interested persons who have donated funds for the construction of the Washington National Cathedral represent every State of the Union;

Whereas the Washington National Cathedral is available to people of all faiths as a sanctuary for prayer and worship and is used to commemorate and celebrate significant moments in this Nation's history, to mark and mourn the death of world leaders, and to consider pressing moral and social issues of the day;

Whereas more than 600,000 visitors to the Washington National Cathedral each year amply demonstrate the place of the Cathedral as a symbol of this Nation's religious and historical heritage;

Whereas more than 80 years after the first stone was layed and almost 200 years after the idea for such a cathedral was first conceived, construction of the Washington National Cathedral is nearly completed; and

Whereas the final stone will be set on September 29, 1990, and the Washington National Cathedral will be consecrated on September 30, 1990: Now, therefore, be it

Resolved, That the Senate expresses—

(1) its highest esteem for the Washington National Cathedral; and

(2) its sincere appreciation for the efforts of the National Cathedral Association and the many other organizations and individuals whose vision and labor have resulted in the construction of the Washington National Cathedral and the establishment of that cathedral as a place of worship for, and a symbol of the religious heritage of, the people of the United States.

AMENDMENTS SUBMITTED

NATIONAL HOUSING ACT

McCONNELL (AND OTHERS) AMENDMENT NO. 2051

Mr. McCONNELL (for himself, Mr. WARNER, and Mr. HATFIELD) proposed an amendment to the bill (S. 566) to authorize a new corporation to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes, as follows:

At the end of title VIII, add the following:

SEC. . ASSISTANCE TO REDUCE RENT OVERBURDEN.

Section 521(a)(2)(C) of the Housing Act of 1949 is amended by adding at the end the following: "Notwithstanding the preceeding sentence, excess funds received from tenants in projects financed under section 515 during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with respect to very low-income and low-income families to reduce housing rentals to the levels specified in subparagraph (A).".

CHAFEE (AND OTHERS) AMENDMENT NO. 2052

Mr. CHAFEE (for himself, Mr. SIMPSON, Mr. WARNER, Mr. MACK, and Mr. WALLOP) proposed an amendment to the bill S. 566, supra; as follows:

At the end of the bill, add the following:

TITLE —LOW-INCOME HOUSING REFORM

SEC. . 01. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Low-income Housing Reform Act of 1990".

(b) REFERENCE.—The provisions of the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed in public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (commonly referred to as the "Davis-Bacon Act") (40 U.S.C. 276a-5) shall apply with the modifications described in this title to the extent that such Act applies to the following provisions of law:

(1) title I of the Housing and Community Development Act of 1974,

(2) Section 802 of the Housing and Community Develop Act of 1974,

(3) the United States Housing Act of 1937,

(4) the National Housing Act,

(5) Section 202 of the Housing Act of 1959, and

(6) Section 312 of the Housing Act of 1964.

SEC. 02. INCREASE IN THRESHOLD AMOUNT.

The Davis-Bacon Act shall apply only to projects or contracts as the case may be in excess of $1,000,000, or that meets the threshold contained or referred to in the provisions of law listed in section 01, whichever is higher.

SEC. 03. PROHIBITION ON CONTRACT-SPLITTING.

(a) Any person entering into a contract under which wages are to be determined in accordance with this Act shall not divide any project into contracts of $1,00,000 or less if the project would not have been so divided but for the purpose of avoiding application of this title.

(b) Whenever the Secretary of Labor determines that a division for such purpose has occurred, the Secretary may—

(1) require that the contracts, grants, or other instruments providing Federal financing or assistance to amended so as to incorporate retroactively all the provisions which would have been required under this Act or other applicable prevailing wage statute, and

(2) require the contracting or assisting agency, the recipient of Federal financing or assistance, or any other entity which awarded the contract or instrument providing Federal financing or assistance in violation of this section, to compensate the contractor, the grantee, or other recipient of Federal assistance, as appropriate, for payment to each affected laborer and mechanic, of an amount equal to the difference between the rate received and the applicable prevailing wage rate, with interest on wages due at the rate specified in section 6621(c) of the Internal Revenue Code of 1986 from the date the work was performed by such laborers and mechanics. The Secretary shall make such a determination only where the Secretary has notified the agency or entity in question no later than 180 days after completion of construction on the project that an investigation will be conducted concerning an alleged violation of this subsection.

SEC. 04. REPORTS REQUIRED.

Beginning 1 year after the effective date of this Act, and at intervals of 1 year thereafter, the Secretary of Housing and Urban Development and the Comptroller General of the United States shall each prepare and transmit to the Congress a report describing the results of a review of the implementation, enforcement, administration, impact on local wages, and impact on local and national economies of the Davis-Bacon Act (the Copeland Act) as they apply to the Acts referred to in section 01 and the amendments made by this Act during the preceding 12-month period, including recommendations for such further legislation as may be appropriate.

SEC. 05. EFFECTIVE DATE.

This title shall take effect 30 days after the date of enactment of this Act but shall not affect any contract in existence on that

date or made pursuant to invitations for bids outstanding on that date.

MACK (AND OTHERS) AMENDMENT NO. 2053

Mr. MACK (for himself, Mr. KASTEN, Mr. COATS, Mr. BURNS, Mr. BOSCHWITZ, Mr. ARMSTRONG, Mr. GORTON, Mr. D'AMATO, and Mr. MCCAIN) proposed an amendment to the bill S. 566, supra, as follows:

On page 266, line 24, before the period insert ", and to provide tenant-based housing assistance".

On page 267, strike line 17, and renumber accordingly.

GRAHAM AMENDMENT NO. 2054

Mr. GRAHAM proposed an amendment to amendment No. 2053 proposed by Mr. MACK (and others) to the bill S. 566, supra, as follows:

After the word "assistance", insert the following: "Funds used under this title shall not be used to renew expiring contracts for rental assistance executed under section 8 of the United States Housing Act of 1937.".

DECONCINI AMENDMENT NO. 2055

Mr. DECONCINI proposed an amendment to the bill S. 566, supra, as follows:

At the end of title X add the following:

SEC. . CLARIFICATION OF THE TERM "AREA".

It is the sense of the Senate that in areas where FHA mortgage insurance is not accessible for a significant number of homebuyers because of diverse economies in the area the Secretary of Housing and Urban Development has sufficient authority under law to redefine the term "area", in establishing mortgage limits under section 203 of the National Housing Act.

BRYAN (AND DECONCINI) AMENDMENT NO. 2056

Mr. BRYAN (for himself and Mr. DECONCINI) proposed an amendment to the bill S. 566, supra, as follows:

At the end of the bill, add the following:

TITLE —DEPOSITOR PROTECTION AND ANTI-FRAUD ACT

SEC. 01. SHORT TITLE.

This title may be cited as the "Depositor Protection and Anti-Fraud Act of 1990".

SEC. 02. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FDIC-INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED DEPOSITORY INSTITUTIONS.—

"(1) PROHIBITION ON SELLING CERTAIN INSTRUMENTS.—No insured depository institution may pemit any evidence of indebtedness of, or ownership interest in, that institution or any affiliate to be sold or offered for sale in any of the following:

"(A) A domestic branch of that institution at which insured deposits are accepted.

"(B) That institution's head office, if it accepts insured deposits and is located in the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any of the following:

"(A) A deposit in an insured depository institution.

"(B) A traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by insured depository institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940, or otherwise regulated by the appropriate Federal banking agency.

"(D) A sale of instruments in minimum amounts of $100,000 to a sophisticated investor.

"(E) A sale of instruments pursuant to converting a depository institution from mutual to stock ownership if that conversion has been approved by the appropriate Federal banking agency and, where applicable, any appropriate State agency.

"(3) REGULATORY EXEMPTIONS.—The appropriate federal banking agency may be regulation provide exemptions from paragraph (1) if at a minimum:

"(A) the exemption is in the public interest'

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured deposit because of the manner in which it is sold or offered for sale, or for any other reason;

"(C) the evidence of indebtedness or ownership interest would be sold or offered for sale on terms (including price) no less favorable for depositors than for persons similarly situated who are not depositors;

"(D) the seller or offeror institutes and follows procedures to determine before selling the instrument whether the instrument is appropriate for the purchaser, except to the extent that the agency determines that, in particular cases or classes of transactions, such procedures are not necessary to protect the public;

"(E) no broker or dealer registered under the Securities Exchange Act of 1934 (or any associated person) receives a greater sales commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1); and

"(F) none of the following persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured depository institution.

"(ii) An affiliate of the insured depository institution.

"(iii) An employee of the insured depository institution or any of its affiliates, or a person under the direction and control of the insured depository institution or any of its affiliates.

"(4) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differnces between that agency's regulations under this subsection and the regulations adopted by the other agencies under this subsection. Each report shall explain the reasons for any such differences, and shall be published in the Federal Register.".

(b) REGULATIONS.—Not less than 180 days after the date of enactment of this Act, each appropriate Federal banking agency shall promulgate regulations to administer and carry out the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to depository institutions regulated by each appropriate Federal banking agency immediately upon the effectiveness of final regulations promulgated by that agency under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

SEC. _03. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FEDERALLY INSURED CREDIT UNIONS.

(a) IN GENERAL.—Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end of the following new subsection:

"(j) REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED CREDIT UNIONS.—

"(1) PROHIBITION ON SELLING CERTAIN INSTRUMENTS.—No insured credit union may permit any evidence of indebtedness of that credit union or any evidence of indebtedness of, or ownership interest in. any affiliate of that credit union to be sold or offered for sale in any of the following:

"(A) A domestic branch of that credit union at which insured shares are accepted.

"(B) That credit union's head office, if it accepts insured deposits and is located in the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any of the following:

"(A) An insured share in an insured credit union.

"(B) A traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by federally insured depository institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940, or otherwise regulated by the Board.

"(D) A sale of instruments in minimum amounts of $100,000 to a sophisticated investor.

"(3) REGULATORY EXEMPTIONS.—The Board may by regulation provide exemptions from paragraph (1) if at a minimum:

"(A) the exemption is in the public interest;

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured share because of the manner in which it is sold or offered for sale, or for any other reason;

"(C) the evidence of indebtedness or ownership interest would be sold or offered for sale on terms (including price) no less favorable for shareholders than for persons similarly situated who are not shareholders;

"(D) the seller or offeror institutes and follows procedures to determine before selling the instrument whether the instrument is appropriate for the purchaser, except to the extent that the Board determines that, in particular cases or classes of transactions, such procedures are not necessary to protect the public;

"(E) no broker or a dealer registered under the Securities Exchange Act of 1934 (or any associated person) receives a greater

commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1); and

"(F) none of the folloiwng persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured credit union.

"(ii) An affiliate of the insured credit union.

"(iii) An employee of the insured credit union or any of its affiliates, or any person under the direction or control of the insured credit union or any of its affiliates.

"(4) AFFILIATE DEFINED.—For the purposes of this subsection, the term 'affiliate' means any company that controls, is controlled by, or is under common control with another company.

"(5) ANNUAL REPORTS REQUIRED.—The Board shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences between the Board's regulations under this subsection and the regulations adopted by the Federal banking agencies under section 18(o) of the Federal Deposit Insurance Act. The report shall explain the reasons for any such differences, and shall be published in the Federal Register.".

(b) REGULATIONS.—Not less than 180 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate regulations to administer and carry out the purposes of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective immediately upon the effectiveness of final regulations promulgated under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

CHAFEE (AND OTHERS) AMENDMENT NO. 2057

Mr. CHAFEE (for himself, Mr. KENNEDY, and Mr. METZENBAUM) proposed an amendment to the bill S. 566, supra, as follows:

At the end of title X, add the following:

SEC. . GAO STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall carry out a study of the Davis-Bacon Act as it applies to Federal housing contracts. In the course of such study, the Comptroller General shall consider—

(1) the original aims of the Davis-Bacon Act;

(2) possible changes in the Davis-Bacon Act;

(3) an analysis of the relevant construction industry labor market including geographic variations, skills, training, productivity, and quality of work product;

(4) any productivity or quality differences between private and government sponsored construction;

(5) the effects of the Davis-Bacon Act on Federal housing construction costs, construction wages, construction quality, the local and national economy, and the ability to create low-income housing;

(6) the effects of business practices designed to avoid coverage of the Davis-Bacon Act; and

(b) OPTIONS TO BE CONSIDERED IN MAKING RECOMMENDATIONS.—The Comptroller General shall examine and make recommendations regarding the following possible congressional actions with respect to the housing construction industry:

(1) reform of the Davis-Bacon Act;

(2) changing the dollar threshold;

(3) changing the definition of "prevailing wage";

(4) expanding or restricting the use of helpers;

(5) reducing or expanding required compliance activities for contractors;

(6) changes in administrative or other enforcement;

(7) regulating the splitting of contracts; and

(8) any other recommendations.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report setting forth the results of the study required by this section.

AKAKA (AND OTHERS) AMENDMENT NO. 2058

Mr. AKAKA (for himself, Mr. INOUYE, and Mr. LIEBERMAN) proposed an amendment to the bill S. 566, supra, as follows:

Strike out section 201 and insert the following:

SEC. 201. FHA AMENDMENTS.

(a) INSURANCE CEILINGS.—Section 203(b)(2) of the National Housing Act is amended by striking all through "value in excess of $25,000." the first place it appears and inserting the following:

"(2) Involve, in the case of property upon which there is located a dwelling designed principally for a one-family residence, an insured principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed—

"(A) the appraised value of the property;

"(B) 80 percent of the maximum amount of a one-family conventional mortgage eligible for purchase by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

"(C) an amount equal to the sum of (i) 97 percent of $25,000 of the appraised value of the property (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve), as of the date the mortgage is accepted for insurance, (ii) 95 percent of such value in excess of $25,000 that does not exceed $124,875, and (iii) 90 percent of such value in excess of $124,875.

The Secretary shall prescribe limitations for two, three, and four family dwellings for each area so that the allowable dollar amount for a two-family dwelling shall be 107 percent of the applicable dollar amount provided under subparagraph (B) of the previous sentence for a one-family dwelling, for a three-family dwelling shall be 130 percent of such amount, and for a four-family dwelling shall be 150 percent of such amount.".

(b) INSURANCE OF MORTGAGES IN ALASKA, GUAM, AND HAWAII.—The first sentence of section 214 of the National Housing Act is amended to read as follows: "If the Secretary of Housing and Urban Development finds that, because of higher costs prevailing in Alaska, Guam, or Hawaii, it is not feasible to construct dwellings or mobile home courts or parks on property located in Alaska, Guam, or Hawaii without sacrifice of sound standards of construction, design, or livability, within the limitations as to maximum or maxima mortgage amounts provided for in this Act, the Secretary shall, by regulation or otherwise, prescribe, with respect to dollar amount, a higher maximum or maxima for the principal obligation of mortgages insured under this Act covering property located in Alaska, Guam, or Hawaii in such amounts as he shall find necessary to compensate for such higher costs but not to exceed, in any event, the maximum or maxima otherwise applicable (including increased mortgage amounts in geographical areas where cost levels so require) by more than one-half thereof.".

KASTEN (AND OTHERS) AMENDMENT NO. 2059

(Ordered to lie on the table.)

Mr. KASTEN (for himself, Mr. MACK, Mr. GORTON, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. BURNS, and Mr. COATS) submitted an amendment intended to be proposed by them to the bill S. 566, supra, as follows:

Beginning with page 445, line 15, strike out all through page 446, line 10.

KASTEN (AND OTHERS) AMENDMENT NO. 2060

(Ordered to lie on the table.)

Mr. KASTEN (for himself, Mr. MACK, Mr. GORTON, Mr. ARMSTRONG, Mr. MCCLURE, and Mr. BURNS) submitted an amendment intended to be proposed by them to the bill S. 566, supra, as follows:

On page 270, strike out lines 5 through 20 and insert the following:

Each participating jurisdiction shall invest funds made available under this subtitle in each fiscal year so that all of such funds are invested with respect to dwelling units that are occupied by households that qualify as very low-income families at the time of initial occupancy or at the time funds are invested, whichever is later. Assistance shall be provided to such families in accordance with the preferences and priorities that apply under the United States Housing Act of 1937.

KASTEN (AND OTHERS) AMENDMENT NO. 2061

(Ordered to lie on the table.)

Mr. KASTEN (for himself, Mr. MACK, Mr. GORTON, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. BURNS, and Mr. COATS) submitted an amendment intended to be proposed by them to the bill S. 566, supra, as follows:

On page 456, strike line 13 and all that follows through page 464, line 8, and insert the following:

SEC. 531. (a) OPERATION BOOTSTRAP PROGRAM.—Section 8 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(w) OPERATION BOOTSTRAP PROGRAM.—(1) PURPOSE.—The purpose of the Operation Bootstrap program is to promote the development of local strategies to coordinate use of certificate and voucher program assistance with public and private resources, to enable eligible families to achieve economic independence.

"(2) CONDITION FOR RECEIPT OF ADDITIONAL CERTIFICATE AND VOUCHER ASSISTANCE.—(A) As a condition for receiving additional assistance under the certificate and voucher programs which represents a net increase in the number of assisted families (other than elderly families), a public housing agency shall agree to establish an Operation Bootstrap program. The public housing agency shall take steps to ensure that, at the earliest practicable time, the number of families participating under the Operation Bootstrap program shall be no less than a number equal to the aggregate number of certificates and vouchers that may be funded from such additional assistance, beginning with fiscal year 1991. The agency shall continue to operate the program for that number of families as long as it has sufficient funding under its certificate and voucher programs to do so.

"(B) The requirements of this subsection shall not apply if the public housing agency demonstrates, to the satisfaction of the Secretary, that the establishment and operation of the program is not feasible due to local circumstances.

"(3) PROGRAM COORDINATING COMMITTEE.—Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, use a program coordinating committee to develop the action plan required by paragraph (4) of this subsection, carry out program activities, and secure commitments of public and private resources. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection. The program coordinating committee shall consist of representatives of the public housing agency, the unit of general local government, the local agencies, if any, responsible for the Job Training Partnership Act programs and the Job Opportunities and Basic Skills Training program under the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses.

"(4) ACTION PLAN.—(A) An action plan describing the Operation Bootstrap program shall be submitted by the public housing agency for approval by the Secretary in such form and in accordance with such procedures as the Secretary shall estabish.

"(B) The Secretary shall require that the action plan contain at a minimum—

"(i) a description of the size, characteristics, and needs of the population of the families expected to participate in the Operation Bootstrap program;

"(ii) a description of the services and activities to be provided to families receiving assistance under the certificate and voucher programs, which shall be provided by both public and private resources and shall include at least child care, transportation, personal and career counseling, job training and placement, case management, and education. The Secretary may approve a public housing agency request not to provide one or more of these services and activities where the public housing agency demonstrates to the satisfaction of the Secretary that the service or activity is not necessary or not feasible due to local circumstances;

"(iii) a decription of how the Operation Bootstrap program will match services and activities to the needs of the families in the program;

"(iv) a description of both the public and private resources that are expected to be made available to provide the activities and services under the Operation Bootstrap program;

"(v) a timetable for implementation of the Operation Bootstrap program;

"(vi) assurances satisfactory to the Secretary that development of the services and activities under the Operation Bootstrap program has been coordinated with the Job Opportunities and Basic Skills Training program and the Job Training Partnership Act programs and any other relevant employment, training, and education programs in that area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities; and

"(vii) assurances satisfactory to the Secretary that the services and activities under the Operation Bootstrap program will be provided in accordance with the requirements of the program.

"(5) PARTICIPATION.—(A) Where the Secretary has approved an action plan, the public housing agency may not admit a family to assistance under the certificate or voucher program, including assistance attached to an existing structure under subsection (d)(2), unless each member of the family (other than a member of the family who is under the age of 16 or who is considered of advanced age for purposes of subparagraph (E)(i)) has agreed to participate in the Operation Bootstrap program. Failure by a member of the family to agree to participate in the Operation Bootstrap program shall be grounds for denial of housing assistance to the family and removal from the waiting list.

"(B) Unless exempt from participation under subparagraph (E), each member of the family who agreed to participate in the Operation Bootstrap program, as required by subparagraph (A), shall be required to participate in the program if there are available openings in the program. Where openings are not available, each non-exempt family member shall be required to participate in the program once an opening becomes available. Where a member of a family is exempt from participation under subparagraph (E), that member shall be required to participate in Operation Bootstrap once the member no longer qualifies for an exemption (including any member over the age of 16) and an opening is available. This subparagraph shall not apply to members of families exempt under subparagraph (D).

"(C) The Secretary may make a determination that participation by a member of a family in the Job Opportunities and Basic Skills training program, the Job Training Partnership Act programs, or any other relevant employment, training, and education programs in that area shall count as participation in the Operation Bootstrap program. Such a member of a family shall be eligible for activities and services available under the Operation Bootstrap program which are not available to that person under the program in which the person participates.

"(D) A member of a family admitted to assistance under the certificate or voucher program, including assistance attached to an existing structure under subsection (d)(2), before the Secretary approves an action plan for the public housing agency, shall not be required to participate in the Operation Bootstrap program.

"(E) A member of an eligible family shall be exempt from participation in the Operation Bootstrap program (but shall not be exempt from program obligations and responsibilities of families receiving assistance under the certificate and voucher programs), if the public housing agency determines that the individual:

"(i) is ill, incapacitated, or of advanced age;

"(ii) is needed in the home because of the illness or incapacity of another member of the household;

"(iii)(I) is a parent or other member of the family who is personally providing care for a child under 3 years of age (or, if so provided in the action plan, under any age that is less than 3 years but not less than one year); or (II) is a parent or other member of the family personally providing care for a child under 6 years of age, unless the program coordinating committee assures that child care will be guaranteed and that participation in the program by the parent or other member of the family will not be required for more than 20 hours a week (only one parent or other member of the family may be exempt under this clause (iii));

"(iv) works 30 or more hours a week;

"(v) is a child who is under 16 or attends, fulltime, an elementary, secondary, or vocational or technical school;

"(vi) is attending (in good standing and at not less than half time) an institution of higher education (as defined in section 481(a) of the Higher Education Act of 1965), or a school or course of vocation or technical training (not less than half time) consistent with the individual's employment goals, and is making satisfactory progress in such institution, school, or course;

"(vii) is attending (in good standing) on a full-time basis a secondary school in order to successfully complete a high school education (or its equivalent), and is making satisfactory progress in such school;

"(viii) is pregnant, if it has been medically verified that the child is expected to be born in the month in which the participation in the Operation Bootstrap program would otherwise be required or within the six-month period immediately following that childbirth; or

"(ix) meets such other criteria as required by regulations issued by the Secretary.

"(F) A member of a family who is exempt from participation under subparagraph (D) or (E) may participate in the Operation Bootstrap program with the approval of the program coordinating committee.

"(6) FAILURE BY A FAMILY IN THE PROGRAM—Where a member of the assisted family is required to participate in the Operation Bootstrap program, failure by such member of the family to make a good faith effort to participate in or complete the program shall be grounds for termination of assistance to the family.

"(7) ATTACHMENT OF CERTIFICATE ASSISTANCE TO STRUCTURE.—(A) In any case where certificate assistance has been attached to an existing structure in accordance with subsection (d)(2), no more than 100 units may be occupied by persons participating in the Operation Bootstrap program.

"(B) Where assistance is attached to an existing structure in accordance with subsection (d)(2) and services and activities are available at the project for participants in the Operation Bootstrap program, the lease

with the family for a unit in the project may require the family to move after all members of the family have completed the program if (i) the public housing agency provides and family with a tenant-based certificate or voucher, and (ii) suitable replacement housing is available. The requirement for giving preference to certain categories of eligible families under subsection (d)(1)(A) and (o)(3) shall not apply to the provision of assistance to a family under clause (i) of the preceding sentence.

"(C) In cases where services and activities are not available at the project under the Operation Bootstrap program, the lease with the family may not require the family to move because all members of the family have completed the Operation Bootstrap program.".

(b) EFFECTIVE DATE.—The requirements contained in subsection (a) shall take effect for each public housing agency at the later of (1) the time the public housing agency receives additional assistance beginning in fiscal year 1991 or thereafter where such assistance represents a net increase in the number of assisted families (other than elderly families), or (2) the effective date of the notice under subsection (c) implementing the Operation Bootstrap program.

(c) IMPLEMENTATION.—Not later than 120 days after the date funds for the certificate and housing voucher programs first become available for obligation in fiscal year 1991, the Secretary shall be notice establish such requirements as may be necessary to carry out the provisions of this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice.

SOUTH AFRICAN FREEDOM WEEK

LEVIN (AND KASSEBAUM) AMENDMENT NO. 2062

Mr. CRANSTON (for Mr. LEVIN, for himself and Mrs. KASSEBAUM) proposed an amendment to the preamble of the joint resolution (S.J. Res. 336) designating the week in 1990 which coincides with the first visit of Nelson Mandela to the United States after his release from prison in South Africa as "South African Freedom Week," as follows:

Amend the preamble of the joint resolution to read as follows:

Whereas Nelson Mandela was jailed for nearly 28 years in South Africa along with other political prisoners;

Whereas Nelson Mandela has expressly committed himself to ending the oppression of apartheid and to establishing a nonracial society in South Africa;

Whereas the people and the Congress of the United States call on the Government of South Africa to accelerate its moves to abolish apartheid; and

Whereas the people of the United States remain committed to the maintenance of human rights and the principles of democracy for all citizens without regard to color and have condemned apartheid as a crime against humanity: Now, therefore, be it

NATIONAL HOUSING ACT

LEVIN AMENDMENT NO. 2063

Mr. CRANSTON (for Mr. LEVIN) proposed an amendment to the bill S. 566, supra, as follows:

On page 283, line 8, insert the term "unemployment" before the term "and".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session on Thursday, June 21, 1990, at 10:30 a.m. to consider the nomination of Mr. Gilberto Guardia Fabrega, nominee to be Administrator of the Panama Canal Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 21, 1990, at 1:30 p.m. to hold a hearing on measures to protect the American flag.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 21, 1990, beginning at 2 p.m., in 485 Russell Senate Office Building, for a hearing on S. 2451, to establish in the Department of the Interior a Trust Counsel for Indian Assets.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 21, 1990, at 10 a.m. to mark up S. 2411, the Textile, Apparel and Footwear Trade Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on June 21, at 10:30 a.m. and 2:30 p.m., to hold a business meeting on the 1990 farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 21, at 10 a.m., to hold a business meeting to consider and vote on Protocol 3 to Montreal aviation protocols (Ex. B, 95-1), and other pending legislation and nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, June 21, 1990, at 9:30 a.m. The committee will hold a hearing on the Small Business Administration's Small Business Investment Companies Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 2 p.m., June 21, 1990 for a hearing to receive testimony on S. 2680, a bill to provide for the relief of certain persons in Stone County, AR, deprived of property as a result of a 1973 dependent resurvey by the Bureau of Land Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, OCEAN AND WATER PROTECTION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 21, beginning at 9:30 a.m., to conduct a hearing on oversight of the Superfund remedy selection process.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, June 21, 1990, at 10 a.m. and 2 p.m. to conduct an oversight hearing on the credit crunch.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, June 21, 1990, beginning at 9:30 a.m., to hold a hearing on Senate Concurrent Resolution 122, to establish an Albert Einstein Congressional Fellowship Program; and at 10:30 a.m., to hold a hear-

ing on Senate Resolution 206, to establish a point of order against material that earmarks research moneys for designated institutions without competition.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LITCHFIELD FIRE COMPANY: 100 YEARS OF VOLUNTEER SERVICE

● Mr. LIEBERMAN. Mr. President it is with great pleasure that I bring to the attention of the Senate a very special group of individuals from my home State in Connecticut, the Litchfield Fire Company. They will be celebrating 100 years of volunteer service to the Litchfield community on October 27, 1990.

The Litchfield Fire Company was formed after several fires nearly destroyed the center city in the late 1800's. These calamities had several benefits: A decision that no wooden building would replace the destroyed courthouse; the beginning of the installation of a water system with fire hydrants; and the organization of Litchfield Fire Company No. 1 in October 1890.

Since then, the Litchfield Fire Company has given a century of courageous and competent service to this vital and vibrant community. Throughout their great history, they have dedicated countless volunteer hours to the safety and welfare of the town's residents. Countless lives have been saved because of their service.

As they celebrate this historic centennial, I commend the Litchfield Fire Company and its volunteers. Their presence has provided a sense of security to this very special town, and most certainly served the public good. Mr. President, I hope that my colleagues will join me in paying tribute to this brave and beneficial volunteer fire company.●

SUSPENDING THE DIALOG WITH THE PLO

● Mr. BOSCHWITZ. Mr. President, it is unfortunate that the United States has been forced to suspend the dialog with the PLO. Yasser Arafat showed that he was unable and unwilling to take the concrete steps sought by the United States to demonstrate that the PLO adheres to the commitment renouncing terrorism. The President was right to state that the PLO had ample time to take the necessary steps that would disassociate it from the Palestine Liberation Front's attempted terrorist raid on Tel Aviv. The President's action was both correct and necessary.

The peace process, which is always fragile, has been dealt a setback by the PLO's failure to act properly. In my view, the dialog has had real value as a means by which the Palestinian people could attain representation at the peace table.

Earlier this year, the Senate passed a resolution on the status of Jerusalem. Amid all of the controversy generated by that resolution, one very important sentence within it was overlooked. In that sentence, the Senate called upon all parties involved in the search for peace to maintain their strong efforts to bring about negotiations between Israel and Palestinian representatives.

It is important that the administration and all concerned maintain their endeavors in this regard. We must not let those in the Middle East who reject peaceful solutions gain the upper hand. I hope that conditions are restored in the near future that can lead to further progress toward peace between Israel and her neighbors.●

IMPORTANCE OF SCHOOL-BASED CARE IN CONFERENCE DELIBERATIONS

● Mr. BOND. Mr. President, yesterday it was announced that House and Senate child care conferees had agreed on many of the education and labor-related provisions in the child care bill. I was extremely pleased to see that the conferees agreed to retain language from both the House and Senate-passed bills authorizing before and after school child care programs in public schools.

School-based care is an idea whose time has come. Last year during debate over the act for better child care, I spent a great deal of time trying to convince my colleagues of the importance of including school-based care in the bill. You will remember that the original ABC bill did not contain a specific authorization for school-based care. I worked hard to see this included and was pleased that my amendments authorizing before and after school programs were accepted by the bill's sponsors and the full Senate.

I would like to take a moment to review both the need for and the cost effectiveness of before and after school child care programs. While my colleagues have heard me say this before, I believe it bears repeating again.

Last year the Labor Department issued a report addressing the question of potential nationwide shortages of child care. Their report stated that over 1 million elementary and junior high students are unsupervised either before or after school. This is about 11 percent of the total number of children aged 5 to 14 who attend school. The National Commission on Working Women puts the number much higher—estimating that there are 7 million children aged 12 and under who care for themselves all or part of a day.

Studies have shown that unsupervised children are far more likely to get into trouble than their counterparts. Widely touted on the Senate floor last fall was a study in California showing that latchkey children are twice as likely to do drugs as their peers who are supervised. In a recent national survey, public schoolteachers rated the widespread practice of leaving children on their own after school as the biggest cause of youngsters' difficulties in the classroom. In addition, Scholastic magazine recently invited students aged 5 to 14 to write in about something they feared. More children wrote essays about their fears of being home alone than any other topic.

There is a cost-effective way to meet the needs of these children—one that is not now contemplated in this bill. The solution is beginning to be implemented on the local level, by educators and parents concerned about the time when the child is not in the care of either party. According to a report by Wellesley College's school age child care project, about 15 percent of the Nation's local districts either offer their own child care service, or allow community groups to use their buildings. This grassroots movement is picking up speed, and is becoming very popular. Newsweek, in a May 15, 1989, article asks.

> Why do our schools sit empty most of the time? Inside are gyms, libraries and cafeterias. The buildings are childproof and they're paid for, but unless there's basketball practice or a Friday night dance, the doors are shut at 3 p.m.

Surely they can be utilized more fully, and cost effective, in meeting the needs of children whose parents work. And I believe a little Federal money here could go a long way toward alleviating the shortage of school age care, at little or no long-term cost to the Federal Government.

Mr. President, I am pleased to say that Missouri has taken a lead role in this area, not just through the progressive 21st Century Schools Program that is now underway in Independence, but through a number of programs all over the State that have come into existence with the aid of very small startup grants through the Department of Elementary and Secondary Education. Thirty-two of Missouri's five hundred and forty-six districts now offer some sort of extended day program for school age children. An additional 151 districts have already request information or technical assistance for school age child care. To be eligible for funds, a school district must be anticipating establishing, expanding, or improving an extended day program.

From the program's inception in 1986 until last summer, just $200,000

was spent to establish programs in 65 schools, with a capacity of 3,000 students. The total investment works out to about $68 per child. And, perhaps most appealing, this may turn out to be the only government money that is necessary for this particular program. Because schools have the necessary infrastructure, and do not have to pay for lights, heating, liability insurance, and so forth, the school can operate in the black at very little cost to parents.

In Independence, MO's state of the art top of the line 21st Century Schools Program, the top expenditure of any parent—with one school age child—is $25 per week. Independence is not a wealthy area, and poorer families are assisted through a sliding fee scale. Even the poorest districts can develop programs like this and with some assistance, can operate in a cost-effective manner.

Today I sent a letter to the Senate conferees urging that the final child care bill not only contain provision for before and after school care, but that it contain a significant level of funding as well. Despite Tuesday's tentative agreement, I am still concerned that with all of the competing priorities of the conferees and the different committees they represent, and with the administration placing additional demands on conferees through their negotiations, that school-based care may be traded away for something that conferees view as more important This letter, signed by several of my colleagues, is an attempt to show the conferees that school-based care is a top priority on our lists.

I ask that the full text of the letter be included in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, June 20, 1990.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Children, Youth and Families, Washington, DC.

DEAR CHRIS: Please consider carefully making school-based child-care programs a significant portion of the child-care conference agreement to be presented to the full Senate later this summer. We believe that authorization of a school-based care program in the ABC bill and a similar program in Title II of the House-passed version warrant inclusion of such a provision in the conference bill, and are pleased that you have agreed to such a framework. Certainly there are competing demands for funds under the bill; however school-based care should be a top priority in your deliberations over funding.

Last year the Labor Department issued a report addressing the question of potential nationwide shortages of child-care. Their report stated that over one million elementary and junior high students are unsupervised either before or after school. This is about 11% of the total number of children aged 5-14 who attend school. The National Commission on Working Women puts the number much higher—estimating that there are 7 million children aged 12 and under who care for themselves all or part of a day.

Studies have shown that unsupervised children are far more likely to get into trouble than their counterparts. Widely touted on the Senate floor last fall was a study in California showing that latch-key children are twice as likely to do drugs as their peers who are supervised. In a recent national survey, public school teachers rated the widespread practice of leaving children on their own after school as the biggest cause of youngsters' difficulties in the classroom. In addition, Scholastic magazine recently invited students aged 5-14 to write in about something they feared. More children wrote essays about their fears of being home alone than any other topic.

Schools possess the ingredients necessary to offer top-quality care programs: experience, facilities, and professional personnel. School-based programs can both serve as a transition to kindergarten, and help meet the needs of working families of older children as they struggle to find affordable, convenient, and age-appropriate care.

We have found that parents all over the country believe that our schools hold at least part of the answer to the child-care problem. Given some funding for start-up costs, the schools have the infrastructure necessary to develop, maintain and expand quality early childhood development and extended-day programs that are cost-effective and a wise investment of state and federal funding.

The "Schools of the 21st century" program in Independence Missouri, modeled after Dr. Ed Zigler's comprehensive plan, demonstrated that after a small grant to fund start-up costs, maintenance of the program is paid for entirely by parents fees. We believe that Ed Zigler was right—His notion of "Schools of the 21st Century" should be the direction we head.

We believe it is vitally important to retain this important child-care option in the final package, and urge your strong support of school-based care at significant funding levels throughout the conference process.

Sincerely,

CHRISTOPHER S. BOND.[1]

MOTHER OF THE YEAR

● Mr. HATCH. Mr. President, I would like to pay tribute to one of my constituents, an outstanding woman who was chosen to represent America as the 1990 Mother of the Year. Mrs. Nadine Thomas Matis, a psychologist and mother of four from Ogden, UT, has had impressive accomplishments both in and out of the home.

On April 29, 1990, after a week long convention in New York City, Mrs. Matis was selected from a field of 41 participants from across the country. The 55th annual convention was sponsored by the nonprofit American Mother's, Inc., which judged the candidates on their dedication as mothers, application of the faith in their homes, their role in training their children, community involvement, and personal development.

Mrs. Matis fully embodies all these crucial aspects of motherhood. Her positive and energetic spirit is a motivating force to all who have crossed her path.

Mrs. Matis received a doctorate at Brigham Young University [BYU] in counseling and psychology and is now a counselor at McKay-Dee Hospital Institute for Behavioral Medicine. She earned a master's degree in counseling and guidance from BYU and a bachelor's degree from the University of Utah in elementary education.

She has been married to orthodontist John A. Matis for 32 years, and they have two daughters and two sons. All her children are leading rewarding and successful lives. Steve, 22, is in his final year at Weber State College in Ogden, UT, and has plans for dental school. Julie, 30, is an attorney, while Wendy, 29, lives in Philadelphia and is finishing a gerontology residency. Greg, 26, studies law at the University of Chicago.

Mrs. Matis' children feel that one of their mother's most effective parenting skills has always been her ability to allow them to make their own choices. She also has always stressed the importance of literacy and reading good books. The Matis' television was replaced with a large and diversified library when the children were young. As a result, the whole family has developed a great love of books. Ever since her elementary school teaching experience, Nadine has felt that literacy is essential to freedom.

In her home, as well as in her career, Mrs. Matis demonstrates her conviction that all people deserve to be treated as equals. This warm and open approach has enabled her children to develop responsibility, trust, and healthy self-images. In her career, she works daily with troubled teenagers. Her down-to-earth methods have undoubtedly given a boost to countless individuals who were in need of special help.

Mrs. Matis is indeed a deserving recipient of the 1990 Mother of the Year Award. She is an unwavering symbol of all the things we love and admire in our own mothers. I hope my colleagues and the Nation will join me in congratulating Mrs. Matis for her achievements and wishing her continued success in life.●

TRIBUTE TO MAURICE ROBERTS: MR. IMMIGRATION

● Mr. KENNEDY. Mr. President, every profession sees an individual who, over the years, contributes so much to it, who comes by his service to embody its highest standards, and who advances its cause in so many distinguished ways, that they are called "the dean" of their professions. In the field of immigration law, that individual is Maurice A. Roberts; he is "Mr. Immigration."

This month members of the American Immigration Lawyers Association, meeting in Seattle, will honor Maury Roberts for his many years of service in behalf of humane, generous, and fair immigration law.

As chairman and a long-time member of the Subcommittee on Immigration and Refugees, I have come to know of Maury Roberts' work over the years, and I have deeply appreciated the wise counsel and frequent assistance he has rendered to the subcommittee and its staff.

Maury Roberts currently serves as editor of Interpreter Releases, the premier review of immigration law in the United States, but his life in immigration has spanned more than 50 years. During this distinguished career he has participated in some of the most important immigration cases of our time, and he rendered singular service in the Department of Justice and the Immigration and Naturalization Service.

From 1968 to 1974 he served as Chairman of the Board of Immigration Appeals, but following his retirement he literally began a new career in transforming Interpreter Releases into an indispensable tool of American immigration law.

A very thoughtful appreciation of Maury Roberts' career has been written by a former colleague, Carolyn Waller, who is on a leave from her position as director of the Alien Rights project of the Washington Lawyers' Committee for Civil Rights Under Law.

In joining her and her colleagues in the American Immigration Lawyers Association in paying tribute to "Mr. Immigration"—to Maurice Roberts—I ask that the text of her recent article be printed at this point in the RECORD.

The text follows:

[From the Immigration Journal, January-March 1990]

PROFILES OF SENIOR IMMIGRATION PRACTITIONERS: MAURICE A. ROBERTS

(By Carolyn Waller)

Elizabeth O'Connor has written in The New Community that each stage of life gives us larger tasks and that God reserves for the old those tasks which can be accomplished only after a lifetime of growing, experiencing, and learning has provided a storehouse of inner resources. Whether God specifically reserved the editorship of Interpreter Releases for Maury Roberts may be subject to debate, but there is virtually universal agreement that the pages of this publication are informed by a lifetime of growing, experiencing, and learning in the field of immigration law.

The man who is editor of Interpreter Releases will be 80 years young next October. He accepted the job in 1974 upon retiring from a career in the Justice Department that by any standard was distinguished. Yet, when asked, he cited the development of Interpreter Releases into an indispensable tool for immigration practitioners as the accomplishment of which he is most proud.

When people in this field learn that for several years I worked for Maury Roberts, they ask all sorts of questions about what it was like. Working for Maury was certainly an introduction to a few of the field's most eminent practitioners. People like Sam Bernsen, Esther Kaufman, David Carliner, Jack Wasserman, and Edith Lowenstein were occasional visitors, and Charlie Gordon, a close friend of Maury's for almost 50 years, regularly walked the two blocks between his and our offices to borrow our advance sheets.

It was Edith Lowenstein, Maury's predecessor as editor of Interpreter Releases, who persuaded him to take the job, insisting that it would be only a part-time activity to give him something to do during his retirement. Lilliam Roberts was skeptical of this description from the beginning, and recalls a New York cocktail party given by the American Council for Nationalities Service to make the transition at which she jokingly threatened Edith with dire consequences if her husband ended up working more than part-time. Time would prove that her fear was well-founded.

Subscribers rarely came to our little two-room office in the Bowen Building on Fifteenth St., N.W. in Washington, D.C. However, those who did invariably looked around them for all the people they assumed helped produce Interpreter Releases. Today, Maury has a few excellent colleagues to help him. But for years, it was really just Maury, sometimes with an assistant, sometimes not. It was Maury, at a desk cascading with correspondence, a floor piled with court decisions, a telephone almost lost among the paper, a picture of his daughter on the bookcase, and classical music playing softly in the background from his radio.

There he wrote each week's issue on a yellow legal pad—dozens and dozens of pages flowed forth. In addition to the grueling weekly production schedule, there was an unrelenting schedule of speeches and outlines and law review articles to write. Maury is his own excellent editor, and he edits before the word hits the page. Rarely was a word crossed out and almost never was a paragraph or a sentence rearranged. Mistakes were rare, indeed, and even a simple misspelled word warranted an apology in the next issue. "Always tell your readers when you goof," Maury would say. "Otherwise, they won't trust you."

Until Mas Yonemura, shocked at our primitive system, generously donated funds to the American Council for Nationalities Service for a word processor, each issue was typed on an IBM Selectric, carefully arranged with scotch tape, and, with an explosion of energy on Fridays, sent to the ACNS office in New York for reproduction. With no copying machine of our own, we made what seemed like dozens of running trips across the street that day to put the appendices in place. "Well," Maury would say after a particularly grueling week, when the issue was more than double or triple its anticipated size. "Our readers certainly are getting a bargain. Nobody else is giving them this. How could they practice without us?" Among the many lessons Maury taught was that when you don't have competitors, when your publication is unique, you have to be your own competition, your own arbiter of excellence.

By the time I left Interpreter Releases at the end of 1981, other good publications were entering the field. Maury, of course, responded to the challenge, but Interpreter Releases grew larger than was feasible for a voluntary agency to produce. Thus, the April 4, 1986 issue begins with a notice from Wells Klein, then and now the executive director of ACNS, that after 63 years of publishing this information service, the agency had sold it to Federal Publications. If in some ways this change marked the end of an era, in other ways the tradition remained. Maury continued as editor and the transition was smooth. And the accessibility for which Maury has long been known has been encouraged by Federal Publications. One of the most notable forms of this encouragement has been the annual birthday party in which members of the local immigration bar are invited to the Federal Publications office for cake and punch each October. These occasions are universally appreciated, not only as an opportunity to socialize with colleagues, but even more as a chance to obtain Maury's advice on a particular problem or issue.

During the course of Maury's long career, there have been many who remember with appreciation his willingness to teach the substance of the law and share his unparalleled knowledge of immigration cases. He seems to remember every case with which he was involved between beginning his government service as a naturalization examiner in 1941 and ending his Department of Justice career in 1974 as Chairman of the Board of Immigration Appeals. If Elizabeth O'Connor is correct in her philosophy, then I am also approaching the age when some special task will have been reserved for me. That being the case, it always amazes me to think that Maury was a member of the bar before I was born and practiced law in Newark, NJ, during the great depression without, according to him, any notable financial success.

The year 1941 was, of course, the beginning of World War II for the U.S. Thus, soon after joining the INS, Maury found himself involved in setting up a program for organizing and retrieving information about activities of German-American Bund members. He also set up and headed a program for the denaturalization of Nazis.

At the end of World War II, during January and February 1946, he was assigned to hear the cases of 200 Japanese-Americans interned at Tulelake, CA. The issue before him was whether the respondents had voluntarily renounced their U.S. citizenship, and he found only a few cases where renunciation had not been coerced.

With the onset of the cold war, he assembled evidence to prove the illegal nature of the Communist Party. He also prosecuted deportation proceedings against high ranking Communists in the U.S. including John Santo, head of the Transport Workers Union; Peter Harisiades, head of the International Workers Orders; and Gerhard Eisler, the Communist International representative in the U.S. Years later, he wrote about this period in *Interpreter Releases*, describing the frustration felt by the government lawyers who had to prove both the illegal nature of the Communist Party and the Respondent's membership in the Party in each case. The Department of Justice turned to Congress for relief and the deportation statute was ultimately amended to its present form which specifically names the Communist Party as a proscribed organization.

During the period when new legislation was being contemplated in the Department, we in the INS . . . were asked for suggestions. To avoid the possibility that a statute specifically singling out the Communist Party might be vulnerable as a bill of attainder, some one came forward with the suggestion that the statute . . . provide for the deportation of *all* aliens, with relief from deportation available in the exercise of administrative discretion. In that way, went the suggestion, we could legally proceed against all alien Communists merely as

aliens, without the burden of having to prove their own individual membership and the proscribed nature of the Party. Naturally, discretionary relief from deportation would not be granted to them.

Of course, nothing came of this suggestion. I mention it because it illustrates not only what excesses can be contemplated in time of crisis in reliance of the plenary power of Congress in this area, but also what direction our immigration laws have taken. Responding to periodic tensions, Congress has from time to time added fresh groups of aliens to the excludable and deportable classes, followed some time later by additional avenues of discretionary relief [so that] much of the Department's resources is being devoted to the institution of deportation proceedings against aliens who ultimately receive relief. . . . It is high time that we paused and examined this revolving door system, to see if a less wasteful set of principles will not as effectively promote our national well being, while at the same time eliminating the traumatic effect on aliens needlessly confronted with deportation proceedings. 57 Interpreter Releases 157, 158 (Mar. 31, 1980.)

The moderation and humanness reflected in this passage illustrate the qualities for which Maury himself would be like his government career to be remembered. His long service encompassed many times during which a crisis and resulting heightened public emotion provided the potential, and sometimes produced the reality, of government over-reaction. Colleagues at the time, such as Charlie Gordon, confirm that his presence did serve as a moderating influence. But confirmation also comes from listening to Maury reminisce. The recent death of Harry Bridges elicited Maury's recollections of attempts by three administrations to deport the Australian-born head of the longshoremen's union as a Communist. It was Maury, by then in the Criminal Division at Justice, who at last recommended that the case be closed. Finally, there is Maury's own humorous recounting of cases that he tried. One of my favorites involves a naturalization application which the government opposed because the applicant had for many years been living with a woman whom, because of some impediment, he had never married. Naturalization, of course, requires that the applicant be of good moral character. However, until the Immigration Efficiency Act of 1981 repealed the provision, adultery was an absolute bar to a finding of "good moral character." Maury recalls the judge looking at him with exasperation and asking, "Do you really think he would be a better man if he left her?"

Family relationships are an area of special expertise for Maury, as is the relationship between the adjudicatory and enforcement functions of the Immigration and Naturalization Service. He has long been an advocate for the independence of Immigration Judges and of the Board of Immigration Appeals. These concerns are reflected in his law review articles which include: "The Exercise of Administrative Discretion Under the Immigration Laws," 13 San Diego Law Review 144 (1975); "Sex and the Immigration Laws," 14 San Diego Law Review 9 (1977); and "The Board of Immigration Appeals: A Critical Appraisal," 15 San Diego Law Review 29 (1977).

According to Lillian, his wife of over 50 years, Maury has always enjoyed and become very involved in what he was doing. But it is perhaps a conviction that through Interpreter Releases he is able to expand the scope of his moderating influence that gives him a special sense of concentration and singleness of purpose in regard to getting out "his publication." Nothing illustrates this better than a telephone conversation I had with Ginny Hamilton (a former excellent assistant and major resource for this story) some time after my departure. She asked if I had heard about the bank robbery and when I replied that I had not, she said that the bank next door had been robbed the preceding Friday (production day, no less) and the thieves had fled into the Bowen Building. A real live Washington, D.C. swat team armed with automatic rifles was sent to escort the tenants out of the building so that no one could be seized as a hostage by the fugitives. "How did Maury react?" I asked. "Well," she said, "he complained to the officer in charge that he really couldn't afford the interruption because he had to get out Interpreter Releases."

An article as brief as this can only give the flavor of a career as full and rich as Maury's. A full description must await the completion of at least one more task that I, at least, hope has been reserved for him: the writing of his memoirs.●

VISIBILITY AND CLEAN AIR

● Mr. BAUCUS. I ask that an article which appeared in the June 19, 1990, edition of the Washington Post concerning the growing problem of regional haze and its detrimental impact on visibility be printed in the CONGRESSIONAL RECORD.

Mr. President, I commend this article to my colleagues as we prepare for the conference committee regarding the pending amendments to the Clean Air Act. The Post story by Alice Digilo and John F. Harris details the growing concerns associated with the problems of regional haze and reduced visibility. There is a perception, particularly on the part of our colleagues in the House, that regional haze is a pollution problem exclusive to the West. This article documents that regional haze surrounds many of our national parks in the east. The article focuses on the efforts of the National Park Service at Shenandoah National Park to limit further degradation of visibility in the park.

S. 1630, as passed by the Senate, contains an amendment by our colleague from the State of Washington, Mr. ADAMS. These provisions deal with the problem of regional haze nationwide. The visibility provisions adopted in the House of Representatives arbitrarily apply only West of the 100th meridian. Throughout the clean air debate, I have endeavored to craft a bill which is fair and equitable to all regions of the country. Mr. President, under the existing Clean Air Act, many areas of the West have been forced to labor under a double standard. Our powerplants are among the cleanest in the world. Even though many of our powerplants burn low-sulfur coal we are required to use technological controls to further reduce our emissions.

In the West, visibility on good days is unobstructed for 100 to 150 miles. This is in large measure due to relative cleanliness of our powerplants. By contrast, visibility in the East at its best is limited to a range of 30 to 60 miles. At the time the Shenandoah National Park was established, the Washington Monument roughly 70 miles distant was clearly visible from the park. That is not the case today.

Over the past decade, many members of the Senate have labored to improve the Clean Air Act by removing many of the regional iniquities of the existing act. Arbitrarily establishing a geographic line of demarcation which establishes one standard for the West, and no standard for the rest of the country, is simply unfair and counter productive. The Post article documents that regional haze is a national problem affecting all areas of the country which should be addressed in a fashion similar to the intent of the Senate-passed clean air bill.

The article follows:

[From the Washington Post, June 19, 1990]

PARK OFFICIAL SEEKS DELAY OF NEW VA. POWER PLANTS

(By Alice Digilio and John F. Harris)

Virginia Power's efforts to meet the rising demand for electricity in the state have run up against the U.S. Department of the Interior, in the person of J.W. Wade, superintendent of the Shenandoah National Park.

From his perch on the crest of the Blue Ridge, Wade has called on the state to stop issuing permits for a series of independently run power plants, saying they would add significantly to air pollution, which in turn would damage natural resources in the 195,000-acre national park and elsewhere in Virginia.

In a recent letter to Elizabeth Haskell, Virginia's secretary of natural resources, Wade asked for a moratorium on permits for large generating plants.

The sheer number of power facilities planned—at last count about 40—is likely to damage the environment, according to Wade. "It's not the individual impact of each of these plants, but the cumulative effect we're concerned about."

Haskell, in a reply to Wade yesterday that stressed the need to balance "economic development and conservation of natural resources," proposed a meeting on the issue but did not address a moratorium.

Wade's objections come amid growing concern that air pollution is choking the country's national parks, including the Grand Canyon, where smoke from a nearby power plant obscures the canyon bottom on some days, and remote Acadia National Park in Maine, where smog readings sometimes exceed federal health standards.

The General Accounting Office reported this year that 1 percent of the pollution sources near national parks and wilderness areas, accounting for 10 percent of the pollution, are regulated under the Clean Air Act.

Buying power from independent producers—authorized by the federal government in the mid-1970s and approved in Virginia two years ago—is often the cheapest way for

a utility to meet escalating needs for electricity, according to Virginia Power spokesman Jim Norvelle. He estimated that the approach, which is expected to help raise Virginia Power's output 50 percent by the year 2000, will save customers $500 million in the next 25 years.

Virginia Power gets 3.2 percent of its power from independents, up from 1 percent two years ago. By 1997, the utility projects it will receive 21 percent of its power from other producers.

Much of this private supply comes from independent companies that specialize in "cogeneration"—that is, they not only produce steam to drive turbines but also sell a part of it to nearby businesses.

Since Virginia began allowing utilities to buy power from independents, there has been a sharp increase in the number of generating plants approved by the state. From 1986 to 1988, four plants were approved. Since then, 11 have been, and about 15 are awaiting approval.

In his letter to Haskell, Wade asked for a moratorium on permits for generating facilities that would emit more than 500 tons annually of sulfur dioxide or nitrogen oxides—two principal ingredients in air pollution and acid rain—until a study of the cumulative effect of the power plants is complete.

According to Virginia Power engineers, a coal-burning plant producing 60 megawatts of electricity, with pollution-control devices operating at 92 percent efficiency as required by state air pollution laws, puts out 500 tons of sulfur dioxide a year, and can supply power for about 14,000 households.

Of the 40 new power plants planned for operation within the next seven years, 14 would produce 60 or more megawatts, and 10 of those 14 would be coal-fired, including a 486-megawatt plant in Halifax planned by Virginia Power and the Old Dominion Electric Co-op. Five plants would be operated with gas and oil, including one in Doswell that would produce 600 megawatts.

In the Shenandoah National Park, which stretches along the Blue Ridge from Front Royal to Waynesboro, steadily acidifying trout streams and pea-soup views from overlooks along the 101-mile Skyland Drive are already a concern to park officials as rapid growth threatens to hem in the 50-year-old network of forests, waterfalls, scenic drives and hiking trails. Two years ago air quality in the park, which draws nearly 2 million visitors annually, registered in the unhealthy range for two days running, and Wade has said he would consider posting health warnings for hikers should air pollution soar again.

Wade said he wrote Haskell because, under the 1977 Clean Air Act, he has the responsibility to make sure that air quality in the park does not go below standards set forth in the legislation.

Wade has the backing of his bosses in Washington, including National Park Service Director James Ridenour, whom a spokesman described as "very supportive" of Wade's efforts.

Should Wade officially object to a specific power-producing facility on the grounds that it would damage the park's air quality, the Interior Department could lodge a formal complaint with Virginia officials. However, the state is under no legal obligation to refuse a permit.

"We're like shooting BBs at a cannon," said one park official.

The prospect of generating and selling power to Virginia utilities has attracted millions of dollars in investment to the state, but in many communities the proposed plants have spawned controversy.

In Buena Vista, a dispute has been brewing for two years over plans by the Hadson Development Corp., and Oklahoma City oil and gas company, to cogenerate power for a shoe sole factory. City officials want the jobs and tax revenue the plant would bring, but their neighbors in adjacent Rockbridge County claim that pollutants from the coal-fired plant would further limit visibility in the Shenandoah Valley and threaten the area's tourism.●

ANDERSON LUMBER CELEBRATES 100 YEARS

● Mr. HATCH. Mr. President, I wish to draw the attention of my colleagues and the Nation to the centennial of the founding of the Anderson Lumber Co. I want to congratulate this Utah establishment on its successful operation, as well as its fine service to the community.

In 1890, when the Anderson Lumber Co. was started by Anthon Anderson, it was a small business in Logan, UT, in which the entire family worked very hard. Their accounting system consisted merely of notations written on blocks of wood or scraps of paper.

Today, Anderson Lumber portrays quite a different picture. In just 100 years, the company has expanded to four States, with 21 building material centers now located in various cities.

During the 1980's, Anderson Lumber adopted the theme of "excellence in customer service." Their loyal and dedicated employees put this slogan into practice. Undoubtedly, this guideline was a contributing factor to the growth of retail sales from $40 million to $100 million during the last 10 years.

Anderson Lumber was honored to receive the National Retailer of the Year Award in 1986. This award is held in high regard in the industry because companies are voted upon by their peers.

The company is now involved in numerous service projects for the various communities in which they are located. Recently, they were responsible for donating trees for planting on Arbor Day to the elementary schools of Utah and southeastern Idaho. A poster contest was also conducted that awarded prizes to students.

I want to salute Anderson Lumber for their achievements in the past 100 years, to wish them continued prosperity in the next 100 years. I hope my colleagues will support me in this effort.●

STEEL SUBSIDY NO. 4: TURKEY

● Mr. HEINZ. Mr. President, in recent days I have talked about a vital problem in international steel production: The use of subsidies by many countries to support their domestic firms. The reason why it is such a serious problem is twofold: It promotes unfair competition against the U.S. steel industry and it presents a major obstacle to President Bush's efforts to form an international consensus on steel. In my previous comments I have focused on cases where a country has broken its bilateral consensus agreement with the United States by using subsidies. Today, however, I would like to concentrate on a different but equally important aspect of the problem.

America has voluntary restraint agreements and/or bilateral consensus agreements with 28 countries. This is a very wide base from which to build an international consensus. Nevertheless, it is not comprehensive enough, for there are major players in the marketplace who are not covered under either type of pact. These wildcards are especially dangerous because we have no guidelines to insure that steel trade with these countries is conducted on a level playing field. And their refusal, in many cases, to enter into such an agreement with the United States is particularly worrisome because, without these participation and support, any international consensus on steel production will be seriously limited in scope and significance.

Turkey is just such a wildcard, and today's subsidy of the day comes from this nation. Earlier this year, in response to its domestic industry's call for incentives to export an expected 3 million ton surplus, the Turkish Government substantially increased export cash premiums. The Government also continues to make credit available to exporters at below-market interest rates. Furthermore, in January 1990, the state-guaranteed a $100 million loan to TDCI, the Government-owned integrated steelworks.

Actions like these are intolerable market distortions and are the intended target of the President's efforts. But without cooperation and compromise from both sides, an agreement will remain out of reach. Renewed attempts must be made both to reach an international consensus which includes these wildcard steel producers and to enforce existing pacts completely. The Trade Agreements Compliance Act, which Senator BAUCUS and I and others have introduced, will go a long way to accomplishing this latter task. Our steel industry can meet and beat any competitor in the world today, if free and fair trade is practiced. To this end, I urge Senators' support for President Bush's steel initiative and for the Trade Agreements Compliance Act.●

SACRIFICES MUST NEVER BE FORGOTTEN

● Mr. KERRY. Mr. President, 40 years ago this Monday on June 25, 1950, North Korea invaded South Korea, starting a war that would claim

the lives of 54,000 American soldiers, and wound 100,000 more—a war which proved to be one of the most brutal in our history.

For 37 months 5.7 million Americans served in the military forces in Korea. They fought to keep the southern half of the Korean peninsular democratic. South Korea is now one of the most productive economies in the world.

The great sacrifices made by our American soldiers and their heroic actions must never be forgotten. The private who laid awake, dirty, and hungry, afflicted with dysentery must not be forgotten. The massacre of the 8th Army must not be forgotten. The valor of the 1st Marine Division at Chosin must not be forgotten. Those who saw their buddies fall at Pork Chop Hill and Heartbreak Ridge, and those who gave the last measure of their love of their country and the freedom it stands for, must not be forgotten.

Four years ago I worked with my colleagues to pass legislation that would set aside a site for a Korean War Memorial near the Lincoln Memorial in Washington, DC. That legislation was passed into law, and now we are working on the fundraising effort so that construction of the memorial can begin. Just as those who fell in Vietnam, in the islands of the South Pacific, and in the trenches in World War I have been commemorated, so those who served in the police action in Korea deserve to be remembered by the American people.

We must also remember those whose families still have received no word of their loved one. The 8,000 Americans still listed as missing in action must be accounted for. Last month, over the Memorial Day weekend, a congressional delegation traveled to Panmunjom to receive the remains of five U.S. soldiers. These were the first remains to be returned by the North Koreans to the United States in the 36 years since the end of the war. I remain hopeful that this action will lead the way to the return of many more of the sacred remains of these fallen heroes in the future. I will continue to push with all my energy and all the fervor which this cause deserves for a full and complete recording of all of our soldiers.

The armistice that was signed on July 27, 1953, ended the war at the 38th parallel, close to where it had started. Yet we must not forget the heavy price paid by America and her allies to win the 38th parallel, and to protect it to this day. The prosperity of South Korea, Japan, and the Far East exists because of the American blood that was spilt to stop North Korean Communist aggression. The freedoms that we continue to take for granted in America were made more secure by the courage of these citizen soldiers.

As Americans, we have a special obligation to make sure that the sacrifices of our brothers and sisters in Korea are never forgotten. I pledge my continued effort to keep the memory of the sacrifice of American service men and women in Korea alive for as long as I am.●

O'MELVENEY & MYERS, RECIPIENT OF CHAMPION OF CHILDREN AWARD

● Mr. WILSON. Mr. President, I rise today to commend the exemplary corporate citizenship of the California law firm of O'Melveny & Myers, manifested in its commitment over the past 6 years by its pro bono legal services to the Children's Institute International.

In recognition of its extraordinary contribution to Children's Institute International in sustaining this nonprofit organization's mission to fight child abuse and neglect, O'Melveny & Myers will receive the Champion of Children Award from CII on June 28 of this year. This award is presented annually to the individual or firm who has provided significant support to CII and has been on the forefront of services rendered to abused and neglected children.

Our society is faced with the tragic and widespread problem of child abuse and neglect. There is a critical need for assistance in coping with the complex legal requirements for child abuse cases in the State and Federal justice systems. O'Melveny & Myers has donated thousands of hours of legal assistance to CII in its efforts to help hundreds of child victims and their families, and has done so with great compassion and sensitivity in a criminal justice system which unwittingly traumatizes young victims and those who try to help them.

O'Melveny & Myers is one of the oldest and largest law firms in the United States. Founded in Los Angeles in 1885, it has enjoyed a long and distinguished history both in the national and international legal communities. I find it commendable that this venerable firm has consistently chosen to demonstrate a compassionate civic conscience to complement its business success. From the center of such humanitarian concern has emerged the very real gift of assistance to abused children in need, a gift which I am privileged to illuminate in this Chamber of the U.S. Senate. I congratulate O'Melveny & Myers as it receives this year's richly deserved Champion of Children Award.●

A PRINCIPLED AMERICAN HELPS OTHERS TO HELP THEMSELVES

● Mr. DECONCINI. Mr. President, on Sunday, June 10, the Arizona Republic profiled a true American hero, Rev. Leon Sullivan. Reverend Sullivan has been active since the 1950's in helping America's poor and underprivileged get a step up and learn to help themselves. First he established the Opportunities Industrialization Centers of America [OIC], beginning in Philadelphia and then expanding to 140 locations throughout the United States by 1980.

Now, Reverend Sullivan is taking his ideas of self-help overseas through his International Foundation for Education and Self-Help [IFESH]. Helping to battle the twin evils of poverty and illiteracy, he is establishing farms, small enterprise developments, and vocational training programs in countries throughout Africa.

Additionally, in March, he signed the first contracts with the Agency for International Development [AID] to purchase $2 million in debt in Nigeria, Niger, and Guinea and then parlay that into more than $5 million in local currencies which are used to establish development programs in those impoverished countries.

Our attention and our focus for our limited foreign aid dollars are becoming directed to Eastern Europe and away from Africa—which has been ignored for far too long. Programs such as Reverend Sullivan's innovative debt for development initiative have the possibility of helping these debt-burdened countries escape their debt problems and provide them with a financial basis to train workers and thus attract private investment and supplementary international development aid.

I commend Reverend Sullivan for his long and distinguished career in developing innovative and effective self-help programs and ask that the Arizona Republic article about Reverend Sullivan be printed in full at this point in the RECORD.

The article follows:

[From the Arizona Republic, June 10, 1990]

SULLIVAN'S PRINCIPLE

(By William H. Carlile)

The Rev. Leon H. Sullivan is working the cordless phone in his Scottsdale home one Monday morning this spring, drumming up support for his latest effort to help those less fortunate gain a measure of dignity and control over their lives.

He is preparing to open a shelter in downtown Philadelphia to feed and clothe the city's homeless.

But Sullivan, 67, is no ordinary minister looking after society's needy. Postor emeritus of Philadelphia's Zion Baptist Church, one of the largest black churches in America, Sullivan wields considerable clout in the nation's black community.

A board member of General Motors Corp., Sullivan is also known in corporate circles as author of the Sullivan Principles, which establishes fair-employment standards for U.S. corporations doing business in South Africa.

He is tackling the problem of homelessness on a grand scale, tapping the resources

of his many contacts in the private and public sectors.

The city of Philadelphia has agreed to donate a building and put on a new roof. The U.S. Navy is refurbishing the building. Labor unions are restoring the plumbing. Even the homeless themselves are pitching in, cleaning up the building's interior.

The state is providing resources for recruitment, counseling and training. Supermarket companies are providing food. State and federal programs are being tapped for free lunches.

Businesses have promised one job each to a person coming out of his program having learned a marketable skill. An appeal has gone out to suburban churches, asking them to get involved in the problems of the inner city.

"I am taking everything I got and putting it together in a comprehensive program," he said.

He is hoping to invite congressmen, senators and perhaps 1,000 others to a grand opening to witness what he calls "the start of a whole new concept of dealing with the homeless."

But on this Monday morning, one loose end remains: finding someone to donate clothing.

Sullivan, known for his thundering sermons from the pulpit, quietly explains his need to a clothing-store chairman. It would be nice, Sullivan says, if at the grand opening young children could be clothed with garments donated by the firm.

The chairman agrees to donate clothes. Sullivan's face radiates happiness. He expresses his gratitude and, his mission accomplished, says good-bye.

Last month, Sullivan saw his dream become a reality. The Philadelphia shelter opened as the first in an ambitious program to build 100 such facilities in troubled inner cities across the country.

"This idea appeals to the liberals because it's getting at an important social issue. And it appeals to more conservative instincts because it's really a self-help program," the Rev. Scott O'Brien, rector at St. Martin in the Fields Episcopal Church, Chestnut Hill, Pa., told The Philadelphia Inquirer.

O'Brian's suburban church was one that responded to Sullivan's appeal with $50,000 in seed money.

OUTGROWTH OF 1950'S BOYCOTTS

Sullivan's dedication to human rights and human development—whether they be the problems of the homeless in this country or of blacks in South Africa seeking freedom from apartheid—began in the 1950s.

As a minister in Philadelphia in 1958, Sullivan was among 400 black preachers who led boycotts—or "selective patronage," as it was called then—against companies that discriminated against blacks.

Sullivan recalled in an October sermon that not a single soft-drink company then had a black salesman driving a truck. There were no bank managers who were black. Except for a few, there were no blacks in any position of consequence.

For three years these black preachers boycotted soft-drink companies, banks, newspapers, oil companies and large chains until the firms relented.

The result was to open new opportunities for blacks in the labor force. The successful campaign even caught the attention of the Rev. Dr. Martin Luther King, Jr., head of the Southern Christian Leadership Conference, who sought to duplicate Sullivan's efforts nationally.

But as jobs opened up, the number of trained black workers did not keep pace with available positions.

"Integration without preparation is frustration," Sullivan said as he looked back on that period.

So in 1964, he drafted plans to provide jobs training.

Sullivan led an effort in which 100 Philadelphia black churches contributed $1,000 each to start a program called Opportunities Industrialization Centers of America. (OIC).

The turning point came when then-President Lyndon Johnson visited Philadelphia. Johnson gave his blessing to the program, and before long the tap of federal dollars helped the program expand nationwide.

By 1980, OICs climbed to 140 U.S. affiliates and $132 million in funds. But the flow of federal dollars dried up with the Reagan administration. OIC operations shrank to $45 million in 1988, causing program cuts.

Still, the program today has the distinction of being the nation's largest self-help program for jobs training. It has trained an estimated 1 million people in 80 cities, including Phoenix, for jobs. The organization's trainees annually contribute $20 billion in wage and $3 billion in taxes to the economy, according to a study.

Support comes largely from the federal government, complemented by corporate donations.

Last year, Sullivan's brainchild marked its 25th anniversary, and the occasion was used to launch a new expansion effort.

OIC'S BRANCH OUT OVERSEAS

Sullivan is also active in promoting self-help abroad, principally in Africa, through the work of Opportunities Industrialization Centers International (OICI).

"As a black man, I much remember that I am an African-American," he said, "I want to do all that I can, because education is the key, and because education gives people tools to be competitive."

Begun 20 years ago, OICI is now the largest self-help skills-training program in Africa, Sullivan says.

In fiscal year 1989, seventeen African OICIs were operating in 12 countries, graduating 2,250 trainees in vocational skills, agricultural/rural development programs, and small-enterprise development programs.

ATTACKING ROOTS OF APARTHEID

It was Sullivan's roots in Africa which caused him to focus on South Africa's official policy of apartheid.

While some blacks in the U.S. advocated tough measures to abolish the system, Sullivan favored a more moderate approach. He maintained that applying internal pressure for reform was a better strategy than severing ties.

In 1977, he drew up what became known as the Sullivan Principles. They required American corporations doing business in South Africa to practice racial equality in hiring, pay, training, promotion and workplace rules. In effect, they established the first minimum standards for nondiscriminatory treatment of employees of all races in South Africa.

"When I announced the Sullivan Principles, apartheid was total," he said. "Blacks didn't have the legal recognition as a worker in South Africa . . . They were totally on the outside of South Africa's economic mainstream of opportunity."

Six U.S. corporations in South Africa, including GM, agreed to implement the Sullivan Principles. More than 100 U.S. firms eventually followed.

The six-point program included:

Integration of all company facilities.

Establishment of equal and fair employment practices.

Equal pay for employees performing equal or comparable work for the same period of time.

Development of training programs for non-whites.

As increase in the number of blacks for managerial positions; and

Improvement in housing, transportation, education and health facilities for employees.

A seventh principle, articulated in 1984, called on firms to challenge the system directly.

"I remember when I initiated the principles, the government leaders said, 'Stop him now, because otherwise the string will continue to unravel, until we are unable to stop the unraveling. Stop him now!' Well, they could not stop me then because I had 100 of the large corporations of America who were with me."

Despite these and other attempts to unravel apartheid, however, South Africa remained racially segregated by law.

Sullivan in May 1985 set a two-year deadline for dismantling apartheid.

As the deadline approached, South Africa on May 15, 1987, denied him a visa to conduct an inspection tour to determine whether to proceed with his call for an economic embargo.

Two weeks later, on June 3, 1987, Sullivan called for a complete U.S. economic embargo against South Africa, as well as severing diplomatic ties. He also urged all U.S. companies to withdraw from South Africa "until the atrocities against black people end and aparthied is dismantled.

About 200 U.S. companies were operating in South Africa at the time of Sullivan's call, and about $1.35 billion in U.S. money was directly invested there. Of those 200 firms, about 125 had signed the principles.

At the time, his announcement was interpreted as a renunciation of the very principles he had drawn up. In fact, Sullivan said, he was proud that the principles has broken ground for black right that had not existed in South Africa for 300 years. However, he added, the time had come to extend them to a total boycott.

"The Sullivan Principles were the first force in America and the world to deal with corporations, to put a crack in the apartheid wall," he said.

About 80 American companies withdrew from South Africa within 12 months of Sullivan's announcement, leaving about 120. Seventy American companies remain today and continue to adhere to Sullivan Principles.

WHAT THE LORD WANTED

In 1988, Sullivan stunned members of his Philadelphia congregation by stepping down from the pulpit after 37 years to move to Arizona, where he relocated the International Foundation for Education and Self-Help. Established in 1983, the foundation's mission, he said, is to lead American companies, institutions and individuals to get involved in improving conditions of people in Africa and other developing countries.

"People couldn't understand why I did it, but I wanted to focus on this," he said of his move. "That's what the Lord wanted me to do."

He returns to the pulpit in Philadelphia occasionally, using it as his platform for national and world issues.

There was no fanfare announcing his arrival to Arizona. Rather, he slipped quietly into the state, keeping a low profile and remaining detached from state's political turmoil, most notably the bitter dispute over a paid state holiday honoring King, the slain civil-rights leader.

He describes his northeast-Phoenix foundation office as "almost unmarked," feeling that anonymity allows him to be most effective.

The organization is a support umbrella for self-help initiatives in Africa and other developing countries. It assists in the expansion of OICIs and other private voluntary organizations of demonstrated effectiveness throughout Africa, providing literacy, educational and economic programs, food and health care, among other ventures.

CHALLENGE IN AFRICA IMMENSE

The challenge confronting Sullivan's organization and others that offer assistance to Africans is immense.

"They have been cut off from the rest of the world as the result of slavery and colonialism," Sullivan said. "So, Africa didn't start up at the starting line with the other nations."

Added to that is the region's recent troubled history of civil wars, famine, disease, and economic stagnation resulting from state-run economies.

A recent United Nations study shows that Africa is actually falling behind the rest of the world in economic development.

To make matters worse, Sullivan estimated that by the year 2020—a date no further in the future than John F. Kennedy's presidency is in the past—Africa's population will reach an estimated 1 billion persons. That number roughly equals the population of China today. That increase will place enormous burdens on Africa's natural resources.

Sullivan remains optimistic, however, calling proposals for the region "better than many people think."

"I've been impressed with the extraordinary desire of the people in Africa, particularly in the rural areas, for education and human improvement," he said. "And more so than I found in many of the cities in America."

A debt-conversion agreement signed on March 7 in Washington between Sullivan's foundation and the United States Agency for International Development is one innovative approach toward helping Africa.

A $2 million debt-for-development grant will support a debt swap that will generate $5 million in local currency for the West African nations of Nigeria, Niger and Guinea. This will make possible four years of self-help efforts in literacy, agriculture, and vocational and business training.

The agreement, Sullivan says, is the first of its kind between AID and a private group for human-resource development. It has drawn praise from AID officials.

Dr. Warren Weinstein, associate assistant administrator of AID, said, "The issue that comes up . . . is one of transferring the sense of 'ownership' to the local population. And on that, I think that Rev. Sullivan's group has usually tried to achieve that, and has tended to have a very good track record. And that is of local people taking ownership and feeling this is their program, and not just outsiders doing it."

Dean Bernius, deputy director of AID's office of market development and investment/Africa bureau, said "I've had contact with OICI and other organizations both domestically and overseas, most notably in Lesotho, and have had quite a bit of contact with the organization and the people in the organization, and the people in the organization, and have a great deal of respect for what they are trying to do and what they have done.

"Organizations such as Rev. Sullivan's have a very definite role in play in the development equation, and in the economic development and well-being of the countries," Bernius said. "By and large, those programs are very well designed and very appropriate to the needs of the country and the people."

HOPE FOR THE FUTURE

Sullivan, meanwhile, said, "There's a psychological block in America concerning Africa and the capabilities of blacks. That psychological block has to be moved. And that can only be moved through education and by providing people with tools to demonstrate and to prove that they can do anything anyone else can do in the world."

There is a glimmer of hope on Africa's horizon. The wave of democratic reform that has swept much of the rest of the world in recent years is beginning to lap on Africa's shores. And AID studies indicate that those African nations that have already begun to implement market-oriented reforms are posting more rapid gains in gross national product than those countries continuing to practice centralized planning.

Sullivan hopes that one day, African societies might compete economically with other countries, in much the same way as South Korea and Malaysia have become the "little dragons" of Asia.

"It's going to be exciting when Africa emerges along with the Asians. Then you begin to develop world markets and have world competition," he said.

"If you are going to have a competitive world, let Africa be an equal part of it."

And he hopes a post-apartheid South Africa will be the economic engine helping to drive the southern region to prosperity.

But the statutory ending of apartheid must take place first, he said, coupled with a commitment by the South African government, acceptable to representative black leaders, to provide blacks with representation and voting rights equal to whites.

While encouraged by President Frederik de Klerk's lifting last week of the 4-year-old state of emergency, Sullivan says the action does not go far enough. He looks to Nelson Mandela, leader of the African National Congress, for the next step.

"I want to be sure that the actions are irreversible, at which time I am prepared to stand up and say that the embargo can end," he said.

"I am willing to say that companies should go back, but help South Africa become economically solvent and assist with the fullest possible economic support—along with companies in South Africa and other companies in the world—in a unitary, free South Africa, with a major focus on education.

"With the kind of things that we are doing with the other parts of the continent, it would be natural for us to find ways to work together toward that end," he said.

"And I would be willing as an individual, with the approval of black leaders in South Africa, to do what I could to assist South Africa toward the kind of economic strengthening that will be vital for the future of the nation, because I see its value to the total of the continent.

"And the emergence and the economic freedom will be important to blacks in America," he said. "You must remember that in my whole concept, my concern for Africa is also the concern I have for blacks in America. There are more than 30 million blacks in America. And we have to see the emergence of a whole new Africa that enhances us in America."

Sullivan has no illusions that he alone will bring about the new Africa he envisions. But, like the biblical figures who labored for things they could not attain here on Earth, Sullivan has faith.

"I won't see it because I am 67," he said. "But I am laying the groundwork for development, so that in the next 20 or 30 years we will see this thing come to fruition."●

NEED FOR IMPROVED POLICIES IN SEMICONDUCTOR TRADE

● Mr. WILSON. Mr. President, W.J. Sanders III, chairman and chief executive officer of Advanced Micro Devices, Inc., wrote an insightful article which appeared in Electronic Engineering Times, entitled "U.S. Must Sharpen Its Negotiating Edge."

Mr. Sanders very accurately voices the concerns of many business persons over the effects that trade imbalances with Japan are having on the semiconductor industry. While the United States is a leader in the manufacturing of semiconductors, our manufacturers are being forced to compete with Japanese businesses that benefit from protective Japanese trade strategies.

Mr. President, Jerry Sanders is an outstanding leader in the semiconductor industry as well as corporate America and is a refreshingly outspoken advocate for American business. I encourage all of my colleagues to read this article. I ask that the full text of the article appear in the RECORD at this time.

The article follows:

[From the Electronic Engineering Times, Oct. 16, 1989]

U.S. MUST SHARPEN ITS NEGOTIATING EDGE

(By W. J. Sanders III)

Twelve years ago, I accepted an impromptu invitation to join Bob Noyce, Charlie Sporck and Wilf Corrigan for dinner at Ming's, a Chinese restaurant in Palo Alto popular with us techies. The threat to American semiconductor manufacturers posed by Japanese targeting dominated our discussions. While I can't recall the fortune-cookie messages that accompanied our dinner, I am certain that none gave any hint that our worst fears would be eclipsed before 1990.

That dinner meeting of our Silicon Valley Gang of Four led to the founding of the Semiconductor Industry Association. Without the SIA, more than our worst fears might have been eclipsed; the domestic industry itself might have been eclipsed.

While the SIA has fostered unity and cooperation within our industry, we have yet to develop a response to targeted competition that is acceptable to both semiconductor makers and OEMs. Indeed, America's dangerous dependence on foreign suppliers of semiconductors and semiconductor manufacturing equipment is becoming more acute as other nations attempt to emulate Japan's

success through the employment of similar trade strategies:

Protection of domestic markets to guarantee economies of scale;

Government subsidies and guidance to assure access to low-cost capital and maximum leverage from R&D expenditures; and

Below-cost selling—commonly known as "dumping"—to gain market share abroad.

That strategy has worked well for Japan, which now is not only the world's largest producer and consumer of integrated circuits but also—and in my view not entirely coincidentally—the world's richest nation (in terms of total national assets) and America's biggest creditor.

The U.S. information-technology sector (including the semiconductor industry and manufacturers of computation and communications equipment) must join forces to support a new negotiation position on trade issues. Resolving trade problems on terms that will assure the survival of a healthy, competitive domestic information-technology sector—including a world-class semiconductor industry with strong capability in memory products—should be a top concern of the Bush administration and Congress.

Information technology, with more than 2.6 million U.S. workers, now employs more Americans than the automobile, steel and aerospace industries combined.

I am confident that the American people would support such an objective. A recent poll conducted for *Business Week* revealed that 68 percent of Americans believe the economic threat from Japan poses a greater danger to the future of the United States than the military threat from the Soviet Union.

Why is information technology so important? Why semiconductors? And why memories? Why not let the Japanese, Koreans and Taiwanese supply low-cost commodity memories and other semiconductor devices, as my friend George Gilder, author of several books on Silicon Valley, has suggested in his latest book?

The answer, simply stated, is that all viable industrial economies of the 1990s and beyond will be based on success in information technology, which in turn depends on semiconductor technology. As I was first to state, semiconductor technology is the new crude oil of the industrial age.

To put it bluntly, Gilder and his supporters don't really understand the role of memory products in driving semiconductor technology. It's not enough to have access to advanced semiconductors through friendly trading partners. Any one nation that gains hegemony in semiconductor technology will eventually gain hegemony in virtually all sectors of high-technology electronics.

George has frequently drawn a comparison between semiconductor manufacturing and publishing. What adds value to a book, he argues, is the creativity of the author, not the process of putting ink on paper. There is an element of truth in that analogy. Design innovation is important, and semiconductor manufacturing does involve a type of lighography. But apart from those similarities, George's analogy is without validity.

In microelectronics, the printing presses become obsolete every three years as we quadruple the number of transistors on a chip. An enormous investment in manufacturing equipment requires a high return on manufacturing activities, which in turn demands high-volume production to assure cost-effective plant utilization. Commodity memory products are essential because they uniquely generate the high-volume production that drives technology and improves manufacturing skills while maximizing plant utilization through price elasticity.

Further, microelectronics, unlike publishing, is a process-driven industry. The "authors" and the "printers" must collaborate closely to design manufacturable devices—that is, circuits that can be produced in volume with consistently improving yields.

Finally, I'm certain that even Gilder would agree that there can be little freedom of the press if your adversary owns all the printing equipment.

The United States must have a competitive, world-class semiconductor manufacturing industry if America is to maintain not only its standard of living but also its national sovereignty. The United States cannot remain a truly sovereign—much less a prosperous—nation if it continues to grow ever more dependent on Japan for critical technology, manufactured goods and loans to finance federal budget deficits. We must strengthen our capabilities in manufacturing, especially in the information-technology sector.

A new book widely circulated in Japan but not yet available in English, *The Japan That Can Say No*, is making waves among Japanese intellectual circles. Coauthor Shintaro Ishihara notes that leadership in semiconductors gives Japan political and economic leverage, which the Japanese government has not yet used effectively. "If, for example, Japan sold chips to the Soviet Union and stopped selling them to the U.S., this would upset the entire military balance," Ishihara notes.

CHILLING THOUGHT

Ishihara's words are both challenging and chilling: "No matter how much the Americans expand their military, they have come to the point that they could do nothing if Japan were one day to say, 'We will no longer sell you chips.'"

While I believe such a development is unlikely, dependence on a friendly adversary for critical technology is dangerous to both our national security and our economic health. We must restore parity with the best of the best in the world in semiconductor technology, including memory products—all memory products, including DRAMs.

Chips are not all created equal. Some devices generate extraordinary revenue based on design innovation, while others produce significant revenue and technological advances through high-volume production. Both are important.

America and other nations that aspire to full participation in the league of industrial economies must recognize the relationship among semiconductor technology, prominence in memory products, preeminence in manufacturing, economic growth and national security.

It follows that it is unacceptable to permit any one nation, or any one sector of the great economic triad consisting of North America, Europe and Asia-Pacific, to dominate either the semiconductor industry as a whole or the memory portion of the business.

We must sharpen our negotiating edge. U.S. trade policies have failed to meet the challenge of Japanese targeting. As Noyce recently stated, Japan has for 40 years carried out a national strategy with military precision. Its objective, while America was preoccupied with defeating communism, was to replace the United States as the world's leading economic power.

Americans now must devote the same single-minded attention to rebuilding industrial competitiveness. Key to that is establishing and maintaining parity with the Japanese in all facets of semiconductor technology. In the face of Japanese structural protectionism and new European restrictions on semiconductor imports, I believe some form of what has come to be known as "managed trade" is both inevitable and essential.

What is managed trade? In my view, it involves a recognition by all trading partners that dominance of a vital industry by any one nation is unacceptable. No single country can be permited to build its economy solely on exports while excluding the manufactured products of its trading partners from its own markets.

Managed trade will not destroy competition. Indeed, targeting has destroyed competition, for all intents and purposes, in DRAMs. Only a negotiated settlement will restore a competitive environment.

Fort the near term, the United States must adopt a "results-oriented" negotiating position on trade issues. It is not enough to negotiate for abstractions such as "open markets" and "level playing fields." We must have specific goals—such as the 20 percent share of the Japanese semiconductor market envisioned by the U.S.-Japan trade agreement—and specific consequences for failure to meet obligations. We must be willing to limit access to our domestic market if other measures fail.

Meanwhile, the United States must put its own house in order. We must reduce the cost of capital, improve our rate of savings and rebuild our educational system.

Specific remedies for trade practices, such as dumping, that cause enormous, immediate problems for semiconductor manufacturers may not be acceptable to electronic equipment manufacturers. That's despite the fact that those downstream industries, in the absence of timely remedies, now find themselves paying "monopoly rents" to Japan as a result of a virtual DRAM cartel.

Nevertheless, we have made great progress in recent months toward narrowing the relatively few differences between semiconductor manufacturers and their customers. More importantly, we have come to recognize our many mutual interests. I am confident that with close cooperation and mutual recognition of our respective concerns, the various elements of the U.S. information-technology industry can agree upon appropriate trade policies.

As Winston Churchill said in the dark days when continental Europe had been overrun and Britain stood alone against Hitler, "After exhausting all other possibilities, Americans can be counted upon to do what is right."●

SOUTH AFRICAN FREEDOM WEEK

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 336, designating South African Freedom Week, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 336) designating the week in 1990 which coincides with the first visit of Nelson Mandela to the United States after his release from prison in South Africa as "South African Freedom Week."

The PRESIDING OFFICER. Is there objection to the request of the Senator from California?

Their being no objection, the Senate proceeded to consider the joint resolution.

Mr. LEVIN. Mr. President, I want to thank Senator KASSEBAUM, Senator LUGAR, Senator SIMON, Senator BOREN, and 50 of our colleagues for their cosponsorship of this resolution. Yesterday, Nelson Mandela and his wife Winnie landed in the United States and we think it is appropriate that the Senate is taking this action.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

AMENDMENT NO. 2062

(Purpose: To amend the preamble of the joint resolution)

Mr. CRANSTON. Mr. President, I send an amendment to the preamble to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for Mr. LEVIN, for himself, and Mrs. KASSEBAUM, proposes an amendment numbered 2062 to the preamble to Senate Joint Resolution 336.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend the preamble of the joint resolution to read as follows:

Whereas Nelson Mandela was jailed for nearly 28 years in South Africa along with other political prisoners;

Whereas Nelson Mandela has expressly committed himself to ending the oppression of apartheid and to establish a nonracial society in South Africa;

Whereas the people and the Congress of the United States call on the Government of South Africa to accelerate its moves to abolish apartheid; and

Whereas the people of the United States remain committed to the maintenance of human rights and the principles of democracy for all citizens without regard to color and have condemned apartheid as a crime against humanity: Now, therefore, be it

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment to the preamble.

The amendment (No. 2062) was agreed to.

The preamble, as amended, was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The joint resolution, with its preamble, as amended, reads as follows:

S.J. RES. 336

Whereas Nelson Mandela was jailed for nearly 28 years in South Africa along with other political prisoners;

Whereas Nelson Mandela has expressly committed himself to ending the oppression of apartheid and to establishing a nonracial society in South Africa;

Whereas the people and the Congress of the United States call on the Government of South Africa to accelerate its moves to abolish apartheid; and

Whereas the people of the United States remain committed to the maintenance of human rights and the principles of democracy for all citizens without regard to color and have condemned apartheid as a crime against humanity: Now, therefore, be it.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week in 1990 which coincides with the first visit of African National Congress leader Nelson Mandela to the United States after his release from prison in South Africa is designated as "South African Freedom Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

ZUNI CLAIMS SETTLEMENT ACT

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 570, S. 2203, regarding the Zuni Indian Tribe.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2203) to settle certain claims of the Zuni Indian Tribe, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California?

Their being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 2203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Zuni Claims Settlement Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) it is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlement;

(2) extensive damages to the trust lands within the Zuni Indian Reservation have occurred, including severe land erosion, loss of timber and minerals, spoilation of archaeological sites, and loss of the use of water;

(3) these damages have occurred, in part, by reason of acts and omissions of the United States in breach of its trust responsibilities;

(4) corrective measures are needed immediately to prevent continued degradation of tribal resources;

(5) the Zuni Indian Tribe has sought compensation from the United States for these damages through civil actions;

(6) further Indian prosecution of these claims will cause unnecessary stress on the working relationship between the Zuni Indian Tribe and the United States Government and delay cooperative efforts to remedy continuing problems; and

(7) a legislative settlement of these civil actions is appropriate because, notwithstanding any determination of liability, the United States retains a trust responsibility to the Zuni Indian Tribe for the continued protection of tribal resources.

ZUNI RESOURCE DEVELOPMENT PLAN

SEC. 3. (a) Before the first day of the third fiscal year beginning after the date of enactment of this Act, the Secretary of the Interior and the Zuni Indian Tribe shall jointly formulate a Zuni resource development plan for the Zuni Indian Reservation, which shall include (but not be limited to)—

(1) a methodology for sustained development of renewable resources;

(2) a program of watershed rehabilitation;

(3) a computerized system of resource management and monitoring;

(4) programs for funding and training of Zuni Indians to fill professional positions that implement the overall plan;

(5) proposals for cooperative programs with the Bureau of Indian Affairs and other private or public agencies to provide technical assistance in carrying out the plan; and

(6) identification and acquisition of lands necessary to sustain Zuni resource development.

[SEC. 3.] (b) The Resource Development Plan shall be implemented in a manner that protects resources owned and controlled by the Zuni Tribe and promotes sustained yield development.

TRUST FUND

SEC. 4. (a) There is hereby established within the Treasury of the United States the Zuni Indian Resource Development Trust Fund (hereafter in this Act referred to as the "Trust Fund"). The Trust Fund shall consist of amounts appropriated to the Trust Fund and all interest and investment income that accrues on such amounts.

(b)(1) The Secretary of the Interior shall be the trustee of the Trust Fund and shall invest the funds in the Trust Fund with a financial institution.

(2) The Secretary of the Interior shall not deduct any amount from the Trust Fund for administrative expenses or charge the Zuni Indian Tribe for expenses incurred by the Secretary in acting as trustee.

(c)(1) The funds appropriated to the Trust Fund under the authority of section 6 shall constitute the corpus of the Trust Fund and may be expended, subject to paragraph (2), only for the following purposes:

(A) payment of any loans, debts, or future expenses incurred by the Zuni Indian Tribe

to any person for the purchase of land or obtaining or defending rights of access to the area described in Public Law 98-408;

(B) payment of up to $600,000 per year for two years for the formulation of the Zuni resource development plan described in section 3;

(C) payment of all costs, attorneys' fees, and expenses incurred by the Zuni Indian Tribe in the prosecution of docket numbers 327-81L and 224-84L of the United States Claims Court; and

(D) payment of all invoices submitted by any person to the Zuni Indian Tribe for which proper vouchers have been received prior to September 30, 1990, and subsequently approved by the Secretary of the Interior.

(2) The total amount of the corpus of the Trust Fund that may be expended under paragraph (1) shall not exceed $8,000,000.

(3) The interest and investment income that accrues on the corpus of the Trust Fund may be expended by the Secretary of the Interior pursuant to the Zuni resource development plan described in section 3.

(4) No funds appropriated under the authority of this Act may be used to make per capita payments to members of the Zuni Indian Tribe.

SETTLEMENT OF CLAIMS

SEC. 5. (a) Upon the deposit into the Zuni Indian Resource Development Trust Fund of all the funds authorized to be appropriated under section 6, all claims of the Zuni Indian Tribe against the United States that are raised in docket numbers 327-81L and 224-84L of the United States Claims Court shall be considered to be extinguished.

(b) This compromise settlement is made without a finding of liability on the part of the United States with respect to the claims raised in docket numbers 327-81L and 224-84L of the United States Claims Court.

(c) The United States shall continue to have a trust responsibility to protect the resources of the Zuni Indian Reservation.

(d) No sums paid or forgiven pursuant to this Act shall be offset against any award of judgment against the United States which may be rendered in favor of the Zuni Indian Tribe in docket number 161-79L of the United States Claims Court. Any sums paid pursuant to this Act shall be considered to be in the nature of a settlement of claims in law and equity against the United States and shall not be considered for any purpose to be payments to the Zuni Indian Tribe pursuant to a contract, grant, loan, cooperative agreement, judgment, or other kind of appropriation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated to the Zuni Indian Resource Development Trust Fund $25,000,000. Such funds shall remain available without fiscal year limitation.

ADDITIONAL LANDS

SEC. 7. The first section of the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes", approved August 28, 1984 (98 Stat. 1533), is amended by adding at the end thereof the following:

"Also, all of sections 13 and 23, township 14 north, range 26 east, Gila and Salt River meridian, such lands to be acquired and held in accordance with sections 2 and 3 of this Act.".

RECOGNITION OF TITLE

SEC. 8. Title to lands of the Zuni Indian Tribe described in Finding No. 88 in the Decision of the United States Claims Court filed May 27, 1987 in Docket No. 161-79L is hereby recognized for the permanent use and occupation of the Zuni Indian Tribe effective July 4, 1848, for the limited purpose of providing just compensation to the Zuni Indian Tribe under the fifth amendment to the United States Constitution for the taking of said lands by acts or omissions of the United States.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Zuni Claims Settlement Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) it is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlement;

(2) extensive damages to the trust lands within the Zuni Indian Reservation have occurred, including severe land erosion, loss of timber and minerals, spoliation of archaeological sites, and loss of the use of water;

(3) these damages have occurred, in part, by reason of acts and omissions of the United States in breach of its trust responsibilities;

(4) corrective measures are needed immediately to prevent continued degradation of tribal resources;

(5) the Zuni Indian Tribe has sought compensation from the United States for these damages through civil actions;

(6) further Indian prosecution of these claims will cause unnecessary stress on the working relationship between the Zuni Indian Tribe and the United States Government and delay cooperative efforts to remedy continuing problems; and

(7) a legislative settlement of these civil actions is appropriate because, notwithstanding any determination of liability, the United States retains a trust responsibility to the Zuni Indian Tribe for the continued protection of tribal resources.

ZUNI RESOURCE DEVELOPMENT PLAN

SEC. 3. (a) Before the first day of the third fiscal year beginning after the date of enactment of this Act, the Secretary of the Interior and the Zuni Indian Tribe shall jointly formulate a Zuni resource development plan for the Zuni Indian Reservation, which shall include (but not be limited to)—

(1) a methodology for sustained development of renewable resources;

(2) a program of watershed rehabilitation;

(3) a computerized system of resource management and monitoring;

(4) programs for funding and training of Zuni Indians to fill professional positions that implement the overall plan;

(5) proposals for cooperative programs with the Bureau of Indian Affairs and other private or public agencies to provide technical assistance in carrying out the plan; and

(6) identification and acquisition of lands necessary to sustain Zuni resource development.

(b) The Resource Development Plan shall be implemented in a manner that protects resources owned and controlled by the Zuni Tribe and promotes sustained yield development.

TRUST FUND

SEC. 4. (a) There is hereby established within the Treasury of the United States the Zuni Indian Resource Development Trust Fund (hereafter in this Act referred to as the "Trust Fund"). The Trust Fund shall consist of amounts appropriated to the Trust Fund and all interest and investment income that accrues on such amounts.

(b)(1) The Secretary of the Interior shall be the trustee of the Trust Fund and shall invest the funds in the Trust Fund with a financial institution.

(2) The Secretary of the Interior shall not deduct any amount from the Trust Fund for administrative expenses or charge the Zuni Indian Tribe for expenses incurred by the Secretary in acting as trustee.

(c)(1) The funds appropriated to the Trust Fund under the authority of section 6 shall constitute the corpus of the Trust Fund and may be expended, subject to paragraph (2), only for the following purposes:

(A) payment of any loans, debts, or future expenses incurred by the Zuni Indian Tribe to any person for the purchase of land or obtaining or defending rights of access to the area described in Pubic Law 98-408;

(B) payment of up to $600,000 per year for two years for the formulation of the Zuni resource development plan described in section 3;

(C) payment of all costs, attorneys' fees, and expenses incurred by the Zuni Indian Tribe in the prosecution of docket numbers 327-81L and 224-84L of the United States Claims Court; and

(D) payment of all invoices submitted by any person to the Zuni Indian Tribe for which proper vouchers have been received prior to September 30, 1990, and subsequently approved by the Secretary of the Interior.

(2) The total amount of the corpus of the Trust Fund that may be expended under paragraph (1) shall not exceed $8,000,000.

(3) The interest and investment income that accrues on the corpus of the Trust Fund may be expended by the Secretary of the Interior pursuant to the Zuni resource development plan described in section 3.

(4) No funds appropriated under the authority of this Act may be used to make per capita payments to members of the Zuni Indian Tribe.

SETTLEMENT OF CLAIMS

SEC. 5. (a) Upon the deposit into the Zuni Indian Resource Development Trust Fund of all the funds authorized to be appropriated under section 6, all claims of the Zuni Indian Tribe against the United States that are raised in docket numbers 327-81L and 224-84L of the United States Claims Court shall be considered to be extinguished.

(b) This compromise settlement is made without a finding of liability on the part of the United States with respect to the claims raised in docket numbers 327-81L and 224-84L of the United States Claims Court.

(c) The United States shall continue to have a trust responsibility to protect the resources of the Zuni Indian Reservation.

(d) No sums paid or forgiven pursuant to this Act shall be offset against any award of judgment against the United States which

may be rendered in favor of the Zuni Indian Tribe in docket number 161-79L of the United States Claims Court. Any sums paid pursuant to this Act shall be considered to be in the nature of a settlement of claims in law and equity against the United States and shall not be considered for any purpose to be payments to the Zuni Indian Tribe pursuant to a contract, grant, loan, cooperative agreement, judgment, or other kind of appropriation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated to the Zuni Indian Resource Development Trust Fund $25,000,000. Such funds shall remain available without fiscal year limitation.

ADDITIONAL LANDS

SEC. 7. The first section of the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes", approved August 28, 1984 (98 Stat. 1533), is amended by adding at the end thereof the following:

"Also, all of sections 13 and 23, township 14 north, range 26 east, Gila and Salt River meridian, such lands to be acquired and held in accordance with sections 2 and 3 of this Act.".

RECOGNITION TO TITLE

SEC. 8. Title to lands of the Zuni Indian Tribe described in Finding No. 88 in the Decision of the United States Claims Court filed May 27, 1987 in Docket No. 161-79L is hereby recognized for the permanent use and occupation of the Zuni Indian Tribe effective July 4, 1848, for the limited purpose of providing just compensation to the Zuni Indian Tribe under the fifth amendment to the United States Constitution for the taking of said lands by acts or omissions of the United States.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELATING TO THE WASHINGTON NATIONAL CATHEDRAL

Mr. D'AMATO. Mr. President, I send a resolution to the desk on behalf of Senator DANFORTH and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 303) relating to the Washington National Cathedral.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 303) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 303

Whereas provision for a "great church for National purposes" dates to 1791, when Major Pierre L'Enfant, who was commissioned by President George Washington to prepare a comprehensive plan for the seat of the Federal Government, included in that plan a proposal for a cathedral to serve the Nation;

Whereas in 1891 a group of private citizens, out of respect for the principle of the separation of church and state, undertook the challenge of building a National cathedral;

Whereas on January 6, 1893, Congress embraced the goal of building such a cathedral by enacting legislation, signed by President Benjamin Harrison, to create the Protestant Episcopal Cathedral Foundation of the District of Columbia and to enable the foundation to construct a cathedral in the Nation's Capital;

Whereas on September 29, 1907, President Theodore Roosevelt and members of Congress participated in ceremonies marking the laying of the foundation stone for the Washington National Cathedral;

Whereas in succeeding years the Washington National Cathedral has served as a place of worship for Presidents and Members of Congress of the United States and for religious leaders from around the world;

Whereas the Washington National Cathedral serves as the burial place for many prominent Americans who devoted their lives to public service, including Cordell Hull, Frank Kellog, Helen Keller, and President Woodrow Wilson, the only United States President who is buried in the District of Columbia;

Whereas the Washington National Cathedral has been constructed exclusively with private funds;

Whereas the 20,000 members of the National Cathedral Association and other interested persons who have donated funds for the construction of the Washingon National Cathedral represent every State of the Union;

Whereas the Washington National Cathedral is available to people of all faiths as a sanctuary for prayer and worship and is used to commemorate and celebrate significant moments in this Nation's history, to mark and mourn the death of world leaders, and to consider pressing moral and social issues of the day;

Whereas more than 600,000 visitors to the Washington National Cathedral each year amply demonstrate the place of the Cathedral as a symbol of this Nation's religious and historical heritage;

Whereas more than 80 years after the first stone was layed and almost 200 years after the idea for such a Cathedral was first conceived, construction of the Washington National Cathedral is nearly completed; and

Whereas the final stone will be set on September 29, 1990, and the Washington National Cathedral will be consecrated on September 30, 1990: Now, therefore, be it

Resolved, That the Senate expresses—

(1) its highest esteem for the Washington National Cathedral; and

(2) its sincere appreciation for the efforts of the National Cathedral Association and the many other organizations and individuals whose vision and labor have resulted in the construction of the Washington National Cathedral and the establishment of that cathedral as a place of worship for, and a symbol of the religious heritage, of, the people of the United States.

APPOINTMENTS BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair announces on behalf of the Republican leader, pursuant to Public Law 101-194, his appointment of the following individuals to the President's Commission on the Federal Appointment Process: Ms. Sheila Burke, chief of staff to the Republican leader of the Senate; Mr. Mike Tongour, chief of staff to the assistant Republican leader of the Senate.

ORDERS FOR FRIDAY, JUNE 22, 1990

RECESS UNTIL 9 A.M.; MORNING BUSINESS

Mr. CRANSTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Friday, June 22; that following the time for the two leaders there be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. CRANSTON. Mr. President, if there be no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess under the previous order until 9 a.m., Friday, June 22, 1990.

There being no objection, the Senate, at 10:40 p.m., recessed until Friday, June 22, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 21, 1990:

DEPARTMENT OF STATE

EDWIN D. WILLIAMSON, OF SOUTH CAROLINA, TO BE LEGAL ADVISER OF THE DEPARTMENT OF STATE, VICE ABRAHAM D. SOFAER, RESIGNED.

THE JUDICIARY

FRED I. PARKER, OF VERMONT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF VERMONT, VICE ALBERT W. COFFRIN, RETIRED.

NATIONAL LABOR RELATIONS BOARD

JOHN N. RAUDABAUGH, OF GEORGIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 16, 1992, VICE JOHN E. HIGGINS, JR.

JAMES M. STEPHENS, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF 5 YEARS EXPIRING AUGUST 27, 1995. (REAPPOINTMENT)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EARL ROGER MANDLE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1994, VICE RAYMOND J. LEARSY, TERM EXPIRED.

FEDERAL EMERGENCY MANAGEMENT AGENCY

C.M. SCHAUERTE, OF TEXAS, TO BE FEDERAL INSURANCE ADMINISTRATOR, FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE HAROLD T. DURYEE, RESIGNED.

DEPARTMENT OF THE TREASURY

BERT W. CORNEBY, OF NEW YORK, TO BE SUPERINTENDENT OF THE MINT OF THE UNITED STATES AT WEST POINT, NEW YORK, VICE CLIFFORD M. BARBER, RESIGNED.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS JUDGE ADVOCATE GENERAL OF THE NAVY AND REAPPOINTMENT TO THE GRADE OF REAR ADMIRAL UNDER TITLE 10, UNITED STATES CODE, SECTION 5148(B):

To be judge advocate general of the Navy

To be rear admiral

REAR ADM. JOHN E. GORDON, JUDGE ADVOCATE GENERAL'S CORPS, U.S. NAVY, [redacted].

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS DEPUTY JUDGE ADVOCATE GENERAL OF THE NAVY AND APPOINTMENT TO THE GRADE OF REAR ADMIRAL UNDER TITLE 10, UNITED STATES CODE, SECTION 5149(A):

To be deputy judge advocate general of the Navy

To be rear admiral

REAR ADM. (1H) WILLIAM L. SCHACHTE, JR., JUDGE ADVOCATE GENERAL'S CORPS, U.S. NAVY, [redacted].

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF) WHILE SERVING AS THE ASSISTANT JUDGE ADVOCATE GENERAL OF THE NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 5149(B):

To be rear admiral (lower half)

CAPT. DUVALL M. WILLIAMS, JR., JUDGE ADVOCATE GENERAL'S CORPS, U.S. NAVY, [redacted].

IN THE AIR FORCE

THE FOLLOWING PERSONS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

DEO K. BHATI, [redacted]
GLEN A. DOUGLAS, [redacted]
ALLAN B. HARVIN, [redacted]
ROBERT M. MIHALO, [redacted]

THE FOLLOWING REGULAR OFFICER FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be lieutenant colonel

PHILLIP T. NORTH, [redacted]

THE FOLLOWING RETIRED OFFICERS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE.

RETIRED RESERVE

To be colonel

MARTIN P. COYNE, [redacted]
WARREN L. FINKE, [redacted]

To be lieutenant colonel

PHILIP R. NORMAN, [redacted]
THOMAS J. SQUIRE, [redacted]

THE FOLLOWING OFFICERS FOR RESERVE OF THE AIR FORCE (NON-EAD) PROMOTION, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 1552, TITLE 10, UNITED STATES CODE.

LINE

To be colonel

WALTER L. DELL, [redacted]
GEORGE L. SINGLETON, [redacted]

MEDICAL CORPS

To be colonel

JUSTUS C. PICKETT, [redacted]

HOUSE OF REPRESENTATIVES—*Thursday, June 21, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Lift us, O God, to a higher vision where we will see those hopes and dreams that point to honor between individuals and to the time when people will work together for shared values and mutual respect. May our actions transcend personal gain and may we better reflect the unity and purpose that You have given to us. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McCRERY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McCRERY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 286, nays 114, not voting 32, as follows:

[Roll No. 189]

YEAS—286

Ackerman	Broomfield	Davis
Alexander	Browder	de la Garza
Anderson	Brown (CA)	DeFazio
Andrews	Brown (CO)	Dellums
Annunzio	Bruce	Derrick
Anthony	Bryant	Dicks
Applegate	Bustamante	Donnelly
Archer	Byron	Dorgan (ND)
Aspin	Callahan	Durbin
Atkins	Cardin	Dwyer
Barnard	Carper	Dymally
Bartlett	Carr	Dyson
Bateman	Chapman	Early
Bates	Clarke	Edwards (CA)
Beilenson	Clement	Emerson
Bennett	Clinger	Engel
Berman	Coleman (TX)	English
Bevill	Collins	Erdreich
Bilbray	Combest	Espy
Boggs	Condit	Evans
Bonior	Conte	Fascell
Bosco	Cooper	Fazio
Boucher	Costello	Feighan
Boxer	Coyne	Fish
Brennan	Crockett	Flippo
Brooks	Darden	Ford (MI)
Ford (TN)	Markey	Russo
Frank	Martinez	Sabo
Frost	Matsui	Saiki
Gejdenson	Mavroules	Sangmeister
Gephardt	Mazzoli	Sarpalius
Geren	McCloskey	Savage
Gibbons	McCollum	Sawyer
Gillmor	McCrery	Scheuer
Gilman	McCurdy	Schiff
Glickman	McDade	Schneider
Gonzalez	McDermott	Schulze
Gordon	McEwen	Sharp
Goss	McHugh	Shaw
Gradison	McMillan (NC)	Shumway
Grant	McMillen (MD)	Shuster
Gray	McNulty	Sisisky
Green	Miller (CA)	Skaggs
Guarini	Mineta	Skeen
Gunderson	Moakley	Skelton
Hamilton	Mollohan	Slattery
Hammerschmidt	Montgomery	Slaughter (NY)
Harris	Moody	Smith (FL)
Hatcher	Morrison (CT)	Smith (IA)
Hawkins	Morrison (WA)	Smith (NE)
Hayes (IL)	Mrazek	Smith (NJ)
Hayes (LA)	Murtha	Smith (VT)
Hertel	Myers	Snowe
Hoagland	Nagle	Solarz
Hochbrueckner	Natcher	Spence
Horton	Neal (MA)	Spratt
Houghton	Nowak	Staggers
Hoyer	Oakar	Stallings
Hubbard	Oberstar	Stark
Huckaby	Obey	Stenholm
Hughes	Olin	Stokes
Hutto	Ortiz	Studds
Jenkins	Owens (NY)	Swift
Johnson (CT)	Owens (UT)	Synar
Johnson (SD)	Packard	Tallon
Johnston	Pallone	Tanner
Jones (GA)	Panetta	Tauzin
Jones (NC)	Parker	Taylor
Jontz	Patterson	Thomas (GA)
Kanjorski	Payne (NJ)	Torres
Kaptur	Payne (VA)	Torricelli
Kasich	Pease	Towns
Kastenmeier	Pelosi	Traficant
Kennedy	Penny	Traxler
Kennelly	Perkins	Unsoeld
Kildee	Petri	Valentine
Kleczka	Pickett	Vander Jagt
Kolter	Pickle	Vento
Kostmayer	Porter	Visclosky
LaFalce	Poshard	Volkmer
Lancaster	Price	Watkins
Lantos	Quillen	Waxman
Laughlin	Rahall	Weiss
Lehman (CA)	Ravenel	Weldon
Lehman (FL)	Ray	Wheat
Lent	Rhodes	Whitten
Levin (MI)	Richardson	Williams
Levine (CA)	Rinaldo	Wilson
Lewis (GA)	Robinson	Wise
Lipinski	Roe	Wolpe
Lloyd	Rose	Wyden
Long	Rostenkowski	Wylie
Lowey (NY)	Roth	Yates
Luken, Thomas	Rowland (CT)	Yatron
Lukens, Donald	Rowland (GA)	
Manton	Roybal	

NAYS—114

Armey	Chandler	Dornan (CA)
Baker	Clay	Douglas
Ballenger	Coble	Dreier
Barton	Coleman (MO)	Duncan
Bentley	Coughlin	Fawell
Bereuter	Courter	Fields
Bilirakis	Cox	Foglietta
Bliley	Craig	Gallegly
Boehlert	Crane	Gallo
Buechner	Dannemeyer	Gekas
Bunning	DeLay	Goodling
Burton	DeWine	Grandy
Campbell (CA)	Dickinson	Hancock
Hansen	McGrath	Shays
Hastert	Meyers	Sikorski
Hefley	Michel	Slaughter (VA)
Henry	Miller (OH)	Smith (TX)
Hiler	Miller (WA)	Smith, Denny (OR)
Holloway	Molinari	Smith, Robert (NH)
Hopkins	Moorhead	Smith, Robert (OR)
Hunter	Murphy	Solomon
Hyde	Nielson	Stangeland
Inhofe	Oxley	Stearns
Ireland	Parris	Stump
Jacobs	Pashayan	Sundquist
James	Paxon	Tauke
Kolbe	Pursell	Thomas (CA)
Kyl	Regula	Thomas (WY)
Lagomarsino	Ridge	Upton
Leach (IA)	Roberts	Vucanovich
Lewis (CA)	Rogers	Walker
Lewis (FL)	Rohrabacher	Weber
Lightfoot	Ros-Lehtinen	Whittaker
Machtley	Roukema	Wolf
Madigan	Saxton	Young (AK)
Marlenee	Schaefer	Young (FL)
Martin (IL)	Schroeder	
Martin (NY)	Schuette	
McCandless	Sensenbrenner	

NOT VOTING—32

AuCoin	Gaydos	Neal (NC)
Borski	Gingrich	Nelson
Campbell (CO)	Hall (OH)	Rangel
Conyers	Hall (TX)	Ritter
Dingell	Hefner	Schumer
Dixon	Herger	Serrano
Downey	Leath (TX)	Udall
Eckart	Livingston	Walgren
Edwards (OK)	Lowery (CA)	Walsh
Flake	Mfume	Washington
Frenzel	Morella	

□ 1024

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present for rollcall No. 189, I would have voted "aye."

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida [Mr. BENNETT] please lead the House in the Pledge of Allegiance.

Mr. BENNETT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2844. An act to improve the ability of the Secretary of the Interior to properly

manage certain resources of the National Park System.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 798. An act to amend title V of the Act of December 19, 1980, designating the Chaco Culture Archaeological Protection Sites, and for other purposes.

The message also announced that Mr. DURENBERGER be a conferee, on the part of the Senate, on the bill (S. 2240) entitled "An act to amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes", vice Mr. COATS, excused.

The message also announced that pursuant to Public Law 94-201, the Chair appoints Juris K. Ubans of Maine, to the Board of Trustees of the American Folklife Center, vice Dr. Marta Weigle, resigned.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.J. RES. 339

Mr. ANTHONY. Mr. Speaker, I ask unanimous consent that my name be removed as an original cosponsor of House Joint Resolution 339.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 350, CONSTITUTIONAL AMENDMENT BANNING DESECRATION OF THE FLAG, AND OF H.R. 5091, FLAG PROTECTION ACT OF 1990

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 417 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 417

Resolved, That it shall be in order at any time on Thursday, June 21, 1990, to consider, any rule of the House to the contrary notwithstanding, the following: (1) a motion to suspend the rules and pass the joint resolution (H.J. Res. 350) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States and said motion shall be debatable for not to exceed five hours, to be equally divided and controlled by Representative Brooks of Texas, Representative Fish of New York, and Representative Edwards of California, or their designees; and immediately thereafter (2) a motion to suspend the rules and pass the bill (H.R. 5091), and said motion shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent of the motion and a Member opposed thereto. Neither motion shall be subject to a demand for a second.

POINT OF ORDER

Mr. SOLOMON. Mr. Speaker, I make a point of order against House Resolution 417 on the grounds that it violates clause 4(b) of House Rule XI, and I ask to be heard on my point of order.

The SPEAKER. The gentleman from New York is recognized.

Mr. SOLOMON. I thank the Speaker, for whom I have great respect.

Mr. Speaker, clause 4(b) of House Rule XI prohobits the Rules Committee from reporting "any rule of order" which sets aside Calendar Wednesday business except by a two-thirds vote, or "which would prevent the motion to recommit from being made as provided in clause 4 of Rule XVI."

Clause 4 of Rule XVI provides in part that, "After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution."

House Resolution 417 provides that on Thursday, June 21, 1990, it shall be in order to suspend the rules and pass only two specified measures: House Joint Resolution 350, a constitutional amendment relating to the flag, and H.R. 5091, a flag statute. Under the suspension-of-the rules procedure, a motion to recommit is not allowed. By permitting the consideration of these measures under the suspension of the rules, the Committee on Rules in this order-of-business resolution is denying a motion to recommit in this rule, which is clearly in violation of House Rule XI, clause 4(b).

Mr. Speaker, the opponents of this point of order may attempt to cite the one precedent available that is similar, and that is found in volume 8 of Cannon's Precedents at section 2267. In that instance, on May 29, 1920, the Rules Committee reported a resolution that provided for a 6-day suspension-of-the rules period beginning on May 29, during which the Speaker could "entertain motions of members of committees to suspend the rules under the provisions provided by the general rules of the House."

A point of order was made against the rule on the grounds that it effectively could set aside Calendar Wednesday business without a two-thirds vote as required by the rules, and that it excluded the motion to recommit.

Speaker Gillett overruled the point of order on grounds that, and I quote:

* * * This clause means that the Committee on Rules shall not bring in a rule which is aimed strictly at overthrowing either of these privileged matters. But it does not mean that the committee shall not report any resolution which may have that ultimate result * * *. It seems to the Chair that the Committee on Rules is not permitted to do anything which directly dispenses with Calendar Wednesday and the motion to recommit, but it can bring in a general rule, like the present one, which indirectly produces that result as a minor part of its operation.

Mr. Speaker, there is a clear distinction between that precedent, in which a special rule reported from the Rules Committee established six consecutive suspension days, and this rule, which provides for the consideration of two specific measures under suspension of the rules today. In the former instance, the effect was indirect, general, and minor; in the present instance it is direct, specific, and major.

This resolution does not even pretend that it is simply establishing today as an additional suspension day. It does not even follow the suspension of the rules procedure. It denies the demand for a second, it goes beyond the suspension debate period of 40 minutes for both bills, and it specifies who may control the debate time.

Make no mistake about it, this rule is an order of business resolution for the specific consideration of just two measures. And it directly denies a motion to recommit on both of those measures. As such, the Rules Committee has violated clause 4(b) of Rule XI by directly denying a motion to recommit on both of those measures. I therefore urge that my point of order be sustained.

□ 1030

The SPEAKER. Does the gentleman from Michigan [Mr. BONIOR] desire to be heard on the point of order?

Mr. BONIOR. Mr. Speaker, I would like to respond by making two points. No. 1, the suspension we are about to consider is, indeed, protection enough in a tradition in this House to waive the motion to recommit. Indeed, the unusual requirement of two-thirds vote would speak to the protection that the House is afforded on the motion to recommit, so indeed the Committee on Rules has the power, and in this instance the tradition and the history of the House to inadvertently deny the motion to recommit.

Second, Mr. Speaker, it is not unusual for this committee, the Committee on Rules, to deny a motion to recommit. We have done it on a number of occasions throughout the 14 years that I have served in this body on both of the grounds, and I suspect maybe one or two others.

Mr. Speaker, I would suggest that the consideration by the gentleman from New York is indeed not in order.

Mr. SENSENBRENNER. Mr. Speaker, on the point of order, the gentleman from New York [Mr. SOLOMON] has cited specific rules and specific precedents of the House of Representatives in support of his point of order. On the other hand, the gentleman from Michigan [Mr. BONIOR] in opposition to the point of order, merely

states that "Common sense ought to prevail."

The rules of the House of Representatives are supposed to lay forth specific guidelines governing the debate and the activities of all the committees of the House of Representatives, including the Committee on Rules. It seems to me that as has been cited by the gentleman from New York [Mr. SOLOMON], the Committee on Rules has gone beyond its bounds in bringing forth the resolution that will be under consideration in the House a little bit later on.

For that reason, I would strongly urge the Speaker to sustain the point of order of the gentleman from New York [Mr. SOLOMON], based upon the rules of the House and the precedents of the House.

Mr. SOLOMON. Mr. Speaker, keeping in mind the precedent that I stated, I would appreciate the Speaker ruling favorably on my point of order.

The SPEAKER. The Chair is ready to rule. In the opinion of the Chair, an alleged violation of clause 4(b) of rule XI has not occurred, that the Committee on Rules has reported to the House a rule making in order consideration of motions to suspend the rules. The gentleman from New York is correct that rule XI requires that no resolution be reported denying a motion to recommit after the previous question has been ordered, but the Committee on Rules may do so indirectly by making in order motions to suspend the rules.

The protection of the rule is afforded by the requirement of the two-thirds vote attending any motion to suspend the rules where there is no previous question motion. The precedents of the House have demonstrated instances of such action by the Committee on Rules. Accordingly, the Chair overrules the point of order of the gentleman from New York.

Mr. BONIOR. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, as founder of the Vietman Veterans in Congress 12 years ago, I abhor any desecration of our American flag. Anyone who would burn this Nation's flag is a disgrace to our country.

I proudly saluted our flag every day when I was in the U.S. Air Force and I will never forget the sacrifices that have been made so that our flag can fly freely.

I love our flag and I love our Bill of Rights. And to amend these rights—to amend them for the very first time in history would be to amend the foundation of our democracy. To weaken the first amendment would be to set a dangerous precedent that goes against the very freedoms this country was founded upon, the very freedoms our flag represents.

The generations of Americans who have paid the price for freedom have fought, above all else, for values that have made America great.

As a veteran, as a Congressman, I have the responsibility to honor the flag and, above all to protect the values for which it stands.

These values have inspired the struggle for freedom throughout the world. In the past year, we have watched with great pride as people in country after country around the world have taken up the cause of freedom. In Poland, Czechoslovakia, Hungary, South Africa, and Nicaragua our ideals of free expression are winning. We, here in America, must also have the courage to stand firm and defend those values.

For these reasons, I will oppose any amendment that will weaken our Bill of Rights. This Bill of Rights has been the most effective protection for individual liberty in all of human history. In 200 years of our Nation, these basic freedoms have never been amended. If we start now, who knows what freedoms will be next?

Will we then be asked to restrict American's right to assemble and express our political views?

Will we be asked to restrict your right to worship?

Will we be asked to restrict your right to be safe and secure from search and seizures in your home?

Where will it end?

I have the greatest respect for the chairman of the committee and the ranking member and others who are bringing this amendment to the floor. I know their support for this amendment and the support of many other Members comes from deep-felt personal beliefs.

But there are others both in this body and elsewhere who want to use this debate to divide this Nation.

The flag is a symbol that should unite all Americans. Anyone who would use the flag to divide America does our proud national symbol and our Nation a grave disservice. Yes, we must protect our flag, and we must defend it, but, above all, we must defend those freedoms for which it stands.

Mr. Speaker, House Resolution 417 is a fair rule allowing a full and lengthy debate on an amendment to the Constitution.

The rule makes in order the consideration of two motions to suspend the rules. It varies the customary suspension procedure in only two ways:

First, suspensions will be considered on a day not normally designated;

Second, time is extended for debate on each suspension.

The rule provides for a motion to suspend the rules and pass House Joint Resolution 350, an amendment to the Constitution authorizing Congress and the States to prohibit physical desecration of the flag.

The usual 40 minutes of debate would be lengthened to 5 hours, equally divided and controlled by Chairman BROOKS, Representative FISH, and Representative EDWARDS of California.

There will be an up-or-down vote on the constitutional amendment in exactly the form introduced by the minority leader, with no amendments or motions.

After final disposition of the constitutional amendment, the rule provides for a motions to suspend the rules and pass the bill H.R. 5091, offered by Representatives COOPER, BOUCHER, and WYDEN. This legislation would prohibit flag burning and increase the penalties for such acts to the greatest extent allowed under our Constitution.

Debate on H.R. 5091 will be extended to 1 hour, equally divided between Mr. COOPER and a Member in opposition to the bill.

A two-thirds vote is required for passage of each suspension. Under the rule, neither motion to suspend the rules is subject to a demand for a second.

House Resolution 417 is a fair rule, providing a full discussion on a very serious matter. First, there will be an up-or-down vote on the constitutional amendment. Second, there will be an up-or-down vote on a flag statute.

The proposed constitutional amendment has been drafted and circulated for over a year. This issue has been debated throughout the country for over a year.

The Speaker promised a vote within 30 days of the Supreme Court decision. It's time to proceed.

I urge the adoption of House Resolution 417.

□ 1040

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here today on a matter of great importance to all of us.

I have a picture here that I want all the Members to see. It is the same picture I used on the floor of this House 23 years and 1 day ago today. I used it in debating my flag bill to prevent the desecration of the American flag.

At the close of that debate years ago, this House almost unanimously passed the measure that went to the Senate, and it was passed almost unanimously there and was signed into law by the President of the United States. That law is still on the books, and it has never been proved unconstitutional because it was never challenged.

The publisher of Hustler magazine was tried and convicted in Federal court on that statute for wearing a flag as a diaper. The Supreme Court ruled a year ago that a Texas statute was unconstitutional. A few weeks ago they ruled on another statute passed by this House, saying that it was unconstitutional. The assumption is, should my bill be challenged by the Supreme Court, it would be ruled unconstitutional, but it has not been. But I support a constitutional amendment giving the Congress of the United States the power to pass laws to protect the flag.

I think the constitutional amendment route is a sure route for us to take, and I commend it to the Members—23 years and 1 day ago, I spoke, and here is a reprint of my speech on the House floor in debating that bill. And I call the attention of all the Members to this picture showing the raising of the flag at Iwo Jima over the dead bodies of 16,800 brave Americans. And I got a picture of a flag burning in Central Park when the "kooks" and the "goons" held it up in open rebellion and burned it for all America to see.

It is a shame and a disgrace that we would sit idly by and let this flag be desecrated, because really it is the soul of America. It is not just a piece of cloth.

I know there is another bill introduced by my colleague, the gentleman from Tennessee [Mr. COOPER], attached to this, but it is only a ploy, a decoy to give Members an excuse not to vote for the constitutional amendment.

I think that the Democratic leadership should never have let this be permitted. Let us face the issue and vote this up or down. Let us pass this constitutional amendment. Let us forget the other chatter, because it is so important to America that we protect the flag that literally millions have died for and that we will still fight for. Many have held it in their hands before they died on the battlefield.

Yes, I say to the Members of this House, if our flag is worth dying for, it is worth protecting.

Mr. Speaker, let me close my remarks by urging the Members to vote down the previous question so that we can have a committee report on the constitutional amendment, so that we can have time to go over it and rally our forces, the veterans' organizations of this land, for the flag bill. Let me close by reciting to all the Members a little thing that I wrote. I wrote part of the words, and I found the others in newspapers. This is how it goes:

Our Flag speaks to us.

When they wrap me around the casket of your dead son, father, brother, or sister, my red, white and blue become my arms and stars become my eyes. I hold them close in loving care and my tears are real for they died so that I may continue to wave over the land of the free and home of the brave.

I hope I am restored to the respect and attention I have received when I lead your parades or when I wave in the breeze, or wherever I am displayed because I am the flag of the United States of America.

Mr. Speaker, I urge that the concentration of our Members be on the constitutional amendment, and I ask that when it comes to a vote, we pass it overwhelmingly.

Mr. BONIOR. Mr. Speaker, I yield 3½ minutes to our colleague, the gentleman from Colorado [Mr. SKAGGS], who served during the Vietnam war in Vietnam and who has been most eloquent and most courageous on this very emotional issue.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for the time. I also want to express my deep respect for his outstanding leadership in the cause of preserving our fundamental constitutional principles and defeating the ill-advanced amendment we are about to debate.

Mr. Speaker, we are obliged nonetheless to have this debate. And I believe the pending rule provides for full and fair consideration. I, therefore, urge members to vote for the rule, and then against the resolution of the amendment.

In this body, we take pride in the relative order with which we conduct our business. We understand the need for structure and limits. It is the rules of the House that assure the civility of debate and so our ability to disagree with each other without doing it disagreeably.

An appreciation of our rules should give us an even clearer understanding of the reality outside this Chamber.

Just as the first article of the Constitution grants us the power to make rules for our debate, so the first amendment denies us the power to make any rules of debate for others in this nation. "Congress shall make no law * * * abridging the freedom of speech * * *."

Before we yield to the understandable pressure to adjust that historic limit on the power of this legislature, we should ask, and be able to answer, some profoundly fundamental questions. After all, as Alexander Hamilton advised over 200 years ago, the Constitution is the place to state our first principles, and it should not be subject to change except when there is clear and compelling need.

What demonstration of need had there been? Is the Republic in danger because of the abhorrent behavior of a handful of misguided people who demean their own protest by insulting our flag? Are we so fragile as a nation that we cannot rise above such cheap tactics?

And what of the risk in undertaking this amendment? Do we—in our rush to respond in the heat of the moment—really understand what we are about? How many more Supreme Court cases will it take to define what is encompassed by the word "desecration" and the word "flag" in this proposed amendment? Does "desecration" require a specific, irreverent intent, for example? Does "flag" include whatever sort of depiction or representation the several State legislatures might choose? Will an article of clothing or jewelry that is legal in Kansas be treated as desecratory in Missouri?

These may seem questions for the law school classroom. But, if this amendment is adopted, they will be the fodder of constitutional lawyers and courts for decades. Is that what we want?

And what of the precedent we would set? What assurance is there that this excission on the Bill of Rights—having once breached the sanctity of that document—would not be followed by others, rationalized in part by this first intrusion?

Yes, we are debating a rule about debating the rule that enables our great national experiment in free debate. As we do, let us be mindful: While our House rules are designed to impose a certain orthodoxy in our procedures, the first amendment is designed to insure against any imposed orthodoxy in the substance of what is talked about in this country. Take the counsel of James Madison as he introduced the Bill of Rights in this House in June 1789:

* * * the great object in view is to limit and qualify the powers of Government, by excepting out of the grant of power those cases in which the Government ought not to act, * * * exceptions * * * against the majority in favor of the minority.

They saw it all so clearly back then. How fundamental it was to the kind of country they wanted, and which we free people have inherited, that we must protect the minority, sometimes and especially against the orthodoxy sought by a majority.

That is our responsibility today. To recognize this case "in which government ought not to act." To be true to our duty "to make no law."

□ 1050

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank both gentleman for yielding me this time.

Let me just say that I am sorry to have to take a different position from our colleague who just spoke. He is a former marine, as I am, but after all, I guess that is what makes this body a great deliberative body. Reasonable men, even with fraternal ties like the Marine Corps, can differ.

First, I very much regret that the constitutional amendment banning desecration of the flag has been brought before the House without due

consideration for regular order. Amending the Constitution is perhaps the single most important and unusual responsiblity that Members of this Congress will ever face and it stands to reason that such a responsibility should at least be subject to an orderly and regular procedure.

Now let me just cite a couple lines from three letters I have which represent the views of 37 veterans organizations. The American Legion:

> Require a clean up or down vote on the proposed consititutional amendment. The debate should not be tainted by subsequent consideration of another statute proposal, particularly one that has not even been heard by the Judiciary Committee.

That is from the American Legion, 2.8 million members.

From the Veterans of Foreign Wars, another 3 million members. The Veterans of Foreign Wars say they strongly urge a vote of no on the previous question.

Amvets, the same thing, and all the others. If you want a list of the 37 veterans organizations, I can give it to you.

But this rule, by waiving points of order and by denying members of the Judiciary Committee their right to file their views, either pro or con, carries the suggestion that constitutional amendments are not important—that this is just business as usual.

Mr. Speaker, I would never intentionally be personally disrespectful to Speaker FOLEY, and I said that to Speaker FOLEY this moring. He is a fine man and I deeply respect him.

But it is obvious that he and the Democrat caucus ordered the Democrat members of the Rules Committee to bypass the normal rules of this House of Representatives which would not have let the amendment be debated for 3 days or until next week, which is what these Veterans organizations wanted.

Thirty-seven veterans organizations consisting of 10 million veterans were counting on that 3-day notice, in this House of Representatives, counting on Congress to abide by its own rules, so that they could mobilize their troops, as American citizens, to contact their Members of Congress to support the amendment.

The Democrats knew this and deliberately rewrote the rules in order to rush the amendment to the floor with no notice, thereby maximizing their chances of defeating this constitutional amendment.

I offered a substitute rule which would have maintained the normal rules of this House, which mean so much to you and me on both sides of the aisle. My substitute would have given timely notice to both supporters and opponents, but my motion was defeated in a party line vote, I am sorry to say.

Second, the normal rules of the House are again being broken by including another bill in the same rule and putting it on the floor without any committee having even seen it.

The gentleman from Illinois [Mr. HYDE], an expert, has never seen that bill. Even Members on the other side, the gentleman from Texas [Mr. BROOKS] has never seen this bill.

Again, this bill is being rushed to the floor to be debated simultaneously in an obvious attempt to draw votes away from the constitutional amendment.

I believe this is an unfair ploy, a ploy that could very well defeat the constitutional amendment on this floor today.

And what a shame that would be, to think that this Congress would fail to protect our flag that symbolizes all that is good about America, liberty, equality, tolerance—words used from both sides of this aisle often—freedom of religion, and yes, freedom of speech, all of these things that Americans have passionately defended throughout the history of this Nation.

I just hope and pray that this House will muster the courage today to pass the constitutional amendment so that the American people, through their elected State legislatures, can make the final decision on this badly needed constitutional amendment.

Please vote for the constitutional amendment.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, it has been my observation after a number of years in this body that defense of our beloved flag comes easily when it is physically safe and politically profitable. Nevertheless, I unhappily disagree with my good friend, the gentleman from Michigan, and my fellow Marine, the gentleman from Colorado, both of whom I think have made very scholarly and excellent observations today.

In our free society, every American has the fundamental, not government-given, but God-given right to think what he or she pleases and say what he or she thinks, say.

"I may not agree with a word you say, but I will defend to death your right to say it." Voltaire did not say, "I do not agree with any part of your destruction, but will defend to the death your right to destroy."

Voltaire did not say, "I may not agree with your buying an election, but I will defend to the death your right to buy it."

Now, the trouble with this resolution is it does only half the job. The Supreme Court made a supreme mistake twice, once in the case before us and once in Buckley versus Valeo where it ruled that unlimited money expenditure by an individual to elect someone is protected speech. The court tells us that spending money is speech. Destroying something is saying something. Buying something is saying something. That is the problem with which we are faced.

Now, if you are going to correct an incorrect decision by the Supreme Court, if you as I have concluded that it is the Court which violated the edict of Thomas Jefferson not to legislate, if you accept as I do that it is the court that has amended the first amendment and it is we who have the responsibility to stop that amendment, then both mistakes should be corrected at the same time.

Buying an election is not speech and the destroying the flag is not speech, either.

Mr. Speaker, I very much thank the gentleman from Michigan, though he disagrees with me, for yielding this time to me.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentlewoman from Illinois [Mrs. MARTIN].

Mrs. MARTIN of Illinois. Mr. Speaker, it was 201 years ago this month, on June 8, 1789, that Representative James Madison of Virginia first proposed a package of amendments to the Constitution which included the Bill of Rights.

To hear some of the opponents of this constitutional amendment talk, you would think we were burning that Bill of Rights in order to prevent the burning of the flag. Nothing could be further from the truth. When Madison first proposed what is now the first amendment, it read in part as follows:

> The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments, and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.

The final compromise which we now have reads:

> Congress shall make no law * * * abridging the freedom of speech or of the press.

So there can be no question that what was intended to be protected by the framers of the first amendment was the written and spoken expression of opinions. In defending his amendments during debate, Madison warned against discussing and proposing abstract propositions and argued instead,

> That if we confine ourselves to an enumeration of simple, acknowledged principles, the ratification will meet with but little difficulty.

I suspect that if someone had asked Madison on the House floor at that point whether his free speech clause was designed to protect someone who attempted to burn Betsy Ross' handiwork, he would have been dumbfounded by the question. Such a belief would indeed be an "abstract proposition" and not a "simple, acknowledged principle" like the people's "right to speak, to write, or to publish their sentiments."

So-called symbolic conduct as a protected form of free speech is a more recent invention of the courts; and when it is extended to protecting flag burners, in my opinion, it is just plain wrong.

□ 1100

The fact, Mr. Speaker, the belief that the flag burning is wrong has been around almost as long as the Bill of Rights, and we have had Federal and State laws against it since the turn of this century. Neither those laws nor this amendment diminish by one iota the rights of the people to speak and write freely.

We should, no matter what our side, not distort.

Mr. Speaker, I resent the charge made by some that the proponents of the amendment are acting for political gain. That is an insult to our intelligence and integrity and to constituents who feel strongly about this revered national symbol and the need to protect it.

I do not question the integrity or patriotism of those who oppose this. They are entitled to those values and those opinions, but let us make sure that it is equally true for both sides.

It is, indeed, a burning issue. It is not just about flag burning, but about a flag that burns in the hearts of the American people as an enduring symbol of all this country stands for.

Henry Ward Beecher once wrote,

A thoughtful mind, when it sees a nation's flag, sees not the flag only, but the nation itself; and whatever may be its symbols its insignia, he reads chiefly in the flag the government, the principles, the truths, and the history which belongs to the nation that sets it forth.

Our flag represents all of those things to the people. Justice Stevens, in his dissent in the *Texas* case last year, summed it up when he observed that the value of the flag as a symbol cannot be measured. He concluded his opinion by saying that if the ideas of liberty and equality are worth fighting for, it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration. That is what the amendment is about. It is about protecting a symbol of American values, history, and experience. It is the kind of simple, acknowledged principle Madison would feel comfortable with right alongside the first amendment.

Today we are here to protect that symbol of strength that still shines on the Moon, that symbol of courage which was raised on Iwo Jima. It is saluted in this Chamber, given in tribute by a nation to a mother at her son's grave.

It is fair and right to vote for this amendment.

Mr. BONIOR. Mr. Speaker, I yield 2¼ minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, in the end, the vote on this constitutional amendment is not really a test of patriotism. It is a test of common sense.

Will this Congress allow a handful of dull-witted clods burning our flag to stampede us into amendment one of the most revered laws in the history of democratic government?

If the American political experience is unique in the history of the world, and I certainly believe it is, should we be so quick to amend that uniquely American Bill of Rights?

During recent months, leaders of democratic movements from around the world have come to the floor of this very Chamber to validate their democracies: Lech Walesa, Vaclav Havel, and, next week, Nelson Mandela. They stand before the red, white, and blue of our flag and speak to the American people, seeking a common bond. But what brings them to this country is not that flag. Each of their countries has a flag. What brings them is our political heritage and the rights and freedoms of America. What brings them to our shores is not Old Glory, but what it represents. And what that wonderful flag represents among other things is our Bill of Rights, the Bill of Rights which guarantees to each of us the freedom of speech, of press, religion, and assembly.

In the earliest days of Lithuania's fight for freedom, I met with their parliamentarians to discuss their bill of rights. They asked me many questions about freedoms in America. Above all, they were determined that their new government would protect individual citizens against the excesses of central government, excesses they had come to know so well under communism.

I listened to their hopes for new democracy, and I understood for the very first time what our Founding Fathers faced when they drafted the Declaration of Independence, the Constituion, and, yes, this Bill of Rights. They were determined that in America an individual's freedom would be protected from excesses of government, even if it were painful, and it is painful.

It is disgusting and obnoxious to see people burning our flag, but Justice Oliver Wendell Holmes reminded us that the real test of freedom of speech is whether someone can say words that we hate without government intervention.

Finally, there is a sad footnote to this debate. Within moments after the Supreme Court's decision, political leaders from the other party announced they viewed this issue as a political opportunity; they looked forward to creating 30-second television spots to exploit this vote. It is unfortunate that an issue as serious as amending our Bill of Rights could be denigrated into this type of political manipulation.

I fear some of my colleagues in Congress will be guided more by how this amendment will play over several months of campaigning than how it will measure up against the enduring legacy of James Madison and Thomas Jefferson.

A Member of Congress has no higher duty, no more solemn responsibility than to carefully consider an amendment which would restrict the basic freedoms given to Americans in their Bill of Rights. The popular vote may be yes. In my mind, the right vote is no.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to our great leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, later in these proceedings I shall speak at length on the subject of the discussion, the amendment itself, because after all I am the sponsor, along with a cosponsor, the gentleman from Mississippi [Mr. MONTGOMERY], of the original language, and then joined by 189 Members on both sides of the aisle in cosponsoring the simple language of the amendment that "the Congress and the States shall have power to prohibit physical desecration of the flag." That discussion will come later.

I have risen to ask for a moment or two during discussion of the rule, because I want to urge Members to vote against the previous question and to vote against the rule and to vote for a substitute form of a rule that we prefer.

But before addressing myself to that issue, yesterday some of us were involved in the budget discussions, and it took us away from proceedings here in the House, but it is my understanding there were some rather acrimonious exchanges that took place. I would surely hope that, as this day unfolds and those other days that might be involved, in discussion of this very, very important issue, that we remember the body in which we are serving and conduct ourselves as gentlemen and gentlewomen always respecting the rights of the other individual who may have differing views.

In quick response to my distinguished friend, the gentleman from Illinois who made reference to leaders of the other party, that was not this leader nor was it any official leader of this party who took that position. There might have been some campaign operatives out there saying things they had no right to say, because, if anything, I have approached this subject in a nonpartisan, nonpolitical fashion with my dear friend, the gentleman from Mississippi [Mr. MONTGOMERY], and those Democrats who felt likewise, as we do, strongly

about this issue, and there was no way to win on the strength of politicizing the issue. It has to be debated on its merits, up or down, and I respect those who have differing views, some even on my side, let us face it. So I would hope that as that debate unfolds, we will always keep in mind the revered feelings of those on the other side of the issue.

Then I guess why I would like to have Members vote down the previous question and substitute our rule is because, yes, we have some normal procedures, regular procedures here, that are not being observed when we take it up under suspension of the rules as we are, given it authorizes 5 hours of debate rather than the limited 40 minutes. But we really have not had an opportunity to see the report of the Committee on the Judiciary on which some of the distinguished Members here in this body are currently on the floor. Our rule would allow the Members to have at least their views.

Then, second, the substitute rule, would not include that phantom statute again that is supposed to be considered under the rule before us. I understand it was conceived only in the waning hours of last evening, and nobody knows what the language of that statute is. It supposedly is designed to give Members cover so that they can vote against the constitutional amendment. And then we are back in the same old boat again.

I think it is rather ridiculous to go through this charade and sham.

So what I am proposing is that we vote down the previous question, adopt our substitute rule, give us an opportunity, yes, a 3-day waiting layover period, with a vote probably next Tuesday or so. Frankly, if you want to come back again with one of those flim-flam statutes, you can do it again under suspension of the rules. There will be proper order to do that. But at least give us an opportunity under the orderly procedure to have this kind of layover, dissemination of the views from both sides of the aisle in that Committee on the Judiciary that heard the original testimony, and proceed in a much more orderly fashion.

That is my plea to you today. Please, vote down the previous question and substitute our rule.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Speaker, I love my country and I love our flag. But for 200 years, we've had the protections of the Bill of Rights, which is a list of things that the Government cannot do, and one of those is to limit expression, and it should not be diluted for any reason.

While I deplore flag burning as a political statement, I respect the constitutional amendment that permits us all to express our views, no matter how much the majority disagrees. This Nation was built on the toleration of differing views which is a sign of our confidence as a people and as a Nation. A few idiots burning a flag isn't going to tear us apart, nor is it an indication of a widespread problem.

Our flag will wave and the Constitution will endure long after these flag burning crazies are a forgotten footnote.

But, if this amendment passes, their perversion will forever stain the most enlightened document ever created for the government of mankind.

Are we using a sledgehammer to kill a gnat?

If Burma added a new blowgun to its arsenal would we triple the defense budget?

I maintain that we can achieve respect for the flag by upholding the ideals it represents. And the most fundamental of these are our first amendment rights. A country that can tolerate a free market of ideas and expressions is a country that is confident in its values, in its system of government and in itself.

□ 1110

Mr. QUILLEN. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, while not in the rule before us for consideration, I would just like to point out that at the time of the Rules Committee consideration yesterday it was agreed to by our side and I understand also by Chairman BROOKS in part of the time allotted to him that each of us would yield 15 minutes to the gentleman from Mississippi [Mr. MONTGOMERY] in the course of general debate.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, several Members on the other side of the aisle have opposed the inclusion of my criminal statute to protect the flag of the United States in this rule. I respect Members of differing views, but I should point out that several of these Members who have criticized the inclusion of my statute in the rule have already promised to vote for it. They like it.

Why? Because without my statute there is nothing to protect the flag of the United States for the next 2- or 3-year period pending the ratification of a constitutional amendment. It is important that we protect the flag as soon as possible. Advocates of the amendment seem to have forgotten that without a criminal statute in the meantime our flag is naked and defenseless against flag burners.

We need a statute like this. This is why I hope both advocates and opponents of the amendment will support my statute at the end of the day to protect the flag this year and in 1991 and in 1992, to protect the flag of this great country.

Mr. WYDEN. Mr. Speaker, will the gentleman yield?

Mr. COOPER. I yield to the gentleman from Oregon.

Mr. WYDEN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would only say that what our statute does is ensure that Members do not have to pit love of the flag against respect for the Constitution.

We all love the flag. That is not a partisan issue. But we can express our love for the flag without throwing the Constitution onto the floor and trampeling it.

So I think the gentleman has an important concept and an important idea and it has been a pleasure to work with him on the statute.

Mr. BONIOR. Mr. Speaker, before yielding further time, let me say for those who are not aware of it that at the end of the process today, when we finish with the amendment, we will go to an hour of debate on a statute which has been carefully crafted for a long period of time, in an honest fashion, by the gentleman from Tennessee [Mr. COOPER], the gentleman from Virginia [Mr. BOUCHER], and the gentleman from Oregon [Mr. WYDEN].

Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Mr. Speaker, I thank the gentleman from Michigan for yielding time to me.

Mr. Speaker, is there really a growing epidemic of flag burning across the land? Is flag burning really some kind of threat to America? Is an amendment to the Bill of Rights really what America needs today? Or is what America really needs the courage of this Congress to deal with the serious problems of our country, homelessness, health care, quality education, drug and alcohol abuse that is truly epidemic, and the monumental fiscal mass of the U.S. Government which grows worse daily?

An amendment to the U.S. Constitution will not make us a more patriotic country, but addressing the real problems will make this a better Nation and better people. We do not need to amend the Constitution because of the action of a few nuts, nitwits, and crazies who would burn our flag—99.9 percent of Americans are appalled when someone burns the American flag. The fact is there is not a dime's worth of difference between those in this House who are for this amendment and against this amendment in regard to patriotism, and everyone in the House knows that.

Finally, to paraphrase the national anthem, I hope we can say at the end

of this day that after the rhetorical bombs burst in the air the Bill of Rights was still there, and I believe that the Bill of Rights will be, thanks to the superb and courageous leadership of Speaker TOM FOLEY and DON EWARDS and DAVE BONIOR and others who would not be stampeded to changing the Bill of Rights that has made our country so special throughout history.

I urge a vote against the amendment of the Bill of Rights.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I rise today to speak not as a politician, not as an elected Member of the Congress of the United States, an extraordinary privilege, but as an American citizen.

I can no more vote no on a bill that would protect the American flag than I would be able to stop breathing voluntarily. Anyone who has served in the Armed Forces even for 2 days, let alone 2 years, or 4 years or more will ever forget any single time during his life the hoisting of the flag at reveille and the laying of the flag on a casket of a deceased and slain hero, or the use of the flag in all those sacred holidays throughout the calendar year which we hold so dear.

So even if the overwhelming majority of opinion in my district were against the protection of the flag, which happily it is not, I would still have to vote to protect the American flag. A constitutional amendment, after all, is the last resort. We have tried a statute. We have tried every means at our disposal to try to protect the American flag from desecration, but now we are faced against the wall with the only thing left for us to do.

Shall we or shall we not embed into the greatest document that the world has ever known our intent to make the flag once and for all part of the Constitution, to make it part of the fabric of our country, to make it the theme of patriotism as part of the overall theme of patriotism that is the Constitution of the United States?

What is so wrong with that? Madison would be proud of us today if we said the flag belongs to the Constitution. Jefferson would applaud us knowing that we are about to insert into his grand thinking one more idea purely American, that the greatest symbol of our country, the flag, will also be a part of the greatest document of our country, the Constitution.

Mr. BONIOR. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary.

Mr. Speaker, I rise in support of the rule which will make in order the consideration of House Joint Resolution 350. The consideration of a proposed constitutional amendment is an important event. This rule provides 5 hours of debate to be divided between majority and minority and between those who favor the amendment and those who oppose it.

The rule provides for sufficient debate so that all sides of this complex constitutional issue may be heard. It is my feeling that with 5 hours of general debate, the issues can be properly cast and all of the Members will have had the benefit of hearing all sides.

I appreciate the cooperation of Chairman MOAKLEY and the Rules Committee in providing for the prompt consideration of this important matter on the floor of the House. I urge support for the rule.

□ 1120

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I certainly appreciate the gentleman from Michigan yielding and commend him for this.

You know, I am sorry that the gentleman from Tennessee—and that word gentleman fits him as well as it fits anyone in this House, he truly is a gentleman and I certainly respect what he has to say and his beliefs. But I am sorry that the picture that he had is retired because if it was on the floor and you were looking at it now, you would see something unique. You would see the American flag flying to symbolize America. That is what it is, it is not in and of itself a country.

The interesting part is you would not see what America is all about. America is not all about the flag. The flag is all about America.

The reason that that flag was flying over the Iwo Jima Memorial is because we do not put the Constitution or the Bill of Rights on a stick and fly it. But I can tell you there are millions of veterans out there right now who would say to you, if you spoke to them, that they fought, and some of their brethren and sisters died, not for the flag but for our way of life and the Bill of Rights and the right of people to be free.

More important, the right of individual Americans to be able to take different positions from their own Government without fear, if they see fit. That is what they fought for, that is what some of them died for. We have no right to dishonor their memory by taking that symbol that they wanted to erect and say it is not worth anything anymore because we are going to shred the Bill of Rights and the Constitution rather than some people being allowed to shred a flag.

Oh, they are stupid and they are foolish and they are dumb and 99.9 percent of the people in this country think they are idiotic, but let them do it, if that is what they think is right, because that is what this country is based on and that makes us different from anybody else in the whole world.

Vote for this rule and vote against the flag amendment.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, the question before the House now is the resolution providing the rules for debate, not the constitutional amendment which we will be debating later.

I would strongly urge this House to defeat the previous question and, failing that, to defeat the rule.

At the Committee on the Judiciary markup of the constitutional amendment on Tuesday, the distinguished chairman, the gentleman from Texas [Mr. BROOKS], stated that the two most serious responsibilities that the committee has are considering proposed constitutional amendments and the impeachment of civil officers of the United States.

This rule denigrates the seriousness of considering a proposed constitutional amendment by waiving numerous rules of the House.

First, it waives the rule requiring a committee report. If we act today, there would be no committee report on file. It waives the rule requiring a 3-day layover so that Members can look at the issue and study the committee report. And it waives the rule giving the minority a motion to recommit.

The gentleman from New York [Mr. SOLOMON] lodged a point of order against the consideration of this rule. I believe the Speaker's ruling was wrong, but it shows that this rule is a railroad job that tramples the rights of individual Members of the House of Representatives.

This constitutional amendment was not on the printed notice that was given to all the Members when we left last week. It came right out of thin air. And that never has happened in my almost 12 years here.

Furthermore, it makes in order a proposed bill which was introduced just last night that has had no committee consideration, no hearings and which poses significant constitutional questions.

Now, what is the rush? Why not take these matters up next week to give people a chance to reflect on them, not only here in the House but in the country as well?

Is your rush to kill the constitutional amendment so great that you have to trample on the ordinary rules of the House and denigrate the dignity of this institution? I hope not, and I hope the previous question is defeated.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a distinguished Member of this body, on June 19,

1990, said this about voting and talking. He said—and it is, by the way, the gentleman from Wisconsin [Mr. SENSENBRENNER]—he said, "If you have the votes, you want to vote; if you don't have the votes, you want to talk."

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I rise in support of this rule and in opposition to the proposed constitutional amendment.

As far as I am concerned, the burning of the American flag is wrong. It is wrong no matter what the circumstances. And that is why I voted for a law to protect the flag from any form of desecration.

But I did not come to Congress to weaken our Bill of Rights. For more than 200 years that powerful and unique document has remained unchanged—a constant expression of our commitment to the ideals of freedom and individual liberty, a testament to the strength of our democracy, and a source of inspiration to people everywhere. To tamper with the Bill of Rights is to tamper with the very foundation of our American democracy.

In opposing this amendment, I do not revere our flag less; to the contrary, I affirm my commitment to the very ideals and values that give our flag such special meaning for all of us as Americans.

The simple truth is that without the Bill of Rights, our flag would stand for something far less than it does today.

It will prove a very hollow victory indeed if in our zeal to protect our national symbol from desecration, we attack the very thing that gives meaning to that symbol. As the Battle Creek Enquirer recently editorialized,

> While the flag is a precious symbol of our country and its ideals, what is even more special is our freedom of speech, our freedom to dissent and our freedom for political protest. * * * Most of us feel flag desecration is offensive and unpatriotic. But wrapping ourselves in the flag while letting the values it stands for unravel is the ultimate unpatriotic act.

It would be well to remind ourselves of the oath each of us swore upon our election to the Congress—the same oath, I might add, taken by anyone who has served in our Armed Forces: It is an oath in which we each solemnly swore that "we will support and defend the Constitution of the United States against all enemies, foreign and domestic;" and that we "will bear true faith and allegiance to the same * * *." It is an oath not to the flag, but to the Constitution.

Mr. Speaker, the real issue we face today is whether or not we trust the American people.

Those who are seeking to put the flag issue to their political advantage believe that the American people can be manipulated to believe that opposition to amending our Bill of Rights suggests a lack of reverence for our flag.

I reject such a cynical view.

Mr. Speaker, I trust the American people and I trust my constituents in Michigan's Third Congressional District. They do not want the American flag—which is the flag of all of us and the symbol of those ideals that unite us as Americans—to be used for divisive and partisan purposes.

Neither Congress nor the States should be intimidated into supporting a constitutional amendment by the reckless conduct of a pitiful few.

As columnist William Safire has noted,

> Flag burners, by infuriating most of us, seek repression; but by fooling with the Bill of Rights, we would play into their hands. The way to frustrate those who test the strength of our Constitution is to ignore them, to tune them out, not to make prime time martyrs out of them.

Mr. Speaker, on August 27, 1856, Abraham Lincoln spoke in Kalamazoo, MI. His speech included this statement:

> Don't interfere with anything in the Constitution. That must be maintained, for it is the only safeguard of our liberties.

It may be nearly 134 years later but his words still ring true.

□ 1130

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I rise in strong support of the rule. I am strongly opposed to the proposed constitutional amendment.

American politics is about values, as many are pointing out these days, not just economics. Both parties have to be concerned about both. Among our highest values should be the freedoms enshrined in the Bill of Rights.

Unfortunately, much of this debate about the proposed amendment has been driven not by concern about values or respect for the flag. Rather, the driving engines have been a partisan political agenda. Highly placed operatives have talked repeatedly about the potential for devastating 30 second attack ads. We should not minimize that. Those who vote against this amendment are in such a position. Some in the Republicn party, and in very recent days in very highly placed cricles, have gone so far as to suggest that the best scenario would be for the amendment to lose by one vote, because that would enable them to use this issue most effectively in fall compaigns.

I represent a very conservative district in southwestern Indiana. Everybody I know in the eight district respects the flag. Many of my constituents feel we need an amendment. Many feel that we do not. However, there is no strong consensus on this issue. To pass a constitutional amendment, to start that process, surely should require a stronger consensus.

Similarly, there are 70,000 veterans in my district. Perhaps most of them do want a constitutional amendment. At least their organized groups do. Those veterans did fight for the flag. I respect and admire that. But they also fought for freedom.

This freedom is protected by our Bill of Rights, a sacred document which has served us well for 200 years. The flag is a symbol of our country, the bill of rights is substance.

Some in public life would rather talk about flag burners and the ravages of people like Willy Horton, than the pressing issues such as the S&L crisis and why our health care system isn't working.

Being for or against this amendment should not be construed as a litmus test for patriotism. Many who are exploiting this issue, and we all know this, never served a day in the military. Their idea of a military experience is watching the movie "Platoon" or trying to send the children of others into combat.

If we alter the Bill of Rights on this issue, what will we open it up for next? I believe we can deal with this by proper constitutional legislation, instead of altering our Bill of Rights. Support the Bill of Rights, oppose the constitutional amendment.

Mr. QUILLEN. Mr. Speaker, in order to close debate on this side, I yield the remaining 6½ minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, it is sad we only have a few minutes, really, in the grand scheme of things, a little over an hour, to debate a constitutional amendment. That is the shame of this thing, not the voting for or against it. A very respectable case can be made on either side, in my judgment, but to limit the time, to rush this through, is very shameful.

This vote today is an aspect of the cultural war, a kulturkampf that has been going on since the Vietnam war. President Carter referred to the mood of America as one of malaise. We are guilt-ridden. We have lost pride of our history, and we lack confidence in the future. The terms "respect" and "reverence" and a sense of the sacred, are now archaic, old-fashioned notions.

We who support the amendment to protect the flag have been driven to it by two decisions of the Supreme Court, not that we seek to do this lightly, but we who support that are called too much Norman Rockwell, and not enough John Lennon. However, I suggest to my friends who really want to think about this, we are never going to solve the problems of our society unless we can recapture a sense of reverence, a sense of respect toward

ourselves and toward the American flag, one which symbolizes what we stand for.

Now, it is true this has been exploited shamelessly for political reasons. I regret that. Do not collectivize the guilt and blame all for the sins of a few. But by the same token, demagoguery is not the exclusive preserve of either side of this issue. The media has engaged in a fearful intimidation of those Members who support an amendment as the last resort for protecting the flag. We are called yahoos, cowards, cheap political creatures.

Last evening I watched a TV ad paid for by People for the American Way, with an actor from central casting wearing a hard hat over his coiffure, and telling Members there are more important problems than this constitutional amendment. "Leave the Constitution alone," he advised us. We have the budget, we have the homeless, and we have the S&L problem to solve.

Let me suggest something. There are some issues that transcend the marketplace. Man does not live by bread alone, the Bible tells us. As for free speech being in danger, do not worry about it, folks, watch HBO sometime, watch Andrew Dice Clay come into your living room and shout the most obscene things imaginable. It is on your television every night. Never worry, free speech is safe. Go to a porno movie in your town and ask yourself, is obscenity—has the term any content at all? Do not worry about free speech.

Many Americans cannot buy TV ads like People for the American Way. However, they are angry at the vulgarization of their country. They view this vote as an opportunity, a rare opportunity to take their country back from the streets. That is in danger, my friends. The gentleman from Colorado says flag-burning is not a danger to this country. Let me tell Members what the danger is: It is in the culture war, and we are losing it.

In Detroit, eight people were killed because the Pistons won the national basketball title, so some people rioted, to celebrate and eight people got killed. We barely noticed. We have the mayor of this city accused of smoking crack and more. A tidal wave of drugs, a tidal wave of murders, a tidal wave of muggings. There are more abortions than live births in the Capital City, in many cities. Does that bother Members? There is an AIDS epidemic sweeping the country. We have taxpayers funding filth and bigotry of the worst sort through the National Endowment of the Arts due to our loss of our sense of respect for the sacred. The success of the deliberate efforts to degrade and destroy the Judeo-Christian community standards that once defined our Nation, that is the danger that we face.

There are those who are very angry that the American Revolution was not the French Revolution. I suggest to my friends who worship at the altar of the first amendment, and I join them, but in the back of the church, because the right of free speech is not the most important right in that Bill of Rights. I suggest to Members the right to vote, the right to life itself are more important, and if we do not think the right to vote is more important than the right of free speech, remember Nicaragua or visit the Senate and watch them filibuster to keep other Members from voting.

Now, I suggest America is not the sole property of the professors and the columnists and the editorial writers. The veterans and their widows and their children own a piece of this country, too. This amendment does not change a word in the first amendment, not a word. It reverses a 5-to-4 decision, just as the thirteenth amendment in 1865, and the fourteenth amendment in 1867, reversed the 1857 case of Dred Scott versus Sanford, which had shredded the fifth amendment and denied to a black human being his rights as a citizen. This is not the first time. That was a good effort in the 1850's and this is a good effort today.

Freedom of speech is not absolute. It never has been in this country. There are laws against perjury, laws against slander and libel, laws against obscenity. There are copyright laws. This amendment says burning our flag joins those exceptions. Justice Rehnquist, a scholarly lawyer said burning the flag is not a statement designed to communicate so much as it is a grunt designed to antagonize. Those Members who support an amendment have some distinguished company. Justice White, Justice Stevens, Justice Sandra Day O'Connor, Earl Warren, Hugo Black, a purist on the first amendment, Abe Fortas, have all expressed themselves that Congress has the power and Americans have the power to protect their flag. The Cross and the Star of David deserve respect, of course, but not all Members march under the banner of the Cross or the Star of David. The flag is our national symbol of unity and our symbol of community, and it is unique in all of America. That symbol is transcendant.

□ 1140

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I want to thank the gentleman from Michigan [Mr. BONIOR] for yielding me these 2 valuable minutes. I appreciate that.

Mr. Speaker, I rise in favor of the previous question but adamantly opposed to the rule.

When my colleagues, the gentleman from Illinois, indicates that this process is shameful, it is that, and the Republicans have participated in this shameful display, as have the leadership and the Democrats. We are bringing a constitutional amendment on the floor under suspension of the rules, on the suspension calendar that we reserve for the most minor, noncontroversial bills that one could imagine. It is shameful. We do not have to go to Nicaragua or to the other body, to the Senate, to see us denied the right to vote.

House Joint Resolution 350 is fatally defective, in my judgment. I attempted to offer amendments in committee to clean it up. I talked to the minority leader. I was attempting to clean it up so we do not have 300 different laws around this country; we need one law to protect the flag.

I happen to believe that a constitutional amendment narrowly drawn is the proper approach and in the public interest. House Joint Resolution 350 does not contain that language. It has language that the gentleman from Illinois [Mr. HYDE] could not explain the Judiciary Committee. He could not explain what was meant in the preamble of this amendment. What is meant by the words, "dislay the flag in a contemptuous manner"?

He said, "Well, we will try to deal with that. We will sort that out."

That is no way to pass a constitutional amendment.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I willl yield in just a minute.

Mr. Speaker, I went to the Rules Committee yesterday to get them to make in order an amendment that would try to clean this resolution up, and I was denied that right. We do not have to go to the other body to see us denied the right to vote to clean up an amendment.

I happen to believe that every American has a property right in the American flag. It is an intangible right, and I think we have a right to protect that. Unfortunately we are not going to be able to do so with the process today.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. (Mr. GLICKMAN). The time of the gentleman from New Jersey [Mr. HUGHES] has expired.

Mr. HYDE. Mr. Speaker, the gentleman mentioned my name in debate, and I have asked him to yield.

The SPEAKER pro tempore. The gentleman's time has expired, and all time of the gentleman from Tennessee [Mr. QUILLEN] has expired.

The gentleman from Michigan [Mr. BONIOR] has 15 minutes remaining totally in his time.

Mr. HYDE. Mr. Speaker, will the gentleman from New Jersey [Mr. HUGHES] yield to me?

The SPEAKER pro tempore. The Chair will say again that the gentleman has no additional time.

Mr. BONIOR. Mr. Speaker, I yield myself my remaining time.

Mr. Speaker, I think I have demonstrated our belief in free speech by allowing the gentleman from New Jersey on our side to use this time, although he is opposed to the rule. I will listen to the gentleman from Illinois [Mr. HYDE] as we get into the debate and the consideration of the full constitutional amendment. The gentleman makes an eloquent case for his side, as I think many of us on the opposite side make a good case.

Mr. Speaker, let me just say that this has been, I think, a very constructive and good debate on the rule. It is a fair rule. We have been debating this rule vigorously in committee for a full year. I ask my colleagues to vote for the previous question and for the rule.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 191, not voting 9, as follows:

[Roll No. 190]

YEAS—232

Ackerman	Carr	Evans
Alexander	Chapman	Fascell
Anderson	Clarke	Fazio
Andrews	Clay	Feighan
Annunzio	Clement	Flippo
Anthony	Coleman (TX)	Foglietta
Aspin	Collins	Ford (TN)
Atkins	Condit	Frank
AuCoin	Conyers	Frost
Barnard	Cooper	Gaydos
Bates	Costello	Gejdenson
Beilenson	Coyne	Gephardt
Bennett	Darden	Geren
Berman	de la Garza	Gibbons
Bevill	DeFazio	Glickman
Bilbray	Dellums	Gonzalez
Boggs	Derrick	Gordon
Bonior	Dicks	Gray
Borski	Dingell	Guarini
Bosco	Dixon	Hall (OH)
Boucher	Donnelly	Hamilton
Boxer	Dorgan (ND)	Harris
Brennan	Downey	Hatcher
Brooks	Durbin	Hawkins
Browder	Dwyer	Hayes (IL)
Brown (CA)	Dymally	Hayes (LA)
Bruce	Dyson	Hefner
Bryant	Early	Hertel
Bustamante	Edwards (CA)	Hoagland
Byron	Engel	Hochbrueckner
Cardin	Erdreich	Hoyer
Carper	Espy	Hubbard
Hughes	Mollohan	Sisisky
Jenkins	Moody	Skaggs
Johnson (SD)	Morrison (CT)	Skelton
Johnston	Mrazek	Slattery
Jones (GA)	Murphy	Slaughter (NY)
Jones (NC)	Murtha	Smith (FL)
Jontz	Nagle	Smith (IA)
Kanjorski	Natcher	Solarz
Kaptur	Neal (MA)	Spratt
Kastenmeier	Neal (NC)	Staggers
Kennedy	Nowak	Stallings
Kennelly	Oakar	Stark
Kildee	Oberstar	Stenholm
Kleczka	Obey	Stokes
Kolter	Olin	Studds
Kostmayer	Ortiz	Swift
LaFalce	Owens (NY)	Synar
Lancaster	Owens (UT)	Tallon
Lantos	Pallone	Tanner
Leath (TX)	Panetta	Tauzin
Lehman (CA)	Patterson	Thomas (GA)
Lehman (FL)	Payne (NJ)	Torres
Levin (MI)	Payne (VA)	Torricelli
Levine (CA)	Pease	Towns
Lewis (GA)	Pelosi	Traficant
Lipinski	Penny	Traxler
Lloyd	Perkins	Udall
Long	Pickle	Unsoeld
Lowey (NY)	Poshard	Valentine
Luken, Thomas	Price	Vento
Manton	Richardson	Visclosky
Markey	Roe	Volkmer
Martinez	Rose	Walgren
Matsui	Rostenkowski	Washington
Mavroules	Rowland (GA)	Waxman
Mazzoli	Roybal	Weiss
McCloskey	Russo	Wheat
McCurdy	Sabo	Whitten
McDermott	Sangmeister	Williams
McHugh	Sarpalius	Wise
McMillen (MD)	Savage	Wolpe
McNulty	Sawyer	Wyden
Mfume	Scheuer	Yates
Miller (CA)	Schroeder	Yatron
Mineta	Sharp	
Moakley	Sikorski	

NAYS—191

Applegate	Gallegly	Machtley
Archer	Gallo	Madigan
Armey	Gekas	Marlenee
Baker	Gillmor	Martin (IL)
Ballenger	Gilman	Martin (NY)
Bartlett	Gingrich	McCandless
Barton	Goodling	McCollum
Bateman	Goss	McCrery
Bentley	Gradison	McDade
Bereuter	Grandy	McEwen
Bilirakis	Grant	McGrath
Bliley	Green	McMillan (NC)
Boehlert	Gunderson	Meyers
Broomfield	Hammerschmidt	Michel
Brown (CO)	Hancock	Miller (OH)
Buechner	Hansen	Miller (WA)
Bunning	Hastert	Molinari
Burton	Hefley	Montgomery
Callahan	Henry	Moorhead
Campbell (CA)	Herger	Morella
Chandler	Hiler	Morrison (WA)
Clinger	Holloway	Myers
Coble	Hopkins	Nelson
Coleman (MO)	Horton	Nielson
Combest	Houghton	Oxley
Conte	Huckaby	Packard
Coughlin	Hunter	Parker
Courter	Hutto	Parris
Cox	Hyde	Pashayan
Craig	Inhofe	Paxon
Crane	Ireland	Petri
Dannemeyer	Jacobs	Pickett
Davis	James	Porter
DeLay	Johnson (CT)	Pursell
DeWine	Kasich	Quillen
Dickinson	Kolbe	Rahall
Dornan (CA)	Kyl	Ravenel
Douglas	Lagomarsino	Ray
Dreier	Laughlin	Regula
Duncan	Leach (IA)	Rhodes
Edwards (OK)	Lent	Ridge
Emerson	Lewis (CA)	Rinaldo
English	Lewis (FL)	Ritter
Fawell	Lightfoot	Roberts
Fields	Livingston	Robinson
Fish	Lowery (CA)	Rogers
Frenzel	Lukens, Donald	Rohrabacher
Ros-Lehtinen	Smith (NE)	Taylor
Roth	Smith (NJ)	Thomas (CA)
Roukema	Smith (TX)	Thomas (WY)
Rowland (CT)	Smith (VT)	Upton
Saiki	Smith, Denny (OR)	Vander Jagt
Saxton	Smith, Robert (NH)	Vucanovich
Schaefer	Smith, Robert (OR)	Walker
Schiff	Snowe	Walsh
Schneider	Solomon	Watkins
Schuette	Spence	Weber
Schulze	Stangeland	Weldon
Sensenbrenner	Stearns	Whittaker
Shaw	Stump	Wilson
Shays	Sundquist	Wolf
Shumway	Tauke	Wylie
Shuster		Young (AK)
Skeen		Young (FL)
Slaughter (VA)		

NOT VOTING—9

Campbell (CO)	Flake	Rangel
Crockett	Ford (MI)	Schumer
Eckart	Hall (TX)	Serrano

□ 1203

Mr. CLARKE changed his vote from "nay" to "yea."

Mr. NELSON of Florida changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 231, nays 192, not voting 9, as follows:

[Roll No. 191]

YEAS—231

Ackerman	Clement	Ford (TN)
Alexander	Coleman (TX)	Frank
Anderson	Collins	Frost
Andrews	Condit	Gaydos
Annunzio	Conyers	Gejdenson
Anthony	Cooper	Gephardt
Aspin	Costello	Geren
Atkins	Coyne	Gibbons
AuCoin	Darden	Glickman
Barnard	de la Garza	Gonzalez
Bates	DeFazio	Gordon
Beilenson	Dellums	Gray
Bennett	Derrick	Guarini
Berman	Dicks	Hall (OH)
Bevill	Dingell	Hamilton
Bilbray	Dixon	Harris
Boggs	Donnelly	Hatcher
Bonior	Dorgan (ND)	Hawkins
Borski	Downey	Hayes (IL)
Bosco	Durbin	Hayes (LA)
Boucher	Dwyer	Hefner
Boxer	Dymally	Hertel
Brennan	Dyson	Hoagland
Brooks	Early	Hochbrueckner
Browder	Edwards (CA)	Hoyer
Brown (CA)	Engel	Hubbard
Bruce	Erdreich	Jenkins
Bryant	Espy	Johnson (SD)
Bustamante	Evans	Johnston
Byron	Fascell	Jones (GA)
Cardin	Fazio	Jones (NC)
Carr	Feighan	Jontz
Chapman	Flippo	Kanjorski
Clarke	Foglietta	Kaptur
Clay	Ford (MI)	Kastenmeier

Kennedy	Murtha	Skaggs
Kennelly	Nagle	Skelton
Kildee	Natcher	Slattery
Kleczka	Neal (MA)	Slaughter (NY)
Kolter	Neal (NC)	Smith (FL)
Kostmayer	Nowak	Smith (IA)
LaFalce	Oakar	Solarz
Lancaster	Oberstar	Staggers
Lantos	Olin	Stallings
Laughlin	Ortiz	Stark
Leath (TX)	Owens (NY)	Stenholm
Lehman (CA)	Owens (UT)	Stokes
Lehman (FL)	Pallone	Studds
Levin (MI)	Panetta	Swift
Levine (CA)	Patterson	Synar
Lewis (GA)	Payne (NJ)	Tallon
Lipinski	Payne (VA)	Tanner
Lloyd	Pease	Tauzin
Long	Pelosi	Thomas (GA)
Lowey (NY)	Penny	Torres
Luken, Thomas	Perkins	Torricelli
Manton	Petri	Towns
Markey	Pickle	Traficant
Martinez	Poshard	Traxler
Matsui	Price	Udall
Mavroules	Richardson	Unsoeld
Mazzoli	Roe	Valentine
McCloskey	Rose	Vento
McCurdy	Rostenkowski	Visclosky
McDermott	Rowland (GA)	Volkmer
McHugh	Roybal	Walgren
McMillen (MD)	Russo	Washington
McNulty	Sabo	Waxman
Mfume	Sangmeister	Weiss
Miller (CA)	Sarpalius	Wheat
Mineta	Savage	Whitten
Moakley	Sawyer	Williams
Mollohan	Scheuer	Wise
Moody	Schroeder	Wolpe
Morrison (CT)	Sharp	Wyden
Mrazek	Sikorski	Yates
Murphy	Sisisky	Yatron

NAYS—192

Applegate	Gillmor	McCrery
Archer	Gilman	McDade
Armey	Gingrich	McGrath
Baker	Goodling	McMillan (NC)
Ballenger	Goss	Meyers
Bartlett	Gradison	Michel
Barton	Grandy	Miller (OH)
Bateman	Grant	Miller (WA)
Bentley	Green	Molinari
Bereuter	Gunderson	Montgomery
Bilirakis	Hammerschmidt	Moorhead
Bliley	Hancock	Morella
Boehlert	Hansen	Morrison (WA)
Broomfield	Hastert	Myers
Brown (CO)	Hefley	Nelson
Buechner	Henry	Nielson
Bunning	Herger	Obey
Burton	Hiler	Oxley
Callahan	Holloway	Packard
Campbell (CA)	Hopkins	Parker
Carper	Horton	Parris
Chandler	Houghton	Pashayan
Clinger	Huckaby	Paxon
Coble	Hughes	Pickett
Coleman (MO)	Hunter	Porter
Combest	Hutto	Pursell
Conte	Hyde	Quillen
Coughlin	Inhofe	Rahall
Courter	Ireland	Ravenel
Cox	Jacobs	Ray
Craig	James	Regula
Crane	Johnson (CT)	Rhodes
Dannemeyer	Kasich	Ridge
Davis	Kolbe	Rinaldo
DeLay	Kyl	Ritter
DeWine	Lagomarsino	Roberts
Dickinson	Leach (IA)	Robinson
Dornan (CA)	Lent	Rogers
Douglas	Lewis (CA)	Rohrabacher
Dreier	Lewis (FL)	Ros-Lehtinen
Duncan	Lightfoot	Roth
Edwards (OK)	Livingston	Roukema
Emerson	Lowery (CA)	Rowland (CT)
English	Lukens, Donald	Saiki
Fawell	Machtley	Saxton
Fields	Madigan	Schaefer
Fish	Marlenee	Schiff
Frenzel	Martin (IL)	Schneider
Gallegly	Martin (NY)	Schuette
Gallo	McCandless	Schulze
Gekas	McCollum	Sensenbrenner
Shaw	Smith, Robert (OR)	Upton
Shays	Snowe	Vander Jagt
Shumway	Solomon	Vucanovich
Shuster	Spence	Walker
Skeen	Spratt	Walsh
Slaughter (VA)	Stangeland	Watkins
Smith (NE)	Stearns	Weber
Smith (NJ)	Stump	Weldon
Smith (TX)	Sundquist	Whittaker
Smith (VT)	Tauke	Wilson
Smith, Denny (OR)	Taylor	Wolf
Smith, Robert (NH)	Thomas (CA)	Wylie
	Thomas (WY)	Young (AK)
		Young (FL)

NOT VOTING—9

Campbell (CO)	Flake	Rangel
Crockett	Hall (TX)	Schumer
Eckart	McEwen	Serrano

□ 1220

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. MARTIN of Illinois. Mr. Speaker, on Wednesday, June 20, I was unavoidably detained and unable to vote on rollcall vote No. 184. Had I been present, I would have voted "yes," and I ask unanimous consent that my explanation may appear immediately after rollcall No. 184 in the permanent CONGRESSIONAL RECORD.

The SPEAKER pro tempore (Mr. GLICKMAN). Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

CONSTITUTIONAL AMENDMENT BANNING DESECRATION OF THE FLAG

Mr. BROOKS. Mr. Speaker, pursuant to House Resolution 417, I move to suspend the rules and pass the joint resolution (H.J. Res. 350) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

The Clerk read as follows:

H.J. RES. 350

Proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

Whereas the flag of the United States of America is a national symbol of such stature that it must be kept inviolate;

Whereas the physical desecration of the flag should not be considered constitutionally protected speech; and

Whereas physical desecration may include, but is not limited to, such acts as burning, mutilating, defacing, defiling or trampling on the flag, or displaying the flag in a contemptuous manner: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.".

The SPEAKER pro tempore (Mr. Bosco). Pursuant to House Resolution 417, a second is not required on this motion.

The gentleman from Texas [Mr. BROOKS] will be recognized for 1 hour and 40 minutes; the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 1 hour and 40 minutes; and the gentleman from California [Mr. EDWARDS] will be recognized for 1 hour and 40 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, after my statement, I want to yield 15 minutes to the gentleman from Mississippi [Mr. MONTGOMERY] and I would ask unanimous consent that he may be permitted to yield blocks of time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that I be permitted to yield 15 minutes of my time to the gentleman from Mississippi [Mr. MONTGOMERY], and I further ask unanimous consent that the gentleman from Mississippi [Mr. MONTGOMERY] be permitted to yield blocks of time to other Members.

The SPEAKER pro tempore. Is there objection to the requests of the gentleman from Wisconsin?

Mr. BRYANT. Mr. Speaker, reserving the right to object, I will not object at this time, but I ask the gentleman from Wisconsin to respond to an inquiry.

My understanding is this rule proportions 2 hours to proponents of this amendment and 1 hour to the opponents. Is it the intention of the gentleman from Wisconsin and the gentleman from Texas [Mr. BROOKS] to apportion part of their time to opponents, as well?

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman from Texas yield?

Mr. BRYANT. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, I do intend to apportion a part of my time to Republican opponents of the joint resolution. However, under the rules relating to suspension of the rules, when both the chairman and a ranking member of the committee managing the suspension are in favor of the legislation,

then the opponents are only allowed one-third of the time.

Mr. BRYANT. Is it the gentleman's intention to relinquish a portion of his time to Members who are opponents of the amendment?

Mr. SENSENBRENNER. Mr. Speaker, if the gentleman will further yield, had the gentleman been listening, I said that I was planning on yielding a part of my time to Republican opponents of the resolution. But that is out of the goodness of my heart.

Mr. BRYANT. Fine; I thank the gentleman very much.

Mr. SENSENBRENNER. But I did not support the rule that just passed that divided up the time. I believe the gentleman from Texas [Mr. BRYANT] did.

Mr. BRYANT. That is correct.

Mr. Speaker, does the gentleman from Texas [Mr. BROOKS] intend to apportion some of his time to opponents of the amendment?

Mr. BROOKS. I already have, Mr. Speaker.

Mr. BRYANT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the requests of the gentleman from Wisconsin?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I will not object, but I would just call attention to the gentleman who was previously reserving the right to object and say that this member of the Committee on Rules offered a motion to make in order a rule which would have apportioned 3 hours to the opponents of this constitutional amendment and 3 hours of equal time to proponents. It was defeated on a party line vote.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore (Mr. Bosco). The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I rise in support of this proposed constitutional amendment. I believe that our Nation, through its Government, has a legitimate and vital interest in ensuring the physical integrity of the emblem of our nationhood. The flag holds an important place in the life of our Nation. It stands as a symbol of our unity as a Nation and a reminder of the sacrifices that millions have endured in order to preserve our freedoms. This symbolic and emotional bond between the people and their flag can be summed up in one word: patriotism. Millions of Americans have anguished over the Supreme Court cases of the past two summers holding 5–4 statutory protection of the flag unconstitutional. Nowhere has this concern been felt more sharply than in my home State of Texas, whose flag protection statute was overturned last summer in Texas versus Johnson.

Beyond this symbolic and emotional element, however, I believe that there is an equally important national interest in protecting the flag. In a real and concrete sense, the display of the flag of the United States is a demonstration of our Nation's identity, presence and resolve to defend its sovereign rights. This use of the flag as an "incident of sovereignty" is part of our Nation's heritage. At home and abroad, from small town post offices to the Persian Gulf, the flag signifies and embodies our national identity. Our Government, the custodian of the Nation's values and heritage, must have the authority to protect the flag from physical desecration.

Now that the Supreme Court has spoken and has stated that this legitimate national interest in protecting the physical integrity of the flag cannot be achieved by statutory means, I believe that it is appropriate and necessary for us to proceed through the means of advancing the constitutional amendment before us today. In doing so, I hope that we will not lose sight of the seriousness of what we are doing. Proposing an amendment to our Constitution is not a task to be taken lightly. Indeed, changing our national charter is one of the most important and momentous responsibilities we can perform, and it is one that has been accomplished only rarely. Subsequent to the adoption of the Bill of Rights in 1791, our Constitution has been subject to amendment only 16 times in the past 200 years.

I would hope that the Members of this body and of the Congress will recognize the importance of our action and treat this process with the dignity it deserves. It demeans both the Constitution and the emblem of nationhood that we are seeking to protect to use it as political fodder. It is unworthy of the flag to describe it as just some more ammunition for a 30 second spot, and it is unworthy of us as responsible elected officials to turn this issue into a demagoguing contest.

Those who oppose this amendment are just as patriotic as we who support it. They fought just as long overseas; they had just as many injuries; they are just as patriotic. In this debate, let us demonstrate once again to America and to the world our dedication to and reverence for democracy and the Constitution which enshrines our most hallowed principles by which we govern ourselves.

I believe we can provide in our Constitution the means to protect our flag without threatening or diminishing our devotion to freedom of speech and the Bill of Rights. Millions of Americans have fought and died to protect our flag and our Constitution. These two are not incompatible, they are one and the same. This amendment guarantees the continued sanctity of the flag and the freedoms for which it stands. I urge approval of the amendment.

□ 1230

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, at the outset let me first pay my respects to our distinguished colleague, SONNY MONTGOMERY, cosponsor with me of this proposed constitutional amendment, and the 169 of our colleagues from both sides of the aisle who have joined with us.

It has been one of the more rewarding aspects of my House career to see such truly bipartisan support for this constitutional amendment to protect our flag.

I stand here today not as the representative of a political party or of an ideology or a special interest, but as one member of a bipartisan group of millions of Americans.

Our goal is to protect the flag through procedures established by the Constitution itself.

We realize attempting to amend the Constitution of the United States is a solemn undertaking.

It is a process that calls for the people of the States, as well as their Representatives and Senators in Congress, to make a judgment.

It is therefore a process that is the very antithesis of quick, unthinking, emotional, political, response to a complex problem.

As the Supreme Court has in effect ruled in United States versus Eichman, it is the only process we now have to protect the flag.

We have had the benefit of expert testimony on this issue. Some tell us we should not amend the Constitution. Editorials in most major newspapers condemn the constitutional amendment, often in harsh terms.

Other experts say an amendment is necessary and desirable.

We appreciate the views of these learned men and women. But our system is one in which the ultimate decision on such a grave matter is left quite properly in the hands of the American people and their representatives, not to a handful of experts.

And that is exactly why we believe our constitutional amendment is necessary and the process before us is appropriate.

Let me first offer a brief look at the events that have led us to this debate.

On June 21, 1989, the Supreme Court ruling on Texas versus Johnson took away protection from the flag. At that time, many of us attempted to

convince our colleagues that the flag must be protected through a constitutional amendment.

An attempt to protect the flag through a statute was made. But it was doomed from the start, as I predicted in testimony before the House Judiciary Subcommittee on Civil and Constitutional Rights, July 13, 1989.

At that time I said:

We believe there is no quick legislative fix on this issue. Either we amend the Constitution—as grave and complicated an undertaking as that is—or else we let the decision stand. There is no middle ground.

The Supreme Court decision of June 11, 1990, United States versus Eichman has demonstrated the accuracy of those words.

But the vote for the statute proved one thing: In overwhelming numbers, the House is on record as wanting to provide the flag with protection.

I will not take time repeating why the flag deserves protection. We all know the arguments. We all know the flag is a unique symbol of our Nation and its values.

Even the majority in the original Texas against Johnson decision agreed to that.

So let me get to the heart of the matter by reading the words of our proposed amendment:

The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.

Let me now attempt to answer some of the questions that have been raised about our proposal.

The chief argument of amendment opponents is the fear that the proposed constitutional amendment would lead to violations of first amendment rights, or that we are tampering with the Constitution.

It is never quite explained how we can be tampering if we are following the Constitution itself in our effort to save the flag.

But critics point to the fact that the five-Justice majority in the Texas against Johnson decision stated the "bed-rock principle" of the first amendment is: "Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

I agree with that view. So did Judge Robert Bork in his testimony before the Judiciary subcommittee. But listen to Judge Bork's words. Speaking of the proposition that government may not prohibit unpopular ideas, he said:

That proposition certainly expresses first amendment doctrine. The difficulty is that the 'bedrock principle' had no application to the question before the Court. The Texas statute in question did not suppress any idea at all.

I might remind our colleagues that until the Texas against Johnson decision, the American people had given their opinion on the question of flag desecration in terms of freedom of expression.

Their answer was that we can have free speech and also have laws against flag desecration.

I mention this only to counter the suggestion that our proposed amendment would be some radical, new departure from two centuries of first amendment rights.

To put it in the mildest possible sense, I don't have the reputation in this House as being a radical Member.

I do not recall any of our opponents in the House making speeches about the dangers to the first amendment from flag-desecration laws before the Texas against Johnson decision.

Where was the supposedly great and ominous threat to the first amendment then, when not only the States but the Federal Government, had flag desecration statutes on the books?

Far from being a radical departure from American tradition on this issue, our amendment seeks to restore the commonsense view of the American people which existed prior to Texas against Johnson.

If our proposal becomes the 27th amendment to the Constitution, the flag burners' ideas about America and the flag will have, for all practical purposes, an all but infinite number of ways to continue expressing themselves.

Such expression will be limited only by human ingenuity and the fact that physically desecrating the flag as a means of expression can be forbidden under penalty of law.

Notice I said "can be." This amendment does not forbid flag desecration. It merely allows the States and the Congress to decide whether flag-desecration laws are necessary and, if so, to act accordingly.

Surely this is something far less than the great first amendment crackdown that we are hysterically told it is.

Surely this is something different from the assault on the Bill of Rights some critics say it is.

Surely this is measured, prudent, limited, thoughtful approach to the problem, incorporating the consensus on the question that existed for many years before Texas versus Johnson.

Those opposed to the amendment tell us our amendment is "a foot in the door" or "a slippery slope" and all the other cliches they can think of.

If Americans cannot desecrate flags with impunity, we are told, the next step will be Government censorship of all unpopular ideas. The first amendment will be swept aside in a torrent of populist emotion, led by demagogues. Or so the argument goes.

Quite frankly, it is this creeping censorship argument that is most difficult to counter, not because it has any intrinsic merit—it does not—but because it is rooted in fear, "nameless, unreasoning, unjustified" fear, as a great American President once said.

It is a fear that if the American people constitutionally protect our flag on one day, they will allow or even call upon the Government to start burning books, banning unpopular ideas, and closing newspapers the next.

That is, quite frankly, a nonsensical argument, profoundly antidemocratic in its implications.

It suggests to me that self-appointed guardians of the first amendment, having spoken against an amendment, believe any dissenting opinion must be rooted in a desire for censorship and restrictions on free speech.

I believe the American people care about the first amendment just as much as those who have appointed themselves guardians of our right to free speech. I believe the people realize the gravity of this undertaking. I believe the people were right when they placed flag desecration laws on the books, before Texas versus Johnson.

There is not a single phrase in our amendment, not a single word, not one fact in the legislative history suggesting this amendment should, would, or could lead to censorship of unpopular ideas by the Government.

This problem can be best approached by asking ourselves one question:

Can the American people be trusted to make a distinction between physically desecrating a flag and expressing an unpopular idea under the first amendment?

We who support the amendment say they can. We say they must.

Some say that we have to choose either the Constitution or the flag. The 169 cosponsors of the bipartisan amendment say we must and can have both the Constitution and the flag, and that the flag can be protected only through the Constitution.

Anyone who truly believes that the first amendment is so fragile that this amendment can in effect kill it, or that the American people are so weak in their love of free speech that they will begin to trample on their own first amendment rights, doesn't in my view have faith in the people.

There is the argument that we don't need an amendment because, after all, not that many flags are desecrated.

This is a curious argument. Under our system of law, it is not the number of times an act is committed that leads to its prescription, but the nature of the act itself.

I know we live in an age where the cult of quantification dominates our political debates. I know it is popular in some quarters to sneer at those who believe even one desecration of the flag is too many.

But let us at least reserve for the majesty of law the question of judging the nature of an act and not its number.

We are here to make qualitative judgments on the act of physical desecration of the flag, not just to count instances of such desecration.

Then we hear that it will be bad if 50 States have different laws on flag desecration.

This is what I call the "fear of federalism" argument.

It is no accident that from the beginning, our flag has had stars symbolizing the various States.

Why shouldn't the people of California and Illinois and Arkansas and all the rest of the States be free to decide what they feel is the appropriate way to handle flag desecration?

One final point, Mr. Speaker: In his dissent in United States versus Eichman, Justice Stevens wrote of certain unnamed leaders who "seem to advocate compulsory worship of the flag, even by individuals whom it offends * * *."

With all due respect to Justice Stevens, I know of no leader in either party who holds the view condemned by Justice Stevens.

This amendment isn't about worship of the flag. It is about desecration of the flag.

We are not telling those who hate the flag to burn incense to it. We are telling them not to burn the flag itself.

Any American, if he or she so chooses, can hate the flag with all the bitterness and rage the dark corners of the heart can generate.

We say to them: Hate the flag if you must—but don't physically desecrate it.

But it was in essence the same flag as the one Lafayette knew. The number of stars had changed—but the great promise of freedom had not changed. Our flag gave my father hope for a better life.

When he became a citizen, he took an oath to uphold the Constitution of the United States. It would have been inconceivable to him and to other immigrants, that a law against physical desecration of the flag abridged his freedom of expression.

As kids, we were taught to love our flag and respect it. When we wore it on our shoulder in Normandy in 1944, it still had 48 stars. Under fire, it conveyed the same message of hope and courage and freedom.

Rail against it, spew forth your worst verbal venom—but don't physically desecrate that flag or you can wind up in the pokey, where you belong.

Mr. Speaker, there is our flag. In this great Chamber, it hangs between portraits of George Washington and the great Frenchman who helped our revolutionary cause, the Marquis de Lafayette.

In Lafayette's day, our flag had 13 stars.

Over a century later, another Frenchman came to these shores. He was my father, an immigrant. When he first saw our flag, as he arrived in New York Harbor in 1914, it had 48 stars.

Today our flag has 50 stars. But it is the same flag Lafayette and Washington saw two centuries ago. It symbolizes the same virtues, the same love of freedom.

It is the same Old Glory, its radiance undiminished and its honor undefiled. The only difference is that today it is an open target for physical desecration.

And that is why the American people want our flag protected from physical desecration. They know that if you physically desecrate a 50-star flag today, you are in essence physically desecrating the 13-star flag Lafayette knew and the 48-star flag my father knew.

Call it continuity of patriotism across generations.

Call it a sense of community extending across the centuries.

Call it tradition, call it a realization that the phrase "We the People" refers not only to those who are alive today but to those who came before and after.

Call it what you will, but at the heart of this battle to protect our flag there is the feeling we are doing something that transcends time and place, and speaks to the very heart of America itself, past, present, and future.

Daniel Webster called our flag "the gorgeous ensign of the Republic * * * known and honored throughout the Earth, still full high advanced, its arms and trophies streaming in their original luster, not a stripe erased or polluted, nor a single star obscured * * *."

In Daniel Webster's day, he could well say that our flag was unpolluted. I suppose folks in those days just weren't sophisticated enough to know that physically desecrating a flag is a protected means of expression.

But in our day, there are those who would desecrate it, perform all sorts of abominations on it, physically mutilate it. Some experts tell us that when these new barbarians perform these rituals of contempt for all we hold dear, we are all supposed to stand there and say: "Now there's an interesting expression of a strongly held view."

I don't believe that is what the Founders intended. I don't believe that is what America is all about.

But what I believe right now is not all that important. The question is: What is to be done?

When we voted on the doomed flag-protection statute, many of us made a gesture. Now's the time to take a stand.

Everything—the arguments, the expert testimony, the heated debate—everything comes down to one question, each has to ask himself or herself: Do I want to protect our flag from physical desecration?

If the answer is "no," then vote against our resolution.

But if the answer is "yes," then this is your last chance: Vote for our resolution.

Join SONNY MONTGOMERY and me and our 169 bipartisan cosponsors in protecting Old Glory, not despite the Constitution, but through the Constitution, not against the first amendment, but because of the first amendment, which guarantees the right of the people to express themselves as we are on this issue.

□ 1240

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am the chairman of the subcommittee of the Committee on the Judiciary that held hearings and voted 5 to 3 against this constitutional amendment.

I am very proud not only of the subcommittee but also of the full Committee on the Judiciary. The full committee a day or so ago voted 19 to 17 against favorably sending this resolution to the House.

I have the honor and privilege, Mr. Speaker, of being the floor leader for the opposition, the very sincere opposition to the constitutional amendment, which for the first time in our history, the very first time, would say that we do not trust freedom of speech any more, and that the free speech provision of the Bill of Rights must be cut back on. That is what we are talking about today, cutting back on the Bill of Rights, and its most important component—the freedom of speech.

Next Tuesday, Mr. Speaker, Nelson Mandela will be here. He spent 27 years of his life in jail—he was let out of jail just a few months ago—because he fought for the principles of our Bill of Rights in South Africa, for freedom of speech, freedom of association, and the right to petition the government.

I wonder, are we going to tell Nelson Mandela next week when he is in this very Hall, the same Hall that President Havel of Czechoslovakia was in, that we have enough of unlimited free speech in this country, that we do not trust free speech anymore? Are we going to say, "Mr. Mandela, last week we voted to cut back on it?"

What kind of a message is that going to send to the people of South Africa, to the people of Czechoslovakia, or to the young people of China who lived and died on Tiananmen Square? I cannot believe, Mr. Speaker, that this

could possibly happen, and I am sure James Madison, the author of the Bill of Rights, could not imagine it either.

Mr. Speaker, I have the great honor and privilege of yielding such time as he may consume to the majority leader of the House of Representatives, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, a few months ago when we passed the statute against flag burning, I guess we assumed that we could protect the beloved flag of this country from destruction and burning, and that at the same time we could avoid doing something that most of us do not want to do, which is amend for the first time in our history of over 200 years our Bill of Rights. But the Supreme Court's decision of a few days ago makes the desire on our part to have it all and do it all impossible.

So today we are here in the Chamber having to make a choice, a tough choice, a choice that we would have liked to have avoided, but a choice that we will make today. We simply cannot protect the flag and refuse to erode the Bill of Rights at the same time. And it is not a trivial choice.

Some have wanted to say that it is a political matter, that it is a 30-second spot, or it is a mailer that we can send out to our constituents. Someone on the other side of the issue among those proposing the amendment even suggested that they even hoped they could lose by one vote so that somehow we could come back to it again and raise it as a political issue.

I say to the Members of the House today that this is not a trivial issue and it is not just a political issue. It is an issue that goes to the core and the heart of what this country is about.

Last December I was in Czechoslovakia, and I met some people to whom the Bill of Rights and freedom and justice are not trivial issues. I met in particular a man by the name of Yerzhi Wolff. He sat across the table from me in the basement of a restaurant in Prague, and he told me what it was like to have spent 6 years in prison because he had spoken out against the Government of Czechoslovakia. He was a member of the civil forum, the group that had marched a few weeks before we had gotten there to obtain their freedom, and after obtaining their freedom, Mr. Wolff and the others had been released.

I was there when the gentleman from California, Mr. TOM LANTOS, and Senator BOB KERREY of Nebraska were there, and by happenstance we had brought with us a copy of the American Bill of Rights. We had it on a plaque, and I was so proud to pull it out and hand it to Mr. Wolff and say, "Here is the Bill of Rights that we have lived up to in our country and that you have now obtained."

□ 1250

Mr. Speaker, as I did that with the rush of emotion, what was running through my mind was: What has allowed us to guarantee these rights over 200 years, and a country like Czechoslovakia, and Hungary, and the Soviet Union, and Poland and other countries have kind of moved in and out? Sometimes they have had their rights, and sometimes they have not, and the young Czechoslovaks told me how they had a bill of rights, and they had a constitution, but it had been taken away. It had come in and then gone out. It had not been constant. It had not been revered by the people of their country, and they had not been able to guarantee those rights.

Mr. Speaker, what ran through my mind was: What is it about America that has allowed us for over these 200 years, unusually in the history of mankind, to say these rights are guaranteed? And I realized and I said to the Czechoslovaks,

It's not the words on the paper alone, although the words are important, and we want to keep them revered and constant. There's also a combination between those words, and the spirit and the will of our people. Our people revere these rights and feel very strongly about them.

Then, Mr. Speaker, I remembered that even in our history these rights had been fragile. We have Members of our own body who experienced the erosion of our rights in their lifetime. We have the gentleman from Georgia [Mr. LEWIS] who was beaten to the ground because he stood up for civil rights, and he was nearly killed because he stood up, and acted and expressed himself for the rights that he wanted this country to have. The gentleman from California [Mr. MINETA] and his family were picked up by the military and transported to a military camp during World War II, clearly an erosion of our rights. The gentleman from California [Mr. MATSUI], his family and he were also taken to a camp. Their rights were taken away in what I think we would have to say today was an erosion of their rights as American citizens.

So, Mr. Speaker, this is not a trivial issue, and these rights are fragile, both in Czechoslovakia, and here, and everywhere.

Some would argue, "It's OK this time. It's not an erosion because it's the flag," and I understand that argument, and I respect that argument. However, my colleagues, if we erode it this time, what will it be the next time? What if they burn crosses again? What if they burn the Star of David? What if they burn the Torah? What if they burn Bibles? And what about the patriotic symbols? What if people go out and burn the Bill of Rights and burn the Constitution, and what if people want to march in Skokie as Nazis standing up for what they believe in? Well, there will be other attempts, if we do it this time, to say, "If it's OK for the flag, we got to do it for this."

My colleagues, flag burning makes me angry. I detest it. I resent it. I do not like it. But I think our Republic can withstand it.

However, Mr. Speaker, I am not sure that our Republic can stand the erosion of the most precious thing we have that goes to the core of our existence, our freedom to say and express what we want.

Listen to Thomas Jefferson:

Jefferson: Equal and exact justice to all men, of whatever state or persuasion, religious or political; * * * freedom of religion; freedom of the press; freedom of person under the protection of the habeas corpus; and trial by juries impartially selected—these principles form the bright constellation which has gone before us, and guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment. They should be the creed of our political faith—the text of civil instruction—the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

My fellow Members of the House, for me this is a tough choice, but the choice is clear. A great writer once said that the greatest glory of a free-born people is to transmit that freedom to their children. This is not an issue to be trivialized. Yer-zhi Wolff is counting on us. Our children are counting on us. Mr. Speaker, I say, "Let's not let them down."

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am certainly proud to be a cosponsor of this amendment with my close friend, the gentleman from Illinois [Mr. MICHEL], and we are treating this as nonpartisan, and I want to commend the majority leader, the gentleman from Missouri [Mr. GEPHARDT], for the fine remarks that he made and commend the sacrifices made by some of the Members in the House of Representatives. But I would like to point out to the majority leader some of us have marched off to war twice for this country, and we think this amendment should be voted on and that we certainly stand as patriotic persons on both sides of the aisle.

Mr. Speaker, we tried the statute route to stop flag burning, and I supported the new law. It did not work. Now we are here on the constitutional amendment route, the amendment we are considering, and it was over 160 Members on both sides of the aisle that have sponsored this amendment.

Mr. Speaker, it is so tightly drawn that it is only 20 words: "The Congress and the States have the power to pro-

hibit the physical desecration of the flag of the United States."

I ask my colleagues, "What's wrong with that?" Mr. Speaker, we are not harming the first amendment. People will stand and say that they have the right under our amendment to freely express themselves.

As my colleagues know, I do not like it, but under our amendment people can get up and bad mouth the American flag, and this amendment would not hurt that in any way.

However, Mr. Speaker, under what we are proposing today and which my colleagues will have a vote on in 4 or 5 hours, they will not be able to physically harm this great symbol, and that is basically what we are trying to protect.

Now this Constitution has been amended 26 times, including the first amendment which was ratified by the States the same way we are seeking to have the 27th amendment considered. So, our forefathers made a vehicle available to amend the Constitution.

Mr. Speaker, I want to get this point across because I think it is the most important point that I will make this afternoon. It is: "Your vote in the House is not the final vote on this resolution. We are just making it possible for the State legislatures to consider this amendment."

What is wrong with letting the people decide for themselves? As my colleagues know, whether we like it or not, the State legislatures are really closer to the people than we are here in the Congress. Are we saying we do not trust the States to make this decision? Three-fourths of the States, 38 of them, must ratify this amendment to make it part of the Constitution.

Now really, Mr. Speaker, that is not an easy thing to do. Thirty-eight States have to have to ratify it, but I think they should have the chance to vote on this issue, and I am willing to abide by the results.

One million persons have died to preserve the freedom which this flag represents. Millions more have been severely wounded, and my colleagues will see them around the Capitol today, in our Nation's wars to make sure that the flag continues to fly over this great country. In addition, the American flag is draped over the casket of our military personnel as we pay last respects to them. The flag is then folded and presented to the family. I think we owe it to the brave Americans who have died for this country, and to their loved ones, to really protect this flag.

Mr. Speaker, I will close out with this thought: A Member of Congress told me as I was talking to him several days ago that one reason why he was going to vote for the flag amendment was he said he got a letter from his grandson who said, "Granddaddy, they teach me how to salute the flag, to say the Pledge of Allegiance, how to raise the flag and how to fold it. Yet I see people burning the flag on the television. Granddaddy, can't you stop those people from burning the flag?"

I say, "The only way to stop flag burning is to vote for this amendment."

I urge a "yes" vote.

□ 1300

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BENNETT], a member of the Armed Services Committee.

Mr. BENNETT. Mr. Speaker, I appreciate this opportunity to say some words in behalf of this constitutional amendment.

In the first place, this constitutional amendment does not itself effect any legislative action. It provides that the Congress of the United States, or the States, can take action, so it is not a preemptory thing in the sense that it puts down guidelines for us now. It says that in the future the Congress can act and the State legislatures can act.

I feel we should enact this because we have tried to get various statutes passed and they have not gone by the Supreme Court.

Now, the Supreme Court is made of ordinary mortals appointed to the Court. Four of the nine decided that it was constitutional to pass the legislation we already passed. This is not the first time that an autocratic majority, not that anybody deserves condemnation on the court, but an autocratic majority of the court has decided things which are contrary to the best interests of our country, as a matter of fact, by decision. They are not endowed by the Lord or anybody else with the answer to all questions. Four of the five decided that the laws we already passed were adequate laws.

The trouble about the situation we have is not really just expression of opinion. It is the fact it is an incitement to violence, and people who have fought in wars in the past do not really like to see incitement to violence against the United States of America, for which we fought and for which many people have made great sacrifices. So it seems to me this proposal to have a constitutional amendment to allow the Congress to act, to allow the State legislatures to enact some reasonable version, seems to me to be a sound thing to do. It would eliminate the possibility of having unnecessary bloodshed and violence in our country for no real purpose.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I rise in strong support of this constitutional amendment. I was very much involved in helping to prepare this amendment last summer—I even introduced an amendment of my own. And so I rise in strong support of our distinguished minority leader and his important efforts here today.

Mr. Speaker, our Nation has come a long way since the days of Andrew Jackson. When our seventh President was confronted with a controversal decision by the Supreme Court in the 1830's, his response was rather brief: "The Justices have made their decision; now let them try to enforce it!"

I do not recommend that kind of approach today. And, indeed, on at least four occasions in all the years since the Jackson Presidency, Congress has seen fit to pass constitutional amendments that served to overturn Supreme Court decisions. So what we are doing here today is not without precedent. We are doing the right thing the right way.

We are not undermining the Bill of Rights or otherwise indicating some kind of disrespect for the Constitution. What we are doing is to indicate our disagreement with five Supreme Court Justices.

And what we disagree about is not some point of law or constitutional doctrine, but rather the interpretation of the word "speech." No American wants to undermine the right of free speech that is protected by the first amendment. But, Mr. Speaker, I submit that flag burning does not constitute "speech."

Speech is what separates mankind from animals. Speech is the selfcommunication of ideas. By definition, speech has to be communicative—it has to have content that is presented coherently enough to be understood. It is a verbal presentation of ideas or arguments that must obey the laws of logic and rational thought in order to be understood.

Flag burning, by contrast, is an action—it is an nonarticulated act of expression. And, in my view, it is a form of expression that claims no more right to first amendment protection than does pornography or taking drugs—other forms of nonverbal expression.

Even "speech" itself, narrowly defined, is not an absolute right. There have been many court decisions in our history that have put limits on speech. Cases involving slander, obscenity, and false alarms come most readily to mind. Any right, no matter how precious, can be perverted if carried to an extreme.

Flag burning is not "speech." Rather than being a form of selfcommunication, it can be more properly seen as an act of self-contempt. But I will leave that issue to the doctors who examine the psychological state of those people who burn the American flag.

Moving on, Mr. Speaker, I am also impressed with the idea of intangible property rights. Think for a moment about money. People can do almost anything they want with it: Horde it, take it out of circulation—they can do most anything. But there are laws against defacing or burning our coins and currency. Surely our flag, which is the common property of all Americans, deserves the same protection.

Mr. Speaker, I would like to conclude with a quotation by Justice John Paul Stevens. Listen to what Justice Stevens wrote in his dissenting opinion on the flag-burning decision last year:

The flag uniquely symbolizes the ideas of liberty, equality, and tolerance, ideas that Americans have passionately defended throughout our history.

Justice Stevens said that the flag is unique, and indeed it is. It is the one symbol of our Nation to which every American has sworn allegiance in public—by saying the pledge and singing the national anthem.

Mr. Speaker, I noted at the outset that America has come a long way. But if we have reached the point in our history when the living symbol of liberty and tolerance can be abused in the name of liberty and tolerance, then I would say we had better reexamine the moral foundations undergirding our laws and institutions. Those laws and institutions cannot long survive if they are built on a foundation of shifting sand.

The Constitution itself did not emerge from a moral vacuum. Nor can it survive in a morally degraded environment. And that is why our colleague, the gentleman from Illinois, [Mr. HYDE], makes the essential point. The vote today is part and parcel of the culture war raging in our country. If the symbol of our unity as a nation and a people is not worth protecting, what else is?

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, we really should not be here today debating an amendment to the United States Constitution, but the Supreme Court of the United States has twice told the Congress and the country that we cannot statutorily prohibit flag desecration. This reversed well-settled law for 198 years. For 198 years criminal penalties for flag desecration were not in violation of the first amendment.

The two Supreme Court decisions have made it clear that a constitutional amendment is the only way to give some type of protection to the flag of the United States of America from burning and other physical desecration.

I would like to think that this proposed amendment protects both the flag of the United States, as well as the first amendment. We can have it both ways and the way to do that is by two-thirds of us here today voting in favor of House Joint Resolution 350.

Do not let anybody tell you any differently.

The first amendment has never been absolute. One does not have the right to shout obscenities on a street corner, nor does one have the right to shout "fire" in a darkened theater, or to publish slanderous or libelous material, nor would I have the right to violate the rules of the House by impugning the integrity of the Speaker or another Member. That is a limitation on my right to free speech in the well of the House, and that is recognized.

Justice Stevens in his dissenting opinion a week ago Monday in the case of U.S. versus Eichman also recognized the point that there are limitations on the right of free speech.

I would like to quote from his opinion. He said:

But it is equally well settled that certain methods of expression may be prohibited if (A) the prohibition is supported by a legitimate societal interest that is unreleated to the separation of the ideas the speaker desires to express.

(B) The prohibition does not entail any interference with the speaker's freedom to express those ideas by other means.

And (C) the interest in allowing the speaker complete freedom of choice among alternative methods is less important than the societal interest supporting the prohibition.

Now, is there not a greater societal interest in protecting the American flag than protecting the right of someone to burn the flag? That is the question that the Members of this House will have to answer in a few hours when the roll is called.

I believe the answer to that question is clearly yes, because the other two tests, in Justice Stevens' opinion, are quite clear, and that is that the societal interest in protecting the American flag is completely unrelated to the suppression of the idea expressed by burning or desecrating it and the speaker has all kinds of means to express those ideas through alternative methods.

Now, each Representative who voted in favor of the statute that was struck down by the Court last year wanted to limit free speech in the same way that this constitutional amendment if proposed by the Congress, ratified by the States and implemented by legislation, will do so.

You cannot piously stand up and say you support unlimited free speech if you voted in favor of that bill that was struck down by the Court.

The principle of limitation is the same. The question is, How to do it in a constitutional manner. The Court has been quite clear in telling us now twice that the only constitutional way to do this is by amending the United States Constitution.

The challenge before this Congress is to stand up and try to prohibit an act that is deeply offensive to many millions of Americans.

This is really a question of values of each of us as Representatives of our congressional districts and the values of the American people. We are going to show what those values are when we vote on this constitutional amendment.

Mr. Speaker, I urge my colleagues not to turn their backs on the American flag and the principles that it represents, not to offend the many millions of Americans who deeply detest flag desecration. By supporting this constitutional amendment we can stand up both for the protection of the American flag and the principles embodied in the first amendment to the Bill of Rights of the Constitution.

Justice Stevens was quite clear in stating that. I think we all tried to do the same thing when we debated the statutue that was struck down last year.

The time has come for the Congress to be consistent. The difference betweeen what happened last year and today is that this time the time has come to do it in a constitutional manner. That is our challenge today and the Congress should not step back from that challenge.

Mr. EDWARDS of California. Mr. Speaker, I have the privilege of yielding 3 minutes to the distinguished gentleman from Wisconsin [Mr. KASTENMEIER], a U.S. Army veteran of World War II.

Mr. KASTENMEIER. Mr. Speaker, I thank the chairman of my subcommittee for yielding this time to me.

Mr. Speaker, if the authors of the first amendment were in this Chamber today, they would wonder why we are preoccupied with a proposed constitutional amendment to protect the flag from desecration and they would question the wisdom of passing such an amendment which assaults the first amendment.

When the founders of our Republic wrote the Constitution over 200 years ago, there was wide acknowledgement that the Constitution alone would not be sufficient to fully protect citizens against the infringement of their rights by the Government. A bill of rights was seen as the key to preserving the individual and religious freedoms of citizens, and to ensuring the free and open flow of ideas and information so essential to a working democracy.

Thus, the First Congress in 1789, as its highest priority, set the writing of a document, the first 10 amendments to the Constitution, which became known as the Bill of Rights. The first amendment to the Constitution contains these simple yet powerful words:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

These words convey the essence of our democracy.

The Constitution and the Bill of Rights are the very fabric which binds our people together as a democratic nation. Individual freedom of expression is at the heart of this democracy. The Founding Fathers wanted to guarantee open debate in the free marketplace of ideas. From the beginning, free speech has been understood to protect the views and ideas of every citizen, including the most obnoxious and unpopular citizens in our society. Justice Brandeis wrote of the Founding Fathers and the first amendment:

Those who won our independence by revolution were not cowards. . . . They did not exalt order at the expense of liberty. . . .

Recognizing the occasional tyranny of governing majorities, they amended the Constitution so that free speech and assembly should be guaranteed. * * *

The Supreme Court has ruled the 1989 Federal Flag Protection Act unconstitutional. The physical desecration of the flag is a disgusting, offensive act. But, trying to protect the flag from a handful of flag burners does not warrant diminishing, for the first time in our history, the first amendment rights of 250 million Americans. If we pass this constitutional amendment, free speech and political expression will ultimately depend solely on what the Congress will permit. For surely, other proposed constitutional amendments will be brought forth to limit other forms of free speech and expression which also are held to be offensive.

This is not what the authors of the first amendment envisioned. Indeed, James Madison's version of the speech and press clauses, introduced in the House of Representatives on June 8, 1789, provided that, "The people shall not be deprived or abridged of their right to speak. * * *" First amendment rights were to be inviolable.

All of us in this Chamber deplore the desecration of the American flag. Old Glory, however, will survive such insults, just as the American flag survived the British bombardment of Fort McHenry in 1814.

Mr. Speaker, throughout our history as a nation, the first amendment has been the guardian of freedom of speech and expression. As we prepare to celebrate the 200th anniversary of the Bill of Rights, let us honor and respect this most precious document and leave the first amendment intact and alone.

□ 1310

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Speaker, the debate today is whether or not we should protect this flag or whether or not we should protect our Constitution. I think we should all look very quickly at what each one of them represents.

This flag is a symbol that is recognized throughout the world for freedom and independence and opportunity. Each part of it represents something dear to the hearts of every American.

There are 13 stripes for the 13 Original Colonies who fought for that independence. The red represents the blood that was shed on the ground on the snow at Valley Forge, on the walls of Fort Sumter, on the white sands of Okinawa, and in the dark jungles of Vietnam. Regardless of color, creed, nationality, or sex, they all poured red blood on the ground so we could enjoy the freedoms that we have.

The white represents purity, the clean nation, who has a strong belief in their God, that we are indeed one nation under God, not above him.

The blue represents justice. Even though our courts have ruled that we can burn this flag, if this constitutional amendment becomes a reality, they will be there to protect this flag.

The stars represent each State, joined together in a pattern as one, united to protect this country.

Thomas Jefferson believed that in our Constitution, as time goes on it should be upgraded to meet the concerns of the American people. And we have done that. We did away with slavery. We gave women the right to vote. We passed a civil rights amendment.

Now the American people are speaking out that we must change our Constitution and give us the right to protect this symbol that we all cherish so much. I challenge each one of my colleagues to listen to your constituents and approve this constitutional amendment to protect this beautiful symbol that we all cherish so deeply.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, last year, many Americans were shocked and confused by the Supreme Court decision in Texas versus Johnson. In that case, the Supreme Court held that the burning of the American flag was an exercise of symbolic free speech, protected by the first amendment and not subject to criminal sanctions under an overly broad Texas statute.

Congress responded with a new statute—the Flag Protection Act of 1989—which many of us felt, at that time, was a far more risky approach to take than passing a constitutional amendment. Sure enough, on June 11 of this year, the Supreme Court applied the same symbolic free speech test to that new Federal law. *United States* v. *Eichman, et al.*, No. 89-1433; decided June 11, 1990. Despite protestations that it was solely aimed at protecting the physical integrity of the flag, the Court viewed its purpose as necessarily related to the suppression of symbolic free expression.

To me, it is an unfortunate development in American constitutional law that symbolic gestures—often destructive and disrespectful—have been granted the same legal credibility as the written or the spoken word. Burning an American flag, in my view, does not deserve protections equivalent to, say, a newspaper editorial, a television documentary, a public speech, or a novel. Furthermore, the first amendment has never been viewed by the overwhelming number of jurists and legal scholars as an absolute. As justice Holmes once said, it does not protect one's right "to shout fire in a crowded theater."

I recognize that a number of my colleagues are very uncomfortable with the implications of an amendment on this subject. However, I see it as a very narrow, focused proposal.

In legal terms, it means that the interpretation given to symbolic free speech by the Supreme Court in recent years, will not apply to destructive actions or disrespectful treatment of the American flag. It is not the beginning of a slippery slope—where legitimate first amendment rights and protections will be eroded.

The flag is a unique national symbol. It deserves our reverence and respect. It is a manifestation of our national unity and our democratic values. It is an inspiration and reminder of the many who have fought to protect this country. These are countervailing societal and ethical values that deserve legal consideration as much as symbolic free expression. If an individual wants to criticize the policies of this country or even our system itself, there is nothing in this amendment that prevents that individual from doing so. There is nothing in this amendment that will prevent anyone from expressing their views in a public speech or through the written word in any way.

I think it very unfortunate that over the last three decades that the case law on symbolic expression has evolved to a point where the Supreme Court of the United States was almost forced to decide as it did. This narrow and precise constitutional amendment response is both necessary and justified.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the great State of Ohio [Mr. TRAFICANT], deep in thought and concern, a former sheriff, and a man who knows what the flag is.

Mr. TRAFICANT. Mr. Speaker, could you imagine a pledge written by Francis Belaney. It would go like this:

"I pledge allegiance to this burning flag, and the protest for which it stands, a divided nation, under skinheads, with violence and desecration for all."

That is not meant to be funny. Congress cannot change the Constitution. And the original Constitution allowed slavery, denied women the right to vote, and had no patent on true justice, because it had second-class citizens all over the place.

□ 1310

But one thing the great document of freedom had was a process to address burning issues. And it says when an issue becomes so burning that there is no authoritarian institution, including Congress, that can mold American law,

even Congress is subject to the Constitution.

Today I am not voting for an amendment, and today I am not voting against individual rights under the first amendment. Today I am doing the only thing I can, that no other American can. I am going to take a burning issue, and with the constitutional authority I have I am going to send this thing on to the American people to exercise their will. And when Judge Scalia and Judge Kennedy voted in favor, they showed us the burning nature of the American flag.

This is not today a debate on the flag. This is a debate today on national pride. I am going to vote for the flag amendment.

Mr. EDWARDS of California. Mr. Speaker, I am privileged to yield 3 minutes to the distinguished gentleman from Texas [Mr. BRYANT], a member of the Judiciary Committee.

Mr. BRYANT. Mr. Speaker, the debate in the House over the proposed amendment to the Bill of Rights has been described. It has sounded as though it is of the highest caliber as we hear constitutional principles and concepts of personal freedom discussed and debated back and forth. But what is really going on in the Congress with regard to our flag and the Bill of Rights as it relates to most Members is not of the highest caliber. It is of the lowest caliber, and that is because this debate has for the most part not changed a single mind, nor is it going to change a single mind, nor is it going to change a vote, nor is it going to be at the center of the thinking of most of the Members of the House.

Have you heard in the elevators of this Chamber, or in the Cloakrooms or over lunch when this issue comes up discussions of concepts of personal freedom or the Constitution? Of course not. What we have heard is politics. We all know what is going on here.

The Republicans believe they have found an issue that they can use to win elections, and they are so anxious to win that they are willing to damage the Constitution and the Bill of Rights to do it. The Republican leadership has openly gloated about the effect their 30-second political commercials will have on upcoming political elections, and the vast majority of Democrats who will follow them are doing so because they are so fearful of not being reelected that they are willing to let the Constitution and the Bill of Rights be damaged rather than risk not being reelected. I submit that is cowardice equally as bad as the Republicans' greed to win a majority with this issue.

I would like to say that if you are so anxious to win that you would permit an attack on the Bill of Rights of the U.S. Constitution that you know to be wrong, you have no business being in the Congress of the United States. And if you are so fearful of not being reelected that you will not defend the Bill of Rights in a way that you know it ought to be defended, then you have no business serving in the Congress of the United States either.

We read every day of brave Latin Americans, Europeans, and Asians who have suffered torture and imprisonment so that they might have a Bill of Rights. How then can any Member of this House put his puny career ahead of their oligation to defend our Bill of Rights? I do not think that question can be answered.

There is a lot to say about the substance of this issue. I supported legislation to outlaw flag-burning. I will do so again. But when we have to go so far to protect the symbol that we damage what the symbol stands for, then we are going too far, too far I think, and every Member knows this. I submit that what is really fueling this issue is not the substance of it, not love of the flag, it is politics, and what is at stake here is not only the Constitution, it is the self-respect of every Member of this House and the respect of the public for this institution.

If you believe in this amendment you have a moral obligation to vote for it, but if you are among the vast majority of this House that I know knows that this attempt to change the Bill of Rights of our Constitution is wrong, I urge you to do what you were elected to do, and to put the country ahead of your political self-interest and vote against this amendment to the Bill of Rights of our Constitution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Speaker, we are considering a very important piece of legislation today, legislation that will provide vital protection to America. I am speaking of a much-needed change, a change that will protect our sacred and beloved flag. The greatness of our heritage, our accomplishments, our goals and ideals, indeed our Nation, is embodied in the flag. What American could look upon this sight and not be moved by its power and beauty? Many have fought and died to protect this flag, because they understand that it represents more than just some fabric hanging from a flagpole. Instead, it is the fabric that binds this Nation together. Our dedication to America is our dedication to our flag. It represents the heart and soul of a Nation that is built on freedom. Our flag was not meant to be kindling for the fires of someone's rage. The only flame that our flag should create should be the one that burns in our hearts.

Mr. Speaker, the debate today over this proposed amendment often centers on the supposed weakening of the first amendment rights in our Constitution. I believe that the argument has no merit. The amendment will actually strengthen the first amendment, not weaken it.

The statutory approach might well weaken it because if the Supreme Court had approved the exception, it would have created a rule of law that would have prevented other acts which may well be synonymous with speech, thereby damaging the first amendment. On the other hand, an amendment operates as a surgeon with a scalpel, cutting out only one exception. Our glorious flag, which has served as the symbol of our Nation for many centuries, deserves that type of special effort. Furthermore, by creating the very narrow exception for the flag, you will in fact strengthen the first amendment because of the rule of law generally followed by all courts. That which is the enumeration of a special exception to a general rule disallows by operation of law the creation of other exceptions by court interpretation.

So, what are we trying to change here? We are not trying to change the first amendment. Instead, we are trying to change a court decision. Our earlier attempt at changing that decision through statutory law did not succeed. Only through an amendment will we be successful.

The process in which we are engaging is the one decided by our Founding Fathers. It is legitimate, proper, and wise. The amendment process is the only reasonable and legitimate means of protecting the flag. For the protection of all that we stand for, we must pass this amendment.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. JAMES. I yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, if I follow the gentleman's logic to its logical conclusion, that would mean that removing a body member from a human being would make them stronger.

Mr. JAMES. I think the gentleman's analysis is invalid.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, for thousands of years men have fought and died under flags. They have fought for money or because a king made them fight, or in the name of their religion, or to conquer more land, or just because they liked killing.

Back in 1099 under the waving flag of the Crusader Cross, Godfrey De Bovillon led his men into Jerusalem to liberate the city from the Muslim infidels. Because he did not know which ones were Muslims and which ones

were Christians, he slaughtered every man, woman, and child in the city.

□ 1330

And then he knelt down with his Crusader's sword in the Church of the Holy Sepulcher on Golgotha and delivered the city in the name of his Savior.

Seven hundred years later, a Muslim came out of the swirling sands of the Sudan who called himself the Mahdi, the Chosen One. He created a battle flag in his own image. And in 1885, he took a city called Khartoum, and above that city was waving the old Union Jack. And Hamadi the Chosen One slaughtered most of the men, women, and children in that city, including Sir Charles Gordon of England. And the Mahdi's men handed down the Union Jack and desecrated it.

Well, the Union Jack has flown in many parts of this world. A lot of English soldiers who were part of that empire, fought and died under that flag.

It used to fly all over our own country. But then a new flag was created, here in the United States, and it symbolized something very different from every flag before it. It symbolized an idea that was unique at that time on this planet.

It was a noble idea that all of us have value as human beings. It upheld something called the dignity of man. And men for the first time fought for an ideal and a noble idea that led to freedom of expression, freedom of the right to practice whatever religion they wished or not to practice any religion at all. They were not fighting for money, they were not fighting because a king made them, and they were not fighting for all of the reasons that men have fought and died under flags prior to that time.

That noble idea became our Constitution and the Bill of Rights. But the Constitution was flawed because, if you were a black person or a woman, you did not share those rights under the Constitution.

So we fought another great war right here in the United States of America. Two hundred fifty thousand Americans died under the Stars and Bars, under St. Andrew's Cross, the Confederate flag, for their way of life.

And the men fighting under the U.S. flag were a different kind of army because ultimately what it came down to was that they were fighting to set other men free.

Since then, we have come to see the Constitution truly live for all human beings here in the United States. And if you were equal in the United States whether you were a Czech or a Pole or an Irishman or a Chinese, it meant you could be free and equal anywhere on this planet. And it was the nobility of the idea symbolized by our flag that has spread all over the world. True freedom began here. It spread to other parts of the world, but it began here.

What others have aspired to is not the symbol of our flag but the nobility of our idea. It is not for the flag, really, it is for that idea. And, we are seeing the triumph of that idea all over this planet.

Let us oppose this constitutional amendment and let us preserve the nobility of that idea.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I rise today to announce my support for a constitutional amendment to prohibit flag burning in America.

The same week Americans celebrated Flag Day, the U.S. Supreme Court issued an opinion that I believe great patriots throughout history would decry.

The High Court overturned legislation Congress adopted in 1989 which was designed to protect our flag as our Nation's greatest symbol of freedom, a symbol that thousands of brave Americans gave their lives to defend.

Mr. Speaker, some may argue that desecration of the Stars and Stripes should be allowed as an exercise of free speech. I am not a legal scholar. I simply say, if the Court holds that our Constitution permits flag burning it is time to change our Constitution.

I believe in free speech. But I also believe that the flag embodies ideals that Americans have sacrificed their lives to protect for more than 200 years.

I would never want to prohibit anyone's right to communicate their ideas or speak their mind. I just believe that a constitutional amendment would not restrict anyone from saying anything they want to say about any issue. Ideas can be communicated without desecrating our flag.

It is very important to note that the Supreme Court itself did not agree on their decision. The Court 5–4 ruling, which overturned the law I supported last year to outlaw flag burning, was issued by the narrowest of margins.

Justice John Paul Stevens, in a dissenting opinion, said that the Government did have the right to protect the symbolic value of the flag. He wrote that criminalizing flag burning did not unduly interfere with protestors' ability to communicate their ideas.

Neither I, nor any of my colleagues in the U.S. House of Representatives would want to stifle anyone's right to freely speak their mind. I just believe that the ideas flag burners want to communicate can be expressed without burning our beautiful flag.

James Fields wrote in 1927:

Let our colors fly, boys—
Guard them day and night;
For victory is liberty,
And God will bless the right.

We must remember the men who carried the broad stripes and bright stars up that hill on Iwo Jima; remember the *Apollo 11* astronauts who planted our national symbol on the Moon, and, we must remember all of the flag-draped coffins returned to America from faraway shores.

My friend, country music songwriter Lee Greenwood sings, "I'm proud to be an American, where at least I know I'm free!" I share his sentiments.

Again, I will vote for a constitutional amendment to prohibit flag burning. And, every time I sing the words in our national anthem written I will sing them with a renewed pride.

Oh, say does that star-spangled banner yet wave
O'er the land of the free and the home of the brave?

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, the flag burning incident that led to this debate, occurred in a city I represent, Dallas, TX. I have seen dozens of video replays of our flag burning in downtown Dallas. Each time, I am filled with rage in seeing our flag, a symbol of freedom throughout the world, desecrated by hooligans who know nothing of the sacrifice and hardship countless Americans have suffered to preserve and protect our Nation.

Initially, I thought, and stated publicly, that I would support a constitutional amendment to ban flag desecration if the Supreme Court refused to protect the flag. Now, however, after long and hard thought, not only about the flag itself, but also about why it serves as such a strong symbol of freedom and liberty, I no longer believe that amending our Constitution is the proper course.

Every country has a flag, an arrangement of color on cloth. Our flag is unique in the world, not because of its colors or its design but because it symbolizes what is unique about our country—our protected liberties spelled out and guaranteed under the Bill of Rights. It is the Bill of Rights represented by our flag, not the flag itself, that is envied throughout the world and makes us a truly free people.

Like all patriotic Americans, like all Members of this House, I am outraged that the action of a few extremists, a few foolish attention seekers, has forced this House to consider amending our Bill of Rights—amending the very document that nations in Eastern Europe and other parts of the world are now pointing to as the ideal while they struggle to free themselves of oppressive communist dictatorships.

Mr. Speaker, I have reached the conclusion that by opposing this amendment I will best protect the freedoms and values that we hold dear.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 351

Mr. FROST. Mr. Speaker, I request unanimous consent to have my name

removed as a cosponsor of House Resolution 351.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR], a valued, distinguished member of the Committee on the Judiciary.

Mr. SYNAR. Mr. Speaker, every one of us has repeated the following words at least once, "I do solemnly swear that I will support and defend the Constitution of the United States." These are not just words in a pledge, they are in a sworn oath.

In my 12 years in Congress, I know of no more serious matter directly related to that oath than this proposed amendment to ban the burning of the flag.

We must focus on our constitutional responsibility, we must assure that in the 200th anniversary of our Bill of Rights, that we do not celebrate it by amending the first amendment for the first time.

For the past week I have listened to all sides of the debate. Let me tell you what this debate is not about.

This debate is not about traditional values, nor is it a signal that love of country and moral values are declining.

This debate is not about patriotism and who is more patriotic than the next person. This debate is not about who believes in flag burning and who does not.

What this debate is about is the most precious freedom this Nation holds, and that is freedom of speech.

Now, there are those who argue that to vote against an amendment means it is OK to desecrate the flag. It is never OK to burn the flag of the United States, and such statements are nothing more than political posturing.

A vote against the amendment does not dishonor the flag. Instead, a vote reaffirms our Founding Fathers' belief that political speech was the essence of our democracy.

There is a lot of political speech, there is a lot of actions that constitute political speech that I find offensive. But the first amendment was not designed to insure that all speech was agreeable to everyone. It was specifically written to guarantee a free society where all views could be heard no matter how disagreeable or offensive, even by the majority of persons.

There would be no reason to have a first amendment if we all thought alike and agreed on every matter. Freedom does require courage. It requires courage to listen to offensive and unpopular speech and then to speak out against it.

We as a nation cannot be so insecure in our beliefs that we should ban certain political speech.

□ 1340

Strifling of dissent only makes America a weaker country, not a stronger one. I do not intend to let these few flag burners go down in history as the malcontents who managed to bring this Congress to its knees and thus change 200 years of history. It should be easy to vote to uphold the Constitution. Because of political pressure and stiff opposition some Members will choose to vote against the amendment and some will choose for. To all my colleagues, I remind Members there is right and there is wrong and this amendment is wrong. Our Constitution, our jobs, and our country will have a little less value if we pass this amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, my father died when I was very young. My mother was a secretary and we were poor. I worked my way through high school. I went to college on an ROTC scholarship. The week after I got out of college the Korean war started. I went into the Air Force, went over there and flew jets for about a year. I was shot out of an airplane one time and got the Purple Heart. In those days the North Koreans did not take prisoners, they tied your hands behind your back with a piece of wire and shot you in the head.

I got the Distinguished Flying Cross, the Air Medal, and some other citations like many other people. We all simply did our duty in defense of our Nation. When I came back, I left the Air Force and came to this city to get a job and go to law school. My first job was running a mimeograph machine in the basement of this Capitol Building. That was 40 years ago.

The question Members might legitimately ask, is why do I take this precious time on this important debate to tell Members that story? The reason is, because I am one guy who still gets teary eyed at football games when they raise the flag. I get the same way when the Boy Scouts and the Girl Scouts carry flags in parades. That is my flag. I fought for that symbol, and I damn near died for it. It means a lot to me. It means a lot to all patriotic citizens. It is a symbol of everything that is good in my life and in this Nation as well.

I say to my colleagues that I can close my eyes and see the flag painted on the side of my flight leaders airplane. I followed that flag into some very tough places. Sometimes I was only frightened. Other times I was almost terrified. Any person who has ever done that knows what that flag means. Can you understand what I think when I watch some bearded slob burn a flag on the steps of this building. That is not freedom of speech; it is conduct and it is sacrilege. This amendment should be adopted and I will vote for it. Let's protect the symbol of this magnificent Nation.

The SPEAKER pro tempore (Mr. NAGLE). The Chair will inform the Members that the gentleman from Wisconsin [Mr. SENSENBRENNER) has 58 minutes remaining, the gentleman from Mississippi [Mr. MONTGOMERY] has 22 minutes remaining, the gentleman from Texas [Mr. BROOKS] has 1 hour and 13 minutes remaining, and the gentleman from California [Mr. EDWARDS] has 1 hour and 17½ minutes remaining.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], a distinguished member of the Committee on the Judiciary.

Mrs. SCHROEDER. Mr. Speaker, for over 200 years, over 200 years, that flag has been revered on this planet because our flag has stood for the land of the free and the home of the brave. But first we said "the land of the free." I think that is why people were so brave because they understood what that freedom meant.

For over 200 years, we have not violated the Bill of Rights, and freedom of speech which goes to the very heart of the land of the free. The only restrictions we have ever put on freedom of speech has been if your speech physically harms another person. The old law school adage of "Your freedom ends where the other guy's nose begins."

Today we are deciding if someone buys a flag and takes it home and burns it, they may be wrong, they are terribly confused, it is very upsetting, but I ask Members if for 200 years we have allowed that, we are not doing much more harm to the land of the free adage if we permit Members for the first time to change the Bill of Rights. I think we are. I hope people vote against this amendment. Think about it. If we do not turn this amendment down, we are going to be changing that, so that the flag will now stand for the land of the free only if you agree. I think it is only ironic that Great Britain has never done this, but China has. I think we need to look at the countries that have felt so insecure they had to protect that symbol. If a symbol stands for freedom, it may be painful to hear what we have to hear, but I hope we make sure it still stands for freedom when this is over.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all persons in the gallery that they are here as guests of the House, and that any manifestation of approval or disapproval of the pro-

ceedings is in violation of the rules of the House.

In other words, there should be no applauding for or against the speaker, please.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. VALENTINE], a veteran of World War II.

Mr. VALENTINE. Mr. Speaker, much of the rhetoric that the Nation has heard in recent days might lead one to the conclusion that this is a debate about who loves the flag, about who thinks this symbol of our Nation deserves respect, about who is the most patriotic, or even about who supports or opposes flag burning.

It is about none of those questions. The only question we need consider is whether we will abridge a document that has served our Nation for 200 years because of a few despicable acts by a few despicable people.

I have nothing but contempt for those who cannot express their views without attempting to debase a national symbol that nearly every American loves and cherishes. The flag is not debased by such actions—the flag burners are.

Mr. Speaker, our flag deserves protection, and I want to protect it. In fact, like many Americans in the immediate aftermath of the Supreme Court decision last year, my first instinct was to support a constitutional amendment if that is what it takes to prevent flag burning.

But after much soul searching and reflection, I have concluded that we should not depart from two centuries of constitutional history by placing, for the first time, limitations on the Bill of Rights.

Constitutional amendments, as fundamental statements of principle, are by their very nature concise. They are not burdened with long, involved explanations, descriptions, expositions, and exceptions.

Furthermore, I do not think it is possible to craft a concise amendment to prohibit flag desecration without spawning a slew of new laws and new court cases and new judicial interpretations and reinterpretations.

More important, in this rush to depart from our heritage we would set a dangerous precedent that should send a cold chill down the spine of every American who loves the Constitution. If flag burning requires a constitutional amendment, where do we stop? What other kinds of abhorrent behavior will demand that we revise our basic principles?

Our Nation has faced much greater threats to our security than the misguided actions of a few people who burn the flag. Yet we have never limited the Bill of Rights.

We have always tolerated dissent, even when the actions of individual dissenters seemed intolerable. And our Nation is stronger for having done so.

Flag burners are only a threat to our Nation if we allow them to dictate the content of our Constitution.

We should not turn back now. Our Constitution is not only the fundamental law of the United States; it is a symbol of liberty, equality, and freedom to people around the world who yearn for the rights that the Constitution protects for Americans.

Let us remember that the flag, in the final analysis, is a piece of fabric. The Constitution is the fabric of our Nation.

Let us not tear that national fabric asunder by surrendering our Constitution to flag burners.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 350

Mr. VALENTINE. Mr. Speaker, let me say in conclusion that until about 24 hours ago I spoke as those Members on the other side did. I cosponsored House Joint Resolution 350, and I ask unanimous consent to have my name stricken as a cosponsor. Over the rhetoric of the past few days I have finally heard the voice of my own conscience. I urge Members to vote against this constitutional amendment proposal and vote for the Bill of Rights.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Speaker, I have been listening to the opponents of this amendment for quite sometime, and frankly I do not understand their reasoning. I just do not. It escapes me entirely.

For over 200 years, Americans thought it was against the law and could be against the law to desecrate the flag, to burn it, tear it up, tear it to shreds. That is what we assumed the law was. We did not have any question that it was an expression of freedom of speech to have a law that prohibited that activity, and most of our States in our Nation had such laws to do that.

Then the Supreme Court last year ruled that was unconstitutional, by a 5 to 4 decision. We passed a statute that many of my colleagues who are today speaking against this amendment voted for, to try to get around that Supreme Court decision and to continue the law, the status quo that way. It has been for years and years and years in this country, that we have an exception to the freedom of speech with regard to the flag and desecrating it.

□ 1350

And now, after the Supreme Court for the second time has striken down a statute that did this, all of a sudden we are hearing Members come forward and saying that somehow passing a constitutional amendment to put it forth clearly once and for all that the Supreme Court was wrong and what we believed in for years was right and is indeed a part of our Constitution, that it an exception to free speech to desecrate the flag and get away with it, now we are hearing those same people say, "Oh, this is somehow destroying the Bill of Rights and the first amendment." Well, that is hogwash.

The fact of the matter is that we have always had exceptions to free speech in this country, from yelling "fire" in a crowded theater to obscenities and so forth, and the flag issue has always been an exception up until now. We ought to put it in the Constitution and make it very clear that that is the case.

Right now you can go down here to the Washington Monument and paint a swastika on the concrete symbol of the heritage of our country, and it is vandalism, it is a crime. Nobody questions that that is an exception to freedom of speech. You cannot get away with doing that. You cannot get away with vandalism to a building or a structure.

Now, the flag is a piece of cloth, but why should there be any difference in the symbol and the imagery and what we believe in as between the flag and the Washington Monument? If anything, the flag is more sacred and more important in terms of its meaning to our heritage and to the veterans of this country. I cannot see why we should make such a big deal about putting it into the Constitution that the Supreme Court was wrong.

That is all we are doing. We are not obliterating the first amendment. We are making one tiny, little exception to that and putting it into the Constitution, saying that the Supreme Court was wrong and the American people have been right for 200 years in believing it should be a crime to desecrate the flag of the United States, that greatest symbol of the heritage we have.

I urge my colleagues to use some common sense about this and vote for the amendment. It does not do any harm to our Constitution. In fact, it strengthens the Constitution. It strengthens the values we believe in. It is a symbol, but it is more than a symbol. It is the very essence of what we believe in.

Mr. Speaker, I urge a favorable vote and the passage of this amendment. Let us send it to the States and let the legislatures make that decision.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I thank the gentleman for allowing me to have this time.

I address the Members today not as a former Boy Scout and Scout leader, Marine Corps veteran of both World War II and the Korean conflict, but I address the Members as a fellow Congressman.

We have passed laws in this House almost unanimously to prevent the desecration of our flag, but we will not give our governing bodies, either here or in our States or counties or communities, the authority to do just that.

We hear arguments that we must protect our first amendment and our Constitution. Well, the flag is not just a piece of cloth; it is the outward symbol of that Constitution, of that document, and really of our entire political social being. Our philosophy, our heritage, our history, our compassion for people, our equity, and our justice are all embodied in that one symbol, the U.S. flag.

It is true that dissenters have many ways in this country of expressing their dissent. They can burn us in effigy, they can criticize us, they can march, and they can petition us, but they do not need to burn our flag.

I would set aside my personal respect for our flag and say, let us make it quite clear today that we are not amending the Constitution of the United States. We are offering that opportunity to the people of the United States. We are requiring that three-fourths of them, as our constitutional framers did, three-fourths of the United States, must endorse this resolution. So, therefore, we are here today amending the Constitution or attacking the Bill of Rights. We are saying to the American people, "You make the decision." After all, is that not what democracy is all about?

Mr. Speaker, I urge the Members to support this resolution.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the able gentleman from New York [Mr. SCHUMER], a member of the Committee on the Judiciary.

Mr. BROOKS. Mr. Speaker, I yield 1 additional minute to the gentleman from New York [Mr. SCHUMER].

The SPEAKER pro tempore (Mr. NAGLE). The gentleman from New York [Mr. SCHUMER] is recognized for 2 minutes.

Mr. SCHUMER. Mr. Speaker, let me say to my colleagues that the ghosts of Jefferson and Madison and Jay haunt this Chamber today. If the Founding Fathers were looking down at this attempt to amend the Constitution, there would be tears in their eyes.

What did they fight for? They fought for free speech, for free political speech above all.

If one thing is sure in the history of the first amemdment of this country it is that there have been three things in that history: Obnoxious people like the flag burners, immediate attempts to stifle their dissent, and then regret 5 and 10 and 15 years later. I say to my colleagues that if they vote for this amendment, they should think how they will reflect on that 5 and 10 and 15 years from today.

For sure, history will regard this as a paroxsym of fear, a paroxsym of our being frightened of a few crazy people who are burning our flag so that then we took our sacred document, the Constitution, and amended it.

My only solace in this debate, I say to my colleagues, is that this has happened before. This is not a new America. We had the Alien and Sedition Acts of 1798, the Sedition Acts of 1917, and the McCarthy scare of the 1950's and every time we have we have regretted taking this kind of action.

But there is one good thing: If this Chamber beats this amendment, it will be America in its finest hour, because our politics, which I am depressed about these days in general, will have risen to an occasion and we will have transcended the politics of image, those awful images of those creeps burning the flag, and instead we will have risen to the rational and noble debate about what the first amendment is all about. If we can escape the politics of image and get back to the question of debate the Founding Fathers envisioned, a rational debate about the fundamental purposes of this Nation, we will defeat this amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, we all revere the Constitution of the United States, and especially the first 10 amendments to the U.S. Constitution. Our Constitution has been amended 26 times by the normal process and hundreds of times by the Supreme Court of the United States, as their interpretation has changed from time to time through our history to allow us to expand into the country that we are today.

The Bill of Rights itself was an amendment to the Constitution. On June 21, 1989, the U.S. Supreme Court changed the interpretation of the Constitution that we had had for 200 years, enabling us to protect the flag of the United States. On that date the Supreme Court ruled that the Government did not have a sufficiently compelling interest in the preservation of the flag as a symbol of this Nation to justify a prohibition on flag desecration.

Last week, the Supreme Court again struck down the statute passed by Congress last year, as predicted by most constitutional experts. The only way that we can restore the Constitution to the position that it had before the Supreme Court changed its interpretation is by the constitutional amendment that we are considering here today.

I am dismayed that the highest court in the land would allow our flag, the symbol of freedom, to be desecrated. In fact, I am sure most of them, all of whom I have the greatest respect for, believe they are doing the right thing. The majority of the people of the United States disagree.

Instead of promoting freedom, we are ridiculing those who have fought and died to defend our freedom. Preventing the desecration of the flag in no way prohibits our constitutional right to criticize our Nation or the beliefs on which we rest. The American flag is truly a unique symbol embodying in a way that nothing else does the nationhood of the United States.

□ 1400

It deserves special protection, as it always had received under the law and under the interpretation of the Constitution that we have had for 200 years.

Mr. Speaker, we cannot continue to pledge allegiance to our Republic and then stand idly by when the object of that allegiance to the Republic itself is burned in effigy. If we, the people, cannot command respect and dignity for that one symbol, how can we command respect and dignity for anything in our society?

The case for a constitutional amendment against flag desecration is overwhelmingly supported by this Nation. If ever it can be said that the people have spoken, if ever legitimacy is conveyed to an act of government, it is through the American constitutional amending process. The process purposely prescribes a deliberative process to ensure that a clear majority of the American people agrees with the proposal, and it was given to us by our Founding Fathers.

Mr. Speaker, I believe that this constitutional amendment is in order, and I strongly support it.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky [Mr. MAZZOLI], a distinguished member of the Committee on the Judiciary.

Mr. MAZZOLI. Mr. Speaker, let me get two things off my chest at the outset.

I resent the statement of the minority leader of the other body who has said a vote against the flag protection constitutional amendment would make a potent 30-second television commercial in the fall elections.

This is not a sound bite issue. It is a constitutional issue. To suggest otherwise is political cynicism at its worst.

And, I resent being labeled as some sort of an intellectual Neanderthal for supporting the pending amendment.

Those of us who have concluded to support the amendment have approached the question with the same seriousness of purpose and with the same concern as have those who will vote against it.

Having said this, let me proceed to the substance of why I support the constitutional amendment.

In 1914, my father emigrated to this country from his hometown in Northern Italy. He was then 11 years of age.

He received little formal education—enough only to learn english—then he went to work. And, work he did for relatives and then with my mother, who takes such good care of me when I go home to Kentucky, as a tile, marble, and terrazzo contractor.

Dad became a U.S. citizen as a young man and spent the rest of his life—he died in 1968, fairly early in life—as an unabashed, unrepentant lover of the United States and of the flag which represents and symbolizes it.

Growing up and working with my late father colors my views on lots of things.

I feel my constituents are entitled to a full day's work for the dollar earned.

I feel the only job done completely is a job done well.

I feel honesty is the best—and only—policy.

And, I feel the flag of our Nation is entitled to respect at all times.

So, Mr. Speaker, I rise proudly in favor of this measure to place the integrity and security of our flag under the protection of the basic document of our land: our Constitution.

If my dad were alive today, I think he would want his son to vote this way.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Speaker, I submit for the RECORD a letter that I wrote to the President at this point:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 12, 1990.

Hon. GEORGE BUSH,
President of the United States,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Earlier today I talked with Fred McClure to let him, and you, know that I am opposed to the proposed constitutional amendment on flag burning. I certainly mean no disrespect to you in taking this position. It also troubles me when I, albeit rarely, disagree with the President I admire so much. For that reason Fred thought it would be a good idea to set down my reasons for taking this position and inform you.

As a nation we must earn the respect and devotion of the people.

It was probably 1946, maybe 1947, when I first recall learning something about patriotism. My mother and father took my little brother and me to Pendleton, Oregon to watch the Roundup parade. World War Two had just ended. My uncles were home from Europe and the South Pacific. Though I was no more than 4 or 5 years old I vividly recall that day.

A large group of horsemen passed us by. Each was carrying an American flag. I looked up at my father and I saw that he had removed his hat and placed it over his heart. He stood at rigid attention, and stared straight ahead. There were tears in his eyes.

No one has ever had to "teach" me or my brothers patriotism or devotion to our country. We love our country and everything it stands for because our parents did. They passed that patriotism on to us and I hope I have done the same for my children.

No law could hope to accomplish the same.

Dissent is the very basis of our country.

Government in the United States derives its power from the people. The United States Constitution is forged on that premise. You and I do not govern, really. We try to take the country where the people want it to go. The people have the freedom to show their approval, of course, but they must also be able to demonstrate their disagreement with the policies of government. Our forefathers refused to accept a government which allowed them no voice.

Governments are made up of people and by that very fact are imperfect and prone to error. That is why dissent, even that which is considered by the overwhelming majority to be obnoxiously offensive, must be protected.

Consider the time during World War Two when American citizens of Japanese descent were rounded up and herded into camps. They were deprived of their freedom, their property and their livelihoods without due process of law. All but an insignificant few were loyal Americans. At a time of passion and fear, our government made a terrible mistake and committed a grave injustice.

Suppose someone at the time had wished to call attention to the government's terrible mistake. Given the war fever of the day, it clearly would have taken a dramatic demonstration to bring public and official attention to the plight of Japanese-Americans and the injustice of their government. Suppose someone had resorted to burning a U.S. flag in an attempt to bring the country to its senses. Should that person have been thrown in jail—his absolutely correct voice of reason and justice to be silenced?

Given the passions of the day, the majority would most certainly have seen no merit to the demonstrator's point of view. But, he would have had a Constitution to protect him and his right to call attention to a grievous injustice which our country has come to deeply regret. We have no right to remove that Constitutional protection from future demonstrators who may be just as correct, though unpopular, as the example cited.

You and I both hope our country will never make such a terrible mistake again. But we are humans and we will most assuredly fall short of the ideal again and again. For those rare voices which dare to be heard during times of crisis, we must preserve the Constitutional protection for speaking out.

When we equate the people's dissent with crime and lack of patriotism, we risk cheapening our own demonstrations of patriotism to little more than fear of the law.

There are no fences or walls between the United States and its neighbors. We need none. People remain in this country because they wish to stay. Put up a wall and tell the people they are no longer free to leave and see what happens.

If anything, I believe we should be less concerned for the tiny handful who burn flags and rather marvel at the overwhelming majority who would never consider such a thing. We ought to honor Old Glory by making it legal to desecrate the nation's symbol and then observe with joy and thankfulness how rarely it ever happens.

I believe that most Americans learned their patriotism just as I did. They respect and thank you, my uncles, and the millions of Americans who put their lives on the line for their country. The American people get chills down their spine when their flag goes by. I sure do. They sing the National Anthem before games and they Pledge Allegiance before the Rotary or PTA meeting begins. No coercion is needed to bring this about. If anything, laws to force respect for our cherished symbols will weaken the people's fervor and cause them to question their devotion.

Mr. President, I deeply respect you and your commitment to our country. Reasonable people can disagree on darned near anything. I hope that you understand and respect my strongly held position in this matter, just as I do yours.

Sincerely,

ROD CHANDLER,
Member of Congress.

Mr. Speaker, I believe that our first amendment was inspired by Voltaire who said, "I disapprove of what you say, but I will defend to the death your right to say it."

In Dallas in 1988, Gregory Lee Johnson said, "America, the red, white, and blue, we spit on you." How eloquent. How stupid. How ignorant can one possibly be?

However, Mr. Speaker, I have to ask my colleagues, "Why do we know what he said?" Because Johnson was arrested. Because he was prosecuted. Because his case went to the Supreme Court. That is why we know what Gregory Lee Johnson, that little idiot, said in Dallas, TX, in 1988. If we had not focused the spotlight of attention on this little twit, no one would care what he said because, "America, the red, white, and blue, we spit on you," is idiotic on its face. Instead, Mr. Speaker, we have given this jerk the megaphone of martyrdom, and I think that is ridiculous.

Please, for no other reason, be practical. Vote against this constitutional amendment.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I rise in support of the constitutional amendment banning flag desecration.

Since the Supreme Court handed down its decision, flag desecration has been an issue arousing very strong emotions. These emotions are being released in a great national debate over the flag amendment.

The debate has the potential to divide. The Supreme Court divided 5

votes to 4 in its decision. My own district is divided on this issue.

I side with those who believe flag burning is provocation, not communication. Its only purpose has been to inflame and divide. A democratic society has the right to protect its members from actions whose sole purpose is to incite. Just as there are laws against one person cursing and abusing another, so there should be a right of the State to prevent the same abuse by preventing flag burning.

In fact this right of the States to prevent such conduct was thought to exist in our country for decades. Forty eight of the 50 States had flag desecration laws when the Supreme Court made its decision last year. The Supreme Court decision represents change, not stability, in our laws. And this major change rested on the slimmest possible margin, a 5-to-4 vote.

I believe, the ultimate message in the flag amendment is this: communication and mutual respect for ideas are the foundation of a democracy; conduct that seeks only to divide and destroy harms the democratic process.

In the months ahead we will all need each other's cooperation to face the challenges facing our country. We are facing a deep financial crisis. Events in the world offer unprecedented opportunities to showcase our democratic institutions and market economy. However today's vote comes out, let us resolve to work together in an atmosphere of respect and civility. This is the atmosphere I believe the flag amendment promotes.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, when this Nation began its experiment in self-government a little over 200 years ago, there were no questions in anyone's mind that the foundation of our society was and is the Judeo-Christian ethic. This set of standards or principles governed our society and the decisions of the U.S. Supreme Court for roughly 150 years, and then in this century a new prophet came along by the name of John Dewey. He set out to reform public education in America by changing the very base on which it is founded, and he has been successful beyond his fondest dreams. He, by the way, was an original signer of the Humanist Manifesto in 1933. He brought to this country the philosophy of moral relativism of secular humanism.

Mr. Speaker, these two philosophies are in conflict today in this country. Our distinguished colleague, the gentleman from Illinois [Mr. HYDE], has described this as a cultural war, and that it is. There is a cultural war going on in America today between the philosophy of the Judeo-Christian ethic and the philosophy of moral relativism.

The reason that the proponents of the philosophy of moral relativism have difficulty in bringing themselves to recognize the existence of a standard in this case, a standard dealing with the flag of the country, is because people who believe that way do not accept the existence of standards.

The philosophy of moral relativism says that there is no God in heaven; God did not create this world. Any man at any time can decide for himself or herself what they are going to do, and they will tolerate no restrictions on their conduct at all.

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That philosophy is what drove the decision, in my opinion, of the U.S. Supreme Court by telling us that we do not have standards in protecting our flag. That philosophy drove the decision in 1962, which said we are going to take opening day prayer out of the schools of America. That philosophy drove the decision in Roe versus Wade in 1973 that said we are not going to recognize the right to human life in America.

Then one of the most ridiculous decisions of the U.S. Supreme Court in 1981 when we said we will no longer be able to post the Ten Commandments on the walls of the public classrooms of America. That is the philosophy of moral relativism that is driving this debate, and I say there are standards that exist in our society.

Television commentator Ted Koppel said it very well in addressing the graduating class of Duke University:

> When Moses came down from Mount Sinai, he did not bring the Ten Suggestions. He brought the Ten Commandments and the people that run the political system today of this Nation are unwilling to accept that fact.

I say affirm the Judeo-Christian ethic. Affirm the existence of standards and vote for this constitutional amendment.

No person should underestimate the significance of a congressional vote on a constitutional amendment to prohibit desecration of our Nation's premiere symbol of liberty without license, the United States flag.

Our Supreme Court has ruled a second time that the Constitution does not permit the Government to prosecute someone who burns the flag. Many Americans feel differently. These Americans take pride in the heritage and history represented by the Stars and Stripes. Many reflect back on loved ones who gave their lives for their country. Others new to this country are grateful for a nation which exists to provide them refuge from oppression and gives them a haven of opportunity.

I, for one, am deeply disturbed over the entire controversy. The fact that the Supreme Court has even had to consider such a case is revealing about the cultural morass we find ourselves in these days.

What a miserable state of existence we find ourselves in when Congress is perfectly willing to use Federal tax dollars to fund pornography and obscenity spewed forth by the National Endowment for the Arts, but we cannot seem to muster the same enthusiasum to allow a community the right of self-determination to let a child utter a sincere prayer in public school to his or her Creator. We seem to care little about the garbage which bombards our youth daily. Yet, suggest that some miscreant not be allowed to burn or desecrate the American flag and we have a national emergency.

We have had multiple generations raised to believe that all standards are relative and that all liberties are civil and, hence, malleable. The flag vote is a vote about a standard and reasonable limitations in a free society. Humanists, or as Judge Robert Bork calls them "moral relativists," reject even modest limitations on personal conduct so long as no person is physically hurt.

We Americans will begin to make progress on the war against drugs, teenage pregnancies, and crime when we admit to ourselves that the seriousness of these issues in America is more of a spiritual problem than one involving a lack of necessary laws or enforcement of laws.

Specifically, should we be surprised that the last generation born in America is having difficulty in saying no to drugs, which is the observance of a standard in how we treat our own body, when as a society we booted the Creator of standards in human conduct out of the public education system?

Restoring voluntary prayer in school is an essential step in educating our children on the existence of standards and values as the foundation cornerstone for life.

It is no small thing that a majority of Democrats in the Judiciary Committee voted to report the flag amendment unfavorably to the House. They are simply reflecting the moral relativism which infects the leadership of the Democrat body politic. The Committee voted 18 to 18 to report the bill unfavorably—18 Democrats versus 14 Republicans and 4 Democrats. They voted 17 to 19 to report the bill favorably—this time three Democrats joined the Republicans. And finally, the committee voted 19 to 17 to report the bill without recommendation—five renegade Democrats joining the Republicans.

We are a great Nation only when we properly weigh our rights against our responsibilities. Maintaining the sanctity of our national symbol is a responsibility we cannot afford to abdicate. All that is lost in doing so is the license for some ingrate to throw a public tantrum. I believe society can afford such a loss.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to our able and respected Representative, the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, first, I want to say what a privilege it is for me as a Member of this House to have such an opportunity to protect the Bill of Rights.

And, for this honor, I want to thank my constituents who sent me here. I hope I will make them proud today—

no matter what position they hold on this amendment.

I would like to point out what this flag amendment debate is not about.

It is certainly not about patriotism or love of country. I do not know one Member of this House, regardless of their stand on this amendment who does not love this country, who does not want to make it the best it can be. That is why we serve here. So it is not about patriotism.

This debate is not about protecting flag burners. Flag burners cannot be protected from the disdain they engender and even worse for them the fact that they mean nothing. They add nothing to the debate—to rationality—to the political process—to dignity. In short, to amend the Bill of Rights for this juvenile behavior is ludicrous.

This debate is not about 30-second commercials that BOB DOLE and Ed Rollins threaten us with. It cannot be about 30-second commercials because, if it is, this body has lost its soul, its purpose. But I do not believe we will lose our way. We will defeat the politics of fear and intimidation.

What is this about?

It is about a first step down the slippery slope of making exceptions to the freedom of speech we were sent here to defend.

If this Congress acts to make this exception to freedom of speech—what is to stop another Congress from making another exception for things that make them angry like burning the Constitution, the Emancipation Proclamation, the President's photograph? And suddenly the Bill of Rights has a list of exceptions a mile long, and then a future Congress decides you cannot meet to talk about burning the President's picture and later you cannot meet to criticize the President or the Senate or the House, and the press cannot report such criticism—and then we've lost it, the essence of our freedom.

I want to tell you what our flag means to me. To me the flag not only means freedom; it means life itself.

Had my parents not come to this country—had they remained in Europe—the chances are we would have perished.

So does this flag have importance and significance to me? Yes, and it is precisely because of what the flag means, that I cannot vote to amend the document which has lived up to its promise of freedom.

The Bill of Rights has seen us through wars, depression, recession, the best of times, the worst of times. It is the centerpiece of freedom. It is being sent for by every emerging democracy. It is eloquent in its brevity. And it is successful because of its brevity and broad, sweeping rights.

So when history is written, let it be said of this House that on June 21, 1990, when threats of the dreaded 30-second TV commercial swept the Congress, there were enough courageous Congressmen and Congresswomen who said by their vote: Our country comes first.

The SPEAKER pro tempore (Mr. NAGLE). The Chair would remind the gentlewoman from California not to refer to Members of the other body in any derogatory manner.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, let us make it clear that the 30-second TV spot can cut both ways. We have heard from the other side of the aisle about 30-second TV spots that they fear being used against them; however, I can see some liberal P.R. man starting out a 30-second TV commercial with the Bill of Rights going up in flames and saying, "Your Congressman voted to destroy the Bill of Rights.

I think we should elevate this debate to the plane that both speakers have, and that is talking about the issue. There are values on both sides of this issue that have been very adequately expressed.

The SPEAKER pro tempore (Mr. NAGLE). The Chair will at this conjuncture, and will repeatedly through the day, remind Members of the admonition of the minority leader when he said earlier this morning,

> I would surely hope that as the day unfolds and those other days that might be involved in the discussion of this very, very important issue, that we remember the body in which we are serving, conduct ourselves as gentlemen and gentlewomen, always respecting the right of the other individual who may have differing views.

It is the intention of the Chair to see that the debate proceeds in that manner.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], a member of the Appropriations Committee.

Mr. OBEY. Mr. Speaker, when some idiot defaces the flag, it makes me angry, because I love the flag and all it stands for. I ran for office in the first place because I still have a romantic and idealistic vision of what America is all about, and I find that vision thrilling.

The flag is a symbol of the values that were woven into the Constitution by our Founding Fathers, the values that were fought for in this very Chamber for 200 years, the values which Americans died for in so many other nation's wars, and the values that make our people the freest on Earth.

But there is a second reason that an act of flag desecration makes me angry. Some misguided souls who desecrate the flag do so because they believe that an act of Government is so fundamentally wrong that they feel they must find a way to object that is so shocking that the public will notice. But more often than not when some idiot burns a flag or engages in some other ludicrous or equally offensive act, they cynically mock the very freedoms symbolized by the flag and guaranteed by the Constitution. They are hoping that they can make Government angry enough and American society angry enough to forget just how large and mighty are the principles for which that flag stands. Flag burners are usually little people who are trying to enlarge themselves by demonstrating that they have the power to make government angry enough and society angry enough to forget the very values the flag symbolizes.

When I first heard of the idiotic act by Gregory Johnson who's burning the flag started this most recent controversy, my first reaction was to say, "You bet, let's do whatever it takes to deal with those knuckleheads." But then I thought, "No, I'm not going to allow some sap-headed flake like that to make me lose my judgment and abandon the very values he's trying to mock."

My judgment was reinforced that same week when I met with a number of representatives of veterans groups from my State. As we were talking at the reception at the Longworth cafeteria, one of them, a former national commander of the American Legion in 1983 and 1984 by the name of Keith Kreul, said to me, "Congressman, I hope you are not dumb enough to vote for a constitutional amendment on the flag. I fought for that flag and it guarantees more freedom than any other flag in the world, and people have the right to tell Government they're off base even if they do it in a way that is stupid." He then went on to say, "Congress shouldn't mess around with the Bill of Rights that has defended us for 200 years."

I talked to a woman just last night who's a proud and active member of veterans organizations. She said to me, "I'm glad you're voting against it. Some people will misunderstand but you have to love this country enough to do the right thing, even when it is tough to do it. You have to care enough about this country to endure the lies and smears that will be directed against you." I think she summed it up pretty well.

That is why we are voting "no" today, because we love this country too much to allow a few flag burners to do what a Civil War, two World Wars, Vietnam, and Joe McCarthy could never make us do—to tamper with the Bill of Rights, the document that stands between individual American free citizens and the tendency of government to try to limit in some way the actions of people who disagree with the politicians who are temporar-

ily running that government. That is why I would be the last person in this House to ever even consider taking any actions which would enable this Congress to amend the Bill of Rights.

If as I look around this Chamber I saw in these seats the equal of Thomas Jefferson, James Madison, and Patrick Henry, I might be tempted to say, "Alright, just this once to deal with these flag burning idiots, let's run the risk." But the problem is that when I look at a lot of politicians today, I see too many people who remind me more of Daffy Duck than they do Thomas Jefferson. And I see more than a small number of demagogs who would use almost any issue and run any risk to make a political point. I love and respect the Congress as an institution, but I am reminded of Disraeli's comment to a colleague once when he said, "The gentleman is guilty of every political crime which does not require courage."

If I trusted the Congress to say, "Just this once we will change the first amendment," I might be persuaded to try it. But given the weak knees that I have so often seen in this House, I know that amending the Bill of Rights is like eating potato chips—it's hard to stop at one.

Nothing is so pitiful as a flock of politicians in full flight, and nothing is so ugly as a politician exploiting a national symbol of unity in order to divide the country that symbol stands for. Anybody who has watched this town knows there are simply too many people in politics and in this Congress who would ban any offensive idea which they disagreed with if it would gain them five votes. So because I trust the ability of the Bill of Rights to preserve the liberty of our citizenry much more than I trust the ability of some of the politicians in Washington, DC, to do so, I will not vote to put this country on this slippery slope. I simply do not trust Government power enough to do that.

Cynical politicians who would use the flag to distract the public from the real issues of economic opportunity, the savings and loan mess, and all the other key issues facing the American family, do more damage to America in a week than any idiot flag burner could ever do. Politicians who get arthritis of the knees at an early age from so much genuflecting to so many fat cat special interests do far more damage to the American people and to the principles for which the flag stands than any idiot who thinks he sends a message by burning a flag.

I will not allow the Gregory Johnsons to make me forget that the Constitution gives every person the right to make an idiot of himself and that is all that really happens when some knucklehead burns a flag. I ask you one question: "Have you ever yet seen a single flag burner who has strengthened his argument or moved the country his way by that act?" To the contrary, the only way that they can accomplish their purpose is if they succeed in pushing us in our anger into abandoning the very freedoms that they deface. That is what would weaken the Constitution and would weaken us in the eyes of the world.

My home town newspaper, the Wausau Daily Herald, wrote this yesterday: "Our nation is strong enough to survive a few flags being burned, even though it is a senseless, despicable act. Yes, men and women have fought and died to defend what our flag represents. But our wars were not about flags. They were about freedom and democracy and even about an individual's right to express things in ways that make us absolutely livid with anger." They got it right.

Red China does not have a bill of rights to protect someone who burns the Communist flag or who takes any other action offensive to the government, neither does Fidel Castro's Cuba. But I'm proud that in the United States we know we are strong enough to allow even idiots to have their say no matter how inappropriate the method they use to express themselves. So I will say simply that if someone in my presence tried to burn a flag, I would probably deck him, but I will not deck the Bill of Rights in the process. I will not allow them to accomplish through me something which they are too weak and confused to do on their own—to achieve the slow unraveling of the freedom of speech, which no matter how inappropriately used, is, with the exception of the freedom of religion, the most precious of all values protected by the Constitution.

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

That's the oath we all took a year and a half ago. Let's prove today that when we took that oath we didn't do it with our fingers crossed. We didn't mean that we would uphold the Constitution except when it was tough to explain. We said we would uphold it period. I hope we have guts enough to do that today.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds to answer the gentleman.

The gentleman said that the American Legion commander in Wisconsin said that he opposes the amendment to the Constitution. I would like to say that I have sent letters to all the Members of the House that the great majority of the veterans organizations, I would say 99 percent of them, are supportive of this amendment, as well as 99 percent of the veterans in this country, who number around 28 million living veterans.

The veterans are totally supportive of this amendment.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. FORD], a veteran of World War II and Korea and chairman of the Committee on Education and Labor.

Mr. FORD of Michigan. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, I rise in strong opposition to this amendment. I am not going to allow some flag-burning jerk in Texas who infuriated me and the rest of Congress to stampede us into tearing apart the Bill of Rights, the very foundation or basis for the individual rights which make America unique in the world. I view tampering with the Bill of Rights in the same light as changing one of the Ten Commandments. Both of these documents are as close to a perfect set of rules to live by as anything and we should let them stand. And I hope when all is settled, students of this particular debate will see that principles are rightfully more important than politics.

As we approach the bicentennial of the Bill of Rights, we are asked to amend the first amendment for the first time in over 200 years: all because a handful of kooks demonstrated their far-out politics by burning the American flag. It might be instructive at this time to think back to earlier times when dissident iconoclasts shocked their society with disrespect for symbols held dear.

Flags, banners, colors, and designs have long been used to symbolize an idea, an institution, a way of life, or a series of beliefs. The state, for example, represents its values through crowns, monuments, events, and uniforms; the church through the cross, the crescent, and clerical raiment. Associated with these symbols are appropriate gestures of acceptance or respect: a salute, a bowed head, a bended knee.

History is replete with instances where refusal to render the appropriated homage has resulted in punishment, often cruel and unusual. Daniel and his friend Shadrach, Meshach, and Abednego were thrown into a fiery furnace as a result of their refusal to bow down before King Nebuchadnezzar. William Tell was sentenced to shoot an apple off his son's head for refusing to salute the bailiff's hat. William Penn and other Quakers suffered punishment rather than uncover their heads in deference to the King's presence.

It was memory of such events that cautioned a majority of the States to hold back from ratifying the Constitution until all concerned agreed to write an amendment to guarantee freedom of speech; to permit each of us to march to the beat of our own drummer.

Freedom to differ is not and should not be limited to things that don't matter much. The first amendment is strong medicine. It guarantees the American Nazis the right to parade, with the swastika flying, through suburban

Skokie, home to many who survived the German Holocaust. Were it otherwise, government would decide for us what we may see and hear. *Collins* v. *Smith,* 578 F.2d 1197 (7th Cir. 1978). It guarantees the Ku Klux Klan the right to wear hooded robes, burn crosses, and make promises of death and revenge to Jews and Negroes. *Brandenburg* v. *Ohio,* 395 U.S. 44 (1969). It permits young black men to stand in Southern "white only" libraries and protest by silent and reproachful presence the unconstitutional segregation of public facilities. *Brown* v. *State of Louisiana*, 383 U.S. 131 (1986). It permits a young man to walk through the streets of Los Angeles with the "F word" on his jacket to show his disdain for the draft. Why? Because words and actions of protest are chosen as much for their emotive force as their cognitive force, and the emotive function may often be the most important element of the message. *Cohen* v. *California,* 403 U.S. 15 (1971). We must risk a breach of the peace in the school yard so children may wear black arm-bands to protest the Vietnam war. True enough, disregard for the views of another may start an argument or cause a disturbance, but our history says that it is this sort of hazardous freedom that is the basis for our national strength. *Tinker* v. *Des Moines School District,* 393 U.S. 503 (1969).

Much closer to the point are the flag salute cases which, along with Willie Horton, played a monumental role in the Republican Presidential campaign.

After World War I, a number of States adopted laws requiring school children to salute the flag each day. Those who refused were expelled from school, subject to arrest as juveniles; and their parents were prosecuted for causing the delinquency. These laws played havoc in the Jehovah's Witness communities, whose religious beliefs included a literal version of the Book of Exodus:

> Thou shalt not make unto thee any graven image, or any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; thou shalt not bow down thyself to them nor serve them

The Witnesses considered the flag as an image within this command and refused to salute it.

In 1935, three Jehovah's Witness children in Minersville, PA refused to recite the pledge at school and were summarily expelled. Two of the children, Lillian and William Gobitis, took their case to court. By the time the case reached the Supreme Court, war had broken out in Europe and we were preoccupied with national security. On June 3, 1940, the Court ruled against the Gobitis children by a vote of 8 to 1. The heart of the decision was based on the concept of national unity. *Minersville School* v. *Gobitis,* 310 U.S. 586 (1940).

Few Supreme Court decisions have had such a dramatic impact. It unleashed a mean streak in our society, seemingly giving the go-ahead for acts we now deplore. Just 6 days after the opinion came down, a mob of 2,500 people sacked and burned a Jehovah's Witness church in George Bush's beloved Kennebunk, ME. On June 16, 60 Witnesses were attacked by citizens of Litchfield, IL, and locked in jail for their own protection. On June 29, seven Witnesses in Richwood, WV, were arrested by the police chief and force-fed castor oil to compel them to recite the Pledge of Alegiance. Throughout the country, mobs broke into the sanctuaries of the Witnesses, confronted them with flags, and demanded they recite the pledge of "liberty and justice for all."

Three years later, on June 14, 1943, the Court reversed itself. *Board of Education* v. *Barnette,* 319 U.S. 624 (1943). We were in a war to the finish. Germany had blitzkrieged all of Europe; Japanese forces had sunk our fighting ships and overrun Asia. Perhaps the flag salute, with outstretched arm, was too much like Hitler's. Perhaps we refused to imitate the Japanese Emperor with flag worship at home. Perhaps the appointment of Wiley Rutledge to succeed Jimmy Byrnes altered the chemistry of the Court. In any event, the Court rejected the earlier concept of Gobitis that national unity is the basis of national security and wrote that:

> The case is made difficult not because the principles of the decision are obscure but because the flag involved is our own. Nevertheless, we apply the limitations of the Constitution with no fear that freedom to be intellectually and spiritually diverse or even contrary will disintegrate the social organization. To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of compulsory and routine is to make an unflattering estimate of the appeal of our institutions to free minds. We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricities and abnormal attitudes. When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ in things that touch the heart of the existing order." 319 U.S. at 642.

On June 11, 1990, the Supreme Court held for a second time that a flag protection act proscribing expressive conduct violates the bedrock principle underlying the first amendment; because Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable, and because punishing desecration of the flag dilutes the very freedom that makes this emblem so revered, and worth revering. United States versus Eichman, slip opinion, P. 8.

President George Bush, from the Rose Garden, said last week that his opinion "endangers the fabric of our country."

I say, as did Justice Jackson in the WWII flag salute Barnette case:

> If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion, or force citizens to confess by word or act their faith therein." 319 U.S. at 642.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Oregon [Mr. DEFAZIO].

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Mr. DEFAZIO. Mr. Speaker, the flag is a symbol of our democracy, a symbol of all that is noble, good, just, and even wrong about our Nation. It deserves protection.

Last year I strongly supported and voted for a statute to protect our symbol, Old Glory, against desecration. Now, because of a 5-to-4 decision of the Supreme Court, we are again confronted with this issue. Unfortunately, now, the choice is between protecting the symbol of our democracy, the flag, or undermining the foundation of our democracy, the Constitution and the Bill of Rights.

For 199 years the Bill of Rights has shown as a beacon of hope to oppressed persons around the world. It protects their most precious liberties, freedom of religion, freedom of speech, the right to keep and bear arms.

Should we weaken the foundation of our democracy to better protect the symbol against deviation of a few idiots? No. Let us celebrate the 200th anniversary of the Bill of Rights by reaffirming its principles, defending it against those who would weaken it for cheap political gain.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Speaker, and fellow Members, I received a telephone call today from a constituent saying to me if I voted in favor of this amendment he would never vote for me again. This indicates the emotional charge that this issue has assumed, finger pointing on each side.

This matter, my friends, is subject to inretation. It is subject to personal feelings.

I am not one who rushes to the Constitution each time the Supreme Court hands down a decision that does not strike my fancy. But this matter of the flag is uniquely special.

These jerks who insist upon burning the flag, these jerks who insist upon desecrating the flag think it is cute.

Mr. Speaker, permit me to tell about a woman who does not think it is cute. She resides in my district. Her son gave his life for this country during one of the series of Persian Gulf skirmishes several months ago, and she, of course, was awarded a flag in loving memory of his life. During a recent visit to Thomasville, NC, she said to me, "Do not let them burn my flag."

She interpreted the burning of the American flag, regardless of where the deed occurred, as if it was burning the flag that rests at her home today.

Mr. Speaker and colleagues, I say that not one American's right of free speech will be impaired by a vote in favor of this amendment today, because it is my belief that desecrating the American flag should not qualify for constitutional protection.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. ACKERMAN].

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I thank the gentlemen for this time. But also, Mr. Speaker, I have to offer thanks to someone else.

Before coming to the floor for this crucial debate, I needed some valuable advice. The question before me did not concern how I would vote, there is no question about that, our Bill of Rights cannot be altered or erased.

No, Mr. Speaker, I needed advice on a more complicated question. For you see, as we here in this Chamber consider the great question of preserving our Constitution, the young man I also thank today has his attention directed elsewhere. Today is his graduation day.

As a Member, my mind was clear as to my duty today—as Ari Ackerman's father, I was very troubled, for if I answered the voting bells, I would miss Ari's graduation in New York.

So I asked Ari what he thought of my dilemma. Without missing a beat, Mr. Speaker, the bright young man said, if its a choice between graduation and the Constitution, go with the Constitution.

Again, before my colleagues, I want to say: Thank you Ari, for so much.

Mr. Speaker, I thank both of the chairmen.

Mr. Speaker, I am a bit old-fashioned. I love our country. I love our Constitution. I even love a parade. I am an Eagle Scout who still gets a tingle down my spine when the flag goes by.

I do not understand, and I disapprove of, those misguided people who desecrate that in which I believe.

The question is: How should we, as American patriots, respond? Do we, like Voltaire, disagree with what they say and how they say it, but defend their right to do so, or do we do like the ayatollah who, when offended, seeks to put an end to the activities of those who offend them?

Why should we, as Americans, act? Is the threat so great? Is our society grinding to a halt? Are our constituents jumping out from behind parked cars waving flags and burning them at us so that we cannot get to work? Is there a left-leaning radical court giving solace to our enemies? Did Mr. Johnson endanger our very way of life? Is America so threatened that hundreds of Congressmen come tripping over their tassles to rally around the flag?

Or is it a red, white, and blue herring to use our beloved national symbol as a partisan pawn by petty politicians for their personal partisan purposes?

What is the flag? And why do I love it? The flag is not our way of life. The flag is a symbol. It is a symbol of our country, of our value system, a symbol of the things we believe in, and high among those beliefs is the right to disagree and to protest.

Let me correct the misconception. Nobody died for the flag. They died for what it stands for. No American mother gave up her son for a piece of cloth. They made the sacrifice for our way of life.

It did not cost us a sea of blood and thousands of lives for a flag that costs $6.50 a copy in the stationery store.

We did not sacrifice and bleed and die for a piece of cloth but, rather, for what it symbolizes. What does it symbolize? It symbolizes the greatest experiment in democracy and individual rights in the history of this planet. It symbolizes a country that is different, because people, even despicable and disagreeable people, have a right to protest, to protest to Congress, to protest their Congressmen, to protest their Government, their President, the Constitution and, yes, even the flag.

Take away that right, and you are changing what the flag symbolizes. Pass the amendment, and what will it mean? Well, let us take a look.

America's First Lady, truly a patriot, wears an American flag kerchief. Is she a desecrator? A patriotic gesture, you say? How about an ugly old Democrat wearing a hat made out of a flag? How about a bathing suit made out of the stars and the stripes? Is that desecration?

It goes further. Where does it offend you? How about pantyhose made out of stars and stripes? I will spare you the athletic supporters and the other personal items. How about child desecrators, wearing silly flag ears, or pinwheels? Does that desecrate you? How about American flag napkins? What if you blow your nose in one? Have you broken the law? How about paper plates made out of the American flag? If you put your spaghetti on it, have you violated the Constitution? And what do you do when you are finished with them? You throw them away.

How about a bag flag? Have you violated the Constitution if you fill it with your garbage and throw it out?

We have factories of desecrators making things like George and Barbara slippers with American flags to put your feet in. Do we throw all of those folks in jail? How about socks? American flag socks; when one makes socks out of the American flag, is that an act that violates the Constitution, or only when you wear them, or does it matter if your feet are clean or dirty?

What happens when different States pass different statutes? Do you have to check your socks at the border? And what if you burn your socks?

I do not mean to trivialize the flag. Americans love and respect our flag. But we do not want to worship it. It is not a religious relic that, once destroyed, exists no more. It is not the physical embodiment of our value system that, once gone, can no longer be. It is only a copy.

The fabric of our beliefs are woven into our society and guaranteed by our Constitution, and that which is the symbol of our beliefs is not so fragile as to be endangered by matches or desecrators or trivializers.

Johnson did not destroy the flag, Mr. Speaker. There it is in back of you. You cannot destroy a symbol unless you destroy what it represents.

I urge our colleagues, Mr. Speaker, do not destroy what our flag represents. Do not destroy what our flag represents. Please, do not destroy what our flag represents.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. INHOFE].

Mr. INHOFE. Mr. Speaker, we heard from the gentleman from North Carolina a few minutes ago who very well stated the feelings that we are getting from back home.

I am from Oklahoma, and that is considered to be a very frontier-spirited State. It is not one where one would normally expect people to be for flag burning. Yet, I have been attacked by people who are taking statements out of context.

I believe that the desecration and burning of the American flag is not speech. It is behavior. It is conduct. We restrict conduct in our society. We even restrict speech in our society, for someone to stand up and yell "fire" in a theater.

□ 1430

I heard what the gentleman from New York just said. I have to tell you I am offended personally by it, because the issue here today is not paper plates and pantry hose, it is the flag of this country, the flag that lays over the bodies of those who have died in the line of duty, and I am personally offended by that.

I believe the issue is those individuals who are offended by the descecration of the American flag have one way to go, and that is to support a constitutional amendment, which I will do.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from San Francisco, CA [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in opposition to the constitutional amendment because I believe that we should not break precedent and amend the Bill of Rights and abridge freedom in our country. We all abhor those who desecrate the flag, but in doing so they do not diminish the glory of the

flag. They diminish themselves and they diminish their causes. We in turn should not diminish freedom in our country.

As we came to Congress, each and every one of us took an oath to uphold the Constitution of the United States, and we do so in every term. We have a responsibility to uphold the Constitution when it is difficult and when it is easy. Today we have an opportunity. We are faced with a decision to make, a decision about supporting and defending and upholding the Constitution. We should all do so.

Mr. Speaker, I urge my colleagues in the spirit in which we took that oath of office, so help us God.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

The SPEAKER pro tempore. The gentlewoman from Connecticut is recognized for 2 minutes.

Mrs. KENNELLY. Mr. Speaker, I rise today to add my voice to those who believe we should not amend our Bill of Rights.

It is very seldom that all of us in this Chamber agree on an issue. But today we agree on two. Every one of us loves the American flag. And every one of us abhors anyone who tries to desecrate this symbol of our beloved country.

But we are not debating patriotism today. We are debating freedom of speech, a basic and precious freedom that we cherish.

Some say we must protect our flag. I agree. But not by amending the Constitution. Instead, by truly understanding its meaning in relation to our Constitution.

The stars and stripes are special but not in and of themselves. They are special for what they symbolize. They symbolize the Thirteen Colonies. At first these colonies and individuals were denied representation, denied freedom of religious choice. Our forefathers did battle to get these protections and eventually they were codified in the Bill of Rights.

For 200 years we cherished and guarded these rights. And now we must pause and reconsider before we start unraveling these remarkable protections.

How will this look to future generations? More importantly and sobering is the possibility that once we open up the Bill of Rights we won't stop with today's amendment.

Until this moment in our grand history, amendments to the Constitution have been adopted to expand freedom and liberty for the individual, not to reduce their availability.

Of all I have read the best summation of this situation was in a Washington Post editorial. I quote

> American history has not been a gentle process. This country has been through a terrible civil war, foreign wars, depressions and riots, times of great fear and confusion, without compromising its basic principles of finding it necessary to shorten the Bill of Rights. Would you say that the fabric of society is in greater danger today than at the height of the Vietnam War and the demonstrations against it?

God forbid that this should be looked back upon as the beginning of the slide of our great democratic system. We all agree on the specialness of the flag. But what a pity if a particular religion becomes special, or what if it appears that limiting the number who can assemble because of some threat also is looked upon as special legislation.

If we vote to adopt this amendment today, I fear it could become the beginning of the end. The physical integrity of the flag is vulnerable. But it is the integrity of this Nation that should not be impeached.

A member of the English Parliament, ironically that group that we left, said:

> Without free speech no search for truth is possible, without free speech no discovery of truth is useful, without free speech progress is checked and the nations no longer march forward toward the nobler life which the future holds for man. Better a thousandfold abuse of free speech than a denial of free speech.

Mr. Speaker, I strongly urge my colleagues to vote against this amendment. By doing so they will not be voting to support flag burners. They will be voting to support the very foundations of this democratic society. They will be voting for the right of free speech for all.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, we have heard repeatedly this afternoon that what we are about is some major departure under the Bill of Rights. In fact, for 199 years we are told the Bill of Rights has protected flag burners.

That is ridiculous. The Bill of Rights, until last summer, has always been read to make a distinction between physical acts, such as the burning of the flag, and free speech. Even in the area of free speech, the Court has said there are reasonable restrictions that can be forthcoming.

If someone in this gallery started shouting, "First amendment, first amendment, first amendment," they would be arrested and convicted, even though all they did was exercise pure free speech.

I refer back to Street versus New York, a case decided by the U.S. Supreme Court 20 years ago involving flag burning. Then Chief Justice Earl Warren said, "I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration."

Abe Fortas, a very liberal Justice of that Court who understood the distinction between a robust Bill of Rights and the physical act of torching a flag, said, "Action is different than speech. Even if clearly for serious protest purposes, it is not entitled to the persuasive protection that is given to speech alone. It may be subjected to reasonable regulation."

Finally, Hugo Black, an absolutist under the first amendment for whom nothing could be obscene, nothing could be pornographic, in Hugo Black's mind. If it was in print or if it was speech, it was protected.

But Hugo Black drew this line. He said, "I would not balance away the first amendment mandate that speech not be abridged in any fashion whatsoever. But it passes my belief that anything in this Constitution bars a State from making the burning of the American flag an offense."

Now, that is the law. That is the way it has been. All this amendment does is put us back exactly where we were until June of last year. It is no major departure but rather a restoration of the true meaning of free speech and a line drawn on physical acts of conduct such as burning the flag. So let us keep straight what we are really about.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. DOWNEY].

Mr. EDWARDS of California. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. DOWNEY].

The SPEAKER pro tempore. The gentleman from New York [Mr. DOWNEY] is recognized for 2½ minutes.

Mr. DOWNEY. Mr. Speaker, we have learned one thing in this debate. No one here denies anyone's patriotism or the contempt that we hold for people who would burn the flag. Then why are we here debating this flag amendment?

Well, I have taken a page out of David Letterman's book, and I have prepared for us the top 10 reasons why I think we are here debating the flag amendment.

Reason No. 10: If we wrap ourselves in the flag, people won't notice that 37 million Americans don't have health insurance, and there are no plans in this Congress to do anything about it.

Reason No. 9: If we wrap ourselves in the flag, people won't notice that there are 3 million homeless people in the United States, and we have no plans to do anything about it.

Reason No. 8 that we are debating the flag amendment: If we wrap ourselves in it, people will not notice that one out of every five American chil-

dren in our country is poor, and that one out of eight who graduate from high school is illiterate, and we have no plans to do anything about it.

Reason No. 7: If we wrap ourselves in the flag, maybe people will not notice that the defense workers are losing their jobs, and we have no plans to do anything about it.

Reason No. 6: If we wrap ourselves in the flag, maybe people will not notice the tankers that are spilling millions of gallons of oil off our shores, and we have no plans to do anything about it.

Reason No. 5: If we wrap ourselves tightly enough in the flag, maybe people will not notice that during the last 10 years the rich have gotten richer, the poor have gotten poorer, and the middle class have gotten nothing.

Reason No. 4: If we wrap ourselves in the flag, maybe people will not notice that we are 6 percent of the world's population, yet we use 50 percent of the world's drugs.

Reason No. 3: If we wrap ourselves in the flag, maybe people will not notice that next month Nissan will be the third biggest automaker in the United States of America.

Reason No. 2: If we wrap ourselves in the flag, maybe people will not notice that every man, woman, and child in this country will soon be paying $1,000 to bail out the savings and loans.

Reason No. 1 why we are debating the flag amendment is that if we wrap ourselves so tightly in it, maybe people will not notice that in the last 10 years we have tripled our debt and made this country a second-rate economic power, and we have no plans to do anything about it.

□ 1440

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Mr. DORNAN of California. The gallery, the gallery. Please chastise them.

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from California makes a point of order that the guests in the gallery will remain in order and not demonstrate approval or disapproval of the remarks made on the floor.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, here are the remarks, the fine debating points that my staff worked on so hard for a week, and I submit them for the RECORD.

The remarks referred to follow:

FLAG PROTECTION AMENDMENT

(U.S. Representative Robert K. Dornan (R-Calif.) made the following statement in support of the proposed amendment to the Constitution that would allow the States and Congress to protect the flag from desecration:)

In all the hoopla surrounding the debate over whether to amend the Constitution to address the Supreme Court's flag-burning decision, a few simple facts have been overlooked.

First, the amendment in question does not prohibit the desecration of the flag. It merely gives the states and this Congress the authority to pass laws prohibiting desecration of the flag. Many Members here in the House thought Congress had that authority last year when the Flag Protection Act of 1989 was passed overwhelmingly (380-38). Indeed, Members were assured by the House leadership that, despite the Supreme Court's original decision in Texas v. Johnson, Congress could still protect the flag with a statute. This, or course, turned out not to be the case. But Congress was not alone in its belief. Some 48 states have laws prohibiting flag-burning. They too thought they had that power all along. A constitutional amendment, therefore, would simply return us to the status quo ante. How could the amendment possibly terminate a "basic freedom" no one thought we had until the Supreme Court's decisions?

Second, the bad guys in this controversy are not those who want to protect the flag, but the five Supreme Court Justices who divined a First Amendment right to burn the flag. It was the Supreme Court's idiotic decision which prompted this controversy, not some sinister political motivation. And if any of my colleagues don't now think the Court's decision was idiotic, let me remind them that the House passed a resolution, by a 411-5 vote, expressing its "profound concern" over the Supreme Court's decision in Texas v. Johnson and pledging the House's "continued commitment to preserving the honor and integrity of the flag" It seems to me now is the time to stand by those words.

Third, the movement for a constitutional amendment is not an attack on the First Amendment, but an attack on this Supreme Court's interpretation of the First Amendment. Indeed, I never heard any of those now arguing that we are "messing" with the Bill of Rights make the same argument against the 48 states which have laws prohibiting flag-burning or against the Federal flag protection statute (18 U.S.C. 700), which had been on the books for years before the Supreme Court's decision. Even more amazing, there are many of my colleagues who are opposing the flag amendment but who supported a statute that would have prohibited flag-burning. If a constitutional amendment allowing Congress to pass such laws would "restrict our freedoms," wouldn't a constitutionally valid statute in absence of a constitutional amendment have had the same effect?

Fourth, the people who are whining most about restrictions on our First Amendment freedoms and tampering with the Bill of Rights, never, ever, whine about restrictions on our Second Amendment freedoms, which is also a part of the Bill of Rights. Our freedom of speech is not absolute.

Fifth, it is hard to argue that we are somehow "messing" with the Constitution by using the constitutionally prescribed method for amending it. The Founding Fathers (who I am sure would not consider flag-burning a First Amendment right) recognized that the Constitution might need to be modified from time to time and therefore set down procedures to do just that. Amending the Constitution is not an easy task and will only be accomplished with the overwhelming support of the America people, who I trust to do the right thing, whichever way they decide the issue.

The point is that if you think the Supreme Court's decision—not the First Amendment—was wrongheaded then there are really only two solutions. You can live with the decision or void it. I believe the American people would like to void it. I could be wrong. But the only way we are going to find out is by passing the amendment in Congress and letting the people decide.

I don't know why so many of my colleagues are so unwilling to trust in the good judgment of the American people.

Mr. Speaker, here is the note that my wife called in to remind me that police officers who wear that flag on their sleeve, and sheriffs, police officers across this country die with that flag, sometimes drenched in their own blood, and that flag is always on their caskets to remind us that if you were to poll the police officers of this country who may give their lives, 99 percent will say please, give us an amendment to protect the flag. I cannot stand to stand around as an officer and watch it burn when I have seen it on the caskets of my fallen colleagues.

I do not think this is a partisan issue, and I do not think it is a Republican/Democrat or an ideological issue. It is just a judgment call. That is all it is.

One of my heroes who serves in the other body, who I thought should have been the Vice President, and the current Vice President knows that, he made a mistake maybe the other day by talking about 30-second sound bites. But I will tell you, he earned the right to say that because his body was shredded by German artillery fire, and he spent 3½ years in a hospital bed getting the strength back to give us a great career of public service. And to this day, he wears loafers because he cannot tie his laces, and he cannot button his own shirt without a special tool.

I do not disrespect anybody on the other side for your vote, because the first amendment is important. But we sure impacted it heavily with the 13th and 14th amendment, and I am going to take an hour special order tonight as a postmortem because I know we are not going to get two-thirds of this Chamber or the other. And when we poll most veterans it comes up 98 percent, but I respect the other 2 percent, because one of them, a U.S. Senator, left a leg in Vietnam, and another one bailed out of Nazi-occupied Europe with a flag on his left shoulder with an airborne division. I will be back, Mr. Speaker, for 60 minutes because you are wrong on this side that it is a partisan issue.

Mr. MONTGOMERY. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank my colleague, who is another hero of mine in this House, because when I was a schoolboy you laid it on the line

for me, as did STAN PARRIS just a few years older. I limp into this well because I was combat ready, and I saw STAN PARRIS speak while I was in PHIL CRANE'S office, and I brought my eyes up, and there is PHIL CRANE'S dead brother. He did not die in combat. He died as a marine fighter pilot in front of a crowd trying to inspire other young people to apply for the service. But he was a combat-ready person, and my combat-ready status tells me in four close calls with death that I am right to vote for the amendment, and I respect your respect for the first amendment. More later tonight, an hour of it.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Montana [Mr. WILLIAMS].

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from Montana is recognized for 2 minutes.

Mr. WILLIAMS. Mr. Speaker, do you remember the "Music Man", that lovable purveyor of sugar and spice, the "Music Man" who taught us to look away and not at our troubles. He would be perfectly comfortable today using the American flag as a decoy.

He might say: "My fellow citizens, and my friends, my fellow voters, you say you are angry and frustrated that America seems to be losing its prestige around the world. Don't say prestige. That begins with the letter P, and that rhymes with the letter T, and that stands for trouble. Trouble, trouble, trouble, political trouble. Look elsewhere. Look up here at the flag. Look at anything except America's prestige.

"My friends, you say 85 percent of you think that America is slipping and is a second-rate economic power. Don't say economic. That begins with E, and that rhymes with T, and that means trouble, trouble, trouble, trouble. Political trouble for incumbents.

"My friends, you say you are still bothered by the White House running guns to the Ayatollah to fund the secret war for the Contras? Don't say Contras. That starts with C, and that rhymes with T, and that could be political trouble, trouble, trouble, trouble.

"My friends, you say the record of the homeless in the United States is disgraceful, and yet the Congress of the United States continues to cut money for the homeless. Don't say Congress. That begins with C, and that rhymes with T, and that means trouble, trouble, trouble, trouble. Trouble for incumbents. Don't look that way, my friends. Look up at the flag and salute the flag, and worry about people that are going to desecrate the flag.

"You say that the Republican trickle-down economics has failed, that the rich are getting richer, and the rest of us are going to pay for it. Don't say pay. That begins with P, and that rhymes with T, and that means trouble, trouble, trouble. Trouble for those incumbents that voted for trickle-down.

"Out your way, my friends, on the land, the family farmers are dying, and in the cities we have gridlock. Don't say dying and don't say gridlock. That begins with D and that begins with G, and that rhymes with T, and that means trouble, trouble, trouble, trouble. Trouble for incumbents, political trouble.

"You say, my friends, that the Congress of the United States spends too much money on the Pentagon, $600,000 a minute for the Pentagon. Don't say Pentagon. That starts with P, and that rhymes with T, and you will think about those incumbents that did it. Look up here at the flag instead.

"Trouble, trouble, trouble. Trouble, trouble."

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. LEWIS], a battler for civil rights.

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let us take just a moment to give this issue a little perspective. As Members of this body, we are blessed to be here, if only for a short time. Old Glory got along just fine before we got here and she will be around long after we are gone.

I say to my colleagues, let us remember why we were elected. The voters want an end to the drug epidemic; they demand a clean, healthy environment; they are pleading for deficit reduction; they are crying out for health care and affordable housing. Instead we are wasting precious time protecting a national symbol that needs no protection, and in the process, damaging the Bill of Rights on the eve of its 200th anniversary. Our Founding Fathers would be ashamed.

Mr. Speaker, Old Glory does not need our help. Old Glory is not on her sick bed. She doesn't need a doctor. Old Glory is not on trial, so she doesn't need a lawyer. We don't need to worry about her. We don't need to worry and weep over the desecration of the flag. We should weep for ourselves. Weep for a country without vision—no leadership—drifting without a sense of purpose, without a sense of direction.

Mr. Speaker, this is a petty, and phony issue. Let's get back to what we came here to do—improve the quality of life for all our citizens and to make our world a better place. That is our mission. That is our mandate.

Mr. Speaker, as we prepare to vote, let me quote from a June 12 editorial in the Atlanta Constitution, "We will do that flag no honor if, in its name, we leave our children less freedom than our fathers and mothers left to us." So today, as we vote, we will be deciding just how free unborn generations will be.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs, and a World War II veteran, Army, Navy, or Air Force.

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Yes, I was proudly a volunteer in World War II with 12½ million other American men and women who served for 5 years, 2½ years overseas. But this debate is not about a comparison of military records.

I fought for, and Americans have demonstrated over and over again they will fight and die for what they believe in, the flag of the United States and the values which it represents. While I have no use for desecraters and those who want to use some kind of means by which to protest, I think there are a lot of better means and more acceptable, and certainly burning the flag is not acceptable in my eyes and ought to be condemned as strongly as possible. And if the law provides, which the law does, by the way, in many communities, that you can punish somebody for doing so publicly or privately, then by all means we ought to do that.

□ 1450

But the flag is the symbol of the values which we fought for and is a symbol of the values which are represented in the Constitution. It is based upon the bedrock of the Constitution and the Bill of Rights.

So in our efforts to protect the symbol of our values, let us not destroy the foundation upon which it rests.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. HUTTO] who also served in World War II but he only served in the Navy.

Mr. HUTTO. Mr. Speaker, I have heard those who desecrate our flag, burn it, so-called, called idiots. I have heard them called a number of names here today. I think they are deserving of most anything you want to call them because it is obvious that they are not patriotic Americans.

Now, this body has spoken on a number of occasions in favor of protecting the flag. We passed a law, but it did not meet constitutional muster. The Supreme Court said it is not constitutional. So does that mean that we do nothing else, that we do not contin-

ue our fight to protect the flag of the United States of America?

I think we should make it constitutional, and we have that opportunity to do it here today.

Now, I have heard the desecration of the flag referred to as speech. Well, it is not speech. You know, you could refer to desecrating the Capitol Building, a courthouse or any public building as speech if you are going to equate this as speech.

Mr. Speaker, I believe that this body does want to protect the flag. This is an honest debate. If we do not do something about it, I think burning the flag and desecrating it is going to become commonplace.

We do not want that to happen.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. McCANDLESS].

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman for yielding time to me.

As a veteran of World War II, Korea, Marine Corps, not the Navy, Army and the rest of those, I rise in strong support, Mr. Speaker, in strong support of this amendment.

Mr. Speaker, I rise in strong support of House Joint Resolution 350, which proposes an amendment to the Constitution to allow Congress and the States to prohibit the burning and desecration of the flag of the United States.

On June 21, 1989, the U.S. Supreme Court ruled that a Texas law prohibiting the desecration of the flag was unconstitutional. The 5-to-4 majority held the burning of the Ameican flag by a protestor was a form of expression, designed to convey a political idea, and was therefore protected by the first amendment's guarantee of free speech. The effect of the Court's ruling was to invalidate Federal law, and the laws of 48 States, including California, which prohibited the desecration of the flag.

While I have great respect for the Supreme Court, in my opinion as a veteran of two wars, as a Member of Congress, and, most importantly, as an American, the majority of the Court was wrong.

In prior cases, the Court has ruled that not all forms of expression are protected by the Constitution. "The first amendment does not guarantee the right to employ every conceivable methods of communication at all times and in all places," (Los Angeles City Council versus Taxpayers for Vincent—1984). For example, obscenity, even if used in a political context, is not protected free speech and may be outlawed. Likewise, "fighting words"—words that are "likely to provoke the average person to retaliation, and thereby cause a breach of the peace"—are not protected by the Constitution. Nor is a sound truck going through a neighborhood at 3 a.m., giving a political speech, protected by the first amendment. To most Americans, the burning of the flag is no less offensive than obscenity; no less provocative than "fighting words;" and no less obtrusive than a sound truck in the middle of the night.

Shortly after the Court's ruling, two alternative responses were introduced in Congress. The first was House Joint Resolution 350, which proposed the following amendment to the Constitution: "The Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States." The proposed amendment would allow Congress and the legislatures of the individual States to outlaw the desecration of the flag.

The second response was the introduction of legislation, H.R. 2978, entitled the "Flag Protection Act of 1989." The bill proposed a new law and set criminal penalties for mutilating, defacing, or physically defiling an American flag. However, the penalties did not apply to "any conduct consisting of the disposal of a flag when it has become worn or soiled."

During the 4 days of hearings before the Judiciary Committee, a number of constitutional scholars testified that a statute would be insufficient to overturn the Court's ruling. In view of the Supreme Court's ruling that a law prohibiting the "desecration" of the flag was unconstitutional, they said it highly unlikely that the Court would approve a law which prohibited the "defiling" of the flag. In addition, the experts expressed their grave concerns about attempting to limit, by statute, something that has been ruled to be a constitutional right.

I agree. Congress should never attempt to overrule a first amendment decision by statute. If Congress can, by a simple majority vote, repeal constitutional protections, then we have indeed established a very dangerous precedent.

In addition, some questioned the effectiveness of H.R. 2978. If a person was arrested for burning the flag, he or she could merely say that the flag was "worn or soiled," and the charges would have to be dropped. This led one Member of Congress to label H.R. 2978 as the Flag-Burners' Protection Act.

Nevertheless, H.R. 2978 was considered by Congress and was enacted into law. While I am committed to protecting the flag, enough questions about the legislation's effectiveness, constitutionality, and precedent were raised, that I felt compelled to vote against H.R. 2978. Shortly after enactment, there were several new instances of flag burning in an effort to test the new law. At the time, I made the following statement: "It is my hope that the Supreme Court will take this opportunity to reverse its June 21 decision; however, I am inclined to believe that they will rule H.R. 2978 to be unconstitutional." On June 11, 1990, the Supreme Court ruled, by the same 5-to-4 majority, that H.R. 2978 was unconstitutional.

Like most people, I am reluctant to amend the Constitution. But the amending process is somewhat unique. In no other Federal legislative initiatives do individuals have as much influence as they do in amending the Constitution. First, a proposed amendment must be approved by a two-thirds majority in the House of Representatives and the Senate. Then it must be ratified by three-fourths of the States. It is, fortunately, a difficult process, but one that allows careful consideration and deliberation.

If we are to reverse the Supreme Court's ruling and prohibit the desecration of the flag, Congress must pass a constitutional amendment and send it to the States for ratification. We should allow the people to decide whether we should add such an amendment to the Constitution

For that reason, I am a sponsor of House Joint Resolution 350.

Contrary to some of the arguments made against it, House Joint Resolution 350 would not impose an intolerable limit on the right of free speech. The proposed amendment would not limit the exchange of ideas, but would allow the prohibition of a specific act. There are a multitude of alternative ways to express ideas and to convey dissent without resorting to the physical desecration of the flag.

For each of us, the flag holds a special meaning. We take pride in our Nation's 200 years of freedom—a history that has never been equaled. The stars and stripes of the flag are symbolic of all we cherish—our history, our form of government, our country—and should be protected.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, there are some reasonble arguments for and against this amendment. We have even heard a few of them. I would like to respond to three arguments, not from the perspective of an Eagle Scout but as a constitutional lawyer who three times has appeared before the U.S. Supreme Court on constitutional issues, successfully, I might add.

First, this is not a choice between the Constitution on the one hand and the flag on the other. The Constitution allows amendments. Did we act unconstitutionally to limit the President to serving two terms? Of course not.

Second, this is not a violation of free speech. State laws have prohibited flag desecration for over 100 years. I never heard the argument that the first amendment was dead during that time.

Moreover, speech is already limited in many ways, as has been repeatedly pointed out. Would my colleagues object to a constitutional amendment codifying the Supreme Court's decisions finding some speech so offensive as obscenity or pornography that it is not protected by the first amendment?

The question is, therefore, where we draw the line, not whether it may be drawn.

That brings me to the third point: This amendment does not put us on a slippery slope. Our colleague, Mr. OBEY, said, "If I thought it would stop here, I might support this amendment. But we are too much like Daffy Duck." It is a legitimate question that Mr. OBEY raises, but I think he is wrong.

I have more confidence in the Congress, in our State legislatures and in the American people. We have shown great restraint over the last 200 years and we will continue to do so. The Founding Fathers had that confidence

in the people when they gave us the right to amend the Constitution.

This is a very limited proposal and properly so. It only allows the States and Congress to limit one very narrow type of conduct, not speech. You can still say anything you want to about the flag.

Because of the thousands of ways we can still express ourselves; because of the value of the flag as a symbol of our country, this narrow limitation is not an undue burden on our rights.

We should adopt the resolution and allow the States to decide whether to support it.

Mr. WASHINGTON. Mr. Speaker, I am standing in for the real chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS]. On his behalf and on behalf of the Committee on the Judiciary, I yield 1 minute to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, on October 13, 1949, my family arrived in the United States. They had survived the Nazis and fled Stalin. They sailed passed the Statue of Liberty and set foot on American soil.

Simple physical survival had been an incredible feat. In 1949 there were many countries that would accept refugees but America was the first choice. What was its attraction?

What was it that created such an attraction for people who had survived hells that even Dante had not imagined? The security of a strong army that had defeated tyranny in World War II, yes, but others had armies that had fought as bravely. Was it opportunity? Yes. But other capitalist nations offered opportunity. Was it the symbols of our Nation? What we debate today, the flag, the Statue of Liberty? Other nations have flags and statues and it was not the Constitution that set forth the operation of our democracy, the division of power. It was and is the Bill of Rights that which sets us apart from so many other nations. It is the guarantees of individual liberties. That today, as we are the model for freedom across the globe as Soviet colonial control and Communist governments fail in Eastern Europe that we would for the first time in almost 200 years abandon this standard of freedom for the world is an unexplainable act. Yesterday we learned that China's rulers, the butchers of Beijing are looking to us as a model. They are contemplating a flag law of their own. Tyrants, not freedom fighters, looking to the United States as a model. I regret that I do not possess the ability to better articulate this view. My father told of the day he heard that America had entered World War II, his heart rose; the war would soon be over. Little did he know that his entire family would yet be liquidated by the Nazis. Let us not liquidate the hope of free people and those who seek freedom.

Flags go through transformation in Czechoslovakia and Hungary under tyrants their flags meant death and imprisonment. Czechs and Hungarans burned their flags in their quest for freedom—today their flags represent hope and freedom. Jefferson told us that price of liberty was eternal vigilance was the price of liberty that this is time for vigilance.

Justice Oliver Wendell Holmes in 1919 wrote of the clear and present danger. The clear and present danger today is for the Bill to Rights in the 1960's. People were arrested for adding peace signs to the U.S. flag. What I ask my friends poses the greater danger to our Nation than a hand full of those that are unpopular or government tyranny.

My most difficult task was to explain to a group of my parents, friends why Nazis should have their rights protected when they wanted to march in Skokie, IL.

The threat of racist groups is a danger for society but the danger of government that chooses who speaks is greater. Freedom is seldom lost by taking rights for the powerful or the popular; freedom is lost by attacks on the powerless and the unpopular.

They came after the Communist and I was not a Communist so I did not speak out, then they came for the trade unionist and I did not speak out for I was not a trade unionist. Then they came for the Jews and I did not speak out because I was not a Jew. Then they came for the catholics. I was not a catholic so I did not speak out. Then they came for me and there was no one left to speak out.

At what point do we stop, what symbol not to protect, what action, what insult is desecration.

The loss of freedom is a cancer. At its start, it is imperceptable. But sadly, all to easy to observe when it has wrought its final toll.

Jefferson is not here to guide us. We are left to protect the freedoms he created.

THOUGHTS ON THE DESECRATION OF THE FLAG

(By Fred Kort of Storrs, CT)

The very essence of justifiable constitutional limitations of freedom of expression is found in the classical statement by Justice Holmes in *Schenck* v. *United States*, 249 U.S. 47 (1919), at 52: "The most stringent protection of free speech would not protect a man from falsely shouting fire in a theatre and causing a panic. * * * The question in every case is whether the words used are used in such circumstances and are of such nature as to create a clear and present danger * * *.

Quite understandably, difficulties have been encountered in applying the "clear and present danger" doctrine in particular cases, for the obvious reason that in each instance it has to be ascertained whether or not the danger is "clear" and "present"—a task that is surrounded by immense complexities. It is not surprising, therefore, that the Supreme Court has given ample attention to the exploration of the doctrine. A very notable instance is the case *Dennis* v. *United States*, 341 U.S. 494 (1951), in which Chief Justice Vinson, speaking for the majority of the Supreme Court, adopted the statement of Chief Judge Learned Hand in the opinion of the Court of Appeals in that case: "In each case [courts] must ask whether the gravity of the 'evil,' discounted by its improbability, justified such invasion of free speech as is necessary to avoid the danger." Some observers of the Supreme Court interpreted that statement as a change of the criterion of the doctrine from "clear and present" danger to a "grave and probable danger". Actually, however, the Court never has made an explicit pronouncement to that effect. Moreover, subsequent developments have indicated that—if the Court indeed showed a disposition toward a "grave and probable danger" test in the Dennis case—it ultimately returned to the "clear and present danger" concept as established by Justice Holmes. Evidence to that effect can be found in such cases as *Spence* v. *Washington*, 418 U.S. 405 (1974). In that case, a person was prosecuted for having violated a statute of the State of Washington by displaying a flag in which the stars had been replaced by the "peace symbol" that was popular in the late 1960's and early 1970's. The Court declared the Washington statute unconstitutional, and in effect suggested that—if people did not like the appearance of the altered flag—they could look elsewhere, a suggestion that seems to reflect the "clear and present danger" concept of Justice Holmes.

The Spence case is highly pertinent to the issue of flag desecration for another reason. The concept of "symbolic speech" had been established by the Supreme Court in earlier cases, but it received special emphasis by the Court in the Spence case. Specifically, the display of a flag—in whichever form it may appear—is a symbol of expressed thought and as such it is "symbolic speech." The concept is of central importance, because in the two crucial cases involving flag desecration, specifically flag-burning, the Supreme Court addressed itself to the issues in terms of this concept. In both cases, *Texas* v. *Johnson*, 57 LW 4770 (1989) and *Eichman, Haggerty*, v. *United States* (two cases consolidated into one by the Supreme Court),—U.S.—(June 11, 1990), the majority [1] of the Court considered flag-burning as "expressive conduct" that comes within the purview of the First Amendment (in the Texas case, as applied to the states by the Fourteenth Amendment).

The opinion of Justice Brennan for the majority of the Court in the Eichman, Haggerty case notes an important difference between the Texas Statute and the Federal Flag Protection Act of 1989. The former prohibited those acts of flag desecration that the actor knows will seriously offend onlookers, whereas the latter proscribes conduct that damages or mistreats a flag without regard to the actor's motive. Nevertheless, in both instances, the Court invalidated the respective legislative provisions as denials of constitutional rights under the First Amendment, as applicable in the

[1] In both cases, the opinion of the Court was delivered by Justice Brennan, in which Justices Marshall, Blackman, Scalia, and Kennedy joined. Also in both cases, Chief Justice Rehnquist and Justices White, Stevens, and O'Connor dissented.

Texas case under the Fourteenth Amendment.

A different perspective appears in the dissenting opinion of Justice Stevens in the Eichman, Haggerty case, which—to some extent—also was suggested by him already in the Johnson case. Justice Stevens takes the position that the prohibition of flag desecration is supported by a legitimate social interest that is unrelated to the suppression of the ideas the "speaker" desires to express. Thus Justice Stevens disassociates flag display in its various forms from "symbolic speech" and—it seems—removes it from the purview of the First Amendment. There are difficulties in the application of this concept that—it appears—Justice Stevens recognizes in his opinion by noting that the flag cannot be protected independently of a First Amendment issue in a similar way as a government building can be so protected, considering the perpetrator of the prohibited act may be using a flag that is his property.

In view of the fact that a majority of the Supreme Court in both crucial cases regarding flag desecration took a position in terms of a constitutional principle of "symbolic speech," invalidating both a state statute and the Federal Flag Protection Act of 1989, what constitutionally valid measures for flag protection remain available? Since the majority position on the Court is that flag display is "symbolic speech," flag protection has to be considered in terms of the limitations that are applicable to civil rights and liberties in general. As indicated before, the "clear and present danger" test proposed by Justice Holmes in 1919, in spite of the complexities and difficulties of application by which it is surrounded, represents the most tenable criterion for both concessions to the limitations of freedoms that constitutional government can offer. On that basis, new legislation for flag protection by Congress that may be sustained by the Court could be considered. One possibility in this respect may be the following addition to (a)(1) of the Flag Protection Act of 1989 (the added words are in Capital letters):

"Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States under circumstances in which the act creates a clear and present danger, shall be fined under this title or imprisoned * * *."

Provisions then could follow describing what would constitute a "clear and present danger." To be sure, this would be a difficult task. Moreover, the basic provision conceivably could be held constitutionally invalid by the Court on the ground of being vague. Nevertheless, careful drafting with the assistance of legal experts may provide legislation that could be declared constitutionally valid by the Court, since—in spite of disagreements among justices—there is the recognition that civil rights and liberties are subject to limitations.

The proposed provisions also could be adopted in the form of a constitutional amendment. One problem would be the specification of what constitutes circumstances that create a "clear and present danger," which may require periodic re-definition in terms of changing needs of the Nation. Achieving such re-definition of provisions in a constitutional amendment would require further constitutional amendments, an immense task, whereas amending existing Congressional acts is at least reasonably attainable.

Mr. WASHINGTON. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. McMILLEN]

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today in reluctant support of this constitutional amendment. I will support the amendment and the statute as well because it is my belief that the statute is preferable, but if that fails the test of the court, we have no alternative but to turn to a constitutional amendment. As has been said many times on this floor today, this is not a new infringement of rights.

Until the Texas statute was overturned, flag burning was against the law. That was the law. I think we should save a little contempt for the five Supreme Court Justices who put us in this place today. We have tried to craft a statute and will continue to try to pass a bill that will pass constitutional muster in the eyes of those five justices.

Many of those arguing against a constitutional amendment to protect the American flag rest their case on the assumption that this Congress never should make laws extending special protection to items or symbols of the U.S. Government. But the truth is that we make many laws to protect a variety of symbols. If you multilate a coin, such as running your lawnmower over a penny, you can be put in jail for 5 years. If you spatter blood on the steps of the Capitol, you get 6 months in jail. Even if you tamper with your own mailbox, the one that you pay for and that sits in front of your house, that is punishable by 3 years in prison and a quarter of a million dollars in fines.

My point, Mr. Speaker, is if the Congress of the United States can protect our mailboxes with a statute, mailboxes that we own, surely we should be able to protect our flag.

The flag represents a unique symbol for our Nation. I certainly do not relish the task of amending the Constitution. I voted for and believe that the Flag Protection Act passed by this body was sufficient. But failing that, the only alternative is to pass the amendment.

Finally, many argue that this flag protection amendment should not be adopted simply because we should never tamper with the Constitution. Since 16 amendments have been adopted to the Constitution, known as a living document, the debate should revolve around the issue at hand—burning the flag—not around the sanctity of the Constitution. If this amendment is not worthy of adoption, then let it be voted down on the merits of the issue. In the Founding Fathers' infinite wisdom, they created a difficult process to amend the Constitution. This will be a fair test for that process. I believe we have no choice but to pass a constitutional amendment. The alternative is to allow individuals to mutilate the flag at will for whatever cause without penalty, a possibility that I know many Americans, including myself, oppose.

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I voted for and believe that the Flag Protection Act passed by this body was sufficient, but failing that, the only alternative is to pass an amendment.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to the able and respected gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Speaker, listen to these extraordinary words: "Congress shall make no law abridging the freedom of speech." These 10 words, now inspire the people of Eastern Europe, China, and South Africa, as they once did Americans. They inspire me still, more than any words I know. In a few more hours we may change them.

Thousands of Americans have made the ultimate sacrifice for these 10 words. They died. Today we aren't asked to die only to vote for the Bill of Rights.

Mr. Speaker, each weekend I return home to Pennsylvania where the words we consider today were written. These words create a standard against which human freedom everywhere in the world is measured. In a few hours we may lower that standard. We should not lower it, we should honor it.

The standard or the test of a democracy is not whether we let the Boy Scouts speak, but whether we let the Nazi's march or the Klan parade or even the flag burners desecrate.

It is vile, even repugnant expression, that needs, yes deserves, protection.

The amendment proponents say we should support it because the American people do or because the polls say they do.

I say to them what the late Justice Jackson said:

> The very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

More recently Senator GORDON HUMPHREY, of New Hampshire, said:

> The Bill of Rights is a list of things that the government may not do and one of these is to limit speech. I don't want it diluted for any purpose.

Yet Congress may shortly: Curtail freedom, qualify freedom, limit freedom. This amendment defiles the Constitution.

Mr. Speaker, if we adopt it the American people will hold us in con-

tempt, and history will judge us harshly.

I will uphold my constitutional oath. I will vote against the amendment. Long live the Bill of Rights.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in strong support of the amendment.

Mr. Speaker, since the Supreme Court's decision last year which stated that burning the flag was not against the law, debate about this issue has been intense. Opinions are divided about amending the Constitution and arguments have been made on both sides. I support a constitutional amendment to protect the flag because I believe it is appropriate to ensure the integrity of the flag and all it represents are preserved.

Today, we find ourselves faced with a vote on this significant piece of legislation. We should allow the process to work. If the majority of Americans want the Constitution amended, so be it. Let's pass this request for an amendment and give the American people an opportunity to let their voices be heard.

Amending the Constitution is not an action that should be taken lightly. Yet an amendment, unlike other pieces of legislation, requires ratification by three-fourths of all State legislatures. Not only must this amendment pass by two-thirds of the Members of the House of Representatives and by two-thirds of the Members of the Senate, it must be ratified by three-fourths of the States. This is a difficult process. The people themselves will have the opportunity to say yes or no to a constitutional amendment when the bill comes before the States. What better way to ensure that the views of the American people are expressed than by involving them in the process? Guarantee them this right by voting yes for a constitutional amendment to protect the flag.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ROBINSON].

Mr. ROBINSON. Mr. Speaker, I rise in strong support of the amendment.

There are many in this town who will tell you that this debate is about nothing but politics. I think those who say it is simply politics should talk to the parents of young men who have been killed defending this country, its ideals and its flag. Talk to them and then come tell me it is only politics.

By the hundreds, the people of Arkansas are telling me that our Supreme Court has gone too far. Most of my constituents are far removed from the arguments over constitutional law that have engulfed this city. But common sense tells them that there is no such thing as absolute freedom of speech. This country has libel laws. This country has obscenity laws.

When we protect the flag, we are not preventing ideas from being expressed. We are not preventing people from making speeches. We are not stopping them from writing letters. We are not forbidding them to carry signs.

I will fight as hard as anyone in Congress to prevent the censorship of ideas. But as Justice Stevens noted in his opinion, freedom of speech does not allow someone to place a bomb in the Capitol in order to make a point.

The importance of our national symbol cannot be overestimated. I served in the Navy for 4 years and I know what the flag means to this country's veterans. You say it's only politics? Come with me to a veterans hospital and tell the men and women there that.

Yes, politics affects everything we do here. This is, after all, a political body. But it is cynical to think that those of us who support this amendment have only the November elections on our minds. I, for example, will not be involved in a fall campaign. But I am fighting for passage of the amendment because I love the flag and all it stands for. It is that simple.

Those opposing passage of the amendment might be supported by a few constitutional scholars and self-appointed intellectuals. Yet we are on the side of the people. A Gallup poll conducted in April showed that a large majority of Americans support a constitutional amendment protecting the flag. Gallup found that 71 percent favor a narrowly drawn constitutional amendment, 73 percent do not believe such an amendment would jeopardize their freedom and 57 percent say they will vote against those who do not support an amendment to protect the flag.

Our flag is not just one of many symbols cherished by Americans. It is the one symbol that represents everything our country stands for. Thousands of Americans have not died to guarantee the right of some idiot to burn the flag. It is no different than saying that person has the right to burn a church or synagogue.

Let's forget all of the legalistic arguments and get back to common sense. Let's send this to the States and let the people decide. I think you will find that State legislators agree that because of recent Supreme Court rulings, a constitutional amendment is our only option. They will agree that this amendment does not weaken the Bill of Rights.

You can't compare the flag to a hood ornament, a decal, or some other symbol. I invite you to attend a military funeral and see what is draped across that coffin. We don't allow people to burn draft cards. We don't let them burn money. What kind of weird logic makes the flag less important than draft cards and money?

It's time to free this issue from the crazed mindset inside the beltway and let the State legislatures, which are closer to the people, make the final decision. Only then will common sense prevail.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, I rise in strong support of a constitutional amendment to clarify the constitutional right of Congress and the States to establish laws to protect the flag of the United States of America.

And I urge my colleagues to join me in taking advantage of this opportunity to do what is necessary to protect our flag from mindless desecration and senseless destruction.

This amendment should not be necessary. In this Nation today, it is illegal to deface the currency. It is illegal to destroy mail boxes. It is illegal to shout obscenities in public. It is even illegal to pull the tag off of a mattress. And yet we are told that burning the flag is a constitutionally protected right. That's crazy.

Slander is illegal speech. Lying before a grand jury is illegal speech. Praying in a public school is even illegal. And yet we are told that we cannot make it illegal to publicly desecrate our flag. That's absolutely crazy.

It is not a matter of politics. It is a matter of national honor. We need a constitutional amendment to protect our flag. It does no damage to the freedom of speech. It simply protects the dignity, the majesty, and the honor of our national symbol.

Too much blood, toil, sweat, and love; and too many tears and cheers and prayers have been woven into the fabric of our national banner over the past 200 years to allow delinquents and rabble rousers and petty malcontents to subject our national banner to foul desecration.

We have tried everything else. We tried a statute and it failed to meet the Supreme Court's approval. A constitutional amendment protecting our flag is the only answer.

Mr. WASHINGTON. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, no one is prouder of his country than I am, and I have had the awesome responsibility of representing my country in several other areas of the world through Eastern Europe and Iran where there has been no free speech. In Bulgaria, where I recently returned as monitor to the elections there, it has been illegal for 45 years to tear up the Communist flag in public. If a person tears up the Communist flag, they go to jail in those societies, because in those societies, the ruling party and the dictator have been so insecure of the values they have enforced by force, that they permit no dissent or disrespect of government symbols.

However, this country is different, thank God. For 200 years, one of the basic foundations of our Republic has been free speech. Even when that speech is ignorant, childish, and even offensive as it is with flag burners. We have been through 200 years of civil rights turmoil, Veitnam war protests, debates, division, and even a wrenching Civil War. Never once in all of that time did we feel it was necessary to water down the Bill of Rights, and particularly the first amendment. We must jeopardize that precious right which distinguishes this country from all these other countries. Do not water down the first amendment. Protect the Constitution. Protect the bill of rights.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I rise in support of the constitutional amendment to protect the flag because I vehemently disagree with the Supreme Court that burning a flag is a political statement. It is a violent, contemptuous act by someone who does not give a damn about freedom of speech, setting out to defend every principle and dignity they demand for themselves, and never learned the discipline of a civilized society where we solve problems without violent acts and give up no rights of free speech when we move to protect the flag, nor do we endanger the Bill of Rights, but we preserve the moral integrity of our country.

Mr. Speaker, I send out thousands of these books to my district, to the schoolchildren. Across the country and across this great land of ours, every day in some way or another, in some school, in some meeting, people get up and say what we do every day in this Chamber, the Pledge of Allegiance. And it says, and I want to remind by colleagues, "I pledge allegiance to the flag of the United States and to the Republic for which it stands."

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, the question today is not who loves the flag the most. We all do. The issue of moment is whether we will for the first time in over 10 generations enervate the first amendment to the Constitution.

When I was sworn into office, I took an oath to uphold the Constitution of the United States. That document and the principles it embodies have made our country the greatest in the history of the world. For more than 200 years, it has endured—through times of tranquility and tremendous crises. Through two great world wars, and a civil war bloodier and more costly to our country than both world wars combined, the Constitution has preserved our freedom. Through the Korean war and then through the long years of wrenching involvement in Vietnam, the Constitution has stood between us and an overly oppressive Government.

The U.S. Constitution has made ours a better country than any in the world because it has guaranteed that certain basic individual rights are more important than the powers of Government. The Constitution says that certain inalienable rights, such as liberty, can not be invaded by Government—Federal or State—no matter how well-meaning the government might be, nor how serious the crisis it faces.

Now, incredibly at a time when world peace is growing nearer, the basic freedoms guaranteed by the Constitution are being threatened. Ironically, while people all over the world are rising up against oppressive governments, some in this country are calling for Government to regulate how people express themselves. Individuals in Eastern Europe are gaining the right to say what is on their minds for the first time in almost 50 years, but individuals in this country are being threatened with punishment for protesting what they don't like.

At times in our history, when we feared the Constitution was not strong enough to protect the rights of every citizen regardless of their situation in life, we amended it to provide greater protection of individual rights. For example, the 13th amendment prohibited slavery and the 19th amendment allowed women to vote.

But never, never in our history, not in our greatest fears or darkest despair, never have we jeopardized our Bill of Rights.

Those who would pass this proposed amendment would remove the flags from the hands of protesters, that is true. But instead of burning a flag, these protesters will be burning our Constitution.

In the end, the choice is evident. Thomas Jefferson's perspective of enlightened future generations must prevail over the President's temporary concern over the next campaign. Jefferson's trust in the ability of the American people to exercise their freedoms to maintain the best hopes of mankind must endure over a President's cynical attempt to manipulate the electorate.

The first amendment protection of free speech is the cornerstone of all American freedoms. We must protect it at all costs. If my insistence on preserving the first amendment should cost me my job, it would be a small price to pay.

I have two sons, John and Tim. Sharing the gentleman from Georgia, Mr. LEWIS' sentiment, I would not be my father's son if I cause them fewer freedoms than my father has given me.

In closing, I would like to recount a story about Benjamin Franklin at the signing of the Constitutional Convention in September 1787. Benjamin Franklin noticed a sun that was painted on the back of the President's chair. He remarked that painters often found it difficult to distinguish between a rising and a setting sun. Uplifted by the historic occasion, Franklin concluded:

> I have often * * * in the course of the session * * * looked at that [sun] behind the President without being able to tell whether it was rising or setting; But now at length I have the happiness to know that it is a rising and not a setting sun.

Today marks the summer solstice and the longest day of the year. Let us refrain from casting a dark shadow over the bright landscape of freedom as envisioned by Benjamin Franklin at the signing of the Constitution. I urge your vote in support of the Bill of Rights and the Constitution.

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Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MCGRATH].

Mr. MCGRATH. Mr. Speaker, I rise in support of the constitutional amendment.

Mr. Speaker, we have survived the political turmoil of the Vietnam era and many other challenging times when many loyal Americans questioned the direction of national policies. During these periods, many forms of political expression that would offend the vast majority of Americans have been upheld by the Supreme Court.

I submit that we might not be at this point today but for the relentless assault on American values we have witnessed in recent years. This debate is in part over the collective frustration of millions of Americans over the absence of values in our society.

Just yesterday, our colleagues in the other body held a hearing at which the testimony of female victims of violent crime was used to underscore the fact that violent crimes against women have increased dramatically over the last several years. The witnesses also discussed the indifference of the justice system to their fears and to the psychological physical, and financial damage they suffered.

Does anyone here really believe that this viciousness and lack of concern for fellow human beings does not stem in part from our failure to uphold fundamental values? Do huge numbers of Americans who live in fear of their personal safety feel protected by the Bill of Rights? Primarily through indifference, we have permitted the underpinnings of our democracy to become abstractions. In response to those who have stated that the flag itself is only a symbol of the values on which our system rests, I would agree. The system, however, is deteriorating, and that damage shows in everything from low voter turnout to street crime.

This vote is in principle and effect exactly the same as the vote last year on legislation to protect the flag. Those who were willing to protect the flag through a federal statute ought to support a constitutional amendment to achieve the same goal, once that statute was reviewed and overturned in the process set forth by the Constitution.

Our founders were quite sensitive to the possibility that the political whim of the day might result in legislation or policy which impinged on individual rights. They established a fairly arduous political process to amend the Constitution. That process has become even more difficult with the growth of our Nation. Fifty State legislatures will have the opportunity to debate this amendment further. Perhaps to the chagrin of many pundits, we will find that elected representatives much closer to the American people than Washington truly

believe that the flag warrants constitutional protection.

Whether this amendment is ultimately approved may not be as important as the debate it engenders. Youngsters who have not known wartime or struggle will be reminded that hundreds of thousands of their parents or grandparents lost or risked their lives—not for a piece of cloth—but for the system of values and traditions embodied in our flag. Students who have never heard of the Federalist Papers may be forced to visit a library to learn something about the roots of our democracy. Public officials who have long avoided politically difficult ethical issues will be reminded that a system which rests on the trust of the people requires courage and perseverance from those who govern. I look forward to the debate over this amendment, and I hope it will reinvigorate American values at a time when we need them most.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, I rise in support of the amendment.

Mr. Speaker, for over 200 years, the American people have considered a total unacceptable act to burn the flag of our country.

For 200 years, we have considered it a virtual act of treason to burn or desecrate the flag.

But now, we live in a liberal, permissive society that appears willing to allow flag burning.

Virtually every Member of this Congress has voted to protect the flag. The vast majority of the American people want to protect the flag.

If the Supreme Court won't do it, the Congress and the States should. It will do no harm to the Bill of Rights. Vote for the amendment.

There are some actions that are unacceptable in our society. Maliciously throwing blood on this building that symbolizes the bastion of democracy is an unacceptable act.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of an amendment to the Constitution to prohibit the burning of the American flag.

The decision today before this House is about the stars and stripes, about the burned and battered, about the American flag, the national torch or an emblem of freedom or a flame of infamy? That is the decision we make today in an historic way.

The amendment is a statement about what is right in America, and anything less than that says, "Don't worry, be happy. It's all right."

This is a statute. Its day has come and gone. Everyone knew that it would not fly. It is a charade, it is a camouflage. So it has disappeared, it has vamoosed.

There are two points that I would share with my colleagues. This is about action and conduct, not speech and expression. We are outlawing and prohibiting the burning of the American flag.

The defendent in the Texas case said words to the effect: "To America, to the Red, White and Blue, we spit on you." We are not prohibiting that. But we are going to act.

Second, is the Bill of Rights being trampled on? No. Before last year there were laws on the books in 48 States, including Michigan, that prohibited the burning of the American flag. Did that kill our right of expression? Did it freeze our speech? No. So we are not impacting on the Bill of Rights.

What has happened is that a year ago 5 people in a nation of 200 million made a decision, and they were wrong. Was the Court right when they denied basic rights to African-Americans in this country? No. Was the Court right when they treated African-Americans like property instead of people. No.

When they were wrong, we made a change. Was the Court right when they denied child labor laws to people and a humane working environment? No. We made a change.

The point here is that when the Court is wrong, as it is here, we must change it. If we want to stop the burning of the flag, we need an amendment.

Mr. Speaker, I encourage my colleagues to vote for this narrowly drawn, tightly crafted amendment that restores our decency and what is right about America.

Mr. Speaker, I rise today in support of a constitutional amendment to protect the U.S. flag from acts of desecration.

I do not do so lightly, or without being absolutely sure that this amendment is apporpriate and necessary.

The Stars and Stripes, or the burned and battered? The American flag, or the national torch? An emblem of freedom, or a flame of infamy?

That's the fundamental question for America. That's the fundamental question for this House as we take part in this historic decision. The proposed amendment is a statement of pride in America, a staple of respect for our country, our people, our values. Anything less will send the message: Don't worry, be happy, everything is OK.

The cover of the sham, the charade, the camouflage of a Federal statute, which everyone knew wouldn't fly, is gone. We are left, as some of us argued last year, with voting to ensure protection of our flag with a constitutional amendment, or to insist that our flag can be destroyed without punishment.

Two points must be considered:

First, this issue is about action and conduct, not speech and expression. It was the action of Joey Johnson, who challenged the Texas law prohibiting flag burning, that we will ban. It's not his words or his speech that we want to outlaw. Joey Johnson burned the American flag, and that's wrong. He also said: "America, the red, white, and blue, we spit on you." I find that wrong, repugnant, offensive. But we are not outlawing his use of those words in the form of political protest, as vile as we find them to be. We are simply making sure that he can never again destroy the American flag without facing appropriate punishment.

Second, we must consider the Bill of Rights. Some say we are trampling on it with this amendment. That's not true. Remember that only a year ago there were laws in 48 States, including my home State of Michigan, that made it a crime to burn a flag. Did those laws curtail our speech? Did they outlaw Joey Johnson's speech? No. Did they destroy our ability to express political dissent? No.

Have people's values changed since last year, values that hold it is wrong to destroy the flag and right to punish those who do? No.

What's changed since last year is that our ability to prohibit flag burning has been taken away by a decision wrongly made by the Supreme Court. These Justices are people, and people make mistakes. The Court has been wrong before.

Was the Court correct when it denied the rights and guarantees secured by our Constitution that African-Americans should be treated as people, not property? No, of course not. But that's how our Justices ruled in the Dred Scott case. Was the Court correct when it ruled against child labor protections meant to guarantee a humane and just working environment that did not abuse our youth? No. The Court was wrong then, just like the Court is wrong today.

The question before us is whether we should live with the Court's erroneous decision? Should we view the destruction of our flag as a right, a privilege, an action that simply cannot be stopped? Should we consider the destruction of our flag, as some have argued, to be unimportant, a trifle matter that means little to our society?

No, today Congress draws a line. Today, we'll make history. Today, we'll finally find it within ourselves to say enough is enough. We can protect our flag without destroying the values that is symbolizes; we can protect our flag and enhance those values.

What is right and what is wrong? For too long we as a nation have allowed the lines that distinguish right from wrong to become blurred. We have allowed those who claim to protect our liberty to grossly distort our society's values. We have reached a point where people worship liberty and totally disregard responsibility. We live in a time when there is too little respect for people, our laws, and, yes, for our flag.

In the decision today, if you want to prohibit flag burning in America, to protect the flag and douse the torch, to salute the Stars and Stripes, not those who burn and batter, to honor an emblem of freedom, no a flame of infamy, you vote for what is right. You vote for responsible behavior. You vote for respect. You vote for the amendment.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, almost 2,000 years ago a man was born that many considered God, and almost 200 years ago a Bill of Rights was born and freedom of speech was enshrined

as the cornerstone of our Republic. Almost 2,000 years ago the man many consider God was betrayed for 30 pieces of silver.

Today, Mr. Speaker, let us, as the guardians of our Constitution and of our Bill of Rights not betray the heart and soul of all our freedoms for a 30-second TV spot.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, we are here today to decide which to see injured, an occasional American flag or the Bill of Rights. The flag is the symbol of that for which America stands. The Bill of Rights is the substance of that for which America stands.

Each year, vast numbers of American flags are manufactured. If a few of those are destroyed by zealots for various causes, what is the loss?

But we have only one Bill of Rights. If today, for the first time in our Nation's 200-year history, we start on the course of weakening the Bill of Rights, where does that loss end?

The choice is clear. If you truly believe that saving a few flags—mere replaceable symbols—is more important than preserving the Bill of Rights, then vote "yes." But if you believe that we can afford to lose a few flags every year in order to preserve our one and only Bill of Rights, then please join me in voting "no."

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to our colleague, the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Speaker, it is difficult to know what to say on this issue because so much has already been said. We are quite polarized; we have a series of monologues, and we are talking to one another's favorable camps. And also we remember the old adage that "You can't argue someone out of something they haven't already been argued into."

So rather than take our time for that purpose, what I would like to do is read a couple of notes from people back in my district.

Note No. 1: "The flag symbolizes the rights that protects the individual from governmental tyranny. It should not be used as an excuse for imposing that tyranny."

Note No. 2: "Are we, the people, going to permit a group of radical advocates to influence our Government officials to amend the Constitution? How disgusting! I, as a veteran of World War II surely feel very deeply about this."

This is a very important issue obviously because it involves the flag, it involves the Bill of Rights, and it involves the whole amendment process. But I have a sneaking suspicion that it is the wrong issue.

Do we have a right to burn the flag? Absolutely not. Should we have the right to change the Bill of Rights? I say, no. Can we protect the flag in another way? I say, yes.

So let us be at it and go about our business.

There was a group of 4-H students here just yesterday, and one of them was talking about the flag issue. Someone asked, "What are you going to do?"

He said, "I don't know anybody who is going to burn the flag, and I am not going to burn the flag. The thing we are going to get burned on is the deficit. So why don't we get about that?

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BROWN].

Mr. WASHINGTON. Mr. Speaker, I also yield 1 minute to the gentleman from California [Mr. BROWN].

The SPEAKER pro tempore. The gentleman from California [Mr. BROWN] is recognized for 2 minutes.

Mr. BROWN of California. Mr. Speaker, I thank both of my colleagues for their consideration.

Mr. Speaker, I rise in oppostion to House Joint Resolution 350, the constitutional amendment to prohibit the physical desecration of the American flag. I take this time not because I expect to change the mind of a single one of my colleagues, nor contribute some profound insight or new knowledge to the debate. But I have very deep feelings on this matter, and I want my colleagues and my constituents to understand those feelings and to judge me by them, for they go the heart of why I love my country and wish to serve it to the very best of my ability.

Mr. Speaker, the first amendment speaks first of freedom of religion, then of speech, the press, and assembly. Religion is placed first, because many, if not most of the early American colonists who came to this country, came to escape the restrictions placed upon religious freedom by kings of England who felt that they ruled by divine right.

No human rules over others by divine right. No flag symbolizing a ruler or a state is sacred. To even speak in such terms denies the primacy of God in the world, demeans the spiritual basis of freedom and democracy and smacks of idolatry. The very term "desecrate" means "to violate the sanctity of * * *" and sanctity is "the quality or state of being holy or sacred."

No earthly flag is sacred or holy. All earthly rules and governments are flawed and imperfect, and must be brought closer to perfection by those willing to protest and to criticize, sometimes in shocking terms. Protection of that right is at the heart of the first amendment.

No single act of political protest is more frequent and disrespectful to the vast majority of American people than that of burning the American flag. I know that every member of this institution is personally and deeply offended by the thought of Old Glory burned in protest. However, we should be even more offended by proposals to fundamentally alter the very principles for which the American flag stands. Mr. Speaker, let us try not move down that road.

The strength of this Nation has always rested upon the principles of freedom of speech, press, religion, and assembly as embodied in the Bill of Rights. It was for these freedoms that our Founding Fathers created the greatest experiment in popular democracy in human history. The flag is the physical symbol of those freedoms and although it is not sacred, it pains us deeply to see that symbol destroyed by malcontents seeking by their shocking behavior to bring public attention to their unpopular political positions. In amending the Bill of Rights for the first time in the Nation's history, however, we would be doing more damage to the integrity of our society than could ever be inflicted by a small handful of disgruntled protestors seeking to call attention to their views.

The right to freedom of speech as established by the first amendment is not an absolute right. It can be restricted by the law and the courts when necessary to protect public's safety, or the rights of other individuals. But it stands at the apex of those principles and values embodied in the Bill of Rights, principles and values which were aimed at protecting individual freedom from encroachment by powerful and autocratic organs of government. The first amendment provides protection for those who express views that we believe, as well as those we abhor.

In writing the Bill of Rights, Thomas Jefferson and James Madison captured the principle in the well-known words of the 18th century French author, Voltaire: "I disapprove of what you say, but I will defend to the death your right to say it." Those who wish now to amend the Constitution are saying: "I disapprove of what you say, and I intend to make it illegal to say it." This is what tyrannies do, not democracies.

There may be some who will argue that the Surpreme Court erred in considering flag burning to fall within the protection of the first amendment by virtue of being a form of symbolic speech. I ask those persons to look within their minds and hearts and analyze the message they received as they watched the Chinese students in Tiananmen Square burn the Chinese flag and erect a miniature Statue of Liberty. Was the message that fun-

loving Chinese students needed to keep warm and therefore burned anything available, and that they admired American statuary? No, the message was clear to all that they supported freedom and democracy and opposed the autocratic regime of the Chinese Communist leaders, and were willing to suffer to convey that message. And we applaud their heroism.

The Chinese Government understood the message full well and responded to their young people's demands for greater political freedom with tanks and guns. Right now, that country is considering a law prohibiting flag burning. Throughout history, dictatorships have sought to expand their power by prohibiting disrespect of their symbols. That was the case in 17th and 18th century England, and of course led many citizens to leave their country and settle in America in order to avoid prohibitions. In our country, it is not the symbols that are paramount to us. It is what those symbols represent that unites us.

Love of country and respect for the values of human freedom cannot be coerced. A country which seeks to do so will not only fail, but its actions will destroy that which it seeks to protect.

Some argue that the Bill of Rights can stand a little tinkering. Who are these people kidding? Don't they realize the risks that such a step would pose? In altering the first amendment, we would be heading down a slippery slope of further erosions of the freedoms that we hold so dear.

If flag burning were prohibited, then the next logical step would be banning desecration of the Constitution, Bill of Rights, Statue of Liberty, and Declaration of Independence. And what about effigies of the President? The destruction of any of these—or any items resembling these important national symbols—is abhorrent and can be seen as a statement of profound disrespect for this Nation. But is that the path that we want to head down, giving the courts the role of interpreting whether a flag printed on a matchbook, a replica of the Statute of Liberty, or a copy of the Bill of Rights were destroyed with the intent of making a statement against our Government?

Deep down, I believe that every Member of Congress recognizes the dangerous precedent we would be setting in tampering with the first amendment. We recognize these risks, but we are being pushed toward this decision by crass political opportunists who have already designed the 30-second television spots they intend to use this fall to advance their own political ends. Thomas Jefferson and James Madison would turn in their graves if they saw the work of their genius manipulated in this fashion.

The American flag is among the most powerful symbols in the entirety of human history. It has stood the test of time not because it was protected against destruction, but because the ideas which it embodies cannot be destroyed—no matter what anyone does to the flag itself.

Mr. Speaker, the easy vote today would be a vote in favor of amending our Constitution. That is what our political pollsters tell us would garner the most votes from the American public. We were not elected to this institution, however, to take the easy road. Our task is a more serious and burdensome one. Each one of us has taken the oath of office to "support and defend the Constitution of the United States against all enemies, foreign and domestic." That document—and all that it stands for—is not threatened by a small handful of political protesters. It is threatened, however, by an effort to amend its most central tenet, the Bill of Rights.

As Justice Anthony Kennedy has argued:

> The hard fact is that sometimes we must make decisions we do not like. We make them because they are right. * * * It is poignant but fundamental that the flag protects those who hold it in contempt.

Nobody likes casting a vote that will be manipulated by high paid political consultants as being a "vote against the flag." It is preposterous, however, that we would modify the Constitution for fear of self-serving political attacks. In my view, there could hardly be a more patriotic act than to vote to protect the sanctity of the Bill of Rights. It is not the easy vote, but it is the right one.

□ 1520

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to our respected colleague, the gentleman from New York [Mr. McHUGH].

Mr. McHUGH. Mr. Speaker, in the years leading up to the Civil War there were Americans who proclaimed the right of States to secede from the Union. In the 1930's and early forties, there were Nazi sympathizers who marched through American streets in support of Adolf Hitler. During those years and later, there were vocal advocates of communism, an ideology in stark conflict with our own. In 200 years of turbulent history we have had our Know-Nothings and nativists, our royalists and racists—many of them miserable, offensive, and unpopular people. And yet, not once did we amend the Bill of Rights to prevent them from expressing their views.

Now, onto the stage of history march the flag burners, a few misguided people who have so little regard for the sensibilities of their fellow citizens that they burn the symbol of our nationhood. Do they offend us? You bet they do. Do they threaten us? Do they represent something more pernicious than the secessionists or racists, than the Nazis or Communists? Of course not.

In fact, they represent no threat at all, unless in a spasm of political fear or misdirected patriotism we respond to their pathetic behavior by undermining the very principles upon which this great Nation was founded. Only then, ironically, would the flag burners damage the Republic.

The proposal before us today is a response to those flag burners. It would for the first time in our history amend the Bill of Rights, the ultimate guarantor of our liberties in this country. For 200 years we have resisted the temptation to tamper with its basic provisions, often under much greater provocation. How ironic and sad it would be if we allowed a few minor characters to turn us away from these fundamental principles.

Fortunately, we have the opportunity this afternoon to put that threat to rest. In defeating the proposal before us, we can reaffirm the fervent belief of our Founding Fathers that a true democracy is strong enough to tolerate diversity of opinion, even offensive opinion. That is the significance of the first amendment. The first amendment is not necessary to protect popular expression; it is absolutely vital in protecting unpopular expression.

In casting our votes today, let us proclaim our love for the flag, the symbol of our Nation and its values, but let us protect the very essence of those values and principles. Let us uphold the Bill of Rights and defeat this dangerous amendment.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MATSUI].

Mr. WASHINGTON. Mr. Speaker, I yield 1 additional minutes to the gentleman from California.

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from California [Mr. MATSUI] is recognized for 2 minutes.

Mr. MATSUI. Mr. Speaker, this debate has been going on for over a year, since the Supreme Court originally rendered the decision. There are many Members on each side of the aisle that would like to support the constitutional amendment, and I have to say that, if they truly believe in the constitutional amendment, they should be commended.

However, Mr. Speaker, there are many Members on both sides of the aisle who are doing what they are doing because of political reasons, because of the fear of the 30-second commercial.

Mr. Speaker, there are not too many opportunities we in the Congress have to make fundamental decisions for the country and for future generations. I hope that those Members who are worried about the 30-second commercial will worry instead about their role

in this body, and in the heritage of this country and what it all means.

One of my colleagues, a very dear colleague friend of mine from Illinois, was recently quoted in the newspaper as saying that this is a debate of values. He talked about the counterculture. He talked about drugs, and he talked about the Vietnam protesters. I think it is a debate about ideas, but it is about the patriots of 1776. It is about Thomas Jefferson and what he stood for. It is Martin Luther King, Jr., and his struggle in the 1950's.

Mr. Speaker, many of my colleagues know because of the debate we had last year on the internment of Americans with Japanese ancestry that I was interned as an American citizen, born and raised in the United States in Sacramento, CA. I was interned as a 6-month-old child along with my mother and father who also were American citizens in 1942, because we were at war with Japan.

I have to say I really understand what the Bill of Rights really means to me and my family and the 120,000 other Americans of Japanese ancestry who were interned, and it would be a tragedy if this body, if this body should ever, attempt to tamper with that document that is for all of us for eternity.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, many years ago, while I was living in Haiti, many people in Port-au-Prince criticized the Duvalier dictatorship for destroying and then failing to rebuild the city's main streets. They were quickly rounded up and jailed. Accustomed to repression for speaking their mind, other Haitians set about wearing Main Street hats, straw hats which were unfinished, which stood for their action, not words. They, too, were rounded up and jailed.

Mr. Speaker, our flag is a symbol, not a fetish. The symbol cannot be greater or more important than the values it symbolizes. The vote on this proposed amendment is not a loyalty test. It is a debate, not about the flag, but about one of the cornerstone rights of our Republic, freedom of speech.

Mr. Speaker, this freedom, more than any other in our Bill of Rights, distinguishes us, our form of government, from totalitarian governments, from dictatorships, and to restrict that right is to erode all the others.

To pass this amendment would be the first time in 200 years that an amendment to the Constitution would be passed to restrict, rather than to enlarge and expand upon, individual liberty. Let us be vigilant in the defense of freedom and not become a little less of a great democracy and a little more like Duvalier's Haiti.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, what a rare and proud day in American history this is. Congress voting to protect and foster unfettered political speech—the lifeblood of our democracy.

Upholding the Constitution. This is what we in Congress are elected to do and sworn to uphold. Abdication of that responsibility would be shameful.

I know many in this House feel as I do. Flag burning is offensive to us, but abridging the first amendment to silence a few fringe hecklers is even more so.

The American people have signaled their views. After all the visits to flag factories and the political hot air about how the flag is in danger, the American people have finally had enough. They, like a growing contingent in Congress, have had enough of politicians making political hay out of the American flag.

Let's protect free and open political speech in the oldest constitutional democracy in the world. Let's defeat this flag amendment. And let's get on with the important business of governing the United States and serving the American people.

Mr. Speaker, today, the American flag flies safely and proudly above the Capitol, as it does at millions of locations across this Nation. It is not in danger. Nor is it degraded in any sense.

But don't tell that to some Members of Congress.

In a gaudy display of pseudopatriotism, some in Congress want to run roughshod over one of the most sacred tenets of our democracy—the first amendment. Yes, they want to amend the Bill of Rights to ban flag burning. They insist that the flag is in danger. That it is unprotected. But the proposed amendment is not about protecting the flag. It is about criminalizing certain kinds of political discourse.

Such limits on speech are shameful. With the thawing of cold war relations, many Members of Congress would like to hold the United States as an exemplar of democracy to the world. Such an amendment places the United States in the uncomfortable position of espousing political freedom throughout the world and drastically curtailing those same freedoms at home.

No one doubts that the flag is a symbol of all that is great about the United States. But the flag is just that—a symbol. It therefore is not what made this country great. The Constitution did, and continues to, make this Nation exceptional among the family of nations. That historic and courageous document dared to tolerate, even encourage, unhampered political dialog—the lifeblood of any true democracy.

As Members of Congress, sworn to uphold the Constitution, it is incumbent upon us to foster and protect that open discourse. Any effort by Congress to curb that dialog is unconscionable, irresponsible, and outright hypocritical.

I, as most Americans do, revere the flag. We unapologetically recognize that it is our Nation's symbol. We do not need an amendment to protect the flag for that to be true. We did not need a Federal statute.

Any time we salute it, see it, or pledge allegiance to it, we appreciate the sacrifices of those brave people who have defended it. We reaffirm the democratic principles for which it waves. We understand that the flag embodies the hopes and aspirations of not only Americans, but of people throughout the world.

If this amendment is passed, it would not only weaken free speech, but cheapen the flag and diminish our Nation's preeminence and commitment to political openness.

But this reasoning has been lost in the din of the stampede for an amendment.

Eager to make political capital out of an issue, some Members of Congress have stooped to questioning one's patriotism solely on the basis of an amendment to ban flag burning.

As Ed Rollins of the National Republican Congressional Campaign said, "I think it is an excellent issue upon which you define your opponent, his character and values."

I frankly find such tactics offensive, and I think the majority of Americans do too.

As one privileged to have been granted American citizenship, to have served in the U.S. Armed Forces, and to have been elected to Congress, I take second place to no one in my respect for the flag, the Constitution, and the Bill of Rights.

What makes America different from most other governments, what makes America a great democracy, is that we do not silence the political expression of those simply because we disagree with them.

The Supreme Court Justices understood this when they recently decided—for the second time—that any attempt to ban flag burning was unconstitutional. They bolstered their decision with rock-solid judicial precedents. The Justices clearly showed that flag burning—though abhorrent—is a protected form of speech. All of us should support the Court's decision.

It is not too late. The American flag is still flying mightily—a testament to our democratic ideals. An amendment to the Bill of Rights would needlessly dilute that commitment. I urge my colleagues not to pass this amendment, and to protect the integrity of the Constitution and free speech in the United States of America.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHEUER].

Mr. WASHINGTON. Mr. Speaker, may I yield 1 additional minute to the gentleman from New York?

The SPEAKER pro tempore. The gentleman from New York [Mr. SCHEUER] is recognized for 2 minutes.

Mr. SCHEUER. Mr. Speaker, I thank my colleagues.

Mr. Speaker, we have seen over the millenia, tyrants trying time and time again, to enforce by strength of arms, by despotism, the symbols of their

power and authority, and of course always in the end, always in the end they fail, as events in Eastern and central Europe are proving now, Mr. Speaker. No country, including ours, has ever been able to legislate respect for the flag. We cannot mandate feelings of patriotism and loyalty.

Fortunately, Mr. Speaker, the overwhelming percentage of the American people, and I am talking about 99.99999 percent, do love their flag, do love their country, venerate their freedoms for which the first amendment and the Constitution stands, and for the pitiful embittered few who seek to use the flag in disgraceful, disgusting, poisonous and offensive ways, well, the best respect we can show the flag and the Bill of Rights which it symbolizes is to turn our backs to them in contemptuous indifference.

Mr. Speaker, we can stand in full confidence that our Constitution, our Bill of Rights, if they stand for anything, stand for the right of the infinitesimal few among us to make jackasses and fools out of themselves in a manner of their own choosing. We have seen flag burnings in the Capitol, on the Capitol steps, and the rafters did not shake, Mr. Speaker. We saw flag burnings at the Supreme Court, and the foundations did not crack.

□ 1530

Because of wide television exposure, virtually every American has seen flag burnings on the tube and yet the country still stands tall and proud. The flag flies high and proud and the American people stand tall and proud in reverence for the flag.

All of us as a collective entity are in reverence for the flag and the freedom for which it stands.

Mr. Speaker, the freedom of these people to make fools of themselves must be allowed to stand. If we take away that freedom, we offend and demean both the very flag that we propose to protect and the Bill of Rights which it has symbolized.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. Mr. Speaker, I rise in favor of this constitutional amendment.

In an attempt to take a rational approach to this issue—void of rhetoric and emotion—I would like to make a few observations.

First of all, I can't really figure why there is an assumption, or a perception that Democrats are against the amendment and that Republicans are for it. I certainly do not regard Republicans as more committed to the flag, or that Democrats as more committed to the Constitution. That kind of thinking doesn't hold much water.

I suppose, however, it's a matter of priorities.

Many of my distinguished colleagues on the other side of the aisle are very willing to amend the Constitution for the Equal Rights Amendment—a position I happen to agree with.

And many of my colleagues on this side of the aisle would amend the Constitution for school prayer—a position I do not agree with. So the issue is not just one of whether to fiddle with the Constitution or not. Clearly, a majority of our colleagues are willing to do that, as long as it's for an amendment they agree with.

The fundamental question before us today is not one of "freedom of speech." It's a question of priorities and importance. Is the flag important enough to be afforded protection under the Constitution—that's the issue. Is it important enough as a symbol of our national unity; important enough as a symbol of the 1 million Americans who gave their lives in combat; important enough as a symbol to 2½ million service men and women now serving around the world; and is it important enough as a symbol of freedom and democracy, especially for our children, or the immigrant arriving on our Nation's shores? We pass laws in our society that prohibit leaf burning in our backyards; we make it a Federal offense to tamper with someone's mailbox; yet we are unwilling to supply ample protection for our Nation's flag.

The amendment before us is about desecration and burning of this symbol. Desecration means to deface, damage, or otherwise physically mistreat—in a way that the actor knows will seriously offend one or more persons. Freedom of speech is protected under our Constitution—this amendment does not change, impact or alter that freedom.

The amendment before us does not amend or change the first amendment. Indeed it is a separate amendment altogether. In our society we tolerate, even encourage free speech. Freedom of speech, whether it's freedom of the press, or the right to stand here today and honestly debate issues, is the foundation of our Nation and our society.

But, we have a tolerance level; we allow these freedoms up to a point. When the exercising of these rights infringes upon others, when they seriously offend others we place limits on those rights. Those limits apply in this very Chamber, for example when a Member's words offend another Member they are taken down. These limits also apply to society. No neighbor can stand in front of our window at 5 in the morning yelling through a bullhorn; that disturbance would be both offensive and against the law. Although he is exercising freedom of speech, he would be violating our social threshold.

Burning the flag, desecrating the flag is offensive to someone. Therefore proper action should be taken to outlaw such acts. We must restore the protections that we all believed were in place in one way or another for the last 200 years. Make no mistake, a simple piece of legislation would be preferable to all of us, but that approach doesn't work. The Supreme Court, a group of human beings, decided by the slightest of margins, 5 to 4, that flag burning is lawful.

And today, Mr. Speaker, we are exercising our constitutional rights and obligation to allow the American people to decide this issue. If the support and the interest is out there in two-thirds of the States then a constitutional amendment will pass. If not, then the Supreme Court may have been right. Let us not be afraid to let the American people decide.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of the constitutional amendment banning flag desecration.

Mr. Speaker, I am proud to stand before Congress today to urge my colleagues to support an amendment to the Constitution to ban the desecration of the flag of the United States of America. I commend our ranking minority leader, the gentleman from Illinois [Mr. MICHEL], and the chairman of our Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY], for leading the floor fight on this very important issue.

Mr. Speaker, we have recently heard the media and other Members of Congress comment that the public is no longer interested in the flag issue. They say that our veterans were embroiled in this issue last summer, but not today. I know that I am still upset, my constituents are still upset, and the majority of our veterans are outraged.

Opponents of this amendment have argued that the flag is only as meaningful as the freedoms for which it flies. I don't think there is a Member here who believes that in protecting the flag we will impinge upon any citizen's right to free speech, to free press, or to freedom of religion. This amendment does not change the intention of the Bill of Rights. For 202 years the Constitution of the United States tolerated the existence of anti-flag-burning laws throughout this land. Mr. Speaker, it was only until five attorneys decided last year that statutes declaring flag burning unlawful were no longer constitutional.

And I am here today arguing for this amendment because I disagree with the Surpeme Court's decision. Judge Robert Bork recently wrote:

While the first amendment allows the expression of any opinion or emotion, it has never been interpreted to allow any and all means of expressing them. Even after the Johnson decision, one supposes, the Federal Government or a State government could punish such actions as delivering a political message over television in obscenities, or expressing a political viewpoint from a sound truck at two o'clock in the morning in a residential neighborhood, or making a point by engaging in indecent public behavior. Yet if the rationale of the Johnson decision were consistently applied, none of these actions could be prevented or punished.

Those are all powerful methods of expressing an attitude. Why does the first amendment allow them to be punished? Simply because the community finds them extremely offensive methods of making points that could be made in hundreds of other ways. Simply because putting out of bounds a few means of expression in no way threatens the American system of freedom of speech.

We know that the physical desecration of the American flag is like the use of obscenities or of indecent behavior to express an idea. We know that because of the wave of public outrage that followed the Supreme

Court's decision in Johnson. We know that because forty-eight States and the United States had enacted laws prohibiting the physical desecration of the flag.

Judge Bork concluded:

That Chief Justice Earl Warren and Justice Hugo Black and Abe Fortas all stated very forcefully that there was no first amendment problem with punishing the desecration of the flag.

Mr. Speaker, is respect so passe that we should allow the most sacred symbol of our country to be destroyed with impunity? Statisticaly, it would be extremely difficult if not impossible to estimate the actual value of a flag. Billions of dollars, and millions of lives have been poured into ensuring the survival of our Nation's symbol, a symbol of our unity, a symbol of our devotion to life, liberty, and the pursuit of happiness and symbolic that we are all created equal. If our Nation's millions of veterans gave of themselves in defending Old Glory in time of war, why is it so offensive to some that we would want to ensure its safety and respect for it in a time of peace.

Mr. Speaker, I rise to stand with the proponents of this amendment and urge my colleagues to do the same.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I rise in support of the resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I stand in support of the resolution.

Mr. Speaker, I rise in strong support of House Joint Resolution 350, which calls for a constitutional amendment to permit Congress and the States to protect the American flag from willful desecration.

An overwhelming majority of Americans—Republicans, Democrats, conservatives, and liberals alike—support protecting the flag from desecration, and a constitutional amendment is the only way to do it. This single, narrow, well-crafted amendment absolutely would not undermine free speech or the Bill of Rights. It applies only to the physical desecration of the American flag.

The flag of the United States is not just another piece of cloth. It is not, as some would have us believe, a mere political tool for one philosophy or point of view to utilize. Rather, our flag is a symbol for the Nation, a rallying point in times of trouble, and unifying force in times of peace.

Last year, when the Supreme Court initially voted to allow flag burning, the citizens of Findlay, which is known as Flag City, USA, mobilized in force to support Old Glory. I had the privilege of attending one of the greatest, most patriotic rallies I have ever seen. At this rally, which was attended by thousands of Ohioans, I accepted petitions and letters in support of a constitutional amendment. These messages from my constituents have not halted and they implore this Congress to protect the flag of the United States.

Mr. Speaker, everyone in this Chamber realizes that amending the Constitution is a very serious step. This Nation's Founding Fathers intended to make it diffcult by requiring a two-thirds vote in both Houses of Congress, and ratification by three-fourths of the States. I would argue that by passing House Joint Resolution 350 this Congress is showing more respect for the Constitution and the Bill of Rights than we do in trying to get around the first amendment with simple legislation.

We are all outraged by flag burning and we should be. To those of you who say you are personally opposed to flag burning but cannot, in good faith, do anything about it, I say you are wrong. We can do something about flag burning and we can do it without infringing upon first amendment rights. We can protect our flag by passing House Joint Resolution 350 and I urge my colleagues to vote accordingly.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of a constitutional amendment to ban flag desecration. I do so after serious consideration of all the issues raised during this year-long debate.

I want to say at the outset, that I do not stand here and propose to amend our Constitution casually. This is a very serious issue. And this is a very serious debate—one that should be based on the law and precedent—not trivial rhetoric or sloganeering or political demagoguery, as Republican leader ROBERT MICHEL correctly observed at the beginning of debate—let no one's patriotism be impugned.

I believe that this is an issue on which patriotic Americans of good faith can, and do, have legitimate differences. However, I am incredulous that people can stand here today and argue that there could not possibly be any legitimate grounds for supporting a constitutional amendment to allow the enactment of laws prohibiting the burning of our flag.

This issue is not black and white. The Supreme Court has overturned laws that bar flag burning twice. In both cases, the decision has been handed down by the most narrow of margins, 5 to 4. Obviously, this illustrates there exists a definite difference of opinion on this critical issue.

Furthermore, such distinguished constitutionalists as Justice John Paul Stevens and Justice Byron White hold that burning the U.S. flag is not an "expression" protected by the first amendment. Rather, they believe that flag burning is an action—a repugnant action, at that. Therein lies the distinction. Burning a flag is conduct—not speech.

There is ample Supreme Court precedent to support this. In the case of Chaplinsky versus New Hampshire, a unanimous Court found that, and I quote, "it is well understood that the right of free speech is not absolute at all times and under all circumstances" in upholding a statute which made it unlawful to address any offensive, derisive, or annoying words to any person who is lawfully in a public place. Similarly in the Johnson case which brings us here today, the dissenting Justices state that "the public burning of the American flag * * * was no essential part of any exposition of ideas, and at the same time it had the tendency to incite a breach of the peace." In this case flag burning is, in the Court's words, "equivalent to an inarticulate grunt or roar that is most likely to be indulged in not to express any particular idea, but to antagonize others."

Many assert that burning a flag endangers no one. Using that standard, one would then assume that we would not see the inherent violation of decency of throwing blood on the U.S. Capitol, painting a swastika on a synagogue or defacing a national monument. These actions also endanger no one. Yet laws have wisely been enacted to prohibit these actions. For example, the Supreme Court has specifically disallowed the use of loudspeakers to convey speech when it would disturb the public peace. Here, again we have an act which is fairly limited by statute. Even when no separate act is involved, the Supreme Court has clearly limited pure speech when it would be considered fighting words or when public safety is endangered as in yelling "fire" in a crowded theater.

As Justice Stevens states in his dissent, the intent of the statute to prevent desecration of the flag has nothing to do with limiting speech or disagreeable ideas, but "involves disagreeable conduct that diminishes the value of an important national asset." In this case, Justice Stevens continues, Johnson "was prosecuted because of the method he chose to express his dissatisfaction with [American] policies," and not for his ideas.

The proposed constitutional amendment, which I strongly support, will not tamper with the Bill of Rights. It simply seeks to allow the States or Congress to prohibit the desecretion of the flag—an action the Supreme Court agrees is "deeply offensive to many."

Mr. EDWARDS of California. Mr. Speaker, I yield 3 minutes to our colleague, the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. Mr. Speaker, today we need to ask ourselves which is the greater danger to our country. Is it the handful of demented malcontents who burn a flag and dishonor only themselves, or is it for us to react to them by amending our Constitution, putting an asterisk on the Bill of Rights and changing the bedrock principles upon which our Nation was founded? I have no doubt it is the latter.

How then do we protect our flag? Mr. Speaker, we protect our flag by enhancing and honoring the Republic for which it stands. We protect it by working productively, by nourishing our families, by voting, by volunteering, by helping each other create a better life for all Americans. We protect the flag when we live out our Nation's creeds and our ideals.

America does not mandate patriotism. She inspires it.

Mr. Speaker, last night I visited the Jefferson Memorial searching for the words which would express my feelings on this most basic issue. I found them. For 85 cents I purchased this symbol, a copy of the Constitution. It begins, "We the people."

This living document and "We the people" have survived for 200 years now, through the burning of this Capitol Building itself, through westward expansion, through Indian wars, through a terrible Civil War and reconstruction, through Presidential assassination and constitutional crises, through two World Wars and a terrible depression, through triumph and tragedy, we the people have endured. We have prospered and we have prevailed through the strength and genius of this great document and the freedoms it guarantees.

Mr. Speaker, "This ain't broke, and it don't need fixin."

Leave it alone, my colleagues, leave it alone.

Mr. WASHINGTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. GUARINI].

Mr. GUARINI. Mr. Speaker, first of all while we debate this issue, all sides, everyone here, is a good patriotic American and no one should suggest otherwise.

The flag is our symbol of liberty, freedom and opportunity. It gave us unity and courage in war. It stands for democracy and freedom in times of peace.

Reasonable people can debate the constitutional issues. There is merit on both sides, but we agree on this. The flag is a symbol of America, a standard of justice and truth, a statement about what we stand for, about what we believe in, about the meaning of our people and our country.

Let us not forget the dark hours of history when our destiny hung in the balance at Pearl Harbor, Fort McHenry, in times of trial the flag gave us strength.

Let us not forget that the American flag carried our message of freedom to the far corners of the Earth, to believers in democracy, human rights and liberty everywhere, and let us always remember that we have been brought together as a people with the idea that we are one Nation, one land, one flag, one people.

We support the flag as a true symbol of America. It is our symbol, and thank God it flies over our Capitol and our Nation with respect.

Reach down in your heart, your mind and your dreams of a nation of justice, under the rule of law, united by values, strengthened by visions, reach down and vote today with 200 years of proud history foremost in your mind.

Freedom of speech is indeed sacred, but you cannot put obscenity on the airwaves. You cannot commit libel or slander. You cannot shout "fire" in a crowded theater.

The amendment before us deserves our full support. It protects the flag without limiting the right to dissent from any policy, for any reason, at any time whatsoever.

It makes a simple but important statement. The Stars and Stripes embody the special spirits of America and deserve a special place in our hearts, throughout our land, and in the Constitution of the United States.

I urge your full support for this amendment.

□ 1540

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I rise in opposition to this amendment.

Mr. Speaker, last year, in an honest decision of the heart, I signed on as a cosponsor of the Constitution amendment criminalizing desecretion of the American flag.

I have struggled with this decision ever since. And I have concluded that I was wrong, and I cannot support an amendment to the Constitution that would have the effect of amending our Bill of Rights.

I've studied the Supreme Court decisions in Texas versus Johnson, the case which brought this issue to us, and the recent decision United States versus Eichman, which now brings us to this debate.

I have debated this issue with my colleagues, my staff, my friends, and family, and most of all, with myself. I have applied what I call the "sleep test" to this issue. I haven't been able to sleep well while I have supported the amendment, and when that happens on any issue, I know I'm wrong.

This past weekend my family and I went to Philadelphia, to Independence Hall and Congress Hall. I sat there where the Declaration of Independence and the Constitution had been written and approved by the Continental Congress—trying to go back to our roots, to remember what America stood for before we even had a flag.

I hear the young tour guide tell our group in the Halls of Congress that those early Americans were so afraid of government domination of their lives that they demanded a Bill of Rights, and would never have approved the Constitution without it.

And I remembered teaching my history classes the same thing, that these Americans insisted on having a Bill of Rights before accepting the Constitution.

We traveled from Philadelphia to Gettysburg, and I walked that battlefield and remembered Lincoln's words, that this Nation was "conceived in liberty" and he wondered aloud how long a nation "so conceived" could endure.

He did not mention the flag, even though I'm sure he revered it as all of us do. What he mentioned was a "new birth of freedom" for this Nation, and that freedom would reaffirm the belief of our forefathers a hundred years before that "this Government of the people, by the people, and for the people, would not perish from the earth."

I have spent a year struggling with this issue and I am convinced the Supreme Court has made the right decision. I honestly believe, after searching my heart, that any act of the Government that has the effect of commanding respect is wrong.

I relate to my relationship with my God, and the concept of free will and love. I understand that relationship to mean that love cannot be commanded, that only in our freedom can we truly learn to love. Love takes risks, and it is always the hope of love that the one upon whom love spends itself will freely choose to return that love. But in any case, it can never demand love be returned.

And what happens if we choose not to love? Then I understand that God will continue to love. Love waits. Love trusts. Love never fails. I am sure the American people love this country enough to be able to look past the superficial nature of this debate and examine its real meaning. The American people, given the chance, will show they love this country, and there is no need to force them to do it by changing the very document that makes us free.

It should be the purpose of the flag, as it is the Constitution, to invite respect and love but not to command it because that violates the free will of the individual, and love and respect not freely given cannot be real.

In addition to visiting the birthplace of the Constitution, I also made a stop at the Jefferson Memorial. I looked up at that statute and wondered how we could get to this point. I confessed I was struggling with this decision, torn by the experience of teaching students the importance of the Bill of Rights and the Constitution, precious freedoms that cannot be compromised.

But now we have this issue with the flag, and I love the flag, because it symbolizes the freedoms the Bill of

Rights guarantees. I wondered if we couldn't just make this one exception to protect Old Glory?

And in my heart and in my mind I could hear Jefferson asking me if the symbol had grown greater than the principle. And I knew I could not support the amendment.

And I thought of my relationship with my father, how I was anxious to leave home and not sure if I had the love for him he had for me. And I thought of the proverb, "Bring up a child in the way he should go and when he is old he will not depart from it." Yes. We love. We wait. We trust.

We have nothing to fear. Neither America not the flag is in any danger, as long as the precious Bill of Rights, which gives both their meaning and purpose, stays as it has for the past 200 years, unamended. Listen to the words of the first amendment one more time. Congress shall make no law abridging the freedom of speech.

We had a Bill of Rights before we had a flag. Let us protect them both by defeating this constitutional amendment.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to our able Congressman, the gentleman from Kansas [Mr. SLATTERY].

Mr. WASHINGTON. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

The SPEAKER pro tempore. The gentleman from Kansas [Mr. SLATTERY] is recognized for 3 minutes.

Mr. SLATTERY. Mr. Speaker, the Bill of Rights is the heart and soul of our Constitution. It is the foundation upon which our democracy rests. It is the most brilliant and eloquent statement of human liberties ever devised by man. It has stood the toughest test of all, the test of time. It has never, not once, been amended in nearly 200 years.

Some might wonder why we are so concerned about the flag amendment. The simple reason is that once the precedent has been set to restrict the freedom of expression, it will be easier to pass future amendments. So if we outlaw flag desecration this year, why would we not outlaw desecration of the crucifix or pictures of Christ or the Bible or the Torah or the Star of David?

This amendment, my colleagues, is clearly the top of a slippery slope.

Conservative columnist William Safire said it well,

> Flag burners, by infuriating most of us, seek repression, but by fooling with the Bill of Rights, we would play into their hands. The way to frustrate those who test the strength of our Constitution is to ignore them, to tune them out, not to make them prime-time political martyrs.

During the darkest days of World War II, on June 14, 1943, the Supreme Court handed down one of its landmark first amendment decisions involving the flag. The Court held that it was unconstitutional to require schoolchildren to salute the flag or recite the Pledge of Allegiance. "Those who begin by coercive elimination of dissent," Justice Robert Jackson wrote for the majority, "soon find themselves exterminating dissenters." Those words were written during the greatest war in our history at a time when national unity mattered most.

In that opinion, Justice Jackson also wrote, "Freedom to differ is not limited to the things that do not matter much. That would be a mere shadow of freedom. The test of substance is the right to differ as to the things that touch the heart of the existing order."

Mr. Speaker, the flag touches the hearts of all Americans. Americans have always been willing to fight and die to defend their neighbor's right to do something they abhor. This is a concept uniquely American, that people from Tiananmen Square to the streets of Prague and Budapest and to Moscow itself seek today to emulate.

Mr. Speaker, today we have a choice. We can join countries like the Soviet Union, Iran, South Africa, and China, who have banned flag burning, or we can express our unwavering support for the fundamental freedoms contained in our Bill or Rights represented by the flag we all love.

I hope, my friends, that we stand up for freedom, for the Bill of Rights, and say no to the easy political passion of the moment.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. APPLEGATE], a member of the Committee on Veterans' Affairs.

Mr. APPLEGATE. Mr. Speaker, in answer to the doomsayers who think that the sky is going to fall and that all of our forefathers are going to start spinning in their graves, you are wrong, wrong, wrong.

They apparently do not know that much about our forefathers. Certainly they do not know about Thomas Jefferson.

Thomas Jefferson had a great faith in the people and their ability and their judgment, being able to govern, and that is what we are. We are "We, the People" and if we hold that Constitution up, that is exactly the way the thing starts.

Thomas Jefferson was a modern man. He understood these things, and he knew that there was social and political change that went from generation to generation.

Jefferson was not directly in with the writing of the Constitution. He was in France at the time. But his influence was powerful.

When it came time for the Bill of Righs, he had to push a reluctant James Madison to put in the Bill of Rights, because he said it was necessary. Jefferson also said that the Bill of Rights and the Constitution should be changed from time to time. Just read what Thomas Jefferson had to say.

I frankly think that the people should have a direct voice in changing the Constitution, and I intend to introduce a resolution to that, to allow the people of this country to be able to vote whether or not we should have a constitutional change.

We need to face the issues, and many of the issues that Congress has lacked the guts to do; we will give it to the people and allow them to do it.

The doomsayers say that it has not been changed for 200 years and do not do it now, but it has been changed. It has been added to 16 times since the Bill of Rights, and if anyone wants to see what the Constitution says, do not read it on a piece of paper that says "The Bill of Rights." Go look it up in the Supreme Court decisions, because that is what the Constitution is. It is what any sitting majority of nine unelected, unelected, Supreme Court Justices say that it is.

I think that we should put it back into the hands of the people. I think it is ironic that these Justices can dictate the meaning, but we the people cannot do it.

The framers gave us a method. There is nothing unusual about that. Just read it. It says that you are allowed to change it, and they said how to do it. This is what we are attempting to do now. So why is anybody so surprised. By saying, "It ain't broke, don't fix it," listen, if we have something we are trying to do, we are not saying it is broke. We are just saying it needs to be modernized and brought up to date.

What I am saying is that we are doing something very important here, and I think it is very important that we give the people the opportunity to be able to have that right.

As I said before, unless you read the Supreme Court decisions, you will not know what is going on. Do you trust the people? That is the important thing. Do we trust the people?

If we do, we are not going to deny them their constitutional rights to the first amendment. They have it, too.

This is going to be very limited, because it is going to say to the State legislatures, "You make the change. You ratify it." But the people back home are going to have more influence with the State legislators.

Let us just follow the people and see what it is that they want and not just dictate policy ourselves or allow the Supreme Court to do it.

Mr. EDWARDS of California. Mr. Speaker, I yield 2½ minutes to the gentleman from Oregon [Mr. AUCOIN], a veteran.

Mr. AuCOIN. Mr. Speaker, earlier today one Member of the House said that if the flag is worth dying for in battle it is worth protecting against demonstrators here at home. That statement just about perfectly demonstrates the cynical political manipulation that we have seen on this issue.

Take a sober walk through Flanders Field or Arlington Cemetery. The brave men and women who are buried there did not die for the flag, though they loved it. They died, rather, for the freedoms that that flag represents.

How ironic it is today that some Members would use the flag issue, that proud symbol of freedom, to amend the Bill of Rights and restrict freedom of speech, the freedom on which all others are based.

How ironic that conservatives, people who say they cherish the miracle of the Constitution and oppose big brother government, now want to desecrate the Bill of Rights so that government can begin to regulate thought in this country.

I am a veteran, and I ask the Members of this House to show their love of country today by defeating this cheap political trick.

But do you know who I condemn more than the political demagoges who manipulate this issue? I condemn those Members who know better but who just want to go along with this amendment because they do not have the energy to explain that flags, though they are beautiful and we love them, are symbols, while constitutional freedoms are the bedrock of societies like America's. No energy? No energy. Give me a break.

There was a time when national leaders were willing to pledge their lives, their fortunes, and their sacred honor for the freedoms of this unique democracy that they helped create.

□ 1550

I would hope that we would answer this question, the question of what we now today are willing to pledge. Cannot we at least pledge or risk a little bit of political comfort for one bright shiny moment in this era of political pygmyism, and say loud and clearly that some things are larger than just the next election, and one of those things is the freedoms that we have enjoyed through our lifetime and we wish to bequeath to our children. Defeat this amendment today.

Mr. WASHINGTON. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Congressional Black Caucus, the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I rise today to speak against the legislation that would, for the first time in our Nation's history, seek to limit constitutionally the protection of political speech so wisely established by our Founders in article I of the Bill of Rights. I refer to the language of that amendment which states: "Congress shall make no law * * * abridging the freedom of speech * * *."

It is this doctrine that a majority of a conservative U.S. Supreme Court has twice upheld within the past year, in striking down statutory efforts to limit political speech insofar as it involves the desecration of the flag.

Throughout our Nation's history there have been repeated cries and demands to silence this or that form of speech; cries to silence the messenger rather than to confront the message through debate and dialog. In the past we have betrayed our sense of confidence as a nation and our sense of purpose as a democratic society when we have prohibited U.S. citizens from traveling where they wish, or by forbiding individuals and materials with dangerous thoughts to enter our country.

Now we are confronted with a politically generated movement to alter one of our Nation's most cherished principles, in supposed defense of one of its most cherished symbols. In response we must ask: Why is this effort so wrongheaded and so misguided? Why would the passage of this amendment desecrate the very symbol it seeks to protect?

Let me first speak to the overarching constitutional principle at stake in this debate. There should be no question in any of our minds that this legislation would regulate—and provide additional impetus for further restrictions on political speech. Some of my colleagues argue that the act of destroying the flag—political speech as defined by the Supreme Court—is speech that should be removed from the first amendment's protection. That is an honest position, but one with which I strongly disagree.

Moreover, those who would argue that this proposed amendment does not limit speech fail to confront the fact that the only flag desecration of concern to anyone is that which politically offends the majority. This "tyranny of the majority," about which Alexis de Tocqueville warned us against in "Democracy In America," would result in government-imposed censorship on the parameters of political debate. It is an act that would debate our cherished freedom to confront and to debate political ideas, rather than to have them prohibited in order to protect the sensibilities and sensitivities of the majority.

Once we start down that road to limit political speech, we will become virtually no different from any other nation that constricts the rights of its citizens to express their views, argue publicly, print contervailing ideas, and generally be churlish in the advocacy of their beliefs and opinions. The obvious danger that this poses to democracy should be apparent to all.

Our Nation is too strong, its institutions are too stable, and its symbols accepted too broadly to be jeopardized or threatened whenever a dissident might choose to grab our attention by immolating a symbol in order to express his or her frustration with U.S. policy. We should be more mature as a Nation in tolerating obnoxious dissent. We should be more scrupulous as a Congress in refusing to constrict the boundaries of political discourse.

Beyond this fundamental principle, which demands that we act as guardians of our national heritage against uncritical, impulsive urgings to strip the Constitution of its guaranteed protections, I find a number of very significant and troubling problems with this proposed amendment. How would we, how can we, define desecration in an all-encompassing manner? How do we ensure that politically popular desecration and politically unpopular desecration are treated equally? Can we really imagine that the conventioneer who wears a flag shirt will be treated the same as a protester of U.S policy who has sewn a replica of the flag on the seat of the pants? These and countless other examples could be offered.

Other problems include defining what the flag of the United States is, and what acts may constitute actual desecration. What do we do about the various manners in which States and localities may seek to protect the flag? How will we, how can we possibly ensure uniform efforts to protect this unique national symbol?

These and other legal problems, actual and potential, abound. But what perhaps disturbs me most about this effort to amend our Constitution is that it diminishes the very symbol it seeks to protect. Fellow veterans in and out of Congress, including winners of the Congressional Medal of Honor, have expressed similar concerns. Even some prominent conservative columnists have spoken out in recent days against this proposed amendment. One of them, James J. Kilpatrick, argued passionately that the flag "symbolizes freedom—the freedom to speak, to believe, to express political positions that may be abhorrent to the vast majority of our people. When we pledge allegiance to the flag, we are not pledging allegiance only to a cloth, our allegiance is 'to the republic for which it stands.' Our allegiance is to 'liberty.' In that deeper allegiance, let us stand without flinching against the gathering stampede."

In the final analysis, I stand with the Court's majority opinion, and with Justice William J. Brennan, who wrote:

Punishing desecration of the flag dilutes the very freedom that makes this emblem so revered, and worth revering.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Iowa [Mr. LEACH].

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LEACH] is recognized for 3 minutes.

Mr. LEACH of Iowa Mr. Speaker, the American flag is a symbol of patriotism, of national unity.

As a Republican, I would hope that my party not be mischievously tempted to use the flag as an instrument of partisan division.

As a strict constructionist, I would remind my colleagues that the only oath we take is to protect and defend, not manipulate, the Constitution.

The world will little note nor long remember what arguments we may marshall to rationalize our votes, but it will never forget if 200 years after Madison and Jefferson walked these Halls, the 101st Congress chose to set the precedent of abridging the Bill of Rights.

Unlike the Soviet system where just this spring, as a reaction to banner waving protests on May Day, a law was passed making it illegal to be disrespectful of the Socialist president, we countenance, indeed honor, criticism of our President every day on this floor, every evening on national television.

Unlike the Chinese system where 1 year ago unarmed students were mowed down by machinegun fire because they dared to rally around a replica of the Statue of Liberty, we pay police to protect demonstrators even when they revile our sensibilities by waving swastikas or singing the "Internationale."

In a world of change, America is considered a bastion of cohesive stability precisely because we are so free, because the disrespectful is protected rather than coerced.

In this context, as frustrated as I and so many of my colleagues are that the law we voted for was narrowly ruled unconstitutional, I feel compelled, indeed obligated, to err on the side of caution, of not amending the most profound provision of the greatest political document crafted in recorded history.

Visceral emotions, however deeply felt, must yield to the imperative to conserve and preserve the Constitution. To tamper with the Bill of Rights, its most conservative element, would be to set a precedent, to begin an unravelling of its fabric of protections which could know no bounds.

The first amendment's defense of free expression does not exempt ideas and acts from criticism, but exposes them to it. Flag burners should be censured, not censored.

In the final analysis, the patriotic sentiments of the majority are best honored by protecting the heretical protests of a miscreant minority.

What America needs is not a change in the Constitution, but a renewed reverence for our history—public education, not constitutional manipulation.

Nothing would be more ironic than if the flag, the most tangible symbol of our freedom, were used to justify the weakening of the greatest bulwark to that freedom, the Bill of Rights.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished senior member of the Committee on Government Operations, the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, I rise today in support of the Flag Protection Act of 1990. I join my colleagues who have spoken here today from both sides of the aisle, as well as the overwhelming majority of Americans who feel that the Stars and Stripes is above desecration.

It is unfortunate that the Supreme Court has forced us into today's action with its decisions in the Texas versus Johnson and United States versus Eichman cases. If just one Justice had voted differently, there would be no need for this resolution.

The issue before us has been simply, and perhaps, irresponsibly, framed as one dividing those trying to defend freedom of speech against those trying to weaken this most cherished of American freedoms. Second, it has been framed as one dividing political opportunists seeking to wave the flag in an election year against those acting as courageous guardians of the Constitution. I believe the media has contributed largely to the simple framing of this issue.

Cogent arguments can be made on both sides of this issue, but for me there is no doubt as to which argument is the strongest. I am no political opportunist and I am not trying to weaken freedom of speech. I urge my colleagues to support an amendment to the Constitution prohibiting the desecration of the American flag.

The Founding Fathers wanted to guarantee the right to speak freely in this Nation. I submit to you that the measure being considered today does nothing to limit this right. If Gregory Lee Johnson is dissatisfied with the policies of this Nation, he can still express his discontent. If this amendment is adopted, no idea, no opinion will be forbidden. I agree wholeheartedly with Justice Stevens when he wrote in dissent on the Eichman case:

It is * * * clear that the prohibition does not entail any interference with the speaker's freedom to express his or her ideas by other means.

Those of us supporting this legislation are not attempting to weaken freedom of speech. We simply disagree with the Supreme Court's decision to broaden that freedom to include desecration of the American flag. I can talk to you, as others have, of my personal feelings for the flag, of what the flag meant to me when I fought for it in World War II, of what it means to me now. But that is not the point. All of us, on both sides of this issue, revere the flag and all that it symbolizes.

This issue is not one of reverence or patriotism, but of whether or not the first amendment to the Bill of Rights entitles one to burn or desecrate the American flag. The Supreme Court says that it does. Many of us—I hope two-thirds of us—disagree. Freedom of speech is not absolute; it was never intended to be. Libel and slander, copyright and trademark laws, obscenity, all of these are exceptions that already exist. We are simply adding to that list the desecration of the American flag.

Former Chief Justice Warren said it best when he wrote in 1969:

The appellant (flag burner) was convicted for his act, not his words. I believe that the States and the Federal Government do have the power to protect the flag from acts of descration and disgrace.

There are other prominent former Justices who share the view expressed by Chief Justice Warren, most notably Justices Black and Fortas.

Furthermore, if the Court's majority opinion were taken to its logical conclusion, other acts deemed illegal by this Government—including desecration of this very building, Arlington Cemetery, and the Washington Monument—would be permitted. If any of these American symbols should be protected, so should the flag.

In short, this resolution will not alter the first amendment of the Constitution. Rather, it merely clarifies it. It simply allows Congress to pass laws that outlaw the burning of the American flag.

The Supreme Court has twice decided that flag burning is free speech. But where is it written that the Court is omnipotent, the sole possessor of knowledge and truth? The Supreme Court is composed of nine people who rule on issues of constitutional law. They are human; their decisions are powerful, but they are not, and should not always be, final. Our Founding Fathers recognized this when they constructed our three branch governmental system, a system which allows even the Supreme Court to be overturned in instances where an overwhelming two-thirds of the Congress and the States believe it should be overturned.

Realizing that they themselves possessed no monopoly on foresight, the Founding Fathers entrusted future generations with options to clarify their ideals. It is my sincere hope that

in today's vote, we will not violate that trust.

What we are doing today is well within the legitimate structure of our Government. It is within the bounds of reason.

If this amendment becomes the law of the land all it does is return this country to what has existed for over 200 years—freedom of speech guaranteed by the Bill of Rights and flag desecration forbidden.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey [Mr. TORRICELLI].

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. TORRICELLI].

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. TORRICELLI] is recognized for 3 minutes.

Mr. TORRICELLI. Mr. Speaker, in the years that I have had the great privilege of serving in this Congress, I have never been prouder of that fine institution. A political gauntlet has been laid before us in a classic contest of symbol and substance.

□ 1600

And true to the heritage of 100 Congresses before us, this Congress in only a few short minutes will vote to keep its sacred oath, defend Mr. Jefferson's words that we know as the Bill of Rights and defeat this constitutional amendment.

I recognize that this is a political decision with risk to my colleagues. The temptation exists to compromise. The better political judgment may be to accommodate political need.

Forgive me, my colleagues, but there is not one Member of this institution, not one career in this Congress worth saving at the cost of changing one word or undermining one freedom in this sacred Bill of Rights.

I know that the temptation is great. We all share the rage at those who would defile our national symbol. We are not the first to be so offended, nor are we the first to be tempted to change our basic liberties.

Through civil war, international conflict, depression, these temptations have been resisted by those before us.

Now we are told that the need is so great because of a few flagburners that this 200-year continuum through war and hardship must yield.

What an irony, Mr. Speaker. At this moment of national triumph, as Mr. Jefferson's words are being quoted throughout Eastern Europe, cited in Beijing and Moscow, we are told that they are somehow inadequate for America.

Keep your oath, my colleagues, to preserve, protect and defend the Constitution of the United States. At the cost of thousands of lives, we have defended this Constitution against foreign enemies.

Now defend this sacred foundation of our liberty from the enemy within us; the doubt, the intolerance, the political opportunism that would have us confuse this symbol of our government with the very substance of our Nation, the reason for our creation as a people, as a State, as the United States of America.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Speaker, I thank the gentleman from Wisconsin for yielding.

Mr. Speaker, I stand before you today to ask my colleagues to support this constitutional amendment and place it before the people.

This particular issue has come to the point where it transcends beyond the political boundaries of this institution. I, as you, know that this flag is a symbol of freedom for this great country. It has been a symbol for over 200 years, a symbol that those who have earned the right of self-government throughout this world look to this symbol and look to us for direction in the ways of freedom.

My decision to support this amendment certainly is not political.

Over the years I have many times taken the flag that has been draped over a friend of mine or a fallen comrade-in-arms as a veteran and placed it into the arms and hands of a survivor, a wife, a child, a mother, and say, "This was from a grateful country. Thank you for your sacrifice."

Are we going to let the flag be burned and desecrated continuously for those who went before us fighting for the institution of this country and for the freedom it represents?

Yes, there are pros and cons, ladies and gentlemen, pros and cons as to whether or not we should have a constitutional amendment. But it is an emotional amendment at this time, and it is an emotional issue.

It is one that the people, we the people, must decide, and we, as representatives of the people, have the responsibility to place it before them and say, "Work with us. Let us know your wishes." Forget the polls, but believe what this flag stands for.

I want to say once again I have heard many comments today on this floor and I have heard certain individuals on this floor, many of them, make statements about protecting the Bill of Rights. I believe in that and I believe we will do just that.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER.]

Ms. SLAUGHTER of New York. Mr. Speaker, I thank the gentleman for his gracious yielding to me.

Mr. Speaker, I must say that I think those who have served in the Armed Forces who speak on the floor today speak with a special poignancy.

I am not a veteran, but I am a ninth-generation American. Ancestors of mine have served in every conflict the United States has ever been involved in.

One of the earlier ones was a young woodsman born in Pennsylvania who served as a scout for George Washington. His name was Daniel Boone.

I do not know what fate brought me here today to speak for those people and my family and others who served and died, but I am certainly pleased to be here to do it because I believe we honor best the memories of those who served to preserve our liberty if we do not, through our actions today, diminish what the flag means by weakening the Bill of Rights.

A year ago last April I had an opportunity to visit Hungary when they were just beginning the stirrings of liberty. We met with people who were writing their constitution. They were eager to talk to us about the Bill of Rights. It was that document, that priceless document that preserves liberty, precisely what it stands for, the liberty, the freedom to do and to be whoever we want to be in this United States that they valued

When we saw people in Eastern Europe carrying the flags of their country with the hammer and sickle cut out of the middle, all of us had to realize that had they done that before changes in those regimes, they would have been immediately punished and put into jail because they did not have the liberty to protest as we do. They were jubilant with freedom.

Our flag is precious. I remember stories from World War II when prisoners-of-war took pieces of cloth and threads and paper and wove somehow or another a replica of the American flag and carried it as close to them as they could.

But every person who fought for this country to preserve that flag and to come home or to die on a foreign battlefield had standing behind him or her the Bill of Rights which preserved the freedom and the liberty for all of us.

If our future generations of Americans must serve, do not send them out to carry a flag diminished by our action here today.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. KILDEE. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Speaker, I rise in opposition to this proposed constitutional amendment.

The desecration of the American flag is a despicable act which stirs deep emotions of revulsion within me and most Americans.

Like all Americans, I dearly love this country, our Constitution, and I dearly love our flag.

The flag represents the greatness of our country, our Constitution and our Bill of Rights.

I especially treasure the two flags that covered my father's and my brother's coffins as I accompanied them to their graves.

They both loved the flag and what it represents.

Many years ago while studying overseas, I always received comfort and security whenever I approached the American Embassy, in whatever country I might have been, and saw our flag flying.

This was particularly true when I visited our Embassy in dark and dreary Moscow in 1959, and felt the security that our flag symbolizes.

I feel that it is inappropriate to amend the Bill of Rights, the greatest document ever written by man, because of a few misguided radicals.

Even if we were to amend the first amendment to protect the flag physically, those same radicals could still physically burn the very Bill of Rights that the flag symbolizes.

We should keep in mind that while these people can destroy a flag, they will never destroy what the flag stands for—our liberties, our freedoms, our democracy.

In weighing all the factors, I believe to amend the Bill of Rights would not be in the long-term interest of our Nation.

I have always encouraged respect for our flag and hold in contempt those who would deface it.

I love our flag and I love our Bill of Rights.

Mr. STENHOLM. Mr. Speaker, after considerable study, prayerful examination, and much listening, I rise to oppose this proposed amendment to the Constitution of the United States. I do so with a variety of emotions, but foremost, a conviction that as a steward of the U.S. Constitution which I swore to uphold, this is the position I must take.

I have listened to the press reports, read the "Dear Colleague" letters, and followed this debate, and as best I can figure, I'd have to call the sides even on the name-calling. Many Members supporting a constitutional amendment are calling anyone opposed unpatriotic. Conversely, many Members opposed to the amendment are calling anyone supporting it a political opportunist or a political coward.

I must say that name-calling is not what I'm interested in today. And I am pleased to look around me and realize that even though we may have a wealth of name-calling, we also have a good number of Members of conscience on both sides of this issue. There is no Member for whom I have greater respect than my dear friend SONNY MONTGOMERY, with whom I differ on this issue. But I know he comes to this debate with true convictions and pure motives. Similarly, I commend the gentleman from Illinois [Mr. HYDE] for his eloquent argument supporting a constitutional amendment. It is to thoughtful Members such as these, not the name-callers, that I address my remarks.

THE OFFENSE OF FLAG BURNING

To say that I find flag burning vile or abhorrent is inadequate to express my disgust toward those who would commit such an act. None of the adjectives which are being used today capture the temperature-raising, blood-pounding rage I would feel if some foul miscreant would have the nerve to stand antagonistically in front of me and ignite our beloved flag. If ever "fightin' words" were spoken, destroying the American flag would shout those words to me.

THE POWER OF SYMBOLS

I am a firm believer in the potency of symbols. In the act of placing a wedding ring on the finger of my bride 29 years ago, I sensed the signficance this symbol would have on the rest of my life. When I go to church on Sunday, I am moved by the symbols surrounding me in the sanctuary. When I first saw the Statue of Liberty, I imagined the overwhelming symbol this Lady has been to the millions of tired and poor who have fled to our land.

Likewise, our flag is a marvelous symbol of the United States of America and the ideals born and nurtured on this soil. But beyond being a national, shared symbol, the flag's symbolism can be intensely personal, in both aching and exhilerating ways. As an editorial in my district expressed, we have all seen the American flag draping the casket of a brave soldier who gave his life for his country. We have also all seen the flag waving for a victorious American athlete at the Olympics. This precious symbol can move us to tears of joy and to tears of agony.

I believe that our flag is a meaningful expression of the transcendant values which make our country the envy of the world. But if we begin chipping away at those values, if we reduce the freedom of expression, what then will that same flag symbolize?

I do love the flag because it symbolizes the United States, but I love the ideals put into words by the U.S. Constitution even more than the flag.

I agree with the Supreme Court majority which said, "Punishing desecration of the flag dilutes the very freedom that makes the emblem so revered, and worth revering." Conservative Justice Anthony Kennedy stated it best when he wrote, "It is poignant but fundamental that the flag protects those who hold it in contempt."

RESPECT FOR THE FLAG

In the ideal world everyone would share a healthy respect for our flag and our country. But respect cannot be legislated or compulsory. We have personal freedom in America because we reject government-dictated patriotism. It's up to each American to discover a personal love of country and pride in our Nation. We Americans do not try to silence those who are wrong or who disagree with us, as we have just seen done in other parts of the world this month. We try to challenge those who disagree with our understanding of the truth. And if they refuse that challenge, then we let them continue to be wrong, or at least, to differ.

THE FLAG OR THE CONSTITUTION

The question before all of us today is this: Which is more important, creating a new amendment for the Constitution to help protect the symbolic flag, or not infringing on the Constitution's first amendment guarantee of free speech?

Some have argued that burning a flag is not speech per se. A quick review of constitutional law shows that for generations the Supreme Court has held that not just spoken or printed words, but also songs, pictures, dances, performances, and even flags are forms of expression protected by the first amendment.

As we get into this legalistic debate over what constitutes speech it occurs to me that defining speech is about as controversial and elusive as defining the beginning of human life. In both cases, if I am to err, I would rather err toward an inclusive definition which extends protections to individuals, rather than excluding them from those protections.

It is true that the passage of this amendment would not be the first restriction of the first amendment. However, the limitations to free speech we have allowed before never involved speech which simply offends without doing further harm. Creating public hazards, precipitating material financial harm, injuring others through emperically provable falsehoods—these are forms of speech which do not deserve and do not have protection. However, speech which is offensive but which does no concrete harm otherwise should not be restricted by the same Constitution which guarantees free speech to start with.

I understand that in the Texas versus Johnson case which went to the Supreme Court last year, the individuals who were burning the flag were also chanting the words, "Red, White and Blue, we spit on you." I have not heard anyone argue today that we should also enact a constitutional amendment to prohibit this offensive chant. But it is clear that the flag-burning actions of these individuals were simply an extension of that protected speech, offensive though it was.

More than 60 years ago, Justice Holmes wrote that it was the most imperative principle of our Constitution that it protect not just freedom for the thought and expression with which we agree, but "freedom for the thought we hate." I do hate the expression of those flag burners in

Texas, but I am unwilling to mar the Constitution because of them. To do so only publicizes and elevates the symbolic importance of such puerile acts and individuals.

RIGHTS OF THE INDIVIDUAL

Our colleague HENRY HYDE rebuts certain arguments by saying that there have been previous amendments which alter the Bill of Rights—that this, in fact, is not the first time we have amended those precious first 10 amendments. I will concede that point to my colleague, but I would also like to point out that when we have impacted the Bill of Rights in the past, it has more often been to expand the rights of the individual over the State, not to restrict the individual.

Let's look at some of those amendments. The 13th and 14th amendments protect the individual from slavery. The 15th amendment provided black individuals the right to vote. The 19th amendment gave female individuals the right to vote. The 24th amendment protected individuals wanting to vote from having to pay a poll tax. In fact, one example where an amendment sought to prohibit the individual from purchasing liquor was a dismal, unenforceable failure and required the Nation to act again to err on the side of individual rights through the 21st amendment.

THE BROAD CONSTITUTION

That last bit of history shows us what happens when we attempt to deal with a narrow issue in this great, broad document. Actually we don't even need history for that lesson. Simply look at some of our current State constitutions and you will see documents which are no more than a collection of hundreds of statutes reflecting the concerns of the moment. The significance of these overloaded constitutions is diminished by narrow issues.

Our Nation has seen far more trying times than the current ones. We have experienced our soldiers having to fight wars on foreign soil, our own domestic war in which brother fought brother, economic depressions, political witch hunts, and much more. We have faced each of these troubled times without permanently amending the Constitution so as to restrict the rights of the individual.

Because of its broad concepts, our Constitution is as applicable today as it was 200 years ago. It is our job to see that it will still be a guiding force 200 years from now.

It is especially our job to see to the protection of the Bill of Rights, the greatest statement of individual rights anywhere. As Senator MITCHELL has emphasized, every nation has a government. Every nation has a flag. Only the United States of America has a Bill of Rights.

TAKING THE FIRST STEP

How about just a little, harmless infringement of the freedom of such offensive speech, some people ask? I do not believe we can write a constitutional amendment that will be narrow enough just to fix the problem presented in the Johnson case without doing harm to the prinicple of free expression of the first amendment.

It is so bad to make just one exception, this one time, just for the flag? The answer is yes; it is very bad. Prinicples are not things you can safely violate "just this once."

I have been told that if you drop a frog into a boiling pot of water, he will do everything in his power to escape that death-trap immediately. However, if the frog is first placed in cool water, and then the temperature is very gradually increased, bit by bit over a long period of time, the frog will simply keep adjusting. In fact, he will adjust so well, unaware of the danger surrounding him, that he will ultimately die in boiling water without seeking to escape.

Such is the danger of chipping away, bit-by-bit, at our principles. What comes next after the individual is restricted from burning the flag? In Revolutionary France, people were sent to the guillotine for speaking disrespectfully of the nation, or chopping down a liberty tree. In Germany today, it is a crime to insult the words of the national anthem. Just a few weeks ago, the Soviet Union made it a crime to insult the President. Is this the path on which we would like to embark by adjusting our principles?

CHANGING REACTIONS—NOT POSITIONS

Some folks have been surprised to find me on this side of this issue. Last year when the issue first arose, I cosponsored legislation to provide constitutional protection to the flag.

What hasn't changed for me over the past year is my disgust with flag burners. Like my constituents last year, I felt the immediate need to respond in some way, to express in some way how appalled I was by this unpatriotic, disrespectful activity.

What has changed for me is how I feel I should react to this flag burning. Again like many of my constituents, further reflection showed me that this issue was a complex one with competing values. I began to recognize that I was allowing myself to be manipulated by people—flag burners—who do not even deserve the time of day, much less a constitutional amendment.

In his dissent to the Johnson decision, Justice Rehnquist wrote that flag burning is designed not to communicate so much as to antagonize. I agree. But antagonizing works only if people allow themselves to react.

People who burn the flag do so to provoke those who love the flag. The San Angelo Standard Times recently made the excellent point that if a constitutional amendment passed, those same people would either continue to burn the flag—which might become even more appealing because punishment would transform them into martyrs—or they would find other ways to accomplish their task. How about getting copies of the Constitution and burning them? Or maybe replacing the words of our national anthem with foul language and singing that in public. Or perhaps submerging pictures of George Washington in a jar of urine. Their ideas will be creative, I am sure. Shall we amend the Constitution each time in response and keep the process going?

The Gregory Johnsons of the world are trying to get under the skin of decent Americans and make them betray the ideals of decency and fairness and tolerance. Most parents and teachers of children who occasionally misbehave learn early on that one of the most effective means to eliminate undesirable behavior is to ignore the child when he or she is doing it. If throwing a tantrum doesn't achieve anything for the child, there's not much point in continuing to throw it.

If, instead, we respond to the Gregory Johnsons by changing the charter of our liberties framed by Jefferson and Madison and some of the greatest thinkers of our history, then we will have allowed those ill-behaved children to change our national life.

The antics of a few shabby flag burners are of no significance, unless we give them significance. What they do does not matter; it will be forgotten. How we treat the Constitution will endure as part of our history, as part of the living text of our national charter forever.

NOT A TRIVIAL VOTE

Many have criticized us in the U.S. Congress for wasting our time on such a trivial, nonissue as this amendment. I, too, at times have thought it would be much more important to be spending our time on the budget, straightening up the savings and loan mess, passing a farm bill, enacting Davis-Bacon reform and all of the other business at hand.

As I have reflected on this vote over the past few days, however, I have come to believe that this issue has been very good for us, not only here in the House of Representatives, but all across the country. I believe that it is healthy for us occasionally to be forced to put ordinary, daily things aside and think seriously about our most fundamental national principles which have been guiding us for 200 years and which must continue to guide us into the next century.

I hope there is not a single Member today who will cast his or her vote nonchalantly, thinking this is simply a trivial exercise which may be politicized in any way useful. As I said at

the begining of my remarks, I know there are serious, thoughtful Members on both sides of this issue. But for any Member on either side who is evaluating this vote on anything other than what's best for our country's future, I say "shame on you."

I would like to close with the eloquent words of Charles Fried, former Solicitor General of the United States, who visited with me yesterday about this vote:

There are many votes you have taken and will take in your political lives, and they will reflect deals and strategies and compromises, and they will all more or less be forgotten. But the vote you take on this, the vote you cast on amending the Bill of Rights, will stand as your monument for as long as this Country endures. Is any political advantage, is winning any election, really worth being known to your children and grandchildren and great grandchildren as one of the Congressmen who drew a moustache on the Mona Lisa of our liberties? What Eichman and Johnson do will be forgotten tomorrow, if you will let it; if you add your text to Madison's and Jefferson's sacred text, that is a piece of vandalism whose mark will be with us forever.

TESTIMONY OF CHARLES FRIED

Thank you, Mr. Chairman. It is a particular privilege to be invited to testify today, because as we consider amending the Bill of Rights, none of us speaks only as an expert. We testify to our love of this country. I respect the devotion to flag and country expressed by the President and by the Chief Justice, a devotion I am sure was born in part from the privilege of service to flag and country in time of war. I also have a personal story to my devotion. This country sheltered me and my family when we fled first from Nazi and then Communist oppression. And I had a privilege most of you did not have: at the age of twelve I took an oath and freely chose to be an American.

The flag, as all in this debate agree, symbolizes our Nation, the history, its values. We love the flag because it symbolizes the United States; but we must love the Constitution even more, because the Constitution is not a symbol. It is the thing itself.

When the Congress considered its response to the Supreme Court's decision in *Texas* v. *Johnson* last year, you were misled into believing that this was a technical problem that would succumb to a technical fix, or that the Supreme Court had run off the rails in this particular decision, and could be pulled back by anything like the Flag Protection Act you passed at that time. The motive was not bad: to spare us all the difficult choice you now face. But it was clear at the time and completely predictable that the supposed "fix" would not work. The Texas decision was not some aberration, some momentary quirk of the Justices. Generations of constitutional doctrine led naturally and directly to the Supreme Court's decision in that case. For generations the Supreme Court has held that not just spoken or printed words but songs, pictures, dances, performances and, as long ago as 1931 flags,[1] are forms of expression protected by the First Amendment. In 1929 Justice Holmes—a twice wounded hero of the Civil War—wrote that it was the most "imperative" principle of our Constitution that it protects not just freedom for the thought and expression we agree with, but "freedom for the thought we hate."[2] For decades it has been clear that if expression—its content or its mode—does no harm other than to the mind, and through the mind to the heart, or the listener, it cannot be prevented or its mode restricted. So what the Supreme Court decided in *Texas* v. *Johnson* was right down the middle of our constitutional jurisprudence. If you want to unravel that jurisprudence so as to keep it from covering flag-burning you would have to unravel decades of doctrine, scores of cases.

For the same reason that the Flag Protection Act of 1989 could not "fix" the *Johnson* problem, it is wrong to imagine that you can write a constitutional amendment that will be narrow enough just to fix that problem, but do no harm to the principle of free expression and to the First Amendment. The protection of expressions we hate is at the heart of the First Amendment, not on the fringes, and so an "exception" for flag desecration goes to the heart of what the First Amendment is for. *Texas* v. *Johnson* was not just right in some technical, legalistic way. It was right in principle. An amendment to overturn it would be wrong in principle.

Well, but is it so bad to make just this one exception, this one time, just for the flag? The answer is yes; it is very bad. Principles are not things you can safely violate "just this once." Can we not just this once do an injustice, just this once betray the spirit of liberty, just this once break faith with the traditions of free expression that have been the glory of this nation? Not safely; not without endangering our immortal soul as a nation. The man who says you can make an exception to a principle, does not know what a principle is; just the man who says that only this once let's make 2+2=5 does not know what it is to count.

There is a counter-principle, I admit. And it would serve to justify any amendment to the Bill of Rights you may consider here today. That counter-principle puts respect for national symbols above the robust and irreverent freedom of expression which is the heart of our First Amendment. Other times, and other nations have invoked it. But do you really want to write that counter-principle into our Constitution, into our Bill of Rights? In Robespierre's Revolutionary France—which copied but never really understood our Bill of Rights—people were sent to the guillotine for speaking disrespectfully of "the Nation", or chopping down a liberty tree. In Germany even today it is a crime to insult the flag of the Federal government, the flag of any of the states, or the words of the national anthem. The demonstrators who cut the communist symbols from the center of the East German and Romanian flags committed crimes against their country's laws. And just a few weeks ago the Soviet Union made it a crime to insult the President. So there is a counter-principle available here. But is that the side of history on which you want to put this country—for the first time? And that counter-principle cannot be confined to the flag, as the laws of other countries show. There is no logic that can confine it, so if you tell me that you will sin against liberty just this once, you will understand if I do not quite believe you.

The flag symbolizes our nation, its history, its values. But those are values, that is a history which poor, pathetic, strange and marginal people like Shawn Eichman and Gregory Johnson cannot harm and cannot detract from by their childish antics. Only you, the elected leaders and representatives of our people, can add to or take away from the Constitution, can add to or take away from our history. The antics of a few shabby flag-burners are of no significance, unless you give them significance. What they do does not matter; it will be forgotten. What you do, will endure as part of our history, as part of the living text of our national charter forever.

The Gregory Johnsons and the Shawn Eichmans and the few other grinning pathetic flag-burners are doing what Nazi and communist and extremist provocateurs have done throughout the sad history of this century: they are trying to get under the skin of decent people like you to make you betray the ideals of decency and fairness and tolerance, by which we live, and which they mock. They are like naughty, nasty children who try to provoke their parents into doing something they will regret. When Eichman or Johnson burns a flag, we can pass them by, ignore them, and their gesture means nothing. If in response you for the first time lay hands on the Bill of Rights, change the charter of our liberties framed by Jefferson and Madison and the greatest thinkers of our history, only then would those awful people have made a dent on our national life.

When I testified on this subject last year before a committee of the House, some of the Members reminded me of the strong feelings they believed stirred in their constituencies, of the dangers to their political careers involved in not responding to those passions. But you know there are times when serving your constituents means having the courage to vote your consciences. There are many votes you have taken and will take in your political lives, and they will reflect deals and strategies and compromises, and they will all more or less be forgotten. But the vote you take on this, the vote you cast on amending the Bill of Rights, will stand as your monument for as long as this country endures. Is any political advantage, is winning any election, really worth being known to your children and grandchildren and great grandchildren as one of the Congressmen, one of the Senators, who drew a moustache on the Mona Lisa of our liberties? What Eichman and Johnson do will be forgotten tomorrow, if you will let it; if you add your text to Madision's and Jefferson's sacred text, that is a piece of vandalism whose mark will be with us forever.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to say to my colleague in the well that our philospohies are usually very close to each other and I respect his views. But I ask him to respect our views, that we feel just as strongly as he does on the other side, that to protect our flag under this amendment, freedom of speech would not be hurt, we have got to stop burning the American flag, and the only way to do it is by the constitutional amendment.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. HUCKABY].

[1] *Stromberg* v. *California*, 283 U.S. 359 (1931).

[2] *United States* v. *Schwimmer*, 279 U.S. 644, 655 (1929) (Holmes J., dissenting).

□ 1610

Mr. HUCKABY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, when Jefferson was first presented with a draft of Madison's proposed Constitution, he was disappointed that it did not elucidate the basic rights of man, and, of course, from this, from Jefferson's concern emerged our Bill of Rights.

The framers of the Constitution were attempted to and they succeeded in preparing the document for all times, for all ages. They wisely allowed for future generations to amend this Constitution from time to time. But they made it extraordinarily difficult to do that.

I would suggest that these original framers of the Constitution never dreamed that a patriot would desecrate the American flag. They would have probably considered it treason. They would probably have considered it treason in those days, in those times.

The question here is whether or not action behavior is considered by the first amendment just as speech is covered by the first amendment. I suggest it is not.

Mr. Speaker, let me say to my colleagues that I am one of these types of people who still get chill bumps when I go to football games on Friday nights in north Louisiana and see that "Star Spangled Banner" wave, see "Old Glory" wave. To me, that is our symbol. This flag is the glue that binds America together, that binds the various ethnic groups, the various races, and the various geographic parts of our Nation. That is what the flag is all about.

Mr. Speaker, I think at the very least we deserve to let the people decide this issue.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BLILEY].

Mr. BILILEY. Mr. Speaker, I rise in support of the constitutional amendment.

Mr. Speaker, I am not surprised that the Supreme Court struck aside the law that we passed last year to protect our flag. I'm not surprised at all. I've known for quite some time that passing a constitutional amendment would be the only way to adequately protect our flag.

I'm no constitutional lawyer, I can't cite a long list of cases to support my position, but I do know what is right and what is wrong. I know that the freedom of speech guaranteed to us in the first amendment is not absolute. There are and must be limits. Justice Oliver Wendell Holmes defined one of these limits: You can't scream fire in a crowded movie theatre. Mayhem would arise.

Mr. Speaker, when I see a flag burning, my blood boils. I think about the marines climbing Mount Suribachi, risking their lives to protect our country and our flag. You cannot and never will be able to convince me that this amendment will restrict our freedoms. It simply will enable us to deny a single reprehensible form of conduct, conduct tantamount to screaming fire in that movie theatre.

Mr. Speaker, what about libel and slander? Nowhere in the Constitution am I allowed to ruin someone's name on a whim. No one in this Chamber would allow me to if I tried.

But these vile persons who would burn our flag and spit on our country, they claim they're politically expressing themselves? Wrong. Their idea of expression should be made illegal, just as we have made other forms of expression illegal when they have infringed upon the rights of others. We must amend the Constitution to ensure the rights of every American who loves this country and wants it to remain strong and free.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the amendment to protect the American flag.

Mr. Speaker, I rise in strong support of House Joint Resolution 350, which would amend the U.S. Constitution giving Congress and the States the power to pass laws prohibiting the physical desecration of the American flag.

As you know, immediately after Congress passed the Flag Protection Act in the fall of 1989, several young men proceeded to ignite an American flag on the steps of the U.S. Capitol. Their deliberate disregard for the congressionally passed statute reaffirmed the statement I made on the House floor upon the law's passage. If the American flag is going to be protected, it is going to have to be protected under the U.S. Constitution.

The debate on House Joint Resolution 350, then, must focus on two questions: Should the flag be protected? And should the U.S. Constitution be amended?

The American flag represents many different things to many different people. For some, the American flag symbolizes the freedoms of a new life in a new country. To others, that same flag represents the history of the United States, its fight for independence, and its struggles to preserve and protect the principles of democracy and liberty for its citizens. To some, the American flag may even represent a Government with which they disagree.

Throughout Washington, DC, the American flag flies proudly over memorials to our Nation's heroes and the history in which their sacrifices played a part, including the Vietnam Veterans Memorial and the Iwo Jima Memorial near Arlington National Cemetery. I see more than a piece of red, white, and blue cloth when I look upon the raising of the American flag on Mount Suribachi in the Second World War by the U.S. Marines, as depicted in the Iwo Jima Memorial. Instead, I see the nearly 6,000 soldiers whose lives were lost in that ascent. When I look upon a young man burning an American flag in some sort of anarchical protest, I see those 6,000 lives again—and thousands more.

Whatever they see in the flag of the United States, each and every American shares equally in that flag ownership. Though many Americans have lived in peace under the protection of the American flag, many others have battled and died under the flag to protect the Nation "for which it stands." Regardless, the flag protects and belongs to each and every American over which it flies. It is public property, paid for not by American taxes but by American lives, and its desecration without public consent should not be permitted.

The U.S. Constitution, like the design of America's flag, has grown and changed as the Nation has matured. Knowing that the challenges facing the united colonies of 1789 would change over the centuries, the Founders of our Nation envisioned an amendable Constitution able to meet the future's changing needs. Though the Constitution has been amended 26 times, the process an amendment must go through before ratification is both long and deliberate. A two-thirds majority in both bodies of Congress and the agreement of three-fourths of the 50 States is needed before this or any other proposal becomes the 27th amendment to the U.S. Constitution.

Clearly, the voice of the American people will be heard as the Congress and the States consider this proposal for a constitutional amendment. I have listened to the voices of my constituents, and I will support this constitutional amendment. I urge my colleagues to support House Joint Resolution 350 and to use your votes to send this constitutional amendment to the States. Congress should not be keeping this question out of the hands of the people who are most affected by it, the American people. They own the flag, they should be able to decide how to protect it.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I rise in support of the constitutional amendment.

Mr. Speaker, 1 year ago today the U.S. Supreme Court ruled that destruction of the American flag is protected as a form of free speech by the first amendment. It will be 1 year tomorrow since I first rose on the House floor to urge passage of a constitutional amendment to protect this Nation's greatest symbol.

Next week we will go home for the Independence Day recess. Let us pass this amendment and give the American people something to celebrate on the Fourth of July.

There is not one Member of this body who does not value the Constitution as the greatest document ever written to protect human freedoms. And it is true that those who have fought and died for our country were fighting to preserve our Constitution and the first amendment. It seems to me, though, that the flag is a tangible piece of cloth that reminds us that we do have a piece of paper ensuring our basic rights. Not all Americans have the chance to run down to the National Archives every day to view that document. Nor do they pick up a copy of the Constitution to read oc-

casionally. But they know it's there and they know what it means. They also know when they see our flag, day in and day out, that it represents something very important: Their freedom.

I am disturbed that this debate has degenerated into charges that amendment supporters want to gut the first amendment and that amendment opponents do not cherish the flag. When political rhetoric is put aside, we all know that neither charge is true.

Mr. Speaker, I am not a scholar of constitutional law but I do know that it was intentionally written to be flexible and amendable. I wish we were not in the position today where we must amend it, but here we are. It is a difficult issue to some and I respect that. But I feel strongly that this amendment will in no way denigrate the first amendment. It is not a precedent that will cause us to amend the Constitution whenever the political winds blow a particular way. We do not allow dissident groups to freely express their views by defacing this building in which we stand, and I am hard pressed to see a distinction between that form of free speech and desecration of the flag.

Let us do the right thing and pass this amendment to protect the flag and everything it represents to the American people. I know I will go home for Independence Day with a clear conscience, and I hope I will take good news with me.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, June 21, 1990, will be long remembered—not because it is the first day of summer, but because it is the last day of the campaign to protect the flag.

Our vote today will mark whether the flag can be burned with impunity. It is a vote that will call on each of us to examine his or her own beliefs, to evaluate what he or she thinks about the Constitution, and to determine what measure of protection should be accorded the symbol of that document.

Last week, after the Supreme Court's decision, a survivor of the Bataan death march called my office. He had spent 4 years as a POW. He related how his captors mutilated and defaced the flag in front of the POW's—and how Americans had to stand, helpless, and watch.

This veteran was enraged by the Court's decision. And his question to my office was, "Am I equally helpless now?"

I do not know how to answer this question, because, as the events of today unfold, I may be equally as helpless.

I shall not question the motives of my colleagues who disagree with my position. This country and this representative forum are such that we can, and must, tolerate differences of opinion.

Nevertheless, I submit to you that the Supreme Court's decision was wrong.

There was ample precedent for the Supreme Court to find that flag-burning is not protected free speech.

Flag-burning is an act—it is not speech. The courts have construed this act to be an expression of speech.

Yet, in an analogous situation—with the fifth amendment right against self-incrimination—the Supreme Court has held that only verbal testimony is protected, and that nonverbal testimony, such as fingerprints, blood and records, can be compelled.

Justice Stevens, in his dissent on the flag case, said that, if someone—as an expression of free speech—sets off fireworks or walks nude through the park, that person would have to apply for a permit.

But no permit is needed to burn the flag. And, thanks to the Supreme Court, no law will stand that punishes flag-burners.

The only avenue the Supreme Court has left us is a constitutional amendment.

In the past, Congress has resorted to amendments. I point out to this body that the Bill of Rights is composed of 10 amendments, the passage of which was required before people in the colonies would agree to join the Union.

And then there are the 13th, 14th, and 15th amendments, which were passed to overrule the Supreme Court's Dred Scott decision.

And let us not forget that the Bill of Rights has been amended by statute.

The rights in the Bill of Rights are not absolute—and never have been. This was recognized by Justice Holmes when he said the right to free speech does not entitle someone to shout "Fire" in a crowded theater.

For 200 years, statutes have abridged the Bill of Rights.

Every time we pass a gun law we infringe on the right to bear arms; when we take cigarettes and liquor off television, we limit the right to free speech; when we pass antipornography and antiobscenity laws, we infringe on free speech.

And these infringements are condoned by the Supreme Court, which uses a strict scrutiny test—but allows these laws to stand because of the public health, safety, and welfare.

Why can't we protect the flag?

Is advertising a more important issue? Shall we regulate obscenity and pornography while we let the flag burn?

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of House Joint Resolution 350, a joint resolution that would submit to the States for ratification an amendment to the constitution that would empower the Congress and the States to prohibit the physical desecration of the flag of the United States.

A recent Supreme Court ruling has left us with a choice: either we protect the flag, our symbol of freedom, through a constitutional amendment or the flag has no protection against physical desecration. The High Court's decision underscores the fact that a constitutional amendment is necessary to protect the flag.

Mr. Speaker, I agree with my colleagues who believe in freedom of speech provided by our first amendment. I believe that Americans should be free to express dissatisfaction with our great country if they so desire, but I feel that desecrating our symbol of that freedom is not a proper manifestation of discontent. Some may contend that we must choose between protecting the flag and protecting free speech. I feel that we can do both, but in order to protect the flag and preserve the constitution, an amendment is necessary.

I think it is time that we take this decision to the American people and let them decide. By voting for this joint resolution, we send a proposed amendment to the States where they, through listening to the voice of the people, can act on the views of the majority. A poll conducted by USA Today shortly after the Supreme Court's ruling found that 69 percent of the respondents favored a constitutional amendment to make flag burning illegal. This poll demonstrates that many Americans have strong feelings about protecting our national symbol of freedom.

I agree with President Bush who on June 12, 1990, said that flag burning "endangers the fabric of our country, and I think it ought to be outlawed." I think we owe respect to the numerous men and women who have died to protect those freedoms we so enjoy today. People can hate the flag, they can hate the country for which it stands, they can express their anger for their country openly, but they should not be allowed to desecrate the symbol that represents those freedoms they so cherish.

Mr. Speaker, I am saddened by the fact that there are those who have so little regard for our national symbol of freedom which stands for those thousands of men and women, both old and young, who did not live to enjoy the freedoms they fought so desperately to preserve. One of my brothers gave his life at Anzio in defense of our flag. Malcolm S. Forbes, Jr., put flag burning and its protection into its simplest terms in a 1989 Forbes magazine article. He said,

> It is a crime to deface or destroy U.S. currency. It is against the law to mutilate your own mailbox. It is illegal in most of the country to burn leaves. If the law can protect dollar bills, dead leaves and mail boxes, why is it unconstitutional to protect the American flag?

We must not turn our backs on this cherished symbol of freedom. Moreover, we should not turn our backs on so many of the American people who are crying out to have the opportunity to protect our beloved flag and all that it represents from disrespectful treatment.

Mr. Speaker, as one of our citizens stated, "the U.S. flag is not a Republican Flag or a Democrat flag. It belongs to all Americans, and mainstream America demands that the U.S.

flag be protected." I ask my colleagues on both sides of the aisle to vote yes on House Joint Resolution 350 and allow this proposed amendment to be taken to the States where the voice of the American people can best be heard.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Speaker, I rise in opposition to the joint resolution.

Mr. Speaker, we have before us today a proposal for a constitutional amendment that would overturn the Supreme Court's decision in United States versus Eichman, et al., which held that the 1989 Flag Protection Act is unconstitutional.

The facts in the Eichman case are not in dispute. The United States prosecuted certain individuals for violating the 1989 Flag Protection Act. That law had been passed in response to the Court's earlier decision in Texas versus Johnson, which held that a Texas statute that criminalized "the desecration of venerated objects, including the United States flag, was unconstitutional as applied to an individual who had set such a flag on fire during a political demonstration."

Simply stated, the question before us today is whether we should carve out a constitutional exception to first amendment protections under the pretext of saving the flag. The next question I would ask is, from whom are we saving the flag and to what end?

While these are naturally legal issues, there is a historical context in which we consider them. In the last 200 years, hundreds of thousands of men and women have served in the armed forces of the United States. I am proud to have been one of them. Each of these women and men made some sacrifice to serve this country; some even lost their lives.

This seems to me to be an appropriate time to reflect on the reasons these people gave so much. What makes this country special? It has great natural beauty, but so do many other countries. It has vast material wealth, but there are other nations that are also wealthy.

I would suggest that what makes this Nation so special—what makes it worth the sacrifices that have been made in its name—is the idea of liberty. It is at the center of our political tradition. And one of its fundamental parts is the idea that each person should be free to express his or her views, no matter how repugnant they may be.

This idea was codified in the first amendment to the Constitution. Since then, it has become integral to what we are as a country. It is in our moral foundation.

But as much as we cherish it and pay it homage, we have learned since the first amendment was adopted that its spirit will be ignored on occasion.

We do not need to worry about proposals for wholesale repeal of the Bill of Rights. But we should be very worried about more subtle appeals to curb expressions that are especially unpopular, or unorthodox, or obnoxious. Those are the true threats, and they are all the more dangerous because they seem so harmless.

Our Nation has learned some interesting lessons in the past two centuries about how to preserve freedom. One of those lessons is that it is simply not practical to imagine that we can defend freedoms only when they are convenient or pleasant. We have found that the selective defense of freedom is a slippery slope. Once we take the first step, it is too easy to slide farther down that dangerous path, leaving our liberties behind one by one. With every step, it becomes a little harder to regain our moral footing.

We see an example of this danger today in the proposed amendment to prohibit desecration of the flag, it is an important step in the wrong direction.

I would stress a point that is decidedly not part of the debate, which is that the flag has a special place in the heart of the great majority of Americans. It is a symbol of our Nation. It represents the values for which our Nation stands and for which many have died.

To burn that flag is a profoundly despicable act. It is an insult to the values that are sacred to us. Everyone in this Chamber believes this. It is not open to debate.

The real issue that confronts us is how committed we really are to the spirit of the Bill of Rights, to freedom of expression, even when the expression is as contemptible as burning a U.S. flag.

The real question is whether we are going to stand by our principles. We are tempted on two sides to abandon them.

On one side are those who would burn the flag, who would infuriate us and goad us into tampering with the Bill of Rights so that they can claim that it is a farce. On the other side are those would would pull a small flag from their vest pocket and proclaim that this amendment would make a good 30-second political advertising spot.

Both of these elements, working from different standpoints, would corrode the edges or our freedom of expression.

Some votes that come to this floor are questions of conscience. I believe this is one of those, I will vote against this amendment because it would be hard for me to sleep at night knowing that I had caved in to some reprehensible malcontents who would burn the flag—or to some politicians and commentators who would demagog this issue to high heavens.

Maybe the issue before us has been summarized best by two very wise jurists. The first is Judge Barbara Rothstein, the district judge in Washington State who originally struck down the flag law. She observed, "In order for the flag to endure as a symbol of freedom, we must protect with equal vigor the right to destroy it and the right to wave it."

The second is Supreme Court Justice William Brennan, one of the greatest justices in the history of the Court. He warns that "we do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents."

Judge Rothstein and Justice Brennan understand what freedom means. They understand the ancient paradox that when we protect the freedom of the most obnoxious among us—when we protect the freedom to express views that we despise—we are protecting freedom for all of us. And they understand that the flag is greater and its meaning is more enduring than any burnings or desecrations of the flag could ever be.

I would commend the insight of these jurists to the House.

I would urge my colleagues to honor the spirit of the Bill of Rights, and to honor those who died to make this Nation free, by rejecting this amendment. The Nation survived 200 years of growth, expansion, war, peace, some depressions, and many years of prosperity without this device. We did not need it before, and we do not need it now.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Kansas [Mr. GLICKMAN], a member of the Committee on the Judiciary.

Mr. BROOKS. Mr. Speaker, I yield an additional 30 seconds to the gentleman from Kansas [Mr. GLICKMAN].

The SPEAKER pro tempore. The gentleman from Kansas [Mr. GLICKMAN] is recognized for 1½ minutes.

Mr. GLICKMAN. Mr. Speaker, I abhor flag burning, but I stand in opposition to this amendment. I have profound respect for the men and women who have fought under the flag, and I understand the urgency they feel to protect it. But I have decided, no matter how precious the flag is to us, I am not willing to threaten the constitutional freedoms that protect us all just to stop the actions of a few radicals who have burned the flag in protest.

Many times Congress is criticized for empty and insipid debate, but the discussion of this issue has been outstanding. Rarely have we had the opportunity to talk about such important concepts and I hope millions of Americans can watch and be proud that Congress is working well.

All Members of Congress were sent a Department of Defense publication honoring the Bicentennial of the U.S. Constitution which featured an advertisement put together by the Commission on the Bicentennial of the U.S. Constitution and the Ad Council. I think it sums up the essence of this debate:

A soldier doesn't take an oath to defend the American flag or the Statue of Liberty. A soldier takes an oath to defend something even more important than a majestic symbol of our country. A soldier takes an oath to defend the Constitution of the United States. A document that has been described as the greatest leap forward for freedom in human history. A document that is the foundation of our country. And the means by which we achieve the rule of law and protect our freedom.

I think the emotion of this issue calls for caution, wisdom, and profound respect for a document that has served this country well for 200 years. The American people are demonstrating that caution and wisdom in their calls and letters to us in recent days. They are acting with prudence, good judgment, and love of country. Let us,

their elected officials, now follow their lead. Let us vote the amendment down. If this amendment is stopped here in the House, the flag will still stand as it always has for freedom and independence. No one can destroy that.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan [Mr. DINGELL] the chairman of the Committee on Energy and Commerce.

Mr. EDWARDS of California. Mr. Speaker, I yield an additional 1 minute to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, my colleagues know what this is: It is the symbol of our Nation. It is our precious flag. I served it for 2 years in war. I have served it for 35 years in this body.

This is the Constitution of the United States. Each year I take an oath to support and defend the Constitution of the United States against all enemies foreign and domestic.

The flag is a wonderous symbol of a great Nation. We are proud of it, we love it, and we detest the scoundrels who desecrate it.

The first 10 amendments to the Constitution set forth the basic liberties and freedoms of the people of this Nation. It is this document that we take an oath to support and defend. It is also this document which sets forth our liberties.

I beg my colleagues to see this matter with balance. The flag is precious; the Constitution is still more so. If we want to cherish and enjoy and live and have the things that are set forth in this document, we must recognize its worth. Ten thousand times people have set out to amend this Constitution; 26 times they have succeeded. On one occasion the result was a disaster, prohibition.

□ 1620

Mr. Speaker, I want my colleagues to know that the Bill of Rights is perhaps the most sacred and perfect document which has ever been set forth in the entire history of mankind, setting forth the liberties and the independence of free men. Because of this document and the first 10 amendments, Americans are secure in their person, their home, the exercise of their religion, and their speech. Yes, their speech. That is what the Supreme Court says is at stake here, and it was not a group of crazy, radical, left-wing flag burners who said that the exercise of freedom of speech is the most important part of the matter that we discuss today. It was five conservative, eminently responsible, Supreme Court Justices and patriotic Americans who made that statement.

Mr. Speaker, I beg my colleagues:

Let us protect, let us support, let us defend the Constitution of the United States against all enemies, whether they be meaning well or meaning ill. Let us protect this precious document. Let us guard it. Let us see to it that it is passed on unimpaired and unhurt to our children and to our children's children.

Mr. Speaker, it is this which is at stake today in this debate. Let us not allow the burning of the American flag. Let us repudiate, and let us reject all who do that. Let us treat them with the opprobrium which they deserve. Yes, and on occasion let us express our thoughts perhaps by engaging a little violence upon their person, but let us not burn this wonderful document, the Constitution of the United States in order to protect our precious flag.

Mr. Speaker, I urge the rejection of this amendment.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Speaker, I rise today in opposition to amending the Bill of Rights to prohibit desecration of the flag.

Last year, I supported the Flag Protection Act because I felt it was a proper and appropriate way to prevent the desecration of the American flag, and I plan to support Representative COOPER's proposed statute today. I regret the Supreme Court's decision declaring the Flag Protection Act unconstitutional. But in their zeal to nullify this decision, proponents of a constitutional amendment threaten the very liberties that make our Nation's flag a powerful symbol of individual rights both here and abroad.

In the decision facing us today, the history of my State and its traditions weighs heavily upon me. North Carolina refused to ratify the Constitution until it was certain that a Bill of Rights would be a fundamental component of our Constitution. The Union could only be joined with those basic assurances of freedom and liberty for individual citizens. Since I was elected, I have talked to school children across my district about our Nation's Bicentennial and the foundations of constitutional government. There is no way that I can now vote to punch a hole in the very Bill of Rights whose 200th anniversary we celebrate next year.

I am also keenly aware today of the heroic sacrifices of so many of our citizens to preserve our basic liberties. Our Nation has been blessed with brave citizens who understand the uniqueness of a Nation that values human freedom so much that it permits the free expression of unpopular, even obnoxious, ideas. "I am a four-year veteran of the regular Marine Corps," a constituent wrote me in a letter dated Flag Day. "During this period it is easy to wrap yourself in the flag. But I implore you to step outside the current group-think that seems to have gripped you all in Washington and to see that prevention of flag desecration does not warrant Constitution desecration."

Today, I also hear the voices of the political consultants. They tell us that anyone who does not change the Bill of Rights to stop desecration of the flag will be politically damaged and will have this used against them in the next campaign.

Now, I hope the political consultants will not take offense but they sound to me like the voices of partisan division, attempting to divide our Nation's citizens not unite them, thinking about 30-second ads with no regard for the consequences for our Nation or its citizens, damaging the symbol they profess to defend for political advantage.

It is out of my deep respect for both the Bill of Rights and our Nation's flag that I say no to the political consultants today. Our flag is a symbol of our Nation's strength and unity. It hurts us as a people and as a Nation when it is used for political advantage and in a blatant attempt to divide us. In his dissent from the recent court decision, Justice Stevens wrote, the integrity of the flag is damaged by those "who seem to manipulate the symbol of national purpose into a pretext for partisan disputes about the meaner ends."

I love the American flag. For me, it is a symbol of our Nation's greatness, of our aspiration toward "liberty and justice for all," and of the constitutional protections that we offer our citizens. We are a unique Nation, a beacon of light to the rest of the world, and our flag, as it snaps grandly in the wind, proclaims that message of liberty and freedom loud and clear.

Frankly, I have no patience for people who burn our flag. They do not reflect my values or the values of our people. We have nothing to fear from them; they are beneath contempt. They only win if we for the first time in our history change one of our founding strengths: the Bill of Rights. I say to my colleagues that it is not worth changing the Bill of Rights to stop a small band of misguided misfits.

I urge my colleagues to listen to the words of our Founding Fathers and those who have built on their work. They knew what it had to cost to establish and maintain a Bill of Rights for the citizens of this country. I hope their vision and wisdom will guide us today in making a decision that unifies rather than divides our country, that protects rather than weakens the Bill of Rights, and that says to the world we are indeed a powerful democracy, one that preserves freedom even in the most difficult of circumstances.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Speaker, I listened to the previous speakers, and how can we say that we defend the Constitution on the one hand, but will not allow poeple to exercise one of its fundamental rights, which is to change it, if necessary? I say, "Trust in the people, give them in the States the opportunity to express their will in this matter, and support a constitutional amendment to protect the flag."

Mr. Speaker, we are in the midst of a great debate over the meaning of the American flag and the first amendment, and I rise in support of a constitutional amendment to protect the flag against desecration.

While I respect the opinions of those who say the first amendment and the Bill of Rights should not be tampered with, I also believe that most Americans are appalled at the reasoning of the Supreme Court majority in its recent decision.

Mr. Speaker, there are many Americans whose sons died in defense of our flag. Millions of wounded American veterans and their families feel bitter at the sight of protesters demeaning the symbol of freedom. To burn the flag is to attack the most important and durable expression of that freedom, next to our Constitution.

The court itself was narrowly divided on this issue. As Justice Stevens noted in the dissent in which he was joined by three other members of the Court, there are certain well-recognized limitations on the expression of an idea. I agree with what Justice Stevens wrote. "The communicative value of a well-placed bomb in the Capitol does not entitle it to the protection of the first amendment."

Several months ago, two members of the Community for Creative Non-Violence threw blood on the steps and columns of the Capitol to protest homelessness. Their conduct was also a nonverbal expression of political views, but they have been charged with a felony and face heavy fines and possible imprisonment. There has been no suggestion that this punishment infringes upon the constitutional right to free speech.

That's why the recent ruling by the Court on the flag issue is wrong. The Supreme Court majority has confused freedom of speech with freedom of conduct. An individual who desecrates the American flag is not making a political speech; he or she is committing an act that breaks the law.

You can't blow your automobile horn all night in a quiet residential neighborhood in the name of free speech without expecting to be arrested for disturbing the peace.

The difference between words and action is apparent to most people, but it is a distinction that seems to have been blurred in the decision by the court.

There are many good Americans, wise people who care as much as anyone in this Chamber about the flag, yet they believe this amendment is an attack on their freedom. Well, I very strongly disagree for several reasons.

First, the Constitution cannot be changed except by the American people. They have that clear constitutional right. We in Congress are only one step in that long and arduous process. Two-thirds of both Houses must concur on the wording and meaning of the amendment. Then the amendment must go to the States for ratification, and that process gives the people a great deal of time and opportunity to consider and debate this proposal.

How can we say on one hand that we defend the Constitution but will not allow the people to exercise one of its fundamental rights, which is to change it if necessary?

I say trust in the people. Give them and the States the opportunity to express their will in this matter.

I choose to believe that many Americans, particularly those veterans who sacrificed so much to preserve liberty and the flag, will not tolerate its destruction and desecration.

Neither will good Americans ignore the burning of a Ku Klux Klan cross on the lawn of a black family or the painting of swastikas on the doors of a Jewish temple.

Flag burning will surely diminish free speech, if we mean by free speech the open and free debate we enjoy in our Government and society.

If free speech is defined as irrational, violent, and profane acts guided by excess and base passions in an environment of hostility and hatred, then flag burning is certainly consistent with such a definition.

I do not believe the first amendment can be applied to the cases of extreme conduct that are being called political expression.

Are we prepared to say that any action is permissible as long as someone says he or she is expressing an idea?

I am convinced in my mind and heart that the surest way of preserving the Constitution and free speech is by honoring the flag and all the meaning and history it carries with it.

The American people should be allowed to work their will on this issue. The amendment should go to the States and to the people.

We have carefully and deliberately crafted an amendment that fits the spirit and letter of the Constitution, which we are sworn to preserve, protect and defend. With this amendment, we seek to do all three. I urge Members of this House to support it.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I rise in support of a constitutional amendment to allow Congress and the States the power to prohibit the physical desecration of the U.S. flag.

I agree with my dear friend and colleague from Florida, Congressman CHARLIE BENNETT, who was quoted yesterday saying "I look with a jaundiced eye at some modern intellectuals who might not understand the feelings of a combat veteran."

What really brought Mr. BENNETT's words home to me was a call I received this morning from Mrs. Marie O'Neil of Ocala, FL. Her husband suffered in a Japanese prison camp for 3 years. He supports this amendment to prohibit flag desecration. He was forced to salute the Japanese flag for 3 years. It is not hard to understand why he feels this way.

From Valley Forge to Vietnam, in every battlefield wherever American values have been attacked, the American flag has been the shining, eternal spirit of liberty.

To desecrate such a symbol is to desecrate the memory of the thousands of Americans who have sacrificed their lives to keep that banner flying intact.

In Justice John Paul Stevens' dissenting opinion in Texas versus Johnson, he recognized that the act of flag burning has nothing to do with "disagreeable ideas," but rather involves conduct that "diminishes the value of an important national asset." The act of flag burning is meant to provoke and arouse, not to reason. Flag burning is simply an act of cultural and patriotic destruction.

Gregory Johnson was not prosecuted in Texas in 1984 for what he said, but for the method he chose to express himself. Justice Stevens wrote that the Government has a legitimate interest in preserving the flag, similar to the Government's interest in protecting the Lincoln Memorial from graffiti.

I support a constitutional amendment prohibiting the physical desecration of the American flag. I approach this task with equal reverence for the first amendment and for the flag.

Immediately following the Supreme Court's decision on June 22, 1989, I introduced legislation, House Resolution 185 that expresses the sense of Congress that the Supreme Court erred in its decision. Since so many Americans have fought and died to defend our flag, any act of desecration of this proud symbol is offensive to all.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Speaker, I am a moderate and proud of it. So too, I am concerned, as the majority of the American people.

The problem with being a moderate is that there is a propensity to see more than one side to an issue, to recognize that there is another point of view worthy of consideration.

This is certainly the case with, for want of a better description, the flag controversy.

I have to confess a little envy for the ease with which so many of my colleagues gave a quick yes or no answer to the question "Should we pass legislation providing for a constitutional amendment prohibiting the desecration of our flag? It wasn't easy for me.

I can understand the reluctance to tamper with the Constitution. There is something almost sacred about that precious document and for darned sure I don't want to identify with any movement which could legitimately be construed as limiting free speech. What is more American than the right of free speech?

But as I analyzed the issue, I came to the conclusion that the flag of the United States of America is unique—it is not just another symbol or icon, but rather something special, very special. What the amendment advocates are calling for is not an intrusion on the hallowed ground of free speech. Instead they—make that we, because I am one of them—are calling for prudent regulation of certain forms of re-

pugnant conduct. We do that often in our organized society * * * that is how we maintain an organized society.

During these past couple of weeks I have read everything I could get my hands on on the subject; listened to all who cared to discuss it and considered the views of every constituent who took the time and made the effort to communicate their thoughts to me.

Through all of these deliberations I keep coming back to the words of the late Supreme Court Justice Hugo Black, a first amendment jurist who said: "It passes my belief that anything in the Federal Government bars a State from making the burning of the American flag an offense."

Well his present-day successors on the Court, by the narrowist of margins, did just that.

And we now are responding. Let me conclude with one more observation.

Patriotism is not a partisan matter. I am convinced that in this great chamber, the peoples' House, love of country is uppermost in the thinking of every Member and I say to one and all, no matter how you vote, it is a privilege to serve with you in this citadel of freedom.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES], the distinguished chairman of the Subcommittee on Crime of the Judiciary Committee.

Mr. EDWARDS of California. Mr. Speaker, I yield 3 more minutes to the gentleman from New Jersey.

The SPEAKER pro tempore (Mr. KOSTMAYER). The gentleman from New Jersey [Mr. HUGHES] is recognized for 6 minutes.

Mr. HUGHES. Mr. Speaker, I rise in opposition to the resolution.

Unlike many of my colleagues who oppose this resolution, I do not do so because I oppose any and all amendments to the Constitution in our rush to protect our flag.

I do so because this constitutional amendment, House Joint Resolution 350, is fatally flawed, and because the procedure under which the amendment is being considered does not permit us to perfect it.

First, a few words on the process we are following.

Under the rule that has been adopted, this constitutional amendment will be voted on under a motion to suspend the rules. In short, we will be voting to amend the Constitution of the United States under the process we utilize for changing the names of post offices. That is fundamentally wrong.

It is, of course, the majority leadership of the House which has primary responsibility for shaping these procedural rules, and our leadership is to be blamed in this regard. Nonetheless, the minority is no less blameworthy. The substitute rule that the minority sought to adopt also provided that there could be no amendments offered.

The lengthy debate on House Joint Resolution 350 in the Judiciary Committee on Tuesday revealed a number of defects in the resolution which should be addressed by amending the amendment. I attempted to address those shortcomings by two amendments, which were not adopted.

My primary concern is not that my amendments were not approved. My primary concern, quite frankly, is that there is no willingness, on either side of the controversy, to even consider how we might actually improve this amendment to our Constitution. Both sides seem determined to charge ahead on a high stakes, blinders on, head on collision course.

Opponents of House Joint Resolution 350 have argued that, in its present form, the Michel constitutional amendment protects the symbol of our free society—our national flag—at the expense of the substance of our freedom—the Constitution. I believe there is considerable accuracy in these observations. This is precisely why it distresses me to see these same colleagues oppose efforts to address these shortcomings in the same way we do when matters of far less importance and solemnity are before us—by debating and voting on amendments. Opponents of the Michel amendment seem to want the resolution to be voted on in its worst possible form. I have no doubt that they sincerely believe that the best interest of our country lies in rejecting the Michel amendment. What I find hard to accept is their willingness to roll the political dice and risk having a flawed constitutional amendment sent on its way to ratification by the States, when the interest of the country and the integrity of the Constitution lie in voting on the best proposal we can develop, not in insisting on keeping it flawed, on the gamble that they can muster a negative vote of one-third plus one to kill it.

The attitude of proponents of the amendment is not perceptibly different. They too seem determined to stand or fall with the resolution exactly as drafted by them and identified with them.

In response to arguments that amending the Constitution is far too grave a matter to take up on a straight up or down vote, with no opportunity for perfecting amendments, both proponents and opponents stand the argument on its head: They both assert that the Michel amendment is the product of extensive deliberation and debate over a period of almost a year, and that hasty, last minute amendments cannot be considered when something as serious as a constitutional amendment is being considered.

Let's set the record straight. In one hand I have a copy of the Supreme Court decision in the Texas flag of last year. It is dated June 21, 1989. In the other hand I have House Joint Resolution 350. It was introduced by the minority leader on June 29, 1989. Not one word, not one comma, has been altered by the deliberations which have taken place since it was introduced after just 8 short days of what must have been hectic and hurried consideration following the Supreme Court ruling.

The leadership of the full House on this matter has been equally deficient. The leadership tells me that it must keep its commitment to the minority leader to allow a vote on his amendment to the Constitution of the United States without opportunity for perfecting amendments. If this is what a gentleman's agreement means, then, ladies and gentleman, I say we have become too gentlemanly.

Now about the substance of the issue.

In United States versus O'Brien, 1968, the Supreme Court ruled that "where 'speech' and 'nonspeech' elements are combined in the same course of conduct, a sufficiently important governmental interest in relating the nonspeech element can justify incidental limitations on first amendment freedoms."

Commenting on this rule in Texas versus Johnson, the Court stated that it is "the governmental interest at stake, that helps to determine whether a restriction on that expression is valid."

O'Brien was a draft card burning case. In that case, the Court found a "sufficiently important governmental interest in regulating the nonspeech element" of the conduct charged in the need for the United States to maintain a selective service system.

There is also a governmental interest in protecting the flag and the Court was wrong in failing to recognize it.

The flag has long been recognized, officially as well as by our citizens throughout the land, as our national symbol. We all have a property right in it, albeit an intangible right. This is reflected in our present flag code, which Congress enacted 48 years ago.

At that same time, we enacted a pledge of allegiance "to the flag of the United States of America, and to the republic for which it stand."

We have every right to protect that flag from attack, and the Supreme Court was wrong to fail to recognize this. Nonetheless, amending the Constitution should only be undertaken if two conditions are met.

The first is that all other avenues to achieve the desired result are closed. This condition was met when the Supreme Court refused to uphold the new Flag Protection Act we enacted last year.

The second condition is that, if the amendment implicates basic rights guaranteed by the Constitution, the amendment must be the narrowest that will achieve the desired result.

On that account, the Michel amendment fails.

Let me briefly describe some fundamental changes which are needed to narrow House Joint Resolution 350 and to make it acceptable. First, in the interest of uniformity and consistency, we need to limit the authority to enact legislation to punish desecration of the flag of the United States to the Congress of the United States. We cannot have 50 States and countless units of local governments independently formulating their own rules regarding the national flag. We need just one.

Second, we should specify that it is the physical integrity of the flag that we are protecting. House Joint Resolution 350 suggests it would allow legislatures throughout the land to provide criminal punishment for any act of "Displaying the flag in a contemptuous manner." I don't know what that means, but it sure sounds like an invitation to go far beyond punishing physical assault upon the flag. It sounds like an unrestricted license to punish unpopular ideas and expression, so long as the flag was present as a backdrop.

Proponents of the amendment shrugged off these concerns, saying "we'll take care of that when we write the implementing legislation." As President Johnson used to say, 'That dog won't hunt." We cannot defer to statute that which must be prescribed in our Constitution.

These necessary changes, while fundamental, are not difficult to develop or to understand. They are reflected in an amendment which I sought, unsuccessfully, to have made in order today.

Without such changes, the Michel amendment should be rejected. For these reasons, I oppose the joint resolution.

□ 1630

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. VOLKMER], who is also a U.S. Army veteran.

Mr. VOLKMER. Mr. Speaker, I, like others who have spoken in this well, stand here in defense of the Constitution of the United States, in defense of freedom of speech, and I say freedom of speech, and I, too, say that I may disagree with you in whatever you say, but I, too, will defend to the death your right to say it; but that is not what we are about here today. We are about here today to determine whether or not we agree with a 5 to 4 decision of the Supreme Court of the United States, and I disagree with that decision of those five members.

It is not the Constitution I disagree with. I am not proposing, and no one in this Chamber is proposing to change the Bill of Rights, not one word of the first amendment will be changed by this proposed constitutional amendment. We only say that we disagree with that 5-to-4 decision of the Supreme Court. Just like many of you would probably have disagreed if the Supreme Court had said that it was permissible to prosecute flag burners under the first amendment. Many of you would have disagreed with that, otherwise you would not be here today fighting this proposed constitutional amendment. I personally disagree with that decision.

Flag burning is not freedom of speech. What I am doing here right now is speech. What others have done all day here is speech. I have not had to burn a flag or to tear a paper or anything else.

So I say to you that if you want to preserve freedom of speech, join with me in support of this constitutional amendment because we are not impacting on freedom of speech.

I would like to just ask those who oppose this constitutional amendment a question, especially those who last year voted for the law that proscribed the burning of the flag. The reason I say that is because if you really felt last year that the burning of the flag was supported by freedom of speech and permitted under freedom of speech, then if you voted for the flag burning law last year, you were voting to impinge on freedom of speech.

I cannot see how anyone can be consistent today and say last year that a flag burning law was not unconstitutional, was permitted under the Constitution, even though the Supreme Court said otherwise, and say today that it is not permitted, that it is part of freedom of speech. It is completely inconsistent for one to say last year that freedom of speech did not protect flag burning and at the same time this year to say that it does.

I say to you, join with me and others and support the constitutional amendment that will protect Old Glory.

□ 1640

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Speaker, I rise in strong support of this resolution.

Mr. Speaker, I rise in support of House Joint Resolution 350, the proposed constitutional amendment that would ban flag desecration.

The American flag isn't just a symbol or a piece of cloth. It is a national treasure, standing as a beacon to the rest of the world that we will fight to protect our freedom and will stand with others who wish to be free.

Since the founding of this Nation, its people, you and I, have been willing to give their lives for its glory and meaning. I fought under and for the flag during World War II. Many of the 10 million living veterans who also fought under our flag are telling us how important this legislation is.

Mr. Speaker, words alone demonstrate that our flag is a part of our national heritage. As children, many of us started our days by saluting the flag and reciting "The Pledge of Allegiance." Our flag was the inspiration for this country's national anthem, "The Star-Spangled Banner," and it demands protection from that small group of individuals that fail to see this.

Most Americans believe that this amendment will not threaten their first amendment rights and will not deny them freedom of speech or expression. A recent Gallup poll showed that 71 percent of Americans would support such an amendment to protect the flag.

Three former Supreme Court Justices—some of whom felt strongly about individual rights—have argued that burning a flag is an act, not speech, and that an act of flag burning is not entitled to the pervasive protection that is given to speech alone.

This body has tried every other recourse in dealing with this matter, and our efforts have been in vain. Since last year's Supreme Court decision of the Texas versus Johnson case, there have been more than 1,000 flag burnings across the country. We cannot tolerate this slap in the face. My conscience demands that I vote to prohibit it.

Today, I am more firmly convinced than ever that a constitutional amendment is the only answer—the only way to prevent further desecration of our most revered national treasure.

I urge my colleagues to join me and vote for House Joint Resolution 350.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Mr. Speaker, 22 years ago I put on my country's uniform at a time when it seemed as if our flag was going up in smoke on every street corner. I did not serve in combat, like some of our colleagues; I was a Navy doctor. But I saw first hand the price our Vietnam veterans paid for serving their country, and I shared their horror at seeing our country's symbol defiled and burned by a few Americans.

That was in 1968, when our country was absolutely torn apart. Some people burned draft cards. Others burned books. Our cities were burning, as well as our flag. A President was driven from office. Some of our greatest leaders were assassinated. Our young men were dying every day in a

far-off land, while others marched and protested against the war they were fighting.

But no one thought we had to rewrite the first amendment to outlaw flag burning. No one said, "We must change the Constitution to protect the flag."

Those were not easy times for our country, but we got through them. The war ended, the young men came home, the Nation survived. We have never been so divided since that time, and I hope we never have to go through such divisions again.

Why are we so afraid of flag burners today? Why do we let them set the agenda for this Congress? One of the cases the Supreme Court just decided came from Seattle, but I can assure you there is no outbreak of flag burning in my district. We have better things to do, better ways to express ourselves, and certainly more respect for our country.

Flag burning does not threaten our security or our freedom. If we let a few attention getters goad us into trashing the Bill or Rights, we play into their hands. We will be showing so little confidence in our institutions that we must force Americans to honor the flag.

We cannot compel respect for a symbol or an idea. We cannot legislate patriotism. We cannot mandate allegiance to the flag. What we can do is protect the principles and ideas that make us all proud of our Nation and the freedom for which it stands.

Instead of spending our time trying to outlaw dissent, we should do the things that will truly promote liberty and justice for all.

Vote no on the resolution.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentlewoman from the great State of Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise today to give a very personal perspective to this debate on amending the Constitution to outlaw the burning of the flag of the United States of America.

At the outset, let me say, Mr. Speaker, burning the flag, or any other act that desecrates "Old Glory" is extremely offensive to me. It always has been. It always will be. And I will tell you why.

When I was growing up with my three brothers and sister in Cleveland, OH, the 4th of July was a very big holiday to my family. It still is. We would put the flag up on our front porch, plan a picnic, watch the parade, standing proudly at attention as the numerous flags passed by, and then gather at dusk for the fireworks at Edgewater Park. It was, and is, the quintessential family holiday. I am reminded of this because today would have been my parent's 59th wedding anniversary.

But there was another reason the 4th of July was important to me and my family. It was also my father's birthday. Yesterday was the anniversary of my father's death, God bless him. But, my father, an immigrant, always took a special delight in the 4th of July and the pomp and ceremony surrounding the flag. He kidded us kids by saying he thought the Nation was celebrating his birthday with him. At least, I think he was kidding.

My father was a patriot, through and through. He was perhaps an ultimate patriot. Even though he had five kids at home, my dad volunteered for the service in World War II. Why did he do that? He told us it was because of the freedoms he found in this, his adopted country. So you see, Mr. Speaker, the flag and the Bill of Rights have a very special place in my heart. They are at the core of the person that I am, the way that my brothers, sister, and I were raised.

I was keenly reminded of my passion and commitment to our flag and our Constitution and Bill of Rights when I traveled recently to Czechoslovakia as part of an international team to monitor that country's first free elections in nearly 50 years.

I wish all of my colleagues could have seen the joy of expression radiating from the faces of the Czech and Slovakian citizens as they proudly cast ballots to become the newest members of the world fraternity of democracies. What I saw was a renaissance of the values we have always enjoyed, and which, we have a tendency at times to take for granted.

Mr. Speaker, my district is greatly comprised of 1st and 2nd generation immigrants from Central and Eastern Europe and other counties who made their way to our country because they, too, wanted to enjoy the luscious fruits of freedom. I can tell you that they, and my family, served as steadying influences on me as I agonized over my decision on this issue we are debating today. I can also tell you that this was one of the hardest decisions I have had to make in my nearly 14 years in Congress.

One of the wonderful benefits of the great public debate we have heard on this issue is that it has served to galvanize public opinion on the importance of the flag. I dare say that all of us here in Congress and on the streets and byways of this great Nation, look upon the flag with a new reverence and respect.

The flag is our Nation's living symbol of the values we cherish and which my father was ready to die to protect. And I, as much as anyone in this great body, want to do all that I can to protect that magical symbol of our national conscience.

After we vote on the constitutional amendment to prohibit physical desecration of the U.S. flag, we will vote on the Flag Protection Act of 1990, which will provide penalties for the destruction or desecration of the flag.

I am certain Mr. Speaker, that it is the sense of Congress that we do not think it is right to burn or mutilate our flag. I don't think it is right. But, that doesn't mean either that it is right to scorch the Bill of Rights.

Yesterday, a young man from my district, Jeff Veenstra, of Maple Heights, OH and a junior at Baptist Christian High School in Orange Village, OH, came to my office. He said "all of this talk about amending the Bill of Rights to protect the flag is placing more importance on the symbol than on the principle which it represents."

Yes, my colleagues, my father, born on the 4th of July was the most patriotic American I have ever known. He loved the symbol, taught us to love the symbol, but what he loved most about this country was its freedom.

The Bill of Rights is the Ten Commandments of this country. We would not amend the Commandments. Let us not scorch the Bill of Rights. Let us treasure the freedom it represents. The first principle of our country is its freedom so revered by Americans, so emulated by people throughout the world. Let us protect the Bill of Rights.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER], the chairman of the Democratic Caucus.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore. The gentleman from Maryland [Mr. HOYER] is recognized for 3 minutes.

Mr. HOYER. Mr. Speaker, some have said that this debate is not about values or patriotism. I believe, however, that it clearly is.

The question for us today is what are our values; how are we to be patriotic; what serves the interest of the values represented by the flag, the symbol of our democratic system?

The value at stake is freedom. Not freedom to do that which the majority approves—for that can be done in many societies—but the right to do that which the overwhelming majority of us find to be despicable and mindless conduct. It was that freedom that our founders enshrined in our Constitution and the Bill of Rights. It is that freedom that has made this great Nation unique and which has led so many to defend it and die for it.

And patriotism: What is patriotism? Is it not the courage and commitment to stand for the principles and protections which have moved the world toward democracy and freedom? Is that not the essence of what America means to the world? To stand for

those principles which are the essence of the United States of America even in the face of well-motivated passions, it seems to me, is patriotism.

We have amended our Constitution only 16 times since the Bill of Rights insured our liberties.

This amendment need not be added to respond to some few demented souls who can attack a flag, but who pose no threat to the overwhelming love and honor accorded the values of the country for which that flag stands.

In conclusion, Mr. Speaker, I believe the interest of the flag is served by supporting the freedom and guarantees for which it stands.

I urge a no vote on this perhaps well-meaning but misguided effort to amend our Constitution, which, I suggest, is threatened most by those who would misuse its symbols and subvert its values.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I rise today in total support of House Joint Resolution 350, which restores a 200-year tradition of legal jurisprudence that protects the integrity of America's Heritage and preserves the honor due our nation's flag.

Listening to some of the arguments against this proposed amendment, I get the idea few have read it's text. It does not repeal the Bill of Rights, as some are claiming.

The amendment being considered today is simple: "Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States." Until last year, not a Member sitting here today would have considered it necessary to enact such language. The shocking 5-to-4 decision of the Supreme Court to overturn legal precedents as old as the Republic itself, however, precipitated the action we are taking today.

This amendment does not abridge a citizen's right to free speech. Our Founding Fathers were deliberate in their choice of words, and specified speech, not action, as a fundamental right of all Americans. Opponents of this amendment tell us that the Bill of Rights will crumble under the weight of these few simple words. But, how can my friends on the other side maintain this position when, for 200 years, these words were the law of the land, and yet our precious freedom of speech flourished and grew.

We are not today discussing dusty words that will be added to a piece of paper; we are debating the very fabric of American life. Our Nation has called its citizens to arms when America was in danger, and these brave men and women carried with them into battle not a copy of the Constitution, but an American flag. Our flag is not merely a symbol; it is the essence of our philosophy, our ideals and our way of life. The desecration of our flag is a spear in the side of our Nation and the citizens who defended it in battle. Flag desecration should not be santioned by this Government any more than the desecration of a House of worship.

When we as a society say it is permissible to defile our flag, what message do we send to those men who landed on the beaches of Normandy, to those brave soldiers who slogged through the rice paddies of Viet Nam? We are telling them that their efforts are unappreciated, that their valor was unnecessary and their sacrifices in vain.

Mr. Speaker, the millions of American veterans who proudly served their country deserve better than this. The families of those who gave their lives in battle should not believe their loss is not mourned and shared by a grateful America. And the millions of children—American citizens of the future—should be instilled with pride in their Nation, not exposed to contempt for its flag.

House Joint Resolution 350 merely restores America's right to protect itself. On behalf of the millions of Americans who died in support of their country, I urge the adoption of this amendment.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, in peace and war for over 200 years, the U.S. flag has come to be known throughout the world as a symbol of freedom, justice, and equality.

Obviously flag burning is offensive to me and to an overwhelming majority of the American people. We Americans do not want to see the flag desecrated in any manner.

However, we would do well to remember the closing words of the pledge we make as we salute the flag, "one nation under God, indivisible, with liberty and justice for all."

Liberty and justice are not guaranteed by a piece of cloth but by the Constitution and its Bill of Rights. America's veterans did not fight only for the flag, they fought for our country.

□ 1650

Our brave soldiers did not fight only to defend the flag, they fought to defend the principles for which it stands.

In total we have amended the Constitution only 26 times, including the Bill of Rights. Certainly that is an indication that we wisely do not pass a constitutional amendment every time we disagree with a Supreme Court ruling.

While many of us Americans disagree with the Supreme Court ruling on the flag, does it really necessitate a constitutional remedy?

Almost overlooked in this debate is the fact that a number of laws still exist that will restrict a person's behavior with respect to the flag. For instance, a person cannot legally burn a courthouse or other publicly owned flag. They cannot burn your flag or my flag. They might be subject to public nuisance or public disturbance laws even if they burn their own flag.

As Congress moves to a vote on a flag protection amendment, I believe we should remember that our country has survived strong and free for over 200 years without such a constitutional amendment. Unfortunately, a few flags may continue to be burned in protest, but as a symbol of our country and "liberty and justice for all," the flag will remain forever indestructible.

Mr. MONTGOMERY. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, many of my colleagues have cast this debate as a choice between respect for the flag on one hand and the Constitution on the other. I say to my colleagues, you do not have to choose. The flag is not against the Constitution; the Constitution is not opposed to the flag. Rather, the two go hand in hand.

This constitutional amendment to protect the flag will not weaken the Bill of Rights. Constitutional jurisprudence recognizes that not all forms of speech have the same value, and even as we debate the fate of the flag today, there are many forms of "speech" which are not protected by the first amendment. Obscenity, Libel and slander, copyright and trademark law, words which endanger the public safety—all of these are not given full first amendment protection. If these categories of speech can be restricted, why can't flag burning?

We are not changing the first amendment. We are reversing a Supreme Court decision—a 5 to 4 decision—which was based on constitutional grounds. This is not a new idea. We have done it before. I have no doubt that we'll do it again. And this is our power, given to us—the Congress—by the Constitution itself. The Founding Fathers in their wisdom recognized that even the marvelous document they had produced had limitations. They recognized that there would be times when the Constitution would need amendment. They provided for those times. And my friends, this is one of those times.

The issue is whether the Congress and the States may, pursuant to the will of the people, legislate regarding desecration of our national symbol, the flag, the embodiment of our national ideals. The Court says, in its present construction the Constitution says we cannot. This effort is to establish the framework in which we can. What we are trying to do is in accord

with the process the Founding Fathers themselves wisely provided for. We, the people, want this done.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to our able colleague, the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I want to share with Members of the House a story that occurred last August when in a town meeting in Magna, UT, a woman stood up following five or six others who had argued for a constitutional amendment. This woman said to me, "I have seen the flag in papers and on television burned and desecrated and torn and stomped on. But," she continued, "it is still flying. And those people who have done that to the flag, they haven't hurt our country. They have just made themselves look like fools."

I wonder this afternoon as we sit in this debate, taking this time, how foolish we look, to allow a few fools who have burned a few flags in well-publicized events to drive us into this feeding frenzy, where we are compelled to try to make ourselves look more patriotic than each other, and to attempt the desecration of the Bill of Rights by an unjustifiable and unneeded constitutional amendment, against which I rise this afternoon in story opposition.

The Bill of Rights has lasted 200 years without amendment, and I urge upon my colleagues that we reject this mischievous attempt to compromise the protections afforded us by that sacred document. Our oath of office requires that we protect the Constitution, and I propose to do that by voting against this misguided proposal.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. FAZIO].

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, during the last week of debate on whether to amend our Constitution, to prohibit flag burning, much has been said about the politics of the issue.

As in all debates, there are high roads and low roads to take in achieving your aims. Those who have chosen the high road in support of a constitutional amendment have argued their case both eloquently and on the merits of what they truly believe is the right course for this House to take. Today's debate reflects that approach.

Those who have chosen the low road toward adoption of a constitutional amendment have reduced this week's debate to gross political opportunism, a cynical effort to divert the public's attention from the fundamental problems of this Nation to the so-called value issues.

As the New Republic has said, the empirical meaning of "values" is whatever can be polled that serves to stigmatize the Democrats as out of the mainstream.

Amid the waving of flags, threats of 30-second campaign spots, and questions of individual character, this debate more times than not has been cheapened by those who attempt to judge the values of a Member of Congress by the way he or she will vote on amending the Constitution.

To quote a Republican media consultant, a producer of negative spots for Bush in 1988, "It is sweaty, it is ugly, it is cliched, it is trivial, but it is a way to put some hits on people."

The true test of character will be shown by those who, despite calculated threats, will have the political courage to cast their vote against amending the Bill of Rights, not for flag burners.

This vote is not an easy vote at all for any Member from any district in this country. In that sense, today's vote is a measure of the courage quotient in Congress.

Sure, it is a difficult one, but rarely is an important issue like this before any Congress. The courageous vote is to vote against the emotional outrage we and our constituents feel when some kid burns the flag, seeking a few seconds of notoriety.

These Andy Warhol heroes have no purpose in their protest. How ironic if their only accomplishment would be to provoke us into a fatal mistake.

Throughout this Nation's history, we have had far more provocative reasons to move toward our Constitution's first amendment. Yet despite more tumultuous times, when dissent in our country ran high, we resisted changing our Bill of Rights.

If this flag and our Constitution survived a cataclysmic Civil War and the depths of economic depression of the thirties, the neofascism of Father Coughlin and the German-American bund, the internment of our Japanese-American citizens, the red scares of the twenties and the McCarthy era, and finally, the protests of the Vietnam war, our flag and the Bill of Rights can survive the politically divisive campaign being waged by some to influence 1990 elections.

Would it not be ironic if in one of the calmest periods of this Nation's history, with communism in decline around the world, we voted to amend the Bill of Rights?

In the face of this mindless dissent and disrespect, we should show the same courage and tolerance that our founding Fathers displayed and our country's leaders have reaffirmed at every crucial turn of over 200 years of American history.

Let us reject this amendment, and those among its supporters who so cynically advocate it as a diversion from the fundamental problems that our constituents so desperately want us to address.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 45 seconds.

Unfortunately, my friend the gentleman from California [Mr. FAZIO] has not been listening to much of the debate that has been going on by the supporters of the constitutional amendment. Sir, we have taken the high road. We have talked about Supreme Court decisions. We have talked about philosophy. We have talked about values. We have not talked about doing this for political advantage. We have not talked about 30-second TV spots.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. No; I have a limited amount of time because of the rule which you Members adopted.

What we ought to do here is keep this issue on the merits or lack of merits on this amendment. The speech of the gentleman from California [Mr. FAZIO] does no credit to this debate.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I have been here all afternoon, I think it has been the high road of the debate. I was very surprised when the gentleman from California [Mr. FAZIO]——

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I would be glad to yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, first of all, I made a clear distinction in my comments between those who have taken the proper approach to debating this issue. I made no reference to any Member on the floor or the way the debate has been conducted here. But we all know there is another debate that is going on outside this institution. The quotes that I gave are from people who have been involved in the political process in this country and who will be again. If anybody thinks the only debate is in this Chamber on the gentlemanly level, they are missing part of what has been in the newspapers of this country for the last week.

That is what is frustrating to those of us who are trying to cast our vote on the merits. That is the debate that our constituents are going to be exposed to in far greater terms than 5 hours of general debate here on the floor of the House.

I think we all understand exactly what the issue is.

Mr. MONTGOMERY. Mr. Speaker, I reclaim my time. I still think it has been a good debate, and it has been on the high road.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, just last week I stood on the floor of the House and explained why I oppose efforts to

prohibit flag burning by tinkering with the Constitution.

At that time, I reflected on the experiences I had during World War II, when I served 3 years in the Army in defense of this country. I noted that during those years, we had the same flag we have today. Unfortunately, all Americans were not treated the same under that flag. As a black American, I had to serve in a segregated Army, where, under the U.S. flag, black and white soldiers were required to serve in separate units.

Despite the injustice and indignity associated with segregation, I was proud to serve under this flag. More importantly, throughout our Nation's history, many black soldiers have served just as proudly. In fact, some have died, or have been seriously wounded while carrying this flag.

Mr. Speaker, I did not risk my life for a piece of red, white, and blue cloth. I risked my life for the freedoms represented by the flag under the Bill of Rights and the Constitution.

The first amendment has served our Nation well for over 200 years. It is a provision which was drafted to protect the voice and opinions of the minority, as well as the majority. It is a provision, a philosophy, nations around the world, in Eastern Europe and elsewhere, are trying to adopt or emulate. It is a way of life that many would give their lives for.

Mr. Speaker, while I would not burn or desecrate the flag, if I am to really be free I must give another American the right to express his freedom as he sees fit.

I cannot tear up the Constitution because he expresses his freedom differently from me. I urge the defeat of this amendment.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. PANETTA], chairman of the Budget Committee.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, this is a difficult issue and I respect the views of all of those who have commented today on the floor of this House. I think it has been an excellent debate.

But there are some ironies that have appeared during the debate today. One of the ironies is that as other countries around the world seek to embrace the Bill of Rights and the freedoms that we enjoy in this country, we are here deciding whether or not we limit one form of expression under that Bill of Rights.

There is a second irony, that in our legitimate anger over a few extremists who argue that this Nation does not value freedoms as highly as we say we should, we are here to respond to that handful of protesters by doing exactly what they want, limiting those freedoms.

Today there is another irony, that we say that there are those who have fought and died under the flag, and yet those of us who have served in uniform did not serve to defend a symbol or a piece of cloth, but the liberties and freedoms represented by that flag.

Finally, there are those who would say that this amendment will take care of the flag burners. Don't you believe it. If this amendment passes, the flag burners will just do something else, equally repugnant, because that is the nature of free expression in our society.

What do we do then? Do we amend the Constitution again and again and again?

We have taken an oath of office, as was said here time and gain, to support and defend the Constitution of the United States against all enemies, foreign and domestic. The ultimate irony is if we allow a few domestic enemies to undercut our Constitution and undercut our oath of office.

Vote against this amendment.

Mr. Speaker, there are many ironies in this debate today.

As others have noted, there is an ironic comparison to be made between what is happening here today and what is taking place elsewhere in the world.

One the one hand, we see the nations of Eastern Europe embracing American democratic ideals, with progress in the Soviet Union and many other nations. For so many nations which we thought would live forever in darkness, there is hope of freedom, hope beyond anything we could have imagined just a few years ago.

On the other hand, while we applaud other nations for recognizing the importance of the freedoms for which our Nation has stood, we are here on this floor today, ready to respond to the petty actions of a few political extremists by limiting the protections provided by our Bill of Rights.

The irony of these two images is unmistakable and has been noted by others since this flag debate began last year.

But there are other ironies. The greatest, of course, is that the proposed constitutional amendment will do what the flag burners could not do—prove that this Nation does not value freedom as highly as we say it does.

If we pass this amendment in the House and Senate and send it on to the States, we will have answered the sorry and pathetic message of the flag burners with a sorry and pathetic message of our own. The message: Two hundred years of freedom can be threatened by the actions of a handful of people. Instead of sending that message, let us acknowledge the truth of Justice Kennedy's observation last year when he wrote "it is poignant but fundamental that the flag protects those who hold it in contempt." That is our greatest strength as a nation, our tolerance of criticism, no matter how severe, no matter how extreme.

I have served my country in uniform not to defend a symbol or a piece of cloth, but the freedoms and liberties represented by that flag. The best way I can make this point is to quote a portion of an article in the Washington Post by a former American POW in North Vietnam, James Warner. Mr. Warner was a prisoner of war from 1967 to 1973.

I remember one interrogation [Mr. Warner wrote] where I was shown a photograph of some Amercians protesting the war by burning a flag. "There," the officer said. "People in your own country protest against your cause. That proves that you are wrong."

"No," I said. "That proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us." The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

Mr. Warner said that he had shown his captors the power of ideas and of freedom. Let us, in the same way, use the actions of the flag burners against them, to prove that their image of America is wrong. Let us not give them the satisfaction of responding to their childlish actions with a constitutional amendment.

Let me speak for a moment about the substance of the proposal before us. I think those watching this debate might be surprised to know that this amendment does not actually ban flag burning. Contrary to the claims of its supporters, the proposed amendment doesn't do what it purports to do—it just gives Congress and the States the power to enact laws prohibiting the physical desecration of the U.S. flag. In Congress and in the States and in local governments across the country, therefore, anything is possible. The proposed amendment offers no guidance whatsoever: It doesn't define the word "flag" or "physical desecration" and it doesn't speak to the question of intent.

In the report accompanying H.R. 2978, the Flag Protection Act of 1989, several members of the Judiciary Committee who supported the constitutional amendment made the same observations about the amendment, but they praised this lack of specificity, noting that "Congress and the States would have wide latitude to prohibit desecration of the flag." But I ask you: If Congress is even to consider an exception to a fundamental freedom, shouldn't such an exception be as narrow as possible, rather than as wide as possible?

The amendment also doesn't even make clear that constitutional provisions it is designed to amend. If it does not supersede any provision of the Constitution, some scholars have suggested that it may not produce legislation which could survive first amendment review, as its supporters intend. If it supersedes other provisions, which are they? Does it preempt such basic protections as the fourth amendment's protection from unreason-

able searches and seizures where a search is needed to uncover evidence of flag desecration?

The most straightforward interpretation, of course, is that the sponsors intended to limit the free speech protections under the first amendment. But if so, then why didn't the sponsors draft their proposal to make this clear? I think that Senator BIDEN got it right last year when he said it was "because they want to perpetuate the myth that we are not the first Congress in the history of this Nation to propose limiting the Bill of Rights."

To bring to the floor of this House a constitutional amendment that is unclear in its meaning and scope is unforgivable. This is not just a bill which we can later repeal or amend. Once it leaves our hands and goes on to the States, we must live with its provisions or start a very long path toward further amendment or repeal. The drafting of this amendment does not, in my view, meet the necessary standard of care and clarity.

I am also deeply concerned about the tendency of some to try to make this a partisan issue. This is an issue that—by itself—has the ability to bitterly divide us. Unfortunately, those who think a vote against the proposed amendment would make a good television ad in a political campaign have helped that process along considerably.

These people ignore the fact that two very conservative members of the Supreme Court—Justices Kennedy and Scalia—joined the majority opinion in the Eichman case; that conservative columnists such as William Safire and James J. Kilpatrick have opposed the amendment; and that conservative Members of Congress such as Senator GORDON HUMPHREY share the same view. This is not a partisan issue.

Perhaps the best criticism of those who seek to use this issue for political purposes came, ironically, in the dissenting opinion in the Eichman case, Justice Stevens wrote: "The integrity of the symbol [of the flag] has been compromised by those leaders who seem to advocate compulsory worship of the flag even by individuals whom it offends, or who seem to manipulate the symbol of national purpose into a pretext for partisan disputes about meaner ends."

Besides the fact that we may be establishing a precedent of amending the Bill of Rights and besides the fact that there are serious concerns about the clarity of the language under consideration today and besides the fact that an important constitutional issue is being used for partisan advantage, there is another concern about this proposal. The very reason that the first amendment has worked for so many years is that it represents a kind of contract among Americans. We each tolerate some form of speech which we find personally objectionable because we understand that we each benefit from the lack of any restrictions on freedom of speech. Today's measure, if adopted, undoes that delicate and fragile contract and will only put pressure on us to agree to further limits on speech.

As objectionable as some may find the Eichman decision and the Johnson decision last year, they are part of a consistent line of Supreme Court decisions involving the flag. Our colleague DON EDWARDS noted in a recent op'ed article that it was on Flag Day, 1943, that the Supreme Court ruled that "it was unconstitutional to require schoolchildren to salute the flag or recite the Pledge of Allegiance," He noted that this decision came "amid the fury of the greatest war in our history when national unity mattered most. Yet the Flag Day decision of 1943 provoked none of the righteous protest we hear today."

I do not arrive at my decision today lightly or based on the number of calls to my office. I am deeply offended by those who burn the flag in protest. But I am more deeply concerned by those who would limit all of our rights to free expression in order to penalize a few discontents.

As Senator GORDON HUMPHREY noted in testimony opposing a flag-burning amendment last year, amending the Constitution is a radical solution which should be reserved for great national problems. We should not dignify the actions of a handful of extremists by elevating them to that level. I urge a no vote on House Joint Resolution 350.

Mr. EDWARDS of California. Mr. Speaker, how much time do we have remaining?

The SPEAKER pro tempore (Mr. KOSTMAYER). The gentleman from Wisconsin [Mr. SENSENBRENNER] has 21¼ minutes remaining, the gentleman from Mississippi [Mr. MONTGOMERY] has 7 minutes remaining, the gentleman from Texas [Mr. BROOKS] has 20 minutes remaining; and the gentleman from California [Mr. EDWARDS] has 22 minutes remaining.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, every day we begin our sessions with the pledge of allegiance to our flag "and to the Republic for which it stands."

Once every 2 years, here on the floor of the House, we each take an oath * * * a solemn oath to "support and defend the Constitution of the United States."

Before us today is an issue that appears to pit those two important commitments against each other. Do we, by amending the first article of the Bill of Rights, fail to support and defend the Constitution? Do we by failing to amend the Constitution renege on our pledge of allegiance to the flag "and to the Republic for which it stands?"

I think if we think about this calmly, sensibly, carefully, we will find that there is no tension here—there is no conflict.

What we need to do is make a distinction between shadow and substance, between an important symbol of our country on the one hand and the basic document that defines what this country is and which protects the rights of all our citizens.

Burning the flag is repugnant. But when one copy of that grand symbol of our great Nation lies in ashes, millions of others still fly proudly and the Nation they represent still stands strong; our liberties still intact.

But careless amending of the Constitution—not a symbol of our country but the very essence of our country—can injure our Nation and limit our liberties.

It could be argued that it is impossible—by definition—to amend the Constitution in an unconstitutional way. But, think about it. We could amend the Constitution to deny citizens the right to vote. We could amend the Constitution to establish a Presidency for life. There are all kinds of ways we could amend the Constitution that would be directly contrary to the spirit and purpose of that document.

And I would suggest that is precisely what is being proposed here. We are confusing shadow for substance, symbol for the real thing. I will continue to give my allegiance to the flag and to the Republic for which it stands. But I will do that and at the same time also keep my solemn oath to support and defend the Constitution of the United States by voting against this proposed weakening of the very core of our freedom—our freedom of speech which is at the heart of our liberty. I will vote against this well meant, but ill-conceived amendment to our precious Bill of Rights and our vital Constitution.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in opposition to this amendment.

Mr. Speaker, President Bush had it wrong. The unique symbol of the United States is not the flag, it is the Bill of Rights. It is the freedoms guaranteed by the Bill of Rights that are unique. People seeking freedom around the world do not seek our flag, they seek the freedom guaranteed by our Bill of Rights. Let us not diminish these rights today. Let us turn down this amendment.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I thank the gentleman for yielding time and rise in opposition to the amendment.

Mr. Speaker, I rise in opposition to this amendment. As we approach this July 4, Independence Day in this great Nation, let us not forget that next year America will celebrate the 200th anniversary of the Bill of Rights. We will remind ourselves, and the world, that the greatest protector of our liberty is our Bill of Rights.

Our Founding Fathers and mothers had confidence in their fellow Americans and faith in their children. They knew better than to have the government dictate what politics are right or wrong, or to limit freedoms under the Bill of Rights.

Democracy, whether we like it or not, is loud, untidy, unruly, and clamoring. It shouts at

us from the street corner. Clamors for our attention at a political rally. And, makes most of us see red every time we hear some loudmouth on talk radio. But, our democracy, for all of its noise and clamor, is also the oldest, most respected, and envied democracy in the world. We have sustained ourselves when the governments of other nations have been interrupted or radically changed. We will continue to endure.

For 200 years, this great country's flag has withstood the abuse of civil war, foreign wars, internal dissent, assassinations of Presidents, depression, recession, corruption, and the leadership of some fools. We survived, nonetheless, because the vast majority of Americans are fundamentally good and decent people and feel in their hearts what it means to be free. Now, sometimes we all get tired of the ranters and ravers among us—those that love to get on the news. But, I refuse to let them use me—or you, as much as we love this country—and bully us into amending our Constitution 3 months before our election. There is absolutely no evidence that there is any clear and present danger to this great land from this handful of malcontents. I agree with the Supreme Court Justice who said, "The best way to stand up to those who would burn the flag, is to fly a flag of your own."

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. MCCURDY].

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Speaker, I love our flag and despise those who attempt to destroy it. Whether I see it flying in front of a school or a farm, or draped over the coffin of a military hero, I am always moved by Old Glory. I have supported tough criminal laws to put flag burners in jail. Those who desecrate the flag are radicals seeking attention from law-abiding citizens. Our disgust is all they deserve.

Last week five Supreme Court justices struck down a law designed to protect our flag. Now the Bush administration and some in Congress are trying to force the issue by amending our Constitution. Supporters of such an amendment are being portrayed as true patriots. On the other side are those who seek to preserve the integrity of the Bill of Rights and who oppose efforts to amend the Constitution. They are being portrayed as walking hand in hand with flag burners. Such characterizations are ludicrous.

I will vote against a constitutional amendment. I have concluded, after much deliberation, that the best way to silence those who would burn the flag is to ignore them. Throughout its 200-year history, the Constitution has provided the real symbol for freedom-seeking people around the globe. The Bill of Rights has withstood many challenges, including those which would restrict our right to bear arms and those which would muffle America's free press.

Last year, when the Supreme Court ruled that the Texas statute prohibiting flag burning was unconstitutional, I reacted angrily like most Americans. I disagreed with the court's decision and promptly endorsed the first constitutional amendment that was proposed to me. However, after much reflection I am most stirred by the fact that the Bill of Rights is unique to America. It is the beacon which tenacious people around the world hold before them, illuminating their cautious steps toward more free and democratic societies.

I retain my commitment to protecting the flag. The Flag Protection Act of 1990 was introduced Wednesday in the House. I am an original sponsor of this legislation. I will vote for it today. We can protect the flag if we write a bill that satisfies the Supreme Court. I believe this bill, if challenged, will be found to be constitutional by the Supreme Court.

Mr. Speaker, our Republic is not threatened by flag burners. Our Nation has survived a devastating civil war, world wars, a great depression, and riots without compromising the Bill of Rights. We will survive the senseless acts of a few flag burners.

America's future is in doubt, instead, because of our huge Federal budget deficit, a decaying infrastructure, a regressive tax policy, increasing illiteracy and declining economic competitiveness. I urge President Bush to turn his leadership responsibilities to these areas which pose genuine threats to our Nation.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Speaker, as a gross political opportunist, I rise in strong support of the amendment.

Mr. Speaker, last year, we enacted a so-called content neutral statute to prohibit desecration of the flag. Since it was the only opportunity we were offered to express our commitment to protecting the flag, I supported the measure, saying, "only time will tell if this measure is sufficient."

Well, time has told: The statute did not stand the constitutional test. We now have three choices. We can pass another simple statute, knowing full well that it, too, will be struck down. We can approve a constitutional amendment, knowing full well that it is the only effective way to ban desecration of the Stars and Stripes. Or we can do nothing, knowing full well that such inaction will result in further abhorrent destruction of our foremost symbol. To me, the choice is simple.

I can't speak for all of my colleagues, but my own constituents have made their collective viewpoint clear: protect the flag, period. Since recent history has made it clear that the mandate can only be met by amending the Constitution, I strongly support such an amendment.

Opponents of the amendment process have painted a somewhat repugnant picture of amendment supporters. We are portrayed as politically motivated, righteously wrapping ourselves in Old Glory to disguise some devious ulterior motive. That is a specious and offensive agrument. As I stated earlier, my constituents have said "protect the flag." I tried settling for the statute approach; the statute failed. It is simply a matter of producing an effective solution.

Those same opponents also contend that amending the Constitution in this manner will erode the First Amendment, and will open the door to all kinds of potential abuses. I disagree. There is no erosion of First Amendment rights here. We are simply protecting one item, the flag, from one act, physical desecration.

If amending the Constitution in good faith were such a dire step, our founding fathers would not have provided us with the means to do so. They were astute enough to make the Constitution a dynamic document, capable of adapting to changing times and the accompanying changing needs. To be fair, I sincerely doubt that they ever imagined an American citizen would see fit to be disrespectful to the flag to which he, or she, had sworn allegiance. And, frankly, I sincerely doubt they would have viewed such an act as "freedom of speech."

Adoption of this amendment very clearly puts the enforcement mechanism into the hands of the people. First, they can encourage their State legislators to ratify the measure. Secondly, they can call upon those same legislators to take appropriate action to protect the flag.

Freedom of expression is a responsibility as well as a liberty. It does not include the right to cause panic by falsely yelling fire in a public place, nor does it sanction slander or obscenity. In my view, desecration of the American flag, for which so many courageous Americans have made sacrifices, is not freedom of expression. It is a travesty, and it must be stopped.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I rise in support of the constitutional amendment and suggest there is some difference between cussing somebody and hitting them in the mouth while you are doing it. That is the difference here.

To me, there is a difference between saying something abusive about the flag, although I would object to that too, and an act of physical violence. Burning the flag is not just talk, but a physical assault. I make the same distinction as cussing a person, which is not punishable, and hitting him in the face while doing it, which is punishable.

I feel the Supreme Court could have made a distinction between an act of

speech against the flag and an act of destruction of the flag.

We do want to protect free speech for all our citizens to the fullest extent possible consistent with public safety and the reputations of innocent persons. At the same time, we need to protect the unique symbol of all our freedoms and our way of life, namely, the flag of the United States.

In the last 2 years the Supreme Court has twice held that laws to protect the flag from desecration, one passed by the Congress and signed by the President, were unconstitutional limitations on the constitutionally guaranteed right of all Americans to express their opinions on any subject without fear of reprisal from the Government. Consequently, the surest way to cure this problem of how to protect the flag is to pass an amendment to the Constitution so that the Constitution itself will enable the Congress to protect the flag.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. GINGRICH], the Republican whip.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Wisconsin for yielding time to me.

Mr. Speaker, I think anybody who watches this entire debate will find it fascinating. Many of those who rise to defend freedom of speech, we will then hear them complain because freedom of speech might actually be political, which I thought was the reason Jefferson and others were so much in favor of freedom of speech.

Those who most want to make sure that their motives are not challenged will then promptly challenge the motives of their opponents. Those who will most argue values in terms of freedom of speech will then complain if their opponents in fact raise the issue of values.

I think that is nonsense. This is clearly a debate about values. It is a debate about how much you value the Constitution as a document, a debate about how much you value the flag, a debate about how important the decision of the Supreme Court is as a sacrosanct statement, and a debate about whether or not the American people deserve to be heard. And we ought to be honest about it. Jefferson, Hamilton, Madison, Adams, and Franklin were tough men. They understood that politics was about these things, and they knew how to maneuver and they knew how to manipulate, and they were not afraid of it.

To have my friends who happen to oppose the amendment have their allies run a 30-second commercial last night with a truck driver, and then get up and complain because somebody else might run a 30-second commercial, what did you think freedom of speech was? Freedom of speech is the right to debate and, of course, this is about values. It is about values first of all because in the Constitution the Supreme Court is not supreme. In the Constitution there is an amending process. The only Supreme Court of sovereign power in America is the people.

I know this is a shock to the Speaker, who deliberately rushed this onto the floor to avoid the people getting involved in the debate this weekend, and I know that it is difficult for some of our friends on the left to accept. But the fact is the amendment process was put in so that if the Supreme Court was out of touch with the people, the people had a mechanism for mastering the Court. In fact, there is a simpler mechanism. We could simply pass a Federal statute that prohibited a flag case from going to the Court. It is written into the Constitution. It would be constitutional.

□ 1710

The Court is not a sacred body. It is nine politically appointed and politically approved people who do their best.

And when they fail, what have we done for 200 years? We have amended the Constitution. We have amended it when we thought it appropriate.

This is not a quick, hasty process. We have to provide a large majority, the Senate has to provide a large majority, and 38 States have to approve it. So it is not going to be a capricious change.

For those of you who step up and say, "How in the middle of change could we possibly show the Eastern Europeans that you would amend the Bill of Rights?" You would show it to them precisely the way Gorbachev is trying to learn.

You would have politically elected people in two bodies vote, you would send the bill out to 38 other elected bodies to vote and the process by which the people governs itself would go on.

This is not a frightening thing.

Finally, this is a values fight, of course. For 30 years the American people have been increasingly puzzled by lawyers who redefine the meaning of American culture. It is inappropriate to have any subsidy for religion unless, of course, it is for defaming religion, in which case it is not freedom of speech, it is a requirement that we censor artists who put crucifixes and the Pope and pictures of Christ in urine. Now that is a requirement; otherwise you violate the freedom of speech.

We have a situation where the people whose constitutional liberty matter most are not the innocent, they are the criminal. So we stack the game.

We are told there are people who love the flag and they hate people who desecrate the flag but there is nothing we can do about it. The American people say, "Nonsense, of course, you can do something about it."

If you vote to amend the Constitution very narrowly, you do precisely what the Founding Fathers intended. You provide an expression of the American people that there are some values powerful enough that they are worth protecting.

I think this ought to be considered a legitimate debate, not just in the Congress but in the country. I do not think this debate is going to end. I am confident that this debate is going to go on for a long time because, frankly, as soon as the people who burn flags discover you do not stop them, they will find something new to do.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington, [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I rise in opposition to the amendment.

As most Americans, I deeply regret that a small group of extremists in America has chosen to test the limits of our sensibilities, our tolerance, and of our Constitution by engaging in the most distasteful public burning of the American flag. As a political statement of disagreement with a particular policy of our Government, I believe it is an outrageous and despicable way of expressing disapproval. Yet, as interpreted by the U.S. Supreme Court, it remains one of the expressions that are preserved by our Constitution and by our American system of government. As regrettable as it may seem, the Supreme Court has again interpreted that this distasteful form of expression is protected by the first amendment.

In the past 200 years, the flag has become a vital symbol of our Nation and the values for which it stands. As such, the desecration of an American flag symbolically tarnishes the fundamental values and ideals of our Nation. This is indeed a serious matter, and one which has been treated very seriously by our legal system throughout the years.

While there have been calls for an amendment to our Constitution that would pertain to flag burning, I am not convinced that altering the Bill of Rights by limiting the freedom of speech provision is the prudent course of action. The House will have the opportunity today to vote on new legislation that I believe can be effective in establishing penalties for public flag burning that will be upheld by the Supreme Court. The new law would make it a Federal crime to destroy or damage a U.S. flag "with intent to produce imminent violence." It also makes it a Federal crime to destroy or damage a federally owned flag or a flag on Federal property. Severe penalties are prescribed in the legislation, establishing fines of up to $250,000 and prison sentences of up to 2 years for flag burning. I believe this is an appropriate response to the June 11, 1990 decision by the Supreme Court because it addresses what the majority of the court viewed as a flaw in the existing law.

This has been an emotional debate, and for me this has been a very personal issue. Let

no one challenge my interest in preserving the integrity of the Stars and Stripes as the embodiment of our national history. Particularly for our veterans, for whom the flag has a special meaning, I know how important it is to preserve the symbol of the Nation they fought to protect. The flag is a symbol, but the Constitution is a guarantee of political freedom. It is that guarantee that we must protect first. By defending the Constitution we are defending the real reasons why our veterans have made such enormous sacrifices.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I rise in strong opposition to the amendment.

I love our flag and hate those who desecrate it. I support tough criminal laws to put flag burners in jail where they belong. The House will consider my bill, H.R. 5091, to do just this in a few minutes.

Unfortunately, the U.S. Supreme Court in United States versus Eichman struck down one of the laws that protected our flag. By a slim 5–4 majority, the Court found flaws in the ways the laws were drafted.

If only one of the Justices had changed his mind, all the flag protection laws would still be standing.

Congress has two choices: First, go back to the drawingboard and write a statute that the fifth Supreme Court Justice will approve, or second, amend the first amendment to our Constitution, the most basic freedom in the Bill of Rights.

I feel that the first choice is better. Since Congress can protect everything from public monuments to mail boxes from being defiled, surely we can protect our flag. This remedy is faster than a constitutional amendment, which can take years to ratify and implement.

Although it is tempting to amend the Constitution, we should remember that the heart of it, the Bill of Rights, has never been amended in our 200-year history. We have survived the Civil War, World Wars, and the Depression without touching the first amendment. It is arguably the most perfect government policy every written. It is the envy of the free world. It is the primary document that our flag symbolizes.

Unfortunately, some politicians are trying to use the Bill of Rights as a political football. The partisan game is trying to make anyone who is reluctant to change the Bill of Rights look soft on protecting the flag. President Bush and the Republican Party are playing this political game very hard and many officeholders are afraid of them.

The trouble with their argument is that it's similar to asking us to amend the Bible so that we can punish more sinners. I'm all for punishing sinners, flag burners included, but I don't believe in trying to change one word of Holy Scripture.

I certainly do not believe in giving flag burners what they really want, which is a place in history. Flag burners would rejoice if we were forced to change our most sacred government document in response to their actions. For generations our children would read about this new amendment to the Constitution, giving flag burners just the sort of permanent publicity they crave. Flag burners should be placed in jail, not in our textbooks.

I love our flag and our Constitution. I trust the wisdom of our Founding Fathers. I haven't met a Congressman or Senator yet who's as wise as James Madison or Thomas Jefferson. The problem is not with our Bill of Rights, but with the way one of today's Supreme Court Justices insists on interpreting it.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Speaker, the real tragedy is that if this amendment is passed and other laws to enforce it, some idiot would still burn the flag to get on TV or just offend our citizens.

But by the process of having this amendment pass, we will do serious harm for the first time in 200 years to the first amendment. Do not be afraid to protect the Bill of Rights, do not be afraid to stand for the Constitution; vote "no" against this amendment.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, in September 1814, at Fort McHenry, in my home State of Maryland, Francis Scott Key wrote about the land of the free and the home of the brave o'er which the Star-Spangled Banner waved.

Today, we are engaged in a debate to determine whether that Star-Spangeled Banner, which was able to withstand a British fleet bombardment, can now withstand its highly offensive desecration by a condemnable few who hold the flag in contempt.

Mr. Speaker, although I believe, as do all in this House Chamber, that the flag represents the constant beliefs in law, peace, and freedom that every American shares and cherishes, I am opposed to this constitutional amendment.

I believe we must avoid abridging our first amendment rights. The first amendment embodies this country's unswerving commitment to guaranteeing freedom of expression. It has stood for nearly two centuries, without a single change since its adoption, as a guardian against Government censorship and against a limitation of vigorous public debate.

Indeed, at a time when Americans are celebrating the rebirth of political freedom in Eastern Europe and supporting the efforts of the Soviet and Chinese people to be free of political repression, now is not the time to tamper with this vital amendment. The first amendment distinguishes the United States from all the other nations of the world and makes this country and this democracy, above all others, a model for those around the world who aspire to attain the liberties and freedoms which it guarantees.

I have been contacted by hundreds of my Montgomery County constituents in opposition to a constitutional amendment, but perhaps none as forceful as Mr. Kirk Bauer, of Rockville. Mr. Bauer served in Vietnam as a sergeant in the 9th Army Division in Vietnam. He writes:

DEAR MS. MORELLA: I urge you to vote against the proposed amendment which would make it a crime to desecrate the flag of the United States.

I am a disabled Vietnam veteran, having lost my leg from a hand grenade during an ambush. I was twice awarded the Bronze star for heroism; the Army Commendation Medal with valor device; and the Purple Heart, among other medals.

I am proud of my country. I proudly fly our flag at home on Memorial Day; Independence Day; Veterans' Day; Flag Day; and other special occasions.

Despite this, I am utterly opposed to the proposed amendment which I believe would infringe upon our Bill of Rights. I fought in Vietnam precisely to guarantee the freedom for someone to do something as reprehensible as mutilate the flag in the name of free speech. Criminal laws exist to protect me, my family and my property, not to punish behavior.

Having fought in Vietnam, I resent to my core those who purport to support this amendment in the name of those who fought in Vietnam. I and many of my comrades believe that by doing so they are trivializing our service there.

Please don't let this sham destroy our rights.

Sincerely,

KIRK M. BAUER.

Mr. Bauer's emotional and forceful sentiments underline the serious implications of abridging our Bill of Rights. I urge my colleagues to oppose this amendment.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, the real fabric of our Nation is not the materials used to make a flag but rather the spirit and substance of our U.S. Constitution. We see flags made of plastic, paper, and cloth. Some are made in Taiwan. But only our U.S. Constitution was made in America, made of democratic principles.

That is why I stand against the proposed flag amendment. We must find ways to punish our flag burners without sending our whole Bill of Rights up in smoke.

I felt hurt as an American when learning that the U.S. Supreme Court overruled—by

the slim margin of 5 to 4—our statute to ban desecration of the American flag. I disagree with the ruling. I want flag burners to be punished. We all detest desecration of our national symbol. Neither should we desecrate our Bill of Rights.

When I took office in 1987, I swore to uphold the U.S. Constitution and each and every amendment. My strong support of the second amendment, as well, has been very visible as I have fought for our right to own guns. There are some who would want to modify the second amendment to restrict our constitutionally guaranteed right to bear arms. Where do we draw the line?

What if some publicity-seeking malcontents would burn copies of the Constitution, or the Bible, or the Talmud, or the Koran? Would we seek further to amend the Constitution to prohibit this admittedly objectionable behavior?

We do not want to begin chipping away at our rock of freedom—the U.S. Constitution and the Bill of Rights.

There's much irony in the current debate over this amendment because back in 1789 the Bill of Rights was the primary reason that many of our conservative Founding Fathers, like Patrick Henry, decided to ratify the U.S. Constitution. Patrick Henry said as our Nation was struggling to survive at its birth, "Guard with jealous attention the public liberty. Suspect everyone who approaches that jewel."

Like Patrick Henry, I strongly believe that we need to be suspicious anytime a government wants to take away one of our rights like the right to own a gun or speak out freely. As Thomas Jefferson said, "A Bill of Rights is what the people are entitled to against every government on Earth."

I salute our Stars and Stripes and I uphold all that it symbolizes—including—and most importantly—our U.S. Constitution.

As many of the emerging democracies around the world are attempting to copy and emulate our love for freedom in the United States, I feel very strongly about any attempts to change our Bill of Rights. I know that our U.S. Constitution is not perfect.

It has been amended 26 times. But our Bill of Rights—which lists our country's precious liberties—has never been amended in its 200 years.

We should not react hastily and irrationally to the crazies who burn the flag or to the few who want to use our flag as a political issue.

Recently, I received a letter from James Warner, a former Vietnam POW and recipient of the Purple Heart. He wrote about why he is against the amendment. Mr. Warner was a prisoner in North Vietnam for 5½ years. He told a story about infuriating one of his Communist guards, who tormented him by holding up a photo of an American flag being burned. He infuriated the guard by emphasizing that in America, unlike in Communist countries, we are not afraid of freedom.

Mr. Speaker, recently, I read a news article about how Communist China—one of the world's most repressive governments—is about to ban desecration of its flag. In no way, would I like to copy China while diverting off a path of democracy paved by our Founding Fathers.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SERRANO], the distinguished gentleman who just flew back.

Mr. SERRANO. Mr. Speaker and my colleagues, I represent the poorest district in the American Nation, the South Bronx.

This debate today saddens me because we should be spending this time working on the real issues of the day.

So, in preparing for this debate today, I wondered what the flag would say to us if it had an opportunity to speak to us right now. It would probably say, I submit to you, "Listen, don't worry about me. I am on more lawns, more schools, more churches, and more classrooms, and more parades than I have ever been before. I was there in Tiananmen Square with Lady Liberty and Jefferson and the quotes from Lincoln.

"What I want you to do is to take care of what I stand for. Take care of the homeless. I don't want my children to be homeless. Take care of the hungry. I don't want my people to be hungry. Take care of those who are in need in this society. And while you're at it," I am sure the flag would say to us, "help my children get along with each other. Let us put aside racial ethnic and religious differences and help us come together."

My friends, I submit to you that the time we are spending today could be well spent dealing with real issues. And if this flag, our wonderful flag, could speak to us today, it would tell us to take care of the poor and leave this debate for sometime later.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, the first amendment to the Constitution, the supreme law under which we live and exist as a Nation proclaims, "Congress shall make no law * * * abridging the freedom of speech or of the press * * *." The principle of free speech is expressed as an absolute, without proviso or exception. The citizens of the newly free colonies had lived through the tyranny of a repressive government that censored the press, prevented meetings and silenced those who would speak in criticism of it. They wanted to make certain that no such government would arise in their new land of freedom and the first amendment—as with all ten amendments of the Bill of Rights—was a specific limitation on the power of the Government to prevent free expression.

We have lived 199 years true to that original principle: that personal utterances, expressions or writings, however offensive to others, or however critical of our Government, cannot be repressed by a majority in our Congress.

Now there are those who would write an exception, who would for the first time in our history qualify that right written by the First Congress 200 years ago. Their burden is a heavy one. Only the most dangerous of acts to the very continuance of our Republic could possibly be of sufficient import to require us to qualify in any way to the principle which lies at the bedrock of our free society.

That act they claim is the desecration of the flag, in protest or criticism of our Government. I submit, Mr. Speaker, that such an act is exactly the kind of expression our founding fathers intended to protect, that they themselves had torn down, spit on and burned the Union Jack in protest of the British Government's oppression; and that their greatest fear was of a central government of our own so powerful that individual protests and criticisms could be silenced.

We have lost our way in America if we believe criticism of the Government should now be curtailed. We have forgotten our history. We have laid our Constitution and the Bill of Rights aside.

The act of desecrating the American flag is abhorrent in the extreme, an outrage to the sensibilities of patriotic Americans and representative only of the perpetrators' small minds, lack of judgment, and ignorance of the history and meaning of our country. But Mr. Speaker, it is not an act that threatens in the least our existence as a Nation. Rather, our toleration of it reaffirms our commitment to free speech, and to the supremacy of individual expression over governmental power, which is the essence of the first amendment, the essence of our history, the essence of America.

The real threat to our Nation, to the principles that have guided us for 200 years, comes from changing them.

□ 1720

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I find it abhorrent that anyone would burn the flag of the United States of America. And I understand why everyone would want to protect it. But we should not allow a few obnoxious attention-seekers who desecrate the flag to push us into a corner by supporting an amendment to the Constitution.

When I think of the flag, I think about the men and women who died defending it. What they really were defending was the Constitution of the United States and the rights it guarantees. I love the flag for all that it represents, but I love the Constitution even more. The Constitution is not just a symbol, it is the thing itself, the very principles on which our Nation is founded.

Mr. Speaker, I rise in opposition to this constitutional amendment.

The flag is a symbol of all the values we cherish—freedom, democracy, and tolerance for others.

When I think about the flag, I think about the men and women who fought our wars * * * of those who came back injured, of those who died. I think of their families and particularly of their children * * * the sons and daughters of those who gave their lives.

When somebody burns our flag, showing wanton disregard for what this country stands for and for the brave men and women who fought and died for it, I want you to know I am just as angry as you are. It's obnoxious. It's an outrage.

That is just what a few thoughtless people are trying to provoke—outrage. And they are succeeding. Our protective instincts surge. We want to protect the flag from desecration.

We sought to do that when we overwhelmingly passed the Flag Protection Act of 1989. Regretfully, the Supreme Court voted to declare that law unconstitutional. As a result, we are actually considering an amendment to the Constitution, specifically to protect the flag.

This is where our anger and frustration are leading us: An amendment to the Constitution of the United States of America. Keep in mind the Constitution has been amended only 16 times since the Bill of Rights was passed in 1791. This is the same Constitution that eventually outlawed slavery, gave women and blacks the right to vote, and guarantees free speech and freedom of religion.

These are monumental, historic issues—issues that directly affect people's lives. I think we should stop and consider what we are doing before we allow a few obnoxious attention-seekers to push us into a corner.

Many Americans died defending the flag. But what they really were defending was the Constitution of the United States and the rights it guarantees.

I love the flag for all that it represents, but I love the Constitution even more. The Constitution is not just a symbol. It's the thing itself—the very principles on which our Nation is founded.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Speaker, I rise in strong support of House Joint Resolution 350 in proposing a constitutional amendment to ban the flag desecration.

Mr. Speaker, tonight I was to have the honor of introducing the Secretary of Veterans Affairs Edward Derwinski at a veterans public issue forum in my district. Two months ago when my staff and I started to make the preparations for this event, there was no way of knowing that the flag amendment bill would be coming to the House floor today. Although I have been looking forward to being with the veterans in my district tonight, I feel it is even more important that I be here today representing those veterans who have given so much to supporting the many principles embodied by the American flag.

There are those who say passing a constitutional amendment infringes on ones freedom of speech. I feel we are distorting the intention of the first amendment when we use this argument to allow for the abuse of our Nation's most sacred symbol—burning the American flag is more than speech it is an aggressive action, an action that ridicules and subjects to wanton destruction our cherished flag. As great as our country is freedom of speech has never been an absolute right. There have always been some limits—one cannot libel their neighbor, one cannot freely yell out obscenities, one cannot incite a riot, * * * My list could go on and on.

Our flag is the most visible and revered symbol of our country, many have died for what it represents and it deserves to be protected.

Our forefathers had great insight in framing our Constitution in such a manner that makes it very difficult to change and that is how it should be, but they also recognized that over the years the country would change and adaptations would need to be made. I have faith in the American people to make the right decision and I urge this Congress to have faith in the American people to make the right decision. Let us give the American people the opportunity to decide whether or not the flag is to be protected, lets return this issue to the States and to the people. I strongly urge my colleagues to join me in supporting House Joint Resolution 350, proposing a constitutional amendment to ban flag desecration.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I rise in support of the amendment.

I pledge allegiance to the flag * * * and to the Republic for which it stands. Those who advocate the let-it-burn policy are saying burn the flag—burn the Republic. Remember for which it stands.

It is an act as obscene and as offensive as cursing over the airwaves, which is indeed prohibited by the FCC. Burning the flag is a hurt heaped upon other people.

Just ask the veteran who saw his best friend fall at his side with a hole the size of a baseball in his chest.

Just ask the fans at a basketball game who honor the flag before they play.

Just ask the mother of a fallen son as tears fill her eyes when taps are played and the flag that covered the coffin is given to her. Should the flag be burned?

Mr. Speaker, we are engaged in a cultural war with those who would abuse the privileges of this great land to propagate their hate-America agenda.

This amendment has nothing to do with free speech. It has everything to do with prohibiting the physical desecration of the flag. We have laws against writing graffiti on the Washington Monument. We outlaw libel, slander, and obscenity. No one has an unlimited right to free speech. Just try yelling "fire" in a crowded movie theater, and you'll find out the limits of free speech.

And 48 States and the Federal Government already have laws prohibiting flag desecration. Were we any less free before 1989 when these laws were on the books?

Mr. Speaker, it is historically ignorant to suggest that we have never amended the Bill of Rights. Four times in our Nation's history we have changed the decision of the Supreme Court which impacted the Bill of Rights.

We have four amendments to the Constitution which deal with slavery, taxation, the electoral rights of 18-year-olds, and the procedures for suing in court. All of these amendments overturned previous court rulings which were based on old understandings of freedom under the Bill of Rights.

Mr. Speaker, the Justices of the Supreme Court are not omniscient. They may have become so intellectually aloof as to misunderstand the intent of the people. It is my intention to vote for an amendment to send them a clear message from the people.

Let us support this precisely drafted constitutional amendment to protect Old Glory. It is a symbol of all that is good and noble in the world. To permit radical hate-Americans to abuse constitutional protections to undermine our Republic is the ultimate in distorted and warped thinking.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I contend that the Supreme Court's split decision misconstruing action for speech needs correction by the representatives of the American people. I rise in strong support of the amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I rise in support of this carefully crafted and narrowly drawn amendment.

Mr. Speaker, I rise today to speak in support of House Joint Resolution 350, a measure which would offer to State legislatures a proposed constitutional amendment to protect against desecration of the American flag, one of the most precious symbols of the United States.

In discussing this amendment, I believe it is important that we understand the full scope of the amendment process. The U.S. Constitution begins with, "We the People." That portion of the Constitution which involves more elected representatives—Federal and State—than any other portion is the amending process. For passage of this amendment, it would require the approval of two-thirds of the House, two-thirds of the Senate, and three-quarters of the State legislatures.

Last October, we in the House tried to protect the flag in a different way—by statute. The House passed, and I voted for, a bill that made it illegal to desecrate the American flag. After the bill was signed into law by President Bush, it was declared unconstitutional by the U.S. Supreme Court.

I was outraged, as many Americans were, by that Supreme Court ruling because the Supreme Court ruled that symbolism means nothing. That the flag is, after all, simply cloth and people may treat or mistreat it as they wish. Five Justices, dressed in long black robes sitting high atop a magnificent bench in a marble palace in Washington, DC, have agreed that symbolism is not important.

Yes, the flag is red, white, and blue cloth sewn in a particular pattern. But, that particular pattern means freedom and it represents the many lives that have been sacrificed to secure that freedom. And that cloth, sewn into that pattern, is our flag and what it stands for demands respect, reverence and honor.

If the U.S. flag, our flag, is truly only a piece of cloth, why do I feel the way I do when the flag passes by? Why does my heart swell with pride when I see the flag hoisted high and hear the national anthem? It's because the flag is not just a piece of cloth, but a large piece of who we are—Americans. And despite what five Supreme Court Justices believe, Americans cannot allow this symbol of all we stand for to be desecrated without retribution. I know our Founding Fathers wouldn't.

The move on the House floor to defeat this proposed amendment and hence stop the amendment process is greatly misguided. The flag is our greatest symbol of independence and yet today, it remains unprotected from those who would defile and ridicule this enduring symbol of freedom and liberty. I urge my colleagues to support House Joint Resolution 350 and let the amendment process run its course unimpeded.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the very patient gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Speaker. I rise in support of this resolution, because I believe we must provide a specific protection for the flag of the United States of America.

When those opposed to this amendment claim that we are changing the Bill of Rights, they are missing the central point.

What we are doing is providing a very specific protection for our national symbol. The flag stands for the Nation and not for any individual cause or statement of protest.

On the very day that President Bush signed the flag burning law, a group of protesters burned a flag on the steps of the U.S. Capitol.

That protest showed nothing but contempt for our Nation.

When we talk about protecting our flag, we are not talking about a meaningless piece of cloth.

We are talking about a million young people who carried the flag into battle at the cost of their lives.

We are talking about the millions more who did come back—changed by war—who risked their lives to defend their country.

We are also talking about the thousands of brave individuals who are still missing in action.

We must protect the Constitution and Bill of Rights.

But we must also protect the flag as our most enduring symbol of what this country stands for.

This is an emotional debate, because we all care very deeply about the issues involved.

I do not see a conflict between preserving the Constitution and protecting the flag.

Mr. Speaker, I urge my colleagues to support this amendment in the House as a bipartisan statement that—in the land of the free and the home of the brave, our flag standards for the Nation.

We must not reduce our flag to just another piece of cloth.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. EDWARDS of California. Mr. Speaker, I yield 1 additional minute to the gentleman from Delaware [Mr. CARPER].

The SPEAKER pro tempore. The gentleman from Delaware [Mr. CARPER] is recognized for 2 minutes.

Mr. CARPER. Mr. Speaker, all of my adult life has been served in the Armed Forces of our country—22 years of active and reserve duty as a naval flight officer. Three tours of duty in Southeast Asia during the Vietnam war. The names of over 50,000 colleagues with whom I served there can be found on a wall not far from this Chamber in which we sit today.

My first impulse when I see someone burn the American flag on television is to want to rip the flag from their hands. My second impulse is to want to rip their heads from their bodies. This is an emotional issue for me, as it is for many of our veterans.

Having said that, I now represent the first State that ever ratified the Constitution. The Constitution holds a special place in the hearts of Delawareans. We would add to it with care. We would amend the Bill of Rights with reluctance.

I agree with the gentleman from New Jersey [Mr. HUGHES], who said earlier that it is possible to amend the first amendment without diluting our rights as Americans. After long and painful deliberation I have concluded that this amendment as drawn, does not meet that test. If adopted as it is drafted, we would be less free as Americans tomorrow than we are today, despite the best intentions of the amendments' authors.

Just as importantly, I fear that this amendment invites the opening of Pandora's box. How? By authorizing, not just a single Federal statute on flag desecration, but 50 separate flag desecration laws from 50 States, and God only knows how many other laws from the political subdivisions of those States.

Moreover, I fear that this amendment invites years of litigation as court after court tries to determine just what is meant by displaying the flag in a "contemptuous manner."

And, finally, I fear that this amendment, as drawn, invites from publicity seekers the very repulsive actions we seek to disallow.

I regret that the rule under which this measure comes to the floor today does not allow any changes to this proposed constitutional amendment. I opposed that rule which provides us with no option other than an up-or-down vote on the measure before us, but that is the reality with which we are faced.

After the smoke has cleared and the rhetoric has cooled following this debate today, we will be reminded of other realities that face us in America: Homelessness, a drug epidemic, illiteracy, an S&L morass whose perpetrators go largely unpunished, as well as budget and trade deficits that threaten our children's standard of living. Those issues, too, make my blood boil.

Next week, when we return to this chamber, I hope that we will turn our attention and our efforts to addressing them. By doing so, we will better ensure that future generations of Americans will feel as much pride in our country, and its flag, as our Founding Fathers felt during the infancy of our great Nation.

Mr. BROOKS. Mr. Speaker, I yield one minute to the distinguished gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, during the late 1960's and early 1970's, flag burning was an activity which occurred often to protest the Vietnam war.

At that time, public outrage was at a heightened level with much pressure on Congress to amend the Constitution.

To the credit of those who served here then, calmer minds prevailed and the Bill of Rights remained intact.

The country survived. The flag and patriotism prevailed.

Now, because a few misdirected individuals seek publicity through burning "Old Glory," we now debate an unneeded and dangerous change to the Bll of Rights, a document whose words have not been changed in nearly 200 years.

Flags can be physically destroyed by the malcontents of our society, but they cannot destroy what the flag stands for.

Freedom, patriotism, and pride are embedded in the hearts and minds of all of us who love this country. This the burners cannot destroy.

But tampering with the Bill of Rights guarantees our rights and freedoms can be destroyed.

Well, it won't be by my vote.

If this country survived the turbulent 1960's, when flags were often burned, surely we will withstand the few incidents occurring today.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Speaker, I rise in very strong support of this amendment.

Mr. Speaker, I do not believe anyone should burn the American flag. The flag symbolizes everything which we as a nation are about. Hundreds of thousands of people have given their lives in defense of the American flag and what it symbolizes. Furthermore, I believe we should make it plain that legislative authorities—Congress and the legislatures of the 50 States—have the power to prohibit the physical descration of the flag.

Mr. Speaker, it is for those reasons that I stand here today to express my strong support for a constitutional amendment giving Congress and the States such power. Let me say that I respectfully disagree with those who oppose such an amendment. Believe me, I understand and appreciate that our Constitution is a historic document, a true work of genius. Because the Constitution has stood the test of time and proven workable it has served as a model for nations everywhere. Rightly so. Our Constitution is a living tribute to the wisdom and farsightedness of the men who wrote it.

That's precisely why fears of a carte blanche assault on the Constitution which, opponents of the amendment say could result from a flag amendment, are groundless. Constitutional amendments are rare, as they should be. This isn't done every day—and it can't be. The framers of the Constitution made the process of amending it deliberately difficult. That is part of its genius.

Mr. Speaker, while I am certainly not a constitutional expert, I believe the framers intended to give maximum discretion to States and legislative authorities. That, for instance, is why I flatly disagree with the recent Supreme Court ruling that judges have the power to raise taxes. They shouldn't. Such decisions are best left to elected officials accountable to the voters.

So it is with flag burning: I strongly support this amendment which clearly establishes the right of Congress or any State to enact laws which prohibit desecration of the American flag.

Four justices of the Supreme Court, one short of a majority, hold the view that legislative bodies possess such power under the Constitution. Judges of every philosophical stripe—from Judge Robert Bork to former Supreme Court Chief Justice Earl Warren and Associate Justice Hugo Black—have publicly agreed.

Does this mean those of us who believe in the right of a legislature to protect the American flag are ready to dismantle the Constitution bit by bit? Of course not. That's unjustified, unwise and impossible, as it should be.

Mr. Speaker, what it is possible for this Congress to do, and what we should do, is approve this constitutional amendment and pass it onto the 50 States for consideration by the State legislatures. Let us let the people decide.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, there have been numerous eloquent speeches delivered today, and I will not pretend to try to match them, but I heard a number of things said today that demand some response from those who support the flag amendment.

In the course of the debate there have been many who talked a lot about the Constitution as their basis for opposition to the flag amendment. They have claimed that the Constitution confers an unlimited right to free speech. In fact, they have gone even further and claimed an unlimited right to the freedom of expression.

Who are we kidding? Maybe ourselves, but certainly not the American people. As we have debated this topic, the Chair behind me has continually reminded the gallery that they may not applaud the speeches that they like. They may not express themselves, but they can go outside and express themselves by burning a flag. That strikes the American people as kind of strange. Think about it: The Constitution, as many have pointed out here today, says no law may be made by Congress that abridges free speech. What is our interpretation of that particular mandate? What we say in this Chamber is that you can abridge somebody's right to freedom of expression when they come in here to sit and listen to our speeches, but somehow we cannot make a law that does something to protect the Nation's preeminent symbol, the flag.

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Mr. Speaker, that strikes many people as a kind of strange standard. I mean, if we cannot abridge the freedom of speech and expression, what are we doing writing rules in the House that many of us voted for at the beginning of this session that do exactly that when it comes to our own comfort and our own preservation of the standards of this Chamber?

Let me suggest there is another place where I think we are kidding ourselves. The Constitution, which some here today have called sacred, provides another way to amend the Constitution, and, if we think the debate is going to end here this evening, boy, are we wrong.

Out in the country this is a very big issue. Many of us may have done a round robin, and talked to ourselves and kidded ourselves that whatever we decide will be the final word, but it is not going to be. The American people are going to keep this issue alive. They are going to go to their State legislatures, and they are going to say to the State legislatures that there is another route. We can go the constitutional convention route. All they have to do is petition, and we can have a constitutional convention called.

Mr. Speaker, I would suggest to my colleagues that there is a lot more chance that there could be grave damage to the Bill of Rights in a constitutional convention than there is in what we have proposed to do here this evening.

Mr. Speaker, we may kid ourselves that speech and expression are unfettered while limiting them in this Chamber. We may kid ourselves that the amendment process will not move forward. But we should not kid the American people.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Speaker, there has been a great deal of debate today about whether we should vote in favor of a constitutional amendment to ban desecration of the American flag. Let me say here and now that I feel absolutely, viscerally, and adamantly that the flag should under no circumstances ever be desecrated. Yet, I rise in opposition to this amendment.

But before we vote today, I believe we must ask ourselves: Is it the right thing to do? What would James Madison and the other framers of the Constitution do if they were here today?

It is my belief that they would not favor any change in the Constitution which they wrote and none in the Bill of Rights, the rock upon which our democracy has stood for nearly 200 years.

When I ask myself "What makes America great?" at the top of the list is the first amendment. Worldwide, millions have struggled, fought, and died to experience the freedom of expression which is such an integral part of our society that it is often taken for granted. On the hierarchy of the national treasures, it reigns supreme.

Madison knew this. The first amendment was not drafted with exceptions. A few have since been created by the Supreme Court for public safety and the like, but never for what some, or even most of us, might deem to be offensive forms of political speech or protest. Political demonstrations were the foundation of our Nation and remain a vital part of the democratic process. That heritage is not ours to change. When we took the oath of office, "to support and defend the Constitution of the United States," no one suggested an exception for popular campaign issues.

It is particularly notable that both Texas versus Johnson and U.S. versus Eichman are decisions on this subject passed down by a more conservative Supreme Court than we had in, say, the 1960's or early 1970's. Many observers did not expect them to decide these cases as they did. This irony underscores the soundness of their decision. It is not as though the conclusions were reached by the liberal Warren Court of earlier decades. Since the judiciary, of the three branches of our Government, is the most insulated from politics, we should defer to them

on this issue rather than succumb to the political breeze of the day.

The good fortune which those of us here today all share is the right to live in and enjoy the benefits of the greatest country in the world. I love the United States and bristle at anyone who chooses to defile any national symbol, including the flag.

For me, the bottom line is simply the question of which is more important: the flag or the Constitution. One is a treasured symbol of our pride and patriotism, made of cloth that some people will tear, burn, or trample. The other is a set of basic principles which embodies the best of what is American.

Does it make sense to canonize the symbol by damaging what it represents? Absolutely not!

Mr. Speaker, I urge my colleague to vote against this amendment.

Mr. MONTGOMERY. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia [Mr. Ray], a combat Navy veteran.

Mr. RAY. Mr. Speaker, I rise in support of House Joint Resolution 350, the flag amendment to the Constitution. There are over 58,000 names of soldiers on the Vietnam Memorial who died in the Vietnam conflict and many, at one time or another, served at Fort Benning, GA, in the Third Congressional District. In addition, an estimated 100,000 veterans of foreign wars live today within a 50-mile radius of Fort Benning, GA, in the congressional district I represent. These veterans in the majority insist in the strongest manner that the flag be protected by a constitutional amendment.

Additionally, in World War II, 405,399 American soldiers died believing that American principles and beliefs should be upheld. In Korea, 54,246 American patriots went to Korea and gave their lives because they believed in America's principles. Even in the Civil War, Americans died for their beliefs—360,000 from the North, 258,000 from the South.—this terrible war insured that America would have its original flag and not two flags.

Mr. Speaker, these great Americans and many thousands of others have made their contribution to America. The majority made it with the belief that they were protecting America and its precious symbols of freedom, its freedom to worship as we please, to participate in the free enterprise system, to make our democracy work, and to protect our flag against desecration. The principles that they believed in centered around the American flag as a catalyst.

I want to add that as nearly as I can determine approximately 75 percent of the citizens of my district share this philosophy. I am elected to this House of Representatives because I have that same philosophy. I will not disappoint them.

Mr. Speaker, I respect the opinions of my colleagues who make a compelling argument that the Bill of Rights had been protected for 199 years and that this constitutional amendment will threaten its sanctity. But the flag also has been protected since its first day—over 200 years ago—by our predecessors in Congress and the administrations from the past. Therefore, I feel confident that the checks and balances of our legislative process will work, and we should allow the people of America to be heard by submitting this amendment to the State legislative bodies throughout the country as dictated by the constitutional amendment process.

I am therefore casting my vote today on behalf of my constituents and myself in support of House Joint Resolution 350, the constitutional amendment to protect our flag.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. TANNER].

Mr. TANNER. Mr. Speaker, I rise in opposition to the measure.

Mr. Speaker, last year, when the Supreme Court ruled a Texas law protecting the integrity of the American flag unconstitutional, I reacted with anger, as did most patriotic Americans. I did so out of a sincere, heartfelt attachment to a banner that has flown throughout the world over battlefields on which millions of American fighting men and women shed blood in defense of our freedom.

It was a natural reaction for one such as myself who was raised to hold firm beliefs in patriotic values. My father and uncle fought in the European Theater during World War II, and I served in the U.S. Navy from 1968 to 1972. For the past 16 years, I have been a member of the Tennessee National Guard, where I am presently a lieutenant colonel. After leaving the Navy, I was active in the American Legion, where we advocated and encouraged all citizens to display their patriotism.

I quickly cosponsored legislation to amend the Constitution to prohibit the desecration of the flag. When legislation came to the floor seeking to protect the flag, I supported it with the hope that the Supreme Court would allow it to stand as constitutional. Regrettably, the Court did not see it that way. It ruled that the Flag Protection Act of 1989 was unconstitutional. As an attorney, it is my belief that the Court is wrong on both these rulings.

The result of this latest ruling is that Congress was faced with considering legislation that would not only amend the Constitution, but, for the first time in 200 years, amend the Bill of Rights. As you know, the Bill of Rights not only guarantees free speech, but it also guarantees the right to bear arms, freedom of religion, freedom of the press, trial by jury, et cetera. Enacting statutory language is one thing. Considering changes in the one document that makes America different from every other government in the history of civilization is a matter of grave concern to us all. Every country in the world has a flag, but none has a bill of rights such as ours.

Our Bill of Rights did not come about by accident. The people who wrote it, like George Washington, Alexander Hamilton, Thomas Jefferson, James Madison, Ben Franklin, and John Adams, did so to safeguard the rights of Americans to claim freedom. These gentlemen are recognized as some of the brightest legal scholars in the history of mankind. Times and conditions change, but I truly doubt if these leaders could envision a time when people would ever want to chisel away at the right to exercise free speech. These Founding Fathers knew what it was like to live under the thumb of a government that did not respect free speech. They knew the Bill of Rights was needed to protect the people from the government. The government needs no protection from the people—the people need protection from the government. As the Communist countries in Europe continue to fall, only to be replaced by democracies, our country's right to freedom of speech is revered by all.

What has that got to do with the flag? Just this: the flag is a symbol of our liberty. It is the symbol of our freedom to speak out against our government if we are so moved. It is the symbol of our freedom to dissent from popularly held views. It is also the symbol of our freedom to make a fool of ourselves by committing a reprehensible, foolish, and repulsive act like burning a flag. George Washington once said: "The freedom of speech may be taken away and dumb and silent may we be led to our slaughter."

Briefly, let's look at the proposed amendment. It is written as follows: "The Congress and states shall have the power to prohibit the physical desecration of the flag of the United States."

This stipulates no penalty for burning the flag, apparently leaving that to the Congress and the 50 States. If ratified, many think this would mean one national law and perhaps 50 different State laws. Many States, including Tennessee, allow the local governments to supplant State laws, thereby providing each city and county to have laws against flag desecration. There are 3,100 counties and 23,000 municipalities in America. Each could pass an ordinance, and many would be totally different. In Memphis, TN, the penalty could be one thing, while in West Memphis, AR, something altogether different, and in Los Angeles, CA, no penalty at all. Imagine what a legal nightmare this would be.

As previously stated, the flag is the symbol of our country. However, the bedrock of our Nation is the Constitution. Ironically, nothing in this amendment would prohibit anyone from burning, trampling upon, or in any other way, desecrating the Constitution.

Therefore, upon deep and agonizing reflection, I have concluded that my earlier decision to support a constitutional amendment to overturn the ruling of the Supreme Court was wrong. As much as I disagree with their interpretation, I must support what is described as the most perfect government policy ever written: the Bill of Rights. If the line is not drawn here, then where? Shall we also infringe on the second amendment, the constitutional right to bear arms, because a relatively small

number of people use guns recklessly and without regard for safety? Shall we inhibit one's freedom to worship as they please because their form of worship does not conform with more traditional norms? I pray not.

We are a nation of people who love and honor our flag; a nation that treats its flag with respect and reverence. We do it motivated by a firm patriotic spirit fueled by guaranteed individual freedoms, not by a coercive government that demands tribute from a subjected people.

I love our flag and our Constitution. We do not disagree about the need to keep sacred the flag as a symbol of freedom. But in protecting it, we must not lose sight of the freedoms it symbolizes. I have supported on two occasions a law to make the burning of our flag a Federal crime. I remain hopeful and committed to crafting a constitutionally acceptable law that will alter the outlook of a Supreme Court that insists on misinterpreting the first amendment.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I take seriously my oath to protect and defend the Constitution of the United States. I have proven that by my actions on many previous occasions. For example, I publicly challenged the Reagan administration on its attempt to compromise the Constitution and the law when it was popular and politically expediate to remain silent.

If I felt that the Constitution was in jeopardy, I would defend it today by voting against the proposed amendment.

However, the proposed amendment to prohibit desecretion of the flag is not a limitation upon our freedom of speech as guaranteed by the first amendment. In my view, to burn or otherwise desecrate the flag is a manner of obscene behavior. It is well settled that obscene methods of expressing behavior can, however, be regulated. Society regulates obscenity by setting limits beyond which citizens are not allowed to go. We do not, for example, permit a person to disrobe and run about the streets because that method of expression is judged to be obscene behavior and offensive to the majority of Americans. Therefore, by prohibiting flag burning, we are not limiting free speech—we are regulating the conduct of obscene behavior. Accordingly, I will vote for the amendment.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I rise in strong opposition to any attempts to amend the Bill of Rights.

Mr. Speaker, I am deeply moved and compelled to come to the well of this Chamber and join my colleagues in strong opposition of the proposed amendment to the Constitution banning flag desecration as a form of political speech.

Mr. Speaker, the flag has long served as a symbol of the ideals of freedom and democracy that this country was founded upon 200 years ago. I believe that we do not need to destroy the integrity of the Bill of Rights and the first amendment in order to save the flag. Justice Brennan put it best when he said, "We do not consecrate the flag by punishing its desecration." To alter the integrity the Bill of Rights would only belittle the flag and the principles for which it stands. What has distinguished our Nation apart from others is the fact that we are not afraid of civil liberties, and we encourage freedom of expression and protest. The very essence of the first amendment allows unpopular views to be heard. When we succumb to pressure from those who fear free speech, and make that fear the supreme law of the land, we begin to sink to the level of authoritarian regimes the world over.

Mr. Speaker, while I am unsympathetic to individuals who burn the American flag, I do not support correcting the Court's decision by amending the Constitution. The framers of the Constitution, in my opinion, designed the amendment process to prevent unnecessary tampering especially on passionate issues. Already more than 6,900 constitutional amendments have been proposed, but only 26 adopted. I would not like to see the floodgates opened for unnecessary amendments which would only serve to alter the integrity of the document we have long revered for 200 years now. It is no accident that an amendment to the Constitution requires passage in both Houses of Congress by a two-thirds majority and ratification by at least three-fourths of the States.

Mr. Speaker, in the spirit of the Constitutional framers, the first amendment has long protected free expression, the central feature of a free and democratic society. We must leave the first admendment alone, and protect the right of every American to speak his or her mind. Our flag can withstand the antics and insults of flag burners, but if we surrender our commitment to the principles we have exalted since the birth of this Nation, not even an amendment to the Constitution will preserve our union for all eternity. We must concentrate on the larger issue of protecting and preserving the Constitution of the United States. If nothing else, Mr. Speaker, the Supreme Court has once again forced us to confront difficult personal issues. We must seize this opportunity to move ahead and embrace the principles exemplified by our flag and Constitution.

Mr. Speaker, we must stand together to assert the supremacy of the Constitution, and the enduring importance and wisdom of the Bill of Rights. We must stand unalterably opposed to any measure that tampers with the first amendment. To do anything less would be to truly desecrate the symbol of democracy, and the freedom that it represents.

I urge the House to reject the proposal to amend the Constitution before us today, and vote no House Joint Resolution 350.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from the great State of Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I do not doubt the sincerity or patriotism of those on both sides of this debate. As a Navy veteran, and a veteran of nine combat actions, I have a strong revulsion against flag burning, and detest individuals who engage in such activity. I respect the impulse to amend the constitution to deal with such activity, but the Constitution, and more importantly, the Bill of Rights, is not something to be amended on impulse, or reaction.

The Bill of Rights has served us well for 200 years by protecting the basic freedoms we all enjoy. The choice Congress faces on whether to amend the Constitution to prohibit flag desecration is a very difficult one. The choice is whether to protect the heart and soul of this Nation's values, the Bill of Rights, or try to protect an important symbol, the flag. In voting against the constitutional amendment to prohibit flag desecration, I vote for preserving the heart and soul of this country, the Bill of Rights.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, I rise in opposition to this amendment and will so put in the RECORD a substantiation of that position.

[Mr. HAYES of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, I rise in opposition to the constitutional amendment and in support of H.R. 5091 which prohibits flag burning under certain circumstances.

Mr. Speaker, on September 25, 1789, the Members of the First Congress had the remarkable foresight to propose to the legislatures of the several States an amendment to our fledgling Constitution which added a specific list of guarantees of individual freedoms and liberty to that great document.

The first of these guarantees reads in full, as follows:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

This and the other nine provisions that constitute our Bill of Rights were ratified by the requisite number of States when the Virginia legislature did so on December 15, 1791.

In the intervening 200 years, not a sentence or a comma of the Bill of Rights has been changed, even in periods of national calamity. In 1812, we were invaded by Great Britain and our Capitol building in Washington was sacked and set on fire. In the mid-19th century we endured a Civil War in which we turned our guns against one another and killed one-half of a million of our own men, women, and children. We have won two World Wars which have taxed our resolve and courage to the limit. We have encountered an endless stream of international and domestic conflicts of every imaginable size and shape. And throughout all of

this, we have never changed our Bill of Rights.

Does it make sense now, in a period of relative calm, as peace breaks out through the world, to amend that sacred document when we have an alternate means of protecting the flag? I think not.

As our junior Senator from Nebraska, BOB KERREY, has pointed out, are we really going to allow these creatures who perform the despicable act of flag burning—people that no one listens to anyway—push us into amending our Bill of Rights? This is something that the British army, Nazi Germany, and the Soviet Union have not forced us to do to our Constitution.

As our Senate majority leader GEORGE MITCHELL stated eloquently on June 19,

If the Constitution is amended to prohibit the burning of a flag, where do we stop?

The principle supporter of this amendment is President Bush. I ask the President to answer this question:

If someone burns the Constitution, would President Bush propose an amendment to the Constitution to prohibit that? If not, does that mean he has less respect for the Constitution than he does for the flag?

If the answer is yes, then where does he draw the line? How about the Declaration of Independence?

The point is that once the Bill of Rights is changed or amended, no line can be drawn. That is why it should not be changed or amended.

We Americans revere the flag. We also revere the Constitution and the Bill of Rights. We need not choose between them.

Once, we start down the slippery slope of amending the Bill of Rights, what comes next? Freedom of press? Of religion?

Mr. Speaker, I love my country and our flag as much as any man or woman in this Chamber, or in Nebraska. I may not have served in combat in Vietnam, lost part of my left leg, and returned with the Congressional Medal of Honor, as did my friend BOB KERREY.

But I endured the physical challenge of the infantry school at Fort Benning, GA, and the intelligence school at Fort Holibird, MD. All together, I gave 2 years of my life in the service of our Nation in the U.S. Army. I abhor flag burning. I challenge anyone to question my patriotism because I believe there are better ways to protect Old Glory than to change or amend the Bill of Rights.

We have one of those opportunities before us today. A revised statute carefully drafted to prohibit flag burning where it will promote violence, where it is a flag belonging to the United States, or where it is the flag of another destroyed Federal land.

Accordingly, I am joining my colleagues in cosponsoring legislation designed to protect the American flag. This new statute, narrowly drawn to address concerns expressed by the Supreme Court, will immediately outlaw flag burning under these circumstances.

Enacting the statute has several advantages.

A constitutional amendment could take 2 to 6 years for the requisite two-thirds of the States to ratify, if they do, leaving the American flag no protection during that time.

Our flag needs immediate protection.

Enacting the statute also means that we won't have to tamper with the Bill of Rights—including freedom of speech, freedom of the press, and freedom of religion.

Today, June 21, 1990, will go down in history as a day when we Americans found a way to protect our flag, and the Constitution and the liberties it represents.

I have said in the past I would do what is necessary to protect the flag including supporting a constitutional amendment. I do not rule that out today. I believe we can protect the flag adequately in this fashion without taking that grave, potentially dangerous step.

There is no question that this is the prudent course, the conservative course, the course consistent with out history of freedom and individual liberty. We should not consider amending the constitution unless there is utterly no alternative. Demagogs will no doubt attempt to misconstrue this vote for their own political purposes. But I am convinced that this is the most prudent course to protect our Constitution and our flag.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. LEVINE.]

Mr. LEVINE of California. Mr. Speaker, the issue before this body is whether a few misfits who burn our flag will provoke us to burn our Constitution.

This is as important a vote as any of us will ever cast. I spoke on this subject at greater length in a special order last Monday and without repeating those remarks, I want to refer to those remarks, and the comments I made in the House Judiciary Committee on the same day.

The first amendment, which, as we have heard repeatedly in this debate, has never been amended before in 200 years, and it enshrines our most basic guarantees in this society, the free exercise of religion, the freedom of speech.

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In our oath of office, Mr. Speaker, we swore to support and defend the Constitution of the United States against all enemies, foreign and domestic.

Mr. Speaker and my colleagues, do not let a few rabble-rousers restrict the most important guarantees of freedom enshrined in that Constitution.

Mr. BROOKS. Mr. Speaker, I yield one minute to the distinguished gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in opposition to House Joint Resolution 350, for the first time in our 200-year history to amend the Bill of Rights and permit Congress and the States to curtail the first amendment. This measure would surely be the ironic victory of symbolism over substance; the preservation of the flag, a symbol, over the fundamental guarantee of rights embraced within the substance of our Bill of Rights.

Whether to amend the constitution and especially to amend for the first time in this Nation's history the first amendment of the Bill of Rights, is certainly one of the more important questions that Members of Congress must decide. A vote for this resolution is a vote to limit, to curtail, the first amendment, the freedom of expression in our 200-year-old Constitution's Bill of Rights.

What are the circumstances which have brought us to this point today? Has there been a sudden new massive wave of flag burnings around the Nation? No. Do the vast majority of Americans have less allegiance to this Nation and its ideals than they did before a few misguided publicity seeking protestors burned an American flag in Dallas? No. Have the principles of patriotism and tolerance for political dissent fallen to such a level that we now have to mandate by law respect for the flag? I don't believe so.

What has happened is that President Bush and certain leaders in Congress have lost perspective on the issue, and in a misguided effort to protect the flag by law, are willing to sacrifice our constitutional Bill of Rights.

Some have even placed the value of this action solely in the context of politics; that in other words this would be a pretty good 30-second TV spot for challengers in political campaigns. Congressional action in acting on this amendment would protect the flag and damage the Bill of Rights in the process.

Flag burning is a desperate and offensive expression. the first amendment doesn't simply protect only expressions which the majority finds agreeable or tolerable. It also protects expression which may well be objectionable. It is emphatically not the Government's place to define what political opinions or expressions are acceptable. This Nation has endured a revolution, a terrible Civil War, two World Wars, a Great Depression, and various other upheavals and calamities without ever once amending the Bill of Rights. Yet some would suggest that the actions of a very few protesters would now warrant this extreme step on the bicentennial of the Bill of Rights. The danger we face today is not that the flag won't fly high; it is that some political leaders might shrink in protecting the Bill of Rights, the basic rights of the American people.

Just over 1 year ago, Americans witnessed on television the spectacle of thousands of Chinese students protesting in Tiananmen Square against the repressive policies of the Chinese Government. They did not have the protection of a Bill of Rights and they were shot down and run over by tanks. The American people and the world were justifiably shocked and appalled.

This week, the Government of China will pass a law banning the

desecration of the Chinese flag. In Hitler's Nazi Germany, it was against the law to desecrate the Nazi swastika. These examples should be instructive. The American people don't need to be bullied into support, allegiance to their Government, or its symbols. It is governments that do not enjoy popular support that obtain allegiance by compelling it by edict or mandate. The American flag has in the past, and is today and hopefully revered voluntarily not by absolute Government mandate.

Since the tragedy of Tiananmen Square, the world has witnessed democratic revolutions sweep through the nations of Eastern Europe and the Soviet Union. Isn't it ironic that at the very moment when millions of people around the world are embracing the freedoms of the Bill of Rights that Congress is debating whether to curtail that freedom?

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in strong support of the amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, I rise in strong support of this constitutional amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Speaker, I rise in support of House Joint Resolution 350, the Michel-Montgomery proposed constitutional amendment to protect the flag.

Our flag is not just a piece of cloth as some of the amendment's opponents maintain. It is a symbol of our Nation. It is a symbol of our unity. It is the unique symbol of our freedom and liberty.

Our flag is a common bond among a nation of individuals. It represents our Nation's potential to forge a consensus of common values from a citizenship of diverse backgrounds and opinions. Defending the flag doesn't threaten free speech, it celebrates it.

In times of crisis, Old Glory has served as a rallying point for Americans. Hundreds of thousands of American servicemen and women have fought and died for the values our flag represents. Allowing individuals to desecrate Old Glory makes a mockery of their sacrifice. It makes a mockery of our values as Americans.

These values for which our flag stands—freedom, tolerance, democracy—are the same ones articulated in the Constitution. These values do not exist in a vacuum and must not be taken for granted. Unless we put them into everyday practice and continually emphasize their importance, they lose their significance.

These values cannot remain an integral part of our Nation unless steps are taken to protect their meaning. Defending the flag is such a step.

The proposed constitutional amendment is a tightly drawn measure that in no way jeopardizes any American's right to free speech. It would not undermine the Bill of Rights, nor dilute the freedom of speech that it guarantees.

We pledge allegiance to the flag because of the things it stands for. Protecting the flag from desecration exalts freedom of speech, the Bill of Rights, and the Constitution.

I urge all of my colleagues to join me in voting in favor of the bipartisan Michel-Montgomery proposed constitutional amendment to protect the flag. It is the right thing to do.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I am proud to be a cosponsor of this legislation.

Some have said this would infringe on freedom of speech. This is simply not true.

People would still be free to give any type of political speech they wanted—from the most left-wing to the most right-wing.

But, we have never had total, complete, unlimited freedom of speech in this country.

A famous Supreme Court opinion said many years ago that "You cannot shout fire in a crowded theater." You cannot threaten or harass people.

Nor have we ever had complete freedom of expression. You cannot slap people, or spit in their faces, because you happen to disagree with their political views.

However, the great majority of people regard burning of the flag as something like a slap in the face, or perhaps even worse.

We have never had unlimited freedom of speech in this country—but we have had more freedom in this Nation than any other—because of the very freedom symbolized by our flag.

Four flags were burned on the steps of this very Capitol during the last week we were in session last year. Other flags have been burned in demonstrations throughout the country since the Johnson decision. We need to stop this. We need to pass this amendment.

Many millions of people have risked great danger and even death to come to live under this flag.

I urge your support for the constitutional amendment prohibiting desecration of the flag.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Speaker, I rise in strong support of the constitutional amendment.

Amending the Constitution of the United States is not something I am eager to do, but it is something I must do. Congress already has considered the alternative, which the Supreme Court recently ruled unconstitutional. So the time has come to do what most Americans, including my constituents, want done—that is, provide protection for the American flag.

The American flag is not just a beautiful piece of cloth flapping in the wind. The American flag is symbolic of our Nation's values. For this reason, it deserves special consideration. Amending the Constitution to protect the flag will not weaken individual rights; rather, it will strengthen the fundamental values that have held this Nation together for over 200 years.

Mr. BROOKS. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois [Mr. SANGMEISTER].

Mr. SANGMEISTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Frankly, in listening to all this debate, I do not understand what all the hysteria is about with those who are afraid of a constitutional amendment. I can assure you this Government is not going to collapse if in fact that happens.

In fact, I think you ought to take a look at the first amendment. Under it you have the right of freedom of speech. Under that same amendment, you have the right of freedom of assembly.

So for people like Mr. Johnson, why does he not go up and down the street and proclaim this Government is no good and it ought to be changed. Why do they not get 250 other people to go along with them? That is all protected under the first amendment and that they ought to be doing.

What we need to be thinking about here is those people who are concerned when they have to sit at home and watch the one thing that they hold high in their esteem, and that is the flag of the United States for which their family has given the ultimate, and that is their life. I think that is something we have to think about, too, and something that ought to be protected.

I understand there was a demonstration here which I did not see, that you are not going to be able to define exactly what desecration of the flag is. Well, let me tell you, a Supreme Court Justice who looked at this first amendment once said trying to define obscenity, "We can't define obscenity, but I know it when I see it."

It is the same thing with the flag. You cannot describe desecration of the flag, but you know it when you see it.

If Mrs. Bush wears a scarf around her neck with the stars and stripes around her neck, if the First Lady of this land, Mrs. Bush, should wear a scarf around her neck that has the stars and stripes on it, does that offend you? It certainly does not offend me, but if somebody is wearing the stars and stripes on the seat of their pants, yes, or if they go into the Art Institute, as they did in the city of Chicago, and trample on the flag, and sit down here and see what your feelings are right after you do that, yes, I think that is desecration of the flag. All you have to do is use common sense and we could draft the right statute.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I rise in opposition to the efforts to amend the genius of the late 1700's.

Mr. Speaker, I want to say at the outset that I believe burning the flag or any other desecration of the flag should be a crime punishable by fine and imprisonment. Desecration of the flag has been a crime throughout my lifetime and has been traditionally considered a crime in our country throughout our history. The 5-to-4 Supreme Court decision that struck down criminal statutes like these on the grounds of free speech were a total surprise and most would agree represent a decision out of the mainstream of all our values.

That decision raises two questions. First, should flag burning be illegal? Second, should we amend the Constitution to change the Supreme Court's position?

The answer to the first question is obvious. Flag burning should be treated as a crime as it has always been. Desecration of the flag should be punishable as a crime with criminal penalties of fine and imprisonment. And I intend to support making it a crime this afternoon when the House of Representatives will consider another statute with strict criminal penalties.

At the same time, we should not rush to amend the Bill of Rights set out in the Constitution if common sense tells us that this 5-to-4 decision by the Supreme Court will, in all practicality, be reversed in the near future.

Everyone expects not just one, but a number of new Justices to be serving on the Court in the near future. The strange fact of four judges appointed by Republican Presidents—including two appointed by President Reagan—and one judge appointed by a Democratic President coming together to form a 5-vote majority out of the mainstream of American values to include flag burning as protected "speech" under the Bill of Rights obviously will not stand for long. The replacement of just one aging Justice in poor health would reverse this decision.

Under these circumstances we should stop to think about what the fact that the Bill of Rights has never been amended in 200 years means to us. Americans are justly proud of our Constitution. The fact that the Bill of Rights has never been amended in all our long history makes these principles stronger and stronger into each passing year.

And making the Bill of Rights stronger and stronger is very important for all of us. We have just seen Eastern Europe break free from Soviet domination with almost no bloodshed.

Eastern Europe was able to break away from the Soviet Union in large measure because of the strength of the American Bill of Rights. Our Bill of Rights has become, over time, the most universal expression of human freedom and individual liberty precisely because it has been left unchanged and without amendment for all of our history. The people of Czechoslovakia and Poland would not have been able to rally around principles that we lived with and then changed in response to one political campaign or another.

Again, Mr. Speaker, I support making burning the flag a crime with fines and imprisonment. But I think it would be very wrong to enshrine the acts of a few, rather pathetic publicity seekers in a document as important to human liberty as the Bill of Rights of our Constitution.

We certainly should not rush to amend the Constitution in response to a one-vote change on the Supreme Court. We should work instead to foster respect for the values in our society that will change that vote.

Mr. EDWARDS of California. Mr. Speaker, I yield 1¾ minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, basic values. First principles. This amendment goes to the heart and soul of America.

The United States is blessed as the place where two great ideas—democracy and freedom—were first given political life. This Nation, more than any other, was born for these ideas; stands for these ideas; has made these ideals real.

The charter of our public life is informed by these two great ideas. The original Constitution secures our democracy, by providing that the people, through their votes, are the masters of their rulers. The Bill of Rights, especially the first amendment, makes explicit the freedoms—the limits on governmental power—on which an effective democracy rests.

We speak what is on our minds; we determine truth from a free exchange of ideas, not from the dictates of government.

We assemble in town halls and living rooms, to question and to discuss—and no State agency intrudes if somebody disagrees with the government.

These are the first principles of this Nation. These rights, and the Constitution that guarantees them, have been as a beacon that has illuminated the world and changed history. When Lech Walesa addressed us in this chamber not a year ago, he began with our Constitution.

"We, the people . . ." he began. And we shouted our cheers. He was acknowledging that our Constitution still defines—for all peoples, in all places—democracy and freedom.

And now, we would consider a measure to limit a constitutional guarantee that has served us so well for so long.

I share the outrage felt at even one act of disrespect to the flag. As a veteran, I have special memories: when you are overseas, defending what the flag stands for, there's nothing as achingly beautiful as the Stars and Stripes.

Today, we in this House are called upon to stand for what it stands for. To have courage in the cause of freedom.

Anticipating this moment, I've prayed for some inspiration—some gift of eloquence—to do justice to the solemn responsibility we face. Failing that inspiration, I cite the words of one of our great jurists, Oliver Wendell Holmes, who offers this insight:

> But when men have realized that time has upset many fighting faiths, they may come to believe . . . that the best test of truth is the power of the thought to get itself accepted in the competition of the market; and that truth is the only ground upon which their wishes safely can be carried out. That, at any rate, is the theory of our Constitution. It is an experiment . . . . While that experiment is part of our system I think that we should be enternally vigilant against attempts to check the expression of opinions that we loathe. . . .

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, it constantly amazes me that our Maker has provided us with minds that allow us to look at the same set of facts and arrive at conclusions 180 degrees apart from one another.

The debate today has centered around freedom of speech. There has been much talk about that here and that freedom has certainly been freely used today. The encouraging thing about the debate has been that there have been many patriotic and sincere speeches on both sides of the questions.

We all know that the first amendment guarantees freedom of speech, but—if you read it—it does not say actions. Speech, as defined by Webster, is the communication or expression of thoughts in spoken words; conversation; something that is spoken; exchange of spoken words; the power of expressing or communicating thoughts by speaking. Nowhere does the definition of speech even remotely refer to "acts" as being speech.

Much has been made of the intentions of the Founding Fathers. If the framers of the first amendment had meant to protect acts they would have said so. It is ludicrous to say that the definition of speech includes acts to

express one's displeasure. Where would that lead us? It could very well allow people to bomb or burn our government buildings or even to shoot people who represent a different point of view—all under the new protection some people would read into the first amendment.

I urge my colleagues to support the amendment we are considering today.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Speaker, I rise in support of the Bill of Rights.

Mr. Speaker, I despise any desecration or abuse of the American flag. I voted for legislation last year that many of us believed would protect the flag. I will vote again today for a statute to protect Old Glory. But I will not vote to amend the Bill of Rights.

Mr. Speaker, we take only one oath when we become Members of the House of Representatives—to support and defend the Constitution of the United States. Sure, we have lots of other important duties and responsibilities in this job. Over the years, I've voted more than 10,000 times on this floor and in committee, and each time I have tried to protect the values and represent the views and interests of my constituents. My office has helped more than 50,000 people in our district in resolving their problems with the Federal Government. We've gotten the law changed numerous times to improve the lives of all of our people, to bring in local economic development money and for other purposes. We've stopped a lot of bad laws.

All these are important aspects of a Congressman's job, Mr. Speaker. But there is only one oath we take, and that is to defend the Constitution. This job is a trust. We are trustees of the American system.

The Bill of Rights, the heart of the Constitution, has never been changed since the day it was ratified almost 200 years ago. We should not change it now.

Hundreds of thousands of Americans have died or suffered wounds for the freedoms guaranteed by the Constitution. We cannot let those deaths and wounds be in vain. We must defend the Bill of Rights, Mr. Speaker, not change it.

Mr. Speaker, our strength as a Nation is our freedom. The Constitution is a document of freedom. And the Bill of Rights is the heart and soul of the Constitution. My State of North Carolina, in fact, refused to ratify the Constitution until Congress approved a Bill of Rights.

Mr. Speaker, to those early North Carolinians freedom was not an abstract principle. They had lived under repressive governments in the Old World and under harsh Colonial governors in North Carolina. They knew how precious the freedoms in the Bill of Rights were—freedom of religion, speech, press, assembly, petition, trial by jury, and all the others. They did not just want these rights; they demanded them.

We should take these rights and this Constitution as seriously as they did. I would be untrue to my heritage if I voted to tamper with the Bill of Rights, Mr. Speaker, and I will not do it.

As our North Carolina forebears knew, Mr. Speaker, our freedom is our strength. It is what makes us special. It is what separates us from the totalitarian societies.

Freedom of political expression and representative democracy give us a society in which everyone can participate. It's another defense against tyranny. Freedom of inquiry gives us the benefits of scholarship and science. Through freedom in art and literature, we learn more about the human condition. By guaranteeing freedom of religion for all, we ensure that we will be able to hold and express our own religious beliefs freely. With freedom of speech and press, with competition in the marketplace of ideas, we improve our chances of learning what is true. Through free competition in commerce, we gain an improved standard of living. There are many practical benefits of freedom.

Not only do we gain enormous practical benefits from freedom, Mr. Speaker, but as Thomas Jefferson put it in the Declaration of Independence, we are endowed by our Creator with liberty. Our shared belief is that we are created and that we are created free. Freedom is a gift of God, not just some whim. It is our sworn oath and solemn responsibility to defend it. We must not amend the Bill of Rights.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, I rise today in opposition to the amendment and in support of the Constitution of the United States.

The Constitution and the Bill of Rights have endured for two centuries as proof of the basic values of this country. Never in our Nation's history has Congress passed a constitutional amendment to limit the freedoms guaranteed by these documents. After careful through, I have come to the conclusion that we must not do so now.

This issue is too important to be trivialized or politicized. And the values and freedoms that the Constitution ensure are so fundamental that they must not be easily suspended.

I do not condone flag burning. I strongly oppose it. Flag burning—for whatever reason—is offensive to me and to all patriotic citizens. It is disgusting and obnoxious to see people burning our flag. I condemn flag burners everywhere.

The flag of the United States of America is known throughout the world as a symbol of freedom. The Stars and Stripes stand for freedom.

That is why the flag flies above the Capitol here in Washington. That is why it flies proudly in front of millions of homes throughout the United States. And that is why American troops have carried the flag into battle for almost 200 years: it is a symbol of the freedom which is guaranteed in this country.

The overwhelming majority of the people of this country love the American flag, and so do I. Only a very small number are disgruntled enough to violate the flag in any way. But I believe that tiny segment of the population is not a big enough threat to this country to justify amending the Constitution and diminishing the Bill of Rights.

A few years ago, we celebrated the 200th anniversary of the Constitution. That celebration focused on the freedoms and values that we as Americans hold dear.

I was born and raised in Philadelphia, the birthplace of the Constitution. I feel a special pride for that document and the ideals it represents. The Constitution is what makes this country unique.

The 10 amendments to the Constitution that make up the Bill of Rights set out the freedoms that are guaranteed to every citizen of these United States. No other country has the Bill of Rights, no other country has the freedoms it provides.

The Bill of Rights has been protecting the freedom and rights of all Americans for almost 200 years. Those freedoms should not be reduced now because of the acts of a misguided few.

The first amendment of the Bill of Rights guarantees the right of free speech. And one of the most conservative Supreme Courts in history has ruled that the first amendment protects the burning of the American flag as a form of political protest.

We cannot protect freedom by taking away freedom. To remain free we must have the courage to tolerate the ideas of those that do not agree with the majority, even if those ideas are offensive.

The amendment we consider today would limit our right of free speech, and take away a freedom, by creating a special exception to the free speech clause of the first amendment. That would create a dangerous precedent. For once we create one special exception, we open the door for other special exceptions.

Those who burn the flag do not dishonor the flag, they dishonor themselves. We should not limit the freedoms contained in the Bill of Rights, the very freedoms that the flag symbolizes, just because a few ungrateful malcontents don't agree with us.

One of Congress' sworn duties is to protect the integrity of the Constitution. This amendment would undermine that integrity. The Constitution and the Bill of Rights are sacred. We should not change them now in response to a few fanatical acts.

Our founding fathers secured the basic freedoms guaranteed in the Bill of Rights. Next year we will commemorate the 200th anniversary of those 10 amendments. That anniversary should be a celebration of freedoms won, not freedoms lost.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the very distinguished majority whip, the gentleman from Pennsylvania [Mr. GRAY].

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GRAY].

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GRAY] is recognized for 3 minutes.

Mr. GRAY. Mr. Speaker, when our forefathers gathered together in my home town of Philadelphia a little

over 200 years ago, they tried to define their values within a document that would serve as a guide to a nation for all time. It was an unprecedented task.

Yet they succeeded in Philadelphia so well that our Nation has survived into its third century, and our Constitution serves as a guide to the world.

Today, we measure ourselves against the standard of those who gathered in Philadelphia.

For over two centuries, our Nation has stood behind the values of our Founders. We have never amended the Bill of Rights, and when we have amended the Constitution, we have done so to extend the dream of freedom and opportunity.

I am here today because we extended opportunities. But it is not just me and millions of African-Americans who have advanced.

We extended the dream to American women, and this House benefits today from their skills. We extended the dream to Hispanic-Americans and today this House benefits from their skills.

I do not oppose amendments to the Constitution but I hold those amendments to a high standard.

I ask those amendments to speak to expanding freedom because I remember the price Americans have paid for those freedoms.

I remember that the first American to fall in the Revolutionary War was Crispus Attucks. He was an African-American who died for freedom a century before our Nation ended slavery.

And he was not alone.

In the American Revolution, the Civil War, World War I, World War II—when freedom was not theirs—they fought for the ideal.

"We hold these truths to be self-evident that all men are created equal."

I remember Henry Johnson and Needham Roberts, who received the highest honor awarded by the French Government for their courage in World War I.

And I remember that our colleagues NORM MINETA and BOB MATSUI spent years of their childhood in internment camps honoring America's freedoms—even as those freedoms were denied to them.

And I ask, if we start down the road set by this amendment, if we open up our Bill of Rights, what is next? Do we move next to pick and choose among religions—or tell people which bibles they may read?

In the next few weeks, we will debate again the issue of choice. Do we move that debate to the Constitution as well?

In the War of 1812, John Johnson—an African-American in a country that still practiced slavery—fought gallantly for his country in the Battle of Lake Erie.

As he lay wounded on the deck of the naval schooner *Governor Tompkins*, he urged on his comrades with the cry to "fire away boys, don't haul down the colors."

John Johnson knew that in America our colors must be the colors of freedom. Colors worth fighting for even if they have never been wrapped around your family.

In America, our colors must be the colors of freedom, the colors of opportunity.

The colors of a Nation committed to ideals that may seem impractical today but guarantee our future and guide the world.

As you vote today, I urge you to remember the words of John Johnson.

"Don't haul down the colors."

What are the true colors? It is not the red, white, and blue colors of the fabric. If is the Bill of Rights and the Constitution, which the fabric symbolizes.

Don't haul down the Bill of Rights.

Don't haul down the Constitution.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Washington [Mrs. UNSOELD]

Mrs. UNSOELD. Mr. Speaker, In the Constitution of the Uniuted States, the Founding Fathers of our great Nation laid out for the world to see a new philosophy of self-government. Today the yearning for democratic rule sweeps like wildfire through Eastern Europe, and we prepare next year to celebrate the 200th anniversary of the ratification of our own Bill of Rights.

How ironic it would be if we were today to render criminal that very act by which free people everywhere have shown their extreme displeasure with their government—the symbolic burning of their own national flag.

The true measure of our commitment to freedom is our level of tolerance for that which we find repugnant. Freedom of speech is fundamentally a protection of the rights of the minority against the will of the majority. We must not allow the majority to dictate the boundaries of permissible speech to the minority, for through that door lurks totalitarianism and repression. How unfortunate it will be if we embark upon that path even as we prepare to celebrate our own 200th birthday of our Bill or Rights.

Even more unfortunate will be the fact that this journey may be the result of political consultants who want to use the flag as a partisan weapon in the upcoming election.

We need to be big enough, and confident enough of ourselves, not to place the symbol, however much we love it, above that which it symbolizes—our first amendment and our right to express ourselves freely.

I vote for my flag. I vote for the Bill of Rights. I vote for the vision of liberty so boldly proclaimed two centuries ago by our Founding Fathers. I vote "no" on this amendment.

We in this Congress are expendable but the freedoms over which our flag so proudly flies are not.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, last year marked the bicentennial anniversary of the greatest event in our Nation's history: the estabishment of a true democracy under the Constitution of the United States of America. As a native of Fayetteville, NC, I look with genuine pride on the part may State and my home city played in this important year. I would like to briefly take my colleagues back a few years and share a little of this proud history.

Mr. Speaker, Thomas Jefferson's declaration of independence was anticipated in North Carolina by nearly 14 months, when the Mecklenberg Resolves and Declaration of 1775 called for independence from Great Britain. The seeds of revolution took root early in North Carolina, and that desire for freedom prospered during the fight for independence and the subsequent birth of our Government. With good reason North Carolinians proudly proclaim our State "first in freedom."

The assembly for the First Congress in New York in March of 1789, and George Washington's inaugural in April did not mark the end of the struggle for independence and a constitution; two States remained outside the Union. Neither Rhode Island nor North Carolina had ratified the Constitution.

The previous year, on July 21, 1788, our ratification convention had assembled at St. Matthew's Church in Hillsborough, NC. Federalists at the Hillsborough assembly urged speedy ratification, but the Tarheels were not to be rushed. The convention proceeded with an article-by-article examination and debate of the proposed Constitution. Opponents of the document, argued chiefly that the power and sovereignty of the States would be imperiled, and that a Bill of Rights was absolutely necessary to prevent Federal infringement on individual freedoms. It was evident that the majority at Hillsborough was willing to ask the tough questions about the future of their new found freedom. After 10 days of spirited debate, North Carolina decided to neither adopt, nor reject, the Constitution.

Meanwhile, events were moving forward in the First Congress. This remarkable body accomplished perhaps more work of lasting value in less time than almost any of the 100 Congresses which have followed. Perhaps most important of the many achievements of the First Congress was passage of the Bill of Rights, which provided the needed impetus for a second North Carolina Convention—perhaps now it was time for the Tarheel State to enter the Union. The Assembly convened on November 2, 1789, and authorized a second convention, to meet at Fayetteville, NC, in 2 weeks time. By November 16, 272 delegates had assembled to consider the Federal Constitution, and the Bill of Rights. This time, Federalists were in a clear majority; after 4 days

of debate, the convention voted 195 to 77 to ratify the Constitution and the proposed amendments. The State Legislature added its approval to the amendments on December 22, completing the process; North Carolina became the 12th State to enter the Union, and the third, preceded only by New Jersey and Maryland, to approve the Bill of Rights.

Although many aspects of U.S. society today might appear foreign to the Members of the First Congress, they would note that the legal foundation they laid 200 years ago is largely intact. That so few changes in the Constitution have been necessary in 200 years time is a tribute to this gifted group of individuals and the system of government they established .

Indeed, the work of our Founding Fathers has held up extremely well over the ages. I have been fortunate enough to represent the city of Fayetteville and the citizens of the Seventh Congressional District in nine Congresses since 1972. The same forces of change that are forever shaping and molding our society have been at work in every Congress, from the 1st to the 101st. I have seen my own attitudes change over the course of time, shaped by events which force elected leaders to ask themselves tough questions about the directions they are taking this Nation, but my faith and respect for the Bill of Rights and its wisdom have never faltered. I share each of my colleagues' repulsion of flag desecration, but we, as a nation, cannot let reckless individuals who garner attention by abusing the flag to dictate the course our Nation takes, especially in regards to issues as important and dear as freedom, liberty, the Constitution, and the Bill of Rights. For this reason, I am compelled to vote against the proposed amendment to our Bill or Rights.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. YATES], who follows right after the gentleman from Kentucky [Mr. NATCHER] in seniority.

Mr. YATES. Mr. Speaker, few Justices of the United States Supreme Court have been held in more reverence by all Americans than Oliver Wendell Holmes, the magnificent Yankee.

In a decision involving personal freedom, he wrote:

> If there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought, not free thought for those who agree with us, but freedom for the thoughts we hate.

Occasionally that is a tough rule to remember. There are so many utterances that we despise and that we resent, but when lines are attempted to be drawn on what we can think and what we can say, we had better be most careful on how we jump.

Mr. Speaker, I shall vote against this constitutional amendment.

Mr. EDWARDS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Speaker, I rise in opposition to the amendment.

Mr. Speaker, On a lonely corner of his beloved Monticello, Thomas Jefferson is buried under an obelisk with this inscription that he wrote himself:

> Here lies Thomas Jefferson. Author of the Declaration of American Independence. Founder of the University of Virginia. Author of the Statutes of Religious Freedom for Virginia.

Nowhere does it say "President of the United States," or "Secretary of State," or "Governor of Virginia." Jefferson chose to be remembered by what he had done to enrich the lives and freedom of his countrymen, not the political offices he held.

We have all heard the threats from politicos who can't wait to produce the 30-second TV spots about those who voted against the flag amendment. They envision dozens of their compatriots being swept into office in a tidal waive of indignation. What these people will stand for once they get to Congress seems incidental. It is a regrettable aspect of modern political life that holding office is more important than protecting the basic liberties of the people we serve.

Burning the flag is one of the most distasteful acts imaginable. It evokes anger in all of us, and it should. The flag is a symbol of our social compact, of the sacrifice Americans have made over the years to breathe life into the Declaration of Independence and the Bill of Rights. There are other symbols of great importance as well. The cross is a symbol even dearer to many than the flag. The Star of David, and the Koran instill deeply religious feelings in many other Americans. On a recent visit with the leaders of Eastern Europe, I presented some of them with a copy of our American Bill of Rights. It, too, is a symbol. What makes the flag and these other symbols important in our lives is the idealism, sacrifice, and common beliefs they represent. To imply that our faith in these symbols is threatened by the handful of miscreants who would desecrate them is to exhibit the greatest faithlessness of all.

Our Bill of Rights is the simplest of statements. It has never been amended. It guarantees our freedoms, not our comfort. It insulates us from the dreadful tyranny of authoritarian government, not from the foolish pranks and antics of a handful of our fellow citizens. Indeed, there are not enough words we could amend into the Constitution to fully insulate us from the aggravation of those who don't share our beliefs.

That some in high office would rewrite the Bill of Rights for their own political goals is all the more reason we should leave this great document as it is. We can be eternally grateful that those who wrote our founding documents cared more about the freedoms they set forth than the offices they held.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. SMITH], a valued member of the Committee on the Judiciary.

□ 1800

Mr. SMITH of Florida. Mr. Speaker, 3 weeks ago my father passed away. My father was a veteran. As is the privilege of everyone whose father or mother or spouse or parent is a veteran, you are entitled to a flag from the United States of America.

We got that, folded in the tricorner and presented to my mother at the grave site.

A flag which means so much to me has never meant more. And it meant a lot to my father. He loved this country. It enabled him more than any other place in the world to get for his family what he wanted.

But I also know what my father would have wanted, not to force his decision on anyone else. He would have said about people who burn the flag, "Leave them be. The stupidity of their act shows the bankruptcy of their ideas."

This amendment is one of those bad ideas. It needs to be defeated.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think this has been an excellent debate. I have been here the whole 5 hours, and there is no question about it, there are strong feelings on this issue. In fact, I found myself applauding some of the opposition because I thought the debate has been that good.

But it still boils down to this one point: If you want to really stop flag burning, you have to go the amendment route. Our amendment, House Joint Resolution. 350 that is up to be voted on in a few minutes, needs to protect and does protect the freedom of speech, but it does stop the physical harming of our symbol.

Let us let the State legislatures participate. This is not the last vote that will come on this amendment. If it is adopted here today, then it goes to the 38 different States. Let us let the people decide. The people can through the legislators in their different States.

Mr. Speaker, I ask for a strong aye vote on this resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. KOSTMAYER). The time of the gentleman from Mississippi [Mr. MONTGOMERY] has expired. The right to close the debate belongs to the gentleman from Texas [Mr. BROOKS].

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr Speaker, I rise in strong support of the amendment. I think it is needed.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Speaker, I rise in strong support of this amendment.

Mr. Speaker, I will be brief. I've heard a lot of debate on the floor today regarding this proposed amendment—some good, and some bad. I've heard a lot of members in the chamber cite examples of what might happen if the amendment passes, or why we shouldn't tamper with the Bill of Rights. I'm not going to comment on any of that. What I want to talk about is why I intend to support the amendment.

Mr. Speaker, my father died in a service-related accident during World War II. My mother was presented with his burial flag. To my mother, and our family, that flag means a great deal—it is something that we feel deserves proteciton under the law. We do not see this as a threat to the Constitution. It is a means to stop an obscene and offensive act. An act of aggression against America and her people.

And I know that I am not alone. In New Hampshire, and across the Nation, there are thousands of people who have a story similar to mine. Thousands of people who feel that, for one reason or another, we need to protect the American flag from desecration. This amendment will allow those people to be heard in every State of the Republic.

Mr. Speaker, mine is a personal decision. I will support the amendment because it is what I feel is right. I hope that my colleagues will do the same.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I rise today to reaffirm my commitment to the American flag and those who have fought to protect it.

Congress passed the flag protection statutes and they have not worked. Now, we must send an amendment to the States for ratification. It is the only way to save our flag.

I am not advocating that we restrict the freedom of speech or change the first amendment. Instead, I and other cosponsors of House Joint Resolution 350 seek to outlaw the act of burning the American flag through a narrowly drawn 27th amendment to the Constitution: "The Congress and the States shall have the power to prohibit the physical desecration of the flag." This is not a new or radical idea; the illegality of burning the flag has been assumed throughout our Nation's existence, until the Supreme Court struck down the Texas statute last year.

To those who say we should not touch the Constitution, I say this is not the first time we have sought to correct a Court decision with an amendment. Dred Scott versus Sanford was overturned by the 13th and 14th amendments, outlawing slavery. Oregon versus Mitchell was reversed by the 26th amendment, giving 18 year-olds the right to vote. The list goes on.

As it has done before, the U.S. Supreme Court has made a mistake. Now, it is up to Congress and the American people to right this wrong. The American people have spoken: Well over 70 percent of them favor an amendment. Now it is our turn to act so we can send an amendment to the States for ratification.

Mr. Speaker, over 1 million Americans have given their lives to protect the American flag. Let us recognize that commitment through the only means now available—by voting for House Joint Resolution 350 and sending a constitutional amendment to the States for ratification.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, speaker after speaker on the other side has seemed to imply that this joint resolution denigrates the Constitution and Bill of Rights of the United States. It does not do that, because the framers of the Constitution put in an article on how that Constitution could be amended. That is what is being utilized here, the amendment process set forth in article V of the Constitution.

What this amendment does is overturn two Supreme Court decisions with which many Americans disagree, and it is the only way that those Supreme Court decisions can be overturned, because the Court has been quite clear that they cannot be overturned through the passage of a statute.

Overturning Supreme Court decisions by constitutional amendment has been done three times in the history of our country: The 11th amendment, which overturned Chisholm versus Georgia; the 13th amendment, which overturned the Dred Scott decision; and the 16th amendment, which overturned the decision that said that the income tax was unconstitutional.

Mr. Speaker, I submit that this is a serious enough issue to do it the fourth time. By proposing a constitutional amendment, we do far less damage to the Constitution and the Bill of Rights than through the proposal of the statute which will be coming up following the vote on the constitutional amendment. Both the amendment and the statute propose to prohibit the same kind of activity, flag burning. We can do it the constitutional way by voting aye on this amendment. We can do it the unconstitutional way by voting no on the amendment and aye on the statute.

Mr. Speaker, I hope if we want to defend the Bill of Rights, our votes will be consistent, and that is aye this time, and no in an hour.

Mr. EDWARDS of California. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. WASHINGTON], a distinguished member of the Committee on the Judiciary.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. WASHINGTON].

The SPEAKER pro tempore. The gentleman from Texas [Mr. WASHINGTON] is recognized for 4 minutes.

Mr. WASHINGTON. Mr. Speaker, most of what I am and most of what I ever hope to be in life other than what my family and people like that have done for me, I owe to the Constitution of the United States of America.

I believe in the Constitution of the United States of America. In fact, I believe in it so strongly that once in my law practice there appeared the Grand Dragon of the Ku Klux Klan in my office. He came in with some literature because he had been fired from his job. He came in with some literature, and it had despicable caricatures of black people, with bones in their noses and bones in their ears, and knees about this big, with grass skirts on.

He asked me to represent him in the case that he wanted to file against his employer. I did. He wanted to explain to me the literature. I had him in my office. I said, "You don't have to explain to me. You don't have to explain away the literature. It doesn't matter what is on the literature. It matters that you were out there exercising your constitutional rights at the time you were fired from your job."

There is nothing more despicable to me than members of the Ku Klux Klan, but I would defend with my life their right to practice whatever they wish to practice.

In Johnson versus Texas, which was decided last year, in a concurring opinion, Justice Kennedy said,

> The hard fact is that sometime we must make decisions we do not like. We make them because they are right, right in the sense that the law and the Constitution, as we see them, compel the result. And so great is our commitment to the process that, except in the rare case, we do not pause to express distaste for the result, perhaps for fear of undermining a valued principle that dictates the decision. This is one of those rate cases. Our colleagues in dissent advance powerful arguments why respondent may be convicted for his expression, reminding us that among those who will be dismayed by our holding will be some who have had the singular honor of honor in an age when absolutes are distrusted and simple truths are burdened by unneeded apologetics.
>
> With all respect to those views, I do not believe the Constitution gives us the right to rule as the dissenting members of the Court urge, however painful this judgment is to announce. Though symbols often are what we ourselves make of them, the flag is constant in expressing beliefs Americans share, beliefs in law and peace and that freedom which sustains the human spirit. The case here today forces recognition of the costs to which those beliefs commit us. It is poignant but fundamental that the flag protects those who hold it in contempt.
>
> For all the record shows, this respondent was not a philosopher and perhaps did not even possess the ability to comprehend how repellent his statements must be to the Republic itself. But whether or not he could appreciate the enormity of the offense he gave, the fact remains that his acts were speech in both the technical and fundamental meaning of the Constitution. So I agree with the court that he must go free.

□ 1810

It does not matter what we think about Gregory Lee Johnson. It matters what we think about our Constitution.

Make no mistake about it, here today we must decide between the flag and the Constitution. No matter how you argue it, no matter how you look at it, ultimately you must decide that you are in favor of the Constitution or you are in favor of the flag.

If we are going to amend this Constitution, then we ought to be proud enough to take it up and put a rubber stamp on it and say that it is no longer valid, because if they can take away the right of Gregory Lee Johnson, no matter how much we disagree, to say whatever he wishes to say by whatever means he wishes, next they will come and they will tell us what religion we can engage in, and then they will come and tell us how we may assemble and who will assemble.

I will not be a part of that process, for 200 years from now I would not like to have my fingerprints on the desecration of the Constitution. And if this amendment passes, we are lowering the Constitution of the United States to half mast.

Mr. EDWARDS of California. Mr. Speaker, I yield 1 minute to the gentlewoman from New York, [Mrs. LOWEY].

Mrs. LOWEY of New York. Desecration of the flag is vile and detestable. It is an insult to every American who reveres and cherishes our democracy. And it is a particularly despicable provocation to our Nation's veterans, who stood on the battlefield to protect our flag and the freedoms for which it stands.

That is why I strongly supported the Flag Protection Act, legislation to make it clear that flag burning is a crime. Those who see fit to burn flags should not be tolerated. They should be prosecuted and jailed.

Unfortunately, the Supreme Court has ruled that the Flag Protection Act is unconstitutional. I believe this decision was wrong. I agree with the four Supreme Court justices who indicated in their minority opinion that the statute was within the bounds of the Constitution.

We all know there are limits to free speech. We do not permit individuals to spray paint the Lincoln Memorial. We do not permit them to cry fire in a crowded theater. We do not permit them to use bullhorns in residential neighborhoods in the middle of the night. And, according to four justices of the Supreme Court, we should not permit them to burn the American Flag. I agree with these justices that the Government can—and should—protect the symbolic value of the flag without interfering with the first amendment rights of any U.S. citizens.

Later today, the House will consider another statute that almost every constitutional scholar believes is within the bounds of the Constitution. This statute prohibits desecration of the flag in cases when damaging a flag is likely to incite violence, when the flag in question belongs to the Federal Government, and when a flag is on Federal property. In fact, the Supreme Court has already ruled that such prohibitions are permissible. I am hopeful that swift passage of this statute will send a strong signal that the Congress of the United States is not willing to tolerate flag burning.

However, we now have before us an amendment to the Bill of Rights of the Constitution of the United States of America. I have considered this proposal very carefully, and I do not believe that it is in the best interests of our Nation to support it.

I understand and share the sentiments of many of those who support a constitutional amendment; however, the need to vote against this amendment is very clear in the context of American history. As I see it, we are voting today on whether to be guided by symbols or by principles.

For 200 years, the Bill of Rights has remained unchanged—a testament to the enormous importance of this document to our Nation and the world. In deciding whether to amend this all-important document, we have a responsibility to be guided by the principles on which this Nation is founded, not by the symbols that represent it.

I cherish the flag. When I pledge allegiance to the flag of the United States in the House of Representatives, I am deeply moved and grateful that I have the opportunity to serve this great Nation. To me, the flag is a glorious symbol of all the precious freedoms we enjoy. It is also a reminder of the valor and courage of our Nation's veterans, who selflessly gave of themselves so that our precious freedoms would be protected. These freedoms remain only a dream to so many people around the globe, and a beacon of hope to them as well.

But we should not tamper with the Bill of Rights on its 200th birthday—particularly when the difficult dilemma of flag burning need not be solved by constitutional amendment. In the name of protecting the flag, we must not sacrifice the freedoms for which it stands.

Moreover, we cannot let the flag burners set the agenda for our Nation. Because of a few deviants who burned a flag, we are now focusing on a constitutional amendment, instead of confronting the most pressing issues we face. The problem of crime and drugs continues to run rampant in our communities. Our educational programs need to be upgraded. Our programs for veterans desperately need to be improved. The Federal deficit must be reduced. This is where we should be focusing our energies. Instead, there has been a diversion of time and effort and resources to a constitutional amendment which does not enhance our freedoms.

Many proponents of the constitutional amendment honestly believe that it is the only way to protect the flag. I respect this viewpoint, though I disagree. But I do not respect those who degrade our flag by using it to pursue partisan political advantage.

The flag is not partisan. It does not favor one political party over the other. And neither political party has a monopoly on patriotism. Rather than exploiting this issue for partisan reasons, members of both parties should join together to ensure that we do succeed in protecting our flag and our Constitution.

Desecration of the flag is disgusting and repulsive. But desecration of the Constitution is worse.

When our Nation's soldiers stood on the battlefield and fought for the flag, they did not envision that we would chip away at the freedoms for which it stands. They were fighting to protect every word of the Constitution, not just part of it. They were fighting to protect individual freedom, not to expand the power of the Government.

In Westchester County, we have a special responsibility to preserve the Bill of Rights, because the Bill of Rights had its origins right in our own community.

In 1642, Anne Hutchinson, who was a pioneer in the search for religious freedom, settled in Westchester County. In 1655, her followers established St. Paul's Church in a part of Eastchester that is now known as Mount Vernon.

In 1702, parishioners at St. Paul's stood up for their religious freedom by refusing to turn their church over to the Church of England, as the Governor had decreed.

In 1733, during an election for Westchester County assemblyman, the British Governor attempted to force his own hand-picked candidate upon the Colonists. When they resisted and instead elected their own candidate, the Governor insisted on polling the voters in a manner that denied members of the Quaker religion the privilege of voting.

Then, when a newspaper reported this travesty, the British Governor burned copies of the newspaper and imprisoned the publisher, a German immigrant named John Peter Zenger, for seditious libel. Zenger's acquittal, following his defense by a brilliant attorney named Andrew Hamilton, set the stage for the development of a free press in America.

Events in Westchester County were crucial to the establishment of all four of the freedoms guaranteed in the first amendment of the Bill of Rights: freedom of the press, speech, religion, and assembly.

As a Member of Congress, I swore an oath to uphold the Constitution of the United States against all enemies, for-

eign and domestic. There is no duty that I consider more important. The Constitution and the Bill of Rights form the foundation of our democratic system of government.

We should not let flag burners stampede us into limiting the protections of the first amendment. We should not let flag burners expand the power of government and limit the power of the individual. And we should not let flag burners damage the precious freedoms we enjoy.

Flag burning should not be tolerated, but a constitutional amendment is not the solution. Rather, the solution lies in a constitutionally acceptable statute that will safeguard the flag from those who seek to harm it. Later today, I will cast my vote in favor of such a statute. And I will lend my strong support to other efforts designed to safeguard the flag without threatening the Constitution.

Let us pursue flag burners with the full force of the law, but let us pursue them within the bounds of the Constitution. That is the only way to fully protect our precious freedoms.

Mr. GUNDERSON. Mr. Speaker, please, enough of the name calling and finger pointing! Who is more patriotic, the person who supports a constitutional amendment to protect the flag, or the individual who supports the Bill of Rights? Come on.

I don't feel that we have to choose between these values. For 199 years we have had a peaceful coexistence between the Bill of Rights, State flag protection laws and a Federal flag protection act.

Passing a narrowly drafted constitutional amendment to protect the symbol of our Nation would not infringe on the basic right of free speech. Clearly, there is a difference between actions and speech. Burning a flag is an act—it is not speech. In 1969, Chief Justice Warren said, "The appellant (flag burner) was convicted for his act, not his words. I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace." In addition, Justice Fortas added, "This act (flag burning) . . . is not entitled to the pervasive protection that is given to speech alone. It may be subjected to regulation . . ."

But even if you put this issue in terms of free speech, we have always had certain limits. Libel and slander, obscenity, copyright and trademark laws, and perjury are clearly not protected under the first amendment right to free speech. By passing a narrowly drafted amendment to the Constitution, we will add flag burning to these already established exceptions.

There is a necessity for Congress to take the lead role in passing a constitutional amendment. It is important that an issue of this magnitude be addressed by governments both at the State and Federal level. However, the Congress of the United States must dictate what a constitutional amendment looks like or run the risk of the States forcing numerous flag protection laws upon the Federal Government. This would hardly be productive.

Obviously, we don't want to amend the Constitution every time we disagree with a Supreme Court ruling. But, the flag does play a special role in our society. It symbolizes our Nation and all of its encompassing beliefs. It is time to pass a constitutional amendment—one that will protect the flag and one that will protect the Bill of Rights.

Mr. CONTE. Mr. Speaker, I rise in opposition to House Joint Resolution 350, to amend the Constitution of the United States to permit the United States and the States to prohibit the physical desecration of the flag.

I rise fully aware of the importance and the gravity of the issues we debate today, and of my oath of office to preserve, protect, and defend the Constitution of the United States. And I rise first of all to say God Bless America, the land of the free and the home of the brave.

The land of the free and the home of the brave. Never before have I felt the tautness of the tension between these two phrases. It is the brave who established and preserved the freedom of all Americans.

From the first shots at Lexington and Concord, men and women have died in battle on behalf of our great country. As at Fort McHenry in the War of 1812, they have fought and died so that, at the end of the day and through the night, the Stars and Stripes will fly still proud and triumphant. And when our brave veterans pass away, they are carried to their final resting place under cover of the flag. Their closest survivor is given that flag as a reminder of the brave hero who never hesitated to risk the ultimate sacrifice.

As a veteran of World War II, serving in the Seabees in the South Pacific, and as a person who has given 40 years of my life to public service, I love my country, and I love my flag. When the flag is carried by in a parade, I doff my hat and my heart beats fast. The day when that flag no longer goes by is the day when the United States shall no longer exist. May that day never come until the Day of Final Judgement.

As the flag flies proud as our national symbol, so does our Constitution beckon as a beacon against the darkness of oppression and tyranny around the world. What was it that sustained the persecuted religious sects of 17th and 18th century Europe? What is it that sustained the people of Eastern Europe through their decades of unjust domination?

Surely as dissidents, when they whispered nervously among each other about their deepest desires and hopes, it was the hope that some day they could speak freely and openly which gave them strength. Because they knew of a place on Earth where such a right was enshrined in the Constitution. They knew of a place where that right was protected and practiced and held forth as an inviolable right. That place was and is the United States. It is a place that since its very creation has been guided by a short, simple document with fundamental principles, one of the most sacred of which is to protect the individual against even the possibility of oppression by government or by a majority that elects the government. It was the colonial flag of the Commonwealth of Massachusetts that carried the motto "Don't tread on me."

From the outset of our Republic, there are certain things that no government, Federal or State, had been able to do under our Constitution. Restricting the freedom of expression, no matter how unpopular the message, is one of those. Tolerance, Mr. Speaker, is part of the fragile political spine of our country: tolerance of others, of their differing backgrounds, religions, races, genders and ways of life. It is unpleasant at times. It is irksome at times. It is downright offensive at times. But it is the test of our greatness as a nation.

I fear, Mr. Speaker, that no matter what we do today, we err. We err if we do not protect the flag, because we hurt those brave men and women who have risked and often given their lives so that it may stand tall. We err if we do protect the flag, because we reduce, even if by one iota, the broad protection of speech and expression embodied in our Constitution.

What sways me is the gravity of the proposition of amending the first amendment of the Bill of Rights, which has not been changed since it was added to the Constitution two centuries ago. For more than two centuries, this country, this Nation, this Republic has been known as the land of the free and the home of the brave.

I have no doubt that it will continue to be the home of the brave. I do not wish to risk any action, no matter how remote the risk, that might diminish it as the land of the free.

If I must err, Mr. Speaker, I will err on the side of the vision and the wisdom of our Founding Fathers more than two centuries ago. I will err on the side of leaving the first amendment intact and unchanged as a guiding light for the next 200 years, just as it has been for the last. God Bless America.

Mr. KOLBE. Mr. Speaker, today, the House of Representatives considers a resolution to send to the States an amendment to the Constitution of the United States.

That bare statement stands alone as testimony of the seriousness of this debate, the solemnity of this moment.

One does not amend the constitution casually. I know that each of my colleagues, whether they are for a constitutional amendment or against it, does not take this responsibility lightly.

On the other hand, let us not make more of this moment than it is. Our Founding Fathers understood that there would be reasons to amend the Constitution. They established a clear path to accomplish that. Twenty-six times after they concluded their deliberations in Philadelphia we have gone down that road. They also made sure that amending the Constitution would not be easy. They required that two-thirds of the Nation's legislators would have to agree before an amendment could be considered, and three-fourths of our States would have to concur before the amendment became enshrined in our basic law, the Constitution. So, there are ample safeguards to be sure we don't amend the constitution hastily.

What are we talking about doing today? Most emphatically, we are not talking about altering the Bill of Rights. We are not talking about taking away anyone's right to free speech as I think of it and as most Americans view that right.

Forty-eight States had flag antidesecration statutes on the books for many years until the Supreme Court, in its decision last year, decided they were invalid and unconstitutional under the meaning of the first amendment. No one I know thought a dark cloud hung over their right of speech all those years that flag desecration statutes were considered enforceable laws.

So, Mr. Speaker, let's cut through the rhetoric. Let's just ignore those who suggest that this amendment opens some Pandora's box for other amendments, for an assault on the Bill of Rights. Because it doesn't. It would restore the status quo that existed before the Supreme Court ruled, a status quo that was created by legislators in 48 States, passing flag desecration statutes with the same full knowledge and reverence for the Bill of Rights that is being talked about here today.

I suspect people from other nations are watching this debate today with some bemusement and bewilderment. The flag of their country may not have the same significance as ours does to us. They are not less patriotic. But they may have other symbols: a monarch, an historic event, perhaps. For Americans, the flag embodies all the values that we cherish. Trample on it, and you trample on those values. So, the flag is important, and it is worth protecting.

Having said this, having made these points in defense of our flag and our right to amend the Consititution, you may ask why I will vote against sending this constitutional amendment to the States. And yes, Mr. Speaker, I will vote against it.

Fundamentally, I will vote no because I am a conservative. I believe we should err on the side of caution when it comes to amending the Constitution. We should do so especially when we are altering the Bill of Rights.

Mr. Speaker, I served in our Nation's military. I was in the Navy, and I served in Vietnam, in combat. I yield to no one in my sense of patriotism, my love of country. I saw my friends wounded; I saw some of them die for our country. And I knew then, as I know today, how I swell with pride when I see our flag go by.

But I fought, and my comrades fought, not for the flag, not for the piece of cloth, but for the values the flag embodies, the values embodied in our Constitution, the values that stem from our historical traditions.

There is a practical reason why we ought not to prohibit flag desecration in our Constitution. It won't work. Surely, one of the main reasons we pass laws regulating behavior is to prevent undesirable behavior. But those who desecrate the flag do so to make a political statement. They are wrong and they are misguided. But they won't be stopped by a law, even one that we make constitutional again. In fact, they may be encouraged by laws prohibiting their outrageous behavior. Let's not give them the attention they crave.

Mr. Speaker, this issue is not an easy one for any of us. I respect those who have spoken for a constitutional amendment and those who have spoken against it. I know that each member has grappled with this issue; you have searched your soul and examined your conscience; you will do what you believe to be the right thing.

For myself, I must come down on the side of caution, of not amending our Constitution. But I will carry in my heart always the reverence for our flag. Even more important, I will try to keep my compass pointed toward the values enshrined in our Bill of Rights. Let that be our guiding beacon.

Mr. SPRATT. Mr. Speaker, I have labored long and hard on this amendment, and I come down on the side of caution. I come down on the side of saving the Bill of Rights as it has stood for the last 200 years.

This is not an easy decision for me. I love our country; I revere the flag; and I have no use for flag burners. They offend and disgust me. But I do not think that Congress should mark the 200th anniversary of the Bill of Rights by rewriting the first amendment, even with this limited proviso.

This was not an easy decision for the Supreme Court either; and I do not accept their result. I think the Court should have drawn on the opinions of Justices Fortas, Black, and Warren in *Street* v. *New York,* and at least laid the basis for distinguishing between speech and offensive conduct. But th is was a 5-to-4 decision; it can and will be revisited; and I think in time it will probably be revised, if not reversed.

The Constitution has been amended only 16 times since the Bill of Rights was adopted. It has served us well, and if there is any lesson to be learned from the last two centuries, it is that we should leave the Constitution as it is, amending it sparingly, and only for the most compelling reasons.

I have listened to the debate today, and do not find the reasons for this amendment compelling; nor do I find the answer to the problem in the text of this amendment. I think the amendment should state plainly what it would prohibit: Burning, mutilation, trampling, disfigurement. "Desecration" means different things to different people; if we add this amendment to the Constitution, the courts will ponder for years just what it does mean. And since the amendment allows the States to add their own flag laws to the Federal flag law, there is likely to be a lot of litigation if this amendment is adopted and ratified.

For all these reasons, I think we should lay this amendment aside and leave the first amendment intact.

Mr. LIPINSKI. Mr. Speaker, I am certainly not the best educated Member of this body, nor am I even close to being a expert on our Constitution or Bill of Rights. But through a gift from God, I believe I know what the American people want, and what is right. They want our flag protected.

The flag that was created as the symbol of the United States of America, when we fought and won our independence, liberty, and republican form of government. The symbol of this land of liberty and fortress of freedom that kept our Nation together and emancipated the slaves. The symbol that lead the fight making the world safe for democracy. The symbol the U.S. Marines Corps planted on the top of Mount Suribachi on the Island of Iwo Jima. The symbol that rolled back the tide of Nazi Germany. The symbol that stopped, contained and defeated international communism. It is a special, unique symbol. It is red, white, and blue, stars and stripes. It represents the American way of life. The American way of life yesterday, today and tomorrow, the realities of today, the memories of yesterday, and the hopes and dreams of tomorrow.

It is the No. 1 symbol of the United States of America. It is the symbol of the American people, and the American people want its symbol protected. I want our Nation's symbol protected. Please support this constitutional amendment.

To those who say, "by passing this constitutional amendment, we are starting down the slippery slope to the abridgement of freedom of speech," I say you are mistaken. There is no erosion of freedom of speech here, just protection of the symbol of the American way of life. The desecration of the American flag is an actlon. We forbid many actions in this Nation; we all know that. This constitutional amendment reaffirms our support for freedom of speech because our flag is our greatest symbol of the right of freedom of speech. Yesterday, today, and tomorrow we are continually moving toward a freer, more open, and more equal society in this Nation. The American flag is the symbol that embodies our Constitution and Bill of Rights, in progress toward that freer, more open, more equal society. Please support this constitutional amendment.

In closing, I would like to add; I believe anyone who uses this vote for or against a constitutional amendment for protecting the American flag in a political campaign has no right to call himself a patriot. Because that indeed would be a violation of our Constitution and an abridgement of freedom of speech. Thank you.

Mr. ANTHONY. Mr. Speaker, I am as offended as any American when I hear that a handful of people have burned the American flag as a form of protest. However, like the rest of my colleagues, today I am faced with the responsibility of deciding the question of whether this Nation is so threatened that the Congress must make an emotional rush to amend the Constitution in order to protect the flag.

Every nation has a flag, but few nations have what we as Americans have in the Bill of Rights. This document represents the most concise, the most eloquent, the most effective statement of individual liberty in all of human history.

Mr. Speaker, the inescapable fact which has been repeated during this debate and has made a huge impression on me is that not once in the 199-year history of the Bill of Rights has one word or even one comma been altered.

This past year I, like many of my colleagues, was swept up in the emotional response to unsavory acts of desecration of our Nation's symbol. I immediately cosponsored a resolution to amend the Constitution to prohibit the abuse of the flag. Now a full year later, after wrestling with this issue and listening to the views of my constituents, I have decided that the protection of the integrity of the Constitution and voting against House Joint Resolution 350 is the prudent course of action.

Yesterday, I received a letter from a Vietnam combat veteran from Pine Bluff who opposed this amendment stating,

As a Vietnam combat veteran I wish you to vote no on amending our Constitution. We've fought all Americas wars to protect the freedom allowed us in the Constitution. Burning the flag is stupid and angers me, but so what! So does the federal deficit and the S&L atrocity and I don't see George Bush doing much about those. As my representative I want you to not get emotionally involved in the political issue of flag burning, but concentrate on protecting the rights of people under the Constitution and making the government financially responsible for our tax money.

Mr. Speaker, it is clear this man simply believes that a constitutional amendment on flag burning does not protect the freedoms he fought for, it discourages it. I agree and I will support the Flag Protection Act of 1990 which, I believe, is the way to respond to the question of how best to honor the ideals the flag stands for.

Mr. ARMEY. Mr. Speaker, today we are debating a very grave undertaking—the amending of the Constitution of the United States of America. It is a responsibility none of us takes lightly, but certainly with a great deal of thought. Those of us who rise in support of this amendment do so with the utmost confidence that there is no conflict between protecting the flag and protecting the right of every American to free speech.

The flag is a symbol of this country's greatness and the many freedoms we possess. As Justice Stevens said last year, "If those ideas are worth fighting for, and our history demonstrates they are, it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration." Certainly, we as a society should be able to make the flag an object of veneration without trampling on anyone's rights to political expression.

Because of the unique nature of the American flag as the embodiment of the values and ideals our forefathers enshrined in the Constitution, it is deserving of protection—protection from acts which ridicule the very freedom that allows diverse political opinion to flourish. An amendment does not in any way prohibit or proscribe the ability of a citizen to hold and make known political ideals no matter how offensive it may be to the rest of us. It simply allows Congress and the States to protect the physical embodiment of the ideals so many Americans have fought to preserve.

The flag is not merely a symbol. As Henry Ward Beecher explained so eloquently, "A thoughtful mind, when it sees a nation's flag, sees not the flag—not the flag only, but the nation itself." That is why I support amending the Constitution to protect the flag—we are protecting not only the flag, but the very soul of our Nation.

Mr. CLAY. Mr. Speaker, I rise in opposition to House Joint Resolution 350, the constitutional amendment to prohibit the physical desecration of the American flag. There is no question that flag burning is an abhorrent act which no Member of this body would even contemplate condoning. But, we must not deny that this amendment would undermine our constitution by violating the freedom of speech which has been one of the greatest strengths of American democracy.

It is not possible to rationally divorce the issue of flag burning—which is a form of political dissent—from the exercise of free speech. As a Congress we condemn, with all our hearts and minds, such despicable acts of political dissent—but we must not legislate by emotion.

The flag is a symbol of our great Nation—it is not the substance of our democracy. The constitution is the fiber of our Nation. Our soldiers have fought and died not in defense of our flag but in defense of our constitution. As leaders we must not misconstrue the meaning and purpose of our American flag.

We pledge allegiance to the flag. We cherish this beautiful symbol of our Nation. But we cannot dismiss our sworn responsibility to uphold the constitution. We cannot preserve our flag by desecrating the constitution. I urge my colleagues to reject this legislative attempt.

Mr. BALLENGER. Mr. Speaker, today, we have heard a great deal of discussion about how we must allow people to burn our flag.

For the sake of balance, I would like to interject a little common sense into today's debate.

Since the early days of our country, it has been illegal to burn, desecrate or destroy the American flag. When I grew up as a boy in the mountains of North Carolina, it would have been ludicrous to even suggest burning the flag.

Last year, the Supreme Court decided to throw away 200 years of precedence and for the first time allow individuals to desecrate our flag.

Well, the majority of Americans don't agree with the Supreme Court's curious logic and they are calling on Congress to protect the flag.

To those who say that preventing people from burning our flag is somehow preventing them from speaking their mind, I have to say I respectfully disagree.

People can and should be allowed to say whatever they want to say. They should, however, not be allowed to destroy our most precious national symbol.

I urge you to support the constitutional amendment to protect our flag.

Mr. BROOMFIELD. Mr. Speaker, I would like to give my complete support to this constitutional amendment, which would ban the desecration of the American flag.

Like those who oppose this amendment, I wish there were a way to achieve the same end through different means. Yet the Supreme Court in effect passed the buck to us when it delivered such a divided vote.

The 5-to-4 vote reflects the divided constitutional thinking on this issue, and it is clear to me that future Court decisions will be equally divided.

I believe a constitutional amendment is important because it will give the people a chance to show the courts through the political process that the vast majority of Americans believe there are symbols in our civic life that are still sacred.

It seems to me that the general trend in court decisions over the past several decades is well summed up by the old song, "Anything Goes." Nothing in America is off limits these days. There no longer seem to be any standards for acceptable behavior. I believe my constituents are fed up with social and cultural anarchy and, quite frankly, so am I.

I don't believe anarchy is what the framers of the Constitution had in mind. Liberty yes, anarchy no. And apparently four Justices on the Court agree with me.

To those who argue that the American flag is merely a symbol, I agree: a very important symbol. As a previous Court put it,

* * * the flag is the symbol of the Nation's power, the emblem of freedom in its truest, best sense * * * it signifies government resting on the consent of the governed; liberty regulated by law; the protection of the weak against the power of the strong; security against the exercise of arbitrary power; and absolute safety for free institutions against foreign aggression.

The flag is the premier symbol of this Nation's cohesiveness and its sense of purpose. It's time to rally round the flag. If the courts aren't willing to uphold the most minimal standards of decency, this is the time to show that the American people are.

Ms. SNOWE. Mr. Speaker, I rise in support of House Joint Resolution 350, a proposed amendment to the Constitution designed to protect the American flag from physical desecration.

The proposed amendment before us is short; it contains a total of only 21 words. House Joint Resolution 350 reads "The Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States".

Yet, with those few words, this measure recognizes that our flag is not just a piece of fabric that can be treated as anyone pleases. Rather, it proclaims that the flag occupies a unique place in the hearts of our citizens and the history of our Nation as a symbol of freedom and democracy. As such, it deserves to be treated with dignity and respect.

Since the founding of these United States, countless men and women have spilled their blood and sacrificed their lives to protect and defend our country. Thus, the flag, which represents the United States of America all over the world, has earned special treatment. The measure before us today will provide the Stars and Stripes with the protection that it truly deserves.

As is written in today's Washington Post, "historians and students of popular culture testify [that] there really is something unique about America's relationship to its flag." One historian points out that the flag's symbolism is alone in our Nation. "There's nothing else. It has no competition."

That unique, special position demands unique, special protection.

In supporting House Joint Resolution 350, let me make it clear that I have given this issue, and all of its ramifications, considerable thought. Amending the Constitution is, by its very nature, always a serious proposition.

Nonetheless, the Founding Fathers correctly anticipated that, sometime in the future, it might be appropriate to modify the Constitution's provisions. As a result, they created a process whereby the Constitution itself, and any amendments to the original document, can be changed, if enough people support such an effort.

Indeed, on at least two previous occasions, amendments to the Constitution were adopted that modified existing amendments. Thus, the action we are contemplating today is legitimate both on a procedural and substantive basis.

That we must take such action is not the Congress's making. Regrettably, twice in the past year the Supreme Court has ruled that ordinary laws prohibiting the physical desecration and defilement of the flag are unconstitutional. The Court has held, in both Texas versus Johnson and U.S. versus Eichman, that burning the flag in political protest is constitutionally protected free speech.

The Court's first decision struck down flag-burning laws in 48 separate States, as well as a Federal anti-flag-burning law. To its credit, rather than immediately moving toward a constitutional amendment, the 101st Congress adopted a carefully drafted statute that tried to protect the integrity of the flag, without addressing the motives of the person burning the flag.

I supported that effort, since my goal has been to protect the flag, not adopt a constitutional amendment just for the sake of doing so.

In its narrow, 5-to-4 United States versus Eichman decision a little more than 1 week ago, the Court again held that anti-flag-burning laws are unconstitutional, under the first amendment's protection of free speech. With the Court having twice ruled that these laws violate the Constitution, if we want to protect the flag no alternative is left but to adopt a constitutional amendment.

I recognize that some Members of the House are opposed to this measure. I fully respect their right to hold a different position on this issue. And, their doing so does not, in any way, demonstrate a diminished love of this country or a lack of patriotism.

Nor, may I say, does support for this amendment have its roots in crass political considerations, as some have suggested. My support is based on a belief in the unique and cherished status of the American flag.

Those who oppose this measure argue that amending the Constitution, as provided for by House Joint Resolution 350, puts America on the path toward restricting our citizens' ability to freely speak their mind.

I disagree. It is the act of desecration, not the intended political statement, that this amendment seeks to address. And there are legitimate questions among constitutional law scholars as to whether desecrating the flag is a form of speech to begin with.

Mr. Speaker, House Joint Resolution 350 has been very carefully drafted. The amendment itself does not provide for any ban on flag-burning. Rather, it would allow such laws to be adopted separately by the Congress and various States.

In considering this measure, let us be very clear about one thing. If this amendment is ultimately ratified, and the Congress and State legislatures decide not to enact anti-flag-burning laws, they will have that right.

This amendment does not mandate that such laws be adopted. It simply gives them the opportunity to do so, without having the Supreme Court invalidate their laws.

In conclusion, Mr. Speaker, this amendment provides the protection our flag deserves without impinging on the free speech rights of individual American citizens. I urge my colleagues in the House to join me in supporting this important measure.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of the flag amendment legislation that we consider today in the House.

At about this time last year, the Supreme Court decided that burning the flag was a protected form of free speech. The decision was close—5-to-4—but that was the decision. Now, many of us were frankly astounded by that decision, astounded and gravely disappointed, and I was one of those in this House who immediately afterward introduced legislation to reverse it.

However, I took this step not at all lightly, because I believed that to reverse this decision of the Supreme Court one course and one course only was open to us. That course required amending the U.S. Constitution.

I accept that the Constitution must remain open to amendment, indeed, in the words of Thomas Jefferson, that "laws and institutions must go hand in hand with the progress of the human mind." However, I likewise agree with Mr. Jefferson in not being an advocate for frequent changes in laws and constitutions. That is why my decision was such a difficult one.

Others in this Chamber protested, claiming that a law could be written that would at once protect our flag and be acceptable to the Supreme Court without amending the Constitution. I was skeptical, but I chose to try that option in the faint hope that it might be successful. Now we know the result: the Supreme Court struck down that law, too, by the same 5-to-4 margin.

Therefore, Mr. Speaker, we are here today to initiate the process by which our Constitution may be amended for the 27th time—and I think that is important to keep in mind. We who support this legislation are deciding nothing here today. We are simply opening the door for the people of this Nation to speak. Should this legislation pass the Congress, the question will go to each of the States. They—the people of this Nation—will make a final decision on this matter and I stand ready to accept their verdict.

I never accepted that this was an issue of free speech, that burning the flag is a form of protest. The American flag does not stand for any particular Government policy or decision or person. It stands for the United States of America, and to desecrate it means that America shouldn't exist—that freedom and democracy should not exist—that, in fact, the right to peaceful protest shouldn't exist. I cannot and will not support this idea.

The late Senator from Illinois, Everett M. Dirksen once answered this free speech argument. He called it false and sour. "A person can revile the flag to his evil heart's content," he said, "but it is only if his contempt take physical form—such as trampling, tearing, spitting and burning the flag—that he can be punished. Only his violence is punished."

I could not agree more. I say that by protecting our flag we deny no one the right of free speech or of peaceful political protest. I will defend the right of anyone to get up and say whatever is on his mind.

That is, in fact, the entire point: By defending the flag we ensure that this right never will be denied. All we ask is that the flag be accorded the same respect we offer to those who protest under its freedoms.

If living symbols of freedom and liberty mean nothing, if the ideals and not the evidence are all that matter, why don't we just open up the archives and tear up the Constitution and Declaration of Independence? They are just fading, old pieces of paper, are they not?

The fact of the matter is that they are much more than that. They have told generations and generations of immigrants seeking a better life—immigrants like my parents and some of yours—that here in America we believe it is an individual's right to choose, to control his own destiny.

This flag means America—it means that we should be able to disagree. How can anyone believe otherwise? How could anyone not choose freedom over tyranny, justice over injustice, liberty over servitude? These great ideals are what this flag—our flag—stands for. It is hope, dreams, the very best man can offer the world and the future.

That is the promise that our flag holds out to the oppressed people of the many lands around the globe. It is the same promise that those people have seen in these Stars and Stripes for generations.

It is that promise for opportunity and fulfillment that has drawn millions to our shores ever since the first Star-Spangled Banner was run up the flagpole.

Mr. Speaker, what disturbs me about all of this is that we as a nation must go to these lengths—to the extreme of amending the document upon which all of our national history and heritage rests—to reconfirm these very national beliefs. Yet because of the decisions of the Supreme Court, we must, in fact, do that. We are driven to do so through our reverence for the national banner and our lack of options.

Our freedom, our ability to live life generally as we please within the conventions of society, has not come cheaply. Our cemeteries are filled with the bodies of those who had great dreams of productive lives with loving families—dreams that were forfeited in order that you and I and our children would be able to lead better lives.

Our freedoms have been bought and paid for by their sacrifice, and I believe that we owe it to them to ensure that this country can be all that it was meant to be. In my mind that does not include contempt and desecration—it requires determined, constructive effort every day. All of this and more is woven into those few yards of cloth—and that is why I will vote to support this legislation.

Mr. CLINGER. Mr. Speaker, I will not vote for the flag burning amendment—not because I want to protect those who defile the flag—I deplore and despise their cheap theatrics—but because I have a greater reverence for the Constitution and the Bill of Rights. I thought I would support the amendment at first, but upon considerable reflection, I believe that this amendment would both diminish the first amendment and make martyrs of the

scum who presently offend us all by burning the flag.

This amendment won't stop the burning. It may increase the burning. It will stop when the TV cameras are turned off and when the majority of us start ridiculing the flag burners for what they are—pathetic, grandstanding losers who are beneath contempt and unworthy of any attention whatever and certainly nothing so grand as a constitutional amendment. A constitutional amendment gives them stature, makes them a threat. That's what they want. They don't deserve it and I won't vote to give it to them.

I thought the Supreme Court was wrong. I think that if you can punish someone for pulling the label off a mattress under Federal law, you should be able to punish someone for burning a flag. But the Court said no and while I disagree, I am unwilling to amend the Constitution to change the result.

We are a great nation and part of our greatness lies in the extraordinary emphasis we place on individual freedom. If we really believe in the first amendment's guarantee of freedom of expression then we must be willing to tolerate even those who are disgusting so long as they don't harm us or others.

Mr. BEREUTER. Mr. Speaker, patriotic Americans can certainly disagree on the merits of a constitutional amendment to protect the American flag. I strongly believe that the American flag should be protected against desecration—even if that requires a constitutional amendment. Approval of a proposed constitutional amendment by the Congress would put that decision before the American people's elected State legislators as our U.S. Constitution provides.

Mr. SYNAR. Mr. Speaker, every one of us has repeated the following words at least once:

I do solemnly swear that I will support and defend the Constitution of the United States.

These are not just words in a pledge, these are in a sworn oath.

In my 12 years of Congress, I know of no more serious matter directly related to our oath than the proposed constitutional amendment to ban flag burning. We must focus on our constitutional responsibility. We must ensure that the 200th anniversary of the Bill of Rights is not celebrated by amending the first amendment for the first time.

For the past week, I have listened to all sides of this debate. On Tuesday of this week, I listened as my Judiciary colleagues debated the matter. Let me tell you what this debate is not about.

This vote does not define traditional values nor is it a signal that love of country and moral values are declining.

This debate is not about patriotism and who is more patriotic than the next person.

This debate does not prove who is for flag burning.

What this debate is about is the most precious freedom that we as a nation have, the freedom of speech.

There are those who argue that to vote against an amendment means that its OK to desecrate the flag. It is never OK to burn the flag and such statements are nothing more than political posturing. A vote against the amendment does not dishonor the flag. Instead such a vote reaffirms our Founding Father's belief that political speech was the essence of democracy.

There is a lot of political speech, and actions that constitute political speech, that I find offensive, but the first amendment was not designed to ensure that all speech was agreeable to everyone. It was specifically written to guarantee a free society where all views were heard no matter how disagreeable or offensive even to the majority of persons. There would be no reason to have a first amendment if we all thought alike and agreed on every matter.

What I have found particularly offensive in this debate is the allegation that a vote against the amendment would dishonor those veterans who fought for the flag. That is a direct insult to the veterans who fought, who spent many years in prisoner of war camps, who were grievously injured and have publicly stated they are against an amendment.

Do any of you suggest that these veterans are less patriotic than the politician who casts an easy vote for an amendment? Such statements made for political gain, and that all important 30-second spot, are the true desecration of the flag and the values for which it stands, and to which we all pledge allegiance.

Our freedom of speech and the freedom to poblicly dissent is recognized throughout the world. Since last year, I have concluded it is even more important than ever to uphold the right to free political speech, whether spoken or through actions. The overwhelming events which have occurred in Eastern Europe prove without a doubt that the freedom of speech is the most valued of freedoms.

China puts people in prison who dare to defy their government. The Chinese students who risked their life in Tiananmen Square used the United States as the model of democracy and free speech. Only in the last week has the Soviet Union announced more freedom of speech after years of severe restrictions. These countries are not the models I chose to emulate.

Freedom does require courage. It requires courage to listen to offensive or unpopular speech and then to speak out against it. We cannot be so insecure in our beliefs that we must ban certain political speech. Stifling of dissent only makes us a weaker country, not a stronger country.

I do not intend to let these few flag burners go down in history as the malcontents who managed to bring this Congress to its knees and thus change 200 years of history. It should be an easy vote to uphold the Constitution. A vote for an amendment will only justify their misguided actions.

Because of political pressures and possible stiff opposition, some of you will choose to vote for the amendment. To all my colleagues, I remind you. There is right and wrong, and this amendment is wrong. Our Constitution, our jobs, and our country, will have a little less value if we pass this amendment.

Mr. MILLER of Washington. Mr. Speaker, this is an emotional issue we take up today, and I will try to address it in as calm and deliberate manner as possible. Some might argue that we should spend this time on other issues, particularly those affecting our economy. For example, we could debate the balanced budget amendment to the constitution. But dollars and economics are not everything to a nation. Language and symbols and values are important, too.

What is the issue before us? I believe it is this: Shall we ratify the Supreme Court's extension of constitutional free speech protection to conduct such as flag burning? Or, shall we through a constitutional amendment return the Bill or Rights to the words of the Founding Fathers and the interpretation of those words that our judges have adhered to for most of our history?

Back in 1791, our Founding Fathers wrote a first amendment that said, "Congress shall make no law * * * abridging the freedom of speech * * *"

Speech, not conduct, not action, not flag burning, but speech.

For years, the Supreme Court was reluctant to rewrite that word speech to cover conduct such as flag burning.

As late as 1972, the Supreme Court let stand two State antiflag burning statutes.

In 1968, Chief Justice Earl Warren, on behalf of the Court, held that the first amendment protection of free speech did not extend to draft card burning.

In this century there has been no greater a protector and defender or the vigorous application of the first amendment than Justice Hugo Black. Yet Justice Black in 1968 wrote:

It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense.

Now, by a narrow 5-to-4 majority, the present Supreme Court casts aside the views of Justice Black, and I might add, Justices Warren and Fortas to radically extend the first amendment speech protection to flag burning. Presumably in the future, someone who violates a local ordinance by burning his clothes and shoes on a public thoroughfare will be able to escape prosecution by claiming it was a political act covered by the speech clause of the Constitution.

How we have come to this state of affairs we can only speculate on. My own suspicion is that dissenters in earlier days were articulate and literate enough to exercise their right to speech; nowadays, a growing, albeit small number of dissenters are so inarticulate and lacking in literacy that they are unable to exercise their rights of free speech.

While this is unfortunate, this is not a reason to radically expand and change the free speech clause of the Constitution, as the Supreme Court by a narrow 5-to-4 vote has done.

By passing a carefully crafted amendment today, we can restore the historic interpretation of the right to free speech and protect a valued national symbol. Just as important, we can focus our energies on vigorously protecting what has historically been the dissenters' most valued right: the right to engage not in bizarre or lawless conduct, but in speech.

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to join with what I hope will be a majority of my colleagues and the vast majority of American citizens who support an amendment to the Constitution to protect the

flag. It was exactly 1 year ago today that the Supreme Court, in a narrow 5-to-4 decision, ruled that all Federal and State statutes prohibiting the physical desecration of the flag were unconstitutional.

Mr. Speaker, the Court was wrong then and it was wrong just 10 days ago when it reaffirmed this position in another 5-to-4 decision. The amendment we are now considering, House Joint Resolution 350, will overturn the decision of the Court and grant both the States and the Congress the authority to enact constitutionally protected language to protect the flag. I enthusiastically support this amendment, which is similar to an amendment I had introduced last year.

Mr. Speaker, the Supreme Court's 5-to-4 ruling is most unfortunate and an erroneous interpretation of what our forefathers, and we as a people, define as free speech. The opponents of this amendment have tried to depict this as an infringement on the first amendment rights of all Americans. This is simply false.

Mr. Speaker, I yield to no one in my support of the first amendment. As a member of the Helsinki Commission, I have continually fought for the expansion of these freedoms throughout the world. I have worked for the release of countless prisoners of conscience whose only crime has been that they wanted to express political or religious ideas that their governments opposed. I actively worked with officials in the Soviet Union who drafted a new "law on conscience," which may finally provide Soviet citizens with a constitutionally guaranteed right to express their beliefs without fear of reprisal. I was also privileged to present the U.S. position in Geneva on the need to end religious intolerance throughout the world.

And Mr. Speaker, I have worked just as hard to insure that these same freedoms—freedom of conscience, freedom of speech, and freedom of religion—continue to be strongly protected here in the United States.

However, Mr. Speaker, no right is unlimited.

There are those who claim that any limitation of the right to free speech is an intolerable infringement upon our rights guaranteed to us in the Bill of Rights. Upon simple examination, this proves to be totally false.

In a unanimous 1942 Supreme Court decision, Chaplinsky versus New Hampshire, the Court said:

* * * it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

Mr. Speaker, there is also an important distinction to be drawn between the freedom to express an idea and the freedom to use any method to express that idea. While one has a right to express virtually any idea in a public forum, the means of expression can be regulated. As Justice Stevens points out in his dissent:

Presumably a gigantic fireworks display or a parade of nude models in a public park might draw even more attention to a controversial message, but such methods of expression are nevertheless subject to regulation.

In his dissent in Texas versus Johnson, Justice Stevens said that the Court was wrong in asserting that the flag burner was prosecuted for expressing a political idea. Rather, Stevens went on to say, he "was prosecuted because of the method he chose to express his [idea]."

And again just 10 days ago, Justice Stevens stated:

It is moreover, equally clear that the prohibition [against flag desecration] does not entail any interference with the speaker's freedom to express his or her ideas by other means.

As Oliver Wendell Holmes asserted years ago, no one has the right to shout fire in a crowded movie theater.

Mr. Speaker, despite some the claims made here today, it is constitutionally permissible to regulate both the content and the means of expression of free speech, provided that it is done only in certain very narrow and well-defined circumstances and only if an overriding public interest is threatened. Let me emphasize that the circumstances must be narrow, well defined and justified in the public interest.

Mr. Speaker, prohibiting the physical desecration of the flag is both a narrow and well-defined restriction. Despite arguments to the contrary, it is not the first step toward curtailing political dissent, nor is it impossible to define. This agrument represents at best a gross distortion of the effect of this amendment.

This leaves only the question of whether the protection of the flag serves a purpose worthy of special consideration. On this point, I join with the overwhelming majority of the American public who say, emphatically, yes.

Since the creation of the American flag, it has stood as a symbol of our sacred values and aspirations. Far too many Americans have died in combat to see the symbol of what they were fighting for reduced to just another object of public derision. Simply put, it is a gross insult to every partriotic American to see the symbol of their country publicly desecrated. They will not tolerate it, and neither will I.

Finally, Mr. Speaker, let me quote three former Supreme Court Justices on the subject of flag burning. Former Justice Hugo Black said:

It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense.

Former Justice Abe Fortas said:

This act [flag burning] * * * is not entitled to the pervasive protection that is given to speech alone. It may be subjected to regulation * * * *

Finally, former Chief Justice Earl Warren was quite clear in his views on flag burning when he said:

The appellant [flag burner] was convicted for his act, not his words. I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace.

Mr. Speaker, the amendment to the Constitution we are considering today will restore the flag to its proper position as a symbol of our Nation, without restricting the freedom of expression for any of our citizens. I would hope that all of my colleagues would join with me in support of this amendment.

Mr. FIELDS. Mr. Speaker, I rise in strong support of House Joint Resolution 350. This joint resolution states simply that:

The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.

This resolution seeks to protect the flag to which we give the Pledge of Allegiance at the beginning of each legislative day here in the House Chamber.

Mr. Speaker, the American flag is a symbol of freedom and democracy in the United States and throughout the world. Over 1 million Americans have died in defense of the flag.

Our flag is the one symbol of all that is good about America—most important of which is our bill of rights that guarantees all Americans freedom of speech. I do not believe that burning or otherwise desecrating the flag should be protected by the first amendment as a form of free speech. This constitutional amendment assures all freedom-loving Americans that the States and Congress will have the right to prohibit flag burning, and that flag desecration will no longer be considered a form of free speech.

For more than 200 years, the American flag has served as the symbol of our Nation. The flag is sacrosanct, and the vast majority of Americans do not want our flag to be desecrated.

To honor all the millions of Americans who have fought and died for, who have revered and pledged allegiance to the flag, we must uphold their memory, their sacrifice, and their honor. The American people want those of us who serve in Congress to approve this proposed amendment to the Constitution, and, they want the State legislatures to follow with swift approval.

The American flag is indeed a symbol of all of our freedoms. Not only should we revere and respect this flag, but we should also protect it. I believe we must protect the rights and freedoms of our citizens, and we must do this by protecting the American flag.

This proposed amendment will not undermine the Bill of Rights. Rather, House Joint Resolution 350 will put into the Constitution what so many Americans have already maintained: That the flag should be protected from desecration. Congress and several of the States already have attempted to protect the flag by statute. The Supreme Court struck down these laws. We simply must defend the American flag, and we must do so constitutionally—and the only way we can accomplish this vital goal is by passing House Joint Resolution 350.

Our American flag stands as a beacon to those individuals across the world who have strived for years to build the kind of Nation we

in America have enjoyed for over 200 years. Since our democratic Nation was founded, we have followed special procedures for the flag: Flying the flag, carrying the flag, and conferring the flag on the heroes of our Nation.

It is vital that we in Congress do our part to protect the flag. Our American flag must continue to wave its stars and stripes over the land of the free and the home of the brave. The symbol of the principles we hold close to our hearts—liberty, equality, and tolerance—are most certainly symbolized by the flag.

The American flag is the one symbol which unites our entire country. We in Congress now must unite to approve this constitutional amendment and to protect this symbol of freedom.

Mr. SHAYS. Mr. Speaker, I rise in opposition to this constitutional amendment.

The flag is a symbol of all the values we cherish—freedom, democracy and tolerance for others.

When I think about the flag, I think about the men and women who fought our wars * * * of those who came back injured, of those who died. I think of their families and particularly of their children * * * the sons and daughters of those who gave their lives.

When somebody burns our flag, showing wanton disregard for what this country stands for and for the brave men and women who fought and died for it, I want you to know I am just as angry as you are. It is obnoxious. It is an outrage.

That is just what a few thoughtless people are trying to provoke—our outrage. And they are succeeding. Our protective instincts surge. We want to protect the flag from desecration.

We sought to do that when we overwhelmingly passed the Flag Protection Act of 1989. Regretfully, the Supreme Court voted to declare that law unconstitutional. As a result, we are actually considering an amendment to the Constitution specifically to protect the flag.

This is where our anger and frustration are leading us: An amendment to the Constitution of the United States of America. Keep in mind the Constitution has been amended only 16 times since the Bill of Rights was passed in 1791. This is the same Constitution that eventually outlawed slavery, gave women and blacks the right to vote and guarantees free speech and freedom of religion.

These are monumental, historic issues—issues that directly affect people's lives. I think we should stop and consider what we are doing before we allow a few obnoxious attention-seekers to push us into a corner.

Many Americans died defending the flag. But what they really were defending was the Constitution of the United States and the rights it guarantees.

I love the flag for all that it represents, but I love the Constitution even more. The Constitution is not just a symbol. It is the thing itself—the very principles on which our Nation is founded.

Mr. MACHTLEY. Mr. Speaker, I rise today in support of House Joint Resolution 350, the constitutional amendment to protect the American flag from desecration. Let me not trivialize the final outcome or make it seem unimportant, but let us realize that this process of debate is very important.

Opponents of this amendment argue that Congress has other, more pressing issues and legislative priorities to address. Why should we spend time, they ask, on such a trivial matter as protecting the flag from those who seek to burn it and trample upon it? We do indeed have many important issues to resolve, but there is time for both debate and resolution of these issues as well.

To these opponents of the constitutional amendment, I would say: the importance of our debate in the House today lies in the fact that it serves as an example to those nations throughout the world currently in the infancy of their development as working democracies. In Eastern Europe and elsewhere, we have witnessed country after country discarding failed communist systems in favor of representative democracy. We must allow these newly democratized Nations to see that this House of Representatives, a truly democratic and representative body, can freely debate and, yes,sharply disagree, over an issue which the American people have deemed important. These countries are looking to the United States to determine, not only in theory but in practice, what exactly is democracy. Let us also remember that this debate takes place without the threat of force, without the presence of troops, and without any form of coercion, no small achievement in the age of Manuel Noriega, Ion Iliescu, and Kim Il-Sung. No matter how anyone votes, they need not worry that tonight there will be a knock on their door by soldiers seeking to paralyze their view.

In short, our flag, which I believe must be protected by constitutional amendment, is a symbol for this debate. If we allow our flag to be desecrated by defeating this amendment, we simultaneously denigrate this free and democratic debate, for which our flag continues to be such a moving and appropriate symbol. This debate is not about limiting speech or changing the first amendment, it is about limiting action, action which was prohibited by statutes in 48 States before five Supreme Court Jurists determined that those statutes were unconstitutional. The Bill of Rights is protected by our Founding Fathers because the change requires a two-thirds vote in both Houses of Congress and three-fourths of the States to agree. That mandate assures that the process will not occur furiously or hastily or without due deliberation. Let the debate be held—that is as much a victory for our system of government as the outcome, while serving as an illustration for the world.

I urge all Members not to forget the importance of this debate, and support House Joint Resolution 350.

Mr. HAYES of Illinois. Mr. Speaker, I rise in opposition to House Joint Resolution 350, the proposed constitutional amendment banning the desecration of the flag, because I believe that we should not break precedent and amend the Bill of Rights and abridge freedom in our country. We all loathe those who desecrate the flag, but in doing so they do not hurt the glory of the flag; they hurt themselves and subsequently hinder their causes. However, we should not tamper with the freedom in our country. Passing a flag amendment would constitute an unwarranted restriction of freedom of speech and expression under the first amendment. We should continue to show respect for the flag, but we should leave the Bill of Rights alone.

The American flag has long been a symbol of the liberty and freedom that we Americans hold so dear to our hearts. It is a symbol that reminds us of the great sacrifices given to secure our liberty. The Bill of Rights has seen us through the best of times and the worst of times. I, along with many others have fought too hard to help secure civil rights and labor rights for my fellow Americans to tamper with the Bill of Rights. This is why I am opposed to a constitutional amendment banning flag desecration. I feel that in adopting an amendment, there would be a potential for a vast array of other challenges to our constitution. Action such as banning flag desecration would open the floodgates to other amendments, which would challenge not only the stability of our Constitution, but also the stability of our country.

Mr. Speaker, my constituents have been calling and writing voicing their opposition to an amendment. My staff tells me that not one person or organization in my district has called asking me to vote for an amendment. Today I will make them proud when I vote against a flag amendment. In voting against this measure, I not only vote the conscience of my constituents but my conscience as a member of this Congress. I certainly encourage my colleagues to oppose this measure.

Mr. SENSENBRENNER. Mr. Speaker, it is my understanding thats my last speaker will be able to immediately precede the distinguished Speaker's remarks, so I would ask if there are further speakers either by the gentleman from California or the gentleman from Texas.

The SPEAKER pro tempore (Mr. KOSTMAYER). The gentleman from California [Mr. EDWARDS] has 4 minutes remaining, and the gentleman from Texas [Mr. BROOKS] has 5½ minutes remaining.

Mr. EDWARDS of California. Mr. Speaker, I yield my 4 minutes to the gentleman from Texas [Mr. BROOKS], chairman of the Judiciary Committee.

Mr. BROOKS. Mr. Speaker, I have one more speaker who will have plenty of time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. My friends, I do not know which side deserves the credit for courage. I do not know if it takes more courage to vote against this amendment and incur the slings and arrows of some outraged veterans' organizations, or whether it takes more courage on our side to endure the slings and arrows of the media which has relentlessly condemned us as cultural lags, and yahoos, and political pygmies, and all of the rest for our

weakness in caving in to the populist patriotic notions of our people.

But I will concede this is a close call. This is not an easy amendment to vote on. It is a close call. It was a 5-to-4 decision, and it is so in many of our minds and many of our hearts.

I wish we did not have to amend the Constitution to achieve the desirable result. We are driven to this by the decision of the Supreme Court.

Mr. Speaker, I rise in support of the Constitution and, therefore, I support the amendment. When the Supreme Court makes a mistake, it is the responsibility of the people's body to propose a correction, and that is all we are doing, we are proposing a correction. Congress has reversed an errant Supreme Court four times by amendment in our history, and certainly when I have heard repeatly, that we have never amended the Bill of Rights before, I must reply that the 13th amendment and the 14th amendment in 1865 and 1867, amended a 1857 decision of the Supreme Court, Dred-Scott, which was based on a deplorable interpretation of the fifth amendment, so at least decisions on the Bill of Rights have been reversed by constitutional amendment.

And please, you folks that fell all over yourselves to support the equal rights amendment must have understood that that amended the Bill of Rights because it claimed the word "person" in the fifth amendment did not include woman. "No person shall be deprived of equal protection under the law." "No person shall be deprived of due process of law." You must have held that "person" was devoid of female content because you insisted on the gender specific ERA and that is all right. But do not say there is something sacrosanct about the Bill of Rights when you yourselves have sought to change it.

Now by the way, the Civil Rights Act of 1990 seeks to reverse four Supreme Court cases, so we are not averse to doing that, are we?

Should we protect the flag? What is so special about this flag?

It is unique, sui generis, in a class by itself, nothing else like it. It is transcendent. It rises above the political swamps that we live and work in and serves as a symbol of our unity and our community as a country. It symbolizes as nothing else does. The uniqueness of this flag is why we want to treat it differently from everything else.

If I have a $20 bill I cannot burn it. If I sit here and burn it, I am violating a Federal law. But I can burn a flag. That is an anomaly. Not all expressive conduct is protected.

But the self-evident truths that our Nation's birth certificate the Declaration of Independence has so beautifully, majestically pronounced, "we hold these truths to be self-evident," they are beyond discussion, they are not opinions. They are truths that are self-evident, that all men, all mankind, members of the human family are created equal, and endowed by their Creator, with inalienable rights. These are an endowment not an achievement. We cannot take them away, among which are life, liberty and the pursuit of happiness. Those are the things that unite us. We are Poles, and we are Greeks, we are blacks and we are Mormons, we are Catholics and we are Irish, and we are everything. The symbol for America in deaf language is linking your fingers and moving your arms in a circle. We lack the cultural homogeneity of a China, a France or a Japan. We are different, but yet we are united in those marvelous gifts, endowments from our Creator that make us unique as Americans.

This is the unanimity that we share: that "governments are instituted among men to secure these rights, deriving their just authority from the consent of the governed."

Can we agree on that? Can we not get a symbol and elevate it and say that it unites us as a country, one Nation, indivisible with liberty and justice for all. I think so, and that is why it is different. That is why the VFW's and the American Legion, and the kids who pledge allegiance, look to us to preserve and protect the flag. Yes, you swear to defend the Consitution once every 2 years, but every day you pledge allegiance. So the two are not incompatible, but that is why it is important, and that is why the flag is different.

□ 1820

Now, the ghost of Jefferson and the ghost of Madison have been summoned here to oppose this amendment, but I wish whoever has the power to summon ghosts would summon them from Flanders Field and have them come here and tell Members what they mean when they say "We will not sleep if you don't keep faith with us." I do not know what that means, but I will tell Members something. I am one who despised the Vietnam Memorial. I thought it was a funereal ditch to go and be depressed in. I thought it lacked inspiration, a recognition of the nobility of the sacrifice made, and I really disliked it. However, I have been absolutely wrong. I go there and stand there and those names overwhelm me. Every one of them, a human being who loved this country as much as others do, and as much as you and I do. Then, imagine above that, another monument with the names of those who lost their lives in Korea, and in World War II, World War I, go on back, all the way to the War of 1812 and the Revolutionary War. All of those names are people we owe so much to. We owe them; keeping faith with their sacrifice.

It is little enough to have the symbol of what they died for, the values they died for, special and protected. Let Members take the flag out of the gutter where the counterculture has dragged it. This is an opportunity not to get even with some creeps, but to say there are transcendent values that are important to every American, that unify Americans, that brings Americans together as a community, one Nation under God, indivisible. Is that not important? It is important, and we have to watch a falling flag and pick it up. That does not interfere or demean or shoot a hole in the Bill of Rights. It exalts the Bill of Rights.

That is what I am asking for. When everything is permitted and nothing is forbidden, I suggest to Members, Robespierre would be much more comfortable than Thomas Jefferson or James Madison.

No, we do not understand freedom if we do not understand responsibility. For every right there is a correlative duty, but we have a Bill of Rights, we do not have a bill of duties. We have 10 amendments that guarantee citizens all kinds of rights. How about one amendment that says we have a duty not to respect the flag or love the flag but just not to destroy it, not to demean it, not to defile it? Is that too much to ask, on duty? I think we need some duties and understand the responsibilities that go with the responsible exercise of freedom. The law is a teacher, and it can be a teacher here.

Well, Henry Adams, when he looked at the cathedral at Chartres, said it embodied the noblest aspirations of mankind, the reaching up to infinity. I do not say that the flag is a sacred symbol in the spiritual or religious sense, but I say it is a unique symbol, and too many people have paid for it with their blood. Too many have marched behind it, too many have slept in a box under it, too many kids and parents and widows have accepted this triangle as the last remembrance of their most precious son, father and husband. Too many to have this ever demeaned. That is not punching a hole in the first amendment. We are amending a decision of the Court that distorted the meaning of free speech and said expressive conduct of a particularly demeaning sort is protected, but if obscenity is not protected, if perjury is not protected, if copyright laws protect certain language and punish others, if we cannot burn a $10 bill, can we not protect the transcendent symbol of all that is good in our country?

Listen, the flag is falling. I ask Members to catch the falling flag and raise it up. In my judgment that does not demean the Constitution. It elevates

us all to being worthy of the great country we live in.

Mr. BROOKS. Mr. Speaker, I yield the remaining 10 minutes to the distinguished Speaker of the U.S. House of Representatives, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, it will be rare indeed for me to take the well during the time I have the honor to serve as Speaker. I take the well today not as Speaker but as a Representative of my own district. I speak on an issue which is, as has been said many times, one of the most important issues and votes that we will cast certainly in this Congress, perhaps for many Congresses to come.

The debate here today has been commendable and credible on both sides of this difficult problem. It is not a partisan debate; Democrats and Republicans are divided among themselves on whether we should amend the Constitution, in order to protect the flag that we all revere.

The chairman of the Committee on the Judiciary, the distinguished gentleman from Texas [Mr. BROOKS], supports this amendment. Its cosponsor is the distinguished gentleman from Mississippi [Mr. MONTGOMERY], one of the most honored and distinguished Members of our House. He shares that cosponsorship with the highly respected leader of the Republican Party, the gentleman from Illinois [Mr. MICHEL]. The chairman of the Committee on Rules that reported the bill [Mr. MOAKLEY] supports the amendment.

However, others in the Congress, both Republicans and Democrats, though they consider the flag a symbol of our national life and experience, as a symbol to be respected and honored, feel that we should not amend the Constitution of the United States to protect it from the sparse and scattered and despicable conduct of a few who would dishonor the flag despite the overwhelming respect the flag enjoys among millions of Americans, not only those who have died in the service of our country, but among those who honor the flag every day.

When we say the Pledge of Allegiance in this Chamber we pledge allegiance to the flag, yes, but more importantly to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all. The flag is a symbol of our national life and values. It is a symbol of the liberty and freedom that has distinguished this country as a beacon for hundreds of millions of people around the world for two centuries.

In recent months we have seen our ideals championed from Wenceslas Square to Tiananmen Square, by people struggling to achieve democracy and freedom for themselves. The Bill of Rights, Madison wrote to Jefferson, was necessary to counteract against the impulses of interest and passion.

It is an understandable passion to want to punish those who burn the flag. But it would be a strange irony if we let those few people who burn or disrespect the flag push us, force us, into amending for the first time the first amendment to the Constitution, the Bill of Rights.

It was 201 years ago on March 4, 1789, the first Congress met in New York, and began the important work of establishing the National Government. It established the Departments of State, Treasury, Justice and War. It established the inferior Federal courts. And in June the House began its consideration of the first 10 amendments to the Constitution, the Bill of Rights.

When we passed a statute last year to condemn flag burning, an overwhelming number of our Members on both sides of the aisle supported it.

□ 1830

There was a question then whether the Supreme Court would find that statute constitutional. I gave a commitment at that time to the Republican leader, the gentleman from Illinois [Mr. MICHEL] that if the Court should find the statute unconstitutional, I would see to it that within 30 days of the decision there would be an opportunity to debate on the plan and vote an amendment to the Constitution, much as I opposed one. I have kept that commitment under conditions which I believe have been fair and impartial to those favoring an amendment.

We have not permitted an amendment to the language. We have permitted extensive debate. Some of the time has been yielded back.

I do not accept the complaints that we have brought the amendment to the floor too quickly. It was suggested by some in the other body that we should have voted on this matter within the first 3 days after the Court came to its decision. The President himself the day before yesterday called on the House to promptly consider and, he hoped, to pass this amendment.

I hope we will not do so. I hope we do not do so just to reach the acts of the scattered and few disrespectful flag burners. I fear that if we amend the first 10 amendments, the Bill of Rights, that sacred depository of freedom of speech and religion and assembly, we will lower the threshold of resistance to other amendments. Indeed there are other symbols of national religious life which, if burned or desecrated, would create great anger and bring about a demand for other constitutional amendments to further amend the first amendment to prevent such desecration.

I believe we would not wish it recorded that this House began the process of weakening the first amendment to the Constitution, which is the repository of all the hopes and ambitions of our Founding Fathers to protect individual liberties.

They fought the Revolution to protect the rights of our citizenry. The Constitution and the Bill of Rights were unusual in the latter part of the 18th century. They were revolutionary ideas. It remains a revolutionary idea even today that the rights of individuals are protected against the power of the government.

I would appeal to conservatives in this House that if there is one underlying principle of conservatism, as I understand it, it is to preserve the basic institutions of liberty and not to change them idly or casually in the face of and pressure from transitory forces, influences or emotions. If it is not conservative to protect the Bill of Rights, I do not know what conservatism means today. If it does not respect the sacrifice of the millions who have served and the hundreds of thousands who have died in the long history of our Nation to say, "Yes, we respect the flag, we honor it, we salute it, as we salute your service and sacrifice itself, but we will not allow these few to force us to defile the institution of liberty that that flag represents every day it flies over this body and in this Chamber, what does?

Above the flag is a statement that was made by Daniel Webster when he dedicated a monument at Bunker Hill commemorating those who sacrificed selflessly and with a vision to make this democracy possible. It is hard to read because it is done in gold script. What it says is this:

> Let us develop the resources of our land, call forth its powers, build up its institutions, promote its great interests and see whether we also in our day and generation may not perform something worthy to be remembered.

I suggest to the Members that the greatest resource of our country is the Constitution, that it is the means by which the people of this country devolve and distribute their powers. It is the platform upon which our institutions are built, and it is the great promoter of all of our national interests.

Let us, by preserving and protecting that institution today, show that we, too, in our day and generation may perform something worthy to be remembered.

Defeat this amendment. Protect the Bill of Rights.

The SPEAKER pro tempore (Mr. KOSTMAYER). All time has expired.

The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 350.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 254, nays 177, not voting 2, as follows:

[Roll No. 192]

YEAS—254

Alexander	Hammerschmidt	Oxley
Andrews	Hancock	Packard
Annunzio	Hansen	Pallone
Applegate	Harris	Parker
Archer	Hastert	Parris
Armey	Hatcher	Pashayan
Baker	Hayes (LA)	Patterson
Ballenger	Hefley	Paxon
Barnard	Hefner	Payne (VA)
Bartlett	Herger	Perkins
Barton	Hiler	Pickett
Bateman	Hochbrueckner	Pursell
Bennett	Holloway	Quillen
Bentley	Hopkins	Rahall
Bereuter	Horton	Ravenel
Bevill	Hubbard	Ray
Bilbray	Huckaby	Regula
Bilirakis	Hunter	Rhodes
Bliley	Hutto	Richardson
Boehlert	Hyde	Ridge
Brooks	Inhofe	Rinaldo
Broomfield	Ireland	Ritter
Browder	Jacobs	Roberts
Brown (CO)	James	Robinson
Buechner	Jenkins	Roe
Bunning	Johnson (SD)	Rogers
Burton	Jones (NC)	Rohrabacher
Bustamante	Kanjorski	Ros-Lehtinen
Byron	Kasich	Roth
Callahan	Kolter	Roukema
Campbell (CA)	Kyl	Rowland (CT)
Campbell (CO)	Lagomarsino	Rowland (GA)
Chapman	Lancaster	Saiki
Clarke	Laughlin	Sangmeister
Clement	Leath (TX)	Sarpalius
Coble	Lent	Saxton
Combest	Lewis (CA)	Schaefer
Condit	Lewis (FL)	Schiff
Costello	Lightfoot	Schuette
Coughlin	Lipinski	Schulze
Courter	Livingston	Sensenbrenner
Cox	Lloyd	Sharp
Craig	Long	Shaw
Crane	Lowery (CA)	Shumway
Dannemeyer	Luken, Thomas	Shuster
Darden	Lukens, Donald	Sisisky
Davis	Machtley	Skeen
de la Garza	Madigan	Skelton
DeLay	Manton	Slaughter (VA)
Derrick	Marlenee	Smith (NE)
DeWine	Martin (IL)	Smith (NJ)
Dickinson	Martin (NY)	Smith (TX)
Donnelly	Martinez	Smith, Denny (OR)
Dornan (CA)	Mazzoli	
Douglas	McCandless	Smith, Robert (NH)
Dreier	McCollum	
Duncan	McCrery	Smith, Robert (OR)
Dyson	McDade	
Eckart	McEwen	Snowe
Edwards (OK)	McGrath	Solomon
Emerson	McMillan (NC)	Spence
English	McMillen (MD)	Staggers
Erdreich	McNulty	Stallings
Fawell	Meyers	Stangeland
Fields	Michel	Stearns
Fish	Miller (OH)	Stump
Flippo	Miller (WA)	Sundquist
Frenzel	Moakley	Tauke
Gallegly	Molinari	Tauzin
Gallo	Mollohan	Taylor
Gaydos	Montgomery	Thomas (CA)
Gekas	Moorhead	Thomas (GA)
Geren	Morrison (WA)	Thomas (WY)
Gillmor	Murphy	Traficant
Gilman	Murtha	Traxler
Gingrich	Myers	Upton
Goodling	Natcher	Vander Jagt
Goss	Neal (MA)	Volkmer
Gradison	Nelson	Vucanovich
Grant	Nielson	Walker
Guarini	Olin	Walsh
Gunderson	Ortiz	Watkins
Weber	Wilson	Yatron
Weldon	Wise	Young (AK)
Whittaker	Wolf	Young (FL)
Whitten	Wylie	

NAYS—177

Ackerman	Gephardt	Owens (NY)
Anderson	Gibbons	Owens (UT)
Anthony	Glickman	Panetta
Aspin	Gonzalez	Payne (NJ)
Atkins	Gordon	Pease
AuCoin	Grandy	Pelosi
Bates	Gray	Penny
Beilenson	Green	Petri
Berman	Hall (OH)	Pickle
Boggs	Hamilton	Porter
Bonior	Hawkins	Poshard
Borski	Hayes (IL)	Price
Bosco	Henry	Rose
Boucher	Hertel	Rostenkowski
Boxer	Hoagland	Roybal
Brennan	Houghton	Russo
Brown (CA)	Hoyer	Sabo
Bruce	Hughes	Savage
Bryant	Johnson (CT)	Sawyer
Cardin	Johnston	Scheuer
Carper	Jones (GA)	Schneider
Carr	Jontz	Schroeder
Chandler	Kaptur	Schumer
Clay	Kastenmeier	Serrano
Clinger	Kennedy	Shays
Coleman (MO)	Kennelly	Sikorski
Coleman (TX)	Kildee	Skaggs
Collins	Kleczka	Slattery
Conte	Kolbe	Slaughter (NY)
Conyers	Kostmayer	Smith (FL)
Cooper	LaFalce	Smith (IA)
Coyne	Lantos	Smith (VT)
Crockett	Leach (IA)	Solarz
DeFazio	Lehman (CA)	Spratt
Dellums	Lehman (FL)	Stark
Dicks	Levin (MI)	Stenholm
Dingell	Levine (CA)	Stokes
Dixon	Lewis (GA)	Studds
Dorgan (ND)	Lowey (NY)	Swift
Downey	Markey	Synar
Durbin	Matsui	Tallon
Dwyer	Mavroules	Tanner
Dymally	McCloskey	Torres
Early	McCurdy	Torricelli
Edwards (CA)	McDermott	Towns
Engel	McHugh	Udall
Espy	Mfume	Unsoeld
Evans	Miller (CA)	Valentine
Fascell	Mineta	Vento
Fazio	Moody	Visclosky
Feighan	Morella	Walgren
Flake	Morrison (CT)	Washington
Foglietta	Mrazek	Waxman
Foley	Nagle	Weiss
Ford (MI)	Neal (NC)	Wheat
Ford (TN)	Nowak	Williams
Frank	Oakar	Wolpe
Frost	Oberstar	Wyden
Gejdenson	Obey	Yates

NOT VOTING—2

Hall (TX)	Rangel

□ 1852

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Joint Resolution 350, the joint resolution just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON H.R. 5114, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1991

Mr. OBEY, from the Committee on Appropriations, submitted a privileged report (Rept. No. 101-553) on the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. EDWARDS of Oklahoma reserved all points of order on the bill.

FLAG PROTECTION ACT OF 1990

Mr. COOPER. Mr. Speaker, pursuant to House Resolution 417, I move to suspend the rules and pass the bill (H.R. 5091) to provide for protection of the flag of the United States.

The clerk read as follows:

H.R. 5091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection Act of 1990".

SEC. 2. PROTECTION OF THE FLAG OF THE UNITED STATES.

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

"§ 700. Protection of the flag of the United States

"(a) ACTIONS PROMOTING VIOLENCE.—Any person who destroys or damages a flag of the United States with intent to provoke imminent violence, and in circumstances reasonably likely to produce imminent violence, shall be fined not more than $100,000 or imprisoned not more than one year, or both.

"(b) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States and intentionally destroys or damages that flag shall be fined not more than $250,000 or imprisoned not more than two years, or both.

"(c) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction thereof, steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person and intentionally destroys or damages that flag shall be fined not more than $250,000 or imprisoned not more than two years, or both.

"(d) CONSTRUCTION.—Nothing in this section shall be construed as indicating an intent on the part of Congress to deprive any State, territory, possession, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

"(e) DEFINITION.—As used in this section, the term 'flag of the United States' means any flag of the United States, or any part

thereof, made of any substance, of any size, in a form that is commonly displayed.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by striking out the item relating to section 700 and inserting in lieu thereof the following new item:

"700. Protection of the flag of the United States.".

SEC. 3. SENSE OF CONGRESS.

It is the sense of the Congress that the States should enact prohibitions similar to the provisions of this Act in an order to provide the maximum protection to the flag of the United States.

The SPEAKER. Pursuant to House Resolution 417, a second is not required on this motion.

The gentleman from Tennessee [Mr. COOPER] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. COOPER. Mr. Speaker, regardless of how my colleagues voted a few moments ago on the constitutional amendment, they should vote for my bill to protect the flag.

If my colleagues were for the amendment, the Cooper/Boucher/Wyden bill is the only way the House of Representatives has to protect the flag in 1990, in 1991, and 1992.

If my colleagues were against the amendment, the Cooper/Boucher/Wyden bill protects the flag as much as is constitutionally possible without tampering with the Bill of Rights.

All of my colleagues on both sides of the aisle are patriotic men and women and almost all of them want to protect the flag now, not just 3 years from now as the constitutional amendment would have done.

It is ironic that in this great national debate over a flag amendment to the Constitution, many people forgot that, even if the amendment were passed by Congress, it would do nothing to protect our flag for the next 2 or 3 years while the amendment was being ratified by the 38 States.

For my constituents, 1993 is not quick enough; they want the flag protected now. My bill does just that.

□ 1900

H.R. 5091 goes as far as the current Supreme Court will allow us to protect the flag. I personally wish that the Court allowed us to go farther and had upheld the statute that we passed last year, but the Court did not.

Some people have then given up the fight and falsely assumed that the Supreme Court will reject all flag protection statutes. That is a defeatist attitude. These people did not read the Supreme Court opinion in U.S. versus Eichman and see that there are several ways to draft sound constitutional legislation to protect our flag.

We can protect both our flag and the Constitution. All we need to do is win one more vote of one more Supreme Court Justice. We can win at least that one vote with this bill.

My bill is short. It is only two pages long. It provides for tough criminal penalties for anyone who destroys or damages the American flag in any of three different situations: No. 1, when intending "to provoke imminent violence and in circumstances reasonably likely to produce imminent violence"; No. 2, when the flag is U.S. property; No. 3, when the flag is stolen and destroyed on U.S. property. The maximum punishment for these actions is up to $250,000 fine and 2 years imprisonment.

As I said, I wish that the law could be broader without running afoul of the current Supreme Court's interpretation of the first amendment, but this seems to be as far as we can legally go under the Brandenburg versus Ohio and U.S. versus Eichman precedents.

We may not catch all flag burners with this approach, but we will catch most of them, and they will be severely punished. Our intention is not to punish speech but to punish vandalism against our flag. We are using only the property and public safety rationales for this bill.

Many of the greatest constitutional experts of our day have endorsed this approach and my bill. Charles Fried, the Solicitor General of the United States under President Reagan, and Bruce Fein, formerly with the Heritage Foundation and the Reagan administration, are both strongly in support of my bill. Likewise, Laurence Tribe of Harvard and A.E. (Dick) Howard of the University of Virginia are strongly supportive of my bill. I am grateful for their help and guidance as I am my primary cosponsors, the gentleman from Virginia [Mr. BOUCHER] and the gentleman from Oregon [Mr. WYDEN].

This is not to say that this bill is perfect. I hope that we can learn from the constructive criticism of all of my colleagues as the bill moves to the Senate and in conference committee. So far, however, I have yet to learn of any viable competitive statutory approach to my proposal, and I have yet to hear from any of my colleagues about specific ways that my statute may be broadened and strengthened. I look forward to such comments.

I realize that my bill has not gone through the normal scrutiny of the Committee on the Judiciary. I deeply regret that. I have the greatest respect for the chairman, the gentleman from Texas [Mr. BROOKS], and for the other Judiciary members and staff, and I have benefited from their input into the bill.

But when they reported out measures on Tuesday of this week that would do nothing to protect our flag in 1990, in 1991, and in 1992, I felt that I had to do something even though I am not a member of the Committee on the Judiciary.

I appreciate, also the indulgence of the Committee on Rules and of the House leadership in allowing a proposal like mine to fill the obvious gap left by the constitutional amendment.

These people were responding not to me personally but to the wishes of the great majority of the House Members on both sides of the aisle who want to protect the flag this year, not beginning in 1993, as the constitutional amendment would have done.

Many of my colleagues will make procedural arguments saying that my bill should have complied with all the technical rules of the House. I say to these Members that I share their concern, and we have a two-thirds majority requirement under the suspension of the rules, a super-majority requirement to help guarantee that a vast majority of our colleagues support our measure, but I say to these Members that although I share their concern when it comes to the flag, we should not place procedure above substance.

The American people want the flag protected now a whole lot more than they want the rules of the House protected. Without my proposal, what will my colleagues tell their constituents this weekend, whether you were for or against the constitutional amendment? These are going to be tough questions. That you were content to start protecting our flag after the year 1992? That you did not want to do everything legally possible today to protect our flag? That you did not have time this week to fill the obvious gap left by the constitutional amendment?

The Cooper-Boucher-Wyden bill is popular on this floor because it allows Members to answer those questions with the right answer, that the overwhelming majority of House Members voted to protect the flag now and to the fullest extent of current constitutional law; that we also stopped fighting each other long enough to start fighting for our flag.

Let us end this great debate on the flag amendment to the Constitution with a proposal that surely almost all of us should be able to agree on. Let us set aside our differences on the amendment and support now what almost all of us want, the quick, effective, and constitutional protection of the American flag.

I urge all of my colleagues on both sides of the aisle, on both sides of the issue, to pass this bill with the necessary two-thirds vote required under the suspension of the rules.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman

from Oklahoma [Mr. EDWARDS], a former law professor.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I assume that some lawyers looked at this language. I did.

I have got to tell the Members that I thought that the Speaker of the House made a very good presentation before. I thought the last issue was very close, and my first reaction on hearing that there was going to be a statute was, well, if we cannot get an amendment, why not a statute? And then I read it.

Does the gentleman realize that if I carried with me, under the gentleman's bill, if I carried with me in a sack the Barbara and George Bush house slippers with the flag on them to Ellis Island and somebody stole them, I would be subject to a $250,000 fine?

Let me also point out that the gentleman does not prohibit violence or the instigation of violence unless there is also intent to create violence. I would suggest to the gentleman that while his idea may be a good one, that we should do something to protect the flag, he ought to take it back and let some attorneys look at it, redraft it, and bring it back to us.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in opposition to this bill, which is nothing but a figleaf to provide some people political cover for having voted against the constitutional amendment.

The Supreme Court has told us twice that we cannot attempt to prohibit flag burning by a mere statute, and this, my friends, is strike three, and I hope that the Congress of the United States does not strike out by passsing this statute.

Last year the Committee on the Judiciary spent 3 months trying to figure out a way to draft a constitutional statute. We failed.

The Supreme Court was quite clear in stating that the Flag Protection Act of 1989 was unconstitutional.

This bill now has not had the exhaustive review that the last bill had that failed. It was introduced just last night. It never was referred to a committee. It never had a public hearing. It never was reviewed by the Committee on the Judiciary, which supposedly has the constitutional experts in the House of Representatives, and we are now told we ought to pass the thing tonight right after the constitutional amendment goes down.

Frankly, this bill will not work. It is unconstitutional to vote for this bill, and a vote for this bill is to violate the oath of office that each one of us took to preserve, protect, and defend the Constitution of the United States.

Have we no shame in this House?

□ 1910

Doesn't that oath that each of us took at the beginning of that Congress mean that we must in good conscience vote against a bill that we know is unconstitutional, on a subject that the Supreme Court has twice in the last year told us is the case?

During the debate on House Joint Resolution 350, we were admonished again and again by the opponents of that constitutional amendment that we have to vote against it to protect the first amendment to the U.S. Constitution. Yet this bill here tonight proposes to proscribe exactly the same activity, that is, flag burning, that the constitutional amendment proposed to proscribe.

By passage of this bill we desecrate the first amendment and the Bill of Rights, in a far greater way than it was alleged that we desecrated the Bill of Rights and the first amendment by voting on the constitutional amendment, because it is attempting to overturn a Supreme Court decision based on first amendment grounds by mere statute.

It is a political copout, a figleaf for those who are attempting to get some political cover. We ought to stand up for the Constitution tonight and vote this unconstitutional bill down.

Mr. COOPER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the gentleman from Oklahoma [Mr. EDWARDS] made two legal points. I would like to answer him by saying it is unlikely that bedroom slippers, however designed, can ever be burned in such a way so as to incite violence.

The second point: The gentleman knows as a former law professor, any criminal statute has to have intent as an element. Intent is judged by the judge from the circumstances.

Mr. Speaker, I yield 5 minute to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, this statute is right, because it does not pit love of flag against respect for the Constitution. It is right because it protects our flag's special place without weakening the 200-year constitutional foundation on which it rests.

A number of my colleagues on the other side have said that this proposal is going to make little difference. But this proposal will deal with the worst forms of flag destruction, such as that designed to provoke violence and confrontation.

This particular statute will go after the worst form of flag destruction, that which is designed to incite violence.

And let us make no mistake about it: over the last few months the flag burners have been out in the streets trying to provoke those kinds of confrontations. They are not just buying flags to take into their living rooms and burn them in private. They are interested in burning them so as to provoke a confrontation. That gets public attention. Nothing gets public attention faster than provoking a fight.

A flag burner who can produce a brawl with a flag lover hits the jackpot. They generate even more interest, possibly an over-reaction.

So our proposal deals with the worst kinds of flag destruction, and that is the forms that are designed to provoke violence.

Now, I am just amazed at some of my colleagues on the other side saying that this proposal is not constitutional. I have a letter from Bruce Fein, who is considered perhaps the premier conservative constitutional scholar in this country, from the Heritage Foundation. He says that this proposal is constitutionally irreproachable and splendidly tailored to the Supreme Court's past decisions. It is consistent with a long line of court cases.

Mr. Speaker, I would just say to Members that now we have only one opportunity left. The constitutional amendment has gone down. This is the last train that departs tonight. The Supreme Court opened a window for a more narrow, properly drawn statute. This bill will fit into that space.

I urge Members to support this, show their disapproval for flag burning, but do it in a way that protects our Constitution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I urge my colleagues to vote against this statute. How many times do we have to do this? I look back to September 12, 1989, when we passed H.R. 2978, 380 to 38. This statute was declared unconstitutional by the Court. Then today we have a vote of 254 to 177.

Somebody is not all that sincere about really protecting the flag with the kind of vote for a simple statute that was declared unconstitutional, and then we have this vote here today.

This bill is a sham. It makes illegal acts that are already illegal. Flag burners who promote violence are already subject to disorderly conduct and disturbing the peace charges under virtually every State and community statute.

Flag burners who steal and destroy flags belonging to the U.S. Government are stealing Federal property in violation of 18 U.S.C. 641. Those destroying flags can be charged with destruction of Federal property, under 18 U.S.C. 1361.

Finally, the bill punishes the destruction of a stolen flag on Federal land. Stealing the property of another is a crime in virtually every State and local jurisdiction. If the flag is burned on Federal land, additional Federal

crimes for unauthorized fires will apply.

The bill, quite frankly, could promote violence. The bill says that flag burners will go to jail only when they intend to provoke imminent violence.

Now, persons protecting the flag may well be compelled to escalate flag burnings to violence in order to get the flag burner arrested.

This bill is inadequate in scope. Only Federal flags, stolen flags, destroyed on Federal lands and situations with imminent violence will be covered.

You know, how crazy can you get in trying to craft a piece of legislation like this?

Now, there is a normal process around here by having an official committee of this Congress, the Committee on Judiciary, as much as I differ with them from time to time, at least taking a measure of this kind and giving it a good working over.

Here we are demeaning the process again. The process is abused. No one has any information. It is a hypocritical effort that demeans the flag and this institution.

I will conclude my remarks by inserting the text of a letter that I received today from the Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, June 21, 1990.

Hon. ROBERT H. MICHEL,
Republican Leader, U.S. House of Representatives, Washington, DC.

DEAR BOB: We have reviewed the proposed "Flag Protection Act of 1990." The act would impose criminal penalties on three categories of conduct that destroys or damages the Flag of the United States. The act applies to anyone who destroys or damages a Flag: (1) with intent to provoke imminent violence and in circumstances likely to produce imminent violence, (2) that he stole from the United States, or (3) that he stole from another person on a federal enclave. The act also expresses the sense of the Congress that the States should enact similar laws.

In the short time available, we have preliminarily concluded that such legislation would provide virtually no additional protection for the Flag beyond what is already available. Accordingly, it likely would not prohibit the bulk of flag desecration with which the American people are concerned. Thus, the bill demonstrates the need for a constitutional amendment in light of the Supreme Court's decisions, because it shows the narrowness of federal power to protect the Flag in the wake of *Johnson* and *Eichman*. In many instances a protester burns a flag that he owns and his intent is to shock onlookers with his message of contempt for American values but not necessarily to provoke imminent violence. This kind of conduct would not be forbidden or punishable under the proposed legislation. The flag burning that took place in Washington, D.C., and that was before the Supreme Court in the case decided last week, *United States* v. *Eichman*, for example, likely could not have been punished under this act.

Moreover, the bill punishes conduct that is largely, if not entirely, already forbidden. Its first provision, which would ban flag destruction with intent to provoke violence and where violence is likely to ensue, is cumulative of existing state laws against incitement to riot. The second provision merely duplicates existing federal statutes that ban theft and destruction of government property. The third provision duplicates existing prohibitions on the destruction of stolen property on federal enclaves. A comparison between this bill and the broad scope of the Flag Protection Act of 1989 and its predecessor federal flag protection statute underscores the evisceration of federal power that resulted from *Johnson* and *Eichman*.

Sincerely,

DICK THORNBURGH,
Attorney General.

Mr. COOPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must say that I am surprised to hear my good friend the gentleman from Illinois [Mr. MICHEL] oppose the statute. I had hoped to have his support, because the constitutional amendment, as I said earlier, would not take effect for a 2- or 3-year period. I regret that some Members apparently feel we do not need to do anything to protect the flag in the interim.

I am listening still for valid constitutional arguments from those who oppose my point of view, arguments that they think could successfully broaden my statute.

In my remarks I said I was open to ideas to strengthen the statute. It would be upheld by Justices such as Scalia, appointed by a recent President, Justice Kennedy, appointed by a recent President, and Justice Brennan himself, who was appointed by President Eisenhower.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. BOUCHER].

Ms. OAKAR. Mr. Speaker, will the gentleman from Virginia yield?

Mr. BOUCHER. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I have enormous respect for the minority leader, but I must say that I was surprised when he said that the effort of the gentleman from Tennessee [Mr. COOPER] was hypocritical. I do not think it is hypocritical. I think it is a sincere effort, and I commend him for offering the legislation.

□ 1920

Mr. COOPER. Mr. Speaker, if the gentleman from Virginia will yield me just a second of his time, it was out of respect for the gentleman from Illinois that I did not ask that his remarks be taken down.

Mr. BOUCHER. Mr. Speaker, the statute we present to the House today stands a far better chance of passing constitutional muster than either of the statutes considered previously by the U.S. Supreme Court.

Simply stated, we would outlaw the destruction of publicly owned flags. We would outlaw the destruction of flags on public property, and we would outlaw flag destruction when that destruction occurs under circumstances intended to incite a breach of the peace and reasonably calculated to incite a breach of the peace. In so doing, we utilize the fighting word's exception to the first amendment.

Constitutional scholars on both sides of the flag debate have attested to the credibility of this approach. Given the fact that four Supreme Court Justices were prepared to uphold the previous flag protection statutes, it is apparent that all we need to sustain the measure under consideration is one additional vote. I suggest, Mr. Speaker, that we have found the mechanism to persuade a Supreme Court majority that this statute is constitutionally valid.

Departing from the constitutional question, some may argue that our approach does not prohibit all flag desecration. It is true that our legislation would not punish as a criminal offense the destruction of a privately owned American flag in the solitude of the owner's home.

But I would suggest to those who make such an argument that such an event is highly unlikely. Let's face it. The only people who are desecrating the American flag today are a handful of crackpots who are only seeking attention. In private places, no such attention is possible. Our statute will reach all circumstances where flag desecration is likely to occur in the future.

Mr. Speaker, this is a credible approach likely to withstand Supreme Court scrutiny which deserves passage by the House.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, if the authors of this bill were so confident that the Supreme Court would uphold it, why is there not a clause in this bill seeking expedited Court review as there was in the Flag Protection Act of 1989?

What this bill will do is kick around in the lower Federal court system, and my guess is that the Supreme Court will not even grant certiorari on this bill because this issue is so clear.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania, [Mr. WALKER].

Mr. WALKER. Mr. Speaker, when you get to the end of a basketball game and the game has been either won or lost by one team or another, they throw the subs in and they play for a little while, and it is called garbage time. I think we have reached garbage time here.

The fact is that this particular proposal is flawed in a number of basic ways. And I have a feeling that the reason it is flawed is because it had no hearings at all. The only legislative history before we got here this evening were two 5-minute special orders on the floor last night.

I would suggest that there are definitional problems within the bill. I would suggest there are questions with regard to what intent to provoke imminent violence may mean in terms of court interpretation, and it ought to be worked out, and the process was totally violated in this case. This is a bill that was written on Tuesday night, entered into the House on Wednesday and brought to the floor on Thursday.

That is the kind of process that the majority has reminded us over and over again that they would never countenance, and yet here it is on the floor this evening. One has to wonder why we have to have a bill which is flawed.

I will give just one example. In the definition section of it the definition of flag here includes a "flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed."

If you had a red and white striped cake, you could not cut it under this bill. It is stupid, and it would be because it did not have any kind of a hearing process, and we ought to have the kinds of hearings that would make certain that this particular amendment was cleaned up.

We ought to vote this down. Let us end garbage time by voting no.

Mr. COOPER. Mr Speaker, it is only out of my great respect for the gentleman from Pennsylvania that I did not ask that his remarks be taken down.

Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. Dorgan].

Mr. DORGAN of North Dakota. Mr. Speaker, I find this discussion interesting, and I am especially interested in seeing some Members of this House who profess great love for the American flag and a desire to see that it not be defiled in any way avoid support for a statute that might, that might give some protection to the American flag. Why on earth would anybody in this body not support a statute that might give some additional protection? Would we not want to do that if we could statutorily provide additional protection?

There are some people here who would insist we have to change the American Constitution and quickly. You insisted on that last year, and yes, the Supreme Court has ruled on two occasions that the statutes, one in Texas and one Federal, did not meet constitutional muster.

But do you not believe that if we could craft a statute that works and enhances flag protection that that might make some sense? Now you dismiss this as a whim.

It has been said, and let me say it again, Bruce Fine, the Heritage Institute, thinks this works. Mr. Fried, the Solicitor General from the Reagan administration, says he sees no constitutional objection to a statute enhancing penalties, and so forth and so on.

Do not dismiss this. If you care about the flag, then stand up for a statute that might be found to be constitutional, that enhances protections for the flag. If that is what you want, if that is what you were here for today, if that is what you debated for all day, to protect the American flag, if this bill can do that, then for God's sake, stand up and vote for it, and do not dismiss it.

The American flag is a precious national symbol, and we should protect it. The issue here today is not whether to protect the flag. The issue is how.

The American flag is something special. We salute it, we pledge to it, and we bury our veterans in it. I am disgusted by all the actions of those few who desecrate it.

Last year I voted for a law to make flag desecration illegal. That law has since been declared unconstitutional by the Supreme Court. A new proposed law, H.R. 5091, has now been drafted that many legal scholars believe will meet the constitutional test and that will prohibit desecration of the American flag in most instances. I am cosponsor of that proposed law. I spoke for and voted for that law today.

Desecration of the American flag is serious, but so too is a proposal to tamper with the first amendment of the U.S. Constitution. For over 200 years, through good times and bad, the American rudder has been the timeless truths contained in the U.S. Constitution and most especially the precious rights contained in the Bill of Rights. It would be a mistake for us to rush to change the Constitution to respond to the passion of today.

It seems to me the best approach for our country is to search for a way to both protect the flag and defend the Constitution by writing a law which bars flag desecration and one which the Supreme Court would approve as meeting the constitutional test.

I have voted today for the statute prohibiting flag desecration precisely because I don't want to diminish the Constitution. I want to protect the flag and defend the Constitution.

Sadly, American politics today is propelled by the 30-second negative television commercial challenging one's patriotism or honesty. And I know many here seek refuge and protection from those attacks. But in the memory and example of Thomas Jefferson, Ben Franklin, Mason, Madison, Jay, and others, let us be willing to risk the disapproval of some to protect the American Constitution for all.

The popular thing to do today is to vote for this amendment. But the right thing to do is to resist the impulse of the moment to amend the U.S. Constitution, and to find ways instead to statutorily outlaw desecration of the American flag.

That is why I shall vote against the proposed constitutional amendment today and will vote in support of H.R. 5091 the proposed statute to ban desecration of the flag.

America has faced and survived many challenges, and it will survive those who disgust us all with their mindless acts of flag desecration.

But, there is a question today about whether we will survive a seemingly leaderless era when deficits are choking our country, crime is terrorizing our citizens, drug abuse is spreading, and homelessness is growing. We in America must rise to the challenges and begin taking care of things here at home. To keep America proud and strong and free, we must have the courage to face our problems and to do what's necessary to put America back on track.

I hope that those who expanded energy to rush through a change in our Constitution will now turn that same energy to addressing the serious problems we face here at home.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in opposition to H.R. 5091. I am opposed to this bill for several reasons.

First, this bill does not solve the problem of how to protect the physical integrity of the flag that we have been debating since the Johnson and Eichman opinions were issued. Each provision of this bill adds an element or a circumstance that narrows the scope of the conduct covered in such a way as to defeat the goal of protecting the flag. In short, while the Supreme Court decisions require us to give up some of the coverage of the Flag Protection Act we enacted last year, this bill would give up far more than we must or should.

Second, it really adds very little to our ability to prosecute flag burners because other statutes already cover the actions this statute seeks to prohibit. For example, the first provision of this bill provides for the prosecution of persons who burn a flag with the specific intent to provoke immediate violence or start a riot. Clearly, such acts can already be prosecuted for disturbing the peace. Similarly, anyone who steals a flag belonging to the United States or destroys it can surely be prosecuted for theft or destruction of Government property. Under this bill, however, such acts could be prosecuted only if the person both stole the flag and burned it.

Finally, the bill provides that anyone who steals a flag and destroys or damages that flag and does so on land under exclusive Federal jurisdiction can be prosecuted. Here we must not only prove both theft and damage of someone else's flag, but we can prosecute these crimes only on Federal lands. Just to make sure that no one ever gets prosecuted, the bill provides that both the theft and the damage or destruction has to take place on Federal lands.

Third, and perhaps worst of all, this bill gives up too quickly on the statute we passed last year. It erroneously assumes that the entire statute is unconstitutional in every possible application, regardless of the facts of the case

in which it is being used. This just is not so.

In this regard, I note that the primary focus of the bill seems to be on flags owned by the U.S. Government or located on Federal lands. In fact and law, the Supreme Court decision last week which invalidated two prosecutions under the Federal statute—it did not invalidate the statute—involved privately owned flags. The opinion specifically states that it applies only to these, not to U.S. Government-owned flags.

Earlier this evening, we rejected the Michel constitutional amendment. One flaw many of us found in that amendment was that it permitted each of the 50 States and countless local units of government to enact their own crazy quilt of Federal flag protection laws. This bill goes even further in the wrong direction, in that it not only permits, but urges the States to enact their own "similar prohibitions * * * to provide maximum protection to the flag of the United States.

Finally, this bill is another monument to the dismal record this House has constructed in the past few days on the issue of flag protection. This bill was written overnight and has only been seen by a few Members. There have been no hearings on it and no testimony or comments have been provided. And, of course, since the bill is being considered under suspension of the rules, no amendments are permitted.

The flag deserves better treatment than that. We did the right thing in rejecting the constitutional amendment, and we should reject this bill as well.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I would ask the gentleman a question if I could. Is there anything in this bill, in your opinion, which is not covered by present law?

Mr. HUGHES. What troubles me is that the Supreme Court has not ruled our entire statute unconstitutional. This would give up on many of the provisions that I think in fact would pass constitutional muster.

Mr. WALKER. I thank the gentleman.

Mr. COOPER. Mr. Speaker, I have great respect for the gentleman from New Jersey and I can understand his disappointment since he is a member of the Judiciary Committee and this, unfortunately, bypassed that committee. But it is important to realize that this legislation before us tonight creates new crimes for punishing, for destroying the flag, and it also enhances the penalties. So if you are for greater flag protection you need to be for this bill.

It also meets the request of the Supreme Court as illustrated in footnote 5 of the opinion, United States versus Eichman and says that U.S.-owned flags surely justify special protection, and we are supplying that special protection with this legislation.

Mr. Speaker, I reserve the balance of my time for closing arguments.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I rise strongly against an amendment and I include for the RECORD letters from the American Legion and the Veterans of Foreign Wars that say vote "No."

The letters referred to follow:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, DC, June 21, 1990.

Hon. ROBERT H. MICHEL,
Republican Leader, U.S. House of Representatives, Washington, DC.

DEAR MR. MICHEL: This is written on behalf of the 2.8 million members of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary to urge you not to vote for the proposed statutory remedy for protecting the American flag. We believe that this proposed legislation would not be effective and would once again be declared unconstitutional by the Supreme Court. Furthermore, this legislative initiative distracts attention away from the primary focus of today's deliberations, namely, a constitutional amendment to protect the flag. We believe that the issue of a constitutional amendment to protect the flag should be viewed and voted upon in a single minded and most careful manner. The VFW is adamant that a constitutional amendment is the only true way to protect the national flag. The proposed statute is completely inadequate.

Sincerely,

WALTER G. HOGAN,
National Commander in Chief.

THE AMERICAN LEGION,
Washington, DC, June 21, 1990.

Hon. BOB MICHEL,
Minority Leader, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. MINORITY LEADER: As you and your colleagues consider the rule to govern debate on the flag protection issue, we urge you to take any necessary action that would require a clean "up or down" vote on the proposed constitutional amendment, House Joint Resolution 350. That debate should not be tainted by subsequent consideration of another statute proposal, particularly one that has not even been heard by the Judiciary Committee.

We find it incredible that you and your colleagues are being pressured to accept a debate format that virtually ignores normal House procedures. The "3 day rule" is being cast aside. The promise of a "clean vote" on the proposed amendment is being withdrawn. And, within the past 24 hours, another proposed statute has been cleared for floor action *without* any previous hearings to evaluate the idea.

Frankly, we're confused by the emergence of H.R. 5109. It is expected that this bill could survive a constitutional test? Of course, it wouldn't. For those House members who contemplate support for this bill because they believe it would resolve their concerns over "tinkering" with the First Amendment, they should be re-evaluating their positions. We simply don't understand why any such House member would support a measure that clearly mandates "intent" rather than support a proposed amendment that leaves the final decision on this entire matter where it should be—in the state legislatures.

The American Legion reaffirms its complete endorsement of House Joint Resolution 350.

Sincerely,

MILES S. EPLING,
National Commander.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from New Hampshire, [Mr. DOUGLAS].

Mr. DOUGLAS. Mr. Speaker, this is deja vu all over again, as Yogi Berra once said.

We tried the statute approach last year. My committee took 5 days of testimony. On this particular bill, we have not had 5 seconds of testimony.

I resent the allegation that this is the only time we are going to get to vote on a flag statute. Who said from the Judiciary Committee that unless we vote at 7:30 tonight we are never going to get a vote on a flag statute? I never heard the chairman say that. Does Mr. BROOKS want to represent to us that never will we get another chance this year to vote on a flag statute? I did not hear that.

The second thing I want to point out is the statute is ridiculous on its face. If the sponsors would read the opinion of the Supreme Court handed down last week, footnote No. 1, "The Seattle appellees were charged with causing willful injury to Federal property, burning a Postal Service flag. This charge remains pending and nothing in today's decision affects the constitutionality of that prosecution."

□ 1930

You are amending the United States Code when the Supreme Court already told you, you do not have to. It is ridiculous. We do not have an accelerated review in this bill. We cannot amend this bill. We cannot do what some Members want to do, amend it to put the Louisiana provision on, namely a $25 fine if you assault someone that burns a flag.

No amendments are possible, and apparently off the floor someone has said it is either we vote "yes" tonight on suspending the rules and passing this latest ridiculous attempt or we never ever visit the issue again.

I want to hear it from the gentleman from Texas, [Mr. BROOKS], before I can say that that is the way the game is played tonight.

Mr. COOPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members have a strong interest in leaving. I would like the other side of this issue to indicate how

much more time they would like to have.

Mr. SENSENBRENNER. We have two additional speakers for 6 minutes.

Mr. COOPER. I would suggest that the other side of the issue proceed with their speakers.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I would like to ask the gentleman from Tennessee [Mr. COOPER] a question on my time.

Mr. COOPER, let us assume two things: First, that this statute would pass on a voice vote this evening; and second, let us assume that your name by some reason was not on the statute as a proponent of it. Then my question is: Would you rise to get a rollcall vote?

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Tennessee.

Mr. COOPER. I thank the gentleman for yielding.

Mr. Speaker, I think we need a rollcall vote on this measure.

Mr. DANNEMEYER. I think so. I reclaim my time.

Mr. Speaker, that is all the reason for this drill this evening. We are asked to pass this statute when the Supreme Court of the United States has twice said it is unconstitutional, and the reason I think is forthcoming from my colleagues from Tennessee, who observed he wants a rollcall vote, to be able to go home to his constituents and say when they are attacked for having voted against the provision that will protect the flag, the constitutional amendment, "Ah, constituent, I have voted to save the American flag, I voted for the statute that will be a replacement for the protection of the flag."

Now, we all are engaged in the political process here. We understand the game and the rules of the game. There may be some constituents who would be fooled out there. But I suspect there are a lot of people across this country represented by veterans' organizations that are going to be outraged by this attempt to be demeaning to the ability of the American public to understand the political drill that is going on in connection with the consideration of this bill.

I would hope, if the rollcall comes, up yonder or here, that we will vote down this turkey tonight.

Mr. COOPER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

(Mr. HEFNER asked and was given permission to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, I voted for the constitutional amendment. It has been referred to, from the gentleman from Pennsylvania, that it was stupid, which in my opinion could be taken—his words could be taken down, referring to Members as stupid, on the House floor. Let me say this to you——

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I do not yield to the gentleman. I only have 2 minutes.

Mr. WALKER. The gentleman referred to me and he will not yield?

The SPEAKER pro tempore. The gentleman has not been yielded time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina, an additional minute, so that he could yield to the gentleman from Pennsylvania.

Mr. HEFNER. I yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I just wanted to point out that this gentleman did not make any reference to any Member as stupid. I called the bill stupid, and I still do believe it is stupid.

Mr. HEFNER. Well, these gentlemen are authors of the bill, and I am assuming that they would be the authors of the bill and they would be presenting a stupid bill. But nevertheless, since we wish to play the game about what is going to play on the constitutional amendment, I voted for the constitutional amendment and have cosponsored it for a long, long while.

Let me tell you how it is going to play.

I heard a Member on this side of the aisle give a description of what the ads are going to look like in the fall for those that voted against a constitutional amendment. And this is a little bit delicate, but we seem to be past that position. He said, "Here is how the ads are going to be this fall for those that vote for anything for the arts and voted for the pay raise, here is how it is going to go: "There is going to be a picture of somebody urinating on a crucifix holding a match burning a flag and saying, 'I want a pay raise.' "

Now, you talk about how you are going to be set up here. If you want to talk about merit, let us talk about merit.

I do not know if this will stand up to the courts or not. But to make the statement that you are playing games for political reasons, that is one of the exercises about the constitutional amendment; how we can get the 30-second spots.

In the other body, the minority leader has already made it plain this is going to be how it is going to play in the fall on the 30-second spots. To me that is desecration to the thousands and millions of veterans who are really concerned about their flag. And they think about it very seriously.

One of the biggest requests that I get in my district from veterans, those in World War I, World War II, Korea, and Vietnam, is that, "When I die, I want to be wrapped in the American flag." That is the only request that a lot of them make.

I think we have demeaned that here in some of this debate today. And certainly we demean it this fall if we make this a political issue where we can let the vultures out there that are running the campaigns and making thousands of dollars putting the ads together for political purposes, that we not only degrade the flag, we degrade the Constitution and we degrade those millions of veterans that gave their lives and those that were maimed in these wars to make it possible for us to serve in this body.

The SPEAKER pro tempore. The Chair would note that references made to the other body are not appropriate under the rules and would ask Members to refrain from such references.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Speaker, the Republican leader and my colleague from New Hampshire have pointed out in previous debates that it is unusual that this bill has had no consideration by the House Committee on the Judiciary. The justification for this offered by the sponsors is that the bill has been endorsed by the Heritage Foundation and Bruce Fein. I will offer my support for this legislation if the sponsors will stipulate that in the future the endorsement of the Heritage Foundation and Bruce Fein are adequate substitutes for approval by the House Judiciary Committee.

Mr. COOPER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman that the gentleman from California, I believe, was referring to is a noted conservative legal scholar. His name is Bruce Fein. He used to be with the Reagan administration as well as the Heritage Foundation.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, just to say that I strongly supported and debated for and voted for the constitutional amendment. I do not want it to be misunderstood that I am failing in my support of protecting our flag from desecration when I vote for this next bill. I think it is the only alternative we have at this time. It may be weak, it may be weaker than most of us want, but it is an alternative. And remember, even if we had passed the constitutional amendment, which unfortunately we did not, we would have a 2-year hiatus waiting for the State legislature to ratify that amendment. During that time I think any statutory approach that we may make to prevent the desecration of the flag is

something that those of us who want to be consistent should vote for.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

□ 1940

Mr. Speaker, we heard at great length how amending the Constitution to protect the flag would desecrate the Bill of Rights and the first amendment. This proposed statute, given the two Supreme Court decisions that made it quite clear that flag burning is protected free speech, desecrates the Bill of Rights and the first amendment far more than using the constitutional amendment process does.

I would ask for a no vote on this unconstitutional statute.

Mr. Speaker, I yield back the balance of my time.

Mr. COOPER. Mr. Speaker, I will be extremely brief. I have never questioned the good faith of any Member who disagrees with me on this or other issues in the House. Secondly, I hope to make this a call and very bipartisan debate on both sides of the issue because I feel the flag does need protecting, the flag does need protecting even if the constitutional amendment had passed a few months ago because it left a gap between now and 1993.

Mr. Speaker, I yield back the balance of my time.

The Speaker pro tempore (Mr. TORRICELLI). The question is on the motion offered by the gentleman from Tennessee [Mr. COOPER] that the House suspend the rules and pass the bill, H.R. 5019.

The question was taken.

Mr. COOPER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 179, nays 236, not voting 17, as follows:

[Roll No. 193]

YEAS—179

Alexander	Chapman	Ford (TN)
Anderson	Clarke	Frost
Andrews	Clinger	Gaydos
Anthony	Coleman (TX)	Gejdenson
Applegate	Collins	Gephardt
Atkins	Condit	Geren
Barnard	Cooper	Gibbons
Bates	Coyne	Gillmor
Beilenson	Darden	Gilman
Bennett	de la Garza	Glickman
Bevill	Derrick	Gordon
Bilbray	Dicks	Gray
Bonior	Dingell	Hall (OH)
Borski	Dixon	Hamilton
Boucher	Donnelly	Harris
Boxer	Dorgan (ND)	Hawkins
Brennan	Durbin	Hayes (IL)
Brooks	Dwyer	Hefner
Browder	Early	Henry
Brown (CA)	Eckart	Hertel
Brown (CO)	Engel	Hoagland
Bruce	Erdreich	Hochbrueckner
Bryant	Espy	Houghton
Bustamante	Evans	Hoyer
Callahan	Fascell	Hutto
Campbell (CO)	Fazio	Jacobs
Cardin	Flippo	Jenkins
Carper	Foglietta	Johnson (CT)
Carr	Ford (MI)	Johnson (SD)
Johnston	Moakley	Serrano
Jones (GA)	Mollohan	Sharp
Jones (NC)	Moody	Sikorski
Jontz	Morella	Slattery
Kanjorski	Morrison (CT)	Slaughter (NY)
Kaptur	Murphy	Solarz
Kennedy	Natcher	Spratt
Kildee	Neal (MA)	Stark
Kleczka	Neal (NC)	Studds
Kolter	Nelson	Synar
LaFalce	Nowak	Tallon
Lancaster	Oakar	Tanner
Lantos	Oberstar	Tauke
Laughlin	Obey	Taylor
Leach (IA)	Ortiz	Thomas (GA)
Lehman (CA)	Pallone	Torres
Lehman (FL)	Pashayan	Torricelli
Levin (MI)	Patterson	Towns
Lipinski	Penny	Traficant
Lloyd	Perkins	Traxler
Long	Petri	Udall
Lowey (NY)	Pickle	Valentine
Luken, Thomas	Price	Visclosky
Manton	Ros-Lehtinen	Walgren
Mavroules	Rose	Watkins
Mazzoli	Rostenkowski	Whitten
McCurdy	Roukema	Wise
McMillen (MD)	Rowland (GA)	Wolpe
McNulty	Sangmeister	Wyden
Meyers	Schneider	Yatron
Mineta	Schumer	

NAYS—236

Annunzio	Gingrich	Mfume
Archer	Gonzalez	Michel
Armey	Goodling	Miller (OH)
AuCoin	Goss	Miller (WA)
Baker	Gradison	Molinari
Ballenger	Grandy	Montgomery
Bartlett	Grant	Moorhead
Barton	Green	Morrison (WA)
Bateman	Guarini	Mrazek
Bentley	Gunderson	Murtha
Bereuter	Hammerschmidt	Myers
Bilirakis	Hancock	Nagle
Bliley	Hansen	Nielson
Boehlert	Hastert	Olin
Boggs	Hatcher	Owens (NY)
Bosco	Hayes (LA)	Owens (UT)
Broomfield	Hefley	Oxley
Buechner	Herger	Packard
Bunning	Hiler	Panetta
Burton	Holloway	Parker
Byron	Hopkins	Parris
Campbell (CA)	Horton	Paxon
Chandler	Hubbard	Payne (NJ)
Clay	Huckaby	Payne (VA)
Coble	Hughes	Pease
Coleman (MO)	Hunter	Pelosi
Combest	Hyde	Pickett
Conte	Inhofe	Porter
Conyers	Ireland	Poshard
Coughlin	James	Pursell
Courter	Kasich	Quillen
Cox	Kastenmeier	Rahall
Craig	Kennelly	Ravenel
Crane	Kolbe	Ray
Crockett	Kostmayer	Regula
Dannemeyer	Kyl	Rhodes
Davis	Lagomarsino	Ridge
DeFazio	Leath (TX)	Rinaldo
DeLay	Lent	Ritter
Dellums	Levine (CA)	Roberts
DeWine	Lewis (FL)	Roe
Dickinson	Lewis (GA)	Rogers
Dornan (CA)	Lightfoot	Rohrabacher
Douglas	Livingston	Roth
Downey	Lowery (CA)	Rowland (CT)
Dreier	Lukens, Donald	Roybal
Duncan	Machtley	Russo
Dymally	Madigan	Sabo
Dyson	Markey	Saiki
Edwards (CA)	Martin (IL)	Sarpalius
Edwards (OK)	Martin (NY)	Savage
Emerson	Martinez	Sawyer
English	Matsui	Saxton
Fawell	McCandless	Schaefer
Feighan	McCloskey	Scheuer
Fields	McCollum	Schiff
Flake	McCrery	Schroeder
Frank	McDade	Schuette
Frenzel	McEwen	Schulze
Gallegly	McGrath	Sensenbrenner
Gallo	McHugh	Shaw
Gekas	McMillan (NC)	Shays
Shumway	Spence	Vucanovich
Shuster	Staggers	Walker
Sisisky	Stallings	Walsh
Skaggs	Stangeland	Washington
Skeen	Stearns	Weber
Skelton	Stenholm	Weiss
Slaughter (VA)	Stokes	Weldon
Smith (IA)	Stump	Wheat
Smith (NE)	Sundquist	Whittaker
Smith (NJ)	Swift	Williams
Smith (TX)	Tauzin	Wilson
Smith (VT)	Thomas (CA)	Wolf
Smith, Robert (NH)	Thomas (WY)	Wylie
	Unsoeld	Yates
Smith, Robert (OR)	Upton	Young (AK)
	Vander Jagt	Young (FL)
Snowe	Vento	
Solomon	Volkmer	

NOT VOTING—17

Ackerman	Hall (TX)	Richardson
Aspin	Lewis (CA)	Robinson
Berman	Marlenee	Smith (FL)
Clement	McDermott	Smith, Denny (OR)
Costello	Miller (CA)	
Fish	Rangel	Waxman

□ 2002

The Clerk announced the following pairs:

On this vote:

Mr. Clement and Mr. Marlenee for, with Mr. Rangel against.

Mr. Smith of Florida and Mr. Costello for, with Mr. Lewis of California against.

Mrs. BOGGS, Messrs. MURTHA, GUARINI, SKAGGS, DOWNEY, THOMAS of California, CONTE, MFUME, and RUSSO, and Mrs. KENNELLY changed their vote from "yea" to "nay."

Mr. OBERSTAR changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CLEMENT. Mr. Speaker, during Rollcall Vote No. 193 on H.R. 5091 I was unavoidably detained. Had I been present I would have voted "yea."

PERSONAL EXPLANATION

Mr. COSTELLO. Mr. Speaker, I want to make it clear to the House that when Congress first debated this issue last year, I said that I would support a statute to protect the American flag, but that if the statute was struck down by the Supreme Court, that I would support a constitutional amendment to prohibit flag burning.

The court did rule against that statute, and today the House has voted against passage of a constitutional amendment, although I voted for this amendment. And, although I will not be present, the House will today again debate and vote on a statute to protect the flag.

In view of the constitutional amendment being defeated, had I been present I would have voted in favor of the statute.

Mr. McDERMOTT. Mr Speaker, I was forced to return to Washington State and, as a result, was absent for rollcall No. 193, which occurred

on passage of H.R. 5091, the Flag Protection Act of 1990. Had I been present, I would have voted "no."

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I would like to make a public announcement to the House.

Earlier in the debate of the measure that was just defeated, the distinguished gentleman from Tennessee [Mr. COOPER] was handling the bill. I made some remarks during the course of my presentation using the word "hypocritical."

Mr. Speaker, I guess in an afterthought I wondered why I would have gone to such lengths. There may have been a better descriptive adjective to say something similar, but not in that tone and here of all places where I began this debate earlier here today by condemning really some of the acrimonious exchanges that took place, and then I found myself in such a situation, and I slipped for a moment.

So, Mr. Speaker, I think there is nothing else for this gentleman to do, although I would prefer to be able to take the words out of the RECORD, if that is appropriate, but I think it is more important simply to apologize to the gentleman from Tennessee [Mr. COOPER] for that.

Mr. COOPER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Tennessee.

Mr. COOPER. Mr. Speaker, I would like to thank the gentleman from Illinois [Mr. MICHEL]. He is a gentleman.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Tennessee.

Mr. Speaker, I ask for this 1-minute for the purpose of inquiring of the distinguished majority, the gentleman from Missouri [Mr. GEPHARDT] the program for the balance of this week and next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, obviously we have finished the business for this week.

On Friday, June 20, there will not be a meeting of the House, and there will not be business or votes tomorrow.

On Monday, June 25, the House meets at noon to consider 10 suspensions. Recorded votes on suspensions will be postponed until Tuesday, June 26.

H.R. 3058, Bryce Canyon Environmental Enforcement Act;

H.R. 4525, the Ethics in Government Act amendments;

H.R. 4903, to ensure that military personnel stationed outside of the United States are not excluded from any census of population;

H.R. 4721, to designate the J. Kenneth Robinson Postal Building in Winchester, VA;

H.R. 4872, regarding the National Advisory Council on the Public Service Act of 1990;

H.R. 1457, Waste Reduction Act;

H.R. 4501, regarding an acquisition for the Natchez National Historic Park;

H.R. 3863, providing for the study and designation of the Underground Railroad Historic Trail;

S. 916, authorizing the National Space Council; and

H. Con. Res. 333, White House Conference on Aging.

Mr. Speaker, on Tuesday, June 26, the House will meet at 10 a.m. The House will recess immediately and reconvene at 11 a.m. to receive Mr. Nelson Mandela, Deputy President of the African National Congress, in a joint meeting. Following the joint meeting, the House will reconvene for legislative business, and thereafter we will consider recorded votes on suspensions at the end of the day. Then H.R. 5021, Commerce, Justice and State, the Judiciary and Related Agencies Appropriations for 1991, and S. 280, Niobrara River Scenic Designation, open rule, 1 hour of debate, rule adopted.

The balance of the week, Mr. Speaker, the House will meet at 10 a.m. and take up the foreign assistance appropriations for 1991, subject to a rule; the VA, HUD appropriations for 1991, subject to a rule; and H.R. 4329, American Technology Preeminence Act, subject to a rule.

At the close of the week's business the House will adjourn until noon on Tuesday, July 10, for the Independence Day district work period. Conference reports may be brought up at any time. Any further program will be announced later.

Mr. Speaker, I also inform the gentleman from Illinois [Mr. MICHEL] that earlier today we had announced that there would not be votes on Tuesday, July 10. That announcement was in error. We will have votes on that day, but they will be held until later in the afternoon, probably after 4 o'clock, maybe even 5 o'clock. We will have the votes on probably suspension bills at that time. That will allow Members who live in the western part of the country to be able to get back in time for those votes, but I again want to reiterate that I mistakenly announced earlier in the day to Members that there would not be votes on that day. There will be.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT], and I appreciate the courtesy on his part that those votes will be withheld until later in that day, but I must suggest to Members that the time is getting short, and I guess I am reminded of that all the more so in our deliberations with the distinguished gentleman from Missouri [Mr. GEPHARDT] in which the majority leader is chairing in the budget summit that time and events are closing in on us and that we have really got to take advantage of the remaining time that we do have, and I have certainly no problem with our having rollcalls on that. It would be Tuesday, July 10.

Mr. Speaker, might I inquire of the distinguished gentleman from Missouri [Mr. GEPHARDT] if there is any chance of next week of Amtrack being considered either under suspension or in some form. I say to the gentleman, "You recall the President had a measure up here, or the President vetoed the measure on the strength of a provision, but he also made the point that minus that provision he would certainly support the legislation which will be the authorizing for Amtrack," and there was somewhere I got the sense of feel that it might be coming up, and I am just wondering if the gentleman knows for sure whether or not we might have that next week.

Mr. GEPHARDT. Mr. Speaker, I am told that, if the committee jurisdiction can be worked out tomorrow, it can be announced on Monday.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT].

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, I am delighted to hear the response of the gentleman from Missouri [Mr. GEPHARDT], the majority leader. There are many of us who have substantial interest in that measure, and I would urge the majority leader to accomplish that, if the appropriate understandings can be achieved, and I would just like further to ask, Would the gentleman inform us as to whether or not he anticipates votes on Friday next?

□ 2010

Mr. GEPHARDT. We hope to finish the business of the week by Thursday night, and we believe we can. It could be that we will be held here late on Thursday night in order to do it, but our intention is to try to do that.

Mr. PARRIS. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. One other question, Mr. Speaker, that was propounded. The balanced budget amendment that was discharged from committee, but there are those 7 days intervening before one can call it up, is there any judgment on the part of the distinguished majority leader on when that might be up for consideration here in the House?

Mr. GEPHARDT. As I understand it, the deadline under the discharge process would be July 23. It is our intention to bring it up before that date.

Mr. MICHEL. I thank the distinguished gentleman.

Then if perchance we run into a snag next week and we cannot adjourn by Thursday night and we spill over until Friday, would we know well enough during the day on Thursday that that is the change of schedule, hopefully?

Mr. GEPHARDT. That is correct.

Mr. MICHEL. I thank the distinguished gentleman and before yielding back again, Mr. Speaker, may I take this opportunity to say one thing that I had not with respect to the distinguished gentleman from Tennessee, who in my judgment really never had all that partisan feeling in his bones at any one given time, so it makes it all the more injurious to this Member to have made the kind of intemperate comment that I made at the time, and as I said, reaffirm and emphasize again my intention publicly to apolgize to the distinguished gentleman for that indiscretion at that moment.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman, and I am sure the gentleman from Tennessee does as well. The majority leader is indeed a gentleman.

ADJOURNMENT TO MONDAY, JUNE 25, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON TUESDAY, JUNE 26, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, June 25, it adjourn to meet at 10 a.m. on Tuesday, June 26, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ROSE FITZGERALD KENNEDY FAMILY APPRECIATION DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 315) for the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GILMAN. Reserving the right to object, Mr. Speaker, and I will not object at this time, I yield to the gentleman from Massachusetts [Mr. KENNEDY] as the chief sponsor of House Joint Resolution 596, designating July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day."

Mr. KENNEDY. Mr. Speaker, I want to thank first and foremost the two heads of the Subcommittee on Census and Population, both the gentleman from Ohio [Mr. SAWYER] and the gentleman from Pennsylvania [Mr. RIDGE] for the tremendous work that each one of those individuals have done on behalf of this resolution, and I also want to give special thanks to the gentleman from New York [Mr. GILMAN] who through his hard work and diligent efforts this measure has come to fruition.

In comparison to a lot of the proceedings that have taken place on the House floor so far this day, this resolution I hope does not generate anywhere near the controversy that we have seen in other battles that went on, but I do very much want to say on behalf of the entire Kennedy family, and I hope many of the people, including the 300 or so cosponsors of this legislation here in the House, that the efforts my grandmother has made are noticed by the Congress of the United States as well as by people of our country from the time that I was a very young fellow when she used to instill in me and all my brothers and sisters and cousins her sense of commitment to the goals and ideals that are outlined in our Constitution and our Bill of Rights.

I hope that all members of families brought up in our country are brought up to believe in service to the United States of America. As people I think are aware, all her children have served their country in one capacity or another.

I just am very, very grateful to the Members of this body, Mr. Speaker, to the gentleman from New York [Mr. GILMAN], and particularly I want to thank the gentleman from Michigan [Mr. FORD], the chairman of the Post Office and Civil Service Committee and the staff of Mimi McGee, TerriAnn Lowenthal, and many others who have worked so hard in trying to make sure that this resolution came forward in the times that were necessary in order to commemorate my grandmothers 100th birthday.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, it is clear that our friend and colleague, the gentleman from Massachusetts [Mr. KENNEDY], has done an enormous amount of work to make possible this unique recognition today. It is also understandable that he would be reluctant to speak beyond the thanks that he has offered to those of us who have helped with this about the extraordinary accomplishments of his grandmother.

Mr. Speaker, I am grateful for the opportunity to bring before the House Senate Joint Resolution 315, in honor of Rose Fitzgerald Kennedy on the occasion of her 100th birthday on July 22, 1990.

The contribution of Rose Kennedy is unique in American history.

Three of her nine children have served in the U.S. Senate.

One of her sons became our Nation's 35th President.

Two of her sons were assassinated.

Mrs. Kennedy is also a Gold Star Mother, having lost her oldest son during battle in World War II.

Her unwavering dedication to family and her unbreakable spirit have carried us through some of our Nation's darkest moments, and strengthened us all.

Through her perseverance in the face of great tragedy, Rose Kennedy has inspired millions of Americans with her courage, faith, and commitment to family.

In extending our appreciation to Rose Kennedy as she reaches yet another milestone in her remarkable and productive life, we also recognize the importance of a strong and loving family unit, which she treasured more than anything else.

Tragedy touched Rose Kennedy's life many times. America shared those dark moments with her.

But as Rose said at the very beginning of her autobiography, "I prefer to remember the good times."

Her proudest moment came when three of her sons—Jack, Bobby, and Ted—served as President, Attorney General, and U.S. Senator—all at the same time.

However, she recalls most fondly the simple pleasures in life.

It is the warm memories of time spent with her large and loving family that have allowed Rose to face what life has in store with dignity, courage, and faith. Playing charades; scavenger hunts; the wonderful view from the Lincoln Bedroom in the White

House—these are the simple memories that Rose Kennedy treasures most.

Perhaps her family and the many people whose lives she touched remember Rose for her gift of old-fashioned, common sense and her appreciation of how the simplest things in life make the most difference.

Rose Kennedy always had a lot on her mind—so much so, that she took to pinning notes all over her sweater to remind herself of things she had to do. And when she ran out of room, she tried to pin them on the housekeeper.

When John Kennedy was out on the campaign trail during his run for the Presidency, Rose would leave notes in his suitcase, to make sure his staff didn't overlook important matters.

"Make sure the socks Jack wears do not have holes in them," Rose would write. After all, her good sense told her, why take the time to travel all over and prepare a good speech if people will be distracted by a hole in your sock?

And Rose Kennedy loved to collect autographs, having done so since childhood.

In 1961, in Paris, she had the good fortune to attend a state dinner for President Kennedy with General and Madame DeGaulle, and Premier and Mrs. Khrushchev. The first great triumph of her son's Presidency, she recalled.

That visit presented a perfect opportunity to collect a treasured autograph from the Soviet head of state. Rose sent photos of Krushchev and President Kennedy together in Vienna, which Khrushchev returned with the sought-after inscriptions.

Rose then sent her son a note, telling him of her plans to share the autographed photos with the Khrushchevs and with members of the Kennedy family.

The President, himself a head of state, wrote back, telling his mother that she ought to consult with him or the State Department if she wanted to contact heads of state, as international complications might arise.

And Rose, with a display of her usual wit and charm, dashed off a reply to her son at the White House:

Dear Jack:

I am so glad you warned me about contacting the heads of state, as I was just about to write to Castro.

Love, Mother.

Rose Fitzgerald Kennedy has a special place in American history. Even more, she has a special place in American hearts.

It is fitting that we take this opportunity to convey our respect and appreciation for all she has given us as a nation.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Further reserving the right to object, Mr. Speaker, I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding to me.

I am glad I am here on the House floor to just share a few thoughts. I wanted my good friend, the gentleman from Massachusetts [Mr. KENNEDY] to know that the Nation and certainly I, myself, feel as if we are part of an extended Kennedy family. Those of us who campaigned for President Kennedy, and that was my first campaign and the distinguished gentleman's late great father, Senator Robert Kennedy, empathize so much with the family. When the tragedies occurred, I have always felt that one of the great sources of consolation to the Nation was the courage and strength and faith that Rose Kennedy showed us all.

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She is a woman who has experienced great joy and also great tragedy, losing four of her children tragically, but she must be a role model for the Kennedy children and the Kennedy grandchildren. I am sure there are great-grandchildren. But she also is a role model to the Nation and a role model to me.

I especially am pleased not only in her great faith and optimism that she has always shown this Nation and great love for this Nation, but I have always been moved by her special work in humanitarian efforts, particularly the areas of mental health.

I am sure that the work of Rose, and in particular her daughters, as I understand it, are so appreciated by those individuals who are mentally disabled, and so I want to just pay tribute to Rose Kennedy.

We are proud of the fact and delighted that she is 100 years old. She is in the fastest growing population in this country.

We, all the people who serve in this body, are proud of you, JOE, and proud of Senator KENNEDY as well. It is a pleasure to serve with you, and I am sure your grandmother is very proud of you as well.

Mr. GILMAN. Mr. Speaker, I rise in strong support of Senate Joint Resolution 315 designating July 22, 1990 as "Rose Fitzgerald Kennedy Family Appreciation Day" and I commend the distinguished chairman of our House Post Office and Civil Service Committee, Mr. FORD, and other members of the House Committee on the Post Office and Civil Service for the expeditious handling of the measure.

Rose Kennedy exemplifies and symbolizes our Nation's commitment to the important role that the family has in American life. through her dedication to the fundamental principle of life, her belief in service to our Nation and her commitment to helping others who are less fortunate, Rose Kennedy has inspired courage and faith not only in her own family but in millions of American families as well. And I am certain that she must be especially proud of the fact that it is her grandson, Congressman JOE KENNEDY, who is sponsoring this resolution.

Mr. Speaker, Senate Joint Resolution 315 honors one of our outstanding Americans and devoted mothers as she celebrates her 100th birthday and sends to Rose Kennedy a message of appreciation from the American people.

Accordingly, I urge my colleagues to join in support of this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. TORRICELLI). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 315

Whereas on July 22, 1990, one of the most admired and beloved symbols of the American family, Rose Fitzgerald Kennedy, will reach the age of one hundred years;

Whereas the strength and integrity of the family are essential to our well-being as a Nation;

Whereas a secure and loving family is a principal source of the values, beliefs, traditions, ideals, and concern for others at the heart of the American character;

Whereas families provide continuity for the American people from generation to generation, linking the Nation's past, present, and future, and ensuring that our heritage of liberty, democracy, and justice for all is maintained in present generations and carried forward to future generations;

Whereas Rose Fitzgerald Kennedy, throughout her long and active life, has emphasized the importance of the family as the foundation of a secure and caring society;

Whereas Rose Fitzgerald Kennedy has inspired millions of Americans with her courage, her faith, her commitment to the central role of the family in American life, and her belief in the responsibility of citizens of all ages to help others and to serve others to the best of their ability;

Whereas Rose Fitzgerald Kennedy has worked tirelessly to improve the lives of those with mental and physical disabilities; and

Whereas the Congress and the Nation hold Rose Fitzgerald Kennedy in high affection and esteem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby conveys its appreciation, affection and respect to Rose Fitzgerald Kennedy on the occasion of her one hundredth birthday, July 22, 1990.

SEC. 2. The President of the United States is hereby authorized and requested to issue a proclamation designating July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day", and calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL LITERACY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 320) designating July 2, 1990, as "National Literacy Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New Jersey [Mr. PAYNE] who is the chief sponsor of the House joint resolution designating July 2, 1990, as National Literacy Day.

(Mr. PAYNE of New Jersey asked and was given permission to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, I am pleased to speak on behalf of this resolution to designate July 2, 1990, National Literacy Day. For the past 4 years now, many of my colleagues have joined in as cosponsors of this resolution. The resolution, once enacted, has brought attention to the plight of more than 35 million Americans who lack the basic skills necessary to function in today's ever changing, technological society.

Increasingly, we are discovering that working members of mainstream American society are either totally illiterate or unable to read at the level presumably required by their job or of their position in society.

The workplace and societal costs of illiteracy is too high to pay. Essentially, Mr. Speaker, illiteracy has become a social tax. It is a tax that, while falling directly on the backs of the millions of illiterate individuals, has, in turn, exacted a very heavy price in valuable resources from our Nation.

Today, close to 35 million adults cannot complete a job application, read a newspaper, comprehend a bus or train schedule or understand a warning label on a bottle of medicine. The Department of Education estimates that more than 2.3 million more illiterates including high school dropouts, unlettered pass-along graduates and some immigrants, are added to that list every year. However, the problem has not been confined to those groups of dropouts or disadvantaged minority group members, although they represent the highest number.

Consequently, the total cost of the errors, accidents, and missed opportunities in business now exceeds $225 billion annually.

Equally important, however, are the societal costs of illiteracy. The lack of reading, writing, and mathematical skills leads to resignation, despair, and in some cases, contributes to crime, alcohol and drug abuse, unemployment, and economic dependence.

More specifically, the cost includes welfare expenditures for the children of adults who lack the skills necessary to obtain gainful employment, necessary law enforcement to slow the growing underground economy generated by the individuals who cannot compete on the open job market, and consequently, the cost includes the maintenance of prisons that are the eventual end for those persons.

Mr. Speaker, through this resolution we recognize the serious problem which confronts our Nation.

We also recognize the thousands of individuals who have dedicated their time and energy to solve this national problem. One of these individuals is Lucinda Florio. Ms. Florio, the wife of our former colleague, Jim Florio, now Governor of the State of New Jersey, has taken a personal interest in helping others help themselves. I commend her for her efforts and wish her continued success.

I would like to thank all of my colleagues who joined me in support of National Literacy Day. We count on them and the many nameless volunteers to erase the scourge of illiteracy.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I rise in support of Senate Joint Resolution 320, National Literacy Day, sponsored by my friend and colleague on the Education and Labor Committee, DONALD PAYNE.

Representative PAYNE is one of the most effective advocates in this Congress for the need to improve basic literacy. It is a problem that he has devoted his considerable energies to since his election and he has been a tireless spokesman for a legislative proposal I have been advancing for almost 2 years now—Adult Literacy and Employability Act.

Literacy problems are fairly easy to hide. Or they always have been. But no longer.

As little as 25 years ago, a guy with a set of tools and a good attitude could count on earning a decent living, but today we ask more of most men and women in the workplace than we asked of some college graduates a generation ago.

Some large corporations undertaking major employee training programs necessitated by the introduction of new machinery and procedures have found as many as 30 percent of their employees require basic literacy and numeracy instruction before they can benefit from the advanced technical training.

If you are an adult with a reading or skills deficiency—and you know that the welfare of your family depends on you learning new skills, and perhaps learning an entirely new job—where do you go? Chances are the first place you will go is your local school. Unfortunately, all over the country adult education classes are already overcrowded, or are closed out and have very lengthy waiting lists. You might also be referred to a community-based, nonprofit agency which generally run free programs to teach nonreading adults, who are not in school, how to read and write. These programs too are oversubscribed and generally operate on a shoestring budget.

The fact is that, the United States is facing the first real labor shortage of its kind in the modern era. This is not just about the future of 30 million adults; this is about the economic future of the entire country.

Americans have every reason to be concerned about the skills needed in the work force of the year 2000. That's because three-fourths of that work force are working today, and some 30 million of them are functionally illiterate. They lack the ability to read, write, speak English, compute and solve problems effectively. Adult learning has to be the vanguard, the first order of business, in the fight to achieve workplace literacy.

Again, I thank my colleague DON PAYNE for his work on this critical issue and urge all of our colleagues to support this important resolution.

Mr. GILMAN. Mr. Speaker, further reserving the right to object, permit me to take this opportunity to commend the gentleman from New Jersey, [Mr. PAYNE] for introducing the House resolution designating July 2, 1990, as "National Literacy Day," which I was pleased to cosponsor.

Literacy is crucial to our existence, not only as individuals but as a Nation. Illiteracy in our country has been growing at an alarming rate—over 35 million adults. Increases in our Nation's crime rates, welfare dependence, and other domestic expenses can be correlated to illiteracy.

Mr. Speaker, by designating "National Literacy Day," we will bring to the attention of the American people the severity of the problem of illiteracy and its detrimental effects on our society.

Again, I commend the gentleman's efforts and urge my colleagues to join with me in supporting this important legislation.

As we all know, our first Laby Barbara Bush, has been a leading advocate for literacy in this country.

Mrs. Bush is committed to educating the American people to the seriousness of illiteracy and its devastating effect this problem is causing in our country.

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Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. TORRICELLI). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 320

Whereas literacy is a necessary tool for survival in our society;

Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are twenty-seven million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas illiteracy is growing rapidly, as two million three-hundred thousand persons, including one million two-hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;

Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;

Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;

Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;

Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 per centum illiteracy rate among black youths is expected to increase;

Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;

Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;

Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1990, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the 2 Senate joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MAYOR RAY WILLIS INSPIRES GATHERING WITH D-DAY ADDRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman for Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Madam Speaker, I would like to call to the attention of my colleagues an address given recently by Mayor Ray Willis of Harwood Heights, IL, located in the 11th Congressional District of Illinois which I am privileged to represent.

Harwood Heights is a suburban community adjacent to the northwest side of Chicago, and Mayor Willis has compiled an outstanding record of achievement during 18 years of dedicated service as Mayor of Harwood Heights.

Mayor Willis' address was given on June 6, 1990, the 46th anniversary of D-Day, which marked the beginning of the allied crusade in Normandy to liberate Western Europe. His address is entitled "The Last Thoughts of the First Man to Die on Normandy Beach" and describes the innermost feelings of a young trooper as he leaves his crowded troopship and dies on the Normandy beachhead.

In making these remarks, it was Mayor Willis' wish to describe, for those too young to know or remember, the heroism of our soldiers and sailors who served in World War II and helped make today's free Europe a possibility.

The full text of Mayor Willis' remarks follow:

ADDRESS BY MAYOR RAY WILLIS OF HARWOOD HEIGHTS, IL

The ship rolled just as he was getting out of his bunk. The movement made his descent easier. He made his way through the maze of compartments to a passageway leading to the head. The mingled odor of human bodies, aftershave, toothpaste, soap and deodorant was familiar. Four thousand men had been living aboard for the past 2 weeks and conditions were far from comfortable.

He decided to go top side for some fresh air. He passed his shipmates as he headed for the stern. Some laughing and joking, some playing cards and craps, some writing letters and some just praying.

Glancing at his watch, he calculated Mom would be getting up soon; starting the chores of the day with breakfast. He wondered if they had any idea of the significance of this day.

He glanced around the ocean surrounding the ship and as far as the eye could pierce the darkness he could see ship after ship. Battlewagons, cruisers, destroyers, and hundred's of troopships. The greatest single armada gathered by man in the history of the world.

He took a series of deep breaths before going below and thought how clear and crisp the air felt. Upon reaching his bunk, he saw his last letter from his fiance, Mary. He'd read it often enough to have it memorized. He smiled about the part she wrote complaining about rationing. How ration stamps and tokens for meat, butter and sugar were more valuable than money. Also how badly she needed nylons. But Mary agreed that if this all helped the war effort and got him home sooner, it was all worth it. He thought about getting home after this was all over and what their lives would be like.

Sitting on his bunk, he checked his M-1 Rifle for the 100th time. Pulling back the bolt and allowing it to come forward sharply. He knew his life would depend on this equipment. His thoughts once again crossed over the ocean to home.

Dad would be reading the morning paper and probably complaining about yesterday's Cubs' pitching. Tommy, his younger brother would be just about ready for school. Was he in sixth or seventh grade now? He wasn't sure. When Tommy would find out about his part in today's operation he sure would be proud. His thoughts were interrupted by the blare of the PA System.

"Now hear this." "Now hear this." A message came from Supreme European Headquarters delivered to the troops by Eisenhower wishing them a safe victory and God Speed.

The PA system sounded again. This time the order was for all personnel to assemble at their assigned staging areas. Deembarkation was about to begin.

Standing with the others of his platoon, he silently made peace with his God and prayed for a successful operation.

As they descended on nets made of rope the landing craft bounced against the ship's hull making boarding difficult. He and 49 others occupied the LST. As the LST began to circle in the rough waters, lining up for the first wave of assault, he looked at the beach, and knew if he could make it that far he would be safe. The first wave of landing craft started in the direction of the beach.

The heavy guns of the battleships had been pounding the shores for more than an hour in an attempt to soften the landing. P-47 Thunderbolts strafed the beach without enemy air opposition. The landing craft approached the beach; 500 yards, 400, 300.

Suddenly the craft lurched to a stop. The front gate swung down hitting the water with a tremendous splash. The beach was 50 yards away. He plunged into the icy waters. A little deeper than he had expected. Moving forward the enemy fire increased. Then, in an instant, an electrifying shock possessed his body. A white flash blinded him. His body fell forward. Into the water just feet from the beach he tried to reach.

These were the last thoughts of the first man to die on the beaches of Normandy. June 6, 1944; 46 years ago today.

The significance of that day is more important today than it was 46 years ago. In light of the happenings of the past year in Europe, democracy and freedom are stronger than ever. These events could never take place without the supreme sacrifice of so many brave men. Before this day ends, lets all say a prayer for those who gave so that we lived free these past 46 years.

HOMELESS CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Washington. Madam Speaker, hours have been spent debating the causes of homelessness. There is no simple, clear-cut answer. But one thing is certain, helping to educate homeless children is a sure step toward a long-term solution. It's time to focus our energies and resources on what could become the next generation of the homeless.

Homeless children often are the forgotten poor. Families with children are now the fastest growing segment of America's homeless. Nearly one-half of these children receive no formal education.

The long-term implications of this are tragic. All children have the right to an education. The link between poverty and the lack of education is well documented. These children deserve a chance. And this bill gives them that chance.

Madam Speaker, nearly two-thirds of our homeless children come from households with incidents of child abuse, sexual assault, and domestic violence. These children need a stable educational program addressing emotional, developmental, and stress-related problems. The longer a child is out of school, the less likely it is that he or she will ever return.

Many homeless children never re-enroll in school. Those who do return to school are generally far behind their peers academically. Thus, their chance for educational failure is increased.

This legislation amends the McKinney Homeless Assistance Act to help keep homeless children in school. In its present form the McKinney Act will not finance school programs, but leaves that responsibility to the States. My proposal allows funds to go directly to local school districts. These direct funds can be used for services like the evaluation of special needs; record transfer; counseling and psychological services; parent education and training; transportation costs; special training for teachers and counselors; and before-and-after school programs and job opportunities for homeless youth. My bill also allows preschools and nonprofit schools to compete for funds.

I urge your support of this measure. The number of homeless children nationwide is increasing dramatically. Join me in taking this positive step toward breaking the cycle of poverty.

FLAG AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California, [Mr. DORGAN] is recognized for 5 minutes.

Mr. DORNAN of California. Madam Speaker, I said earlier during the debate, because I was only afforded 2 minutes, and the constitutional amendment to protect Old Glory means a lot to me. I am 57 years of age, and as a reporter, a correspondent, I went to Vietnam 10 times, and I witnessed the full measure of devotion that some men gave, their lives, and some Army nurses fighting for what that flag stands for, and I would like to have had 5 minutes, 10 minutes during the debate today.

I am not feeling bad about it at all, because HENRY HYDE spoke every word from his intellect and his heart that I wished I could have spoken today. My wife called me right afterward and said our friend, HENRY, truly walked into the pages of this Nation's history today, and that he did.

I would just like to briefly talk about just one thing that I wanted to mention on the floor today, and I gave respect to all those who put all their efforts into trying to make the first amendment inviolable, and who I think disregarded the fifth article of the original Constitution of which James Madison was the father, which provides for amending the Constitution by telling a story that happened on one of my visits to Vietnam.

But before I do that, I want to explain why I am not taking the 60 minutes. Last night I was supposed to be part of an all night session, a series of 1-hour special orders like this 5-minute one I am doing now, to discuss crime in this country. I had prepared my hour special order, and I joined the effort late, so I had the tough watch 3 to 4 a.m.

I was seeing off my son, my daughter-in-law, little baby Haley, who is 2 years of age, and my daughter-in-law is about to deliver in about 2 months my eighth grandchild, and on the way back from the airport my wife said why did I not stop off at home, have some dinner, and get a nap. When I went to sleep, she deliberately turned off the alarm, making me feel like Peter, one of the apostles at the Garden of Gethsemane, because when I woke up early in the morning I saw that my colleagues were here, and I had not answered my watch.

But the unsung heroes of that all night session on crime worked behind me here, this excellent staff, the reporters who worked all night long and all day, and anybody expecting my 60-minute special order tonight, I had said I was going to do that not thinking that I had slept on my watch late last night, and these good folks were there all night long. So out of respect for them I will do the 60 minutes on the flag next week, and just tell this one story.

First of all, something shocked me today. I am not squealing on my fellow colleagues, but I think Americans out there should know this, particularly young people. I asked 100 Members, left, right, Republican, Democrat, liberal, conservative, male, female, if they knew what flag or pennant flies above the United States flag. Not one single Congressman on this floor knew, not one could give me a correct answer. They could not come up with an answer at all.

The closest anybody came was Rev. BILL GRAY, of Pennsylvania. He looked at me quizzically and he said, "A Christian flag?" What Christian flag? But he was close. I told him, "You are close, the only one that has had any inkling at all."

I informed all of the pages on my side of the aisle, and now while they are attending their high school years they will know something that 100 Congressmen do not know on this floor, and I think that I am safe to assume that what one Democrat told me is true, that not a Member of this body knows that the one pennant over the flag that flies above Old Glory is a religious flag, but not Christian. It can be Jewish also. It is a white pennant, an isosceles triangle, a long pennant, and it has on it the cross of Jesus Christ, the Jewish star of David, and it flies on ship mastheads and on bases, Army posts, Air Force posts all around this world, Marine Corps posts, and it says, "The chaplain is on ship, religious services are taking place on the base or on the post, the chaplain is here, the rabbi, the chaplain, the priest, or the minister."

Now the reason I know this well is because I have debated the Nation's loudest atheist, Madalyn Murray O'Hair, who wants us to either eliminate that pennant completely or to put it beneath the flag. But it teaches us a lesson that we do have our priorities straight in the United States: God, family, and country.

□ 2040

And we are not going to protect by constitutional amendment ever, what some Members tried to terrify us with today, religious symbols, because we represent all sorts of religions and they are all protected. What protects them? This secular symbol behind me, Old Glory. Because in that first amendment that we heard about over and over again, and I have had it memorized since I was a school child—and it was not the first amendment, it was originally the third amendment. The first two were about pay, and one of them I wish would have been left on there. It says no sitting Congress can vote itself a pay raise to begin until after there has been an intervening election so that the people can judge whether or not the Members in

both Chambers are worth it. But that kind of went the way of a lot of pay situations around here.

The third amendment turns out to be No. 1. They say the first amendment.

But how does it start? It is not part of the original Constitution, so it starts off with negative words, "Congress shall make no law." Doing what? Respecting or creating a religion, respecting any religion over any other or abridging the free exercise thereof.

Then it goes into free speech.

Now my time is out. I will tell that story next week about a young trooper who lost both his legs, one arm and his hand, face all torn up, part of his jaw, and asked me never to allow anybody to desecrate the flag in front of me.

I will close with this: Old Glory still flies on the Moon. No atmosphere, it has a bar stiffening it out. That is up there safe and secure tonight no matter what we do in this House.

THE SAVINGS AND LOAN CONSPIRACY SCANDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Madam Speaker, the savings and loan swindle is still the most vital issue confronting this 101st Congress. Certainly today we dealt with a very important issue, the flag issue, which has been projected and made an important issue by those who would like to blind us with a poison smokescreen. They want to create an issue that would dominate the next election. Anyone who went through the last Presidential election knows the danger of this smokescreen flag issue and how it can get out of proportion.

All of the very important concerns that the American people should be addressing will be subordinated to a highly emotional, highly charged emotional atmosphere about patriotism and the flag.

This is poison, poison smoke that is blowing to blind the voters.

One of the things they would like to see us forget, one of the things that the American voters are not being asked to take a close look at, is of course the savings and loan swindle. There are a lot of issues that we are also ignoring while we divert the attention of the voters.

We are not dealing with the fact that there are hungry babies, hungry pregnant mothers; the Women, Infants, and Children Program is now in great trouble.

They are cutting back on the orange juice, on the cereal, and the milk for children, infants; they are cutting back on the orange juice, cereal for pregnant women.

A program that we were quite proud of, although it only serves half of those who are eligible, is now being cut back.

We have still done nothing about the homeless.

After cutting funds for housing from $32 billion down to $8 billion approximately, in the 8 years that the Reagan administration was in power, the present administration appears to be in no great hurry to make up for the great dearth of homes out there.

People are homeless not because they have chosen that lifestyle. People are homeless because not enough housing is being built. And the Federal Government has the resources, the only branch of government that has the resources to deal with the homeless question.

So we still have a lot of various problems. But the problem that threatens to devour all of the other problems and make it impossible to solve any other problems is the problem of the S&L swindle.

The estimates of how much this swindle is going to cost the American taxpayer keeps galloping on. The estimate now by the General Accounting Office is up to $500 billion.

There is a rumor that a noted university study, an objective, nonpartisan university study, will come out shortly and it will tell us the real truth, which is beyond $1 trillion as the expected cost. When analyzed by objective, nonpartisan economists, it will go beyond $1 trillion; $1 trillion to accomplish nothing.

Many of us who were concerned about the waste in the defense budget, concerned about weapons that did not work despite the fact that large amounts of money were invested in those weapons; we were concerned about having too many weapons. Although we recognized the need for an adequate defense, we knew we were paying too much.

But even at the worst when you had a Sergeant York gun, a gun in which the American voters were forced to invest tremendous amounts of money to develop, when you had a conclusion reached that that gun was no longer of any use, at least you had a pile of scrap metal that could be melted down and put to some purpose.

The S&L's give us nothing, absolutely nothing to show for the billions of dollars that have gone down the drain. But since they are guaranteed by the American taxpayers, we now have to fill up that great hole.

Last night there was a marathon here on the problem of crime; mostly the focus was on violent crime. I think last night's marathon was important. That intent to focus on violent crime is important. But not enough emphasis was placed on massive white-collar crime.

Violent crime is important. I am not going to try to minimize violent crime. Any person who has ever been mugged, ever came home and found themselves burglarized knows the visceral reaction that you get when you have been violated in that way. Smaller things like burglaries are certainly traumatic; certainly a mauling, a beating or even attempted murder or murder can traumatize whole families for long periods of time. It is a very serious matter—the kind of violent crime that this Nation faces. No one should attempt to minimize it.

But in addition to focusing on violent crime, we have to recognize that there is a crime which threatens to engulf us all, a crime which threatens to wreck the foundation of the economy, a crime afoot that threatens to erode the basic moral values of the Nation.

Not enough emphasis is placed upon the massive white-collar crime involved in the savings and loan association swindles.

The savings and loan association conspiracy is a sophisticated, gigantic version of the worst aspects of the pork barrel. The savings and loan association conspiracy is decentralized corruption. The savings and loan conspiracy is a franchised conspiracy, spread out throughout the whole Nation. Everybody is out to get a piece.

The savings and loan association conspiracy is democraticized corruption.

No longer do you have the phenomenon that you had with the military-industrial complex. The military-industrial complex was a group of elite, relatively elite, people who raided the public treasury by charging too much for weapons systems or by promoting weapons systems that were not necessary.

President Eisenhower warned us of that military-industrial complex. It rolled rapidly on until it reached the height, of course, during the Ronald Reagan administration where they were spending billions of dollars creating a deficit that we are still going to be living with for a long time.

The military-industrial complex can no longer justify its existence. Despite the damage that has been done already, it will have to phase out, fade away, we now have a worse complex, that is the regulator/savings and loan complex, a complex that is not an elite limited group but a democratized, franchised affair spread throughout the whole Nation, decentralized. Some people have a piece, but it is too widespread, too big to be contained.

The elite graft has been replaced by a broader, nationwide base of graft. The savings and loan association represents an enormous and dangerous economic—set of economic crimes they have been committing, and they do

cause suffering. Violent crime causes suffering to individuals and families; the massive white-collar crime represented by the savings and loan association swindle or conspiracy causes untold suffering to millions and millions of people. There are widows who have been swindled by schemes such as that scheme at the Lincoln Savings and Loan Association.

□ 2050

There are enormous consequences being paid by persons who are caught up in real estate and graft schemes and most of all the American taxpayers, it is estimated that the $157 billion bailout which is the first estimate we received from the administration of the cost of the savings and loan associations bailout, that is the bill we passed last year in August, that $157 billion estimate meant that every American family was going to have to pay about $1,000 per family in taxes to make up for what had been stolen. That taxpayer bailout goes to not only pay for the depositors to guarantee, we guarantee depositors to have money up to $100,000, it goes beyond that. Our Government has made the decision that any person whose investments are involved in these savings and loan association failures, they must be protected. So we are protecting more than those depositors that we are obligated to protect. We are protecting the Japanese investors, the Arab bankers, everybody who came in to make a killing, and deposits in the savings and loan association, even beyond $100,000 are protected.

Then we allow the whole concept of guaranteed deposits to be eroded and corrupted by having large bank deposits money in the groups. We have banks depositing millions of dollars and breaking it up into $100,000 pieces and calling it individual groups. The whole process was greatly abused, and for that we will have to pay, even if it were limited to the $157 billion estimated by the present administration, it will be $1,000 per family. If it goes to $500 billion, it is going to be that much more. If it goes to a trillion dollars, as we expect it might climb to that level, then certainly every American family for generations to come will be paying this enormous bill.

The good news is that Congress is finally discovering its indignation and its noble anger. One thing worse than the savings and loan swindle that is taking place out there in all the various associations and banks is to have Congress and the decisionmakers in Washington participate in a coverup, a coverup by omission, or a coverup by commission. The danger has been that by omission, by refusing to recognize the problem, by refusing to accept the responsibility, by refusing to alert the American people through some kind of investigative mechanism, that Congress has been participating in a sin of omission by not dealing with the problem.

I am glad to see that Members of Congress are awakening. Noble anguish is showing itself. Nearly 200 Members of Congress sent a letter to the Justice Department requesting, demanding more vigorous prosecution of those who have abused the power and stolen the taxpayers' money in the savings and loan association. One of the great problems has been a refusal to prosecute vigorously. One of the great problems has been an Attorney General who seems to have no backbone for dealing with this massive white-collar crime. The Attorney General talks as if it is too big, too complicated. Crime does pay in this case. If the crime is complicated enough, it takes large numbers of bookkeepers and accountants and analysts to unravel the crime, they can go ahead, be a criminal, and get away with it. It is too complicated.

Some have made statements that the banks are too big to allow to fail, and we have no choice but to take care of their dirt and clean it up. I do not know in any laws in the United States, is the Federal Government, the Justice Department, the FBI, let off the hook and told that it is quite all right not to deal with crime when it becomes too complicated or too big.

Last night's marathon on crime was conducted by a number of Members of Congress who pride themselves on being great conservatives. What I have not been able to understand is the silence in this Congress of the conservatives. The conservatives have always insisted that Government should stay out of the private industry, and private industry is private to Government when it comes to management, specifically business matters. In business matters there is no place for Government. Yet we have a massive intervention, a massive intervention by the Federal Government into the banking business, the savings and loan associaton cleanup by the Federal Government has led to the Government not only guaranteeing deposits, we are now the owners of large amounts of assets, land, paintings, silver and gold, jewelry. All kinds of things that have been purchased by the bank are now being managed under the control of the Federal Government. We are in the banking business. We have socialized banking through the back door. Socialism has been introduced into this economy. Massive amounts of Government money and effort go into the managing of these failed savings and loan associations, and there is a rumor that soon it will go beyond the savings and loan association, and the commercial banks as well in large numbers—some very large banks are on the verge of collapse.

The good news, as I said before, is that Members have 200 Members that have demanded the Justice Department do more to prosecute. Yesterday, there was a vote on the floor to appropriate $75 million that was not in the appropriation bill. It was in the bill last August. It is $75 million to go to the Justice Department for prosecution of the criminals in the savings and loan association conspiracy. But they have been slow to use the money. Members of Congress almost unanimously—I think one or two negative votes—unanimously voted to put that $75 million in there and make it clear to all concerned that we wanted the $75 million used to do whatever is necessary to prosecute the criminals in the savings and loan association conspiracy.

There has also been a bill calling for the appointment of a special prosecutor introduced by one of the Members of Congress, and quite a number have signed on. I am proud to be one of the people who have signed on to the bill calling for the appointment of a special prosecutor, just as I signed on to the letter that called for a more vigorous set of prosecution efforts by the Justice Department.

Finally, we have a bill which calls for the appointment of a select committee. I think that all stops should be pulled out to try to push to get the appointment of the select committee to wade into the savings and loan association conspiracy and deal with all aspects of it. We cannot wait on the Attorney General. We cannot wait on the administration. It is obvious that the Attorney General has no backbone, that he is soft on high finance thieves. I call on all the conservatives in Congress, all those who are very concerned about that fact that we do not have a crime bill yet, to make certain when we do receive a crime bill, that the savings and loan conspiracy will be addressed, and we will after the high finance thieves with the same vigor as we go after street criminals. A lot of street crime is perpetrated by what happens at higher levels. We have not had such massive laundering of drug money for so many years in the high finance circles, in the banks, the drug culture could not have taken hold, because of the fact that it would not have been so heavily financed. Silent crime must be pursued, but we must understand that the high finance crimes often stimulate and exacerbate the violent crimes that take place on our streets, and most of all, we can never have a situation where crimes go unpunished because they are too big to be touched or too complicated to be touched.

Government coverup, Government refusal to deal with situations is the worst kind of crime of all. It erodes the moral fiber of the Nation. The

New York Times has certainly been one of those papers, and there are a number of them which have for the past 6 months steadily had a steady drum beat cry for action. The Times has called the savings and loan conspiracy the biggest scandal ever. The Times says that not only is the cost of the bill outrageous, but the fact that most of the perpetrators will escape is an even greater outrage.

Where is the S&L money? Mr. Seidman says himself, and he is right on top of the situation, Seidman invented the bailout process, unfortunately. I think he probably regrets the fact that he tried to save Continental Bank of Illinois. In the process of saving that bank, he started a whole new process and way of dealing with banks that has gotten out of hand completely.

□ 2100

But Seidman himself says in 60 percent of the S&L's seized there was criminal fraud. At about the same period when Seidman made this statement, Attorney General Thornburgh was repeating that most of the money lost by fraud was not recoverable. Some money went down the hole of bad investment, but some was just stolen. Stolen money, according to the New York Times, was sent to Swiss banks and banks in Panama and the Bahamas. Money was sent for laundering to banks on the Isle of Jersey.

"Even if only 10 percent of that stolen money is recovered"—and I am quoting the New York Times still—"it would be $10 billion, and would fund one year's war on drugs."

"If the Justice Department gives a real push," the Times continues, "and the international banking community cooperates, maybe we can put some of the S&L criminals behind bars and save the taxpayers billions. We have to try."

This is the New York Times of June 1, 1990.

William B. Sessions, the FBI Director, told the House Banking Committee in May that the collapse of the S&L's is the result of a pervasive pattern of fraudulent lending activity. Mr. Sessions said:

> Experience demonstrates that insider abuse is a major factor in almost all of our investigations involving failed financial institutions. I am referring to a wide range of illegal conduct by officers and directors that is detrimental to the safety and soundness of the very institutions they control.

A former regulator with the Federal Home Bank Board, Joe Selby, put it this way to the same committee:

> In many cases, officers and majority stockholders developed a whole series of tactics to hide the losses. They would swap loans to hide losses, saying, "I'll trade you my dead cow for your dead horse."

And on and on it goes. This is 60 percent at minimum due to fraud and due to stealing. These are well-dressed thieves, these are elite thieves, but they are still thieves.

There is a great need for us to bestir ourselves and understand that whereas we react with a primitive set of emotions and our adrenalin begins to flow when violent crimes occur, as it should, as a nation we cannot survive unless we take more seriously economic crimes, massive white collar crimes.

I think the time has come for the House of Representatives to take the steps that are being proposed in a bill that has been introduced by Representative PAUL KANJORSKI, of Pennsylvania. Representative KANJORSKI has introduced a bill calling for the appointment of a select committee to investigate financial institution fraud, mismanagement, oversight and supervision. He states that "This disaster is far greater than any one standing committee can handle," and that only the appointment of a select committee will be able to deal with the problem in all of its dimensions.

Quoting from Mr. KANJORSKI's statement in the extension of remarks in the CONGRESSIONAL RECORD, he says: "The American public is crying out for an understanding of what has already become the largest financial disaster in our history, and we as legislators have a responsibility to understand it ourselves and to explain it properly. Before we can ensure the President's statement of 'Never again,' we need a thorough investigation of what happened, how it happened, and what we need to do to prevent it from happening again."

Mr. KANJORSKI goes on to outline some of the duties of this select committee. The first would be that it would investigate "the extent to which fraud, mismanagement, and conflicts of interest by or among officers, directors, consultants, or employees of financial institutions * * * have or may contribute to losses to Federal or State deposit insurance funds."

It would also investigate "the adequacy of Federal and State investigation and prosecution of fraud and mismanagement at federally insured and State insured financial institutions."

The committee would investigate "the adequacy of actions by the executive branch to recover the costs to the U.S. Treasury resulting from fraud, mismanagement, and violations of Federal banking laws and regulations."

The committee would investigate "the extent to which the ability to recover the cost to the U.S. Treasury resulting from fraud, mismanagement, and violations * * * is hindered by inadequate resources," with the idea of making those resources available where they are needed.

The extent to which financial activities are permitted by States or State and Federal institutions would be investigated. A major problem centers on the fact that certain States have the power to regulate savings and loan associations in their States while the Federal Government has the duty to insure the deposits. A major problem exists in certain areas. One State has 70 percent of all the failed savings and loan associations. Certainly that State should have a thorough investigation, and maybe the institutions related to banking and finacing of the regulatory agencies of that State related to Government-guaranteed deposits should all be put under receivership. Maybe they should be enjoined from doing any further business. So great have been the losses in that State that some radical action and some dramatic and far-reaching action is necessary.

Most of the efforts of the Resolution Trust Corporation are centered now in that one State. Recently investigators have uncovered new forms of corruption and fraud within the rescue effort. Some of the same people who have caused the problem as executives and as board members of the failed institutions are now involved in various schemes of corruption. We have a major problem, and we ought to deal with it in some kind of creative way by dealing with that particular State in a special way.

This committee will investigate the extent to which financial activities committed by the Federal Government have contributed or may contribute to losses of those deposit insurance funds. It will investigate the extent of which changes in the Federal Deposit Insurance may have contributed.

We made the mistake of raising the deposits that were insured from $40,000 to $100,000. That is, any depositor before the change in the regulations who deposited up to $40,000 had all his funds guaranteed. We raised that to $100,000. At the same time that we raised the amount that would be guaranteed by the taxpayers, we reduced the number of regulators, the number of people out there who would ride herd on the banking system.

This is deregulation. Ronald Reagan's deregulation is the major cause of this problem. Deregulation in an age of greed led to unbridled exploitation of the taxpayers' funds.

This committee will investigate the cause and consequences of any inadequate or improper oversight. In other words, this committee will focus in on what the deregulation did, on what the major cause of the problem is as a result of the removal of oversight responsibilities, the removal of auditors and the decrease in the amount of staff available to do the job of supervision of the financial agencies. The causes and consequences of any inadequate or improper oversight supervision or examination of federally chartered or insured financial institutions

by Federal regulatory agencies will be a major concern of this committee.

The accuracy and timing of the executive board's estimates and representations to the Congress of the magnitude and extent of problems in these institutions is also another item that will be investigated by the committee.

How political are we in the process of facing this problem? Were we deliberately misled last August by the administration when they estimated that only $157 would be needed? Less than a year later the General Accounting Office told us at least $500 billion would be needed. There is a great gap between $157 billion and $500 billion.

Was it a mistake? Was the administration and its staff dumb, or did the administration deliberately mislead us?

This committee will investigate the consequences of any inaccurate estimates and what those consequences will do in terms of the final cost to the U.S. Treasury in resolving these problems.

This committee will investigate the extent to which inaccurate estimates or representations were intentional or willful.

This committee will investigate the final anticipated costs to the U.S. Treasury. The committee will have the job of going forward and coming up with some real figures based on all the analyses and all the numbers and documentation available, and it will do it in a nonpartisan setting.

□ 2110

Madam Speaker, this committee will investigate the direct or indirect ramifications on the U.S. economy, on the multibillion dollar expenditure for resolving the problems related to the corrupt and defunct savings and loan institutions.

Madam Speaker, this is my major concern:

What are the ramifications? Will we have any money to invest in improving the education systems in the Nation? Will we have any money to invest in providing housing for the homeless? Will there be any money to invest in increasing the WIC fund so that pregnant women and infants can get the right amount of orange juice, milk, and cereal? Can this Nation do some of the basic things that have been neglected for all these years?

Now that there is a peace dividend, and we demand that there is a peace dividend, will the peace dividend be poured down the drain, the bottomless pit, to take care of the savings and loan associations' problems?

Why are we in this fix? Why are we at this point?

Madam Speaker, it is because unscrupulous, greedy, clever people have been allowed to take advantage of the system.

Our first line of defense, our most important line of defense at this point, is to make it clear, once and for all, that the Government will not tolerate it, the taxpayers will not tolerate it. A massive, vigorous program of prosecution of corruption will do a great deal toward solving this problem. If we were to prosecute more vigorously, many of the persons who have salted money away in Swiss banks, or in the Bahamas, or in Panama, or wherever, we will go and find the money because the tradeoff that we will be offered would be in return for the money, and the sentencing will be lighter. If we have a vigorous prosecution program, we will have many documents and many hidden facts uncovered that so far make it difficult to unravel the mysteries in many of these institutions.

Madam Speaker, white-collar crime, massive thievery in the finance world, has to be dealt with in the same way we deal with all our criminals. They must be made to pay, and in the process of making them pay we would get a greater yield for our effort.

Just quickly look at some of the crimes committed by the individuals behind these bank failures. For instance, Mr. Charles Keating and the Lincoln Savings Loan Association.

Mr. Keating paid members of his family enormous amounts of money. All the members of the family were listed as officers. At one point $1 million was paid to his son. During the years between 1985 and 1988, just 3 years, $34 million was distributed to members of the Keating family, and, when he was asked why did he give them so much money, he said, "They earned it. They worked for it." Mr. Keating ran a 6.5 billion mom and pop operation which bought two helicopters, three jets, luxury planes, private hangars, three mansions. They bought and remodeled the Phoenician Hotel, 23-carat gold ceilings, $12 to $14 million for Italian marble, $25 million for original art. The hotel was described as a mausoleum that idiots built, when he finished, but it certainly was an expensive mausoleum that he built, and it turns out that the idiot built the mausoleum with your money. The taxpayers will have to pay the bill. Mr. Keating had a real estate development called Estrella. It was a direct investment, and in 1984 Edward Gray, who was a regulator, worried about the fact that the development was a direct development, it was a direct investment, and there was a limit that savings and loan associations could put into direct investments. Mr. Keating offered Mr. Gray a job for $300,000, which Mr. Gray turned down. Mr. Keating hired Alan Greenspan, noted economist, for $40,000 to fight for this so-called limitation on his direct investment. He asked for exemption for Lincoln. There were discussions with the present President and discussions with President Reagan. Both sided with Mr. Keating, and $500,000 was allowed over the allowable direct investment limit for Mr. Keating. Mr. Keating had a mad man, Mr. Henkle, on the bank board. While Mr. Henkle was on the board, he loaned Henkle $140 million. Mr. Henkle was involved in wiping out the $500,000 violation in the case of this direct real estate investment. Keating later put $3.7 million in a blind trust for Mr. Henkle. Three months later Mr. Henkle resigned from the bank board.

On and on it goes. The tales of the way the money which the taxpayers will have to return is now wasted.

Madam Speaker, there was a southwest plan invented to allow large numbers of failed banks to be bought up in the Southwest area, Texas being the major area involved. Eighty-six insolvent savings and loan associations were consolidated. They were sold to 10 different banks under this plan. Tremendous tax writeoffs were granted, and they were supposed to save these institutions. Most of them now have improved only slightly, and half of them have begun to fail at an even faster rate.

The Sun Belt Savings Association of Dallas was called one of the Nation's biggest financial disasters. It has so far cost the Government $6.1 billion, and when I say "the Government," I mean the taxpayers. It was headed by someone called the financial whiz kid. Mr. McBernon has been described before, even named in all kinds of extravaganzas with the bank money. Besides his seven jets, he spent $54,000 for Christmas gifts from Nieman-Marcus. These amounts have been documented: $6,500 for limousine bills, over $1 million for Christmas and Halloween parties.

Madam Speaker, on and on it goes. All of these individuals are still walking free. Most of them have not been investigated thoroughly. None of them have been indicted.

There have been a few cases that have been indicted after a 5-year investigation in Texas. We have one indictment that is being celebrated, Silverado Savings and Loan in Denver where great amounts of money have been lost, over $2 billion lost. Horse trading, conflicts of interest were rampant.

The great question is when does the conflict of interest become a conspiracy? When a white-collar criminal is involved, it seems it takes a long time to declare these conflicts of interest as conspiracies. There are numerous cases and numerous examples of individuals who should be behind bars.

Madam Speaker, we have to gird up our loins. We have to begin to react with anger and indignation. Most of all, the American people have to un-

derstand that it is coming out of their pocketbooks, your pocketbooks, your children's pocketbooks, your grandchildren's pocketbooks. We have to understand that there are other kinds of programs that we need like health care, Medicaid, and everything is on the line in negotiations that are taking place now in the White House.

Madam Speaker, the summit negotiations on the budget will result in budget cuts for very badly needed domestic programs. The summit is taking place at the White House now, and they will have to take into consideration as a major factor the amount of money needed to cover the losses of the savings and loan associations for the next 10 or 15 years. This is a serious matter.

All of the conservatives who claim that they are for minimum Government interference in business should be working day and night to try to get this massive intervention of the Government out of the private sector. All the conservatives who want a crime bill and who think that crime is the No. 1 problem in America, I agree with them. Crime is the No. 1 problem, but crime also includes the crimes committed by the high finance industries. Crime includes the massive amounts of money which is being stolen and the ripple effect that that is going to have on the total economy. Crime includes the cover ups that are taking place at high levels by Government decisionmakers.

Madam Speaker, we must act immediately to recognize and deal with the No. 1 problem in Washington, which is America's No. 1 problem, and that is the savings and loan conspiracy, the savings and loan swindle.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GILMAN) to revise and extend their remarks and include extraneous material:)

Mr. WYLIE, for 5 minutes, today.

Mr. RIDGE, for 30 minutes, on June 27 and 28.

Mr. KYL, for 60 minutes, today.

Mr. DORNAN of California, for 5 minutes, today and 60 minutes on June 27 and 28.

Mrs. BENTLEY, for 60 minutes, on July 10, 11, 12, and 17.

(The following Members (at the request of Mr. CLEMENT) to revise and extend their remarks and include extraneous material:)

Mr. DINGELL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 60 minutes, on June 26.

Mr. FRANK, for 60 minutes, on June 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CLEMENT) and to include extraneous matter:)

Mr. NELSON of Florida in two instances.

Mr. KOLTER.

Mr. LANTOS in two instances.

Mr. FAZIO.

Mr. ROE.

Mr. MILLER of California in two instances.

Mr. SMITH of Florida.

Mrs. KENNELLY.

Mr. KOSTMAYER.

Mr. DONNELLY in two instances.

Mr. KANJORSKI.

Mr. MANTON.

Mr. JENKINS.

Mr. UDALL.

Mr. MARTINEZ.

Mr. DELLUMS.

Mr. KLECZKA.

Mr. PENNY.

Mr. MONTGOMERY.

Mr. WEISS.

Mr. SKELTON.

Mr. WYDEN in two instances.

Mr. FAUNTROY.

(The following Members (at the request of Mr. GILMAN) and to include extraneous matter:)

Mr. BROOMFIELD in two instances.

Mr. RHODES in two instances.

Mr. SCHAEFER.

Mr. BEREUTER in two instances.

Mr. SUNDQUIST in two instances.

Mr. BUNNING.

Mr. LAGOMARSINO.

Mr. SCHUETTE.

Mrs. JOHNSON of Connecticut.

Mr. IRELAND.

Mr. DORNAN of California in three instances.

Mr. TAUKE.

Mr. BAKER.

Ms. SCHNEIDER.

Mr. GRADISON.

Mr. PORTER.

Mr. WEBER.

Mr. SOLOMON.

Mr. BILIRAKIS in two instances.

Mr. GUNDERSON.

Mr. BOEHLERT.

Mr. SMITH of New Hampshire.

Mr. DENNY SMITH.

Ms. ROS-LEHTINEN in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 798. An act to amend title V of the Act of December 19, 1980, designating the Chaco Culture Archaeological Protection Sites, and for other purposes; to the Committee on Interior and Insular Affairs.

ADJOURNMENT

Mr. OWENS of New York. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 9 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until Monday, June 25, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3425. A letter from the Secretary of Education, transmitting a report from the Intergovernmental Advisory Council on Education concerning policies and relations relating to education; to the Committee on Education and Labor.

3426. A letter from the Administrator, Small Business Administration, transmitting the seminannual report of the inspector general for the period October 1, 1989 through March 31, 1990, pursuant to Public Law 95-452, sec. 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3427. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3428. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3429. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3430. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3431. A letter from the Assistant Secretary of the Army for Civil Works, transmitting a report from the Chief of Engineers, Department of the Army, on Miami Harbor Channel, FL, together with other pertinent reports and comments (H. Doc. No. 101-205); to the Committee on Public Works and Transportation and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committee were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 4525. A bill to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government

Ethics (Rept. 101-502, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3863. A bill to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail; with amendments (Rept. 101-549). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4501. A bill to provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes; with an amendment (Rept. 101-550). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 4872. A bill to establish the National Advisory Council on the Public Service (Rept. 101-551). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 4903. A bill to amend title 13, United States Code, to ensure that military personnel stationed outside the United States are not excluded from any census of population; with an amendment (Rept. 101-552). Referred to the Committee of the Whole House on the State of the Union.

Mr. OBEY: Committee on Appropriations. H.R. 5114. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes. (Rept. 101-553). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS:

H.R. 5108. A bill to authorize appropriations for the Appalachian highway system and local access roads serving the Appalachian region, and for other purposes; to the Committee on Public works and Transportation.

By Ms. OAKAR (for herself, Mr. ANNUNZIO, and Mr. ROBERTS):

H.R. 5109. A bill to amend title 5, United States Code, with respect to retirement of members of the Capitol Police; jointly, to the Committees on House Administration, and Post Office and Civil Service.

By Mr. WYDEN (for himself and Mr. BROOMFIELD):

H.R. 5110. A bill to provide for the certification of embryo laboratories; to the Committee on Energy and Commerce.

By Mr. HUGHES (for himself, Mr. MCCOLLUM, Mr. BOUCHER, Mr. MAZZOLI, Mr. FEIGHAN, Mr. SMITH of Florida, Mr. GEKAS, and Mr. DEWINE):

H.R. 5111. A bill to amend chapter 96 (relating to racketeer influenced and corrupt organizations) of title 18, United States Code; to the Committee on the Judiciary.

By Mr. BRUCE (for himself, Mr. WAXMAN, Mr. WYDEN, Mr. ROYBAL and Mr. RINALDO):

H.R. 5112. A bill to amend the Public Health Service Act to extend certain programs for health care services in the home; to the Committee on Energy and Commerce.

By Mr. BRUCE (for himself, Mr. MADIGAN, and Mr. WAXMAN):

H.R. 5113. A bill to amend the Public Health Service Act to revise and extend the program for the prevention and control of injuries; to the Committee on Energy and Commerce.

By Mr. OBEY:

H.R. 5114. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. HAWKINS (for himself, Mr. GOODLING, Mr. FORD of Michigan, Mr. SMITH of Vermont, Mr. GAYDOS, Mr. CLAY, Mr. MILLER of California, Mr. MURPHY, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS of New York, Mr. HAYES of Illinois, Mr. PERKINS, Mr. SAWYER, Mr. PAYNE of New Jersey, Mrs. LOWEY of New York, Mr. POSHARD, Mrs. UNSOELD, Mr. WASHINGTON, Mr. SERRANO, Mr. FUSTER, Mr. JONTZ, and Mr. RAHALL):

H.R. 5115. A bill to improve education in the United States; to the Committee on Education and Labor.

By Mr. DEFAZIO (for himself, Mrs. UNSOELD, Mr. SWIFT, Mr. MORRISON of Washington, Mr. Bosco, and Mr. WYDEN):

H.R. 5116. A bill to require the development and consideration of alternatives for the conservation of the northern spotted owl, and for other purposes; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mrs. BOXER (for herself, Mr. FAZIO, Mr. Bosco, and Ms. PELOSI):

H.R. 5117. A bill to amend title 5, United States Code, to require that at least 60 days' written notice be provided to any Federal employee who is to be separated as a result of a reduction in force; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD (for himself and Mr. WYDEN):

H.R. 5118. A bill to deem certain national defense reserve vessels surplus property, to direct the Administrator of General Services to dispose of those vessels by selling them for scrapping in the United States, and for other purposes; jointly, to the Committee on Merchant Marine and Fisheries and Government Operations.

By Mrs. BYRON:

H.R. 5119. A bill to authorize additional appropriations for land acquisition at Monocacy National Battlefield, MD; to the Committee on Interior and Insular Affairs.

By Mr. CLAY (for himself, Mrs. SCHROEDER, Ms. OAKAR, Mr. SIKORSKI, Mr. MCCLOSKEY, Mr. ACKERMAN, Mr. KANJORSKI, Mr. HAYES of Illinois, Mr. MCNULTY, Mr. UDALL, Mr. DE LUGO, and Mr. WISE):

H.R. 5120. A bill to amend subchapter III of chapter 73 of title 5, United States Code, to provide that the provisions relating to political activities of Federal employees shall apply to all Federal employees; to the Committee on Post Office and Civil Service.

By Mr. DINGELL (for himself, Mr. IRELAND, Mr. CONYERS, Mr. BLILEY, Mr. HORTON, Mr. WYDEN, Mr. SIKORSKI, Mr. ROWLAND of Georgia, Mr. LENT, Mr. OXLEY, Mr. BILIRAKIS, Mr. MCMILLAN of North Carolina, Mr. BRYANT, Mr. COOPER, Mr. HASTERT, Mr. MCCANDLESS, and Mrs. COLLINS):

H.R. 5121. A bill to amend title 31, United States Code, to tighten procedures for closing appropriation accounts; to the Committee on Government Operations.

By Mr. DUNCAN:

H.R. 5122. A bill to amend title 5, United States Code, to eliminate maximum-age entry requirements for Federal law enforcement officers and firefighters; to the Commitee on Post Office and Civil Service.

By Mr. JENKINS (for himself, Mr. FLIPPO, Mr. GUARINI, Mr. CRANE, Mr. SHAW, Mr. HORTON, Mr. VALENTINE, Mr. DEFAZIO, Mr. HAYES of Louisiana, Mr. STUMP, and Mr. MACHTLEY):

H.R. 5123. A bill to amend the Internal Revenue Code of 1986 to exclude small transactions from broker reporting requirements, and to make certain clarifications relating to such requirements; to the Committee on Ways and Means.

By Mrs. LOWEY of New York (for herself, Mr. FORD of Michigan, Mr. MARTINEZ, Mr. OWENS of New York, Mrs. UNSOELD, Mr. RAHALL, and Mr. JONTZ):

H.R. 5124. A bill to expand and improve drug abuse education, prevention, and counseling services, to provide for positive alternative activities to drug abuse, to provide for certain activities to ensure student safety, and for other purposes; to the Committee on Education and Labor.

By Mr. MATSUI (for himself and Mrs. KENNELLY):

H.R. 5125. A bill to expand the social services available to at risk children and families in the child welfare, mental health, and juvenile justice systems; to the Committee on Ways and Means.

By Mr. MILLER of California:

H.R. 5126. A bill to encourage the States, and the territories and possessions of the United States, to enact the Model Good Samaritan Food Donation Act set forth; jointly, to the Committees on Agriculture and the Judiciary.

By Mr. MILLER of California (for himself, Mr. BOUCHER, Mr. FAUNTROY, Ms. KAPTUR, Mr. DELLUMS, Mr. POSHARD, Mr. CLARKE, Mr. ROYBAL, Mr. ERDREICH, Mr. ECKART, Mr. GEKAS, Mr. LEHMAN of Florida, Mr. STUDDS, Mr. AUCOIN, Mr. MONTGOMERY, Mr. ESPY, Mr. ATKINS, Mr. EVANS, Mr. MORRISON of Connecticut, Mrs. BOXER, Mr. WHITTEN, Mr. MACHTLEY, Mrs. SAIKI, Mr. LAGOMARSINO, Mr. BROWDER, Mr. RAVENEL, Mr. STAGGERS, Mr. RAHALL, Mr. SERRANO, Mr. WELDON, Mr. FAZIO, Mr. PICKETT, Mrs. UNSOELD, Mr. MCCRERY, Mr. ROBERTS, Ms. SLAUGHTER of New York, Mr. NEAL of North Carolina, Ms. LONG, Mr. DE LUGO, Mr. BOSCO, Mr. TAYLOR, Ms. SCHNEIDER, Mr. COLEMAN of Texas, Mr. MOLLOHAN, Mr. PAYNE of Virginia, Mr. DORGAN of North Dakota, Mr. JACOBS, Mr. WISE, Mr. MCDERMOTT, Mr. DEFAZIO, Mr. SHARP, Mr. CHAPMAN, Mrs. MEYERS of Kansas, Mr. VALENTINE, Mr. DYMALLY, Mr. JENKINS, Mr. BROWN of California, Mr. MFUME, Mr. DICKINSON, Mr. MILLER of Washington, Mr. HAYES of Illinois, Mr. SCHULZE, Mr. MARTINEZ, Mr. MRAZEK, Mr. JONTZ, Mr. THOMAS of California, Mr. MURPHY, Mr. COYNE, Mr. FRANK, Mr. KOSTMAYER, Mr. TAUKE, Mr. GLICKMAN, Mrs. PATTERSON, Mr. BEVILL, Mr. MINETA, and Mr. PARKER):

H.R. 5127. A bill to improve the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms; to the Committee on Education and Labor.

By Mr. MILLER of Washington:

H.R. 5128. A bill to amend the Stewart B. McKinney Homeless Assistance Act to expand and improve the program of grants for State activities for the education of homeless children and youths, to establish a program of grants for local activities for the education of such children and youths, and for other purposes; jointly, to the Committee on Banking, Finance and Urban Affairs and Education and Labor.

By Mr. MILLER of Washington (for himself, Mr. ROSE, Mr. PORTER, Mr. GILMAN, Mr. LANTOS, and Ms. PELOSI):

H.R. 5129. A bill to encourage liberalization inside the People's Republic of China and Tibet; to the committee on Foreign Affairs.

By Mr. MONTGOMERY: (by request):

H.R. 5130. A bill to make technical amendments to the Veterans' Judicial Review Act; to the committee on Veterans' Affairs.

By Mr. OBERSTAR (for himself and Mr. CLINGER):

H.R. 5131. A bill to amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes; to the committee on Public Works and Transportation.

H.R. 5132. A bill to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1991, 1992, and 1993, and for other purposes; jointly, to the committees on Energy and Commerce and Public Works and Transportation.

By Mr. PENNY:

H.R. 5133. A bill to amend the Education of the Handicapped Act to provide for an increase in the amounts that States are entitled to receive under part B of such act, and for other purposes; to the committee on Education and Labor.

By Mr. RICHARDSON:

H.R. 5134. A bill to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico; to the Committee on Interior and Insular Affairs.

H.R. 5135. A bill to amend title V of the act of December 19, 1980, designating the Chaco Culture Archaeological Protection Sites, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 5136. A bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM; to the committee on Interior and Insular Affairs.

H.R. 5137. A bill to amend title IV of the act of December 19, 1980 (94 Stat. 3227) to provide further relief to the Vermejo Conservancy District from its repayment obligation for the construction, operation, and maintenance of the Vermejo reclamation project, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROE (for himself, Ms. SCHNEIDER, Mr. SCHEUER, Mr. MARKEY, Mr. WALGREN, and Mr. GORDON):

H.R. 5138. A bill to direct the Administrator of the Environmental Protection Agency to conduct randon meaurement proficiency research and establish a mandatory radon measurement proficiency program, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Energy and Commerce.

By Mr. ROSE:

H.R. 5139. A bill to direct the Secretary of Transportation to permit the city of Fayetteville, NC, to allow vehicular traffic other than buses to use Hay Street; to the Committee on Public Works and Tranportation.

By Mr. SERRANO (for himself and Mr. HAYES of Illinois):

H.R. 5140. A bill to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout to the Committee on Education and labor.

By Mr. SLATTERY:

H.R. 5141. A bill to amend part C of the Balanced Budget and Emergency Deficit Control Act of 1985 to exempt administrative expenses of the Social Security Administration from reduction under sequestration orders issued under this part; to the Committee on Government Operations.

By Mr. SMITH of Florida:

H.R. 5142. A bill to amend title II of the Social Security Act to make certain changes in the benefit computation rules enacted in the Social Security Amendments of 1977 as they apply to workers attaining age 65 in or after 1982 (and related beneficiaries) and to provide for increases in their benefits accordingly, to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder, to allow earnings in determining substantial gainful activity of all disabled beneficiaries at levels currently allowed only for blind individuals, and to provide for payment of a benefit for the month of the recipient's death; to the Committee on Ways and Means.

By Mr. SUNDQUIST:

H.R. 5143. A bill to amend the Internal Revenue Code of 1986 to provide that no deduction shall be allowed for personal income taxes paid to a State (or political subdivision thereof) which taxes nonresidents on income derived from certain Federal areas; to the Committee on Ways and Means.

By Mrs. UNSOELD (for herself, Mr. CHANDLER, Mr. DICKS, Mr. MCDERMOTT, Mr. MILLER of Washington, Mr. MORRISON of Washington, Mr. SWIFT, Mr. AUCOIN, Mr. DEFAZIO, Mr. DENNY SMITH, Mr. ROBERT F. SMITH, and Mr. WYDEN):

H.R. 5144. A bill to establish the Vancouver National Historical Reserve in the State of Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WALKER (for himself, Mr. DANNEMEYER, Mr. RHODES, Mr. ROHRABACHER, Mr. DORNAN of California, and Mr. HENRY):

H.R. 5145. A bill to encourage the development of a commercial space industry in the United States, and for other purposes; jointly, to the Committees on Science, Space, and Technology; Ways and Means; and the Judiciary.

By Mr. WAXMAN (for himself, Mr. SCHEUER, Mr. SIKORSKI, Mr. BATES, Mrs. COLLINS, Mr. SYNAR, Mr. HALL of Texas, and Mr. FAZIO):

H.R. 5146. A bill to amend the Public Health Service Act to revise and extend the program regarding organ transplantation; to the Committee on Energy and Commerce.

By Mr. LEHMAN of Florida:

H.J. Res. 611. Joint resolution designating the month of May 1991 as "National Trauma Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. SUNDQUIST:

H.J. Res. 612. Joint resolution designating October 18, 1990, as "National Hardwood Day"; to the Committee on Post Office and Civil Service.

By Mr. FISH (for himself and Mr. ATKINS):

H. Con. Res. 343. Concurrent resolution concerning United States policy regarding the issue of Vietnamese asylum seekers; jointly, to the Committees on Foreign Affairs and the Judiciary.

By Mr. DORNAN of California:

H. Res. 419. Resolution expressing the sense of the House of Representatives that the memory of Walt Disney should be honored on the 35th anniversary of his contribution to the American dream; to the Committee on Post Office and Civil Service.

By Ms. OAKAR (for himself, Mr. ANNUNZIO, and Mr. ROBERTS):

H. Res. 420. Resolution establishing the position of Director of Employment Practices, under the Capitol Police Board, with respect to members of the Capitol Police assigned to the House of Representatives; to the Committee on House Administration.

By Mr. TAUKE (for himself and Mr. ROBERTS):

H. Res. 421. Resolution expressing the sense of the House of Representatives that Saturday mail service and other components of the current 6-day service and 1-day first-class service are essential to rural America and should be continued; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

443. By the SPEAKER: Memorial of the General Assembly of the State of South Carolina, relative to the damages caused by Hurricane Hugo; to the Committee on Agriculture.

444. Also, memorial of the Legislature of the State of Alaska, relative to certain policies of the FDIC; to the Committee on Banking, Finance and Urban Affairs.

445. Also, memorial of the Legislature of the State of Alaska, relative to the extension of the territorial waters; to the Committee on the Judiciary.

446. Also, memorial of the Legislature of the State of Alaska, relative to the Alaska Highway; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MARTINEZ:

H.R. 5147. A bill for the relief of Abby Cooke; to the Committee on the Judiciary.

By Mr. MRAZEK:

H.R. 5148. A bill for the relief of Banfi Products Corp.; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 173: Mr. PRICE, Mr. PICKLE, Mr. TAUKE, Mr. LEWIS of Georgia, Mr. BOEH-

LERT, Mr. MCDADE, Mr. COX, Mr. FORD of Tennessee, Mr. WOLF, and Mr. LANCASTER.

H.R. 200: Mrs. LLOYD.

H.R. 201: Mrs. LLOYD.

H.R. 220: Mr. FRANK, Mr. FAZIO, Mr. GEJDENSON, Mr. DYSON, and Mr. NEAL of North Carolina.

H.R. 222: Mrs. MARTIN of Illinois.

H.R. 273: Mr. GALLO.

H.R. 467: Mr. GOSS, Mr. LEHMAN of California, and Mr. HUGHES.

H.R. 711: Mr. STOKES.

H.R. 857: Mrs. SAIKI.

H.R. 1036: Mr. OLIN, Mr. JACOBS, Mr. MONTGOMERY, Mr. FLIPPO, Mr. PALLONE, Mr. WILSON, and Mr. LEATH of Texas.

H.R. 1068: Mr. BOUCHER.

H.R. 1200: Mr. COUGHLIN.

H.R. 1500: Ms. KAPTUR, Mr. GREEN of New York, and Mr. MOODY.

H.R. 2041: Mr. FLIPPO.

H.R. 2121: Mrs. JOHNSON of Connecticut and Mr. BRYANT.

H.R. 2265: Mrs. BYRON.

H.R. 2274: Mr. POSHARD, Mr. MFUME, Mr. OWENS of New York, Mr. HOLLOWAY, Mr. HEFLEY, and Mr. RHODES.

H.R. 2353: Mr. GILLMOR and Mr. SCHAEFER.

H.R. 2418: Mr. FRANK.

H.R. 2608: Mr. SKAGGS.

H.R. 2816: Mr. WOLPE.

H.R. 3240: Mr. KENNEDY, Mr. MINETA, and Mr. WASHINGTON.

H.R. 3251: Mrs. LLOYD.

H.R. 3349: Mr. CARPER.

H.R. 3717: Mr. CLAY and Mr. LEVIN of Michigan.

H.R. 3805: Mr. MCNULTY.

H.R. 3864: Mrs. LLOYD.

H.R. 3979: Mr. RAVENEL and Mr. UDALL.

H.R. 4025: Mr. LEWIS of Georgia.

H.R. 4069: Mrs. PATTERSON.

H.R. 4075: Mrs. KENNELLY.

H.R. 4138: Mr. OWENS of New York.

H.R. 4264: Mr. VALENTINE, Mr. HAYES of Louisiana, Mr. BROWN of California, Mr. JOHNSTON of Florida, Mr. DYMALLY, Mr. HALL of Texas, Mr. DEFAZIO, Mr. KENNEDY, and Mr. HOCHBRUECKNER.

H.R. 4300: Mr. KENNEDY.

H.R. 4319: Mr. TALLON and Mr. DYSON.

H.R. 4330: Mr. ALEXANDER, Mr. BORSKI, Mr. BRYANT, Mrs. COLLINS, Mr. CROCKETT, Mr. DONNELLY, Mr. ENGEL, Mr. JONES of Georgia, Ms. KAPTUR, Mrs. KENNELLY, Mr. KOLTER, Mr. LANCASTER, Mr. LEHMAN of Florida, Mr. MANTON, Mr. MOODY, Mr. RICHARDSON, Mr. RIDGE, Mr. ROSE, Ms. SCHNEIDER, Mr. STUDDS, Mr. TRAFICANT, Mr. WOLPE, and Mr. YATES.

H.R. 4494: Mr. JENKINS, Mr. LEWIS of Georgia, Mr. HOCHBRUECKNER, Mr. ALEXANDER, Mr. ANDERSON, Mr. PACKARD, Mr. KLECZKA, Mr. DERRICK, Mr. FAUNTROY, Mr. FLAKE, Ms. SLAUGHTER of New York, Mr. TAYLOR, Mr. DORNAN of California, Mr. SHAW, Mr. LEACH of Iowa, Mrs. SMITH of Nebraska, Mr. SMITH of New Jersey, Mr. WYLIE, and Mr. STANGELAND.

H.R. 4496: Mr. FISH, Mr. KOSTMAYER, Mr. WASHINGTON, Mr. MARTINEZ, Mr. DINGELL, and Mr. WALSH.

H.R. 4512: Mr. JACOBS and Mr. HYDE.

H.R. 4548: Mr. PAYNE of New Jersey and Mr. HAWKINS.

H.R. 4549: Mrs. COLLINS, Mr. MCGRATH, Mr. BATES, Mr. HUGHES, and Mr. SABO.

H.R. 4571: Mr. HANSEN, Mr. COX, Mr. ARMEY, and Mr. HASTERT.

H.R. 4576: Mr. AUCOIN, Mr. SMITH of Vermont, and Mr. DORGAN of North Dakota.

H.R. 4585: Mr. WAXMAN, Mr. FAZIO, Mr. GREEN of New York, Mr. ATKINS, Mrs. BOXER, Mr. MANTON, Mr. INHOFE, and Mr. LEWIS of Georgia.

H.R. 4659: Mr. RITTER.

H.R. 4661: Mr. MINETA.

H.R. 4683: Mr. SLAUGHTER of Virginia, Mr. GRANT, and Mr. BARNARD.

H.R. 4690: Mr. HILER, Mr. GORDON, Mr. KENNEDY, Mr. PARRIS, Mr. CLINGER, Mr. LEWIS of Georgia, Mrs. SAIKI, Mr. PALLONE, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. FISH, and Ms. ROS-LEHTINEN.

H.R. 4714: Mr. FOGLIETTA and Mrs. BOXER.

H.R. 4721: Mr. MCNULTY.

H.R. 4746: Mr. THOMAS A. LUKEN, Mr. MAVROULES, Mr. WYDEN, Mr. HOLLOWAY, Mr. MACHTLEY, Mr. IRELAND, Mr. HATCHER, and Mr. RHODES.

H.R. 4761: Ms. PELOSI.

H.R. 4765: Mr. MILLER of Washington.

H.R. 4772: Mr. DERRICK, Mr. RAHALL, Mr. JONTZ, Mr. TOWNS, and Mr. HUGHES.

H.R. 4773: Mrs. MEYERS of Kansas, Mr. HANCOCK, and Mr. OWENS of Utah.

H.R. 4788: Mr. KENNEDY, Mr. ECKART, Mr. CARDIN, Mr. CRAIG, Mr. PALLONE, and Mr. JAMES.

H.R. 4793: Mr. MORRISON of Connecticut, Mr. PARKER, Mr. BUSTAMANTE, and Mr. RITTER.

H.R. 4824: Mr. TALLON, Mrs. COLLINS, Mr. WALSH, Mr. LEWIS of California, and Mr. TORRES.

H.R. 4825: Mr. BILBRAY.

H.R. 4831: Mr. VALENTINE, Mr. MILLER of Ohio, Mr. LEWIS of Florida, Mr. JONTZ, Mr. DONNELLY, and Mr. CONTE.

H.R. 4903: Mr. MCNULTY.

H.R. 4908: Mrs. BOXER, Ms. ROS-LEHTINEN, and Mr. BUSTAMANTE.

H.R. 4972: Mr. HORTON and Mr. HUGHES.

H.R. 4988: Mr. TALLON.

H.R. 4990: Mr. FAWELL, Mr. LEVIN of Michigan, Mr. SIKORSKI, Mr. HERGER, and Mr. WATKINS.

H.R. 4995: Mr. SOLARZ, Mr. CARR, Mr. WAXMAN, Mr. BROWN of Colorado, Mr. TAUKE, Mr. MCNULTY, Mr. LEWIS of Florida, Mr. PAXON, Mr. DELAY, Mr. MRAZEK, and Mr. CLARKE.

H.R. 5007: Mr. HAMILTON, Mr. LAGOMARSINO, Mr. DYMALLY, Mr. CLINGER, Mr. FAUNTROY, Mr. HORTON, Mr. WILSON, Mr. PANETTA, Mr. INHOFE, Mr. SPENCE, and Mr. RINALDO.

H.R. 5020: Mr. OBEY.

H.R. 5023: Mr. CONYERS.

H.R. 5041: Mr. HANSEN, Mr. LAFALCE, Mr. LEWIS of Georgia, and Mr. JACOBS.

H.R. 5044: Mr. TALLON, Mr. OWENS of New York, Mr. EVANS, Mr. NEAL of North Carolina, and Mr. SOLOMON.

H.R. 5050: Mr. SHUMWAY, Mr. MADIGAN, Mr. ERDREICH, Ms. KAPTUR, Mr. WALGREN, Mr. STENHOLM, Mr. BAKER, Mr. DURBIN, Mrs. SCHROEDER, Mr. LEHMAN of Florida, Mr. HYDE, Mr. WOLF, Mr. FLIPPO, Mr. MCDERMOTT, Mr. PACKARD, and Mr. LIVINGSTON.

H.R. 5055: Mr. MCCRERY.

H.R. 5083: Mr. CARPER, Mr. ACKERMAN, and Mrs. KENNELLY.

H.R. 5091: Mr. HOAGLAND, Mrs. LOWEY of New York, and Mr. ENGEL.

H.R. 5094: Mr. DENNY SMITH.

H.R. 5101: Mr. NEAL of North Carolina, Mr. LEHMAN of California, Ms. KAPTUR, Mr. DYSON, and Mr. VALENTINE.

H.J. Res. 226: Mr. BRYANT, Mr. DERRICK, Mr. FROST, Mr. HALL of Texas, Mr. CLEMENT, Mr. PICKLE, Mr. DE LA GARZA, Mr. BUSTAMANTE, Mr. MARTINEZ, and Mr. AUCOIN.

H.J. Res. 417: Mr. SCHUETTE.

H.J. Res. 439: Mrs. KENNELLY and Mr. OWENS of New York.

H.J. Res. 459: Mr. SLATTERY, Mr. WHITTEN, Ms. SLAUGHTER of New York, Mr. SPENCE, Mr. HARRIS, Mr. STOKES, Mr. LEVIN of Michigan, and Mr. SKEEN.

H.J. Res. 470: Mr. LAUGHLIN.

H.J. Res. 507: Mr. DONNELLY.

H.J. Res. 521: Mr. COSTELLO.

H.J. Res. 530: Mr. ACKERMAN, Mr. ALEXANDER, Mr. ANDREWS, Mr. ANNUNZIO, Mr. ATKINS, Mr. BARNARD, Mr. BARTLETT, Mr. BILBRAY, Mr. BRYANT, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. COSTELLO, Mr. COX, Mr. DEFAZIO, Mr. DONNELLY, Mr. DORGAN of North Dakota, Mr. DORNAN of California, Mr. DUNCAN, Mr. FASCELL, Mr. FEIGHAN, Mr. FISH, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. FRANK, Mr. GAYDOS, Mr. GILMAN, Mr. GOODLING, Mr. GOSS, Mr. GRANDY, Mr. GREEN, Mr. HARRIS, Mr. HATCHER, Mr. HAYES of Louisiana, Mr. HOUGHTON, Mr. HOYER, Mr. HUBBARD, Mr. JOHNSTON of Florida, Mr. JONES of Georgia, Mr. KASTENMEIER, Mrs. KENNELLY, Mr. KOSTMAYER, Mr. LANTOS, Mr. DONALD E. LUKENS, Mr. MANTON, Mr. MARKEY, Mr. MAZZOLI, Mr. MCCLOSKEY, Mr. MCMILLEN of Maryland, Mr. MOAKLEY, Ms. MOLINARI, Mr. NAGLE, Mr. NELSON of Florida, Ms. OAKAR, Mr. ORTIZ, Mr. PANETTA, Mr. PARKER, Mr. ROHRABACHER, Ms. ROS-LEHTINEN, Mr. ROWLAND of Georgia, Mr. SABO, Mrs. SAIKI, Mr. SCHEUER, Mr. SMITH of New Jersey, Mr. SMITH of Iowa, Mr. SPRATT, Mr. STUDDS, Mr. TAUZIN, Mr. TAYLOR, Mr. THOMAS of Georgia, Mr. TORRES, Mr. TRAXLER, Mr. VISCLOSKY, Mr. WYDEN, Mr. STARK, Mr. KLECZKA, Mr. JENKINS, and Mr. SMITH of Florida.

H.J. Res. 552: Mr. YATRON, Mr. BLILEY, Mr. STANGELAND, Mr. BEVILL, Mr. DE LUGO, Mr. HUBBARD, Mr. ROE, Mr. NELSON of Florida, Mr. DERRICK, Mr. HORTON, Mr. FROST, Mr. VALENTINE, Mr. COBLE, Mr. FLIPPO, Mr. TOWNS, Mr. GINGRICH, Mr. BATEMAN, Mr. VANDER JAGT, Mr. NEAL of Massachusetts, Mr. HAWKINS, Mr. FRENZEL, Mr. HILER, Mr. SISISKY, Ms. ROS LEHTINEN, and Mr. OWENS of New York.

H.J. Res. 554: Mr. TALLON, Mr. WALGREN, Mr. WILSON, Mr. SOLARZ, Mr. ANDERSON, Mrs. BENTLEY, Mr. BERMAN, Mrs. BYRON, Mr. COURTER, Mr. DEFAZIO, Mr. FLIPPO, Mr. GEKAS, Mr. GRANT, Mr. LEWIS of Georgia, Mr. DOWNEY, Mr. BILIRAKIS, and Mr. EVANS.

H.J. Res. 562: Mr. BATES.

H.J. Res. 571: Mr. BERMAN, Mr. AUCOIN, Mr. NIELSON of Utah, Mr. DERRICK, Mr. BATES, and Mr. NAGLE.

H.J. Res. 577: Mr. DIXON, Mr. KLECZKA, Mr. ROYBAL, Mr. HUCKABY, Mr. MOAKLEY, Mr. KILDEE, Mr. SMITH of New Hampshire, Mr. MCDADE, Mr. WOLF, Mr. FAWELL, Mr. SCHIFF, Mr. SAXTON, Mr. MARTINEZ, Mr. YATES, Mr. STUMP, Mr. SERRANO, Mr. VALENTINE, Mr. NEAL of North Carolina, Mr. LEWIS of California, Mr. CARPER, Mr. LIPINSKI, Mr. LEWIS of Florida, Mr. JONES of North Carolina, Mr. PALLONE, Mr. WILSON, Mr. WALSH, Mr. ESPY, Mr. MURPHY, Mrs. MORELLA, Mr. ROBERTS, Mr. MCGRATH, Mrs. BENTLEY, Mr. BORSKI, Mr. ROSE, Mr. DICKS, Mr. RITTER, Mr. ROBERT F. SMITH, Mr. WAXMAN, Mr. MORRISON of Washington, Mr. HUBBARD, Mr. DERRICK, Mr. MAZZOLI, Mr. GUARINI, Mr. DONALD E. LUKENS, Mr. SKELTON, Mr. HUTTO, Mr. SUNDQUIST, Mr. COBLE, Mr. DOWNEY, Mrs. BYRON, Mr. BUNNING, Mr. TORRES, Mr. SMITH of Vermont, Mr. REGULA, and Mr. MATSUI.

H.J. Res. 578: Mr. LANCASTER, Mr. NEAL of Massachusetts, and Mr. ACKERMAN.

H.J. Res. 579: Mr. KASICH, Mr. NIELSON of Utah, Mrs. BOXER, Mr. LAFALCE, Mr. MILLER of Washington, Mr. EMERSON, and Mr. BUSTAMANTE.

H.J. Res. 592: Mr. ACKERMAN, Mr. FRANK, Mr. SCHEUER, Mr. CLARKE, and Ms. ROS-LEHTINEN.

H.J. Res. 593: Mr. ACKERMAN, Mr. FRANK, Mr. SCHEUER, Mr. CLARKE, and Ms. ROS-LEHTINEN.

H.J. Res. 594: Mr. ACKERMAN, Mr. FRANK, Mr. SCHEUER, Mr. CLARKE, and Ms. ROS-LEHTINEN.

H.J. Res. 598: Mr. FROST.

H.J. Res 599: Mrs. BENTLEY, Mr. BLAZ, Mrs. BOGGS, Mr. BOSCO, Mr. BUNNING, Mr. BUSTAMANTE, Mr. CARR, Mr. CLEMENT, Mr. CLINGER, Mr. CRANE, Mr. COBLE, Mrs. COLLINS, Mr. COSTELLO, Mr. DAVIS, Mr. DE LA GARZA, Mr. GRANDY, Mr. DYSON, Mr. EMERSON, Mr. FAZIO, Mr. FRENZEL, Mr. GINGRICH, Mr. HAMMERSCHMIDT, Mr. HARRIS, Mr. HASTERT, Mr. HATCHER, Mr. HAYES of Louisiana, Mr. HORTON, Mr. HUCKABY, Mr. HUNTER, Mr. INHOFE, Mr. IRELAND, Mr. KILDEE, Mr. LAGOMARSINO, Mr. LAUGHLIN, Mr. LENT, Mr. LEWIS of California, Mr. MACHTLEY, Mr. MANTON, Mrs. MARTIN of Illinois, Mr. NEAL of North Carolina, Mr. OBERSTAR, Mr. OWENS of Utah, Mr. PASHAYAN, Mrs. PATTERSON, Mr. PERKINS, Mr. POSHARD, Mr. QUILLEN, Mr. RAVENEL, Mr. RIDGE, Mr. RITTER, Mr. ROE, Mr. ROGERS, Mr. ROTH, Mr. ROWLAND of Connecticut, Mr. SAXTON, Mr. SHAW, Mr. ROBERT F. SMITH, Mr. SCHULZE, Mr. SPENCE, Mr. STENHOLM, Mr. TALLON, Mr. THOMAS of Georgia, Mr. WEBER, Mr. YATRON, and Mr. YOUNG of Alaska.

H. Con. Res. 21: Mr. FAUNTROY.

H. Con. Res. 316: Mr. PEASE, Mr. ENGEL, Mr. NEAL of Massachusetts, Mr. TRAXLER, Mr. CROCKETT, Mr. RUSSO, Mr. CAMPBELL of Colorado, Mr. HERTEL, Mr. SERRANO, Mr. STAGGERS, Mr. GEREN of Texas, and Mr. SANGMEISTER.

H. Res. 134: Mr. HYDE, Mr. MARLENEE, Mr. HERGER, Mr. HANCOCK, Mr. ARMEY, Mr. GORDON, and Mr. VOLKMER.

H. Res. 349: Mr. EMERSON.

H. Res. 374: Mr. Cox and Mr. RITTER.

H. Res. 402: Mr. SHUMWAY, Mr. AUCOIN, Mr. ENGLISH, Mr. JAMES, and Ms. LONG.

H. Res. 414: Mrs. BOXER, Mr. COOPER, Mr. COUGHLIN, Mr. DEFAZIO, Mr. DREIER of California, Mr. DWYER of New Jersey, Mr. EMERSON, Mr. HAYES of Louisiana, Mr. JACOBS, Ms. KAPTUR, Mrs. KENNELLY, Mr. KOLTER, Mr. MARTINEZ, Mr. MAVROULES, Mr. OBERSTAR, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. POSHARD, Mr. SLATTERY, Mr. TRAFICANT, Mr. VALENTINE, Mr. VOLKMER, Mr. BATES, Mr. COSTELLO, and Mr. GEREN of Texas.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsores were deleted from public bills and resolutions as follows:

H.J. Res. 339: Mr. ANTHONY.

H.J. Res. 350: Mr. VALENTINE.

H. Res. 351: Mr. FROST.

PETITIONS, ETC.

Under clause 1 of rule XXII,

197. The SPEAKER presented a petition of the Appalachia Intermediate Unit 08 Board of School Directors, Ebensburg, PA, relative to education as a priority in any budget summit; which was referred to the Committee on Education and Labor.

EXTENSIONS OF REMARKS

CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. KOSTMAYER. Mr. Speaker, the 1990 Congressional Call to Conscience Vigil for Soviet Jews, cochaired by Congressman JOHN MILLER and I and sponsored by the Union of Councils for Soviet Jews, is continuing its efforts to dramatize the plight of prisoners of conscience and other persons who are seeking freedom and emigration from the Soviet Union.

The purpose of the vigil is to use weekly CONGRESSIONAL RECORD statements to draw attention to problems of Jews and others who now face oppression in the Soviet Union. The vigil has been a particularly useful vehicle for voicing bipartisan congressional support for individuals and families wishing to emigrate to the free world. Hard work on this issue has paid off.

Mr. Speaker, I am including with this statement a copy of a recent letter written by Congressman EDWARD F. FEIGHAN on behalf of Lev and Lia Milman of Moscow, as part of our Call to Conscience effort. While the contents of the letter are self explanatory, it should be mentioned that Congressman FEIGHAN has shown particular dedication and interest in the plight of Soviet Jewry. His efforts are appreciated.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 6, 1990.

President MIKHAIL S. GORBACHEV,
The Kremlin,
Moscow, U.S.S.R.

DEAR PRESIDENT GORBACHEV: I am writing to you on behalf of Lev Milman, and his wife Lia Milman, who reside in Moscow and have been seeking permission to emigrate from the Soviet Union.

Lev Milman first applied for a visa in 1987 in order to join his married daughter who permanently resides in the United States. He received a refusal in February 1990. It is my understanding that according to Soviet policy, people such as Lev Milman who have been involved in security related work can become eligible for emigration, if they choose, 10 years after cessation of that work. Because it has been 11 years since Lev Milman retired, I ask that you allow Lev Milman and his wife to emigrate.

Both Lev and Lia Milman suffer from extremely serious medical problems. Lev Milman, who is 77 years old has infarct as well as fibrillation, high blood pressure and glaucoma (one eye has under 40 percent vision and the other is practically blind). Lia Milman, who is 68 years old, has nephrolithiasis, gall-stones, lymphoma of the spleen and very serious problems with her blood circulation. I hope that this couple will be granted permission to leave the Soviet Union in the near future so that they can join their daughter and receive the medical treatment that they need in the United States.

I respectfully ask that you consider the Milmans' request to emigrate. I am grateful for your attention to this matter.

Sincerely,

EDWARD F. FEIGHAN,
Member of Congress.

PLIGHT OF THE SORKIN FAMILY

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. HUGHES. Mr. Speaker, despite the recent summit meeting and the improvement we have seen in United States-Soviet relations, the rights of many Soviet Jews are not being respected. Today I join with many of our colleagues who have made statements as part of the Congressional Call to Conscience Vigil for Soviet Jews.

Today I would like to draw my colleagues' attention to the plight of the Sorkin family. Roman Sorkin is a 38-year-old microelectronics engineer. His wife Svetlana is also an engineer, and they have three children between the ages of 2 and 16. From 1977 to 1983, Roman was employed as a laborer at the Electropribor plant in Penza. When he was hired he made a written promise not to leave the country for 5 years after completion of his employment. He applied for a visa to emigrate to Israel in February 1988. He was initially denied because this waiting period had not expired.

He applied again in September, and on November 30, 1988, he received a written notification from OVIR, the Soviet emigration agency, that his secrecy travel restriction had been lifted. On December 2, 1988, the Sorkins were told they had permission to leave the U.S.S.R., and they gave up their jobs and their flat in preparation to leave. Roman was then called back to the OVIR office and told that their exit visas were annulled, and that he would not be able to leave until 1990 because of his knowledge of state secrets. In May 1989, Svetlana staged a 4-day hunger-strike to protest the continuing denial of their emigration privileges.

Mr. Speaker, the Soviet Union wants to benefit from the free exchange of goods and ideas with the West. The preliminary trade agreement reached between President Bush and President Gorbachev points toward a day when this exchange may happen. However, it cannot occur until basic human rights are extended to the Sorkin family and all of their countrymen.

THE U.S. MOON/MARS EXPLORATION INITIATIVE

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. RHODES. Mr. Speaker, I rise to express my deep concern over the actions taken recently regarding funding for the Moon/Mars Initiative. During markup of the fiscal year 1991 VA, HUD, and Independent Agencies appropriations bill by the subcommittee, six separate line items, each identified as Moon/Mars Initiatives, were zeroed out.

Mr. Speaker, the President of the United States has called for a major effort to place a manned base on the surface of the Moon as a predecessor to man's voyage to the planet Mars. This is the most far-reaching exploration program ever conceived. Only yesterday, the President visited the Marshall Space Flight Center in Huntsville, AL. While there, he reiterated his support for the Moon/Mars Initiative startup money.

The United States has always been a nation that looked to the future with desire; our people view the future as a great opportunity to go forward, discover new things, new places. One of our greatest strengths has been our belief in the future and our place in it. The Moon/Mars Initiative is a culmination of this national and cultural ethic; We cannot allow ourselves to abandon history now.

For this reason, I urge the House to consider the importance of our future in space. It is always easy to declare that needs here on Earth outweigh those anywhere else. But this is a shortsighted and dangerous view. When a country turns its outlook inward, so too does it invert its future. A nation must always be expanding its knowledge and pursuing its most difficult goals.

The Moon/Mars Exploration Initiative is one of those goals; it is one I support, it is one the President supports, it is one I believe the American people support, and I hope the rest of the House of Representatives will support as well.

Thank you Mr. Speaker.

A CONGRESSIONAL SALUTE TO WARREN DOBBINS IN HONOR OF HIS SELECTION AS THE "CITIZEN OF THE YEAR"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding citizen and a person who I hold in the highest regard,

Warren Dobbins. Mr. Dobbins, in recognition of his distinguished career of public and community service has been named "Citizen of the Year" by the Harbor City/Harbor Gateway Chamber of Commerce. I feel privileged to tell you a little about Warren Dobbins.

Ask any person in the Harbor City Chamber of Commerce if they know who Warren Dobbins is and the answer will be a resounding yes! Warren Dobbins is known for his philanthropy and his generosity. He is an equally respected local businessman and has owned and operated two of the most successful McDonalds Restaurants in the southern California area. In fact, he has had to expand the parking lot at his restaurant in the city of Carson just to accommodate the ever-increasing volume of sales.

But business is only one area in which Mr. Dobbins displays his leadership. His good-natured personality and competent management style are evident in the many community activities he has been involved with. He is past president of the Harbor City-Lomita Lions, a long-time board member and officer of the Lomita Chamber of Commerce, and Carson Chamber member. He has further served on the Harbor City/Harbor Gateway Chamber of Commerce holding numerous offices including president for one term. Warren Dobbins was also active in creating the first Harbor City/Harbor Gateway Map and was a recipient of the Honorer Service Award from Flemming Jr. High School PTSA for his numerous acts of generosity.

Originally from the State of Washington, Warren Dobbins joined the service during World War II and spent 1½ years in the South Pacific and 1½ years in North Africa. He worked for Prudential Life for 20 years before going into business with McDonalds. When he can spend time away from his business and community service commitments, Warren Dobbins is an avid golfer and salmon fisherman.

Mr. Speaker, I take great pride in recognizing Mr. Dobbins for all his vast achievements and activities in the community. He has done a great deal to make living and working in southern California a little better. I salute Warren Dobbins on being named Citizen of the Year, and wish his wife, Dorothy, and his son, Kim, all the best for the future.

HELPING INFERTILE COUPLES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. WYDEN. Mr. Speaker, one in six American couples is infertile and many are willing to do virtually anything to have a baby. These families can squander thousands and thousands of dollars on fertility services, only to come up short with no baby, a mountain of debt, and a ton of physical and emotional trauma that lingers long after their ordeal is over.

During a 2-year investigation by my Small Business Subcommittee, I found that many of these desperate couples cannot even find understandable and unbiased information about the performance of our fertility clinics—and I vowed to take steps to help these families.

The legislation I am introducing today with Congressman BILL BROOMFIELD, the Fertility Clinic Success Rate and Certification Act, would send a message that Government understands the anguish that millions of infertile couples are experiencing and is willing to be their advocate. For the first time, couples would have access to objective information about the various fertility programs around the country.

The bill requires that all clinics performing in vitro fertilization, the process by which a woman is impregnated with her fertilized egg, report their success rates each year to the Secretary of Health and Human Services, and that those success rates would be published annually for patients to see.

Infertile couples could then use this information is comparing the Nation's approximately 200 clinics and the services they offer, and such information should help weed out questionable programs and make all clinics more accountable.

In addition, this legislation requires that embryo labs meet strong quality control standards. Our investigation found that today these labs are totally unregulated. At present, embryo labs need not meet even minimum quality control standards—standards which all other labs must meet the under the Clinical Laboratory Improvement Amendments of 1988.

The bill proposes basic requirements for lab certification, personnel standards, equipment and recordkeeping.

My legislation is being introduced as more and more professionals in the fertility field are speaking out on the need for greater consumer protection.

Our investigation found that while many fertility specialists are honorable and caring, too many have misrepresented their credentials, engaged in questionable advertising and misused reproductive technology.

In 1988 more than half the in vitro clinics had not produced even one baby, but some cited national success rates to describe their own progess. Some patients have been intentionally misled through the use of confusing statistics other than live births—or the "take-home baby rate" to measure success rates.

The use of fertility services will expand greatly in the years ahead as couples wait to have children later in life and as the incidence of sexually transmitted disease grows. Because of these trends, more and more couples will look to fertility clinics to help them obtain what they want most—a child. These couples deserve a fair shake and my legislation gets it for them.

I want to thank the American Fertility Society, the College of American Pathologists, and the American Clinical Laboratory Association for the strong endorsement they have given this legislation. Their input in developing the bill has been very helpful. I also would like to thank the General Accounting Office for their excellent report on Fertilty which exposed many serious problems in this field.

Finally, I wish to thank the ranking member of the subcommittee BILL BROOMFIELD. He joins in sponsoring the legislation, and it is always a pleasure to work with my good friend, BILL BROOMFIELD.

PROVIDENCE HOUSE: A DECADE OF SERVICE TO WOMEN AND CHILDREN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mrs. LOWEY of New York. Mr. Speaker, last year Providence House celebrated 10 years of providing services to women and children in crisis in the New York area. I would like to take this opportunity to express my deepest gratitude for all that Providence House has done.

In 1979, four Sisters established a home in Brooklyn for women and children in crisis. Since then, Providence House has expanded to include six houses for women and children in Brooklyn, Queens, and Westchester County, and one home for children who have been separated from their mothers.

Mr. Speaker, I have long held a commitment to helping people to help themselves. Providence House shares that commitment. By providing food and shelter, Providence House keeps homeless families together and allows them to restructure their lives to become independent and self-sufficient members of society. Providence House provides transitional housing for 91 women and children in need.

Providence House is able to provide these critical services as a result of the dedication and vision of 35 professional religious women and 60 additional volunteers. Earlier this year, President Bush recognized the talent and commitment of the volunteers and staff at Providence House by presenting to them the President's Volunteer Action Award. In 1989, New York State Gov. Mario Cuomo honored Providence House with the Eleanor Roosevelt Community Service Award.

This weekend, Providence House will honor several community leaders, board members, and staff for their hard work and dedication over the last 10 years. Providence House provides an opportunity for women and children in the New York area who are in desperate need of help. Providence House has become a beacon of hope for many who have been neglected and abused, by giving them a chance. I want to thank the people behind Providence House, and encourage communities across the Nation to look to them as an exemplary model of public service.

KASHMIR

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. LAFALCE. Mr. Speaker, Indo-Pakistan tensions over the ongoing crisis in Kashmir raise the possibility of another war between the two countries, each of which is now nuclear capable. The potential devastation of such

a conflict has drawn international attention to this troubled region and spurred efforts to ease the climate of escalation. Such alarm is understandable, but I am also concerned that the legitimate concern for regional stability not supplant an interest in addressing the deepening of Kashmiris currently subject to the military rule of the Indian Government.

I would like to insert in the RECORD, the following editorial printed in the Washington Post entitled "Back From the South Asian Brink." While acknowledging the very real and significant threat of war between India and Pakistan, this editorial recognizes the very pressing need to address the deplorable human rights situation in Kashmir and the polarizing effect of the Indian Government's repressive policies, which are rapidly creating an intractable climate for negotiation. Further, this editorial acknowledges the central issue in this recurring conflict—Kashmiris' legitimate demand for a practical plan to facilitate the self-determination, a goal of two U.N. resolutions which have gone unfulfilled for more than four decades.

I commend this balanced editorial to my colleagues as a realistic and insightful snapshot of the ongoing crisis in Kashmir.

[From the Washington Post, June 18, 1990]

BACK FROM THE SOUTH ASIAN BRINK

The risk of war between India and Pakistan has drawn anxious world attention, and with good reason. Consider the fact of heightened tensions over Kashmir between states that have already gone to war three times (twice over Kashmir) and the even starker fact that both states could end up fighting with nuclear arms. The recent mission to the area by White House aide Robert Gates did seem to help the two to pay closer attention to military steps troubling to the other as well as to better understand foreigners' concern. A certain welcome back-from-the-brink relief is now evident on the South Asian scene.

It would be foolish, however, to conclude that the crisis has passed. Its source, the 40-year dispute over Kashmir, remains untreated by political conciliation or international mediation. Its recent aggravation, by Indians repressing Kashmir militants and Pakistanis encouraging them, goes on. Under the slight relative improvement visible on the surface of Indian-Pakistani relations lies a churning conflict in Kashmir that could yet explode.

No one has come up with a practical plan to assure Kashmiris even the element of choice of whether to join India or Pakistan that Kashmir's Hindu ruler preempted when he took his Moslem-majority state into India at the time of decolonization in 1947. Nor was Pakistan slow to exploit Indian political lapses in Kashmir in the mid-1980s by arming a separatist minority. But the Indians' harshness and brutality in response may have helped turn what they describe not as Kashmiri nationalism but as "Islamic fundamentalism" into a majority cause. They have barred international human rights observers and journalists, insisting that Kashmir is an internal matter. But reports persist of killings in the hundreds, detentions in the thousands, torture and other pervasive police abuses.

The Kashmir issue is embedded deep in the psyches and politics of the two countries and does not lend itself easily to being plucked out for isolated treatment. But certain things are essential and feasible, nonetheless, in addition to continuing efforts to ease the larger state-to-state confrontation. In Kashmir, India must lighten its hand and find ways to widen the realm of popular choice. Pakistan must ease off its policy of using the ethnic issue to offset India's overall advantage in power. The two countries are playing with the lives of Kashmiris and the life of their home.

CITY AT PEACE, SPECIAL CONGRESSIONAL PERFORMANCE

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. FAUNTROY. Mr. Speaker, I rise to call to the attention of my colleagues that on Monday, June 25, 1990, the Peace Child Foundation will be sponsoring a special production of "City at Peace."

City at Peace is a performing arts—social interaction project of the Peace Child Foundation, a nonprofit organization that promotes peace education through the performing arts. The project was created in Washington last year to address the crisis of drugs, violence, and social problems in the District. To date, cities all over the country are doing very successful productions of City at Peace. For example, the Dallas Children's Theatre received a grant of $38,000 to do a multiracial production of City at Peace, and to tour the schools of Dallas. There was a recent production held in Detroit. More performances are projected for next fall in Los Angeles and Oakland, CA, Rochester, Ithaca, and New York City, NY. A production is also expected to be held in Miami this summer.

There is no question that drama has proven itself to be a powerful vehicle of expression for young people in dealing constructively with the pressures they face in an increasingly complex world. Thus City at Peace places very strong emphasis on encouraging young people to actively take part in public service in their communities after the production is over. The theatre is considered a catalyst for building social activism among young people.

It is my pleasure to supply you with brief biographical sketches of some of the cast members:

Kevin Woodson—completed Hart Junior High School. He is a member of the National Honor Society. He received an Academic Scholarship, and has auditioned for Duke Ellington School for the Performing Arts.

Abby Friedman—Graduated from Wakefield High School in Arlington, Virginia. She graduated as the "Valedictorian", and received an Outstanding Achievement Award for English and History. She was the President of the Student Government. Abby will be a Freshman at the University of California, Berkeley this Fall. She will be participating in the Environmental Training program in the Soviet Union sponsored by Legacy International.

Stacy Huggins—is a graduate from the Duke Ellington School of the Performing Arts. Stacy has received a $1,000 scholarship granted by the Trial Lawyers' Association, as well as a partial scholarship from Berklee School of Music in Boston, Massachusetts.

Kimberly Saunders—graduated from Wakefield High School. She has been awarded a $6,000 scholarship award from the Optimist Club, and a Speech Award from the Veterans of Foreign Wars.

Dionne Mebane—has received the Peace Child Foundation Scholarship to Samantha Smith World Peace Camp in Maine.

Rachel Riddles—is a 10th grade student at Falls Church High School, and has received the "Outstanding Student Award," as well as the Honorary Thespian. She has also received the scholarship from Peace Child Foundation for Samantha Smith World Peace Camp.

Maleata Carson—received a scholarship from the Peace Child Foundation for the Trollwood Academy International Summer Music and Drama Camp, North Dakota.

IN RECOGNITION OF BASCOM PALMER EYE INSTITUTE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is a great honor to congratulate the Baxom Palmer Eye Institute/Anne Bates Leach Eye Hospital for the selection as one of the Nation's best hospitals in ophthalmology. Selected by a team of experts from Georgetown University's department of community and family medicine and a nationwide survey of leading medical specialists, the hospital's recognition appeared in the April 30, 1990 issue of U.S. News & World Report.

Bascom Palmer received this distinguished award because of the hard work of the organization and the many dedicated people that have been there for many years. They pride themselves in the level of care they render to those in need. To further serve those who suffer the effects of blinding diseases, Bascom Palmer is conducting ongoing clinical research in the following areas:

The collaborative study on central vein occlusion.

The ocular indications of AIDS.

A clinical trial on the neutral course of the effect of laser treatment on the retinopathy associated with vein occlusions.

The study of cryotherapy for retinopathy of prematurity.

The effect of laser treatment in prevention of blindess due to macular degeneration.

The collaborative study of ocular melanoma.

The study of retinitis pigmentosa.

The study of 5-fluorouracil in glaucoma patients.

Coordinating center for a national collaborative study.

In addition to the above listing of national studies, the faculty is involved in dozens of ongoing basic and clinical research projects which are reported in medical literature each year. This research will provide the foundation for future treatment.

Bascom Palmer and the member institutions of the American association of Eye and Ear Hospitals are dedicated to delivering the highest quality of health care services possible to the patients they serve.

I commend Mr. Kennedy Croom, Jr., the administrator of the hospital, and the board of di-

rectors—Stanley Glaser, Stanley Arkin, Mark Stevens, Dr. Douglas Anderson, Dr. Mary Lou Lewis, Irela Saumat, Marlene Minnich, Dr. Victor Curtin, Dr. Bernard Fogel, David, Lieberman, Dr. Edward Norton, W. Sloan McCrea, and Dr. Joseph Singer for the outstanding service the hospital provides. I congratulate the Bascom Palmer Eye Institute/Anne Bates Leach Eye Hospital for this most prestigious award.

INTRODUCTION OF THE MODEL GOOD SAMARITAN FOOD DONATION ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. MILLER of California. Mr. Speaker, I rise today to introduce the Model Good Samaritan Food Donation Act. Its purpose is to provide States with a comprehensive model for removing one of the major disincentives to those who would donate food and other grocery products to charities assisting the needy.

Through the efforts of the Second Harvest National Food Bank Network and similar charities engaged in feeding the needy, Good Samaritan laws have been enacted in all 50 States which provide limitations on liability to those who donate food. A 1989 study indicates that these statutes vary significantly in the degree of coverage they provide, the types of donors who receive this protection, and the types of product donations which are covered by these laws.

Since many of the companies that are potential food and grocery item donors are national in scope, standardized liability protection would result in greater confidence on the part of the industry and more donations being made available at both the national and local levels. In order to provide guidance to States that wish to provide comprehensive, standardized coverage to those who support the nonprofit sector's admirable efforts to assist those in need, I am proposing enactment of the Model Good Samaritan Food Donation Act.

This bill will require no government expenditures, I believe that it will be an important resource to those charities that are trying to solicit donations of food and other necessities to support their efforts. If enacted on the State level, especially in the many States whose current good faith donor statutes do not contain some of the important provisions included in this act, the Model Good Samaritan Food Donation Act will remove a significant barrier to private sector support of the nonprofit sector's efforts.

The Model Good Samaritan Food Donation Act has the support of a wide spectrum of nonprofit groups, including the Second Harvest Network, which consists of 200 food banks serving over 39,000 charities, and the food and restaurant industries.

Many in the charitable sector rely heavily on private product donations to serve those in need. In thousands of communities throughout the country, the private and nonprofit sectors have worked together to ease the plight of the homeless, the hungry, and others in need. This act will, at no cost to the Federal, State, or local governments, assist their admirable efforts. I ask you to join me in supporting their efforts by supporting this act.

THE COMPREHENSIVE LONG-TERM CARE INCENTIVE ACT

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. RHODES. Mr. Speaker, today I am introducing the Comprehensive Long-Term Care Incentive Act of 1990, which promotes a private-public partnership to stimulate the long-term care insurance market.

The national debate over long-term care is moving toward center stage, propelled by the escalating costs faced by growing numbers of older Americans. They and their baby boomer children fear becoming destitute and demoralized by a disabling illness.

My legislation responds to the near-universal desire of the frail and chronically ill people to remain in familiar surroundings, with control over their lives, whenever possible. This bill shifts the institutional bias of Medicare and Medicaid, as well as private long-term care policies, by providing coverage and incentives for utilizing home and community-based care.

Planning ahead for the possible expenses of chronic care must become a customary rite of aging. Long-term care policy requires incentives and options to succeed, unlike the short-sighted Medicare Catastrophic Coverage Act of 1988. Congress needs to take action, but more thoughtful action this time around.

I urge my colleagues to join me in support of this important legislation.

COMPREHENSIVE LONG-TERM CARE INCENTIVE ACT OF 1990

TITLE I: TAX TREATMENT OF LONG-TERM CARE (LTC) INSURANCE PLANS

Treatment of LTC Insurance

A. Amends the Internal Revenue Code (IRC) to treat qualified LTC insurance as accident and health insurance for purposes of tax deductions on individual income tax returns.

B. Allows employers under the IRC to offer employees qualified LTC insurance as a tax-free fringe benefit. The employer contribution would be deductible.

C. Excludes from gross income amounts withdrawn from Individual Retirement Accounts (IRAs) or 401(k) Plans for purposes of purchasing qualified LTC insurance.

D. Allows the non-taxable exchange of life insurance policies for qualified LTC insurance.

Employer Funding of Medical Benefits

A. Encourages companies to establish health benefit accounts for retirees and their spouses and dependents. Provides a tax deduction for the employer's contribution to the accounts.

B. Defines funded reserve accounts and vesting requirements to qualify for tax deduction of premiums paid, including special rules (excise tax) on allocated assets not used to provide retiree health benefits.

Reverse Mortgage Insurance for Older Americans

A. Amends the National Housing Act to allow reverse mortgages and sale-leaseback arrangements, whereby homeowners could convert their equity interest for purposes of purchasing qualified LTC insurance.

Income Tax Credits

A. Provides a $2,000 refundable credit for custodial care of certain dependents in the taxpayer's home.

B. Allows a taxpayer to receive a refundable credit for expenses for LTC services provided to certain independent persons requiring such care. This is a credit against tax imposed in the amount equal to 25 percent of the qualified LTC expenses, not exceeding $2,000, but only permitted for those below 150 percent of the poverty level.

TITLE II: LONG-TERM CARE BENEFIT AND RELATED SERVICES

Part One: Expansion of Medicare Benefits

Subtitle A: Medicare Provisions

A. Medicare Coverage of Screening of Mammography.

B. In-home Respite Care for Certain Chronically Dependent Individuals—provides up to 80 hours per year of services to relieve those caring for homebound Medicare beneficiaries.

C. Extends Home Health Services—clarifies that "intermittent" home health care covered by Medicare may mean care provided 7 days per week for up to 33 consecutive days.

D. Expands the Hospice Benefit—permits unlimited hospice care for terminally ill patients if a physician recertifies that the patient remains terminally ill after the existing 210-day limit is exhausted.

E. Reimburses Home Intravenous Drug Therapy Services with prior physician approval and under a designated fee schedule.

F. Coverage of Colon-Rectal Screening Examinations.

Part Two: Medigap Insurance

A. Medigap Fraud and Abuse Protections—increases civil penalties from $5,000 to $25,000 for issuing duplicative policies.

B. Establishment of a Medigap toll-free consumer "Hotline" through a state grant program.

Subtitle B: Medicaid LTC Insurance Demonstration Projects

A. The Secretary of Health and Human Services shall provide for a demonstration project and the necessary accompanying waivers for any requesting State to allow individuals with income and resources above the Medicaid eligibility level to receive LTC benefits under State's plan, by purchasing an approved LTC insurance policy.

B. The State shall provide assurances that its demonstration project for LTC services will not exceed the estimated average per capita and aggregate expenditures in absence of the waiver from the federal requirements.

C. The State will continue to provide LTC services for those entitled to Medicaid benefits prior to the State obtaining the waiver, and implementing the demonstration project.

D. The State's plan must meet standards at least as stringent as those set forth in the January 1990 Long-Term Care Insurance Model Regulation of the National Association of Insurance Commissioners (NAIC) and for the duration of 5 years.

TITLE III: FEDERAL NATIONAL LONG-TERM CARE REINSURANCE CORPORATION

A. The Secretary of Health and Human Services shall authorize the incorporation of the Federal LTC Reinsurance Corporation, which will have a Board of Directors

consisting of nine persons; three appointed by the President of the United States, and six elected annually by the stockholders.

B. The Corporation shall provide for the reinsurance of insurance companies for extraordinary loss in the payment of benefits for qualified LTC insurance. Exempts the Corporation from State regulation and tax liability for the purposes of stimulating the private LTC insurance market. The Corporation shall terminate after 10 years.

A CONGRESSIONAL SALUTE TO OUTGOING HARBOR CITY/HARBOR GATEWAY CHAMBER OF COMMERCE PRESIDENT, FRANK PACHECO

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding individual in the southern California community and a person who has devoted much of his time to helping others. Frank Pacheco, affectionately called by his friends, "Cheeco," will be honored Friday, June 22, 1990, as the outgoing president of the Harbor City/Harbor Gateway Chamber of Commerce. In recognition of his tremendous service to that organization, I would like to tell you a little about him.

Born and raised in Wilmington, Frank Pacheco attended Banning High School. At Banning, he lettered in basketball and track and set records in both. He was also the first American-Mexican to be elected student body president, a post he performed admirably. His love of sport has always been a factor in Frank Pacheco's life. Although golf may be his first sporting love, Frank Pacheco has played semipro basketball for 12 years.

Despite Frank Pacheco's numerous adulations and many accomplishments, he has always found time to spend with the kids in the community. He has coached Little League Baseball, Pop Warner Football, and has volunteered as a football coach at Holy Family Elementary School. In addition, he furthered construction of a Little League field in Wilmington.

In 1978, Frank Pacheco dedicated himself to the Harbor City Chamber of Commerce. With his help and others, the chamber became what is now known as the Harbor City/Gateway Chamber of Commerce. "Cheeco" was the first Lion in 30 years to hold the office of president for two consecutive terms of the Harbor City/Lomita Lions Club. Frank Pacheco's advice and insight are sought by many very respected public officials. He has served on several committees such as the Community Advisory Council for Councilwoman Joan Milke Flores, the Community Council for the Harbor City/Wilmington 5-year plan, and the Harbor City Coordinating Council.

As a result of his efforts, his community has honored him with numerous awards including a Community Service Award from Mrs. Tom Bradley, Outstanding Volunteer Service from Wilmington and community service awards from the City of Los Angeles. The list goes on and on.

"Cheeco" a graduate from Los Angeles Trade Tech, has been with Jack Woods Plumbing for the last 30 years, and an instructor for the Plumbing, Heating and Cooling Contractors of California.

Mr. Speaker, I take great pride in recognizing Mr. Pacheco for all his vast achievements and activities in the community. He has done a great deal to make living and working in southern California a little better. I salute Frank Pacheco on his distinguished career of public service and wish him and his family all the very best in the future.

ROY BURTON REMEMBERED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. SUNDQUIST. Mr. Speaker, I and many others in middle Tennessee lost a good friend not long ago when Roy Burton passed away. He was a man who devoted virtually his entire life to serving veterans.

I was proud to know him, proud to work with him on veterans' issues, proud simply to call him my friend.

To honor Roy, and to make known to others the great commitment he had to those who proudly served America, I ask that the following tribute from the Leaf-Chronicle in Clarksville, TN, be reprinted in its entirety in the CONGRESSIONAL RECORD.

[From the Clarksville (TN) Leaf-Chronicle, May 29, 1990]

VETERANS' FRIEND ROY BURTON DIES AT 71

Patriotic holidays never escaped Roy C. Burton Jr., a man who devoted his life to helping veterans and their families as the Clarksville-Montgomery County veterans service officer for 40 years.

Burton was born on July 4, 1918, in Montgomery County. He died on Monday, Memorial Day, at Memorial Hospital after being stricken by an apparent heart attack.

Throughout his 71-year life, Burton helped veterans and their families get their benefits from the federal government. He also organized Veterans Day parades and the annual decoration of veterans graves on the Sundays prior to Memorial Day.

Sunday, Burton missed his first graves decoration when he was critically stricken in the early morning at his home in the Sango community. His family took him to the hospital, where he was admitted. He was pronounced dead in the early afternoon of the next day.

"I think he was so patriotic because it was sort of ingrained in Roy," his wife Mary L. Edgin Burton, said on Monday.

Mrs. Burton said he was concerned about what he believed was an erosion of patriotism in America's young as typified by anti-war protests during the Vietnam era. Burton was concerned that schools might not be doing their part in teaching patriotism to the students, she said.

Most of all, Burton was known to possibly thousands of local veterans and their families, helping them cut through the federal veterans' bureaucracy. He served them at the Clarksville-Montgomery County Ex-Servicemen's Bureau at the American Legion Post 7, 310 Main St.

"He was one of the most unselfish men I have ever met," said a lifelong friend, attorney F. Evans Harvill, on Monday.

"He was just dedicated to serving ex-servicemen." Harvill said. "He was one of the most patriotic men I ever knew."

Mrs. Burton said her husband was well-known even at the least likely of places. For example, if he accompanied her shopping at a fabric store, widows he had helped would recognize him.

Eunice Dykes, wife of retired Army Col. Claude Dykes, called The Leaf-Chronicle of Monday to say that Burton visited her husband each week for 52 days last year when he was recuperating in a veterans hospital for a broken hip. Burton continued the visits after his release, she said.

Mrs. Dykes issued this statement for her husband, who is an invalid: "Mr. Burton would go 100 miles and go without dinner to help a veteran or his family."

"This has really been a shock to the community." Mrs. Dykes said. "We'll never have another veterans representative like him."

Burton, himself was a veteran, having served with the Navy in the South pacific during World War II. After the war he studied electrical engineering at the University of Tennessee, then returning to Clarksville to take mathematics courses at Austin Peay State University.

In Clarksville, Burton picked up a job as manager of the American Legion Post 7 and found himself easing into the ex-servicemen's bureau. As the influx of veterans increased due to the influence of Fort Campbell, his duties increased into a full-time occupation.

For 40 years, Burton served as the veterans service officer, and for the duration, he remained a member of Post 7 and served as post adjutant.

"He was the spirit and lifeblood of the American Legion," Havill said. "He's just Mr. American Legion."

Of his work with veterans, Burton said in an interview last year, "No sir, (I've had) no regrets because I feel like I've been able to help people. Veterans benefits are important and complicated to understand.

Due to his extensive efforts to help veterans, Burton was appointed a charter member of the Clarksville-Montgomery County Commission on Military and Veteran Affairs in 1987, which has actively promoted veterans' causes.

Through the years, Burton organized the annual Veterans Day Parade, until turmoil of the Vietnam War saw its cancellation in the early 1970s. He saw the parade resurrected under the veterans commission's sponsorship in 1987.

Burton also was known for organizing Post 7's graves decoration for Memorial Day which involved a breakfast at the post hall for the volunteers of many other veterans service organizations. Small U.S. flags were placed on more than 2,000 graves at cemetaries in urban and the most remote family plots of the county.

"When he didn't have enough people to put flags out, he went out and put the flags out himself," said Clayton Moore, chairman of the veterans commission, Monday.

Burton was in the midst of preparations for this year's graves decorations when serious symptoms set in.

Mrs. Burton said symptoms appeared after she and he were at the Legion hall Saturday afternoon to get the place ready for the next day. "He and I went down, scrubbed pots and pans and got things organized," Mrs. Burton said.

When the Burtons returned to their home at 2800 U.S. 41A South, he was feeling achey and was having flu-like symptoms, Mrs. Burton said. He progressively got worse until about 4 a.m. Sunday when he got out of bed, feeling a heavy pressure in his chest, she said.

Burton was admitted to Memorial Hospital shortly before 5 a.m., Mrs. Burton said. Later, their son Paul notified veterans at Post 7 that Burton would not be coming for the breakfast.

The news "put a chill on everybody" at Post 7, said Harvill who was there. And the next day, Monday, at the veterans commission annual Memorial Day service, Moore's voice wavered as he announced that Burton was in "very, very serious condition."

Burton was pronounced dead at 12:45 p.m., Mrs. Burton said.

"He touched so many hearts," Moore said. "He touched so many veterans here."

The death leaves a gap in the local veterans programs, but Moore vowed that the program will attempt to manage as best as possible.

"We're going to have to take over now and pick up where he left off," Moore said. "We can't ever replace him but we can try."

Burton's funeral will be at 10 a.m. Wednesday at Trinity Episcopal Church where he was a lifelong communicant. The Rev. Robert Wood will officiate. Burial will be with full military rites at the Sango Cemetery. Visitation begins at 2 p.m. today at Neal-Tarpley Funeral Home and will be until the hour of service Wednesday.

Burton was born in Montgomery County, son to Roy C. Burton Sr. and Tennie Paschall Burton.

In addition to his wife, survivors include a son, Paul Burton, Clarksville; a daughter, Carmen Lendman, Nashville; a sister, Josephine Shannon, Fort Worth, Texas; and five grandchildren.

The pallbearers will be David Edgin, Robert Phillips, C.N. Taylor, Kent Brown, Patrick Shannon and Tommy Blaylock. Members of the Clarksville-Montgomery County Commission on Military and Veteran Affairs will be the honorary pallbearers.

In lieu of other remembrances, the family suggests donations be made to the Trinity Episcopal Church Building Fund or the Loaves and Fishes soup kitchen.

PENNSYLVANIA NEWSPAPER WINS PULITZER

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. KOSTMAYER. Mr. Speaker, I want to call to the attention of my colleagues the 8th of 10 editorials written by Tom Hylton of the Pottstown Mercury in Pottstown, PA.

These editorials on the subject of farmland preservation won this year's Pulitzer Prize for editorial writing, and I commend them to my colleagues.

BOND ISSUE WILL PRESERVE FARMLAND AND OPEN SPACE

Last April, as concerns mounted over the loss of farms and woodlands, the Chester County commissioners appointed a task force to formulate a strategic plan for preserving environmental resources and open space.

Headed by then-Commissioner Irene Brooks, the task force comprised 12 county residents, including two developers, two farmers, a senior Commonwealth Court judge, a veterinarian, a county planner, and an oil company executive.

After two months' study, they recommended that the county issue $50 million in bonds over a four-year period to buy parks, and protect farms.

Specifically, the money would be used as follows:

$10 million to purchase development rights from farmers. If, for example, land is worth $5,000 for agriculture and $20,000 an acre for development, the county would pay the owner $15,000 an acre—in cash—for a deed restriction committing the land to agricultural uses only.

This not only protects farmland, it provides farmers with capital.

$2 million to match state funds to acquire development rights from farmers. In 1987, Pennsylvania voters approved a $100 million bond issue to protect farms statewide. Chester County should receive at least $8 million through this program during the next 10 years, but it must match every four state dollars with one of its own.

$18 million to buy and develop two county parks. Through no specific sites were recommended, the parks would be in the southern and eastern ends of the county and encompass 400 to 600 acres each.

$2 million for the creation of greenways along streams and a series of trails connecting parks and other public facilities. The trails would use utility corridors and abandoned rail lines, supplemented by easements negotiated with private property owners.

$11 million for municipal park and open space acquisition programs. These funds would be channeled to the county's 74 cities, townships and boroughs through a revolving loan fund and matching grants.

$5 million for private conservation groups. Again, the funds would be disbursed through a revolving loan fund and outright grants, and would be used for purchases of farmland, stream corridors, and unique natural areas.

$2.5 million for grants to historical organizations to protect historically significant sites.

By leveraging grants to municipalities and conservancies, the $50 million in county funds can be stretched to save $75 million worth of land, the task force suggests.

The bond proposal is not unprecedented. In the 1970s, Suffolk County in eastern Long Island spent $21 million to protect farmland from development. "In retrospect, it is about the only thing that made all the agony (of office) worthwhile," said former Suffolk County Executive John Klein, who pioneered the program.

Last year, voters in Broward County (Fort Lauderdale), Florida approved a $75 million bond issue to preserve open space.

The Chester County commissioners have scheduled a public referendum for Nov. 7 on the proposed bond issue. "It's a true test of what the people want," said Dominic Marrone, commissioners' chairman. "If we want this program in place, each and every one of us must pay for it."

The task force proposes three bond issues, one in 1990 ($20 million), the second in 1991 ($15 million), the last in 1993 ($15 million). The bonds would be repaid with county property tax revenues.

For a residential property valued at $126,000 (the countywide average), the bond issues will add $12.80 to the tax bill the first year, rising to $32.43 in the fourth year, and then decreasing slightly until it is paid off in 16 years. The average residential county property tax is currently $227.

How much would it cost to wait? Last year, Lower Makefield Township in Bucks County became the first in Pennsylvania to propose a major bond issue to preserve dwindling open space.

Development is so widspread and Lower Makefield land values are so high that $45 million would preserve just 1,000 acres of farmland and 500 acres of environmentally sensitive land along the Delaware River. The bond issue would have nearly doubled the average township tax bill from $390 the first year to $700 in the sixth year. Though the proposal was defeated, 45 percent of the voters were prepared to shoulder the cost to preserve the open spaces.

Last November, Dr. Colin Johnstone, chairman of the Chester County Agricultural Development Council, said the county should set a goal of saving at least 50,000 acres of farmland by the year 2000.

"This is some of the richest farmland in the world," he said. "As a matter of public policy we cannot afford to squander our farmland on two-acre developments."

He said $100 million could save 20,000 acres of farmland, and expressed hope that another 30,000 acres could be saved through private efforts.

The $50 million bond proposal falls short of Dr. Johnstone's goal, and the bulk of the funds will go toward parks, rather than preserving productive farmland. But the bond issue proposal is addressing a range of concerns. It's designed to balance the need to preserve farmland with the need to provide parks people can actively enjoy.

Yet with its $50 million price tag, the proposal is the most ambitious county open space acquisition program in Pennsylvania.

The task force has done an admirable job. Its plan merits enthusiastic public support. Not only is the money necessary to protect open space, the referendum itself is essential to mandate land conservation. Vote yes on Nov. 7.

INTRODUCTION OF THE RICO IMPROVEMENT ACT OF 1990

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. HUGHES. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

STATEMENT OF CONGRESSMAN WILLIAM J. HUGHES AT A PRESS CONFERENCE ON INTRODUCTION OF THE RICO IMPROVEMENT ACT OF 1990

I would like to welcome you to our press conference on the Racketeer Influenced and Corrupt Organizations Act (RICO). Today I am pleased to announce that I am introducing the RICO Improvement Act of 1990 for myself, Mr. McCollum, Mr. Boucher, Mr. Mazzoli, Mr. Feighan, Mr. Smith of Florida, Mr. Gekas, and Mr. DeWine. This bill is the result of three extensive hearings this Congress by the Subcommittee on Crime plus innumerable discussions with my House colleagues, staff discussions and almost daily contacts with concerned parties. RICO reform has truly been one of the Subcom-

mittee on Crime's most time-consuming and difficult issues in the 101st Congress.

At this juncture, I would like to especially compliment both Mr. McCollum and Mr. Boucher for their unstinting effort in sharing the burden of hammering out the best legislation we can fashion to correct some of the ills of RICO while maintaining it as an effective tool to deter criminal activity.

As you may know, in the first 10 years after it was enacted into law in 1970, RICO was used sparingly on the criminal side, and hardly at all in civil cases. Only in the last 8 years have there been definitive interpretations of its broad language by the U.S. Supreme Court. For example, the Department of Justice prosecuted fewer than 300 criminal cases from 1970 to 1980 and from 1970 through 1985 there were only 270 reported civil RICO cases.

It is in this latter area, civil RICO, where our investigation has shown that we have our greatest problem, although the extent of the problem is in dispute. The administrative office of the U.S. courts indicates that since 1985 there have been about 1,000 civil RICO cases filed each year. Numbers alone, however, do not reflect the effects of the infusion of these complex cases into the Federal system, or the impact of the mere filing of such a case against a defendant. This latter situation was brought to our subcommittee's attention by the testimony of a West Virginia banker who had "won" two RICO cases against his small bank, but had been severely damaged by the suits. It is also noteworthy that the Judicial Conference of the United States has twice called on Congress to reform the civil provisions of RICO, and Chief Justice Rehnquist recently reiterated the need for reform of the statute.

Without belaboring the point, it is our opinion that on the basis of over 1,200 pages of testimony in this Congress before our subcommittee and many more thousands of pages in prior Congresses, there is a need for RICO reform.

The question then becomes, what direction should reform take? In my mind there are basically three major options.

First, we could reform the basic criminal law. Frankly, I would be inclined to take that task on, but I do not believe there is sufficient support in the Congress to accomplish this.

Second, we could make civil RICO unavailable or unattractive for numerous categories of offenses covered by criminal RICO. This essentially was the approach of H.R. 1046, and its companion bill in the Senate S. 438, which would have drastically curtailed civil RICO by de-trebling most private (and some governmental) litigants, including many consumer suits.

These bills, however, I believe went too far in certain respects and give the appearance of favoring certain industries such as the commodities, securities, and savings and loan industries which are currently the subject of major fraud investigations.

Third, we could somewhat tighten up both criminal and civil RICO, and make changes to civil RICO which attempt to emulate the results attained by prosecutorial discretion in the criminal area.

That is the approach of the bill we introduce today. The following are the highlights of the bill:

(1) It would tighten up the "pattern of racketeering" requirement in RICO and codify the concept of continuity and relationship as articulated by the majority opinion in the recent Supreme Court Case in H.J., Inc. [109 S. CT. 2893 (1989)].

(2) The second major part of the bill would be to limit civil actions under RICO to cases involving "egregious criminal conduct." The bill then sets up a judicial "gatekeeper" provision that allows the court to dismiss suits that do not meet that standard.

The rationale for this approach is that it is clear from the legislative history of RICO that the primary purpose for allowing private civil suites under RICO was to promote the public interest by allowing for so-called "private attorneys general" suits. It was based on the premise that these civil suits would supplement governmental action and attack real criminal conduct—not just contract disputes written up to sound like crimes. The bill maintains treble damages for those actions that survive the "gatekeeper" provision. This is to reserve civil RICO for major white collar frauds such as large consumer frauds and the savings and loan fiasco.

(3) The bill also sets a "clear and convincing" standard of proof for civil RICO. This is an "intermediate" standard of proof for civil cases usually used in State cases involving allegations of fraud and other quasi-criminal wrongdoing by a defendant. As such it appears appropriate for civil RICO.

(4) The bill specifically states that civil RICO jurisdiction lies exclusively with the Federal courts and makes it clear that RICO is not available as a remedy in nonviolent free speech and assembly situations.

(5) Finally, the amendments made by this bill would apply to civil actions commenced after the President signed the bill. However, in pending cases that have not reached a trial court decision, a trial judge in his or her discretion may limit recovery after a finding of liability to not less than actual damages, and the cost of the suit, including a reasonable attorney's fee. This discretionary de-trebling is permitted only if the judge determines that the claim would have been dismissed under the new standards set up by this bill, and that something less than treble damages is consistent with the interest of justice.

We believe this bill's approach is a sound basis for curbing most of the abuses of RICO while at the same time maintaining civil RICO as a useful tool to combat and deter major criminal activity. We also believe the guidance contained in this bill and the legislative history will provide an appropriate legal framework for future use of civil RICO as an extraordinary civil remedy.

VIRGIE HILL'S SERVICE NOTED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. SUNDQUIST. Mr. Speaker, I rise to call your attention to the accomplishments of a constituent in my congressional district in Tennessee, Mrs. Virgie Hill who was recently honored by Avon Products, Inc. for 52 years of dedication as an Avon salesperson.

Avon Products, in the 104 years of its existence, has relied on the initiative and integrity of ordinary Americans with an entreprenurial dream to market its products in door-to-door sales. Avon Products has grown from a company with one product to become the world's leading manufacturer and distributor of cosmetics, fragrances, and fashion jewelry. Today, some 450,000 independent Avon sales representatives, the vast majority of whom are women, continue the direct sales method by providing personal service and quality to consumers in their homes.

For exactly one half of the Avon company's history, Mrs. Virgie Hill of Collinwood, TN has upheld the highest standards of the Avon marketing policies and maintained a strong commitment to her customers. During the 52 years she has taken Avon products into the homes of her friends, neighbors, and fellow citizens in Wayne County, TN, she has set a courageous and inspiring example of determination and success to those around her. At the age of 87, Mrs. Virgie maintains the third highest sales in her district. She is a member of Avon's President's Club and Honor Society.

Recognizing the invaluable worth of this Tennessean, Avon Products at an honorary banquet in Nashville recently presented Mrs. Virgie with a special award in recognition of her many years of service to Avon and her customers. She was presented with a special golden "Albie" figurine representing the founder and first saleswoman of the company, a woman whose spirit and determination Mrs. Virgie has represented well for the past 52 years.

Today Mrs. Virgie continues to sell Avon products with as much vigor and enthusiasm as when she first joined the company. She also continues to be an active and interested citizen taking part in many civic and community affairs. She maintains a dedication to her church and continues active in it. She continues at the age of 87 to be an inspiration to the young people of her community through her loyalty and enthusiasm for the athletic programs of the local school, Collinwood High School. At home games, distant away games, or tournament play, the Trojans and Trojanettes know Mrs. Virgie will be in the stands cheering them on.

I am certain my colleagues join me in extending best wishes to Mrs. Virgie Hill of Collinwood, TN for over half a century's example of the American spirit of self-determination through her personal dedication to community and her professional achievements with Avon Products.

INTRODUCTION OF THE NATIONAL WRITING PROJECT BILL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. MILLER of California. Mr. Speaker, today I and 76 other Members are introducing the "National Writing Project" bill. This legislation authorizes $10 million in Federal support for the widely respected "National Writing Project," a collaborative higher education-public school initiative that provides in-service training to teachers in the area of writing.

This bill has received strong bipartisan support not only in the House but also in the Senate, where an identical bill has already been introduced. Such support must be attributed to the outstanding reputation that the na-

tional writing project has earned throughout the country.

The project was developed over 17 years, and is presently operating at 143 sites, most of which are in universities, in over 44 States year round.

We are facing a writing crisis in our schools and in the workplace. The writing report card, an assessment of student writing ability conducted by the U.S. Department of Education, recently reported that fewer than 25 percent of our high school juniors can write an adequate letter. Universities and graduate schools complain of incoming students who are unable to meet the writing demands of their programs. And business leaders decry the lack of basic skills acquired by their entry level workers.

The national writing project's programs use a "teachers - teaching - teachers - to - teach" model that has been very effective in improving student learning ability, performance, and test scores. The project has been honored by the American Association for Higher Education and the Carnegie Foundation for the Advancement of Teaching as "an outstanding and nationally significant example of how schools and colleges can collaborate to improve American education." It has been funded for an unprecedented 10 years by the National Endowment for the Humanities, and received numerous awards.

Although the writing project has been funded by private foundations and State and local agencies, program needs have exceeded the funding potential of these organizations. As a result, the project has been unable to expand its number of sites, and, in fact, 13 sites in 7 States—Arkansas, Kansas, Michigan, Minnesota, Ohio, Tennessee, Texas, and the District of Columbia—have become inactive within the last year.

The legislation I am proposing would authorize the funding of 50 percent of the cost of existing sites and 50 percent of the costs of establishing new sites, with a maximum matching basis of $40,000. It would fund matching grants to teachers to conduct research on effective classroom practices and to the national writing project to disseminate information on the effective teaching of writing. It also provides $500,000 for the Office of Educational Research and Information [OERI] in the U.S. Department of Education to conduct research on the teaching of writing and on methods to use writing as a learning tool to improve the quality of education.

HALT MARITIME ADMINISTRATION WASTE—SUPPORT THE SALE OF UNRELIABLE HULKS IN THE NATIONAL DEFENSE RESERVE FLEET

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. WYDEN. Mr. Speaker, I am very pleased, today, to join my colleague Mr. BROOMFIELD in introducing the Surplus Vessel Act of 1990.

With prodemocracy changes rapidly occurring in Eastern Europe, there's been much talk about capturing a peace dividend. Congress is looking for ways to crank down on this Nation's bloated military budget. We'd like to send those reclaimed tax dollars to a more useful destination—reducing the deficit, for example.

I'd like to suggest one standard for discussion. I don't think we ought to spend money on military hardware that's older than I am. For the record, I was born in 1949.

Let's apply this standard the National Defense Reserve Fleet, a 44-year-old reserve sealift program that maintains a ghost fleet of rapidly deteriorating, World War II-era cargo vessels. I submit that this endeavor long ago outlived its usefulness.

The bill we introduce today has two important features. First, it relieves Federal taxpayers of a terrific burden—the annual upkeep on these useless hulks owned or controlled by the U.S. Maritime Administration. Second, the mandated domestic scrapping of these maritime cadavers will provide hundreds of new jobs and millions of dollars in much-needed business for our struggling U.S. salvage and shipbreaking industry.

Our target is the oldest portion of the 331-vessel National Defense Reserve Fleet, specifically excluding the so-called Ready Reserve Force—the 100 newer vessels which may be relied on in time of war or national emergency.

Rather, our focus is on the approximately 120 ships within the fleet built prior to 1946. The last time our congressional staff visited some of these ships layed up at Fort Eustis, VA, Mr. Michael Delpercio, the Maritime Administration's chief of ship operations, admitted that we'd see a bunch of crap. His words, not mine.

Mr. Delperchio's candor is exceed only by the Maritime Administration's long record of mismanagement of these assets, and the never-never land planning which continues this dubious expenditure of tax dollars into the decade of the 1990's.

Even though most of these ships haven't been tested for years, and are considerably suspect in terms of their mechanical reliability, the Maritime Administration blithely maintains that these rusting tubs are militarily useful.

The Small Business Subcommittee on Regulation, Business Opportunities and Energy, on which both Mr. BROOMFIELD and I serve, held a hearing on this issue earlier this month. There was much talk about the rust, peeling paint, pigeon droppings and grass growing on wooden decks. But beyond these cosmetic issues, highly qualified sealift experts told us that the real dilemma is the lack of spare parts, the poorly managed preservation of systems, the puny carrying capacity of cargo-handling gear, the inavailability of trained crews and the other, deep problems that doom these ships as viable sealift components under any reasonable emergency scenario.

Our bill offers a disposal plan for these ships. Over a period of several years, the Administrator of General Services will auction them to U.S. scrapping companies at a rate of no more than 50, and no less than 20 per year. This schedule will encourage U.S. salvage companies to invest in the environmental controls and other up-front costs they'll need to undertake to do the business.

Fifteen of these vessels will be held out for States and local governments for building offshore artificial reefs.

Finally, this legislation will not reduce by one iota our current rapid sealift reserve capacity. In fact, it could improve matters by shifting Federal funds away from these fugitives from Davey Jones' Locker, and toward more modern ships.

Before I close, Mr. Speaker, I'll congratulate my good friend BILL BROOMFIELD on the pains-taking work he has done on this issue. He has been a bulldog fighting for sounder management of Federal tax dollars, and the prime mover in developing this legislation. I am proud to be part of it.

A TRIBUTE TO SAM LEVINSON

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is with great pleasure that I pay tribute to Sam Levinson, a most remarkable citizen.

Sam Levinson, who is 84 years old, is an energetic man that is always on the go. He volunteers 10 to 12 hours a week at Ruben Dario Middle School, helping youngsters with math and occasionally reading them poetry. Mr. Levinson received a special volunteer award at the school's dedication ceremony.

Mr. Levinson is also on the board of directors and secretary of his condominium, and is a host Saturday and Sunday mornings at a Denny's Restaurant in Miami. Sam enjoys his job at Denny's because he likes to greet the people with feeling and shaking their hands.

Sam Levinson also is on the We Care Committee of the West Dade YMCA. Its director, Sheila Gerard, runs an after school outreach program for youngsters at Sweetwater Elementary School where Sam helps out.

If that is not enough about this gentleman, Mr. Levinson also recently got his name printed on a Flagler Street bus bench that sings his praises. The bench reads, "Sam Levinson, The Perfect Role Model For All Senior Citizens."

Mr. Levinson got his name on the bench because he noticed it was broken. He called the Bus Bench Company in Hialeah and said that many older people needed the bench. What surprised the bench company was that Sam Levinson was not using the bench, but he was thinking of his neighbors.

I admire Mr. Sam Levinson. He is truly an inspiration and a fellow citizen we should tailor our lives after. I am proud to bring him to the attention of my colleagues and the American public.

C.I.A.O. HONORS HON. FRANK A. ADAMO, JR.

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mrs. LOWEY of New York. Mr. Speaker, I rise today to join the Congress of Italian-American Organizations in honoring a distinguished gentleman. Hon. Frank A. Adamo, Jr. has demonstrated exceptional talents as a public servant, community leader, and educator.

Mr. Adamo has been a leading figure in the city of Yonkers, and the county of Westchester, for many years. He has served as a member of the Yonkers Common Council, during which time he served as council majority leader and vice mayor.

Mr. Adamo is currently the twelfth grade dean of students at Saunders High School, where he has been able to share his experiences in public service with students. He has been involved with the Yonkers public school system for over 30 years.

Frank Adamo has been actively involved in a number of community and civic associations, including the Yonkers League for Retarded Citizens, the Yonkers Heart Fund, the New York State Coaches Association, and the East Yonkers Rotary Club.

He has also been a dynamic and committed leader in Westchester's Italian-American community. Through his activities in numerous organizations, as well as the time he has spent planning and executing special events, Frank Adamo has played a critical role in ensuring the continued strength of the heritage and culture of Italy here in Westchester.

I am delighted to join the Congress of Italian-American Organizations in honoring Frank Adamo, and in expressing appreciation for his remarkable commitment to public service.

COSPONSORING H.R. 5094

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. DENNY SMITH. Mr. Speaker, I would like the RECORD to reflect that I had requested to be included as an original cosponsor on H.R. 5094, a bill to facilitate the implementation of national forest land and resource management plans and for other purposes. Unfortunately, my name was inadvertently omitted by the bill's chief sponsor. I've asked my colleague from Oregon that my name be added as an additional sponsor.

THE THRESHOLD QUESTION ON ABORTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. LaFALCE. Mr. Speaker, the quality and level of discourse in the national debate on abortion has been deplorably low. Too often, slogans have been used at the expense of disciplined argument, subverting the process of communication so essential if we are to end the national tragedy of over 1½ million abortions per year.

Compounding the difficulty of constructive debate has been an avoidance of the central questions. To be sure, many issues surround the subject of abortion; issues such as health, both fetal and maternal; justice, with respect to rape; the stigma of illegitimacy; and economic hardship. These genuine concerns can represent sources of tremendous difficulty and suffering and must be considered. Unfortunately, these issues have too often taken priority over forthright consideration of a more fundamental aspect of the abortion debate—determining when human life begins.

I am therefore very pleased to insert in the RECORD the following article written by Charles D. Tuppen, Jr., entitled "The 'Abortion Issue'—The Threshold Question." Mr. Tuppen considers the critical question "when does life begin?", a question which we must address if we intend to deal with the abortion issue in our litigious, pluralistic society, in a just manner.

I commend Mr. Tuppen's article to my colleagues as a disciplined and probing discussion of this key question which has consistently taken a back seat to inflamed rhetoric and derivative considerations.

[From the Bulletin, June 1990]

THE "ABORTION ISSUE"—THE THRESHOLD QUESTION

(By Charles D. Tuppen, Jr.)

The threshold question in the "Abortion Issue" is, in my view, almost totally ignored in what I have heard and read in public discussion of the subject. As lawyers, we should all be concerned.

That question is "When does human life begin?"

Many of us were taught that a human soul is infused into the fetus at the moment of conception. To us, that is when human life begins. This view is incapable of proof.

All agree that human life begins at the latest when a full term baby is delivered. That proof cannot be denied.

If life does not begin at conception, when does life begin? When there is a heart beat? When there is a nervous system? When a skeletal system can be observed? When the fetus can feel pain? When? This question needs to be resolved before any rule of law is established. If we are to be consistent in our accepted concept that human life should be protected, all doubts must be resolved in favor of life. Such a concept requires us to accept without proof that life begins at conception. We know of nothing but nourishment which occurs after conception, and a human life is the result. When else does it begin?

In my view, whenever it is that the life of the unborn child begins, it becomes entitled to the exact same protection that we ourselves are entitled to under the law. Our life cannot be legally taken from us by anyone except under the most proscribed circumstances. The life of the unborn child is entitled to the same protection.

Whether or not we like it, women have been designed by God, or Nature if you prefer, as the unique provider of The life support system for an unborn child until the child has been delivered by birth into the outside world. This designation was not made by a group of Legislators or by the Supreme court. They cannot change it. Men cannot elect to assume that role.

Some say that human life does not begin until the child can live outside the womb. I believe that to be irrelevant because a life support system is just as necessary immediately after birth as it is before birth. Without it a child cannot survive.

Are there circumstances when the termination of a pregnancy is justified? Yes. I believe a pregnant woman has the right to decide to terminate a pregnancy if it poses a serious threat to her own life. The right to make such a decision is based on her right of self preservation, her right to live.

Does a woman have a right not to become pregnant? Absolutely yes. She has a right to prevent conception. If her pregnancy is the result of sex against her will by an illegal act such as rape or incest, I believe she has a right to decide to terminate such pregnancy.

In 1989 alone, more than 1,600,000 abortions were performed in the United States. The estimates are that less than 5% of them were done to save the life of the mother or to terminate a pregnancy which resulted from rape or incest.

When an airliner crashes, and 130 innocent passengers are killed, we all recognize it as a terrible tragedy. Many oppose the death penalty because one innocent person may be executed. But what about over 1,600,000 innocent unborn children being killed every year? Is that not a tragedy of horrendous magnitude?

The Supreme Court should not only reverse *Roe vs Wade*, which prohibits states from restricting "abortion on demand," it should also declare that every state is required to provide equal protection of the life of unborn children as is provided for the rest of us.

INTRODUCING THE APPALACHIAN HIGHWAY DEVELOPMENT ACT

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. STAGGERS. Mr. Speaker, today I am introducing the Appalachian Highway Development Act. The Appalachian region of our country desperately needs to improve its highway infrastructure, and bring economic development to its 13 States.

Twenty-five years ago, the Appalachian Regional Commission was established to improve the quality of education and health care for residents of Appalachia, and to bring them a new measure of economic prosperity. While the efforts of the ARC have made a significant difference throughout this often overlooked section of the country, the job is not yet complete.

The region's highway system is of paramount importance to the economic development of West Virginia and all Appalachia. Eighty-one percent of the new jobs that have been created in these States have been in areas where there is an Appalachian corridor or an interstate highway, or both. These highways have allowed the products of Appalachia to find new markets, and have opened the

region to tourists from across the country. But we must finish the job—940 miles of the ARC highway system are yet to be built. In order for us to maintain economic growth, this system must be completed. The legislation I'm introducing will begin this process.

What's more, this bill will not deprive any State of funds or hinder any State's present programs. As witnesses from the GAO and the Federal Highway Administration stated in testimony before the Senate Appropriations Subcommittee on Transportation, there will be approximately $7 billion left in the highway trust fund at the end of the current highway authorization. Because of the virtual completion of the Interstate System, this money should become available to be used for completion of ARC highways. This is the source which I seek to utilize in paying for these new roads. No current programs will be hurt, and no new taxes will be required.

This bill will provide needed economic stimulus in Appalachia, while helping our Nation move to the Postinterstate Construction program that can now be pursued. Without objection Mr. Speaker, I submit for the RECORD two tables, one entitled "Appalachian Development Highway System 1987 Cost Estimate," and another entitled "Federal Highway Trust Fund Receipts Through Fiscal Year 1988."

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM 1987 COST ESTIMATE—ELIGIBLE SECTIONS ADJUSTED TO SEPT. 30, 1989

[In thousands of dollars]

State	Remaining costs		Percent	Miles under construction or completed	Miles yet to be constructed
	Total cost	ARC funds			
Alabama	694,132	555,321	0.092	109.3	123.1
Georgia	231,091	184,801	.032	103.8	28.9
Kentucky	750,396	600,325	.105	349.2	85.6
Maryland	123,552	98,843	.017	77.0	6.2
Mississippi	184,770	147,821	.025	66.8	50.0
New York	291,849	233,483	.040	199.8	19.7
North Carolina	391,092	312,877	.054	155.7	49.7
Ohio	273,103	218,486	.038	146.0	55.6
Pennsylvania	1,856,620	1,485,309	.260	207.9	245.6
South Carolina	14,434	11,549	.002	16.6	6.3
Tennessee	668,142	534,522	.093	242.0	88.1
Virginia	245,890	196,715	.034	154.5	36.8
West Virginia	1,399,470	1,119,583	.196	267.1	143.6
ADHS total	7,124,541	5,699,635		2,095.7	939.2

FEDERAL HIGHWAY TRUST FUND RECEIPTS THROUGH FISCAL YEAR 1988

[In billions of dollars]

Appalachian States	Paid in	Received	Ratio
Alabama	3.522	4.613	1.31
Georgia	5.490	5.642	1.03
Kentucky	3.090	3.852	1.25
Maryland	3.286	5.342	1.62
Mississippi	2.343	2.502	1.67
New York	9.942	11.928	1.20
North Carolina	5.349	4.476	.84
Ohio	9.041	8.344	.92
Pennsylvania	8.949	10.403	1.16
South Carolina	2.763	2.620	.85
Tennessee	4.295	4.692	1.09
Virginia	4.596	6.214	1.35
West Virginia	1.557	3.772	2.42
Appalachian total	64.223	74.400	1.16
U.S. total	[1] 190.551	[2] 220.285	1.16

[1] 33.7 percent of total paid in.
[2] 33.7 percent of total received.

REPEAL "ZIONISM IS RACISM"

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. WEBER. Mr. Speaker, on Monday, the House of Representatives took a positive step toward undoing one of the worst acts of prejudice and raw politics in the history of the United Nations. The passage of Senate Joint Resolution 246, calling for the repeal of the United Nations resolution equating zionism with racism, makes clear that the United Nations must abandon the anti-Israel bias of its past.

There can be little doubt that U.N. Resolution 3379 was nothing more than another effort to further isolate Israel within the international community. The Soviet Union championed the cause for parallel resolutions in other international agencies with little success, except for the usual support from the East bloc and various Third World socialist states. The resolution served well the political purposes of the Soviet Union and its Arab allies by attempting to undermine the foundation of Israel's existence.

Since the onset of glasnost and the explosion of democratic movements behind the fast-disappearing Iron Curtain, the Soviet bloc has begun to change its attitude toward Israel. In the latest call to expel Israel from the United Nations, the Soviet Union and many of the East European countries abstained. Hungary and Romania voted to retain Israel's membership. This remarkable and sudden shift offers hope that the "zionism is racism" resolution may also fall with the unraveling of the East bloc.

Senate Joint Resolution 246 states that zionism is a "national movement of the Jewish people for self-determination, a legitimate and moral aspiration characteristic of many national groups in the modern world." Not only does this resolution seek to remove an unwarranted barrier to peace, but it hopes to correct the injustice of unfairly singling out one nation for pursuing its national, religious, and cultural identity. By encouraging the United Nations General Assembly to repeal U.N. Resolution 3379, it is hoped that the United Nations can continue to play a credible role in achieving a meaningful peace among all parties in the Middle East.

SOUTHERN ALAMANCE HIGH SCHOOL WINS THIRD STATE SOFTBALL CHAMPIONSHIP

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. COBLE. Mr. Speaker, it is softball season all across America. Men and women, boys and girls of all ages are now participating in this great American pastime. With all of the attention being drawn to softball at this time of year, it is appropriate that we pause to honor a group of young women in my district who recently won an important softball game. Southern Alamance High School in Graham, NC, recently captured the North Carolina High School Athletic Association State 3-A softball championship. The Lady Patriots defeated Canton Pisgah High School 7 to 3 on June 6, 1990, to win the State softball crown. What makes this accomplishment so remarkable, this is a third State title in less than a decade. Southern Alamance had won the NCHSAA softball championship in 1981 and 1984. In the last 4 years alone, the Lady Patriots have compiled an impressive 86-6 record.

The young women of Southern Alamance High School are more than just outstanding athletes, they are outstanding students in the classroom. Six of the students are class officers, one of whom is student body president; two are North Carolina teaching fellows; and four are members of the National Honor Society.

Congratulations to everyone involved in the championship effort. Coaches Greg Thomas and Danny Pope compiled a tremendous roster of talent. The members of the squad included seniors Kelly Braxton, Tracy Herring, Tanya Parrish, Nikki Stanfield, Laura Stanley, and India Steele. Juniors on the squad included Kim Stutts, who was named as the most valuable player of the championship series, Sheila Dove, and Michelle Schronce. Sherry Briggs, Julie McVey, and Lorrie Parrish were the sophomores on the team. The freshmen members included Casey Griffin, Regina Herring, Christy Langley, and Wendy Powers. Congratulations also to team manager Amanda Fogleman and Southern Alamance principal Ben Howard.

On behalf of everyone who lives in the Sixth District of North Carolina, congratulations to the Lady Patriots of Southern Alamance High School—the 1990 North Carolina softball champions!

THE FLAG AMENDMENT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. UDALL. Mr. Speaker, today I voted against a constitutional amendment that would ban desecration of the American flag.

Flag burning is appalling to me, as it is to the vast majority of Americans. However, on two separate occasions the Supreme Court has decided that outlawing flag desecration is an infringement of the more than 200-year-old doctrine of free speech that is guaranteed by the first amendment to the Constitution.

I voted against this measure because I do not feel this is an issue that merits a constitutional amendment. In 201 years, we have adopted only 26 amendments, dealing with matters ranging from the abolition of slavery to providing women with the right to vote. The battles for the adoption of these amendments were waged over many years.

Now, after the actions of a few extremists to deface the flag, an attempt is made to adopt a 27th amendment. Not only would this 27th amendment alter our Constitution, it would alter the first amendment of the Bill of Rights. No other amendment has had the

effect of changing the Bill of Rights, yet some seem to be willing to do it at the virtual drop of a hat.

The very heart of this issue, for most of us, is the threat flag desecration poses to our patriotism. But let's not put the cart before the horse. The love and devotion we have for our country is ultimately based on the doctrines upon which the United States was founded. I'm not so sure the majority of us would be as morally outraged by the act of flag burning if our flag did not represent the principles, such as free speech, that are found in the centerpiece of our democracy.

Some have argued that the first amendment already has limitations. In fact, they are correct. The courts have found that it is illegal to use our right of free expression if it puts others in danger, such as yelling "fire" in a theater. However, these limitations have been put in place to protect the physical welfare of others. They hardly have the effect of amending the Bill of Rights. If this is the concern, we do not need a constitutional amendment, rather we should pass a law that tackles that concern.

That is why I voted for the Flag Protection Act of 1990. This bill would make it a Federal crime to destroy or damage a U.S. flag if that action either provokes violence or would likely produce violence. The law is based on prior constitutional findings and is by far the best approach to this issue.

Mr. Speaker, if we want to show our patriotism, let us protect one of the foundations of the United States—freedom to express what we believe. It is a fundamental right we have successfully fought for since the American Revolution, and people in Eastern Europe are fighting for right now. A constitutional amendment to protect the flag would tamper with this doctrine, and would diminish the symbol which is equated with liberty and freedom throughout the world. There is an old saying, "if it ain't broke, don't fix it." I for one do not believe the Constitution is "broke."

INEFFICIENCY IN AMERICA'S HEALTH CARE SYSTEM

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. DONNELLY. Mr. Speaker, for the past several months, I and my colleagues on the Committee on Ways and Means have been urged to cut spending to hospitals under the Medicare Program. Although I am not aware of any proposals which would cut spending to hospitals under Medicare, the pressures on us have been intense.

Mr. Speaker, Medicare spending to hospitals is projected to increase by 7.7 percent between fiscal year 1990 and 1991. Even if every one of President Bush's budget proposals relating to Medicare were accepted—and they won't be—Medicare spending to hospitals would still increase.

America's hospitals argue that Congress should not make any changes in the current system of Medicare reimbursement on the grounds that a majority of hospitals are losing money under the program. Even if that statement is true, the attached Associated Press article demonstrates why those arguments should be viewed with skepticism.

This article, it seems to me, makes three major points. The first is that hospital bills are incomprehensible to patients and insurers. Second, prices for even the most routine services vary widely within geographic regions, and patients may be wise to shop around for hospital services when they are able to do so. Finally, the article points out that frequently, hospital charges are unreasonable. This point is, in my view, the most telling. Since hospital prices "have little to do with supply and demand, as do prices in most businesses", wide variances occur. These variances are "artifacts of the reimbursement system; they aren't real."

A few years ago, members were justifiably outraged over reports that the Department of Defense was paying $300 for hammers. This article points out that the Medicare Program may be paying $30 for a Tylenol capsule, but there are no corresponding expressions of outrage. If a hospital's payment under Medicare does not reflect that $30 charge for a Tylenol capsule, a hospital could probably argue that it was losing money under Medicare—but that loss isn't real.

Mr. Speaker, the Associated Press article follows. I urge Members to read it closely before jumping to any conclusions that it would be inappropriate for Congress to limit the rate of increase in Medicare spending to hospitals.

HOSPITAL BILLS SICKENING IN CONTENT AND LENGTH

(By John Cunniff)

NEW YORK.—If restaurants priced services the way hospitals do, customers would be charged for each use of the salt shaker, each pat of butter, each glass of water.

Still, there would be a difference: at least the customer could read the restaurant's bill.

That description is from a report on health care by the National Center for Policy analysis, a Dallas-based think tank with a strong inclination toward free-market solutions to economic problems.

INSURERS DOMINATE

John Goodman, its president, says health care is dominated by insurers, government and employers, leaving individuals little control over the prices they pay or the quality of care they receive.

His hope, he says, is "to restore the patient as the principal buyer of health care and unleash an army of millions of informed shoppers into the medical marketplace."

While that prospect seems distant, the report suggests that a beginning could be made by requiring any hospital that receives Medicare money to quote preadmission prices to all patients.

At the moment, it says, nobody understands a hospital bill, nor do many patients or even their insurers read them thoroughly or with understanding. At discharge, the report states, the patient is probably no better informed than on entering. The reason: literally hundreds of line items prices. Why, after just a few days "a typical bill can stretch 30 feet in length."

The potential is much longer. A single hospital, the report states, can have as many as 12,000 different line-item prices. Comparison shoppers in the Chicago area, it says, would have to contend with 600,000 prices.

It isn't so much the length of the bill that's sickening, the report suggests, as it is the likelihood that "about 90 percent of the items listed on a hospital bill are in principle unreadable."

NO WAY TO JUDGE

As a result, it continues, patients often cannot even recognize the service rendered, and even when they can recognize the service they cannot form a judgment about whether the charge is reasonable.

"For example, a $30 charge for a Tylenol capsule is common but clearly outrageous, as is a $45 charge for an admissions kit, similar to the free kits airlines give patients on international flights," says the report.

What is a reasonable price for an X-ray, a blood count or a urinalysis? The center answers: They can be many times the cost at one hospital compared with another within walking distance.

Here are some examples of total charges for outpatient services reported to the state by Chicago hospitals in 1988:

Mammogram, from $13 to $127; CT scan, from $59 to $635 (however, the center failed to specify the types of scans); tonsillectomy, from $125 to $3,365; cataract removal, from $125 to $4,279.

If patients knew about these differences, says Goodman, they might be able to significantly reduce their medical bills.

How do such variances occur? One reason, the report states, is that line-item prices have little to do with supply and demand, as do prices in most businesses. They are artifacts of the reimbursement system; they aren't real, it says.

MAKES YOU SICK

Because they are reimbursed by insurers on the basis of costs, hospitals have an "incentive to artifically raise or lower prices in order to manipulate their reimbursement from third-party payers."

Reading this report, you might conclude, is enough to make a person sick. Well, at least mildly so, but nothing like the shock of being confronted by 600,000 hospital prices or receiving a hospital-style bill in a restaurant.

But sick enough, certainly, to avoid going to the hospital.

ON FLAG BURNING

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. STOKES. Mr. Speaker, a few days ago the President demanded that Congress take up and pass a constitutional amendment to prohibit flag desecration before July 4. Congress hurriedly followed the President's orders and here we are today devoting 7 precious hours to debating an amendment to the Constitution over flag burning while not Rome, but America, burns.

I wonder how many intelligent, thinking Americans are sitting in front of their TV's this afternoon wondering how with all the substantive and pressing problems confronting this Nation that we have cast everything aside to debate flag burning. Americans have to be wondering how can they act so quickly on the

flag and do so little on the important problems under which people must live every day under the flag.

Thinking people have to be wondering this afternoon why haven't they rushed action before July 4, on health care for the 37 million Americans without health insurance or the additional 20 million who are underinsured. Why haven't they rushed action before July 4, on the senior citizens who are called notch babies who are shortchanged in their Social Security checks every month.

Young Americans unable to buy a first home; jobless Americans; homeless Americans; sick and disabled Americans; must all wonder this afternoon why couldn't they rush through some legislation for me before July 4. They must all be asking why is flag burning more important. Why do they fiddle with the Constitution while America burns?

HATCH ACT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. CLAY. Mr. Speaker, today I am introducing legislation to ensure uniformed, unbiased enforcement of the Hatch Act throughout the executive branch of the Government. For 15 years, now, I have sought to bring fairness and a degree of consistency to enforcement of the Hatch Act. Only yesterday, this body voted 327 to 93 in support of H.R. 20 to reform the Hatch Act to protect the legitimate exercise of free speech by Federal and postal workers. While H.R. 20 precluded Federal and postal employees from using their position to unduly influence others or from engaging in any political activity while on duty, such employees would have been treated as first-class citizens, free to partake in political activity on their own time.

The President vetoed H.R. 20, however, and today the Senate, by a vote of 65 to 35, failed by two votes to override the President's veto. In his veto message, the President stated that to "preserve the impartial, evenhanded conduct of Government business, I am obligated to disapprove H.R. 20." The President went on to state that the Hatch Act "has assured that Federal programs are administered in a nonpartisan manner, which is critical to maintaining the public's confidence and trust in the operations of Government."

Even a haphazard review of recent events would reveal beyond doubt that many Federal programs have not been administered in a nonpartisan manner. One has only to remember such recent Government officials as John Poindexter, Robert MacFarland, Oliver North, Samuel Pierce, or Rita Lavelle to realize that Federal programs have frequently been administered in a biased and partisan manner. Besides being less than impartial in the administration of government, what all of these individuals have in common is that none of them was covered by the Hatch Act.

Under current law, Cabinet officials, those paid from the appropriation for the Office of the President, and Presidential appointees approved with the advice and consent of the Senate are exempt from coverage under the Hatch Act. It is regular practice for Cabinet officials to solicit political contributions, not only on behalf of congressional candidates, but on behalf of Presidential candidates of the party they serve.

Under H.R. 20, and IRS auditor, though precluded form soliciting funds from any member of the public, may have openly expressed his political views on his own time. Under the Hatch Act, not only may the Secretary of the Treasury actively campaign on behalf of partisan candidates and causes, he may actively solicit campaign funds on behalf of those candidates and causes. If George Bush is concerned that an IRS auditor, known to support a political candidate on his own time, may somehow raise doubts that taxes owed by IBM, for example, may not be properly assessed; how much more damaging to the perception of government integrity is it when the Secretary of the Treasury, who may formally have been the national campaign director in the last election cycle, takes time out from his busy schedule to inform the CEO of IBM that he certainly hopes that the various PAC's associated with that company are in the process of maxing out in the upcoming Presidential election? In light of all that has come out recently, is anyone in this body willing to contend that Samuel Pierce did not sell the programs under his jurisdiction, to the point of destroying those very programs, for partisan interests?

Let me be clear, in my view the Hatch Act, as presently written, is an unwarranted, unconstitutional infringement on the rights of 3 million federal workers. Yet, if it is necessary, as the President has successfully contended, to abridge the first amendment rights of low-level Federal employees in order to protect the integrity of government, then it is even more necessary to impose similar restrictions on those who are not only practiced in the art of direct and indirect political pressure, but have the power to make good on subtle threats, innuendos, and insinuations.

Let me be even blunter. I do not believe that the President was motivated by concerns of government integrity when he vetoed the Hatch Act. As opponents of H.R. 20 repeatedly indicated on the Senate floor, I believe that the President's true concern was that Federal employees would be more active on behalf of Democratic candidates than they would be on behalf of Republican candidates. Therefore, in order to prevent those employees from legitimately expressing their views, in order to muzzle them, the President has vetoed H.R. 20. I believe this because the Hatch Act is not now being enforced in a uniform, consistent, or fair manner.

To give but one example, as Senator PRYOR pointed out during consideration of the override, for $100 one may attend a fundraiser breakfast next Monday in Albuquerque, NM. In return for that $100, one may break bread with, and I quote "the Secretary of Interior and his senior policy staff." The solicitation for this fundraiser lists by name and title the Secretary of Interior and his senior policy staff. One-half of those listed are "hatched" employees. This kind of violation of the Hatch Act occurs regularly and there is absolutely no evidence that any effort is being made by this administration to crack down on it.

But, let's be fair. This kind of violation has always occurred since the Hatch Act was enacted and no administration has even been very religious about cracking down on it. Only when Federal employees are silly enough to publicly run for partisan office or have the temerity to oppose the administration in power is there even a realistic expectation that the Hatch Act might be invoked. I contend that the Hatch Act is administered in a haphazard fashion; that it is used to silence the free expression of views; that it is used far more frequently to further partisan interests than it ever is to protect the integrity of Government programs and that the Bush administration, as have previous administrations, supports current law for just these reasons.

But, I am willing to give this administration the benefit of the doubt. Perhaps the President honestly believes that those citizens employed by the Federal Government must be denied the right to freely partake in the give and take of political debate in order to avoid the appearance of biased enforcement of the law. Maybe he thinks Federal employees must be prohibited from voting in political caucuses, circulating nominating petitions, or partaking in partisan voter registration drives in order that they may not be tempted to misuse their office. But if that is the case for rank-and-file employees, is it not that much more important to the perception of government integrity that the Secretary of Interior not appear to sell grazing rights in return for contributions to a congressional candidate? Is it not that much more imperative the Secretary of Housing be removed from the temptation to let housing grants as political rewards rather than on the basis of need? Is it not that much more essential to make it expressly clear that the National Security Adviser is to uphold the law rather than engaging a massive fundraising drive for the express purpose of subverting that law?

If, as the President contends, the Hatch Act is an important bulwark against politicization of the Government, then clearly it is proper and good that the restrictions of the Hatch Act be extended to those in Government who are under the greatest pressure to engage in partisan mischief, who if they succumb to that pressure can do the greatest damage, and whose actions, like those of Caesar's wife, are most in the public eye. If the Hatch Act is good policy, as this administration has successfully contended, then clearly it is high time that its provisions be as equally applicable to Cabinet members, Presidential appointees, and White House staff as they are to secretaries as in the Department of Education, clerks in post offices, and rangers in our national parks. Therefore, I am introducing this legislation today.

ANNE GENNINGS—A COMMUNITY LEADER

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. BOEHLERT. Mr. Speaker, President Bush frequently refers to "a thousand points of light." People dedicated to community service and caring for others, people who exemplify the greatness that is America. I know such an individual, one whose small town spirit, devotion to family, and true professionlism serve as an example for us all.

This "point of light" who shines so brightly is a long-time friend, Anne Gennings, of Clinton, NY. As food service director for the New Hartford, NY School District, Anne's dedicated and selfless devotion to her career has brought her national recognition. Although the district she works in is not one of the giants, her unique approach to her job has helped give her a high profile in our State, and now in the Nation.

Mrs. Gennings was recently recognized nationally by her colleagues with her election as president of the American School Food Service Association, an organization made up of school food service professionals throughout the United States. Its goal is to exchange ideas among members for the betterment of America's child nutrition programs.

Throughout her 32 years of service, Mrs. Gennings has been an inspiration to the community. Through preparing meals at the Perry Junior High School in New Hartford, orienting kindergarten students to the cafeteria, meeting with student groups or local PTA boards, Mrs. Gennings gets involved in every aspect of the school food service program.

As president of the ASFSA, Mrs. Gennings will go national with her success story at New Hartford. Her "plan of action" focuses on five areas: program excellence, professional development, marketing, organizational development, as well as public policy and legislation. The new president's main goal is to meet the students' needs. As she puts it, "After all, they are our legacy, what we are all about." With Mrs. Gennings at the helm, I expect great things to come for the ASFSA and the Nation's school food programs.

We in central New York are very proud of Anne Gennings, and wish her the best of luck as she enters her presidency of the American School Food Service Association. It will be hard work, but if there is one thing Anne has shown me since I have known her is a unique ability to meet challenges head on and overcome obstacles in her way. I know her husband George, their two sons, Scott and Kurt, their two daughters-in-law, Patty and Cheryl, and three grandchildren, Todd, Patrick, and Ashley, are very proud of and are behind her 100 percent. A team like that is hard to beat.

Individuals like Anne Gennings provide high hopes for the future. We all can learn a lot from her. She proves we are moving from the "me generation" of the 1980's, to the "we generation" of the 1990's. We wish her well.

INVEST IN OUR NATION'S CHILDREN THROUGH IMPROVED CHILD WELFARE SERVICES

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. MATSUI. Mr. Speaker, in recent years, our Nation's child welfare system has become overwhelmed by the increase of drug abuse, alcoholism, child abuse, and poverty that plague communities around the country. Today, I am introducing legislation that will begin to ease this burden.

American families are the backbone of our Nation. It is our responsibility to stand behind the American family with support and compassion—so this institution does not fall apart when times turn tough. That is why I am introducing the Children and Family Services Act of 1990.

Recently, the County Welfare Directors of California released a report that chronicles the importance of investing in services to keep families together. In 1989, there were nearly 80,000 children in California living in out-of-home care. Between 1985 and 1989 the number of children in out-of-home placements increased an astounding 65 percent. Even more significant is the 235-percent jump in the number of babies in foster care.

The report assesses the statewide out-of-home placement trends for children and considers the services and strategies needed to provide real alternatives to out-of-home care. The tragedy of rising numbers of children entering the child welfare system exacts a toll not only in human costs, but in financial terms for the States. The report does give us hope in the successes that have occurred through the use of family preservation techniques.

This legislation would provide for the development of family preservation programs to provide intensive services to families in need. This bill also realizes that the attention paid to these families in need cannot end with these services. This bill would extend AFCD benefits for a short period of time while a child is in foster care and would allow for the early start-up of these services in families where they are working toward reunification.

For those children who must be placed outside their homes, there are provisions that will improve the quality of the care they receive. With more infants being born to substance abusers, it is critical we invest in services that lessen the burden on those who choose to be foster parents or to adopt these special-needs children.

The Children and Family Services Act also would enhance adoption opportunities in the foster care system by expanding Federal assistance for children with special needs. If the child welfare system is to work, services and supports to children and families must be strengthened.

Finally, one of the critical links in the child welfare system is our Nation's social service workers who are on the line daily with the millions of children needing support and assistance. This legislation would invest in improving staff recruitment, retention, and training through providing grants to States and educational institutions to increase the numbers of people going into social services jobs and to provide incentives to keep these people in these jobs.

The Nation's future lies within its children. This legislation begins to invest in those children whose lives are held hostage to poverty, drug abuse, child abuse, and alcoholism by putting forth improvements in the delivery and breadth of services available to our Nation's neediest and most vulnerable population.'

BURNING FLAGS AND WRITING THE NEW CZECH CONSTITUTION

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. FAUNTROY. Mr. Speaker, I wish to submit for the benefit of my colleagues a very thoughtful article written by one of my constituents, Ms. Roslyn Mazer, and published in the June 21 issue of Roll Call.

BURNING FLAGS AND WRITING THE NEW CZECH CONSTITUTION

The early traumas of emerging democracies in Eastern Europe concentrate the mind on the degree to which the American vision of free speech will shape the political and legal debates in those countries.

New constitutions are being written to safeguard the human rights so long denied in these countries, and I have been participating in the deliberations of one of them—Czechoslovakia.

As the House and perhaps the Senate proceed to bring to a floor vote a constitutional amendment authorizing flag-burning crimes, Congress stands, as the Constitution contemplates, at a political crossroads between statemanship and political expedience.

Our new co-venturers in democracy are watching the flag debate closely.

Czechs and Slovaks recently asked a group of American, Western European, and Canadian judges, academics, and practicing lawyers to share their individual experience in attempting to guarantee—through written constitutions, civil codes, or common law regimes—humans rights, and independent judiciary, and a federal structure which accommodates the cultural and political demands of nationalities and ethnic groups.

Of course, Czechoslovakia flourished under a constitutional democracy between the World Wars, but its politicians and judges are now joyfully, if circumspectly, drawing upon the experience of major democracies in delivering on the noble visions of Locke, Rousseau, and Montesquieu.

When an animated debate ensued on protections for freedom of speech, freedom of the press, and freedom of association and assembly, our European cousins frequently chided their American counterparts for being a bit too tolerant of free speech, for having a court system that is a little too accessible to ordinary citizens claiming violations of their rights.

At one point, the debate centered on a proposed constitutional provision empowering the government to outlaw political parties and citizens' groups that appeal to racial hatred or intolerance—even in the absence of lawlessness or breach of the peace.

America stood apart in those debates, dissociating itself from its Western European counterparts which, coming from a more sacral tradition, recognize a legitimate role for government-endorsed symbols and prescribed orthodoxies.

America stood apart in the tradition of Alexander Hamilton, who wrote in the Federalist Papers that the First Amendment might be dangerous by suggesting, through negative implication, that Congress had the pre-existing right to restrain freedom of speech and freedom of the press, when in fact no such right existed.

America stood apart in the tradition of Judge Learned Hand, who rejected "authoritative selection" of ideas by the government; in the tradition of Justice Harlan, who wrote, "we think it is largely because governmental officials cannot make principaled distinctions in this area that the Constitution leaves matters of taste and style so largely to the individual."

American participants challenged the philosophical commitment to free speech of a French judge who argued that liberal societies should simply not tolerate all forms of expression, for if nothing is "unspeakable," nothing is "undo-able."

Governmental restraints on abstract advocacy were justified, in the Frenchman's view, even when there is no threat of violence or lawlessness. A distinguished British academic argued that America is too reliant on its Bill of Rights and its judges in enforcing human rights; in his view, the rights of ethnic groups are better protected through the political process than the courts.

(He was less successful in defending the British government's utter failure to protect the rights of the Catholic minority in Northern Ireland.)

Our recent forum in Czechoslovakia thus made vivid America's commitment to the First Amendment and the rest of the Bill of Rights.

In France, once a law is passed, the constitutional court is not accessible to the complaint of an ordinary citizen who believes his constitutional rights have been violated.

In Great Britain, the hated "D-notices" permit the government to "request" that material which may be damaging to national security not be published, under pain of prosecution. The government and even private parties can secure a "prior restraint" in Great Britain on the publication of potentially embarrassing information. And in many European countries, libel is punished, not by a monetary judgement, but by imprisonment. How does the debate over whether to amend the First Amendment to criminalize flag-burning relate to democracy in Eastern Europe? Sen. Bob Kerrey (D-Neb), the Vietnam war hero from America's heartland, has it right when he says that emerging democracies look to America now to exemplify its historic roots, not for suggesting language to outlaw flag burning.

America is different from other democracies in making the judicial branch the ultimate trustee of our Bill of Rights. The idea was to place certain fundamental rights beyond the reach of ordinary legislation, beyond the passions of the moment.

When history fills in the scorecard of America's legislative, executive, and judicial branches for safeguarding the Bill of Rights, the Supreme Court will take its share of knocks.

During World War I, when nativist sentiment soared, the Court upheld the conviction of Jacob Abrams, who was convicted under the 1918 amendments to the Espionage Act for denouncing the "plutocratic gang in Washington," and for urging workers to "Awake! Rise! Put down your enemy and mine!"

But such decisions were, by and large, aberrations, responding to the perceived threat to national security during wartime.

The Supreme Court has said it cannot square Congress's attempt to outlaw flag desecration with the First Amendment, throwing down the constitutional gauntlet to the legislative and executive branches to do their duty.

Instead of being true to America's ideals, instead of recognizing that one of America's strengths is the tolerance of obnoxious, hateful speech, the President and many in Congress would yield the First Amendment to a few punks who burn flags.

The Great American experiment under the Bill of Rights protects the student wearing an arm band, the Nazi marcher in Skokie, the scathing political cartoonist, the ax-murderer who was illegally searched, and the flag burner who hates the only country that, while holding its collective nose, tolerates his conduct.

Were legalization of such acts put to a popular referendum, they would, of course, fail each and every time. As a constitutional amendment that would uproot a vital anchor of American democracy moves through Congress, the executive and legislative branches of our government may be poised to disserve America, not in a time of war, but when, ironically, America stands at the height of its moral power and influence throughout the world.

PRESERVING THE HISTORY OF THE NORTHWEST

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mrs. UNSOELD. Mr. Speaker, today I am joined by the members of the Washington and Oregon House delegations in sponsoring legislation to establish a Vancouver National Historical Reserve. A companion measure is being introduced in the other body today by Washington Senators BROCK ADAMS and SLADE GORTON.

Vancouver has a cluster of historic gems that chronicle important stages in the settlement and development of the Northwest. At the moment, they are underappreciated and lack the kind of coordinated management and restoration that could make them the premier showcase of Northwest history. Unless we act quickly to preserve and coordinate the management of these historic assets, the opportunity will be lost.

Vancouver's historic area contains five principal sites under various ownership and management:

Fort Vancouver: The fort included the Hudson's Bay Co. trading post and was the center of British-American competition for the Northwest. Already recognized as a National Historic Site, Fort Vancouver is ably managed by the National Park Service.

Vancouver Barracks: Originally established to counter British influence the United States Army has maintained a continuous presence at the barracks since the 1840's. Reductions in force levels at the barracks have left historic structures—for example, the chapel and NCO Club—empty and deteriorating.

Officers Row: Recently acquired and restored by the city, the 21 elegant houses on the row were part of the barracks and housed some of our Nation's military leaders for over 100 years.

Pearson Airpark: Managed by the city, Pearson is the oldest operating airport in the country. It was an early Army airfield and the site of several aviation firsts, including the landing of Valeri Chkalov, the "Soviet Lindberg," after his 1937 transpolar flight. Pearson is the site of a new and growing aviation museum.

Waterfront Park: The site of shipbuilding and historic landings by explorers and settlers, the waterfront provides unique opportunities for public access to the Columbia River, as well as natural and historic interpretation. Ideally, the waterfront will be incorporated into a countywide systems of trails.

These sites represent the sweep of Northwest history. If management and restoration of these historic assets can be coordinated and harmonized, we will have a historic area of greater value than the sum of its parts. Add to this easy access to I-5 and SR14, and we have the potential for a world-class attraction.

This legislation will help to create a partnership among the major stakeholders: The city, the Park Service, the Army, the county, and the State. Working together through a cooperative management plan, the partners would coordinate management, planning, and restoration projects within the Vancouver National Historical Reserve and allow for the pooling of resources on joint ventures. Pearson Airpark would get a new lease on life in exchange for a package of mitigation and historic restoration. The legislation would also promote education, with an emphasis on historic and natural resources, and research at the reserve.

Designating the area a National Historical Reserve will further highlight Vancouver's role in the region's past. More important, the legislation will help harmonize the management of several historic assets—before they are lost—that represent some of the Northwest's most important and colorful history. With vision and united action, we can seize this historic opportunity.

Mr. Speaker, I am grateful for the support of the Northwest congressional delegation and would urge the rest of my colleagues to join us in advancing this important legislation.

UNIVERSITY OF FLORIDA SCIENTISTS TO AID CHERNOBYL VICTIMS

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. STEARNS. Mr. Speaker, there is an old saying that you learn something new everday. I've found that especially true as a Member of Congress representing one of America's most outstanding universities—the University of Florida.

Whether it be biotechnology, engineering, business, journalism, or any number of fields,

the University of Florida almost always ranks near the top.

Just recently, I came across an article from the Gainesville Sun describing how researchers from University of Florida's Institute of Food and Agricultural Sciences are helping treat thousands of victims of the Chernobyl nuclear disaster. The results of their work could prepare the United States for a similar catastrophe.

I would like to take this opportunity to submit for the RECORD a copy of that article and encourage all my colleagues to read it. Working with an institution like the University of Florida makes my job as a Member of Congress that much more exciting.

[From the Gainesville (FL) Sun, June 1, 1990]

UF SCIENTISTS TO AID CHERNOBYL VICTIMS

(By Joseph Kays)

University of Florida researchers will help treat thousands of victims of the Chernobyl nuclear disaster in a study whose results could prepare the United States for a similar nuclear catastrophe.

Researchers from UF's Institute of Food and Agricultural Sciences are helping their Ukrainian colleagues develop a process for extracting pectin from sugar beets, said Donald Price, vice president for sponsored research.

Doctors from the university's Health Science Center will help determine how much of the pectin is needed to rid the body of heavy metals left behind by the nuclear accident.

"We are very fortunate not to have this problem now," Price said, "but we could. This collaboration will serve as a giant clinical study on the effectiveness of pectin in treating these illnesses."

Pectin is a carbohydrate normally extracted from citrus and apples and used in jams, jellies and candles. UF researchers patented a process last year to extract pectin from sugar beets, which are plentiful in the Soviet Union, Price said.

Thousands, and perhaps even millions, of Soviet citizens have dangerously high levels of metals such as uranium in their bodies. The metals were introduced into the air, water and food chain during the April 1986 explosion at the Chernobyl nuclear power plant 80 miles north of Kiev, said Kenneth Finger, UF vice president of health affairs.

Pectin attracts these metals as they travel through the intestinal tract and removes them from the body, Finger said. UF doctors will work with the Soviets to determine the proper dosage of pectin and if mixing the pectin with other chemicals increases its effectiveness, he added.

Finger said damage to internal organs and respiratory problems are examples of damage done by radiation poisoning.

UF, in conjunction with Gulf Machinery Co. in Safety Harbor, and a Soviet research agency called SPEKTR, will help design five pectin processing plants, Price said. UF materials science engineers will also help the Soviets develop higher-quality, more corrosion-resistant metals for the plants.

Price, Finger and James Davidson, dean of research at IFAS, just returned from an eight-day trip to Kiev, where they pledged UF's cooperation.

FARM BUREAU LEADER ENDORSES ZERO INFLATION

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. NEAL of North Carolina. Mr. Speaker, the president of the American Farm Bureau Federation, Mr. Dean Kleckner, recently gave a strong endorsement to House Joint Resolution 409, which would establish zero inflation as our national policy.

Testifying before the Banking Subcommittee on Domestic Monetary Policy, Mr. Kleckner noted that achieving zero inflation would help American farmers immensely by lowering interest rates and stabilizing prices.

House Joint Resolution 409, which I introduced last year, would have the Federal Reserve bring inflation down from the current 4 to 5 percent a year to zero—approximately—over the next 5 years.

Mr. Kleckner estimated that U.S. farmers and ranchers could save up to $8 billion a year in interest on their $140 billion of debt if we reached zero inflation, as provided in House Joint Resolution 409. For each 1 percent drop in interest rates, he calculated, farmers would save $1.4 billion a year.

If farmers didn't have to worry about inflation, Mr. Kleckner said, they could make long-range plans for investments, borrowing, marketing and retirement with far less risk and uncertainty. That would be a blessing, he said, to farmers who went through the financial wringer of 1970's inflation and 1980's recession and have yet recover fully.

Mr. Kleckner agrees with me that we should not tolerate the current inflation rate. "Just because inflation has stabilized at 4 to 5 percent is no indication that it can be held there long-term," he said. "* * * Will the Fed lean toward lower inflation or are we on another balloon ride up? House Joint Resolution 409 directs the Fed to lower inflation. That's good news for farmers and other members of the productive sectors of the economy."

Since I introduced House Joint Resolution 409, it has been endorsed by Federal Reserve Chairman Alan Greenspan, by the 12 regional Reserve Bank presidents, by 2 Nobel Prize-winning economists, and by 2 former chairmen of the President's Council of Economic Advisers, among others.

The passage of House Joint Resolution 409 could bring us the lowest interest rates since the 1950's, and could create conditions promoting the maximum sustainable economic growth, employment, savings, investment, productivity, and competition.

There would be some temporary economic costs as we reached zero inflation, but it's likely we could do it with an economy growing about like today's: not booming, but not bad. Once zero inflation—price stability—was achieved, we could have unprecedented growth and opportunity.

Mr. Kleckner, who heads the Nation's largest farm organization, analyzed these issues especially well in his testimony on May 9. Mr. Speaker, I include Mr. Kleckner's testimony in the RECORD so that our colleagues may have the benefit of his views. The testimony follows:

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION, MAY 9, 1990

I am Dean Kleckner, a corn, soybean and hog producer from Rudd, Iowa, and President of the American Farm Bureau Federaton. The Farm Bureau is the nation's largest farm organization, representing farmers and ranchers from all sections of the country that produce all type of products.

I am particularly pleased to appear before this Subcommittee in support of H.J. Res. 409. Monetary policy is one of the most important macro economic issues that establishes the economic framework within which farmers and ranchers operate. Since we don't control monetary policy, we must understand the effects of monetary policy and factor those into our production and investment decision making.

Farmers and ranchers are well aware of the misinvestment that occurs when an inflationary monetary policy leads to rapidly rising nominal prices. The inflationary monetary policy of the late 1960s and the 1970s led many farmers and ranchers, me included, to pay more for assets than those assets would earn during less inflationary times. Some of us were fortunate in that the high-priced assets were a relatively small portion of our total asset mix and we survived the adjustments of the 1980s. Others were less fortunate and were caught short when the inflationary bubble of the 1970s burst with the change in monetary policy that began in the fall of 1979 and continued for all of the 1980s.

We can do nothing about the past, but we can help shape future monetary policy. Farm Bureau policy is very specific on what that policy should be:

"The goal of monetary policy should be general price level stability. The Federal Reserve System should conduct a sustained, long-term monetary policy which will minimize inflation and deflation of prices."

In early 1986 I appointed a farm income study committee composed of 22 State Farm Bureau leaders. The study committee spent a year looking at issues that impact farm income and made 66 specific public policy recommendations. One of the recommendations addressed monetary policy:

"Farmers and ranchers should advocate a monetary policy that promotes long-term economic growth. Farmers need a stable economic environment for long-term planning. A stable monetary policy will promote strong long-term economic growth by minimizing misinvestment that is associated with inflation. This policy would minimize economic variability (recessions and inflation) for the United Sates and the world."

H.J. Res. 409 appears to be an important step in implementing the type of monetary policy that Farm Bureau policy supports. The resolution directs the Federal Open Market Committee of the Federal Reserve System to adopt and pursue monetary policies leading to, and then maintaining, zero inflation. That would be a substantial change from the current situation of trying to guess what the goals of Fed policy are and how aggressively they are pursuing those goals. Farmers and ranchers have to make day-to-day investment, production and marketing decisions while trying to guess what the Fed is doing. If the Fed is pursuing a policy of lowering inflation, farmers and ranchers should take different actions than if the goal is lowering the value

of the dollar versus other currencies or trying to avoid a recession.

This legislation would address a key point of the public policy debate about monetary policy. One group of people argues that monetary policy can affect the long-term output of goods and services and the use of resources, including labor. Another group argues that monetary policy should focus solely on price stability and let federal government fiscal policy, trade policy, labor policy, etc., deal with the issue of full use of resources. Farm Bureau policy clearly supports the position of the second group, and we reject the use of monetary policy to "fine tune" the economy in an attempt to pursue other macro policy goals that it clearly is incapable of achieving.

Establishing one clear policy goal for the Federal Reserve will reduce the uncertainties for all participants in the productive sector, both in this country and the rest of the world. There would be the usual disagreements over which policies would best achieve the goal, but there would be no dispute over the goal of the policies.

Just how the goal is to be achieved is left to the discretion of the Federal Reserve. That is the way it should be. Congress should set the goal and hold the Fed accountable, but the day-to-day decisions on the operation of policy to achieve the goals should remain the responsibility of the Fed. Farm Bureau policy favors an independent board of governors of the Federal Reserve System.

Reducing inflation gradually over the next five years is the proper approach. Those of us in agriculture know what it is like to be caught in sudden and sharp changes in economic policy. Long-term investment plans cannot be reversed in six months. Producers can make gradual adjustments over time. With the direction of policy clearly established, farmers and ranchers can make long-range plans.

The resolution states that, "inflation will be deemed to be eliminated when the expected rate of change in the general level of prices ceases to be a factor in individual and business decison making." That gets to the heart of the issue. There is no more vexing an issue for farmers and ranchers than trying to estimate the impact of future inflation rates on the productive value of an asset, the collateral value of the asset for borrowing purposes, yearly cash flow from the asset and the interest cost of borrowing money to purchase the asset. Pursuing this "real world" definition of the elimination of inflation will help to ensure that monetary policy is rooted in the productive sectors of the economy.

Farmers and ranchers would see both immediate and long-term benefits from this delineation of a clear monetary policy goal. Interest rates would decline as the inflation premium and policy uncertainty premium were squeezed out of interest rates. The tax premium would also go down as the nominal interest rates declined. Debt held by production agriculture is now about $140 billion. Each one percentage point decline in the average interest rate paid means a $1.4 billion reduction in yearly interest costs for farmers and ranchers. This would be particularly helpful to younger producers who often have higher debt loads as they build a profitable farming business.

Some policy makers argue that the current level of inflation, 4-5 percent per year, is considered as price stability by many people. Some may consider it as price stability, but it clearly is not. At this rate, prices will double in roughly 15 years. The market has built that 4-5 percent inflation into the nominal interest rate. Since savers pay taxes on nominal interest rates, the tax premium is also higher than it would be with zero inflation. Thus, farmers are paying 5-6 percentage points more in interest than they would in a zero inflation environment. With $140 billion of debt, that is $7-$8 billion more in interest expense than they would have with zero inflation. In addition, they must guess if land prices will increase at the same rate as the overall in price level, at a faster rate or at a slower rate. That additional interest expense and asset price uncertainty is not conducive for long-term planning for agriculture. Based on my experience while serving on the National Economic Commission, the same is true for other industries.

Just because inflation has stabilized at 4-5 percent is no indication that it can be held there long term. My reading of history is that inflation at some level, be it 5 percent, 10 percent, 85 percent, or some other level, is not sustainable long term. Either the monetary authorities allow inflation to continue to move higher or they squeeze it lower. There is no middle ground. Much of the uncertainty in the financial markets now is over that very point. Will the Fed lean towards lower inflation or are we on another ballon ride up? H.J. Res. 409 directs the Fed toward lower inflation. That's good news for farmers and other members of the productive sectors of the economy.

Farmers and ranchers are also impaired by the distortions that inflation makes in taxation, particularly with respect to capital gains. As you well know, the indexation of capital gains is one of the issues associated with potential changes in the capital gains tax. We often pay taxes on what are simply inflation adjustments in the nominal value of assets. There is no real gain, yet 28 percent of the inflation gain is taxed away. Eliminating inflation would remove this distortion.

Farmers and ranchers are also effected by the impact of monetary policy on the value of the U.S. dollar versus other currencies traded in world markets. Changes in the inflation rate and real and nominal interest rates affect the value of currencies. The markets sort out these differences so that over a period of several years currency values are kept in line, but substantial short-term distortions develop. Farmers and ranchers are constantly producing products. We don't have the luxury of not selling for a year or two while relative currency values are unfavorable. Also, when currencies are out of line, producers in other countries can have an artificial advantage over U.S. producers. Elimination of inflation and the distortions it causes in interest rates and currency values would reduce the uncertainities that farmers and ranchers face in the market place.

In the longer term, agricultural producers would benefit from stronger markets for their products and from not having to worry about inflation distorting investment decisions and interest rates. It would also make planning for retirement much easier.

The shift in monetary policy to achieve the goal of zero inflation will cause financial problems for some individuals and companies. We in agriculture know the cost of adjusting from 12 percent inflation to 4 percent. Given the much smaller gap to be closed and the five-year time frame, that adjustments should be substantially less.

Whatever the short-term adjustment cost is, it should not deter us from the task. As I stated earlier, my understanding of history is that 4-5 percent inflation cannot be sustained long term. We must either move towards lower inflation or higher inflation. If we move to higher inflation and then try to reverse course, the cost of adjustment will be even larger and more painful.

This is particularly important for agriculture. Agriculture went through the financial wringer in the 1980s when the worldwide bubble was burst. While U.S. agriculture still has some problems, we have stabilized at a better position than could have been hoped for just four or five years ago. Farmers and ranchers, particularly those who are young and middle aged, had to put off investments decisions due to the problems of the 1980s. They are now considering long-term production and investment decisions. They need to know right now what the long-term monetary policy will be during the 1990s.

If the Federal Reserve is going to let inflation accelerate, farmers and ranchers need to buy assets now and lock in fixed rate financing because they will not get better deals than those right now. If the Federal Reserve is going to pursue policies as proposed in your legislation, then that would not be a wise course.

I do not want to appear unduly impatient, but the meter is running. Farmers and ranchers have to make decisions and need to know which way monetary policy will go in coming years. Anything you can do to bring this decision to an early conclusion will be appreciated.

While this hearing was called to deal with monetary policy and H.J. Res. 409, I am compelled to comment just briefly on macro economic policy. As I said earlier, monetary policy should focus on stabilizing the general price level. Other policies, like tax policy, fiscal policy, trade policy, regulatory policy, should deal with economic growth. As noted by many of those who have appeared before this Subcommittee, a gradual reduction of the inflation rate as proposed by H.J. Res. 409 will cause some economic dislocations for those who have operated on the assumption of a different monetary policy. To the extend that the other portions of macro economic policy are flexible and market driven, they will help this adjustment process. To the extent that this Subcommittee can encourage these other adjustments, they will complement monetary policy.

H.J. Res. 409 will not solve all the problems inherent in monetary policy, but it is a necessary first step in establishing a sound monetary policy. Farm Bureau leaders use a common sense approach to public policy that starts with a simple idea—"If you want to get out of a policy hole, the first thing you have to do is quit digging it deeper." That's what this resolution does and why Farm Bureau is happy to testify today in support of it.

Until there is a clear mandate for the policy direction of the Fed, there will continue to be the pulling and tugging between Congress, the White House and the Fed. This dissension benefits none of us. In fact it comes at great cost in terms of lost economic opportunity and internation competitiveness. It seems to me that once the role of the Fed is clearly defined, then Congress and the White House will no longer have the Fed to blame and can, in turn, be forced to face up to their fiscal responsibilities.

Thank you for inviting me to testify, and I will be happy to take any questions you may have.

BRUTALITY AND REPRESSION MARS INAUGURATION OF ROMANIAN PRESIDENT

HON. DOUG BEREUTER
OF NEBRASKA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. BEREUTER. Mr. Speaker, the democratization process that has taken place in Eastern and Central Europe suffered a major setback last week in Romania. In the weeks following the election of Ion Iliescu, a former high-ranking Communist official, to be President of Romania, this country has been rocked by violence and repression. There are increasing signs of the new regime relying on terror and repression to quash dissent.

Last week, the Romanian President-elect called out the police and miners from western Romania to break up a peaceful group of anti-Government protesters. The miners subsequently brutally attacked anyone suspected of being a Government critic, and ransacked the offices of opposition parties and independent newspapers. In the aftermath, a number of student protestors and opposition leaders have been arrested on charges of instigating violence.

Mr. Speaker, the Romanian people have demonstrated that their desire to live under a democratic system. Last December hundreds, perhaps thousands, of Romanians died in an effort to secure that right. But the new Iliescu government, while employing the rhetoric of democracy, has sought to consolidate power through violent, nondemocratic means.

The Bush administration, to its credit, wasted no time in condemning this outrage. As soon as Iliescu began his campaign of repression, the United States joined with many Western European nations in suspending nonhumanitarian economic support assistance. Such an action lets the Romanian leadership know there is a price to pay for a return to authoritarianism.

In addition, U.S. Ambassador Alan J. Green boycotted this week's Presidential inauguration ceremony as a demonstration of U.S. strong displeasure. This Member regrets the fact that other western democracies didn't also boycott the inauguration. We should stand together in condemning this continuing tyranny in Romania.

Mr. Speaker, as the vice chairman of the Human Rights Subcommittee of the House Foreign Affairs Committee, this Member commends President Bush and Secretary Baker for their strong and forceful response to events in Romania. A message needed to be sent that the United States and the American people abhor this repression, intimidation, and violence in Romania and we will as a government and people use what leverage we possess to see that it ends. The administration's action and statement sent that message to the Romanian Government; our allies should join us.

THE FOLLY OF MOUSE HYSTERIA

HON. PHILIP M. CRANE
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. CRANE. Mr. Speaker, since the 1950's the United States has been engaged in a regulatory war to rid our society of all carcinogens. To most Americans the word "carcinogen" invokes images of harmful manmade chemicals, even though natural substances including table pepper, mushrooms, and peanuts contain chemicals that cause cancer in mice. In her article "The Folly of Mouse Hysteria," Mr. Elizabeth M. Whelan urges that we must use common sense in evaluating biomedical research. She further points out that money spent on research to identify carcinogens might be more productively spent on programs such as ones which help people stop smoking. I urge my colleagues to consider this article which offers practical advice on cancer prevention.

THE FOLLY OF MOUSE HYSTERIA

(By Elizabeth M. Whelan, ScD, MPH)

The spring of 1989 will long be remembered for Alarmania: the fear that gripped the nation after "60 Minutes" released an environmental group's report claiming that children risked developing cancer because the U.S apple crop was sprayed with a carcinogen.

Apple products were destroyed, and schools temporarily banned the fruit in all its various configurations. A wire service carried a story about a mother in upstate New York who, having heard on the news that apples cause cancer, called the state police and had their child's school bus intercepted so that an apple could be removed from the child's lunch box. Johnny Carson complained that the Surgeon General wanted people to have safe sex but that he couldn't even find a safe snack.

Most people were unaware of a similar scare that swept the nation 30 years before. In the fall of 1959, Arthur S. Flemming, secretary of health, educational and welfare, announced that the U.S. cranberry crop was contaminated with a carcinogen. As a result, millions of Thanksgiving dinners were eaten that year sans the traditional sauce.

These two incidents—and others involving cyclamates, nitrites, saccharin, hair dyes and pesticides—have two things in common: rodents, and the regulatory straightjacket which declares that any chemical causing cancer in a laboratory in any dose is a cancer risk to humans and must be purged—at any cost.

The mouse-to-man extrapolation is an essential weapon in the arsenal of those who seek to terrify us about food additives, pesticides and other common trace-level chemicals. The word "carcinogen" has been used so liberally that many Americans probably believe that we are surrounded by cancer-causing agents produced by American industry and that we must regulate these "bad apples" out of existence.

The time has come for us to recognize that "mouse terrorism" poses a serious problem in terms of maintaining both our high standard of living and our enviable state of good health.

The scientific justification for the mouse-man extrapolation was weak when it first surfaced in 1958, the year Congress passed the so-called Delaney Clause, which required that a food additive be banned if it caused cancer when ingested by any animal in any dose. The Delaney concept later metastasized to the regulation of non-food items, launching a carcinogen witch hunt.

In the 1950s, it was assumed that the few carcinogens in the universe needed to be eliminated, that all carcinogens were manmade and that removing carcinogens would diminish the cancer toll in this country.

These theories have since been shown to be without merit. Carcinogens abound: Two-thirds of all industrial chemicals that have been tested caused cancer in some circumstances in laboratory animals; natural substances including table pepper, mushrooms and peanuts contain chemicals that cause cancer in mice; and research has revealed that smoking and overexposure to sunlight are among the real causes of cancer. No textbook gives any serious attention to trace levels of chemicals as a cause of human cancer.

If we proceed with regulatory efforts based on the assumption that a mouse is a miniature man, we are going to have very little left to eat. For example, we risk banning most pesticides, which would have a devastating effect on the quantity, quality and price of produce.

Animals are essential in biomedical research, but so is common sense. Ironically, we exhibit sound judgment concerning human carcinogens. We don't demand zero exposure to sunlight and radiation just because they can cause skin cancer and leukemia, respectively.

Instead, we use prudence. Interestingly, we do the same in regulating natural chemicals that cause cancer in some animals. For example, the Food and Drug Administration has set tolerances for aflatoxins—naturally produced substances formed by mold on peanuts, corn and other products.

The Alar fiasco cost the United States hundreds of millions of dollars in toxicological studies, crop losses and direct taxpayer subsidies to farmers. This "investment" probably won't thwart a single case of cancer. On the other hand, the same amount of money spent to help people stop smoking cigarettes would contribute enormously to cancer prevention.

How should we respond to the emotional plea of a mother who argues, "If there is even a possibility that the mouse data are relevant to my child, I think we should eliminate . . ."? You fill in the carcinogen of the month. Here is my rejoinder:

We have excelled as an industrialized country because we favor science over superstition.

There is no evidence that trace levels of chemicals cause cancer in humans—even though huge doses might increase the risk of cancer in mice.

Cancer rates—with the exception of those for lung cancer and melanoma, which are caused by smoking and overexposure to sunlight, respectively—have stabilized or declined since we dramatically increased the use of agricultural chemicals after World War II.

Chemicals that cause cancer in animals abound in nature. If we were to ban all mouse carcinogens based on the just-in-case theory, we would suffer shortages in all consumer products without improving the health of children or adults.

Federal standards set overly cautious tolerances for residues of pesticides in foods. Ironically, recent government surveys found

that most fruits and vegetables have no measurable pesticide residues.

There are real health risks associated with focusing on non-risks. During the Alar scare, children asked me why they should worry about cigarettes when apples cause cancer.

If you love your child, avoid the pitfalls of the latest mouse scare. Instead, emphasize the dangers of smoking, alcohol abuse and drug use and the importance of buckling seat belts and wearing helmets while riding bicycles. Check the battery in your smoke detector and offer thanks for the quality and quantity of our nation's bounty of food, our enviable standard of living and our associated state of good health.

ALICE IN THE MIDDLE EAST—THE PLO AND TERRORISM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. LANTOS. Mr. Speaker, those of us who are deeply concerned with our Nation's policy in the Middle East were cheered by the decision announced yesterday by the President to suspend dialog with the PLO. That decision was made in the aftermath of a Palestinian terrorist attack on an Israeli beach. PLO Chairman Yasser Arafat refused to condemn that terrorist attack unequivocally, and he refused to discipline Abu Abbas and the PFLP faction which planned and carried out that attack.

While the administration's decision to cease talks with the PLO is most welcome, extremely serious and troubling questions remain.

The initial decision to proceed with PLO talks was made after Yasser Arafat uttered a ritual incantation about terrorism, which the administration then pronounced to be a renunciation of terrorism. For the past 18 months, the administration has maintained the fiction that the PLO had abandoned terrorism.

Just days before the blatant terrorist incident that prompted the administration—after considerable handwringing and delay—to suspend the PLO dialog, the State Department released a report, "Patterns of Global Terrorism," which pronounced that the PLO was not engaging in terrorism.

The State Department report is a whitewash. If the subject were not as serious as it is, this State Department report on terrorism would be the best comedy show in town. "Alice in Wonderland" is a scientific research document compared to the State Department report on terrorism.

The State Department report reveals—and recent events confirm—that Yasser Arafat has schizophrenic power. He has no power to control terrorist acts. He has no power to calm down and restrain individuals or his own constituent groups. But he has enormous power to whip up the sentiments of war.

After the tragic shootings of Palestinians by a deranged man, Arafat and others tied the Government of Israel to the act of a single deranged murderer. This would be analogous, Mr. Speaker, to blaming President Bush for the isolated act of the deranged man who murdered 11 people in Florida earlier this week. The responses of Arafat and irresponsible Arab leaders to this tragic incident in Israel have done far more to undermine the peace process than anybody else has done in years.

Mr. Speaker, the administration's decision to suspend PLO talks was the right decision—but it should have been done long ago. The uncertainty, the delay, the reluctance of the administration to take this action—which has been warranted for the past year—suggest that at the next available opportunity the administration will resume the dialog. Those of us who care about the integrity and the efficacy of the peace process in the Middle East must oppose any such efforts.

Mr. Speaker, to give my colleagues a flavor of the State Department's contortions in declaring that the PLO did not support terrorism, I would like to place in the RECORD a brief exchange that took place recently at the hearing held by the Subcommittee on Europe and the Middle East to consider the State Department's report on terrorism.

EXCHANGE WITH MR. JOHN H. KELLY, ASSISTANT SECRETARY OF STATE FOR THE NEAR EAST AND SOUTH ASIA AT THE HEARING OF THE SUBCOMMITTEE ON EUROPE AND THE MIDDLE EAST, MAY 24, 1990

Mr. LANTOS. If there is an attempt by a terrorist group to attack a purely civilian target like a kindergarten—does the State Department definition of civilian targets include kindergartens?

Mr. KELLY. Yes.

Mr. LANTOS. I just want to be sure that we are using the same definition. So we have now defined a kindergarten as a civilian target. Let us assume that a terrorist group has a premeditated plan, as in fact several PLO terrorist groups have had over the years, as you well know. Are you aware, Mr. Kelly, of attacks at children's homes by terrorists groups in Israel?

Mr. KELLY. I am.

Mr. LANTOS. So this is not a fanciful example. If a terrorist group has a premeditated plan to attack a kindergarten and Israeli troops prevent this outrage from unfolding, and they intercept the terrorist group and prevent the terrorist group from machinegunning children, under your definition clearly this is not a terrorist attack because the children were not killed.

Now no one in his right mind can truly believe that this is a rational definition of terrorism by the major democratic nation on the face of this planet. But let me give you a purely military example. Our distinguished chairman and I and other colleagues visited our troops at Beirut Airport shortly before they were blown up. Now there was no kindergarten there. They were just American soldiers, and they were all killed. Was that a terrorist attack in your judgment, Mr. Kelly?

Mr. KELLY. Yes, indeed.

Mr. LANTOS. Well, is it not time then, as a responsible official in the State Department, that you advocate the changing of this idiotic definition rather than keep repeating it. It is obvious to everybody who has eyes and ears that there is a series of terrorist attacks which the State Department attempts to sweep under the rug.

Let me quote from your report: "Since December 1988," you say, "there have been almost 30 border and rocket attacks by Palestinian groups against Israel, at least nine of which have involved constituent groups of the PLO." In most cases—and follow me closely now, I am quoting from your report—"the intended target of the attack was unclear."

Well, was the intended target of the attack the Vienna Boy's Choir, was the intended target of the attack the Bolshoi Ballet, was it the Congressional Women's Caucus? No. The intended targets were targets within Israel—children, women, communities, kindergartens. Those were the intended targets. Those intended targets are clear to everybody except to the authors of this report. That is why I believe that this report is a shameless whitewash.

And the inability of the Assistant Secretary to define terrorism—when our fight against terrorism is one of the cornerstones of our foreign policy—is absolutely unbelievable. We do not want you to make a judgment case by case, because we do not trust your judgment. We want you to have criteria that rational people can apply without your judgment. Your judgment has proven flawed because you say we do not know the intended targets of unquestionably terrorist attacks.

You say in the three incidents in Israel that "civilians appeared to be the target." Well, let me tell you why they appeared to be the target. This is what the PLO group that perpetrated the terrorist attacks against civilians said. I am quoting from the report about the Democratic Front for the Liberation of Palestine—which is about as democratic as the Kremlin was under Stalin: "The Democratic Front for the Liberation of Palestine has claimed responsibility for the operation. A spokesman for the Front said that a Fedayeen group from the unit carried out Operation Holy Jerusalem No. 2 along the road leading to the Zionist settlement of Zarit." Well, the "Zionist settlement of Zarit" is made up of children and women and farmers. So you do not have to say that it appears to be an attack against a civilian target, but they say so! They named the settlement, and they named the place where the kindergarten is. But you have not made up your mind as to whether that is a terrorist attack or not. Was that a terrorist act?

Mr. KELLY. I believe it was, yes.

Mr. ACKERMAN. Why is that not listed in your report if that was a terrorist attack. I see nine things listed, but this act of terrorism is not among them, or can you find a definition that would now preclude it?

Mr. KELLY. Congressman, I am advised that this was an ex post facto assertion by the PFLP, and that the information—

Mr. LANTOS. Well, that is good enough for me. That after the terrorist attack they claimed responsibility for it. The CIA puts out this chart saying Palestinian organizations, and on the left it says PLO member groups. And this is one of the PLO member groups. This PLO member group claims that its terrorists were on their way to a civilian settlement—presumably not to play chamber music. And on the way to the settlement, they are intercepted and killed. Is that not a terrorist act, or explain to me under what definition that this is not a terrorist act?

Mr. KELLY. The assertion by the PFLP was that they were heading for a settlement, which would imply a non-combatant target. Which would imply to me based on that assertion alone that it was an attempted terrorist attack. The people who evaluated the incident determined that, based on the available evidence, the target was unclear.

Mr. LANTOS. Well, unless they are deranged, the target is not unclear. They were

headed in that direction, and their statement claims that they were headed in that direction, and they were killed on their way to that civilian settlement. So why was it unclear?

LEXINGTON, MO, GETS NEW TOURIST ATTRACTION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. SKELTON. Mr. Speaker, on June 10, 1990, I had the opportunity to make the dedication address of the 1830 Log House Museum in my hometown of Lexington, MO. Lexington, located 39 miles east of Kansas City on Highway 24, has many tourist attractions and hundreds of people from around the country, as well as other countries, visit there each year. This new log house is an added atrraction which will be of great interest to visitors who come to Lexington. My address at the dedication is as follows:

This is a great day for Lexington. This is a great day for Missouri.

Five years ago, this log house was discovered on the inner frames of a house on Highland Avenue. It could have been demolished and its structure banished to the trash heap, and few would have know the difference. Fortunately, however, the sense of history, prevalent in our community, caused Lexingtonians to launch a project that would preserve this cabin for future generations. I congratulate you for your foresight and determination to make today a reality.

We have a special word of appreciation for Marilou Edwards, who has been the moving force behind this historic landmark, Alta and a Bob Smith, United Telephone, Boatman's Bank, the City of Lexington, the Old Homes Town Association, the Lexington Historical Committee and Roger Slusher, its president.

We stand here today, ironically only a few hundred feet from the Pioneer Mother monument, for it was those pioneers who built this house and first lived in it only nine years after Missouri was admitted to the Union and only eight years after the founding of Lexington.

Our hometown of Lexington has a fascinating history. In the early years of statehood, Lexington was the largest town in Western Missouri. It was a river town; it was a place to outfit for the arduous overload trips to Santa Fe and the Oregon Territory; it was the home of Russell Majors and Waddell; it was the site of rope factories; it was where stately homes were built. Later, Lexington was the scene of a battle between the North and the South, which today is evident by our cannonball damaged courthouse and trench marked battlefield. Lexington became the home of Wentworth Military Academy, a school that has nurtured young leaders for 110 years. The wording of God continues in churches built well over a century ago. Lexington truly has a history that reflects the opening of the West and of early American values.

And, today, we have a home from out of the past, an 1830 log cabin.

1830, Andrew Jackson of Tennessee was president; John Miller of Cooper County was governor. Babies born that year were to be involved in the tragic War Between the States some 31 years later. America was a young nation, our Constitution being only 43 years in existence and George Washington's victory over Cornwallis at Yorktown, Virginia, having taken place only 49 years earlier.

1830, Lexington was a growing town. The streets were filled with oxen drawn wagons, horse drawn buggies, men on horseback, and women in full and flowing skirts. Residents anxiously awaited the coming of riverboats. Many said their goodbyes to civilization here as they began their westward journey to unknown adventures and dangers.

1830, Lexington was the hub of the Westward movement which, historian Frederick Jackson Turner, wrote made our country so unique among nations. The pioneers' spirit was the essence of early Lexington. It is pride in this pioneer spirit that caused these determined Lexingtonians of today to save and preserve this landmark of history. Our forefathers would undoubtedly be pleased with these successful efforts.

On the front of the National Archives in Washington, D.C. is the inscription: "What is past is prologue," from Shakespeare's, "The Tempest." These words remind us that we should learn from the past. The study of history and the events that shaped our country are so important for us today. Only through the study of our history can we use earlier experiences to form judgments, values, and decisions for today. Though we should not live in the past, we can most certainly learn from it.

From the presence of this cabin, inspiration and knowledge of yesterday can help light the path of our efforts today.

What you have done here, in making this cabin a reflection of how Lexington of yesteryear lived, will be instructive to Americans and Missourians of all ages. A youngster of school age can witness firsthand "how things were" and gain admiration for those who went before.

Tourism is a growing industry. Fortunate are those communities that have attractions that draw people from other states and other countries.

Our town, with its rich history spanning 178 years is such a place. A visitor to Lexington will gain an appreciation of what makes America as any community in this country.

The opening of this historic cabin will add to the understanding of what went before. Thanks to your resourceful efforts, generations yet unborn will be beneficiaries of your endeavors.

Lexington is my home, and I am always proud to claim it. Today, you give me added pride when I say I am a Lexingtonian.

Thank you. Congratulations. God bless you.

NEW INITIATIVES OF OPIC

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. LAGOMARSINO. Mr. Speaker, around the world we are witnessing historic progress in the struggle of people who have been denied liberty and opportunity for greater economic and political freedom. From the working men and women of Eastern Europe to Central America, people are seeking a free market system so they can secure for themselves the blessings of liberty and democracy.

While U.S. support for the developing world and the newly emerging democracies has taken many forms, no program is more important to encouraging privatization and private sector growth than that of the Overseas Private Investment Corporation.

President Bush recently described OPIC in an address to the U.S. Chamber of Commerce. He said, "OPIC is an important tool in America's overall approach to help the world's emerging democracies help themselves." Wherever U.S. private investment will promote economic recovery and advance U.S. policy, OPIC can produce that investment no matter how difficult the business climate. OPIC does all this on a self-sustaining basis without appropriated dollars. Its investment insurance and guaranty program is the lowest risk contingent liability program we have to promote U.S. business, and OPIC's excellent record of minimal losses reflects the aggressive but financially conservative approach at OPIC.

As ranking member of the House Foreign Affairs Subcommittee on Western Hemisphere Affairs, I have observed the new initiatives of OPIC. Under the leadership of Ambassador Fred M. Zeder, OPIC has established a rapid response team which can quickly mobilize U.S. private sector support to help rebuild a nation's economy.

Reflecting OPIC's responsiveness, OPIC led the first United States Government-sponsored effort to help bring urgently needed American private investment to Panama. In February 1990, less than 10 days after President Bush signed the Urgent Assistance for Democracy in Panama Act of 1990 which reopened its programs, OPIC was in Panama with an investment mission of 27 U.S. private sector business executives. That mission resulted in a project pipeline expected to generate over $100 million in new investment and create over 500 jobs in 1991.

Similarly, OPIC is responding rapidly in Nicaragua. This week, less than 60 days after the historic inauguration of Violeta Chamorro in Nicaragua, OPIC Vice President and General Counsel Howard Hills will lead a delegation of United States executives to investigate investment opportunities in Nicaragua.

President Bush made an extraordinary speech which recognizes the accomplishments in Central America in Eastern Europe of this small, but increasingly important agency. The President makes clear his view that OPIC has become a more active and more effective U.S. foreign policy tool.

While OPIC creates jobs here and abroad, promotes U.S. trade competitiveness and increases exports, all of these positive effects are incidental to OPIC's basic mission as a developmental agency which mobilizes private capital to create large and small businesses in capital starved economies. At the same time OPIC, especially under Fred Zeder's leadership, is tying OPIC support to respect for the environment, human rights and internationally recognized workers rights. I strongly commend to my colleagues the speech by President Bush to the U.S. Chamber of Commerce which affirms the importance of OPIC to the developing world:

REMARKS BY THE PRESIDENT AT THE 78TH ANNUAL MEETING OF THE U.S. CHAMBER OF COMMERCE, APRIL 30, 1990

The PRESIDENT: Thank you very, very much, John. And what do you think about that Marine Corps Band, led by Colonel Bourgeois? Aren't they first class? (Applause.) Thank you, ladies and gentlemen, very much.

And it's always a pleasure to meet with this high-powered group. I want to pay my respects once again to Dick Lesher, the President of the Chamber; to salute your outgoing Chairman John Clendenin for the leadership that he's shown and the sacrifice that he's given over the past year; and then to salute your incoming Chairman James Baker—not a Cabinet shake-up. (Laughter.) I'm talking about James K. Baker who will carry the Chamber's fine tradition forward into this new decade.

And finally, let me welcome our special guests—all these Washington-area schoolchildren, right here in front. (Applause.) I know that you all have been looking forward to today for a long time. And after all, it's not every day that you get out of math and spelling. (Laughter.) And I know it won't be easy to understand all the things we're talking about this morning. But there's one thing that I'm sure you can understand. You're here because you're important, because when you grow up you might just run your own business, like the people here. Or maybe you'll even run for President of the United States. It may be hard to believe, but I was once a second-grader, just like you are now. (Laughter.) So today I want to challenge all of you to keep working hard in school. Do your very best and don't be afraid to reach for your dreams.

And I want to challenge the Chamber of Commerce as well. That's all the rest of you who are past the second grade out there. (Laughter.) All of you know that the governors and I have agreed on a set of national education goals—goals we must meet by the year 2000—the year these second-graders here graduate. And I'm delighted at all the Chamber of Commerce is doing to advance this great cause of excellence in education. But today I challenge you to get involved in every school and community across America. Help us make that classroom a place where miracles happen.

And before I go any further, I want to thank the Chamber for its support on an issue essential to our nation's economic future. last week, I sent to the Congress a three-point plan for budget reform. One, supporting the Legislative Line-Item Veto Act. (Applause.) Two, proposing an amendment to the Constitution to provide a presidential line-item veto. And three, a balanced budget amendment. (Applause.) The Chamber, together with other organizations in the Coalition for Fiscal Responsibility, has been out there on the front lines of the battle for budget reform. And I ask you now to push hard for this three-point plan. The time has come to put our fiscal house in order.

And let me say a few words about my administration's trade strategy. First, success in the Uruguay round trade talk, my top trade priority. The GATT needs strengthening. It doesn't cover services, investment or intellectual property rights. Its rules on agricultural trade are far too weak, creating counterproductive pressures to subsidize farm exports. And we've got to strengthen GATT as a matter of principle—as a sign to the emerging democracies in Eastern Europe and in this hemisphere that free trade is the way of the future. (Applause.)

Second, let me just say a word about Japan. All of you know that I did not name Japan a priority country under the Super 301 provisions of the 1988 Trade Act. That does not mean that all of our problems with Japan have disappeared. We know that we could sell more American products if Japan's market were truly open. But we've been working hard on that and I think with impressive results.

Over the past few months, we've made more progress on trade issues with Japan than at any other time I can recall. And part of the reason for this—for this success, if you will, is that the Prime Minister, Prime Minister Kaifu of Japan, shares our commitment to ensuring that trade strengthens rather than undermines the friendship between our nations. Now, we are going to continue to press for progress. And keep in mind, Section 301 and other trade law authorities remain available to the President. And we will use all the tools at our disposal to open markets and ensure fair treatment for American products, services, American investments and ideas. I'm confident in Carla Hills, our very able and tenacious Trade Representative. I'm confident in her ability and I'm confident we will achieve lasting results.

John Clendenin mentioned in his speech the whirlwind of the changes we've seen this past year. And last year, I spoke to you on May 1—May Day—by tradition one of the great days of celebration in the socialist world. I said then that even the socialist world was coming to see that socialism wasn't just another economic system; it was the death of economics. And that much was clear. What none of us could have seen on the eve of May Day 1989 was how close we had come to the wholesale collapse of communism.

First in Poland, then across Eastern Europe—one nation after another broke the stranglehold of the state and embraced democracy. And here in our own hemisphere, in Panama and Nicaragua, the day of the dictator gave way to the decade of democracy. (Applause). These transforming events brought freedom to tens of millions of people. And with that freedom, new challenges digging out from under the wreckage of ruined economies. Reclaiming rights and freedoms long denied. Everywhere from Prague to Panama City, the time has come to make a start in the difficult work of democracy-building.

It's that challenge that I want to talk to you about today, and it's a challenge that can engage every single one of you—because you and the institutions you represent are proof of the power of the private sector. Democracy prospers when it rests on the firm foundation of the free market.

Think about that. What it means is that one of the chief aims of our public policy must be to involve the private sector, in all its diversity, in the business of building democracy. That's not to say that there's no work for government to do. Government-to-government aid is essential, especially in the first days of democracy when the institutions of free government are most fragile.

That's way we put together aid packages for Poland and Hungary. And that's why I continue to urge Congress to move our Nicaragua and Panama emergency aid legislation to final passage as soon as possible. It is embarrassing. Today, I meet with President Endara of Panama. I've asked the Senate and the House to move on that legislation over a month ago, and they haven't done it. I call on them again today to take action in the Senate so we can help those fledgling democracies in Panama and Nicaragua. (Applause.)

It is frustrating to see the Congress delaying its workset. Here's the facts. On this legislation, I called for aid on March 13th, to be exact, and ask that it be passed by April 5th. In the House, $800 million—$800 million in domestic discretionary spending was added. The Senate added another half a billion dollars and, in committee, tacked on a contentious abortion provision. No wonder the American people get so frustrated with the way the Congress operates. (Applause.) Nicaragua and Panama quite simply need this aid. We've got to deliver and we've got to show that when democracy is at stake, America always extends a helping hand.

But as I've said many times, government aid alone is simply not the answer. It's more than a matter of finding enough funds; it's a matter of principle—of what we mean when we talk about building democracy. The simple truth is this: Democracy and the freedoms it enshrines can never be a gift of government.

Earlier this year in the Sate of the Union, I talked about the cornerstones of free society, the building blocks of democracy—all these elements that make America what it is. Competition, opportunity, stewardship, private investment. Those building blocks are what make America work. More than that, they're what makes democracy work. They're what the newly-emerging democracies of this hemisphere and in Eastern Europe need to grow and prosper.

Think back to what Lech Walesa said last November when he spoke to the AFL-CIO. Picture it. Solidarity labor leader speaking before our great AFL-CIO about the needs of the new Poland. Here is the quote: "Such is the fate of a Polish trade unionist," he said, "that he has to launch a publicity campaign for private entrepreneurship."

Lech Walesa told the Congress that he hadn't come to ask for charity as we know—that we can't create democracy by writing a check. We build democracy in other nations not by taking responsibility for their needs, but by helping them take responsibility for themselves.

We build democracy whenever we help individuals take their destiny into their own hands. Democracy puts the focus not on government, but on the freedom of the individual; not on the state, but on society, the private sector. Democracy thrives in direct proportion to the flowering of individual freedom and free enterprise. (Applause.)

Our administration is doing all it can to promote private sector development. The Commerce Department, under Bob Mosbacher's able leadership, has opened its Eastern Europe Business Information Center, and with the Chamber has hosted a conference on doing business in Eastern Europe.

Carla Hills, our able Ambassador, and her USTR team have been negotiating with the emerging democracies to open the way for expanded trade. At Labor, we've got a great Secretary of Labor—Elizabeth Dole. She's directing programs assisting Poland on key issues such as job training and unemployment insurance.

At Agriculture, most of you know Secretary Clayton Yeutter. He's doing a fine job. He's led this effort, our effort, to provide food aid and free market expertise to spearhead agricultural reform.

Today, I want to turn the spotlight on one of the best-kept secrets in town—an agency called OPIC—the Overseas Private Investment Corporation. OPIC's programs have been around since the days of the Marshall Plan, providing loans and risk insurance to American companies expanding into markets across the developing world. Here's a fact I know this crowd in particular will appreciate. OPIC is one government agency that actually turns a profit. (Applause.) Today especially OPIC is an important tool in our overall approach to help the world's emerging democracies themselves.

But we've got to be realistic. Economic growth won't come overnight. Eastern Europe sustained four decades of economic decay. And here in our own hemisphere, years of dictatorship in Nicaragua drove its economy right into the ground, destroyed the basic commercial infrastructure that makes growth possible. But with the emergence of democracy, these nations are working around the clock to jump-start their stalled economies, to make the fundamental changes needed to create a functioning free market. For democracy's sake, we've got to do all we can to help this transition take place.

Let me tell you what OPIC then is doing to strengthen the free market foundations of democracy in Panama. Just 60 days after Operation Just Cause OPIC led an investment mission of 27 American businesspeople to meet with their counterparts in Panama. The investment agreements that came out of that seven-day mission should lead to the direct investment of more than $70 million in Panama and 400 new jobs.

Now, here's the story of one company that took part in that OPIC mission—Servrite International—a small dairy company based in New Haven, Connecticut. Servrite had plans to invest in Panama, plans that it abandoned because of the old regime. Now, with the return of democracy, Servrite is moving forward, building a modern milk processing plant in the rural province of Chiriqui. The project will create 50 new jobs and provide technical assistance to help 30 Panamanian dairy farmers get their milk to market. For Servrite this is a good business opportunity. But for the Panamanians involved, it's more than just a pay check; it's a chance to build a future.

We're looking then to create the same kind of opportunity for investment in Nicaragua and, of course, beyond our own hemisphere, in Eastern Europe. As we speak OPIC's president, my good friend, Fred Zeder, a succesful businessman in his own right, is leading a mission to Hungary and Poland, playing matchmaker to 43 American corporations and a far larger number of Eastern Europe's aspiring entrepreneurs.

Most of you know about the $150-million deal between G.E.—General Electric—and Hungary's largest elecric entreprise, Tungsram. What you may not know is OPIC's leading role in making that investment possible. That's just a fraction of the interest generated so far. Already OPIC has received requests representing more than $2 billion worth of American investment in Hungary and Poland alone. For the potential for growth and the dividend for democracy are both great.

You may have heard about some of Japan's new joint ventures in Eastern Europe. Suzuki's plan to build cars in Hungary, or Daihatsu's deal to do the same in Poland. There's nothing unfair about these ventures, just proof that one of our key competitors is engaged in a hardnosed hunt for good opportunities in a new market. And I've said it before and I'll say it now, American business can out-think, out-work, outperform any nation in the world. But we can't beat the competition if we don't get in the ball game. (Applause.) And if American business wants to keep ahead of the competition, the time to act is now.

Government must act, too—help energize the private sector. And today I'm announcing a new initiative under OPIC's auspices to establish an Eastern European growth fund; a magnet for the kind of investment capital that can create self-sustaining growth and responsible development. This fund will be privately managed, underwritten in part by OPIC, and backed by its political risk insurance within existing budget authorities. And when fully capitalized at $200 million, this fund will provide a significant source of new capital for promising economic ventures.

I know the Chamber is already involved in expanding free market forces. I've heard about your newly-created Eastern European Trade and Technical Assistance Center, and about the new American Chamber of Commerce in Budapest. You are helping millions of people realize their dream of democracy.

It will be a tremendous struggle, measured not in days or months, but years. But what I've seen on my vistis to Poland and Hungary, and what I've learned in my conversations with the new leaders of Nicaragua and Panama is that all the years of despotic rule have not crushed the human spirit. These people are determined, full of hope and dreams. And now they're free. And if our American example teaches anything, it teaches freedom is the world's most powerful force.

It's been a great privilege to speak to all of you today. Thank you, and may God bless these little kids. And may God bless the United States of America. Thank you all very, very much. (Applause.)

STOP ABUSING THE FLAG

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. OWENS of New York. Mr. Speaker, the proposed flag-burning amendment to the U.S. Constitution currently pending before us in the Congress is the beginning of a partisan conspiracy to conduct a massive diversionary mobilization designed to make voters forget the vital and critical issues confronting this Nation. Not only does it tamper with our constitutional protections of free speech and expression, it is a poison smokescreen seeking to blind the American people.

For instance, it draws attention away from the savings and loan bailout scandal, and the fact that the millions of dollars being poured into the ill-advised effort to save all of the investors with deposits in these institutions run aground by corrupt and inept managers will be drained from much needed domestic and social programs.

It directs our attention away from the fact that crucial low-income programs like the School Lunch and Dependent Care Food Program, the Women, Infants and Children [WIC] Program, Medicaid, Food Stamps, and SSI are being targeted by the Bush administration in its budget negotiations with congressional leadership. White House spokespersons have said they want to close the Gramm-Rudman loopholes. While the Nation's voters are being whipped into a frenzy by the administration and its minions over the proposed flag amendment, they are completely overlooking the fact that the administration is preparing to cut more Federal funding from domestic programs already bled dry by the Reagan administration as a tradeoff for fewer defense budget cuts.

Wrapping our real and very urgent national domestic problems in the flag will not solve these problems. And a flag-burning amendment to our Constitution will not provide jobs for our jobless, homes for our homeless, education and literacy for those millions of us who are undereducated, or put food in the mouths of our hungry children.

I have always understood the flag to be a symbol of equality, opportunity, and freedom for the people of the United States, not a political truncheon used to figuratively beat the Nation into a submissive patriotism and loyalty. An example of true patriotism would be the enactment of a Federal budget, such as the one proposed this year and every year by the Congressional Black Caucus, which ensures all U.S. citizens the freedom from a desperate struggle to survive.

In recent months, I have begun to write poetry as an outlet for expressing my political frustrations with the confusion and misdirection of the Washington decisionmakers. A prime example of such misguided lawmaking is the proposed flag-burning amendment to the Constitution. The attempt to subvert this foundation of our democracy adds to my frustrations.

I have turned to the current teenage poetry form of Rap, which often employs rhythm and rhyme in ways that are quite creative. There is a considerable controversy about the substance of what is often being said; however, the format, the medium, is an exciting one. And as a senior member of the House Education and Labor Committee, I am also excited by its potential as a positive educational vehicle for reaching our young people, and even some adults.

Mr. Speaker, I submit the following Rap on the flag-burning amendment out of a sense of alarm that this new smokescreen, this new patriotism litmus test, is misdirecting both lawmakers and the public away from the true life and death matters of our time:

STOP ABUSING THE FLAG

Put hungry babies in a bag
Wrap homeless folks in the flag
Divert the voters every day
Pretend real problems have gone away.
O say can you see
Through the poison smoke-screen
Blowing to blind you and me?
While the banking crooks go wild
Cops search for a silly child
Who played with matches
And made a symbol burn
Now the fool kid gets his turn
For fifteen minutes of fame.
It's the all-American shame—
Loonies and Presidents play the same game.
Wave a flag to wow the press
Forget that 500 billion dollar S and L mess
Forget the bridges falling down
Let the oilspills make us drown

Toxic waste is all around
Filth is floating on the beach
Drugs within each citizen's reach.
Put pain wracked babies in a bag
Wrap all national problems in the flag.
O say can you see
Through the poison smokescreen
Blowing to blind you and me?

BUNNING BLOCKED FROM DISCHARGE PETITION

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. BUNNING. Mr. Speaker, I have long been an ardent supporter of the concept of a constitutional amendment requiring a balanced Federal budget. I feel that a constitutional mandate is the only thing that will provide this institution with the fiscal fortitude necessary to come to grips with the devastating Federal deficit.

In this vein, I have been working very closely with the sponsors of House Joint Resolution 268 over this past year in a coordinated strategy to force this measure out of committee and onto the House floor so that we could have an opportunity for a vote on the issue.

Our basic strategy, entailed the use of a discharge petition, Discharge Petition No. 8, to break the balanced budget amendment out of the Judiciary Committee. As part of this overall strategy, a handful of us withheld our signatures from the discharge petition, so that when the number of signatures approached the necessary 218, we would have a final surge of signatures in reserve to put us over the top.

Last week, however, when I did attempt to add my name to the discharge petition, the Journal clerk informed me that my name had already been signed to the discharge petition and refused to allow me to sign.

Subsequently, the discharge petition did receive the necessary 218 signatures and was pulled from the Journal clerk's desk. After a signature check, it was discovered that the Journal clerk had erred and that my name was not, in fact, on the petition and that I should have been allowed to sign in the first place.

I brought this matter to the attention of the Clerk of the House and I would like to enter his letter of response in the RECORD at this point.

I make this statement simply to verify and clarify my position on the balanced budget amendment and on Discharge Petition No. 8 and to make it clear that I do fully support House Joint Resolution 268 and that my name should have been on the discharge petition.

Of course, I am very gratified that our effort was successful despite the error that kept my name from being added to the petition and I am pleased that this body will finally have the opportunity to publicly address a balanced budget amendment. It is long overdue.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, June 20, 1990.

Hon. JIM BUNNING, M.C.
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN BUNNING: Most regrettably it has come to my attention that prior to obtaining the necessary signatures for Discharge Petition No. 8, entered by the Honorable Charles W. Stenholm, to discharge the Committee on Rules from the consideration of House Resolution 391 providing for the consideration of House Joint Resolution 268 proposing an amendment to the Constitution to provide for a balanced budget, you were informed that your signature had already been affixed.

In order to assist the Members against duplication in signatures on the discharge petitions at the desk, the established procedure for the Journal Clerk is to enter by the Member's name on the Official Alphabetical List attached thereto the number at the place of his or her signature. Referring to the List for a signature number by a Member's name is the method used to answer the query of the Member as to whether or not he or she has signed a petition. A signature number was inadvertently placed by your name on the Official Alphabetical List. This led the Journal Clerk to refuse your timely request to sign the petition.

It is the primary purpose of this office to accurately reflect each Member's participation in the procedures of this House. Any inconsistency in fulfilling this is deeply regretted. In cooperation with the Parliamentarian, I am immediately initiating new procedures to insure a more accurate recording of signatures on discharge petitions.

Sincerely yours,

DONNALD K. ANDERSON, *Clerk,*
U.S. House of Representatives.

AMERICAN INDIAN HERITAGE MONTH

HON. ENI F.H. FALEOMAVAEGA

OF AMERICA SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I just want to take this opportunity to personally thank my colleagues in the House for their support of House Joint Resolution 577, to proclaim the month of November 1990 as "American Indian Heritage Month."

Mr. Speaker, I submit herewith for the RECORD the additional names of my distinguished colleagues who have now supported House Joint Resolution 577, which now provided more than the required 218-vote majority needed to successfully pass such a resolution in the House.

Again, Mr. Speaker, I thank my colleagues for their support in this matter.

ADDITIONAL COSPONSORS

Mr. Kleczka, Mr. Roybal of California, Mr. Huckaby, Mr. Moakley, Mr. Kildee, Mr. Robert Smith of New Hampshire, Mr. McDade, Mr. Wolf, Mr. Fawell, Mr. Schiff, Mr. Saxton, Mr. Martinez, Mr. Yates, Mr. Stump, Mr. Serrano, Mr. Valentine, Mr. Stephen Neal, Mr. Jerry Lewis, Mr. Carper.

Mr. Lipinski, Mr. Lewis, Mr. Jones, Mr. Pallone, Mr. Wilson, Mr. Walsh, Mr. Espy, Mr. Murphy, Mrs. Morella, Mr. Roberts, Mr. McGrath, Mrs. Bentley, Mr. Borski, Mr. Rose, Mr. Dicks, Mr. Ritter, Mr. Robert F. (Bob) Smith, Mr. Waxman, Mr. Sid Morrison (WA).

Mr. Hubbard, Mr. Dixon, Mr. Butler Derrick, Mr. Solomon, Mr. Mazzoli, Mr. Guarini, Mr. Donald E. Lukens, Mr. Skelton, Mr. Hutto, Mr. Rahall, Mr. Sundquist, Mr. Coble, Mr. Downey, Mrs. Byron, Mr. Bunning, Mr. Torres, Mr. Peter Smith, Mr. Regula, Mr. Matsui.

S.J. RES. 577

Whereas Native American Indians were the original inhabitants of the lands that now constitute the United States of America;

Whereas Native American Indians have made an essential and unique contribution to our Nation, not the least of which is the contribution of most of the land which now comprises these United States;

Whereas Native American Indians have made essential contributions to the world, including prehistoric cultivation and harvesting of corn and sweet potatoes;

Whereas the people of the United States should be reminded of the assistance given to the early European visitors to North America by the ancestors of today's Native American Indians, including knowledge and training provided to the pilgrims in survival, hunting, and cultivation, and fertilization of indigenous crops;

Whereas the people and Government of the United States should be reminded of the assistance given to this country's Founding Fathers by the ancestors of today's Native American Indians, including the support the original inhabitants provided to George Washington and his troops during the winter of 1777-1778, which they spent in Valley Forge.

Whereas the people and Government of the United States should be reminded that certain concepts such as freedom of speech, the separation of powers in government, and the balance of power within government, all of which were found in the political systems of various Native American Indian nations, influenced the formulation of the Government of the United States of America;

Whereas the Members of the Senate and House of Representatives believe that a resolution and proclamation of the nature requested in this resolution can encourage activities which provide positive benefits of enhanced self-esteem, pride, and self-awareness to young Native American Indians;

Whereas the approaching 500th anniversary of the arrival of Christopher Columbus to the Western Hemisphere provides an opportunity for the people of the United States to consider and reflect on our Nation's current relationship with our Native American Indians; and

Whereas the month of November concludes the traditional harvest season of Native American Indians and was generally a time of celebration and giving thanks: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That beginning in 1990 and thereafter, the month of November is designated as "National American Indian Heritage Month", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

ADDRESS TO THE U.S. CONGRESS-EUROPEAN PARLIAMENT DELEGATIONS BY MAJORITY LEADER RICHARD A. GEPHARDT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. LANTOS. Mr. Speaker, last night at the Benjamin Franklin Diplomatic Reception Rooms at the Department of State, the 35th meeting of Members of the European Parliament and of the U.S. Congress was formally opened. It was a great pleasure for the large number of Members of Congress who attended this opening dinner to meet with our colleagues of the European Parliament.

This series of semiannual meetings has provided both Members of Congress and Members of the European Parliament the unique opportunity to discuss at length issues of critical importance to the 12 democratic countries of Western Europe and the United States. These meetings have contriubted to narrowing the differences between us on many critical issues, and they have led to a far better understanding on both sides of the many problems and challenges we face together.

Mr. Speaker, at our dinner last night, we had the great privilege of hearing from our majority leader, Congressman DICK GEPHARDT of Missouri. His address was a brillant and concise outline of the very serious challenges—as well as the very great opportunities—which we and our European colleagues now face as our world is transformed in ways none of us even thought possible just 1 year ago.

Mr. Speaker, I ask that the address of our majority leader be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to give it the thoughful and careful consideration it deserves.

ADDRESS OF HON. RICHARD A. GEPHARDT, MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES TO THE DELEGATIONS OF THE EUROPEAN PARLIAMENT AND OF THE U.S. CONGRESS AT THE BEGINNING OF THEIR 35TH MEETING

I'm honored to have this chance to address this distinguished group of European and American legislators. This group brings together some of the finest legislative talent from both sides of the Atlantic to address the challenges and opportunities we face together. At no point in history has the need for trans-Atlantic cooperation of this sort been stronger.

More than a century and a half ago, a Frenchman named Alexis de Tocqueville visited a young nation called the United States of America. Through European eyes he saw America—its promise and its problems—with astonishing clarity.

I remember what de Tocqueville wrote about America—and I am struck by the fact that today an American can repeat his words back to Europeans. He wrote: "I am firmly convinced that the democratic revolution which we are now beholding is an irresistible fact, against which it would be neither desirable nor prudent to contend."

Now that the democratic revolutions in East and Central Europe are an irresistible fact; now that Europeans once again have the leading role in determining Europe's destiny; now that new regional alliances and possibilities are being explored throughout the Continent, we must ask ourselves what comes next.

I cannot predict the exact parameters of the security relationships in the new Europe. But I do know that the surest path to peace is to issue a declaration of interdependence. Economic cooperation will inevitably reduce military tensions.

In the long run, democracy with development is the real quarantor of peace. For abundance abets democracy, and democracy promotes peace and stability.

As I traveled through Central and Eastern Europe this winter, I felt that I was witnessing history in the making. In Czechoslovakia, especially, I was moved by the depth of the commitment to democracy. That nation's "Velvet Revolution" was an inspiration to us all. In Prague, I presented the leaders of the Civic Forum with a copy of the American Bill of Rights. With tears in their eyes, they told me of how American ideals inspired them while they were imprisoned for advocating basic human rights.

I told them they were wrong. I told those courageous young Czechs the same thing I told their counterparts in Berlin and Warsaw and Budapest: the rights you fought for are not exclusively American. They are Czech—and they're Polish and German and Hungarian; they're South African and Mexican and Chinese.

They are universal rights endowed in all people by our Creator; they belong to all people in all places who believe in them—and who are willing to stand up and fight for their beliefs. The desire for freedom is universal; and the triumph of freedom over fear is a triumph of all people everywhere.

The lens of bipolar ideological struggle through which we saw the last half-century has been shattered by events. Now through the broken pieces a pattern is beginning to emerge—a vision of a world in which economic competition will take precedence over military conflict.

Where once the world was divided East against West, I believe the new century will see a world united against the common adversaries of humanity. Economic development is the extension of the democratic revolutions begun in 1989. It is my firm conviction that economic abundance reinforces and validates democracy—and that building stable democracies is the key to lasting peace. History teaches us that governments directly accountable to informed populations do not initiate wars of aggression. Democracies don't fight democracies.

The policies and structures we create to achieve these new objectives will be different from those that have dominated Western strategic thinking for the past four decades. We are navigating in mysterious and uncharted waters in these, the first few weeks and months following the Cold War. We don't even know the vocabulary and the groundrules of this new era that does not yet have a name.

One of the main features of the Cold War—a million troops facing off across the inner-German border—is rapidly changing. Even as we speak the process of unification continues. The position of the United States is that a unified and democratic Germany must be part of the community of free nations and allied with other democratic nations in NATO. I support this view. We must respect and support the right of self-determination, but we cannot allow a recurrence of those conditions that drew the world into two European wars in this century.

I am impressed by the wisdom of President Vaclav Havel of Czechoslovakia, who, when asked if he feared a united Germany, said that his concerns depended not on the size of Germany, but on its essential nature. A small Germany that does not hold and cherish freedom, he said, is a great worry, he said. But even a large, reunited Germany that is a free democracy is of no threat to us.

If we have the fortitude and the determination to seize the day and shape the change, we can ensure that the days of the Cold War will never return. A variety of programs are being designed and implemented to create a new Europe.

The CSCE process is moving forward on confidence and security-building measures. Meanwhile, the CFE talks in Vienna are moving rapidly to a first amendment on major force cuts. These discussions are moving away from two pacts competing for control of Europe to 35 nations accepting collective responsibility for maintaining peace and stability there.

NATO is reinforcing its character as a political alliance, in addition to deciding where to put the troops. With the coming German unification, NATO must expand to address larger questions of European security. America will never retreat from its commitment to the common defense. In fact, we must enhance and expand that commitment by continuing to engage politically and economically as well as militarily.

And the European Community has an important leadership role. The Committee of 24 has done an exemplary job coordinating assistance to the new democracies. But as the Community deepens the relationship between its members, which I support, there is still much the United States—as well as nations like Canada, Japan and Australia—can do to further the cause of Eastern European stability and development.

Everywhere I've been in Europe—from Brussels to Budapest—everyone from Trade Ministers to taxi drivers has reminded me that America must maintain a stable and secure presence in Europe.

Speaking as a leader of the Democrats—the part which controls the Congress but not the White House—I feel that we must ensure that the tremendous risks taken by brave people are rewarded with the better future promised by free governments and free markets. History teaches us that it can be done.

In 1947, the American people—like the European people—had fought two world wars in three decades, and were loathe to be caught up in foreign entanglements. They desperately wanted to enjoy the consumer pleasures of peacetime.

But President Truman and the wise men who advised him realized that changing times demanded that we change with them. He proposed that America commit itself to building democracy and free enterprise in Europe through the Marshall Plan.

It was unpopular. The Gallup poll of 1947 recorded that only 14 percent of the American people supported it. No wonder: the American economy was one-fourth as large then as it is today, and the Marshall Plan cost $82 billion in today's dollars.

Truman himself was not in much better shape. To this day, no President—not even Nixon in the depths of Watergate—has been as unpopular as Truman was as he headed in the election of 1948. But Truman did not flinch. He knew it was an investment that

would reap tremendous benefits for world peace and freedom. His leadership—along with that of Churchill and De Gaulle, Monnet and Spaak—started the post-war world off on solid footing.

A coordinated response from both sides of the Atlantic has been the answer to all the great challenges of this century.

In Europe today the current institutions are straining and stretching to fill the new challenges they face. For the immediate future, much of the industrialized world will be focused on the mission of building the economies and democracies of Eastern Europe. That task in and of itself is going to be an extraordinary challenge. But in comparison to what lies beyond, it looks relatively easy.

I hope our efforts in Eastern Europe will produce not only strong economies in the region, but the start of a global agenda for economic growth.

We must work together to formulate new rules of engagement for the economic competition we face, much as the Geneva Convention set out rules of military engagement. The lack of coherent economic rules of engagement contributes to instability and conflict. By focusing on the largest trading nations, rather than trying to treat all nations alike, we can pick up where GATT leaves off.

Ultimately, the world's attention must move beyond responding to individual crises and toward building vigorous and vibrant economies in the developing countries of the world—which will be the focus of so many of the new challenges we face.

Herein lies the greatest challenge and the greatest opportunity of the 21st century. For too long, our preoccupation with military confrontation between East and West has obscured the threat posed by the growing gulf between the superpowers and the superpoor.

The fault line between rich and poor is very real. Bridging that tragic gap is essential to the peace and stability of the Post-Cold War era. Over time, I want to see a Europe in which America's young soldiers have been replaced by our young students; a Europe in which American technology has replaced American tanks; a Europe in which new American lasers replace aging American LANCE missiles.

Europe—East and West—has already shown itself ready for reform. In America, we have miles to go. We have to reduce deficits, conquer drugs, and overcome inertia. There is great resistance to what is disparagingly called "foreign aid." But the challenge of freedom and renewal have always stirred American hearts. And we've always responded, when challenged, by destroying old mindsets, even as we destroy old missiles.

Franklin Roosevelt, the visionary who led my country through Depression and war, once said, "Let us all here constitute ourselves prophets of a new order of competence and courage."

This is our new call to arms—to rebuild Eastern Europe, to build a stable and strong system of trade, and to ensure that the Berlin Wall that divided East from West is not succeeded by a chasm of poverty separating North from South.

Let us have the vision to see the change in the course of history, and the courage to adjust our course accordingly.

RENEWED FEDERAL COMMITMENT TO SPECIAL EDUCATION

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. PENNY. Mr. Speaker, legislation enacted in the 94th Congress, Public Law 94-142, significantly increased Federal involvement in the education of the handicapped. This legislation required that a "free appropriate public education" be available for all handicapped children by September 1980.

The level of Federal assistance to States is based on an annual count of handicapped children and is intended to pay a percentage of the excess costs associated with educating handicapped children. These payments are affected by the authorized Federal reimbursement ceilings—40 percent of the national average per pupil expenditure—and the annual congressional appropriation, which has yet to rise above 12 percent of the APPE. Although the Federal Government has had continued involvement in this area, we could go further in meeting the requirements set by this legislation.

Today, I am introducing legislation to renew the Federal commitment to special education. My main concern is increasing the Federal share to the States, thereby allowing the local school districts to allocate their resources to other needs—such as class size, drug education and prevention, et cetera. The Federal Government, as well as the States and local school districts, has a commitment to special education that should be fulfilled. My legislation would amend Public Law 94-142 by requiring funds to cover 20 percent of the average per pupil expenditure in 1991, 30 percent in 1992, 40 percent in 1993, and 50 percent in 1994.

Mr. Speaker, I request that the text of the bill be printed following this statement.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal-State Equal Rate Act".

SEC. 2. ADJUSTMENT REGARDING ENTITLEMENT STATUS OF GRANTS UNDER PART B OF EDUCATION OF HANDICAPPED ACT.

(a) INCREASED FEDERAL EXPENDITURES.—Section 611(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1411(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "the maximum" and all that follows and inserting the following: "each State whose plan under section 613 is approved is entitled to a grant under this part for each fiscal year in an amount equal to—"; and

(2) by amending subparagrah (B) to read as follows:

"(B)(i) for fiscal year 1991, 20 percent of the average per pupil expenditure in public elementary and secondary schools in the United States;

"(ii) for fiscal year 1992, 30 percent of the average per pupil expenditure in such schools;

"(iii) for fiscal year 1993, 40 percent of the average per pupil expenditure in such schools; and

"(iv) for fiscal year 1994 and subsequent fiscal years, 50 percent of the average per pupil expenditure in such schools.".

(b) CONFORMING AMENDMENT.—Section 611 of the Education of the Handicapped Act (20 U.S.C. 1411) is amended by striking subsection (g).

SEC. 3. USE BY STATES OF AMOUNTS AVAILABLE AS RESULT OF REDUCED STATE EXPENDITURES.

(a) AUTHORITY TO EXPEND WITHOUT RESTRICTION ON PURPOSES.—Section 614(a)(2)(B)(i) of the Education of the Handicapped Act (20 U.S.C. 1414(a)(2)(B)(i)) is amended—

(1) by striking clause (ii); and

(2) by striking "this part—" and all that follows through "to pay" and inserting "this part shall be used to pay".

(b) SENSE OF CONGRESS REGARDING IMPROVEMENTS IN GENERAL EDUCATIONAL SYSTEM OF STATE.—It is the sense of the Congress that, with respect to the State funds available to the States as a result of the amendments made by this Act, the States should increase the quality of education for the general population of the States through expending such funds toward—

(1) improving the ratio of teachers to students;

(2) increasing the compensation of teachers;

(3) increasing the variety and availability of educational courses; and

(4) improving the availability and quality of educational equipment.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

ENERGY CONSERVATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mrs. KENNELLY. Mr. Speaker, I rise to point out an article in the June 18 Newsweek entitled "fighting the Greenhouse."

This article talks about the value of energy conservation to fight in a cost-effective manner global warming and CFC use.

For example, the extra cost for an energy efficient refrigerator is only $30. It takes 1½ years to recoup that extra cost and you save 180 pounds of carbon that would otherwise go to aggrevate global warming. This does not sound significant, but if you add up all the other energy conservation devices currently on the market, you can cut carbon emissions by almost half.

Utility companies have lead the way in encouraging energy efficiency, because it cost 30 to 50 percent less to cut demand for power than to build new plants. And the key to their programs is providing rebates to customers for buying energy efficient items. These programs, however, are endangered by the expiration of a law that made these rebates tax exempt.

I would urge my colleagues to read this very informative article, and to consider cosponsor-

ing my bill, H.R. 4294, to make energy conservation rebates tax free again. For the convenience of my colleagues, I am inserting this article at this point in the RECORD.

FIGHTING THE GREENHOUSE—AND YOU DON'T HAVE TO FREEZE IN THE DARK TO DO IT

Of course you know what it will take to save the world from the greenhouse effect. To cut emissions of carbon dioxide—the gas released when coal, gas or oil burn and the one responsible for more than half of the impending global warming—you'll have to turn down the heater in winter and break out the long johns. In summer, don't even think of air conditioning. Chuck your 100-watt bulbs, screw in 40s. Trade in the dishwasher and clothes dryer for a dish drainer and laundry line.

But wait. Human nature being what it is, scientists realize that if we depend on a penchant for sacrifice to forestall the greenhouse effect, we might as well start building sea walls to hold back the waters that will rise along with the thermostat. Surveys show that only about one fifith of those questioned would keep their homes warmer in summer or chillier in winter to help the environment. Luckily, though, conservation 1990s style doesn't mean freezing in the dark. From superwindows that leak no heat to fridges that work like giant thermosbottles, "there is a host of technological changes we can make that will let us keep the amenities we're used to, says Eric Hirst of Oak Ridge National Laboratory.

Last week the World Resources Institute announced new data that suggest the greenhouse threats is more serious than had been realized. Forty million to fifty million acres of tropical forests are disappearing each year, said WRI—50 percent faster than earlier satellite photos showed. Deforestation is second only to the burning of fossil fuels as a source of carbon dioxide (CO_2). Even without the new data, an international panel convened at the urging of the Bush administration, and 38 other countries concluded last month that global warming will raise sea levels enought to inundate the plains of Holland and Bangladesh and obliterate the Maldives, amoung other disaters. It called for a 60 percent cut in CO_2 emissions. Conservation is the cheapest and fastest way to do that, at least until solar and wind power, which emit no CO_2 are widely available. Efficiency alone, calculates Christopher Flavin of Worldwatch Institute, could cut global CO_2 emissions 3 billion tons a year by 2010, from today's 5.6 billion.

Nations might start with that symbol of energy profligacy, air conditioners. They use hydrochlorofluorocarbons (HCFCs) as the cooling fluid, and indirectly release CO_2 when electricity to run them is generated. HCFCs and CO_2 are greenhouse gases. But plug-in cooling needn't turn up the global thermostat. A model patented last year by Albers Technologies Corp. of Arizona cools air to 54 degrees Fahrenheit, dehumidifies it and removes contaminants. It uses water, not HCFCs and draws half the electricity of conventional units. At $2,000 for a unit big enought to cool a 1,500 square-foot house, it costs about the same as current models. No American makers have expressed an interest—they don't want to fiddle with their product unless the government bans HCFCs. But last month a Saudi Arabian firm, Alessa Industries, agreed to turn out 25,000 every year beginning in 1992—and export 20,000 back to the United States.

Other breakthroughs are as close as the nearest window. During the winter, windows in the United States leak about as much heat as is provided by the oil flowing through the Alaskan pipeline every year. Researchers led by Stephen Selkowitz at the Lawrence Berkeley Laboratory in California can fix that with a "superwindow." It has three layers of glazing and two coatings of metal oxides that cut heat loss; the space between the panes is filled with krypton and argon gases. Result: the window collects more heat on a winter's day than it leaks at night. Superwindows today cost about 30 percent more than moderately efficient ones; even better versions are about to leave the lab. This week Libbey Owens Ford will introduce special glass, providing low-tech solar heating to a room. And LBL is working on a "smart window" that changes electronically from clear, which allows sunshine in on cold days, to reflective, which diverts rays on scorchers. Similar chameleonlike glass for car sun roofs can keep out enough sunshine to drastically cut the need for air conditioning, and should be in models next year.

Best bulbs: Researchers also have bright ideas for lighting, which accounts for almost 25 percent of U.S. electricity use. Replacing standard incandescents with the best bulbs, compact fluorescents, can cut electricity use by as much as two thirds. Last year Reno's Peppermill Hotel Casino installed about 1,000 fluorescents, and halved its lighting bill. Although fluroescents can cost 20 times as much as incandescents, they last 10 times longer, saving the consumer money, and emit light indistinguishable from incandescents. Since fluorescent bulbs draw less electricity, substituting one for an incandescent prevents the emission of up to 382 pounds of CO_2 that would otherwise be emitted from power plants. Other gizmos helped the Natural Resources Defense Council cut its office energy bill by more than half: occupancy sensors use infrared or ultrasonic signals to detect motion, turning lights off when no one is in the room. Because of such savings, Amory Lovins of the Rocky Mountain Institute says, "this is not a free lunch. This is a lunch you are paid to eat."

Even refrigerators can help stave off the greenhouse. In today's models, a single unit lowers temperatures in the freezer and moves chilled air to the fridge—which doesn't need to be as cold. At Oak Ridge, researchers think that using different mixes of coolants and separate cooling loops could offer energy savings of an additional 20 percent. And by replacing the CFC insulation with vacuum insulation as in a Thermos, refrigerators wouldn't need CFCs.

Electric utilities have led the charge toward energy efficiency partly from environmental concern, but largely because of the bottom line: it costs 30 to 50 percent less to cut demand for power than to build new generating capacity. Wisconsin Power Co. offers rebates for installing efficient refrigerators; Southern California Edison will pay customers to install more efficient windows. New England Electric offers rebates to lighting dealers so they will lower the price of fluorescents; it has also insulated more than 100,000 customers' hot-water tanks for free. CEO John Rowe says, "Conservation is the heart of our environmental strategy." But, only 10 states let utilities earn a return on investments in efficiency, hampering widespread adoption.

In the cold: For next year the administration is requesting $213 million for the Department of Energy's conservation research, which now received $411 million. The White House questions whether the United States will suffer from global warming, and therefore opposes making possibly expensive changes to control the greenhouse. But in a significant break with this wait-and-see policy, Prime Minister Margaret Thatcher last month announced that Britain would cut CO_2 growth 20 percent by 2005, stabilizing it at 1990 levels, if other nations follow suit. How? Heavy reliance on energy efficiency is a likely option. "You can cut carbon emissions 20, 30 percent without any economic cost," says Michael Grubb of the Royal Institute for Economic Affairs. Bringing all homes up to the latest standards for insulation, for example, would cut emissions nearly 9 percent, estimates Stewart Boyle of Britain's Association for the Conservation of Energy. This week the West German cabinet is expected to consider a proposal to cut carbon emissions 30 percent by 2010. Increasingly, as the world grapples with the uncertain threat of the greenhouse, the United States is being left out in the cold.

VETERANS' JUDICIAL REVIEW ACT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. MONTGOMERY. Mr. Speaker, today I am introducing a bill at the request of the U.S. Court of Veterans Appeals which would make technical corrections to the Veterans' Judicial Review Act which was enacted in November 1988. For the benefit of all those who are interested in the court and its authorizing legislation, there follows the letter of Chief Judge Nebeker transmitting these recommended changes and explaining their intended effect:

U.S. COURT OF VETERANS APPEALS,
June 13, 1990.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Enclosed is a draft bill "to provide technical corrections to the Veterans' Judicial Review Act" which was enacted as Public Law 100-687 on November 18, 1988. We request that this bill be referred to the appropriate committee for prompt consideration and enactment.

This Court's enabling legislation, the Veterans' Judicial Review Act, contains a provision at section 4067(b) of title 38 (section 301 of the Act) which requires the Court to include in its decision a statement of its conclusions of law and determinations as to factual matters. This requirement should be deleted. It was derived, as were many procedural aspects of the Act, from the United States Tax Court's enabling legislation, at section 7459(b) of title 26. While appropriate for a court which conducts proceedings similar to nonjury trials in the district courts, such a requirement does not belong in the charter of an appellate court whose review is limited to the record generated below. Indeed, it is noteworthy that a similar requirement is appropriately imposed on the Board of Veterans Appeals by section 4004(d) of title 38 so that our Court can limit its review in accordance with sections 4052 and 4061 of title 38.

Section 4067(d) of title 38 directs that decisions of the Court shall not become effective until the expiration of a 30-day waiting period, during which the Court can decide

to review the decision. In our view, the interests of justice will be better served if this provision is deleted. Its effect is to delay unnecessarily the disposition of cases and to hinder the efficient administration of justice with no offsetting value. No other federal appellate court is required to delay the effective date of a decision in this manner. Reviews, rehearings, and the en banc consideration of cases are among an appellate court's inherent powers; procedures for them are routinely covered by court rules.

Section 4067(d) was derived, as well, from the United States Tax Court's enabling legislation at section 7460 of title 26. Its purpose was to assure the development of a uniform body of precedents in a trial court which sat in several geographically-separated single-judge divisions. While such an approach had merit for the 65-member veterans court envisioned by H.R. 5288, 100th Cong., 2d Sess. (1988), it is unnecessary for this 7-member appellate court which is removed from agency factual determinations.

An additional disadvantage of section 4067(d) is that it could generate unnecessary litigation. A decision announced by any other federal appellate court immediately becomes binding precedent on all courts and administrative bodies subject to its jurisdiction. Section 4067(d) creates a unique 30-day window in which the Board of Veterans' Appeals, knowing of the Court's decision, is not obligated to follow it. Even with a good faith effort by the Board to apply the Court's decision as precent during the 30-day window, it seems inevitable that this anomaly will inadvertently become the source of unnecessary appeals and requests to the Court for extraordinary relief.

Section 2 of our draft bill would eliminate the problems described above by repealing sections 4067 (b) and (d) of title 38, and by making conforming modifications within section 4067.

Section 3 of our draft bill would authorize an annual judicial conference of the Court. Such conferences, formally authorized in Federal courts of appeal since 1939 and in the Court of International Trade since 1986, provide a valuable vehicle for regular discussions between bench and bar. While our Court is part of the Federal Circuit, we note that the Federal Circuit's judicial conference is already extremely large without the addition of our practitioners. Our conference would focus on the specialty of veterans law and would take into particular account the needs of the large number of nonattorney representatives who practice before our Court and who would not be a part of the Federal Circuit's judicial conference.

Section 4 of our draft bill would make several clerical changes to insert the current titles of officials and organizations and to eliminate a numbering duplication. In addition, it changes the wording of a housekeeping provision at section 4068(b)(2) of title 38 to duplicate more precisely a similar provision in the Tax Court's enabling Act. Although the issue is unlikely to arise often, that change restores to the Court its proper control over exhibits.

Sincerely yours,

FRANK Q. NEBEKER,
Chief Judge.

THE ACCOUNT CLOSING ACT OF 1990

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. IRELAND. Mr. Speaker, I rise to present my third report on the "M" and "merged surplus" accounts.

This report explains the Account Closing Act of 1990, introduced today by Mr. DINGELL and myself, to restore accountability over vast sums of money and to put an end to the abuse and uncertainty associated with these "M" and "merged surplus" accounts.

The Account Closing Act of 1990 applies to the entire Federal Government. Naturally, being a member of the Armed Services Committee, I am most interested in reinjecting some discipline in financial management at the Department of Defense.

As I mentioned in my earlier reports on the subject, a 6-month study has revealed—and the General Accounting Office and DOD have confirmed—that the Pentagon has some $50 billion of no-year appropriations tucked away in these two accounts, which it draws on to pay bills with considerable regularity—sometimes illegally.

I can document another $10 billion held in the "M" accounts of other agencies, but we do not know exactly how much money we are talking about governmentwide for both accounts. Is it $100 billion? The GAO has informed me that it would take 6 months to determine the dollar balances in the merged surplus accounts of all agencies. That's a red flag worth investigating.

Let me make clear that this $60 billion plus cannot, as some have speculated, be applied directly as a credit against the current Federal deficit. However, let me make just as clear that this $60 billion in expired—but available—appropriations could have just the opposite effect. It could add 60 billion dollars' worth of outlays to this or any other year's spending.

That's right—"M" and "merged surplus" account authority could actually increase the deficit by up to $60 billion or more. And under current law, there's absolutely nothing Congress could do to stop that from happening.

This $60 billion may not be a big pile of cash stashed in a vault somewhere, but it is as real as any money the Government has to spend. And to the extent that the Department of Defense or other agencies spend it, it contributes to the deficit.

And DOD is indeed spending this money. In fiscal 1989, the Department of Defense drew $3.9 billion in expired prior-year authority from the "M" accounts and spent it. In fiscal year 1990, expenditures from the "M" account are projected to jump to $6.9 billion.

The Pentagon might well use these accumulated surpluses for a soft landing as defense budgets shrink over the next few years, and Congress wouldn't even know it.

I don't think that's right. And so, I have worked with my colleague, Mr. DINGELL, to find a way to fix the problem.

Our bill, the Account Closing Act of 1990, would restore accountability in the Department of Defense and other Federal Departments by placing a finite limit on the amount of time agencies have to spend money that has been appropriated to them for a specific project.

The bill has six specific objectives:

First, zero out existing balances in "M" and "merged surplus" accounts;

Second, halt the flow of new money into both accounts in the future;

Third, allow 2-year "grace" period after appropriations expire as provided in current law;

Fourth, expired appropriations would be rescinded at end of 2-year "grace" period;

Fifth, maintain fiscal year and line item indentity of all money until spent or rescinded; and

Sixth, agencies authorized to use current appropriations in small amounts to pay outstanding bills and claims if chargeable to the same account;

In a nutshell, the bill would wipe out the "M" and "merged surplus" accounts.

The balances inthe "M" and "merged surplus" accounts at the Pentagon alone totaled $50.5 billion at the end of fiscal year 1989—$18.7 billion in the "M" and $31.8 billion in the "merged surplus" account.

Closing these Pentagon accounts would have the immediate effect of reducing the Federal Government's ability to spend $50 billion or more in future years. While that won't decrease the existing deficit, it will significantly decrease the future growth of that deficit.

At the same time, our bill would adequately provide Federal departments with the ability to use appropriated authority to pay off legitimate debts that are incurred within the time-frame of an appropriation, but have not been submitted for payment by the time that appropriation expires.

However, it would do so in a way that dramatically increases accountability and vastly decreases the potential for abuse that currently exists when we allow these "M" and "Merged Surplus" accounts to simply accumulate and recycle expired spending authority.

Rather than merging all these obligated sums in one big unidentifiable pot of money, our bill would retain the line-item and fiscal-year identify of "expired" appropriations for 2 years beyond the time Congress originally said that the money had to be obligated. This 2-year grace period, which is provided for in current law, would remain in effect.

During that 2-year grace period, expired appropriations could be obligated—provided bills submitted for payment could be matched with a valid line-item appropriation.

At the end of that 2-year grace period, the appropriated authority would be wiped off the books—rescinded. In other words, the Department of Defense or any other Federal agency would have to return to Congress for a new appropriation or permission to transfer or reprogram money to pay old bills.

Critics complain that the Account Closing Act of 1990 would leave the Department of Defense without enough money to pay outstanding obligations and claims. Well, of one thing I am sure. There is no shortage of money at the Pentagon to pay bills that might arise after the accounts are closed.

At the end of fiscal year 1990, the Department of Defense had $39.9 billion in current appropriations that remained unobligated—a

figure projected to rise to $41.4 billion this year. Some of this authority is destined for the Merged Surplus account. Some could be readily diverted to pay old bills.

If an old bill or claim were submitted for payment after the "M" accounts are shutdown, for example, the money could be drawn from a contingency account established for this express purpose—as authorized in section 1304 of title 31, United States Code—or it could be charged to current appropriations that remain available—but unobligated—for the same purpose.

Under the legislation, DOD could not draw on current appropriations to pay old bills without restraint, however. Existing rules and procedures governing reprogrammings would then apply. Under those rules, once an amount crossed a specified dollar threshhold, then the Department of Defense would have to notify Congress of its plans to move the money, and Congress could block the expenditure if it were deemed inappropriate.

The Department of Defense has raised concerns about not being able to pay old bills and claims, but these arguments do not carry a lot of weight with me. The facts tell a very different story.

The General Accounting Office and DOD inspector general have concluded that the vast majority of outstanding obligations, which form the underlying rational for these accounts, are simply invalid. A small number may, indeed, be valid. How many? We just don't know. The Department of Defense doesn't know.

The Penagon's inability to document, validate and quantify obligations in these two accounts before making payments became amply clear during the hearing on June 6th before the Energy and Commerce and Government Operations Committees.

Mr. Speaker, this is the crux of the issue. Are these accounts necessary and justified? Six months of research has made clear to me that the answer to that question is no.

The Department of Defense, not surprisingly, disagrees.

DOD officials argue that some portion of the $18.7 billion held in the "M" accounts constitutes real debt, and these debts must be met. That's a true statement, but just ask those same officials to place a dollar on such obligations. I did, and they can't do it.

Even though they are required by law to audit those accounts each year—section 1554, title 31, United States Code—these accounts have never been audited in their entirety. Only small, partial audits have been performed—nothing more than spot checks.

The Pentagon says the job is just too big to handle. It just doesn't have the audit resources to fulfill its obligations under the law.

As a former banker, I never knew of an account that was too big to audit. I don't think such an account exists nor do I believe that one should be allowed to exist. In banking I learned an important lesson. Inactive accounts, like the "Surplus" accounts, need more—not less—scrutiny and controlled access.

If the Department of Defense says it can't audit the "M" accounts, that is reason enough to abolish them. An inability to audit them means the audit trail is gone. It means slipshod accounting practices. It means no acceptable accounting procedures.

When Government money loses its fiscal year and line item identity—and that's what happens in the "M" and "merged surplus" accounts—the audit trail disappears. It's gone. Records have beem destroyed. Linkage between appropriations and contracts has been broken down.

Congress has a responsibility to close down this kind of operation and to terminate the "M" accounts.

As for the merged surplus accounts, testimony at the June 6 hearing suggests a consensus exists for eliminating them.

I must say that in all the research conducted by my staff, the General Accounting Office, DOD Inspector General, and even the Office of the Secretary of Defense on this issue, I cannot find a single legitimate reason for the existence of these accounts. Therefore, our bill would eliminate them altogether.

If a Federal Department cannot even obligate—much less spend—appropriated authority within the timeframe specified in its original appropriation plus the 2 additional years of grace after expiration, then I believe that it should have to come back to Congress for a current-year appropriation if it later wishes to commit that authority.

Initially, I proposed including a provision in the bill to establish a special fund for separation pay for foreign national employees, as the "M" accounts now hold $370 million for that purpose. I believe this is a politically sensitive issue that needs exposure. We decided that would not be necessary, however, since such an account would be an indirect result of the measure. The legislation will force DOD to budget and account for those expenses separately—in a more open and honest way.

The Account Closing Act of 1990 will compress the time in which money must be obligated and spent. There is always the danger that Federal Departments will react by setting up dummy obligations to avoid losing budget authority. However, since obligations must be linked to contracts—and as long as the fiscal year and line item identity are maintained—phony obligations will be more difficult to cover up.

Furthermore, the Appropriations Committees can adjust and extend the periods of funding availability in annual bills once the surplus accounts are abolished—if conditions suggest that is desirable.

In some cases, like Navy shipbuilding accounts, the appropriations committees may need to extend the period of availability beyond 5 years. They may want to extend the availability of O&M and personnel money from one to two years. In my mind this is the best alternative to the "M" and "merged surplus" accounts, since fiscal-year and line-item identity would be maintained.

These decisions about spending billions of dollars should be made each year by the Congress of the United States through the authorization and appropriations process, not at the discretion of a purchasing officer at the Pentagon.

I think the Account Closing Act of 1990 is the way to go. The bill would zero out existing balances, halt the flow of new money into the accounts, maintain fiscal year identity of all money until spent, and use available appropriations to meet valid obligations.

Those are the main ingredients of this measure, and they are rational, reasonable approaches to a very serious problem. Implementing the Account Closing Act of 1990 is the only way that we in Congress can regain and maintain realistic control of where and how Federal dollars are being spent.

REFORMS FOR THE UNITED STATES CAPITOL POLICE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Ms. OAKAR. Mr. Speaker, I am pleased to introduce in concert with my chairman, the Honorable FRANK ANNUNZIO (D–IL) and my good friend and colleague, the Honorable PAT ROBERTS (R–KS), a reform package for the U.S. Capitol Police Force.

Mr. Speaker, the men and women who constitute the U.S. Capitol Police are highly skilled, competent and accomplished individuals. They are charged with the important task of protecting the Capitol of the United States, Members of Congress and their staffs, foreign dignitaries and the millions of tourists who visit every year.

In March of this year, the Subcommittee on Personnel and Police conducted a hearing to address several issues which merited serious consideration. The subcommittee received testimony from the Capitol Police Board, the Chief of Police, and over 350 members of the U.S. Capitol Police Force.

At that time, certain concerns were raised by the Capitol Police Board and the Capitol Police, specifically those which would place the Capitol Police on a more level playing field with surrounding law enforcement agencies in terms of compensation and retirement. This is in recognition of the need to attract and maintain the highest quality of individuals for law enforcement functions, especially in this era of increased security concerns.

After several months of review, the subcommittee has culminated its efforts into this reform package that is being introduced into the House of Representatives today. The reform package includes two pieces of legislation, and several other items that we felt needed to be addressed.

The first piece of legislation, "The Capitol Police Retirement Act," would allow Capitol Police the opportunity to retire at age 50 after 20 years of service under both CSRS and FERS, and 25 years of service at any age. This retirement plan will essentially treat the U.S. Capitol Police the same as other Federal law enforcement officers. The "early out" retirement is recognized by virtually all police organizations in the country, and is designed to provide the police with a greater degree of equitable treatment.

The second piece of legislation arose out of the subcommittee's concern that allegations were being made by members of the Capitol Police Force regarding promotion, mobility, and possible bias against members of the force. The bill that we are introducing today

will create a civilian position within the U.S. Capitol Police Force entitled "Director of Employment Practices." This position will be created with the purpose of enhancing the integrity and credibility of the grievance procedure process for the U.S. Capitol Police.

This person will have the authority to explain and discuss the rights and procedures to alleged grieved employees, and will also serve in an oversight capacity to ensure smooth and efficient operation of the grievance procedure.

With the creation of this new position, the subcommittee felt that a review of the current grievance procedure was appropriate at this time as well. Several enhancements were discussed which we feel, upon implementation, will address the concerns of members of the police force.

The proposed grievance procedure will be different from the current procedure in several ways. Besides the creation of the position of Director of Employment Practices, the proposed procedure will provide an expedited and responsive review by supervisors. The initiative will include a final appeal to the U.S. Capitol Police Board, and all cases involving discrimination will automatically be forwarded to the Capitol Police Office of Internal Affairs for a full investigation and the opportunity for a full administrative hearing procedure.

The final component to the reform package will direct the U.S. Capitol Police Board to make all special technician positions competitive. These positions require special skills, and the development of a specialized test in the respective field of endeavor, should be part of the eligibility criteria.

Mr. Speaker, it is my hope that these proposed reforms for the U.S. Capitol Police Force are well received by my colleagues. The Subcommittee on Personnel and Police has, for many months, been working in conjuction with the Capitol Police Board, the Chief of Police, and members of the police force to ensure that these reforms are fair and equitable to members of the U.S. Capitol Police Force.

ONE YEAR AFTER THE "WORLD PRODIGY" OILSPILL IN NARRAGANSETT BAY

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Ms. SCHNEIDER. Mr. Speaker, I rise today to address the upcoming 1-year anniversary of the *World Prodigy* oilspill in Narragansett Bay. One year ago, on June 23, the Greek-flagged tanker *World Prodigy*, equipped with improper and outdated charts, sped past the pilot's station—where it was required by State law to stop—and proceeded, at full speed, to collide with the rocks at Brenton Reef.

Through a series of inexcusable human errors the 117,000-ton vessel wound up hitting one of the most visible and well-marked navigational hazards in New England. As we have all become aware, however, this type of disaster is all too common in U.S. waters. In the past 2 weeks alone we have seen major oilspills in the Gulf of Mexico, Kill van Kull in New Jersey, and Buzzards Bay. The entire Nation anxiously watched to see if the U.S. Coast Guard could prevent the *Mega Borg* accident from becoming the worst oilspill in U.S. history. The expertise, diligence, and sheer determination of the Coast Guard prevented an incident that would have dwarfed the *Exxon Valdez* disaster. Just last month cleanup crews began the second season of removing oil from hundreds of miles of fouled beaches in Alaska.

The relatively small oilspill that occurred in Narragansett Bay 1 year ago has still not disappeared. The economic losses incurred by shell fishermen and related businesses are still being felt. In fact, the civil trial determining damages and compensation has recently been postponed until next spring. The environmental impacts of the spill have also not been completely assessed. Many of these problems could be rectified by one single act—the passage by Congress of the Oil Pollution Act.

The Oil Pollution Act was passed by both the House and the Senate last year. This comprehensive bill addresses all aspects of oilspills—prevention, response and cleanup, and compensation for damages. The only step left in the legislative process is for the House and Senate conference to iron out the differences in the two bills, and send it on to the President. As one of the conferences I have been extremely anxious to address what are actually minor differences, and most importantly get a comprehensive oilspill bill enacted into law.

If H.R. 1465 had been law, the owners of the *World Prodigy* would have been clearly liable for damages up to $140 million, rather than $14.9 million value of the vessel, which the owners are claiming in court is their limit of liability. H.R. 1465 would have also required the owners to adequately compensate those losses due to the oilspill, including those incurred by shell fishermen and dealers and processors, bait and tackle store owners, beach concessionaires, and so forth. This compensation would have been complete and quickly paid, and would have covered all damages to natural resources.

In the case of the *Exxon Valdez*, if it had a double hull, as required in H.R. 1465, the severity of the oilspill would have been diminished tremendously. Although the bill may not have prevented the *Mega Borg* incident in the Gulf of Mexico, it certainly would have provided for a much better response which would have prevented a lot of the damage that has already occurred. H.R. 1465 requires that a full time, fully equipped strike team devoted to oilspill response and cleanup be located in seven areas around the United States, including the Gulf of Mexico.

The House and Senate conferees have met only once since January. This is inexcusable. I urge the leadership of the Senate and the House to get this conference moving, and to resolve the few remaining differences as soon as possible. I am not willing to hold up this conference based on the international protocols nor on the differences over liability limits. Both the House and the Senate now agree that double hulls must be required for all tankers—we must stop bickering on the exact dates for implementation and work out a compromise. None of these differences will be resolved, however, unless the leadership schedules another conference meeting and allows the Members to work out an agreement.

I have worked long and hard on H.R. 1465 for over 1 year. I have included a number of provisions which are not controversial, that will greatly expand the protection of our coasts from oilspills. Some of these provisions are:

Increased penalties for Federal pilotage law violations;

The consideration of designating the channel between Block Island and Montauk Point a "tanker free zone";

The inclusion of satellite technology for tracking vessels in coastal waters;

The establishment of seven regional strike teams, including one in the Northeast;

A comprehensive 5-year monitoring study of Narragansett Bay to assess the impacts of the *World Prodigy* oilspill;

The development of technologies and standards to protect the health of cleanup workers and the general public; and

An amendment which I successfully offered on the House floor which will allow States to retain stricter environmental and liability standards against oil and shipping companies.

We must put aside partisan politics and work hard toward passage of this important legislation. The public does not, and should not, tolerate any more delay. This Nation needs comprehensive oilspill legislation, and both the House and the Senate have passed good bills. We must now act quickly to iron out our differences and get a bill to the President for his signature.

SALUTE TO GERALD MERWIN KRANTZ OF POMPTON LAKES, NJ

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. ROE. Mr. Speaker, it is my distinct honor and pleasure to take this opportunity to pay tribute to a man of exceptional abilities and a long history of public service to the citizens of my Eighth Congressional District in New Jersey. Mr. Gerald Merwin Krantz will retire after over 30 years of devoted service at the Chilton Memorial Hospital in Pompton Plains, NJ.

A health care professional of the highest caliber, Mr. Krantz is retiring as president and chief executive officer of Chilton, a post to which he ascended in June of 1986. Jerry has served with the hospital since 1959 when he assumed the position of assistant administrator. His extraordinary skills and abilities were evident as he was named administrator in 1972 and rose to executive vice president in 1976. His success was built on hard work and a solid educational foundation.

Mr. Krantz who was raised in Bridgeport, CT, began his education at Indiana University, where he graduated in 1952 with a B.A. in biology. He spent the next 2 years serving his country in the Army working as a medical laboratory technician in military hospitals in the

United States and Japan. Jerry next attended Syracuse University and from there he returned to Bridgeport attending the University of Bridgeport on a part time basis during 1956 and 1957. He finished his master of science degree in hospital administration in 1959 at the prestigious Northwestern University in Chicago. After receiving his degree Mr. Krantz again returned to Bridgeport to do his administrative residence at Bridgeport Hospital.

In moving to Pompton Lakes in 1959, Jerry became an active member of the community not only through his work at the Chilton Memorial Hospital, but by actively taking an interest in the community as a member of the Pompton Lakes Rotary Club and as an educator. Mr. Krantz taught at Rutgers State University at its Paterson Extension from 1964 to 1974. He passed on his knowledge and experience to a new generation teaching courses in principles of management and hospital administration.

Mr. Krantz was also very active in his profession on broad scale as a member of such organizations as: Fellow American College of Healthcare Executives, the American Hospital Association, New Jersey Hospital Association, Tri-County Administrator's Council, Bergen-Passaic Hospital and a board member of the NJHA from 1975 to 1979. Jerry is currently regent of the American College of Healthcare Executives for the State of New Jersey.

His commitment to his profession and the service and education of others is obvious by the extent of his accomplishments and the vast number of lives he has touched personally and indirectly. Through his career, he has been aided by his beloved wife, Joan Berkowitz Krantz, whom he married in August of 1959, just 1 month before he began at Chilton Memorial. He has also been blessed with two children, his son David who will receive his M.D./Ph.D. degree from UCLA in May of 1991 and his daughter Wendy Krantz Seidman who recently bestowed another blessing on the Krantz family in the form of Gabriel Evan Seidman, Jerry's grandson.

There can be no finer profession than the service of others and Mr. Gerald Krantz has truly demonstrated this not only by his words as an educator, but through his acts as a member of the medical profession dedicated to providing modern sensitive health care to thousands of patients over his 30 years of service. His friends and family will honor him for his works in a special dinner on June 29, 1990.

Mr. Speaker, I give you Mr. Gerald Krantz, a man who has sincerely dedicated his life to his fellow man. I am sure the entire House of Representatives joins me in saluting him. Thank you.

A SPECIAL 50TH ANNIVERSARY TRIBUTE TO MICHAEL BAKER CORP.

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. KOLTER. Mr. Speaker, I rise today before the full United States House of Representatives to honor the Michael Baker Corp. on the special occasion of its 50th anniversary.

Baker Engineers, whose headquarters is in Beaver, PA, was founded by Michael Baker Jr., in 1940. Since then, this company has weathered adversity as well as expansion and success and has experienced numerous and important changes. Today, Baker Engineers is a $100 million consulting, engineering and design firm with locations and projects all over the globe.

Following the graduation of Michael Baker Jr., from Pennsylvania State University with an engineering degree, he opened his own firm and began to strengthen it through extensive promotion. The business continued to grow until Baker's death in 1977.

This extraordinary company has built over 1,000 bridges and 10,000 miles of interstate and toll roads. Bakers' local accomplishments include the design and construction of Pittsburgh's Parkway East, the Squirrel Hill and Fort Pitt tunnels, and Three Rivers Stadium. Baker Engineers also constructed the New River Gorge in West Virginia which is the highest steel arch bridge in the world. One of the largest projects ever tackled by this firm was the engineering of the 800-mile Alaska pipeline.

When the pipeline was completed, the employees created an employee stock option plan in order to buy the company.

Baker Engineers is now led by president and CEO Dick Shaw, who joined the firm in 1951 and quickly became Baker's right hand man. Through refocusing and acquisitions he has been able to reestablish tremendous company growth.

The company has recently been split into two divisions. Civil engineering handles highways, bridges, and mappings while facilities and operations deals with environmental services, architecture, and maintenance.

Current projects for this company include the Vine Street Expressway, a 10-lane highway through Philadelphia; the new Pittsburgh airportsite, and the Southern Expressway leading to this airport.

The future of Baker Engineers may be with Maglev Inc. of which the company is a part. Maglev is researching the possibility of making Pittsburgh the center of levitrain high speed rail technology in the United States. Baker would be responsible for designing the train routes for these levitrains which will travel at 250 miles per hour on monorails emitting a magnetic field.

The efforts of Dick Shaw and his team have made this company what it is today and what it soon will be in the near future. The 50th anniversary of this company marks a brand new era in engineering and transportation in America and worldwide as well. Therefore Mr. Speaker, I rise to honor Baker Engineers before the U.S. Congress and wish the company the best of luck in its new and exciting future. May the future be as successful as the company's past.

TRIBUTE TO DONALD T. "BOYSIE" BOLLINGER

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. BAKER. Mr. Speaker, today I have the pleasure of honoring my dear friend, Mr. Boysie Bollinger, for his dedication and hard work for Louisiana, his own family business, the Republican Party, and the country as a whole.

In 1946, Bollinger Machine Shop and Shipyard, Inc., was started by Donald G. Bollinger, Boysie's father, along the banks of Bayou Lafouche. The entire family has committed their time and talents to Bollinger Shipyard, and with that beginning, a base was built establishing quality craftsmanship and service that is now recognized around the world.

Ever since his early experience on the water as a tug boat galley hand at age 16, Boysie has worked hard to learn every aspect of the industry. One of the most memorable events in Bollinger Shipyard's history occurred in 1985 when then Vice President George Bush visited the shipyard and christened one of the first new drug seizure boats that were exclusively built by Bollinger Shipyard. I will make special note that these ships were built under budget and were completed earlier than required. As chairman of the board and CEO of Bollinger Shipyard, he has continued this tradition and developed Bollinger Machine Shop and Shipyard into one of the finest marine construction and repair operations in the United States. Boysie also serves on board of directors for the Coast Guard Foundation, World Trade Center of New Orleans, the National Ocean Industries Association, and is a member of the Knights of Columbus.

The State Republican Party has grown by leaps and bounds over the last decade and half, and I credit people such as Boysie for their diligent effort in helping the party and Republican candidates to succeed. He has also served in numerous positions in the Republican Party at both State and national levels including representing Louisiana as a delegate to four Republican National Conventions and serving as a director for the Republican National Finance Committee. The same vision, direction, and foresight that he has given Bollinger Shipyard, Boysie has carried over to our party.

Mr. Speaker, Boysie has given much to his State, his party, his family business and his country, and for that I am grateful and honored to recognize him in this special way.

OILSPILL IN NEW YORK HARBOR

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. WEISS. Mr. Speaker, Congress has plans to improve the response to oilspills in the United States. But so far, that is all they

are—just plans. Legislation to prevent and clean up oilspills has been mired in Congress.

This inaction is intolerable. To urge an expeditious passage of H.R. 1465—the Oil Pollution Prevention, Response, Liability and Compensation Act, I have urged that House Speaker THOMAS FOLEY hasten the conference report on the bill in a letter signed by 21 of my colleagues.

Although both the House of Representatives and the Senate approved versions of this legislation last November, the bill is sitting in conference waiting for the conferees to work out the differences between the House and Senate versions. The conferees have only met once.

Meanwhile, the frequency and magnitude of the recent oilspills in the United States are quickly becoming a national disaster. We in Congress can no longer sit on our hands and debate our strategy. We must act now.

New Yorkers are certainly no strangers to what has been occurring in our Nation's waterways. Indeed, if New York is any indication, the situation is severe. This year alone, 1 million gallons of oil have been spilled in the New York area. The rash of oilspills in that area took a turn for the worst recently when a British-flagged oil tanker ran aground and spilled 260,000 gallons of fuel oil into the Kill Van Kull.

The trend of oilspills is clearly unacceptable. Here is a list of what has been happening near my district since January of this year. On January 1, 567,000 gallons of heating oil leaked from an underwater pipeline. On February 28, 24,000 gallons of heating oil leaked from a barge. On March 1, 3,500 gallons of heavy crude oil spilled from a barge. On March 6, an oil barge exploded, spilling 200,000 gallons of heating oil. Very little is clear about the causes of the spills except that they are larger than before and in a concentrated area.

The prevention and the clean up of these spills would be greatly assisted if the oilspill bill was already on the books. The bill establishes an oilspill trust fund, levied from oil imports, that would pay for State and Federal cleanup costs and damage compensation. It also addresses two other critical areas. The bill provides for the training and maintenance of strike teams located around the United States to respond quickly to oilspills. Finally, it would require all oil tankers and barges in the United States to be fitted with a double hull. In the event of a spill, the double-hull requirement could significantly reduce the amount of oil leaked from the vessel. The Coast Guard estimates that the Exxon *Valdez* would have lost 60-percent less oil if it had had a double hull.

Despite this pressing need, the legislation continues to languish in conference. As we noted in the letter to Speaker FOLEY:

The conferees have already had four months to complete action on this most important bill. In this time, the conferees have not been discussing ways to implement the double hull provision, instead they have been trading proposals to weaken it.

To their credit, Coast Guard officials have launched an inquiry into the causes of the spills in the New York area. That question and answer session should be completed within the week. I look forward to hearing about the results of the inquiry, as I know all involved are deeply concerned and eager to provide remedies.

Although welcome, the Coast Guard's inquiry is no solution for the problem of oilspills in this country. How many more disasters—like the rash of spills in the New York Harbor Area—must take place before we enact the necessary legislation to protect our environment?

We must find a better balance between the energy needs of the New York and New Jersey area and the protection of the surrounding environment. The oilspill bill helps strike that balance. So what are we waiting for?

SANCTIONS: STILL WORKING, STILL NEEDED

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. DELLUMS. Mr. Speaker, we have heard a great deal about reforms of the South African system of apartheid that have been undertaken by that country's President, F.W. DeKlerk. President DeKlerk's actions to date are certainly worthy of praise, however, there is a long road ahead before the conditions set forth by the Congress in the Anti-Apartheid Act will have been met. Indeed, the status of the situation is best described with the words used by my friend Lindiwe Mabuza, the chief U.S. representative of the African National Congress, to headline the editorial which appears below—"Apartheid: Far From Over." Please give your careful consideration to the update on the progress of peaceful change which she has written. I find her observations factually correct and her views to be eminently reasonable.

APARTHEID: FAR FROM OVER

(By Lindiwe Mabuza)

WASHINGTON.—Nelson Mandela is visiting the U.S. to pay tribute to the long and arduous struggle of so many Americans who supported him and to urge all Americans committed to democracy, justice, freedom and equality to continue sanctions against Pretoria.

News of the Free South Africa Movement reached Mr. Mandela even inside his prison walls, and helped sustain him and his fellow prisoners. He heard about students building shantytowns on their campuses in support of divestment, about longshoremen who refused to unload goods created by apartheid, about city councils that voted to withdraw pension funds from companies doing business in South Africa. He heard that the anti-apartheid struggle involved even schoolchildren.

This was a phenomenal constituency, built at a time when U.S. policy was more aligned to apartheid than to the aspirations for democracy of millions of oppressed people. Thus, we are all the more grateful for the sacrifices and commitment of the many Americans who persevered. And we certainly made some gains. Mr. Mandela is out of prison because you wanted him released. But our people are not free to vote, to elect our representatives, to decide the destiny of our country.

Mr. Mandela is free, but there are still more than 3,000 political prisoners in South African jails. He is alive, but the South African police are still maiming and killing his fellow citizens for their political convictions.

The state of emergency has been partly lifted. But the Government still has many of the same powers it had under the emergency decree. The Government can outlaw any organization, ban any publication or place any person under house arrest.

Yesterday, Parliament voted to repeal the Separate Amenities Act, which segregated public facilities. Yet, under the Internal Security Act, the police can still detain a political activist and hold that person incommunicado for a substantial period of time.

African National Congress members are still being arrested. Political trials are still occurring at the same pace as last year. Government soldiers continue to occupy black townships. Anti-apartheid demonstrations can still be disrupted at the whim of the police.

And the state of emergency has not been lifted in Natal Province, where its continuation exacerbates violence.

In other words, the anti-apartheid struggle is still far from over. We have taken only the first steps on a long and difficult road. We welcome and applaud the efforts of President F.W. DeKlerk, but our goal of a unified, democratic and nonracial South Africa is still a faraway vision.

We are gratified that President Bush is said to favor continued sanctions against Pretoria. Nevertheless, we are amazed and shocked that certain governments are calling impatiently for the lifting of sanctions. All we have accomplished at this point is removal of some of the obstacles to negotiating the eradication of apartheid.

Any country lifting, or intending to lift, sanctions is undermining the efforts of the international community. Moreover, it is acting in a manner considered hostile by the majority of the oppressed people of South Africa. The call for lifting sanctions is a dangerous trend, an affront to the South Africans who have given their lives or languished in prison and to the many Americans who have sacrificed on their behalf.

In 1959, the A.N.C. called upon the world to impose sanctions because apartheid was terrorizing South Africans. We, and many of you, struggled until 1986 when the U.S. Congress—overriding a Presidential veto—finally approved sanctions.

Sanctions must not be lifted until the changes in South Africa are profound and irreversible. This is defined as completion of a constitution, following elections based on the universally accepted proposition of one person, one vote. That is the litmus test of whether apartheid exists, of whether sanctions should be lifted.

Statistics give some idea of apartheid's effects: 87 percent of South Africa's land belongs—by law—to the five million whites, who also own 95 percent of the nation's industry. South Africa spends five times as much on education and health care for its white citizens as for its black. The infant mortality rate for white babies is nine per thousand births; for black babies, it is 109. The average life expectancy for a white South African is 72 years; for a black, 59.

But statistics cannot convey fully what it means to live in a country where you're not just born a baby, you're born a black, a colored, an Indian or a white baby—and that

label profoundly affects every aspect of your life.

We believe in a peaceful transition to a just and democratic South Africa. Like your extraordinary visionary, the Rev. Dr. Martin Luther King, we too have a dream of a country where white children and black children can sit down together at the table of sisterhood and brotherhood. That is the dream that sustained Nelson Mandela for 27 years in prison, the dream to which he has dedicated his life and for which we are prepared to die.

The only way to make that dream a reality is to continue sanctions and other international pressure against the South African Government. We hope that the American public and its policymakers will not be blinded by the much welcomed, but only preliminary, changes in South Africa.

Lindiwe Mabuza is chief representative of the African National Congress in the United States.

FATHER DENIS O'KEEFFE CELEBRATES THE GOLDEN JUBILEE OF HIS ORDINATION TO THE PRIESTHOOD

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. MANTON. Mr. Speaker, on June 24, 1990, Father Denis O'Keeffe of St. Sebastian's Church in Woodside, NY, will celebrate the golden jubilee of his ordination to the priesthood. The people of the Ninth Congressional District of New York have been blessed with the services of Father O'Keeffe since 1972 when he was assigned to St. Raphael's parish in Long Island City, NY. In 1979, Father O'Keeffe was transferred to St. Sebastian's Church in Woodside. Over the past 11 years, Father O'Keeffe has touched the lives of many people in Woodside. His faithful visits to the sick, the elderly, and the homebound give inspiration to those who are often without hope. He also makes a special effort to spend time with the young children of the parish school. Father O'Keeffe has celebrated hundreds of weddings and baptisms. He has also given special comfort to those who have lost a friend or a family member. I am honored and deeply grateful that Father O'Keeffe was the celebrant at my father's funeral mass earlier this year.

Mr. Speaker, like my parents, Father O'Keeffe was born and raised in Ireland. Denis O'Keeffe was born in Meensiovane, County Kerry, Ireland in 1913. He graduated from Blackrock College, Dublin, Ireland, in 1933, and soon thereafter entered the Holy Ghost Novitiate, Kilshane, County Tipperary. In September 1934, he made a religious profession in the congregation of the Holy Ghost. He graduated with degrees in philosophy and theology from the Holy Ghost Missionary College in Dublin.

Father O'Keeffe was ordained to the priesthood on June 23, 1940. He served as assistant novce master at the Holy Ghost Novitiate, in Ireland from 1941 through 1945. In 1946, he was appointed to Nigeria, West Africa. In Nigeria, he worked in parishes and conducted missions all over Iboland, Nigeria. Father O'Keeffe remained in Nigeria until 1967 when he was sent to the United States to raise funds for the education of native seminarians in Nigeria.

In the United States, Father O'Keeffe continued his work on behalf of the people in Nigeria. At the end of the Nigerian-Biafran civil war in 1970, 300 Irish Holy Ghost missionaries were refused permission to reenter Nigeria. Most of these missionaries were finally allowed to return to Nigeria due to the tireless efforts of Father O'Keeffe. Today, because of the commitment of Father O'Keeffe and the Holy Ghost Fathers, Iboland vocations are booming and the church in Nigeria has the largest seminary in the world.

For the past 50 years, Father Denis O'Keeffe has served the Catholic Church and the people of three different continents with great distinction. The people of Woodside, NY, are fortunate to have the services of such a compassionate, caring, and experienced priest. I know my colleagues join me in congratulating Father Denis O'Keeffe on the golden jubilee of his ordination to the priesthood.

THE U.S. SUGAR PROGRAM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. GRADISON. Mr. Speaker, U.S. sugar policy is in desperate need of reform. When the House considers the 1990 farm bill, Congressman DOWNEY and I will offer an amendment to reduce the relatively high level of support afforded to domestic sugar producers. Our proposal to reduce the nonrecourse loan rate for sugar by approximately 10 percent—from 18 to 16 cents per pound—has the full support of the administration.

In 1985, Congress passed a farm bill designed to make American agriculture more market-oriented and competitive. Support levels in nearly all major commodity programs were reduced—except for sugar. The Sugar Program escaped reform and the results were predictable.

Since 1981, although consumption has fallen by approximately 15 percent, domestic production has increased by about 21 percent. This has resulted in unprecedented restrictions on access to the American market for traditional foreign suppliers. The rapid closing of the American market, which has only been eased in the last 2 years because of drought, works against our foreign policy interests and violates our international obligations under the General Agreement on Tariffs and Trade.

In addition to the market and trade distortions created by the Sugar Program, it has also artificially inflated the domestic price for sugar resulting in increased costs to consumers. Recently, USDA concluded that the Sugar Program cost consumers, at a minimum, an average of about $1.9 billion per year over the last 3 years.

Although the case for reform of the Sugar Program is compelling, the Agriculture Committee has chosen to send to the floor a sugar program that walks backward into time and, in part, mimics some of the worst practices of the European Community which defenders of the Sugar Program have criticized so eloquently.

In an attempt to protect the current high level of subsidy, relative to other major commodities, the committee has constructed a byzantine system of standby marketing controls that would be triggered if imports were projected to be less than 1.25 million short tons annually. Prior to the recent 2-year drought and the freeze in Louisiana, imports fell to 758,000 short tons. No one is predicting a significant increase in consumption. With the return of normal growing conditions the Sugar Program will almost certainly be further removed from the rigors of the competitive marketplace—in direct contrast to the rest of American agriculture.

The relatively high level of support provided to domestic producers has driven the program to the point of collapse. Yet, the committee has chosen to keep the high support level and protect it with a complex marketing control system that will take an army of USDA officials to administer. Even then, the administration does not believe that the program can continue to operate at no net cost to the Treasury.

In an attempt to compensate a select group of foreign producers for the erosion in the American market, the committee has proposed a reexport program funded by a 0.33-cent-per-pound assessment on all sugar and corn sweetener producers. The program would be triggered if imports were expected to fall below 1.7 million short tons. No more than 500,000 tons could enter under the program. The sugar would be refined in the United States and then reexported into the world market. However, only CBI beneficiary countries and current quota holders with a per capita GNP of $1,500 or less could participate.

The Reexport Program developed by the committee violates our international obligations under the GATT on two levels. First, it violates the waiver obtained by the United States when the Caribbean Basin Initiative was enacted. The waiver prevents the United States from establishing additional preferences on sugar for CBI beneficiary countries. Second, the means testing of the program essentially establishes a discriminatory quota which is prohibited under the agreement.

In addition to difficulties with the GATT, the Reexport Program looks suspiciously like C quota sugar in the EC. The dumping of refined sugar on the world market by the EC is one of the worst practices which distorts the world price of sugar and the patterns of international trade. It would be unconscionable for the United States to adopt a similar program, particularly when we are in the final phase of negotiating a multilateral trade agreement in which the United States hopes to achieve a phaseout of trade distorting subsidies in agriculture.

This is the program recommended by those who have been telling us that current law works and has worked well.

The committee has refused to deal effectively with the heart of the problem with the Sugar Program. Rather than reforming the

program, the House is being asked once again to make an unwarranted exception for sugar. We are being asked to turn our backs on solving the problems posed by current U.S. policy and return to the failed supply management policies we abandoned 16 years ago when the Sugar Act expired.

There is a reasonable alternative. At the heart of the problems created by the Sugar Program is the high level of support. A moderate reduction in the nonrecourse loan rate for sugar of approximately 10 percent, roughly the reduction taken by other commodities in the previous farm bill, would be a step in the right direction. A lower support level would reduce the incentive for overproduction. Distortions in the farm economy would be reduced. Foreign suppliers would have increased and more stable access to the U.S. market. American consumers would benefit from lower prices.

Both the U.S. Trade Representative and the Secretary of Agriculture have indicated that the administration supports an immediate reduction in the nonrecourse loan rate for sugar from 18 to 16 cents. The administration believes that an immediate 2-cent reduction would be neither radical nor a move toward unilateral disarmament of the Sugar Program in the context of the negotiations of the Uruguay Round.

When the farm bill is considered by the House, Congressman DOWNEY and I intend to offer a substitute for the committee's Sugar Program. The Downey-Gradison amendment would preserve current law at a lower level of support. An immediate 2-cent reduction in sugar supports is a reasonable alternative to the committee bill.

The choice is clear. We can preserve sugar's large subsidy through an antiquated supply management system or we can address the problems posed by the Sugar Program head-on by cutting the subsidy. I urge my colleagues to join in the effort to provide more rationality in U.S. sugar policy and support the Downey-Gradison amendment.

MARTIN GREENBERG HONORED AS PENNSYLVANIA STATE COMMANDER OF THE JEWISH WAR VETERANS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a distinguished member of my district, Mr. Martin Greenberg of Wilkes-Barre, PA.

Throughout his life, Martin Greenberg has proved himself to be a man possessing a strong sense of community. Over the years, he has unselfishly and enthusiastically devoted his time to various organizations in Pennsylvania on both the State and local level.

Mr. Greenberg is a decorated veteran, having served in the U.S. Army as a combat medic in the 7th Hour Glass Division-35th Infantry from 1951 to 1953 during the Korean war. He was wounded on four separate occasions. After the fourth injury, he was discharged with the rank of sergeant due to permanent disability. He received four Purple Hearts, a Silver Star and a Bronze Star. Although he was awarded two battle-field commissions, Mr. Greenberg declined them.

Martin Greenberg has been an active member of the Jewish War Veterans for over 30 years. During this time he has held a variety of positions including: Pennsylvania central district commander, Pennsylvania vice commander and commander of the JWV post 212 in Wilkes-Barre, PA. Mr. Greenberg is currently serving as Pennsylvania State commander of the Jewish War Veterans.

In February of this year Mr. Greenberg was the recipient of the Chapel of Four Chaplains Humanitarian Award. This award is presented to those who have made a lifetime or a career of outstanding humanitarian service which has profoundly affected the quality of life of their community or Nation. Mr. Greenberg has also received a number of distinguished service awards from a variety of veterans organizations.

On June 27, 1990, the Pennsylvania State chapter of the Jewish War Veterans will be honoring Mr. Greenberg for his year of service as Pennsylvania State commander of the Jewish War Veterans. Mr. Speaker, it is a great pleasure to join with the members of the Jewish War Veterans and the Greenberg family in saluting Martin Greenberg. His outstanding record of public service illustrates his committment to and involvement with his community.

ABBY COOKE

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. MARTINEZ. Mr. Speaker, I rise today to announce the introduction of a private relief bill seeking immediate relative status for Abby Cooke—a widow of a decorated Vietnam veteran and the mother of an American citizen. I have been moved by the compelling story of Abby Cooke and strongly feel that her case deserves congressional redress.

Abby and Tim were married in Taipei, Taiwan in 1984. Tim was a Peace Corps volunteer and Abby was working her way through college. The Cookes were blessed with a daughter, Kathryn Sun Cooke, who was registered as an American citizen. Four months after the birth of Kathryn, Tim was diagnosed with lung cancer. In April 1985, the Cookes flew back to Los Angeles, CA, where Tim began to receive immediate medical treatment.

Abby entered the United States on a tourist visa because it was the most expeditious way that she could accompany her husband and daughter to Los Angeles. Two weeks after arriving in California, Abby returned to Taiwan to finish her final exams and receive her degree of bachelor of arts in journalism. She returned to her family in Los Angeles on May 28, 1985, to provide the love and emotional support for her terminally ill husband and care for their infant daughter. Abby had been granted a 1-day visa.

Under the mistaken belief that marriage in the United States automatically conferred legal status for an alien spouse, Abby and Tim were remarried on August 27, 1985, at the San Gabriel Hospital where Tim was dying of cancer. The reverend performing the wedding ceremony informed the Cookes that an immigration petition would have to be filed for Abby in order to legalize her immigration status in the United States. Tragically, Tim died on August 29, 1985, before he could file the proper immigration petition on his wife's behalf.

Timothy Cooke's death need not spell the end of his dream to have his wife and child live in America. The private relief bill that I have introduced today will grant Tim's dying wish that Abby be given permanent resident status in the United States. I for one do not think that death should prevail and rob Kathryn of the opportunity to grow up in America—a country her father fought for in Vietnam and later served as a Peace Corps volunteer—simply because an immigration application for her mother was not filed on time with the Immigration and Naturalization Service. I also do not believe that the Cookes should be penalized because they did not understand the importance of maneuvering through the labyrinthian maze that has come to represent our immigration system.

If it was not for the tragic and untimely death of Abby's husband on August 29, 1985, Abby would not only be a permanent resident today but would be well on her way to becoming an American citizen. This private relief bill will accomplish what would have been done 5 years ago had Timothy Cooke not lost his fight against lung cancer. I strongly urge my colleagues to support this bill when it comes up for consideration by the House of Representatives.

INTRODUCTION OF LEGISLATION TO EASE REPORTING REQUIREMENTS FOR SMALL BUSINESS COIN AND METAL DEALERS

HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. JENKINS. Mr. Speaker, today I am introducing legislation designed to relieve hundreds of small businesses from the burdensome information reporting requirements imposed by section 6045 of the Internal Revenue Code. This legislation will clarify congressional intent concerning the type of transactions that are to be reported pursuant to section 6045, and it will relieve many small coin and precious metal dealers from the unfair treatment that has resulted from inconsistent Internal Revenue Service [IRS] regulatory and enforcement efforts.

In 1982, as part of the Tax Equity and Fiscal Responsibility Act [TEFRA], the third-party information reporting requirements were broadened to require the filing of reports by securities brokers and others. In March 1983 the IRS promulgated regulations for the reporting of transactions occurring on or after July 1 of that year, and less than a year later the Service proposed modifications of those

regulations. The proposed regulations conflict with those promulgated in 1983, and to this day the Service has neither resolved the conflict nor progressed toward final action on this matter.

The IRS has indicated that the reporting requirements do apply to coin and bullion dealers and with respect to transactions of any size. Testimony received by the Oversight Subcommittee of the Senate Finance Committee, however, suggests inconsistent application and enforcement of the reporting rules. Some IRS enforcement agents require taxpayers to file 1099(b) information reports on all transactions, others may ignore the regulations altogether, while still others apparently require reporting of transactions the value of which meet arbitrarily established limits, such as the value of one ounce of gold or of one silver coin. Taxpayers are therefore placed in the impossible position of having to comply with reporting requirements, but of not knowing how to do so.

Testimony before the Finance Committee also indicated that the average cost to a dealer of reporting the subject transactions is $8. Reporting costs of very small dealers can be considerably higher. One small coin dealer in my district has told me that his cost of reporting a single transaction is as high as $20. Small businessmen will either not engage in transactions where the costs of reporting exceed the profit to be earned, or they simply will not report the transaction and take their chances with the IRS. In a case that has been cited during the debate on this issue the IRS assessed a fine against a coin dealer who failed to file a 1099(b) report for the purchase of five pre-1963 silver dimes—a transaction valued at less than $5.

This is no way to do business. Third-party information reporting can be an important tool in tax administration, and the Congress has determined that compliance with the tax laws requires that the IRS require the reporting of appropriate information. Taxpayers do not object to fair rules and regulations in this regard, but they have a right to know, with certainty, what the law is and how to comply with it.

The legislation I am introducing today will provide the necessary degree of certainty. It will define broker to exclude those who simply deal for their own inventory and it will exempt small transactions from the reporting requirements by establishing a per transaction reporting threshold of $5,000.

I believe that this proposal offers a fair and reasonable solution to this problem, and I urge my colleagues to join me in this effort.

THE SENATE IS RIGHT ON SOCIAL SECURITY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. PORTER. Mr. Speaker, the Senate made the right move yesterday when it passed an amendment dealing with Social Security.

The amendment offered by the Senator from Pennsylvania [Mr. HEINZ] includes taking Social Security out of our Gramm-Rudman budget equations. For too long we have used this huge reserve, this year increasing $68 billion, to mask our real deficit. We use it like an addict who takes just one more dose of the drug that he or she is addicted to. The time has come to admit our addiction, check into a budget rehabilitation clinic, and get straight with our fiscal responsibilities.

The budget summit is moving at a snail's pace, while the House continues to consider appropriations bills using numbers that are completely unrealistic.

Mr. Speaker, in the midst of a budget season gone awry, the Senate yesterday made perfect sense. When we talk about budget reform and fiscal responsibility, protecting the Social Security trust fund should be No. 1 on our priority list.

A TRIBUTE TO MR. JAKE KELLEY

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of congratulating an outstanding citizen of the State of Michigan, Mr. Jake Kelley, on the occasion of his recognition by the Veterans of Foreign Wars on June 30. For the past 26 years Jake Kelley has volunteered his growing expertise to help veterans receive their just rewards for injuries suffered in the service of their country.

Jake Kelley is an unfortunate victim of a system which allowed him to shed his blood for his country, but forced him to scale bureaucratic walls to receive compensation. Kelley, a World War II and Korean War veteran, spent years in leg braces and eventually lost a leg due to injuries suffered in service. It took him 12 years to receive compensation, helped by a fellow veteran who knew how to climb through the system. At this time he made a promise, that if God blessed him with the knowledge and means, he would never let another veteran go through the same experience.

Mr. Kelley has been a post service officer ever since. He also spent several years as a district commander for the Amvets. Besides being a life member of the Amvets, he is also a life member of the VFW, and the VVA.

It has been appropriately stated, by those who have benefited from Kelley's valuable experience and willingness to assist and befriend a veteran in need, that he is God sent to veterans. Jake Kelley has been known to use his own funds to assist his fellow veterans, for services which have included testing for veterans to determine eligibility for disability awards.

For the past 5 years Jake Kelley has worked through the Marion, MI VFW Post 6015 volunteering time, money, and groceries for veterans in need. With his wife Dorothy, he receives phone calls and visits from veterans daily. At last count, he deals with approximately 100 different veterans in a year. Jake Kelley has a spirit for service that is contagious. Those he helps are inspired to help their fellow veterans receive the compensation they deserve for their injuries while serving their country.

Mr. Speaker, and my colleagues in the House, join me today in congratulating and honoring Mr. Jake Kelley for his outstanding service to his fellow veterans, and to his country.

TRIBUTE TO EMIL WAGNER AND HERMAN AND FRANK MARTENS ON THE OCCASION OF THE FIRST INTERNATIONAL FREEDOM FESTIVAL

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to Emil Wagner and Herman and Frank Martens of the Mount Airy Lodge in Mount Pocono, PA. Emil, Herman and Frank created the International Freedom Festival to celebrate and honor the countries that have recently declared their independence from the Communist Eastern bloc: Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania and the Ukraine. These gentleman were inspired to celebrate the new freedom of their native countries. In the 1950's, Wagner came from Czechoslovakia and the Martens from Holland to find freedom from Nazi tyranny and Communist oppression. Their hard work and perseverance has brought them great success in America.

The International Freedom Festival will take place June 23—July 1 on the grounds of Memorytown, USA, south of Mount Pocono, and invitations have been sent to ambassadors, consuls general and cultural attaches from the countries being honored. Festival officials will greet these honored guests in traditional European custom with the presentation of bread and salt. The opening day festivities will include flag raising ceremonies, and breaking of the bread, following by the cutting of the international ribbon. The Tapping of the Keg and the words "Ein Prosit, "Bog Ziviojo," and "Naj Zdrovje" will ring forth as the festival swings into full gear, and many of the top orchestras in the area will perform during the 9-day festival. Vendors will serve foods indigenous to the celebrated countries and craft vendors will display and sell ethnic articles. Mr. Bernard Fetski, editor of the Bethlehem Bulletin will serve as master of ceremonies for the festivities.

Mr. Speaker, my colleagues, please join me in honoring Mr. Emil Wagner and Herman and Frank Martens for creating the International Freedom Festival. Eastern Europe is very much a part of the culture of the Pocono Mountain region of Pennsylvania and the residents have much to celebrate with the recent changes in their homelands.

TRIBUTE TO THE LATE ROBERT NOYCE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. FAZIO. Mr. Speaker, I rise to pay tribute to a great inventor and fine individual, Robert N. Noyce. I join the many people who mourn his untimely death earlier this month.

Mr. Noyce was a successful, creative inventor who had a direct impact on the way people live their daily life. Unfortunately, despite his many contributions, Robert Noyce was largely unknown to the public. In my home State of California, Mr. Noyce was a legend in the Silicon Valley, and played an integral part in the development of the technology that was the foundation of the booming industry there. The world has been forever changed through his coinvention of the revolutionary integrated circuit, and through his research on transistors.

Furthermore, Mr. Noyce played a major role in the development of the semiconductor and computer chip industries in America by cofounding Fairchild Semiconductor Corp. and Intel Corp., leading companies in these fields. In his efforts to share the knowledge of this burgeoning industry, he also cofounded the Semiconductor Industry Association. His most recent efforts were as president of Sematech Inc., the research consortium designed to help American semiconductor firms meet the challenge of foreign competition.

It is with great honor and respect that I pay tribute to Robert Noyce and his many accomplishments today.

LOCAL HEROINE HELPS PRESIDENT BUSH OPEN CHILDREN'S INN AT THE NIH

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. KLECZKA. Mr. Speaker, it is a pleasure to rise and reflect upon the courage of Brianne Schwantes of South Milwaukee, WI. Unlike most little girls, this extraordinary 10-year-old today helped President Bush cut the ribbon opening the new Children's Inn for out-of-town children receiving medical treatment at the National Institutes of Health [NIH] in Bethesda, MD.

The path leading Brianne to the President's side is not one many of us would willingly choose. This is because Brianne is one of the 30,000 Americans alive today with osteogenesis imperfecta, a genetic disorder known more commonly as "brittle bone disease." It affects 1 out of every 50,000 children born today.

Although most doctors advise victims to remain inactive, Brianne's parents, Terry and Terry Schwantes, chose instead to place their daughter in a radically different program of treatment at the NIH in 1980. As a result, Brianne became the first child in the United States enrolled in an NIH rehabilitation program for children with brittle bone disease. Physical therapy, braces, and weight-bearing exercises used by the NIH to strengthen Brianne's body have undeniably helped her to develop like youngsters not afflicted by the disorder.

To avoid unnecessary breakage of bones, Brianne must travel from her home in Wisconsin to the NIH every few weeks to be fitted for braces which assist her mobility. The new Children's Inn opened today will make these visits more comfortable for Brianne and the other brittle bone children receiving help.

It is appropriate that the NIH selected Brianne to assist President Bush cut the ribbon which marks the opening of the Children's Inn. Thanks to the program, she is the first brittle bone child in the Nation to be able to walk to school, swim, jump and participate in an unrestricted number of activities of everyday living. She is an encouraging example and hope to all brittle bone children.

Brianne leads as full a life as possible, despite the odds. Her courage is a lesson from which all children and adults stricken by illness or disability can learn.

THE JUNIOR WOMEN'S CLUB AT SOUTHINGTON, INC.

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mrs. JOHNSON of Connecticut. Mr. Speaker, the Junior Women's Club of Southington, Inc., founded on June 22, 1965, and a member chapter of the Connecticut Junior Women, Inc., is celebrating its 25th year of service to the community.

With other Connecticut Junior chapters, the JWC of Southington has, as part of a 2-year project, granted over 80 wishes to terminally ill children through a "Special Wishes" organization. In addition, they annually sponsor a townwide spelling bee, award a scholarship to a graduating high school senior and recognize the top ninth grade students at the town's junior high schools. The JWC also sponsors various classrooms through the "Adopt a Classroom Program" coordinated with a local newspaper. But, their community service does not end there.

They were responsible for the start of the "Friends of the Library," making annual donations to the public library.

They have recently adopted a family through the Southington Welfare Department.

The JWC sponsors a yearly "Children's Fair on the Town Green." They support Camp Sloper, the local YMCA day camp. They list donations with the police and fire departments, Southington Youth Counseling Center and the Southington High School all night, alcohol-free graduation party.

The organization provides its members with the opportunity for personal enrichment, social interaction and leadership while promoting educational and philanthropic community service.

In recognition of the club's many services and accomplishments over the past 25 years, I am proud to proclaim the week of June 18, 1990, as "Junior Women's Club of Southington Week."

A CONGRESSIONAL SALUTE TO DOWNEY CHAMBER OF COMMERCE PRESIDENT DORIS PATTERSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding civic leader in the south bay community. Doris Patterson will be honored for her service as president of the Downey Chamber of Commerce on June 22, 1990. This occasion provides me the opportunity to express my sincere appreciation for her many years of community service.

Her commitment to fostering commerce in Downey during her year tenure as chamber president, has been astounding. Under her leadership, she conducted 13 chamber board of directors meetings and attended over 50 special events and ribbon cutting ceremonies. She was in attendance at 84 committee meetings of the chambers, and assisted in the establishment of the Gangs Out of Downey [GOOD] Program. She also coordinated the Chamber Business Expo '90 and coordinated and assisted in various programs during the chamber's free enterprise month celebration. She represented the chamber at the centennial celebration for the Tijuana chamber in Tijuana, and the sister cities visitation in Guadalajara.

While the aforementioned efforts are quite notable, it is by no means all she has done during her tenure. Doris also served on the Downey Blue Ribbon Committee for Downtown Revitalization, the Amigos Fund Board of Directors at Rancho Los Amigos Medical Center, and the publicity chairwoman and treasurer for the Downey Rose Float Association. In addition, she assisted the Downey Conservation Group with the Water Conservation Fair and "Keep Downey Beautiful" with beautification events.

From her long and impressive list of contributions to the Downey community, it would be hard to imagine that she could hold down a full-time job. Yet, after 31 years in human resources management at Olympic Fastening Systems, Inc., she only recently retired.

In honor of Doris Patterson, and her contributions as Downey chamber president, my wife, Lee, joins me in extending our deepest thanks and congratulations. We wish Doris, her husband, James, and their two children, Suzan and Michael, all the best in the years to come.

THEY CALL IT FREEDOM

HON. MICHAEL DeWINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. DEWINE. Mr. Speaker, I recently received this poem from my constituent, Victoria Cukovecki, regarding efforts to protect the American flag from desecration. I believe this

poem is worthy of sharing with my colleagues in the House:

They call it freedom of rights, when they take me aside and burn me.
They call it their rights, to desecrate me in the streets.
They call it freedom of speech, when they vote to burn me.
What does it mean when a soldier dies for his country, and I cover his casket with honor.
What does it mean when soldiers climb mountains, hills, and even cross oceans to place me on the land in honor.
What does it mean when my stars and stripes move in the wind high above buildings, schools, and even ships "again", with honor.
I've had tears shed for me, and laughter heard aloud.
I stand in sporting events, when the pledge is felt so strong, when love and patriotism are shown.
I symbolize everthing good for people of all races in the United States of America. So, please tell me, what I as a flag have done to deserve such desertion.
Why should I burn to prove points or just give some sick pleasures.
Why have I stood so long with honor and love, and symbolize so much good in our country.
Why should I mean nothing to some, to be treated as a piece of material to wave and burn in the streets of many, to only hurt those families of the many soldier's who died for their country, only to just mean nothing.
To be able to honor the U.S. Olympic teams, with many young athletes who are honored to be a part of the United States. The years of sweat, tears, and pain and the accomplishment they feel, as they look up to me to say I'm proud of who I am all because of you! and to mean nothing to few, who want to just burn me.
I may ask why and never get an answer. But, if you were I, how would you feel standing for all good things, and burn in public, all because someone says it's the right.
Well, I have rights too. The right to fly, stand, and serve my country with honor forever.
I wasn't earned to be burned!!

AMERICAN FLAG

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. TALLON. Mr. Speaker, today the House of Representatives will debate a constitutional amendment which would prohibit desecration of the American flag. It will be an emotional, passionate debate about America's most cherished symbol and our most important document. It is right that the vote falls between Flag Day and Independence Day, for it is a fitting time to reflect upon who we are and what we stand for.

When the Founding Fathers wove the Bill of Rights into the Constitution they created parameters of freedom unequaled in Government. It is the foundation for way of life and a system which has sustained and prospered for 200 years. "It ain't broke, and it don't need fixin."

Recently talking with American Legion members in my district, I remarked—half in jest—that although I had a problem with a constitutional amendment, I thought that the best thing to do with flag burners would be to drop them off at the Legion hall around 11 p.m . on a Friday night. Their appreciation of that remark, and the Legion's official support of an amendment, is something I understand and respect.

Sure, the idiots who burn flags to draw attention to their mindless causes arouse our anger and deserve our contempt. But they are powerless, no more a threat to America than a gnat on the Washington Monument. The only danger they represent is if we overreact to their repulsive behavior and put an asterisk on the Bill of Rights.

Flag burning, however obnoxious, is an act of political expression, of protest. It is behavior that is not allowed in dictatorships, or in Marxist societies. One of the first actions of the German Nazis after their takeover was to prohibit the desecration of their symbols.

We are different. We are greater in spirit and in self confidence. We do not mandate patriotism. We inspire it.

As this difficult vote came in an emotional climate of anger and election fears. I found myself reflecting upon the experience of James H. Warner. Jim Warner was a Marine flyer, a POW of the North Vietnamese for 5½ years. He was tortured, spent 13 months in solitary confinement, and suffered from dysentery, beriberi, and intestinal parasites.

But he stood tall. One time his captors, trying to break his will, showed him a picture of American war protestors burning our flag.

"There," his interrogators said, "people in your country protest against your cause. That proves you are wrong."

"No," said Jim Warner. "That proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us."

Today Jim Warner says, "We don't need to amend the Constitution in order to punish those who burn our flag. Don't be afraid of freedom. It is the best weapon we have."

Old Glory will wave long after the flag burning crazies are a forgotten footnote. But if this amendment passes, their perversion will forever stain the most enlightened document ever created for the Government of mankind.

DARE TO BE DRUG-FREE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. SCHAEFER. Mr. Speaker, I rise today to honor a group of young people in Aurora, CO, who have chosen to become the front line in our Nation's fight against drugs. The Drug Abuse Resistance Education [DARE] Program, cosponsored by the Aurora Public Schools and the Aurora Police Department, recently graduated the second-largest class of DARE participants in the Nation.

Despite the best efforts of local law enforcement, Federal drug prevention programs, and even parents, our children's schools remain the place in our society most vulnerable to drug pushers. DARE—a joint effort between students, local law enforcement officers, teachers, and school administration officials—is working to combat escalating drug use in schools the most effective way possible through prevention. While law enforcement is responsible for reducing the supply of drugs, it is the students—with the encouragement and guidance of the community—who must eliminate the demand for drugs.

If cost projections are an indication of the severity of our Nation's drug problem, there is legitimate reason for concern. The figures are staggering—in the coming year alone the U.S. Government will spend $10.6 billion on drug control activities. Last year we spent over $12 billion solely on drug-related incarcerations. The key to overcoming this seemingly insurmountable problem lies in the next generation—our Nation's future depends on their choice to stay drug-free today.

I said that this is the second-largest graduating class of DARE in the Nation. I have no doubt that in light of the Aurora community's commitment to eliminating drugs in our schools, the next class will be the largest.

THE SOCIAL SECURITY BENEFITS IMPROVEMENT ACT OF 1990

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. SMITH of Florida. Mr. Speaker, I am introducing today landmark legislation which will finally allow senior citizens to collect the benefits and earnings they so richly deserve. My bill, the Social Security Benefits Improvement Act of 1990, will repeal the earnings test for those aged 62 to 69, will provide an adjustment for those born during the notch years, and will pro-rate Social Security benefits paid to beneficiaries.

The bill will first repeal the earnings test for all workers aged 62 to 69. The present structure creates a disincentive for people to work or continue working, which keeps millions of qualified, competent retirees out of the labor market. The earnings test forces many skilled workers to abandon their trade and seek lower paying or part-time work in order to limit their earnings. A repeal of the earnings test will stimulate significant economic growth which will lead to an increase in Federal revenue in excess of $3 billion.

As you may know the notch is a result of legislation passed by Congress in 1977 to forestall bankruptcy in the Social Security system. My bill will remedy this disparity. Notch babies—those born from 1917–21—will receive an increase in their benefits which will be computed by examining the old benefits—1972 formula—and reducing them by 3.25 percent for each year after 1916.

This legislation will also reform the test for workers collecting disability benefits. Currently, if a person is collecting OASDI and is under age 70, he or she is subject to an earnings test. If the person is disabled, he or she is al-

lowed to earn up to $6,000 per year. If the person is blind, he is allowed to earn up to $9,360 per year. The difference of nearly $300 a month between blind and nonblind disabled persons is clearly inequitable. Nonblind disabled persons though encouraged to work, are severely restricted as to the amount of work they may do. My bill will abolish this discrepancy in disability benefits by enabling all disabled people to earn $9,360 per year, while still collecting their benefits.

Finally, the Social Security Benefits Improvement Act of 1990 will pro-rate the Social Security benefits for a recipient's final month of life. Under current law, if a person dies on the first or the thirty-first of a month he or she loses the benefits for the month. Under my bill, if a Social Security recipient dies on the 27th of July the beneficiary will receive 27/31 of the monthly amount.

Congress must repeal and reform the earnings tests and amend the notch. It is crucial that we stop punishing those seniors who are unfortunate enough to have been born from 1917–28. They have worked hard and paid a great deal into the system—it is time they reaped a portion of the benefits.

SUPPORT RURAL MAIL DELIVERY

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 21, 1990

Mr. TAUKE. Mr. Speaker, today Congressman PAT ROBERTS and I will introduce a joint resolution expressing the sense of the Congress that the U.S. Postal Service [USPS] should maintain basic postal service to rural America, specifically 6-day mail service and 1-day first-class mail delivery.

Earlier this year, I wrote to the Postal Service urging them to reconsider plans to diminish mail service in Iowa. Plans to eliminate Saturday postal service and to limit 1-day first-class mail delivery would be an injustice to rural communities and thousands of farm families. In Cedar Rapids, IA, for example, the proposal would affect overnight delivery of first-class mail to towns such as Dubuque, Ottumwa and Burlington. And Des Moines residents would not be able to send overnight 25-cent mail to Waterloo, Sioux City, or Carroll. Six-day postal service and 1-day first-class mail delivery should not be considered a privilege, but a service that is equal to all Americans that purchase a 25-cent stamp.

The American Postal Workers Union, the people that collect, process and distribute mail, are leading the charge against the postal management's suggestion that their customers be given less service. I commend this dedication and commitment, and I believe it reflects a general attitude that basic postal service has a universal meaning in the United States. The USPS is built upon the concept of universality, a universal price for a universal service, but these newly-proposed standards contradict this concept.

It is disturbing that the financial strains placed on the USPS, which have forced these attempted cut-backs and reductions, are the results of congressional tampering in postal affairs. I have repeatedly voted to remove the Postal Service from the unified Federal budget and to end micromanagement of the USPS by Congress and the Office of Management and Budget. The Postal Service must be removed from budget battles if we want to maintain a high level of delivery standards in all of America, rural and urban.

The resolution Congressman ROBERTS and I are introducing stresses the importance of providing the same services to rural America that urban America receives. By eliminating Saturday service or scaling back 1-day first-class mail delivery, thousands of farm families and rural communities will be without a vital means of communication.

Postal patrons in every community rely on 6-day service and 1-day first-class mail delivery for urgent needs such as prescriptions and medical supplies and for timely notices of community events and activities. Reductions in postal services will encourage rural areas to invest in other means of communication, such as FAX machines or private overnight carriers. An increased reliance on other communication services would further reduce USPS revenues, leading only to additional service reductions and possible rate increases.

I strongly urge my colleagues to register their protests with the USPS in regard to its efforts to reduce services to rural Americans and to join us in cosponsoring this resolution.

SENATE—*Friday, June 22, 1990*

(Legislative day of Monday, June 11, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we reverence the God of Abraham, Isaac, and Jacob, the Senate will be led in prayer by the Reverend Richard C. Halverson, the Senate Chaplain.

Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Eternal God, perfect in love and grace, as we think about our failure as a society and the evil which pervades, we find hope in the prayer of King David, a great political leader.

*O Lord, thou hast searched me, and known me. Thou knowest my downsitting and mine uprising, thou understandest my thought afar off. Thou compassest my path and my lying down, and art acquainted with all my ways. For there is not a word in my tongue, but, lo, O Lord, thou knowest it altogether. * * * How precious * * * are thy thoughts unto me, O God! how great is the sum of them! If I should count them, they are more in number than the sand: when I awake, I am still with thee. * * * Search me, O God, and know my heart: try me, and know my thoughts: And see if there be any wicked way in me, and lead me in the way everlasting.*—Psalm 139:1-4, 17-18, 23-24.

Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for up to 5 minutes each. At 9:30, there will be a live quorum and I will ask for a rollcall vote on a motion to instruct the Sergeant at Arms to request the attendance of Senators.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

The PRESIDENT pro tempore. Without objection, the time of the two leaders will be reserved until later in the day.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order there will now be a period for morning business until the hour of 9:30 a.m. during which Senators will be permitted to speak for not to exceed 5 minutes.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Montana is recognized for 5 minutes.

Mr. BURNS. Mr. President, are we still in morning business?

The PRESIDENT pro tempore. The Senate is still in morning business.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. BURNS. Mr. President, something just dawned on me this week as we had a meeting with the Corps of Engineers with regard to the problems that we are facing on the Upper Missouri River. We have been in severe drought in our part of the country for the last 7 years, as my colleagues know.

The flow of the Missouri River is of some concern because of the different uses of that river. As I sat in that meeting with Senator QUENTIN BURDICK of North Dakota, I realized the tremendous leadership this man displays in this body and how he represents the needs of the people of the northern high plains.

So I rise today to pay a tribute to Senator BURDICK of North Dakota. This is his 30th year of service in this body. His contribution to the northern high plains will be felt a long time because it is a tradition in his family. His father served in the House of Representatives and he followed that and was elected to the House of Representatives in 1958. There are not very many people walking around Washington, DC, now who can even say they were born when the Senator came to this town.

It has been a privilege for me to work with this man because he serves on so many committees that impact our part of the country, especially eastern Montana, the Dakotas and all the way down to the lower reaches of the Lower Missouri River drainage.

I want to this morning recognize Senator QUENTIN BURDICK. He has served and his family has served since North Dakota became a State. He is a walking history book of the history of the Dakotas.

It did not make any difference if you had issues of water, if you had issues of our Indian tribes or our reservation problems, of our farms and our ranches, public works and especially water development in the West that is so important, as it is the lifeblood of the West. You would have to turn to QUENTIN BURDICK.

So this morning I want to congratulate him for his long service in the U.S. Senate and wish him many more because his knowledge of this body, the knowledge of the system, the knowledge of the area is invaluable to especially those of us starting in this body and starting on a career serving in the U.S. Senate. I congratulate him, and applaud him.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been raised, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Colorado [Mr. WIRTH] is recognized for not to exceed 5 minutes.

Mr. WIRTH. Mr. President, it appears that President Bush and his administration have finally gotten the message: It is time to step up actions against those who broke the law and contributed to the cost of the S&L

crisis. As I understand it, later this morning the President, joined by all 93 U.S. attorneys from across the country, will hold a press conference to announce a new S&L enforcement initiative.

I am encouraged by this apparent change of heart in the administration and have just three questions for the President:

What resources are you going to put behind this new effort?

How quickly can you deploy the resources to make up for lost time?

What took you so long to recognize and respond to this pressing problem?

I first raised this issue almost 2 months ago when the Senate was debating the supplemental appropriations legislation. In fact, at that time, joined by Senators RIEGLE and DIXON, I offered an amendment to the supplemental to increase funding for both the FBI and the U.S. attorney to investigate and prosecute criminal activity in the S&L industry. Since that time this issue has drawn substantial attention in Congress and throughout the country and several bills have been introduced in both the House and the Senate.

For instance, I, along with Senators GRAHAM and DIXON, have introduced legislation to create a Financial Services Crime Division within the Department of Justice and a resolution calling upon the President to seek the full $75 million authorized by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [FIRREA] to pursue the investigation and prosecution of financial institution crimes. Many Senators have joined in supporting these proposals.

A variety of other measures have been proposed in recent weeks and Members on both sides of the aisle in each Chamber have joined in calling for action. Senator BIDEN has announced his intent to hold Judiciary Committee hearings to examine those initiatives under the committee's jurisdiction and prepare a proposal for the Senate's consideration. Senator ERNEST HOLLINGS, chairman of the Department of Justice Appropriations Subcommittee indicated plans to seek at least $109.5 million for the Department of Justice's efforts to pursue S&L-related crimes.

Mr. President, there is no question that fraud and insider abuse by S&L owners and management contributed significantly to the problem we now face. The recent flurry of interest in this topic is the result of a well documented need for additional resources to investigate and prosecute criminal activity within the thrift industry:

The Federal Bureau of Investigation has received more than 20,000 referrals involving fraud and other criminal activity in the financial services industry that the Bureau has been unable to examine. More than 1,000 of these cases are major involving losses of more than $100,000.

As of February 1990, the Bureau also had more than 7,000 pending bank and S&L fraud and embezzlement cases, some 3,000 of which were major. And more than 900 pending cases and about 235 of the unaddressed referrals involve losses greater than $1 million.

The Department of Justice caseload is growing rapidly. Mr. Timothy Ryan, the new Director of the Office of Thrift Supervision, recently informed me that bank and thrift regulators were sending the Department of Justice 8,000 referrals per month regarding civil and criminal violations and that there were now 80,000 referrals pending.

Regulators will examine and close more insolvent institutions and the Department of Justice will receive thousands more referrals of possible criminal activity related to savings and loan failures, increasing the workload for Federal investigators and prosecutors.

The $50 million requested by the administration for fiscal 1990 proved inadequate. The additional personnel provided by these funds did not meet the staffing needs identified in a 1989 FBI survey. In this survey, FBI and U.S. attorneys' offices requested 224 more FBI agents, 113 more assistant U.S. attorney positions, and 142 more support staff positions than the agencies received.

The administration's budget proposal for fiscal year 1991 is also inadequate. The budget would only permit the FBI to add 42 agents and 26 support staff, well short of the Bureau's staffing needs.

In recent testimony before the House Government Operations Committee's Commerce, Consumer, and Monetary Affairs Subcommittee, administration officials indicated there is a need for additional resources to pursue financial institution crimes.

On March 14, 1990, Mr. Oliver B. Revell, Associate Deputy Director of the FBI, discussed the difference between the March 1989 request and the eventual allocation of resources to pursue financial institution fraud and embezzlement. Mr. Revell said that these additional personnel were still needed and that "we wouldn't have asked for them if we didn't need them."

On March 15, 1990, Assistant Attorney General Edward S.G. Dennis, Jr., testified before the same House subcommittee. Mr. Dennis' statement noted that seven FBI field offices requested additional special agents but were not allocated any new agents. Ten other field divisions were described by Mr. Dennis as receiving "substantially fewer positions than requested."

The story was similar when Mr. Dennis turned to the U.S. attorneys offices: 11 districts requested additional assistant U.S. attorneys but did not receive any while eight districts received substantially fewer positions than they requested.

Mr. Dennis said that:

A significant reason why these shortages exist is that there is insufficient funding under FIRREA to fill all the requested positions.

Yet FIRREA authorized $25 million more than the $50 million the administration requested for this purpose.

Mr. President, the case for action is clear. I am pleased that the President now agrees and hope this new initiative represents a renewed commitment on the part of the administration to give the S&L crisis a higher priority. The American people deserve nothing less and rightfully expect the Federal Government to vigorously pursue individuals whose illegal activities contributed to the S&L debacle.

I look forward to learning the details of the President's proposal later this morning.

Mr. President, today President Bush will be meeting with the U.S. attorneys brought in from around the country; about 92 U.S. attorneys are being brought in from around the country to discuss the S&L crisis. This meeting is in response to the absolute crescendo of criticism that has descended upon the Justice Department and the White House about the S&L crisis and the enforcement of the S&L initiative.

What has happened historically, Mr. President, is we had authorized the President, the administration to spend upward of $75 million for the purpose of hiring all the necessary law enforcement authorities, all the necessary authorities to go after the fraud, waste, and abuse that has occurred within the S&L industry.

As the Attorney General said, there is an epidemic of fraud that has surrounded the S&L industry and the failures that have become so commonplace in the newspapers every day.

We had urged the President to proceed to hire all the necessary people, and unfortunately the administration had not met the request made by the Congress that they go ahead and hire the appropriate people to enforce the S&L enforcement initiative.

In fact, the administration told the Congress in testimony before the Judiciary Committee in the House that they could not spend all the money despite the fact there was a very long and clear record of fraud and abuse in the industry.

About 2 months ago, I raised this issue here on the floor; in the supplemental appropriations I raised the issue in the so-called Panama amendment in which I suggested we should

not be spending $30 million to promote tourism in Panama but, rather, to transfer that funding to enforce the S&L enforcement initiative. Since there has been, again, this crescendo of attention to this issue, finally the spotlight has turned on this issue; dozens of bills have been introduced in the Senate and House, and there is tremendous pressure on the administration.

This morning the President apparently is going to respond to that. President Bush will be now for the first time requesting of us the full amount of funding. I think that is a very welcome development. I am very pleased to see that. I think we can all be encouraged by that.

I hope that coming along with that as well, President Bush, will let us know what other resources in addition to the $75 million for hiring FBI agents and accountants and assistant U.S. attorneys, he thinks are necessary; second, how quickly they can deploy these resources—all very important. Three is no question about the fact that this is a major issue, and I am very pleased to see the administration repsonding.

We are going to go on in the coming weeks to further discussion of this issue, I am sure. As we all know, this issue is all wound up in the budget summit. The administration is deeply concerned about the losses in the the S&L industry, which have contributed somewhat to this overall budget deficit. The deficit was there long before the the S&L crisis. It has been around for a long time. It has been exacerbated by that. Now the President I think will be responding to both the S&L crisis and to the budget crisis.

Mr. President, we are encouraged by this. I congratulate the White House in responding.

SAVINGS AND LOAN BAILOUT

Mr. KERREY. Mr. President, I rise as well to discuss again the savings and loan bailout issue. I appreciate and applaud the Senator from Colorado for his interest against all odds, as a matter of fact, in trying to get the administration to focus upon the need to bring those who have stolen money or broken the law to justice.

It seems to me that all the Senator from Colorado is asking is some equity. We understand that white-collar criminals are difficult to bring to justice. It is not an easy thing to accomplish. But it sends a rather, I think, uneven message to the public to say it is difficult to bring these people to justice, and therefore if you steal $400 billion you are in much better shape than if you walk into a store and take $10 or $15 of merchandise off the shelf.

We prosecute shoplifters with much more diligence than we are currently prosecuting individuals who are going to cause not only our generation but the next generation to pay out roughly $500 billion over the next 40 years.

So it seems to me, Mr. President, that this is a welcome action on the part of the administration. I hope they do more than just fly in the U.S. attorneys for a photo opportunity. I hope that in fact the Department of Justice focuses its efforts. I know that my colleagues have many examples of farmers who have been successfully prosecuted by the Federal Government for failure to pay their loans. I know that plenty of my colleagues can point to individuals at home who have been successfully prosecuted for defaulting on loans for other transactions.

It seems to me that the Department of Justice must do a lot more than simply request $25 million. They must organize themselves and get their attention upon this particular problem; otherwise, nothing is going to be done, certainly nothing that I will be able to tell my constituents, to bring these people to justice.

I must go a bit further this morning, Mr. President. I am concerned about the way this whole thing is organized still. I think the administration has made an effort to solve the problem. They should be applauded for at least making an attempt to do something. But I believe they are making a serious effort in the way they are organizing the effort. The principal error they are making is they are trying to control the flow of all the information so that they make decisions about what they are going to release.

The Department of Treasury now has almost all the responsibility for the judgments that are being made. The Treasury Secretary of the United States, Mr. Brady, a good and decent and hard working man, is the Chairman of the Office of Thrift Supervision Oversight Board and the RTC Oversight Board. I must tell you, Mr. President, that they will have about $400 billion, they are estimated to have about $400 billion assets relatively soon, 400 institutions, and I do not know how a man as busy as that, even if all he is concerned about is just the overall policy, can put the kind of effort that is needed into that large of an organization.

I simply urge my colleagues to look seriously at the way this is organized, look seriously at several other policy questions, because we are going to get some surprises. We have already had a lot of surprises about the cost. They told us that $50 billion would do the job. They will have expended that $50 billion sometime early in fiscal year 1991, we are now told.

The administration is saying in the budget summit negotiations that the taxpayers of the United States should understand that the new estimate of the deficit of $160 billion does not include the S&L bailout expenditures. The administration is estimating it will be another $23 to $40 billion whereas CBO is estimating it will be $68 to $100 billion that we will need.

I ask unanimous consent, Mr. President, to include a letter that was sent by CBO to the chairman of the House Banking Committee, the Honorable HENRY GONZALEZ, that my colleagues I think should look at because it indicates that we have a lot larger problem here than the administration again is telling us. They are making a mistake that was made earlier of underestimating the problem. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 13, 1990.

Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance, and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your request, this letter provides our latest estimates on the cost of resolving failed savings associations and the number of institutions whch will have to be resolved.

The latest CBO estimates confirm the need to provide additional resources to the Resolution Trust Corporation. Our estimates show that RTC will exhaust its $50 billion provided by FIRREA early in fiscal year 1991. CBO estimates that, through 1995, RTC will need almost $100 billion more to cover insurance losses. In addition, RTC will require substantial amounts of working capital, which RTC will recover in later years when it sells the assets of the failed institutions.

For purposes of these estimates. RTC's caseload is assumed to comprise the 925 thrift Institutions that have a capital-to-assets ratio of less than 3 percent on a book value basis, but are estimated to be insolvent on a market value basis. If all of these institutions could be resolved today, RTC's losses would total $90 billion to $130 billion. CBO's projections assume losses of about $100 billion. Because RTC cannot resolve all these cases right away, however, many insolvent institutions will continue to operate for several more years, incurring further losses in the process. CBO estimates that, in present discounted value terms, the eventual cost of RTC's activities will reach $150 billion. This amount does not include the losses on cases covered by the FSLIC Resolution Fund and by the Savings Association Insurance Fund, which are estimated to have a present value of about $60 billion and $35 billion, respectively.

Despite the seeming precision of CBO's estimates, the path of spending by the RTC is highly uncertain. The estimates depend on a host of interrelated factors that are extremely difficult to predict, including the number of institutions in the caseload, the number of cases that are resolved by liquidation or by merger, the order in which case are resolved, the pace of resolutions, and the timing and value of asset sales. Notably, the assumed RTC caseload does not include 792 thrift institutions that are tangibly solvent on a book value basis, have tangible capital-to-asset ratios greater than 3 per-

cent, but are estimated to be insolvent when their assets are valued at market prices. The CBO estimates assume theat these institutions are the responsibility of the Savings Association Insurance Fund. If many of these marginal institutions fail, as CBO expects, SAIF—like RTC—will need more resources than the law now provides.

Additional details on our latest estimates of the costs of resolving the savings and loan problem can be provided by CBO staff. I hope that this information will be helpful to the Committee.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Mr. KERREY. I would also, Mr. President, call my colleagues' attention to another piece of this policy, and that is that we are continuing to operate institutions that are technically insolvent. You say what is the significance of that? The significance is we are guaranteeing the deposit. We have an insurance scheme in place that says if anybody puts a deposit in an institution, the taxpayers of the United States will guarantee it.

One of the things we have in this letter to Chairman GONZALEZ is CBO saying there are 792 institutions out there that are operating, taking deposits, who if they price their assets at present market would be insolvent. The taxpayers of the United States are guaranteeing those deposits up to $100,000.

On a related matter, I call my colleagues' attention to the fact that some of the institutions that we are subsidizing—the administration has been careful to say they are opposed to any sort of industrial planning at all. We have in place a system saying in order to make some of these sales, late in 1988, we have enormous taxpayer subsidies in place.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. KERREY. Mr. President, I ask unanimous consent to be permitted 2 additional minutes.

The PRESIDENT pro tempore. Without objection, the Senator is recognized for 2 additional minutes.

Mr. KERREY. I ask unanimous consent to have printed in the RECORD a letter, essentially an advertising letter, that American Savings Bank in San Juan Capistrano, CA, is sending to potential depositors, saying we are going to give you an incredible 2-percent bonus interest at American Savings Bank. American Savings Bank is an institution that is subsidized by the taxpayers of the United States.

In addition to that, they go on to say: Do not worry about this 2-percent bonus. Guess what. The taxpayers of the United States are going to fully back it by insuring it by the FDIC to the tune of $100,000.

There are serious policy questions about the way this thing is organized. But I think our colleagues on both sides of the aisle ought to be investing and ought to be, on behalf of their taxpayers, investigating very diligently.

I thank the Chair for the additional 2 minutes. I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN SAVINGS BANK,
San Juan Capistrano, CA, May 16, 1990.
DAVID M. WILLETT,
Alipaz St., Apt. 5,
San Juan Capistrano, CA.

2.00% BONUS INTEREST!

DEAR DAVID M. WILLETT: Until July 16, 1990, you're entitled to an incredible 2.00% bonus interest at American Savings Bank!

Just open a new six-month Money Matrix CD* with $5,000 to $89,999 from another institution to earn your bonus.

Why are we paying 2.00% above our already competitive rates? It's simple: we want your business. And the best way to get your business is by offering one of the best investment alternatives around.

And, of course, your money is safe. It's fully insured by the Federal Deposit Insurance Corporation (FDIC) to $100,000.

So if you'd like to lock in a high rate of return, including an extra 2.00% interest, just bring the attached certificate to our office before July 16, 1990. It's that easy!

Questions? Please call us at 493-5011. We'll be happy to help!

Sincerely,

PAULINE JEFFERS,
BRANCH SALES MANAGER,
Assistant Vice President.

P.S.—Open a new Money Market checking account when you open your CD and we'll waive the monthly service charges for a full year (and provide your first order of checks free.) Ask us for details!

2.00% BONUS CERTIFICATE

This entitles David M. Willett to 2.00% bonus interest when opening a six-month Money Matrix CD* with $5,000-$89,999 (from another financial institution) at the American Savings Bank office listed below. If the person named also opens a new Money Market checking account, American Savings Bank will waive the monthly service charges for one year and provide the first order of checks absolutely free. Offer expires July 16, 1990. Non-transferrable. Offer limited to one account per customer. Jumbo accounts excluded. Personal funds only. *Substantial penalty for early withdrawal.

Please See Other Side For Valuable "rain check"

American Savings Bank, 31877 Del Obispo Street, San Juan Capistrano, CA 92675.

NATIONAL HOSIERY WEEK 1990

Mr. HELMS. Mr. President, the week of August 12-18 will mark the 19th annual observance of National Hosiery Week, and it gives me great pride to devote a few moments to the accomplishments of this remarkable industry.

Mr. President, for the fifth consecutive year the American hosiery industry's production has increased. In 1989, the industry hit a record-breaking high of 346,346,000 dozens of pairs. Hosiery shipments in 1989 were up more than 31,000,000 dozens of pairs over the 1988 level. Obviously, with production and shipments reaching all-time highs, 1989 was indeed a prosperous year for the hosiery industry.

Mr. President, employment in the domestic hosiery industry has increased to more than 70,400 people in 28 States. These citizens are employed by 325 companies operating 412 plants throughout the country.

The Southeast continues to lead the Nation in hosiery production. In fact, 94 percent of the hosiery production takes place in a six-State region, which includes Alabama, Georgia, Kentucky, South Carolina, Tennessee. I am proud to say that North Carolina produces more than one-half of the socks and pantyhose in the United States. In the North Pennsylvania and New York continue to be the primary hosiery producing States, while Wisconsin still produces the most in the Midwest.

Mr. President, while hosiery is not immune to foreign competition, it has been able to compete to a greater degree than other sectors of the textile/apparel industry in recent years. Although 1989 hosiery imports reached 14,957,275 dozens of pairs—a significant increase over the 1988 level—it is comforting that imported hosiery represents just 4.2 percent of the domestic hosiery market.

On the other hand, the U.S. hosiery industry continues to be aggressive in foreign trade, exporting 5,725,327 dozens of pairs in 1989. This is due to the industry's efforts to improve productivity and flexibility with new equipment and more effective use of human resources. These efforts are a direct result of the industry's unfailing commitment to quality and value.

So, Mr. President, North Carolina remains the vanguard of the hosiery industry, generating almost one-half of the total domestic production and employing nearly 40,000 people within the State. That is why I am particularly proud each year to come to the Senate floor to help celebrate this special occasion for a very special industry.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,924th day that Terry Anderson has been held in captivity in Beirut.

NELSON MANDELA AND THE END OF APARTHEID

Mr. RIEGLE. Mr. President, for the next week, America will be honored by the presence of a man who has spent his life in the struggle against oppression. Even though he has been silenced, jailed, and kept from his family and friends, his dream of freedom for his nation has lived on in the hearts and minds of his people. Not

unlike other prisoners of conscience, such as Mohandes Ghandi and Andrei Sakharov, his imprisonment only sparked a fire which has forever made him a legend and a leader in the campaign for human rights.

After more than 27 years in prison for espousing freedom and equality for the people of South Africa, Nelson Mandela was finally released on February 11, 1990. From dancing in the streets of Durban to celebrations in downtown Detroit, the whole world rejoiced at the return of Nelson Mandela to the fight against racial subjugation.

Apartheid, the system of institutionalized racial segregation and oppression in South Africa, has existed in the law of South Africa for over 40 years. Since September 1984, tragically, more than 4,000 people have been killed and more than 50,000 jailed as blacks have courageously risen up to end the violent oppression of apartheid. Furthermore, a harsh state of emergency, imposed in 1985, has allowed the white minority government to intensify its crackdown on political opposition through the imposition of strict regulations on the press and ruthless controls on the political activities of antiapartheid organizations.

During the last year, however, there have been signs that change may finally be occurring in South Africa. Nelson Mandela and other political prisoners have been released. And, President de Klerk has begun a dialog with Mandela which may lay the groundwork for formal negotiations on power sharing.

But while there has been some alteration in the methods of South African injustice, the truth is that apartheid still thrives in South Africa. Not only do blacks and other racial minorities remain excluded from government, but the laws which form the backbone of apartheid remain in full force. The detested Population Registration Act and the Group Areas Act, continue to force South Africans to register with the government by race and to herd blacks into areas where only they can live—communities where social services, such as basic education and sanitation, are nonexistent or severely restricted.

Although several peripheral aspects of apartheid have changed, its most cruel components remain firmly entrenched and the burden of racial oppression still hangs over the heads of South Africa's majority. Until the South African Government commits itself to good faith negotiations on political equality for all races and the lifting of this heinous system, the United States must not consider any reduction in the economic sanctions which have helped to bring the South African Government to the early stages of political compromise. As a long-time supporter of the fight against apartheid, I will follow the lead of Mr. Mandela as he calls on the United States and the Western World to hold fast against the terror of apartheid and not to ease our sanctions.

With dignity, humility, and overwhelming force of personality, Nelson Mandela is the right person to lead South Africa out of its oppressive past. Mr. Mandela's commitment to the principle of one person, one vote and freedom and equality for all South Africans represents a light at the end of the long tunnel of apartheid. After 27 years in prison, who other than Nelson Mandela could be released from incarceration and within a few short months begin to discuss reconciliation and the creation of a new South Africa with his former jailers.

During my lifetime—

Stated Mandela in 1964 after being sentenced to life in prison—

I have dedicated myself to this struggle of the African people. I have cherished the ideal of a democratic and free society in which all persons live together in harmony with equal opportunities. It is an ideal which I hope to live for and achieve, but if need be, an ideal for which I am prepared to die.

Mr. President, as liberation is finally within sight, we must also dedicate ourselves to a free South Africa. With the visionary and compassionate leadership of Nelson Mandela, we will surely have an example to emulate and a path to follow as we in America maintain pressure on the white minority government and do our part to end apartheid.

QUENTIN BURDICK—30 YEARS IN THE SENATE

Mr. FOWLER. Mr. President, as one who feels privileged to have served for barely 3 years in this august body, it is with more than a little awe and admiration that I rise to congratulate our colleague from North Dakota on his record of 30 years' public service in the U.S. Senate.

QUENTIN BURDICK's endurance is all the more remarkable when we look at the kinds of tasks he has shouldered. He has never been deterred either by complexity or magnitude. He has not shied from the unglamorous but absolutely essential mastery of the nuts-and-bolts workings of Government.

As a member of the Judiciary Committee in the seventies, he devoted a decade to the updating of our bankruptcy laws. This is a perfect example of how Senator BURDICK has always applied himself to a difficult, laborious task and seen it through with the steadfast determination and strong sense of responsibility that people want from their Government.

In the eighties, Senator BURDICK devoted himself to service on the Appropriations Committee. It has been my honor to work with him on that committee and to learn from him as he pursues the cause of his constituents with great commitment and integrity.

We could describe Senator BURDICK as hard working, but quiet, and humble. There is little seeking of limelight, but much laboring behind the scenes. We should not be surprised to see that our unprepossessing colleague has worked his way to the forefront, after all.

As chairman of the Senate Committee on the Environment and Public Works, Senator BURDICK has begun the work of restoring our natural heritage that—as we all recognize—has reached a critical stage, that represents one of the most important priorities for the Senate in the 1990's.

We are grateful for his 30 years of service. We will owe him a debt of gratitude for far longer than that for his work to clean up our water, to clear our skies of pollution, to contain the spread of toxic wastes, to protect our dwindling wildlife, and to preserve something of the America we knew for the generations to come. We have a lot of work still ahead of us to keep from spoiling this sweet land of liberty. I look forward to continuing to work with my friend from North Dakota toward that goal.

HARRY VANDERLINDEN: A FINE AMERICAN, A FINE TAR HEEL

Mr. HELMS. Mr. President, I have just learned of the death of a distinguished North Carolinian, William Harrison Vanderlinden, Jr., who was a very special citizen in so many ways.

All of us who admired and respected Harry Vanderlinden remember the countless ways in which he worked and sacificed for his country and his State. During World War II, then a captain in the U.S. Army's 96th Division, Harry was seriously wounded when United States Forces invaded Okinawa in 1945. Those of us old enough to remember the traumatic years of World War II know that the battle at Okinawa was among the fiercest fighting in the war in the Pacific. A year earlier, Harry participated in the early stages of the liberation of the Philippines.

Then, Mr. President, when Harry Vanderlinden came home from the war, he served in the North Carolina House of Representatives.

Obviously, I held Harry in great admiration. Moreover, Harry's brother, Frank van der Linden, has been a very special friend for many years. Frank is an able journalist who has been covering the Washington scene for a generation. And, by the way, Mr. President, Frank van der Linden chooses to spell his surname in, as he puts it, "the old Dutch way."

In a moment, I shall ask unanimous consent that an article from the Hickory Daily Record of June 16 be printed in the RECORD at the conclusion of my remarks. It is headed "Harry Vanderlinden Dies At Age 73" and its author, Tracy Becker, details some of the achievements of Harry's life.

Mr. President, Mrs. Helms and I extend our deepest sympathy to Harry's fine family, and I now ask unanimous consent that the aforementioned article from the Hickory paper be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Hickory (NC) Daily Record, June 16, 1990]

HARRY VANDERLINDEN DIES AT AGE 73

(By Tracy Becker)

William Harrison "Harry" Vanderlinden, Jr., 73, of 657 Twentieth Avenue Drive, NW, in Hickory, died June 15, 1990, at Frye Regional Medical Center after a brief illness.

Vanderlinden was born April 2, 1917, in Hendersonville and was the son of the late Dr. W.H. Vanderlinden and Florride Morris.

Vanderlinden, a 1937 graduate of Lenoir-Rhyne College, was a retired brigadier general with the National Guard and a decorated combat veteran of World War II. He enlisted as an infantry private in August of 1941 and terminated active duty in December 1945 as captain.

In addition, he was commanding general of the 30th Infantry Division (Mechanized), North Carolina Army National Guard.

Vanderlinden held the Purple Heart with Cluster, Bronze Star Medal, Combat Infantry Award, N.C. Distinguished Service Medal and the Legion of Merit.

He was a graduate of the U.S. Army Infantry School and the Command and General Staff College, and he completed a senior reserve component course at the U.S. Army War College.

Vanderlinden worked for the city of Hickory Public Works Department following his graduation from Lenoir-Rhyne College in 1937 until August of 1941. He began work in 1946 with Setzer Construction Co. and later served as a president and treasurer for the company after it was reorganized to become Midstate Contractors Inc. Vanderlinden retired from Midstate in January of 1983.

The organizer of Asphalt Paving Co. in 1953, Vanderlinden served as a president and treasurer for the organization until May of 1984, when the company was sold and he retired from business.

Vanderlinden served in the North Carolina House of Representatives 1947-49 and was a former chairman of the Catawba County Democratic Party.

Vanderlinden was a past president of the National Asphalt Pavement Association, the Carolina Asphalt Pavement Association, and the Carolinas Branch of Associated General Contractors of America.

He also was a past president of the Better Transportation for North Carolina Inc., the Hickory Rotary Club, Hickory Chamber of Commerce and Catawba Springs Development Corp.

In addition, Vanderlinden served in various capacities with the Lenoir-Rhyne College Development Board, the First Security Co., the Catawba County Chamber of Commerce, and the Catawba County Historical Association, among others. He also received various honors and awards for his achievements in various organizations.

Vanderlinden was a charter member of Northminster Presbyterian Church.

Survivors include his wife, Martha Link Frye Vanderlinden of Hickory; two sons, William Lee Vanderlinden of Atlanta and William Harrison Vanderlinden II of Hickory; a daughter, Martha V. Cotton, of Hickory; three grandaughters, Lisa V. Cook, Misty Nicole Vanderlinden, and Morgan Link Vanderlinden, all of Hickory; four grandsons, William Lee Vanderlinden Jr., Chad S. Vanderlinden, Joab Cotton IV, and Joshua Linden Cotton, all of Hickory; two sisters, Suzanne Hall, of Cleveland, and Emily Williams, of Winston-Salem; and a brother, Frank Vanderlinden, of Washington, D.C.

The funeral will be conducted by Dr. James R. Stephenson at 11 a.m. on Monday. Burial will be at Oakwood Cemetery.

The family will be at Bass-Smith Funeral Home from 7 p.m. to 8:30 p.m. Sunday.

Honorary pallbearers are members of the Hickory Rotary Club and members of the Retired Officers Association.

Memorials can be made to the Hickory Rotary Club or to a favorite charity. Full military rites will be conducted by the North Carolina National Guard.

SENATOR BURDICK'S 30TH YEAR IN THE SENATE

Mr. PRESSLER. Mr. President, it is a pleasure to commend QUENTIN BURDICK, the distinguished senior Senator from my neighboring State, for his 30 years of outstanding service in this body. It is truly a noteworthy accomplishment to qualify as one of only 36 Senators in our Nation's history to ever reach such a landmark of public service.

During the historical 100th Congress, I had the privilege of serving with Senator BURDICK on the Environment and Public Works Committee under his able chairmanship. I know firsthand of his significant contributions to that committee, this entire body, and our Nation.

Senator BURDICK has been particularly active in initiating and supporting legislation for rural America. He has ardently defended rural electric programs and consistently advocated the improvement of rural health programs. North Dakota ranks first in USDA research funding per capita through Senator BURDICK's efforts. He has worked to boost agricultural exports, provide drought relief and fund agricultural programs. As the chairman of the Appropriations Subcommittee on Agricultural and Rural Development, he has vigorously attended to the needs of his home State. In March 1989, Senator BURDICK was honored with an award for meritorious service to the Farmers Union and to American agriculture.

Senator QUENTIN BURDICK has served North Dakotans well by remaining loyal to his own progressive farm heitage. He is an excellent Senator, a good neighbor and a great friend. I congratulate him for his accomplishments and thank him for his tremendous contributions.

THE ROLE OF OUR EMBASSIES

Mr. PRESSLER. Mr. President, I recently met here in Washington with United States Ambassador Charles Gargano from Trinidad and Tobago, a small twin island democracy in the Caribbean. We had very enlightening conversation on the roles of U.S. Embassies and Ambassadors, which I found very stimulating from a public policy perspective. As someone who works with many of our Embassies on trade issues concerning my constituents, I found his observations both educational and illuminating. We need to be more aggressive in our overseas markets and developing trade from a U.S. business point of view. I found Ambassador Gargano's ideas and in this area very compelling.

I have read one of Ambassador Gargano's papers, entitled "U.S. Embassies Abroad: We Mean Business," and have had the privilege of reading one of his recent speeches on this subject. I would like to share both with my colleagues who are interested in trade issues and who, like me, are interested in improving our constituent services for our small businesses that want to become more active in international trade.

We need to be tougher and compete more effectively with Japan, the European Community, and others. Our embassies play a key role in this area. In our ever shrinking global village, we must become more aggressive in helping our small businesses and others compete so that we can meet the international trade challenges being raised around the world. I think Ambassador Gargano's insights will prove very useful to others who share my interest in this area.

I ask unanimous consent that both his paper and a text of one of his recent speeches on the subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. EMBASSIES ABROAD: WE MEAN BUSINESS

(By Ambassador Charles Gargano)

American businessmen are starting to feel more at home in U.S. embassies abroad.

It should always have been so. But, from what some of our own embassy's U.S. business visitors have told me, they have not always gotten the attention they needed from our government overseas.

Perhaps that is because our missions abroad traditionally focussed on geopolitics. But the world is changing. As Deputy Secretary of State Larry Eagleburger made clear in a recent speech, geopolitics must now include trade relations as a major component.

American business must become even more competitive world-wide. The Japanese will continue to contest foreign markets with us. The big Europeans economies will also be tough competitors, especially after

the unified market comes into effect in 1992.

As U.S. Ambassador for a year and a half in Trinidad and Tobago, an oil-rich, twin-island democracy of 1.2 million people in the Caribbean abutting Venezuela, and as a former businessman myself, I know that our embassies can and do help businesspeople to compete overseas.

U.S. exporters, for example, tend to lack economic data and business contacts when they go abroad. Embassies can be a valuable first point of contact for such visitors.

In Trinidad, we have been of particular assistance to U.S. investors in such areas as oil, petrochemicals, banking, insurance, and light manufacturing. Many have been large, well-known companies, giving the lie to what was once a standards excuse for embassy passivity: "The big guys can take care of themselves; they don't need us."

Wrong. They do need us. An embassy can be of real assistance at those infrequent but crucial junctures where a joint venture negotiation is in danger of breaking down, an American company feels it is being squeezed unfairly by the host government, or important (and justified) work permits are being denied or delayed.

At such times, an Ambassador and his staff can often cut through the red tape, speak directly to the people who count, and deliver a vital message or set up a crucial meeting.

Needless to say, it is in the end always up to the businesspeople themselves to make their case. We can only facilitate. But this marginal help can sometimes make the difference.

Embassies assist commercial visitors in more routine ways as well. Every U.S. embassy, for example, puts out an annual Foreign Economic Trends (FET) report—a comprehensive look at the host country's economic policy and practice. Business visitors have told us that they found our FET a quick way to get a no-nonsense, statistically-based description of Trinidadian economic trends written from an American viewpoint.

Our Embassies offer still other services—such as finding potential distributors for a U.S. firm's products—which are normally initiated at the U.S. end, whether in Washington or from one of the Commerce Department's U.S. field offices.

Embassies can also give vital assistance to American business by voicing the U.S. viewpoint when the host country's economic policies are being decided. In Trinidad, for example, I have spoken out publicly on the subject of foreign ownership. Outsiders currently can own a majority of shares in a company only by requesting an exemption from the law. Many exceptions are granted, but they can be time-consuming, and the process constitutes an obstacle that outside investors would rather not encounter.

My stance has drawn a few accusations of "interference" in this country's affairs. My response is that Trinidad is actively seeking foreign investment, and I would be remiss not to let lawmakers and others here know how U.S. businessmen react to their Aliens' Landholding Act in its current form. Other countries' embassies in Washington, by the way, routinely make known their views on legislation they favor—a practice widely regarded as healthy for us and them.

This brings up another point. I see nothing incompatible between assisting American businesspeople and helping the people of Trinidad. We try to do both.

I responded enthusiastically, for example, to a request to help T&T officials set up meetings with large cruise ship companies in the U.S. with a view to attracting more tour ships to Trinidad and Tobago. Pursuant to these meetings, T&T plans to host 190 ship stops in 1990, as opposed to 86 in 1989. This is good for Trinidad, and for us.

If the partnership between U.S. embassies and U.S. businesspeople is going to work, of course, visitors have to let us know their problems. This is best done before a crisis occurs. We encourage American companies visiting Trinidad to come in and brief us on their efforts so that, if and when they need help, we will be in a better position to provide it.

Deputy Secretary of State Eagleburger has stressed that our Embassies should be doing all they can to make it easier for American companies to compete around the world.

That's exactly what my Embassy in Trinidad, and others around the world, are trying to do. An increasing number of important American businesspeople are taking advantage of our willingness to assist. That tells me that our help is needed and appreciated.

SPEECH BY AMBASSADOR CHARLES GARGANO

Ladies and Gentlemen: For the past two years, I have been privileged to be the American Ambassador in the Caribbean island-nation of Trinidad and Tobago.

Being an Ambassador involves one in a whole variety of activities: negotiating bilateral agreements, reporting to Washington on political and economic conditions, fighting drugs, protecting American citizens, promoting American business.

All these activities are important, and I have found all of them challenging.

But, since I had been a businessman my entire career, it was natural for me to pay special attention to the business and commercial aspects of my job.

It was also timely that I do so, since these last two years have seen a renewed emphasis by the State Department in supporting our businesspeople in foreign countries.

I want to talk to you today about how our embassies are promoting U.S. business abroad, and, specifically, what we have been doing in Trinidad and Tobago to make life easier, and more profitable, for the businesspeople who come to us for help.

THE WORLD IS CHANGING

First, let's look at the dramatic way the world is changing around us, and what this means for American business.

Not since the end of World War Two have we been shaken up so profoundly.

The destruction of the Berlin Wall is a symbol of the disintegration of trade barriers everywhere.

The single European market, the U.S.-Canada Free-Trade Agreement, the brand new trade agreement between the U.S. and Mexico as well as the fresh, free-market spirit that is sweeping the world from the Soviet Union to South America—such changes are radically altering the world business environment.

The gut meaning of these changes is that competition is getting stiffer for everybody, including us.

Fortunately, American business has been getting in shape for these challenges for at least a decade.

The Japanese made us realize that the U.S. market could no longer be isolated from the rest of the world.

As a result, American firms today are more aware of international competition and international opportunities, and they are more aggressive in meeting them.

More companies then ever are exporting to increase sales.

More companies are sourcing their inputs from abroad to cut costs to stay competitive.

And more companies are looking at joint ventures with foreign firms to penetrate new markets, acquire new products, land new technologies, and get further financing.

THE ROLE OF EMBASSIES

But we still have a great struggle ahead of us if we are to outdistance our foreign competitors in the coming years.

This is where our Embassies can play a role.

In the past, U.S. companies have not always gotten the service they wanted from our Embassies.

Our missions abroad were sometimes criticized for paying too much attention to geopolitics and to maintain smooth relations with the host government, and not enough to furthering U.S. commerical interests.

Things have changed.

Today, most U.S. Ambassadors would list support for American business as one of their top priorities.

Just as American companies have learned to be more aggressive in the international marketplace, so too have American Embassies changed the way they view their responsibilities.

Since this changing role for our Embassies may not yet be fully understood by our businesspeople, let me explain the kinds of services we offer.

First, for individual business visitors, the Embassy can be a valuable first point of contact.

We provide information and advice on local market trends, import regulations, and product standards, as well as on the creditworthiness of local firms.

We can give visitors a feel for current political and macroeconomic trends which affect their business.

Most important, we have lists of potential buyers, and can make referrals to vital government contacts.

Secondly, we devote plenty of attention to organized business groups.

Embassies are often called upon, for example, to assist trade delegations sent to our countries by State governments or industry groups.

Just last week, in fact, my Embassy assisted a delegation of businesspeople from Florida.

We made all the necessary local arrangements and provided each delegation member with a schedule of meetings tailored to his or her special interests.

On the delegation's last day in Port of Spain, I hosted a gathering for the group in the evening at my residence, so members could meet prominent local business figures and government officials.

The result was * * *.

We intend to follow up.

Our Commercial Attache will remain available, after the Florida people leave, to help sort out problems that may arise, such as nonpayment or seizure of goods.

After all, we are on the scene—our Florida friends aren't.

Often, our intervention in such cases can prompt quick action.

A third kind of service, embassies are continually alert to major projects or government tenders that offer opportunities for U.S. exporters.

Many local firms call us first when they are looking to buy products. By the way,

you need not travel overseas to take advantage of many of these services.

The Department of Commerce maintains a network of 49 district offices located in major cities around the country. These serve as a kind of domestic sales force for a full range of export services that tap into the expertise of our Embassies abroad.

For example, the sales opportunities that we pick up overseas are reported routinely in a Department of Commerce publication, the Journal of Commerce. And there is even a "Comparison Shopping Service" that produces market research reports tailored to a company's specific products.

So a local Commerce Office can be of real value to companies wondering where in the world to find the best market for their product, and who need a targetted, cost-effective, global marketing approach.

EASTERN EUROPE

With an increasing number of American companies taking advantage of our willingness to assist, one of our main problems is finding the resources to do the job.

Our East European missions in particular are being swamped with business visitors. Commercial offices that used to average only ten visitors a week are now expected to cope with 50 or 60, with no increase in resources.

Eastern Europe is a difficult place to do business, and U.S. companies are having trouble coping with noncovertible currencies, inadequate property safeguards, and rapidly changing commercial climates.

The points to a critical need to beef up our support for U.S. firms in Eastern Europe if we are to hold our own against the West Europeans, with their natural advantage, and the energetic Japanese.

To meet this need in Eastern Europe, and to bolster our presence in Japan, the Administration has asked for a $10 million, or 12 percent, increase in its export promotion budget for FY 1991. That is only half the cost of one F-16 fighter plane. We think it would be money well spent.

TRINIDAD AND TOBAGO

Let's now return to embassies, and to some more real-life examples. Of course, it is in Trinidad and Tobago that I have had my own experience as a U.S. Ambassador assisting American businessmen.

So perhaps the best way to show how embassies support business is to describe further how my own embassy has gone about it in Trinidad, an oil-rich democracy of 1.3 million people located at the end of the Caribbean island chain, near Venezuela. Let's start with the Mobil Oil Company.

In July of 1988, Mobil was awarded oil exploration rights by the Government of Trinidad and Tobago in a newly opened offshore block. For the next 14 months, top Mobil officials engaged in strenuous, often frustrating negotiations on the terms of a joint operating agreement with a local, state-owned oil company.

Throughout, Mobil negotiators worked closely with me and my Embassy staff on all aspects of the talks. We advised Mobil on whom to see and how to present arguments with maximum effect. We kept Mobil apprised of developments that affected negotiations—like debt restructuring efforts that made the Government reluctant to take on large new debt obligations. We pressed Mobil's case with officials in the Energy and Finance Ministries, and supported ministerial appointments for Mobil negotiators at crucial junctures.

I myself made personal calls on Ministers on Mobil's behalf. The end result was an agreement which, while tough, was one Mobil obviously felt it could live with. That's not all.

The completion of the Mobil deal, which contained agreement with the government on several fundamental issues, allowed three other U.S. oil companies to finalize their negotiations. This meant strengthened opportunities for our oil companies; a major injection of U.S. capital for Trinidad and Tobago; and, if more oil is found, an increased oil supply for the United States from a close, stable, democratic neighbor.

Let me give you another example. This one concerns the Continental Oil Company, or CONOCO. CONOCO wanted to enter a joint venture with Trinidad's National Gas Company to build a world-class liquid gas separation plant. The idea was to capitalize on Trinidad's enormous natural gas reserves.

The negotiations were hard, and, for the Americans, strewn with obstacles—such as an early requirement by the Government that CONOCO accept an unwelcome European joint venture partner. We started meeting with CONOCO executives, and were able to provide continuing commercial intelligence as well as advice on how to deal with the government. We also took various opportunities to raise CONOCO's concerns with senior government officials. The final result was that last November, after months of negotiations, CONOCO and the U.S. engineering firm Pan West signed a joint venture agreement with the local gas company to build Trinidad's $95 million Phoenix Park plant.

When CONOCO's Executive Vice President met with me after the signing ceremony, he said he had never received so much support from an embassy in his 30 years in the business—a compliment which I treasure.

Here's still another example. This one involves the new international airport that is projected for Port of Spain, estimated at the moment to be a $250 million venture. The airport project may not only make Trinidad a regional air hub, but has major implications for the development of the country's tourism industry.

Our embassy played an instrumental role in obtaining a U.S. government grant for an airport development study, helping to ensure that a U.S. management firm landed the long-term development contract. We also arranged for a USIA grant to allow the head of Trinidad's Airport Authority to travel throughout the United States. This allowed him to make key contacts in the industry, and has given U.S. suppliers the inside track for procurement of equipment and services.

American firms are now well placed to play the greatest possible role in this exciting venture. I have a final example for you, this one involving a medium-sized Florida company, Monogram Products, Inc. A year or so ago, Monogram decided to shift production of its Christmas ornaments from China to the Caribbean basin.

After having contacted the Commerce Department and talked with our Embassy's Commercial Attache, who was in the U.S. at the time, Monogram chose to come first to Trinidad. When Monogram officials arrived, we had appointments set up for them with top government people and with potential joint venture partners. Within two days, Mongram had a partner.

Within five weeks, the company had all the necessary government approvals. Monogram's President, Chuck Burkett, has been effusive in giving our Embassy credit for much of his firm's success so far.

AN EMBASSY ONLY HELPS, BUT SUCH HELP CAN BE CRUCIAL

Those are four real-life cases from Trinidad. They show how an Embassy can assist business; and they show some other things as well. First, they give the lie to what used to be a standard excuse for embassy passivity—the contention that "The big guys can take care of themselves; they don't need us." That's wrong—they do need us.

An Embassy can be of real assistance at those important junctures where a joint venture negotiation is in danger of breaking down, a U.S. company feels it is being squeezed unfairly by the host government, or crucial authorizations are being denied or delayed. At such times, an Ambassador and his staff can often cut through the red tape, speak directly to the people who count, and deliver a vital message or set up an impasse-breaking meeting.

Second, these examples sound a warning—that an embassy can play a facilitative role only. In the cases involving American companies, it was not the American Embassy but the companies themselves who were primarily responsible for the success of their efforts. Our role was important, but secondary.

Third, the examples show that embassies can only help firms which show that they want to be helped. The companies involved briefed us on their strategies, kept us up to date on developments as they unfolded, and solicited our advice and intervention when they thought these could be useful. In other words, unless a real partnership evolves between a company and the embassy, the embassy can't be of much help.

THE EMBASSY'S POLICY ROLE

Let me now share with you one last way in which a U.S. embassy abroad can help U.S. business, and let me once again use an example from Trinidad. An American embassy can be an influential institution in a foreign country, especially a small or medium-sized country. In such a situation, an Embassy can help U.S. business by voicing the American viewpoint when local economic policies are being decided.

In Trinidad, for example, I have spoken out publicly on the need to restore unreasonable restrictions on foreign investment if the country indeed wants to attract investors from abroad. I am happy to report that just last month the Trinidadian Senate passed new legislation which, while not perfect from our viewpoint, represents a major step toward an open investment regime.

I believe that this welcome change stemmed in part from our honest dialogue with Trinidadian officials on the stifling effect on the previous law. The result is that, from now on, American investors in Trinidad will meet fewer obstacles than in the past. Both countries should benefit.

CONCLUSION

Ladies and gentlemen, let me conclude my remarks by restating my message. The U.S. government is making a major new thrust to assist American businesses to hold its own in a world that will be sharply more competitive than in the past.

The State Department, whose front-line units are U.S. embassies, is determined to play a strong role in this effort. Ambassadors and their embassies can be of most assistance to American companies who show that they want our help by keeping us informed of their problems on a routine basis.

If businesspeople do that, we'll show them that we, too, mean business.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, the hour of 9:30 having arrived, morning business is closed.

NATIONAL AFFORDABLE HOUSING ACT

The PRESIDENT pro tempore. The Senate will resume consideration of the pending business, S. 566.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 566) to authorize a New Housing Opportunities Partnerships Program to support State and local strategies for achieving more affordable housing to increase home ownership, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Cranston (for D'Amato) amendment No. 2041, to express the sense of the Senate regarding the Mutual Mortgage Insurance Fund of the Federal Housing Administration.

(2) D'Amato modified amendment No. 2042 (to amendment No. 2041), in the nature of a substitute.

The PRESIDENT pro tempore. What is the will of the Senate?

Mr. FORD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Kentucky [Mr. FORD].

Mr. FORD. Mr. President, would it be permissible for me to ask unanimous consent that I might proceed for 3 minutes as if in morning business?

The PRESIDENT pro tempore. Is there objection?

Mr. COHEN. Reserving the right to object, may I inquire, following the extension of 3 minutes, is it the position of the Chair that we are scheduled to vote?

The PRESIDENT pro tempore. There is supposed to be a call for the Sergeant at Arms. But that has to be preceded by a quorum call.

QUORUM CALL

Mr. FORD. Mr. President, let me withdraw my request for 3 minutes, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 2]

Bumpers	Inouye	Robb
Byrd	Johnston	Sanford
Cohen	Kennedy	Stevens
Cranston	Kerrey	Warner
Ford	Kohl	Wirth
Fowler	Mitchell	
Gore	Murkowski	

The PRESIDING OFFICER (Mr. ROBB). A quorum is not present. The clerk will call the names of absent Senators.

The legislative clerk resumed the call of the roll.

Mr. MITCHELL. Mr. President, I move to instruct the Sergeant at Arms to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the role.

Mr. CRANSTON. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Oklahoma [Mr. BOREN], and the Senator from South Dakota [Mr. DASCHLE] are necessarily absent.

I also announced that the Senator from Maryland [Ms. MIKULSKI] is absent because of illness.

I further announce that, if present and voting the Senator from Maryland [Ms. MIKULSKI] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. MCCLURE], the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 76, nays 15, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—76

Adams	Ford	Metzenbaum
Akaka	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Gorton	Packwood
Boschwitz	Graham	Pell
Bradley	Grassley	Pressler
Bryan	Harkin	Pryor
Bumpers	Hatch	Reid
Burdick	Hatfield	Riegle
Burns	Heflin	Robb
Byrd	Heinz	Rockefeller
Chafee	Hollings	Roth
Coats	Jeffords	Rudman
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
DeConcini	Lautenberg	Stevens
Dixon	Leahy	Thurmond
Dodd	Levin	Warner
Dole	Lieberman	Wirth
Domenici	Lugar	
Exon	Mack	

NAYS—15

Bond	Inouye	Murkowski
Breaux	Kasten	Nickles
Gramm	Lott	Specter
Helms	McCain	Wallop
Humphrey	McConnell	Wilson

NOT VOTING—9

Armstrong	Daschle	McClure
Baucus	Durenberger	Mikulski
Boren	Garn	Symms

So, the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. EXON. Mr. President, I ask unanimous consent that I might be allowed to proceed as if in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator is recognized for up to 5 minutes as if in morning business.

Mr. EXON. Mr. President, could we have order in the Senate?

The PRESIDING OFFICER. (Mr. LIEBERMAN). The Senate will be in order. The Senator from Nebraska has the floor.

TWO MATTERS MAKING THE ROUNDS IN CONGRESS

Mr. EXON. Mr. President, I rise this morning to see if I can lend at least one additional Senate voice to attempt to quiet the political part of two matters that are making the rounds in the Congress these days.

I make reference first to the extreme difficulties that America is facing. I reference the deep difficulties that the United States is wrestling with today with regard to the S&L bailout problems that threaten dire circumstances for the economic stability of the country, and also the very controversial matter with regard to the flag burning issue and the constitutional amendment connected therewith.

First, on the matter of the S&L bailout. As has been said on this floor on many, many occasions, there is plenty of blame to go around. I was quite discouraged, frankly, Mr. President, with a statement by Mr. Fitzwater, the leading spokesman for the President of the United States, last week, when he made a series of what I thought were irresponsible political charges, including a frontal attack on my great friend and colleague, Senator BOB KERREY from Nebraska.

The articles that appeared in the press at that time indicated that the President's key spokesman, and obviously speaking for the President of the United States—and, incidentally, that must be true, because a day or two later on one of his campaign trips to another State, this time Alabama, the President indeed endorsed the remarks made by his spokesman.

Mr. KERREY of Nebraska was a very distinguished Governor. I think it is not only unfortunate but I think it is wrong for the President and his spokesman to be attacking the great

record BOB KERREY set as Governor of the State of Nebraska.

The President's spokesman indicated that Senator KERREY should not be making any statements with regard to the deep problem of the S&L bailout, making reference to something that happened when BOB KERREY was Governor of my State. Mr. Fitzwater is wrong.

It is unfortunate that he made that statement. I think more than anything else, of all the statements that have been made these days, is the fact that if we are going to let politics prevail over everything else, if everybody focuses on the November 6 elections aside from everything else, then the real work that is necessary to be done to move America from its present perilous economic condition is harmed.

One thing that BOB KERREY did not do as the chief executive officer of the State of Nebraska, he did not blame the legislature when things went wrong, or allegedly when things went wrong, with regard to the key, fundamental responsibility of the executive.

I hope that we could get on with the matter of addressing frankly the S&L mess that we have in this country. I salute President Bush. I salute President Bush because he was the first President, long after it should have been brought to the public attention, that did have the courage to send a message to the Congress and ask us to do something about this impending peril. Unfortunately, Mr. President, I would point out that President George Bush was the same George Bush that was Vice President of the United States, with key responsibilities in a whole series of areas including the S&L problem, who was silent indeed on that matter when the administration at that time should have been acting.

I do not blame any one person. I do not blame any group of people. I simply say that this is a serious problem that is not going to be arrested and changed unless we have a thorough, open discussion of the issues without making it a matter of partisan politics.

Mr. President, with regard to the S&L crisis, I ask unanimous consent to have printed in the RECORD two excellent articles that appeared yesterday in the New York Times, "Savings Crisis Politics" by Nathaniel C. Nash and "Fraud Uncovered in Property Sales in Savings Rescue" by Stephen Labaton.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 21, 1990]

SAVINGS CRISIS POLITICS: DEMOCRATS VULNERABLE ON LOBBYIST LINKS, BUT RECENT HISTORY HURTS THE REPUBLICANS

(By Nathaniel C. Nash)

WASHINGTON, June 20.—If Republicans and Democrats move to a full-scale battle over who is to blame for the savings and loan crisis, the outcome may be decided by whether the public has a long memory.

Democrats are vulnerable to reminders of their longstanding dependence on contributions from financial lobbyists. The White House can rightly list a number of past and present Congressional Democrats who caved in to political pressure from the savings and loan lobby or from savings and loan operators. The result was regulatory leniency, inaction and a significant increase in the ultimate cost of the bailout.

At the same time, the crisis came to a boil when, under Presidents Reagan and Bush, Republicans were so wedded to the idea of free-market non-interventionism that they overly reduced the number of examiners and industry supervisors.

The Democrats can rightly say that "desupervision" of the savings industry—a subject on which Mr. Bush led a task force as Vice President—allowed high-flying entrepreneurs almost free reign to use depositors' funds on high-risk investments.

President Bush is specifically vulnerable to criticism about how long it took to start the bailout process and the slow pace of prosecutions of owners who looted their institutions, as well as for having greatly underestimated the size of the problem.

The vulnerabilities of each side are becoming more important with the round of political blamesmanship touched off Tuesday when the White House spokesman, Marlin Fitzwater, attacked current and former Democratic members of Congress for their involvement in the savings and loan scandal.

The once-nonpartisan issue became partisan, many members of Congress and industry experts say, because of the approach of the fall elections and because of the cost of the debacle is finally sinking in among the public.

Neither Congress nor the President wants to say the buck stops here. For each, the trick seems to be how to gain distance from any aspect of the scandal.

White House officials say that Mr. Fitzwater's comments were inspired by attempts by Democrats to label President Bush as the "savings and loan President." That is unfair, the officials say, because Mr. Bush is the first President to confront the problem.

At a news conference today, Mr. Bush defended Mr. Fitzwater's comments.

"Marlin, properly, seeing a couple of shots across my bow from certain distinguished members of the Senate, decided not to acquiesce in those attacks without some response," the President said. "What he did was appropriate. I think more important than continuing to pour fuel on that spark is to work cooperatively with the Congress in trying to get this mess solved."

Perhaps the single most-telling measure of the influence of the industry's lobbying came in May 1987, when Congress was considering its first bailout of the savings industry.

Through the United States League of Savings Institutions, the industry produced an upset, winning a vote to limit the amount it would have to contribute to the bailout to $5 billion, from the $15 billion the Reagan Adminisration wanted.

Representative Claudine Schneider, a Rhode Island Republican who is attempting to defeat incumbent Senator Claiborne Pell, a Democrat, could run into trouble if Democrats make an issue of the fact that she voted against the $15 billion bailout, to cite just one case.

The Democrats' strategy is predicated on the hope that voters have a short memory. They hope people will be concerned that the cost of the bailout is increasing and that crooks are still not in jail, rather than remembering the involvement of four Democratic Senators with Charles H. Keating Jr., the owner of the failed Lincoln Savings and Loan Association who contributed heavily to them. Or the fact that the former Speaker of the House, Jim Wright of Texas, and the former majority whip, Tony Coelho of California, resigned last year in part because of their involvement with savings and loan operators.

"The strategy is to point out that we are in a second S.&L. crisis, which began the day President Bush signed the bailout legislation into law," said Representative Charles E. Schumer, Democrat from Brooklyn. "What went before, both Republicans and Democrats share the blame in. But since last August, all the blame lands squarely on the Administration's doorstep."

Not so, say Republicans. One Republican lobbyist who asked not to be named commented: "It's sort of a mad dog, hard ball, intimidation style. You have to remind the Democrats of their past to keep them honest."

Still, some Republicans are worried that in the end the Democrats cannot be fought off. "The irony is that George Bush is the President who has tried to correct the problem," said Representative Jim Leach, Republican of Iowa. "He is now the individual most criticized."

[From the New York Times, June 21, 1990]

FRAUD UNCOVERED IN PROPERTY SALES IN SAVINGS RESCUE

(By Stephen Labaton)

The Federal rescue program to sell billions of dollars worth of property seized from failed savings and loans is just beginning, but Government auditors have already detected evidence of misconduct.

Regulators are investigating a series of questionable practices: fees and salaries of hundreds of thousands of dollars paid to consultants and former savings executives; country club and other expenses billed to the Government, and even an attempt to pay for one property with a suitcase full of cash, which may have been a money-laundering effort by organized crime.

Although the collapse of the nation's savings and loan industry has left a trail of losses, fraud and waste, officials and real estate experts say, the real problems are probably just starting. "There's a high potential for more scandal and rip-offs" in the coming sales, said Charles A. Bowsher, the Comptroller General.

EFFECT ON THE ECONOMY

The Government has decided to sell the foreclosed real estate as quickly as possible, with big auctions scheduled to begin in a few months. That was a policy decision intended to control the cost of the bailout to taxpayers. The reasoning has been that selling off the properties rapidly would be better for local real estate markets and the national economy than having the government hold a huge portfolio of assets, prolonging the uncertainty and drawing out the costs.

Essentially, the Government has decided that the economic risk from delaying the sales would be greater than the likely losses from the misconduct and mismanagement. Even officials at the Resolution Trust Cor-

poration, the government organization set up last year to handle the industry bailout, concede that the volume of real estate disposals will be so great that, short of staff and forced to take procedural short cuts, they will not be able to prevent problems.

CUTTING THE U.S. LOSSES

"We realize that this provides an enormous potential for sweetheart deals and other problems," said David C. Cooke, executive director of the Resolution Trust. "And we also realize we won't be able to eliminate it. Our hope is that we will be able to try to keep it to a minimum level."

Disposing of the savings industry's legacy of failed real estate investments, which range from single-family houses and office buildings to uranium mines and pasture lands, represents the biggest property selloff in America's history.

The General Accounting Office, in determining where to direct Government auditing efforts, recently pinpointed 14 areas of activity most likely to cost taxpayers money from fraud, waste and mismanagement. The sales of savings and loan properties were one of the areas at the top of the list, along with Defense Department procurement and awarding Housing and Urban Development contracts.

After a policy review, the Resolution Trust decided that it lacked the real estate expertise to handle the selloff program itself, brokers and managing agents will be the conduit through which hundreds of billions of dollars in property will be maintained and sold. Accordingly, there is ample opportunity for some of these managers to arrange kickbacks, fraudulent expenses and favoritism in selecting subcontractors.

"It gets all the way down to hiring people to trim the grass," said John J. Adair, inspector general of the Resolution Trust.

To narrow the scope for abuse, the Government recently developed a series of economic incentives for the private managers of seized properties that ties their ultimate compensation to the final price for the asset, the speed with which it is sold, and the expenses incurred in maintaining it.

Still, Federal officials acknowledge that great potential for abuse remains.

"When you're talking about so much in assets—billions and billions of dollars—the potential is large that there will be abuses, especially since a lot of this is being handled by the private sector," said Mr. Cooke of the Resolution Trust. "If 90 percent of the people working for us are honest, that still means there will be 10 percent who won't abide by the rules, and that's a lot of money.

MINES, PASTURES, PARKING LOTS

The magnitude of the challenge facing the Government became clear last week. The Resolution Trust released its list of real estate for sale, 35,908 properties with a book value of $14.9 billion. Though the list included mines, pasture lands, parking lots and golf courses, nearly 84 percent of it was residential property, mainly in Texas. A nationwide auction of other properties, each with a value of $1 million or more, is scheduled for September to be conducted on closed circuit television, and regulators say they expect to conduct about four such large auctions each year.

The 35,908 properties had been owned by 148 failed savings and loans in liquidation. Last week, the Congressional Budget Office raised its estimate of the number of savings and loans that may eventually collapse to 1,700, of a total of 2,500 institutions in the country. Analysts forecast that more than 300,000 properties will eventually will be sold because of the collapse of the savings and loan industry.

There are early signs that Government regulators have had trouble in curbing suspect practices. For example, Representative Bruce F. Vento, chairman of a banking committee group overseeing the Resolution Trust, said in Congressional hearings on Friday that six former executives of two California institutions placed under Government control, Mercury Savings and Western Empire Savings, as recently as May continued to draw six-figure salaries as high as $300,000 or more, even though they had stopped working at the institutions many months earlier.

The Congressional panel also expressed concern about a $500,000, one-year contract to a Salt Lake City consulting firm to manage a failed institution in Minneapolis, Midwest Savings, and arrange the sale of its assets. Representative Vento, a Minnesota Democrat, said that despite the expense, the consulting was done only part time and no serious bids were received for the bulk of the assets.

UNRELATED EXPENSES

Auditors for the General Accounting Office say there has been little oversight of the expenses billed to the Government in connection with the first 52 savings and loans sold by the Government last year. Many of their unmarketable properties are still owned by the Government, but managed by the buyers of the savings institutions, and therefore the Resolution Trust pays expenses associated with them. The Government auditors say they have found instances of country club expenses, rentals of vehicles and travel expenses that apparently were not related to the managing of the properties.

Staff members at the General Accounting Office who are monitoring the sales and conducting an audit of the Resolution Trust have identified several problem areas.

First, the regulators are still severely short staffed. The Resolution Trust has moved cautiously in hiring, filling about half of its budgeted staff. Mr. Adair, the inspector general, who is in charge of investigating suspicious dealings in the sale of assets, finally took office in April after several months of a lengthy nominations process.

INSUFFICIENT STAFF

Mr. Adair has so far appointed only four people, including his secretary. His department has a budget for 150 auditors and investigators who will be posted around the nation, looking into hundreds of cases, but he said that even that staff level may be insufficient.

Another potential problem, the auditors say, is that while regulators do conduct background checks of the purchasers of savings and loans, the Government is not screening any of the buyers of the failed institutions' assets. Regulators expect say that many of the buyers of the assets will be the property developers and speculators who defaulted on loans from savings institutions for the same property.

In a way, the process is set up to encourage a holder of property whose value has plummeted in a depressed real estate market to default on the loan and then repurchase the property at a substantially lower price.

The bidders for Government-seized assets are also expected to include savings and loan executives who know the most about the true worth of the property being sold, but who share in the responsibility for industry's collapse.

"A lot of the same people are going to show up under new entities, trying to buy from the Government," said Mr. Bowsher of the General Accounting Office.

Such sales would often be less a legal problem than a political embarrassment. The sales would not be illegal, but they could prompt a public outcry because so much taxpayers' money is being consumed by Federal bailout.

The property sales, regulators say, could well provide organized crime with a comparatively easy way to launder profits from illegal activities, like narcotics sales. Mr. Cooke described a scene earlier this year in which the Resolution Trust halted the sale of an office building after a bidder tried to put down a deposit with a suitcase full of cash.

The contracting of hundreds of management agents, vendors and operators for an array of assets is being accomplished under less stringent Government procurement standards than those required for Federal agencies and departments. Under the Resolution Trust guidelines, the background of contractors is "self-certified," meaning that those who bid give their assurances that they are not criminals or in default on Government loans. While background checks of the winning bidders are expected to be accomplished through private firms, those firms have yet to be hired. Government officials are concerned about how it will be accomplished quickly, yet thoroughly.

"There's a lot of anxiety by the R.T.C. regional staff about how to enter into these contracts and the Washington staff has yet to issue any guidelines" said Gaston L. Gianni, an assistant director at General Accounting Office. "It's a very sensitive area."

Yet despite the risks, the historic property sale will soon begin. In regions like the Northwest, where few savings and loans have failed, the effect on home and land prices will be scant. But in Southwest, in particular the Resolution Trust sales will be closely watched since the sales could further depress weak local markets.

"We won't know whether we have reached the bottom of our real estate market until the R.T.C. sells off its properties here," said Ioanna T. Morfessis, chief executive of the Greater Phoenix Economic Council. "Those sales could have a big impact on property values in the Phoenix area.".

Mr. EXON. Mr. President, with regard to partisan politics, I address briefly the other issue that is making the rounds these days, and that is the flag-burning issue.

Mr. President, this Senator said a long time ago, and this Senator says again today, that if I had a chance to vote, I would vote for a constitutional amendment to correct this problem. There are many of my colleagues who do not see it that way. I do not think less of them. I think this is a very fundamental issue which very well meaning people can be on each side of the issue.

I was quite discouraged again at a recent statement that came out of the White House—and a lot of irresponsible statements are coming out of the White House these days—when a

spokesman for the White House said that on the flag issue there was no need for the President of the United States to demagog this issue, that is what they have BOB DOLE for. I think that is nearly an exact quote.

The House of Representatives, whether those of us like it or not, failed to take the requested action to approve a constitutional amendment last night. I am disappointed in that outcome. Mr. President, if I had a chance to vote in the U.S. Senate I would vote, as I said a moment ago, for the constitutional amendment.

I noticed in the newspapers this morning that the minority leader was quoted as saying he is going to press for a vote on this issue in the U.S. Senate. I ask, for what possible constructive reason? I guess some people are still wanting to manufacture material for 30-second spots to try and gain an advantage in the upcoming elections. I see no need for a Senate vote on this matter. I see no real need for it as far as America is concerned. And the only reason that we would have a vote on that, I suggest, would be for political purposes, which I think is sad.

The PRESIDING OFFICER. The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that I may be allowed to proceed in morning business?

The PRESIDING OFFICER. Is there objection?

Mr. BOSCHWITZ. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BOSCHWITZ. I ask if we are going to proceed on the bill. If not, I will offer my amendment at a later date. I do not object to the Senator from Massachusetts proceeding, but if we are not going to be on the bill——

Mr. KERRY. Mr. President, it is my understanding with the distinguished Senator from California, I think was intending to do so but he gave me permission to proceed for a few moments prior to that.

The PRESIDING OFFICER. Is there objection? Hearing none, the Senator from Massachusetts is recognized for the purpose of proceeding as in morning business.

THE PEACE DIVIDEND

Mr. KERRY. Mr. President, I want to take a few moments, if I may, to call attention of the Senate to an article recently written by one of our colleagues.

As is often the case, our distinguished colleague from New York, Senator DANIEL PATRICK MOYNIHAN, is on the cutting edge in synthesizing and articulating critical issues of the day.

The latest example is the Senator's brilliant thesis which appeared in the June 28, 1990 edition of the New York Review. Entitled "The Peace Dividend," Senator MOYNIHAN places the challenges of the end to the cold war in their proper perspective.

He notes that:

A sizable amount of money is not going to be freed up, at least not for years to come. The painful fact is that at the end of the cold war we are saddled with a war debt. That cold war went on for 40 years. * * * Toward the end we lost control of our finances. In the 8 years during the 1980's we borrowed the equivalent of 85 percent of the debt incurred during World War II. * * *

According to Senator MOYNIHAN the biggest challenge facing this Nation will not be that of "getting our finances in order. * * * The hard part will be getting our Government back in order."

For better or for worse, the United States became a national security state during the cold war. Senator MOYNIHAN then goes on to explain the inordinate price we paid during this 40-year period. He says:

* * * Error became a distinguished feature of this system. This is easy enough to explain. As everything became secret, it became ever more difficult to correct mistakes. Why? Because most of the people who might spot the mistakes were kept from knowing about them because the mistakes were classified. Of all the big mistakes, the biggest was our failure to spot the exhaustion of communism as a world force that had become unmistakeable by the 1980's.

The real mystery and most telling revelation about the national security state is that we completely missed the collapse of the Soviet economy, a subject we are interested in and do talk about.

The national security state began to threaten the Constitution itself. From the time of the Vietnam war (itself the product of a huge intelligence failure): We thought the Soviets and the Chinese were collaborating, when in fact they were almost at war with each other, the executive branch has been more and more tempted to use secrecy to avoid responsibility, even legality. The Iran-Contra affair was only the latest such episode.

Worse, we are poisoning the wells of our historical memory. Of late, the Soviet Union has been going through an extraordinary period of exhuming the worst crimes of its hideous history * * * The United States has no such history.

The national security state consumes the Presidency. It grows more and more insulated from the people. * * *

Senator MOYNIHAN, himself, predicted the collapse of communism in a commencement address at New York University in 1984.

As a lesson of history, he recalls President Woodrow Wilson's prophecy of the price we would pay for rejecting membership in the League of Nations. President Wilson warned that in the absence of U.S. participation in the League of Nations we would have to maintain a "great standing army" with the "most modern of armaments."

President Wilson warned of a President, under these circumstances, whose primary role was to function as a military chief. Under such a system:

Plans must be kept secret. Knowledge must be accumulated by a system which we have condemned, because we have called it a spying system. The more polite call it a system of intelligence. * * *

And you know what the effect of a military government is upon social questions. You know how impossible it is to effect social reform if everyone must be under orders from the Government. You know how impossible it is, in short, to have a free nation if it is a military nation.

Mr. President, the distinguished senior Senator from New York correctly points out that there, indeed, will be a peace dividend if measured in dollars alone. However, the real peace dividend, according to the Senator, will be:

How * * * We move from a national security state to a government that merely asks what are our interests abroad and our needs at home, and calmly and openly pursues them? What a wonderful challenge!

I urge all my colleagues not only to read, but also study this piece by Senator MOYNIHAN. We will be confronted with every conceivable argument as to why the national security state should be continued. Our distinguished colleague offers us an eloquent and insightful vision as to why it should not.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Review, June 28, 1990]

THE PEACE DIVIDEND

(By Daniel Patrick Moynihan)

There is much talk in Washington just now of the "peace dividend," the amount of money the Federal Government will not need for defense now that we can see the end of the cold war. As ever, it's not quite that simple. If we don't think this matter through, we could end up baffled and angry and missing a once-in-a-century chance to reshape our government.

A sizable amount of money is not going to be freed up, at least not for years to come. The painful fact is that at the end of the cold war we are saddled with a war debt. That cold war went on for forty years, say from the time the North Atlantic Treaty Organization was founded in 1949 to, let us say, 1989. Toward the end we lost control of our finances. In eight years during the 1980s we borrowed the equivalent of 85 percent of the debt incurred during World War II. Interest on that $3 trillion sum rising to $4 trillion is now a fifth of the budget and rising; soon it could be its largest single item. Interest now consumes all the income tax collected west of the Mississippi. Interest compounds. David Broder points out that according to the President's new budget, "with federal taxes pegged at 19.6 percent of the gross national product, Americans are paying more for the support of the national government than [they did in] all but three of the 45 years since World War II ended."

Two of these three years came in the 1980s.

Still, getting our finances in order will be the easy part. The hard part will be getting our government back in order.

The cold war changed us. We used to be pretty much what we started out to be: a republic which expected normally to be at peace. If we were more warlike than we pretended, we rarely prepared for war as if it were always imminent. (Even when it was. Back in 1941 there were pictures in the papers of young draftees running around on "maneuvers" brandishing broom sticks making do for rifles.)

With the cold war all this changed. We became a national security state, geared for war at all times. Instantaneous war. Tension to the breaking point. Was that a flight of arctic geese on the radar? Or Russian missiles? Seven and one half minutes to decide whether to launch our counter attack. Where was the President? Oh God, not in the shower. Get him out! I have heard presidents talk about this and wonder why none went over the edge.

Washington changed. In his wonderful new book, Our Country,[1] Michael Barone reminds us that right up until 1933, when the Twentieth Amendment was ratified, the president was elected in November, took office in March, and then Congress convened the following December! That's what the Founders provided: What's the hurry? Soon there was nothing but.

The totalitarian state had made its appearance in Europe; something wholly new. Totally mobilized for war, or else getting ready. After World War II came the protracted conflict we call the cold war just now coming to a close. I recently recalled the opening lines of Hannah Arendt's book *The Origins of Totalitarianism*, which appeared in 1950:

Two world wars in one generation, separated by an uninterrupted chain of local wars and revolutions, followed by no peace treaty for the vanquished and no respite for the victor, have ended in the anticipation of a third World War between the two remaining world powers. This moment of anticipation is like the calm that settles after all hopes have died.

That mode of anticipation, over at the Pentagon, at the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the National Security Council, allowed no room for sunny dispositions. Each morning the first person to see the President would be the national security adviser. In his briefing book would be a set of "situation reports." Not infrequently, they would contain what came to be known as "threat analysis in worst possible case condition." No margin for error.

And yet error became a distinctive feature of the system. This is easy enough to explain. As everything became secret, it became ever more difficult to correct mistakes. Why? Because most of the people who might spot the mistakes were kept from knowing about them because the mistakes were classified. Of all the big mistakes, the biggest was our failure to spot the exhaustion of communism as a world force that had become unmistakable by the 1980s. The senior senator from New York, for one, tried to argue the case, as in this statement to the graduating class at New York University in 1984:

The truth is that the Soviet idea is spent. It commands some influence in the world; and fear. But it summons no loyalty. History is moving away from it with astounding speed. I would not press the image, but it is as if the whole Marxist-Leninist ethos is hurtling off into a black hole in the universe.

Are there Marxist-Leninists here and about in the world? Yes: especially when the West allows communism to identify with nationalism. But in truth, when they do succeed, how well do they do? And for how long?

Nathan Glazer and I had for long contended that the persistence of ethnic attachments simply disproved the central organizing theory of Marxism, which was that such loyalties would disappear once the workers of the world got organized. In 1986 we wrote (for the Harper's *Dictionary of Modern Thought*) that "Ethnic conflict within the Soviet empire is likely to prove a major element in 21st-century world politics." Which, indeed, it will if the Soviet empire lasts that long! From Lithuania to Azerbaijan to Uzbekistan, the place is coming apart before us. A few weeks ago President Mikhail Gorbachev warned that recarving internal Soviet borders would lead to civil war and "such bloody carnage that we won't be able to crawl out of it."

It is not hard to understand why arguments such as these went unheard. Marxism is a dense, nineteenth-century Germanic philosophy. It is hard enough for the natives, you could say, and here we are definitely foreigners. When Václav Havel, the new president of Czechoslovakia, addressed a joint meeting of the Congress in February, he spoke of his "one great certainty: Consciousness precedes Being, and not the other way around, as the Marxists claim." This is a real issue to intellectuals such as Havel, an issue men and women have died for; they hold that beliefs create the "real" world and not vice versa. But you won't hear much talk of such matters in the White House mess. The real mystery, and the most telling revelation about the national security state is that we completely missed the collapse of the Soviet economy, a subject we are interested in and do talk about.

In that NYU address I argued further:

We should be less obsessed with the Soviets. If we must learn to live with military parity, let us keep all the more in mind that we have consolidated an overwhelming economic advantage. The twenty-four members of the Organization of Economic Cooperation and Development, known as the OECD—a quintessential initiative in world politics of the postwar United States—now produce 60 percent of the world's GNP. The Soviet bloc produces 19 percent.

We now know that by 1984 Soviet economists were in despair. They had a third world economy which was worsening. There was not enough food. Did we spot this? Nope. To the contrary, official Washington held that the Soviet bloc at this time was moving ahead of the West! The Directorate of Intelligence of the CIA publishes an annual *Handbook of Economic Statistics*. The 1989 edition reports that for the period 1981–1985 the average annual rate of growth in the "USSR" was 1.9 percent, well above the 1.5 percent of the "European Community." The 1989 edition of the *Statistical Abstract of the United States*, citing the CIA, reported that the GNP per capita of East Germany was greater than that of the West Germany.

Recently I met with a group of Soviet economists over here for a meeting on this subject sponsored by the American Enterprise Institute. They would appear to be the best of the lot, notably Grigorii Ehanin of the Acadmeny of Sciences in Novosibirsk, and Vladimir Tikhonov of the Academy of National Economics of the USSR Academy of Agricultural Science. They offered the view that the Soviet economy is, in fact, as small as one-seventh that of the US economy, that is about 14 percent of GNP, as against the CIA estimate of 52 percent. As it happens a Soviet econmomy of $694 billion, rather than $2,535 billion as the CIA now estimates, would place them seventh in the world, just behind Italy. This strikes me as too small. The Soviet economy is at least a quarter, possibly a third, the size of the United States. A large number because it is a big place. But in living standards it is at about the level of Mexico. The official view that they were approaching the level of Western Europe had our government all but panicked in the early 1980s. And there is $2 trillion in debt to prove it!

This was the least of it. The national security state began to threaten the Constitution itself. From the time of the Vietnam War (itself the product of huge intelligence failure: We thought the Soviets and the Chinese were collaborating, when in fact they were almost at war with each other), the executive branch has been more and more tempted to use secrecy to avoid responsibility, even legality. The Iran-contra affair was only the latest such episode. On March 3, 1988, in the debate on the Intelligence Oversight Act of that year, I began by quoting an article by Theodore Draper in The *New York Review*:

If ever the constitutional democracy of the United States is overthrown, we now have a better idea of how this is likely to be done.[2]

Of the mining of Nicaraguan harbors, I said I had been "witness to the first acts of deception that gradually mutated into a policy of deceit." I was all the more struck, then, when a few weeks ago Independent Counsel Lawrence E. Walsh said he was concentrating on "the essence of the crime": "a pattern of deceit" at the highest levels of government.

Worse, we are poisoning the wells of our historical memory. Of late, the Soviet Union has been going through an extraordinary period of exhuming the worst crimes of its hideous history. There is almost a compulsiveness in the revelations of what Stalin really did: whom he killed, how many he killed. Even the origins of the Bolshevik regime—it did not overthrow the tsar, it overthrew a democratic provisional government—are now known, almost insisted upon. The United States has no such history. To the contrary. But not everything we have done in this century has been done in the open. Not everything could be. Or should have been. But of late we have become near to obsessed with concealing such facts. The secrecy system has gone loony.

I have just received a letter from the director of the National Coordinating Committee for the Promotion of History, a group of fine organizations ranging from the Society of Georgian Archivists to the Polish American Historical Society. Here are her opening paragraphs:

I am writing on behalf of the fifty historical and archival organizations that compose the National Coordinating Committee for the Promotion of History to express con-

[1] Free Press, 1990.

[2] Theodore Draper, "Reagan's Junta," The New York Review (January 29, 1987).

cern regarding the declining credibility of the Foreign Relations of the United States series. Since 1861, this highly respected documentary series, which in recent years has published volumes about thirty years after the events covered, has been a cornerstone of scholarly research and writing in American foreign relations.

In recent volumes, however, there has been an alarming increase in the proportion of documents withheld from publication owing to security concerns. In February Warren Cohen, a history professor at Michigan State University and the Chair of the U.S. Department of State Advisory Committee on Historical Diplomatic Documentation, resigned because he felt that he was unable to meet his obligation to insure the integrity of the historical record as published in the Foreign Relations of the United States. Cohen's specific concern was that the State Department no longer allowed the advisory committee members, all of whom have security clearances, to review omitted documents to assure that the deletions did not alter the accuracy of the historical account.

Moreover, in an article in The New York Times on the reasons for his resignation, Warren Cohen wrote as follows:

At least one volume [of Foreign Relations of the United States] published last year, "Iran, 1952-1954," was a fraud, a gross distortion of American activity. It says nothing about the CIA's role in overthrowing Prime Minister Mohammed Mossadegh and restoring the shah. Do we think we are hiding this from the Iranians?

Would you believe that much of this was foretold? It was: by Woodrow Wilson, that most tragically gifted of presidents. On September 5, 1919, in St. Louis. Wilson was campaigning across the nation on behalf of the League of Nations, then being debated in the Senate—we would reject it. It was, he said, a "covenant of arbitration and discussion" and law designed to enable the great powers to prevent one another from ever again going through the hell of war. Without the United States, such a league would never work. It may be that it would never have worked anyway, but listen to Woodrow Wilson on what would happen if our absence made certain it would fail:

We must be physically ready for anything to come. We must have a great standing army. We must see to it that every man in America is trained to arms. We must see to it that there are munitions and guns enough for an army; . . . that they are not only laid up in store, but that they are kept up to date, that they are ready to use tomorrow; that we are a nation in arms. . . .

He went on. No postwar reduction of taxes; an increase. A president who is, on a daily basis, and in an active sense, a military chief.

You have got to think of the President of the United States, not as the chief counselor of the Nation, elected for a little while, but as the man meant constantly and everyday to be the Commander in Chief of the Army and Navy of the United States, ready to order them to any part of the world where the threat of war is a menace to his own people.

And you can't do that under free debate. You can't do that under public counsel. Plans must be kept secret. Knowledge must be accumulated by a system which we have condemned, because we have called it a spying system. The more polite call it a system of intelligence. . . .

And you know what the effect of a military government is upon social questions. You know how impossible it is to effect social reform if everybody must be under orders from the Government. You know how impossible it is, in short, to have a free nation if it is a military nation.

SECRETS

Something called, I'm sorry to say, the Information Security Oversight Office, located in the General Services Administration, has just reported that in 1989 the government created 6,796,501 new secrets. Half again the number of new babies. Is it not likely that the present system of classification actually calls attention to things we would closely hold? If an envelope is marked TOP SECRET—one of the lower classifications by the way—does that make a spy's work easier?

There must be some amateur mathematicians and cryptographers who will read this. Would anyone care to demonstrate that real secrets—I would judge there are maybe one hundred new ones every year—would be safer if *not* classified? I will insert selected replies in the Congressional Record. (Which incidentally is a good hiding place for secrets. Even the Russians are known to have despaired of deciphering it.)

Exaggerated, to be sure. Wilson was exhausted. Twenty days later he would collapse at Pueblo, Colorado, never to recover. But in this hour, his passion, he had a vision that was not all that wrong. The national security state consumes the presidency. It grows more and more insulated from the people despite what you see—are shown—on television. (The annual budget of the U.S. Secret Service under Wilson was $21,220. That much was required to protect the president's person. The budget is now $367,000,000.)

We can't go back, but as we go forward can we not try to keep in mind the distortions of "The Seventy Year Detour," as Mary Eberstadt in The National Interest has called the period from the establishment of the first totalitarian state in Russia, through the era of Nazism and Fascism, then the cold war, and now the demise of the Soviet empire? It is time now, she writes, to think again of the world Woodrow Wilson had hoped for, rather than going on mechanically following the routines of the world he feared.

In this sense there will be a "peace dividend," stated in dollars, and it should be sizable. Take NATO. More than half our defense budget still goes to the defense of Western Europe against invasion by forces of a Warsaw Pact which no longer exists. We have 635,000 American military personnel and dependents assigned to fourteen NATO countries. These Americans are coming home. Not all, but most. Should the twenty-fifth largest school district in the United States really be located in West Germany?

More important, the situation there is politically untenable. Our troops will soon have been on the Rhine for half a century; that is the stuff of Roman legions. Any Sunday morning now a German politician will go on television and announce that the Americans are not in his or her country to protect it but rather to occupy and control it. It does not take much imagination to figure out what follows. Wouldn't it be better to march out, all flags flying?

All this is going to be hard on the military-industrial complex, which President Eisenhower warned us against in his farewell address. Washington is just now filled with rear-guard actions. Typical headlines: NUCLEAR ARMS STILL NEEDED IN EUROPE, PENTAGON SAYS. SOVIET SPYING ON THE INCREASE, FBI CHIEF SAYS. And yet, there are voices of calm and even celebration. I especially enjoyed a news story of a visit home by General John R. Galvin, Supreme Allied Commander of the NATO forces in Europe. A fine officer, he is convinced that we must develop a new short-range nuclear missile for use in Europe, even though it is clear our allies won't let us deploy it. He grants that his argument is a bit shaky, and recounts a meeting with General Colin L. Powell, the chairman of the Joint Chiefs of Staff. Galvin reports that when he began his glum argument, General Powell said, "Jack, smile. We won."

And that is the point. We won! There will be plenty of troubles ahead. Plenty of horror and pain. But the age of totalitarianism is over. The Soviet claim to be the next stage in history is over. How do we now demobilize? How do we move from a national security state to a government that merely asks what are our interests abroad and our needs at home, and calmly and openly pursues them? What a wonderful challenge!

NATIONAL AFFORDABLE HOUSING ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Senate bill 566.

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside. Is there objection?

Mr. D'AMATO. I object.

AMENDMENT NO. 2042 TO AMENDMENT NO. 2041

The PRESIDING OFFICER. The pending amendment is amendment No. 2042, introduced by the Senator from New York.

Mr. D'AMATO. Mr. President, this Senator has again laid aside his amendment. I know we are attempting to meet with the administration, I believe we are going to be doing that at 11:15, from what I understand.

If I am not mistaken, the Senator's amendment would deal with a matter we have not had an opportunity to clear on both sides. If we can clear it on both sides, fine, I have no objection. I have not heard that, nor as of last evening was I aware of the fact that the ranking member of the Banking Committee has signed off on it.

Any Member has the right to submit any amendment he or she wants. We are going to come back, undoubtedly, to this bill Tuesday. It would seem to me if the bill is going to move, why then the distinguished Senator from Ohio certainly should go ahead. But I have been asked not to pursue my amendment. So I request the same

consideration—as it relates to those amendments that are going to bog us down and make it impossible for us to move ahead or require that kind of lengthy debate, that may be controversial—that has been asked of me.

If this Senator has been willing to lay those aside so we can deal with matters that are not controversial or those matters which are germane on the bill, I request the same consideration of my colleagues.

I have been willing to do this. I laid my FHA amendment down. Now it is closing in on 48 hours, 2 days. I have not objected very many times, very often. I want to assure my colleague from Ohio if we get clearance from the Banking Committee to move to this, I will withdraw my objection. But there has been an issue raised as to taking this up at this time and it would undoubtedly require a vote.

I do not believe anybody really is ready to vote. There are a lot of Members on both sides who have already left.

So I do not mean to be an impediment nor to deprive a colleague, and no one ever deprives the illustrious Senator from Ohio from doing that which he wants. I hope he understands that. This is not to be an impediment to my friend and colleague, and if Tuesday we return to this bill and both Democrats and Republicans on the Banking Committee say, "Senator, let it up and let us vote one way or the other," I have no objections to that, and I will not raise an objection.

I will say to my colleague, I will tell Members on both sides they are going to have to raise an objection and argue the merits one way or the other and decide what they want to do. I am not going to carry their spear into battle as it relates to the merits of this bill. I want my colleagues to know that.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I appreciate the explanation given by the manager of the bill on the minority side. I think what he is saying is he personally does not feel he has a particular interest in this amendment. This is not something he is carrying a ball on. It is a question of what the members of the Banking Committee feel on that side.

We know what Members on this side have indicated and the chairman has indicated that he supports the amendment. The manager of the bill has indicated he supports the amendment. As a matter of fact, I think that I ought to take a moment to discuss where we are on some negotiations that have occurred.

What happened was that the minority leader had indicated that he had some concerns with respect to small banks. We have provided an exception for small banks that have less than $25 million in assets. We change it in several respects. This amendment does not include the title regarding basic banking accounts. Some of my colleagues and I think the Senator from Kentucky had indicated that he was more favorably inclined toward the check cashing aspect of the bill than he was to the question of the basic banking account. So we have eliminated that from this amendment.

I disagree about eliminating it, but for the time being I agreed to drop that matter until this amendment could be considered on its merits without the two being combined. As a matter of fact, I had indicated yesterday that I was prepared to separate the amendment. Rather than doing that at the moment, I am merely offering the first half of the amendment dealing with check cashing.

Second, I address the concerns that were raised, as I mentioned before, by Senator DOLE as far as the small banks are concerned. The list I have in front of me indicates that with our amendment, for example, in the State of the Senator from Kansas, there are 613 banks; 345 of them would be eliminated by reason of this particular amendment. Other States have differing figures depending upon size. In North Dakota, about half of the banks would be eliminated. In New York, a smaller percentage of the banks would be eliminated.

The third change I have made is that I have now included language to exempt banks and savings and loans that are currently cashing Government checks and charging no more than $2 per check. The argument was made that the paperwork that would be required for banks that are already doing this was surplussage. There was no reason for doing it. I thought it was persuasive.

I am not here on the Senate floor to add burdens to the business community or any other segment of our economy. As long as the checks have been cashed and are being cashed on that basis for a period of 12 months—I am told that we did not even put the 12-month period in. We just said that it was upon the effective date cashing checks the charge is less than $2, then they would not be required to make the necessary determination as to their actual cost.

Make no mistake about it, this still is a very important amendment. It still is an amendment that literally millions of senior citizens would like to see become a part of the law. It still is an amendment that many veterans would like to see become a part of the law. It still is an amendment that many who are on welfare would like to see become part of the law.

What we are trying to do is to keep those people who have Social Security checks or Veterans' Administration checks or Government-issued welfare checks, or railroad retirement checks, not require them to go to some check-cashing business and pay, as one Senator came to me on the floor yesterday and said, why they charge them $20, $25, and $30 to cash a check; that is unbelievable. Indeed, it is. All we are trying to do is to get the banks to perform a service which they do regularly. No risk. We have no problem as far as their being provided for concerning fraud and and costs they might incur.

It really is something that should be done. The need is there and the data is there to support this amendment.

A survey by the Association of Community Organizations for Reform Now found only 12 percent of the 344 financial institutions they surveyed cashed Government checks for nondepositors. A study by Consumer Federal of America found less than 30 percent of the banks cashing Government checks for noncustomers. AARP did a survey of major metropolitan areas and found that 9 out of 10 banks refused to cash such checks.

I am ready to vote on this amendment. My distinguished colleague from New York yesterday said that he was ready to vote on it and ready to move to it. I was under the impression that we still were in that posture this morning. I gather he feels that he wants to await further word from other members of the Banking Committee, and I understand that. But let it be clear that I am prepared to have a vote.

If we have the votes, it will be agreed to and if we do not, those who vote against us will have to have their day of reckoning with their political supporters and explain to them why they are unwilling to give the senior citizens and veterans, railroad retirees and welfare recipients an opportunity to cash their checks without having to go to some high-price check-cashing establishment.

I will return with this amendment at a subsequent point. My door remains open to the bankers who have been absolutely uniform. I have never seen a group that has marched so uniformly together away from my office. They have been unwilling to come in to negotiate together. Like good soldiers across the country, they have stayed away. The door is open to them. The Senator believes that the legislative process works best when parties who have an interest work together. In this instance, they have been unwilling to work together.

So we have worked with some Members of this body who have expressed their concerns about this amendment. We have moved in the direction of trying to make it even more reasonable than it was at the conception. It is far more reasonable, far more limited than it was when it passed the Senate on two previous occasions. I can only say to my colleagues that the day

cannot be too far distant when the Senator from Ohio will have an opportunity to add this amendment to this bill or some other bill, whatever the case may be.

Whatever the case may be, we will find an opportunity to give the Members of this body a chance to vote up or down on this issue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from California has suggested the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. I thank the Chair.

(The remarks of Mr. HARKIN pertaining to the introduction of S. 2776 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NATIONAL AFFORDABLE HOUSING ACT

The Senate continued with the consideration of the bill.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, in a short time we are supposedly going to be meeting with Secretary Kemp and OMB for the purpose of attempting to work out some of the points of contention. Let me, if I might, touch on several of them.

One question is, in that part of the bill called HOP [Housing Opportunity Partnership] whether or not the administration will concede the point that construction and rehabilitation should be permitted. The administration has taken the basically philosophical position that new construction initiatives should not be undertaken, that it is already sufficient, and that through vouchers and rental assistance more can be accomplished. To be maybe somewhat more simplistic, "more bang for the buck." That may or may not be the case. I suggest in certain areas that probably is not a program that makes much sense.

Let me say that the inner core cities, in the city of New York, for example, to say we could not have rehabilitation and additional funds applied to that, and to say we could not have any new construction I think would be a disservice.

There is much in the way of housing that could be rehabilitated, and to say no does not make sense.

Mr. CRANSTON. Will the Senator yield for a question on a related matter?

Mr. D'AMATO. Certainly.

Mr. CRANSTON. Senators have been asking me whether PHIL GRAMM is likely to offer his amendment today or not. Does the Senator know whether he will or not?

Mr. D'AMATO. I have been given to believe Senator GRAMM will be proposing his amendment, and expect him to do so at any time, yes.

Mr. CRANSTON. I appreciate the response. I thank the Senator.

Mr. D'AMATO. I will ask also if we could get an indication as to what time the Senator might go forward on that.

Mr. President, I do not think that that is an acceptable position, that there should be no new construction under any circumstances. It seems to me that there are some areas where there is no available housing, rental units; to say we are going to use vouchers or certificates in these regions is going to literally say that we are not going to meet housing needs in some of the most desperate areas.

Second, there is a point of contention that comes from the Senate side that says that there should be no rental assistance, no new rental assistance under the HOP Program. I think that that is equally fallacious, because what you are saying, for example, in areas where there are occupancy or vacancy rates of 17, 18, 19, 20 percent, where landlords would gladly be able to make available facilities at rates which are traditionally below the existing market rates, because there was a glut of housing in these areas, that the Government should go out and build housing; that the local government should not have the ability to utilize vacant apartments by way of the Voucher Program. That does not make sense.

We are attempting to reconcile these two points, Mr. President, and if we fail to do that, it just seems to me that the efforts we have put into this bill are going to be for nought. If both sides cling to those positions, we will not have a housing bill.

There is a third element I have introduced and which is pending, which is FHA reform. Mr. President, we need to reform the FHA Program, and I do not suggest that the reform package which this Senator has introduced is going to meet all the needs. Indeed, I suspect with the market collapsing, with the credit crunch going on, that it may take an infusion of taxpayers' dollars. I can say this with a certainty: Every day that we continue the program running as is, is adding a burden to the taxpayers.

Yesterday, more than 3,000 mortgages were made, and those mortgages probably cost the taxpayers about $3 million. We are chalking up to the taxpayers about $3 million a day. In 300 business days, we are talking close to $1 billion a year we are adding to the burden of taxpayers.

Mr. President, that does not make sense, so we have to change those policies. It may be some tough medicine and, indeed, some of our friends and some people whom we represent and whose interests are important and should be represented, may not be totally sympathetic with the fact that we make credit a little tougher. But it does not make sense to have a person purchase a home and know that that person with a surety—as the statistics indicate, 1 out of 5—actually it is less than that, probably closer to 1 out of 4—those mortgages being made are going to go into default. It does not make sense. We have to deal with it.

I suggest that the legislation that this Senator has proposed does not go far enough. But I understand the art of compromise. When people say to me that you are making it an onerous burden to request somebody to put 5 percent down on a mortgage, and you are going to allow them still to finance the mortgage insurance, and that we are talking about them having an equity of maybe 97 percent in the mortgage, and that somehow when they really have an equity of 3 percent in the project, in the home that they are purchasing, that that is inordinate, wrong, then I have to say, where do you do better?

They say on the other side, if you do this, people will go to private insurance, private financing. I would like to know what bank is making mortgages on less than 5 percent. When they say the very poor, and in rural areas where housing is low cost, this is too much, we still provide a 3-percent mortgage—3 percent. That is 3 percent down on that mortgage, for up to $50,000. My gosh, I have heard this explained as draconian, as self-defeating, turning our backs on the poor. It is none of these.

Again, I am going to suggest that this Senator is not saying that the reforms that we have suggested are going to cure the ills. What they will do, though, is diminish the losses that we are incurring from this point on. It may even eliminate those losses. I do not know if it can eliminate those which are already on the books, those which we have booked.

Certainly, we should not continue to book more junk. That is what is happening. It is just like the junk bond collapse; a lot of people got hurt. In this case, it is not the investors; in this case, it is the taxpayers. So we have another debacle on our hands.

Mr. President, we have to resolve that. I say that this Senator will not be willing to compromise, if it means

that we are not going to begin to tighten up in this area as it relates to our lending practices.

Mr. President, I see my good friend, the distinguished Senator from Massachusetts. I can continue, but I will yield the floor.

Mr. KERRY. Mr. President, I thank the distinguished Senator from New York. What is the pending business, Mr. President?

The PRESIDING OFFICER. The pending business is amendment No. 2042, offered by the Senator from New York.

Mr. KERRY. Mr. President, I ask unanimous consent that that amendment be temporarily set aside so that I may ask for immediate consideration of an amendment.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

AMENDMENT NO. 2064

(Purpose: To study the feasibility of establishing an enterprise zone development corps and to study the feasibility of providing incentives for companies to invest in areas with high incidence of drug use and drug related crime)

Mr. KERRY. Mr. President, I send an amendment to the desk, in keeping with the unanimous-consent agreement, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 2064.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . Study on Enterprise Zones Development Corps. Within ninety days from the date of enactment of this act, the Secretary of Housing and Urban Development shall conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs, on the feasibility of establishing a national volunteer corps made up of representatives from the business and labor communities who would provide management expertise or technical assistance to businesses or nonprofit organizations located in designated enterprise zones.

SEC. . Study on Turning Drug Zones into Opportunity Zones. Within ninety days from the date of enactment of this act, the Secretary of Housing and Urban Development shall conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs, on ways in which areas ravaged by drug trade, drug related crime and drug abuse may be made more attractive as investment locations for companies, including the provision of special incentives to encourage companies to invest in these areas, in order to provide economic opportunity within communities to the residents of these communities. This study shall include recommendations on how areas that would qualify for benefit as an enterprise zone demonstrating that the community suffered from acute drug use and related crime.

Mr. KERRY. This amendment has been reviewed by both distinguished managers of the bill, and it is my understanding that it is acceptable to both sides.

This amendment calls upon the Secretary of Housing and Urban Development to conduct what I believe are two very important studies. Both of these are to be performed within 90 days of enactment of the legislation. The first such study would examine ways in which we can turn what are currently drug zones into opportunity zones. The second study would examine the feasibility of establishing an enterprise zone development corps. Let me explain both of these studies and why they are important in the context of the housing bill.

The current crisis of our national drug epidemic is well known to everyone here. There has been a great deal of effort to try to deal with it. Drugs are ripping apart our communities. There is not a community in any of our States that has not been somehow affected by its impact. Many would say we are in the process of losing a large proportion of an entire generation to the problem of drugs.

We do not even have to look very far to see how far-reaching this problem is, as only a few blocks down the street a major trial is taking place, on which the eyes of the Nation are focused.

So we understand the impact on our society. But tragically the very purpose of the bill that we are considering here today, providing a decent living place for people in a suitable environment is thwarted by the drug epidemic and by the violence that surrounds it.

Our public and federally assisted housing, places where decent people are attempting to lead productive lives and raise their children in order to become productive and contributing members of society are literally overrun by drugs. Housing units that ought to be used to shelter the homeless and less fortunate are used instead as crack houses, as drug shooting galleries, and as drug distribution sites.

Obviously, that is not the environment in which we want any child to be brought up, or any person to have to live. It is not right that we provide affordable housing on the one hand, but say to the people on the other hand, you have a place to live but you are going to have to share it with drug dealers, crack dealers, pushers, and so forth.

What my provision seeks to do is to lay the groundwork to put into place a response to this reality. This bill provides resources to help residents combat drugs. We have already put that into the bill and I think it is an important contribution. But what we are trying to do is say that people in public assisted housing have a right to have important elements that contribute to their security, simple things like tenant security patrols, improved lighting for entryways that are dark and dangerous, fences, and increased law enforcement presence. These are the kind of things that the Drug Elimination Act are going to help achieve.

But addressing the physical living environment is only part of the solution. It seems to me that the most glaring deficiency in everything we have done with respect to drugs, and indeed everything we have tried to do in recent years with respect to the cities, is that we have ignored the reality of trying to transfer economic power to people who today have very little opportunity and very little hope.

One of the most glaring deficiencies in the current drug strategy is the failure to identify and to respond to the economic conditions that are so conducive to the rapid growth of drug abuse and drug crime. It seems to me unless we come to grips with this missing link we are really only touching the surface of the problem.

Mr. President, I recently introduced legislation that would provide automatic enterprise zone eligibility for areas that are designated as high intensity drug areas by the Director of the national drug control policy. The rationale for that legislation and for the study authorized by this amendment is straightforward. The designation of an area as a high intensity drug area is a clear indication of the magnitude of need within that community. It follows that an area that is faced with that degree of need, both economic and social, shall be immediately eligible for the opportunities provided by the enterprise zones.

There is not one who does not understand that correlation, not one of us who has not traveled in the inner cities and seen the crack areas, and areas of highest drug use and understood immediately they are the poorest areas with the least amount of job opportunity and the worst housing. We knew we had to have encouragement in these communities and needed to do it in a wholesale way and turn these areas from drug zones into opportunity zones.

My amendment asks the Secretary of HUD to build on the concept of enterprise zones and to provide recommendations on ways that designated enterpirse zones suffering from acute drug use and related crime can find additional benefits to meet their needs. Enterprise zones are designed to encourage business investment in economically distressed areas in the expectation that this will lead to job growth and economic development. It

seems to me that our drag infested areas present us with that very special challenge.

The second study asks the Secretary to examine the feasibility of establishing a National Volunteer Corps, Enterprise Zone Development Corps, if you will, and that would be made up of representatives from the business and labor community, presidents of companies, others who are currently in the business world, labor leaders. This corps would lend their management expertise and their labor skills to provide technical assistance to businesses and nonprofit organizations who are located specifically within the enterprise zones.

This corps of talented and experienced business entrepreneurs and corporate executives and labor leaders could be on loan to the enterprise zones for a year at a time through the proposals which I have asked the Secretary to study.

During a Small Business Committee hearing last year I had the opportunity to discuss these ideas with Secretary Kemp. He was excited and interested about them, and I believe that we have indications of our ability to be able to work closely and to hopefully make this program a reality.

I thank the managers of the bill for accepting this amendment and for helping us to move forward to acquire information that will allow us to put this program in place and to make it work.

I yield the floor.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from New York.

Mr. D'AMATO. Mr. President, we on this side support the bill. As a matter of fact I applaud the Senator from Massachusetts [Mr. KERRY], who has not only persisted in constant battles to deal with the epidemic of drugs but he has been insistent as to the problems of money laundering. He has certainly made a major contribution as it relates to this amendment.

I applaud the amendment offered by the Senator from Massachusetts because corporations and citizens who have experience and expertise should be encouraged to share their knowledge with the people who desperately need and want to reclaim parts of their cities that have been infested and have been held hostage by the ravages of drugs and drug dealers who make people prisoners in their own home, who take away the sanctity of domestic tranquility.

The Senator's statement calls for a study to site areas of the country that are drug ridden as enterprise zones, and to encourage cities, the private sector, and businesses to come back and reclaim these areas. Indeed, unless we can, then the domestic tranquility that has been promised to our people that has disappeared will continue to dissipate, we will lose that in other regions as well and what we will have is no-man zones where people leave, and we see it taking place.

I see it tragically in areas of New York. I believe that is a phenomenon that is not going to be confined just in New York but all too often we see taking place in many of our inner core cities.

So I commend the Senator and we support the amendment. Not only do we have no opposition but we enthusiastically support it.

The PRESIDING OFFICER. Is there further discussion of the amendment? The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 2064) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the distinguished Senator from New York. He and I indeed have worked closely on the drug issue for a considerable number of years now. I applaud his leadership on that issue and thank him for his gracious comments.

CHAFEE AMENDMENT NO. 2057 CONCERNING DAVIS-BACON

Mr. KOHL. Mr. President, yesterday, we considered an amendment to S. 566, the National Affordable Housing Act, offered by our colleague from Rhode Island, Mr. CHAFEE, which would reform the Davis-Bacon Act. I would like to take this opportunity to explain my vote of opposition to that particular amendment.

Like the Senator from Rhode Island, I believe it is time to reform the Davis-Bacon Act. As a former businessman, I share the interests of those who believe Davis-Bacon needs to be modified to satisfy the neesds of the building and construction industry as a whole. Davis-Bacon has guaranteed a decent standard of living for American workers for over 51 years. And legislative changes are needed to reflect the changes that have occurred in both the labor and business communities during that time. No industry or work force can compete economically and more efficiently, when outdated public policy constrains it.

However, I believe it would be premature to make substantial reforms without full and thorough consideration of all of the issues involved. We will soon have more reliable data through the Department of Labor's employment and training study on the effect of the Davis-Bacon Act on the construction industry. And while I agree with the proponents of this amendment that we should maximize our purchasing power with Federal housing dollars, those decisions are best made after consideration of all available information. We can best save Federal dollars by avoiding hasty, unqualified decisions.

I do not know whether arguments that the Davis-Bacon Act increases construction costs are valid. I do know that real estate and capital expenses are significant contributing factors, and that they are difficult to control. And I also know that we will not control the costs of housing by abandoning our commitment to the rights of workers. Nor can we blame our lack of adequate low-income housing on American workers. We have experienced major cutbacks in housing programs and management of those programs has been anything but stellar. That is not the fault of the laborers, carpenters, plumbers, steamfitters, electricians, and other hard-working individuals on construction projects in Wisconsin. In addition, I believe that in light of the much awaited changes being made by Secretary of Housing and Urban Development Jack Kemp, which I commend him for, we are not allowing enough time to digest managerial changes designed to correct past inefficiencies with respect to public housing.

The Chafee amendment made sweeping reforms in the Davis-Bacon Act, without addressing the real needs for low-income housing. The amendment proposes to create 5,000 additional public housing units over the next 5 years—on the backs of American workers.

I agree on two counts: We need to increase the availability of low-income housing and we need to reform Davis-Bacon. The amendment offered by our colleagues does not guarantee the former, and does not address the latter in a responsible way.

I will consider any legislation that makes constructive changes in the Davis-Bacon Act. And such legislation is pending before the House of Representatives.

I cannot support amendments such as this that gut Davis-Bacon. By lifting the threshold from $2,000 to $1,000,000 this amendment exempts the vast majority of HUD contracts from prevailing wage requirements and therein destabilizes local labor markets.

It is time to make necessary changes to the Davis-Bacon Act. But the Chafee amendment was too comprehensive in its attempt to reform without additional analysis on this act's modern-day needs.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President if no one else is going to proceed on the housing bill at this time I ask unani-

mous consent that I might proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 5 minutes as if in morning business.

LITHUANIA

Mr. D'AMATO. Mr. President, we recently heard some encouraging news, news of Soviet supposed willingness to compromise with Lithuania. While I welcome these encouraging words, I question whether these works have been matched by the appropriate deeds.

Recently President Landsbergis took advantage of what he perceived to be a more relaxed position by Mr. Gorbachev to invite me to visit Lithuania and speak to the Parliament, and do so on July 4. Obviously symbolic not only to this Nation, but July 4 has become known as not only the day in which the United States celebrates its Declaration of Independence but particularly to those nations today who seek freedom, who seek independence, it is a day that they are aware of.

Mr. President, I ask unanimous consent that the letter which President Landsbergis sent to me be printed in the RECORD. It is dated June 18, 1990. It basically requests my presence on July 4 in Vilnius to partake in a session of the Supreme Council.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SUPREME COUNCIL OF THE REPUBLIC OF LITHUANIA,
Vilnius, Lithuania, June 18, 1990.

Senator ALFONSE D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: On behalf of the Supreme Council of the Republic of Lithuania I cordially request your presence on 4 July 1990 in Vilnius to take part in a session of the Supreme Council.

Sincerely,

VYTAUTAS LANDSBERGIS,
President.

Mr. D'AMATO. Mr. President, after having received this communication, I contacted our State Department. I informed President Landsbergis that I would certainly be willing to be there to visit, and I asked our State Department if they would not intercede. I find it unusual that a United States Senator would have to ask the State Department to intercede with the Soviets, but I did so recognizing the last time we applied we were told that we would not be given a visa. When I say "we," I mean Senator MURKOWSKI and myself.

Unfortunately, the Soviets, while seeming to be willing to allow a little more gas into Lithuania, are not nearly as anxious to allow others to come to visit. The Soviets informed the State Department that they would not issue a visa.

Mr. President, what are the Soviets afraid of? Why will they not let people from the outside in to see what is taking place in Lithuania? How can we believe their assertions that they are compromising on Lithuania, that they are ready to suspend the embargo when even the most basic contacts with the outside world are being denied?

I have read that the administration is pressuring the Lithuanians to agree to take the Soviet's word that if they back off on their independence—imagine people coming to us, after we had gone to our Declaration of Independence on July 4, and saying, "You should now suspend your declaration. You are not independent. You should not be free."

That concerns me. That concerns me that we are putting pressure on the Lithuanians. I think pressure again should be exerted on the Soviets to lift their economic embargo to allow people to travel freely in and out of Lithuania. I think it is about time that the Soviets lifted that embargo and negotiated in good faith.

They are not, Mr. President. They have allowed slightly more gas in, slightly more gas. The situation is still a desperate one. And they will not allow observers from the outside world. If actions such as these, Mr. President, persist, they certainly cast doubt on the willingness of the Soviets to match their rhetoric with deeds.

This Senator does not intend to let this just disappear because the Soviets issue press releases, because the media picks it up and says, "Isn't this nice? They are going to relax on the people of Lithuania." They have not lifted their embargo. They have not relaxed their economic aggression and they are not bargaining in the kind of good faith that I think people thought they would.

Mr. President, I yield the floor.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Is there objection? The Senator is recognized for 5 minutes.

CABLE TELEVISION MONOPOLISTS

Mr. LIEBERMAN. Mr. President, today actually marks the 100th anniversary of the passage of the Sherman Antitrust Act. It is coincidental because it is in the spirit of free enterprise and competition that I want to comment today on the fact that legislation to bring what I call the cable television monopolists under control is now moving through both Houses of Congress.

Last year, together with my colleague and friend from Connecticut, Congressman CHRIS SHAYS, I introduced the Cable Consumer Protection Act of 1989 which would curb cable's monopoly power by allowing States and local franchise authorities once again to regulate cable rates.

Mr. President, this is an effort that I began in my previous life as attorney general of the State of Connecticut, outraged when the Cable Communication Act of 1984 resulted in the nullification of the States' power to do what it had been doing, which is to regulate the price of cable service to consumers.

I am, therefore, pleased that the Commerce Committee has reported a cable reregulation bill for consideration by the full Senate. I thank Senator HOLLINGS, Senator INOUYE, Senator DANFORTH, and other members of the Commerce Committee for the hard work and study they have put into this issue and for the fact that they have reported out a bill.

The Commerce Committee bill promotes competition for cable operators and carries the promise of a choice for consumers at some time in the future. I am concerned, however, that the bill does not do enough; that the bill will leave consumers essentially unprotected from cable monopolists wherever true competition does not develop. I know that my friend from Connecticut, Congressman SHAYS, shares these concerns.

Mr. President, since the deregulation of cable rates resulted from the act of 1984, the cable monopolists have repeatedly taken far too much money from the American public. A GAO report that was released just last week indicated that since cable rates were deregulated in 1986, the average American subscriber's monthly rate for the lowest price basic cable service has gone up by a whooping 43 percent. Even last year, when cable may have been on its best behavior, one might think, because of the threat of congressional reregulation, cable continued to hike the average subscriber's cable bill for basic service by 10 percent—and that was twice the rate of inflation last year.

Mr. President, this newest GAO study confirms what common sense suggests—that in the absence of effective competition, in the absence of effective regulation, there is no one to protect consumers, and that cable rates must be reregulated. We simply cannot depend on the cable companies benevolence to moderate prices. That runs against human nature. Nor will the vague threat of some future competition from the telephone companies or from satellite services, hold down cable rates.

The Commerce Committee bill, Mr. President, creates three classes of cable service and regulates each one of them differently. Services that are offered on a per channel basis or the

typical premium channels that we are familiar with, such as the movie channel, or HBO, or the pay-per-view services such as the special sporting events, are going to be unregulated under this bill, and I can understand that.

The basic service tier, which is the tier that contains what are called retransmitted local broadcast stations, will be regulated by the FCC or by the States and localities if they choose to do so and rates for those services must be reasonable. For all other services, the cable companies can charge pretty much what they wish so long as their rates are not significantly excessive.

My concern with that system is that while it may protect the small minority of viewers who rely on cable to transmit otherwise inaccessible local broadcast signals, it leaves the American public basically unprotected from large price increases for the most popular cable programming.

Basically, it will regulate the offering of local channels over the cable which most of us can get free of charge by just having an antenna. And it does not regulate with any real meaning the price of the cable services that most of us buy cable for.

The unprecedented standard of significantly excessive is, in my opinion, an open invitation for the gouging of the American consumer. This standard gives cable operators permission to charge rates for their most popular services that are quite literally unreasonable and excessive so long as they are not significantly excessive. That to me, is really no standard of protection for the consumer at all.

Once again, the cable companies can charge rates that are acknowledged to be excessive, perhaps even very excessive so long as they are not significantly excessive. Why should cable be able to do that, if we really believe in regulation? I must say that is a little bit like telling a thief he can commit larceny but not grand larceny.

Many Americans do not need cable in order to receive those local broadcast signals that will be regulated most seriously under this bill. Most consumers subscriber to cable because it allows them to receive programs other than what they can get with an antenna on over-the-air television. In those areas, cable wields monopoly power because it is really the only provider of multichannel video programming other than the local broadcast stations. Those consumers, who undoubtedly constitute a large portion of cable subscribers, also deserve to be protected from unreasonable and excessive rate increases by a monopolist who faces no effective competition.

So, Mr. President, I am concerned that the commerce bill offers the hope of regulation but not the reality of regulation, and that is not enough.

I am also concerned that the Commerce Committee bill will strip States and local governments of a very important power, and that is the power to regulate cable companies' service to the customers; that is, the power to regulate the quality of customer service. I do not think there is any issue that is more local and less appropriate for nationwide regulation by the FCC than standards for customer service.

Incidentally, over the years the quality of cable service has been one of the greatest sources for agitation among consumers in Connecticut. Cable service has improved, at least in Connecticut, but certainly the consumer ought to be protected by local regulation from inadequate service.

I have no problem with the FCC setting minimum standards for cable companies' customer service obligations. Indeed I think they should set such standards, but the committee bill will preempt any future State and local laws concerning customer service and I think that goes too far.

When cable legislation reaches the Senate floor I intend to push for stronger rate regulation provisions and for provisions that would continue to allow State and local governments to regulate cable companies' customer service, that really will protect American consumers in this vital area to them, which is cable. We have come to depend on cable. A lot of people, particularly the elderly, really depend on cable for information, for entertainment. They deserve more protection, ultimately, than this bill offers.

I believe these changes I have discussed are really necessary to provide consumers with real protection from abuse by cable monopolists, until that day when there is genuine competition, and that is some time away.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FLAG AMENDMENT

Mr. DOLE. Mr. President, with yesterday's flag amendment vote, the House of Representatives has turned its back on the Constitution, on the flag, and, worst of all, on the American people.

The House has said "no" to the American Legion. It has said "no" to the Veterans of Foreign Wars. It has said "no" to the Paralyzed Veterans of America. It has said "no" to a young man named Gary Freeman, who collected more than 3,000 petition signatures in support of an amendment—all in downtown Hutchinson, KS.

And the House—the so-called people's body, has said "no" to the millions of concerned Americans who believe that Old Glory deserves one type of protection only—and that is constitutional protection.

So yes, the flag amendment did fail in the House yesterday, but—despite itself—the House has succeeded in amending the Constitution.

The first three words in the Constitution's preamble are no longer "We the People." They are now, sadly, We the Congress.

With a reelection rate of more than 98 percent, with many incumbents running unopposed, it is no surprise that House Members think they can get away with snubbing the voters of this country.

Let us face it: In today's Washington, public accountability is out. Beltway arrogance is in.

Mr. President, during the past several months, we have heard a lot of fancy legal words which confuse most people, but which put big dollars in the pockets of the legal establishment.

We have heard words like "content-neutrality," "symbolic speech," and "communicative impact."

These words may define the debate for the American Bar Association, or the American Trial Lawyers Association, or all the ivory-tower law professors who somehow find the meaning of life in the footnotes of legal briefs.

But these words do not square with the wisdom of the American people who see no contradiction whatsoever between our cherished first amendment freedoms and a law prohibiting the desecration of our Nation's most revered symbol, our flag.

The American people know that flag desecration is wrong. They know that Old Glory deserves protection. And they know that passing a constitutional amendment is the only right thing to do.

Mr. President, the Senate will have a vote on the flag amendment next week. According to my tally, the vote will be close. We are probably going to lose, but I think the vote will be close.

But, as I see it, the choice for us in the Senate is crystal clear: We can either follow the House's lead and embrace the Beltway know-it-alls or we can embrace the will of the American people—the hardworking taxpayers and voters of this country—who want to give Old Glory the constitutional protection she so much deserves.

Mr. President, next week, the choice will be ours.

Mr. President, as far as I am concerned, this is a serious issue. It is not a trivial issue. No one is trying to trivialize the Constitution. Those of us who support the flag have been classed as demagogs. I always thought

the flag was important, important enough to fight for, important enough to lose your life for, important enough to spend years in a hospital for—fighting for your flag, fighting for your country.

Some veterans have different ideas. Some are opposed to the amendment. Some are for the amendment. I do not question anyone's motive, but I hope we still have a right in America to stand up for the flag without being classed by some liberal reporters as a demagog or someone who is out of step with the American people.

If we lose touch with basic values, what we considered to be basic values as we grew up in our small towns or communities or wherever, then in my view we are down the slippery slope and there will be no return.

So I hope that those on both sides of the issue will take a hard look at it over the weekend. It is an easy vote for me. I say again we are not tinkering with the Bill of Rights. Everybody is wrapping themselves not in the flag but in the Bill of Rights. They are saying we are going to amend the first amendment. In my view it is conduct. When you set a match to a flag, that is conduct, not speech. When you burn the flag, that is conduct, not speech. And so I hope we will take a hard look at what we do.

I think probably the whole sham yesterday in the House was that, as soon as they defeated the constitutional amendment, they brought up this phony statute to let everybody off the hook. All the liberals who had voted against the constitutional amendment then had a chance to vote for a statute, a second statute, which was clearly unconstitutional. It had no expedited procedure in it, was not going to go anywhere, but they did not care. They think they can fool the people back home by voting against the amendment and then for some little, phony statute that would set up a procedural device, and it was defeated, so there was little justice after all yesterday. All the liberals who thought they could have it both ways, vote against the amendment and vote for some meaningless statute, were fooled. The House defeated it. We have been down that road before. The Supreme Court said it is unconstitutional.

In my view, our last chance is the constitutional amendment. Maybe 10 years from now nobody will care. But I would say that most amendments, at least a third of the constitutional amendments, arise because of Supreme Court decisions. This is no different. It is something we do not spend a lit of time on.

People say we are spending all this time on the flag. Well, I would like to spend a little time on the flag. We spent 8 days on the Hatch Act. No one complained about that. Fortunately, the veto on that was sustained. Maybe, after we have had our debate and we have had an opportunity to express ourselves, we will give everybody an opportunity to vote in a free country and in a free Senate. If those who oppose the amendment prevail, as far as I am concerned I do not know of any other recourse. It does not mean we cannot revisit it. But I guess it would not be in the near future.

Mr. President, I see the majority leader on the floor and I wonder if I might inquire as to the program for the remainder of the day.

Mr. MITCHELL. Mr. President, I came to the floor intending to talk to the distinguished Republican leader about that. I understand that the managers of the bill are now meeting with the Secretary of Housing and Urban Development. I wanted to have the opportunity to discuss that with the Republican leader privately, and then to have an announcement of our plans not only for the rest of the day, but I hope for the next week as well.

PROTECTING THE CONSTITUTION

Mr. WIRTH. Mr. President, I rise this afternoon to commend our colleagues in the House for doing exactly the right thing related to the flag at some political peril, for reasons I will talk about later as we go through this process. But I wanted to take a moment to commend those Members and to talk a little myself about my own position as it relates to protecting the Constitution of the United States.

Mr. President, I believe that those who burn our Nation's symbol do it a great dishonor. I do not think anybody disagrees with that. But I also firmly believe that we will do our country and our Constitution great dishonor to act as though we need to protect a symbol from the very ideas and freedoms that it represents. The fundamentals of democracy have withstood the test of time in our Nation, and I cannot see the need to begin to dissect our Constitution in order to protect this symbol from the few who choose to burn it as a way to express their divergent views.

I, like every Member of the Senate, am proud to be an American, and respect and honor the symbol of our Nation—the flag. My pride is based on a firm belief in the principles of our Constitution, and the first 10 amendments to the Constitution, which we now refer to as the Bill of Rights, which is the most clear and eloquent statement of the right of citizens of this Nation to be free from the dictates of government.

For 200 years our fundamental individual liberties have been protected by the Bill of Rights, and our Nation has been served well by its guidance.

During that time, the Bill of Rights has never been amended. A testament to its beauty and ability to withstand outside pressure is the fact that it now stands just as it was enacted. But we are, this week, being asked to change all of that—to dilute the first amendment to our Constitution, to cut holes in it, and carve out special exemptions. Our duty, rather, is now to stand up and protect that extraordinary statement of human rights.

Yet, Mr. President, there are those among us who are ready to cave in to the power of political opportunism and to alter this sacred document. The flag, they assert, should not be trampled upon. I agree. They say that those who burn the flag are slapping America in the face, and again I agree. But when it is suggested that we need to protect our national symbol at the expense of our freedom, our liberties, and the one thing that binds us together as a nation—our Constitution—I must stand before my colleagues and say no. I cannot, in good conscience, compromise the values of our country to protect what serves as a symbol of those values.

I stand here today as well, Mr. President, to say that I am sickened by the people in our country who are active in neo-Nazi and Ku Klux Klan activities. These kinds of hate groups are the antithesis of everything for which I stand and everything for which I think this country stands. But because we are in the United States and because we believe in the freedom of expression, we allow these groups to not only exist, but to demonstrate—even when that demonstration includes the burning of crosses, or stars of David, which are other important symbols to this country that considers itself one nation under God. But, as citizens of this Nation, we believe that an individual's right to express his or her opinion is so fundamental that we even protect those who do not share that view.

I find it ironic, Mr. President, that much of what we are hearing in support of the constitutional amendment to prohibit flag burning comes from the very people who fought to protect the freedoms the flag symbolizes. Ensuring the ability of people to speak freely and express their views was, in part, what led to the first war in our Nation's history.

I also find it ironic that the only other situation that I am aware of where desecration of the flag was disallowed was Nazi Germany. And currently, while the Senate is busy debating the punishment of those who burn the flag, the National People's Congress of China is considering a similar measure.

Why do we honor the flag in this country? Clearly because we honor the ideals and the rights and the freedoms

for which it stands—those concepts embedded in the Constitution. If we move to lessen those freedoms, we lessen our very founding principles.

I believe it is important to remember that the flag is a piece of cloth. It is a symbol. By destroying that symbol, nothing is done to destroy our Nation. We are too strong for that.

In addition, Mr. President, we have a responsibility here, in this institution, and in our Government, to govern. We are sent here to make tough decisions, not to hide behind this political diversion. We are sent here to chart the future of our country, not to map a disgraceful departure from our principles as they are embodied in our Bill of Rights. We are sent here to settle our differences peacefully in the political process, not to exacerbate them by political stunts. We are sent here to tell the American people the truth about events in our times, not to cut corners and shade the truth with 30-second commercials.

The flag amendment sounds good if you say it fast enough, Mr. President. Let us instead slow down and address the real problems. Let us ask those who are advocating this flag amendment, and pushing it with an enormous amount of national hype, to focus some time and attention on the grinding deficit which is now catching up to us a result of, as Mr. Fitzwater pointed out the other day, 10 years of neglect and mismanagement and an economic policy that said that we could somehow take in less money, balance the budget, and spend an enormous amount more at the same time. This is a preposterous proposition, and one which is now coming home to haunt us.

Let us ask them to go back to the process of reregulating our special financial institutions which were, again in Mr. Fitzwater's words "victims of 10 years of mismanagement and neglect." We deregulated those institutions, and now the chickens have come home to roost, Mr. President. We not only deregulated them, but we neglected them and stopped any regulatory process whatsoever.

Instead of focusing on the diversion of the flag amendment, let us go back and address the very real set of problems that is costing the American people hundreds of billions of dollars.

Instead of this diversion, Mr. President, let us ask this administration to go spend its time focusing on the education crisis in this country, a crisis which includes nearly 30 million Americans who are functionally illiterate, who cannot read well enough to take a bus across town or to read the prescription on a bottle of medicine. This is not a set of problems, Mr. President, that is going to go away through a rhetorical educational summit, but will go away only through leadership. We are asking for that leadership.

Mr. President, let us ask, that we focus on the issue of health care, which is emerging very rapidly as an increasing financial crisis—one that will not be solved through empty rhetoric. It, too, demands leadership, and we are asking for that leadership.

We should ask for leadership in the area of the environment; Mr. President, as we are now faced with a growing crisis. Our national security threat does not come from the Soviet Union any more—the cold war is over. Rather, it comes from our relationship with the globe and what we, as mankind, are doing to it. The world is looking to this country for leadership. The world is looking to us for leadership, not for diversions. Where is that leadership on these issues?

The set of issues that we face, Mr. President, the set of problems that we face, demand that we get serious. The cold war is over, the Berlin Wall has fallen, and it is a new world out there. There are tremendous opportunities and tremendous challenges for us, and the opportunities will not be taken nor the challenges confronted through diversion. They can only be met through leadership.

The last time this happened in our Nation's history where we were presented with this kind of opportunity came right after the Second World War. At that time, the United States again had won, the world was filled with enormous opportunities, and we had a number of divergent choices at that point. President Truman and the people around him were faced with the growing threat of communism. They were faced with the choice of bringing the boys home, which would have been the popular thing to do, or recommitting American military forces in Europe and around the world. If that administration had done what we are seeing today it would have put its finger to the wind and taken a poll of the American people. Should we bring the boys home, or should we do the difficult thing? That administration did the right thing, the courageous thing, and made a commitment of American troops—and a commitment that has paid off handsomely. In 1947 and 1948, when we were faced with the problems of rebuilding Europe, the Truman administration did not take a poll and ask the American people, do you want to spend funding here at home on nylons and other consumer demands, or do you want to spend money to rebuild Europe after the devastation of the Second World War.

That administration did not go to take a poll and just do the popular thing. They did the courageous and the right thing. The decisions made by that administration at that time are now paying off handsomely, extraordinarily well for democracy, for free enterprise, and for our system the way we know it today.

Again, we have to ask the current administration to make the difficult and courageous decisions, to get serious about this process of government rather than giggle around the Cabinet table about the flag amendment, to stop waving flags from the White House and talking about how this is going to make a great 30-second commercial, and to get on to the real problems that we face. They cannot run and hide.

Finally, reference has been made to beltway arrogance being it. It seems to me the only thing that is in, Mr. President, are beltway consultants, and people make 30-second advertisements that are going to be run against those courageous people in the House that did the right thing on the flag amendment.

We are going to see more fodder for those beltway commercials made here, I gather, next Tuesday, Mr. President, when we go ahead and have this absolutely unnecessary vote. Everyone knows that after the House vote, this has become a perfectly meaningless exercise for us except for the kind of sounds-good-if-you-say-it-fast-enough politics.

The House of Representatives exposed this issue for what it is, Mr. President, a diversion. It is politics at its worst. I certainly hope, Mr. President, that we do the right thing and the courageous thing on the Senate side, just as enough Members of the House of Representatives did the right thing and courageous thing yesterday, and just as 40 years ago the people governing the country at that time did the right thing and the courageous thing.

Mr. President, I look forward to next Tuesday, to voting for the Bill of Rights. I look forward to voting for the Constitution, and I look forward to voting for that grand tradition in the United States that people do have the right of free speech, even if we disagree with them.

When I came to the U.S. Senate I took an oath to uphold the Constitution. On Tuesday, I will honor that oath.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I ask unanimous consent that I might pro-

ceed for 10 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FLAG AMENDMENT

Mr. ADAMS. Mr. President, 200 years ago, the Founding Fathers of this Republic demonstrated the courage and vision that are the underpinnings of our Bill of Rights, a remarkable series of 10 amendments to our Constitution intended to protect the individual rights of citizens from the actions of government. Of those amendments, none stands as a greater tribute to our national respect for the right of all citizens to express themselves, than the first amendment, which reads:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

The Bill of Rights was adopted 13 years after the occasion of the Continental Congress, on June 14, 1777, adopting the Stars and Stripes as our Nation's official flag.

Old Glory has proudly waved overhead, through war and peace, through good times and bad, during the life of our Nation. The love each and every Member of this body has for our national symbol is not a partisan concern. Indeed, every citizen who has ever sat in one of the desks on this Senate floor, representing one of the United States of America, has respected and honored this flag. It distresses and concerns me to stand on this Senate floor in June 1990, and hear Senators profess some higher sense of patriotism that compels them to tamper with the first amendment in order to protect ourselves from a small, misguided collection of malcontents who exercise their first amendment right of free speech in a most repugnant and obnoxious manner: By burning the American flag. Their conduct is shocking and offensive to all patriotic Americans, regardless of political party.

Mr. President, it must certainly be a blind rage that drives some Members to do exactly what the first amendment directs government not to do. For if we pass this legislation, Congress will be doing precisely what the first amendment prohibits: "Congress shall make no law abridging the freedom of speech." That for me, is a simple and straightforward admonition. We have already attempted to legislate around the Bill of Rights by passing the law our Supreme Court recently struck down. Yesterday's vote in the House of Representatives rendered moot any further action in the Senate this year on this constitutional amendment. Yet there are still those who insist on calling for a vote in the Senate. The only possible reason for a Senate vote is to provide grist for the campaign mill, and footage for the 30-second soundbite artists. Rather than move on to the truly pressing issues that face this Nation, like the budget deficit, the ballooning savings and loan disaster, and the crucial appropriations bills needed to keep our Government functioning, we are still here arguing about the need to amend the first amendment, a cherished, 200-year-old principle that is seen throughout the world as one of America's really special features. The right to dissent is one way to protect democracy, particularly in times of great stress.

It would be easy to conclude that we, as an institution, have a limited attention span when it comes to addressing the really serious problems that face our country. We operate in an era of frivolous soundbites, vaguely articulated defining issues and other stageprops that tend to clutter up the political stage during the campaign season. As we all know, this is an election year. The various consultants, spin doctors, advertising agencies, and other cottage industries of the political campaign business are gearing up for another expensive assault on the sensibilities of the American voter. The last Presidential campaign brought us such statesmanlike political spots as the Willie Horton furlough and the cleanup of Boston Harbor. Now it looks as though this election cycle is doomed to be remembered as the year when reckless political candidates trampled on the Bill of Rights to prove their superior patriotism, in 30 seconds or less. What a sad and pathetic way for this Nation to observe the 200-year history of our most cherished individual liberties.

Mr. President, as a veteran of World War II, I know the thrill one feels when marching behind the flag. Many of us still have tears in our eyes when the bugle blows taps, when the gun salute to a fallen hero sounds, or when the flag is raised at dawn. The men who fought and died at Iwo Jima, some who were my friends, were protecting our Nation's honor and they deserve better than to have their memorial used as a backdrop for political advantage. The Bill of Rights to the Constitution of the United States of America should be protected from the mischief of political soundbite artists in search of a 30-second hit against a political opponent. And the true symbolic value of the Stars and Stripes ought to be shielded from the simplistic, petty rhetoric that trivializes our national symbol in the name of protecting it from flag burners who ought to be ignored.

Before we break to observe our Nation's Independence Day, let us put aside this exercise in false patriotism, and do our Nation's business here in the Senate. That act would demonstrate a real appreciation for the cherished values for which Old Glory and the Bill of Rights both stand.

I shall oppose an amendment to amend the Bill of Rights, cloaking it in some type of rhetoric or language that involves the flag of the United States. I hope that my colleagues will do the same and that we will follow the action that has taken place in the House this week and that the American people will know that we, in their most cherished institution, the Congress, really trust them and that we all have faith in ourselves and in the first amendment and in our abilities to demonstrate our patriotism and our belief in this country without having to vote to chip away and change the first amendment.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be resinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO JACK KEMP

Mr. MOYNIHAN. Mr. President, as debate over the National Affordable Housing Act draws to a close, I rise in unabashed tribute to our Secretary of Housing and Urban Development and former colleague in the House of Representatives, the inimitable Jack Kemp.

From time to time on Friday mornings I have coffee with members of the New York press here in Washington, and as it happened, did so this morning. The subject of housing came up, and with it the current activity of the Secretary of Housing and Urban Development. I found myself saying that Jack Kemp was far the most important figure to emerge in the area of national social policy in the past two decades. I would take the time of the Senate to expand on this thought.

It is not all that complicated. Jack Kemp, from a conservative perspective, had almost single-handedly revived the effort to address the problems of poverty in America through activist social policies. He not only cares, he is convinced. Convinced in two senses: first, that it is necessary to care; second, that caring can have consequences.

Some might say—I might myself have said—that for all his conviction, Kemp had been given the least promising area in which to pursue his goals. Decent housing is an outcome of social well-being, rather than the other way around. I could take a good deal of the

Senate's time expounding on this, but at one level or another we all know this. The distingusihed Senator from California, who is the principal manager of the bill before us, has observed that this is the first major housing bill to come before the Senate in a quarter century. I assume he refers to the Housing and Urban Development Act of 1968. That was indeed the last enactment of true faith. The Great Society had run its course. It had had a long run, as these things go, a thousand days from the assassination in Dallas in November, 1963 to the congressional elections of November, 1966. But in the aftermath, the very able assistants to that eminent first Secretary of Housing and Urban Development, Robert C. Weaver, opted for audacity. Instead of reducing their demands on Congress, they doubled them and in one final, dazzling turn of the wheel, they won everything they wished for. I can attest to the general joy.

Alas, few any longer believed in those wishes.

An era had ended. The belief in what we called public housing as a public good was dying.

As with so much in American social policy, the housing movement began in New York City in the early years of the century, and made its way to Washington in the administration of Franklin D. Roosevelt. By the 1950's, it began to be clear in New York that public housing was not working well. By the 1960's, that idea had reached Washington.

There things stood until the arrival on the project of Jack Kemp.

I have known and admired each of the Secretaries of Housing and Urban Development that followed in the administrations of Presidents Nixon, Ford, and Carter. George W. Romney, James T. Lynn, Carla A. Hills, Patricia R. Harris, Moon Landrieu. Superb public servants all. But their service was addressed to what was increasingly understood to be a failed enterprise. In the early 1960's this was already being documented in St. Louis by Lee Rainwater and his associates in their studies of the prize-winning Pruitt-Igoe housing project. Hailed as a model of good design and intelligent planning, it became the scene of such seemingly irreversible social pathology that in the early 1970's the authorities did the only thing left to do. They blew it up.

And there were no new ideas.

In the 1980's we did begin a low income housing tax credit. As I recall, I offered this as part of the Senate version of what became the Tax Reform Act of 1986. On the House side, my dear friend, Representative CHARLES RANGEL, enriched and enlivened the proposal. In the end we obtained a tax expenditure of $1 billion a year, with an extra helping for New York. The credit was extended in the Omnibus Budget Reconciliation Act of 1989 and continues through the remainder of this fiscal year. A lot of money, a billion dollars—per year. An investor in low-income housing receives the credit of a 10-year period, getting a credit equal to 9 percent of his investment each year. This works out to a 70-percent credit, in present value, over 10 years. And yet, I have not the faintest notion whether any low income housing has come of it. Certainly I have never been invited to a ribbon cutting ceremony. And this is the point. As low income housing came to be associated with a certain class of low income persons, social policy backed off.

This was the great transformation. Public housing began as a form of slum clearance. Heaven knows, there was a case to be made. In 1910, for example, Manhattan had twice the population it has today. Nowhere was this settlement more dense than on the lower East Side of celebrated memory. Appropriately, the first federally assisted public housing was opened in 1936, bounded by Avenue A, First Avenue, East 2d and East 3d Streets. Al Smith country you could say; also Jacob Riis. Appropriately, also, the project was given the name First Houses. It is still there, now on the National Register of Historic Places. It is a bright and pleasant five-story affair, much in contrast to the high-rise projects all around it. It has its share of welfare; a quarter of the families. But only one family in seven is headed by a single parent. Most of the residents are seniors. Average gross income is low, but adequate. By any standard, First Houses has more than met the great expectations of the city planners and social reformers who built it in the age of Fiorello LaGuardia.

By contrast, the public housing that surrounds First Houses, radiating from this epicenter outward to the far reaches of the Nation, is a wholly different setting. The single parent welfare family living in public housing has come to symbolize and to constitute the most intractable and pressing social problem the United States faces today.

No other industrial society has any equivalent. In France, for example, where public housing projects are built in the suburbs for fear of defacing the beloved central city, there are occasional reports of troubled projects housing immigrant workers, but the Senate may be sure that these difficulties are modest compared with ours. We have no European counterpart; no European solutions. We are on our own.

Enter Jack Kemp. I remarked earlier that it might have seemed that housing and urban development were the least promising tools with which to address this perculiarly American problem. But on reflection, this may not be so. Because it is precisely in public housing that the problem is located. A full 71 percent of families with children living in public housing in the United States are headed by a single parent. This is more than three times the national average of 22 percent. Most of these families are dependent on welfare. Almost every aspect of their lives has deteriorated over the past two decades. Since 1970, for example, the constant value of welfare payments has dropped by one-third. Similarly, the level of public housing outlays has sharply declined, especially in the matter of maintenance. In 1987 HUD estimated there was a $20 billion backlog of repair work and modernization. Public housing deteriorates. Why else do we need tax credits to build low income housing?

Jack Kemp is not content to preside over this disaster. It is verily a sea of troubles and he has taken arms against it. I do not know how well his prescriptions will work. Enterprise Zones, Homeownership and Opportunity for People Everywhere [HOPE], his other initiatives. Yet I know this much. In the 1950's I sat at the feet of Charles Abrams, an official then of the Harriman administration in Albany and one of the founders of the public housing movement in the United States. I learned of his hopes, and began to sense some of his fears. I watched him communicate both to Robert C. Weaver, then also in Albany. Later I learned from Rainwater how badly things were going. Still later, Banfield and Wilson taught me that little else was to be expected. Forrester, the greatest outsider, explained it all in Urban Dynamics, when the scientist who helped fashion the modern computer looked into the urban maze.

It was enough to get anybody down into the nothing works section of town. The more, then, do we welcome a new voice and new spirit. Let one thing be understood about Jack Kemp. He is not setting out on these ventures because he does not understand the subject. He knows all the obstacles. As near as ought to be the case with a public man, he has read all the books. It is just that he has not given up.

He is not getting all he wants in this bill, which is wrong of us. But he is getting some things, and that is the first hopeful event in this area that I have come upon in a generation.

Call him a bleeding heart conservative, if you want. I do not care what kind of heart he has if he has enough of it, and he has.

Mr. President, I thank the Chair for courteous attention. I do not see another Senator seeking recognition at this point and accordingly suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that I might proceed as if in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 2777 are located in today's RECORD under "Statements of Introduced Bills and Joint Resolutions.")

Mr. DASCHLE. Mr. President, I understand we are still in morning business?

The PRESIDING OFFICER. The morning business time has expired.

Mr. DASCHLE. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FETAL ALCOHOL SYNDROME

Mr. DASCHLE. Mr. President, along with the distinguished Senator presiding at this time, I have held a series of health hearings in the last couple of weeks, the likes of which I have not experienced in the past. I must tell my colleagues, these hearings were some of the most moving and informative I have had since coming to Congress. Over the next few weeks I would like to share some of my experiences with my colleagues and have printed in the CONGRESSIONAL RECORD some of the testimony we received at that time.

One day of the hearings I held were at Rosebud Reservation in the morning, and in Rapid City in the afternoon. The focus was Indian child abuse, and neglect, something we have not talked about very much on the Senate floor and, frankly, anywhere, and an issue I am going to be spending a good deal of time on in the months ahead—fetal alcohol syndrome and fetal alcohol effect.

I read a book by Michael Dorris called "The Broken Chord," and I strongly recommend it to my colleagues who want to gain a grasp of the devastating effect of fetal alcohol syndrome or effect on Indian children today, one of four of whom on some reservations have fetal alcohol syndrome or fetal alcohol effect. It is acquired during pregnancy when a mother drinks, does not take care of herself and most likely has very little prenatal care. As a result of her alcohol consumption, the fetus is affected and ultimately is born with either the effect or syndrome, making, in some cases, these babies nothing more than vegetables, but ensuring, without a doubt, that for the rest of their lives they will be subject to incredibly painful seizures, dependency upon somebody for virtually everything, and an abnormal life, subjected to that kind of condition for their entire life, however long they live.

We do not hear much about it because, frankly, it does not occur anywhere else to the extent that it does on the reservation. It happens on the reservaton all too often. As I said, 25 percent of all Indian babies on some of our Nations reservations are born with syndrome or effect.

So, as we held these hearings and had the opportunity to travel through Nebraska and South Dakota, we came to the conclusion that once again we have to use a word that is too often used around here, the word "crises." Without a doubt, we have a crisis in health care that most people simply have yet to comprehend, a crisis on the reservation in particular, that is far more significant than any place else, a crisis that we have to address and that I hope my colleagues will better appreciate after I read some testimony this afternoon into the RECORD of one of the heroes in the war on poor health we are waging as I speak.

If I could summarize the three problems that we have in health care today, it would certainly be those related to cost, access, and to quality.

We have serious cost questions. We are now spending over $2,000 for every man, woman, and child in the country; $600 million last year on health care alone. For every car we buy, $700 of that car goes to health care today. We have serious cost problems. We have access problems.

The Senator from Nebraska and I held hearings in which access came out so vividly, and we will be talking about that. Access is a real problem in South Dakota. We have 40 vacancies for doctors today, 2 vacancies for nurses, vacancies for health care providers across the board.

A small town in northwestern South Dakota, 300 or 400 people, Faith, SD, has one health care clinic serving people for about 150 miles around. That one little clinic is open 24 hours a day. It has one physician's assistant. That physician's assistant serves people for hundreds of miles in virtually every direction, with one caveat. That caveat is that that physician's assistant stay healthy.

He does everything. They think he is God out there, because he provides services I daresay may not be in the regs, but there is no one else to do it.

The other day, this overworked, this fatigued physician's assistant broke his leg. He is now in the hospital. He is out of commission. He is not providing health care. So that clinic relies upon somebody else to travel hundreds of miles to that particular town 1 day a week. People line up outside on the street to get some kind of care for that 1 day a week when that physician's assistant is there.

That is access, and that is the problem we are facing in rural America with access today.

And we have quality problems. We are told by the New England Journal of Medicine that 30 to 40 percent of all health care provided today, 30 to 40 percent of it is unnecessary, is duplicative. It may be wrong, but we provide it, for example, for a lot of different reasons. But as we are paying more, and as it becomes harder and harder to get, incredibly the quality issue becomes even more of a problem.

So we have problems in health care that this Senate is going to have to address with increasing frequency. We simply cannot ignore it any longer.

The hearing that I had on the reservation was one that I doubt I will ever forget. Actually there were two parts—one at Sinte Gleska College on Rosebud Reservation, and one in Rapid City, SD.

One of the real heroes of the effort to make health better, to deal with the cost and quality and access problems that we are facing throughout rural America, especially on the reservations, testified and provided me an insight that I just had not had before. When she was finished, there was a pall in the entire room. No one spoke for an interminable amount of time, having been so moved by what she said. I guess I was the first one to speak after she finished testifying, and I said, "That was some of the most powerful testimony I have heard, and I am going to share it with my colleagues."

I thought, at the time, I was just going to insert it in the RECORD, as we do so often. And I am sure by now very few people might even have the opportunity to listen. But, having heard it, I owe it to my colleagues and I owe it to all of those concerned about health, to read what was a relatively brief statement but one that I daresay had they heard, like I heard, would be one of the most unforgettable.

Jeaneen Grey Eagle, this past May 26, appeared before the committee and shared these thoughts with the rest of us:

> On the Pine Ridge Indian Reservation, abuses take place in many different forms. We have alcohol abuse, drug abuse, spouse abuse, elderly abuse, and the most hideous abuse of all, child abuse. The abuse of a child is probably one of the most devastating things that can happen over the course of a lifetime. We all know that if one is

abused as a child, the probability of growing up and abusing others is very strong.

One of the saddest abuses is pre-natal child abuse. During the time before birth, a child should have the right to exist, free of any harmful chemicals that cause birth defects or mental retardation. A child's birthright should include the ability to learn, the ability to reason, and most of all a promising future. Many children born to drinking parents will never have the ability to enjoy the simplest things in life, let alone know how to reason or how to plan a future.

During the 1950's-60's a drug was prescribed to pregnant women called Thalidomide. This drug caused a variety of birth defects which included children born without arms and legs, and also miscarriages. The Food and Drug Administration quickly traced the source of these birth defects and banned the use of Thalidomide by pregnant women. Fortunately, women stopped using Thalidomide, as it had no addictive properties. People clearly understood the direct cause and effect of use equals birth defects and possible death. Each year, across this nation there are thousands of children born to mothers who use alcohol and drugs. Even though it has been well documented that alcohol and drugs cause birth defects and miscarriages, the FDA is very slow to act against a very powerful lobbying force, the liquor industry.

As we are all aware, chemical dependency is just that, dependency. Simple warning statements on cigarette packages are never read, or, if they are, many people suffer from the "It will never happen to me" syndrome. But maybe there would be more attention paid to this topic if agencies were to get involved and scream from every rooftop about the dangers of alcohol and drugs much like what happened with Thalidomide. Maybe this approach would also bring much needed funding to provide treatment for pregnant women and their family members. This is not just a woman thing, this belongs to all of us, men, women, equally. We both share responsibility over what happens to our future generations.

Last year there were 10,269 arrests on my reservation, the Pine Ridge Indian Reservation.

I might say, Mr. President, parenthetically, there are only 12,000 people on the Pine Ridge Reservation. There was almost one arrest per capita on the reservation last year.

Approximately 25-30% of this total was females. One step further teaches us that the Chief Judge, Pat Lee, feels that 95% of all arrest can be attributed to alcohol and or drug abuse. And yet, Pine Ridge is still considered a dry reservation where the use and sale of alcohol is supposed to be prohibition of liquor on the reservation has led to the same scenario the United States witnessed in the 1920's. Bootlegging, manufacturing and sale of alcohol is rampant on the reservation. The lack of regulation has often resulted in the sale of liquor to children, leading to extremely high rates of juvenile delinquency and teenage pregnancy, and, consequently, harm to unborn children.

I should mention again, parenthetically, the biggest problem we have on the reservation among youth today is the consumption of Lysol. Lysol is very high in alcohol content and it is mixed with orange juice. Children drink it as if there were no tomorrow. They cannot get alcohol on the reservation but they can get Lysol, and it destroys them. That is our biggest problem among children today on the reservation.

The infant mortality rate on the Pine Ridge Reservation and the Aberdeen Area is worse than the countries of Cuba, Bulgaria, and Peru. In this great land of plenty, many babies are born exposed to such high levels of alcohol and drugs before birth, that they die, or are born intoxicated and experience life threatening withdrawals shortly after birth. They are doomed to spend the rest of their life with birth defects and or mental retardation, which is all 100% preventable.

According to a 1986 study done by the Children's Defense Fund, the state's infant mortality rate per 1000 live births was 13.3 compared to a national average of 10.4%. Among non-whites in South Dakota, 90% of whom are Native American, the rate was 27.5%.

More than twice the national average.

This number means that of 1000 babies born in the state of South Dakota, 13.3% die before they reach the age of 1; for Native Americans in the same state of South Dakota, 27.5% of our babies die before their first birthday. I have heard that number has now increased to 30+ babies per 1000. Yet nobody is asking why?

In 1986, the Children's Defense Fund spokesperson, Joseph Liu, is quoted as saying: "Generally a one year increase like that doesn't amount to a trend, but what it obviously does is indicate something went wrong that year. South Dakota can't wait another year for a trend to emerge. It has to look into it right away." I remind you Mr. President, this was said in 1986.

I am upset that 3 years later we are obviously still waiting to see if a trend has developed, and there are more babies dying. Indian Health Services even had the nerve to print a story in a health magazine entitled, "Success Story—Infant Mortality." What kind of success are they referring to and where? There were hats off to all the health care providers that made this success possible. I refuse to take my hat off to this so-called success, and demand that Indian Health Service provide a responsible direction for our people. Even though it has been proven to Indian Health Service time and time again that Native American people suffer the highest rates of chemical dependency and fetal alcohol syndrome, they continue to underfund and place no priority on making the situation better.

Another factor to speak of here is Sudden Infant Death Syndrome and the peak numbers associated with our high infant mortality rate. How many of these deaths are attributed to alcohol and drugs? The hardest thing for me to accept personally is the knowledge that some babies have received so much alcohol through their mothers breast milk that they have a suppressed gag reflex and die trying to expel the liquor from their tiny bodies. This is child abuse disguised as Sudden Infant Death Syndrome. It is time we talk about all of these forms of abuse, some of it so shameful it is hard to talk about, to admit to people that alcohol and drugs have such a hold on our people that these things have happened and will continue to happen until we receive help. Then maybe we can take our hats off and salute people.

I would like to share a story told to me by a midwife in Pine Ridge who cares very much what is happening to our people. A woman came to the hospital ready to deliver and had never been in a prenatal clinic before. It is a common story. This woman was obviously intoxicated. When the baby was finally born, a little girl, she would not cry and had a very difficult time breathing. The baby was taken to another room for more medical care, and when the baby started to cry, the smell of cheap wine was on her breath. It was very strong. This baby would not breathe because it was technically passed out. This is child abuse.

I know we are all tired of studies, tired because we never see the results or have an understanding of why it is necessary. I advocate that we find out how many amongst us are affected, how many children have been born with less than a normal life. An ongoing comprehensive study would allow us the knowledge base to demand resource to address the problem. Many children with special health and educational needs are presently unserved or underserved because the extent of their disabilities or cause has never been determined. It is also felt that if the general population is made aware of the high numbers of children that are affected, then the implications for future generations could be addressed. At the present time we do not have a problem. This problem has been created by Indian Health in their incomplete and inaccurate study which would have us believe that we only have 4-5 FAS births per 1000. That is wrong. We have a problem and no one should be misled by Indian Health Service or anybody else.

I have ten recommendations that I feel are very important to us as Native American people and to the nation as a whole regarding prenatal child abuse.

(1) We begin as concerned individuals to research a proper legal forum that will address the use of alcohol and drugs by women who are not going to have abortions. That we as a nation provide a deterrent by placing penalties for giving birth to one or more babies affected by prenatal exposure.

(2) That the Food and Drug Administration take a more aggressive approach in the labeling of all alcoholic beverages with warnings and also provide an aggressive, well informed public education campaign.

(3) That all medical schools teach a wide variety of health professionals Fetal Alcohol/drug effects on babies.

(4) That Indian Health Service take a leadership role in their field and provide ongoing FAS/FAE education to medical staff. That health educators become actively involved on every reservation to teach patients, community organizations, schools, tribal councils on the consequences of alcohol and drug use by pregnant women.

(5) Indian Health Service provide prevention, education and treatment aimed at alleviating fetal alcohol syndrome. Treatment and detoxification is essential for pregnant women.

(6) IHS begin immediate Special Needs Clinics across every reservation to determine the extent of present damage to our populations. That within these clinics special needs are not only identified, but also cared for.

(7) That the Bureau of Indian Affairs address the issue by screening within the school system and identifying their affected populations. Special programs and therapy should then be provided instead of the typical storage mentality for learning disabled children.

(8) That a comprehensive study take place to determine the extent of FAS/FAE on all reservations. That all past studies on our

reservation be rendered inaccurate or flawed because of lack of certain unique characteristics and traits.

(9) Tribal courts receive training and resources adequate to apply any such law to its fullest extent, regarding the investigation, arrest, prosecution, and judgment of prenatal alcohol drug exposure and its subsequent birth defects. Depending on the appropriateness of the situation, whether it's the second, third, or fourth offense. Also enforcement and bringing into compliance offenders who have willingly, or by court order, submitted themselves to an appropriate diversion/rehabilitation program.

(10) That IHS print the FAS adolescent manual which contains the 10-year study by Anne Streisguith, which includes a working knowledge of how to work with FAS adolescents.

My friend, Michael Dorris, wishes he could be here today. Unfortunately, his son, Adam, for whom "The Broken Cord" was written, is undergoing brain surgery. He is, as we all know, fetal alcohol syndrome-affected and has suffered a lifetime of problems, including severe seizures. Now, today, surgery is being performed to see if the seizures can be stopped if not slowed down. When you pray today, remember this brave young man and his fight to find a normal lifestyle, which certainly is his god-given right.

NATIONAL AFFORDABLE HOUSING ACT

The Senate continued with the consideration of the bill.

Mr. BRYAN. Mr. President, I ask unanimous consent that the pending amendments be set aside in order to consider three amendments en bloc.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

AMENDMENT NO. 2065

Mr. BRYAN. I send the amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendments en bloc.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN] proposes an amendment en bloc numbered 2065.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the Public Housing Drug Elimination Act)

On page 627, strike lines 8 through 13 and insert the following:

"(d) FEDERALLY ASSISTED LOW INCOME HOUSING.—In addition to the selection criteria specified in subsection (b), the Secretary may establish other criteria for the evaluation of applications submitted by owners of federally assisted, low income housing, except that such additional criteria shall be designed only to reflect—

"(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted, low income housing, or

"(2) relevant differences between the problem of drug-related crime in public housing and the problem of drug-related crime in federally assisted, low income housing.".

Page 634, line 16, after "IN GENERAL.—", strike "The" and insert in lieu thereof "To the extent provided in appropriations acts, the".

At the end of the Title X of this bill, add the following new title:

TITLE —GENERAL ACCOUNTING OFFICE STUDY

SEC. . EXTENT TO WHICH FEDERAL ASSISTANCE PROGRAMS DISCOURAGES INDIVIDUALS FROM LEAVING SUCH PROGRAMS.

The Comptroller General of the United States of America shall conduct a study to examine how housing policies and social service policies affect beneficiaries, particularly those receiving public assistance, when such beneficiaries gain employment and experience a rise in income. The study shall analyze the extent to which existing housing and other laws create disincentives to upward income mobility and shall recommend any changes to existing law which would remove such disincentives.

The Comptroller General shall report to the Congress of the United States of America the findings of this study not later than twelve months after this bill becomes Public Law.

Mr. BRYAN. Mr. President, these amendments have been offered for consideration by several of our colleagues. Both Senator CRANSTON and Senator D'AMATO, the respective floor leaders on this legislation, have concurred with their adoption.

Let me first try to summarize what they do.

The first amendment submitted by Senator LAUTENBERG would make additional technical amendments to the Public Housing Drug Administration Program.

The second amendment submitted by Senator KASSEBAUM would subject the deferred mortgage provisions in section 803 to a requirement that the deferral of repayment be explicitly provided for in appropriation acts.

The third amendment submitted by Senator MACK would direct the General Accounting Office to examine the extent to which existing housing and other laws create disincentives to upward income mobility and to recommend any change to existing laws which would remove such disincentives.

Mr. President, it is my understanding that these amendments have been cleared on both sides of the aisle. I urge their adoption.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2065) was agreed to.

Mr. BRYAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, earlier this year, I introduced the Homeless Outreach Act of 1990, a bill which would require the Social Security Administration [SSA] to provide critical assistance to persons who are homeless in order to help them receive supplemental security income [SSI] benefits. As many as 50 percent of all homeless people who qualify for these benefits do not recieve them because they are unaware of their eligibility or are unable to navigate the complex application process, which includes a 12-page form, a medical exam, and follow up visits, without assistance. People with very low incomes and assets qualify for SSI if they are blind, elderly, disabled, or mentally ill.

The bill would require SSA outreach workers to go to soup kitchens, shelters, and day centers to teach homeless people about benefits, assist them with the application process, arrange for necessary medical exams, and provide followup assistance to ensure that they receive benefits. Furthermore, SSA would have to provide assistance to prevent the inappropriate suspension of benefits. Homeless individuals, isolated on the streets or moving from shelter or shelter, often do not receive notices from SSA. The outreach would restore improperly terminated benefits and provide assistance on any appeal. The bill also enables SSA to award grants to States, local governments, and nonprofit organizations to conduct outreach programs. In many communities, partnerships like these have been very successful.

Mr. BENTSEN. Mr. President, I commend the efforts of Senator RIEGLE on behalf of people who are homeless and their efforts to obtain SSI benefits. Throughout the past decade, as the number of homeless has increased, we have seen an increasing need for outreach efforts by the Social Security Administration. Disabled children and the elderly as well as the homeless could benefit from increased outreach efforts.

If the Senator from Michigan would withhold offering his legislation as an amendment to the pending housing bill, the Senator would have my assurance that the Finance Committee would hold hearings on his homeless outreach legislation sometime this year.

Mr. RIEGLE. Mr. President, I was considering offering this legislation as an amendment to the pending National Affordable Housing Act; however, because of the assurances of the distinguished senior Senator from Texas, the chairman of the Finance Committee, I will not do so. While the bill affects those who are homeless and thus is quite relevant to the pending measure, I recognize that the Finance Com-

mittee should have full opportunity to consider the bill before the Senate votes on it. As a result, I am pleased that the Finance Committee will hold hearings to address the unique circumstances of the homeless, the need for outreach, and the most effective way to structure the outreach.

RECOGNITION OF TWO WINNERS OF THE 1989 NORTH CAROLINA BEACH BUGGY ASSOCIATION "GET HOOKED ON FISHING—NOT DRUGS" ESSAY CONTEST

Mr. SANFORD. Mr. President, with all the talk we hear about the ills of drugs these days, the underlying truth is obvious to all of us in the Chamber today; drug use is ruining the lives of otherwise productive citizens and robbing our youth of all potential.

These victims of the drug epidemic could be enjoying the great outdoors instead of experiencing hallucinations or a false sense of euphoria. Oh, what they are missing. What drug can give you the high of wading up a rushing mountain creek with banks of laurel on either side and a Carolina blue sky above? What could be more satisfying than finding yourself surrounded by miles of blue sea and sunny skies, or just sitting back on a summer afternoon on your favorite riverbank? The only thing that would make these times better would be a fishing rod bent double and the excitement of a fight. Mr. President, more people need to "get hooked on fishing—not drugs."

I share this sentiment with Mr. George C. Deems, president of the North Carolina Beach Buggy Association [NCBBA], who has actively promoted environmental protection and responsible outdoor fun. Thanks to Mr. Deems and his organization I am pleased to be able to share a couple examples of written work by North Carolinians who understand the good things about getting hooked fishing and the bad things about drugs. I sure hope more Americans will take the advice Al Jones and Chuck Johnson are giving us in their essays. These young men deserve reognition for their healthy attitudes about recreation and for placing in the Beach Buggy Association's "get hooked on fishing—not drugs" essay contest.

I ask unanimous consent that the essays be printed in the RECORD.

There being no objection, the essays were ordered to be printed in the RECORD, as follows:

[Second Place Division I]

GET HOOKED ON FISHING—NOT DRUGS

I can think of many things I would rather do than abuse any kind of drug—walking in front of a speeding truck comes to mind. This may sound crazy to you, but wouldn't you rather be killed instantly by a truck, than die slowly from an addiction to some kind of drug, such as crack, one of the most addictive, deadliest drugs known to man?

When I hear about people who are addicted to some kind of drug, I wonder: Why, with so many things for a person to do with his life, would a person decide to destroy himself with drugs? Drugs cause their users to destroy families, communities, friends, and themselves with something as destructive as that?

Many opportunities other than drugs are open to a person. Careers, hobbies, and other activities are out there waiting for a person to find one that suits his interests. One particular activity which is more rewarding and enjoyable than using drugs is outdoor recreation.

One popular way to spend time outdoors is to go fishing from time to time, whether it's for food, or just to relax. If a person doesn't like fish, hunting is good activity. The great thing about these two activities is that even if you don't catch anything, you have a great time in trying to catch something while at the same time getting a first hand look at nature.

Any outdoor activity is far safer, enjoyable, and acceptable than drug use. Drugs cause a person to deteriorate, as the gets deeper into addiction. Outdoor activities like the ones I have described, help a person grow emotionally. Everytime a person goes fishing, he learns something that will last a lifetime. The high from a drug lasts only a short time, and only makes a person lose touch with reality. Which would you prefer, a leisurely day of hunting or roving the streets, trying to find the money for your next drug high?

Such activities in the great outdoors can give a person an incredible sense of pride, like the satisfaction in catching the biggest fish in the world. Maybe you will go camping with a family member or a friend and find out, when the trip is over, that you have grown closer to that person. Whatever the case, you will find that you gain something valuable from the experience, even if it rains, and everything seems to go wrong. Remember, it's all up to you. Wouldn't you rather go fishing and hook a big one instead of getting hooked on drugs and catching nothing?—Al Jones, Chinquapin, NC.

[Second Place Division II]

GET HOOKED ON FISHING—NOT DRUGS

There is no greater feeling than to be reeling fish in, and the fish gives you a struggle. Once you reel the hooked fish in you are so proud and want to let everyone know that you caught it.

Drugs, once you are hooked you do not have that option to throw it back. And instead you are more like the fish in this story than the fisherman. You will struggle like that fish. You wil try to do anything to get free from the struggle of being hooked. The fisherman threw back his fish to catch for another day. Drugs will only catch you and fry you. My advice to you is never take the bait and you can't get hooked. There are many fish in the sea, so don't mess with drugs. Once you are hooked don't be expected to get loose as easy as the fisherman and the fish.

Many fish have been hooked and never return to the waters. If you start on drugs it will be the same for you. So, don't be a fish out of water and be smart, don't start. There is more to life than to be like an anchor and be weighed down by drugs.

Sure life can be rough as the waters, but drugs are no way to calm the choppy seas. In all due time the waters will be smooth sailing. Many people will tell you if you try it just once it will not do anything to you. It only takes once to be snagged out of the waters of life.

Life is too short to end it too quick with drugs. Don't be a flying fish, stay in the cool waters and swim freely without being hooked in the mouth and being reeled in. So grab your poles, get your bait, jump in the boats, and have a fun filled day on the lake catching fish. Spend a day on fishing not a lifetime on drugs. Enjoy the fresh air, the great outdoors instead of hiding in closets and bathrooms. Don't do a couple of lines, instead throw a couple—Chuck Johnson, South Mills, NC.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I ask unanimous consent to proceed from 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE AMERICAN'S PROBLEMS

Mr. SIMON. Mr. President, I was over in my office. I heard my colleague from South Dakota, Senator DASCHLE, speaking about the problems that American Indians, frequently called native Americans, now face. I had the privilege of having a hearing in South Dakota some weeks ago at the Pine Ridge Indian Reservation.

I simply want to buttress what Senator DASCHLE has said and commend him for his leadership in this area. I know the Presiding Officer, Senator DECONCINI, is from a State where a lot of native Americans also are. I assume the problems may be very similar.

At the Pine Ridge Indian Reservation they have an unemployment rate of 73 percent; 26 percent of the homes have no indoor plumbing; 8 percent have no electricity; 65 percent have no telephones. You can go on. They are just staggering statistics. We clearly have to do a better job.

We talk about—and I heard Senator DASCHLE comment—the statistics that he was providing are worse than Cuba, Bulgaria, and a number of other countries that he mentioned. We simply have to be more responsive. It is not simply a matter of handing out money.

I had the privilege of being the cosponsor some years ago of the Tribally Controlled Community College Act. I think it is education, and it is having programs that really provide opportunity for leadership to emerge. I do not have all the answers by a long shot. I do not know what they are. But I know this: if we get enough TOM DASCHLES in the U.S. Senate who show a concern, we can move toward much better solutions than we have right now. I hope we show a greater sensitivity, and working with the native American leadership come up with answers that really are solid, substantial answers for their future, not just short-

term political answers for our own political benefit.

Mr. President, if there is no one else who seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS ACT OF 1990

Mr. MITCHELL. Mr. President, I now ask unanimous consent to call up S. 2104, the Civil Rights Act of 1990.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I have a request that we have an objection on this side.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I move to proceed to Calendar No. 586, S. 2104, the Civil Rights Act of 1990, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

George Mitchell, Alan Cranston, Wyche Fowler, Dennis DeConcini, Edward M. Kennedy, Timothy F. Wirth, Paul Sarbanes, John F. Kerry, Daniel K. Akaka, John D. Rockefeller, Lloyd Bentsen, Carl Levin, Brock Adams, Howard M. Metzenbaum, John Glenn, Joe Biden, Joe Lieberman, Patrick Leahy.

MORNING BUSINESS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate proceed to morning business for a period of one-half hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

THE EXECUTIVE CALENDAR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar No. 714, Calendar Nos. 820, 821, 822, 823, 824, 825, 826, 827, 828, 829 through 835, 836 through 845, 846 through 854, and 855 through 857; and also all nominations placed on the Secretary's desk in the Air Force, Army, Foreign Service, Marine Corps, and the Navy. I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Shirin Raziuddin Tahir-Kheli, of Pennsylvania, to be alternate representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

David Passage, of North Carolina, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Richard Wayne Bogosian, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

William B. Milam, of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Bangladesh.

James Daniel Phillips, of Kansas, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of the Congo.

Roger Gran Harrison, of Colorado, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

William Bodde, Jr., of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Marshall Islands.

Joseph Edward Lake, of Texas, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Mongolian People's Republic.

IN THE NAVY

The following-named officer for reappointment to the grade of admiral and as Chief of Naval Operations under the provisions of title 10, United States Code, sections 601 and 5033:

To be admiral

Adm. Frank B. Kelso II, U.S. Navy, [redacted]

DEPARTMENT OF DEFENSE

The following-named officer for appointment as Commander in Chief, U.S. Special Operations Command, and appointment to the grade of general while serving in that position under the provisions of title 10, United States Code, sections 167 and 601:

To be general

Lt. Gen. Carl W. Stiner, [redacted], U.S. Army.

IN THE AIR FORCE

The following-named officer for appointment to the grade indicated while serving in a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 601, and to be appointed as Chief of Staff, U.S. Air Force under the provisions of title 10, United States Code, section 8033:

To be general

Gen. Michael J. Dugan, [redacted], U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. George L. Monahan, Jr., [redacted], U.S. Air Force.

The following-named officer for appointment to the grade of general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be general

Gen. Larry D. Welch, [redacted], U.S. Air Force.

The following-named officer for appointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Robert C. Oaks, [redacted], U.S. Air Force.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Joseph W. Ashy, [redacted], U.S. Air Force.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Thomas A. Baker, [redacted], U.S. Air Force.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Ronald R. Fogleman, [redacted], U.S. Air Force.

IN THE ARMY

The following-named officer for appointment to the grade of brigadier general while serving as dean of the Academic Board, U.S. Military Academy, under title 10, United States Code, section 4335(c):

To be brigadier general

Col. Gerald E. Galloway, Jr., [redacted], U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Charles W. Brown, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Allen K. Ono, [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Teddy G. Allen, [redacted], U.S. Army.

The following-named officer for promotion to the grade of major general while assigned as Chief of Chaplains, U.S. Army, under title 10, United States Code, section 3036(b):

To be major general

Brig. Gen. Matthew Z. Zimmerman, [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Gary E. Luck, [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutentant general

Maj. Gen. Michael F. Spigelmire, [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. William H. Reno, [redacted], U.S. Army.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. August M. Cianciolo, [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Billy M. Thomas, [redacted], U.S. Army.

IN THE MARINE CORPS

The following-named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Joseph J. Went, [redacted], USMC.

The following-named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. William G. Carson, Jr., [redacted] USMC.

The following-named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Charles H. Pitman, [redacted], USMC.

The following-named officer for appointment as Assistant Commandant of the Marine Corps and Chief of Staff, Headquarters Marine Corps, and appointment to the grade of general while serving in that position under the provisions of title 10, United States Code, sections 601 and 5044:

To be general

Lt. Gen. John R. Dailey, [redacted], USMC.

The following-named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. William R. Etnyre, [redacted], USMC.

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. (Sel) Duane A. Wills, [redacted], USMC.

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Robert J. Winglass, [redacted], USMC.

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Joseph P. Hoar, [redacted], USMC.

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Lt. Gen. Carl E. Mundy, Jr., [redacted], USMC.

IN THE NAVY

The following-named rear admirals (lower half) of the Reserve of the U.S. Navy for permanent promotion to the grade of rear admiral in the line, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE

To be rear admiral

Rear Adm. (lower half) Wilson F. Flagg, [redacted], U.S. Naval Reserve.

Rear Adm. (lower half) Larry B. Franklin, [redacted] U.S. Naval Reserve.

SPECIAL DUTY OFFICER (INTELLIGENCE)

Rear Adm. (lower half) Gene P. Dickey, [redacted] U.S. Naval Reserve.

The following-name rear admirals in the staff corps of the United States Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

MEDICAL CORPS

To be rear admiral

Rear Adm. (lh) Robert Benson Halder, [redacted], U.S. Navy.

Rear Adm. (lh) Robert Walter Higgins, [redacted], U.S. Navy.

SUPPLY CORPS

To be rear admiral

Rear Adm. (lh) Robert Marion Moore, [redacted], U.S. Naval.

Rear Adm. (lh) Harvey Donald Weatherson, [redacted], U.S. Navy.

The following-named officer for appointment to the grade of vice admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. James G. Reynolds, U.S. Navy, [redacted]

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning Robert A. Schmitz, and ending Michael E. Calta, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 18, 1990.

Air Force nominations beginning Gerald S. Alonge, and ending Michael A. Williams, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 23, 1990.

Air Force nominations beginning Robert L. Alsleben, and ending Wendall E. Wood, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 23, 1990.

Army nominations beginning Joseph R. Barnes, and ending Lee D. Schinasi, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 10, 1990.

Army nominations beginning Frank Q. Bertagnolli, and ending Dominick A. Minotti, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 16, 1990.

Army nomination of Daniel J. Kaufman, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of May 18, 1990.

Army nominations beginning * Preston L. Funkhouser III, and ending * Stephen M. Downs, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 23, 1990.

Army nominations beginning Jose A. Castrillo-cruz, and ending Hernane C. Restar, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 23, 1990.

Army nominations beginning Henry J. Cook III, and ending Alonzo F. Rodriguez, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 23, 1990.

Army nominations beginning Arnold A. Asp, and ending Mark T * Werner, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 23, 1990.

Army nominations beginning Thomas D. Challender, and ending * Wilbur E. Linton, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 6, 1990.

Army nominations beginning Albert D. Cain, and ending William A. Pearce, which nominations were received by the Senate

and appeared in the CONGRESSIONAL RECORD of June 6, 1990.

Foreign Service nominations Emilio Iodice, and ending Lange Schermerhorn which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 18, 1990.

Marine Corps nominations beginning Matthew J. Baker, and ending Brian J. Graniero, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of April 20, 1990.

Marine Corps nominations beginning Charles R. Abney, and ending Richard C. Zilmer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 10, 1990.

Marine Corps nominations beginning William S. Aitken, and ending Douglas P. Yurovich, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 18, 1990.

Navy nominations beginning Rodante P. Allanigue, and ending John E. Sawyer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 23, 1990.

Navy nominations beginning Bradley A. Bailey, and ending William J. Mills, Jr, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 6, 1990.

STATEMENT ON THE NOMINATION OF LT. GEN. CARL STINER

Mr. WARNER. Mr. President, yesterday, the Armed Services Committee approved the nomination of Lt. Gen. Carl Stiner to be promoted to general and commander of the U.S. Special Operations Command subject to confirmation by the Senate. I voted in favor of his nomination.

This nomination generated an unusual amount of interest for several reasons.

General Stiner has a distinguished military record; however, comments both pro and con have arisen regarding his qualifications for this specific command.

The position of commander of the Special Operations Command, perhaps more than any other, requires a unique blend of military operations and diplomatic skills.

The intelligence-gathering authority of the Special Operations Command has been under review and in the process of being more clearly defined. This issue did not involve this nominee's qualifications. Rather, it was raised only in connection with roles and missions of the organization which he was nominated to command.

Following General Stiner's nomination hearing on May 22 in the Armed Services Committee, a number of knowledgeable, credible individuals contacted me on their own initiative regarding their concerns with this nomination.

Subsequently, I contacted a number of persons—primarily senior retired military officers and former diplomats—who had worked closely with General Stiner in his previous assignments.

I also wrote Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, asking that he provide me with his views of the skills Lieutenant General Stiner would bring to this position. General Powell's strong, supporting comments on Lieutenant General Stiner's qualifications are reflected in his letter to me, and I ask unanimous consent that my letter to General Powell and his letter in response be included in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Mr. President, the importance of this command to our national security dictated this added evaluation.

Because of the intelligence-gathering responsibilities of the Special Operations Command, I and several other Senators raised concerns during our review of the nomination. These concerns were focused primarily on the authority for and the oversight process of intelligence gathering and bore no direct relation to the nominee's qualifications for this command. Some of these concerns were partially resolved by correspondence between the leadership of the Armed Services Committee and the Chairman of the Joint Chiefs of Staff which, with unanimous consent, I also submit for the RECORD, to be included following my remarks.

Other issues regarding control and oversight of intelligence activities within the executive branch are continuing to be reviewed by the Armed Services and Intelligence Committees.

The Special Operations Command was established primarily at the direction of the Congress and should receive strong support from both the executive and legislative branches. Its mission grows daily in importance as the threats to our security, our friends and our allies, shift from large-scale deployments to low-intensity confrontations, many without precedent or parallel in military history.

Our Special Operations Forces and their integral intelligence units deserve special attention because of the complex and difficult missions which they are assigned.

The nature of the jobs at the action levels within Special Operations Forces attracts and produces action-oriented leaders. Due to their critical missions and the high-pressure environment in which they operate, these leaders and commanders must often act quickly—without sufficient time to give full consideration to all the consequences and long-term political impact of their actions.

We must select these commanders carefully. Command presence, clarity, foresight, and firmness are essential attributes for the commanders of these forces.

Based on the strong recommendations of his professional military colleagues and others, coupled with his consistent record for getting the job done in the most difficult of assignments, I will vote for Lieutenant General Stiner's confirmation.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, June 18, 1990.

Gen. COLIN L. POWELL, USA,
Chairman, Joint Chiefs of Staff,
Pentagon, Washington, DC.

DEAR GENERAL POWELL: As you know, the Senate Armed Services Committee is considering the nomination of Lieutenant General Carl Stiner to be the Commander-in-Chief of the United States Special Operations Command. Lieutenant General Stiner would bring to that position a remarkable record of military leadership and operational accomplishments. When the United States has been confronted with difficult military situations in recent years, we have often turned to Lieutenant General Stiner to command and lead forces needed to deal with those situations. He has always answered the call.

As I said publicly at our Committee's hearing on Lieutenant General Stiner's nomination, the position of CINCSOC requires, perhaps to an extent greater than any other CINC position, a special blend of military operational and diplomatic skills. The President, by his act of nominating Lieutenant General Stiner for this position, has indicated his belief that Lieutenant General Stiner is the right person for this most challenging job. As the President's senior military advisor, you had the opportunity to personally consider the qualifications of various candidates for this position before making your recommendation to the President.

In order to provide a complete record for the Committee's review, would you please provide me with your views of the skills which Lieutenant General Stiner would bring to the position of CINCSOC and which make him the right person for the job. Your personal views on this matter would be helpful to me and to other members of this Committee in reaching our decision on this important nomination.

Sincerely,

JOHN W. WARNER,
Ranking Minority Member.

THE JOINT CHIEFS OF STAFF,
OFFICE OF THE CHAIRMAN,
Washington, DC, June 20, 1990.

Hon. JOHN WARNER,
Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: Thank you for your letter of June 18, 1990 asking for my views of the skills which make LTG Stiner the right person to command the United States Special Operations Command.

First, let me endorse in the strongest possible terms your observations concerning Carl Stiner's distinguished accomplishments as a leader and operational commander. On the record, he has no peer in the field of joint special operations. Further, he possesses those characteristics of competence, courage, candor and commitment which this Nation expects and requires of its senior leaders.

General Stiner's performance in four joint duty assignments has been marked by extraordinary skill and insight. First in Saudi Arabia, then as the first Chief of Staff of the Rapid Deployment Joint Task Force, and later on the Joint Staff, his sage advice was constantly sought and his performance

was consistently worthy of the highest praise. He was highly successful in command of the complex and demanding Joint Special Operations Command. His selection as the operational commander for "Just Cause" exemplifies the special trust and confidence placed in his abilities and the resounding success of the operation validates that selection. As a result of his long involvement in special operations he is particularly attuned to the importance of operating within the framework of the Constitution and laws of this country and committed to the principle of civilian control.

In addition to operational skills, the CINCSOC must possess managerial experience and background to successfully train, equip, and integrate our special operations forces to provide a coordinated and balanced instrument immediately available to the President for the complex and often delicate tasks that will continue to face this Nation. His most recent command experiences clearly demonstrate his ability to handle the day-to-day management issues as well as the long term planning, budgeting and program execution requirements necessary for success as a Unified Commander with unique budgetary and acquisition responsibilities.

Both in your letter and in your remarks at the nomination hearing you expressed the view that the CINC must be a special blend of soldier-diplomat. I agree fully, and assure you that Carl Stiner's extensive experience in political-military affairs and close personal relationship with foreign officials at all levels were significant factors in his selection for this nomination. For example, he has served as a project manager with the Saudi Arabia National Guard and as the Secretary of Defense's personal representative in Lebanon. In addition to his foreign affairs background, General Stiner has had broad experience working with the Congress, presenting numerous briefings and testifying on multiple occasions. These experiences have prepared him well for his role as the senior military spokeman for joint special operations within the Department, before the Congress, with foreign governments, and with the American public.

In addition to my personal recommendation, Carl Stiner has the unanimous support of the Joint Chiefs of Staff, the Secretary of Defense and the President. He is the right person for this job. I urge his immediate confirmation.

Sincerely,

COLIN L. POWELL,
Chairman,
Joint Chiefs of Staff.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, June 19, 1990.

Gen. COLIN L. POWELL, USA,
Chairman, Joint Chiefs of Staff,
The Pentagon, Washington, DC.

DEAR GENERAL POWELL: Thank you for making available for our review the proposal submitted by General Lindsay, Commander-in-Chief, U.S. Special Operations Command, concerning oversight of certain military special operations. As you know, General Stiner was not familiar with its contents and thus was not able to comment on it during his confirmation hearing.

We have been informally advised by your staff that you are not supportive of General Lindsay's proposal. We continue to see media reports, however, that the proposal is still under active consideration within the Department of Defense. Moreover, Secretary Cheney is reportedly unable to categorically state that he would disapprove the proposal since he has not been briefed on it. The Committee, therefore, would like your statement for the record concerning your position on General Lindsay's proposal.

We appreciate your cooperation on this matter.

Sincerely,

SAM NUNN,
Chairman.
JOHN W. WARNER,
Ranking Member.

OFFICE OF THE CHAIRMAN,
THE JOINT CHIEFS OF STAFF,
Washington, DC, June 20, 1990.

Hon. JOHN WARNER,
Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: Thank you for your letter of June 19, 1990 inquiring about the status of a proposal I received from General Jim Lindsay, CINCSOC, concerning the clandestine special operations coordination process. As you know, I welcome and encourage the continuing flow of proposals and recommendations from the Combatant Commanders.

I carefully considered this proposal and decided not to recommend it to the Secretary of Defense. Accordingly, I informed Secretary Cheney that I will not forward the proposal and have notified both General Lindsay and Lieutenant General Stiner, CINCSOC designee of my decision.

An identical letter has been sent to Senator Nunn.

Sincerely,

COLIN L. POWELL,
Chairman,
Joint Chiefs of Staff.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:59 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 315. Joint resolution for the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day"; and

S.J. Res. 320. Joint resolution designating July 2, 1990, as "National Literacy Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute and an amendment to the title:

S. 1245. A bill to amend the Federal Meat Inspection Act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes (Rept. No. 101-335).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HARKIN (for himself, Mr. EXON, and Mr. PRYOR):

S. 2776. A bill to provide for the development and dissemination of educational materials regarding the American flag; to the Committee on Labor and Human Resources.

By Mr. HEINZ:

S. 2777. A bill to authorize civil actions for certain violations involving depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WILSON:

S. 2778. A bill for the relief of Shen-Yen Kuan and certain members of his family; to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. KASTEN):

S. 2779. A bill entitled the "Iraq Sanctions Act of 1990"; to the Committee on Foreign Relations.

By Mr. DECONCINI (for himself, Mr. GRASSLEY, Mr. ARMSTRONG, Mr. BRADLEY, Mr. BREAUX, Mr. WARNER, Mr. WALLOP, Mr. KENNEDY, Mr. PRESSLER, Mr. SARBANES, Mr. ROTH, Mr. GORE, Mr. LUGAR, Mr. REID, Mr. CONRAD, Mr. SASSER, Mr. LEVIN, Mr. LAUTENBERG, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. SHELBY, Mr. WIRTH, Mr. COCHRAN, Mr. BOREN, Mr. METZENBAUM, Mr. CHAFEE, Mr. MACK, Mr. GLENN, Mr. BURDICK, Mr. DOLE, Mr. KOHL, Mr. AKAKA, Mr. BIDEN, Mr. INOUYE, Mr. HEINZ, Mr. ROBB, Mr. ROCKEFELLER, Mr. PELL, Mr. D'AMATO, Mr. DIXON, Mr. RIEGLE, Mr. MOYNIHAN, Mr. GRAHAM, Mr. WILSON, Mr. MCCLURE, Mr. COATS, Mr. SIMPSON, Mr. ADAMS, Mr. BAUCUS, Mr. BINGAMAN, Mr. BRYAN, Mr. BUMPERS, Mr. CRANSTON, Mr. DASCHLE, Mr. FORD, Mr. FOWLER, Mr. HARKIN, Mr. HEFLIN, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. MITCHELL, Mr. NUNN, Mr. PRYOR, Mr. SANFORD, Mr. SIMON, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. BOND, Mr. KERRY, Mr. SPECTER, Mr. THURMOND, Mr. HATFIELD, Mr. DOMENICI, Mr. COHEN, Mr. BOSCHWITZ, Mr. STEVENS, Mr. DODD, Mr. LOTT, and Mr. HATCH):

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day"; to the Committee on the Judiciary.

By Mr. WILSON:

S.J. Res. 340. Joint resolution designating the week beginning November 11, 1990, as "National Disabled Veterans Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. EXON, and Mr. PRYOR):

S. 2776. A bill to provide for the development and dissemination of educational materials regarding the American flag; to the Committee on Labor and Human Resources.

FLAG EDUCATION ACT

Mr. HARKIN. Mr. President, in the days since the flag-burning decision came down from the Supreme Court, there has been far too much heat and far too little light on the topic of the American flag.

I have listened with a heavy heart to those whose solution to the despicable act of the burning of the flag would be to change our Bill of Rights.

I have also listened to those who, like me, have grave reservations about tampering with our first amendment freedoms. The more I listened, the more I have been convinced of the need for a more rational and constructive approach to what has become an emotionally charged and politically loaded issue.

Mr President, I have come to believe strongly that the best way to foster respect for our flag is to ensure that no American is unaware of its place in our history or the freedoms for which it stands. Why do we salute and pledge our allegiance to it? Why is it displayed according to strict procedure? Why is any desecration of it an offense to all of us.

The answers to these questions may seem self-evident. Yet, how often we take for granted the things we value the most: family, country, flag.

The flag symbolizes principles we cherish the most—freedom, liberty, and individual rights. But just as those values sometimes get lost in the hubbub of our daily lives, so too does the recognition of the document which so eloquently sets them forth, the Bill of Rights.

During the 200 years that the Bill of Rights has brought to life and guarded these principles, it has never been changed or amended; not once in 200 years. The bill of Rights has stood the test of time. Yet, many Americans may not know that or understand why.

So, Mr. President, today I am introducing the Flag Education Act of 1990.

This bill would authorize the Secretary of Education to develop and widely disseminate educational materials on the American flag, its history, significance, traditions, and importance as an enduring symbol of American democracy. The bill also authorizes dissemination of similar materials on the Bill of Rights.

Mr. President, since it is a simple bill, I am going to read the bill in its entirety.

This act may be cited as the "Flag Education Act of 1990."

SEC. 2. Educational materials.

The Secretary, through the Secretary's Fund for Innovation in Education, described in 4601 of the Elementary and Secondary Education Act of 1965, shall develop and disseminate educational materials regarding the American flag, its history, significance, traditions, and importance as an enduring symbol of American freedom and democracy; and also regarding the Bill of Rights, its historical development, and meaning to American freedom and democracy.

Such materials shall be suitable for students at all levels of education, including elementary, secondary, postsecondary and adult education. The Secretary shall ensure that such educational materials are widely disseminated.

Mr. President, because we seek to reach not only our children but adults as well, these materials are to be suitable for use, as I said, in elementary, secondary, postsecondary, and adult education. This bill does not require the Department of Education to step into uncharted waters in the development and dissemination of these materials.

I serve on the Education Authorizing Committee under the very able and distinguished chairmanship of Senator KENNEDY from Massachusetts. I also have the honor and privilege of chairing the Appropriations Subcommittee that appropriates the money for the Department of Education.

I checked into it, and I found that the Department has been very active in curricular guidance in other important areas for over a decade. For instance, the Department of Education supports the dissemination of a curricula entitled "Facing History," an excellent program designed to teach students about the Holocaust and its impact on world history.

Mr. President, there is no development nor dissemination of materials designed to educate our young people on the flag, its significance, traditions, history, and importance to American freedom and democracy. So that is what this bill is designed to do. It is to get the Secretary to go ahead and disseminate these materials.

Mr. President, history shows that patriotism, respect for the flag, and adherence to constitutional principles are best learned from the grassroots up, not dictated from on high. If they are not embedded in the hearts and minds of the people, no law can make them so.

Thomas Jefferson was one Founding Father who repeatedly recognized the role that education plays in strengthening this appreciation of education to our democracy. Let me quote from Thomas Jefferson:

I know of no safe depository of the ultimate powers of the society but the people themselves. And if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take from them, but to inform their discretion by education.

So the Flag Education Act of 1990 seeks not to take away freedom of speech or expression but to impart a deep and abiding understanding of the flag's history and importance for all Americans.

I want to note this bill takes as its starting point a message voiced by a former Republican Member of the House of Representatives, former Congressman Fred Schwengel, who served Iowa's First District so well for so many years. There are very few people around here who do not know Fred Schwengel. After leaving Congress, Congressman Schwengel was not content to leave his knowledge of this institution and its history behind. As head of the U.S. Capitol Historical Society, a nonprofit organization formed in 1962, Fred has organized and promoted programs which heighten public awareness of historic events which shape the destiny of our Nation. He and the society have spread far and wide valuable information about the Congress and the Capitol.

Mr. President, If you have never taken Congressman Schwengel's famous tour through the Capitol, then you have a real treat in store, and I encourage you to do so. It is one of the most enlightening and enjoyable experiences you can have.

When Fred Schwengel heard last week the call for a flag amendment to the Constitution, he said:

Periodically we need to be reminded of the meaning of our national symbols, of which the United States flag is chief. It is too easy for us to let the flag become just a symbol and the Pledge of Allegiance just words. The recent Supreme Court ruling should prompt us to teach the meaning of the flag and the Pledge of Allegiance. More than an amendment, education is the most appropriate response to the flag issue.

That is a quote from Congressman Fred Schwengel, president of the Capitol Historical Society.

Once again, Fred Schwengel is on the right track. His words have helped to inspire this legislation, just as he has inspired me and countless others with his words so many times before.

Fred Schwengel does not just talk, he acts. In an effort to promote further flag education, the Capitol Historical Society has introduced two new publications and plans for new programs.

A poster and booklet set is now available entitled "The Flag Portrait Set." The poster features a moving patriotic message written by Fred Schwengel.

The booklet is entitled "The Flag of the United States and State Flags, Seals, and Mottoes." It includes a history of the U.S. flag, the Great Seal, the Pledge of Allegiance as well as the flags, seals, and mottoes of the 50 States.

The Historical Society also plans to cosponsor a speech and essay contest with the National Flag Day Foundation, Inc., which will challenge youth across the Nation to ponder the reasons we honor the flag.

While I have known and been a member of the Capitol Historical Society for many years, I have only recently learned about the Flag Day Foundation which is headquartered in Baltimore. It is a nonprofit organization formed in 1982 by Mr. Lou Koerber, a man whose dedication and patriotism know no end, and which conducts year-round educational programs nationwide in promotion of National Flag Day.

The foundation is committed to providing an educational opportunity to help people of all ages better understand the history and origins of the flag.

The foundation consists almost entirely of volunteers. With very few dollars but with boundless energy, the foundation provides assistance and information for the development of National Flag Week events to school systems, all levels of government, and to many other organizations. The educational programs sponsored by this foundation encourage patriotism and respect for our flag as the symbol of our country. Just last week, to celebrate Flag Day, the foundation brought students and education agency representatives from every State to Baltimore and Washington to participate in many activities.

I know that Mr. Koerber and the other individuals involved with the Flag Day Foundation only wish that hundreds of thousands of others can have the same kind of learning experience, because education like this can help countless individuals gain a better understanding and appreciation of our national symbol.

Another group I have recently become aware of is the Flag Foundation, headquartered in Pittsburgh. Its mission is to stimulate America's dedication to freedom, to promote love of, and pride in America among its citizens, and to answer questions about flag etiquette and protocol. Among its other activities, the foundation states that it has distributed hundreds of thousands of flags, articles, booklets, and other items dealing with the flag and other patriotic subjects among schoolchildren and adults thoughout the country.

Through the hard work of organizations like the U.S. Capitol Historical Society, the National Flag Day Foundation, and the National Flag Foundation, it is apparent that positive flag education can be successful. But as fine a job as these organizations are doing, they are barely scratching the surface in terms of reaching young people throughout this country.

That is why I have introduced this bill, Mr. President. I hope that the Secretary of Education, in implementing the legislation I introduce today, will draw upon the expertise of these groups.

Mr. President, I will have more to say on the matter of the proposed constitutional amendment at a later time. But today, however, I want to speak about education as an alternative, a constructive and positive alternative, to the divisive debate that has been taking place on this proposed constitutional amendment. Today I want to encourage my colleagues to examine and cosponsor this legislation. It is time we channel our passions on this issue into positive action, action that can do far more to discourage the desecration of the flag than destroying the most precious freedoms which countless Americans have fought and died for.

Mr. President this bill I am introducing today I ask Senators to examine closely. As I said, it is a very short bill. It is to provide for the development and dissemination of educational materials regarding the American flag by the Secretary of Education, who can use the fund that he already has called the fund for innovation and education, which is described in the Elementary and Secondary Act. As I said before, the Secretary does support development and dissemination of materials in other areas but, as I examine it, they have not been doing so with regard to the flag and the Bill of Rights.

So I am proud to introduce this legislation. I am proud to have as cosponsors right now Senator EXON and Senator PRYOR.

The bill will be at the desk, and, of course, I encourage Senators, who would like to see more education on the flag through elementary, secondary, postsecondary, adult education, sponsored by the Department of Education. We are not mandating or prescribing, but encouraging the Secretary to work with the various volunteer organizations, some of whom I mentioned, some of whom I may not even be aware of, in developing these materials and getting them out.

Mr. President, I was alarmed the other day. I was talking to a group of young people, about 30 or 40 bright young high school kids. I was asking them about the flag. I asked a couple of questions about the history of the flag. I asked a couple of questions about the Bill of Rights. What was the Bill of Rights? Where did it come from? I am sad to say, Mr. President, I saw blank stares. No one knew.

I asked the question, "What do the 50 stars stand for?" one time to a group of young people. I only had one person give me an answer. That is a woeful lack of education about the history of our flag and what it stands for.

I can understand passions of people. I feel them myself when I see someone burn the flag. But to reach adulthood, to pledge allegiance to a symbol, and not even know what that symbol stands for, the background, the history and tradition surrounding it I think leaves us open to all kinds of demagoguery on this issue.

So I believe, as does former Congressman Fred Schwengel, president of the Capitol Historical Society, the best answer is not to amend the Bill of Rights, which has not been amended in 200 years. The best answer is to get education out there.

The Department of Education right now is not doing that. This bill seeks to get the Secretary to use the fund for innovation, to get information about the flag and the Bill of Rights out on a broader basis throughout the country so our young people and the schools have the educational materials they need to give them a deep, abiding love of, and appreciation for the flag, what the flag stands for, as well as the Bill of Rights, its historical significance, and its meaning to freedom and democracy in this country.

By Mr. HEINZ:

S. 2777. A bill to authorize civil actions for certain violations involving depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

CIVIL ACTION FOR CERTAIN DEPOSITORY INSTITUTION VIOLATIONS

Mr. HEINZ. Mr. President, last week I came to the floor of the Senate to state my view that the Senate needed to consider, as part of the omnibus crime bill, a package of tough amendments that would focus on the crimes committed against the taxpayers resulting from the savings and loan crisis.

We have been regaled with stories of savings and loan managers and others who had blatant conflicts of interest, defrauded banks and savings and loans depositors and who engaged in every kind of reprehensible conduct in order to enrich illegally their friends and themselves by looting institutions with which they had some connection or clout.

That is why last week I indicated that this Senator would continue to oppose cloture on the crime bill until it was possible to consider amendments that, at a minimum, dealt with this problem. As I indicated last week, I do intend to propose, and I am confident that there will be the opportunity to propose to the crime bill, a single comprehensive amendment that will

give our law enforcement community, the RTC, and our bank regulators enhanced powers and a newly energized mission in holding to account those who have stolen so much from these institutions and from our taxpayers.

Those provisions, as I indicated, would make it impossible for those who looted the S&L's to seek to shelter for themselves or their assets in bankruptcy. We would provide additional resources for the Internal Revenue Service and for the Federal Bureau of Investigation totaling $25 million, in addition to the $75 million that Congress has already authorized to combat savings and loan fraud.

We will provide for enhanced interagency coordination, so that all the resources of our Government, not just those in the Justice Department, not just those at the RTC, but those at the Internal Revenue Service, at the Secret Service, at all our agencies that have investigatory capability, will be targeted and directed toward savings and loan fraud.

My amendment will give the claims to the Federal Government a priority so that the taxpayer stands first in line, not at the end or in the middle of the pack, where you might find shareholders and others who ultimately should bear the responsibility for the performance of the management that they voted to elect.

We will have expedited procedures so that cases move more quickly through the courts and prosecutions more rapidly pursued. We will also enhance the authority of the FDIC and the RTC to issue subpoenas to assist in ferreting out stolen assets. We will have new authority to obtain restraining orders to freeze assets and overturn fraudulent conveyances of assets.

We will make the concealment of assets from the RTC a Federal crime and enhance the authority for wiretapping and for money laundering and to compel restitution.

In short, this will be a very comprehensive package that, as I announced last week, we will be pursuing on the crime bill.

But one issue that I think we need to address, at the same time as we are mobilizing the agencies of Government to prosecute those who perpetrated the greatest scandal in our history, I also believe that we need to harness the private sector to attack the abuses and misuses of the public trust with the proper mechanism and incentives.

From the beginning of this crisis going back to last year, I have sought to provide the Government with the tools needed to recover these billions of dollars that were stolen, and I have also supported efforts to find new and innovative legal weapons to use against these perpetrators. But it is also time to harness the resources of the private sector to recover funds for the taxpayer.

Since feudal times, there has been a right of private citizens, when so authorized by their government, to bring lawsuits in the name of the government. There is a name for those proceedings. They are called qui tam actions, and we have used them in this country on numerous occasions. They were most recently authorized by Congress as part of the effort to prosecute defense procurement fraud. They were originally authorized during the Civil War, back in the 1860's, to help prosecute, even then, fraud relating to Government procurement. Today these private civil actions are currently authorized under the False Claims Act.

What I intend to do is file at the desk a bill to expand the False Claims Act model to combat savings and loan fraud.

I call this the bounty hunters statute. Just as in the old days when our lawmen either lacked the resources or lacked the jurisdiction, private individuals were authorized to go out and bring back, dead or alive, criminals who broke the law. They were given an incentive. They were given a bounty to go out and bring the murderer, the kidnaper, the bank robber back to justice.

Today, we do not have hired gunslingers to go out and bring in people for arrest and prosecution. But we do have hired legal guns, among the best and the brightest of the legal community in terms of ability; lawyers who are outstanding when it comes to getting a recovery, both for their clients as well as for themselves.

These lawyers typically operate on a contingent fee basis, and they are very good at what they do. In fact, they are so good that we often find here in the Congress people coming to us and saying, "We are being driven out of business by lawyers."

"We cannot stand all these medical malpractice claims that are driving up the cost of health care." "We cannot stand the cost of these product liability suits." How many of us have heard that from manufacturers in this country? Whatever anyone's position on malpractice and tort reform and product liability may be, there is no doubt that lawyers on a contingent fee are aggressive, even unstoppable. It is probably accurate to say that Hell knoweth no fury like a lawyer on a contingent fee.

I want to unleash the contingent fee lawyers of this country, against the savings and loan crooks and con artists. That, to me, Mr. President, is about as tough a stand as we could make. I would not want to be hunted down by one of these lawyers, and I cannot think of anybody who deserves them more than the savings and loan thieves who have looted the Federal Treasury. So this bounty hunter proposal would unleash the best, and certainly the toughest, lawyers in America to file civil lawsuits to recover funds for bank fraud.

In FIRREA, Congress authorized the Department of Justice to bring civil actions for bank fraud and to recover civil penalties of $1 million or more, depending on the amount gained by the guilty party. My bounty hunter proposal, which I ask my colleagues to support, would authorize private parties to bring these actions and earn a percentage of the amount recovered for their efforts. With more than 7,000 pending bank fraud investigations and hundreds of failed institutions, the Government does need all the help it can get. The bounty hunter proposal I will shortly send to the desk is designed to give the Government that help.

Let me take a moment to discuss how such a proposal works and why it works very differently than what we have today.

There is in FIRREA a reward for people who come forward with information about bank fraud. That is good and it is helpful. But when someone comes forward to turn in information and to get that reward, they take a very tangible and real risk. They may get fired. They may get harassed. Worse things than that may happen to them. So they look at the possibility of some reward and they look at the possibility of punishment. They look at the risks. They know they are going to have to go to a Government agency? They may be called to testify before a grand jury, and they may face hostile cross-examination at some point along the way. Even if a proceeding is supposed to be secret, word may get out, and they feel very exposed. So there are disincenitives for people to use that incentive we have created.

What the bounty hunter provision does is to give these people, in effect, some free help, a free lawyer, one of the toughest and most aggressive that we have. In doing so, by authorizing a percentage of recovery that might be as little as 10 percent or as much as 30 percent of what is recovered, the rest going to the Government and the taxpayer, we will get that individual the kind of support and legal talent to expose that fraud, in a way the Government will never be able to do.

The goal, therefore, is to not only get people who have information about fraud, but to link them with others—tough lawyers—who will help them get suits filed before statutes of limitation expire.

Mr. President, there are plenty of concerns I know the people in the Justice Department will express about any bounty hunter statute. I do not propose to go into their concerns at this time. Some may have merit. Some

I disagree with. But what is clear to me is that a proposal like this needs to be advanced. A statute like this needs to be enacted. We have, within the memory of most of us in this body, in fact, acted to put into law such a statute as we did with Senator GRASSLEY's qui tam provisions a few years ago which were aimed at defense fraud and procurement. It is time for us to take a program that has worked, fashion it to the special circumstances of the savings and loan crisis and give it the full force of law so that citizens pursuing those things that the Government is otherwise unable to do is not just a hope but becomes a reality.

By Mr. INOUYE (for himself and Mr. KASTEN):

S. 2779. A bill entitled the "Iraq Sanctions Act of 1990"; to the Committee on Foreign Relations.

IRAQ SANCTIONS ACT

● Mr. INOUYE. Mr. President, today I am introducing a bill designed to limit United States trade and investment with the country of Iraq. I am taking this step because of the growing threat I believe Iraq poses to United States overseas interests, as well as the threat posed to the peace and security of the Middle East.

If enacted, my bill will take two principal actions. It will prohibit appropriated funds from being used to support exports to Iraq and it will impose upon Iraq the status of a terrorist nation.

Mr. President, Iraq's persistence in acquiring the latest nuclear, biological, chemical and ballistic missile technology places it among that select group of nations with the capacity, and the determination, to disrupt our lines of communication through Asia, challenge American influence in the Middle East and upset the regional balance of power. These weapons are being added to an already massive conventional armed force. Iraq currently deploys 55 divisions and 1.1 million men under arms, by far the largest standing army in the Middle East. Iraq alone accounts for 9 percent of all the weapons purchases in the world today.

Yet, in spite of this huge arsenal, Iraq is aggressively seeking weapons with a continental reach and the capacity to annihilate whole countries. They are weapons that have only an offensive use and no adequate countermeasures. They do not permit any discrimination among civilian and combatant populations. Their effect, once used, can last for generations. The deployment of these weapons is surely not proportional to the kinds of attack Iraq might reasonably expect from its neighbors.

Mr. President, Iraq's actions raise serious questions about the ultimate intentions of its President, Saddam Hussein, who as recently as this month, publicly boasted he would annihilate half of Israel with poison gas if his country were attacked. As a nation we would be wise to take these words seriously. Saddam Hussein has shown no hesitancy in using weapons of mass destruction when it suited his purpose. In 1988 he ordered the use of mustard gas against Iranians during the gulf war and against his own Kurdish minority. In doing so, he blatantly ignored the Geneva protocol of 1925 prohibiting the use of such agents—a protocol which Iraq signed in 1931. According to Amnesty International, at least 6,000 people perished as a result of these attacks—many thousands more were injured and will suffer permanent and painful disability. One can only assume Iraq would not hesitate to use such weapons again if given even the slightest provocation. It is a specter too horrible to contemplate.

Mr. President, Iraq has exhibited a similar disregard for the 1972 Biological Weapons Convention which it signed, but did not ratify. Many experts have noted that Iraq is working aggressively to acquire an offensive biological weapons capability and may have illegally obtained toxins from the United States for just that purpose. As recent reports indicate, Iraq has shown no less an interest in the acquisition of nuclear weapons technology to supplement its already lethal arsenal of state-of-the-art weaponry.

Mr. President, today I ask that the Senate consider my bill, which would end most direct and indirect support for a country which knows no restraint in its international behavior, shows little regard for noncombatants or the basic human rights of its own citizens. This is hardly a regime whose assurance we can trust—or would want to trust—with the peace of the region.

Mr. President, recently I addressed the question of our declining military budget and the policy, I believe, that should guide this Nation through the tumultuous years of the 1990's and beyond. I spoke directly of low intensity threats emanating from the developing world, the spread of modern weapons technologies, and their ready availability to terrorists, local insurgencies, and anti-Western regimes bent on erroding the confidence and ability of the United States to defend its interests.

Gradually the world is awaking to the danger of Iraqi military power. Recently, even the European Parliament, a body little accustomed to diplomatic outrage, called on "all Member States immediately to impose a ban on the export and delivery to Iraq of all material essential for the production of weapons of mass destruction." This declaration was coupled with a condemnation of Iraqi human right abuses, genocidal use of poison gas against the Kurds, and war-like statements against states in the region. The Parliament called upon the U.N. Secretary General to convene a meeting of the Security Council to take up the threat posed by the Iraqi regime to world security.

Will the American people continue to blithely go about their business and ignore these obvious contradictions? Will they continue to believe that the threat of nuclear, biological and chemical war has receded simply because the Soviet Union has shown a kinder face? I do not believe they will. My bill is intended to put an end to this gross inconsistency in our foreign policy and the abuse of American generosity which the actions of the Iraqi regime have so clearly demonstrated.●

● Mr. KASTEN. Mr. President, I am pleased to join my esteemed colleague, the senior Senator from Hawaii, in offering legislation which would embargo all commercial relations, both trade and investment, with Iraq.

This legislation is meritorious, timely and of critical importance to our national security. As statesmen across Europe herald the rise of freedom there, many of us are concerned that a growing threat to security is developing in the Middle East. In recent years, the brutal government of Saddam Hussein has embarked on a campaign of rapid militarization which includes the acquisition, by whatever means possible, of weapons of mass destruction. These weapons include those which use nuclear, biological, and chemical warheads to bring about the total annihilation of an adversary. Just recently, Hussein brazenly declared that he had the capability to destroy Israel with chemical weapons if his country were attacked. Mr. President, how long will our government sit passively and allow Saddam Hussein to intimidate and threaten his neighbors? How many more Iraqi Kurds and Iranians have to be killed with poison gas deployed by the butchers of Baghdad before the world takes notice? Well, today, Senator INOUYE and I are taking notice, and are urging the Congress to act. Our legislation strikes at the outrageous granting by our Government of over $1.2 billion in trade benefits to Iraq last year. Most of these benefits come in the form of credits and guarantees provided through the Department of Agriculture's Commodity Credit Corporation. Currently, the Department of Justice is investigating allegations that through an elaborate overpricing scheme, money provided by the American taxpayer and channeled through this program, was used by the Iraqis to acquire their terrible arsenal of weapons. The total amount of misallocated USDA dollars could total as high as $3 billion.

Equally disturbing is the fact that approximately $200 million in Export-Import Bank Credits were provided to Iraq last year after reports surfaced that the Iraqi Government was sys-

tematically torturing children in its prisons and that it engaged in assassination of overseas opponents of Saddam Hussein. One of these opponents was living in San Diego.

If this list of outrages is not enough, we have only to look at the Iraqi attack on the U.S.S. *Stark* as it was peacefully patrolling the Persian Gulf several years ago, or efforts by the Iraqis to acquire long-range ballistic missiles with the capacity to strike as far as the Mediterranean and the U.S. 6th Fleet, to discover the true nature of Saddam Hussein's regime.

Mr. President, to those who would counsel caution at this time, we say, wake up. The world has given Saddam Hussein ample time to reform his barbaric behavior, and he has shown no inclination to do so. It is not enough that our allies have been responsible for providing Iraq with the major technologies used in its chemical, biological, and nuclear weapons programs. Must the American taxpayer be an accessory to these crimes as well? At the very time we are laboring to provide funds to aid refugees in the Middle East, be they Soviet Jews, Afghans, Kurds, or Armenians, must we also provide the means for Iraq to obliterate them? I should hope not. The world does not need another Holocaust. Let us act now before we are forced to confront our own laxity.

The bill we introduce today is an effort to end United States complicity in the madness of weapons proliferation. Its enactment would be fully consistent with previous actions taken by this body, be they Turkish sanctions over the Cyprus invasion of 1974, or the Anti-Apartheid Act of 1986. I trust today that our colleagues will find the courage to act before it is too late. History and future generations are watching what we do.●

By Mr. DECONCINI (for himself, Mr. GRASSLEY, Mr. ARMSTRONG, Mr. BRADLEY, Mr. BREAUX, Mr. WARNER, Mr. WALLOP, Mr. KENNEDY, Mr. PRESSLER, Mr. SARBANES, Mr. ROTH, Mr. GORE, Mr. LUGAR, Mr. REID, Mr. CONRAD, Mr. SASSER, Mr. LEVIN, Mr. LAUTENBERG, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. SHELBY, Mr. WIRTH, Mr. COCHRAN, Mr. BOREN, Mr. METZENBAUM, Mr. CHAFEE, Mr. MACK, Mr. GLENN, Mr. BURDICK, Mr. DOLE, Mr. KOHL, Mr. AKAKA, Mr. BIDEN, Mr. INOUYE, Mr. HEINZ, Mr. ROBB, Mr. ROCKEFELLER, Mr. PELL, Mr. D'AMATO, Mr. DIXON, Mr. RIEGLE, Mr. MOYNIHAN, Mr. GRAHAM, Mr. WILSON, Mr. MCCLURE, Mr. COATS, Mr. SIMPSON, Mr. ADAMS, Mr. BAUCUS, Mr. BINGAMAN, Mr. BRYAN, Mr. BUMPERS, Mr. CRANSTON, Mr. DASCHLE, Mr. FORD, Mr. FOWLER, Mr. HARKIN, Mr. HEFLIN, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. MITCHELL, Mr. NUNN, Mr. PRYOR, Mr. SANFORD, Mr. SIMON, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. BOND, Mr. KERRY, Mr. SPECTER, Mr. THURMOND, Mr. HATFIELD, Mr. DOMENICI, Mr. COHEN, Mr. BOSCHWITZ, Mr. STEVENS, Mr. DODD, Mr. LOTT, and Mr. HATCH):

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day"; to the Committee on the Judiciary.

HELSINKI HUMAN RIGHTS DAY

Mr. DECONCINI. Mr. President, as chairman of the Commission of Security and Cooperation in Europe, known as the Helsinki Commission, I am pleased to introduce today, together with 79 of my colleagues, a joint resolution that authorizes and requests the President of the United States to designate August 1, 1990, as "Helsinki Human Rights Day."

Fifteen years ago, on August 1, 1975, representatives from 35 countries joined together in signing the Final Act of the Conference on Security and Cooperation in Europe [CSCE], commonly referred to as the Helsinki accords. This agreement covers every aspect of East-West relations, including military security, scientific and cultural exchanges, trade and economic cooperation, as well as human rights and human contacts.

The CSCE participating states, which includes all the European nations—except at this time Alabania—the Union of Soviet Socialist Republics, Canada, and the United States, have made a commitment to adhere to the principles of human rights and fundamental freedoms as embodied in the Helsinki accords. The principles contained in these accords require the participating states to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion." They further address a principle which is central to the underlying purpose of the Helsinki agreement; the unrestrained movement of people, ideas, and information.

This year, my colleagues and I are introducing Helsinki Human Rights Day in a greatly changed climate. Throughout 1989, given the dramatic historical changes in the Soviet Union and Eastern Europe, we have witnessed substantial improvements in compliance by many signatory nations.

There can be little doubt that the Helsinki process, in general, has been instrumental in focusing attention on human rights. As a result, it has improved tangibly the lives of millions of people in the Soviet Union and Eastern Europe. The flow of people and ideas is gradually widening, and the prison gates have opened to those who were previously sentenced for calling on their goverments to live up to their commitments under the Helsinki accords. The once formidable intellectual, spiritual, and physical barriers between East and West are now weak and slowly crumbling.

These changes are dynamic. Nine years ago, many Americans placed lighted candles in their windows to protest the imposition of martial law in Poland and the outlawing of Solidarity. Today Solidarity dominates the political scene of Poland.

In June 1989, Solidarity swept the elections in Poland, claiming every open seat but one. In August 1989, I led a congressional delegation to that country. I was in the parliamentary chamber when a former political prisoner was sworn into office as Poland's new Prime Minister. Tadeusz Madowiecki was the first non-Communist Prime Minister any East European country has had in over 40 years.

Vaclav Havel, a world-renowned Czechoslovakian playwright who spent time in prison for his human rights activities, has been elected as the President of Czechoslovakia. In East Germany the Berlin Wall has crumbled. Free and fair elections are being held throughout Eastern Europe and the Soviet Union.

These improvements are a testament to the efficacy of the Helsinki process and are, according to many leading East Europeans, in part due to the consistent and persistent pressure from the West and from the U.S. Congress. We can be proud of our record of strong support for the Helsinki process, and one of the reflections of our support has been the annual Helsinki Human Rights Day resolution.

Despite the positive changes that have taken place since the Helsinki accords were signed, our goal toward the realization of an ultimately free, open, and humane Europe has not been met. For example, the human rights situation in Romania remains a matter of grave concern to us all.

We believe it is important, therefore, that the President reaffirm the United States' commitment to the Helsinki accords and convey to all signatories that respect for human rights and fundamental freedoms is a vital element of continuing progress in the ongoing Helsinki process.

This resolution requests the President to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any CSCE state which may be in violation. It further requests the President, in view of the considerable progress made to date, to develop new proposals to advance the human rights objec-

tives of the Helsinki process, and in so doing address the major problems that remain, including the question of self-determination of peoples.

By proclaiming August 1, 1990, as "Helsinki Human Rights Day," we reaffirm our commitment to the principles governing the Helsinki accords, principles that mirror those upon which our own Constitution is based.

I urge each Member of this body to support this resolution and I ask unanimous consent that the text be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 339

Whereas August 1, 1990, is the fifteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, the Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki accords;

Whereas the Helsinki accords recognize the inherent relationship between respect for human rights and fundamental freedoms and the attainment of genuine security;

Whereas the Helsinki accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki accords also express the commitment of the participating States to guarantee the effective exercise of human rights and fundamental freedoms which derive from the inherent dignity of humanity and are essential for the free and full development of that dignity;

Whereas the participating States have committed themselves to "protect and create the conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory," as well as to "respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others";

Whereas the Helsinki accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia International Covenants on Human Rights, by which they may be bound";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of people and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have recognized that respect for human rights is an essential aspect for the protection of the environment and for economic prosperity;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States have made it their aim to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries";

Whereas the dramatic changes which have occurred within the last year in many signatory States have brought the human rights promises of Helsinki closer to fruition;

Whereas, despite significant improvements, all participating States have not yet fully implemented their obligations under Principle VII of the Helsinki accords to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and under Basket III of the Helsinki accords to promote free movement of people, ideas and information;

Whereas on January 19, 1989, representatives from the signatory States agreed on the Concluding Document of the Vienna Follow-Up Meeting, a document which has added clarity and precision to the obligations undertaken by the States in signing the Helsinki accords;

Whereas by agreeing to the Concluding Document, the signatory States "reaffirmed their commitment to the CSCE process and underlined its essential role in increasing confidence, in opening up new ways for cooperation, in promoting respect for human rights and fundamenatal freedoms and thus strenthening international security";

Whereas the Conference on Security and Cooperation in Europe of the thirty-five signatory States of the Helsinki accords has made major contributions to the positive developments in Eastern and Central Europe, including greater respect for the human rights and fundamental freedoms of individuals and groups; and

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1990, the fifteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory nations to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of the Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory nation which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms if a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing address the major problems that remain, including the question of self-determination of peoples.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

By Mr. WILSON:

S.J. Res. 340. Joint resolution designating the week beginning November 11, 1990, as "National Disabled Veterans Week"; to the Committee on the Judiciary.

NATIONAL DISABLED VETERANS WEEK

● Mr. WILSON. Mr. President, I rise today to introduce a joint resolution to declare the week beginning November 11, 1990, as "National Disabled Veterans Week." Given the large number of disabled veterans who fought so valiantly for their country and for our freedoms, I believe this joint resolution deserves the full support of Congress.

Today, there are over 2 million disabled veterans residing in the United States. Had it not been for the courageous stand and unselfish sacrifice these men and women have jointly taken against the enemies of peace and liberty, we might not be a free country of 250 million strong, as we are today. Unfortunately the honorable service these proud individuals displayed in our Nation's armed services is often overlooked by many segments of our society. Mr. President, we must never forget the contributions these men and women have made on behalf

of our great Nation. More than any other group these veterans have endured extraordinary personal sacrifices on our behalf, including loss of limb, paralysis, blindness, deafness, contraction of disease, and delayed-stress syndrome. In addition, these veterans have had to endure the pain of rehabilitation, long after their term of service had expired.

Mr. President, it is for all of these reasons that I ask the support of Congress to recognize the dedicated and patriotic service of our Nation's disabled veterans with appropriate programs, ceremonies, and activities. By no means is this week of recognition meant to supplant the hard-earned benefits these veterans are already entitled to. Rather, it is meant to bring universal attention and national gratitude upon these American heroes.

During the 98th Congress, I introduced a similar joint resolution, and it was passed unanimously. I am introducing today's joint resolution with the hope that we may again give special meaning and tribute to the country's disabled veterans by adopting the week of November 11, 1990, as "National Disabled Veterans Week."●

ADDITIONAL COSPONSORS

S. 160

At the request of Mr. THURMOND, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 160, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 1425

At the request of Mr. METZENBAUM, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1425, a bill entitled the "Nutrition Labeling and Education Act of 1989."

S. 1651

At the request of Mr. MCCAIN, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States Organization.

S. 1834

At the request of Mr. LIEBERMAN, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Alaska [Mr. STEVENS], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1834, a bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

S. 1981

At the request of Mr. HOLLINGS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1981, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment and for other purposes.

S. 2098

At the request of Mr. BENTSEN, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Alabama [Mr. SHELBY], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 2098, a bill to amend title XVIII of the Social Security Act to provide Medicare coverage of Erythropoietin when self-administered.

S. 2384

At the request of Mr. BOREN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2384, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 2413

At the request of Mr. KERRY, the names of the Senator from Kansas [Mr. DOLE] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 2413, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a hostile force before April 15, 1962, and for other purposes.

S. 2468

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2468, a bill to amend the Solid Waste Disposal Act to provide for State management of solid waste; to reduce and regulate the interstate transportation of solid wastes; and for other purposes.

S. 2537

At the request of Mr. DASCHLE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2537, a bill to amend chapter 32 of title 38, United States Code, to authorize the pursuit of flight training under that chapter.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 2568, a bill to establish the Counter-Narcotics Technology Assessment Center within the Office of National Drug Control Policy, and for other purposes.

S. 2611

At the request of Mr. HARKIN, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2611, a bill to authorize assistance to the Washington Center for Internships and Academic Seminars.

S. 2616

At the request of Mr. DASCHLE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2616, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropratic services authorized to be performed under State law, and for other purposes.

S. 2737

At the request of Mr. ARMSTRONG, the names of the Senator from Ohio [Mr. GLENN] and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of S. 2737, a bill to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served.

S. 2754

At the request of Mr. BIDEN, the name of the Senator from Oregon [Mr. PACKWOOD] was withdrawn as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

SENATE JOINT RESOLUTION 300

At the request of Mr. PACKWOOD, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of Senate Joint Resolution 300, a joint resolution to designate September 1990 as "Jewish Community Center Month."

SENATE JOINT RESOLUTION 336

At the request of Mr. COCHRAN, his name was added as a cosponsor of Senate Joint Resolution 336, a joint resolution designating the week in 1990 which coincides with the first visit of Nelson Mandela to the United States after his release from prison in South Africa as "South African Freedom Week."

SENATE CONCURRENT RESOLUTION 134

At the request of Mr. HEINZ, the names of the Senator from California [Mr. CRANSTON] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Concurrent Resolution 134, a concurrent resolution expressing the sense of Congress concerning a 1991 White House Conference on Aging.

AMENDMENTS SUBMITTED

NATIONAL AFFORDABLE HOUSING ACT

KERRY AMENDMENT NO. 2064

Mr. KERRY proposed an amendment to the bill (S. 566) to authorize a new corporation to support State and local strategies for achieving more af-

fordable housing; to increase homeownership; and for other purposes, as follows:

At the appropriate place insert the following:

SEC. . STUDY ON ENTERPRISE ZONES DEVELOPMENT CORPS.—Within ninety days from the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs, in the feasibility of establishing a National Volunteer Corps made up of representatives from the business and labor communities who would provide management expertise or technical assistance to businesses or nonprofit organizations located in designated enterprise zones.

SEC. . STUDY ON TURNING DRUG ZONES INTO OPPORTUNITY ZONES.—Within ninety days from the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs, on ways in which areas ravaged by drug trade, drug related crime and drug abuse may be made more attractive as investment locations for companies, including the provision of special incentives to encourage companies to invest in these areas, in order to provide economic opportunity within communities to the residents of these communities. This study shall include recommendations on how areas that would qualify for benefits as an enterprise zone might receive additional benefits if they met criteria demonstrating that the community suffered from acute drug use and related crime.

BRYAN AMENDMENT NO. 2065

Mr. BRYAN proposed an amendment to the bill S. 566, supra, as follows:

On page 627, strike lines 8 through 13 and insert the following:

"(d) FEDERALLY ASSISTED LOW INCOME HOUSING.—In addition to the selection criteria specified in subsection (b), the Secretary may establish other criteria for the evaluation of applications submittted by owners of federally assisted, low income housing, except that such additional criteria shall be designed only to reflect—

"(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted, low income housing, or

"(2) relevant differences between the problem of drug-related crime in public housing and the problem of drug-related crime in federally assisted, low income housing.".

Page 634, line 16, after "IN GENERAL.—", strike "The" and insert in lieu thereof "To the extent provided in appropriations acts, the".

At the end of the title X of this bill, add the following new title:

TITLE —GENERAL ACCOUNTING OFFICE STUDY

SEC. . EXTENT TO WHICH FEDERAL ASSISTANCE PROGRAMS DISCOURAGES INDIVIDUALS FROM LEAVING SUCH PROGRAMS.

The Comptroller General of the United States of America shall conduct a study to examine how housing policies and social service policies affect beneficiaries, particularly those receiving public assistance, when such beneficiaries gain employment and experience a rise in income. The study shall analyze the extent to which existing housing and other laws create disincentives to upward income mobility and shall recommend any changes to existing law which would remove such disincentives.

The Comptroller General shall report to the Congress of the United States of America the findings of this study not later than twelve months after this bill becomes Public Law.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the Senate and the public that a hearing before the Subcommittee on Energy Research and Development has been rescheduled.

The purpose of the hearing is to receive testimony on the Department of Energy's uranium enrichment enterprise and the independent financial assessment prepared by Smith Barney, Harris Upham & Co.

The hearing, originally scheduled for Tuesday, June 26, 1990, at 9:30 a.m., will take place on Thursday, June 28, 1990, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

Those wishing to provide written testimony for the printed hearing record should send it to the Subcommittee on Energy Research and Development, U.S. Senate, Washington, DC. 20510, Attn: Cheryl Moss.

For further information, please contact Cheryl Moss at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 22, 1990, at 9:30 a.m. on S. 2398, a bill to authorize the continuation of the National Senior Olympic Games and S. 2399, a bill to authorize the registration of the word mark "National Senior Olympics."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Friday, June 22, 1990, at 9:30 a.m. to hold a hearing on S. 1629, a bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killings, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

VALLEY: LEADING ALABAMA INTO THE 21ST CENTURY

● Mr. SHELBY. Mr. President, I rise today to ask my colleagues in the Senate to join me in recognizing the accomplishments and achievements of the outstanding citizens of Valley, AL. These Alabamians have pulled together to improve their city with the common goal of making the State of Alabama a better place to live.

In their efforts, the people of Valley increased their population in 1980 by combining the four communities of Shawmut, Langdale, Fairfax, and Riverview. This incorporation made the population rise to 8,000 and the city covered about 7½ square miles. Within the last 10 years the population has risen to approximately 10,000 and covers an area of approximately 9½ square miles.

Located off Interstate 85, between Montgomery and Atlanta, Valley claims textiles as its main industry with 12 West Point Pepperell facilities in operation. Tremendous progress has been made in the past 10 years; a municipal complex consisting of two buildings containing 15,400 square feet was dedicated in 1985. This facility houses the new police department and the city hall.

A senior citizens center was dedicated in 1989, and received honorable mention for being the nicest senior citizens facility in the State. In addition to providing homebound elderly with meals, the center serves as a gathering place for area seniors. Mr. President, the city has constructed two elderly and low-income housing facilities. A city park with walking trails, picnic tables, and recreation equipment has also been developed. Several grants have been acquired to furnish better housing and sewage to low income areas. Major improvements have been made on streets and bridges, and numerous services, such as an ambulance service, an animal control officer and a local pound, are now available to the citizens. Ordinances have been adopted to make Valley a better and safer place to live and a city school system has been created to provide the best possible education for area students.

Mr. President, Valley, AL, is a shining example of a community working together to shape its future. Thanks to old fashioned hard work, commitment and shared goals, the citizens of Valley have ensured that their city will help lead the State of Alabama into the next century. I thank them for their efforts and look forward to

watching this city's progress in the years to come.●

KEN CURTIS

● Mr. COHEN. Mr. President, Theodore Roosevelt once said that the most practical kind of politics is the politics of decency.

In Maine, we have a living example of the politics of decency in Ken Curtis, former two-term Governor, former United States Ambassador to Canada, former chairman of the Democratic National Committee, and now president of Maine Maritime Academy [MMA] in Castine, ME.

A very fine article about Ken that appeared in last week's Maine Sunday Telegram stated that, "despite 30 years in politics, Curtis hasn't grown windy and pompous. Even stranger, he hasn't made enemies—at least none who remained enemies for long."

Ken's talents are many. Having recently delivered the commencement address at MMA, I can personally attest to Ken's prowess in his latest endeavor, where he has presided over some major improvements.

In January 1989, MMA launched a $10 million fundraising campaign, which, according to the Telegram, is the largest amount ever sought by any maritime college. The goal should be reached by the end of this year.

MMA is also expanding its curriculum. Four years ago, the academy offered one degree and two majors. Today, students may pursue degrees at three levels in any of 10 major fields, including marine sciences, yacht design, ship repair, and fisheries research.

MMA is also attracting international attention. Visitors from Scandinavia, Holland, Germany, France, China, and other countries have enrolled in international seminars on topics ranging from ocean survival to petroleum tanker safety.

In September, the Soviet Union will send its training ship, the 365-foot *Drushba*, a three-masted sailing vessel, and a crew of cadets to Castine Bay. This will be the first visit to the United States by this ship and follows a trip made by MMA's training vessel *State of Maine* to the Soviet Union.

Ken himself is a graduate of MMA who went to sea as a second mate in the U.S. Merchant Marine and served as a lieutenant commander in the Navy before becoming a lawyer and launching his political career.

By Christmas, Ken will have been president of MMA for 4 years and has stated his intention to leave before 1991, the academy's 50th anniversary.

By February, he says, "I will be 60 and looking for another good cause—probably one in trouble or on the verge of bankruptcy." Undoubtedly, Ken will find a worth outlet for his considerable talents.

I congratulate Ken on his accomplishments and ask that a copy of the article that appeared in the Telegram be printed in the CONGRESSIONAL RECORD.

The article follows:

AT THE HELM—CURTIS REVS UP DYNAMIC MMA

The most remarkable thing Ken Curtis has done in his remarkable career is to stay such a nice man. He's been secretary of state for Maine, governor of Maine for eight years, U.S. ambassador to Canada, chairman of the National Democratic Committee and, for the last 3½ years, president of the Maine Maritime Academy at Castine.

Yet, despite 30 years in politics, Curtis hasn't grown windy and pompous. Even stranger, he hasn't made enemies—at least none who remained enemies for long.

He seems to have done it by simply staying himself—the Kenneth Merwin Curtis who was born in Curtis Corner, Androscoggin County, 59 years ago; went to Cony High in Augusta, Maine Maritime Academy and the University of Maine Law School and is a Mainer to the marrow. The result? Curtis probably is liked by more people in Maine than anybody in the state.

The question today is, "What will Ken Curtis do next?" By Christmas he will have been president of Marine Maritime for four years. He says he intends to leave before 1991, MMA's 50th anniversary. By February, he says, "I will be 60 and looking for another good cause—probably one in trouble or on the verge of bankruptcy." The Curtis name, however, still heads the list of partners in the Portland law firm of Curtis, Thaxter, Stevens, Broder & Micoleau.

Curtis talks enthusiastically about what is happening at Maine Maritime.

"Begin with finances," he says with this boyish grin. "In January 1989, Maine Maritime launched a $10 million fund-raising campaign, the largest amount ever sought by any maritime college. Well, we've passed the $8 million mark already and, before year's end, we'll raise the full $10 million."

Curtis credits trustee Elizabeth Noyce of Bremen, fund-raising chairman, for the success of the drive. "She first gave $2.5 million herself, then went out and worked tremendously hard to obtain pledges from others."

Bath Iron Works, which has more than 100 MMA graduates working for it, pledged more than $800,000. A state bond issue provided $2 million for construction of a badly needed new pier at which to dock the State of Maine vessel.

In addition, millions of dollars worth of new laboratories, classrooms, maritime facilities and housing for single students have been built. This fall, construction begins on a major new administration center. Enrollment is at an all-time high.

Curtis next talks about how MMA is broadening its "ocean education" base.

"MMA is diversifying—adding new specialties, awarding new four-year and two-year associates degrees—in marine sciences, ocean studies, yacht design, ship repair, marina management, the environment of the sea, marine biology and fisheries research. This fall, we will be the first public college in Maine to offer a four-year degree in ocean studies," he says.

Curtis adds that more than 1,700 seagoing professionals have enrolled in special courses and international seminars ranging from ocean survival to petroleum tanker safety. Participants have come from Scandinavia, Holland, Germany, France, the United Kingdom, India, China, Taiwan and many African and South American countries.

"Just four years ago, we offered one degree and two majors; today we award degrees at three levels, encompassing 10 major fields of study," he says.

But Curtis emphasizes that 75 percent of MMA's programs still prepare young men and women to earn a B.S. degree, plus a merchant marine license as deck or engineering officers, together with a commission in the Naval Reserve.

Curtis, who went to sea as a second mate in the U.S. merchant marine and served as a lieutenant commander in the Navy before becoming a lawyer, stresses that MMA is still very much a Maine school. Sixty-five percent of the enrollment comes from in-state. "The other 35 percent comes from 25 different states and 10 foreign countries," he explains.

Curtis also says, "We have 30 women midshipmen now and I hope we'll have 100 someday." He speaks of women graduates who are senior officers in the merchant marine and Navy. "Our first woman graduate, Deborah Doane Dempsey, is now captain of a big container ship and married to the captain of another."

The academy, says Curtis, has been racking up a lot of "firsts." It was the first among American maritime colleges to establish a post-graduate program in its new Center for Advanced Maritime Studies; first to offer a residential master's degree program, with more than 100 master's degree candidates now enrolled; first to add research vessels and tug and barge operations to the undergraduate curriculum; first to send its cadets and the State of Maine training ship on a cruise to the Soviet Union.

In September the Soviets, for the first time in history, will send their training ship, the 365-foot Druzhba, a three-masted sailing vessel, into Castine. The academy itself has a fleet of 90 boats.

Curtis also focuses on a major new project through which MMA will help protect all of Maine from major damage in oil spills.

"MMA is in the process of developing a complete, computerized oil spill control information system for the entire coast of Maine," he says. "We plan to build a massive data base in a central computer here, which will contain all updated information about wildlife, fish population, shellfish, winds, tides, currents in every potential oil spill area along the entire coast.

"Our computer will also store complete information about all the resources of boats, equipment and professionals available in every area to combat spills, so they can be instantly marshalled."

As a bonus, the historic schooner Bowdin, fully restored, is now part of the fleet at MMA. And Curtis has plans for it. He plans for the Bowdin to become a seagoing ambassador for Maine.●

CONGRATULATIONS TO RUSTY MOLSTAD: NATIONAL PRESIDENT OF THE U.S. JAYCEES

● Mr. DASCHLE. Mr. President, I rise today to recognize Mr. Rusty Molstad of Sturgis, SD, the newly elected national president of the U.S. Jaycees. Rusty is the 71st president of that organization and South Dakota's first national president.

Rusty Molstad is well qualified for this honor that was bestowed upon him by his fellow Jaycees. He has served in many local and State offices and, as the president of the South Dakota Jaycees in 1987–88, led his organization to a second-place finish in the national Parade of States. Rusty's leadership of the South Dakota Jaycees led to his receipt of the Clayton Frost Memorial Award as one of the top five State presidents of the year. In 1988–89, Rusty was 1 of the 10 national vice presidents and served on the organization's executive committee as national legal counsel.

The U.S. Jaycees, as a national leadrship training organization that places a high priority on voluntarism, plays a significant role in developing local, regional, and national leaders for our country's future. Rusty Molstad is an excellent example of the success of this effort, and he will serve the Jaycees well during his year of service as their national president.

Rusty Molstad and the Jaycees have long recognized the delicate ecological balances at work in the world and have always placed an emphasis on voluntarism to benefit the environment. Rusty and I share an interest in promoting tree planting as one means of protecting our environment and educating the public about the environmental potential of tree planting.

It is estimated that 10 million acres of new forests could absorb virtually all the carbon dioxide emitted by powerplants to be built in the United States over the next decade. Also, research studies have shown that trees planted as windbreaks reduce the costs of home heating from 10 to 15 percent in the north central United States to as much as 40 percent in the Great Plains. Trees that are planted to a field windbreak can reduce the carrying power of wind which will in turn reduce wind-soil erosion. Soil erosion by wind is a major problem throughout the United States.

Rusty Molstad has an interest in establishing a volunteer Jaycee program dedicated to tree planting nationwide. I wish him my very best with this ambitious project, and I am hopeful that the Congress will also promote the establishment of windbreaks and shelterbelts and protect our existing resource for the benefit of future generations.

Again, I commend Rusty Molstad for his achievement; an achievement that not only reflects well of him, but also of the quality of character so often found in the State of South Dakota.●

TRIBUTE TO SENATOR MILLARD TYDINGS

● Ms. MIKULSKI. Mr. President, Senator Millard Tydings would have celebrated his 100th birthday on Easter Sunday 1990. On this occasion, the mayor and city council of Havre de Grace, MD, have honored one of their most distinguished citizens by proclaiming 1990, the "Millard E. Tydings Year."

Senator Tydings was simply a great American. His devotion to the State of Maryland and to the Nation was deep and abiding. From his extensive education to his decorated military service in World War I to his lengthy public service in the Maryland State Legislature, the House of Representatives, and the Senate, Senator Tydings was a champion of the "American Dream." He capitalized on the opportunities America afforded him, and in return, gave so much of himself to the cause of democracy.

As a member of the Senate Naval Affairs Committee in the 1930's, the Senator foresaw the coming of the Second World War. He saw to it that our naval forces were prepared for any and all challenges they might face.

Following the war, the Senator's interest in national security matters never waned. He authored the Armed Forces unification bill and was the first chair of the Senate Armed Services Committee. It was Gen. Omar Bradley's view that Senator Tydings was Congress' most knowledgeable legislator when it came to the free world's armed forces. Furthermore, the Senator's chairmanship of the Senate Democratic Steering Committee and his membership on the Atomic Energy and Foreign Relations Committees spurred calls of "Tydings for President."

The year 1950 brought reelective defeat for Senator Tydings. The campaign was marred by malicious tactics fed by the then rampant Red scare. The Senator's defeat was to the considerable detriment of our Nation, which he had served so proudly and with such distinction. An attempted return to the Senate 6 years later was abruptly halted by illness, and further benefit from Senator Tydings' talents was lost to us forever.

In conclusion, Senator Tydings was a man—and politician—of irrepressible integrity. He possessed precisely what good government will always require of its leaders. The State of Maryland and the Nation owe Senator Tydings a debt of sincere gratitude. It is my hope and belief that "the Millard E. Tydings Year" will, in some small measure, acknowledge the Senator's many contributions to our society.●

EXPLANATION OF S. 2774

● Mr. DANFORTH. Mr. President, yesterday, Senator MOYNIHAN and I introduced S. 2774, a bill to amend the Internal Revenue Code to impose an excise tax on the sale or exchange of international aviation route certificates. I would like to take this opportunity to emphasize that this legislation is not intended to affect any transaction which has received approval prior to June 21, 1990 from the Department of Transportation under section 401(h) of the Federal Aviation Act of 1958 (49 U.S.C. 137(h)). Specifically, this legislation is not intended to affect the transaction between Eastern Air Lines and American Airlines transferring assets, including the certificates for routes in Central and South America.●

MOST-FAVORED-NATION STATUS FOR CHINA

● Mr. ARMSTRONG. Mr. President, many Americans have been deeply concerned by proposals to extend most-favored-nation status [MFN] to the People's Republic of China. I find these proposals unsettling, too.

For many years the United States has recognized the moral element involved with trade. As early as 1973, Congressman Vanik made it clear that the United States "will require some basic consideration of human rights * * * a system that reflects respect for the United Nations Declaration of Human Rights. The United States has no obligation to extend lower tariff rates or billions of dollars in loans—these are not the rights of foreign nations. They are gifts that can be offered by the American people under conditions set by the American people."

The Jackson-Vanik amendment to the Trade Act of 1974 denies MFN status and participation in any program guaranteeing credit to a nonmarket economy which prevents its citizens from emigrating. While Chinese emigration has increased in the past year, one must overlook much of the intent of Jackson-Vanik, which uses emigration as a measure of the human rights progress of any nation. Chinese students and scholars are not free to migrate or in the case of Fang Lizhi, even to emigrate to the United States.

At this time, I do not believe the Chinese Government should be rewarded for their actions of the past year. China's reversal of earlier moves toward a freer society, most notably demonstrated in its brutal suppression of last year's student protests, showed this regime's utter disregard for the most basic human rights. Its brutalities continue and are extreme. I am told they include frequent disappearances, arbitrary arrest, detentions, and even savage executions. Readers Digest recently profiled a few of the Chinese students and scholars who last year dreamt only of freedom—and this year are truly learning the meaning of slavery.

I ask my colleagues to read the article carefully. I am certain after reading "Into the Bamboo Gulag," and reviewing the People's Republic of

China's record over the past year, they will agree with me that we cannot give this terrible regime the unqualified gift of MFN status. America must continue its tough stand for freedom and basic human rights.

The article follows:

[From the Reader's Digest, June 1990]

INTO THE BAMBOO GULAG

(By Fergus M. Bordewich)

(The following report profiles just a few of the political prisoners who have disappeared in the People's Republic of China. No one knows their exact number. Estimates range from hundreds of thousands to 20 million prisoners over all. Many languish in jail, while others are exploited as slave labor. They mine coal in Sichuan, clear tundra in Heilongjiang, forge steel in Liaoning, plant cotton in Xinjiang. Many are guilty of nothing more than calling for what Americans take for granted: freedom. Their numbers have swelled with the arrest and imprisonment of an estimated 6,000 students and others who protested for democracy in Beijing a year ago this month.)

(After extensive interviews with eyewitnesses and survivors of the labor camps, journalist Fergus M. Bordewich takes us into the Bamboo Gulag—a system so secret that even those within it don't know all its tentacles. But it is by every estimate the most far-reaching system of political prisons in the world.)

Leave your name at the door. You have become a number. If you stay long enough, you may forget that you ever had a name.

You and 30 others share a 20-by-20-foot cell in Beijing's infamous Banbuqiao Prison. The walls are stained with crushed ticks, fleas and bedbugs, and the floor is covered with mucus and spittle.

All day you sit on your dirty cotton mat. You're not allowed to move. You're not allowed to talk. You're allowed to get up only to use the toilet. Once a day.

The guard blows a whistle that tells you when to sleep and when to wake. At night, you are packed together so tightly that everyone has to turn at the same time.

No one bathes. You are given one small bowl of water each day. You can either drink it or wash with it. You drink it.

Twice a day, you are given a couple of pieces of turnip in hot water. They call it soup. You're so hungry you vomit bile. Your energy diminishes day by day, until you are unable to walk without holding onto the wall.

In 1980 Wang Juntao ran as an independent candidate in China's first contested election since 1949. Although he lost, he told supporters, "If we want democracy, we've got to show people how it's done."

Later he established one of China's first independent educational programs so working people could study in their spare time. Then he helped set up an influential institute that urged free-market capitalism.

He could have joined the Communist Party, but he knew that if he did, he would have to support the regime. If he was to be an official, he wanted to be elected freely.

The Democracy Movement of 1989 was the opportunity he had dreamed of. He gave the students food and published their daily newsletter. He helped organize hundreds of Chinese journalists to join the demonstrations, to call for freedom of the press. That helped turn the student protest into a vast popular outpouring of support, as doctors, teachers, workers and even delegations from the police and the Communist Party school began marching to Tiananmen Square.

He also set up the "underground railroad" that enabled some of the student leaders to flee to the West after the military crackdown on the night of June 3.

Wang stayed on in China to help others escape, until it was too late to save himself. He eluded the police for three months but was arrested as he was about to cross the border into Hong Kong. By October he had disappeared into the Bamboo Gulag.

To stay sane, you silently recite poems to yourself. You try to remember songs. You dream of your family. You hold fast to your memories of last spring when you went to Tiananmen Square and demonstrated for democracy, for an end to Communist oppression. After the regime cracked down, you saw the hundreds who lay dead in the streets. Then the government launched a ruthless roundup of those who had helped organize the demonstrations. Soldiers threw you into the back of a truck like a sack of rice and took you to Banbuqiao.

You've heard that scores of people were secretly killed for taking part in the Democracy Movement. You know three Shanghai workers who were executed for protesting after a train ran over unarmed pro-democracy demonstrators. You know about the teacher who was sentenced to life in prison for flinging paint on Mao Zedong's portrait in Tiananmen Square. You are afraid.

Liu Xiaobo was a visiting scholar in the United States last year. He didn't have to go home. But when news of the Democracy Movement reached him, he knew he had to help.

He flew to Beijing in April and threw himself into the movement. He was one of the first nationally known intellectuals to side publicly with the students. Many others followed his lead.

Some say his June 2 speech was the most important of the entire movement. Liu has a stammer, but it didn't stop him. The thousands of young faces gave him courage as he stood in the center of Tiananmen Square, and his words roared out over the jetty-built public-address system.

"We advocate the peaceful democratization of China. We seek to end the rule of the bayonet and the lie! We must now build a new politics, free of enemies and hatred, based instead on tolerance and compromise, and functioning through discussion and the electoral process."

The government accused Liu of advocating armed rebellion. The truth has never mattered to the Communists.

If the government executes a leading thinker, it could be Liu Xiaobo. He was the most outspoken, and the regime may kill him to intimidate others, to remind the people of China that anybody can be destroyed for his ideas.

He, too, has disappeared into the Bamboo Gulag.

You have been held incommunicado for months. The law says that your family must be notified of your arrest—unless that would "hinder the investigation." Your family has been notified.

Your trial is just a formality anyway. A Party-dominated committee decides the verdict before the trial even begins. Releases and acquittals are rarely on the agenda.

In the courtroom, you are not allowed to call witnesses, see the evidence against you or challenge your accusers. And you are not allowed to remain silent in protest.

The judge asks the same questions over and over: "Did you plot to overthrow the Communist Party? Do you admit to being an enemy of the people? Do you confess you set out to attack the state?"

A sign hangs over the courtroom: "Leniency to those who confess, severity to those who resist." Guilt is presumed, and any attempt to argue your innocence is taken as further proof of guilt.

Don't expect justice here. This is a Chinese Communist court.

Wang Dan was just 20 years old when the Democracy Movement began. He was shy and quiet, happily studying history at Beijing University. He never expected to become the leader of a revolution.

He loved China deeply, but knew there was something terribly wrong with the way it was governed. The constitution promised free speech, but the authorities blatantly violated that guarantee. Finally he realized that true democracy could be guaranteed only when dissenting views could circulate freely, and only when opposition parties were allowed to exist.

After the last government crackdown in 1987, Wang was a key figure in keeping the Democracy Movement alive. He established the most important democratic discussion club at Beijing University. In those days it was a thrill just to be able to say the word democracy aloud. Hundreds of students met leading dissidents at the club and for the first time in their lives began to talk openly about human rights.

The club played a crucial role in the student alliance that became the Democracy Movement. When the students of Beijing University led the march toward Tiananmen Square, Wang was at their head. He remained a leader of the movement right up to the moment the army tanks rolled into the square.

A month after the massacre, he came out of hiding to meet a Taiwanese journalist. But secret police were tailing the journalist and Wang fell into their net. He has disappeared into the Bamboo Gulag.

For the last two days you have ridden in the back of a truck across the sandy wastes of western Qinghai Province, with no sign of life for hundreds of miles. Then, on the horizon, you see a thin red line. It grows larger until it becomes a high brick wall punctuated with towers. In the towers are soldiers with machine guns and they're pointed at you.

Welcome to your new home. There's a little more space than in the cell in Beijing. This time you live in a room with 40 other prisoners. You're not allowed private possessions: no books, no photographs, no keepsakes, no clothes. Nothing.

Twice a day, you're given one piece of rock-hard corn bread, some turnips and cabbage, and hot water. You're supposed to get four ounces of pork every week, but camp officials steal half of it.

You dig irrigation ditches from sunrise to sunset, seven days a week. When there is a full moon, you work at night too. You come to hate the moon. In winter, the temperature drops to 40 below zero. But you must keep on hacking ditches from the frozen soil.

Han Dongfang was a simple worker, a maintenance man for the state railway. He was tired of being treated like a piece of machinery and sick of watching Communist Party officials get rich while the people suffered.

The students in Tiananmen Square gave him the strength to stand up for himself at last. There and then, in the square, he made

the first speech of his life, denouncing the state's exploitation of workers.

On May 19, he and a group of other dissident workers set up Communist China's first free trade union. Since the Communist Party calls itself the party of the working class, he struck at the heart of the Communist state. Inspired by his actions, others formed similar unions across China.

The night before government troops invaded Tiananmen Square, the atmosphere in Han's tent was tense. His young bride huddled nearby. "I'm not afraid to die," he told a friend. He hoped there would be an international outcry if the government moved against them.

Han disappeared into the Bamboo Gulag and has been in solitary confinement for months, gravely ill.

You learn to fear the guards. They consider you, a political prisoner, lower than a murderer or thief. They don't wait for an infraction of the rules to punish you. They tie your elbows behind your back with a wet thong that tightens as it dries. After an hour, you go numb. If the thongs are left on too long, you could be crippled for life.

"You're not grateful enough to the Communist Party for trying to rehabilitate you," they say. "You must learn more respect!"

The next time guards push wires through the flesh of your ankles; they put an iron band around your skull and tighten it until your head cracks. Then they handcuff your arms underneath one leg, raising it tight against your chest. They leave you like that for days, sometimes weeks.

No one escapes from the camp. There's nowhere to go, just sand in every direction for hundreds of miles.

One prisoner tried. They tied his arms behind his back and hung him from a metal hoop. His screams were heard all through the night; by morning, they had stopped. Though he was still alive when guards took him down, his arms were useless.

Gradually you lose your sense of time. Months go by . . . or are they years? You feel as if you've been buried alive.

Wei Jingsheng was considered by students to be the father of the Democracy Movement. In fact, a prelude to the movement came when leading intellectuals petitioned for his release.

He once believed in Communism. But as he traveled around China, he saw that Communism had brought poverty, oppression and suffering. He saw naked beggars crying for scraps of food. He saw honest, men and women killed for speaking their minds. He learned that Mao's Great Leap Forward had so impoverished people in Wei's own ancestral province that some had resorted to cannibalism.

During a brief period of openness in 1979, he founded an independent magazine. It declared that the Communist Party could never reform itself. "We need no gods or emperors," he wrote. "We do not want to be instruments used by autocrats to carry out their wild ambitions."

At the time, other dissidents criticized his outspokeness. But by 1989, hundreds of thousands of demonstrators were echoing his words in Tiananmen Square.

Wei disappeared into the Bamboo Gulag in late 1979. Since 1980, he has been kept in complete isolation. The authorities say that his "rebellious spirit" would corrupt other prisoners. There are reports that for the last seven years he has only been allowed out of his cell once a month for exercise.

Some say that his hair and teeth have fallen out, that he has lost the ability to speak. But he is alive.

He defies the Communists to break his spirit. No matter how long they keep him, he will never give in.

As the slow torture of the Gulag brings you face to face with death you wonder, has the world forgotten you? You wonder especially about the United States, whose ideals served as the beacon of the Democracy Movement.

You remember the simple words of Abraham Lincoln that demonstrators shouted in Tiananmen Square: "Government of the people, by the people, for the people." And you dream of the Goddess of Democracy, the students' own Statute of Liberty, who stood briefly before government soldiers toppled her.

Where is America now?

(President Bush believes we should maintain good relations with the rulers of China, one of the world's most formidable powers. Last December 10, International Human Rights Day, he sent National Security Adviser Brent Scowcroft and Deputy Secretary of State Lawrence S. Eagleburger to meet with the Chinese leadership in Beijing. The U.S. officials were shown on Chinese television, smiling and toasting Li Peng, mastermind of the Tiananmen massacre. The Chinese press quoted them as saying the two countries should "not exhaust ourselves in placing blame for problems that exist."

(Since 1949, China's masters have imprisoned or killed tens of millions of China's people. Now they want Western loans and assistance. They want to export products—textiles, machinery, consumer goods—some made by political prisoners. They pretend that there is no gulag, that there are no prisoners of conscience, that the Tiananmen massacre never happened.

(But as we have learned from recent history in other communist lands, there can be no good reason to coddle a regime that slaughters its unarmed citizens. The lesson is to keep faith with people—not tyranny.

(Bullets and blood may have silenced the heroes of Tiananmen Square—for now. But they will be back, again and again, as long as freedom is suppressed. As the world's beacon of democracy, the United States must not ignore their cause—or their sacrifice.)●

HIGHER EDUCATION ACT AMENDMENTS

Mr. BINGAMAN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1999, the Higher Education Act amendments.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

Resolved, That the bill from the Senate (S. 1999) entitled "An Act to amend the Higher Education Act of 1965 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. ADMINISTRATION OF COMMISSION.

Section 1321 of the Higher Education Amendments of 1986 (20 U.S.C. 1221-1 note) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) ADMINISTRATION OF THE COMMISSION.—

"(1) RATE OF PAY.—Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress may, while serving on business of the Commission, be compensated at a rate not to exceed the rate specified at the time of such service for Grade GS-18 of the General Schedule as authorized by section 5332 of title 5, United States Code, for each day, or any part of a day, they are engaged in the actual performance of Commission duties, including travel time; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(2) TEMPORARY EXEMPTION.—Subject to such rules as may be adopted by the Commission, the Chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

"(A) appoint a Director or Executive Director who shall be paid at a rate not to exceed the rate of basic pay for GS-18 of the General Schedule; and

"(B) appoint and fix the compensation at a rate not to exceed the rate payable at the GS-18 rate of such other personnel as the Chairperson considers necessary.

"(3) AUTHORITY TO CONTRACT.—Subject to the Federal Property and Administrative Services Act of 1949, as amended, the Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities.

"(4) SOURCE OF ADMINISTRATIVE SUPPORT.—Financial and administrative support services (including those related to budget and accounting, financial reporting, payroll, and personnel) shall be provided to the Commission by the General Services Administration (or other appropriate organization) for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed by the Chairperson of the Commission and the Administrator of General Services.

"(5) AUTHORITY TO HIRE EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18. Experts and consultants may be employed without compensation if they agree to do so in advance.

"(6) AUTHORITY FOR DETAIL OF EMPLOYEES.—Upon request of the Commission, the head of any Federal agency is authorized to detail on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.".

SEC. 2. TERMINATION OF COMMISSION.

Subsection (g) of section 1321 of the Higher Education Amendments of 1986, as redesignated by section 1 of this Act, is amended to read as follows:

"(g) TERMINATION.—The Commission shall terminate 2 years after the first meeting of the members.".

Amend the title so as to read: "An Act to amend the Higher Education Amendments of 1986 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes.".

Mr. BINGAMAN. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KOREAN WAR REMEMBRANCE DAY

Mr. BINGAMAN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of House Joint Resolution 575 to designate June 25, 1990, as "Korean War Remembrance Day." This is a matter just received from the House.

The PRESIDING OFFICER. The joint resolution will be stated.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 575) to designate June 25, 1990, as "Korean War Remembrance Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to support the passage of House Joint Resolution 575, a joint resolution designating June 25, 1990, as "Korean War Remembrance Day."

On May 8, 1990, I introduced, on behalf of myself and the ranking minority member of the committee [Mr. MURKOWSKI], Senate Joint Resolution 310, a resolution to designate June 25, 1990, as "Korean War Remembrance Day." House Joint Resolution 575, which contains the language of Senate Joint Resolution 310, was passed by the House of Representatives on June 19. In order to ensure the timely passage of this resolution, we elected to use the House resolution to express the Senate's overwhelming support for this most deserved day. I would like to thank the 32 Senators who joined me in cosponsoring Senate Joint Resolution 310, and I'd also like to acknowledge the strong support of the Veterans of Foreign Wars, specifically that of National Legislative Service Director James N. Magill.

The 25th of June is an appropriate day to recall the Korean war and honor its veterans. Forty years ago on that day, in 1950, the Communist forces of North Korea invaded South Korea, igniting the Korean war. For the first time in history, a U.N. command was created. With the United States as the executive agent and main participant, the U.N. command thwarted the invasion.

Many have called the Korean war America's forgotten war, but those who served and their families have never forgotten. Likewise, our Nation should never forget those who fought and died in Korea for the cause of freedom. Almost 6 million American servicemen and servicewomen were involved directly or indirectly in the war, and the freedom and independence they ultimately ensured for the South Korean people came at great sacrifice. American casualties during the 3 years of active hostilities totaled 54,246 dead—of which 33,629 were battle deaths—and 103,284 wounded. Over 300 prisoners of war have never been accounted for.

Mr. President, the value of their sacrifice has never been more in evidence than now, as we witness the power of democracy to break down walls that have far too long divided the peoples of the world. This resolution is one tangible way of honoring the service and commitment of those who endured the rigors of combat and the extremes of a hostile climate under the most trying conditions and still prevailed to preserve the independence of the Republic of Korea.

I urge the President of the United States to sign and implement the joint resolution immediately so that this tribute may be paid by a grateful Nation.

The PRESIDING OFFICER. Without objection the joint resolution is deemed read a third time and passed, and the preamble is agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BINGAMAN. Mr. President, I ask unanimous consent following the brief remarks I am going to make, that Senator DOLE be recognized to address the Senate to be followed by Senator WIRTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO FORMER COSTA RICAN PRESIDENT JOSE FIGUERES

Mr. BINGAMAN. Mr. President, earlier this month former President Jose Figueres of Costa Rica died.

He was a man for whom I had great respect. When I attended Harvard College in the early 1960's, Jose Figueres was a visiting instructor who taught a course in Latin American politics and government. I was fortunate to take that course and to become familiar with his career and the role he played in helping his country of Costa Rica.

Although there are many accomplishments to his credit, I am sure "Don Pepe" will be most remembered for his action in leading his fellow citizens to resist both the Communist and Costa Rican Army's efforts to prevent a duly elected President of Costa Rica from taking office. Later as President himself he dissolved the Costa Rican Army—a step he considered essential in order to maintain democracy in his country.

Mr. President, in 1984 as a Member of this Senate, I traveled to Central America and on that trip, I visited with Jose Figueres in his home in San Jose. I heard him again recount many of the views which earned him his reputation as a fighter for Costa Rica and for democracy.

In this year when we are congratulating ourselves and the Latin Americans for the progress that has been made toward establishing democratic governments in this hemisphere, we need to acknowledge that Jose Figueres played a major part in causing democracy to flourish.

Costa Rica and all of us who make up the peoples of the Americas, are fortunate to have had Don Pepe on our side.

The PRESIDING OFFICER. The Republican leader is recognized.

THE SNOOZE AND LOSE CONGRESS

Mr. DOLE. Mr. President, we have been hearing a lot of rhetoric this week about who is to blame for the national savings and loan debacle. Some slick consultants believe the best way to proceed is to attack President Bush. The best way to take on President Bush with his recordbreaking popularity and job approval rating is somehow to go after him on the S&L matter.

I have always believed there was enough blame to go around, in fact more than enough blame to go around on the S&L front: Congress, this President, the former President, the President before that, regulators, people. But apparently the temptation to play politics in an election year is just too strong for some people.

It is always easy to blame one person, to blame the White House. It

looks good in a press release. But, Pennsylvania Avenue is a two-way street. If we are looking for blame, we do not have to look any further than the U.S. Senate.

Some critics have called Bush the savings and loan President, the S&L President. I say welcome to the S&L Congress. While Congress was snoozing, the American taxpayers were losing. But that has not stopped some Members of the snooze and lose Congress from attacking the President.

If you want some proof, take a good look at this partisan game plan. It is the first 30-second spot of the 1990 campaign, brought to you by the Democratic caucus. This is the cover letter from the Democratic caucus on the House side, with a package of political mischief urging Democrats to hit the airwaves with one message in mind, blame George Bush for the S&L mess; blame the President, not the snooze and lose Congress.

They sent our talking points. "There is no need to pick over the bones of the S&L scandal—we know what happened. What we need do is fix the S&L mess."

No. 2, "Bush is foot-dragging on the S&L cleanup and is already repeating the costly mistakes made by the Reagan administration." In other words it is all Bush's fault; or if not, Reagan's cuts.

No. 3, "Bush supports hiding the cost of S&L bailouts."

No. 4, is "Public discontent with President Bush's mishandling of the S&L bailout is growing."

Every Democrat in the House, and maybe in the Senate, too, received this so-called excellent package, complete with the snappy talking points, I have just referred to, partisan rhetoric for use with their colleagues and constituents.

So let us see this week's S&L offensive against President Bush for what it is: A carefully orchestrated political attack.

I just had a number of my colleagues go up in the Press Gallery and bang away at President Bush at 12:45 today, just in case they had not gotten the talking points and other material from the Democratic House Caucus.

I think we ought to take a look at the facts, and all the facts are not out yet. They will be coming out by the barrels one of these days. I think we will understand the full depth of that when it happens.

But, after listening to all this hype, one would think that the S&L Congress was an innocent bystander to the collapse of the thrift industry. You would think the snooze and lose Congress had nothing to do with the hundreds of thrift insolvencies, with a regulatory environment that encouraged rampant fraud and insider abuse, and with a bailout price tag that will cost the American taxpayers hundreds of billions in hard earned tax dollars.

The S&L Congress cannot escape from the simple and incriminating facts. Let us take a look at the facts. These are facts. All you have to do is to go to the Library of Congress, pick up the CONGRESSIONAL RECORD, ask somebody to get you the facts. These are the facts.

On February 12, 1986, the General Accounting Office estimated that FSLIC, would need as much as $22.5 billion in new capital.

That was not very long ago, February 12, 1986.

Fact: On March 13, 1986, Federal Home Loan Bank Board Chairman Ed Gray testified before the Senate Banking Committee that FSLIC would need $16 to $23 billion to resolve troubled thrifts over a 5-year period.

Fact: On January 6, 1987, the Reagan administration's $15 billion recapitalization plan was introduced in the House and here in the Senate.

Fact: On March 2, 1987, a plan providing only $7.5 billion in new funding for FSLIC—one-half of the amount requested by the Reagan administration—was reported out of the Senate Banking Committee.

Fact: On April 1, 1987, the House Banking Committee reported out a plan providing only $5 billion in new FSLIC funding. That is one-third of the Reagan administration's original request.

And not surprisingly, the committee vote was a lopsided 45 to 5.

According to the House report accompanying the House's watered-down recapitalization bill, the bill "provided for a strong series of forbearance provisions to ensure that savings institutions and individual borrowers are protected from adverse supervisory actions."

The report goes on to state that the house bill is intended to "permit the continued operation of thrift institutions that do not meet current regulatory capital requirements."

And what is perhaps the worst insult of all, the House report laments that the Federal Home Loan Bank Board "was overly aggressive * * * in its efforts to protect the FSLIC fund."

There is too much regulation; the regulators are too tough; they wanted to save the taxpayers some money. This is what, in essence the report intended to convey.

Fact: On August 4, 1987, after a full-scale lobbying effort by then Secretary of the Treasury Jim Baker, the Congress finally passed a $10.8 billion recapitalization plan.

Fact: If the Reagan administration's $15 billion recapitalization plan had been promptly adopted by Congress, the size of the savings and loan bailout would be much smaller today.

Fact: During the FSLIC recapitalization debate, Congressman JIM LEACH, of Iowa, offered an amendment that would have specifically authorized the bank board to prohibit State-chartered thrifts from making direct investments in certain unsafe or unsound activities, including such so-called traditional thrift activities as the financing of windmills, racetracks, hamburger joints, and stud farms.

The S&L high-flyers won out in the end, when the amendment failed overwhelmingly in subcommittee by a vote of 7 to 30. When explaining his vote against the amendment, one Congressman stated that "we have not had hearings on how direct investments * * * have injured the savings and loan industry. We are making out of this a situation that [simply] doesn't exist."

That is one Congressman's explanation.

Fact: Congressman STAN PARRIS, of Virginia, offered an amendment requiring thrifts to phase in "generally accepted accounting principles" over a 5-year period. Despite GAAP's wide acceptance in the accounting and business communities, the amendment was defeated overwhelmingly by voice vote.

Finally, let me just add that Congress did not pass a perfect bailout bill last year.

It is a bill riddled with conflicting goals for the RTC that make it even more difficult for the RTC to do its job.

The RTC, for example, is supposed to dispose of assets quickly, but it is prohibited from dumping these assets into soft real estate markets. The RTC is supposed to get the best possible return on the assets, yet certain properties must be offered to low-income groups for up to 90 days. And the RTC is supposed to utilize the private sector, yet many of the conflict-of-interest provisions make private sector participation difficult, if not impossible.

With these kinds of congressionally-mandated requirements, it is a minor miracle that the RTC can reduce its asset inventory at all.

CONCLUSION

This is just a small slice of the S&L Congress' own dreary legislative record of the savings and loan disaster.

It is a record strewn with neglience, with lost opportunities, and frankly, with a considerable amount of arrogance.

So I have to shake my head when I see these orchestrated congressional attacks on President Bush.

Three years ago, the Washington Post publicized an editorial entitled "S&L's in trouble."

According to the editorial, Congress was then "hard at work" on a bill to make "S&L regulation weaker than ever."

This is not the Republican leader speaking; it is the Washington Post speaking.

The editorial goes on:

The (Reagan) administration wants to shut down the bankrupt (thrifts). It wants to raise the deposit insurance premiums that S&L's pay and shore up the insurance fund. It wants to crack down on the loose practices that got those failed S&L's into trouble. But the Senate's (thrift recapitalization) bill is inadequate, and the House's is a positive menace.

I see the attacks on President Reagan, all the attacks on President Bush and here is a paper that is not known for its Republican leanings, the Washington Post. I just read an editorial where they are saying in effect that it was the Congress, it was the S&L Congress, it was a snooze and lose Congress that turned its back on this problem.

So it is unfortunate that the savings and loan Congress did not heed these words 3 years ago.

And contrary to what my distinguished colleague, Senator BRYAN, said at the impromptu Democrat press conference, the American people can indeed count on the administration to lead. It was Senator BRYAN saying you cannot get leadership out of this administration. I just say I agree with the view expressed in that Washington Post editorial that Congress has not provided much leadership. We have been dragging out feet. We have been slowing down legislation. We did not want anybody to regulate it. We did not want aggressive regulations of S&L's, so the S&L crooks got richer.

I ask unanimous consent that the full text of the editorial be printed in the RECORD, along with the House Democratic Cause "Talking Points" and President Bush's speech of this morning.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 13, 1987]

S&Ls IN TROUBLE

In a spectacularly dangerous example of misguided sympathy, Congress is hard at work on legislation to make S&L regulation weaker than ever. It has nothing to do with Reaganite enthusiasm for deregulation. The impetus is coming from Democrats and mainly from Texas. The House has passed a bill that would make it harder for an S&L to foreclose on delinquent loans, of which there are many in Texas, and very much harder for federal regulators to close an S&L that is insolvent. The chief regulator says that the bill, if enacted, "will shut down effective enforcement." The S&L's keep arguing desperately that, if they are left alone by the government, things will shortly get better. But the evidence is running strongly the other way.

Out of the nearly 3,200 federally insured S&Ls, some 450 are now bankrupt but still in business and still taking deposits from the public. If they were banks, they would have been shut down long since. But the S&L regulators can't afford to close down these bankrupts because there isn't enough money in the federal S&L deposit insurance fund to pay off the depositors.

The General Accounting Office audited the fund and reported last month that it too is bankrupt. It had net losses of nearly $11 billion in 1986 and was $6 billion in deficit by the beginning of this year. Its caseload of institutions in serious trouble nearly doubled during the year. Its cash and securities on hand, $4 billion at the beginning of the year, was below $1 billion by last month.

Meanwhile, the Federal Home Loan Bank Board, which oversees the S&Ls, has reported that April, the last month for which figures are available, was the eighth consecutive month in which withdrawals from the S&L system nationwide were greater than new deposits. That doesn't amount to a run on the system. But if a run were to begin at one of the bankrupts, there's very little in the insurance fund to stop it. Congress would have to use taxpayers' money from the Treasury.

The administration wants to shut down the bankrupts. It wants to raise the deposit insurance premiums that S&Ls pay and shore up the insurance fund. It wants to crack down on the loose practices that got those failed S&Ls into trouble. But the Senate's bill is inadequate, and the House's is a positive menace.

The conference on the two bills is about to begin, at a leisurely pace. If the final result looks anything like the House version, with its anti-enforcement language, President Reagan will have little choice but to veto it.

DEMOCRATIC CAUSUS,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 18, 1990.

DEAR DEMOCRATIC COLLEAGUE: This week's Democratic Message to the American people focuses our attention on the Bush administration's lack of leadership in cleaning up the S&L mess.

As Democrats, we share the growing concern of our working families about the ever-escalating amount of tax dollars the Administration estimates it needs to bail-out insolvent S&Ls. In the past several months, the President's top advisers have more than doubled the estimate they intend to apply to the bailout, and then cautioned that even these projections were soft. Yet rather than putting a stop to this hemmoraging, the Bush administration is continuing to allow hundreds of failed savings and loans to remain open—further compounding the costs of the S&L bailout by billions of dollars.

It is the costs unseen that truly alarm and dismay America's working families. Our youngest working families are now confronting the first effects of this fiasco when they apply—and are denied—their first home mortgage. And or children will bear the brunt of the President's foot-dragging well into the next century. The schools that will go unbuilt, the bridges that will go unrepaired, and the educations that will go unfunded are the real toll of Bush mismanagement.

I have attached an excellent package on the S&L bailout, which includes S&L facts and Democratic talking points, prepared by DNC Research. I hope that it is helpful as you talk with your colleagues and constituents this week, and in the weeks ahead.

With warmest personal regards, I am

Sincerely yours,

STENY H. HOYER.

Attachment.

TALKING POINTS ON THE S&L ISSUE

1. There is no need to pick over the bones of the S&L scandal—we know what happened. What we need to do is fix the S&L mess.

2. Bush is foot-dragging on the S&L cleanup and is already repeating the costly mistakes made by the Reagan Administration. The result is a doubling in taxpayer cleanup costs to $500 billion—in just 7 months.

3. Bush supports hiding the costs of the S&L bailout from taxpayers by keeping it "off-budget" and out-of-sight. Democrats, it must be remembered, supported "truth-in-budgeting" on the Bush bailout last year by margins of 181-67 in the House and by 47-6 in the Senate.

4. Public discontent with President Bush's mishandling of the S&L bailout is growing. The mid-February Harris Poll which gave President Bush a 70 percent approval rating also found that 60 percent of Americans disapproved of his plan to bailout the S&Ls.

HEY, GEORGE, HOW MUCH WILL IT COST?

Every time you look the oher way, it seems like the Bush Administration is revising its projections on how much Bush's S&L bailout will cost U.S. taxpayers.

In August, 1989, Bush declared that it would cost taxpayers $166 billion to make sure "these problems will never happen again." (Weekly Compilation of Presidential Documents, 8/89)

In March, 1990, the Bush bailout squad quietly requested an additional $100 billion in "working capital" from the U.S. Treasury to finance new S&L bailouts in 1990 (WSJ, 3/6/90).

In May, 1990, the Bush Administration admitted the bailout will cost over $300 billion in the years ahead—double the amount predicted by Bush just 7 months ago (WP, 5/24/90). That same month, the General Accounting Office estimates that the bailout will cost a little bit more—between $325 and $500 billion.

On June 14, 1990, Administration officials warned that this latest estimate was a perishable as sour cream on a hot summer day. Treasury Secretary Nicholas Brady explained that the Administration would need. (NYT, 6/15/90)

Federal Reserve Chairman Greenspan put it another way: "the size of this hole is astronomical." (NYT, 6/15/90)

Bush's S&L black hole: just how much will it cost?

YOU TOO CAN OWN AN S&L

Desperate for working cash to bailout additional S&L's, the RTC is selling off control of S&L deposits at firesale prices—to corporate raiders like Ronald Perelman.

On March 15, 1990, the Resolution Trust Corporation (RTC) actually gave North Carolina National Bank $700,000 to take Bankers S&L of Galveston and its $104 million in deposits off the agency's hands (RTC Releases).

Three other S&L's—with $154 million in deposits—have been sold for the price of a new Buick Le Sabre automobile (RTC releases).

S&L buyers are being allowed to pick over the assets of acquired thrifts for months—creamskimming the best assets and returning unwanted, worthless properties to the U.S. taxpayer.

Asset buyers are paying the U.S. taxpayer an average of 60 cents on the dollar for the properties they do want (Southern Finance Project).

And who are getting these "bargain basement" deals? People like corporate raider Ronald Perelman, who was recently awarded the $2 billion San Antonio Savings Association for just $10 million (RTC).

ISN'T THIS TAKING KINDER AND GENTLER A BIT TOO FAR?

U.S. taxpayers may be a bit surprised to find out that President Bush isn't just paying off insured deposit holders—under the Bush bailout, everybody in line is getting paid off.

Unless something is done, the Bush Administration is planning to pay off millions—perhaps billions—in uninsured S&L deposits and liabilities (RTC, Southern Finance Project).

So far, the RTC has already paid out $50 million to investors whose accounts were above the $100,000 insured limit (RTC).

And because the Reagan and Bush Administrations dragged their feet on closing down failing S&L's, U.S. taxpayers may be forced to pay off some $26 billion in mortgage-backed bonds issued by S&L's during the late 1980s (Business Week, 4/23/90).

Most of these bonds were issued by high-flying S&L's who had no business being in business—but investors flocked to buy these high-interest bonds because they knew that the federal taxpayer would ultimately foot the bill.

The added cost of President Bush's "generosity" to uninsured investors will be enormous—driving up the cost of the bailout by as much as 33 percent.

ONE OUT OF 21,000 IS NOT A GOOD BATTING AVERAGE

The Don Dixon indictment last week was a long overdue first step in bringing S&L thieves to justice.

Unfortunately, the Justice Department is still dragging its feet on more than 21,000 S&L fraud and embezzlement cases (Washington Post, 3/27/90).

Maybe this isn't surprising given that George Bush decided to spend only $50 million of the $75 million appropriated by Congress for the S&L crimes. Mr. President, what's the holdup?

One out of 21,000 is not an unacceptable batting average when it comes to recovering stolen taxpayer funds.

DON'T LET HISTORY REPEAT ITSELF: CLOSE 'EM DOWN NOW

Ignoring the lessons of the 1980s, the Bush Administration is allowing hundreds of failed S&L's to remain open—compounding the costs of the S&L bailout by billions of dollars.

700 More Failing S&Ls: Are They Being Ignored?

In May 23 testimony to Congress, Treasury Secretary Nicholas Brady understated the true size of the S&L problem, saying that at most 1,000 thrifts will have to close down.

By contrast, the non-partisan Congressional Budget Office predicts that as many as 700 additional thrifts will need to be shut down—at an additional cost to taxpayers of up to $100 billion (NYT, 6/14/90).

The Costs of Ostrich Mentality

Losses at insolvent thrifts ignored by the Bush Administration will sour because thrift owners, having nothing to lose, often gamble taxpayer funds on risky new investments to try and recoup their losses. These thrifts stay open by paying interest on deposits not from any profits on investments, but from new deposits lured in by excessively high interest rates. And who guarantees their new deposits? Why taxpayers, of course.

Mr. President what are you waiting for? Take your head out of the sand and learn the lessons of the past. Stop the S&L bleeding today.

U.S. ATTORNEYS, GREAT HALL DEPARTMENT OF JUSTICE, JUNE 22

Well, true villains are drawn from life, not from primary colors. And where financial fraud is concerned, it takes a discerning mind and a determined spirit to distinguish the incompetent from the fraudulent, the unlucky from the unlawful. This Nation is very fortunate to be able to look to you—the U.S. attorneys of America—to make these tough calls. We depend on you, as you work with the FBI and other investigative and regulatory agencies, to sift through piles upon piles of documents, and understand that in the cold numbers of a ledger can be found the tragedy of an embezzled pension, the heartache of stolen savings.

White-collar crime is not as dramatic as violent crime. But white-collar crime still ruins lives. It murders the fondest dreams of whole families. It takes a snake, a cold-blooded snake, to betray the trust and innocence of hard-working people. And so if we have to look under rocks to find white-collar criminals, then we will leave no stone unturned.

This administration, from our first days in office, has worked with Congress to crack down on white-collar criminals. To crack down on fat cat financiers who launder the smell of blood out of drug money, and white-collar crooks who cheat the elderly out of their life's hard work. To bring to justice government contractors who steal by the numbers.

You already know of the 37 convictions from the ill-wind probe of Federal defense contractors. You already know of the 127 people rounded up in Operation Polar Cap's crackdown on drug financiers. (And let me say, I wanted you here today to also thank you—because there are signs that we are starting, at long last, to make progress in the war on drugs.) You already know that among cases involving abuse of HUD contracts, the Department of Justice has already obtained 65 convictions this fiscal year, including 21 convictions in Oklahoma alone, while courts have ordered almost two and one-half million dollars in restitution in that State—more than half of which will come from an executive who has a five-year reservation in prison. In all, the government has won 10,000 financial fraud convictions since 1985. And just last year alone, the Department of Justice aggressively won almost 800 convictions in major financial institution fraud cases—cases involving more than $100,000 each.

But the most critical financial fraud problem we faced was the savings and loan crisis. Working closely with Congress, we succeeded in obtaining many critical regulatory reforms. But a great deal of wrong-doing had already occurred. And so, in the third week of my administration, I directed attorney-general Thornburgh to give cases of S&L fraud the highest priority. And he did. When it comes to civil action, we have sought restitution to protect taxpayers through tens of thousands of civil suits leveled against S&L executives, owners and borrowers. And when it comes to criminal action, we aim for a simple, uncompromising position—throw the crooks in jail.

This aggressive attitude is paying off. In three years, we've won more than 150 S&L convictions—$100 million ordered.

In restitution—more than four hundred years in prison terms meted out. And, I know this—because of you and your firm support, there will be more, much more.

Consider all that is happening: an S&L chairman gets 30 years in a celebrated Dallas. An S&L CEO in Santa Rosa is sentenced to prison, and the courts order almost $7 million in fines and restitution. In Illinois, top officers of an S&L go to prison, and are ordered to repay $17 million. These cheats have cost us billions. They will pay us back with their dollars, and they will pay us back with years of their lives.

These prosecutions are the result of a determined effort—an effort which we are boosting with 202 FBI agents, 100 more FBI accounting technicians and 188 more United States attorneys. The Dallas task force has been particularly successful, obtaining 52 convictions; so successful, in fact, that Attorney-General Thornburgh is expanding the task force concept to 27 cities. We could have been moving even faster but Congress did not act on my request for $36.8 million in additional investigative and prosecutorial resources for 1989. Further, approval of my request for $50 million for the current fiscal year was delayed.

Under Secretary Brady's leadership, the IRS is aggressively pursuing individuals suspected of tax fraud in connection with failed savings and loan institutions; while the resolution trust corporation is adding about 300 members to its investigative staff this year, to become part of a new national investigative network. The FDIC is pursuing more than 1,200 cases of fraud and negligence against thrift officials, attorneys and accountants, and has collected more than $120 million in damages this year. Treasury's Office of Thrift Supervision has also required 664 institutions to agree to terminate unsafe and unsound practices, removed more than 150 senior thrift officers and directors, and issued 111 cease and desist orders to stop unsafe and unsound practices.

Throughout it all, our men and women in the Federal agencies are doing a great job, from the halls of Justice and Treasury, to the passport clerk who recovered $3 million in cash, jewelry and gold by keeping a former savings and loan owner from skipping the country.

We are learning a lot from our successes, including how much more there is to do. So I am here, today, to back new legislature and administrative action—further ways we can crack down on white-collar crime.

First, let me declare my support for a proposed amendment to the omnibus crime bill to enhance and enforce the civil and criminal penalties for fraud against financial institutions. This legislation, sponsored by Republican leaders BOB DOLE and BOB MICHEL, and Senators HEINZ and GARN, as well as Congressman HILER and WYLIE, will strengthen our investigative and prosecutorial tools in the service of justice. And it will provide added protection to the victims of crime.

We want to allow the use of court-approved wiretaps in investigating bank fraud. We also want Congress to authorize Federal regulatory agencies to ask the courts to freeze the corporate and personal assets of defendants in civil cases involving financial institution fraud—so that they will not leave the taxpayers high and dry. And we want to prevent rip-off artists from using

bankruptcy as a strategy to avoid paying damages.

These are some of the legislative steps we can and must take. But we must also build on our recent successes by taking further administrative action. The attorney-general will establish, within the Department of Justice, a new unit to direct and sharpen the Department's actions even further, while helping to coordinate actions with other agencies.

Where new problems emerge in S&L's, we will need to get involved fast. That's why Attorney-General Thornburg and Secretary Brady have created a new approach—rapid response teams against fraud—teams of razor-sharp prosecutors and auditors recruited from their departments and other agencies—striking city by city—teams that will jump right into the paper chase, teams that will hit the trail while the trail's still hot.

These teams will be deployed to help you—the U.S. attorneys. And I am confident they will work well with you. I have already seen the men and women of these two departments working together, sharing a tenacious spirit, born of a thirst for justice. Of course, we always quantify the importance of our work together in terms of billions of dollars lost. But, perhaps it is more appropriate to remember why this mission is so important to so many people—a thought that will sustain you in the months to come, as you sip cold coffee long after everyone else has gone home. You will be working late because you will not let those people be foregotten—savers whose hard work and honest trust must be protected; elderly people whose faith in the future must be preserved.

It is your duty, your sacred duty, to right these wrongs, to stand up for the vulnerable against the unscrupulous, the guileless against the conniving. We will not rest until the cheats, the chiselers and the charlatans spend a large chunk of their lives behind the bars of a Federal prison.

You do a difficult job in a spirit of professionalism. I can only thank you, on behalf of all Americans, for your dedication—your dedication to justice.

Thank you for coming to Washington. May God bless each and every one of you, and may God bless America.

Mr. DOLE. Mr. President, earlier today, President Bush publicly endorsed an amendment that Senators HEINZ, GARN, and myself intend to offer to the crime bill.

This amendment will significantly beef-up the Government's enforcement powers to combat thrift fraud.

The amendment will incorporate the provisions of the Taxpayer Recovery Act, which I introduced last year with Senator KASSEBAUM.

These provisions will make criminal restitution orders issued against those who have defrauded financial institutions nondischargeable in bankruptcy. In this Senator's view, someone who has flouted the law for so many years should not be allowed to take advantage of the protective shield of the bankruptcy code.

The Heinz-Dole-Garn amendment also gives the FDIC priority over other creditors and shareholders in court proceedings against the directors and officers of insured financial institutions. It directs the Federal courts to give thrift fraud cases expedited treatment. And it grants to the OTS, the RTC, and the FDIC the authority to freeze the assets of a financial institution if there is a substantial likelihood that these assets will be unjustly dissipated.

These ideas are the brainchild of Senator HEINZ, and he should be commended for them.

The Heinz-Dole-Garn amendment grants subpoena authority to the FDIC and the RTC when acting as conservator and receiver. It grants authority to the Federal banking agencies to to engage in joint enforcement activities with their foreign counterparts. And it establishes a specific criminal offense to conceal assets.

So these are all, I think, steps in the right direction, a way to "clean up the mess." I am certain there will be good ideas coming from the other side of the aisle.

We have heard a lot about enforcement personnel. We have heard a lot about what we should be doing. Maybe we can do it together. Maybe we can find bipartisan support. Maybe we can stop attacking those who had no responsibility for the problem in the first place.

So I suggest as we move into this very troublesome problem, and it is going to be a troublesome problem, that we make certain that we know precisely what the facts are. The record is there. You cannot erase the record. Maybe there is a feeling that the American taxpayer and the American voter have a short memory and they are not going to look back and see what Congress did in 1985, 1986, 1987, 1988, 1989. They are going to blame whoever might occupy the White House, or whoever might be in the Congress.

So I believe it is in our interest that we make the record clear, that the American people understand—whether Republicans or Democrats or Independents, that they understand the record. Then let them make a judgment.

Mr. President, there is going to be focus on a lot of different problems, a lot of different S&L's, a lot of different practices by some of the people involved in S&L's. I think one of the most interesting in Centrust, Mr. David Paul. I do not know Mr. David Paul. I understand he contributed to my Presidential campaign. I thank him now for that. But many Members know him quite well. They had meetings with him. They were on his boat, in his airplane. He raised a lot of money for the Democratic party, a lot of money, big money. He was right there at the Democratic Convention and had a great time. And so as the facts start to unfold, and they will unfold in this and other cases. Again, I think it is incumbent upon us to act responsibly. It is easy to stand up in a press conference and say, well, it is President Bush's fault or it is somebody else's, the regulators' fault. It is not the fault of Congress; we did not have anything to do with it. We are only the Congress of the United States.

So as we review the David Paul overview and the articles and excerpts from major newspapers, when we look at his political contact summary and we look at the supervisory history of the Centrust Bank and we look at the summary sheet of Paul and Centrust political contributions, and we look at his authorized luxury expenses, which were enough to boggle the minds of anybody in my State—corporate jets, the *Grand Cru* yacht, and many other things that I am certain we would be happy to discuss at any time—let us keep in mind that the record is not yet complete.

What we should be doing instead of pointing fingers is trying to find some way out of this morass without costing the taxpayers billions and billions of dollars more than it should. One thing we need to do is to revisit the bill we passed last year and make some determinations whether we might take out some of the conflicts in the law that we passed. Some of the amendments that were put in by Congress are the very things holding up progress in disposing of assets.

Mr. President, I thank my colleagues, and I hope that as we take a look at what Mr. HOYER was kind enough to pass out to all the Democractic House Members, when he is talking about America's working families and about home mortgages and then he is blasting President Bush, everything is President Bush's fault—if you do not believe it, I have this nice little fact sheet you can take with you to all your rallys and maybe you can convince them that President Bush, and not the snooze-and-lose Congress, is to blame.

So we will have more of these fact sheets and more of these discussions. Hopefully, our colleagues will be more objective the next time. But again I commend the record to my colleagues. The facts are there. We cannot erase what happened in the Congress or what did not happen in the Congress, and what did happen is precisely what the Washington Post said. The House action was a menace.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Colorado.

Mr. WIRTH. I thank the Chair.

THE S&L CRISIS

Mr. WIRTH. Mr. President, it is very clear to those of us who have been attempting to raise the issue why more

of the people with ill-gotten gains, who have defrauded the American public, are not going to jail. Those of us who have been raising that issue for the last few months have finally received the attention of the Justice Department and the White House. I think that is a good thing. I hope now we can go forward as suggested by the distinguished Republican leader in providing the resources to the Justice Department and making sure people in fact are going to jail who ought to be in jail.

Since the Bush administration came into town in early 1989, we have all been working on the enforcement effort, Mr. President. The Bush administration proposed the FIRREA legislation and the FIRREA legislation passed the Banking Committee and passed the Congress—a very complicated, very comprehensive piece of legislation, steps in the right direction, passed in record time.

In the FIRREA legislation, Mr. President, was a package designed to do two things: There was one group designed to look back at a lot of the deals that were cut in 1988. There were a whole lot of very, very major commitments made to S&L's, to bail them out, deals that were made right at the end of the Reagan administration, and there have been a number of allegations that there was some real hanky-panky going on in some of these deals and in the legislation we provided resources to look at that issue.

We also provided resources, Mr. President, $75 million authorization to the Justice Department, to the administration, to go out and enforce the law and throw people into jail. We said these are very complicated cases. We said to the administration, you are going to need more resources; you are going to need more assistant U.S. attorneys, more accountants, more FBI agents. We expect you will come back and tell us what you need. You have the authority to go ahead and hire these individuals. We assumed, Mr. President, that the administration would come in with that set of requests.

That legislation passed the Congress in Auguest 1989. Then through the fall we expected that the administration would put together their request and come to the Congress and ask for the resources necessary to do the job.

It became increasingly clear that they were not asking for the resources necessary to do the job. The Attorney General provided us one plan in December 1989—and I will come back to that—and I want to put that in the RECORD. But then after those requests came in, it became clear that a lot was not happening. We began to get tales about so many cases down at the FBI that were unanswered.

We have talked about those on the floor. There are thousands and thousands of referrals to the FBI unanswered, thousands of referrals to the Justice Department unanswered, thousands of specifics, up to hundreds of thousands of dollars unanswered. We began to get a litany of all of these and to look in greater detail at what they were.

At that point I said why not go back and make sure that the administration is, in fact, spending the money we told them to spend, so that they have the resources and are hiring the people. We found a transcript over on the House side of one of the assistant attorneys general who said, "We can't spend the money. We don't know how to spend the money."

We thought this seems bizarre when we have the situation of these thousands of cases down at the FBI and thousands of cases at the Justice Department and the administration is saying they cannot spend the money. That does not make a lot of sense.

So at that point, Mr. President, I offered an amendment to the emergency supplemental appropriations bill, and this is where the spotlight began to shine on this whole issue and we began to get the attention of the Justice Department and the administration. That amendment was a very simple idea, Mr. President. The emergency supplemental authorized some $30 million to promote tourism in Panama.

Now, we may be for the promotion of tourism in Panama, but I looked at that list and I said to myself that looks like a boondoggle to me. We only spend $14 million in the United States overall promoting tourism. To spend $30 million to promote tourism in Panama is an invitation to fraud. This cannot be the case.

So I said, OK, why not transfer that $30 million to promote tourism in Panama to the administration to fully fund implementation of the law. It seemed reasonable. I could not imagine very many Americans who would rather promote tourism in Panama than put people into jail. Let us put these people into jail and give the administration all of the assistance it should have.

A point of order was raised by the minority on this issue, that we could not do this, we should not do it, and despite the fact we had a majority in the Senate, that point of order required 60 votes and we continued to fund tourism in Panama and continued to be delinquent in terms of funding and hiring the FBI agents and assistant U.S. attorneys necessary to do the job.

But the amendment was out there, and it received a great deal of discussion, and out of that Senator DIXON gave his very famous speech second only to the cross of gold speech in world rhetoric, the small potatoes speech. Senator DIXON gave that speech and the issue was joined.

At that point, Mr. President, we began to get all kinds of material in over the transom. That material said, in fact, the FBI had asked for 224 more FBI agents than the administration had requested from the Congress. The FBI went to the Justice Department and said we need 224 more FBI agents. The Justice Department asked the Office of Management and Budget for 113 more assistant U.S. attorneys and 142 more support staff positions. All these requests were coming in and we began to hear from the FBI and others saying we desperately need these resources. So the agencies needing to do the job down at the working level said we have to do the job, and the political level over here in the Justice Department and OMB was saying we cannot spend the money, we are not going to give you the money.

So there was a great deal of differences between the rhetoric of the administration and the reality of the need, and that became clearer and clearer and clearer.

After the so-called Panama amendment and the Dixon small potatoes speech, it really erupted. There were many pieces of legislation offered on the House floor, many pieces of legislation offered over here and the issue became public.

We have been accused that this is something new, that we are attaching some kind of a new process and a new program. Nothing could be further from the truth. This dates way back to 1989 when we were working with the administration to attempt to put together the enforcement package that was necessary. Somehow they lost the sense of urgency and they stopped doing the job. It is our job to raise this issue and to continue to raise this issue and maybe move them back up to a sense of urgency about this problem that our constituents feel.

I can tell you, Mr. President, there are hundreds of thousands, millions of Americans who are deeply concerned about his, deeply concerned about the fact that they have lost an enormous amount of money and deeply concerned about the fact that there are still a lot of people out there floating around on their yachts, living in their fashionable flats in the West Bank of Paris, flying around in their private aircraft, driving around in fancy limousines at the taxpayer's expense. It is my belief and that of many, many others that those individuals ought to be thrown into jail; and that we ought to get all of the resources to go after them, and we should get our Justice Department to do exactly that. That is what this battle is all about.

There is no partisan politics in this. This effort has been a joint effort

coming out of the Banking Committee and elsewhere for a long period of time. The difference is not a partisan issue. The difference is one of us in the Congress saying to the administration "You all have an obligation and you had better discharge it," saying to the administration, "You should be serious about the job you are elected to do as well. Do not sit back on this most important issue," saying to the administration, "There is a sense of urgency out across the country and you had better reflect that sense of urgency. That is what you were reelected to do."

That is what we have been attempting to do and the temperature on this issue has gone up. Thank goodness it has gone up. Thank goodness the Justice Department, OMB, and the White House now understand that they had better get on the job, and start doing the job they were elected to do.

The President recognizes this and called into Washington today some 95 U.S. attorneys from around the country. They had a conference today. The U.S. attorneys, and the President, had a media event. He spoke to them, and through that media event said to the American people we are now going to get on the stick, we are now going to get going, and the President announced a program.

The President announced a program. In the Bush press conference he said, "These prosecutions"—talking about prosecutions that have been done—"are the result of a determined effort, an effort" in which we are boosting—and now listen carefully, Mr. President, because this is what the President of the United States told the American public—"an effort * * * boosting to 202 FBI agents, 10 more FBI accounting technicians, and 118 more U.S. attorneys. The * * * task force," he went on to say, "is particularly successful, obtaining 552 convictions * * * so successful, in fact, Attorney General Thornburgh is expanding the task force concept to 27 cities."

So the President said at his press conference today, the President of the United States told us they are going to boost their efforts with 202 FBI agents, 100 more FBI accounting technicians, 118 more U.S. attorneys, and do that in 27 cities.

I heard that and I said to myself, that sounds very familiar. I have heard that before. So we went back and went through the history of this issue. I found the release that I referred to earlier from the Justice Department and Mr. Thornburgh in December 1989. "Thornburgh Announces 27-City Attack on S&L Fraud." Strangely the same as to what the President said today, 27 cities—parallel—he said 27 cities today, Thornburgh 6 months ago said they were going to do 27 cities.

So I look back through the press releases. I found on page 4 of the press release that Mr. Thornburgh said in December 1989 they were going to hire a total of 202 FBI agents. Those are the same numbers the President suggested today in his press conference. Six months ago Mr. Thornburgh said what we are going to do is get 100 FBI accounting technicians. Why, the President said today 100 more FBI accounting technicians, 6 months later.

Mr. Thornburgh said what we are going to do is have 148 field office people. The President said 118 more U.S. attorneys. The only difference was down from what Thornburgh said.

What is this?

Mr. President, I suggest to you what was just said to the American people this morning by the President of the United States in a press conference in which he said they are going to boost it to this level is exactly, exactly the same proposal that Mr. Thornburgh suggested in December 1989.

One of two things is true in this. Either Mr. Thornburgh, who said he was going to do this in December 1989, did not do it, in which point we are absolutely accurate in pointing out that these people have been delinquent in carrying out the job they were elected to do, either Mr. Thornburgh did not do what he said in his press conference they were going to do, or, Mr. President, this is a press flimflam job that was perpetrated on the American public in a press release today.

Why in the world would there be such a parallel between what the President told the country today, exactly the same number of people, exactly the same number of agents, exactly the same number of accountants, exactly the same number of cities, pretending that is some new initiative that the administration is taking on?

I think it is time, Mr. President, that we get honest about this and be honest with the American public. This is not a partisan issue. This is an issue, Mr. President, that demands honesty, and demands being straightforward about what the facts of the situation are.

Let me add one final note, if I might, to this.

There was also reference this morning coming out of the White House that the Congress had been delinquent in providing $36.8 million to the administration, $36.8 million to the administration. They tried that once before. They tried that on June 9, 1989. "Justice complains that Congress quietly rejected $36.8 million that Bush Requested."

They tried this in June 1989. They tried the same, Congress is to blame, and delinquent in providing the $36 million. The response to that came in a letter from the chairman of the Banking Committee, Senator RIEGLE, and the distinguished Senator from Missouri, Mr. BOND, not a Democrat.

Mr. BOND is a Republican who quietly and calmly wrote back in a bipartisan way to the President of the United States saying to the Attorney General:

> DEAR MR. ATTORNEY GENERAL: We are concerned that we were never contacted about this matter. When you testified before the Senate Banking Committee on February 9, 1989, you were specifically asked whether you needed more than the $50 million requested. Your answer was that "If it appears to be a shortfall of our needs in any dramatic way, we will not hesitate to raise that as well.

The administration never requested the funds. That point was made in a letter from Mr. BOND, a Republican Senator, Senator RIEGLE, a Democratic Senator, back to the Attorney General when they tried in 1989 to do the $36.8 million accusation. It was inaccurate then, Mr. President. It was inaccurate when perpetrated on the Congress and on the American people today.

This is not an issue of partisan politics, Mr. President. This is an issue of honesty. On the issue of these task forces and the number of people, we must have the White House tell us either the Attorney General did not do the job that he said he was going to do last fall, and the President had to repeat his proposal today, or the proposal made today was not an accurate proposal, and was not an honest proposal.

We want to ask the administration, where is the evidence, other than what they tried to do a year and a half ago on the $36.8 million; evidence, Mr. President, that was requested at that time by the distinguished Senator from Missouri, Senator BOND, and the chairman of the Banking Committee.

I will close with this. I am led to believe that what we had was a photo opportunity downtown this morning with 93 U.S. attorneys. I thought to myself, Mr. President, we have had a photo opportunity. Senator KERRY pointed out earlier, they could have used the FAX machine to send all of this information out to all those 93 U.S. attorneys who were flown in—I am sure, at taxpayers' expense—for the White House's photo opportunity.

I say to myself, how much do you suppose it costs to bring 93 U.S. attorneys from around the country and fly them in here? They have to spend the night somewhere, they have to eat somewhere, and take transportation in and back from the airport, and they have to get back out to the airport, and fly back to their homes.

Do you suppose that is $1,000 apiece? It is probably reasonable to assume that it costs at least $1,000 apiece to bring 93 U.S. attorneys to town for a photo opportunity.

Maybe it is not $1,000 apiece, Mr. President; maybe it is only a little more than $500 apiece. Let us assume

that the cost to the taxpayers was $57,000; assume it was less than $1,000 a head to bring these U.S. attorneys in here for a photo opportunity.

Why do I pick $57,000? I will tell you why. Because late last year, several savings and loans in Texas were put together and taken to a central repository, and the assets of those savings and loans were sold off. The assets of those savings and loans estimated, as Senator PRYOR pointed out in reports from the General Accounting Office, at $3.3 million came out to a net sale, a net return to the taxpayer, of $57,000, a deal that was made late last fall, and netted the taxpayer $57,000—enough, I argue, Mr. President, to pay for the photo opportunity that was perpetrated on the American public today.

This is not an issue of partisan politics, Mr. President. This is an issue of honesty in Government. This is an issue of being straightforward about who is working on this issue. This is an issue about providing the resources and being straightforward about it.

If the administration has a problem, come up here and say they have a problem. If the administration wants more resources, come up here and say they want more resources. Let us not try to sweep it under the rug, try to fool the American people, try to cover it over with a photo opportunity downtown today.

Let us all join together and go after this, and find out who is responsible, find out where the people have cheated, where the people have stolen, and get that money back to the taxpayers. And I hope, Mr. President, it is more than $57,000. Get that money back to the taxpayers where it belongs, and make sure that the people who have those ill-gotten gains not only disgorge those ill-gotten gains, but find themselves going to jail. That is what this issue is all about.

A final note, Mr. President: A suggestion was made a little bit earlier that all of us have received our talking points from the Democratic caucus. I ask unanimous consent, to have printed in the RECORD the press release put out by the Justice Department on December 7, 1989.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THORNBURGH ANNOUNCES 27-CITY ATTACK ON S&L FRAUD

WASHINGTON, D.C.—Attorney General Dick Thornburgh today announced plans for "a 27-city attack on savings and loan fraud" through the deployment of more than 400 additonal federal prosecutors, FBI investigtors, and accounting personnel.

"Wrongdoing in the savings and loan industry may turn out to be the biggest white-collar swindle in the history of our nation." Thornburgh said, "It poses an enormous and unprecedented challenge to the Department of Justice. But because of Presdient Bush's leadership in winning passage of his savings and loan bill and the financial support provided by Congress we are now ready to implement a plan to crack down on those responsible.

"Our goal is to bring to justice all those who have sought to capitalize on the American dream of home ownership by cheating our citizens out of their savings and destroying the financial solvency of institutions designed to serve them. This uniquely sinister exercise in fraud and dishonesty may force the taxpayers to pick up a bill of more than $50 billion in defaults," Thornburgh stated. "Without a vigorous prosecutive effort, the serious problem of fraud and insider abuse might only worsen and could recur again."

FBI Director William S. Sessions said, "These FBI investigative resources, in addition to the 59 agents recently added to bank fraud cases nationwide, will be allocated to target cities where alleged criminal violations in the banking and savings and loan industries are most acute.

"Complex bank and thrift fraud investigations are often tedious and long. Investigations involve owners, board members, and high-ranking bank officials and often take place against a backdrop of seemingly legitimate business transactions," Sessions added.

The Attorney General also cautioned that savings and loan fraud cases like other white-collar "crime in the suites," require time-consuming "paper-chases" which usually entail many months of exhaustive investigations. "White-collar criminals steal without being seen," he stated.

"There are already over 8,000 pending bank fraud cases now. Prosecutions of those who are accused of violating the law will come—perhaps not as quickly as we would like—but they will come."

Congress recently funded the President's savings and loan bill which allocates to the Department of Justice $48.5 million to help clean up the industry.

"Our current efforts at savings and loans prosecutions have primarily been focused through the Dallas Bank Fraud Task Force which will act as a national model," Thornburgh pointed out.

"The Dallas Task Force thus far has brought criminal charges against 57 defendants, with 46 convictions so far, only two acquittals and over $10 million ordered in restitutions. Convictions have included bank chairmen, presidents and vice-presidents.

"As a result of the additional funding, I am directing that the resources assigned to the Dallas office be doubled and that additional resources be directed at conducting a truly comprehensive nation wide investigation," The Attorney General said.

Marvin Collins, U.S. Attorney in Dallas praised the President, Congress and the Attorney General for the new prosecutors and FBI agents, "the cavalry has arrived and we are ectastic. The Dallas Task Force has proven its worth. The doubling of the Task Force will enable us to make even more serious inroads of bank fraud referral."

Thornburgh's plan targets 26 other cities for Department Task Force investigations with substantial resources going to priority areas of Dallas, Houston, Kansas City, Los Angeles, New Orleans, New York, and San Antonio.

Thornburgh pointed out that plans for assigning additional federal investigators and prosecutors resulted from almost a year of planning and consultations with U.S. Attorneys and FBI management personnel. A total of 202 FBI agents and 148 prosecutors will be involved in the nationwide effort.

Recruiting of additional attorneys and agents has also been ongoing. He added that he expected the new Assistant U.S. Attorneys to be "on the job and on the trail" early in the new year. Thirty attorneys will also be added to the Tax and Criminal Divisions in Washington, D.C. to assist in the investigations. Six Assistant U.S. Attorneys will be kept in reserve for field assistance. Over 59 FBI agents have already been assigned to cities with a high concentration of savings and loan fraud case. In addition, 100 FBI accounting technicians will be assigned to FBI field offices and 20 accountants will be assigned to U.S. Attorneys.

Attached are targeted areas with their allocated resources for savings and loans investigations:

ALLOCATION OF FBI SPECIAL AGENTS AND ASSISTANT U.S. ATTORNEYS

FBI divisions	Special agents	FBI AT [1]	Assistant U.S. attorneys	
			Area	Number
Anchorage	2	1	Alaska	1
Atlanta	3	1	ND Georgia	2
			MD Georgia	1
Boston	3	1	Maine	2
			New Hampshire	1
Chicago	4	2	ND Illinois	3
Cleveland	2	1	ND Ohio	1
Dallas	37	17	ND Texas	12
			ED Texas	3
Denver	8	4	Colorado	3
			Wyoming	1
El Paso	1		WD Texas	1
Houston	27	14	SD Texas	15
Kansas	10	5	Kansas	3
			WD Missouri	3
Little Rock	4	2	ED Arkansas	2
Los Angeles	27	14	CD California	15
Memphis	1	1	WD Tennessee	1
Miami	4	3	SD Florida	2
Minneapolis	5	2	Minneapolis	2
			North Dakota	1
Newark	3	3	New Jersey	1
New Orleans	12	5	ED Louisiana	3
			MD Louisiana	2
			WD Louisiana	2
New York	10	4	SD New York	3
			ED New York	3
Oklahoma City	10	4	WD Oklahoma	5
Omaha	4	2	Nebraska	1
			ND Indiana	1
Philadelphia	1	1	ED Pennsylvania	1
Phoenix	6	3	Arizona	3
Sacramento	1	1	ED California	1
San Antonio	8	4	WD Texas	5
San Francisco	4	3	ND California	3
Seattle	3	1	WD Washington	3
Tampa	1	1	MD Florida	1
Financial Crimes Unit, White Collar Crime Section, FBI HQ.	1			
Subtotal	143	100		112 [2] 24
Division (already assigned)	59			[3] 6 [4] 6
Total	202			[5] 148

[1] FBI accounting technicians.
[2] Criminal.
[3] Tax division.
[4] Reserve.
[5] 20 auditors will be assigned to U.S. attorneys.

Mr. DOLE. I only gave four little points there, really, pages of talking points that went out with this letter from Mr. HOYER, on the House Democratic side.

I want to make certain it was not just these four isolated talking points. There are others—one titled, "Hey, George, How Much Will It Cost," another titled, "You, Too, Can Own an S&L," and another titled, "Isn't This Taking Kinder and Gentler a Bit Too Far?" None of this is partisan, as the Senator from Colorado pointed out. Here are some titles: "One Out of

21,000 is not a Good Batting Average." "Do Not Let History Repeat Itself."

So there are pages and pages of talking points. This material has been printed in the RECORD in addition to the four points I specifically referred to.

Mr. President, I just say for the record that our indications are that the Attorney General made the request for $36 million. If he did not make the request, somebody is in error. Maybe the Senator from Colorado is correct, but our records reflect that there was a request for $36 million. It was denied by Congress.

Maybe they should have flown all these attorneys in on the jet that many Members have flown in on, Mr. Pauls'. Maybe he could have picked them all up and saved the $57,000. Maybe the attorneys could have ridden on the Paul yacht. Maybe they could have had a series of meetings with Mr. Paul and the others.

So we can all take cheap shots about the photo opportunities. The President is sincere in what he is doing. And I think he is doing a good job.

I have placed in the RECORD the number of cases that have been pursued, the number of convictions that we have, and the number of institutions that have agreed to terminate unsafe and unsound practices, and what happened in the Dallas Thrift Fraud Task Force, and the convictions they have obtained. These statistics are all outlined in the President's speech.

Let's face it: Convictions do not just happen overnight. Let us take the Senate Ethics Committee, and maybe the Democrats can speed up the process there. Some of our own colleagues on both sides of the aisle have been waiting months and months and months to have their cases disposed of.

We do not need to look beyond the Senate. We do not need to point the finger at President Bush or the Attorney General. These things take time. I am not, in any way, criticizing anybody on the Ethics Committee. Why should it take 8 months; why should it take 14 months; why should it take 15 months? Well, it does.

So when someone stands on the Senate floor and says, "Why do they not have all these people behind bars? It has been 6 months, or 7 months, or 8 months, and we ought to ask ourselves, why have we not disposed of the cases pending in the Senate? Why has it taken so long?"

I have been around long enough to smell politics. You can stand up and deny all day long that this is not political; and, frankly, this denial is not accurate. Saying this is a photo opportunity, and complaining about the $57,000, will not wash.

If we are going to demand action in 30 or 60 or 90 days, it ought to start right here. This is one place we can control. I feel for my colleagues, who wait month after month after month after month for their cases to be disposed of.

So I say, as I said when I completed my statement, I think there is going to be egg on everybody's faces before the S&L matter is over. Maybe some of the regulators, maybe former Presidents, maybe former Members of Congress, maybe sitting Members of Congress. But the point is that we have a problem.

And we need to address the problem. We need to tell the Attorney General when we give him money, whether it is $50 million or $75 million, whether it is for 100 more agents or 200 agents, or whatever. I have asked him the same question, why does it take so long?

Well, in America, people are entitled to have a trial. We have a Bill of Rights. We have been hearing about the Bill of Rights during the flag debate. People have rights in America. No matter what they have done, they have rights, and they can delay, and they can stall and do a lot of things in an effort to protect their rights.

If we are getting suggestions from the other side of the aisle that we ought to take away the rights of Americans regardless of how despicable their crimes may be, they ought to get up and say so, that they should not have the right to attorneys, or trials; they ought to go right to jail if they had anything to do with an S&L.

This will not be the last discussion of this matter. People are going to jail, money is being recovered, and the depositors have been protected. We can go back and comb the records and find out who testified and how Senators voted and how Members of Congress voted on every issue if that is how we are going to try to reconstruct what happened in the fall of the S&L industry.

I am not certain we can do much about yesterday, but we might be able to do something about tomorrow if we do not preoccupy ourself with trying to get a little political mileage, as was done today, as has been done by the Democratic caucus.

I do not consider the Attorney General's report to be talking points. I consider that to be a report. If somehow there is some disagreement with the Attorney General, you ought to call him up before the committee and ask him about his veracity or accuracy of what he said. I have found him to be a decent, honest person.

But it seems to this Senator that if we are going to have these continued attacks and finger pointing at President Bush, then we are going to do what we can on this side—not to defend the President; he does not need defending—we are going to do what we can to point out what happened in Congress all these years. We are going to reread that Washington Post editorial to recall every opportunity we have that tells how the House action was a disaster and that Reagan was on the right track—and, as I said, the Washington Post is not a Republican-leaning paper—in an effort to remind the people of America that it was the Congress, not President Bush, dragging its feet. It was Congress who dragged its feet and stalled and cut down the funds requested by the President, and now, Members of Congress stand back and say, oh, look what happened. Why didn't we do something? Why didn't we do it early? Why did we not spend a little more money? The answer is Congress would not spend any more money.

So we can all have a lot of fun, I guess. It is politics. It is a game to some.

When you bite the dog, when you attack the President, that might get you on the nightly news somewhere. But President Bush, in my view, has acted properly in this matter. And you are going to be seeing more convictions and more incarcerations and more money recovered.

I know I am as frustrated as the Senator from Colorado or anyone else; we would like to have it done yesterday. We do not want to wait a week or 2 weeks or 3 weeks.

I think, as I said, the best indication that things do move slowly is take a look at the Ethics Committee on the House or the Senate side. They have a tremendous responsibility. They have to protect the rights of our colleagues, and they also have to do a very difficult job. So it takes some time. That is the point I would make. I see the Senator from Arkansas. He is a member of that committee and knows how tough it is.

But, above all, we want to preserve the rights; at the same time we are trying to determine the guilt of all those who have been, or will be, or should be, charged because they ripped off the taxpayers in the S&L mess. So I hope we are prepared on both sides of the aisle to take a nonpartisan look with the administration. If that is the case, then I think we can have success.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Thank you Mr. President.

Mr. President, I am pleased that our colleagues from the Republican side are joining us in asking the administration to increase their efforts. I can only assume, if they were fully satisfied with what the White House was doing, they would not be making all the proposals outlined in some detail by the distinguished Senator from Pennsylvania this afternoon. I am glad to have them joining us, and I think this ought to be an effort that is, as it

was in 1989 until about 3 weeks ago, a nonpartisan effort. I hope, as well, that maybe in that spirit of cooperation the minority might help us to understand the differences, if there are any, between what the Attorney General told the country last December and what the President told the country this morning.

I hope, Mr. President, that I am mistaken in my understanding of the parallels between these two, and I hope that our Republican colleagues can help us out on that front as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

FAILED THRIFTS

Mr. PRYOR. Mr. President, I have come to the floor this afternoon basically to have printed in the RECORD and to ask unanimous consent that I be able to have printed in the RECORD the report referred to earlier by the distinguished Senator from Colorado prepared for me at my request by the General Accounting Office.

Mr. President, I ask unanimous consent that immediately following my brief remarks, this report, dated May 1990, be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRYOR. Mr. President, the reason I am having the report printed in the RECORD at this time, even though there were still followup investigations that my staff was involved in, I think if I put the GAO report in the RECORD today, it will actually save the taxpayers a lot of money. I have about 150 requests for this report, and I think to put it in the RECORD not only would save a lot of money, but it would be much more convenient for people to refer to it there. This, of course, is the situation in Texas where there were some $3.3 million in assets and where the taxpayers ultimately received around $57,000 in net proceeds.

Mr. President, also, upon arriving on the floor a moment ago I heard the remarks of the very distinguished Republican leader. I do not want to misquote him if he is not in the Chamber at this time. As I was walking in the door, he said there is going to be a lot of egg on a lot of faces around here.

Mr. President, I would first like to say there is egg already on my face. I stood on the floor of this Senate not only on one occasion, but on several occasions and said that I as a Member of the Senate for the last decade am partly responsible for this fiasco that is probably the greatest financial fiasco and certainly the greatest financial dilemma that has visited this country in the 200 years of our history. I have accepted blame, Mr. President. I am a part of those people who should be blamed. But I do not want to be the only one blamed. I do not want to be blamed, for example, Mr. President, for the President's chief spokesman, Mr. Fitzwater, for being one of those individuals in a political party who is to share the burden and the full responsibility for this blame.

I think, as some have said, there is certainly enough blame to go around. I just want the record to show that I myself have accepted a great deal of this blame. I think a lot of us will before this is over with. But to have the sort of, I guess you would say, implied threat that we are going to see a lot of egg on a lot of faces around here, I think is somewhat troublesome to me.

I think, though, Mr. President, that what the Senator from Colorado was talking about today, in his very eloquent statement about the President's opportunity this morning to visit with 93 U.S. attorneys general, was that they had flown to Washington, DC for a press opportunity to take a pretty picture and to try to tell the American people that something new was about to happen. I do not think that that is fair.

We are not very big around this body on plagiarism, but I do believe that plagiarism is what I would say that Mr. Bush is guilty of this morning, because all he was actually doing was plagiarizing Attorney General Thornburgh, who, in December 1989, made certain requests for new FBI agents, new accountants, new U.S. attorneys, et cetera. And Mr. Bush comes forward today, in a huge dog and pony show and repeats basically the same request.

I have not ever, in my years in public service, seen anything quite like this situation that I watched live on CNN this morning, and then going back and seeing what Senator WIRTH has pointed out to us, what we saw was actually proposed 6 months ago by the Attorney General of the United States.

Now, I do not know if Mr. Bush knew or was informed by his staff that the Attorney General, his own Attorney General, had made these exact same requests 6 months ago or not. I keep hearing the Attorney General is in trouble. I hope he is not. But someone ought to at least get his act together to know what the Attorney General asked in December, and what the President of the United States is asking in June, some 6 months later.

I am going to yield the floor, Mr. President, but I do not think it is fair for the chief spokesman of the President of the United States to convict the Democrats.

The Republican leader has just said there are going to be a lot more convictions before this is over with. But I do not think the Democratic party should be convicted and given all the responsibilities for this fiasco.

I do not think it is fair, Mr. President, to bring 93 U.S. attorneys from all over this country, from 50 States, for a photo opportunity, to take a pretty picture, and try to tell the American people that something is about to happen, when I am afraid it is not going to happen.

I do not think it is fair, Mr. President, to wait 6 months after the Attorney General has made this request and go through this machination this morning, with all the expense, and basically reiterate and restate what the Attorney General of the United States stated 6 months ago.

As I stated earlier today in a meeting with several reporters, our hand is out to the President, our hand is out to this administration to work with this administration to try to find some solutions to this great dilemma, and certainly we must move down that road. But today's activities, in my opinion, are no way to do it.

I yield the floor.

EXHIBIT 1

[U.S. General Accounting Office, May 1990]

FAILED THRIFTS—BETTER CONTROLS NEEDED OVER FURNITURE, FIXTURES, AND EQUIPMENT

(Report to the Chairman, Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, U.S. Senate)

GENERAL ACCOUNTING OFFICE,
Washington, DC, May 25, 1990.

Hon. DAVID PRYOR,
Chairman, Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: In June 1989, we reported to you on improprieties in the areas of contracting and property disposition at the Federal Savings and Loan Insurance Corporation's (FSLIC) FirstSouth Receivership in Little Rock, Arkansas.[1] Subsequently, you asked us to determine whether problems that we found at FirstSouth were commonplace and existed at other receiverships. Recognizing changes that were occurring in receivership operations, we agreed with the Subcommittee to assess FSLIC's disposition of furniture, fixtures, and equipment (FF&E) for thrift receiverships in the Southwest Plan[2] and additional receivership's FF&E taken by FSLIC to furnish its Central Region in Dallas, Texas.

Our primary objective was to determine whether FSLIC disposed of FF&E in the most efficient and effective manner. However, as requested we limited our work primarily to FSLIC's Central Region. Appendix I contains more detailed information concerning our objectives, scope, and methodology.

Since we reported on FirstSouth, FSLIC reorganized its regional operations, including moving the freestanding receiverships, which had been operating at the sites of the

[1] "Failed Thrifts: Allegations at First South Receivership in Little Rock, Arkansas" (GAO/GGD-89-98, June 16, 1989).

[2] Specific program developed by the Federal Home Loan Bank Board to deal with the high concentration of insolvent thrifts in Texas and four neighboring states.

failed institutions, into the FSLIC regional offices and assigning receivership responsibilities on a functional basis, i.e., employees were no longer assigned exclusively to one receivership but rather performed the same function across receiverships.

Subsequently, Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), which abolished FSLIC and created the Resolution Trust Corporation (RTC) to handle the thrift failures from January 1, 1989, through August 9, 1992. Failures before January 1989 became the responsibility of the Federal Deposit Insurance Corporation (FDIC).

RESULTS IN BRIEF

FSLIC was, and now FDIC and RTC are, dealing with billions of dollars in assets from hundreds of failed thrifts, and there is much work to be done in managing and liquidating these failed institutions. All parts of the process to liquidate the thrifts, regardless of their magnitude, should be done well. One of those parts is disposing of FF&E which represents a relatively small proportion of the failed thrifts' total assets.

While FSLIC had many responsibilities in managing and liquidating the assets of the failed thrifts, it had not fulfilled its responsibility for the management and liquidation of FF&E. Planning for the disposal of FF&E from the Southwest Plan valued at about $4 million was not done until a year after acquisition of the assets had begun, and the planning that was done was incomplete. And contrary to applicable procedures, FSLIC contracted noncompetitively for several services related to the FF&E. After deducting expenses, FSLIC received about $57,000 on the sale of Southwest Plan FF&E appraised at about $3.3 million, suggesting that it may not have maximized revenue or minimized expenses. Further, FSLIC did not have adequate internal controls over its FF&E inventory and did not pay receiverships for FF&E taken to furnish its regional offices. FDIC has almost completed compensating the receiverships, but neither FDIC nor RTC have documented specific organizationwide guidance for disposing of FF&E.

BACKGROUND

Congress enacted FIRREA on August 9, 1989, to deal with the savings and loan crisis and reform regulation of the industry. The act abolished the Federal Home Loan Bank Board (FHLBB), the thrifts' regulator, and placed its regulatory functions in the newly created Office of Thrift Supervision. The act created a new agency, RTC, to resolve institutions placed into receivership or conservatorship between January 1, 1989, and August 9, 1992. It also created a new insurance fund to resolve problem institutions after 1992. The assets, liabilities, and obligations of FSLIC were transferred to a new fund, called the FSLIC Resolution Fund. That fund is administered by FDIC.

Before the new law, the FHLBB, governed by a chairman and two members, handled thrift failures through FSLIC, a government corporation headed by an executive director. When a thrift became insolvent, the FHLBB would pass a resolution declaring the thrift insolvent, take it over, form a receivership, and appoint FSLIC as receiver. FSLIC would then try to sell all or part of the failed thrift. Assets and liabilities not transferred to an acquirer were generally liquidated by FSLIC as receiver for the failed thrift. Receiverships, separate and distinct legal entities, were supervised through FSLIC's Operations and Liquidations Division and, subsequently, FDIC's Division of Liquidation.

Under general principles of law applicable to receivers, FSLIC was required to act in a fiduciary capacity by managing and liquidating the receivership assets in an orderly manner and maximizing the return on their sale. Proceeds from the sale of receivership assets would be used to pay the claims of the institution's creditors. The FSLIC Insurance Fund would be one of these creditors, but it generally would have no absolute priority over the others.

According to FSLIC's Receivership Operation Manual, its Operations and Liquidations Division's primary role was to maximize the recovery of funds for the benefit of depositors and creditors of failed institutions. Maximizing recovery was achieved through asset management, restructuring of troubled loans within the institution, and subsequent liquidation of assets.

Although the bulk of a receivership's assets are loans and real estate, other assets, including FF&E, must be disposed. According to the Receivership Manual, FSLIC had the duty not only to maximize the return on their sale, but to dispose of them in a timely and efficient manner.

Throughout most of the 1980s, FSLIC usually operated its receiverships as separate entities, often on the premises of the failed thrift. Receiverships were staffed by nonfederal employees—a managing officer and support staff from the defaulted institution selected by FSLIC. In early 1989, FSLIC began consolidating the receiverships into its regional offices and eliminating the freestanding receiverships.

Separate and distinct, the FHLBB implemented the Southwest Plan and placed 101 thrifts into receivership. FHLBB completed the transactions involving the thrifts between May and December 1988. The acquirers purchased approximately $18 million of FF&E from these institutions, with the remainder (approximately $4 million) becoming the responsibility of FSLIC as receiver.

Before FSLIC's Central Region was taken over by FDIC in August 1989, it was responsible for 20 non-Southwest Plan receiverships with $3.1 billion in total assets. As of April 12, 1990, according to FDIC and RTC officials, nationwide FDIC had 99 FSLIC receiverships with $10.4 billion in total assets, and RTC had 52 receiverships with $12.1 billion in total assets. We were unable to obtain the total amount of FF&E controlled by FDIC and RTC because, according to an official responsible for reporting statistics for the two agencies, those agencies do not separate FF&E from "other assets" [3] at the national level. However, it is clear that FF&E represents a relatively small portion of the receiverships' total assets.

As of August 9, 1989, FDIC absorbed the responsibilities for the management of FSLIC's receiverships. Throughout this report, we will refer to individuals in their capacity as FSLIC employees when their actions occurred before FSLIC was abolished, even though we obtained the information after some of them became FDIC employees.

FSLIC DID NOT TAKE APPROPRIATE STEPS TO MINIMIZE COSTS OR MAXIMIZE REVENUE ON SOUTHWEST PLAN FF&E

FSLIC did not adequately plan in a timely fashion for the disposition of Southwest Plan FF&E. As a result, FSLIC may not have maximized revenue or minimized costs for the receiverships. It was unclear who was responsible for the FF&E, headquarters of the Central Region. Planning for the disposition of FF&E was not done until 1 year after the first thrift was closed, and the planning that was done did not compare the cost of keeping the inventories with expected revenue. Also, the plan did not consider alternatives to maximize revenue. Selection of contractors on a noncompetitive basis did not insure that services were acquired at the lowest cost. And FSLIC Central Region officials failed to maintain adequate separation of duties for FF&E inventory control, raising questions as to whether FF&E was adequately safeguarded.

Minimal Proceeds on Southwest Plan FF&E

Through sales to FSLIC, direct sales to the public, and auctions, FSLIC's Central Region earned $2,471,483 in revenue from the sale of Southwest Plan FF&E. The FF&E was initially appraised at $3.3 million.[4] However, as table 1 illustrates, expenses almost equaled revenue.

TABLE 1.—*Net proceeds on FSLIC's liquidation of FF&E from the Southwest Plan*

Total revenue	$2,471,483
Total expenses	−2,414,309
Net proceeds	57,174

Source: Southwest Plan FSLIC financial data obtained from the Dallas Consolidated Office, FDIC.

The largest portion of the expenses, $1,350,157, was for warehousing FF&E from June 1988 to December 31, 1989. Warehousing was expensive because FSLIC, operating without a disposition plan, rented a large amount of warehouse space to hold the FF&E while it attempted to dispose of it through direct sales to the public. The FF&E began filtering into the warehouse about 12 months before there was a plan, and an additional 2 months passed before the first auction took place. Appendix II includes more detailed information about revenue and expenses related to the Southwest Plan FF&E.

Untimely and Inadequate Planning

FSLIC's Receivership Operations Manual in use during this period required FSLIC to prepare a plan for the disposition of any asset, including FF&E, as expeditiously as possible. Formal plans had to be approved as part of FSLIC's process authorizing the disposition of assets.

On the basis of interviews with FSLIC officials, it is unclear whether the Central Region or headquarters was primarily responsible for handling the disposition of the Southwest Plan FF&E. However, it is clear that, according to FSLIC policy, the planning was to be done expeditiously. Also, the planning that was ultimately done did not consider alternatives to maximize revenue.

Confusion About Who Was in Charge

Neither FSLIC headquarters nor Central Region officials could identify a specific individual who was responsible for handling the Southwest Plan FF&E. Instructions in FSLIC's Pre-Takeover Manual show that takeovers of failed thrifts were normally a coordinated effort between FSLIC headquarters' Operations and Liquidations Division and the regional office where the takeover occurred.

[3] Includes FF&E, company automobiles, collateral on loans in default, and repossessed assets.

[4] Additional FF&E valued at $907,915 remained at the failed thrifts to be purchased by organizations that had agreed to pay the appraised value.

However, the former Regional Director for the Central Region told us that Southwest Plan activities were not a normal case and were handled with a great deal of headquarters direction. He told us that instructions for handling the Southwest Plan receiverships and their FF&E came from FSLIC headquarters officials.

In addition, the former Regional Director said that the Central Region's Manager for Administrative Services/Miscellaneous Assets, who was responsible for contracting many of the services used for the Southwest Plan FF&E, reported directly to FSLIC headquarters officials on Southwest Plan matters. And the contractor who performed the majority of the services involving the Southwest Plan FF&E told us that he was initially engaged by an FSLIC headquarters Receivership Representative who coordinated thrift takeovers in the Southwest Plan for FSLIC headquarters' Operations and Liquidations Division.

The Receivership Representative said she was not aware of any FSLIC headquarters plan for liquidation of the Southwest Plan FF&E. FSLIC's Central Region Acting Director and Central Region Deputy Director for Finance said that FSLIC did not have a long-term plan for disposition of Southwest Plan FF&E. Central Region officials said its liquidation service contractor simply began selling the FF&E out of rented warehouse in Houston.

Untimely Planning

The Central Region's formal plan for the sale of Southwest Plan FF&E, through a series of auctions, was approved in the region by the Central Regional Asset Review Committee on May 10, 1989, and at the national level by the Central National Review Committee on May 23, 1989. Since the first takeover of a thrift in the Southwest Plan occurred on May 13, 1988, 1 year had passed before a plan for liquidation was formalized and approved.

Inadequate Planning

The plan for the auctions did not go beyond the mechanics, and there was little attempt to project expenses. For example, the plan did not mention that about 2 months earlier, on March 3, 1989, FSLIC entered into a contract, cancellable on 30 days notice, for warehousing Southwest Plan FF&E, with a projected annual budget of $1,353,481. The plan stated that the Central Region had "FF&E valued at approximately $900,000." At the time of the plan, the projected expenses for warehousing exceeded the estimated value of the FF&E inventory.

The plan also noted that "The auction process is the only feasible means of liquidating the type of FF&E acquired through Savings and Loan failures." The plan did not present evidence that auctions were the only feasible means of liquidation and discussed only the failed attempt to sell FF&E out of the rented warehouse in Houston. Sales out of the warehouse between October 1988 and February 1989 totaled $322,198, or about 13 percent of the total sales for Southwest Plan FF&E.

The owner of the company that inventoried and appraised the FF&E also mailed brochures to prospective buyers advertising the FF&E for sale out of the Houston warehouse. Also, with FSLIC's approval, he opened the warehouse to the public daily and attempted to sell the FF&E.

The Central Region's Manager for the Receivership Activities Department said that the auction process was developed because FSLIC officials knew that FDIC would be assuming FSLIC's responsibilities, and FDIC used auctions to liquidate items. He said Central Region officials wanted to operate similarly to FDIC.

It appears to us that at least two alternatives, used by FDIC's field offices, might have been feasible and should have been given early consideration by FSLIC. One possible approach would have been to contract with an auction company to move the FF&E to the company's storage for liquidation within 60 days. This would have eliminated lengthy storage costs and high expenses for moving FF&E to warehouses rented by FSLIC. Another alternative would have been to allow liquidation companies to bid on the FF&E at each original location. The high bidder would have had the responsibility for the removal of all the FF&E from the premises within a few days. This option could potentially have taken FSLIC out of the FF&E business in a very short time at each location.

Noncompetitive Contracting

Contracting procedures used during this period by FSLIC's Central Region required all services not required on an emergency basis to be obtained on a competitive basis. We found that many services related to Southwest Plan FF&E were acquired on a noncompetitive basis. And none of the information in the contract files we reviewed revealed that an emergency existed or that the contracting was done under emergency circumstances.

FSLIC did not issue uniform agencywide contracting procedures for its regions and receiverships until May 1, 1989. Before that time, several regions had developed procedures for awarding contracts. The Central Region had adopted procedures developed by the Western Region.

The Central Region's Contracting Manager pointed out in a memorandum to the acting Regional Director, dated December 28, 1988, that FSLIC had paid four firms $1,021,127 for communications equipment, inventory and appraisal, moving, and warehousing on a noncompetitive basis. These four firms had the same ownership. As of December 31, 1989, the Central Region had paid the firms a total of $2,054,177, which included $1,350,157 for warehousing FF&E from the Southwest Plan.

The Central Region's Manager for Administrative Services/Miscellaneous Assets, who was responsible for acquiring these services, is no longer employed by FSLIC's successor, FDIC, and we could not locate him. Therefore, we could not determine the circumstances surrounding contracting for these services. However, the Central Region's Manager for the Receivership Activities Department said that the Central Region allowed one of these four firms to provide warehousing in Dallas on a noncompetitive basis because this contractor had previous experience providing warehousing in Houston for the Central Region. The receivership manager also said that no consideration was given to any other contractor.

No Separation of Duties

Widely accepted standards for internal controls require the separation of key duties in transactions to minimize the risk of loss.[5] To reduce the risk of error, waste, or wrongful acts and to reduce the risk of such problems going undetected, no one individual or company should control all key aspects of a transaction or event.

The Central Region's Manager for the Receivership Activities Department and the Senior Accountaint who supervised accounting for the Southwest Plan FF&E told us that the four firms discussed above had inventoried, appraised, moved, stored, maintained, and sold items of Southwest Plan FF&E out of warehouses. Again, the Manager for Administrative Services/Miscellaneous Assets, who was responsible for the concentration of duties in these firms, is no longer employed at the Central Region, and we could not locate him to find out why this arrangement was permitted. Central Region officials told us that the FF&E had been handled without appropriate controls because the Central Region did not have procedures to carry out these activities. Additionally, they said a large volume of FF&E had to be handled in a short period of time.

Although we have no evidence nor are we suggesting that any inventory was stolen or that abuse occurred, the arrangement that FSLIC entered into with several companies owned by one individual handling all aspects of key transactions was not consistent with good internal control standards. For example, having companies owned by the same person inventory, appraise, and move the FF&E, offered an opportunity to simply not include certain items of FF&E in the inventory lists and move that FF&E to the owner's warehouse. Further, with the same companies inventorying, appraising, moving, and selling the FF&E, the individual could have discounted the value of specific FF&E items included in the inventory by underappraising them and then through "dummy buyers" simply could purchase the discounted items to sell for his/her own use.

FSLIC HAS NOT FULLY REIMBURSED ITS RECEIVERSHIPS FOR FF&E

FSLIC's Central Regional Office was not compensating receiverships for FF&E taken by FSLIC and had no apparent plans to do so. Without compensation, the value of the FF&E could not be included in the proceeds available to pay the claims of the thrifts' creditors. After we brought this matter to the attention of FSLIC regional officials, we later determined, on the basis of FDIC calculations, that FSLIC should have compensated receiverships located in the Central Region $1.9 million for FF&E used to furnish regional offices. FDIC has compensated the receiverships. FSLIC's other two regional offices had also been using receivership FF&E and not compensating them for its use. FDIC has paid $548,585 to receiverships in the Eastern Region and $6,870 to receiverships in the Western Region. FDIC is in the process of completing the compensation to the receiverships in the Western Region.

In February 1989, FSLIC revised its Receivership Manual to emphasize that FSLIC policy of maximizing return applied not only to its larger assets, but also to other assets, including FF&E, and to require the disposition of FF&E be done in a timely and efficient manner. According to FSLIC policy, a receivership must be compensated for FF&E used by a regional office, but a freestanding receivership could use the FF&E and liquidate it upon termination.

In the past, FSLIC's Central Region was compensating the receiverships for FF&E used in its office but discontinued the prac-

[5] "Accounting Series: Standards for Internal Controls in the Federal Government," United States General Accounting Office, 1983.

tice in 1986 because physical tracking of the furniture was time consuming. The Deputy Director for Finance for the FSLIC Central Region told us that in late 1985 regional officials reviewed the administrative cost of tracking the FF&E for the purpose of compensation and decided that the practice was not cost effective. He also said, however, that during this period there was no lack of accounting personnel to maintain the records to compensate the receiverships. Regional officials simply decided to halt the practice.

After our initial inquiries into the compensation issue the Central Region's Senior Accountant for Financial Reporting attempted to determine the amount of compensation owed to the receiverships, but complete records of each receivership were not available. The Central Region had not followed procedures to properly account for FF&E once it left the failed institutions. FDIC later determined that the most reasonable basis on which to compensate the receiverships was to distribute the proceeds on a percentage basis according to the book value of total FF&E at each receivership at the time of takeover.

FSLIC initially had contracted for each failed thrift that went into receivership to be inventoried and appraised. These initial inventories identified assets, including FF&E, by receivership and noted a value for each item. However, during movement of the FF&E from FSLIC's warehouse to the Central Region's offices, the moving consultant hired by the Central Region's Manager for Administrative Services instructed moving company personnel to remove inventory identification tags.[6]

Further, there was no system for maintaining current locations of FF&E items after the inventory was done. According to Central Region officials, due to movement of both personnel and items of FF&E within the regional offices and the failure of Central Region personnel to update inventories, the Region lost its ability to associate the value of FF&E items with the correct receiverships.

In November 1989, FDIC headquarters asked its consolidated offices, which were formerly FSLIC regional offices, to identify for payment FF&E taken from the receiverships. That same month, FDIC Division of Liquidation's Dallas Region contracted for a new inventory of FF&E that was being used. On the basis of this inventory and appraisal, and data from FDIC Division of Liquidation's Dallas Region, we found that the receiverships in FSLIC's Central Region should be compensated $1.9 million. Non-Southwest Plan FF&E represented $1.3 million of the total, and Southwest Plan FF&E accounted for $617,975. According to FDIC officials, the receiverships have been compensated.

On the basis of our work in the Central Region, we asked FDIC headquarters officials if the other two former FSLIC regional offices had taken FF&E from the receiverships without compensation. According to the FDIC official and documents we received, FDIC paid $406,287 to receiverships in the former FSLIC Eastern Region in Atlanta and $142,297 to receiverships in the former Regions area office in Chicago. This latter amount included $74,260 for FF&E retained by FDIC and $68,038 sold at auction. In addition, FDIC paid $6,870 to receiverships for FF&E it kept that was used by FSLIC and, as of May 10, 1990, was in the process of auctioning the remaining FF&E in the former Western Region in Los Angeles.

In contrast to the way the FSLIC's Central Region handled FF&E, the Closings Manager in the FDIC Division of Liquidation's Dallas Region told us that when it takes over an insolvent bank, FDIC personnel take the inventory, and each item of FF&E is tagged with a unique inventory number that is not removed until the item is sold. FDIC does contract for appraisals. In addition, FDIC's policy is to not purchase FF&E from failed banks for use in its regional offices.

NEED FOR FDIC AND RTC POLICIES ON FF&E DISPOSAL

The FDIC Credit Manual and Operations Manual, which are used for organizationwide policy, do not provide specific guidance for disposing of FF&E. According to FDIC Division of Liquidation officials who handled the disposition of FF&E at the national level, these manuals are the only source of instructions. FDIC's Associate Director for Operations in the Division of Liquidation said FDIC's policy is to handle FF&E similar to the way it disposes of assets in the "Other Assets" category, i.e., convert these assets to cash in the most efficient and effective manner possible. FF&E is categorized as other assets in the Credit Manual.

The Supervisory Liquidation Specialist for Property Management in the FDIC Division of Liquidation's Dallas Region provided us with detailed instructions for disposing of FF&E developed by its Addison Consolidated Office. The Supervisory Liquidation Specialist told us that each consolidated office in the Dallas Region has developed similar guidance, but there is no regional level guidance or manual.

FDIC regional official in New York City and San Francisco said that they were not aware of any regional guidance on disposition of FF&E developed in their regions. They told us that the Credit Manual was the only guidance they used. However, we found that New York's Orlando Consolidated Office had developed procedures for inventorying and disposing of FF&E similar to those developed in Dallas' Addison Consolidated Office.

An RTC headquarters official said the RTC has not yet developed procedures for handling FF&E. The official said RTC would be using FDIC procedures in the interim. The Deputy Regional Director for Asset and Real Estate Management in RTC's Dallas Regional Office—one of RTC's four regional offices—said his office would be using the FDIC Credit Manual and approach to handling FF&E. Appropriate guidance is especially important for RTC because its authorizing legislation mandates that it extensively use the private sector, where practicable and efficient, to assist in managing and disposing of assets.

CONCLUSIONS

We recognize that FF&E was a relatively small portion of FSLIC's and will be a small portion of RTC's and FDIC's overall asset management and disposition responsibilities. However, FF&E represents assets that need adequate controls and management oversight.

FSLIC did not carry out its responsibility to insure that the FF&E of the receiverships was effectively managed and liquidated. FSLIC headquarters and regional officials did not follow FSLIC policy on planning; contracting was not done on a competitive basis; and sound internal control standards of separation of duties were not observed. As a result, FSLIC may not have fulfilled its responsibility to maximize the recovery of funds from the sale of FF&E.

Furthermore, FSLIC should have promptly compensated the receiverships for FF&E when it was taken and placed in the FSLIC offices for its use. Adequate headquarters monitoring of regional activities, not only in the Central Region but in other regions, appeared to be lacking in this area. FDIC is now responsible for the FSLIC receiverships and is in the process of completing compensation to the receiverships for the FF&E.

Because of reorganizations and changes in personnel in FSLIC's receivership operations, we could not identify all the individuals who had not carried out their responsibilities to the receiverships. However, the Executive Director of FSLIC and the Chairman of FHLBB were ultimately responsible.

Even though the FHLBB has been abolished and the functions of FSLIC's Operations and Liquidations Division have been taken over by FDIC and RTC, the problems we found in FSLIC's Central Region can occur in other regions without specific policies and procedures addressing the control and disposition of FF&E, as well as without vigilance on the part of top officials, in the agencies now responsible for taking over failed thrifts.

FDIC and RTC, without (1) documented specific organizationwide policies and procedures to handle the disposition of FF&E from failed thrifts and (2) adequate monitoring of adherence to these policies and procedures, could run into problems similar to those FSLIC had with planning, controlling, and disposing of FF&E. We believe that these two agencies need to document, as a minimum, specific policies and procedures dealing with planning for disposing of FF&E, alternative ways to dispose of FF&E in the most timely manner to maximize return to the receiverships, contracting on a competitive basis when possible to insure minimum cost, and separation of duties in handling FF&E to ensure its adequate safeguard while in the hands of FDIC and RTC.

As RTC prepares to carry out its important responsibilities under FIRREA, it needs to ensure that the problems that FSLIC had managing and disposing of FF&E are not allowed to be repeated in other asset management areas such as real estate and securities, where there is greater risk because of the substantially larger dollar values involved. We believe that the problems that existed at FSLIC in dealing with FF&E illustrate the importance of having specific policies and procedures for managing and disposing of assets in general. Problems can occur without an adequate system of internal control for ensuring that policies and procedures are in fact implemented.

In addition, because the new legislation requires RTC to make extensive use of the private sector to manage and dispose of assets from failed thrifts, RTC will be at even greater risk. Therefore, it becomes extremely important that RTC (1) develop specific policies and procedures for managing and disposing of assets, (2) adequately staff and train its field offices, and (3) develop systems that will permit adequate oversight and monitoring of private sector contractors chosen to provide asset management and disposition services.

[6] This moving consultant was not associated with the four companies mentioned earlier.

RECOMMENDATIONS TO THE CHAIRMEN OF FDIC AND THE RTC OVERSIGHT BOARD

To ensure the most profitable and efficient disposition of FF&E from failed financial institutions, we recommend that the Chairmen of FDIC and the RTC Oversight Board—

Document specific organizationwide policies and procedures on control and disposition of FF&E covering such areas as planning, contracting, and internal control; and

Monitor the adherence to policies for control and disposition of FF&E.

AGENCY VIEWS

As requested by the Subcommittee, we did not obtain written comments from FDIC and RTC. We did, however, discuss the contents of our report with FDIC and RTC officials, who generally agreed with the facts and recommendations.

An RTC official stated that RTC, as allowed by the FIRREA, will be operating in accordance with existing FDIC policies and procedures until it amends FDIC's policies and procedures and adopts its own set of regulations and guidelines in implementing the specific goals of the RTC Oversight Board's strategic plan for RTC's functions and activities. In addition, the RTC official said that draft RTC asset disposition manuals are currently in the review process, and RTC is well aware of the importance of adequate internal controls over FF&E and other assets.

FDIC officials provided us with documentation that appropriate FDIC approvals have been given to pay the receiverships for FF&E taken by FSLIC to furnish its offices. According to the FDIC officials, the receiverships have been or are in the process of being paid. They also said that although existing FDIC policies and procedures do not specifically address FF&E, it is covered in the "Other Assets" section of the Credit Manual and is monitored similarly to other assets. FDIC officials provided us with additional views and information, which we have incorporated in this report where appropriate.

As agreed with the Subcommittee, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. After that time, we will send copies of the report to the Chairmen of FDIC and the RTC Oversight Board and to other interested parties. We will also make copies available to others upon request.

Major contributors to this report are listed in appendix III. If you have any questions, please telephone me on 275-5074.

Sincerely yours,

BERNARD L. UNGAR,
Director, Federal Human Resource Management Issues.

Mr. WIRTH. Mr. President, just a point of clarification for the record, so that we all understand.

The description that I provided, and the press release that I provided from the Attorney General from December 7, 1989, was not a request, as some have suggested, but in fact was a statement by the Attorney General as to how he was going to spend the $50 million that they had said was all they needed.

This whole issue started, I remind my colleagues, when we had given them the authority to spend $75 million. They only spent $50 million. The Attorney General told us how they were spending that $50 million, which is what was in the press release—how they were going to set up these 27 task forces, they were going to hire so many U.S. attorneys, and do all that sort of thing. That is how they were going to spend the first $50 million.

We have been asking, what are you doing beyond that? What are you doing more than that first commitment?

Last December, the Attorney General announced what they were going to do with this 27-city task force. That was their first step.

We have been saying, what else are you going to do?

The President comes out today and says, as if this is a major new initiative, he just tells us what the Attorney General said he was going to do for that $50 million last December, as phase 1.

This is not anything new. This is not anything new. The only thing new about it is the fact that the Senator very accurately described, in the context of bringing these people in from all over the country and having a photo opportunity. That is the only thing that is new about it. All of this was done last fall.

We still have the question, Mr. President, what are you going to do now? You have not told us anything more than what they said last December in phase 1, and people in the Congress—and the reason I believe the distinguished Senator from Pennsylvania got up with his major new proposal is to say you are not doing enough, let us go to phase 2.

What Senator PRYOR has been saying, Senator DIXON, the distinguished Senator from Florida and the distinguished Senator from Nevada and the distinguished Senator from Nebraska, what all of us have been saying is, let us go to phase 1, and phase 3, and phase 4. Let us go. There should be a sense of urgency.

And what we were told today was warmed over phase 1 all over again. I just raise that to point out for the record that what was told today was only the phase 1 the Attorney General told us last fall was how they were going to do their first phase, which everybody has agreed was inaccurate.

So the President, in his photo opportunity, describes the inadequate program all over again. Either that, or the Attorney General did not do it at all last fall, and they are just launching phase 1 now. It is one or the other. It is either warming over their old program and trying to make it sound good, or they did not do anything before, and they are just launching the program now.

It is one or the other. We have asked the Justice Department which one it is. I hope we get our distinguished friends on the other side of the aisle to help us get those answers. I am sure there will be a lot of questions about that.

I thank my distinguished colleague very much for yielding.

Mr. PRYOR. Mr. President, I thank the Senator from Colorado for his comments and generosity, and not only for that, but for the great work that he has done in helping to develop this issue. I hope that we will never reach a stage in this body where, if we ask questions or if we look for answers or if we seek solutions, that there are going to be these so-called threats hanging around out there that something bad is going to happen to all of us. That is not what the system is all about.

Mr. President, I yield the floor.

ORDERS FOR MONDAY AND TUESDAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Monday, June 25; that the Journal of proceedings be deemed approved to date; and that following the time for the two leaders, there be a period for the transaction of morning business not to extend beyond 12 noon, with Senators permitted to speak for not to exceed 5 minutes each.

I further ask unanimous consent that at 12 noon the Senate proceed to the consideration of Senate Joint Resolution 332, the proposed constitutional amendment on flag desecration; that the only amendments in order to the resolution be the following, and that, with the exception of the Thurmond amendment, there be substitute amendments in the first degree in order, regardless of the adoption of a preceding amendment, and that no motions to commit the resolution be in order:

A Bumper amendment, a statute relating to flag protection; a Helms amendment, a statute relating to removing courts' jurisdiction on this issue; a Thurmond amendment, a constitutional amendment relating to public desecration of the flag; a Biden amendment, a constitutional amendment on the same issue of the flag.

Mr. President, I further ask unanimous consent that the Senate resume consideration of the flag resolution on Tuesday at 2:15 p.m., and that at that time the time remaining on the resolution be limited to that stipulated below on the remaining amendments and that allotted for the two leaders below; that the amendments listed above be considered in the order listed and that time on each amendment be limited to 40 minutes equally divided.

I further ask unanimous consent that, following the debate on and votes on the listed amendments, there

be 40 minutes equally divided and controlled between the two leaders for their closing arguments, following the expiration of which there be a vote on the passage of the joint resolution, without any intervening action or debate.

I further ask unanimous consent that the Senate stand in recess at 10:40 a.m. on Tuesday, June 26, until 2:15 p.m. in order to permit Senators to attend the joint meeting in the House Chamber to hear Mr. Mandela's address and to accommodate the two party conferences.

The PRESIDING OFFICER. Is there objection to the multi-unanimous-consent requests of the majority leader?

Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators let me describe what has been occurring until now today and what will occur with respect to the schedule next week.

First, two separate discussions have been occurring. The managers of the housing bill have been meeting with the Secretary of Housing and Urban Development and others in an effort to reach a compromise on that legislation. I have not received a report on the status of those discussions. I hope they result in an agreement that permits us to move forward on that legislation.

I regret that we were unable to complete action on it this week, but it became apparent as of yesterday that we would not be able to complete action on it pending these discussions, and therefore it is my decision to proceed to other matters in the hopes that, during consideration of these other matters, these negotiations can produce a positive result.

Under a previous unanimous-consent agreement, I agreed to call up the joint resulution dealing with flag desecration sponsored by my friend and colleague, the distinguished Republican leader, prior to the July 4 recess. I have discussed this on several occasions over the past day with the distinguished Republican leader, and it is our judgment that the time and procedure for handling this set forth in this agreement represents the best way to deal with the matter expeditiously and fairly, and yet give everyone an opportunity to have their views expressed.

Therefore, under this agreement, the Senate will proceed on Monday to debate the flag resolution and the various amendments listed thereto.

There will be no votes on Monday. On Tuesday, each of the amendments will be taken up in order, and there are four amendments. I have listed them previously; two are statutory, and two are constitutional. There will be 40 minutes of debate on each amendment followed by a vote, and then final action on the resolution itself, following completion of action on those amendments.

Now, finally, I have moved to proceed to the Civil Rights Act, and in light of the objection expressed, I filed a cloture motion on the motion to proceed. That cloture motion will ripen for a vote Tuesday morning. That will be approximately 10 o'clock. The distinguished Republican leader and I will discuss that on Monday to determine the exact time that is the most convenient for the largest number of Senators. But it will be Tuesday morning.

Regardless of the outcome of that vote, we will return to the flag matter Tuesday afternoon following the party caucuses, so Senators should be aware that there will be several votes on Tuesday, a cloture vote in the morning, and then potentially five votes on the flag issue between 2:15 and approximately 6 or 7 o'clock, depending upon whether or not all of the time is used on those amendments.

Finally, I report to my colleagues that the distinguished chairman of the Judiciary Committee and his counterpart have been negotiating for some time now on the crime bill, and it is my hope and expectation that we will very shortly have an agreement to limit the number of amendments and the time on that bill. I hope we have it today, but in view of the lengthy language that has just been exchanged on the two sides that has to be reviewed, we will not have that agreement today.

But I hope and expect we will have that early next week, possibly as early as Monday, and that as soon as that agreement is reached, we will seek to obtain unanimous consent for that. And following that, it is my hope to bring up the crime bill as soon as possible; if at all possible, prior to the July 4 recess. That remains to be seen, pending other matters.

So that, in conclusion, we will go off the housing bill. I regret that very much, but I hope that the negotiations now underway on that bill will produce a positive result.

We will be debating the flag issue on Monday afternoon, and on Tuesday afternoon, we will be debating and will be voting on the flag issue. And on Tuesday morning, we will vote on a cloture motion on the motion to proceed to the civil rights bill, and then again, in summary, hopefully reach agreement on and take up the crime bill sometime during the week next week.

Mr. President, I am pleased to yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I will just say that I think we obviously will complete action on the flag amendment and any amendments thereto on Tuesday. I do hope there will not be an effort, as long as there are serious negotiations going on, to try to do something on the Civil Rights Act during the Mandela visit. You know there must be a temptation to try to get into this circus atmosphere that somehow we are going to be pressured because Mandela is addressing a joint session of Congress.

Let me indicate that there have been good faith negotiations at the White House and in my office for an hour and a half as recently as 24 hours ago, and it is my understanding we are trying to work out a settlement so we can pass the bill very quickly. But I will just indicate we are not going to be stampeded on this side of the aisle. There are reservations on the other side of the aisle. There are only 40-some cosponsors to this legislation.

It seems to me that it is pretty obvious what is happening. Everyone has a bill pending for some reason when Mr. Mandela is addressing a joint session of the Congress. Maybe there is something that I am missing. Maybe it is the politics of it. But I thought we were trying to get a civil rights compromise negotiated with the administration. I still hope that is the case. Maybe by Tuesday we will have worked that out.

Obviously, the majority leader has a perfect right to move to proceed. But I do not want anybody to misunderstand or to indicate that there is some opposition to civil rights on this side of the aisle. There is an affirmative process under way now, but I understand the Senator from Massachusetts does not agree that it is positive, so he wants to proceed in this fashion. I think it is a mistake. I think it could be counterproductive. But that is the choice the Senator has made.

Mr. MITCHELL. Mr. President, I thank my colleague. Let me say that it is my fervent hope that we will be able to reach an agreement that is satisfactory to all concerned. Although I have not been a party to them, I believe that the discussions have been positive and productive to date and that the issues have been significantly narrowed on that matter and that there will, hopefully, be an agreement which will permit us to act in a relatively concise period of time. And that, of course, is the objective that we all share.

So I hope that this does result in enacting that legislation in a manner that, if not all, then a broad consensus of the Senate will find satisfactory. I think the negotiations have been in good faith and very positive and productive up to this time, and we hope that they will shortly reach a final and positive result.

RECESS UNTIL MONDAY, JUNE 25, 1990, AT 11 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 11 a.m., Monday, June 25, 1990.

Thereupon, the Senate, at 3:52 p.m., recessed until Monday, June 25, 1990, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 1990:

DEPARTMENT OF JUSTICE

W. LEE RAWLS, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE CAROL T. CRAWFORD, RESIGNED.

STANLEY A. TWARDY, JR., OF CONNECTICUT, TO BE U.S. ATTORNEY FOR THE DISTRICT OF CONNECTICUT FOR THE TERM OF 4 YEARS (REAPPOINTMENT).

CONFIRMATIONS

Executive nominations confirmed by the Senate June 22, 1990:

DEPARTMENT OF STATE

SHIRIN RAZIUDDIN TAHIR-KHELI, OF PENNSYLVANIA, TO BE THE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

WILLIAM BODDE, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE MARSHALL ISLANDS.

JOSEPH EDWARD LAKE, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE MONGOLIAN PEOPLE'S REPUBLIC.

DAVID PASSAGE, OF NORTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOTSWANA.

RICHARD WAYNE BOGOSIAN, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHAD.

WILLIAM B. MILAM, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF BANGLADESH.

JAMES DANIEL PHILLIPS, OF KANSAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF THE CONGO.

ROGER GRAN HARRISON, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HASHEMITE KINGDOM OF JORDAN.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF ADMIRAL AND AS CHIEF OF NAVAL OPERATIONS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5033:

TO BE CHIEF OF NAVAL OPERATIONS

To be admiral

ADM. FRANK B. KELSO H. II, U.S. NAVY, [redacted] 1220.

DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS COMMANDER IN CHIEF, UNITED STATES SPECIAL OPERATIONS COMMAND, AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 167 AND 601:

To be general

LT. GEN. W. STINER, [redacted], U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, AND TO BE APPOINTED AS CHIEF OF STAFF, UNITED STATES AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8033:

To be general

GEN. MICHAEL J. DUGAN, [redacted], U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. GEORGE L. MONAHAN, JR., [redacted], U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. LARRY D. WELCH, [redacted], U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. ROBERT C. OAKS, [redacted], U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JOSEPH W. ASHY, [redacted], U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. THOMAS A. BAKER, [redacted], U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RONALD R. FOGLEMAN, [redacted], U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF BRIGADIER GENERAL WHILE SERVING AS DEAN OF THE ACADEMIC BOARD, U.S. MILITARY ACADEMY, UNDER TITLE 10, UNITED STATES CODE, SECTION 4335(C):

To be brigadier general

COL. GERALD E. GALLOWAY, JR., [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES W. BROWN, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ALLEN K. ONO, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. TEDDY G. ALLEN, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR PROMOTION TO THE GRADE OF MAJOR GENERAL WHILE ASSIGNED AS CHIEF OF CHAPLAINS, UNITED STATES ARMY, UNDER TITLE 10, UNITED STATES CODE, SECTION 3036(B):

To be major general

BRIG. GEN. MATTHEW A. ZIMMERMAN, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. GARY E. LUCK, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. MICHAEL F. SPIGELMIRE, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. WILLIAM H. RENO, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. AUGUST M. CIANCIOLO, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. BILLY M. THOMAS, [redacted], U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JOSEPH J. WENT, [redacted], USMC.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILLIAM G. CARSON, JR., [redacted]/9903 USMC.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES H. PITMAN, [redacted], USMC.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS AND CHIEF OF STAFF, HEADQUARTERS, MARINE CORPS, AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THE POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 5044:

To be general

LT. GEN. JOHN R. DAILEY, [redacted], USMC.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILLIAM R. ETNYRE, [redacted], USMC.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. (SEL) DUANE A. WILLS, [redacted], USMC.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. ROBERT J. WINGLASS, [redacted], USMC.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. JOSEPH P. HOAR, [redacted], USMC.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SEC-

TION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

LT. GEN. CARL E. MUNDY, JR., xxx-xx-xxxx, USMC.

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE LINE, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE

To be rear admiral

REAR ADM. (LOWER HALF) WILSON F. FLAGG, xxx-xx-xxxx/1315, U.S. NAVAL RESERVE.

REAR ADM. (LOWER HALF) LARRY B. FRANKLIN, xxx-xx-xxxx/1115 U.S. NAVAL RESERVE.

SPECIAL DUTY OFFICER (INTELLIGENCE)

REAR ADM. (LOWER HALF) GENE P. DICKEY, xxx-xx-xxxx/1635 U.S. NAVAL RESERVE.

THE FOLLOWING-NAMED REAR ADMIRALS IN THE STAFF CORPS OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral

REAR ADM. (LH) ROBERT BENSON HALDER, xxx-xx-xxxx, U.S. NAVY.

REAR ADM. (LH) ROBERT WALTER HIGGINS, xxx-xx-xxxx, U.S. NAVY.

SUPPLY CORPS

To be rear admiral

REAR ADM. (LH) ROBERT MARION MOORE, xxx-xx-xxxx, U.S. NAVY.

REAR ADM. (LH) HARVEY DONALD WEATHERSON, xxx-xx-xxxx, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JAMES G. REYNOLDS, U.S. NAVY, xxx-xx-xxxx

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING EMILIO IODICE, AND ENDING LANGE SCHERMERHORN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 18, 1990.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING ROBERT A SCHMITZ, AND ENDING MICHAEL E CALTA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 18, 1990.

AIR FORCE NOMINATIONS BEGINNING GERALD S ALONGE, AND ENDING MICHAEL A WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 23, 1990.

AIR FORCE NOMINATIONS BEGINNING ROBERT L ALSLEBEN, AND ENDING WENDALL E WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 23, 1990.

IN THE ARMY

ARMY NOMINATIONS BEGINNING JOSEPH R BARNES, AND ENDING LEE D SCHINASI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 10, 1990.

ARMY NOMINATIONS BEGINNING FRANK Q BERTAGNOLLI, AND ENDING DOMINICK A MINOTTI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 16, 1990.

ARMY NOMINATION OF DANIEL J KAUFMAN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 18, 1990.

ARMY NOMINATIONS BEGINNING * PRESTON L FUNKHOUSER III, AND ENDING * STEPHEN M DOWNS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 23, 1990.

ARMY NOMINATIONS BEGINNING JOSE A CASTRILLO-CRUZ, AND ENDING HERNANE C RESTAR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 23, 1990.

ARMY NOMINATIONS BEGINNING HENRY J COOK III, AND ENDING ALONZO F RODRIGUEZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 23, 1990.

ARMY NOMINATIONS BEGINNING ARNOLD A ASP, AND ENDING MARK T * WERNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 23, 1990.

ARMY NOMINATIONS BEGINNING THOMAS D CHALLENDER, AND ENDING * WILBUR E LINTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 6, 1990.

ARMY NOMINATIONS BEGINNING ALBERT D CAIN, AND ENDING WILLIAM A PEARCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 6, 1990.

IN THE MARINE CORPS

MARINE CORPS NOMINATIONS BEGINNING MATTHEW J BAKER, AND ENDING BRIAN J GRANIERO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF APRIL 20, 1990.

MARINE CORPS NOMINATIONS BEGINNING CHARLES R ABNEY, AND ENDING RICHARD C ZILMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 10, 1990.

MARINE CORPS NOMINATIONS BEGINNING WILLIAM S AITKEN, AND ENDING DOUGLAS P YUROVICH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 18, 1990.

IN THE NAVY

NAVY NOMINATIONS BEGINNING RODANTE P ALLANIGUE, AND ENDING JOHN E. SAWYER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 23, 1990.

NAVY NOMINATIONS BEGINNING BRADLEY A BAILEY, AND ENDING WILLIAM J MILLS, JR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 6, 1990.

HOUSE OF REPRESENTATIVES—*Monday, June 25, 1990*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. KILDEE].

DESIGNATION OF SPEAKER PRO TEMPORE

The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 22, 1990.

I hereby designate the Honorable DALE E. KILDEE to act as Speaker pro tempore on Monday, June 25, 1990.

THOMAS S. FOLEY,
Speaker, House of Representatives.

PRAYER

Rev. Dr. Ronald F. Christian, Office of the Bishop, Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

Our Father and creator God, from Your heavens, O God, You order the seedtime and the harvest. In your power, You give sunshine and the rain. Grant, O God, that we, the people of this Nation may give thanks to You always for the food and drink which sustains our lives. May we hold in high honor the good land and the fresh water from which these good things are provided. May we never fail to remember that the resources we sometimes call our own are but gifts from You over which we have been placed as stewards and for which we must give an account. May we respect those who labor in the coal fields and wheat fields of this land. May we dignify those who fish and forest wherever their work is performed. And may we always return thanks to You, O God, the Great Giver, of all that we claim as our natural resources. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] will lead the Members in the Pledge of Allegiance.

Mr. DANNEMEYER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 20) entitled "An Act to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was resolved, that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate has passed without amendment a joint resolution of the House of the following title:

H.J. Res. 575. Joint resolution to designate June 25, 1990, as "Korean War Remembrance Day."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1999) entitled "An Act to amend the Higher Education Act of 1965 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education."

The message also announced that the Senate had passed a bill and joint resolution of the following title, in which the concurrence of the House is requested:

S. 2203. An act to settle certain claims of the Zuni Indian Tribe, and for other purposes; and

S.J. Res. 336. Joint resolution designating the week in 1990 which coincides with the first visit of Nelson Mandela to the United States after his release from prison in South Africa as "South African Freedom Week."

The message also announced that, pursuant to Public Law 101-194, the Chair announces on behalf of the Republican leader, his appointment of Ms. Sheila Burke, Chief of Staff to the Republican Leader of the Senate; Mr. Mike Tongour, Chief of Staff to the Assistant Republican Leader of the Senate; to the President's Commission on the Federal Appointment Process.

RELEASE OF CHINESE OPPOSITION FIGURES

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, the release of two important opposition figures in China is welcome news.

The Chinese leadership chose to make this couple a test of wills. The Chinese had invested a lot of political capital in this stand off, and had a lot to lose.

I am told that the Bush administration offered no new policy agreements in exchange for their release. That's a good sign. It means that the Chinese capitulation is a clear victory for the Bush administration policy.

But this is no time for Congress to ease the pressure on the Chinese. The release of one couple should not blind us to the fact that thousands remain in prison.

Those who struggle for democracy in China still look to the United States for inspiration and support. We cannot let them down.

UPDATE ON THE BRADY BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I would like to inform my colleagues in the House of Representatives that on tomorrow, the Subcommittee on Crime of the Committee on the Judiciary, will take up, under the courageous leadership of our chairman, the gentleman from New Jersey [Mr. HUGHES], the bill called the Brady bill, named after Jim and Sarah Brady.

This is the bill which our colleagues will recall will establish a uniform national 7-day period before a handgun can be purchased.

I would like to urge our colleagues to support that bill when it reaches the floor, and I hope devotedly it will reach the floor again soon. In 1988, as our colleagues remember, we had a vote on Brady which was unsuccessful. It was voted down in favor of a substitute which called upon the Justice Department to study a national verification system for handgun purchase. The Justice Department has studied that and found it is not possible to establish such a system for at least 3 years. That is too long to wait. I hope the Brady bill passes.

I would like to say, Mr. Speaker, a few weeks ago in Louisville, we had a

terrible tragedy. A patient, using a handgun, went into Dr. Pat Casey's office, killed Doctor Casey and then killed himself. I think this type of senseless tragedy could be overcome by sensible handgun legislation, such as the Brady bill.

I hope we can first tomorrow report out the Brady bill, and then it will reach the House floor, where it would be accorded vigorous support.

THE SHAME OF NELSON MANDELA

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, 28 years ago Nelson Mandela was jailed by the South African Government for sabotage and treason. Charges he has never denied. In America, Mandela is hailed by most black political leaders and by white plantation liberals as a hero.

Upon his release from prison last February Nelson Mandela saluted the African National Congress and the South African Communist Party. On a nationwide television broadcast last Thursday with Ted Koppel, Mr. Mandela repeated his longstanding support for such luminaries of freedom as Fidel Castro, Yasser Arafat, and the Libyan looney Mu'ammar Qadhafi.

For his support of these peace-loving organizations and comrades in arms, we have rewarded Mr. Mandela with the opportunity to address a joint meeting of Congress.

Mr. Speaker, Nelson Mandela's appearance before this body is a national disgrace. The invitation alone heaps shame on this body. Nelson Mandela is no Martin Luther King. He is more like H. Rap Brown or Willie Horton.

The ideology and organizations Mr. Mandela represents have mercilessly murdered and tortured black Africans. His own wife, Winnie, has given a new meaning to the word "necklace." Mr. Speaker, here we go again, one man, one vote, one time. Mandela should be condemned. He should not address this body tomorrow or at any time in a joint meeting of the Congress of the United States, given the human rights violation that his actions have called for in South Africa, and those who he has supported around this world who are violating human rights of people across this land.

WHEN ARE THE S&L CROOKS GOING TO JAIL?

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, last Friday the President addressed the U.S. attorneys, urging them to put the savings and loan crooks in jail.

I am pleased that the administration has finally realized that the American people are fed up with the savings and loan crooks still walking around enjoying their loot.

On Thursday, the Financial Institution Subcommittee which I chair is having a hearing on "When are the S&L crooks going to jail?" Last month, I invited Attorney General Richard Thornburgh to appear at those hearings. I have not received a response from the Attorney General.

I have today written to the President urging him to have the Attorney General testify at the hearings. I want the Attorney General to be able to present the President's plan for putting the crooks in jail to the subcommittee which first acted on the savings and loan bill last year.

Last year, both Treasury Secretary Brady and OMB Director Darman testified before the subcommittee on the need for the savings and loan bill. They presented the administration's views and plan.

Now we are into the second stage of the savings and loan crisis. This is the time to use the law we passed last year. The President told the U.S. attorneys that he has a plan to go after the S&L crooks. The Attorney General should come and tell us what that plan is.

Mr. Speaker, I hope the Attorney General takes the opportunity to tell us how the administration plans to put the savings and loan crooks in jail.

COMPREHENSIVE CRIME CONTROL ACT UPDATE

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, over 1 year ago, our President introduced his Comprehensive Violent Crime Control Act. In the year since the introduction of this act, we have seen our citizens' concern with these problems increase, we have seen violent and drug related crimes increase, but we have yet to see an increase in action from Congress. Congress has yet to pass a comprehensive plan to fight the epidemic of crime and violence sweeping our Nation, and while we are plagued by inaction, our enemy is becoming increasingly sophisticated and thorough.

Last week in an attempt to get the ball rolling on this very important issue, we held a special order on violent crime and drugs. Recently, the administration and House Republicans came together to introduce the Violent Crime and Drug Act of 1990, a solid package of legislative proposals designed to go a long way toward combating these problems.

The time has come for us to act, not as Republicans and Democrats, but as Americans. It's time to put the rhetoric and politics behind us and deal head on with this very serious problem. I urge the House leadership and my colleagues on the other side of the aisle to allow this bill to come to the floor so that we can deal with these problems which threaten the welfare and safety of our Nation.

□ 1210

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON H.R. 5114

(Mr. DERRICK asked and was given permission to address the House for 1 minute.)

Mr. DERRICK. Mr. Speaker, the Rules Committee is scheduled to meet and grant a rule to H.R. 5114, the Foreign Operations Appropriations Act for fiscal year 1991, on June 26 at 12:30 p.m. A request may be made for a modified open rule, which would permit only those floor amendments designated in the rule. The committee has circulated a "Dear Colleague" that requests all amendments to the bill be submitted to the Rules Committee no later than 6 p.m. this evening, June 25, 1990. In order to ensure Members' rights to offer amendments under the rule that may be requested, they should submit those amendments, together with a brief explanation of the amendment, to the committee office at H-312, the Capitol, by 6 p.m. this evening.

HEALTH CARE COSTS TAKING A DEADLY TOLL ON OUR SOCIETY

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, in 1980, this Nation spent 9 percent of our GNP on health care. This year we'll spend 12 percent—or $660 billion—on health care. Predictions for the year 2000 suggest that by then our health care bill will be $2 trillion—a whopping 17½ percent of GNP.

The explosion in health care costs has begun to take a deadly toll on our society. Senior citizens, the poor, hospitals, and businesses are faced with no-win choices about medical bills and the need for health insurance.

There are many great minds working to come up with solutions to this problem. There are no easy answers.

One area, though, where I think we can make some real progress is in cost containment—making the best use of our health care dollars. Right now, the bulk of our Nation's health care policies reflect no coordinated effort to contain the cost of health care. Instead, we see employers providing

little or no incentive for their workers to join HMO's; we see doctors faced with enormous disincentives for holding down costs as a result of skyrocketing malpractice claims—and we see consumers throwing their hands up in disgust over a system that doesn't seem to be working.

We need to encourage employers to promote HMO's. We need malpractice reform. We need to get better information out to the people about keeping costs down.

As one analyst has said: "We have a cost-unconscious health care system." The system is sick—but there are some remedies available. Let's get to work on putting them to use.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 588

Mr. SLAUGHTER of Virginia. Mr. Speaker, my name was mistakenly added by the distinguished gentleman from Illinois [Mr. HAYES] to the list of cosponsors of his bill, House Joint Resolution 588.

Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Virginia?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 26, 1990.

BRYCE CANYON ENVIRONMENTAL ENHANCEMENT ACT OF 1990

Mr. OWENS of Utah. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3058) to provide for the exchange of certain Federal coal leases from the Alton Coal Field in the State of Utah for other Federal coal leases in that State, as amended.

The Clerk read as follows:

H.R. 3058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bryce Canyon Environmental Enhancement Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Alton coal leases" means the Federal coal leases in the State of Utah, serial numbered SL064507, SL058575, U0122583, U0105404, U0122675, U098774, U0140770, U0122584, U098775, U0147999, U098705, U060746, U083072, U0122579, U0101153, U060745 and U065012.

(2) The term "the Alton coal lease holder" means the lessee of record holding the Alton coal leases.

(3) The term "Manti-La Sal lands" means the following lands in the State of Utah:

R6E, T15S S.L.B.&M
Sec. 25 SE¼
R6E, T16S
Sections 1, 11, 12, 13, 14—All
Sec. 23—E½
Sec. 24—All
Sec. 25—N½
Sec. 26—N½NE¼
R7E, T15S
Sec. 30—lots 7-12
Sec. 31—NE¼, N½SE¼, SW¼SE¼, lots 1-12
R7E, T16S
Sec. 6—SW¼NE¼, S½SE¼, lots 2-8
Sections 7 and 18—All
Sec. 19—NE¼, lots 1-4
Sec. 30—lots 1-4

SEC. 3. COMPETITIVE COAL LEASE SALE.

(a)(1) LEASE SALE.—Notwithstanding any other provision of law, not later than 120 days after the enactment of this Act the Secretary of the Interior (hereinafter in this Act referred to as the 'Secretary') shall conduct a competitive coal lease sale pursuant to section 2(a)(1) of the Mineral Leasing Act for an area that includes, at a minimum, the Manti-La Sal lands.

(2) All bids submitted at the lease sale referred to in paragraph (1) shall be accompanied by a performance bond, filed with the Secretary, in an amount equal to the amount of the bonus bid or bids for the lease or leases offered at such sale. The performance bond shall be—

(A) released upon the payment by the successful bidder of the second installment of the bonus amount;

(B) forfeited to the United States in the event the successful bidder fails to make such bonus payments; or

(C) released, in the case of unsuccessful bidders, immediately after the lease sale.

(b) ELIGIBILITY.—Notwithstanding section 2(a)2(A) of the Mineral Leasing Act, the Alton coal lease holder shall be deemed eligible to bid on any coal lease offered at the sale referred to in subsection (a), and shall be eligible to receive such lease or leases if such lease holder is the highest successful bidder. This subsection applies only if such lease holder files the notice, and the Secretary makes the determination, referred to in section 4.

SEC. 4. CONDITIONS.

(a) NOTICE.—The Alton coal lease holder shall be eligible to receive any coal lease offered at the sale referred to in section 3(a) only if, within 90 days after the enactment of this Act, such lease holder files with the Secretary a notice of intent to relinquish the Alton coal leases. If the Secretary determines that the notice meets the requirements of this subsection, the provisions of the notice shall be binding upon both the Alton coal lease holder and the Secretary and the Secretary shall immediately issue to such lease holder a certificate of bidding rights as provided under subsection (b). Such notice shall stipulate that if the Alton coal lease holder is the successful bidder, and is issued any coal lease at the sale referred to in section 3(a)—

(1) the Alton coal lease holder will immediately relinquish to the Secretary (and the Secretary will promptly accept) all interests in the Alton coal leases; and

(2) after the issuance to such lease holder of any new lease offered at the sale referred to in section 3(a) the prohibition of section 2(a)2(A) of the Mineral Leasing Act shall apply to such lease holder until the date coal is produced in commercial quantities from such new lease or leases or from a logical mining unit into which the new lease or leases have been consolidated.

(b) BIDDING RIGHTS.—The certificate of bidding rights referred to in subsection (a) shall—

(1) be used by the Alton coal lease holder only for the purposes of bidding on any coal lease at the sale referred to in section 3(a);

(2) not be sold or transferred by the Alton coal lease holder to any other entity;

(3) be considered by the Secretary as a credit in lieu of a cash bonus payment, or portion of such payment, against the bonus bid submitted by the Alton coal lease holder at the coal lease sale referred to in section 3(a); and

(4) be in an amount that is equal to the amount invested by the Alton coal lease holder in the Alton coal leases prior to the date of enactment of this Act, as determined by the Secretary and verified by the Comptroller General of the United States, except that such amount shall not exceed $5,000,000.

SEC. 5. MISCELLANEOUS.

(a) FAIR MARKET VALUE.—No consideration shall be given by the Secretary to the amount referred to in section 4(b)(4) in making a determination of fair market value pursuant to section 2(a)(1) of the Mineral Leasing Act for the purposes of conducting the lease sale referred to in section 3(a).

(b) REQUIREMENT.—The Secretary shall conduct the lease sale referred to in section 3(a) notwithstanding the requirement of section 2(a)(3)(A)(iii) of the Mineral Leasing Act.

(c) PAYMENTS.—All money received from the bonus payment, rentals and royalties from the coal lease or leases issued under this Act shall be treated in accordance with section 35 of the Mineral Leasing Act, except that—

(1) amounts other than the state share of such money shall be credited to the fund established pursuant to the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following);

(2) the State shall receive 50 percent of the bonus bid, including that portion of such bid represented by bidding rights, as a cash payment, of which 20 percent of the amount represented by such cash payment in lieu of the State's share of the bidding rights shall be paid directly to Garfield County, Utah, and 20 percent of the amount represented by such cash payment in lieu of the State's share of the bidding rights shall be paid directly to Kane County, Utah; and

(3) in the event there is an insufficient amount of cash in the federal share of the bonus bid to provide for the payment referred to in paragraph (2), the balance shall be paid to the State, Garfield and Kane Counties from the federal share of production royalties collected from any coal lease issued under the Act.

(d) PERMIT.—The Secretary of Agriculture shall issue a special use permit to the successful bidder at the lease sale referred to in section 3(a) for the purposes of accommodating more than a single entry into any underground mining operation proposed by such lease holder to produce coal from such lease or leases.

(e) WITHDRAWAL.—Upon relinquishment of the Alton coal leases the lands subject to such leases shall be withdrawn from the operation of the coal leasing provisions of the Mineral Leasing Act.

(f) MONITORING.—The Comptroller General of the United States shall monitor the Secretary's implementation of this Act and shall file a preliminary report with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the Secretary's progress in complying with this Act 60 days prior to the lease sale referred to in section 3(a) and shall file a final report after the date of such sale.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Utah [Mr. OWENS] will be recognized for 20 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. OWENS of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3058, the Bryce Canyon Environmental Enhancement Act of 1990.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. OWENS of Utah. Mr. Speaker, H.R. 3058, the Bryce Canyon Environmental Enhancement Act, will resolve a decades-old fight as to whether or not we should foolishly allow strip mining in the shadow of Bryce Canyon National Park. This legislation will protect the park vistas across the stair steps of the pink, white, and vermillion cliffs of southern Utah by permanently withdrawing the lands below that area from strip mining. It will protect the water which both flows through Zion National Park and serves local ranching families.

This bill also serves the needs of the coal leaseholder by providing the opportunity to mine at a more appropriate site where there is an existing underground coal operation.

The Alton coalfield is located in southern Utah near Bryce Canyon National Park. The leaseholder of that field has contractual rights to 26,533 acres of Federal coal lands there and has expended a large sum trying to develop the field.

Citizens have long been concerned that a strip-mining operation at Alton would damage Bryce Canyon. The mine would be within sight of some parts of the park and would necessitate blasting and night lighting. Administrative challenges were first raised against an Alton coal mine in 1979.

In the face of this conflict, both industry officials and environmentalists came to me to ask for help to resolve this problem. I agreed to work this bill through the Interior and Insular Affairs Committee but suggested that they ask my colleague, HOWARD NIELSON, to introduce the bill because it would impact his district. I thank Mr. NIELSON and Mr. HANSEN for their agreement to provide bipartisan support for this matter.

This bill resolves the Alton coalfield controversy by giving the leaseholder credits for part of the investments made toward developing the field. The credits will be used in a competitive coal sale for an underground mine on Federal lands in central Utah. If the Alton leaseholder is successful at that competitive bid, then it will relinquish the Alton leases, abandon its water rights applications, and the Alton area will be withdrawn from Federal coal leasing.

Mr. Speaker, we are not so poor in this country that we cannot afford to protect special places like Bryce Canyon. In fact, as we face the enormity of resolving problems such as dirty air and water, soil loss, global climate changes, and the extinction of species, we must realize we are not rich enough, that we can afford not to protect such special places.

Society is often told, falsely, that we must decide between economic development and environmental protection. The bill before you today, Mr. Chairman, shows that we can protect our environment and keep our jobs. It is not a choice between industry and resource protection. It is a question of whether we save some of the quiet places we have left.

Utah has mined little more than 2 percent of the State's total coal reserves since the beginning of Utah's coal mining history more than 100 years ago. In the region where the Alton operator will use its credits if this bill passes, there is enough coal to mine at the present rate for another 60 years. Strip mining the Alton field would not only leave a scar against Bryce Canyon National Park, it is unnecessary.

Utah's fastest growing industry is tourism. Bryce Canyon, Zion National Park, and surrounding wilderness areas are a huge attraction for visitors from around the world. This is no place for strip mining. As we plan future growth, we must develop only where it make both economic and environmental sense.

In light of my concern for improper development in environmentally sensitive areas, I would like to make clear the meaning of Secretary Andrus' 1980 decision which determined that certain portions of the Alton area were unsuitable for development. Mr. Andrus' decision did not give the green light for mining in those areas which were not listed as unsuitable. Rather, the Secretary clearly stated there was not enough information to make a determination on the remaining portion, and that it was highly unlikely that important national park values would be compromised on those lands as well.

Development of the Alton coalfields does not serve the interests of Americans, whether or not they live in Utah. Pushing the leaseholder into developing these tracts would only lead to litigation, delay job opportunities, and threaten the national park. Better those efforts be directed toward a more suitable location which is what this bill does.

Some have asked whether this legislation might provide Nevada Electric Investment Co. with an unjustifiable reward for giving up a coal lease which, in the end, might never be developed anyway. The intention of the legislation, which my colleagues, Mr. NIELSON, and Mr. HANSEN, and I introduced was to foreclose that possibility—which is very real—because of the scenic compromises to Bryce Canyon National Park and the serious water depletion which would result if mining were to occur. Both are economic threats to the well-being of southern Utah, touching as they do the two most important economic elements of that area: Tourism and agriculture.

We recognize that NEICO's opportunities at Alton are compromised by possible environmental and agriculture based challenges should they attempt to proceed, and that factor should mitigate the amount offered as an incentive to give up the Alton lease. But, in return for the company's willingness to give up its lease, the Utah Members of the House and the subcommittee and committee determined that the company should be reimbursed for at least part of their investment. Even mining companies are entitled to be treated fairly.

It must be recognized that the amount of the bid credit is substantially less than the company's investment in the Alton property. This bill does not make the company whole. It offers nothing for several hundred thousand dollars that have been spent to plan a slurry transport system. It offers nothing for the hundreds of thousands spent in good faith on legal battles to allow development. Compensation has been limited to the actual dollars expended on lease payments, engineering, and development work without interest.

The significance of what we are doing here is that both Utah officials and the Interior Committee believe there is a higher, better use for these unique lands and waters, and we want to permit, even encourage, corporate

policy such as that here demonstrated by NEICO.

This legislation will be celebrated by a roomful of winners. America wins big because one of her most splendid natural wonders will be protected from potential despoilment.

Utah wins big for a host of reasons:

First, Utahans love their parks and are equally concerned for their protection;

Second, high-paying jobs will follow this bill in central Utah;

Third, development of a large block of State school fund lands containing coal deposits will be expedited by this bill—generating badly needed education funds without the corresponding pain of increased taxes;

Fourth, southern Utah gets a real boost—an amendment I added in committee, with bipartisan support, requires NEICO to pay $500,000 to each of Kane and Garfield Counties. In effect we are trading very real and expanding tourism opportunities for highly doubtful mining jobs. This is even more clear with the recent passage of the Clean Air Act, which establishes additional restrictions on development that might impair the integral vista of a national park. This bill helps ensure preservation of a critical tourism resource and at the same time provides funding to permit local communities to better maximize this and other similar economic resources; and

Fifth, finally, the bill is crafted so that Utah comes out as if the entire new lease bid, on the substitute coal deposits in central Utah, were being paid in cash. In other words the Federal Government will make up to Utah, from its share of the bid proceeds, the entire consequence of the credit being offered to NEICO. The Interior Committee found this justifiable because of the important national interest involved.

Mr. Speaker, this bill shows once again that we can light and heat our houses without destroying those places that provide us with emotional and spiritual nourishment.

I urge my House colleagues to vote in support of this bill.

□ 1220

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3058, the Bryce Canyon Environmental Enhancement Act of 1990.

The bill now before us was amended in the Interior Committee to resolve some of the concerns about the original bill which I cosponsored. In that version of the bill, the State of Utah and the Bureau of Land Management had expressed apprehensions that the original bill as drafted would establish dangerous precedents with regard to aspects of the proposed coal lease exchange.

There was concern that the original bill avoided a competitive lease sale in the Genwal mine area and thus denied the State and the Federal Treasury the bonus bids that would otherwise be forthcoming. We have addressed that in this subtitle bill by directing the BLM to hold a competitive lease sale for the underground coal of interest.

Mr. Speaker, this bill is an equitable solution to the problem of the inability of a small coal mining company to attain the necessary permits to surface mine and transport coal from its Federal leases in the Alton field, in southern Utah adjacent to Bryce Canyon National Park. Fully one-half of this coalfield was declared unsuitable for surface mining by former Secretary of the Interior Cecil Andrus in 1980 because of concerns that noise and lights at night would disrupt the experience of visitors to the southern edge of the park. Although these are not the leases at issue today, another lessee has brought an inverse condemnation against the Federal Government in an attempt to be compensated for this loss. The court of claims has yet to rule on the matter after nearly 6 years, but clearly there is the potential for a large award for the leases lost by Secretary Andrus' action.

H.R. 3058 will grant to the holder of the remaining Federal leases in the Alton field bidding credits of close to the value of its sunk costs in the coal mine project to date. These costs will be determined by an inspection of the company's books and in no case will the credits exceed $5 million, although it would appear that nearly $7 million have been spent to date on the total project costs.

I offered this amendment in subcommittee only after being assured that it represented the consensus of the Utah House delegation, none of whom sit on the Mining Subcommittee. The bill was further amended in the full Interior Committee to recognize the potential for lost Mineral Leasing Act revenues to Kane and Garfield Counties in southern Utah because the Alton field would not be mined.

Mr. Speaker, we must not lose sight of the goal of the sponsors of the original bill—to preserve the integrity of one of the most scenic national parks in the country while at the same time recognizing that a relatively large investment was made by a small mining company, the subsidiary to a small electric utility, that in good faith attempted to develop an environmentally sound surface coal mine. After over 20 years of trying to win approval for the only economic method of mining and transporting the coal no one can blame the management of this company for the decision to cut its losses. The Federal Government should share in the recoupment of a portion of the investment in this failed project to protect the national park.

Mr. Speaker, I strongly urge passage of this bill.

Mr. OWENS of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentlewoman from Nevada for her leadership and assistance.

The amendment which the gentlewoman offered, which I was very pleased at the time to support, was a very helpful one and I thought deserves our commendation.

Mr. RAHALL. Mr. Speaker, this legislation seeks to settle a longstanding dispute over the potential development of Federal coal leases in the vicinity of Bryce Canyon National Park in southern Utah. I would note at the onset that H.R. 3058 enjoys bipartisan support and was sponsored by the entire Utah House delegation, our colleagues, HOWARD NIELSON, WAYNE OWENS, and JAMES HANSEN, as well as the Nevada House delegation represented by BARBARA VUCANOVICH and JAMES BILBRAY.

As introduced, the bill envisioned an exchange of Federal coal leases as a solution to this dispute. We have, however, worked to devise a different approach which addresses the concerns some have raised over the bill. This approach is represented by the amended version of H.R. 3058 that was formulated during consideration of the measure by the Subcommittee on Mining and Natural Resources and subsequently reported by the Committee on Interior and Insular Affairs.

The bill, as amended, does not envision a lease exchange as does the introduced bill. In effect, the measure before us today would simply require that a competitive coal lease sale be held for certain Federal lands in Utah. However, in order to provide an incentive to the holder of the Alton coal leases to relinquish those leases—so that we can eliminate a major threat to the integrity of Bryce Canyon National Park—the substitute would provide the company with bidding rights based on the investment value of those leases to be used at the new lease sale. I would note that the bidding rights concept has precedent. We have done it before and it has worked. In addition, since the company is currently under the prohibition of section 3 of the Federal Coal Leasing Amendments Act of 1976, the substitute would provide for a limited lifting of that prohibition so that the company could be issued, if it is the highest successful bidder, new leases.

As chairman of the Subcommittee on Mining and Natural Resources, I want to especially commend our colleague, WAYNE OWENS, for originally bringing this matter to my attention. In fact, this bill would not have been moved through committee and brought to the House floor if it had not been for WAYNE OWENS' diligence and legislative skills. His insights and hard work in formulating the measure before us today is deeply appreciated.

Mr. Speaker, I urge the adoption of the bill.

Mr. NIELSON of Utah. Mr. Speaker, I rise today in support of H.R. 3058, the Bryce

Canyon Environmental Enhancement Act of 1990. I am the original sponsor of this legislation along with my colleagues from Utah and Nevada. This bill would facilitate an exchange of certain Federal coal leases from the Alton coalfield in the State of Utah for bidding rights on other Federal leases in central Utah.

There have been many attempts over the years by the Nevada Electric Investment Co. [NEICO] to pursue development of the Alton coalfield leases. These attempts have been met with opposition due to environmental concerns and as a result have been unsuccessful. The proximity to Bryce Canyon National Park and the scarcity of water in the area are the two main reasons for opposition of mining in the area.

NEICO currently has mining operations in central Utah that are adjacent to the new leases they seek to obtain. This operation has almost been mined to the point where they must either expand or shut down. I am sure many Members of the Congress are aware of the negative economic effects a mine closure would have on the surrounding community. Due to drought and other problems common to rural areas of our country, this area of Utah is already economically depressed. The continuation and expansion of NEICO's Genwal mining operation would be beneficial to the people in that area.

The original draft of the legislation that was introduced raised questions on precedent setting effects of a straight exchange as well as some other concerns to the State of Utah. Since that time compromises have been reached on most issues and the bill you have before you today complies with the current BLM bidding process on Federal leases but gives NEICO bidding rights on the new leases for relinquishment of the Alton leases.

The administration has also raised some concerns with H.R. 3058. They question whether the Alton leases could actually be developed because of costs of transportation, whether there would be any negative environmental impacts, and allege that this is just a windfall for NEICO.

There is no denying the costs of transportation would be high to develop the Alton leases but mining costs at Genwal are also high and I feel that there would not be that much of a difference in total cost to NEICO. With regards to the environmental concerns, while I hope that it is still possible to develop the Alton field, I realize that in today's environmentally conscious world, anything that carries the possibility of harm to the environment is virtually impossible to get approval for. I think this is especially true in this case and has been proven by the history of opposition to development of the Alton leases.

The argument regarding the profits to NEICO and cost to the Government is shortsighted. I can't see how anyone could say that it wouldn't be more advantageous to provide for continual mining than to wait and see if another company will develop the leases years from now. The State and Federal Government will receive coal royalties almost immediately rather than waiting for an unspecified length of time.

Colleagues, you have before you today legislation that could do something both environmentally and economically beneficial. How often do we have such an opportunity? It seems like many of the issues we face in Congress are either-or situations, not win-win. I thank my colleagues from Utah and Nevada for their support on this issue and urge the rest of our colleagues to do the same.

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of Utah. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Utah [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 3058, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ETHICS IN GOVERNMENT ACT AMENDMENT OF 1990

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4525) to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics.

The Clerk read as follows:

H.R. 4525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Government Act Amendment of 1990".

SEC. 2. INCREASE IN AUTHORIZATION OF APPROPRIATIONS.

Section 405(2) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "$3,500,000" and inserting "$5,000,000".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Washington [Mr. CHANDLER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

□ 1230

Mr. BROOKS. Mr. Speaker, I yield 10 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI], and I ask unanimous consent that he be permitted to yield time in blocks to other Members.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. BROOKS. Mr. Speaker, H.R. 4525 would raise the current annual authorization ceiling for the Office of Government Ethics [OGE] from $3.5 million to $5 million for the fiscal years 1991 through 1994.

The Ethics in Government Act established the Office of Government Ethics in 1978 as a central office to oversee and improve the executive branch procedures for applying and interpreting financial disclosure and conflict of interest requirements.

Although originally established as a part of the Office of Personnel Management, OGE was made a separate agency within the executive branch on October 1, 1989. It is responsible for providing the overall direction of executive branch policies related to preventing conflicts of interest by the officers and employees of any executive agency.

OGE's responsibilities include: implementing the executive branch financial disclosure requirements of the Ethics in Government Act; developing regulations regarding the post-employment restrictions for Government employees and for the other criminal conflict of interest statutes and executive orders; monitoring and investigating executive agencies' ethics programs; interpreting rules and regulations concerning standards of conduct; and establishing a formal advisory opinion service. OGE works closely with the ethics officers of the various agencies and departments, acting as an advisor regarding the issues within OGE's jurisdiction and providing them with training on ethics laws, regulations, and procedures.

During Presidential transitions, OGE works with potential nominees, the White House, and the involved agencies to review the nominees' financial disclosure reports. Under Senate procedures, before a committee can vote on the confirmation of an appointee, the Director of OGE must state to the chairmen of the committees that the candidates are in compliance with applicable laws and regulations concerning conflicts of interest. OGE continues to carry out this function for all Presidential appointments made after the transition is completed.

Since 1978, OGE has been reauthorized twice, in 1983 and 1988. Its current authorization terminates on September 30, 1994.

In 1988, OGE was given new authority to investigate possible ethics violations and, as appropriate, to order corrective action or to recommend disciplinary action. In 1989, OGE was given additional new responsibilities from three sources: Executive Order 12674, entitled "Principles of Ethical Conduct for Government Officers and Employees; the Ethics Reform Act of 1989"; and the "Department of Defense Authorization Act." New responsibilities from each of these sources have placed serious strains on the current small staff and budget of OGE, which needs to expand its workforce

from 35—at the end of fiscal year 1989—to approximately 53 in fiscal year 1991. The increased authorization provided by H.R. 4525 will allow OGE to obtain the funding needed for this staff increase.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4525, the Ethics in Government Act Amendment of 1990, was introduced at the President's request on April 18, 1990, to increase the annual authorization of appropriations for the Office of Government Ethics from $3.5 to $5 million for each fiscal year through 1994.

The Office of Government Ethics [OGE] was established under title IV of the Ethics in Government Act of 1978. Its purpose is to provide overall direction of executive branch policies related to preventing conflicts of interest. Originally established as a part of the Office of Personnel Management, the OGE was made a separate agency within the executive branch on October 1, 1989.

Since its inception, the OGE has been performing and continues to perform the responsibilities outlined in the Ethics in Government Act of 1978 in six general areas: First, regulatory authority; second, financial disclosure; third, education and training; fourth, guidance and interpretation; fifth, enforcement; and sixth, evaluation.

As a result of its 1988 reauthorization, Executive Order 12674, and the Government Ethics Reform Act of 1989, the OGE's executive branch role has significantly expanded. The offices' new responsibilities include: Implementing the executive branch financial disclosure requirements of the Ethics in Government Act, developing regulations regarding various ethics restrictions for Government employees and for the other criminal conflict of interest statutes and executive orders, and monitoring and investigating agencies' ethics programs.

The OGE Reauthorization Act for fiscal year 1989-94 mandates that the OGE require annual reports from each agency, describing and evaluating their ethics programs. OGE then distills that information and reports biennially to Congress, summarizing all OGE actions to accomplish its functions. It also monitors all agency referrals to the Attorney General of violations under the conflict of interest statutes, and ensures that each agency has written procedures on both public and confidential financial disclosure collection and review.

Under its reauthorization in 1988, the Office of Government Ethics established due process procedures for ordering and monitoring corrective action by executive branch employees as well as procedures for recommending investigations and/or disciplinary action for employees. OGE also conducts hearings to ensure employee compliance with ethics laws and to determine whether corrective action is needed.

Executive Order 12674, issued on April 12, 1989, also expanded OGE's role by requiring them, among other things, to develop regulations to establish a single comprehensive and clear set of executive branch standards of conduct. This required OGE to develop, disseminate, and update an ethics reference manual for executive branch employees, describing the relevant statutes, regulations, decisions, and policies concerning ethics of executive branch employees.

The Government Ethics Reform Act of 1989 established even more responsibilities for the office. It is now required to revamp the public financial disclosure system for all three branches of the Government as well as issue new regulations in a variety of areas established under the act.

In conclusion, Mr. Speaker, the increased authorization provided by H.R. 4525 will allow the OGE to obtain the funding for needed staff increases due to its increased responsibilities and activities.

I urge my colleagues to support this measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CHANDLER. Mr. Speaker, I have no objection to the legislation.

Mr. GILMAN. Mr. Speaker, I support this measure to increase the authorization level for the Office of Government Ethics. During the last session of this Congress, we debated and enacted into law ethics reform legislation placing an increased burden on the Office of Government Ethics.

I know all my colleagues share my concern that the OGE perform its responsibilities in a prudent manner. In order to accomplish its legislatively mandated mission, the Office will require increased funding to meet this increased work load.

This initiative is supported by the administration and the Committee on the Judiciary. It significantly facilitates the Office of Government Ethics in accomplishing its new tasks role as envisioned by Congress in its newly expanded role. I support this measure and urge all my colleagues to do so.

Mr. JAMES. Mr. Speaker, I rise in support of H.R. 4525, the Ethics in Government Act Amendment of 1990. This bill amends the Ethics in Government Act of 1978 by raising the ceiling for authorization for the Office of Government Ethics from $3.5 million to $5 million. It is important to note here that this is not an increase in authorization, it is simply an increase in the authorization cap for the Office of Government Ethics.

The Subcommittee on Administrative Law and Governmental Relations held hearings on H.R. 4525 in April of this year wherein testimony was heard from the Acting Director of the Office of Government Ethics. The Office of Government Ethics made it clear to the committee members that due in large part to the new responsibilities which we here in Congress have placed on the Office of Government Ethics through the ethics legislation which we passed during the last Congress, that additional money may be needed to carry out the new responsibilities of the Office. Those were substantial new responsibilities which we placed on this Office in the last Congress and I believe that this authorization ceiling increase is warranted.

I support the bill and I urge my colleagues to support the measure.

Mr. CHANDLER. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4525.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on H.R. 4525, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

J. KENNETH ROBINSON POSTAL BUILDING

Mr. KANJORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4721) to designate the Federal building located at 340 North Pleasant Valley Road in Winchester, VA, as the "J. Kenneth Robinson Postal Building".

The Clerk read as follows:

H.R. 4721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 340 North Pleasant Valley Road in Winchester, Virginia, and known as the Winchester Post Office, shall be known and designated as the "J. Kenneth Robinson Postal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "J. Kenneth Robinson Postal Building".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for

20 minutes, and the gentleman from Washington [Mr. CHANDLER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KANJORSKI].

GENERAL LEAVE

Mr. KANJORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 4721, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4721 would designate the Federal building located at 340 North Pleasant Valley Road in Winchester, VA, as the J. Kenneth Robinson Postal Building.

J. Kenneth Robinson was a colleague of ours, serving from the 92d through the 98th Congress. He passed away earlier this year at the age of 73.

During his tenure Ken served with distinction as a member of the Defense Subcommittee of the Committee on Appropriations and the Permanent Select Committee on Intelligence. He was known for his fierce commitment to America's defense.

A graduate of Virginia Tech in Blacksburg, Ken was a successful orchardist and farmer. He held numerous posts in a wide variety of civic, fraternal, and community organizations including local and State chambers of commerce.

Mr. Speaker, it is fitting that this post office in Winchester be named for our late colleague, and I urge members of the committee to support this legislation.

Mr. CHANDLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take this time to assure the House that the minority on the Post Office and Civil Service Committee has no objections to the passage of this measure. Indeed, it is a true indication of the respect with which the late Ken Robinson was held, that the minority and the majority of our committee were unanimous in our support for bringing this bill to the floor.

Mr. Speaker, unfortunately I was able to serve only one term with Ken Robinson, that being my first term and his last, in the 98th Congress. But, I am fortunate also because unlike some of my colleagues who have come to the Congress since that time, I did have that one term to experience being a colleague of his and I count myself lucky for that.

Winchester, VA, was home to Ken Robinson and I believe this to be an appropriate acknowledgment of the love and respect this community gave to him and he, in return, gave to them. I urge all my colleagues to support the bill.

Mr. CHANDLER. Mr. Speaker, I yield 5 minute to the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Speaker, I am pleased that we consider today legislation I introduced, H.R. 4721, to designate the Winchester, VA, postal facility as the J. Kenneth Robinson Postal Building. On May 2, I introduced this bill with the support of the entire Virginia delegation to honor our friend and former colleague, J. Kenneth Robinson.

Before I go any further, however, I want to extend a special thank you to Chairman FORD, Vice Chairman BEN GILMAN, and Congressman FRANK HORTON for all their help in moving this legislation through the Post Office and Civil Service Committee. In fact, I want to offer a special thank you to all of the members of this important committee for their expeditious consideration of the bill. I was very happy to learn that H.R. 4721 was approved unanimously.

Time constraints and a full legislative schedule today will keep me from going into great detail with respect to how much our former colleague deserves the recognition that is conferred upon him by this bill. The reasons this bill is appropriate are simply too numerous to go into right now, however, I would like to refer all of my colleagues to the May 2, 1990, CONGRESSIONAL RECORD where in 14 pages you will find over 40 contributions from Members who took the time to pay tribute to Kenneth Robinson during a special order I took out, specifically for that purpose.

Let me just say that Kenneth Robinson was a great statesman. He left a legacy of service and accomplishment to this Nation that few men in longer lifetimes have been able to approach. His 4 years as an infantryman in World War II, his 6 years as a Senator in the Virginia General Assembly, in addition to his 14 years as a U.S. Representative serving the Seventh Congressional District of Virginia, amount to nearly 25 years of service to Virginia and to our country.

H.R. 4721 is an appropriate and fitting tribute. Renaming a post office or erecting a monument is an honor reserved for very few. It is a way, however, that communities can ensure that the important legacy and contributions of a given individual will not be forgotten. Our children and grandchildren need to know the names of men and women who played such prominent roles in our history.

I urge my colleagues to support this legislation that honors my predecessor, one of the great men to serve in this great body.

Mr. GILMAN. Mr. Speaker, I take this time to add my voice in support of the measure before us. J. Kenneth Robinson, as most of us who served with him know, was a true gentleman, who cared about the community and his Nation a great deal.

The town of Winchester, VA, where the postal facility which will bear his name is located, meant a great deal to Ken. He was born there, went to school there, raised his family there, served it in the Virginia State Senate and represented it in the U.S. House of Representatives. He was active in many of the civic and fraternal organizations located there and helped establish the now well-known Winchester Apple Blossom Festival there.

Accordingly, I believe this to be a fitting tribute to a fine man and I am sure it will be a source of pride for his family and this fine community and I wholeheartedly recommend its approval by my colleagues on both sides of the aisle.

□ 1240

Mr. CHANDLER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Pennsylvania [Mr. KANJORSKI] that the House suspend the rules and pass the bill, H.R. 4721.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NATIONAL ADVISORY COUNCIL ON THE PUBLIC SERVICE ACT OF 1990

Mr. KANJORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4872) to establish the National Advisory Council on the Public Service.

The Clerk read as follows:

H.R. 4872

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Advisory Council on the Public Service Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) recognition of the services rendered by Federal employees (hereinafter in this Act referred to as "national public service") should be accorded a high and continuing place on the national agenda;

(2) the National Commission on the Public Service, through its good works, had documented the need for greater advocacy on behalf of those performing national public service;

(3) although public service is an honorable profession, members of the public do not always perceive it favorably;

(4) serious obstacles often hinder the Government's efforts to recruit and retain the best and the brightest for national public service;

(5) just as the public has a right to expect Federal employees to adhere to the highest standards of excellence and ethicality, so Federal employees have a right to expect an atmosphere of trust and respect, and a sense of accomplishment from their work; and

(6) an advisory council is needed to provide the President and the Congress with bipartisan, objective assessments of, and recommendations concerning, the Federal workforce.

SEC. 3. ESTABLISHMENT.

There shall be established a council to be known as the National Advisory Council on the Public Service (hereinafter in this Act referred to as the "Council").

SEC. 4. FUNCTIONS.

The Council shall—

(1) regularly assess the state of the Federal workforce;

(2) in conjunction with the President, the Congress, and the Judiciary, seek to attract individuals of the highest caliber to careers involving national public service, and encourage them and others of similar distinction who are already part to the Federal workforce to make a continuing commitment to national public service;

(3) promote better public understanding of the role of Federal employees in implementing Government programs and policies, and otherwise seek to improve the public perception of Federal employees;

(4) encourage efforts to build student interest in performing national public service (whether those efforts are undertaken at the community level, in the classroom, or otherwise); and

(5) develop methods for improving motivation and excellence among Federal employees.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Council shall be composed of 15 members as follows:

(1) 2 Members of the Senate, 1 of whom shall be appointed by the majority leader of the Senate and the other of whom shall be appointed by the minority leader of the Senate.

(2) 2 Members of the House of Representative, 1 of whom shall be appointed by the Speaker of the House of Representatives and the other of whom shall be appointed by the minority leader of the House of Representatives.

(3) The Director of the Administrative Office of the United States Courts (or his delegate).

(4) 10 individuals appointed by the President—

(A) 4 of whom shall be chosen from among officers serving in the executive branch;

(B) 1 of whom shall be chosen from among career employees in the civil service;

(C) 1 of whom shall be a Federal employee who is a member of a labor organization (as defined by section 7103(e)(4) of title 5, United States Code); and

(D) 4 of whom shall be chosen from among members of the public who do not hold any Government office or position.

(b) CONTINUATION OF MEMBERSHIP.—If any member of the Council whose appointment is based on that individual's holding a Government office or position leaves such office or position, or if any member of the Council under subsection (a)(4)(D) is appointed or elected to a Government office or position, that individual may continue to serve as such a member for not longer than the 90-day period beginning on the date of leaving that office or position, or entering into that office or position, as the case may be.

(c) TERMS.—Members of the Council shall be appointed for the life of the Council.

(d) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(e) COMPENSATION.—(1) Members of the Council shall not be entitled to pay (or, in the case of members holding any Government office or position, pay in addition to any to which they are otherwise entitled for service in such office or position) by virtue of membership on the Council.

(2) While serving away from their homes or regular places of business in the performance of duties for the Council, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(f) QUORUM.—Eight members of the Council shall constitute a quorum.

(g) CHAIRMAN.—The Chairman of the Council shall be designated by the President from among the members appointed under subsection (a)(4)(D).

(h) MEETINGS.—The Council shall meet at the call of the Chairman or a majority of its members, and shall meet on at least a quarterly basis.

SEC. 6. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—With the approval of the Council, the Chairman may appoint a Director and fix the pay of such Director at a rate not to exceed the rate for level IV of the Executive Schedule. The Director shall be a person who, by reason of demonstrated ability in the area of management, government, or public administration, is especially well qualified to serve.

(b) STAFF.—With the approval of the Chairman, the Director may appoint and fix the pay of such personnel as may be necessary to carry out the functions of the Council. The staff of the Council shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate payable under the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Chairman, the head of a Federal agency may detail, on a reimbursable or nonreimbursable basis, any personnel of such agency to the Council to assist the Council in carrying out its functions under this Act.

SEC. 7. POWERS.

(a) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(b) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request.

(c) OFFICIAL DATA.—The Council may secure directly from any Federal agency information necessary to carry out its functions under this Act. Each such agency is authorized and directed to furnish, to the extent permitted by law, any information requested by the Council.

(d) GIFTS.—The Council—

(1) may accept money and other property donated, bequeathed, or devised to the Council without condition or restriction (other than that it be used to carry out the work of the Council); and

(2) may use, sell, or otherwise dispose of any such property to carry out its functions under this Act, except that, upon the termination of the Council, any such property shall be disposed of in accordance with applicable provisions of law governing the disposal of Federal property.

SEC. 8. REPORTS.

The Council shall transmit to the President and each House of the Congress—

(1) within 1 and 2 years, respectivey, after the date on which the Council first meets, reports containing its preliminary findings and recommendations; and

(2) within 3 years after the date on which the Council first meets, a final report containing a detailed statement of the findings and conclusions of the Council, together with its recommendations for such legislation or administrative actions as it considers appropriate.

SEC. 9. COMMENCEMENT; TERMINATION.

(a) COMMENCEMENT.—Appointments under section 5 shall be made, and the Council shall first meet, within 90 days after the date of the enactment of this Act.

(b) TERMINATION.—The Council shall cease to exist upon transmitting its final report under section 8(2).

SEC. 10. AUTHORIZATION.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for 20 minutes, and the gentleman from Washington [Mr. CHANDLER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KANJORSKI].

GENERAL LEAVE

Mr. KANJORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4872, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4872, introduced by the gentleman from Michigan [Mr. FORD] and several members of the Committee on Post Office and Civil Service, establishes the National Advisory Council on the Public Service. H.R. 4872 will establish a bipartisan

15-member Council. The Council is charged with the following tasks: to regularly assess the state of Federal work force; to seek to attract individuals of the highest caliber to careers involving public service; to promote better public understanding of the role of Federal employees in implementing Government programs and policies; encourage efforts to build student interest in performing national public service; and develop methods for improving motivation and excellence among Federal employees.

H.R. 4872 is a bipartisan effort by the Committee on Post Office and Civil Service members to help address this crisis, and I urge Members to support this bill.

Mr. Speaker, I reserve the balnace of my time.

Mr. CHANDLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would only take a moment to point out that the administration is actively reviewing the establishment of an Advisory Commission on the Public Service in the near future. In light of this, and because the statutory establishment of a Commission is, in the view of the administration unnecessary, the administration does oppose H.R. 4872.

H.R. 4872 also raises constitutional concerns. The bill could be construed, for example, to give the Council programmatic functions, such as recruitment, in addition to tis advisory responsibilities.

In committee I was personally opposed to the bill. I would point out, however, that the gentleman from New York [Mr. GILMAN] is in favor of the bill, and I will submit for the record his statement.

Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

The members of the Council will include two Senators, two Members of the House of Representatives, the Director of the Administrative Office of the U.S. Courts, and 10 individuals appointed by the President—4 officers in the executive branch, 1 career civil servant, 1 member of a Federal labor organization, and 4 members of the general public. The Council is required to submit annual reports of its findings and recommendations to the President and Congress with a final report due within 3 years of its first meeting. The Council will be terminated following the final report.

Problems facing our Federal Government are more importantly the problems facing our Nation's civil servants. Now, more than ever before it is vital for our Nation to address the public service's "quiet crisis."

At this time, I would like to acknowledge the hard work and efforts of the members of the Post Office and Civil Service Committees to implement the recommendations of the National Commission of the Public Service. Specifically chairman BILL FORD, ranking minority member BEN GILMAN, the civil service subcommittee chairman GERRY SIKORSKI, and the ranking minority member of the subcommittee, gentlewoman from Maryland, CONNIE MORELLA.

The legislation they drafted was recently endorsed by former Federal Reserve Board Chairman Paul Volcker at a luncheon honoring the accomplishments of the National Commission on the Public Service. At this time, I would like to acknowledge the hard work and efforts of the founders of the National Commission on the Public Service on a job well done. Founders of the Commission include: Elmer Staats, former Comptroller General of the United States; J. Robert Schaetzel, former Ambassador to the European Community; Leonard Marks, former Director of USIA: Norman Ornstein, resident scholar at the American Enterprise Institute; Elliott Richardson, a four-time Cabinet member; and Paul Volcker, former Chairman of the Federal Reserve.

Mr. Speaker, in recent years, concern has been expressed regarding the erosion of the attractiveness of public service at all levels of government—especially at the Federal level. Reports and survey have indicated that many of the Federal Government's senior executives are ready to leave, and not enough of our Nation's most talented young individuals are willing to enter into public service. In effect, the Federal Government is facing a quiet crisis.

In the summer and fall of 1987, the National Commission on the Public Service, now known as the Volcker Commission was formed. Led by Chairman Paul Volcker, this 36-member Commission included men and women with broad experience in Government and private life.

Mr. Speaker, I had the occasion to meet with some of the members of that Commission in my office as much as a year ago, and they impressed me with the facts that the public service of the United States over the next decade has a great threat: the threat is that as a result of the deterioration in salaries, as a result of the deterioration in benefits, and as a result of the deterioration in the standard with which Federal employees are held and the respect to which they are held, there is no longer the driving, compelling interest in young men and talented people within our country to join the civil service of the United States.

Enactment of this legislation will more than enable the civil service, the executive branch, and all branches of the Federal Government, to rearm themselves with the highest and best talented individuals in this country, so that we may proceed ahead and meet the challenges of the 1990's.

Mr. Speaker, when I met with Ambassador Laingen a year ago, this was his top effort, to sell this piece of legislation to the Congress, and he had forwarded the following letter which I would like to have appear in the RECORD addressed to the Honorable GERRY SIKORSKI, the House of Representatives, Washington, DC.

Dear Representative Sikorski, the National Commission on the Public Service, a group of prominent Americans, chaired by Paul A. Volcker, has for the past 3 years worked to improve the state of the public service of Government. As planned, the Commission will close its charter as of early July of this year.

Fully anticipating that we would leave a large unfinished agenda, our report recommended the establishment of a continuing body, to provide advice and counsel to the President and Congress on the whole state of the public service.

We understand that on Monday, June 25, the House will consider legislation to provide such a body: H.R. 4872, a bill to establish the National Advisory Council on Public Service. Our Commission hopes very much that you share our view that this council can provide the independent and authoritative counsel essential to keep the issue of public service high on the Nation's agenda.

Signed, Bruce Laingen, Executive Director of the National Commission on the Public Service.

Mr. GILMAN. Mr. Speaker, as an original cosponsor of H.R. 4872, I support this measure to give a congressional mandate to the Volcker Commission. I saw its many good works first hand at the beginning of this Congress during the lengthy hearings this committee conducted. I share the concern of my colleagues that the Commission's private-sector funding terminates this month and this is why I support the pending legislation establishing this bipartisan National Advisory Council on the Public Service.

I realize the administration has indicated its intention to create this Council by executive order. However, I believe a congressional mandate is the preferable way in order to assure the Council's independent integrity. The Council's work has yet to be completed and I look forward to its independent, thoughtful, and probing analysis concerning the state of the public service. Accordingly, I urge all my colleagues to support this measure.

Mr. FORD of Michigan. Mr. Speaker, President John F. Kennedy's invitation to public service, when he called upon Americans to "ask not what your country can do for you, but what you can do for your country," fell upon some pretty hard times over the past decade. The "quiet crisis" in Federal employment was chronicled throughout the 1980's—far from the front pages. Rather, the demise of public service was recorded more often for its local impacts, in the metro sections of newspapers.

Nearly 3 years ago, a group of dedicated individuals took it upon themselves to change that. Led by former Federal Reserve Board Chairman Paul Volcker, these individuals established the National Commission on the Public Service as a privately financed, bipartisan, non-profit organization. They were able to turn the spotlight on the status of the public service. Bringing together luminaries from business, education, labor, public interest organizations, and former Government officials, the Volcker Commission, as it became known, set as its goal strengthening the efficiency of Government and projecting a more positive image of the public service of government.

The Commission formed task forces, and conducted hearings, surveys, and research which examined the public service from a variety of standpoints including public perceptions, recruitment and retention, education and training, and pay and compensation.

In its April 1989 report, the Volcker Commission offered its recommendations through a series of reports and public appearances. Since publication of the report, the Committee on Post Office and Civil Service held a number of hearings both at the full committee and subcommittee levels.

The charter of the private independent National Commission on the Public Service is about to expire. At a luncheon honoring the work of the Commission last Friday attended to Speaker FOLEY, Senate Minority Leader DOLE, and a host of other Members of Congress, administration officials, Volcker Commission members, and sponsors, Chairman Volcker spoke of the work of the Commission as being far from complete. It is with that in mind that we join today not to bury the Commission but to praise it and honor its work. We do so not with a simple bronze plaque or commemorative resolution, but through a measure which will perpetuate the efforts of the private, independent group.

As recommended by the Volcker Commission, H.R. 4872, the "National Advisory Council on the Public Service Act of 1990" establishes an independent tripartite council on public service responsible on behalf of the President and Congress to focus attention on the public service. As the Volcker Commission rightly noted in its report, many of the issues the Council will consider will preoccupy the Directors of the Office of Personnel Management and the Office of Management and Budget. The basic function of the Council, however, will be support and oversight.

Mr. Speaker, it is all too common for the viability, importance, and vitality of the Federal civilian work force to get lost in the tangle of political rhetoric, budget politics, and stories of a few bad apples. But the Federal civilian work force is comprised of more than 2 million people who are responsible for ensuring safe air travel, acquiring weapons to safeguard the country's defense, managing the cleanup of hazardous wastes, protecting the stability of financial markets, and providing accurate benefits to the elderly. Few duties are more important to the health and freedom of this Nation.

At a time of continued scarce resources, at a time when reform of the Federal pay system is imminent, at a time when Government can ill-afford to be inattentive to the needs of those who serve, we consider today a measure which will bolster the vigilant oversight of the public service.

In enacting H.R. 4872, we give tribute to founding Chairman Paul Volcker, Directors J. Robert Schaetzel, Elmer B. Staats, Leonard H. Marks, Norman J. Ornstein, and Elliot L. Richardson, and the members and staff of the National Commission on the Public Service by continuing their work. I urge my colleagues to join in this effort.

Mr. CHANDLER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. KANJORSKI] that the House suspend the rules and pass the bill, H.R. 4872.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1250

WASTE REDUCTION ACT

Mr. THOMAS A. LUKEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1457) to improve Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about source reduction, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Waste Reduction Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings and policy.
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Sec. 11. Implementation.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that:

(1) The United States of America annually produces millions of tons of pollution and spends tens of billions of dollars per year controlling it.

(2) There are significant opportunities for industry to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw materials use. Such changes offer industry substantial savings in reduced raw material, pollution control, and liability costs as well as help protect the environment and reduce risks to worker health and safety.

(3) The opportunities for source reduction are often not realized because existing regulations, and the industrial resources they require for compliance, focus upon treatment and disposal, rather than source reduction; existing regulations do not emphasize multimedia management of pollution; and businesses need information and technical assistance to overcome institutional barriers to the adoption of source reduction practices.

(b) POLICY.—The Congress hereby declares it to be the national policy of the United States that pollution should be prevented or reduced at the source, whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "agency" means the Environmental Protection Agency.

(3) The term "toxic chemical" means any toxic chemical on the list described in section 313(c) of the Superfund Amendments and Reauthorization Act of 1968.

(4) The term "release" has the same meaning as provided by section 329(8) of the Superfund Amendments and Reauthorization Act of 1986.

(5)(A) The term "source reduction" means may practice which—

(i) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal; and

(ii) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(B) The term "source reduction" does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity separate from the production of a product or the providing of a service.

(6) The term "multimedia" means air, water, and land.

(7) The term "SIC codes" refers to the 2-digit code numbers used for classification of economic activity in the Standard Industrial Classification Manual.

SEC. 4. EPA ACTIVITIES.

(a) AUTHORITIES.—The Administrator shall establish in the Environmental Protection Agency an office to carry out the functions of the Administrator under this Act, unless an office of pollution prevention is established or provided for pursuant to another statute. The office shall be independent of the Agency's single-medium program

offices but shall have the authority to review and advise such offices on their activities to promote a multimedia approach to source reduction. The office shall be under the direction of such officer of the Environmental Protection Agency as the Administrator shall designate.

(b) FUNCTIONS.—The Administrator shall develop and implement a strategy to promote source reduction. As part of the strategy, the Administrator shall take each of the following actions—

(1) The Administrator shall ensure that the Environmental Protection Agency considers the effect of its existing and proposed programs on source reduction efforts and shall review proposed regulations of the Environmental Protection Agency to determine their effect on source reduction.

(2) The Administrator shall coordinate source reduction activities in each Environmental Protection Agency Office.

(3) The Administrator shall investigate methods of coordinating, streamlining, and improving public access to data collected under existing environmental statutes. The Administrator shall develop an inventory of existing data, consider developing common nomenclature, consistent reporting formats, and compatible data storage and retrieval systems.

(4) The Administrator shall determine what capabilities the Environmental Protection Agency should have to measure the amount of pollution created and pollution control practices in the United States. The Administrator shall determine what, if any, changes are needed in existing agency practices with respect to the collection and handling of data regarding the creation, measurement, and management of pollution.

(5) The Administrator shall facilitate the adoption of source reduction techniques by businesses. This strategy shall include the use of the Source Reduction Clearinghouse and State matching grants provided in this Act to foster the exchange of information regarding source reduction techniques, the dissemination of such information to businesses, and the provision of technical assistance to businesses. The strategy shall also consider the capabilities of various businesses to make use of source reduction techniques.

(6) The strategies shall include measurable goals where appropriate which reflect the overall goal of the strategies, the tasks necessary to achieve the goals, dates at which the principal tasks are to be accomplished, required resources, organizational responsibilities, and the means by which progress in meeting the goals will be measured.

(7) The Administrator shall establish a senior level liaison group with industry, public interest groups, and State source reduction program officials to provide guidance to the Administrator, to provide outreach to the industrial community, and to provide a liaison group for the educational community to promote the introduction of source reduction principles into engineering and management curricula.

(8) The Administrator shall establish an advisory panel of technical experts including representatives from industry, the States, the public, and public interest groups, to advise the Administrator on ways to improve collection and dissemination of data.

(9) The Administrator shall establish a training program on source reduction opportunities, including workshops and guidance documents, for State and Federal permit issuance, enforcement, and inspection officials working within all agency program offices.

(10) The Administrator shall establish an annual award program to recognize a company or companies which operate outstanding or innovative source reduction programs.

SEC. 5. GRANTS TO STATES FOR STATE TECHNICAL ASSISTANCE PROGRAMS.

(a) GENERAL AUTHORITY.—The Administrator shall make matching grants to States for programs to promote the use of source reduction techniques by businesses.

(b) CRITERIA.—When evaluating the requests for grants under this section, the Administrator shall consider, among other things, whether the proposed State program would accomplish the following:

(1) Make specific technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice to businesses seeking assistance.

(2) Target assistance to businesses for whom lack of information is an impediment to source reduction.

(3) Provide training in source reduction techniques. Such training may be provided through local engineering schools or any other appropriate means.

(c) MATCHING FUNDS.—Federal funds used in any State program under this section shall provide no more than 50 percent of the funds made available to a State in each year of that State's participation in the program.

(d) EFFECTIVENESS.—The Administrator shall establish appropriate means for measuring the effectiveness of the State grants made under this section in promoting the use of source reduction techniques by businesses.

(e) INFORMATION.—States receiving grants under this section shall make information generated under the grants available to the Administrator.

SEC. 6. SOURCE REDUCTION CLEARINGHOUSE.

(a) AUTHORITY.—The Administrator shall establish a Source Reduction Clearinghouse to compile information generated by States on management, technical, and operational approaches to source reduction. The Administrator shall use the clearinghouse to—

(1) serve as a center for source reduction technology transfer,

(2) mount active outreach and education programs to further the adoption of source reduction technologies; and

(3) collect and compile information reported by States receiving grants under section 5 on the operation and success of State source reduction programs.

(b) PUBLIC AVAILABILITY.—The Administrator shall make available to the public such information on source reduction as is gathered pursuant to this Act, including information about source reduction techniques and the effectiveness of State technical assistance programs. The Administrator may also provide such other pertinent information and analysis regarding source reduction as he deems appropriate. It shall be within the Administrator's discretion to determine the most feasible method for making such information available, including the use of computers.

SEC. 7. SOURCE REDUCTION AND RECYCLING DATA COLLECTION.

(a) REPORTING REQUIREMENTS.—Each owner or operator of a facility required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986 ("SARA") for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceding calendar year. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual release form filed by the owner or operator under section 313(c) of that Act. This section shall take effect with the annual report filed under section 313 for the first full calendar year beginning after the enactment of this Act.

(b) ITEMS INCLUDED IN REPORT.—The toxic chemical waste reduction report required under subsection (a) shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

(1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The quantity reported shall not include any amount reported under paragraph (8). The report filed for any facility which produces only a single product and for which reporting the quantity of chemical entering the waste stream would cause public disclosure of a proprietary process may, at the option of the owner or operator, report only the percentage change from the previous year. When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made based on best engineering judgment.

(2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year and the percentage change from the previous year.

(3) The amount of the chemical from the facility which is treated (at the facility or elsewhere) during such calendar year and the percentage change from the previous year.

(4) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless the Administrator finds other categories to be more appropriate:

(A) Equipment, technology, process, or procedure modifications.

(B) Reformulation or redesign of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(5) The amount expected to be reported under paragraphs (1) and (2) for the 2 calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).

(6) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical. The Administrator is encouraged to develop production indexes to

accommodate individual industries for use on a voluntary basis.

(7) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

(8) The amount of any chemical released into the environment which resulted from a catastrophic event, remedial action, or other one-time event and is not associated with production processes during the reporting year.

For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c) SARA PROVISIONS.—The provisions of sections 322, 325(c) and 326 of the Superfund Amendments and Reauthorization Act of 1986 shall apply to the reporting requirements of this section in the same manner as to the reports required under section 313 of that Act. The Administrator may modify the form required for purposes of reporting information under section 313 of that Act to the extent he deems necessary to include the additional information required under this section.

(d) ADDITIONAL OPTIONAL INFORMATION.—Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other pollution control techniques in earlier years.

(e) AVAILABILITY OF DATA.—Subject to section 322 of the Superfund Amendments and Reauthorization Act of 1986, the Administrator shall make data collected under this section publicly available, on a cost reimbursable basis.

SEC. 8. EPA REPORT.

(a) BIENNIAL REPORTS.—The Administrator shall provide Congress with a report within 18 months after enactment of this Act and biennially thereafter, containing a detailed description of the actions taken to implement the strategy to promote source reduction developed under section 4(b) and of the results of such actions. The report shall include an assessment of the effectiveness of the clearinghouse and grant program established under this Act in promoting the goals of the strategy.

(b) SUBSEQUENT REPORTS.—Each biennial report submitted under subsection (a) after the first report shall contain each of the following:

(1) An analysis of the data collected under section 7 on an industry-by-industry basis for industries which comprise not less than 5 SIC codes or other categories as the Administrator deems appropriate. The analysis shall begin with those SIC codes or other categories of facilities which generate the largest quantities of toxic chemicals. Each such subsequent report shall cover 5 SIC codes or other categories which were not covered in a prior report until all SIC codes or other categories have been covered.

(2) An analysis of the usefulness and validity of the data collected under section 7 for measuring trends in source reduction and the adoption of source reduction by business.

(3) Identification of regulations that may inhibit source reduction, and of opportunities within existing regulatory programs to promote and assist source reduction.

(4) Identification of priority industries and pollutants that would benefit from multimedia source reduction.

(5) Recommendations as to incentives needed to encourage investment and research and development in source reduction.

(6) An identification of any industries for which source reduction is not feasible, due either to the nature of the manufacturing process or cost, together with an analysis of the basis on which source reduction has been determined not to be feasible for each such industry.

SEC. 9. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to modify or interfere with the implementation of title III of the Superfund Amendments and Reauthorization Act of 1986.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator not more than $10,000,000 for each of the 3 fiscal years beginning after the enactment of this Act for functions carried out under this Act (other than State grants) and not more than $8,000,000 for each fiscal year after enactment of this Act for the State grant program.

SEC. 11. IMPLEMENTATION.

The Administrator is authorized to issue such rules, regulations, and orders as may be necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. (Mr. MAZZOLI). Is a second demanded?

Mr. TAUKE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. TAUKE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since 1970 Congress has enacted extensive environmental legislation directed toward the treatment and disposal of toxic wastes. There has also been substantial legislation designed to handle the cleanup of waste dumps and spills.

While these are very important pieces of legislation, it is becoming clear to many in Government and industry, as well as to private individuals, that end-of-the-pipe pollution controls are not enough. Enormous amounts of toxic waste continue to be released into the air, water, and land, despite stricter pollution controls and skyrocketing waste management costs.

The Waste Reduction Act, the bill now before the House, heralds a new approach to preventing environmental pollution. While other legislation has focused on the treatment or disposal of waste that has already been created, this bill is aimed at reducing toxic waste at the source—before it is generated.

Mr. Speaker, there is increasing evidence of the enconomic and environmental benefits to be realized in reducing toxic industrial waste at the source rather than managing such waste after it is produced.

In reports to Congress in 1986 and 1987, the Office of Technology Assessment projected that source reduction techniques using existing technology could reduce waste currently generated by as much as 50 percent over the next 5 years. Furthermore, OTA concluded that a modest Federal investment in waste reduction information collection and a grant program to the States for technical assistance to aid industry would more than pay for itself in a few years.

Testimony received by our subcommittee showed that some companies have made substantial reductions in their toxic waste by implementing manufacturing process changes, raw material substitutions, and other available techniques.

At the same time, factors inhibiting the increased use of these kinds of source reduction techniques by other companies have little to do with technological constraints, economic costs, or governmental prohibitions. In fact, lack of awareness or lack of information was cited as the most common reason more companies do not practice source reduction. Many company managers simply are not aware of techniques that could be applied to their business operations.

Industries and regulators are frequently so oriented toward meeting the requirements and deadlines of current pollution control regulations and statutes that they do not seek out innovative alternatives.

To help remedy this problem, the Waste Reduction Act requires the Environmental Protection Agency to develop and implement a strategy to promote waste reduction at the source. The bill also directs EPA to establish a source reduction clearinghouse to compile information on approaches to source reduction and to facilitate the transfer of source reduction technology; to disseminate information on source reduction techniques; and to promote public education on the benefits of source reduction. In addition, the bill authorizes a program of matching grants to the States for waste reduction programs that promote the use of source reduction techniques by industry.

Finally, the bill requires industrial generators of toxic chemicals to file annual reports on their source reduction and recycling activities. These reports allow the public to see just who is really doing something about preventing pollution.

These are not regulatory provisions: The bill merely requires disclosure of the amount of toxic waste being reduced at the source or being recycled. Our experience has been that disclosure can be very effective in producing tangible results. It opens the door to making significant reductions in the amount of toxic waste generated in this country every year.

Mr. Speaker, at a hearing our subcommittee held on this bill in May 1989, the Administrator of the Environmental Protection Agency, Mr. William Reilly, stated that he supported the concepts embodied in this bill but that it ought to be expanded even further. Mr. Reilly stated that he expected EPA to submit its own pollution prevention legislation by July 1, 1989. Well, it's been over a year now, and we still don't have his proposal.

Mr. Speaker, pollution prevention won't wait. We must take the first steps to reduce the amount of toxic waste being generated now.

I would like to thank Mr. Whittaker for the assistance and cooperation of the minority in bringing this bill to the floor. In addition, I would very much like to thank Mr. WOLPE for his tenacity and very hard work in getting the support necessary to press ahead with this important legislation.

Mr. Speaker, this bill has more than 200 cosponsors in the House. A nearly identical bill was passed by the House in the last Congress, but the Senate was unable to pass it in the last few minutes of the final session. I urge my colleagues to act favorably once again on this important legislation so that it may become law this year.

Mr. Speaker, I reserve the balance of my time.

Mr. TAUKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1457, and I take this opportunity to commend our colleague, the gentleman from Ohio [Mr. LUKEN] for his leadership on this issue, and our colleague, the gentleman from Kansas [Mr. WHITTAKER] for his excellent work in the subcommittee and the full committee on this legislation.

This is a measure that has very strong bipartisan support in the House of Representatives. Over 200 Members of the House have cosponsored this legislation and similar legislation has passed Congress before.

The gentleman from Ohio did an excellent job of outlining the provisions of the legislation, so I will not repeat all of those provisions. Let me just suggest that they have been the result of a tremendous amount of work on the part of many Members of the House, particularly of the Energy and Commerce Committee.

I do, however, want to take a moment to fucus a little bit of attention on the direction of this legislation. I think this legislation points out that in order to adequately deal with the problems of hazardous waste management in the next decade we must turn attention away from the conventional means of managing hazardous waste once it is generated, and instead look for any approaches to reduce the amount of waste.

H.R. 1457 is an important first step in redirecting our efforts toward producing less waste. I believe there will be more pollution bills because this is an idea whose time has come.

Preventing pollution is certainly an easier step than trying to get rid of it once it has been created. We have concentrated too much on the safe disposal of waste, and in the process lost sight of the goal of producing less of it.

We need to encourage industry to reduce the amount of hazardous wastes they generate. This does not mean that we will dispose of wastes unsafely. But it does mean that we will do more to create incentives for source reduction rather than disposal.

Existing environmental legislation is based on an end-of-the-pipeline approach with the focus on how to treat and manage the waste after it has been created. This has resulted in expensive shifting of pollution rather than a real reduction. We shifted from one area to another, from one form to another.

Instead, we should reduce it. Source reduction is the first step in the waste management process. This bill would establish a national policy of placing a high prority on the reduction or elimination of wastes at their source and the recycling or treating of any waste that is generated.

The disposal of hazardous wastes would be considered a last resort. All actions have environmental consequences, but all actions do not need environmental regulation.

This legislation encourages rather than mandates waste reduction. By requiring the disclosure of efforts to reduce chemical wastes, this legislation uses market forces rather than regulation by bureaucrats to change industry's behavior.

Mr. Speaker, I proudly support this legislation and urge all of my colleagues to back it.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan [Mr. WOLPE], the author of the legislation.

Mr. WOLPE. Mr. Speaker, I am pleased to rise today to speak on behalf of the Waste Reduction Act, which I first introduced with my good friend and colleague, Congresswoman CLAUDINE SCHNEIDER during the 100th Congress and again in the early weeks of this session. We have worked very hard to develop legislation that established a Government priority for reducing toxic waste at the source. However, we could not have done this alone. I am especially appreciative of the tremendous help and attention we received from the House Energy and Commerce Committee. I am deeply indebted to my colleagues, the gentleman from Ohio [Mr. LUKEN], chairman of the subcommittee; the gentleman from Kansas [Mr. WHITTAKER], the ranking member and; chairman DINGELL for all their efforts in moving this legislation. Finally, I would like to acknowledge my indebtedness to Inform, Inc., a nonprofit environmental research group, the Sierra Club, and the Dow Chemical Co. for endless hours of technical advice and assistance over the 3 years we have been promoting this effort.

Mr. Speaker, today we will vote on a bill that I believe will move us toward a more positive environmental future. H.R. 1457, the Waste Reduction Act, represents a philosophical redirection in this country and around the world with regard to the way we view the management of wastes created by a modern industrial society. We assert in this legislation that preventing pollution is the best way to keep toxics out of every facet of the environment. In the past, end-of-the-pipe management often simply transferred pollution from one environmental medium to another. Additionally, some pollution is not amenable to traditional control technologies because the source of contamination is decentralized.

With the high costs and controversy associated with treating and disposing of pollutants, it makes both economic and environmental sense to focus efforts on reducing the amount of toxicity of materials that need to be disposed.

Furthermore, pollution prevention contributes to our competitiveness in a global economy by reducing industry's costs for raw materials, waste management, and liability. U.S. industries have a tremendous, untapped potential for reducing wastes through cost-effective changes in production, operation, and raw materials use.

We must move from pollution control approaches to front-of-the-pipe prevention; from treatment and cleanup to reduction at the source. Clearly, pollution prevention is the most cost-effective means to our pollution problems.

Basically, this bill is, as the gentleman from Iowa [Mr. TAUKE] just said a moment ago, a nonregulatory approach to pollution prevention that would establish a Government priority of fostering waste reduction through the exchange of information. It sets no targets or quotas. It is premised on the notion that, properly understood,

source reduction will be driven by the economics of the marketplace. We are arguing in this legislation that, indeed, pollution prevention makes sense not only for the environment but for industry as well.

It is that identity of interests between industry and the environment that has allowed us to put together a rather remarkable coalition of support for this legislation. At the same time that we provide protection for the environment in the future, we are also assisting industry in becoming more efficient, more competitive, and more productive.

One of the most important accomplishments of this bill is that it would establish a waste management hierarchy in statutory form that would rank source reduction as the preferred option for handling society's wastes. This alternative is at the heart of pollution prevention. Reducing waste is nearly always the most productive way to meet environmental standards.

The second option is recycling. The more waste we reclaim, the less are the resources we deplete. Recycling has already become a viable and even profitable alternative for many materials. The third option is treatment and the fourth option—which is considered a last resort—is disposal.

Although the Nation has benefited immensely from the command-and-control approach to environmental protection, traditional regulations have not recognized the benefits of pollution prevention. Until recently, the Government has concentrated primarily on waste after it has been generated. Common wisdom both within the Government and without are realizing that this approach must change. With landfills closing daily and over 100 million people breathing unhealthy air, it has become apparent that society must devise innovative ways to reduce its waste in the first place, to become more efficient, and to prevent pollution by not creating it.

When industry reported to EPA under the toxics release inventory requirement in 1987 that it had spewed 22.5 billion tons of hazardous and nonhazardous wastes into the environment, I believe the entire Nation was surprised by the staggering amount of pollutants produced in this country. These wastes cost over $100 billion to manage each year, two-thirds of which is spent by industry. As these staggering figures clearly indicate, we have a lot to gain with pollution prevention.

A 1986 Office of Technology Assessment report on pollution prevention projected that source reduction techniques using existing technologies could reduce wastes currently generated by 50 percent over 5 years. That translates into a reduction of 11 billion tons of waste and billions of dollars saved. We are talking about a cleaner environment and improved productivity. Pollution prevention quells the traditional conflict between economic growth and environmental quality.

A key provision of H.R. 1457 would require those facilities currently reporting under the toxic release inventory to submit additional information detailing their source reduction and recycling activities. The toxic release inventory mandated by title III of the Superfund Amendments and Reauthorization Act [SARA] of 1986 has become a valuable tool for waste reduction programs at all levels of government and in the private sector. This bill would add beneficial source reduction information to what I consider to be the most valuable data base we have on pollution.

There are some "no-growth" advocates that insist that continued economic growth means continued environmental degradation. I reject this pessimistic view. I would respond that as we become prevention-minded and more efficient, I believe that we can reduce wastes, reduce energy consumption, and improve our standard of living simultaneously. I would add that the example we set now will impact on the rest of the world. As other countries develop, they will follow our lead, if we demonstrate that effective environmental protection, through source reduction, is the best means of securing sustainable economic growth.

H.R. 1457 will allow us to begin setting that example, both at home and abroad. Many companies, both large and small, have embarked on pollution prevention programs—3M and Dow Chemical are two that have significantly reduced their toxic wastes and have saved substantial sums of money in the process. But most companies do not have waste reduction programs and many do not yet know how to begin.

Hearings before Chairman LUKEN's Subcommittee on Transportation and Hazardous Materials revealed that lack of awareness and information are the primary culprits. Indications are that companies have the will to reduce their wastes, but they need help. H.R. 1457 proposes to establish a source reduction clearinghouse to compile information generated by States on managerial, technical, and operational approaches to source reduction. Spreading the word is the best way to promote the practice of pollution prevention. The bill also authorizes $8 million annually for matching grants to help States establish and promote their own pollution prevention programs. Within the past year, a number of States including Massachusetts, Indiana, and Illinois have enacted multimedia pollution prevention statutes. This investment in State programs will pay itself back many times over.

Finally, H.R. 1457 would require EPA to create an independent office that would review program policies, advise program offices on integrating pollution prevention into their daily decisionmaking, and develop a source-reduction strategy consistent with the bill's national policy statement. The bill also authorizes resources sufficient to support waste reduction activities that the Agency has already expressed a desire to carry out.

Mr. Speaker, I hope this legislation will enjoy the support of this body. Again, I express my appreciation to Chairman LUKEN, Mr. TAUKE, Chairman DINGELL, Mr. WHITTAKER, and all those who have been helpful in fashioning this bill.

Mr. TAUKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do so in order to note that the gentleman from Michigan [Mr. WOLPE] and the gentlewoman from Rhode Island [Ms. SCHNEIDER] deserve enormous credit for their leadership and tenacity on this legislation.

Ms. SLAUGHTER of New York. Mr. Speaker, I am pleased that today the House of Representatives is considering H.R. 1457, the Waste Reduction Act. I am a cosponsor of this important bill because it gets to the heart of the Nation's disposal dilemma: It establishes a national policy of reducing pollution at its source.

Hazardous waste cleanups are extraordinarily expensive and time-consuming, but left untouched, these sites pose risks to public health and the environment. We have no choice but to remove the contaminants and purify the soil and ground water. Were we able to reduce the pollution that causes these public threats, we would save money, time, and prevent environmental degradation before it could occur. This bill, the Waste Reduction Act, will allow us to do just that.

Current toxic waste control efforts focus on limiting emissions from smoke stacks or drain pipes. It's this policy that leaves the United States producing 600 million tons of toxic waste each year. That translates into dangerous air and polluted waterways. We can do better by switching our emphasis away from end-of-the-line controls to reducing the source of the toxic pollution.

Under the H.R. 1457, the Environmental Protection Agency [EPA] will create a new office to coordinate its various departments charged with controlling different types of pollution. The new office will review their efforts and advise where a multimedia approach will be more effective than working on one aspect of the pollution problem at a time.

The bill identifies source reduction as the preferred method of controlling hazardous waste, with recycling the next option, and treatment the third. Only as a last resort will we consider disposal or release of toxic wastes.

To help industry manage this switch toward waste reduction, EPA will establish a clearinghouse to share source reduction techniques and information. In addition, the bill will require industries to list each year their efforts at reducing the production and use of toxic materials in their manufacturing processes. Finally,

$8 million will be available each year for matching grants for States to encourage voluntary waste reduction in businesses.

Our landfills are closing, full to the brim. Wilderness areas are becoming contaminated. Wildlife is being poisoned by toxic pollution. This bill will help us stop the production of the toxic wastes that are causing this harm. Mr. Speaker, I urge my colleagues to join me in strongly supporting passage of the Waste Reduction Act.

Mr. WHITTAKER. Mr. Speaker, I rise today in support in H.R. 1457, the Waste Reduction Act sponsored by the gentleman from Michigan [Mr. WOLPE]. Sometimes it seems that good ideas are slow to fruition. When this legislation was first introduced more than 3 years ago, source reduction was a novel concept. Untold hours went into simply defining the term.

Today, source reduction is a common term meaning a variety of techniques and technologies that combine to reduce the volume of health and environmental hazards of wastes released into the environment by industry. All things being equal, it only makes good common sense to reduce waste at its source rather than have to recycle, treat, or dispose of it after the fact.

I believe this bill is a precursor of environmental legislation in the coming decade. It recognizes that further environmental gains may not be best accomplished by simply tightening emissions standards at the end of the pipe, but by focusing on the top of the waste management hierarchy, on reducing waste before it is produced.

It also recognizes that mandatory regulations are not the best way to approach source reduction. Regulation is not always the only way, or even the best way, to improve the environment. H.R. 1457 utilizes the powerful effect of public opinion to aid the environment, a force that I believe we can increasingly rely on in the years to come.

Ms. SCHNEIDER. Mr. Speaker, I rise in strong support of H.R. 1457, the Waste Reduction Act. The best hazardous waste policy is one that is preventive and multimedia. This requires a policy that halts the generation of hazardous wastes at the source and, therefore, prevents its transfer from air to land to water. This approach is embodied in H.R. 1457, of which I am the lead Republican cosponsor.

The amount of hazardous waste produced in this country is of astonishing magnitude. This amount has grown from 9 million tons in 1973 to 247 million tons in 1986, totaling more than 1 ton of hazardous waste for every individual in the United States per year. Furthermore, although there are approximately 650,000 generators of hazardous waste in the country, the EPA estimates that only 2 percent of these produce the majority of all waste.

While the generation of hazardous waste is increasing at such a staggering rate, there is a shortage of disposal capacity for these wastes. Despite the closing of over 2,000 treatment facilities, very few are being built to replace them.

Furthermore, the number of Superfund sites is growing, tripling from 400 in 1980 to 1,220 in 1990. Yet, so far cleanup has been completed at only 28 sites. Consequently, we are adding sites far more quickly than we are capable of cleaning them up. Eleven of these sites are in my own State of Rhode Island. The sole solution is the immediate reduction in the generation of hazardous wastes in combination with more rapid cleanup of existing wastes.

Waste reduction also makes sense because it saves dollars. The Bureau of the Census estimates that the gross annual cost of solid and hazardous waste disposal has risen from $827 million in 1976 to $3.2 billion in 1986. The Waste Reduction Act would lower costs to industry and the Government by developing and promoting methods in which industry could cost-effectively prevent the generation of hazardous wastes at the source, as part of the production process.

Waste reduction strategies have been successfully proven by industry. Dow Chemical, a leader in waste reduction, projected a 198-percent return on investment and a reduction of 31 million pounds of toxic releases in 1989.

As the result of the emergence of concern over waste reduction and the passage of similar legislation (H.R. 2800) by the House of Representatives in the fall of 1988, several of this bill's valuable elements have been implemented by the Environmental Protection Agency. For example, EPA has established the Pollution Prevention Information Clearinghouse, a national clearinghouse dedicated to reducing industrial pollutants through technology transfer, public awareness, and education, as proposed by this legislation.

In addition to this provision already in practice, the Waste Reduction Act would: create an Office of Waste Reduction at EPA; improve the collection of data under RCRA to obtain better information about industry waste reduction activities; and provide reduction programs and to aid small business in reducing their waste output.

Mr. Speaker, I would also like to commend my colleague, Mr. WOLPE for his perseverance in support of this legislation. He has been an outstanding leader on this issue. In conclusion, I ask my colleagues to support the Waste Reduction Act and urge its adoption by the Senate.

Mr. TAUKE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and pass the bill, H.R. 1457, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 1457, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMTRAK REAUTHORIZATION AND IMPROVEMENT ACT OF 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5075) to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The Clerk read as follows:

H.R. 5075

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amtrak Reauthorization and Improvement Act of 1990".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 601(b)(2) of the Rail Passenger Service Act (45 U.S.C. 601(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(F) not to exceed $630,000,000 for the fiscal year ending September 30, 1989;

"(G) not to exceed $656,000,000 for the fiscal year ending September 30, 1990;

"(H) not to exceed $648,000,000 for the fiscal year ending September 30, 1991; and

"(I) not to exceed $712,000,000 for the fiscal year ending September 30, 1992.".

SEC. 3. INCENTIVES FOR PASSENGER SERVICE AGREEMENTS.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 810. INCENTIVES FOR PASSENGER SERVICE AGREEMENTS.

"(a) Notwithstanding any other provision of law, in instances where a publicly funded commuter transportation authority established under Virginia law contracts to indemnify the Corporation for liability for operations conducted by or on behalf of the publicly funded commuter transportation authority or to indemnify a railroad over whose tracks such operations are conducted, liability for all claims, whether for compensatory or punitive damages, arising from any accident or incident occurring in the District of Columbia against the Corporation or the publicly funded commuter transportation authority in connection with operations conducted by or on behalf of such publicly funded commuter transportation authority, or against a railroad over whose tracks such operations were conducted at the time of the accident or incident, shall

not be in an amount greater than the limits of the liability coverage maintained by the publicly funded commuter transportation authority to indemnify the Corporation or the railroad. In no event shall the publicly funded commuter transportation authority maintain an aggregate limit of liability coverage less than $200,000,000.

"(b) Subsection (a) shall not be effective unless the Corporation or a railroad seeking coverage hereunder has entered into an operating agreement with a publicly funded commuter transportation authority established under Virginia law to provide access for revenue service to its property in connection with the operations of the publicly funded commuter transportation authority.".

SEC. 4. AUTHORIZATION TO USE FUNDS FOR SIMILAR PURPOSES.

Proceeds from the sale of all or part of the railroad line for which funds were provided, for acquisition and rehabilitation, under section 511 of the Rail Safety and Service Improvmeent Act of 1982 may be used for similar purposes with respect to any railroad line connecting with such line, for the purpose of continued rail service on such lines.

SEC. 5. COOPERATION WITH STUDY.

The National Railroad Passenger Corporation shall cooperate with the efforts of the Washington State Department of Transportation in designing and carrying out a study of the feasibility of reestablishing rail service between Seattle, Washington, and Vancouver, British Columbia.

SEC. 6. ROUTING FEASIBILITY STUDY.

The National Railroad Passenger Corporation shall conduct a study to evaluate the short-term and long-term revenue and cost implications of separating the existing California Zephyr-Desert Wind-Pioneer train into two service routes serving separate western destinations via a southern route and a central route through Iowa. The Corporation shall include in this evaluation the projected cost for required additional passenger equipment, and any projected loss, and any revenue and ridership gains, associated with offering a second service route. A detailed report in the findings of the study shall be submitted by the Corporation to the Congress within 6 months after the date of enactment of this Act. /

SEC. 7. RESIDENCE OF EMPLOYEES.

(a) Section 11504 (a) of title 49, United States Code, is amended to read as follows:

"(a) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to an employee who performs regularly assigned duties as such an employee on a railroad in more than one State shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.".

(b) Section 11504(b) of title 49, United States Code, is amended to read as follows:

"(b)(1) No part of the compensation paid by a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

"(2) In this subsection 'employee' has the meaning given such term in section 204 of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503).".

(c) Section 11504(d) of title 49, United States Code, is amended—

(1) by striking "express, sleeping car,"; and

(2) by striking "with—" and all that follows and inserting in lieu thereof the following: "with the State and subdivision of residence of the employee.".

SEC. 8. RAILROAD UNEMPLOYMENT INSURANCE ACT AMENDMENT.

(a) Section 8(a)(1)(B)(vi) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)(1)(B)(vi)) is amended by inserting "the National Railroad Passenger Corporation and" immediately after "the contribution of" in the first sentence.

(b) The amendment made by subsection (a) shall be effective as of January 1, 1989.

SEC. 9. STUDY OF LOAN GUARANTEE NEEDS.

The Secretary of Transportation, in consultation with the Administrator of the Federal Railroad Administration, shall study and survey the present and potential need and demand among class II and class III railroads for Federal guarantees of obligations as provided for by section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831). Such study and survey shall examine the present and potential need and demand for such guarantees to fund rehabilitation and improvement of facilities or equipment, acquisition of new railroad facilities, and refinancing of existing debt. The Secretary of Transportation shall report of Congress no later than 90 days following the date of the enactment of this Act the results of such study and survey. Such report shall include an analysis of the present and potential need and demand for Federal guarantees of class II and class III railroad debt, the amount of guarantee authority required to meet that need, and a projection of demand for such Federal guarantees through fiscal year 1995.

SEC. 10. FEDERAL OPERATING SUPPORT REPORT.

The National Railroad Passenger Corporation shall report to Congress by June 1, 1991, on its plan to eliminate its need for Federal operating support by the year 2000. The report should include a discussion of the actions that could be taken to enhance revenues, to control costs, and to improve productivity and efficiency of operations, as well as an estimate of the capital investment need to take such actions.

SEC. 11. NEW SERVICE STUDY.

The National Railroad Passenger Corporation shall study the economic feasibility of providing new service, if such service will have the potential of covering the operating costs associated with such service, to areas not served by the Corporation as of the date of enactment of this Act. Within two years after such date of enactment, the Corporation shall report to Congress on the results of that study.

The SPEAKER pro tempore. Is a second demanded?

Mr. BLILEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. THOMAS A. LUKEN] will be recognized for 20 minutes, the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are here today again to consider the Amtrak reauthorization bill. Similar legislation has been overwhelmingly approved several times by the Members of this distinguished body. Last fall, the Members of the House voted 296 to 93 in favor of the Amtrak bill which I introduced last year. Last month, we voted by a margin of 322 to 93 to approve the conference report which had been worked out with Members of the other body. But unfortunately, the President decided to veto the agreement because it contained a provision which clarified the Interstate Commerce Commission's authority to review the proposed acquisition of a major railroad by a nonrailroad. Despite the President's opposition to the ICC provision, the Members of the House voted a few days ago to override the President's veto by a vote of 294 to 123. But we fell two votes short in the other body and the bill's passage was thus short circuited.

Last week, I introduced H.R. 5075, the Amtrak Reauthorization and Improvement Act of 1990. This bill is basically the same bill which the House has approved several times.

But this bill does not—I repeat, it does not—contain the provision to which the President objected. It sets forth authorizations for Amtrak through fiscal year 1992. These levels of funding will enable Amtrak to buy new equipment which it desperately needs, as well as allowing Amtrak to upgrade its maintenance program and to improve its overall service.

The bill also contains a provision which will give the green light to commuter railroad operations in northern Virginia. In consultation with members of the Judiciary Committee, as well as Members of the other body, we were able to craft a provision which will provide the necessary incentives to allow the Northern Virginia Transportation Commission to initiate commuter rail operations from Manassas and Fredericksburg into the District of Columbia. With passage of this bill, this needed service will soon become a reality.

The bill will reduce Amtrak's operating costs by $16 million by directing Amtrak to make certain payments based on its actual employment data. Other provisions will allow for the improvement of freight and passenger rail operations throughout the country.

The bill prevents double taxation of transportation employees who work in

more than one State. This bill also directs Amtrak to study expanding and rerouting its operations if such service has the potential of covering its own costs. Finally, the bill requires Amtrak to report to the Congress next year on its plan to eliminate all Federal subsidies by the year 2000.

Mr. Speaker, I believe the Members of this body are by now intimately familiar with the provisions of this bill. When we considered the President's veto of the bill 2 weeks ago, Mr. Bush sent a letter to the distinguished minority leader of this body. That letter, dated June 6, 1990, emphasizes that the only reason he vetoed the bill was because of the ICC provision. The letter states, and I quote, that "I would sign an Amtrak reauthorization identical to H.R. 2364, but without the ICC provision."

Well, Mr. President, we have struck the offending portion of the bill. While more than two-thirds of the Members of this body have gone on record to disagree with your position, we believe the remainder of the bill is far too important to allow our differences to affect its passage.

I am confident that the Members of this body will once again signal their approval of this legislation and we look forward to seeing your signature on the bill in the next few days.

I trust that the President's explicit statement that he will support this Amtrak reauthorization bill signals a 180-degree turnaround in the administration's position toward Amtrak. For several years now, the Congress has had to fight the administration every step of the way to keep Amtrak on track. Year in and year out, we have listened to—and rejected—arguments that Federal funding for Amtrak should be zeroed out or even that the system should be sold.

But the vast majority of the Congress knows the value of Amtrak to our national transportation system. We know that Amtrak is paying more and more of its own way. We know that Amtrak now covers over 75 percent of its costs while it receives only half of the real Federal dollars it got 10 years ago. We know that Amtrak has done a better job of increasing its revenues and holding the line on its costs than any other national rail passenger system in the world. We know that rail travel is kinder and gentler to our environment than other forms of transportation.

And we know that we have dedicated a mere pittance of our transportation resources to Amtrak in comparison to the billions of dollars which we regularly pour into our highways and airports. So we hope that the President's signature on this bill means that we can look forward to working with the administration from here on out to continue the excellent progress Amtrak has made during the past decade.

I commend the chairman and ranking minority member of the full committee, Mr. DINGELL and Mr. LENT, for their leadership in crafting this measure. I also commend the ranking minority member of our subcommittee, Mr. WHITTAKER, for his tireless efforts to enact this bill. I also wish to commend Mr. BOUCHER, Mr. BLILEY, Mr. SWIFT, Mr. TAUKE, Mr. SLATTERY, Mr. MADIGAN, Mr. MANTON, Mr. SHARP, and others who have played an active role in bringing this measure to fruition. Finally, I wish to commend our colleagues from the other body—in particular Mr. HOLLINGS, Mr. EXON, and Mr. ROBB—who have worked diligently with us to enact this needed legislation.

Mr. Speaker, I urge my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

□ 1310

Mr. Speaker, I rise in strong support of the conference report on H.R. 5075, the Amtrak Reauthorization and Improvement Act. This bipartisan legislation is an important part of our effort to strengthen a key component of our Nation's transportation system, namely passenger rail service.

Today, Amtrak spans the country with a 24,000-mile system that operates through 43 States and serves of 500 stations and 22 million passengers annually. Importantly, Amtrak is providing this service in a more self-reliant matter. In fiscal year 1981, Amtrak relied on the Federal Government to provide more than half of its expenses. In fiscal year 1988, that share had dropped to 30 percent.

This positive trend will continue as environmental pressures cause our communities to rely more heavily on passenger rail transportation. This legislation correctly addresses the need to make rail transportation a more viable option by resolving an important liability question that has stalled the startup of commuter rail service in northern Virginia. I want to recognize the efforts of my colleague from Virginia [Mr. BOUCHER] for raising this issue at the subcommittee level, as well as the efforts of two of my other colleagues from Virginia, Mr. PARRIS and Mr. SLAUGHTER, who have labored long and hard to make Virginia commuter rail a reality. And of course, a special word of appreciation to the chairman of the full committee, Mr. DINGELL, and the chairman of the subcommittee, Mr. LUKEN, and ranking members, Mr. LENT and Mr. WHITTAKER for their support. Finally, I would like to thank Mr. BROOKS, the chairman of the Judiciary Committee for his advice and assistance.

Mr. Speaker, I urge my colleagues to support this legislation. By a more than 3-to-1 margin this House approved almost identical legislation on two prior occasions. Let's send this bill to the President. He has indicated he will sign this bill. The provision that prompted his earlier veto has been dropped. This legislation will move Amtrak closer to self-sufficiency and is clearly worthy of our support. I urge a yes vote.

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PARRIS] who has worked long and hard on this issue.

Mr. PARRIS. Mr. Speaker, I rise in strong support of the passage of this bill and to express my appreciation to a number of members, certainly the first of which should be my friend and colleague, the gentleman from the Commonwealth of Virginia [Mr. BLILEY], who has been vital to the successful conclusion of this effort.

It is important not only to the continued vitality of the Nation's rail passenger service, but also to the initiation of commuter rail service in northern Virginia as has been stated.

I would like to take a moment to express my sincere gratitude to the chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI], to the chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. ANDERSON], to the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], and thank them for their cooperation in bringing this matter to the floor so quickly. Most importantly, I want to thank the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], for his unwavering support of our efforts to include a commuter rail provision within this Amtrak bill, and to the gentleman from Ohio [Mr. LUKEN] who of course was critical, as well, as to the outcome.

After the divisive fight over what I view to be the ill-advised veto of the first Amtrak bill, bringing this legislation forward could have been a very difficult task. Indeed, particularly given the concurrent jurisdiction of four major committees, there were those who were willing to lay odds and give bets around here that it would become almost impossible if not virtually impossible. Instead, we have experienced nothing but bipartisan cooperation and comity in the finest tradition of this historic body. For that, all of northern Virginia's battle-weary commuters are grateful, and particularly this Member is, and will continue to be, grateful to all those that I have mentioned before and to the other Members of this body who have been so generous in their support of this measure.

I urge my colleagues to support prompt passage, and wish it well as it works its way through the Senate and to the President.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. TAUKE].

Mr. TAUKE. Mr. Speaker, I rise in support of H.R. 5075, the Amtrak Reauthorization and Improvement Act of 1990.

The House has shown strong support several times during the past year for continuing Federal support for our Nation's railroad passenger transportation system. And I expect all of us will do so again today. However, I'm pleased to report that we have now received assurances that the President will sign this bill.

H.R. 5075 includes a provision that is of keen interest to the people of Iowa. Section 6 of the bill directs Amtrak to study the feasibility of expanding service to central Iowa. I am confident that this study will demonstrate the substantial economic benefits of creating a new Pioneer route to connect Chicago and Seattle. This new route will enable Amtrak to provide more timely service to cities along Amtrak's California Zephyr and Desert Wind routes. And it will bring Amtrak service to portions of my State which recently lost intercity bus service.

Of course, expanded service depends on a healthy Amtrak system. H.R. 5075 will aid in the process of making Amtrak strong, vibrant, and self-sufficient.

I urge my colleagues to support this measure.

Mr. THOMAS A. LUKEN. Mr. Speaker, I include at this point in the RECORD correspondence from the chairmen of the Committee on the Judiciary and the Committee on Public Works and Transportation regarding jurisdictional matters associated with this legislation.

COMMITTEE ON THE JUDICIARY,
Washington, DC, June 20, 1990.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I have written today to the Speaker of the House informing him of my agreement not to seek sequential referral of the bill, H.R. 5075, in order to permit its expeditious consideration by the House. I would appreciate your making this letter and my letter to the Speaker part of the record during consideration of H.R. 5075 by the House.

With every good wish, I am
Sincerely,

JACK BROOKS,
Chairman.

COMMITTEE ON THE JUDICIARY,
Washington, DC, June 20, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: H.R. 5075, a bill to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes, was introduced on June 19, 1990. This bill was referred to the Committee on Energy and Commerce.

Section 3 of H.R. 5075 as introduced deals with a limitation on liability for compensatory and punitive damages for accidents or incidents involving operations of commuter rail service from Virginia to the District of Columbia. This section comes under the jurisdiction of the Committee on the Judiciary under Rule X of the Rules of the House, which grants to this Committee jurisdiction over subject matter concerning judicial proceedings, Federal courts, and the Federal preemption of State statutory and common law.

This provision is identical to the language of Section 3 of H.R. 2364, which was considered by the House and passed by the Congress earlier this Session, but which was vetoed by the President. Inasmuch as the Committee on the Judiciary cooperated in the drafting of this language and members of the Committee served as conferees on the conference report on H.R. 2364 for consideration of this provision, I would be willing not to seek a sequential referral of H.R. 5075 in order to permit its expeditious consideration by the House. This action, of course, does not waive this Committee's future jurisdiction over the subject matter in question.

With every good wish, I am
Sincerely,

JACK BROOKS,
Chairman.

COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, June 22, 1990.

Hon. JOHN D. DINGELL, CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE RAYBURN HOUSE OFFICE BUILDING, WASHINGTON, DC.

DEAR MR. CHAIRMAN: I have written today to the Speaker of the House informing him of my intent not to seek sequential referral of the bill H.R. 5075, in order to permit its expeditious consideration by the House. I would appreciate your making this letter and my letter to the Speaker (copy enclosed) part of the record during House consideration of H.R. 5075.

Sincerely,

GLENN M. ANDERSON,
Chairman.

COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, June 22, 1990.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: H.R. 5075, the "Amtrak Reauthorization and Improvement Act of 1990", was introduced on June 19, 1990, and referred to the Committee on Energy and Commerce.

Section 7 of the bill would propose to apply state and local income tax laws to compensation paid by motor carriers to employees who regularly perform assigned duties in two or more states. As such, this provision comes under the purview of the Committee on Public Works and Transportation, since under Rule X, clause 1(p)(10) and (13) as well as attendant precedents and referrals, the Committee has jurisdiction over transportation generally, including matters affecting motor carriers.

However, since this provision is identical to language in H.R. 2364, which was considered by the House and passed by the Congress earlier this Session but which was vetoed by the President, and since I support expeditious consideration of the new measure, I would be willing not to seek a sequential referral of H.R. 5075.

This action, of course, should not be construed to waive this Committee's future jurisdiction over the subject matter in question.

Sincerely,

GLENN M. ANDERSON,
Chairman.

Mr. Speaker, I would like to congratulate the various gentlemen from Virginia, in addition to the chairman of the committee, and the gentleman from Kansas [Mr. WHITTAKER], as well as the gentleman from Iowa [Mr. TAUKE] for their excellent work in bringing this to pass.

Mr. LENT. Mr. Speaker, I want to express my strong support for this important transportation legislation to reauthorize Amtrak, our national rail passenger carrier. At the outset, I would like to acknowledge the diligent efforts by members on both sides of the aisle to expedite the consideration of this legislation. On the Energy and Commerce Committee, Chairman DINGELL, Transportation Subcommittee Chairman LUKEN, and ranking Transportation Subcommittee member WHITTAKER are all to be commended. In addition, our Republican member from Virginia, Mr. BLILEY, has worked tirelessly to see this legislation advance, so that Virginia commuters can soon use the new rail commuter service into Washington to be operated by Amtrak under contract with the Virginia transportation authorities.

For my part, Mr. Speaker, I want to stress the critical part that Amtrak plays in a balanced national transportation system. Particularly in these days of heightened awareness of environmental issues, we should remember that Amtrak represents a fuel-efficient, environmental benign, and highly efficient means for moving large numbers of people from city to city in virtually any weather. We on the East Coast, and particularly in the New York Area, know just how basic Amtrak's services are to the social and economic life of the Nation.

Amtrak now carries more passengers on the Northeastern corridor between New York and Washington than any of the airlines. And under the superb leadership of its president, Graham Claytor, Amtrak has virtually halved its Federal subsidy in less than a decade. One of Mr. Claytor's declared goals, which is also addressed in a study to be conducted by the Department of Transportation under this bill, is to make Amtrak financially self-supporting by the turn of the century. It is difficult indeed, Mr. Speaker, to identify any other Federal program where so much progress has been made in delivering greater service to the public while actually reducing the Federal expenditure involved.

Finally, Mr. Speaker, I want to stress how important a multiyear authorization is for Amtrak. Surely, even during lapses in its authorization, Amtrak has been provided with operating funds. However, one of the key elements in the ongoing efforts by Amtrak's management to make the company self-sufficient is increasing reliance on private-sector financing, particularly for equipment purchases, through secured indebtedness, such as equipment trust certificates. A restatement of the

national commitment to Amtrak through this reauthorization bill will undoubtedly help to create a stable investment climate for Amtrak. That means that private lenders will be better able to deal with Amtrak on a business-like basis in arranging the types of private-sector financing that will help to further reduce the Federal financial role in Amtrak's operations.

I again urge the adoption of this much-needed bipartisan legislation.

Mr. BROOKS. Mr. Speaker, I rise in support of H.R. 5075. As the Members know, this bill is identical to H.R. 2364, which the House passed earlier in this Congress, with the exception of the provision that was cited by the President as his reason for vetoing that bill on May 24.

Section 3 of H.R. 5075 as introduced deals with a limitation on liability for compensatory and punitive damages for accidents or incidents involving operations of commuter rail service from Virginia to the District of Columbia. This matter comes under the jurisdiction of the Committee on the Judiciary as it involves subject matter concerning judicial proceedings, Federal Courts, and the Federal preemption of State statutory and common law. Inasmuch as the Committee on the Judiciary cooperated in the drafting of language in section 3 of H.R. 2364 which is repeated in H.R. 5075, and members of the committee served as conferees on the conference report on the previous bill, the Committee on the Judiciary did not seek sequential referral of H.R. 5075 in order that it might be considered expeditiously by the House.

The provision will allow the commuter rail authority to begin valuable and badly needed operations from northern Virginia into the District of Columbia. I urge an affirmative vote on H.R. 5075.

Mr. WHITTAKER. Mr. Speaker, as the ranking member of the Energy and Commerce Committee's Transportation Subcommittee, I am keenly aware of the need for this important bipartisan legislation to reauthorize Amtrak, the Nation's rail passenger carrier. The prompt consideration of this bill was made possible by the tireless efforts of our subcommittee chairman, Mr. LUKEN, who introduced the bill, by our committee chairman, Mr. DINGELL, and our ranking member, Mr. LENT, as well as our committee member from Virginia, TOM BLILEY. TOM BLILEY has worked almost ceaselessly for over a year to see that this legislation is enacted, so that the long-awaited northern Virginia commuter service into Washington, to be operated by Amtrak under a contract arrangement with the Virginia Commuter Authority, can become a reality.

From my perspective as a representative of the citizens of Kansas, Mr. Speaker, I can attest to the absolutely critical role that Amtrak plays as part of a balanced national transportation network. Many Americans are familiar with Amtrak's important role in high-density corridors such as the Northeast routes between Boston and Washington, and along the west coast in California. But not many Americans know just how vital a link Amtrak is for small-town and rural America.

With the severe contraction of the intercity bus industry, and the focusing of air service on large urban hubs, Amtrak has become an increasingly important passenger transportation link for middle America. Amtrak serves almost 500 American communities—more than all the Nation's airlines combined. And of that 500, 109 have no air service at all. There is no direct intercity bus service to 102 of these communities—a number likely to rise in light of the current dire financial straits of the intercity bus industry. And almost 40 communities have neither air nor bus service in any form, and must rely solely on Amtrak as an intercity passenger carrier.

This graphically illustrates, Mr. Speaker, just how vital Amtrak is in knitting the Nation's small and medium-size towns together with the rest of the country. And amazingly, while providing more high-quality service under President Graham Claytor, Amtrak has actually been able to cut its Federal subsidy almost in half in less than a decade. From covering only 48 cents out of each dollar of costs in 1981, Amtrak has now reached the point where 72 cents of each dollar are recovered from Amtrak's revenues. And the declared goal of Mr. Claytor's management team is to make Amtrak completely self-supporting in the next decade. This is a truly outstanding performance, and one that is probably not matched by any other federally funded program.

Clearly, Amtrak is doing an outstanding job of providing a critically needed service in a highly efficient manner with very limited resources. We need to enact this reauthorization bill promptly, to assure that Amtrak is included in our overall national transportation policy initiatives, and to help stabilize the investment environment in which Amtrak is making ever-increasing use of private-sector financing. I therefore urge my colleagues to support the enactment of this much-needed bipartisan legislation.

Mr. THOMAS A. LUKEN. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN] that the House suspend the rules and pass the bill, H.R. 5075, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5075, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REGARDING AN ACQUISITION FOR THE NATCHEZ NATIONAL HISTORIC PARK

Mr. LEWIS of Georgia, Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4501) to provide for the acquisition of the William Johnson House and its addition to the Natchez National Historic Park, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4501

Be it enacted by the Senate and House of Represetnatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF WILLIAM JOHNSON HOUSE.

(a) INCLUSION WITHIN NATCHEZ NATIONAL HISTORICAL PARK.—Section 2(b) of the Act entitled "An Act to create a national park at Natchez, Mississippi" (16 U.S.C. 410oo-1(b)) is amended by inserting after paragraph (2) the following new paragraph:

"(3) The lands and structures known as the William Johnson House, together with all personal property located on such lands, and the building adjacent thereto which bears a common wall.".

(b) ACQUISITION AUTHORITY.—Section 3 of such Act (16 U.S.C. 410oo-2) is amended—

(1) by striking "paragraph (1) or (2)" and inserting "paragraph (1), (2), (3)"; and

(2) by adding at the end the following: "The Secretary may not acquire the property referred to in paragraph (3) of section 2(b) except by donation.".

The SPEAKER pro tempore. Is a second demanded?

Mr. THOMAS of Wyoming. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LEWIS] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia [Mr. LEWIS].

GENERAL LEAVE

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4501, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEWIS of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill will contribute to the preservation and interpretation of pre-Civil War African-American history. H.R. 4501, introduced by Congressman MIKE PARKER, adds the home of the free black Diarist William Johnson to Natchez National Historical Park. The complexities of his life reflect the convolutions of slavery and

so-called freedom for some blacks before the Civil War. This addition to Natchez National Historical Park will provide the National Park Service with a challenge in interpretation, and provide all of us with greater understanding of this part of our Nation's past.

When the Natchez National Historical Park was established in the 100th Congress, the Park's purposes included the history of "Blacks Slave and Free." The William Johnson Home was not included in the park at that time only because it was not available for acquisition as it is now. The committee adopted a minor technical amendment to this bill.

The William Johnson Home is an integral part of the park's purpose, as essential to fulfilling our original intention as is the Melrose mansion dedicated last week.

Mr. Speaker, I endorse this bill and urge its passage.

□ 1320

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4501, a bill to add the William Johnson House to the Natchez National Historic Park.

This important area was added to the National Park System in 1988 in order to protect important historical resources in the city of Natchez. The resources proposed in this addition are fully consistent with the purposes of the Natchez Park.

I would like to thank the chairman for expediting completion of the important bill and I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of Georgia. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. First of all, Mr. Speaker, I want to thank the gentleman from Georgia [Mr. LEWIS] for filling in for me today as I was detained on my flight and arrival time here. I very much appreciate that he was available to make certain that these measures are considered before we leave for our July recess.

Mr. Speaker, this is an important measure. H.R. 4501, introduced by the gentleman from Mississippi [Mr. PARKER], results from the bill we passed in the last Congress establishing the Natchez Historic Park. At that time, we called for a review of the policies so that we will have represented in the history of the Natchez National Historical Park not only the antebellum mansions, which of course Melrose is such a wonderful example, but also the history as it relates to free blacks, and to slaves.

So, Mr. Speaker, I am pleased today to rise in support of this proposal which really develops on that theme that was outlined by the gentleman from Mississippi [Mr. PARKER] and the others who have cooperated from that county.

Mr. Speaker, I think this signifies a real change in terms of attitudes and real concern about preserving some of the more unpleasant parts of our history in the areas of the country where they occurred. There was probably sensitivity 15, 20 years ago to such preservation, but today I think we find recognition that the whole story must be told. So I think it is appropriate to include the William Johnson House as part of Natchez National Historical Park as it is a donated property. I want to commend the group that has maintained it.

The structure, the historic fabric, is there. The history is there. Natchez was one of the most important communities of free blacks in that area before the abolition of slavery. It is a part of our history that should be included and managed by the National Park Service, especially since the William Johnson home is in Natchez and an expansion of the new Natchez National Historical Park that we established during the last Congress.

Mr. Speaker, I again thank the gentleman from Georgia [Mr. LEWIS].

Mr. PARKER. Mr. Speaker, H.R. 4501 would expand the authorization for the Natchez National Historical Park to include one of this country's most important African-American historic buildings. The William Johnson House, home of the famous barber of Natchez, would serve as a focal point in the interpretation of 19th century black history.

H.R. 4501 would allow the National Park Service to acquire the William Johnson House and the building with which it shares a common wall. Here, the Park Service would interpret the history of free blacks and slaves, as called for in Public Law 100–480. This two-story property was built by the most famous free man of color in the antebellum South. William Johnson, born a slave, was freed as a youth and went on to several successful business ventures. While amassing considerable wealth in commerce and farming, Johnson meticulously kept a diary of society and events in Natchez. Johnson wrote during a time when Natchez' influence on regional and national politics, society, and trade was at its peak. His extensive passages providing historians with firsthand accounts of the role of free blacks in a society and economic system based on slavery. Johnson, by virtue of his status as a free man of color and a very successful businessman, also offered insights into the realities of the antebellum white aristocracy.

Johnson's diary, business journals, and other personal papers are now housed at Louisiana State University. This wealth of archival material is accessible to the Park Service. H.R. 4501 would allow us to do justice to this wealth of historical information. It would also provide a focus for the long overdue interpretation of 19th century African-American history in the South. The William Johnson House could tell the story of free blacks in general. This extension of the William Johnson story is logical—given the fact that Natchez was the home for one of the largest concentration of free blacks in the South. The property could also be used to explore the complex institution of slavery, and the contributions of African-Americans to this society despite their bondage. Again, Natchez' role as one of the South's largest slave markets makes it fitting to begin this exercise in this park.

The National Park Service may have realized as much in its 1988 feasibility report on the Natchez National Historical Park. The report agrees that nowhere in the park service system is the African-American experience in the antebellum South interpreted from this perspective. This gap in the telling of American's story can be addressed with H.R. 4501.

The law creating the Natchez National Historical Park also discusses cooperative efforts in the interpretation of the history of the city and region. We have witnessed a strong State, local and private sector commitment toward the park. Non-Federal contributions in the form of capital improvements, dedicated taxes, planning and in-kind commitments have neared $4.3 million.

H.R. 4501 would continue this spirit of cooperation: The bill calls for the donation of the William Johnson House of the National Park Service. The $150,000 necessary to acquire the property is now being raised by the Mississippi Department of Archives and History. The city of Natchez also has funds which could be used to supplement this source, should this bill become law. Both the city of Natchez and Adams County are supportive of this cooperative approach, as evidenced by a joint resolution endorsing H.R. 4501.

The general management plan and interpretive prospectus of the park will determine the costs of restoration and museum development. Therefore, we are not asking for funds for this project for fiscal year 1991. Preliminary estimates for resolution of the William Johnson House, its outbuildings and grounds, and development of approximately 9,000 square feet of museum space, is about $500,000. This would entail restoration and furnishing of the second story to depict the living quarters of the Johnson family. The first floor would be kept as one large room for a broader interpretation of black history in Natchez.

The building sharing the common wall predates the William Johnson Home. It is currently used for office space, and could serve as the park's interim administrative headquarters. This plan is consistent with current Park Service preference for a continued administrative presence in historic downtown Natchez. Depending on space necessary, the second floor could be developed as offices and the first floor converted to additional interpretive space.

May I close by saying that it was the richness and diversity of history in Natchez that prompted Congress to establish a national park there. H.R. 4501 speaks to one element of that diversity. Without it, we cannot tell the whole story of Natchez.

Mr. Speaker, it is necessary that we recognize this opportunity and supplement its need.

Mr. LEWIS of Georgia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Georgia [Mr. LEWIS] that the House suspend the rules and pass the bill, H.R. 4501, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR THE STUDY AND DESIGNATION OF THE UNDERGROUND RAILROAD HISTORIC TRAIL

Mr. LEWIS of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3863) to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail, as amended.

The Clerk read as follows:

H.R. 3863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purpose of this Act is to study the Underground Railroad, its routes and operations in order to preserve and interpret this aspect of American history.

SEC. 2. (a) The Secretary of the Interior, acting through the Director of the National Park Service, shall conduct a study of alternatives for commemorating and interpreting the Underground Railroad, the approximate routes taken by slaves escaping to freedom before the conclusion of the Civil War. The study shall include—

(1) the consideration of the establishment of a new unit of the national park system;

(2) the consideration of the establishment of various appropriate designations for those routes and sites utilized by the Underground Railroad, and alternative means to link those sites, including in Canada and Mexico;

(3) recommendations for cooperative arrangements with State and local governments, local historical organizations, and other entities; and

(4) cost estimates for the alternatives.

(b) The study shall be—

(1) conducted with public involvement and in consultation with the advisory committee established by section 4, State and local officials, scholarly and other interested organizations and individuals,

(2) completed no later than two years after the date on which funds are made available for the study, and

(3) submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 3. Within three years after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the National Park Service, shall prepare and publish an interpretive handbook on the Underground Railroad in the larger context of American antebellum society, including the history of slavery and abolitionism.

SEC. 4. (a) The Secretary, upon funds being made available to carry out this Act, shall establish the Underground Railroad Advisory Committee (hereafter in this subsection referred to as the "Advisory Committee"). The Advisory Committee shall be composed of nine members, appointed by the Secretary of the Interior, of whom—

(1) three shall have expertise in African-American History;

(2) two shall have expertise in historic preservation;

(3) one shall have expertise in American History; and

(4) three shall be from the general public.

The Advisory Committee shall designate one of its members as Chairperson.

(b) The Secretary, or the Secretary's designee, shall from time to time, but at least on three occasions, meet and consult with the Advisory Committee on matters relating to the study conducted under section 2.

(c) Members of the Advisory Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

SEC. 5. There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. THOMAS of Wyoming. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. LEWIS] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia [Mr. LEWIS].

GENERAL LEAVE

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEWIS of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for too long African-American history has not been told either fully or accurately. Here we have an opportunity to do both. H.R. 3863, on the underground railroad, deals with aspects of pre-Civil War African-American history. Introduced by our colleague on the subcommittee, Congressman PETER KOSTMAYER, it directs the Secretary of the Interior to study the underground railroad and to document the efforts of slaves to escape their bondage.

The committee adopted an amendment that directs the Secretary to study the underground railroad in order to preserve and interpret this aspect of American history. It directs the National Park Service to conduct a study of alternatives including establishment of a new unit of the National Park System, and the various routes and sites associated with the underground railroad; it deletes designation of a historic trail. The amendment directs the National Park Service to prepare a handbook on the underground railroad in the larger context of antebellum society, slavery, and abolitionist movement. Finally, it establishes an advisory committee, authorizes appropriations, and amends the bill's title.

Mr. Speaker, I endorse this bill and urge its passage.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation has been amended to address many of the concerns of the administration.

The study of the underground railroad for purposes of designating a national historic trail enjoys bipartisan support. Because of diverse routes covering many sites and States a thorough study is necessary. The authorization contained in this legislation will facilitate such a study and understanding.

Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of Georgia. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS] for his work.

Mr. Speaker, these bills, obviously, are of special interest to the gentleman from Georgia [Mr. LEWIS]. I know that his presence and work on these bills throughout the subcommittee and full committee process has been very sincere and invaluable.

This bill, H.R. 3863, was introduced by the gentleman from Pennsylvania [Mr. KOSTMAYER], our colleague who had initially sought to create a designation immediately of the underground railroad. After some deliberation we agreed to support a broader theme study of this topic as is embraced in the bill as amended. This study of the underground railroad will find the most appropriate way to commemorate this part of our history, including possible management by components of it in the National Park System. We will be looking at that in a couple of years.

Mr. Speaker, this is, of course, a very important period in our history when many black African-Americans sought

their freedom. Unless they were in the fortunate few to have their freedom purchased, the only way slaves could become free was to move to other areas rather than the States and territories that permitted slavery. Mr. Speaker, I was reminded of this situation as I looked at our history of the "Old Northwest." The State of Minnesota was under the Northwest Ordinance at that period in history when many slaves left and traveled these various routes. The notorious Dred Scott decision came about because of a slave who was arrested in Fort Snelling in St. Paul, MN, the district that I represent now. He was arrested and, of course, taken back to a State where slavery was permitted at that time in our history. In an infamous Supreme Court decision, his effort to gain his freedom was denied. Dred Scott's struggles point out that the efforts that many African-Americans who were slaves made throughout the Northern States, throughout the Middle American States, and through almost every part of the territories of our country.

So, Mr. Speaker, this was a very significant part of our history. We should have the National Park System, the Federal Government's agency which maintains our cultural and historic resources, involved in reviewing the history of the underground railroad. The National Park Service should find appropriate ways to commemorate and to include this part of our past in, not just the parks that exist, but also by identifying some new sites as well. Maybe even Fort Snelling, Mr. Speaker.

So, I again want to thank my colleague, the gentleman from Georgia [Mr. LEWIS] for his work on this bill as well as the gentleman from Pennsylvania [Mr. KOSTMAYER]. Of course I urge all of my colleagues to support this. It is a noncontroversial measure which was supported by everyone when it came before the subcommittee as a study matter.

□ 1330

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from Wyoming [Mr. THOMAS] for his cooperation and thank the subcommittee chairman, the gentleman from Minnesota [Mr. VENTO] for his help and support.

Mr. KOSTMAYER. Mr. Speaker, today I am happy to rise in support of H.R. 3863, my bill to establish the Underground Railroad Trail.

I introduced this legislation because I feel it is essential to commemorate the contributions of the men, women and children, both black and white, who supported and used the underground railroad. These way stations, extending across the country, constitute a chapter of American history that has never been sufficiently recognized. This bill would authorize a study to evaluate locations that served as stations along the underground railroad, the approximate route taken by escaping to freedom from the South before the conclusion of the Civil War. The study would include an identification of the structures that served as stations, their historic significance, architectural integrity and physical condition.

The underground railroad is a significant saga in American history which has gone unacknowledged for much too long. It was not just a few isolated persons or places that existed in one or two States. It was a very extensive network of assistance that existed in approximately 16 States and Canada and Mexico.

Due to the secretive nature of the route, it would be impossible to discover each and every home, stable, hut and church that provided aid and comfort to travelers. However, many of the stops along major routes still do exist and are well-documented. The objective here is not to find every station and route that was utilized, and enshrine each one into a trail. Rather, it is to select specific structures along one of the routes to freedom and establish a linkage that will enable our citizens to travel the route and to appreciate and understand this journey into the past.

Mr. Speaker, my proposal has generated tremendous interest from historians, preservationists, trail enthusiasts, and civil rights leaders across the country. I am especially appreciative of the assistance I received from Mr. Charles Blockson, curator of the Charles L. Blockson Afro-American Collection of Temple University, and renowned expert on the underground railroad. I would certainly expect that he would be asked to serve on the advisory panel that is created in this bill being considered today.

A national trail identifying and memorializing the actions of thousands who took a stand for freedom, who braved hardship, economic deprivation, hunger and even death for the cause of liberty, should serve as a beacon, as the North Star did to travelers on the underground railroad, to remind us of the ideals on which this country was founded—liberty and justice for all.

Mr. Speaker, Federal recognition of these brave men and women is long overdue. This important legislation is designed to correct this oversight, and I urge my colleagues to support this bill.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Georgia [Mr. LEWIS] that the House suspend the rules and pass the bill, H.R. 3863, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "a bill to direct the Secretary of the Interior to conduct a study of the Underground Railroad".

A motion to reconsider was laid on the table.

WHITE HOUSE CONFERENCE ON AGING

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 333) expressing the sense of the Congress concerning a 1991 White House Conference on Aging.

The Clerk read as follows:

H. CON. RES. 333

Whereas White House Conferences on Aging were called by Presidents in 1961, 1971, and 1981, establishing a rich tradition of effective, nonpartisan dialogue on issues affecting the Nation's senior citizens;

Whereas the Congress, by the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note), authorized the President to call a White House Conference on Aging in 1991;

Whereas the President has not yet called for a 1991 White House Conference on Aging;

Whereas one of the goals of such conferences is full participation by individuals, State and local governments, and public and private organizations;

Whereas further delay in the call for a 1991 White House Conference on Aging could jeopardize the goal of full participation and limit the success and value of the conference recommendations and findings for the Congress;

Whereas it remains the sense of the Congress that a 1991 White House Conference on Aging will make meaningful contributions to public debate over a wide range of issues and programs affecting the Nation's elderly; and

Whereas planning for such a conference has been delayed in anticipation and expectation of a Presidential announcement: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should immediately call for a 1991 White House Conference on Aging and begin planning and implementing such a conference without delay.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. GUNDERSON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring to the floor today a bill that is truly bipartisan.

Introduced by Congressman RINALDO and sponsored by over 190 Members of Congress, Democrat and Republican, House Concurrent Resolution 333 expresses the sense of Congress that the President should immediately call for a 1991 White House Conference on Aging and begin planning and implementing such a conference without delay.

Public Law 100-175, the 1987 Reauthorization of the Older Americans Act, authorized the President to call a

White House Conference on Aging in 1991.

The Congress, the executive branch, and the Nation have relied on past conferences held in 1961, 1971, and 1981 to provide direction, leadership, and innovation in Federal policy for the elderly.

In fact, discussion and planning at the 1961 White House Conference on Aging resulted in the formulation of Medicare and the Older Americans Act.

As demographers project that the portion of the population age 55 or older will continue to increase well into the next century, the need for a national strategy session to address the implications of an aging population is imperative.

Mr. GUNDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me begin by extending my thanks and commendation to the distinguished chairman of our subcommittee, the gentleman from Michigan [Mr. KILDEE]. When someone asked me whether or not I wanted to manage this legislation on the floor today, I said, absolutely. This is the first time I can remember of that a Republican bill has come out of the Committee on Education and Labor. That is a unique and historic experience in and of itself, but more important, I think, it truly is a sign of the fairness and statesmanship of our colleague, the gentleman from Michigan [Mr. KILDEE]. As the gentleman from Michigan was telling me beforehand, he easily could have taken this bill, made it a committee bill, except that he chose to be fair to the gentleman from New Jersey [Mr. RINALDO] as the original author. The gentleman from New Jersey [Mr. RINALDO] and I both thank the gentleman for that kind act of generosity.

Mr. Speaker, it is a pleasure to lead the effort on the floor today for quick passage of House Concurrent Resolution 333, legislation to express the sense of Congress concerning the White House Conference on Aging.

In April, I was visited in my office by Barbara Thoni and Mary Simpson of the Barron County Office on Aging. They traveled all the way to Washington from Barron, WI, simply to express their support for congressional action on this issue. I'm very pleased today to be able not only to make good on my promise to them to support the bill, but to go a step further by leading the floor effort to pass it.

Why is this legislation so important to senior citizens advocacy groups? Why would my constituents travel so far to express their views on it? Because without passage of the bill, the chance exists that we would miss holding a White House Conference on Aging for the first time in over four decades.

The first White House Conference on Aging was held in 1951, when President Truman invited groups to Washington for discussions on issues of importance to seniors. Since that time, a conference has been held once every 10 years, in 1961, 1971, and 1981. These conferences have established a tradition of nonpartisan dialog on issues affecting senior citizens. The conferences involve the full participation of individuals, State and local governments, and public and private organizations.

Are the conferences useful? In a word—yes. Past conferences are credited with contributing to the enactment of the Medicare and Medicaid Programs, the establishment of a cost-of-living-allowance [COLA] index for Social Security beneficiaries, and enactment of the Older Americans Act which established the Administration on Aging.

The administration has not ruled out holding a White House Conference on Aging in 1991. Unfortunately however, the administration has not yet indicated to our seniors that they can count on such a conference next year. This legislation lends an important bridge between concerned seniors and the administration.

And 194 Members of the Congress have cosponsored House Concurrent Resolution 333. While the President has the authority to convene a conference next year, our bill is a bipartisan effort to register the strong support of Congress for the conference. Our seniors deserve this opportunity. And the numerous advocacy organizations across the country—like the Barron County Office on Aging in my area—are gearing up for this opportunity to focus efforts on the aging into the 1990's.

Mr. Speaker, I yield the balance of my time to the gentleman from Iowa [Mr. TAUKE], a member of the subcommittee, who has worked long and hard on this and other Older Americans Act programs.

Mr. TAUKE. Mr. Speaker, I thank my colleague, the gentleman from Wisconsin, for yielding me this time.

Mr. Speaker, I want to take just a moment to seize this opportunity to focus some attention on what the agenda might be for the White House Conference on Aging in 1991.

There are two issues that I think are critical that should be addressed in that conference that have not been receiving as much attention as they should. The first is the issue of equity for older women under the Social Security Program. The gentleman from New Jersey [Mr. HUGHES] is chairman of the Committee on Aging and Retirement Income, of which I am the ranking member. In that subcommittee, we have been looking at the question of Social Security equity for women. There is no question but that during the time when the Social Security Program was put together that we had a much different kind of structure in our society than we do today. At that time we had the traditional family. Father goes to work, mother stays at home with the children and cares for the children.

Obviously, a lot has changed in society today and we do not have very many families that any longer meet that traditional framework or that traditional model. As a result, we see many inequities in the Social Security Program that are particularly harmful to those women who leave the work force for a period of time in order to provide care for children or for seniors, to those women who are divorced and to those women who are widowed at a relatively early age.

In our subcommittee, for example, we spent some time looking at the question of the dropout years. The dropout years, as they are called, are years when a woman would leave the work force in order to care for a family, maybe it will be a child, maybe a spouse, maybe an ill parent.

Now, if a woman has worked for 35 years, but in the midst of that 35 years maybe took out 7 years to care for an elderly parent or a child, and there is another who has also worked 35 years and they have had identical earnings records during those 35 years, but the second one did not take time out to care for a spouse or family member, the first woman who did the caring would find that her Social Security benefits when she retired would be much less than the second one. Why? Because she would have those zero years, those dropout years, that would be averaged in with her earnings over the previous 35 or the other 35 years, and that would mean her average annual earnings would decline.

□ 1340

Mr. Speaker, we should not so blatantly penalize people who are put in a position where they have to care for individuals. If anything, we should be encouraging it, not discouraging that kind of activity. That is an issue that needs to be addressed.

It seems to me the White House Conference on Aging should spend a little time focusing on that.

It has been very difficult to get public-policy makers to focus on the issue here in the Congress.

The second issue that I think needs attention is the health care issue. I serve on the Health Subcommittee, and we spend a lot of time looking at the Medicare and Medicaid Programs. But we are always looking at them in terms of the annual budget resolution. We pass a budget resolution, then we try to adjust the Medicare and Medicaid Programs through the Budget Reconciliation Act to meet the goals

of the budget that was adopted by the Congress. This is a terrible way to make health care policy.

As a result, our Medicare Program has been twisted and turned and restructured in order to meet budget demands, and we need to have a comprehensive look at how it is meeting the needs of seniors. The reality is that it is not meeting the needs of seniors, and it is causing havoc in the health care delivery system.

Meanwhile, the costs to seniors that are not picked up by Medicare have grown significantly, so we see now that we have a health care crisis developing in the country as a whole, but specifically with the availability of health care services to many senior citizens.

I hope that a review of the Medicare Program and a look at the Social Security Program and especially the way it treats women will be high on the agenda. These are things that have been the basis for our policies for seniors in the recent past, and although they have generally worked very well, that does not mean that they should not be the subject of discussion and review in this next White House Conference on Aging.

I commend my colleagues for pushing this legislation. I hope that not only can we encourage the President to call the conference but that we also might have a little impact on the agenda of that conference.

Mrs. SLAUGHTER of New York. In 1987, Congress gave the President the green light on calling a 1991 White House Conference on Aging. When we passed that authorization, we sent a clear message to the administration that issues of concern to our aging population are issues of concern to the Congress, and to the Nation at large.

Not only would a 1991 conference help the Nation focus on the unique contributions and special needs of older Americans, but it would also prove vital to shaping an aging and long term care policy blueprint. In the wake of repealing Medicare catastrophic coverage, Congress and the Nation continue to wrestle with questions of health care costs, health insurance and the availability of long term care—questions which grow more urgent with each passing year. Perhaps no larger segment of our population is affected by these questions than the aging.

A White House Conference on Aging in 1991 would make valuable contributions to the debate on health and long term care. This debate is a priority to the Congress. The dynamics of an aging America and the special needs and contributions of older Americans are a priority for the Congress. That is the message we send by passing this resolution. To date, we have not heard this same message conveyed by the President.

Early last fall, almost 1 year ago, 91 of my colleagues and I wrote to President Bush urging that a 1991 White House Conference on Aging be called soon enough that it could be effectively planned and adequately funded. "Time is running out," we told the President. An assistant to the President responded that the appropriate Presidential advisors had been made aware of our interest in this matter. In January, I again wrote to President Bush encouraging him to call for a broad-based conference immediately so that planning might begin and Congress can be sure the conference receives necessary appropriations. Five months later, we are still in the dark as to the administration's intentions for a 1991 conference.

Today, we have the opportunity to reiterate our persistent urging—this time more resoundingly. The concurrent resolution we consider this afternoon, proudly introduced and cosponsored by the membership of the Select Committee on Aging, expresses the commitment of Congress to an effective, nonpartisan dialogue on issues affecting the Nation's senior citizens. I urge all of my colleagues to support its passage and lend their voices to those of millions of senior citizens and their advocates already calling for a 1991 White House Conference on Aging.

Mr. DOWNEY. Mr. Speaker, as the chairman of the Subcommittee on Human Services of the House Select Committee on Aging, I rise in support of House Concurrent Resolution 333, calling for a 1991 White House Conference on Aging as authorized by the Older Americans Act Amendments of 1987—Public Law 100-175. I would like to commend the ranking minority member of the House Aging Committee, Mr. RINALDO, for introducing this resolution as well as the House Education and Labor Committee for expediting its passage to the floor.

If held, the 1991 White House Conference on Aging will be the fifth national conference on aging issues to be held in Washington, DC. These conferences have been instrumental in promoting public awareness of the issues that affect and concern elder Americans, who by 1991 are expected to number over 31 million.

Now is the time for the White House to take the small step of announcing the conference to demonstrate its commitment to older Americans. Too; often in the past year and a half when the crunch has come for the elderly, the White House has been strangely silent.

Just 1 year ago tomorrow, I held a hearing together with the distinguished chairman of the House Select Committee on Aging, Mr. ROYBAL, to learn the views and concerns of various leaders in the aging community on a 1991 conference. This hearing was followed by a letter signed by 92 of my colleagues to the President urging him to make the call for the conference before more time had passed.

Months have passed but the White House still remains silent. By this point in the process, Presidents Eisenhower, Johnson, Nixon, Carter and Reagan had made their commitment to the conference. The President must have some compelling reason for the delay. I wish he would share it with us.

The 1991 White House Conference on Aging will help to set the aging policy agenda for the next decade. It will bring people together for a common goal; it will serve to forge a new vision for aging America.

The President must act soon and call for the 1991 White House Conference. To delay in further would undermine our Nation's commitment to the elderly.

Mr. ROYBAL. Mr. Speaker, House Concurrent Resolution 333 was introduced today to express the sense of Congress that the President should immediately call for a 1991 White House Conference on Aging and begin planning without delay.

I joined Mr. RINALDO in introducing this bill because of its critical importance to the Nation and it's true bipartisan nature.

The White House Conference on Aging is critical in gathering information and making recommendations which are then used in the development of valuble legislation. For example, Medicare, The Older Americans Act, and the development of elderly nutrition programs have all resulted from the White House Conference on Aging.

I would like to stress two issues:

First, to guarantee a successful conference, planning must begin immediately. In the past, planning began 2 years before the national conference with initiation of the state miniconferences.

Second, and perhaps more critical, this conference is intended to be bipartisan. The objective of this conference is informative in nature. It serves as a guide for both the executive and legislative branches in their policy planning. As some of my colleagues remember, the last conference did not follow in the bipartisan spirit which has been an integral part of the conference's history. Hearings were called by Senator Pepper to review the planning of the 1981 conference, which was plagued by partisan biases. I urge that this conference be free of such disruptive activities.

It is my hope that the 1991 White House Conference on Aging will be free of partisan bias and successfully provide a forum where both the legislative and executive branches of the Federal Government can come together on the critical issues facing the elderly of this country.

Mr. RINALDO. Mr. Speaker, I am sorry I could not be present for this afternoon's debate on House Concurrent Resolution 333, expressing the sense of Congress that a 1991 White House Conference on Aging should be announced immediately. As vice chairman of the Select Committee on Aging, I was taking part in a field hearing in Union, NJ and could not be present in the House for a statement.

When this body adopted the Older Americans Act Amendments of 1987 we assumed two responsibilities:

We agreed to work with the American people to develop "recommendations and plans for action to meet the challenges and needs of older individuals."

And we agreed to develeop programs for the aging to "enhance the economic security and self-sufficiency of elder Americans."

The adoption of this resolution would be a step toward fulfilling these critical responsibilities.

It is an inescapable fact that our country is "graying." In 50 years, we can expect to have nearly twice the number of senior citizens that we have today.

As a nation, we must anticipate this tremendous change. Financial planners will tell you that planning for retirement should begin shortly after you start your career, and they

emphasize that it's never too early to make plans.

But it is often too late.

That's one reason why this conference is essential. We must begin to plan and lay the foundation for broad Federal policies and strategies to guide our country for much of the next century. Previous White House conferences lead to such significant legislation as Medicare and the Older Americans Act, and we can expect a 1991 White House Conference on Aging to have an equally important impact on the future Federal agenda.

The Older Americans Act Amendments of 1987 charged us with ensuring that senior citizens could expect a healthy and active retirement, without fear of impoverishment or neglect. I urge my colleagues to support this resolution and respond to the responsibilities we have been given.

I would like to thank the gentleman from Michigan, DALE KILDEE, for all of his concern, assistance and dedicated efforts in getting this bill to the floor, and yield back the balance of my time.

Mr. GUNDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 333.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 333, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

INTRODUCTION OF THE EMERGENCY CROP LOSS PROTECTION ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing a bill that will help to address the economic hardship suffered by producers of nonprogram agriculture crops due to the damaging weather that has occurred in many parts of the United States this year.

The Emergency Crop Loss Protection Act of 1990 is designed to aid producers of nonprogram crops—crops which receive no direct USDA payments or subsidies—deal with the devastating effects of damaging weather suffered this year.

We have all seen and heard of the damages suffered by agricultural producers in Texas, Arkansas, Louisiana, and Ohio due to excessive rains earlier this year.

In my own district, severe rains have impacted the cherry and strawberry growers of the Santa Clara Valley. Many growers have suffered a total loss of their 1990 crop.

Growers of nonprogram crops like cherries and strawberries have no recourse to make up their losses. While there may be a rise in prices resulting from these crop losses, the increase in value is inadequate to help those who have suffered total losses.

On the other extreme, southern and central California continue to suffer a drought which has lingered over several years. Many of the farmers who have struggled through the drought to make it to this point have run out of resources and now are in need of help. In many instances, the counties affected by the drought have declared drought emergencies. Without State and Federal aid at this point in the crisis, many of these producers will not make it any further.

The "Emergency Crop Loss Assistance Act of 1990" is based upon the highly successful framework of previous disaster assistance measures supported by this body and ultimately signed into law. This bill, however, provides only limited assistance to producers of nonprogram crops who receive no Federal subsidies in support of their agricultural activities.

The bill would provide producers who suffered a loss in nonprogram crop production of greater than 50 percent, with a payment equal to 65 percent of the market value of their crop for any additional losses they suffered. Payments are to be on a crop by crop basis, and yield losses to reflect the producer's proven yields for at least 1 of the preceeding 3 crop years.

In addition, the Secretary is authorized to provide an additional payment of up to 10 percent of the value of the crop for any loss in the quality of the crop that may remain saleable following the disaster.

No producer can receive more than $100,000 in disaster payments from this program, and any disaster payments are to be offset by crop insurance benefits that the producer might have also received.

Mr. Speaker, this is a modest proposal for addressing the adverse weather problems that have affected producers of nonprogram crops across the Nation. I urge our colleagues to support this important legislation.

A copy of the legislation follows:

H.R. 5151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Crop Loss Assistance Act of 1990".

SEC. 2. DISASTER PAYMENTS FOR NONPROGRAM CROPS.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—

(A) ELIGIBILITY.—Effective only for the 1990 crops of nonprogram crops, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of a nonprogram crop that the producers on a farm are able to harvest is less than the result of multiplying 50 percent of the yield established by the Commodity Credit Corporation under subsection (c) for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(B) PAYMENT RATE.—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 50 percent for the nonprogram crop.

(2) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(3) CALCULATION OF PAYMENTS FOR DIFFERENT VARIETIES.—

(A) CROP-BY-CROP BASIS.—The Secretary shall make disaster payments under this subsection on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

(B) DIFFERENT VARIETIES.—For purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

(4) EXCLUSIONS FROM HARVESTED QUANTITIES.—For purposes of determining the total quantity of the 1990 nonprogram crop of the commodity that the producers on a farm are able to harvest under paragraph (1), the Secretary shall exclude at least 70 percent of—

(A) commodities that cannot be sold in normal commercial channels of trade; and

(B) dockage, including husks and shells, if such dockage is excluded in determining yields under subsection (c).

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted for harvest in 1990; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually

planted to the commodity for harvest in 1990.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) FARM YIELDS.—

(1) ESTABLISHMENT.—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops to carry out this section.

(2) PROVEN YIELDS AVAILABLE.—If the producers on a farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop years, the yield for the farm shall be based on such proven yields.

(3) PROVEN YIELDS NOT AVAILABLE.—If such data do not exist for any of the 3 preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

(4) COUNTY AVERAGE YIELDS.—In establishing county average yields for nonprogram crops, the Commodity Credit Corporation shall use the best available information concerning yields. Such information may include extension service records, credible nongovernmental studies, and yields in similar counties.

(d) RESPONSIBILITY OF PRODUCERS.—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of 1990 crop losses resulting from damaging weather or related condition in 1989 or 1990 in order for such producers to obtain disaster payments under this section.

SEC. 3. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) IN GENERAL.—To ensure that all producers of 1990 nonprogram crops are treated equitably, the Secretary of Agriculture may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by damaging weather or related conditions in 1989 or 1990, as determined by the Secretary.

(b) ELIGIBLE PRODUCERS.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 50 percent and not more than 75 percent for such crop.

(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, except that such rate shall not exceed 10 percent, as determined by the Secretary, of the payment level under section 2(a)(2).

(d) DETERMINATION OF PAYMENT.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1989 or 1990, as determined by the Secretary.

SEC. 4. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1990 crop of a nonprogram crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary of Agriculture shall reduce the amount of payments made available under this Act for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this Act for such crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this Act for such crop; by

(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary; and by

(3) the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

SEC. 5. PAYMENT LIMITATIONS.

(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this Act may not exceed $100,000.

(b) NO DOUBLE BENEFITS.—No person may receive disaster payments under this Act to the extent that such person receives a livestock emergency benefit for lost feed production in 1990 under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d).

(c) COMBINED LIMITATION.—

(1) IN GENERAL.—No person may receive any payment under this Act or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in 1990 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed $100,000.

(2) ELECTION.—If a producer is subject to paragraph (1), the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g)) whether to receive the $100,000 in such payments, or such livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this section which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

SEC. 6. NO DOUBLE PAYMENTS ON REPLANTED ACREAGE.

(a) REDUCTION OF DISASTER PAYMENTS.—Effective only for producers on a farm who receive disaster payments under this Act for a crop of a nonprogram crop, the Secretary of Agriculture shall reduce such payments by an amount that reflects the net value (as determined under subsection (c)) of any crop such producers plant for harvest in 1990 to replace the crop for which disaster payments are received.

(b) REPLACEMENT CROPS.—For purposes of subsection (a), a crop shall be considered to be planted to replace the crop for which disaster payments are received under section 2 if the second crop is planted on acreage on which the producers planted, or were prevented from planting the first crop. The Secretary shall not treat a producer's second crop on a farm as a replacement crop for purposes of this section if the nonprogram crop is historically double cropped by the producer on that farm.

(c) ADMINISTRATION.—

(1) DETERMINATION OF VALUE.—In carrying out this section, the Secretary shall—

(A) only consider any production of the second crop that is in excess of 50 percent of the county average yield for such crop;

(B) base the value of the excess second crop production on average market prices for the second crop during a representative period; and

(C) reduce the value of such excess second crop production by 25 percent.

(2) REDUCTION ONLY APPLICABLE TO REPLANTED ACREAGE.—The reduction provided for in this subsection shall only be applied against payments due with respect to acreage that was replanted.

(3) FUTURE CROPPING PRACTICES.—In carrying out this section, the Secretary may make adjustments to the crop acreage bases to reflect crop rotation practices because of the occurrence of a natural disaster or other similar condition beyond the control of the producer in determining a fair and equitable crop acreage base.

SEC. 7. DEFINITIONS.

As used in this Act:

(1) NONPROGRAM CROP.—The term "nonprogram crop" means all crops for which crop insurance through the Federal Crop Insurance Corporation is available for the 1990 crop year, and other commercial crops (including ornamentals affected by earthquake and sweet potatoes) for which such insurance is not available for that crop year, except that such term shall not include wheat, feed grains, extra long staple cotton, rice, peanuts, sugar beets, sugarcane, tobacco, soybeans, or sunflowers.

(2) DAMAGING WEATHER.—The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, or excessive wind, or any combination thereof.

(3) RELATED CONDITION.—The term "related condition" includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GUNDERSON) to revise and extend his remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes each day, on June 25, 26, 27, and 28.

(The following Members (at the request of Mr. KILDEE) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DYMALLY, for 5 minutes, on June 26.

Mr. MCCURDY, for 60 minutes each day, on June 26 and 27.

Mr. GONZALEZ, for 60 minutes each day, on June 28 and 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GUNDERSON) and to include extraneous matter:)

Mr. WELDON.

Mr. PARRIS.

Mr. BILIRAKIS.

Mr. CONTE.

Mr. MADIGAN.

(The following Members (at the request of Mr. KILDEE) and to include extraneous matter:)

Mr. ANDERSON, in 10 instances.

Mr. GONZALEZ, in 10 instances.

Mr. BROWN of California, in 10 instances.

Mr. ANNUNZIO, in six instances.

Mr. HALL of Ohio.

Mr. THOMAS A. LUKEN.

Mr. DINGELL.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2203. An act to settle certain claims of the Zuni Indian Tribe, and for other purposes; to the Committee on Interior and Insular Affairs.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On June 21, 1990:

H.R. 3046. An act to reduce the number of Commissioners on the Copyright Royalty Tribunal, to change the salary classification rates for members of the Copyright Tribunal and the United States Parole Commission, for the Register and Associate Registers of Copyrights, and for the Deputy and Assistant Commissioners of Patents and Trademarks, and for other purposes;

H.R. 3545. An act to amend the Chesapeake and Ohio Canal Development Act to make certain changes relating to the Chesapeake and Ohio Canal National Historical Park Commission;

H.R. 3834. An act to amend the National Trails System Act to designate the route from Selma to Montgomery for study for potential addition to the national trails system; and

H.R. 1622. An act to amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments.

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 45 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 26, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3432. A letter from the Secretary of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize separation pay for Regular component enlisted members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

3433. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-217, District of Columbia Government Annual Leave Bank Amendment Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3434. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-215, Recycling Clarification Amendment Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3435. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-220, Board of Education Real Property Disposal Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3436. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-219, Preventive Health Services Amendment Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3437. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-218, Closing of a Public Alley in Square 358, S.O. 88-430, Act of 1990, and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3438. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to protect the confidentiality of data made available to the Bureau of Labor Statistics and for other purposes; to the Committee on Education and Labor.

3439. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations covering the period from mid-March through mid-May, 1990, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

3440. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for Edward William Gnehm, of Georgia, to be Ambassador to the State of Kuwait; of Genta Hawkins Holmes, of California, to be Ambassador to the Republic of Namibia, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3441. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3442. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO in May 1990, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3443. A letter from the Chairman, Board for International Broadcasting, transmitting the semiannual report of the inspector general for the period October 1, 1989, to March 31, 1990; to the Committee on Government Operations.

3444. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting the semiannual report of the inspector general for the period of October 1, 1989, to March 31, 1990; to the Committee on Government Operations.

3445. A letter from the Executive Secretary, Federal Deposit Insurance Corporation, transmitting notice of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(r); to the Committee on Government Operations.

3446. A letter from the Chairman, Securities and Exchange Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1989, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3447. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing debts and obligations owed by candidates and political committees, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

3448. A letter from the Chairman, Federal Election Commission, transmitting reporting forms for use by party and nonparty political committees whose activities affect both Federal and non-Federal elections and who allocate disbursements for those activities between separate Federal and non-Federal accounts, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

3449. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations regarding the production of computerized magnetic media for the Commission's audit of the authorized committees of Presidental primary and general election candidates receiving public funding, pursuant to 2 U.S.C. 438(d); 26 U.S.C. 9039(c); to the Committee on House Administration, June 25, 1990.

3450. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to authorize additional judicial positions for the courts of appeals and district courts of the United States; to the Committee on the Judiciary.

3451. A letter from the Attorney General, transmitting a draft of proposed legislation to amend title II of the Victims of Crime Act of 1984 (42 U.S.C. 10601, et seq.); to the Committee on the Judiciary.

3452. A letter from the Acting Assistant Attorney General for Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation entitled, the "Computer Security Improvement Act of 1990"; to the Committee on the Judiciary.

3453. A letter from the Secretary, Federal Maritime Commission, transmitting a report

of a 60-day extension in FMC Docket No. 90-09, "Matson Navigation Co. Inc., Proposed General Rate Increase of 3.6 Percent Between the United States Pacific Coasts Ports and Hawaii Ports", pursuant to 46 U.S.C. app. 845(b); to the Committee on Merchant Marine and Fisheries.

3454. A letter from the Chairman, Merit Systems Protection Board, transmitting a report entitled, "Working for American: A Federal Employee Survey", pursuant to 5 U.S.C. 1205(a)(3); to the Committee on Post Office and Civil Service.

3455. A letter from the Administrator, General Services Administration, transmitting informational copies of prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3456. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to improve personnel management in the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

3457. A letter from the Assistant Secretary for Policy, Budget, and Administration, Department of the Interior, transmitting the Bureau of Land Management and the Fish and Wildlife Service reports on the implementation of section 318 of the 1990 Department of the Interior and Related Agencies Appropriations Act through June 1, 1990, pursuant to Public Law 101-121, section 318(h) (103 Stat. 750); jointly, to the Committees on Appropriations, Agriculture, Interior and Insular Affairs, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee on Education and Labor. House Concurrent Resolution 333. A resolution expressing the sense of the Congress concerning a 1991 White House Conference on Aging (Report No. 101-554). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1457. A bill to improve Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about source reduction, and for other purposes; with amendments (Report No. 101-555). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HALL of Ohio:

H.R. 5149. A bill to amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amounts returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990; to the Committee on Education and Labor.

By Mr. MICHEL (for himself, Mr. WYLIE, and Mr. HILER):

H.R. 5150. A bill to facilitate the prosecution of claims against officials, directors, and others in connection with insolvent depository institutions, and for other purposes; jointly, to the Committees on the Judiciary, Banking, Finance and Urban Affairs; and Ways and Means.

By Mr. PANETTA:

H.R. 5151. A bill to provide emergency crop loss assistance for producers of 1990 nonprogram crops who experience crop losses due to damaging weather or related conditions in 1989 or 1990; to the Committee on Agriculture.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

447. By the SPEAKER: Memorial of the Senate of the State of Illinois, relative to an Open Thrift Assistance Program; to the Committee on Banking, Finance and Urban Affairs.

448. Also, memorial of the House of Representatives of the State of Hawaii, relative to the highway trust fund; to the Committee on Public Works and Transportation.

449. Also, memorial of the Senate of the State of Illinois, relative to the Amerians with Disabilities Act; jointly, to the Committees on Education and Labor, Public Works and Transportation, Energy and Commerce, and the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. PANETTA introduced a bill (H.R. 5152) for the relief of Carl F. Eifler, which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 293: Ms. SNOWE.

H.R. 1400: Mr. ESPY and Mr. COUGHLIN.

H.R. 1693: Mr. FEIGHAN and Mr. BERMAN.

H.R. 1767: Mr. DELLUMS.

H.R. 3037: Mr. ROE and Mr. PANETTA.

H.R. 3735: Mr. KENNEDY.

H.R. 3965: Mr. BROOKS, Mr. MONTGOMERY, and Mr. BROWDER.

H.R. 3979: Mr. BERMAN.

H.R. 4121: Mr. JOHNSON of South Dakota and Mr. DE LA GARZA.

H.R. 4492: Mr. DARDEN, Mr. NELSON of Florida, Mr. TORRES, Mr. PRICE, Mr. TRAFICANT, and Mr. FORD of Michigan.

H.R. 4520: Mr. FAUNTROY.

H.R. 4939: Mr. FAUNTROY, Mr. BUSTAMANTE, Mr. EDWARDS of California.

H.R. 4990: Mr. GUARINI, Mr. MINETA, Mr. BONIOR, Mr. PEASE, Mr. WOLPE, Mr. CLARKE, Mr. BRUCE and Mr. HAYES of Illinois.

H.R. 5075: Mr. MCMILLEN of Maryland.

H.J. Res. 519: Mr. SANGMEISTER, Mr. SCHEUER, Mr. WALGREN, and Mr. SPRATT.

H.J. Res. 590: Mr. PARRIS, Mr. FUSTER, Mr. DEFAZIO, Mr. FAUNTROY, Mr. TOWNS, Mr. FALEOMAVAEGA, Mr. DIXON, Mr. SISISKY, Mr. FORD of Tennessee, Mr. MANTON, Mr. BUSTAMANTE, Mr. SOLARZ, Mr. DYSON, Mr. JONES of North Carolina, Mr. SERRANO, Mr. HORTON, Mr. OWENS of New York, Mr. THOMAS A. LUKEN, Mr. SAVAGE, Mr. MFUME, Mr. DYMALLY, Mr. RAVENEL, Mr. FROST, Mr. TRAXLER, Mr. LEHMAN of California, Mr. HAYES of Illinois, Mr. VALENTINE, Mr. HUGHES, Mr. CLAY, Mr. YATES, Ms. OAKAR, Mr. FAZIO, Mrs. COLLINS, Mr. WILSON, Mr. LANCASTER and Mr. BENNETT.

H. Res. 134: Mr. LAUGHLIN, Mr. BALLENGER, Mr. DEFAZIO, Mr. ROBERT F. SMITH, Mr. WISE and Mr. GUNDERSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 588: Mr. SLAUGHTER of Virginia.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

198. The SPEAKER presented a petition of Joseph D. Blau, White Plains, NY, relative to the savings and loan bailout; which was referred to the Committee on Banking, Finance and Urban Affairs.

SENATE—*Monday, June 25, 1990*

(Legislative day of Monday, June 11, 1990)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN GLENN, a Senator from the State of Ohio.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God of Creation, give us ears to hear, minds to understand, hearts to receive and wills to obey Thy Word as given us by the Psalmist:

The law of the Lord is perfect, converting the soul: the testimony of the Lord is sure, making wise the simple. The statutes of the Lord are right, rejoicing the heart: the commandment of the Lord is pure, enlightening the eyes. The fear of the Lord is clean, enduring for ever: the judgments of the Lord are true and righteous altogether. More to be desired are they than gold, yea, than much fine gold: sweeter also than honey and the honeycomb. Moreover by them is thy servant warned: and in keeping of them there is great reward.—Psalm 19:7-11.

Let the words of my mouth, and the mediation of my heart, be acceptable in thy sight, O Lord, my strength, and my redeemer.—Psalm 19:14.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 25, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN GLENN, a Senator from the State of Ohio, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. GLENN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is recognized.

SCHEDULE

Mr. CRANSTON. Mr. President, following the time for the two leaders there will be a period for morning business not to extend beyond 12 noon, with Senators permitted to speak therein for up to 5 minutes each.

At 12 noon today, the Senate will begin consideration of Senate Joint Resolution 332, a proposed constitutional amendment on flag desecration. The proposed amendment will be before the Senate today for debate only, with no rollcall votes to occur. A unanimous-consent agreement provides a time cap of 10 hours for debate on the joint resolution, and it is expected that much of that time will be used today.

Mr. President, on Tuesday, at 2:15 p.m., when the Senate resumes consideration of the joint resolution, and amendments proposed thereto, the only time remaining is that provided for the consideration of the proposed amendments and time equally divided between the two leaders. The amendments will be voted in the order in which they are considered, as provided for in the unanimous-consent agreement.

RESERVATION OF MAJORITY LEADER'S TIME

Mr. CRANSTON. Mr. President, I ask unanimous consent that the time of the majority leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the Republican leader is recognized.

DISSIDENT DEPARTS BEIJING

Mr. DOLE. Mr. President, I want to take note of today's decision by the Chinese Government to allow the departure from China of Fang Lixhi—the prominent astrophysicist and dissident who has been "holed up" in our Embassy for nearly a year.

Dr. Fang and his wife have departed Beijing on an American plane, en route to Great Britain—where Dr. Fang will teach and do research at Cambridge University.

Dr. Fang's release is far from the whole answer to the very deep concerns we have about China's human rights record. But it is a small but significant step toward the path that we want China to take—the path of reason and reform.

In my view, it is also one bit of tangible evidence that President Bush is on the right track in the way he is managing United States-Chinese relations.

Our goal is to achieve just the kind of concrete progress we have seen today in Dr. Fang's release—not to isolate the Chinese people further from positive outside forces.

Our goal is to do good—not just to feel good by making grand speeches and taking grandstanding actions.

The release of Dr. Fang is not going to be a decisive factor in our upcoming consideration of the MFN issue. But it ought to give all of us pause as we consider how, in the real world, we can best maximize the chances of achieving our real goals in China.

It is easy to stand on the sidelines and criticize any President and any administration. And it is tempting to grab onto a big problem like China's abysmal human rights record, and to try to leverage it into partisan advantage.

But I hope all of us will resist that temptation. There is too much at stake—both in terms of our enormous strategic state in United States-Chinese relations, and our deep interest in human rights in China.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business not to extend beyond the hour of noon, with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Chair in his capacity as a Senator from Ohio requests that the call of the quorum be dispensed with.

Without objection, it is so ordered.

A TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. WIRTH. Mr. President, I rise today to pay tribute to our friend and

colleague, the distinguished gentleman from North Dakota, Senator QUENTIN BURDICK, and to congratulate him on reaching the 30-year mark in his Senate career.

In my brief tenure in the Senate, I have watched—and admired—Senator BURDICK from the vantage point of one whose path does not cross his very often. Even from this somewhat detached perspective I can say that I have learned a great deal from this elder statesman of the Senate: I have learned that perseverance and patience are key to success. Senator BURDICK's career reflects a regular, steady pace on issues and politics, never wandering far from his own philosophies but always serving the need of this constituents.

I have been honored to serve with Senator BURDICK and I look forward to serving many more years with him.

TRIBUTE TO MILLARD GOFF, FAYETTEVILLE, AR

Mr. PRYOR. Mr. President, I rise today to congratulate Mr. Millard Goff of Fayetteville, AR, on the occasion of his recent election as the District 5 Director of the National Cooperative Services Corp.

Millard has been employed as the manager of the Ozarks Electric Cooperative Corp. for the last 25 years, a cooperative which serves over 35,000 members.

He is a former member of the Food and Energy Council. He is also a past president of the Arkansas Electrification Council, a past chairman of the Committee for Power for the Southwest, and a past president of the board of directors of Arkansas Electric Cooperative Corporation and Arkansas Electric Cooperatives, Inc.

Millard Goff is also actively involved in his community. For the past 3 years, he has served as the chairman of the Washington County Rural Development Authority and has also served on the Fayetteville Chamber of Commerce Board. At one time, he chaired the local United Fund Campaign, and he is currently a member of the board of directors for McIlroy Bank & Trust of Fayetteville.

Mr. Goff is a native Arkansan who received his bachelor of science degree from Arkansas State University. He and his wife, Peggy, have three children and three grandchildren.

Mr. President, Arkansas is fortunate to have such dedicated citizens as Millard Goff, and I applaud this achievement.

A TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. BUMPERS. Mr. President, I rise today to commend my friend and colleague QUENTIN BURDICK on his 30 years of remarkable and selfless service to the State of North Dakota and to this Nation.

In the past 30 years Senator BURDICK has been a tireless protector of North Dakota's interests. He has a reputation for being especially sensitive to the needs of his people. After reading a Federal agriculture appropriations bill a few years ago, a Washington Post writer concluded that if Martians came to Earth and read the bill they would think "North Dakota was the center of the universe."

I have been privileged to serve on the Agriculture Appropriations Subcommittee under his able leadership for several years. Through his efforts to help the American farmer, he has shown that Government has an important role to play in agriculture. As a Senator from a State where agriculture is vital to the economy, I appreciate the fact that he has been a faithful advocate of the farmer, especially the small farmer, and that he has sought to enhance rural developments, break down trade barriers and provide disaster relief.

We all know of Senator BURDICK's dedication and devotion to public service. I am honored to be counted as his friend, and I congratulate him on this impressive milestone in his congressional career. I look forward to working with him for years to come.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,927th day that Terry Anderson has been held in captivity in Beirut.

RECESS

The ACTING PRESIDENT pro tempore. With approval of the Senate leadership, the Senate will stand in recess until the hour of 12 o'clock noon.

Thereupon, at 11:17 a.m., the Senate recessed; whereupon at 12 noon, the Senate reassembled when called to order by the Presiding Officer [Mr. CRANSTON].

The PRESIDING OFFICER. Is there any further morning business?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO DESECRATION OF THE FLAG OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of Senate Joint Resolution 332, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 332), proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, here we are engaged in what I suspect all understand and know so well is the futile exercise. The House of Representatives by an overwhelming vote, that is relative to the vote required, has killed and has assured as a consequence that there will be no amendment to the Constitution, for that matter probably the statutes, relative to the protection of the flag, at least in this Congress.

We have the crime bill waiting in the wings. We have the housing bill, the civil rights bill, and look forward to a budget compromise between the Congress and the President and, gosh knows, how many other pieces that have been reported and waiting legislation that warrant our attention.

I feel as the manager of this bill, a little bit—how can I say it?—at ends with myself over this issue. I will for the next 2 days make a case that the Dole amendment, the President's amendment, would vitiate the first amendment, and is a very bad idea. I will point out that those who say they are against any amendment in any form—those who are inclined to wrap themselves in the flag and to wrap themselves in the Bill of Rights—will probably get very little enlightened discussion over a dead issue in a Congress that should be spending time on other things. But it is my job.

So I am here. With a little bit of humor, I apologized to my mother for—if she is watching—wasting the taxpayer's money in a sense in discussing something that is going to go nowhere instead of discussing something that should be discussed like my crime bill, the crime legislation, and like a hundred other things. But as I said, it is my job, and sometimes a job does not always make sense.

Of course "the Government may not prohibit the expression of an idea simply be-

cause society finds the idea itself offensive or disagreeable." *Ante,* at 7. None of us disagrees with that proposition. But it is equally well settled that certain methods of expression may be prohibited if (a) the prohibition is supported by a legitimate societal interest that is unrelated to suppression of the ideas the speaker desires to express; (b) the prohibition does not entail any interference with the speaker's freedom to express those ideas by other means' and (c) the interest in allowing the speaker complete freedom of choice among alternative methods of expression is less important than the societal interest supporting the prohibition.

It is now conceded that the Federal Government has a legitimate interest in protecting the symbolic value of the American flag. Obviously that value cannot be measured, or even described, with any precision. It has at least these two components: in times of national crisis, it inspires and motivates the average citizen to make personal sacrifices in order to achieve societal goals of overriding importance; at all times, it serves as a reminder of the paramount importance of pursuing the ideals that characterize our society.

The first question the Court should consider is whether the interest in preserving the value of that symbol is unrelated to suppression of the ideas that flag burners are trying to express. In my judgment the answer depends, at least in part, on what those ideas are. The ideas expressed by flag burners are thus various and often ambiguous.

The Government's legitimate interest in preserving the symbolic value of the flag is, however, essentially the same regardless of which of many different ideas may have motivated a particular act of flag burning.

Thus, the Government may—indeed, it should—protect the symbolic value of the flag without regard to the specific content of the flag burners' speech. Presumably a gigantic fireworks display or a parade of nude models in a public park might draw even more attention to a controversial message—than burning the flag—but such methods of expression are nevertheless subject to regulation.

This case therefore comes down to a question of judgment. Does the admittedly important interest in allowing every speaker to choose the method of expressing his or her ideas that he or she deems most effective and appropriate outweigh the societal interest in preserving the symbolic value of the flag? This question, in turn, involves three different judgments:

One, the importance of the individual interest in selecting the preferred means of communication; two, the importance of the national symbol; and three, the question of whether tolerance of flag burning will enhance or tarnish that value.

* * * The freedom of expression protected by the first amendment embraces not only the freedom to communicate particular ideas, but also the right to communicate them effectively. That right, however, is not absolute—the communicative value of a well-placed bomb in the Capitol does not entitle it to the protection of the first amendment.

Burning a flag is not, of course, equivalent to burning a public building. Assuming that the protestor is burning his own flag, it causes no physical harm to other persons or to their property. The impact is purely symbolic, and it is apparent that some thoughtful persons believe that impact, far from depreciating the value of the symbol, will actually enhance its meaning.

I most respectfully disagree. Indeed, what makes this case particularly difficult for me is what I regard as the damage to the symbol that has already occurred as a result of this Court's decision to place its stamp of approval on the act of flag burning.

A formerly dramatic expression of protest is now rather commonplace. In today's marketplace of ideas, the public burning of a Vietnam draft card is probably less provocative than lighting a cigarette. Tomorrow flag burning may produce a similar reaction. There is surely a direct relationship between the communicative value of the act of flag burning and the symbolic value of the object being burned.

Mr. President, all of what I just read is a quote from Justice Stevens' dissent, representing the views of four Supreme Court Justices. Four out of nine have said that the symbolic value of the flag warrants protection.

The Government has a governmental interest in promoting that value. Keep in mind, they were referring to a statute which I must take responsibility for having drafted; 91 Members of this body voted for that statute. Had the Supreme Court voted 5 to 4 the other way, the impact upon flag-burners would be the exact same as if there were a constitutional amendment. It would have been a law sanctioned as constitutional, as opposed to a constitutional amendment, which on its face is constitutional. And so Miss Eichman, burning her flag in Washington, would be subject to a criminal penalty. Her freedom of expression and, in turn, freedom of speech, would have been curtailed ever so slightly, but curtailed. She would have to choose another method of expressing her distate. Ninety-one Members of the Senate voted for that.

So now we hear from my friends on the right; we hear them say, "That is not fair," because many true conservatives oppose any amendment.

Those who wish to politicize this on one side of the issue talk about men and women dying for their country, dying for their flag, all of which is true. They then suggest that those who do not want a constitutional amendment are not patriotic. Not true. Then we hear those on the other side of the argument, including the major newspaper editorials of America, saying that anyone who wants an amendment does not believe in freedom of speech.

Anyone who suggests that saying to a flag burner, "There is a significant governmental interest in the symbolic value of the flag, because it is a united instrument, and you may not burn it in order to prove your point that you do not like America or you love America; choose another means; burn a copy of the Constitution, your draft card, your pants, anything you want, but not that," they make it sound, those who are wrapping themselves in the Bill of Rights, that anyone who wants a constitutional amendment is equally unpatriotic and un-American.

So here you have this grand debate, and it is ironic that we are debating this issue that now is dead in substantive terms. There will be no amendment. Nonetheless, I think it is important to lay out the facts a little bit here. Both sides are wrong. You need not be someone who does not love and cherish the Bill of Rights to say, I want to protect the flag. And you need not be un-American and unpatriotic to say, on a close call like this, I do not believe we should amend the Constitution.

It is kind of interesting. When I ask my staff to prepare a few things for me, it was my recollection that the first great debates over flag protection were equally as political. I suppose it would come as no surprise that the flag protection, notwithstanding that it is dead for this term, and flag politics are just beginning. I suppose it would come as no surprise, and it certainly could be no surprise to historians, because historians know that the first flag desecrators in U.S. history were not the Gregory Johnsons or the antiwar protestors of the 1960's, nor the Communist youths of the 1920's. No, the first flag desecrators in our history were the Republican Party and the Democratic Party, the two major political parties in the decade of the 1870's. For in that era the two political parties had a custom, and the custom was to sew onto the face of the flag the pictures and/or names of their Presidential candidates.

So they would take the flag, spread it out and paste on or embroider on the flag a likeness of their Presidential and Vice Presidential candidates. And they would wave these banners now—the American flag, the Stars and Stripes—with the picture of their candidates on them, and probably their party emblem as well, as banners. Oftentimes, rival operatives would seize these banners and then burn the American flag bearing the opposition ticket's picture at their political rallies.

(Mr. PRYOR assumed the chair.)

Mr. BIDEN. Indeed, far more flags were burned by opponents of James Blaine and opponents of Grover Cleveland during the campaign of 1884 than Gregory Johnson and his radical friends ever burned during the campaign of 1984.

So what they would do is good, upstanding Republicans would take an American flag with the Democratic ticket's picture on it, and at their convenience, the Republican Convention set it ablaze and burned the American flag. And Democrats as well, would take the flag, the American flag, the Stars and Stripes, that honored symbol, with a picture of the Republican ticket on it and set it ablaze for all to see—except there was no television

then—but for all in the ball to see, and they would burn the American flag.

This destruction of the flag by the two political parties is what gave rise to the first flag protection laws enacted in the late 19th century. The goal of these laws, as one witness told the House Judiciary Committee in 1899, was "to keep the flag sacred. We do not want any political party to use it or alter it in any way."

So, Mr. President, here we are. Everyone in this Chamber, knowing that the exercise I am responsible to undertake, you are responsible to listen to, and we are all responsible to vote on is basically a purely political undertaking today. It is sort of a flashback to 100 years ago. We are not burning the American flag with the replicas of our parties' officials on the flag, but figuratively we are playing politics with it the same way it was done 100 years ago. For, why else are we having this vote? Why else are we doing something that everyone acknowledges is over, at least for this Congress? How far have we fallen?

Now, instead of trying to protect the flag from politics, today's effort is to push the flag amendment in an attempt to immerse the flag in politics, the November elections of 1990.

One of the distinguished Members in this body, in response to someone who said something about being against an amendment, made some comment, and I am paraphrasing—I emphasize paraphrasing—made some comment, "Yes, you may be able to explain that vote to constitutional scholars, but how will you explain it in a 30-second television commercial?"

That is about as blatant and straightforward and honest an assessment and admission that this is about politics.

I do not condone the effort, and even worse the acts that we are seeing now do not stop here. For the sin of playing politics with this important symbol, as I said, is not limited to one side of the debate, as friends who oppose any amendment make it sound, as if we are going to have to put certain individuals or parties' names on the Bill of Rights because it is implied, how could anyone acknowledge that there is a governmental interest that could be constitutionally condoned in protecting the flag, and not be some wacko.

As Justice John Paul Stevens and four members of the sitting Supreme Court, who recognized the constitutionality of saying to a flag burner, "You cannot burn that flag because the Government has a legitimate governmental interest in protecting its symbolic value," are they all wacko political reactionaries? Are they what they have proven to be over the years, bright men with differing views, schooled in the Constitution, without any political pressure upon them to arrive at their decision?

How do we get to this point? Why do we not from the beginning have a dispassionate debate about is it reasonable to protect the flag? You know, my doubt is not about can we, but the wisdom of doing it, along the same lines Justice John Paul Stevens suggested. He suggests that if the value is in promoting the flag, because of the unique nature of our society and the requirement that Justice Oliver Wendell Homes said, that symbols are important, if that is the value, do we now diminish that value or enhance that value by passing an amendment to say you cannot burn it? That is the close call.

Stevens says he comes down on the side of saying it enhances the governmental interest of protecting the symbol by saying you cannot burn it because it stands for all that which is good and right about our society and we should promote it. But he acknowledges others could come to a different conclusion. By making a law that says you cannot burn the flag, he acknowledges, as I do, you may conclude that you have diminished the value because the value, the symbolic value, should be that it stands on its own without constitutional or legislative protection, that it is so important to America that it has such symbolic value that it needs no artificial, if you will, protection, that protection comes from the hearts and the minds of American citizens.

That is the question, in my view, we should be debating. We should not be debating whether or not it is sound governmental policy to promote the flag. We should not be debating whether or not it is in the interest of harmony in this Nation, as diverse as we are, to have at least one symbol we can all agree upon.

Look what is happening in Quebec. I do not want to overstate this, Mr. President. Nations have difficulty standing when they have phenomenal diversity of their ethnicity, their culture, and there are no overreaching symbolic uniting signposts. Few nations are as diverse as ours.

It is a statement of fact, not of regret, that by the year 1995, you and I who come from European stock in this Senate will be in the minority in America. We will not make up 51 percent of the population. That is neither good nor bad. That is a statement of fact. Our diversity is increasing. Languages are once again matters of debate and concern.

The Chinese and the Asian population is increasing. The Spanish-speaking population of America is increasing. And so on. We are diverse. Our cultural differences are wide, and in nations with that kind of diversity, there is a necessity to have not only substantively uniting elements like a document, the Bill of Rights and the Constitution, which set out the rules by which we will govern ourselves, but symbolically uniting elements. That is what the flag is.

So the real debate for me is not whether or not the Government has an interest in promoting that, and legislating and/or amending to promote it, but whether or not by legislating or amending we diminish or enhance its symbolic value. Reasonable men can disagree on that point. But I think it verges on demagoguery to suggest that anyone who acknowledges a legitimate govermental interest in protecting the flag must be some kind of a neanderthal, must be someone who does not understand the Bill of Rights, must be someone who does not care about freedom of speech and it is equally and obviously demagogic for anyone to suggest, and if the conclusion is reached by an individual Senator or Congressperson that we need no law, and certain laws in an attempt to promote the flag would do great violence by contrast to the Bill of Rights, if they reach that conclusion, they must be un-American.

Mr. President, it is with genuine regret that I now turn to having to vote in the next 2 days to discuss an issue that (a) is dead, an amendment that (b) is dangerous, and an option that (c) is really not available. There are better things that we should be doing now in light of what has happened in the House.

Two, the President's amendment does do violence to the first amendment.

Three, the option to come up with a reasonable alternative that does not do violence and promotes the legitimate interest of Government in promoting the flag is slipping away moment by moment as the politics deteriorate the situation.

So, as I said at the outset, it is my job as chairman of the Judiciary Committee. I also suggest it does not mean that I know more, but I believe that I have listened to more constitutional experts, for and against; I suspect I have read as much, if not more; and I know that I have sat in hearings and other circumstances over the last decade and a half more than anyone else in this body has. And I have done it not merely because it is my job, I have done that because of a genuine desire to search for a legitimate means by which we could deal with what every constitutional scholar has acknowledged exists and every thinker that I can speak to from Hugo Black, the ultimate defender of the first amendment, to Earl Warren, a liberal Chief Justice of the Supreme Court, to Justice Burger, the conservative Justice of the Supreme Court, to Justice Rehnquist, the present Chief Justice of the Supreme Court, all have ac-

knowledged a longstanding, recognizable and protectable governmental interest in promoting the uniqueness of that flag as a symbol for purposes that rallies the public when it is needed to be done, unites us in our diversity, and makes us look to and understand that we have more in common than is different among us in terms of the values we share.

During the course of the next 2 days, we are going to be discussing at length the Dole amendment, which is one and the same with the President's amendment. I do not doubt Senator DOLE's desire nor the President's desire to protect the flag and at the same time, hopefully, not do violence to the first amendment. But of the many flaws in the President's proposed amendment, perhaps none is any greater than this: The President's proposed amendment violates what has long been recognized as a first amendment value of cardinal importance. That is, equal treatment of all viewpoints.

As Prof. Henry Monaghan, of Columbia Law School, testifying before our Judicial Committee last Tuesday, said:

> There is no justification in our free speech tradition for permitting some persons to violate the integrity of the flag while denying that right to others. Yet this is precisely what the President's proposed amendment would do. And, as such, it is directly contrary to the free speech tradition.

Because I believe in good faith the President has overreached in his attempt to protect the flag, because it is based on the principle of unequal rather than equal treatment of the speakers.

Mr. President, because it is intended to allow the Congress, the 50 States, and up to 14,000 local governmental jurisdictions to decide what kind of flag burning they like and what kind they find offensive and, further, because the President's amendment is intended to allow them, pure and simple, to discriminate between certain types of speech and certain ideas, saying some are acceptable and some are not, punishing the latter and not the former.

How do we know the President's proposed amendment would not allow this? Well, because that is what the administration told us it would do. And it was no accident. The President's spokespersons told us the purpose of the Bush amendment, the Dole amendment, is to discriminate among and between various types of speech. Those that we like, we will not punish. Those that we do not like, we wish to be able to punish. That is a violation of the cardinal principle of the free speech clause in the first amendment. And it is no accident, as I said, that such discrimination is precisely what the administration is seeking to achieve with this amendment.

Just listen, if you will, Mr. President, to the testimony of Mr. Michael Luttig, Acting Assistant Attorney General, who testified before the Judiciary Committee as the President's representative last week. Mr. Luttig pulled no punches, was straightforward and honest in saying what the President wanted to accomplish with his proposed amendment. Mr. Luttig said that under the President's proposed amendment Congress and the States probably would not—probably would not—want to protect the flag the way that the Flag Protection Act of 1989 did, for that law protected the flag in all circumstances, regardless of the flag burner's intent and regardless of whether or not anyone was offended by the flag burner.

But the administration, as it made clear last year, thought the statute was misguided. And that is why, Mr. Luttig says, the administration wants to use the amendment "to punish only those actions that were intended to convey contempt." The President wants to pass a constitutional amendment that does not merely protect the physical integrity of the flag as a symbol, but only wants that amendment to apply to those actions that were "intended to convey contempt."

Let me repeat that because I believe it is the key that unlocks the door to understanding the President's proposed amendment. The administration wants Congress, the 50 States, and up to 14,000 local governments to punish only those flag burners that "intend to convey contempt."

To make sure that I was not misunderstanding the administration's position, I asked Mr. Luttig whether, under the President's proposed amendment, it would be constitutional to pass laws "discriminating between types of expression." That is what I asked him. Mr. Luttig's answer on behalf of the administration was, "That is correct. You could punish that desecration which you thought was intended to be disrespectful toward the flag and not that, in your judgment, does not."

Elaborating on the distinction the administration had in mind Mr. Luttig added, if the individual did something to a flag in order to honor it, he could not be punished even though someone else was offended.

The administration has also made it clear that it not only wants to allow legislators to draw that kind of distinction, but it prefers that those distinctions be made.

(Mr. DASCHLE assumed the chair.)

Mr. BIDEN. It prefers and wants to allow legislators to draw that kind of distinction. When I asked Mr. Luttig whether a legislature was to base a statute on whether or not a person showing disrespect for the flag intended to convey contempt, he said, "absolutely, and I would expect that they would do just that."

With this testimony, the curtain has been lifted. Just like it was last year when Mr. Luttig's predecessor testified this exact same way on this exact same amendment, when he said it would "permit the legislatures to focus on the kind of conduct that is really offensive."

The administration wants the State and local governments to be able to ask all sorts of questions before deciding whether or not to arrest someone who, in fact, desecrates the flag. They want States to ask: Who burned the flag? Why did they burn it? What did they say when they burned it? Did anyone see them burn it? And was anyone offended by the burning of the flag?

Only once these questions have been asked and answered, does the administration want the States to decide whether or not to arrest someone for desecrating or burning the flag?

As Professor Monaghan said last week, the President's proposed amendment, "will permit prosecutors and juries to convict on the basis of whether they like or do not like the defendant."

That goes to the core of, the heart of, the cardinal principle of free speech in the first amendment. It should not be countenanced by us.

The administration wants the States to first know whether it is a well-kept businessman in a three-piece Brooks Brothers suit, or a long-haired college dropout with torn jeans, a motorcycle jacket and a earring, who burned the flag. They want the States to know whether it is a fringe artist displaying the flag on the floor of an art musuem, or whether it is a veteran displaying the flag on the ground in front of a war memorial. They want the States to know whether the wife of a serviceman still missing in action in Vietnam burned the flag her husband sent her in his loving memory, or whether she did it out of condemnation of the failure of United States policy to find him.

What it boils down to is this, Mr. President. The proposed Presidential amendment is worded in the way that it is to allow States to pick and choose, so that flag burning is illegal in certain situations; flag desecration is illegal—and I will get to the question of desecration and what that means, if we know what it means—but that it is illegal in certain situations, under certain circumstances, and involving only certain people.

This discrimination is precisely and most importantly what the first amendment forbids. The essence of the first amendment is that the Government cannot discriminate among types of speech. The Government cannot say to some people "I like the

way you look, I like what you are saying, so what you did is OK" and then turn to other people who are doing the exact same thing and say "you cannot do it because I do not like the way you look and I do not like what you are saying."

Ironically, if we pass this amendment as the President has it drafted, and Senator DOLE, a State could pass an amendment that says "we can go back to the practice that was disallowed in 1890." You could say that no one can put any emblem on the flag except that the two major political parties at their State conventions can embroider onto the flag a likeness of the gubernatorial candidate or a likeness of the Presidential candidate. And that would be constitutional.

Would it not be ironic, the very reason we ever had legislation in the first place, would be now allowed by the President's amendment. The very thing that 100 years ago started this whole debate, and for 100 years has been attempted to be condemned, would now be allowed by the President's amendment.

Cut everything else away, Mr. President, and what the first amendment is all about is whether the restrictions placed on expression will be placed on all speakers equally, regardless of their point of view. As I said earlier, no speaker, as I quoted Justice Stevens, no speaker, no matter how important, critical and timely and legitimate his or her message is, can go out in a public park, in order to attract attention for people to listen to the message, line up 20 nude models on a bandstand, and once the nude models are standing there, having attracted attention, make his or her speech and say "the reason for the nude models was to attract your attention to listen to my protected speech."

We said no, no, you cannot do that. We also say, in order to communicate an important message, even an important political message, you cannot do it obscenely. You cannot use obscenity, even though once you cut away the obscenity what you are saying is otherwise protected speech and in a legitimate message.

So, there are circumstances, Mr. President, where we have already concluded that the method by which you choose to communicate your message can be limited. But one thing you cannot limit under any circumstances is the content of the message. That is what it is all about.

The first amendment is not about whether or not you can blow off a bomb and fireworks to attract attention, to get your message, and call attention to it. The first amendment is obviously not about whether or not, as Justice Stevens said, you can blow up the Capitol and say that is my expression of freedom of speech because I disdain them wasting all this time on this flag amendment when they should be taking care of my Social Security. You cannot do that.

But, the Government cannot say I like what you are saying and you can go ahead and do it; or I do not like what you are saying, and you cannot do it.

Under no circumstances can that be done. And the President's amendment would allow that: the Government can arrest, prosecute, and convict a person, not because of what they have done, but because it believes the person has intended to convey contempt or acted in a way that is really offensive. The core principle of the amendment has been abridged. The President, I have to believe unintentionally, has abridged the core principle of the first amendment when putting forward this amendment.

A flag constitutional amendment that works such discrimination does not protect the flag. It merely censors speech.

How are we protecting the flag if, as the administration says, we say if you are being patriotic it is all right to burn the flag? How are we protecting it? How is that protection? How is that protection of the symbol saying you are burning it? Light a match and burn it. How are we protecting it? Even if it is well intended, even if it is done out of loyalty, even if it is done by the most patriotic person, how is it protecting the symbol?

On the other hand, if someone takes a flag and lights a match to it and says red, white, and blue—and I will not quote on the record exactly what the young man said, but red, white, and blue, I don't like you, paraphrasing, and is arrested, you are not protecting the flag. You are arresting for speech. You are arresting for the thing that that person is conveying. That goes to the core principle of the first amendment. You cannot do that. Unfortunately, that is exactly what the President's amendment would do.

I was going to save this until the end, but my good friend from Arkansas is here. You will hear me repeat this a number of times. I often hear people say, Senator BIDEN, you keep talking about being worried the States will go off and do things that the present amendment allows them to do instead of going off and doing what you think can be done and just say physical integrity of the flag under all circumstances has to be protected. They are not going to go off and pass silly laws, Senator. You keep raising this 14,000 or 16,000 local jurisdictions and 50 States. That is a red herring, Senator.

Mr. President, let me tell you a little bit about that. The fact is a number of States have done some things which would be now completely totally permissible if the President's amendment is passed. There is a very important rule in the Senate that one never denigrate another Member's State. Because to use some examples from other States may be viewed as my denigrating the intelligence and/or soundness and commitment to the Constitution of their legislators, I will just speak to my own State for a moment.

My own State of Delaware, once proposed—and it would be totally, completely permissible for them to do so in the future if this amendment passed—that when a flag is raised at an athletic event, if someone holds up a clinched fist in what was known as the black power salute, that person can be arrested.

Now, under the President's amendment, if the State of Delaware were to pass that statute again, assuming this constitutional amendment existed, they could say that at an athletic event, if white students protesting that they are no longer in the majority, take a bizarre example the other way, held up two fists in protest, they could be arrested. Constitutional; no problem. Or at the Goodwill Games an American could be arrested in the State of Washington, if they were to pass a statute saying at the playing of the national anthem you cannot show disrespect for the flag, by showing a black power salute or refusing to take their hat off. Is that what we want to do? Maybe some of us do.

As to this notion that States never do things that are silly, the State of Delaware also once prosecuted someone for displaying the U.N. flag—catch this—for displaying the U.N. flag in a position of honor on the right side of their house at the same time that that same person was displaying the American flag in what the State thought to be a subordinate position on the left side of the House and at half-mast.

To those of you who tell me that States when they pass these laws that will be permissible under the constitutional amendment will not do anything silly, I would respectfully suggest that my State has as many educated and well-motivated people as any State in the union.

Let me skirt on the edge for 1 minute. Just pick one other State for a moment. Ohio. Ohio once prosecuted someone for hanging the American flag in a window and placing below it—the American flag was hung in the window—I assume on a window ledge goblets filled with a red liquid representing blood. That person was prosecuted. Is that what we want to enshrine in the Constitution of the United States of America?

How about if you had that in your window, and I had it in my window as well, but I did it saying that the reason I did was to represent the blood and sacrifice of great women and men in America who had given their all for

their country including, God forbid, my son, my brother, my father, my sister, whomever. And you did it because you said it represents tyranny of America in not allowing minorities equal representation. Under the President's amendment, the constable could walk down and say, "You, you're OK; we are not going to arrest you, but, you are under arrest." They could discriminate for the exact same action. If that does not go to the core principle of the first amendment, it is beyond me what would go to the core principle.

Some will come in here and argue Biden, those examples you gave of action by States do not physically desecrate the flag. Therefore, they do not apply.

Maybe they do not. Let us say they do not. But it is representative of what States believe, the kind of silly things they could do. So if someone were to say that it is desecration of the flag in a State for someone to have it over their shoulders, although not touching the ground—I can picture that being the case, displaying it in any fashion other than on a regulation flagpole—you could be prosecuted.

A woman has a brandnew, thousand-dollar sequin dress for the New Year's eve bash at some fashionable place on the upper East Side of Manhattan—let us not pick Manhattan—any wealthy community in America, and the designer of the moment, who is in the rage of the moment, whomever that designer may be—and I am not competent to speak to the designers of women's clothing—concluded what is in this year is the flag. We used to see women in very expensive gowns with the Chicago Cubs embroidered on their back, or these expensive jackets in New York salons that have "New York Yankees" across them. If that is fashionable, why would it not be fashionable to put the American flag on it next year? Is that desecration? Well, the State can conclude it is.

Now, if the woman wearing that flag for the Republican National Committee said, "I am a great American, and I do this because I love my country," or the Democratic National Committee, and said, "I do it because I love my country," they could choose not to prosecute her. But if a kid buying a similar item out of a boutique on South Street in Philadelphia had "Harley-Davidson" on the back of a denim jacket, and below it the American flag, and said, "I am wearing it because I think Harley-Davidson is important, more than the flag," that person could go to jail.

Mr. President, this is the reason these elements go to the core principle of the first amendment.

A license for that discrimination is found in the amendment, using the term "physical desecration," Webster's Dictionary defines "desecration" as "to put to an unworthy use, or to violate the sanctity of." I revere, I am loyal to the principles for which that flag stands. I have great respect for, I treat gingerly, I treat with respect, that physical symbol. But since when in this country is anyone required to sanctify a nonreligious object? Since when do we conclude that sanctifying something is what we must do?

I do not think anybody ever intended to santify the flag. It is a symbol. We think of respect. But the flag and every religion have different things which they believe have sanctity. In my religion, it is a crucifix among other things. In other religions, it may be a talmud, in other religions, we can go down the list.

In my religion, the host at a mass is sanctified. I believe that. None of you are required to believe it, thank God. Thank God that no government imposes any religious view on anyone else. But now by this amendment, am I required to treat that the same as a crucifix, or a consecrated host? I hope not.

Government is secular. That symbol is an incredibly important secular symbol. But you cannot desecrate unless you first can sanctify. Why do you think you usually hear the term "desecrate" in the following context in a newspaper? "Vandals desecrate the side of a synagogue by painting swastikas; vandals desecrated a Catholic church by breaking into the tabernacle and strewing the host on the ground. Vandals desecrated a cemetery by running through and breaking off the tops of all the crucifixes."

There is a reason why they use the word "desecrate" in that context. It is because we consecrate, we sanctify as individuals—not as a government—those symbols. God bless it. That is not one of those symbols. It is a secular civil symbol.

Under this particular amendment of the President's, David Duke—and I pick him only because he is known most as former Grand Wizard of the Ku Klux Klan—were he a mayor in a town might get a town council to pass a law saying any civil rights groups who carry the American flag in a march through town are putting the flag to an unworthy use. If he is as persuasive as I hear he is—I imagine there are some towns from 10 people to 200 to 20,000 he can find somewhere in America where he just might be able to get 51 percent of the people who show up and vote for such a rule under the President's amendment. It would be constitutional. It would be legitimate and legal for town X to say that anyone involved in a civil rights demonstration, peaceful or otherwise, who carries the American flag is violating the law by the mere fact he or she carries the flag. Does the President recommend I want that to happen?

Again I hear on this floor "Joe, Joe, Joe, do not worry about those things. States, towns, cities, they will not do those things. You do not have enough faith in the American people."

Well, I have great faith in the American people, and they are ultimately triumphing over our own prejudices. But I also know history. I also know we should not be a nation of men. We are a nation of law, and the President allows the amendment that he is proposing to let us become a nation of men, not of laws because there would be nothing that does not lurk in the hearts of men that cannot be done, and constitutionally sanctioned if it related to the flag.

Mr. President, as I said, all we have to do is have the word "desecrate" in a constitutional amendment. Desecration is to put to an unworthy use. That is the definition, unless we are going to engage in rewriting Webster's dictionary which I guess we could do on the floor. Heck, we are going to rewrite the Constitution. Let us rewrite the dictionary, and let us conclude as a matter of law desecration does not mean unworthy use. If you are prepared to figure out how to do that for me on the floor I will be less concerned about desecration. But otherwise the courts will have to look to its dictionary meaning.

What is one person's worthy use is another person's unworthy use. Under this particular amendment a town board might pass an ordnance saying that any artist who paints the flag has to submit the painting to a special review board which will then decide whether the artist has desecrated the flag by painting it, contemptuously or whether or not he has shown the proper respect for the flag, and painted it properly.

Now, by the way, you would say, "That would never happen, Biden." You saw the furor of what happened when the flag was placed on the floor in an art museum in Chicago. Can anyone doubt the prospect of a Chicago City Council—the prospect, not the guarantee—calling an emergency meeting if next time it is painted in a background being held by a group of individuals slaying babies, and it is a large portrait, as big as the area behind the Presiding Officer; babies being slain like pictures of old, with people with the sword in one hand and the American flag in the other?

Does anyone doubt that there might be a resolution introduced to the Chicago City Council or the Wilmington City Council, or the city council of any other community that says, "That is wrong; that is a desecration of the flag"? Maybe I am the only one that worries about things like this, but I say to my staff and the colleagues listening to this, assuming they are, as one of our former colleagues would

say, "In your heart you know that I might be right," and we are going to enshrine that into the Constitution of the United States of America?

I do not think that is what the President intended. I cannot believe that is what he intended, notwithstanding his asserted faith in the good judgment of the American people.

Parts of the American public occasionally respond to the emotions of the moment; occasionally they pass laws that do not make sense in the wide scope of things. We went through a whole exercise here with Mapplethorpe's paintings and the National Endowment for the Arts, as it related to photographs that had to do with homosexual activity.

I ask you, assume that there were a painting or a photograph taken of homosexuals engaging in a sexual act on a flag; would that be desecrating the flag under this amendment? Let me ask: Does anyone doubt that there might not be at least a few Members of this body that would propose an amendment to the law? We can amend this 99 times, once we pass the constitutional amendment, and we can pass any law we want. There are 15, 10, 20, 50, 100 such laws. Does anyone in here doubt that the next day there would not be someone here with a statute saying it is, by defintion, desecration of the flag to portray it in a circumstance where homosexual activity is being performed upon the flag"? Or heterosexual activity. Let us decide. Then we get into it. Well, if it is homosexual activity, we may ban it. If it is heterosexual activity, maybe not. If it portrays people kneeling and praying to God, probably not for sure. All of them doing the same thing, physically, on the flag.

So those who say, "Biden you are worrying too much," let your memories take you back 2 weeks, 6 months in this body. Again, I do not want anyone doing anything on top of the flag, but the reason that would be so damaging is that it would, in fact, allow the Government to distinguish and discriminate between and among types of expressive conduct; never before have we done that.

We have said that you cannot say good things or bad things in the middle of the night with a bullhorn in a neighborhood. We have said that you cannot stand up and yell "fire" or "earthquake" in a movie theater. We have said that you cannot, in order to make your point, assemble a group of nude models in a park, to make your point for the Vietnam war or against it. You cannot do it. We have said you cannot defame someone in the name of patriotism or in the name of denegrating the United States. We have said all those things. But each time we have made equal application of the law. It did not matter what you said, whether it was good, bad, or indifferent. It was the methodology you engaged in to communicate your message that we curtailed.

The first amendment has allowed that, but it has not said you can use the flag in one way, and you in the same way, and because we like you, we will let you continue to do it, and because we do not like you, you cannot do it. That has never been done in our history.

That is where those who say the Bill of Rights has never been amended in any way really have a strong point, and that the first amendment has never been affected really have a strong point.

I note here, parenthetically, that there are those who say we have never touched the Bill of Rights. Wrong. We have amended the Bill of Rights. We have amended it based upon a court decision. We, have done that—the fifth amendment. We when the Supreme Court said in the Dred Scott decision that a black person can be property, we said, wrong, the Supreme Court's definition of what constituted freedom, my right to own a person, was wrongly decided; so we amended the 5th amendment with the 13th amendment and the 14th amendment.

By the way, those who say we have never touched the Bill of Rights better go back and check whether or not they are a cosponsor of legislation and amendment limiting the amount of money that can be spent in a Presidential campaign or in a Senate campaign—in this case, in the Senate campaign, a House campaign—because the Court has said that is freedom of speech. The right of you to go out and spend as much money as you want, saying that Joe Biden is this, that, or the other thing, is your constitutionally protected right, freedom of speech.

Yet, there are a number of the very people who are making the argument saying, "Biden, how can you countenance amending the Bill of Rights dealing with protecting the flag and sign onto an amendment being promoted saying we will limit your speech if the speech is speech that is in the form of a financial contribution?"

I happen to be one of them who understand why people would do that. But that is a more direct amendment of the first amendment than protecting the flag, if you can do it in a neutral way.

I also might say, while I am on this notion of those who like to demagog on the other side, and say we have never, in any way, amended or touched the Bill of Rights, I wonder how many people on this floor or in the Supreme Court tommorrow could declare, as some of the colleagues on the Republican side and Democratic side, the ban on owning certain assault weapons. That is a violation of the second amendment, the right to bear arms.

As to the right to bear arms, what would happen if the Supreme Court said that a law that says no one can own rocket launchers or grenade launchers? I wonder if the Supreme Court in its newfound libertarian wisdom were to conclude that, no, that comes in conflict with the second amendment as the Court reads it, therefore you cannot have a law saying you cannot own an automatic weapon, you cannot own a grenade launcher, you cannot own hand grenades, you cannot own a SAM missile launcher. How about if they came along and said, no, it violates the second amendment. I think it does not. But arguably, it does.

I wonder how many of you who are suggesting there is no way in which you would ever touch the Bill of Rights would not support an amendment by the Senator from the State of Delaware saying that there are certain restrictions that are permissible, if the only route was to pass a constitutional amendment? I wonder how many of you and I wonder how many of the press would be writing the editorials about this as an onslaught on the Bill of Rights? The reason why it is an onslaught of the Bill of Rights, in this case, the freedom of speech, is that it allows the Government for the first time under the President's proposal to discriminate between and among people, all of whom were doing and saying the same thing: Because we like you, we do not prosecute you; we like you, we do not prosecute you; we do not like you, we will prosecute you. That is discrimination.

We just do not know what kind of wild card the phrase we are writing into the Constitution with the term "physical desecration" means. Is it physical desecration for the hate-filled American Nazi Party to fly the American flag at the head of their parade when they goose step through Skokie, IL, a community made up of a number of American Jews and a number of survivors of the Nazi camps. Is that physical desecration of the flag? How would that be any less a desecration of the flag than it being embroidered on the back of a motorcycle jacket?

Is it physical desecration to place a flag in a pair of boots similar to those the President gave to a leader of China? He gave boots, good old American cowboy boots that came all the way from South Dakota to Texas, a little American flag embroidered on the side. Is that desecration?

What would happen if instead of being embroidered on cowboy boots, they were embroidered on motorcycle boots of a Hells Angels gang and became their symbol? I do not know. Is that a physical desecration as opposed to the President's boots that maybe Deng Xiaoping is wearing, or whoever they were given to?

Is it physical desecration for the Japanese Subaru car company to paint American flags on cars they drive up to the top of a mountain advertising the sponsorship of the American Olympic team, the American ski team being sponsored by a company in part responsible for the balance of payment deficit in this country, in turn responsible for American jobs, and in turn responsible for the American standard of living; is that desecration, painting the flag on the side of a car? Is commercial use of the flag all right?

There are certain adult book stores that are constitutionally protected, like it or not. What happens? Can you picture a community passing legislation saying you cannot fly the American flag in the entrance of the adult book stores? But beside that is Charlie's Drug Store, and Charlie is a big promoter of Little League and all things good in the community; can he fly the flag in front of his drug store? Is it desecration of the flag in the adult book store, and not at whatever the big book store in town is? I do not know. What does this mean?

But we do know the administration, by its own words, intends for us to have these mild anxiety attacks. It is their intention that this kind of discrimination be left to local governments, to have, as they said, "wide latitude" to prohibit conduct toward the flag, to be as they say permitted and obliged to draw lines. Is that not great? They want local governments from this Congress to be permitted and obliged to draw lines relative to speech and to "have substantial discretion" in fashioning laws relating to the flag.

That is what the administration witnesses told us in over a year of hearings on this issue. With the force of this constitutional amendment behind them, how the States will use the wide latitude of their substantial discretion is anyone's guess.

Mr. President, if these flaws were not bad enough, so far I have just been discussing the violence this amendment does to the first amendment. But the force of the proposed amendment does not stop there. For if, as the administration claims, the amendment overrides the first amendment without saying so, perhaps it overrides the sixth amendment guarantee to have jury trials when a person is charged with desecration of the flag.

Maybe I have been hanging around constitutional scholars too long and maybe I am too much of a lawyer, and maybe I have learned too much about this subject. But keep in mind, unless this amendment that is being proposed is intended to read that it takes precedence over the first amendment, unless it is read to say that, then it means nothing because the Court will come back and say it is a violation of a cardinal principle of the first amendment to say that we are going to discriminate between types of speech.

So the President's amendment must override the first amendment to have any ability to protect the flag. If it does that, why does it not override the sixth amendment? Why does it not, for example, as the distinguished Senator from North Carolina, who is about to come to the floor and say—and he will say it in a much better and more persuasive way than I, because I will be arguing strenuously against him—he is going to come to the floor and say anything that has to do with the flag, the Supreme Court has no jurisdiction. That is the essence of the amendment. So he is going to propose an amendment, and we are going to have to vote on it and hopefully overwhelmingly vote against it.

He is going to say, "Look, if someone does something to the flag, the outcome of whether they go to jail or not should not be in the hands of the court at all. The court has no jurisdiction over laws relating to the flag."

OK. So far, so good. For those of you who think my next example is going to be silly, keep in mind the next amendment we are going to vote on on the floor of the Senate says if the President's amendment overrides the first amendment without saying so explicitly, then it also overrides the sixth amendment.

So how about if a State says there can be no jury trial if you are accused of desecrating the flag; that judgment will be left to a court only? In the name of judicial expediency, no juries. That is a good one. You say, "Biden, that is crazy."

If you think that is crazy, think about what we are going to do. The Senate is going to debate whether or not the Supreme Court of the United States has any authority, responsibility, or jurisdiction over laws relating to the flag. We are going to be persuaded to say, that is right, Supreme Court, you are out. You can determine antitrust violations; you can determine whether or not somebody has their habeas corpus right protected; you can determine whether or not the death penalty is being equally applied; you can determine whether or not you are allowed prayer in school.

But there is one thing, by the way, you cannot even talk about, and that is flags; anything that has to do with flags, you have no right to do anything.

So keep in mind my admonition here: The administration does not explicitly say this only applies to the first amendment, but it does say it supersedes. Therefore, if it supersedes the first amendment, it supersedes the sixth amendment. How about the fourth amendment, illegal search and seizure? How about that?

Your neighbor says you had a party in the backyard. You brought all your hippie friends. You had a barbeque, and what you barbequed was the flag. And you all chanted: "Red, white, and blue, I hate you," while smoking dope. Do you need a search warrant? I do not know. I hope to God you do. But I do not know.

For if—as the administration claims—the amendment overrides the first amendment without saying so, perhaps it overrides the sixth amendment guarantee of jury trials when a person is charged with desecrating the flag. Perhaps it overrides the fourth amendment guarantee against unreasonable searches and seizures when a person is a suspected protester and flag burner.

Even if we in Congress would not use our power under the 27th amendment to take such radical steps, who knows how far the States might go in using their power. Death penalty for flag burners? Is that so hard to imagine? Does the President's proposed amendment bar it? We just do not know.

Mr. President, one thing that we do know for certain about this particular amendment is that it will stimulate a generation of litigation. It will create, in the words of Prof. Walter Dellinger, "an entirely new jurisprudence of the 27th amendment."

Just imagine the kind of litigation we might have potentially if 50 different States took 50 different definitions of "physical desecration" and 50 different definitions of what constitutes a flag.

What if the State of Maryland defines physical desecration of the flag to include representations of the flag on clothing but the District of Columbia does not?

Does a woman traveling from Delaware to a gala event here in Washington who chooses to wear a sequined dress with a representation of the flag embroidered on it have to first check the State law before she gets in the car? Or does she choose not to take the Metroliner or the car but better fly so she does not go through the State of Maryland.

Should she change out of her dress as she crosses the Maryland line and change back into it as she reaches Washington?

Ironically, Mr. President, we usually pass constitutional amendments to ensure uniformity throughout the Nation. The whole idea is uniform respect for the flag.

We want to ensure that the income tax imposed in New York City is no different than that imposed in Biloxi, MS. We want the rights of minorities protected the same in Kalamazoo, MI, as they are in Decatur, GA.

Rather than having one national standard for protecting the flag, and one national standard for what consti-

tutes "the flag of the United States," the President's amendment does exactly the opposite.

If we want to protect the flag, we ought to do it across the board. Why is it any less reprehensible to burn a flag in Louisiana than it is in Montana; less reprehensible in Delaware than it is in the State of Washington? The Constitution stands for broad principles, not a patchwork of 50 different approaches, particularly when we conclude to enshrine a principle in the Constitution.

Mr. President, what it boils down to is this: Instead of unifying the country—rallying us around a national symbol that reflects who we are and embodies "We the people"—this proposed amendment does exactly the opposite.

It leaves it up to 50 legislatures and an untold number of local governments to decide whether they can and how they can protect the flag—knowing that they may be able to go far beyond what they were able to do before—and, if they do, how to protect it is left to them. We will have years of litigation trying to decide what all this means, and why.

So, Mr. President, I want to prohibit burning the flag, if possible. But I, for one do not want to burn the Constitution in the process. And that is what this proposed amendment asks us to do. We should reject it like we rejected it last year when I made the same plea. The flaws in it are now less, and we are, hopefully, 1 year wiser.

In the end, we do not have to choose between doing violence to the Bill of Rights and protecting the flag, hopefully—and that remains to be seen, whether this is the time, place, and manner, and whether it is possible to do it.

One thing we know for sure. We do have to choose between an amendment that goes far beyond protecting the flag, allows things to evolve that we would never envision or desire and does do violence to the core principle of the first amendment, which is equality of treatment and nondiscrimination among and between types of utterances.

I yield the floor.

Mr. THURMOND. Mr. President, last Thursday the House of Representatives failed to adopt our proposed constitutional amendment to allow the Congress and the States to prohibit the physical desecration of the American flag. It was my hope that a two-thirds majority of that body would have determined that the American people should have the opportunity to decide on this important issue. Now the Senate should vote favorably on this proposal and send it back to the House so they may atone for their earlier decision.

Prior to the Supreme Court ruling in Texas versus Johnson, the U.S. Congress and the 48 States believed they had the constitutional authority to act and thereby adopted statutes to protect the flag. The Congress and 48 States believed they were on sound constitutional ground when they passed statutes prohibiting the physical desecration of the flag. Five members of the Supreme Court have said otherwise by twice ruling, within 1 year's time, unconstitutional a State and Federal statute punishing those who physically desecrate the American flag.

The opponents of our proposal, Senate Joint Resolution 332, have misinterpreted its application to the right of free speech. Former Chief Justice Warren, Justices Black and Fortas are known for their tenacious defense of first amendment principles. Yet they all unequivocally stated that the first amendment did not protect the physical desecration of the American flag. In Street versus New York, Chief Justice Warren wrote:

> I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace.

In this same case, Justice Black, who described himself as a first amendment "absolutist", stated:

> It passes my belief that anything in the Constitution bars a State from making the deliberate burning of the American flag an offense.

Justice Fortas made this statement. "The States and Federal Government have the power to protect the flag from acts of desecration committed in public."

Mr. President, I do not know of any three more liberal judges who sat on the Supreme Court than those three: Chief Justice Warren, Justice Black, and Justice Fortas.

Justice Black and Justice Fortas both were appointed by Democratic Presidents. These three are known for their liberalism. And that is what they said.

Currently, there are a number of utterances and also certain expressive conduct which are not protected as free speech under the first amendment. During a hearing last week before the Judiciary Committee, Steven Presser, a professor of law at Northwestern University, testified concerning this first amendment issue. He stated:

> The first amendment has never been construed to provide absolute license for all expressive acts. Thus reasonable time, place, and manner restrictions on speech, the prohibition of fighting words, the laws of libel, and the classic prohibition of falsely crying "fire" in a crowded theater have all been upheld as constitutionally permissible, because other values * * * are important in our constitutional Republic.

Professor Presser went on to state:

> The proposed flag amendment does nothing to alter the first amendment. All that will be changed is that the Supreme Court's gloss on the amendment to protect not only words spoken about the flag but also outrageous and inflammatory acts directed at it will be removed.

Also, another respected constitutional scholar, Judge Bork, testified before the Judiciary Committee last week. He stated, and I will quote his words. This is what he said:

> While the first amendment allows the expression of any opinion or emotion, it has never been interpreted to allow any and all means of expressing them. Even after the Johnson and Eichman decisions, one supposes, the Federal Government or a State government could punish such actions as delivering a political message over television in obscenities, or expressing a political viewpoint from a sound truck at two o'clock in the morning in a residential neighborhood, or making a political point by engaging in indecent public behavior. Yet, if the rationale of these decisions were consistently applied, none of these actions could be prevented or punished.

That is Judge Bork's opinion and I concur with his views and that of Professor Presser.

The American people are very tolerant of differing opinions and expressions. Yet, there are certain acts of public behavior which are so offensive that they fall outside the protection of the first amendment. There is certain conduct which goes beyond expression and makes a mockery of the values we cherish as a Nation. I firmly believe that flag burning falls in this category and should not be protected as a form of speech. The American people should be allowed to prohibit this objectionable and offensive conduct.

Mr. President, I want to point out that the Senate voted 97 to 3 for a resolution expressing its "profound disappointment" with the Johnson decision. If we are indeed profoundly disappointed, now is the time for action. It seems inconsistent to support a statute to protect the flag yet unwilling to support a constitutional amendment to accomplish the same goal. Is the American flag worthy of statutory protection but not constitutional protection? If this body has the courage of its convictions to alter the Supreme Court ruling and protect the American flag, then Senators should stand up and be counted when we vote on this amendment. If we truly and sincerely want to protect the flag, the opportunity is still available.

The Congress should pass this proposal and send it to the States where the citizens of this great country can decide if they want to prohibit the physical desecration of the American flag. Let the people vote on it.

I urge my colleagues to vote for this proposed amendment and give the American people the opportunity to decide on this important issue.

Mr. President, the distinguished chairman of the Judiciary Committee has stated that this debate has become a purely political exercise. This issue is

not about politics. There are supporters of this proposed amendment who respect the flag, respect its symbolic value for our identity as a nation, and want to sincerely protect it from desecration. There are Members who believe that protecting the flag is important enough to support a constitutional amendment, not because it is politically expedient, but because it's the right thing to do. The supporters of this proposed amendment believe the American flag is a unique symbol for our Democratic values of freedom, equality and justice. We believe it is deserving of protection.

This is not a first amendment issue, as I explained in my statement. This is an issue which asks the Congress if the flag, representing our national unity, is worthy of protection.

Mr. President, the distinguished chairman of the Judiciary Committee indicated surprise that the President and other proponents of this amendment believe that the Congress and States should be allowed to prohibit offensive conduct with the American flag. It is no secret that we want to allow the Congress and the States to punish those persons who engage in conduct which society finds highly objectionable, offensive, and a mockery of our values, our identity as a nation. No one should be surprised by our objective. We are moving directly to prohibit offensive conduct with the flag, not through the back door.

There is no reason to finesse this issue. The American people deserve this opportunity to decide if there is certain conduct with the flag that goes beyond reason and decency.

Mr. President, the distinguished chairman expressed concern that the President's proposal would give the States too much power to protect the flag. I have enough confidence in the people of this Nation to make their own determination on protecting the flag. I have enough faith in the American people to use their reasoned judgment in prohibiting offensive conduct with the flag.

Prior to the Supreme Court ruling in Texas versus Johnson, 48 States had already spoken on behalf of their citizens and passed laws to protect the American flag. That is the sentiment of the American people.

Before the Johnson decision, there was no great hue and cry in the Senate over the Federal statute, and those of 48 States which had already been on the books until the Johnson decision. Forty-eight States and the Congress believed they had constitutional authority to act.

There was no great activity in the Congress to take away this power.

Mr. President, this is simply an issue as to whether the Congress wants to give the power to the Federal Government to protect the flag, and to the States. There would have to be statutes passed. But this merely gives the Federal Government the authority, it gives the legislative branch of this Government the authority to pass statutes, if they want to do it.

It gives the States the power to pass statutes if they want to do it. They have already passed them, but the Supreme Court struck them down in a 5-to-4 decision; a 5-to-4 decision. If one judge had gone the other way and shifted then the decision would have been different. It is that close.

Certainly if it is that close, the American people have the right to speak on it. Why not let this amendment be submitted to the people? I trust the people. I am willing to let them vote on it. If this Congress is doubtful about it, one way or the other, let the American people vote on it.

We have to pass it by two-thirds vote here in the Senate and the House. And then three-fourths of the States have to approve it. Why not let the American people vote? I think they ought to be allowed to vote on this issue, which is so important, in our opinion and in the opinion of President Bush and of so many people in the Congress and so many people throughout the Nation. The American Legion wants it done. They held a public press conference in front of the Capitol. The VFW wants it done. They joined in that press conference. The Disabled American Veterans want it done. They joined in that press conference. And the American Veterans, also want it done.

There are many veterans organizations that favor this. Those veterans fought under the flag. They fought under it in one country after another in all the wars. They want to see this flag protected. It should be protected.

It represents freedom. It represents justice. It represents equal opportunity. And it represents hope, the greatest hope in the world. People look to this flag everywhere as providing hope: Hope for peace, hope for freedom, hope for justice.

I say let us pass this amendment here in the Senate and let the people, the American people decide.

I yield the floor, Mr. President.

The PRESIDING OFFICER (Mr. KOHL). The chair recognizes the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I ask to be allocated whatever time I may consume from the majority manager's time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HELMS. Mr. President, will the Senator yield for a moment?

Mr. DASCHLE. I will be happy to yield.

Mr. HELMS. I thank the Senator.

Mr. President, is it possible to have some idea as to who will follow the distinguished Senator? I will be glad to ask unanimous consent that I may be granted that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I thank the Chair. I further ask the Senator, how long does he anticipate to take?

Mr. DASCHLE. I anticipate that I will take 10, 15 minutes.

Mr. HELMS. Very well. I thank the Senator very much. I thank the Chair.

Mr. DASCHLE. Mr. President, I rise this afternoon to join with my colleagues to discuss the flag amendment and to indicate that, when we have the opportunity, I intend to vote against this particular constitutional amendment and all other constitutional amendments that would amend what I consider to be the most important clause of the document which makes the United States of America what it is, the free speech clause of the Bill of Rights.

The American people should not be confused about this. I am a veteran. There are many other veterans in this Chamber and outside the Chamber who feel as I do, that—as important as the flag is—there is something a lot more important, something a lot more fundamental, something related a lot more directly to the Constitution and all that it stands for, than the flag itself.

If we tamper with the Bill of Rights on the 200th anniversary of our Constitution, we are ultimately diminishing every flag in America. We are ultimately demeaning the sacrifices of the men and women who fought to keep us free, the veterans who are referred to so often in this place, the veterans who are no longer with us, the veterans who are inscribed on the Vietnam Wall, the veterans' names who are on marble blocks in counties and States across our country.

If we are ultimately violating all of this, are we not then violating our oaths of office and our standing as men and women sworn to protect our constitutionally guaranteed freedoms, freedoms that all citizens of the United States now share with such abundance? As we consider this amendment, I share the anger of many of my colleagues who have spoken on this issue in the past few days.

Frankly, I am angry first with the kooks who brought all of this about. If ever there was a better demonstration of the power of television, frankly, I have not seen it. Do something outrageous, it is guaranteed to draw a television camera. These irresponsible outcasts know that as well as anybody. They are right outside again. You will find them out there. Do something outrageous, and I can guarantee you are going to get a camera there. It works every time. But that is no sur-

prise. What is a surprise is that they have not done it sooner. What is a surprise is that those who propose to solve this situation with a constitutional amendment have allowed these crazies to get under their skin in the first place. That, too, angers me. It angers me a great deal. That we would trade 200 years of protection under the Bill of Rights for a 30-second commercial on the flag is, frankly, demeaning. It assumes that our desire to hold office is stronger than our desire to do what is right. I deeply hope that is not true.

I hope our desire to do what is right without regard to the next election is stronger than that because, if it is not, then I fear for this country. I fear that when it comes to the next tough vote, we will find that imagery is always easier than solution and that those elected to sit at these desks will choose imagery all the more frequently.

The old line that anyone who has served in this office hears from time to time, that the difference between a politician and a statesmen is that the politician considers the next election and a statesman the next generation, could not be better illustrated. So I share the anger and the disdain for those who would exploit the flag for cheap political gain.

When we were sworn in, we were sworn under oath to uphold and protect the Constitution. I will never forget wondering at the time, when I raised my hand, whether I would ever be called upon to do just that, to protect the Constitution. I knew there would be a lot of votes. We were going to have votes on taxes, appropriations, treaties, nominations. But I must be honest; I never really thought that in this Chamber as we stood at our desks and rose to cast our vote, we would be called upon to literally defend and protect something so fundamental to this country as the Constitution, particularly the first amendment of the Bill of Rights. Never did I think that. I do not know how many hundreds and hundreds of votes I have cast, but I daresay I have never been called upon to defend and protect the first amendment of the Bill of Rights. That is until now. But here we are.

We are considering an amendment which threatens the very essence of our freedom under our Constitution, as the chairman of the Judiciary Committee so eloquently, so persuasively pointed out in example after example. As the chairman indicated, should it pass, Congress will assume for the first time a right to abridge free speech, and not only Congress, but also each and every State. And, within each State, each and every constituency, will assume the right to go to the city council, to go to a county commission, to go to a State and say we want to discriminate against the people who are saying or doing this or that. And, from here on out, those constitutional freedoms will be lost.

What does it mean? The chairman pointed out example after example of what it may mean. Will we be thrown in jail for sewing a flag, for Heaven's sake, on a denim jacket? I had some interesting conversations over the past few weekends in my State of South Dakota. Someone said, "Well, Tom, tell me this, We make a cake every Fourth of July and on that cake we put a beautiful flag. It is great. We have done it for generations. That is how we celebrate the Fourth of July. Can you guarantee me when we cut that cake I am not going to be thrown in prison?"

I can just hear them now: "You cut it. No. No. You cut it."

We cannot tell them no because there is nothing in that proposed amendment that says they are somehow protected from cutting a cake if it has a flag on it.

A teacher came up to me and said, "Tom, I've got another question. Every year around Memorial Day I am asked, 'will you allow the kids to make some paper flags?' They make it on tablet paper with red and blue colors. They have an opportunity to make those flags, and, now, tell me, what do I do with them? What do we do with those flags when we're through with them?"

Mr. President, I do not know. But those examples were just some additional illustrations of what the chairman so capably pointed out. We do not know. Certainly we ought to know. Certainly we ought to have some idea before we add a new amendment to the Constitution.

The fact is that the people are concerned. As they consider this, as they consider all the legal questions, as they consider the document we have lived by for 200 years, they are beginning to ask, is it really worth all this to silence a couple of kooks out there? Are we really serious about this?

Then they ask, where does it end? If we nibble around the edges of the first amendment, what about some of the others?

Frankly, Mr. President, I am angry, and I am embarrassed that we would even be here debating this issue.

When we see those new, idealistic, Eastern European democracies looking for leadership, that comes to mind, too. Watching and doing as we do—how ironic. How ironic that at the very time these countries are building up freedom, we curtail ours; at the very time they are creating their own Bill of Rights, we are dismantling ours. How ironic that at the very time we see what they are doing in Eastern Europe, at the very time all of this new optimism is there, they watch us doing this. They must wonder. How can they help but wonder when the only other country doing anything like this in the last few weeks was none other than China. China passed a resolution like this. They saw the need for it. The question is, do we?

If representatives of these new democracies were here now asking us "What do we do with these dissenters; what do we do with those who demonstrate with our flag?" do we really want to advise them to revert back to the old days of repression, to the days of Stalin, Brezhnev, and Ceausescu? Do we tell them that damaging the flag is the same as any other crime, and that they ought to be thrown in jail? They know how to do that. They have done it for 50 years. Is that what we really want to advise?

I wonder, too, what John Sununu will say to President Gorbachev about all of this as he gives President Gorbachev some on-the-job training about democracy in a little while. Can you imagine the conversation they are going to have? President Gorbachev says, "I am confused. I thought democracy meant freedom—freedom of speech and expression. That is what you have been hammering on us all the time. Tell me. What are you talking about here? All this time I thought it was some great leap from our old system to yours. But I must tell you, it is not that big a jump at all. I am ready. Do you mean it is OK to throw in jail these bums who cut out the hammer and sickle of our flag? We can do that? That is democracy? I got it. Now I understand."

How are we going to respond to that one? Maybe we will just avoid the question. Maybe we will try to convince them to do a 30-second spot on it. Maybe we can convince President Gorbachev that even his election is more important than the next generation.

I certainly would not want to convince him of this. Someone is going to have to convince President Gorbachev that the drafters of this amendment are better constitutional experts, are more knowledgeable, have a greater vision in rewriting the Bill of Rights than Madison, Jefferson, and those who wrote it in the first place.

Justice John Paul Stevens called it mandatory worship of the flag. Mandatory worship, is that essential now to the Constitution? Is there a time in history when somehow it was not as important as now? Is it more important now to do it than in 1812? Is it more important now to do it than during the Civil War, or during World War I, World War II, the Korean war, or the Vietnam war?

Today the flags are flying at half mast, as I understand it, to honor the veterans who served in the Korean war. What a divisive time that was in history. As all of the division, all of the great debate about that particular

conflict ensued, I am sure there were times when the people governing would have loved to have a flag amendment. Is it really more critical now that at any time in 200 years for us to abridge the right of freedom of speech? How interesting. How interesting that it would be espoused by leaders of a party who make it a practice to tell the American people the Government already mandates too much, the Government already is telling the American people they can do this, can do that, and cannot do this, and cannot do that? How ironic that now they are saying you cannot do one more thing? After listening to the chairman of the Judiciary Committee, it may not be just one more thing. God only knows how many more things we cannot do as a result of this amendment.

Mr. President, we love this flag dearly. Ninety-nine percent of the American people pledge allegiance to it. They fly it proudly. They sing loudly the "Star-Spangled Banner." So it is no mystery at all to see them angry when the flag is desecrated. We get angry for the symbolism it represents. Desecration signifies a repudiation for the values, the beliefs, and the heritage of this great Nation. But is that not the point? Is it not a fundamental value and right in this country to voice that repudiation? Is that not the very core of what this country stands for? Is it not as contrary to constitutional principles as anything can be to deny that right to an American citizen, however deeply we might disagree with their position or action?

I did not fight in the war in Vietnam. I served in the Air Force for 3 years during what was a very turbulent time. I went through ROTC, and became commander of the Arnold Air Society, and felt very proudly about that. I was criticized by some during this time of great dissension for putting on a uniform, but I am proud of the fact that I did. I never served in Southeast Asia. Obviously, many in this Chamber have, not many, some. They—from both sides of the aisle—did it with distinction.

I have no more profound respect for anybody in this Chamber than I do for Senators KERREY and MCCAIN, just to mention two, for all that they did, for all that they gave. I do not know what positions they may hold with regard to some of the things I say specifically with regard to this amendment. But I am convinced that one thing is true; that the vast majority of veterans who fought in Vietnam, regardless of whether it was the two Senators I mentioned or anybody else, did not fight for whether we have three or four colors in the flag, or the size of the flag or whether there were stars or strips. That was not the issue. The issue was whether or not another country was going to enjoy the same freedoms as we have. That was the issue, the same opportunity to do what we could in a democracy. That is what they fought for. They fought for freedom, for the right to say, write or do anything as long as it did not infringe on the rights of others, and to know that we would be free afterwards.

The old story about the Romanian and the American is probably as true today as it ever was. The Romanian said, "We both have freedom of speech. Romanians and Americans—We both have freedom of speech." The Romanian then said, "The only difference is that you have freedom after you speak." That is the issue. If we passed this amendment, will people still have the freedom of speech after they speak?

I am proud to be a U.S. Senator, but I must say I understand sometimes the disillusionment expressed by many of my colleagues from time to time. After you work so hard to get here, you are filled with idealistic motivation. Having arrived here, you learn of all of the great problems our country faces and experience uncertainty about how to solve them, and realize the tremendous need for statesmanship. Then we witness debates like this.

Someone recently called it a game of chicken with losers all the way around. Games being played while the challenges go unmet, while the American stock and spirit continues to visibly erode. What a sad commentary. Even a casual observer would have to conclude that our greatest concern would appear to be nothing more than perpetuation in office. But what is this office worth if we cannot uphold the oath we took when we came here?

So lest there be any doubt, let me make it clear: I intend to vote against this amendment. I intend to do it as honestly and as openly as I can. I intend to vote against any other constitutional amendment that may be offered on this issue, and I hope, in doing so, we can put this political gamesmanship behind us. That is really another message that has to be sent—we will not stand for it. There are far too many important things for us to deal with than something like this.

This weekend I was returning to Washington, and I had the opportunity to sit next to a young couple on the airplane. After learning that I was a Senator, they admitted they, too, had once wanted to volunteer politically in a campaign in another State. But they said they had recently decided to give up on that notion. It was hard for them to see the point of it all. They were angry at an S&L crisis out of control; at a budget deficit costing them hundreds of tax dollars they do not want to pay; at a health system which is breaking down; at an illiteracy rate which almost pushes us out of the top 50 literate countries in the world; and the hottest thing in Washington, as they were flying here for only the second time in their lives, was the debate on a constitutional amendment on the flag.

They said, "How do you really expect us to get involved, to be a part of this process when we see this? Give us something to believe in; give us something to really believe someone is making a difference out here."

I must tell you, that cynicism is pervasive, Mr. President. I hear it here, and I hear it at home. More and more people are turned off with this political system. Frankly, half of the time, I cannot blame them. But another old line about "lighting one little candle rather than cursing the darkness" is still true. Maybe this whole effort on our part will be just one little candle. For what it is worth, we are going to keep it burning, and we are going to hold out for the day when true Presidential leadership takes this country out of the darkness, without concern for another commercial, without concern for 30 seconds on television, without concern about what the polls say, and helps solve the problems that we have in this country, just like true American leadership has done in the past.

For the sake of that young couple, for the sake of all the young democracies who look upon this body to make the right decision and who are looking for guidance and leadership, for the sake of the next generation, let us do what is right.

Let us unite this country; let us work to make it all that it can be. Only then will we live up to the privilege and the responsibilities of standing at one of these desks.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, with all due respect to the self-proclaimed and somewhat self-righteous liberal editors, commentators and politicians who oppose the constitutional amendment proposed by Senator DOLE and some of the rest of us, I am obliged to take note that these voices are highly selective in their defense of the first amendment.

A distinguished North Carolina lawyer, who knows a thing or two about the U.S. Constitution, wrote to me last week about this flag burning issue. His letter is brief, so let me read it to you:

DEAR JESSE: Why shouldn't Congress mess around with first amendment? The Supreme Court has been doing it for the past several decades. In fact, the Supreme Court has messed with it so much that five Members of the Court can't tell the difference between speech and fire.

But let me guarantee you one thing: When the flag burning loonies start shoot-

ing the bald eagle, Congress will be clamoring to dignify the Supreme Court confusion, which they call opinions, by approving another amendment to the Constitution.

What we need is a Supreme Court that will protect the integrity of the Constitution rather than substitute its beliefs for those of the Framers.

I am reminded of a lawyer's reply to a judge who asked the lawyer if he was trying to show his contempt for the court. The lawyer replied "No, your Honor, I am trying to conceal it."

Sincerely.

Mr. President, I have withheld the name of the lawyer because I am unable to reach him for permission to identify him, but knowing him, I am confident that he would not mind. But since it is a personal handwritten letter, I feel I owe him the courtesy of withholding his name.

My friend from North Carolina, Mr. President, was making a point that Justice Felix Frankfurter made a long time ago. He noted that we are nothing more than our symbols. Indeed, he said: "We live by our symbols" because a civilization that does not nurture and cherish its symbols is in danger of withering away.

Mr. Justice Frankfurter also declared that, "The ultimate foundation of a free society is the binding tie of cohesive sentiment." That is what we mean when we honor the flag. We honor the flag because it is the tie which binds us together. We remember the flags that have draped every coffin of every soldier and sailor who gave his life fighting to preserve these freedoms.

The Supreme Court has sent a very clear message to the Nation on this issue by a vote of 5 to 4. Now it is up to the vast majority of the American people to send a response to the Court. It is a "We, the people" sort of response, a declaration by the American people that there should be no tolerance for those who deliberately dishonor the American flag and the Republic for which it stands.

In his dissenting opinion in the original flag burning case last year, Chief Justice Rehnquist, one of the four, read to the Supreme Court a poem by John Greenleaf Whittier entitled "Barbara Fritchie," dedicated to that gallant lady who waved the Stars and Stripes out of the window as the Army of Northern Virginia marched by. Chief Justice Rehnquist commented that this was all he needed to say about the flag.

In that Whittier poem Barbara Fritchie said, "Shoot, if you must, this old gray head, but spare your country's flag."

The Confererate general addressed his troops:

"Who touches a hair on yon gray head, dies like a dog. March on," he said.

It is a tragedy that those loonies who burn our flag, contending it is a form of political expression or free speech, are not filled with the same sense of awe and respect that Stonewall Jackson showed the Stars and Stripes as his troops filed past Barbara Fritchie's home in those dark days of 1862.

I have listened with interest to the arguments of the opponents of the amendments proposed by Senator DOLE and the rest of us. Speaker after speaker has invoked the inviolability of the first amendment.

But ironically, some of those who speak loudest and longest, and perhaps most eloquently, about the sanctity of the first amendment have short memories, indeed, about some of their previous votes in this Chamber.

For example, on April 18, 1988, all but one Member of the majority party and four Members of the minority party, voted to invoke cloture on a constitutional amendment which would have overturned the 1976 Supreme Court decision Buckley versus Valeo.

In that decision, the Court struck, on first amendment grounds, mind you, the expenditure limits placed on citizens contributing to or operating campaigns for Federal office.

The question is evident. It is self-evident, as the great document says. Whatever happened to the sanctity of the first amendment when that vote was taken? If ever free speech was involved, that was it. It was not burning something. It was free speech.

Let me say it again. Every Member of the majority except one, and four Members of the minority, voted for severe limitations on the first amendment protection of political speech that day, April 18, 1988. If you doubt it, get the CONGRESSIONAL RECORD and look up the vote.

In that instance, the issue was not limiting the activity of a few malcontents. The Senate was talking and acting upon one political party's attempt to restrict, through a constitutional amendment, mind you, the rights of millions of Americans who legitimately participate in the political process.

Is it not interesting to ponder what that vote says about their priorities? Oh, they will limit the first amendment to cut off campaign spending, but not to protect the American flag. Before Senators make another blanket statement that they will never support a constitutional amendment affecting the first amendment, maybe, just maybe they ought to check their votes of April 18, 1988.

Incidentally, tomorrow I am going to offer legislation which is not by unanimous consent scheduled to be voted upon by the Senate which will not affect the first amendment. What I propose to do is to implement article III, section 2, of what? The U.S. Constitution. Let us use the device that the Founding Fathers put down for us in just such a case, a 5-to-4 decision by the Supreme Court, which rankles the vast majority of the American people. Let me read you article III, section 2 of the Constitution says, and this is the right, this is the authority, this is the duty, of the Congress of the United States.

It states:

In all cases affecting Ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions—

Now get this—

with such exceptions, and under such regulations as the Congress shall make.

So it takes a majority vote; it will not take a two-thirds vote. We can put an end to this argument. Frankly, I would prefer the constitutional route. I would like the court to be engraved in stone, just like Barbara Fritchie said many years ago. But we can save time, and I am going to give the Senate the chance to do that tomorrow.

Mr. President, it is equally interesting to note that so many of those who so vigorously beat their breasts in defense of free speech were the most avid backers of a piece of legislation called the Hate Crimes Statistics Act, which took the first step toward elevating name-calling to the level of a criminal offense. Is it not fair to speculate that the first amendment is not as revered around this place as many would have the American people think?

Opponents of this proposed constitutional amendment argue that the Constitution permits absolute freedom of speech. They declare that if freedom of expression is not protected absolutely, it is automatically diminished. But a look at history offers quite another conclusion. When every such action is permitted in the name of freedom, law and order breaks down and then the rights of every citizen are threatened.

Socrates had a thing or two to say about that a long time ago. This Greek philosopher said, and I quote him:

Excessive freedom leads to anarchy, and anarchy leads to tyranny.

Mr. President, our Founding Fathers understood that, and that is the reason for a lot of things they put in the Constitution, including article III, section 2.

Our Founding Fathers understood perfectly that some sort of balance is needed, and it was the Founding Fathers who gave us the system which protects an individual's rights, but also protects the collective rights of the American people to be protected from those who care nothing for the institu-

tions which secure every man's liberties.

There is no absolute right to produce and distribute pornography, but some in this Chamber think otherwise. There is no absolute right to slander a fellow citizen; there is no absolute right to be abusive in public. These actions, like burning the American flag, were beyond the Founding Fathers' understanding of freedom, and thank God they were.

These actions should also stand outside of our understanding of freedom today.

Mr. President, the distinguished Senator from Wyoming [Mr. SIMPSON] pointed out the other day that the Constitution of the United States belongs not to the U.S. Senate, not to the Supreme Court, not the media of this country; it belongs to all of the people. And AL SIMPSON is absolutely right about that, and that is the issue before us today. Let the people decide. Yes, let the people decide, because it is their flag.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. PRYOR. If the distinguished Senator from North Carolina will withhold the request for a quorum call, I would very much appreciate it.

Mr. HELMS. I will.

Mr. PRYOR. Mr. President, about a year ago at this time, there was one individual in the State of Arkansas who demanded to go to the State capitol steps and burn and desecrate the American flag. I would say that for a period of perhaps some 10 days and 10 nights throughout our State, the lead story on each of the television stations in our State was carrying the so-called attempt by this fellow or this person to burn the American flag on the steps of the capitol.

I think I was as angry and as dismayed and as hurt as I was frustrated. In fact, I guess, Mr. President, I was mad, like every other citizen of our State who loves and reveres the American flag.

Mr. President, I voted for the 1989 flag statute. It carried by a great majority in this body, and I am very sorry that the Supreme Court held in a 5-to-4 decision that it was unconstitutional.

Mr. President, about 10 days ago, my good friend—in fact, my best friend and colleague in the Senate—Senator DALE BUMPERS of Arkansas, and I, were flying on the plane together going back to Little Rock. We left Washington. We were sitting on the plane talking about the flag amendment and talking about the issues and ramifications of the vote that we knew would be coming before the U.S. Senate in a matter of 2 or 3 weeks subsequent to our traveling together.

A young man came back into the plane where we were seated. And he said, "Senator BUMPERS and Senator PRYOR, may I talk to you for one moment?" We said, "Certainly, "Yes, sir, have your say." He said, "I hope that each of you will vote for the flag amendment to protect the flag of the United States of America."

We started talking to this individual. He was a red-blooded, God-fearing American. He believed that the flag represented freedom and justice. He believed that the flag was symbolic of what this country stands for, and certainly we had no disagreement on that point, Senator BUMPERS or myself. I cannot remember which one of us, Mr. President, asked the young man a question. I know I asked him this specific question, so let me see if I can reiterate and remember what I asked. I said, "Sir, my dry cleaning bag has an American flag on it." I said the paper plates that I ate from at lunch, I noticed, had an American flag on it. The necktie that I have on today" that day we were visiting—has an American flag on it." I said, "The flag is imprinted today in so many ways, it is used in so many instances, maybe once again to encourage patriotism."

We asked this individual, "Do you believe that it would be desecretion to destroy the flag under these circumstances?" He said, "Yes, I do. If it is on a paper plate or a paper cup or a plastic bag or a sweatshirt or a pair of socks or a pair of shoes, if that flag is there, I think it is desecration to destroy it on that printed matter."

So, Mr. President, I do not know what the legislation would be like where we said it is all right if you want to destroy something on cardboard if the flag is imprinted, but not cloth, as we are used to. Or maybe on wood, but maybe not aluminum. So I do not know what we are getting into.

Mr. President, my point is this. I do not know where all of this takes us. As much as I would like to see a strong statute or a strong prohibition against the desecretion of this great symbol that we love and cherish so much, I have a sense that we are heading into the unknown.

Mr. President, I think the Senator from Delaware, the chairman of the Judiciary Committee, a few moments ago in his very eloquent statement raised the issue of what the States have done and what the States might do in this area. If I, once again, might read the proposed issue before the Senate at this time. The 27th amendment states:

> Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States.

I would like to key in on that point, Mr. President, the clause "and the States" shall have this power. It is not reserved to the Federal Government. It is also given, and I only assume equally, to the States.

Let us take the State of Arkansas. Let us take the general assembly meeting in Little Rock. Let us say that this particular amendment had become the 27th amendment of the U.S. Constitution, and all of a sudden the mayors from all the communities across the State of Arkansas come before the general assembly in Little Rock and they say, "We would like in our communities to have the opportunity to have our own laws on flag desecration."

Well, knowing the legislature—I used to be a part of that legislature; I was a Governor of that State—I would only assume, Mr. President, that that legislature might say to the mayors, "All right, you go and do your own thing. The State will have a law and the cities can have their own law or the municipalities or the incorporated towns of our State."

Well, if the cities are going to get this law, Mr. President, then here come the county judges. In our State, the county judges are a very strong group of individuals, one in each county. They are the administrative officer, the chief officer, of each of the counties. So the counties come, and the counties say to the State general assembly assembled in Little Rock, "We would like in our counties to have the opportunity to pass our own flag desecration proposals and rules and regulations."

So, Mr. President, under the 27th amendment of the Constitution, the Congress would have probably passed some Federal law, the States would have passed a State law, the municipalities a local law, the counties a county law, and before long, in our State alone, we are talking about conceivably 600 to 700 different rules and regulations as it relates to the desecration of the American flag.

Mr. President, far greater legal minds than mine, those Senators who know the Constitution, can argue those cases and argue about the Bill of Rights, and I am not here today to argue about the Bill of Rights. I am here today to talk about the specific language of the proposed 27th amendment, giving the States an equal power. The States could then delegate that power to the local governments or to the local communities to sort of do their own thing.

In my opinion, Mr. President, once again, we are walking off into a no man's land. And I fear what ultimately might be the consequences.

So I have only two observations. One, let me say at the outset, I do not question the motives of any Members of this body who say that the constitutional amendment is the way to go. They revere the Constitution. They

want to protect it, as I do, and as every Member of this body wants to protect it.

But I do, Mr. President, have one observation, and that is this: If the press—and I say this with all due respect—if the press would just say, from here on out we will not cover flag burning, we will not take their picture, we will not put it on the evening news, Mr. President, we would not have any more flag burning. It would be the end of the issue, because these people who purposely desecrate the flag would first rather see themselves on television that night than what they are attempting to do in burning the flag.

I want to protect the flag, Mr. President. I would only state that sometimes in a situation like this, it might be good to fall back on what was written in 1854, not by one of the Supreme Court judges, not by one of the great legal minds of this era, not by constitutional scholars, but a phrase written in 1854 by Henry David Thoreau in Walden:

A man is rich in proportion to the number of things which he can afford to let alone.

For the moment, Mr. President, I think, until we devise a way to properly protect the American flag and what it represents, we might also factor into our process the words of Henry David Thoreau.

Mr. President, I thank the Chair for recognizing me. I yield the floor.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Rhode Island.

Mr. CHAFEE. I want to thank the distinguished senior Senator from South Carolina.

Mr. President, I respect those colleagues who seek a constitutional amendment to ban the desecration of our flag. I question no one's motives, who has taken a position on this matter. Those who have spoken for or against this amendment, do so with deep sincerity, and I respect and admire them for having taken a position. Nevertheless, I do disagree with those who favor a constitutional amendment.

Mr. President, last October we voted twice on this matter. Once we voted on a statute, a law that would have banned the desecration of the flag. That statute was subsequently found unconstitutional. I voted against it.

Then there was a constitutional amendment proposed, and likewise, I voted against that, Mr. President, last October.

I spoke against both measures and voted against both measures, being one of six Senators in this body to so do. I find, Mr. President, this to be one of those perhaps rare occasions where I feel no need to eat my words.

Why oppose a constitutional amendment? There are four reasons I have for so doing.

First, by enacting such an amendment we, to some degree, small though it might be, but nonetheless to some degree would by curtailing the right of the first amendment. We would be carving out an exception. Yes, it is, perhaps, a small exception, but it is an exception to the constitutional guarantee of free speech. No one applauds the actions of flag burners, but, as Americans, they are entitled to express their opinion, even though it is the wrong opinion.

Second, Mr. President, this amendment, I believe, trivializes our noble Constitutiion. We have, written a little over 200 years ago, a magnificent document which was designed, not only to protect the rights of our citizens, but to guide our Nation on a steady course that most likely would produce prosperity for all. I do not think we want that precise, concise document that was skillfully written, as I say, a little over 200 years ago, a basic charter to our Nation, cluttered with hastily written and hastily enacted responses to every conceived ill in our society.

Whether we are for or against this amendment, I think we will all agree that flag burning presents no conceivable threat to our country. It does not unravel the fabric of our Nation. Our ship of state is clearly not in danger.

Third, if we have a problem with flag burning, then a constitutional amendment, followed by Federal and State laws that would subsequently be enacted forbidding that burning, are the least effective ways to end the problem. Those who burn the flag are social misfits and they long for the publicity. There is nothing they seek more than the publicity that accompanies their burning of the flag. They yearn to be arrested. They yearn for the self-imposed martyrdom that usually accompanies their acts. Remove the television crews and their actions will end. Without a jail sentence, without a fine, without an arrest, their misguided desecration draws no attention.

Who is going to pay any attention to somebody who is not going to be arrested? That is where the action is. They burn a flag, the police came, the television shows up, they are arrested and led off to jail with handcuffs—just what they want to make the 6 or 6:30 news that evening.

As soon as we stop that, as soon as we stop making it an offense and withdraw all the publicity, that is when the flag burning is going to end.

Fourth, and finally, I truly believe we have better ways to spend our time in this body. All around us are monumental problems that demand whatever talents or energy or time we have: Troubles in the Middle East, our horrendous national deficit, lack of national competitiveness, health costs that are overwhelming us, just to mention a few of the challenges we face. So let us devote our attention to these and other deeply disturbing major difficulties that face our Nation.

So, Mr. President, for these four reasons: First, that we are cutting back to some degree, slight though it might be on the freedoms guaranteed by the first amendment; second, that we trivialize our Constitution by adding this, small though it might be, amendment—let us deal with more noble problems than this; third, that by creating an offense, making it possible for Federal and State laws to follow, we will be doing just what the flag burners want, attracting to them attention; and fourth and finally, we have really better ways to spend our time—For those four reasons, Mr. President, I oppose the proposed constitutional amendment or any other constitutional amendment or statute on this subject.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, is it so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is considering Senate Joint Resolution 332.

Mr. LEAHY. Is time now divided or under control?

The PRESIDING OFFICER. Equally divided in the usual form. The Senator from Vermont may claim time from the majority.

Mr. LEAHY. How much time does the majority have available to it?

The PRESIDING OFFICER. 2 hours and 50 minutes.

The Senator from California is recognized.

Mr. CRANSTON. Mr. President, on June 14 I spoke briefly to express my opposition to the proposal of the minority leader, Senator DOLE, to amend the Constitution of the United States—specifically the Bill of Rights—to deal with the problem of flag burning. I said then and I repeat today that I did not come to the U.S. Senate in order to water down the Bill of Rights.

For 200 years, the Bill of Rights and the first amendment guarantee of freedom of speech and expression have protected Americans from Government oppression and censorship. Americans have enjoyed a measure of liberty unprecedented in the history of the world. Our citizens have enjoyed the right to speak out, to criticize, and to protest without fear of punishment or repression for their ideas or their opinions.

Our democracy and our public debate of the great issues that confront our Nation and the world have been vigorous and full because of that freedom which is protected by our Constitution and by the Bill of Rights.

For 200 years, the Bill of Rights has been a check on the power of government over the rights of individuals. It has made America the greatest Nation in the world, a beacon of hope and inspiration to oppressed people all around the globe.

What a terrible message we would send to the fledgling democracies in Eastern Europe and throughout the world if this great Nation chose at this time to amend the Bill of Rights to give unprecedented powers to Government entities and bureaucrats to enact sweeping proposals to repress political dissent.

Can we truly expect the new Government of Romania to heed our calls for tolerance of dissent at the very moment we are amending the Bill of Rights to increase the power of Government authorities to punish dissent in this country?

It is not without some irony, Mr. President, that the media reported last week that the Chinese Parliament is considering a proposed ban on desecration of their national flag. How tragic, how sad it would be for this great democracy to emulate the tactics of a totalitarian government which has a long story of repression and human rights violations.

Our history is quite different. We have always been able to tolerate dissent, however obnoxious or distasteful that dissent has been. Our Nation's tolerance for freedom of speech and expression, particularly on political issues, has strengthened, not weakened, our democracy.

We can and we have tolerated flag burning, protest demonstrations, and uncivilized debate. What we must never tolerate is suppression of the basic right of free speech protected by the first amendment.

Mr. President, I respect the American flag. I deplore flag desecration. It is a childish and immature act of defiance, calculated to outrage and insult patriotic Americans. Millions of Americans have fought valiantly and many have died to protect this important symbol of our Nation.

It would be a terrible mistake to respond to this irresponsible and repugnant behavior by altering that great charter of liberty and freedom which the American flag represents. It would be a terrible mistake to undermine the essence of our liberty and freedom, the Bill of Rights, in order to protect the mere symbol.

Mr. President, I voted for the flag protection statute last year in the hope it would be possible to enact a statute which did not tread upon the first amendment. The Supreme Court has said that cannot be done. I respect and admire the Court for its rigorous interpretation of the scope of the first amendment. I accept their conclusion that the price of a free society protected by the Bill of Rights may be that we must accept some repugnant acts such as flag burning rather than sacrifice the more important values represented by the first amendment.

The Constitution, particularly the Bill of Rights, establishes a very delicate balance between the liberty of individuals and the power of Government. I do not believe we ought to tamper with that balance.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I applaud the Senator from California for his statement, and I note that he made reference to the statute that we passed last year. That was a content neutral statute prohibiting the physical desecration of the flag.

I would tell the Senator that there was strong and ample testimony in the Judiciary Committee and elsewhere that the Flag Protection Act was a valid and constitutional statute. Obviously, four members of the U.S. Supreme Court also thought it was. Those of us who voted for it felt that was a reflection of respect for the flag as a symbol, and that it would be upheld. As I noted at the time, it is one thing to have a very specific content neutral statute; it is another thing to amend the Bill of Rights.

Mr. President, that is an enormous leap to go from a statute to an amendment to the Bill of Rights. There I draw the line. When we amend the Bill of Rights to protect the flag, we have to ask ourselves: What becomes more important—the symbol or the freedom and diversity that the flag symbolizes? I think the freedom and diversity the flag symbolizes is far more important. The Constitution and the Bill of Rights are far more important.

We have gone through 200 years without amending the Bill of Rights. We have gone through two world wars, a Civil War, several major depressions, the expansion of the West, the addition of States. We have had Presidents who have acceded to office either in the normal electoral fashion, some tragically through death or assassination and one by resignation. And through all of that, with all these strains on our great Nation, not once did we ever think it was necessary to amend the Bill of Rights.

Now we ask ourselves, whether because of a handful of people who organize themselves to get on television in time for the evening news, we will amend the Bill of Rights? I could not help but think of that yesterday as I was coming out of church in Vermont. A man came up to me, one of the more conservative, typical Vermonters I know. He said, "You know, you are right about the flag." He said, "I think I would be ready to strangle somebody if I saw them burning the flag. But I heard you ask why do we not get those flags out and fly them." And he said, "I had to be embarrassed. I get all wound up with that idea of a constitutional amendment, and I have a flag sitting in my drawer which has been there for 10 or more years." He said, "I have to take it out and fly it."

That made a great deal of sense, as far as I am concerned, Mr. President. He has said what we all should say. If we really revere the flag, do we do it through symbolism or through our own acts? Through symbolism or the conduct of our lives? Through symbolism or what this country stands for?

I grew up in a family where we flew the flag as a matter of course. I fly it over my home in Vermont. I fly it over my home here in Washington. I do not need somebody to pass a law or a constitutional amendment to tell me to respect the flag.

The fact is we could bring the Senate, the Congress to a halt to direct the attention of the President on this as the most pressing matter in this Nation; to pass a constitutional amendment to stop 255 million Americans from doing what all but a tiny handful of 255 million Americans could not conceive of themselves doing. I cannot imagine in my State of 550,000 people that there is more than one or two who would ever go out and burn the American flag.

I suspect the distinguished Presiding Officer comes from one of the most patriotic States in this Nation and, I cannot imagine people going out on the plains, farms, towns, villages, and cities of North Dakota to burn flags. I rather suspect that next week, on the Fourth of July, parades of the same spirit of patriotism will be shown in North Dakota as will be shown in Vermont. That is the same in all 50 States.

Mr. President, our Constitution reflects the collective genius and experience of those early Americans who had to fight for the right to govern themselves. They risked their fortunes, their families, and their lives to build a new Nation. They earned the right to set their own course and fashioned a democratic framework to protect that right. We can stand here in the safety of this Chamber protected by a Constitution which allows us to say anything we want within this Chamber. Those people who wrote the Constitution and the Bill of Rights knew that through this very act of breaking with Great Britain, this very act of Revolution, the very act of writing a Constitution that they could lose not only their fortunes—they could

lose their lives. And in the Revolution many did.

But then, as now, the flag was a symbol of the Nation. All of us cherish its power to unify a country that is made up of people with diverse origins and beliefs. But that power to unify us does not consume our differences. We are all Americans who love their country, and the flag it represents and all it means to us. But just as there is no typical American, so too there is no single or universal meaning of the flag. That is why the flag has the power to fill us with joy and pride when an American wins an Olympic medal, and also console when an American soldier dies in battle. It is a symbol for all Americans, for the good people and the bad people, no matter what the times might be.

The flag should never be a weapon in a partisan political battle. That demeans the flag. The veiled threats about 30-second ads demean not only the flag but the political process itself.

You have to ask what a person stands for, how truly shallow that person is if all they can resort to in seeking public office is to declare the patriotism that every one of us feels automatically, and to suggest somehow that anybody who disagrees with them is not patriotic. Sometimes one best look behind that.

I believe it was once said that patriotism is the last refuge of a scoundrel. True patriotism does not mean slick 30-second ads demeaning your opponent or the political process. True patriotism means standing up for everything the American flag symbolizes, and all the Bill of Rights stands for.

We should heed the words of Justice Stevens who dissented from the Supreme Court's decision to strike down the Flag Protection Act, one of those four Justices I spoke of earlier who found the Flag Protection Act to be constitutional.

Justice Stevens said:

> The integrity of the symbol has been compromised by those leaders who seem to advocate compulsory worship of the flag even by individuals whom it offends, or who seem to manipulate the symbol of a national purpose into a pretext for partisan disputes about meaner ends.

Justice Stevens says it is the symbol of our national purpose. It stands for the American Republic, our Republic, our Nation, and our system of government, which is the best in the world. It is envied and it is copied by those same people who are fighting and dying for freedom around the world because it is grounded in our Constitution, and it is grounded in our Bill of Rights.

I remember when I was in law school, Mr. President, I had an extraordinary opportunity. Georgetown Law School invited the Supreme Court to a luncheon. The Justices of the Supreme Court said they would come on one condition—they would not have a head table. They would sit at round tables, individual round tables, with law students, picked at random. My wife and I went to that luncheon, and as luck would have it we ended up sitting with a true hero of mine, Justice Hugo Black, in many ways a very strict constructionist of the Constitution.

We had this remarkable dialog and conversation with Justice Black. He talked about everything from when he was an Alabama Senator to campaigning before I was born in the State of Vermont, and he remembered the exact numbers, incidentally, of the vote. He was right on it. Then we started asking him about the Constitution and the law.

Justice Black reached in his pocket, he pulled out his battered, tattered, thumbworn copy of the Constitution. He said he carried that Constitution with him every single day. He never had a day that he did not look at it and read it. He said, "Do not forget the Constitution; it guides us, it holds us together, it is above everything; do not ever forget it."

When you are a 22-year-old law student and you are sitting with one of the great figures of jurisprudence, it has an affect.

His words could have been said by a Supreme Court Justice 30 years before or 100 years before, but, more important, I hope that 100 years from now or 200 years from now, a Supreme Court Justice will be sitting with another young man or woman going through law school and will give the same message Justice Black did.

Justice Black knew the first amendment is central to the constitutional framework; it ensures our right to say what we want, to pray or not to pray, and demand that our Government listen to our voices of dissent; it reflects the confidence the Founders had in the strength of our system of government. They knew that criticism of our leaders, of our policies, of our symbols, pose no threat to the survival of the Republic. America would not crumble, even if 200 years later publicity-hungry dissidents torched the flag for the benefit of television cameras.

Mr. President, everything that we need to ensure that we will remain a democracy is in that first amendment.

For those who felt that the diversity guaranteed by the first amendment, who felt as I do today, and felt 200 years ago that diversity would itself breed democracy, history has proven them right. We have found, through every challenge to our core principles and values, that the basic charter of human rights remains unscathed.

Our predecessors demonstrated wisdom and foresight. They recognized that the beauty of the Constitution lies in its simplicity. Let us demonstrate that same courage and prudence today.

Do we really want to say in the 101st Congress that after everything that has gone before us—from the birth of this Nation to today—that in over 200 years the image of people that we all despise burning the flag is one thing that provokes us to amend the Bill of Rights, nothing else was important enough? Or should we be remembered as the Congress and the Senate that stood up to the passions of the moment and said, "no matter what the political risk, no matter what the political posturing, we will protect the Bill of Rights first and foremost."

We can also, if we are going to do that, get back to some of the very serious issues that these same Vermonters talked to me about, issues that demand our attention. Will we ignore them to debate issues that are more symbolic than real? Will we ignore the fact that the S&L crisis could cost this Nation $500 billion, could force one of the greatest redistributions of wealth from one part of this Nation to another that we have ever seen? Will we ignore the fact that 1 in 5 American children lives in poverty in this, the wealthiest, most powerful Nation on Earth? Will we ignore the fact that drugs and drug-related violence are threatening the future of our youth? Or that millions of Americans cannot even read or write?

I suppose it is easier to talk about the flag than it is to acknowledge the critical problems facing our country. But if we debate only the symbolic issues today, what will the flag represent to my children's generation, and eventually to their children's generation, and on and on?

What will the flag symbolize, if we fail to live up to the promise of the American experiment? What will the flag mean to children who have no hope for the future, to parents who cannot feed or clothe or educate their children, to the elderly who cannot afford health care or a decent place to live?

Mr. President, we do not protect the flag by changing the Constitution. We protect the flag when we do our best to make this country strong and proud.

Each Senator has his or her own reason for seeking this office. I came to this body because I wanted to make the world better for my children. This commitment to a more just and enlightened future is a strong tradition. I want to believe that it is renewed by each generation of Americans. It is a promise, but it is also a vision, that we pass on to those who follow us. Fulfilling this promise is our moral obligation. Ignoring it to debate whether we should limit the scope of the first amendment is, to me, a betrayal of my oath to uphold the Constitution.

Justice Black's lesson is that if we protect it, the Constitution will sur-

vive all of us, and that we serve in this body because the Constitution makes this Government possible. We are here only for a brief moment; during that time, we have a responsibility to the Constitution, and that responsibility transcends ourselves and it transcends our political parties. As one who is very proud of his State, it also transcends our individual States.

We may see public opinion polls that say we should vote for this. Mr. President, I am able to cast a vote that contradicts a public opinion poll, but I could never cast a vote that contradicts my conscience. I could not do that and serve in this body even one minute longer. We, the 100 men and women in the U.S. Senate, must truly act as the conscience of our Nation. Ultimately, we have to do what is right. If we truly reflect that conscience, we will reject this amendment.

I yield the floor.

Mr. BUMPERS. Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, are we on a time allotment?

The PRESIDING OFFICER. The time of the resolution is divided.

Mr. BUMPERS. Who is controlling the time?

The PRESIDING OFFICER. The majority controls 2 hours and 15 minutes. The Senator will be free to speak on the majority's time.

Mr. BUMPERS. I thank the Chair.

Mr. President, I will offer a legislative remedy tomorrow as a first-degree amendment to the resolution to amend the Constitution. It is a very narrowly crafted amendment which, as I see it, after having read all the decisions, is the only remedy available to us that has any chance of withstanding a constitutional challenge.

I did not come today to talk about the amendment. I will do that tomorrow. I came today to talk about why I cannot vote for a constitutional amendment, and I certainly could never vote for this particular constitutional amendment, which is woefully inadequate and would be hopelessly unenforceable.

The amendment reads, "The Congress and the States have the power to prohibit the physical desecration of the flag of the United States." The first questions that come to my mind are what is a flag? What is desecration?

No. 1, is it a swizzle stick that you stir a drink with that has an American flag on top of it? Is that a flag we are trying to protect with this constitutional amendment? Is it a pair of pantyhose, a scarf, blue jeans? Is it any kind or piece of a flag that you see in literally thousands of different forms?

Will we convict people for throwing away a soft drink cup with a flag on the side of it? If the Washington Post, or in my State, the Arkansas Gazette or the Arkansas Democrat, on the Fourth of July covers the whole front page with a color reproduction of the flag, and when you finish reading that particular edition you throw it away, are you going to be subject to prosecution?

How about the used-car dealer who has the American flag sticking on the antenna of every car on his car lot, obviously, in my opinion, trivializing and desecrating the flag for commercial purpose? Is that going to count? I find that almost as offensive as anything anybody can conjure up.

Is the little girl in the school who, under the instructions of the teacher, along with all her other classmates, draws with her crayolas a flag of the United States with 13 bars and 50 stars, then walks out of the classroom and throws it in the garbage can, is she desecrating the flag?

Mr. President, I could list those kinds of things, and hundreds of others that I will not belabor the RECORD with, as excuses for amending not just the Constitution, but the Bill of Rights, the first 10 amendments to the Constitution.

When Vaclav Havel spoke to a joint session of Congress recently, I have never seen a foreign dignitary received with as much enthusiasm as was he. And what did he say?

> We want something like your Declaration of Independence and your Preamble to the Constitution and your Bill of Rights.

The people in the democratic movement all over Eastern Europe and other parts of the world say: We want to try to emulate your freedoms and your organic law embracing the Constitution of the United States.

I was in Austria a couple months ago at a dinner with Austrian parliamentarians, and my seat mate said to me, "What is all this flap about the flag?"

I said, "Well, the flag of the United States is a very sacred symbol. It evokes a lot of emotion."

He said, "We do not understand that. You can do anything you want to the flag in Austria."

I said, "Well, we do not do that, and we do not believe in that in the United States. But we do not believe in changing the Bill of Rights on a whim or a whimsy, or just to be capricious, either."

There is always going to be some creep burning a flag. My opinion is that if you amend the Constitution and the 50 States start passing every conceivable kind of law with every conceivable kind of punishment, you will get 100 times more flags burned than if you leave the Bill of Rights alone.

Now, if you want to be listed in the history books as one of the 1,800 people in the history of this country who have ever been privileged to sit in this body, if you just want to have your name on that list, all you have to do is to get elected. If you would like for the footnotes to say a bit more about how you cast an unpopular, courageous vote from time to time, and not only voted for some good things, but voted to stop some bad things, you vote no on this amendment.

I sometimes wonder why are we in the Senate voting on it? It is dead. I thought for a while last evening, as I pondered this, why do I not suggest to the majority leader that all 55 Democrats, or is it 54 now, why do we not just all vote aye? The question is academic; it is moot. Everybody knows why we are voting. In my 15½ years in the U.S. Senate, I have never seen us vote on something that we knew was absolutely dead, dead, dead.

Every Senator ought to ask himself why are we voting when the House has not only overwhelmingly defeated this constitutional amendment, but the Speaker of the House has said there will be no more flag votes in the House this year. I am inclined to go to the majority leader and say: We have about 22 guys up for reelection on this side; let them all vote for the constitutional amendment. It does not mean anything. It is dead. That way, there will be no accountability.

There will be no 30-second spots run against them for their flag votes this fall. They will not have to explain and nobody will ever ask them why they voted for a constitutional amendment. Everybody here knows where the political heat is, though I must tell you, my mail is running 2 to 1 against a constitutional amendment. It is one of the most surprising things that has ever happened in my office.

But if you simply want to put your finger to the wind, you could figure out how to vote. But if you believe, as Alfred North Whitehead believed, the great English philosopher who said only two times in the history of the world—not in the United States, but in the history of the world—has man undertaken to accomplish something and come about as close to perfection as you can get. Think of that. Only twice in the history of the world, so Alfred North Whitehead said. One was the reign of Caesar Augustus, and the other was the drafting of the U.S. Constitution.

And because some lunatic in Dallas, TX, during the Republican Convention in 1984, goes out and burns the flag, they want us to say that that precious amendment that guarantees us freedom of speech and freedom of press and freedom of religion needs to be doctored. No matter that it is unenforceable; no matter that no matter how you vote, it is dead; it is academic.

They want to say let us doctor what Arthur Schlesinger, Sr., one of the great historians of this Nation, said was a document produced by the greatest assemblage of minds ever

under one roof in the history of the world.

So, Mr. President, this is not a question of patriotism. A lot of people on this side of the aisle and on that side of the aisle who have shown courage in battle, fighting in the defense of this country, will vote no. True, some will vote aye. But is that not the beauty of the Constitution? Does not every Member of this body get terribly exasperated and agitated because everybody does not agree with him?

I voted for the Panama Canal Treaties in 1978, but quite frankly I paid a very heavy price for it. I was reelected, but I am not so sure, if I had had heavy opposition, I would have been. And I was the only southern Senator to vote against the constitutional amendment on prayer in school. Everywhere I went, when I ran for reelection, that is all I could hear: He is the only southern Senator who does not want our little children to pray in the schoolhouse.

I had absolutely no objection to children voluntarily praying in the school. But that constitutional amendment, Mr. President, as you will recall, had a couple of little twists in it that were not exactly voluntary. It said the school board and the State legislature could adopt prayers and send them down to the schoolhouse for recitation by the children. That was anything but voluntary prayer.

Senator HATFIELD, from Oregon, and a group of us pushed through a legislative remedy saying that children in high school should have access to the facilities for voluntary devotions, voluntary prayer, voluntary religious discussion as long as it is not teacher led and preacher led. And just 3 weeks ago the U.S. Supreme Court held that statute constitutional.

The first 10 years of my life in the U.S. Senate, all I heard was the need to amend the Constitution to provide for voluntary prayer in school. It was never necessary. It was always a political gambit. And we solved it. And we solved it without tinkering with something that everybody considers extremely precious, and that is our religious freedom.

The other morning, Mr. President, one of my dearest friends called me very early in the morning, a bomber pilot of World War II, one of the most conservative men I have ever known. He said, "Dale, I want to talk to you about this flag amendment." I thought, oh, here it comes. He said,

> Here we are $3 trillion in debt, you are looking at a $350 billion deficit for 1991, we are behind in everything, the country is going down the tube at the rate we are going in debt, and you people up there are messing around the flag and the Constitution. What on Earth are you thinking about?

And I said, "Well, if people like you feel that way, maybe a lot of people are misjudging where the politics of this issue are, where the politics lie."

Mr. President, if you just do not want to have to face those 30-second spots this fall, and that is all that really matters to you, vote "aye." If you want more than just your name listed with the other 1,800 Senators who have served here and you want the history books to say he was a man of conscience, he was a man of stature, he was a man of courage, above all he was a man who was a stout defender of the Constitution of the United states, vote "no."

I had what most people would consider 4 years as a successful Governor of my State. In my exit interviews with all the reporters who came by to discuss my 4 years as Governor, they asked "to what do you attribute your success?" Mr. President, I invariably responded, "By the bad things that did not happen." I spent more time overseeing the agencies and the top people and making sure we did not have a front page full of scandals every day. I spent as much time making sure bad things did not happen as I did making sure good things did. So here is a chance for a Senator, who might normally feel otherwise disposed, to say, I voted my conscience to make sure something really bad did not happen to the Bill of Rights.

Mr. President, I came over to speak today on the constitutional amendment. Tomorrow afternoon, there will be 40 minutes equally divided on my amendment, which is very simple, which the Supreme Court in the Johnson case, which was the Texas decision, indicated might be constitutional. In both the Johnson and Eichmann cases, the decisions point to the fact that action which goes beyond expression to intentionally incite a riot, may not be protected speech. And there is a decision from the eighth circuit, rendered February 26 of this year, which cites the Johnson decision in upholding the conviction of a man named Carey out in Minneapolis. I will go into more detail tomorrow about that particular decision.

This amendment that I will offer is very narrowly drawn because the only way we can meet the constitutional test is to draw it narrowly. My amendment says that if somebody desecrates a flag in a way that is obviously an attempt to start a riot or incite injury to people, this amendment would allow the courts to convict him. I am not going to make boasts for my amendment, but I would say there is a 50-percent chance that it would be held constitutional.

In the final analysis, Mr. President, let me say that tomorrow we are going to be on this amendment. My amendment will be up first. If you agree to my amendment, then it will become the pending legislation. If the Helms amendment, which is to be offered after mine, should be adopted, then it becomes the pending legislation, as I understand the parliamentary situation. And then, if the Biden constitutional amendment passes, I suppose that sweeps everything else aside. I am not sure what the distinguished senior Senator from South Carolina proposes to offer. I have been told that he also will offer a first-degree amendment. So there will be four.

But let me make this observation, and I do not intend to be uncharitable or unkind. If we are not going to adopt this constitutional amendment—and we are not, everybody knows that—but if we do not adopt this constitutional amendment, and we adopt my amendment, this body will at least be saying we have a chance to stop the most egregious parts of the desecration of the flag.

With the utmost deference to the senior Senator from North Carolina, I think this body, in 15½ years, only once adopted a court-stripping amendment. Such an amendment never goes anywhere in the House, but even this body has not adopted court stripping. Believe you me, Mr. President, that would call for another hour's sermon from this Senator if he had the time. I can think of nothing that will destroy, not just the first amendment and the Bill of Rights, but the entire Constitution if you adopt the Helms amendment tomorrow.

And then, I have not seen the constitutional amendment of the distinguished Senator from Delaware, but my guess would be, if we are not going to amend the Constitution according to the resolution before us, we are probably not going to adopt the amendment of the Senator from Delaware either.

So, in short, Mr. President, unless you vote for the Bumpers amendment tomorrow, you are essentially saying, "I do not want to do anything."

I yield the floor.

Mr. THURMOND. Mr. President, how much time do we have left?

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from South Carolina controls 4 hours and 17 minutes.

Mr. THURMOND. And how much time has the opposition?

The PRESIDING OFFICER. The Senator from Delaware controls 2 hours and 3 minutes.

Who yields time?

Mr. THURMOND. We are looking for Senator HATCH to come over pretty quick, and Senator SIMPSON, and possibly others.

Mr. President, on a quorum call, is that divided equally, the time?

The PRESIDING OFFICER. Under the precedents, the time is charged to the Senator who suggests the absence of a quorum.

Mr. BIDEN. Mr. President, I ask unanimous consent the time be equally divided on the quorum call time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll and the time will be equally divided.

The bill clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, last year I voted for the Flag Protection Act. I voted for that law because I believe flag burning is reprehensible. And I voted for that law because I believed that it was the best way to protect this cherished symbol of our Nation.

But earlier this month—by a slim 5-to-4 margin—the Supreme Court ruled that the act violated the first amendment. I disagree with this decision. I agree with the four Supreme Court justices who said that we passed a constitutional law.

Of course, people should be free to criticize our country. But even symbolic speech has its legal limits. We can not denounce our Government by shouting obscenities on the radio or by planting a bomb in the Capitol. And you should not be allowed to do it by desecrating the American flag.

I hope—and expect—the Supreme Court will someday reverse its recent decision: One that I believe no other court in our history would have reached. As Chief Justice Rehnquist said in Texas versus Johnson, even free-speech advocates like Earl Warren and Hugo Black agreed that we could punish flag desecration without breaching the first amendment. For all these reasons, I support the efforts to pass a bill that would make flag burning illegal if it threatens public safety.

But today we are considering something far more drastic than a simple statute: We are contemplating carving a slice out of the first amendment. Everyone knows that flag burners are infantile and misguided. Yet altering the Constitution to prohibit flag burning would be just as bad. Adopting an asterisk to the Bill of Rights would be unprecedented, unwise, unnecessary, and unfortunate.

First, this constitutional amendment is unprecedented. Two centuries ago the Congress pledged that it would "make no law . . . abridging the freedom of speech." For all these years—through two worlds wars, a depression, urban riots, even a bloody Civil War—the first amendment has needed no repair, caused no calamity. In fact, just the opposite is true: It has been the guardian of our freedom. Even in the face of the most offensive political expressions, Congress has kept faith with the framers and never amended the Bill of Rights. It would be a tragic irony if we celebrated the 200th birthday of this historic document by changing it for the very first time.

Second, this constitutional amendment is unwise. It would inevitably open the door to ever more damaging changes in the first amendment. If we protect the flag today, how can we refuse tomorrow to extend similar protection to the Declaration of Independence—if burning this symbol becomes fashionable? And what about the Constitution and the Bill of Rights? After all, soldiers and Senators do not take an oath to defend the flag. We take an oath to defend something even more important: The Constitution of the United States.

That Constitution and the Bill of Rights protect speech—even though we may disagree with it and even though we may find it offensive. The point is simply this: If we give anyone the right to determine what speech should be protected, we give someone the right to take free speech away.

Third, this constitutional amendment is unnecessary. Some harms are so entrenched, so pervasive, so threatening to our character as a country, that they demand a constitutional solution. But flag burning does not rise—or fall—to that level. A few isolated instances of flag burning by a few foolish extremists hardly reaches constitutional proportions.

And let me assure you: This fad will soon be out of fashion. Once the novelty of flag burning on television newscasts fades from view, this irresponsible activity will fall into historical oblivion. That is exactly what it will deserve.

And fourth, this constitutional amendment is unfortunate. For more than two centuries, we have handled our liberty with care. We should not allow the foul air of political expedience to sully the constitutional underpinnings of our Nation. Nor should we permit the glare of a television camera or the fear of a 30-second spot to eat away at the foundation of democracy.

What have our politics become if a vote not to alter the Bill of Rights is characterized as a lack of patriotism? It used to go without saying that people loved the flag, honored America, and revered the Constitution. It still should. Our flag has the character to withstand any challenge; I hope this body has the courage to do so as well.

Finally, Mr. President, the Bill of Rights is a beacon to freedom-seekers around the world. Students at Tiananmen Square, statesmen in Lithuania, and those struggling against oppression in Burma do not have a bill of rights. But the Bill of Rights embodies exacctly what they are fighting for: The right to speak against their governments; the right to promote causes which may be unpopular; and the right to engage in political activity that their society does not necessarily sanction.

As the walls of oppression crumble throughout the world, we should not retrench our Constitution at home. We ought to remain a model for individual rights, free speech, and tolerance.

Mr. President, the flag is fireproof, No one can destroy this symbol of our collective aspirations. The Constitution, however, is much more fragile. Flag burning is a truly abhorrent act: We should denounce it, condemn it, oppose it. But we cannot protect the flag by burning the Bill of Rights.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. THURMOND. Mr. President, I think the distinguished Senator, the chairman of the Judiciary Committee, made a request previously that all quorum calls be divided equally. I want it understood that that includes the last quorum request, too.

The PRESIDING OFFICER. The Parliamentarian advises the Chair that it was her understanding that the agreement went to the particular quorum call, and not all quorum calls. However, the Senator from South Carolina can certainly make the request that the time be divided equally.

Mr. THURMOND. Mr. President, I suggest that all quorum calls be divided equally, and I ask unanimous consent to have that effect.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, on June 21, 1990, J. Michael Luttig, Acting Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice, appeared before the Committee on the Judiciary of the U.S. Senate in support of a constitutional amendment to authorize the Congress and the State to prevent the physical desecration of the flag of the United States. He ably provided the administration's views on this subject as follows:

At the outset, let me assure the Committee and the Congress that the Administration does not believe that we should blithely propose amendments to our basic charter of governance. The Constitution is justly a revered document, and although the Constitution itself specifically provides for amendment in Article V, amendments to its text should be undertaken only rarely, and then only with the greatest care. We must not lose sight of the fact, however, that the most fundamental right of a free people is to define their freedoms and their system of governance through their Constitution. As Chief Justice Marshall said in *Cohens* v. *Virginia*, 19 U.S. (6 Wheat.) 264, 389 (1821): "The people made the Constitution, and the people can unmake it. It is the creature of their will, and lives only by their will."

To be sure, the Framers of the Constitution contemplated that Members of Congress would, as the people's representatives, provide their considered judgment on amendments that would be proposed to the State for ratification. But it was never envisioned that that judgment would displace the people's ultimate right to determine the contours of their Constitution. It is this right that is the essence of constitutional democracy. It is this right that is at issue in these hearings today.

The will of the American people is that their Flag, the single symbol of our shared commitment to freedom, be protected from desecration and defilement. The President firmly believes that the people should be permitted to work that will. The American people are the most jealous guardians of their freedoms. If they do not perceive a simple prohibition on Flag burning as a threat to those freedoms—and clearly they do not—then there is little chance that it is such a threat. At bottom, the question is one of trust, trust in the American people. The President believes not only that we can, but that we must place trust in the people. We must respect their judgment as to what is and is not ultimately important to them. It is the people's Flag. It is their Constitution.

Accordingly, the President strongly urges the Congress to swiftly send to the States a constitutional amendment that will enable the people to protect the Flag.

I will begin with a brief historical overview of the Supreme Count's decisions concerning the constitutionality of Flag protection legislation, through the Court's most recent pronouncement in *United States* v. *Eichman*. I will then turn to the reasons why the Administration believes that the Flag of the United States is worthy of constitutional protection, and why we believe that a carefully crafted constitutional amendment will not diminish free expression. Finally, I will address the amendment proposed by Senator Dole and Congressman Michel, which is endorsed by the President. Incidentally, the distinguished Senator from Alabama joined in on that amendment, too.

In officially designated National Flag predates the Constitution itself. On June 14, 1777, less than one year after the Declaration of Independence, the Continental Congress declared that "the flag of the thirteen United States be thirteen stripes, alternate red and white: that the union be thirteen stars, white in a blue field, representing a new constellation." 8 Journals of the Continental Congress 464 (1777). Throughout most of the almost two hundred years that followed, it was assumed that both Congress and the States had the power under our constitutional system to prohibit the physical desecration of our national symbol. Thus, in 1907, in rejecting a constitutional challenge to a Nebraska Flag desecration statute, the first Justice Harlan could write:

[A] State will be wanting in care for the well-being of its people if it ignores the fact that they regard the flag as a symbol of their country's power and prestige, and will be impatient if any open disrespect is shown towards it.

Halter v. *Nebraska*, 205 U.S. 34, 42 (1907).

In the late 1960's and early 1970's, the Supreme Court reversed two convictions for expressive activity that involved the Flag, although those convictions did not turn upon physical destruction of the Flag. *Street* v. *New York*, 394 U.S. 576 (1969); *Spence* v. *Washington*, 418 U.S. 405 (1974). In both cases the Court was careful to reserve the issue of the constitutionality of general statutes protecting the physical; intergrity of the Flag. *Street*, 394 U.S. at 580–81; *Spence*, 418 U.S. at 413–15. During this period, Justices known for their passionate defense of First Amendment freedoms, such as Chief Justice Warren, Justice Fortas, and Justice Black, all expressed the view that the First Amendment did not protect the physical desecration of the American Flag. *See Street*, 394 U.S. at 605 (Warren, C.J., dissenting); *id.* at 610 (Black, J., dissenting); *id.* at 615–17 (Fortas, J., dissenting). Chief Justice Warren unequivocally wrote, "I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace." *Id.* at 605. Justice Black, who is remembered as a First Amendment "absolutist," said in dissent in *Street:*

It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense.

Street, 394 U.S. at 610. Thus, for over 190 years it was assumed that the federal and state governments could punish willful destruction of the Flag of the United States and that statutes providing for such punishment were perfectly consistent with the First Amendment.

Only last year, in *Texas* v. *Johnson*, 109 S. Ct. 2533 (1989), did the Supreme Court hold for the first time—and then only by the narrowest margin, a 5-to-4 vote—that there is a First Amendment right to physically destroy the Flag to dramatize political protest. The majority held that the State's interest in protecting the physical integrity of the Flag, and thus its power as a symbol of national unity, was outweighed by the interests of those who would desecrate the Flag in protest. Four members of the Court adhered to the traditional view that protecting the Flag from physical desecration causes no harm to the principles of free speech underlying the First Amendment.

Six days after the Court's decision, President Bush gave voice to the thoughts of the vast majority of our citizens when he said:

I believe that the flag of the United States should never be the object of desecration. Flag-burning is wrong. Protection of the flag, a unique national symbol, will in no way limit the opportunity nor the breadth of protest available in the exercise of free-speech rights.

In Congress, there also was a broad consensus that the Flag must be protected. The Senate immediately passed a resolution that expressed "profound disappointment" with the decision in *Johnson*, that described the Flag as "a living symbol of our Nation and its aspirations and ideals," and that made clear the Senate's intention "to seek ways to restore sanctions against" Flag desecration. The House resolution similarly expressed the House's "profound concern" over *Johnson*, and praised the Flag as "a symbol of our Nation and the values for which it stands." Chairman Biden forcefully explained in testimony before the subcommittee of the House Judiciary Committee that, "our Flag is the unifying symbol" of our country, and that the role of the Flag in "encouraging, fostering and otherwise promoting a strong sense of national unity is critical." Indeed, a bipartisan consensus developed that First Amendment protection should not extend to the willful destruction of the Flag of the United States.

The only dispute was over the means necessary to protect the Flag. The Administration would have supported a statute had it believed that a statute could have withstood judicial scrutiny. The Department of Justice determined, however, that the Court's decision in *Johnson* could not be legislatively corrected. Accordingly, the President called for a constitutional amendment. Many Members of Congress, on the other hand, believed that a statute might well be upheld by the Court, and that this means should be explored before an amendment was proposed. Congress subsequently enacted the Flag Protection Act of 1989, and it became law without the President's signature. The debate over the means for protecting the Flag was itself healthy, and no one should be faulted for attempting a statute before supporting a constitutional amendment.

Less than two weeks ago, in *United States* v. *Eichman*, 58 U.S.L.W. 4744 (U.S. June 11, 1990), however, the Supreme Court held that the Flag Protection Act of 1989 is unconstitutional. The same five Justices who comprised the majority in *Johnson* rejected the arguments that the new federal statute was content-neutral and that the government has a compelling interest in the protection of the Flag. The Court has now spoken definitively. If the American people and their representatives wish to protect the Flag, they must do so by constitutional amendment.

The Administration believes that the Flag is worthy of constitutional protection and that a constitutional provision protecting the Flag will not diminish our freedom of speech. The vast majority of Americans, and the Congress as well, share this belief. The underlying reasons for this belief are self-evident.

Our Nation is held together by a system of laws. At a more fundamental level, however, as a people we are one because we share certain basic beliefs and a commitment to certain values. Those basic beliefs, those values are freedom and democracy. And for the people of this country it is the American Flag that symbolizes that commitment of freedom and democracy. The Flag is the one symbol of our Nation that all Americans understand, regardless of their race, their sex, their origin, whether they are young or old, whether they are literate or illiterate. It is the one symbol that touches the heart of every American.

Some discount the importance of symbols and belittle attachment to any symbol, even the Flag. But people live by symbols. Symbols, such as the Flag, often are the shorthand for all that we hold dear, and desecration of a symbol can break the spirit and thus cripple the cause in the name of which the symbol was raised. This is true of the Flag, and the American people recognize this. They know that acquiescence in the

desecration of this symbol of liberty is, in the long run, a threat to our spirit, and thereby to our social and political fabric. The American people understandably want this precious symbol protected and believe it is deserving of the fullest protection that we are able to provide. They understand that it can be protected without any threat to free expression.

Essentially two arguments have been advanced in opposition to a constitutional amendment to protect the Flag. The first is that an amendment will significantly curtail free speech, one of the most cherished rights of a free society. On this claim, it is right that we insist upon the fullest deliberation. Only where the justification is compelling should we countenance encroachments on freedom of expression. It is quite clear, however, that a Flag protection amendment would not have any measurable impact on free speech and the values underlying that guarantee. The President would not support an amendment if it were otherwise.

As a initial matter, it is debatable whether Flag burning or physically defiling the Flag should be considered speech at all. I suspect that most Americans find it hard to believe that burning a Flag has anything to do with free speech. The Chief Justice of the United States, joined by two other Justices, observed in dissent in *Johnson* that "flag burning is the equivalent of an inarticulate grunt or roar . . . ." *Johnson,* 109 S. Ct. at 2553.

But even assuming that Flag burning or a similar act of desecration is speech, it is manifestly speech of little value. As a people, we have chosen to prohibit similar, discrete and clearly defined categories of speech completely. For example, the First Amendment does not protect obscenity because we believe that it has little, if any, value to society. The proposed Flag amendment no more infringes on free speech than our refusal to accord First Amendment protection to obscenity.

I have no doubt that if a majority of the Supreme Court concluded that obscenity or child pornography were protected speech under the First Amendment, the political branches would act swiftly to reverse those decisions by proposing a constitutional amendment. To the veteran, to the family who has sacrificed a daughter or a son in defense of this Nation, and to the average Americans in cities and towns across this Country, desecration of our National symbol has a little to do with free speech as does obscenity or child pornography.

We have almost a century of experience that confirms that Flag desecration prohibitions do not come at the expense of free speech. No one suggests that there was a lack of robust debate or vigorous political disagreement during this history. We had debates over economic crises, wars, and even constitutional amendments without resort to destruction of our national symbol, and without even perceived, much less real, threat to free speech. Neither the courts nor the American people have considered Flag protection statutes—federal or state—encroachments on their liberty.

The overwhelming vote in favor of passage of the Flag Protection Act of 1989 reflects that the Congress itself believes that protection for the Flag is fully consistent with free political debate, and that the Constitution *should* permit Congress to protect the Flag. It cannot be that Senators and Representatives voted for a Flag protection statute last year that they now believe should be unconstitutional. And Congress' understanding is consistent with the assumption for almost 200 years that the Bill of Rights *did not* include a constitutional right to desecrate the American Flag. Indeed, at the time the Court decided *Texas* v. *Johnson,* forty-eight of the States had enacted Flag-desecration statutes.

Some argue that the Bill of Rights, and especially the First Amendment, should *never* be amended for any purpose, no matter how noble. To some extent these statements reflect the quite proper view that amending the Constitution is a profoundly serious matter and should not be undertaken in the service of transient political goals. With that sentiment I, and I think all Americans, agree. However, we should not lose sight of the fact that the Bill of Rights itself is a set of amendments, and there were many in 1789 who argued that the original Constitution should not be amended. Had we closed our minds as a Nation to any amendment of the original document in 1789, many of our most cherished liberties would not be enshrined in the text of the Constitution today. Moreover, as Chairman Biden noted during the hearings on the Flag Protection Act of 1989, the law now recognizes a number of "exceptions" to the free speech guarantee. For example, the First Amendment does not protect obscenity, or defamatory speech, or so-called "fighting words." Thus, the implicit suggestion of opponents of an amendment that the First Amendment is absolute, and does not admit of exceptions, is mistaken.

The question before the Congress and the American people is whether desecration of the Flag *should* be protected as speech. Rhetorical appeals, even to the First Amendment, in a debate about what the First Amendment *should* mean, simply are not helpful. We must confront and decide the question whether we want desecration of our Flag to be protected as speech.

The Bill of Rights of course is subject to the ultimate will of the American people as is any other provision of the Constitution. The Framers contemplated that there would be amendments, and provided for amendment. Article V expressly confers upon the Congress and the State legislatures the power to initiate the process of amending the Constitution. James Madison, the draftsman of the Bill of Rights, said of the amendatory process;

That useful alterations will be suggested by experience could not but be foreseen. It was requisite, therefore, that a mode for introducing them should be provided. The mode preferred by the convention seems to be stamped with every mark of propriety. It guards equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults.

The Federalist (No. 43) 278 (Rossiter ed. 1961). There is no evidence whatever that the amendment process was not to be applicable to prior amendments. If that were the case, we would still be living under Prohibition, which was imposed by the Eighteenth Amendment and repealed by the Twenty-first Amendment.

Second, it is argued that a Flag amendment itself would "trivialize" the Constitution. We should be wary of such charges, for in a very real sense they represent challenges to the judgment of the people themselves. I would be most hesitant to call "trivial" a proposal that some three-quarters of the American people and an overwhelming majority of the Senate of the United States and the House of Representatives believe is worthy of proposal as part of our Constitution. The plain fact is that we can amend the Constitution to protect the one truly national symbol we have had for over 200 years without fear of trivializing the charter, and without risk of rendering the document a code or the process of its amendment a quotidian affair.

Finally, it is argued that amending the Constitution to protect the American Flag would open the floodgates to numerous amendments. The specter is raised that an amendment will be proposed every time the Supreme Court decides a case with which a substantial percentage of the population disagrees. This is unlikely. But even if it were true, the American people can and will differentiate between the meritorious and the meritless.

The argument in any event ignores the historical fact that over the course of our 200 year history the Flag has become the single symbol of our Nation. As the chief Justice pointed out in dissent in *Johnson:*

The American flag, . . . throughout more than 200 years of our history, has come to be the visible symbol embodying our Nation. It does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another 'idea' or 'point of view' competing for recognition in the marketplace of ideas.

Johnson, 109 S. Ct. at 2552 (Rehnquist, C.J. dissenting). Nothing even approaches the Flag as a symbol. The Flag is unique. There is simply no danger that this amendment will prompt a multiplicity of claims for constitutional protection for other similar symbols.

Let me now turn to the Flag protection amendment that it is the purpose of these hearings to consider, the Dole-Michel amendment, and I might add there the Heflin-Thurmond amendment was added here in the Senate. This amendment, introduced last year by Senator Dole and Congressman Michel, and also as I mentioned Senator Dole and myself, has received the most attention, and is endorsed by the President. The amendment would provide that "[t]he Congress and the States shall have power to prohibit the physical desecration of the Flag of the United States."

This amendment would simply return to Congress and the States the power to prevent the physical desecration of the Flag. It would restore our shared understanding, prior to *Texas* v. *Johnson,* that the Constitution did permit the people's representatives to protect the Flag. The amendment is appropriately narrow in scope. It provides ample flexibility to ensure that the Flag is properly protected, while respecting broader principles of free speech and providing the widest compass for political protest of all kinds, and this is a very important point. The proposed amendment does not itself protect the Flag; rather, it empowers the Congress and the States to protect the Flag. Thus, implementing legislation would be required were the amendment to be ratified. The Administration continues to strongly support the Dole-Michel amendment, and to firmly believe that it should be submitted to the States.

There were four chief obligations raised to the Dole-Michel amendment when the amendment was debated last year. While the question raised should be addressed seriously, none of these in any way renders the language of that amendment problematic.

First, some contend that the Dole-Michel amendment might not succeed in overruling the Flag-burning cases, *Johnson* and *Eichman*, and thus would fail to authorize Congress and the States to protect the Flag. The argument is that constitutional prohibitions, such as the First Amendment, prevail when they come into conflict with powers, such as the Commerce Clause. Acording to this argument, the Dole-Michel amendment, which confers a power rather than creates an exception to the First Amendment, would in some sense be "trumped" by the First Amendment.

This problem is imaginary. Like all other constitutional provisions, the Flag protection amendment will be interpreted in its historical context, and in accord with both the drafters' intentions and common sense. The historical context in which this amendment is being considered will itself evidence that the sole purpose of the amendment is to provide to Congress and the States the power to protect the Flag that the Court held they lacked in *Johnson* and *Eichman*. The debates on the proposed amendment will clearly reflect a belief that the First Amendment shall not be construed to negate the conferred power.

Common sense also would dictate that the First Amendment should not be held to the "trump" the Flag protection amendment. The customary expectation that constitutional prohibitions override general powers because they are more specific would not obtain here because the Flag amendment would be a highly specific exception to the more general Free Speech Clause.

Moreover, if the argument being advanced were correct, it would render the amendment meaningless, contrary to the most elementary canon of constitutional construction that provisions of the Constitution will not be interpreted so as to be without meaning.

Second, some contend that the amendment will create an exception to the other provisions of the Constitution, so that, for example, Congress could punish Flag desecration by bill of attainder. Again, both the context of the amendment's adoption and common sense refute this contention. *Johnson* and *Eichmann* held that Flag desecration was free speech, and thus protected by the First Amendment. The Dole-Michel amendment, by specifically empowering Congress and the States to protect the Flag, will remove Flag desecration from within the zone of protected speech, thereby expressly and narrowly overruling the holdings in those cases. No other provision of the Constitution has been interpreted to protect Flag desecration. Accordingly, the Dole-Michel amendment should be read as only affecting the First Amendment as currently interpreted by the Court. All other constitutional provisions and prohibitions should remain unaffected, and upon ratification the Dole-Michel amendment, like the 26 other amendments, should be interpreted as part of an integral document.

Supreme Court caselaw demonstrates to a significant degree that such common sense informs the interrelation of different constitutional provisions. Under the Eleventh Amendment, the federal courts are prohibited from hearing cases against States by citizens of other States. Section 1 of the Fourteenth Amendment imposes certain new limits on the States, and Section 5 empowers Congress to enforce those provisions. The Court has held that Section 5 empowers Congress to override state sovereign immunity under the Eleventh Amendment, because the subject matter of Section 1 makes that appropriate. *Fitzpatrick* v. *Bitzer*, 427 U.S. 445 (1976). Section 5 does not, however, authorize Congress to override other constitutional provisions: Congress could not direct that unreasonable searches and seizures be conducted on State government property, for example, in order to find evidence of violations of the Fourteenth Amendment.

Third, it has been suggested that because the amendment authorizes both Congress *and* the States to protect the Flag, the result will be a confusing patchwork of different Flag protection statutes. It is entirely appropriate that the Dole-Michel amendment empowers both the federal government and the States to protect the Flag from desecration. The Flag represents the entire Nation—a Union of States—and both the federal government and the States have an interest in its protection. This shared power will not lead to a patchwork of conflicting laws. First, throughout our history, both Congress and the States have exercised this power without any hint of confusion or conflict. Second, in other areas of joint federal/state interest, such as drug interdiction, the federal and state governments cooperate in enforcing overlapping legal prohibitions. Finally, under the Supremacy Clause, art. VI, cl. 2, the "Laws of the United States" enacted pursuant to the Constitution are superior to any State laws. Thus, if Congress concluded that a single, uniform Flag protection statute should govern nationwide, under the Dole-Michel amendment it could exercise its usual power to preempt the field. Accordingly, the Congress should not allow dire predictions of confusion and conflict to detract from its support for the Dole-Michel amendment.

Finally, some argue that the concept of physical desecration of the Flag is so vague that greater power would be conferred upon Congress and the States than is contemplated or desired. This, however, is an argument against any amendment, not against the Dole-Michel amendment, because any amendment will have to describe Flag desecration in some fashion, and there will necessarily be some uncertainty until the implementing legislation is enacted. Those who agree that there should be an amendment to protect the Flag have already rejected this argument.

The argument is meritless in any event. Even at its widest possible scope, the concept of physical desecration of the Flag encompasses only a negligible portion of the means of expression and eliminates no messages at all. Disrespectful speech or speech of condemnation, for example, could not possibly be considered physical desecration, even if the speaker displays the Flag and denounces it by name.

Congress and the States will make the specific decisions concerning the prohibition when they enact their respective Flag protection laws. It can be anticipated that the legislatures will adopt laws that are far more detailed than the amendment. removing problems of vagueness, if any. And it is not unlikely that they will generally use only a portion of the power the amendment confers. Congress addressed all of these definitional questions in passing both the Flag Protection Act of 1989 and the earlier federal Flag protection law that the 1989 Act superseded.

In drafting implementing legislation to prohibit Flag desecration, Congress and the States will have to make three basic decisions. They will have to define what is included within the term "Flag" to define the kinds of physical desecration they wish to forbid, and to define the mental state that will be an element of the offense. On the first issue, the narrowest definition would be the actual official Flag of the United States, not a representation of a Flag or a look-alike such as a 49-star flag. A more expansive definition would be the one adopted by the Flag Protection Act of 1989.

Next, Congress and the States would have to determine which types of physical desecration to forbid. The range of their choice is fairly narrow because physical desecration entails actual contact with the Flag, including the manner in which it is positioned. Hanging a Flag in a traditional manner in an undesirable place, however, could not reasonably be considered physical desecration.

Finally, it would be necessary to decide on the requisite state of mind for liability. While Congress or a State might go as far as the Flag Protection Act of 1989 and punish all intentional acts, whatever their communicative intent (if any), we think it much more likely that desecration would be defined only to include actions that were intended to convey contempt. Under such a statute, if an individual did something to a Flag in order to honor it, he could not be punished even though someone else was offended. Such intent-based standards, of course, are common in the law and especially in those areas of the law that deal with expression.

These are the kinds of definitional questions that Congress and the States confront whenever they legislate. There is nothing especially difficult about them, although they must be addressed with care. This is a task that both Congress and the States had successfully undertaken for many years before Johnson. Throughout that period, no one claimed that the statute books were filled with vague or tyrannical Flag protection laws.

In sum, all of these attacks on the Dole-Michel amendment are ultimately without merit. The legal effect of the Dole-Michel amendment is obvious. We had decades of experience with Flag protection laws before Johnson, during which no one suggested that speech was any less free or that America was a crazy-quilt of varying and incomprehensible Flag laws. There is no reason to believe that there will be any difference in the wake of the Dole-Michel amendment. The Congress should send this amendment to the States.

I would close with the simple observations with which I began. The Constitution and the Flag belong to the people. The people should be permitted to decide for themselves whether they want their Constitution to protect desecration of their Flag.

Mr. President, that concluded the fine testimony of Acting Assistant Attorney General, Michael Luttig.

Now, I want to point out that the Johnson and Eichman decisions were by a 5-to-4 vote.

Where there is such a close decision as this was, a 5-to-4 decision, it seems to me it would be proper to send it to the American people and let them vote on it. Three-fourths of the States would have to pass it before it could take affect.

On behalf of the American people, I do hope that we pass this amendment

and that we send this amendment to the House. I feel the House might reconsider it and pass it and then send it to the people to vote on it. This is important.

Again, I say the flag is a symbol of the American Nation. Let us take every step to protect it.

I yield the floor.

I see the able Senator from Utah is here. I am willing now to yield to him.

I now yield such time as the able Senator from Utah requires.

The PRESIDING OFFICER. The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, I thank the Senator from South Carolina. I appreciate his leadership on this issue and the amount of effort he has put into it each day. I appreciate the special courtesy he has given to me to be able to say a few words on this extremely important issue.

It is no secret I favor Senate Joint Resolution 332, which amends the Constitution to empower Congress and the States to prohibit the physical desecraton of the American flag. This is the same amendment introduced nearly a year ago, which I cosponsored and which received 51 votes. I believe this amendment effectively restores to Congress and the States the power to protect the flag many of us believed existed prior to the Texas versus Johnson decision. This amendment overturns the Johnson decision from 1989 and United States versus Eichman, decided on June 11, 1990.

I question no one's patriotism or love of the flag, regardless of their support of, or opposition to, an amendment. Nor do I doubt the sincerity of any Senator's position on this issue.

But I sincerely believe that the opponents of the amendment have, in good faith, posed a false choice to the Congress and the American people. In effect, they say that if you want to protect the flag from desecration, you have to trample on the first amendment. If you want to safeguard the first amendment, you have to let desecrators trample on the flag.

I sincerely believe we face no such choice and hope that the opponents of the amendment will reconsider their position.

Everyone acknowledges the uniqueness of the flag. Justice Stevens, in his Texas versus Johnson dissent, put it best:

> A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas.

We all know what the American flag signifies to Americans and to people all over the world. It is not chauvinism or emotional appeal to say that there is no other flag in the world like it precisely because of what it signifies.

If the Texas versus Johnson and United States versus Eichman decisions had gone 5 to 4 the other way, would the first amendment have been traduced? Would there have been an uproar by our editorial writers, law professors, and some in Congress to repeal the 48 State laws and the Federal law that prohibits flag desecration? These are the same laws, except for the new current Federal law, which will be enforceable again if the amendment passes.

In my view, the flag amendment does not amend the first amendment. It overturns two decisions that I believe were wrongly decided. By overturning this judicial gloss, we restore the first amendment to the understanding Chief Justice Warren, and Justices Black and Fortas, among others, have had of it.

Some opponents of the amendment believe that Texas versus Johnson was wrongly decided. I ask them, what difference does it make if the States and Congress have the power under the Constitution to prohibit physical desecration of the flag as interpreted by five members of the Supreme Court, or pursuant to the 27th amendment to the Constitution?

For years, 48 States and the Federal Government prohibited flag desecration. Was freedom of speech violated in this country all those years? I think not. The prohibition of such conduct prevented no idea from being expressed in numerous ways. The first amendment seems to have survived these 49 statutes remarkably well; but, one would not know it from the critics of an amendment which would render these statutes enforceable again.

Distinguished jurists regarded as great first amendment champions agreed that such conduct did not fall within the ambit of the first amendment. Chief Justice Earl Warren wrote:

> I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace. But because the Court has not met the issue, it would serve no purpose to delineate my reasons for that view. However, it is difficult for me to imagine that, had the Court faced this issue, it would have concluded otherwise.

Evidently, Chief Justice Warren did not consider it a close issue. Yet, 20 years later, those of us calling for the restoration of the Constitution's meaning as Chief Justice Warren saw it, are wrongly accused of tampering with fundamental liberties. That is a laugh.

The case was *Street* v. *New York*, 394 U.S. 576,605 (Warren, C.J. dissenting). Justice Black—generally regarded as a first amendment absolutist—stated:

> It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense. It is immaterial to me that words are spoken in connection with the burning. It is the burning of the flag that the State has set its face against. "It rarely has been suggested that the constitutional freedom for speech and press extends its immunity to speech and writing used as an integral part of conduct in violation of a valid criminal statute," citing a 1949 case, *Giboney* versus *Empire Storage & Ice Co.* In my view this quotation from the *Giboney* case applies here.

That was Justice Black. Id. at 610 (Black, J., dissenting). Justice Fortas wrote:

> [T]he States and the Federal Government have the power to protect the flag, from acts of desecration committed in public. * * * If, as I submit, it is permissible to prohibit the burning of personal property on the public sidewalk, there is no basis for applying a different rule to flag burning. And the fact that the law is violated for purposes of protest does not immunize the violator, citing the same *Giboney* case.

Justice Fortas went on to say,

> Beyond this * * * the flag is a special kind of personality. It use is traditionally and universally subject to special rules and regulation. * * * A person may "own" a flag, but ownership is subject to special burdens and responsibilities. A flag may be property, in a sense; but it is property burdened with peculiar obligations and restrictions. Certainly, these special conditions are not per se arbitrary or beyond governmental power under our Constitution. *Id.* at 615-617 (Fortas, J., dissenting).

The line between freedom and license is not always easy to draw. I agree, again, with Justice Stevens' remarks in dissent in United States versus Eichman, which overturned the certain-to-fail Flag Protection Act of 1989:

This is something I said would fall, something I said could not be held constitutional in light of the Texas versus Johnson case. Justice Stevens said:

> This [issue] * * * comes down to a matter of judgment. Does the admittedly important interest in allowing every speaker to choose the method of expressing his or her ideas that he or she deems most effective * * * outweigh the societal interest in preserving the symbolic value of the Flag? This question, in turn, involves three different judgments: First, the importance of the individual interest in selecting the preferred means of communication; second, the importance of the national symbol; and third, the question whether tolerance of flag burning will enhance or tarnish that value.

In my view, the balancing of these factors comes out in favor of protecting the flag. The failure to do so, in my opinion, cheapens the flag—devalues the flag. As Justice Stevens said in his Eichman dissent:

> [d]amage to the symbol * * * has already occurred as a result of this Court's decision to place its stamp of approval on the act of flag burning.

In short, the Court—and this Congress, if we lack the two-thirds vote for the amendment—will have reduced the flag to the level of all other objects. We will be implicitly, if unintentionally, saying that the flag and what

it represents are not as important as our rhetoric universally has suggested.

I believe the failure to enact a Constitutional amendment to protect the flag expresses a startling lack of confidence in our freedoms. I believe the amendment's critics have it backward. They say, Is the flag really threatened by these flag desecrations? I say, Is our freedom of speech threatened by the withdrawal of this one, single, solitary but revered object from desecration? To ask that question is to answer it: Of course not. And since it means so much to so many, for reasons we all understand and share, shouldn't we protect it from any acts of desecration, however few or many? I say, yes.

We are not on a slippery slope of any sort, because no one seeks similar protection for any object. The argument that enactment of this amendment will open up a Pandora's box of amendments aimed at unpopular advocacy is a red herring. Moreover, empowering Congress and the States to prohibit flag desecration does not compel anyone to worship, salute, carry, or praise the flag, or do anything else to support the flag. It just means Congress and States can bar the physical desecration of the flag if they so choose.

This has been a curious debate. There are people opposed to this amendment who favor a constitutional amendment giving Congress and the States power to set "limits on campaign expenditures by, in support of, or in opposition to," any political candidates.

Evidently, for some, limiting the ability of political candidates to express their positions in an electoral campaign is an acceptable constitutional amendment but protecting the flag from those who would desecrate it as part of political expression is unacceptable.

That is inconsistency, that is pure and simple inconsistently. If it serves their needs, they are willing to support a constitutional amendment even though it makes a far more serious intrusion in first amendment rights and privileges. There are very few things protected as much as the rights of political candidates to say their piece. Yet they would support that constitutional amendment, while rejecting this one.

There are dozens of ways that people can use their first amendment rights—and I will fight for their right to do so—that do not involve physical desecration of the flag. There are dozens of ways that people can express first amendment opinions. Those opinions can be totally amoral, totally rotten, totally devoid of any significant value, and we will uphold their right to say it.

Physical desecration of the flag, through burning or urinating upon it or trampling on it, or whatever way, that is not free speech; that is offensive conduct. A free nation with values ought to be able to set a parameter beyond which we will not permit certain conduct. And I think that is the way it should be.

As Justice Stevens said, this is a matter of judgment, not patriotism. I believe we do no damage to the first amendment by enacting the President's flag protection amendment, which furthers a goal worthy of a constitutional amendment.

I have heard a lot of arguments against this constitutional amendment that I would like to just spend a minute or two on, and I will answer them succinctly, if I can.

One charge is that Senate Joint Resolution 332 will not overturn Texas versus Johnson.

Frankly, in Texas versus Johnson, the Court said it did not know which symbols should be protected. It noted, "There is, moreover, no indication—either in the text of the Constitution or in our cases interpreting it—that a separate juridical category exists for the American flag alone.

The flag amendment creates just such a juridical category in the Constitution. It says: "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States." Further, the legislative history of the flag amendment makes clear that we are creating such protection in response to two erroneous readings of the first amendment.

Another charge: Senate Joint Resolution 332, its critics say, overrides the entire Constitution.

In fact, Senate Joint Resolution 332 merely gives the Congress and the States power to prohibit the physical desecration of the American flag—period. It gives no authority to override the cruel and unusual punishment clause of the eighth amendment, the ban on unreasonable searches and seizures, and so on.

There is no language in the amendment that provides such power, and no sponsor intends such a result. And we would be laughed out of this body if we did.

Indeed, the 16th amendment reads like the flag amendment. It reads:

> The Congress shall have the power to lay and collect taxes on income, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

This income tax amendment has not been construed to override the eighth amendment—no one has been drawn and quartered for failure to pay taxes. It has not been held to override the fourth amendment. Neither will the flag amendment.

Another charge is that this constitutional amendment amends for the first time the first amendment to the Constitution. Well the flag amendment simply and purely overturns two erroneous Supreme Court interpretations which have misconstrued the first amendment.

As I said, the statements of Earl Warren, Hugo Black, and Abe Fortas, three of the most liberal justices in history, who believed that the Constitution protects the flag from desecration, make that point.

The language of the first amendment is not changed by the flag amendment. Only the judicial gloss on the first amendment, a gloss one year old, is affected. Congress and 48 States believed that the first amendment allows the prohibition of physical flag desecration; a one-vote majority on the Supreme Court has ruled otherwise.

Until 1989, there was no fundamental right to desecrate the flag. How can restoring that nearly 200, year-old understanding be deemed an amendment to the first amendment?

That is ridiculous. It is ridiculous on its face. I am amazed that the people in the House of Representatives and the people here on this floor are willing to even make that argument.

There is another charge: This amendment threatens free speech.

In fact, this amendment gives Congress and the States the authority to prohibit conduct, not speech. As Justice Black, a first amendment absolutist, said over 20 years ago:

> It pases my belief that anything in the Federal Constitution bars a state from making the deliberate burning of the American flag an offense. It is immaterial to me that the words are spoken in connection with the burning. It is the burning of the flag that the States has set its face against.

Moreover, even freedom of speech itself under the first amendment is not absolute.

Libel is actionable, even under the first amendment. You cannot libel somebody. We have set a parameter beyond which you may not go.

Obscenity is not protected under the first amendment. We have set a parameter saying you cannot assert first amendment rights beyond this parameter.

One cannot shout "fire" in a crowded theater and claim first amendment protection. We said there is a parameter there that a decent, law-abiding, good society will not permit.

Nor are fighting words, designed to provoke reactions from an audience, protected. We set a parameter.

Reasonable time, place, and manner limits may be constitutionally placed on speech.

Neither this amendment nor its implementation prevents a single idea or thought from being expressed. There are numerous ways of doing so, through leaflets, placards, newsletters, speeches, and so much more.

Some have said that Senate Joint Resolution 332 is too vague.

Fortunately, those who claim that Senate Joint Resolution 332 is too vague were not Members of the First Congress. Imagine their chagrin when the fourth amendment's ban on "unreasonable searches and seizures" was open to debate. After all, what does "unreasonable" mean? What exactly is a "search?" Or what about the phrase "due process" in the fifth amendment? Would those who claim the terms "physical desecration" or "flag" are too vague have opposed the fourth and fifth amendments? The Bill of Rights itself is full of phrases like those.

The terms "physical desecration" and "flag" are at least as specific, if not more so, than many terms now in the Bill of Rights and the rest of the Constitution.

"Physical," as modifying "desecration," means some contact with the flag, some physical touching of the flag, whether by the person himself or caused by the person. This would include maintaining it on the ground or floor, if a legislative body so chose to prohibit, as Congress did last October.

Under the amendment, however, no legislative body could penalize mere words or gestures of any sort, including those aimed at the flag. No idea is censored. Numerous ways remain available to express any other idea other than by flag desecration. No damage is done to the first amendment. And until Gregory Johnson's case was decided by the Supreme Court, I am unaware of any Senator who claimed that banning only contemptuous treatment of the flag despoiled the first amendment. We have had such a Federal ban in place for over 20 years.

For the amendment's parameters for the term "desecreation," Assistant Attorney General Barr said the commonsense understanding of the term applies. He cited Webster's Ninth New Edition Dictionary's definition of "desecration" as follows:

1, to violate the sanctity of: Profane; 2: To treat irreverently or contemptuously often in a way that provokes outrage on the part of others.

Black's Law Dictionary contains a similar definition of desecrate:

To violate sanctity of, to profane, or to put to unworthy use.

These definitions capture the essence of the term as used in the amendment. Indeed, these definitions make clear that a ban on desecration is particularly well suited for preserving the symbolic value of the flag.

I note that Chief Justice Earl Warren has said:

I believe the States and Federal Government do have the power to protect the flag from acts of desecration and disgrace.

Justice Abe Fortas, dissenting in the same case said, "The States and the Federal Government have the power to protect the flag from acts of desecration committed in public." These two Justices had no trouble with this term. The "whereas" clauses of Senate Joint Resolution 180 note "physical desecration may include but is not limited to such acts as as burning, mutilating, defacing, defiling or trampling on the flag or displaying the flag in a contemptuous manner."

Mr. President, my brother died for this flag. This monument over here in Rosslyn shows the Marines hoisting the flag on Iwo Jima. They risked their lives to put that flag up, to buoy the spirits of those men who were involved in that very, very serious conflict, where we lost thousands and thousands of American GI's. My brother-in-law also gave his life for this flag, as did countless others through the years.

It is not some simple symbol. It is an important symbol. It is one of the values of our country. I value the flag. I think my folks in Utah value the flag. There is a great deal of reverence for the flag and they are very offended that we would permit this type of treatment of the flag.

Mr. President, we would not allow people to deface a synagogue or a church building with swastikas, in the exercise of so-called first amendment rights under the Constitution. We would put them in jail. We would not allow that to happen for a minute. And we should not.

We set parameters beyond which we will not allow people to go, in decency. We set our values and say, with these parameters, "these are values we will not allow you to break."

We have tried the statute. There was never a chance for it to be held constitutional. Those of us who spent hour after hour after hour working on constiutional matters, we knew it. I find no fault in having tried it, but the correct vote was to vote against it.

Now we have a chance of rectifying the situation, of continuing to uphold values and parameters beyond which offensive conduct should not be allowed, and we have a right to return the Constitution to that which it was for 200 years before the Texas versus Johnson decision.

This is not an amendment of the first amendment. And, by the way the 14th amendment is an amendment of the first amendment. Do not let anybody think otherwise. The first amendment by its own terms applies only to Congress. Yet, it has been applied to the States. How did that happen? The Supreme Court, in this century, has interpreted the 14th amendment as making the first amendment applicable to the States.

The first amendment is sanctified, in my eyes. But we are allowed to set parameters beyond which people should not go, in a value-laden society. And ours is, and we ought to keep it that way. A country with important values will stand up for those values and set parameters beyond which they will not allow offensive conduct to go.

This country does in so many ways. And the only way we can reestablish those values which have existed for 200 years before this time is through this amendment, now that the Supreme Court has ruled. It has ruled erroneously in the first case. It ruled accurately in the second case, the Eichman case, in the sense it had to follow its own, year old precedent. It had no other choice to make, after they made the decision in Texas versus Johnson. But both are erroneous because the first one was wrong and the second should never have been necessary.

Mr. President, we can sit back and we can act like we are upholding the first amendment, like we are champions of the first amendment when, in fact, what we are doing is allowing a ragtag group of people who hate this country and who are going to do anything they can to denigrate this country and its symbols to go beyond parameters that we ought to be setting. And the only way to set them now—I wish we did not have to put it in the Constitution, it was there for 200 years—the only way we can set those parameters now, in my opinion, is through a constitutional amendment.

Does it have to be this amendment? No. On the other hand, this amendment makes sense because there have been 48 States and one Federal law that have provided for the power of government, State and Federal Government, to stop flag desecration in this country. I think it is time we enact an amendment, I think it is time we listened to the millions and millions of people out there and quit using this phony issue that this is a denigration of the first amendment when it is not. This is a restoration of that which existed for 200 years before that erroneous decision a year ago.

Mr. President, I appreciate my dear colleague from South Carolina giving me this time and being so courteous to me, as he always is.

Mr. THURMOND. Will the able Senator yield?

Mr. HATCH. I will be happy to yield.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I just wanted to commend the able Senator from Utah for his excellent remarks. They are very pertinent, they are right on the point. He is a very fine constitutional lawyer and his opinion on this question, I think, should have great influence with the Senate.

Again, I congratulate him on his excellent remarks.

Mr. HATCH. I thank my colleague and I appreciate it.

Mr. BIDEN. Mr. President, how much time remains in our control?

The PRESIDING OFFICER (Mr. BRYAN). Senator BIDEN controls 108 more minutes.

Mr. BIDEN. Mr. President, I yield myself such time as I may need.

I would ask if my colleague from Utah is willing to answer one very simple question on my time, is the reason we wish to punish the people who burn the flag, because they hate America? Is that the reason we are punishing them?

Mr. HATCH. I do not think so. I think the reason we want to punish them is because we value our national symbol. And I think we value our national symbol because we are a country of values. I think we value that symbol because it has inspired hundreds of millions of people through the years to be better citizens and better people.

But I would fight, as would, I know, my friend from Delaware, for the right of these people to express any heinous remarks they want to about the flag, so long as they do it through the proper means. But it is improper for us to allow them to trample on and urinate upon and burn our flag in their fits of juvenile conduct.

And we, I think, can set parameters beyond which we will not tolerate or permit that particular type of offensive conduct and with no cost to the first amendment.

Mr. BIDEN. Does the Senator believe that there is no cost to the first amendment when, in fact, we will allow the States and the localities to make judgments as to what type of behavior is punishable and what is not punishable?

For example, in our hearings the Justice Department testified that they wished this amendment to apply only to those actions that were intended to convey contempt with regard to the flag, and they did not wish to apply to circumstances where the flag being burned or in any way desecrated, any way changed, was done out of love and affection. Does he share the administration's view?

Mr. HATCH. If I understand the question, it is, can we trust the States when they enact these various statutes to enact statutes that really involve flag desecration rather than silly statutes that may involve a lot of other things. I trust the States.

First of all, there are 48 statutes in existence today and most of those worked well for many years.

I also trust the Federal Government in coming up with the congressional enactment that will define this matter, and I personally believe that if we pass this constitutional amendment the distinguished Senator from Delaware would lead in the Congress to come up with a statute for the Federal Government that would I think set the tone for every State and every jurisdiction in this country. So I have faith that, yes, those flag statutes would be flag statutes that would prohibit offensive conduct with regard to our flag and not tread upon the Bill of Rights.

Mr. BIDEN. But it would require some faith, would it not?

Mr. HATCH. Everything requires faith.

Mr. BIDEN. It is possible under the amendment proposed by the President and the one supported by the Senator from Utah that the States could, if they so desired, discriminate among and between types of behavior relative to the flag. They could say, could they not, that laying the flag on the ground in an art museum was in fact desecration but laying it flat on the ground before a war memorial by a group of veterans was not desecration?

Mr. HATCH. They could, but I do not believe they would. But they would have authority to prohibit contemptuous treatment of the flag, and permit reverential treatment of the flag. The States, of course, would be subject to the 14th amendment's guarantee of equal protection of the laws and could not make, for example, irrational distinctions in treating conduct toward the flag.

Second, I believe the Federal statute that will inevitably result as a result of the constitutional amendment, if it is enacted, would also set Federal parameters which would be reasonable and intelligent.

Mr. BIDEN. I have other questions, but I can see my colleague from Iowa is here. I have had a chance to speak thus far and he has not. So I will yield the floor and reserve the remainder of my time.

Mr. THURMOND. Mr. President, I yield such time to the able Senator from Iowa as he desires.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am an original cosponsor of Senate Joint Resolution 332, the proposed constitutional amendment to protect the physical integrity of the flag of the United States.

I rise today to strongly urge my colleagues to support its passage.

Earlier this year, two Federal district courts, a continent apart, ruled that the statute enacted in 1989 to protect the physical integrity of the flag was unconstitutional.

On June 11, 1990, the Supreme Court, in a seven-page opinion by Justice Brennan, upheld their judgments.

Justice Brennan's opinion dismissed out-of-hand the Flag Protection Act of 1989.

I originally supported the flag protection statute because if it could protect the flag, its enactment might be less cumbersome.

However, the four hearings held last year by our committee—on both the statutory and constitutional amendment approaches to protecting the flag—convinced me that a statute would not survive a legal challenge.

Therefore, I opposed the enactment of the flag protection statute when it was reported to the Senate by our committee.

I opposed it because I maintained it was flatly insufficient to protect our flag from physical desecration.

In fact, my colleague from Utah, Senator HATCH, and I, found the statutory approach to be little more than an empty gesture.

Eventually, Senator HATCH, along with the distinguished Republican leader of the Senate, Senator DOLE, and I, were the only three Senators, who wanted to protect the physical integrity of the flag, who opposed the Flag Protection Act of 1989 when it was debated and passed by the Senate.

The decision of the Supreme Court to uphold the decisions of the lower courts has proven that our opposition was justified.

We prefer to protect the flag through the Constitution.

An amendment will merely restore the power to Congress and the States to prohibit flag desecration, which I believe they always had.

In fact, for many years, a Federal statute and the laws of 48 States did protect the flag from physical desecration.

What harm was done to the first amendment?

For all these many years, were we less free to express ourselves?

Of course not.

The fact is that an amendment will not tinker or tamper with the Constitution or the Bill of Rights.

To protect our flag from physical desecration in no way impairs, restricts, or diminishes the first amendment protection or freedom of speech.

We can protect the flag from the threat of physical desecration without limiting freedom of speech.

Protecting the flag from physical desecration does not prevent a single idea or thought from being expressed.

It does not interfere with the numerous ways of communicating an idea.

Rather, it merely prevents conduct with respect to one object, and one object alone—our flag.

Mr. President, I think it is time to expose some of the inconsistencies that seems to be a part of the opposition to the constitutional amendment remedy.

I believe that it is a matter of priorities.

Americans do not buy the argument that this amendment is unique because it will somehow infringe upon the rights guaranteed by the first amendment.

Let me remind my colleagues that on April 22, 1988, over 50 Members of

the U.S. Senate cast their votes to facilitate the passage of Senate Joint Resolution 282. As of late April, 24 of my colleagues have cosponsored a similar proposed amendment, Senate Joint Resolution 48.

And as my colleagues will recall, Senate Joint Resolution 282 was a response to the Supreme Court's holding in Buckley versus Valeo that Government-mandated campaign spending limits violate the first amendment.

The vote on Senate Joint Resolution 282 was tied to S. 2, the so-called campaign finance reform bill, or as many of us referred to it, the incumbent protection bill.

Some, I guess, feel that it is OK to tamper or tinker with the free speech clause of the first amendment if it can keep them in office.

However, when it comes to protecting the flag, they claim that fundamental rights are threatened.

Well, nothing could be farther from the truth.

Let us say, just for argument's sake, that an amendment to protect the flag does have an impact on the first amendment.

I am no constitutional scholar, but I believe common sense tells us that an amendment to restrict campaign contributions is a far greater threat to the fundamental freedom of speech—political speech—than an amendment to protect the flag.

An amendment to restrict campaign spending is a direct threat to the ability of constituents to communicate with their elected representatives.

Some, in fact, believe that an amendment to restrict campaign spending would have a chilling effect upon the country's political discourse.

I think such an amendment is a far greater threat to our democracy.

As I said, it is a question of priorities and values, Mr. President.

And let me respond to those who say that we should not tamper with the Constitution in general. Just how sacred is our basic document of government to some Members of the legislative branch?

From 1789 through 1984, over 10,000 amendments to the Constitution have been proposed by Congressmen and Senators.

Between 1969 and 1984, over 660 Congressmen and Senators sponsored over 3,000 constitutional amendments.

I find it interesting that out of these 660 Members, 174 are still serving in Congress.

I find it even more interesting that since 1984, only one Member of the Senate has not sponsored or cosponsored a proposed constitutional amendment, and only nine Members of the House have not sponsored or cosponsored proposed constitutional amendments.

That means that in this Congress, 525 Members of the House and Senate have sponsored or cosponsored proposed amendments to the Constitution. How many of these will vote against the constitutional amendment to protect the flag?

By an overwhelming margin, both my mail and national polls indicate that Iowans and the American people want the flag of the United States to be protected.

The American people are very tolerant, despite what some commentators may say.

The American people do not engage in official actions that cavalierly or arbitrarily curtail the rights of a minority with whom they do not agree.

Americans believe in majority rule, but they also are fierce in their protection of individual rights.

I wholeheartedly agree that the right of free speech does not depend on what the majority agrees with or on what is sanctioned by the majority.

I also have boundless faith in the common sense of the American people.

We have a long and proud tradition of tolerating speech with which we do not agree.

I think a key form of proof of this tradition is the acceptance and adoption of the first amendment itself by a majority of the original 13 States.

And today, the United States is the beacon of freedom for Eastern and central Europe because of the tradition of allowing dissent against government policies.

The United States and its people are tolerant of speech and protest. I give credit to the American people for understanding that their toleration of freedom of speech is the price that must be paid, so that all may enjoy the liberties guaranteed by the Constitution.

However, the right of freedom of speech is not—nor has it ever been—absolute. Men and women have been sued and punished for slander, libel, false advertising, inciting riot, obscenity, and panhandling. All of these are more purely speech than burning a flag.

And let us be clear beyond doubt: These forms of speech have been placed beyond the bounds of the protection of the first amendment precisely because of their content.

So the Senate should not be led astray by the contention that the Government cannot proscribe speech if its interest is not content neutral.

Protest, including speech, also can be regulated to accomplish reasonable public health and safety goals, including reasonable time and place restrictions upon the protest in question.

These reasonable regulations are construed as in no way infringing upon the content of the speech of a protester.

In conclusion, the constitutional amendment I support will allow us to withdraw the flag from the threat of physical desecration without in any way limiting freedom of speech.

I prefer to protect the flag through a constitutional amendment that will merely restore the power to Congress and the States to prohibit flag desecration which I believe they always had before the June 1989 Supreme Court decision in Texas versus Johnson.

Finally, let us all remember that the passage of an amendment by Congress is only the beginning of the process. The States must have their opportunity to speak to the issue, and rightfully so, through the ratification process thoughtfully provided in article V by the authors of the Constitution.

Shouldn't the people—through their State legislatures—have a voice in this matter? Or are those opposed to this amendment afraid of the judgment of the people?

I, for one, am not fearful of allowing the States to review the flag protection amendment, I hope we will soon be sending them.

As they did last year, many of my constituents have continued to ask: What legitimate, fundamental, and essential right is infringed upon—when all manner of verbal and nonverbal expression of speech can be uttered for whatever purpose without fear of reprisal or prosecution by the State—up to but not including the physical defiling of the flag?

I believe we are obliged to respond to the Supreme Court.

Mr. President, there are two ways to protect the flag.

We tried one way.

Now let us use our common sense, let us end the inconsistencies, and let us protect it the right way.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Maine such time as he may require.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, there are some people who believe that this is a very hot political issue and one that can be easily exploited. I suggest that, it may, indeed, be an emotional issue, but the emotions, certainly in my State, run high in both directions. The opinion letters to the editor seem to indicate that there is strong opposition.

I can only speak for myself. I have absolutely no intention of trying to exploit this issue or, I might add, having it exploited against me. The popularity or lack of popularity is not a factor for me, any more than the popularity or lack of popularity of the ERA amendment, which I support, is a factor. In fact, my State of Maine in the past few years voted down ratifica-

tion of a State ERA, and yet I still support the ERA and will continue to support it in the future. All I intend to do today is state my opinion, cast my vote, and let the future take care of itself.

The second point I want to make is that reasonable people can indeed disagree. They can each disagree and have their loyalties and motives go unchallenged. The Supreme Court has been mentioned on many occasions during this debate. The Supreme Court is comprised of our most gifted men and women.

They were nearly equally divided on this issue. I want to say they are not just lawyers, they are jurists. They are men and women who have devoted their lives to the study of the law and they are entitled to our respect, just as we are more than a bunch of people who vote on bills. We are Senators, people who have devoted ourselves to the art of fashioning legislation and of compromise. If we demean our status or encourage others to do so, then we demean the very significance of the art of politics itself.

The fact that five Justices prevailed over four, does not in any way diminish the Court's decision, any more than the fact that a bill passes in this Chamber by one vote or a veto is sustained in this Chamber by one vote.

Another point I would like to make is what this debate is not about. It is not about the difference between Republicans and Democrats. Indeed, we have seen from the debate that there are many Republicans who are opposed to this amendment. There are many Democrats who will favor it.

It is not an issue between conservatives and liberals. We have a number of conservative Senators who have spoken out in opposition to the amendment. We have had a number of liberal Senators who have spoken in favor.

It is not a case of veteran against nonveteran. Among the veterans in this Chamber and the people I admire most, BOB DOLE—certainly a distinguished veteran, someone who lost a portion of his body in the fight in World War II—is strongly in favor.

Senator KERREY of Nebraska is strongly opposed. Senator INOUYE, another war hero, strongly opposed. Senator RUDMAN, opposed. Senator MCCAIN, strongly in favor. It does not break down by veteran versus nonveteran.

And it surely does not break down on patriot versus scoundrel; if you support the amendment you are a patriot, if you oppose it you are a scoundrel. I might add the inverse is not so either. Many have found their way into Bartlett's Quotations to cite Dr. Johnson's axiom about the last refuge of scoundrels being patriotism. That is also not the case.

It does, however, involve the question of values—not whether you support flag burning or are opposed to it. It involves deciding whether the merits of amending the Constitution outweigh giving freedom, or what I call license, to desecrate the most unique and unifying symbol in our Nation.

Last year we passed a resolution condemning flag burning and then we passed a statute that prohibited flag burning, both by wide margins. The question has to be, why did we do this? Why did we pass such a resolution condemning flag burning and why the statute?

Was it a case of sheer base politics last year? Or did the Court strike at the very core belief and value that has been imbued within each of us during our life times? The belief that while we have the freest, most open, most generous nation in the world, we nonetheless recognize that freedom itself must be restrained under certain circumstances, or freedom dissolves into anarchy and liberty turns to license. We know that a river without its bank is not a river, it is a flood.

Democracy in fact might be described, perhaps, as Frost described marriage: of "moving easy in harness." I had a mentor, of whom I am very fond, who said that "law without order is frequently a mess; but order without law is a menace."

We are committed not only to the rule of law, we are committed to the rule of law and order. To give an example of this, 2 weeks ago the Supreme Court sustained the practice of the police setting up sobriety roadblocks. That is, our right to unrestricted freedom can, in fact, be restrained under certain circumstances, where the police decide that it is more important to try and haul those driving under the influence of alcohol off our roads. Without any suspicion whatsoever, with no indications of driving under the influence, any citizen can have his or her right to free mobility on our highways stopped temporarily.

The Court rightly decided, in my judgment, that the burden placed upon our freedom of mobility can be imposed temporarily when the burden is of such marginal consequence in comparison to what we are trying to achieve. There is no violation of the fourth amendment. There is no unreasonable search, even though you may be searched now, without any provocation, without any evidence of misbehavior or wrongdoing on your part.

So we accept certain burdens and restrictions upon our freedom. Ever since the Supreme Court's decision, the notion has gained some prevalence that the freedom of speech has been, is, and always should be unlimited. I think that is a false reading of our legal experience.

We have heard many citations during the course of this debate. Certainly you cannot be free to libel someone, you cannot defame someone. You are not free to injure another person with false words. The Holmes quote, of course, has been cited on many occasions: You cannot falsely shout fire in a crowded theater because you might jeopardize another's safety. Or you cannot shout obscenities in a public square. Or you cannot use the airways to dump verbal filth.

These are all restrictions upon freedom of speech. You cannot, I might add, through provocative or abusive words engage in a breach of peace. There is a case called Chaplinsky versus New Hamsphire, in which the defendant made a number of statements directed toward a local marshal. He called him a Fascist and suggested everyone in Rochester was also a Fascist, and the court upheld his conviction for the use of those words because of their provocative nature. They were, in fact, calculated to result in a breach of the peace.

I think it is rather interesting to note that under the Chaplinsky decision you cannot use obnoxious words; even those arguably involving a political characterization.

Yet, under Texas versus Johnson you can engage in conduct which is not expressly protected under the wording of the first amendment, but comes about as a result of court interpretation. As long as that action now has even a very thin veneer of a political message, that act, however obscene, cannot be restricted. That is an interesting irony in our situation, where words that we thought were protected under the first amendment can be restricted, but actions that were not mentioned in the first amendment, cannot be.

Another example of the restrictions that are placed upon free speech can be found right here in the Senate Chamber. This is the world's greatest deliberative body. For some it may be only the world's longest debating body. But here, the manner of speech is clearly restricted and circumscribed.

We are not permitted, under the rules of this Chamber, to address each other directly. I am compelled to address my remarks to the President of the Senate and, if I should turn in a moment of heated debate and start to argue directly with one of my colleagues, I can be called to order.

I cannot turn to one of my colleagues and refer to him or her as my fellow idiot; my fellow stone head; or charge that person with being a liar even though that might be true. I cannot do that. I can be cited for violating the Senate rules.

Here, in the greatest deliberative body in the world, I can be silenced. My voice as a Senator can be silenced

because of the manner in which I might choose to convey my political message.

Why is that so? Why should there be any restrictions on my free speech? What is there in this setting that compels me to observe certain rules?

No. 1 is a sense of decency and respect for order. There is the knowledge that provocative words can lead to a breakdown of civil discourse. It might even lead to violence on the Senate floor.

So, we adopted rules. We have adopted restrictions on our freedom so as to avoid generating duels, as they used to have in the past when the arguments got too passionate; or what happened to one individual, who was caned over the head during the course of an emotional debate.

We adopted rules saying we must conduct ourselves in such a way, even though we are engaged in free and open political debate. We must have restrictions on our ability to say certain things.

So I would suggest that if the Senate itself recognizes the need to accept restrictions on our freedom of speech, it should come as no rude shock that restrictions have and should be placed upon speech and, I would suggest, the actions of others in our society.

Exactly what does freedom mean? For me freedom means that the Government, which is reflected by the laws passed by the majority cannot compel you to say anything or to believe anything against your will. We cannot do that. We cannot compel you to pray. We cannot compel you to pledge allegiance to the flag. We cannot compel you to pledge loyalty to the country. We cannot compel you to sing the Star-Spangled Banner. We cannot compel you to love America, or to leave it if you do not love it. We cannot do any of these things. And with the exception of laws and regulations pertaining to health, safety, welfare, and taxes, we cannot compel you to do anything against your will. That is because we believe in a free and democratic system.

But just because we are free not to say anything, it does not follow that we are free to say anything. As I mentioned before, we are not free to engage in libel and defamation, or engage in the hurling of obscenities in a public forum, or to use fighting words. We cannot do that.

Several of my colleagues have said to a number of audiences that "You may have the right to burn the flag but do not burn it in my presence."

We are trained as reasonable men and women, hopefully in most respects, to make sure that the anger does not blow out the lamp of the mind.

Are we suggesting, that if someone burns a flag in our presence we will take to violence, that we will assault those individuals, that we will grab them by the lapels and punch them in the nose? Is that what that means, "burn the flag but don't burn it in my presence"

I suggest that is precisely what it means. I believe the individuals who have said that will in fact carry it out. I believe in their sincerity.

If we would carry it out, what is the man in the street expected to do? Will he cite the Supreme Court's decision in Texas versus Johnson, and walk away with serene indifference? I do not think so.

Mr. President, there are ways in which any citizen may express his or her contempt for this country and its policies. You can hang or burn the members of the Supreme Court in effigy. You can burn the President in effigy. You can do that with each Member of Congress. You can throw the Constitution on a bonfire. You can condemn; you can criticize.

Look at the Texas versus Johnson decision and what the respondents did in that case. They were chanting "Reagan and Mondale, which will it be? Either one means World War III. Ronald Reagan, killer of the hour, perfect example of U.S. power. Red, white, and blue, we spit on you, you stand for plunder you will go under."

They were free to say any of those things and nothing happened. It was only when they took the torch to the flag that they were arrested.

So, there are a multitude of ways in which, if you wish to heap contempt upon this country. You are free to do so. There are a variety of ways, ingenious ways, but there are nonetheless limits.

Those who oppose a constitutional amendment cite the personal appearance or the status or the ideology of those who are involved. I must say that I find the rhetorical argument about the individuals involved simply and singularly unpersuasive. Some lable them as scum, the worst of society, miscreants, all of the appellations that you could think of that would be derogatory. That is totally irrelevant.

They say, "Are we going to change the Constitution because of the acts of this group of people?" That is not the issue.

What if we were to have a situtation where a group of ordained priests burned the flag? Or an organization of veterans who were opposed to our involvement in some part of the world, the Persian Gulf or elsewhere, burned the flag? Would we then say because a more respected group of protestors has engaged in desecration of the flag, we can contemplate a change in the Constitution? It has nothing to do with who is conducting the act itself, not their social status, not their appearance, but the act is what is involved.

Again it is said the flag is merely a symbol, and we should not be threatened by the desecration or destruction of our symbols. It is an intangible symbol, to say the least, and as such it has, according to this argument, less inherent value than a piece of stone such as the Washington monument or the Vietnam War Memorial—a piece of stone that has great significance. Since its value cannot be measured, the argument is it cannot be protected against acts of violence.

First, let me say that symbols are important to this country. The symbol of the eternal flame at John Kennedy's gravesite is important to me. The names that are carved into the Vietnam Memorial are important to me. They are unique, not only because there is one of each but because of what they represent. Their value is intangible to this country. They far outweigh the costs of constructing the Washington Monument. They far outweigh the costs of constructing the Vietnam Memorial. There is not one person in this Senate or in this city, that would tolerate someone desecrating those memorials, or scratching out one name on the Vietnam Memorial, or carving obscenities into the Washington Monument. They are pieces of stone, but they are very important symbolic pieces of stone.

I agree with Justice Stevens' opinion in Texas versus Johnson. He said:

> The value of the flag as a symbol cannot be measured. Even so, I have no doubt that the interest in preserving that value for the future is both significant and legitimate.
>
> Similarly, in my considered judgment, sanctioning the public desecration of the flag will tarnish its value, both for those who cherish the ideas for which it waves and for those who desire to don the robes of martyrdom by burning it. That tarnish is not justified by the trivial burden on free expresion occasioned by requiring an available, alternative mode of expression, including words critical of the flag, be employed.

Mr. President, I think the American flag does deserve special legal protection. My preference was to accomplish that by statute. The choice now is to remain indifferent to its desecration or prohibit it through the constitutional amendment, and I choose not to remain indifferent.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Nebraska?

Mr. THURMOND. Mr. President, I yield the distinguished Senator from Nebraska as much time as he needs.

Mr. EXON. I thank my friend from South Carolina, with whom I have worked on national security issues for a long time. We are very good friends and we see eye to eye on things more than we disagree, and we happen to

see eye to eye and agree on the matter that is pesently before the body.

Mr. President, some time ago, when this matter of flag burning first came up, I voted in support of the attempted working out of this problem suggested by my friend from Delaware, who occupies the managing position on this bill right now.

I said at that time I hoped that going the route of a bill would correct the matter. I said if the Supreme Court held that unconstitutional, I would be enthusiastically supporting the constitutional amendment advanced by the senior Senator from the State of Kansas.

I stand by that, and when it comes to a vote in the Senate I want all to know, Mr. President, I will keep that commitment because I think we have an obligation to do something about desecration of the flag.

I spoke, Mr. President, yesterday morning to the State convention of the American Legion, of which I am a member, in Kearney, NE. I told them my position. My position happens to coincide exactly with the position of the Nebraska American Legion, and the position taken by the American Legion at its national headquarters.

Mr. President, I simply cannot understand what is wrong with passing a constitutional amendment proposed as the 27th amendment to the Constitution that would be brief, concise, and to the point.

It is stated very well on the plaque to my right, your left, Mr. President.

The Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States.

Mr. President, that is very simple and very straightforward. I think it makes an awful lot of sense. I have listened to the contrary debate on this. I am sure there are very well-intentioned people who feel just as strongly as I do on the other side of this issue. I do not agree with them but I do not fault them for their position. They might be right. But I do not happen to agree with them.

I think it should be understood that if the proposed 27th amendment would be passed by the Congress, then that would not make it a part of the Constitution. All that we have in our power here in the Congress of the United States is to refer this matter to the States for confirmation or refer the matter to the people back home working through their legislatures. I think that would be a good process to follow.

If and when the 27th amendment or something akin to it is passed, I would suspect that there would be long and protracted debate in the halls of the legislature in the 50 States of this great Union of ours.

I do not agree that the passage of the 27th amendment would do all that so many have spoken so eloquently on here on the floor of the U.S. Senate, and spoken so eloquently last week in the House of Representatives where this was debated.

I do not agree that this would grievously affect any basic right or freedom guaranteed by the Constitution of the United States. That is another way of saying that I think the opposition to all of this has been overblown. I think it has been overstated. But yet, I do not question for a moment that this is the conviction of those on the opposite side of this issue.

So if and when—and I suspect it will—it comes up to a vote on the floor of the U.S. Senate I will be in support of this amendment as I have been from the beginning when this matter first came to the attention of the Congress of the United States as a result of the court decision that was appealed from the Texas courts.

I guess the basic simple thrust here, trying to cut through all of the rhetoric and intellectual discussion, is that I happen to know that we have laws in the United States that ban burning of leaves in the backyard. But some people say we cannot have a law against burning the flag in the backyard. There could be good arguments made by constitutional scholars that burning of leaves is not the same as burning of a flag.

I simply say that, Mr. President, because that is something that I feel very strongly about. That is why I would vote as I will when this comes to a vote in the U.S. Senate.

Having said all of that, Mr. President, let me say that I think it is an outrage, a total outrage, that this matter has been brought before the U.S. Senate. Every Member of this body knows that regardless of what we do here up or down, the 27th amendment proposal is totally meaningless. I believe that my good friend and colleague, the senior Senator from Delaware, made some excellent remarks on this matter in a rather lengthy address to the Senate earlier today.

I congratulate him for parts of what he said in that message. I agree, Mr. President, that we should not be wasting the time of the U.S. Senate. We should not be going through the expense that we are here on Monday evening to be debating something that is totally meaningless. Every Member knows that, because of the action by the Surpeme Court which knocked out the law that we had passed. I thought that would be the way to take care of it rather than amending the Constitution because I am not one of those who believe we should amend the Constitution on some kind of a whim. And I do not think flag burning is a whim.

Then, as you know, the constitutional amendment 27, the same wording that I just cited, was argued on the floor of the House of Representatives, and that body did not vote last week because they did not have the required number of votes to approve the constitutional amendment.

Had they voted for the constitutional amendment, then this debate here tonight would have been meaningful. To the contrary, it is meaningless. We do ourselves and this body not the best in my view by continuing to debate something that is a dead horse.

I think the matter of the 27th amendment and what we are going to do to protect those who would desecrate the flag has to be fought at another time—certainly another year. I hope everyone understands very clearly that regardless of what we do here tomorrow on this issue, it is meaningless. We are wasting our time. We are wasting an awful lot of money.

The question is why are we doing that? I have studied the matter and, as I said to my American Legion Convention out in Nebraska yesterday, the only logical possible conclusion and reason of us going through this outrage is pure and simple—politics, partisan politics, if you will. As I told my fellow legionnaries yesterday, any time the American Legion or any other body that represents veterans gets themselves in a position where they are taking part in a partisan political contest, they do not do the organization well.

Mr. President, it has been said in the newspapers that there is some demagogy going on on this issue. In fact, I will not quote it directly but I think most people have seen it. Some spokesman at the White House was reported to have said there is no need for the President to be a demagog on this issue. That is the responsibility of some other individual in a leadership position in the Senate of the United States.

Mr. President, I very strongly support the 27th amendment. But I speak against demagogy. If there are political attacks made with 30-second spots in the upcoming elections as I am fearful there will be, be those attacks made against Democrats for the House of Representatives or Republicans, or Democrats standing for election for the U.S. Senate or Republicans, there will be one voice in the U.S. Senate at least, and maybe others.

In any case, this voice can and will be used, I hope, to say that is nonsense. It is utter nonsense, Mr. President, for the sake of creating the stuff of which negative 30-second commercials are used to attempt to destroy an individual.

Mr. President, I feel down deep in my heart that I am right on this issue, and I believe the right thing is to pass the 27th amendment. But once again, as I told my fellow Legionnaires in Kearney, NE, yesterday morning, we could be wrong. Maybe those that have strongly held views in opposition

to our position are right. I do not believe they are, but I think we always have to try to walk in other people's shoes.

Mr. President, the matter before us then can be explained for no other purpose than to want to create a vote, a measly vote, if you will, that will be whipped up around the United States of America for partisan political advantage.

As one who will support the amendment, as one who has been for the amendment from the beginning, I will not stand aside and let anyone, whether they disagree with me on this or not, be demagoged and attacked without at least one voice who supports the amendment rising in their defense.

I think we had better recognize in this body that we have many, many more important things to do right now than wasting our time on a totally meaningless exercise that we are going to be going through here tonight and for most of the day tomorrow.

Mr. President, I am always saddened when the U.S. Senate gets marred down in partisan political politics. There is no question that partisanship naturally plays a role when we debate things here. I have seen both sides have votes from time to time that could be disguised as demagogy, but I suspected that never before in the history of the U.S. Senate has there been such a clear-cut issue of demagogy as is going on with this vote.

I wish that those who are pressing for the vote would see the wisdom of not proceeding. Let us come back, those of us who think the 27th amendment or something akin to it is important, let us come back and fight another day when we have a chance to accomplish something constructive to the ends that we support.

I will be, once again, voting for the 27th amendment when it comes up on the floor, but I want to say that in doing so, I think it has been outlandish, because it is wrong. It is outlandish because it attempts to do something on the floor of the U.S. Senate, only from what I can understand, for partisan political games, 30-second commercials. That is not the way I believe the U.S. Senate should act, nor do I believe it adds to the credit of this body when we bring ourselves to these kinds of activities.

Mr. President, in my remarks today I have referenced several times the talk that I made yesterday to the State American Legion convention in Kearney, NE. When I was talking about this flag-burning amendment and telling them how firmly I believed in what they thought was right, they gave me a standing ovation, and I appreciated that.

I have stood with the Legion, I think, on everything, including the veterans programs that we have advanced but not advanced nearly as much as they should be advanced. But then I cautioned them. I said, Mr. President, "Let us remember that there are individuals who care as much about the flag, who care as much about our country as we gathered in this room today. In fact, there are members who take the opposing point of view to our position, who have done more and made more sacrifices to protect that flag and everthing that it stands for than most of us in this room proudly wearing our American Legion caps. Therefore," I said, "let us be cautious and let us understand that just as good Americans, just as macho as all of us, feel differently about this and very sincerely as we do."

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, let me compliment my colleague from Nebraska for accurately laying out what is going on here. I feel compelled to rise again, after having done so this morning, to make it clear that although I am managing this legislation and although I do have my own amendment, a 27th amendment, different than the one being proposed, which we will be voting on, in all probability tomorrow, I do think, and I do want everyone to know that I think we should be doing other things.

This is a dead issue. Think about it. Can anyone in this body think of—I have been here almost 18 years—any time when the House of Representatives has spoken decisively on a matter, and we have chosen to take that very same matter, that very same piece of legislation up and ask for a vote on it?

Can you imagine if they had decisively voted down the Clean Air Act? Would we be over there voting on the Clean Air Act? Of course we would not, because we would have to go back to the drawing boards and figure out what we could come up with that might allow us to get not only enough votes here but enough votes in the House, as well.

This is bizarre. I am getting two messages from my constituents. The first message is, why in the devil are you now spending this time on this issue that everybody, including those who know nothing about politics in the State of Delaware, knows is going nowhere; why are you not dealing with the problems relating to crime or drugs or any number of other issues that are of concern?

The second message I am getting, to echo Senator COHEN's comments, is those 30-second ads which, I might add, are not going to work very well, if that is what Senator DOLE and others think they are going to do with them. The reason is, in my State at least, I am criticized by a factor of 10 or 20 to 1, for being for any amendment. The popular position in my State is not to be for a constitutional amendment.

I do not know what is happening in other people's States, but I will bet you that to whatever degree the sentiment existed before an amendment, it is less than it was before today. I think that is in part because this has been so politicized.

There is a way to draft an amendment that does not do damage to the first amendment, to the core principles of it. I think if we really wanted to pass an amendment, that is what we would have been doing. But, instead, an amendment has been drafted that in fact does do damage to the core principles, and I cannot believe that part of the rationale, as I think about it, is not so much a concern for protecting the flag ultimately as creating an issue.

I just want the record to show that I am here debating this issue because I have to be, because it is my job, because I am in charge of the issue, because it comes through my committee, not because I think we should be.

I would not want people to confuse my involvement in this issue at this moment with my belief that it had any prospect of becoming law, or that it was the highest, priority of the Nation at this moment in light of the House's action.

The Senator from Nebraska is correct; if we should do anything with this, we should leave it to when cooler heads and cooler minds have prevailed, come back next year and revisit it and determine then whether or not we can reach some compromise, those of us who want to do something with those who do not want to do what we propose.

But we are not doing that. As I said, in 18 years I do not recall anything like this occurring where the other body has spoken decisively, and within 1 legislative day after they have soundly defeated the proposal, for us to bring up the very same proposal. I ask you: What reason is there for doing that, other than to try to politicize this?

I bring you back, and I say this to my friend from Nebraska, who was doing other Senate business this morning when I was speaking to this issue: I point out he may find interesting that the reason for the first Flag Protection Act ever was to take the flag out of politics, because during the 1870's and 1880's, the political parties, in order to be able to promote their candidates for President, would take the American flag and sew on the face of the flag the picture or likeness of their Presidental and Vice Presidental candidate.

And then the opposition party, the Republicans or the Democrats, would take their opposition party's flag, American flag with the Republican

Presidential candidate's picture on it, would take it to their convention, light a match and burn it. And the Republicans would go get a Democratic flag, and American flag with a picture of the Democratic Presidential candidate on it, and burn it.

So in testimony before the House Judiciary Committee, and I am paraphrasing now, because I do not have it before me as I did this morning, the testimony was: The reason why we want a Flag Protection Act, the first Flag Protection Act was to take the flag out of politics.

And where have we come? One hundred years later almost to the year after the first Flag Protection Act was passed, where are we? We are mired in politics. There is no burning of the flag by the Democratic Party, no burning of the flag by the Republican Party, no mutilation of the flag by the Democratic Party, no mutilation of the flag by the Republican Party. But there is a bastardization of the flag by some in both parties. But particularly, by those who have been characterized by the White House as demagoguing this issue, and they are not Democrats.

I am for an amendment. I have held countless hearings to determine whether or not one could be drafted. The one that sits back here, the 27th amendment proposed by the President and Senator DOLE and others, will not work. It is too intrusive. It violates the core principles of the first amendment. But there is one that you can write that will not do that.

I am sitting here debating with myself as this debate has gone on, sitting with my staff, saying, "Should I even bother to put it in? Am I part of the process? Knowing full well that nothing is going to go anywhere, should I put in this amendment because I committed that I would and because I want one to pass like I proposed? Or in doing it, do I just lend more credence to this demagoguery and politicization of the process?" I honest to God have not made up my mind.

I came here because the House voted, fully prepared with an amendment that tracks the statute that I wrote, held hearings on that principle in my committee, heard testimony and received testimony from constitutional scholars who thought my idea was a bad idea and some who thought it was a good idea. And in the meantime, the House voted, overwhelmingly. People, we do not want any amendment, and we do not want any statute, either; they voted on the statute.

So for the last 4 days, I have been driving my staff crazy. I had them draft the amendment. I had them rewrite the amendment. Then I had them rewrite it twice. Then I say, "I am going to introduce it." "No, " I said, "I am not going to introduce it."

I am just doing the same thing everybody else is doing if I know full well it is not going to go anywhere.

And my problem is not anybody else's problem. I will resolve that by the time we vote tomorrow, and that will be easy enough done. I just cite it to illustrate the point made by the Senator from Nebraska. I have a constitutional amendment here to be introduced on behalf of myself and Senator LEVIN, and it is an alternative to that amendment. I believe in it. I think it makes sense. It is what I would like the law to be in this country relative to the flag.

But in my heart, I know it is not going to go anywhere. I know that it is not going to go anywhere even if we passed it here. I also can count votes. My former chairman of this committee, one of the former chairmen, Jim Eastland, once said to me: Do you know how to count, boy? I have learned how to count. There are not the votes for that. There are not the votes for the Biden amendment, and yet what do we do? I guess what we do is, we do our job.

You did not ask to be here having to vote on it. I did not ask for having to vote on this. I suspect what I will do is put mine up with the rest of them. I tell you, and I make it clear for the record, I do not feel good about it. I do not feel good about it not because I do not believe in my amendment; I do. I do not feel good about the process. I do not want to be in the position and I do not like being in the position of engaging in what ultimately is basically a charade here.

But I will conclude with that, and only once again thank my friend. He and I disagree on substance, and this is an interesting point here. It should be noted for the record. He does not like the approach I am proposing. I cut out the States. I drastically cut back what you can and cannot do, what the Federal Government can do, and I just say you cannot burn or mutilate that flag, period. That is all you cannot do.

I do not say the States can decide what they can and cannot do, and the Federal Government can write anyway they want. I am very narrow. We do not agree with one another. You think that amendment is a good one. I think that amendment is terrible. I think this amendment is a good one; you do not think this amendment is so hot. Yet, we both agree—I guess maybe we have been legislators and involved in politics as long as we have, in governance—I think that all of this is a crying shame, that we are doing anything.

One last thing I say, and I yield the floor to my colleague from Ohio who is seeking recognition; he may have as much time as he likes. One other thing. One watching this may say, "why are you and Exon talking about it if you do not think this is a good idea?" We have a thing around here called a unanimous-consent agreement, and they rule that we do and do not do here, if they are agreed upon.

And there is a unanimous-consent agreement for Senate Joint Resolution 332, order No. 601. And what it says in here is that today we must take up 10 hours of debate on this. I mean, the irony is we have to find people to fill the time, because you have to use up to 10 hours in order to be able to get to the next step, which is tomorrow, spend up to 40 minutes on up to four amendments, and then final passage.

So for those of you who are, as you say, watching this at home on C-SPAN, there is nothing inconsistent with the Senator from Nebraska and me saying it is a shame we have to waste our time on this, and talking about it, because the requirement is that we spend 10 hours on it or yield back all the time, which I am inclined to do, and the requirement is that tomorrow we will have up to four votes on this, and final passage on this.

So I hope that explains a little bit why at least the Senator from Delaware and I know—I suspect the Senator from Nebraska and many others think—it is a crying shame that we are spending this time debating this issue, regardless of what our position on it is, knowing full well that this is over.

With that, I will yield to my colleague from Nebraska whatever time the Senator wants.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I thank my friend and colleague from the State of Delaware.

Mr. President, if I could just make a suggestion to my friend from Delaware, I hope that the Senator will not introduce his amendment. I want to look at it. It is something that we should look at next year. Maybe we can come to some kind of a compromise next year and pass it through.

I would think that if he would introduce his amendment now and have a debate on it, then we would be just wasting more time in a meaningless fashion in the U.S. Senate.

I would like to suggest to my friend and colleague from Delaware that at a minimum—and he will use his own judgment, as he always has—he print his suggested constitutional amendment in the RECORD so that it can be made a part of the RECORD and then let us come back, as we rationally should, and visit the matter another day.

I yield the floor.

Mr. BIDEN. Mr. President, I will take the Senator's recommendation and request under sincere consideration and advisement this evening, and I will obviously let the body know the first thing in the morning what I will

do, because there is some logic to what he suggests.

But at this time, I am told I have 90-some minutes remaining. I see the distinguished Senator from Ohio, a man who has, in fact, done a great deal for his country, as everyone knows, as a fighter pilot and astronaut and as a man who has brought great pride and honor to his country, who, I suspect, has a different view than both the Senator from Nebraska and the Senator from Delaware. But I know of no one else on my side who is seeking recognition other than the Senator from Ohio. So I will now yield to the Senator from Ohio.

At the suggestion of my senior colleague, the Senator from South Carolina, I am prepared to, in line with what I am about to say, yield back all of my time at the end of the comments by the Senator from Ohio, assuming that, prior to his finishing, there is not another Democrat who comes forward to ask for the time.

So is it appropriate to ask unanimous consent—I need not ask it, I guess—to yield back all of my time and, at the conclusion of the comments by the Senator from Ohio, unless there is another Democrat between now and then who comes and seeks recognition?

The PRESIDING OFFICER. The Senator from Delaware has that right.

Mr. BIDEN. That is what I will do. I now yield whatever time the Senator from Ohio desires.

Mr. THURMOND. Mr. President, I would like to inquire if there is anyone on our side, anyone who is in favor of this amendment, who has not spoken. And if there is anyone, I suggest they come and follow the able Senator from Ohio when he finishes speaking and that, if any speaker desires to follow him, they be given such time as they require. In other words, I will yield back my time, Mr. President, at the conclusion of the Senator from Ohio or at the conclusion of anyone who may speak on my side.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Ohio is recognized.

Mr. GLENN. I thank the distinguished Senator from Delaware for his very generous remarks.

Mr. President, I have not said much publicly or privately about this particular issue. I have thought a great deal about it, more than any other subject over the past few days, even though we knew that this had turned into nothing but political debate. It is politics pure and simple, as has already been pointed out, because the House has already turned this issue down. So there is no legislation going through. No matter what happens to our vote tomorrow or what happens to any amendments, they are not going through this year. And perhaps that is too bad, perphaps not.

But like most Americans, when the flag is burned, I have very, very strong feelings about that. I have very strong opinions. And, like most Americans, I have a gut reaction that I want to go after anyone that would dare to demean, to deface, to desecrate, the flag of the United States.

But whether politics or not, we are going to be forced to vote. We are going to be forced to take a stand on this, even though it is a futile vote.

Mr. President, I had hoped that, by passing the legislation we passed earlier this year, we positively addressed the flag desecration issue and did not need a vote on amending our Constitution, the Bill of Rights amendments to our Constitution, which, when we get to that, raises areas of consideration well beyond just the flag.

I have watched, as those who expressed qualms or doubts or reservation about this amendment, ran the risk of being smeared, of being labeled as unpatriotic or a friend of flag burners. And I can assure you that I am neither. We feel uncomfortable sometimes talking about this. We do not really like to talk about it because it involves such private and personal emotions, and we do not wear those feelings on our sleeves about how we feel about the flag and about patriotism. We do not parade those things around. They are near sacred to us. And trying to put those feelings into words only proves the inadequacies of language, because we just cannot do it.

So I have not taken the floor to speak at length about this issue in the past. We all have our feelings about the flag and our country that run very strong and very deep. No one should try to indicate that they are more patriotic than somebody else. And yet we have had a constant parade of statements about love of flag and country, and nobody, but nobody, in the Chamber loves the flag more than I do. We have heard this repeated over and over.

I have those same feelings about our flag and our country. And the feelings do run very strong and very deep.

Within this body of ours, within the U.S. Senate, we have people who have won the Congressional Medal of Honor, the highest honor that can be given to an American citizen. And there are people in this body who have their own personal bodies not whole. They have left parts on foreign soil, and they have an arm that does not work quite right, or they have left an arm. That is missing, that is gone, it is somewhere else.

Many here have fought very hard for our flag. We risked, because it was simply our duty to not let our Nation down. In combat you do not start out philosophically, I can tell my colleagues that, saying that, well, because of our values and our American heritage and our values that we place on this or that or something else, I will now go out and risk my life. That is not the way it is in combat.

When you start a run on a ground position from the air, through antiaircraft, or lead a patrol where people are getting shot, you do not think about those philosophical thoughts. It is survival of the moment. And only later do you think some of these great philosophical thoughts.

But every last tiny fiber in our flag stands for someone who has given his or her life to defend what it stands for. Many of us here probably have as many friends in Arlington Cemetery, bearing silent witness to our flag, as we do bearing public witness to it in the world of the living. Maybe that is why I have so little patience, and even less sympathy, for those pathetic and insensitive few who would demean and defile our Nation's greatest symbol of sacrifice. They deserve harsh censure.

But, in what I view as their demented ways, they also have my pity because they cannot, apparently, feel the pride and the exhilaration that comes from being called to a purpose larger than oneself; to a pride in our Nation and what it stands for, even though not perfect as as yet; the pride in a Nation whose very strength rests in a guarantee of freedom of expression for every single person, whether that person agrees with the majority or not; a guarantee that these poor misguided souls, more in need of psychiatric help than censure, exploit for their own egotistical, self-centered purposes.

So, I was particularly chagrined when the Supreme Court chose to invalidate the legislation that would have penalized desecrating the flag. Mr. President, I still hope that a legislative remedy can be formulated that will satisfactorily address the problem and a formulation that will be upheld by the court without going to a constitutional amendment.

It is now equally clear that those of us who questioned the wisdom of watering down our Bill of Rights have no choice but to stand up to the political mud merchants and to speak out against those who would deal in demagoguery on this issue.

We have a special responsibility to point out it would be a hollow victory indeed if we preserved the symbol of our freedoms by chipping away at those freedoms themselves. We want the flag to fully represent all the freedoms spelled out in the Bill of Rights, not a partial, watered-down version that has altered Bill of Rights protections.

On that score let us be honest with each other and with the American people. The flag is the Nation's most powerful and emotional symbol. It is

our most sacred symbol. And it is our most revered symbol. But it is a symbol. It symbolizes the freedoms that we have in this country, but it is not the freedoms themselves. That is why this debate is not between those who love the flag on the one hand and those who do not on the other. No matter how often the demagogs try to indicate otherwise, everyone on both sides of this debate loves and respects the flag. The question is, how best to honor it and at the same time not take a chance of defiling what it represents.

Those who have made the ultimate sacrifice, who died following that banner, did not give up their lives for a red, white and blue piece of cloth. They died because they went into harm's way, representing this country and because of their allegiance to the values, the rights and principles represented by that flag and to the Republic for which it stands.

Without a doubt, the most important of those values, rights and principles is individual liberty: The liberty to worship, to think, to express ourselves freely, openly and completely, no matter how out of step those views may be with the opinions of the majority. In that first amendment to the Constitution we talk about freedom of speech, of religion, of the press and right to assemble.

The Constitution was passed and the Bill of Rights was not there. It was not part of it. My colleagues know the Bill of Rights came into being because, even after the Constitution was passed, some of the States refused to ratify the Constitution because it did not have a Bill of Rights that defined the basic human rights that they wanted this country to stand for. Three years went by while James Madison worked to get a Bill of Rights put together, and the Constitution was already in existence.

They came back then and passed the first 10 amendments which became what is known today as the Bill of Rights. Those first 10 amendments satisfied the concerns that let the rest of the States go ahead and ratify that Constitution. And they cover freedom of speech, freedom of religion, freedom of the press, and freedom of assembly in that first amendment.

That commitment to freedom is encapsulated and encoded in our Bill of Rights; our Bill of Rights, perhaps the most envied and imitated document anywhere in this world. The Bill of Rights is what makes our country unique. It is what has made us a shining beacon of hope, liberty, of inspiration to oppressed peoples around the world for over 200 years.

In short, it is what makes America, America. Those first 10 amendments to the Constitution we call the Bill of Rights have never been changed or altered by one iota, by one word, not a single time in all of American history. That is how our forebears have looked at the Bill of Rights. There was not a single word of change in that Bill of Rights during the Civil War, there was not a single change during any of our foreign wars, and not during recessions or depressions or panics, and even when we were going through great national times of trials and tribulations, of great emotion and anger like the Vietnam era, when flag after flag was burned or desecrated, far more often than they are today. Even during all that time, our first amendment remained unchanged and unchallenged.

Yet now we are told that unless we alter the first amendment, unless we place a constitutional limit on the right of speech and expression, the fabric of our country will somehow be weakened. I do not believe that is the case. Once the American people think this issue through, I do not believe they will buy it either.

I have the same gut reaction—don't hold me responsible for personal actions if someone tries to burn a flag in front of me, I can tell you that, but we have to think this thing through logically about what the real danger to the country is. Is it to the act of burning, or if we take actions against that that are improper, can we do irreparable damage to our Nation?

They say that somehow the fabric of our country will somehow be weakened. There is only one way to weaken the real fabric of our country and it is not through a few misguided souls burning our flag. It is by retreating from the principles for which that flag stands. That will do more damage to the fabric of our Nation than 1,000 torched flags could ever do.

The first amendment says simply and clearly that "Congress shall make no law abridging the freedom of speech." And for 200 years, in good times and in bad, in times of harmony and in times of strife, we have held those words to mean exactly what they say, that Congress shall make no law abridging freedom of speech.

Yet now ostensibly to prohibit something that rarely happens anyway, we are asked to alter those first amendment words to mean that Congress may make some laws restricting freedom of expression even when there is not a clear and present danger, to put it in the Supreme Court's own words. This time those laws would be about flag burning. What will be the next form of political expression that we seek to prohibit or alter once we begin to slide down the slippery slope of restricting freedom of speech? Where will that slide end? If today says freedom of expression cannot be permitted, will tomorrow say that certain types of religious services also covered in that first amendment will be reprehensible to most of the people in the country so we will restrict them for the minority even though we have religious freedoms guaranteed?

What about the press? It has been a little bit split on this thing. Some favor a flag amendment, some do not. I say to our good friends in the press, what if in these days the majority in the country decide some of the things the press publishes are reprehensible; we do not like it; it is downgrading our Nation. Will we then have an attempt made to maybe suppress freedom of the press which we hold so dear? I would not rule it out.

Freedom of assembly. If the majority does not like a particular group congregating out here, can we say we will just prohibit that; that minority will not be able to do what they have a right to do? Is that where the slide will end?

But, some will ask, is not denigrating the flag such an obnoxious, abhorrent, offensive act to most Americans that prohibiting it is within our right? I would agree with them. I want a penalty for these people. I do not want to see them go unpunished if they desecrate that flag that we all love. I do not want to see that happen. But that is the reason I want a tough legislative penalty.

I think we can craft such a proposal, one that does not require an amendment that tampers with our Bill of Rights to the Constitution. So when they say, "Is not desecrating the flag an obnoxious, abhorrent, offensive act to most Americans? Should we not prohibit that kind of action? Is that not within our right?" To that I simply reply, of course, desecrating the flag is offensive. It is obnoxious, offensive, all the other words you can use that show your displeasure to it. That attitude applies, I am sure, to the vast majority of Americans.

But that is precisely the reason we have a first amendment, to protect the kinds of political expression that may be offensive and out of step with majority opinion in this Nation. You do not need a first amendment to protect the expression of political views with which everyone else agrees. You need a first amendment to protect minority points of view with which the majority of people disagree. That is the nature of our land. Protecting minority viewpoints against the tyranny of the majority is exactly the point of this Nation and the point of the first amendment.

It has been said that it is possible to detect how free a society is by the degree to which it is willing to tolerate and permit the expression of ideas that are odious and reprehensible to the normal values of that society. You and I and the majority of our fellow citizens find flag burning and desecration to be vile, to be disgusting, but if the first amendment means anything at all it means that those cruel and

misguided souls have a right to express themselves in that manner, however objectionable, however onerous, however aggravating the rest of us may find their message.

What about the argument that the first amendment is not now and never has been absolute; that we already have restrictions on freedom of expression; that a prohibition on flag burning would simply be one more? After all, it is said, freedom of speech does not extend to slander, to libel, to revealing military secrets or to yelling "fire" in a crowded theater. To the extent that flag burning would incite others to violence in response, does that not constitute a clear and present danger that we have every right to try to avert?

Mr. President, we do have a right to try to avert that. As I said, I favor the legislative approach to this because I see such danger in going the amendment route. I want to see a harsh law enacted. I do not want to see us tamper with the Constitution. The freedom of speech that we talk about is not permitted in slander, libel, military secrets, or yelling "fire" in a crowded theater, but that argument misses a key distinction. That distinction is that all those restrictions on free speech I just mentioned threaten real specific, and usually immediate harm to other people, harm that would come about because of what the speaker said.

To say we should restrict speech or expression that would outrage the majority of listeners or move them to violence is to say that we will tolerate only those kinds of expression with which the majority agrees, or at least does not disagree with too much. That would do nothing less than start the erosion of the first amendment.

What about the argument that flag desecration in an act, not a form of speech or expression that is protected by the first amendment? Deep down, I think we all know how specious that argument is.

Anyone burning a flag in protest is clearly sending a message; they are saying something, just as those who picket, march in protest, or use other forms of symbolic speech are expressing themselves. Indeed, if we did not view flag burners as saying something, we find offensive and repugnant, we would not even be debating their right to do it.

Finally, let me say a word about something that has received short shrift in this debate, something I think we should consider very carefully before we vote on the amendment. I am talking about the practical problem with this law. It would be an absolute nightmare trying to enforce it, I believe. For example, if Congress and the States are allowed to prohibit the physical desecration of the flag, how precisely are we defining the flag? We do not have in this country an official flag as such—certain size, certain dimensions, certain types of material, and so on. So does this amendment refer only to manufactured flags of cloth or nylon that are of a certain size and description?

Does it refer to the small paper flags on a stick that we often hand out to children at political rallies, school, and on other occasions? Flags, I would agree, are too often tossed on the floor or in a garbage can at the conclusion of the event.

How about a citizen who makes a homemade flag? Would they not be allowed to do with that flag what they choose? If they cannot, what does that mean or what does that do to our cherished belief in the sanctity of private property?

What about the person who has an old tattered flag and says he is burning it for two reasons, not just one, but for two reasons—first, to simply dispose of it; and, second, to protest, say, tax policy in this country?

Since burning flags is the officially approved and sanctioned means of flag disposal, would this mean that half of this person's action would be legal, and the other half illegal? How would a court or jury assign penalty in such a case? Ridiculous? Well, maybe so. But that could happen.

For all these reasons and more, I come to the floor of the Senate today to say that I believe the amendment should and must be defeated. At the same time—I repeat again—I enthusiastically support penalties for flag desecraters, and will vote for legislation to do exactly that which I understand will be offered. But history and future generations alike will judge us harshly as they should if we permit those who would defile our flag to hoodwink us into also defiling our Constitution. We must not let those who revile our freedoms and our way of life trick us into diminishing those very free freedoms. We must not let the passions of the moment stampede us into abandoning principles for all time.

What America needs from this body now is not more political posturing. What America needs from us now is not more political demagoguery. What America needs from us now is enough guts to do what is right instead of what is merely political expediency.

The television cameras are rolling in this Chamber, and I know those cameras will record and preserve for the next election what we say and do on this issue. That has already been brought up on the floor of the Senate.

It is the reason we are even continuing this because the House has already voted against whatever we do, either the legislative process or the amendment process. This is no much posturing. We all know how good we want to look for the cameras.

But I say to all of you, as Eleanor Roosevelt once said on another occasion and in another context, what we need now in this Chamber is less profile and more courage. For if America is truly going to continue to be the land of the free, you and I must politically prove it is still the home of the brave.

Thank you, Mr. President.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT—S. 2104

Mr. MITCHELL. Mr. President, as Members of the Senate know, on Friday I made a motion to proceed to S. 2104, the civil rights bill, and following objection to my unanimous-consent request to proceed to that bill. Following my motion to proceed, I filed a cloture petition which would have ripened for a vote tomorrow morning, 1 hour after the Senate began its deliberation for the day.

I am pleased to report that the distinguished Republican leader has now agreed to a unanimous-consent request that would permit me to bring that bill up at any time following the return of the Senate from the Fourth of July recess which, of course, accomplishes what the vote tomorrow would have accomplished, and therefore makes it possible to vitiate the vote.

I want to thank the Republican leader for his cooperation in that regard. As we both indicated in our discussions on the subject on Friday, negotiations have been under way for some time. I hope that they will continue during the recess period.

It is my intention to bring the bill up as soon as possible, I hope, following the recess. And I hope that during the time between now and then the parties will be able to reach an agreement on this very important measure.

Mr. DOLE. Will the Senator yield?

Let me indicate the majority leader is correct. I know they have been negotiating today—White House representatives with Senator KENNEDY's staff, and perhaps others. I just talked to Mr. MCCLURE at the White House who indicates they did not get it all worked out but they made some progress.

So I think it will accommodate the concerns Members have, some who are opposed to the Civil Rights Act of 1990 in its present form, and some who are for it.

I think the record should reflect, as I indicated to the majority leader on last Friday, there may have been some little misunderstanding about the bill even coming up in June.

So I went back and checked our notes. We have after civil rights, "not June." That is our understanding. It will not come up in June in any event. And it will not now come up in June.

But I would want the record to reflect that notwithstanding some who have reservations about the bill, a great majority on this side are pleased that we have the UC. They were not interested in voting against cloture to proceed to the bill.

If we cannot work out some of the problems, then we may have a spirited debate. It may be necessary for the majority leader to later on file cloture on the bill itself. But that is another matter. It is my hope that since negotiations are going on in good faith, this will give them almost 2 weeks. If in fact they are close—as I understand they are—then perhaps when we come back from the July 4 recess and we will be in position to move to the bill very quickly.

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader for his comments.

Accordingly, I ask unanimous consent that the motion to proceed to S. 2104 be withdrawn; the cloture vote be vitiated; and that the majority leader after consultation with the Republican leader may at any time, notwithstanding the provisions of rule 22 following the return from the July 4 recess, begin consideration of S. 2104, the civil rights bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, let me reiterate that it is my intention to exercise this authority, and bring the bill up as soon as possible following the recess. I hope very much that it will be a bill that agreement has been reached on on the major points that are now the subject of negotiations.

I again thank the Republican leader for his cooperation in this regard that enables us now to proceed to this bill.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRETARY SULLIVAN'S SPEECH ON AIDS

Mr. HATCH. Mr. President, this past week, there has been a historic conference in San Francisco which explored recent and future scientific research on AIDS. This conference brought together renown experts from around the world to continue our examination of the causes and treatment of this dreaded disease. Throughout this meeting, there was significant debate and discussion over scientific and political issues; this conference was an excellent forum for the exchange of views and ideas. Nevertheless, I am sure that my colleagues were as outraged as I was when reading the newspaper reports of AIDS activists' action aimed at President Bush and Secretary Sullivan. These organized demonstrators literally drowned out Dr. Louis W. Sullivan, Secretary of Health and Human Services, who had been invited to speak at the conference. Secretary Sullivan's message went unheard and his leadership went unnoticed.

It is extremely disappointing that a handful of people did not allow Dr. Sullivan to be heard. Dr. Sullivan deserves better than this from his fellow Americans. He is a compassionate, dedicated physican who has spent a lifetime fighting for public health causes and for making health care available to all persons, but particularly the disenfranchised and disadvantaged. Moreover, he spoke as a representative of President Bush who has asked Congress for anti-AIDS discrimination laws, for more funding for research and development, and more compassion for those who have AIDS.

The protest in San Francisco also may have an unintended negative effect on those who have been working to support programs to help AIDS patients. Many of us in this body, have worked to develop legislation and funding for AIDS programs; often these efforts have been hard-fought. But, it takes both the Congress and the administration to fight the war on AIDS. Without this one-two punch, we will fail.

What is distressing is that the actions of these protestors will make such cooperation and future efforts all the more difficult. Such actions only serve to alienate those who have offered a helping hand. They were not only rude and discourteous to an invited conference speaker, but also they crassly used Secretary Sullivan's appearance to obtain 30 seconds on the nightly news. This is especially reprehensible when Secretary Sullivan has repeatedly urged cooperation and unity and brought to assist those who criticized him. I agree with Secretary Sullivan when he said:

> At this moment in time, let us find the courage and the wisdom to stand together. The AIDS epidemic can divide us—or it can unite us. It can lure us into accusation, blame or hostility—or it can show us our own, and one another's frailty, fallibility, and mortality. Let us stand together, united in common cause.

Mr. President, because I strongly believe that Dr. Sullivan deserves the courtesty of having his message heard, I ask unanimous consent that his speech be inserted, in its entirety, in the CONGRESSIONAL RECORD. His words and his deeds are an important measurement of the commitment to end the AIDS epidemic. He is our Nation's health care leader and a distinguished colleague who deserves our respect, admiration, and attention.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY LOUIS W. SULLIVAN, M.D.

(Sixth International Conference on AIDS, San Francisco, CA)

INTRODUCTION

Ladies and gentlemen, I am pleased and honored to share a few moments with you. Actually, this is my second International Conference on AIDS. The First International Conference, held in Atlanta five years ago, was cosponsored by the Centers for Disease Control, Emory University and the Morehouse School of Medicine. I participated in that conference as President of the latter institution and I am pleased to join with you again today.

In the ten years that we have known AIDS, we have made remarkable progress, uncovering the nature of the virus, its means of transmission and ways to keep the blood supply safe. And we have worked to educate our citizens, helping them to understand the scientific information at hand.

But we need to learn so much more, and these conferences have proven to be a profound and stimulating forum for the exchange of ideas.

Dr. (Anthony) Fauci just eloquently and capably outlined the research needs for the coming decade. So I would like to focus on a different matter, specifically how we can create a better environment for AIDS research, and how we can translate that research into policy.

THE CURRENT POLITICAL AND SOCIAL ENVIRONMENT

This conference was convened because there is an undeniable value in cooperation to save lives. Let us not turn our frustration into theatre, searching for protagonists and antagonists.

As scientists, advocates, and policy-makers we cannot become symbols driven by slogans, using the media as proxy to provide high drama. We must find the compassion and humanity to transcend misunderstanding, and, yes, even transcend hatred and violence.

The truth of the matter is that we need each other. That will always be so. Until we can completely unravel the mysteries of the disease, we must find the ways and means to work together for the benefit of people with AIDS and HIV infection throughout the world and to work together to prevent the spread of the virus to others.

Because we know how the virus is transmitted, we must work tirelessly to reach our citizens with credible and persuasive prevention information.

Because personal responsibility is a key factor in limiting the spread of the virus, we must work together to foster a culture of character, in other words a climate of increased emphasis on health promotion and disease prevention.

Because AIDS has a devastating impact on our poor and minority communities, we must develop culturally relevant and sensitive programs to combat the disease. This need was again underlined in a recent study in the United States by the National Task Force on AIDS Prevention of the National Association of Black and White Men Together, which found that black gay and bi-

sexual men are far less likely to practice safe sex than white gay or bisexual men.

Because some experimental drugs may be useful in preventing the onset of symptoms and in treating the disease, we have to keep working to rapidly put those drugs in the hands of those who could benefit.

Because discrimination is not medically nor morally justified, we must keep working to enforce the current antidiscrimination laws, and in this country to support passage of the Americans with Disabilities Act under consideration by the United States Congress.

And because we are constantly looking for productive leads in the fight against AIDS, the government and the private sector must keep supporting our researchers and scientists with appropriate funding and facilities.

We must do all of this, and more. It is inevitable that AIDS will generate strong and passionate discussions on a wide variety of topics. That is why we must learn to listen to each other, to learn from each other and to work together. Our frustration must never drive us to close our ears or our hearts.

Instead, AIDS must bring us together. From adversity we must seek cooperation, tolerance, understanding and caring. Compassion must be our motivation and our guide.

I am pleased that so many people with AIDS have worked closely with our scientific community, especially in helping to craft more compassionate policies for the approval and distribution of drugs by the FDA and in developing applicable research projects at the National Institutes of Health. That cooperation helps us to understand the needs of people with AIDS and more carefully focus governmental efforts.

Our concern must transcend personal and political boundaries. The growing AIDS crisis must be tackled through a global strategy. As you have heard during the Conference, worldwide, over 100 countries have reported cases of AIDS to the World Health Organization, and there are projections that up to 20 million people could be infected with the virus world-wide by the Year 2000, and some say that figure is under-estimated.

I am concerned about the spread of AIDS in developing countries. We must do all that we can to help.

For example, I have read reports that, in some African cities, as much as 25 percent of the population may be infected with the virus. This is a catastrophe for a continent where currently less than $3 annually per person is devoted to health care.

I agree with Dr. Lewis Thomas at the Cornell Medical School, who has argued that "The really urgent matter. . . . is Africa, with the plainest evidence that we are, in our part of the world, only in the first stage of what will perhaps become, in the years just ahead, the most devastating and lethal pandemic in the memory of mankind."

That is why my department is involved with AIDS efforts in Zaire, the Ivory Coast, the Central African Republic, Kenya and many other countries world-wide. We are also working with many international efforts, including those sponsored by the World Health Organization, and that support is reflected in the fact that the United States is the largest contributor of funds and manpower to the World Health Organization's AIDS programs.

FEDERAL RESEARCH EFFORTS

But perhaps the most important assistance the United States can provide worldwide is to utilize our biomedical research efforts to chart unknown territory. The information we uncover could be decisive in helping our citizens, and citizens of other countries fight AIDS and other diseases.

We have made strengthening our biomedical research enterprise a priority. We are channelling new resources and personnel to strengthen our capabilities in the biomedical, behavioral and epidemiological sciences.

The President's fiscal year 1991 budget will continue to provide substantial funding for biomedical research—an increase of $348 million for research and development programs at the National Institutes of Health and the Alcohol, Drug Abuse and Mental Health Administration. This figure does not include increases in research and prevention money for AIDS.

AIDS research will continue to receive substantial support. The new budget proposes an increase of $109 million for research, education and prevention activities related to the AIDS crisis, bringing the total support for such activities to $1.7 billion in FY 1991. AIDS research, prevention and education rank second only to cancer in terms of Federal financial support. And this for a disease we didn't even know about ten years ago.

But we must also remember that there is no magic price tag, no guaranteed price for success. That is part of the frustration that all of us feel.

FEDERAL EFFORTS TO ADDRESS LIFE-THREATENING ILLNESSES

Another task is to make treatment more effective. The new drug application regulatory review process has been streamlined to accommodate life-threatening diseases. It is evolving into a more compassionate and practical system for coping with this crisis.

One month ago, on May 21st, the Public Health Service published a proposed policy for the expanded availability of investigational new drugs through the parallel track mechanism. If implemented, with the cooperation of drug manufacturers, the drugs could be made available in the United States to citizens with HIV infection who have no therapeutic alternatives, and who have immediately life-threatening diseases and cannot participate in clinical trials.

This proposed regulation was the product of a cooperative effort of a working group that included representatives of Project Inform, the AIDS Coalition to Unleash Power, the National Association of People with AIDS, and representatives from my department. This shows what we can do when we work together.

CONCLUSION

We must be ever-cognizant of the fact that *the enemy is the virus.* Let us turn our energy and our compassion to the removal of ignorance, discrimination and mistrust. Martin Luther King, Jr., once said, "The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands in times of challenge and controversy."

At this moment in time, let us find the courage and the wisdom to stand together. The AIDS epidemic can divide us—or it can unite us. It can lure us into accusation, blame or hostility—or it can show us our own, and one another's, frailty, fallibility and mortality. Let us stand together, united in common cause. In the last analysis, that is what this conference is about, and that must be our common declaration as the conference concludes.

Thank you, and Godspeed in your work.

[In his speech the Secretary also departed from his text to refer to a letter he recently sent to the Speaker of the House, the Honorable Thomas Foley. A copy of the letter is attached.]

QUENTIN BURDICK REACHES 30-YEAR MILESTONE

Mr. RIEGLE. Mr. President, on June 28, 1960, QUENTIN BURDICK was elected to the U.S. Senate by the people of North Dakota. This Thursday he will become just the 36th person out of 1,792 men and women who have served in the Senate to serve 30 years.

QUENTIN BURDICK was raised in Williston, ND, where he was captain of an undefeated high school football team and president of his senior class. Apparently someone at the University of Minnesota spotted this talent and lured him to the land of the Golden Gophers. His football career at Minnesota was enhanced by fellow teammate Bronko Nagurski. BURDICK blocked and Nagurski ran all the way to the Football Hall of Fame.

After college, QUENTIN BURDICK worked in Fargo as a lawyer. There he received valuable tutelage from his father, Usher Burdick who served in the House of Representatives from 1934 to 1944 and from 1948 to 1958. QUENTIN won that House seat in 1958 and then the special election for Senator in 1960.

If this sounds easy, it wasn't. BURDICK lost several elections before winning in 1958. You would think that after losing twice for State attorney and once each for State senator, Lieutenant Governor, and Governor that maybe politics was not your strong suit. But QUENTIN BURDICK never gave up in his quest for political office. The people of North Dakota wisely gave him a chance in 1958 and he hasn't looked back since.

BURDICK has accomplished so much for the Peace Garden State that it is hard to know where to begin. In just the 100th Congress alone, he helped bring more than two-thirds of a billion dollars into the State in Federal projects. At one point, Ward Sinclair of the Washington Post wrote about agricultural appropriations saying, "If Martians came to earth and read these bills, they would think that North Dakota was a center of the universe." His position on the Appropriations Committee and as chairman of the Committee on Environment and Public Works place BURDICK in a unique position to serve the citizens of North Dakota.

The 1988 election may have been BURDICK's greatest triumph. Early on, he was far behind in the polls which showed him losing in a primary. The 80-year-old BURDICK dusted off all of his campaign skills. He ran what is now acknowledged to be a flawless race for reelection that many half his age look on with admiration and awe.

Many here in Washington refer to BURDICK as "the Q". In this case, the nickname stands for "Quick"; both in mind and wit and for "Quantity" in farm programs and other needed legislation for North Dakota. It also stands for "Quality"; someone whose views you can trust. We need more people like QUENTIN BURDICK.

PROF. FANG LIZHI RELEASED

Mr. HELMS. Mr. President, on January 29, 1987, almost three and a half years ago, I reported to the Senate that the Vice Chancellor of an important university in central China had been dismissed from his position for having asserted that "men have rights." Such an idea is fundamental in free countries like ours, but often a crime in those that are not free.

We know that professor as Fang Lizhi, who has been the guest of the American people at the American Embassy in Beijing.

This morning brought the welcome news that, as the result of President Bush's diplomatic efforts, Professor Fang and his wife are on their way to the free world. It may be that their younger son will also be able to leave Communist China and join his parents in freedom.

Mr. President, Professor Fang is both the symbol of the unconquerable spirit of the Chinese people and, potentially, the leader the Chinese people on the mainland have needed to direct their quest for freedom. Undoubtedly, he will look to President Li of the Republic of China on Taiwan for inspiration and hope. For the past 40 years the leadership of the Republic of China has shown the way to prosperity, stability and freedom.

President Bush deserves the commendation and support from all of us for his efforts to free Professor Fang and his wife.

We know those in power in Communist China today are not in the habit of making humanitarian gestures. Why then did the Chinese dictators allow the professor and his wife to leave?

The answer is fairly simple. The Communist Chinese are desperate for money. They have made as big a mess of their economy as they have of their domestic politics. A recent article in a Beijing economic journal is entitled "Grim Situation of China's Foreign Debt and Solutions." The article points out, "Our foreign debt structure is irrational and the domestic economic situation is grim, which deepens the potential for a crisis situation."

In other words, the Communists are in trouble and they know it.

Mr. President, they want two things. First, they want a continuation of MFN so that they can continue to run large surpluses on their trade with us. The Chinese dictators need the foreign exchange so they can pay off their foreign debts, primarily to Japanese and European banks. As a practical matter, no one else will allow them to dump huge quantities of cheap merchandise in their domestic markets, certainly not the Europeans or the Japanese.

Finally, what the Communist Chinese Government wants is to turn on the money spigot again. After the Beijing massacre last year they were shut out of the low interest loans from the World Bank, the Asian Development Bank and the Japanese Government. They want the tap turned back on again. Particularly the Chinese Government wants the $5.6 billion in aid promised by Japan for the 1990-95 period. Today's New York Times indicates that Prime Minister Kaifu hopes to persuade President Bush and the other leaders at the Houston summit next week to allow the money to flow again.

President Bush should not agree to the change. There are still too many people imprisoned in Chinese Communist slave labor camps for their religious and political convictions. Tibet is still occupied and there are still too many stories about improper military sales to hostile countries in the Middle East. Just this month the administration revealed that the Communist Chinese were selling chemicals to make poison gas to Qadhafi.

Much as we are pleased at the release of one man and his wife, until fundamental changes are made in Communist China, the money pipeline should remain shut off.

Mr. President, I ask unanimous consent that an article from today's New York Times and an article from a Chinese publication be inserted in the RECORD at the end at my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From National Affairs, June 5, 1990]

NATION'S FOREIGN DEBT TERMED "GRIM SITUATION"

(Article by Li Xiao (2621 2556): "Grim Situation of China's Foreign Debt and Solutions")

In the early 1980's, when Latin American countries were deeply enmeshed in a debt crisis, our country was just beginning to raise foreign debt. But in less than a decade our foreign debt situation has grown extraordinarily grim and urgent and looks set to repeat the path taken by Latin American countries. As far as the present situation is concerned, our country's foreign debt has the following characteristics:

1. Large scale. The scale has kept expanding since our country started borrowing in 1979. According to the State Administration of Exchange Control's statistics, by the end of 1988 our country's foreign debt had broken the $40 billion level and we have been listed as the world's eighth most-indebted country.

2. Rapid increases. Our country's debt increase rate was 35 percent between 1982 and 1986, 46.5 percent in 1987 alone, and 32.41 percent in 1988. Such increase rates are rare even in other debtor countries.

3. Overlapping repayments periods. In our country's foreign debt structure, long- and medium-term debt account for a relatively large proportion. This, plus the excessively rapid increases, and consequently the failure to set apart repayment periods, has resulted in excessive overlapping of repayment periods. This year our country enters the peak repayment period with 1992 to 1995 as the highest repayment period. If the issue were confined to the three aforementioned problems, foreign debt would not pose a threat to our national economy and the development of opening up to the outside world. But our foreign debt structure is irrational and the domestic economic situation is grim which deepens the potential for a crisis situation.

First, judging from our country's present foreign debt structure, there is the problem of overconcentration of loans in one currency. During the "Sixth Five-Year Plan," 50 percent of our country's foreign loans came from Japan, which explained why the 1986 appreciation of Japanese yen alone had cost us $1.6 billion more in foreign debt. Moreover, concentration in a single currency has exposed us to interest rate risks and the impact of economic fluctuations in creditor countries, and has left us little room for maneuver. On the other hand, the debt maturity mix is not exactly rational, which shows chiefly in the following: First, short-term loans account for a relatively large proportion; 40.5 percent of 1985 foreign debts were short-term loans—considerably higher than the 25 percent international standard. Second, commercial loans account for a relatively large proportion of long-term loans—66.7 percent in 1979 to 1985, which was higher than the average 52 percent level of other debtor countries in the same period. Starting in 1985, the increase in this kind of loan has been particularly rapid: 230 percent in 1985 over 1984. Although commercial loans are not affected by political factors and are easy to raise, interest rates are high and there is no flexibility in repayment periods, thus they very easily increase the cost of foreign debt.

Second, the unfavorable impact of adverse trade balance. As our national economy develops, the extent of our country's reliance on imports grows rapidly, particularly imports of production materials that account for 80 percent of total imports. However, raw-material projects begun during the "Seventh Five-Year Plan" are not likely to be put into production in the near future, and, if raw material imports were reduced so that there could be foreign exchange for debt repayment, the entire national economic development would be affected. Therefore, for some time there will be little room for us to reduce imports. Meanwhile, because primary products and labor-intensive products account for a relatively large proportion of our export mix and are therefore more open to the impact of international market fluctuations and trade protectionism, and also because of stiff competition from other developing countries, the ability of our exports to readjust is relatively low. According to statistics from the 1989 "China Statistics Digest," between 1978 and 1988 our country's trade deficit amounted to $40.8 billion, which is an extremely dangerous signal for a country having just entered peak debt repayment periods.

Last there is the urgent, distressing domestic economic situation. Because of the overheated economy, a result of the wrong

economic development strategy in earlier periods, the almost frenzied hunger for investment has not only vastly increased foreign debt but has also expanded the scale of domestic debt, which so far amounts to 80 billion yuan. With the overlap of foreign and domestic debt, the total financial deficit now stands as high as 150 billion yuan. Our national economy is bound to go through a period of "thrifty days," and it is necessary to "cool off" and adjust the economy. However, we must be alert to the fact that retrenchment of the national economy during the early 1990's coincides with peak debt-repayment periods. By then we will be facing the following difficult situations: Repayment of principal and interest of foreign and domestic debts (foreign debt material imports, the debtor countries will be forced to increase currency issues and thus increase the pressure of inflation).

Obviously, the important difference between the three patterns is that the first one has repayment initiatives while the latter two do not. The three patterns are linked with causal chain relations. If the first one is not handled well, that will lead to the use of the other two. But the three are not mutually exclusive and can be used simultaneously. As far as our current foreign debt problems are concerned, we should not and cannot use only one pattern. The first pattern should become our country's major debt repayment pattern, and the second one can also be suitably employed. As a matter of fact, since 1987 our country has been using the second pattern (total amount $640 million). But we cannot use this pattern too often, or it will easily lead to debt crisis. We had better not use the third pattern at all, for it signifies debt crisis or low creditworthiness. If we have to use it, then we must try to minimize it. But we must always keep the first pattern in the leading position.

In short, the foreign debt process, we must, on the basis of sensible "borrowing," ensure that foreign debt is "used" rationally so that we can take the initiative in "repayment."

[From the New York Times, June 25, 1990]

JAPAN FAVORS LOANS TO CHINA

TOKYO, June 24.—Japan hopes to persuade the West to soften its stance toward China at the Group of Seven economic summit meeting next month so as to lay the groundwork for Tokyo's resumption of loans to Beijing, Government officials say.

Prime Minister Toshiki Kaifu plans to bring up the issue when he meets President Bush before the meeting in Houston of the seven major industrial nations in early July, the officials add.

Several Western countries, Japan and the World Bank have cut off new lending to China since it sent troops against student-led protesters in June of last year. The World Bank, however, has made four loans to be used only for humanitarian purposes.

Japan provides more aid to China than any other country, with 810 billion yen ($5.6 billion) promised during the 1990-95 period. This money has been frozen by the sanctions.

The seven nations—the United States, Japan, West Germany, Britain, France, Italy and Canada—are likely to discuss the issue in Houston although it is not likely to be on the formal agenda, another official said.

The freeze on loans has forced China to postpone dozens of capital projects such as power stations, railway lines and fertilizer plants that are vitally needed to ease worsening economic bottlenecks.

MESSAGES FROM THE HOUSE

At 4:38 p.m., a message from the House of Representatives announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5075. An act to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

A message from the House of Representatives announced that the Speaker has signed the following enrolled bill and joint resolutions:

S. 1999. An act to amend the Higher Education Amendments of 1986 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes;

S.J. Res. 264. Joint resolution to commemorate the 50th anniversary of the National Sheriffs' Association;

S.J. Res. 315. Joint resolution for the designation of July 22, 1990, "Rose Fitzgerald Kennedy Family Appreciation Day";

S.J. Res. 320. Joint resolution designating July 2, 1990, as "National Literacy Day";

H.J. Res. 555. Joint resolution to commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed; and

H.J. Res. 575. Joint resolution to designate June 25, 1990, as "Korean War Remembrance Day."

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore [Mr. GLENN].

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3188. A communication from the Principal Deputy Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, the strategic and critical materials report for the period October 1988-March 1989; to the Committee on Armed Services.

EC-3189. A communication from the Assistant Secretary of the Interior (Policy, Management, and Budget), transmitting, pursuant to law, a report on the implementation of section 318 of the 1990 Department of the Interior and related agencies appropriation relative to timber sales through April 1, 1990; to the Committee on Energy and Natural Resources.

EC-3190. A communication from the Secretary of Energy, transmitting, pursuant to law, the quarterly report on the Strategic Petroleum Reserve for the period January 1 through March 31, 1990; to the Committee on Energy and Natural Resources.

EC-3191. A communication from the Assistant Secretary of the Interior (Policy, Management, and Budget), transmitting, pursuant to law, a report on the implementation of section 318 of the 1990 Department of the Interior and related agencies appropriations relative to timber sales through June 1, 1990; to the Committee on Energy and Natural Resources.

EC-3192. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the accuracy of the Medicare home health agency cost limits; to the Committee on Finance.

EC-3193. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation, to enhance Medicare managed care activities; to the Committee on Finance.

EC-3194. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Sludge Disposition at the Blue Plains Wastewater Treatment Plant"; to the Committee on Government Affairs.

EC-3195. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-213, adopted by the Council on 6-12-90; to the Committee on Governmental Affairs.

EC-3196. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-215, adopted by the Council on 5-29-90; to the Committee on Government Affairs.

EC-3197. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-217, adopted by the Council on 5-29-90; to the Committee on Governmental Affairs.

EC-3198. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-218, adopted by the Council on 6-12-90; to the Committee on Governmental Affairs.

EC-3199. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-219, adopted by the Council on 6-12-90; to the Committee on Governmental Affairs.

EC-3200. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-220, adopted by the Council on 5-29-90; to the Committee on Governmental Affairs.

EC-3201. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Inspector General's semiannual report for the period ending March 31, 1990, and management's semiannual report on final action; to the Committee on Governmental Affairs.

EC-3202. A communication from the Secretary of Commerce, transmitting, pursuant to law, the Inspector General, Department of Defense, semiannual report to the Congress on Adult, Inspection, and Investigative Activities during the six months ending March 31, 1990; to the Committee on Governmental Affairs.

EC-3203. A communication from the Executive Secretary of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the FDIC's report on the establishment of a new system of records (Freedom of Information Act and Privacy Act Requests); to the Committee on Governmental Affairs.

EC-3204. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report of the Indian Health Care Improvement Act

for the fiscal year 1988; to the Committee on Indian Affairs.

EC-3205. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report to the Congress on the Refugee Resettlement Program from October 1, 1988, through September 30, 1989; to the Committee on the Judiciary.

EC-3206. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report for fiscal year 1989 of the Administration on Aging of the Department of Health and Human Services; to the Committee on Labor and Human Resources.

EC-3207. A communication from the Acting Director of Communications and Legislative Affairs of the U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the fiscal year 1989 annual report on the operations of the Office of the General Counsel of the U.S. Equal Employment Opportunity Commission; to the Committee on Labor and Human Resources.

EC-3208. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the proposed regulations governing allocation of expenses between federal and non-federal accounts, methods of payment, and reporting; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2461. A bill to reauthorize appropriations to provide for and improve the drug treatment waiting period reduction grant program under the Public Health Service Act, and for other purposes (Rept. No. 101-336).

By Mr. BENTSEN, from the Committee on Finance, without recommendation with an amendment in the nature of a substitute and an amendment to the title:

H.R. 4328. A bill to authorize appropriations for fiscal years 1991 and 1992 for the customs and trade agencies, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BENTSEN:

S. 2780. A bill to expand the boundaries of the San Antonio Missions National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HELMS:

S. 2781. A bill to extend the existing suspension of duty on m-Toluic until January 1, 1994; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 2780. A bill to expand the boundaries of the San Antonio Missions National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

EXPANSION OF SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK

Mr. BENTSEN. Mr. President, today I am pleased to introduce legislation providing for an expansion of the San Antonio Missions National Historical Park, as called for in a boundary study completed earlier this year by the National Park Service. This legislation will expand the park by approximately 335 acres, providing additional protection to these historic resources and improving the administration of the park and the visitor's experience. It will also raise the authorization ceiling for park development, clearing the way for the appropriation of funds for badly needed improvements to the park, such as a visitor center. Identical legislation has been introduced in the House of Representatives by my distinguished colleague from Texas, Congressman BUSTAMANTE.

Mr. President, the San Antonio missions are a unique and priceless reminder of our proud Spanish heritage. They date back to the first Spanish settlemetns in the year 1718. For the better part of three centuries these missions have been active churches. They are living monuments to the past development of the great Southwest and to the impact of the Spanish component of our heritage on our entire Nation. Twelve years ago I sponsored the legislation that established the San Antonio Missions National Historical Park in order to provide needed recognition and protection to these missions and their associated facilities. As a result, the Missions San Jose, Concepcion, San Juan, and Espada and associated structures, such as the acequias and the Espada Dam, are now part of this park.

Twelve years ago the establishment of this park was just a dream, but it was a dream on the verge of fruition. Now the park is an established, successful reality. The San Antonio Missions National Historical Park is the third most popular visitor attraction in San Antonio, and the 10th most popular destination in Texas. It attracts over 500,000 visitors per year. That is the official count, but due to the difficulty of counting the visitors estimates of actual visitation range up to 1.5 million per year. The San Antonio Missions National Historical Park is expected to attract even more visitors as a major focus of the upcoming Christopher Columbus Quincentennial in 1992.

However, the visitor and interpretive facilities of this park are totally inadequate, especially in light of the current and expected visitor levels. If no changes are made the visitors who come to explore the 500-year history resulting from Christopher Columbus' famous voyage of discovery will not even have a visitor center available to help tell the story. The facilities the Park Service were using at Mission San Jose became untenable because of the rodents and other vermin that flocked uncontrollably to the deteriorating structure.

Since the establishment of the park, not a single dollar of Federal money has been spent for improvements. The annual operating budget is less than half the level projected when the park was established, even though the projected visitation levels have been reached.

Last year we got funds appropriated for the planning of a badly needed visitor center at Mission San Jose. It is my hope that we will be able to complete this job by appropriating the needed construction funds for that visitor center this year so that it can be ready in time for the celebration of the Christopher Columbus Quincentennial in 1992. This legislation will further improve the visitor experience and better protect the missions and their associated structures by making the boundary changes suggested by the National Park Service.

Mr. President, the San Antonio Missions National Historical Park is strongly supported by the people of San Antonio. The San Antonio Conservation Society played a major role in the passage of the legislation establishing the park. Since then the many citizens of San Antonio who are actively interested in the missions have formed a friends organization known as Los Compadres de San Antonio Missions National Historical Park. Los Compadres members now number over 1,300 individuals and businesses, and they have raised over $1 million in just 6 years for restoration, rehabilitation, and development projects in the park.

The need for this legislation is clear. The park has strong support from local citizens, the city, and the State of Texas. This legislation will help provide the additional Federal support needed to complement those local efforts and to make the San Antonio Missions National Historical Park the showcase of our Nation's Spanish heritage that it should be. I urge its adoption by the Senate.

By Mr. HELMS:

S. 2781. A bill to extend the existing suspension of duty on m-toluic acid until January 1, 1994; to the Committee on Finance.

DUTY SUSPENSION ON M-TOLUIC ACID

Mr. HELMS. Mr. President, today, I am introducing legislation to maintain the duty-free status of metatoluic acid [MTA]. The duty-free status on MTA was originally granted in 1984, when I introduced a bill at the request of Mr. Gary F. Taft, president of Morflex Chemical Co. in Greensboro, NC. It was extended in 1987 and will expire at the end of 1990.

Mr. President, Morflex is the world's largest manufacturer of DEET, the active ingredient in mosquito repellents. MTA is the key raw material used to produce DEET.

The only domestic producer of MTA is the Argus division of Witco Corp. Previously, this duty has been suspended despite the domestic production by the Argus division because it was clear that they could not produce enough MTA to meet the domestic demand.

Recently, I received a letter from Witco Corp. indicating that they have relocated their manufacturing facility from Brooklyn, NY, to Taft, LA. In addition, they have made a significant capital investment in their manufacturing facility. This will increase their production capacity.

However, it is still not clear whether they will be able to meet the increased domestic demand. Due largely to the prevalence of Lyme's disease, the demand for DEET has increased significantly. It is currently estimated that the U.S. industry will need about 3 million pounds of MTA per year.

Mr. President, my good friend and colleague, Congressman HOWARD COBLE, has introduced this duty-suspension legislation in the House. I am introducing this bill in the Senate to prompt the International Trade Association [ITA] to initiate an investigation to determine whether an extension of the duty suspension is appropriate.

It has always been my policy not to support a duty suspension for an item if it will unfairly harm a domestic producer of the same item. I hope the ITA will promptly analyze the new market demands and the new domestic production capability so we can judge whether to go forward with this duty suspension.

ADDITIONAL COSPONSORS

S. 13

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 13, a bill to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors, to increase the allowances paid to disabled veterans pursuing rehabilitation programs and to the dependents and survivors of certain disabled veterans pursuing programs of education, and to improve various programs of benefits and health-care services for veterans; and for other purposes.

S. 160

At the request of Mr. THURMOND, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 160, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 324

At the request of Mr. WIRTH, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 324, a bill to establish a national energy policy to reduce global warming, and for other purposes.

S. 1425

At the request of Mr. METZENBAUM, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1425, a bill entitled the "Nutrition Labeling and Education Act of 1989."

S. 1511

At the request of Mr. PRYOR, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1651

At the request of Mr. MCCAIN, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States Organization.

S. 2100

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2100, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to amend title 38, United States Code, to improve veterans' compensation, health care, insurance, and housing programs, and to provide for transitional group residences for veterans recovering for substance-abuse disabilities; and for other purposes.

S. 2128

At the request of Mr. KERRY, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 2128, a bill to direct the Secretary of Veterans Affairs to establish and maintain a comprehensive services program for homeless veterans.

S. 2227

At the request of Mr. LEAHY, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Florida [Mr. GRAHAM], the Senator from Utah [Mr. HATCH], the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from New York [Mr. MOYNIHAN], the Senator from Rhode Island [Mr. PELL], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 2227, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to reform the provisions of such act governing exported pesticides, and for other purposes.

S. 2250

At the request of Mr. DECONCINI, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Wyoming [Mr. SIMPSON], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2250, a bill to amend title 5, United States Code, with respect to setting rates of basic pay for law enforcement officers, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2415

At the request of Mr. DOMENICI, the names of the Senator from South Carolina [Mr. HOLLINGS], the the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2556

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2556, a bill to amend title 38, United States Code, to expand the list of diseases presumed to be service-connected in the case of veterans who were exposed to radiation from a nuclear detonation and to eliminate the requirement that the listed diseases become manifest within certain time periods; and to require that the Secretary of Veterans Affairs consider creation of similar presumption for veterans who were exposed to radiation from another activity.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2616

At the request of Mr. DASCHLE, the Senator from New Mexico [Mr. BINGA-

MAN] was added as a cosponsor of S. 2616, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropratic services authorized to be performed under State law, and for other purposes.

S. 2688

At the request of Mr. GRAHAM, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2688, a bill to amend section 21B of the Federal Home Loan Bank Act to provide for Resolution Funding Corporation borrowing from the Treasury.

S. 2701

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2701, a bill to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in, and modifications of, special pay authorities, and for other purposes.

S. 2744

At the request of Mr. KASTEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2744, a bill to amend the Internal Revenue Code of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing of certain capital assets, and for other purposes.

S. 2757

At the request of Mr. MOYNIHAN, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 2757, a bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Lithuanian people to alleviate suffering during the current emergency.

SENATE JOINT RESOLUTION 278

At the request of Mr. ROCKEFELLER, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 278, a joint resolution designating July 19, 1990 as "Flight Attendant Safety Professionals' Day."

SENATE JOINT RESOLUTION 279

At the request of Mr. SPECTER, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Mississippi [Mr. LOTT], the Senator from Kentucky [Mr. FORD], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 279, a joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from Rhode Island [Mr. CHAFEE], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 293

At the request of Mr. RIEGLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 293, a joint resolution to designate November 6, 1990, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the names of the Senator from Wyoming [Mr. SIMPSON], and the Senator from Colorado [Mr. ARMSTRONG] were added as cosponsors of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933," and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukranian identity.

SENATE JOINT RESOLUTION 335

At the request of Mr. JOHNSTON, the names of the Senator from New Mexico [Mr. DOMENICI], the Senator from North Dakota [Mr. BURDICK], the Senator from Kentucky [Mr. FORD], the Senator from Arkansas [Mr. BUMPERS], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. SIMON], the Senator from Montana [Mr. BURNS], the Senator from Georgia [Mr. FOWLER], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. BRYAN], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of Senate Joint Resolution 335, a joint resolution designating July 1, 1990 as "Imported Oil Dependence Day."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Arizona [Mr. MCCAIN, and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Monday, June 25 at 9:30 a.m. for a hearing on the subject: health, and nutrition claims to include advertising and packaging.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE ZINTEL CANYON FLOOD CONTROL PROJECT

● Mr. ADAMS. Mr. President, I rise today to discuss with you an important project in my State, the U.S. Army Corps of Engineers Zintel Canyon flood control project in Kennewick, WA. After 36 years of discussions, presentations, hearings, designs, and redesigns, the time has come for planning to end and construction to begin.

This project is vitally important for the city of Kennewick, to prevent loss of life, personal injury, and property damage from flood waters in Zintel Canyon. The canyon is normally a dry wash which collects winter rains, spring meltwater, and severe weather stream flows from a 28-square-mile area. Heavy rains have caused serious damage from flooding in Kennewick 12 times since 1907. The project dam will prevent a reoccurrance of flooding, by impounding high water flows in the canyon, and releasing them on a controlled basis.

The city of Kennewick is to be commended for renewing its request for this project in 1986, in spite of the lengthy delay since project authorization in 1970 by a resolution of the House and Senate Committees on Public Works. The project is so important to the city that $2.324 million of local funds have been committed, including a $1 million loan from the State of Washington. These are difficult times for local governments, yet Kennewick has ungrudgingly resolved to make this financial sacrifice in the interest of the safety of its citizens.

Unfortunately, despite the importance of the Zintel Canyon Dam, the President has chosen not to request funding for the project in fiscal year 1991. The city will lose its matching loan from the Washington State Public Works Fund this year if no Federal funds are forthcoming. We cannot delay this project any longer. I stand with the people of Kennewick and support funding for the Corps of

Engineers to undertake this project in fiscal year 1991.

The city of Kennewick has passed a resolution, No. 90-27, requesting congressional support for funding of the flood protection project of Zintel Canyon. Mr. President, I hereby ask that this resolution be printed in the RECORD following my statement.

The resolution follows:

CITY OF KENNEWICK, RESOLUTION No. 90-27

Whereas, for some 36 years the citizens of Kennewick have worked diligently and vigorously to obtain federal support for construction of a flood protection project in the Zintel Canyon area in the vicinity of the City of Kennewick, Washington; and

Whereas, Zintel Canyon is a normally dry, but well defined water course that drains approximately 28 square miles of the north side of the Horse Heaven Hills. Its lower reaches traverse a series of benches and flood plain areas in and adjacent to a residential and business section of Kennewick, Washington; and

Whereas, some 24 square miles are tributary to the Canyon above Vancouver Street in Kennewick, the upper end of the flood problem area; and

Whereas, between 1907 and 1969 on less than twelve floods have caused serious damage to the area. The estimated flood peak discharges were computed at Kennewick were determined to range from 300 cubic feet per second in 1949 and 1952 to 700 to 1000 cubic feet per second in 1907; and

Whereas, the City of Kennewick on February 8, 1972, held a public hearing in the Council Chambers for purposes of presenting the authorized project plan of improvement to the local people for comments and suggestions. The meeting was conducted by the City Manager and the plan presented by the Army Corps of Engineers' District Engineer; and

Whereas, as a result of this and other meetings and the City's letters of September 16, 1986 and July 7, 1988 the City further affirmed its commitment to the project, and Corps of Engineers submitted a General Design Memorandum #2 to the Washington, D.C. office for approval on December 28, 1989; and

Whereas, the Director of Civil Works, Washington, D.C. transmitted a letter dated January 14, 1990, stating the Design Memorandum is approved; and

Whereas, this report strongly recommended construction of a flood protection project of approximately $9,694,000, subject to certain requirements of local cooperation. The non-federal cost is estimated at $2,324,000 for lands, easements, right-of-ways, and relocation; and

Whereas, the City Council of the City of Kennewick has applied for and has received approval for a $1,000,000 loan from the State of Washington in addition to local funds for its share in this project. If congress does not appropriate funds for construction in the 1991 Budget the City will lose its matching state funds, now therefore,

The City Council of the City of Kennewick, Washington, on behalf of its citizens and others affected by the damages, either incurrd or to be incurred, do hereby resolve;

SECTION 1. That the Zintel Canyon Flood Protection Project is necessary for the protection of life and property and that the City is in extreme danger of flooding without this project; and

SEC. 2. That the project can only be constructed with the aid of federal appropriation and matching local funds; and,

SEC. 3. That we urge the Washington State delegation to support the construction of this project and to support the addition of this capital improvement to the federal budget for fiscal 1991; and,

SEC. 4. That the City Council and City staff shall exert all necessary efforts to ensure the construction of this project in a timely manner.

Passed by the City Council of the City of Kennewick, Washington, on this 3rd day of April 1990, and signed in authentication of its passage this 3rd day of April 1990.●

LIBERATE AMERICA'S OTHER ECONOMY

● Mr. MACK. Mr. President, I would like to submit the following article from the June 12, 1990, Wall Street Journal for today's RECORD.

In "Liberate America's Other Economy," Secretary of Housing Jack Kemp makes a compelling case for a new direction in addressing America's poor. Essentially, Mr. Kemp argues that America is not divided into two classes, but rather, into two economies. One economy, the mainstream economy, is based on democratic principles which encourage individuals to thrive economically. The other economy, found in pockets of poverty throughout rural and urban America, is based on principles similar to those found in socialist countries which discourage individual economic growth.

I urge my colleagues to read Mr. Kemp's article. It provides valuable insight as we advance legislation that is intended to respond to the problems of America's poor.

[From the Wall Street Journal, June 12, 1990]

LIBERATE AMERICA'S OTHER ECONOMY

(By Jack Kemp)

In 1984, Mario Cuomo of New York electrified the Democratic Convention with his tale of America as two cities, one rich and one poor, permanently divided into two classes. He talked about the rich growing richer and the poor becoming poorer, with the conclusion that class conflict, if not warfare, was the only result, and redistribution of wealth the solution.

With all due respect to Gov. Cuomo, he got it wrong. America is not divided immutably into two static classes. But it is separated or divided into two economies. One economy—our mainstream economy—is democratic and capitalist, market-oriented and entrepreneurial. It offers incentives for working families in labor and management. This mainstream economy rewards work, investment, saving and productivity. Incentives abound for productive economic and social behavior.

It was this economy, triggered by President Reagan's supply-side revolution of tax cuts in 1981, that generated 21.5 million new jobs, more than four million new businesses, relatively low inflation and higher standards of living for most people. This economy has created more jobs in the past decade than all of Europe, Canada and Japan combined. And according to the U.S. Treasury, federal income taxes paid by the top 1% of taxpayers has surged by more than 80% to $92 billion in 1987 from $51 billion in 1981.

POCKETS OF POVERTY

There is another economy—a second economy that is similar in respects to the East European or Third World socialist economies. It functions in a fashion opposite to the mainstream capitalist economy. It predominates in the pockets of poverty throughout urban and rural America. This economy has barriers to productive human and social activity and a virtual absence of economic incentives and rewards. It denies black, Hispanic and other minority men and women entry into the mainstream. This economy works almost as effectively as did hiring notices 50 years ago that read "No Blacks—or Hispanics or Irish or whatever—Need Apply."

The irony is that the second economy was born of desire to help the poor, alleviate suffering, and provide a basic social safety net. The results were a counterproductive economy. Instead of independence, the second economy led to dependence. In an effort to minimize economic pain, it maximized welfare bureaucracy and social costs.

All around the world, despite the resistance of the old guard, freedom and free markets, democracy and capitalism are increasingly on the march. East Europe is looking to us for market-oriented answers, but so is East Harlem, East St. Louis and East Los Angeles.

If we are to present the example of democratic capitalism and the rule of law to the rest of the world, we've got to make it work for the low-income people and distressed neighborhoods and communities right here in our own country. Whether it's called bleeding-heart conservatism, capitalism with a social conscience, or populist conservatism—it's the right thing to do, the right time to do it, and we're the right people to help lead it.

Let's step away from our orthodox notions and examine this from afar. What if you wanted to create poverty? What policies and principles would you use to destroy the economy of cities and make people dependent on government? How would you do it? Let me offer some suggestions:

Impose steeply graduated and progressive tax rates and then inflate the currency to push people into ever higher tax brackets.

Reward welfare and unemployment at a higher level than working and productivity.

Tax the entrepreneur who succeeds in the legal system—while permitting an underground, untaxed, economy.

Reward people who stay in public housing more than those who want to move up and out into private housing and home ownership.

Reward the family that breaks up rather than the family that stays together.

Encourage debt, borrowing and spending rather than saving, investing and risk-taking.

Weaken and in some cases destroy the link between effort and reward.

The startling fact in America today is that the highest marginal tax rates are being paid not by the rich, but by welfare mothers or unemployed fathers who want to take a job. In most cities, a welfare mother would have to earn $15,000 to $18,000 in a private-sector job to earn the equivalent of the average tax-free welfare payment.

According to a study by Christopher Jencks and Kathryn Edin in American Prospect magazine, a mother with two children who is employed at about $5 an hour would

take home about 45 cents less than if she were on welfare. She loses nearly $4 a day after taking into account the loss of government benefits, taxes and such work-related expenses as transportation and child care.

The heavily regulated U.S. housing market is another example of government-created scarcity. Rent control in many major cities has crippled rental housing by making it unprofitable to be a landlord or investor. Rent controls do not help the poor, because they cut apartment supply.

Another glaring example of counterproductive government policy is how the Department of Housing and Urban Development had been spending more than $1,300 per unit to subsidize vacant public housing—housing often used as crack houses for gangs and drug pushers. The Bush administration has started a policy called Operation Occupancy under which only units actually occupied by low-income people will receive public housing subsidies.

Let me outline some ideas for a national agenda to help low income people and our nation find the keys that will unlock the shackles of poverty and despair:

Cut the capital-gains tax to 15%. Eliminate it in distressed inner cities and rural communities that we would designate as Enterprise Zones.

When the top capital-gains tax rate was reduced to 20% from 49%, the number of small-company start-ups more than doubled, rising to 640,000 and creating 15 million jobs. By dramatically reducing the capital-gains tax rate again, and greenlining inner-city neighborhoods, we can expand the economy and put that enormous job-creating potential to work where it is needed most.

Expand resident management and urban homesteading in public housing to empower residents to buy their own homes and enjoy dignity of ownership.

Widen use of housing vouchers and certificates to give low-income families greater choice of where to live, while expanding access to affordable housing for those most in need.

Reform the tax system to remove low-income families from the tax rolls and dramatically increase the after-tax income of welfare mothers and unemployed fathers who go to work.

In 1948, at the median income, a family of four paid virtually no income tax and only $30 a year in direct Social Security taxes (1%). This year, the same family's tax burden would be more than $6,000. To reach a level comparable to 1948, the personal exemption—the tax allowance for the costs of nurturing children—would have to be well over $6,000 today. Instead, it is only $2,000.

EXPAND TAX CREDIT

Expand the earned-income tax credit dramatically, creating up to $6,000 exemption for children under 16.

Help the homeless. Congress should pass the administration's new Shelter Plus Care Program to expand community-based mental-health facilities, drug-abuse treatment, job training, and day care. This program will help homeless Americans get shelter, transitional housing, and support services to help them re-enter the mainstream economy.

Provide educational opportunity by expanding true choice and competition through magnet schools, educational vouchers or tuition tax credits.

Encourage Congress to pass President Bush's HOPE legislation, including IRAs for first-time home buyers, the low-income housing tax credit, and Operation Bootstrap linking housing vouchers to strategies for gaining self-sufficiency.

A program like this would make the 1990s the decade in which we win the war against poverty—just as the decade of the 1980s was the one in which we won the Cold War against communism.●

CAPE MAY MUSIC FESTIVAL

● Mr. LAUTENBERG. Mr. President, the Cape May Music Festival which has brightened Cape May since June 2 will be coming to a close June 24. Sponsored by the Mid Atlantic Center for the Arts, in association with the Cape May Institute, the festival has been made possible in part by the New Jersey State Council on the Arts/Department of State. Concerts have been performed at various Cape May locations.

The idea of the festival was developed in 1988 by residents interested in promoting their historic town as a cultural location. Their purpose was to increase the national year-round visibility of Cape May as a cultural environment, as well as encouraging increased tourism.

The New York Chamber Ensemble, which performs original concerts in Alice Tully Hall at Lincoln Center has been featured in this season's festival. The ensemble is a collaboration of two of America's finest chamber music groups; the Chester String Quartet and the Hexagon Piano and Wind Sextet. Also featured in the festival is the Composers Guild of New Jersey. The guild is among the most prominent American groups fostering the acceptance of new music by American composers.

The festival has enhanced the cultural quality of life in southern New Jersey and promoted the charm of this historic victorian town. A jewel of the New Jersey shore for tourism and arts, this season's music festival helps to establish this historic resort town as a year-round cultural destination for visitors and vacationers.

As Cape May celebrates this significant cultural event, I congratulate all those who made this successful summer music festival possible.●

GREAT NEWS FOR MARSHFIELD

● Mr. KASTEN. Mr. President, I rise today to share with my colleagues some great news about one of the most delightful and distinctive communities in the whole State of Wisconsin.

A valuable handbook to American towns—entitled "The Rating Guide to Life in America's Small Cities"—has named the Marshfield-Wisconsin Rapids area Wisconsin's No. 1 area for quality of life. The book's author, G. Scott Thomas, has ranked Marshfield-Wisconsin Rapids 3d overall in the Midwest region, and 14th in the whole country.

The book ranks 219 micropolitan areas—cities with populations between 15,000 and 50,000—on a variety of quality-of-life indicators.

I for one was not surprised at the Marshfield area's high ranking. The book cites as reasons for its praise the fact the area has the second best health care in the Nation, the highest per capital income and the lowest crime rate in Wisconsin. But I'm convinced there's more to it than that—there's a spirit of community and neighborliness and initiative out there that I've enjoyed and been proud of every single time I've visited.

Mr. President, I ask all my colleagues to join me in extending our warmest congratulations to all the people of Wood County. The county is a good place to live because its people are good folks—and I salute them.●

SOVIET UNION FAILING AT TREATING ALCOHOLISM

● Mr. McCONNELL. Mr. President, the head of the Men's Substance Abuse Center for Volunteers of America [VOA] in Louisville recently traveled to the Soviet Union to learn more about alcoholism in that country. For over 2 weeks Patrick McKiernan met with Soviet officials and visited institutions in Leningrad and Novgorod.

An article entitled "Louisville Man Finds Soviet Union Failing at Treating Alcoholism" that appeared in the Louisville Courier Journal provides insight into Mr. McKiernan's Soviet experience. He found that while "they easily have just as many alcoholics there as we do here," Soviet methods for treating alcoholics differs greatly from United States methods. This can be attributed to cultural and medical theory differences.

Mr. President, I ask that the article appear in the RECORD so that my colleagues may read of Mr. McKiernan's observations.

The article follows:

LOUISVILLE MAN FINDS SOVIET UNION FAILING AT TREATING ALCOHOLISM

(By Lee Eric Smith)

Louisville alcoholism counselor Patrick McKiernan had hoped that a recent visit to the Soviet Union would give him a chance to exchange ideas on treating alcoholics with Soviet doctors.

But things didn't quite work out that way.

"We went to the treatment centers and some workshops but we didn't really work with anybody," McKiernan said. "We spent a lot of time observing what the Soviets did instead of discussing constructively how to improve alcohol treatment. They were trying so hard to impress us that they missed out on asking us what we were doing and how we were dealing with alcoholism."

McKiernan, who heads the Men's Substance Abuse Center for Volunteers of America in Louisville, was one of 16 VOA counselors who visited Leningrad and Novgorod from May 14-31 to meet with Soviet counselors. VOA selected counselors for the

trip from across the nation based on experience and training, McKiernan said.

McKiernan, 28, came back from the trip with two strong impressions—that alcoholism is much more visible in the Soviet Union, and that Soviet methods of treating it are far behind U.S. methods.

McKiernan said it wasn't unusual to see people staggering around drunk in neighborhoods. But McKiernan said Soviet society makes it difficult for alcoholics to ask for help.

"It's a shameful thing to be an alcoholic in the Soviet Union," McKiernan said. "Their society thinks badly of them and the government requires them to register with the medical branch of the government. That means there is no confidentiality; everybody knows you're an alcoholic. And a lot of alcoholics don't want to go through that, and therefore don't register."

According to information the VOA obtained from the Kirov Institute in Leningrad, there are 5 million registered alcoholics in the Soviet Union, compared with an estimated 10.5 million alcoholics in the United States. But the Kirov Institute estimated that the U.S.S.R. has three to four times the number registered.

"They easily have just as many alcoholics there as we do here," McKiernan said. "But it's harder to pick out alcoholics in the U.S. than in the Soviet Union. In addition to it being so easy to obtain alcohol inconspicuously here, there are also many more confidential ways alcoholics can get help. So it's easier for alcoholics to go undetected."

McKiernan also said that Soviet officials say there are 8,000 drug addicts in the Soviet Union, but in private conversations Soviet doctors estimated there are 10 to 20 times that many.

McKiernan said Soviet methods of treating alcoholics are far behind U.S. methods. He said treatment, which includes acupuncture, hypnosis and psychotherapy, is administered by Soviet doctors rather than by alcoholism-treatment specialists. But McKiernan said Soviet doctors undergo only six years of instruction, which he equates to "a master's degree in biology." And he said Soviet psychotherapy is closer to a simple question-and-answer session, which doesn't really accomplish much.

"Basically, they sit the alcoholic down and say, 'Why do you drink? What situations make you feel like you have to drink?' And that's not really counseling," McKiernan said.

"Our treatment programs treat alcoholism as a disease, not a weakness," McKiernan said. "In their group therapy, they have difficulty getting the alcoholics to open up and discuss their problems. But that's where we begin."

In other words, "it doesn't matter how or why you became an alcoholic," McKiernan said. "It's where you go from here that is important."●

FOURTHFEST

● Mr. COATS. Mr. President, in just a few days across the country we will witness summer's annual outpouring of festive patriotism.

It is somehow appropriate that in America we choose to celebrate serious virtues and historic sacrifice with the stuff of our everyday lives, with barbecues and beer and picnics. Each year our July 4th events prove that sincerity need not always be solemn.

And I can attest that one of the most exciting and well-attended of those events will take place in the center of Indianapolis.

For the past 13 years, WFMS radio, the Indianapolis Jaycees, INB National Bank, Claypool Court and the Commission for Downtown have hosted the "Fourthfest." Each year they have brought the best in country music to over 200,000 Hoosiers at the War Memorial downtown. At the end of the concert, a huge American flag is unfurled and a spectacular fireworks display begins.

This year, the Fourthfest will kickoff with the presentation of the 1990 Hoosier Pride Award, sponsored by Claypool Court. The recipient is Jim Davis, creator of Garfield the Cat.

Last year I was fortunate to participate in the event, and it exceeded all expectations. I want to express the enthusiasm and thanks of all Hoosiers to the sponsors of Fourthfest, and wish them their usual spectacular success.●

COSPONSORING S. 2675

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2675, a bill to direct the Census Bureau to enumerate members of the Armed Forces stationed outside the United States according to their home of record, or the place where they enlisted.

The Commerce Department and the Census Bureau recently announced their intention to count military personnel based on their last residence of 6 months or longer, rather than their home of record. The proposal would result in placing a disproprortinate amount of people in States that have large military facilities, to the exclusion of those that do not. Because these persons are counted for reapportionment purposes, this inaccuracy could affect the representation of millions of Americans. By counting overseas military personnel according to their home of record, these persons will be accurately distributed throughout the country.

Overseas military personnel were last included in the census in 1970. At that time, they were counted according to their home of record. Therefore, the new method proposed by the Commerce Department and the Census Bureau is a clear departure from past Census Bureau policies.

Counting overseas military personnel according to their home of record is the fairest and most effective method. I urge my colleagues to support this measure.●

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the President pro tempore of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort Mr. Nelson Mandela, deputy president of the African National Congress, into the House Chamber for the joint meeting tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTING THE ENGROSSMENT—S. 2014

Mr. MITCHELL. Mr. President, I ask unanimous consent that the engrossment of S. 2014, the Chama River bill, reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMTRAK REAUTHORIZATION AND IMPROVEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5075, the Amtrak Reauthorization and Improvement Act of 1990, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5075) to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GORTON. Mr. President, I am delighted that the House and Senate have acted so quickly in approving a new Amtrak bill just 2 short weeks after the President's veto was sustained by the Senate. This bill contains a vitally important provision which I coauthored that will end discriminatory tax treatment suffered by some transportation workers in the State of Washington. My provision provides that rail and motor carrier transportation workers will only have to pay State taxes to their State of residence.

I first learned of this problem several years ago from railroad employees who reside in Spokane. During the course of their day, these workers would work on a train passing through Idaho and Montana. Suddenly, these employees, and in some cases retirees, were receiving notices for back taxes from our neighboring States for the portion of the employees' work day when the train travelled through the neighboring States. I felt that this action was extremely discriminatory and amounted to double taxation for Washington State workers.

Two weeks ago, I made a difficult decision to support the President's veto

of the Amtrak bill. I did so not only because I agreed with the President regarding the ICC provision on leveraged buy-outs, but I was also personally assured by OMB Director Richard Darman, Chief of Staff John Sununu, and Secretary of Transportation Sam Skinner that the President will sign a new Amtrak bill containing the State residency provision.

I want personally to thank the citizens of Washington, many of whom have suffered from out-of-State attacks on their wallets and bank accounts, for their understanding and patience with what has been a long fight for tax fairness. It was hard for me to make my constituents wait even a few extra weeks, but today I take great relief in knowing that the President has committed to signing this bill. At last, Washington State residents will be treated equitably.

Mr. EXON. Mr. President, I am pleased that the leadership has scheduled time for consideration of H.R. 5075, legislation to reauthorize funding for Amtrak through fiscal year 1992. This bill does not contain the ICC jurisdiction provision identified by the President as the basis for his veto of H.R. 2364.

Although I believe the ICC provision would merely close a loophole in current law which denies the ICC authority to review acquisitions of class I rail carriers by noncarriers, since the Commission has similar authority to review all acquisitions by carriers and even acquisitions of a portion of a rail line by a noncarrier—the proponents of this measure have agreed at this time to put aside the ICC jurisdiction provision, to deal with the immediate issue of the reauthorization of Amtrak.

In the absence of an authorization bill, Amtrak will not be able to obtain tax-related savings totaling $16 million; it will not have the flexibility to order new equipment as the need arises and funding becomes available; and, Amtrak will not have the stability it needs to plan for the future. All of these are of vital importance. This legislation addresses all of these matters and more.

I introduced Amtrak legislation in the Senate on June 14, 1990, which would also require Amtrak to provide two reports to Congress: one on its plan to eliminate its need for Federal operating support by the year 2000; and a second on the economic feasibility of providing new service to areas currently not served by Amtrak which have the potential of covering their operating cost. The measure we are considering contains these studies and is identical to S. 2745, the legislation I introduced.

Passage of this measure would provide the assurances that are necessary for nationwide passenger rail service to continue in the year ahead. I emphasize nationwide service, as I have in the past, since I believe that Amtrak is an integral component of our national transportation network.

I urge my colleagues to support passage of this bill to help ensure that nationwide service remains a reality.

Mr. ROBB. Mr. President, I rise today in support of an Amtrak authorization bill for what I hope will be the last time in this Congress.

The House passed this Amtrak bill early this afternoon on a voice vote. It is identical to the bill, S. 2745, introduced by the distinguished chairman of the Surface Transportation Subcommittee, Senator EXON, and cosponsored by Senators LAUTENBERG, SIMON, and myself.

The statement of administration policy on H.R. 5075 says that it is acceptable to the President, and I expect that he will sign it quickly.

We have been a long time getting to this point, passage of a bill that the President has pledged to sign, and there are many people to whom my constituents and I owe a great deal of thanks for their efforts on behalf of commuter rail in northern Virginia.

Foremost among those who have helped the cause of the Virginia Railway Express in the Congress are the distinguished chairmen of the House and Senate Commerce Committees, the chairmen of the Transportation Subcommittees, and their staffs. We are also grateful to the chairmen of the House Judiciary, Ways and Means, and Public Works Committees who declined to seek sequential referral of this bill so that the bill could move quickly.

Let me thank them and the countless others, in northern Virginia, in the Congress, and in the rail industry, for their efforts on our behalf. Particular thanks are due to former Gov. Gerald L. Baliles, who along with his deputy secretary of transportation, Bill Leighty, and his secretary of administration, Carolyn Moss, worked out the insurance package that will indemnify the various railroads whose tracks the VRE will use. Governor Wilder has continued to support the idea of commuter rail, and his secretary of transportation, John Milliken, and his special assistant for transportation, Gary Brooks, have ably assisted him in that effort.

The folks at the Northern Virginia Transportation Commission, particularly Steve Roberts, and at the Potomic and Rappahanock Transportation Commission, including Steve MacIssac, have worked long and hard, not only on the bill we pass today, but on the everyday details of getting a new commuter service to run.

I am grateful to all these people and many more, and I invite them all to ride the VRE with me when service begins in the fall of 1991.

Mr. WARNER. Mr. President, I rise today to support the final passage of the Amtrak reauthorization bill. On June 7, 1990, the House of Representatives overrode the President's veto by a vote of 294 to 123. On June 12, 1990, the Senate voted to uphold the President's veto of the measure by a vote of 64 to 36. Today, the House passed the measure by voice vote after a provision was removed from the bill dealing with the jurisdiction of the Interstate Commerce Commission.

This legislation would reauthorize Federal funding for Amtrak through fiscal year 1992. This would be the first reauthorization of Federal financial assistance for Amtrak since 1985. Amtrak was created 20 years ago to preserve a national rail passenger system. Since then, it has demonstrated a growing market for its energy-efficient, environmentally being alternative to increasingly congested highways and crowded skies. Amtrak is eager to play an increasingly important role in a balanced national transportation system. It has demonstrated a market for the rail passenger service alternative and has proven the improving economics of its service. Amtrak offers a less expensive alternative to the enormous cost of highway and airport expansion and it is ready to be a leader in the development and operation of high-speed rail systems. Passage of the Amtrak Reauthorization and Improvement Act will send an important message to this Nation's travelers, as well as to the private financial markets, that the Federal Government supports a growing role for Amtrak in addressing the congestion and pollution that is so choking this Nation's transportation system.

Mr. President, this legislation will now allow Northern Virginia's proposed commuter rail service to move forward. The Virginia Rail Express would provide daily commuter rail service from Manassas and Fredericksburg, and points in between, to Union Station in Washington, DC. The rail service would help relieve traffic congestion along Interstates 66 and 95 and could possibly save commuters several hours of driving time on the highways each day.

Mr. President, the Congress' action today on this bill will allow the Northern Virginia Transportation Authority's rail car acquisition contract to be completed and thus avoid the substantially higher costs if a firm order is not placed before the month of August.

Mr. President, this is a vital piece of legislation which will affect many commuters throughout the State of Virginia. Now that this legislation has passed, the rail service can commence.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5075) was ordered to a third reading, and was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I want to indicate for the record that this is precisely what many of us hoped would happen after the one objectionable feature that has been removed following the sustaining of the President's veto.

I thank my colleagues, and I think this is an indication to those who are concerned about Amtrak reauthorization, that their concerns have now been satisfied. I feel certain the President will sign this bill, and I thank my colleagues in both the House and the Senate.

ORDER OF PROCEDURE

Mr. MITCHELL. I ask unanimous consent that the distinguished Republican leader be recognized to address the Senate, and that upon the conclusion of his remarks, the Senate stand in recess under the order until 9 a.m. tomorrow, Tuesday, June 26.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRAGEDY IN IRAN—COMPASSION FROM AMERICA

Mr. DOLE. Mr. President, I will just take a couple of minutes. I wanted to comment on the tragedy in Iran and the compassion from America.

The tragic toll of death and destruction continues to mount from this weekend's earthquake in Iran.

Late last year, I visited Soviet Armenia, 8 months after it experienced just this kind of devastating quake. It is impossible to describe the experience of seeing with your own eyes the consequences of such a quake: Towns, villages, communities leveled; tens of thousands of people—men, women, children—their lives snuffed out in an instant; hundreds of thousands more—homeless, jobless, nearly hopeless.

When you see that, you do not think about politics, you think about people. You do not think about your own grievances but the grieving of the victims.

That is the way the overwhelming majority of Americans are looking at the tragedy in Iran.

Today, we do not see the venomous face of Khomenei and his assaults on America as the "Great Satan." We see, instead, the shocked and sad faces of the survivors, their whole lives literally turned upside down.

And, as Americans have always done, we respond with caring and humaneness.

We, our Government and people—we respond by putting aside our own very legitimate anger and resentment over the outrageous acts and words of Iran's leaders; we respond with caring and generosity, by offering all the help we can.

I commend the administration for its quick and humane offer of help. It was the right thing to do.

I commend the American people for their own human desire to help. It is the American thing to do.

Mr. President, right now, the Iranian people have rightfully focused all their attention and energy on the tragedy they have suffered. I do hope, though, that, as the relief and reconstruction goes forward, they and their leaders will take from the experience they have suffered, and particularly from the American response, a better understanding of the true nature of our Government and people.

Perhaps in that process, they will also gain a better understanding of the responsibility they have to respond just as humanely to the suffering of a few innocent Americans and their families who also happen to find themselves in different but also tragic circumstances.

ORDERS FOR TUESDAY, JUNE 26, 1990

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., on Tuesday, June 26; that following the time for the two leaders there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, the period for morning business tomorrow, beginning shortly after 9 a.m., and extending until 10:40 will, of course, be available for Senators who wish to address any subject, including the subject of the flag amendment. There was a lengthy and spirited debate today.

Several Senators who were not able to be present today will be present tomorrow morning, and they should now be aware and advised by their offices that they will be able to address the Senate during the time between 9 and 10:40 a.m. on that subject.

At 10:40, the Senate will assemble in the Senate Chamber to proceed as a body to the Chamber of the House of Representatives for the joint meeting which will be addressed by Mr. Nelson Mandela.

RECESS UNTIL 9 A.M. TUESDAY

Under the previous order, the Senate now stands in recess until 9 a.m. tomorrow morning.

Thereupon, the Senate, at 7:35 p.m., recessed until Tuesday, June 26, 1990, at 9 a.m.

EXTENSIONS OF REMARKS

CAMEROON: THE LION HEARTED SOCCER TEAM

HON. MERVYN M. DYMALLY
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. DYMALLY. Mr. Speaker, soccer fans were surprised and thrilled to see the Cameroonians, not only upset Argentina, the 1984 World Cup Champions 1 to 0 but they went on to qualify for the finals by beating Romania 2 to 1 and Colombia 2 to 1.

Recently the New York Times published two stories about this lion-hearted team:

LION-HEARTED CUP TEAM GIVES HOPE TO CAMEROON

(By Michael Janofsky)

SELVA DI SASANO, ITALY.—The name of the country evolved from the Portuguese word for shrimp, camarão, which might have been an appropriate nickname for Cameroon when the World Cup finals began earlier this month. Though champion of Africa, the team was still viewed as only an appetizer for other teams in its group in the world championship soccer tournament. Yet through the first round of play, which ends this week, no other team among the 24 participating has caused such a stir.

In winning their first two games—a remarkable 1-0 upset of the defending champion, Argentina, and a 2-1 victory over Romania—the Cameroonian players have clearly fulfilled the promise and ferocity of their true nickname, the Indomitable Lions.

With one first-round match to play—Monday night in Bari against the Soviet Union—the Lions have already assured themselves of a place among the 16 teams that will advance to round two, when the monthlong tournament changes to a format in which one loss eliminates a team.

The Lions' two victories have not only unleashed a wave of joy across Africa, a soccer-mad continent, they have also given Cameroonians new hope that investors and tourists might discover their land, just above the equator in the crook of Africa's West Coast.

Further, they have given impetus to a growing feeling that Africa deserves more than two places (Cameroon and Egypt filled them this year) in the World Cup finals, compared with 13 for Europe.

Like many African nations, Cameroon is inching from an agricultural base toward industrialization. Nearly two-thirds of the country's 11 million people are still earning a living from the soil. Five years ago, the nation was without television. A brochure recently published by the Government proudly boasts of "tarred" roadways now in place. Money is scarce; goods are limited and expensive. Many of the fields used by soccer clubs are of sand, unlike the manicured laws of Europe.

"We have so many tribes in our country," said Prof. Pierre Tsala Mbala, the national team's physiologist since 1976, "Football is one way to unite our country, the only way to have our people fit together. I don't know of another event to mean more to our people than football. Football is a big unifier in our country."

A VERY FULL HOUSE

The sport is so popular that eight years ago in Yaoundé, the capital, more than 200,000 people attended Cameroon's World Cup qualifying match with Morocco in a stadium that seats 50,000.

"In Africa, a seat for 1 is a seat for 10," said Theophile Abege, a retired midfielder who starred for the national team for years. "There were 500,000 more outside the stadium, with their radios chattering. They were there to support the team, to live with the team."

Mr. Abege, the players and others in Cameroon's World Cup delegation are based here in a tiny hilltop town in Italy's heel, overlooking white-washed stone houses, acres of olive tree groves and the Adriatic Sea beyond. The team practices at a small field at the foot of the hill, in the town of Fasano, where children watch them train and tug at their jacket sleeves for autographs.

In recent days, many of the Cameroonians have talked by telephone to relatives and friends at home. They have all heard the variations on a theme, of the joy over the team's victories, of the celebrations, of the expectations for continued success.

"There is happiness all over the country," said Mbena Mengue, the director of the Prevoyance Football Club in Yaoundé and head of the delegation. "The walking has stopped. People are dancing. They are enjoying themselves. This is a very big event in our country. Very big."

"Feasts," said Professor Mbala, who has spoken to his wife in Yaoundé. "Many feasts. People drink lots of beer and palm drinks and eat lots of food: meat, beef, chicken, fishes, small animals from the bush. Some people were up all night last Friday, making feasts."

Beyond the joy, however, Cameroonians are hoping that victories might generate other benefits for their country, the way staging the 1988 Summer Olympics helped South Korea reach trade agreements with new partners, like the Soviet Union and some of its former satellite states.

Cameroon, which gained independence 30 years ago after decades as a divided country under British and French control, sorely needs assistance in all aspects of society, chiefly economic. Aside from just two large cities, Yaoundé and Douala, and several remote game preserves, the country lacks the kind of magnets that attract investments and tourists.

The World Cup is a rare opportunity to bring Cameroon attention from beyond the continent. Mr. Mengue cited Valery Nepomniachi, a former assistant coach with the Soviet national team who was hired last year to coach the Lions, as an example of the benefits of foreign assistance.

"If we can be helped in joint ventures in the matters of sports management," Mr. Mengue said, "we can be helped to make up our infrastructure. So maybe this is an occasion for others to come and visit in Cameroon."

"The entire world is talking about Cameroon," said Michael Kaham, a Cameroonian who once played for the Cleveland Force of the Major Indoor Soccer League in the United States and is now an assistant under Mr. Nepomniachi. "Maybe some will come to visit."

PLAYED WELL IN 1982

This is Cameroon's second appearance in the World Cup finals. In 1982, the Lions played remarkably well, tying each of their opponents—Peru, Poland and the eventual champion, Italy—but failing to advance. Returning home, they were greeted as heroes, and the adulation resonated throughout the continent.

Over the next few years, they established themselves as one of Africa's premier teams, and many of the players signed professional contracts in France and elsewhere. The team won the African Nations Cup in 1984, finished second to Egypt in 1986, won again in 1988 and lost this year's championship to Algeria. In 1986, Zambia beat Cameroon in the World Cup qualification to join Morocco in the finals.

Meanwhile, other African teams have improved to the point that Mr. Abege, now an administrator with Air Cameroon, said that as many as six others could have done as well as Cameroon in this year's World Cup. He named Algeria, Morocco, Zambia, Ghana, Zaire and Nigeria.

"Five or 10 years from now, he said, "African soccer may be the best in the world."

Many of the players say the improvement of the other African nations, their own play in the tournament, and that of Egypt, which has tied both its games, could influence a decision to admit one or more other African nations.

"Before coming here," said Thomas Tataw, the team captain, "we had two motives. No. 1, we came to represent very well Cameroon and Africa. Secondly, we came here to fight, to fight to try to get Africa more representation in the World Cup. If we are able to put up a good show, possibly they will recognize how far African football has come."

So far, the show has been dazzling. This is a team with a style unlike that of any other squad in the tournament. Rather than advance the ball with short, quick passes through the middle of the field or with long, deep drives down the wings, the Lions dart about at a frenetic pace, each dribbler keeping the ball on his feet until absolutely forced to pass.

François Omam Biyik, a 24-year-old forward, drew sudden international acclaim scoring the goal that beat Argentina, just seconds after his brother, Andre Kana Biyik, was banished for a flagrant foul. But the star of the show and spiritual leader of the team is Roger Albert Milla, a 38-year-old who came out of retirement on public demand in May to rejoin the team in preparation.

Twice Africa's player of the year, he entered the game against Romania in the 58th minute and broke a scoreless tie with two goals. Since then, he has become so swept up in the excitement of the team's success

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and his own rediscovered enthusiasm that he pronounced his intention to play another two years before retiring for good.

Mr. Nepomniachi, a 45-year-old native of Siberia who speaks only Russian and communicates to his team through an aide, plays down his role in the mix, saying, "I think I have not done a great deal."

In fact, he has. To the apparent randomness of the offense he has brought a Soviet-style defense, structured and disciplined, which had a lot to do with frustrating Diego Maradona, the Argentine star, in the opening game.

In the final analysis, though, many of the players attribute the team's success not so much to order or chaos but to heart, the heart of the lion. They speak of a harmonious team, a team of brothers, of laughters, of dancers, of men who are not surprised in the least by their accomplishments.

"In Cameroon, big lions are like gods," said Jean Claude Pagal, a 21-year-old defenseman. "When we play, we have lions in our hearts."

THE OLD MAN WAITED FOR THE SHADOWS

(By George Vecsey)

NAPLES.—In Yaoundé, the capital of Cameroon, they were already taking up a public collection to erect a statue of Roger Milla. Donations will surely go up today.

The old man, all of 38, made himself the biggest man in Naples since Diego Armando Maradona went north by scoring not once but twice in the second overtime yesterday as Cameroon defeated Colombia, 2-1, to become the first African nation ever to reach the quarterfinals of the World Cup.

Milla was already a hero in his country for his two goals against Romania in the opening round. Now he is a legend, once again coming off the bench, immediately improving his team, artistically at first, historically later.

He has already had one retirement and one comeback and now he will have his first deification.

Milla has made the rounds of the soccer world, playing in the French first division for many years and tormenting the old guard in the 1982 World Cup before Cameroon was eliminated with three ties in three games.

He retired in 1988 because he had had enough. One day while he was playing soccer in a distant arena, his mother died at home. When his wife became pregnant with another child, he thought it was time to stay home, to live a life.

But of course he kept playing for a small team on an island in the ocean, keeping himself in shape. This spring he volunteered his services to the national team, which came as something of a surprise to the coach, Valery Nepomniachi, who hails from Siberia and has all his discourses translated from Russian to French. The word was that Roger Milla was coming back.

Little did they know that the old man would become the king of the road once again, with due apologies to Roger Miller of songwriting fame.

"I have to say this is the merit of Roger Milla," the coach said yesterday. "He has great experience. He started today with great difficulty, but he improved. He is a real expert at playing football."

The old man does not start in these games. While the sun is still strong on the field, there are younger chaps to do the chasing and the running. He waits. He watches. The shadows were two-thirds across San Paolo Stadium when Nepomniachi sent the old man into the game in the 54th minute yesterday. The heat of the day was down. Time for an old man to play some soccer.

Up to then, the best play on the field had been Carlos Valderrama of Colombia, with his yellow lion's mane and his hipper-dipper moves. Now the best player on the field was 38-year-old Roger Milla. Cameroon started playing neat little games with head passes and short trap plays testing Colombia's goalie, Rene Higuita, who likes to think he is a midfielder.

Cameroon won the second half on points, but this is not boxing. After 90 minutes, they were tied at zip, so the referee whistled, and so did thousands of others in the place, only derisively, wanting some action.

There would be 30 more minutes, followed if necessary by that ugly fact of World Cup life, the penalty-kick shootout.

It never came to that. In the 16th minute of overtime, Milla burst through two defenders to catch up with a pass. He had only Higuita to beat, and he did so economically, with the wisdom of an old man who has been there before, flicking the ball with his left foot, past the goalkeeper.

It wasn't over yet. Four minutes later, the desperate Higuita moved out to get something started. Milla went in for the kill, stripped Higuita of the ball, took a few steps to make sure, and then plopped the ball into the unguarded net.

"You can't see something like that on film," Milla said later. "You just play the play."

Even while people in exotic robes were dancing in the aisles, Colombia scored in the 27th minute of overtime, but the game ended with Cameroon, and all of Africa, moving into the final eight in the world.

"African soccer is emerging very quickly," Francisco Maturano, the coach of Colombia, said earlier in the week.

Nepomniachi voiced his concern before the game: "I fear that the Italian crowd will not be on our side," because in the opening game of this tournament, Cameroon humbled Argentina and the local favorite, Maradona, who plays for the Naples club.

Naples was all set to cheer Argentina in winning its division and staying "home" for the second round, but Maradona can no longer carry Argentina in his busy little hands.

Instead, Naples got Cameroon and Colombia, and Naples could have hardly cared less. San Paolo Stadium has been newly spruced up, with seats put in to satisfy new safety and comfort regulations, cutting the maximum attendance from 85,012 to 71,136.

On a gorgeous Saturday evening, San Paolo seemed half-empty. The attendance was given as 50,026, but this seemed to be right from the adding machine of Harry Wismer of the old New York Titans, who counted vendors, pillars and pigeons to make the total sound respectable.

And this is a soccer town. Imagine what two unheralded teams might draw in one of those towns being prepped by the World Cup committee for 1994 in the United States.

The count was about what it had been for Argentina's two games here, making it seem that the locals had spent their soccer money on the sensational league race, won by Naples this spring.

Tonight they seemed to stay home watching two games on television and gearing themselves for Maradona's game against Brazil today in Turin. While waiting for Diego, they missed Roger Milla in person. And that was a shame.

BULGARIAN ELECTIONS

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. SPRATT. Mr. Speaker, a member of my staff, Thomas S. Kahn, recently had the opportunity to serve with the National Democratic Institute for International Affairs [NDI] as an election observer in Bulgaria's June 10 national elections. NDI sponsors nonpartisan international programs in various nations across the globe, including Bulgaria, to build and strengthen democratic institutions. Aside from sending international election observers to monitor the elections, NDI also helped to create a nonpartisan, civic organization with 10,000 Bulgarian volunteers who worked to ensure the fairness of the elections. While there were problems in the Bulgarian elections involving fraud and voter intimidation, I believe that the work conducted by NDI, along with its Republican counterpart, the National Republican Institute, played an essential role in improving the quality and fairness of the electoral process. Although I, along with many others, were disappointed with the election results which showed a Communist victory, I hope the June 10 elections represent a first important step by Bulgaria down the road to a free and democratic future. Tom has written an article describing his impressions of the Bulgarian elections and I would like to share it with my colleagues. An edited version of Tom's artricle appeared in the June 22 Christian Science Monitor.

BULGARIA FOLLOWS A DIFFERENT PATH: A FIRST-HAND VIEW

(By Thomas S. Kahn)

Bulgaria stands alone as the only east bloc nation to give the Communists a plurality of the vote in an open, multi-party election. On June 10 and 17, Bulgarians went to the polls for the first free elections since 1931 and gave the Communist (now renamed Socialist) Party a majority of the seats in the new Parliament. The Communist Party won solid victories in almost every part of the country except Sofia, Bulgaria's capital. Why did the Bulgarians fail to reject resoundly Communists as had the people of Poland, East Germany, Hungary and Czechoslovakia?

Many in the Bulgarian opposition party explain the Communist success by declaring the elections a fraud. To be sure, intimidation and fraud were wide-spread in many parts of the country-especially in rural areas. I met with opposition leaders in small towns who told me that Communist supporters had threatened to hang them after the elections and burn down their homes. I heard numerous reports of vote-buying and I saw some evidence that the communists used intimidation and coercion against peasants and gypsies to obtain their votes. Those manipulations all added to the Communists' margin of victory.

But I believe it would be a mistake to dismiss the elections as a fraud. Opposition parties were permitted to organize and run an aggressive western-style campaign. Opposition newspapers were sold in major cities and the various parties had access to television and radio to criticize the government and put forth their own platform. Opposi-

tion parties held demonstrations across the country, some of which I attended, and these rallies were organized without overt government obstruction or impediment. Three days before the election, the opposition held an enormous rally in Sofia with up to one-half million people in attendance. The day after the election, I saw thousands of angry opposition supporters, marching through the center of Sofia, who were unmolested by police or soldiers as they blocked major streets and declared the election a fraud. On election day, I visited an army base in a rural area 200 miles from Sofia where I saw both Communist and opposition party posters given equal prominence on a wall of a soldiers' barrack. The vote counting process, which was performed after the balloting was completed, was done in a fair and professional manner. Our delegation received no significant complaints that the counting was falsified.

The Socialists showed that they have much broader public support than in any other east bloc country (except perhaps for Romania which is a unique case). The reasons for the Communist success are varied. First, unlike most of her neighbors, Bulgaria has little experience with democracy. Except for a ten year period between the first and second world wars, Bulgaria has been controlled by autocratic rulers and foreign governments. For a 500 year period until 1878, Bulgaria was occupied by the Ottomans. In this century, she has been dominated alternatively by Germany and Russia. A nation schooled in autocratic rule is less resistant to Communist controls and more reluctant to embrace the perceived chaos of democratic rule.

Second, the Communists have deep roots in the country and still enjoy significant popularity, especially in rural areas. The Bulgarian Communist Party is one of Europe's oldest Communist parties. Moreover, on a per capita basis, it is one of Europe's largest, claiming almost one out of every five Bulgarian adults as members. Many Bulgarians credit the Communist Party with the marked rise in their standard of living since 1944 when the Communists took power. It is noteworthy that unlike Poland, East Germany or Czechoslovakia, the Bulgarian Communist Party did not experience mass resignations this year.

Third, unlike the rest of Eastern Europe, hostility to communism is not tied to resentment against the Soviet Union. The Russians are popular among Bulgarians because they liberated them in 1878 from 500 years of Ottoman control. Moreover, the Russians are seen as fellow Slavs with a similar language and culture. By contrast, Russians are intensely disliked in the rest of eastern Europe because they are seen as occupiers and invaders.

Fourth, many Bulgarians, especially in rural areas, are conservative and afraid of the radical policy changes they expect the opposition to implement. Some of these concerns were the result of a Communist smear campaign alleging that if elected, the opposition would throw people out of their homes and work and eliminate social security benefits for the elderly. At the same time, the opposition contributed to this fear by supporting a policy to return the land to the wealthy landowners which was taken away when the communists took power. Peasants' conservatism is partly a result of the Bulgarian Orthodox church, which, unlike the Polish or Hungarian churches, has always been close to the government and never an independent voice defending peoples' rights.

Finally, the main opposition party was divided, lacked charismatic leadership and failed to develop a platform with widespread appeal. The Bulgarian opposition is in its infancy, lacking the experience and organization to wage an effective campaign. Unlike the rest of Eastern Europe, Bulgaria never had a strong dissident opposition movement and did not experience a Prague Spring or a Solidarity-like opposition.

By contrast, the Communists ran a strong and well-organized campaign. On November 10, 1989, the current President, Peter Mladenev and the Defense Minister, Dobri Dzhurov, participated in the coup which threw out Todor Zhivkov, Bulgaria's chief for 35 years. The current leaders have succeeded in converting the party's Stalinist image into a dynamic and positive one. In fact, rather than holding the Party responsible for past abuses, many people are grateful to the party for throwing Zhivkov out and implementing reformist policies.

For all their problems, Tuesday's elections still represent a quantum leap forward for Bulgaria's totalitarian past. The changes in Bulgaria since November 10 are dramtic. At the same time, the Bulgarian economy is in crisis—severe shortages of consumer goods, stagnating growth and a $12 billion debt owed to western banks. Bulgaria's only long-term solution is to attract western capital and convince western banks to reschedule its debt. This will not happen unless the west is convinced that Bulgaria is on an irreversible path toward democracy. The challenge facing Bulgaria's rulers is to overcome their Marxist ideology by continuing to move Bulgaria down the path toward a free and democratic future.

PENNSYLVANIA NEWSPAPER WINS PULITZER

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. KOSTMAYER. Mr. Speaker, I want to call to the attention of my colleagues the 9th of 10 editorials written by Tom Hylton of the Pottstown Mercury in Pottstown, PA.

These editorials on the subject of farmland preservation won this year's Pulitzer Prize for editorial writing, and I commend them to my colleagues:

BENEFITS OF OPEN SPACE BOND ISSUE FAR OUTWEIGH ITS COST

Chester County residents are being asked to vote yes on the upcoming open space referendum by a coalition of farmers, businessmen, and environmental groups.

Called Chester County Citizens to Save Open Space, the group is promoting the bond issue through mailings, phone banks, and endorsements.

Not everyone is enamoured of the proposal.

One newspaper recently editorialized that "the county has no business competing with developers to buy land."

Others have complained that taxpayers can't afford the price tag, that creating parks means removing valuable land from the tax rolls, that the bond issue may become a boondoggle, that it will primarily benefit the rich.

These objections deserve answers.

Governmental intrusion: The business of government, said Lincoln, is to do those things for the people which they cannot do for themselves.

Chester County is being developed so rapidly that only swift, forceful intervention can protect agriculture and preserve a balance of land uses.

While farmers would like to continue their operations, they face taxes that rise as property values soar, increased traffic, and an agricultural support system that is waning as the number of farms dwindles. At the same time, they are being offered fortunes for their land.

Most Chester County residents may want to preserve the county's rural flavor, but as individuals they cannot. Only through their county government can they unite to purchase development rights from farmers, thus preserving open space and keeping agriculture viable in Chester County.

The program is voluntary; no land will be condemned.

The cost: The bond issue will raise property taxes 3 mills ($32 for the average residential property) until it is paid off in 20 years. In return, it will preserve thousands of acres of open space and protect the country's agricultural base.

County real estate taxes are currently 23 mills. By contrast, the Owen J. Roberts School District levies a 166-mill real estate tax (in addition to an income tax), and its property tax will rise 9 mills in each of the next two years just to pay for the teachers current contract. Little public objection has been voiced.

At 3 mills, the bond issue provides a major public benefit for a small price. It would be foolish to reject a program costing the average property owner but 60 cents a week when far more dramatic tax increases go unquestioned. The positive impact of this bond issue will far outweigh its cost.

The loss of taxable land: Preserving farmland and open space will help hold the line on taxes, not raise them. Whenever land is developed, it creates a demand for government services that costs money. Agriculture places a smaller demand on government than any other land use. North Coventry Township, which has the largest shopping mall in northern Chester County, charges a mercantile tax in addition to a 10-mill real estate tax. Neighboring South Coventry Township, which is mostly farmland, levies only a 2-mill property tax.

To finance a $10 million bond issue to expand one elementary school—an expansion made necessary because of increased development—the Owen J. Roberts School District recently raised taxes 10 mills.

And don't forget that the farmland protected from development, though reduced in taxable value, does remain on the tax rolls. The farm will continue to contribute to the county's economy and to its tax base.

Fear of a boondoggle: A legitimate concern wherever government is corrupt or incompetent, ask yourself if this is truly a legitimate concern in Chester County.

It is the responsibility of the minority party, the press, and conscientious citizens to be vigilant as the program is carried out. Considering the keen interest of many environmental and public service groups in open space, it seems unlikely fraud or waste would go undetected or unremedied for long.

Benefits for the rich: Cynics seem to believe the county will buy land or easements only from wealthy property owners. This is a classic red herring. The farmer who is land rich is usually also cash poor. Selling development rights is unlikely to make him

rich, but it will commit him and his land to farming. Those farmers willing—and many are in fact anxious—to commit their land to agriculture deserve the program's top priority.

As far as parks are concerned, the primary consideration should be the suitability of the land, not the financial condition of the seller.

Two hundred years from now, it will make little difference whose land was purchased in Chester County. Future generations will only remember, with gratitude, that county government saved the forests and farms while they could be saved.

But Chester County will only do this if you, the voters, get out on Nov. 7 and vote yes on the bond issue referendum. It is in your best interest to do so.

WIC SERVICES RESTORATION ACT

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. HALL of Ohio. Mr. Speaker, as you know, many State WIC programs are experiencing serious budgetary shortfalls, resulting in participants being dropped from the program. To address this tragedy—a tragedy with a child's face—I am today introducing legislation that will provide a short-term solution to this crisis in State WIC programs.

The legislation will free up unspent WIC allocations in States that are not experiencing shortfalls, and make funds available to State WIC programs immediately, so that they can restore their caseloads to pre-crisis levels. This crisis has resulted in defenseless low-income women and children who are at nutritional risk being denied the benefit the program that was protecting their health.

The legislation will allow States with surplus funds to return them without penalty. The returned funds could then be distributed to States experiencing shortfalls, through the WIC formula. Currently, States that return surplus funds are penalized in the following year's funding levels. This legislation will prohibit the Secretary from penalizing States that return 1990 funds.

Also, my bill will temporarily raise the spending ceiling for States with a shortfall. Presently, States may credit current spending against future appropriations by 1 percent during a fiscal year. This legislation will allow States to borrow by the amount necessary to return their participation rate to March 1, 1990 levels.

I recognize that this legislation is only one part of a two-step process. If we simply allow States to begin borrowing against next year's appropriation, without adjusting that appropriation, they will face the same problem next year. Therefore, Mr. Speaker, I believe that the fiscal year 1991 appropriation must be increased by an amount that would fund the borrowing. I hope to work with my colleagues on the Appropriations Committee to ensure that the program is protected against another shortfall next year.

Mr. Speaker, unanticipated inflation has placed innocent children at risk of anemia, malnutrition and other diet-related health problems. A study recently completed by the National Association of WIC directors reveals that nearly a quarter of a million women and children will be denied the benefits WIC provides; benefits that have been proven to include increased maternal weight gain, reduced infant mortality, reduced low-birth weight infants, and valuable nutritional education and information. We must not force innocent children to pay the price for inflation. We must make this crisis a priority. If we fail to act now, we will consign these children to months of inadequate nutrition. Mr. Speaker, it is in the finest tradition of the Congress to respond to this crisis. We cannot fail to meet this obligation.

For the benefit of my colleagues, the text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966.

Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended—

(1) in paragraph (1), by adding at the end the following: "In the fiscal year 1991, the Secretary may not adjust the allocation to any State agency under this subsection solely on the basis of the return by such agency during the fiscal year 1990 of any amounts allocated to such agency under this subsection for such fiscal year."; and

(2) in clause (i) of paragraph (3)(A), by inserting before the semicolon the following: "and a State agency may expend, from the amount of funds allocated to such agency for supplemental foods for the fiscal year 1991, the amount necessary to cover expenses incurred in the fiscal year 1990 for purposes of continuing to provide services under the program during the fiscal year 1990 at the level at which such services were being provided on March 1, 1990".

UNESCO RESPONSE TO THE DEPARTMENT OF STATE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. DYMALLY. Mr. Speaker, I bring to your attention a letter to the Honorable James A. Baker III, U.S. Secretary of State from Dr. Federico Mayor, Director-General, UNESCO.

THE DIRECTOR-GENERAL,
June 18, 1990.

Reference: DG/90/253.

Hon. JAMES A. BAKER III,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I wish to acknowledge receipt of a letter delivered to me by the United States Observer Mission at Unesco transmitting the State Department Report entitled "The Activities of Unesco since U.S. Withdrawal".

I have carefully read this report, submitted to Congress on 17 April. This document was brought to the attention of Unesco's Executive Board which met from 9 to 18 May. Also, after thorough study within the Secretariat, I shall provide you with a memorandum setting forth detailed responses to the issues raised in the Report. Meanwhile, I should like to inform you of my preliminary reactions to the Report and my general reaction to its tone and content.

Mr. Secretary, I regret that, in my view, the tone is rather tendentious. The content is largely made up of sweeping statements based on fragmentary or distorted "facts". Furthermore, the Report dwells too much on events leading up to U.S. withdrawal, i.e. before 1984, and very little on recent developments, including some positive achievements. It takes insufficient account of progress in the Organization since 1985 and notably since the 24th and 25th sessions of the General Conference. By dwelling on arguments and controversies that marked the period leading up to your withdrawal, the Report does little to shed light on present progress in resolving these problems.

In general terms, the Report appears to aim, at least implicitly, at transforming the fundamental principles of the United Nations system as well as the constitutional mandates of its family of institutions. Yet it was the United States of America that played a leading role in the design and legal formulation of the United Nations system as a whole and of Unesco in particular. The Report mistakes Unesco for a funding or assistance programme which functions through voluntary contributions. This Organization, however, draws its budget from assessed contributions from its Members States.

The United Nations system and its component organizations were never intended to serve the interests of any single Member State. The system is based on the belief and the experience that the interests of all Member States are served.

The Report also appears to reflect a number of misunderstandings about—or even disregard for—Unesco's structure, functioning and governance. This includes a certain confusion concerning the respective roles and responsibilities of the Organization's governing bodies on the one hand and the Director-General and the Secretariat on the other. The Report criticizes Unesco's Constitution and raises vague and contradictory questions about its mandate and functioning. It criticizes my reform proposals while at the same time hoping for positive results.

With regard to the controversies surrounding Unesco's Communications Programme, those who followed the course of the debate over the period leading up to and including the 25th Session of the General Conference, agree that the New World Information and Communication Order is relegated to the past. The reports by both the Foreign Affairs Committee of the House of Commons and the Parliamentary Under-Secretary of the Foreign and Commonwealth Office of the United Kingdom, issued on 13 March and 2 April respectively, have recognized that the communication controversy no longer constitutes an obstacle. A number of press and publishers' organizations and institutes have all acknowledged the achievements of the twenty-fifth session of the General Conference in clarifying Unesco's position on freedom of the press, the role of the media both public and private and the free flow of information.

Only the Report of the United States State Department seeks to argue that little or nothing has changed concerning Unesco's commitment to the free flow of information. In doing so, the State Department report cites remarks by delegates and others that seem to have been taken completely out of context. The Resolution of the General Conference on Communications is quite

clear, relegating the New World Information Order to the historical past and firmly endorsing press freedom as Unesco's guiding principle in the present and future. This commitment to press freedom has been my consistent position since the day I took office. It has never wavered and, almost everyone agrees, it has prevailed.

On the issue of "peoples' rights", the General Conference made its position clear: "peoples' rights" could not give rise to normative action on Unesco's part and the concept was to be interpreted in its jurisdictional sense as the right to self-determination. The findings of an expert meeting at Unesco, of course, have no legislative status and do not commit the Organization. Citing the conclusions of the report of this expert meeting as if they were Unesco's official position on human rights, misrepresents the Organization and its Director-General. Free intellectual debate and enquiry on this issue, however, and indeed on any other issues in Unesco's fields of competence must remain an essential component of Unesco's work.

The Report's allegations concerning my visit to the Weizmann Institute of Science and the contacts made there are false. The decisions of the General Conference on the Palestinian issue are unequivocal on the question of Palestinian Observer Status.

I take a very serious view of the personal nature of some of the remarks directed against my integrity and honour. (Please see pages 5, 11, 15, 21, 22, 26, 28 and 29.) I do not wish, however, to dwell on the personal aspects of the Report since what matters most are the institutional and policy questions it raises.

Furthermore, I should like to express my concern at the striking omission in the Report of a Unesco initiative—co-sponsored by the World Bank, Unicef and UNDP—which resulted in the World Conference on Education for All. This meeting in Jomtien, Thailand last March, is an excellent example of practical international co-operation and genuine partnership among UN agencies on a major issue of our time.

To conclude these general observations, I must add two further points. One is an important question of detail, the other concerns principles put forward by the United States when it played a key role as a founder of Unesco.

First, in discussing management issues, the wholly spurious implication is made that the Hammarskjold Commission and the Wilenski Panel were criticizing my leadership of the Organization. I created these groups precisely to analyse and, wherever necessary, to criticize Unesco's management patterns as they developed over many years and to advise me in how to tackle these problems. This element of the reform process is now under way.

Second, Unesco's mandates—described as "too broad" in the Report—were set forth and, indeed, expanded by the United States over many years to provide problem-solving capacities in the linked fields of education, science, culture and communication. Early on, it was both your country and the United Kingdom that worked to integrate science and communication into the Organization's programme for evident reasons of clarity and pragmatism. To state that this could "invite and encourage the type of politicization in which extraneous issues creep into, or even dominate debates" is simply not true, as the recent General Conference clearly demonstrates.

Finally, the reform measures I have proposed concerning structure, management and personnel policies, as well as the recent reports of the United States and the United Kingdom governments, were subjects of considerable discussions at the recent Executive Board session that ended on 18 May. I am certain that the U.S. Observer followed these debates and hope that he has reported on them to the Department of State.

I shall express my detailed views on all the issues raised in the Report at an appropriate time.

Yours sincerely,

FEDERICO MAYOR.

TRIBUTE TO SILVIO O. CONTE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. DINGELL. Mr. Speaker, it's my pleasure today to pay tribute to one of the giants in the national and international effort to conserve and protect our natural resources. SILVIO O. CONTE is a Member of Congress whose work for environmental protection and conservation is known throughout the country, and his interests span a myriad of issues.

He serves with me as a member of the Migratory Bird Conservation Commission, serving for 25 years, longer than any other member of the Commission. His interest in waterfowl and the protection of wetlands is also felt on the House Appropriations Committee, where he serves as the ranking minority member.

SILVIO is also an avid angler, and his work to restore the Nation's fisheries and in particular the Atlantic salmon to the Connecticut River is recognized nationally. He is affectionately known as the "Father of the Atlantic Salmon Program" in New England, and just recently he was the keynote speaker at the dedication of the Northeast Anadromous Fish Laboratory in Turners Falls, MA. This facility, one of its kind in the world, is operated by the U.S. Fish and Wildlife Service, and it owes its existence to Congressman CONTE and his foresight. Several years ago, SILVIO began talking about the need for a first-class research facility on the Connecticut River to keep the restoration program on course. Over the years, SILVIO worked with the Fish and Wildlife Service on the plans for the facility, and eventually, using his position on the Appropriations Committee, he was successful in providing $17 million for operation and construction of the lab. Providing these funds was no easy task. It took determination and perseverance since the administration consistently rejected attempts to add funds for this project. It was SILVIO's belief in need for this research laboratory that made the facility a reality.

On June 9, 1990, Congressman CONTE and Fish and Wildlife Service Director John Turner dedicated this tremendous facility, and at that dedication SILVIO gave a moving speech, one that touched on some of the most important issues facing this country in the decade ahead: Conservation and the protection of our natural resources.

Mr. Speaker, as the former chairman of the Subcommittee on Fisheries and Wildlife Conservation of the Merchant Marine and Fisheries Committee and as an avid sportsman myself, I urge my colleagues to read this speech. It is well done, and I only wish that I was there to hear its delivery.

KEYNOTE ADDRESS OF HON. SILVIO O. CONTE

Today is a special day for me. It's a day that comes only a few times in a lifetime. It's a day when dreams come true, when decades of hard work and perseverance pay off, and when career goals are met. Today, we celebrate the dedication of this great facility, the mission it is charged with advancing and the ethic that guides its existence. For me, it's also the celebration of a career-long dream and an affirmation of my commitment to continue pursuing the dreams yet unfulfilled. My dreams for this lab, for the Atlantic salmon program, for the restoration of the Connecticut River, and for our natural resources and the environment are major goals of my career in public service.

These dreams have developed over my 32 years in Congress, and they touch an issue of great national importance: the environmental ethic—the condition of the world in which we live. It's a dream that envisioned the establishment of this facility. A dream that includes a Connecticut River, cleaned, fishable, swimmable and with salmon restored to abundant numbers. And a dream that someday, my children and grandchildren will continue to enjoy the outdoors as I have, and not be saddled with a planet polluted beyond repair.

Today, part of my dream has come true. After years of preparation and hard fought battles to secure funding, a world class research facility on the Connecticut River is a reality. It's been a long and tough swim upstream to get to this point. Like the strong and determined salmon, we faced the treacherous rocks of funding shortfalls, the steep dams created by bureaucratic delays and the swift currents of unwise development. We faced these obstacles head on, and we prevailed.

The lab is a reality, and today we celebrate its dedication. The idea for this facility was spawned from a desperate need for a coordinated scientific effort to restore anadromous fish to the Connecticut and other rivers of the northeast. Over the years, we've made great progress in our effort to revive this resource. We've cleared the river for fish passage. We've cleaned the water. We're protecting the vital spawning areas from unwise overdevelopment. And we're stocking the mainstem and tributaries to give the species a boost. But with all of this effort, the millions and millions spent, we didn't have a central place to find the answers to the troubling and fundamental questions that hampered this restoration program.

This facility, this beautiful monument to a national conservation effort, is this central place, the place where these questions will be explored and hopefully the solutions discovered. It's a place that will attract top scientists from all over the world. A place for students and young people to train and carry on our work after we are gone. A place for our children and grandchildren to learn about the world around them. And a place for people like us, laymen to the world of fish biology, to wonder about this remarkable resource and renew our commitment to its restoration.

Yes, it is truly a remarkable place, more than the bricks and mortar that we see today. For the real spirit is not in the physical plant, but with the people inside the buildings and in the message they represent. The dedicated scientists and fisheries

managers who work on this program hold the spirit that makes this conservation program special. Their enthusiasm for their mission and their ability to remind us each time of its importance makes their work remarkable indeed. And on a larger scale, perhaps more important in the long run, this research center is a symbol of the environmental rebirth of New England. It's a monument to our commitment as a nation to the restoration of our great rivers. This part of my dream—a clean and fully restored Connecticut River—started as a nightmare and has yet eluded realization.

The industrial revolution brought prosperity to this country, but at a great price. We used the rivers of New England to fuel a great economic expansion that affected all parts of the country and many parts of the world. It provided jobs and wealth to this area, but it also nearly destroyed the Connecticut and many other rivers in New England. For 200 years, we slowly sapped the life from these vibrant ecosystems. We dammed the mainstem and tributaries, cutting off the lifeline for anadromous fish. We dumped everything imaginable into the rivers, polluting them beyond recognition. And we let an entire species die. The mighty Atlantic salmon could not withstand this abuse, and the species was extinct from the Connecticut River system for 175 years.

Against these seemingly insurmountable odds, we've made significant progress. Already this season, the salmon run recorded at the Holyoke dam has surpassed the number documented for all of last year. This nightmare of abuse and destruction is slowly turning into a dream of a clean Connecticut River, on the road to recovery. Over the years we can count many successes. The river is open for fish passage for 270 miles upstream. The river has been cleaned up to the point where fish can thrive in record numbers and communities can seriously plan for sound development of their river front areas. And now we have the facilities in place—like the fish hatchery in Vermont, the holding station in Sunderland, the fish ladders at each dam, and this lab in Turners Falls—to make the restoration program a growing and expanding conservation effort—an effort that will bring us even closer to realizing the dream of a living Connecticut River, with clean water and abundant fish and wildlife resources.

At the turn of the century, President Teddy Roosevelt laid the foundation for the modern conservation movement in this country, and he frequently spoke of the theory behind the environmental ethic, the belief that drives the Connecticut River program today. On one occasion, the President used these words to describe his view of the environmental ethic: "I recognize the right and duty of this generation to develop and use our natural resources but I do not recognize the right to waste them, or to rob by wasteful use, the generations that come after us."

Eighty years later, this environmental ethic nurtures and feeds the river restoration program, providing the direction for us to undertake an effort large enough to discourage even the most optimistic: the restoration of a river system ravaged by the industrial revolution and referred to by many as the best landscaped sewer in America. My dream of a restored river system in New England is part of a larger set of dreams that I have pursued during my career in Congress and before that on Beacon Hill.

As a sportsman, I have had the privilege to experience the great beauty of nature first hand. The rising sun on a cold morning in the fall, splashing hues of orange and yellow across a pond. The rustling of leaves and the fresh smell of a cool autumn afternoon. And the setting of the midnight sun over majestic mountain tops. These images are real for me, and they give me the drive to keep on fighting for conservation programs and the environment—to preserve these images for our children and grandchildren to enjoy.

But today, these images are dangerously close to being shattered by man's indifference, carelessness and greed. We're approaching the edge of environmental disaster, and the remainder of this decade may be the only time we have left to prevent irreparable damage to our environment and to reverse the destruction of our natural resources. The air we breathe is dangerously toxic—raining acid on our lakes, streams and forests. Global warming threatens the planet, as the ozone layer is eaten away by pollutants from Earth. Toxic chemicals are dumped across the nation and in our back yards. Wetlands—vital to fish and wildlife resources as well as to our groundwater supplies—are disappearing at alarming rates: hundreds of thousands of acres each year. Even here on the river, our success may do us in if unwise development spoils our restoration effort.

These challenges and more face us in the decade ahead. Together and without a strategy, they seem insurmountable. But I am hopeful. I'm optimistic about finding a solution to these problems. To neutralize the threat of acid rain, ozone and other pollutants, both Houses of Congress have passed amendments to the Clean Air Act. To reverse the widespread destruction of wetlands, the Congress enacted my bill to implement the North American Waterfowl Plan. And to protect the Connecticut, I will introduce, when I return to Washington, a bill to increase protection for the river, from its source to the sea—a bill to create a Connecticut River National *Fish* and Wildlife Refuge. Our work on the river must continue. It's true that today we stand at the fork in the road. One path leads to disaster. The other to a clean and safe environment. I'm confident that we will choose the latter.

America is blessed with abundant and seemingly endless resources, but we must always remember that we are custodians of these natural resources, not absolute consumers. Each generation has an obligation to pass this inheritance on to the next, intact, or even improved. Our efforts here today—as we celebrate the opening of this magnificent research facility—bring us closer to achieving a lasting legacy: a clean, swimmable, fishable Connecticut River.

It's a dream that I've had for years—a dream of bringing my grandchildren down to the banks of the Connecticut, casting out my line and dueling with the mighty Atlantic salmon. It's a dream I share with many of you here today, and this lab bring us closer to that day when we can confidently say—our dream's come true.

AN OBVIOUS SOLUTION TO OBVIOUS WASTE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. BROOMFIELD. Mr. Speaker, when do we draw the line on Government waste?

My colleague RON WYDEN and I have introduced a bill which will put an end to a shocking example of Federal waste and mismanagement. During the Second World War our country built hundreds of cargo ships to carry troops and supplies overseas. At the height of the war American shipyard workers constructed each ship in a matter of days. In 1945, when our forces came home so did the hundreds of cargo vessels. These ships were placed in the National Defense Reserve Fleet, controlled by the Maritime Administration, to be activated in the event of a national emergency. That was almost 50 years ago. Today they are still waiting.

These ships have not been put to sea since the Korean war, spare parts are not available for the outdated equipment, the people who know how to operate and repair this equipment and crew these ships are in their sixties, and finally the slow speed and noisy operation of the old vessels will make them sitting ducks in any military conflict.

Despite these compelling facts, the rusty hulls, rotting decks and antique machines are still being maintained by the Maritime Administration as "national defense assets." The Maritime Administration feels that in the event of world war three these old sea dogs could, once again, proudly serve this country.

Who is Marad trying to kid?

Today, Marad possesses over 100 of these WWII vintage ships. Despite our astronomical deficit and across-the-board belt tightening the people at the Maritime Administration want more old ships and are asking Congress for almost double their 1989 budget. In recent testimony before the Small Business Subcommittee I listened to sealift and defense experts tell me point blank that these vessels could never respond to a national emergency in any reasonable time frame.

Both Mr. WYDEN and myself believe these old ships could do more than rust at anchor at the three fleet locations in Norfolk, VA, Beaumont, TX, and Suisun Bay, CA. Ship scrapping is a labor intensive industry which could literally create hundreds of jobs and return an estimated $200 to $400 million to our Treasury.

Unfortunately, whenever the Maritime Administration decides its time to scrap one of these vessels they are inevitably sold to Far Eastern countries which do not have to deal with costly EPA regulations and can outbid American competitors.

This legislation would provide for the accelerated domestic scrap sale of National Defense Reserve Fleet vessels built before 1946. Additionally, this legislation would provide 15 ships for the Artificial Reef Program. Artificial reefs are extremely important in fisheries promotion and attract sport fishermen who in turn generate tourist dollars for local communities.

Two years ago I became interested in the reserve fleet when I learned a portion of the vessels in the fleet were being used by the Navy as targets for their gunners. I then requested the Inspector General of the Department of Defense to look. A great deal of credit should go to Navy Comdr. John Polley whose report issued last year by the Department of Defense Inspector General convinced me that scrapping the old Marad ships could benefit everyone. Commander Polley's report dealt with one component of the Marad fleet which was being utilized by the Navy for targets. While target ships are a small component of the fleet they reflect the average age and type of Marad reserve vessel. The report concluded:

Some parts on the ships destined to be sunk were still being purchased by the Navy.

Neither the Navy nor Marad had any policy on stripping these ships.

A mind boggling variety of expensive equipment, huge quantities of copper, brass, and steel, even gold and silver were on board.

An estimated $17 million had been lost on ships sunk in the Navy target program.

Mr. Speaker anyone who is concerned about waste, deficit reduction, and putting Americans to work should give this bill careful consideration.

LEGISLATION TO ALLOW THE AWARD OF THE MEDAL OF HONOR TO COL. CARL F. EIFLER (RETIRED)

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. PANETTA. Mr. Speaker, sometimes the wheels of justice grind slowly, but they grind, as the poet says, exceedingly fine. I would hope that with the introduction today of my bill to allow the award of the Medal of Honor to Col. Carl F. Eifler, the House of Representatives will enable the just commendation this American hero so greatly deserves.

Colonel Eifler, today the holder of several graduate degrees in psychology and divinity, is a living legend among the men and women with whom he served in World War II. His heroism was such that an entire chapter of "Military Intelligence, Its Heroes and Legends" is devoted to his deeds. Considered an expert pilot, Colonel Eifler was assigned to the Burmese theater in 1942, where he was one of the rare pilots to fly small aircraft behind Japanese lines.

Given command of an office of strategic services [OSS] project in Burma in 1943, the colonel was single-handedly responsible for the rescue of nine American airmen drifting in waters very near territory held by Japanese forces. On the evening of November 27, 1943, Eifler, having commanded a crash boat for only five days, learned of the crash of the crew members of a downed B-24. With his boat's low fuel supply and low stocks of other provisions and ammunition, Eifler and his crew carried 2,600 gallons of gas 25 miles to the boat's tanks, readying for departure by 7 a.m. the next morning. Disregarding advice that his boat was not ready, Colonel Eifler and his totally inexperienced crew navigated 250 miles of the Bay of Bengal—then controlled by Japanese patrols—to rescue the airmen 24 hours later.

Through his years in the OSS from 1942 to 1946, Colonel Eifler sustained several very damaging injuries to his head and body, resulting in a lifetime of seizures, tinnitus and other physical and psychological ailments. Despite these tribulations, he always performed well above and beyond his mission, according to the testimony of his superiors and subordinates.

In 1943 then-Lieutenant Colonel Eifler was awarded the Legion of Merit by then-Lieutenant General Stilwell for "outstanding services and heroism" in "leading a military group 200 miles by boat along an enemy occupied coast" on March 7, 1943. The award continues:

[Lieutenant Colonel Eifler,] with utter disregard for his own personal safety, and regardless of the risk of landing on enemy shores unarmed, jumped into the sea carrying a line ashore with him[,] emerged on the beach and pulled five boats through the surf. During this successful operation, Lieutenant Colonel Eifler was swept continually against rocks, but in spite of tremendous difficulties and personal injuries, was responsible almost single-handed for the successful execution of this mission. His heroism in the face of almost insurmountable odds brings a great credit to the armed forces of the United States.

For his injuries in the landing, Colonel Eifler received the Purple Heart decoration.

In May 1945 Colonel Eifler was recommended for the Distinguished Service Medal "for exceptionally meritorious services to the Government in a duty of great responsibility." The officer recommending the medal, Brig. Gen. B.M. Bryan, noted that Eifler's "service * * * has been of such distinction that it has been broadly acclaimed throughout" the OSS. The recommendation cited "Colonel Eifler's personal indomitable courage, fortitude, and bravery along with his amazing stamina. * * *" Inexplicably, the medal was not awarded.

In August 1946, Colonel Eifler was awarded the Air Medal "for meritorious achievement * * * without regard for his personal safety * * * for his daring and for his unstinting devotion to duty" in his flights from September 1942 through May 1943 in and out of Burma. With no training as a pilot or navigator, Colonel Eifler flew many solo missions in an unarmed, slow, low-flying Piper Cub plane over uncharted areas patrolled by Japanese planes to and from unsuitable jungle landing strips. Again, in a phrase echoed throughout his career, the recommending officer noted that "no other person was willing to assume the risks inherent to those missions."

In addition, the War Department awarded Colonel Eifler two Oak Leaf Clusters, citations for Legion of Merit, a Presidential Unit Citation, the American Defense Medal, and the World War II Victory Medal, among others.

Unfortunately, Colonel Eifler never received the honor he truly deserves, the Medal of Honor, our highest military honor. According to its description, the Medal of Honor is awarded to an individual who has:

Distinguished himself conspicuously by gallantry and intrepidity at the risk of his life above and beyond the call of duty (1) while engaged in an action against an enemy of the United States; (2) while engaged in military operations involving conflict with an opposing foreign force; or (3) while serving with a friendly force engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

On several occasions Colonel Eifler fulfilled the criteria set forth for the award of the Medal of Honor. The legislation I am introducing today would, if passed, simply exempt Colonel Eifler from the statute of limitations governing the award of the Medal of Honor. None of the awards granted to Colonel Eifler recognized his valor. I understand that former commanding general of the U.S. Army Intelligence Center, Maj. Gen. Julius Parker (retired), strongly supports the award of the Medal of Honor to Colonel Eifler. I would strongly encourage my colleagues to grant the Department of Defense the ability to do so.

AMERICA AND ME ESSAY CONTEST WINNER

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today to share with my colleagues an essay by Julie Barst, an eighth grader at Zion Evangelical Lutheran School in Chesaning, MI, who placed seventh in the annual statewide America and Me Essay Contest. Her essay was one of the top 10 chosen from 5,000 entries from 500 Michigan schools. It reveals her concern for the future of our great country.

I submit Julie's work for inclusion in the CONGRESSIONAL RECORD:

Imagine walking into a forest and seeing only brown leaves, or no leaves at all, on dead and decaying trees. Or going fishing and seeing only dead fish floating on oil-streaked lakes and oceans. The cause—people being careless with our environment. The effect: deaths and reductions of plant and animal life in the world. Every day pollution-filled smoke rises up out of factories and causes irrevocable damage to the ozone layer. People somewhere in the United States forget to put out a fire and forests and creatures in them are destroyed. Careless people throw out paper and other garbage to lay and rot along the side of the road.

America should not function in this way. American citizens should care more about the environment in which they live and work. I believe we, as Americans, can do something about it. Each individual caring for and protecting our world helps to improve it. So don't ask, "I'm only one person, what could I possibly do to help?" because you can help. It only takes one person to make a difference. You can start by placing litter in garbage cans where it belongs instead of on the streets. You can also tell friends and family to do the same. There are many other ways to help, too, such as recycling pop cans and other materials.

Don't let this beautiful land go to waste. Let's all, as Americans, join hands in the fight to save our environment.

I also believe in education. There are many illiterate people in our country today. We can help stop the illiteracy rate from growing by finishing school ourselves, and then providing education for our children and future generations. I plan on attending college to become a teacher myself, to not only teach the children, but encourage them to do their best. One life touches another, and perhaps someday on the lives I've touched will go on to help others.

I would like to see America become the first to explore the outer limits of our universe. Just recently the United States sent up the spacecraft called Voyager. It has given new perspective to United States citizens on what our solar system is like. It would be exciting if one day a manned spacecraft could explore the galaxy.

I believe I can work with America to build a better way of life and brighter future for my generation and the generations to come. America has many opportunities available to us. This is a country where dreams can come true through hard work and a spirit of determination. And each individual is important in the quest for a greater country, America.

THE BENEFITS OF GOING TO COLLEGE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. DYMALLY. Mr. Speaker, recently the Mervyn M. Dymally Scholarship Fund conducted an essay contest, "The Benefits of Going to College," among students in high schools located in the 31st district.

The winner of this contest was Miss Monica C. Silva, of Carson High School, Carson, CA, in the Los Angeles Unified School District.

Ms. Silva will attend the California Institute of Technology this fall.

I submit the essay for Members review:

THE BENEFITS OF GOING TO COLLEGE

(By Monica C. Silva)

There are countless statistics on high school graduates as compared to college graduates—what types of careers they pursue, what kinds of lives they live, what their average annual salaries are—and in the majority of the cases, the figures for the college graduate are higher and better. However, a college education means more than just bigger paychecks. When a high school graduate accepts the challenges that college has to offer, he enriches his own life in more aspects than one.

The first and most obvious profit of attending college is the advanced education it bestows. A student can gain a more prosperous career with a college or post-graduate degree, and will have more opportunities to climb the ladder of success; he will have the upper hand over those with less educational experience. Most major companies and corporations do not offer upper-level positions to applicants without college degrees.

However, beneath the clear-cut advantage that college will better prepare a student for his future career is a less discernible benefit. Through providing students with knowledge, colleges thus enable them to grow both mentally and psychologically. A seventeen- or eighteen-year-old just out of high school is, though he has already experienced years of "growing up," in a sense only a child. Once in college, the student will learn to deal with responsibility and priority, and he will have his first taste of true independence.

Most university professors are not concerned with attendance or assignment deadlines; if a student fails to take responsibility with his classes, he simply does not pass the course. Many may learn the hard way, but in college the students are compelled to take matters into their own hands. In college, the teenager becomes a self-reliant young adult who is better able to deal with the trepidations of facing "the real world."

Another boon which stems from the college experience is the fact that students are given some direction. Many may be confused as to which step to take, but through the years in college the students learn how to make their own qualified opinions and decisions. So many different races, cultures, and ideas converge on the college campus that it is impossible for each student not to be affected and influenced by the others. By means of going through the college process and encountering new ideas, the college student is molded into a unique individual.

So affected by this new environment, the college student has a whole new perspective of life. As the years progress, he has a better idea of what is necessary to become a success, and sees things with a much better attitude. An accomplished goal is no longer a reason to revel in hedonistic celebrations, but an added impetus to venture for even greater ambitions. An obstacle, which was before a cause for discouragement, becomes a challenge that motivates the student to overcome it. A higher education is one of the most rewarding outcomes of college; however, it is because of these institutions of higher learning that students mature and become prepared for the future, and this is without a doubt a great benefit of going to college.

TRIBUTE TO WALTER ANDERSON

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. BROOKS. Mr. Speaker, the Federal work force includes many exemplary and dedicated individuals who serve our Nation with honor and distinction. All of us who regularly interact with civil servants are well aware that a special few of them rise above even these high levels of achievement. Walter Anderson of the General Accounting Office is one of the special few.

Walter L. Anderson is retiring as the senior adviser in the Information Management and Technology Division. His retirement ends an era in GAO.

After serving as a naval electronics officer at the end of World War II, Walter Anderson completed his master's degree in electrical engineering education and became a computing pioneer. His experience includes Sperry UNIVAC and serving as national president of the American Federation of Information Processing Societies and chairman of the Computer Group of the Institute of Electrical and Electronics Engineers [IEEE]. Also, he was CEO of a company which made computer and electronics testing equipment.

Walter Anderson joined the GAO in 1974 after 28 years in the computer field in private industry. He was one of a key group of technical experts brought in by Comptroller General Elmer Staats to help GAO address ADP and telecommunications in Federal agencies. From 1974 through 1985, he was an associate director and senior associate director responsible for many GAO projects which had, and still have, great influence on Federal ADP and telecommunications. Walter headed up several GAO investigations which I commissioned as chairman of the House Government Operations Committee. His work included a report recommending cancellation of the Air Force phase IV procurement and redirection of the project, which alone saved the taxpayers $800 million. Other reports to the Congress on Governmentwide ADP problems significantly impacted the operations of the General Services Administration, Bureau of Standards, and the Office of Management and Budget, and included reports on Federal ADP standards and software contracting. The former caused redirection of, and increased budget for, the Government's ADP Standards Program; the latter was so well thought of by the professional community that it was selected for inclusion in a technical guidebook published by the IEEE.

Walter Anderson's honors and awards are numerous, including induction into the Government Computer News Hall of Fame (1989), and IEEE centennial Medal for Extraordinary Achievement (1984), and the GAO Distinguished Service Award (1981).

Above all, Walter Anderson produced and supported workable Federal ADP solutions. His combined knowledge of computer science, practical data processing, procurement, and management reality is very rare and will be greatly missed by all of us.

In recognition of the high esteem in which he is held, and considering Walter's many contributions to the General Accounting Office, to the Congress, and to the Nation, I ask that this tribute be made a part of the RECORD of the House of Representatives.

TRIBUTE TO COL. GORHAM L. BLACK III

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to Col. Gorham L. Black III, who is retiring as commander of the U.S. Army Garrison, at Fort George G. Meade, MD. Colonel Black is a man who has made a singular contribution to his community and Nation by his many years of personal sacrifice and dedicated service.

It is not often that one comes across a person with such devotion and dedication to our country. Colonel Black is a man who stands up for and upholds the essential elements of Americanism. A veteran of the Vietnam war, Colonel Black's background is filled

with numerous awards and honors for outstanding service. In addition, as garrison commander at Fort Meade, Colonel Black has served a dual role as acting as a liaison with the nearby communities. Colonel Black has been instrumental in assisting the local government in a number of cooperative projects, including the building of a homeless shelter on the base which used renovated barracks.

It is because of men like Colonel Black who have defended this great land that we enjoy the freedoms that we have. As Colonel Black once said at a recent speech, "These men and women who defend America are, in essence, America itself." This could be said of the colonel himself.

I am honored to acknowledge the work of this magnificent citizen and soldier. His selfless commitment to our Nation is a model for all of us to emulate. I congratulate him for a job well done and wish him well in his retirement.

HONORING MERRITT V. HEMENWAY, PRINCIPAL, BISHOP AMAT MEMORIAL HIGH SCHOOL

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. TORRES. Mr. Speaker, today I rise to recognize an outstanding individual, Mr. Merritt V. Hemenway, principal of Bishop Amat High School in La Puente, CA. A farewell tribute is scheduled for June 30, 1990, as Mr. Hemenway will complete 22 years of service to the high school.

For almost 20 years, Mr. Hemenway has been married to the former Ruth O'Conner. Together, they have five children, Julie, Tom, Michael, Mary, and Robert.

A graduate of Bishop Amat himself, Mr. Hemenway furthered his education only to share it at his alma mater. In 1968, he obtained a B.A. in economics from St. Mary's College, Moraga, CA. Later, in 1974, he obtained an M.A. degree in education from California State University, Los Angeles. Currently, Mr. Hemenway is working on his Ph.D. in education at Claremont Graduate School.

Mr. Merritt Hemenway has served the archdiocese of Los Angeles since September of 1968. Commencing his career as a mathematics teacher at Bishop Amat High School he has fulfilled many jobs in the interim including, department chair of mathematics and social studies, boy's counselor, associate dean of studies, student government moderator, and, vice principal. He served as vice principal under three of Amat's former principals.

In July 1981, he was appointed principal of Bishop Amat High School. During his 9-year tenure, the school twice received national recognition for excellence from the U.S. Department of Education. In addition, in recent years, Amat has enjoyed the greatest demand for enrollment in its history.

Mr. Hemenway's contributions to Bishop Amat have been manifested comprehensively. His leadership has been responsible for activating an aggressive building program in 1986, the introduction of new courses, success in advanced placement, and a successful academic decathlon team that claims three consecutive Los Angeles County private schools competition winners. In addition, Amat has witnessed an increase in the number of drama productions and addition of several sports. Excellence at Amat has continued with several national awards in Yearbook, with the 1989 Tusitalia taking first place in the Nation.

Mr. Hemenway extends service to the community and to his profession through his involvement as a member and leader of numerous organizations.

Mr. Speaker, at this time I ask that my colleagues join me in saluting Mr. Merritt V. Hemenway for his invaluable commitment to Bishop Amat Memorial High School, its students and faculty, and for his dedication to the profession of education.

FOREIGN ASSISTANCE, H.R. 5114

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. DYMALLY. Mr. Speaker, attached please find a copy of my amendment which I will propose in the foreign assistance bill to be debated on the floor this week.

At the appropriate place in the committee print concerning economic support funds insert the following provision:

Of the funds made available for programs for Afghanistan, the Administrator shall ensure that an equitable portion of such funds is available to benefit Afghan women and girls in programs in refugee camps in Pakistan and in reconstruction projects in Afghanistan.

ALABAMA INSTITUTE FOR THE DEAF AND BLIND; VISIONS OF EXCELLENCE

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. DICKINSON. Mr. Speaker, someone once said that "life without challenge is not life at all." The statement holds true for most individuals, and for institutions such as the Alabama Institute for the Deaf and Blind.

The institute consistently makes ground breaking progress in all areas of education for the sensory impaired. This is made possible by excellent performance from all of the network's facilities, which include: the Alabama School for the Deaf; the Alabama School for the Blind; the Helen Keller School of Alabama for deaf-blind and multihandicapped children; the E.H. Gentry Technical Facility—offering vocational training—and the Alabama Industries for the Blind—employing blind workers in manufacturing.

All branches of the school are forging into areas once thought beyond the scope of the sensory impaired. For instance, in the 1988–89 school year, the Alabama School for the Deaf offered new elective courses for students in computer programming, independent study in science, and psychology of deafness and sociology. The institute also offered its first Elderhostel Program for senior citizens, providing specialized services for sensory impaired adults. This event was a national first for the visually impaired. The administration at this fine facility shares a common goal of providing quality comprehensive education to its students. The growth in excellence of the institute's network show no sign of slowing. In 1988, the New York Times declared the institute an "educational leader in this country." Under the leadership of the experienced and dedicated faculty, the network continues to provide one of the best programs in the Nation.

The Alabama Institute for the Deaf and Blind Network is an outstanding establishment and provides a symbol of excellence for all Alabamians to take pride in.

SUPPORT H.R. 4424, LANGUAGE OF GOVERNMENT ACT

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. MADIGAN. Mr. Speaker, many of my constituents have written expressing their strong support for the designation of English as our Nation's official language.

I share their concerns about losing the common bond which the English language provides to the people of many different ethnic backgrounds who live in our country. Proficiency in the English language is a key to success. Not having this skill is an unnecessary barrier. I am a cosponsor of H.R. 4424, the Language of Government Act, and I urge my colleagues to join in cosponsoring this legislative measure.

THE 1991 WHITE HOUSE CONFERENCE ON AGING

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. GOODLING. Mr. Speaker, I rise in support of the passage of House Concurrent Resolution 333, expressing the sense of Congress that the President should call for a 1991 White House Conference on Aging.

As you know, we have had a White House Conference on Aging approximately every 10 years since the first official conference in 1961. These conferences have produced important information as to the needs of our Nation's senior citizens.

The years before us are important years. The number of people living longer has grown immensely in recent years—and their needs have changed dramatically. More importantly, their needs will continue to change as modern technology and healthier lifestyles prolong the lifespan for larger numbers of our population. How do we meet those needs? What type of long-term care program is best suited for our aging population? How do we prepare for the retirement of the "babyboom generation." All

of these are important questions which need to be addressed.

In the past, the White House Conference on Aging have provided us with valuable insight as to the needs and requirements of our senior population. As we face the next decade, it is just as important that we are prepared to meet the challenges which will confront us.

Time for planning a conference for 1991 is growing short. I urge my colleagues to support this resolution.

WELCOME MR. NELSON MANDELA

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. DYMALLY. Mr. Speaker, it is with great pleasure that I rise to welcome Mr. Nelson Mandela to Congress. I am certain that these welcoming remarks express the sentiment shared by many of my colleagues.

Mr. Nelson Mandela, deputy president of the African National Congress, we extend to you a hearty welcome to Washington, DC. Your presence here in the United States is most timely. Most Amercians, particularly African Americans, have been inspired and reinvigorated by your courageous and forthright remarks. You have certainly projected a wholesome image of complete dedication and commitment to a cause with worldwide implications. You have impressed us in your quest to bring about social justice and human rights in South Africa, with tremendous implications for the United States.

Your accomplishments and your physical presence in the United States are having significant reverberations throughout the world.

In these emotional times when people rely so heavily on rhetoric, you have adequately demonstrated that you have a taste and talent for civilized discourse. You have cultivated the wholesome habit of listening, examining, and then responding with great eloquence.

All of us are happy to have you here because of your message. Your timely eloquent and appropriate remarks have given a big boost to the movement for civil and human rights throughout the world, particularly in South Africa and the United States.

THE 50TH ANNIVERSARY OF THE STANDARD TEXTILE

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, I would like to express my sincerest congratulations on Standard Textile's first 50 years in business. Standard Textile has been a value to the community since its founding in 1940 by providing textile and apparel products to the health care industry.

Standard Textile was founded in 1940 by Charles Heiman and Julius Kaufman. These two men believed that their company should strive for both a product of the highest quality and for a personal concern for their family of employees and those they served. Today Standard Textile is still based on these same principals of having a family-type relationship with its employees and customers.

Paul Heiman, Standard's president for 20 years, and now CEO, represents the second generation in the Standard family. His strong leadership and innovative attitude has strengthened the Standard commitment to excellence. The third generation consists of Gary Heiman, president, and Mark Heiman, executive vice president. They are still committed to the founding principles. Together, they have also guided the original distribution into an international sales, manufacturing and distribution network for health care textile, apparel, and decorative products.

I ask the Members of the House of Representatives to join me in congratulating Standard Textiles.

COMMEMORATING THE ANNIVERSARY OF THE KOREAN WAR

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. CONTE. Mr. Speaker, 40 years ago today, the Korean war began when North Korean tanks crossed the 38th parallel. As Franklin Roosevelt said of Pearl Harbor, it was a day that will live in infamy. Millions of people died in that terrible war. A country was shattered and divided. And nearly 5 million Americans joined the soldiers of South Korea and 14 other nations to push the invaders back.

I have heard Korea called the forgotten war. Mr. Speaker, there is no more untrue statement. Fifty-four thousand Americans died in that war, and nobody who lost a friend along the Yalu River, or a brother at the Chosin Reservoir, or a son at the beach of Inchon will ever forget it. Nor will the families of the nearly 9,000 Americans who remain missing in action.

On this 40th anniversary, we remember the sacrifices our soldiers made for a faraway nation. We recall the years they spent far from their homes and families; the bitter winters and burning summers they endured; the friends and companions they lost.

This year, as tyrannies fall one after another, it is clearer than ever that those sacrifices were not made in vain. They were the first steps along a road which has brought our country to the end of the cold war; which has brought freedom to Eastern Europe; and which has brought the world a hope of peace.

Today, let us salute the living veterans of the Korean war. And let us remember the dead with sorrow and with gratitude.

H.R. 4378, FOR THE RELIEF OF REBECCA T. ZAGRANISKI

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 25, 1990

Mr. WELDON. Mr. Speaker, I rise today in support of H.R. 4378, a bill for the relief of Rebecca T. Zagraniski. While I wish that this legislation had not been necessary, I am pleased to see it come to the floor of the House today. Ms. Zagraniski, while serving her country in the Visiting Scientist Program at the Center for Disease Control, Public Health Service, incurred expenses relating to her relocation from Newtown, PA, to Atlanta, GA.

Although the Department of Health and Human Services gave Ms. Zagraniski its word that all of her relocation expenses would be covered, in actuality, only a portion of these expenses were reimbursable under the existing guidelines. The Department of Health and Human Services, realizing their error, requested that this legislation be enacted and took full responsibility for the mistake.

It is good to see that in this time when the individual is all too often lost in a mountain of Federal paperwork and forms, that a Federal agency has taken the time and energy to keep its word. I hope my colleagues will join me in support of H.R. 4378 to provide Ms. Zagraniski the relief she rightly deserves.

I commend the officials at the Department of Health and Human Services for their support and cooperation in resolving this matter.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 26, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 27

9:00 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Toxic Substances, Environmental Oversight, Research and Development Subcommittee
To hold hearings on S. 2593, and S. 2637, bills to reduce the amount of lead contamination in the environment.
SH-216

Governmental Affairs
To resume hearings on S. 1978, to establish the Department of Industry and Technology as an executive department, to establish the Interagency Export Enhancement Committee within the Office of the President, and to transfer the National Oceanic and Atmospheric Administration to the Environmental Protection Agency.
SD-342

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the government of the District of Columbia, focusing on Appeals and Superior Court judges.
SD-138

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings to review the Department of Health and Human Services Family Support Administration's State Legalization Impact Assistance Grants (SLIAG) program.
SD-192

Banking, Housing, and Urban Affairs
Business meeting, to consider S. 307, to set forth requirements regarding disclosure of interest rates and fees payable on depository institution accounts, H.R. 1028, to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial, proposed legislation on money laundering enforcement, and fair lending enforcement, and the nomination of Joseph G. Schiff, of Kentucky, to be an Assistant Secretary of Housing and Urban Development.
SD-538

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Foreign Relations
European Affairs Subcommittee
To hold hearings to examine conventional arms talks and European security.
SD-419

10:30 a.m.
Judiciary
To hold hearings on the nominations of A. Raymond Randolph, of Maryland, to be United States Circuit Judge for the District of Columbia, Graham C. Mullen, to be United States District Judge for the Western District of North Carolina, Federico A. Moreno, to be United States District Judge for the Southern District of Florida, and William P. Barr, of Virginia, to be Deputy Attorney General, Department of Justice.
SD-226

2:00 p.m.
Finance
Energy and Agricultural Taxation Subcommittee
Taxation and Debt Management Subcommittee
To hold joint hearings on proposed legislation to prevent abuses in determining estate and gift tax values.
SD-215

JUNE 28

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's uranium enrichment enterprise and the independent financial assessment prepared by Smith Barney, Harris Upham and Company.
SD-366

Environment and Public Works
Superfund, Ocean and Water Protection Subcommittee
Business meeting, to mark up S. 1697, to require local educational agencies to conduct testing for radon contamination in schools; to be followed by a hearing on S. 2706, to improve the public safety and quality of marine recreational waters.
SD-406

Governmental Affairs
To hold hearings on the vulnerability of the nation's electrical system to multisite terrorist attack.
SD-342

Small Business
To hold hearings on the impact of social security payroll taxes on small businesses.
SR-428A

Veterans' Affairs
Business meeting, to mark up S. 2100, to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and S. 190 (as amended by Amendment No. 110), to permit certain veterans with service-connected disabilities who are retired members of the uniformed services to receive compensation concurrently with retired pay, without a reduction in either, and to consider other pending calendar business.
SR-418

Joint Economic
Technology and National Security Subcommittee
To hold hearings to examine the state of China's economy.
SR-385

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the government of the District of Columbia, focusing on the school board.
SD-138

Finance
To hold hearings to examine the effects of drug abuse on infants, young children, and their mothers, and to review services provided under the Maternal and Child Health Block Grant, Medicaid, foster care, and other Federal programs.
SD-215

Foreign Relations
Business meeting, to consider pending calendar business.
SD-419

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Christopher A. Hart, of the District of Columbia, to be a Member of the National Transportation Safety Board.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 2273, to encourage economic development of mineral deposits in the Greens Creek area of the Admiralty Island National Monument in Alaska by granting the Sealaska Corporation the subsurface estate.
SD-366

Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold joint hearings on proposed U.S. military training for Peru.
SD-419

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 1198, to revise title 17 of the U.S. Code (copyright law) to provide certain rights of attribution and integrity to authors of works of visual art.
SD-226

Select on Intelligence
Closed business meeting, on proposed legislation authorizing funds for fiscal year 1991 for the intelligence community.
SH-219

JUNE 29

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Andrew C. Hove, of Nebraska, to be a Member and Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.
SD-538

Banking, Housing, and Urban Affairs
HUD/Moderate Rehabilitation Subcommittee
To hold hearings to review the Department of Housing and Urban Development (HUD) Inspector General's semiannual report.
SH-216

JULY 11

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2729, to revise the Coastal Barrier Resources Act (Public Law 97-348).
SD-406

Judiciary
Constitution Subcommittee
To hold joint hearings with the House Committee on the Judiciary's Subcommittee on Courts, Intellectual Property, and the Administration of Justice on S. 2370, to revise Federal copyright law to apply the fair use doctrine to all copyrighted work, whether published or unpublished.
SD-226

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings to review the status of the human genome project of the Department of Energy and the National Institutes of Health.
SD-366

JULY 12

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of the Interior.
S-128, Capitol
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to examine issues relating to the interstate transport of solid waste.
SD-406
Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.
SR-485

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the U.S.-Canada open border trade agreement, focusing on meat and poultry.
SR-328A

JULY 26

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the current operations and future mission of the Department of Energy's national laboratories, focusing on ongoing programs at the laboratories and potential new and enhanced programs, and math and science initiatives that could utilize the expertise of the national laboratories.
SD-366

CANCELLATIONS

JUNE 26

9:00 a.m.
Finance
Business meeting, to mark up S. 712, to provide for a referendum that would enable Puerto Rican residents to choose among becoming a State, an independent Republic, or remaining a Commonwealth.
SD-215

POSTPONEMENTS

JUNE 26

9:00 a.m.
Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.
Room to be announced

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1991 for foreign assistance programs.
Room to be announced

JUNE 27

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings to examine the Federal Trade Commission's (FTC) international antitrust jurisdiction over foreign companies.
SR-253

SENATE—*Tuesday, June 26, 1990*

(Legislative day of Monday, June 11, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Thus saith the Lord, Let not the wise man glory in his wisdom, neither let the mighty man glory in his might, let not the rich man glory in his riches: But let him that glorieth glory in this, that he understandeth and knoweth me, that I am the Lord which exercise lovingkindness, judgment, and righteousness, in the earth: for in these things I delight, saith the Lord.—Jeremiah 9:23, 24.

God of all comfort who knows when a sparrow falls to the ground, Thou knowest those in this large Senate family who have needs today. Wherever there is hurt or discouragement or frustration, wherever there is alienation between husband and wife, parent and child, wherever there is physical suffering or emotional trauma, we commend to Thy loving care all who need healing and renewal. Touch each life with Thy love and grace today so that any who have need may know that God is near, that He loves unconditionally. Comfort and strengthen Thy servants, O Lord.

In the name of Him whose love is incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 26, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is now recognized.

Mr. BRYAN. Thank you very much, Mr. President.

SCHEDULE

Mr. BRYAN. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 10:40 a.m. with Senators permitted to speak therein for up to 10 minutes each. The Senate will recess at 10:40 and remain in recess until 2:15 p.m.

At 10:40 this morning the Senate will assemble as a body and proceed to the House Chamber for a joint meeting to hear an address by Mr. Nelson Mandela. Following the joint meeting, each party will hold their respective conference lunches.

Upon reconvening at 2:15 p.m. this afternoon, the Senate will resume consideration of Senate Joint Resolution 332, a proposed constitutional amendment on flag desecration, with 40 minutes for debate on each of the four amendments in order to the joint resolution, and 40 minutes equally divided between the two leaders prior to final passage of the joint resolution.

RESERVATION OF LEADER TIME

Mr. BRYAN. Mr. President, I ask unanimous consent that the time for the majority and minority leaders be reserved for their use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for transaction of morning business not to extend beyond the hour of 10:40 a.m. with statements therein limited to 10 minutes each.

The Senator from Idaho is recognized.

Mr. SYMMS. I thank the Chair.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 2783 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TEST PROGRAM FOR COMPANYWIDE SUBCONTRACT PLANS: ENHANCING SMALL DISADVANTAGED BUSINESS PARTICIPATION IN DOD SUBCONTRACTING

Mr. NUNN. Mr. President, as part of the National Defense Authorization Act for fiscal years 1990 and 1991, Congress established a test program to determine if we can streamline the defense acquisition process by authorizing negotiation of subcontracting plans on a companywide, rather than on a contract-by-contract, basis. The test is authorized to begin on October 1, 1990, and will run through September 30, 1993. Because the Department of Defense is developing implementation rules, I would like to take this opportunity to review the background for this test program and to suggest factors to be considered in administering and evaluating its implementation.

BACKGROUND

Under section 8(d) of the Small Business Act, which applies to all Federal agencies, small businesses and small disadvantaged businesses must be afforded the "maximum practicable opportunity" to participate as subcontractors and suppliers to firms awarded contracts by the Federal Government. To implement this policy, section 8(d) requires the negotiation of subcontracting plans with specific goals for small business and small disadvantaged business participation if the value of a contract or a subcontract for construction exceeds $1 million, or $500,000 for other procurements. The law requires that goals be negotiated on a contract-by-contract basis, and that contractors make a good faith effort toward meeting their goals.

Under current law, the prime contractor must set separate goals for subcontract participation by small businesses and small disadvantaged businesses. In 1989, small businesses received 39.3 percent or $22 billion of all DOD subcontract dollars awarded in fiscal year 1989, and small disadvantaged businesses received 2.3 percent or $1.3 billion. The test program has the potential to enhance those figures, especially the participation of small disadvantaged businesses in defense subcontracting.

STREAMLINING THE ACQUISITION SYSTEM

In general, the law has required negotiation of subcontracting plans on a contract-by-contract basis. In 1988, the Department of Defense expressed con-

cern that the requirement for a prime contractor to negotiate a different subcontracting plan for each DOD contract held by the prime contractor imposed an undue administrative burden that adversely affected efforts to streamline the acquisition system. The Department, with significant support from the defense industry, requested authority to permit each prime contractor to negotiate a single, companywide subcontracting plan that would encompass its entire business activity, both governmental and nongovernmental.

In acting on this request last year, the Senate Armed Services Committee recognized that there were differing perceptions of the impact that the proposed legislation might have on the opportunities for small businesses and small disadvantaged business. The Department of Defense anticipated that negotiating companywide subcontracting plans would increase subcontracting with small businesses and small disadvantaged businesses by firms holding multiple contracts with the Government. The Department also contended that companywide plans would also encourage firms to seek small businesses and small disadvantaged business participation in contracts that support the overall corporate or divisional operation, not just those directly related to the performance of a particular Government contract.

Others, however, expressed concern that separation of the subcontracting goals from individual contracts might diminish the commitment of prime contractors to meet their negotiated subcontracting goals. There was also a concern that companywide plans might encourage prime contractors to place undue emphasis on subcontracting for routine services rather than expanding the opportunities for small businesses and small disadvantaged businesses to participate in high technology opportunities.

In order to determine whether use of companywide programs would streamline the acquisition process without adversely affecting the purposes of the subcontracting goals program, the Senate Armed Services Committee developed a test program authorizing the negotiation of companywide subcontracting plans. As modified in conference, it was enacted as section 834 of the National Defense Authorization Act for fiscal years 1990 and 1991.

Section 834 was included in the act after consultation with the House and Senate Small Business Committees and was intended to help streamline the defense acquisition process. The conferees recognized that in addition to improving the efficiency of the acquisition process, it was also important to address the special concerns of small disadvantaged businesses about opportunities for subcontracting with DOD prime contractors. Therefore, the conferees developed detailed report language expressing their intent in authorizing this program:

The conferees direct that in the implementation of this test program, the subcontracting opportunities made available to small and small disadvantaged businesses from the prime contractor's company-wide base not be concentrated in narrow, nontechnical work (e.g., janitorial services) in order to meet the subcontract goals and thereby miss the opportunity to expand available participation in a broader range of subcontracting business opportunities, especially in the technical area. The subcontract shall set forth actions by the prime contractor to publicize prospective subcontracting opportunities for small businesses and small disadvantaged businesses.

The conferees further direct the Department to negotiate plans that include separate specific goals and timetables for the awarding of subcontracts in industry categories which, based on available information, have not historically been made available to small and small disadvantaged businesses.

The conferees will assess the success of the program on the basis of whether small and small disadvantaged businesses' participation in the prime contractors' companywide operations results in an increase in business opportunities currently afforded small and small disadvantaged businesses and whether prime contractors are providing significantly more work in areas that traditionally have not been made available to small and small disadvantaged businesses in the companywide base.

The Department of Defense, in its implementation of the test program, should be mindful of the conference report language and of the questions that Congress will be asking when assessing the program:

Has the test program improved the quality of subcontracting opportunities (e.g., by providing increased opportunities in manufacturing, professional and technical services, or other high-tech areas) for small businesses and small disadvantaged businesses when compared to those offered when the subcontract plans are negotiated on a contract-by-contract basis?

Has the test program increased the number of subcontracting opportunities for small businesses and small disadvantaged businesses in the manufacturing and technology oriented areas that have had historically low rates of participation?

Has the test program resulted in subcontracting opportunities for small businesses and small disadvantaged businesses being fairly apportioned between those requiring advanced technical and management skills and those of a more routine nature?

Has the test program resulted in increased participation by small businesses and small disadvantaged businesses in activities that support overall companywide operations in addition to matters directly related to DOD contracts?

Has the test program resulted in an increase in aggregate participation levels of small businesses and small disadvantaged businesses over the levels attained on a contract-by-contract basis?

Has the test program affected the ability to impose liquidated damages on a prime contractor who has failed to make a good-faith effort to attain its subcontract participation goals?

The test program is premised upon the expectation that it will increase small business and small disadvantaged business participation in the DOD acquisition process and the industrial base supporting national defense. I encourage industry to work aggressively with DOD, small businesses, and small disadvantaged businesses to ensure its success.

JUNE IS "TURKEY LOVERS' MONTH" AND NORTH CAROLINA REMAINS NATION'S NO. 1 PRODUCER

Mr. HELMS. Mr. President, I join Gov. James G. Martin in congratulating the turkey industry of North Carolina. Furthermore, in turkey production, North Carolina remains No. 1 in the Nation.

The U.S. Department of Agriculture reports that in 1989 more than 52 million turkeys were raised in North Carolina—the largest number ever produced by one State in a calendar year. This represents nearly 20 percent of the total U.S. annual turkey production, and is responsible for pumping more than $338 million into the State's economy in employment opportunities.

Mr. President, not only is North Carolina a leader in production, but it also is the leader of the industry. Five North Carolinians have served as presidents of the National Turkey Federation: Wyatt Upchurch, 1990; John Hendrix, 1984; Bill Prestige, 1982; Billy Shepard, 1974; and Marvin Johnson, 1968.

The turkey industry has been, and remains, a vital part of our national economy. Last year it generated more than $5 billion in product sales. Because of its convenience and nutritional benefits, turkey is no longer just for holidays. Thirty years ago, 90 percent of turkey consumed in this country was in the form of the whole bird during the last two months of the year. Today, it is a popular year-round, nutritional and delicious food—and only 17 percent of turkey is consumed during the Thanksgiving and Christmas seasons.

Mr. President, Governor Martin has declared June 1990 as "Turkey Lovers' Month in North Carolina" and the National Turkey Federation is celebrating "June is Turkey Lovers' Month." I am proud to join in recognizing a remarkable industry which is enormously important to the economy and the agricultural community.

A TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. KOHL. Mr. President, I rise today to commend our friend and dis-

tinguished colleague QUENTIN BURDICK on his 30 years of outstanding service to the State of North Dakota and to the U.S. Senate.

Senator BURDICK sets a fine example for all Members of this body. He fights for his constituents, but he does not allow petty politics to interfere with his values and beliefs. Having been privileged to serve with him on the Aging Committee, I am impressed with his commitment to older Americans. He has also been a tireless advocate for the American farmer, as well as a driving force behind Senate efforts to improve the quality of our Nation's environment. As a longstanding Member and current chairman of the Committee on Environment and Public Works, he has worked to advance numerous environmental bills which have been signed into law. I am particularly pleased to be a cosponsor of the National Environmental Education Act, legislation which Senator BURDICK has introduced to help make our Nation's students better stewards of the Earth.

It has been an honor to serve with Senator BURDICK for the past year and a half, and I look forward to working with him for many more years to come.

TRIBUTE TO COL. JOSEPH WHITEHORN III

Mr. LEAHY. Mr. President, Col. Joseph Whitehorn III, was a special friend of mine and my family. He enriched my life and the lives of many Vermonters who mourn his passing. I would like to tell Americans about his rich and rewarding life. It should serve as an inspiration to us all.

After a distinguished Army career that included action in the Philippines and Okinawa in World War II and a stint at the Pentagon, Colonel Whitehorn settled in Middlebury, where he turned his efforts to making that community a better place to live.

He served on commissions and boards, and as a grand juror. He founded the Festival on the Green, served on the board of the Addison County Humane Society. This list goes on and so also, the honors bestowed and expressions of appreciation for his community service.

The people of Middlebury will miss this extraordinary gentleman who served our Vermont so well.

Mr. President, in appreciation of this wonderful and fascinating man who gave so much to us, I ask that an editorial which appeared in the Addision County Independent—May 17—commemorating Colonel Whitehorn's life, be reprinted for posterity in the CONGRESSIONAL RECORD, for more Americans to read and enjoy.

My family and I cherish the friendship we have had with Joe and his wife Emily. We join in her sorrow but we stand with pride for her, her family, and Colonel Whitehorn.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Addison County Independent, May 17, 1990]

COL. JOE WHITEHORN: AN ASTONISHING LIFE; A FASCINATING MAN

Col. Joseph Whitehorn III, a Middlebury resident since his retirement in 1967, was a remarkable man because of his absolute service to community above self. Whitehorn, 73, died Monday at Porter Medical Center.

A brief resume hints of his astonishing life.

After a distinguished military career in the Army, during which he commanded a company of the 113th infantry and served in the Philippines and Okinawa campaigns in WWII, he served as an exchange officer with the British Army in London on the general staff at the Pentagon. He later served as battalion and regiment commander of infantry units in Alaska and Fort Lewis, Washington. He was an advisor to the Saudi Arabian Army in Saudi Arabia, and a professor of military science at Dartmouth College. Before retiring he served in the office of the Secretary of Defense.

Upon retiring, he didn't. Instead he substituted his devotion to country to his devotion to Middlebury. He served as town grand juror, planning commission member, and member and chairman of the board of civil authority—a post he held for many years. He was honored in the Middlebury Town Report in 1987 for his exemplary community service.

He also worked on special projects not associated with government. He was a founding member of the Festival on the Green committee and was active year after year. He served on the Addison County Humane Society board, the Sheldon Museum board, and was an active promoter and official of Green Up. In June 1989, he was awarded the Freeman Rotary Distinguished Citizen Award presented by the Middlebury Rotary Club.

What was extraordinary about Colonel Whitehorn was not only the number of activities in which he was involved, but the enthusiasm, energy and commitment he gave to each. He was a fascinating person and he brought a sense of fascination and interest to each endeavor he undertook.

He was a true patriot, and a companion of those he worked with in Middlebury. He represents those leaders of others who work mightily to hold the social fabric of a vibrant community together. He, and those few like him, are the chorus that make community life sing.

The rewards were always ample for him. He gave his love to Middlebury and the country, and his love was returned many fold in respect and admiration. That's as good a model as any to live by.

BIG BROTHERS-BIG SISTERS OF AMERICA

Mr. DIXON. Mr. President, I believe most of my colleagues would agree that it is harder to be a kid today than it was in our time. Children today are confronted with a variety of problems unique to this day and age. Fortunately, volunteer organizations in this country provide some relief to the youth of America.

Since 1967, the Big Brothers-Big Sisters of America have lent a guiding hand to children between the ages of 7 and 17 years from single parent families. The adult volunteers who serve as Big Brothers and Big Sisters provide an invaluable assistance to young Americans facing the everyday problems of the world today. Whether they are taking youngsters to ballgames, parks, or the movies, these volunteers give their charges the adult guidance they need while assisting parents faced with the task of raising children on their own.

In a day and age where the number of single parent families has increased markedly, the role of the Big Brothers-Big Sisters is more important than ever in molding the futures of young Americans.

For all their achievements, I am proud to honor the Big Brothers-Big Sisters of metropolitan Chicago on the occasion of their "Party at the Pier" charity benefit. They have made a tremendous difference in thousands of youngsters' lives, helping them to make the right decisions in a difficult world. I salute them and all Big Brothers-Big Sisters volunteers across the country.

MRS. CHRISTINA FEWELL, SKOKIE, IL, MOTHER OF THE YEAR

Mr. DIXON. Mr. President, the National Multiple Sclerosis Society recently announced the results of its 39th annual Mother of the Year Contest. Each of the society's 95 chapters made its nominations, and the national selection committee picked the winner.

I am proud to report that the winner chosen is Mrs. Christina Fewell, of Skokie, IL. This mother of two was first diagnosed with multiple sclerosis [MS] in 1985.

At first, Christina went through a period of denial, but a hospitalization in 1987 brought her face to face with her disease. She soon discovered that the hardest part about having MS was trying to explain the disease, and the unique problems it causes, to her children. She contacted the National Multiple Sclerosis Society for help, which provided her and her family with support and information.

Christina, a clinical social worker, wanted to give something in turn to the children of others stricken with this disease, to help both victims and their children learn to cope with MS. In coordination with the Chicago-Northern Illinois Chapter of the Society, she organized and led a family awareness day for parents with MS and their children. She plans to visit other society chapters and to hold

more family oriented programs. Christina is also active, despite her illness and corresponding disabilities, in Boy Scout and Girl Scout activities with her children.

A quarter of a million Americans have multiple sclerosis, and another 200 people come down with the disease each week. For the most part, MS affects people between the ages of 20 and 40, twice as many women as men are afflicted. Brave men and women such as Christina Fewell help others who have the disease learn to live with it.

Illinois is proud to have Christina Fewell as a citizen. She will be honored by President Bush at the White House on June 28, and I join him in recognizing her achievement in the face of adversity in viewing her disease as an opportunity to help others.

S. 2754—VIOLENCE AGAINST WOMEN ACT

Mr. COHEN. Mr. President, I am very pleased to join Senator BIDEN in introducing the Violence Against Women Act. This measure is the first comprehensive legislation designed specifically to combat violent crime against women.

Violence against women in this country has been rising at an alarming rate. Increases in the rate of rape, assaults, and murder of women are significantly higher than increases in the national crime rate or the rate of assaults and murder of men.

Nationally, a woman is raped every 6 minutes and every 18 seconds a woman is beaten. In my own State of Maine a woman is raped every 38 hours and a domestic assault occurs every 3 hours.

While the statistics are shocking, the reality is even worse. It is estimated that less than half of all rapes and even fewer domestic assaults are ever reported. These crimes are not limited to the streets of our inner cities or to those few highly publicized cases that we read about in the newspapers or see on the evening news.

Women throughout the country, in our Nation's urban areas and rural communities, are being beaten and brutalized in the streets and in their homes. It is our mothers, wives, daughters, sisters, friends, neighbors, and coworkers who are being victimized; and, in many cases, they are being victimized by family members, friends, and acquaintances.

Even those women who have not been touched directly by violent crimes are not unaffected. How many women can walk home at night from the bus or subway without some thought of what is the safest route to take, or without pausing when they hear footseps behind them. Regrettably, all women are victims of fear—the fear generated by the pervasiveness of violence directed against women not because of who they are or what they are doing or where they live but simply because they are women.

The Violence Against Women Act is not a cure to the growing incidence of violence but it is an important step in the right direction. The bill has three major titles: Safe Streets for Women; Safe Homes for Women; and Civil Rights for Women. I ask unanimous consent that a copy of an outline of the bill be included in the RECORD.

I urge my colleagues to join in supporting this important legislation.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

VIOLENCE AGAINST WOMEN—BILL OUTLINE

TITLE I—SAFE STREETS FOR WOMEN

Federal sex crime legislation

1. Doubles penalties for rape and aggravated rape;

2. Creates new penalties for repeat sex offenders;

3. Requires and expands victim restitution in sex crime cases.

B. High intensity violence areas

1. Authorizes $300 million in law enforcement grants—$200 million to the 40 most dangerous areas in the country for women and $100 million to all 50 states;

2. Grants include funds to increase prosecution rates (notoriously low) by training police and prosecutors; setting up special units of police prosecutors; and victim advocates to target violent crimes against women.

C. Public transit: Lights & cameras

Earmarks capital improvement grants from mass transit funding to increase lighting and camera surveillance at bus stops, stations, and adjacent parking lots.

D. National Commission on Violent Crime Against Women

Modeled on the AIDS Commission, this group will help focus attention on increasing crime rates against women.

TITLE II—SAFE HOMES FOR WOMEN

A. Interstate enforcement

1. Creates federal penalties for spouse abusers who cross state lines to continue abuse or to violate an existing "stay away" order;

2. Requires states to enforce the "stay away" orders that other states issue, as long as the order meets certain minimum criteria.

B. Arrest

1. Bars grants to states and localities that discriminate against spouse abuse by having a policy that discourages or prohibits arrest of abusing spouses.

2. Provides grants to states and localities, encouraging arrests of abusing spouses.

C. Funding/grants

1. Doubles funding for battered women's shelters;

2. Authorizes $25 million in law enforcement grants including funds for prosecutors and courts to develop special units devoted to spouse abuse.

TITLE III——CIVIL RIGHTS FOR WOMEN

A. Sex crimes as "bias" or "hate" crimes

1. Defines gender-motivated crimes, like rape, as "bias" crimes, depriving victims of equal rights.

B. Civil rights

1. Creates a civil rights remedy, allowing victims of sex crimes to bring a civil rights case and, if gender-based animus is proven, recover compensatory and punitive damages;

2. Modeled on longstanding civil rights laws (42 U.S.C. secs. 1981-1985) protecting blacks from race-based attacks;

3. Rectifies inequity in current law that provides a civil rights remedy for gender crimes committed in the workplace, but not if committed on the street or in the home;

4. Limited to gender-motivated crimes.

SENATOR QUENTIN BURDICK

Mr. FORD. Mr. President, I rise to add my voice to many others in paying tribute to Senator QUENTIN BURDICK, who soon will become one of only 36 Members to have completed 30 years of service in this body. This is a remarkable achievement for a leader who continues to serve North Dakota and this entire Nation with exceptional strength, skill, and determination. These qualities run deep in the Burdick family. Senator BURDICK and his father, the late U.S. Representative Usher L. Burdick, have a combined record of more than 50 years of distinguished service in the U.S. Congress.

The qualities of which I speak were plain to see many years ago when QUENTIN BURDICK was president of his high school class and captain of its undefeated football team. They were plain to see when he took to the college football field as a hard-charging blocker for Bronko Nagurski and when he overcame early political setbacks to win election to the House in 1958. He was letting actions speak louder than words then, and he is letting actions speak louder than words now. He was getting the job done without a lot of fanfare then, and he is getting the job done with just as little fanfare today.

I have been fortunate enough to have worked with Senator BURDICK ever since I came to the Senate in 1974. I know him as a leader of a State with much in common with my own State of Kentucky—a State with economic interests and family values still very closely associated with the land. I know him as a Senator who has been through the changing political tides of seven Presidencies without losing his own sense of priorities. I know him as a leader who has never stopped pushing for progressive farm and rural development legislation, much needed public works projects, and other crucial programs for the hardest working and most neglected citizens of his State and our Nation.

Mr. President, I am among those who have benefited from a long association with the senior Senator from North Dakota, and I want to put myself on record as being among those who look forward to a continuation of this very productive and rewarding as-

sociation in the months and years ahead.

SENATOR QUENTIN BURDICK

Mr. WILSON. Mr. President, it is with great respect and admiration for my colleague from North Dakota that I rise today to convey warmest congratulations from the people of California to U.S. Senator QUENTIN BURDICK as his 30th anniversary in the U.S. Senate is celebrated this year.

Since he was first elected to the Senate on June 28, 1960, Senator BURDICK has served his nation, his fellow Americans, and the people of North Dakota with uncommon dedication, and has created a living legacy of public service which has and will continue to long enrich the United States of America.

I salute his remarkable record, his able statesmanship, and his constant vigilance over our Nation's legislative process. He has earned the admiration of his fellow Senators and the gratitude of an entire Nation.

HONORING QUENTIN BURDICK

Mr. KASTEN. Mr. President, I rise today to honor one of the most distinguished senior Members of this body.

June 28 marks an important milestone in the career of our friend and colleague QUENTIN BURDICK. On that day, the senior Senator from North Dakota will mark the 30th anniversary of his first election to the Senate.

It has been my great pleasure to work with QUENTIN on the Appropriations Agriculture Subcommittee, of which he is the chairman. He's been a help to me, a good friend, and a truly esteemed colleague.

For these reasons, I'd like to congratulate today not only the Senator himself, but also the people of North Dakota, for the three decades of statesmanship with which they have endowed the Senate in the person of QUENTIN BURDICK.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,928th day that Terry Anderson has been held in captivity in Beirut.

TRIBUTE TO ELLIOTT GALKIN

Mr. SARBANES. Mr. President, I join with the family and many friends of Dr. Elliott Galkin in mourning his recent death. Dr. Galkin moved to Baltimore in 1956 and immediately began to change profoundly the music and academic life of Maryland. As a conductor, educator, administrator, author and critic, Dr. Galkin strove to promote high standards of musical training and performance. His energy and passion for musical excellence will be missed.

Dr. Galkin began his musical education under the tutelage of his great-uncle Rudolph Heifetz, father of violinist Jascha Heifetz. After graduating from Brooklyn College, he attended the Paris Conservatory on a grant from the French Government. He then earned a master's degree and a doctorate in musicology at Cornell University before returning to Europe on a Fulbright fellowship for studies in Vienna.

Dr. Galkin came to Baltimore in 1956 to serve on the faculty at Goucher College, becoming the music department's chair in 1960. At the same time he also taught at the Peabody Conservatory, serving as its ninth director from 1977 to 1982. He then founded at the Peabody the Nation's first and only graduate music criticism program.

Dr. Galkin also taught through his musical criticism, which appeared in the Baltimore Sun from 1962 to 1977. Widely respected as a critic not only in Baltimore but throughout the Nation, Dr. Galkin served as president of the national Music Critics Association for 2 years and twice won the ASCAP-Deems Taylor Award, one of the highest awards for music journalism. His recently published book, "A History of Orchestral Conducting in Theory and Practice," is considered by many to be the most important study of conducting ever written.

Perhaps no person has contributed so much to music in Maryland as Dr. Galkin. He was instrumental in establishing both the Kraushaar Auditorium at Goucher, used by many of Baltimore's fine musical organizations, and the Meyerhoff Symphony Hall, home of the Baltimore Symphony Orchestra. As a visiting conductor of the Baltimore Symphony, he introduced Maryland to violinist Nadja Salerno-Sonnenberg, who performed with Dr. Galkin and the orchestra every summer from the age of 9 to 19.

Mr. President, I join with all Marylanders in extending my deepest sympathies to Dr. Galkin's wife Ruth and his brother Benjamin. I would also ask that the article from the May 29 Evening Sun be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Evening Sun, May 29, 1990]

ELLIOTT GALKIN WAS INSTRUMENTAL IN SHAPING THE CITY'S MUSIC

(By Scott Duncan)

Elliott W. Galkin was a critic from the old school, the one which taught that those who dare to write about music should know what they are talking about.

Galkin died last Thursday at 69, bringing to an end a versatile career that touched nearly every avenue of music and some of its most prominent names in this century.

Growing up in Brooklyn, N.Y., Galkin learned the violin from his great-uncle, Ruvin Heifetz, who had a son who became a pretty good fiddler. His name was Jascha.

Galkin studied at the Paris Conservatory, was tutored in theory and composition by the legendary Nadia Boulanger. He learned conducting from Jean Morel, Jean Fournet and Eugene Bigot; orchestration from Arthur Honegger and Ralph Vaughan Williams.

He took his master's degree and doctorate at Cornell University, studying with one of America's most respected musicologists, Donald Jay Grout. A Fulbright Fellowship led to further study in Vienna.

During his 35-year career in Baltimore, Galkin was one of the city's most influential musical figures. He was a conductor, educator, administrator, author and founder of musical organizations. He came to Baltimore in 1956, joining the faculty of Peabody Conservatory a year later. Galkin later served as chairman of Goucher's music department and was director of the Peabody from 1977 to 1982.

But Galkin was in his element in the role of music critic, dispensing musical justice from the pulpit of The Sun's music pages from 1962 to 1977. He won the ASCAP-Deems Taylor Award, one of the highest prizes in music journalism, twice.

"He was very worldly, and terribly knowledgeable," said Harold Schonberg, the former senior chief music critic of the New York Times and longtime friend. "But Elliott wore it lightly."

Galkin wrote in an aristocratic, musically informed style that one does not often encounter in today's criticism. Galkin never underestimated his readers' ability to grasp sophisticated musical concepts.

The first night Galkin reviewed a concert for The Sun, the wizened chief of the copy desk in The Sun's newsroom told the rookie Galkin, "I'll give you $5 for every word I don't understand."

After Galkin had turned in his copy, the green-shaded editor told him: "I owe you ten bucks."

But Galkin was no Ivory Tower critic; he firmly believed the critic must perform his role while actively engaged in the musical affairs of the community. Galkin was a critic/advocate in a tradition that traces its lineage to the criticism of composers such as Robert Schumann and Claude Debussy.

In fact, Galkin often penned musical commentary under the pen name Florestan Croche, amamalgam of two fictitous names with which Schumann and Debussy used to sign their criticisms. Galkin would fondly recall angry letters to The Sun which asked why the newspaper didn't print more responsible music criticism," like that of Mr. Croche."

As a key figure in Baltimore's music scene, Galkin was instrumental in shaping the city's musical future. He played a role in persuading philanthropist Otto Kraushaar to donate funds for the excellent Kraushaar Auditorium at Goucher College, where most of the city's mid-sized musical organizations perform today.

And Galkin was an early proponent in the 1970s of a project that would become Meyerhoff Hall.

Galkin also has an eye for talent. While visiting a nephew in New Jersey, Galkin heard a tape recording of an unknown 9-year-old violinist who had performed at a local PTA meeting. He immediately demanded to meet the young girl and invited her down to Baltimore to perform with the

BSO, which he used to conduct during the summers.

The young girl performed with Galkin and the BSO every summer from age 9 to 19. Her name was Nadja Salerno-Sonnenberg.

As president of the national Music Critics Association (MCA) for two years in the '70s, Galkin had a national profile. "He was very generous with offering help to his colleagues, which unfortunately is often not done today, and he cared very deeply about the standards of criticism and its future," says Richard Freed, a respected critic for national publications and a longtime executive director of the MCA.

Galkin stepped down as The Sun's music critic in 1977 when be became director of Peabody. When he retired from that position five years later, he founded the nation's only graduate music criticism program at Peabody.

A number of Galkin's students in his criticism program have recently graduated and become music critics at other newspapers, including the Virginian-Pilot Ledger-Star in Norfolk, the Toledo (Ohio) Blade, and the Charlotte (N.C.) Observer.

"He took a risk in starting a program to turn raw musicians into writers," says Natalie Shelpuk, a former Galkin student who is now music critic at the Charlotte Observer.

"He nutured us and demanded that we fulfill a certain aesthetic, which seems to be dying out with him and only a few other critics. His students are the living legacies, I guess."

Only last year, Galkin published an 893-page book which he labored on for many years," A History of Orchestral Conducting in Theory and Practice." Many reviewers said it was the most complete study of the art ever published.

About someone else, Galkin once wrote:

"Some men are less mortal than others; they create and leave legacies not only of words but of deeds."

Elliott Galkin was such a man.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Nevada.

THE JOURNAL

Mr. REID. I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE KOREAN CONFLICT

Mr. REID. Mr. President, 40 years ago yesterday, June 25, 1950, almost 100,000 North Korean troops surged across the 38th parallel, starting the Korean conflict. The U.S. Government called our involvement a police action. But, of course, to those involved, it was a war. It was the beginning of a 3-year war that led to the deaths of 54,000 American servicemen, over 3,000 troops from 14 of our allies, and the South Korean military deaths numbered 225,000.

The United States' missing in action from that conflict stands today at some 8,200. There are Members of this body who served in the Korean conflict—Senators CHAFEE, WARNER, and RUDMAN. In fact, Mr. President, 1,500,000 Americans served during the Korean war.

There have been scores of recent articles on this matter. Last Friday I had a conversation with WARREN RUDMAN, who served in combat in Korea. He described an article that was going to appear in the Parade magazine written by James Brady. Brady wrote about the involvement of Senator CHAFEE in that conflict. As Senator RUDMAN related to me, the article in Parade magazine depicted a battle, and it told a story of one individual involved in that battle. Senator RUDMAN recounted that there, of course, were numerous instances like it, and he proceeded to tell me, in a private fashion, some of the involvement that he had during that war.

Mr. President, we all have had experiences where friends and relatives recounted their involvement in the Korean conflict. I had the pleasure of serving as Lieutenant Governor of the State of Nevada. During that time the Governor was Michael O'Callaghan, a Korean combat veteran, a veteran who, in fact, lost a leg in that conflict.

Yesterday, in a Las Vegas newspaper, a front-page column appeared by Michael O'Callaghan—it was actually a repeat of a story or a column that appeared in the newspaper 5 years after he returned from Korea—after having been very severely wounded some 35 years prior to that time.

I ask unanimous consent that the entire column by Michael O'Callaghan be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHERE I STAND

(By Mike O'Callaghan

(Forty years ago today North Korea invaded South Korea and the ensuing three-year conflict resulted in close to five million military and civilian deaths, including more than 54,000 American servicemen. The Sun's Mike O'Callaghan was an infantryman with the Second "Indianhead" Division which had 7,094 men killed in combat. Five years ago he returned to Korea to write the following column).

The syrupy female voice echoed across the valley that runs in front of Old Baldy, Pork Chop and T-Bone hills. It has the same sweetness and luring qualities of the voices heard long ago, only this time the message was in Korean and not English as it was in the 1950s.

Republic of Korea combat leader Colonel Jeung only grunted "propaganda" when I asked what she was telling his troops dug in on the hills facing North Korea.

I couldn't understand what the luring voice was saying in August 1985, but 33 years ago a similar voice told us to come over and join her and her friends. Sometimes the loudspeaker would suddenly break the deadly silence of night with music and then the voice would tell one of us she had our mail from home. Other nights she would be more threatening and tell us it was a shame that we were going to die for a useless cause. This was usually followed by mortar shelling and sometimes by an infantry probe of our outpost.

Standing with the ROK soldiers looking directly down on the hill we called Pork Chop was irritating because it is now held by the North Koreans. The outline of a North Korean soldier was easily picked up as I gazed through the binoculars. Old Baldy and T-Bone, other hills where barrels of American blood were shed in the 1950s, are also in the hands of the enemy. One thing remains the same; the South Korean troops know that the men across from them are still the enemy. It is not a peaceful place for either Americans of the U.S. Second Division or their ROK comrades.

The steep hills are now covered with green foliage and most of the war's scars are covered with trees and brush. However, the slopes running off the hills are scraped bare so the troops can watch for possible infiltrators, and if fighting breaks out, they will have clear fields for firing their automatic weapons. During the winter months the snow-covered hills are easy to scan for tracks of enemy infiltrators.

The north sides of the hills held by the Americans and ROK soldiers are covered with razor-sharp wire and a deep ditch runs along the forward slope. Also powerful spotlights, which flash on sporadically at night, face the North Koreans. The reverse slopes of the outposts have large orange panels to warn our airplanes not to fly north or they will come under fire. Also snuggled comfortably in pits by the orange panels are mortars in case they are needed.

Early in the morning Carolyn, my wife, neighbor George Brookman, cousin Bill Biesanz and I had met with U.S. Army Major Ernie Comer and ROK Col. Han Doo Sik at Camp Red Cloud near Uijongbu. Both men are key members of the ROK-U.S. Combined Field Army who agreed to escort us to the demilitarized zone (DMZ) better known as "The Z" by Second Division troops. We were joined by Capt. Cynthia Kaywell and Lt. Col. Ken Okimoto, both reservists from Hawaii on active duty.

Camp Red Cloud is close to the 43rd MASH where I was patched up one time. It became known to world television viewers as the 4077th MASH. Probably the only realistic thing about the television series is the gap in the mountains the helicopter flies through at the beginning of every show. The gap in the mountains is still there, but the old MASH is now home for an ROK army unit.

It was the first day of school for Korean youngsters and they waved to us as we headed for the DMZ in a military van. We stopped in a small village for a highly spiced Korean lunch at a small house we entered from an alley.

The road out of the village took us through military activities which included live heavy artillery fire landing in the mountains. We soon left the paved road at a bridge where babies were being bathed in the river and people were working the fields. The rice fields, to be harvested in about four more weeks, should produce bumper crops. The already harvested red peppers were drying on the side of the dusty road.

Then we were on the road winding behind the DMZ and it was necessary to transfer into ROK jeeps for the climb up to the outpost overlooking Pork Chop. Yes, the hills and mountains of Korea are just as steep as I remembered from the months spent climbing them during hot and steamy monsoon rains and bitter cold winter months.

Standing on the towering hill and looking down at the North Korean on Pork Chop made me wonder if all of the bloodshed for these hills was worth the end results. The names Estrada, Skipper, Vennecucci, King, Cunninghan and Brown flashed through my mind. They are all dead and the North Koreans are sitting on the hills where these men died more than 30 years ago.

Then I recalled the happy children on their way to school, the little babies being bathed in the river, rice paddies ready to be harvested, red peppers drying by the roadside and the people working the fields. It's a damn shame it took so many good lives to prove a point in an imperfect world which as a whole really hasn't changed that much.

I am happy that I had the opportunity to be in Korea when it counted. My return visit has convinced me that at least one small part of the world benefitted from the presence of Americans more than 30 years ago. If only Estrada, Skipper, Vennecucci, King, Cunningham, Brown and the other thousands who died could still be here to enjoy the fruits of their work and suffering.

Mr. REID. Mr. President, what I want to do at this time is relate the last part of his column, which I think is quite illustrative.

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Mr. President, Senators RUDMAN, WARNER, CHAFEE, and my friend Governor O'Callaghan certainly sacrificed and made this a better place in which to live.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FLAG VOTE

Mr. METZENBAUM. Mr. President, today the Senate will dispose of an issue that has taken up more time than perhaps any other issue we have faced during this Congress.

From the beginning, I have taken the position that it is unnecessary, unworkable and unwise for Congess to take any action to prevent flag desecration. I voted against a resolution condemning the Court's flag-burning decisions, a statute designed to overturn its decision, and a constitutional amendment barring flag desecration. In each case, I thought legislative action was unnecessary.

But what an absurdity is the vote today. The House has killed the constitutional amendment and so there is no chance that there is going to be a constitutional amendment. What we find is that for political purposes, some are insisting that there be a vote today on the issue. This Senator has no problem about a vote. I have made my position clear time and time again.

The House has killled the constitutional amendment. So why are we going to vote on a constitutional amendment that cannot posssibly be enacted this year? The answer can be summed up in a few words. There are those who would politicize the flag issue. There are those who are anxious to find the material for a 30-second TV spot.

It seems there are a number of politicians who want to exploit the emotions stirred by a few highly publicized incidents of flag burning. So today we will take a meaningless vote so that some campaign operatives can try to bludgeon Senators who are willing to stand up for the Bill of Rights and vote against this amendment.

I think these operatives are shamefully exploiting the strong feelings which are stirred by flag burning. I think it is proof positive of the excesses to which these so-called political strategists go in order to find another way to win an election.

I understand the anger the people feel when the flag is burned by a couple of media-hungry kids who are out to test the limits of our tolerance. I share that anger. I understand the impulse to pass a law or change the Constitution in order to prevent the flag from being burned.

I want my colleagues to understand that there are other ways that the flag, in my opinion, is defamed. And the honor with which all of us hold is tarnished when it is sewed on the bottom of a pair of pants, or when some automobile dealer has a tremendous lot of cars and he gets the biggest flag that he can possibly find so that it will fly over his place of business on the highest pole that he can obtain, not because he is a super patriot, but because that is the way of attracting attention to all of the cars that are sitting below that flag. I think there is some kind of desecration in the flag in that respect and I resent that.

But I must say that I am not prepared to pass a law nor change the Constitution in order to prevent the flag from being burned or to prevent the automobile dealer from exploiting the use of the flag nor to prevent the clothing manufacturers from selling their clothes with a flag on it.

We do not need to pass a law to protect the flag from destruction by the citizens of this country. The flag is well protected by the affection and reverence felt by the millions of Americans who freely and voluntarily choose to fly the flag every single day. There are millions of Americans who put the flag out every day and take it down every night and they are proud of it. They do so because it represents to them everything that is great and good about this country.

We do not promote respect for the flag by jailing those who disrespect it. Most importantly, we do not protect the flag by diminishing the liberties for which it stands.

The fact is we cannot pass a law to protect the flag without attacking the core of the first amendment. Flag burning, though contemptible, is a form of political expression. The fundamental principle of the first amendment is that political expression cannot be restricted simply because the Government deems it offensive or outrageous. Protecting expression that we hate—that we abhor, that we resent, that we would like to slap down, but the individual has the right to make that expression—goes to the heart of the first amendment.

This amendment is unnecessary. It is unworkable and it is unwise. It is unnecessary because we do not need to amend the Constitution in order to put a couple of flag burners in jail. It

is unworkable, because the language is so vague, overbroad and open-ended.

If this amendment were to become law—and it cannot become law in view of the House action—our citizens would have no idea whether they might go to jail for wearing that flag on their clothing, throwing away a picture of the flag drawn by their children, or eating barbecue off a paper plate decorated with the flag.

Finally, this amendment is unwise because we should not, should not after 200 years, retreat from the first amendment's principle that political expression should not be restricted simply because it is offensive and outrageous.

The United States is special because it is the only country in the world which—throughout its entire history—has always prohibited the Government from jailing people simply because they are political dissenters. I do not think we should retreat from that principal.

Obviously, not everyone shares my view. Some people have such strong feelings about the flag that they are willing to retreat from that principle just this one time in order to protect the flag.

I believe that if we start fiddling with the Bill of Rights to outlaw offensive expression, it will be difficult for us to stop. I believe that if we pass this constitutional amendment, then we will start seeing constitutional amendments proposed every time the polls show that 60 percent of the people do not like a particular form of expression.

Anyone who thinks I am exaggerating should just look at the way the flag issue has been played up in recent weeks here in Washington. It is obvious there are those who are far more interested in the politics of the issue than they are in the substance of the issue, in the freedoms for which this country stands.

Whatever merit there might be on the other side of this issue, frankly, has been drowned out by the chorus of smears and threats directed at those of us who dare to oppose this amendment.

I am frank to say, Mr. President, that my position has been very consistent on this subject ever since the issue first arose. I indicated early and strongly that I was opposed to a change in the law, and particularly opposed to a change in the Constitution.

According to all the consultants and advisers and the political people who are supposed to be experts in this area, my phones were supposed to ring off the hook, and I was supposed to be attacked, not physically, but verbally, every time I moved around the State of Ohio. That has not happened. As a matter of fact, my phone calls have been more supportive than they have been critical. And I do not think Ohio is different. I think Ohio is a typical State in this country. It has all kinds of people, agriculture workers, workers in plants. It is a mix of 11 million people.

And I recognize what the pollsters say, but I think sometimes it depends on how you phrase the question in the poll as to how you get the answer. Suffice it to say the American people are not calling for a constitutional amendment.

Media advisers and campaign consultants here in Washington have poisoned the debate on this issue. They want Americans to think that anyone who believes that it is wrong to jail unpopular protesters is unpatriotic and out of touch with "real people."

Mr. President, that is not a distortion. The distinguished leader of the other party stated a vote against the flag amendment would make a good 30-second spot. He also was quoted as saying that a vote against the flag amendment could perhaps be explained at a bar association meeting, but not before real people. I disagree.

I wonder what the minority leader would say to the nursing student from Arlington, TX, who, even though she believes it is morally wrong to burn the flag, believes with equal conviction that we should not amend the Constitution. Is she not a real person?

Or what about James Warner, a former prisoner of war in Vietnam, who last year testified eloquently in opposition to the flag amendment. Is he not a real person?

To say that those who oppose shrinking the Bill of Rights are not real people, is shameful political demagoguery. It besmirches the flag. The Bill of Rights, and the millions of Americans who oppose this amendment. But it is typical of the way that this issue has been approached by political operatives here in Washington. Just listen to some of the comments made by some of the campaign advisers in the other party.

According to last week's National Journal, the chairman of the National Republican Congressional Committee has stated that "we'll be able to demagoge well on flag burning in a lot of" congressional districts.

Another Republican consultant advises legislators to support the flag amendment because, he says, "people don't read the Constitution every day. They do see the flag every day."

Talk about cynicism. Here's a campaign consultant who is advising politicians to shrink the Bill of Rights because he thinks the voters do not understand the Constitution. His campaign strategy is premised on the belief that the people of this country do not understand the Bill of Rights.

But the prize for cynicism goes to the Republican media consultant who described the flag issue in this way: "It's sweaty, it's ugly, it's cliched, it's trivial, but it's a way to put some hits on people," he says.

The most popular television show is about fat people falling off horses filmed by their neighbors. And the number one issue might be flag burning.

I think a statement like that demeans the flag, degrades the Constitution and displays a contempt for the American people.

Listen to the crass way in which the campaign operatives hope to exploit the flag issue and then ask yourself this: If we cave in to these cynical operatives today, will this be the last time they try to plunder the Constitution for political advantage?

I think everyone realizes that the answer is "No." I think everyone realizes that if we aimed the Constitution once in order to avoid being wrongly smeared as unpatriotic, then we will have to amend it many more times.

The American people deserve better than this. They deserve better than to be regarded with scorn by campaign consultants who think that they do not understand how the Constitution works. They deserve to be shown that there is a limit to just how shallow our politics can be. They deserve to be shown that our votes on issues are not dictated by fears of 30-second TV spots which distort issues and smear reputations. They deserve to be shown that the flag and the Bill of Rights are not just political pawns which can be dragged through the mud whenever some campaign consultant thinks it might be worth a few points in the polls.

Mr. President, look at the admiration which Americans hold for Nelson Mandela, Lech Walesea, Vaclav Havel, and the students in Tiananmen Square. Perhaps we do not agree with everything they do, but we deeply respect and admire their willingness to risk their careers—and indeed their lives—in order to stand up for principle.

The people of this country are looking for a little political courage from their leaders. They are looking for us to stand up for principle. They deserve a better brand of politics than they have been getting. And we can begin giving it to them by rejecting this amendment.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS].

THE FLAG

Mr. HOLLINGS. Mr. President, as soon as the decision was handed down last year concerning the right to burn the flag, I joined immediately in efforts to pass a statute or constitutional amendment to ban this dispicable activity. I did not want to wait for a poll. I did not, frankly, consider it necessary to navel-gaze or reflect at length

on the subject, because on a gut issue of this kind I want the people of the State of South Carolina to know the mind and the character of the individual who represents them as a Senator.

Now, having listened last week and early this week to debate on this issue, I am virtually made to appear as a demagog or scoundrel for daring to speak out in defense of the flag. Such is the peer pressure here inside the Beltway. We are just totally out of touch with the deeply felt feelings and values of the country on this matter.

I remember back in 1938 we had a tornado in Charleston that lifted the beams off the city market, one of which went straight through the roof of the revered and austere of St. Michael's Church. Standing on the corner at Meeting and Broad Streets immediately afterward, looking at the beam coming out of the corner side of the church, a spectator said that those people over there had gotten so highfalutin that the Lord Almighty Himself had to bust a hole in the wall to get into the church. I hope we do not have to bust a hole in this roof to get some feeling for the flag that other Congresses and other generations have felt for 200 years. There has been an amendment alright, an amendment by the Court.

The Court talks now of a preposterous and humiliating amendment, but until June 11, 1990, it was not preposterous, it was not humiliating. The best of liberal legal minds—Justice Black, who considered himself an absolutist on the first amendment, Abe Fortas, former Chief Justice Earl Warren—all thought it was constitutional and in accord with the first amendment to protect the flag. Of course, on June 11 and still today, Chief Justice Rehnquist, Justices Stevens, White, and O'Connor all feel that the flag can be protected under the first amendment.

There is no doubt, I think, going right to the heart of the matter that when you look at United States versus Eichman, the majority opinion said:

> The brief of the United States Government invites us to reconsideration or rejection in Johnson of the claim that flag burning as a mode of expression, like obscenity or fighting words, does not enjoy the full protection of the first amendment. This we decline to do.

Well, I share no such inhibitions. Agreeing with me are four of the current Justices plus the law of the land for some 200 years. I wish some of these Justices and other speakers who condescendingly dismiss this issue could have gotten out of Washington and into the heartland for some of the recent Memorial Day exercises, certainly anywhere in my State of South Carolina. Let them start burning a flag and see whether it does not amount to fighting words. It will be the equivalent. I can tell my colleagues that. This is no threat. It is just an observation of a fact of life. At Mount Suribachi, Americans did not carry with them a Constitution, but they found a pipe and they had a flag and they raised it. And everyone knows the thrill, the world over, as traveling citizens or Senators, to come upon your embassy or your flag in these foreign lands and what a thrill it is to see. And why, when someone burns it—"a little political message that means nothing"—on the contrary, it means everything to this country.

So it is that there are commonsense exemptions to that first amendment: of course, with respect to libel, with respect to obscenity, with respect to fighting words—words tending to terrorize, like shouting fire in a theater, using a bullhorn at night.

Speech in the Senate here, Mr. President, is restricted. We amend, under our rules, the first amendment to preserve the decorum of the body.

I noticed my good colleague from Missouri last week, who said he could not understand the uproar. He said:

> In the 200-year history of our country, the Bill of Rights has never been amended, never been changed, not a word, not a comma in the Bill of Rights has been changed.

Then the distinguished Senator went on to talk about the 15th amendment, which amended the Bill of Rights. We had nothing but Mandelas in this land, without the rights of citizenship, until the 15th amendment nearly a century after we were founded.

The distinguished Senator from Maryland [Ms. MIKULSKI]; the distinguished Senator from Kansas [Mrs. KASSEBAUM]; they could not have full freedom of speech for 130 years under that first amendment. By the 19th amendment, we allowed these women to speak about who they would vote for, or to come into this Chamber and say "aye" or say "no." They had no freedom of speech. We had to amend that first amendment to give the Senator from Maryland and the Senator from Kansas a right to speak freely.

So, let us not get so sanctimonious in our ignorance of the Constitution, and let us not wrap ourselves in the first amendment, theorizing about what they call expressive conduct. The first amendment itself says the Congress shall pass no law abridging the freedom of speech. It says nothing about abridging the freedom of conduct. And, yes, the courts down through the years have elaborated a notion of expressive conduct and now we have political conduct. I tell my colleagues, if you can burn a flag and engage in that kind of violent conduct, then you can continue to do anything without regard to commonsense or common decency.

I think we ought to return the issue to where it was for some 200 years. We ought to have some reverence in the country. The flag is the fabric of our society, of our body politic, as President Bush has said.

So I think what we need, if necessary, I say to my colleagues, is perhaps a statute. I would introduce it as the Flag Product and Protection Act. We can manufacture the flag, produce it, issue it, somewhat like currency. Or somewhat like mailboxes. I remember kids used to put a cherrybomb in the mailbox, blow it up and see if the FBI were smart enough to catch them. We have a law against that. Or consider the paper rack outside the Chamber here. I might have every resentment of what the Washington Post writes, but I cannot under the guise of political expression tear off the newspaper rack and destroy it. We have laws to prohibit that.

If we can protect newspaper racks and mailboxes, heavens above, we ought to be able to protect the country's banner. We have passed laws regarding the flag, how you raise it, how you lower it; we have legislated the pledge and the national anthem. Then comes this Congress, and we have become so sophisticated that it is seen as a waste of time to even talk about protecting the flag. Or your defense of the flag is dismissed, in the words of Samuel Johnson, as the last refuge of a scoundrel.

We have to get a feel for this country, and we have to get a feel for that flag, I can tell my colleagues. That is the kind of State I represent; the first thing they do in the morning when they wake up is salute the flag and they are ready to fight for it. I am proud to echo and represent that sentiment. I hope I never get so sophisticated that I lose that gut feeling, or that I need a political poll to tell me which way to stand on this particular issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. BOSCHWITZ].

IMMIGRATION

Mr. BOSCHWITZ. Mr. President, in his State of the Union Address back in January, President Bush stated,

> Our Nation is the enduring dream of every immigrant who ever set foot on these shores—and the millions still struggling to be free. This Nation—this idea called America—was and always will be—a new world. Our new world.

Millions throughout the world still envision the United States as the land of opportunity, as I do. I was only 5 years old when my family and I set foot in the United States, fleeing Nazi Germany. I have a deep concern for the plight of refugees and immigrants. During my time in the Senate, I have worked hard to give others the same

chance I had—to find refuge and opportunity within the United States.

I am firmly convinced that our country's heritage has been enriched by the flow of immigrants into our Nation. If there is one thing that distinguishes us from other countries, it is that virtually all of us are immigrants—sons and daughters of immigrants, grandsons and granddaughters of immigrants, immigrants who help energize the United States culturally and intellectually and help fuel the economy.

Recently, several experts have been outspoken in calling for an increase in the flow of immigrants into our country. For instance, Ben Wattenberg and Karl Zinsmeister, of the American Enterprise Institute, call for increasing the number of immigrants flowing into our Nation. They emphasize the education, skills and in some cases, investment capability, of immigrants which help enrich our country.

Not so long ago, Mr. President, there was a two-page spread in the USA Today about young people as they were leaving high school and going into college. It pictured them and gave their names in the event they were not pictured. A disproportionate number of those names indicated that there was a recent immigrant connection or that they themselves were immigrants. It is not unlike Boston in this past year. Of its 17 high schools, 13 of the valedictorians were immigrants.

So for that and many other reasons, I support the idea of increased immigration into this country in order to continue to enrich and strengthen it.

Wattenberg and Zinsmeister were quoted in a Washington Post column by William Raspberry:

> The simplest question to ask when considering what kind of immigration policy this country needs is this: Is America done—a finished product—or is it a constantly improving, searching, expanding enterprise? We would argue the latter.

I would argue the latter as well.

When immigrants arrive in the United States, they often have nothing but ambition. That is why our economy expanded fastest when immigration was highest. Immigrants spur growth through their commitment to work and their driving desire to gain a better life for themselves and their families. They show us again and again what promise and opportunity is available to all Americans—if we are just willing to work at it.

I see it happening with new immigrants. Go to the schools of areas where many immigrants have resettled—for example, St. Paul and Minneapolis, in my home State of Minnesota—and ask their teachers and principals. Look at the faces of the valedictorians, the scientists, and the entrepreneurs. Will some of our new immigrants take menial jobs, or even go on welfare? Sure—but others will win Nobel prizes, or start new businesses, or move into professions that are in short supply.

Today perhaps 700,000 immigrants and refugees come to our country annually. That's one-third of 1 percent—or less—of our Nation's population. Yet in the years when the Scandinavians, Germans, Irish, Italians, and others were streaming into our country, the flow as a percentage of our population was almost 10 times as large as today. Indeed, back in 1907, when immigration peaked, about 1.3 million individuals entered our Nation as immigrants.

Unfortunately, some in our country harbor resentment toward immigrants. They feel we are already being too generous in our admissions and that America will reach some mythical saturation point. They seem to forget that if there parents were not immigrants, then their grandparents or great-grandparents most likely were. Some claim that immigrants take jobs and put other Americans out of work. When the grandparents and great-grandparents of most Americans arrived here, people said the same thing. However, our ancestors—like the immigrants of today—created more jobs than they took.

An article printed in Inc. last October—"Open the Gates, Immigration Just Might Be the Most Effective Way We Have To Give Our Economy a Boost"—makes the same point. The author of this article indicates that a report done by the National Bureau of Economic Research Inc. found no evidence that immigrants take jobs from native-born Americans.

In a recent column in the Washington Times, Warren Brookes reinforces that viewpoint. He says:

> Both Census Bureau and Labor Department data confirm that legal immigrants quickly earn as much or more than native-born workers of the same age, work more and tend to be better-educated and better-trained, are more likely to start new businesses and contribute far more in taxes than they collect in social benefits.

I am pleased to see the increased attention by the media regarding U.S. immigration policy. Economist Julian Simon was quoted in a recent article in Fortune. Because he is convinced that immigrants are a windfall for our country, he is calling for substantial increases in the number of individuals admitted as immigrants. I have also noted that at least two editorials in the Wall Street Journal have advocated higher admissions of immigrants.

On a final note, I must add that I am always amazed that here in the United States we debate how many people to let in. Were we to close our doors to immigrants and refugees we would diminish ourselves and do injustice to our proud history and heritage.

Mr. President, I ask unanimous consent that the articles I mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 18, 1989]

WHY WE MAY NEED MORE IMMIGRANTS

(By William Raspberry)

Some of us have been looking past the immigration center stage, where Nadia Comaneci is the reigning star, and focusing on the offstage tragedies: the Vietnamese boat people being sent back from Hong Kong to God knows what fate, the hard-pressed Latin American "illegals," and, above all, the Haitians who risk death and jail for a chance at the American dream.

We hear the distinctions our government makes between political refugees and the merely economically ambitious, but we don't believe them. Comaneci is fleeing oppression for her political views? Be serious, we say. The most reliable clue to whether immigrants will be accepted here is not their politics but their skin, Europeans (white) are fine. Asians (yellow) are problematic. Hispanics (brown) are virtually the definition of unwanted "illegals." Haitians and Ethiopians (black) are at the top of the government's least-wanted list.

We note the contrast in treatment of Comaneci, who has been handed the keys to the city of Miami, and the nameless Haitians who have been left to languish in American prisons until they can be sent packing, and we wonder why no one wants to tell the truth about the difference.

Well, two men are telling it. Ben Wattenberg and Karl Zinmeister, both of the American Enterprise Institute, content that America is—and ought to be—the world's first "universal nation," and that we ought to work actively to increase the flow of immigrants to this country.

There proposal, presented earlier this month at AEI's annual policy conference at Georgetown University, devotes only one of its 29 pages to the question of human rights refugees. What they offer is pure pragmatism.

Americans are maleducated, undermotivated and underskilled, they argue, and the aging of the Baby Boom generation will create a drain on resources, causing further deterioration in the country's competitive position in the world.

"Immigration, properly shaped, can help provide us with whatever skills we may be lacking," they contend. "Immigration can diminish labor shortages that may be coming our way. Immigration can help keep America from aging precipitously and help support the dependent aged. Immigration can play a salutary role in our financial situation."

And these advantages are peculiarly available to America, not to our global competitors, because "we are a pluralist nation [and] most of them are not."

Wattenberg and Zinmeister's emphasis here is on the education, skills and, yes, money the immigrants have. America no longer has gold deposits to mine, or frontiers to settle, or prairies to turn into farmland.

"The real competition in world markets today is for creative human beings. And this is one area where America has a comparative advantage that overwhelms any competitor. . . . When they come, they come at little cost to us. Many immigrants have al-

ready had their educations completed, and paid for, elsewhere."

The payoff: vastly more of what America already is attracting. Some 11,000 immigrant engineers, scientists and computer specialists in any given year as well as youngsters with the potential for economic contributions.

"Of the 40 1988 finalists in the Westinghouse high school science competition, 22 were foreign-born or children of foreign-born parents: from Tiawan, China, Korea, India, Guyana, Poland, Trinidad, Canada, Peru, Iran, Vietnam and Honduras. In San Diego, one of those cities 'overrun' by immigrants, one of every four valedictorians and salutatorians has recently been Vietnamese. In Boston, 13 of the 17 public high school valedictorians in the class of 1989 were foreign born."

And, yes, money matters too. "In addition to the well-educated, America should welcome individuals with proven finanical skills and capital. . . . Bringing in foreign investors as immigrants can pay off twice—America gets both the capital and, even more important, in the long run, the talent. We don't nationalize investments; we can make it easier to nationalize investors."

But it isn't economics and competitiveness alone that move Wattenberg and Zinmeister. "The simplest question to ask when considering what kind of immigration policy this country needs is this: Is America done—a finished product—or is it a constantly improving, searching, expanding enterprise? We would argue the latter."

And they would argue most vociferously that America can improve and expand most successfully if it pays careful attention to the intellectual and financial resources of those it lets in.

Their notion may do violence to Emma Lazarus's ideal of America as a harbor for the world's "tired, poor, huddled masses yearning to breathe free."

But at least it's honest.

[From Inc., October 1989]

OPEN THE GATES

(By Joel Kotkin)

Let me tell you about my friend Rod Hosilyk. The founder of Computer Products Plus Inc., a computer accessories marketing and service firm, he's the type of guy who never met a regulation he liked. So you can imagine my reaction when he mentioned recently that he was thinking of setting up an affirmative-action program at his new company.

"Well, I have to do something," he said, smiling. "I need to find a technician somewhere whose first language isn't Vietnamese."

In his own way, Hosilyk was acknowledging the enormous debt he and other entrepreneurs owe to the refugees who have flooded into southern California over the past 15 years. According to one estimate, there are more than 60,000 Southeast Asian immigrants in Orange County alone. At virtually every technology company in the area, these newcomers have become the mainstays of the assembly and technical areas. "Without the influx of Asians, particularly Vietnamese," says Robert Kelley Jr., president of SO/CAL/TEN, an association of some 200 southern California high-tech businesses, "we would not have had the entrepreneurial explosion we've seen in places like Orange County."

This is a fact that seems to escape many leading members of the Senate, who have been pushing plans to limit the immigration flow. No matter that more than 46,000 people—terrified by recent events in China—have applied for visas to emigrate from Hong Kong to the United States. Influential politicians from both ends of the political spectrum argue that we are better off restricting the number we let in.

Sen. Edward M. Kennedy (D-Massachusetts), for one, favors a system whereby certain categories of applicants for immigration would receive extra points for proficiency in the English language. Proponents of the plan say it would encourage immigration of those more ready to contribute to our society. Yet as Sen. Paul Simon (D-Illinois) points out, 13 of the valedictorians of Boston's 17 public high schools are foreign born, and most of them spoke no English when they got here. Nor is Boston an exception.

Sen. Alan K. Simpson (R-Wyoming) takes a more direct approach than Kennedy, citing polls showing public opposition to immigration. Of course, such attitudes are hardly new. If you had polled the Indians, they would no doubt have favored cutting off the flow of Pilgrims. Polls aside, Simpson sees a risk in opening our doors. If we're not careful, he warns, we may experience a kind of "compassion fatigue." He also argues that the burden of immigration falls heaviest on less fortunate Americans, particularly poor blacks.

But this widely held belief is refuted by a new report from the National Bureau of Economic Research Inc., in Cambridge, Mass. The study's authors surveyed cities around the country to assess the impact of immigration and found no evidence that immigrants take jobs from native-born Americans, including the poor and unskilled. In some industries, employment of native-born Americans actually increases in areas where immigrants settle. "Economically, America benefits from immigration—I don't think a serious economist in the country disputes that," says the report's editor, Harvard University economics professor Richard B. Freeman. "They produce more than they consume, and that benefits everyone."

Nowhere is this effect more evident than in southern Florida, where refugees from Cuba, El Salvador, and Nicaragua have transformed Miami from a sleepy resort town into a major international business center. By 1980, more than one-third of Miami's population was foreign born, an increase of 46% since 1970. As a group, the Cuban-Americans have become "entrepreneurs par excellence," creating 25,000 business in the past two decades according to Robert Coords, president of Sun Bank/Miami, a leading middle-market lender in the Miami area. Before the great influx of refugees, Coords notes, Miami had one significant industry: resorts. Now, thanks largely to immigrant workers, capital, and entrepreneurship, new industries are flourishing.

Congress should keep this experience in mind as it ponders what to do about immigration from Hong Kong. If ever there were immigrants who could boost our economy, it is the people of that extraordinary city. Consider that Hong Kong, with a population of 5.6 million, has one business establishment for every 20 people—a rate of entrepreneurship twice that of the United States. Its economy, moreover, is heavily industrialized. Indeed, Hong Kong has almost as many manufacturing jobs as Los Angeles County, America's top industral center—and L.A. has nearly 3 million more people. I challenge you to find a American manufacturer who could not use some of Hong Kong's expert machinists, assemblers, technicians, and industrial designers.

To be sure, there are humanitarian reasons for welcoming the citizens of Hong Kong to our shores. After all, they face the grim prospect of becoming citizens of the People's Republic of China in less than 10 years. But let's not talk about compassion here. Let's talk about America's self-interest. Let talk about our declining industrial base, our trade deficit, our lack of international competitiveness. Many people—including some of those who favor restrictive immigration policies—propose that we solve these problems with national industrial policies, subsidies, and protectionist quotas. I submit that our own history offers a simpler, more efficient, and eminently more American solution: open the gates.

[From the Washington Times, May 28, 1990]

IMMIGRANTS AND ECONOMICS

(By Warren Brookes)

As we celebrate Memorial Day, it is good to remember how much immigrant blood has been shed in both war and peace to make the American dream of democracy a growing worldwide reality.

To its credit, Congress apparently is rising above chauvinism in a heated but mostly unreported debate over something that really matters—U.S. immigration policy for the decade to come.

On one side are those who believe that significantly expanding immigration would represent a serious threat to both our national economy and our cultural heritage.

On the other side are those who believe that expanding immigration would be a reaffirmation of our country's greatness and an essential ingredient in maintaining U.S. competitiveness.

As Congress moves toward the first serious restructuring of legal immigration policy in 25 years, the latter view is winning, and that is a tribute to economic scholarship and statesmanship.

There is not much doubt where the political safety lies. Although we pride ourselves on being a nation of immigrants, the overwhelming majority of us would like to "pull up the ladder" just a little and slow down the influx of newcomers. One reason: Currently, the United States has one of the lowest percentages of foreign-born citizens (only 6 percent) among major nations. (See Table.)

A NATION OF IMMIGRANTS?

[Foreign born percentage of total population]

Australia	20.0
Switzerland	17.2
New Zealand	16.2
Canada	16.2
South Africa	11.8
France	10.5
England	8.7
United States	6.0
Sweden	4.8

Sources: Alexis de Tocqueville Institute—U.S. Census Bureau.

Despite our history of owing most of our economic development to the flood of immigrants "yearning to breathe free," we have steadily reduced that flood to a mere trickle. At the turn of the century, new immigrant arrivals were an average of 2 percent of our civilian labor force. Today they represent only 0.2 percent. While this drop-off has coincided with falling U.S. economic leader-

ship, every poll shows Americans think even that trickle is too much.

That's why the bill (S. 356) of Republican Sen. Alan Simpson of Wyoming and Democratic Sen. Edward M. Kennedy of Massachusetts, which passed last fall, allows an increase in U.S. immigration of only 130,000 a year from a projected annual average of 610,000 over the coming decade. While it substantially increases the percentage of skills-based immigrants from 7 percent to 15 percent, that does little to solve the nation's impending skilled-labor shortage.

During the 1990s, without major immigration expansion, the U.S. working-age population will grow only 8.3 percent, down sharply from the 12.4 percent growth of the 1980s. At the same time, skills demands are already far outracing skills supply.

Amazingly, the House Subcommittee on Immigration, led by Rep. Bruce Morrison, Connecticut Democrat, recently approved a bill to expand to an average of 963,000 a year, a major 58 percent increase over current law.

What makes this all the more remarkable is that Mr. Morrison has been a forthright defender of big labor, which has never been a fan of expanded immigration. Equally interesting, Mr. Morrison's chief antagonist, Rep. Lamar Smith, Republican from San Antonio, Texas, is one of the bright and rising stars of the Republican right with a solid free-market, pro-growth voting record.

But on immigration, Mr. Smith has parted company with populists on both sides of the aisle who see more immigration as a litmus test of America's commitment to "an opportunity society."

That view is solidly supported by a formidable, growing body of evidence developed by economists and demographers from left to right that demonstrates that immigration, especially skills-based immigration, is very good for the United States and Americans.

University of Maryland free-market economist Julian Simon has documented exhaustively the net positive benefits of immigration in his scholarly book, "The Economic Consequences of Immigration" (1989). He has recently been joined by liberal economist George Borjas of the University of California at Santa Barbara.

In his book, "Friends or Strangers: The Impact of Immigrants on the U.S. Economy," Mr. Borjas found that even with a 10 percent increase in immigrant labor, overall unemployment rates are not affected.

Mr. Borjas is supported by a new analysis for the Alexis de Tocqueville Institute by Ohio University economists Richard Vedder and Lowell Galloway, which found higher rates of immigration actually coincide with lower rates of unemployment.

New York Times economics writer Peter Passell recently concluded, "The conventional economic wisdom pitting American poor against the immigrant poor is crumbling. So too will the conventional wisdom pitting labor against the outsiders."

Both Census Bureau and Labor Department data confirm that legal immigrants quickly earn as much or more than native-born workers of the same age, work more and tend to be better-educated and better-trained, are more likely to start new businesses and contribute far more in taxes than they collect in social benefits.

Based on this evidence, Alexis de Tocqueville Institute analyst Stephen Moore contends in a new study that Mr. Morrison's bill would actually reduce the total government deficit by $75 billion to $110 billion over 10 years and increase Social Security funding by $72 billion over 25 years. That makes immigration expansion irresistibly good policy.

LOTS MORE IMMIGRATION WOULD BE A WINDFALL

(By Julian Simon)

There are lots of painful antidotes to the demographic pressures American society will experience in the decade ahead. But increasing immigration is the only painless one. As the average age of the work force rises and the proportion of workers to the population of elderly retirees shrinks, America risks losing the flexible edge that has always been its competitive advantage. Because the immigrants who come are less attached with respect to geography, occupation, or institution, they will restore that crucial flexibility.

Immigrants are a windfall for any society. They use fewer social programs than the native born, and they contribute more in taxes. Because immigrants tend to arrive as young adults, by the time they reach pensionable age most have contributed toward their own retirement and parented productive, tax-paying children.

We can never know in advance how new immigrants will benefit the society and the economy, but that's the best argument for letting more of them in. They enrich the fertile mix of ideas that has always been the contribution of immigration to America. Given the speed of economic and social change in our modern technology-driven society, we will need that contribution even more in the future than we did in the past.

Many people worry that encouraging immigration skims the cream from the societies whence they come—the so-called brain drain. But the brain drain is a myth. If anything, immigration creates a "brain bonanza." As migrants gain experience and income, they typically return some of those gains—both intellectually and through the repatriation of wealth—to the countries that they left behind.

Freedom is spreading everywhere in the world. The only important barrier left is the barrier to the free movement of people. Now with the revolution in Eastern Europe, even barriers to the freedom of people to leave have crumbled. Such obstacles that still exist are on the receiving end—among those nations, including the United States, that have historically upheld the principles of economic and political freedom.

During the 1980s America admitted an average of 583,000 new legal immigrants a year—the highest level since the beginning of the century. I would recommend that we double that number in the decade ahead. If we do, we will be the richer for it, both economically and spiritually.

(Simon, 58, teaches business administration at the University of Maryland and is the author of a new book, "The Economic Consequences of Immigration." He talked to Louis S. Richman.)

TROPICAL FOREST LOSSES—EVEN WORSE THAN WE THOUGHT

Mr. BOSCHWITZ. Mr. President, we all know that the world's forest resources, particularly in the tropics, are fast disappearing. At the recent Interparliamentary Conference on the Global Environment, I cochaired the working group on deforestation and desertification. I said there, quoting the Food and Agricultural Organization, that the world was losing 54 acres of tropical forests per minute, that those acres were being cleared for agriculture, grazing, fuelwood, human settlement, for export and for other purposes, and that those lost trees and other forest resources were not being replaced.

Now, just 2 months after our conference, I find that I must revise what I said there about the extent of the damage to our forests. Unfortunately, it is even worse than we thought. According to a recent report by the World Resources Institute, whose work I rely on a lot for keeping myself abreast of the world forestry situation, we are losing our tropical forests at an average rate of 85 acres a minute. That is very depressing.

This forest destruction forever denies to humankind the benefits derived from species of animals and plants that disappear in this process, including especially plant species which may be essential for improved food crops, as well as those which may form the basis for biotechnological application, medicine, and other scientific uses.

Land cleared through deforestation is in many regions unsuitable for ongoing agriculture and exhausted within a few years. So cutting down trees in the tropics often leads to no permanent gain, but rather to a cycle of floods, disruption of hydrological cycles, soil erosion, and, ultimately, in some instances, desertification.

Very importantly—and this is the area in which I am particularly concerned—deforestation, especially from burning, also results in significant release of carbon dioxide into the atmosphere, thus contributing to the greenhouse effect that causes global warming.

The reasons for these forest losses are, as we know, very complex. They have to do, in part, with world trade, international debt, and other macroeconomic causes. But these losses also stem from poverty, from population growth, from pollution pressures, and from inequities in land distribution. These factors lead to precipitate and usually counterproductive landclearing for marginal agriculture. It is counterproductive because, after a few years of crops, the cleared land loses its nutrients and becomes barren and useless.

We are talking about lots and lots of very poor people who have to work very hard for their daily bread, and who, understandably most likely never heard of biodiversity or global warming, and, if they did, would most likely say they have more important things to think about.

So what is the right balance between the long-term income of the whole

nation and the short-term needs of the poor for food and fuelwood, for which chopping down rainforests often seems to be the only recourse?

In coming weeks, some of us plan to introduce possible legislative solutions explored at the Interparliamentary Conference on the Global Environment. Answers on deforestation, specifically, seem to lie at several levels. First, we need to devise better forest conservation and management techniques. Second, we have to better address the larger economic problems of population pressures, extreme poverty, large-scale national indebtedness, and a wide range of often shortsighted economic measures that undervalue forest products and make it too tempting to cut down forests indiscriminately.

Last, what kinds of international activities might be effective in reversing the current trends leading to denuded forests and rangelands. I will be working on a new international convention to protect all the world's forests, along the lines of the International Whaling Convention—a convention which would recognize the need for protecting both temperate and tropical forests, and establish specific targets for reducing deforestation and achieving deforestation.

Mr. President, such a convention is just one of the legislative matters I will be pursuing to try to address deforestation. In view of these latest statistics on the rate of forest loss, we're already dangerously behind the curve of events. Both developed and developing countries have to look very carefully at how we help poverty-stricken people to survive and, at the same time, search for better ways to better protect and manage our forest resources. I will need the help of each of my Senate colleagues. I look forward to their support.

Mr. President, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 8, 1990]

LOSS OF TROPICAL FORESTS IS FOUND MUCH WORSE THAN WAS THOUGHT

(By Philip Shabecoff)

WASHINGTON, June 7.—Tropical forests, which play a vital role in regulating the global climate, are disappearing much more rapidly than previously estimated, an international research group said today.

Each year recently, 40 million to 50 million acres of tropical forest, an area the size of Washington State, has been vanishing as trees are cut for timber and to clear land for agriculture and other development, the World Resources Institute said in a report. The group said 1.9 billion acres of tropical forest remained.

The report, "World Resources 1990-91," prepared in collaboration with the United Nations, was described by its authors as the first comprehensive estimate in a decade of tropical-forest losses around the world.

The rate of loss, measured in most countries in 1987, was nearly 50 percent greater than the last global estimate, prepared by the United Nations Food and Agricultural Organization in 1980, according to the Institute.

"We were startled to uncover this rate of global deforestation," said James Gustave Speth, president of the institute, a Washington-based research and policy organization. "We were saying we were losing the forests at an acre a second, but it is much closer to an acre and a half a second."

The disappearance of tropical forests is regarded by environmental experts as one of the most serious global environmental problems. Through photosynthesis, the forests absorb huge quantities of carbon dioxide, the most important of the gases that are accumulating in the atmosphere. Many scientists believe that carbon dioxide, if not kept in check, will cause a significant warming of the earth in the next century, through a process known as the greenhouse effect.

The report on forests was based on remote sensing data from National Oceanic and Atmospheric Administration and Landsat satellites that were originally analyzed by each of the affected tropical countries. Dr. Allen L. Hammond, editor in chief of "World Resources 1990-91," said at a news conference here that for most of the countries the satellite data covered 1987, but for Brazil it covered 1988, since newer data were available for that country.

RATE SLOWS IN BRAZIL

He said the estimates of actual forest loss were "very conservative," and that the actual losses probably were considerably higher.

The group's report said that in nine major tropical countries, the estimates of total annual losses of tropical-forest acreage were about four times as high as estimates from the years 1981 to 1985. The nine countries were Brazil, India, Indonesia, Vietnam, Thailand, the Philippines, Costa Rica, Cameroon and Myanmar (formerly Burma). Dr. Hammond said, however, that in Brazil, the rate of deforestation declined in 1988 from 1987, largely because the levels from the latter year were the highest on record for that country.

As the tropical forests shrink, their capacity to absorb carbon dioxide declines, thereby hastening the onset and increasing the magnitude of the warming phenomenon. Moreover, as the vegetation from the cut forests decays or is burned, it emits more carbon dioxide into the atmosphere.

The tropical forests also contain the largest and most diverse populations of plant and animal species of any habitat in the world. As the forests vanish, so do many of these species, many before they ever have been discovered, named and analyzed for possible use by human beings.

Tropical forests generally have infertile soil because most of the nutrients are in the vegetation, not the soil. Thus, when these forests are cleared they tend to regenerate very slowly, if at all.

"AN UNPARALLELED TRAGEDY"

"Tropical deforestation is an unparalleled tragedy," said Mr. Speth. "If we don't reverse the trend soon, it will be too late."

Senator Patrick Leahy, Democrat of Vermont and chairman of the Senate Agriculture Committee, said in a statement: "This is the first reliable data we've had on tropical deforestation in 10 years. A situation we knew was bleak is now shown to be truly horrendous."

The World Resources report was prepared in collaboration with the United Nations Environment Program and the United Nations Development Program. Joan Martin Brown, special adviser to the executive director of the United Nations Environment Program, said at the news conference that her organization did not have its own capacity to do the kind of research contained in the report. She said the information would be "very important" as the international community moves to respond to the global environmental threats.

Since preagricultural times, the report said, the world has lost about one-fifth of all its forests, from more than 12 billion acres to under 10 billion acres. In the past, most of the losses were in the temperate forests of Europe, Asia and North America. In recent years, however, it is the tropical forests of the developing countries of Latin America, Asia and Africa that have been disappearing most rapidly.

FORESTS WITHOUT TREES

Brazil, with the largest remaining tropical forest area, is also experiencing the worst losses—between 12.5 million and 22.5 million acres a year, the report found. Myanamar is losing 1.7 million acres a year, more than 500 times the 1980 estimate by the Food and Agricultural Organization.

India, according to the data, is losing its forests at a rate of 3.7 million acres a year. Large areas legally designated as forest land "are already virtually treeless," the report said.

Indonesia is losing 2.2 million acres a year, and Costa Rica 300,000 acres, both substantially more than the 1980 estimate.

The problem of deforestation in developing countries "has been exacerbated by government economic, land tenure and agricultural policies as well as population pressures, poverty and debt," the report said. It added that the rapidly increasing populations in developing countries will put even more pressure on the forests.

The World Resources report also contains a new index of countries that are the greatest net contributors to the atmosphere of carbon dioxide, chlorofluorocarbons and methane, the major gases contributing to global warning.

SURPRISES ON LIST

The United States and the Soviet Union are the first and second-largest net producers of these greenhouse gases, the report found. It added that if the European Community were considered a single country, it would rank second behind the United States.

But the next three countries on the index, surprisingly, were developing nations, Brazil, China and India.

It has been widely believed that the industrialized countries are the main producers of greenhouse gases. But the research grant found that the developing countries already account for 45 percent of emissions of these gases, and that their contribution is likely to rise sharply as they consume more energy for industrial development.

While there is still scientific uncertainty about the timing and magnitude of global warming, Mr. Speth said, the overwhelming scientific consensues is that "the risks of global climate change are very real and it would be very shortsighted to conclude otherwise."

"The conclusion of the great bulk of credible scientists is that enough is known to act now" to deal with global warming, said Mr. Speth, who was chairman of the Council on

Environmental Quality in the Carter Administration. "It is our view that it is already late."

[From the Washington Post, June 18, 1990]

ESTIMATES OF LOSS OF TROPICAL FORESTS ARE CALLED TOO LOW

The earth's tropical forests are vanishing 50 percent faster than previously estimated, raising concerns about global warming, a private environmental research group said yesterday.

"Every year the world loses an area of tropical forests almost as big as the state of Washington," said James Gustave Speth, president of World Resources Institute.

The report by the Washington-based organization said data from satellites and ground sensors, along with reports from individual governments, indicates that official estimates of tropical forest losses are far too low.

The report suggested from an analysis of 1987 data that 40 million to 50 million acres of tropical forests are stripped each year, compared with the official estimate of about 28 million acres—based on 1980 data—that is still used by the United Nations and many governments.

Deforestation is a major concern to scientists and environmentalists because tropical forests absorb carbon dioxide and therefore, serve as "sink" for the manmade gas, which contributes to global warming. As forests disappear, more carbon dioxide is free to drift into the atmosphere, where it and other manmade pollutants act much like a greenhouse and cause the earth to warm.

Some scientists believe such warming, if not checked, will cause severe changes in weather patterns, coastal flooding and economic disruptions by the mid-21st century.

BOSCHWITZ ALARMED BY DEFORESTATION REPORT

Senator Rudy Boschwitz today said he is "alarmed and saddened" by reports that worldwide deforestation is taking place at a greater pace than was previously believed.

A report by World Resources Institute says that between 40 and 50 million acres of tropical forests are being stripped away each year, compared to previous estimates of about 28 million acres per year.

Boschwitz, who chaired the Deforestation and Desertification committee at the recent Interparliamentary Conference on the Global Environment, said that committee's debates were based on the smaller figure.

"We were searching for answers to a problem that now appears to be even worse than we thought," Boschwitz said. "If the higher figures are correct, it is even more imperative that we work quickly to slow the pace of forest destruction."

During the Environment Conference, Boschwitz's group proposed solutions that included an international convention on deforestation, and international economic aid to nations that reduce their deforestation.

"The loss of forests around the world is a loss for all of us," Boschwitz said. "Trees help with a wide variety of environmental ills, and it is in everyone's best interests that we halt the deforestation process."

THE POPULATION-ENVIRONMENT LINK

Mr. BOSCHWITZ. Mr. President, as you know, this year is an election year, and as part of the political process, I've met with several interest groups regarding their endorsements. Last week, I had the opportunity to meet with representatives of several environmental groups as part of the League of Conservation Voters Endorsement Process.

In this time when we are increasingly concerned about the state of our planet, everyone feels that he or she is an environmentalist. I, too, consider myself an environmentalist. Unfortunately, I feel that the environmental groups often choose narrow issues in determining who is and who is not an environmentalist—and I told them that in our meeting last week. With the health of our planet being threatened the way it is, I don't think it is productive to rate people on relatively peripheral issues like billboards and energy assistance.

Much more important, in my mind, are some larger, more global concerns. During my meeting with the environmental groups last week, one issue that came up in relation to global warming was the link between the world population explosion and environmental degradation. I was quite surprised when these environmental leaders told me that not many people here in the Senate emphasize this issue or make that connection.

I believe that the population problem lies at the heart of almost all of our environmental problems. When I was born, there were 2 billion people on our planet. Now there are 5.4 billion people, and by the year 2000 that number will certainly be well over 6 billion.

Since 1950, the world's population has doubled, and its urban population has tripled. In developing countries, the urban population has increased fourfold since 1950.

What do these huge numbers mean for the environment? If we think about all the linkages for a few moments, I think the answers become clear. And they cause me a great deal of personal concern.

In the overpopulated Third World, people live surrounded by denuded lands, waste dumps, and squatter settlements. The rural populations are usually worse off, with even less likelihood of clean water or sanitation. The exploding populations of these countries demand more and more food, water, electrical energy, and cars. Their needs and appetites are infinite, but our natural resources are mostly finite. And the more fuel that is consumed, the more pollution that is emitted into the air.

The pressures of escalating populations in the Third World and the poverty resulting from such pressures compel poor landless farmers—some 250 million of them I'm told—into the rain forest to clear trees from the land in order to plant crops. This land, more often than not, can only support a few years of decreasing production before it becomes arid and useless because the trees, not the land, held the nutrients. The poor farmer then has to move further into the forest in order to find fuelwood and fuel.

As a result, the world loses 40 to 50 million acres of tropical forests as well as 26 billion tons of topsoil each year from erosion and flooding. In addition, vast amounts of carbon dioxide, the primary greenhouse gas, are released into the atmosphere due to slash and burn forest clearing methods.

While the United States can afford to clean our air and properly manage our forests, developing countries often cannot, simply because they have too many mouths to feed. That's mainly due to the increasing pressures of population growth.

Although I have been a strong supporter of foreign aid, I am concerned that in many of the countries that we help, population growth more than cancels out increases in agricultural and industrial production brought about through transfers of our resources and technology.

Right now I'm trying to sort through some of the possible legislative actions that flowed out of the recent interparliamentary conference for the global environment, where I was one of the seven host U.S. Senators. I am promoting an international convention on forest protection, as well as some other initiatives aimed at stemming deforestation.

I can assure you, however, that all the international conventions in the world and all the aid programs to increase food production and grow trees are not, in the end, going to solve world development and environment problems unless we address the problem of the population explosion.

Unfortunately, the issue of population control has been so intertwined with the issue of abortion that the United States hasn't done enough to help developing countries with their population problems.

I am opposed to abortion, but I am a strong supporter of voluntary family planning, including effective programs of education and counseling on birth control. At the recent Global Environment Conference, I had a long discussion with Senator WIRTH—who was also a host of the conference—and we agreed that we must separate the issues of abortion and international family planning. Senator WIRTH and I plan to work together to realize this goal.

Once we are able to separate these two issues, as I believe should and can be done, I will work to engender additional financial support for international family planning efforts. I believe that we will need to come up with several hundred million dollars more for such programs, and that such money should go not only to our bilat-

eral population assistance programs, but to multilateral programs as well.

Mr. President, if we want to conserve our precious natural resources and protect our planet's environment, I believe we will have to do more to support international family planning. I hope that my colleagues look carefully at the connection between population and the environment. If they do, I think they will join me in this effort.

REDUCING DEFENSE DEPARTMENT REPORTS TO CONGRESS

Mr. BOSCHWITZ. Mr. President, last week the House of Representatives took an action which holds great promise. The House agreed that it is time to bring some much-needed relief to the Department of Defense. It did this by calling for the elimination of 59 recurring reports that the Pentagon must submit to Congress and the modification of the reporting frequency of an additional 11 reports.

The House legislation, introduced by Representative ASPIN, the chairman of the House Armed Services Committee, along with a similar effort being prepared by the Senate Armed Services Committee and its chairman, Senator NUNN, is truly welcome news.

For years, the Defense Department has been forced to respond to the excessive attempts of Congress to micromanage its affairs. We on Capitol Hill have saddled the Pentagon with so many reporting requirements and rules that its operations have come to resemble a maze of almost Byzantine complexity.

The 59 reports which the House would eliminate have been judged to have neither continuing value nor necessity. I agree that Congress could conduct its business without knowing about the disposition of all excess supplies tranferred by the Pentagon to the Department of State, or by having a report on reports submitted by State adjutant generals, or, indeed, by most of the information contained in the 57 other reports.

Mr. President, the seemingly endless congressional requirement for reports is only one area which we make the job of the Pentagon much more difficult than it needs to be. For example, the laws and regulations covering just the Defense Department's procurement activities fill almost 1,200 linear feet of shelf space—more than twice the size of the Washington Monument. In addition, every year we require the Pentagon to submit a budgetary justification document that fills literally tens of thousands of pages.

Five times within the past 2 years, I have spoken in the Senate on the need to restore an effective working relationship between Congress and the Pentagon. Last year, in an effort to bring about constructive change, I introduced the Defense Reports Reduction Act as an amendment to the Defense Department's 1990 authorization bill. My amendment would have terminated all current Defense Department reporting requirements as of January 1, 1991, and set down guidelines for future reports, which could be requested only on a case-by-case basis.

Because of an agreement limiting amendments to last year's authorization bill, I withdrew my amendment. However, the need for Congress to show restraint when it comes to mandating reports from the Pentagon has not gone away. And the fact that legislation is now in the works on this very issue shows that there is recognition that action is more urgently required than ever before.

Only once since 1982 has Congress ordered fewer reports from the Defense Department than in the preceding year. Indeed, compelling the Pentagon to produce hundreds upon hundreds of reports annually is one of Washington's premier growth industries.

Last year, the Pentagon's "White Paper on the Department of Defense and the Congress" stated, and I quote:

> In 1970, at the height of the Vietnam war, the annual funding bill required only 36 reports from DOD. In 1988, 719 were required, an increase of almost exactly 2,000 percent.

This year, the situation is even worse. During fiscal year 1990, 861 new report requirements were imposed on the Pentagon by Congress. This is an increase of nearly 2,400 percent since 1970.

If I were to stack merely the unclassified reports in front of me the pile would be almost as high as I am—and I'm over 6 feet tall. If I could include the classified reports, the stack would be about twice as tall as I am.

The cost of all of these reports, both in time and money, is astounding. The 661 reports required in fiscal year 1989 took about 370 man-years to produce at an estimated cost to the American taxpayer of $6 million. The average report cost $54,000, almost twice the income of an average family. One report by itself cost nearly $2 million.

Mr. President, both the House action in deciding that fewer Pentagon reports are needed and the similar legislation being prepared by the Senate Armed Services Committee mean there are realistic prospects for decreased congressional micromanagement of the Defense Department. I commend both Representative ASPIN and Senator NUNN for their work in aiming to reduce the reporting burden we inflict on the Pentagon.

The time came years ago for Congress to show self-control when it comes to mandating reports from the Defense Department. The legislative process now underway shows that we are going from being part of the problem to being part of the solution.

Mr. BOSCHWITZ. I yield the floor.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE DEPUTY PRESIDENT OF THE AFRICAN NATIONAL CONGRESS

The PRESIDING OFFICER. Under the previous order, the hour of 10:40 a.m. having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 10:40 a.m., recessed until 2:15 p.m., and the Senate, preceded by, the Secretary of the Senate, Walter J. Stewart, the Sergeant at Arms, Henry K. Giugni, and the President pro tempore, ROBERT C. BYRD, proceeded to the Hall of the House of Representatives to hear the address by the deputy president of the African National Congress.

(The address delivered by the deputy president of the African National Congress to the joint session of the two Houses of Congress, is printed in the proceedings of the House of Representatives in today's RECORD.)

At 2:15 p.m., the Senate having returned to its Chamber, reassembled, and was called to order by the Presiding Officer [Mr. SANFORD].

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order morning business is closed.

BUDGET NEGOTIATIONS

Mr. DOLE. Mr. President, President Bush today took the next logical step in budget negotiations when he called for a package that contains entitlement reform, growth incentives, discretionary spending reductions, defense cuts, budget reform, and yes—tax revenue increases. His remarks are consistent with the original summit ground rules to put everything on the table with no preconditions.

Now comes the really hard part: Getting down to specific spending and revenue proposals. If we are going to make any progress on this difficult task, everyone is going to have to work together—Republicans and Democrats, House and Senate, Congress and the administration.

After this morning's meeting we have a tacit understanding to reach agreement on a budget package by mid-July. We are now on the 20-yard line, only 80 yards left to go.

I do not understand some of the frenzy I understand in the media that President Bush has broken his pledge about tax revenues. He has not said anymore today than he said initially—no preconditions, everything is on the table.

What we have done this morning is refine that a bit and further define it,

but specifics are yet to come, and the hard work is yet to come.

I urge my colleagues on both sides to deal with the deficit. As the distinguished Presiding Officer said many times before, this is the most serious problem we face in America, and it is up to us in Congress to deal with it.

Mr. President, I reserve the remainder of my time.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO DESECRATION OF THE FLAG OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of Senate Joint Resolution 332, which the clerk will report.

The assistant legislative clerk read as follows.

A joint resolution (S.J. Res. 332), proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States.

The Senate resumed consideration of the joint resolution.

AMENDMENT NO. 2066

(Purpose: To prohibit the desecration of the flag of the United States in a manner that is likely to lead to a breach of the peace)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 2066.

Strike all after "assembled" and insert the following:

That section 700 of title 18, United States Code, is amended to read as follows:

"§ 700. Desecration of the Flag of the United States; Penalties

"(a) Whoever purposely or knowingly desecrates the Flag of the United States shall be fined under this title or imprisoned for not more than one year, or both

"(b) For purposes of this section, the term 'desecrate' means deface, damage, or otherwise physically mistreat in a way that the actor knows is likely to lead to a breach of the peace.".

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, and 810.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

DEPARTMENT OF STATE

Paul C. Lambert, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ecuador.

E.U. Curtis Bohlen, of Maine, to be Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

Don Melvin Newman, of Indiana, for the rank of Minister during his tenure of service as the Representative of the United States of America on the Council of the International Civil Aviation Organization.

Dane Farnsworth Smith, Jr., of New Mexico, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

Charles H. Thomas, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Hungary.

Alan Philip Larson, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be the Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

James Keough Bishop, of New York, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic.

Steven E. Steiner, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, for the rank of Ambassador during his tenure of service as U.S. Representative to the Special Verification Commission.

Peter Jon de Vos, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Liberia.

BOARD FOR INTERNATIONAL BROADCASTING

Malcolm S. Forbes, Jr., of New Jersey, to be a member of the Board of International Broadcasting for a term expiring April 28, 1992. (Reappointment.)

INTER-AMERICAN FOUNDATION

The following-named person to be a member of the Board of Directors of the Inter-American Foundation for a term of 6 years.

Norton Stevens, of New York (New Position.)

The following-named person to be a member of the Board of Directors of the Inter-American Foundation for a term of 6 years.

Frank D. Yturria, of Texas. (New Position.)

DANE FARNSWORTH SMITH

Mr. DOMENICI. Mr. President, I rise to congratulate Mr. Dane Farnsworth Smith on his confirmation as Ambassador to the Republic of Guinea.

His notable experience and numerous accomplishments during his career will prove, this Senator is certain, a great contribution to our relations with the people and the Government of Guinea.

Dane Smith was born in 1940 in Albuquerque, NM. He received his B.A. magna cum laude, from Harvard College in 1962. After attending Union Theological Seminary, he completed his graduate studies at the Fletcher School of Law and Diplomacy of Tufts University, earning a M.A. in 1966, an M.A.L.D. in 1972, and a Ph.D. in 1973.

Mr. Smith was a Peace Corps volunteer from 1963 to 1965 in Asmara, Ethiopia. Two years later he entered the Foreign Service, and has had a most distinguished career at State. His initial assignment was as the assistant Nigerian desk officer (1967–69), followed by his initial overseas assignment when he served as a consular officer in Dakar, Senegal (1969–71), and as the charge d'affaires for Banjul, the Gambia.

Dane Smith became the economic-commercial officer in Islamabad, Pakistan, from 1972 through 1974, before returning to the Department of State as the senior economist for the Office of Japanese Affairs (1975–77).

Mr. Smith became the AID liaison officer of the Africa bureau economic staff (1977–79), and chief of the Food Policy Division of the Office of Food Policy (1979–81). He then attended the National War College for 1 year.

In 1982, Mr. Smith was selected to serve as the economic counselor in Monrovia, Liberia. He then served twice as deputy chief of mission, first in Gaborone, Botswana, and then in Khartoum, Sudan.

Most recently, he was the Director of the Economic Policy Staff of the State Department's Africa Bureau.

Mr. Smith is a man of many talents. For example, his language abilities include fluency in French, Arabic, German, Spanish, Urdu, and Italian.

And I would point out that he has received a number of important awards for his service to our Nation. In 1979, he received the State Department Meritorious Honor Award, and in 1989, he won the Presidential Meritorious Service Award. He is a member of the African Studies Association, the Middle East Institute, the American Foreign Service Association, the Harvard Club, and the Society for International Development.

Dane Smith married Judith Armayor in 1963. They are the parents of three children: Jennifer L., Dane F., III, and Juinita C. Smith. While he retains a legal address in New Mexico, he presently resides in Washington, DC.

Mr. President, I wish to commend Dane Smith and his family, and to wish them every success in this exciting new assignment.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO DESECRATION OF THE FLAG OF THE UNITED STATES

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2066

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I want to say to my colleagues, No. 1, that two statutes have been struck down as unconstitutional on the issue of flag desecration. The first was a Texas statute, which provided that if somebody who happened to watch a flag burning was offended, or somebody who discovered that a flag had been burned was offended, that that created an offense. And the court held that the fact that somebody may be offended by your conduct is not a sufficient ground for eroding the first amendment.

Then we passed a statute here earlier this year and provided for the Supreme Court to deal with it on an expedited basis. My personal opinion was—even though I voted for it, and I voted for it because I will vote for any legislative proposal that has the remotest chance of addressing what is a legitimate concern about preserving our national symbol, the flag—that I would vote for almost anything to keep from tinkering with the Bill of Rights and, especially, the first amendment of those 10 amendments that constitute the Bill of Rights.

We have never in this body address the problem in the way the Supreme Court did in the Johnson decision, which ruled the Texas statute unconstitutional; we have never dealt with a statutory remedy that we were literally invited to use in the Johnson decision and, that is, using the flag, our national symbol, in such a way that it is calculated to incite a breach of the peace.

Mr. President, we are considering a constitutional amendment, and my amendment is a legislative remedy, not a constitutional remedy. It is a legislative remedy that simply says in two sentences: Anybody who knowingly and purposely desecrates the flag may be, upon conviction, fined or imprisoned for 1 year, or both. But then it defines desecration as an act calculated to create a breach of the peace. You cannot get simpler. You cannot get any plainer. You cannot get any narrower.

In the Johnson decision, the Supreme Court said, we have not been presented with a very narrow case of somebody going beyond expressing an opinion under the first amendment and actually trying to create a breach of the peace. I do not know why we have not done it.

I did not like the way that the previous statute was drafted. Frankly, I thought it was almost crafted to invite being stricken as unconstitutional by the Supreme Court, which it was in the Eichman decision. In Feiner versus New York, a Supreme Court decision, the Court quoted another case, which they refer to as Cantwell—I do not have the citation—and the Supreme Court said:

> Nobody would suggest that the principle of freedom of speech sanctions incitement to riot or the religious liberty cannotes the privilege to exhort others to physical attack upon those belonging to another sect. When clear and present danger of riot, disorder, interference with traffic upon the public street or other immediate threat to public safety, peace, or order, appears, the power of the State to prevent or punish is obvious.

Mr. President, the Speaker of the House has said there will be no more flag votes in the House this year. They have already killed the constitutional amendment. If all 100 Senators vote aye on this resolution, it is not going anywhere, the House will never consider it again. It is tempting, considering the volatility of this issue, for everybody to vote aye on it. There will be no 30-second spots, if you are up for reelection this fall. You can say, "I voted for a constitutional amendment." That takes your opponent right out of the action. No explanation, no accountability. Yet, no constitutional amendment. You talk about the best of all worlds, that is it.

Mr. President, I have said many times on this floor, when you start talking about amending the Constitution for any purpose, I belong to the "wait-just-a-minute club." I am not saying that the Constitution should never be tinkered with; what I am saying is that, in my opinion it is the legal bible for this Nation; it is the organic law that has made us the oldest living democracy on Earth.

What part of the Constitution has done that? Why, the Bill of Rights, the first 10 amendments. What part of the Bill of Rights do we reserve the most? The first amendment.

So, colleagues, ask yourselves, just because some lunatic in Dallas, TX, in 1984 decided to burn the flag, is that reason for tinkering with the most precious segment of the Constitution that gives us religious freedom, freedom of speech, freedom of press? I say, no.

I cannot vote for a constitutional amendment, but I will vote—and I hope my colleagues will—for a very narrow legislative remedy that will not stop all desecration of the flag but will deal with the most egregious cases, the ones that make your blood boil.

Mr. President, this does not have anything to do with patriotism. There are men who have fought courageously in wars to defend this country who are going to be voting "no." There are some who are equally courageous who will be voting "yes."

So nobody ought to be trying to get any patriotic kudos out of this. But nobody ought to be trying to get any political enhancement out of it, either. And I must say, completely aside from the debate here, it troubles me greatly to hear people talking about what kind of a 30-second spot they can use on this issue this fall.

Somebody may have misjudged this. Mr. President, did you know that my mail is running 2 to 1 against a constitutional amendment? It tells me that if you really want to get the attention of the people of this country, you start talking about tinkering with the Constitution. They love the flag. They think it ought to be protected, but not necessarily by amending the first amendment.

Mr. President, I personally believe that morale is the lowest in Congress since I have been here. I have been in the Senate 15½ years and I can tell you that in my opinion morale is at an all-time low in the Cloakroom. I am not sure why, but I think one of the reasons is because we are being distracted from the issues of this country. And that is not to diminish the debate here or to suggest that people who are concerned about the great flag, our national symbol, are responsible for the low morale. But we are constantly being distracted from the real problems that beset this Nation.

I never will forget when my party's nominee in Atlanta in 1988 said this campaign will not be about philosophy, but it will be about competence. Mr. President, every election is about philosophy. Every election is about what we believe. Every election is about our national values and how we cherish them. There is something cold and calculating and elitist about the word "competence." And so these symbols are important.

But I think morale is low because we know that most creative thought around here is designed for a 30-second spot rather than how to save a debt-ridden Nation in decline, in decline because of our profligacy, because of our distractions and our politicizing every single issue no matter its worth or vitality.

We have a $3-trillion debt, $350 billion deficit just for 1991 alone, and yet we have to stop and pause and deal with a symbol.

Mr. President, another reason that I cannot support a constitutional

amendment is that the Eichman case is a 5-to-4 decision. To rush to judgment when we may have another Supreme Court Justice before the end of the year and certainly before the end of next year, to start amending the Constitution on a 5-to-4 decision would be the height of folly.

Mr. President, I am in a minority, and I know that the constitutional amendment will get a majority vote, but it will not get the necessary two-thirds. Sometimes I say, why cannot everybody agree with me? Well, that is exactly what the first amendment is all about. They do not have to agree with me. But what is even more beautiful, I do not have to agree with them. And it is all because of what James Madison said in 1789, which was adopted in 1791, and which we have not changed in 200 years.

I am concerned that if we adopt an amendment to the first amendment this time, the next time it will be a little easier to do it on another issue and the next time it will be a little easier to do it on something else.

My amendment, Mr. President, says that you could go out in front of this Capitol and you could burn a flag. The Supreme Court in the Johnson case said as long as your burning of that flag is simply an expression of protest, it is protected under the first amendment.

But they also suggested in the Johnson case that if your action is not an expressive conduct, not an expression of protest, or if you go beyond honest dissent and protest to the point that your state of mind is that you are likely to create a breach of the peace, then you can be fined and imprisoned. It is just that simple.

Make no mistake about it, while I think my amendment has an excellent chance of standing constitutional tests, it will also not stop all flag burning. A jury would have to find that there was an intention to create a breach of the peace.

Mr. President, the eighth circuit in St. Louis upheld a conviction of a man who, after demonstrators protesting the sending of troops to Honduras in 1988 burned about five flags. The protesters ended up in front of the U.S. recruitment center in Minneapolis, and people started knocking out windows. And some guy takes a roman candle and starts firing roman candles through those broken windows. Then Carey, the defendant in this case, comes up with a flag over his shoulders, with a slit in it so he could put it over his head to use it as a poncho. And while all this is going on, somebody comes up with a flag and said "Light this." Carey lit it. And then he goes and he throws it into an alcove of the recruitment center. And the Court of Appeals in the Eighth Circuit said, obviously, he testified the situation was violent, he testified the situation was dangerous, a jury would have a right to conclude that he was going way beyond just protesting. He was actually pouring kerosene on the fire and trying to provoke a lot more violence.

In the Johnson case, which ruled the Texas statute unconstitutional, the Court said, "An interest in preventing breaches of the peace is not implicated on this record."

In short, that was not at issue. And almost every time the Court has ever addressed the issue, they said you cannot do those things. They said it in New Hampshire. They said it in other cases. And here is another thing they said in the Johnson case as to the State's goal of preventing breaches of the peace. The Court concluded that the flag desecration statute was not drawn narrowly enough to encompass only those flag burnings that were likely to result in a serious disturbance of the peace. That is what the Supreme Court said last year in this decision.

Now, Mr. President, my amendment is narrowly drawn. It deals with breach of the peace. It is a legislative remedy that the Supreme Court itself has literally invited us to consider. And I hope my colleagues, who cherish the Constitution as I do, and who also believe that there is a national legitimate concern about protecting our flag, will support my amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, how much time have we?

The PRESIDING OFFICER. The Senator has 16 minutes and 20 seconds.

Mr. THURMOND. What is it, 20 minutes to a side?

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. I rise today in opposition to the substitute amendment offered by my good friend from Arkansas, Senator BUMPERS.

While I appreciate his efforts to have the Senate pass a statute that is constitutionally sound, I believe we should not support his statutory approach in lieu of our proposed constitutional amendment.

The Senator's amendment would provide penalties against those who desecrate the flag in a manner that the actor knows is likely to lead to a breach of the peace.

In Brandenburg versus Ohio, the Supreme Court addressed the issue of regulating expression that will provoke violence. While the Brandenburg decision gives the States flexibility to prevent activity which is directed to produce or incite imminent lawless action, the Johnson decision through dicta may have shed some new light on this ruling. Justice Brennan, writing for the majority in Texas versus Johnson, stated:

> It would be odd indeed to conclude both that if it is the speaker's opinion that gives offense, that consequence is a reason for according it constitutional protection and that the Government may ban the expression of certain disagreeable ideas on the unsupported presumption that their very disagreeableness will provoke violence.

Brennan went on to state:

> Thus, we have not permitted the Government to assume that every expression of a provocative idea will incite a riot but have instead required careful consideration of the actual circumstances surrounding such expression asking whether the expression is directed to inciting or producing imminent lawless action and is likely to incite or produce such action.

I assume the distinguished Senator from Arkansas is attempting to have our Federal Code comport with the Brandenburg decision. It should be noted that the State of Texas argued that Johnson's conviction was partly based on their interest in preventing breaches of the peace. However, the Supreme Court declined to allow Brandenburg to uphold this proposition and summarily dismissed the argument proferred by the State of Texas. Brennan stated, "To accept Texas' arguments * * * would be to eviscerate our holding in Brandenburg."

Based on the language asserted by the Court in Brandenburg and Johnson, there is considerable doubt whether the Bumpers amendment would be constitutional. I would like to believe it is. However, we have been down this road before trying to craft a statute protecting the flag that this particular Supreme Court will uphold.

It is my firm belief that we should move forward and pass this proposed constitutional amendment and send it to the States and allow the American people to decide.

In light of the Supreme Court ruling in Johnson and Eichman, our task is clear. We must adopt our proposed constitutional amendment authorizing the Congress and States power to prohibit the physical desecration of the American flag.

At this point, Mr. President, I would like to make a parliamentary inquiry. Under the unanimous-consent agreement governing consideration of Senate Joint Resolution 332, would, adoption of the Bumpers amendment, require a simple majority of the Senate or a two-thirds vote as would the underlying measure?

The PRESIDING OFFICER. A simple majority is adequate.

Mr. THURMOND. A further parliamentary inquiry, Mr. President. Under the unanimous-consent agreement, if the Bumpers amendment is adopted, would this displace or prevent a vote on final passage on the underlying measure, Senate Joint Resolution 332,

our proposed constitutional amendment?

The PRESIDING OFFICER. The answer essentially is yes. If the amendment is adopted, it would displace it.

Mr. THURMOND. In other words, if it were adopted there would not be any chance to vote on this constitutional amendment?

The PRESIDING OFFICER. The Senate would then have the option of voting on the next three amendments.

I answered the question, that, yes, if the statutory amendment is voted on by 51 percent, then it becomes the amendment, Senate Joint Resolution 332 as amended.

Mr. THURMOND. And the Senate would not have a chance to vote on this constitutional amendment?

The PRESIDING OFFICER. Not on the present Senate Joint Resolution 332. That is correct; the constitutional amendment.

Mr. BUMPERS. Will the Senator yield for a moment?

Mr. THURMOND. I was going to suggest maybe we vote on the constitutional amendment first. If this does not pass, then the Senator could, if it is proper parliamentary procedure to do so, offer his statute, because a number of people would probably vote for his statute if this fails. But we are hoping the Senate will vote this constitutional amendment. In fact, I would not object if they both pass.

Mr. BUMPERS. If the Senator will yield, let me make two observations, the first being, if my amendment is adopted there will still be a constitutional amendment in order that will be offered by the Senator from Delaware [Mr. BIDEN].

Second, let me say that I asked the distinguished Republican leader to vote on the constitutional amendment first, and agree, if it were defeated, to allow mine as a freestanding bill. But he chose not to do that for reasons best known to him.

Mr. THURMOND. Mr. President, our amendment is up now. It will be voted on first. If it passes, that takes care of the situation.

The Biden amendment was just handed me about 10 minutes ago, and nobody has had a chance to study that amendment. Furthermore, the amendment I have offered is the one that President Bush recommends. It is the one the Attorney General has approved, and we feel that is a sound amendment and should be passed.

We ought to get a vote on that first. If for any reason that does not pass, then any other statute or other amendment they wish to offer could follow. So I raise that point so the Senator from Arkansas will understand that. If this passes, the others will not be considered at all.

Mr. BUMPERS. Mr. President, if I may just make this observation? If my amendment is adopted, the next amendment to be offered will be one by the Senator from North Carolina, which we commonly refer to as the court stripping amendment. If it is passed, it takes my amendment down. If it is not passed, my amendment is still the pending business, and the next in order under the unanimous-consent agreement will be a constitutional amendment by the Senator from Delaware, Mr. BIDEN.

Mr. THURMOND. But we want our amendment voted on before the one of the distinguished Senator from Delaware. We have offered this before.

Mr. BUMPERS. That is what I want, too.

Mr. THURMOND. So we will go ahead and vote on this first. I just went ahead and made the suggestion to the Senator that if he can devise some way to come in after this, he might want to consider it.

Mr. BUMPERS. We have to get both leaders, I think, to agree with that, because they have worked long and hard on this UC.

The PRESIDING OFFICER. I might point out to the Senator from South Carolina, if the amendment by the Senator from Arkansas fails, then the vote will, indeed, be on the constitutional amendment as introduced by the Senator from South Carolina.

Mr. THURMOND. That is correct. We understand that.

The PRESIDING OFFICER. That is in keeping with the unanimous-consent agreement.

Mr. THURMOND. I thank the Chair.

Mr. President, I do not want to deny the Senate an opportunity to vote on our proposed constitutional amendment. I ask my distinguished colleagues from Delaware and Arkansas if they would agree to having a final rollcall vote on Senate Joint Resolution 332, regardless of the outcome of the vote on the Bumpers amendment?

I hear no response. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. How much time do both parties have?

The PRESIDING OFFICER. The Senator from Arkansas has 3 minutes 23 seconds; the Senator from South Carolina has 6 minutes and 42 seconds.

Mr. BUMPERS. Mr. President, I want to read a statement to my colleagues from the footnotes of the Johnson decision which created this whole furor. Texas versus Johnson. Here is what they said:

> Because we find that the States' interest in preventing breaches of peace is not implicated on these facts, however, we need not venture into this area.

You cannot find in Johnson or Eichman, either one, where the Supreme Court ever dealt with this very specific question. What you can find is, especially in Johnson, that if a very narrowly crafted statute were offered to the Court, going way beyond, the expression of a freedom of speech into conduct that is obviously calculated to create a breach of the peace, they indicated, and a court in the eighth circuit in St. Louis has so held, that the statute would stand constitutional muster.

What we have done here with the previous statute we passed was almost invite the Supreme Court to declare that statute unconstitutional.

My amendment says that if somebody who is desecrating the flag goes beyond freedom of expression to the point that it is obvious that they are trying to incite a riot or breach of the peace, that is not protected speech. And that is what my amendment goes to.

One can do either of two things. As long as someone is demonstrating to protest, and even burns a flag, this amendment does not stop that. If one goes out and burns a flag in front of the American Legion parade, I think it is fair to say that the mens rea is present, or at least the actor knows that he is likely to create a breach of the peace, and the courts have consistently said that is not protected. They said it in the Chaplinsky case in New Hampshire; they said it in the O'Brien case, where kids were burning draft cards.

I think this is an excellent amendment, and it will deal with the most egregious cases. It is as far as we can go legislatively and, perhaps, it may be even as far as we need to go because we all know that if you preserve every flag in the country, you will solve the landfill problem. You cannot buy a coke without a reproduction of the flag on the side of the cup. Panty hose, napkins, swizzle sticks, everything. Used car dealers have them all over their lots for commercialization. I must say, I am as offended by the use of the flag for commercial purposes as I am by some other acts that desecrate the flag, too.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. I thank the Chair.

Mr. GRASSLEY. Mr. President, I rise in opposition to the amendment by our colleague from Arkansas, Senator BUMPERS.

The amendment is nothing more than a figleaf to provide political cover to those who are against the one, real solution to protecting the flag: A constitutional amendment.

In two instances, five Justices of the Supreme Court have told the American people that they cannot protect their flag by mere statutory enactment.

Adoption of the Bumpers' amendment would be the third strike against the flag and the vast majority of the American people who want to see it protected.

Last year, the Judiciary Committee, of which I am a member, spent 3 months and 4 hearings attempting to draw up a means by which the flag can be protected.

We came up with two ways.

One, the Flag Protection Act of 1989, has been rejected out-of-hand by the Supreme Court.

The Congress did not vote in sufficient numbers in order to submit the other remedy—the real remedy, a constitutional amendment—to the people and their State legislatures for their consideration under article five of the Constitution.

The Bumpers' amendment has not had the exhaustive review accorded the Flag Protection Act of 1989. It has not been referred to any Senate Committee, including the Judiciary Committee, which has a subcommittee devoted entirely to constitutional issues.

So, its consideration at this time troubles me.

At the very least, we need to consider this amendment's future before the Supreme Court.

As Senator DOLE, Senator HATCH, and I—who voted against the Flag Protection Act of 1989 because we wanted to provide real protection for the flag—reminded our colleagues: We cannot attempt to overturn a Supreme Court decision, grounded in the Constitution, by a mere statute.

The amendment is a political copout. It is a figleaf for those who are against the proposed constitutional amendment that I have cosponsored with 45 of my colleagues.

I urge the Senate to reject the Bumpers amendment.

Mr. LAUTENBERG. Mr. President, consideration of an amendment to the Constitution and the Bill of Rights, to prevent future desecration or burning of our flag, has focused attention on this issue in every community across the country. After a long review, and deep soul searching, I conclude that I will not support amending the first amendment of the Constitution. To do so would modify the first amendment for the first time in our 200 year history. I will continue to support legislation consistent with the first amendment to protect our flag. I am pledged to the protection of our flag and the freedoms we enjoy.

The Supreme Court's decision striking down the Flag Protection Act of 1989, legislation which I supported, was received with considerable regret and brings this difficult and emotional issue back before the Congress. Individual Senators, in making their decisions, have to deal with very fundamental questions and values.

For me, it has been very difficult. I am not a lawyer, Mr. President. But, as a private citizen and a Senator, I have always been vigilant about restrictions on the basic freedoms that make America unique in the world. That is because I am the son of immigrant parents whose families fled tyranny for the promise of freedom in America. The Constitution and Bill of Rights are not abstractions to me. I was raised to respect them, as sacred promises of freedom; promises compelling enough to convince my family to travel half way across the globe to live under their protections. They are protections that have drawn millions to our shores.

This country has been good to me and my family beyond my wildest boyhood dreams. It's been that way for millions of us. For that reason, I volunteered to fight in World War II. For that reason, although successful in the private sector, I sought public office as a U.S. Senator. I wanted to give something back to my country, the country which continues to serve as a beacon of hope for millions seeking freedom around the world. And, for that reason, just as I revere the Constitution and Bill of Rights, I love the flag which embodies our ideals, our liberties, our history and our sacrifices. In that, I stand with virtually all Americans.

And in that, Mr. President, lies the greatest conflict surrounding this issue for me. In my mind I contrast the image of the flag burner, whom I detest, with the images of thousands of patriotic Americans I know who have been touched by the tragedy of war or sacrifice for country. The flag is a unique national symbol. I have a special, personal affection for the flag along with all Americans. It's the one great symbol that unifies our Nation. The flag represents over 200 years of our history and culture.

The flag I look at most often is not the typical cloth flag. The flag I look at most often is a giant painting of a flag on the wall of my office, opposite my desk. I hung it in my office because I was so taken by its beauty and its power. That flag is unfurled, majestic, rippling in the wind. It is painted in vibrant colors, on a bright background. It represents for me the strength and optimism of our people and the promise of America. It inspires me. It nourishes my love of country and my patriotism, and binds me even closer with those I represent, to my oath of office, and to all Americans and those who seek freedom from oppression. It strengthens my resolve to serve my country and is a constant reminder of my responsibilities to serve New Jersey and the Nation as a U.S. Senator. It fills me with pride. It reminds me of the good fortune that befell me when my grandparents chose to come to these shores, carrying my infant parents to this land of liberty.

Mr. President, as a veteran, as a Senator, and as an American son of immigrants, the flag represents all things noble to me. Flag burning is an ugly, despicable and cowardly act. It sickens me. It saddens me. Those who burn the flag are ingrates. They lack the courage and the character to fight for change through a fair and just process. They simply want to infuriate, enrage and to achieve their goals through attacks on our precious heritage. They are misguided and deserve the contempt of every American.

Last year I supported a statute to protect the flag from desecration. I am disappointed that the Supreme Court struck it down as unconstitutional. I still hope we can provide protections to the flag through new legislation which will not conflict with the first amendment. Expert testimony before the Senate Judiciary Committee last week expressed the dangers of supporting the constitutional amendments before the Senate.

Mr. President, I am unwilling to risk, for the first time in our history, narrowing the freedoms expressed in the first amendment. This is a hard decision, because of the foul, outrageous character of flag-burning incidents. My anger at these events makes me want to seek vengeance, to strike back, and to punish those who commit these acts. However, as I searched for the means to choke off this offensive dissent, I concluded that, in the process, I ran the risk of trampling on a fundamental right within our beloved democracy, the right to disagree, to speak out freely, to be able to exercise dissent, no matter how disagreeable.

Mr. President, there is no right more basic to our democracy than the right of free speech, the right to assembly, and the right to express ourselves on issues of importance to us as citizens, including the most basic questions about our society and government. We see how true that is when we look at the startling developments over the past year. The power of speech, of expression, has spread freedom throughout Eastern Europe.

That is why the first step of the despot is to squelch speech. Silence the people and you cut at the throat of democracy.

The first amendment protects our right to speak out, and protects democracy itself. It is the citizens' shield against tyranny, and their sword of action. It is what makes America special. It is what makes America great. It is what makes America the model for those aspiring to be free around the world.

Mr. President, just because a crackpot violates the flag, no matter how angry that makes us, no matter how offended we are, we should not violate the first amendment in response.

We are strong. We are resilient. Our strength comes from the vigorous exercise of our freedom. Our resilience comes from the testing, time and time again, of one challenge after another

that asks us each time who we are and what we stand for.

In the face of those who tear at the flag, and sneer at what it stands for, let us turn ultimately, not to a constitutional amendment, but to our confidence in ourselves, and in the values that the flag represents. That, Mr. President, is our most powerful weapon of all.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, how much time do I have remaining on leader's time.

The PRESIDING OFFICER. The Senator has 8 minutes, 32 seconds.

Mr. DOLE. Can I use part of that time?

The PRESIDING OFFICER. Yes.

Mr. DOLE. Mr. President, here we go again debating yet another quick fix. We have more quick fixes to provide more cover for more people. I think we ought to vote on the real amendment. Some people will vote no; some people will vote yes.

We have already tried the statutory approach, and it has failed miserably—not once, not twice, but three times—and most recently, before the Supreme Court.

Now my distinguished colleague from Arkansas proposes that we try the statutory approach once more, without an expedited review provision and without any expectation that this statute will ever be upheld by the Supreme Court.

This statute proposed by this amendment adopts the figleaf, "the flagleaf" approach.

It would prohibit only those acts of flag desecration that "the desecrator knows are likely to lead to a breach of the peace."

As a result, the statute would not cover the act of flag desecration that occurred in Texas versus Johnson. It would not cover the flag desecration that occurred in United States versus Eichman. It would not cover the flag desecration that occurred in United States versus Haggerty.

This statute, in other words, would not prohibit those acts of flag desecration that were the subject of the two flag decisions recently rendered by the Supreme Court.

These acts of flag desecration did not provoke violence, there were no breaches of the peace, but these acts deeply offended the American people nonetheless. You can count on that.

So, in my view, the statute proposed by this amendment is not only constitutionally flawed, it is also woefully narrow in scope and it should be rejected by the Senate today.

Mr. President, as I read it, this statute would encourage violence. It would encourage breaches of the peace. It would encourage flag-desecrator bashing.

For if a breach of peace did not occur, the Bumpers statute would simply not apply, and the flag burning could continue as scheduled.

So what my distinguished colleague from Arkansas seems to be saying to the American people is simply this: When you see a flag desecrator, you ought to riot. You ought to run wild in the streets! You ought to attack the flag burners! For if you stand on the sidelines, and keep the peace, the flag desecrators will get away with their despicable act.

Mr. President, this just does not make sense.

Finally, Mr. President, the American people should have no false assumptions about the purpose of this amendment. This amendment is not about protecting the flag, or preventing riots in the streets.

This amendment is really about giving political cover to those Senators who intend to vote against the constitutional amendment today. It is that simple.

The American people know that politics is a way of life in this town, and here is just the latest example.

Mr. President, at the end of the debate on the Bumpers amendment, I understand the distinguished Senator from California will make a point of order on the grounds that it violates the Constitution of the United States.

If the Supreme Court has taught us anything, it has taught us that flag desecration laws just will not work, particularly since the Court views these laws as suppressing speech that others may consider offensive.

I happen to disagree with this view, but it happens to be the law of the land.

I wish I could support an amendment like this or something else if it were properly drawn.

Mr. President, the only way to remedy what we are trying to do today—maybe we do not have the votes; I assume we do not have the votes—is through a constitutional amendment. I reserve the remainder of my leader time.

Mr. THURMOND. I yield to the distinguished Senator from California 3 minutes.

The PRESIDING OFFICER. The distinguished Senator from California is recognized.

Mr. WILSON. Mr. President, what the Senator from Arkansas is attempting to do, we have already attempted to do and failed. His is an effort to criminalize conduct which would, for the first time, really provide that the fighting words "sufficient to incite to violence" can, in fact, be held as an act that will justify Congress in protecting the flag against the kind of desecration which last year many of us sought to achieve by a constitutional amendment, as indeed we are today.

Mr. President, if we go back to the words of the Supreme Court early in our rebuttal, in a landmark decision of Marbury versus Madison, it was made clear that the Constitution, in contrast to the ordinary statute passed by Congress, has remained, to quote the words of that decision "are superior paramount law, superior to ordinary legislative acts, unchangeable by ordinary means."

What we are about today is an effort to undertake those extraordinary means, first of amending the Constitution and then submitting it to the States for ratification in a narrowly focused effort to protect the flag of the United States from physical desecration.

The holding of the Supreme Court, first in the Johnson case, and now last month in the case of the statute by which we attempted to overcome their holding in Johnson, made it clear that virtually any conduct which expresses even inarticulate contempt for the symbolic value of the flag of the United States, will be honored by the Supreme Court, honored in a way that I do not believe that it should, but it will be treated by that Court as speech deserving of protection under the first amendment.

I think that goes too far, Mr. President, It seems to me that extending that logic would protect the conduct of a kind that we find outrageous, not just unpopular, not just legitimate dissent. It would protect someone who not only speaks ill of the dead but goes into a cemetery and defaces headstones, who throws paint on them or chips off the epitaph from a headstone.

It could even say that treason, an act betraying the United States, is legitimate political dissent because it expresses a means of speaking a grievance, real or imagined. Mr. President, I think that goes too far, and yet that is the holding of the U.S. Supreme Court, and we are bound by it. We have but one course, and that is to amend the Constitution. My friend from Arkansas, by his statute, cannot achieve the protection that he seeks to achieve.

Mr. President, good intentions, I think, are not enough. This is a special case.

This is a flag which, in the words of Chief Justice Rehnquist, evokes a nearly mystical response from millions of Americans—those who fought under it, those who are the survivors of those fighters buried under it. It is a symbol of our nationhood. It is something special.

The inarticulate expression of contempt on the part of flag burners, or those who would otherwise physically defile the flag, does not amount to speech, in my mind, Mr. President, but it does, Mr. President in the judgment

of the Supreme Court. I therefore raise the point of order that the statute proposed by the Senator from Arkansas would be unconstitutional and is out of order.

Mr. BUMPERS. Mr. President, will the Senator withhold that for 2 minutes?

The PRESIDING OFFICER. The point of order is out of order at this time for the reason that time remains on the amendment. The point of order is not timely at this point.

Mr. BUMPERS addressed the Chair.

Mr. WILSON. Excuse me, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina has remaining time.

Mr. WILSON. I beg your pardon. I thought all time had expired.

The PRESIDING OFFICER. The time given to the Senator had expired.

Mr. THURMOND. Mr. President, in order for the Chair to rule on this subject, I am willing to yield back my time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I ask unanimous consent that I be granted 2 minutes off the majority leader's time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I want simply to make this point. First of all, the Senator from California is saying that my amendment is unconstitutional. That is not really a decision at this point of this amendment for us to make.

Sometimes, I must say, I feel that I am the only person around here who has read all the court decisions. The Eichman case, the Johnson case, the Carey case, the Barnette case, the O'Brien case, the Chaplinsky case, every one of them is replete with language that sets out specifically that this kind of an amendment will withstand constitutional muster. I say again, in the Johnson case the Supreme Court literally invited us to craft a narrow amendment.

Let me tell you, before you start voting, where you are. We have a constitutional amendment resolution pending. Mine is a first-degree amendment, a legislative remedy that only requires a simple majority vote. The constitutional amendment is not going to pass. The Helms amendment is not going to pass. The Biden amendment is not going to pass. The only thing in the world you have a chance of getting before the Supreme Court is the Bumpers amendment. If you vote no on that, you are saying I hate it, but I do not want to address it.

What you do when you vote no on the Bumpers amendment is say I do not want to do anything. I do not believe there are many people here—maybe 10 people—who are of that mind.

I am offering this amendment because it probably will—I cannot tell you categorically—withstand constitutional muster. But if you read the decisions, you will think it will. It is an opportunity to deal with this problem in a way that will take care of the most egregious, offensive cases.

I can tell you that if the Bumpers amendment does not pass, kiss this whole thing goodbye at least until next year. So I plead with you to do something responsible and deal with this problem by voting for my amendment. I am convinced that this is about as far as you can go legislatively and have any hope of it withstanding constitutional muster.

I yield back such time as I may have.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Mr. President, if all time is yielded back, I then make the point of order that the amendment by the Senator from Arkansas is out of order because it proposes a statute whose enactment would violate the Constitution of the States.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Under the precedents of the Senate, constitutional points of order are not decided by the Chair but by the entire Senate. So the question is, Is the point of order well taken?

Mr. WILSON. I ask, Mr. President, for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk called the roll.

Mr. HELMS (when his name was called). Mr. President, I am about to vote "present" because I do not think any Member of the Senate knows whether this amendment is constitutional or not.

So I vote "present."

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—51

Akaka	Garn	McConnell
Armstrong	Gorton	Metzenbaum
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boschwitz	Harkin	Pressler
Bryan	Hatch	Reid
Burdick	Heflin	Roth
Burns	Heinz	Rudman
Chafee	Humphrey	Shelby
Coats	Johnston	Simpson
Cochran	Kassebaum	Specter
Cohen	Kasten	Stevens
D'Amato	Lott	Symms
Danforth	Lugar	Thurmond
Dole	Mack	Wallop
Domenici	McCain	Warner
Durenberger	McClure	Wilson

NAYS—48

Adams	Ford	Lieberman
Baucus	Fowler	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Moynihan
Boren	Graham	Nunn
Bradley	Hatfield	Packwood
Breaux	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Jeffords	Riegle
Conrad	Kennedy	Robb
Cranston	Kerrey	Rockefeller
Daschle	Kerry	Sanford
DeConcini	Kohl	Sarbanes
Dixon	Lautenberg	Sasser
Dodd	Leahy	Simon
Exon	Levin	Wirth

ANSWERED "PRESENT"—1

Helms

The PRESIDING OFFICER (Mr. BRYAN). The rollcall on the point of order is 51 yeas, 48 nays, one present; the point of order is well taken. The Bumpers amendment falls.

Under the previous order, the Senator from North Carolina [Mr. HELMS] is recognized for the purpose of offering an amendment.

Mr. HELMS. Mr. President, momentarily I shall offer a second proposal that can quietly lead us out of the legislative thicket in which Congress has been led by the Supreme Court.

The PRESIDING OFFICER. The Senate is not in order.

The Senator may proceed.

Mr. HELMS. Let me emphasize, Mr. President, that it is my intent to vote for the proposed constitutional amendment. I am a cosponsor of it. I intend to support it, and I hope that we can reach the 67-vote necessity on it. I do not think that is going to happen, and I do not think any other Senator thinks it is going to happen.

On the previous amendment, I voted "present" because I do not think one Senator in this Chamber knows whether the Bumpers amendment was constitutional. So you were voting for Bumpers or against Bumpers, and I was unwilling to do that because the question before the Senate was, Is this amendment constitutional? I could not answer the question honestly, so I voted "present."

My amendment will put an end to all of the rhetoric, much of it bordering on the absurd, about how the first amendment will be destroyed if the Constitution is amended to outlaw the desecration of the American flag by protesters who publicly burn that flag to mock and degrade the Republic for which it stands.

An overwhelming majority of Americans wants this sorry business of desecrating the flag stopped. They want it outlawed. And they expect Congress to get about the business of representing the well-justified will of the majority. They do not accept the nonsense that forbidding the public burning of flags by unbalanced, publicity seeking extremists is in any way a denial of the right of free speech.

AMENDMENT NO. 2067

(Purpose: To restore the American flag to its place of honor as the symbol of the United States of America)

Mr. HELMS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2067.

Strike all after the resolving clause and insert in lieu thereof the following:

SEC. . AMERICAN FLAG PROTECTION ACT.

(a) SHORT TITLE.—This section may be cited as the "American Flag Protection Act".

(b) COURT OF APPEALS JURISDICTION.—

(1) IN GENERAL.—Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1260. Appellate jurisdiction: limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter and in accordance with section 2 of Article III of the Constitution, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any part thereof, or arising out of any act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to the public mutilation, defilement, incineration, or other physical abuse of any flag of the United States.

"(b) For purposes of this section, the term 'flag of the United States' has the same meaning as in section 700(b) of title 18.".

(2) SECTION ANALYSIS.—The section analysis of chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1260. Appellate jurisdiction: limitation.".

(c) DISTRICT COURT JURISDICTION.—

(1) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1367. Limitations on jurisdiction

"Notwithstanding any other provision of law and in accordance with section 2 of Article III of the Constitution, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1260 of this title.".

(2) SECTION ANALYSIS.—The section analysis at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1367. Limitations on jurisdiction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this section, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

Mr. HELMS. Mr. President, as I understand it, each side has 20 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Will the Chair please advise me when I have 5 minutes remaining?

The PRESIDING OFFICER. The Chair will do so.

Mr. HELMS. Mr. President, the pending amendment invokes the authority given explicitly to Congress in article III of the Constitution, the authority to regulate the general jurisdiction of the lower Federal courts and the appellate jurisdiction of the Supreme Court. The amendment curtails such jurisdiction so that the Federal courts no longer have the power to hear cases involving the public mutilation, defilement, incineration, or other physical abuse of any flag of the United States.

Let me read the relevant part of article III section 2.

The Supreme Court shall have appellate Jurisdiction, both as Law and Fact, with such Exemptions, and under such Regulations as the Congress shall make.

That is pretty simple.

The Helms amendment uses the power given to us by the framers. Adopt the Helms amendment and the result is that such cases—in this case flag burning—become exclusively a matter for the States to handle as they see fit. Prior to the 1989 case, Texas versus Johnson, 48 States and the Federal Government made it a crime to mutilate or defile the flag. The Helms amendment would return to the States their power to outlaw flag desecration.

During the long debate on the flag issue, speaker after speaker invoked the sanctity of the Bill of Rights, while at the same time condemning the act of flag burning. They abhored the act, but declared that they would never support amending the Constitution. In other words, they were telling their constituents that they wished there were some way to stop this flag burning, but they just could not bear the thought of amending the Constitution. A real copout. Well, here's their chance to put up or shut up.

Prior to the 1989 Supreme Court decision, 48 States had laws against flag desecration. Only Alaska and Wyoming did not. The pending amendment will allow those 48 States, if they wish, to renew enforcement of their laws—or, if they so choose, not enforce them.

Mr. President, our Founding Fathers, who wrote this remarkable Constitution of ours, feared the concentration of power in the Federal Government, and in the Supreme Court. That is why they carefully included article III, section 2. They intended that Congress, which is supposed to represent "We the People," have the very explicit power to remedy a run-a-way Supreme Court. So the Founding Fathers gave Congress the means to protect the people, assuming that Congress would have the guts to use it.

We shall, this day, discover whether the Senate does, in fact, have the guts to use it.

Our late distinguished colleague, and my friend Senator Sam J. Ervin, Jr., was recognized as an astute constitutional scholar. Shortly before his death, he told me that he had counted 57 occasions when Congress denied jurisdiction to the Federal courts and the Supreme Court—a number of times at the request of the Supreme Court. So let us hear no more of this nonsense about court stripping—and certainly nothing about endangering the first amendment.

So let me read again, article III, section 2:

The Supreme Court shall have appellate Jurisdiction, both as Law and Fact, with such Exemptions, and under such Regulations as the Congress shall make.

As for suggestions about "court stripping" and "threats to the independence of the judiciary," the framers of the Constitution had far different concepts in mind. In Federalist No. 80, Alexander Hamilton wrote about the judicial powers conferred in the Constitution. He said:

If some partial inconvenience should appear to be connected with the incorporation of any of them (judicial powers) into the plan, it ought to be recollected that the national legislature will have ample authority to make such exceptions and to prescribe such regulations as will be calculated to obviate or remove these inconveniences.

The great John Marshall, in the Virginia ratifying convention, said:

Congress is empowered to make exceptions to the appellate jurisdiction, as to law and fact, of the Supreme Court. These exceptions certainly go as far as the legislature may think proper for the interest and liberty of the people. 3 Debates on the Federal Constitution 560 (J. Elliot 2d ed. 1888).

In addressing congressional checks on the judiciary, Hamilton and Marshall point directly to article III, section 2. Their commentaries, along with other legislative history, affirm what a reading of the provision plainly indicates.

For these reasons I have advocated and will continue to advocate legislation to withdraw jurisdiction from the Supreme Court in those areas where it has clearly distorted the meaning of freedom and all of the good and decent things that America stands for.

In 1979 and 1982 the Senate passed amendments which I offered taking jurisdiction away from the court in the area of school prayer. In each instance the majority party in the House refused to let the legislation come to a vote.

In short, Mr. President, the fundamental question is: What is wrong with using the power clearly given to Congress by the Founding Fathers, to let the American people decide whether their Nation's flag is worthy of honor and respect. We have the opportunity, we have the duty, to remedy the damage done by five of the nine members of the Supreme Court.

Mr. President, I want to conclude with two sets of remarks authored by Mr. John O'Sullivan, editor of Bill Buckley's National Review, from the June 11 and July 9 editions of that periodical. On June 11, Mr. O'Sullivan said:

Article III, section 2 of the Constitution, however, gives Congress the power by single majority vote, to remove any matter from the jurisdiction of the Court. At some point, Congress is going to have to reassert the "deliberate sense of the people 'against a Court acting on abstract' rights." This would be a good occasion to recover self-government.

From the soon to be released July 9 edition he added:

The flag, however, is the sort of unique national symbol by which a nation is held together and might be thought to deserve unique legal protection. If that could be accomplished without too much trouble, by the simple passage of legislation, there would be a strong case for doing so. If Congress can under article III, section 2, of the Constitution deprive the Court of jurisdiction on laws protecting the flag, it should seriously consider doing so.

Mr. President, I reserve the remainder of my time and I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. How much time is under my control?

The PRESIDING OFFICER. The Senator has the full 20 minutes.

Mr. BIDEN. I yield at this time, Mr. President, 3 minutes to my colleague from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

Mr. SPECTER. Mr. President, I thank my colleague from Delaware for yielding me time.

I oppose the pending amendment, Mr. President, because I believe that it is plain under our constitutional structure that the Congress cannot take away the jurisdiction of the Supreme Court of the United States to decide constitutional issues. The language which the distinguished Senator from North Carolina has cited in the Constitution does not stand for the proposition he claims.

This issue was laid to rest in the case of Marbury versus Madison in 1803. Since that time, it has been rockbed constitutional law in this country that the Supreme Court of the United States was the final aribiter on constitutional issues. To say that the Congress by statute can take away the jurisdiction of the Supreme Court to define and decide a constitutional issue lies squarely in the face of Marbury versus Madison, which is followed repeatedly in all of our constitutional doctrine.

Mr. President, although not necessary to do so, I think an answer by Chief Justice Rehnquist in his confirmation hearings is further support for the proposition that you cannot take the jurisdiction from the Supreme Court to decide a constitutional issue, especially the first amendment. This Senator engaged Chief Justice Rehnquist in extended colloquy on the subject.

This question was asked:

Well, the statute could be enacted which would say the Court shall not have jurisdiction over first amendment cases involving freedom of speech, press, or religion. This is my area of concern specifically stated, and I take it from your answer you think that the Court would not have that authority.

Justice REHNQUIST: That is correct.

A flat statement by Chief Justice Rehnquist, who asserted that the Congress might have authority to take jurisdiction from the Court on other constitutional issues.

This Senator then questioned Justice Rehnquist further about why he said that the first amendment was totally outside of the ambit of the Congress to take away jurisdiction. Chief Justice Rehnquist replied as follows:

Well, perhaps the distinction isn't as clear as I would like it to be but I think there is some distinction. The Court has often referred to the first amendment as the preferred freedom of the indispensable matrix of a democratic society. I think that is really the guts, probably the thing that is the necessary prerequisite for effective democratic government.

So, Mr. President, I submit that in the context of our Constitution, Marbury versus Madison, there has never been a shred of doubt about the ultimate authority of the Supreme Court to decide all constitutional questions so that you could not possibly undercut that authority by the argument advanced by the distinguished Senator from North Carolina. Even one Justice, the Chief Justice, who raised the question as to some areas of congressional authority to take away the jurisdiction of the Court emphatically says that the first amendment is so special, such a special matrix as not to be within the purview of congressional action.

Mr. President, I am filing a separate floor statement articulating the reasons for my support of the constitutional amendment to protect the flag so that I believe we should act to protect the flag, but I do not think it conceivable to accomplish that purpose by this route, which is clearly unconstitutional and in direct violation with the most fundamental precepts of our constitutional Government. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. On my time, could I ask the Senator a couple of questions?

Mr. SPECTER. I would be delighted.

Mr. HELMS. How did Mr. Chief Justice Rehnquist vote on this flag burning issue?

Mr. SPECTER. He voted with those who wanted to protect the flag, as do I.

Mr. HELMS. Exactly, so he does not think it is a first amendment proposition, does he?

Mr. SPECTER. I would not say that he does not think it is a first amendment proposition. I believe he thinks that you cannot prohibit flag burning because the first amendment does not cover it, but it is like the doctrine of fighting words in the Chaplinsky case or like obscenity, or like crying, for example, fire in a crowded theater. In those cases, the Court took the question to be under the first amendment but said freedom of speech does not cover this conduct. I believe a fair reading of Chief Justice Rehnquist's opinion would be that it is a first amendment issue but that it goes too far. That is my basic contention.

Mr. HELMS. Has the Senator read what Chief Justice Rehnquist said?

Mr. SPECTER. Yes, I have.

Mr. HELMS. He said that flag burning is outside the ambit of the first amendment. He therefore rejects the argument that this is a free speech issue. I thank the Chair.

Mr. McCLURE. Will the Senator yield me 2 minutes?

Mr. HELMS. I certainly will.

Mr. McCLURE. I thank the Senator from yielding his time.

The PRESIDING OFFICER. The Senator from Idaho [Mr. McCLURE].

Mr. McCLURE. Mr. President, I rise in support of the amendment of the Senator from North Carolina. I do so for two reasons. I think the last point made by the Senator from North Carolina is a very telling point, that if Justice Rehnquist does not think that is under the first amendment then he does not with respect to this amendment either. I think the point is well made.

Those people who believe the proposed amendment to the Constitution of the United States is an amendment to the Bill of Rights, and that we are somehow tampering with the Bill of Rights, missed the point that it was the Court that tampered with the Bill of Rights. It is the Court that created the condition which we are trying to correct today.

A year ago, we were told we could do it by statute; do not worry about amending the Constitution. That would be a terrible thing to do. Do it with a statute. We tried that. The Court again said, no, you cannot do that.

We have an opportunity here by this means to do it short of a constitutional amendment. There are those who say you cannot do it this way either.

As a matter of fact, if you cannot do it this way either, then indeed an amendment to the Constitution is the only means by which you can correct a misjudgment made by the Supreme Court of the United States. That, I submit, is provided for by the Consti-

tution itself. It is a check which free people have against judicial tyranny in terms of the arbitrary judgment of a majority of nine men and women who by themselves decide what our Constitution is.

If we do not agree with what they say, and it is a constitutional question, then you either do it by this method or you do it by a constitutional amendment. I, therefore, strongly support the pending amendment. I also strongly support the amendment of the Constitution to the United States upon which we are debating.

Mr. HELMS. I thank the Senator from Idaho very much.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask to make a rhetorical statement of the Senator from Idaho. He understands he cannot do both. He cannot support the Helms amendment and support the President at the same time. He can support either one or the other.

If he supports Helms, then the President's amendment is dead. It is done, gone, over, finished, defeated. And if Helms loses, then the President has a possibility. Just so we understand on this vote: A vote for Helms is a vote against the President's amendment.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Delaware has 9 minutes 17 seconds remaining.

Mr. BIDEN. Mr. President, quite frankly, we have been through this exercise a number of times before on court stripping. If the Helms amendment were adopted, none of the laws, indeed, no flag burning law at all, could ever be reviewed by the Supreme Court.

Yesterday, I gave several examples of the kinds of law I believe the President's proposed amendment would authorize. None of them would be able to be reviewed by the Supreme Court of the United States. I guess folks might say, well, what difference does that make?

Let me tell you what it means. It means that we will have entered waters in this country that have never been entered. If the Helms amendment is adopted, a State could pass a law prohibiting blacks from buying or waving American flags or a city council could do the same. Any local jurisdiction could do it. There would be no challenging that law in the court and once passed, it is unreviewable, unchallengeable by anyone in a Federal court.

A State could pass a law saying that only veterans had the right to wave the flag or pin the flag on their lapel or do anything at all with the flag. Nothing could be done about that. The city of Berkeley could pass a law saying that only veterans cannot wave the flag, and it would not be reviewable by the Federal court.

The Senator asked a rhetorical question earlier. He said he is not asking for a constitutional amendment. What is he asking to eliminate? What are we so worried about? I think it might be appropriate—based on the number of items that the Senator from North Carolina and others feel distasteful based on Supreme Court decisions, why not just eliminate the Court? Why not, since we do not seem to like its makeup, we do not seem to like the way it votes on a number of issues, just pass a law and eliminate the Court? In effect, you do that if you continue to just whittle away at major chunks of its jurisdiction.

Mr. President, I will cease here because I know my colleague from Pennsylvania wants another minute. I want to try to accommodate him as best as I can. As well, I was told my colleague from Massachusetts wishes to speak.

I hope we would overwhelmingly reject this amendment. It certainly will satisfy no one.

By the way, if this amendment passes, then Gregory Johnson will be able to go back and do under the Texas statute exactly what he did before, and it would still be protected unless Texas changed that law. You could burn the flag in Texas but not Oklahoma. That may cause some interesting dilemmas. But at any rate, I will not go into all the bizarre examples that could in fact arise as a consequence of stripping the court of jurisdiction over the first amendment and particularly flag burning.

I yield to my colleague from Pennsylvania, who said earlier he would like 1 minute.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Delaware.

Mr. President, I had made an argument a few moments ago that under Marbury versus Madison, the Supreme Court was the final arbiter of constitutional decisions, and then I had referred to an extended discussion I had with Chief Justice Rehnquist in the confirmation proceedings where he raised the issue there might be some power in Congress to withhold some jurisdiction, but Chief Justice Rehnquist said that that power could not apply under any circumstance to the first amendment.

The distinguished Senator from North Carolina then came to the floor and asked this Senator if I had read the opinions by Chief Justice Rehnquist, and I said I had. I would like at this time to refer specifically to Chief Justice Rehnquist's opinion in Texas versus Johnson where at page 9 the Chief Justice says this:

> But the Court insists that the Texas statute prohibiting the public burning of the American Flag infringes on respondent Johnson's freedom of expression. Such freedom, of course, is not absolute.

So here conclusively and categorically Chief Justice Rehnquist deals with the first amendment issue and says that the first amendment does not cover flag burning. And Chief Justice Rehnquist then goes on to discuss the Chaplinsky case, which I had referred to earlier and the Schenk case, so that there is no question but what Chief Justice Rehnquist regarded Texas versus Johnson, a flag-burning case, as one which was arguably under the first amendment. But the Chief Justice said the first amendment did not go that far.

We are referring again to the question raised by Senator HELMS as to whether I had read the Chief Justice's opinion. He did not write an opinion in U.S. versus Eichman. That opinion was written instead by one of his colleagues.

The opinion was written by Justice Stevens and, at page 5 of U.S. versus Eichman, Justice Stevens again considers the flag burning in terms of "freedom of expression protected by the first amendment embraces not only the freedom to communicate particular ideas but also the right to communicate them effectively. That right, however, is not absolute."

So there is no doubt that the Stevens opinion, joined in by Chief Justice Rehnquist, again considers flag burning within the context of the first amendment. So it is abundantly clear even with the question raised by the distinguished Senator from North Carolina that this is a first amendment issue; that you cannot take away the jurisdiction of the Supreme Court on first amendment issues.

But again I say, for other reasons in a floor statement which I have made, I support the amendment to protect the flag, and certainly strongly disagree with taking away the jurisdiction of the Supreme Court on such a fundamental matter.

I again thank my colleague from Delaware.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. How much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Delaware has 2 minutes and 10 seconds remaining; the Senator from North Carolina has 6 minutes and 37 seconds.

Mr. BIDEN. Mr. President, obviously the Senator from North Carolina has done this more often.

Mr. President, may I ask a question? Does a quorum call come out of the time of the Senator who places the quorum call?

The PRESIDING OFFICER. The Senator is correct.

Mr. BIDEN. That is what I thought the Chair would say.

Mr. President, the Helms amendment is, it seems to me, an attempt that will satisfy absolutely no one except possibly Senator HELMS. There is no prospect of the Helms amendment passing. The Helms amendment will eliminate the prospect of there being any vote on the President's amendment and the Helms amendment quite frankly will, as a practical matter, eliminate the prospect of there being a vote on the Biden amendment.

It will not accomplish the purpose that is stated, and that is to provide for the ability of the American flag to be protected. If in fact the Federal Government were to move to remove jurisdiction, leaving aside the legal arguments of whether or not they can as it relates to the first amendment, then it seems to me only a short step before the States would move to remove the jurisdiction of the courts on matters related.

I can imagine the statute that says you cannot prosecute someone who physically abuses a flag burner or who murders a flag burner; the bizarre notion that you have a situation where under the Helms amendment, were it to pass and become law, you would find yourself in the position where the Court would lose all ability to review even the most bizarre and crazy amendments that could and might be drafted.

Mr. President, I strongly urge that we reject the Helms amendment. If the Senator from North Carolina is prepared, I am ready to yield the remainder of my time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. All time allocated to the Senator from Delaware has expired.

Mr. BIDEN. Does the Senator from North Carolina have 6 minutes?

The PRESIDING OFFICER. The Senator from North Carolina has 6 minutes and 37 seconds.

Mr. HELMS. Mr. President, I will yield back the remainder of my time.

Mr. President, Senator BIDEN is a source of great amazement to me. I just do not known where the Senator gets the fantasies that he talks about on the Senate floor, and all the bizarre things that he dreams up. How in the world did the Senator conjure up the notion that the States in any way could deprive the U.S. Supreme Court of its jurisdiction? I just do not understand it.

Mr. President, the question has been raised by some about the practical effect this legislation would have on the two Supreme Court decisions on flag burning.

Unlike a constitutional amendment, the withdrawal of jurisdiction under my amendment would not reverse the Supreme Court's rulings on the flag. According to the distinguished professor of constitutional law at Stanford University, Gerald Gunther, the decisions of the court would remain on the books as influential precedents. State courts would have greater independence as a practical matter as the constitutional issues before them moved further from the core of existing Supreme Court holdings.

State courts would be free to continue their strict adherence to those decisions as the last authoritative pronouncements on the subject. Indeed, the State courts could extend, for example, the rationale supporting the Supreme Court decisions permitting flag burning if they chose to.

However, Mr. President, it is more likely that the justices of the highest State courts—who, unlike their brethren on the Supreme Court, are accountable to the people for the decisions which they render—would be more prudent on the subject of flag burning. It would therefore be expected that the majority of the State courts would openly disregard the Supreme Court precedents and decide in favor of the people and outlaw this despicable practice. As I said at the outset of my remarks, prior to the 1989 Supreme Court ruling in Texas versus Johnson, 48 States and the Federal Government outlawed flag burning.

Vote for the Helms amendment and put your faith in the judgment of the American people and their elected local representatives, after all that is the way the system was designed in the first place.

Mr. President, let me say categorically that shifting jurisdiction to the State courts for the determination of an issue is wholly permissable under the plain reading of the Constitution and Supreme Court precedent.

In challenging the constitutionality of my measure, opponents usually refer to the case of *United States* v. *Klein*, 80 U.S. 128 (1871). The interpretation of that case used by opponents of the use of article III section 2 is that the Court decided that the Congress did not have the power to remove the jurisdiction of the judiciary. That is an erroneous interpretation.

In Klein, the Court held that the Congress could not enact legislation to eliminate an area of jurisdiction in order to control the results in a particular case. Following the Civil War, Klein sued in the Court of Claims under a statute that allowed for the recovery of land captured or abandoned during the war, provided that an individual could prove that he had not assisted the Confederacy. Relying on an earlier decision that a presidential pardon proved conclusively that the recipient of the pardon had not aided the South, Klein prevailed in the lower court. However, while the Government appealed the case, the Congress passed a law which said that a pardon would not support a claim for captured property.

The Court held that the act of Congress was unconstitutional because it subverted the judicial process by prescribing a rule for the decision of a case in a particular way as well as infringing on the constitutional power of the executive by negating the power of the Presidential pardon.

It is clear then that Klein has no application to my legislation. Klein involved a congressional attempt to forbid the Court from giving the effect to evidence which, in the Court's judgment, such evidence should have been given. The Congress thus directed the Court to give the evidence an effect precisely to the contrary. Congress sought to curtail the Court's appellate jurisdiction to obtain a particular result in a specific case; by doing so Congress, in the words of Chief Justice Salmon Chase, "inadvertently passed the limit which separates the legislative from the judicial power."

As I said earlier Congress' action in Klein is all together different from Congressional contractions of the Court's jurisdiction that seek merely to shift the determination of any result to the lower Federal courts, or as in the case of the Helms legislation, to the State courts.

Chief Justice Chase said that the shifting of responsibility to the lower State courts is in keeping with the spirit of the Constitution. Chase summed up the spirit of the legislation before us acknowledging that:

> * * * if this Act did nothing more * * * [than] simply deny the right of appeal in particular cases, there can be no doubt that that it must be regarded as an exercise of the power of Congress to make "such exceptions from the appellate jurisdiction" as should seem to it expedient.

Mr. President, the terms of article III are phrased so clearly that no doubt exists as to the intent of the Framers. They have given us the power to rectify the mistakes of the Supreme Court. We should get about using the instrument they have presented us.

Mr. President, finally, there are also those who say that my measure is unconstitutional because it violates the principle of separation of powers. However, when examined closely, it becomes apparent that the criticism relies on an inadequate understanding of the framework of checks and balances embodied in the Constitution.

Professor Gunther, of the Stanford Law School, states that:

> [A]rticle III does provide for an independent judiciary, but independence does not mean total insulation of the judicial branch any more than it does for the other branches.

The framers' goal was not to create a government of separated powers, rather what they sought was a balance among "separated institutions sharing

powers." The Founders recognized that power by its nature is encroaching, whether it be legislative, executive, or judicial. Therefore, they assigned powers so that each branch of Government could effectively check, but not control, the other two.

It is beyond doubt that the framers refused to exempt the judiciary from the braking power of checks and balances. The executive checks the judiciary by using the power of appointment. Congress has the power—and I believe the duty—under article III of the constitution to check the judiciary by limiting the Supreme Court's jurisdiction when that court has in the judgment of the Congress exceeded its purview.

Mr. President, I reiterate: the framers did not mean for the judiciary to be completely independent—which appears to be the assumptions my friends from Delaware and Pennsylvania are making. Just as they provided checks on the executive and legislative branches of the Government, they included mechanisms to restrain the judiciary. The exceptions clause in article III, section 2 is one of those mechanisms. I fail to see how the exercise of a power explicitly granted by the Constitution can be construed as a violation of that same document.

Let me just summarize one more time. This does not involve the first amendment—not at all. The distinguished Senator from Pennsylvania talked about Chief Justice Rehnquist. Then I asked him how did Mr. Chief Justice Rehnquist vote on this flag-burning amendment. Of course he voted with BOB DOLE and JESSE HELMS, and all the rest who say that there should be a constitutional amendment if we cannot do it any other way.

But we can do it another way. We do not have to go through the agony of a two-thirds vote in the Senate and a two-thirds vote in the House and a three-fourths vote by the States in ratification. No. All we have to do is implement the Constitution of the United States. Just for emphasis, let me read it again:

2. In all cases affecting Ambassadors, other public ministers, and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction.

There is no question about that.

In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction both as to law and fact—

And here is where the cheese binds on Senator BIDEN's argument, because it says—

with such exceptions and under such regulations as the Congress—

As who?

as the Congress shall make.

So Senators can do as they please. We can put an end to all of this flag burning talk right now as far as the Senate is concerned; send it over to the House and see what they do about it statutorily with the majority vote in both Houses, and that is the end of it.

I will say again this is not only an authority given to the Congress of the United States by the Founding Fathers but in this instance I think it is the duty of Congress to respond to the vast majority of the American people who resent these kooks, these loonies, who run around burning flags. If we are going to call that free speech, how about mooning? Is that free speech? Somewhere society has to get hold of itself. I think the time is now.

I yield the remainder of my time.

Mr. BIDEN addressed the Chair.

Mr. HELMS. I yield the remainder of my time.

The PRESIDING OFFICER. All time is expired.

The question is on agreeing to the amendment of the Senator from North Carolina [Mr. HELMS] No. 2067.

Mr. HELMS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 10, nays 90, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—10

Armstrong	McClure	Symms
Garn	McConnell	Thurmond
Helms	Nickles	
Lott	Pressler	

NAYS—90

Adams	Durenberger	Lugar
Akaka	Exon	Mack
Baucus	Ford	McCain
Bentsen	Fowler	Metzenbaum
Biden	Glenn	Mikulski
Bingaman	Gore	Mitchell
Bond	Gorton	Moynihan
Boren	Graham	Murkowski
Boschwitz	Gramm	Nunn
Bradley	Grassley	Packwood
Breaux	Harkin	Pell
Bryan	Hatch	Pryor
Bumpers	Hatfield	Reid
Burdick	Heflin	Riegle
Burns	Heinz	Robb
Byrd	Hollings	Rockefeller
Chafee	Humphrey	Roth
Coats	Inouye	Rudman
Cochran	Jeffords	Sanford
Cohen	Johnston	Sarbanes
Conrad	Kassebaum	Sasser
Cranston	Kasten	Shelby
D'Amato	Kennedy	Simon
Danforth	Kerrey	Simpson
Daschle	Kerry	Specter
DeConcini	Kohl	Stevens
Dixon	Lautenberg	Wallop
Dodd	Leahy	Warner
Dole	Levin	Wilson
Domenici	Lieberman	Wirth

So, the amendment (No. 2067) was rejected.

The PRESIDING OFFICER. Under the previous order the Senator from South Carolina [Mr. THURMOND] is recognized for the purpose of offering an amendment.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I believe I am in order for the next amendment, am I not?

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. I have been talking to the distinguished chairman of the committee and we have decided instead of my offering an amendment, that we just take 20 minutes a side on the bill and that will save a rollcall later, too, and save that much time. I ask unanimous consent that that be approved.

Mr. BIDEN. Mr. President, reserving the right to object, and I will not object, the unanimous-consent agreement is meant to give the managers control of 20 minutes each on the bill, which I assume can be used at any time between now and the time of final vote on the legislation.

The PRESIDING OFFICER. The Parliamentarian advised me the previous order provided for 40 minutes equally divided between the two leaders prior to the vote on disposition.

Mr. THURMOND. This is not intended to affect the leaders at all. If we took up this amendment it would take 40 minutes. The distinguished chairman of the committee and I just decided we would take 20 minutes apiece and speak on the bill, and that would eliminate a rollcall on my amendment if I offered it. I ask unanimous consent that that be approved.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. Reserving the right to object, I would like to have at least 5 minutes.

Mr. BIDEN. Mr. President, I will be delighted to yield the Senator 5 minutes. I want to make it clear to him he would not get any time if the request was not made and we moved forward as planned. I hope Senators will not start popping up here. I am delighted to yield the Senator 5 minutes off the 40 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, in view of that, I shall not offer an amendment.

The PRESIDING OFFICER. The Senator from South Carolina will have 20 minutes under his control and the Senator from Delaware will have 20 minutes under his control for the purpose of discussing the bill.

Mr. THURMOND. Mr. President, soon we will be voting on our proposed amendment to grant power to the Congress and States which we all be-

lieved they had prior to the Supreme Court ruling in Texas versus Johnson.

The Congress and 48 States believed they had constitutional authority to protect the American flag and our proposed amendment would merely restore this authority.

Opponents of this proposal have, in a very deft manner, blended this issue with the Bill of Rights—particularly the first amendment. As I have stated repeatedly, our proposed amendment does not rewrite the first amendment. We are intent on correcting a Supreme Court decision which I believe misinterpreted the free speech clause of the first amendment. The first amendment speaks to the freedom of speech and over the years the Supreme Court has applied its protection to some types of expressive conduct. Now, five members of the Supreme Court have extended this protection further to the highly offensive conduct of burning the American flag. The Supreme Court has put a gloss on the first amendment that now protects conduct which I believe goes beyond reasonable and acceptable expression.

The ruling by the Supreme Court has left us with little recourse other than adopting our proposed constutitional amendment to protect the flag. Power should be restored to the Congress and the States through a constitutional amendment.

Former Chief Justice Warren, Justices Black and Fortas are known for their defense of first amendment principles. These three liberal Justices were very forceful in their comments that the first amendment did not protect the physical desecration of the American flag.

As I mentioned earlier and I believe worth repeating, in Street versus New York, Chief Justice Warren wrote:

I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace.

Mr. President, what does that say? That is Chief Justice Warren, a very liberal Chief Justice. He said he believed the States and the Federal Government have the power to protect the flag.

In this same case, Justice Black, who described himself as a first amendment "absolutist", stated:

It passes my belief that anything in the Constitution bars a State from making the deliberate burning of the American flag an offense.

Also in the Street decision, Justice Fortas made clear his views on this issue when he wrote:

The States and Federal Government have the power to protect the flag from acts of desecration committed in public.

Mr. President, that is the position we have taken. We thought they had that power until these two decisions by the Supreme Court recently.

Mr. President, on June 22, 1989, the Senate voted on Senate Resolution 151 expressing our profound disappointment with the Johnson decision. This resolution was overwhelmingly adopted by a 97 to 3 vote. I want to remind my colleagues of our resolve by adopting that measure. It stated:

Whereas, the flag of the United States is the most profound symbol of our ideals, aspirations, and indeed our identity as a Nation;

Whereas, the flag stands for our very being, including our commitments to freedom, justice, equal opportunity, and peace;

Whereas, Americans have always displayed the flag as a living symbol of our Nation and the values for which it stands;

Whereas, the burning of the American flag is an affront to our American heritage and an affront to the American people;

Whereas, millions of Americans have fought valiantly, and many thousands have died, to protect this sacred symbol of nationhood, from the beginning of the Republic, through the two World Wars, the Korean Conflict, the Vietnam Conflict, to the present, and that those who risked and gave their lives for our country are profoundly offended by the desecration of this sacred emblem;

Whereas, the Congress and forty-eight States have enacted laws to protect against desecration of the flag;

Whereas, the Senate expressed its respect for the flag as recently as March 16, 1989, when on a vote of 97-0, it passed S. 607, prohibiting the displaying of the flag on the floor or ground;

Whereas, throughout the history of our Nation, the Supreme Court has properly defended and protected the First Amendment rights of our Nation's citizens;

Whereas, the United States Supreme Court yesterday rendered a decision in the case of Texas v. Johnson, No. 88-155, finding unconstitutional a Texas statute prohibiting the desecration of the flag, determining that this conduct was an act of "symbolic speech" protected by the First Amendment;

Whereas, the Congress has believed that the act of desecrating the flag is clearly not "speech" as protected by the First Amendment; and that analogous acts, such as desecrating a public monument such as the Lincoln Memorial, would never be tolerated as speech; and

Whereas, it appears that yesterday's decision may invalidate the Federal and State laws prohibiting desecration of the flag: Now, therefore, be it

Resolved, That the Senate hereby—

(1) expresses its profound disappointment that the Texas statute prohibiting the desecration of the flag was found to be unconstitutional;

That is what this body did, expressed its profound disappointment that the Texas statute prohibiting the desecration of the flag was found to be unconstitutional.

(2) expresses its continued commitment to preserving the honor and integrity of the flag as a living symbol of our Nation and its aspirations and ideals;

(3) intends to make an immediate study of the impact of yesterday's Supreme Court decision on Federal and State laws prohibiting the desecration of the flag, and to seek ways to restore sanctions against such reprehensible conduct; and

(4) urges the American people to continue to display proudly the American flag as a symbol of our Nation and the values for which it stands.

Mr. President, that is a joint resolution passed by this body. Now, the Supreme Court has declared this second statute unconstitutional, this Federal statute passed by Congress.

Now, if we believe we should protect the flag and not allow it to be desecrated, and if the Supreme Court held that statutes cannot do it, the only recourse left is a constitutional amendment. And that is what we are advocating. We are advocating that amendment, approved by the President, approved by the Attorney General, and advocated strongly by the Republican leader, Senator DOLE, and others on our side. We feel that is the action that should be taken to protect the flag.

Mr. President, our vote on Senate Resolution 151 endorsed efforts to "seek ways to restore sanctions against such reprehensible conduct" as desecrating the flag. If we are sincere in our efforts, then we must adopt the proposed constitutional amendment.

If we really believe in protecting the flag, and statutes cannot do it—and that is what the Supreme Court has held—then the only recourse is to pass the constitutional amendment.

The Johnson and Eichman decisions were very close—5 to 4. If only one Justice had gone the other way we would not be faced with this situation. The Supreme Court has created a firestorm of debate on this issue in the Congress and across this Nation. Statutes and proposed constitutional amendments were introduced to remedy the decision. The President of the United States found it compelling enough to transmit language to the Congress on a proposed constitutional amendment.

I firmly believe that this issue is so important that it should be sent to the States where the American people can decide if they want to protect the flag.

Mr. President, I urge my colleagues to vote their convictions on this proposal as they were expressed when we adopted the sense-of-the-Senate resolution. We should allow the American people to be the final arbiter on whether the flag is worthy of protection.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from South Carolina has 10 minutes remaining.

Mr. THURMOND. Mr. President, this decision was 5 to 4. One judge going the other way would have carried it in our favor—a 5-to-4 decision. If it is that close and if the sentiment is divided at all in the Congress, which it seems to be, then why not let the people of the Nation settle it?

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Let us submit this amendment to the people. We have to do it by two-thirds vote of both Houses and if we in the Senate pass it, I have a feeling the House will pass it, in spite of the vote they took recently.

Then, three-fourths of the States will have to approve it. If three-fourths of the States approve it, then it takes effect.

Mr. President, if we submit it to the people and let them vote on it, is that not truly a true democracy and is that not the way it ought to be done? If we cannot decide things here in the Congress, if we are so confused or so at odds with each other on these important questions—and this is an important question—then submit it to the people. That is what we are asking be done. Let the people vote on it. If they want to protect the flag—and I am sure they do—they will vote accordingly.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Delaware.

Mr. BIDEN. Mr. President, may I ask how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Delaware has 20 minutes remaining. The Senator from South Carolina, 8 minutes and 20 seconds.

Mr. BIDEN. Mr. President, I would like to ask the Senator from South Carolina—since almost all the people seeking recognition wish to speak against the position of the Senator from Delaware—whether or not he is prepared to give any of his 8 minutes to the people who wish to speak? I will give all of my 20 minutes, if need be, to those.

Is my colleague prepared to give any time?

Mr. THURMOND. I promised the senior Senator from Idaho 5 minutes. I will be pleased to yield 3 minutes to the distinguished Senator from Alabama. I will be glad to do it. He is a very able Senator, a very sound Senator, and I am sure he will take the right position.

The PRESIDING OFFICER. The Senator from Alabama is recognized, yielded 3 minutes by the Senator from South Carolina.

Mr. HEFLIN. Mr. President, I rise today in support of Senate Joint Resolution 332, proposing an amendment to the Constitution to prohibit the physical desecration of the American flag.

On June 21, 1989, the Supreme Court handed down its decision in Texas versus Johnson. There, the Court held that the burning of the American flag, as a form of political expression, is protected free speech under the first amendment.

Congress answered with the Flag Protection Act of 1989. The act criminalized the conduct of anyone who knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon a U.S. flag, except conduct related to the disposal of a worn or soiled flag.

On June 11, 1990 in United States versus Eichman, the Supreme Court struck down the Flag Protection Act of 1989 as unconstitutional. In observing the Supreme Court in a 5 to 4 decision, rarely does a sitting member of the Court change his mind. When the legislation came up I supported it, but I said it was an exercise in futility and I did not think it would do the job. I felt that a constitutional amendment was necessary, and I think we have now seen the proof in that prediction.

Senate Joint Resolution 332 would reverse these decisions of the Supreme Court. It simply states:

> The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.

As a practical matter, an amendment would simply validate the flag desecration statutes currently on the books. It would not, as some skeptics suggest, result in a bombardment of new, and more onerous, State and Federal flag desecration statutes.

The text of Senate Joint Resolution 332 has been approved by the Justice Department, by numerous academics, by most of the major veterans' groups, and by innumerable other concerned Americans. It has also been the subject of comprehensive hearings before the Senate Judiciary Committee. Furthermore, popular support for a constitutional amendment remains as strong as ever.

I do not want to let personal invective get into this issue. People have different opinions and views. To a large degree, my view comes down to symbolism, and symbolism is an important consideration. There are certain things that stand as symbols which we as a free people revere. The Pledge of Allegiance illustrates this point. In the Pledge of Allegiance, we pledge allegiance to the flag and to the Republic for which it stands. The flag is symbolic of the Republic. It does not say "to the Nation for which it stands," but it says, "to the Republic." Our Republic is different from other nations, in fact, different from any other nation.

There is nationalism and there is Americanism. Every country has nationalism under which its citizens support their country and their flag. Americanism is more than nationalism, but Americanism cannot survive unless it has nationalism. Americanism is bottomed on nationalism. Nationalism must have sacred symbols. Americanism must have sacred symbols.

The "Star-Spangled Banner" speaks of the land of the free and the home of the brave. I think that both of these together describe Americanism. I feel the flag is sacred to the home of the brave and Americanism. If the flag cannot be protected, then no sacred symbol can be protected. I think the flag is sacred to this Nation and Americanism, and we ought to protect it, and I strongly support a constitutional amendment to prevent its physical desecration.

The PRESIDING OFFICER. Who yields time? Will the Senator from South Carolina yield time to the Senator from Idaho?

Mr. THURMOND. I yield 4 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for up to 4 minutes.

Mr. SYMMS. Mr. President, I think Senator HEFLIN and Senator THURMOND have made it very clear here that what we are talking about is symbolism. In this day and age, when there is no much negativism in America, there is absolutely nothing wrong with having the American flag as a positive symbol people can be proud of.

Mr. President, yesterday our flags around the Capitol were flying at half mast in commemoration of those who fought and those who died in the Korean war, and appropriately, yesterday the Senate began its debate on the President's proposed constitutional amendment to protect the flag with which we honor those war heroes.

I heard a number of my colleagues yesterday and on previous occasions decry the fact that the Senate is spending these several hours debating the flag amendment when there are so many other important issues on which we could be spending our time. Let me put it simply: protecting the American flag is an important, not a trivial, issue, particularly so for those who have fought and the survivors of those who have died fighting under the red, white, and blue banner. We can spare those millions of Americans a few hours of debate on this important amendment.

In an article printed last week in the Washington Times, Pat Buchanan argues persuasively that the Supreme Court's decision in the flag burning cases is a misapplication of the first amendment that should be—must be—overturned. Burning the flag is to convey something about one's view of America and, according to the Court, is therefore protected political speech. But Buchanan observes that "mooning a candidate is also political expression. Is that, too, now protected?" he wonders.

I believe that is the logical extension of the Court's majority opinion in these flag burning cases, and it points out the illogic of their view of the noble language comprising the first amendment. It brings to mind, as Bu-

chanan suggests, George Orwell's observation:

Only an intellectual would make a statement like that; no ordinary man could be such a fool.

I am pleased to be a cosponsor of the President's proposed constitutional amendment allowing States and the Federal Government to protect the American flag. This amendment is so important to honor the millions of Americans who have fought and died to protect that flag and all that it represents. I hope the vote on final passage will show that the Senate is comprised of ordinary men and women who refuse to let the tortuous intellectual trail blazed by five jurists lead them off the straight, well-trodden path of common sense.

I ask unanimous consent that the article by Pat Buchanan be printed in the RECORD following my remarks.

On the same subject, I ask unanimous consent that a commentary by Ron Rankin of Coeur d'Alene, ID, be printed in the RECORD. Mr. Rankin's commentary was broadcast recently on KCDA-FM radio in Coeur d'Alene, and according to the president of that radio station, the commentary prompted an overwhelmingly supportive response from listeners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, June 18, 1990]

STRATEGY FOR RECAPTURE

(By Patrick Buchanan)

Last Monday, in a 5-4 decision, the Supreme Court basically said that American citizens, who have pledged their "allegiance to the flag of the United States," may not interfere with its mutilation.

The man who burns the flag exercises a constitutional right, says octogenarian Justice William Brennan. But, the man, or policeman, who rushes into a mob to stop its desecration is a scofflaw, who doesn't understand the First Amendment.

George Orwell's observation comes to mind: Only an intellectual would make a statement like that; no ordinary man could be such a fool.

Burning the flag is saying, "I hate America," says one justice. Like it or not, this is protected political speech. But, "mooning" a candidate is also political expression. Is that, too, now protected?

Flag burning may be political expression; but, it is more than speech; it is conduct. To burn the flag of people whose fathers fought under it, whose uncles and brothers lie buried beneath it, is a provocation, an act of aggression. If burning the American flag does not constitute "fighting words," what the devil does?

During the War Between the States, Yankee and Confederate soldiers, some still boys, died retrieving fallen battle flags. They were honored in memory, decorated for bravery. How can it be a badge of honor to have died, picking a fallen flag up out of the mud, and at the same time it is the constitutional thing to do to let someone spit on it, rip it and burn it?

The court's ruling contradicts common sense.

Freedom of speech was never an absolute right. Men have been sued, and punished, for slander, libel, false advertising, inciting riot, obscenity, panhandling. All these are more purely speech than pouring kerosene on a flag and putting a match to it.

Until 1989, flag burning was outlawed in 48 states. Were we less free before Bill Brennan struck down those state laws?

It is time Americans recaptured their hijacked Constitution from the unelected ideologues who have distorted it for 30 years. Behaving like sheep before black-robed shepherds, we have let this country be driven to where the Ten Commandments cannot be posted in a public school, or a manger placed in a public park at Christmas, but flag burning and pornography are court protected activities. A supposedly self-governing American people must now wait for this all-powerful tribunal to tell us what we may, and may not do, about capital punishment, taxes, abortion, conscription, even how our legislature districts may be drawn up. This is the American Civil Liberties Union's America; not what the Founding Fathers had in mind. And we all know it.

Fortunately, this time, the court went too far. The good news about the flag-burning decision is that the affront to Congress, not just the states, may finally convince our cowardly first branch of government to drive the renegade third branch back onto its constitutional reservation.

But there is an easier method of redress than amending the Constitution. The Founding Fathers, who knew the capacity of men to abuse power, provided for a Bill Brennan.

Article III specifically authorizes Congress to restrict the "appellate jurisdiction" of the Supreme Court. All Congress need do is pass a law denying the Supreme Court the right to hear appeals from state courts on cases dealing with flag desecration.

Flag worship is not, as some insist, a form of idolatry. A man who reveres and honors the flag no more "worships" it than a man who keeps a picture of his family on his desk worships them.

All of us know friends who, without request, will take out of their wallets a photograph of a child. This is not idolatry, but an expression of paternal pride, affections, love. Burning the flag is like taking that picture, spitting on it, throwing it in the gutter, trampling on it. It is not an invitation to argue; it is a challenge to fight. Like calling one's mother a tramp.

The idolatry, here, is on the part of those who have exalted the First Amendment above the Constitution of which it is only a part; then, declared it to be an absolute, inviolable right. Anyone who did that with the Second Amendment would be called a nut.

"We, the People of the United States," the Constitution says in its preamble, "do ordain this Constitution, in order to form a more perfect Union . . . insure domestic Tranquility . . . etc." How does burning the American flag help "create a more perfect union"; how does it help "insure domestic Tranquility"?

America's kulturkampf, the cultural struggle, deepens. People who hate America are no longer satisfied with airing their views, because no one pays any attention to their views. That is why they resort to provocation: urinating on crucifixes, burning flags, filing the airways with filth, polluting the culture. Then they demand we respect, protect, even subsidize their hatred.

The flag amendment is a vehicle for giving them the kind of beating that is long overdue. As Thomas Jefferson reminded us, "A little rebellion, now and then, is a good thing, as necessary in the political world as storms in the physical." A flag amendment is our rebellion.

Where should that rebellion lead? Ultimately, to restoration to its rightful place of our lost, 10th Amendment: "The Powers not delegated to the United States by the Constitution, not prohibited by it to the States, are reserved to the States respectively, or to the people." The pornography and prayers cases, the flag-burning and abortion cases belong back there—with the states and the people.

[Station KCDA, June 14, 1990]

RON RANKIN COMMENTARY

On this, Flag Day, in 1777 the Continental Congress proudly adopted the Stars and Stripes as the official flag of the United States. Now, 203 years later vermin are publicly desecrating that symbol of our God given freedom, protected by perverted Supreme Court decisions in the name of free speech—may God forgive us. Forty years ago, I carried a small American flag from one end of Korea to the other as a young marine in combat, I was given a small pocket bible by the Red Cross. It had metal covers, supposedly bullet proof, on the front and back, on one flap was engraved, the Lords Prayer, on the other an enameled American flag. Each time I had occasion to read my Bible, and that was frequent in combat, I saw the Lords Prayer and that gave me strength to go on and my tiny American flag, that told me why I must go on. Many a young marine carried that symbol of freedom in his dungaree jacket pocket next to his heart. Many died to preserve the freedom it represents. Today and every day that proud symbol, the Stars and Stripes flys proudly above my home as a reminder of the continuing fight to preserve our freedoms for which so many have fought and died. Out of respect for those fallen patriots of the past, I cannot, we cannot allow these liberal un-Americans to take license with our liberty. In the name of liberty, by desecrating our flag, I agree with our President, we must have a constitutional amendment to protect our flag. And we must have it now!

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 10 seconds to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, after extensive study, analysis, and hearing my constituents on both sides, I have decided to vote for a constitutional amendment to permit flag burning to be made illegal because I believe the flag represents a fundamental American value rooted in the traditions and conscience of our people.[1]

Balancing competing values has been the lodestone of U.S. constitutional government for more than two centuries. In that continuum, it is my judgment that society's interest in respect for the flag substantially outweighs the individual's interest in burning the flag.[2]

Footnotes at end of article.

The Constitution has traditionally permitted limiting what a person may say: fighting words are not covered; [3] endangering others by inciting to riot and crying fire in a crowded theatre are excluded; [4] obscenity is not protected.[5] Two of the Supreme Court's most renowned civil libertarians, Chief Justice Earl Warren and Justice Hugo Black, who led the expansion of individual rights, held the firm view that flag burning was not constitutionally protected.[6]

The following are only a few of the countless examples demonstrating the unique status of the flag's value which is rooted in the conscience and tradition of the American people. Betsy Ross' Philadelphia home is a minimuseum drawing thousands of visitors from all parts of the Nation; the Pledge of Allegiance is made by school children daily all over our land; the flag is displayed by millions of Americans on holidays and every day by many individuals as well as public institutions, such as the Congress with the flag flying over the U.S. Capitol; the focus is on the flag accompanied by the singing of the "Star-Spangled Banner" on many public occasions including all sporting events.

An elected official—who travels among, hears from, and listens to his constituents—has special insights on the will of the people beyond those getting their information and insight from all other sources.

The most intense response on this issue comes from those who have made sacrifices for their country in military service: deaths of loved ones; loss of limbs; or other permanent physical or psychological injuries. Their intensity is perhaps explained by the extra pain they sustain because their loss was not worthwhile if others not only did not serve or sustain trauma like theirs, and others are permitted to degrade the symbol Americans fought and died for.

Not everyone feels that way. Many Americans, including disabled veterans, speak out against this amendment. But I have found a deep residue of feeling among my constituents in favor of protecting the flag.

My own instinctive feelings favor flag protection. I was awakened by my alarm clock radio early on June 22, 1989, with the news of the Supreme Court's decision striking the Texas antiflag burning statute. My first reaction was—why did the Supreme Court have to do that. My next thought was about the Chaplinsky "fighting words" case I studied in law school which made so much sense when the Court said freedom of speech did not cover fighting words.

Later, in reflecting on the flag issue, I thought of my father's pride in serving in the American Expeditionary Force in the Argonne Forest in France to "make the world safe for democracy." Compared to Russia, America was heaven notwithstanding the struggle to support his family during the depression and the World War I shrapnel he carried in his legs until the day he died. Our prized family possession was the plaque he received for his service: the Goddess of Liberty knighting the wounded American doughboy. While not quite the flag, it was close.

In balancing society's interest in respect for the flag against the individual's interest in burning the flag as an expression of political dissent, I have thought long and hard about the rockbed value of freedom of speech and the recent calls from my colleagues at the Yale Law School. Three summers ago, I reread cases on free speech in preparing for Judiciary Committee hearings on a Supreme court nomination. No one has ever articulated a constitutional doctrine better than Justice Holmes did when he said "time has upset many fighting faiths." From his dissent in Abrams [7] to DeJonge [8] to Dennis [9] to Brandenburg [10] and beyond, I believe I understand the great value of lusty, loud and forceful dissent. But flag burning goes too far like "fighting words" and other limitations on freedom of speech in the continuum of our constitutional history.

The flag burners, as I see it, are really not so much engaged in communicating political dissent or in seeking to persuade others to accept their views as they are in trying to inflame or enrage by a perverse, extreme acts. A person's motives or intent are relevant in numerous legal contexts such as malice in libel, wanton conduct in tort or mens rea in criminal cases. While the flag burner's motive or intent is not determinative, it is not irrelevant in balancing the competing interests on this constitutional issue. There is no political view communicated by flag burning. It is, at most, an act collateral to a political message.

Our Constitution provides for amendment. Respect for individual rights will be enhanced if society sees an occasional move its way where warranted. While this country will survive with or without flag burning, my judgment is that a better balance will be maintained by protecting the flag.

FOOTNOTES

[1] In *Palko v. Connecticut*, 302 U.S. 319 (1937), Justice Cardozo articulated this concept in defining individual rights. This principle is equally useful in defining fundamental American societal values.

[2] In many quarters, it has become unfashionable or anti-intellectural to favor this amendment. Many of the same people who opposed this amendment also rejected last year's effort to craft a Constitutional statute. Their position opposed any restriction on flag burning contrasted with the narrower concern now about amending the Bill of Rights. Last year, I voted against the Constitutional amendment and for the statute in the hope that the objective could be obtained without dealing with the First Amendment.

[3] *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942).

[4] *Brandenburg v. Ohio*, 395 U.S. 444 (1969); *Schench v. United States*, 249 U.S. 47, 52 (1919).

[5] *Roth v. United States*, 354 U.S. 476 (1957).

[6] In *Street vs. New York*, Chief Justice Warren said, "I believe that the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace." 394 U.S. 576, 605 (1969). In the same case, Justice Black said, "It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense." *Id.* at 610.

[7] *Abrams v. United States*, 250 U.S. 616, 630 (1919).

[8] *DeJonge v. Oregon*, 299 U.S. 353 (1937).

[9] *Dennis v. United States*, 341 U.S. 494 (1951).

[10] *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 5 minutes to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from Massachusetts [Mr. KERRY].

Mr. KERRY. Madam President, I thank the distinguished chairman of the Judiciary Committee.

Madam President, I really do not believe that we need an amendment to protect the extraordinary virtues of our flag.

The Stars and Stripes does not need any one individual or any one law or an amendment to protect it because the strength and the power of our flag does not come from any one protector or from any one law or one amendment. It is such a powerful symbol precisely because it embodies all that we are as a nation, all that we have been and all that we want to be.

I ask, Madam President, my colleagues if flag burning is really so threatening and so epidemic that this extraordinary institution should consume its time with this debate and consider changing the Bill of Rights for the first time in history, how many flags have been burned in this country? How many flags have been burned recently? I think it was perhaps four last year. How many flags have ever been burned in America? How many Americans are threatened in their streets and their homes because flags are being burned? How many children have come up to ask a parent why people are burning the flag?

Madam President, it is my belief that the real question before the Senate and before Americans in this debate is whether the U.S. Senate will stand up for what this country is really about. The real question before the Senate is not who will protect the flag but who will protect the Constitution and, by doing so, the Republic?

In answering those questions, I believe, Madam President, we can define the real strengths and weaknesses of this country. I just cannot help but believe that if you vote for an amendment to protect a symbol that really needs no added protection, you actually weaken what that symbol represents. Those who vote for an amendment and assert a proprietary political

partriotism so brazenly, diminish the real definition of patriotism.

Madam President, what is patriotism? It is love of country, not love of flag. It is love of country, a country that is willing to tolerate dissenters, not a flag that does so, but a country under all of its laws, a country that can actually tolerate someone dumb enough to burn a flag, a country that itself can make mistakes and a country that is even willing to admit them sometimes and correct them.

It is not a flag that does any of those things, but a country and a government which representing it has the confidence in its strength and willingness to do so. If this amendment were to pass, it will not be the first time that a legislative body has succumbed to easy politics, but it will be the first time that the U.S. Senate would have taken so powerful a national symbol and in the name of protecting what it stands for actually weakens the extraordinary foundation on which it stands.

Madam President, my most important reservation about this amendment is deeply personal. It has to do with the lessons I learned in the experience of opposing the war in Vietnam and in the efforts of my friends and fellow veterans to try to end that war. It has to do with the lessons learned about many different kinds of protests and the value to this country of never limiting our tolerance of dissent.

During the years of civil rights protest and Vietnam war protests, countless citizens expressed countless feelings through symbols, peace signs, dress codes, the form of demonstration, all contributed to the process of communicating something about ideas. The famous case of Cohen versus California in 1971 illustrates this when Justice Harlan wrote: "One man's vulgarity is another's lyric."

Eighteen years ago, I was one of the leaders of a group of veterans opposed to the war. We came to Washington, more than 5,000 strong, and took part in a week long demonstration that included many forms of protest. No one would have tolerated the burning of a flag and there was no burning of a flag by anyone. But there were dramatic moments involving symbols.

On one occasion, a group of marines carried an American flag upside down, the international sign of distress. They took extraordinary care to never let the flag touch the ground, to fold it formally and correctly. Nevertheless, people saw in their act what they wanted to see, many misinterpreting it. Despite their scars, their medals, their uniforms, their love of country and honorable service, some observers disdained their form of protest and some suggested desecration.

Ironically, after the Supreme Court flag decision, hundreds of veterans in Virginia flew flags upside down in protest of the decision and not a murmur was heard. No talk of desecration—same flag, same tradition, same form of protest but different messages and meanings in the eyes and mind of the beholder, different content in the symbolic message, different passions applied differently to similar forms of protest.

In another ceremony of extraordinary powerful emotion, the veterans assembled returned to their country and Government the symbols of their service as a way of trying to reach the conscience of the Nation.

One by one we stepped forward and dropped through, hurled or placed medals, ribbons or certificates of service or even a beret over a fence erected in front of the Capitol.

I will never forget the sorrow and the anguish as I personally put over that fence my own ribbons and the medals of a friend who was absent. I do not think there was one dry eye among those who took part who gave back those symbols of a war and that, too, was a confrontation with symbols that many could never understand. It called to question the very patriotism of men who loved their country deeply, who had bled for it and who were willing to do so again.

That event and its use of symbols, Madam President, reinforces the caution with which we should approach any restraint on the freedom of expression. It showed me how fragile is our patience, how easily upset our tolerance, how quickly some might judge unacceptable and about which someone else deems patriotic. We cannot afford to pick and choose expression we agree with or disagree with based on a moving standard.

The first amendment has always understood that fact.

Mr. President, my flag didn't send me to Vietnam. My country did. And like thousands of other veterans, when I fought there I fought for my country. I fought with my flag—and with great pride—but not for it specifically. And when a firefight ended I thought not immediately about the flag—but about wounded, about how wonderful it was to be alive—about friends and family who seemed so far away.

And when we talked in quiet moments about the war we talked about families and home, about politics, about communism, about foreign policy, about goals and strategies, about past wars, about the peace movement and protests back home, about R&R—about the future. I do not believe I ever heard a fellow soldier talk about the flag. We did not need to. We respected it—even revered it. It was with us everywhere. We needed no constitutional amendment to affirm its status.

The words of the National Anthem tell us all we need to know:

> The rocket's red glare, the bombs bursting in air, gave proof through the night that our flag was still there.

Those words reinforce the clarity and the simplicity of this choice. Through bombs and rockets, fires and pestilence, war and peace, our flag is still there—without hungry politicians grabbing for proprietary political advantage, without amendments to protect it, without challenge to the Bill of Rights.

Our flag does not need us to protect it. It will protect itself, as it has for all these years, because of the Republic for which it stands. If we protect the Republic, the flag will take care of itself.

Protecting the flag is indeed an honorable and appropriate goal. Many of us voted for a law to do so, with the hopes that it would pass constitutional muster. But the question now is, does the effort to protect the flag take precedence over the Bill of Rights and the Constitution?

I voted for a statute not because a statute is essential to protect the flag, but because the flag is a symbol vital and important enough to deserve a ratification of law that has existed in 48 States of the Union and because I believed, and still do, that one could do so without doing violence to the Constitution.

I did so believing of the fact that a majority of the current court has made it clear that if a statute were passed seeking to protect the physical integrity of the flag in all circumstances, such a statute could withstand constitutional scrutiny.

I did so recognizing that there are laws against attacking national monuments. No one is allowed to scrawl anything on the Lincoln Memorial, whether the message is intended as a political message or not. The same is true of a gravesite. The same is true of our currency. Regardless of whether someone writes "I love President Bush," on the Lincoln Memorial, or "I hate President Bush," on the Lincoln Memorial, or "John loves Mary," they can go to jail for defacing public property. I believe a flag is no different.

I did so recognizing that in the Johnson case it was the message for which Johnson was punished. To pass constitutional muster there can be no linkage of the act the statute seeks to prohibit and the message the burner seeks to express. I believe the statute we passed avoided that linkage.

I thought that the balancing test which the Court applies—the test of strict scrutiny—would permit the State to take this action. The Court now says we cannot, and I understand why. The Court has attached to the action of burning the flag rights under the first amendment. And so the question is now, do we want to change the

Constitution of the United States in order to extend that protection?

The Constitution has been amended only 16 times in the 198 years since the Bill of Rights was ratified. No amendment has ever limited the Bill of Rights itself.

That fact alone makes one question why we are here debating this now. It was, after all, only 6 days after the Court's decision that the President proposed a constitutional amendment—dead in the heat of emotion swirling around the Supreme Court's decision.

I still wonder how much careful deliberation went on in that period? How many constitutional scholars suggested this was important and worthy?

But you do not need to look far to understand what has really brought us to this moment—to this remarkable consumption of the Senate's time while debt piles up, drugs threaten communities, children's needs are unmet and the country yearns for action.

Because of the vote in the House of Representatives this vote in the Senate has become as symbolic as the issue itself. But then everyone knows what is really happening here. The New York Times of July 24 told us when it reported:

> Republicans are poised to use a vote for or against a constitutional amendment as a critical weapon in the rough politics of values.

Or as John Buckley of the Republican Congressional Campaign Committee said:

> It's going to be a very long campaign season for those who get on the wrong side of this.

Or, as Lee Atwater said:

> We don't intend to make this a partisan issue. The only people who will make it a partisan issue are Democrats if they choose not to support an amendment.

A few days ago, the minority leader referred to the 30-second ads.

Mr. President, it is really tragic—for process and country alike when flag and Constitution are abused for partisan politics. That is its own form of desecration. And so suggested Justice Stevens in his dissent.

Symbols have always been an important part of the governing process of a nation. And we in the United States are no exception. Symbols are important to candidate, to party, and to Nation.

But no one ever suggested that symbols and the debates about them should become a substitute for the real process of governing. In the final analysis, this debate is really one more in a long steam of symbolic substitutes.

Too much of the vital debate of this country has been consumed by one symbol or another being thrust into the national consciousness, tapping into hopes, fears, and prejudices.

But no symbol more underscores government by symbol than the current debate taking place in the U.S. Senate to amend the Constitution of the United States to protect our flag.

It is hard to believe that with all the other problems pressing for attention that the U.S. Senate should be forced to devote such energy to this curious choice of priorities.

It is one thing to pass a statute which regulates conduct and, by most interpretations, does not do violence to the first amendment in order to protect our cherished flag. It is another to change the Constitution itself so as to take away the ability of the court to decide that a particular form of expression involving the flag might indeed deserve first amendment protection.

As Duke Law Professor Walter Dellinger testified before the Senate Judiciary Committee:

> This potentially dangerous amendment would create an entirely unlimited exception to either one, some, none or all of the Bill of Rights; it would place this power in the hands of all future Congresses, fifty State legislatures, the government of the District of Columbia, and perhaps as many as 14,000 local governments; it would set a dangerous precedent for resorting to the amendment process for the curtailment of the rights of the unpopular in general, and for unpopular speech in particular; and it would deprive the First Amendment of much of its moral legitimacy by suggesting that speech that is deeply offensive to most of us will be suppressible, while speech deeply offensive to others must continue to be tolerated.

If we passed this amendment, we would undermine not only the powerful, clear understanding we now have that in the United States, no one can be prosecuted for expressing an opinion, but we would undermine also what Professor Dellinger calls the moral legitimacy of the first amendment.

Sadly, we would be giving to a flag burner recognition he does not deserve—the "ultimate trophy," the 27th amendment to the Constitution of the United States.

If we adopt this amendment, Gregory Lee Johnson will have succeeded beyond his wildest imagination. He will have succeeded in taunting us into drafting a permanent blemish onto our most fundamental constitutional principles. He will have succeeded in making us just look a little silly, and a little less free, and a little less brave.

Mr. President, I cannot help but feel that an amendment to the Constitution for this purpose is not the act of a nation strong and vibrant, confident in the natural affection that flows from citizens to the symbols of nationhood.

A nation as strong and vibrant as we are doesn't need to change the Bill of Rights to protect a symbol. That symbol should be protected by the very love and devotion which without compulsion elevates symbols in the first place.

I believe we have more to fear from passing an amendment prohibiting the burning of a flag than we do from the act of a miscreant burning the flag itself. For the passage of such an amendment is an act of fear. We are not a nation which shows signs of losing our confidence—we have not lost our ability to look a demagog in the eye without blinking—surely we are still a nation whose scorn and public opprobrium for a flag burner should be protection enough

James Madison warned us of the dangers of exactly what this amendment attempts to do.

On June 8, 1789, Madison rose to propose the amendments to the Constitution which became the Bill of Rights.

In doing so he warned:

> And in this case it is necessary to proceed with caution; for while we feel all these inducements to go into a revisal of the Constitution, we must feel for the Constitution itself, and make that revisal a moderate one. I should be unwilling to see a door opened for a reconsideration of the whole structure of the Government—for a re-consideration of the principles and the substance of the powers given; because I doubt, if such a door were opened we should be very likely to stop at that point which would be safe to the Government itself.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KERRY. I ask for 1 additional minute. Does the chairman have time?

Mr. BIDEN. I really do not. I apologize. There are other Senators wanting to speak.

I yield 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I thank the chairman.

Madam President, let me speak briefly. I would like to just state what this debate is not about because, although I have not heard too much of it on the floor today, I certainly hear it in the public press, but this debate is not about patriotism.

On the Democratic side of the aisle, the distinguished junior Senator from Nebraska [Mr. KERREY], who holds the Nation's highest decoration, that I have always held in awe, the Congressional Medal of Honor, opposes the amendment. The Senator from Hawaii, my good friend, Senator INOUYE, who holds the Distinguished Service Cross and lost a limb fighting under this country's flag in Italy, opposes the amendment.

On this side of the aisle, the distinguished Republican leader, decorated in Italy—severely, gravely wounded in Italy—and Senator MCCAIN, one of the great American heroes, held captive by the Vietnamese, but refused to have his will broken for 7 years, favor the

amendment. Madam President, this is not about patriotism, and let anyone who challenges the patriotism of anyone on either side be ashamed of themselves.

Madam President, it is not about demagoguery. With all respect, there are Members who support this amendment who believe it deeply and they are not demagogs.

Madam President, I oppose the constitutional amendment. It proposes, for the first time in our Nation's history, to restrict the rights granted to American citizens under the Bill of Rights to the U.S. Constitution.

As the Members know, on June 11, 1990, the Supreme Court in a 5-to-4 decision struck down the Federal statute that criminalized the conduct of anyone who "knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground or tramples upon" a U.S. flag. This action was a sequel to last year's decision, where the Court by the same vote struck down a Texas law on the subject.

Before addressing the merits of the issue, I would like to take a look at the individuals who are provoking this effort to restrict the Bill of Rights, the first 10 amendments to the Constitution, which were adopted 200 years ago.

In the most recent case, U.S. versus Eichman, three individuals were prosecuted by the Government: Vietnam war protestor David Gerald Blalock, "revolutionary artist" Scott W. Tyler also known as "Dead Scott," and feminist Shawn D. Eichman. Let us look at their backgrounds.

They are members of a New York-based group called the Emergency Committee to Stop the Flag Amendment and Laws.

The Washington Post described the three in this way: "Wearing leather jackets and tie-dyed clothes, they brought a wide range of causes to the courtroom. Tyler displayed slogans on racism and AIDS and an epithet in support of abortion rights, while Eichman, who wore flags as a necktie and handkerchief, pumped for Mao Tse Tung and Shining Path guerillas of Peru."

Dread Scott's artistic works include "What is the Proper Way to Display a U.S. Flag," which invites viewers to walk across an American flag. That is very creative.

Nancy Kent, their spokesman, said many people in the emergency committee are "extremely patriotic, but they still hate the flag." As for her own views, she said, "I personally hate America."

Gregory Johnson, the defendent whose case led the Supreme Court to overturn the Texas flag-burning law in 1989, is the same sort of person. He:

Belongs to the Communist youth brigade, which at this time in history is like belonging to the Flat Earth Society;

Has stated: "Liberty and justice for all is a lie. I am not an American. I am a proletarian internationalist, a Maoist";

Believes the United States is a "racist and oppressive society"; and

Believes that veterans offended by his acts are "Rambo-maniacs, John Wayne-type patriots, and war criminals."

These people do not endanger the fabric of our society or our form of government. They are nuts. They are irrelevent.

As Charles Fried, the Solicitor General of the United States under President Reagan, the official responsible for defending the Government's position before the Supreme Court, said:

> The flag symbolizes our nation, its history, its values. But those are values, that is a history which poor, pathetic, strange and marginal people like Shawn Eichman and Gregory Johnson cannot harm and cannot detract from by their childish antics. Only you, the elected leaders and representatives of our people, can add to or take away from the Constitution, can add to or take away from our history. The antics of a few shabby flag-burners are of no significance, unless you give them significance. What they do does not matter; it will be forgotten. What you do, will endure as part of our history, as part of the living text of our national charter forever.

Since these people are provoking this effort to amend the first amendment of the Constitution, we should remember what that historic measure provides. It states:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or of the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Although only 45 words, probably no other provision of the Consitution has given rise to so many different views with respect to its underlying philosophical foundations, and hence proper interpretive framework.

I believe the appropriate standards were articulated by the noted Supreme Court Justice Hugo Black, who in 1941 wrote:

> I view the guaranties of the First Amendment as the foundation upon which our governmental structure rests. * * * Freedom to speak and write about public questions is as important to the life of our government as the heart is to the human body. In fact, this privilege is the heart of our government. If that heart be weakened, the result is debilitation; if it be stilled, the result is death.

Madam President, how does this relate to the constitutional amendment now pending before the Senate? At the outset, I will note that I disagree with the Court's decision to overturn Federal flag-burning law. I do not believe that flag burning is expressive communication protected by the first amendment. The flag is a symbol of this country; it is not an ordinary piece of cloth.

Having said that, it must be noted that deciding when methods of communication constitute protected speech and when they are unprotected conduct can be extremely difficult, often involving very close calls.

Very little expression is mere speech. If it is oral, it may be noisy enough to be disturbing, and if it is written, it may be litter. In both cases, it is conduct which may be prohibited by government in specific circumstances.

Shouting fire in a crowded theater is prohibited conduct and, under certain circumstances, speech which is intended and likely to incite violence can be restricted.

At the other end of the spectrum, the Supreme Court has frequently held that first amendment rights "are not confined to verbal expression," and has for over 50 years regularly erred on the side of protecting acts intended to communicate political thoughts, no matter how offensive.

The Court has used the following line of reasoning in these decisions:

Conduct may have a communicative content, and may be intended to express a point of view.

When conduct or action has a communicative content to it, the first amendment is implicated in any regulation or prohibition of that conduct or action. But, this does not mean that such conduct or action is necessarily any more immune from governmental process than other forms of "speech," such as picketing and leafleting.

In 1968, the United States versus. O'Brien, while upholding a congressional prohibition on burning draftcards, the Supreme Court enunciated the generally applicable rule that it uses in evaluating first amendment cases to this day:

> A government regulation is sufficiently justified if it is within the constitutional power of Government; if it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedom is no greater than is essential to the furtherance of that government interest.

In fact, laws, governing communicative conduct were struck down by the Supreme Court as early as 1931, 59 years ago. In Stromberg versus California, the Court held unconstitutional a State prohibition on displaying the red flag "as a sign, symbol or emblem of opposition to organized government." This California statute had been passed to prevent the flying of the red flag as a gesture in support of communism.

There have been many other cases protecting communicative actions under the first amendment. These include:

A prohibition on schools expelling Jehovah's Witnesses who refused to salute the flag. This decision, Board of Education versus Barnette, is notable because it was issued in 1943 at the peak of World War II;

A sit-in by black students to protest a "whites only" library, in 1966;

The right of striking workers to picket in an area generally open to the public, in 1968;

Permitting school students to wear black armbands to protest the Vietnam war, in 1969; and

With respect to my own State of New Hampshire, a probibition on prosecuting individuals who defaced the message "Live Free or Die" on their license plates, in 1977.

Parenthetically, I would note that there has been no noticeable increase in people attacking New Hampshire's proud motto since the Supreme Court held that such action was constitutionally protected.

Contrary to much of the rhetoric of recent weeks, Supreme Court actions on behalf of people who chose to defile the flag in order to vent their hostility toward our society are also not new. In 1969, in Street versus New York, the Court overturned the conviction of a person who had been found guilty of violating a New York statute that made it a misdemeanor "publicly [to] mutilate deface, defile, or defy, trample upon, or cast contempt upon either by words or act [any flag of the United States]." The defendant had burned the flag to protest the murder of civil rights leader James Meredith.

A number of Senators, during this debate, have quoted the words of Chief Justice Warren who dissented in that case. But, the words of Justice Harlan who wrote in the opinion of the Court are compelling:

> We have no doubt that the constitutionally guaranteed "freedom to be intellectually * * * diverse or even contrary." and the "right to differ as to things that touch the heart of the existing order," encompass the freedom to express publicly one's opinions about our flag, including those opinions which are defiant or contemptuous.

There have been other similar decisions by the Court since then.

In Spence versus Washington, the Court reversed the conviction of a defendant who had affixed a peace symbol to the flag flying from his apartment window. The Court held that the State did not have an interest in protecting a privately owned flag from its owner.

In Smith versus Goguen, the Court struck down a Massachusetts flag-misuse statute, finding it void for vagueness.

These cases foreshadow the result reached by the Court in the flag-burning cases in 1989 and this year. The fact is that, since the late 1960's, the Court has recognized the value of symbolic speech and has guaranteed it protection under the first amendment. The Court has also established that speech cannot be prohibited in order to protect the public's sensibilities.

As I noted earlier, I believe the Court was wrong in the two recent flag-burning cases. But they were judgment calls in line with precedents extending back for nearly 60 years. Deciding when an act is sufficiently communicative and insufficiently damaging to the public interest to be deserving of constitutional protection can be a very close call.

And, whether the Court was right or wrong, I do not believe that these two cases require, for the first time in our history, a constitutional amendment which limits the scope of the freedom granted under the first amendment.

The flag is the symbol of our Nation, its history and its values. We love the flag because it symbolizes our Constitution, our form of government, our way of life, and our freedoms. The Bill of Rights, however, is the foundation of our freedoms, and we should not protect the symbol at the expense of the foundation.

The best way I can make this point is to quote a portion of an article in the Washington Post by a former American POW in North Vietnam, James Warner. Mr. Warner was a prisoner of war from 1967 to 1973. He wrote:

> I remember one interrogation where I was shown a photograph of some Americans protesting the war by burning a flag. "There," the officer said. "People in your own country protest against your cause. That proves you are wrong."
>
> "No," I said. "That proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us." The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

Madam President, as I said, this debate is not about patriotism. Members of Congress and American citizens on both sides of this debate have fought and made sacrifices for their country, love the flag, and support our society, our Government, and our way of life.

The people who burned the flag last year—they hate America by their own words and deeds. We can invite them to leave our country, we can and should oppose their acts, but we should not amend our Constitution for them.

Madam President, I commend to my colleagues the 13th, 14th, and 15th amendments. They expand the Bill of Rights. This will be the first time in the Nation's history, if this were to be successful and passed by the House on a later vote, that we would limit the Bill of Rights.

I would like to conclude these brief remarks with a quote by a great American President, Woodrow Wilson, who probably summed it up as well as anyone:

> I have always been among those who believe the greatest freedom of speech is the greatest safety, because if a man is a fool, the best thing to do is to encourage him to advertise that fact by speaking.

Of, if I could parenthetically add, expressing himself by doing a ludicrous thing like burning the flag. He went on to say:

> It cannot be so easily discovered if you allow him to remain silent and look wise. But if you let him speak, the secret is out and the world knows he is a fool.

Madam President, those who burn the American flag are fools. Let us not dignify them by changing the Bill of Rights.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. How much time is remaining?

The PRESIDING OFFICER. The Senator has 8 minutes and 6 seconds for his side of the argument.

Mr. BIDEN. I yield 1 minute to my colleague from California.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I will vote against both the Biden constitutional amendment and the Dole constitutional amendment.

Although I recognize that the remarkably able chairman of the Judiciary Committee, Senator BIDEN, in honoring his commitment of a year ago to bring forward a carefully crafted constitutional amendment, if the statute he wisely offered then was deemed unconstitutional, has worked very hard to develop language which is much more narrowly drawn than the Dole amendment, I do not believe that any amendment to the Constitution under the Bill of Rights is necessary or appropriate in regard to the flag.

I voted for the Biden statute last year based upon the judgment of numerous constitutional scholars that a content neutral statute would pass constitutional muster. The Supreme Court concluded otherwise. The Court, quite properly, has concluded that any effort to curb political dissent expressed through flag burning violates the principles underlying the first amendment.

Madam President, I deplore flag burning, but I care more deeply about preserving the Bill of Rights and freedom of speech. In 200 years, our Nation has flourished under the protection of the Bill of Rights. We should not take any step, however well-intentioned, which would diminish those rights. We should not, at a time when the rest of the world looks

to our Constitution and Bill of Rights as the model for democracy and liberty, be weakening that great charter of freedom.

Mr. BIDEN. Madam President, I yield the remainder of my time to the distinguished Senator from Virginia, Senator ROBB.

The PRESIDING OFFICER. The Senator has 6½ minutes.

Mr. BIDEN. I yield all 6½ minutes.

The PRESIDING OFFICER. The Chair recognizes the junior Senator from Virginia.

Mr. ROBB. I thank the Chair.

Madam President, what I am about to say is not easy for me. It is not easy to admit that you have changed a strongly held position.

On the day that the Supreme Court first ruled that Texas could not punish flag burners, I shared the visceral outrage of most Americans. Like most veterans, I wanted to show my respect for our flag and my contempt for those who would defile it.

When presented with a proposed amendment to protect the flag that same afternoon, I signed on as a cosponsor. I did not give any speeches on it or hold any press conferences or participate in any rallies, but I did vote for both the statute and the amendment last fall.

My initial instinct was to do the same again today—knowing that changing my position on this issue would not be politically popular in my own State or fully understood by many of my fellow veterans. But this is one instance where debate in the greatest deliberative body in the free world actually helped change at least one Senator's mind.

On further reflection in the months since those votes and during the debate that has followed the Supreme Court's recent decision in United States versus Eichman, I have concluded that the meaning of our flag can better be protected by not tinkering with the first amendment.

As the Court observed in the Eichman case:

> If there is a bedrock principle underlying the first amendment, it is that government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.
>
> Punishing desecration of the flag dilutes the very freedom that makes this emblem so revered and worth revering.

As public officials, we can appreciate the irony of extolling the virtues of the first amendment, when it is that very amendment that protects those who may seek to defame us.

Even Thomas Jefferson saw the amendment quite differently at the end of his Presidency.

Given my earlier thinking on this issue, the simpler thing to do would be to ignore my conscience and vote for the amendment.

It would be made even easier by the fact that, since the House of Representatives has already rejected the amendment, the Senate vote is "purely for the record," purely for political purposes, when so many critical challenges facing this country could otherwise be addressed and the political vote would be consistent with my emotional reaction to this issue.

Having been a member of the Armed Forces, Active and Reserve, for a third of a century, I have never knowingly failed to stand and render appropriate honors to our flag during my adult lifetime. And I am unapologetic about having chills run up and down my spine when our "national anthem" is played. I have also handed our folded flag to too many widows of servicemen and police officers killed in the line of duty. But despite all these experiences I am no longer persuaded that a constitutional amendment will best protect our flag.

I am persuaded instead that a preservation of the Bill of Rights is the best example that we can provide to the fledgling democracies around the world as they face dissent and try to rise above the lessons handed down by their autocratic forebearers.

My heart requires that I defend the flag. My mind tells me that our flag will be better protected and the freedoms and values it represents will be better honored by resisting this amendment.

I believe that in doing so I am faithfully upholding my solemn oath to support and defend the Constitution of the United States.

Madam President, I yield any time I have remaining.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. How much time remains?

The PRESIDING OFFICER. One minute and forty-four seconds.

Mr. BIDEN. Madam President, I understand the Senator from South Carolina has 1½ minutes. I would be glad to yield my time to the Senator from Wyoming.

Mr. THURMOND. I yield my time to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. WALLOP. Madam President, the following reasoned thesis was developed as a letter to the editor by Mr. Joseph E. Schmitz of Washington, DC. His arguments merit the serious attention of the Senate.

I ask unanimous consent that the entire text be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The key to success for Congressional House opponents of the flag amendment was their characterization of the issue as "the flag vs. the Bill of Rights." (See Wall Street Journal, June 22, 1990, at A10). Members of Congress claim to oppose the flag amendment because it would somehow "destabilize" the Bill of Rights. House Democrats argued passionately that the flag amendment would be the first substantive change in the Bill of Rights since its ratification 200 years ago.

The fact is that the Bill of Rights has been substantively amended on numerous occasions by expansive Supreme Court interpretations. The current Bill of Rights demagoguery is blatantly wrong to anyone who simply takes the time to read the Bill of Rights, the text of which has never changed. The shame is that honest, patriotic Americans are fooled by the clever lies of those who simply care more about a deranged individual's license to burn Old Glory than they do about protecting the flag.

The whole flag debate came to a head last year when the Supreme Court struck down a Texas flag protection statute as violating the First Amendment. But the applicable portion of the First Amendment reads: "*Congress* shall make no law * * * abridging the *freedom of speech*" (emphasis added). How did "Congress" come to include "Texas" and how did "abridging the freedom of speech" come to include "prohibiting flag desecration"? By judicial fiat, of course. "We the people" certainly never Amended the Bill of Rights to prohibit States from punishing flag desecraters, as evidence by the fact that most States and Congress had anti-flag burning statutes in place last year when the Supreme Court voted 5-4 to overturn the Texas law.

At the heart of the flag burning controversy is the federal judiciary's usurpation of a power "reserved to the States respectively, or to the people" by the Tenth Amendment. The liberal pundits conveniently ignore the ultimate provision of the Bill of Rights: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." The proposed flag amendment simply states: "The congress and the States shall have power to prohibit the physical desecration of the flag of the United States." Had this amendment been drafted by James Madison, it may well have read: "Among the powers reserved to the States respectively, or to the people, is the power to prohibit the physical desecration of the flag of the United States." Far from destabilizing the Bill of Rights, this new proposed amendment merely reaffirms the ultimate provision of the Bill of Rights in one specific context.

The American system of government is based upon the consent of the governed. The Declaration of Independence proclaims that "Governments . . . deriv[e] their just powers from the consent of the governed," the opening words of the Constitution are "We the people," and Article V of the Constitution requires the ratification of three-fourths of the states for amendments to the Constitution.

If the respective States and the people of the United States wish to exercise their constitutional power under the Tenth Amendment to prohibit flag burning, and to amend the constitution pursuant to Article V so as to prevent the federal judiciary from further usurping that constitutional power, the proposed flag amendment is by far the most stability-enhancing measure for the Bill of Rights. A one vote difference on the Surpeme Court is hardly the type of bedrock

upon which to base an allegedly fundamental rights of free expression for an entire nation.

The Bill of Rights is about core values. The debate over the flag amendment is about core values. Ultimate ratification of the flag amendment should depend not upon a misguided or disingenuous argument that the Bill of Rights has never before been amended, but rather upon how deeply-rooted respect for the flag still is in our society.

Perhaps those opposed to the flag amendment are right. Perhaps Americans place more value today in permiting a few social misfits to defile publicly our national symbol than they place in protecting the banner that countless American servicemen have valiantly fought for and sacrificed their lives to protect.

If the liberals are correct about their fundamental right to desecrate the flag, then the currently proposed flag amendment would surely fail to be ratified by three-fourths of the states. It appears, however, that the liberals in Congress are deathly afraid to propose the flag amendment to the States. Why else the clever smoke screen about protecting the supposedly never-changing Bill of Rights?

If the Congressional champions of the flag desecraters lobby are wrong, heaven help them at the polls.

The PRESIDING OFFICER. The Chair advises the Senator that his time has expired.

Mr. WALLOP. The Senator is well aware and managed to finish just in time for the unanimous-consent agreement. Thank you. I yield the floor.

Mr. DODD. Mr. President, Edmund Burke, the 18th century statesman, orator, and writer, once said that "the people never give up their liberty but under some delusion." Last week, when the House overwhelmingly voted against the constitutional amendment to ban flag desecration, it was a clear-headed people who spoke up for preserving liberty and freedom—without delusion. They understood that if the Bill of Rights means anything, if freedom of speech means anything, it means also the freedom to criticize the Government by challenging the authority of its symbols.

We stand here in the Senate today charged with the same mandate that our colleagues faced in the other body, perhaps even a greater one—for we know that the people have already spoken.

We must ask ourselves whether or not, in the name of political expedicency, we are willing to tinker with the Bill of Rights for the first time in 200 years.

Benjamin Franklin almost 200 years ago said, "They that can give up essential liberty to obtain a little temporary safety, deserve neither liberty nor safety.

We must ask ourselves today whether or not there is room for giving up a little liberty to achieve potentially a little safety for our flag by amending the first amendment to that Bill of Rights, knowing that it has ben preseved unfettered through a bloody Civil War, the Great Depression, two world wars, even the trauma of Vietnam.

Are we willing, Mr. President, to abdicate even a part of the freedom that preserves our democracy—through all the conflicts that have challenged, and will continue to challenge it? Are we willing to tarnish our Bill of Rights simply because a 30 second television spot might challenge us to show the kind of individual leadership that can, with clear words of conviction, dismiss such shallow arguments out of hand?

Mr. President, in my view, the anwser to that question is very clear. We must overwhelmingly join our House colleagues in voting against this attack on our fundamental freedoms.

The question before us today has nothing, absolutely nothing, to do with condoning the behavior of those few who choose to desecrate our greatest national symbol. Their actions should repulse us, and they do. We must look beyond, however, the trifling distractions of petty noisemakers. We must have faith that what they do does not change—or even challenge—the strength of our principles that make our flag wave with such simple and inviolable dignity. We should exalt in the power of our position—knowing that it has sustained our Nation throughout all its glorious history.

John Stuart Mill, in his famous work, "On Liberty," wrote:

If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.

If we choose, Mr. President, to silence the flag burner, we lend credence to his actions by fearing them. If we choose to silence the flag burner, we desecrate our great Constitution for having lost faith in its magnificent power.

The first amendment, more than possibly any other amendment, is what distinguishes this society and the reason that we are held up as a model for emerging democracies around the world. Certainly, we appreciate the right of trial by jury, to prohibit illegal search and seizures, to prohibit cruel and unusual punishment. Other societies have such prohibitions in their own laws but very few throughout history have guaranteed the right of free speech.

Mr. President, earlier this month I was in Czechoslovakia where after 44 years of Soviet Marxist domination the people of that land have thrown off the shackles of their oppression. For the first time since the Second World War, they are experiencing freedom—freedom from a brutally imposed ideology—free, Mr. President, to speak without danger or without fear of retribution.

The people of Czechoslovakia, the students in Tiananmen Square, the peasants in Nicaragua, the wall-busters of Eastern Europe, were emboldened by the power and example of our Constitution, of the Bill of Rights that stands as a beacon of freedom and hope to men and women throughout this world.

Let us be emboldened here today, knowing that it is our Constitution that has fueled their freedom. Let us choose to preserve the simple document that is such testament to the absolute power of absolute freedom and liberty.

Mr. President, I urge the rejection of both these amendments to our Bill of Rights.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. Under the previous order, the Senator from Delaware is recognized to offer his amendment.

AMENDMENT NO. 2068

(Purpose: Proposing an amendment to the Constitution authorizing Congress to protect the physical integrity of the Flag of the United States)

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself, and Mr. LEVIN, proposes an amendment numbered 2068.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. The Congress shall have power to enact the following law:

" 'It shall be unlawful to burn, mutilate, or trample upon any flag of the United States.

" 'This law does not prohibit any conduct consisting of the disposal of the flag when it has become worn or soiled.'.

"SEC. 2. As used in this article, the term 'flag of the United States' means any flag of the United States adopted by Congress by law, or any part thereof, made of any substance, of any size, in a form that is commonly displayed.

"SEC. 3. The Congress shall have the power to prescribe appropriate penalties for the violation of a statute adopted pursuant to section 1.".'

Mr. BIDEN. Madam President, I want to make it clear that the amendment is sent to the desk on behalf of myself and the distinguished Senator from Michigan [Mr. LEVIN]. Madam President, I understand I control 20 minutes of the time for debate on this amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct. The Senator from Delaware controls 20 minutes of the time, and the Senator from South Carolina controls the remaining time.

Mr. BIDEN. Madam President, I yield 10 minutes to the distinguished Senator from Michigan [Mr. LEVIN], the cosponsor of the amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Madam President, I thank the Chair. I thank my friend from Delaware.

Madam President, I believe we can and should protect both the flag and the first amendment; the flag because it is a unique symbol of our Nation, and the first amendment because it is a unique testament to freedom.

My preference was to have done that by Federal statute. I believe that such a statute would have struck the best balance between the clear desire of most Americans to protect the American flag from burning or other forms of mutilation, and the clear need to protect the cherished liberties for which it stands.

I had hoped that the Supreme Court would uphold the statute that I and 60 other Senators voted for in this Chamber a few months ago. I voted for that statute because it would have given us national statute protecting the symbol of our national unity. It provided for that protection, and yet had no impact on the first amendment because the motive, intent, and purpose of the flag burning was irrelevant. The action of the burning was prohibited regardless of intent or effect.

However, as we all know, that statute was recently declared unconstitutional by a five to four decision of the Supreme Court. So today the Senate is faced with a choice: Do we continue to pursue the protection of the American flag or, do we say that the Supreme Court's most recent decision striking down a statute passed by a majority in Congress should be the end of our efforts?

I said before the passage of the statute last year, and I still believe, that if the Supreme Court struck down that statute, then we should take the next step of basically authorizing that same statute by a carefully worded constitutional amendment.

That is why I am a cosponsor of the Biden substitute to Senate Joint Resolution 332, which offers the Senate the opportunity to vote on a carefully constructed, narrowly drawn constitutional amendment to protect the American flag.

The Biden substitute does that. I am afraid that Senate Joint Resolution 332 does not. But I am not ready to give up on efforts to protect the American flag. Neither am I ready to say that the only way to cross through a forest is to fell every tree in that forest, when cutting a narrow path would just as effectively provide passage.

I believe we should pass a narrowly drawn constitutional amendment, the Biden substitute, one that protects the flag, while also carrying out our responsibilities to protect the liberties that it represents. I believe, as do many people I have spoken with in Michigan and here, that Senate Joint Resolution 332 is not a narrowly drawn constitutional amendment to protect the flag. Instead of moving us carefully along a path to protecting the flag, Senate Joint Resolution 332 will weaken important safeguards of the Bill of Rights.

First, let us look at the face of Senate Joint Resolution 332. In its preamble the resolution states, "Whereas, physical desecration may include, but is not limited to such acts as," and then it goes on to describe a number of acts.

Madam President, on its face, this resolution does not say "what you see is what you get," but rather in effect, it says "what you see is an inkling, a taste, of what you might get." On its face, Senate Joint Resolution 332 is an invitation to the Federal Government and to the States to go broadly beyond the resolution's own words.

In addition, Senate Joint Resolution 332 states that, "Physical desecration" includes "displaying the flag in a contemptuous manner." Madam President, I agree that there are some actions which most people would conclude are examples of "displaying the flag in a contemptuous manner," but there are certainly other instances of displaying the flag which are obviously open to wide interpretation as to whether the manner is contemptuous or not.

Second, the testimomy offered by the Justice Department last year before the Senate Judiciary Committee included numerous references to the broad flexibility that the Federal Government and States would have in enacting legislation pursuant to an amendment such as Senate Joint Resolution 332.

On August 1, 1989, William Barr, Assistant U.S. Attorney General in the Office of Legal Counsel, stated the following on page 13 of his testimony regarding the Dole-Dixon amendment which was identical with Senate Joint Resolution 332:

> The amendment would define the framework within which the legislative authority of the Congress and the States could be exercised. Within this framework, however, the Congress and the States would have wide latitude to prohibit that conduct toward the flag that they believe deserves proscription.

On page 14, the Assistant Attorney General said:

> While we believe the amendment would certainly permit the legislatures to define "flag" in this (narrow) manner, legislatures would be free to adopt a broader definition, as Congress itself has done.

On page 17, Mr. Barr stated, "There are an infinite number of forms of desecration. I will not attempt even a representative listing here."

On page 20 of his testimony, the Assistant Attorney General concluded by saying, "By way of summary, the Dole-Dixon amendment confers substantial discretion on Congress and the States to determine precisely the degrading acts toward our flag that are to be prohibited."

Madam President, "wide latitude," "broader definition," "infinite number," "substantial discretion," are not words normally used to describe a narrow constitutional amendment. But those are the very words that the administration used last year in describing a constitutional amendment, which is identical to Senate Joint Resolution 332, which is before us today.

What is particularly ironic is that on June 21 of this year, in his testimony before the Judiciary Committee, Mr. J. Michael Lutting, Acting Assistant Attorney General of the Office of Legal Counsel, stated that "the amendment is appropriately narrow in scope." He also stated that "Congress and the States would have to determine which types of physical desecration to forbid. The range of their choice is fairly narrow, because physical desecration entails actual contact with the flag."

Madam President, in less than 1 year, the administration spokesmen have shifted in their description of what can be prohibited under this amendment from "infinite number" to "fairly narrow." The first amendment has endured for 200 years, and now we are asked to consider an amendment, Senate Joint Resolution 332, which has traveled at warp speed, in less than 1 year, from being described by the administration in terms of being "infinite" to being described by the same administration as "fairly narrow."

I find it hard to understand how an amendment capable of such elastic interpretations by the same administration over such a short period of time can be referred to as "carefully drawn."

One final point, Madam President, with respect to the testimony offered on behalf of Senate Joint Resolution 332 by the administration, which highlights its potential for broad interpretation and application. As Mr. Barr

correctly pointed out in his testimony, the amendment "will permit the (State) legislatures to focus on the kind of conduct" that they find offensive.

By permitting, and even encouraging, this focus by 50 State legislatures, Senate Joint Resolution 332 would place in the Constitution the principle that some flag desecration is prohibited, and some flag desecration is not; it would all depend upon the State. Under Senate Joint Resolution 332, each State would be free to determine what is prohibited—all 50 of them, and hundreds more when local ordinances are tallied—and what would be enshrined in the Constitution.

It is because of these problems with Senate Joint Resolution 332 that I cosponsor Senator BIDEN's carefully drawn constitutional amendment. It offers us the opportunity to prohibit the burning, mutilating, or trampling upon of the American flag, without undermining the first amendment.

The Biden amendment represents the careful approach that this issue deserves; it protects both the flag and the first amendment and avoids the potential for confusion, which would arise out of a multiplicity of State and local laws on the subject.

I thank the chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I rise in opposition to the amendment offered by the distinguished chairman of the Judiciary Committee.

In the aftermath of the Eichman decision, I know my distinguished friend has been making a good-faith effort to draft a constitutional amendment to alter the Supreme Court ruling.

However, Madam President, we have language before us now to amend the Constitution, which has been under consideration for some time. The President has studied this proposal, Senate Joint Resolution 332. The Department of Justice has studied our proposal. They both favor this proposal. Constitutional scholars have studied our proposal. There have been extensive hearings in the House and Senate on the President's proposed language. There has been widespread debate on the Senate and House floors concerning the President's proposal. Members of this body know where they stand.

Madam President, the Chairman is now offering language to amend the Constitution, which we just received a short time ago for the first time. I believe it is only logical that the U.S. Senate not support an amendment to the Constitution, which has just been revealed and with debate allotted to 40 minutes per side equally divided. That would hardly give Senators time to make an educated vote on adding an amendment to the United States Constitution.

Madam President, I do observe, however, that the amendment of the able chairman of the committee denies the States the opportunity to legislate in this area, which I think is bad. I think the Federal Government and the States ought to be allowed to legislate in this area.

I yield 3 minutes to the able Senator from Texas.

The PRESIDING OFFICER. The junior Senator from Texas. [Mr. GRAMM].

Mr. GRAMM. Madam President, for 200 years the States believed they had the authority to prohibit flag burning, and most of them did. We in the Congress believed that we had that authority, and on occasion that authority was used. Yet, for 200 years, despite the fact that flag burning was then banned in the overwhelming number of jurisdictions in the Nation, we still had debate.

We had debate on numerous subjects. We had protests and demonstrations on behalf of or in opposition to, many causes. Yet where is the evidence to suggest that the inability to legally burn the American flag, the symbol of the freedom that we all enjoy, somehow prevented people for 200 years from expressing their opinion?

Madam President, do you think there is any evidence to suggest that that is the case? If I believed for one moment that legitimate views and opinions could be expressed only by destroying the symbol of our right to express our opinion I would be opposed to amending the Constitution. But, Madam President, I see no evidence whatsoever to suggest that, given the great capacity of the human mind to find ways to call attention to one's opinion, with all the infinite variety of opportunities available, that it is essential that we give people the right to burn the symbol of freedom in order for them to be able to express their opinion.

If someone wants to call attention to himself he has a right to do it. He can jump up and down. He can condemn officials and institutions. He can set his britches on fire to call attention to his views and as long as he does not set anybody else's britches on fire. Then I say that is freedom of speech.

I do not see any evidence whatsoever to substantiate the claim that for 200 years people's freedom has been limited by their inability to legally burn the American flag.

We voted on a law that was aimed at protecting the flag and the vote was 91 and 9 and 3 of the 9 voted against it because they thought the law was unconstitutional, not because they did not want to protect the flag; that is 94 people thought the flag ought to be protected. The Court said the flag cannot be protected without amending the Constitution. This is no unconstitutional act. This act that we contemplate today is the very essence of the Constitution and that is our ability as prescribed in the Constitution to amend the Constitution.

Madam President, would I rather protect the flag by law? Yes. Would I rather not have a 27th amendment to the Constitution to allow Congress and the States to protect the national symbol if there were any other way of doing it? Yes. I would rather not do it this way. But there is no other option. The courts have made it clear if we want to protect the flag this is the way we have to do it. So the burden of proof is on those who say this limits free speech.

Madam President, I am unconvinced and, as a result, I support the constitutional amendment as proposed in the underlying Joint Resolution 332 and I hope it will be adopted. I appreciate the Chair's kindness to me.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina has 14 minutes and 15 seconds. The Senator from Delaware has 9 minutes and 46 seconds.

The Senator from South Carolina.

Mr. THURMOND. I yield 8 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The distinguished Senator from Utah is recognized for 8 minutes.

Mr. HATCH. Thank you, Madam President.

I am oppossed to this so-called content neutral amendment.

Senate Joint Resolution 332, the Bush amendment, has been available for a year, and has been subjected to intense and searching inquiry. We have had five hearings on the Bush amendment. It has been reviewed, on the hearing record, by numerous scholars and others. It was fully debated on the Senator floor for several days last October. The Judiciary Committee had a hearing on this issue just last week, on June 21. The alternative amendment, now before us, was not presented at that hearing for review.

The pending amendment to Senate Joint Resolution 332 has been subjected to no scrutiny. It has not been reviewed at a single hearing. It has been available only for a matter of hours.

This amendment to the Constitution is better titled the stealth amendment.

I take it that the basis for the pending amendment is a desire to avoid what its sponsor claims would be a transgression of first amendment values. What about the values underlying section 5, which provides for a difficult process to amend the Consti-

tution? Surely, the framers contemplated greater deliberation than this.

We have heard a great deal of talk about the grave significance of amending the Constitution and the care with which we must undertake such a step. I agree.

On June 11, the day the ill-fated Flag Protection Act of 1989 went down in flames, the Republican leader, Senator DOLE, called for a vote on Senate Joint Resolution 332 on Flag Day, June 14. As I mentioned, this amendment had been available for nearly a year. Four committee hearings and a full-scale Senate floor debate had already taken place on the amendment. Yet, one of our colleagues called this the "fast food school of constitutional amendments." Talk about a fast food approach to amending the constitution! The pending amendment isn't even half-baked.

At the Judiciary Committee hearing last week, the distinguished chairman of the committee, Senator BIDEN, who has been a real workhorse on this issue, commented to the effect that there is no more solemn task for a Member of Congress than the consideration of amendments to the Constitution. I submit Madam President, that the brevity of our consideration of this brand new language to amend the Constitution clearly contradicts the solemnity of which the Senator from Delaware spoke.

As an example of how haste is undesirable, take a good look at the amendment. It essentially writes a statute into the Constitution and says Congress has the power to enact it. Any time there is another offensive act toward the flag not covered in the amendment, we will have to amend the Constitution. That turns the Constitution into a statutory code-like document.

For example, the amendment does not allow Congress to prohibit the drawing of a swastika on the flag. Defacement is not prohibited by this amendment. And if we fix that omission, we may come up with another omission next week.

Madam President, I cannot help but remark on the irony of this amendment. Its sponsor has claimed that Senate Joint Resolution 332 will not override Texas versus Johnson because it does not specify if it overrides the first amendment. Neither does this consitutional amendment. The amendment is no more specific than Senate Joint Resolution 332 about whether it overrides the rest of the Constitution, such as the fourth amendment on search and seizure. Yet, the President's amendment was subject to this misplaced criticism.

So there is something positive about this amendment, although not in its substance or the process by which it was brought before us. The positive thing is that it implicitly, even if inadvertently, concedes that much of the criticism directed toward the President's amendment is misplaced.

I urge the rejection of this amendment because it really does not say anything. It basically just says Congress has power to enact a law that it shall be unlawful to burn, mutilate, or trample on any flag of the United States. There are all kinds of other ways we can denigrate the flag of the United States and all kinds of other ways that we can desecrate the flag and if we want to outlaw those we have to enact another constitutional amendment to do so. That is what is wrong with this amendment.

I urge our colleagues to vote it down. It has not had the consideration that the President's amendment has and frankly the President's amendment is the way to go and I hope all of our colleagues will support it.

Madam President, I reserve the remainder of the time and yield back the time.

The PRESIDING OFFICER. Who yields time?

The Senator from Delaware.

Mr. BIDEN. Madam President, let me begin by saying no one has illusion about what my amendment is going to be. I said at the outset it parallels the statute. It will take the statute and put the statute in the form of a constitutional amendment.

Two of the witnesses before the committee when we held hearings last week were explicitly there at my request to speak to my notion of taking the statute and putting it in amendment form. It is true they have not had the precise language because I have quite frankly been trying to get enough votes to have the precise language to see that this amendment had an opportunity of passing.

Madam President, let me say to my distinguished friend from Utah about whether or not the Biden-Levin amendment would overrule any other amendment. The Dole amendment, as you read in the back, says the Congress and the States shall have the power to prohibit. That overrides arguably all the amendments of the Constitution. The Biden-Levin amendment is explicit. For that reason I did not put it in that form. It says the Constitution prohibits the following. It gives no discretion to the Congress or to the States to determine how to protect the flag. It states precisely how the flag will be protected. Therefore, it does not have the same fatal flaw as the President's amendment.

Madam President, yesterday I took the floor to address two issues. First, is protecting the American flag an object worthy of amending the Constitution? As the Senator from Texas said I would rather do it another way. But it is worthy of a constitutional amendment.

Madam President, the fact of the matter is that we have always stated in law and it has always been clear under our traditions that the Federal Government has a compelling interest in protecting and promoting the flag. That is not a debatable notion or motion.

The second issue before us, if it is worthy of amendment, what is the appropriate content of the amendment?

As to the first question, I explained at length yesterday why I believed the American flag is worth protecting even if the Constitution must be amended to meet that end. To me, the flag symbolized the bond that unites one of the most heterogeneous nations in the history of mankind, one of the most heterogeneous people in the world, because that is what we are, a heterogeneous community made up of many nationalities, many races, religions, and backgrounds, and we need unifying symbols.

This Nation does not have a common ethnicity or culture that other nations happen to share that binds them together. We are a nation of different races and religions, and we need symbols. They are important. As Justice Holmes said, paraphrasing him, symbols are important.

The flag serves that crucial role.

Indeed, as Justice John Paul Stevens wrote in support of the constitutionality of the Flag Protection Act, "The Federal Government has a legitimate interest in protecting the symbolic value of the American flag."

The weight of that interest defies measurement. That is because—as he went on to write—the flag serves at all times "as a reminder of the paramount importance of pursuing the ideals that characterize our society." It is difficult to define.

To say that the flag is worth protecting, however, does not end our analysis. We must then ask how should that flag be protected.

I made clear, I hope, yesterday in a 2-hour presentation why I believe the President's proposed amendment is not the answer. That amendment would do fundamental violence to the first amendment. It would go to the core principle of the first amendment.

The President's amendment forces us to choose between doing violence to the Bill of Rights and permitting violence to the flag. And in that choice, Madam President, it is clear that the Bill of Rights warrants greater protection.

But that choice need not be made. Together with Senator LEVIN, I proposed a substitute for the President's proposed amendment. Our proposed amendment would protect the flag and not do violence to the core principles of the first amendment.

Let me make clear what I mean by that.

I acknowledge that a restriction on flag burning is a restriction on expressive conduct. But that was equally true last year when 91 Senators voted to do just that. Had the Supreme Court upheld my statute, we would all have had the exact same impact on the conduct of every American as we would by passing this statute. So if we were going to limit speech, the core principle would have been limited, if that is the argument, by the statute as well as by the amendment. And 91 of us thought the statute made sense.

We all must recognize that, whether we do it by statute or amendment, a prohibition on flag destruction is a restriction on free expression.

Now, the simple principle of the first amendment that must be viewed here and looked at closely, the core principle of that amendment, which I pursued with the statute and pursue now in this amendment, is that Government cannot regulate expression based upon the viewpoint of the speaker.

That is the same principle upon which the amendment today is based. The amendment that I propose authorizes Congress alone, and not the States, to enact flag protection. Moreover, this law has been revised to avoid any use of content-laden terms criticized by the Court.

That means that it will not, as the President's amendment would, allow some to violate the physical integrity of the flag while denying others the right to do so.

We can limit the way in which people are able to express certain ideas, as long as we limit everybody. We could not allow, for example, the Senator from Illinois to stand on the top of the Capitol and make a speech in favor of America and deny someone else the right to stand on top of the Capitol and make a speech against America. But we can deny anyone from standing on top of the Capitol and making any speech.

We can deny the time and place and manner, whether or not people can speak, not what they can say, but if they can say anything. And the virtue of this amendment of mine and Senator LEVIN's is it does not do violence to that core principle of equality and equal treatment of every viewpoint. Everyone, everyone, no matter what the circumstance, would be prohibited from burning, mutilating, or trampling on that flag. And there is a basic reason for that. It is a unifying symbol of a diverse people.

With all due respect to all my colleagues in here who have served their country bravely and given much, the reason we are protecting the flag is not because of their efforts. The reason we are protecting the flag is because it is of symbolic unifying value in a country that is increasingly diverse and needs unifying symbols. For how else do you define what an American is unless you define it in terms of the way in which we govern ourselves and the symbols which we agree unify us? That is why I am proposing this amendment.

There are reasons to be against my amendment, but not for first amendment reasons. You can argue that it is beyond and outside the tradition of how we amended the Constitution, and that is true. In the past, we have only amended the Constitution to deal with procedural differences between the Federal and State governments, the franchise, who can vote, how can they vote, and how old do they have to be to vote, and expanding civil liberties.

That is all true. And this does not fit into that mold and may warrant people voting no. There are other reasons to vote against this, arguably.

In basing this amendment on the cardinal first amendment principle of viewpoint neutrality we have relied on the testimony of two learned and very well-respected constitutional law scholars—Henry Monaghan of Columbia Law School and Cass Sunstein of the University of Chicago Law School.

Concededly, both men argued against an amendment to the Constitution. They did so based on a cautious predisposition against constitutional amendments generally.

I respect these arguments and I appreciate the wisdom in which they are steeped.

But I believe that the compelling governmental interest in protecting the flag outweighs those arguments as long as we can protect the flag without doing fundamental violence to the core principles of the first amendment.

The amendment we have proposed meets that test. With viewpoint neutrality as our signpost said professor Monaghan, the first amendments cardinal value—equality—would be preserved.

And as Professor Sunstein put it:

> I do not believe that . . . an amendment on this subject would, by itself threaten constitutional liberty in the United States in a serious way. Our tradition of free speech is sufficiently robust to withstand a narrowly drawn amendment.

One that "maximized neutrality," in Professor Sunstein's words.

Our amendment ensures that the implementing legislation will be viewpoint neutral. It ensures that no other constitutional provisions—beyond free speech—are overridden to protect the flag. It ensures that there will be no patchwork of conflicting local flag protection laws.

Under this amendment there are no risks—we know what we are getting. And what we're getting is legislation that in Professor Monaghan's words:

> Will prevent prosecutions and convictions and prosecutorial discretion to be exercised upon some assessment of whether the prosecutor or the jury likes what was done.

To be sure, the amendment we have proposed has some impact on first amendment values.

But I believe, on balance, that his amendment stands in the proud tradition of U.S. legal scholars—from Justice Harlan to Justice Fortas from Justice Black to Justice Stevens, from Chief Justice Warren to Chief Justice Burger—who have believed that flag protection and free expression are not incompatible.

They joined in believing that the one symbol of our nationhood ought to be protected. They recognized, as Justice Holmes once said, that "we live by symbols."

I share that view.

The amendment that we proposed today would do nothing more than authorize a single law protecting the flag—and does nothing less than respect the core of first amendment values of neutrality and equality.

We can protect both the flag and the Constitution. That is what this amendment does, and I urge my colleagues to support it.

Madam President, I realize my time is drawing to a close. There are reasons to be against this amendment, but not because it violates the core principle of the first amendment of viewpoint neutrality. But the Dole amendment not only has all the reasons to be against it that this may, but it has a fundamental flaw in that it does violate the first amendment core principles.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. I thank the Presiding Officer.

Mr. GRASSLEY. Madam President, I rise to oppose the amendment by the distinguished chairman of our Judiciary Committee, Senator BIDEN.

I strongly believe that the amendment I support—Senate Joint Resolution 332—will only take the law back to the day before the Supreme Court's 1989 decision in Texas versus Johnson. I also believe that Senate Joint Resolution 332 will not do violence to the freedoms guaranteed by the Constitution.

Senate Joint Resolution 332 will simply restore the powers of the States and the Congress that constitutional scholars properly maintain they legitimately had prior to the Supreme Court's June, 1989 Texas versus Johnson.

Although any attempt to pass an amendment to the States to protect the flag is apparently dead for this Congress, I believe it is right that the Senate take a stand on this issue.

I know that the Senator from Delaware has attempted to draft an amendment that he describes as "content neutral."

However, I think it is safe to say that protecting the flag is not content neutral. In fact, it is a matter of priorities and values.

I believe that protecting the flag involves protecting a fundamental value of our Nation. Of course, that fundamental value has on occasion come in conflict with some of the principles of our modern first amendment jurisprudence.

And I think it is safe to say that many of us believe that modern first amendment jurisprudence—including some of the decisions of the Supreme Court—has misinterpreted the original understanding of the first amendment.

First, section 1 of the proposed amendment by the Senator from Delaware would—for the first time—enshrine a criminal statute in our basic document of Government. This is unprecedented and unwise.

For another thing, section 1 restricts the power to protect the flag to the Congress.

Third, I do not believe that it is wise to attempt to place a definition of the flag in the Constitution. Section 2 of the amendment may be overly broad. In addition, if changes should have to be made to this definition, this new article of the Constitution would—itself—have to be amended.

I believe that both Federal and State statutes contain adequate, proper, and constitutional definitions of what is meant by the term "flag of the United States," without violating any freedoms guaranteed by the Constitution.

I think it is entirely proper that the people—through their State legislatures—should also be able to safeguard the American flag. The States are full partners in our Federal Union. They have separate governmental entities that are a part of this Union. There is no reason why the States should not participate in this endeavor.

The 48 States with flag protection statutes have never caused any harm.

I do not think the State statutes are going to change if Senate Joint Resolution 332 is adopted. I think it is wrong to suppose that the legislatures of the 50 States will suddenly become irresponsible and begin to do very strange things. I have more faith than that in the people and the States.

Senate Joint Resolution 332 is simple and straightforward. It grants all the power that needs to be granted to the political bodies that are in the best position to protect the flag.

Senate Joint Resolution 332 has been thoroughly reviewed by our committee during our four hearings last year and the one we held on June 21. It deserves our full support.

I urge my colleagues to reject the Biden amendment.

Mr. THURMOND. Madam President, I yield the rest of my time to the distinguished Republican leader.

The PRESIDING OFFICER. Will the Senator restate to whom he yields time? The Senator from South Carolina has 6½ minutes.

Mr. DOLE. Does the Senator from Illinois need additional time?

Mr. DIXON. I thank my colleague, but I do not.

Mr. THURMOND. I yield my 6½ minutes to the distinguished Republican leader.

The PRESIDING OFFICER. The distinguished Republican leader, the Senator from Kansas, is recognized for 6 minutes and 12 seconds.

Mr. DOLE. Madam President, this will be the next-to-the-last-vote. I understand the vote will occur at about 7 or 8 after 6, then there will be the final vote. It may be we can reduce the time on the last debate. I think the two leaders have that right and we might be able to accommodate some of our colleagues and their families who want to attend the White House barbecue.

I would be willing, now, to reduce it to 10 minutes on a side, if that would be all right with the majority leader?

The PRESIDING OFFICER. The distinguished majority leader.

Mr. MITCHELL. Madam President, I also wish to accommodate as many of our colleagues as possible and would be agreeable to reducing the time for debate on the subsequent pending constitutional amendment to 10 minutes a side, controlled by the distinguished Republican leader and myself.

So, Madam President, I ask unanimous consent that the time previously allocated to the leaders for debate following the vote on the pending constitutional amendment be reduced from 40 minutes equally divided and controlled by the distinguished Republican leader and myself, to 20 minutes, equally divided and controlled by the distinguished Republican leader and myself.

The PRESIDING OFFICER (Mr. KERREY). Is there objection? Without objection, it is so ordered.

The distinguished Republican leader has approximately 5 minutes and 5 seconds for debate.

Mr. DOLE. Mr. President, my distinguished colleague, Senator BIDEN, proposes something called a content-neutral constitutional amendment.

That is an interesting proposition, if you can understand it, since the so-called content-neutral solution has struck out, having flunked three separate times in the Federal courts.

Mr. President, I will not hide my intentions: I do not want a content-neutral amendment. And I do not think most of my colleagues want a content-neutral amendment either.

I want a constitutional amendment that punishes what it is supposed to punish—flag desecration. I want an amendment that protects the cherished values that the flag symbolizes, not an amendment that views the flag neutrally—as if it were some lifeless rock. And I want an amendment that punishes only those people who publicly cast contempt upon the flag, not an amendment—like the Biden amendment—that would lump the innocent with the likes of Gregory Johnson.

So my distinguished colleague can have his content-neutral amendment. This approach may have made sense when we considered the so-called Flag Protection Act of 1989. But it makes no sense at all now that a constitutional amendment is the only way to give Old Glory the protection she so much deserves.

The Biden proposal would also strip the States of the authority to pass laws criminalizing flag desecration, as if my amendment would create a crazy-quilt patchwork of 50 State flag statutes.

The truth is, my amendment would simply validate the 48 State Flag statutes that are already on the books. These State laws have worked well, and fairly, for decades.

And let us face it: Congress has not once—not once—been deluged with constituent mail complaining about the great injustices wreaked upon the American people by the 48 different State flag laws.

Let me also point out the obvious: There are many areas in which Federal and State interests overlap.

We have many different State product liability laws. Many different State insurance laws. Many different State securities laws. The list goes on and on.

Mr. President, in each and every one of the areas that I have just described, Federal and State regulation have happily coexisted. And there is no reason to believe that Federal and State flag desecration laws could not continue to coexist as well as they have been for decades.

So my distinguished colleague Senator BIDEN, may think that stripping the States of authority over the flag desecrators is a big improvement.

I happen to think it is a big mistake. And I happen to believe it is a big insult to the 48 State legislatures that have thought it important enough to pass laws prohibiting the desecration of our national symbol.

Finally, Mr. President, the good Senator from Delaware has criticized—as too vague—the words physically desecrate, which appear in my amendment.

The word "desecrate" appears 10 times in the majority opinion in Texas versus Johnson. Apparently, the Supreme Court did not have a so-called definitional problem, and I do not know why we would have a problem either.

As an alternative my distinguished colleague from Delaware proposes to

insert the words "mutilate" and "trample," as if these words are bright beacons of clarity. Certainly words like "mutilate" and "trample" are neither less vague nor more vague than the word "desecrate."

CONCLUSION

Mr. President, when I introduced my amendment, I was told that the Senate could not take it up immediately. I was told we needed more hearings, more testimony, more debate.

Well here we are, debating the Stealth amendment—an amendment that I have seen for the very first time just hours ago.

This amendment has had no hearings. We have heard no testimony. And we will have just 40 minutes of debate on the Senate floor.

Mr. President, for this reason alone, the amendment should be defeated.

Mr. President, I think I have consumed my time. If I have any time I yield it back.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired.

The yeas and nays have not been requested.

Mr. BIDEN. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is now on agreeing to amendment No. 2068 offered by the Senator from Delaware. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 7, nays 93, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—7

Biden	Fowler	Nunn
Burdick	Hollings	
Cohen	Levin	

NAYS—93

Adams	Durenberger	Lieberman
Akaka	Exon	Lott
Armstrong	Ford	Lugar
Baucus	Garn	Mack
Bentsen	Glenn	McCain
Bingaman	Gore	McClure
Bond	Gorton	McConnell
Boren	Graham	Metzenbaum
Boschwitz	Gramm	Mikulski
Bradley	Grassley	Mitchell
Breaux	Harkin	Moynihan
Bryan	Hatch	Murkowski
Bumpers	Hatfield	Nickles
Burns	Heflin	Packwood
Byrd	Heinz	Pell
Chafee	Helms	Pressler
Coats	Humphrey	Pryor
Cochran	Inouye	Reid
Conrad	Jeffords	Riegle
Cranston	Johnston	Robb
D'Amato	Kassebaum	Rockefeller
Danforth	Kasten	Roth
Daschle	Kennedy	Rudman
DeConcini	Kerrey	Sanford
Dixon	Kerry	Sarbanes
Dodd	Kohl	Sasser
Dole	Lautenberg	Shelby
Domenici	Leahy	Simon
Simpson	Symms	Warner
Specter	Thurmond	Wilson
Stevens	Wallop	Wirth

So the amendment (No. 2068) was rejected.

Mr. GRASSLEY. Mr. President, at last count, 46 of our Senate colleagues have joined as cosponsors to Senate Joint Resolution 332, a joint resolution sponsored by Senator DOLE which proposes an amendment to the Constitution of the United States authorizing Congress and the States to prohibit the physical desecration of the flag of the United States.

I do not intend to offer a prediction of the vote count.

But Mr. President, I want to provide this body with a vote count based upon how everyone should have voted if the Members cared to be consistent on their position on amending the Constitution, particularly the first amendment of the Constitution. This is how we should vote if we want to avoid presenting a double standard; if we are to maintain any sense of credibility.

Mr. President, opponents to a constitutional amendment to protect the flag argue that we should not amend the Constitution for that purpose.

Yet if Senators today cast their votes based upon whether or not they have sponsored or cosponsored constitutional amendments for everything from A through Z, everything under the Sun, then the vote today on Senate Joint Resolution 332 will be 99 to 1.

Mr. President, some refine their arguments against a constitutional amendment to protect the flag by trying to distinguish between the proposition of amendment the Bill of Rights, specifically the first amendment's speech clause in this case, and that of amending other parts of the Constitution.

I guess what they are arguing is that the rest of the Constitution is not as important, so it's OK to amend it.

But even if we concede this point, there are still 83 members of the U.S. Senate who have either sponsored, cosponsored, or cast votes to facilitate the passage of a constitutional amendment to the first amendment's speech clause.

Simply look back at the debate on Senate Joint Resolution 282 during April 1988. This was a constitutional amendment directly undermining the speech clause of the first amendment. It was offered in the name of reducing expenditures for campaigns, because the Supreme Court had ruled doing so was an unconstitutional infringement upon free speech.

During the debate on April 21 and 22, 1988, it was revealed that Common Cause, the American Civil Liberties Union, and the Washington Post all opposed this resolution because it violated the first amendment.

But that did not stop 50 Senators who cast their votes to facilitate the passage of this first amendment constitutional amendment with rollcall votes 107 and 108.

And now this Congress, Senate Joint Resolution 48 has been introduced with 25 Senators who have added their names as sponsor and cosponsor.

There are only 17 Senators who have not sponsored, cosponsored, or voted to facilitate the passage of a constitutional amendment to limit the speech clause of the first amendment.

They are as follows: Senators BIDEN, BOND, CHAFEE, COHEN, DANFORTH, DURENBERGER, GORE, HATFIELD, HUMPHREY, JEFFORDS, KENNEDY, KOHL, LIEBERMAN, METZENBAUM, PACKWOOD, ROBB, and AKAKA.

Of these 17, 4 have indicated they intend to vote in favor of the constitutional amendment to protect the flag.

So based upon past actions regarding the first amendment, Senate Joint Resolution 332 should pass by an overwhelming margin of 87 to 13.

All I can say is that I would hate to be in the shoes of some of our colleagues who must explain why they support constitutional amendments which would violate the free speech of millions of Americans, all in the name of so-called campaign reform, or as some have said, incumbent protection, but these same people won't support a narrowly drafted constitutional amendment that restricts conduct, not speech, that desecrates the flag of the United States.

It's simply inexcusable.

Mr. COATS. Mr. President, often the American flag's unique power to move and and inspire is only evident when displayed in times of crisis—like that day when it was draped over the caskets of those sailors who died on the battleship *Iowa*, or on the day when it was burned by chanting Iranian fanatics during the hostage crisis.

These unforgettable images provoke a kind of pride and anger that is easier felt than explained. They are emotions that do not need to be syrupy or sentimental, but they are rooted in one solid and extraordinary fact: that the flag somehow embodies the selflessness of thousands of men and women who died to preserve an American experiment in freedom.

But now the Supreme Court has reaffirmed the curious and disturbing new constitutional right. The Court once again determined that it was perfectly legal to burn the American flag as a form of political speech. This kind of desecration provokes in most Americans—including myself—a sense of barely restrained outrage, an outrage that is felt across this Nation.

It is not that Americans are insecure. We do not blindly follow traditions. We never have. But we do care deeply about symbols, particularly

that one symbol of ideas and values for which men and women have sacrificed and died in every generation. To desecrate the flag, I believe, is to desecrate their memory and make light of their sacrifice.

There is a type of patriotism that is held so deeply that it finds expression in concrete things like a patriot's crippled body, or in bits of colored cloth. For men and women who have risked death in service of a flag, it is more than just a symbol. It is a sacrifice you could hold in your hand—or trample underfoot in contempt.

The flag bears our pride in times of celebration. It bears our grief when it is flown at half staff. But it should not be forced to bear the insults of a caloused and deformed conscience.

The Court has now made it clear that protecting the flag will take a constitutional amendment. The support I have seen and heard for such an amendment is undeniable. I read it in my mail. It is clear at rallies. But most of all, I can see it in the determination fixed on the faces of our veterans.

These angry men and women are not political activists by nature, but they have been actively provoked. The Court's decision was rooted in a curious paradox, accusing those who want to protect the flag of debasing the values it embodies.

When veterans opposed to flag burning stripped away the court's veneer of sophistry, they found themselves accused of betraying democratic principle—an accusation belied by their sacrifice. They were, in effect, patronizingly lectured on their deficient respect for the Constitution—an odd lesson, especially for those crippled in the very defense of that Constitution. These wounds will not easily heal, and this issue will not easily die.

Tolerance is an important thing in a free and diverse society. But tolerance can never be rooted in the view that nothing is worth our sacrifice or our outrage because nothing is worth our sacrifice.

Chief Justice Rehnquist cautioned a stinging dissent in the previous flag case by saying:

> Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people—whether it be murder, embezzlement, pollution, or flag burning.

Justice John Paul Stevens added, referring to the ideals of American patriotism:

> If those ideas are worth fighting for—and our history demonstrates that they are—it cannot be true that the flag that uniquely symbolizes their power is not itself worthy of protection from unnecessary desecration.

Protecting the American flag is not required to preserve the Republic. Our Republic is not as fragile as that. But it is, I believe, a requirement of conscience—owed as a trust to those we ask to risk death in service of that symbol. This trust is fragile, and by the constitutional amendment we have a rare opportunity to strengthen it.

Yes, we as a people must be tolerant, but we must never adopt the enervating and cowardly disdain that strips us of patriotic conviction and dulls our ability to be offended by the desecration of vital symbols, symbols that mean so much to so many in this Nation.

In the world it is called tolerance,
Wrote Dorothy Sayers,
but in hell it is called despair * * * The sin that believes in nothing, cares for nothing, enjoys nothing, finds purpose in nothing, lives for nothing, and remains alive because there is nothing for which it will die.

A WISCONSINITE SPEAKS OUT ON FREEDOM AND THE AMERICAN FLAG

Mr. KOHL. Mr. President, soon this body will vote on whether or not to amend the Bill of Rights for the first time in its 200-year history. Like all of my colleagues, I have heard from many of my constituents who want their opinion to be included in the debate about the proposed constitutional amendment to prohibit flag desecration. Whatever their point of view, people have very strong feelings about this subject. One of my constituents, Roger Grace of Milwaukee, requested that I share an essay he wrote on the need to leave the Bill of Rights intact with my colleagues, and I am more than happy to do so.

Mr. President, I ask unanimous consent that Roger Grace's essay on the Bill of Rights and the American flag be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

> The first thing I want to make clear is that I love the flag of the United States. However, I must oppose the constitutional amendment banning physical desecration of the flag because I have a great love for the rights contained in the Bill of Rights.
>
> The Bill of Rights was created to preserve the rights we won in the Revolutionary War; so that our freedoms would never be taken away from us. However worthy the cause, to dilute the Bill of Rights is to court disaster. For, in the weakening of the Bill of Rights this once, you set a precedent for weakening the Bill of Rights. This precedent could make it easier to further dilute our greatest protection from tyranny.
>
> The flag is a symbol of freedom. The freedom of expression must extend to even the most heinous form of expression, like burning the flag that we revere, or we will spiritually desecrate the flag more severely than any match will ever desecrate the flag. Soldiers fought for the flag's symbolic protection of freedom. If you do not preserve the rights they fought for, you will make a mockery of their deaths.
>
> Because I revere freedom of speech and expression, I will put flag desecrators in the same category in which I put fundamentalists, Nazis, communists, KKK members and people who advocate violence unless all other alternatives had been used and didn't succeed; people who must be tolerated for the sake of freedom, even though I think they utter idiotic phrases that are offensive to any clear-thinking, unbiased person.
>
> I must reiterate that in rushing to pass the flag desecration amendment, you will be doing what none of the enemies of freedom have been able to do: Desecrate the symbolic and spiritual meaning of the flag that we revere.
>
> If the flag could speak I believe it would say, "I don't need protection from those who fear what I stand for. I need protection from well-meaning people who in trying to protect me, wound the very essences of me. I have been torn, but I'm still whole. I have been stepped on, but I'm still standing tall. I have been dragged through the mud, but I'm still a beacon of the freedoms that all men yearn for. I have been burned, but where are the ashes that show their victory, for I'm still flying—a proud, majestic symbol of freedom. I have not been defeated by anything my enemies have done to me, but remain an integrated symbol of the best that mankind can be. Don't wound the value of my symbolism by denying rights in your rush to protect me. My friends, I beg you, do not do what my enemies could not do. Don't defeat my purpose."
>
> I can never desecrate the flag by supporting a constitutional amendment that dilutes the Bill of Rights.
>
> Although I fear it is a lost cause, I must speak against this. For as some one said, "The only cause worth fighting for is a lost cause." I think James Stewart said that as Mr. Smith.

Mr. KENNEDY. Mr. President, today the United States is not the only nation in the world considering a ban on the desecration of its flag. The totalitarian government in China is about to outlaw burning, tarnishing, tearing, treading on, and other acts harming the Chinese flag.

The United States, with its historic tradition of tolerance of dissent, should not emulate the brutal dictatorship in China. Our country, our Constitution, and our flag stand for something more than the enforced obedience that the Chinese Government demands.

True, we cherish our flag for its design, its colors, and its fabric; but we cherish it most because of what it stands for—the ideals of liberty and tolerance and justice that are written in the Constitution and enshrined in the heart of every American.

Those ideals are captured in the Bill of Rights, especially the first amendment, which protects the fundamental freedoms that the flag represents, and for which the American Revolution was fought. For two centuries, the Constitution and the Bill of Rights have served as the enduring charter of our liberties, a unique symbol for freedom-loving peoples throughout the world.

And for two centuries, nothing—not a bitterly divisive civil war, not a shattering depression, none of the other dramatic changes that have transformed America from a cluster of quarreling colonies to the world leader

it is today—has caused this Nation to amend the Bill of Rights.

Yet now, we are being asked to do so—partly because of concern over the antics of a few obnoxious protesters—but largely because of a partisan campaign to misuse the flag and abuse the Constitution for political advantage. Stirred by fears of sound bites and 30-second spots, Members of Congress who should know better are expressing a willingness to sacrifice the Bill of Rights for what they hope will be a benefit in the polls.

But the first amendment is fighting back. It is by no means clear that the cynical calculations of those with little faith will prevail. even at the polls. The more the American people hear about what is really at stake in this debate, the more they reject the idea of tampering with the first amendment.

There can be no doubt that flag burning is a despicable act. It casts contempt on our country, and on the proud symbol under which so many Americans have fought and died in service to its ideals. Flag burning sends a deeply offensive message that the overwhelming majority of Americans categorically reject.

But the greatness of the first amendment is that it protects their speech, too. It protects not only speech we admire, but also speech we abhor. No constitutional guarantee is more central to our democracy than freedom of speech. If the Government can censor its critics, then the ideal of free and open debate—so indispensable to our democracy and to our freedom—becomes an empty promise.

It would be particularly ironic to diminish that freedom now, at the very moment when emerging democracies around the world look to the United States as the world's preeminent example of liberty. What message do we send to the nations of Eastern Europe, if we restrict the first amendment, the very cornerstone of American democracy?

The proposed flag burning amendment will do more violence to our Constitution than any flag burner could ever hope to accomplish. For the first time in 200 years, an amendment would be enacted that creates an exception to the Bill of Rights.

Any amendment to remove the constitutional protection for flag burning—no matter how well-meaning or carefully drawn—would endanger our remaining liberties. Throughout our history, freedom of speech has rested on the idea that the Constitution requires us to tolerate opposing viewpoints—not just those we approve, but those we despite as well. That tolerance is a fundamental part of our democracy. We proudly teach it to our children; it is perhaps the most distinctly American virtue. It is what makes us free; it is what makes us proud to pledge allegiance to the flag.

A constitutional amendment would undermine that broad tolerance. Freedom of speech would then protect only some of us, not all of us. If we make an exception today to the first amendment because of a few isolated acts of flag burning, what will we say tomorrow, when the majority is again offended by some other form of unpopular protest? There is no fair or logical way to draw the line. We must take our stand now, and reject any constitutional amendment that limits the first amendment.

As Pastor Martin Niemoller said a generation ago:

> When Hitler attacked the Jews * * * I was not a Jew; therefore, I was not concerned. And when Hitler attacked the Catholics. I was not a Catholic, and therefore, I was not concerned. And when Hitler attacked the unions and the industrialists, I was not a member of the unions and I was not concerned. Then, Hitler attacked me and the Protestant church—and there was nobody left to be concerned.

Today, we are being asked to attack the flag burners. It is time for the Senate to be concerned—and to say no.

It is true that the Supreme Court has recognized that the first amendment does not protect obscenity, or libel, or fighting words, or shouting "fire" in a crowded theater. But not one of those judicially recognized exceptions concerns political protest, which is at the very core of the freedom of speech protected by the first amendment.

It is wrong to desecrate the Constitution to prevent desecration of the flag. We do not honor the flag—we dishonor it—when we diminish the freedoms for which it stands.

A constitutional amendment would also undermine the separation of powers that has protected our constitutional freedoms throughout our history. The brilliance of the Constitution's framers is clearly demonstrated by their concept of an independent Federal judiciary, sworn to uphold the Constitution against the ides of public outrage.

For more than 200 years, we have trusted the courts to determine when expression is protected by the Constitution, because judges insulated from public pressure can best evaluate the claims of unpopular minorities. But adopting a constitutional amendment will upset this separation of powers. Elected officials will decide when minority views are worthy of protection. If we adopt this precedent, no unpopular minority can safety assume its rights will be preserved.

Next year, in 1991, America will celebrate the bicentennial of the Bill of Rights. It would be the height of hypocrisy for Congress to commemorate that historic anniversary by proposing to amend the first amendment for the first time in our history.

The proposed constitutional amendment will not bring flag burning to an end. Love of country cannot be legislated; it springs from affection for the democratic principles, the free traditions, and the generous and noble character that are at the heart of America's greatness.

Americans are outraged by flag burning not because the Government tells us that we must be, as the Chinese Government tells its people, but because we love the country that our flag represents, and because we are free to do so.

"Punishing desecration of the flag," Justice Brennan wrote for the Supreme Court earlier this months, "dilutes the very freedom that makes this emblem so revered, and worth revering." As former Solicitor General Charles Fried testified, "Shawn Eichman and Gregory Johnson can burn a flag. They cannot burn the flag."

We respect the flag most—and protect it best—when we honor the freedoms for which it stands. I urge my colleagues to reject the proposed constitutional amendments. After two centuries of unparalleled success for our free society, this Congress should not be the Congress that begins to dismantle our constitutional liberties.

I yield the floor.

Ms. MIKULSKI. Mr. President, today is a very important day because the U.S. Senate will be continuing its consideration of a constitutional amendment to amend the Constitution to deal with legislation protecting the flag.

Mr. President, I take amending the Constitution very, very seriously. I am here because of three constitutional amendments. I am a U.S. Senator because of three constitutional amendments. The first reason I am a U.S. Senator is, because of the populist movement, the U.S. Senate passed a constitutional amendment giving the people the direct choice of choosing the U.S. Senate, and taking it out of the hands of the legislature. The other constitutional amendment that helped me was giving women the right to vote, another constitutional amendment that expanded democracy.

Mr. President, I am also here because of the Bill of Rights. I never thought I would be in politics, Mr. President. I grew up in an ethnic, working class neighborhood. My mother and father worked in a little neighborhood grocery store. They worked very hard so that I could go to Catholic schools. You see under our Constitution in this country, parents had freedom of choice. There was no State-determined reigion and no mandated particular form of education. Our Government said you had to go to school, but it did not say where you had to go to school.

Under the first amendment, we could practice our Roman Catholic faith. I could go to the Catholic schools where the nuns taught me how to be a Catholic, and how to be a good citizen. I learned how to do good, and through their education hopefully how to do well.

Mr. President, later on, as I had my masters degree in social work and was fighting the war on poverty, I was invited to a meeting in St. Stanislas Church where the community had gathered, again under the freedom of our Constitution, because their homes were about to be taken for a 16-lane highway.

Mr. President, I organized a protest movement. I exercised free speech and freedom of expression. We challenged the thinking of city hall and all the road planners. But the way we challenged it was, we organized a festival in the very neighborhood where they wanted to put a highway. I exercised my freedom of speech on that first festival when I said the British could not take Fells Point, the termites could not take Fells Point and, believe it or not, the State Roads Commission would not take Fells Point.

Through other citizens, I helped organize a mass-based community organization called SCAR, Southeast Community Against the Road. Well, that mass-based group liked what I was saying so much, they encouraged me to run for political office.

Mr. President, 19 years ago I did. I challenged that establishment. I beat two political machines. I went in a neighborhood where they said no woman could win, where no one who did not have the backing of the machine could win, and certainly no one who had been active in the civil rights movement could win.

Well, now you know the rest of the story, Mr. President. I went to the city council; I came to the United States Congress; and, along with you, 4 years ago, I took my oath in these chambers and became 1 of only 16 women in all of American history ever to become a U.S. Senator. And I am also the first woman of Polish extraction ever to serve in the Congress.

Mr. President, I know the power of the Constitution and I know the power of amending the Constitution. Because the amendments have continually expanded democracy, I am in the U.S. Senate. I did not go to prison. In another country, those who protest Government, challenge existing policy, are often not only sanctioned but imprisoned. Here, dissent, protest, done in a lawful, unviolent way, community organizing was rewarded by the people, because I spoke for them and their frustration.

And, today, I also speak for the people. I am very frustrated about what is going on in our country, Mr. President, because I think that there is a war going on against our culture. I agree with those who express that concern. I believe that, yes, there is a war going on against our own people and our own symbols. I am deeply disturbed about the desecration of the flag. I am very concerned about the other activities that are going on. I talk about not only the desecration of the flag, but what we also see in some of the other activities even funded by our own Government, the desecration of religious symbols. When I listen to music, or turn on TV, I see a culture that denigrates women. We look at soap operas so foul that you would have washed out their mouths with the very soap that they peddle, and I am concerned that our culture is becoming vile, vulgar and violent.

When you go out into the neighborhoods the way I do, and you talk to moms and dads, they will tell you the toughest job in this country today is being a mother and a father; that while they work at home to teach their children the values of our society: Love your neighbor; love your country; be a good kid; honor your father and your mother; respect each other—they feel that no one is looking out for them. The very values they teach in the home are being eclipsed and eroded by the pop culture that we surround ourselves with.

We see the fact of this. Rape in a suburban community in my own State is up 167 percent; 167 percent in a suburban community. Child abuse is on the rise. And we all know about the intensity and increase of hate crimes.

Mr. President, there is a part of me that wants to fire a salvo today to protect our culture, to protect our society, to look out for those moms and dads, to fire that salvo by drawing the line.

Mr. President, the more I considered that, and the more intense my feelings were, I found myself really praying for guidance, and I say that with humility. I wanted to speak out against this vileness and violence that I see. I wanted to organize meetings, town hall meetings to talk about what is going on. I wanted to organize PTA meetings to plan strategies. In essence, Mr. President, because I am so concerned about this war against our culture, I wanted to live the first amendment. I wanted to pray. I wanted to speak out. And I wanted to organize.

So, Mr. President, as I come here today, very thoughtful, I concluded that you do not change the culture by changing the Constitution. That is not the way we should do it. Mr. President, I believe that we change the culture by living the Constitution, by speaking out, by organizing, by asking God to give us the guidance for ideas that are beyond us right now.

Mr. President, I believe we should not desecrate the flag. I voted for legislation to prohibit it. When they ask me to vote today for legislation to prohibit it, I will do that. But, Mr. President, today I will not vote to change the Constitution.

Yes, I believe we need to change the law. And, you know what, Mr. President, I think we need to change the Supreme Court. Their 5-to-4 decisions leave a lot to be desired, both in the law books and in the communities.

But, Mr. President, today I ask, with all the passion and patriotism in me, that for those who speak about constitutional rights, who talk about their freedom of speech, who talk about their freedom of expression—yes, we give you a law to enable you to do that. But we call you also to a new kind of thing, which is community responsibility. If we allow you to march and organize, remember the community and the responsibility and follow a nonviolent strategy.

Let us ask of ourselves what we ask of Nelson Mandela, to organize and speak out in a nonviolent way. When we desecrate symbols we desecrate each other. Mr. President, we ask people who use our airwaves, who have access to the young minds of our country, to also exercise community responsibility. We do not want to inhibit expression, or freedom of expression. But we do want to have a culture that calls people to their highest and best mode of behavior. And I do not think we are doing that, in our society.

Mr. President, not everything goes. We cannot build a society for the 21st century that advocates permissiveness, that advocates no responsibility, that simply says "I want my rights." Well, you know what, we have them. But for every right there is a responsibility. For every opportunity, there is an obligation.

I thank the dear Lord, and the people of Maryland, who sent me here today. I hope when I am in that Fourth of July parade, the veterans will know today I am voting for what they fought for and all the people who work every day to make our country great. When I cast my vote, I hope I cast my vote to continually use the Constitution to expand democracy and not to constrict it.

Mr. President, that is my position. I hope it helps provide guidance to the other Senators. I yield the floor.

Mr. DIXON. Mr. President, there has been a great deal of discussion on the merits and demerits of an amendment to the Constitution prohibiting the desecration of the flag. I support Senate Joint Resolution 332, the constitutional amendment before us.

I choose to support an amendment to the Constitution because I believe the amendment before us would be an effective check on the abuse of our national symbol while not undermining the principles of free speech. Adoption of this amendment is the only effec-

tive way to legally protect the physical integrity of the flag.

Let me say from the outset that I view this vote as an individual decision. This is not, and should not be, a partisan issue.

I believe the arguments for a constitutional amendment are compelling. The Government has an interest in the preservation of the flag, and the Supreme Court has affirmed such an interest.

In a 1969 Supreme Court case, Street versus New York, former Chief Justice Earl Warren said,

> I believe that the States and Federal Government do have the power to protect the flag from acts of desecration and disgrace * * * [I]t is difficult for me to imagine that, had the Court faced this issue, it would have concluded otherwise.

Former Justice Black, concurred with former Chief Justice Warren and added:

> It passes my belief that anything in the Federal constitution bars a State from making the deliberate burning of the American flag an offense.

In that same case, former Justice Abe Fortas wrote that:

> [T]he flag is a special kind of personality * * * A flag may be property, in a sense; but it is property burdened with peculiar obligations and restrictions. Certainly * * * these special conditions are not per se arbitrary or beyond governmental power under our Constitution.

The Supreme Court's 1968 decision in United States versus O'Brien, upheld a law which convicted a man for burning his draft card. The Court found that not all conduct, considered speech by some, is protected. The Court rejected "the view that an apparently limitless variety of conduct can be labeled speech whenever the person engaging in the conduct intends thereby to express his idea."

Some have attempted to make a distinction between acts which tangibly threaten the well-being of an individual, such as the potential harm caused to individuals when someone falsely shouts "fire" in a theater, and those acts which do not threaten the physical well-being of an individual, such as flag-burning. The Court, in United States versus O'Brien, made no such distinction.

As some may recall, in that case the defendant argued that the act of burning his draft card constituted symbolic speech, or "speech plus." The defendant was protesting the Vietnam war, and expressed his opposition in this graphic way. There were thousands of ways to protest the war, and the Court held that burning one's draft card was not one of them.

I acknowledge that during that time, it was mandatory for those who were draft eligible to carry a draft card. However, the issue on which the conviction was upheld was on the question of whether the defendant's actions constituted speech. The act of burning a card could not hide behind the cloak of free speech as a justification for the act.

We are faced with a similar scenario in this matter. What is the Government's interest in protecting speech, and in protecting the flag?

Justice Stevens, writing in the most recent Eichman case, makes a key point. He states:

> It is * * * clear that the prohibition (of flag burning) does not entail any interference with the speaker's freedom to express his or her ideas by other means. It may well be true that other means of expression may be less effective in drawing attention to those ideas, but that is not itself a sufficient reason for immunizing flag burning.

Justice Stevens continues:

> The freedom of expression protected by the first amendment embraces not only the freedom to communicate particular ideas, but also the right to communicate them effectively. That right, however, is not absolute. * * *

The Court has placed narrow, limited restrictions on behavior and speech on past occasions. Senate Joint Resolution 332 is another example of an attempt to set reasonable limitations on acts, joined by words, which are justified as speech. Joining verbal communication with behavior does not always afford sufficient protection of the behavior under a broadly defined category of speech.

We have attempted to redress this issue on a number of occasions. The courts have held that a statutory approach will not work. The only permanent solution to this problem is through the adoption of a constitutional amendment.

Mr. President, the vote on this amendment is not a referendum on one's patriotism, and those who seek to use the vote in this manner are guilty of the worst abuse of the political process. I will vote for this amendment because I believe it is appropriate as a legal remedy to a subject that merits redress. Those who vote against this amendment do not hold the flag in any less regard than I do.

Patriotism cannot be bought and sold, or proven in 30 seconds. It is intangible. It does not rise and fall with the polls; cannot be measured on a chart—or be subject to some sort of litmus test.

True patriotism, it was once written, is of no party.

Nor is it, in the words of Adlai Stevenson:

> A short and frenzied outburst of emotion but the tranquil and steady dedication of a lifetime.

My interest in preserving the flag will continue long after the debate on this amendment has ended. I simply do not believe the actions of a few people to burn and desecrate the flag are constitutionally protected. I have read the arguments in the Court's decisions in Johnson and Eichman, and have found the dissents persuasive.

Mr. President, nobody advocates burning the American flag. The question before us is how best to protect our flag. We agree on the principle of respect for our flag. However, we differ on the means for upholding that principle.

The Senate will express its will shortly. We have held numerous debates on this subject. The Judiciary Committee has held many hearings, and should be congratulated on its commitment to granting ample opportunity for discussion and debate.

The American people have made their views known on the issue. The House has expressed its will. It is now our moment. I urge my colleagues to support Senate Joint Resolution 332.

I thank my colleagues.

Mr. SIMON. Mr. President, I have participated in the debate on the proposed constitutional amendment on the flag on previous occasions on this floor, and I have examined this issue in considerable depth as chairman of the Judiciary Committee's Subcommittee on the Constitution.

I realize this is an issue that stirs strong emotions on both sides, and I have tried to explain as clearly as I can to my constituents why I cannot support this amendment to our Bill of Rights. I recently summarized my views on this issue in remarks in Chicago, and I ask unanimous consent that these comments be printed in the RECORD.

There being no objection, the comment were ordered to be printed in the RECORD, as follows:

SYMBOLS OF LIBERTY AND LIBERTY ITSELF

(Remarks of Senator Paul Simon before the American Library Association, Chicago, June 23, 1990)

My message today is about freedom.

In recent days, the House of Representatives, by a sufficient minority of 177 courageous legislators, rejected a constitutional amendment to criminalize flag-burning.

It was a victory for freedom. But we are far from the end of the war to preserve the Bill of Rights. A push is on in the Senate, with the hope that if the Senate passes the amendment, enough votes can be changed in the House to propose the constitutional amendment to the states. We probably will vote on this in the Senate next week.

This battle can be won only through education, through a reaching out to all citizens to renew their commitment to freedom.

The Stars and Stripes are on display at my home in rural Southern Illinois every day of the year. I am proud of the flag and what it represents. I served overseas in the Army under the flag.

Flag-burning is a disgusting and obscene gesture hurled in the face of our people.

It is an act which should be subject to statutory limitations, just as burning currency is.

But a law to permit such limitations, a law enacted with my support, has been struck down in a 5-4 ruling of the Supreme Court.

The understandable emotional response to that unpopular decision is the move to amend the Bill of Rights for the first time in more than two centuries.

Rushing to amend the Constitution, when there is an unpopular action taken, is not a new phenomenon in our nation's history. When many felt the nation was threatened by polygamy, a serious effort to change the Constitution occurred. A few decades ago when criminal elements appeared on national television, taking the fifth amendment and refusing to testify, polls showed a majority of Americans wanted to get rid of the fifth amendment. When a few weeks ago the Supreme Court handed down a 5-4 decision on a Kansas City, Missouri matter involving the ability of the federal court to impose taxes, within hours a constitutional amendment was proposed and speeches were being made on the Senate floor.

While public opinion polls show substantial support for a constitutional amendment on burning the flag, those—like librarians—who have a sense of history, tradition, and the freedoms upon which this country is based, should call upon us to be more thoughtful.

We need you to join those who are speaking up. Listen to letters I have received from two veterans. John M. Field of Northbrook, Illinois wrote: "I received the bronze star . . . and I believe that I am as patrotic as any of the super-patriotic flag-wavers. Real patriotism means keeping intact the foundation of our freedom." And a Korean veteran, George Hails of Arlington Heights, Illinois, writes: "Senator, my political views are probably farther to the right than Attila the Hun, but those first ten amendments do not need any tampering with."

What has caused this sudden rush to amend the Bill of Rights? Is the nation inundated with flag-burners?

In a nation of 250 million people, four people were arrested last year for flag-burnings. In 1988, three people were arrested and in 1987, two.

If we amend the Constitution, are we likely to have fewer flag-burners? I doubt it. A flag-burner is an attention-seeker whose act of anti-American expression is as pathetic as it is provocative. If we gave these few people less attention, the problem would disappear. I am 61 years old, and I have never seen a flag burned, and I doubt that any member of Congress has. We do not face a great national threat. And we must recognize this simple reality: Patriotism results from what we stand for as a nation. It cannot be imposed upon people by law, and it cannot be created by constitutional amendments.

Right now mainland China is promulgating harsh penalties for flag-burning. Is that likely to make the people of China yearn less for freedom? Will that create some new sense of loyalty to a regime that murdered freedom-seekers at Tiananmen Square? To ask these questions is to answer them. While we are applauding the new-found freedoms in central and eastern Europe, this nation's leadership for freedom should not be tarnished by a change in our Bill of Rights.

And if we amend the Constitution to prohibit flag-burning, what about burning the Constitution? What about burning a Bible, or a cross, or a Star of David? All of these acts offend me, but must we rush into constitutional amendments simply because offensive actions are taken?

If a constitutional ban is ratified, the flag-burner's status will be elevated to that of a martyr. For a penalty he or she will be most willing to pay, he or she will be rewarded by receiving more of what was sought in the first place: Attention.

Is this what we hope to accomplish?

Freedom of expression is the most basic of our freedoms. This seemingly simple emotional appeal for a constitutional ban on flag-burning is frought with peril to that basic freedom.

In opposing this amendment, we need not abandon our sense of outrage. I remain outraged by acts of disrespect to our flag, just as I am by appeals to ethnic or racial hatred and by poverty and injustice and official irresponsibility.

And I am outraged by this attack on the Bill of Rights. We are witnessing an attack on liberty in the guise of patriotism.

My colleagues and I who oppose this amendment have been threatened with political retaliation, threatened with being attacked in "a good 30-second spot" for our defense of the Constitution.

Those at the highest levels of our government who use this issue to divert attention away from our momentous challenges do a disservice to the nation. Directing hatred toward a handful of flag-burners cannot hide the needs of the poor and of the homeless and of the elderly and of the illiterate.

Yes, I have a sense of outrage toward those who burn our flag. But, I am also outraged at those who have enriched themselves in the savings and loan scandal, who have defrauded our citizens of billions of dollars.

I am outraged at a deficit that clouds our future, that both political parties largely ignore. I am outraged by a system of campaign financing that makes our government more responsive to the whims and the wishes of the economically more fortunate than to middle-income and less fortunate Americans. I am outraged that this richest of the world's nations has people sleeping on the streets. I am outraged that quality education remains a distant, unachievable goal for millions of American young people. I am outraged that when the military threat dramatically lessens, there is no commensurate lessening of spending on weapons and nuclear warheads. I am outraged that long-term care is the right of people in all industrial nations except South Africa and the United States. I am outraged that decent health care is still denied millions of Americans.

But instead of dealing with these problems, we are engaged in a fight over symbols that diverts our attention from the real problems and threatens to erode our most basic document, our Constitution.

There are those who would make the position on this issue a litmus test for patriotism. The reality is this is more of a test of the caliber of our leadership.

But it is a problem not simply for those of us who sit in Congress, but for all Americans, including librarians. The question that you will answer with letters to your leaders, or with your indifference, is how important the Bill of Rights is to you.

We must not permit isolated attacks on the symbol of our liberties to become a justification for a general attack on liberty itself.

Mr. ROTH. Mr. President, last October 91 Senators, I among them, analyzed the flag protection statute and found it consistent with their oath to obey the Constitution. The Senate passed the flag protection statute by a vote of 91 to 9. Senators found that there was no inconsistency between protecting the flag by statute and the right of free speech guaranteed by the first amendment to the Constitution. That was last October, after there was ample time to review the Supreme Court's decision Texas versus Johnson, a 5-to-4 decision that found the Texas flag-burning statute to violate the first amendment.

Now that we are nearing the moment of truth on Senate Joint Resolution 332, a substantial number of Representatives and even Senators are urging us to obey our oath and hold the Bill of Rights superior to flag protection. These arguments must have been dreamed up by a political consultant because they have a certain superficial charm without having any basis in reality.

How does voting for a constitutional amendment violates one's oath to obey the Constitution? The suggestion is a little silly. The Constitution contains article V, and article V permits Congress to propose constitutional amendments to the States for ratification. Our tradition resounds with the exhortation of Thomas Jefferson that Americans should change their political system every 200 years. In a system that purports to embrace popular will, it is difficult to see how voting for a constitutional amendment that the people want could violate one's oath, particularly in view of the Senate's judgment that flag protection violates no part of the Constitution. If, last October, flag protection did not violate the first amendment, why does it today?

The Constitution established three branches of Government, each supreme in its own sphere. Each branch owes allegiance to the same Constitution. Thus each Senator, like the President or a Supreme Court Justice, takes an oath to support the Constitution. None of us take an oath to support another branch's interpretation of the Constitution; the Constitution does not require that. Each branch owes respect to another, but not abdication of responsibility in interpreting the Constitution.

This is commonly accepted practice. When the President for example interprets his foreign policy powers, this body has been known to disagree; each branch is interpreting the Constitution even though the issue may fall within the President's jurisdiction. However, Congress seems more reluctant to disagree with the Supreme Court. One of the reasons for this reluctance is that a liberal Congress is fearful that the country is becoming more conservative, so that the Supreme Court—which has, even lately, been relatively more liberal—appears to be their best hope. The relentless drive of liberals to increase the role of the judiciary in American life at the expense of the branches elected by the people is manifest here. And that is why members who last year found no

inconsistency between flag protection and free speech now piously intone that they, when forced to choose between the Bill of Rights and protecting the flag, choose the Bill of Rights.

There is, of course, no need to choose. Ninety-one Senators rendered that judgment last year, notwithstanding a Supreme Court decision—and nothing has changed. Furthermore, one may wonder how sacrosanct were the Bill of Rights before the Supreme Court narrowed the second amendment right to bear arms, before the Supreme Court emasculated States' rights once recognized under the tenth amendment, or before the Supreme Court transformed the fifth amendment's due process clause from conservative to liberal. Last century we amended the Bill of Rights no less than three times to overturn the Dred Scott decision. Today's reverence for the Bill of Rights is no more than liberal thanksgiving for more recent Court victories that they may not have been able to win at the ballot box.

So do not be fooled by what is going on here. Even though 91 Senators, true to their oath to the Bill of Rights, found nothing wrong with flag protection, some of them now fear that a constitutional amendment might undercut the current reverence they have been able to generate for their judicial political agenda. And well they should fear; one-half of the 16 constitutional amendments after the Bill of Rights have been adopted to overturn Supreme Court decisions. Erroneous decisions of the Supreme Court are the single most common reason for amending the Constitution.

The Supreme Court decisions in Texas versus Johnson and United States versus Eichman are erroneous decisions that need correction. To me, it seems ironic that a Supreme Court that has found that the right of free speech does not embrace obscene words, copyrighted words, perjured words, fighting words, or libelous words also has concluded that the conduct of burning the flag is protected from prosecution by the first amendment. All of that speech is not "speech," yet burning the flag is "speech" in the eyes of five of the nine Justices.

For two centuries the law was otherwise. Conduct, even conduct undertaken to communicate a message, could be prohibited where it offended the community. This constitutional amendment, if adopted, would not send us on some unknown course, rather only return us to where we as a nation were for two centuries. Any protestor who would seek to convey a message by spray painting the Lincoln Memorial or assaulting a Member of Congress is, as far as I know, still prosecutable for his conduct regardless of his message. The Supreme Court found that draft-card burners could be prosecuted. But why not flag burners? According to the Supreme Court, a draft card is a part of the Selective Service System and, therefore, has value which the Government may protect. The flag, according to the Court, apparently has no governmental value. In that conclusion, the Court is wrong.

It is true that the flag is a symbol. But that does not mean that it has no value. Every nation has a right to a flag as an incident of sovereignty. The American Government has an intangible property interest in the flag, in every American flag, in many respects as an artist does in copies of his work or a corporation does in its trademark.

We are a great and diverse people—black, white, yellow, brown, and red. Our forefathers came from all parts of the globe. We practice many religions—Catholic, Protestant, Jewish, and others—as well as none. Yet for all our diversity, we are united as one under the flag. The flag does have a value, a value more significant than a draft card. There are values more important than efficiency. If the efficiency of the millitary draft is a value we may recognize, so is the value of nationhood itself. The Court was wrong. We should terminate this embarrassment by proposing a constitutional amendment. The flag is the people flag, and we are the people's representatives. Let us do their will. Let the people decide. That is the way our system was established to work.

Mr. GRASSLEY. Mr. President, I rise again to very strongly support Senate Joint Resolution 332, the constitutional amendment to protect the flag of the United States.

I believe that protecting the flag is a matter of priorities and values.

My oath of office demands that I preserve, protect, and defend the Constitution. I do not take my oath lightly.

I believe that the flag protection amendment will not cause the destruction of the Constitution, the Bill of Rights, or the first amendment.

I believe that Senate Joint Resolution 332 will help to defend the first amendment.

I believe that protecting the flag is consistent with other constitutional priorities and values such as domestic tranquility, decency, civility, and the responsibilities of individual members of the American community in upholding these values.

Let's remember one thing: The freedom to burn the flag is not a fundamental freedom. It did not exist until June 1989, when five Justices of the Supreme Court decided it was.

In fact, some of the most respected civil libertarians that ever served on the Court—such as Chief Justice Earl Warren and Associate Justice Hugo Black—never through that there was any constitutional problem with punishing flag desecrators.

Consequently, we are not considering a core right grounded in the Constitution.

The flag protection amendment does not change the first amendment because there is nothing wrong with the first amendment.

What we are confronted with—as we were 1 year ago—is the present Supreme Court's incorrect interpretation of the fundamental rights grounded in the first amendment.

I believe the flag protection amendment will help in the restoration of the original understanding of the first amendment: The protection of the ability to discuss and criticize the Government and to advocate political change.

It is important to remind my colleagues that our debate over the flag illustrates that our constitutional rights do not exist in a vacuum.

One person's exercise of a constitutional right can often trespass on another's rights.

The first amendment has been interpreted in recent years to not only include political speech, but outrageous acts of arson, commercial speech, nude dancing, and host of other acts and concerns.

Given this state of first amendment jurisprudence, it is no wonder that the lines that once distinguished our fundamental freedoms, have been blurred.

In essence, the debate over the flag is evidence of the battle between two conceptions of how the Constitution ought to be construed.

On one side, the opponents of the flag amendment are all too eager to remind us of the venerable tradition of the "continuing expansion" of individual rights and liberties.

They view any attempt to circumscribe expressive actions—such as burning the flag—as a dangerous precedent to capture the genius of the American political tradition.

However, those of us who favor the flag amendment need to remind our colleagues on the other side of this issue of one point:

The community itself has rights that deserve protection. These include physical safety or the security of property, known as domestic tranquility—and the achievement of emotional well-being, known as the pursuit of happiness.

Most importantly, let's remember that the first amendment has never been construed to provide absolute license for all expressive acts. Reasonable time, place, and manner restrictions have been upheld as constitutionally permissible because the community values of our Republic I have described above are worthy of protection as well.

One wonders whether such a view remains after Texas versus Johnson and United States versus Eichman.

Let's ask: Just what is the logical extension of the Court's rationale in these decisions?

Should publicly urinating or defecating on the flag to show contempt for the flag and the country it represents be protected by the first amendment as a fundamental right?

Or would such acts be liable to public health and safety regulations?

I maintain that flag burning can and should be proscribed.

It is common sense that while it is a badge of honor to have died, picking up a fallen flag from the ground—as it was during the Civil War—it is also a constitutional right to allow someone to spit on, rip, or burn the same flag?

The debate over the flag seems to come down to this: The Constitution contains a competition between protected rights and responsibilities.

How is this conflict to be resolved, especially if the text of the first amendment and recent Supreme Court decisions give little guidance?

I think the amendment before us places that decision where it should be: In the hands of the people and their State legislative representatives.

The adoption of the flag protection amendment will not result in our starting down a slippery slope toward more constitutional amendments that will erode our fundamental freedoms.

Nor will adoption of the flag protection amendment place the stability of our Government in jeopardy by establishing government-by-plebiscite.

Successful passage of the flag protection amendment will not result in a flood of changes in the Constitution. There has not been any flood of amendments since the last amendment—the 26th—was adopted in 1971.

And let's not forget just how hard it is to get an amendment enacted by State legislatures. Just ask the proponents of the equal rights amendment, who were given two chances to convince 38 States to adopt it.

Mr. President, there are those who say that late-20th century America cannot be trusted to act with the restraint of the Framers of the Constitution. They contend that supporters of Senate Joint Resolution 332 are "wrapping-themselves-in-the-flag."

Some even claim that we are engaged in form of idolatry called "flag worship." I do not worship the flag. I respect and honor it. I worship God.

In fact, some of the opposition to the flag protection amendment is based in its own brand of idolatry:

> The notion that the Framers believed that the rights enumerated in the first 10 amendments to the Constitution should never be altered.

I'd like to hear some of these same opponents of Senate Joint Resolution 332 in a discourse on the meaning of the 2d or 10th amendments.

It would appear to this Senator that these opponents—as sincere as they may be—seem to be "wrapping-themselves-in-the-bill-of-rights." It would appear that some opponents may be attempting to exploit their blind loyalty to a national symbol for partisan purposes.

The first 10 amendments to the Constitution are not absolute or inviolate.

The 13th, 14th, and 16th amendments tampered with the bill of rights. They altered the rights of the States and general property and the Republic still stands.

Of course, it is always proclaimed that these amendments expanded individual rights; and that this kind of tampering is consistent with the original understanding of the constitutional framers.

I'm afraid we cannot resolve that debate here today. However, I think we must take a serious look at what appears to be antidemocratic—small "d"—undertones inherent in the opposition to the flag protection amendment.

This sentiment may ultimately pose more danger to the stability of the American Republic.

The Constitution contains an amendment process on purpose. The framers did not add article 5 as some "sop-to-the-masses," in the real hope that it would never be used.

I think it is plain that the Framers believed that the people are the ultimate sovereigns of the country. The people should have a role in determining the future course and structural development of their Nation.

The flag protection amendment is just such an issue.

The Supreme Court's decisions on flag desecration involve a method of expression; not about the expression of an opinion.

To interpret the Constitution to allow such a method of expression not only does damage to the first amendment, but it does damage to the national morale.

If the first amendment comes to be seen simply as a license for anybody to do anything—so long as there is some faint political content—then the first amendment will fall into disrepute. It will become the last refuge of the scoundrel.

Ultimately, we should ask ourselves how does desecrating the flag help to "create a more perfect union;" or how does it help to "insure domestic tranquility?"

If we answer ourselves honestly, the flag protection amendment becomes a step toward a restoration of the Constitution to the people.

Although any attempt to pass an amendment to the States to protect the flag is apparently dead for this Congress, I believe it is right that the Senate take a stand on this issue.

Once again, I urge my colleagues to support its passage.

Mr. DURENBERGER. Mr. President, as I have previously indicated, I will vote today against the pending constitutional amendment. The action by the House of Representatives last week to defeat this amendment has removed some of the drama from this debate, but it has not removed all its significance. Every debate about the Constitution is important, and deserves the attention of the American people.

As I said last week, Mr. President, the argument over this amendment has and will continue to be fraught with emotion and conflict. Like any red-blooded American, I cannot watch the film clips of those who burn our flag without anger welling up inside me. The individuals who sparked this controversy, who have already received mountains of attention more than they deserve, engaged in a cynical and hateful act against America. But in an era of shock journalism and mass merchandized politics, the acts of an infinitesimal minority are magnified hundreds fold and pushed onto the American consciousness. Our challenge here in the Congress is react in the proper way.

This boils down to a choice between fundamentals. Justice Frankfurter wrote in 1940:

> The Flag is the symbol of our national unity, transcending differences, however large, within the framework of the Constitution.

I believe that sets the issue very well. The flag symbolizes our unity. The Constitution is the substance of that unity. I'm afraid the proponents of the amendment are elevating the symbol above substance, in a way that may end up diminishing both.

History will no doubt judge that the first amendment to the Constitution is the single greatest contribution to world civilization that we have made as a people. It enshrines the individual, his words, his beliefs and associations, in a place above Government, beyond control. That is the powerful idea that draws millions from around the world to our shores; that is what, in the past few years, has inspired millions to risk everything to bring down repressive regimes.

Free speech carries with it costs to the society which embraces it. First and foremost, there is the eventuality that some will exercise that right in repulsive, obnoxious ways. Free speech protects "the thought we hate" as Justice Holmes wrote. But free speech also guarantees that there will be an answer, and each patriotic American has a duty to respond. Offensive ideas don't go away when we try to silence them or put them in jail; they go away

when they are either ignored or drowned out by better ideas. That is the essence of our marketplace of ideas in America.

The impact of the proposed amendment on the Constitution itself is not totally clear, even as we prepare to vote on it. We must not forget that courts will still have to interpret and implement any amendment we pass here. I have heard one school of thought argue that passage of the pending would overrule other elements of the Bill of Rights, to permit for instance a warrantless search of a person's home to obtain evidence of flag burning. Another point of view is that the proposed amendment would still be subject to the first amendment, in which case it would have no effect at all. I raise those points just to illustrate that amending the Constitution is no simple matter.

There are three somewhat related international events which shed light on our decision here. The first is a statute recently passed in the Soviet Union, making it illegal to criticize the Soviet presidency. In the People's Republic of China, two men were recently sentenced to long jail terms for splashing black paint across a large picture of Mao. And word even comes to us this week that the Chinese Parliament is passing its own flag protection legislation. Those two societies, which are still unfree, are fighting to protect national symbols against dissent, but we hope and we know that those voices will not be silenced.

Last summer I had the opportunity to travel through a number of nations in the Third World. I was amazed at the positive reaction evoked by the American flag on the hood of the Embassy car we used in several places. That flag is a symbol for what the world is looking for: the right to free expression, the right of people to elect those who govern them and the right to worship freely. It would be ironic if we were to backtrack on the first amendment just as the world is coming to appreciate it.

I return, Mr. President, to the three key questions I believe we need to ask ourselves as we consider this amendment.

We have only amended our Constitution 16 times in the 199 years since the Bill of Rights was added. Never before have we attempted to cut back on the liberties provided in the first amendment. Is this the time to start?

James Madison established the standard that the Constitution deals only with "great and extraordinary" matters. Can we really believe a few malcontents are so powerful, or that the rest of us are so weak, that we face a threat only the Constitution can fix?

Eleven years ago, I swore an oath to protect and defend the Constitution of the United States. To me that means I am to guard its integrity and its cohesion, even in instances where it is politically unpopular to do so. Does this amendment enhance the Constitution and is it worthy to be inscribed in our permanent national charter?

I conclude that the answer to all of these questions is "no."

When the Supreme Court handed down its unpopular school prayer decision in 1962, President Kennedy said this:

> The Supreme Court has made its judgement. A good many people will disagree with it; others will agree. * * * We have in this case an easy remedy, and that is to pray ourselves. And I think it would be a welcome reminder to every American family that we can pray a good deal more at home, we can attend our churches with a good deal more fidelity and we can make the true meaning of prayer more important to our children.
>
> We have the same remedy in this situation: that we show the flag burners what America stands for by honoring the flag far more than we already do in our daily lives, and dedicate ourselves with greater energy to our patriotic duties.

I close with the story of an American POW, James Warner. As part of his interrogation by the Vietnamese, his captors tried to break his spirit by showing him a photograph of antiwar protestors burning the American flag. "There. People in your own country protest against your cause. That proves you are wrong," the officer said. Warner's answer says it all. He replied, "No, that proves I am right. In my country we are not afraid of freedom, even if it means people disagree with us."

Such is our flag that the very freedom it stands for defeats those who seek to destroy it.

Mr. DOMENICI. Mr. President, I rise in support of the constitutional amendment to prohibit desecration of our American flag.

One year ago, the Supreme Court held in the case of Texas versus Johnson that a Texas law that banned the burning of the American flag was unconstitutional. In the Johnson case, the Court held that the Texas law violated the first amendment's guarantee of freedom of speech.

Last fall, because the Federal law that prohibited flag burning was similar to the Texas law that the Supreme Court had struck down, the Congress changed the Federal anti-flag-burning statute to attempt to make it acceptable to the Supreme Court.

Earlier this month, the Supreme Court overturned the new Federal law against flag burning. The Supreme Court once again held that the burning of the American flag is protected by the first amendment guarantee of freedom of speech.

Frankly, Mr. President, I disagree with the Supreme Court's analysis of flag burning. The Supreme Court erred in interpreting the first amendment's guarantee of freedom of speech as permitting the burning of the American flag. There is a difference between speaking one's mind and desecrating the American flag.

The act of desecrating the American flag goes beyond merely expressing a point of view—it is a violent act against the symbol of our Nation. It is not an act of free speech.

Every American is free to denounce our Nation and the ideals for which the flag stands. Frankly, I think those who do that are terribly misguided, but if that is what they want to say, they have the right to say it.

There is a vast difference, however, between speaking one's mind and desecrating the symbol of our Nation.

The flag burners were not arrested for what they said, they were arrested for what they did. They were free to express their views in hundreds of ways other than burning the flag.

In fact, one of the flag burners did just that. He chanted "America, the red, white and blue, we spit on you." He was not arrested for that, nor should he be. The first amendment guarantees his right to say those things.

But I do not think the Supreme Court should have interpreted the first amendment as protecting the burning of the American flag.

Even if this were an issue of free speech, the Supreme Court has recognized many times that there are limits on speech.

One could be arrested for using obscenities in a political speech on television or for broadcasting their political views from a soundtruck in the middle of the night or for making a political point by engaging in indecent public behavior.

Those restrictions limit speech. So, the argument really is not whether there can be limits on types of speech that people engage in—the Supreme Court already has imposed limits.

It is a question of balance: Is the flag something that is important enough to us as a people to give it special protection, and can we do so without undermining people's ability to say and think what they want?

I think the answer to both of those questions is "Yes."

The Supreme Court could easily have come to the same conclusion. The Court's decisions on flag burning were very, very close: 5-4. If just one Justice had interpreted the Constitution another way, the Court would have found that the first amendment does not protect flag burning.

In fact, some of the most liberal members of the Supreme Court in this century, Earl Warren, Hugo Black, and Abe Fortas, all indicated that they did not think a law to ban flag burning would be unconstitutional.

Which is to say that different people who have analyzed this issue have

come to different conclusions. The Supreme Court could have easily interpreted the first amendment to permit laws banning flag burning. Such an interpretation would not have destroyed the first amendment nor would it have substantially weakened it.

Mr. President, the Supreme Court made a mistake in interpreting the first amendment to legalize flag burning. The Congress ought to correct their mistake.

When the Supreme Court makes a mistake in interpreting the Constitution, the way to fix is through a constitutional amendment. That is what the Founding Fathers intended when they set out the amendment process. The Congress and the States have used that process to amend the Constitution 26 times.

The amendment that has been proposed is very simple and straightforward. It would not affect anything other than the act of flag burning. It says:

> The Congress and the States shall have the power to prohibit the physical desecration of the Flag of the United States.

This amendment would not dilute the first amendment. It would not restrict anyone's ability to give a speech against the flag or to write an article against the flag or to hold a protest rally against the flag or to petition Congress about the flag.

It would say that Congress and the States have the ability to declare that this one specific type of action—burning the symbol of our Nation—is not permissible conduct.

To those who say we must be careful that, in reacting to this decision of the Supreme Court, we do not weaken or dilute the first amendment rights of American citizens, I wholeheartedly agree.

We must protect the right of every American to speak his or her mind—no matter how offensive their ideas may be. Freedom of speech is a right that the Constitution grants to every American, and our Constitution has preserved the vitality of our Nation for over 200 years.

If I thought that this amendment would dilute the first amendment or open the door to changing the Bill of Rights, I would oppose it.

But this amendment would not undermine the first amendment. It would simply overturn the Supreme Court's erroneous interpretation of the Constitution in the flag-burning cases.

The American flag and all it represents deserves the protection of our laws. We can protect the flag without undermining the principles of the first amendment. I am supporting the amendment to prohibit flag burning because of the necessity to correct the flawed interpretation of the Supreme Court and to protect the integrity of our Nation and its oldest symbol, the American flag.

Mr. HARKIN. Mr. President, I rise today in opposition to a constitutional amendment prohibiting the physical desecration of the American flag.

In considering this constitutional amendment, we have a solemn responsibility to separate reason from passion. We must preserve and protect not just the Stars and Stripes of the United States of America—but the principles and values for which it stands.

The sight of cowards and kooks burning the flag stirs something in us all.

You can almost feel the revulsion churning inside.

I know I did. Whether it was the demonstrators in Dallas some 6 years ago, or those who have committed the same callous act in the wake of Supreme Court decisions this year and last: My first reaction was a strong desire to punish these people, to find a way to strip them of their citizenship.

I felt that then and I feel that now. That is why last year I supported a law making flag desecration a punishable offense.

I hold no brief, I make no case for anyone so mistaken and misguided as to burn, mutilate, deface, defile, trample or dishonor the American flag. Their actions are despicable and demeaning to us all.

We all have memories that cut deep to the heart, and when we see a flag on fire it feels like something burning inside of us.

I remember what the American flag meant to my mother, an immigrant from Yugoslavia who came here speaking just a few words in English.

We always had a flag proudly displayed in our home because to my mother that flag meant the freedom of her new country.

I have not forgotten my mother's pride, and even now the American flag, standing proudly by my desk, is the first thing I see when I go to work in the morning and the last thing I see when I leave to go home at night.

I remember, too, the friends I lost in Vietnam. I remember escorting the body of a fellow pilot to his home and presenting the American flag to his widow.

It is our country's ultimate tribute to a fallen soldier.

So it is with strong feelings—right here in my stomach, and right here in my heart—of rage and disgust that I view those who would desecrate my flag, defile my memories, and dishonor my heritage.

So I have no trouble with this portion of the resolution before us today: "whereas the Flag of the United States of America is a national symbol of such stature that it must be kept inviolate." I believe in keeping the American flag free from violation, injury, or outrage.

But if protecting the sanctity of the flag means we have to amend the Bill of Rights for the first time in history, then that is something altogether different.

When the President first announced that he would seek a constitutional amendment, I reserved judgment.

I was concerned about the effect such an amendment could have on all of our first amendment freedoms. But I also felt the anger that so many others felt toward those who would burn or defile our flag.

Like so many other Americans, I was torn by these conflicting emotions.

I thought back to my days flying jets in the Navy.

I thought of the friends I had, and the friends I continue to have as a proud member of American Legion Post 562 in my hometown of Cumming, IA.

So I turned to my fellow veterans to see how they would vote. Some were for, some against, an amendment.

But as I listened, the arguments of those veterans who were against the amendment made more sense to me.

And as time has passed since last year's original decision, more and more veterans I have heard from and talked to have told me of their opposition.

I expected my neighbor, who won five Purple Hearts, to be gung-ho for a constitutional amendment. But he told me he was absolutely opposed to an amendment—"I fought for freedom," he said, "I didn't fight for doing away with it."

An Iowa veteran I met at a coffee shop last summer had this common sense perspective: "Look," he said, "this flag burner, this Greg Johnson, he's just one of a handful of kooks. Should we change the Bill of Rights, which has never been changed, for a handful of kooks?"

Most moving to me was the article I read last summer at the Cedar Rapids Gazette by a former prisoner of war, James Warner.

Let me read to you part of his article:

> It hurts me to see other Americans willfully desecrate the flag. But I have been in a communist prison where I looked into the pit of hell. I cannot compromise on freedom. It hurts to see the flag burned, but I part company with those who want to punish the flag burners.

He went on to say how in the prison camp, he was given a choice—he could renounce his country and leave, or stay and be tortured.

James Warner chose to stay. The North Vietnamese tried to break his spirit but they couldn't.

During one interrogation, his captor showed him a photograph of some Americans protesting the war by burning a flag.

"There," the officer said. "People in your country protest against your cause. That proves you are wrong."

"No," Warner said, "That proves I am right. In my country we are not afraid of freedom, even if it means that people disagree with us."

In that moment, the interrogator was on his feet—his face purple with rage, the article said. There was also pain in the interrogator's eyes, compounded by fear.

The Communist feared freedom; only freedom could be used to defeat him.

Just as Communists in China feared the students in Tiananmen Square last summer who burned the Chinese flag. Their protests were silenced with tanks and guns.

And just as Communists in the Soviet Union and throughout the Eastern bloc feared freedom over the course of the last year.

But we have seen freedom and free expression triumph in those countries.

And in those countries, that expression took on many forms: protests, speeches, underground newspapers, strikes—and yes, even flag burning.

Remember the news reports of Romanians and other Eastern Europeans cutting the Soviet hammer and sickle out of the center of their flags?

Those were some of the most lasting images of the revolutions of 1989.

And when we saw those torn and tattered flags purged of the symbols of Communist domination, did we denounce these protestors for defiling their own state symbols?

No. We praised them for their act of political defiance.

Burning and tearing their flags represented a powerful act of political speech—denouncing the Communist regimes that had oppressed those countries for far too long.

And once the Communist regimes began to fall, what came next?

Calls for Western-style guarantees of rights to freedom of the press, freedom of association, and freedom of speech.

There is a reason citizens of Czechoslovakia walked around with copies of the U.S. Constitution in their pockets.

They knew—what we seem to be forgetting—that the only way those freedoms can be protected is with an inviolable Bill of Rights like our own.

A Bill of Rights that has stood unchanged for 200 years.

Despite Civil War, Depression, two world wars, and powerful internal movements of dissent.

As a veteran, I will never, ever do anything to show disrespect for the flag. But I also don't want to do anything that would desecrate the freedom our flag represents.

In our churches and synagogues, we are taught not to worship the idols of our faith, but rather the ideals of our faith. Likewise, patriotism is not measured by our love for the flag itself, but for everything the flag stands for.

I do not want to see the flag become another Golden Calf—devoid of any meaning; an object to be worshipped for the sake of worshipping.

The flag is only as powerful as the republic for which it stands.

The way to honor the flag is not to destroy the most precious freedoms for which countless Americans have fought and died.

Just this week I read a letter to the editor of the Burlington, IA, Hawkeye written by a WW II veteran who volunteered for duty:

> I served my country under the flag. I pledged allegiance to the American flag. And the Republic for which it stands. Stands is the key. The flag stands for the government. The government guarantees us free speech. My allegiance is to the flag however it is displayed, cloth, paper, paint, or the one that waves continuously in my mind.
>
> That one, in order to burn, they would need to burn me. I like the Bill of Rights just as it is. Exactly what the flag stands for.

So wrote Mr. George Allen Shaw of Mount Pleasant, IA, concluding with these words: "Isn't it better to put up with a few disgusting frustrating acts of free speech than to open a Pandora's box?"

I have to agree with George Shaw's characterization of this amendment as a "Pandora's box" which, once opened could lead to other proposals to punch holes in the Bill of Rights.

Last week the House of Representatives defeated this amendment. This week I hope the Senate does the same. But I believe this debate can have a positive legacy—not a diminishment of our rights as citizens, but an increase in public displays of the flag, an increase in people's knowledge and understanding of the flag's history, an increase in good citizenship and public service.

We are proud of the flag, let us fly the flag.

We are proud of the flag, let us tell our children and grandchildren about what that flag represents, what it means and why so many died for it.

That flag in my mother's house was not used as a tablecloth, it was not used as a scarf, it was not used to keep a can of beer cold. I grew up believing there was a proper way to hold the flag, a right way to display it.

We need to take it a step further and educate people, young and old, as to the meaning behind the symbols—behind the flag and our Bill of Rights.

That's why I have introduced the Flag Education Act to make educational materials available to Americans of all ages. As I explained to my colleagues on the floor last week, the seed of the idea came from former Congressman Fred Schwengel and I hope to see Congress cultivate it until it blooms all across this country.

Mr. President, next week we celebrate 214 years since our Declaration of Independence. Fireworks will recall the "rocket's red glare" and the "bombs bursting" overhead when those who were first to wear our uniform put their lives on the line.

And in all of our 50 States, the American flag will be hailed, waving in the breeze over courthouses and city halls, public buildings and private homes. And pride will be felt and respect shown, not because it is mandated by law, but because it is embedded in our hearts.

The stripes of the flag tell the tale of our forefathers' struggle for independence from the British Union Jack. The stars remind us of our country's growth and unity in the face of Civil War and expansion.

It is the embodiment of all we as a people hold dear—independence, union, freedom, equality, justice, opportunity for all Americans and not just for some. The very principles Nelson Mandela spoke to us about. The very principles we will strengthen in passing the Americans With Disabilities Act.

I urge my colleagues to show their respect for the American flag and for the principles for which it stands by voting against this proposed amendment to the Bill of Rights.

Mr. CONRAD. Mr. President, we face a challenge—what do we do about those who would dishonor our flag? Let me just share with you some of my thoughts:

Some say that the flag is a piece of cloth. I cannot agree. The flag is the symbol of the freedoms we enjoy. Considering this vote, I reflected on the words in the pledge of allegiance:

> I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

Thousands of patriots have fought and died to protect the freedoms that flag represents.

There has been much talk about the special reverence Americans hold for the flag. I recall the incident at the Chicago Art Museum last year. The flag was displayed on the floor. Visitors to this exhibit were supposed to step on the flag and sign their names. I vividly recall my reaction—it was one of the deep, profound anger. I could not understand why somebody would not protect the flag.

I also think of the fact that State laws have been protecting the flag for many years—all of my lifetime, in fact. That is, until the Supreme Court decisions said that these laws violate the first amendment to the Constitution.

In its strictest sense, speech means the spoken or written word. Flag burning goes beyond that—it is an action.

Mr. President, I believe that these laws do not infringe on the first amendment. The Supreme Court is simply wrong in its decision. The act of flag burning goes beyond speech. It is uniquely offensive to those who have fought under that flag to protect this country. I am not alone in my feeling on this matter. Respected Supreme Court Justices like Warren, Black, and Fortas have defined the right of the Government to prohibit desecration of the American flag.

Mr. President, there are exceptions to freedom of speech. The Supreme Court has upheld the constitutionality of laws limiting particular kinds of expression. We all know of the prohibition of the yelling of "fire" in a crowded theater—this stems from the prohibition on speech that creates a clear and present danger. Laws against slander, libel, and obscenity are constitutional. Laws against burning draft cards and defacing currency have been upheld by the courts.

Mr. President, I believe the flag of the United States should be protected from desecration. Americans feel intensely that the flag deserves special status in our society. They feel a deep reverence for the flag. They have expressed their view on this matter in the form of State statutes outlawing flag desecration. Given the strength and depth of these feelings, without protection for the flag, we may invite acts of violence. The people must be allowed to act together, through their elected representatives, to protect the flag in a legal manner. Lack of protection for the flag may invite social disruption. The new Louisiana statute is instructive to me: A no-fault assault on those who burn the flag. Mr. President, is that the sort of action we want to engender by not protecting the flag? I don't think so.

As my colleagues know, I am very reluctant to vote to move the constitutional amendment process forward. Last year, I opposed a constitutional amendment on the grounds that protecting the flag through a statute would be a better option. Yet, it appears that we have a Supreme Court which will not allow a flag protection statute to pass constitutional muster. I do not agree with them. I believe their decisions are wrong-headed. But they have been granted the constitutional power to enunciate the law of the land.

Because I believe that the flag should have legal protection, I supported statutes last year and today to protect the American flag. But these attempts have failed. And now we are left with no other choice if we believe that the flag deserves protection. So I will support the amendment, but I will continue to seek a statute that will pass constitutional muster.

We should let the States decide this matter. If we fail to adopt an amendment today, we will deny the States the right to express their views on this matter. By approving the constitutional amendment before us, we will foster a healthy debate in this country about the Bill of Rights, the freedoms we enjoy, our constitutional guarantees, and how we can legally and legitimately protect the flag.

It is for these reasons that I will support a constitutional amendment in this body and let the people decide this important matter.

The PRESIDING OFFICER. There will now be 20 minutes of debate equally divided and controlled by the two leaders for closing statements.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is Senate Joint Resolution 332.

Mr. DOLE. There are 10 minutes on a side. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Mr. President, last Thursday evening the House of Representatives defeated a constitutional amendment to protect the American flag from desecration. As the votes came in; as Members watched closely to see which way it was going; as the opponents of the flag protection amendment finally got enough votes to kill the amendment, there was a great cheer in the House Chamber; Members smiled, shook hands, laughed—probably some high fives, too. They had won a big, big victory.

THE PAIN OF FLAG DESECRATION

Meanwhile, a Wisconsin couple spent the day in agony. They had been the latest victims of the flag burners. There was not any celebration in Fond du Lac that day. George and Beverly Rhoades were in mourning again.

You see, the desecrators had stolen a flag from the Rhoades' front yard, where the family had proudly erected a homemade memorial to their son Louis, an 18-year-old Army medic who was killed in combat in Vietnam 22 years ago.

The desecrators didn't just steal the flag. They burned it. The charred remains were eventually found near some restaurant. It is the third flag the desecrators have stolen since November.

We have heard a lot of rhetoric these past weeks about the flag. About the Bill of Rights. And free speech and the first amendment. Now let us hear from Mrs. Rhoades:

> My son died for that flag and I think I would, too. I am pretty disgusted.
>
> If our old Presidents like Washington and Lincoln were here, I think they would be pretty disgusted by the way our country is being run.

Mr. President, flag burning is not about free speech. It is about malicious conduct; conduct that hurts; the kind of hurt the Rhoades family is trying to cope with right now.

It is the same kind of hurt millions and millions of Americans feel when they see Old Glory mutilated, spat upon, trampled, and torched.

WORDS FROM THE HEARTLAND OF AMERICA

Last week, services were held in Sacramento, CA, for police officer James McKnight, who was gunned down in the line of duty. His 10-year-old son Kevin proudly accepted the folded American flag that once draped his father's casket. Now, Kevin's flag may never be burned or mutilated, but one can only imagine the kind of pain that young man will probably feel for the rest of his life whenever he sees a flag go up in smoke; the same pain George and Beverly Rhoades are feeling right now.

Mrs. Rhoades doesn't know who desecrated her son's memorial, but she is absolutely determined to see this Nation enact a flag protection amendment.

"We'll keep fighting," she said. "There's no patriotism in our country anymore for our young children to look up to."

Meanwhile, in the heartland of America, some folks just can't understand what Congress is up to; they cannot comprehend why Congress is standing in their way; why Congress refuses to let the American people defend their flag.

We have heard from the academics, the lawyers, and the cynics. But let us hear from Mr. and Mrs. Henry Winter of Burdett, KS. In a letter written on Flag Day, the Winters see in Old Glory what the self-proclaimed constitutional experts will never see:

> We are proud Americans, and we flew our flag today. It blew freely in the western Kansas wind. It flew to remind passers-by on this country road what it means to live in this country, going about our work, proud to be living free—thanking all who gave of their lives that we might do so. And then we have this Supreme Court ruling. We just get a little riled up.

Mr. President, America is plenty riled up.

THE FIVE MISCONCEPTIONS

A lot of us are riled up about some of the misinformation our opponents are spreading. As I see it, there are five major misconceptions about the constitutional amendment, and about those of us who support it:

Misconception one: We are amending the Bill of Rights for the first time in history.

False: That is a hoax. The simple truth is, the flag amendment changes nothing in the Bill of Rights. The American people know that the first amendment—an amendment which states the "Congress shall make no

law abridging the freedom of speech"—was never intended to protect the act of flag burning. That is why 48 States have passed flag desecration statutes.

I have reviewed a statement made by the distinguished Senator from Massachusetts, Senator KENNEDY, during last week's Judiciary Committee hearing.

The distinguished Senator said that "flag burning is a despicable act." On this point, Senator KENNEDY is absolutely right. Flag burning is an act—not speech. It is conduct—malicious conduct, not speech.

Listen to Justice Hugo Black, one of the Nation's most zealous defenders of the first amendment, who wrote:

> It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the flag an offense.

Listen to former Chief Justice Earl Warren, no Reagan court appointee, who said that,

> I believe that the States and the Federal Government have the power to protect the flag from acts of desecration and disgrace.

Listen to Justice Abe Fortas, appointed to the Court by President Lyndon Johnson, who said:

> The States and the Federal Government have the power to protect the flag from acts of desecration in public.

So it is not just the American Legion. It is not just the Veterans of Foreign Wars. It is not just the Rhoades family of Wisconsin. It is not just the Paralyzed Veterans of America. It is not just the Winters of Burdett, KS. It is not just the Non-commissioned Officers of America—who believe that flag desecration has nothing to do with the first amendment or freedom of speech.

Next, misconception two: Congress should decide the flag burning issue.

False: The people should decide. That is what the Founding Fathers wanted. And that is why they made the process to change the Constitution so challenging. Unfortunately, the people may never get the chance to amend their Constitution to protect their flag: Congress always knows best.

Well, try selling that one to the men and women of Douglass, KS. Last night their city council—fed up with Congress' flag filibuster—voted unanimously to make flag burning illegal.

Mayor Ron Howard spoke for America when he said:

> Down here, we believe in the flag. I'm no lawyer, but it's come to the point that we've got to do whatever we can to protect the flag, and later see if it flies. I just got frustrated with Congress and the Supreme Court.

It is pretty clear to me it is time to listen to the people for a change.

Misconception three: Supporters of the constitutional amendment are demagogues.

False: I must say it is a little surprising to hear on the floor of the Senate that we somehow have to apologize for a debate about protecting the American flag from desecration.

I always thought the flag was something special. I always thought we had a right to stand up for the flag without being accused of being a demagogue by some liberal editorial writer or political opportunist.

In my view, about all we've heard from our opponents is a frenzy about their own campaigns and reelection prospects; about campaign commercials and the terror of facing the people out on the campaign trail. I thought we were debating the constitutional merits of a flag amendment. All this nervous campaign chatter is unworthy of this debate.

Here is misconception four: The House overwhelmingly rejected the flag amendment.

False: The truth is, a majority of House Members voted for the flag amendment. Let me repeat that fact: A majority of House Members support the constitutional amendment to protect the flag; 254 Members voted for it, or 58 percent of the House.

Let us face it, if you were elected by a 58-percent majority, you would be touting it as a landslide.

Finally, misconception five: Debating the flag amendment is a waste of Senate time.

Tragically false: This is perhaps the most offensive attack by the opposition. If protecting the flag does not deserve priority treatment in the Halls of Congress, then we do not stand for much around here.

Let us talk about wasting time for a minute. Let us talk about the Hatch Act. Let us talk about being forced to deal with that blatantly political package for 7 days. But look at today's Washington Post. A new poll of Federal workers shows that they are indifferent about the Hatch Act—that 27 percent of the Federal work force does not want to engage in political activity, and another 41 percent do not care! Yet we were told this was one of those issues of the decade.

We spent 2 days debating a Federal flag statute that everyone knew was dead, dead, dead. We spent 21 days this year on the Clean Air Act. Do not get me wrong, that is a priority—a landmark. But does the American flag not deserve the same kind of respect?

And then look at the calendar. Look at all the legislation waiting to come to the floor. We have 150 proclamations on deck, and 81 commemorative or memorial resolutions. We have World AIDS Day, National Tap Dance Day, and the Decade of the Brain awaiting final action. Now these are well-meaning efforts, and I do not mean to trivialize them. But do they have any more priority—any more legitimacy—than the American flag?

I do not think so. And neither do George and Beverly Rhoades of Fond du Lac, WI; nor Mr. and Mrs. Winter of Burdett, KS. Nor do the people of Poland, Denmark, and Switzerland, where the American flag receives more protection than it does now, here on American soil.

WHAT ARE OPPONENTS AFRAID OF?

So what are our opponents afraid of? Apparently, it is the American people. The last thing the antiflag amendment crowd wants is a confrontation with the American people.

The last time I looked, the American flag had 50 stars on it; 50 stars for 50 States: 50 stars for 50 State legislatures; 50 stars for 50 States of real people who will be cut out of Old Glory if the Congress continues its stubborn and arrogant filibuster. The Constitution says, "We the People," not we the Congress.

We will keep fighting' in its arrogance, Congress has ignored the words of our great Chief Justice, John Marshall, who pointed out years ago what should be obvious to us today:

> The people made the Constitution, and the people can unmake it. It is the creature of their will, and lives only by their will.

Mr. President, this amendment does not change the Bill of Rights. It does not do violence to the first amendment.

This amendment rescues the Bill of Rights by correcting the Supreme Court's red, white, and blue blunder. It restores the first amendment by saying "no" to the five Justices of the Supreme Court who have distorted decades of precedent, decades of accepted practice, and decades of reverence and respect for America's pride and joy.

Mr. President, the flag filibuster may win today, but the flag's day will come. I don't have much faith in Congress, but I have a whole lot of faith in Americans like Beverly Rhoades.

"We will keep fighting," she said. "There is no patriotism in our country anymore for our young children to look up to."

Mr. President, the debate over the constitutional amendment to protect the American flag from the desecrators has sparked a spirited nationwide exchange. We have had a vigorous discussion of views in the House and Senate, plenty of media coverage, and an avalanche of opinion from editorial writers all across the country, including my home State of Kansas.

But let me make one point in all of this—the opponents of our flag amendment would have us believe that a vote for the constitutional amendment is the easy vote; the really tough vote is to oppose this so-called red, white, and blue issue and risk the wrath of home State opinion.

Well, let me correct that view. If Kansas newspaper editorials are any

indication, I must be casting one of the toughest votes of my career. In a dazzling display of free speech, the editorial writers back home have really had a field day with the flag issue, ranging from scholarly to nasty.

I would like to include a sampling of these opinion pieces to make certain that all sides of this issue are heard from Kansas. After reading them, I do not see how anyone can say my vote was the easy vote.

No doubt about it, the constitutional amendment is a close call, with solid arguments on both sides. I invite my colleagues to discover how easy this vote really is.

Mr. President, I ask unanimous consent to have a group of editorials printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Leavenworth (KS) Times, June 14, 1990]

LONG MAY IT WAVE

U.S. Rep. Jim Slattery did a brave thing earlier this week.

He tangled with Bob Dole over a constitutional amendment to prohibit desecration of the American flag.

Dole threatened Monday to take political advantage of the issue on the Senate floor if the Democratic leadership didn't allow a quick vote on the constitutional amendment he proposed.

"If the Democrats don't want to move, I guess we can talk about it every day," said the Kansas Republican, who is Senate minority leader.

"If this is dragged along and put off and delayed, then I believe you could get up a pretty good head of steam at home," Dole stated. Even if it is voted on quickly, "You vote against it and you go home, and I think you're going to hear from a lot of people. It would make a good 30-second spot."

That kind of thinking enrages Slattery.

"If you can't stand up and defend the Constitution against the political whim of the moment, then you ought to go home," said Slattery, D-2nd District.

Dole does not believe flag burning is a protected form of speech, as the Supreme Court has ruled. According to Dole, a World War II veteran who was disabled in combat, most people of "my generation" believe the flag has risen above all other national symbols and deserves constitutional protection.

Slattery says that he is aware of the beliefs of veterans' groups, but he argues what they fought and died for "was not the piece of cloth, but the freedoms that cloth represents, including freedom of expression."

Today is Flag Day; everywhere you look, people are flying the Stars and Stripes. It is a good time to recite the Pledge of Allegiance.

"I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."

Slattery is right; although we pledge our allegiance to the flag, it is the republic for which it stands that our fathers, sons and brothers have died for.

And that republic is built—at least in part—on freedom of expression, a fundamental part of liberty and justice for all.

Informed on Monday of Dole's remarks, Slattery uttered three simple words: "Shame, shame, shame."

Sadly, we must agree.

Shame, shame, shame.

[From the Olathe (KS) Daily News, June 15, 1990]

FORGET FLAG BURNING

The nation is battling a declining economy. The savings-and-loan bailout gets more expensive each day. Drug abuse is killing the brain cells of our youth.

And all three branches of government are embroiled in debate over a case of flag burning.

With so many pressing issues facing our government, the flag-burning amendment is a waste of talent and time. If an amendment is ever passed by Congress and deemed constitutional by the Supreme Court, nothing will be gained except a chance for politicians to wrap themselves in the flag during the next election.

An amendment outlawing flag burning will not feed the hungry or take a step towards world peace. It will not help bring some crippling disease under control. It will only violate a most basic principle on which the United States of America is founded—freedom of protest.

So shelve the rhetoric on flag burning, and let's work to solve the real problems facing the nation.

[From the Kansas City Star, June 26, 1990]

BOB DOLE'S FOLLY

Sen. Bob Dole's performance on the flag burning amendment is a vicious assault on honorable politics. It is a purely destructive act against the rational processes of representative government. Kansans should be embarrassed.

Dole says opponents to the amendment let themselves in for a nice 30-second TV spot. What a comment on a reasonable reluctance to tamper with the First Amendment. What a devaluation of the meaning of patriotism.

The matter involved here is an attempt to amend the Bill of Rights of the U.S. Constitution because of the posturing of a few crazies whose obvious motives are to attract attention. The media give the creeps that. And then the politicians allow themselves to be manipulated into raising the issue to the level of a constitutional crisis.

What is this United States that people have fought and died for? It is not a piece of cloth. It is the way of life and freedom guaranteed and protected by the Constitution.

Dole knows that. He is anything but dumb.

The most charitable thing that can be said for him in this demeaning exercise is that he sees a chance to advance the fortunes of his party and himself. That the price would be the dilution of the Bill of Rights apparently makes no difference.

How sad for Bob Dole, for his party, for Congress, for Kansas, and for the true values of liberty in America.

[From the Wichita Eagle, June 13, 1990]

TRAGEDY: FLAG AMENDMENT CAN'T IMPROVE ON IRREPLACEABLE BILL OF RIGHTS

Kansans who long have admired Sen. Bob Dole, R-Kan., are saddened by the Senate minority leader's attempt to weaken, with his Flag Amendment, the Bill of Rights to the U.S. Constitution. The amendment would cut back, for the first time in 200 years, the rights enjoyed by Americans under the first 10 amendments. Once done, it would open the door wide for other restrictive amendments.

If the Flag Amendment were sent to the states and ratified, there would be no logic whatever in rejecting future amendments that would make other exceptions to the First Amendment's precious guarantee that "Congress shall make no law . . . abridging the freedom of speech." If flag-burning can be banned, as the Flag Amendment seeks to do, then Ku Klux Klan cross burnings and Neo-Nazi street marches also can be banned. All are activities that repulse most Americans—and all are activities currently protected under the Constitution.

Why such repugnant acts should be draped under the protective mantle of the highest law in the land may be hard for some to understand. It wasn't hard, though, for James H. Warner, former prisoner of war in North Vietnam from October 1967 to March 1973. Recalling how he cried when he first saw Old Glory after 5½ years of torture and despair, he says "it hurts me to see other Americans willfully desecrate it. But I have been in a Communist prison where I look into the pit of hell. I cannot compromise on freedom. It hurts to see the flag burned, but I part company with those who want to punish the flag burners."

When Mr. Dole's amendment says "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States," what it also is saying is that Congress and the 50 states have the power to restrict freedom of speech and expression. There's no other way to read it, as the U.S. Supreme Court twice has said.

The wisdom and the farsightedness of James Mason and James Madison, who share the honor of being father of the Bill of Rights, thus would be overruled by a later generation that didn't understand how irreplaceable those rights are. The import of this historic document stating in clear and ringing terms what it means to be a free American would be sacrificed to the political passion of the moment. And what a tragic moment it would be.

We are ashamed that the senior senator from Kansas is leading the lynch mob. We beg him to reconsider. We second what our conservative brother in the press, columnist James J. Kilpatrick, wrote last year in opposing any attempt to dilute those protections granted under the First Amendment: "[T]hat precious amendment ought to be left alone."

[From the Kansas City Star, June 23, 1990]

ATTACK ON THE BILL OF RIGHTS

The following members of the U.S. House of Representatives from Kansas and Missouri voted this week to carve a hole in the Bill of Rights: In Kansas, Jan Meyers, Pat Roberts and Bob Whittaker; in Missouri, Jack Buechner, Ike Skelton, Mel Hancock, Bill Emerson and Harold Volkmer.

Remember their names. Most are seeking re-election this year. If you get a chance, ask them why they are so keen to revise the Bill of Rights by passing a flag desecration amendment.

It might be a good idea, too, to ask whether there is anything else they don't like about American democracy in its current form. If they want to whittle down the First Amendment, it would be nice to know if there are some other constitutional protections and freedoms they want to whittle down as well.

The Bill of Rights has served this country well for many generations. Why are some people in the late 20th century—many of them self-described "conservatives"—so certain that they have found flaws in this marvelous document that have somehow escaped previous notice?

When you talk to the members of Congress who have voted to revise the Bill of Rights, try to pin them down on their thinking as much as possible. It's important. Historic American principles and freedoms could be at stake in the future, as they were this week.

This will be the first time this portion of our Constitution has been amended in over 200 years," Meyers noted in a recent statement. But she continued:

The flag is unlike any other symbol of our country. It is a symbol of high achievement, as when the astronauts placed our flag on the moon. And when men and women in our armed forces have died, we have draped their coffins with the flag. It is the symbol of our national identify and our national values."

This is all true. But as Meyers' own language makes clear, the flag merely symbolizes American freedom. It should hardly take precedence over freedom itself. Meyers, along with many of her colleagues, has it all backward.

Others in Washington are simply trying to score partisan points. Sen. Bob Dole of Kansas, for example, talks eagerly of the 30-second campaign ads that will be built around the flag amendment, then howls about the need to "come through for Old Glory."

If that isn't flag desecration, what is? Please, senator. Show some respect.

Much of the other rhetoric behind the flag amendment has been simplistic and shameless. Some of it, frankly, was offensive. There was certainly no need to drag in the war deed to serve as political props.

In a pleasant surprise, wisdom prevailed over haste, cynicism and misguided patriotism in the House. Supporters of the proposed amendment complain that the vote was rushed through before they had enough time to get the public riled up again.

This is typical of the nonsense this side has been dishing out. They have been clamoring about flag-burning for months and, in some cases, years. But the more voters hear about flag burning, the less concerned they seem to be about it.

This country has much more important things to worry about than a few idiots burning flags. It's about time some people in Congress—starting with a few people from Missouri and Kansas—figured that out.

[From the Kansas City Star, June 13, 1990]

LEAVE BILL OF RIGHTS ALONE

Last month a proposed law surfaced in the Soviet Union that would make it a crime to insult President Gorbachev in public. The proposal appeared after Gorbachev had called for steps to protect the "symbols" of his country.

Few Americans bought that argument. When we look abroad, we expect other societies and government officials to turn the other cheek to political dissent. Thus Gorbachev's concern about the symbolic value of his office was widely dismissed as evidence that he still had a lot to learn about democracy.

So do many Americans, as evidenced by the reaction to the Supreme Court's wise ruling this week on flag-burning and the First Amendment.

Some officials, including President Bush and Republican congressional leaders, are again demanding that the United States junk the First Amendment so that certain types of flag-burning could be punished.

Much of their case relies upon the same argument Gorbachev suggested, namely that certain national symbols are more important than freedom of expression. This argument was not convincing for the Soviet Union, and it certainly is not convincing for the United States.

The glorification of the American flag should hardly take precedence over the fundamental democratic rights for which it stands.

Some people pretend that punishing flag-burning would not really infringe upon anyone's freedom of expression. Four Supreme Court justices presented this argument in their flag case dissent.

They are, however, in an inescapable bind. No one is against flag-burning in all cases. The flag desecration law in question, for example, exempted disposal of "worn or soiled" flags.

Prohibiting only certain types of flag-burning leaves the government playing the role of thought police, distinguishing between good flag-burners and bad flag-burners on the basis of their motivations.

The U.S. law tried to get around this problem by feigning indifference toward the motivations of flag-burners. But the court majority saw through the charade, pointing to words in the law like "defiles" and "tramples."

This problem is insurmountable as long as the U.S. keeps its current Bill of Rights. Some people, unfortunately, don't want to do that.

"There are no options left," says Sen. Bob Dole of Kansas. "It's either do nothing or have a constitutional amendment."

Please, Sen. Dole: Do nothing. Leave the Bill of Rights alone.

Here we have another example of so-called "conservatives" who are really nothing of the sort. They want to make radical changes in our form of government, curtailing freedoms that American citizens have enjoyed for two centuries.

Leading the charge are Bush, Dole and Robert H. Michel, the House minority leader. Perhaps they really are so blinded by anger at flag-burning that they cannot see the harm of tinkering with the Bill of Rights.

It is obvious, however, that part of their motivation is simply to score points over Democrats. Dole told reporters that focusing on a vote against a flag-burning amendment "would make a good 30-second spot." Michel described the debate over such an amendment as boiling down to: "Who wants to be against the flag?"

This is flag desecration of a different sort. It may well prove to be more damaging than the kind involving matches.

[From the Wichita (KS) Eagle, June 16, 1990]

DOLE DESIGNATED DEMAGOG ON FLAG

(By Thomas Oliphant)

It is no accident that President Bush is running a kinder, gentler crusade this year to defend the American flag from nonexistent danger.

It is also no accident that his designated demagogue, Senate Republican Leader Bob Dole, has pressed for an immediate vote on a constitutional amendment whose only practical effects are likely to be an increase in the flag-burning by showoffs and millions of dollars in court and jail costs.

These are not accidents because this year's fight—regardless of the odds favoring the torching of 200 years of constitutional tradition—is not over yet, as White House and congressional Republican and Democratic nose-counters all agree.

Accordingly, the same president who dashed off to the Iwo Jima statue by the Potomac River last year to bellow at a partisan rally, stayed in the White House this week to accept a small reproduction of the statute at a lame photo opportunity; Thursday there was only an early-morning, tasteful, rhetoric-free visit to the Vietnam Memorial for Flag Day.

Also, Dole is scheming for a fast vote before senators have a chance to think about the issue, and even before the Senate Judiciary Committee has a chance to consider an amendment next week.

CAUTION VS. YAHOOISM

For Bush, caution and a modicum of decorum are in order. Last year, when he and flag-burning were objects of attention, the nation's foremost advocate of compulsory Pledge of Allegiance-chanting in 1988 could afford to be boisterous. This year, however, when he is a broadly popular chief executive with a presidential (i.e., responsible) image, he must be more careful.

For Dole, care and a modicum of decorum are less important, as well as less in character. As one of the figureheads for a congressional party whose intellectual vacuity makes even the Democrats look good, Dole & Co. are turning to yahooism to spice up state and local campaigns that so far have been better at raising money than serious issues—a message deficit made worse by Bush's recent waffling on taxes.

For many opponents of fiddling with the Constitution to deal with a nonexistent threat, the sight of Dole waving a small flag at a White House meeting with Bush was welcome for its sophomoric trivializing of the issue; so, also, was the sound of Dole in the White House driveway, sneering "I might make a 30-second spot" at his opponents.

A GOOD SIGN?

The reason for this quiet pleasure at Dole's meanness is that the House and Senate have a long record of getting serious when a constitutional amendment is on the floor and that close issues are decided by moderates.

As things stand now, opponents of the flag amendment are generally thought to be 15 to 20 votes short of the 146 votes (one-third plus one) needed to prevail if the entire House shows up; and they appear three or four votes short of the 34 they need in the Senate, where the wild card is Judiciary Committee Chairman Joseph Biden's search for an undefined substitute he hopes would do less damage to the Bill of Rights, a search several colleagues consider illogical. Assuming Biden fails, the opponents' best chance is the high-minded debate Dole's conduct shows he fears.

For the minority that remains hopeful, the historical analogy worth clinging to is Congress' consideration eight years ago of a proposed constitutional amendment on prayer in the public schools.

THEY JUST MIGHT LISTEN

After 20 years of dogged efforts to keep the amendment bottled up in the House Judiciary Committee, the Reagan Revolution's

political guns finally launched it to the Senate under a powerful head of steam.

But then an odd thing happened: Senators began listening to a debate remarkable for its seriousness, and minds began to change, as well as the perception of the amendment. It became not a proposal to permit prayer, but one to allow local politicians to write prayers for teachers and children to read out loud. As such, it was rejected, no Senate careers were lost, and the issue faded away.

As in 1982, the real enemy of hasty tampering with the Bill of Rights is a little time and a little thought.

[From the Garden City (KS) Telegram, June 16, 1990]

FLAG BURNING FLAP

Too bad Congress doesn't pay as much attention to substantive issues as it does to campaign trail topics.

Take this unfortunate flap over flag burning, for example.

The only reason a constitutional amendment stands even a chance of passing is that Republicans have made it a campaign issue in an election year.

Leading the charge for an amendment is Senate Minority Leader Bob Dole. He's all fired up over the issue.

On the Senate floor Thursday, Dole attacked liberals in Congress for "defending flag burners."

He snapped that liberal reporters have tried to make it look like Congress "is taking an ax to the First Amendment."

Dole and the Republicans know these lines play well with certain voters. That's the only reason they care.

But it's nothing more than outright demagoguery.

As we see it, Dole and his fellow Republicans should be concerned about issues that are more important than flag burning.

Has a flag ever been burned in protest in Garden City? Not that we can recall.

But there are two savings and loans with Garden City branches that taxpayers must pay to bail out. Dole and his fellow senators failed to push regulators to do their jobs. Some of his colleagues even tried to prevent regulators from doing their jobs.

There are citizens here who question whether Dole and others in Congress work for taxpayers or special interests. They have failed to enact needed campaign finance reforms and ban honoraria for speaking appearances.

And there are people who pay unnecessarily high real interest rates on home mortgages, auto loans and business financing. Dole and those sitting in Congress are to blame for this too, for they have been unable to control federal budget deficits. Continuing deficits force the government to borrow, and that borrowing keeps interest rates high.

With all these problems, the last thing the nation needs is a senate minority leader who is out leading the charge for a constitutional amendment banning something that is not a problem.

[From the Salina (KS) Journal, June 14, 1990]

FLY THE FLAG FREELY

This Flag Day the air is sure to be even more filled with talk of protecting the flag than usual.

President George Bush and Kansas' own Sen. Bob Dole are among Republicans leading the charge for a constitutional amendment to allow Congress to make a law against flag desecration.

Undoubtedly they, like most Americans, love their country and its flag.

But politics is also at work in this.

Dole and Bush are counting on the political appeal of a dramatic vote to "save the flag." They guess—and hope—that those who vote against a flag-waving amendment will be vulnerable in elections.

A politician who votes against protecting the flag, the political wisdom says, is on his or her way to a career change as soon as voters can arrange it.

Let's hope that conventional wisdom is wrong and that lawmakers will have the good sense to vote to protect the First Amendment, not to repeal it.

A constitutional amendment is not needed or desirable to protect the flag. Politicians as well as all true red-white-and-blue Americans need to recognize that.

The Supreme Court has twice held that a law against intentionally damaging the U.S. flag directly violates the free speech provisions of the First Amendment to the Constitution. To ban flag-burning, then, Congress would first have to seriously weaken the free speech guarantee contained in the First Amendment.

That freedom is a cornerstone of America.

Those who support an amendment to allow Congress to ban flag-burning say that freedom of speech is not absolute and that there are many restrictions on it. Certainly the courts do recognize limits on free speech—inciting a riot, for example, or the classic example of yelling "fire" in a crowded theater, causing panic and death.

But the case at hand is not one of those exceptions.

It is the very sort of case the First Amendment was designed for—the protection of the right of a small minority to express a very unpopular political view in an unpopular manner.

Flag-burning as a political protest may not be exactly what the nation's founders had in mind, but it is precisely the sort of unpopular expression of political dissent they were determined to protect.

Those who vote for an amendment to protect the flag, including Dole if he continues his support, should be prepared to explain to voters why they voted to repeal the First Amendment.

A vote against free speech and against the Bill of Rights which protects Americans' individual freedoms ought to be far more difficult to explain to voters than a vote "against" the flag.

If it is not, this nation is in serious trouble.

[From the Chanute (KS) Tribune, June 14, 1990]

FLAG DAY

Today is Flag Day.

Up to now it has been a pleasant, if somewhat minor, holiday, a way for a free people to express their love of country.

But in the future, if President Bush and Senator Dole have their way, it will be a day that will live in infamy.

Bob Dole made it clear the other day that he thinks the American people are too stupid to have a Bill of Rights. He said the campaign for a constitutional amendment to ban desecration of the flag will be a good campaign issue for the Republicans because it can be expressed in 30-second sound bites.

But the argument against it, he said, is something that will take some thoughtful explanation, suitable only for, say, an American Bar Association convention.

In other words, Dole is saying that the American people can't understand the ideas that support our First Amendment, our Bill of Rights, our belief in a free, open and diverse society where we accept the expression even of ideas we hate in order to ensure freedom for the ideas we love.

What we can understand, he says, is the worship of a graven image above the word of our founders—patriotism for the illiterate.

If Dole is successful in amending the Constitution to disembowel, for the first time in 200 years, and First Amendment, then his dim view of the intelligence of the American electorate will have been proven true.

Those who truly respect the American flag will put a stop to this nonsense now. It does not honor the flag to use it as a club to beat the Bill of Rights bloody.

[From the Dodge City Globe, June 21, 1990]

ITS RALLY 'ROUND FLAG, FORGET EVERYTHING ELSE

It's a corny old joke. Chances are, you've heard one version of it or another;

One night a man and a woman were slowly walking around the base of a street light, peering at the ground.

Somone walked by and said, 'My wife lost a pearl earring."

"We ought to be able to spot it in this light," the passerby said. "It fell off around here?"

"No," the man said, pointing to a stretch of dark street. "I'm pretty sure she lost it back there."

"Then why are you looking here?"

"Because there's no light back there."

That's the way hordes of politicians sounded when the U.S. Supreme Court once again said it isn't illegal to burn an American flag.

Suddenly they had a cause they could chomp on—socking it to the dirty, low-down, unpatriotic burners of Old Glory.

U.S. Sen. Bob Dole vowed to help lead the move for a constitutional amendment making flag desecration a crime.

And he let anybody who disagreed with him know that they might be risking their political lives if they didn't jump on the amendment bandwagon, saying, "it would make a good 30-second spot" in the fall congressional campaigns.

Politicians from the White House down to the statehouses are expected to scramble aboard.

Typical of the lower species is State Sen. Walter Dudycz, of Chicago's Northwest Side.

Dudycz was one of the noisiest of the flag-protecting patriots when a goofy art student displayed a flag-on-the floor exhibit at the School of the Art Institute of Chicago.

Such disrespect must stop, Dudycz said then and says now, forgetting that he once distributed plastic trash bags with an American flag printed on them. He didn't think there was anything wrong with putting crumpled cigarette packages, soiled Kleenix and candy wrappers in a flag-bag and tossing it into the garbage can. Not if it got him votes.

No, they are all rallying 'round the flag, gearing up for the great debate on flag burning. And it will be a great debate, since an amendment will require two-thirds of the vote of the House and Senate and approval by 38 state legislatures.

If you multiply the number of politicians by the number of speeches that will be given, the feverish words will number in the billions. They will give off more hot air than a 10-megaton bomb.

And for what? Ask yourself this question: Have you ever seen anyone burn an American flag? I mean live, before your very eyes? Have you ever seen it happen on your block, in your neighborhood? Are clouds of flag smoke filling the air?

Of course not. The only time you see it is on TV, when some two-bit radical persuades the nitwit TV assignment editors to send out a camera crew and give him 15 seconds of fame.

At any given minute on any given day, someone in America is being murdered, raped, mugged, mauled and stomped. By the time you finish flipping through this paper, a million dollars worth of dope will have been sold. Mentally ill people will be shoved into the streets because there aren't enough hospitals to take care of them. Dangerous criminals will be released because there aren't enough jail cells. And a thousand new potholes will appear on the interstate highway system.

And, of course, we have the S&L scandal, which will cost every man, woman and child in this country, $2,000-plus before the final tab is in.

Actually, it won't cost every man, woman and child that much because many of them don't pay taxes. So if you're someone who does, it'll cost you twice as much.

But is Sen. Dole yelling about S&L thieves as loudly as he is about a few petty nuisances who hold a match to a flag? Is he demanding that the S&L thieves be punished as harshly as some overgrown delinquent?

You bet he isn't. Like most Washington politicians, Dole knows that if and when the blame for the S&L scandal is ever established, members of Congress will bear their fair share.

Only three years ago, when Dole was a presidential aspirant, one of his national campaign cochairman tried to put the arm on S&Ls for contributions, saying "Should he not win, Sen. Dole will still be an extremely important and powerful person who can have a great impact on our business."

Yes, there is no question that Congress has had one heck of an impact on the S&L business. At our expense.

That's what makes the flag-burning issue—and it's really a non-issue—so politically delicious. It's simple and appeals to mindless emotion. It gives the politicians a chance to thump their chests and act as if there's a crisis when there isn't. And to con us into thinking they're doing something heroic when all they're doing is making noise.

And best of all, or so they hope, it will take their minds off the S&L swindle. They can now spend millions on a needless amendment campaign while thousands of executive-suite thieves are getting away with the biggest government-aided financial swindle in our history.

If they are going to have a flag-amendment, why don't they simply change the design? Replace the stars with little dollar signs and make the stripes jailhouse gray.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas [Mrs. KASSEBAUM] is recognized.

Mrs. KASSEBAUM. Mr. President, I rise to speak as a cosponsor of the constitutional amendment to prohibit the burning of the American flag. I do so with both reservations and misgivings, not because I doubt the value and importance of protecting our flag, but because our debate over this issue has become a distorted and troubling one.

After reading both the Supreme Court's majority opinion and the dissents that accompanied it, it is clear to me that there are reasonable grounds for disagreement on this issue. The nine justices confirmed by this body to rule on such matters were themselves deeply divided.

However, I see no reason to draw into this debate all of the red herrings, strawmen, and imaginary bogeymen who seem to be holding center stage. I see no reason to question either the patriotism of those who oppose this amendment or the commitment to the Bill of Rights of those who support it.

Amending the Constitution to prohibit the specific action of desecrating the flag will not nullify the first amendment guarantee of freedom of speech. Indeed, it will not affect freedom of speech in any real sense as we commonly understand it. Burning the flag is not speech. It is an action, and in nearly every case, it is an action that comes after all extremes of speech have been exhausted. There is no question raised either in the court case or in the constitutional amendment about the right of any American to dissent from Government policies, to denounce government actions, to denounce the flag, or even to vilify political leaders. That clearly is speech, and it clearly is protected under the first amendment.

The question that is raised is whether any person has the right to put action to words, to go beyond what clearly is protected speech into the gray zone that the Court terms "expressive conduct." As the Court's majority opinion makes clear, this is not a simple matter. Some conduct may be expressive and thereby protected; other conduct is not. Even expressive conduct is not protected in all circumstances, just as speech itself is not protected as an absolute. We do not allow people to advocate the violent overthrow of our Government; we do not allow statements inciting violence or mob action, or other extreme action.

In this case, the Court ruled that burning the flag was expressive conduct and was therefore protected as a fundamental, constitutional right. I disagree because I simply do not believe that the act of burning the flag can or should be cloaked under our freedom of speech guarantee. Instead, I agree with the thoughtful dissent filed by Justice Stevens, and I would like to quote briefly part of his conclusion:

The case (*Texas* v. *Johnson*) has nothing to do with "disagreeable ideas." * * * It involves disagreeable conduct that, in my opinion, diminishes the value of an important national asset.

The Court is therefore quite wrong in blandly asserting that respondent "was prosecuted for his expression of dissatisfaction with the policies of this country, expression situated at the core of our First Amendment values." Respondent was prosecuted because of the method he chose to express his dissatisfaction with those values. Had he chosen to spray paint—or perhaps convey with a motion picture projector—his message of dissatisfaction on the facade of the Lincoln Memorial, there would be no question about the power of the government to prohibit his means of expression. The prohibition would be supported by the legitimate interest in preserving the quality of an important national asset. Though the asset at stake in this case is intangible, given its unique value, the same interest supports a prohibition on the desecration of the American flag.

Mr. President, I do not believe a constitutional amendment to prohibit the burning of the flag will infringe the right of free speech or set a radical new limit on the Bill of Rights. Neither do I believe that such an amendment can cure all the ills of our society. But I believe this amendment makes an important statement about what we hold to be valuable.

As many before me have said here, the flag stands as a unique symbol of our democracy. It is the physical expression of the values on which our Nation is founded—freedom, equality, justice. With most Americans, and I believe with all Senators here, I believe those values are worth defending. As the unique symbol of those values, I also believe the flag can and should be protected from physical assault.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized for 10 minutes.

Mr. MITCHELL. Mr. President, Members of the Senate, last year I supported and voted for a law to protect the flag. I believed then, and I believe now, that this is the appropriate response to a flag burning that occurred in 1984.

Two weeks ago, by the narrow 1-vote margin of 5 to 4, the Supreme Court ruled that the law violates the freedom of speech provision of the first amendment to the Constitution. I disagree with the five Justices who form the majority in this case. I think they were wrong. I agree with the four who voted to uphold the constitutionality of the law.

But, under our system, once the Supreme Court has ruled, that ruling is the law of the land. So even though I disagree with the Court's ruling, I accept it. The question now before us is whether we should override the Court's decision by amending the Constitution.

I oppose and condemn the burning of the flag. I find it offensive and obnoxious.

I am proud to be an American, proud of the American flag.

But I do not support changing the Constitution. We can support the American flag without changing the American Constitution.

The first 10 amendments to the Constitution have come to be known as the Bill of Rights. They were adopted as part of the Constitution because the States insisted that before a new and powerful Federal Government could be created, there had to be clear and controlling limits on the power of that Federal Government against individual citizens.

The Bill of Rights secures the liberty of the individual by limiting the power of Government.

Across the whole sweep of human history, there is no better, clearer, more consistant, more eloquent, or effective statement of the right of citizens to be free of the dictates of Government than the American Bill of Rights.

For 200 years it has protected the liberties of generations of Americans. During that time, the Bill of Rights has never been changed or amended. Not once. Ever. It stands today, word for word, exactly as it did when it was adopted two centuries ago.

Of the 10 amendments which make up the Bill of Rights none is more important than the first. In this debate, its relevant words are:

"Congress shall make no law * * * abridging the freedom of speech * * *"

The English language could not be more clear. Let me repeat those few words. "Congress shall make no law abridging the freedom of speech."

Never in 200 years has the first amendment been changed or amended. As a result, never in 200 years has Congress been able to make a law abridging the freedom of speech.

Now we are asked to change that, for the first time. We are asked to give Congress and the States the power to do that which, for 200 years, the Bill of Rights has prevented them from doing.

We are asked to permit Congress, or any State, to make a law that would abridge the freedom of speech, as defined by the Supreme Court.

Even though, as I have already said, I disagree with the Court, I do not believe we should amend the Bill of Rights. I do not believe we should ever, under any circumstances, for any reason, amend the American Bill of Rights. The Bill of Rights is so effective in protecting individual liberty precisely because of its unchanging nature. Once that is unraveled, its effectiveness will be forever diminished.

If the Constitution is amended to prohibit the burning of a flag, where do we stop?

The supporters of this amendment argue that their goal is so important that it warrants overriding the court's decision. But the supporters should consider this question before they vote.

If someone burns the Constitution, will they propose an amendment to the Constitution to prohibit that? If not, does that mean that they have less respect for the Constitution than they do for the flag?

If the answer is "yes," then where do we draw the line? How about the Declaration of Independence?

The point is that once the Bill of Rights is changed or amended, no line can be drawn. That is why it should not be changed or amended.

We Americans revere the flag. We also revere the Constitution and the Bill of Rights. We need not choose between them.

For a free people, the fight against an enemy army demands sacrifice and courage. That is difficult and demanding. It is also difficult and demanding in time of peace to live up to our own high ideals.

It is not difficult for Americans or anyone else to tolerate differences and eccentricities. They are all around us. But defending the freedom of those who would deny it to others—that is difficult.

Perhaps that is why no other nation today tries, or has ever tried, to live by a standard as high and as demanding as the American Bill of Rights. Every nation has a government. Every nation has a flag. But only the United States of America has a Bill of Rights.

We Americans do try to live by the Bill of Rights. We have chosen not to take the easy way out. We have chosen not to try to silence those who are wrong, but rather to challenge them with the truth.

That way has served America well. It has preserved our liberties for two centuries.

We will celebrate the 200th anniversary of the Bill of Rights next year. We will remind ourselves, and the world, that the greatest protector of liberty is the truth.

We have religious liberty in America because we reject any government-sanctioned religion. We believe that each American will find God by his or her own path, through his or her own church.

We have political liberty in America because we reject any government-imposed political doctrine. We believe each American will find and defend his or her own political views.

We have personal freedom in America because we reject any government-dictated patriotism. We believe that each American will freely discover in his or her own heart the love of country and the pride in our Nation that has made Americans willing to defend it at the cost of blood and life itself for two centuries.

Our Founding Fathers had more confidence in their fellow Americans and more faith in their children than some of our current leaders. They knew better than to have the Government dictate what politics are right or wrong.

For 200 years, the Bill of Rights has protected the liberties of Americans through economic turmoil, civil war, political strife, social upheaval, and international tension.

Despite the worst that fate and our enemies have hurled at us, we have never ever found it necessary to change the fundamental principles on which our Government was founded and by which our freedom is secured.

Principles which have stood that test of time should not be discarded or tampered with.

It will be a sad irony if a few obnoxious publicity seekers who appear to hate America achieve their victory by stampeding those who love America to take the unwise action of changing the Bill of Rights for the first time in our history. I love America and the American flag and the American Bill of Rights too much to let that happen without a fight.

So I urge my colleagues not to give those publicity seekers the reward they want. I urge you to vote against changing the American Bill of Rights for the first time in our history. I urge you to vote against this proposal to amend the Bill of Rights. I urge you to defeat this amendment.

The PRESIDING OFFICER. All time has expired on the joint resolution.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Have the yeas and nays been requested?

The PRESIDING OFFICER. They have not.

Mr. MITCHELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber desiring to change their vote?

39-059 O-91-17 (Pt. 11)

The yeas and nays resulted—yeas 58, nays 42, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—58

Armstrong	Ford	McClure
Baucus	Fowler	McConnell
Bentsen	Garn	Murkowski
Bond	Gorton	Nickles
Boschwitz	Graham	Nunn
Breaux	Gramm	Pressler
Bryan	Grassley	Reid
Burdick	Hatch	Rockefeller
Burns	Hatfield	Roth
Byrd	Heflin	Shelby
Coats	Heinz	Simpson
Cochran	Helms	Specter
Cohen	Hollings	Stevens
Conrad	Johnston	Symms
D'Amato	Kassebaum	Thurmond
DeConcini	Kasten	Wallop
Dixon	Lott	Warner
Dole	Lugar	Wilson
Domenici	Mack	
Exon	McCain	

NAYS—42

Adams	Gore	Mikulski
Akaka	Harkin	Mitchell
Biden	Humphrey	Moynihan
Bingaman	Inouye	Packwood
Boren	Jeffords	Pell
Bradley	Kennedy	Pryor
Bumpers	Kerrey	Riegle
Chafee	Kerry	Robb
Cranston	Kohl	Rudman
Danforth	Lautenberg	Sanford
Daschle	Leahy	Sarbanes
Dodd	Levin	Sasser
Durenberger	Lieberman	Simon
Glenn	Metzenbaum	Wirth

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 42. Two-thirds of the Senators present and voting not having voted in the affirmative, the joint resolution is rejected.

The Senator from Delaware.

Mr. BIDEN. Mr. President, I have mixed emotions at this moment. Having had the responsiblity of managing this legislation and being deeply embroiled with the flag issue for the last year and learning more about the constitutional questions revolving around this issue than I ever thought I would be required to know, I want the record to show that I still believe there was a way to have dealt with protecting the flag without doing violence to the core principles of the first amendment.

Obviously, my colleagues, all those who supported the President's amendment, 58 or so, were not about to support that position nor did the vast majority who wanted no amendment. So there are only a few of us who shared my view.

But, having said that, that being done, I had no doubt, as I did last year when I was responsible for this issue on the majority side, that my efforts to defeat the Dole amendment and the President's amendment, one and the same, were the right thing to do.

I believe that did go, and would have gone, to the core principles of the first amendment and that is why last year I made the case as strongly as I could, and again this year. But I might add, although I had the responsibility for managing this, as chairman of the committee, on the committee, and here, taking part helping to lead the opposition against the President's amendment, I want to pay special tributes because a lot of people have worked hard on this.

And I might add, this is one of those votes which everyone should have voted freely, because it is a matter of conscience. Everyone had to make a decision on this one. It was not a party line vote.

Having said that, there are a few people who have made an extraordinary effort and did extraordinary work and are responsible, I believe, more than anyone else for the outcome of the vote, which was an overwhelming defeat for the amendment. The person more responsible for that, in my view, is Senator ALAN CRANSTON of California. Senator CRANSTON immediately, when the issue was raised about this time last year, although he is not on the committee, although it is not his responsibility, began to work with me. I soon found I was working for him because he literally spoke to every Member in this body making a very cogent case as to why this amendment was pernicious and, quite frankly, changing votes I was unable to change.

I made my best arguments. I made my best arguments to some of our colleagues who said, "No, Joe, I am going to have to be with the President, with his amendment."

When Senator CRANSTON geared up that famous tallying capability—I hope he will forgive me. I can see here one of his sheets, the famous Cranston tally sheet. After working with him for hours and hours and hours and hours these past several weeks, it turns out he was right. He said from the beginning, and I did not think it was going to be so clear, he thought we not only could defeat the amendment but that we could defeat it decisively, and he went about his business. His business ended up to the point that before the vote was cast today, a number of my colleagues asked what the vote would be and I said there will be 42 votes against the amendment. We are not always right in predicting, but there were 42 votes against.

I want to say to my colleagues to whom I said 42 votes against, that was not based upon merely my counting. That was based upon my confidence in the count and the expertise and the persuasion of the senior Senator from California. I think he did the country a great service today. I know this puts to rest this issue for a long time. I know the Senator from Delaware is not going to be back at it any time soon even though I thought there was a way to do it.

But on this particular amendment, I think he was right. I wish he had not been so effective with regard to the amendment of the Senator from Delaware, but his effectiveness was equally as evident, more evident, quite frankly, than on this President's amendment.

Having said that, let me conclude by saying I thank the leader for his confidence in allowing me to handle this matter, and I want to thank my colleague from South Carolina with whom it is always a pleasure to work. I know how deeply and strongly he felt about the President's amendment, the Dole amendment, and his amendment. I know it came from his heart, moved to his head, and they were both in sync on this. I respect his view, even though I strongly disagreed with it but respect it.

I just want to conclude by telling my colleagues one very brief Thurmond story. As I was going down in blazing defeat for the Biden approach, which I thought was the rational approach—I guess we all think that when we work so hard on an effort—and one of our colleagues walked up and voted for me, making it the fifth vote for Biden. The man who never says die jumps off his chair, comes down here, collars this particular Senator and said, "You told me you were going to be with me." And this Senator said, "There is no reason I cannot be with Biden and with you if Biden loses." He said, "No, that is not good enough. You said you were going to be with me." We are friends, but I want to tell my colleagues, beating a man 93 to 7 is not a close call. I just want to point out that this Senator never yields. I am sorry, in light of the intense feelings he has, about how he must feel at this moment losing.

I am absolutely convinced Senator CRANSTON's effort in leading this effort is the right thing to do. The country is better off for it; the Constitution is better off for it. Quite frankly, we are better off for having Senator CRANSTON in this body. I am not sure we would be as effective in this effort if he had not been here.

I want to thank my staff for their efforts. I thank my colleagues.

Mr. CRANSTON. Will the Senator yield?

Mr. BIDEN. I yield the floor.

Mr. CRANSTON. I want to thank Senator Biden for his overgenerous words about my efforts with him. I want to pay tribute to his leadership. Had he not done all that he did, we would not have achieved the victory that was accomplished today. That is a very significant one in America's history and protection of the Bill of Rights and what our country stands for. He made a commitment last year to come up with an amendment if the statute that he authored was defeated. He kept that commitment, he kept it in a very effective way, and the outcome of all this is a tribute to his skill and his

wisdom and his understanding of constitutional issues.

I also thank the majority leader for all that he did. His inspirational leadership on this matter was a very significant part of the victory, as were the contributions of many others who took a courageous stand on this issue.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, if I may just for a moment congratulate all concerned in the debate, all participants on each side of each of the many proposals that were before us.

I want to join Senator BIDEN in paying special tribute to Senator CRANSTON who proved once again that he is the most effective and accurate vote counter in the Senate. He certainly was invaluable to me in organizing the effort to defeat the amendment. He demonstrated great skill, and I am very grateful to him for that, as I am to Senator BIDEN who had, as all Senators have come to expect, enormous skill and patience and perseverance in very difficult and trying circumstances. I am very grateful to both of them.

Mr. President, I am pleased to yield.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I think all who supported this amendment are disappointed in the result. But I want to express my deep appreciation to the able chairman of the Judiciary Committee, Senator BIDEN, for the fine cooperation that he extended in working on this amendment in the committee and on the floor. Senator BIDEN and I have had a very fine working relationship, and he has always shown himself to be fair and just. He is an outstanding leader on the Democratic side.

I want to also express my appreciation to Senator DOLE, who was the chief sponsor of this amendment for the President of the United States. President Bush recommended this amendment. The Attorney General of the United States recommended this amendment, and Senator DOLE proposed this amendment, along with other Senators. I was pleased to join him on this as an original cosponsor. We felt it was meritorious. We still feel it is meritorious and regret that it was not accepted.

I want to express my appreciation to the 58 Senators who supported this amendment. That is a majority of the Senate, but in order to submit a constitutional amendment, of course, it takes two-thirds of the Senate. We did not get that number. We lost 42 Members.

I am convinced this amendment would not have affected the first amendment of the Bill of Rights. I will not take time now to go into that in more detail as I did earlier during debate on this proposal. But again I say, in my judgment, and the judgment of many scholars and outstanding intelligentsia, this amendment would not have affected the Bill of Rights.

I still feel that the Congress should have accepted this amendment and sent it to the States, especially since the Supreme Court vote was 5 to 4, just one vote difference. The American people deserved an opportunity to be heard on this important issue.

I felt we should submit it to the American people. I trust the American people. If they had not supported this amendment, if it was submitted to them, that would have been their privilege. But I feel on any matter so important as protecting the flag of the United States, preventing it from being burned, trampled on, or desecrated in any other manner, the people should have been provided an opportunity to act. I feel, if it had been submitted, the American people would have overwhelmingly voted in every State to adopt this amendment through their State legislatures.

But since the Congress, both bodies, did not agree to submit this amendment, then of course that closes the matter for the present. I do not think it is closed permanently, and I think you will see it come back again. I think you are going to see an aroused public because people believe in the flag. It is a symbol of freedom and justice and equal opportunity and hope all over the world. That flag is a hope for people everywhere. When they see that flag, they think about the privileges and rights the people in this Nation enjoy which many of them do not have the opportunity of enjoying.

Again I thank all those Senators who supported this amendment and express my appreciation to them. I am hoping yet that we can get some action to prevent the desecration of the flag of the United States.

I want to extend my appreciation to the able majority leader and able Republican leader for their courtesies to us during the debate on our proposed constitutional amendment. They were both thoughtful and considerate, and I express my appreciation to them.

I also commend two members of Senator BIDEN's staff who worked very hard on this amendment, Jeff Peck and Lisa Meyer, and Thad Strom on our side. They proved to be very helpful and dedicated in their service on this particular matter.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, I rise briefly to supplement some of the fine things that have been said about Senator BIDEN, Senator THURMOND, and, of course, especially our majority whip, the Senator from California.

At the end of this day the Bill of Rights is intact, and yet it ought to be noted that a majority of this body were prepared to see it amended for the first time in nearly two centuries. I think it speaks to the underlying strength and wisdom of the Constitution that a mere majority was not enough. It required two-thirds of all Senators, not just present and voting. But it is something to keep in mind that the Supreme Court, having said that this was, however much one may wish it one not to be, protected speech under the first amendment, we were prepared to that degree to change the first amendment. And when we say what that flag stands for, the rights it stands for, I think it would be fair to note that above all it stands for the Bill of Rights, and it has sustained that travail today but only just.

As for Senator CRANSTON's tally sheets which were shown by the distinguished chairman just a moment ago, I think we can say several things have been proved today. We proved that the basic structure of the Constitution is sound. We also proved that as regards tally sheets, neatness is not everything. These are the most dog-eared, blurred, scratched upon, revised bits of paper you ever did see, but they come out right in the end. I want to congratulate him. He knows how much we love him and admire him.

Mr. KERREY. Mr. President, I simply rise as well to put a postscript on this debate. We are standing here having won a vote. Strangely, it does not feel like a victory. It does not feel like the same victory we had with the clean air bill. It does not seem like the victory we had with the ABC bill. It does not feel like a victory on behalf of America's children or America's elderly. It does not feel like the victory I think we should have when taking Social Security off budget or other things we are trying to get done. It does not feel as good for some reason.

It seems the reason it does not is that this debate has opened a wound in the Nation. I say to my friend from South Carolina and to others on the other side of the aisle who feel strongly that this Constitution should be amended, I feel equally strong that it should not. I do not take this position for the purpose of getting attention. I do not take this position for the purpose of getting a 30-second ad either run for or against me. I feel it strongly.

I hear the Senator from South Carolina saying that perhaps this will come back again. I tell you that a wound has been opened in America over this debate, a real wound, not one that will be felt by us having ads run against us or for us, but a real wound. I have talked to older veterans who are angry with me, disappointed in me, disillusioned in me personally.

A wound has opened in America as a result of this debate and it will not

close easily. It will not go away simply with the close of this debate. It is regrettable. It is unfortunate. It will make it difficult for us to do other things not just in this body but in this country.

There will be many difficult things we will be asked to do in this Senate. I suspect some are coming down the road rather quickly as a consequence of the budget summit. There will be many difficult things we will have to face in this Senate as a consequence of our concern for children and for the future of our country.

This debate has not made it easier for us to pass those things. It has, in my judgment, made it more difficult. I hope we can go forth from this debate not as victors, not as people who have been defeated, but as Americans who care about the future of our country, as Americans committed to make sure we defend not just our own liberty but the liberty and freedom of posterity, which to my mind at least is the highest act that an American can give.

I hope we make the effort as Senators to heal the wound that has been opened from this debate, not keep it open, not try, for political purposes, to keep it open because it damages the fabric of this country if we do.

I do not feel a victory this evening. I believe the Senate has acted correctly. But the real victories will come tomorrow. The real victories will come for our country after this vote we have taken today. I yield the floor.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

REVISED DEFERRALS OF CERTAIN BUDGET AUTHORITY MESSAGE FROM THE PRESIDENT—PM 127

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on the Budget, the Committee on Appropriations, and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two revised deferrals of budget authority now totalling $2,547,688,227.

The deferrals affect programs in International Security Assistance and the Department of State. The details of the deferrals are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *June 26, 1990.*

MESSAGES FROM THE HOUSE

At 4:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3058. An act to provide for the exchange of certain Federal coal leases from the Alton Coal Field in the State of Utah for other Federal coal leases in that State;

H.R. 3863. An act to direct the Secretary of the Interior to conduct a study of the Underground Railroad;

H.R. 4501. An act to provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes;

H.R. 4525. An act to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics; and

H.R. 4872. An act to establish the National Advisory Council on the Public Service.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3058. An act to provide for the exchange of certain Federal coal leases from the Alton Coal Field in the State of Utah for other Federal coal leases in that State; to the Committee on Energy and Natural Resources.

H.R. 3863. An act to direct the Secretary of the Interior to conduct a study of the Underground Railroad; to the Committee on Energy and Natural Resources.

H.R. 4501. An act to provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

The following bill, reported from the Committee on Agriculture, Nutrition, and Forestry on June 22, 1990, was referred to the Committee on Commerce, Science, and Transportation until the close of business on July 10, 1990:

S. 1245. A bill to amend the Federal Meat Inspection Act to expand the meat inspection programs of the United States by establishing a comprehensive inspection program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, June 26, 1990, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 1999. An act to amend the Higher Education Amendments of 1986 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes;

S.J. Res. 264. Joint resolution to commemorate the 50th anniversary of the National Sheriffs' Association;

S.J. Res. 315. Joint resolution for the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day";

S.J. Res. 320. Joint resolution designating July 2, 1990, as "National Literacy Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 647. A bill to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws (Rept. No. 101-337).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. STEVENS, Mr. HOLLINGS, Mr. PACKWOOD, Mr. INOUYE, Mr. GRAHAM, Mr. CRANSTON, Mr. AKAKA, Mr. LAUTENBERG, Mr. GORE, and Mr. ADAMS):

S. 2782. A bill to amend the Coastal Zone Management Act of 1972 to authorize appropriations for fiscal years 1991 through 1995 and to require State coastal zone management agencies to prepare and submit for the approval of the Secretary of Commerce programs for the improvement of coastal zone water quality, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SYMMS (for himself, Mr. BURNS, Mr. WALLOP, Mr. NICKLES, Mr. HUMPHREY, Mr. SIMPSON, Mr. COCHRAN, Mr. HATCH, Mr. BOSCHWITZ, and Mr. HELMS):

S. 2783. A bill to amend the Internal Revenue Code of 1986 to revise the estate and gift taxes in order to preserve American family enterprise, and for other purposes; to the Committee on Finance.

By Mr. WILSON:

S. 2784. A bill to designate certain lands in Los Padres National Forest as wilderness, to designate Sespe Creek, the Sisquoc River, and the Big Sur River in the State of California as wild and scenic rivers, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO (for himself and Mr. HARKIN):

S. 2785. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide a lump sum payment to public safety officers who become totally and permanently disabled as a result of a catastrophic injury sustained in the line of duty; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. COHEN, Mr. RIEGLE, Mr. WIRTH, Mr. GRAHAM, Mr. DIXON, Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, Mr. KOHL, Mr. KERRY, Mr. GORE, Mr. CRANSTON, Mr. LIEBERMAN, and Mr. LEAHY):

S. 2786. A bill to mount a national crackdown on fraud and embezzlement in the thrift and banking industries; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. PELL, Mr. HELMS, and Mr. MOYNIHAN):

S. 2787. A bill entitled the "Iraq International Law Compliance Act of 1990"; to the Committee on Foreign Relations.

By Mr. KERRY (for himself, Mr. HOLLINGS, and Mr. GRAHAM):

S. 2788. A bill to authorize certain programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GORE (for himself, Mr. DANFORTH, Mr. HOLLINGS, Mr. FORD, Mr. INOUYE, Mr. BRYAN, Mr. GORTON, Mr. CRANSTON, and Mr. AKAKA):

S. 2789. A bill to authorize appropriations for the Earthquake Hazards Reduction Act of 1977, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself and Mr. SIMON):

S. 2790. A bill to promote educational partnerships and establish education programs involving Federal laboratories and public schools, colleges, and universities to promote and enhance science, mathematics, and engineering education at all educational levels, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON:

S. 2791. A bill to amend the Federal Oil and Gas Royalty Management Act of 1982 to provide for the appointment by the President of a director of the Minerals Management Service, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself, Mr. BURNS, Mr. WALLOP, Mr. NICKLES, Mr. HUMPHREY, Mr. SIMPSON, Mr. COCHRAN, Mr. HATCH, Mr. BOSCHWITZ, and Mr. HELMS):

S. 2783. A bill to amend the Internal Revenue Code of 1986 to revise the estate and gift taxes in order to preserve American family enterprise, and for other purposes; to the Committee on Finance.

AMERICAN FAMILY ENTERPRISE PRESERVATION ACT

Mr. SYMMS. Mr. President, I rise today to introduce the American Family Enterprise Preservation Act. I think it is no secret to Members of the Senate, and to Americans in general, that a high percentage or our population earn their living working in or for small businesses in this country, and that most of the small businesses in the country are owned by families.

Family-owned businesses are the essence of the American dream. Hard work, resourcefulness, and pride in doing the job well are typical characteristics that we find in family businesses. Family businesses are an attractive venture of Americans to enter into and try to work for their own benefit, pleasure, and sense of accomplishments.

I assert to you today, that it has been families and their businesses that have been the bedrock of a strong economy in the United States since the very beginnings of this Nation.

Mr. President, due to the present tax laws however, a family's business accomplishments are heavily taxed upon the death of the majority owner of the business, which exposes many of these small businesses to what can lead to financial collapse, particularly in the agricultural community.

I would venture to guess that well over 90 percent of the farms in America are operated as family businesses. Most of those farms are land rich and cash poor. So if someone dies in the family, and if the farm is of any value and substantial size, it forces liquidation or heavy debt in order to pay off the tax collector.

One of the reasons that we have seen such a concentration of newspaper ownership in America, is because of the death tax laws in this country that have forced families to sell local newspapers to bigger corporations so they can pay off the debt taxes.

Family-owned businesses are not an American institution that Congress should contemplate taxing into extinction. Family businesses provide jobs, revenues to the Treasury, and products and services that are essential to the well-being of America. It is by no means easy that a family business can be built. And what is really tragic is that Congress has, through its infinite wisdom, created a taxing system we now have that imposes death taxes in this country. It is crushing the backbone of America—the family business. Family business should not have to be sold in order to pay off the death tax.

Mr. President, if American Government has evolved to the point of destroying such a fundamental part of society, I feel one of the most important and vital legacies we possess will be lost forever. Extremely high estate taxes strike at the heart of the American dream. More than half of all businesses qualify as family businesses. As I said earlier, in agriculture it is a much higher percentage.

Incredibly, as the citizens in this country are clamoring for tax relief across the board from the income tax system and from property taxes, the Federal Government continues to impose no less than 17 different tax rates on estates. They range from 18 to 55 percent. This often causes the family of the deceased business owner to sell the assets of the business just to pay the Federal taxes.

The legislation I intend to introduce today, which I call the American Family Enterprise Preservation Act, will do several things. I fell these are all essential to help ensure the survival of thousands of family businesses in the country, and not only the survival for the business, but the survival for the people that work in those businesses, who enjoy working in a small company where they have direct contact with the owners, and can become part of a team, with a family that operates a business.

First, this bill would repeal section 2036(c) of the IRS Code by eliminating the estate tax freeze. That means that the heir will only pay taxes on the portion of the estate that is actually inherited. They will not have to pay capital gains taxes on the growth of the company from the time that they assumed ownership until the owner is deceased, in the interim period.

For example, if a father would give or sell a business to his children, during the interim period of, 25 years before the time the father might be deceased, and the business were to enjoy a great deal of growth and expand in its value, under current tax law, upon the death of the original owner of the business, they will have to go back, recoup, and pay taxes on the growth that took place even after that person moved out of the business.

I feel this estate tax freeze will be received favorably. I am confident that at least this portion of this bill will be passed this year.

Second is to reduce the number of tax brackets from 17 tax brackets down to 2. This is the same as the top income tax bracket. It would be indexed for inflation, and the top bracket would be 28 percent. Why we tax people at 55 percent on an estate is beyond my imagination. It is pure confiscation of property to tax anyone at 55 percent, particularly if they have worked, been thrifty, reinvested in their business, and paid taxes on the profits of that business throughout the years of building it. To have the heirs upon their death pay at 55 percent tax rate is absolutely outrageous, and should be stopped. We should not have this inequity taking place in the United States. My legislation would

lower the estate tax rates to either 15 or 28 percent, same as the income tax rate.

Third, it would increase the "unified credit" to a higher amount equivalent to a $1 million estate and index it for inflation. The unified credit is currently $600,000. This bill would raise it to $1 million finally, this will extend the 4 percent interest rate to the entire amount of tax due, instead of being increased after the first $153,000 is paid.

Mr. President, this bill does not go all the way. I know many people in the Congress and in the country believe that the estate tax should be repealed entirely—I do not argue with that philosophy—because those people have already paid taxes on it. But this is a modest step to moderate the destructive damage done to the businesses, jobs and to the economy of this country by these very confiscatory taxes.

The advantages of these provisions are easily seen. Repeal of these onerous, laws returns to law prior to the Tax Reform Act of 1986, and reinstates the expectation of fairness and simplicity in estate planning that families running a business had come to depend on.

What incentive is there, Mr. President, to establish a business owned and operated by the family, only to have up to 55 percent of it taken away by estate tax payments when the majority owner dies? In fact, precisely because of 2036(c) and the resultant high estate taxes, there is no incentive to keep a family business going. The purpose of a family business is to provide for the family; yet, our present estate tax laws discourage this, discourage the basic backbone of the American dream for most people.

Mr. President, unfair tax laws stand as a barrier to the hopes and dreams of the American people. Estate taxes discourage normal intrafamily transactions which prevent the passage of the family farm or business to the next generation. We have an opportunity to do something to correct this error in our taxing system. I urge all my colleagues to support this legislation. I say to my colleagues that the National Federation of Independent Business supports this legislation, along with the Family Businesses of America. I ask unanimous consent to have printed in the RECORD at this point a letter from Mr. John Garvey to Senator BOB DOLE encouraging his support of this legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FAMILY BUSINESSES OF AMERICA,
Wichita, KS, June 20, 1990.

HON. BOB DOLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: We are grateful for your past and continuing support of S. 849 to repeal section 2036(c) of the Internal Revenue Code.

Family Businesses of America, formed in 1990, already represents family businesses and their advisors from all regions and most states and many industries.

We aspire to represent many of America's 20 million family businesses, which represent an estimated 40-60% of U.S. GNP, at least ½ the U.S. population, including owners, investors, employees and dependents of American family businesses.

As a Kansan and as a founder of FBA, I solicit your consideration and support of Senator SYMMS' "Family Enterprise Protection Tax Act" which will be announced on or around June 21, 1990.

Sincerely,

JOHN K. GARVEY.

Mr. SYMMS. On behalf of myself, Mr. BURNS, Mr. WALLOP, Mr. NICKLES, Mr. HUMPHREY, Mr. SIMPSON, Mr. COCHRAN, Mr. HATCH, Mr. BOSCHWITZ, and Mr. HELMS and any other Senators who would like to join in this effort, I invite their participation, and I hope that they will cosponsor this. I think it is going to have a very minimal impact on the Federal Treasury in terms of costs to the Treasury. In my view, if we look at a dynamic model, I think we can make the case that this bill will, in the long run, generate income and revenue to the Federal Treasury, because it will generate the desire for people to own and operate their own profitable small businesses.

By Mr. WILSON:

S. 2784. A bill to designate certain lands in Los Padres National Forest as wilderness, to designate Sespe Creek, the Sisquoc River, and the Big Sur River in the State of California as wild and scenic rivers; to the Committee on Energy and Natural Resources.

DESIGNATION OF CERTAIN WILD AND SCENIC RIVERS IN CALIFORNIA

● Mr. WILSON. Mr. President, today I am introducing a new bill to designate lands in the Los Padres National Forest as wilderness, establish several wild and scenic rivers, and propose several other rivers to be studied for possible inclusion under that system. This bill significantly revises and expands a bill that I introduced earlier in this session.

When I introduced S. 637, I said that I welcomed suggestions on how it could be improved. Since that time, I have discussed this issue with many concerned citizens and organizations. I have also followed closely the developments surrounding H.R. 1473, a companion measure to S. 637, introduced in the House by my colleague from California, [Mr. LAGOMARSINO].

Mr. President, I have used the suggestions and concerns that have been expressed to create a stronger, more complete, sensitive, and well-balanced bill. It is similar in many ways to the amended version that recently was passed by the House.

My bill would designate nearly 368,000 acres in the Los Padres National Forest as wilderness, an increase of 50 percent over my previous bill. Four new wilderness areas would be created and two existing wilderness areas would be expanded.

The largest of these proposed wilderness areas is the Sespe Wilderness. Comprising approximately 209,000 acres, this region is a major watershed and an important habitat for the Bighorn Sheep and the endangered California Condor, two critical California wildlife species.

The legsialtion also creates the Matilija Wilderness, comprising 30,000 acres, the Garcia Wilderness, comprising 11,600 acres, and a 36,200 acre wilderness to be named in honor of the Chumash Indian Tribe.

The bill would expand the San Rafael Wilderness by 43,000 acres and the Ventana Wilderness by 38,000 acres. Those areas not designated wilderness will be released for multiple-use planning by the Forest Service.

This new bill significantly expands the wild and scenic river provisions of my previous bill. On the Sespe Creek, 27.5 miles would be designated as "wild" and 4 miles as "scenic." A 31-mile segment of the Sisquoc River and 14.4 miles of the Big Sur River would be designated as wild rivers. A total of 6 other rivers—Piru Creek, Little Sur River, Upper Sespe Creek, Matilija Creek, Lopez Creek, and Arroyo Seco River—are listed as study rivers, to be considered for future designation as wild and scenic.

I have revised the Ventana land exchange provision of the House-passed bill to improve the quality of the land to be received by the Forest Service in the exchange. In addition, I have included a provision that would provide for a mineral withdrawal of the Monterey coastal zone in accordance with the local coastal plan for Monterey County. Such a withdrawal would prevent the establishment of new mining claims and preclude oil and gas leasing. Valid existing claims would not be affected by this provision.

Finally, this legislation calls for the construction of two new off-road vehicle trails. The first, the Long Canyon to Sulphur Springs Trail, was included in H.R. 1473. The second will connect the Lockwood Creek and the Dry Canyon Off-Road Vehicle Trails, a distance of approximately 12 miles. This meets the needs of on-trail vehicle recreationists and offsets the loss of two popular ORV trails now located in resource sensitive areas that will be eliminated by this legislation.

Though located less than a 2-hour drive from one of America's largest cities, the Los Padres National Forest is an area of outstanding natural beauty. The forests and rivers covered under this bill are truly deserving of protection that will allow generations of Americans to continue enjoying these precious natural resources. I trust my colleagues will give this

matter the prompt consideration it deserves.●

By Mr. D'AMATO (for himself and Mr. HARKIN):

S. 2785. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide a lump sum payment to public safety officers who become totally and permanently disabled as a result of a catastrophic injury sustained in the line of duty; to the Committee on the Judiciary.

PUBLIC SAFETY OFFICERS COMPENSATION ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce The Public Safety Officers' Compensation Act.

This legislation amends the Omnibus Crime Control and Safe Streets Act to provide a one-time Federal payment of $100,000 adjusted for inflation to public safety officers who are permanently and catastrophically injured in the line of duty. Such payments are now made only to the families of officers killed in the line of duty.

This bill is introduced in honor of Steven McDonald, a New York City Police officer who was paralyzed from the neck down as a result of gunshot wounds inflicted by three men he stopped for questioning in New York's Central Park on July 12, 1986. I am sure my colleagues will agree with me that not only is a life confined to a wheelchair an overwhelming sacrifice for a 33-year-old husband and father to make, but it is a sacrifice deserving of the assistance provided for in this bill.

We have a duty to acknowledge with more than kind words the bravery of Mr. McDonald and other valiant public safety officers who in service to their communities become the tragic victims of brutal violence.

The Public Safety Officers' Compensation Act will help relieve some of the burden being borne by the family, friends, and community of severely injured or disabled officers, and it recognizes the unique and costly sacrifice of these extraordinary men and women with meaningful help.

This legislation has already received the support of the Fraternal Order of Police, the International Association of Firefighters, the International Brotherhood of Police Officers, the International Association of Fire Chiefs, the National Association of Police Organizations, the International Association of Chiefs of Police, the National Sheriffs Association, the State of New York, the State of California, the State of Alabama, the State of Indiana, the State of Alaska, the New Mexico Department of Public Safety, the Washington State Patrol, the State of Maryland, the Commonwealth of Virginia, the State of Arizona, the State of Idaho, the State of Maine, the State of South Dakota, the State of Missouri Department of Public Safety, the Territory of Guam, the State of Wyoming, the Commonwealth of Pennsylvania State Police, the State of North Dakota, the Commonwealth of Puerto Rico, and Homecare.

Mr. President, I urge my colleagues to join in support of this important measure.●

By Mr. BIDEN (for himself, Mr. COHEN, Mr. RIEGLE, Mr. WIRTH, Mr. GRAHAM, Mr. DIXON, Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, Mr. KOHL, Mr. KERRY, Mr. GORE, Mr. CRANSTON, Mr. LIEBERMAN, and Mr. LEAHY):

S. 2786. A bill to mount a national crackdown on fraud and embezzlement in the thrift and banking industries; to the Committee on the Judiciary.

COMPREHENSIVE THRIFT AND BANK FRAUD PROSECUTION ACT

● Mr. BIDEN. Mr. President, we all know that the crisis in the savings and loan and banking industries is the largest financial scandal in this Nation's history, costing U.S. taxpayers up to $500 billion during the next three decades.

The S&L debacle is not only the largest financial scandal in this Nation's history. It is also the largest criminal scandal in our history.

The Attorney General recently described the "epidemic of fraud" in the thrift and banking industries, stating that at least 25 to 30 percent of the thrift failures can be linked to fraud and criminal conduct by bank insiders.

The head of the Resolution Trust Corporation, L. William Seidman, estimated that fraud and insider abuse played a major role in 60 percent of the thrift failures.

Make no mistake. Fraud and criminal conduct was one of the major factors responsible for the crisis in the savings and loan industry.

According to the Office of the Comptroller of the Currency, fewer than 10 percent of the bank failures were caused solely by depressed economic conditions in the area.

Two weeks ago, I stated that nothing short of a massive Federal crackdown will suffice to punish these white-collar criminals, seize and recover every possible dollar of stolen and embezzled funds, and restore public confidence in the banking and financial services industry.

Today, I am introducing legislation to mount that crackdown on a massive scale. The Comprehensive Savings and Loan Prosecution and Enforcement Act of 1990 is aimed at punishing those white-collar criminals who have stolen tens of billions of dollars from U.S. taxpayers, recovering every possible dollar in ill-gotten gains, and preventing such insider crime in the future.

Mr. President, many sound legislative proposals have been introduced to address parts of the S&L problem by my colleagues on both sides of the aisle. The Comprehensive Savings and Loan Prosecution and Enforcement Act of 1990 incorporates many of these proposals and includes a series of other initiatives that I have developed.

Among the major provisions of this legislation:

Creates a new "S&L kinpin" statute that authorizes up to life imprisonment for the most egregious cases of fraud and embezzlement, and significantly increase penalties for S&L fraud and embezzlement offenses.

Expands Federal forfeiture, money laundering, wiretap, and racketeering laws to include important bank fraud and embezzlement crimes.

Authorizes $167.5 million to add hundreds of new U.S. prosecutors, FBI and Secret Service agents, IRS criminal investigators, and bank examiners and technical specialists for the Office of Thrift Supervision, FDIC, Resolution Trust Corporation, and other oversight agencies.

Creates new penalties to prevent and prosecute fraud in the sale of billions of dollars of assets by the Resolution Trust Corporation.

Creates a new Financial Services Crime Division in the Department of Justice and at least 10 Financial Services Crime Strike Forces in cities around the country composed of special teams of prosecutors, FBI and Secret Service agencies, IRS investigators, bank auditors and examiners, and financial crime experts.

Authorizes additional funding for U.S. courts in areas experiencing overwhelming S&L fraud-related caseloads and expanding the authority of U.S. magistrates to expedite S&L prosecutions in Federal courts.

Authorizes private attorneys to bring suits against S&L violators, the so-called bounty hunter or qui tam provision.

Mr. President, in recent weeks there have been numerous charges and countercharges leveled about who is to blame for the S&L scandal. Many of the charges have been straight political attacks, trying to turn the S&L crisis into a partisan issue.

Instead of following this approach by simply introducing my own S&L fraud package, I have pulled together a bipartisan package of S&L enforcement proposals. By introducing this package of Democratic and Republican S&L fraud initiatives, I hope to move the debate on the S&L crisis beyond partisan political attacks, to a point where we can work with the administration to craft a comprehensive plan to attack fraud in the thrift and banking industries. We cannot afford delay in mounting a tough, thorough crackdown on S&L criminals—whose

actions may end up robbing the Federal Treasury of as much as $500 billion.

The S&L proposals announced by the President last week demonstrate that the debate is no longer about whether we need to do more to prosecute S&L violators, but about how many additional FBI agents and prosecutors are needed and what additional tools and penalties do they need. The time for finger pointing is over. The time for action is now.

As I announced last week, I have scheduled a Judiciary Committee hearing on S&L fraud for July 10. At the hearing, I intend to review the package of initiatives I am introducing today, along with proposals submitted by other Senators and by the administration.

I intend to work closely with the Senate Banking Committee and the administration to craft a bipartisan S&L fraud prosecution package that can receive swift action in the Judiciary Committee and prompt action by the full Senate.

I ask unanimous consent that a summary of the bill and the full test of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2786

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Thrift and Bank Fraud Prosecution Act of 1990".

TITLE I—BANK FRAUD AND EMBEZZLEMENT PENALTIES

SEC. 101. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended by striking "20" and inserting "30".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended by striking "20" and inserting "30".

(c) LENDING, CREDIT AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended by striking "20" and inserting "30".

(d) BANK ENTRIES, REPORTS AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended by striking "20" and inserting "30".

(e) FEDERAL CREDIT INSTITUTIONS ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended by striking "20" and inserting "30".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended by striking "20" and inserting "30".

SEC. 102. FINANCIAL CRIME KINGPIN STATUTE.

(a) CONTINUING FINANCIAL CRIME ENTERPRISES.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Continuing Financial Crimes Enterprise

"(a) Any person who engages in a continuing financial crime enterprise shall be sentenced to a term of imprisonment of not less than 10 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, or $10,000,000 if the defendant is an individual, or $20,000,000 if the defendant is other than an individual.

"(b) For purposes of subsection (a) of this section, a person is engaged in a continuing financial crime enterprise if—

"(1) he violates section 215, 656, 657, 1005, 1006, 1007, 1014, or 1344 of this title; and

"(2) such violation is part of a continuing series of violations under sections 215, 656, 657, 1006, 1007, 1014, or 1344 of this title—

"(A) such are undertaken by such person in concert with three or more persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

"(B) from which such person receives $5,000,000 in gross receipts during any 24-month period.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by inserting at the end the following new item:

"225. Continuing Financial Crime Enterprise.".

SEC. 103. AMENDMENTS TO THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS STATUTE.

Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting "section 215 (relating to receipt of commissions or gifts for approving loans)," after "section 201 (relating to bribery),",

(2) by inserting "sections 656 and 657 (relating to financial institution embezzlement)," after "473 (relating to counterfeiting),"; and

(3) by inserting "sections 1004, 1005, 1006, 1007, and 1014 (relating to fraud and false statements)," after "section 894 (relating to extortionate credit transactions),".

SEC. 104. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) INCREASED PENALTIES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating sections 215, 656, 657, 1006, 1007, 1014, 1341 or 1343 affecting an insured depository institution, or section 1344 of title 18, United States Code, where the offender derives more than $1,000,000 in gross receipts from the offense, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) four levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth above; and

(2) in no event less than 24.

(b) AMENDMENTS TO SENTENCING GUIDELINES.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

TITLE II—BROADENING INVESTIGATIVE AUTHORITY IN BANK CRIME CASES

SEC. 201. SUBPOENA AUTHORITY IN BANK CRIME CASES.

(a) IN GENERAL.—Part II of title 18, United States Code, is amended by adding at the end of the following new chapter: inserting after section 537 the following new chapter:

"CHAPTER 237—ADMINISTRATIVE PROVISIONS

"Sec.

"3771. Administrative subpoena authority.

"§ 3771. Administrative subpoena authority

"(a) ISSUANCE.—

"(1) GENERALLY.—Upon a determination that a person may possess, or have care, custody, or control of any books, records, papers, documents, or other objects, which may be relevant to an authorized law enforcement inquiry of alleged violation of—

"(A) section 215, 371, 567, 656, 1005, 1006, 1007, 1008, 1014, or 1344 of this title; or

"(B) section 1341 or 1343 affecting a financial institution, and any alleged conspiracies to commit violations of such sections under section 371 of this title;

a Federal Bureau of Investigation official described in paragraph (3) may issue in writing and cause to be served upon such person a summons requiring such person to produce the objects at the place designated in the summons.

"(2) CONTENTS OF SUMMONS.—The summons shall describe the objects required to be produced and prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.

"(3) OFFICIALS WHO MAY ISSUE.—The Federal Bureau of Investigation officials referred to in paragraph (1) are—

"(A) the Director; "(B) designees of the Director at Bureau headquarters; "(C) special agents in charge of Bureau divisions; and "(D) senior supervisory resident agents.

"(b) SERVICE.—A summons issued under this section shall be served—

"(1) by any special agent of the Bureau; and "(2)(A) upon a natural person by delivering a copy to that person personally, and "(B) upon a corporation, a partnership, or other unincorporated association by delivering the summons to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process, or by certified or registered mail to any such person. The affidavit of the person serving the summons shall be proof of service.

"(c) PLACE OF SERVICE.—A summons issued under this section may be served at any place within the United States or any place subject to the laws or the jurisdiction of the United States.

"(d) ENFORCEMENT.—

"(1) PREPARATION REQUIRED.—Any person served with a summons issued pursuant to this section shall proceed to assemble the objects required to be produced and shall be prepared to produce them on the date and at the place specified in the summons, notwithstanding any petition filed under subsection (d)(3).

"(2) COURT ORDER TO COMPEL COMPLIANCE.—In the case of contumacy by, or refusal to obey a summons issued to, any person pursuant to this section, the Attorney General may seek an order to compel compliance of such a summons, from a district of the United States where—

"(A) the investigation is pending; "(B) the summons was served; or "(C) the summoned person resides, carries on business, or may be found. All process in any such court action may be served in any judicial district in which such person may be found.

"(3) PETITION FOR MODIFICATION.—Within 10 days after the service of a summons upon such a person, or at any time before the return date specified in the summons, whichever period is less, such person may

file, in the United States district court in the district where the investigation is pending, a petition for an order modifying or setting aside the summons. The petition shall specify each ground upon which the petition relies in seeking relief. The time allowed for initiation of formal criminal proceedings under any applicable statute of limitations shall be tolled while the petition is pending in court or on appeal.

"(4) POWER OF COURTS.—The court may enter such order as may be required to enforce this section. Any failure to obey any such order may be punished as a contempt thereof. Any petition filed, or any such order entered shall be under seal.

"(e) APPLICABLE STANDARDS GOVERNING PRODUCTION.—The standards relating to production of books, records, papers, documents, or other objects, pursuant to a subpoena duces tecum issued by a district court of the United States in furtherance of a grand jury investigation, shall—

"(1) apply to summons issued under this section; and

"(2) govern any proceedings under subsection (d)(3).

Nothing in this subsection shall prevent the use of any summons pursuant to this section issued in connection with locating fugitive felons for alleged violations of those sections of this title set forth in subsection (a) of this section.

"(f) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a summons under this section, who complies in good faith with the summons and any orders issued under subsection (d)(3) and thus produces the materials sought, shall not be liable in any court of any State or the United States to any customer or other person for such production or for nondisclosure of that production to the customer.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 235 the following new item:

"237. Administrative provisions ..... 3771".

(c) CONFORMING AMENDMENT.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by inserting "or a Federal Bureau of Investigation summons (issued under section 3771)," after "subpoena".

SEC. 202. SECRET SERVICE AUTHORITY.

(a) SECRET SERVICE JURISDICTION IN BANK CRIME CASES.—Section 3056(b)(1) of title 18, United States Code, is amended by—

(1) by inserting "financial institutions, and the Resolution Trust Corporation, and concurrent with the authority of any other Federal law enforcement agency," after "land bank" associations,";

(2) inserting "215," after "213,";

(3) inserting "656," after "493,";

(4) inserting "1005, 1032," after "709,"; and

(5) inserting "1341, 1343, 1344 and 1510," after "1014,".

(b) SECRET SERVICE PARTICIPATION IN FINANCIAL SERVICES CRIME STRIKE FORCES.—Secret Service personnel investigating violations of sections 213, 215, 656, 657, 1005, 1006, 1007, 1032, 1341, and 1344 shall exercise such jurisdiction through the Financial Institutions Crime Strike Forces established in Title III of this Act.

SEC. 203. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES: TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended by—

(a) in subsection (1)(c)—

(1) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(2) by inserting "section 1014 (relating to false statements to financial institutions)," before "sections 1503,";

(3) by striking out "section 1343 (fraud by wire, radio, or television)," and inserting in lieu thereof "section 1343 (fraud by use of facility of interstate commerce), section 1344 (relating to bank fraud),"; and

(4) by striking out "the section in chapter 65 relating to destruction of any energy facility,"; and

(b) by redesignating the first paragraph (m), which reads "any conspiracy to commit any of the foregoing offenses."

(c) by striking out "and" at the end of paragraph (m);

(d) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and"; and

(e) in paragraph (j), by striking out "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1742 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679(c)(2)) or sections 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1742 (i) or (n)".

TITLE III—RESTRUCTURING THE FEDERAL ATTACK ON BANK CRIMES

SEC. 301. ESTABLISHMENT OF FINANCIAL SERVICES CRIME DIVISION.

There is established within the Department of Justice the Financial Services Crime Division.

SEC. 302. ASSISTANT ATTORNEY GENERAL FOR FINANCIAL SERVICES CRIME.

(a) ASSISTANT ATTORNEY GENERAL.—There shall be at the head of the Financial Services Crime Division established by this Act an Assistant Attorney General for Financial Services Crime who shall—

(1) be appointed by the President, by and with the advise and consent of the Senate;

(2) be responsible for—

(a) supervising and coordinating investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry;

(b) ensuring that federal statutes relating to civil enforcement, asset seizure and forfeiture, money laundering and racketeering are used to the fullest extent authorized by law to attack the financial resources of those who have committed crimes in and against the financial services industry; and

(c) ensuring that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(b) COMPENSATION.—(1) Section 5315 of title 5, United States Code, is amended by striking "Assistant Attorneys General (10)." and inserting "Assistant Attorneys General (11)."

(2) The Assistant Attorney General of the Financial Services Crime Division shall be paid at the basic pay payable for level IV of the Executive Schedule.

SEC. 303. DEPUTY ASSISTANT ATTORNEYS GENERAL.

(a) ESTABLISHMENT.—There are established two (2) Deputy Assistant Attorneys General for Financial Services Crime Divison, who shall report directly to the Assistant Attorney General for Financial Services Crime.

(b) COMPENSATION.—The Deputy Assistant Attorneys General for Financial Services Crime Division shall be paid at the rate of basic pay payable for level V of the Executive Schedule.

SEC. 304. ADMINISTRATIVE PROVISIONS.

There shall be established within the Financial Services Crime Division such sections, offices, and personnel as the Attorney General shall deem appropriate to maintain or increase the level of enforcement activities in the area of fraud and other criminal activity in and against the financial services industry.

SEC. 305. FINANCIAL SERVICES CRIMES STRIKE FORCES.

(a) ESTABLISHMENT.—There are established not less than ten (10) field offices of the Financial Services Crime Division in the federal judicial districts experiencing the greatest number of civil and criminal offenses in and against the financial services industry, as determined by the Attorney General. All such field offices shall be known as Financial Services Crime Strike Forces.

(b) PARTICIPATION OF FEDERAL AGENCIES.—The field offices of the Financial Services Crime Division shall include attorneys, agents, specialized technical personnel and administrative support personnel from the following agencies:

(1) assistant United States attorneys;

(2) the Federal Bureau of Investigation;

(3) the United States Secret Service;

(4) the Criminal Investigative Division of the Internal Revenue Service;

(5) the Federal Deposit Insurance Corporation;

(6) the Office of Thrift Supervision;

(7) the Resolution Trust Corporation;

(8) the Office of Comptroller of the Currency;

(9) the Federal Reserve Board; and

(10) the Securities and Exchange Commission.

(c) OPERATION OF THE FINANCIAL SERVICES CRIME STRIKE FORCES.—(1) The agents assigned to the Financial Services Crime Strike Forces shall be dedicated exclusively to and located with the Strike Forces so that the Strike Force personnel may develop expertise and function as a working unit.

(2) The agents assigned to the Strike Forces from the various participating agencies shall be given credit for the work of the Strike Forces, regardless of the statutory authority used to prosecute Strike Force cases.

(d) EXPENSES OF FINANCIAL SERVICES CRIME DIVISION AND STRIKE FORCES.—Beginning in fiscal year 1992, the Attorney General in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies participating in the Financial Services Crime Division and Strike Forces. Such appropriations shall be made to the Department of Justice's Financial Services Crime Division Account for the Attorney General to make reimbursements to the involved agencies as necessary.

SEC. 307. REPORTS.

(a) IN GENERAL.—(1) The Division shall compile and collect data concerning—

(A) the nature and quantity of investigations, prosecutions, and enforcement proceedings in progress;

(B) the nature and quantity of such matters closed, settled or litigated to conclusion; and

(C) the outcomes achieved, including fines and penalties levied, prison sentences imposed and damages recovered.

(2) The Division shall make the raw data collected available to any committee of Congress or congressional agency.

(3) The Division shall analyze and report to the Senate committees on Banking, Housing and Urban Affairs Committee and the Judiciary and the House committees on Banking, Finance and Urban Affairs and the Judiciary semiannually on the data described in paragraph (1), and its own coordination activities with the agencies identified in section 5(b).

(b) SPECIFICS OF REPORT.—The report required by this section shall identify, with respect to the activities of the Division and its sections and offices—

(1) the institutions in which evidence of significant fraud or insider abuse has been deleted;

(2) the Federal adminsitrative enforcement actions brought against parties;

(3) the claims for monetary damages or other relief sought, and any settlement or judgments against parties;

(4) indictments, guilty pleas or verdicts obtained against parties; and

(5) the resources allocated in pursuit of such claims, actions, settlements, indictments or verdicts.

SEC. 308. STATISTICS ON FINANCIAL SERVICES CRIME ENFORCEMENT.

Section 522 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "The Attorney General"; and

(2) adding at the end thereof the following:

"(b) The information provided pursuant to subsection (a)(2) shall include records of the number of pending causes, matters, investigations, cases, defendants, and files in the area of criminal activity involving financial services and financial institutions which shall specify the number of such cases relating to the savings and loan and banking industries shall be made available to the Congress not less than monthly during each year.".

SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as shall be necessary to carry out the purposes of this title.

TITLE IV—EXPANDING FEDERAL FORFEITURE AND MONEY LAUNDERING LAWS

SEC. 401. EXPANDING CIVIL FORFEITURE LAWS IN BANK CRIME CASES.

Section 981 of title 18, United States Code, is amended—

(a) in subsection (a)(1)(C), by inserting "or a violation of section 1341 or 1343 of such title affecting an insured depository institution" before the period;

(2) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(3) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. 402. RESTITUTION FOR VICTIMS OF BANK CRIMES.

Section 981(e) of title 18, United States Code, is amended—

(1) by striking out "or" where it apears at the end of paragraph (4) and "." where it appears at the end of paragraph (5);

(2) by adding "; or" at end of paragraph (5); and

(3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of property referred to in subsection (a)(1)(C), restore forfeited property to the victims of an offense described in subsection (a)(1)(C).".

SEC. 403. SEIZURE OF ASSETS BY THE ATTORNEY GENERAL.

Section 981(b) of title 18, United States Code, is amended by inserting "Attorney General or" after "subsection (a)(1)(C) of this section may be seized by the".

SEC. 404. MONEY LAUNDERING INVOLVING BANK CRIMES.

Subparagraph 1956 (c)(7)(D) of title 10, United States Code, is aamended—

(1) by inserting "section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent federal credit institution entries), 1007 (relating to Federal Deposit Insuance transactions), 1014 (relating to fraudulant loan or credit applications)," after "section 875 (relating to interstate communications"; and

(2) by inserting "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting an insured depository institution," after "section 1203 (relating to hostage taking)".

SEC. 405. CLOSING LOOPHOLES IN FEDERAL BANKRUPTCY LAW INVOLVING BANK CRIMES.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(p) BREACH OF FIDUCIARY DUTIES.—A finding by a Federal bankruptcy or district court that a director or an officer of an insured financial institution has breached any of his or her fiduciary duties to that institution shall constitute a defalcation while acting a fiduicary capacity within the meaning of section 523(a)(4) of title 11, United States Code. The liability arising from such breach shall constitute a debt not dischargeable in bankruptcy.".

SEC. 406. DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION.

(a) EXCEPTION TO DISCHARGE UNDER CHAPTER 11.—Section 1141(d) of title 11, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by adding the following new paragraph:

"(4) The confirmation of a plan does not discharge a debtor of its responsibilities on any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors.".

(b) EXCEPTION TO DISCHARGE UNDER CHAPTER 7.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting a semicolon;

(3) by inserting "or" at the end of paragraph (10); and

(4) by adding at the end the following new paragraph:

"(11) for any commitment to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of Thrift Supervisions, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors.".

(c) COMMITMENTS MAY NOT BE DISAVOWED AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code is amended by adding at the end the following new subsection:

"(o) The debtor may not reject any commitment of the debtor to maintain the capital of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), entered into by the debtor and the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Office of Thrift Supervision, the Office of the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors.".

SEC. 407. DISCLOSURE OF CIVIL ENFORCEMENT ACTIONS.

(a) Section 8(u) of the Federal Deposit Insurance Act is amended to read as follows:

"(u) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public within 10 days of the agency's action—

"(A) any notice of charges issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other provision of law;

"(B) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section of any other provision of law;

"(C) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other provision of law; and

"(D) any modification to or termination of any document made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by a Federal banking agency shall be open to the public. Any document or evidence presented in such a hearing shall be published as part of the transcript of the hearing and made available for public inspection.

"(3) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of January 1, 1990 or issued after January 1, 1990. The publication required by paragraph (2) shall apply with respect to the transcripts of all hearings conducted after January 1, 1990.

"(4) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of a document pursuant to paragraph (1), or holding a hearing open to the public pursuant to paragraph (2), would seriously threaten the safety and soundness of an insured depository institution, such agency may delay the publication of such document or transcript of the hearing for a reasonable time.".

(b) Paragraph (s) of section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended to read as follows:

"(s) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The Board shall publish and make available to the public within 10 days of the agency's action—

"(A) any notice of charges issued with respect to any administrative enforcement proceeding initiated by the Board under this section or any other provision of law;

"(B) any letter, directive, agreement, settlement, memorandum of understanding, business plan, or other written statement issued or accepted in lieu of a final order issued under this section or any other provision of law;

"(C) any final order issued with respect to any administrative enforcement proceeding initiated by the Board under this section or any other provision of law; and

"(D) any modification to or termination of any document made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Board shall be open to the public. Any document or evidence presented in such a hearing shall be published as part of the transcript of the hearing and made available for public inspection.

"(3) EFFECTIVE DATE.—The disclosure required by paragraph (1) shall apply with respect to all documents outstanding as of January 1, 1990, or issued after January 1, 1990. The publication required by paragraph (2) shall apply with respect to the transcripts of all hearings conducted after January 1, 1990.

"(4) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of a document pursuant to paragraph (1), or holding a hearing open to the public pursuant to paragraph (2), would seriously threaten the safety and soundness of an insured depository institution, the Board may delay the publication of such document or transcript of the hearing for a reasonable time.

"(5) DOCUMENTS FILED UNDER SEAL IN ENFORCEMENT HEARINGS.—The appropriate Federal banking agency may file any document or part of a document under seal in a hearing on the record of an action commenced by such agency, if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2). Such report and the part of the document withheld shall be transmitted to the Committee on Banking, Finance and Urban Affairs, of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate.".

TITLE V—INCREASING INVESTIGATORS AND PROSECUTORS FOR BANK FRAUD AND EMBEZZLEMENT CASES

SEC. 501. FINDINGS.

The Congress hereby makes the following findings:

(1) The Federal Bureau of Investigation has received more than 20,000 referrals involving fraud in the financial services industry that the Bureau has been unable to examine;

(2) As of February 1990, the Bureau has had more than 7,000 pending bank fraud and embezzlement cases, some 3,000 of which were major cases;

(3) More than 900 pending cases and more than 200 unaddressed referrals involve losses greater than $1,000,000;

(4) The Attorney General recently spoke of an "epidemic of fraud" in the Savings and Loan industry and indicated that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by the institution's officers and management;

(5) Officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions it has seized "have been victimized by serious criminal activity";

(6) The Federal Bureau of Investigation has received more than 20,000 referrals involving fraud and other criminal activity in the financial services industry that the FBI has been unable to examine;

(7) More than 1,000 of the criminal referrals received by the FBI involving losses of more than $100,000;

(8) As of February 1990, the FBI had more than 7,000 pending bank and thrift fraud and embezzlement cases, 3,000 of which were considered major cases and more than 900 pending cases and approximately 235 of the unaddressed referrals involve losses greater than $1 million.

(9) The Director of the Office of Thrift Supervision recently indicated that bank and thrift regulators were sending the Department of Justice 8,000 referrals per month regarding civil and criminal violations involving financial services crimes and that there were now 80,000 cases pending.

SEC. 502. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $167,500,000 for each of the fiscal years 1991, 1992, and 1993: *Provided*, That such appropriation shall be in addition to any appropriation provided in regular appropriations Acts; *Provided further*, That the additional funds authorized to be appropriated under this section shall be allocated for salaries and expenses for participation in the Financial Services Crime Strike Forces as follows:

(1) $75,000,000 for 400 additional assistant United States attorneys and 325 specialized technical and administrative support positions;

(2) $47,500,000 for 225 additional FBI agents and 150 specialized technical and administrative support positions;

(3) $10,000,000 for 75 additional IRS criminal investigative division agents and 35 specialized technical and administrative support personnel;

(4) $10,000,000 for 75 additional Secret Service agents and 35 specialized technical and administrative support personnel;

(5) $5,000,000 for 50 additional Federal Deposit Insurance Corporations investigators, examiners, and support personnel;

(6) $5,000,000 for 50 additional Office of Thrift Supervision investigators, examiners and support personnel;

(7) $5,000,000 for 50 additional Office of the Comptroller of the Currency investigators, examiners and support personnel;

(8) $5,000,000 for 50 additional Resolution Trust Corporation investigators, examiners and support personnel;

(9) $2,500,000 for 25 additional Federal Reserve investigators, examiners and support personnel; and

(10) $2,500,000 for 25 additional Securities and Exchange Commission investigators, examiners and support personnel.

TITLE VI—PREVENTING AND PROSECUTING FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION

SEC. 601. CONCEALMENT OF ASSETS FROM FDIC OR RTC.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"SEC. 1032. CONCEALMENT OF ASSETS FROM CONSERVATOR OR RECEIVER OF INSURED FINANCIAL INSTITUTION.

"Whoever knowingly conceals from the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in any such corporation's capacity as conservator or receiver for any insured depository institution, any assets or property against which the corporation, as conservator or receiver, may have a claim shall be fined not more than $1,000,000, or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code is amended by inserting after the item relating to section 1031 the following new item:

"1032. Concealment of assets from conservator or receiver of insured financial institution.".

SEC. 602. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding the following new subparagraphs:

"(D) Any property, real or personal, which represents the gross receipts obtained, directly or indirectly, as a result of a violation of the following sections of this title relating to the sale of government assets by the Resolution Trust Corporation or which is traceable to such gross receipts: sections 666(a)(1) (Federal program fraud); 1001 (false statements to the Federal government); 1031 (major fraud against the United States); section 1341 (mail fraud); or 1343 (wire fraud).".

"(E) With respect to an offense listed in subsection (a)(1)(D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which thereby is obtained, directly or indirectly.

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding the following new paragraphs:

"(3) The Court, in imposing a sentence on a person convicted of an offense under sections 666(a)(1), 1001, 1031, 1341, 1343 involving the sale of assets by the Resolution Trust Corporation shall order that the person forfeit to the United States any property, real or personal, which represents the gross receipts obtained, directly or indirectly, as a result of such violation, or which is traceable to such gross receipts.".

"(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which is obtained, directly or indirectly, by

or through such scheme or artifice to defraud.".

SEC. 603. CIVIL ACTIONS UNDER THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964 of title 18, United States Code, is amended in subsection (b) by adding ", or the chairman of the Federal Deposit Insurance Corporation or the chairman of the Resolution Trust Corporation or their designees for violations affecting insured depository institutions," after "The Attorney General".

SEC. 604. SUBPOENA AUTHORITY FOR FDIC AND RTC ACTING AS CONSERVATOR OR RECEIVER.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

"(I) SUMMONS AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver and for purposes of carrying out any power, authority, or duty with respect to the insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution) exercise any power established under section 8(n) and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

"(ii) AUTHORITY LIMITED TO BOARD OF DIRECTORS.—A summons may be issued under clause (i) only by, or with the written approval of, the Board of Directors (or, in the case of a summons issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by, or with the written approval of, the Board of Directors of such Corporation) and such authority to issue or approve may not be delegated by the Board of Directors.".

SEC. 605. PREJUDGMENT ATTACHMENTS.

Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by inserting after paragraph (17) (as added by section 306 of this title) the following new paragraph:

"(18) PREJUDGMENT ATTACHMENT.—Any court of competent jurisdiction may, at the request of the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution), place the assets of any person designated by the Corporation under the control of the court and appoint a trustee to hold such assets if the Corporation demonstrates the likelihood that—

"(A) such person is—

"(i) an institution-affiliated party who is obligated to the institution or otherwise may be required to provide restitution to the institution; or

"(ii) a debtor of the institution; and

"(B) the assets of such person will be dissipated or otherwise placed beyond the jurisdiction of the court or Corporation before any recovery in favor of the institution may be completed unless a trustee is appointed.".

SEC. 606. FRAUDULENT CONVEYANCES AVOIDABLE BY RECEIVERS.

Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraph:

"(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, as conservator or receiver for any insured depository institution, may avoid any transfer of any interest of any institution-affiliated party, or any person who the Corporation determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with actual intent to hinder, delay, or defraud the insured depository institution.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property from—

(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

(ii) any immediate or mediate transferee of any such initial transferee.

(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—

The Corporation may not recover under subparagraph (B) from—

(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

(ii) any immediate or mediate good faith transferee of such transferee.".

SEC. 607. INJUNCTIVE RELIEF.

Section 951 of the Financial Institution. Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended by adding at the end thereof the following:

"(g) INJUNCTIVE RELIEF.—(1) In any action brought by the Federal Deposit Insurance Corporation, Resolution Trust Corporation, or the National Credit Union Administration, in their receivership, conservatorship, or corporate capacities, involving a scheme to defraud affecting a financial institution injunctive relief may be granted in conformity with the principles that govern the granting of such relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute (including secreting or dissipating assets or other similar conduct that might defeat a judgment for money damages), but no showing of special or irreparable injury shall have to be made.

"(2) Upon a showing of immediate danger of significant loss or damage, a temporary restraining order and a preliminary injunction may be issued in any action described in paragraph (1) before a final determination on the merits.".

SEC. 608. FDIC ENFORCEMENT DIVISION.

The Federal Home Loan Bank Act is amended by inserting after redesignated subsection 21A(a)(12)(G) the following new subsection:

"(H) The Corporation shall maintain a Fraud and Enforcement Review Division to assist and advise the Corporation, and other relevant agencies, in pursuing criminal cases, civil claims and administrative enforcement actions against institution-affiliated parties of thrifts under the jurisdiction of the Corporation. The Fraud and Enforcement Review Division shall have such duties as the Corporation establishes, including the compilation and publication of a report to Committee on Judiciary of the House of Representatives, Committee on Banking, Finance and Urban Affairs of the House of Representatives, Committee on Judiciary of the Senate, and Committee on Banking, Housing and Urban Affairs of the Senate, on the coordinated pursuit of claims by the relevant Federal agencies, including the Department of Justice, the Comptroller of the Currency, the Securities and Exchange Commission and the Corporation. Such Report shall be published before December 31, 1990 and updated semiannually thereafter.

TITLE VII—STRENGTHENING THE JUDICIAL SYSTEM IN THE PROSECUTION OF BANK FRAUD AND EMBEZZLEMENT CASES

SEC. 701. AUTHORIZING ADDITIONAL FUNDS FOR THE FEDERAL JUDICIARY.

There is authorized to be appropriated to the Federal courts for salaries and expenses of the Court of Appeals, District Courts, and other Judicial Services, $25,000,000 in each of the fiscal years 1991, 1992 and 1993: Provided, That such appropriation shall be in addition to any appropriation provided in regular appropriations Acts; Provided further, That the additional funds authorized to be appropriated under this section shall be allocated among the Federal judicial districts with the highest financial institutions crime case loads and for the following purposes:

(a) additional United States magistrates;

(b) renovation of court facilities;

(c) additional law clerks and clerical support staff; and

(d) additional deputy clerks.

SEC. 702. AUTHORITY FOR UNITED STATES MAGISTRATES.

Subsection 636(a) of title 28, United States Code, is amended by—

(1) at the end of paragraph (3) striking "and";

(2) at the end of paragraph (4) striking "." and inserting "; and"

(3) inserting a new paragraph (5) as follows:

"(5) the power to accept a guilty plea to a felony upon the consent of the defendant for the following offenses in title 18, United States Code: sections 215, 656, 657, 1005, 1006, 1007, 1014 or 1344, or sections 1341 or 1343 affecting an insured depository institution.

TITLE VIII—PRIVATE ACTIONS AGAINST PERSONS COMMITTING BANK FRAUD AND EMBEZZLEMENT CRIMES

SEC. 801. PRIVATE ACTIONS IN BANK FRAUD AND EMBEZZLEMENT CASES.

Section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended by adding at the end thereof the following.

"(h) ACTIONS BY PRIVATE PERSONS.—A person may bring a civil action under this section pursuant to the procedures provided in section 3730 of title 31, United States Code, except that where—

"(1) provisions relating to section 3730 refer to a violation of section 3729 of title 31, United States Code, such provisions shall be deemed to refer to a violation of an offense described in subsection (c) of this section; and

"(2) provisions relating to section 3730 refer to a 'false claims law' and a 'false claims law investigator' such provisions shall be deemed to refer to an offense described in subsection (c) and a person authorized to investigate such offenses, respectively.".

SUMMARY OF THE BANK CRIMES ENFORCEMENT ACT OF 1990

TITLE I—ENHANCED BANK FRAUD AND EMBEZZLEMENT PENALTIES

Creates a new "S&L kingpin" statute that provides up to life imprisonment for the highest level of S&L violators who act in concert with three or more other violators and who derive more than $5 million in profits from their crimes. (Biden)

Increases the maximum penalty for bank fraud and embezzlement from 20 years to 30 years. (Biden)

Adds important bank fraud and embezzlement-related crimes to the list of predicates under the Racketeering Influenced and Corrupt Organizations law. (Dole/Heinz)

Imposes stiff mandatory minimum sentences in major bank fraud and embezzlement cases to ensure that S&L violators serve time behind bars. (Biden)

TITLE II—BROADENING INVESTIGATIVE AUTHORITY IN BANK FRAUD AND EMBEZZLEMENT CASES

Gives the FBI administrative subpoena authority in S&L cases, which will allow investigators to require individuals and financial institutions to make available all records that might provide evidence of criminal wrongdoing without a court order. (House/Kassebaum)

Giving U.S. Secret Service agents the authority to investigate bank fraud and embezzlement cases. (Lieberman)

TITLE III—RESTRUCTURING THE FEDERAL ATTACK ON FRAUD AND THEFT IN THE BANKING AND SAVINGS AND LOAN INDUSTRIES

Concentrates the attack on S&L fraud cases by creating a new Financial Institutions Crime Division in the Department of Justice, headed by a high-level Assistant Attorney General. (Graham/Wirth/Dixon).

Creates 10 new Financial Institutions Crime Strike Forces in those cities hardest hit by the S&L scandal, composed of special teams of FBI agents, criminal IRS investigators, bank examiners and federal prosecutors. (Graham/Wirth/Dixon).

TITLE IV—EXPANDING FEDERAL ASSET SEIZURE, FORFEITURE, AND MONEY LAUNDERING LAWS IN S&L-RELATED CASES

Allows U.S. prosecutors to use civil seizure and forfeiture laws to recover the proceeds of mail and wire fraud involving financial institutions. (House/Kassebaum)

Authorizes the Attorney General to seize property used in or derived from bank fraud and embezzlement crimes; current law restricts such seizure authority to the Secretary of the Treasury. (Simon/Administration)

Adds bank fraud and embezzlement offenses to the predicates under the federal money laundering and wiretap statutes. (Biden/Dole/Heinz)

Authorizes the Attorney General to restore forfeited property directly to victims, including those involved in S&L fraud cases, rather than requiring victims to file a time-consuming action in civil court for mitigation or remission. (Biden/Administration)

Closes the loophole that allows persons to escape repaying their victims for S&L-related offenses by filing for bankruptcy; this provision would prevent the discharge of such debts in bankruptcy proceedings. (Dole/Heinz)

TITLE V—INCREASING INVESTIGATORS AND PROSECUTORS FOR BANK FRAUD AND EMBEZZLEMENT CASES

Authorizes $167.5 million over each of the next three years to dramatically expand the number of federal agents and prosecutors devoted to bank fraud and embezzlement cases. (Hollings/Biden)

Adds 375 new FBI agents and support personnel to be devoted exclusively to S&L fraud and related cases.

Adds 725 new assistant U.S. attorneys and technical and administrative support personnel to prosecute bank fraud and embezzlement cases.

Adds 110 more U.S. Secret Service agents and support personnel to attack fraud in and against the financial services industry;

Adds 110 more IRS criminal investigators to investigate tax and other S&L fraud-related cases.

Adds 250 additional FDIC, Office of Thrift Supervision, RTC, Office of the Comptroller of the Currency, and Securities and Exchange Commission financial experts to the Financial Services Crime Division and Strike Forces.

TITLE VI—PREVENTING AND PROSECUTING FRAUD IN THE SALE OF ASSETS BY THE RTC

Makes the knowing concealment of funds obtained through certain bank fraud and embezzlement offenses a crime under federal money laundering laws. (House/Kassebaum)

Expands federal forfeiture laws to authorize U.S. prosecutors to seize and forfeit the proceeds of fraud against the U.S. government involving the sale of assets by the Resolution Trust Corporation. (Biden)

Authorizes the RTC and the FDIC to bring civil RICO charges for violations in and against the banking and savings and loan industries. (Biden)

Gives the RTC subpoena authority and clarifies the existing subpoena authority of the FDIC to investigate fraud in thrift and banking industries, including in the sale of assets by the RTC. (House/Kassebaum)

Permits the RTC and FDIC to place under the control of a court-appointed trustee the assets of individuals who may be held culpable in the failure of an insured depository institution and establishes a uniform federal statute that permits the RTC and the FDIC to unwind fraudulent conveyances made in anticipation of liability for fraud involving the thrift and banking industries dating back over a five-year period. (House/Kassebaum)

TITLE VII—INCREASING JUDICIAL RESOURCES TO ENSURE PROMPT PROSECUTION OF BANK FRAUD AND EMBEZZLEMENT CASES

Provides $25 million in additional funding for the Judicial Branch for those districts where the S&L-related case load is the heaviest. (Biden)

Expands the authority of federal magistrates in bank fraud and embezzlement cases to expedite these cases in federal courts. (Biden)

TITLE VIII—PRIVATE ACTIONS AGAINST PERSONS COMMITTING BANK FRAUD AND EMBEZZLEMENT CASES

Authorizes private citizens to bring civil suits in the name of the U.S. government for violations of certain bank fraud and embezzlement offenses, similar to federal laws authorizing such suits for violation of defense fraud statutes. (Simon)

Provides that the private party may recover at least 15 percent, bvut not more than 25 percent, of any recovery obtained for a claim filed under this title. (Simon)●

By Mr. KERRY (for himself, Mr. HOLLINGS, and Mr. GRAHAM):

S. 2788. A bill to authorize certain programs and functions of the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT

● Mr. KERRY. Mr. President, I rise today with my fellow colleagues, Senators HOLLINGS and GRAHAM, to introduce a bill which provides authorization of fiscal year 1991 appropriations for certain operations, research, and facilities requirements of the National Oceanic and Atmospheric Administration, or NOAA. As the manager of a wide range of the Nation's civilian programs related to the oceans and atmosphere, NOAA's activities touch our daily lives—from the weather reports we depend on for deciding what to wear tomorrow, to the global environmental information we use to manage our living and nonliving resources. This legislation will enable NOAA to fulfill its observation, monitoring, prediction, and management responsibilities related to these programs.

NOAA's atmospheric activities center in large part around the responsibility to provide routine and severe weather forecasting services and to monitor and predict climatic trends. Over the past years, NOAA has undertaken significant efforts to advance its forecasting systems and techniques. One result has been dramatic reductions in the number of deaths caused by severe storms such as tornadoes and hurricanes, even though these storms have become more frequent. This legislation includes sufficient authorization for continuation of NOAA's modernization of its weather services—both in the acquisition of technologically advanced systems, and in the demonstration of improved atmospheric science and technology to operational forecasting.

This legislation also supports NOAA's efforts to improve our understanding and prediction of climatic changes which occur over longer periods of years, decades, or even centuries. NOAA's approach to conducting these monitoring and research efforts indicates its concern for sound investment of Federal funds. For example, by focusing on programs with a high probability of early and useful results—such as the El Nino-Southern Oscillation ocean-warming phenomenon which triggered droughts in Africa and Australia and severe storms in South America earlier in this decade—we improve our chances of developing a predictive capability for seasonal climate fluctuations.

Another example is NOAA's Climate and Global Change Program which is coordinated with other participants in the U.S. Global Change Research Program to ensure that we have an integrated strategy for understanding our changing planet. In recognition of the increased importance of NOAA's envi-

ronmental prediction and information management activities to this national research effort, this legislation authorizes the funding required for NOAA to establish a new national information service—based on reliable assessments and quantitative predictions of changing global climate—to serve both government and non-government sectors around the world.

NOAA will continue to play an important role in advancing the use of satellites to meet the growing demands for global environmental information. This legislation authorizes funding for spacecraft procurement, launch and operations for the polar-orbiting and geostationary environmental satellites, as well as for the land remote-sensing satellites. Continuity of service from the geostationary, or "GOES," satellite system is threatened because recent instrument development problems have caused cost increases and a launch delay of over a year from the original schedule for the next series of spacecraft. This legislation authorizes sufficient funding to support a schedule that will maintain our ability to monitor the development and course of hurricanes for protection of public safety and property.

NOAA does not rely on just the GOES system to monitor hurricanes and severe storms. Reconnaissance aircraft operated by both NOAA and the U.S. Air Force also collect critical information for advance warnings in coastal areas. As a result of recent budget pressures, the Defense Department has proposed to transfer its aircraft and reconnaissance mission to NOAA. This bill will ensure that reconnaissance missions are flown by both the Air Force and NOAA until a tropical cyclone surveillance management plan can be developed and implemented.

Funding is also authorized to continue operations of the Government's Landsat 4 and 5 system, as well as the completion and launch of the Landsat 6 spacecraft that will be operated by a private contractor. These land remote-sensed data are extremely valuable for assessing global environmental problems like deforestation and acid rain. This legislation will improve the utility of these data for research and other purposes by authorizing the transfer of the archiving responsibility for the historical Landsat data to the Department of the Interior which will integrate them with its observations of the Earth's surface from other systems.

Mr. President, as the summer begins, we once again find our coastal areas on the front page of every newspaper in the country—oil from the *Bermuda Star* poured into Buzzards Bay last week, the *Mega Borg* fire recently threatened the Texas and Louisiana coasts, shellfish beds are closing at alarming rates, and the summer has just begun. This legislation authorizes NOAA to carry out many of the ocean programs required to monitor and manage our coastal areas in the face of these man-imposed burdens. NOAA recently established the Coastal Ocean Science Program, which I strongly endorse, to apply observational, research, assessment, and modeling activities to these key coastal ocean problems.

The authorization before us provides necessary resources for a host of important programs throughout the Nation. Specifically of interest to my home region, the legislation provides $2 million for technical upgrading at the National Marine Fisheries Service Laboratory in Woods Hole. These funds will be used to prepare the lab for its active participation in the President's Coastal Ocean Science Program. The legislation includes $2.9 million to renovate and operate the NOAA research vessel, the *Albatross*. In the past, this vessel has provided critical science and data on our coastal resources and fisheries. Sadly, it has been out of commission for over a year while the lab has lost the capacity to accumulate essential data.

In the bill, there is $700,000 to finish bulkhead repairs at the Woods Hole facility. Just last year the docks at the lab were literally falling into the sea. In addition, $1.4 million is restored in the bill to keep the NOAA lab in Gloucester, MA operating. For years this lab has been on the cutting edge of fisheries product research. The Massachusetts coastal region has long been the home for critical fisheries and coastal resource research. These funds in the bill provide for continuation of projects that are nationally beneficial.

This legislation authorizes two additional programs that focus on protection of natural resources. First, a coastal environmental monitoring program will strengthen NOAA's comprehensive national monitoring on the long-term effects of human activities on the marine environment. The National Research Council recently completed a study that identifies ways to improve the quality and usefulness of monitoring information. The monitoring program authorized in this bill will address the recommendations of that study, building on NOAA's current program which collects pollutant information at 180 sites around the country.

Second, this legislation authorizes establishment of the Florida Keys National Marine Sanctuary, which will assist efforts to preserve the last living reef on the North American continent. Mr. President, I am particularly sympathetic to this effort to protect the Florida Keys from vessel groundings because of my recent success at getting a similar valuable national resource, the Stellwagen Bank fisheries, on the marine sanctuary list.

NOAA is also responsible for providing the scientific and technical expertise to manage the Nation's living marine resources. Many of the programs that support this responsibility have been targeted for elimination by the administration in recent budget proposals. However, this legislation maintains Congress's commitment to the fisheries research, information collection, regulation enforcement, seafood quality, and fisheries development activities necessary for that management.

To support these ocean, coastal, and fisheries management responsibilities, this legislation also authorizes NOAA's research efforts which increase our understanding of coastal and marine processes for the purpose of predicting environmental changes, and provide the technical basis for enhancing the Nation's marine economic sector. These efforts include drawing upon the National Sea Grant College Program for research and technology transfer support, and operating undersea research facilities to develop techniques for working in the underseas environment.

Finally, this legislation authorizes the administrative and facilities support activities necessary for NOAA to conduct its atmospheric and oceanic programs. In NOAA's case, these support activities aren't confined to buildings and desks—they also include the operations and maintenance of the aircraft and ships required for NOAA to carry out its research, monitoring, prediction, and management responsibilities. Mr. President, I'm particularly concerned about the deteriorating status of NOAA's ships, which represent over one-third of the Nation's research fleet. Although this bill authorizes funds requested by NOAA to begin a modest service life extension program for these vessels, a more thorough replacement and refurbishment program is required. Accordingly, this legislation requires NOAA to provide a report to the Congress on the modernization needs of its oceanographic vessels.

Mr. President, the breadth of scope of the programs covered by this authorization bill—from observations over 22,000 miles in space to research under the ocean's surface—supports NOAA's claim to be an "Earth systems agency." I urge my colleagues to support me in ensuring that we develop NOAA's capabilities to their greatest potential.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1990".

SEC. 2. For the purposes of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

Subtitle A—Authorization of Appropriations

NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH

SEC. 101. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $300,831,000 for fiscal year 1991. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

PUBLIC WARNING AND FORECAST SYSTEMS

SEC. 102. (a) AUTHORIZATION.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, $177,467,000 for fiscal year 1991. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) CONTINGENT LIABILITY.—In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriations Acts.

CLIMATE AND QUALITY RESEARCH

SEC. 103. (a) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research activities under law, $123,290,000 for fiscal year 1991. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1980, the Act of 1947, and any other law involving such activities. Such activities include the interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a) of this section, $86,914,000 for fiscal year 1991 are authorized to be appropriated for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climate system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

ATMOSPHERIC RESEARCH

SEC. 104. (a) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $48,395,000 for fiscal year 1991. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

(b) STORM PROGRAM.—Of the sum authorized under subsection (a) of this section , $2,500,000 for fiscal year 1991 are authorized to be appropriated for the Stormscale Operational and Research Meteorology (STORM) program.

SATELLITE OBSERVING SYSTEMS

SEC. 105. (a) IN GENERAL.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $260,576,000 for fiscal year 1991. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(b) SEARCH AND RESCUE SATELLITE SYSTEM.—Of the sum authorized under subsection (a) of this section, $2,300,000 in fiscal year 1991 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

(c) LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984.—The authorization provided for under subsection (a) of this section shall be in addition to moneys authorized under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) for the purpose of carrying out such activities relating to satellite observing systems.

DATA AND INFORMATION SYSTEMS

SEC. 106. There are authorize to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $27,174,000 for fiscal year 1991. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

Subtitle B—Hurricane Reconnaissance Program Findings

SEC. 130. The Congress finds that—

(1) many areas of the United States, including those bordering the Gulf of Mexico, and the Atlantic and Pacific Oceans (including the State of Hawaii), rely on data provided by the Department of Defense through the Air Force WC-130 weather reconnaissance aircraft to predict the intensity, speed, and direction of movement of tropical cyclones, including hurricanes and tropical storms;

(2) these same areas also rely on data collected by the Department of Commerce through the National Oceanic and Atmospheric Administration's satellite, radar, aircraft, and buoy technologies to predict tropical cyclone behavior and to conduct research on improving forecasts and warnings;

(3) satellites, including the Geostationary Operational Environmental Satellites, are an important source of tropical cyclone information, but they cannot provide the same quality of information as is supplied by weather reconnaissance aircraft;

(4) there is currently only one Geostationary Operational Environmental Satellite positioned over the United States and the loss of its ability to collect data would severely restrict tropical cyclone information gathering; and

(5) a vigorous research program in tropical cyclone behavior and forecasting is important if the accuracy of prediction of tropical cyclones is to be significantly improved.

ESTABLISHMENT OF PROGRAM

SEC. 131. The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the cause and behavior of tropical cyclones.

RESPONSIBILITIES

SEC. 132. (a) SECRETARY OF DEFENSE.—The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under section 131 and to transfer the data to the Secretary of Commerce, unless a joint agreement is reached, with the approval of both the Secretary of Defense and the Secretary of Commerce, for the transfer of such responsibility (including full funding) to an appropriate Federal agency or department which may include the Coast Guard.

(b) SECRETARY OF COMMERCE.—The Secretary of Commerce shall have the responsibility of funding the carrying out of data gathering and research by remote sensing, ground sensing, research aircraft, and other

technologies necessary to accomplish the program established under section 131.

MANAGEMENT PLANS

SEC. 133. (a) MANAGEMENT PLAN FOR PROGRAM.—The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 120 days after the date of enactment of this Act, submit to the Congress a management plan for the program established under section 131, which shall include organizational structure, goals, major tasks, and funding profiles for the 5-year duration of the program.

(b) TROPICAL CYCLONE SURVEILLANCE AND RECONNAISSANCE.—The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 4 years after the date of enactment of this Act, submit to the Congress a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(c) DEGREE AND QUALITY OF PROTECTION.—The management plans and programs required by this title shall in every sense provide for at least the same degree and quality of protection (such as early warning capability and accuracy of fixing a storm's location) as currently exists with a combination of satellite technology and manned reconnaissance flights. Additionally, such plans and programs shall in no way allow any reduction in the level, quality, timeliness, sustainability (in terms of quantity and quality of aircraft, flying hours, crews, and support personnel), or area served (including the State of Hawaii) of both the existing principal and back-up tropical cyclone reconnaissance and tracking systems.

Subtitle C—Land Remote-Sensing Commercialization

TRANSFER OF DATA ARCHIVING RESPONSIBILITY

SEC. 170. (a) FINDINGS.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data Center, which is consistent with the requirement of section 602(g) of such Act (15 U.S.C. 4272(g)) to use existing Federal Government facilities to the extent practicable in carrying out this archiving responsibility;

(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority to the Secretary of the Interior for the archiving of land remote-sensing data; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archived data for research purposes consistent with other provisions of the Land Remote-Sensing Commercialization Act of 1984.

(b) PROVISION OF UNENHANCED DATA.—Section 402(b)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4244(b)(4)) is amended by inserting "of the Interior" immediately after "Secretary".

(c) ARCHIVING OF DATA.—Section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) is amended—

(1) in subsections (b), (c), (d), (f), and (g), by inserting "of the Interior" immediately after "Secretary" each place it appears; and

(2) by adding at the end the following new subsection:

"(h) In carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, of V or this Act and with any license issued under title IV of this Act.".

AUTHORIZATION

SEC. 171. Section 609(a) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4278(a)) is amended by inserting immediately after the first sentence the following: "There are authorized to be appropriated to the Secretary $36,334,000 for fiscal year 1991 for the purpose of carrying out the provisions of this Act.".

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

Subtitle A—Authorization of Appropriations

NATIONAL OCEAN SERVICE

SEC. 201. (a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $50,347,000 for fiscal year 1991.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, $54,560,000 for fiscal year 1991;

(2) under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), $4,500,000 for fiscal year 1991; and

(3) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $17,000,000 for fiscal year 1991.

OCEAN AND GREAT LAKES RESEARCH

SEC. 202. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), and any other law involving those activities, $68,049,000 for fiscal year 1991.

Subtitle B—Coastal Monitoring

SHORT TITLE

SEC. 251. This subtitle may be cited as the "Marine and Coastal Monitoring Act of 1990".

PURPOSE

SEC. 252. The purpose of this subtitle is to establish under the Administrator a comprehensive national program for the monitoring of marine and coastal waters of the United States, which will provide the data and information on the status and trends of contamination levels and biological effects in such waters necessary for governmental entities to make well-informed management decisions concerning the utilization and protection of the resources of such waters.

DEFINITIONS

SEC. 253. As used in this subtitle, the term—

(1) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce; and

(2) "marine and coastal" refers to the marine and coastal waters off the States along the coasts of the Atlantic Ocean, the Gulf of Mexico, the Caribbean Sea, and the Pacific Ocean, the marine and coastal waters off the coast of the State of Alaska, and the waters of the Great Lakes.

COMPREHENSIVE PROGRAM

SEC. 254. The comprehensive national monitoring program referred to in section 252 shall consist of —

(1) a nationwide monitoring network as described in section 255;

(2) intensive regional monitoring programs as described in section 256; and

(3) a national monitoring center as described in section 257.

NATIONWIDE MONITORING NETWORK

SEC. 255. (a) ESTABLISHMENT.—There is established within the National Oceanic and Atmospheric Administration of the Department of Commerce a unified nationwide monitoring network, which shall, on the date of enactment of this Act, include the activities and functions of the National Status and Trends Program of the National Oceanic and Atmospheric Administration as in existence immediately before such date of enactment. The network shall be the single Federal activity for the national-scale monitoring of the marine and coastal waters of the United States and shall evaluate the status and trends of the following aspect of such waters:

(1) toxic substances, both organic and inorganic, and their biological effects;

(2) nutrient over-enrichment and low oxygen conditions;

(3) toxic and nuisance algal blooms; and

(4) overall ecological condition or health.

(b) INTERAGENCY COMMITTEE.—The Administrator shall carry out monitoring activities under this section in accordance with the guidance and priorities established by an interagency committee which shall be chaired by the Administrator and shall include representation from the Environmental Protection Agency, the United States Fish and Wildlife Service, the United States Geological Survey, and the Army Corps of Engineers.

REGIONAL MONITORING PROGRAMS

SEC. 256.(a) DESIGNATION OF REGIONS.—The Administrator shall designate specific estuarine and coastal regions of major concern in which the waters shall be intensively monitored. Such regions shall include—

(1) each of the estuarine areas listed in section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) as areas requiring priority consideration; and

(2) such additional areas as the Administrator may designate from among areas nominated for designation by the Governors of States that border those areas.

(b) MONITORING COORDINATION GROUPS.—The Administrator shall establish monitoring coordination groups for each designated region to develop and direct a monitoring program tailored to the needs of the region

and based on the existing monitoring conducted in the region. Each such group shall consist of representatives of the Federal, State, and other agencies with marine or coastal monitoring programs or responsibilities in the region and such academic and other experts as the Administrator may appoint. Each such group shall develop a long-term monitoring plan for the region and, within two years after the establishment of the group, shall submit the plan to the Administrator.

(2) The members of any such monitoring group shall receive neither compensation nor expenses, except that any nongovernmental experts appointed to the group may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the member's usual place of residence, in accordance with section 5703 of title 5, United States Code, when engaged in the actual performance of duties as a member of the group.

(c) REGIONAL MONITORING ACTIVITIES.—The Administrator shall ensure that the regional monitoring activities fully incorporate activities of the nationwide monitoring network established under section 255. The Administrator shall include only such additional sampling sites, times, and measurements as are required to assemble the data and information needed by regional resource managers to identify and address estuarine and coastal problems within the region.

(d) ANNUAL OPERATING PLAN.—After approval by the Administrator of its longterm monitoring plan, each regional monitoring group shall develop annually an operating plan for the monitoring activities to be conducted in its region. Each such plan shall identify—

(1) monitoring activities proposed to be conducted;

(2) the agency responsible for each such activity;

(3) the estimated cost for each such activity; and

(4) the source of funding available for each such activity.

The Administrator, upon recommendation by the regional monitoring group, may award supplemental funding for a specific monitoring activity, not to exceed 50 percent of the total cost of the activity.

(e) REGULATIONS.—The Administrator shall issue regulations necessary to implement the provisions of this section, including procedures for the approval of longterm monitoring plans and for the awarding of supplemental funding for regional monitoring activities.

NATIONAL COASTAL MONITORING CENTER

SEC. 257.(a) ESTABLISHMENT OF CENTER.—Within 90 days after the date of enactment of this Act, the Administrator shall establish within the National Oceanic and Atmospheric Administration a National Coastal Monitoring Center. The Center shall develop scientific methods and procedures for carrying out the monitoring activities under this subtitle in an effective, efficient, and economical manner and shall issue reports and other data products to disseminate in a timely manner the results of such activities.

(b) FUNCTIONS.—The Center shall, among other things—

(1) develop a coordinated national data and information management system to assure compatibility of all data and information developed under this subtitle and facilitate the exchange of such data and information;

(2) develop a coordinated national quality assurance and quality control program to assure accuracy and compatibility of all data and information obtained in the nationwide network and regional programs established under this subtitle;

(3) support research studies to develop and improve procedures and methods for monitoring marine environmental quality indicators and conditions;

(4) implement studies to develop recommendations for standardized sampling protocols, analytical measurement methods, and statistical data analysis procedures to be used in the nationwide network and regional programs established under this subtitle;

(5) organize national and regional workshops and meetings, develop reports, and otherwise take actions to coordinate the Federal, State, regional, and other monitoring programs carried out in association with the nationwide network and regional programs established under this subtitle; and

(6) develop periodically reports assessing various aspects of the status and trends of the environmental quality of marine and coastal waters of the United States, including the development every two years of a report synthesizing all the results from the activities under this subtitle to provide an overall evaluation of the current conditions indicating environmental health of these areas and an identification of significant trends that are occurring in these conditions.

TITLE III—AUTHORIZATION OF NOAA FISHERY PROGRAMS

SEC. 301. The National Oceanic and Atmospheric Administration Marine Fisheries Program Act (Public Law 98-210; 97 Stat. 1409) is amended—

(1) in section 2(a) by striking "$26,500,000" and all that follows through "fiscal year 1988, and" and by inserting "and $43,152,000 for fiscal year 1991" immediately after "1989";

(2) in section 3(a) by striking $35,000,000" and all that follows through "fiscal year 1988, and" and by inserting "and $25,880,000 for fiscal year 1991" immediately after "1989"; and

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1988, and" and by inserting "and $10,556,000 for fiscal year 1991" immediately after "1989".

TITLE IV—MISCELLANEOUS PROVISIONS PROGRAM SUPPORT

SEC. 401. (a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving those activities, $67,475,000 for fiscal year 1991.

(b) ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES.—There are authorized to be appropriated to the Department of Commerce for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $7,377,000 for fiscal year 1991.

(c) MARINE SERVICES.—(1) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $69,030,000 for fiscal year 1991.

(2) The Secretary of Commerce shall, not later than December 31, 1990, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on the modernization needs of the oceanographic vessels of the National Oceanic and Atmospheric Administration and the funding required to meet such needs.

(d) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, $9,306,000 for fiscal year 1991.

REQUIREMENT OF NOTICE OR REPROGRAMMING

SEC. 402. The Secretary of Commerce shall not reprogram an amount appropriated under the authority of this Act unless, before carrying out that reprogramming, the Secretary provides notice of that reprogramming to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Science, Space, and Technology of the House of Representatives.

TITLE V—FLORIDA KEYS MARINE SANCTUARY

SHORT TITLE

SEC. 501. This title may be cited as the "Florida Keys National Marine Sanctuary and Protection Act".

FINDINGS

SEC. 502. The Congress finds and declares the following:

(1) The Florida Keys extend approximately 220 miles southwest from the southern tip of the Florida peninsula.

(2) Adjacent to the Florida Keys land mass are located spectacular, unique, and nationally significant marine environments, involving tropical fisheries, seagrass meadows, mangrove islands, and extensive living coral reefs.

(3) These unique marine environments support rich biological communities possessing extensive conservation, recreational, commercial, ecological, historical, research, educational, and esthetic values which give this area special national significance.

(4) These environments are the marine equivalent of tropical rain forests in that they support high levels of biological diversity, are fragile and easily susceptiable to damage from human activities, and possess high value to human beings if properly conserved.

(5) These marine environments are subject to damage and loss of their biological integrity from a variety of onshore and offshore sources of disturbance.

(6) Vessel groundings along the reefs of the Florida Keys represent one of many serious treats to the continued vitality of the marine environments of the Florida Keys

which must be addressed in order to protect their values.

(7) Action is necessary to provide comprehensive protection for these marine environments by establishing a Florida Keys National Marine Sanctuary, by restricting commercial vessel traffic within such Sanctuary, and by requiring promulgation of a management plan and regulations to assure that all allowed uses are compatible with the purposes for which such Sanctuary was established.

(8) The agencies of the United States must cooperate fully to achieve the necessary protection of Sanctuary resources.

POLICY AND PURPOSE

SEC. 503. (a) POLICY.—It is the policy of this title to protect and preserve the fisheries, wildlife, coral reefs, and other sanctuary resources of the Florida Keys marine environments.

(b) PURPOSE.—The purpose of this title is to protect the nationally significant sanctuary resources of the area described in section 505(b), to educate and interpret for the public regarding the Florida Keys marine environment, and to manage such human uses of the Florida Reef Tract and adjacent waters as may be determined by the Secretary to be compatible with this title.

DEFINITIONS

SEC. 504. As used in this title, the term—

(1) "adverse effect" means any factor, force, or action that would independently or cumulatively damage, diminish, degrade, impair, destroy, or otherwise harm—

(A) any sanctuary resource; or

(B) any of those qualities, values, or purposes for which the Sanctuary is designated.

(2) "comprehensive management plan" means the plan developed pursuant to section 507 to ensure the proper management of compatible uses in the Sanctuary and the protection of Sanctuary resources in perpetuity.

(3) "Sanctuary" means the Florida Keys National Marine Sanctuary established and designated under section 505.

(4) "sanctuary resource" has the meaning given that term in section 302(8) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(8)).

(5) "Secretary" means the Secretary of Commerce.

SANCTUARY DESIGNATION

SEC. 505. (a) DESIGNATION.—The area described in subsection (b) is designated as the Florida Keys National Marine Sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.). The Sanctuary shall be managed in compliance with all applicable provisions of such title III as if the Sanctuary had been designated under such title.

(b) AREA INCLUDED.—The area referred to in subsection (a) consists of all submerged lands and waters including living marine and other resources within and on those lands and waters, bounded by the following coordinates:

(1) Latitude: 24°43'12" N Smith Shoals; longitude: 81°55'00" W

(2) Latitude: 24°43'42" N Northwest Corner; longitude: 83°06'00" W

(3) Latitude: 24°22'45" N Southwest Corner; longitude: 83°06'00" W

Follows 600 foot isobath:

(4) Latitude: 24°18'30" N; longitude: 82°30'00" W

(5) Latitude: 24°23'15"; longitude: 81°28'30" W

(6) Latitude: 24°43'24" N; longitude: 80°34'42" W

(7) Latitude: 24°48'36"N; longitude: 80°23'48" W

(8) Latitude: 24°59'00" N; longitude: 80°13'12" W

(9) Latitude: 25°13'18" N (Northeast corner of Sanctuary); longitude: 80°05'51" W

(10) Latitude: 25°17'30" N (Existing southeast corner of Biscayne National Park); longitude: 80°09'54" W

Follows southern boundary of Biscayne National Park to southwest corner of park on western shoreline of Card Sound. Follows western shoreline of Card Sound, Barnes Sound, and Manatee Bay to include those water bodies.

Follows southeastern boundary of Everglades National Park through Blackwater Sound, Tarpon Basin Sound, Buttonwood Sound, and Florida Bay to include the area of those water bodies that lie outside the Park, to southwest corner of Everglades National Park at:

(11) Latitude: 24°51'06" N; longitude: 80°50'00" W

Follows western boundary of Everglades National park northward to:

(12) Latitude: 24°59'12" N; longitude: 81°00'42" W

(13) Latitude: 24°57'48" N; longitude: 81°32'00" W

Excluding areas within Ft. Jefferson National Monument.

(c) AREAS IN BOUNDARIES OF STATE OF FLORIDA.—The designation under subsection (a) shall not take effect with respect to an area located within the seaward boundary of the State of Florida if, not later than 180 days after the effective date of regulations enacted in accordance with this title and title III of the Marine Protection, Research, and Sanctuaries Act (16 U.S.C. 1431 et seq.), the Governor of the State of Florida notifies the Secretary in writing that the designation of that area is unacceptable. Not later than 30 days after receiving such a notification, the Secretary shall publish and transmit to the Congress the boundaries of the Sanctuary, as modified in accordance with the notification.

(d) BOUNDARY MODIFICATIONS.—Subsequent to a boundary review conducted pursuant to section 507(a)(7), the Secretary may make such minor modifications to the boundaries of the Sanctuary as necessary to properly protect Sanctuary resources. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a written notification of such modifications.

PROHIBITION OF CERTAIN USES

SEC. 506. (a) COMMERCIAL VESSEL TRAFFIC.—(1) Consistent with generally recognized principles of international law, a person may not operate a tank vessel (as that term is defined in section 2101 of title 46, United States Code) or a vessel greater than 50 meters in length in the Area to Be Avoided described in the Federal Register notice of May 9, 1990 (55 Fed. Reg. 19418-19419).

(2) MODIFICATION.—The prohibition in subsection (a) including, the area to which the prohibition applies, may be modified by regulations issued jointly by the Secretary of the Department in which the Coast Guard is operating and the Secretary of Commerce. Such regulations shall include—

(A) a requirement that the Secretary issue a finding that any vessel allowed to operate under this subsection would not pose a threat to sanctuary resources when operated in accordance with such regulations; and

(B) other provisions necessary to prevent vessel groundings within the Sanctuary.

(3) EFFECTIVE DATE.—Paragraph (1) shall be effective the earliest of—

(A) six months after the date of enactment of this Act,

(B) publication of a notice to mariners consistent with this section, or

(C) publication of new nautical charts consistent with this section.

(b) MINERAL AND HYDROCARBON EXPLORATION AND DEVELOPMENT.—No mining, mineral extraction, or hydrocarbon exploration, development, or production shall be permitted within the boundary of the Sanctuary.

(c) OTHER USES.—The Secretary shall prohibit such other uses or classes of uses as may be determined to be incompatible with the purposes for which the Sanctuary is established. Such determination shall be made in accordance with development of a comprehensive management plan and regulations pursuant to section 507(a)(1) of this Act.

COMPREHENSIVE MANAGEMENT PLAN

SEC. 507. (a) PREPARATION OF PLAN.—The Secretary, in consultation with appropriate Federal, State, and local government authorities, shall prepare a comprehensive management plan and implementing regulations to assure the protection of the marine environment within the Sanctuary in perpetuity. The Secretary shall complete such comprehensive management plan and final regulations for the Sanctuary not later than 30 months after the date of enactment of this Act. In developing the plan and regulations, the Secretary shall generally follow the procedures specified in section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434), including those provisions requiring extensive public participation, opportunities for public comment, and congressional review. Such comprehensive management plan shall include, but not be limited to, the following:

(1) A determination of which uses, or classes of uses, are incompatible with the purposes for which the Sanctuary is established and should be prohibited in accordance with section 506.

(2) A management strategy for compatible uses, including consideration of temporal and geographical zoning, to ensure protection of Sanctuary resources.

(3) The identification of existing or potential sources of damage or disturbance to Sanctuary resources, within or outside the Sanctuary boundary.

(4) Strategies to prevent or mitigate existing or potential sources of damage or disturbance to Sanctuary resources, particularly including strategies to ensure protection of water quality.

(5) The identification of needs for further research, and the establishment of a long-term ecological monitoring program.

(6) The identification of funding needed to fully implement the plan's provisions.

(7) The identification of any need for minor modifications to the Sanctuary boundary, pursuant to section 505(d), as may be necessary to properly protect and enhance the nationally significant resources of the area.

(8) A mechanism to ensure coordination and cooperation between Sanctuary managers and managers of State and Federal lands and waters within or in the vicinity of the Sanctuary.

(9) A strategy to promote education, among users of the Sanctuary, about coral reef conservation and navigational safety.

(10) A procedure for incorporation of the existing Looe Key and Key Largo National Marine Sanctuaries into the Florida Keys National Marine Sanctuary to assure their protection and management in accordance with provisions of this Act.

(b) PROMULGATION OF IMPLEMENTING REGULATIONS.—The Secretary shall promulgate such rules and regulations as may be necessary to implement provisions of the comprehensive management plan.

(c) PUBLIC PARTICIPATION.—The Secretary shall provide for participation by the general public in development of the comprehensive management plan.

(d) KEY LARGO AND LOOE KEY SANCTUARIES.—Pending the promulgation of the comprehensive management plan and regulations pursuant to this title, the existing Key Largo and Looe Key National Marine Sanctuaries shall continue to be operated in present protected status.

(e) TERMINATION OF STUDIES.—On the date of enactment of this Act, all congressionally mandated studies of existing areas in the Florida Keys for designation as national marine sanctuaries shall be terminated.

PENALTIES AND ENFORCEMENT

SEC. 508. (a) CIVIL PENALTIES AND DAMAGES.—Any person subject to the jurisdiction of the United States who violates this title is subject to civil penalties under section 307 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437), and any vessel used for such a violation shall be liable in rem for civil penalties and is subject to the seizure and forefeiture provisions of such section 307.

(b) ENFORCEMENT.—The Secretary may enforce this title under sections 307 and 312 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437 and 1443).

(c) TERRITORIAL SEA.—For the purposes of implementing and enforcing this title and regulations promulgated thereunder, the territorial sea of the United States extends to 12 nautical miles from the baselines of the United States determined in accordance with international law.

DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES

SEC. 509. (a) LIABILITY IN GENERAL.—Any person who destroys, causes the loss of, or injures any sanctuary resource is subject to liability to the United States pursuant to section 312 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443) for response cost and damages resulting from such destruction, loss or injury.

(b) LIABILITY IN REM.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem pursuant to section 312 of the Marine Protection Research and Sanctuaries Act of 1972 (15 U.S.C. 1443) for response costs and damages resulting from such destruction, loss or injury.

AUTHORIZATION OF APPROPRIATIONS

SEC. 510. (a) AUTHORIZATION.—In addition to amounts authorized under section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444), there is authorized to be appropriated to the Secretary of Commerce not more than $750,000 for fiscal year 1991 to carry out the purposes of this title.

(b) REPORT.—The Secretary of Commerce shall, not later than March 1, 1991, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the future requirements for funding the Sanctuary through fiscal year 1999 under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).●

By Mr. GORE (for himself, Mr. DANFORTH, Mr. HOLLINGS, Mr. FORD, Mr. INOUYE, Mr. BRYAN, Mr. GORTON, Mr. CRANSTON, and Mr. AKAKA):

S. 2789. A bill to authorize appropriations for the Earthquake Hazards Reduction Act of 1977, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM REAUTHORIZATION ACT

Mr. GORE. Mr. President, today, I am pleased to join Senators HOLLINGS and DANFORTH, the distinguished chairman and ranking Republican member of the Commerce Committee, and Senators FORD, INOUYE, BRYAN, GORTON, CRANSTON, and AKAKA in introducing the National Earthquake Hazards Reduction Program Reauthorization Act of 1990. This bill amends the Earthquake Hazards Reduction Act which established the program and will both improve our understanding of earthquakes and reduce the death and destruction they cause.

The tragedy in Iran that has been unfolding on the front pages of our newspapers over the last few days is a reminder that earthquakes are the most devastating natural disasters we face. In a single minute, tectonic forces can be unleashed that can kill tens or even hundreds of thousands of people. In Iran, the death toll is now at 50,000 and is still rising. It will be weeks before an accurate count is possible. Roads are blocked, communication links are down, and when an entire village is destroyed there are few survivors still alive to count the missing.

The stories from Iran are heartrending. Entire families killed. Villages where not a single building remains standing. According to pilots flying over the area, more than 100 cities have been destroyed, and an area larger than the State of Connecticut has been devastated.

The pictures are much like those from the Armenian earthquake in December 1988, which killed over 25,000 people. Last year, at a Senate Science Subcommittee hearing in Memphis, Valeri Anikolenko, a Soviet earthquake expert, testified on the devastation caused by that earthquake. He showed slide after slide of the damage and the rubble and the people desperately trying to dig loved ones out of the ruins. According to Dr. Anikolenko, it looked like there had been "an H-bomb explosion"—the devastation was that extensive.

I'm afraid that too often we assume that such a disaster can't happen here. We like to think that the high death toll in Armenia and Iran was due to the poor construction techniques used there. While it is true that many of the dead were in old, mud brick houses, it is important to remember that in both Armenia and Iran, many modern apartments, factories, and other facilities were damaged or destroyed. Many of the buildings that collapsed were not all that different from buildings in the United States, especially those in the eastern and central United States that were built without regard to seismic safety. Many of the older buildings in the United States are built in locations that are just as vulnerable. If an earthquake the size of the one that struck Iran hit in the central United States, the death toll would almost certainly be in the thousands and the damage in the tens of billions of dollars.

And this is not a remote possibility. A devastating earthquake in the United States will almost certainly happen in our lifetimes.

The threat of earthquakes is very real, too real for more than two out of three Americans. In 1811 and 1812, the most severe earthquakes in U.S. history struck the New Madrid, MO, area near the city of Memphis in my home State. The New Madrid Fault Zone is still active today, and as several earthquake experts testified at a Science Subcommittee hearing in March, the New Madrid Seismic Zone could produce another killer quake at any time. Lives are at stake. Cities could be devastated.

In California, there is a greater than 50 percent chance of a great earthquake, as powerful and as destructive as the 1906 San Francisco earthquake, in the next 30 years. The U.S. Geological Survey just recently revised its estimate for the probability of a major earthquake on the two major faults that flank the San Francisco Bay, the San Andreas and the Hayward Faults. According to their estimates, the probability of an earthquake of Richter magnitude 7.0 or greater occurring on these faults in the next 30 years is about 50 percent. Such an earthquake would be at least as strong as the Loma Prieta earthquake last year, but instead of occurring in a remote mountainous area 70 miles from San Francisco, it would be centered right in the middle of some of the largest cities in California. The devastation and the death toll would be much higher than from the Loma Prieta earthquake. Hundreds or thousands of people would die, and the total damage would far exceed the $8 billion total from Loma Prieta.

To reduce the death toll and the damage which will occur when the next big earthquake strikes, I am in-

troducing legislation to strengthen and expand the National Earthquake Hazards Reduction Program [NEHRP]. The earthquake program was created in 1977, thanks in large part to the leadership of Senator CRANSTON and Representative GEORGE BROWN. When the program was created, most Americans thought they did not need to worry about earthquakes. But research funded by the NEHRP has revealed that damaging earthquakes are possible in 39 of our 50 States. In the last 300 years, Boston; New York City; Charleston, SC; Memphis; St. Louis; Little Rock; Los Angeles; and San Francisco, all have experienced earthquakes that would cause extensive damage and hundreds of deaths if they occurred today. In just the last few years, geologists have found evidence of ancient earthquakes in Washington State and Oregon that were as large as the largest earthquakes ever recorded. These quakes dwarfed even the mammoth 1964 Good Friday earthquake that devastated Anchorage, AK. Likewise, geologists working in Hawaii have found evidence of massive tidal waves triggered by ancient earthquakes. We can be sure that similar earthquakes will happen in the future.

NEHRP was established to address this problem. It was set up to coordinate and expand Federal agency programs which address the threat of earthquakes. The four principal agencies in NEHRP are the Federal Emergency Management Agency [FEMA], the U.S. Geological Survey [USGS], the National Science Foundation [NSF], and the National Institute of Standards and Technology [NIST]. FEMA is responsible for helping States prepare for and respond to major earthquakes. The USGS monitors and investigates earthquakes, assesses seismic risks throughout the country, and assists State and local officials in identifying the areas most vulnerable to earthquakes. NSF, as part of its mission to support basic scientific and engineering research in universities, supports academic investigators in both geology and earthquake engineering. NIST's Center for Building Technology investigates the properties and behavior of construction materials and helps develop methods of seismic-resistant construction.

When the earthquake program was started we did not know much about earthquakes, about the threat they posed, or about what could be done to reduce that threat. Consequently, the program focused primarily on research. While there is still much to learn about earthquakes and earthquake engineering and while we must continue to have a well-funded earthquake research program, it is also time to make more effective use of the research that has been done. Geologists have identified active earthquake faults, but in many places developers and home builders are building right on top of them. Earthquake engineers have developed inexpensive, effective ways to make buildings more earthquake-resistant, and yet often, even in earthquake-prone Western States, these techniques are not being applied. The recent earthquakes in northern California, Armenia, and Mexico City provided a number of valuable lessons about how to respond to an earthquake, but many State and local emergency managers do not have the equipment and resources to apply those lessons.

The legislation I am introducing today revises and updates the Earthquake Hazards Reduction Act of 1990. It expands the goals of the NEHRP and stresses the need for more earthquake preparedness and more public education about earthquakes. It calls for the Federal Government to do more to help State and local authorities reduce earthquake hazards with better land-use plans, building codes, and earthquake preparedness plans. In particular, it calls for seismic design and construction standards for Federal buildings, because in many localities Federal buildings are exempt from local building codes and are less earthquake-resistant than private buildings. The Federal Government owns or leases more than 400,000 buildings and should do what it can to protect the inhabitants of those buildings. Furthermore, we need to ensure that military bases, Federal hospitals, and other Government facilities will survive a major earthquake because at the time of the disaster, these facilities will be needed to provide critically needed services to those left injured and homeless.

The bill also puts added emphasis on public education, since the public will not prepare for earthquakes if it does not understand the threat they pose. In addition, it would establish a Center for the International Exchange of Earthquake Information at the USGS to facilitate the 2-way flow of information on earthquakes and earthquake engineering with other countries that must cope with the threat of these disasters. We can learn a great deal about dealing with earthquakes from countries like Japan, Mexico, and the Soviet Union where catastrophic earthquakes are far more common than in the United States.

The bill revises, updates, and reorganizes the original Earthquake Act and, in particular, clarifies the roles of the agencies in NEHRP, which were not defined in the original Earthquake Hazards Reduction Act. While much of the language from the original Earthquake Act is retained in this bill, there are also many provisions from S. 1062, which I and Senator DANFORTH introduced last year and which the Senate passed shortly after the Loma Prieta earthquake. In addition, there are also provisions taken from H.R. 3533, the House version of S. 1062, which has been ordered reported by the House Science and Interior Committees. The major provisions include:

First, amendments to the findings section of the Earthquake Act to update and expand the findings of the Act.

Second, amendments to the purpose section of the Earthquake Act which merge the objectives and purpose sections of the original Earthquake Act.

Third, the definition of the responsibilities of FEMA as lead agency of NEHRP. FEMA is required to work with the other lead agencies, to plan, coordinate, and report on NEHRP activities.

Fourth, the definition of the program responsibilities of the four NEHRP agencies. The bill defines and clarifies, but does not change, the present roles of the NEHRP agencies.

Fifth, a requirement that the White House Office of Science and Technology Policy (OSTP), which is responsible for coordinating interagency research programs, report to Congress on the role OSTP can play in the coordination of NEHRP.

Sixth, the establishment of a NEHRP Advisory Committee by the Director of FEMA.

Seventh, a requirement that the President adopt, not later than June 1, 1994, standards for assessing and enhancing the seismic safety of existing buildings constructed for or leased by the Federal Government which were designed and constructed without adequate seismic design and construction standards.

Eighth, a provision allowing FEMA to accept and use bequests, gifts, or donations of services, money, or property.

Ninth, a limit on amount of cost-sharing FEMA can require from States receiving earthquake preparedness grants.

Tenth, the creation of a program for post-earthquake studies following major earthquakes coordinated by the U.S. Geological Survey.

Eleventh, authorizations for the four NEHRP agencies for fiscal year 1991 and 1992. In addition, authorizations for fiscal year 1990 are increased to accommodate additional funding provided in the dire emergency fiscal year 1990 supplemental appropriations bill following the Loma Prieta earthquake. Authorizations total $105.06 million for fiscal year 1990, $102.75 million for fiscal year 1991, and $120.25 million for fiscal year 1992.

PROPOSED AUTHORIZATIONS

	Fiscal year 1990 appropriations [1]	Proposed authorizations	
		Fiscal year 1991	Fiscal year 1992
FEMA	9.109	14.75	17.0
USGS	46.443	50.0	55.0
NSF	26.320	37.0	44.25
NIST	2.525	1.00	4.00
Total	84.39	102.75	120.25

[1] Includes additional NEHRP appropriations provided in the Dire Emergency FY90 Supplemental Appropriations bill enacted after the Loma Prieta earthquake.

I ask unanimous consent that a section-by-section analysis of the bill and the bill in its entirety be included in the RECORD.

The authorizations provided in this bill are the minimum needed to maintain a viable national earthquake program. In the last 10 years, funding for the program has declined about 35 percent in real dollars. The increased authorizations provided in this bill will restore most of those cuts, and provide funding for critically-needed earthquake research, monitoring, preparedness, mitigration, and education programs.

Earthquake engineers, geologists, and geophysicists who study earthquakes, and emergency managers all have called for significant increases in funding for the NEHRP. A 1987 report, "Commentary and Recommendations of the Expert Review Committee," done for FEMA, documented the effects of decreased funding for NEHRP and recommended an annual NEHRP budget of $188 million. This report was written by some of the Nation's leading earthquake experts and should be required reading for anyone concerned about earthquakes. When you compare what could be done—what needs to be done—with what we are presently doing, you come away very frustrated.

There are exciting new technologies—new seismometers for monitoring earthquakes, new satellites for detecting the buildup of strain before an earthquake, new building technology for protecting buildings, highways, and other facilities, and new communications and computer equipment to facilitate emergency relief services in the critical hours after an earthquake—and we are barely using any of them.

At a Science Subcommittee hearing in March, we heard testimony about measurements that the U.S. Geological Survey scientists have been making of helium in the soil along the San Andreas Fault. On the day before the Loma Prieta earthquake, the helium levels skyrocketed to the highest levels in 10 years, an unmistakable precursor of the earthquake the next day. Unfortunately, funding for the monitoring had been cut drastically over the last 5 years, and there were no other stations which could confirm the measurements. Other researchers detected very anomalous, extremely low frequency radio signals in the hours before the earthquake. Exploring these tantalizing signals to see if they might provide a way to predict earthquakes will cost money, money that this bill will provide.

The Loma Prieta earthquake has also focused additional attention on the need for earthquake preparedness. The earthquake last October showed that proper construction techniques can save lives and property, but the death of 42 people in the collapse of the Cypress Street Viaduct showed that much remains to be done. And California has invested hundreds of millions of dollars in earthquake hazard mitigation; the rest of the Nation is woefully unprepared by comparison. We need to see that engineers know about the latest techniques for building earthquake-resistant buildings, both in the West and in the East. And we need to promote the use of such techniques. All the technology in the world is useless if it is not applied. This bill promotes the adoption of model building codes and it requires that seismic standards be developed for new and existing Federal buildings and for federally owned and regulated lifelines—the roads, pipelines, communication links, power systems on which our economy depends.

While research will help us improve our understanding of the earthquake threat and new design and construction methods will help reduce the loss of life and property caused by an earthquake, we will never entirely eliminate the danger posed by earthquakes. We will always need to be prepared to respond when an earthquake occurs. Thus, we need to ensure that emergency managers around the country know what to do when an earthquake hits and have the equipment to do it.

This bill provides for grants to States for earthquake preparedness. It would more than double FEMA's budget from last year's level. With that additional funding, FEMA will be able to develop a national search-and-rescue capability, a capability we are sorely lacking today. In Armenia and now in Iran, hundreds and thousands of lives have been lost because people trapped beneath the rubble could not be located and rescued before they died of starvation or exposure. Remember the Cypress Street Viaduct in Oakland. It took almost a week to rescue all the people trapped beneath that collapsed freeway. Dozens of people working around the clock were needed. In the next major earthquake, there could be dozens or even hundreds of such scenes. FEMA needs additional funding to ensure that we have people and equipment ready to move in and lift away the rubble to get at the victims underneath.

FEMA needs additional funds to assist States and localities so that after the next earthquake we have the information we need to mount an effective rescue effort. After the Loma Prieta earthquake, the whole world knew that a major earthquake had hit San Francisco. The World Series coverage was interrupted and soon the Goodyear blimp was taking pictures of the fires and the damage.

But near the epicenter south of San Francisco, near Santa Cruz and Castroville, phone links were either tied up or out of commission. It took hours before it was clear what had happened there, making it difficult to deploy the people and resources to where they were needed most. Ironically, the very next day I was speaking to a workshop of disaster response experts on the need for improved emergency communications. The workshop participants were all extremely frustrated that the Federal and State Governments have not done more to ensure adequate communications after a major disaster, like the Loma Prieta earthquake. Once again, the technology is there, we just haven't provided the funding.

We know that soon another major earthquake will strike, and we know that preparing for that earthquake takes not years, but decades, so we need to take action now. I think it is time we start to adequately address the long-term problems like earthquakes. During the Reagan years, the administration seemed content to live for today and to ignore the future. The deficit, the S&L crisis, our crumbling infrastructure, and the sad state of American schools are all examples of a "Don't worry, be happy" attitude. I think it is time we start planning for tomorrow, and I hope the Bush administration will join the Congress in doing so.

I urge my colleagues to join me in supporting this legislation. The Commerce Committee is scheduled to mark up this bill tomorrow, it should be on the floor by some time in July.

This legislation is an important step forward, but it is not the only step. I call on my colleagues to join me in working with the Appropriations Committee to make sure that funding for the four agencies in NEHRP have the dollars they need to do the job that needs to be done. I call on my colleagues on the relevant committees to ensure that the Federal Government sets a good example by making sure that Federal buildings are safe.

Earthquakes are a threat we cannot ignore. I cannot predict when and where the next major earthquake will occur, but I can predict that without a strong national earthquake program there will be a lot of preventable death and destruction, wherever and

whenever it happens. I for one, do not want to have to say, "We should have done more," when that day comes.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF S. 2789, THE NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM REAUTHORIZATION ACT OF 1990

SECTION 1—SHORT TITLE

This section states that the bill may be cited as the "National Earthquake Hazards Reduction Program Act of 1990".

SECTION 2—FINDINGS

This section amends the Congressional findings section of the Earthquake Hazards Reduction Act of 1977 (the "Earthquake Act") which created the multi-agency NEHRP. It deletes two findings, one on earthquake prediction and one on the possibility of controlling or moderating earthquakes. Three new paragraphs are added regarding how the geological study of active faults is needed for long-term seismic risk assessments, the benefits of earthquake-resistant building practices, and the need for Federal government buildings and facilities to pose no greater hazards to their occupants and to the community than other, non-Federal facilities. These provisions are identical to provisions in S. 1062, which passed the Senate in October, 1989.

SECTION 3—PURPOSE

Section 3 would amend the purpose section of the Earthquake Act to consolidate language on the objectives of NEHRP scattered throughout the Earthquake Act. The purpose of the Earthquake Act is to "reduce the risks of loss of life and property from future earthquakes in the United States through the establishment and maintenance of an effective earthquake hazards reduction program." This section adds the following objectives of the program:

1. Development of improved design and construction techniques for improving the earthquake resistance of structures and lifelines;

2. Implementation of systems for identifying, evaluating, and characterizing seismic risks for all areas of the United States with moderate or high seismic risk;

3. Development and promotion of model seismic building codes;

4. Improvement of earthquake preparedness;

5. Education of the public on earthquake hazards;

6. Increased application of existing scientific and engineering knowledge of earthquakes to earthquake mitigation; and

7. Research on ways to assure the availability of earthquake insurance.

SECTION 4—DEFINITIONS

Section 4 amends the definitions section of the Earthquake Act to include new definitions of "lifelines" (pipelines, roads, railroads, electrical power and communications networks, water supply and sewage treatment facilities) and "program agencies" (FEMA, the USGS, NSF, and NIST).

SECTION 5—NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM

Section 5 revises existing section 5 of the Earthquake Act on agency responsibilities. New section 5(a) establishes NEHRP. Subsection (b) outlines the responsibilities of the lead agency and the four program agencies. (The original Earthquake Act did not specify the responsibilities of each program agency.)

Paragraph (1) of subsection (b) clarifies the role of FEMA as the lead agency for NEHRP. This paragraph is similar to language in S. 1062. The Director of FEMA is to prepare, in conjunction with the other program agencies, an annual budget for NEHRP to be submitted to the Office of Management and Budget. The Director is to promote the implementation of earthquake hazard reduction measures by Federal, State, and local governments, and other organizations. The Director of FEMA, in conjunction with the program agencies, is to prepare a plan for NEHRP, which shall include specific tasks and milestones for each program agency, and which shall be submitted to Congress no less frequently than every 3 years. The Director of FEMA, in conjunction with the other program agencies, is to prepare a biennial report to Congress describing the activities and achievements of NEHRP. The Director of FEMA is authorized to request the assistance of Federal agencies other than the program agencies. The leadership function of FEMA shall be separate from the operational management of the research and implementation aspects of NEHRP for which FEMA is responsible.

Paragraph (2) of subsection (b) specifies the contributions of FEMA to NEHRP. The Director of FEMA shall:

1. Operate a program to provide States with grants and technical assistance to improve earthquake preparedness, improve building codes, increase earthquake awareness, and encourage the development of multi-State groups for such purposes;

2. Prepare and execute, with the Department of Education, a comprehensive earthquake education and public awareness program;

3. Prepare and disseminate, with the assistance of NIST and other Federal agencies, and private sector groups, information on building codes and practices for structures and lifelines;

4. Develop and coordinate Federal interagency earthquake response plans for each high seismic risk area that would ensure availability of adequate emergency medical resources, search and rescue personnel and equipment, and emergency broadcast capability; and

5. Provide response recommendations to communities after an earthquake prediction has been made under paragraph (3)(D) of this subsection.

In addition, the Director of FEMA may provide funding to state and local jurisdictions to promote earthquake hazard mitigation and education about earthquakes. In awarding grants to States and localities for emergency operation centers, the Director of FEMA shall give priority to applicants who propose to incorporate hazard mitigation and/or research programs with emergency management activities.

Paragraph (2)(B) requires that States, in order to qualify for grants for earthquake preparedness, must demonstrate that the assistance will result in enhanced seismic safety in the State. Subparagraph (C) provides cost-sharing requirements for FEMA's NEHRP grants to States. States which have received such grants prior to October 1, 1990, shall not be required to provide more than 50 percent of the cost of the project for which the grant is made. Cost-sharing requirements for other States are to be phased in. During the first fiscal year of such a grant, the State shall not be required to provide more than 25 percent of the cost of the project for which the grant is made. For the second fiscal year, the State shall not be required to provide more than 50 percent of the cost of the project and for the first two years the State's contribution could be in cash or in kind. After two fiscal years, the State shall not be required to provide more than 50 percent of the cost of the program in cash.

Paragraph (3) assigns program responsibilities to the USGS. The USGS shall conduct research necessary to characterize and identify earthquake hazards, assess earthquake risks, monitor seismic activity, and improve earthquake predictions. The Director of the USGS shall conduct a systematic assessment of the seismic risks of each region of the Nation prone to earthquakes and work with officials of State and local governments to ensure that they are knowledgeable about the specific seismic risks in their areas. The Director shall establish standards procedures for issuing and evaluating earthquake predictions. The USGS's National Earthquake Prediction Evaluation Council (NEPEC) shall be exempt from provisions of the Federal Advisory Commitee Act which require Federal Register notices of advisory committee meetings, because NEPEC meetings sometimes must be called on very short notice to evaluate predictions of pending earthquakes. The Director of the USGS also shall establish a Center for the International Exchange of Earthquake Information at the USGS. Such a center is to promote the two-way exchange of information on earthquake research and earthquake preparedness between the United States and other countries. In addition, the Director shall operate a National Seismic Network, which shall complement and support regional seismic networks.

Paragraph (4) specifies the program responsibilities of the NSF. NSF shall be responsible for funding research on earth sciences to improve the understanding of the causes and behavior of earthquakes, or earthquake engineering, and on human response to earthquakes. Within earthquake engineering, NSF shall emphasize development of economically feasible methods to retrofit existing buildings and to protect lifelines to mitigate earthquake damage. NSF shall encourage prompt dissemination of research results to organizations which promote earthquake hazard mitigation. NSF also shall fund studies on factors that influence the implementation of hazard reduction measures.

Paragraph (5) gives NIST responsibility for research and development to improve building codes and standards and practices for structures and lifelines. NIST shall work closely with FEMA and national standards and model building code organizations to encourage transfer of research results to the user community, to promote better building practices among architects and engineers, and to develop seismic safety standards and practices for new and existing lifelines.

SECTION 6—OFFICE OF SCIENCE AND TECHNOLOGY POLICY REPORT

Section 6 requires the Office of Science and Technology Policy (OSTP) to report to Congress within 3 months after the date of the enactment of this bill on how OSTP can play a role in interagency coordination, planning, and operation of NEHRP.

SECTION 7—ADVISORY COMMITTEE

Section 7 requires that the Director of FEMA, in consultation with the directors of the program agencies, establish a NEHRP Advisory Committee. The Advisory Committee shall include representatives of State and local governments, the design professions, the research community, business and industry, and the general public. The Advisory Committee shall submit a written annual report directly to Congress which shall describe any recommendations the Advisory Committee has made to NEHRP agencies during the preceding year.

SECTION 8—SEISMIC STANDARDS

This section requires that the President adopt, not later than June 1, 1994, standards for assessing and enhancing the seismic safety of existing buildings constructed for or leased by the Federal Government which were designed and constructed without adequate seismic design and construction standards. These standards shall be developed by the Interagency Committee on Seismic Safety in Construction, which is chaired by the Director of NIST or the Director's designee. The President shall report to Congress by June 1, 1994, on how these standards might be applied to buildings regulated, insured, or financed by Federal programs. The President shall ensure the issuance, before February 1, 1993, by all Federal agencies of final regulations required by section 4(b) of Executive Order 12699, which required Federal agencies to implement seismic safety guidelines for buildings they own, lease, regulate, or finance. The Director of NIST shall submit to Congress, not later than June 30, 1992, a plan for developing and adopting design and construction standards for lifelines. The Comptroller General shall report to Congress, not more than eighteen months after the date of enactment of the legislation, on the seismic risks faced by Federal buildings and on the efforts being made by each Federal agency to reduce those risks.

SECTION 9—ACCEPTANCE OF GIFTS

Section 9 allows FEMA to accept and use bequests, gifts, or donations of services, money, or property. Subsection (b) directs the FEMA Director to establish by regulation criteria for accepting such bequests, gifts or donations, which should take into consideration the impact of such acceptance on the Director's ability to conduct business fairly and objectively or on the integrity of NEHRP.

SECTION 10—NON-FEDERAL COST SHARING FOR SUPPLEMENTAL FUNDS

This section stipulates that FEMA shall not require that a State provide more than 25 percent of the cost of a project funded by a grant from monies appropriated in the Dire Emergency Fiscal 1990 Supplemental Appropriations Act (Dire Supplemental) passed by Congress after the Loma Prieta earthquake. This cost-sharing requirement may be satisfied through in-kind contributions.

SECTION 11—INVESTIGATIONS

This section, under subsection (a), establishes within the USGS an Earthquake Investigations Program to provide for post-earthquake investigations following major earthquakes. Program agencies will investigate the causes and effects of the earthquakes, their effects on structures and how earthquake damage might be reduced, and how the agencies' NEHRP programs might be improved and strengthened. The Director of the USGS is authorized to provide funding to the other NEHRP agencies, other Federal agencies, and private contractors.

Under subsection (b), the Director of FEMA, in consultation with the other NEHRP agencies, shall report to Congress, not more than one year after the date of enactment of the legislation, on possible options for funding a program for post-earthquake investigations.

SECTION 12—AUTHORIZATION OF APPROPRIATIONS

Section 12 authorizes funding for the four NEHRP agencies for fiscal years (FY) 1991 and 1992. In addition, it increases authorizations for FY 1990 to accommodate additional funding provided in the Dire Supplemental following the Loma Prieta earthquake.

PROPOSED FUNDING LEVELS FOR NEHRP

[In millions of dollars]

Agency	Fiscal year 1989 appropriations	Fiscal year 1990 appropriations	Fiscal year 1990 supplemental	Proposed bill		
				Fiscal year 1990	Fiscal year 1991	Fiscal year 1992
FEMA	5.800	6.109	3.00	8.798	14.5	17.0
USGS	34.688	34.443	12.00	55.283	50.0	55.0
NSF	23.340	23.320	3.00	38.454	37.0	44.25
NIST	.525	.525	2.00	2.525	1.00	4.0

Mr. DANFORTH. Mr. President, in the last year and a half, the world has been confronted twice with the terrible consequences of being unprepared for a catastrophic earthquake—in Soviet Armenia in December 1988 and just last week in Iran. During the same period, the United States experienced a devastating earthquake—the October 1989 Loma Prieta earthquake in the San Francisco Bay area. The lesson of the Loma Prieta earthquake is that preparation makes a difference. In Armenia and Iran, where there were scant preparations and inadequate building codes, cities were leveled. Tens of thousands of people died, and many more were injured or left homeless. Devastating earthquakes like these cannot be predicted or avoided. But we do know how to lessen their impact and minimize the amount of lethal destruction they cause, as the Loma Prieta earthquake demonstrated, where less than 100 people died, and most structures survived intact.

Many areas of the United States are prone to earthquakes, but are far less prepared than San Francisco. We must act immediately to make sure that disasters like the ones in Armenia and Iran can never happen here.

Mr. President, the highest earthquake risk in the United States outside California is the New Madrid Seismic Zone, which includes parts of Arkansas, Illinois, Indiana, Kentucky, Mississippi, Missouri, and Tennessee. A Memphis State University study estimates that the probability of an earthquake measuring 6 or greater on the Richter scale occurring in the Eastern or Central United States by the year 2010 is almost 100 percent. There is a 40- to 60-percent chance that the earthquake will occur on the New Madrid fault. New Madrid was the site, in the winter of 1811-12, of the strongest series of earthquakes in the history of the United States.

Yesterday, the Federal Emergency Management Agency [FEMA] released a study which concludes that a major earthquake near St. Louis, MO, would cause hundreds of deaths and injuries, and result in extensive damage to homes, property, and essential services. The report is shocking. A major earthquake in the Cental United States would result in damage, disruption, deaths, and injuries on a scale never caused yet by a natural hazard in the history of the United States.

The report demonstrates that St. Louis, and the surrounding region, is not prepared for a recurrence of the 1811-12 events, or even a less severe earthquake. When such an earthquake strikes, buildings will collapse and people will be trapped, communications lines will break, transportation will be interrupted, bridges will fall, and natural gas pipelines will leak. Medical services in the city and county will be unable to provide adequate care for the injured persons. Damage to highway systems and rail networks will hamper rescue and relief efforts, and disrupt national commerce. Damage to utility systems will mean electricity, water, and gas will be unavailable. Many persons will be left homeless, without food, clothing, or shelter. When a quake strikes the New Madrid fault, it will directly affect as many as seven States. Its indirect effects will be felt nationally.

But this does not have to happen. The Federal Government, through the National Earthquake Hazards Reduction Program [NEHRP], has been researching and studying earthquakes for many years. We have gathered a wealth of data on how to mitigate the

impact of an earthquake. We need to get that information to the people who can implement it as the State and local levels. People must learn what they can do to reduce the damage of an earthquake. We still do not know how to predict earthquakes, or how to prevent them, but that does not mean we should do nothing.

Today, Senator GORE and I are introducing a bill that will help prepare the Nation for the inevitable earthquake. The bill will improve the transfer of federal earthquake hazard reduction knowledge to State and local governments and the private sector, where steps can be taken to improve preparedness throughout the country. It will enable the Federal, State, and local governments to implement earthquake programs in St. Louis and other less prepared States, like Tennessee, Washington, Utah, and South Carolina, to avoid the grim scenario painted in the FEMA report.

For example, with the right building codes and construction practices, we can save lives and property, and minimize the amount of emergency rescue needed after an earthquake, the cleanup effort, and the cost to rebuild. We have the technology to build structures that can withstand earthquakes, as last October's earthquake in San Franciso demonstrated. This legislation provides some of the resources needed to distribute that knowledge. Last year Senator GORE and I introduced and the Senate passed S. 1062, a bill to improve the Nation's ability to respond to a significant earthquake. The House is considering a companion bill. This bill incorporates and improves upon last year's legislation, and authorizes funds for the program.

Specifically, the bill updates the Earthquake Act of 1977 by assigning specific responsibilities to the Federal Earthquake Program agencies and clarifying the roles of the agencies; and provides authorizations for fiscal years 1991 and 1992. The bill also:

Requires the White House Office of Science and Technology Policy [OSTP], which is responsible for coordinating interagency research programs, to report to Congress on the role OSTP can play in coordination of the NEHRP;

Requires the Director of FEMA to establish a NEHRP Advisory Committee to advise the NEHRP agencies on planning and implementing program activities;

Requires the President to adopt, not later than June 1, 1994, standards for assessing and enhancing the seismic safety of existing buildings constructed for or leased by the Federal Government which were designed and constructed without adequate seismic design and construction standards;

Requests the Comptroller General to report to Congress on the vulnerability of federally owned and leased buildings;

Clarifies and limits the amount of cost sharing that FEMA can require from States receiving earthquake preparedness grants; and

Establishes a post-earthquake investigations program.

The bill increases NEHRP authorizations, from $86.5 million in fiscal year 1990 to $102.75 million for fiscal year 1991, and $120.25 million for fiscal year 1992, to provide the resources to conduct much-needed research and develop programs to transfer the results of that research to local builders, educators, legislators, and emergency response personnel. This is an 18-percent increase in fiscal year 1991 and another 17-percent increase in fiscal year 1992.

Virtually all States are subject to the danger of earthquakes. Planning ahead and investing in safer buildings reduces those dangers. This can only be done with adequate funds and with local participation. People must realize the earthquake threat in their own communities and take steps to protect lives and property. The Federal Government can provide this information, and can set an example for State and local governments and the private sector with comprehensive, effective earthquake program that includes achievable, concrete goals for reducing earthquake hazards. The bill we are introducing today provides additional funding and much-needed direction for the Federal Earthquake Program

Mr. HOLLINGS. Mr. President, I am glad to be a cosponsor of the National Earthquake Hazards Reduction Program Reauthorization Act of 1990. This bill will reinvigorate this Nation's Earthquake Program and help improve earthquake preparedness nationwide.

In South Carolina, we know about natural disasters. Last fall, my home State was devastated by Hurricane Hugo; more than 20 people died, and there was extensive damage done. In addition, the billions of dollars of economic losses due to closed businesses, lost tourist dollars, and damaged roads, bridges, and utilities systems, are still being felt.

Yet the harm caused by Hugo is just a fraction of the devastation that would be caused by a catastrophic earthquake. A single great earthquake, like the 1906 San Francisco earthquake or the 1964 Alaska earthquake, if it struck near a major urban area, could cause thousands of deaths and more than $50 billion in damage. It might be 50 years before the next catastrophic earthquake hits the United States, or it could happen tomorrow.

Earthquakes pose a threat to 39 of the 50 States, to Puerto Rico and the Virgin Islands, and to many United States facilities overseas. They are a direct threat to South Carolina. My fellow South Carolinians know that hurricanes are not the only natural disaster that they must deal with. In 1886, my home town of Charleston was struck by an earthquake almost as large as the one that struck northern California last October. Hundreds of buildings were damaged and over 60 people lost their lives. The people of Charleston are well aware that such an earthquake could happen, and will happen, again, and many have taken steps to protect themselves by imrpoving the construction of their homes and businesses to make them less vulnerable to earthquake damage. Dr. Charles Lindbergh, an engineering professor at my alma mater, The Citadel, has been particularly instrumental in educating the people of Charleston about the earthquake threat and helping them prepare for earthquakes.

However, much more needs to be done. Better, cheaper ways to make buildings earthquake-resistant are needed, and engineers and builders need to be educated about the methods that already exist so they can put them to use. Perhaps most importantly, the public needs to be educated about the methods that already exist so they can put them to use. Perhaps most importantly, the public needs to be educated about the danger of earthquakes so that they will take action and encourage their public officials to take action to protect lives and property.

Because a major earthquake could strike at any time, we have to work today to protect the people of this Nation from earthquakes. Preparing now is particularly important for earthquakes, because unlike hurricanes, they strike without warning, giving absolutely no time to prepare.

The bill that I am cosponsoring today will help do this. It provides for major increases in funding for all four agencies in the Earthquake Program so that they can accomplish the goals set out for the program when it was established in 1977. In addition, it clarifies the roles that each agency will play in achieving those goals.

The Committee on Commerce, Science, and Transportation is scheduled to mark up this bill tomorrow. I urge my colleagues to join me as a cosponsor of this important legislation and to support it when it comes to the floor.

By Mr. BINGAMAN (for himself and Mr. SIMON):

S. 2790. A bill to promote educational partnerships and establish education programs involving Federal laboratories and public schools, colleges, and universities to promote and enhance science, mathematics, and engineering education at all educational levels, and for other purposes; to the

Committee on Labor and Human Resources.

FEDERAL LABORATORY EDUCATION PARTNERSHIP ACT OF 1990

● Mr. BINGAMAN. Mr. President, I rise today to introduce the Federal Laboratory Education Partnerships Act of 1990 on behalf of myself and the Senator from Illinois, Mr. SIMON.

Mr. President, the United States has taken great pride in being a leader in science, engineering, and technology. However, the Nation's scientific and engineering work force is continuing to decline. It is predicted that by the year 2000 the United States will be faced with critical shortages of well-trained engineers and scientists. This bill seeks to reverse this trend by establishing educational partnerships between Federal laboratories and public schools. These partnerships will promote and enhance science, math, and engineering education at all grade levels.

Research findings indicate that children decide whether or not to pursue science and engineering disciplines not during their college studies but in early grade levels. Exposure at this age leaves an indelible and strong impression. It is for this reason that the bill encourages enhancement of these fields at these early learning stages.

Due to the changing demographics of American society, by the year 2000 an estimated 85 percent of individuals entering the work force will be women and members of minority groups. There needs to be an emphasis on expanding educational and work force opportunities for minorities and women in math, science, and engineering. Our Nation possesses the best research and development infrastructure in the world today in the form of its Federal laboratories, yet the science and engineering expertise at these labs is not being utilized to support educational needs as well as it might be. This bill would create a mechanism for bridging the gap between that infrastructure and our pressing educational needs. In particular, it would serve to encourage, enhance, and support educational as well as work force opportunities for minorities and women in math, science, and engineering.

Within each mission agency a single office will be established to coordinate the agency's programs in enhancing mathematics, science, and engineering education at all levels of the educational system. The office will identify those areas of academic study which are critical to the mission of the agency and establish educational programs to foster those areas. It will also collect and disseminate information of all of the agency's programs that impact math, science, and engineering education and the science and engineering work force.

Each Federal laboratory, under the direction of the lab director and in consultation with the agency education office, would be authorized to enter into educational partnership agreements with public schools to enhance math, science, and engineering education. These partnerships are a way in which we can leverage our research and development infrastructure to educate the scientists and engineers of tomorrow. Many of our Federal labs are involved with local educational efforts, but there is little coordination among the programs and little dissemination of information on programs that may be particularly effective. The legislation we are introducing today seeks to encourage these efforts at all of our Federal laboratories and coordinate and disseminate information on the programs through the agency education office. Finally, the educational partnerships we are proposing require a minimal investment of Federal resources, but are capable of producing a large dividend in enhanced math and science education.

The agencies covered under this act shall report annually to the President and Congress on the development, implementation, and findings of their educational programs. This report will include important factors such as research and development budget statements, the field areas emphasized, and an analysis and evaluation of the effectiveness of various partnerships.

I would also like to note that the Department of Energy, under the leadership of Adm. James Watkins, has done a particularly good job in attempting to address the Nation's math, science, and engineering education needs. However, Admiral Watkins and the Department of Energy cannot adequately address this issue alone. We would be taking a large step forward in addressing our Nation's math, science, and engineering education needs if every R&D agency were as committed and enthusiastic about trying to meet the Nation's educational needs as Admiral Watkins has been as Secretary of Energy. The educational programs in which the DOE laboratories are involved should serve as models for the Federal laboratories in other agencies.

As a nation, if we are to continue to be competitive in the development of engineering and science technology, we must increase the number of Americans studying in these fields. This effort may only be achieved through concentrated and increased attention to these scientific fields. This bill seeks to promote excellence in American mathetmatics, science, and engineering education to keep America competitive through the 1990's and beyond.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Federal Laboratory Education Partnerships Act of 1990".

SEC. 2. FINDINGS.

Congress finds that—

(1) the scientific and engineering work force of the United States is eroding, and the United States will face serious shortfalls of individuals trained in the sciences and in engineering by the year 2000;

(2) as a nation, the United States must increase the number of individuals studying mathematics, science, and engineering in order to address declines in the scientific and engineering work force;

(3) studies indicate that children decide in the early grades whether to pursue careers in science and engineering;

(4) the United States must begin intervention programs to encourage students in the early grades to pursue scientific academic study;

(5) increasing the scientific and engineering work force requires increased attention to scientific academic study at all educational levels;

(6) due to the changing demographics of the United States, by the year 2000 an estimated 85 percent of individuals entering the work force will be women and members of minority groups;

(7) the United States must emphasize programs to expand educational and work force opportunities for minorities and women in mathematics, science and engineering;

(8) Federal mission agencies require a highly trained scientific and engineering work force, and it is critical to the future of those agencies and in the interests of the Federal Government to promote scientific academic study at every educational level; and

(9) a portion of the mathematics, science, and engineering expertise present in the Federal laboratories could be better utilized to promote and enhance scientific academic education.

SEC. 3. PURPOSES.

The purpose of this Act is to enhance scientific academic study in the United States by—

(1) identifying within each Federal mission agency the areas of scientific academic study critical to the mission of the agency;

(2) focusing the resources of each mission agency to promote education, and develop a trained work force, in areas of scientific academic study critical to the mission of the agency;

(3) establishing within each mission agency a single office to coordinate the programs of the agency to promote scientific academic study;

(4) developing education programs to promote critical academic disciplines at the elementary, secondary, undergraduate, and graduate educational levels, giving special attention to developing the talents of minority and women students;

(5) developing programs within each mission agency to provide training to agency personnel in scientific academic study; and

(6) establishing within each mission agency a program of education partnerships between Federal laboratories and public schools, colleges, and universities to promote and enhance scientific academic study, giving special attention to elementary and

secondary education and the needs of minority and women students.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) CRITICAL ACADEMIC AREA.—The term "critical academic area" means, with respect to a mission agency, an area of academic study identified by the agency under section 5(b).

(2) EDUCATION OFFICE.—The term "education office" means, with respect to a mission agency, the office established or designated in section 5(a).

(3) EDUCATION OFFICIAL.—The term "education official" means, with respect to a mission agency, the official responsible for administering the education office.

(4) FEDERAL LABORATORY.—The term "Federal laboratory" means any laboratory, any federally funded research and development center, or any center established under section 7 or 9 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3705 or 3707) that is owned and funded by a mission agency, whether operated by the Government or by a contractor.

(5) FEDERAL LABORATORY DIRECTOR.—The term "Federal laboratory director" means—

(A) the director of a Government-operated Federal laboratory of a mission agency; or

(B) to the extent that an agency-approved joint work statement permits administration of programs established in accordance with this Act, the director of a contractor-operated Federal laboratory of the agency.

(6) MISSION AGENCY.—The term "mission agency" means the Department of Defense, the Department of Energy, the Department of Agriculture, the Department of Labor, the Department of Health and Human Services, the Department of Transportation, the National Aeronautics and Space Administration, the Environmental Protection Agency, or the Department of Commerce.

(7) PUBLIC COLLEGE AND PUBLIC UNIVERSITY.—The terms "public college" and "public university" include 2-year colleges and institutions that provide postsecondary vocational training.

(8) PUBLIC SCHOOL.—The term "public school" means a public elementary or secondary school.

(9) SCIENTIFIC ACADEMIC STUDY.—The term "scientific academic study" means the study of mathematics, science, or engineering.

(10) UNDERGRADUATE EDUCATION.—The term "undergraduate education" includes educational programs at a 2-year college and postsecondary vocational training.

SEC. 5. AGENCY EDUCATION OFFICES.

(a) ESTABLISHMENT.—Each mission agency shall establish or designate an education office within the agency. The education office shall—

(1) administer education and training programs established in accordance with section 6;

(2) oversee education partnership programs established in accordance with section 7; and

(3) coordinate, and collect and disseminate information on, all agency programs that promote scientific academic study or the development of the scientific and engineering work force.

(b) CRITICAL ACADEMIC AREAS.—Each mission agency shall identify each area of scientific academic study that is critical to the mission of the agency.

SEC. 6. EDUCATION PROGRAMS AND TRAINING.

(a) UNDERGRADUATE AND GRADUATE EDUCATION PROGRAMS.—

(1) ESTABLISHMENT.—Each mission agency shall establish or designate not less than 2 programs for the purpose of awarding grants to public colleges or universities to enhance undergraduate or graduate education in critical academic areas.

(2) USE OF FUNDS.—A public college or university may use grants provided under paragraph (1) to develop—

(A) undergraduate and graduate scholarship programs for critical academic areas;

(B) minority research grants or fellowships;

(C) cooperative programs; and

(D) institutional support.

(3) PRIORITY.—In awarding grants under this subsection, the education official of a mission agency shall give priority to projects designed to attract women and minorities into the scientific and engineering work force.

(4) APPLICATION.—To be eligible to receive a grant under paragraph (1), a public college or university shall submit an application to the education official of a mission agency at such time, in such manner, and containing such information as the education official shall by regulation provide.

(b) ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—

(1) ESTABLISHMENT.—Each mission agency shall establish or designate not less than 2 programs for the purpose of enhancing the mathematics and science knowledge and abilities of elementary and secondary school faculty and students.

(2) PROGRAMS.—The mission agency may establish programs under this section to develop—

(A) workshops, seminars, or summer employment programs for faculty or students;

(B) science and math resource materials; and

(C) formal, informal, or volunteer outreach programs.

(3) COMPENSATION.—In order to enable elementary and secondary school teachers to participate in programs established under this subsection, each mission agency may compensate the teachers who participate in the programs.

(4) PRIORITY.—In awarding establishing projects under this subsection, the education official of a mission agency shall give priority to projects designed to attract women and minorities into scientific academic study.

(c) TRAINING OF AGENCY EMPLOYEES.—Notwithstanding section 4107 of title 5, United States Code, under regulations prescribed by the Director of the Office of Personnel Management, a mission agency is authorized to provide training, or payment or reimbursement of the costs of training, for agency employees in critical academic areas in order to—

(1) assist in the recruitment or retention of employees with skills in critical academic areas; and

(2) train employees to provide services in accordance with subsections (a) and (b) and section 7.

SEC. 7. EDUCATION PARTNERSHIPS.

(a) AUTHORITY.—Each Federal laboratory director shall, to the extent practicable, enter into education partnership agreements with public schools, colleges, and universities for the purposes of promoting and enhancing scientific academic study at all educational levels.

(b) REVIEW.—A Federal laboratory director who enters into a partnership agreement under subsection (a) shall submit the agreement to the education official of the mission agency for review. Within 30 days after the submission of a partnership agreement, the education official shall review the agreement and, on the basis of the review, approve or make specific objection to the agreement.

(c) MODEL AGREEMENTS.—Each mission agency shall develop and provide to the laboratories of the mission agency one or more model education partnership agreements, for the purposes of standardizing practices and procedures and enabling review of proposed agreements to be carried out in a routine and prompt manner.

(d) CONTENTS.—Education partnership agreements may include provisions under which a Federal laboratory agrees to—

(1) provide equipment, services, and support to public schools, colleges, and universities, including—

(A) collaboration in the development or enhancement of elementary, secondary, undergraduate, or graduate education curricula and research programs and projects;

(B) scientific support services, to the extent possible and at the lowest appropriate cost; and

(C) short- and long-term loans of equipment primarily for the purposes of enhancing instruction of scientific academic study;

(2) provide personnel, including—

(A) faculty or staff under appointments or exchanges, which may be salaried, with a public college or university; and

(B) resource persons to—

(i) teach courses and lecture in scientific academic studies; and

(ii) assist in the development and enhancement of programs, courses, minicourses, lectures, and workshops in scientific academic studies;

(3) appoint or employ in established summer and academic year research participation programs at the Federal laboratory—

(A) elementary, secondary, undergraduate and graduate mathematics and science faculty; and

(B) elementary school, secondary school, undergraduate, and graduate students;

(4) establish research projects for academic credit involving undergraduate and graduate students and faculty in a Federal laboratory; and

(5) establish mentorships, guidance, and assistance for elementary and secondary students, as a part of school curricula or approved extracurricular activities, to promote and enhance interest in scientific academic study.

(c) MINORITY AGREEMENTS.—Each Federal laboratory director shall make every effort to reach education partnership agreements with historically black colleges and universities and other public colleges and universities that serve Hispanic and other minority populations.

(d) AGENCY OR CONTRACTOR PERSONNEL.—Agency or contractor personnel may participate in programs under an education partnership agreement to the extent considered appropriate by the Federal laboratory director consistent with the mission of the laboratory.

SEC. 8. LOCATION.

In carrying out this Act, each mission agency and Federal laboratory is authorized to conduct or fund educational activities at either an agency site, contractor site, or any other appropriate location.

SEC. 9. REPORTING REQUIREMENTS.

Not later than 1 year after the date of enactment of this Act, each mission agency shall submit a report to Congress and the

President that describes the actions taken to carry out this Act.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act such sums as may be necessary for fiscal year 1991 and subsequent fiscal years.●

● Mr. SIMON. Mr. President, I rise to join the Senator from New Mexico [Mr. BINGAMAN] in introducing the Federal Laboratory Education Partnerships Act of 1990. This bill will ensure that the various Federal agencies involved in science and engineering activities also take some responsibility for preparing our next generation of scientists and engineers.

On May 24, I told the Senate of the new initiatives in math and science education that had just been announced by the Secretary of Energy. These initiatives were in addition to the many other exemplary programs that Adm. James Watkins is continuing at the various Federal laboratories operated by the Department.

I noted that one innovative program was not announced last month: The Academy for Mathematics and Science Teachers in Chicago. This is a comprehensive plan, developed under the leadership of Nobel Prize winner, Leon Lederman, to provide training to more than 15,000 teachers in Chicago over a 5-year period. The academy would tap the human and technological resources of the Argonne and Fermi laboratories, and of a broad coalition of universities and organizations in the Chicago area.

The Academy for Mathematics and Science Teachers was not announced last month in part because of uncertainty regarding the Department of Energy's authority to participate fully in the project. This bill is intended to clear up that problem. In addition, I continue to work with the chairman and members of the Labor and Human Resources Committee to ensure that the math and science education package, S. 2114, establishes programs that can support this model effort in Chicago and similar efforts across the country.

The bill we are introducing today not only addresses the Department of Energy's needs, but is also intended to spur other Federal agencies into taking greater responsibility for promoting scientific literacy and for educating America's next generation of engineers, scientists, and mathematicians.

Mr. President, I will not repeat all of the data regarding the state of math and science education in the United States that was included in my statement of May 24. I would ask, however, that a separate statement regarding the developing of the Math and Science Teachers Academy, which I submitted to the Labor and Human Resources Committee on April 19, 1990, be inserted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PAUL SIMON ON MATH AND SCIENCE EDUCATION: PREPARING FOR OUR ENVIRONMENTAL AND TECHNOLOGICAL FUTURE

Mr. Chairman, last week we saw the release of yet another report on the declining technological literacy of our population. A National Academy of Sciences panel reports that the number of science, engineering and technical jobs requiring competence in math will increase 36 percent by the year 2000. At the same time, the number of college students geared to those types of majors and careers will not meet the demand.

This is a problem we can solve. If President Bush and the governors are serious about U.S. students being "first in the world in mathematics and science achievement," it is clear what needs to be done. Listen to what California's superintendent of public instruction, Bill Honig, has to say:

"[W]e now know exactly where we go wrong in math instruction and there is a consensus on what to do about it. The National Council of Teachers of Mathematics has issued a new set of standards; the University of Chicago has figured out how to teach these complicated standards to the average child; and a major textbook publisher has incorporated these ideas in new materials. Eighth graders who have used these books have grown four grade levels in one year. The University of Chicago has analyzed international textbooks and has determined exactly where we fall short. We waste one-half year in second grade by delaying introduction of some topics; we review too much at the fourth grade; and we flounder in junior high school by assigning too much review and failing to cover measurement and applied problem-solving. By the eighth grade our students are two years behind where they should be."

We know what to do. But we need to allocate the resources, to provide the training, so that teachers can implement this accelerated math strategy. That requires leadership.

I am pleased to report that some of this needed leadership is likely to pay off soon in Chicago. Last November, Dr. Leon Lederman, Nobel laureate in physics, testified before this committee about his proposal for an academy to improve the math and science teaching skills of Chicago's teachers. As you may remember, education is not a new endeavor for Dr. Lederman. He was the driving force behind the highly-acclaimed Illinois Mathematics and Science Academy, a high school which last year had the highest average American College Test score of any school in the country.

With the support and encouragement of the Secretary of Energy, Admiral James Watkins, Dr. Lederman proposed tapping the human and technological resources of the Department of Energy's laboratories, Fermilab and Argonne, to help the Chicago Public Schools. In partnership with area universities, the school system, and the labs, the academy would build the math and science teaching skills of more than 15,000 teachers in Chicago.

Last month, the proposal for the "Academy for Mathematics and Science Teachers in Chicago" was completed and was delivered to Admiral Watkins. In addressing our science and math education deficit, this proposal could well become a model for inner city school systems across the country.

We will know soon whether an interagency group headed by Admiral Watkins will be able to provide the $5.7 million in federal support that the Academy will need in its first year. After that first year, a much larger infusion of federal funds, up to $25 million each year in the third through sixth year of the program, is needed to reach the more than 15,000 teachers who have math and science responsibilities in Chicago. After this intensive training of all teachers has been accomplished, the Academy will be able to operate at a reduced budget.

Mr. Chairman, Dr. Lederman has shown great leadership in developing this Academy from just an idea to a proposal on the brink of funding and implementation. Admiral Watkins has shown great foresight in encouraging the effort. Now it's our turn. We need to ensure that the math-science package, S. 2114, establishes programs that can support this model effort, and that there are strong incentives for similar efforts throughout the country.

We know how to do a better job teaching math and science to our children. Let's commit the resources necessary to make it happen.●

By Mr. JOHNSTON:

S. 2791. A bill to amend the Federal Oil and Gas Royalty Management Act of 1982 to provide for the appointment by the President of a director of the Minerals Management Service, and for other purposes; to the Committee on Energy and Natural Resources.

APPOINTMENT PROCEDURES FOR DIRECTOR OF THE MINERALS MANAGEMENT SERVICE

● Mr. JOHNSTON. Mr. President, I rise today to introduce legislation that would make the position of Director of the Minerals Management Service [MMS] subject to appointment by the President with the advice and consent of the Senate. I believe that this legislation is important to ensuring the sound administration of two extremely significant programs administered by the Secretary of the Interior: the Outer Continental Shelf Leasing Program; and the Royalty Management Program.

Mr. President, the Secretary of the Interior, acting through the Minerals Management Service, is responsible for the management of energy and mineral resources on our Nation's Outer Continental Shelf [OCS]. These responsibilities are carried out pursuant to the OCS Lands Act, as amended.

The OCS Leasing Program is of enormous importance to the Nation. During fiscal year 1989, over 314 million barrels of oil and 4.2 trillion cubic feet of gas came from the OCS, comprising approximately 9 percent of our country's total oil production and 23 percent of our natural gas production. This production is significant, particularly given our rising oil imports which this year, for the first time since 1977, exceeded 9 million barrels per day, ac-

counting for almost 54 percent of our domestic deliveries.

In addition, production and development on the OCS is a substantial revenue source for our country. During 1988, offshore bonus receipts from competitive lease sales totalled $1.2 billion. Total revenues from royalties, rents, and bonuses from offshore oil and gas leases amounted to $3.4 billion in 1988.

Management of our OCS energy and mineral resources clearly has environmental implications as well. My colleagues are well aware of the controversy that has attended the OCS Leasing Program in the past, resulting in several areas of the OCS being subject to moratoria and off-limits to oil and gas development due to environmental concerns.

Mr. President, I strongly believe that OCS development can and does occur in an environmentally sound manner. The Secretary, acting through the Director of MMS, has responsibility to consider and mitigate the environmental effects of such development. This is an important charge.

Another highly important program administered by the Secretary of the Interior, acting through the MMS, is the Royalty Management Program. Pursuant to the Federal Oil and Gas Royalty Management Act, the Mineral Leasing Act, the Indian Mineral Leasing Act, and the OCS Lands Act, the Secretary is responsible for the timely collection, distribution, accounting and auditing of revenues owned by the holders of mineral leases on Federal and Indian lands. As with the OCS Leasing Program, sound management of the Royalty Management Program is of great importance to our Nation.

Under the Royalty Management Program, MMS collects and disburses substantial revenues. During 1988, mineral revenues from royalties, rents, and bonuses on Federal lands and royalties and rents on Indian lands amounted to nearly $4.3 billion.

MMS has in the past been subject to harsh criticism—some of it well founded—for mismanagement and failure to adequately administer the Royalty Management Program. There have been allegations of substantial royalty undercollections, resulting in adverse revenue impacts on the Federal Government, the States and Indian tribes and allottees.

Mr. President, the Director of MMS clearly holds a position of great responsibility and sensitivity. The heads of most of the other agencies within the Department of the Interior are already subject to Presidential appointment and the Senate confirmation process. These include the Directors of the Bureau of Land Management, the United States Geological Survey, the Fish and Wildlife Service, the Office of Surface Mining Reclamation and Enforcement, the Bureau of Mines, and the Commissioner of the Bureau of Reclamation. Making the position of Director of MMS subject to Senate confirmation lends recognition to the importance of the job.

In addition, fulfilling the duties of Director of MMS requires good communication between the Congress and the agency. The Senate confirmation process should help to facilitate this communication by ensuring that the MMS Director becomes personally acquainted with Members of the Senate and by helping Members to become familiar with the background and qualifications of the Director, as well as his or her position on the relevant issues.

Mr. President, this is important legislation that will enhance the functioning of the Minerals Management Service. I ask my colleagues to join me in cosponsoring this legislation.

I ask unanimous consent that my statement and the text of the bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Oil and Gas Royalty Management Act of 1982 is amended by adding a new section at the end of Title III as follows:

SEC. 310. (a) The Minerals Management Service established by Secretarial Order No. 3071 dated January 19, 1982, shall have as its head a Director. Appointments to the position of Director shall hereafter be made by the President, by and with the advice and consent of the Senate. The Director of the Minerals Management Service shall have a broad background and substantial experience in public resource management. He or she shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of public resources under the Secretary's jurisdiction according to the applicable provisions of law.

(b) Subject to the discretion granted to the Secretary by Reorganization Plan Numbered 3 of 1950 (43 U.S.C. 1451 note), the Secretary shall carry out through the Minerals Management Service all functions, powers, and duties vested in the Secretary and relating to the administration of laws which, on the date of enactment of this section, were carried out by the Secretary through the Minerals Management Service established by Secretarial Order No. 3071, as amended. The Minerals Management Service shall administer such laws according to the provisions thereof existing as of the date of approval of this section as modified by subsequent law.

(c) In addition to the Director, there shall be a Deputy Director of the Minerals Management Service and so many Associate Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter 3 of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) Nothing in this section shall affect any regulation of the Secretary with respect to the administration of laws administered by the Secretary through the Minerals Management Service on the date of approval of this section.

(e) Nothing in this section shall affect the discretion granted to the Secretary by Reorganization Plan Numbered 3 of 1950 (43 U.S.C. 1451 note) to alter the responsibilities of, restructure, or abolish the Minerals Management Service.●

ADDITIONAL COSPONSORS

S. 849

At the request of Mr. DASCHLE, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 849, a bill to repeal section 2036(c) of the Internal Revenue Code of 1986, relating to valuation freezes.

S. 930

At the request of Mr. DODD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 930, a bill to amend the Occupational Safety and Health Act of 1970 to establish an Office of Construction, Safety, Health, and Education within OSHA, to improve inspections, investigations, reporting, and recordkeeping in the construction industry, to require certain construction contractors to establish construction safety and health programs and onsite plans and appoint construction safety specialists, and for other purposes.

S. 1273

At the request of Mr. BOREN, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1273, a bill to amend the Internal Revenue Code of 1986 with respect to treatment by cooperatives of gains or losses from sale of certain assets

S. 1542

At the request of Mr. HATFIELD, the names of the Senator from Minnesota [Mr. BOSCHWITZ], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 1542, a bill to amend chapter 55 of title 5, United States Code, to include certain employees of the Department of Commerce as forest firefighters.

S. 1577

At the request of Mr. BOREN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1577, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 1860

At the request of Mr. BOREN, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1860, a bill to amend title 38, United States Code, to require the Sec-

retary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 2214

At the request of Mr. PACKWOOD, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2214, a bill to provide incentives to health care providers serving rural areas, to eliminate the Medicare reimbursement differential between hospitals located in rural and urban areas, and for other purposes.

S. 2216

At the request of Mr. COATS, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2216, a bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize grants to States for boot camp projects to demonstrate innovative alternatives to the imprisonment of persons for nonviolent offenses and nonviolent drug-related offenses.

S. 2283

At the request of Ms. MIKULSKI, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Maine [Mr. MITCHELL], the Senator from Illinois [Mr. SIMON], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2317

At the request of Mr. MCCONNELL, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2317, a bill to require Federal, State, and local law enforcement agencies to report all cases of missing persons under age 18 to the national Crime Information Center of the Department of Justice.

S. 2319

At the request of Mr. GARN, the names of the Senator from Texas [Mr. GRAMM] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means or in a fiduciary capacity, and for other purposes.

S. 2373

At the request of Mr. REID, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2373, a bill to promote and enhance the science and mathematics literacy of elementary and secondary school students by providing grants to local educational agencies desiring to participate in curriculum choice programs, and by providing scholarships to individuals who agree to teach mathematics and science in elementary and secondary schools.

S. 2413

At the request of Mr. KERRY, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2413, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a hostile force before April 15, 1962, and for other purposes.

S. 2438

At the request of Mr. BAUCUS, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2438, a bill to amend title XVIII of the Social Security Act to make certain modifications in the Medicare Program with respect to payments made under such program to hospitals located within rural areas with 50 beds or fewer, to improve the delivery of health services to individuals residing in rural areas, and for other purposes.

S. 2442

At the request of Mr. SIMON, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2442, a bill to amend the Occupational Safety and Health Act of 1970 to expand the rights of victims of occupational safety and health hazards, and for other purposes.

S. 2494

At the request of Mr. BRYAN, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2494, a bill to strengthen the authority of the Federal Trade Commission regarding fraud committed in connection with sales made with a telephone, and for other purposes.

S. 2568

At the request of Mr. COHEN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2568, a bill to establish the Counter-Narcotics Technology Assessment Center within the Office of National Drug Control Policy, and for other purposes.

S. 2591

At the request of Mr. BAUCUS, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2591, a bill to amend title XVIII of the Social Security Act to provide relief from certain regulations relating to physicians' services.

S. 2712

At the request of Mr. WIRTH, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2712, a bill to establish a Financial Services Crime Division in the Department of Justice.

S. 2736

At the request of Mr. SIMON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2736, a bill to amend the Follow Through Act, and for other purposes.

SENATE JOINT RESOLUTION 287

At the request of Mr. PELL, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 287, a joint resolution requesting the President of the United States to negotiate agreements to achieve early prohibition of nuclear explosions.

SENATE JOINT RESOLUTION 305

At the request of Mr. THURMOND, the names of the Senator from Tennessee [Mr. GORE], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from North Dakota [Mr. BURDICK], the Senator from Georgia [Mr. NUNN], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 305, a joint resolution to designate the month of September 1990 as "National Awareness Month of Children With Cancer."

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 333

At the request of Mr. GORE, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 333, a joint resolution to designate the week of September 30, 1990, through October 6, 1990, as "National Job Skills Week."

SENATE JOINT RESOLUTION 335

At the request of Mr. JOHNSTON, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Tennessee [Mr. GORE], the Senator from Louisiana [Mr. BREAUX], the Senator from Alabama [Mr. HEFLIN], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 335, a joint resolution designating July 1, 1990, as "Imported Oil Dependence Day."

SENATE JOINT RESOLUTION 339

At the request of Mr. DECONCINI, the name of the Senator from Texas

[Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 339, a joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day."

SENATE CONCURRENT RESOLUTION 123

At the request of Mr. PELL, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Concurrent Resolution 123, a concurrent resolution to encourage State governments, local governments, and local educational agencies to adopt a comprehensive curricular program which provides elementary and secondary students with a thorough knowledge of the history and principles of the Constitution and the Bill of Rights and which fosters civic competence and civic responsibility.

SENATE CONCURRENT RESOLUTION 125

At the request of Mr. COHEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Concurrent Resolution 125, a concurrent resolution expressing the sense of Congress regarding adequate funding for long-term health care services provided through the medicare and medicaid programs.

SENATE RESOLUTION 288

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Resolution 288, a resolution expressing the sense of the Senate regarding the reopening of universities in the West Bank and Gaza without delay.

SENATE RESOLUTION 298

At the request of Mr. WIRTH, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of Senate Resolution 298, a resolution to express the sense of the Senate that efforts to investigate and prosecute financial institution crimes should be fully funded.

AMENDMENT NO. 1672

At the request of Mr. MCCONNELL, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of amendment No. 1672 intended to be proposed to S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

AMENDMENTS SUBMITTED

PROPOSED CONSTITUTIONAL AMENDMENT PROHIBITING DESECRATION OF THE FLAG

BUMPERS AMENDMENT NO. 2066

Mr. BUMPERS proposed an amendment to the joint resolution (S.J. Res. 332) proposing an amendment to the Constitution of the United States authorizing Congress and the States to prohibit the physical desecration of the flag of the United States; as follows:

Strike all after "*assembled*" and insert the following:

That section 700 of title 18, United States Code, is amended to read as follows:

"**§ 700. Desecration of the Flag of the United States; Penalties**

"(a) Whoever purposely or knowingly desecrates the Flag of the United States shall be fined under this title or imprisoned for not more than one year, or both

"(b) For purposes of this section, the term 'desecrate' means deface, damage, or otherwise physically mistreat in a way that the actor knows is likely to lead to a breach of the peace.".

HELMS AMENDMENT NO. 2067

Mr. HELMS proposed an amendment to the joint resolution Senate Joint Resolution 332, supra; as follows:

Strike all after the resolving clause and insert in lieu thereof the following:

SEC. . AMERICAN FLAG PROTECTION ACT.

(a) SHORT TITLE.—This section may be cited as the "American Flag Protection Act".

(b) COURT OF APPEALS JURISDICTION.—

(1) IN GENERAL.—Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"**§ 1260. Appellate jurisdiction limitations**

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter in accordance with section 2 of Article III of the Constitution, the Supreme Court shall have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any part thereof, or arising out of any act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to the public mutilation, defilement, incineration, or other physical abuse of any flag of the United States.

"(b) For purposes of this section, the term 'flag of the United States' has the same meaning as in section 700(b) of title 18.".

(2) SECTION ANALYSIS.—The section analysis of chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1260. Appellate jurisdiction: limitations.".

(c) DISTRICT COURT JURISDICTION.—

(1) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"**§ 1367. Limitations on jurisdiction**

"Notwithstanding any other provision of law and in accordance with section 2 of Article III of the Constitution, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1260 of this title.".

(2) SECTION ANALYSIS.—The section analysis at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1367. Limitations on jurisdiction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this section, that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

BIDEN (AND LEVIN) AMENDMENT NO. 2068

Mr. BIDEN (for himself and Mr. LEVIN) proposed an amendment to the joint resolution, Senate Joint Resolution 332, supra, as follows:

Strike all after resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. The Congress shall have power to enact the following law.

" 'It shall be unlawful to burn, mutilate, or trample upon any flag of the United States.

" 'This law does not prohibit any conduct consisting of the disposal of the flag when it has become worn or soiled.'.

"SEC. 2. As used in this article, the term 'flag of the United States' means any flag of the United States adopted by Congress by law, or any part thereof, made of any substance, of any size, in a form that is commonly displayed.

"SEC. 3. The Congress shall have the power to prescribe appropriate penalties for the violation of a statute adopted pursuant to section 1.".

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 26, 1990, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on June 26, 1990 at 2 p.m., to hold a hearing on S. 1772, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional sports organizations from misappropriation by State lotteries.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 2 p.m., June 26, 1990, for a hearing to receive testimony on S. 2464, a bill to establish the Red Rock

Canyon National Conservation Area; S. 2475, a bill to provide for the acquisition of the William Johnston House and its addition to the Natchez National Historical Park, and for other purposes; S. 2555, a bill to amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System; S. 2612, a bill to establish a Commission to determine the feasibility of designating the Mississippi River as a national heritage corridor; and S. 2669, a bill to provide for increases in appropriation ceilings for land acquisition and development in certain units of the National Park System and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in executive session on Tuesday, June 26, 1990 at 2:30 p.m. to receive a classified intelligence briefing on the Soviet Union and to discuss mark up of S. 2171, the Department of Defense Authorization Act, 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HONORING MS. PAMELA CALHOUN

● Mr. BRYAN. Mr. President, I rise today to congratulate one of Nevada's most valuable citizens. Ms. Pamela Calhoun, a teacher at Diedrichsen Elementary School, has been named our Nation's 64th Point of Light by President Bush for her service to the community of Sparks and the State of Nevada. I want to join with our President and salute Ms. Calhoun for her efforts to help make Nevada energy efficient and to preserve our State's natural beauty.

Mr. President, Pamela Calhoun's outstanding work for energy conservation first became known to me 4 years ago. As a result of her success, I requested as Governor, that she teach other Nevada educators about energy conservation to help spread the message that each of us can help make Nevada a more beautiful and energy efficient State. Ms. Calhoun seized that opportunity and as a result, her efforts have developed into a community based curriculum that reaches many more students than she could possibly reach on her own.

But the core of her work remains a group called "Energy Awareness in the Northern Nevada Community" at Diedrichsen Elementary School. This organization consists of a core of 50 students in grades K-12, who, in turn, mobilize a student population of more than 600 young people. Students in the group work to educate the public on issues such as pollution, littering, recycling, conservation and energy alternatives. They hold community recycling and litter cleanups, distribute educational fliers about pollution, and publicize energy alternatives. Moreover, the students do not confine their efforts to the Sparks community, but have expanded to surrounding rural areas as well. Ms. Calhoun's other activities include working with her fifth grade science class, and the Science-Energy Club for sixth graders. She also helps with energy fairs, retreats and awards ceremonies, such as the one today for which she brought her award winning students to Washington.

Mr. President, at a time when we, as a nation, are finally coming to grips with a scarcity of both financial and natural resources, it is increasingly important that we harness the energy of our citizens. The efforts of Ms. Pamela Calhoun and her students, together with the support of the Washoe County School District and its superintendent, Dr. Marvin Moss, have served to keep Nevada as beautiful and prosperous as ever. I want to congratulate Ms. Calhoun and all those who have helped this cause, for their invaluable work.●

BUMPER CROP OF MARIJUANA

● Mr. McCONNELL. Mr. President, my colleagues well know that April showers bring May flowers, but this spring in Kentucky the rains have brought much more. For marijuana growers in the eastern part of my State, the wet weather has been a boon for their illegal business.

An article that appeared in the Courier-Journal entitled "Authorities Face Bumper Crop of Marijuana" best explains the challenges Kentucky law enforcement officials face this summer. Pot plants, usually measuring 18 inches high in early June, have been found to measure in excess of 4 feet. As Trooper Darrell Tolson stated: "It's going to be a great year for marijuana. We might even have a bumper crop."

I would like to point out that the tireless efforts of our law enforcement agencies and the Civil Air Patrol are vital to the eradication to this illegal crop.

Mr. President, I ask that the article appear in the RECORD for the benefit of all my colleagues.

The article follows:

[From the Lexington (KY) Herald-Leader, June 11, 1990]

AUTHORITIES FACE BUMPER CROP OF MARIJUANA

(By Frank Langfitt)

The war on drugs faces a somewhat larger opponent this summer in Eastern Kentucky.

Wet weather in May and early June is producing healthier marijuana crops from Clay to Lawrence counties, said state police, U.S. Forest Service agents and marijuana growers.

A farmer in the Crane Creek section of Clay County says his 600 marijuana plants are bushier and 4 to 5 inches taller than usual for this time of year.

"The wet weather is a blessing," said the unemployed coal miner, who asked that his name not be used.

Trooper Darrell Tolson, who is used to finding the illegal plant 18 inches high during early June, has found some measuring 4 and 5 feet tall in Breathitt County.

"It's going to be a great year for marijuana," Tolson said, "We might even have a bumper crop."

Rain fell 22 days in May in the region, for a total of 5.08 inches—1.56 inches more than normal, said the National Weather Service at Jackson in Breathitt County. As of Saturday, 2.56 inches in rain had fallen in June. Normal accumulation for the month is 3.78 inches.

Rain has lightened the workload for marijuana growers, who often have to carry jugs of water through the mountains to irrigate their fields. But for some law enforcement officials, it has been a headache.

Cloudy weather has grounded airplanes the U.S. Forest Service uses to spot marijuana fields among the bright, green stands of hickory walnut and red maple in the Daniel Boone National Forest.

Agents and their vehicles have had to contend with muddy mountain trails, often leaving tracks that tip off farmers, said Bill Dixon, a special agent for the Forest Service.

The Forest Service, the U.S. Drug Enforcement Administration state police and local sheriffs' offices began cutting and burning marijuana plants in early May. The Forest Service has budgeted $300,000 and plans to use at least 100 people to cut down the plants during the summer and the fall harvest seasons.

Leslie and Clay counties' sheriffs' departments report cutting at least 1,000 plants apiece.

The federal state and local task force said it cut 596,512 plants last year in Kentucky, one of the five major marijuana producers in the United States. Only Hawaii and Missouri exceeded the Bluegrass State in marijuana cut, said John Preston Sutton, chief of the Cannabis investigation section of the federal drug agency.

Most of the marijuana cut in the state was grown in and around the 660,000-acre Daniel Boone forest, which runs through 21 Eastern Kentucky counties. It grows more marijuana plants than any national forest in the country.

A 10-foot-high plant in Eastern Kentucky produces about a pound of marijuana, which can sell wholesale for $1,000 to $1,500, growers said.

About 90 percent of the crop is sent to cities in the South and Midwest, said Andy Sadler, an agent for the Forest Service.

Eastern Kentucky farmers primarily grow marijuana on the ridges and slopes of the Cumberland Mountains to hide it from police and thieves. The steep mountains drain quickly, lowering the risk of root rot.

While the marijuana crop thrives, some other agriculture in Eastern Kentucky continues to suffer.

Farmers have had trouble reaching their fields to replant tobacco, and hay is already overripe in some counties, said Roy Turley,

agricultural extension agent for Perry County.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the latest budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $3.3 billion in budget authority, and over the budget resolution by $4.2 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the budget act is $114.8 billion, $14.8 billion above the maximum deficit amount for 1990 of $100 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 25, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1990 and is current through June 22, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 concurrent resolution on the budget (H. Con. Res. 106). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of S. Con. Res. 32, the 1986 first concurrent resolution on the budget.

Since my last report, dated June 18, 1990, there has been no action that affects the current level of spending or revenues.

Sincerely,

ROBERT D. REISCHAUER.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101st CONGRESS, 2D SESS. AS OF JUNE 22, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/− resolution
Fiscal year 1990			
Budget authority	1,326.1	1,329.4	−3.3
Outlays	1,169.4	1,165.2	4.2
Revenues	1,060.3	1,065.5	−5.2
Debt subject to limit	3,050.4	3,122.7	−72.3
Direct loan obligations	19.1	19.3	−.2
Guaranteed loan commitments	115.1	107.3	7.8
Deficit	114.8	[2] 100.0	[3] 14.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with sec. 102(a) Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[3] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT 101ST CON., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS JUNE 22, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,969	791,109	
Other legislation	635,362	638,737	566
Offsetting receipts	−233,985	−233,985	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
Dire Emergency Supplemental Appropriations (Public Law 101-302)	2,293	666	
An act making technical amendments to title 5, U.S. Code (Public Law 101-303)		−1	
Total enacted this session	2,293	665	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	−8	1	
Payment to judicial officers' retirement fund	−4	−4	
Judicial survivors' annuities fund	−3	−3	
Fees and expenses of witnesses	−5		
Justice assistance	−4		
Fisherman's guaranty fund	1	1	
Administration of territories	−1		
Firefighting adjustments	−1,057	−192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	−24		
Black Lung disability trust fund	52	31	
Vaccine improvement program trust fund	7	7	
Federal payments to railroad retirement	1	1	
Retirement pay and medical benefits	−4		
Supplemental security income program	263	263	
Special benefits, disabled coal miners	21		
Grants to States for Medicaid	−907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to States for AFDC work programs	15	15	
Payments to States for foster care	−83		
Health professions student loan insurance fund	−25	−7	
Guaranteed student loans	−175		
College housing and academic facilities loans	−3	−3	
Rehabilitation services	−79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	−2		
Food stamp program	−2,000		
Child nutrition programs	−74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	−2		
Coast Guard retired pay	−17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	−3	−2	
Readjustment benefits	−62		
Compensation	258	208	
Pensions	−62		
Burial benefits	−4		
Loan guaranty revolving fund	−7		
Disaster relief	−1,100	−883	
Total entitlement authority	−3,834	−371	
VI. Adjustment for Economic and Technical Assumptions	−28,685	−26,763	−8,900
Total current level as of June 22, 1990	1,326,120	1,169,393	1,060,266
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		4,193	
Under budget resolution	3,280		5,234

[1] Less than $500 thousand.

Notes.—Numbers may not add due to rounding. Amounts shown in parentheses are interfund transactions that do not add to totals.●

UNITED STATES POLICY TOWARD ZAIRE

● Mr. SIMON. Mr. President, as chairman of the Senate Foreign Relations Subcommittee on African Affairs, I have been monitoring the events in Zaire with growing concern. President Mobutu's April 24 decision to establish a multiparty system looked like a positive development for the people of Zaire. But recent events in particular reflect a very disturbing situation.

Student strikes and demonstrations have spread across the country as Mobutu's promised reforms fail to show results. One such protest at the University of Lubumbashi resulted in tragic violence on the night of May 11, when a number of students were massacred by Mobutu's elite presidential guard. Casualty estimates have ranged from 20 to 200.

Zaire is currently one of the largest recipients of American aid in sub-Saharan Africa, and especially in light of these serious events, coupled with our ongoing concerns about the human rights situation in Zaire, we need to take a hard look at our relationship with Zaire.

I ask that three excellent reports, two from Africa News and one from the Lawyers Committee on Human Rights, be printed in the RECORD in full. They provide more details on the current situation, and I commend them to my colleagues.

The reports follow:

[From Africa News, June 11, 1990]

MOBUTU UNDER FIRE

WASHINGTON, D.C.—In the wake of an apparent massacre of student protestors, President Mobutu Sese Seko of Zaire is

facing a crisis of confidence among the international supporters that have kept him in power since 1965.

Protests are spreading in several parts of the country, fueled by reports that government soldiers murdered between 50 and 100 university students in Lubumbashi last month.

Strikes have reportedly shut down Gecamines, the state-owned mining company that is Zaire's major employer and largest export earner. Protests have also closed schools across the country. Student demonstrations were reported in major towns from the capital Kinshasa to Mbanza-Ngungu in the west to Mbandaka in the north and Mbuji-Mayi in the central region. Among the others reported to be on strike or staging slow downs are doctors in Kinshasa and other cities, who last week defied a government order to return to work, Reuters reported.

News of the killings, which have made headlines in the European press, sparked a call for an international inquiry from the 12-nation European Community. The EC appeal was made at the request of Belgium, Zaire's former colonial ruler, which retains an extensive stake in the country's economy. Brussels has suspended new loans and aid programs to Zaire.

France, which in the past has sent troops to prop up the Zaire government, announced the indefinite postponement of a scheduled cabinet-level visit to the country by officials planning next year's Francophone summit, scheduled to meet in Kinshasa.

In the United States, where Mobutu was welcomed a year ago as the mediator of Angola's 13-year-old civil war, new questions are being raised about his reliability as an ally.

Zaire is currently the largest recipient of American aid in sub-Saharan Africa. But the reports of student slayings are expected to accelerate Congressional attempts to cut the military aid and restrict economic assistance (see *Africa News*, April 30, 1990).

Any cut in U.S. assistance would be important. Washington has been Mobutu's chief supporter since he seized control in a CIA-backed coup 25 years ago. Administration officials privately acknowledge his continuing usefulness as a funnel for covert U.S. aid to rebels fighting the Marxist Angolan government.

The Zaire unrest comes in the aftermath of Mobutu's April 24 announcement of political reforms, including a promise to end one-party control. But a widespread crackdown on dissenters since the announcement seems to have propelled the current protests to new heights. The level of nationwide activism reported in recent days is unprecedented in a country where independent trade unions and student movements have been banned since the late 1960s.

"Mobutu seems to have unleashed the deadliest of his security forces against his people," says Makau wa Mutua, an attorney with the New York-based Lawyers Committee for Human Rights, who has made two recent visits to the country and is preparing a report on the human rights situation there. "No one can remember such a concentrated period of repression in Zaire in recent times," he says.

Despite the crackdown, the opposition has been emboldened, Mutua says. He recounts a June 3 incident where one leader of the opposition Union for Democracy and Social Progress fired a pistol in the air when security police tried to break up a meeting at his home. The oppositionists was subsequently arrested. Mutua says it seems that people formerly cowed by Mobutu's security apparatus are saying, "To hell with it, we're just going to speak."

One measure of the unusual nature of recent events in Zaire is the account broadcast on May 28—the day the Gecamines strikes began—by the local, government-run radio station in Lubumbashi, where the mining company's operations are centered. With unaccustomed frankness, the radio that Gecamines employees "did not go to work this morning." The station also said that in Likasi, another key mining center, "shops, public and private firms, and [government] departments did not open their doors" and "markets closed shortly after having opened." The newscast reported that schools failed to reopen as scheduled after a holiday break, despite repeated requests "by the urban authorities in a communique broadcast many times on our radio this morning."

The first reports of the Lubumbashi killings appeared in the Brussels daily, *Le Soir*. Accounts have also been carried in *Libre Belgique* and the French newspaper *Le Monde*. The stories say commandos from the Special Presidential Divison—an elite unit recruited from Mobutu's home region and trained by Israeli advisors—were dispatched from Kinshasa to the Lubumbashi campus, bearing lists of suspected anti-government activists. On the night of May 11, the accounts say, the troops sealed off the university, cut electric lines, assaulted students with knives and bayonets, and set fire to dormitory rooms. A statement issued May 30 by nine Zairean opposition parties and organizations charged that at least 63 people died during the police action. The raid was believed to be a reprisal for student attacks on suspected campus police agents. Lubumbashi students have charged that the agents were responsible for the disappearance and presumed death of 23 of their fellow students in recent years.

The siege of the campus follows a year of escalating challenges to the Mobutu regime—often led by students—accompanied by reprisals against the dissidents. Soldiers and police last year killed an unknown number of young people—estimates range from four to more than three dozen—during protests in Lubumbashi and In Kinshasa.

The U.S. State Department formally noted the reported killings "with concern" and called for an independent investigation. Assistant Secretary of State for African Affairs Herman Cohen was in Kinshasa late last month after the incident occurred, but before it received much notice in the foreign press. A State Department official declined to say whether Cohen discussed the incident with Zairean officials. The Department also says it can confirm no reports to counter the Zaire government claim that only one student died in the violence, which it blamed on "faction fighting."

[From the Africa News, June 11, 1990]

REPORTER'S NOTEBOOK: CAMPUSES IN CRISIS

The National University of Zaire at Lubumbashi (UNZL), where an unknown number of students were massacred by government troops, is a once-thriving institution that now has neither toilets nor textbooks.

Although NZL is one of three institutions at the top of Zaire's educational system, physical conditions are so abysmal that it resembles a war zone, especially since no one has yet removed the scars of the last war fought in this spot, 30 years ago.

The seven-story administration building, constructed as a white-only hospital in the era of Belgian colonialism, served as headquarters for United Nations peacekeeping troops during the civil strife of the post-independence period. The structure still bears the traces of those bullets, and the subsequent decades of decay have littered the grounds with the wreckage of vehicles for which there are no spare parts.

The dormitories, whose 5000 residents are packed into a space built for 1900, could be a refugee center, where the half-starved students live on one bowl of porridge a day.

Students and teachers suffer together through classes under the blazing heat of the central African sun, because soldiers from the three military barracks that surround the university have stolen many of the classrooms' corrugated tin roofs.

Still, there's a bright side to the missing roofs. Although the classrooms become unusable during the rains, in dry weather the rooflessness makes for better lighting, compensating for the lack of electric fixtures and the power outages that plunge the campus into periodic darkness.

Similarly, power failures are less serious for studies than they might be elsewhere, since students do little reading at night—textbooks are rare and the library contains almost nothing published in the last 20 years. A Rockefeller Foundation grant to replenish the collection was stolen before it could be used. Zaire, says a foundation official, is "one of the rare places where we have felt compelled to declare failure."

The struggle to eat preoccupies both students and teachers, constantly impeding their tenacious efforts to study and to teach. Everyone would starve without resorting to some sort of supplemental income. Students sometimes steal light bulbs and desks for resale. Teachers hold other jobs, and some—apparently a disreputable minority—extort money from students.

State neglect has made the educational decline inevitable. Although UNZL is in Zaire's southeastern Shaba province, one of Africa's most mineral-rich regions, the school's operating budget, outside of salaries and scholarships, was only $16,000 a year in 1987—less than the price of one of the chauffeured Mercedes-Benzes that whisk top government officials through the streets of the town.

Faculty and staff salaries are paid separately by the central government, but the money is often late.

The university's poverty is both a product and a symptom of the underfinancing of the entire educational system. Since UNZL was founded in 1955 as a school for the white colonial elite, physical conditions have deteriorated dramatically. "We ate three meals a day in the dining halls and maids washed our clothes and cleaned our rooms," says one of the first black students to study there in 1959. Even in the 1970s, the campus was clean and there was a good dining hall.

People familiar with the school say things began to change after the Mobutu government nationalized the universities in 1971, and that the decline accelerated a few years later when the price of copper—Zaire's major revenue earner—collapsed on the world market.

Today the dining halls are closed and malnutrition is increasingly widespread. Rest is elusive for students packed four or five to a tiny room. Teachers say tired, hungry students often fall asleep in class.

Conditions are so grim that those who knew UNZL in better years are amazed that it still exists at all. "They should simply shut down until the government gets serious about education and is prepared to spend some money on reconstruction," says a 1979 graduate.

Despite the difficulties, education and scholarship somehow survive and sometimes thrive. The estimated one out of six students who survive the five year course of study can "match the best at Harvard and Yale," insists a professor who studied in the United States. "If a Zairean tells you he's an architect," says a 1986 architecture graduate from the university in Kinshasa, "you know he's a very strong man who survived an impossible ordeal."

A surprising number of faculty members have given up comfortable positions abroad to teach in Zaire. And while they haven't been able to criticize President Mobutu by name, university-based scholars have produced many of the most sophisticated studies on the roots of hunger, unemployment and agricultural stagnation. Graduate students and university teachers have developed strategies for "participatory research," working directly with peasants and the urban poor to develop ways to found cooperatives, increase food production and meet other basic needs.

Teachers are closely watched though, whether Zairean or foreign. Last year a Belgian university lecturer was expelled from the country for putting two studies of an opposition party in a university faculty library.

One of the few Zaireans who will be quoted is UNZL economic historian Tshibangu Kabel Musasa. "Simply teaching the truth," he says, "is enough to get in trouble." Trouble is something he knows well. Arrested three times during the 1980s, he nearly lost an eye during severe police beatings.

Students have proved the hardest critics to silence, keeping alive a tradition of spontaneous protest, if not organized opposition. But even complaints about poor living and study conditions is to risk imprisonment or death. Still, each new student generation has included some who are daring enough to test the limits of dissent.

[From the Lawyers Committee for Human Rights, June 19, 1990]

RECENT ATTACKS ON STUDENTS AND POLITICAL OPPONENTS IN ZAIRE

Since April 24, 1990, when President Mobutu announced the intention to institute limited political reforms, security forces in Zaire have been responsible for several violent actions against government opponents, including the killing of a number of students at the University of Lubumbashi on the night of May 11-12, 1990.

These killings occurred less than one month after President Mobutu announced that the MPR party-state would be ended, and a three party system introduced. In his speech, the President also announced the intention to depoliticize the public services, the armed forces and the security forces.

Soon afterwards, the President released Etienne Tshisekedi wa Mulumba, a leader of the Union pour la Démocratie et le Progrès Sociale (UDPS) who has been under continuous house arrest in Kinshasa for more than a year. Despite these announced reforms, on April 30, security forces belonging to the military intelligence unit (SARM), violently dispersed a gathering at the home of Mr. Tshisekedi. According to the reports of eye-witnesses, twenty armed agents arrived in three military vehicles at the home on Ave. des trois "Z" in the Gombe district of Kinshasa. They used tear gas, bayonettes and other implements to disperse the crowd.

The New York Times and other newspapers reported that at least two people died as a result of the attack.[1] According to UDFS members who were present at the gathering, five people died as a result of wounds inflicted by agents of SARM, including the following:

Mr. Muamba-Lueni Denis, 39 years old, rue Nzuzu no. 8, Limete, died on May 5, 1990 as result of stabbing wounds.

Mr. Kamanishi-Tshimuanga, 24 years old, rue Idiofa No. 16, quartier II, Masina, died on May 3, 1990 as a result of stabbing wounds.

Ms. Fika-Adolphine, 17 years old, rue Peti-Peti No. 167, Bumbu, died following rape and torture at AND prison on May 4, 1990.

A number of others were injured and required medical attention, including Mr. Tshisekedi, Mr. Lusanga Ngiele, and Mrs. Tshisekedi. At least 14 people were arrested and detained.[2] In response to foreign reports of the attack, which the government of Zaire denied, the Government of Zaire initially threatened to expel Jean Claude Fiol, a reporter for Agence France Press, but rescinded the expulsion order after the French government intervened.

The attack on students at the University of Lubumbashi came during a wave of student protests. These protests came in response to President, Mobutu's May 3, 1990 speech to the legislature.[3] Referring obliquely to the activites of the UDPS, the President, used the occasion to correct the "ambiguities and misunderstandings" created by his April 24 speech. He suspended political gathering by the opposition and established a delayed time-table for the transition he had announced on April 24. The President then announced a "transition" government composed almost entirely of MPR/Party leaders and expanded the office of the President under his exclusive control.[4]

The students were upset by the President's actions and the complacent response of the legislature,[5] According to the *Voix des Sans-Voix*, and independent Zairian newsletter, protests began soon after the speech, at the Institut Supérieur des Techniques Appliquees (ISTA).[6] These protests spread quickly to the campuses off all the institutions of higher education in Kinshasa, including the Institut de Pédagogie Nationale (IPN), the University of Kinshasa, the Institut Supérieur de Commerce (ISC) and the Institut de Batiment et des Travaux Publics (IBTB).

On the morning of May 7, 1990, students from the University of Kinshasa stopped a bus carrying members of the legislature. The bus was returning from the swearing-in ceremony for the transition government. The students reportedly dragged the legislators off the bus, beat them and questioned them as to why they had accepted the terms of the President's May 3 speech.[7]

The next day, the government moved quickly to suppress further student demonstrations. It announced that the students involved in demonstrations would be expelled and that legal proceedings would be instituted against them. The government also dissolved the student government and ordered the appointment of new committees to represent students at all institutions of higher education.[8]

On May 7 and 8, government forces belonging to the Garde Civile, the Gendermerie and the AND arrested 46 people, 29 of them students.[9] The non-students were subsequently released and on May 17, the 29 students were put under formal pre-trial detention at Makala prison in Kinshasa. On May 18, 1990, the twenty-nine protested their arrest to government authorities and announced their intention to go on a hunger strike. They insisted that their arrests were based solely on their status as students. In a letter dated May 18, the 29 students wrote to legislators in Kinshasa:

"We are saddened and frightened to note that we are now held at the central prison of Makala by the Procuracy of the Republic uniquely and simply because of our status as students. Everything is occurring as if the fact of being a student constitutes a judicial justification for arrest and detention of people finding themselves in a public place."[10]

On May 8, security forces also reportedly beat to death one student in Kinshasa.[11] The Prime Minister announced that the student was merely comatose. To our knowledge there has been no further investigation of the incident.[12]

Beginning May 9, students demonstrated on the campuses at the University of Lubumbashi, University of Kisangani and the Superior Institute of Pedagogie in Bukavu.[13]

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[1] *See New York Times*, May 2, 1990.

[2] Amnesty International reported the names of 14 people detained at the headquarters of the National Documentation Agency (AND) as a result of the event. Amnesty International, *Urgent Action*, AFR 62/01/90, May 10, 1990.

[3] Relations on campus were tense even before the May 3 speech. Students in Kinshasa engaged in violent demonstrations on April 6, 1990 in which several vehicles were set on fire and many students reportedly arrested. *See* "Students Set Vehicles Ablaze in Kinshasa," AFP April 7, 1990, *reported in* Foreign Broadcast Information Service, Daily Report (Africa) [hereinafter FBIS], April 9, 1990 at 5.

[4] The new government is composed entirely of MPR loyalists with the exception of Ndom Nda Umbel, State Secretary for Primary and Secondary Education, who is reportedly a recently returned exile from Belgium.

[5] *See LaSemaine*, May 26, 1990 at 15, and "Perfu chronologique des évenements socio-politques au Zaire du 24 avril au 10 mai 1990." *Voix des Sans Voix*.

[6] The protests began at the Institute, according to the paper, because two former Institute officials, known for corruption and their role in suppressing student activities, were named to the new government: Minister of Higher and University Education and Scientific Research, Akia Mugambe, Academic General Secretary in 1983; and State Secretary for Higher Education, Bayombo Mboliabwe, Director-General until 1990. *Voix des Sans Voix*.

[7] *See* "Official Assails Students' 'Unspeakable' Behavior," AFP, May 9, 1990 *as reprinted in* FBIS, May 10, 1990 at 4.

[8] *See* "Prime Minister Comments on Student 'Turmoil', "Zairian Press Agency [hereinafter AZAP], *as reprinted in* FBIS, May 14, 1990 at 1-2.

[9] Confidential material in Lawyers Committee files.

[10] Letter of 29 students detained at the central prision of Makala, dated May 18, 1990.

[11] AZAP, *Supa* note 7, FBIS, May 14, 1990 at 1.

[12] *Id.*

[13] Reports from Kisangani and Bukavu are vague. *Le Soir* reported violence during student demonstrations May 10 in Bukavu during which two people, one solider and one student were reportedly killed. *Le Soir*, May 17, 1990. At least three people were arrested in Bukavu, however, they were leaders of non-governmental, rural development organizations. The Prime Minister acknowledged that there had been disturbances in all three towns. *See* Prime Minister on Lubumbashi Student Clash," AZAP, May 23, 1990 *as reprinted in* FBIS, May 24, 1990 at 2.

The demonstrations in Lubumbashi reportedly began out of sympathy for students in Kinshasa. The students at Lubumbashi demanded that the government pardon the students in Kinshasa and fulfill the President's promises of April 24. A group of students on the campus of the University of Lubumbashi redirected traffic on the campus and commandeered a number of cars as they approached the student bloc, renamed "Perstroika Square." A vehicle belonging to the Grade civile was attacked by the students with stones. As it retreated, government agents fired shots in the air and then abducted three students. An hour later, two of the students returned to campus. They had been seriously beaten. They reported that the third was in the hospital.

According to one student report of the incidents, the students feared a retailatory attack by the Garde Civile.[14] Students discovered a student informant named Mangi in the student dorms with a walkie-talkie, allegedly used to communicate with security forces. Students threatened him and demended that he provide the names and room numbers of all the informants on campus. He gave them the names of other students. Two more suspected informers were apprehended, Messrs. Yokoto and Nzongla[15], another escaped.

The next morning, Thursday May 10, 1990, students seriously beat up the three suspected informants. Some students were reportedly prepared to burn the three alive, when a contingent of the Garde Civile arrived and took the three away, presumably to the hospital. There was no further violence that day. But a local contingent of gendarmes sealed off the campus from the outside. Professors and commuting students who tried to gain access were turned away.

On Friday, May 11, a group of students on campus decided to march into town. They intended to present three demands to the governor: (i) Resission of the measures taken against the students in Kinshasa; (ii) an explanation of the presence of armed student informers on campus; and (iii) preparation by the government of an objective report on the events that had occurred on the Lubumbashi campus. The student leaders urged their colleagues to keep the demonstration peaceful. But, as they tried to leave the campus, the gendarmes hurled tear gas and shot in the air. Students responded with stones. The sporadic confrontation lasted all day, beginning at around 9:30 a.m. and lasting until 5:00 p.m.

In the evening of May 11, the electricity on the campus was shut off. Some students reported seeing a Garde Civile jeep at the state electricity office. According to the student account, "At about 7:00 p.m., a plane landed and the students became very suspicious."[16] A sourced quoted in the Belgian daily, *Le Soir*, reported that two planes arrived, one belonging to Air Zaire and the other to a private charter company.[17] According to the Belgian source, the planes were loaded with security agents. According to Professors from the University who were later interviewed by the Lawyers Committee, the attack was carried out by a contingent of the special President Guard (DSP), flown in from Kinshasa.[18] The agents entered the campus of the University of Lubumbashi. There, they met up with a group of students whom they furnished with knives and machetes.[19] According to one student account and another account quoted in *Le Soir*, both students and security agents participated in the attack that followed. Some of the attackers were reportedly masked.

Because the electricity was cut off, a group of students gathered outside and erected a large bon-fire. The rest of the campus was entirely dark. According to a student account:

[At about 10:30 p.m.] a group of people came running out of the bush from the side of bloc K and entered the crowd which was around the bon-fire. It was *debandade* and "sauve qui peut"; hand to hand combat began, but the assailants had daggers which they stuck into the stomachs of their adversaries.[20]

The attackers pursued the fleeing students into the dorms, where some were reportedly attacked with knives and bayonets. Others were released after interrogation. According to *Le Soir*, no guns were used by the attackers.[21] One injured student who was later treated at the Princess Clinic in Johannesburg, described his experience when the attack began:

"I tried to hide in bloc 6 [of the student dorms]. They knocked me seriously on the head. I fell to the ground [*tomber a plat*]. At first I thought [my attackers] were students, because they were in civilian clothes, but afterwards I realized that they had smashed my skull with a machete. There were many of them. . . . I hid in bloc 6 with friends."[22]

A student, whose testimony was obtained by a Catholic priest residing in northern Kivu, reported:

"When the lights went out, I locked myself in my room. The commandos tried to force my door open, but they didn't succeed. Passing by the outside balcony, I went to my neighbor's room and hid under his bed. The assassins entered the room and they began to beat up the student until he died. Unfortunately I was discovered under the bed. They began to beat me up until they thought I was dead. When I came to, I realized that my neighbor was dead. I passed over his body and hid in another room."[23]

According to the priest's report, another student, who was staying in a friend's room while studying for exams fled by jumping from a second story window when he heard screams coming from neighboring rooms.[24] By 7:00 a.m. the assailants were gone and the remaining students fled the campus. Later, the students were ordered to leave Lubumbashi and return to their regions of origin.[25]

News of the attack reached downtown Lubumbashi immediately, though there were no certain estimates of the number of deaths. The government of Zaire acknowledged that one student was killed. Press reports indicated that fifty or more people were killed.[26] The campus remained closed to outsiders, as well as professors, until the following Tuesday, at which point there were few visible signs of the violent confrontation which had taken place.

On May 14, a group of 21 professors signed a letter of protest to the Governor of the region. In their letter, the professors stated:

"In light of the gravity of the situation and the silence of the media and the authorities, we, educators and parents, interrogated the victims and eye-witnesses. These unanimously affirmed the following:

"1. In the middle of the night on Wednesday, three students possessing weapons and diverse instruments of torture and military equipment, were attacked by their colleagues; they admitted among other deplorable facts, the kidnapping and assassination of 23 students.

"2. The University was cut off by the Armed Forces following this event.

"3. The electricity on the University campus was cut off during the night on Friday.

"4. A few minutes later, commandos coming from some other location attacked [the students]. . . .

"5. Boutiques, kiosks, bars and student dorms were ransacked, burned and shredded with bayonettes, knives, machetes, bullets, etc.

"6. Personal belongings and university property were pillaged.

"7. Ambulances that came to evacuate the victims were blocked.

"8. The students were evacuated in the conditions already described.[27]

"After recounting the events as they were then known, the professors concluded:

"Sickened by these facts, we Professors of the University, Deans and Parents, protest against the exercise of such murderous violence replete with threats and intimidation, perpetrated under our eyes, in our work places, and at the beginning of a process of depoliticization . . . notably of the Security, the Army and the Garde Civile."

In late April, a group of forty priests issued a letter at Sunday masses throughout Shaba.[28] According to an account of the letter in *Le Soir*, the priests affirmed that commandos who entered the campus during the night of May 11 carried a precise list of victims. The priests determined on the basis of the methods used by the commandos that they were well trained forces, rather than student marauders. Finally, the priests condemned the "prolonged silence of the zairian media which incites a climate of uncontrollable rumours."[29]

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[14] Confidential materials received by the Lawyers Committee from Zaire [hereinafter *Student Account*]. The student report reviewed by the Lawyers Committee is consistent with the reports of students and professors which have been reprinted in the Belgian press, particularly the French-language daily, *Le Soir*. and demanded that he

[15] *La Semaine*, June 11, 1990 at 2.

[16] *Student Account.*

[17] The private charter belonged to ACS (African charter services). "De nouveaux témoignages démentent . . . les démentis," *Le Soir* May 26-27, 1990 at 10.

[18] Lawyers Committee interview with Belgian professors conducted by telephone to Louvain-la-Neuve (May 1990) [name withheld by request.]

[19] *Id.* The local gendarmes who were guarding the campus and preventing anyone of entering or leaving did not participate in the attack on the students.

[20] *Student Account.*

[21] *Le Soir*, May 26-27, 1990 at 10.

[22] *Le Soir*, "Témoignage d'un blessé".

[23] Confidential material in Lawyers Committee files.

[24] *Id.*

[25] *La Semaine*, June 11, 1990 at 1.

[26] Paper Claims Soldiers Killed over 50 Students," AFP, May 2, 1990 *as reprinted in* FBIS, May 30, 1990 at 13.

[27] Letter of University Professors, dated May 14, 1990; copy in Lawyers Committee files.

[28] *Le Soir*, May 29, 1990.

[29] *Id.*

A series of reports about the massacre appeared in the foreign press in France, Belgium and Zambia.[30] They were immediately denied by the government of Zaire. On May 17, Belgian papers reported the story of the killings. The Zairian Press Agency (AZAP) reported that two students had died and many were injured during the course of dispute between student groups.[31]

The governments of Belgium and France, as well as the European Community condemned the violence in Zaire and called for an investigation.[32] The government of Belgium suspended preparations for an economic cooperation agreement between the two countries and "froze the administrative measures that would lead to new state-to-state loans".[33] Belgium called on Zaire to allow an investigation by an international body, such as the ICRC, Anmesty International or the United Nations. The government of France suspended discussions for the planned 1991 summit of French speaking nations to take place in Zaire. [34] The European Community also protested to Zaire and asked for an inquiry.[35]

The Prime Minister, Lunda Bululu, announced that a government investigation in the cities of Lubumbashi, Kisangani and Bukavu showed no loss of life or security force involvement on the campuses. About the massacre in Lubumbashi, the Prime Minister said to the legislature, "I solemnly declare that this information is false.[36] Foreign Minister Mushobekwa Kalimba attacked the foreign press before diplomats on May 24 for their inaccurate reports. The Government of Zaire attacked the Belgian government for attempting to "undermine Zaire's development and its evolution toward democracy." [37]

On May 25, 1990, a group of government officials within the MPR contradicted the government version. In a declaration addressed to President Mobutu, 14 councilmen in Lubumbashi broke the silence. Their declaration stated:

"We, elected officials of the zone of Lubumbashi, meeting in the council of Friday May 25, have made the historic decision to break this silence verging on guilt [*frisant la culpabilite*] . . ."

Taking note of their responsibility as local elected officials, the councilmen declared:

"The elected leaders concur in the public opinion in affirming that a death commando [*commando de la mort*] did, in fact, operate during the night of May 11-12, 1990, on the campus of the university of Lubumbashi, contrary to the report of a dispute between student groups." [38]

The councilmen insisted on their right to be heard by any regional, national or international commission of investigation. The head of the local council followed the declaration with an open letter to the Governor of Shaba in which he strongly criticized the official explanation of the event and concluded:

"The only [realistic] hypothesis . . . is that there was an invasion from the outside that was organized, but whose actions were supported by masked men who must certainly have been familiar with the milieu, and were scared to be identified. We have referred to the invaders as "commandos". One can deny this, but one will not succeed, Citizen Governor, in denying the "criminal intention" at the root of the attack of May 11 to 12, 1990 on the campus of the university." [39]

An independent newsweekly in Kinshasa broke the silence of Zairian media. It reprinted the declaration and letter of the elected officials. After its own investigation into the incident, the newspaper *La Semaine*, concluded that a massacre had occurred, but that the number of victims would never be known until the students were heard.

"The question is no longer to know whether or not there was a massacre on the campus of Lubumbashi. All the hypotheses are in agreement to confirm that the students were set upon by a group of commandos who committed their attack with premeditation."

During the second week of June, the names of some students reportedly killed in the attack began to surface. Zairian activities in Belgium informed the Lawyers Committee that parents in Bukavu reported the names of the following seven students who died in the attack in Lubumbashi Faida (sociology), Santa (political science), Kilawuri (sociology), Mafua-Bule (law) Ngoy (law), Kitenge (law). The name of one other student killed in the attack, Llombe Llombe, was confirmed immediately after the attack.

Since the attack in Lubumbashi, student protests have continued and spread to most other major towns in Zaire, including Kisangani, Bukavu, Mbuji Mayi and Mbanza Ngungu. AZAP reported that one student died in Mbuji Mayi when he was trampled during the demonstration. These events reinforce a long standing pattern of serious human rights violations by the government of Zaire.●

"SET A GOOD EXAMPLE" FIRST PLACE WINNER DELPHI ACADEMY OF PALO ALTO, CA

● Mr. WILSON. Mr. President, I rise today to commend the students and faculty of Delphi Academy for winning first place honors in the "Set a Good Example—Don't Use Harmful Drugs" contest.

The war on drugs is a multifaceted battle fought at every corner of our society. It is a war that has ravaged our streets, our schools, and our homes. Too many members of our Nation are being damaged by this war. Too many children have become casualties of this conflict. We, as a society, must fight this battle with every ounce of strength that we possess in order to rid ourselves of this scourge on our country.

The Concerned Businessmen's Association of America has responded to the drug crisis with its "Set a Good Example" Program. This consortium of business leaders have devised an effective project targeted to winning the drug war at the most tragic battlegrounds: our Nation's schools.

"Set a Good Example" is an annual contest that recognizes and awards student-designed programs to educate themselves on the evils of drug use. The contest is designed to encourage student involvement to help their peers who are prone to drug use to just say "no." For the past 3 years, this program has proven to be both a successful and inspirational way of getting students and educators behind the effort to eradicate drug abuse in our Nation.

Inspiring is certainly one way of describing the efforts of the students of the Delphi Academy, the first-place winners in the "Set a Good Example" junior high school competition. Their's was certainly a tremendous achievement.

The students of Delphi employed many effective means to get their antidrug message heard not only in their campus but in their community. The students distributed "The Way to Happiness" booklets to inform the community of how being drug-free can lead to healthier and happier lives.

Further, the students circulated a pledge sheet and obtained 2,000 signatures from people who agreed to set a good example and not use harmful drugs. Students wrote to Government leaders, sports figures, and celebrities, informing them of their campaign. The students would later receive letters of support from the Oakland A's, the San Francisco Giants, the San Francisco Forty Niners, the Palo Alto School Board, Congressman TOM CAMPBELL, and Gov. George Deukmejian.

Finally, the students planned and held an antidrug rally on April 7, 1990. These remarkable young individuals planned all facets of the rally, including writing promotional advertisements for the local media, designing T-shirts, and preparing songs and speeches to be read by the students.

In recognition for their outstanding efforts, the mayor of Palo Alto proclaimed April 7, 1990, "Set a Good Example Day" in the city.

The work of the students of Delphi Academy must certainly be commended. They have chosen to use their position as students to help their peers and the community. These young men and women have decided that drugs cannot be tolerated and have worked to help stop their use. Their program was inspirational. Their determination

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[30] *See* "Paper Claims Soldiers Killed over 50 Students," AFP, May 22, 1990 *as reprinted in* FBIS, May 22, 1990 and *Times of Zambia*, May 18, 1990.

[31] Articles appeared in all of the major Belgian dailies, including *La Libre Belgique, Het Volk, Le Soir, De Morgen, De Standaard* on Thursday, May 17, 1990.

[32] Charles Goldsmith, "Zaire loans suspended," UPI wire service, May 25, 1990.

[33] *Id.*

[34] Reported Massacre Prompts France to Cancel Trip to Zaire," AP wire service; May 25, 1990.

[35] "EEC Protests to Zaire over Campus Bloodshed", Reuters wire service, May 30, 1990.

[36] Denies Massacre of Students," Kinshasa Domestic Service; May 23, 1990, *as reprinted in* FBIS, May 24, 1990.

[37] "Government Reacts to Loan Freeze," AFP, May 26, 1990, *as reprinted* in FBIS, Maya 30, 1990 at 11.

[38] *La Semaine*, June 11 at 2. See also *De Morgen*, "Bloedbad Bevestigd," June 7, 1990.

[39] Letter of Kapeta Kazadi, President of the Local Council of Lubumbashi; June 4, 1990, reprinted in *La Semaine*, June 11, 1990.

was outstanding. Their message was phenomenal.

Our students will be the ones who determine our Nation's policies in the future. If Delphi Academy students are representative of the Nation's young people, then we can look toward the future with confidence that we will live in a country free of the evils of drugs.

Mr. President, I commend the Concerned Businessmen's Association of America and its chairperson, Barbara Ayash, for giving students the opportunity to play an important role in our antidrug crusade.

To the students and educators of Delphi Academy, I extend to you my congratulations for your superior achievements. Your efforts will blaze a trail that many young Americans will most certainly follow.●

TRIBUTE TO HANNAH KOMANOFF

● Mr. D'AMATO. Mr. President, it gives me great pleasure to have this opportunity to pay tribute to Hannah Komanoff, who is being honored this Saturday by the Martin Luther King Center of Long Beach, NY. Hannah Komanoff is one of those selfless Americans who make this country so great. Throughout her long and distinguished career in public service, she has always put the needs of the community foremost and is notable for her eagerness not just to share the spotlight for her achievements, but to turn it on others instead.

Hannah Komanoff was the driving force behind the development and construction of the Martin Luther King Center. Her tireless, behind-the-scenes efforts made the center possible, but she never attempted to claim the credit she rightly deserves. The Bible teaches us that we should reserve the highest acclaim for those who help others without receiving credit for their services. Clearly, Hannah Komanoff is deserving of that acclaim.

Her achievements, however, were not limited to this one act. For 12 years, from 1974 through 1985, she served as the Long Beach supervisor on the Nassau County Board of Supervisors. In fact, she is the only elected woman ever to serve on the board. In that capacity, she serves with great distinction. Although elected as a Democrat, she served all the people in a bipartisan fashion, earning a reputation as someone who always fought for Long Beach and its people. Previous to that, she served for many years on the Long Beach Board of Education, including a long and distinguished tenure as its president. In addition, the Long Beach Memorial Hospital has a Isidore and Hannan Komanoff Pavilion named in recognition of her efforts on behalf of that vital community hospital.

In conclusion, Mr. President, Hannah Komanoff serves as a proud example of what makes America great—those who give of themselves to help others. It is indeed fitting that she is honored for her work, and I am proud to join with those singing her praises.●

CONGRATULATIONS TO THE WASECA BLUEJAYS BASEBALL TEAM

● Mr. BOSCHWITZ. Mr. President, I rise today to congratulate the Waseca High School Baseball Team. The Waseca Bluejays won the 1990 Minnesota Class A Baseball Championship by defeating another tough team from Sleepy Eye by the score of 4 to 3. The Bluejays are coached by Clinton (Tink) Larson. He has been the head coach at Waseca for 23 years and has compiled an excellent record of 279 wins and 168 loses. Under his leadership the Bluejays have won six conference titles, nine district or subregion championships, four regional crowns and finished with two seconds and a third in their four previous State appearances.

Minnesota's educational excellence is recognized nationwide. I am sure Mr. President, that we all realize that educational excellence is not just limited to lessons learned in the classroom. Many students have carried throughout their lives their high school coaches' lessons about teamwork, discipline, hard work and accomplishment.

I am sure that the members of the Waseca Bluejays Baseball Team will long remember their 1990 season and their State championship. I congratulate them on their achievement and ask that a list of the players, coaches, managers and statisticians be entered into the RECORD at this time. Go Bluejays.

The list follows:

Name and number	Year	Position
Andy O'Brien (2)	11	2B
Barry Dufault (4)	12	SS
Lance Johnson (5)	11	OF
Nate Strand (6)	11	P
Tom Brown (8)	11	RF
Mike Smith (10)	12	C
Quinn Hammond	11	LF
Jeff Voshell (12)	12	P
David Moeller (13)	12	CF
Clark Christianson (14)	12	1B
Steve Moeller (16)	12	3B
Tom Holtz (17)	11	DH
Corey Holtz (18)	12	OF
Dan Eliason (19)	11	OF
Jeff Van Vyue (20)	12	OF

Tink Larson (7), head coach.
Rick Jeddeloh (9), assistant coach.
Jerry Brooks (15), assistant coach.
Marshall Cawley, manager.
Joe Wieczoreak, manager
Russ Frederick, manager.
Beth Yuzer, statistician.
Cris Schumacher, statistician.●

AUTHORITY FOR COMMITTEES TO REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that during the recess or adjournment of the Senate that committees may file reported legislative and Executive Calendar business on Friday, July 6, from 11 a.m. until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEQUENTIAL REFERRAL OF S. 1245

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 1245, the Fish Safety Act of 1990, which was reported from the Committee on Agriculture, Nutrition, and Forestry on June 22, 1990, be sequentially referred to the Committee on Commerce, Science, and Transportation until the close of business on Tuesday, July 10, 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COPYRIGHT REMEDY CLARIFICATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideratoin of Calendar No. 568, S. 497, a bill entitled the "Copyright Remedy Clarification Act."

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 497) entitled the Copyright Remedy Clarification Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Remedy Clarification Act".

SEC. 2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF COPYRIGHT AND EXCLUSIVE RIGHTS IN MASK WORKS.

(a) COPYRIGHT INFRINGEMENT.—(1) Section 501(a) of title 17, United States Code, is amended by adding at the end the following: "As used in this subsection, the term 'anyone' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.".

(2) Chapter 5 of title 17, United States Code, is amended by adding at the end the following new section:

"§ 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright

"(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of a copyright owner provided by sections 106 through 119, for importing copies of phonorecords in violation of section 602, or for any other violation under this title.

"(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include impounding and disposition of infringing articles under section 503, actual damages and profits and statutory damages under section 504, costs and attorney's fees under section 505, and the remedies provided in section 510.".

(3) The table of sections at the beginning of chapter 5 of title 17, United States Code, is amended by adding at the end the following new item:

"Sec. 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright.".

(b) INFRINGEMENT OF EXCLUSIVE RIGHTS IN MASK WORKS.—(1) Section 910(a) of title 17, United States Code, is amended by adding at the end the following: "As used in this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this chapter in the same manner and to the same extent as any nongovernmental entity.".

(2) Section 911 of title 17, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of the owner of a mask work under this chapter, or for any other violation under this chapter.

"(2) In a suit described in paragraph (1) for a violation described in that paragraph remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include actual damages and profits under subsection (b), statutory damages under subsection (c), impounding and disposition of infringing articles under subsection (e), and costs and attorney's fees under subsection (f).".

SEC. 3. COSTS AND ATTORNEY'S FEES.

Section 505 of title 17, United States Code, is amended—

(1) in the first sentences by inserting ", a State, or an instrumentality of a State" after "thereof";

(2) by designating the text of such section as subsection (a); and

(3) by adding at the end thereof the following:

"(b)(1) In any civil action under this title against a State or an instrumentality of a State by a party described in paragraph (2)(A), the court may award fees and other expenses as defined in paragraph (2)(B).

"(2) For the purposes of this subsection—

"(A) the term 'party' means—

"(i) a sole proprietor, corporation, partnership, or private and public organization with a net worth of not more than $5,000,000 and not more than 500 employees at the time the civil action was filed;

"(ii) a tax exempt organization as described in section 501(c)(3) of the Internal Revenue Code of 1986 exempt from taxation under section 501(a) of such Code, or a cooperative association, as defined in section 15(a) of the Agricultural Marketing Act with not more than 500 employees at the time the civil action was filed; and

"(iii) an individual with a net worth of not more than $1,000,000 at the time the civil action was filed; and

"(B) the term 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees (The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.)".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

Amend the title so as to read: "A bill to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities."

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 569, H.R. 3045, the House companion; that all after the enacting clause be stricken and the text of S. 497, as amended, be inserted in lieu thereof; that the bill be read a third time and passed; and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3045), as amended, was passed.

Mr. MITCHELL. On behalf of Senator DECONCINI, I send a title amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 497 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Senator INOUYE be recognized to address the Senate for up to 30 minutes; that following his remarks, Senator GLENN be recognized to address the Senate for up to 20 minutes; that following Senator GLENN'S remarks, Senator MCCAIN be recognized to address the Senate for up to 10 minutes; and, that upon the conclusion of Senator MCCAIN'S remarks the Senate stand in recess under the order until 8:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, will the majority leader yield? Will the housing bill be the business after the morning hour?

Mr. MITCHELL. Yes. The housing bill will be the pending business at 10 a.m. tomorrow morning.

Mr. THURMOND. Mr. President, I would like to ask the distinguished majority leader when the crime bill will come up.

Mr. MITCHELL. Mr. President, it is my intention to bring the crime bill up as soon as possible. I understand the distinguished former chairman of the committee and the current chairman,

Senator BIDEN, have nearly completed their negotiations on an agreement.

I hope very much, and it is my intention, that we bring that bill up and complete action on it this week.

Mr. THURMOND. I thank the Senator very much.

Mr. MITCHELL. That, of course, will require completion of the agreement, and it is my hope that will occur shortly, indeed tomorrow, so we can get the agreement and then proceed to it as soon as possible.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Hawaii is recognized for a period not to exceed 30 minutes.

HAWAII'S GEOTHERMAL ENERGY EFFORTS

Mr. INOUYE. Mr. President, I rise today to speak on the State of Hawaii's geothermal energy devleopment efforts. Over the past several months, we have been accused of demolishing Hawaii's rain forests, and of demolishing its picturesque skies and pristine environment. The State of Hawaii is not in the demolitation business. Rather, we are in the business of creating and building a system of environmentally acceptable and economically feasible energy alternatives to decrease our dependency on fossil fuel as we guide Hawaii into the 21st century. The State of Hawaii should be commended, not condemned for its goal of energy self-sufficiency.

Mr. President, I want to set the record straight. I want my colleagues to know that Hawaii is at the forefront of forest preservation; one-fourth of all our land is forest and park reserves, and we are actively protecting our pristine rain forests. Second, Hawaii is sensitive to the religious practices of native Hawaiians. Third, Hawaii is striving to develop all forms of alternative energy sources to achieve energy self-sufficiency and reduce our dependency on imported oil. And fourth, Hawaii is aggressively working to reduce all forms of pollution.

The Rain Forest Action Network charges that geothermal development will destroy the Wao Kele O Puna Rain Forest. This claim is totally without merit. The proposed geothermal facility would require the clearing of about 300 acres of nonpristine forest. This is one-half of 1 percent of the 60,000 contiguous acres of the Puna Forest, and eight one-hundredths of 1 percent of the total 375,000 acres of rain forest on the island of Hawaii. No pristine rain forest will be destroyed by geothermal development. In fact, some of the Ormat Energy Systems Inc. sites are on barren lava flats, removed from any type of forest.

We in Hawaii are blessed with nine rain forests. As defined by the Hawaii State Forestry Service, a rain forest is an area which receives 100 inches or more of rain per year, and a canopy consisting of 50 percent or more of native vegetation. Using this definition, the island of Kauai has 95,000 acres of rain forest, Oahu has 56,000 acres, Maui has 66,000 acres, Molokai has 19,000 acres, and the island of Hawaii has 375,000 acres. Mr. President, this is a total of 611,000 acres of rain forest in the State of Hawaii. The clearing of 300 acres of a nonpristine portion of the Puna Forest for geothermal development amounts to five one-hundredths of 1 percent of Hawaii's rain forests.

Mr. President, we would not recklessly destroy our lush tropical havens and clear blue skies that visitors from around the world come to experience and enjoy. Because of this sensitivity, the Hawaii State Legislature created geothermal resource subzones to ensure that geothermal development would not intrude on nature's precious creations. Further, it exchanged 27,000 acres of nonpristine forest, much of which has been destroyed by recent lava flows, for 25,000 acres of privately owned pristine forests. Once title was secured, the State immediately placed the 25,000 acres of pristine forest under the protection of its forest reserve. This is a net gain of pristine forest to our reserves. Within last year alone, the State of Hawaii placed an additional 14,000 acres of wooded lands on the island of Hawaii into its forest reeserves. Furthermore, it is now in the process of placing another 12,500 acres into the reserves.

The State of Hawaii is at the forefront of forest and park preservation. Of the total 4 million square acres of land, there are over 270,000 acres of national parks and wildlife refuges, and 900,000 acres of State parks and forest reserves. Another 46,000 acres of pristine land are protected under the private management of the nature conservancy. Mr. President, this amounts to 1.26 million acres. Therefore, 30 percent of Hawaii's total acreage is preserved and protected. How many other States can make this claim?

Our State motto, given to the Hawaiian Kingdom by King Kamehameha III in 1843, conveys most eloquently the importance we place upon the preservation of our land. "Ua mau ke ea o ka aina i ka pono," which translated means, "The life of the land is perpetuated in righteousness."

There has been much misrepresentation by a well-meaning, but misled, environmental movement. To suggest that the State of Hawaii is a villain for recklessly demolishing its rain forests, is insulting and unfair.

Mr. President, the State's geothermal energy initiative has also been called sacrilegious and insensitive to native Hawaiian religious practices. The basis of these practices is founded in Hawaiian legends that speak of the goddess Pele who is said to reside in the Kilauea volcano. Pele is thought of as "mother nature" with the power to create as well as destroy. Pele practitioners claim that the construction of geothermal energy plants will desecrate the body of Pele by digging into the ground and robbing her of her body heat.

When this concern was first raised, the State thoroughly studied the matter, consulting numerous experts. Geologists were consulted. They concluded that the tapping of the volcanic heat source would not diminish the eruptive nature of the Kilauea volcano.

They also consulted Hawaiian studies and religious experts. Respected Kupuna, or Hawaiian elder, Rev. Leon Sterling stated:

> Pele practitioners do not speak for all Native Hawaiians. They characterize Kilauea's eruption as Pele's anger. But how do they know this? The eruption and lava flow may be her way of creating and helping Hawaii to grow. Let us graciously accept her power as a precious gift.

Mr. President, notwithstanding the favorable recommendations and conclusions, the State of Hawaii, sensitive to the concerns of the Pele practitioners, voluntarily moved the proposed geothermal development an additional 5 to 10 miles away from the Halema'uma'u crater where tradition suggests that Pele resides. This small group of native Hawaiians was not satisfied with the State's accommodations, and sued on the grounds that the geothermal initiative violated their first amendment right to the free exercise of religion. The Hawaii Supreme Court ruled that the State's geothermal development plans did not infringe upon the Pele practitioners' freedom to exercise their religion. It was undisputed that they had never actually used the premises for religious practices, and presented no objective evidence of harm to the practice of their religion. I concur with the wisdom of Hawaii's high court.

Mr. President, I am not a stranger to the issue of protecting and preserving native Hawaiian religious practices. As chairman of the Select Committee on Indian Affairs, I introduced S. 1979, Amendments to the Native American Religious Freedom Act to restore to Native Americans, including native Hawaiians, the full scope of rights and remedies available under the free exercise clause of the first amendment of the U.S. Constitution, and to clarify, as a matter of Federal law and policy, the fundamental rights of Native Americans to practice their unique religions.

I am committed to serving our Nation's native American peoples. I have great respect for their religion, culture and values. With regard to the Pele practitioners, I believe that Mr. Abra-

ham Piiania, former director of Hawaiian studies at the University of Hawaii, and respected historian, put it most eloquently when he stated:

Pele practitioners want to return Hawaii to the days of long ago. However, those days are gone. We, as Hawaiians, have undying respect for the great power of Pele. If Pele believes that sharing her volcanic heat to provide an energy source is not in the best interest of Hawaii's people, she has the power to destroy whatever is built. If she does not destroy it, we should accept it with her blessing.

Mr. President, I state the obvious when I say that Hawaii is an island State. As such, we are dependent on 130,000 barrels of oil per day. The energy crises of the 1970's made Hawaii acutely aware of the importance of developing renewable energy sources, and of the dangers of relying on fossil fuel. We vowed to pursue every means possible to reduce Hawaii's dependence on fossil fuel. And that we did.

Today, Hawaii is a leader in developing and utilizing alternative energy sources. We are serious about harnessing the energy of the wind, Sun, sea, and Earth—abundant resources in Hawaii. In 1989, Hawaii's use of alternative energy sources saved approximately 3.5 million barrels of oil which would have produced about 1.6 million tons of carbon dioxide.

In recent nationwide study by the Public Citizen, a national consumer advocacy group, Hawaii ranked second for its production of energy from wind farms, and is among the top five States in its use of biomass energy generated from agricultural waste, which in our case is sugarcane. We have the highest per capita use of residential solar and heat-pump water heaters. We also reduced our consumer demand for energy by 21 percent over the past two decades.

Hawaii generates 13 percent of its electricity needs from alternative energy sources, and is looking to substantially increase that percentage. However, when we sought to increase it through the development of geothermal energy, we were condemned. We were condemned by the same environmentally conscious groups that urged Hawaii to reduce its dependency on fossil fuel. We were condemned by the same environmentally conscious groups that urged Hawaii to develop clean, renewable sources of energy.

Geothermal energy is a clean, safe and reliable form of renewable energy. It heats homes and fuels businesses in California, Nevada, as well as Italy, New Zealand, Japan, and the Philippines. After decades of research and experimentation, geothermal energy was determined to be the most technically and economically feasible source of alternative energy to pursue in Hawaii on a large scale basis.

Ocean Thermal Energy Conversion [OTEC], while a promising technology, is not yet ready for commercial application. It is estimated that another decade of experimentation and approximately $400 million is needed to harness the power of the sea. In fact, it would cost three times the amount to generate OTEC energy as it would geothermal energy. The same is true for solar energy.

The primary drawback of solar and wind energy is mother nature itself. Wind plants on rural Oahu operate at approximately 5 percent of capable outputs because of inconsistent wind availability. A similar situation exists with solar energy. Many Hawaii residents have solar water heaters, but must rely on fossil fuel to supplement their energy needs in the evening. Until scientists are able to make sunshine 24 hours a day, and get the wind to turn the turbine round the clock, we know that there is much to be done before we can harness the power of the Sun and the wind as reliable and sufficient sources of alternative energy.

I hope to see the day when Hawaii is able to harness mother nature's valuable resources in the ocean, sun, and wind. Until then, we must utilize and develop what we have—an energy source from the Earth which is ready to be harnessed to light up the island of Hawaii.

The first commercial geothermal plant on the island of Hawaii, a 25,000-kilowatt plant in Puna, will reduce our dependence by 480,000 barrels of oil a year. Over its 30-year lifespan, it will cut oil import costs by more than $200 million or 14 million barrels. It will keep 10 billion pounds of carbon dioxide and 60 million pounds of sulfur dioxide out of our environment, that would otherwise be produced by burning oil. This is twice the carbon dioxide reduction targets set at a recent global warming conference in Washington, DC. The generation of geothermal energy is a clean, renewable source of energy which helps to reduce the effects of global warming.

Our Nation's strategic petroleum reserve is located in Louisiana. Other states have very easy access to this reserve in the State of Hawaii. However, we cannot simply deploy a fleet of trucks to bring oil to Hawaii; we must ship it. Disastrous oilspills, the *Exxon Valdez* in Alaska and the *Mega Borg* off the coast of Texas, have further fueled our commitment to develop alternative energy sources. The *Exxon Valdez* spewed 240,000 barrels of oil onto Alaska's coastline. That was less than a 2-day supply of Hawaii's energy needs. I shudder at the thought of an *Exxon Valdez* or a *Mega Borg* disaster in Hawaii. I cannot begin to imagine the devastating effect of an oilspill on Waikiki beach or the NaPali coastline on the island of Kauai. The renowned black sands beach on the island of Hawaii would truly be black, not from sand made of finely washed particles of lava, but of the ooze of black oil. Such a spill would destroy tourism, Hawaii's number one industry, with one blow. We are constantly under this threat.

Opponents of geothermal development contend that there will be harmful chemical emissions from geothermal plants. A 25,000-kilowatt project, which will provide electrical service to approximately 18,500 houses, will emit 40 pounds of hydrogen sulfide and 75 pounds of sulfur dioxide per day. At first blush, one may say, "that is horrible, much too much to be beneficial to our environment." However, within 5 miles of this plant is the Kilauea volcano which emits 72 tons of hydrogen sulfide, not 40 tons, and 1,850 tons of sulfur dioxide per day, not 75 pounds. This is 3,600 times the amount of hydrogen sulfide and almost 50,000 times the amount of sulfur dioxide. The Kilauea volcano, like the geysers at Yellowstone, is a phenomenon of nature. The Pu'u o'o vent of Kilauea has been erupting continuously since 1986. Depending on the direction of the trade winds, Hawaii residents experience haze, ash and the smell of sulfur, which is not pleasant. There is not much that can be done about it. This is nature.

If environmentalists are serious about reducing sulfur dioxide and hydrogen sulfide emission, they should embark to contain these emissions from the Kilauea volcano. I would not recommend this, but if someone really wanted to do this, it would require the pouring of nearly 5 billion cubic yards of concrete at a cost of nearly $330 billion to cap the volcano. Mr. President, I say this to demonstrate the absurdity of the environmentalists' contention that geothermal energy causes pollution.

No scientist would suggest that the geothermal project will contribute, in any appreciable way, to pollution. Nonetheless, the State of Hawaii will demand that the geothermal powerplants meet the strictest air emissions and ground pollution standards. Only the most innovative and environmentally safe technology will be used. Virtually all gaseous and liquid byproducts will be returned to the ground.

In the wise words of President Theodore Roosevelt:

To waste our natural resource * * * instead of using it so as to increase its usefulness, will result in undermining in the days of our children, the very prosperity which we ought by right to hand down * * *.

I am convinced that the development of geothermal energy is the best means of meeting Hawaii's energy demands. It is a clean, safe, and renewable source of alternative energy which, I believe, will preserve our crisp, clean skies, and beautiful landscapes filled with flowers of every

color of the rainbow, as well as the clear, blue Pacific Ocean that surrounds us. This is what I would like to hand down to Hawaii's children.

For this reason, I find the recent attacks on the State of Hawaii's geothermal energy initiative most troubling. At the urging of environmentalists, Hawaii strived to develop alternative energy sources to reduce its dependence of imported oil. We found it in geothermal energy—the most technically and economically feasible, and environmentally safe energy source Hawaii has at its disposal.

Mr. President, I came to the Senate floor to set the record straight. I hope I have succeeded.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized for up to 30 minutes.

INVOLUNTARY SEPARATION OF MILITARY PERSONNEL

Mr. GLENN. Mr. President, I chaired a hearing of the Subcommittee on Manpower and Personnel of the Committee on Armed Services last Wednesday, June 20, 1990. The purpose of that hearing was to receive testimony from Defense and other witnesses on the need for involuntary separation compensation and benefits for military personnel who are given the "pink slip" due to reduction in military strength levels over the next few years.

I think most of us recognize that the military threat to the national security of the United States has diminished substantially as a result of developments in the Soviet Union and in Eastern Europe within the past year. I do not think there is any doubt among us that our military force structure and our military strength levels should come down in reaction to the diminished threat. In fact, the military services are already planning on a force that will be around 25 percent smaller in the aggregate according to the latest estimates we have from Secretary Cheney.

Based on this direction, we can expect our active military strength levels to come down by about 450,000 over the next 5 years. That comes out to a reduction of nearly 100,000 people a year over the next 5 years and it is more likely that the reductions could be larger than smaller if the world situation continues on its current trend.

Given this outlook and the possibility that the manpower reduction could be even bigger—30 to 40 percent by 1996—I believe we must provide military personnel managers with the necessary tools to effect these reductions prudently. At the same time, I believe we must provide fair compensation to those career military personnel who are involuntarily separated from active duty short of attaining eligibility for retirement.

Both Senator COHEN and Senator MCCAIN have introduced legislation aimed at providing such compensation. As I have indicated on the floor of the Senate, I appreciate and support their concern that we provide fair treatment to the men and women in uniform who would be forced out of active duty because the All-Volunteer Force is being reduced.

I know that we have a much different force now than we had in other periods in which our military forces were drawn down—the most recent being the post-Vietnam reduction in which the active duty force was cut back by 20 percent over 3 years. In that reduction, many of the personnel who were released from active duty were draftees who wanted to leave. They were in for a time period, they did not plan a career and wanted to get out and did. Since then, we have gone to an All-Volunteer Force and I dare say that if we still have any draftees on active duty, they converted to career status over 20 years ago. So we have an active duty force today that is much more committed to a career in the military. That tells me that as the force draws down over the next few years, that the military services cannot rely solely on the same mechanisms they used to draw down active duty strength in the past.

Mr. President, since the post Vietnam military draw down, the system of compensation for personnel who are laid-off in the civilian sector has evolved to a point now that there are substantial support systems in place for these personnel.

For example, the Employee Retirement Income Security Act [ERISA] was enacted in 1974 and has undergone several enhancing revisions. This act provides for the vesting of employees into pension plans after a minimum of 5 years employment and for the portability of this benefit. There is no similar benefit for military personnel.

Also, the Consolidated Omnibus Reconciliation Act [COBRA] of 1985 contains provisions that require private sector employers to offer a separating employee the option of continuing to be covered under the group medical insurance plan of the employer at the employee's expense. A similar plan is currently available to separating military personnel. This plan is called the Uniformed Services Voluntary Insurance [USVIP] Program. The program allows separating military personnel the option of purchasing group medical insurance coverage for themselves and their families. However, unlike the COBRA Program for civilians, the USVIP does not cover preexisting medical conditions or pregnancy as the COBRA Program does.

Also, although separated military personnel are entitled to unemployment compensation, they do not become eligible for this benefit until 1 month after their separation and can draw this compensation for only 13 weeks. An unemployed civilian is eligible for unemployment compensation 1 week after termination of employment and can draw this compensation for 26 weeks.

The point I want to make with these three examples is to highlight the disparity between the involuntary separation compensation and benefits provided for in law for civilian and military personnel. I do not argue that separated military and civilian personnel should be treated exactly alike. However, I do argue that we need to carefully consider the basic packages we provide to both groups to make sure our military personnel and their families are treated as fairly as we treat civilian employees who are given the pink slip.

After all, we are talking about men and women in uniform who answered the call to serve in our All-Volunteer Armed Forces when we needed them. These individuals chose a way of life that demanded the sacrifice of certain individual freedoms and the risk and uncertainties associated with service in the military. Now that our Nation's needs have changed—due in large measure to the service these men and women performed—we owe it to them to treat them fairly as we reduce our military forces.

With regard to the compensation of separating military personnel, I want to note that there are currently only two benefits unique to military personnel who are involuntarily separated. First, officers who have 5 or more years of service who are involuntarily separated short of attaining retirement eligibility are entitled to involuntary separation pay at a formula of 10 percent of annual basic pay times the number of years of service at the time of separation. The amount of this pay is capped at $30,000—what an 0-3 (a captain or Navy lieutenant) with 10 years of service would receive if involuntarily separated. Second, service members who are involuntarily separated for the convenience of the Government as a result of a force reduction are exempt from the active duty service requirement for the GI bill benefit. These are the only two benefits currently on the books that are unique to involuntary separations.

There are other separation benefits for both involuntary and voluntary military separatees who are not retirement eligible. These include Government shipment of household goods; travel and transportation allowances; payments for unused leave; the USVIP Program I mentioned earlier; the Transition Assistance Program [TAP]

that was authorized last year under the purview of the Veterans' Affairs Committee; and miscellaneous other services, such as legal assistance and counseling on veterans' rights and benefits, and job search. There are also benefits that are administered by the Department of Veterans Affairs, such as veterans group life insurance, GI loans, employment, job training and other services.

Mr. President, I point these services out because I think it would be unfair to imply by not doing so that we do not try to provide for our men and women in uniform and their families when they leave the service.

Having said that, I am certain that these benefits are inadequate as they currently stand especially when you take into account the potential for substantial manpower strength reductions over the next few years that could require the unprecedented force out from active duty of large numbers of military service members who were otherwise looking toward a career of active military service.

Therefore, I will recommend in the markup of the fiscal year 1991 Defense authorization request, a package of benefits that fairly treats military personnel who are involuntarily separated due to the projected military end strength reductions over the next 5 years. I will also recommend a regulated strength reduction process, something that is absent in any proposals that have been advanced so far, that would afford a responsible degree of protection to that segment of the career force in the military that is not eligible for retirement.

With regard to involuntary separation compensation and benefits, Senator MCCAIN, working with the Military Coalition—which is composed of 22 military associations including the Non-commissioned Officers Association, the Retired Officers Association, and the National Military Families Association—has proposed an excellent package in the form of a bill, S. 2663. It is very clear to me that after reviewing the provisions of S. 2663 that Senator MCCAIN has proposed a very comprehensive, thoughtful package of compensation and benefits to take care of military personnel who may be involuntarily separated as military strength levels are reduced over the next few years. I commend Senator MCCAIN and the Military Coalition for their very compassionate proposal.

On the basis of my review of Senator MCCAIN's very excellent proposal, I will recommend in our subcommittee markup that we adopt his package subject to several modifications based on testimony we received last week, that I believe will strengthen the package.

First, like Senator MCCAIN's proposal, I will recommend extending current involuntary separation pay authority for officers to enlisted personnel. This coverage would apply to personnel who have more than 5 years of service who are involuntarily separated short of retirement eligibility. The current cap of $30,000 would be removed. Appropriate provisions would be included to ensure that personnel who are discharged because of qualitative reasons are not afforded this benefit.

Second, like Senator MCCAIN's proposal, I will recommend extending the current Uniformed Services Voluntary Insurance Plan [USVIP] medical coverage on a 6-month premium-free basis to the same category of personnel who would be eligible for involuntary separation pay. Medical coverage would be further modified to extend coverage for 1 year to preexisting medical conditions or pregnancy.

Third, identical to Senator MCCAIN's proposal, I will recommend providing the same unemployment compensation coverage to separated military personnel that is provided to civilian workers whose employment is terminated. This means that separated military personnel would be eligible for unemployment compensation 1 week after they are separated (either voluntarily or involuntarily) and be able to draw such compensation over 26 weeks, just like their civilian counterparts.

Fourth, identical to Senator MCCAIN's proposal, I will recommend allowing the same category of involuntarily separated personnel who would be eligible for involuntary separation pay to elect to participate in the GI bill and Veterans Educational Assistance Program benefits by contributing into the respective programs before they separate. This would provide those who chose not to participate in these programs earlier because of an expectation of a full career in the military a fair chance to participate because of their changed circumstance over which they have no control.

Fifth, like Senator MCCAIN's proposal, I will recommend that the military services be required to conduct a vigorous program of transition assistance to help separated military personnel find jobs and settle in the civilian sector. This effort would supplement and reinforce current transition assistance programs. And,

Sixth, I will, as an added measure, recommend removing certain restrictions on the reimbursement of travel and transportation for separating personnel. Currently certain separating military personnel may be reimbursed only for travel and transportation to their place of entry into active duty or home of record. This restriction made sense before we went to an all volunteer force. The assumption then was that separating draftees would return home. This logic does not hold water today, and that is the reason for my recommendation. Our separating military personnel should be allowed to travel to places where they can find a job and settle down or go to school, and it should be their choice as to where that area is. Not force them into either going back to where they enlisted or nothing.

With regard to the regulated strength reduction process I spoke of earlier, I will recommend that the military services be required to take actions in the following order of precedence when reducing active military strengths:

First, the military services will be required to reduce new accessions to the minimum levels required to sustain the smaller strength levels they project at the end of the next 5 years, that is about a 25-percent reduction in the aggregate;

Second, the military services will be required to reduce the retirement eligible population consistent with senior grade levels required to sustain the smaller strength levels they project at the end of the next 5 years;

Third, the military services will be required to reduce the first-term population consistent with junior grade levels required to sustain the smaller strength levels they project at the end of the next 5 years; and

Fourth, and the services can take this step only after they have taken the first three steps, the services may reduce the midcareer segment of the population in order to achieve mandated end strength levels for a given year.

I believe this regulated process is crucial to protecting the most vulnerable segment of the personnel inventory—those members who have made career commitments who could be involuntarily separated short of retirement eligibility. Quite frankly, in the rush to provide compensation and benefits to personnel in this category who are involuntarily separated, I think the basic concern of protection for this vulnerable group was overlooked. I think the process I just described puts in a reasonable form of protection for this vulnerable group. In fact, I believe that the military services can achieve most of the reduction they currently plan over the next 5 years without resorting to the fourth step in the process I just described.

Mr. President, the bottom line objective of the recommendations I will be making in the markup of the fiscal year 1991 Defense authorization request is to require the military services to follow a logical, regulated process for reducing their strength levels and at the same time provide a safety net, if needed, to those who may be involuntarily separated in the fourth step of the strength reduction process I outlined.

Mr. President, this general process must obviously be supplemented by specific analyses of the personnel skill requirements of the smaller forces that the military services are building down to. These requirements must be based on a clear definition of the threat, a clear definition of a military strategy to counter the threat, a clear definition of the forces needed to implement the military strategy, a clear definition of the allocation of these forces among the military services, and a clear definition of the mix of these forces between the Active and Reserve components.

Mr. President, I have been asking for such a total force review for a number of years now. In our hearings before the Manpower Subcommittee, we found that the total force policy that was implemented in 1973 was working well in some services and not so well in others.

Mr. President, the premise of the total force policy is that the reserve components in the military services are to be equal partners in meeting the day-to-day missions requirements of the services. Under this policy, certain missions are assigned to the reserves. For example, the Air National Guard provides 86 percent of strategic interceptor forces based in the United States; 50 percent of tactical reconnaissance forces; and 36 percent of tactical air support forces. The Air Force Reserve and Air National Guard combined provide 59 percent of the theater airlift forces; 45 percent of air rescue and recovery forces; and 40 percent of weather reconnaissance forces. In addition, they provide 93 percent of air medical evac air crews; and 38 percent of tanker cargo air crews. The combat readiness of the Air National Guard and Air Force Reserve in performing these missions is outstanding. Over 90 percent of these units are fully combat ready.

On the other hand, there have been chronic readiness problems in the combat support and combat service support elements of the Army Reserve. Specifically, the Army Reserve is relied on to provide 70 percent of the Army combat support and combat service support forces. Combat support missions include engineer, signal intelligence, and chemical activities. Combat service support missions include medical, maintenance, supply, transportation, and ammunition activities. Obviously, an army cannot fight for very long without this support, and if 70 percent of this support comes from Army Reserve forces, it is crystal clear that the Army has a big stake in the readiness of these forces.

Yet, fully 45 to 55 percent of these combat support and combat service support units have been rated as not combat ready over the last few years.

Mr. President, I make these points because we finally put into the Defense Authorization Act last year a provision requiring the Department of Defense to comprehensively review the total force policy and to report to us on the appropriate adjustment required to take advantage of the missions that the reserves do well and correct problems in mission areas where they do not do so well. Quite frankly, I wish we had put in this requirement 2 or 3 years ago because if we had such a study in hand right now we would be in a much better position to define more specifically the force structure and force mix the services should be building down to over the next few years.

However, the effort is underway and I am hopeful that when we receive our interim report in September and our final report in December that we will have a useful blueprint for us to use in deciding the long-term force build-down of our military forces.

Mr. President, before I conclude with other short remarks I want to give credit to one of our committee staff members, Fred Pang, who is with me here on the floor today, for his outstanding work, not only this year but in previous years on these manpower issues. He has done an outstanding job and has been key to working out many of the things that I have talked about here today. I want to give him full credit.

Mr. President, I want to conclude by returning to the subject of taking care of our men and women in uniform and their families as our military forces build-down over the next few years. I have described what I will recommend in our subcommittee markup. I believe my recommendations take the features of the compensation and benefits package introduced by Senator McCAIN in S. 2663 and marries them up with a strength reduction process that protects the most vulnerable segment of our military personnel inventory.

I want to again compliment my friend, the distinguished Senator from Arizona [Mr. McCAIN] for taking the lead in pressing for a compensation and benefits package for involuntarily separated personnel.

His work in this regard and as the ranking minority member of the Subcommittee on Manpower and Personnel of the Committee on Armed Services is very valued on the committee and by me personally. As I have said on previous occasions, we approach military personnel matters on a bipartisan basis in our subcommittee, the objective being to support the combat effectiveness—combat effectiveness, that is the bottom line—combat effectiveness, I repeat it for a third time, it is at the heart of all our work, the combat effectiveness of our men and women in uniform and their families to provide for their welfare and quality of life. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is recognized for 10 minutes.

Mr. McCAIN. Mr. President, I would like to thank Senator GLENN, my friend from Ohio, for his support and kind words. It is an honor and pleasure for me to have the opportunity to work with him on the Manpower and Personnel Subcommittee of the Armed Services Committee. The men and women in the military have no greater friend, protector, nor advocate than Senator JOHN GLENN. I know I speak for many, many servicemen and women and their families when I express my appreciation for his dedicated hard work on their behalf, not only on this issue—but many others.

I appreciate the help he has given me in bringing S. 2663, the comprehensive transition plan, forward, and in making it a part of the fiscal year 1991 Defense Authorization Act. I also appreciate his assistance in holding hearings on this bill last Wednesday, and his aid in assuring the Military Coalition, which played a critical role in helping draft this bill, would have an opportunity to testify.

As I have said, no one has done more than Senator GLENN to help our Nation's men and women in uniform and ensure we have efficient plans and policies for military personnel. Our Nation is lucky to have JOHN GLENN's services at a time when we must make drastic changes in our force structures and drastic cuts in military manpower.

I believe Senator GLENN has made important recommendations that will provide still better protection for our military and their families. Moreover, he has added an important new dimension to our manpower policies by setting priorities as to how cuts should be made and require it be made part of an orderly plan.

I would like to take this opportunity to reinforce several points that Senator GLENN has just made. We are talking about future defense budgets that would force a cut in our military personnel of 25 to 40 percent, and we are talking about the impact of the cuts on military dependents and military families. The coming force cuts will not only affect things and theories, they will affect at least half a million of our fellow Americans. We must not try to fund some distorted version of a "peace dividend" by denying our military and dependents legitimate separation pay, unemployment compensation, medical care and the other elements of a comprehensive transition plan. We must pay the cost of what is, after all, simple human decency.

Mr. President, let me turn back to the Military Coalition, I ask unanimous consent to have the full list of the members of the Military Coalition printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMBERS OF THE MILITARY COALITION

Air Force Association.
Air Force Sergeants Association.
Association of Military Surgeons.
Association of U.S. Army.
Commissioned Officers Association.
Fleet Reserve Association.
Marine Corps League.
Marine Corps Reserve Officers Association.
National Association for Uniformed Services.
National Guard Association of the United States.
National Military Family Association.
Naval Reserve Association.
Naval Enlisted Reserve Association.
Navy League of the United States.
Non-Commissioned Officers Association.
Reserve Officers Association.
The Retired Officers Association.
The Retired Enlisted Association.
Society of Medical Consultants to the Armed Services.
U.S. Army Warrant Officers Association.
U.S. Coast Guard CPO Association.
CWO & WO Association, USCG.

Mr. McCAIN. Mr. President, I am very grateful to all these organizations for their assistance and their valuable assistance in coming up with this plan.

Mr. President, we need such assistance because we need to act. We are facing difficult times. In fact, we are facing an unprecedented time if one views the coming defense cuts and force reductions in light of the fact that late in the Vietnam war, this Nation made a conscious decision to go from a conscript military force to an All-Volunteer Force. Now, for the first time, we are telling men and women who volunteered to join the military for a career that their services are not needed, and that the changes in the world situation obligate us to cut short their service to our Nation.

These men and women are spread all over the globe, and they know they face a very uncertain future. They are not the kind of people who panic but they certainly face the future with deep and grave concern.

I visited several military installations, both here and overseas, during the past few weeks. During those visits, I have been besieged by officers and enlisted personnel who want to know what Senator GLENN, Senator MCCAIN, and the rest of the Congress is going to do to resolve the uncertainty that besets them and their families. I believe that we are sending a message with this legislation which I think will have a tremendous calming effect on them and to their familes.

Mr. President, I will briefly review some of the highlights of this plan, including some that Senator GLENN has just stated. Among these highlights are providing separation pay for officers and enlisted personnel. Let me remind by colleagues that now there is no provisions in the law to provide such pay for enlisted personnel who are involuntarily separated. The legislation will also remove the current $30,000 cap on separation pay.

Unemployment compensation would make the military personnel released from active duty eligible for 26 weeks of unemployment and make them able to apply for such compensation at the end of 1 week of unemployment. The current law restricts military personnel released from active duty to only 13 weeks of compensation.

Relocation services will allow those members who are eligible for separation pay limited leave time, not to be charged to those individuals, to visit the areas where they may wish to relocate. The expense of the trip will be borne by the individual member, but they will be given the time by the service.

There will be outplacement services, and all can be eligible for the Montgomery GI bill if they are involuntarily separated under honorable conditions by paying $1,200 to become vested in the program. This will allow such personnel to receive the full educational benefits of the Montgomery GI bill.

It will allow those eligible for separation pay to receive continued health benefits after their separation. It will provide care for those who are pregnant and ensure a year of coverage for those with documented prior conditions.

The military services will ensure that transition briefings are available to members as well as their spouses. The briefings will, at a minimum, cover the benefits I have just listed.

We have an obligation, to our men and women in uniform, Mr. President. It is an obligation that I believe, the Congress and the people of the United States will not shirk. However, the Congress and the people of the United States needs concrete legislative proposals. They need specifics, and I believe that—with Senator GLENN's help—we have provided the proper blueprint. I am also convinced that this blueprint will be adopted by both bodies. I note with pleasure that Congressman SLATTERY has introduced basically identical legislation in the House. I suggest to all my colleagues that not only is such legislation important for the benefit of men and women who are presently serving, but we have an obligation to future generations who may wish to serve our country in times of crisis. We must set a precedent that rewards and protects national service. We must deal with the crisis the coming personnel cuts is creating for our volunteers. We must make sure they are cared for according to the Judeo-Christian ethics upon which this Nation was founded.

Mr. President, I yield the remainder of my time. I yield the floor.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 8:30 a.m. on Wednesday, June 17; that following the prayer, the Journal of proceedings be deemed approved; that the time for the two leaders be reserved for their use later in the day; that following the reservation of the leaders' time, there be a period for morning business, and that Senator BOSCHWITZ be recognized for up to 1 hour; that at 9:30 a.m., there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 8:30 A.M. TOMORROW

The PRESIDING OFFICER (Mr. GLENN). Under the previous order, the Senate will stand in recess until 8:30 a.m. tomorrow, Wednesday, June 27, 1990.

Thereupon, at 8:38 p.m., the Senate recessed until Wednesday, June 27, 1990, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, June 26, 1990:

DEPARTMENT OF STATE

MICHAEL MARTIN SKOL, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VENEZUELA.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

ELMER B. STAATE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1995. (REAPPOINTMENT)

CONFIRMATIONS

Executive nominations confirmed by the Senate, June 26, 1990:

DEPARTMENT OF STATE

PAUL C. LAMBERT, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPULIC OF ECUADOR.

E.U. CURTIS BOHLEN, OF MAINE, TO BE ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS.

DON MELVIN NEWMAN, OF INDIANA, FOR THE RANK OF MINISTER DURING HIS TENURE OF SERVICE AS THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE COUNCIL OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION.

DANE FARNSWORTH SMITH, JR., OF NEW MEXICO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA.

CHARLES H. THOMAS, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MNINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HUNGARY.

ALAN PHILIP LARSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT, WITH THE RANK OF AMBASSADOR.

JAMES KEOUGH BISHOP, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOMALI DEMOCRATIC REPUBLIC.

STEVEN E. STEINER, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS UNITED STATES REPRESENTATIVE TO THE SPECIAL VERIFICATION COMMISSION.

PETER JON DE VOS, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LIBERIA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

BOARD FOR INTERNATIONAL BROADCASTING

MALCOLM S. FORBES, JR., OF NEW JERSEY, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1992.

INTER-AMERICAN FOUNDATION

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM OF 6 YEARS:

NORTON STEVENS, OF NEW YORK.

THE FOLLOWING-NAMED PERSON TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM OF 6 YEARS:

FRANK D. YTURRIA, OF TEXAS.

WITHDRAWAL

Executive message received June 26, 1990, withdrawing from further Senate consideration the following nomination:

DEPARTMENT OF STATE

ERIC M. JAVITS, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF VENEZUELA, WHICH WAS SENT TO THE SENATE ON JULY 11, 1989.

HOUSE OF REPRESENTATIVES—*Tuesday, June 26, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Your word has commanded, O God, that justice should roll down as waters and righteousness like an everflowing stream. May we be faithful to that word and aware of our task to speak for the right, to labor for justice and to strive for equity among all people. Bless all who labor for the virtue of justice and may Your benediction never depart from us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Mississippi [Mr. MONTGOMERY] will please lead us in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 5075. An act to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2014. An act to direct the Secretary of Agriculture and the Secretary of the Interior to provide interpretation and visitor education regarding the rich cultural heritage of the Chama River Gateway Region of northern New Mexico.

The chair desires to announce that pursuant to clause 4 of rule 1, the speaker signed the following enrolled bill and joint resolutions on Monday, June 25, 1990:

S. 1999. To amend the Higher Education Amendments of 1986 to clarify the administrative procedures of The National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes.

H.J. Res. 555. To commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed.

H.J. Res. 575. To designate June 25, 1990, as "Korean War Remembrance Day".

S.J. Res. 264. To commemorate the 50th anniversary of the National Sheriff's Association.

S.J. Res. 315. Joint resolution for the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day".

S.J. Res. 320. Designating July 2, 1990, as "National Literacy Day".

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that during the joint meeting to hear an address by Mr. Nelson Mandela, only the doors immediately opposite the Speaker and those on his right and left will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

RECESS

The SPEAKER. Pursuant to the order of the House of Thursday, June 14, 1990, the House will stand in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 5 minutes a.m.), the House stood in recess, subject to the call of the Chair.

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY NELSON MANDELA, DEPUTY PRESIDENT OF THE AFRICAN NATIONAL CONGRESS

The SPEAKER of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the President pro tempore and Members of the U.S. Senate, who entered the Hall of the House of Representatives, the President pro tempore taking the chair at the left of the Speaker, and Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort Mr. Nelson Mandela, deputy president of the African National Congress, into the Chamber:

The gentleman from Missouri, Mr. GEPHARDT;

The gentleman from Pennsylvania, Mr. GRAY;

The gentleman from Florida, Mr. FASCELL;

The gentleman from Michigan, Mr. BONIOR;

The gentleman from Maryland, Mr. HOYER;

The gentleman from Illinois, Mr. MICHEL;

The gentleman from Georgia, Mr. GINGRICH;

The gentleman from California, Mr. LEWIS;

The gentleman from Michigan, Mr. BROOMFIELD;

The gentleman from New York, Mr. FISH;

The gentleman from California, Mr. DELLUMS;

The gentlewoman from Illinois, Mrs. COLLINS;

The gentleman from California, Mr. FAZIO;

The gentleman from Michigan, Mr. WOLPE;

The gentlewoman from Illinois, Mrs. MARTIN;

The gentleman from Missouri, Mr. WHEAT;

The gentleman from Illinois, Mr. HAYES;

The gentleman from Michigan, Mr. SCHUETTE;

The gentleman from Maryland, Mr. MFUME; and

The gentlewoman from Hawaii, Mrs. SAIKI.

The PRESIDENT pro tempore. The President of the Senate pro tempore, at the direction of that body, appoints the following Senators as a committee on the part of the Senate to escort Mr. Nelson Mandela, deputy president of the African National Congress, into the House Chamber:

The Senator from Maine, Mr. MITCHELL;

The Senator from California, Mr. CRANSTON;

The Senator from Rhode Island, Mr. PELL;

The Senator from Massachusetts, Mr. KENNEDY;

The Senator from Michigan, Mr. LEVIN;

The Senator from Illinois, Mr. SIMON;

The Senator from Georgia, Mr. FOWLER;

The Senator from Kansas, Mr. DOLE;

The Senator from Wyoming, Mr. SIMPSON;

The Senator from Rhode Island, Mr. CHAFEE;

The Senator from Mississippi, Mr. COCHRAN;

The Senator from Indiana, Mr. LUGAR; and

The Senator from Kansas, Mrs. KASSEBAUM.

The Doorkeeper announced the ambassadors, ministers, and charges d'affaires of foreign governments.

The ambassadors, ministers, and charges d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 11 o'clock and 9 minutes a.m., the Doorkeeper announced Mr. Nelson Mandela, deputy president of the African National Congress.

Mr. Nelson Mandela, deputy president of the African National Congress, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege, and I deem it a high honor and personal pleasure to present to you Mr. Nelson Mandela, deputy president of the African National Congress.

[Applause, the Members rising.]

ADDRESS BY NELSON MANDELA, DEPUTY PRESIDENT OF THE AFRICAN NATIONAL CONGRESS

Mr. MANDELA. Mr. Speaker; Mr. President; esteemed Members of the U.S. Congress; your excellencies, ambassadors and members of the Diplomatic Corps; distinguished guests, ladies and gentlemen:

It is a fact of the human condition that each shall, like a meteor, a mere brief passing moment in time and space, flit across the human stage and pass out of existence. Even the golden lads and lasses, as much as the chimney sweepers, come, and tomorrow are no more. After them all, they leave the people, enduring, multiplying, permanent, except to the extent that the same humanity might abuse its own genius to immolate life itself.

And so we have come to Washington in the District of Columbia, and into these hallowed Chambers of the U.S. Congress, not as pretenders to greatness, but as a particle of a people whom we know to be noble and heroic—enduring, multiplying, permanent, rejoicing in the expectation and knowledge that their humanity will be reaffirmed and enlarged by open and unfettered communion with the nations of the world.

We have come here to tell you, and through you, your own people, who are equally noble and heroic, of the troubles and trials, the fond hopes and aspirations, of the people from whom we originate. We believe that we know it as a fact, that your kind and moving invitation to us to speak here derived from your own desire to convey a message to our people, and according to your humane purposes, to give them an opportunity to say what they want of you, and what they want to make of their relationship with you.

Our people demand democracy. Our country, which continues to bleed and suffer pain, needs democracy. It cries out for the situation where the law will decree that the freedom to speak of freedom constitutes the very essence of legality and the very thing that makes for the legitimacy of the constitutional order.

It thirsts for the situation where those who are entitled by law to carry arms, as the forces of national security and law and order, will not turn their weapons against the citizens simply because the citizens assert that equality, liberty and the pursuit of happiness are fundamental human rights which are not only inalienable but must, if necessary, be defended with the weapons of war.

We fight for and visualize a future in which all shall, without regard to race, color, creed or sex, have the right to vote and to be voted into all elective organs of state. We are engaged in struggle to ensure that the rights of every individual are guaranteed and protected, through a democratic constitution, the rule of law, an entrenched bill of rights, which should be enforced by an independent judiciary, as well as a multi-party political system.

Mr. Speaker, we are acutely conscious of the fact that we are addressing an historic institution for whose creation and integrity many men and women lost their lives in the war of independence, the civil war and the war against nazism and fascism. That very history demands that we address you with respect and candor and without any attempt to dissemble.

What we have said concerning the political arrangements we seek for our country is seriously meant. It is an outcome for which many of us went to prison, for which many have died in police cells, on the gallows, in our towns and villages and in the countries of Southern Africa. Indeed, we have even had our political representatives killed in countries as far away from South Africa as France.

Unhappily, our people continue to die to this day, victims of armed agents of the state who are still determined to turn their guns against the very idea of a nonracial democracy. But this is the perspective which we trust Congress will feel happy to support and encourage, using the enormous weight of its prestige and authority as an eminent representative of democratic practice.

To deny any person their human rights is to challenge their very humanity. To impose on them a wretched life of hunger and deprivation is to dehumanise them. But such has been the terrible fate of all black persons in our country under the system of apartheid. The extent of the deprivation of millions of people has to be seen to be believed. The injury is made that more intolerable by the opulence of our white compatriots and the deliberate distortion of the economy to feed that opulence.

The process of the reconstruction of South African society must and will also entail the transformation of its economy. We need a strong and growing economy. We require an economy that is able to address the needs of all the people of our country, that can provide food, houses, education, health services, social security and everything that makes human life human, that makes life joyful and not a protracted encounter with hopelessness and despair.

We believe that the fact of the apartheid structure of the South African economy and the enormous and pressing needs of the people, make it inevitable that the democratic government will intervene in this economy, acting through the elected parliament. We have put the matter to the business community of our country that the need for a public sector is one of the elements in a many-sided strategy of economic development and restructuring that has to be considered by us all, including the private sector.

The ANC holds no ideological positions which dictate that it must adopt a policy of nationalisation. But the ANC also holds the view that there is no self-regulating mechanism within the South African economy which will, on its own, ensure growth with equity.

At the same time, we take it as given that the private sector is an engine of growth and development which is critical to the success of the mixed economy we hope to see in the future South Africa. We are accordingly committed to the creation of the situation in which business people, both South African and foreign, have confidence in

the security of their investments, are assured of a fair rate of return on their capital and do business in conditions of stability and peace.

We must also make the point very firmly that the political settlement, and democracy itself, cannot survive, unless the material needs of the people, the bread and butter issues, are addressed as part of the process of change and as a matter of urgency. It should never be that the anger of the poor should be the finger of accusation pointed at all of us because we failed to respond to the cries of the people for food, for shelter, for the dignity of the individual.

We shall need your support to achieve the postapartheid economic objectives which are an intrinsic part of the process of the restoration of the human rights of the people of South Africa. We would like to approach the issue of our economic cooperation not as a relationship between donor and recipient, between a dependent and a benefactor.

We would like to believe that there is a way in which we could structure this relationship so that we do indeed benefit from your enormous resources in terms of your capital, technology, all-round expertise, your enterprising spirit and your markets. This relationship should however be one from which your people should also derive benefit, so that we who are fighting to liberate the very spirit of an entire people from the bondage of the arrogance of the ideology and practice of white supremacy, do not build a relationship of subservient dependency and fawning gratitude.

One of the benefits that should accrue to both our peoples and to the rest of the world, should surely be that this complex South African society, which has known nothing but racism for three centuries, should be transformed into an oasis of good race relations, where the black shall to the white be sister and brother, a fellow South African, an equal human being, both citizens of the world. To destroy racism in the world, we, together, must expunge apartheid racism in South Africa. Justice and liberty must be our tool, prosperity and happiness our weapon.

Mr. Speaker, distinguished representatives of the American people, you know this more than we do that peace is its own reward. Our own fate, born by a succession of generations that reach backward into centuries, has been nothing but tension, conflict, and death. In a sense we do not know the meaning of peace except in the imagination. But because we have not known true peace in its real meaning; because, for centuries, generations have had to bury the victims of state violence, we have fought for the right to experience peace.

On the initiative of the ANC, the process toward the conclusion of a peaceful settlement has started. According to a logic dictated by our situation, we are engaged in an effort which includes the removal of obstacles to negotiations. This will be followed by a negotiated determination of the mechanism which will draw up the new constitution.

This should lead to the formation of this constitution-making institution and therefore the elaboration and adoption of a democratic constitution. Elections would then be held on the basis of this constitution and, for the first time, South Africa would have a body of lawmakers which would, like yourselves, be mandated by the whole people.

Despite the admitted commitment of President De Klerk to walk this road with us, and despite our acceptance of his integrity and the honesty of his purposes, we would be fools to believe that the road ahead of us is without major hurdles. Too many among our white compatriots are steeped in the ideology of racism to admit easily that change must come.

Tragedy may yet sully the future we pray and work for if these slaves of the past take up arms in a desperate effort to resist the process which must lead to the democratic transformation of our country. For those who care to worry about violence in our country, as we do, it is at these forces that they should focus their attention, a process in which we are engaged.

We must contend still with the reality that South Africa is a country in the grip of the apartheid crime against humanity. The consequences of this continue to be felt not only within our borders but throughout southern Africa which continues to harvest the bitter fruits of conflict and war, especially in Mozambique and Angola. Peace will not come to our country and region until the apartheid system is ended.

Therefore we say we still have a struggle on our hands. Our common and noble efforts to abolish the system of white minority domination must continue. We are encouraged and strengthened by the fact of the agreement between ourselves, this Congress as well as President Bush and his administration that sanctions should remain in place. Sanctions should remain in place because the purpose for which they were imposed has not yet been achieved.

We have yet to arrive at the point when we can say that South Africa is set on an irreversible course leading to its transportation into a united, democratic, and nonracial country. We plead that you cede the prerogative to the people of South Africa to determine the moment when it will be said that profound changes have occurred and an irreversible process achieved, enabling you and the rest of the international community to lift sanctions.

We would like to take this opportunity to thank you all for the principled struggle you waged which resulted in the adoption of the historic comprehensive Anti-Apartheid Act which made such a decisive contribution to the process of moving our country forward toward negotiations. We request that you go further and assist us with the material resources which will enable us to promote the peace process and meet other needs which arise from the changing situation you have helped to bring about.

The stand you took established the understanding among the millions of our people that here we have friends, here we have fighters against racism who feel hurt because we are hurt, who seek our success because they too seek the victory of democracy over tyranny. And here I speak not only about you, Members of the U.S. Congress, but also of the millions of people throughout this great land who stood up and engaged the apartheid system in struggle, the masses who have given us such strength and joy by the manner in which they have received us since we arrived in this country.

Mr. Speaker, Mr. President, Senators and Representatives; we went to jail because it was impossible to sit still while the obscenity of the apartheid system was being imposed on our people. It would have been immoral to keep quiet while a racist tyranny sought to reduce an entire people into a status worse than that of the beasts of the forest. It would have been an act of treason against the people and against our conscience to allow fear and the drive toward self-preservation to dominate our behavior, obliging us to absent ourselves from the struggle for democracy and human rights, not only in our country but throughout the world.

We could not have made an acquaintance through literature with human giants such as George Washington, Abraham Lincoln and Thomas Jefferson and not been moved to act as they were moved to act. We could not have heard of and admired John Brown, Sojourner Truth, Frederick Douglass, W.E.B. DuBois, Marcus Garvey, Martin Luther King, Jr., and others—we could not have heard of these and not be moved to act as they were moved to act. We could not have known of your Declaration of Independence and not elected to join in the struggle to guarantee the people life, liberty and the pursuit of happiness.

We are grateful to you all that you persisted in your resolve to have us and other political prisoners released from jail. You have given us the gift and privilege to rejoin our people, yourselves and the rest of the interna-

tional community in the common effort to transform South Africa into a united, democratic and nonracial country. You have given us the power to join hands with all people of conscience to fight for the victory of democracy and human rights throughout the world.

We are glad that you merged with our own people to make it possible for us to emerge from the darkness of the prison cell and join the contemporary process of the renewal of the world. We thank you most sincerely for all you have done and count on you to persist in your noble endeavors to free the rest of our political prisoners and to emancipate our people from the larger prison that is apartheid South Africa.

The day may not be far when we will borrow the words of Thomas Jefferson and speak of the will of the South African Nation. In the exercise of that will by this united nation of black and white people, it must surely be that there will be born a country on the southern tip of Africa which you will be proud to call a friend and an ally, because of its contribution to the universal striving toward liberty, human rights, prosperity and peace among the peoples.

Let that day come now. Let us keep our arms locked together so that we form a solid phalanx against racism to ensure that that day comes now. By our common actions let us ensure that justice triumphs without delay. When that has come to pass, then shall we all be entitled to acknowledge the salute when others say of us, blessed are the peacemakers.

Thank you for your kind invitation to speak here today and thank you for your welcome and the attention you have accorded our simple message.

Thank you.

(Applause, the Members rising.)

At 11 o'clock and 48 minutes a.m., Mr. Nelson Mandela, deputy president of the African National Congress, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The ambassadors, ministers, and charges d'affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The Chair declares the joint meeting of the two Houses dissolved.

Accordingly at 11 o'clock and 59 minutes a.m., the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until 12:45 p.m.

□ 1250

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. DURBIN] at 12 o'clock and 50 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING RECESS

Mr. BRENNAN. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maine?

There was no objection.

UNITED STATES SHOULD CONTINUE SANCTIONS AGAINST SOUTH AFRICA

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, we have just witnessed something very special in the history of the U.S., Congress. Nelson Mandela's moving words to us this morning show that man's yearning for freedom cannot be locked up forever, even by the cruelty of apartheid.

Mandela's long struggle for justice in South Africa, is an inspiration to those who long for freedom all around the world.

Rather than renounce his principles, Mandela remained in jail for 27 years, a living symbol of the eternal fight for freedom that we all must share.

Mandela is free. But apartheid still exists in South Africa. Some have said that now we must lift our sanctions, and meet the minority South African Government halfway. I say now is not the time to give in, to settle for half measures.

Partial freedom is not enough. We must stay the course to full freedom for all in South Africa. We must continue sanctions against South Africa, for though progress has been made, there is still far far to go. Before South Africa is truly free.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will announce, pursuant to the instructions of the Speaker, 1-minute speeches will be limited to a maximum of eight on each side.

PRESIDENT BUSH WANTS A TAX INCREASE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, surprise, surprise, surprise, the 1988 campaign is finally over. President Bush wants a tax increase.

That is right, the rhetoric has changed from "Read my lips," to now, very responsibly, "Read the bottom line."

Let's get off it. If Democrats vote for a tax increase I say today there is no Democrat Party. It is time for Congress to throw out foreign aid, cut the giveaways to the NATO countries, stop the madness at the Pentagon because this President just does not want to increase taxes, he wants to put more taxes on the American people that cannot afford it. He still wants a capital gains tax cut.

If Thomas Edison knew what a thousand points of light would have done to George Bush, he would have never sold one light bulb, folks.

S&L BAILOUT UNFAIR TO KENTUCKY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, last year I voted against the S&L bailout, the bill we call FIRREA. I did so because there was inadequate funding for the bailout effort. That funding, also, was not considered as part of the Gramm-Rudman-Hollings calculations for deficit reduction. And, the $75 million provided in the bill to pursue those who looted and swindled the taxpayers of America and the depositors of the S&L's was inadequate to do the job, and ironically, I would say, the administration only asked for $50 million of that $75 million.

If I had known last year what I learned reading yesterday's paper, I would have had one more reason to vote against the bill.

According to the newspapers yesterday, 37 States will basically pay for 13 States. By that I mean that 37 States, including the State of Kentucky, which ran a generally good S&L system, will pay the bill for the 13 States, which along with the inadequate Federal regulations, let these S&L's be run like casinos.

I do not think that is fair, Mr. Speaker. I do not think it is equitable, and I think definitely this points out the reason that we ought to do everything possible to put in jail and to prosecute vigorously all of the people who are responsible for the S&L debacle.

JAIL THE S&L CROOKS

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I have made no secret of my outrage at the Justice Department for its lackluster performance in prosecuting the savings and loan crooks. These people are thieves, and the American people want to see them behind bars.

Unfortunately, the administration has been slow to act. Last week, the President finally jumped on the bandwagon after it almost rolled over him. He launched an offensive against financial institution fraud and white collar crime after we in the Congress made it a priority.

On Thursday, the Financial Institutions Subcommittee will hear testimony from the Department of Justice to give it a chance to explain why it has not given this matter the attention it deserves. Attorney General Thornburgh was asked to testify, but so far has not seen fit to appear and explain the record of his department.

Today I have sent all Members a button, like I am wearing, which says "Jail the S&L Crooks." I hope Members will take this opportunity to join me in wearing the button to express the outrage of the American people over this crisis. Wearing the button will help remind everyone that the American people want the Justice Department to put the savings and loan crooks in jail.

RESIDENTS OF THE DISTRICT OF COLUMBIA NEED REPRESENTATION ALONG WITH SOUTH AFRICANS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, it is appropriate that President Bush and our elected leaders meet with Nelson Mandela of South Africa to celebrate his release from prison and his lifelong commitment toward ending the racist policy of apartheid. But the meeting should never have been held in Washington, DC.

You see, it is hard to argue that blacks in South Africa deserve representation in their national government if the meetings take place here in the District of Columbia.

Over 800,000 Americans, primarily black, live in Washington, DC, our Nation's Capital. These D.C. residents, like Mr. Mandela's brothers and sisters in South Africa's tribal lands are virtually voiceless in the national legislature.

It might be embarrassing to tell Mr. Mandela how committed we are to representative government if he should ask when we plan on giving the benefits of democracy and a voice in the Congress to residents of our Nation's Capital.

If Mr. Bush and the Congress want to deliver a sermon on democracy to Mr. Mandela, it is a mistake to set up the pulpit in the District of Columbia.

NO NEW TAXES

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, this morning the White House issued a statement indicating that they would be willing to accept tax revenue increases as a part of a budget summit package. There are many of us who believe that that would be the wrong kind of economic signal to send to the country right now, that tax increases at the present time would undermine the economy and substantially weaken it. And so, therefore, we regard a tax increase as unacceptable.

We would say to the President that we would vote against a budget package that increases tax rates for the American people. I have a letter to that effect that I am circulating on the floor this afternoon. Members interested in signing on to such a letter telling the President we would be unwilling to accept tax increases as a part of the budget process are invited to sign on.

TRIBUTE TO DAVID JAN MITCHELL

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, I rise today to commend David Jan Mitchell, a very special friend who, as an exemplary chairman of the new leadership division of the State of Israel Bonds, has made a lasting contribution to Israel's future. Having first conceived legislation which I introduced to create a Middle East Development Bank, David has a long view toward security in the region.

For one so young in age, he has a truly remarkable record of achievement. David is the managing principal at Rodman & Renshaw, a securities firm which he and his partners recently converted from a Chicago based regional firm, into an international company with offices in New York, Chicago, Kansas City, Buenos Aires, and London.

Since its inception in 1951, the bonds organization has raised over $10 billion in investment capital for the State of Israel. In the past 2 years, as the extraordinarily accomplished chairman of the Manhattan new leadership division, David's vision and know-how propelled the organization to new heights. Promoting the notion that we should all be "partners in nation building," David significantly broadened the scope of the campaign, increasing sales by more than 50 percent and expanding active membership by 70 percent.

During his tenure as chairman, he initiated a series of high level discussions for the King David Honor Society, which includes buyers of $5,000 or more. Many well known figures in New York's business community gave their time to address the King David Society, including Alan "Ace" Greenberg, chairman and CEO of Bear Stearns, Asher Adelman, controlling partner of the Edelman Group, Michael Steinhardt, managing partner of Steinhardt Partners, Jeffrey Steiner, CEO of Banner Industries, and Stephen Swid, chairman and CEO of SCS Communications.

In addition, international guest speakers at new leadership events have included the distinguished former Prime Minister, Shimon Peres, then Defense Minister Yitzhak Rabin, and Deputy Foreign Minister Benjamin Netanyahu.

As chairman, David revitalized the entire division with unique and spectacular gala events. New leadership's annual Cultural Award Dinner became one of the most eagerly awaited spectacles in New York, showcasing superstars such as Ron Silver, Jackie Mason, and Wendy Wasserstein as award participants.

Active in a long list of philanthropic organizations, David is on the boards of Bezalel Academy of Art & Design, Bar-Ilan University, and the Jerusalem College of Technology. He is also chairman of the National Leadership Circle of NATPAC, the National Political Action Committee.

Mr. Speaker, I commend David Mitchell for his many accomplishments and his genuine leadership. We in Congress, and friends of Israel everywhere, offer our heartfelt congratulations as he takes on even larger responsibilities, assuming the Chair of the Greater New York New Leadership Division for the State of Israel Bonds.

□ 1300

PRESIDENT BUSH WILL NOT HAVE THE LAST WORD ON TAXES

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, the other shoe, raised in the 1988 Presidential campaign, just dropped. George Bush has announced that he is raising taxes. The charade is finally over.

But what a price the American people have paid for this masquerade.

In the 2 years that it took George Bush to find the means of eating his own words, a hemorrhaging deficit consumed billions of dollars of interest payments. The S&L crisis went unanswered, weakening our economy and stealing from our savings.

The President, Mr. Speaker, may have had the first word on raising new taxes; but be certain of this: He will not have the last.

Any Bush tax initiative is certain to include new privileges and tax breaks for the wealthy, certain to increase the burden on the middle class and working families. One can see from his statement today a new means of attacking entitlement programs for senior citizens and for students.

If that is his intention, Mr. Speaker, let the President be on notice he is in for the fight of his life.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND SUNDRY INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1991

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes.

Mr. GREEN reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Michigan?

There was no objection.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by this gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1303

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5021, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 20, 1990, the bill had been read through page 31, line 10.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to insert some remarks at this point regarding some New Mexico land grants.

The CHAIRMAN. The Chair would say to the gentleman that he may insert his own remarks, but not colloquy.

Mr. SMITH of Iowa. These are my own remarks, Mr. Chairman.

The text of the remarks is as follows:

NEW MEXICO LAND GRANTS

My distinguished colleague from New Mexico, Mr. Richardson, has been working on resolving an ongoing dispute in his district on the issue of land grants. It has reached a point where Congressional action is needed to resolve the dispute.

As you know, before the state of New Mexico became incorporated into the United States, it was a territory of Mexico. In an effort to promote colonization of this territory, the Governments of Mexico and Spain granted land to those willing to settle there.

However, in 1845 the U.S. attempted to annex this territory and war with Mexico broke out. The war ended three years later with the treaty of Guadalupe Hidalgo. Under this treaty, the U.S. agreed to recognize all valid Spanish and Mexican land grants, which by then had become part of the U.S., as vested in title.

Because the titles to many of these land grants were never recorded, and because many substantiating documents have been destroyed or lost over time, disputes over the transfer and ownership of land continue to arise in northern New Mexico.

Many of the disputes involve land that is now owned by the Federal government, to which many land grant heirs have laid claim. These heirs have many questions about the ways in which the lands have passed from the original grantees to the present day owners.

Mr. Richardson has long sought a study by the U.S. Attorney Generals Office into the history of the land grants, so that questions and disputes over proper ownership may be answered. As the Chairman of the Appropriations Subcommittee on Commerce, Justice, State, and Judiciary, I agree with Mr. Richardson that a study is needed to help resolve this ongoing dispute. I am willing to work with Mr. Richardson to obtain a study of the legal history of Spanish and Mexican land grants in northern New Mexico during the conference on Commerce, Justice, State, and Judiciary Appropriations.

Mr. FALEOMAVAEGA. Mr. Chairman, I rise today in support of H.R. 5021, the fiscal year 1991 appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

Last February, the territory of American Samoa was hit by a hurricane which completely disrupted life for the residents of the territory.

I arrived in Samoa shortly after the hurricane struck. Surprised by the lack of preparation taken before the hurricane, I asked members of the American Samoa Government and other residents what happened. I found out that two things went wrong. First, weather reports received by the news media from the weather station in Nadi, Fiji, in the important hours before the hurricane struck led the residents to believe that Hurricane Ofa was heading away from Samoa, rather than toward Samoa, which was actually the case. Second, because there is inadequate emergency—back up—power to the weather station in Samoa, the station was without electrical power for 6 of the most crucial hours when the hurricane was closest to Samoa.

I have been aware for some time that the NOAA Weather Office in Samoa needs to be upgraded. This bill will provide for repair of the damage done to Weather Service equipment in Samoa by Hurricane Ofa, for the addition of a meteorologist to the local staff, and for the addition of automated observing stations which will enable the National Weather Service to provide weather forecasts prepared in Samoa for the local area. Presently, all weather forecasts come from either Fiji or Hawaii.

Mr. Chairman, I believe the experience provided by Hurricane Ofa amply shows the need for these improvements to the weather office in Samoa.

Mr. Chairman, the legislation which will provide funding for the improved Weather Service facilities in Samoa would not have been possible without the support of Mr. Neal Smith, chairman of the Appropriations Subcommittee on Commerce, Justice, State, the Judiciary, and related agencies; Mr. Richard Hagemeyer, Pacific Region Director, National Oceanic and Atmospheric Administration, Department of Commerce; and Mr. Thomas Tatekawa, Manager, American Samoa Weather Station.

Mr. Chairman, H.R. 5021 includes an appropriation for the upgrading of the weather station in Samoa and I urge my colleagues to support these needed improvements.

The CHAIRMAN. Are there other amendments to the bill?

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 31, insert after line 10 the following new section:

SEC. 604. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 5 percent.

Mr. DANNEMEYER. Mr. Chairman, this appropriation bill for Commerce, Justice, State, and the Judiciary is a little difficult to get a handle on for the reason that, in effect, it is only presented to the House in about half-baked form.

I do not understand why it is presented this way, but my suspicion is that the rationale of the Committee on Appropriations was that the only appropriation that is contained in the measure is for programs that have been authorized. In other words, we are not appropriating money for unauthorized programs.

The given idea of what this means is that in fiscal year 1990, we appropriated, initially, and with the supplementals, some $19.8 billion for this program or this appropriation bill.

Now, the Bush administration requested for fiscal year 1991 some little over $20 billion, and the appropriation bill before us proposes to appropriate a little over $11 billion, $11.086 billion, to be precise. Or that was the request. Then the appropriation was $10.5 billion.

So what we have before us is a clear road indication that at some point later in this year there will be another request for an appropriation for these categories to provide funding for the unauthorized programs that are included in these departments.

What that amount will be nobody knows. But I believe that with this amendment, it is appropriate to suggest that all categories of spending for this bill can be reduced by 5 precent. That is what this amendment is all about.

I do not think there is a program functioning in the Government of the United States that cannot be reduced by 5 percent, including the appropriation for the legislative branch of the House of Representatives and the U.S. Senate.

So, this is what this amendment is all about. I suspect that there will be Members offering amendments of this type to each of the appropriation bills that come through the House. And the motivation behind our actions is very simple: We seek to say to the American people that there are some here who seek to resolve the deficit problem that we are facing in this Nation, not through raising our taxes but through cutting spending.

That is the reason that this amendment is being offered.

I note that with the President's announcement this morning that the existing tax revenue system of this Government will produce $82 billion more than that same system produced in the last fiscal year. That is enough of revenue growth in 1 year over a preceding year.

We do not need tax increases in this country. We need spending reductions. We need Members of Congress with the courage to say to their constituents, the special-interest groups, "We will reduce spending in a modest way."

I think a 5-percent reduction is a rational way to proceed.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. SMITH of Iowa. Mr. Chairman, I would like to point out a few things here. I will be very brief.

The total amount in this bill for authorized programs is $570,791,000 less than the enacted amount for those same programs in 1990.

Now in this bill we have funded only authorized programs, and we reserved the balance of our section 302(b) allocation for unauthorized programs.

□ 1310

When we add together the amount of discretionary budget authority in the bill for authorized programs and the funds reserved for unauthorized programs, we are $976,481,000 below the amount that all these agencies received in fiscal year 1990.

Now, with regard to the 302(b) allocation, the allocation for discretionary programs is $198,600,000 below the total discretionary funds enacted for these programs for 1990. The fact of the matter is we are well within our 302(b) allocation. We are well within any kind of a reasonable comparison someone could make with fiscal year 1990. The fact of the matter is that most of the programs in the bill are either at no more than the administration's request or less than the administration's request. I cannot imagine that the administration would be very happy with more cuts in the programs that they have asked money for.

Also, virtually every program in here is funded at less than the Members of the House, in great numbers, wanted for programs that were their high priorities. So I cannot imagine that Members of the House are interested in cutting these programs any more. We are well within our parameters.

In addition to that, I just point out that last Wednesday, when this bill was on the floor, $75 million was added for S&L prosecutions, investigations, et cetera. We could not shut off debate. Every Member on the floor wanted to talk about how we needed more than $75 million. This amendment, of course, will cut that $75 million back by $3.75 million. The Marshals Service is involved in these investigations. The FBI, which would receive a large part of this $75 million, would be cut back. The Department of Justice's Civil Division and Tax Division will be cut back. The Tax Division and the Criminal Division are following leads not only for the purpose of prosecuting those people who perpetuated fraud, but also to recover property. The tens of millions or maybe billions of dollars that could be recovered depend upon the ability of the FBI investigators and Justice Department attorneys to follow these leads. It does not make any sense to me to be cutting these funds back any more. The U.S. attorneys would also be cut back by this amendment as well as the Criminal Division. Last year we built more prisons that have to be manned now with guards. This cut would reduce the number of guards available to support those new prisons. When these prisoners get out, there is a probation service that becomes very important and that would also be cut.

This is the only appropriations bill in which we are going to deal with the S&L fraud, because the Congress, with the urging of the administration, has placed the Resolution Trust Corporation off budget. This is the place where S&L fraud is addressed on budget. The Resolution Trust Corporation can spend as much as they want and we cannot influence it. This is the only place where we will deal with the S&L fraud. It is on budget here. This amendment would cut funds for dealing with S&L fraud by $3.75 million, and that is too much.

We will come out of conference with more money than is currently in this bill. We will have to when we add in the unauthorized programs. It will be interesting to see how many Members want to cut back the bill instead of add to it by the time we are done. A lot of the Members around here wanted money for different programs, very good programs, that are in this bill. It will be interesting to see on a rollcall vote how many want to cut back and get less than what they said they wanted. Nevertheless, I just think that this is not the right amendment on this bill. I emphasize this bill is under its 302(b) allocation.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are places where the budget needs to be cut, but I ask the Members of this body, is this the place where Members want to cut? Do Members want to cut money from the prosecution of the savings and loan criminals? I say no. Do Members want to cut money from the drug war? I say no. Do Members want to cut money from the USIA that is trying to send America's message of freedom around the world? I say no. Do Members want to cut NOAA programs? I say no. Do Members want to cut the programs that the Justice Department funds? I say no. If Members want to go back home and defend themselves to those back home who are clamoring for Members to do something about the savings and loan criminals, then go ahead and vote for this bill or this amendment.

I urge the Members to be careful where they do the cutting. Now, we have already cut this bill below what the President requested. We are upward of a billion dollars less than what the administration wants in this

bill. We are below where we were last year in this bill by almost a billion dollars. We are below the 302(b) allocation, and we have already done the cutting. I think it would be very, very unwise for this body to cut on this bill those programs that right now are absolutely vital in so many areas of the work that needs to be going on.

Just last week on this bill, the Members overwhelmingly voted to increase the funding for the savings and loan prosecutions. Do Members want to go back now and say, "No, I only wanted to Indian give, so I take it back? We want to cut that spending?"

I hope that Members will not take that course. I am not going to take my full 5 minutes under this debate, and therefore I urge Members to reject the cut against the effort to prosecute the savings and loan criminals, cutting the drug war, cutting the Justice Department, cutting the Commerce Department. That means that we can sell more of our goods overseas. I urge Members to reject this amendment.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman for yielding, and I will not take a lot of the time, but I want to point out to my colleagues in the House there is plenty of room to cut from this appropriation bill, because in 1989 we appropriated for all these just causes $14.8 billion. Then by the time we got finished with 1990, 1 year later, that $14.8 billion had raised from $19.8 billion. That is an increase of about $5 billion, about 30 percent increase in spending in just 1 year, 1990 over 1989.

I am saying there is plenty of room in these areas to shave off 5 percent.

Mr. ROGERS. Mr. Chairman, reclaiming my time, Members have to remember, and the gentleman will recollect, that we increased funding for the drug war, and the gentleman voted for it, no doubt; we increased funding for the Census Bureau. We had to. I am sure the gentleman voted for that, too. Those are the things we have no choice about.

If the gentleman wants to cut the drug war, and he wants to cut the prosecution of savings and loan criminals, he will persist in this amendment.

Mr. EARLY. Mr. Chairman, I rise in opposition to the amendment.

This amendment, whether 5 percent or 2 percent or 1 percent, illustrates better than any other across-the-board cut, what is wrong with across-the-board cuts. People in this country are clamoring about the savings and loan swindle; everyone is saying the S&L fraud was the biggest swindle ever perpetuated on the U.S. people.

□ 1320

It has been suggested that, over the years, recouping from the S&L swindle will cost in excess of $500 billion. Now, as the subcommittee chairman, the gentleman from Iowa [Mr. SMITH], said—and I speak directly to the sponsor of the amendment—again, whether it is a 5-percent cut, or a 2-percent cut, this is the only vehicle to address the S&L fraud. If we really want to get the ones that stole the money, we have to have money to indict them, to try them, to incarcerate them. We have given the American public a chance, through the civil court process, to recoup the money.

This across-the-board cut really says that the S&L scandal is no different from anything else. This is the only vehicle to address the S&L fraud.

Mr. Chairman, this amendment for a 5-percent cut, at a time when everyone is clamoring for the Attorney General to do more, would cut more than 500 FBI agents. That only sends one message, and I know the sponsor does not intend that, whether it is a 5-percent cut or a 2-percent cut, and this says that the S&L swindle is no different from any other swindle.

Mr. Chairman, that is wrong. We talk about civil courts; let me state that during the hearings the distinguished gentleman from Arizona [Mr. KOLBE], a distinguished Republican Member, asked the Federal judges how much of a delay there would be in the civil trials. They suggested in the testimony that by the end of this year it is going to be up to an average of 10 months. When the gentleman from Arizona [Mr. KOLBE] pursued the subject with William Young, a Federal judge of Massachusetts, he asked him how many criminal trials are proceeding to a jury trial, and he said, "Ten percent."

This amendment wants to make that list. This amendment says we will not prosecute the S&L's, and in civil cases, as far as the number of civil cases that go to trial, it would be 2.5 percent.

Now, I am sure that the gentleman from California [Mr. DANNEMEYER] or the gentleman from Minnesota [Mr. PENNY] or anyone else does not think they should not be tried if they break the law. Let me state that these S&L's are our biggest abuse, and we should not vindicate it or whitewash it or do whatever they want. There is no other bill that will come on the floor that will address this S&L issue.

Is the S&L scandal the same as everything else? Should it be treated as the same in an across-the-board amendment? This Member, the chairman of the subcommittee, and the ranking member do not think so.

The chairman of the subcommittee, the gentleman from Iowa [Mr. SMITH], recently had a letter from Ralph Mecham, the director of the Administrative Office of the United States Courts, and, Mr. Chairman, the Members should read it. I will just quote one paragraph:

> The Committee on Criminal Law and Probation Administration of the Judicial Conference of the United States has been studying the operation of detention in the federal criminal justice system. The members, twelve federal judges and one magistrate, note that the problems of overcrowding in jails, and lack of available jail space for federal prisoners, have contributed to a crisis situation in federal courts.

The letter goes on to state what is not being done, and the impact it is having on the judiciary and Federal criminal justice system generally. And these are only a few of the problems we face. On the S&L abuse, the S&L fraud, over 200 Members have sent communications to the President, saying, "You are not doing enough." How many have said that the Attorney General is not doing enough? If there is anything that says the S&L is nothing different, it is an across-the-board cut. I do not care if it is 5 percent, 2 percent, or 1 percent, the S&L swindle is different. The Members want the abusers to be indicted, prosecuted, and incarcerated. They want to recover as much of the money as they can.

Mr. Chairman, I hope this amendment and any other amendment that protects the S&L swindle is defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 194]

Ackerman	Ballenger	Bilbray
Anderson	Barnard	Bilirakis
Andrews	Bartlett	Bliley
Annunzio	Barton	Boehlert
Anthony	Bateman	Boggs
Applegate	Bates	Bonior
Archer	Beilenson	Borski
Armey	Bennett	Bosco
Aspin	Bentley	Boucher
Atkins	Bereuter	Boxer
Baker	Berman	Brennan

Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Hansen
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Schiff
Schneider
Schroeder
Schuette
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Stokes
Studds
Stump
Swift
Synar
Tallon
Tanner
Tauke
Taylor
Thomas (GA)
Thomas (WY)
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

□ 1345

The CHAIRMAN. Four hundred one Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California [Mr. DANNEMEYER] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Members will have 5 minutes on this vote.

The vote was taken by electronic device, and there were—ayes 88, noes 323, not voting 21, as follows:

[Roll No. 195]

AYES—88

Armey
Baker
Ballenger
Bartlett
Barton
Bennett
Bentley
Bilirakis
Bliley
Bunning
Burton
Callahan
Campbell (CA)
Coble
Combest
Conyers
Cox
Crane
Dannemeyer
Dornan (CA)
Douglas
Dreier
Duncan
Erdreich
Fawell
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goss
Gradison
Hamilton
Hammerschmidt
Hancock
Hansen
Hefley
Henry
Herger
Hiler
Hopkins
Huckaby
Hunter
Ireland
Jacobs
Johnson (CT)
Kasich
Lagomarsino
Laughlin
Lewis (FL)
Madigan
McCandless
McEwen
McMillan (NC)
Michel
Miller (OH)
Moorhead
Nielson
Packard
Parker
Parris
Pashayan
Petri
Ravenel
Ridge
Roberts
Robinson
Rohrabacher
Sarpalius
Schaefer
Sensenbrenner
Sharp
Shays
Shumway
Shuster
Slaughter (VA)
Smith, Robert (NH)
Solomon
Stenholm
Stump
Tauzin
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walgren
Walker
Wylie

NOES—323

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Barnard
Bateman
Bates
Beilenson
Bereuter
Berman
Bilbray
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins
Condit
Conte
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Hyde
Inhofe
James
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Schiff
Schneider
Schroeder
Schuette
Schumer
Serrano
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOT VOTING—21

AuCoin	Manton	Schulze
Bevill	Marlenee	Sundquist
Chapman	Morrison (CT)	Thomas (CA)
Flippo	Nagle	Udall
Ford (TN)	Nelson	Whittaker
Hall (TX)	Ray	Wise
Holloway	Scheuer	Young (FL)

□ 1352

The Clerk announced the following pairs:

On this vote:

Mr. Thomas of California for, with Mr. Wise against.

Messrs. LEHMAN of California, BROOMFIELD, STEARNS, and INHOFE changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 31, insert after line 10 the following new section:

SEC. 604. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent, except that this reduction shall not apply with respect to amounts appropriated or otherwise made available by this Act for investigations, prosecutions, and civil proceedings involving financial institutions, as authorized by section 966 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

Mr. PENNY. Mr. Chairman, with my friend, the gentleman from Michigan [Mr. UPTON], I rise to offer an amendment to cut each program funded by H.R. 5021, the Commerce, Justice, State appropriation bill be 2 percent.

If adopted, this 2 percent across-the-board amendment would result in approximately $200 million in deficit reduction. While the debate over the spending levels in this bill is murky, it is apparent that once transfers from last year's transportation appropriations bill and accommodation of spending in the recently adopted supplemental spending measure are taken into account, we still have in this measure an increase of somewhere in the neighborhood of 2 percent beyond last year's actual nominal spending levels for these various programs.

I would say in deference and respect to the gentleman from Iowa, Chairman SMITH, that compared to most other appropriation bills, this bill provides for relatively modest spending level increases, and for that reason I am a bit less concerned about the prospect of this bill being approved by the House with those spending increases. But nonetheless, there are additional dollars here, and at a time that we are trying to reduce the deficit it seems prudent for us to scale back spending in each appropriation bill by at least 2 percent.

Since the committee did not provide funding for unauthorized and expiring programs, my amendment will not affect, I repeat will not affect, funding for the FBI, LSC, the INS, U.S. attorneys, the Drug Enforcement Administration, and a few other smaller programs. Though authorized, we would also exempt from this 2 percent cut all funds for the enforcement and prosecution relating to the S&L crisis. It is my understanding that with the exception of the Bureau of the Census, which naturally requires less money this year than last year, most programs within this bill are still authorized at a higher level than they were authorized in the previous year.

As I said during consideration last week of the energy and water appropriation bill, a 2-percent reduction is the least we can do. It will send the right signal to the American people of our budget resolve and our support for the negotiators who are now attempting to achieve a more far-reaching deficit reduction plan than the 2-percent amendment would achieve.

□ 1400

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, I recognize the good work of the chairman of this committee and his colleagues. However, I do not believe that we can increase spending in the double-digit range and credibly address the single issue that endangers our national economy, therefore the well-being of our Nation.

I come from Connecticut. New England's economy is under siege. We feel the shock, the pressure of rapidly reducing employment opportunities, of a constrained credit market, of reduced defense spending, and I can tell you the taxpayers in my district are rejecting with great anguish much smaller increases in education budgets affecting their own children's schools, of local town budgets. I simply cannot in good conscience support the kinds of increases that we have been considering today and last week and at the same time assure my constituents that I will deal with the one thing that threatens the quality of their lives and their economic opportunity the most, the Federal deficit.

If we are going to cut $50 billion this year, this is not a way to start that inspires the trust and confidence of the people that I represent.

So with real concern for the relationship between this part of our process and our long-term goals and responsibilities this year, I respectfully support the Penny amendment and urge my colleagues to do likewise.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, yesterday CNN kicked off an investigative series on the savings and loan scandal. They called Colorado ground zero in the scandal.

What has been the Bush administration's response to this unprecedented financial swindle, which could end up costing the taxpayers over a trillion dollars? Next to nothing.

Last year, as we all know, President Bush rejected an additional $25 million that Congress attempted to appropriate for the Justice Department to clean up the savings and loan swindle.

Now we are seeing the results of the Bush administration's passivity.

In this morning's Wall Street Journal, Robert Pence, the FBI's agent-in-charge in Denver, complained that "the Federal Bureau of Investigation doesn't have 'anywhere near the people we need to keep up'."

What is the Denver FBI office trying to keep up with? There are 30 failed financial institutions in Denver under criminal investigation. One institution alone, Silverado, stung the taxpayers for $1 billion.

In last Friday's Washington Post Pence said the FBI in Denver had 56 inactive investigations of fraud involving more than $100,000.

Even the President's own appointee in Denver, U.S. attorney Michael Norton, admitted to the Wall Street Journal, "Yes, we have a big backlog."

Nationally, the Bush administration's inaction is just as bad. The FBI asked for 425 new agents to work on some 2,300 fraud and embezzlement cases. They only gave them 202.

Meanwhile, President Bush is hiding in Washington, waving flags and organizing pep rallies at the Justice Department.

Mr. President, I'm here to tell you that it's the fourth quarter, the taxpayers are behind a trillion to nothing, and it's a little late for a pep rally.

Besides, what's the point of a pep rally when you won't send all your players out on the field?

But it gets worse. It's bad enough that President Bush is not fielding the FBI and U.S. attorney resources required to clean up the scandal. He won't use all the plays in the play book.

The Bush administration is lobbying to weaken the RICO law, one of the most effective tools government agencies and private citizens can use to go after the savings and loan swindlers.

Attorney General Dick Thornburgh, who also participated in last Friday's Justice Department pep rally, has made minimal use of the RICO law to go after the swindlers' financial assets. Now he wants to make it more difficult for private citizens and other gov-

ernment agencies like RTC and FDIC, to file RICO suits and to obtain damages.

The RICO law is the law that scores points, that recovers financial assets. Every dollar recovered under RICO is a dollar saved to the taxpayers.

Last March, the National Thrift & Mortgage News warned "changes in RICO would hobble antifraud effort. The Government will lose a major weapon to fight fraud at financial institutions if Congress approves proposed changes in the Federal racketeering law."

Earlier this year, FDIC chairman L. William Seidman, who is lobbying against weakening the RICO law, said, "The essence of RICO serves as a powerful deterrent to criminal fraud in financial institutions.* * * The best and most recent example of the use of RICO is an attempt to recover * * * losses in the action brought against various directors, officers and other interested parties of Lincoln Savings and Loan. Similar actions to recoup losses for the benefit of taxpayers could be precluded * * *" if the RICO law is weakened.

Now, what happened to Mr. Seidman? According to the New York Times, John Sununu forced him out.

Here we are in the super bowl of American scandals, the taxpayers are behind a trillion to nothing, and President Bush benched his starters, sidelined the replacements, and won't play offense.

I do not understand why President Bush is organizing pep rallies in Washington, when he has already thrown in the towel in Colorado.

Mr. McMILLAN of North Carolina. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, with all due respect to the distinguished gentleman from Iowa [Mr. SMITH], who heads the subcommittee, and the fine work that they are doing, and the preceding speaker, I think we have a problem of not being able to see the forest for the trees. This body is like a drowning man in 20 feet of water who does not have the will to come up for air and sinks further and further with each passing moment.

The latest CBO numbers, if anyone has looked at them, estimate a deficit of $159 billion in fiscal year 1990. That is not counting the funds required for the RTC bailout of the S&L's.

That is $49 billion over the Gramm-Rudman-Hollings target of $110 billion.

The CBO baseline estimate for the fiscal year 1991 deficit is $164 billion before looking at the RTC bailout numbers. That is $96 billion over the Gramm-Rudman-Hollings target for that year, next year.

The projected total outlays for next year based on existing law plus inflation is for $1,287,000,000,000.

It would require a reduction of 7.5 percent, or $96 billion, to achieve the Gramm-Rudman-Hollings deficit reduction target before RTC funding. That is 7.5 percent over projected outlays for next year to meet the Gramm-Rudman deficit reduction target without a tax increase.

The amendment offered by my colleague from Minnesota and my colleague from Michigan is a bare minimum, despite the good work of this committee that this House should do as a step toward rising up to the fresh air of a balanced budget.

This amendment may save only $200 million, peanuts when you are talking about what we really need to do. I would suggest that if you or any of you are serious about reducing this deficit and meeting the Gramm-Rudman deficit reduction target without a tax increase or even if you are willing to accept a moderate tax increase but are seriously interested in addressing the spending problem in this country, then you are compelled to support this amendment.

If you are not willing to support this kind of a reduction, then you had better be prepared to vote for something like a 10-percent tax increase, which it would take to do the same thing without the spending restraint.

So I urge my colleagues to support this amendment.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will be brief with my remarks. Some may not have heard the remarks I made on the previous amendment. The fact of the matter is we have money in this bill only for authorized programs. The funds in this bill for the authorized programs represent a net reduction of $570,791,000 below the amounts appropriated for those authorized programs in fiscal year 1990.

When you add together the discretionary new budget authority for the authorized programs in the bill and the discretionary new budget authority reserved for the unauthorized programs, we are $976,481,000 below the amounts enacted for all of those programs for fiscal year 1990.

Now with regard to the section 302(b) allocation of discretionary new budget authority for this bill, when you compare the allocation with the amounts enacted for the bill for fiscal year 1990, the 302(b) allocation is $198,698,000 below the amounts enacted for the bill for fiscal year 1990.

□ 1410

If this amendment is adopted, 25 programs would be below last year's dollar level. Not the program level, but the actual dollar level.

Now, the gentleman did exempt the $75 million we just added last Wednesday for S&L fraud, but it does not exempt other funds that are in this bill, especially for the war on drugs, but also for the S&L investigations and prosecutions. For example, there is $482 million in the bill for the U.S. Marshals Service and the support of prisoners. Those programs are obviously involved in both the S&L fraud cases and also the drug war. This amendment would cut $10 million out of those programs. Now, do Members want to cut those programs where we are annualizing what we did last year in the drug program? A vote for this amendment means Members do not want to annualize the expenses we voted for last year, that Members do not want to go ahead with the S&L investigation. We cannot investigate and prosecute S&L fraud without the Marshals Service. If we prosecute, we have to have a place to put the prisoners. If we open the prisons, we have to have guards to operate the prisons. That is what these accounts are for.

The bill contains $400 million in drug grants going to State and local governments to carry out their drug programs. We have the programs geared up; they have started. We would cut that program by $8 million with this amendment. Funding for juvenile justice programs which increased by $5 million, would be cut. These programs help teenagers picked up on the street, with no place to go, who get in some kind of trouble with drugs. This cut would deny somebody the chance to help take care of them. That is what is involved in the cuts. Federal courts—we have emergency recommendations from the court describing their dire circumstances. We have added more and more caseload onto the courts, but have not given them the additional personnel they need. This amendment would cut the Courts back by $36 million. These funds are needed if we believe in the war on drugs. Then we have programs such as weather station modernization. The Census Bureau: every Member here, I think, has written to us one way or another about the Census. They want the Census completed. They wanted the results of the 1990 census out of the State legislators on time. They want more money for the Census. What this amendment does is to cut the Census Bureau by $9 million. I hear about the sea lamprey and zebra mussel problems in the Great Lakes and they are a threat. We do not save any money by cutting the funds for research on zebra mussels, so should we cut that? Embassy security, Southwest border flood control, Small Business Administration business loans for business and minorities, the

Asia Foundation, EEOC, and NED all would be affected by this amendment. The administration has asked for a big increase for the National Endowment for Democracy. Talk about not having increases in anything, the administration wants this increase. With what is happening in Eastern Europe and what is happening in the Pacific, they need the money. The exchange programs in USIA, now is the time they need that money. Exchange programs are important.

Now, if Members want to oppose everything the administration asks for, go ahead and vote for this amendment. We have not included any more money than they asked for in hardly any program in the bill, and some they have already cut. If we want to cut them more, I cannot see how the administration would be very happy.

On the other hand, dozens of Members of the House have written to Members and presented good arguments in favor of some programs. We have squeezed around and made room for many of these programs, and have still stayed within our 302(b) allocations. If Members want to cut those things, go ahead and do it. It would be interesting to have a rollcall as we just did to determine who it is that wants to cut back on the things they have already asked for. I say vote against this amendment.

Mr. UPTON. Mr. Chairman, I move to strike the last word.

My good friend, the gentleman from Minnesota [Mr. PENNY] likes to describe this amendment as providing earnest money toward the budget summit. I would like to put the emphasis on "earnest." We in Congress, indeed, must get serious about the deficit. We are not serious when we use gimmicks to make the deficit seem smaller, and we are not serious when we move ahead in adopting spending bills without authorization behind them. We are not serious when we all admit that the deficit must come down by at least $50 billion this year, and yet we keep increasing spending.

How much does this bill raise? Well, let Members take a close look at some of those numbers. In the Commerce Department, the only authorized program that would have reduced spending in this bill is the Census Bureau. That is not because the committee really tried to save any money, it is because the Census is over, and there is nothing to spend the money on, 1991. All the other authorized programs in Commerce increased, some by more than 20 percent. Surely we can do better at saving money here. In the judiciary, the only savings that I can identify is a $1.4 million reduction in judicial retirement fund. All other programs increased, and the total increase is 15.8 percent. We can do better. The Department of Justice has a 40.9-percent increase. I fully endorse providing the Justice Department with the resources needed to do its work, particularly with the S&L which is one of the reasons that the gentleman from Minnesota exempted that department or that category. But can we really justify that large an increase when we are facing a deficit crisis?

When we do these kinds of things, how can we expect the American people to take Congress seriously in its efforts to reduce the deficit. Surely we can reduce the spending in this bill by 2 percent. It is, as my friend the gentleman from Minnesota says, a modest but earnest amount. It is a figure that will say to our constituents and to all persons and to the budget summiteers that we are, indeed, serious about reducing the deficit. I do not want to see taxes raised. A 2-percent reduction exempting S&L is the best that we can do, and the least that we can do.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

I hope not to take the full time, but let me say this. I will be voting for some of these 2-percent cuts, on some of the bills where it is over last year's amount, or where it is over the President's request. Neither one of those apply to this bill.

This subcommittee has already cut enough from this bill to where we cut the President's request. We are below what the President requested. We are below what last year's spending level was. We are below the Congressional Budget Office numbers, the CBO baseline. We are below all of those, even on the amounts that are appropriated in the bill.

Now, Members are going to get their chance later this year to make a great big killing in all the bills when the Senate conference comes back with a big "whack" and Members will have a lot of funds if they like cuts later this year. But please do not cut the work of a subcommittee who has already done the cutting. Frankly, cutting on things that I would not like to cut anyway—the Justice Department, the war on drugs, and the savings and loan prosecutions, and the Commerce Department, that tries to sell American goods overseas. Please do not cut this bill. There will be plenty of opportunities later on.

Now, as the chairman has indicated, to the extent that the Marshal Service is involved in the savings and loan prosecution effort, we are cutting the savings and loan prosecutions here. Make no mistake about it, if Members want to go back home and defend themselves on it, go ahead and cut this amount of money from the prosecution of savings and loan criminals. No 2, if Members want to go home and defend themselves on cutting moneys from the drug war, vote for this amendment, because that is precisely what Members are doing. Members are cutting $8 million from where the money needs to go, and that is to the local communities, to your police force, and to your sheriff's departments. These State and local drug grants will cut $8 million by this amendment. So Members are cutting the drug war. Members are cutting international trade promotion because the International Trade Administration, carrying America's trade war overseas, will be cut by this amendment. Members will be cutting weather service, cutting the U.S. Information Agency, sending America's message of freedom around the world.

We will have a chance to vote for cuts later on. Please do not cut the programs that mean so much to Members and their constituents in America at this moment.

□ 1420

Mr. THOMAS of Wyoming. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment.

I will speak very briefly, and I do not rise to talk about the details but only to suggest, as do other Members, that I go home every weekend and I talk to people about spending, and they say that we need to be responsible, they say we need to slow down our spending, and they say we need to cut our spending.

We find ourselves here surrounded by agencies that, of course, never have enough money and never will. But our job is that of selecting alternatives. There is not one of us in our families or in our businesses who cannot adjust to a 2-percent cut.

Mr. Chairman, I commend this amendment to my colleagues, and I support it strongly.

Mr. BALLENGER. Mr. Chairman, I rise today in strong support of the amendment of my good friends and colleagues, Mr. UPTON and Mr. PENNY. The amendment would make a 2 percent across-the-board cut in the discretionary accounts in the Commerce-State-Justice appropriations bill (H.R. 5021).

With more than a $160 billion Federal budget deficit for this fiscal year, we in Congress should relish the opportunity to trim these spending bills in a fair and prudent manner. The 2-percent cut would achieve savings of approximately $200 million. While this may seem like peanuts compared to the billions of dollars appropriated every year, it is one step in the right direction.

Remember that we have to be held accountable for our actions. And quite frankly, I do not want to be left carrying the water for all the spendaholics who refuse to face the cold hard facts that the House overspends. Every appropriation bill can stand this modest cut.

It's time to put up or shut up.

I urge my colleagues to vote for the Penny-Upton amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991".

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MCCURDY] having assumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROGERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—ayes 358, nays 55, not voting 19, as follows:

[Roll No. 196]

YEAS—358

Ackerman	Baker	Bliley
Alexander	Ballenger	Boehlert
Anderson	Bateman	Boggs
Andrews	Bates	Bonior
Annunzio	Beilenson	Borski
Anthony	Bennett	Bosco
Applegate	Bereuter	Boucher
Archer	Berman	Boxer
Aspin	Bilbray	Brennan
Atkins	Bilirakis	Brooks
Broomfield	Hayes (IL)	Myers
Browder	Hayes (LA)	Nagle
Brown (CA)	Hefley	Natcher
Brown (CO)	Hefner	Neal (MA)
Bruce	Hertel	Neal (NC)
Bryant	Hiler	Nowak
Buechner	Hoagland	Oakar
Bustamante	Hochbrueckner	Oberstar
Byron	Holloway	Obey
Campbell (CO)	Hopkins	Olin
Cardin	Horton	Ortiz
Carper	Houghton	Owens (NY)
Carr	Hoyer	Owens (UT)
Chandler	Hubbard	Oxley
Chapman	Huckaby	Pallone
Clarke	Hughes	Panetta
Clay	Hunter	Parker
Clement	Hutto	Parris
Clinger	Hyde	Patterson
Coleman (MO)	Inhofe	Paxon
Coleman (TX)	Ireland	Payne (NJ)
Collins	James	Payne (VA)
Condit	Jenkins	Pease
Conte	Johnson (SD)	Pelosi
Cooper	Johnston	Penny
Costello	Jones (GA)	Perkins
Coughlin	Jones (NC)	Petri
Courter	Jontz	Pickle
Coyne	Kanjorski	Porter
Craig	Kaptur	Poshard
Crockett	Kasich	Price
Darden	Kastenmeier	Quillen
Davis	Kennedy	Rahall
de la Garza	Kennelly	Rangel
DeFazio	Kildee	Ravenel
DeLay	Kleczka	Regula
Dellums	Kolbe	Rhodes
Derrick	Kolter	Richardson
DeWine	Kostmayer	Rinaldo
Dickinson	Kyl	Ritter
Dicks	LaFalce	Robinson
Dingell	Lagomarsino	Roe
Dixon	Lancaster	Rogers
Donnelly	Lantos	Ros-Lehtinen
Dorgan (ND)	Laughlin	Rose
Dornan (CA)	Leach (IA)	Rostenkowski
Downey	Leath (TX)	Roth
Dreier	Lehman (CA)	Roukema
Durbin	Lehman (FL)	Rowland (CT)
Dwyer	Levin (MI)	Rowland (GA)
Dymally	Levine (CA)	Roybal
Dyson	Lewis (CA)	Russo
Early	Lewis (FL)	Sabo
Eckart	Lewis (GA)	Saiki
Edwards (CA)	Lightfoot	Sangmeister
Edwards (OK)	Lipinski	Sarpalius
Emerson	Livingston	Savage
Engel	Lloyd	Sawyer
English	Long	Saxton
Erdreich	Lowery (CA)	Schaefer
Espy	Lowey (NY)	Schiff
Evans	Machtley	Schneider
Fascell	Madigan	Schroeder
Fazio	Manton	Schuette
Feighan	Markey	Schumer
Fish	Martin (IL)	Sharp
Flake	Martin (NY)	Shaw
Foglietta	Martinez	Sikorski
Frank	Matsui	Sisisky
Frost	Mavroules	Skaggs
Gallegly	Mazzoli	Skeen
Gallo	McCloskey	Skelton
Gaydos	McCollum	Slattery
Gejdenson	McCrery	Slaughter (NY)
Gephardt	McCurdy	Smith (FL)
Geren	McDade	Smith (IA)
Gibbons	McDermott	Smith (NE)
Gillmor	McGrath	Smith (NJ)
Gilman	McHugh	Smith (TX)
Glickman	McMillen (MD)	Smith (VT)
Gonzalez	McNulty	Smith, Denny (OR)
Goodling	Meyers	Smith, Robert (OR)
Gordon	Mfume	Snowe
Grandy	Miller (CA)	Solarz
Grant	Miller (OH)	Spence
Gray	Miller (WA)	Spratt
Green	Mineta	Staggers
Guarini	Moakley	Stallings
Gunderson	Molinari	Stangeland
Hall (OH)	Mollohan	Stark
Hamilton	Montgomery	Stearns
Hammerschmidt	Moody	Stenholm
Harris	Morella	Stokes
Hastert	Morrison (WA)	Studds
Hatcher	Mrazek	Swift
Hawkins	Murtha	Synar
		Tallon
		Tanner
		Tauke
		Tauzin
		Taylor
		Thomas (GA)
		Thomas (WY)
		Torres
		Torricelli
		Towns
		Traficant
		Traxler
		Udall
		Unsoeld
		Upton
		Valentine
		Vander Jagt
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walgren
		Walsh
		Watkins
		Waxman
		Weber
		Weiss
		Weldon
		Wheat
		Whitten
		Williams
		Wilson
		Wolf
		Wolpe
		Wyden
		Wylie
		Yates
		Yatron
		Young (AK)
		Young (FL)

NAYS—55

Armey	Frenzel	Murphy
Bartlett	Gekas	Nielson
Barton	Gingrich	Packard
Bentley	Goss	Pashayan
Bunning	Gradison	Pickett
Burton	Hancock	Pursell
Callahan	Hansen	Roberts
Campbell (CA)	Henry	Rohrabacher
Coble	Herger	Sensenbrenner
Combest	Jacobs	Shays
Conyers	Johnson (CT)	Shumway
Cox	Lent	Shuster
Crane	Luken, Thomas	Slaughter (VA)
Dannemeyer	Lukens, Donald	Smith, Robert (NH)
Douglas	McCandless	Solomon
Duncan	McEwen	Stump
Fawell	McMillan (NC)	Walker
Fields	Michel	
Ford (TN)	Moorhead	

NOT VOTING—19

AuCoin	Morrison (CT)	Sundquist
Barnard	Nelson	Thomas (CA)
Bevill	Ray	Washington
Flippo	Ridge	Whittaker
Ford (MI)	Scheuer	Wise
Hall (TX)	Schulze	
Marlenee	Serrano	

□ 1442

The Clerk announced the following pair:

On this vote:

Mr. Barnard for, with Mr. Thomas of California against.

Mrs. JOHNSON of Connecticut and Mr. SHAYS changed their vote from "yea" to "nay.".

Messrs. GIBBONS, HASTERT, ROTH, and APPLEGATE changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT DURING 5-MINUTE RULE TODAY

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have permission to sit during the 5-minute rule today for the purpose of marking up H.R. 5153.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Texas?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

NIOBRARA SCENIC RIVER DESIGNATION ACT OF 1990

The SPEAKER pro tempore. Pursuant to House Resolution 410 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 280.

□ 1445

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 280) to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System with Mr. ERDREICH in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the Senate bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 1 hour.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

□ 1450

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, S. 280, which unanimously passed the Senate in November 1989 was one of four legislative proposals in this Congress that have been submitted with regards to the Niobrara River in the State of Nebraska. As reported by the Committee on Interior and Insular Affairs, S. 280, as amended, designates a 76-mile segment and a 25-mile segment of the Niobrara River and a 39-mile segment of the Missouri River as components of the National Wild and Scenic Rivers System. The bill also authorizes a national recreational area study and a national park study of certain lands in the State of Nebraska.

While S. 280 is a comprehensive measure dealing with several important natural resource issues in the State of Nebraska, the controversy that has been primarily generated with the proposed legislative designation of 76 miles of the Niobrara River as a national scenic river. Strong public feelings and views, both pro and con, have been attendant with the proposal and the Interior Committee received considerable public input on this matter in hearings I chaired here in Washington, DC and in Nebraska.

Unfortunately, needless worry and fear has been generated with this proposal. I have encouraged participants to keep this matter in perspective and separate the fiction from the fact and fear from reality. It has not been easy to do with the volume of conflicting voices that have weighed in.

Designation of the Niobrara River was not a step taken lightly by the committee. The Niobrara is an important national resource. It has the support of Nebraska's two Senators and two of the three House Members from the State on a bipartisan basis. We received petitions signed by over 20,000 Nebraskans supporting designation and a poll done by the State's largest newspaper found 74 percent in favor of designation of the Niobrara as a scenic river. Local landowners initiated this legislation and the Senate sponsor, Senator EXON, put it in at their request. The Nebraska Game and Parks Commission is on record endorsing scenic river designation of the Niobrara as well as numerous groups in the State. Major national conservation organizations, with a combined membership of nearly 8 million people support scenic designation of the Niobrara River.

This outpouring of support reflects just what a national treasure the Niobrara River is. The scenic and recreational designation of the river has been sought since the Basic Wild and Scenic River Act was written.

The 1982 nationwide rivers inventory, prepared by the National Park Service, found significant portions of the Niobrara River including those designated by S. 280 to contain outstandingly remarkable scenic, recreational, geological, fishery, wildlife, historical and cultural values. Several distinct ecosystems converge within the river valley and it provides important habitat for endangered bald eagles, whooping cranes and sandhill cranes. Because of its ecological diversity and migratory habitat, the Niobrara River valley is noted as one of the biological crossroads of North America, the place where east meets west. The joining of Rocky Mountains and the Great Plains. It is a very special national resource. While enjoying its scenic and natural wonders, thousands of Nebraskans and others annually make use of the superb recreational values of the river, including its excellent canoeing.

But lest you make a mistake, the Niobrara River today is vulnerable to adverse development and degradation of its splendid resource values. Congress, in 1982, took the extraordinary step of defeating the Nordem Dam project, which would have been an environmental disaster for the Niobrara River and a financial disaster for U.S. taxpayers. But many opponents of S. 280 still harbor notions of damming the river and flooding significant portions of the river valley. Apparently some bad ideas die hard, Mr. Chairman.

The Nebraska Natural Resources Commission noted in their 1986 study of the Niobrara that State law is lacking in the basic governmental structure and direction to apply management tools toward the goal of river preservation. Further, none of the 4 affected counties having zoning and county officials have testified they see no need nor do they have any intention to develop zoning in their counties. Only in the last 2 months has an attempt at a local plan for the Niobrara River been initiated. This proposal, which is of dubious legal authority, is too little and too late and should be seen for what it really is—an excuse to ward off the national scenic and recreational river designations and obviously, not a good faith effort to protect the river but an excuse to oppose this legislation! In the absence of effective long-term management the Niobrara remains vulnerable. In 1982, Congress had to act once on an emergency basis and mustered the votes to stop the destruction of this river. How many times will we be challenged before action is taken; before the issue falls between the cracks and this pristine Niobrara River resource is lost forever?

The heart of this matter boils down to a choice: Do we designate the Niobrara River or should we direct yet more study? Contrary to the assertion of opponents, a formal wild and scenic river study is not a prerequisite for designation. In all the testimony presented no one has said that the Niobrara is not a significant riverine resource. On the contrary, all parties have extolled its natural, recreational and scenic qualities, the very qualities for which we designate components of the wild and scenic rivers system. Another study cannot add to that simple fact. I thought it was telling that when opponents were asked if another study recommended designation whether they would then support such action they said no. With such a position a study will not be used to enlighten, rather it appears that for opponents of designation its purpose is to delay and defeat. No one is suggesting that national designation overrun the local community. The Wild and Scenic Rivers Act goes to great lengths to preserve and enhance the river in a nonconfrontational manner.

Proponents have been accused of moving too fast on designation. Nothing could be farther from the truth. Many have been waiting fully 25 years since the Niobrara was first proposed. Local landowners who initiated legislation have been waiting for a decade and formal legislation to designate the

Niobrara has been before the Congress since 1985. The time has come to make a decision and I believe that decision should be scenic river designation for the Niobrara today.

It is unfortunate that controversy on 76 miles of the Niobrara has overshadowed the other valuable components of S. 280. This legislation is a significant natural resource initiative that is responsive to the local as well as the national interest in these matters. It represents the work of many at the local, State and national levels who care about the nationally significant resources found in the State of Nebraska.

I want to note the work of my colleague, PETER HOAGLAND a new Member of Congress from Nebraska, who has been a tireless advocate of sound natural resource policy. Congressman HOAGLAND has demonstrated a willingness to take on tough resource issues and see them through. I would also note that this bill reflects the work of Representative DOUG BEREUTER who is no stranger to this matter having warded off the Nordem Dam Water Project, and finally, Senator J. EXON who is the principal architect of the heart of this river designation measure, enlisting Senator KERRY they represent all Nebraskans in the Congress. Senator EXON truly reflects the strong support and willingness to act, designating this magnificant Niobrara River as a scenic and recreational resource for all Americans.

Mr. Chairman, I support S. 280, as amended, and urge its adoption by the House.

Mr. Chairman, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong opposition to S. 280. This is a bill which would provide for the instant designation of a portion of the Niobrara River as a unit of the Nation's wild and scenic river system.

The rivers of this country are truly one of our greatest natural resources. I am pleased to be able to participate in the protection of these rivers by serving on the subcommittee which is charged with implementing the Wild and Scenic River Act of 1968. That law was enacted to protect these precious river resources. In the 22 years since passage of that act, it has been very successful in protecting critical values of rivers throughout the country. Many scenic areas, important wildlife resources, and needed recreational boating opportunities have been spared from the permanent alteration which would have resulted from dam construction. I have proposed designation of several river segments in my own district because I believe they would benefit by being named as units of this system.

However, in recognizing the success of this program, I would surely not advocate that the identical formula should be applied to every single eligible river segment in the country. In the case of the 76-mile segment of the Niobrara River, all located in Mrs. SMITH's district, proponents have yet to advance a single solid reason why this river segment should be added to the system at this time.

This river segment is not threatened by dam construction or development along its banks. In fact, the 4 counties along the river have lost 35 percent of their population in the last 50 years. According to the Nebraska director of natural resources, the values of this river which make it eligible for consideration are currently in better condition today than they were 50 years ago. The local people are in the process of developing a plan to ensure that the resources of this river are protected into the future. In short, there appears to be no reason to reward the local people who have taken such good care of the river resources by removing it from their control.

As we look back at the suitability studies conducted by the various land management agencies over the years, we find that roughly half of the rivers studied under section 4(a) of the act were recommended by the administration for designation. Reasons for nondesignation were many; not the least of which was that the rivers could be better protected by entities other than the Federal Government. In fact, when the GAO reviewed those undesignated rivers in 1986, they found that they retained their original resource values.

In the Niobrara situation, we find strong sentiment in the local area and throughout the State in opposition to a Federal designation of the river. At the same time, we find a majority of Nebraskans favor protecting the important values of the river. This is a situation which will be fully addressed by the amendment that will be offered by the gentlewoman who represents western Nebraska, Mrs. Smith. In her bill, detailed studies for protection of river values would precede any designation. This is exactly what Federal agencies and conservation groups have recommended for rivers with similar amounts of privately owned shoreline in other States.

The solution proposed to this dilemma by proponents of this bill is to instantly designate this river as a component of the Wild and Scenic Rivers System under control of the Federal Government. Such an instant designation of a river segment with substantial private interests is without precedence in the 16 years that I have been serving on the Parks Subcommittee. Because this approach is so likely to cause adverse public reaction and make future management of this river segment extremely difficult, the National Park Service, which would be charged with administering this river, is adamantly opposed to it. In fact, I believe that such an approach will do much to undermine the credibility and future success of the wild and scenic river program on a nationwide basis.

The National Park Service has determined that 61,700 river miles in 1,524 segments are eligible for designation under the act. If Congress tries to protect all of these river segments by forcing every single river segment into the framework established by this act we will build a house of cards that will surely fall. Therefore, I urge my colleagues to use the designation process under the act judiciously and vote against designating the Niobrara as a component of the Wild and Scenic Rivers System. This is the best course of action for the National Wild and Scenic Rivers System and this is the best course of action for the Niobrara River.

Mr. LIGHTFOOT. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I am happy to yield to the gentleman from Iowa.

Mr. LIGHTFOOT. Mr. Chairman, I rise in opposition to efforts to add the Niobrara River to the Wild and Scenic Rivers System at this time. My opposition is due to several reasons. First, nobody disputes that the Niobrara River and the surrounding region are rich in beauty and resources. However, I have not seen any irrefutable evidence that the Niobrara is facing imminent and grave danger. Also, the people of the region have spoken in large numbers about their opposition to the wild and scenic designation. I have in my office literally hundreds of letters from people in Nebraska who are opposed to the action prescribed in S. 280. I attended both the hearing conducted in Ainsworth, NE, and the one conducted here in Washington by the National Parks and Public Lands Subcommittee on this issue. On both occasions, I was impressed by the strength of the opposition to the scenic designation.

There are many organizations and agencies such as the National Park Service, Office of Management and Budget, the National Cattlemen, the National Water Resources Association, and the American Farm Bureau who are on record as opposing this legislation. In addition, the Department of the Interior has stated that every other river in the Wild and Scenic Rivers Systems has undergone some kind of in-depth study. The Department goes on to state that no such in-depth information on the Niobrara exists.

Finally, the alternative to S. 280, which my colleague VIRGINIA SMITH has sponsored, calls for a 30-month study of the Niobrara before any des-

ignation takes place. Congresswoman SMITH's alternative allows the National Park Service to determine with this information in hand, to determine what is in the best interests of the Niobrara. This, to me, seems a reasonable alternative to legislation which I believe is ill-conceived, vehemently opposed by the people who will be directly affected by it, and takes an unjustifiably unusual action. For these reasons, I urge the defeat of S. 280.

Mr. LAGOMARSINO. Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 7 minutes to the gentleman from Nebraska [Mr. HOAGLAND], a sponsor of the measure in the House.

□ 1500

Mr. HOAGLAND. Mr. Chairman, we are here today to debate a bill that comes to us from the U.S. Senate where this bill originated, where it was passed last fall by voice vote, and where it had come out of committee unanimously.

This is a bill to protect a beautiful national treasure in my State of Nebraska. It has bipartisan support here in the House of Representatives, and it should be a noncontroversial bill.

The main thrust of the bill is to protect 76 miles of the Niobrara River in north central Nebraska as a scenic river, to make it part of the Wild and Scenic Rivers System, which is a tremendous and valuable designation for the State of Nebraska if we can get this done. Nebraska has never before had that privilege.

It also designates stretches of the Niobrara and Missouri Rivers as recreational rivers, and authorizes a study of a Buffalo Prairie National Park proposal.

The Niobrara River has been called by biologists and others as the biological crossroads of America. I am not a biologist nor a scientist. I am not a schoolteacher. I do not know a whole lot about these things, but I think it is worth taking a little bit of time to point out some of the unique ecological features of this area.

In that connection we have had this chart prepared to enable Members to see exactly what we are talking about. What I would like to do is refer to this chart and try to describe why this is such a unique area. Please bear with me, because I do not have a whole lot of scientific grounding in this area, but I would like to point out a few things.

We see here a cross-section of the Niobrara River Valley. This is the north side of the cross-section of the valley. This is the south side over here.

What we see is eastern and western woodlands overlapping. We see here on the north side of the valley a Ponderosa pine forest that extends on down from the Black Hills of South Dakota. We are told by the scientists and the biologists, and so forth, that this is one of the furthest extensions of this range of Ponderosa woodlands.

On the south side of the river we have Sand Hills Prairie over here. You can see there is Sand Hills brush and Sand Hills vegatation on top of the sand dunes that compose the great Sands Hills of Nebraska. We have the Sand Hills Prairie again at the extension of the range south of the river.

As a result of that, we have plant and wildlife and animals from all of these various ecological areas that are coming together in the Niobrara River Valley.

Just a few years ago a scientist, John Farrar, wrote in Arbor Day Magazine that nowhere else do eastern and western woodlands overlap so dramatically.

On the east side of the river we have deciduous forests, as I indicated earlier, of slippery elm and ash and linden and ironwood, along with honeysuckle and black walnut, kinds of trees and vegetation that extend across our arid Great Plains in Nebraska to the south, to the east, and to the west.

On the other hand, north of the river we have these Ponderosa forests that I talked about, with all of the accompanying bird life and wildlife and plant life that is characteristic of that forest.

We also have a situation where there are a lot of endangered species that are found along this river valley. Those include the whooping crane, bald eagles winter here. The river provides nesting habitat for the endangered interior least tern and the federally threatened piping plover. So it is a uniquely diverse ecological area, again with forms of vegetation, with forms of animal life, with forest that are right up at the edge and the fringe of their ecological area.

The Niobrara River also has a unique place in the history of Nebraska. William Clark wrote about this river during his 1804 Lewis and Clark Expedition, and that great American author, Marie Sandoz, grew up along the Niobrara and describes it in her novels.

Thousands of Nebraskans, indeed thousands of Americans, recognize the Niobrara as a unique and beautiful national treasure.

Canoers, campers, hikers, fishermen, fisherwomen alike, flock to north central Nebraska every year to enjoy this magnificent resource.

According to Backpacker magazine, it is 1 of the 10 best canoeing rivers in the country. Outside magazine lists the Niobrara as one of the nationwide special camping areas. So this really is a remarkable river, an area that needs to be preserved for Nebraskans, for Americans, and for future generations.

When we debated this bill earlier on the floor of the House, during a debate on the rule, I pointed out at length at that time about how this proposal to designate the Niobrara came from landowners along the Niobrara, that they generated that proposal themselves in 1980, that they worked with a lot of their fellow landowners, that they went to Senator EXON in the spring of 1985, and that this indeed is a proposal that comes from the people and from the landowners along the river itself.

S. 280 that we are debating today, as introduced in the Senate and passed by the Senate Committee on Energy and Natural Resources unanimously, and in a voice vote in the Senate last year, is a bill that will protect the Niobrara, and that protection today is in our hands. It is in our hands here in the House of Representatives.

Mr. Chairman, I would implore Members on both sides of the aisle not to let down those local residents, those Nebraskans everywhere who have asked us to preserve this very special and very precious piece of America.

Mr. LAGOMARSINO. Mr. Chairman, I yield 13½ minutes to the gentlewoman from Nebraska [Mrs. SMITH], in whose district this river lies.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise today to tell my colleagues about a beautiful and valuable river that flows through northern Nebraska. But because I want as much as anyone to preserve and protect this natural resource in the best possible manner, I rise in opposition to the bill before us, S. 280, which would immediately designate, contrary to present law, 76 miles of the Niobrara River in the heart of my congressional district as a scenic river.

This is a bad bill, an irresponsible and dangerous bill and would cause an unprecedented break from past practices.

Do I stand alone in opposing this legislation as I will be accused of during this debate. No, I do not.

Nebraska Gov. Kay Orr, Secretary of the Interior Manuel Lujan, the Office of Management and Budget, the National Park Service, the American Farm Bureau Federation, the National Cattleman's Association, the National Water Resources Association, and the majority—an overwhelming majority—of Nebraskans join me in strongly urging the House to oppose S. 280 as reported by the House Interior Committee.

Also, our former Nebraska Congressman Hal Daub, now candidate for the U.S. Senate, the Democrat candidate for my seat in the House, and speaker of the unicameral Bill Barrett—the Republican candidate for my seat—oppose S. 280.

In a June 8, 1990, letter, the Democrat nominee for my seat, State Senator Sandra Scofield, said:

I have not supported Federal legislation given my preference for local control and because I share concerns about easements, water rights, and the future management of any land that might fall under Federal designation.

The bill we have before us today is a bad bill that would set bad policy if enacted. This is not just another simple scenic river designation. Because the land along the Niobrara River is extensively privately owned, this is a precedent-setting piece of legislation.

S. 280 is being driven by bad politics and misguided, misinformed good intentions that are simply steamrolling over reason, logic, and the citizens of Nebraska's Third District. And for no reason.

The Niobrara is not threatened by any immediate or near-term development or other adverse uses. We have plenty of time to do this the right way. We have plenty of time to put in place the most logical and environmentally sound protection plan for the Niobrara River.

The solution is the amendment I will offer in the nature of a substitute at the appropriate time. My amendment easily fixes S. 280.

My amendment would simply conform this bill with the rules established by Congress in the Wild and Scenic Rivers Act of 1968. I propose that the entire 253-mile length of the Niobrara River listed by the National Park Service in its river inventory as potentially suitable for designation be studied, in depth, and a management plan be developed by the professionals, with local and State input, before Federal designation.

I look forward to the full and open debate we are going to have on this bill today. And I thank Chairman VENTO for agreeing to bring the bill up under an open rule and at a time when our colleagues are here and ready to listen and consider the facts of the issue.

On the other hand, I know that this will not be the most pleasant debate of my 16 years in this House. as I have been in "Dear Colleague" letters, in position papers of certain organizations, and in press statements, I expect to be accused of vindictiveness, of being out of touch and out of step on this issue, and of being unwittingly used to promote a hidden agenda for building a long-ago abandoned dam.

Well, bunk.

I am in the well today representing my constituents, representing the overwhelming majority of all Nebraskans. And I am here to set the record straight on this issue with the indisputable facts.

First, my Nebraska colleagues and other misguided proponents of S. 280 are fond of continually telling you that there is overwhelming support in Nebraska for immediate scenic designation of the Niobrara River. Time and time again they have cited for you an Omaha World Herald poll.

But their poll is outdated. And it is their position that is out of touch with the majority of Nebraskans.

I call to your attention the information on the poster I have here with me. This summarizes the results of a statewide poll of Nebraska voters conducted June 11 and 12, 1990.

Please take note; 78 percent of Nebraskans said they support putting management and preservation of the Niobrara River under local and State control, not Federal.

Asked to choose between instant scenic designation as proposed in S. 280 and the study, as I propose in my amendment, prior to any Federal designation, 63 percent were in favor of first studying the river.

I simply will not let anyone dismiss this poll as biased and invalid and allow them to continue to cite a 15-month-old poll.

This new poll was conducted by a nationally recognized and respected firm, the Wirthlin Group—former President Reagan's pollster. The questions were straightforward and were carefully drafted to give those polled the same choices the House has before it today.

This new poll reflects the current status of this issue in Congress and back home in Nebraska. The old newspaper poll was conducted in March 1989—before the Senate committee hearings on the bill, before Senate passage of S. 280, before the committee field hearing, and before the House committee hearing and markup.

It has been more than a year since that poll, and Nebraskans have had this issue debated in the press, in campaigns, in the papers, on TV, and they have opinions now. They want to know the details and impact of scenic designation before we dive into it and invite the Federal Government to manage private property.

It is worth repeating, and I hope my Nebraska colleagues are listening carefully. Sixty-three percent in a statewide poll of 500 Nebraskans, divided equally between the three congressional districts, preferred my study proposal.

During debate on the rule for this bill my distinguished colleague from Nebraska read for the House a long chronology of the Niobrara River debate in Nebraska. He is likely to repeat that litany today. I will take this opportunity now to thank him for that bit of history.

But I say to my colleague, this is now. Nebraskans understand the issue as it stands today and the consequences for tomorrow should S. 280 be enacted without my amendment. They understand the choices before us now. And they have said no to S. 280 no matter what was suggested, offered, or discussed 15 or 20 years ago.

I think most of my colleagues on the other side of the aisle will agree that just because we have been discussing and debating the MX missile for about the same length of time is no reason to move forward with it. An issue's longevity argues neither pro or con.

Before leaving the subject of Nebraskans' position about managing and protecting the Niobrara River—and before a colleague from more than 300 miles away from his district tries to speak for my constituents—let me tell you that there is virtually no local support for immediate designation of the Niobrara.

Not one elected official in the area supports S. 280. Now, 39 recognized organizations including every chamber of commerce, every city council, and every natural resource district in the area have adopted formal positions in opposition to immediate designation as proposed in S. 280.

In addition, chambers of commerce, veterans organizations, and other groups from outside of the affected area have also adopted resolutions opposed to immediate designation.

With this united show of opposition to immediate designation, you may have seen a letter signed by 16 supposed landowners in the area, who supposedly collectively own 55 miles of the river we are discussing today. This is not the case.

With this letter inserted into the CONGRESSIONAL RECORD discredited, proponents of immediate designation may read you an editorial from a paper located nearly 300 miles away from the area.

This editorial and its attack on me and the recent poll conducted by the Wirthlin Group does not surprise me. The Omaha newspaper has been one of the most outspoken proponents of immediate scenic designation. And since the new poll invalidates the newspaper's own 15-month-old poll, and points out that the paper has failed to keep in touch on the current status of this issue in the State, of course the paper wants to discredit it.

There are several problems with this editorial. First, it charges me and others with fighting Federal scenic rivers protection for parts of the Niobrara River.

That is simply wrong. As too many people are doing, the editorial misses the point of this debate. It is not whether we want to protect and preserve the river; it is whether we should do it according to law and in a manner that produces that most logical and environmentally sound management plan.

The editorial goes on to challenge the fairness and validity of Wirthlin's poll's questions. This is a nationally recognized and respected polling firm. I will put this poll up against any. I simply will not allow anyone to just

dismiss the results because they do not like the numbers. The fact is the Wirthlin poll asked straightforward questions that were carefully drafted and gave those polled the same choices about the river that the House has before it.

Sixty-three percent of those polled support my study amendment, and I am sure that my proposal will be attacked again and again today because, you will be told, the Niobrara River has already been studied relevant to scenic river designation. Again, you are being misled.

Proponents try to argue their position on the fact that when Senator Frank Church introduced the concept of wild and scenic rivers in 1968, the Niobrara was on his list. Indeed it was, but to be studied—I repeat on a list to be studied—and it was a segment of the river upstream of that stretch named in S. 280.

Also, proponents spuriously cite as a study a 1971 report by the Nebraska Soil and Water Conservation Commission—when in fact it just recommended the Niobrara should be subjected to a formal National Park Service study as a potential wild and scenic river.

In a cursory 1982 investigation for its nationwide rivers inventory, the National Park Service identified 253 miles of the Niobrara as having outstanding natural values. This is the mileage figure used in my amendment. The 76-mile stretch named in S. 280 was arbitrarily selected.

In 1986, the Nebraska Natural Resources Commission did a report—in no way a study as proponents are likely to tell you—that included a brief overview of the law and an inconclusive landowner opinion poll.

So let's get to the bottom line here—there has been no comprehensive study of the Niobrara.

Let me quote a June 5, 1990, letter from Connie Harriman, Assistant Secretary of Fish and Wildlife:

> Out of 108 rivers designated by Congress since 1968 as components of the National Wild and Scenic Rivers System, none has been designated without some form of study by the National Park Service, Forest Service, Bureau of Land Management, or other agency. The Niobrara has had no formal study whatsoever.

I will quote Secretary of the Interior Manual Lujan who says:

> We strongly oppose enactment of S. 280 * * * The President has stated his firm belief that, to protect the integrity and viability of the park system, a new area study should be a prerequisite for the establishment of any new unit of the National Park System. Unless S. 280 is amended—as specified in your amendment—to provide for a study of possible future designation of the Niobrara as part of the National Wild and Scenic River system, I will recommend that the President veto the bill.

Let me quote the National Park Service in April 5, 1989, Senate testimony:

> We recommend that Congress follow the practice established under the Wild and Scenic Rivers Act and provide for a study of the river to determine its suitability for addition to the National Wild and Scenic Rivers System. We cannot support the bill, S. 280, in its present form.

Without first requiring a study before designation, S. 280 flies in the face of the law. Further, immediate designation would penalize these citizens for being proper, conscientious, and effective stewards of the river by removing it from their control. In fact, the director of the Nebraska Natural Resources Commission was in Washington earlier this year and told the Nebraska delegation that the Niobrara River is in better shape now, its resources better protected, than it was 50 years ago.

Even so, proponents of S. 280 will come to the floor today to tell you that, while the local people have now drafted a formal local protection plan, to back up their love and stewardship of the area, they have waited until the 11th hour to formulate that plan.

Faced with being steamrolled with legislation that ignores their concerns and the threat of having thousands of acres of their farmland and ranchland condemned by the Federal Government, the local people have adopted formal interim protection measures for the river and adjacent lands. Many of these measures are much more restrictive than those on scenic rivers, and a long-term protection plan for the river is in the works.

My study amendment would give the National Park Service the chance to consider this local plan as a possible protection alternative.

At some point today, I expect you will also hear others who will tell you that opposition to immediate designation as proposed in S. 280 is really a plot to revive at some point in the future the Norden Dam.

Don't buy it. This is nothing but a smokescreen from people who have nothing solid on which to base their support for this bill.

This is not a debate about the Norden Dam. I inherited the Norden Dam issue when I came to Congress. In fact, the building of the dam has been abandoned for years in lieu of a ground water recharge project that is supported by irrigators and environmentalists.

Nevertheless, because of a colleague's concerns and our longstanding working relationship in behalf of Nebraska, I have addressed his concerns about the Norden Dam, particularly as he presented them in a press statement dated June 18. The amendment I will offer later has been changed to meet his charge that a loophole exists to ensure future construction of the Norden Dam.

Further, there is a bottom line to this part of the debate also that urban-oriented Members fail to recognize. That is, water resource conservation and development and environmental protection are not mutually exclusive. The two must go hand in hand if we are to pass on to future generations a nation in better condition and capable of sustaining its population.

This debate today is not about the Norden Dam. It is not about who is the better environmentalist. It is about Congress enacting laws and adhering to those laws, it is about procedure, it is about the political steamroller.

Today, it impacts my district, my constituents. If my colleagues do not want it to be theirs tomorrow, they will oppose S. 280 as reported and support my amendment.

In closing, as you all know, I am retiring at the end of this term, so I have nothing to gain politically from my position on this issue. I simply want to represent my Nebraska constituents and to find the most reasonable and environmentally sound approach for managing and preserving one of our most beautiful natural resources.

Nebraskans now fully understand that there are likely unpleasant, economically adverse, and environmentally irresponsible consequences to immediate designation of the Niobrara without first having a proper study according to current law, practice, and policy. Remember 63 percent of Nebraskans said study the river first.

Please help me do what we were all sent here to do—represent our constituents. Mine, and the people of Nebraska, say no to S. 280. Please do the same.

□ 1520

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman, let me just briefly, because I think the gentlewoman's comments, the gentlewoman from Nebraska's comments, do require a response because if that is all that individuals viewing this debate were to hear on the subject of public opinion and polling and so forth, they would be legitimately distressed.

Let me, if I may, just give the other side of the story because it indeed is more complex. Let me start with a March 1989 poll conducted by the Omaha World Herald, an impartial organization, of course, on an issue like this, which shows that 74 percent of all Nebraskans are in favor of a scenic river designation and only 15 percent are against it.

Now, on top of that, environmental groups, conservation groups in Nebraska have collected somewhere between 20,000 and 30,000 signatures in support of this scenic river designation.

Four out of five Members of the Nebraska delegation in the U.S. Congress, that is of three Congresspeople and two U.S. Senators, four out of five support this designation.

With respect to the recent poll that was undertaken by an opponent, was financed and conducted by an opponent of the scenic river designation, the one on the chart now in the well, we have some editorial opinion from both North Platte and Omaha, the Omaha World Herald, making very effective arguments that this poll was basically designed to bring about the outcome that it in fact brought about.

Let me read, if I might, a couple of sentences from a North Platte, NE, editorial. Now, North Platte is rural Nebraska; the values of rural Nebraska are as staunchly upheld by the newspapers in North Platte as anywhere else in Nebraska. That editorial says: "If you frame the questions, you can get an opinion survey to come up with just about the answers you want. So it was with a poll the Nebraska Water Resources Association commissioned dealing with proposed protection of part of the Niobrara River."

Now that is the poll which is now being taken down, taken off the easel.

Now the editorial goes on two paragraphs later to say: "It is all baloney. There is no prospect for real protection of any part of the Niobrara outside the Federal Scenic Rivers Program. Given the real choice—scenic river designation or no protection—Nebraskans would vote overwhelmingly to preserve at least part of this unique resource for future generations."

Mr. Chairman, that represents the public opinion, the true public opinion from the great State of Nebraska on this issue of the scenic river designation for the Niobrara River.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute.

I just want to comment on this because it has been suggested that a good objective poll that was taken last year by one of the leading newspapers in Nebraska is not accurate but this poll taken by the Water Resources Association, a group that is opposed to the river, somehow has validity. I might say that a 15-months-old poll that is valid is a lot better than one that is designed to come up with a certain result, even if taken yesterday.

It seems to me that it adds an old adage which says if you have the facts, you argue the facts; if you have the law, you argue the law.

It seems to me in this case if you do not have the facts, you invent some new ones, is what we see occurring here.

I just think if you are going to have polls, they have to be objective.

There have been a number of editorials that have taken after this particular tactic. Obviously, I think it is inappropriate to represent the poll results in the way they are being represented.

I understand there is opposition in the area concerning this that Congresswoman SMITH represents, and I respect that.

I also understand there is substantial support in the State.

This issue has become greatly politicized. It is not a question of what candidates want and what I want. It is up to us as individual representatives here today to make this decision. That is, of course, what Senators EXON, and KERREY and Representatives HOAGLAND and BEREUTER and others are all about here today, trying to make that decision. That is why they were elected, to do that and not to pass it off to somebody else.

That is what this study does. When you are against something and you do not want to oppose it outright, you say, "Let us study it."

The fact of the matter is over a third of the rivers that have been designated, and there are significantly more rivers designated than the assistant secretary reports, but more than a third of them, 122 rivers, over a third of them have not received the study the gentlewoman proposes. They have not received the basic 5(a) or 4(a) studies before they were designated.

So we are not doing anything unusual. We are doing something that is controversial, Mr. Chairman, but that is what we are supposed to do in Congress is face issues and make decisions.

Mr. LAGOMARSINO. Mr. Chairman, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in opposition to the bill.

Mr. LAGOMARSINO. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, I rise in support of the Smith amendment.

Mr. Chairman, I rise in support of the amendment being offered today by the gentlelady from Nebraska [Mrs. SMITH].

This is an issue that should concern us all, because we all have an interest in protecting the great natural resources found across the country. But it should also concern us in how local interests and local opinion can be ignored.

Let's get to the heart of the matter. What is best for the Niobrara River and the people of Nebraska who live near its banks?

I am sure you have all received the same information I have received during the past few weeks regarding the legislation we are considering today. It is interesting to note that in all that information I have not seen any one mention that the Niobrara is imminently endangered or threatened in any way.

The League of Conservation Voters does not state the river is being threatened, nor does the Wilderness Society, the Nebraska Chapter of the Sierra Club or the Save the Niobrara River Association. No, not once do they state the river is threatened at all! The Nebraska Audubon Council even acknowledges that the local owners along the Niobrara are good stewards of the land.

So what is the rush with this designation?

What is wrong with requiring an adequate study of the river to determine the best way to protect the valuable natural resources found along the Niobrara?

What is wrong with determining which parts of the river are truly deserving of protection, what type of protection may be necessary and who is capable of providing that protection?

I see no compelling reason to support the legislation as currently written. I see every reason why an appropriate study of the issues is essential.

Since I am not personally familiar with the Niobrara, I put a great deal of weight in the opinion of the Member of Congress who represents this area. Who would know more about this issue and the impacts this legislation would have on her constituents than Mrs. SMITH?

Let us listen very closely to what she has to say on this extremely important matter.

I ask my colleagues if we are going to ignore local concerns and forge ahead and designate a portion of the Niobrara River as a scenic river?

Or are we going to follow appropriate procedures and determine what is the best course of action to take? I say lets take the time to find what will be best for the Niobrara and the people of Nebraska.

I urge my colleagues to support the Smith amendment.

Mr. LAGOMARSINO. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in the strongest possible support for S. 280. It is not a bad and irresponsible bill. It is an excellent bill, and I urge my colleagues to support it.

Someone suggested a few minutes ago that my colleague on the other side of the issue has antagonists here. That is not true, in my judgment.

All admit that the Niobrara should be preserved and protected; it is a difference of opinion as to how we should proceed and what the timing should be.

That is the way that I approach this issue today. I think it is an important contribution that has been made by the chairman and my colleagues from Nebraska when they do talk about the polls.

As you know, the recent poll was financed by the Nebraska Water Resources Association. They have contained within that organization, strong supporters of the once proposed O'Neil reclamation project. These are, I would suggest, the core of the most vehement support to the scenic river designation in that 76-mile stretch of the Niobrara which is only a part of this legislation.

Of course, the Niobrara River is in both the districts of my colleague, Mrs. SMITH, and myself. The 76-mile stretch is totally within her district.

I want my colleagues to know that the Omaha World Herald, which, I think, has the most respected polling in our State. That newspaper had this to say in a June 18 editorial:

Members of the House of Representatives and the White House staff won't, we hope, be taken in by a late-in-the-game tactic used to fight Federal scenic river protection for parts of the Niobrara River. Use of the Wirthlin poll adds nothing to the debate over how to protect the unique Nebraska River. * * *

We urge fairminded people on both sides of the issue to reject this attempt to influence the outcome.

□ 1530

I have deleted any references in that editorial comment which could be construed as derogatory about opponents to the scenic river designation. There is in my judgment, no place in the RECORD for such remarks, and the Members will not engage in such remarks.

First, in my substantive comments, I want to say this about the Niobrara River. I have no doubt whatsoever, and I say categorically that the majority of Nebraskans in all three congressional districts, Nebraskans of both parties, support designation of the Niobrara River as a scenic river. I say that without fear of being refuted. Of those people who have an opinion on this matter, fairly put in a question, they will be found to support the designation of this stretch of the Niobrara River as a scenic river.

Now, we will look at the river and its characteristics for a few minutes. In part they have been explained already. This river received the highest ranking possible during the National Rivers Inventory. It would be the first river in the entire Great Plains designated as a national scenic river. Indeed, many people believe it is the most scenic river in the Great Plains.

A survey taken for the Nebraska Natural Resources Commission, a State agency, by a Lincoln polling firm, showed that landowners in the immediate area were rather evenly split on this issue, even after substantial debate and a very negative campaign that was waged.

The CHAIRMAN. The time of the gentleman has expired.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER], a supporter of the bill.

Mr. BEREUTER. Mr. Chairman, I thank the chairman of the subcommittee for yielding me this time.

Even after substantial controversy, really raised in significant part by a hired gun, Mr. Cushman, of the National Inholders Association, who was hired by opponents to come in and generate opposition, even after his activities the landowners in the immediate area, are still rather split on this issue. This is the case despite a great amount of very unfortunate tactics and intimidation tactics that some of the more outspoken opponents in the immediate area have used. Petitions signed by 37,000 Nebraskans who support the scenic river protection proposal were introduced for the record at hearings at various stages. A letter from the National Audubon Society, the National Wildlife Federation, and the Wilderness Society and the National Park and Conservation Association said,

Studies and recommendations for the last 25 years have all found the Niobrara qualified for designation and protection. Local, State, and national organizations have been working for over a decade to protect the ecologically unique and scenic river.

I could go on with other quotes from other national State and environmental and conservation and game and parks agencies. The Nebraska Game and Parks Commission supports a scenic river designation. In fact, the Niobrara was one of the first 12 rivers recommended for designation under the Wild and Scenic Rivers Act, the generic act, back in 1968. Only because of opposition by a Member of Congress or several at that time which related to a proposed reclamation project, was the Niobrara deleted from that list with that 1968 legislative effort.

This is truly a national treasury that deserves to be protected and preserved. More about the study will be coming up in the future. All the national environmental and conservation groups I am aware of, a very long list, do support this legislation. The Nebraska Farmers Union does. I mention to Members that the Nebraska Game and Parks Commission support the scenic river designations. It has been said a few minutes ago that Ms. Harriman of the Department of Interior suggests that no rivers have been designated without a 5(a) study. I do not know where she has been working, but as the chairman pointed out, one-third of the rivers have not had that formal 5(a) study, and if any Members would like to have a list of some of the rivers not receiving such a 5A study, I will give it to Members.

Overall, in all the studies that have been conducted by national organizations—both governmental and nongovernmental—and local organizations, I suggest to Members that this is one of the most studied rivers in the United States. It is clearly eligible for designation—253 miles of the Niobrara, in fact, have been deemed eligible for some category of designation under the Wild and Scenic River Act according to a component of the National Department of Interior. I urge my colleagues to support the legislation.

Mr. VENTO. Mr. Chairman, I yield 2½ minutes to the gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Chairman, many things about America separate America from the rest of the world and make it a special place on a very special planet: Our freedom, the spirit of our people, and the abundance and beauty of America's natural resources, are but just a few.

Those things that are most precious about America are, in one form or another, all gifts, handed down from one generation to the next. Each generation has the responsibility to—yes, use those gifts wisely—but also to conserve them and preserve them so that the next generation may have the opportunity to do the same.

One of the great legacies we received—first from the Creator, and then from those who used it wisely and delivered it safely to our generation—is the magnificent Niobrara River Valley in northwestern Nebraska.

Located at the point where the Great Plains lap up against the Rockies, its rich animal and plant life reflects the beauty and abundance of both ecosystems. The mighty conifers of the West and the grasslands of the Plains overlap in the Niobrara River Valley to form a botanical and zoological crossroads. As species of plants and animals which are seldom found together intermingle, a natural, constantly changing, daily laboratory in evolution has been created.

The River Valley's bird population, alone, contains more than 250 different species, which are supplemented by a huge population of migratory birds.

Clearly this is a place worth protecting. People have thought so for generations, and have actively worked in the Congress to enlist the Federal Government's help in doing so since the early 1960's. At least three separate studies, two conducted by the State of Nebraska and one by the National Park Service have come to this conclusion. So have a majority of the people who live in the area, according to opinion polls.

Opponents insist that if the Niobrara River is added to the National Wild and Scenic Rivers System, thousands of acres of productive farmland would be taken out of production, as adjacent farmers are forced to sell their land to the Government. As a member of the House Agricultural Committee, that's a complaint I take most seriously. So I looked into it.

It is utterly without foundation.

The legislation limits government easements to no more than 50 percent of private land within the river's corridor, and then, only in very specific situations. By far the vast majority of farmers in the area—probably all of

them, in fact—will be able to continue farming just as they do today.

Ironically, many would not be able to continue farming operations under the substitute amendment offered today. For that substitute would allow construction of a giant dam on the Niobrara River, flooding thousands of acres of farmland and permanently removing it from production.

If you are interested in preserving farming operations, vote for the designation. If you want to preserve the land and keep it so that the abundant and varied plant and animal life which thrives there now can continue to do so, vote for the designation.

If you want to flood farmland, and relegate this natural wonder to the bottom of a giant pond, vote for the substitute.

Mr. LAGOMARSINO. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I begin by saying the gentleman from Nebraska [Mr. HOAGLAND] cites a poll that was taken to support his point of view, but the fact of the matter is that poll is 15 months old. He cites editorial opinion. Editorial opinion, yes, but a newspaper that has consistently opposed the proposition of the gentlewoman from Nebraska [Mrs. SMITH]. After all, what is an editorial worth? It is the judgment of the person who writes the editorial. Editorials do not necessarily bespeak public opinion.

Some have said that asking for a study of the designation here is an effort to stall this proposition. Nonsense. This is simply not so. Why do we have a system, one that allows for weighing and balancing all points of view, if we are not going to use it? We have established proper channels for proceeding with Federal land designations. This bill has not been through the proper channels. If the proponents of this bill are so all-fired sure that scenic river designation is best for the river, why are we circumventing a well-established process? What have they to fear from proceeding in an orderly way by having the Interior Department go through normal and acceptable procedures?

I urge all my colleagues, every colleague, to think very carefully about how they would feel if they were in the gentlewoman from Nebraska [Mrs. SMITH's] shoes. Mrs. SMITH has served here for 16 years. She has an impeccable reputation for service, for diligence, for being a thorough and outstanding legislator, thoughtful, considerate of all of her colleagues. Very, very regretfully she is not returning for reelection. So what could she possibly be seeking to gain by this designation—there are not any votes for her to gain, because she is not looking for any. She is retiring and acting out of altruism. The gentlewoman has been returned here by a margin of 75 to 80 percent the last 15 years, and I would pay very close attention to what she says on this issue, and that the area in question lies entirely within her district.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, first let me say to Miss VIRGINIA, Miss VIRGINIA, you are such a gentle and kindly and mannerly lady, so soft-spoken, that for a long time when I first met you, I thought you must have been from somewhere down South, and no way in the world I want the gentlewoman to find me adversarial.

□ 1540

I am just for designating this river a Wild and Scenic River because I know what would have happened to our Chattooga River down there in South Carolina years ago. That river was in the movie, "Deliverance," and a lot of us saw it in that movie. If it had not been designated, the edges of it would have been just old tires, used cars, and mobile homes, and what have you.

If you do not know exactly what to do in a situation, then you ought to listen to the people you respect and whom you have high regard for. I am, of course, a member of a number of environmental groups, but for 40 years I have been a member of the National Audubon Society. I feel they are the most responsible and reliable of the environmental groups, and I would just like to share with the Members what they have said about this river. Of course, most of us got this letter, and most of the Members probably did not read it because we just cannot read everything that comes into our offices. This is what it says: "The Niobrara River was recommended for inclusion in the system when the Wild and Scenic Rivers Act was passed in 1968."

Gracious goodness, that is 22 years ago.

"Ranch and farm families owning a vast majority of the riverfront along the 76-mile stretch of river requested scenic river designation in letter to Congress in 1980 and 1985. An unbiased independent survey commissioned by the State Natural Resources Commission in 1986 found support among those who owned 62 percent of the land, even after water development interests carried out a 6-month campaign against the bill introduced by Senator EXON in 1985:

"Attempts to substitute a study are simply attempts to stall and defeat designation."

We are all politicians here in the Congress, and we know what we want to do if we want to kill something—we study it to death.

"There have been a variety of formal studies of the Niobrara. It qualifies in every respect. The river valley is a national treasure worthy of this recognition. It is time for the Niobrara to be designated."

Mr. Chairman, I say to my colleagues that if there ever was an environmental vote, this vote for S. 280 and against Darling Miss VIRGINIA's amendment are litmus tests today for the environment.

Mr. LAGOMARSINO. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I am a little stunned. I did not know I was going to have this much time to wax somewhat in eloquence for my dear colleague. Even then, I yielded a minute's time so the gentleman from South Carolina [Mr. RAVENEL] could pay her a compliment and he talked about tires and things in South Carolina and about a river there that was designated as wild and scenic.

There are no tires in this particular area that I am aware of. As a matter of fact, the farmers have taken very good care of this particular area.

Mr. Chairman, I rise to support the gentlewoman from Nebraska [Mrs. SMITH]. I have the utmost respect and admiration for all my colleagues from Nebraska, more especially Mr. BEREUTER and Mrs. SMITH, who are directly north of me and I south of them. I do not think there is a question about the intent of the Members in regard to this legislation, but there is an old rule that I have tried to follow in matters of this nature, and that is to at least pay attention to the Member whose district is involved, and 90 percent of this particular area is in the district of the gentlewoman from Nebraska [Mrs. SMITH].

There has already been mention made by my dear friend and colleague, the gentleman from Missouri [Mr. EMERSON], about the homework that Mrs. SMITH has done in her 16 years of service in this body on behalf of the citizens of Nebraska. Everybody does homework here, but almost no one that I know of does their homework to the extent that Mrs. SMITH does. She is not only thorough but she is patient, and she perseveres.

There have been several instances when I thought I was right on a subject when the gentlewoman from Nebraska has set me right. And I can say that not one local elected official—let me underscore elected—supports this particular designation.

What is wrong with the study? Oh, I know others have said that if you want to kill something, you are going to study it. That is not what we want to do. After 30 months of this study, it could be designated wild, which would be more restrictive, it could be designated scenic, or it could be designated recreational.

There are 7,600 acres here that are in question. My friend, the gentleman

from Iowa, who serves with me on the Agriculture Committee, says there is something very precious about what we do in the Agriculture Committee, that every farmer is a conservationist. That is true. But also what is precious in this country and also what is very precious about the Committee on Agriculture of the House is that local people make local decisions. I can say that farmers are indeed conservationists, and this river is protected somewhat. There are 7,600 acres here that are in question.

In summing up, I would simply say that issues like these should be determined at least in some degree by the Members whose districts are involved. I see nothing wrong with the study. Let us support the gentlewoman from Nebraska [Mrs. SMITH] and give her the benefit of this particular issue.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, there are remarks being made on this legislation on the personal level and on the political level. Let me deal with the substantive level, and let us consider all these factors, because when we vote, all those factors will be taken into account.

I join with my colleagues in their very strong admiration of the gentlewoman from Nebraska [Mrs. SMITH]. I do not think that necessarily is the issue, though, that you should go with the Member always who represents a particular area, although that is, I think, a very strong factor. I would go also with another factor, and that is the two Senators that represent the entire State of Nebraska, who are for this legislation. They were both elected in very difficult races.

Second, there are other players here, and they are individuals like the gentleman from Nebraska [Mr.BEREUTER]. I supported the Bereuter amendment in committee which extended the Niobrara 25 miles, and 39 miles for the Missouri, and we studied it in part. I did that partially because it is my view that only two-tenths of 1 percent of all rivers in the United States are protected.

In addition, what we have is the fact that this precious river, according to responsible environmental organizations, is 1 of the 10 most viable and environmentally sound rivers that deserves to be protected, and they are all on a hit list because of potential problems like erosion, grazing, et cetera.

So on the substantive basis, I think there are lot of reasons to protect this designation. I do think that if we study something to death, that is a favorite way to proceed with not taking action. I think there is enough substantive, compelling evidence, and there are enough responsible Members on both sides of the aisle who would like to see this river designated.

I have worked with the gentleman from Nebraska [Mr. BEREUTER] on the Committee on Foreign Affairs and on many issues. I think there is no more credible Member. I would refer also to the gentleman from Nebraska [Mr. HOAGLAND], a freshman Member, a dignified, serious, cooperative Member, and, yes, the gentlewoman from Nebraska [Mrs. SMITH] is a legend here. I think all those factors have to be properly balanced.

A majority of the congressional delegation of Nebraska is for this. That is on the personal and the political level. On the substantive level, the fact is that responsible environmental groups claim that this river is endangered and it should be protected.

So I submit to my colleagues, yes, none of us want bills in our own district that necessarily conflict with our objectives, but it could be that sometimes we may be wrong and we need a little boost or a little improvement. I do not think that what we are trying to do with this legislation is in that category, and I say that with great respect to the gentlewoman from Nebraska [Mrs. SMITH] and my colleagues who have spoken. I speak very earnestly, very passionately, and very seriously on this subject.

Four of the five Members of the Nebraska congressional delegation support S. 280.

Strong local and statewide support:

Local landowners intitated scenic river designation.

74 percent of the respondents to a statewide newspaper poll favored designating the 76 mile stretch of the Niobrara River.

Over 20,000 Nebraskans signed petitions favoring scenic designation.

Biological crossroads of the Rocky Mountains and Great Plains:

Approximately 160 plant and animal species from across the Rockies and Great Plains converge within the river valley.

Niobrara provides migratory habitat for endangered bald eagles, whooping cranes, and sandhill cranes.

S. 280 is supported by major conservation organizations with a combined membership of nearly 8 million:

National Audubon Society, The Nature Conservancy, National Wildlife Federation, Sierra Club, Izaak Walton League, The Wilderness Society, and National Parks and Conservation Association.

More study is not needed:

Proposals to designate the Niobrara go back a quarter of a century.

The Nationwide Rivers Inventory prepared by the National Park Service found the Niobrara to contain outstandingly remarkable values.

The Nebraska Game and Parks Commission supports scenic designation of the Niobrara and noted: "the aesthetic, scientific recreational and fish and wildlife values of the Niobrara River in its free flowing state and its associated terrestrial ecosystem have long been recognized."

Don't be mislead by opponents:

Key opponents testified that even if another study recommended designation they would oppose such action.

A much touted river protection plan recently adopted by local governments which are opposing S. 280 is a paper tiger—it has no teeth without adoption of local zoning controls.

Currently there are no local zoning controls and local county government officials testified that they see no need nor do they have any intention to develop zoning to protect the river.

□ 1550

Mr. LAGOMARSINO. Mr. Chairman, I yield the balance of my time to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman from California [Mr. LAGOMARSINO] for yielding, and I would like to use my time to correct some misinformation, some mistaken information, and let me say to my good friend, the gentleman from South Carolina [Mr. RAVENEL] who spoke so nicely, that our area is very different from the area he spoke about. Those people have protected that river so well that now the State director of natural resources says the river is in better shape than it was 50 years ago.

Mr. Chairman, the people should not be penalized because they have done such a great job of protecting the river, and then I note that someone quotes from two editorials in Nebraska from papers that say they prefer instant designation. Well now, that is perfectly all right. One of those papers has always been the chief proponent of instant designation.

Let me say, Mr. Chairman, there are 130 papers in my district. I do not know of 1 other paper among those 130 that supports instant designation, but I do know of a very important paper in the district of the gentleman from Nebraska [Mr. BEREUTER], my good friend, that has just editorialized, and since my colleagues have been reading editorials, let me read from this one, the Norfolk Daily News.

It says:

As a Representative, Virginia Smith proceeds with her efforts to work with the delegation, Governor Orr and State officials on the Niobrara River issue, the desires of those who spent their lives and made their livelihoods in that region need to be given top consideration. That would be helped by adoption of the bill, which Mrs. Smith has introduced, to require a study—

Mr. Chairman, is my time up?

The CHAIRMAN. The time of the gentlewoman from Nebraska [Mrs. SMITH] has expired.

Mr. VENTO. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we will have more time to debate this. I just want to say that the Wild and Scenic Rivers Act is one of the lightest touches in terms of management that we have from the national level. That is, it takes into consideration the concerns of local individuals and landowners. It is very restricted in that particular sense, and I want to say one thing more.

Mr. Chairman, rivers tend to evoke a great deal of controversy. Rivers are where the action is. Rivers are also endangered.

Mr. Chairman, when the gentleman from New Mexico [Mr. RICHARDSON], my colleague, commented about 1 of the top 10 rivers, this is 1 of the top 10 endangered rivers in this Nation, and it needs the help of this Congress and this House today which I hope the Members of this House will give to it.

Mr. JONES of North Carolina. Mr. Chairman, today I support S. 280, a bill to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System.

The Committee on Merchant Marine and Fisheries which I chair was granted a sequential referral of S. 280. In seeking a referral of this bill, I set forth three separate reasons why S. 280 addressed matters within the jurisdiction of my committee.

First, the bill would designate as a scenic river a portion of the river that flows through the Fort Niobrara National Wildlife Refuge, one of the oldest refuges in the National Wildlife Refuge System. A scenic river designation within a wildlife refuge affects the management of refuge lands located within the scenic river corridor. Under the Wild and Scenic Rivers Act, such a designation reduces the management discretion and authority that a refuge manager would otherwise have under the National Wildlife Refuge System Administration Act.

Second, the bill would create a Citizen Advisory Commission for the scenic river and insert it into the middle of the refuge manager's decisionmaking process for the management of the refuge. Congress has historically insisted that the refuge management authority of the Fish and Wildlife Service remain unfettered and unrestricted.

Finally, the bill as ordered reported from the Interior Committee directed the National Park Service to conduct a study regarding the feasibility of establishing a large national park out of an area which includes the existing Fort Niobrara National Wildlife Refuge. It also directed that the study consider the possibility of joint management of the new park area by the National Park Service and the U.S. Fish and Wildlife Service. Any study or proposal which could result in the eventual loss of a unit of the National Wildlife Refuge System is of deep concern to my committee. Moreover, my committee has previously amended the Refuge System Administration Act to expressly prohibit the joint management of refuge areas. We were thus concerned about the implications of this Park Service study for the future of this Nebraskan wildlife refuge.

In response to my concerns regarding these provisions of S. 280, Chairmen UDALL and VENTO agreed to amendments to the bill. The first amendment clarifies that the designation of a scenic river corridor within the wildlife refuge does not displace the Director of the U.S. Fish and Wildlife Service as the Interior Department official responsible for the management of the river corridor running through the refuge. The second amendment clarifies that the Citizen's Advisory Commission shall not address management issues within that part of the scenic river corridor lying within the wildlife refuge. Finally, the last two amendments exclude the existing Fort Niobrara National Wildlife Refuge from the feasibility study area for the proposed new national park. Thus, any new park proposed for the area can not include part or all of the existing national wildlife refuge.

In light of the acceptance of these amendments by Chairmen UDALL and VENTO, I now fully support the passage of S. 280 on the floor of the House of Representatives under the rule that was granted by the Rules Committee. Since these modest amendments were designed essentially to protect the existing wildlife refuge, they should not be considered controversial in and of themselves.

I urge Members to support S. 280 as it has now been amended to address my committee's concerns. I thank Chairmen UDALL and VENTO for their cooperative assistance in accommodating the concerns of my committee. This bill deserves our strong support.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute consisting of the text printed in House Report 101-530 shall be considered by sections as an original bill for the purpose of amendment, and each section is considered as read.

The clerk will designate section 1.

Mr. VENTO. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The text of the amendment in the nature of a substitute is as follows:

S. 280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Niobrara Scenic River Designation Act of 1990".

SEC. 2. DESIGNATION OF RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), as amended, is further amended by adding at the end thereof the following:

"( ) NIOBRARA, NEBRASKA.—(A) The segment from Borman Bridge southeast of Valentine approximately seventy-six miles downstream to the bridge crossing the Niobrara on State Highway 137 (as generally depicted on the map entitled 'Boundary Map, Proposed Niobrara Scenic River Valley Corridor', 1985), to be classified as a scenic river and administered by the Secretary of the Interior.

'(B) The twenty-five-mile segment from the western boundary of Knox County to the confluence of the Niobrara River with the Missouri River as a recreational river, including Verdigre Creek from the north municipal boundary of Verdigre, Nebraska, to its confluence with the Niobrara River. After consultation with State and local governments and the interested public, the Secretary shall take such action as is required under subsection (b) of this section.".

"( ) MISSOURI RIVER, NEBRASKA AND SOUTH DAKOTA.—The thirty-nine-mile segment from the headwaters of Lewis and Clark Lake to the Ft. Randall Dam, to be administered by the Secretary of the Interior as a recreational river.".

SEC. 3. NIOBRARA SCENIC RIVER ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Niobrara Scenic River Advisory Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall advise the Secretary of the Interior (hereinafter referred to as the "Secretary") on matters pertaining to the management and operation of that seventy-six-mile portion of the Niobrara River designated by section 2 of this Act.

(b) MEMBERSHIP.—The Commission shall consist of eleven members appointed by the Secretary—

(1) three of whom shall be owners of farm or ranch property within the upper portion of the designated river corridor between the Borman Bridge and the Meadville Bridge.

(2) three of whom shall be owners of farm or ranch property within the lower portion of the designated river corridor between the Meadville Bridge and the bridge on Highway 137;

(3) one of whom shall be a canoe outfitter who operates within the river corridors;

(4) one of whom shall be chosen from a list submitted by the Governor of Nebraska;

(5) two of whom shall be representatives of the affected county governments or natural resources districts; and

(6) one of whom shall be a representative of a conservation organization who shall have knowledge and experience in river conservation.

(c) TERMS.—Members shall be appointed to the Commission for a term of three years. A member may serve after the expiration of his term until his successor has taken office.

(d) CHAIRPERSON; VACANCIES.—The Secretary shall designate one of the members of the Commission, who is a permanent resident of Brown, Cherry, Keya Paha, or Rock Counties, to serve as chairperson. Vacancies on the Commission shall be filed in the same manner in which the original appointment was made. Members of the Commission shall serve without compensation, but the Secretary is authorized to pay expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act on vouchers signed by the Chairperson.

(e) TERMINATION.—The Commission shall cease to exist ten years from the date of enactment of this Act.

SEC. 4. MISSOURI RIVER PROVISIONS.

(a) ADMINISTRATION.—The administration of the Missouri River segment designated by the amendment made by section 2 of this Act shall be in coordination with, and pursuant to the advice of, a recreational river advisory group to be established by the Secretary. Such group may include in its membership representatives of the affected States and political subdivisions thereof, af-

fected Federal agencies, organized private groups, and such individuals as the Secretary deems desirable.

(b) BRIDGES.—The designation of the Missouri River segment by the amendment made by section 2 of this Act shall not place any additional requirements on the placement of bridges other than those contained in section 303 of title 49, United States Code.

(c) RIPRAPPING.—Riprapping using rocks from the region in as inconspicuous and harmonious a manner as practicable related to natural channels along shorelines of the Missouri River segment designated by the amendment made by section 2 of this Act to preserve and protect agricultural, residential, and commercial land uses shall not be considered inconsistent with the values for which such segment is designated.

SEC. 5. NATIONAL RECREATION AREA STUDY.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, shall undertake and complete a study, within eighteen months after the date of enactment of this Act, regarding the feasibility and suitability of the designation of lands in Knox County and Boyd County, Nebraska, generally adjacent to the recreational river segments designated by the amendments made by section 2 of this Act and adjacent to the Lewis and Clark Reservoir, as a national recreation area. The Secretary may provide grants and technical assistance to the State or Nebraska, the Santee Sioux Indian Tribal Council, and the political subdivisions having jurisdiction over lands in these two counties to assist the Secretary in carrying out such study. The study under this section shall be prepared in consultation with the Santee Sioux Tribe, affected political subdivisions, and relevant State agencies. The study shall include as a minimum each of the following:

(1) A comprehensive evaluation of the public recreational opportunities and the flood plain management options which are available with respect to the river and creek corridors involved.

(2) An evaluation of the natural, historical, paleontological, and recreational resources and values of such corridors.

(3) Recommendations for possible land acquisition within the corridor which are deemed necessary for the purpose of resource protection, scenic protection and integrity, recreational activities, or management and administration of the corridor areas.

(4) Alternative cooperative management proposals for the administration and development of the corridor areas.

(5) An analysis of the number of visitors and types of public use within the corridor with the full protection of its resources.

(6) An analysis of the facilities deemed necessary to accommodate and provide access for such recreational uses by visitors, including the location and estimated costs of such facilities.

(b) SUBMISSION OF REPORT.—The results of such study shall be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 6. STUDY OF FEASIBILITY AND SUITABILITY OF ESTABLISHING NIOBRARA-BUFFALO PRAIRIE NATIONAL PARK.

(a) IN GENERAL.—The Secretary of the Interior shall conduct a study of the feasibility and suitability of establishing a national park in the State of Nebraska to be known as the Niobrara-Buffalo Prairie National Park within eighteen months after the date of enactment of this Act.

(b) AREA TO BE STUDIED.—The areas studied under this section shall include the area generally depicted on the map entitled "Boundary Map, Proposed Niobrara-Buffalo Prairie National Park", numbered NBP-80,000, and dated March 1990, and such other lands in the immediate area that are relevant to such study.

(c) RESOURCES.—In conducting the study under his section, the Secretary shall conduct an assessment of the natural, cultural, historic, scenic, and recreational resources of such areas studied to determine whether they are of such significance as to merit inclusion in the national park system.

(d) STUDY REGARDING MANAGEMENT.—In conducting the study under this section, the Secretary shall study the feasibility of managing the area by various methods, including the alternative of joint management by the National Park Service and the United States Fish and Wildlife Service, with consultation by those agencies with the Nature Conservancy and the Nebraska Game and Parks Commission.

(e) SUBMISSION OF REPORT.—The results of the study shall be submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The CHAIRMAN. Are there any amendments to section 1?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MRS. SMITH OF NEBRASKA

Mrs. SMITH of Nebraska. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by

Mrs. SMITH of Nebraska: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Niobrara River Protection Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the 253-mile segment of the Niobrara River, Nebraska, included in the National Park Service's 1982 Nationwide Rivers Inventory contains outstanding natural, recreational, and scenic resources;

(2) there is a national interest in protecting these outstanding resources for the benefit of residents and visitors to the area;

(3) adequate studies which evaluate the potential role of the local, State, and Federal Governments in protecting these resources have not yet been completed;

(4) the State of Nebraska and its local units of government have the authority to prevent adverse impacts on the resources, and local development restrictions are already being prepared; and

(5) typical river suitability studies provided for in section 4(a) of the Wild and Scenic Rivers Act have proven inadequate in addressing all the important management issues in situations where significant private land interests are involved.

SEC. 3. COMPREHENSIVE PLAN.

(a) CONTENT REQUIREMENTS.—(1) During the 30-month period beginning on the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the National Park Service, shall complete a comprehensive river protection plan for the 253 miles or segments thereof determined to be suitable for inclusion in the National Wild and Scenic Rivers System. The plan shall be completed in a manner consistent with the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.). The plan shall include a detailed analysis of the role and ability of the local, State, and Federal Governments to accomplish the resource protection goals of the plan. This analysis shall serve as the primary basis for determining whether the local, State, or Federal Government shall have primary responsibility for implementation of the plan and whether the river shall be designated as a unit under the Wild and Scenic Rivers Act. Additionally, the plan shall address each of the following:

(A) The specific boundaries which are needed to protect the resources of the river corridor and the visitor experience.

(B) Any restrictions on development or land use practices within the river corridor which are considered necessary to protect the river.

(C) Identification of all facilities and access points which are necessary to support recreational use of the river corridor.

(D) A detailed recreational use plan which addresses such issues as carrying capacity, camping, trash and human waste removal, and any restrictions on types of craft to be used.

(E) An estimate of the instream flow requirements necessary to protect river resources and ensure a quality recreational experience.

(F) An analysis of any streambank erosion control practices which are needed to protect the resources of the river corridor.

(G) An analysis of economic benefits of recreational use of the river.

(2) The plan shall provide, to the greatest extent possible consistent with resource protection, for the continuation of all existing uses of private land along the river corridor, including agricultural and livestock operations, timber management activities, operation of private campgrounds, hunting, fishing, trapping, camping, and repair and replacement of residences, farmsteads, agricultural and recreational facilities, bridges and fish hatcheries. The plan shall also provide for the least possible adverse impact to the local property tax base. The plan shall provide for the continuation of all existing water development projects in the Niobrara River basin which have been developed or are under construction as of the date of enactment of this Act. For purposes of this paragraph, the construction of a bridge designed for heavy equipment over Plum Creek at Johnson Road shall not be construed to mean that the Norden Dam is under construction.

(b) CONSULTATION REQUIREMENTS.—The plan shall be prepared in consultation with appropriate local, State, and Federal elected officials and agencies which have jurisdiction over lands and waters within the area. The Secretary shall also consult with interested professional, scientific, and citizen organizations. To provide the residents of the affected area an opportunity to help in shaping the management plan, the Secretary shall hold at least two hearings in the area of Nebraska through which the river segments flow.

SEC. 4. STUDY OF NIOBRARA RIVER.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is

amended by adding at the end the following new paragraph:

"( ) NIOBRARA RIVER, NEBRASKA.—The 253-mile segment included in the National Park Service's 1982 Nationwide Rivers Inventory.".

(b) REPORT.—Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"( ) The study of the Niobrara River, Nebraska, shall be completed and the report thereon submitted not later than 30 months from the date that funds are made available by Congress for the study.".

SEC. 5. SPRINGVIEW PROJECT.

The Secretary shall undertake a detailed feasibility and cost-benefit study of the Springview project as authorized by Public Law 98-63. Information regarding the viability of this project shall be considered in development of the comprehensive river protection plan under section 3.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mrs. SMITH of Nebraska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Nebraska?

There was no objection.

Mrs. SMITH of Nebraska. Mr. Chairman, the amendment in the nature of a substitute that I am now offering to S. 280 fixes a bad, irresponsible bill.

My amendment conforms with current law by providing for a usual and customary study, pursuant to sections 5(a) of the Wild and Scenic Rivers Act, of the entire length of the Niobrara River included in the 1982 National Park Service "Nationwide Rivers Inventory."

My amendment is environmentally sound and logical. It proposes that 253-miles, not just an arbitrarily named 76 miles, of the unique Niobrara River be studied for designation in the Wild and Scenic Rivers System.

In addition, because 5(a) studies have most often failed to answer all of the questions surrounding a potential designation, especially in cases like the Niobrara where a majority of private land is involved, my amendment also provides for a thorough management plan to be formulated for the area.

The administration supports this amendment. Interior Secretary Lujan and OMB Director Darman will recommend that S. 280 be vetoed should this amendment fail today.

This is not just another simple scenic river designation. Because the land along the Niobrara River is extensively privately owned, it is a precedent-setting piece of legislation.

My amendment is supported by an overwhelming majority of Nebraskans. In a statewide poll conducted June 11-12, 1990, 63 percent favored studying the river, as I propose, before designation. Only 27 percent favored instant designation and immediate Federal intervention.

As I do, the majority of Nebraskans want to be sure that the Department of the Interior, the agency to be charged with managing the river as a national component, has the information it needs to effectively and correctly administer the river or portions thereof as components of the national system.

My amendment gives the National Park Service 30 months to complete a comprehensive, formal, and useful study of the Niobrara River. The agency said in testimony and consultations that it recommends, and I quote from a April 5, 1989, Senate hearing, "two to three complete fiscal years" to conduct the normal suitability study set forth in the law.

If my study amendment is enacted, I fully expect that 30 months from now, we will be designating parts of the Niobrara River as components of the Wild and Scenic Rivers System.

But my amendment provides mechanisms for making sure the concerns of all will have been appropriately addressed in a carefully developed management plan.

The study provided for in my amendment also may determine that portions of the river are so ecologically fragile that they should be designated as wild, a designation that would involve more restrictions and protections than a scenic label.

A study may determine that some segments should be designated as recreational, a designation that would entail less restrictions and protections than a scenic label.

The bottom line is that a study must be performed to determine which segments of the river need formal protection, how best to protect those segments, and who—local, State, or Federal Government—should be responsible for managing and implementing the protection plan.

In my statement during general debate, I offered the hard, indisputable evidence—the Niobrara River has not been studied for the purpose before us today. But let me repeat to drive this important point.

Quoting from a Department of the Interior letter written earlier this month: "Out of the 108 rivers designated by Congress since 1968 as components of the National Wild and Scenic Rivers System, none has been designated without some form of study by the National Park Service, Forest Service, Bureau of Land Management, or other agency. The Niobrara has had no formal study whatsoever."

I want to point out for my colleagues that this is not the identical amendment offered and defeated in both subcommittee and full committee markups. I have made minor, but significant improvements.

Most significantly, I have changed the amendment to meet the charge that it contained a loophole that would allow for the Norden Dam to be constructed along the Niobrara River in the future.

The Norden Dam is a long-dead project being used by proponents of immediate designation as a smokescreen to detract from the issue and provide a tenuous and irrelevant argument to further their position.

Although this is not a debate about the Norden Dam, I have made every effort to address the concerns of my colleagues.

I urge support for my amendment.

Everyone agrees the river should be protected; that is not the debate before us today.

This is a crucial procedural debate about fairness and conforming with current law, which my amendment does.

The Niobrara River is not threatened by any immediate or near-term development or adverse uses. We have time to follow the law we enacted and do this the right way.

Let me close by summarizing why you should vote yes on this amendment:

Vote "yes" for expert study before "instant" Federal designation.

Vote "yes" for studying 253 miles of a beautiful river—not just blindly designating 76 miles.

Vote "yes" to do the job we were sent here to do—represent our constituents—and to save your district from the political steamroller driving this bill.

Vote "yes" on the Smith amendment.

□ 1600

Mr. VENTO. Mr. Chairman, I rise in opposition to the Smith amendment. This amendment is designed to once again postpone and defeat the protection and designation of the Niobrara River. Not content with trying to eliminate the 76-mile scenic designation of the Niobrara, Mrs. SMITH's amendment would strike all the provisions of the bill, including those unrelated to the 76-mile designation.

Opponents of designating the Niobrara Scenic River have taken to calling this "instant" designation. Well, 25 years is anything but instant and that is exactly how far back proposals to designate the Niobrara River go. The gentlewoman would have us believe designation just came up and is now suddenly being thrust upon the area. The fact of the matter is Federal and State agencies have inventoried and studied this river for many years and reported on its outstanding resource values.

Local landowners petitioned their elected Representatives in 1980 for scenic river designation and legislation has been pending before the Congress since 1985. Scenic river designation for the Niobrara is neither new, unknown, or unheard of.

Let me also set the record straight. Contrary to the assertion of opponents, a formal wild and scenic river study is not a prerequisite for designation. Very few rivers have undergone the type of study the gentlewoman proposes. In fact, of the 122 rivers nationwide that are components of the National Wild and Scenic Rivers System, over one-third have never undergone a section 4(a) and section 5(a) wild and scenic rivers study. More information is known and available on the Niobrara than on some of the prominent wild and scenic rivers in the country and its designation would violate no law, policy, or practice.

So we have to ask ourselves, why another study? Don't be mislead, many opponents of scenic river designation are hiding behind a call for another study of the Niobrara River. In reality they oppose designation under any circumstances. In testimony before the Interior Committee key opponents testified that even if another study recommended designation they would oppose such action.

Opponents in the area have hired Mr. Cushman of the National Inholders Association to fight designation. Mr. Cushman's tactics are well known. I have here letters from elected officials in the neighboring State of Kansas. They note that when the National Park Service initiated a study in their area "* * * Cushman and his followers have simply tried to obstruct its progress" and that "* * * community leaders have been busy ever since trying to counter misinformation, false rumors, and attempts to split the communities."

There is no doubt in my mind that opponents intend to use the study to delay in the hopes of permanently defeating designation. While I respect Mrs. SMITH's advocacy of this matter, I strongly disagree with her views of the results. Another study won't change the simple fact that the Niobrara possesses outstanding resource values that merit protection. Rather than engaging in further study and delay, I believe efforts would be better spent implementing a mutually beneficial management partnership among local landowners, State and local governments, and the Federal Government, as provided for in the Wild and Scenic Rivers Act and this legislation.

I urge rejection of the Smith amendment.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman for yielding.

I do want to point out, I believe the gentleman mentioned that key people up there would still oppose it. One person testified that he would oppose it, and I guess one person would testify anything.

I just rose to make this point, that it is an open rule, Mr. Chairman, and any amendment that anyone wants to put in, any amendment that the gentleman from Nebraska [Mr. BEREUTER] wants to put in about his district would be perfectly free to put the amendment in.

Mr. VENTO. Well, Mr. Chairman, I appreciate the gentlewoman's observation. I think, though, these individuals are representing larger groups, as we know. So I think they are speaking for many of their groups and not just themselves when they are testifying before the committee, so I think they were stating that their organization would still not support it, even if the study provided that it was necessary.

I would just point out that the last minute efforts that have been made I think do not sit well with the chairman in terms of some of these private polls that have been conducted and the questions asked are not really publicized. That is why we referred to and have criticized to some extent the Wirthlin Group.

Mr. Chairman, I ask the Members to opposed the amendment of the gentlewoman from Nebraska [Mrs. SMITH].

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment of the gentlewoman from Nebraska [Mrs. SMITH]. I also oppose the bill. Primarily, I want my colleagues to understand one thing. This is in one Member's district. If there is a section that is not in that Member's district, then that amendment should be offered. If you believe in this body as a representative form of government, and most of you have heard me say this time and time again, you will support the Smith amendment. You will support it because it is right.

The gentlewoman said she is not against, with proper methods, of having a scenic river designation. The Park Service is against the bill as brought to us that came out of the committee. The Secretary of the Interior is against it. OMB is against it, and the President of the United States is against it.

In this era of time, we just had a joint session today to listen to the so-called leader talking about freedom and helping the people. We have had the Eastern bloc collapse. We have had much talk from that side of the aisle about liberal land reform internationally, and yet I see the same people taking lands from American citizens that opposed taking it by the Federal Government, taking lands that were given to them through the generations that have inherited it and protected it and have in fact used it so well that it is now designated possibly by this bill as a wild and scenic river. That means that they are good stewards. It does not need the Federal Government to make sure that things are done correctly.

Where does this Federal Government come from saying they have the answer to all things? Where do we come from saying we have the answer to all things?

The amendment of the gentlewoman from Nebraska [Mrs. SMITH] was offered in the committee and it was ignored by the chairman of the full committee and that side of the aisle. Not one vote on our side of the aisle supported this bill. Not one person on that side of the aisle supported the amendment of the gentlewoman from Nebraska [Mrs. SMITH].

Also, not one person on that side of the aisle, the so-called party of the people, supported my amendment that did not allow condemning the lands, did not allow this Government of ours to take those lands from individuals. Not one of you supported that amendment.

Yet here we hail the gentleman from South Africa as a great leader of the free people. We hail the Eastern bloc for them turning down communism and trying to accept capitalism, and yet I see on that side of the aisle, no consideration for the people who are affected.

This is a national jewel? Yes, it may be, but there are other people involved. We are going to condemn land for scenic value against those who have it for years and were stewards of the land?

The amendment of the gentlewoman from Nebraska [Mrs. SMITH] gives us the opportunity to do what is right. It is not a delaying tactic. The chairman of the committee will be here next year and you will have the same amount of proxies. What is the rush? You will not listen to us next year. You did not listen to us this year. So what changes? What should change, you should accept the gentlewoman's amendment now.

I am asking my colleagues on this side of the aisle to accept the gentlewoman's amendment now, today. I am asking my colleagues on this side of the aisle to do what is right.

I heard the gentleman in the well awhile ago talking about the Audubon Society, the Sierra Club, the Friends of the Earth, and all the other highway bandits that reside within the beltway in Washington, DC. They are supposed to be representatives of the people. What about the farmers? What about the man that is on that

land and his wife and his kids that inherited that land? Yes, that is our system, from his father and his father inherited it from his grandfather, and because of you, because this is supposedly a national issue, a national jewel, you are going to condemn that individual for being a good steward, and this is America?

I say no, it is not America. We have swept over the edge if we do not accept the amendment of the gentlewoman from Nebraska [Mrs. SMITH]. We have gone beyond what is decent. We are really accepting the power, because we have got the vote.

Mr. Chairman, if I may say, you may have the votes now, "but you ain't going to have the votes later on down the road."

□ 1610

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of votes.

Mr. Chairman, I rise in strong support of the amendment offered by the gentlewoman from Nebraska who represents the district that would be the most affected by this legislation.

While I do not agree completely with what the gentleman who just spoke said, I do not think that just because a problem or an area is in someone's district that they have an absolute veto power over what happens to that. But I think that certainly they should be listened to, and if everything else is equal, they should prevail.

I would take some exception to what the chairman of my committee said, too, about opponents. It may be, as the chairman said, that some opponents have ulterior motives; maybe they do want to build a dam on that river. I am an opponent. I do not want to build a dam on that river.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate that. I understand what the gentleman's concern is, and I think he is an opponent of the dam, and I appreciate it.

Mr. LAGOMARSINO. Mr. Chairman, as a matter of fact, if the study that we are asking for and that the gentlewoman from Nebraska [Mrs. SMITH] is asking for that I am supporting comes back indicating that this should be wild and scenic or part of it should be wild and part scenic, that would be perfectly all right with me. It might or might not be all right with the bulk of the landowners.

I would point out, too, that, contrary to a lot of the bills that we have considered here on the floor seeking wild and/or scenic status for rivers, this one is composed of 85 percent private ownership. It does put it in a slightly different category than many of those we consider.

The chairman has said several times this afternoon that about one-third of the rivers were not studied under the specific formal provisions of the Wild and Scenic River Act. I would read once again, and it will be the third time, I think, also, a letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of Interior. "Out of 108 rivers designated by Congress since 1968 as components of the National Wild and Scenic River System, none has been designated without some form of study by the National Park Service, the Forest Service, the Bureau of Land Management, or other agency. The Niobrara has had no formal study whatsoever." She goes on to say, "A study is particularly important where, as on the Niobrara, the river crosses lands that are almost exclusively privately owned."

Mr. Chairman, I would suggest that what we need to study for here is to determine what kind of a management plan we should have if, indeed, it is determined it should be wild and/or wild and scenic.

I would urge my colleagues very strongly to support the gentlewoman's amendment.

Mr. Chairman, I rise in strong support of the amendment offered by the gentlewoman from Nebraska who represents the district which would be most affected by this legislation. The substitute bill which she has offered is one which will better achieve the resource protection goals which have been agreed to in principle by all parties to this discussion.

The bill offered by the gentleman from Minnesota simply designates portions of the Niobrara River in accord with the general principles of the 1968 Wild and Scenic River Act. Two segments of the Niobrara River would be instantly designated. The bill purports to provide for protection of the resource values along those river segments. The apparent rationale for this belief is that resource values will be protected simply through Federal designation. In fact, it will not be until several years after the river is designated and the Federal Government completes a general management plan that any river protection measures are likely to be undertaken.

By comparison, the bill authored by Mrs. SMITH would provide for the immediate preparation of a plan to protect important resources along the entire 253-mile stretch of the Niobrara River which has been included on the nationwide river inventory, instead of several arbitrarily selected sections. At the same time, a study would be conducted to determine which agency is best suited to implement this plan and whether or not the river should be designated under the Wild and Scenic River Act.

This approach of study followed by designation is the one outlined in the Wild and Scenic River Act. When this approach has been followed in the past, the administration has determined that about half of the rivers studied could be better managed by local or State agencies. Mr. Chairman, it is prudent that we follow normal procedures to determine the management entity best able to protect the resource values of this river. The National Park Service is already strapped for financial resources. In the decade of the 1980's, the over 100 units of the NPS lost ground to inflation. Let me give you a specific and highly relevant example of that funding shortfall.

In 1978, Congress designated the Missouri River national recreation river under the Wild and Scenic River Act and directed the NPS to manage the site. NPS has yet to spend any funds for the protection or management of this resource or to assign any personnel there. In fact, NPS has delegated its management presence to the U.S. Army Corps of Engineers, hardly an agency known for its environmental protection record. It would appear to make little sense to simply add another unit to an already underfunded agency, especially if there is a better way to manage it at no cost to the Federal taxpayer.

The basic question up for consideration on this measure is whether the Federal Government is the only entity capable of protecting natural resource values. Proponents of this measure would have you believe that instant designation is synonymous with automatic protection. Not only is that underlying philosophy faulty, but it is a genuine discredit to private landowners throughout the country. I urge my colleagues to support the amendment offered by Mrs. SMITH.

Mr. HOAGLAND. Mr. Chairman, I rise in opposition to the Smith amendment.

Mr. Chairman, let me start out, if I might, by addressing some of the concerns raised by the gentleman from Alaska and by the gentlewoman from Nebraska.

First of all, the gentleman from Alaska points out once again that this is in a Member's district, that a Member ought to be able, by inference, to make the ultimate decisions on things of that sort, so, therefore, this House should vote against it.

Let me remind my colleagues that in Nebraska we have only three congressional districts, and those three congressional districts are also represented by two U.S. Senators, and both of those U.S. Senators, forthright public servants, courageous public servants, in my opinion, are cosponsors of S. 280, and passed the bill through the U.S. Senate with no dissenting votes in the committee and by a voice vote on the floor of the Senate. Those two U.S. Senators represent the men and women who live up and down the Niobrara River Valley every bit as much as the Member from the Third Congressional District. Two out of the three Members of the Nebraska delegation that represent those folks directly are in support of this bill.

Let me say, secondly, that the gentleman from Alaska, and I believe I heard him say, he indicated that the President is against it. The President is against it now. That is new information from my point of view, because we

had a reporter from the Omaha World Herald that asked the President at a press conference 2½ weeks ago, "Mr. President, what is your position on this bill?" The President indicated that, well, it had not reached his desk yet; and, frankly, he did not know about the issue in detail. That was the President himself speaking.

Maybe there has been a development since that press conference I do not know about, but if there has, I am not familiar with it.

Third, the study amendment has really changed over and over. I think it is important to point that out. When the bill requesting a study was first introduced, it covered the entire river, 350 miles in the State of Nebraska. When it was then resurrected in the subcommittee, it pertained only to 76 miles for a 30-month study. Then in the full committee, it was 76 miles, a 30-month study. Then when first introduced on the floor of Congress, it was a 253-mile, 30-month study including language about the Norden Dam. It has now been modified once again to be a 253-mile study for 30 months. The Members can see the study proposal itself has changed from time to time.

I think that the important point is that we do not need to study it any more. As has previously been indicated, when Senator Frank Church introduced in 1965 the bill that later became the wild and scenic river bill, while he included the Niobrara on the list of rivers with great potential, then in 1968, when a refined version of that legislation was introduced, why the Member who then represented the Third Congressional District struck the Niobrara from the list so that a dam could be built, so the possibility a dam could be built.

In 1971 a study by the State of Nebraska Soil and Water Conservation Commission concluded the Niobrara had sufficient scenic, recreation, and environmental value to warrant a study for designation as a protected river reach.

In 1982 a nationwide rivers inventory published by the National Park Service found the Niobrara to have outstandingly remarkable values based on the seven standard categories. The Niobrara is one of only a few rivers in the Midwest that is rated outstanding in all seven categories.

Then in August 1986, after Senator EXON had first introduced the bill in 1985, the Nebraska Natural Resources Commission published an extensive study entitled "The Niobrara River: A Proposal for Scenic River Designation," concluding that the Niobrara River had special values and indicating that the most appropriate way to preserve shifted back to locally elected officials, locally elected officials, my colleagues, that have taken no effective steps in the intervening years to protect the river.

The short of it is, as the chairman of the subcommittee had indicated, studies and recommendations made over the past 25 years have all found the Niobrara River worthy of recognition and protection.

Let me just say this, and that is, Mr. Chairman, that the essential point is that the Niobrara has been studied as much as it needs to be, as much as it needs to be. I have been up on the river, and many hundreds of Nebraskans have been up on the river. We feel that the time is right now for designation, and I urge my colleagues to do that.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the requisite number of words.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I am happy to yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I would like to tell my colleague and friend from Nebraska who just spoke that I changed the amendment to meet his concerns, to ensure that the Norden Dam could not be included in a loophole. I am not a member of the committee, and I was doing it to help the gentleman.

Mrs. VUCANOVICH. Mr. Chairman, and Members of the House, I rise today in strong support of the amendment offered by my colleague from Nebraska, Mrs. SMITH, to the Niobrara Wild and Scenic River bill before us.

I was fortunate enough to attend the Interior Committee's field hearing held in Ainsworth, NE, in March of this year. There I listened to VIRGINIA SMITH's constituents speak from their hearts about the issue of protecting the scenic character of the Niobrara River and its banks. In most of the 76-mile stretch of the Niobrara included in this bill the banks of the river and the quarter-mile corridor to either side of the river are privately owned farmlands. The farmers who testified before us that day are strongly opposed to instant designation.

They have signaled this opposition in a bipartisan fashion. Though Mrs. SMITH is retiring after this Congress, after many years of fine service, both the Republican and Democratic nominees for her seat have gone on record as opposing S. 280. So has Governor Orr and former House Member Hal Daub. It is interesting, I am told that even Sentor EXON who sponsored this bill has expressed concern about the manner in which this bill was amended in the Interior Committee of this body.

Mr. Chairman, I support the amendment offered by Mrs. SMITH because it authorizes the Secretary of the Interior to study the suitability of a reach of the Niobrara River for designation. No such formal study has yet occurred, and the public has had little opportunity for input into a study plan. I'm told that a recently conducted survey in Nebraska reveals that an overwhelming majority of the citizens polled in the entire State are opposed to an instant designation of the Niobrara as a Federal wild and scenic river. The citizens of the gentlelady's district have spoken. The citizens of the rest of Nebraska agree. Study first—act later after the facts are in hand and the affected public has had proper opportunity to provide input and to review a plan that may likely affect their private property.

□ 1620

CHANGE OF SCHEDULE IN MEETING WITH MANDELA

(By unanimous consent, Mr. WOLPE was allowed to speak out of order.)

Mr. WOLPE. Mr. Chairman, I ask unanimous consent to speak out of order for 1 minute simply to advise Members that the scheduled meeting with Mr. Mandela at 5 o'clock this afternoon has been canceled because Mr. Mandela is exhausted at this point and needs time to rest. I am sure that all Members will be understanding of this request. Because there were so many Members intending to participate in that meeting, I thought it would be easiest to communicate the cancellation of that session in this fashion.

Mr. KANJORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am from Pennsylvania and not Nebraska. Normally we have a rule in the Pennsylvania delegation not to tread where angels should fear to tread, but I am going to tread anyway.

Mr. Chairman, as you and I know, Pennsylvania had a very wealthy son of Pennsylvania, not only in personal wealth but in understanding the resources of this country, by the name of Gifford Pinchot. He was really the father of Theodore Roosevelt's concept that America's prized possessions and resources should be conserved and held for future generations.

I have made it a practice that wherever I go and in whatever Member's district I go to, to examine what resources they have in the nature of conservation and what they do with them.

Last summer I had the pleasure of canoeing down the Chena River in Alaska, something that now I dream about going back in future years and doing again.

Mr. Chairman, as you know, this weekend you and I had the great pleasure of rafting down the Lehigh River in Pennsylvania for 16 miles, where one could hardly see the

scratch of man on the natural resources of that river.

Just a few years ago the railroads and the coal companies of Pennsylvania had owned that as private land. Over the years we have acquired thousands of acres of private land and have now put that in the bank of the Scenic River so that untold future generations of Americans can see what it was like when the Indians lived in America and they had this magnificent beauty.

I actually rise to support Senate bill 280 and oppose this amendment, because I agree with my friend, the gentleman from Nebraska [Mr. HOAGLAND], who has taken an outstanding leadership role. As a matter of fact, I would like to comment on that. The gentleman from Nebraska [Mr. HOAGLAND], being here less than one full term as a freshman Member, has seized upon very important issues that affect his State, his district, and this Nation, and this is just one example of that outstanding leadership.

What the gentleman said is right. What we tend to do in America is study, study, and study things to death. There are certain natural resources and certain things of value, and one of them is our natural rivers, that should be preserved for future generations.

So although I do not like to rise in opposition to an opponent of the gentlewoman from Nebraska [Mrs. SMITH's] long tenure in this House, and understand her feelings on the matter, being in her district, but I agree that two U.S. Senators from Nebraska and the rest of the Nebraska delegation to represent Nebraska and the interests, but more than that, they represent the interests of the Nation, this magnificent country. If Nebraska can put into a National Scenic deposit a river of this nature, we in the Congress should encourage them to do it, and not study further, and study this thing to death, but do it today.

I urge my colleagues in the Pennsylvania delegation and the entire Congress to be opposed to this amendment and see that we can capture some of the natural resources for future Americans.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. Last week we had a rather emotional discussion on the House floor about preservation of the American flag. During that discussion we had numerous people parade to the floor telling us of their reverence for the Bill of Rights.

I thought it was a very good debate, and I thought it made a lot of fine points on both sides of the aisle.

Well, today we come to the floor, and some of those Members seem to have lost a little bit of reverence for the Bill of Rights on this issue. There is an amendment to the Bill of Rights known as the 10th amendment. The 10th amendment reserves to the States and localities those powers that the Federal Government does not have specified in the Constitution. Our forefathers did that, understanding that only those very, very key items that were defined in the Constitution ought to become so-called national issues.

Now we have heard a series of speakers tell us that the local people should be ignored, the States should be ignored, and that we ought to address this as a national issue. It may well be that this is a matter of national significance, and it may well be that we ought to address it from that standpoint. But at this point, other than hearing from a lot of outside groups who do not live in the district, we do not know.

It is not as though the gentlewoman from Nebraska [Mrs. SMITH] is asking us to go out and rape the river. What she is suggesting is that we ought to study it, that we ought to have a study to find out whether or not it is in the national interest to proceed.

The gentlewoman from Nebraska [Mrs. SMITH] is not asking anything great. She is asking something that within the scope of deciding national issues ought to be done anyhow. The local people in this regard, in this particular instance, have made it clear that they do not think this is a very good idea. Well, fine. They may be wrong. I do not know. I am not certain anybody here knows. But the fact is that is their determination.

Now, one of the reasons why they may have made that determination is because a large percentage of the land that is going to be usurped here belongs to them. The Federal Government is going to go in and condemn their private property.

I go back again to our forefathers. Our forefathers thought private property was pretty sacred, and they believed very thoroughly that Government power ought not be used against private property. But in this case we have decided there are national interests involved, without even a study. And without even a study we are going to go in and seize that private property in the name of something that the Government wants.

I think that raises some questions, and maybe we ought to at least study it.

I am a little confused. What is wrong with having a study? If every other project that we have ever done has had at least some kind of a study, what is wrong with having one here? Why in the world can we not have just a little study to find out whether or not this is in the national interest before we proceed?

The gentlewoman from Nebraska [Mrs. SMITH] is not asking you to not go ahead with this at some point. All she is saying is if you are going to go ahead with it, at least let us study it first. I think that is an entirely reasonable request, and it is something that should be done without too much hesitancy in this House.

Mr. KANJORSKI. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. Mr. Chairman, I think there have been 122 rivers nationwide that have been taken into the National Wild and Scenic Rivers System, and the information that I possess is that a third of them never underwent a study.

Mr. WALKER. Mr. Chairman, reclaiming my time, the gentleman from Pennsylvania [Mr. KANJORSKI] is talking about formalized studies. The Department of Interior will quarrel with that and say there was at least some kind of a study done on virtually every one of them. It may not be the formal study that the gentlewoman from Nebraska [Mrs. SMITH] is proposing here, but there was at least some kind of a study done on each of them.

In this particular instance, it is my understanding that no study has been done. We do not have any of the technical information before us. So therefore we do not have the kind of information that we need in order to make this decision. The committee has made this decision on its own. The committee has decided on the basis of a few Members in the other body, and at least one or two Members of our body, to go ahead and do this. That is their choice to make, but I would suggest that within the bounds of the Constitution, that maybe it might be nice to have a little bit of a study before we proceed ahead.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I will stipulate we are not trying to amend the Constitution with this bill.

□ 1630

Mr. WALKER. I did not suggest you were. I simply suggested if we are going to have reverence for the Bill of Rights, we ought to have reverence for the 10th amendment.

Mr. VENTO. The fact is there has been ample study done on this of the informal type that the gentleman referred to in terms of the one-third.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent Mr. WALKER was allowed to proceed for one additional minute.)

Mr. WALKER. The only point that I would make is that evidently the Department of Interior and the chairman

of the committee have some differences of opinion on that. Maybe at least that ought to be studied to find out why we have these differences of opinion about the nature of what it is we are dealing with. But at the present time, it seems to me that what the gentlewoman from Nebraska asks is not too much.

Mrs. SMITH of Nebraska. May I add that the gentleman from Pennsylvania is absolutely correct. There has been no study of this river.

Mr. WALKER. I thank the gentlewoman.

Mr. DENNY SMITH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is extremely important that we analyze the national wild and scenic river situation. We in Oregon added about 40 river segments, mostly on public lands, or almost entirely if I remember correctly last year. I was pleased to be a cosponsor of that bill.

But I am particularly bothered by this bill, and I intend to support the gentlewoman from Nebraska and her amendment. I think it is important that this be studied. I see no reason why we should not study before the designation. I think particularly that it is important.

I know the gentleman from Minnesota [Mr. VENTO] will say we have had lots of hearings, and we have had lots of situations, but I think in this instance we need to go to what the administration is saying. I would quote out of a letter to Congressman DON YOUNG from the Interior Department. it says:

> The Niobrara has had no formal study whatsoever. A study is particularly important here as the Niobrara River crosses lands that are almost exclusively privately owned.

I do agree with the gentleman from Pennsylvania that private ownership of land is one of the most sacred things that we have in this country. Recently we have seen more and more intrusion into private lands.

Just this last week we had the labeling of the northern spotted owl as endangered in the Northwest, and because of that we are going to be unable to operate privately held lands that have forests on them without fish and wildlife concerns taken into account. I do not think that was the original intent of the law when it was passed in 1973. I think many times we have these laws which are going to impinge on the freedom of one segment of society or another.

It is my understanding that the gentlewoman from Nebraska [Mrs. SMITH] has the bulk of the river in her district, and that she and her constituents are opposed to it. I see no reason why the Congress should turn this over to the National Park Service or do anything that would impinge on these private property ownerships.

So I intend to vote for the Smith amendment and to try to provide for a study. I will vote against the bill. I think the bill is a bad bill. I think it deserves a veto, and I hope the President will consider that when the bill comes before him for his signature.

The thing that bothers me about this is that it seems to have turned into a partisan battle in many ways with the majority party here in the House in turn trying to save something that does not need to be saved. We have seen that in Oregon where we have done a good job managing our resources and are proud of the fact of what we have done in our national resources or on the Federal lands with our rivers and with our trees and our beaches. Yet we seem to have more and more attention from other parts of the country trying to tell us how to run our lives and our own lands.

If those lands were owned by the State of Oregon, they would not be badly managed, and they are not badly managed. I would say that these lands owned by Nebraskans are not poorly managed, and I understand that most of this is private farmland.

So we are not talking about something that is wild or necessarily from a wilderness area. We are talking about something that is in privately owned lands, that is next to farm communities.

Is that not true? I would like to ask the gentlewoman from Nebraska if she could just confirm that. These are not lands through any of this kind of area that are wild, but there is human habitation right around them?

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. DENNY SMITH. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, indeed not. This is agricultural land, farmland, ranch land, privately owned, and it has been protected by those farmers and ranchers for 100 years, since their ancestors.

Mr. DENNY SMITH. If we have this kind of protection, we have cattle down near the stream, is that correct?

Mrs. SMITH of Nebraska. The gentleman is correct.

Mr. DENNY SMITH. What will happen with the grazing and potential water rights on this river with this designation in the bill?

Mrs. SMITH of Nebraska. I am so glad the gentleman asks the question. This is the question that folks out there are asking. This is why they want a study. They are afraid of what will happen.

It was said here this afternoon that only 5 percent of the land along the river corridor could be condemned. That is not correct. In this bill 31 percent of the land along the corridor could be condemned.

Mr. DENNY SMITH. And whose 31 percent are we going to get? Are we going to get 31 percent of everyone's land? This is the kind of trampling on the Constitution that the gentleman from Pennsylvania [Mr. WALKER] was talking about, where people do have the right to own and use property as long as they do not misuse it. It seems to me these Nebraskans have not misused it.

Mrs. SMITH of Nebraska. Our Director of Natural Resources said in my office to all of our delegation that the river is in better shape than it was 50 years ago.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. DENNY SMITH] has expired.

(By unanimous consent, Mr. DENNY SMITH was allowed to proceed for 2 additional minutes.)

Mrs. SMITH of Nebraska. If the gentleman will continue to yield, those people are being penalized because they have cared for the river and protected it so well.

Mr. DENNY SMITH. It seems to me that if they have taken such good care of the river, why do you think we are having a bill like this at this time?

Mrs. SMITH of Nebraska. I cannot understand it. This poll, taken on June 10 and 11, shows only 13 percent want Federal control of that river; 78 percent want it protected by the local or the State people.

Mr. DENNY SMITH. It is interesting, I represent a State where we have 53 to 56 percent of the land owned by the Federal Government. I look with envy on the States in the East which control their land and have the ability through their legislative process, through the lowest level, the ability of taking care of the land. I think most Americans are very sensitive to the environmental concerns, very sensitive to what the forefathers have done, and what hopefully our children and grandchildren are going to enjoy.

So I will vote against the bill and for the gentlewoman's amendment, and I appreciate her courage in standing up and offering this amendment.

Mrs. SMITH of Nebraska. I appreciate the gentleman's comments.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words and I rise in strong opposition to the Smith amendment.

Mr. Chairman, there are several items upon which I would like to comment. It has been said, a few minutes ago, and it has been said repeatedly today, that there has been no study of the Niobrara River. Ms. Harriman of the Interior Department is quoted as saying there has been no Department of Interior study of the Niobrara River. It has been mentioned by the distinguished chairman, Mr. VENTO, there has been extensive study of the Niobrara by various groups. I think,

and most members of the environmental and river community believe, that such studies in combination more than constitute what would ordinarily take place in a 5(a) study.

But let me give four specific examples of how the Department of Interior has already studied this river.

First of all, in 1982 the National Park Service said, and I am referring to this 76-mile stretch of the river that is the most controversial element, they said the Niobrara River deserves to be recognized as "outstandingly remarkable values in all categories," after considering the same sort of categories of facts and natural resources that are considered, I would mention, in a 5(a) study.

Second, the Fish and Wildlife Service, also a component of the Department of Interior, proposed much of the 76-mile stretch of the river as critical habitat for the whooping crane which uses the Niobrara as migratory roosting areas, again addressing a factor of resource like the elements required in a 5(a) study.

Third, the same agency in the Interior Department, in another study, identified the Niobrara as the highest priority fishing resource.

Fourth, the Park Service again in 1982 underscored the exceptional qualifications of 194 miles of the Niobrara as a candidate for wild and scenic river designation by specifying that it had "outstandingly remarkable values in the scenic, recreational, geological, fish, wildlife, historical, cultural, and other categories," and that is like a repetition of the elements that must be considered in a 5(a) study.

A second major point I would mention in response to something that was said a few minutes ago. I think it is important to remember that the generic Wild and Scenic River Act sharply limits the use of eminent domain or condemnation. In most cases, of course, such authority has not been used at all, but indeed there is this limitation on its use in the generic act.

I come to the more basic question of why not a study.

□ 1640

Why not, as the gentleman from Alaska put it, just a little study at this point?

Well, that sounds like a reasonable question or request, but it is a bad idea. I do not suggest anything about the motives of the people who raise the study proposal. But let me give you my judgment about what will happen if we have a 30-month study as proposed in the amendment offered by my colleague, Mrs. SMITH. This 30 months, 2½-year study, I believe will only further polarize the situation that has already turned neighbor against neighbor, rancher against rancher and persons outside who are pro-irrigation against people living in the valley that would be flooded by an irrigation project.

We have received in our office an unsolicited letter from the mayor of Strong City, KS, pointing out how the representatives of the inholder association, like Mr. Cushman, who has now been hired to come into the area by opponents to the designation to create opposition and to add to the arguments of the opposition.

The mayor warns that his whole community has been torn apart by that type of outrageous studies used by some opponents to a title study.

Now, if we had not had a study on the Niobrara then I suppose that might make sense to have that title study. But indeed Niobrara has been studied. This 2½-year time will really, I think, only tear people apart.

I received mail from some ranchers and farmers in the area saying, "I am intimidated. I feel threatened. I want you to know I am for the scenic river designation, Congressman BEREUTER, but I can't come out and say it except in this letter to you. And I hope you will continue to support S. 280."

Indeed that is the beginning of a very unfortunate process or set of tactics led by hardcore, die-hard proponents of the Norden Dam.

I reached this judgment not out of thin air but on the basis of precedent and, unfortunately, the history of what has happened in other areas.

Let us go beyond this point and see what happens after any scenic river designation. There is a management study of 18 months or more in length that takes a look carefully at how a scenic or recreational wild river should be managed by the National Park Service, another agency, and by local officials.

So it is not as if landholders are not going to have still another extensive opportunity to see what is being proposed, to react to it and have that process go on and on.

The CHAIRMAN. The time of the gentleman from Nebraska [Mr. BEREUTER] has expired.

(By unanimous consent Mr. BEREUTER was allowed to proceed for 2 additional minutes.)

Mr. BEREUTER. I thank my colleagues.

Finally, during this period of time when I think we are going to have intense polarization and intense difficulty. Given the fact that we have had this type of 5(a) study and designation delayed by opponents and Members of Congress previously, I think that is an unnecessary trial or ordeal to put these people through, particularly since we have the 18-month management study coming up as required by generic law after a designation.

Let me point out one other aspect of the amendment offered by the gentlewoman from Nebraska. She actually proposes a study of a very large 253-mile stretch of the Niobrara River. That has to take such an area well beyond or west of Valentine.

During this 2½-year period of time, I think this study proposal will create a firestorm all up and down the river. As a result of such a large and long study, people are going to be increasingly concerned about the fact that there may be a wild river designation in their area. In the meantime, the misinformation and tactics of intimidation will only intensify.

I think, therefore, that such a long study would create not only a firestorm but a great deal of apprehension up and down the river.

I would ask my colleagues not to put the people in that region, or for that matter, Nebraskans who are here in the congressional delegation, through that difficult period of time and situation. People all up and down this 250-mile stretch will be wondering whether or not the recommendation will be for designation of various parts of the river.

Mr. ROBERT F. (BOB) SMITH. Mr. Chairman, I move to strike the last word, and I rise in support of Mrs. SMITH's substitute.

I feel great sympathy for her position.

I was under a similar situation in the State of Oregon, which designated, by edict of this Congress, some 1,400 linear miles of wild and scenic river, the largest of any designation at any time.

I think the rest of the Nation kind of stepped back and took a deep breath because of all the argument you have heard here today. Many of them came true in that delineation.

These questions raised about water rights and about easements and about the future of agriculture are all real, real arguments, happening to real people. And it is a shame to me that suddenly the rest of the Nation is making deliberations for Mrs. SMITH's district because, as you have heard, it is almost unanimous in her district by elected people, they do not want anything to do with this wild and scenic designation.

Again, it impacts a huge amount of private land along the 76 miles of stream.

I understand the gentleman from Nebraska being concerned about studying an addition, or the inclusion of 276 miles. It would bring heartburn to people in Nebraska, there would be great concern, and I do not blame them.

There is great concern about 76 miles being designated. Of course, that is what we have been talking about.

So I understand that point of view. I am here simply to say if there is no danger of development, which I understand there is none, that a 30-months' study surely could not impair the 76

miles of river and surely this lady who has served her Nation magnificently is deserving of having this small tribute to her great leadership.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] has expired.

(On request of Mrs. SMITH of Nebraska and by unanimous consent, Mr. ROBERT F. (BOB) SMITH was allowed to proceed for 3 additional minutes.)

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield to me?

Mr. ROBERT F. (BOB) SMITH. I yield to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. I thank the gentleman for yielding.

I would just like to use a little of the gentleman's time to answer some of the comments made by my colleague from Nebraska.

Not all opponents of designation are associated with the inholders. I am not. I do wish Mr. BEREUTER had given me the courtesy of sharing his mail with me. I have had over 750 letters. Fewer than 10 of them supported immediate designation.

Then I am concerned about all this comment about the study that has been made on the Niobrara River.

Now, DOUG is entirely correct in saying there has been a lot of comment about the beauty of the river. And there has been.

Way back in the 1960's, Senator Church suggested that we ought to consider an entirely different segment of the river for study. Back in 1982, they had an inventory of all the rivers. That was not any study. It was just a checklist of the natural resources of the river.

Then my own State, the Natural Resources Commission made a report at the request of Senator EXON and Governor Kerrey. It was no study; it was just providing an overview of the law.

The Secretary of the Interior says there has not been sufficient study and he will recommend a veto of the bill. The Fish and Wildlife Department says there has not been sufficient study.

I listened myself to the National Park Service testify. They say they would not know how to manage a river because there has not been adequate study.

During the 30 months of study, I do not think there will be any polarization because our State legislature has voted to study how the State could protect the river.

The local people have already worked out a plan how they could protect the river.

At the end of the 30 months we will know how we can protect the river in a way that the 78 percent who want it protected, State or locally, will understand.

If I have time for one more point, it has been suggested that some many thousand people signed the petition about the Niobrara River. The last time I heard that figure, it was 20,000. Today it has jumped to 35,000. But that does not matter.

I would have been delighted to sign that petition. That petition only says Nebraskans want and deserve the right to protect a segment of this State's beautiful river. We all want that.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. (BOB) SMITH. I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding.

Mr. Chairman, I just want to point out that with regard to jurisdiction, who runs the river, there is a Missouri River National Recreation Area, established in 1978, as a wild and scenic river under the jurisdiction of the National Park Service. In 12 years, the National Park Service has developed no management plan, allocated no funds, assigned no personnel to manage a river. In fact, it has delegated its management responsibility to the Army Corps of Engineers.

Therefore, contrary to what you have heard, there is clearly no guarantee that the National Park Service will do anything to provide for protection and management of these resources. That is why we need this study, to see who should manage this resource.

The CHAIRMAN. The time of the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] has expired.

(On request of Mr. BEREUTER and by unanimous consent, Mr. ROBERT F. (BOB) SMITH was allowed to proceed for 1 additional minute.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. ROBERT F. (BOB) SMITH. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Chairman, I just want to point out to the gentleman that the Missouri River study to which reference was made was a unique creation of Congress and it was certainly before my arrival here. But the 1978 law itself specified that the Corps of Engineers and the Department of the Interior were jointly responsible for managing that stretch of the river.

□ 1650

I think that was an unfortunate mistake and it has created all kinds of difficulties. Fortunately, no one has again followed that precedent.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Smith amendment.

Mr. Chairman, I want to state for emphasis that the proposed designated area here lies entirely within the gentlewoman from Nebraska Mrs. SMITH's congressional district, and I think that irrespective of one's political affiliations we owe it to the wishes of another Member of this body when it comes to legislating against the will of the Member in that Member's own district. I always personally pay very high regard to what the local Representative has to say. I have had these sorts of issues before myself. I think that the person who is elected to represent that particular area should be given some credence in the argument.

The designation of this river may at some future time be added into the Wild and Scenic River System. However, the bill has not been through the established legitimate processes, a study does need to be undertaken before we jump into a designation without full consideration of all factors involved.

If I may ask the gentleman from Nebraska [Mr. BEREUTER] a question, I was curious to hear the gentleman say that he would oppose the study for 200-plus miles, but would jump right into a designation of these 76 miles. Am I to assume by that we are getting into the gentleman's district, when we get into the 200-plus miles?

Mr. BEREUTER. Mr. Chairman, the gentleman is wrong. First of all, I did not say that. I am concerned about the firestorm of opposition that would be created. The 25-mile stretch of the Niobrara River in my district, the First District, is already designated by this bill as a recreational river. So I have no reservations about that part of the Niobrara River in my district being affected by a recreation river designation.

Mr. EMERSON. Why would there be a firestorm simply by studying, when we are following the designated procedures?

Mr. BEREUTER. When we have well-organized opposition to an issue, and I count the Inholders Association as among the most avid opponents to the Wild and Scenic River Act, then I expect these opponents will assume that people will inevitably become quite concerned and agitated about the possibility that certain areas might be designated as a wild river or a scenic river. I am making a prediction.

Mr. EMERSON. Mr. Chairman, I thank the gentleman for his comments, and I think that it adds to the argument as to why we should have a study. The gentleman is saying profoundly that there is serious opposition to the designation as a wild and scenic river, and I think that is why we need to abide by the established process and complete this study as provided for in the Smith amendment before we move to the designation.

As I said in an earlier statement, there are not any votes for the gentlewoman from Nebraska [Mrs. SMITH]

to gain here. Regrettably, the gentlewoman is retiring from the Congress. She is following her altruistic instincts here in serving her people with great diligence. I think that we should defer to the Representative who represents the district of the project in question.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentlewoman from Nebraska [Mrs. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. SMITH of Nebraska. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 115, noes 302, not voting 15, as follows:

[Roll No. 197]

AYES—115

Anderson	Gonzalez	Oxley
Annunzio	Goodling	Packard
Armey	Gradison	Parris
Baker	Grandy	Pashayan
Bartlett	Hammerschmidt	Quillen
Barton	Hancock	Regula
Bateman	Hansen	Rhodes
Bentley	Hastert	Roberts
Bevill	Herger	Robinson
Broomfield	Holloway	Rogers
Brown (CA)	Hopkins	Rohrabacher
Brown (CO)	Houghton	Roukema
Bunning	Hunter	Schaefer
Burton	Hyde	Schiff
Callahan	Inhofe	Shumway
Campbell (CO)	Johnson (CT)	Shuster
Clinger	Kolbe	Skeen
Coleman (MO)	Kyl	Slaughter (VA)
Combest	Lagomarsino	Smith (IA)
Condit	Lent	Smith (NE)
Craig	Lewis (CA)	Smith, Denny (OR)
Crane	Lewis (FL)	Smith, Robert (OR)
Dannemeyer	Lightfoot	Snowe
Davis	Livingston	Stangeland
DeLay	Lukens, Donald	Stenholm
Dickinson	Madigan	Stump
Dixon	McCrery	Tauke
Dorgan (ND)	McDade	Thomas (WY)
Dornan (CA)	McHugh	Upton
Duncan	Meyers	Vander Jagt
Emerson	Michel	Vucanovich
English	Miller (OH)	Walker
Fawell	Molinari	Weber
Fields	Morrison (WA)	Whitten
Gallegly	Myers	Wolf
Gallo	Natcher	Wylie
Gekas	Nielson	Young (AK)
Gillmor	Oakar	
Gingrich	Olin	

NOES—302

Ackerman	Brennan	Coughlin
Alexander	Brooks	Courter
Andrews	Browder	Cox
Anthony	Bruce	Coyne
Applegate	Bryant	Darden
Archer	Buechner	de la Garza
Aspin	Bustamante	DeFazio
Atkins	Byron	Dellums
Barnard	Campbell (CA)	Derrick
Bates	Cardin	DeWine
Beilenson	Carper	Dicks
Bennett	Carr	Dingell
Bereuter	Chandler	Donnelly
Berman	Chapman	Douglas
Bilbray	Clarke	Downey
Bilirakis	Clay	Dreier
Bliley	Clement	Durbin
Boehlert	Coble	Dwyer
Boggs	Coleman (TX)	Dymally
Bonior	Collins	Dyson
Borski	Conte	Early
Bosco	Conyers	Eckart
Boucher	Cooper	Edwards (CA)
Boxer	Costello	Engel
Erdreich	Lewis (GA)	Rostenkowski
Evans	Lipinski	Roth
Fascell	Lloyd	Rowland (CT)
Fazio	Long	Rowland (GA)
Feighan	Lowery (CA)	Roybal
Fish	Lowey (NY)	Russo
Flake	Luken, Thomas	Sabo
Flippo	Machtley	Saiki
Foglietta	Manton	Sangmeister
Ford (MI)	Markey	Sarpalius
Ford (TN)	Martin (IL)	Savage
Frank	Martin (NY)	Sawyer
Frenzel	Martinez	Saxton
Frost	Matsui	Schneider
Gaydos	Mavroules	Schroeder
Gejdenson	Mazzoli	Schuette
Gephardt	McCandless	Sensenbrenner
Geren	McCloskey	Serrano
Gibbons	McCollum	Sharp
Gilman	McCurdy	Shaw
Glickman	McDermott	Shays
Gordon	McEwen	Sikorski
Goss	McGrath	Sisisky
Grant	McMillan (NC)	Skaggs
Gray	McMillen (MD)	Skelton
Green	McNulty	Slattery
Guarini	Mfume	Slaughter (NY)
Gunderson	Miller (CA)	Smith (FL)
Hall (OH)	Miller (WA)	Smith (NJ)
Hamilton	Mineta	Smith (TX)
Harris	Moakley	Smith (VT)
Hatcher	Mollohan	Smith, Robert (NH)
Hawkins	Montgomery	Solarz
Hayes (IL)	Moody	Solomon
Hayes (LA)	Moorhead	Spence
Hefley	Morella	Spratt
Hefner	Mrazek	Staggers
Henry	Murphy	Stallings
Hertel	Murtha	Stark
Hiler	Nagle	Stearns
Hoagland	Neal (MA)	Stokes
Hochbrueckner	Neal (NC)	Studds
Horton	Nowak	Sundquist
Hoyer	Oberstar	Swift
Hubbard	Obey	Synar
Huckaby	Ortiz	Tallon
Hughes	Owens (NY)	Tanner
Hutto	Owens (UT)	Tauzin
Ireland	Pallone	Taylor
Jacobs	Panetta	Thomas (CA)
James	Parker	Thomas (GA)
Jenkins	Patterson	Torres
Johnson (SD)	Paxon	Torricelli
Johnston	Payne (NJ)	Towns
Jones (GA)	Payne (VA)	Traficant
Jones (NC)	Pease	Traxler
Jontz	Pelosi	Udall
Kanjorski	Penny	Unsoeld
Kaptur	Perkins	Valentine
Kasich	Petri	Vento
Kastenmeier	Pickett	Visclosky
Kennedy	Pickle	Volkmer
Kennelly	Porter	Walgren
Kildee	Poshard	Walsh
Kleczka	Price	Watkins
Kolter	Pursell	Waxman
Kostmayer	Rahall	Weiss
LaFalce	Rangel	Weldon
Lancaster	Ravenel	Wheat
Lantos	Ray	Williams
Laughlin	Richardson	Wilson
Leach (IA)	Ridge	Wolpe
Leath (TX)	Rinaldo	Wyden
Lehman (CA)	Ritter	Yates
Lehman (FL)	Roe	Yatron
Levin (MI)	Ros-Lehtinen	Young (FL)
Levine (CA)	Rose	

NOT VOTING—15

AuCoin	Hall (TX)	Schulze
Ballenger	Marlenee	Schumer
Crockett	Morrison (CT)	Washington
Edwards (OK)	Nelson	Whittaker
Espy	Scheuer	Wise

□ 1715

The Clerk announced the following pair:

On this vote:

Mr. Marlenee for, with Mr. Wise against.

Messrs. RANGEL, TOWNS, MARTINEZ, LAUGHLIN, McCANDLESS, PAXON, and CHANDLER changed their vote from "aye" to "no."

Mr. BEVILL and Mr. OLIN changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: In Section 2, at the end of paragraph (A) designating a portion of the Niobrara River as a scenic river, insert the following:

"Notwithstanding any other provisions of law, the Secretary may not acquire lands, scenic easements, or other interests in lands with respect to the segment designated by this paragraph without the consent of the owner."

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise to thank all my colleagues who participated in the debate. I think it has been a good debate on both sides of the aisle. I wish it had turned out differently, but I do appreciate the patience and cooperation of my colleagues.

□ 1720

Mr. YOUNG of Alaska. Mr. Chairman, the hour is late and I know most of you would like to go down to the White House. The simplest way to do that in a quick fashion would be to adopt my amendment.

Mr. Chairman, this is a very simple amendment. It simply states that the Federal Government may not condemn and take land and homes of innocent people living along the river.

It amazes me that this amendment is even necessary to bring to the floor. Most Americans do not realize that the Federal Government can take their land solely to maintain a scenic view for visitors.

In this part of America's heartland, family farms have been passed down for generations. The families who own these lands have been good stewards of the land, as the debate has testified to, and have maintained the scenic character which the sponsors of the legislation are seeking to protect; however, unfortunately, the sponsors are not content solely to protect the land. They insist on going further and authorizing the Federal Government to invoke the power to condemn and take the land from these innocent people. There are over 80 families who own land in this region, small in number. These people are not in default on loans and have not run drugs into the country. They are law-abiding citizens. Their sole mistake is that their parents and grandparents settled on the

land which urban people find to be scenic.

It is simply wrong to allow the Government to take these homes and this land in the name of scenic preservation.

Mr. Chairman, in general debate I discussed what America is and what America is not. I do not know how many of you own your own land. You may own your little lot or your little condominium where you live or your apartment, but how many of you came from the earth and how many of you have your roots in the ground?

To have the American Government condemn your land because somebody likes to look at it is not America. My God, we are ships at sea. Russia is coming this way in the Communist countries, and we are going that way.

To take land from people by an action of this Congress, for the Government to take it from them when they have been good stewards of the land is unconstitutional. It is illegal and this Government should be ashamed of itself.

How can we sit here and say this is the right thing to do? Even the Senate has some language in there that said condemnation would not take place, and this committee on which we serve would not accept it and you are about to, and in fact adopt that type of bill if you do not adopt this amendment, a simple amendment that says that this Government cannot condemn a farmer's land.

Yes, there are only 80 families. These farms were inherited. Those farms were lands taken, yes, from nature's standard and put into farm activities by grandfathers and great-grandfathers, and you and this Congress are going to take those lands away from those 80 families. Shame on you, and I need not say shame on my Republican side, because we got 115 votes up there, because you are afraid of the environmental community. It is disgusting and wrong.

If you do not vote for this amendment, then you have kissed America goodbye. You have kissed it goodbye because you do not believe in individuals anymore. You do not believe in the rights of the one, you believe in the rights of the national interests, and I have heard that before.

Mr. Chairman, if this amendment is not adopted, we have stepped off the edge. We have gone beyond what we are sworn to uphold, and that is the Constitution of the United States of America and the individual rights which we represent.

I think it is time this body starts growing up. I think it is time we start accepting our responsibility to those individuals who have a right, not because they are in the majority, but they are in the minority. If you do not protect these people's rights, if you do not protect them from the action of this Government condemning those lands as they own them outright as law-abiding citizens, I say shame on you.

Mr. VENTO. Mr. Chairman, I rise in opposition to this amendment.

I would just say that we just decided in the last amendment to designate a section of the Niobrara River and some other areas as scenic and recreational river.

The gentleman from Alaska now would propose that we designate this, but provide no tools, no ability to protect that resource.

Now, every major classification of land that we have in the National Park Service has a type of mechanism, the tools in order to provide for the protection of that resource. That is why we designate. It would be like designating Yosemite Park and not providing any means for the National Park Service to protect it.

The fact is the protection authority here, the authority to condemn, the provisions provided in this act are simply to protect the resource that we are designating. If someone begins a development on private land that does not fit in with the general managment plan that is adopted, after a 3-year period, the NPS would have the ability then to use that power of condemnation to stop that type of improper action. That is why this power is needed. It is not there, in other words, necessarily to purchase any type of land. As a matter of fact, when that development plan comes through I expect that most of the purchases of land for access and easement for people for public use would be on a willing seller, willing buyer basis, and that is the way it is designed to function.

The gentleman from Alaska has had to create a straw man in order to advance his particular amendment; but the fact is he would deny any type of protection for the resource. There are in the Wild and Scenic law already very stringent provisions for the use of condemnation, much more so than any of the other conservation laws we have.

I would just remind my colleagues, they have decided to designate this river. Let us give the Park Service the tools that they need to do the job. Let us be certain that we do not deny them those tools.

I would point out that there is every reason to believe that there would be no problems with this particular provision.

I would point out that the major conservation organizations all oppose this amendment. The gentleman has persisted in trying to offer this amendment in a different contexts. All of our park units, all of our river units have this particular authority and they need the ability to use it. Local governments have it.

The gentleman from Alaska himself has been a champion of, for instance, the coal slurry pipeline which had the ability to run across State lines and for other purposes and to provide eminent domain. He is a champion of that, of highways, of water projects, and other public purpose activities. So this is just one more public purpose of preserving very special natural resources of our Nation for today and tomorrow's generations our national heritage. I think it is a very important purpose. It is a very limited function. I would ask, therefore, to defeat the Young amendment.

Mr. VENTO. Mr. Chairman, all Federal land agencies have condemnation authority in varying degrees and under different circumstances. The condemnation authority in the Wild and Scenic Rivers Act is already more restrictive than that found in many conservation laws. The act limits the amount of land that can be acquired by any means in fee to less than one-third of the total acreage. Further, condemnation in fee can only be used where there is less than 50 percent public ownership of the river corridor. While the act does allow condemnation of easements it also specifically stipulates that easements cannot restrict current uses of the property without the owner's consent. The Secretary is directed by law to protect the river's resource values. This amendment takes away a seldom used but necessary tool to do that job. This easement leaves the river open to unfettered development with no recourse.

It is certainly ironic that the gentleman from Alaska and many opponents of S. 280 supported construction of the Norden Dam which would have condemned and flooded four times the amount of land along the Niobrara than could be acquired by the Federal Government under S. 280. Those family farms the gentleman now says he wants to protect would now be under water if the gentleman and others had succeeded in their past efforts to construct the Norden Dam.

The Young amendment also proposes to create a double standard when it comes to conservation purposes. Acquisition on solely a willing seller basis is not a requirement for other public purposes, like highways, pipelines, and water projects. I have not seen the gentleman propose such an amendment to the highway bill or the Water Resource Development Act. No doubt he recognizes such a requirement is unworkable and would grind these public purposes to a halt. Make no mistake if a Member has ever voted for a highway bill or a water project bill he or she has voted for condemnation. To make these public projects a reality our laws allow for the acquisition of land by condemnation. This is not to say that it can be used more than is necessary. We have enacted laws, principally, the Uniform Acquisition and Relocation Assistance Act, to provide an overall policy on the use of condemnation to encourage negotiation and avoid litigation. Federal agencies administering the Wild and Scenic Rivers Act are bound by that law as well as the Constitution which requires just compensation. The Federal Government does not have zoning

powers—its only means to address adverse developments and degradation of resources in a federally designated area is through fee or easement acquisition.

The Young amendment is a gutting amendment that would make the Niobrara a scenic river in name only. This would amount to telling the Federal land agencies to do a job and then not giving them the tools to do it. It's not the farmers and ranchers along the Niobrara who need fear condemnation. Contrary to what the gentleman would have you believe, homes have been built and lands are farmed in designated scenic river corridors where there is private ownership.

I would hope the House would reject this extreme and unworkable amendment and reaffirm the reasonable public policy provided for by the Wild and Scenic Rivers Act.

□ 1730

Mr. KOSTMAYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we ought to understand exactly what this amendment says, that if in the middle of Yellowstone Park there is a single acre right in the middle of that great national park and the fellow who owns it says, "By God, I am not going to sell it to the Federal Government," the Federal Government has the right under the law to offer him a fair price. If he still refuses to sell it to the Federal Government, the Federal Government then, and only then, in an authority almost never used, has the right to condemn that acre.

If we adopt this amendment, we are gutting this legislation, and we are denying the Federal Government the right it has always had to condemn property, but pay a full and fair price for it. This amendment guts the bill.

It is essential that the Federal Government have this authority, and it is essential to understand that the Government hardly ever uses this authority. It is very, very rare, in fact.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I am happy to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, when he says not been used, there are 24,000 acres already, 773 families, that has already been condemned by the Park Service, so do not tell me it has not been used.

Mr. KOSTMAYER. Reclaiming my time, I said rarely used. I said very rarely used.

Mr. YOUNG of Alaska. If the gentleman will yield further, and by the way, I am not talking about Yellowstone Park. I am talking about a river that is not wild and scenic at this time. I am talking about 80 families. That is all I am asking.

Mr. KOSTMAYER. Reclaiming my time, Mr. Chairman, this authority is almost never used. It would be a terrible mistake to deny the Federal Government this authority.

I urge the committee to reject this amendment.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I am happy to yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I just wanted to stress the point the gentleman from Pennsylvania is trying to make here and he is making very well.

Mr. Chairman, within the State of West Virginia, we have created, and this body has unanimously supported, the largest system of federally protected rivers east of the Mississippi. Within the 100 miles of this designated river status, the condemnation route has never once been used. It has never been once used by the National Park Service in order to acquire land.

I think the bottom line here is that negotiation is pursued by the Park Service, not condemnation.

The Park Service, with its very limited budget, with its constraints under which it operates, does not want to go out paying three and four times the normal market value of land. They do not have that type of money. The Park Service would much rather negotiate with landowners than to go in and condemn the land. That has been the route pursued in the vast majority of cases. It is negotiation that is the rule of thumb, not condemnation.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the full 5 minutes.

Mr. Chairman, I just want to say that while I agree that condemnation is not used very often, I suspect that in this case there will be a lot of it because of the strong local opposition to this bill. There is the possibility of condemnation of over 50,000 acres of land.

The treatment provided in this bill is inconsistent, I would point out, with treatment afforded the landowners on similar river designations; for example, at the Mississippi River National Recreation Area, the Secretary may not undertake any condemnation unless he first determines that there is "no feasible alternative available to prevent uses which would be substantially incompatible."

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, those same provisions really are in the Wild and Scenic Rivers Act. They are really in all of the Park Service policies, in other words, that there is no feasible alternative is one of the standard languages we used in terms of the Park Service, so they have to explore all the others.

Mr. LAGOMARSINO. Why do we have the special designation here then?

Mr. VENTO. If the gentleman will yield further, because it was desired to repeat it. In other words, it needed to be repeated in that particular bill.

Mr. LAGOMARSINO. Mr. Chairman, I would point out that in the Senate-passed version of this Niobrara bill, condemnation of lands in fee simple is also precluded, and that is the reason Senator EXON, the primary sponsor of this legislation, has stated that he is publicly concerned with the House version of the bill.

I would urge support of the amendment offered by the gentleman from Alaska.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Alaska. This amendment raises an important issue which many Members may not be fully aware of. I'm sure we all realize that the Federal Government condemns lands for highways, water projects and other public works, but many Members may not be aware that each year hundreds of families across the country are directly impacted by condemnation proceedings initiated by the National Park Service.

For those Members who have experienced condemnation of private landowners in their district, I'm sure they can relate to the human trauma which often results. The bill brought to the floor today provides for the possibility of condemnation of over 50,000 acres of land. Since there is such strong local opposition to wild and scenic river designation, it is logical to expect that willing sellers will be very few.

Despite the strong local sentiment against the bill and the significant concerns regarding condemnation, authors of this bill have provided for absolutely no consideration of the local landowners. This is inconsistent with treatment afforded landowners on similar river designations. For example, at the Mississippi River National Recreation Area the Secretary may not undertake any condemnation unless he first determines that there is "no feasible alternative available to prevent uses which would be substantially incompatible." In the Senate-passed version of this Niobrara bill, condemnation of lands in fee simple was also precluded. That is the reason Senator EXON has publicly expressed his concern with the House version of the bill, provision of condemnation authority has even less justification in this case since there are no threats to the resource. This rural area has been carefully preserved by local ranchers and farmers who have been in the area for generations. It is unnecessary to arm Federal bureaucrats with condemnation authority which can be used as a threat over hundreds of private landowners whose only crime has been careful stewardship of their lands.

I urge my colleagues to join me in support of the amendment offered by the gentleman from Alaska.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. YOUNG of Alaska. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 93, noes 323, not voting 16, as follows:

[Roll No. 198]

AYES—93

Archer	Herger	Pickle
Armey	Holloway	Quillen
Baker	Hopkins	Rhodes
Barton	Houghton	Roberts
Bateman	Hunter	Robinson
Bentley	Johnson (CT)	Rogers
Brown (CO)	Johnson (SD)	Rohrabacher
Bunning	Kolbe	Roth
Burton	Kyl	Schaefer
Callahan	Lagomarsino	Shaw
Campbell (CO)	Lewis (CA)	Shumway
Combest	Lightfoot	Shuster
Craig	Livingston	Skeen
Crane	Lowery (CA)	Slaughter (VA)
Dannemeyer	Lukens, Donald	Smith (NE)
Davis	Madigan	Smith, Denny (OR)
DeLay	Martinez	Smith, Robert (OR)
Dickinson	McCandless	Spence
Dorgan (ND)	McCollum	Stallings
Dornan (CA)	McCrery	Stangeland
Duncan	Michel	Stearns
Early	Miller (OH)	Stump
Emerson	Morrison (WA)	Sundquist
Fields	Myers	Tauzin
Gallegly	Nielson	Thomas (WY)
Gekas	Oxley	Vucanovich
Grant	Packard	Walker
Hammerschmidt	Parris	Young (AK)
Hancock	Pashayan	Young (FL)
Hansen	Paxon	
Hastert	Penny	
Hefley	Pickett	

NOES—323

Ackerman	Carr	Erdreich
Alexander	Chandler	Evans
Anderson	Chapman	Fascell
Andrews	Clarke	Fawell
Annunzio	Clay	Fazio
Anthony	Clement	Feighan
Applegate	Clinger	Fish
Aspin	Coble	Flake
Atkins	Coleman (MO)	Flippo
Ballenger	Coleman (TX)	Foglietta
Barnard	Collins	Ford (MI)
Bartlett	Condit	Ford (TN)
Bates	Conte	Frenzel
Beilenson	Conyers	Frost
Bennett	Cooper	Gallo
Bereuter	Costello	Gaydos
Berman	Coughlin	Gejdenson
Bevill	Courter	Gephardt
Bilbray	Cox	Geren
Bilirakis	Coyne	Gibbons
Bliley	Darden	Gillmor
Boehlert	de la Garza	Gilman
Boggs	DeFazio	Gingrich
Bonior	Dellums	Glickman
Borski	Derrick	Gonzalez
Bosco	DeWine	Goodling
Boucher	Dicks	Gordon
Boxer	Dingell	Goss
Brennan	Dixon	Gradison
Brooks	Donnelly	Grandy
Broomfield	Douglas	Gray
Browder	Downey	Green
Brown (CA)	Dreier	Guarini
Bruce	Durbin	Gunderson
Bryant	Dwyer	Hall (OH)
Buechner	Dymally	Hamilton
Bustamante	Dyson	Harris
Byron	Eckart	Hatcher
Campbell (CA)	Edwards (CA)	Hawkins
Cardin	Engel	Hayes (IL)
Carper	English	Hayes (LA)
Hefner	Meyers	Schneider
Henry	Mfume	Schroeder
Hertel	Miller (CA)	Schuette
Hiler	Miller (WA)	Sensenbrenner
Hoagland	Mineta	Serrano
Hochbrueckner	Moakley	Sharp
Horton	Molinari	Shays
Hoyer	Mollohan	Sikorski
Hubbard	Montgomery	Sisisky
Huckaby	Moody	Skaggs
Hughes	Moorhead	Skelton
Hutto	Morella	Slattery
Hyde	Mrazek	Slaughter (NY)
Inhofe	Murphy	Smith (FL)
Ireland	Murtha	Smith (IA)
Jacobs	Nagle	Smith (NJ)
James	Natcher	Smith (TX)
Jenkins	Neal (MA)	Smith (VT)
Johnston	Neal (NC)	Smith, Robert (NH)
Jones (GA)	Nowak	Snowe
Jones (NC)	Oakar	Solarz
Jontz	Oberstar	Solomon
Kanjorski	Obey	Spratt
Kaptur	Olin	Staggers
Kasich	Ortiz	Stark
Kastenmeier	Owens (NY)	Stenholm
Kennedy	Owens (UT)	Stokes
Kennelly	Pallone	Studds
Kildee	Panetta	Swift
Kleczka	Parker	Synar
Kolter	Patterson	Tallon
Kostmayer	Payne (NJ)	Tanner
LaFalce	Payne (VA)	Tauke
Lancaster	Pease	Taylor
Lantos	Pelosi	Thomas (CA)
Laughlin	Perkins	Thomas (GA)
Leach (IA)	Petri	Torres
Leath (TX)	Porter	Torricelli
Lehman (CA)	Poshard	Towns
Lehman (FL)	Price	Traficant
Lent	Pursell	Traxler
Levin (MI)	Rahall	Udall
Levine (CA)	Rangel	Unsoeld
Lewis (FL)	Ravenel	Upton
Lewis (GA)	Ray	Valentine
Lipinski	Regula	Vander Jagt
Long	Richardson	Vento
Lowey (NY)	Ridge	Visclosky
Luken, Thomas	Rinaldo	Volkmer
Machtley	Ritter	Walgren
Manton	Roe	Walsh
Markey	Ros-Lehtinen	Watkins
Martin (IL)	Rose	Waxman
Martin (NY)	Rostenkowski	Weber
Matsui	Roukema	Weiss
Mavroules	Rowland (CT)	Weldon
Mazzoli	Rowland (GA)	Wheat
McCloskey	Roybal	Whitten
McCurdy	Russo	Williams
McDade	Sabo	Wilson
McDermott	Saiki	Wolf
McEwen	Sangmeister	Wolpe
McGrath	Sarpalius	Wyden
McHugh	Savage	Wylie
McMillan (NC)	Sawyer	Yates
McMillen (MD)	Saxton	Yatron
McNulty	Schiff	

NOT VOTING—16

AuCoin	Lloyd	Schumer
Crockett	Marlenee	Washington
Edwards (OK)	Morrison (CT)	Whittaker
Espy	Nelson	Wise
Frank	Scheuer	
Hall (TX)	Schulze	

□ 1752

The Clerk announced the following pair:

On this vote:

Mr. Marlenee for, with Mr. Wise against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

If not, the question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. ERDREICH, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 280) to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System, pursuant to House Resolution 410, reported the Senate bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VENTO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 358, noes 59, not voting 15, as follows:

[Roll No. 199]

AYES—358

Ackerman	Buechner	Dingell
Alexander	Bustamante	Dixon
Anderson	Byron	Donnelly
Andrews	Callahan	Dorgan (ND)
Annunzio	Campbell (CA)	Dornan (CA)
Anthony	Campbell (CO)	Douglas
Applegate	Cardin	Downey
Archer	Carper	Dreier
Aspin	Carr	Durbin
Atkins	Chandler	Dwyer
Ballenger	Chapman	Dymally
Barnard	Clarke	Dyson
Bateman	Clay	Early
Bates	Clement	Eckart
Beilenson	Clinger	Edwards (CA)
Bennett	Coble	Engel
Bereuter	Coleman (MO)	English
Berman	Coleman (TX)	Erdreich
Bevill	Collins	Espy
Bilbray	Condit	Evans
Bilirakis	Conte	Fascell
Bliley	Conyers	Fawell
Boehlert	Cooper	Fazio
Boggs	Costello	Feighan
Bonior	Coughlin	Fish
Borski	Courter	Flake
Bosco	Cox	Flippo
Boucher	Coyne	Foglietta
Boxer	Craig	Ford (MI)
Brennan	Darden	Ford (TN)
Brooks	de la Garza	Frenzel
Broomfield	DeFazio	Frost
Browder	Dellums	Gallo
Brown (CA)	Derrick	Gaydos
Brown (CO)	DeWine	Gejdenson
Bruce	Dickinson	Gephardt
Bryant	Dicks	Geren

Gibbons	Martin (IL)	Saiki
Gillmor	Martin (NY)	Sangmeister
Gilman	Martinez	Sarpalius
Gingrich	Matsui	Savage
Glickman	Mavroules	Sawyer
Gonzalez	Mazzoli	Saxton
Goodling	McCloskey	Schaefer
Gordon	McCollum	Schiff
Goss	McCrery	Schneider
Gradison	McCurdy	Schroeder
Grant	McDade	Schuette
Gray	McDermott	Sensenbrenner
Green	McEwen	Serrano
Guarini	McGrath	Sharp
Gunderson	McHugh	Shaw
Hall (OH)	McMillan (NC)	Shays
Hamilton	McMillen (MD)	Sikorski
Harris	McNulty	Sisisky
Hastert	Meyers	Skaggs
Hatcher	Mfume	Skelton
Hawkins	Miller (CA)	Slattery
Hayes (IL)	Miller (WA)	Slaughter (NY)
Hayes (LA)	Mineta	Slaughter (VA)
Hefley	Moakley	Smith (FL)
Hefner	Molinari	Smith (IA)
Henry	Mollohan	Smith (NJ)
Hertel	Montgomery	Smith (TX)
Hiler	Moody	Smith (VT)
Hoagland	Moorhead	Smith, Robert (NH)
Hochbrueckner	Morella	Snowe
Horton	Morrison (WA)	Solarz
Houghton	Mrazek	Solomon
Hoyer	Murphy	Spence
Hubbard	Murtha	Spratt
Huckaby	Nagle	Staggers
Hughes	Natcher	Stallings
Hutto	Neal (MA)	Stark
Hyde	Neal (NC)	Stearns
Inhofe	Nowak	Stenholm
Ireland	Oakar	Stokes
Jacobs	Oberstar	Studds
James	Obey	Sundquist
Jenkins	Olin	Swift
Johnson (CT)	Ortiz	Synar
Johnson (SD)	Owens (NY)	Tallon
Johnston	Owens (UT)	Tanner
Jones (GA)	Pallone	Tauke
Jones (NC)	Panetta	Tauzin
Jontz	Parker	Taylor
Kanjorski	Patterson	Thomas (CA)
Kaptur	Paxon	Thomas (GA)
Kasich	Payne (NJ)	Torres
Kastenmeier	Payne (VA)	Torricelli
Kennedy	Pease	Towns
Kennelly	Pelosi	Traficant
Kildee	Penny	Traxler
Kleczka	Perkins	Udall
Kolbe	Petri	Unsoeld
Kolter	Pickett	Upton
Kostmayer	Porter	Valentine
LaFalce	Poshard	Vander Jagt
Lancaster	Price	Vento
Lantos	Pursell	Visclosky
Laughlin	Rahall	Volkmer
Leach (IA)	Rangel	Walgren
Leath (TX)	Ravenel	Walsh
Lehman (CA)	Ray	Watkins
Lehman (FL)	Regula	Waxman
Lent	Richardson	Weber
Levin (MI)	Ridge	Weiss
Levine (CA)	Rinaldo	Weldon
Lewis (FL)	Ritter	Wheat
Lewis (GA)	Robinson	Whitten
Lipinski	Roe	Williams
Lloyd	Ros-Lehtinen	Wilson
Long	Rostenkowski	Wolf
Lowery (CA)	Roth	Wolpe
Lowey (NY)	Roukema	Wyden
Luken, Thomas	Rowland (CT)	Yates
Lukens, Donald	Rowland (GA)	Yatron
Machtley	Roybal	Young (FL)
Manton	Russo	
Markey	Sabo	

NOES—59

Armey	Davis	Hansen
Baker	DeLay	Herger
Bartlett	Duncan	Holloway
Barton	Emerson	Hopkins
Bentley	Fields	Hunter
Bunning	Gallegly	Kyl
Burton	Gekas	Lagomarsino
Combest	Grandy	Lewis (CA)
Crane	Hammerschmidt	Lightfoot
Dannemeyer	Hancock	Livingston
Madigan	Quillen	Smith, Robert (OR)
McCandless	Rhodes	Stangeland
Michel	Roberts	Stump
Miller (OH)	Rogers	Thomas (WY)
Myers	Rohrabacher	Vucanovich
Nielson	Shumway	Walker
Oxley	Shuster	Wylie
Packard	Skeen	Young (AK)
Parris	Smith (NE)	
Pashayan	Smith, Denny (OR)	
Pickle		

NOT VOTING—15

AuCoin	Marlenee	Schulze
Crockett	Morrison (CT)	Schumer
Edwards (OK)	Nelson	Washington
Frank	Rose	Whittaker
Hall (TX)	Scheuer	Wise

□ 1812

The Clerk announced the following pair:

On this vote:

Mr. AuCoin for, with Mr. Marlenee against.

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WISE. Mr. Speaker, I rise today to explain why I was not present to vote on final passage of H.R. 5021, the Commerce, Justice, State, and the Judiciary Appropriation bill—rollcall No. 196—and S. 280, the Niobrara Scenic River Designation Act—rollcall No. 199. I was in my district attending the first West Virginia Defense Procurement Opportunities Fair. As a main sponsor of the event it was necessary for me to be present.

Had I been present I would have voted in favor of final passage of H.R. 5021. This measure contains funding for critical law enforcement activities conducted by the U.S. Marshals Service, the Federal Corrections System and the Office of Justice Programs. These funds will also further important research into all areas of crime prevention and drug addiction.

The Commerce Department funds contained in this bill will benefit my home State of West Virginia because of the money earmarked for the Economic Development Administration, an agency vitally important to the rural economy of America. The Commerce funding also provides money for the Census Bureau which is working on its decennial accounting of the population. The results of this census will be used to formulate the distribution of Federal funds for the next 10 years.

Had I been present I would have also voted in favor of final passage of S. 280. I have always supported measures to preserve and protect historic and scenic areas in this country and I believe the Niobrara River in Nebraska is deserving of such protection. The Niobrara River possesses such scenic, recreational, and environmental value to warrant designation by Congress as a protected river reach. I am also aware of the overwhelming support among the people of Nebraska for protection of the Niobrara River, and it is also for that reason that I would have cast my vote in support of S. 280.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 196 and No. 199 and "nay" on rollcall No. 195, No. 197, and No. 198.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent and missed rollcall votes. On H.R. 5021, the bill making appropriations for fiscal year 1991 for the Departments of Commerce, State, and Justice and the Judiciary, I would have voted "no" on rollcall vote 195, on the amendment offered by Mr. DANNEMEYER, and "yea" on rollcall vote 196, final passage. On S. 280, concerning Nebraska scenic and recreational rivers, I would have voted "no" on rollcall votes 197 and 198, on the amendments offered by Mrs. SMITH and Mr. YOUNG, and "yea" on rollcall vote 199, on final passage.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 280, the Senate bill just passed.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4329, AMERICAN TECHNOLOGY PREEMINENCE ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-557) on the resolution (H. Res. 422) providing for the consideration of the bill (H.R. 4329) to enhance the position of United States industry through application of the results of Federal research and development, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT ON H.R. 5114, FOREIGN OPERATIONS APPROPRIATIONS ACT FOR FISCAL YEAR 1991

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight, tonight to file a privileged report on H.R. 5114, the Foreign Operations Appropriations Act for fiscal year 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONFERENCE REPORT ON S. 933, AMERICANS WITH DISABILITIES ACT OF 1990

Mr. HOYER submitted the following conference report and statement on the Senate bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability.

CONFERENCE REPORT (H. REPT 101-558)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMPLOYMENT

Sec. 101. Definitions.
Sec. 102. Discrimination.
Sec. 103. Defenses.
Sec. 104. Illegal use of drugs and alcohol.
Sec. 105. Posting notices.
Sec. 106. Regulations.
Sec. 107. Enforcement.
Sec. 108. Effective date.

TITLE II—PUBLIC SERVICES

SUBTITLE A—PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS

Sec. 201. Definition.
Sec. 202. Discrimination.
Sec. 203. Enforcement.
Sec. 204. Regulations.
Sec. 205. Effective date.

SUBTITLE B—ACTIONS APPLICABLE TO PUBLIC TRANSPORTATION PROVIDED BY PUBLIC ENTITIES CONSIDERED DISCRIMINATORY

Part I—Public Transportation Other Than by Aircraft or Certain Rail Operations

Sec. 221. Definitions.
Sec. 222. Public entities operating fixed route systems.
Sec. 223. Paratransit as a complement to fixed route service.
Sec. 224. Public entity operating a demand responsive system.
Sec. 225. Temporary relief where lifts are unavailable.
Sec. 226. New facilities.
Sec. 227. Alterations of existing facilities.
Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
Sec. 229. Regulations.
Sec. 230. Interim accessibility requirements.
Sec. 231. Effective date.

Part II—Public Transportation by Intercity and Commuter Rail

Sec. 241. Definitions.
Sec. 242. Intercity and commuter rail actions considered discriminatory.
Sec. 243. Conformance of accessibility standards.
Sec. 244. Regulations.
Sec. 245. Interim accessibility requirements.
Sec. 246. Effective date.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

Sec. 301. Definitions.
Sec. 302. Prohibition of discrimination by public accommodations.
Sec. 303. New construction and alterations in public accommodations and commercial facilities.
Sec. 304. Prohibition of discrimination in public transportation services provided by private entities.
Sec. 305. Study.
Sec. 306. Regulations.
Sec. 307. Exemptions for private clubs and religious organizations.
Sec. 308. Enforcement.
Sec. 309. Examinations and courses.
Sec. 310. Effective date.

TITLE IV—TELECOMMUNICATIONS RELAY SERVICES

Sec. 401. Telecommunication services for hearing-impaired and speech-impaired individuals.
Sec. 402. Closed-captioning of public service announcements.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Construction.
Sec. 502. State immunity.
Sec. 503. Prohibition against retaliation and coercion.
Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Attorney's fees.
Sec. 506. Technical assistance.
Sec. 507. Federal wilderness areas.
Sec. 508. Transvestites.
Sec. 509. Congressional inclusion.
Sec. 510. Illegal use of drugs.
Sec. 511. Definitions.
Sec. 512. Amendments to the Rehabilitation Act.
Sec. 513. Alternative means of dispute resolution.
Sec. 514. Severability.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE I—EMPLOYMENT

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) Illegal use of drugs.—

(A) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) Requirement.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. DEFENSES.

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) QUALIFICATION STANDARDS.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) RELIGIOUS ENTITIES.—

(1) IN GENERAL.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) RELIGIOUS TENETS REQUIREMENT.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) TRANSPORTATION EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Department of Transportation of authority to—

(1) test employees of such entities in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

SEC. 105. POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

SEC. 106. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

SEC. 107. ENFORCEMENT.

(a) POWERS, REMEDIES, AND PROCEDURES.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this title and Rehabilitation Act of 1973 not later than 18 months after the date of enactment of this Act.

SEC. 108. EFFECTIVE DATE.

This title shall become effective 24 months after the date of enactment.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. DEFINITION.

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable

modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. DISCRIMINATION.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. ENFORCEMENT.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

SEC. 205. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

SEC. 221. DEFINITIONS.

As used in this part:

(1) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) DESIGNATED PUBLIC TRANSPORTATION.—The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) OPERATES.—The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) PUBLIC SCHOOL TRANSPORTATION.—The term "public school transportation" means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 222. PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) PURCHASE AND LEASE OF NEW VEHICLES.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) PURCHASE AND LEASE OF USED VEHICLES.—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) REMANUFACTURED VEHICLES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

SEC. 223. PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from

traveling to a boarding location or from a disembarking location on such system;

(B) to 1 other individual accompanying the individual with the disability; and

(C) to other individuals, in addition to the one individual described in subparagraph (B), accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individuals will not result in a denial of service to individuals with disabilities.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) SERVICE AREA.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) SERVICE CRITERIA.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) UNDUE FINANCIAL BURDEN LIMITATION.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) ADDITIONAL SERVICES.—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) PUBLIC PARTICIPATION.—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) PLANS.—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) PROVISION OF SERVICES BY OTHERS.—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) OTHER PROVISIONS.—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) REVIEW OF PLAN.—

(1) GENERAL RULE.—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) DISAPPROVAL.—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) MODIFICATION OF DISAPPROVED PLAN.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) DISCRIMINATION DEFINED.—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

SEC. 224. PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. ALTERATIONS OF EXISTING FACILITIES.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon com-

pletion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least two-thirds of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

SEC. 228. PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) EXCEPTION.—Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 227(a) (relating to alterations) or section 227(b) (relating to key stations).

(3) UTILIZATION.—Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchairs services made available to the general public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

SEC. 231. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

SEC. 241. DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term "commuter authority" has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C 502(8)).

(2) COMMUTER RAIL TRANSPORTATION.—The term "commuter rail transportation" has the meaning given the term "commuter service" in section 103(9) of the Rail Passenger Service Act (45 U.S.C 502(9)).

(3) INTERCITY RAIL TRANSPORTATION.—The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation.

(4) RAIL PASSENGER CAR.—The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars.

(5) RESPONSIBLE PERSON.—The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation.

(6) STATION.—The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

SEC. 242. INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to

individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair,

only to the extent provided in paragraph (3).

(C) SPECIAL RULE FOR SINGLE-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) SPECIAL RULE FOR BI-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Bi-level dining cars shall not be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the

Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242(a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations

are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) CONSTRUCTION.—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) HISTORICAL OR ANTIQUATED CARS.—

(1) EXCEPTION.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required. (2) DEFINITION.—As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals; (B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and (C) which—

(i) has a consequential association with events or persons significant to the past; or (ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

SEC. 305. STUDY.

(a) PURPOSES.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) CONTENTS.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) ADVISORY COMMITTEE.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) DEADLINE.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) REVIEW.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. REGULATIONS.

(a) TRANSPORTATION PROVISIONS.—

(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 302(b)(2) (B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—

(A) INTERIM REQUIREMENTS—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) EFFECTIVE PERIOD.—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) FINAL REQUIREMENT.—

(i) REVIEW OF STUDY AND INTERIM REQUIREMENTS.—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) ISSUANCE.—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) EFFECTIVE PERIOD.—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

SEC. 307. EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. ENFORCEMENT.

(a) IN GENERAL.—

(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) INJUNCTIVE RELIEF.—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) DENIAL OF RIGHTS.—

(A) DUTY TO INVESTIGATE.—

(i) IN GENERAL.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) ATTORNEY GENERAL CERTIFICATION.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement pro-

ceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) Authority of court.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsections (b) and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) CIVIL ACTIONS.—Except for any civil action brought for a violation of section 303, no civil action shall be brought for any act or omission described in section 302 which occurs—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

(c) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2)(B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

TITLE IV—TELECOMMUNICATIONS

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) TELECOMMUNICATIONS.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

"(a) DEFINITIONS.—As used in this section—

"(1) COMMON CARRIER OR CARRIER.—The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

"(2) TDD.—The term 'TDD' means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(3) TELECOMMUNICATIONS RELAY SERVICES.—The term 'telecommunications relay services' means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

"(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

"(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the regulations prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

"(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

"(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that— .

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards that shall be met in carrying out subsection (c);

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

"(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) TECHNOLOGY.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

"(3) JURISDICTIONAL SEPARATION OF COSTS.—

"(A) IN GENERAL.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

"(B) RECOVERING COSTS.—Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for

every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) CERTIFICATION.—

"(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) METHOD OF FUNDING.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATION.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) COMPLAINT.—

"(1) REFERRAL OF COMPLAINT.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) JURISDICTION OF COMMISSION.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 of the Communications Act of 1934 is amended to read as follows:

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONSTRUCTION.

(a) IN GENERAL.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) INSURANCE.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7 (1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall

establish procedures equivalent to those established by 4.1.7(1) (b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. TECHNICAL ASSISTANCE.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—

(1) IN GENERAL.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) DEFINITION.—For purposes of paragraph (1), the term "wheelchair" means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

SEC. 508. TRANSVESTITES.

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

SEC. 509. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the provisions of this Act shall apply in their entirety to the Senate, except as provided in paragraph (2).

(2) EXERCISE OF AUTHORITY.—Authorities granted under this Act to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation shall be exercised by the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to paragraphs (2) and (3), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundredth First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(3) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the House of Representatives regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) APPROVAL.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Ar-

chitect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act.

SEC. 510. ILLEGAL USE OF DRUGS.

(a) IN GENERAL.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term "disability" shall not include—

(1) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use; except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under title I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps" does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

And the House agree to the same.

From the Committee on Education and Labor, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
MAJOR R. OWENS,
MATTHEW G. MARTINEZ,
STEVE BARTLETT,
HARRIS W. FAWELL,

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference, except that for consideration of title IV of the Senate bill, and title IV of the House amendment, and modifications committed to conference, Mr. Rinaldo is appointed in lieu of Mr. Whittaker:

JOHN D. DINGELL,
EDWARD J. MARKEY,
THOMAS A. LUKEN,
NORMAN F. LENT,
BOB WHITTAKER,

For consideration of title IV of the Senate bill, and title IV of the House amendment, and modifications committed to conference, in lieu of Mr. Whittaker:

MAT. RINALDO,

From the Committee on Public Works and Transportation, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

GLENN M. ANDERSON,
ROBERT A. ROE,
NORMAN Y. MINETA,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on the Judiciary, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
BOB KASTENMEIER,
HAMILTON FISH, Jr.,
F. JAMES SENSENBRENNER, Jr.
(agrees to the conference report with the exception of "Item 13. Health and Safety" (Sec. 103(d))),

As an additional conferee, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

STENY H. HOYER,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,

PAUL SIMON,
ORRIN HATCH,
DAVE DURENBERGER,
JAMES M. JEFFORDS,

From the Committee on Commerce, Science, and Transportation, solely for the consideration of issues within that Committee's jurisdiction (telecommunications, commuter transit, and drug testing of transportation employees):

FRITZ HOLLINGS,
DANIEL K. INOUYE,
JOHN C. DANFORTH,

Managers of the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. Short title

The Senate bill titles the Act the Americans with Disabilities Act of 1989. The House amendment changes the date of 1990.

The Senate recedes.

1A. Finding and purposes

The House amendment, but not the Senate bill, includes the term "color" in its list of factors which have been the basis of discrimination for which there is legal recourse to redress such discrimination.

The Senate recedes.

TITLE I OF THE ADA (EMPLOYMENT)

2. Definition of the term "direct threat"

The House amendment, but not the Senate bill, defines the term "direct threat" to mean a significant risk to the health or safety of others that cannot he eliminated by reasonable accommodation.

The Senate recedes.

3. Definitions of terms "illegal use of drugs" and "drugs"

The Senate bill uses the phrase "illegal drug" and explains that the term means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act, the possession or distribution of which is unlawful under such Act and does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by the Controlled Substances Act.

The House amendment uses the phrase "illegal use of drugs" and defines the term to mean the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act and does not mean the use of controlled substances taken under supervision by a licensed health care professional or other uses authorized by the Controlled Substances Act or other provisions of Federal law. The House amendment defines the term "drugs" to mean a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

The Senate recedes.

4. Essential functions of the job

The Senate bill defines a qualified individual with a disability as a person who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires.

The House amendment adds that consideration shall be given to the employer's judgment as to what functions of a job are essential and if an employer had prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

The Senate recedes.

5. Definition of the term "undue hardship"

(a) The Senate bill defines an "undue hardship" to mean an action requiring significant difficulty or expense and then list the factors that must be considered in determining whether an accommodation would impose an undue hardship.

The House amendment specifies that the term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors listed in the statute.

The Senate recedes.

(b) In determining whether accommodating a qualified applicant or employee with a disability imposes an "undue hardship," the Senate bill requires that the following factors be considered: (1) the overall size of the covered entity with respect to the number of employees, number and type of facilities, and size of the budget; (2) the type of operation of the covered entity, including the composition and structure of the entity; and (3) the nature and cost of the action needed.

The House amendment includes the following factors: (1) the nature and cost of the accommodation needed under the ADA; (2) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility; (3) the overall financial resource of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, the number, type, and location of its facilities; and (4) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity, the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

The Senate recedes.

6. Discrimination

The Senate bill and House amendment use the same terms but in a different order.

The Senate recedes.

7. Contract liability

The Senate bill specifies that covered entities cannot discriminate directly or indirectly through contracts with other parties.

The House amendment clarifies that a covered entity is only liable in contractual arrangements for discrimination against its own applicants or employees.

The Senate recedes.

8. Reasonable accommodation

The Senate bill specifies that it is discriminatory for a covered entity to deny an employment opportunity to a qualified job applicant or employee with a disability if such denial is based on the need of the covered entity to make reasonable accommodations. In a separate section, the Senate bill specifies that reasonable accommodations need not be provided if they would result in an undue hardship.

The House amendment clarifies the relationship between the obligation not to deny a job to an individual with a disability who needs a reasonable accommodation and the undue hardship limitation governing the covered entity's obligation to provide the reasonable accommodation by including these provisions under the same paragraph.

The Senate recedes.

9. Employment tests

The House amendment adds the term "qualification standards" to the phrase "employment tests or other selection criteria."

10. Preemployment inquiries

The House amendment deletes the world "employee" from the preemployment inquiry provision.

The Senate recedes. The conferees note that in certain industries, such as air transportation, applicants for security and safety related positions are normally chosen on the basis of many competitive factors, some of which are identified as a result of post-offer pre-employment medical examinations. Thus, after the employer receives the results of the post-offer medical examination for applicants for safety or security sensitive positions, only those applicants who meet the employer's criteria for the job must receive confirmed offers of employment, so long as the employer does not use those results of the exam to screen out qualified individuals with disabilities on the basis of disability. The conferees do not intend for this Act to override any legitimate medical standards or requirements established by Federal, state or local law, or by employers for applicants for safety or security sensitive positions, if the medical standards are consistent with the Act.

11. Postemployment medical examinations

The Senate bill specifies that an employer shall not conduct or require a medical examination of an employee unless such examination or inquiry is shown to be job-related and consistent with business necessity.

The House amendment deletes the term "conduct" and adds that a covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site so long as the information obtained regarding the medical condition or history of any employee are kept confidential and are not used to discriminate against qualified individuals with disabilities.

The Senate recedes.

12. Defenses, in general

The Senate amendment includes a reference to "reasonable accommodations." The House adds the following phrase "as required under this title."

The Senate recedes.

13. Health and safety

The Senate bill includes as a defense that a covered entity may fire or refuse to hire a person with a contagious disease if the individual poses a direct threat to the health

and safety of other individuals in the workplace.

The House amendment makes this specific defense applicable to all applicants and employees, not just to those with contagious diseases.

The Senate recedes. The conferees intend that the term "qualification standard" as used in section 103(b) permits a requirement that an individual with a disability not pose a direct threat to the health or safety of other individuals in the workplace if reasonable accommodation will not eliminate the direct threat. In addition, the conferees concur with the House provision that defines "direct threat" to mean "significant risk" (section 101(3). The qualification standard in section 103(b) and the definition in section 101(3) clearly spell out the right of the employer to take action to protect the rights of its employees and other individuals in the workplace. Such employer action would include not assigning an individual to a job if such an assignment would pose a direct threat to individuals in the workplace and such a threat could not be eliminated by reasonable accommodation. The conferees incorporate by reference the explanations of the term "direct threat" set out in Senate Report No. 101-116. Consistent with this explanation, in determining what constitutes a significant risk, the conferees intend that the employer may take into consideration such factors as the magnitude, severity, or likelihood of risk to other individuals in the workplace and that the burden would be on the employer to show the relevance of such factors in relying on the qualification standard.

14. Religious tenet exemption

The Senate bill specifies that a religious organization may require, as a qualification standard to employment, that all applicants and employees conform to the religious tenents of such organization.

The House amendment deletes the phrase "as a qualification standard to employment."

The Senate recedes.

15. Food handlers

The House amendment, but not the Senate bill, specifies that it shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

The House recedes. Consistent with section 103(b), the conferees note that nothing in the Americans with Disabilities Act shall require an employer to assign, or to continue to assign to a job any employee with a communicable or infectious disease who by reason of such disease poses a significant risk to the health or safety of others which cannot be eliminated by reasonable accommodation. The conferees acknowledge that such reasonable accommodation is not required if it imposes an undue hardship (as defined in section 101(10)) on the operation of the business.

Different types of contagious diseases pose different kinds of risks; some contagious diseases may pose a significant risk which cannot be eliminated by reasonable accommodation in certain job categories, such as food handling. The conferees do not intend to imply that a person with an infectious disease necessarily poses a health threat to others. Rather, the conferees intend for this policy to meet the legitimate concerns of employers that are based on health and safety concerns. The determination whether a particular individual poses a significant risk of transmitting an infection to others must be based on the facts applicable to that individual and be based on current and objective public health standards.

16. Illegal use of drugs and use of alcohol

(a) The Senate bill specifies that the term "qualified individual with a disability" does not include employees or applicants who are current users of illegal drugs, except that an individual who is otherwise handicapped shall not be excluded from the protections of the Act if such individual also uses or is addicted to drugs.

The House amendment specifies that "qualified person with a disability" does not include any applicant or employee who is currently engaging in the illegal use of drugs when the covered entity acts on the basis of such use.

The Senate recedes. The provision excluding an individual who engages in the illegal use of drugs from protection is intended to ensure that employers may discharge or deny employment to persons who illegally use drugs on that basis, without fear of being held liable for discrimination. The provision is not intended to be limited to persons who use drugs on the day of, or within a matter of days or weeks before, the employment action in question. Rather, the provision is intended to apply to a person whose illegal use of drugs occurred recently enough to justify a reasonable belief that a person's drug use is current.

(b) The House amendment specifies that the following individuals are not excluded from the definition of the term "qualified individual with a disability": (1) an individual who has successfuly completed a supervised rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use; (2) an individual who is participating in a supervised rehabilitation program and is no longer engaging in such use; or (3) an individual who is erroneously regarded as engaging in such use but is not engaging in such use.

The Senate recedes. Section 104(b)(2) provides that a person cannot be excluded as a qualified individual with a disability if that individual is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs. This provision does not permit persons to invoke the Act's protection simply by showing that they are participating in a drug treatment program. Rather, refraining from illegal use of drugs also is essential. Employers are entitled to seek reasonable assurances that no illegal use of drugs is occurring or has occurred recently enough so that continuing use is a real and ongoing problem. On the other hand, this provision recognizes that many people continue to participate in drug treatment programs long after they have stopped using drugs illegally, and that such persons should be protected under the Act. The conferees intend that the phrase "otherwise been rehabilitated successfully" be interpreted to refer to both in-patient and outpatient programs, as well as appropriate employee assistance programs that provide professional (not necessarily medical) assistance and counseling.

(c) The House amendment, but not the Senate bill, specifies that it is not a violation of title I of the Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual involved in rehabilitation programs is no longer engaging in the illegal use of drugs.

The Senate recedes. Conferees note that, for purposes of this title, an individual covered by the regulation described in section 104(c)(5) who tests positive on an employment related drug test conducted and verified in conformity with applicable federal regulations or guidelines is deemed to be "currently engaging in the illegal use of drugs" and may not invoke the Act's protection, except as provided in section 104(b)(3). The conferees do not intend to prevent individuals covered by section 104(c)(5) or any other individual covered by the employment provisions of the Act from challenging a positive drug test result by invoking the protection of section 104(b)(3). The ADA itself does not provide any standard by which the accuracy or validity of a drug test result is to be determined. Conferees also recognize that current Department of Transportation regulations allow or require, depending on the circumstances, employers to remove individuals in safety sensitive positions who are undergoing drug rehabilitation from such positions. With respect to individuals illegally using drugs or impaired by alcohol, nothing in this Act is intended to affect federal laws or Department of Transportation regulations to protect public safety.

(d) The Senate bill specifies that the covered entity may require that employees behave in conformance with the requirements of the Drug-Free Workplace Act of 1988 and that transportation employees meet requirements established by the Secretary of Transportation with respect to drugs and alcohol.

The House amendment also includes reference to positions defined by the Department of Defense and the Nuclear Regulatory Commission.

The Senate recedes.

(e) The House amendment adds that nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by railroads of authority to: (1) test railroad employees in, and applicants for, positions involving safety-sensitive duties, as determined by the Secretary of Transportation, for the illegal use of drugs and for on-duty impairment by alcohol; and (2) remove such persons who test positive from safety-sensitive duties.

The Senate recedes with an amendment. The amendment substitutes the phrase "entitles subject to the jurisdiction of the Department of Transportation" for the word "railroad" in the House amdendment; substitutes the pharase "employees of such entities" for the term "railroad employees" in the House amendment; deletes the phrase "as determined by the Secretary of Transportation" in subsection (e)(1) of the House amendment; and adds the phrase "for illegal use of drugs and on duty impairment by alcohol" after the word "positive" in subsection (e)(2) of the House amendment. The conferees agree that, separate and apart from Department of Transportation regulations, nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise (e.g., as a result of collective bargaining agreements) by entities subject to the jurisdiction of DOT of authority to test employees of such entities in, and applicants for, positions involving safety sensitive duties

for the illegal use of drugs and for on duty impairment by alcohol, and to remove such persons who test positive from safety sensitive duties. The conferees intend that the authority for transportation entities to remove persons who test positive includes authority for dismissal or disqualification, consistent with the provisions of this title. The conferees do not intend to prevent individuals covered by section 104(c)(5) or any other individual covered by the employment provisions of the Act, from challenging a positive drug test by invoking the protection of section 104(b)(3). The ADA itself, does not provide any standard by which the accuracy or validity of a drug test result is to be determined.

The conferees note that there was a typographical error in part 2 (Education and Labor Committee) of the House Report No. 101-485. The language in the last paragraph on page 81 should have appeared as follows: "The Act is not intended to disturb the legitimate and reasonable disciplinary rules and procedures established and enforced by professional sports leagues; nor is it intended to disturb collectively bargained policies that have been entered into between league management and its players association that are not inconsistent with this Act."

17. Enforcement

(a) The House amendment adds "powers" to the phrase "remedies and procedures" to conform the ADA to title VII.

The Senate recedes.

(b) The House amendment adds to the enforcement section a reference to section 705 of title VII of the Civil Rights Act of 1964 (authority of the Equal Employment Opportunity Commission).

The Senate recedes.

(c) The House amendment adds a reference to "the Attorney General."

The Senate recedes.

(d) The House amendment substitutes the term "person," which is used and defined in title VII of the Civil Rights Act of 1964 for the term "individual" included in the Senate bill.

The Senate recedes.

(e) The Senate bill includes the phrase any individual "who believes he or she is being subjected to discrimination." The House amendment substitutes "any person alleging discrimination."

The Senate recedes.

18. Relationship with the Rehabilitation Act of 1973

The House amendment, but not the Senate bill, directs administrative agencies to develop procedures and coordinating mechanisms to ensure that ADA and Rehabilitation Act of 1973 administrative complaints are handled without duplication or inconsistent, conflicting standards. Further, agencies must establish the coordinating mechanisms in their regulations.

The Senate recedes with an amendment. The amendment specifies that "The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and part 1691 of title 29, Code of Federal Regulations, and the Momorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this title and the Rehabilitation Act of 1973 not later than 18 months after the date of enactment of this Act."

TITLE II OF THE ADA (PUBLIC SERVICES)

19. Structure of title II

The Senate bill includes one set of standards applicable to all public entities providing public services, including entities providing public transportation.

The House amendment includes subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions and subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory. Two parts are included under subtitle B: part I covers public transportation other than by aircraft or certain rail operations (intercity and commuter rail) and part II covers public transportation by intercity and commuter rail.

The Senate recedes.

SUBTITLE A—PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS

20. Definition of public entities

The Senate bill specifies that the public entities subject to the provisions of title II include: any state or local government or any department, agency, special purpose district, or other instrumentality of a State or local government. The accompanying report makes it clear that AMTRAK and commuter authorities are considered public entities.

The House amendment defines the term "public entity" to mean any state or local government or any department, agency, special purpose district, or other instrumentality of a state or states or local government; a commuter authority (as defined in section 103(8) of the Rail Passenger Service Act); and the National Railroad Passenger Corporation (AMTRAK).

The Senate recedes.

21. Qualified individual with a disability

The House amendment uses the term "public entity" in lieu of the list of entities covered by subtitle A.

The Senate recedes.

22. Discrimination, in general

The Senate bill specifies the general and specific prohibitions against discrimination by public entities.

The House amendment retains the general prohibition and clarifies that this general prohibition is subject to the other more specific provisions in title II. The House amendment also includes grammatical changes.

The Senate recedes. Questions have been raised regarding the obligation under this legislation of local and state governments to make 911 telephone emergency services available to hearing impaired and speech impaired persons. It is the intent of the conferees that the telephone emergency services operated by local and state governments be accessible to such individuals. This means that such telephone emergency systems must be equipped with technology that gives these individuals direct access to emergency services. For the present, this would require that local emergency systems provide a direct telephone line for individuals who rely on telecommunications devices for the deaf (the Baudot format) and computer modems (the ASCII format) to make telephone calls. In the future, new technology, such as speech-to-text services, may require other forms of direct access for such individuals. With this title II mandate, individuals with hearing and speech impairments will finally join the rest of us in having immediate access to assistance from police, fire, and ambulance services.

23. Enforcement

The Senate bill specifies that the remedies, procedures, and rights set out in section 505 of the Rehabilitation Act of 1973 shall be available with respect to any individual who believes that he or she is being subjected to discrimination on the basis of disability in violation of this Act, or regulations promulgated under section 204 concerning public services.

The House amendment provides that the remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 shall be the remedies, procedures, and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

The Senate recedes.

24. Regulations and standards

The Senate bill specifies that the Attorney General shall issue regulations implementing title II with the exception of section 203 pertaining to public transportation provided by public entities.

The House amendment, consistent with the revised structure used by the House, specifies that the Attorney General shall promulgate regulations that implement subtitle A. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223 (paratransit), section 229 (regulations relating to part I of subtitle B), and section 244 (regulations relating to part II of subtitle B).

The House amendment also specifies that regulations shall include standards applicable to facilities and vehicles covered by subtitle A, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B.

The Senate recedes.

SUBTITLE B—ACTIONS APPLICABLE TO PUBLIC TRANSPORTATION PROVIDED BY PUBLIC ENTITIES CONSIDERED DISCRIMINATORY

Part I—Public Transportation Other Than by Aircraft or Certain Rail Operations

25. Definitions

The Senate bill uses the following phrases: "demand responsive system," "fixed route system," "operates," and "public transportation."

The House amendment adds definitions for the terms "demand responsive system," "fixed route system" and "operates." The House amendment also substitutes the phrase "designated public transportation" for the phrase "public transportation" and includes the following definition: transportation (other than public school transportation) by bus, rail, or by other conveyance (other than transportation by aircraft, or intercity or commuter rail) that provides the general public with general or special service (including charter service) on a regular and continuing basis. The House amendment also includes a definition for the term "public school transportation.

The Senate recedes.

26. Purchase or lease of new and used fixed route vehicles

With slightly different wording, the Senate bill and the House amendment require that all new vehicles purchased or leased by a public entity which operates a fixed route system be accessible and require such public entity to make demonstrated

good faith efforts to purchase or lease used vehicles that are accessible.

The Senate recedes.

27. Remanufactured and historic vehicles

The Senate bill specifies that if a public entity remanufactures a vehicle, or purchases or leases a remanufactured vehicle so as to extend its usable life for 5 years or more, the vehicle must, to the maximum extent feasible, be readily accessible to and usable by individuals with disabilities.

With slightly different phrasing, the House amendment includes the policy in the Senate version applicable to remanufactured vehicles and adds a specific provision in the legislation for historic vehicles. Under the provision, if making a vehicle of historic character (which is used solely on any segment of a fixed route system that is included on the National Register of Historic Places) readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or purchase or lease a remanufactured vehicle with) those modifications which do not significantly alter the historic character of such vehicle.

The Senate recedes.

28. Paratransit

The Senate bill specifies that if a public entity operates a fixed route system, it is discrimination for a public transit authority to fail to provide paratransit or other special transportation services sufficient to provide a comparable level of services as is provided to individuals using the fixed route transportation to individuals with disabilities who cannot otherwise use fixed route transportation and individuals associated with such individuals with disabilities unless the public transit authority can demonstrate that the provision of paratransit or other transportation services would impose an undue financial burden on the public transit entity. If the provision of comparable paratransit services would impose an undue financial burden on the public entity, such entity must provide such service to the extent that provision of such services would not impose an undue financial burden on such entity. The Senate version specifies that the definition of undue financial burden may include reference to a flexible numerical formula that incorporates appropriate local characteristics such as population.

The House amendment includes the following changes.

(a) The House amendment clarifies that a public entity that only provides commuter bus service need not provide paratransit.

The Senate recedes.

(b) The House amendment specifies that comparable level of service must be provided but in the case of response time, it must be comparable, to the extent practicable.

The Senate recedes.

(c) Under the House amendment, paratransit and other special transportation services must be provided to three categories of individuals with disabilities:

to any individual with a disability who is unable as a result of a physical or mental impairment (including a vision impairment) without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device) to board, ride, or disembark from any vehicle on the system which is accessible;

to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is accessible if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such an accessible vehicle is not being used to provide designated public transportation on the route; and

to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.

For purposes of the first two categories of individuals with disabilities, boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

The Senate recedes.

(d) The House amendment clarifies that paratransit and special transportation services need only be provided in the service area of each public entity that operates a fixed route system and not in any portion of the service area in which the public entity solely provides commuter bus service.

The Senate recedes.

(e) The House amendment deletes the permissive reference to flexible numerical formula.

The Senate recedes.

(f) The House amendment requires that paratransit be available to one other person accompanying the individual with a disability.

The House recedes with an amendment. The amendment provides that in addition to the one individual specified in the House amendment, paratransit services must be available to other individuals accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individual will not result in a denial of service to individuals with disabilities. Throughout this section, the conferees intend that individuals accompanying the individual with a disability travel between the same boarding and disembarking locations as the individual with a disability.

(g) The House amendment specifies that each public entity must submit plans for operating paratransit services to the Secretary. The plan must include, among other things, the identity of any other public entity or person providing paratransit service and provide that the public entity does not have to provide directly under the plan the identified paratransit services being provided to others.

The Senate recedes.

(h) The House amendment includes a statutory construction provisions that makes it clear that nothing in the ADA should be construed as preventing a public entity from providing paratransit services at a level which is greater than the level required by the ADA, from providing paratransit services in addition to those services required by the ADA, or from providing such services to individuals in addition to those individuals to who such services are required to be provided by the ADA.

The Senate recedes.

29. Demand responsive systems operated by a public entity

With slightly different wording, the Senate bill and the House amendment specify rules for public entities operating demand responsive systems.

The Senate recedes.

30. New facilities

The House amendment substitutes the phrase "designated public transportation services" for the phrase "public transportation services" used in the Senate bill.

The Senate recedes.

31. Alterations to existing facilities

(a) The House amendment adds a reference to "designated public transportation."

The Senate recedes

(b) The Senate bill requires that when major structural alterations are made, the alterations as well as the path of travel must be accessible to individuals with disabilities to the maximum extent feasible.

The House amendment substitutes the phrase "an alteration that affects or could affect usability or access to an area of the facility containing a primary function" for the Senate language "major structural alteration" and adds that the alterations to the path of travel and facilities serving the altered area should "not be disproportionate" to the overall alterations in terms of the cost and scope of the overall alterations as determined under criteria established by the Attorney General.

The Senate recedes

32. Key stations in rapid and light rail systems

(a) The Senate bill provides an extension of up to 20 years for making key stations in rapid rail or light rail systems accessible where extraordinary expensive structural changes are required.

The House amendment permits 30 years where extraordinary expensive structural changes are required except that by the last day of the 20th year at least two-thirds of such key stations must be readily accessible.

The Senate recedes

(b) With slightly different wording, both the Senate bill and the House amendment require the development of plans and milestones.

The Senate recedes

33. Access to non-key stations

With slightly different phrasing, the Senate bill and the House amendment specify rules governing non-key existing stations.

The Senate recedes with an amendment. In section 228(a), strike out paragraph (2) and insert in lieu thereof the following new paragraphs:

"(2) EXCEPTION.—Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 227(a) (relating to alterations) and section 227(b) (relating to key stations).

"(3) UTILIZATION.—Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchair services made available to the general public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities."

34. One car per train rule applicable to rapid rail and light rail systems

The Senate bill provides that as soon as practicable, but in any event in no less than 5 years, rail systems must have at least one car per train that is accessible to individuals with disabilities.

The House amendment specifies that the one car per train rule only applies with respect to trains that have two or more vehicles and includes a special provision applicable to historic trains.

The Senate recedes.

35. Interim accessibility

The House amendment, but not the Senate bill, specifies that for new construction and alterations for which a valid and appropriate state or local building permit is obtained prior to the issuance of final regulations and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the accessibility requirement except that if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines, compliance with such supplemental guidelines shall be necessary.

The Senate recedes.

36. Effective date

The Senate bill specifies that the section in title II pertaining to new fixed route vehicles shall become effective on the date of enactment.

The House amendment specifies that sections concerning fixed route vehicles, demand responsive, stations, one car per train and regulations become effective on the date of enactment.

The Senate recedes.

Part II—Public Transportation by Intercity and Commuter Rail

37. Definitions

The House amendment but not the Senate bill includes definitions of the following terms: "commuter authority," "commuter rail transportation," "intercity rail transportation," "rail passenger car," "responsible person," and "station."

The Senate recedes.

38. One car per train rule for intercity rail transportation

With slightly different wording, the Senate bill and the House amendment specify a one car per train rule for intercity rail transportation.

The Senate recedes.

39. New intercity cars

The Senate bill provides that all new intercity vehicles must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

The House amendment includes a general obligation to make new intercity cars accessible that is identical to the provision in the Senate bill but includes special rules of accessibility applicable to people who use wheelchairs for specific categories of passenger car.

The Senate recedes.

40. One car per train rule and new commuter rail cars

(a) With slightly different wording, the Senate bill and the House amendment specify the one car per train rule for persons providing commuter rail transportation.

The Senate recedes.

(b) The Senate bill provides that all new commuter rail cars must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

The House amendment adopts the same standard and specifies that the term "readily accessible to and usable by" shall not be construed to require: a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger; space to store and fold a wheelchair; or a seat to which a passenger who uses a wheelchair can transfer.

The Senate recedes.

41. Used and remanufactured rail cars

The Senate bill includes special rules for the purchase of all types of used and remanufactured vehicles.

The House amendment includes special provisions applicable to the purchase of used rail cars and remanufactured rail cars similar to the provisions included in the Senate bill applicable to all vehicles (the time period for remanufacture is 10 years for rail cars instead of 5 years for other vehicles).

The Senate recedes.

42. New and existing stations

(a) With respect to commuter rail, the Senate bill specifies that existing key stations must be made accessible as soon as practicable but in no event later than 3 years after the effective date, except that the time limit may be extended to 20 years after the date of enactment in a case where extraordinarily expensive structural changes are necessary to attain accessibility.

The House amendment provides that the extension to 20 years applies where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

The Senate recedes.

(b) The Senate report explains the criteria used to determine which stations are considered "key." The House amendment places these criteria in the legislation. The factors that must be taken into consideration, after consultation with individuals with disabilities and organizations representing such individuals include: high ridership and whether such station serves as a transfer or feeder station.

The Senate recedes.

43. Alterations of existing facilities

(a) The Senate bill specifies that a facility or any part thereof that is used for public transportation and that is altered by, on behalf of, or for the use of a public entity in a manner that affects or could affect the usability of the facility must be altered in such a way that it is readily accessible to and usable by individuals with disabilities.

The House amendment adopts the same standard but substitutes for the phrase "public entity" the phrase "responsible person, owner, or person in control of the station."

The Senate recedes.

(b) The Senate bill requires that when major structural alterations are made, the alterations as well as the path of travel must be accessible to individuals with disabilities to the maximum extent feasible.

The House amendment substitutes the phrase "an alteration that affects or could affect usability or acess to an area of the facility containing a primary function" for the Senate language "major structural alteration" and adds that the alterations to the part of travel and facilities serving the altered area should "not be disproportionate" to the overall alterations in terms of the cost and scope of the overall alterations.

The Senate recedes.

(c) The House amendment also specifies that it is considered discrimination for an owner or person in control of a station to fail to provide reasonable cooperation to a responsible person with respect to such station in the responsible person's efforts to provide accessibility. An owner, or person in control of a station is liable to a responsible person for any failure to provide reasonable cooperation. The House amendment also makes it clear, however, that failure to receive reasonable cooperation shall not be a defense to a claim of discrimination by an individual with a disability.

The Senate recedes.

44. Interim accessibility standards

The House amendment, but not the Senate bill, specifies the standards that would apply to stations and rail passenger cars during an interim period between the effective date and the date regulations are issued in final form.

The Senate recedes.

TITLE III OF THE ADA

45. Definitions

(a) The Senate bill includes the term "potential places of employment" to describe facilities subject to the new construction requirements.

The House amendment substitutes the term "commercial facilities" for the phrase "potential places of employment." The House amendment also specifies that the term does not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 222 or covered under title II, or railroad rights-of-way.

The Senate recedes.

(b) The House amendment, but not the Senate bill, includes definitions for the following terms: "demand responsive system," "fixed route system," and "over-the-road bus."

(c) The House amendment, but not the Senate bill, defines the term "private entity" to mean any entity other than a public entity, as defined in title II.

The Senate recedes.

(d) The Senate bill lists a number of specific types of entities that are considered public accommodations and then includes the following catch-all phrase "and other similar places."

The House amendment deletes the term "similar." In addition, the House amendment makes several technical changes to the categories.

The Senate recedes.

(e) The House amendment, but not the Senate Bill, defines the term "rail" and "railroad."

The Senate recedes.

(f) In determining whether making changes to existing facilities are "readily achievable," the Senate bill requires that the following factors be considered: (1) the overall size of the covered entity with respect to the number of employees, number and type of facilities, and size of the budget; (2) the type of operation of the covered entity, including the composition and structure of the entity, and (3) the nature and cost of the action needed.

The House amendment includes the following factors: (1) the nature and cost of the action needed under the ADA; (2) the overall financial resources of the facility or facilities involved in the action, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility; (3) the overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, the number, type, and location of

its facilities; and (4) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity, the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

The Senate recedes.

(g) The House amendment substitutes the term "specified public transportation" for the term "public transportation" with no change in the definition.

The Senate recedes.

(h) The House amendment, but not the Senate bill, defines the term "vehicle" as not including a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under title III.

The Senate recedes.

46. Entities subject to the prohibitions against discrimination

The Senate bill specifies that no individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation.

The House amendment clarifies that this prohibition applies to any person who owns, leases (or leases to), or operates a place of public accommodation.

The Senate recedes.

47. Contract liability

The Senate bill specifies that covered entities cannot engage in discrimination indirectly through contracts with other parties.

The House amendment specifies that covered entities are only liable in contractual arrangements for discrimination against the entity's own customers and clients and not the contractor's customers and clients.

The Senate recedes.

48. Readily achievable changes to existing barriers

The House amendment adds rail passenger cars used by an establishment for transporting individuals to the list of vehicles from which barriers must be removed.

The Senate recedes.

49. Fixed route and demand responsive systems

With slightly different wording, the Senate bill and the House amendment specify standards for fixed route and demand responsive systems operated by private entities.

The Senate recedes.

50. Health and safety

The House amendment, but not the Senate bill, specifies that nothing in title III requires an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

The Senate recedes.

51. New construction and alterations to existing facilities

(a) The Senate bill includes in separate sections the requirements that alterations and new construction be readily accessible to and usable by individuals with disabilities.

The House amendment places these two requirements in the same section.

The Senate recedes. Section 303(b) of the Act provides that discrimination as set forth in section 303(a) concerning new construction and alterations in public accommodations and commercial facilities shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities. The exception does not affect the requirement that every newly constructed facility subject to the Act shall have at least one ground story that is readily accessible to and usable by individuals with disabilities. Accessibility requirements shall not be evaded by constructing facilities in such a way that no story constitutes a "ground floor", for example, by constructing a building whose main entrance leads only to stairways or escalators that connect with upper or lower floors; at least one accessible ground story must be provided.

(b) The Senate bill specifies that when major structural alterations are made to public accommodations operated by private entities, the alterations as well as the path of travel and facilities must be accessible to individuals with disabilities to the maximum extent feasible.

The House amendment substitutes the phrase "an alteration that affects or could affect usability or access to an area of the facility containing a primary function," for the Senate language, "major structural alteration," and adds that the alterations to the path of travel and facilities serving the altered area should "not be disproportionate" to the overall alterations in terms of the cost and scope of the overall alterations.

The Senate recedes. The conferees note that in part 2 (Education and Labor Committee) of House Report No. 101-485, language following the word "alteration" at the end of the third line of the second full paragraph on page 113 was inadvertently omitted. This language specifies that the parameters of the concept of disproportionality of section 303(a)(2) of the bill will be set forth in the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board and in the regulations promulgated by the Attorney General. The conferees wish to indicate their understanding that the requirement of an accessible path of travel, accessible restrooms, drinking fountains, and telephones serving the altered area would be disproportionate if the inclusion of such features would be so large an undertaking, in expense or scope of work, as to be disproportionate to the remainder of the contemplated alteration project.

52. Discrimination and construction

With slightly different wording, the Senate bill and the House amendment specify the general prohibition of discrimination and specific constructions of such discrimination.

The Senate recedes.

53. New vehicles other than new rail passenger cars

The Senate bill specifies that new vehicles other than automobiles purchased by a private entity in the principal business of transporting people must be readily accessible to and usable by individuals with disabilities.

The House amendment includes a special rule for vans with a seating capacity of less than 8 passengers. Such vans need not be accessible if the van is to be used solely in a demand responsive system and if the private entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to the level of service provided to the general public.

The Senate recedes.

54. New rail passenger cars

The Senate bill specifies that all new vehicles purchased by a private entity in the principal business of transporting people must be readily accessible.

The House amendment includes a separate provision applicable to new rail passenger cars purchased by such entities and includes the same standard set out in the Senate bill.

The Senate recedes.

55. Remanufactured rail passenger cars

The House amendment, but not the Senate bill, specifies that the remanufacture of a rail passenger car so as to extend its usable life for 10 years or more must be remanufactured in a manner to make it readily accessible "to the maximum extent feasible."

The Senate recedes.

56. Historical or antiquated rail passenger cars and stations serving such cars

The House amendment, but not the Senate bill, specifies that historical or antiquated vehicles that are currently in use or are remanufactured by private entities need not be made accessible to the extent that compliance would significantly alter the historic or antiquated character of such a car or rail station served exclusively by such cars or would result in a violation of safety rules issued by the Secretary of Transportation.

The Senate recedes.

57. Over-the-road buses

The Senate bill specifies that over-the-road buses must be readily accessible to and usable by individuals with disabilities within 7 years for small providers and 6 years for other providers. Further, the Senate bill specifies that the Office of Technology Assessment must conduct a study to determine the access needs of individuals with disabilities and the most cost efficient methods of making such buses readily accessible to and usable by individuals with disabilities.

The House amendment deletes the specific obligation to make each bus "readily accessible to and usable by" individuals with disabilities at the end of the 6 or 7 year period, whichever is applicable. Instead, the House amendment specifies that the purchase of new over-the-road buses must be made in accordance with regulations issued by the Secretary of Transportation. In issuing final regulations, the Secretary must take into account the purposes of the study and any recommendations resulting from the study. The obligations set out in the final regulations go into effect in 7 years for small providers and 6 years for others. The final regulations may not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

In the interim, regulations issued by the Secretary may not require any structural changes to over-the-road buses in order to provide access to individuals who use wheelchairs and may not require the purchase of

boarding assistance devices to provide access.

With respect to the study, the purpose of the study is revised to include a determination of the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service and the most cost effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options. The study must analyze, among other things, the effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

The Senate recedes.

58. Interim accessibility

The House amendment, but not the Senate bill, specifies that for new construction and alterations for which a valid and appropriate state or local building permit is obtained prior to the issuance of final regulations and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the accessibility requirement except that if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines, compliance with such supplemental guidelines shall be necessary. The House amendment also includes interim policies applicable to vehicles and rail passenger cars.

The Senate recedes.

59. Enforcement in general

(a) The Senate bill makes reference to the remedies available to an "individual" under title II of the Civil Rights Act of 1964.

The House amendment substitutes the term "person" for the term "individual" since "person" is used in title II.

The Senate recedes.

(b) The Senate bill specifies that remedies and procedures of the 1964 Civil Rights Act will be available to any individual who is or is about to be subjected to discrimination on the basis of disability.

The House amendment specifies that the remedies and procedures of title II of the 1964 Civil Rights Act shall be the powers, remedies, and procedures title III provides to any person who is being subject to discrimination on the basis of disability in violation of title III or any person who has "reasonable grounds" for believing that he or she is about to be subjected to discrimination with respect to the construction of new or the alteration of existing facilities in an inaccessible manner.

The Senate recedes.

(c) The House amendment, but not the Senate bill, includes in the legislation the following policy set out in the Senate report: nothing in the enforcement section shall require an individual with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

The Senate recedes.

(d) The House amendment, but not the Senate bill, specifies that state and local governments can apply to the Attorney General to certify that state or local building codes meet or exceed the minimum accessibility requirements of the ADA. In ruling on such applications from state or local governments, the Attorney General will consult with the Architectural and Transportation Barriers Compliance Board and consider the testimony of individuals with disabilities at public hearings about the state or local building code application.

The Senate recedes.

(e) The Senate bill specifies that the courts may assess civil penalties against an entity not to exceed $50,000 for the first violation and $100,000 for any subsequent public accommodation discrimination violation.

The House amendment specifies that when there are multiple violations that make up a pattern or practice suit brought by the Attorney General, all violations count as a first violation for the purpose of assessing the maximum civil penalty of $50,000. The maximum penalty of $100,000 for a subsequent violation can be applied only in a subsequent case.

The Senate recedes.

(f) The Senate bill specifies that the Attorney General may seek "monetary damages" on behalf of an aggrieved party in Title III public accommodation civil actions.

The House amendment clarifies that "monetary damages" and other relief available to aggrieved persons under Title III public accommodation suits brought by the Attorney General do not include punitive damages.

The Senate recedes.

(g) The Senate bill specifies that the courts may give consideration to an entity's "good faith" efforts to comply with the ADA in considering the amount of civil penalty.

The House version elaborates on the issue of good faith by requiring that the court consider whether an entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the particular needs of an individual with a disability.

The Senate recedes.

60. Examinations and courses

The House amendment, but not the Senate bill, specifies that any persons that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

The Senate recedes.

61. Effective date

(a) The House amendment, but not the Senate bill, precludes suits against small businesses for 6 months or 12 months (depending on the size of the small business and its gross receipts) after the effective date of title III of the Act (18 months after date of enactment) for all violations except those relating to new construction and alterations.

The Senate recedes with an amendment. The amendment deletes the introductory phrase in section 310(b) and substitutes in lieu thereof the following: "Except for any civil action brought for a violation of section 303, no civil action shall be brought for any act or omission described in section 302 which occurs—". The purpose of the amendment is to make it clear that in order for an individual with a disability to bring a civil action against a small business meeting the criteria set out in the provision, the discriminatory act must occur after the applicable period has expired. The conferees note that this section gives small businesses additional time to learn the requirements of the ADA and to come into compliance with the Act before they will be subject to a civil action. The conferees fully expect that businesses will, however, make good faith efforts to comply with the Act during this additional phase-in period .

(b) With slightly different wording, the Senate bill and the House amendment provide that certain provisions of title III go into effect on the date of enactment.

The Senate recedes.

TITLE IV OF THE ADA (TELECOMMUNICATION RELAY SERVICES)

62. Definition of "common carrier" or "carrier"

The House amendment deletes the phrase "and any common carrier engaged in both interstate and intrastate communication."

The Senate recedes.

63. General authority and remedies

The Senate bill specifies that the same remedies, procedures, rights, and obligations applicable to common carriers engaged in interstate communication by wire or radio are also applicable to common carriers engaged in intrastate communication.

The House amendment clarifies, without changing the meaning or intent of the Senate language.

The Senate recedes.

64. Provision of telecommunication services

The Senate bill specifies that each common carrier providing telephone voice transmission services shall provide telecommunication relay services individually, through designees, or in concert with other carriers not later than 3 years after the date of enactment.

The House amendment makes several clarifying changes.

(a) The House amendment specifies that a common carrier must only provide relay services "within the area in which it offers service" to ensure that a common carrier on one side of the country is not held responsible to provide services for consumers in a state on the other side of the country.

The Senate recedes with an amendment. The amendment deletes the word "within" and substitutes in lieu thereof the term "throughout."

(b) The House amendment specifies that common carriers may provide relay services "through a competitively selected vendor" in addition to providing such services through designees or in concert with other carriers.

The Senate recedes.

(c) The House amendment specifies that a common carrier is considered in compliance with FCC regulations if the common carrier is either in direct compliance itself with those regulations, or if the "entity through which [it] is providing such relay services" is in compliance with the Commission's regulations. Further, the common carrier is considered in compliance with the FCC's regulations with respect to intrastate relay services when they or their designees are in compliance with a state certified program.

The Senate recedes.

65. Regulations

The Senate bill directs the FCC to issue regulations covering, among other things, minimum standards for the relay systems, conduct by relay operators, separation of costs, and delay in the implementation date.

The House amendment includes two clarifying changes.

(a) The Senate bill requires the FCC to establish minimum standards that would be met "by common carriers" in providing relay services. The House amendment deletes the language in quotas.

The Senate recedes.

(b) With respect to the conduct of relay operators, the House amendment specifies that a relay operator is subject to the same standards of conduct that operators are subject to under the Communications Act of 1934.

The Senate recedes.

66. Technology

The House amendment adds a reference to section 7(a) of the Communications Act of 1934.

The Senate recedes.

67. Recovery of costs

The House amendment includes the following changes applicable to recovery of costs.

(a) The House amendment specifies that costs caused by interstate relay services will be recovered from all subscribers for every interstate service, thereby ensuring that even those businesses that have private telecommunications systems will contribute to the cost of providing interstate relay services.

The Senate recedes.

(b) The House amendment authorizes State commissions to permit recovery by common carriers of costs incurred in providing intrastate relay services in states that are certified.

The Senate recedes.

(c) The Senate bill prohibits the imposition of a fixed monthly charge on residential customers to recover the costs of providing interstate relay services.

The House amendment deletes this provision.

The Senate recedes.

(d) The Senate bill extends the implementation period to three years for all common carriers and includes authority to extend it one additional year if a common carrier can demonstrate undue burden. The House amendment deletes the undue burden provision.

The Senate recedes.

68. Requirements for State certification

The Senate bill specifies that each State may submit documentation to the FCC that describes the program of such state for implementing intrastate relay services.

The House amendment specifies that such documentation must also include the procedures and remedies available for enforcing any requirements imposed by the State program. The House amendment also provides that in certifying the program the FCC must determine that the program makes available adequate procedures and remedies for enforcing the requirements of the State program. The House amendment also specifies that in a State whose program has been suspended or revoked, the Commission must take such steps as may be necessary to ensure continuity of telecommunications relay services.

The Senate recedes.

69. Closed-captioning of public service announcements

The House amendment, but not the Senate bill, adds a provision requiring the closed-captioning of all television pubic service announcements produced or funded by the Federal government.

The Senate recedes.

TITLE V OF THE ADA
(MISCELLANEOUS PROVISIONS)

70. Construction

(a) The House amendment adds the phrase "except as otherwise provided in this Act" as a qualification to the provision construing the interpretation of the ADA.

The Senate recedes.

(b) With slightly different wording, the Senate bill and the House amendment specify the relationship between the ADA and other Federal laws (including the Rehabilitation Act) and state laws. The House amendment also specifies that nothing in the ADA shall be construed to preclude the prohibition of, or the imposition of restriction on, smoking in places of employment, in transportation providing by public and private entities, and places of public accommodations.

The Senate recedes. In light of the concerns raised by some conferees with regard to individuals with contagious diseases of public health significance who work in food handling jobs, the conferees note certain points with regard to this section. First, if a state or locality has a disease control law, or any other public health law, which places certain requirements on certain employees, employers or businesses, but which does not discriminate against people with disabilities, such laws would not be affected by or preempted in any way by the ADA. For example, if a state disease control law requires certain hygienic procedures to be followed by all employees in certain job categories, that law would not be affected in any way by the ADA. In addition, if a state or locality has a disease control law or any other public health law, which applies to certain people with disabilities (for example, if a state has a law which required people with certain contagious diseases, such as tuberculosis, to take certain precautions), that law would also not be preempted by the ADA as long as the requirements of that state or local law were designed to protect against individuals who pose a direct threat to the health or safety of others. Because the ADA itself allows adverse actions to be taken against employees who pose a direct threat to the health or safety of others in the workplace, and against clients and customers who pose a direct threat to others in a public accommodation (as "direct threat" is defined in the statute), a state public health law that similarly guarded against such threats would be a law providing protection equal to that provided by the ADA and hence would not be preempted by the ADA.

(c) The section in the Senate bill concerning insurance includes the proviso "Provided, That paragraphs (1), (2), and (3) are not used as a subterfuge to evade the purposes of title I and III." The House amendment includes the following phrase "Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of titles I and III."

The Senate recedes.

(d) The House amendment, but not the Senate bill, specifies that nothing in the Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

The Senate recedes.

71. State immunity

The House amendment adds states courts of competent jurisdiction to the reference to federal courts included in the Senate bill.

The Senate recedes.

72. Prohibition against retaliation and coercion

With slightly different wording, the Senate bill and the House amendment include prohibitions against retaliation and coercion.

The Senate recedes.

73. Guidelines by the ATBCB

The Senate bill provides 6 months for the issuance of guidelines. The House amendment provides 9 months.

The Senate recedes.

74. Historic buildings

The House amendment, but not the Senate bill, includes specific provisions applicable to historic building.

The Senate recedes.

75. Technical assistance manuals

(a) The Senate bill, but not the House amendment, includes, among others, the National Council on Disability, as an agency responsible for the development of a technical assistance plant.

The Senate recedes. The conferees intend to recognize the National Council on Disability as the impetus, force, and originator of the initial legislation for the Americans with Disabilities Act, reflected in the Council's report, *Towards Independence*, published in February, 1986. Therefore, the conferees agree that the National Council on Disability should be one of the federal agencies with which the Attorney General consults in developing a plan to assist entities covered under this Act. The experience, expertise, and commitment of the Council will ensure that the technical assistance activities mandated under section 506 will be comprehensive, focused, and timely.

(b) With slightly different wording, the Senate bill and the House amendment provide for the implemenation of the technical assistance plant.

The Senate recedes.

(c) With slightly different wording, the Senate bill and the House amendment authorize the entering into of grants and contracts.

The Senate recedes.

(d) The Senate bill includes a section requiring agencies to provide technical assistance to covered individuals and entities.

The House amendment makes several technical and conforming changes and adds a requirement that appropriate departments and agencies develop and disseminate technical assistance manuals to those who have rights and responsibilites under the ADA no later than six months after ADA regulations are published. However, a covered entity is not excused from complying with the ADA because of any failure to receive technical assistance, including any failure in the development or dissemination of a technical assistance manual.

The Senate recedes.

76. Wilderness areas

The Senate bill specifies that the National Council on Disability shall conduct a study regarding the effect of wilderness designations on access for people with disabilities.

The House amendment adds that the Wilderness Act is not to be construed as prohibiting use of a wheelchair in a wilderness area by an individual whose disability requires the use of a wheelchair but no modifications of land are required.

The Senate recedes with an amendment.

The new subsection reads:

"(1) IN GENERAL.—Congress reaffirms that nothing in the Wilderness Act shall be con-

strued as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act, no agency shall be required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area to facilitate such use.

"(2) DEFINITION.—For purposes of paragraph (1), the term "wheelchair" means a device designed solely for use by a mobility-imparied person for locomotion, that is suitable for use in an indoor pedestrian area."

Consistent with this section and the Wilderness Act of 1964, the conferees intend that, where appropriate and consistent with the management objectives and maintenance of the wilderness character of the area, the land management agencies charged with the management responsibilities for wilderness areas designated under the authority of the Wilderness Act of 1964 should, when constructing or reconstructing a trail, bridge or facility, comply with the intent of this Act. In cases where the Agencies have delegated or subcontracted their responsibilities, the intent of this section shall apply to the designee or contractor.

77. Congressional coverage

The Senate bill makes the provisions of the legislation applicable to Congress and the instrumentalities of Congress.

The House amendment also covers Congress and the instrumentalities of Congress but delegates to the House and the instrumentalities of Congress the responsibility to develop applicable remedies and procedures.

The House recedes to the Senate on coverage of the Senate with an amendment. The amendment specifies that authorities granted under the ADA to the Equal Employment Opportunity Commission, the Attorney General, and the Secretary of Transportation shall be exercised by the Senate. The Senate recedes to the House on coverage of the House. The Senate recedes to the House on coverage of instrumentalities of the Congress. The conferees add the following construction clause: "Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act."

78. Illegal use of drugs

The Senate bill specifies that an individual with a disability does not include any individual who uses illegal drugs, but may include an individual who has successfully completed a supervised drug rehabilitation program, or has otherwise been rehabilitated successfully, and no longer uses illegal drugs. The Senate bill also makes it clear that an individual who uses illegal drugs may not be denied the benefits of medical services on the basis of his or her use of illegal drugs, if he or she is otherwise entitled to such services.

The House amendment includes clarifying and conforming changes to make this provision consistent with other provisions in the legislation concerning the treatment of users of illegal drugs:

(a) The House amendment specifies that an individual with a disability does not include an individual who is currently engaging in the illegal use of drugs when the covered entity acts on the basis of such use.

The Senate recedes.

The provision excluding an individual who engages in the illegal use of drugs from protection (other than an individual described in section 510(c)) is intended to ensure that covered entities may deny services to or take other actions against persons who illegally use drugs on that basis, without fear of being held liable for discrimination. The provision is not intended to be limited to persons who use drugs on the day of, or within a matter of days or weeks before, the action in question. Rather, the provision is intended to apply to a person whose illegal use of drugs occurred recently enough to justify a reasonable belief that a person's drug use is current.

(b) The House amendment specifies that the following individuals are not excluded from the term "individual with a disability"—an individual who has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs or has otherwise been rehabilitated successfully and is no longer engaging in such use; an individual who is participating in a supervised rehabilitation program and is no longer engaged in such use; or a person who is erroneously regarded as engaging in such use, but is not engaging in such use.

The Senate recedes.

Section 510(b)(2) provides that a person cannot be excluded as a qualified individual with a disability if that individual is participating in a supervised rehabilitation program and is no longer engaging in the illegal use of drugs. This provision does not permit persons to invoke the Act's protection simply by showing that they are participating in a drug treatment program. Rather, refraining from illegal use of drugs also is essential. Covered entities are entitled to seek reasonable assurances that no illegal use of drugs is occurring or has occurred recently enough so that continuing use is a real and ongoing problem. On the other hand, this provision recognizes that many people continue to participate in drug treatment programs long after they have stopped using drugs illegally, and that such persons should be protected under the Act. The conferees intend that the phrase "otherwise been rehabilitated successfully" be interpreted to refer to both in-patient and outpatient programs that provide professional (not necessarily medical) assistance and counseling.

(c) The House amendment specifies that it shall not be a violation for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual is no longer illegally using drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

The Senate recedes.

(d) The House amendment specifies that an individual shall not be denied health services or other services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

The Senate recedes.

(e) The House amendment includes the same definition of "illegal use of drugs" and "drugs" set out in title I of the Act.

The Senate recedes.

79. Exclusions from the term "disability"

The Senate bill restates current policy under section 504 of the Rehabilitation Act of 1973 that the term "disability" does not include homosexuality and bisexuality. The Senate bill also excludes from the term "disability" the following mental impairments: transvestism, pedophilia, transsexualism, exhibitionism, voyeurism, compulsive gambling, kleptomania, or pyromania, gender identity disorders, current psychoactive substance-induced organic mental disorders (as defined by DSM-III-R which are not the result of medical treatment), or other sexual behavior disorders.

The House amendment lists the various exclusions by category. The first category specifies that homosexuality and bisexuality are not impairments and as such are not disabilities under the ADA. The second category includes transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders. The third category compulsive gambling, kleptomania, or pyromania. The final category includes psychoactive substance use disorders resulting from current use of illegal drugs.

The Senate recedes.

80. Amendments to the definition of the term "handicapped individual" under the Rehabilitation Act of 1973

(a) The Senate bill includes amendments to the definition of the term "handicapped individual" used in the Rehabilitation Act of 1973 to exclude current users of illegal drugs which are consistent with the changes made to the definition of the term "individual with a disability" used in the ADA. The Senate bill also specifies that the exclusion does not apply to medical services for which the individual is otherwise entitled. The Senate bill also states that the term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

The House amendment includes the same type of conforming changes to the Rehabilitation Act which are made to the ADA (see above). However, with respect to the provision that specifies that an individual shall not be excluded from medical services on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services, the category is limited to health services and services provided under titles I, II, and III of the Rehabilitation Act of 1973.

The Senate recedes.

The conferees incorporate by reference the statement of intent set out in item 16. Conferees note that, for purposes of this title, an individual covered by Executive Order 12564 who tests positive on an employment related drug test conducted and verified in conformity with applicable federal regulations or guidelines is deemed to be "currently engaging in the illegal use of drugs" and may not invoke the Act's protection, except as provided in section 7(8)(C)(ii)(III) of the Rehabilitation Act. The conferees do not intend to prevent individuals covered by Executive Order 12564 or any other individuals covered by the employment provisions of the Act from challenging a positive drug test result by invoking the protection of section 7(8)(C)(ii)(III). The Rehabilitation Act itself does not provide any standard by which the accuracy or validity of a drug test result is to be determined. Conferees also recognize that current Department of Transportation regulations allow or require, depending on the circumstances, employers to remove individuals in safety sensitive positions who are undergoing drug rehabilitation from such positions. With respect to individuals illegally

using drugs or impaired by alcohol, nothing in this Act is intended to affect federal laws or Department of Transportation regulations to protect public safety.

(b) The House amendment specifies that the term "drugs" and the phrase "current illegal use of drugs" have the same meanings as such terms have under the ADA.

The Senate recedes.

81. Alternative means of dispute resolutions

The House amendment, but not the Senate bill, provides that where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the ADA.

The Senate recedes.

It is the intent of the conferees that the use of these alternative dispute resolution procedures is completely voluntary. Under no condition would an arbitration clause in a collective bargaining agreement or employment contract prevent an individual from pursuing their rights under the ADA. The conferees adopt by reference the statement of the House Judiciary Report regarding this provision.

From the Committee on Education and Labor, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
MAJOR R. OWENS,
MATTHEW G. MARTINEZ,
STEVE BARTLETT,
HARRIS W. FAWELL,

From the Committee on Energy and Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference, except that for consideration of title IV of the Senate bill, and title IV of the House amendment, and modifications committed to conference, Mr. Rinaldo is appointed in lieu of Mr. Whittaker:

JOHN D. DINGELL,
EDWARD J. MARKEY,
THOMAS A. LUKEN,
NORMAN F. LENT,
BOB WHITTAKER,

For consideration of title IV of the Senate bill, and title IV of the House amendment, and modifications committed to conference, in lieu of Mr. Whittaker:

MATT RINALDO,

From the Committee on Public Works and Transportation, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

GLENN M. ANDERSON,
ROBERT A. ROE,
NORMAN Y. MINETA,
JOHN PAUL HAMMERSCHMIDT,

From the Committee on Judiciary, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

JACK BROOKS,
DON EDWARDS,
BOB KASTENMEIER,
HAMILTON FISH, Jr.,
F. JAMES SENSENBRENNER, Jr.
(agrees to the conference report with the exception of "Item 13. Health and Safety" (Sec. 103(d))),

As an additional conferee, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

STENY H. HOYER,
Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
PAUL SIMON,
ORRIN HATCH,
DAVE DURENBERGER,
JAMES M. JEFFORDS,

From the Committee on Commerce, Science, and Transportation, solely for the consideration of issues within that Committee's jurisdiction (telecommunications, commuter transit, and drug testing of transportation employees):

FRITZ HOLLINGS,
DANIEL K. INOUYE,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

ESTABLISHING POSITION OF DIRECTOR OF EMPLOYMENT PRACTICES UNDER THE CAPITOL POLICE BOARD

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the resolution (H.Res. 420) establishing the position of Director of Employment Practices, under the Capitol Police Board, with respect to members of the Capitol Police assigned to the House of Representatives and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, and I will not object.

I would add to Chairman OAKAR's comments by saying that this resolution is a positive step in ensuring fair opportunity for all Capitol Hill Police Force officers involved in the grievance process.

Mr. Speaker, after serving on the House Administration Subcommittee on Personnel and Police for 6 years, and after nearly 3 years of studying the force and ways to improve the current system, we have prepared a multilevel reform package to further the betterment and professionalism of the force.

This resolution creates a civilian position, the Director of Employment Practices, to assist individuals involved in the grievance process.

The House Committee on Administration has reviewed the current grievance process, recommended modification, and is creating this position to see that fairness and efficiency is brought effectively into the system.

I believe that individuals on the Capitol Hill Police Force and their supervisors have acted in the past in the most fair and equitable ways possible. This civilian position is intended to ease and assist these efforts in the future. I fully support the creation of this position.

Again, I wish to thank my current and past colleagues for their assistance in reaching this day. Chairman ANNUNZIO, Congressman BILL THOMAS, Congresswoman OAKAR, and Congressman DICKINSON deserve special recognition and much appreciation.

Ms. OAKAR. Mr. Speaker, first I would like to take this opportunity to thank my respected colleague, the Honorable PAT ROBERTS, whose steadfast and faithful belief in fair and equitable personnel practices for the U.S. Capitol Police brought about the legislation we are considering today. Further, let me state for the record that without our chairman, the Honorable FRANK ANNUNZIO's constant and unwavering support for the Capitol Police, legislation of this type would not be possible.

Mr. Speaker, House Resolution 420 will create a civilian position within the U.S. Capitol Police Force entitled "Director of Employment Practices." This position will be created with the purpose of enhancing the integrity and credibility of the grievance procedures process for the U.S. Capitol Police.

This person will have the authority to explain and discuss the rights and procedures to alleged grieved employees, and will also serve in an oversight capacity to insure smooth and efficient operation of the grievance procedure.

Mr. Speaker, to clarify any ambiguity which may exist concerning the purpose of this resolution, it is intended that this civilian employee, as with others who have been created by the respective bodies in the past, will function for the benefit of all Capitol Police personnel regardless of their current payroll status.

Mr. Speaker, this resolution constitutes one part of a reform package that Chairman ANNUNZIO, Congressman ROBERTS, and I have introduced. This position arose out of the committee's concern that allegations were being made by members of the Capitol Police Force regarding promotion, mobility, and possible bias against members of the force. The creation of this civilian position will enhance the integrity of the grievance procedure by insuring thoroughness and fairness in all steps of the process.

Mr. ROBERTS. Mr. Speaker, under my reservation, I want to inform my colleagues that the minority stands in full support of House Resolution 420.

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 420

Resolved, That the position of Director of Employment Practices is established with respect to members of the Capitol Police assigned to the House of Representatives.

SEC. 2. Each appointment to the position under the first section shall be made—

(1) by the Capitol Police Board, with prior approval of the Committee on House Administration; and

(2) without regard to political affiliation and solely on the basis of fitness to perform the functions of the position.

SEC. 3. The pay for the position under the first section—

(1) shall be at the appropriate rate under level HS-11 of the House Employees Schedule, as provided for in section 4 of the House Employees Position Classification Act (2 U.S.C. 293); and

(2) until otherwise provided by law, shall be paid from the contingent fund of the House of Representatives or from amounts appropriated for the Capitol Police with respect to the House of Representatives.

AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. OAKAR: Page 1, line 3, strike out "assigned to the House of Representatives".

Ms. OAKAR (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentlewoman from Ohio [Ms. OAKAR].

The amendment was agreed to.

The resolution was agreed to.

TITLE AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Ms. OAKAR: Amend the title so as to read: "Resolution establishing the position of Director of Employment Practices, under the Capitol Police Board, with respect to members of the Capitol Police.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on House Resolution 420, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

CORRECTING THE ENGROSSMENT OF H.R. 4653, EXPORT FACILITATION ACT OF 1990

Mr. GEJDENSON. Mr. Speaker, I offer a resolution (H. Res. 423) to provide for the correction of the engrossment of H.R. 4653, and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 423

Resolved, That the Senate is requested to return to the House of Representatives the bill (H.R. 4653), to reauthorize the Export Administration Act of 1979, and for other purposes, and that the Clerk be authorized to reengross the bill with the following correction:

Page 21, strike line 23 and all that follows through page 22, line 20, and insert the following:

"(i) the term 'telecommunications equipment' includes—

"(I) telephone switching systems and stored program controlled communications switching systems, including related features and components that provide services and management of telecommunications networks;

"(II) telecommunications transmission equipment;

"(III) microwave, light wave, and other radio relay, transmitting, or test equipment, including communication satellite earth stations, and components and accessories related to such equipment;

"(IV) telecommunications cables and components, including optical fibers and optical cables;

"(V) equipment containing frequency synthesizers when used in land-based mobile communications systems;

"(VI) equipment described in any of subclauses (I) through (V), or any other telecommunications equipment, that contains lasers;

"(VII) computer hardware and application specific software which are related to any of the items described in subclauses (I) through (IV) and are required for data communications; and

"(VIII) all spare parts, components, and measuring or test equipment related to any of the items described in subclauses (I) through (IV);

"(ii) the term 'telecommunications technology' means technology related to telecommunications equipment;

"(iii) the term 'telecommunications networks' includes local area, intracity, intercity, and international telecommunications networks; and

"(iv) the term 'telecommunications' means voice, video, and data communications over any public or private network or broadcasting system, and services related to such communications.".

Mr. GEJDENSON (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Connecticut?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken tomorrow, June 27, 1990.

NATIONAL SPACE COUNCIL AUTHORIZATION ACT OF 1990

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2124) to authorize appropriations for the National Space Council and for other purposes.

The Clerk read as follows:

S. 2124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Space Council Authorization Act of 1990".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, fiscal year 1989 (42 U.S.C. 2471), $1,200,000 for fiscal year 1990. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

STAFFING

SEC. 3. (a) Not more than six individuals may be employed by the National Space Council without regard to any provision of law regulating the employment or compensation of persons in the Government service, at rates not to exceed the rate of pay for level VI of the Senior Executive Schedule as provided pursuant to section 5382 of title 5, United States Code.

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following: "Executive Secretary, National Space Council".

EXPERTS AND CONSULTANTS

SEC. 4. The National Space Council may, for purposes of carrying out its functions, employ experts and consultants in accordance with section 3109 of title 5, United States Code, and may compensate individuals so employed for each day they are involved in a business of the National Space Council (including traveltime) at rates not in excess of the daily equivalent of the maximum rate of pay for grade GS-18 as provided pursuant to section 5332 of title 5, United States Code.

REVIEW OF LAUNCH INDUSTRY

SEC. 5. (a) The National Space Council is requested to initiate a review of United States launch policy, including the Nation's expendable launch vehicle and satellite industries, their current and projected markets, the existing and projected level of foreign competition in these industries, the extent and level of support from foreign governments in these markets and industries, the consequences of the entry of nonmarket providers of launch services and satellites into the world market, restrictions on the use of foreign launch services and the export of United States satellites, and the importance of the United States launch vehicle and satellite industry to the national and economic security.

(b) The findings of this review and any policy recommendations are to be submitted

to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Reprsentatives by August 1, 1990.

EFFECTIVE DATE

SEC. 6. The Provisions of this Act are effective as of October 1, 1989.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in strong support of S. 2124, the National Space Council Authorization Act of 1990. The bill provides authorizations in the amount of $1.2 million to pay the salaries of the National Space Council staff and other necessary expenses.

The National Space Council was established in the NASA Authorization Act of fiscal year 1989 in order to address issues of national space policy and to resolve interagency disputes. Since its inception, the Council has successfully dealt with national space policy issues such as Landsat funding. And the Council continues to work to resolve the Nation's mission to inhabit the Moon and to explore Mars. The Science, Space, and Technology Committee hopes that the National Space Council will continue its best efforts in this area, and also that it will apply the Council's resources to better resolve interagency disputes. Members of the National Space Council include the Administrator of NASA and the Secretaries of State, Defense, Commerce, Transportation, and Treasury as well as the Director of the Office of Management and Budget, the Chief of Staff to the President, the Assistant to the President for National Security Affairs, the Director of Central Intelligence and the Assistant to the President for Science and Technology.

S. 2124 also requests the Council to conduct a review of United States launch policy, including the Nation's expendable launch vehicle and satellite industries. It is expected that the result of the review will be a clear path that ensures the Nation will maintain its leadership role in space.

Mr. Speaker, S. 2124 is an important statement of support by this Congress. I urge my colleagues to join me in voting for this bill.

□ 1820

Mr. Speaker, I would like to make one clarifying point. I particularly want to thank the distinguished chairman of the Committee on Post Office and Civil Service, the gentleman from Michigan [Mr. FORD], who was very helpful in getting this bill to the floor. I want to express my deep appreciation to him.

Mr. Speaker, I reserve the balance of my time.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2124, the National Space Council Authorization Act of 1990. This bill is noncontroversial, yet urgently needed. It should be supported by both sides of the aisle.

The National Space Council was resurrected in the NASA Authorization Act of 1989 at the initiative of the House Science, Space, and Technology Committee. Its purpose is to serve as a principal adviser to the President on space-related issues and to coordinate the space-related activities across the various Government departments and agencies.

The Senate passed S. 2124 by unanimous consent in February. S. 2124 is virtually identical to section 14 of H.R. 1759, the House-passed fiscal year 1990 NASA authorization bill. Unfortunately, because the House and Senate failed to enact a NASA authorization bill for fiscal year 1990, the Space Council has been operating so far this year without any budget authority. This situation has made the Space Council's existence very tenuous and has complicated its hiring and business activities.

Today we have the opportunity to pass this stand-alone National Space Council authorization bill, and in doing so, enhance the stature and efficiency of the Council. I urge my colleagues to support S. 2124.

Mr. ROE. Mr. Speaker, I yield myself an additional 2 minutes.

Mr. Speaker, I want to expand a little bit on the comment I made about the chairman of the Committee on Post Office and Civil Service, the gentleman from Michigan [Mr. FORD].

This particular bill that we are working on tonight is an extremely important bill, because in effect the Space Council would not even operate and it could not operate effectively without the added help that is needed here.

The chairman of the Committee on Post Office and Civil Service is also working on a major piece of legislation that will start to bring into clear focus the absolutely essential need of the House and Senate, and the Government for that matter, to have adequate resources to engage people who are technically trained and technically capable of carrying out the work that is needed here in the House.

I think sometimes that being penny-wise and pound foolish is a big mistake. I hope that when we get to that bill and that bill is debated, we will have the chance, at least from the perspective of the Committee on Science, Space, and Technology, to bring into sharp focus the need for proper resources to engage the qualified people who are needed to fill the important roles we have in the various space and technology areas.

Mr. WALKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the Senate bill, S. 2124.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2124, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

INCLUSION OF OVERSEAS MILITARY PERSONNEL IN CENSUSES OF POPULATION

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4903) to amend title 13, United States Code, to ensure that military personnel stationed outside the United States are not excluded from any census of population, as amended.

The Clerk read as follows:

H.R. 4903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCLUSION OF CIVILIAN AND MILITARY PERSONNEL STATIONED ABROAD.

Section 141 of title 13, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) Effective beginning with the 1990 decennial census of population, in taking any tabulation of total population by States for purposes of the apportionment of Representatives in Congress among the several States, the Secretary shall take appropriate measures to ensure that—

"(1) each member of the armed forces assigned to a post of duty outside the United States shall be included, together with any of the member's dependents who reside at or near the same post; and

"(2) each member of the armed forces, and any dependent of any such member, included in accordance with paragraph (1) shall be enumerated as if residing at such member's 'home of record', as defined by

the Department of Defense for administrative purposes.".

SEC. 2. ADDITIONAL REPORTING REQUIREMENT.

Not later than 6 months after submitting the report required under section 141(b) of title 13, United States Code, with respect to the 1990 decennial census of population to the President, the Secretary of Commerce shall submit to the appropriate committees of Congress a report setting forth—

(1) for each State, what portion of the total population reported for such State under such section 141(b) consisted of—

(A) members of the armed forces (or their dependents) stationed (or living) abroad; or

(B) civilian employees of the Federal Government (or their dependents) stationed (or living) abroad;

(2) which departments or agencies of of the Federal Government participated in any program or measures designed to provide for the inclusion of individuals described in paragraph (1) (A) or (B) in the 1990 decennial census of population; and

(3) what criteria were used by each such department or agency in attributing individuals described in paragraph (1) (A) or (B) to particular States for purposes of such census.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RIDGE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 4903, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am grateful for the opportunity to bring before the House H.R. 4903, a bill requiring the Secretary of Commerce to include members of the Armed Forces and their dependents, stationed or living overseas during the census, in the State population totals used for apportionment of the House of Representatives.

The bill further requires that those individuals will be counted in the State designated as their home of record.

Home of record is a Department of Defense term that refers to the State in which the member of the Armed Forces enlisted in the service.

It most closely approximates the home State of individuals who are highly mobile, not by choice, but by virtue of their service to the Nation.

Last August, the Commerce Department decided to include military personnel, Federal civilian employees, and their dependents, stationed or living overseas, in the census counts used for apportionment. I applaud the Department for its action, because it recognizes the unique position of this population.

However, the Commerce Department recently decided that overseas militry personnel would be counted in the State where they last resided for 6 months or longer. That decision ignores previous direction by Congress on this issue.

In 1988, the House overwhelmingly defeated legislation that would have required the inclusion of overseas military personnel in the State where they last lived for 6 months.

In addition, there is precedent for the criteria required by H.R. 4903.

In 1970, the only other time overseas military personnel were included in the apportionment counts, those individuals were attributed to the state designated as their home of record.

The Constitution gives Congress the authority to take the census. It is Congress that is affected by the process of apportionment, the only constitutional purpose of the census.

I regret that the Commerce Department made its decision without carefully considering the wishes of Congress. But that oversight makes our legislation necessary, to ensure the most equitable distribution of overseas military personnel and their dependents for apportionment purposes.

I want to commend Mr. RIDGE, the ranking minority member of the Subcommittee on Census and Population, for his leadership and persistence on this issue over the past several years.

I urge quick passage of H.R. 4903.

Mr. Speaker, I reserve the balance of my time.

Mr. RIDGE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our service personnel stationed overseas won an important victory last year. The Department of Commerce announced that they would be counted in the census and included in the count for apportionment.

Unfortunately, our overseas service personnel won the battle but lost the war. The Department of Commerce has announced that these men and women will be counted at the last stateside location where they were stationed for 6 months. In September 1988, 316 of my colleagues joined me in defeating this very approach.

Previously, our service men and women were not counted at all. Now, they will be counted in the wrong location! Each and every one of us have received calls from overseas service personnel needing assistance. They do not call the district where they were last stationed—they call home.

There are no figures, no estimates nor even and educated guess as to the accuracy or availability of the figures necessary to determine where these people were last stationed for 6 months prior to being sent overseas. The only figures to emerge, to date, pertain to last duty station in the United States. Last duty station could be for 1 week or 1 year. According to CRS, the only way to move from last duty station to the last place stationed for 6 months is to review pay and other records.

How accurate is checking pay records? After all, would we count the service person where the check was issued or actually received? What if my check was issued in the District of Columbia, but I legally resided in Virginia for 6 months prior to being stationed overseas? There are many questions to be answered when looking at the method currently proposed.

In determining home of record, there are no questions. Home of record is designated by the enlistee, not by an arbitrary determination by a Government entity. It has the closest relationship to legal residence possible since an actual enumeration is impossible at this time.

Today, we will be voting on legislation to count service personnel. H.R. 4903 reaffirms our intent to make certain our overseas military personnel are counted where they should be counted—at their home of record. Service personnel declare their home of record upon entry into the service and upon reenlistment. Home of record follows the enlistee throughout his or her tour and is used to determine the travel stipend granted upon discharge. It is not a tax home—which is designated on a separate form in most instances. Once again, I urge my colleagues to support the most sensible, most logical and most equitable approach to counting our overseas service personnel—H.R. 4903.

Mr. Speaker, I reserve the balance of my time.

Mr. SAWYER. Mr. Speaker, it is my privilege at this time to yield such time as he may consume to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I am pleased to be a cosponsor of H.R. 4903 because I firmly believe that our military personnel stationed outside the United States should not be excluded from any census of population. Our fighting men and women, and their dependents, deserve to be counted.

It will surprise most Americans that our overseas military personnel were counted for reapportionment purposes only in 1970, at the height of the Vietnam war. Military dependents have never been counted.

For 1990, the Census Bureau independently decided to count our overseas military personnel, presumably in response to criticism that illegal aliens were being counted while the Nation's fighting men and women were not. The Bureau is to be commended for this decision, but it must be criticized for its proposal to count overseas mili-

tary personnel according to their most recent place of stateside residence lasting six months. This proposal, it is estimated, will place 1.5 to 2 million persons into States having military staging bases, even though those individuals don't consider these States to be their home, nor do they plan to return to those areas after military service.

The Bureau intends to use the overseas count only for congressional reapportionment. However, it is likely that a local jurisdiction containing a major military base will sue to obtain increased representation in its State legislature and increased Federal and State aid based on the enumeration submitted for Congress. Why, we must ask, should those States with large military installations be entitled to extra representation and the chance to litigate for additional Federal aid?

Mr. Speaker, H.R. 4903 corrects these distortions by specifying that overseas military personnel and dependents be counted according to their "home of record." The home of record State was the last location at which these military employees and their dependents chose to reside. It is to where they are given an allowance to return after their service. It is the place they consider to be home.

Mr. Speaker, I wish to commend my colleagues, Mr. SAWYER, Mr. RIDGE, Mr. FORD, and Mr. GILMAN for their leadership on this issue. The bill before us would guarantee that our military personnel stationed overseas are not discriminated against. Moreover, it would ensure that the count of this unique population is fair and free of distortion.

□ 1830

Mr. RIDGE. Mr. Speaker, I just want to again commend the chairman and thank him for all his good work.

Mr. Speaker, I neglected to mention that we are not only going to count overseas personnel, but their dependents as well, and I think that was an important inclusion that the subcommittee provided last week during markup.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I rise for myself and on behalf of the entire Wisconsin congressional delegation in strong support of H.R. 4903 to ensure the U.S. military personnel now serving overseas and their dependents, are properly and fairly counted in the 1990 census.

I commend the chief sponsor of H.R. 4903, Representative TOM RIDGE, and also the chairman of the Subcommittee on the Census, Representative TOM SAWYER, for their response to the serious problem of census undercounting of military personnel overseas.

In the last Congress, legislation to require overseas military personnel be counted in the State of their last stateside duty station, rather than their home State of record, was decisively defeated in the House. It was done so because the policy created serious distortions in census enumeration. That argument still holds.

With one exception overseas members of Armed Forces were not counted. They should be. The Commerce Department seeks to ensure that overseas military and Federal civilian personnel, and their dependents, be counted in the current census—a commendable decision. Unfortunately, the Commerce Department chooses to achieve that goal by counting military and civilian personnel as residents of the State of their last duty stations—precisely the policy the House has overwhelmingly rejected.

H.R. 4903 achieves two objectives. First, it ensures once and for all that military personnel stationed overseas are counted in the census. Second, of equal importance, the bill provides that military personnel and their dependents are counted in the census for their home of record.

The home of record policy makes infinitely more sense than current Commerce Department policy. Census numbers have implications for Federal aid—which should be keyed to actual population—not phantom citizens who passed through a State merely because they were stationed in a State.

Out-of-country personnel of Federal Departments other than DOD are routinely counted in their home States—not the State in which they may have last resided before going overseas. Counting overseas Americans by home State will distribute these citizens fairly among the States, with no State receiving special advantage or disadvantage.

The current Commerce Department policy would cause serious inaccuracies in the census count for many States especially in the Northeast and Midwest. It shortchanges most States by giving a few States with large military installations artificially inflated census counts for a population which does not really live in the State.

Census officials admit that the Commerce Department's duty station policy concentrates 1.5 to 2 million persons into the counts for just three States—which contain most of the major military bases in the United States.

Nowhere are the effects of the Commerce policy clearer than in Wisconsin. Using the home of record approach in H.R. 4903, Wisconsin would have its 12,189 overseas military personnel enumerated in its census. But using the Commerce duty station policy, the number falls to 319—a 97-percent reduction. These figures reflect only military personnel, not their dependents of DOD civilian personnel and their dependents. Their inclusion would make the undercounting problem with the Commerce Department duty station policy even more severe.

The consequences of the Commerce policy are severe. As many as 18 seats in the U.S. House could be affected by the census final count, and some of those may be changed by a shift of as few as 1,000 individuals.

The DOD personnel issue has a direct bearing on apportionment, and on representation in the House itself. Adopting by executive fiat, a policy which threatens to undercount any State's military personnel by an astounding 97 percent is simply not acceptable.

Mr. Speaker, H.R. 4903 offers a clear-cut and simple remedy to a serious problem. I commend its author, and urge adoption of the bill.

Mr. SAWYER. Mr. Speaker, let me in closing just say how much the subcommittee and the full committee appreciate the effort that the gentleman from Pennsylvania [Mr. RIDGE] has made in bringing this matter before us in this fashion today, in addition to his leadership on this issue over the last several years which has been exemplary.

Mr. GILMAN. Mr. Speaker, as an original cosponsor of H.R. 4903 I rise in strong support of this legislation. I would also like to take this opportunity to commend my good friend and colleague, Mr. FORD, the chairman of the House Committee on Post Office and Civil Service for the expeditious handling of this bill.

H.R. 4903 would amend title 13 of the United States Code and would require the Bureau of the Census to count members of Armed Forces stationed outside of the United States and to include them in State population totals for apportionment purposes. H.R. 4903 would also require the Census Bureau to enumerate overseas military personnel in the State designated as their "home of record." The home of record is the location declared upon entry into the service by the enlistee and is considered by the enlistee and his respective military branch as home.

Mr. Speaker, I believe H.R. 4903 would provide a fair and equitable way of counting our overseas military personnel and their dependents. Accordingly I urge my colleagues to join me in supporting this legislation.

Mr. KLECZKA. Mr. Speaker, today, I rise in strong support of legislation, H.R. 4903, to ensure the accuracy of the census.

American service men and women, and their dependents stationed overseas, should not be excluded from the census. This group numbers almost 1,100,000. H.R. 4903 provides a fair solution to this situation.

The bill requires that members of the Armed Forces and their dependents assigned to a duty post outside of the United States be included in the State population totals used to

apportion seats in the U.S. House of Representatives. According to the bill, they would be counted by their home of record rather than their last duty station in the United States.

In 1988, the House defeated a bill which would have counted overseas military personnel based on where they were last stationed in the United States for at least 6 months. Then as now, this method has several problems.

First, Department of Defense information concerning the home of record of soldiers is much more accessible than that on the most recent stateside duty post. A solidier's home of record, declared when he or she enlists, is carried permanently in his or her military personnel files. It rarely changes. But the Pentagon must check through mountains of payroll records to find the U.S. base where a soldier was last stationed for 6 months. This method is very costly and time consuming.

Moreover, counting overseas pesonnel based on their last U.S. duty station is of dubious accuracy for the purpose of apportioning seats in the U.S. House of Representatives. The Wisconsin example illustrates this well. Only 319 of the 12,189 Wisconsinites—2.6 percent—stationed overseas were serving at a base in their homestate before being reassigned overseas.

However, a strong correlation exists between the home of record and the State overseas personnel consider to be their legal residence for purposes of paying Federal income taxes. Of the 12,189 personnel stationed overseas who claimed Wisconsin as their home of record, 9,895—81.2 percent—also claimed the State as their legal residence for paying Federal taxes.

Counting overseas military personnel in the State totals of the places they consider to be home is fair. Not going so will hamper the ability of the Federal Government to plan ahead for the health, housing, and educational assistance these soliders may claim.

For these reasons, I urge my colleagues to adopt H.R. 4930. It is the fair way of counting our Armed Forces in the census.

Mr. SAWYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the bill, H.R. 4903, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FLIGHT ATTENDANT SAFETY PROFESSIONALS' DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S. J. Res. 278) designating July 19, 1990, as "Flight Attendant Safety Professionals' Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Oregon [Mr. DEFAZIO] who is the chief sponsor of this resolution.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, as my colleagues know, many of us here in the Congress fly nearly every week, a round trip to our district, and in doing that I think we do not quite often enough think about the thousands of men and women who work as flight attendants. They are just the people we think that perhaps bring the food or serve the drinks, but they do a lot more than that.

Mr. Speaker, when it comes to catastrophes, like last year's flight 232, the DC-10 that had problems in the Midwest, it was the flight crew and the attendants that saved many lives on that flight. We have got to remember that every time we fly.

Mr. Speaker, flight attendants are not just there for providing those services. Yes, that is important. It is important that we are comfortable when we fly, but it is even more important that they are there to provide for us in the times of emergency, to provide those life-saving and life-giving services that only highly trained and skilled flight attendants can provide.

So, Mr. Speaker, I would ask my colleagues that we move forward and favorably consider this commemorative so that we can at least on one day in 1990, on July 19, say to those thousands of men and women who spend their lives and dedicate their lives to making it safer and more comfortable to fly, "We recognize the tremendous service that you are providing to us and other members of the American public who fly so often."

Mr. RIDGE. Mr. Speaker, further reserving the right to object, I do so in order to yield to my friend and colleague, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Indiana.

□ 1840

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding to me.

I just want to say to the gentleman from Oregon, this is a good resolution. My daughter is a flight attendant. I never appreciated the hard work of these people half as much as when she came back and started telling me the stuff she has to put up with. In addition to providing for the safety and comfort of the passengers, they have to take a lot guff.

So I just want to say on behalf of this resolution that for all those flight attendants out there who are taking guff tonight, we are thinking of you and we understand.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 278

Whereas Federal aviation regulations, since 1952, have required flight attendants on board all commercial airlines to safeguard the well-being of passengers;

Whereas flight attendants are trained to respond to medical emergencies and have assisted in saving passengers' lives in emergencies caused by strokes, heart attacks, and so forth;

Whereas flight attendants' professionalism and calmness in evacuations of crashed airplanes have saved thousands of lives that otherwise would have been lost;

Whereas flight attendants have given their lives to save passengers in emergency evacuations, sustaining an on-the-job fatality rate higher than that of police officers;

Whereas flight attendants have assisted in hundreds of in-flight emergencies due to hijackings, terrorist acts, decompressions, and severe turbulence; and

Whereas flight attendants have vigorously strived for safety improvements at their airlines and the Federal Aviation Administration and have worked diligently to educate the flying public of safety procedures: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 19, 1990, is designated as "Flight Attendant Safety Professionals' Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

This Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIVE AMERICAN INDIAN HERITAGE MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 577) to authorize and request the President to proclaim the month of November 1990, and therafter as "Native American Indian Heritage Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from American Samoa [Mr. FALEOMAVAEGA], who is the chief sponsor of this resolution.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of House Joint Resolution 577, National American Indian Heritage Month.

This resolution has three purposes. First and foremost is to acknowledge the contributions that American Indians have made to this Nation. Second, by passing this resolution the Senate and House of Representatives will enable other Americans to learn more about and better understand their American Indian brothers. Third, we as a Congress will be providing young American Indians the positive benefits of self-esteem, pride and self-awareness.

House Joint Resolution. 577 will set aside the month of November of this year as a time that we as a Nation may honor past and present American Indians. This resolution will not make up for past actions, but it does honor the contributions that American Indians have given to our Nation and indeed the world, for the past five centuries.

As the original inhabitants of this land, the American Indians were made up of many unique cultures that we as a Nation have benefited from and continue to benefit from. Had it not been for the American Indians, the first Pilgrims would not have survived. I realize that this may seem trivial to much of the public, as it is something that all American children learn in grade school; but, it is a sad fact of human nature that many of the residents of North America take for granted some of the most important things in life. Having said that, I would like to remind my colleagues of a few important facts pertaining to our history and the American Indians.

It was through the Indians' knowledge of hunting, fishing, and farming that the first settlers learned to exist in this land, and it was through the generous nature of the Indians that those early European settlers were able to make a home on this continent. One of our first history lessons is how the Indians came to welcome the Pilgrims and shared with them their knowledge of how to grow corn and squash, how to fertilize the ground, and how to make different foods with what they produced. Children all learn how their friendship helped save the early settlers. Often what is not taught is that many social events of those early colonists can be traced back to American Indian origins. Even that first famous Thanksgiving Dinner was not only shared with the American Indians, but was a direct result of their kindness and a tradition that they had practiced for centuries.

The second purpose of this resolution is that it will enable other Americans to learn more and better understand their American Indian brothers. For centuries now American Indians have been a mystery to the majority of the American public. When asked to picture an Indian in their mind's eye, most Americans might describe them as stoic, solid, and devoid of humor.

Mr. Speaker, this image of American Indians could not be farther from the truth, and it is sad that most of our Nation's people view the Indian this way; however, I believe that many Americans have this view subconsciously as a way to protect themselves. In acknowledging the American Indians and the contributions that they have made to this Nation we must also acknowledge our own mistakes and those of our forefathers. The taking of land, the long list of broken treaties and promises, the unkind acts of violence and oppression that have been inflicted on American Indians, are actions most of us are not proud of. The result is that contemporary public response is either to pity the Indians or ignore them completely.

Today I ask that we acknowledge and honor the American Indian people for their acts of loyalty, heroism, and patriotism that they as individuals and as a people have shown toward this country.

The third purpose of this resolution is to help the young generation of American Indians to stand tall and be ever proud of a rich and unique cultural heritage.

By setting aside a special period of time this year to honor American Indians and their heritage, we will also be letting the present generation of American Indians of today know that we as a Nation have not forgotten them, but honor them as a great people.

I believe that by doing this we will be able to let the future generations of American Indians know that we respect who they are; that we take pride in their contributions; and that we can give back to these people what history has for so long tried to deny them—their tremendous humility, self-esteem, and self-dignity.

Mr. Speaker, collecting enough cosponsors to pass a resolution through the U.S. House of Representatives takes much effort, and this resolution is not an exception. I would not be standing here today without the active support of the American Indian heritage. Their suggestions on improvements to this bill and their many, many man-days of effort in soliciting additional cosponsors have produced a resolution worthy of this august body, and I commend the board of directors of the foundation, its president, Princess Pale Moon, and their staff for their many long hours of work.

Mr. Speaker, I have with me today letters supporting this House joint resolution, and I submit them for insertion in the RECORD at this point.

CHEYENNE RIVER SIOUX TRIBE
Eagle Butte, SD, June 26, 1990.

Hon. ENI E.F. FALEOMAVAEGA,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN FALEOMAVAEGA: I am pleased to support passage of your bill, H.J. Res. 577, to authorize and request the President to proclaim the month of November 1990 and thereafter "Native American Indian Heritage Month". I think it is important that this nation recognize the contribution that the Indian tribes and people have made to this Nation and their continuing importance in the political framework of the United States. You are to be commended for your role in furthering this bill and your continuing interest in, and support for, Indian interests. As Chairman of the Cheyenne River Sioux Tribe and President of the National Congress of American Indians, I thank you for your sponsorship of H.J. Res. 577.

Sincerely,

WAYNE DUCHENEAUX,
Chairman.

BILLINGS AMERICAN INDIAN COUNCIL,
Billings, MT, March 28, 1990.

To whom it may concern:

On behalf of the Billings American Indian Council, a private non-profit organization representing the interests, issues, and goals of the approximate 7,000 American Indians in the greater Billings area, I would like to add our endorsement to the proposition of November being designated at National American Indian Heritage Month, beginning in 1990.

In addition, I feel it would be beneficial to have one day of that month to continue as American Indian Day. This would serve as a focal point for schools, groups, and other such entities.

Sincerely,

JOHN ROBINSON,
Director.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 577

Whereas Native American Indians were the original inhabitants of the lands that now constitute the United States of America;

Whereas Native American Indians have made an essential and unique contribution to our Nation, not the least of which is the contribution of most of the land which now comprises these United States;

Whereas Native American Indians have made essential contributions to the world, including prehistoric cultivation and harvesting of corn and sweet potatoes;

Whereas the people of the United States should be reminded of the assistance given to the early European visitors to North America by the ancestors of today's Native American Indians, including knowledge and

training provided to the pilgrims in survival, hunting, and cultivation, and fertilization of indigenous crops;

Whereas the people and Government of the United States should be reminded of the assistance given to this country's Founding Fathers by the ancestors of today's Native American Indians, including the support the original inhabitants provided to George Washington and his troops during the winter of 1777-1778, which they spent in Valley Forge;

Whereas the people and Government of the United States should be reminded that certain concepts such as freedom of speech, the separation of powers in government, and the balance of power within government, all of which were found in the political systems of various Native American Indian nations, influenced the formulation of the Government of the United States of America;

Whereas the Members of the Senate and House of Representatives believe that a resolution and proclamation of the nature requested in this resolution can encourage activities which provide positive benefits of enhanced self-esteem, pride, and self-awareness to young Native American Indians;

Whereas the approaching 500th anniversary of the arrival of Christopher Columbus to the Western Hemisphere provides an opportunity for the people of the United States to consider and reflect on our Nation's current relationship with our Native American Indians; and

Whereas the month of November concludes the traditional harvest season of Native American Indians and was generally a time of celebration and giving thanks: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That beginning in 1990 and thereafter, the month of November is designated as "National American Indian Heritage Month", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. SAWYER: Page 2, in each whereas clause beginning on that page, strike "Native" each place it appears.

Page 3, in each whereas clause beginning on that page, strike "Native" each place it appears.

Page 3, line 3, strike "beginning in 1990 and thereafter,".

Page 3, line 4, insert "1990" before "is designated".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. SAWYER].

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. SAWYER: Amend the title so as to read: "Joint Resolution designating the month of November 1990 as 'National American Indian Heritage Month'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF SENATE JOINT RESOLUTION 336, SOUTH AFRICAN FREEDOM WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 336) designating the week in 1990 which coincides with the first visit of Nelson Mandela to the United States after his release from prison in South Africa as "South African Freedom Week" and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Illinois [Mr. HAYES], the chief sponsor of this resolution.

Mr. HAYES of Illinois. Mr. Speaker, today when brother Nelson Mandela spoke before this body we witnessed a historic event. Many of us have worked so diligently for this day to come and in one way or another we have all been part of the struggle to free Mr. Mandela and the other 28 million black brothers and sisters in South Africa. Although he is now free from the prison walls that held him for 27 years, he is by no means a free man. Until the bondage of apartheid is erased from the South African society, Nelson Mandela and his 28 million brothers and sisters who make up the black majority in that country, will never enjoy true freedom.

The examples Nelson Mandela has set, both by his actions before being jailed, and now, after being released, are a statement of his unyielding commitment to freedom and democracy—values which Americans have cherished since the founding of this country over 200 years ago.

In celebration of Mr. Mandela's visit, I have introduced and bring to the floor today a resolution designating the week of his visit as "South African Freedom Week." This resolution recognizes Mr. Mandela's struggle for freedom as well as acknowledges the recent government reforms in his country.

It is my hope that this Congress, the representative body of the World's most progressive democracy, will take time to officially recognize one of the World's foremost freedom fighters, Nelson Mandela. Just as we have welcomed freedom fighters in the past, including most recently Lech Walesa, it is only fitting that we do the same for one who champions the dreams and aspirations of the 28 million black South Africans who long for true democracy. I encourage all of my colleagues to join me in this salute to a true champion of democracy and vote in support of this resolution.

Mr. RIDGE. Mr. Speaker, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 336, to designate the week that coincides with the first visit of Nelson Mandela to the United States, following his release from prison, as South African Freedom Week.

I want to congratulate the sponsor of the companion House resolution, Mr. HAYES of Illinois, for successfully obtaining the support of a majority of the House for this important resolution.

We are honored to have Mr. Mandela visit the United States. His countenance, dignity, and demeanor belie the nearly 28 years he spent imprisoned in South Africa.

The warm reception Americans have extended to Mr. Mandela is indicative of the widespread support and sympathy for the cause of freedom in South Africa to which he has dedicated his life.

But, like Walesa and Vaclav Havel before him, Nelson Mandela also has struck a chord of harmony with the American people. For his goal is one with which we can identify closely: The establishment of a democratic system of governance based on the principle of one person, one vote.

The paths taken by Lech Walesa, Vaclav Havel, and Nelson Mandela have been determined by differing circumstances. But a common destination, based on a common belief in the dignity and worth of each individual, have earned them the admiration and respect of the people of the United States.

This week, we have opened our hearts to Nelson Mandela and his wife, Winnie, because the future they seek for all people of South Africa encompasses the values we cherish most in our country today.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania, for yielding to me.

I would like to start off by saying that along with so many others, I was very happy to see Nelson Mandela walk out of prison as a free man and I look forward to seeing him play a positive role in the negotiations leading to a nonracial democratic South Africa; but after having said that, I have some

concerns about what is taking place in Washington and around this country during the visit of this gentleman.

There are a lot of things that need to be brought to light, brought to the attention of the American people and the world about what is going on vis-a-vis Mr. Mandela and the struggle for an end to apartheid in South Africa. Some questions need to be answered by Mr. Mandela and his supporters.

First of all, why does Mr. Mandela support the radical terrorist elements in the world?

Mr. Mandela has embraced Yasir Arafat. He has called him a humanitarian. He has embraced Mu'ammar Qadhafi and called him a humanitarian. Mr. Qadhafi has been one of the major enemies of the United States and the free world and a supporter of terrorism. Anybody who has been watching the news media over the past several years knows that.

□ 1850

He has embraced people like Mr. Mengistu, Colonel Mengistu, of Ethiopia, who is a butcher. Mr. Mengistu has caused hundreds of thousands of people to go to their death through government imposed famine and government policies. Recently in one of the port cities up there, Massawa, they have been using cluster bombs to kill innocent men, women, and children, and he is a hardcore Marxist Communist being supported, or has been supported, by the Soviets, and Mr. Mandela has embraced him.

Mr. Mandela has said that as soon as he leaves here he wants to go visit one of the great humanitarians of our time, Fidel Castro, in Cuba. Fidel Castro was recently condemned by the U.N. Human Rights Commission, and yet Mr. Mandela has said that he is a titan as far as being a humanitarian is concerned. Ask anybody who has fled Cuba, or ask the Cuban Americans in Miami or in Southern America, and they will tell you what kind of a fellow Castro is.

The Heritage Foundation put out a publication this week, and I would like to quote from that, stating what Mr. Mandela has said. They said:

> He repeatedly, Mr. Mandela, has supported terrorism. Since Mandela's release from prison and his subsequent refusal to renounce violence, the Marxist-dominated ANC has launched terrorism and violence against civilians, claiming several hundred lives. Further, the ANC, in which Mandela serves as deputy president, has tortured and executed its own members when they have refused to toe the party line, a fact Mandela conceded in a press conference on April 14. ANC dissidents who escaped to Kenya in April contend that at least 120 political prisoners are being detained and tortured in ANC camps in Angola and Uganda. Because of its support for violence against civilians, Mandela's ANC appropriately was labeled a "terrorist" organization last January in the U.S. Defense Department's Terrorist Group Profiles.

In addition to that, since the first of this year in January, 19 people have had tires put around their necks, their hands tied behind them, the tires filled with kerosene and gasoline and set afire in front of their families because they did not toe the ANC line. One of these people was a real threat to the ANC; she was a 9-year-old girl.

I think that Mr. Mandela, who came to this Chamber today and spoke to America and to our body, ought to answer these questions. These questions are these: Why, Mr. Mandela, are you supporting terrorist organizations? Why are you supporting people who are enemies of freedom and support terrorism around the world? Why are you embracing a man you call humanitarian who has been sending troops to other parts of the world to repress people and take away their freedoms? I am talking about Fidel Castro. Why are you talking about nationalizing industry and taking that country, South Africa, into a one-party state not unlike what Eastern Europe is trying to get away from, a Communist Socialist state?

All of these things need to be answered by Mr. Mandela, and I hope he will answer them. I think some of the things he has said and some of the things he has advocated have merit. I was pleased that some of the things he said smacked of patriotism and democracy here today, but there are many questions that need to be answered.

The United States has a vested interest in what goes on in the southern tier of Africa. Minerals that come from only two major sources of the world, southern Africa and the Soviet bloc, have a great deal to do with the security of this Nation and the economic health of this Nation. If that southern tier of Africa were to go Communist or be controlled by anti-American elements, we would be in big trouble.

So Mr. Mandela, I hope, before he leaves this country or at some point in the future, will address these issues, because they are not only important to South Africa, they are important to the United States of America as well.

Mr. HAYES of Illinois. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. Further reserving the right to object, I am happy to yield to the gentleman from Illinois.

Mr. HAYES of Illinois. Mr. Speaker, I would just like to respond to two things that the gentleman from Indiana raises.

Perhaps he does not really understand what the meaning of terrorism is.

I do not support or advocate terrorism. How can we be so one-sided in our views? Does the gentleman know how many of those black Africans have been slaughtered over there by the Botha regime before he left, and now by the antiapartheid system?

This man spent 27 years in jail and trying to fight for democracy, which we espouse here in this country, and I think it is time that we stop talking out of both sides of our mouth and speaking against terrorism, say something about the slaughter of blacks, women, and children included, over there by that apartheid regime.

When Mandela now speaks out for that, I do not think he should be characterized as one being terroristic necessarily. He is defending the right of his people, which we will do here. We have done that. He mentioned that. He went all the way back to the Declaration of Independence in his speech here today.

I do not think we ought to think those people over there in Africa ought to be any different.

So far as the communistic leanings, we are sitting down and dealing today from the top of this Government, the President of this country, President Bush, who has met with the top Communist in the Soviet Union trying to see if we can preserve peace in the world. This, I think, is the way we ought to be.

I do not think we can, as a country, select who Mandela is going to admire or suggest who he is going to follow. All we can do is support what we believe in, the principles we stand for. We stand for democracy. And democracy has got to be a two-way street, not one-way.

Those people want freedom over there, and we ought to stand up and fight for it here in this country, put our actions where our mouth is.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield further?

Mr. RIDGE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I would just like to say that President de Klerk of South Africa in the past 2 to 3 months has taken quantum leaps away from apartheid. He has said publicly time and again, "Our road away from apartheid and to a multiracial democracy is irreversible." They are heading in the right direction, yet yesterday at the White House Winnie Mandela came out to the rose garden with the President with a clenched fist, and Nelson Mandela said he would not renounce the use of violence until all the things that they want have been achieved.

Here is Mr. de Klerk, the President of that country heading away from apartheid, asking all the interested parties to sit down and adopt a multiracial democracy constitution, and Mr. Mandela is continuing to advocate violence. I think that sends the wrong signal, and a signal that should be corrected.

In addition to that, Winnie Mandela, his wife, has said that she believes the necklacing is a useful tool. As I said, 19 people have been necklaced and burned to death in front of family members this year. That kind of terrorism should be renounced by Mr. Mandela and the ANC as rapidly as possible.

If those things were to happen and if they would take steps toward true democracy and away from the Socialist Communist approach that they have talked about in the ANC, I think many in this Congress who are reluctant to embrace the ANC and Mr. Mandela right now would take a different view of the situation.

Mr. RIDGE. Mr. Speaker, further reserving the right to object, I yield to our colleague, the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I have read the resolution, and it is not very long.

If the resolution language were limited to expressing disapproval on the part of the United States Congress for apartheid which exists in South Africa, I would have no problem with it. When it goes on to include Mr. Mandela, I believe that we then are condoning many of the activities, if not expressly at least inferentially, that Mr. Mandela has said in terms of what comments he has made in this country in his visit, and that is the reason that I am interposing this reservation and this objection.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. LEHMAN of California). Is there objection to the request of the gentleman from Ohio?

Mr. DANNEMEYER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REVISED DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-206)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Tuesday, June 26, 1990.)

PERMISSION TO VACATE SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent to vacate the 60-minute special order granted for today to the gentleman from California [Mr. DANNEMEYER] and to replace that with a 5-minute special order.

The SPEAKER pro tempore (Mr. LEHMAN of California). Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1900

H.R. 5150

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, it has become increasingly clear that more serious measures are needed to address the savings and loan disaster. The Department of Justice and Treasury have made great progress, with limited resources, in prosecuting those persons who are responsible for this mess. Unfortunately, this progress is not enough.

The American people demand that we step up our efforts to get to the bottom of the problem, and that means giving the prosecutors more resources and more authority to untangle the complicated web of intrigue and corruption that characterizes the S&L crisis.

I, along with Mr. WYLIE and Mr. HILER, have introduced the Savings and Loans Prosecution Facilitation Act to address this very serious problem. This bill will provide the additional resources needed by the Department of Justice and the Department of the Treasury to help them prosecute those directors and officials of the savings and loans that bilked this country of billions of dollars. It will also facilitate procedures to bring these people to justice.

Mr. Speaker, when it comes to the savings and loan crisis, we cannot delay any longer. We must give the Attorney General and the Internal Revenue Service the ability to conduct a proper and detailed investigation that will net all those responsible.

The following is a section-by-section analysis of the Savings and Loan Prosecution Facilitation Act, and the bill itself.

SECTION-BY-SECTION ANALYSIS OF SAVINGS AND LOAN PROSECUTION FACILITATION ACT

TITLE I—AMENDMENTS RELATING TO BANKRUPTCY

Proceedings

Section 101. This section identifies more clearly the types of actions in which a finding of a breach of fiduciary duty would act as a bar to a bankruptcy discharge of any damages, penalty, fine, forfeiture, restitution, reimbursement, indemnification, or guarantee against loss, ordered or approved by a court, issued by a Federal financial regulatory agency, or contained in any settlement agreement entered into by a debtor who committed fraud while acting in a fiduciary capacity to an insured financial institution.

Section 102. This section lists those definitions, procedures and special rules that apply to Section 101.

Section 103. This section lists those conforming amendments that apply to Section 101.

TITLE II—PERSONNEL FOR INVESTIGATION AND PROSECUTIONS

Section 201. This section authorizes appropriations for additional resources for the investigation of fraud and other violations of law concerning the thrift industry. This includes an additional $15 million for 160 special and/or revenue agents for the Internal Revenue Service, and $9 million to the Department of Justice for purposes of investigations, prosecutions, and civil proceedings.

Section 202. This section authorizes the Attorney General to accept (and departments and agencies to provide) services, without reimbursement, to assist in the investigation and prosecution of fraud and other criminal or unlawful activity in or against the savings association industry. The section provides that attorneys so provided may perform the duties and functions of U.S. Attorneys, under the general supervision of the Attorney General, and that law enforcement personnel, and other employees, so provided shall also serve subject to the general supervision of the Attorney General.

TITLE III—AMENDMENTS RELATING TO POWERS AND PROCEEDINGS OF FEDERAL BANKING AGENCIES

Section 301. This section provides that any finding that a depository institution insider has breached a fiduciary duty to the institution constitutes a defalcation for purposes of the bankruptcy code and that the resulting liability is not dischargeable in bankruptcy.

Section 302. This section prospectively grants priority to claims of government agencies over those of depositors, shareholders and other creditors in actions against directors, officers, attorneys, accountants and other S&L-related parties responsible for losses. Consistent with the interests of justice, the amendment directs U.S. courts to give FDIC and RTC cases expedited consideration and docket priority.

Section 303. This section authorizes Federal banking agencies to receive assistance from, and provide assistance to, foreign banking authorities to detect violations of banking law and regulations.

Section 304. This section, in order to prevent the dissipation or concealment of assets prior to judgement in civil recovery cases, authorizes the FDIC, RTC and OTS to seek ex parte Federal Court orders to freeze the corporate and personal assets of defendants in civil money penalty cases and civil liability cases; and authorizes Federal courts to appoint receivers to administer frozen assets.

Section 305. This section expands the subpoena authority of the FDIC and the RTC.

Section 306. This section enables the FDIC and RTC to void and recover fraudulent transfers intended to hinder, delay, or defraud an insured depository institution.

TITLE IV—AMENDMENTS TO CRIMINAL PROVISION APPLICABLE TO DEPOSITORY INSTITUTIONS

Section 401. This section, in order to prevent the dissipation or concealment of assets prior to judgement in court enforcement actions, authorizes the Attorney General to seek ex parte court orders to freeze the corporate and personal assets in criminal cases; and authorizes Federal courts to appoint receivers to administer frozen assets.

Section 402. This section makes it a Federal criminal offense, punishable by a fine of up to $1 million and imprisonment for up to 5 years, to knowingly conceal assets or property subject to a claim by a Federal banking agency.

Section 403. This section expands the list of crimes under which the U.S. Government can seek civil forfeitures.

Section 404. This section contains a number of nonsubstantive technical and conforming provisions.

Section 405. This section includes additional bank fraud and related offenses as predicates for wiretaps.

Section 406. This section would partially overcome the recent Supreme Court decision in Haghey v. U.S. by permitting the government's ability to seek restitution for victims not specifically included in a count of conviction. The Haghey decision can adversely impact the government's ability to obtain restitution in S&L enforcement actions involving multiple parties.

H.R. 5150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings and Loan Prosecution Facilitation Act".

TITLE I—AMENDMENTS RELATING TO BANKRUPTCY PROCEEDINGS

SEC. 101. EXCEPTIONS TO DISCHARGES FOR CERTAIN DEBTS CONNECTED WITH LOSSES TO DEPOSITORY INSTITUTIONS.

Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting a semicolon;

(3) by adding at the end the following new paragraphs:

"(11) for restitution that the debtor has been ordered to pay by any court of the United States, or of any State, in any criminal proceeding arising from any act that caused loss to any depository institution or insured credit union; or

"(12) for any damages, penalty, fine, forfeiture, restitution, reimbursement, indemnification, or guarantee against loss, provided in any judgment, order, or consent order or decree entered in any court of the United States or of any State, issued by the appropriate Federal financial institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institition or insured credit union.".

SEC. 102. DEFINITIONS, PROCEDURES, AND SPECIAL RULES.

Section 523 of title 11, United States Code, is amended by adding at the end the following new subsections:

"(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to such depository institution or insured credit union for purposes of paragraphs (4) and (12) of subsection (a).

"(f) Notwithstanding subsection (a)(2)(B)(iii) of this section, reliance by a creditor will not be required to establish an exception to discharge under subparagraph (A) or (B) of subsection (a)(2) if the creditor is the appropriate Federal financial institutions regulatory agency that is a successor to a depository institution or insured credit union.

"(g)(1) Notwithstanding any other provision of law, a complaint objecting to the discharge of any debt owed to any depository institution or insured credit union that is closed, is in receivership or conservatorship, is sold to (or has its assets and liabilities assumed by) another depository institution or insured credit union in a transaction assisted by the appropriate Federal financial institutions regulatory agency, or to any appropriate Federal financial institutions regulatory agency, may be filed on or before the end of the 120-day period beginning on the later of—

"(A) the date of the debtor's first meeting of creditors, as provided under section 341 of this title, or

"(B) the date of the appointment of a conservator or receiver by the appropriate Federal financial institutions regulatory agency for the depository institution or insured credit union with respect to which the debt arises.

"(2) No provision of this subsection shall be construed as extending any period of limitations prescribed by section 11(d)(4) of the Federal Deposit Insurance Act.

"(h) For purposes of subsections (a)(11), (a)(12), (e), (f), and (g) of this section—

"(1) The terms 'depository institution' and 'insured depository institution' have the meanings given such terms in section 3(c) of the Federal Deposit Insurance Act.

"(2) The term 'insured credit union' has the meaning given such term in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)).

"(3) The term 'appropriate Federal financial institutions regulatory agency' has the meaning given to such term in section 8(e)(7)(D) of the Federal Deposit Insurance Act.

"(4) The term 'institution-affiliated party'—

"(A) when such term is used with respect to a depository institution, has the meaning given to such term in section 3(u) of the Federal Deposit Insurance Act without regard to whether the depository institution is an insured depository institution; and

"(B) when such term is used with respect to an insured credit union, has the meaning given to such term in section 206(r) of the Federal Credit Union Act.";

SEC. 103. CONFORMING AMENDMENTS.

(a) EXCEPTIONS TO DISCHARGES UNDER CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended to read as follows:

"(2) of a kind specified in—

"(A) section 523(a)(5); or

"(B) paragraph (2), (4), (6), (7), (11), or (12) of section 523(a), including debts owed to the appropriate Federal financial institutions regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act), or a conservator or receiver of an insured depository insititution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act).".

(b) EXCEPTION TO EXEMPTIONS FOR CERTAIN PROPERTY.—Section 522(c)(1) of title 11, United States Code, is amended to read as follows:

"(1) a debt of a kind specified in—

"(A) paragraph (1), (5), (11), or (12) of section 523(a); or

"(B) paragraph (2), (4), or (6) of section 523(a) which is owed to an appropriate Federal financial institutions regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act) or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act); or".

TITLE II—PERSONNEL FOR INVESTIGATIONS AND PROSECUTIONS

SEC. 201. ADDITIONAL RESOURCES FOR THE SECRETARY OF THE TREASURY AND THE ATTORNEY GENERAL.

There is authorized to be appropriated for fiscal year 1991 the following amounts, to remain available until expended:

(1) To the Secretary of the Treasury, for the Internal Revenue Service, to hire and train 160 special agents or revenue agents and for investigating violations of the Internal Revenue Code of 1986 and related statutes involving the thrift industry: $16,000,000.

(2) In addition to amounts authorized by section 966 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, to the Attorney General, for the purpose of investigations, prosecutions, and civil proceedings involving financial institutions: $9,000,000.

SEC. 202. INTERAGENCY COORDINATION.

(a) IN GENERAL.—The Attorney General may accept, and Federal departments and agencies (including the United States Secret Service, the Internal Revenue Service, and the Office of Thrift Supervision) may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government, to assist the Department of Justrice in the investigation and prosecution of fraud or other criminal or unlawful activity in or against the savings associations industry.

(b) AUTHORITY AND SUPERVISION OF DETAILED PERSONNEL.—Any attorney of any Federal department or agency whose services are accepted pursuant to subsection (a), may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorney are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought. Any law enforcement personnel or other employees of a Federal department or agency whose services are accepted pursuant to subsection (a) shall also serve subject to the general supervision of the Attorney General.

TITLE III—AMENDMENTS RELATING TO POWERS AND PROCEEDINGS OF FEDERAL BANKING AGENCIES

SEC. 301. BREACH OF FIDUCIARY DUTIES.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by

adding at the end the following new subsection:

"(p) BREACH OF FIDUCIARY DUTIES.—Any finding by a Federal court, State court, or the appropriate Federal banking agency, in connection with any action or proceeding which has become final, that an institution—affiliated party has breached any fiduciary duty to the insured depository institution (of with which such party is affiliated) shall constitute a defalcation while acting in a fiduciary capacity for purposes of paragraphs (4) and (12) of section 523(a) of title 11, United States Code. The liability arising from such breach shall constitute a debt not dischargeable in a case under title 11, United States Code.".

SEC. 302. PRIORITIES AND PROCEDURES FOR CERTAIN CLAIMS.—

(a) PRIORITY OF CERTAIN CLAIMS.—

(1) IN GENERAL.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (p) (as added by section 301 of this title) the following new subsection:

"(q) PRIORITY OF CERTAIN CLAIMS.—

"(1) IN GENERAL.—In any proceeding related to any claim acquired under section 11 or 13 of this Act against any director, officer, or employee of, or any agent, attorney, accountant, or appraiser for, an insured depository institution or any other party employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any other suit, claim, or cause of action asserted by depositors, creditors, or shareholders of such institution, except for claims of other Federal agencies or the United States.

"(2) SCOPE OF APPLICATION.—The priority established under paragraph (1) shall apply to both the prosecution of any suit, claim, or cause of action, and the execution or any subsequent judgment resulting from such suit.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to proceedings commenced on or after the date of enactment of this Act.

(b) EXPEDITED PROCEDURES.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (q) (as added by subsection (a) of this section) the following new subsection:

"(r) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

"(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of any appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against any director, officer, or employee of, or any agent, attorney, accountant, or appraiser for, an insured depository institution or any other party employed by or providing services to an insured depository institution shall be filed within 10 days of the entry of that order. Hearing of the appeal shall be within 60 days of filing of the notice. The appeal shall be decided within 90 days of the notice.

"(2) SCHEDULING.—Consistent with section 1657 of title 28, United States Code, the courts of the United States shall expedite the consideration of any case brought by the Corporation against any director, officer, or employee of, or any agent, attorney, accountant, or appraiser for, an insured depository institution or any other party employed by or providing services to an insured depository institution. As far as practicable, the courts will give such cases priority on their dockets.

"(3) JUDICIAL DISCRETION.—Any judge may modify the schedule and limitations of paragraphs (1) and (2) as applied to a specific case, based on a specified finding that the end of justice served by making such a modification outweigh the best interest of the public in having the case resolved expeditiously.".

SEC. 303. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, any appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States on a temporary or permanent basis for such purposes.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—On request from a foreign banking authority, the appropriate Federal banking agency may provide assistance in accordance with this paragraph if the requesting authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters administered or enforced by the requesting authority.

"(B) INVESTIGATION BY BANKING AGENCY.—The appropriate Federal banking agency may, in its discretion, conduct investigations to collect information and evidence pertinent to the request for assistance.

"(C) STANDARDS.—Any investigation under this paragraph shall be conducted in accordance with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(D) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider whether—

"(i) the requesting authority has agreed to provide reciprocal assistance in banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) compliance with request would prejudice the public interest of the United States.".

(b) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (r) (as added by section 302(b) of this title) the following new subsection:

"(s) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to the insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office on a permanent basis to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

(c) TECHNICAL CORRECTION TO PROVISION RELATING TO CERTAIN FOREIGN ENTITIES.—Section 8(b)(4) of the Federal Deposit Insurance Act is amended by striking "subsections (c), (d), (h), (i), (k), (l), (m), and (n)" and inserting "subsections (c) through (s) and subsection (u)".

SEC. 304. PREJUDGMENT ATTACHMENTS UPON APPLICATION BY APPROPRIATE FEDERAL BANKING AGENCY.

Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end the following new paragraphs:

"(4) PREJUDGMENT ATTACHMENT.—In any action brought by an appropriate Federal banking agency pursuant to paragraph (1), the court may, upon application of the agency, issue a restraining order ex parte which—

"(A) prohibits any party subject to the action from withdrawing, transferring, removing, dissipating, or otherwise disposing of any funds, assets, or other property; and

"(B) which appoints a temporary receiver to administer such restraining order.

"(5) PERMANENT INJUNCTION OR RESTRAINING ORDER.—Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

SEC. 305. SUBPOENA AUTHORITY FOR FDIC AND RTC ACTING AS CONSERVATOR OR RECEIVER.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

"(I) SUMMONS AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver of any insured depository institution, exercise any power described in section 8(n) in the same manner as provided in such section.

"(ii) AUTHORITY LIMITED TO BOARD OF DIRECTORS.—A summons may be issued under clause (i) only by, or with the written approval of, the Board of Directors and such authority to issue or authorize a summons may not be delegated by the Board of Directors.".

SEC. 306. FRAUDULENT CONVEYANCES AVOIDABLE BY RECEIVERS.

Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d) is amended by adding at the end the following new paragraph:

"(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, as conservator or receiver for any insured depository institution, may avoid any transfer of any interest of any institution-affiliated party, or any person who the Corporation determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with actual intent to hinder, delay, or defraud the insured depository institution.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

"(ii) any immediate or mediate good faith transferee of such transferee.".

TITLE IV—AMENDMENTS TO CRIMINAL PROVISIONS APPLICABLE TO DEPOSITORY INSTITUTIONS

SEC. 401. LIMITATION ON DISPOSITION OF CERTAIN ASSETS.

Section 1345 of title 18, United States Code, is amended by striking the 1st sentence and inserting "Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title or a banking law violation (as defined in section 3322(d) of this title) or is engaged or intends to engage in any alienation or disposition of any property, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such violation or such alienation or disposition of property or equivalent assets. In any such case, where the Attorney General deems appropriate, the Attorney General may petition ex parte for a restraining order to prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such funds, assets, or other property and to appoint a temporary receiver to administer such restraining order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

SEC. 402. CONCEALMENT OF ASSETS FROM FEDERAL BANKING AGENCIES ESTABLISHED AS CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

§ 1032. Concealment of assets from Federal banking agencies.

"Whoever knowingly conceals from any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) or the Resolution Trust Corporation, whether such agency is acting as an agency, in any corporate capacity, or as any conservator or receiver for any insured depository institution, any assets or property against which the appropriate Federal banking agency, as conservator or receiver, may have a claim shall be fined not more than $1,000,000 or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code is amended by inserting after the item relating to section 1031 the following new item:

"1032. Concealment of assets from Federal banking agencies.".

SEC. 403. AMENDMENTS RELATING TO CIVIL FORFEITURE.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C), by inserting "or a violation of section 1341 or 1343 of such title affecting a financial institution" before the period;

(2) in subsection (b), by inserting "the Attorney General or" after "property subject to forfeiture under subsection (a)(1)(C) of this section may be seized by";

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. 404. TITLE 18, UNITED STATES CODE, AMENDMENTS RELATING TO REFERENCES TO BANKING INSTITUTIONS AND AGENCIES.

(a) IN GENERAL.—

(1) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended—

(A) by inserting "depository institution holding company," before "national bank" the 1st place such term appears in the 1st sentence;

(B) by inserting "or holding company" after "such bank" each place it appears in the 1st paragraph; and

(C) by adding at the end of the 2d paragraph the following new sentence: "For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.".

(2) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended—

(A) by striking 'Home Owners' Loan Corporation," and inserting "Office of Thrift Supervision, the Resolution Trust Corporation, any Federal home loan bank, the Federal Housing Finance Board,"; and

(B) by striking "institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" and inserting "institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation".

(3) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended—

(A) by inserting "or company" after "such bank" each place such term appears in the 1st paragraph;

(B) by striking "bank or savings and loan" and inserting "depository institution"; and

(C) by adding at the end of the 6th undesignated paragraph the following new sentence: "For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.".

(4) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended—

(A) by striking "Home Owners' Loan Corporation," and inserting "Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Resolution Trust Corporation,"; and

(B) by striking "institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" and inserting "institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation".

(5) LOANS AND CREDIT APPLICATIONS GENERALLY; RENEWALS AND DISCOUNTS.—Section 1014 of title 18, United States Code, is amended—

(A) by striking "the Federal Home Loan Bank System," and inserting "the Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board,"; and

(B) by inserting a comma after "Resolution Trust Corporation".

(6) FRAUDS AND SWINDLES.—Section 1341 of title 18, United States Code, is amended by inserting ", credit," after "money".

(7) FRAUD BY WIRE, RADIO, OR TELEVISION.—Section 1343 of title 18, United States Code, is amended—

(A) by inserting ", credit," after "money";

(B) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(C) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(8) TRANSPORTATION OF STOLEN GOODS, SECURITIES, MONEYS, FRAUDULENT STATE TAX STAMPS, OR ARTICLES USED IN COUNTERFEITING.—The 2d undesignated paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate"; and

(9) LAUNDERING OF MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1014 (relating to loans and credit applications generally; renewals and discounts)," before "section 1201"; and

(2) by inserting "section 1343 (fraud by use of facility of interstate or foreign commerce)," before "section 1344".

(10) INDICTMENTS AND INFORMATION DISMISSED BEFORE PERIOD OF LIMITATIONS.—Section 3289 of title 18, United States Code, is amended by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting "or, in the event of an appeal, within 60 days of the date the dismissals of the indictment or information becomes final," after "within six calendar months of the expiration of the applicable statute of limitations,".

(b) TECHNICAL CORRECTION.—Section 1101(6)(B) of the Right to Financial Privacy Act (12 U.S.C. 3401(6)(B)) is amended by striking "section 3(f)(1)" and inserting "section 4(f)(1)".

(c) CLERICAL AMENDMENTS.—

(1) The heading for section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate or foreign commerce".

(2) The table of sections for chapter 63 of title 18, United States Code, is amended by striking the item relating to section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate or foreign commerce.".

SEC. 405. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in paragraph (1)(c)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to loans and credit applications generally; renewals and discounts)," before "sections 1503,";

(C) by striking "section 1343 (fraud by wire, radio, or television)," and inserting "section 1343 (fraud by use of facility of interstate or foreign commerce), section 1344 (relating to bank fraud),"; and

(D) by striking "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (1)—

(A) by striking the 1st subparagraph which is designated as "(m)";

(B) by striking "and" at the end of the 2d subparagraph designated as "(m)" (as determined before the amendment made by subparagraph (A) of this paragraph);

(C) by striking the period at the end of subparagraph (n) and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(o) any conspiracy to commit any offense described in any subparagraph of this paragraph."; and

(3) in paragraph (1)(j), by striking "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft privacy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 or subsection (i) or (n) of section 902 of the Federal Aviation Act of 1958".

SEC. 406. ENHANCEMENT OF ABILITY TO ORDER RESTITUTION IN CERTAIN FRAUD CASES.

Section 3663(a) of title 18, United States Code, is amended by adding at the end the following: "For the purposes of this section, the term 'victim of such offense' shall include any victim of an offense involving a scheme or artifice under chapter 63 of this title (or under the second paragraph of section 2314 of this title), or of a conspiracy to commit such an offense, irrespective of whether the defendant was convicted of an offense involving that victim or of an offense involving the property of the victim for which restitution is to be ordered.".

CHAIRMAN ANNUNZIO GIVES KUDOS TO MARK SHIELDS COLUMN ON S&L CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, national columnist Mark Shields recently wrote about the savings and loan fiasco, especially the demise of Silverado in Denver and the role played by Neil Bush. At the Banking Committee's hearing into the failure of Silverado Banking, Savings & Loan in Colorado, I pointed out that much of the loss in the S&L disaster was due to the actions of the boards of directors of the failed savings and loans. Too often the directors were rubberstamps of management or were greedy and self-dealing.

During the hearing, we heard that the President's son, Neil, as a director of Silverado, presented or voted on $106 million in loans to two borrowers with whom he had business deals. All those loans are now in default.

Mr. Shields correctly points out the role played by Neil Bush in the downfall of Silverado, especially his unorthodox relationship with developer Ken Good. I enter the column into the RECORD.

[From the Washington Post, June 6, 1990]

THE NEIL BUSH CASE: TALK ABOUT TEFLON!

(By Mark Shields)

Aneurin Bevan, the late British Labor Party leader, did not try to conceal his contempt for what he judged to be his country's unaggressive press corps. Once, when asked about proposed measures that could raise the threat of press censorship, Bevan responded: "You don't need to muzzle sheep."

That same putdown could today be used to characterize the outrageously submissive deference shown by both opposition Democrats and most of the Washington press corps toward the First Family of President George Bush. Politically, Bush has been granted a nonstick coating that makes Ronald Reagan's vaunted Teflon look like Velcro by comparison.

Here are the facts. Neil Bush, 34, President and Mrs. Bush's third son, is under investigation for possible conflicts of interest as a director of the Silverado Savings and Loan of Denver, which one year after its own auditors found it insolvent and just weeks after the 1988 presidential election, was closed by federal authorities, at a projected cost to American taxpayers of $1 billion.

No one is blaming the younger Mr. Bush for the collapse of Silverado. But Neil Bush is being asked to explain a couple of truly unusual relationships he had with two Colorado businessmen, both of whom first invested in Neil Bush's own company and then later defaulted on millions of dollars of loans from Silverado.

Take Neil Bush's unorthodox relationship with developer Ken Good. In 1984 Good made a loan of $100,000 to Neil Bush to invest in a high-risk venture. The terms were that Neil Bush did not have to repay the $100,000 to Ken Good unless the investment was successful. That's right, this may have been the first completed loan in financial history in which the creditor defaulted.

In testimony before the House Banking Committee, Neil Bush was recently asked about this special relationship with Good. In a masterpiece of understatement, the president's son responded, "I know it sounds a little fishy, but I've heard this happen before."

Not in my neighborhood you haven't Mr. Bush. There, such transfers are usually made in cash inside an unmarked No. 10 business envelope. In fact, the fishy-sounding Good-Bush transaction may qualify as a gratuity, as gravy, as grease, or worse. But it was not by anybody's definition a loan.

Even though he was required to disclose his relationship with Good and failed to do so, Neil Bush said he abstained from voting, as a director, on loans Good sought from Silverado. But the House committee released a letter written by Neil Bush, as director, to the Silverado chairman requesting a $900,000 line of credit for Ken Good, who had earlier bought a 25 percent interest in Neil Bush's own oil and gas exploration company for $10,000. That $10,000 made Good a lot bigger investor in Neil Bush's company than Neil Bush himself, who put up just $100.

But Good was a small fish compared to Denver real estate developer William Walters who had purchased for $150,000 a 6.25 percent share of Neil Bush's company. You figure it out.

As a director of Silverado, Neil Bush did not disclose his relationship with Walters. Nor did Neil Bush abstain from voting to approve $106 million of loans to Walters, all of which went into default.

Nor was Bill Walters just a borrower, either. Walters was a lender, too, through the Cherry Creek National Bank, which Walters controlled. Among those to whom Bill Walter's bank made loans was Neil Bush, who was able to borrow $1.75 million from Cherry Creek National.

About that $106 million in defaulted loans: the bill for all that and the rest of Silverado's billion-dollar tab will be picked up by the working men and women of America who pay their bills, raise their families and pay their taxes—and who not surprisingly never had anyone say: Here's a hundred grand. Pay me back only if your ship comes in; otherwise forget it.

What truly is surprising is the failure of the political press and the political opposition to confront the Bush involvement in the savings and loan scandal. Would George Bush be given the same Teflon treatment if his name were Carter or Nixon or Cuomo or Reagan?

Does anyone remember the public pummeling Billy Carter took for openly accepting $5,000 to appear at a stock car race? Howard Hughes' loan to Richard Nixon's brother, Donald, became a permanent campaign issue. Yet no presidential relative before has been personally involved in a failed enterprise that left American families as co-signers liable for a billion-dollar default.

Maybe it's Andover or Yale, or Greenwich or Kennebunkport that exempts the Bushes from ordinary criticism. Maybe it's just the moral superiority of the Mayflower Compact descendants as heard in the words of Massachusetts Republican William Welf, who, when asked where his 1990 gubernatorial campaign got the money for a large TV buy, told The Boston Globe: "We don't get money. We have money."

COMMENTS ON NELSON MANDELA

The SPEAKER pro tempore. The gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, we have just had a brief debate on the issue of Mr. Mandela and his speech. The one thing I neglected to put into the RECORD during my brief talk was a couple of the comments that Mr. Mandela made that I think need to be inserted into the CONGRESSIONAL RECORD.

He had this to say about a number of people. Mr. Fidel Castro of Cuba:

Cuba is a small country, but it is richer than many others in the defense of human rights in the world.

I mentioned at the conclusion of my remarks that Mr. Castro was recently condemned by the U.N. Human Rights Commission, and hopefully Mr. Mandela will have a chance to set the record straight in his admiration for Mr. Castro, because Mr. Castro is one of the leading violators of human rights in the world.

He said about Mr. Yasser Arafat:

Mr. Arafat is fighting against a unique form of colonialism, and we wish him success in his struggle.

Now, this is one of the leading enemies of freedom and supporters of terrorism in the world.

He went on to say:

The ANC position on Israel is this: We recognize Zionism for what it is, a racist doctrine. Zionisma and apartheid are but two sides of the same coin.

I would just like to say that those who support Isarel, and most Members of this body do, ought to take a good look at some of the comments made by Mr. Mandela, because they are inconsistent with the feelings of the people of this country and the feelings of Members of this Congress. I think it is extremely important that we send a strong signal that not only do we want apartheid ended and we want freedom and democracy and a multiracial society in South Africa, but I think we need to send a signal as well that we do not want some radical terrorist organizations to take control, like the ANC has been in the past, ones that support communism, socialism, and would endanger not only the people of southern Africa and the economy down there, but also would endanger the United States as well.

As I mentioned in my brief remarks, and I think this bears repeating, minerals that we need to have to survive as a nation, both militarily and economically, come from two basic sources, the southern tier of Africa and the Soviet Union. If that area of the world, the southern tier of Africa, were to fall into the wrong hands, an anti-American Communist regime, it would bode ill for the future of this country from a military standpoint and as far as our economy and economic growth is concerned.

REMARKS ON NELSON MANDELA

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] is recognized for 5 minutes.

Mr. DANNEMEYER. Mr. Speaker, name one distinction among the following: Mu'ammar Qadhafi, Yasser Arafat, Fidel Castro, four gunmen who shot five Members of Congress in 1954 in the House Chambers, and Nelson Mandela. Only one has been invited to speak before a joint meeting of Congress.

In our zeal to genuflect before this media personality, we have allowed hero worship to replace reality; we have placed expediency before common sense. I'm sorry, my friends, but as with other travesties, silence is condoning what we say we oppose.

Americans have long grown accustomed to rewarding our enemies while abandoning our allies. Forget the Lithuanians; they're numerically inferior to the Soviets. Forget the Afghan and Angolan rebels; they constitute inconveniences to the powers-that-be. Forget the Chinese freedom fighters; it is more important to trade with the murderers in Peking. Forget the patriots who fought tyranny and totalitarianism in Nicaragua; they've become a nuisance. And now this outrage.

In our Nation's history, only three non-heads of state have addressed Congress: The Marquis de Lafeyette was a Frenchman who became an American patriot and fought alongside George Washington in our struggle for independence. Winston Churchill, when he was no longer British Prime Minister, had been a renowned wartime ally. Both were statesmen of considerable stature. Lech Walesa has spearheaded the fight to free Poland from Soviet domination and has witnessed the fruits of his labor. So who is Nelson Mandela?

Born in 1918, Nelson Mandela attended schools in South Africa and became a lawyer in the firm of Mandela and Tambo. He became a founding member of the African National Congress Youth League [ANCYL] in 1944, along with Oliver Tambo and Walter Sisulu. The ANCYL was a more radical activist offshoot of the old ANC, which was itself renamed from the South African Native National Congress [SANNC]. The SANNC had been founded in 1912 and was committed to Christian, reformist, and gradualist principles.

Mandela and company threw their lot in with Communist activists, which solidified their control over the ANC by 1959. The military wing of the ANC—Umkhonto we Sizwe [Spear of the Nation]—ostensibly formed under Mandela, was actually created by the South African Communist Party [SACP]. He was arrested for sabotage and treason in 1962.

What is the difference between Nelson Mandela and Ethel and Julius Rosenberg? Mandela pleaded guilty. His undenied complicity in sabotage and advocacy of violence was the reason even Amnesty International did not list him as a prisoner of conscience—a political prisoner. The case against him included documents in his own handwriting. In one he wrote:

We communist party members are the most advanced revolutionaries in modern history.

In another, he stated:

The people of South Africa, led by the South African communist party, will destroy capitalist society and build in its place socialism.

The Chicago Tribune, in an August 6, 1964, editorial, concluded that—

Evidence brought out of the trial seems indisputable that the accused (Mandela and others) were taking part in a conspiracy plotted by the South African Communist Party with the full knowledge and support of Moscow.

Well, wasn't the ANC merely committed to the overthrow of apartheid? And hasn't communism mellowed in the past couple of years?

The ANC was founded—as the SANNC—in 1912 and renamed in 1923. Radicals formed the ANCYL in 1944 with Mandela as a principal founder. Communists rose to prominence in 1947. Apartheid was not initiated until 1948. And the particular brand of communism which Mandela and company subscribed to was the preglasnost Stalin-Krushchev-Breshnev version which enslaved half the world and was responsible for the deaths of probably 100 million persons.

Even now he plays footsie with some of the most notorious terrorists loose in the world: Qadhafi, Arafat, Castro. The ANC has supported the Iranian revolutionaries who held 52 Americans hostage for over 1 year. The ANC has supported the Marxist regime in Afghanistan. It has supported the Sandinistas in Nicaragua and the Cuban-backed Communists in Angola. Everywhere we turn, we see ANC support for every virulently anti-American outfit there is, spewing forth hatred and terrorism over the globe

And this is the ANC whose spiritual leader we reward by allowing him to speak in this citadel of liberty. And he by and large receives a hero's welcome wherever he goes. Are that many people blind to reality? Or do they simply not care? Or are they just afraid to speak up?

At a time when millions of people in Eastern Europe are at long last throwing off the yoke of totalitarianism and rushing headlong into freedom; at a time when—against all odds and predictions—the people of Nicaragua, given but one final chance, ousted the Marxist regime of Daniel Ortega; at a time when thousands of young Chinese patriots are willing to perish rather than submit to continued Communist enslavement and tyranny, and at a time when even the very walls of the Soviet empire appear to be crumbling about the feet of a restive and weary populace, why are we celebrating the unrepentant, unreconstructed rantings of a Marxist terrorist?

After his release from prison, Mandela saluted the South African Communist Party, its general secretary Joe Slovo, and the alliance between the SACP and the ANC.

Will we ever learn? Millions of unsuspecting Americans, and countless other millions worldwide, are under the illusion that Nelson Mandela is a great liberator, an inspiration, a world leader. Some in the Chamber have gone so far as to nominate him for the Nobel Peace Prize.

Millions also cheered in 1959 when young firebrand named Fidel Castro overthrew Cuban dictator Fulgencio Batista. Similarly, millions applauded when that nasty tyrant Anastasio Somoza was deposed by rebels under Daniel Ortega. Old-timers and those who know their history might even recall how enlightened it was to support the Russian revolutionaries over the decadent czarist regime. We have lived to regret those premature cheers. And here we are cheering again.

There are several attachments pertinent to Nelson Mandela and the ANC which attest to their behavior, attitudes, and policies, which I ask be inserted in the RECORD at this point.

Patriotism can mean different things to different people. Webster's New Collegiate Dictionary defines it as "love for or devotion to one's country." That's as good a definition as any, I suppose. But each of us, I am sure, has his own particular definition. But I submit this premise to you: This nation has a unique position in the history of mankind. Aside from native Americans, who were numerically submerged in the vastness of the country, for many of us, our ancestors came to these shores seeking refuge, escaping despotism and tyranny, and yearning for freedom. We can here because this land constituted the one, the only, and the last hope for liberty and justice. Our Constitution, conceived by prescient individuals, is elegant in its simplicity. It is this concept of the United States which has inspired the world. Other nations admire our rights and freedoms, though they may not like to admit it. As in high fashion, they may criticize the style, but they respect the richness of the cloth.

These days, however, the world seems turned on its head. We care more for the rights of criminals than those of victims. Rule by the majority while protecting the rights of the minority has been distorted to promotion of the minority at the expense of the majority. And the doctrine of free speech has been extended to obscene art, flag burners, and those would subvert the Constitution while it is denied to taxpayes, defenders of liberty, and practitioners of the Judeo-Christian faith.

We are told that so-called rights—even of those who seek to undermine our Government, our society, and our moral principles—must be protected at all costs, even at the expense of losing our system of government, the fabric of society, and some semblance of moral principles. We live in the age of moral relativism and class action suits. Forget the right to the pursuit of happiness; you're now entitled to happiness. And if you can't find it, take it from somebody else.

This is the attitude which makes possible the moral relativism of turning our backs on those who, like the patriots of 1776, fight for the same basic principles upon which this Nation was founded, and instead rewarding those who, given the chance, would destroy us and make off with the spoils.

Honoring Nelson Mandela is unacceptable. It is outrageous. It is a tragic commentary on how far we've gone down the road to dissolution. And it is an insult to those who have given their lives for this Nation and for the flag which, though tired and battered, still flies proudly and honestly and courageously in the hearts of its citizens.

□ 1910

DEMOCRATIC AGENDA FOR THE 1990'S

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. MCCURDY] is recognized for 60 minutes.

Mr. MCCURDY. Mr. Speaker, today another hero in the worldwide struggle for liberty has come before us in Congress. We rejoice that Nelson Mandela chose this platform now that he is free at last.

Nelson Mandela, Vaclav Havel, Lech Walesa, and other leaders seeking to throw off oppression in their countries come to Congress for a reason. It's not just a matter of protocol or publicity. They come here because in their countries, the U.S. Congress means something. Just as Nelson Mandela is a symbol of the fight against apartheid and oppression, the U.S. Congress still stands as a symbol of the democratic freedoms to which all nations aspire.

Their visits should remind America's leaders of our awesome responsibility to show the world what democracy stands for. America cannot afford to let down millions of people around the world at the very moment they are turning to embrace our values. And yet, I fear that from the Halls of Congress to the Oval Office, we are letting the world down.

We let the world down when we spend days debating whether to rewrite our constitution to keep a few lunatics from burning the American flag—all because some Republicans in this body saw some partisan political advantage in questioning our patriotism.

We let the world down when we fail to provide the economic leadership that has always been America's role as the world's greatest economic power.

And we let the world down when we duck hard choices on the budget that are essential to future economic growth not only here, but around the globe.

Later this week, most of us will return to our districts for the Fourth of July recess. I'm not worried about explaining to the people in my district why I voted to preserve the Bill of Rights. I am more concerned about trying to explain why Washington is not tackling the serious issues.

Why haven't we been able to reverse the growing Federal debt? Why can't we answer the critical health care needs of this country? How do we ensure international competitiveness in a global economy? Why is the American standard of living on the decline? If education truly is a high priority, where are our reforms?

These are the questions on the lips of my Oklahoma constituents. These questions and one more. They are also asking. "What are you people doing out there in Washington?" The general public is not apathetic. They are wondrous. They can't figure out what we are doing because Washington is afraid to tell them.

Americans don't distrust Washington because they have lost faith in their leaders. They distrust Washington because they sense that their leaders have lost faith in them.

Mr. Speaker, I am sure that the great majority of us did not come to Congress to hide from the American people. In recent weeks, a few of us have met informally to talk about what we sense has gone wrong in Washington, and what we can do to right it.

For the past several years, a few vocal members of the other party, led by the minority whip, have been coming to this floor to offer a distorted view of America and of our party. We've had enough. Today, we're going to set the record straight.

Let me tell you about this band of Republican opportunists who would rather follow Mr. GINGRICH of Georgia than pursue the truth. They have called themselves the Conservative Opportunity Society, but they don't talk about the opportunities that are lost to Americans every day because of the borrow-and-spend budget policies of their conservative government, which ran a $42.5 billion deficit in the month of May alone.

America is not saving, investing, or producing. Instead, we spend, borrow, and consume.

The right talks about family values, but they don't talk about their party's HUD scandals, which we uncovered and which have robbed millions of American families of the most basic element of the American dream, the chance to own a home.

They talk about the work ethic, but they don't talk about the regressive tax on work they've used to cover up their enormous deficits. They say Democrats will raise your taxes, when in fact Republicans have already raised your Social Security payroll tax seven times in the last 10 years.

They talk about law and order, but they don't talk about the nationwide explosion of drugs and violent crime that happened entirely on their watch—and they don't do anything to prosecute the corrupt savings and loan executives who stole money from hard-working family depositors.

They talk about protecting the symbols of freedom, but they don't talk about protecting the freedoms for which those symbols stand—freedom of speech, freedom of choice, freedom from a government that tells you what you can and cannot say or do.

They talk about patriotism, but they don't talk about what patriotism really means—that every citizen should love this country enough to give something back.

Their distortions and their tactics disturb us. And what distrubs us most about the Republican opportunists is that they've lied to the American people about what we Democrats stand for.

Well, we've got news for the minority whip and his minions. Their free ride is over. We're not going to let them define us anymore.

From now on, we're going to be the ones who tell the country what Democrats stand for. A handful of us have started a group called the Mainstream Forum that is going to tell ordinary people on Main Street what their Republican government has done to their country.

Over the coming weeks and months, we will be standing up here on the House floor to speak openly with the American people. We're going to talk about things that matter. And we're going to tell the truth about Washington, even when it hurts.

The men and women who will lead this Mainstream Forum are Democrats. But this movement is not about ideology or party labels. It's about values—what we love about America and what we hope to change.

We are united in our frustration with the system, and in our desire to talk about things that matter. And we share a set of values that have been overlooked here for too long.

Many of us helped write the Democratic Leadership Council's New Orleans Declaration, which sets forth these values. I ask unanimous consent that the text of the New Orleans Declaration be entered in the RECORD at the conclusion of my remarks.

Our beliefs are clear and simple:

We believe, as Andrew Jackson did, in equal and expanding opportunity for all, and special privileges for none.

We believe that Government must set clear, honest budget priorities and stick to them—and that the President and Congress should work together to pay the Government's debts, not conspire to postpone them.

We believe America's tax system has become an unfair burden for average working families. We will not support a tax increase that doesn't make the overall tax burden fairer.

We believe Government should respect individual liberty and stay out of our private lives and personal decisions.

We believe that selfishness undermines society, and that citizenship means asking people to give something back to their communities and their country.

We believe in preventing crime and punishing criminals, not excusing their behavior.

We believe in expanding America's role in the world, not shrinking from it, and we believe the Nation should do everything it can to spread American products and American values to all parts of the globe.

Above all, we believe in the basic moral and cultural values that most Americans share, from the rights, responsibilities, and empowerment of the individual to the importance of faith and family.

Like most Americans, we have come to realize that no one else is going to solve America's problems for us. The Washington establishment can't. Big business won't. And the powerful interests don't want to. It's time to let the people try.

The Republicans who run this country don't share those values. For a decade, they've been dividing the Nation, rich against poor, and they've been making life harder for average working people. We're not going to let them get away with it anymore.

Anyone who shares our views is welcome to join our Mainstream Forum. The leadership has pledged to support us, and stand by our right to speak the truth. With so many interests looking out for themselves, someone needs to look out for the country.

Mr. Speaker, 1990 has been a year of democratic revolution and triumph. Today, we pledge—for the sake of the American people, this body, and our great Nation—to bring democracy back home, where it began.

Mr. Speaker, I include for the RECORD the text of the New Orleans Declaration, as follows:

THE NEW ORLEANS DECLARATION—A DEMOCRATIC AGENDA FOR THE 1990s

PREAMBLE

America is at a turning point, and so is the Democratic Party.

Around the world, democracy has triumphed, thanks in no small part to the faith, resolve and sacrifices of the American people.

Yet as we celebrate and work to consolidate freedom's gains, Americans face a new challenge: to rebuild the foundations of our own economic security. America's economic power and international leadership are slipping at the very moment nations are rushing to embrace our values.

This is no time for caution and complacency from our leaders. The measure of a president is not his standing in the polls, but America's standing in the world.

We want more for America. In the past, at moments of national crisis or uncertainty, Democrats have stepped forward to provide bold ideas and imaginative leaders. The time has come for a new generation of Democrats to lead this country forward.

Here as elsewhere, the old isms have run their course, and old politics must give way to new realities. The political ideas and passions of the 1930s and 1960s cannot guide us in the 1990s. Together we pledge to overcome the forces of inertia and orthodoxy in both parties that keep America from moving forward.

Today, we declare our intent to transcend our differences, set forth our principles, and forge a broad national agenda to restore America's economic strength, expand opportunity for every citizen, and promote freedom and democracy in the world.

With this Declaration, we take our case for change to the people.

WHERE WE STAND

We don't need polls to tell us who we are. We know where we stand, and we reaffirm the enduring principles that guide us.

In keeping with out party's grand tradition, we share Jefferson's belief in individual liberty and responsibility. We endorse Jackson's credo of equal opportunity for all, and special privileges for none. We embrace Roosevelt's thirst for innovation, and Truman's faith in the uncommon sense of common men and women. We carry on Kennedy's summons to civic duty and public service, Johnson's passion for social justice, and Carter's commitment to human rights.

We believe the promise of America is equal opportunity, not equal outcomes.

We believe the Democratic Party's fundamental mission is to expand opportunity, not government.

We believe in the politics of inclusion. Our party has historically been the means by which aspiring Americans from every background have achieved equal rights and full citizenship.

We believe that America must remain energetically engaged in the worldwide struggle for individual liberty, human rights, and prosperity, not retreat from the world.

We believe that the U.S. must maintain a strong and capable defense, which reflects dramatic changes in the world, but which recognizes that the collapse of communism does not mean the end of danger.

We believe that economic growth is the prerequisite to expanding opportunity for everyone. The free market, regulated in the public interest, is the best engine of general prosperity.

We believe the right way to rebuild America's economic security is to invest in the skills and ingenuity of our people, and to expand trade, not restrict it.

We believe that all claims on government are not equal. Our leaders must reject demands that are less worthy, and hold to clear governing priorities.

We believe a progressive tax system is the only fair way to pay for government.

We believe in preventing crime and punishing criminals, not explaining away their behavior.

We believe the purpose of social welfare is to bring the poor into the nation's economic mainstream, not maintain them in dependence.

We believe in the protection of civil rights and the broad movement of minorities into America's economic and cultural mainstream, not racial, gender, or ethnic separatism. We will not tolerate another decade in which the only civil rights movement is backward.

We believe government should respect individual liberty and stay out of our private lives and personal decisions.

We believe in the moral and cultural values that most Americans share: liberty of conscience, individual responsibility, tolerance of difference, the imperative of work, the need for faith, and the importance of family.

Finally, we believe that American citizenship entails responsibilities as well as rights, and we mean to ask our citizens to give something back to their communities and their country.

GOALS FOR AMERICA—DEMOCRATIC IDEAS FOR THE 1990s

As we enter the 1990s, we believe Democrats must be the architects of national purpose, not just the mechanics of government policy.

With this Declaration, we offer a set of ideas for moving America forward. These proposals do not attempt to address every national need or solve every national problem. But together, they would strengthen our country, reinforce mainstream values, and enable millions of our people to realize America's true promise.

Our ideas address challenges the Republicans have failed to meet. In the last decade, Americans have witnessed a real decline in U.S. economic power. The world's greatest trading nation has become its greatest debtor nation, putting our economy at the whim of foreign lenders. The federal government has been immobilized by insolvency, sharply limiting our ability to invest in the future. Our children have slipped behind in educational attainment and our workers are less literate than many of our international competitors, just as the best jobs have begun to migrate across national borders to the most highly skilled workers. Our products no longer set the world standard, as U.S. managers in industry after industry have surrendered technological leadership to competitors from Japan and elsewhere.

Here at home, the social fabric of our society has been weakened. The Republicans have redistributed America's wealth upward, further widening the gap between rich and poor. Their policies have left America with one of the most regressive tax codes in the world. And they have drained moral urgency from the fight against poverty, even as an underclass of homeless and jobless has emerged in our cities.

Unlike the Republicans, we believe that with purposeful leadership, the American people are willing to tackle these challenges. Our ideas for the 1990s offer bold new ways to solve them.

REBUILDING U.S. ECONOMIC SECURITY

America lost ground in the world economy in the 1980s. We believe the 1990s must be an era of national renewal—a time to restore America's economic strength and technological leadership in world markets. We need an economic strategy that plays to America's enormous but neglected strengths—an unparalleled scientific base, a top-flight system of higher education, a skilled and flexible workforce and a vibrant enterpreneurial tradition.

Old institutions and entrenched interests are slowing America's adaptation to the new realities of a post-industrial, global economy. We need fundamental changes in the way our society is organized to do business.

Therefore, we propose a new set of public and private actions designed to create a more dynamic, democratic capitalism:

Reordering federal tax and spending policies to create a sound fiscal enviroment for growth and enterprise, and to restore tax equity;

Instituting sweeping reforms in public education;

Enlarging the nation's supply of skilled workers through a nationwide system of youth apprenticeship;

Making strategic public, investments in human capital, infrastructure, and technology;

Expanding international trade, opening markets to U.S. goods and fighting protectionism both in our market and abroad;

Spreading individual ownership of economic assets, through employee stock ownership, savings incentives and other means;

Promoting gain-sharing plans to link pay to performance for workers and managers alike;

Encouraging more workplace democracy to ensure greater flexibility and productivity; and,

Guaranteeing that no American family with a full-time worker lives in poverty.

A NEW SCHOOL OF THOUGHT

In order to meet the challenges of the 21st Century, we must radically lift the level of public education in America.

We applaud the national educational goals, recently adopted by the governors and endorsed by the President. They focus on performance, and are rooted in the realities of the global economy. All children must be physically and mentally ready to learn when they start school. The on-time high school graduation rate should go from 75% to 90%, the international standard. When they graduate, all students should have a core of learning in language, math, science, history, and geography, and national tests at the 4th, 8th, and 12th grades should measure their progress toward this goal. Our students should lead the world in math and science achievement, not lag behind in 13th, 14th, or 15th place as they do today. All our workers should be literate and should have access to a world-class system of lifetime learning. And all our schools should be safe, disciplined, and drug-free.

The problem is, we cannot achieve these goals without a radical restructuring of American education in every state and school district, and without a real commitment from our political leaders to close the huge gap between what they say and what they do about education.

At the state and local level, that means we need to take bold new steps to:

Involve business and community leaders in dealing with the social problems that plague America more than her competitors, including high rates of teen pregnancy, alcohol and drug abuse, and high school dropouts;

Give parents more choice in the schools their kids attend;

Expand incentives for gifted students to enter the teaching profession, and provide opportunities for academically qualified adults who don't have education degrees to become teachers;

Ensure that children spend more time learning each year;

Hold parents accountable for the role only they can play in making sure their children come to school and in encouraging them as they learn; and

Give individual schools through their principals and teachers the freedom to experiment and the power to make decisions that sanction problems and reward success.

At the national level, the President and Congress need to fulfill their long-recognized obligation to provide preschool education for all children who need it. We believe that no American should be denied the opportunity to attend college or get post-secondary training solely for lack of money. By offering young Americans substantial college aid in return for national service, we can achieve that goal. We also must establish a national report card, issued annually, on the performance of students, schools, states, and the national government in moving toward the achievement of national education goals for the year 2000.

YOUTH APPRENTICESHIP

Lifting academic standards is half the battle—the U.S. also urgently needs to bridge the gulf between school and work. Germany and other nations have long used school-based apprenticeship systems to help their non-college-bound youth get the skills they need for rewarding jobs and careers. To improve the job prospects and productivity of the "forgotten half" of young Americans who do not attend college, the U.S. should likewise build a nationwide youth apprenticeship system in our schools.

Under youth apprenticeship, U.S. high schools would add a vocational education track that includes extensive on-the-job training at local businesses. With government acting as a catalyst, schools and businesses would work together to blend strong academic and technical learning with work at job sites for students who seek certification in an occupational field rather than a college education. By connecting success in the classroom with the chance to acquire marketable skills, youth apprenticeship would also give at-risk students a powerful new incentive to stay and do well in school.

Taken together, youth apprenticeship and voluntary national service can create a universal path to a good job or college education for all Americans willing to work hard or serve their country.

NATIONAL SERVICE

For a decade, the Republicans have undermined America's sense of national purpose by exalting self-interest over common interest. It is time to define new duties for citizens as well as government. And it is time to replace the politics of entitlement with new politics of reciprocal responsibility.

We propose a new, civilian version of the G.I. Bill that would promote upward mobility and encourage Americans to serve each other and their country. We envision a series of voluntary national service opportunities springing up in communities across the country: a Citizens Corps that offers educational and housing assistance to those who volunteer for public service; a Teacher Corps that would remove barriers to entering teaching; an Earth Corps to enlist youth in the battle to protect the environment, here and abroad; and a Police Corps to combat crime by putting more police officers on the streets.

THE POLICE CORPS

Government's first responsibility is to keep public order and protect law-abiding citizens from harm. Where government has failed in that duty, our poorest citizens have suffered most. Yet in recent decades, the U.S. has unwittingly allowed itself to unilaterally disarm in the domestic war against violent crime.

In 1950, there were more than three police officers for every violent crime reported in American cities. Now, more than three violent crimes are reported for every cop. We propose a Police Corps to restore public order in our communities and protect citizens by putting more police officers out on the streets, fighting crime. The Police Corps is, in essence, an ROTC program for police officers. In exchange for four years of college education and training, participants would give four years of service in their state or local polic departments.

The Police Corps answers the need for a constructive federal role in fighting crime, which is chiefly a local responsibility. It would significantly expand the supply of college-educated police officers, and make

special efforts to recruit more minorities. Just as important, it represents a new commitment to the philosophy of "community policing"—a preventive approach to crime that puts cops back on the neighborhood beat.

ENVIRONMENTAL SECURITY

The environment has become a matter of family safety and national security. For a decade, the Republicans have failed to protect our air, land, and water from pollution. They have refused to take the lead, as America must do, in combating the global ecological crisis.

We support a Strategic Environment Initiative to provide more vigorous American leadership on global warming, ozone depletion, sustainable development, and other pressing environmental issues. Here in the United States, industry needs to start providing the level of environmental protection the American people want and deserve. Polluters should be held responsible for their actions, and where pollution is a crime, executives should go to jail. Moreover, the time has come for market-based solutions that will make polluters pay the true costs of pollution, and reward consumers and manufacturers for actions that make good environmental sense.

In the '90s, environmental protection will be a precondition for economic growth. We need stronger national efforts to promote recycling, preserve wetlands, provide safe drinking water, and clean up hazardous waste.

GUARANTEED WORKING WAGE

Millions of hard-working Americans live in poverty even though they have full-time jobs. We back a proposed Guaranteed Working Wage that would enable all full-time, year-round workers who support a family to lift themselves and their families out of poverty.

Under this proposal, the current Earned Income Tax Credit would be redesigned and expanded so that it, together with wages they earn by working and the food-stamp benefits for which they are eligible, would raise the total incomes of full-time, year-round workers who support a family above the poverty level. Fully implemented, this Guaranteed Working Wage plan could end poverty for nearly four million Americans in families with a full-time worker. It would also help another seven million poor Americans in families with part-time or part-year workers.

INDIVIDUAL DEVELOPMENT ACCOUNTS

We need a welfare system that will help people climb out of poverty, not keep them poor. We propose to create new savings accounts called Individual Development Accounts (IDAs) in order to help low-income families save and to build financial assets. IDAs are modeled after Individual Retirement Accounts (IRAs) and likewise would receive favorable tax treatment. However, government would also match contributions to IDAs by low income citizens, and those savings accounts would be restricted to four purposes: post-secondary education, home ownership, self-employment, or retirement.

The administration has proposed a generous new tax break on savings for the upper-middle class. We believe any new savings plan should instead make saving easier for those who can't already afford it.

EMERGING DEMOCRACY INITIATIVE

We support creation of an Emerging Democracy Initiative that would move quickly to export democratic capitalism and democratic values to emerging democracies. Every dollar spent transforming former dictatorships into well-functioning democracies strengthens our strategic position in the world, and helps create new markets for U.S. products.

We need to move beyond traditional forms of economic and military aid by providing new forms of democratic assistance—from American scholarship programs for foreign students to democracy grants and technical expertise for groups working to build democratic institutions within their countries. Financed in part by transfers from the military budget, the Initiative could operate through existing channels (AID, the Peace Corps, etc.) and be expanded through a kind of "freedom-sharing"—sharing the welcome burden of democracy-building with our allies.

PAYING FOR PROGRESS

To build a solid foundation for our future economic security, we must invest so that our economy can grow—and we must pay for those investments.

We need a new, common sense approach for dealing with the Republican legacy of fiscal paralysis. We cannot continue to allow the cynical use of the Social Security surplus, raised from a regressive tax on labor, to mask the true scope of America's fiscal crisis.

The old budget politics of the right and the left don't work anymore. We can't tax our way out of the deficit, and we can't cut our way out, either. We have to invest and grow our way out. To make room for strategic investments in our public infrastructure and human capital—such as those we propose in this Declaration—we will need to cut spending and raise revenues.

Sensible deficit redution requires neither taking a "meat axe" to federal spending nor placing an excessive tax burden on average families, but rather a reordering of federal tax and spending priorities to create a sound environment for growth and enterprise. That means taking a hard look at federal entitlements and subsidies; cutting spending for low priorities and eliminating outmoded programs; reducing the military budget to adjust to new world realities; making strategic public investments in human capital, infrastructure, and technology; turning over to the states functions that they can perform better than Washington; and, restoring progressivity to the tax code.

We believe in financing the operations of government through progressive taxation. The U.S. has one of the world's least progressive tax systems, thanks largely to the steady rise (including seven increases in the last decade) in the Social Security payroll tax. The payroll tax burden on average American families needs to be reduced and progressively restored to the overall tax structure so that Americans are taxed according to their ability to pay.

CONCLUSION

These ideas will help us meet the challenges of the 1990s—to restore America's economic strength, expand opportunity for every citizen, and promote freedom and democracy in the world.

They represent a starting point—not an end—to our agenda for America. We have other goals as well: to fight the scourge of drug abuse by placing every drug user into treatment by the end of this decade; to assure basic health insurance coverage for 31 million Americans who are now uncovered; to provide every family with the opportunity to secure decent and affordable housing; and, to accomplish a smooth transition from the defense buildup of the 1980s to the economic buildup of the 1990s.

This is what we want for America—a chance to serve, a duty to learn, and new paths to prosperity, in a society that is just and a world that is safe and free. We invite the American people to join our cause and help us build a better and stronger America in the 1990s.

□ 1920

Mrs. PATTERSON. Mr. Speaker, I thank the gentleman for yielding and commend him for organizing this special order. I have often shared his frustration about the failure of this body to discuss the important challenges and issues facing our country.

I have also shared his concern about the distortions and misrepresentations that have taken the place of political discourse in this Nation. This is a worrisome trend that threatens to undermine our democratic values. In a democracy, the voters depend on information from a variety of sources to reach their decisions when they go into that voting booth. Their decision is only as good as their information. It is important, therefore, that they have an opportunity to receive all sides of an issue.

Mr. Speaker, for several years, I have listened in the late afternoon to speeches from the other side of the aisle about opportunity. Yet, a review of the record of the last decade clearly indicates that there appears to be a greater interest in opportunism than opportunity.

Those of us on this side of the aisle admire the people we represent. We admire the parents who take time to teach their children about values. We admire the citizens who take part in the communities where they grew up. We admire workers who care about the job they do and the product they produce.

That is why we care that these same people have not been participating in the economic opportunities of the past decade. The average American has found it harder and harder to make ends meet, to plan for his or her retirement or to send their children to school. For the first time in our Nation's history, it is likely that many of our children will not enjoy the same quality of life as their parents.

We saw a decade of hostile takeovers that made people who were already rich, richer. We were told that this activity was good for the country and our economy. We were told that it would cut the fat out of American business and make our Nation leaner, meaner, and better able to compete internationally.

But, the average American didn't benefit from these takeovers. In fact, many of them lost their jobs. The only opportunity they had was an opportunity to worry about their next paycheck. They had the opportunity to worry about whether their pension fund was going to be used in these takeovers. They had the opportunity to watch a string of once proud corporations declare bankruptcy.

In my part of the country, the textile industry has been decimated by cheap foreign imports. We have allowed countries that pay below susistence wages to dump their goods into this country. Nations like China have become the

chief importer of textiles into this country while American mills close every week.

Congress has twice passed reasonable legislation to limit textile imports in this country. But, a Republican President has twice vetoed this legislation. We tell a repressive regime that our markets are theirs while we tell our own people at home that if they just worked a little harder or modernized they can compete.

I know these people. They work hard to produce a quality product. They take pride in their work. They deserve better than to be told that the problem is their fault.

Mr. Speaker, this isn't fair. It isn't fair that it gets harder and harder for middle-class families to make ends meet while the deficit keeps going up. It isn't fair that crime and drugs have entered the homes and lives of average Americans and their neighborhoods. And it isn't fair that men, women, and children are homeless or lack health care so that they lead lives of desperate loneliness and poverty.

I know that the gentleman joins me in the belief that economic growth is the best upward mobility for everybody. Economic opportunity, however, means more than just a few individuals get richer. It means more than dividing the Nation rich against poor. It means more than turning our heads while wealthy individuals loot savings and loans and HUD.

Again, Mr. Speaker, I commend the gentleman from Oklahoma for reserving this time to talk about the important issues facing this Nation. I also took forward to doing this on future occasions when we can spend more time on many of the issues being raised today.

Mr. McCURDY. Mr. Speaker, at this time I yield to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. I thank the gentleman for yielding this time to me.

Mr. Speaker, it is very fitting that the Mainstream Forum stepped forward during the wonderful times of democratic revolution and with these historic Chambers still resounding from inspiring speeches from leaders of these emerging democratic movements.

This is a good time for us to reach down into our hearts and out into our districts among the people to revive our mainstream democratic principles, values and ideas.

I would like to share very briefly some of those ideas that one of my constituents wrote to me.

This lady said, in part:

I think I should tell you that although I consider myself an independent voter, in the past I have leaned toward * * *.

I will not reveal her partisan affiliation; but she does tell me that:

Now I am in the process of changing my political philosophy. After a decade of callousness toward social issues and the personal opportunism, greed and outright extortion exhibited by so many in high office, I am totally revolted.

And she says four very simple words that mean a lot:

Our people deserve better.

My inspired colleague stated a few minutes ago a mainstream democratic principle, very simply, when he said, "We believe that government must set clear, honest budget priorities." Clear honest budget priorities? How can we set clear, honest budget priorities when we cannot even design a clear, honest budget?

Our budgets have been called smoke and mirrors. We hear a lot of talk about the no new taxes budgets, while hidden payroll taxes are burdened on the average working people.

We hear a lot of talk about the balanced budget when in reality the on-budget and offbudget shifting hides our ability to determine whether it is balanced or not.

Mr. Speaker, it is time to set clear, honest budget priorities, and I hope that our Mainstream Forum will help point us in that direction.

As the lady said, "Our people deserve better." They deserve simple budget honesty, they deserve simple budget honesty.

I thank the gentleman for yielding.

Mr. McCURDY. I thank the gentleman.

The gentleman from Alabama [Mr. BROWDER] has said it so well as one of the principal tenets, being honest with the American public. If we always just tell them what they want to hear, I think you can fool them some of the time but obviously you do not fool them all the time.

I thank the gentleman for not only his statement today but for his continued support for bringing mainstream issues and mainstream values to this body. He is truly a good addition to this institution and follows a person who represented that district for so many years whom we all loved and cherished, Mr. Bill Nichols.

I know Mr. BROWDER is carrying on the torch of honest government the way his predecessors had.

At this point, Mr. Speaker, I yield to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in his opening remarks my colleague from Oklahoma mentioned those who have attempted to define the Democratic Party in less than flattering terms. There are a variety of categories in which that redefinition of the Democratic Party has occurred, not the least of which is in regard to tax policy.

To put it simply, the Republicans would have you believe that the Democratic Party, which used to be the party of tax progressivity, has now become the party of tax excessivity.

We can and we should restore to ourselves the mantle of progressive taxation, and there is an opportunity available to us to achieve that goal. If we are to take this step, we could remind American voters again which party is for tax fairness, which party is for a tax system based on ability to pay, and it has to do with the Social Security payroll tax.

I would be less than honest if I did not say that I have been disappointed so far with the Democratic Party's response to the call by New York Senator DANIEL PATRICK MOYNIHAN to reduce the Social Security tax rate, Mr. MOYNIHAN's proposal, which I have introduced here in the House, is quite simple, really. It is to protect Social Security.

Currently, the Federal Government collects over $1 billion per week in surplus Social Security funds. By the end of the 1990's, the surplus will be growing by $3 billion per week. The problem is that surplus is being spent on the other programs of Government, thereby making the Federal deficit look $60 billion smaller. This budget deceit allows the President and Congress to avoid tough decisions about balancing the rest of the budget. But worse yet, it threatens the future viability of the Social Security system.

Mr. MOYNIHAN argues quite logically that it is not right to build up a surplus in the Social Security fund if we are not prepared to protect that surplus in order to pay benefits to future retirees.

Therefore, his proposal starts by reducing the FICA payroll tax from 6.2 percent to its 1989 level of 6.06 percent.

In 1991, the rate would be further reduced to 5.1 percent, thereby eliminating the Social Security surplus while protecting full benefits for those retired or near retirement age.

Now, I respect that some may disagree with that approach, even though cutting the FICA tax rate would primarily benefit low- and middle-income taxpayers.

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However, there should be absolutely no difference of opinion about using Social Security funds for the purpose they were intended. It was our party that took the lead in creating this program of retirement security for America's senior citizens, and we must now take the lead in defending this program for its intended purpose.

It is sad, but true that today's younger workers, the "Baby Boom" generation, have little confidence in Social Security. Any why should they when we are spending their surplus? At the very least, we should help secure Social Security for the future by moving it off budget.

In other words, if we cannot go along with the Moynihan proposal to cut the tax rate and put the system back on a pay-as-we-go basis, then we ought to set this money aside, move it off budget, so that there is greater assurance to today's workers that the program will be there to pay them

their needed benefits when they reach retirement age.

Either way, as a party we must again become the champions of Social Security.

The reality of what's happening to Social Security makes President Bush's State of the Union address seem particularly disingenuous. After submnitting a budget which spends the Social Security surplus, the President had the audacity to admonish Congress: "Don't mess with Social Security!" Democratic legislators should have responded in unison "Mr. President, you are messing with Social Security and we aren't going to let you get away with it any longer."

Earlier this year, at two separate strategy meetings, Democrats finally began to give the Moynihan proposal the serious attention it deserves. At an issues conference in New Orleans, the Democratic Leadership Council—comprised of several hundred moderate and conservative Democratic office holders—gave Moynihan an audience and an endorsement. At the same time, meeting in Indianapolis, the Democratic National Committee also expressed support for the MOYNIHAN effort.

But in the months since then, the issue seems to have disappeared, and supporters for the Moynihan proposal have gone silent. With the budget summit between congressional leaders and the President underway I believe it's time to put Social Security reform on the table. The present Social Security system cannot be changed without a budget agreement and no significant budget deficit reduction plan is possible without Social Security reform.

Senator MOYNIHAN has raised the right issues. Now Democrats in Congress must follow his lead, and rally around an issue that affects all of us. After all, if Democrats do not fight to protect Social Security for future retirees, who will?

Mr. McCURDY. Mr. Speaker, I thank the gentleman from Minnesota [Mr. PENNY] for his contribution. The gentleman has spent a lot of time, obviously, looking at this issue. I think the gentleman would concur that if an average American today makes less than $40,000, his or her effective tax rate has gone up by 66 percent in the last decade. If that person makes over $200,000, their effective tax rate and taxes has declined. That is not tax fairness. That is not bringing honesty to government into being.

What we have seen in last decade is a shift from the middle America to the rich, and I do believe that America today has to question what the administration is intending, whether or not they have been honest when the President can stand in this Chamber and say, "Don't mess with Social Security," but when his Budget Director cynically uses the surplus to disguise the real and true extent of the deficit, that is messing with Social Security. That is disguising the fact that there is tax unfairness in the system today, and all the while, I think today he came out and said that now he understands for a budget that there has to be tax increases. But many of those increases that are proposed are regressive and fall hardest on the very people that have carried the basic burden, the greatest burden over the past decade.

I think it is important that we, as Democrats and as Americans who really were in the mainstream, should point to that fact and continue to tell America that they are not getting the honest story.

Mr. Speaker, this was the first evening of the mainstream forum coming to the floor during special orders to discuss various issues. We had considerable competition with the White House function this evening, but I believe over the coming weeks and months, that more and more Members are going to come forward to speak their mind on a wide range of issues, value issues, issues that we believe that the American public wants to hear about as opposed to trivialities or avoidance of the tough issues.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LEHMAN of California). The Chair must remind all Members that while it is in order to identify a Senator as the sponsor of a measure, remarks in debate must not extend to characterization of a Senator's policy positions or to descriptions of a Senator's arguments on a measure.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) to revise and extend their remarks and include extraneous material:)

Mr. MICHEL, for 5 minutes, today.

Mr. LEWIS of Florida, for 60 minutes on July 11.

Mr. DREIER of California, for 5 minutes each day, on June 26, 27, 28, and 29.

Mr. BURTON of Indiana, for 5 minutes, on June 26 and for 60 minutes each day, on June 27 and July 10, 16, and 17.

Mr. DANNEMEYER, for 5 minutes, on June 26.

(The following Members (at the request of Mr. MCCURDY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GEREN, for 5 minutes, on June 27.

Mr. ROSTENKOWSKI, for 5 minutes, on June 28.

Mr. FALEOMAVAEGA, for 60 minutes, on June 27.

Mrs. BYRON, for 60 minutes, on June 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BURTON of Indiana) and to include extraneous material:)

Mr. BARTON of Texas.
Mr. MCCOLLUM.
Mr. SHUMWAY.
Ms. ROS-LEHTINEN.
Mr. GEKAS.
Mr. LAGOMARSINO.
Mr. KYL.
Ms. SNOWE.
Mr. MACHTLEY.
Mr. CONTE.
Mr. WEBER.
Mr. DELAY.
Mr. DANNEMEYER.
Ms. SCHNEIDER.
Mr. BLILEY.
Mr. ROBERT F. (BOB) SMITH.
Mr. CRANE.
Mr. GALLEGLY.

(The following Members (at the request of Mr. MCCURDY) and to include extraneous material:)

Mr. NELSON of Florida.
Mr. BROWN of California.
Mr. LEVINE of California.
Mr. HAWKINS.
Mr. KANJORSKI.
Mr. KOSTMAYER.
Mr. LIPINSKI.
Mr. ROE.
Mr. EDWARDS of California.
Mr. TALLON.
Mr. RANGEL.
Mr. ENGEL.
Mr. RICHARDSON.
Mr. TRAFICANT.
Mr. DELLUMS.
Mr. ALEXANDER.
Mr. SKELTON.
Ms. LONG.
Mr. GIBBONS.
Mr. HUBBARD.
Mr. FEIGHAN.
Mr. BRYANT.
Mr. DE LUGO.
Mr. MARKEY.
Mr. MORRISON of Connecticut.
Mr. TOWNS.
Mr. WEISS.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2014. An act to direct the Secretary of Agriculture and the Secretary of the Interior to provide interpretation and visitor edu-

cation regarding the rich cultural heritage of the Chama River Gateway Region of northern New Mexico; to the Committee on Interior and Insular Affairs.

ENROLLED JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 555. Joint resolution to commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed; and

H.J. Res. 575. Joint resolution to designate June 25, 1990, as "Korean War Remembrance Day."

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 1999. An act to amend the Higher Education Amendments of 1986 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes;

S.J. Res. 264. Joint resolution to commemorate the 50th anniversary of the National Sheriffs' Association;

S.J. Res. 315. Joint resolution for the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day"; and

S.J. Res. 320. Joint resolution designating July 2, 1990, as "National Literacy Day."

ADJOURNMENT

Mr. McCURDY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 36 minutes p.m.) the House adjourned until tomorrow, Wednesday, June 27, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3458. A letter from the Comptroller of the Department of Defense, transmitting three reports of violations that occurred in the Department of the Army and the Department of the Navy, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3459. A letter from the Administrator, Environmental Protection Agency, transmitting a report entitled, "Underground Heating Oil and Motor Fuel Tanks Exempt From Regulation Under Subtitle I of the Resource Conservation and Recovery Act", pursuant to 42 U.S.C. 6915; to the Committee on Energy and Commerce.

3460. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease renewal of defense articles to Norway (Transmittal No. 14-90), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3461. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Canada (Transmittal No. 12-90), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3462. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to the Netherlands (Transmittal No. 13-90), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3463. A letter from the Administrator, Environmental Protection Agency, transmitting the third report on the Superfund Innovative Technology Evaluation Program for fiscal year 1989, pursuant to 42 U.S.C. 9604; to the Committee on Science, Space, and Technology.

3464. A letter from the Director, Office of Management and Budget, transmitting his certification that the amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc., are $4,652,313 less than the amount necessary to maintain the budgeted level of operation because of exchange rate losses in the first quarter of 1990, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Foreign Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TRAXLER: H.R. 5158. Committee on Appropriations. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-556). Referred to the Committee of the Whole House on the State of the Union.

Mrs. SLAUGHTER of New York: Committee on Rules. H. Res. 422. A resolution providing for the consideration of H.R. 4329, a bill to enhance the position of United States industry through application of the results of Federal research and development, and for other purposes (Rept. 101-557). Referred to the House Calendar.

Mr. HAWKINS: Committee of Conference. Conference report on S. 933 (Rept. 101-558). Ordered to be printed.

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 1180. To amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes; with an amendment (Rept. 101-559). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. H. Res. 425. A resolution waiving certain points of order during consideration of the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-560). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FAUNTROY:

H.R. 5153. A bill to authorize the participation of the United States in the ninth replenishment of the International Development Association, to authorize the participation of the United States in the European Bank for Reconstruction and Development, to exempt the International Finance Corporation from Securities Exchange Commission reporting requirements, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. BYRON:

H.R. 5154. A bill to amend title 10, United States Code, to provide increased separation pay and certain other benefits for members of the Armed Forces who are involuntarily separated, to provide greater flexibility in military personnel policies over the next 5 years, and for other purposes; jointly, to the Committees on Armed Services, Education and Labor, and Ways and Means.

By Mr. ROE (for himself, Mr. KENNEDY, Ms. SCHNEIDER, Mr. SCHEUER, Mr. WALKER, Mr. BROWN of California, Mr. NELSON of Florida, Mr. WOLPE, Mr. VALENTINE, Mr. TORRICELLI, Mr. BOEHLERT, Mr. NOWAK, Mr. SCHIFF, Mr. TRAFICANT, Mr. SMITH of Texas, Mr. NAGLE, Mrs. MORELLA, Mr. MCMILLEN of Maryland, Mr. MINETA, Mr. GORDON, Mr. BATES, Mr. FAUNTROY, Mr. HAYES of Illinois, Ms. PELOSI, Mr. DYMALLY, Mr. SCHUMER, Mr. DWYER of New Jersey, Mr. JONTZ, Mrs. COLLINS, Mr. EDWARDS of California, Mr. GRAY, Mr. OWENS of New York, Mr. DELLUMS, Mr. NEAL of North Carolina, Mr. ECKART, Mr. TORRES, Mr. WISE, Mr. ACKERMAN, Mr. MARKEY, Mr. PALLONE, Mr. CONYERS, Mr. WHEAT, Mr. OWENS of Utah, Mr. FUSTER, Mr. HERTEL, Mr. WEISS, Mr. PAYNE of New Jersey, Mr. KANJORSKI, Mr. MACHTLEY, Mr. SIKORSKI, and Mr. MCDADE):

H.R. 5155. A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; jointly, to the Committees on Science, Space, and Technology and Energy and Commerce.

By Mr. STAGGERS:

H.R. 5156. A bill to require that Members of Congress provide a public accounting, on a semiannual basis, of the extent to which any of their mass mailings are made using the franking privilege; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY:

H.R. 5157. A bill to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TRAXLER:

H.R. 5158. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and

for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes.

By Mr. COURTER:

H.R. 5159. A bill to amend the Internal Revenue Code of 1986 to allow senior citizens a credit against income tax for the purchase and installation of fire safety devices in residences; to the Committee on Ways and Means.

By Mr. KANJORSKI:

H.R. 5160. A bill to reform campaign practices for elections to the House of Representatives by limiting contributions from political action committees, establishing tax credits for individual campaign contributions, providing matching funds for individual small contributions, limiting the use of personal funds in a campaign, offsetting independent expenditures, encouraging the use of longer campaign commercials, and for other purposes; jointly, to the Committees on House Administration, Ways and Means, and Energy and Commerce.

By Mr. LAGOMARSINO:

H.R. 5161. A bill to amend title 5, United States Code, to provide higher rates of basic pay for Federal employees within Santa Barbara County, CA to the Committee on Post Office and Civil Services.

By Mr. LONG:

H.R. 5162. A bill to authorize the Secretary of the Army to reimburse contractors of the Department of the Army for certain damages to property in Panama caused by U.S. Armed Forces during Operation Just Cause in December 1989; to the Committee on Armed Services.

By Mr. MACHTLEY (for himself and Mr. MARKEY):

H.R. 5163. A bill to establish a comprehensive program for reducing energy consumption in Department of Defense facilities and to establish incentives within the Department of Defense to save costs through energy conservation; to the Committee on Armed Services.

By Mr. MONTGOMERY (for himself and Mr. STUMP) (both by request):

H.R. 5164. A bill to authorize the Secretary of Veterans Affairs to enter into enhanced-use agreements with respect to designated VA facilities and to direct the disposal of such designated facilities by special disposition; to the Committee on Veterans' Affairs.

By Mr. OBERSTAR (for himself, Mr. ANDERSON, Mr. HAMMERSCHMIDT, and Mr. CLINGER):

H.R. 5165. A bill to amend the Federal Aviation Act of 1958 to authorize the imposition and collection of passenger facility charges to finance certain airport-related projects, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SLATTERY:

H.R. 5166. A bill to provide increased and special benefits to individuals involuntarily separated from the Armed Forces, and for other purposes; jointly, to the Committees on Armed Services, Ways and Means, Post Office and Civil Service, and Veterans' Affairs.

By Mr. FROST (for himself and Mr. BROOMFIELD):

H. Con. Res. 344. Concurrent resolution permitting the use of the rotunda of the Capitol to allow Members of Congress to greet and receive His All Holiness Patriarch Dimitrios; to the Committee on House Administration.

By Ms. SLAUGHTER of New York:

H. Res. 422. Resolution providing for the consideration of the bill (H.R. 4329) to enhance the position of U.S. industry through application of the results of Federal research and development, and for other purposes; House Calendar No. 123, House Report No. 101-557.

By Mr. GEJDENSON:

H. Res. 423. Resolution to provide for the correction of the engrossment of H.R. 4653; considered and agreed to.

By Mrs. SAIKI:

H. Res. 424. Resolution commemorating 200 years of the Portuguese presence in Hawaii; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DYSON:

H.R. 5167. A bill to authorize coastwise and Great Lakes documentation for the vessel *Playpen;* to the Committee on Merchant Marine and Fisheries.

H.R. 5168. A bill to authorize fishery documentation for the vessel *Paula Sue;* to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 71: Mr. ROWLAND of Connecticut.

H.R. 207: Mr. SMITH of New Jersey.

H.R. 303: Mr. THOMAS of Georgia.

H.R. 539: Mr. COSTELLO, Mr. HYDE, and Mr. COX.

H.R. 844: Mr. HORTON and Mr. POSHARD.

H.R. 929: Mr. HUGHES and Mrs. UNSOELD.

H.R. 979: Mr. CONTE.

H.R. 1180: Mr. MAZZOLI.

H.R. 1582: Mr. ESPY.

H.R. 1693: Mr. GUARINI and Mr. KASTENMEIER.

H.R. 2025: Mr. ASPIN.

H.R. 2043: Mr. SCHUETTE.

H.R. 2545: Mr. SCHEUER.

H.R. 2575: Mr. MICHEL and Mr. CRAIG.

H.R. 2615: Mrs. LLOYD.

H.R. 2776: Mr. STANGELAND and Mr. THOMAS of Wyoming.

H.R. 2816: Mr. DORGAN of North Dakota and Mr. ROE.

H.R. 2853: Mr. FOGLIETTA.

H.R. 2958: Mr. ROE.

H.R. 2972: Mr. GEREN.

H.R. 3126: Mr. WEISS.

H.R. 3131: Mr. MINETA.

H.R. 3251: Mrs. BOXER.

H.R. 3278: Mr. MCDERMOTT, Mr. MOAKLEY, Mr. BOEHLERT, Mr. FOGLIETTA, Mr. HERTEL, Mr. OWENS of New York, Mr. SAVAGE, and Mr. LANCASTER.

H.R. 3343: Mr. SCHUETTE.

H.R. 3391: Mr. RANGEL, Ms. SLAUGHTER of New York, Mr. RINALDO, and Mr. KOLTER.

H.R. 3472: Mrs. MEYERS of Kansas and Mr. STUMP.

H.R. 3651: Mr. HALL of Ohio, Mr. WOLF, and Mr. BLILEY.

H.R. 3686: Mr. STUMP and Mr. BATES.

H.R. 3773: Mr. QUILLEN.

H.R. 3798: Mr. NIELSON of Utah.

H.R. 3864: Mrs. VUCANOVICH.

H.R. 3880: Mr. HAMMERSCHMIDT.

H.R. 3914: Mr. KOLBE, Mr. GILMAN, and Mr. MOORHEAD.

H.R. 3936: Mr. STAGGERS, Mr. WASHINGTON, Mr. LIPINSKI, Mr. DINGELL, and Mr. KOSTMAYER.

H.R. 3970: Mr. BOUCHER, Mr. PICKETT, and Mr. EVANS.

H.R. 3977: Mr. DOWNEY, Mr. SAXTON, Mr. DYSON, Mr. CARPER, and Mr. WELDON.

H.R. 4011: Mr. PENNY, Ms. PELOSI, Mr. SMITH of Florida, Mr. DELLUMS, Mr. FAUNTROY, and Mr. SCHEUER.

H.R. 4042: Mrs. ROUKEMA.

H.R. 4048: Mr. OLIN, Mr. JACOBS, and Mr. TALLON.

H.R. 4100: Mr. HORTON, Mr. DANNEMEYER, Mr. DORNAN of California, and Mr. LANCASTER.

H.R. 4110: Mr. CROCKETT, Mr. BOSCO, Mr. WILLIAMS, Mr. COLEMAN of Texas, Mr. SERRANO, Mr. WEISS, Mr. MAZZOLI, and Mr. SABO.

H.R. 4226: Mr. WOLF.

H.R. 4231: Mr. BRUCE, Mr. HORTON, Mr. OWENS of New York, Mr. RAHALL, Mr. SYNAR, and Mr. NIELSON of Utah.

H.R. 4245: Mrs. ROUKEMA, Ms. OAKAR, Mr. FRANK, Mr. PRICE, Mr. LEACH of Iowa, Mr. SHUMWAY, Mr. PARRIS, Mr. MCCOLLUM, Mr. BEREUTER, Mr. DREIER of California, Mr. HILER, Mr. RIDGE, Mr. BARTLETT, Mr. ROTH, Mr. MCCANDLESS, Mr. SAXTON, Mrs. SAIKI, Mr. BUNNING, Mr. BAKER, Mr. STEARNS, Mr. GILLMOR, Mr. PAXON, Mr. ROWLAND of Connecticut, Ms. ROS-LEHTINEN, Mr. MCEWEN, Mr. SMITH of New Hampshire, Mr. DOUGLAS, Mr. BLAZ, Mr. DONALD E. LUKENS, Mr. MCMILLAN of North Carolina, Mr. INHOFE, Mr. SHAYS, Mr. HORTON, Ms. MOLINARI, Mrs. VUCANOVICH, Mr. SCHUETTE, Mr. BURTON of Indiana, Mr. MILLER of Washington, Mr. GRANDY, and Mr. CAMPBELL of California.

H.R. 4262: Mr. KLECZKA and Mr. SAXTON.

H.R. 4330: Mr. GEKAS, Mr. GRAY, Mr. HALL of Ohio, Mr. MFUME, Ms. OAKAR, and Mrs. SCHROEDER.

H.R. 4345: Mr. FIELDS and Mr. WOLF.

H.R. 4424: Mr. KOLTER, Mr. HANCOCK, and Mr. GALLO.

H.R. 4475: Mr. BILBRAY, Ms. MOLINARI, Mr. JOHNSTON of Florida, Mr. BOSCO, Mr. INHOFE, Mr. PERKINS, Mr. STUDDS, Mr. DELAY, Mr. WALSH, Mr. GILLMOR, Mr. TANNER, Mr. SKELTON, Mr. KENNEDY, and Mr. BROOMFIELD.

H.R. 4492: Mr. HAWKINS, Mrs. KENNELLY, Mr. MINETA, Mr. SCHUMER, and Mr. WASHINGTON.

H.R. 4494: Mrs. MEYERS of Kansas, Mr. LAUGHLIN, Mr. MINETA, Mr. LIVINGSTON, Mr. MANTON, Mr. MCHUGH, Mrs. PATTERSON, Mr. KOLBE, Mr. HAMMERSCHMIDT, Mr. LOWERY of California, Mr. GRANDY, Mr. CONDIT, Mr. MCCURDY, Mr. GUNDERSON, Mr. YATRON, Mr. WEBER, Mr. LEWIS of California, Mr. BOSCO, and Mr. BATEMAN.

H.R. 4531: Mr. LEACH of Iowa, Mr. OWENS of New York, Mr. PALLONE, and Mr. JONES of North Carolina.

H.R. 4574: Mr. LEHMAN of Florida and Mr. AUCOIN.

H.R. 4583: Mr. ANDREWS, Mr. HAWKINS, Mr. WAXMAN, and Mr. MARTINEZ.

H.R. 4604: Mr. MCDERMOTT, Mr. BERMAN, Mr. ACKERMAN, Mr. LEWIS of Georgia, Mr. FOGLIETTA, Mr. SOLARZ, Mr. COSTELLO, Mr. ROYBAL, Mr. SHAW, Ms. SCHNEIDER, and Mr. SHAYS.

H.R. 4617: Mr. DWYER of New Jersey, Mr. KOLTER, Mr. HUGHES, Mr. HOUGHTON, Mr. PALLONE, Mr. JAMES, and Mr. YOUNG of Florida.

H.R. 4640: Mr. MADIGAN and Mr. SOLOMON.

H.R. 4650: Mr. PRICE and Mr. Saxton.

H.R. 4755: Mr. MCDERMOTT, Mr. FAZIO, Mr. JAMES, and Mr. ROE.

H.R. 4808: Mr. LEVINE of California.

H.R. 4891: Mr. MCCRERY.

H.R. 4959: Mr. VALENTINE.

H.R. 4972: Mr. WALSH.

H.R. 4977: Mr. EMERSON, Mr. LEWIS of California, and Mr. COLEMAN of Texas.

H.R. 4981: Mr. NIELSON of Utah.

H.R. 4994 Mr. JONTZ.

H.R. 5008: Mr. HUGHES, Mr. PASHAYAN, and Mr. EDWARDS of California.

H.R. 5011: Mr. HORTON.

H.R. 5028: Mr. LAGOMARSINO.

H.R. 5029: Mr. SCHEUER.

H.R. 5050: Mr. MCMILLAN of North Carolina, Mr. BRYANT, Mr. RITTER, Mr. VALENTINE, Mr. LEWIS of Florida, Mr. SOLOMON, Mr. MCNULTY, Mr. LANCASTER, Mr. TRAXLER, Mr. MARTIN of New York, Mr. MINETA, Mr. MCHUGH, Mr. SCHAEFER, Mr. KANJORSKI, Mr. PEASE, Mr. BRUCE, Mr. LEHMAN of California, Mr. BILBRAY, Mr. DEFAZIO, Mr. RHODES, Mr. HAMMERSCHMIDT, Mr. BROWN of Colorado, Mr. GRANDY, Mr. JONTZ, Mr. KYL, Mrs. MEYERS of Kansas, and Mrs. JOHNSON of Connecticut.

H.R. 5055. Mr. KASICH, Mr. MADIGAN, Mr. DELAY, Mr. COLEMAN of Missouri, Mr. SMITH of Texas, Mr. BARTON of Texas, and Mr. MCCANDLESS.

H.R. 5101: Mr. DEFAZIO and Mr. SANGMEISTER.

H.R. 5120: Mr. FORD of Michigan, Mr. LEHMAN of California, and Mr. DYMALLY.

H.J. Res. 57: Mr. SWIFT.

H.J. Res. 201: Mr. STUMP.

H.J. Res. 214: Mr. BOEHLERT, Mr. PRICE, Mr. CARR, Mr. APPLEGATE, Mr. BORSKI, Mr. ORTIZ, Mr. DE LUGO, and Mr. COBLE.

H.J. Res. 439: Mr. SHAW and Mr. NEAL of Massachusetts.

H.J. Res. 459: Mr. LOWERY of California, Mr. LANCASTER, Mr. WALGREN, Mr. STANGELAND, and Mr. PARRIS.

H.J. Res. 509: Mr. GORDON, Mr. YATRON, Ms. KAPTUR, Mr. KILDEE, Mr. LEHMAN of Florida, Mr. MURPHY, Mr. MCNULTY, Mr. SERRANO, Mr. COUGHLIN, and Mr. KENNEDY.

H.J. Res. 513: Mr. DEWINE, Mrs. PATTERSON, Mr. CHANDLER, Mr. RITTER, Mr. FASCELL, Mr. RINALDO, Mr. SMITH of Texas, Mr. SMITH of Florida, Mr. DINGELL, Mr. MACHTLEY, Mr. FAWELL, Mr. CARPER, Mr. LEWIS of Florida, Mr. TRAXLER, Mr. HENRY, Mr. UPTON, Mr. MATSUI, Mr. PORTER, Mr. MORRISON of Connecticut, and Mr. MICHEL.

H.J. Res. 519: Mr. SERRANO, Mr. THOMAS of Wyoming, Mr. GUARINI, and Mr. STANGELAND.

H.J. Res. 524: Mr. THOMAS of Wyoming, Mr. DEFAZIO, and Mr. STANGELAND.

H.J. Res. 535: Mr. TALLON, Mr. TOWNS, Mr. WALSH, Mr. HAYES of Louisiana, Mr. CONYERS, Mr. GINGRICH, Mrs. PATTERSON, Mr. FUSTER, Mr. DREIER of California, Mr. NATCHER, Mr. HUGHES, Mr. CARPER, Mr. SERRANO, Mr. MATSUI, Mr. ORTIZ, Mr. YOUNG of Alaska, Mr. HAMMERSCHMIDT, Mr. PANETTA, Mr. ARCHER, Mr. BALLENGER, Mrs. BENTLEY, Mr. BOSCO, Mr. HUNTER, Mr. GEKAS, Mr. SCHEUER, Mr. THOMAS of Wyoming, Mr. KENNEDY, Mr. MARTIN of New York, Mr. MFUME, Mr. MURPHY, Mr. OWENS of Utah, Mr. SCHUMER, Mr. WYLIE, Mr. BORSKI, Mr. HUBBARD, Mr. PACKARD, Mr. SMITH of New Jersey, Mr. TAUZIN, Mr. BILIRAKIS, and Mr. COUGHLIN.

H.J. Res. 543: Mr. GINGRICH, Mr. THOMAS A. LUKEN, Mr. MCCOLLUM, Mr. JONES of North Carolina, Mr. NATCHER, and Mrs. BYRON.

H.J. Res. 551: Mr. TALLON, Mr. MRAZEK, Mr. ROE, Mr. TOWNS, and Mr. PALLONE.

H.J. Res. 552: Mr. SUNDQUIST, Mr. HARRIS, Mr. HEFNER, Mr. HANSEN, Mr. TALLON, Mr. THOMAS of Wyoming, Mr. WOLPE, Mr. FAUNTROY, Mr. WHITTEN, Mr. FASCELL, Mr. MONTGOMERY, Mr. WOLF, Mr. MURPHY, Mr. FLAKE, Mr. NATCHER, Mr. BATES, Mr. LAGOMARSINO, Mr. BARNARD, Mr. DYSON, Mr. PAXON, Mrs. JOHNSON of Connecticut, and Mr. MAVROULES.

H.J. Res. 554: Mr. APPLEGATE, Mr. LEWIS of California, Mr. LIVINGSTON, Mr. MAVROULES, Mr. MCHUGH, Mr. NEAL of Massachusetts, Mr. MOORHEAD, Mr. PANETTA, Mr. STOKES, Mrs. LOWEY of New York, Mr. HAYES of Illinois, Mr. PORTER, Mr. PURSELL, Mr. SAWYER, Mr. SCHUETTE, Mr. TAYLOR, Mr. ROBERT F. SMITH, Mr. VALENTINE, Mr. VENTO, and Mr. WYLIE.

H.J. Res. 578: Mr. LIPINSKI, Mr. MORRISON of Connecticut, and Mr. FAUNTROY.

H.J. Res. 588: Mr. HARRIS, Mr. KOLTER, Mr. CARPER, Mr. RAHALL, Mr. JONES of Georgia, Mr. ANDREWS, Mr. MOODY, Mr. PRICE, Mr. KLECZKA, Mr. ASPIN, Mr. STAGGERS, Mr. VOLKMER, Mr. HASTERT, Mr. DORNAN of California, Mr. GOODLING, Mr. GRANDY, Mr. DEWINE, Mr. BONIOR, Mr. LANCASTER, Mr. WILSON, Mr. MURTHA, Mr. GINGRICH, Mr. PICKETT, Mr. SISISKY, Mr. FRENZEL, Mr. BATES, Mr. GEREN, Mr. SARPALIUS, Mr. MOAKLEY, Mr. SCHIFF, Mr. SMITH of Vermont, Mr. GUARINI, Mr. TORRICELLI, Mr. MINETA, Mr. CONTE, Mr. BOSCO, Mr. BRUCE, Mr. CARDIN, Mr. YATRON, Mr. JOHNSON of South Dakota, Mr. GAYDOS, Mr. EDWARDS of Oklahoma, Mr. HEFNER, Mr. CAMPBELL of Colorado, Mr. ATKINS, Mr. BRYANT, Mr. BUECHNER, Mr. GUNDERSON, Mr. BARNARD, Mr. KANJORSKI, Mr. MONTGOMERY, Mr. BEVILL, Mr. HAMILTON, Mr. SABO, Mr. NOWAK, Mr. DERRICK, Mr. ANTHONY, Mr. HATCHER, Mr. RIDGE, Mr. HOUGHTON, and Mr. THOMAS of Wyoming.

H.J. Res. 602: Mr. WAXMAN, Mrs. BOXER, Mr. SKAGGS, Mr. MANTON, Mr. STUDDS, Mr. DIXON, Mr. SPRATT, Mr. MARTINEZ, Mr. DURBIN, Mr. WALSH, Mr. SKEEN, Mr. ERDREICH, Mr. NEAL of Massachusetts, Mr. FAUNTROY, Mr. DEFAZIO, and Mr. PARRIS.

H. Con. Res. 270: Mrs. SCHROEDER, Mr. TORRES, Ms. SCHNEIDER, Mr. ROYBAL, Mr. HOCHBRUECKNER, Mr. ROSE, Mr. ACKERMAN, Mr. SMITH of Florida, and Mr. PANETTA.

H. Con. Res. 276: Mr. LANCASTER, Mr. BOSCO, Mr. WHEAT, Mr. HARRIS, Mr. SAXTON, Mr. MORRISON of Connecticut, Mr. EMERSON, Mrs. BOGGS, Mr. BOUCHER, Mr. BUSTAMANTE, Mr. COBLE, Mr. COOPER, and Mr. CARPER.

H. Con. Res. 293: Mr. GALLO, Mr. BAKER, Mr. FUSTER, Mr. CAMPBELL of California, Mr. MARTINEZ, and Mr. FAWELL.

H. Con. Res. 309: Mr. ANDREWS, Mr. HAWKINS, Mr. WAXMAN, and Mr. MARTINEZ.

H. Con. Res. 336: Mrs. BENTLEY, Mr. OWENS of New York, and Mr. ECKART.

H. Res. 342: Mr. DORNAN of California, Mr. COMBEST, Mr. HASTERT, and Mr. HYDE.

H. Res. 418: Mr. OWENS of New York, Mr. CONYERS, Mr. NIELSON of Utah, Mr. GOODLING, Mr. SYNAR, and Mr. JOHNSTON of Florida.

EXTENSIONS OF REMARKS

SANTA MONICA STUDENTS HELP THE HOMELESS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. LEVINE of California. Mr. Speaker, I rise today to draw my colleagues' attention to an elementary school in my district whose students are doing their part to alleviate hunger among Santa Monica's homeless community. Every Wednesday, students at Pluralistic School No. 1 bring extra sack lunches to school to donate to the Ocean Park Community Center, just seven blocks away. The center in turn distributes the lunches to the homeless.

The lunch program should serve as a model to other schools that are lookng to move beyond holiday food drives to make an ongoing commitment to improving the lives of the less fortunate members of their community. The students of PS No. 1 have shown that anyone with a sense of compassion and some initiative can help. No one need feel powerless.

Mr. Speaker, an article recently appeared in the Los Angeles Times which describes the program and the students' involvement in greater detail. I ask that it be included in the RECORD at this point.

[From the Los Angeles Times, June 14, 1990]

SCHOOL FULL OF COMPASSION

(By Barbara Koh)

It's not on the scale of Comic Relief, but it comes straight from the heart and the kitchen cupboards.

Every Wednesday morning, children at PS No. 1, a small private school in Santa Monica, tote two sack lunches to school—one for themselves and one for a homeless person. They deposit the extra lunches into a crate at the school gate, then the food is whisked to the nearby Ocean Park Community Center by a parent and some students.

The project is the brainstorm of the PS No. 1 Parents' Guild community services committee, which wanted to go beyond holiday feeding programs, committee member Audrey Arlen said.

"We also wanted children to feel they participate in something in their everyday lives," Arlen said. By helping to deliver the lunches, the students, ages 5 to 12, see that "what they're doing went to somebody—not just, 'Oh, my mommy's writing a check."

The voluntary program was launched last fall, and the response has been enthusiastic, Arlen said. Parents clamored to be delivery drivers, she said, and now, as the school year winds down, lunches continue to come in at a rate of about 30 a week.

The school, whose initials stand for "Pluralistic School," has 89 students. Arlen said that although some families have never contributed a lunch, "every child is aware of this happening" and is more conscious of the homeless.

A few students who have brought extra lunches said they did so—at least originally—because it's a school activity.

Casey Mortensen, 11, said he participates to help people who are less fortunate." But he acknowledged that "I normally wouldn't have thought of it . . . but [the school] brought it up." Others said they felt powerless to help the homeless, and the lunch program provided an easy way to do so.

The plight of the homeless is not new to the children, most of whom live on the Westside. They see transients on Wilshire Boulevard and at the beach. PS No. 1 classes regularly play and eat lunch at Memorial Park, and uneaten lunches are left for the homeless.

Some of the homeless are probably just lazy, students said. "But some [were] fired from their job through no failings of their own," Casey said. He said that instead of food, he likes to bring shampoo, toothpaste or toothbrushes on Wednesdays, because they last longer.

Homelessness could happen to anyone, children said. "It probably wasn't even their fault," said Danny Levene, 10. "They're regular people—with no money."

"You see then in blankets, huddled in doorways," he said. "It's just terrible to see them."

"But you can understand that they'd go nuts living like that," said Nico Zimmerman, 11.

On a recent Wednesday, it was Nico's turn to visit the Ocean Park Community Center. At 9:15 a.m. Nico, his mother and 6-year-old sister loaded the lunches into the family's Toyota Land Cruiser for the seven-block juant from the school on Euclid Street to the center, at 7th Street and Colorado Avenue.

"We're vegetarian, but I put meat in it because I figure they don't get much protein," said Nico's mother, Joan Andersson, describing the sandwich she made that morning. Typically, she said, she'll also pack fruit juice, chips, granola bars and extra canned food.

The family carried in the lunch crate and two grocery bags stuffed with sacks, some of them printed with whimsical penguins and dirt bikes to appeal to children. In addition to the sandwiches, yogurt, trail mix and apple juice, the contributions included a batch of bran muffins and children's clothing.

In the brightly lit center, lines of homeless people snaked up to sleek counters to receive clothing, counseling, referrals to health clinics, assignments to shelters, and lunches and provisions such as dried beans and peanut butter. Other people milled about, chatting to themselves or to one another. Several stuffed their belongings in tote bags or luggage carts. Their clothes were ill-fitting and worn, their hair and beards scruffy.

Andersson crouched down to daughter Emma and explained that the homeless could get showers and food there.

The center, a converted surgical-instruments factory, distributes food to 100 to 200 people a day, Executive Director Vivian Rothstein said. Every year, it serves about 4,500 people. "You just have to need food. We provide it," Rothstein said.

About a third of the food is donated by individuals, churches, restaurants and civic groups, a third is from the Westside Food Bank and a third is bought, Rothstein said. Donations, especially juice and high-protein food, are always needed, she said.

Other schools run food drives periodically, but PS No. 1 is the only one to provide sack lunches on a regular basis, Rothstein said.

Nico Zimmerman said the visit left him sad. "People could give a little more money [to the homeless]," he said, adding that he gives panhandlers any spare change he has. He fired off other suggestions to help the homeless: employment programs, "vacant motel rooms—let them use them, an initiative to give them more money."

His opinion on why they are homeless is strong and clear: "I think it's capitalism. A lot of people are idiots, a lot of people are greedy."

"Communism would be better," he said. Or at least, he quickly added, a combination of "the best of both" capitalism and communism.

Andersson said that, in discussing homeless people with her children, "I just try to make it clear it's just people—who're down on their luck." The lunch project, she said, is "an extension of the way kids are treated [at PS No. 1]. Kids are treated as individuals. . . . You don't put people down."

"Elementary school is the time for kids to learn about people who're different from themselves," PS No. 1 Director Joel Pelcyger said.

He said that the school has had seven deaf students in classes with the hearing children. "If they're not exposed to people who are different, you're led to a lifetime of prejudice," he said.

Given those lessons, said Andersson, "I think it's hard for kids to [understand] how you can just walk by" a homeless person.

The 19-year-old school prides itself on its community spirit. The students, who are grouped by two-year age ranges rather than in traditional classes, have cheered residents of retirement homes and have picked up garbage on beaches. A newspaper clipping of "Top 10 Simple Things to Save the Earth" and a brochure outlining "Twelve Steps to Personal and Planetary Health" adorn the bulletin board in the school lobby.

The annual Jogathon/Bikeathon school fund-raiser netted $4,800 in March, and pupils decided to start giving money to community groups. The student council granted $1,200 to the Westside Children's Center for playground equipment, but not before grilling the center staff to see that the funds would directly benefit children rather than adult bureaucrats.

"The school is not a self-contained classroom," Pelcyger said.

"We live here, the [Ocean Park Community] Center is here, this is what we do," Arlen said.

With the lunch program, she said, "the kids are aware, and they're aware on a con-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tinuing basis. Community service has to be an ongoing commitment, not just when you get the guilt."

Mr. Speaker, the children at PS No. 1 should be proud of themselves for making a very real difference in the daily lives of Santa Monica's homeless. I urge my colleagues to join me in commending the students, their parents, and the faculty for their efforts on behalf of Santa Monica's homeless population.

LAYING DOWN THE CHEMICAL-ARMS SWORD

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. LANCASTER. Mr. Speaker, I ask that the attached article be included in the Extensions of Remarks in the CONGRESSIONAL RECORD. The article, entitled "Laying Down the Chemical-Arms Sword," focuses on the recent chemical weapons arms control agreement reached by the United States and the Soviet Union at the recent Washington summit between President Bush and Soviet President Gorbachev.

Of particular import is the article's acknowledgment of Congress' role in bringing about this important achievement. While we should take pride in our efforts, we must be mindful that there is much left to be accomplished if we are to completely eliminate the threat of chemical weapons from our world.

Nevertheless, the first momentous step has been taken. As my colleagues consider the following article, I urge them to reflect upon the importance of this recent agreement and to continue to amplify their efforts until we achieve the desired end of global elimination of the chemical weapons scourge.

[From the Christian Science Monitor, June 20, 1990]

LAYING DOWN THE CHEMICAL-ARMS SWORD

(By Dante B. Fascell)

President Bush and President Gorbachev recently made a momentous decision on chemical arms control and disarmament. At the June 1 Washington summit, they signed an agreement not only to begin destruction of their chemical weapons but also immediately to stop the production of these indiscriminate weapons.

This affirmation of long-standing bipartisan congressional efforts to stop chemical-weapons production and use eliminates the inconsistencies and contradictions that plagued the Reagan administration's policy on chemical weapons. For the first time, Congress has effectively stopped the production and deployment of a major weapons system.

Secretary of State James Baker has accurately described the US-Soviet chemical-weapons ban as "a trailblazing agreement." It gives the superpowers a unified stance on this critical issue. By establishing an unambiguous leadership role—for both the US and the Soviet Union at the multilateral chemical-weapons talks in Geneva, it significantly enhances the likelihood of convincing other states to support a worldwide ban on the production and usage of chemical weapons.

This is an unprecedented and unique arms control agreement. It is unprecedented because it provides for US-Soviet cooperation in destroying their respective chemical-weapons stocks. It is unique because both superpowers agree to immediately stopping chemical-weapons production, thereby providing the best hope for a negotiated global ban.

As the superpowers lay down their chemical swords together, they are challenging all countries to do the same. No more carping and sniping at the superpowers. No more grumbling about past US hypocrisy of wanting to produce new binary chemical weapons while simultaneously expecting others to forswear these weapons. The moment of truth has come when all nations must exert the political will and courage necessary to ban these inhumane weapons once and for all.

It has been a long, hard eight-year struggle for the House of Representatives finally to convince the executive branch of the foreign policy logic, arms control rationale, and good common sense of its position opposing the production of new binary chemical weapons.

It was simply foolish to spend billions on new chemical weapons that were:

Technically flawed and which consistently failed the Defense Department's own testing standards as documented by the General Accounting Office;

Rejected by our European allies;

Demonstrated to have no practical military value; and

Morally repugnant to civilized mankind.

Contrary to persistent Pentagon contentions that binary chemical weapons would somehow add to US security, the only thing they added to was the federal deficit!

Consequently, congressional action effectively stopped a new generation of chemical weapons from being produced and deployed.

This congressional action combined with the summit signature of a US-Soviet agreement to halt chemical-weapons production and to begin destruction stakes out new credibility and leadership for the US on this issue.

When Presidents Bush and Gorbachev laid down the chemical-weapons sword at the Washington summit and signed a chemical arms control agreement, it was a historic arms control achievement. It signaled the beginning of the end for chemical weapons.

This arms control achievement is a great confidence-building measure—both between the two superpowers and between the superpowers and the rest of the world. It represents a concrete example of superpower cooperation at its best. It represents a turning point because now other nations have no excuse for not joining the superpowers in ridding the world of all chemical weapons by the beginning of the 21st century.

PLO CONTINUES TO ENGAGE IN TERRORISM

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. KYL. Mr. Speaker, last week, President Bush announced he was suspending contacts with the PLO due to the refusal of the PLO to condemn the May 30 terrorist attack against Israel by the Palestine Liberation Front—a faction of the PLO—whose leader, Abu Abbas, is a member of the PLO Executive Committee. I applaud this decision.

The May 30 attack is only the latest demonstration that, despite Yasser Arafat's December 1988 pledge to renounce terrorism, the PLO continues to sponsor terrorism. Further, Arafat's refusal to condemn the attack and terminate all ties with Abu Abbas, who was also responsible for the hijacking of the *Achille Lauro* cruise ship and the murder of American Leon Klinghoffer, calls into serious question his commitment to the pledges he made in December 1988.

In fact, according to a special report prepared by the Adviser for Counter Terrorism to the Israeli Prime Minister, titled, "PLO Terror: A Year Since its Renunciation"—December 15, 1988–December 15, 1989—Fatah, Arafat's faction of the PLO, conducted 13 terrorist attacks inside Israel's pre-1967 borders. In addition, there were 17 border attacks by PLO organizations.

The simple fact is that the PLO has violated the terms of the United States-PLO dialog by its continued terrorist attacks. The record on this is clear. The President's decision to halt this dialog is correct. This dialog should not resume until Abu Abbas is expelled from the PLO and that organization, as a whole, recognizes Israel's right to exist, accepts U.N. Resolutions 242 and 338, and renounces terrorism.

TRIBUTE TO DR. DELORES CROSS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, I am honored to bring to your attention the outstanding contributions of one of our country's most accomplished educators. Dr. Delores Cross was recently appointed the first woman president of Chicago University. Once again Delores Cross has caused our hearts to swell with pride in the 10th District of New Jersey. Despite tremendous odds against her, she has always taken that extra step to distinguish herself among her peers. She stands as an example to all of us that tenacity, hard work and dedication to excellence is still a guaranteed recipe for success in America. When the door of opportunity opened, Delores Cross was not afraid of the pervasive gender and racial discrimination that plagues our society. She spoke up loudly, "Yes, me too" and "Yes I can". Her determination and courage has lifted her to the top of her profession and provided inspiration to us all.

A distinguished scholar and professor, she obtained her B.S. degree from my alma mater Seton Hall University. I can testify from experience that the sledding was rough for young ambitious blacks at that time. A true scholar's thirst for knowledge cannot be satiated. Delores Cross went on to obtain her masters from Hofstra University and Ph.D. from the University of Michigan. She distinguished herself as a professor and moved into administration as vice chancellor for student affairs at City University in New York. When opportunity knocked there was no turning back for Dr. Delores Cross. She moved on to become presi-

dent of the New York State Higher Education Services Corp. Onward and upward to become associate vice president for academic affairs at the University of Minnesota. Onward and upward to her most recent distinction as president of an important urban university. We know that Doctor Cross' journey has not ended, her energy and commitment will keep nourishing the immense educational needs of our multicultural society.

I might mention that this dynamic and graceful woman is also the mother of two children and runs marathons. Mr. Speaker, I am so proud of and happy for this wonderful woman and her family.

RECOGNIZING THE VETERANS UPWARD BOUND PROGRAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring to the attention of my colleagues a program which not only benefits our community, but also helps to reconstruct the lives of our veterans. These veterans, who selflessly dedicated their lives to serving our country and our people, are finally able to obtain the benefits that were promised them upon their enlistment.

In my district, Miami-Dade Community College, an upstanding educational institution which has served our community for several years, has instigated the Veterans Upward Bound Program. This program, funded by the Department of Education, identifies low-income, disabled or disadvantaged veterans and provides them with educational opportunities and skills training. The renewable 3-year grant maintains that the program assist 120 veterans each year. Currently, the Veterans Upward Bound Program at Miami-Dade Community College is serving 132 veterans, many of whom are homeless.

The programs include tutoring and individualized courses in English, reading, mathematics, and computer literacy. It also provides personal and vocational counseling without cost to the veterans. In addition, the program provides GED preparation and precollege courses to those who wish to seek college degress.

One of the vital parts of the Veterans Upward Bound Program is the counseling they receive for substance abuse. Further, individual therapy and guidance in securing support for rehabilitation is promoted.

One of the most innovative parts of the program is called Bill's Place, a nonprofit corporation which provides necessary housing for the veterans. This is not part of the Veterans Upward Bound Program grants. However, residents must be enrolled in the program, maintain a 2 grade point average, and adhere to the rules of the contracts by which they agree to live.

Currently, there are three houses with eight residents in each. A chairman of each house, elected by the residents, assigns tasks and ensures that each resident obeys rules and attends all scheduled classes and functions. Each house is run in the same manner as a military barrack with periodic inspections by the staff of Bill's Place.

I would like to recognize the director of the Miami-Dade Community College Veterans Upward Bound Program, William W. Ryan. Through his concern and dedication to this program, he is changing the lives of veterans who stumbled into many obstacles. I am certain that this program will not only benefit these veterans, but the entire community as well. I commend him for his efforts and wish all the Veterans Upward Bound Program participants much success as they embark on their new future.

MANDELA'S BOLD POLITICKING

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. DYMALLY. Mr. Speaker, I rise to enter into the RECORD an article by Ms. Mary McGrory, the Washington Post, June 26, 1990.

Ms. McGrory's article captures the essence of Mr. Nelson Mandela's visit to the United States. He brought to us a message of hope; a commitment to his fight for freedom; an intellectual honesty not too often seen among public figures. His fearlessness, courage, and eloquence brought new inspiration to people all over the world.

[From the Washington Post, June 26, 1990]

MANDELA'S BOLD POLITICKING

(By Mary McGrory)

Imagine finding inside this "Moses"—as Nelson Mandela has been hailed many times on his triumphant tour—a down-to-earth, tough-minded politician?

The first inkling he gave that he is something more than an elderly icon and a symbol for his people came on Ted Koppel's "Nightline" show when he spoke of being beholden to Yasser Arafat, Moammar Gadhafi and Fidel Castro. His questioners were shocked. Too bad, Mandela coolly replied. Your enemies are not necessarily our enemies, he suggested.

The trio the United States loves to hate had encouraged the African National Congress during its darkest days, he explained. The U.S. government, of course, had not. Or, to put it another way, as former House speaker Thomas P. "Tip" O'Neill often said: All politics is local. Mandela is obviously having a lovely time, and he seems as delighted as his audiences, but he had to send messages back to the home folk, messages that show that the sensational reception has not gone to his head.

But it was when he got to the White House lawn that he really showed his stuff. Only a politician would have done what he did to President Bush. Here was a man barely out of prison standing up to the leader of the western world and shoving him back about 10 paces. In effect, Mandela told the president that he did not know what he was talking about in regard to African National Congress violent opposition to South Africa's apartheid system, and lectured Bush on the importance of consulting the ANC before he does anything further.

It was breathtaking boldness, carried off with that strangely endearing dignity. Mandela, with his navy blue suit and his formal speech patterns, seems to come from another era, one that never knew the 30-second sound bite. He never looked at Bush while he was executing this affrontery.

Naturally, he looked straight into the cameras, he talked directly to his legion of new fans—the people of New York, Boston and Washington—who stood for hours for a glimpse of him, who greeted him with tears and cheers, who could hardly find words for their admiration. They rarely see conviction. The Republican president got where he is by being supple. The Democrats in Congress hasten to fashion compromises with the care they once applied to legislation they believed in. Mandela, the holdout, is magic and unique.

On the White House lawn, Bush was almost a prop. When his guest had finished, all he did was marvel, "No notes—wonderful."

Mandela knew he had taken the East Coast by storm. He is a compelling figure, hopelessly non-intrusive to local counterparts. Which one of them would stay in jail for 27 years and come out smiling, would have the patience and endurance to tough it out, foreseeing that a decent president like Frederik W. de Klerk would have to release him unconditionally just because he needed someone to talk to?

Although Mandela says fairly convincingly that he wants to "let bygones be bygones"—his wife Winnie is of a different school—he can be harsh with de Klerk. On "Nightline," he said de Klerk did "nothing"—which was probably a way of telling the ANC that he was as militant as ever. On the White House lawn, he was a little kinder to his liberator. He wanted to help de Klerk "maintain his position," he said.

He brought to Washington, which is undergoing the drug-and-perjury trial of its black mayor, Marion Barry, the same sort of healing that he seems to have imparted to New York and Boston. Irritated New Yorkers slowed down to watch him. In Boston, home of liberal causes and racial tensions, black and white joined in common joy at his coming. Outside the White House, tourists shrieked as he passed.

It was as if some sort of general amnesty had been declared. Blacks are proud of him: He is the first world-class leader they have had since Martin Luther King Jr. was assassinated. Whites are grateful to him: He survived the worst that a white government could do to him, and he talks about education and principles and the official, institutionalized racism of apartheid, not the ersatz; version claimed by unscrupulous black politicians.

And if he is a politician, he is a good one. He used those long years behind bars to good effect. He not only founded a clandestine institution of higher learning, he organized a headquarters for the ANC behind bars. And he thought things through. So when someone pointed out the contradiction of his saying that the human rights records of Arafat, Gadhafi and Castro were not his business, while demanding the world take a part in South Africa's domestic affairs, he could say, with grandeur, that apartheid is so monstrous a practice that the world has a moral obligation to interfere.

PENNSYLVANIA NEWSPAPER WINS PULITZER

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. KOSTMAYER. Mr. Speaker, I want to call to the attention of my colleagues the last of 10 editorials written by Tom Hylton of the Pottstown Mercury in Pottstown, PA.

These editorials on the subject of farmland preservation won this year's Pulitzer Prize for editorial writing, and I commend them to my colleagues.

THE LAND IS OURS TO PROTECT FOR OUR CHILDREN AND GRANDCHILDREN

As this century dawned, Rotterdam was Europe's greatest harbor and one of its most ancient cities. It was a fairytale setting of clocktowers and gables, tile roofs and narrow cobblestone streets.

Then, on May 14, 1940, the German bombers came. In less than three hours, 600 years of history were wiped from the face of the earth.

The paving over of rural Chester County lacks the drama, the malevolence—and the shocking suddenness—of the blitzkreig on Rotterdam.

The result will be the same

The Dutch rebuilt Rotterdam, and it is a great and vibrant city. But its history is confined to the library and we are all the lesser for it.

Chester County will always have Valley Forge, Longwood Gardens, the Wyeth museum, and other monuments to its magnificent past.

But when its gently rolling hills are covered with housing projects, and its quiet country roads are widened, straightened, and lined with convenience stores, then the heart and soul of Chester County will be gone forever.

The transformation of historic countryside into modern suburbia will come not at the hand of a madman, but through our own folly. Unfortunately, many people do not realize the scope of recent commercial and housing construction. They don't appreciate how close Chester County is to permanently losing its rural character.

A sense of identity, a pride in our home and surroundings, is what we need. Chester County is beautiful beyond compare. The rolling farmland, the wooded hillsides, the streams and wildlife are precious endowments we all enjoy. They have been handed down to us from generation to generation, and they are ours to protect for our children and grandchildren. We have a responsibility to be good stewards of our land.

It makes no difference how much farmland is left in the Midwest; or how many forests there are in the Appalachians. Chester County is our home.

The proposed $50 million bond issue on the Nov. 7 ballot will provide funds for open space and farmland preservation. The bond issue is indispensible to protect our heritage. The cost is small; measured in terms of generations, it is trivial.

Last fall, Mercury columnist Cindy Mitch described feelings that many of us share:

A few days ago I trekked up a hill in Chester County. You get to this hill by making your way through a tangle of branches and fallen tree limbs. Your feet slide off small rocks hidden by a thick carpet of moss and dead leaves. If you look up at just the right time, and are very, very quiet, you come eyeball to eyeball with a doe and her fawn. There is no sound except for the birds and the movements of small animals and the rhythm of your heart beating in unison with the life of the forest.

I sit up here on this hill and I think about the vegetable stand next to the Country Tavern. I think of how my grandmother used to chop firewood on cold winter days just a few yards down the hill from where I'm sitting. I think of my grandfather and how he once broke wild horses on this land.

I remember nights in this forest when the only illumination was the light streaming down from the moon and stars. I remember how we could stand out here alone and not be afraid of the darkness, because there was nothing out here that would hurt us. When I was a kid I knew the land would be good to me simply because I was good to the land. Back then, we had an unspoken pact with Mother Nature. In the ensuing years, we broke it.

There are people coming around here now destroying this land. They pay lip service to it. They claim they have a feel for the land and its history. They're lying.

When you have a feel for this land you don't destroy it to build houses and resorts and office complexes. When you have a feel for the land you nurture it. You respect it. You treat it the way you would like it to treat you.

And then you pick up a multi-colored leaf and some cool, damp moss and a dried twig or two. And you hold these things as close to your heart as you possibly can before they slip away from you.

The Chester County we love is slipping away from us. Once it's gone, it's gone. The $50 million bond issue is essential to protect what we have left. We urge all Chester County voters to go to the polls Nov. 7 and vote yes to save open space.

IN MEMORY OF C.R. SMITH

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. BARTON of Texas. Mr. Speaker, for the information of my colleagues I am inserting into the RECORD a statement concerning Mr. C.R. Smith who died on April 10, 1990.

This morning the fine people in my district are mourning the passing of an aviation legend.

C.R. Smith, who was put to rest at Arlington National Cemetery last week, was a man who helped build American Airlines into one of the world's largest and most successful airlines.

Mr. Smith was a giant in an era of aviation pioneers. He entered the airline business in the days of open cockpit biplanes—and began building American into a company that today operates more than 500 jetliners flying the globe.

But "Mr. C.R.," as he was affectionately known, was more than a pioneer. He was a sensitive manager who touched the lives and hearts of thousands of men and women who worked for his airline or who traveled on American. The affection he inspired has been demonstrated clearly by the outpouring of praise that followed his passing.

C.R. Smith was part of the heart and soul of American Airlines—and of the modern aviation industry. He will be sorely missed.

SKELTON SPEAKS TO MARINE CORPS COMMAND AND STAFF COLLEGE GRADUATION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. SKELTON. Mr. Speaker, on June 8 of this year I was privileged to deliver the graduation address at the U.S. Marine Corps Command and Staff College in Quantico, VA. In acknowledgment of those graduates and their achievements, I respectfully submit the text of that speech:

GRADUATION ADDRESS BY CONGRESSMAN IKE SKELTON

INTRODUCTION

We gather today to celebrate the achievement of hard work well done. Those officers who have spent the past 10 months at this command and staff college know well the exciting changes that have taken place at this institution of higher learning over the past few years. You have benefited from those changes. The curriculum has evolved from a disparate combination of courses in tactics, management, and political science to an integrated set of courses that focuses on the art of war at the operational level. That concentrated focus has also prepared you for thinking in strategic terms and at the same time has prepared you for joint operations.

Let me extend my sincere congratulations to all of you on today's achievement. Savor today's accomplishment, but now is not the time to rest, much work remains to be done. You are now ready to put to use the knowledge you have gained over this past year. Most of you will leave this center of learning and put your education to work in operational units scattered across this country and the vast oceans and continents beyond. At the same time, however, I hope you will share with those who remain behind—your former instructors and the school director—an honest appraisal of this past year's work. Let them know if you were challenged, what insights you gained, what changes you would make to the curriculum, teaching staff, and method of instruction. Over the next six months I hope you will make time in a busy schedule to provide them this necessary feedback.

The changes taking place at this command and staff college must continue if the hope to make this institution a world-class center of military learning is to be fulfilled. Those in positions of authority—both here and at Headquarters Marine Corps—need to use this precious period of peace. They need to make the schools here at Quantico so good, that you leave here knowing that you are par excellence, that senior strategists in the world would look to you for the most educated commentary on warfare, and that your battlefield decisions would be such that parents would want their sons under your command in time of conflict. And, in the ultimate test—combat—your decision-making should be so superior that you could overcome any adversary.

BUDGET PRESSURES AND THE WORLD IN 1990

As you know the Department of Defense is in its sixth straight year of real cuts in the defense budget. In the mid-1980s the pressures on defense spending came on two fronts—the internal one of budget deficits and the external one of trade deficits. Now, in the 1990s the defense budget will come under even greater pressure as a result of the stunning events that took place in Eastern Europe in the last half of 1989. The collapse of the Warsaw Pact and the changes taking place in the Soviet Union present the United States with a diminished threat to peace in Europe.

The world in 1990 is a far different place than the world that existed just a year ago. The ideals of freedom, democracy, and human rights, for which this country has sacrificed much blood and treasure over the past 50 years, have have affirmed throughout the world—in Eastern Europe, Nicaragua, South Africa, and even the Soviet Union. The "long twilight struggle"—the words used by President Kennedy to describe the bitter contest against Communist expansion—is coming to an end.

But the world of 1990 is still a perilous one. Taking the long view of history we should realize that this is nothing new. We still live in the nuclear age and the hazards of it are still with us, if less keenly felt. Even after the nuclear arsenals of the United States and the Soviet Union have been reduced through negotiations, each side will still possess thousands of nuclear weapons. This nation will still have to deal with a Soviet Union that will remain a great power.

Elsewhere, the United States will have to cope with the consequences of increasing military power in countries throughout the world. Nuclear and chemical weapons proliferation, in conjunction with the spread of ballistic missile and other technologies, afford the potential for countries such as Syria, Libya, Iraq, Iran, and others to figure on the world stage. In the Far East, for example, Stalinism still holds sway in North Korea, China, and Vietnam. I believe Korea must rank as the most probable country in the world where American forces could become engaged in large scale combat.

So while we can relax a bit because of the improvement in American-Soviet relations, these other challenges will continue to confront us for the foreseeable future. Before we disarm too far, as some in this country would have us do, I believe it would be better to assess the threats we face before we arbitrarily slash our defenses. In 1935 Winston Churchill warned his countrymen that "wars come very suddenly." It would be a warning well worth keeping in mind in 1990. In other words, the ordeal of the 20th century is not over.

In many ways the present period is comparable to the months immediately after World War II. There was much joy then because the war had been won. The cry throughout the country was "bring the boys home"—and we did. However, the future at that time was uncertain. Little did we realize the strategic threat that Stalin's Russia would assume in just a few short months and war in Korea in five short years.

Today, there is again much happiness in the West. As in 1945 the call was gone out again to cut the defense budget. Once again however the future was unclear. Yet defense leaders have to make decisions today to design military forces that will defend the world-wide interests of the United States in the post-cold war era. Unfortunately, many of those decisions are driven by budgetary pressures rather than strategic considerations. At the same time, trying to put together a military strategy is very difficult, if not impossible, when there is no consensus about a new national security strategy.

COPING WITH CHANGED CIRCUMSTANCES

During this period of uncertainty in the world and of declining defense budgets it is imperative that we strengthen the renewed educational effort that has taken place in the military over the past few years. This renewed interest in military education has come in the wake of the Goldwater-Nichols legislation of 1986. I would like to think that the House Armed Services Committee panel on military education has also played a constructive role in renewing the interest in military education.

Usually such changes, whether in defense organization or military education, come only after some great shock to the system. For example, an interesting case of an Army trying to cope with changed circumstances is that of the French Army after the crushing defeat in the six week Franco-Prussian war of 1870. The lesson for French Army leaders can be summed up in one word—"Elan", the offensive spirit. The memory of Sedan—"never speak of it; think of it always"—infected French military leaders for more than forty years. Combined with the national desire for "revanche", the French Army eagerly charged into battle in 1914 hoping that a short violent offensive campaign would restore the glory of France and the French Army that had been lost at Sedan. Unfortunately, the French military proved itself inflexible in its thinking. Forty years of studying only offensive tactics left the French Army ill-prepared when the time came to go wage a defensive struggle, as happened unexpectedly in the early fall of 1914. A short campaign turned into a four year stalemate in the trenches that stretched from Switzerland to the English Channel. Defense, not offense, marked that would one day come to be known as the great war.

After the first world war French military leaders once again devoted much thought to the problem of war in the modern era. Exhausted but victorious, France tried to fashion defense policies that would ensure the security of the nation for the day when Germany would once again be a key player in the affairs of Europe.

If "elan" had proved a bust for an earlier generation, then maybe defense offered the answer to the problem of securing the safety of the country. Here the bloody experience of trench warfare cast its long shadow. Once again, however, inflexible conformist thinking, firmly embedded among civilian authorities in government and in the French general staff, undermined sound defense planning. Offensive tactics employed in the Spanish Civil War and later in Poland during the first campaign of the second world war did little to shake the confidence of the French general staff in the primacy of the defense. The blitzkrieg tactics of the German Army in the spring of 1940 with its tragic results for the French nation revealed just how wrong were the lessons learned by the French general staff after World War I.

STRATEGIC VISION

We in the United States succeeded at the higher level of strategic thinking prior to World War II, because our command and staff and war college during the 1920s and 1930s produced officers of exceptional character and strategic vision. As a nation we emerged victorious from World War II in no small measure because of the moral and intellectual strengths found at the highest levels of the American officer corps.

Unfortunately, after the war we became complacent. Strategic thinking atrophied after 1945. In the nuclear age many believed that the ideas and thoughts associated with classical military history and strategy had been rendered obsolete.

Maurice Comte De Saxe, the famous French military analyst, noted that "few" men occupy themselves in the higher problems of war. They pass their lives drilling troops and believe this is the only branch of the military art. When they arrive at the command of armies they are totally ignorant, and in default of knowing what should be done—they do what they know."

Doing what one knows, rather than what should be done, is a problem which many military commanders have faced throughout history. It's a problem not unfamiliar to the American military in the recent past. I would contend that in Vietnam the American military did what it knew—fighting the conventional war which it had fought in World War II and Korea—rather than knowing what to do—fighting the Revolutionary War in which it became engaged. It took ten years to put together a strategy to win the Vietnam war. By that time it was too late. The patience of the American public had come to an end.

The bitter experience of Vietnam, which resulted from a loss of strategic vision, sent American military men back to the study of war and military history. Many of you here today are the beneficaries of that renewed interest in the study of war. I hope you have learned that a military career includes a life long commitment to self-development. It is a process of education of study, of reading, and of thinking that should continue for the rest of your professional military life.

Yes, tactical proficiency is very important, but so too is strategic vision. It can only come after years of careful reading, study, reflection, and experience. You need to be aware of the natural yardstick of 4,000 years of recorded history Thucydides, Plutarch, Sun Tzu, Clausewitz, Napoleon, Mahan and Mackinder have much to offer tomorrow's future generals and admirals. Today's officer corps must be made aware of this inheritance. If you have been made aware of this inheritance over the past ten months, you will have fulfilled the sacred trust your superiors—and indeed our Nation—have placed in your hands today.

Winston Churchill put this idea in these words: "Professional attainment, based upon prolonged study, and collective study at colleges, rank by rank, and age by age—those are the title reeds of the commanders of the future armies, and the secret of future victories."

DIFFICULT DAYS

On a personal level, let me express to every one of you—and your parents, wives, and children—my sincere thanks for what you do. Yours is a stern and demanding profession. We, your fellow countrymen, depend on you and your willingness to make the great sacrifices that you do. Too few of us appreciate those sacrifices. And the irony is that we would not have this Nation if it were not for professionals such as you who bear with it through the good times and the bad.

I must confess to you the concern I have about the security of our country as I look to the future. My fear in that in some ways we may return to the difficult days for our military that we went through in the 1930s and more recently after Vietnam. In an address to the Military Schools and Colleges Association in 1923 Maj. George C. Marshall noted. "The regular cycle in the doing and undoing of measures for the national defense." He observed that, "we start in the making of adequate provisions and then turn abruptly in the opposite direction and abolish what has just been done."

I do not believe our Nation will make the drastic cuts it made in its security in the 1930s, but these next few years for those in the military will be difficult ones nonetheless. Many of my colleagues would not hesitate in cutting the army numbers to 300,000. Some would be quite happy to do away with the marine Corps by consolidating it with the Army. A few weeks ago, during the consideration of the budget measure in the house, there were 90 votes for a budget that cut next year's military outlay expenditures by $23 billion. As you know, the outlay cuts would mostly be in manpower and operation and maintenance. The budget that passed, which I voted against, will cut defense expenditures by $11.5 billion. Should that be the final budget figure, you will see draconian reductions.

The temptation to become discouraged for those serving in uniform will grow. Please do not give in to it. In moments of doubt recall the words of Franklin Roosevelt: "The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith." We do not know what tomorrow holds. There is no crystal ball in which to look to foretell the future. Only a kaleidoscope with its uncertain patterns gives us a clue to what lays in store for uniformed Americans. Whether you will march again to the Halls of Montezuma or sail to the shores of Tripoli we do not know. But you should be guided by the words of Robert E. Lee: "Do your duty in all things. You cannot do more. You should never wish to do less."

Again, thank you for your kindness and your invitation to speak today. I congratulate you on this milestone accomplishment in your life. I wish you godspeed on your journey to keep our country free and secure.

A TRIBUTE TO NELSON MANDELA

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. GEREN of Texas. Mr. Speaker, these are the days when the walls of oppression and totalitarian rule crumble down. These are the days when the call of freedom rings its loudest and the flame burns its brightest.

A new march toward freedom is being taken up around the globe, in the public squares of China, in the halls of the Politburo, and in the streets of Berlin. For the people of South Africa, however, this struggle is neither sudden, nor new. This battle for freedom is the only life that the black South African has ever known.

Each struggle for freedom, past and present, has its leader. The people of South Africa have the great Nelson Mandela.

His message is universal. We were inspired by the same message spoken by Lech Walesa as he stood before us to tell us of the Polish struggle for freedom. It was the message delivered by the Chinese students as they stood before the tanks of the Chinese army in Tiananmen Square. It was the message of our own forefathers as they built a democratic society.

Mandela's struggle is the staff upon which his people have leaned since he took up the cause in 1944. His imprisonment served only to ignite the forces for democracy in South Africa, elevating him to something more than just a man. Mandela is the embodiment of the struggle for freedom in South Africa.

Throughout his captivity and today, Mandela's spirit has lived on in the hearts of all South Africans, white and black, who have sought peace, justice, and liberty for all. He has carried the flag of liberty high, with dignity and respect, with honor and strength. He is a reminder to those who seek to maintain apartheid of the futility of their struggle.

The path down which his struggle has taken him would have defeated most. For others, it would have led them on the path to extremism. But Mandela has never lost his commitment to democracy. He says:

I have fought against white domination and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony with equal opportunities. It is an idea which I hope to live for and achieve, but if need be, an ideal for which I am prepared to die.

It is a bitter irony that the same year the United States passed it first guarantee of civil rights for all Americans, Nelson Mandela was sentenced to life in prison for fighting the same fight. It was a cause our own Reverend King died to defend. It is a cause we must still fight for every day.

As the struggle for equality continues in South Africa and around the world, we in the United States have a unique opportunity to renew our own commitment to civil rights. The Civil Rights Restoration Act stands before Congress, a bill to restore the spirit of the 1964 civil rights law that some seek to disembody. Nelson Mandela repeatedly rejected conditional offers for freedom over the years because he knew true equality could know no boundaries. We must not impose them either.

The boundaries of his prison walls did not confine the spirit of Nelson Mandela but only served to strengthen his resolve. Mr. Mandela has referred to his 26 years in prison as "long, lonely, wasted years." Yes, they were long and lonely, but they were far from wasted. It was from that jail cell that he became the personification of all black South Africans imprisoned by the chains of oppression.

A year ago, Nelson Mandela sat alone in a jail cell. Today, he stands with us in this great institution of democracy. Our cause for freedom has been carried so far by the spirit of Nelson Mandela. Yet, we have so far to go. In these tumultuous times, we must look more than ever to the need for understanding, the importance of community, and the future of civil rights. It is for these things Nelson Mandela lives. We must do the same.

TRIBUTE TO CHATMAN FAMILY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, by their fruits ye shall know them—Matthew 7:20. Records are not precise, but in the decade preceding the 20th century God brought Dyke Ross Chatman and Warren Pete Chatman together in matrimony. Their descendants are gathering in celebration this month at Newark, NJ, to count their blessing and have a good time. Strong families are the substance out of which a strong nation is made. We are blessed when families come together for the purpose of strengthening the family bond for we, as a nation, are strengthened by that enterprise. During a particularly difficult time in our history—when black men were being lynched in record numbers—Warren Pete and Dyke Ross Chatman provided strong leadership and values to their eight children. The fruit from this strong union was firm and of substance: Ulysses—a school principal; Marie—a guidance counselor; Warren—owner of a bowling alley; Lillian—a teacher; Grace—a secretary; Ernestine—a dietitian; Eugene—food distributor; and Gwendolyn—a teacher. The union was blessed with 16 grandchildren including a lawyer, investment banker, businessman, program director, public health nurse, teacher, policeman, physicist, civil servant, vice principal, vocational education teacher, banker, linguist and three computer specialists. The 32 great-grandchildren and 2 great-great-grandchildren of the union are following their ancestors' footsteps and distinguishing themselves in a wide variety of State building professions.

Mr. Speaker, on behalf of the people of the 10th District of New Jersey, I hereby herald and commend the Chatman family reunion which will be held at Newark, NJ, on June 29 through July 1, 1990. In calling together the outstanding fruits of this blessed union the Chatman family demonstrates family solidarity and love for each other that is an inspiration to our community.

RECOGNIZING "SIRA" FOR EXCELLENCE IN SERVING THE PUBLIC

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am honored to recognize the International Society of Amateur Operators, better known as SIRA (La Sociedad Internacional de Radio Aficionados, Inc.). This public service group was founded in Miami, FL, on December 4, 1971, and has remained a very successful nonprofit, non-political, and all-volunteer organization.

SIRA's local activities are focused on the first bilingual repeater in the United States transmitting from the Nine Island Condominium located in Miami Beach. It links low pow-

ered handheld and mobile units with public service agencies in Dade, Broward, and Monroe Counties. Thanks to the repeater and its battery back-up, SIRA has stood firm through blackouts and riots—1980 and 1989—to carry information to the media. Together with SIRA's strategic location, the repeater has been able to keep contact with the Key Largo area in the event of hurricanes and has aided in the locating and rescuing of numerous persons who have been lost or adrift at sea.

Internationally, SIRA has been equally as vital. When Nicaragua—1972, and Guatemala—1976, were leveled by a series of earthquakes, SIRA's correspondents in the stricken areas broadcasted details of the disasters over its emergency network and alerted the rest of the world. Where others would not venture, SIRA flew to the scene to establish special communication links with OAS in Washington, DC, consulates across the nation, the Salvation Army, the Red Cross, Sister Cities International and other top level agencies. SIRA, with its limited resources, was even able to out do TV and radio marathons in delivering relief to the victims. Time and time again, SIRA has repeated itself by rushing to the scene of tragedy with aid in hand 24 hours a day. SIRA was there in places such as Mexico City—1985, and El Salvador—1986, when they were leveled by tremors; Armero, Colombia when entombed by volcanic mud slides; and the endless number of locations threatened by killer hurricanes such as Kate, Gilbert, Joan, Hugo, and Fifi.

Thanks to individuals like Rafael M. Estevez, president; Jose Sarda, vice president; Sabastian Jaime, secretary; and Nilo Ruisanchez, treasurer, who concentrate on the interest of the public, we have organizations such as SIRA who care for their fellow man and wish to serve him.

ONE MAN SITTING IN A LITTLE OFFICE WRITING ON A YELLOW PAD

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. DANNEMEYER. Mr. Speaker, speaking of the powerful civil rights establishment, economist Thomas Sowell says:

They're worried about one man sitting in a little office out in California writing on a yellow pad. They don't feel themselves capable of countering what I might say.

What is it that so frightens the leaders of the civil rights movement that they threatened to boycott a recent meeting with President Bush if Dr. Sowell were to attend? The attached article from the June 26 edition of the Washington Times examines Dr. Sowell's critique of the effects of affirmative action programs on the two-thirds of Americans who qualify as minorities under the civil rights laws.

I would like to highlight several of Dr. Sowell's observations:

In country after country and in radically different cultures, a striking pattern emerges: the elites of the favored group benefit, while those at the bottom, at whom the policies are presumably targeted, retrogress;

The preferences inevitably expand to cover new groups and wider areas, and as they do, group polarization increases. A backlash, often bloody, develops;

Preferences increase the risk of hiring marginal members of the preferred group by setting a floor under the qualifications employers require of minorities. This makes the less educated, the less skilled, and the less experienced members of the group a more risky gamble for an employer than they otherwise would be;

The policies tend to reinforce America's oldest myth, that white are superior to blacks, by mismatching talented minority students with colleges that demand more than they can deliver. Thus, more than 70 percent of the black students at the University of California at Berkeley fail to graduate, even though their academic performance is above the national average.

I urge my colleagues to read this article within the larger context of the growing number of respected black academicians and intellectuals—including Walter Williams, Shelby Steele, Clarence Thomas, William Allen, and William Lucas—who believe that preferential policies are inconsistent with the original goals of the American civil rights movement.

[From the Washington Times, June 26, 1990]

SCHOLAR STILL AFFIRMS PERIL OF RACE QUOTAS

(By Carolyn Lochhead)

Thomas Sowell was conspicuously absent when President Bush met recently with a group of activists of diverse races, sexes, religions, physical disabilities and other assorted traits. Mr. Bush wanted to discuss the Civil Rights Act of 1990, a bill speeding through Congress; the activists had threatened to boycott the confabulation had Mr. Sowell been invited. The White House acquiesced in the interests of peace, harmony and meaningful dialogue.

Mr. Sowell might have contributed a diversity of the mental sort. He chuckles at the consternation he causes among leaders of powerful organizations that enjoy easy political and media access. "They're worried about one man sitting in a little office out in California writing on a yellow pad," he says. "They don't feel themselves capable of countering what I might say."

The power of that writing on the yellow pad and the mind behind it can be judged by the fear they inspire. Long pilloried by the civil rights establishment, Mr. Sowell has throughout his career challenged conventional wisdom about racial policies and other dogmas.

He is a scholar at the Hoover Institution in California and a syndicated columnist whose work appears regularly in this newspaper. His latest book, "Preferential Policies: An International Perspective," is sure to provoke. This time Mr. Sowell examines racial and other group preferences—the application of different rules or standards to members of different groups—that have been imposed by governments around the world from affirmative action in the United States to apartheid in South Africa.

He also looks at preferences for far-flung groups such as India's untouchables, Nigeria's Hausa Fulani, New Zealand's Maori, Sri Lanka's Sinhalese and many others.

In country after country and in radically different cultures, a striking pattern emerges: the elites of the favored group benefit, while those at the bottom, at whom the policies are presumably targeted, retrogress. Discussions of the rationales and the hopes of the programs abound, with little thought paid to their actual results.

The preferences inevitably expand to cover new groups and wider areas, and as they do, group polarization increases. A backlash, often bloody, develops. Nigeria plunged into civil war. In Sri Lanka, a country that once had better race relations than the United States, Sinhalese mobs burned Tamil people alive in the streets.

"I see no reason why it can't happen here," Mr. Sowell says. Nothing is easier than to start a spiral of racial confrontations, he contends, "and nothing is harder than to stop it."

The United States has not yet traveled as far as other nations have in implementing preferential policies. "But if the current bill, the so-called Civil Rights Act of 1990," becomes law, he says, "we will have quotas set in concrete, no matter how much people deny it. And the hatred that is going to grow out of that is going to be something like we've never seen."

In the Bensonhurst section of New York City, whites murdered a black teen-ager in a racial attack last year; today in Brooklyn, a black demagogue hurls racial slurs at Korean grocers as the heirs to Little Rock watch in silence. On U.S. college campuses, the vanguard of affirmative action, Mr. Sowell says he sees the very trends beginning that have repeated themselves worldwide with disastrous results. White student unions are forming, and administrators react by suppressing speech. "The backlash has already begun," he says.

Born in a small town in Georgia some 60 years ago and raised in Harlem, Mr. Sowell is no stranger to the racism that preferences are intended to remedy. Always out of step with conventional wisdom, the economist was a Marxist during the height of McCarthyism and today is a classical liberal when "progressivism" is in vogue.

It is not Mr. Sowell's ideals that have changed since his youth, he says, but rather his understanding of how to achieve them. His concern lies not with intentions or hopes but with results, not with what a law declares it will achieve but the incentives it creates and the real consequences that follow.

Just as similar preferences have done in other countries, he says, affirmative action benefits elites at the expense of the less successful—fewer jobs for unskilled minorities so that minority engineers and scientists will be able to have "15 or 16 job offers instead of five or six."

Yet this possibility is almost never raised in the Kennedy-Hawkins debate, he says. "They're talking in terms of 'strengthening civil rights laws' and 'stopping the retreat from civil rights' and all sorts of vague statements of that sort about intentions and rationales, but without one speck of concern for the incentives they are creating."

Such incentives may account in part for the worldwide pattern of retrogression among the least advantaged group members even as the elites advance. Mr. Sowell argues that U.S. preferences especially increase the risk of hiring marginal members of the preferred group. Firms face a greater legal risk, for example, when firing a black female than a white male.

Mr. Sowell recalls a female academic who said she hires only "promotable" female assistant professors because she has "no time to waste at [Equal Opportunity Commission] hearings and in the courtroom." The preferences in this way set a floor under the qualifications employers require of minorities, he says, "making the less educated, the less skilled and the less experienced members of the group a more risky gamble for an employer than they would otherwise be."

The common wisdom holds that minorities need preferences in order to progress. Dogma, Mr. Sowell counters. Affirmative action often gets credit for trends already under way. "It is an often-cited statistic that the number of blacks in professional and other high-level occupations increased significantly after the Civil Rights Act of 1964," Mr. Sowell writes, "but it is an almost totally ignored fact that the number of blacks in such occupations increased even more rapidly in the years preceding passage" of the act.

Mr. Sowell vigorously attacks the widespread assumption—and the foundation of most civil rights law—that discrimination primarily causes statistical imbalances by occupation. "The fatal fallacy of 'affirmative action' policies," he writes, "is to assume as a norm a condition of even or random distribution of groups that is seldom, if ever, found on this planet."

Group disparities are the norm, he says, and proportional representation the anomaly—not the reverse, as U.S. courts, regulators and lawmakers nearly always assume. Group over- or underrepresentation is commonplace throughout the world in almost any occupation or institution. Human beings do not produce statistically balanced results, Mr. Sowell argues. Even when employer practices are not involved, group disparities are common.

Age can heavily influence a group's statistical representation in everything from prison populations to university professorships. Discrimination may be found to statistically "explain" why some groups are underrepresented in certain areas, just as shoe size can statistically "explain" test scores on mathematics exams, he notes.

Undoubtedly a correlation exists, because toddlers cannot answer as many math questions as 40-year-olds. Nor is it likely, he points out, that groups concentrated in landlocked states would be evenly represented in maritime industries.

Yet the common remedy for group imbalances is to put groups where they would have been, but for the assumed discrimination. Such remedies, Mr. Sowell says, further assume knowledge that no one possesses. "What would the average Englishman be like today, 'but for' the Norman conquest? What would the Middle East be like 'but for' the emergence of Islam?" Such speculation nonetheless routinely forms the basis of group preferences, he says.

Once in place, preferences usually expand to cover more groups and more benefits. Preferences for India's untouchables now include groups that outnumber the untouchables, and it is estimated that two-thirds of the U.S. population belongs to a preferred group. "Clearly, no recitation of the historic oppressions suffered by blacks can justify preferences for white middle-class women," Mr. Sowell writes. In the meantime, the policies cast suspicion over their intended beneficiaries, he argues. The "dumb-jock" stereotype now has a racial counterpart.

More tragically, affirmative action has generated artificial failure among minority students by mismatching them with colleges, Mr. Sowell contends. The pool of qualified candidates is too small to ensure proportional representation at all colleges; so when top universities, each competing for minority students, find that they cannot fill their quotas, they lower their admissions standards and siphon off students whose qualifications match the standards of second-rung institutions. These institutions in turn siphon students from still lower-tiered schools. At each step, students who might have succeeded at a school that matched their qualifications systematically drop out. More than 70 percent of the black students at the University of California at Berkeley, Mr. Sowell says, fail to graduate, even though their academic performance is above the national average.

The consequences are serious. San Jose State University Professor Shelby Steele wrote recently that such policies tend to reinforce "America's oldest myth, that whites are superior . . . that blacks are inferior."

Mr. Sowell first warned Americans 20 years ago that the conclusion people will draw from racial preferences is not that the programs have failed, but that blacks just cannot hack it. He is not optimistic about where it all may end. "There's a consolation in being as old as I am," he said recently. "I don't think that I'm going to live to see the terrible trends that are setting in, particularly in race relations, come to their conclusion. I certainly would not want to be here for that."

TRIBUTE TO WALTER L. ANDERSON

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. BROOKS. Mr. Speaker, the Federal work force includes many exemplary and dedicated individuals who serve our Nation with honor and distinction. All of us who regularly interact with civil servants are well aware that a special few of them rise above even these high levels of achievement. Walter Anderson of the General Accounting Office is one of the special few.

Walter L. Anderson is retiring as the senior adviser in the Information Management and Technology Division. His retirement ends an era in GAO.

After serving as a naval electronics officer at the end of World War II, Walter Anderson completed his master's degree in electrical engineering education and became a computer pioneer. His experience includes Sperry UNIVAC and serving as national president of the American Federation of Information Processing Societies and chairman of the computer group of the Institute of Electrical and Electronics Engineers [IEEE]. Also, he was CEO of a company which made computer and electronics testing equipment.

Walter Anderson joined the GAO in 1974 after 28 years in the computer field in private industry. He was one of a key group of technical experts brought in by Comptroller General Elmer Staats to help GAO address ADP and telecommunications in Federal agencies. From 1974 through 1985, he was an associate director and senior associate director responsible for many GAO projects which had, and still have, great influence on Federal ADP and telecommunications. Walter headed up several GAO investigations which I commissioned as chairman of the House Government Operations Committee. His work included a report recommending cancellation of the Air Force phase IV procurement and redirection of the project, which alone saved the taxpayers $800 million. Other reports to the Congress on governmentwide ADP problems significantly impacted the operations of the General Services Administration, Bureau of Standards, and the Office of Management and Budget, and included reports on Federal ADP standards and software contracting. The former caused redirection of, and increased budget for, the Government's ADP Standards Program; the latter was so well thought of by the professional community that it was selected for inclusion in a technical guidebook published by the IEEE.

Walter Anderson's honors and awards are numerous, including induction into the Government Computer News Hall of Fame in 1989, IEEE Centennial Medal for Extraordinary Achievement in 1984, and the GAO Distinguished Service Award in 1981.

Above all, Walter Anderson produced and supported workable Federal ADP solutions. His combined knowledge of computer science, practical data processing, procurement, and management reality is very rare and will be greatly missed by all of us.

In recognition of the high esteem in which he is held, and considering Walter's many contributions to the General Accounting Office, to the Congress, and to the Nation, I ask that this tribute be made a part of the RECORD of the House of Representatives.

KOREA—THE FORGOTTEN WAR

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. FEIGHAN. Mr. Speaker, Monday, June 25, 1990, marked the 40th anniversary of the beginning of the Korean war and a day to remember those who sacrificed their lives to fight this war. There is nothing that I can say to match the eloquence of Richard Danielson, a World War II and Korean war veteran, vice president of the Korean War Veterans Association and also one of my constituents. At this point in the CONGRESSIONAL RECORD, I would like to include a copy of his essay entitled "Korea—The Forgotten War." As you can see, Mr. Danielson speaks from the heart and captures the true spirit of those Americans who went to Korea.

KOREA—THE FORGOTTEN WAR

(By Richard Danielson)

Between the storied Allied triumphs of World War II and the trauma of Vietnam, a bitter military ordeal in Korea cost the lives of tens of thousands of Americans. Today millions of their countrymen are only dimly aware of the conflict.

Forty years ago, on June 25, 1950, the Korea War started and was halted by an armistice on July 27, 1953. It involved 22 na-

tions under the United Nations Sanction fighting together in defense of the Republic of Korea. There were 297,855 Allied Casualties which included 9,779 listed as missing and 400 prisoners who have not been accounted for after nearly 36 years.

More than 5.7 million Americans served during the conflict. Some 33,600 were killed in action, including about 8,200 listed as missing and presumed dead. Another 21,400 died of non-battle causes and more than 103,000 were wounded during the three years of war.

From the State of Ohio, there were 1,755 known casualties who died, including 301 who are listed as missing.

In the Greater Cleveland Area, there were 268 who died and 56 are listed as missing. Two Cleveland area brothers, Paul and Donald Dowling, captured at the Chosin Reservoir have not been accounted for on the official U.S. Military Casualties listed for the Korean War.

It was one of the most miserable wars the United States ever fought. The weather alone probably caused more casualties than the enemy. The war introduced to the world the term "brainwashing" in which many prisoners suffering physical and emotional hardship, underwent political indoctrination and assaults on their will and self-esteem. Of the 7,140 Americans captured or interned, only 4,418 were returned by the enemy at the end of the War.

Dubbed a "police action", it lacked the image of righteous crusade to which most past U.S. Wars have been evaluated. American troops fought as valiantly as ever, but conditions were never right for a complete victory. Some of the greatest heroics occur after difficult situations, such as the grinding 78-mile withdrawal from the Chosin Reservoir in December 1950. During this withdrawal, Allied ground troops incurred 4,400 battle casualties and 7,000 casualties due to bitter weather. During this time, nearly 100,000 North Korean refugees were evacuated by the American forces to freedom.

The United Nations forces, most of them Americans, stopped the Communist North Koreans from taking over the South. But Allied efforts to drive the aggressors North to the Manchurian border and reunite the divided nation under a pro-west government failed because of the intervention of the Chinese Forces.

In the end, the Armies were back where they had begun, on either side of the so-called demilitarized zone at the 38th parallel, which divided Korea into the Northern and Southern political entities established at the conclusion of World War II. Governments of both sides decided to work on an agreement to end the war. In this day of rapprochement with China, it is even impolite to talk about the war in which China was a principal adversary.

But the men and women who helped the South drive back the invasion from the North did succeed in one thing. They kept South Korea outside the Marxist Orbit and today it is one of the leading emerging industrial powers of the world.

With the North Koreans returning the remains of 5 U.S. Servicemen on May 27, 1990, after nearly 36 years, there is hope that peace will come for the people of Korea and there will be an end to the "Forgotten War—Korea".

THE NATIONAL ENDOWMENT FOR THE ARTS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. WEISS. Mr. Speaker, I would like to share with my colleagues this letter to the editor of the Washington Times regarding a June 12, article on the National Endowment for the Arts. The article distorts the nature of several artists' work, damaging both them personally and the community's faith in the National Endowment for the Arts. Such distortion and misinformation has been inflaming the already fiery debate surrounding the National Endowment for the Arts and violating artists' rights.

Yesterday, Artist David Wojnarowicz won a Federal suit against Rev. Donald Wildmon, the executive director of the American Family Association, for misrepresenting the artists' work. The American Family Association sent out a pamphlet to 6,000 people, including Members of Congress, members of the clergy and media outlets, illustrating 14 small details of the artist's larger works that were displayed in a gallery receiving some NEA grant money. The court held the pamphlet "could be seen as misrepresenting the work of the artist, with likely damage to the artist's reputation and to the value of his works." The court ruled that the pamphlet violated Wojnarowicz's rights under the New York Artists Authorship Rights Act, and might give off the impression "that the photographic reproductions included in the pamphlet represented complete works of art * * * as distinguished from fragments of larger works, as in most cases they were.

I encourage my colleagues to read this letter to the editor. We all must be wary of this campaign of misinformation and distortion—it is unfairly damaging a successful agency and the livelihood of artists involved.

BROOKLYN, NY,
June 20, 1990.

LETTERS TO THE EDITOR,
The Washington Times,
Washington, DC.

TO THE EDITOR: Divide and conquer: that would seem to be the strategy behind the article by George Archibald in your paper on June 12, 1990, alleging that John Frohnmayer, Chairman of the National Endowment for the Arts (N.E.A.), is trying to "kill five controversial solo-performance theater grants" recommended by peer panels. The publication of this unconfirmed rumor is an obvious attempt to drive a wedge through the community that supports an unrestricted arts endowment.

The article names three artists whose grant applications will supposedly be rejected because their work is controversial. It then proceeds to present a grossly distorted picture of that work, including outright falsehoods about its content. Taken completely out of context, descriptions of isolated moments in Karen Finley's work fail to make clear that, far from sensationally recreating and promoting violent sex acts. Finley presents a critique of a society in which sexual violence is a constant threat to women's lives. The suggestion that Molly Hughes engages in simulated sex acts on stage is just not true. Furthermore, using an unattributed quote describing Hughes' focus as "lesbian desire" is a blatant attempt to capitalize on the homophobia which has partly fueled the movement to restrict the endowment. Perhaps in the future your researchers will go to the artists themselves for information about their work.

None of the sources for any of the allegations in the article are named. Who are the "agency and council officials" who, contrary to a 25-year-long policy of confidentiality, gave out names of artist applicants, labeled them "controversial," and allowed them to be publicly slandered simply because they applied for a grant? The winners of public grants will be public knowledge; but to single out controversial applicants for public vilification allows the N.E.A. granting process to be used as a kind of official blacklist. We saw this kind of thing in the 1940s and 1950s when artists were branded as Communists. We won't stand for it now.

The distortions of these artists' work are damaging to them personally, and to the community's faith in the endowment's granting process. An arts endowment that excludes artists because of their sexual orientation or social and political point of view, cloaking these exclusions in vague intimations of "obscenity," would be truly un-American.

We doubt that Chairman Frohnmayer or the N.E.A. staff would stoop to this kind of political scapegoating, even in a misguided attempt to preserve the arts endowment by appeasing its attackers. Such actions would be in direct violation of the N.E.A.'s Statement of Mission: to help create and sustain "a climate encouraging freedom of thought, imagination and inquiry."

JESSIE ALLEN (and Others).

IT'S TIME TO CARE ABOUT OUR ENVIRONMENT

HON. CARROLL HUBBARD, JR

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. HUBBARD. Mr. Speaker, I would like to share with my colleagues an excellent letter I received last week from Mrs. Janice J. Hatler of Madisonville, KY.

Janice Hatler has eloquently expressed her concern for the environment and the apathetic attitude most Americans have toward keeping it clean. Furthermore, Janice Hatler rightly proclaims that environmental initiatives must come from Congress.

I urge my colleagues to read and consider her well-written letter. It follows in its entirety:

MADISONVILLE, KY,
June 15, 1990.

Congressman CARROLL HUBBARD, Jr.,
U.S. Representative, Rayburn House Offfice,
Washington, DC.

HON. CARROLL HUBBARD: The older I become, the more concerned I grow about our environment. Day after day, the news brings horror stories of the multitude of abuses that plague the oceans and rivers, predictions of global warming and its consequences, and the critical situation with our country's landfills.

I am writing to you to urge you to become more conscientious of the environment as our representative in Congress. To urge you to do what is right for the betterment of the

environment, not what benefits corporate executive's billfolds.

Personally, I feel Americans must alter their way of living. We have been living the "high life" if you will, for long enough. We citizens of the United States are very lucky. Every convenience and luxury are at our fingertips. Unfortunately though, this has been at the expense of our precious environment.

The vast majority of Americans are not willingly going to change their lifestyles. So the changes must come from you, that is, from Congress and legislation. Why not have mandatory recycling of our used products—glass, plastic, and paper—from every city in this country? Why not initiate a massive campaign of tree planting that provides tax exemption with so many acres planted? All of our efforts towards preserving the earth are so essential to our continued existence as a species. Every person in America must begin to care more. And the industrial giants are not exempted. Stricter and tighter restrictions and penalties must be enforced for the careless and purposeful dumping of waste into the earth. It is imperative that we begin to stop the deterioration of our environment.

I beseech you to become more concerned and create those laws that will enable us all to live in a world that is less abused and cluttered with our human waste.

Sincerely,

JANICE J. HATLER.

TRUE MEANING OF FREEDOM ESCAPES NELSON MANDELA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. CRANE. Mr. Speaker, this is a truly historic occasion. This is only the third time in our Nation's history that we have allowed a foreign private citizen to address a joint meeting of Congress. In 1824, this honor was bestowed upon the Marquis de Lafayette, who served the cause of American independence, during which time he became a close friend of George Washington, the father of our country. Lech Walesa, the much admired leader of the Solidarity movement in Poland, was the second private citizen to address both bodies in a joint meeting. In fact, at the presentation of the Presidential Medal of Freedom to Mr. Walesa during his visit in 1989, President Bush compared his efforts on behalf of the people of Poland to those of the Marquis de Lafayette:

* * * like him [the Marquis de Lafayette], you represent not only a people but also an idea—an idea whose time has come. That idea is freedom. The time is now.

Today, Nelson Mandela, deputy president of the African National Congress [ANC], has joined the ranks of these genuinely great men. But does he stand for the same freedoms as the Marquis de Lafayette and Lech Walesa? I am afraid to say, he does not. While there is little doubt that Mr. Mandela is committed to the struggle against apartheid in South Africa, he clearly has little or no understanding of the true meaning of freedom.

Nelson Mandela, who claims to stand for the freedom and independence of black South Africa, has a history of supporting terrorism, even when it involves violence against innocent civilians. In fact, since his release from prison, the Marxist-dominated ANC has been responsible for the deaths of hundreds of innocents. Furthermore, it is difficult not to question the sincerity of a man who himself has conceded that his organization is responsible for the torture and execution of some of its own members who tried to exercise their freedom of choice by breaking ties with the ANC.

Nelson Mandela's ignorance of the true meaning of freedom is further exemplified by the number of comments he has made throughout his trip to the United States praising the leadership of such notorious human rights violators as Fidel Castro, Yasser Arafat, and Mir'ammar Qadhafi. If Mr. Mandela envisions a new South Africa using these people as role models, clearly blacks in that country have nothing to gain and everything to lose under ANC leadership.

While our Founding Fathers were quick to realize that personal freedom is difficult to realize without economic freedom, Nelson Mandela has not seen the light. Despite the fact that the folly of communism has finally been realized throughout much of Eastern Europe, as well as in parts of Africa itself, Mr. Mandela continues to ignore the economic irrationality of a socialist economic system. He has stated that the "nationalization of the mines, the financial institutions and monopoly industries is the fundamental policy of the ANC and it is inconceivable that we will ever change this policy." Clearly, there is indeed expected to be some confusion on the part of our constituents when, on the one hand, the United States Congress hails a man like Lech Walesa who was instrumental in bringing democracy to Poland through the dismantling of the Stalinist economic system, and on the other hand heaps praise on Nelson Mandela, who, if given the opportunity, would implement the very same policies Lech Walesa fought to eradicate.

Mr. Mandela claims that United States sanctions imposed against South Africa in 1986 are largely responsible for his release as well as the many other remarkable changes which have occurred in that country over recent months. Further, he has publicly called for stronger sanctions stating that they would likely bring greater improvements. The fact of the matter is, however, that these historic steps, such as lifting the state of emergency, reforming the state security system, abolishing hospital and other forms of segregation, releasing political prisoners, and rescinding the prohibition on the ANC, have all taken place on the heels of the election of President de Klerk, nearly 3 years after U.S. sanctions first went into effect.

It is highly unlikely that our sanctions had anything to do with Mr. de Klerk's actions. In fact, it can be argued that sanctions have actually hurt the struggle to end apartheid by increasing the economic might of the white minority while undercutting the economic power of the blacks. Since the imposition of sanctions, most American firms sold their subsidiaries to white South Africans at fire-sale prices. In many instances, the new owners responded by laying off blacks and abolishing the many progressive work rules, educational programs, and fair pay which blacks had come to expect from their American employers.

While the light at the end of the tunnel is visible to so many, Mr. Mandela cannot see it because, along with the ANC, he is seeking more than simply one man, one vote.

I, frankly, am dismayed by the extent to which many of my conservative colleagues, as well as the administration, have embraced Mr. Mandela during his trip here. Truly, this strong show of support is clearly uncalled for, especially in light of the fact that Mr. Mandela showed absolutely no regard for this body when he hailed as comrades the four Puerto Rican gunmen who opened fire in the House Chamber in 1954, wounding five of our colleagues.

TRIBUTE TO THE FORT WORTH SISTER CITIES PROGRAM

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. GEREN of Texas. Mr. Speaker, during this tumultuous and glorious period in world history, with walls of oppression crumbling all over the globe and people in the farthest corners of the Earth risking everything for the cause of freedom, the mission envisioned by President Eisenhower for his Sister Cities Program has never held more meaning nor been more important. Our country, our traditions, our values and our symbols have inspired countless millions with hope for a better life for themselves and for their children.

We have a duty to extend our hand of friendship to those millions. President Eisenhower saw his Sister Cities Program as one of the ways we could do just that. Mr. Speaker, I am proud that the city of Fort Worth, TX, has shared in that mission and this year was recognized with the Reader's Digest Award for having the best Sister Cities Program in the Nation for a city its size. Fort Worth, the city "where the West begins," prides itself in its friendliness, its openness, and its commitment to community service. It has taken the spirit of Sister Cities to heart and has joined with Reggio Emilio, Italy; Trier, West Germany; Nagaoka, Japan; Bandung, Indonesia; and just this week, Budapest, Hungary.

Today, I ask Congress to join me in commending the citizens of Fort Worth and the Fort Worth Sister Cities Program for their receipt of the Reader's Digest Award as the one of the best in America and for their commitment to the cause of international understanding and world peace. They are a part of the constellation of our country's thousand points of light.

MANDELA PRAISE OF QADHAFI, CASTRO, AND ARAFAT WRONG

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. McCOLLUM. Mr. Speaker, in light of Mr. Nelson Mandela's visit to the United States and his address today before a joint session of Congress, I would like to bring to your attention the following petition. The signatures you find at the end of this document are the names of five mayors of south Florida cities including the mayor of Miami who have signed their names to actively oppose the visit of Nelson Mandela to our country. I believe it is important to recognize the fact that Mandela has publicly supported such current leaders as Yassir Arafat, Fidel Castro, and Mu'ammar Qadhafi whose violations of human rights have been denounced not only in this country but worldwide. He has also refused to renounce violence in the pursuit of his goals in South Africa. As people throughout the United States celebrate the arrival of Nelson Mandela and greet him with a hero's welcome in cities around the country, I feel compelled to not only state my own opposition to his views with regard to Qadhafi, Castro, and Arafat, but to make public the opposition of other individuals who have been betrayed by Mandela's praise of these human rights violators.

The petition reads as follows:

We, the undersigned Cuban-American elected officials, grateful for all the liberties and freedoms embodied in our democratic political system, hereby once more repudiate and condemn the inhumanity and shamefulness of apartheid, and support the aspirations of all black South Africans who wish a free and more democratic society.

In accordance with the above, we condemn all violations of human rights perpetrated against black South Africans for their rightful and simple aspirations. These violations of human rights have been exceedingly documented in all types of international forums through individual and institutional testimonies. However, these violations are not carried out exclusively by the government of South Africa; other governments habitually violate their citizens' human rights of which the present Cuban regime is the most prominent.

In view of these facts, we, Cuban-Americans, find it beyond reasonable comprehension that Mr. Nelson Mandela, a victim of so many years of oppression by his own government, not only fails to condemn the Cuban government for its human rights violations, but rather praises the virtues of the tyrannical Castro regime. This behavior is unacceptable now that said regime has been publicly condemned by the United Nations Commission on Human Rights based in Geneva, Switzerland. Rather than supporting the oppressors and violators of human rights, Mr. Mandela should support those whose human rights are being violated in Cuba.

We congratulate Mr. Mandela on his newly acquired freedom. We condemn his support of human rights violations in Cuba. Lastly, we do not understand how a human rights violator like South Africa has freed Mr. Mandela, and the United States, a beacon of freedom, continues to hold Dr. Orlando Bosch incarcerated without legal justification. We demand Dr. Orlando Bosch's freedom.

JULIO MARTINEZ,
Mayor of Hialeah.
JUAN A. RIVERO,
Mayor of Sweetwater.
PEDRO REBOREDO,
Mayor of West Miami.
GILDA OLIVERA,
Mayor of Hialeah Gardens.
XAVIER SUAREZ,
Mayor of Miami.

TRIBUTE TO ST. ANN'S MELKITE CATHOLIC CHURCH OF WEST PATERSON, NJ, ON ITS HOSTING THE 31ST MELKITE CONVENTION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. ROE. Mr. Speaker, it is with the deepest reverence and the greatest sense of pride that I rise today to salute an outstanding house of worship and parish community in my Eighth Congressional District of New Jersey which has been a spiritual focal point and a beacon of faith for countless numbers of worshipers in the greater northern New Jersey area.

I am speaking of St. Ann's Melkite Catholic Church of West Paterson, NJ, which is host to the 31st Melkite Convention. This proud and historic occasion will culminate on July 7, 1990, at the grand banquet which will celebrate the achievements of the convention and the first century of the Melkite Church in the United States.

Mr. Speaker, the history of St. Ann's Melkite Catholic Church is indeed a rich one. For the benefit of you and our colleagues, I would like to insert for the RECORD the history of this truly fine and respected house of worship:

It all began at the turn of the century, when a large number of Syrian immigrants began to arrive in this country from Aleppo, Damascus, and Lebanon. With a devotion to their ancestry and tradition, they were served in the early days of their migration, by visiting Melkite priests who held services in Paterson and Union City.

As the Melkite congregation grew, the need for a permanent place of worship became apparent. On June 9, 1921, Metropolitan Maximao Sayegh of Tyre blessed the site of the future church, the O'Neill estate on Mill Street in Paterson, New Jersey, and in April 1922 groundbreaking ceremonies took place and work started immediately. Msgr. Sheppard, vicar general of the diocese of Newark, blessed the church on December 8, 1922. Construction of the new church was completed by December 8, 1932, the 10th anniversary of the dedication of the first chruch, the New St. Ann's Church was solemnly blessed. The new church was to be called St. Ann's, in respect to the mother of Mary and grandmother of Jesus.

The church grew rapidly and thrived in spite of the Depression and throughout World War II. Even though parishioners moved to new communities, they remained loyal to St. Ann's Church. Their loyalty was put to a true test on August 28, 1970, the day the church was gutted by a devastating fire that completely destroyed the church.

Shortly before 3:00 a.m., fire broke out in St. Ann's Byzantime Melkite Catholic Church, at that time the only place of worship for Melkite Christians in the State of New Jersey. Spectacular flames soared 60 feet high into the air. By 3:15 a.m., the fire had grown to a fourth alarm. The granite figure of St. Ann looked down calmly as firemen fought the blaze and parishioners and friends wept at the loss. Two hours later, everything was gone—the church and its treasures were destroyed. Another era for St. Ann's had ended.

Since a church is more than a building, the people of St. Ann's immediately transformed the parish auditorium into a church and included an inconostasis. For the next several years, this became the place of worship, while the clergy and committees studied alternatives and decided to relocate in suburban West Paterson, NJ.

Groundbreaking for the new church was held in 1972. Under the expert guidance of the clergy and parishioners, the necessary committees were formed to work on the new complex and all it entailed. The 1973 Christmas liturgy was celebrated in the bare church. During construction of the new church, St. Ann's Church celebrated its golden anniversary. The church not only celebrated 50 years of service and commitment to the community, but celebrated a new beginning in its new location. Solemn dedication of the new complex took place in December 1974. The parishioners' resolve held out and a new church was built in West Paterson, NJ by December 1974. Currently, the new church thrives in its new location serving the parishioners and the community.

The bicentennial year of 1976 brought to our diocese and our country the Icon of Our Lady of America, dedicated by His Beatitude Maximos V. Hakim. This icon was a pilgrimage icon traveling to the faithful in many States until it was stolen from the church in 1977. Through the constant and solemn prayers of the parishioners, the icon was returned and has been enshrined at St. Ann's ever since.

On July 6, 1989, the Episcopal ordination of Nicholas J. Samra, pastor of St. Ann's took place. Not only was he the pastor, but he was a parish son. This was a day which was truly one of the greatest in the 70-year history of the wonderful community. Bishop Nicholas was named auxiliary bishop of the Midwest region of the diocese, with residence in Detroit, Michigan. This was later changed to bishop of the East region and rector of the St. Gregory Seminary with his residence in Boston.

The St. Ann's community has been truely blessed by the ordination of three parish sons to the priesthood. Nicholas J. Samra, Basil Samra, and Kenneth Sherman have all entered the priesthood to help others and guide people spiritually, values promogulated by the church and its community. Another parish son, Michael Jolly, was ordained deacon to serve the St. Ann community. The following clergy are those who served with a full commitment and love of the community of St. Ann: Fr. Cyril Anid, 1919; Fr. Joseph Raya, 1949; Fr. Maxim Chalhoub, 1953; Fr. Gabriel Dick, 1953; Fr. Albert Gorayeb, 1963; Deacon Basil Samra, 1973; Fr. Roman Obrycki, 1976; Fr. Alphonse Stevenson, 1976; Fr. Joseph For-

tuna, 1977; Fr. Mark Melone, 1978; Fr. Nicholas Antiba, 1978; Fr. Paul Frechette, 1978; Fr. James Babcock, 1981; Fr. Nicholas Samra, 1981; Deacon Michael Jolly, 1986; Deacon Edward Bsarany, 1987; Deacon Roland Basinski, 1987; Fr. Philip Raczka, 1989; Fr. Basil Adcock, 1989; and Fr. Albert Wehbe, 1989.

If you can dream, then you can be. We Melkites have had many dreams throughout our diocese, throughout our parishes, and throughout St. Ann's. As our dreams became a reality we grew. We must keep on growing. We here at St. Ann's are indeed fortunate and honored to host the 31st National Melkite Convention and celebrating a century of the Melkite Church in America. This is a true sign of growth in our diocese.

We will dream on as we have gloriously for the last 100 years. Our future is bright? and our goals are many. Our community life and unity has strengthened us for 70 years at St. Ann's. We will continue on as long as we accept the challenge of our dreams. We will live in the Glory of God and then as men we will be fully alive.

Mr. Speaker, I appreciate the opportunity to present the history of this distinguished church that has remained dedicated to helping others and guiding them spiritually. As St. Ann's Melkite Catholic Church hosts the 31st Melkite Convention and celebrates a century of the Melkite Church in America, I know that you and all of our colleagues here in Congress will want to join me in extending our warmest greetings and sincere appreciation for both the service and guidance it has provided for the community, State, and Nation.

THE HOUSE OF REPRESENTATIVES ELECTION CAMPAIGN REFORM ACT OF 1990

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. KANJORSKI. Mr. Speaker, today I am introducing the House of Representatives Election Campaign Reform Act of 1990. This bill makes a number of fundamental changes to the way in which congressional campaigns are conducted, especially in the area of campaign finance.

Over the last few years there has been increasing concern across the country that political action committees [PAC's], through their contributions, have come to wield extraordinary influence on how the Congress conducts its business. Personally, I believe these concerns, on the whole, are unfounded. Nevertheless, in order to govern effectively, it is essential that the public have confidence in the integrity of the legislative process.

Today, that confidence has been shaken. Regardless of our personal views on the issue, it is clear, that in order for many Americans to regain their trust of the process, we in Congress must make fundamental changes in ways campaigns are financed and in the overall role played by PAC's.

Earlier this year I entered into the RECORD an article written by Mr. Norman J. Ornstein, resident scholar at the American Enterprise Institute for Public Policy Research, which appeared in Roll Call. In that article, Mr. Ornstein made a number of recommendations for provisions in a campaign finance reform bill. As I indicated at that time, I have drawn on many of the insights and proposals contained in that article in drafting this legislation.

My bill restores public trust and confidence in our system in several ways. First, it would reduce the maximum amount a PAC may contribute to a candidate for the House of Representatives from the current $5,000 to $2,000.

Second, this legislation would increase the reliance of House candidates on smaller contributions from individuals from their own States.

Third, by limiting personal contributions or loans by candidates or their families to $100,000, the bill checks the increasingly disturbing and growing trend of wealthy candidates spending vast sums of their own personal money to, as some have contended, attempt to "buy the election."

Fourth, it provides candidates who are the victims of "independent expenditures" with the means to effectively counter this increasing practice of special interests attempting to pervert the election process.

Fifth, the legislation attempts to elevate the dialog of campaigns by requiring broadcast stations to offer their lowest rates to candidates who purchase time in 1-to-5 minute segments, rather than continuing to use the 30-second "hit-and-run" tactics which have become all too common in today's campaigns.

Sixth, the bill provides that candidates for the House may not establish or maintain campaign committees other than their authorized campaign committee. Where these additional committees currently exist, they are rarely established for the purpose of financing the campaigns of their founders. Instead, they are most commonly used by incumbent Congressmen to enhance their stature with their colleagues in Congress by serving as a vehicle to make campaign contributions.

Finally, the bill contains stiff criminal penalties for violations of its provisions.

Each of these items is important to restoring the public's trust in the way campaigns and the legislative process operate. However, the cornerstone of this package is the elevation of the importance of smaller contributions from individuals from the candidates' home States. My bill accomplishes this in several ways.

First, it provides a 100-percent tax credit for the first $200 an individual contributes to a campaign.

Second, the bill allows individuals to check off on their tax returns a contribution of $2 to a House of Representatives Campaign Trust Fund.

Third, the trust fund would provide candidates with matching funds for the first $200 in contributions from individuals, up to a maximum of $300,000. To be eligible for matching funds, candidates must first raise at least $25,000 from individuals from their State in amounts of $200 or less, and agree to limit the use of their personal funds to $100,000.

Fourth, a portion of any excess campaign funds a candidate may have following the election must be returned to the trust fund in the pro rata share that trust fund moneys accounted for of the total receipts of the campaign.

Mr. Speaker, let me also point out that this bill does not limit the total amount which can be spent on a campaign for Congress. As much as I understand and sympathize with this objective of some of my colleagues, I am concerned that any number we might select would be arbitrary and inappropriate in some races.

There is no question that it costs much more to run for a seat in Congress from New York City than it does to run a comparable campaign for a seat from northeastern Pennsylvania. Limiting the amount that can be spent on a campaign would unavoidably result in either too much, or too little being allowed, depending on the level and the seat involved.

Instead by significantly reducing the role of PAC's, establishing an upper limit on matching payments, limiting the amount of a candidate's personal funds in a campaign, and making television and radio rates for longer campaign messages more affordable, I believe this bill will result in less campaign spending while elevating the quality of campaign dialogs.

Mr. Speaker, it is time for us to take significant steps to restore trust and faith to our campaign system. For this reason I salute your commitment and dedication to bringing this issue to the House floor for action. I believe that this legislation contains vital elements which should be in any final package adopted by this body and I urge my colleagues to join me in this effort.

SECTION-BY-SECTION ANALYSIS OF HON. PAUL KANJORSKI'S HOUSE OF REPRESENTATIVES ELECTION CAMPAIGN REFORM ACT OF 1990

Section 1. Short title—The Act may be cited as the "House of Representatives Election Campaign Reform Act of 1990".

Section 2. Limitation on contributions to House of Representatives candidates by political action committees—Reduces from $5,000 to $2,000 the maximum contribution a political action committee may make to a candidate per election.

Section 3. Credit for contributions to congressional campaigns—Provides a 100% tax credit for the first $200 (or $400 in the case of a joint tax return) in personal contributions an individual makes to a House candidate running from the same state.

Section 4. Designation of income tax payments to the House of Representatives Campaign Trust Fund—Provides for a $2 tax check-off on individual federal tax returns to be paid to the "House of Representatives Campaign Trust Fund."

Section 5. Establishment of the House of Representatives Campaign Trust Fund—Creates a House of Representatives Campaign Trust Fund under the Secretary of the Treasury to receive funds derived from the $2 check-off on individual tax returns and authorizes expenditures from the trust fund to certified candidates who have raised not less than $25,000 in contributions of $200 or less from individual contributors from their states.

Section 6. Amendment to the Federal Election Campaign Act of 1971 relating to reporting of individual resident contributions in elections for the office of representative—Requires House candidates to report to the FEC when they have raised more than $25,000 in contributions of $200 or less from individuals residing in their states and requires the FEC to certify this to the Secretary of the Treasury.

Section 7. Amendment to the Federal Election Campaign Act of 1971 relating to matching payments from the House of Representatives campaign trust fund—

(a) Entitles House candidates to matching funds from the trust fund for the first $200 in contributions from individuals who reside in the state.

(b) Limits maximum total aggregate matching payments to $300,000.

(c) In order to receive the matching payments, House candidates are required to certify, under penalty of perjury, that neither they, nor their family, shall furnish more than $100,000 in personal funds or loans for the campaign.

Establishes penalties of up to $25,000 in fines and/or 5 years in prison for violations of any certification that a candidate will not exceed $100,000 in personal funds.

(d) Provides that if a candidate for the House refuses to make a certification that he/she will not spend over $100,000 in personal funds, that candidate's opponents may receive matching funds for up to $1,000 in contributions from individuals regardless of their state of residence.

(e) Allows opponents of a House candidate, who violates a certification to limit personal spending to $100,000, to receive from the trust fund payments equal to the amount of personal funds contributed by the violating candidate in excess of $100,000.

(f) Permits certified House candidates who are the target of independent expenditures which exceed $10,000 to receive from the trust fund an amount equal to 300% of the amount of the independent expenditure. Persons found to have willfully or intentionally sought to subvert the intent of subsection may be fined up to $25,000 and/or imprisoned for up to 5 years.

(g) Requires the repayment to the trust fund of a portion of any excess campaign funds after the election in an amount equal to the pro rata share that trust fund payments accounted for of the candidate's total aggregated receipts from all sources for the election. Repayments to the trust fund shall not exceed the total amount received from the trust fund.

(h) Requires the FEC to issue regulations to biennially index the provisions of subsection (a).

Section 8. Amendments to section 304 of the Federal Election Campaign Act of 1971 with respect to independent expenditures—Requires the reporting to the FEC, within 24 hours, of any independent expenditures in a House race which exceeds $10,000, and a statement as to which candidate the independent expenditures are intended to help or hurt. Requires the FEC to notify each candidate of the independent expenditures within 24 hours.

Section 9. Amendment Relating to Broadcast Media Rates and Disclosures—

(a) Requires broadcast stations to offer their lowest rates to House qualifying candidates who have agreed to limit personal spending to $100,000, for commercials which are 1 to 5 minutes in length.

(b) Requires the inclusion of the statement "This candidate has not agreed to abide by the spending limits for this Congressional election campaign set forth in the Federal Election Campaign Act" in any broadcast or print advertisements of House candidates who refuse to agree to limit personal spending to $100,000.

Section 10. Penalties—Makes it unlawful to furnish false information to, or to withhold information from, the FEC, punishable by up to $10,000 in fines and/or up to 5 years in prison.

Section 11. Restrictions on Control of Certain Types of Political Committees by Candidates—Prohibits House candidates from establishing, maintaining, or controlling a political committee other than an authorized committee of the candidate.

Section 12. Authorization of Appropriations—Authorizes such sums as are necessary to carry out the Act.

Section 13. Effective Date—Provides for the provisions of the Act to take effect after December 31, 1990.

Section 14. Severability—If any provision of the Act is held to be invalid, this will not affect the other provisions of the Act.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "House of Representatives Election Campaign Reform Act of 1990".

SEC. 2. LIMITATION ON CONTRIBUTIONS TO HOUSE OF REPRESENTATIVES CANDIDATES BY POLITICAL ACTION COMMITTEES.

Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2(A)) is amended by striking out "$5,000" and inserting in lieu thereof "$2,000".

SEC. 3. CREDIT FOR CONTRIBUTIONS TO CONGRESSIONAL CAMPAIGNS.

(a) GENERAL RULE.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting a new section 24 as follows:

"SEC. 24. CONTRIBUTIONS TO CONGRESSIONAL CAMPAIGNS

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed, subject to the limitations of subsection (b), as a credit against the tax imposed by this chapter, an amount equal to 100 percent of any congressional contribution which is made by such individual within the taxable year, as defined in subsection (c)(1).

"(b) LIMITATIONS.—

"(1) The credit allowed by subsection (a) for a taxable year shall not exceed an aggregate of $200 ($400 in the case of a joint return) for all congressional contributions by an individual in said year.

"(2) The credit under subsection (a) shall not be allowed with respect to a congressional contribution, if the contribution is transmitted to the candidate or a campaign committee of the candidate through an intermediary group, organization, or committee.

"(c) DEFINITIONS.—For purposes of this subsection—

"(1) The term 'congressional contribution' means a contribution or gift of money, payment of which is made during the taxable year, to an individual who is a candidate for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress of the United States in any primary, general, or special election, and which—

"(A) is from a taxpayer (or either spouse in the case of a joint return) who is a resident of the State in which the election is held; and

"(B) is solely for the use by the recipient to further his candidacy for nomination or election to such office.

"(2) The term 'candidate' means an individual who—

"(A) publicly announces before the close of the calendar year in which the contribution or gift is made that he is a candidate for nomination or election to one of the offices specified in paragraph (1); and

"(B) meets the qualifications prescribed by law to hold such office.".

(b) CLERICAL AMENDMENT.—The table of sections for Part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 23 the following new item:

"SEC. 24. Contributions to Congressional Campaigns.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after December 31, 1990, in taxable years ending after that date.

(d) The Federal Election Commission shall issue regulations providing for the biennial indexing of the tax credit established under this section.

SEC. 4. DESIGNATION OF INCOME TAX PAYMENTS TO THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION OF INCOME TAX PAYMENTS TO BE USED FOR THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND

"Sec. 6097. Designation by individuals.

"SEC. 6097. DESIGNATION BY INDIVIDUALS.

"(a) IN GENERAL.—Every individual whose adjusted income tax liability for the taxable year is $2 or more may designate that $2 shall be paid over to the House of Representatives Campaign Trust Fund.

"(b) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the adjusted income tax liability of an individual is the tax liability of such individual (as determined under subsection (b) of section 6096) for the taxable year reduced by the amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) for such taxable year.

"(c) JOINT RETURNS.—In the case of a joint return showing adjusted income tax liability of $2 or more, each spouse may designate that $2 shall be paid over to the House of Representatives Campaign Trust Fund.

"(d) MANNER AND TIME OF DESIGNATION.—Subsection (c) of section 6096 shall apply to the manner and time of the designation under this section.".

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation of income tax payments to be used for the House of Representatives Campaign Trust Fund.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 5. ESTABLISHMENT OF THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to Trust Fund Code) is amended by adding at the end the following new section:

"SEC. 9511. HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'House of Representatives Campaign Trust Fund', consisting of such amounts as may be appropriated or credited to such trust fund as provided in this section or section 9602(b).

"(b) TRANSFER TO FUND OF AMOUNTS DESIGNATED BY INDIVIDUALS.—There is hereby appropriated to the House of Representatives Campaign Trust Fund amounts equivalent to the amounts designated under section 6097.

"(c) EXPENDITURE FROM FUND.—Amounts in the House of Representatives Campaign Trust Fund shall be available to provide matching payments in accordance with section 325 of the Federal Election Campaign Act of 1971. Expenditures from the Fund shall be made, in such manner as the Federal Election Commission may prescribe by regulation, to each candidate who certifies to the Commission that—

"(1) the candidate and the authorized committees of the candidate have received contributions totaling not less than $25,000, in contributions of $200 or less from individual contributors who are residents of the State from which the candidate is running for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

"Sec. 9511. House of Representatives Campaign Trust Fund.".

SEC. 6. AMENDMENT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 RELATING TO REPORTING OF INDIVIDUAL RESIDENT CONTRIBUTIONS IN ELECTIONS FOR THE OFFICE OF REPRESENTATIVE.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"REPORTING OF INDIVIDUAL RESIDENT CONTRIBUTIONS IN ELECTIONS FOR THE OFFICE OF REPRESENTATIVE

"SEC. 324. (a) Each primary election or general election candidate for the Office of Representative in, or Delegate or Resident Commissioner to, the Congress of the United States who desires to receive matching payments under section 325 shall report to the Commission all contributions received by the candidate and the authorized committees of the candidate totaling not less than $25,000, in contributions of $200 or less from individual contributors who are residents of the State from which the candidate is running for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

"(b) For purposes of making matching payments from the House of Representatives Campaign Trust Fund, the Commission shall certify to the Secretary of the Treasury the amounts reported under subsection (a).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to elections taking place after December 31, 1990.

SEC. 7. AMENDMENT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 RELATING TO MATCHING PAYMENTS FROM THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 301 et seq.), as amended by section 6, is further amended by adding at the end the following new section:

"MATCHING PAYMENTS FROM THE HOUSE OF REPRESENTATIVES CAMPAIGN TRUST FUND

"SEC. 325. (a) ELIGIBILITY FOR MATCHING FUNDS.—A primary election or general election candidate for the office of Representative who, under section 324, reports to the Commission that the candidate and the authorized committees of the candidate have received contributions totaling at least $25,000, in contributions of $200 or less from individual contributors who are residents of the State from which the candidate is running, shall be entitled to matching payments from the House of Representatives Campaign Trust Fund under section 9511 of the Internal Revenue Code of 1986 in an amount equal to the aggregate total of the first $200 in contributions from individuals who are residents of the State from which the candidate is running.

"(b) MAXIMUM MATCHING BENEFIT.—The aggregate total of matching payments a primary election or general election candidate may receive as provided under subsection (a) shall not exceed $300,000 in any election.

"(c) RESTRICTION ON ELIGIBILITY FOR MATCHING FUNDS.—

"(1) A primary election or general election candidate for the office of Representative who, under subsection (a) would qualify for matching funds must certify to the Commission, under penalty of perjury, that neither the candidate nor any members of the candidate's family, will furnish (by contribution, loan, or otherwise) from the personal funds of the candidate or the candidate's family an aggregate amount exceeding $100,000 with respect to the election.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer, employee, or agent of any political committee who knowingly consents to any expenditure in violation of the provisions of paragraph (1) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(3) For the purposes of paragraph (1), the term 'candidate's family' means an individual who is related to the candidate as father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandfather-in-law, grandmother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

"(d) ADDITIONAL MATCHING FUNDS. If a candidate refuses to make the certification required under subsection (c), all other candidates eligible under subsection (a), with respect to that primary or general election, shall be entitled to matching payments from the House of Representatives Campaign Trust Fund under section 9511 of the Internal Revenue Code of 1986 in an amount equal to the total of all contributions they receive from individuals regardless of State of residence of the contributors and for amounts up to $1,000.

"(e) COMPENSATION TO OPPONENTS OF CANDIDATES WHO VIOLATE THE PERSONAL FUNDS LIMITATION CERTIFICATION.—If a candidate is found under subsection (c)(2) to have violated the provisions of subsection (c)(1), all other candidates eligible under subsection (a), with respect to that primary or general election, shall be entitled to payments from the House of Representatives Campaign Trust Fund under section 9511 of the Internal Revenue Code of 1986 in an amount equal to the amount in excess of $100,000 as provided under subsection (c)(1).

"(f) INDEPENDENT EXPENDITURES OFFSET.—

"(1) If a candidate certified under subsection (c) is notified by the Commission, as provided under section 304 (d) or (e) of the Federal Election Campaign Act (2 U.S.C. 434) that independent expenditures are made during an election cycle by one or more person or entity aggregating an amount in excess of $10,000 in opposition to such certified candidate or for an opponent of such candidate, the notified candidate shall be entitled to payments from the House of Representatives Campaign Trust Fund under section 9511 of the Internal Revenue Code of 1986 in an amount equal to 300 percent of the amount of such independent expenditures.

"(2) Any person or entity found by the Commission to have willfully or intentionally sought to subvert the intent of this subsection shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(g) REPAYMENT OF TRUST FUND FROM EXCESS FUNDS.—

"(1) If at the conclusion of a primary election or general election in which a candidate who has received payments from the House of Representatives Campaign Trust Fund under section 9511 of the Internal Revenue Code of 1986 has excess campaign funds attributable to that election, such candidate shall within 30 days refund to the trust fund the amount of the excess campaign funds which equals the pro rata share that payments provided to such candidate from the trust fund accounted for of such candidate's total aggregated receipts from all sources with respect to such election.

"(2) In no case shall the amount of refund required under paragraph (1) exceed the total aggregated payments provided to such candidate from the trust fund with respect to that election.

"(h) INDEXING REGULATION.—The Federal Election Commission shall issue regulations providing for the biennial indexing of the provisions of subsections (a) and (b).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to elections taking place after December 31, 1990.

SEC. 8. AMENDMENTS TO SECTION 304 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 WITH RESPECT TO INDEPENDENT EXPENDITURES.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(d)(1) Any independent expenditures made, or obligated to be made, by any person or entity in an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress which in the aggregate total more than $10,000 shall be reported by such person or entity to the Commission within 24 hours after such independent expenditures are made. Thereafter, any independent expenditures by such person or entity in the same election cycle shall be reported by such persons or entity to the Commission within 24 hours after such expenditures are made or obligated.

"(2) Such statements shall be filed with the Commission and the Secretary of State for the State involved and shall contain a statement under penalty of perjury by the person or entity making the independent expenditures, or by the person or entity incurring the obligation to make such expenditures, as the case may be, indicating whom the independent expenditures are actually intended to help elect or defeat. The Commission shall notify each candidate in the election of each such report within 24 hours after the report is made.

"(3) Notwithstanding the reporting requirements established in this paragraph, the Commission may make its own determination that a person or entity has made, or has incurred obligations to make, independent expenditures with respect to any election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress which in the aggregate totals more than $10,000.

"(4) The Commission shall notify each candidate in the election about each such detemination within 24 hours after each such determination is made.

"(5) For purposes of this section, an expenditure will be deemed to be made when it is incurred.

"(e) When two or more persons or entities, in cooperation, consultation, or concert with each other, make, or obligate to make, independent expenditures during any general, primary, or runoff election period for the office of Representative in, or Delegate or Resident Commissioner to, the Congress each such person or entity shall report to the Commission, under subsection (d), the amount of such expenditure or expenditures made by each such person or entity in coordination, consultation, or concert with such other person, persons, entity, or entities when the total amount of all expenditures made by such persons or entities in coordination, consultation, or concert with each other exceeds the applicable amount provided in such subsection.".

SEC. 9. AMENDMENTS RELATING TO BROADCAST MEDIA RATES AND DISCLOSURES.

(a) Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended by inserting at the end thereof the following:

"Provided, however, That in the case of a candidate who has made the certification required under section 325(c) of the Federal Election Campaign Act of 1971, paragraph (1)(A) shall be applied without regard to the phrase 'class and' if the unit is at least 1 but not more than 5 minutes in length.".

(b) Section 318(a) of the Federal Campaign Act of 1971 (2 U.S.C. 441d(a), is amended by—

(1) striking out the period at the end of paragraph 3 and inserting in lieu thereof ";"; and

(2) adding at the end thereof the following:

"(4) if paid for or authorized by a candidate in an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who is a candidate, or the authorized committee of such candidate, who has not made the certification required under section 325(c) of the Federal Election Campaign Act of 1971, such communication shall also contain—

"(A) in the case of a radio broadcast station the following oral, or

"(B) in the case of a television broadcast state the following oral and printed, or

"(C) in the case of a newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising the following printed sentence: "This candidate has not agreed to abide by the spending limits for this Congressional election campaign set forth in the Federal Election Campaign Act.'.".

SEC. 10. PENALTIES.

(a) It is unlawful for any person knowingly and willfully—

(1) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this Act, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission under this Act; or,

(2) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this Act.

(b) Any person who violates the provisions of paragraph (a)(1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

SEC. 11. RESTRICTIONS ON CONTROL OF CERTAIN TYPES OF POLITICAL COMMITTEES BY CANDIDATES.

Section 303 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended by adding at the end of the following:

"(j) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress of the United States may not establish, maintain, or control a political committee, other than an authorized committee of the candidate or a committee of a political party.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary for the purpose of carrying out its functions under this Act.

SEC. 13. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect after December 31, 1990.

SEC. 14. SEVERABILITY.

If any provision of this Act or any amendment made to this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

THE 75TH ANNIVERSARY OF THE WILLIAMSPORT ROTARY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to an arm of an extraordinary organization that I am proud to say is in my congressional district.

The Williamsport Rotary in Pennsylvania is celebrating its 75th anniversary. That means only 5 years after the Rotary was established on a national level, the group was born in Williamsport. Throughout the decades, the organization has done stellar work in the community. It brought the Boy Scouts to Williamsport, it started the Crippled Children's Society and has consistently striven to increase tourism in this beautiful part of Pennsylvania.

With a membership of 90 people, comprised primarily of educators, business people, clergy members and other civic-minded citizens, the Rotary is highly visible in the Williamsport area. Most recently, the group is focusing on establishing a transitional home for women and children. This, like all the Rotary's projects, is a fine and worthy goal.

Mr. Speaker, sometimes life can seem difficult and overwhelming. In those times, organizations like the Rotary provide kindness and strength to the community. America is a better place because of the Rotary, and for 75 years, Williamsport has been a better place for its local chapter.

On behalf of my constituents, I thank the Rotary members for their work. Its importance cannot be overestimated.

THE PROTECTION OF OUR CONSTITUTION AND OUR FLAG

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. ANDERSON. Mr. Speaker, last week I had to make one of the most difficult decisions of my public service career; whether or not to amend the Constitution of the United States to protect the United States flag. While many Members knew immediately how they would vote, I did not. If I would have only had to make the decision to cast my vote to protect the flag, it would not have been difficult. As one who has served in the Armed Forces, and lived through four wars, I can attest to the principle, honor, and courage, that our flag represents. Under no circumstances would I ever support, or condone, the desecration of the flag that I have personally fought to protect. However, the difficulty stemmed from the method by which we were choosing to protect this extraordinary symbol of our Nation and her people: Amending the Constitution.

As a young boy growing up in the California desert, I learned the meaning and the value of this glorious document. Enshrined in the Constitution of the United States are the rights, privileges, and responsibilities upon which this great Republic rests. Not only as a duly elected representative of my country and my State, but also as a U.S. citizen, I have sworn a solemn oath to uphold this document, carefully crafted by our Founding Fathers almost 200 years ago.

Clearly and unambiguously written in the Constitution is the explicit guarantee that each citizen has the freedom to speak as he or she wishes, without reference to whether others deem their statement popular. The evolving law of the land has also found that our Constitution protects the free expression of thought and opinion as well. It is this first amendment to our Constitution, perhaps the most important, that has created the love we have for our country and made her the envy of the world. I feel strongly, and I would suggest that most everyone in this country does, that there is nothing more crucial to the prosperity and strength of this country than the free, unhindered exchange of ideas.

Last week, I voted to uphold the first amendment by opposing a new constitutional amendment that would have, if enacted, forbid the burning of our national symbol, the American flag. It is my sincere belief that proposed amendments to our Constitution should speak to expanding freedoms, not to limiting the rights, ideas, and aspirations for which the blood of thousands of Americans has been shed. Flag burning is a deeply emotional and disturbing issue, not only for veterans who lost friends and limbs in the defense of this Nation, but for all citizens who look to, and pledge allegiance to our flag, the symbol of

our Republic. Under the flag of this Nation, American men and women marched to turn back the tide of tyranny and repression. As a result of that commitment, billions around the world see the American flag as representative of the highest ideals of humankind.

The questions I had to ask myself were should we tamper with the first amendment because we find revolting and abhorrent the behavior of a few malcontents and juveniles seeking the focus of television cameras and flash bulbs? Should we guarantee each and every display of flag burning its share of media coverage and police action? I was not alone in asking these questions. My own constituency, and I am sure the rest of the country, were wrestling with these same questions and appeared to be virtually split on them. After accessing the views, letters, and phone calls from numerous constituents, I decided we should not. Flag burners, do not threaten our Republic. The Stars-Spangled Banner shall continue to wave regardless of how many radicals will burn it in a fit of anger, unable to get people to pay attention to their views in any other way.

So while our blood may boil, and while we may look upon these displays with anger and sadness, we must remember, that the flag is a symbol of all the rights of this Nation of free individuals enjoy. However, in actuality, it was the Constitution that first created these rights that the flag represents. Isn't ignoring those who burn the flag the best way to silence, them, rather than privileging them by weakening the first amendment? We owe at least that much to our veterans as a keeping of faith with the values and ideas for which they fought and for which they made this country the strongest, most enduring and brightest beacon of democracy in the world. In this year when democracy has erupted across the globe, we must not be the first to qualify its meaning.

I voted for the Flag Protection Acts of 1989 and 1990, the statutory method for protecting the flag, in my belief that as our Nation's symbol, the flag should be protected. Much to my disapproval, the Supreme Court found that act to be unconstitutional on a 5-to-4 decision. I do not particularly agree with those five Justices that made that decision, however, I feel I must abide by it. To those of my constituency that I have upset by my decision to vote against the constitutional amendment, I hope they understand my reasoning. I offer my assurances that my love for the flag and its symbolism, is to the highest level. While my decision may not be universally popular, I find the protection of our Constitution to be my highest duty. In the debate surrounding an antiflag-burning amendment, we have all found one very positive aspect. We all have gained new insight into the importance of the flag to us as individuals and as a nation.

FLAG AMENDMENT

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. BILIRAKIS. Mr. Speaker, I had intended to insert in the June 21 CONGRESSIONAL RECORD my statement on the flag amendment vote in the House. However, it was inadvertently left out of that RECORD. I would like to submit my statement at this time in order that my views on this important issue can be made known.

Mr. Speaker, I rise in support of the flag amendment legislation that we consider today in the House.

At about this time last year, the Supreme Court decided that burning the flag was a protected form of free speech. The decision was close—5 to 4—but that was the decision. Now, many of us were frankly astounded by that decision, astounded and gravely disappointed, and I was one of those in this House who immediately afterward introduced legislation to reverse it.

However, I took this step not at all lightly, because I believed that to reverse this decision of the Supreme Court one course and one course only was open to us. That course required amending the U.S. Constitution.

I accept that the Constitution must remain open to amendment, indeed, in the words of Thomas Jefferson, that "laws and institutions must go hand in hand with the progress of the human mind." However, I likewise agree with Mr. Jefferson in not being an advocate for frequent changes in laws and constitutions. That is why my decision was such a difficult one.

Others in this Chamber protested, claiming that a law could be written that would at once protect our flag and be acceptable to the Supreme Court without amending the Constitution. I was skeptical, but I chose to try that option in the faint hope that it might be successful. Now we know the result: The Supreme Court struck down that law, too, by the same 5–4 margin.

Therefore, Mr. Speaker, we are here today to initiate the process by which our Constitution may be amended for the 27th time—and I think that is important to keep in mind. We who support this legislation are deciding nothing here today. We are simply opening the door for the people of this Nation to speak. Should this legislation pass the Congress, the question will go to each of the States. They—the people of this Nation—will make a final decision on this matter and I stand ready to accept their verdict.

I never accepted that this was an issue of free speech, that burning the flag is a form of protest. The American flag does not stand for any particular Government policy or decision or person. It stands for the United States of America, and to desecrate it means that America shouldn't exist—that freedom and democracy shouldn't exist—that in fact, the right to peaceful protest shouldn't exist. I cannot and will not support this idea.

The late Senator from Illinois, Everett M. Dirksen, once answered this free speech argument. He called it false and sour.

"A person can revile the flag to his evil heart's content," he said, "But it is only if his contempt takes physical form—such as trampling, tearing, spitting and burning the flag—that he can be punished. Only his violence is punished," he said.

I couldn't argee more. I say that by protecting our flag we deny no one the right of free speech or of peaceful political protest. I'll defend the right of anyone to get up and say whatever is on his mind.

That is, in fact, the entire point: By defending the flag we ensure that this right never will be denied. All we ask is that the flag be accorded the same respect we offer to those who protest under its freedoms.

If living symbols of freedom and liberty mean nothing, if the ideals and not the evidence are all that matter, why don't we just open up the archives and tear up the Constitution and Declaration of Independence? They're just fading, old pieces of paper, aren't they?

The fact of the matter is that they are much more than that. They have told generations and generations of immigrants seeking a better life—immigrants like my parents and some of yours—that here in America we believe it is an individual's right to choose, to control his own destiny.

This flag means America—it means that we should be able to disagree. How can anyone believe otherwise? How could anyone not choose freedom over tyranny, justice over injustice, liberty over servitude? These great ideas are what this flag—our flag—stands for. It is hope, dreams, the very best man can offer the world and the future.

That is the promise that our flag holds out to the oppressed people of the many lands around the globe. It is the same promise that those people have seen in these stars and stripes for generations.

It is that promise of opportunity and fulfillment that has drawn millions to our shores ever since the first star-spangled banner was run up the flagpole.

Mr. Speaker, what disturbs me about all of this is that we as a nation must go to these lengths—to the extreme of amending the document upon which all of our national history and heritage rests—to reconfirm these very national beliefs. Yet because of the decisions of the Supreme Court, we must, in fact, do that. We are driven to do so through our reverence for the national banner and our lack of options.

Our freedom, our ability to live life generally as we please within the conventions of society, has not come cheaply. Our cemeteries are filled with the bodies of those who had great dreams of productive lives with loving families—dreams that were forfeited in order that you and I and our children would be able to lead better lives.

Our freedoms have been bought and paid for by that sacrifice, and I believe that we owe it to them to ensure that this country can be all that it was meant to be. In my mind that doesn't include contempt and desecration—it requires determined, constructive effort every day. All of this and more is woven into those few yards of cloth—and that is why I will vote to support this legislation.

COST-OF-LIVING PAY RAISE NEEDED BY FEDERAL EMPLOYEES IN SANTA BARBARA, CA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. LAGOMARSINO. Mr. Speaker, I rise today to introduce legislation which will allow those Federal employees residing in Santa Barbara County, CA to continue serving the Federal Government while residing in a county where the cost of living has risen considerably.

By proposing to increase the salaries of Federal employees in the New York, San Francisco, and Los Angeles CSMA's by 8 percent, the administration has taken the first step in rectifying the gross disparities which exist between the salaries of public sector and private sector employees. Although I applaud the administration for putting forward this locality pay initiative and recognizing the need for action in this matter, I am concerned that the proposal excludes many areas, such as Santa Barbara County, which suffer equally from the problems associated with a high cost of living.

The legislation I am introducing today will provide the same pay raise for Federal employees residing in Santa Barbara County as for those Federal employees living in the counties contained in the Los Angeles CSMA, including Ventura County.

Any pay proposal passed should take into account the entire country, acknowledging that pockets of high cost exist throughout. High cost pockets, such as Santa Barbara County, should not be excluded from Federal pay reform merely because they are not located in proximity to a major metropolitan area.

The Federal employees in Santa Barbara County wish to continue serving their country. By granting a pay raise to the Federal employees of Santa Barbara County equal to the proposal for counties within the Los Angeles CSMA, we can provide those employees with the relief they need until a comprehensive Federal pay reform package is formulated and passed into law.

I urge my colleagues to join me in sponsoring this much needed legislation.

NORTH AMERICAN VAN LINES SHOULD BE REIMBURSED FOR DAMAGES

HON. JILL LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Ms. LONG. Mr. Speaker, I rise today to introduce a bill which would authorize the Secretary of the Army to reimburse contractors of the Department of the Army for certain damages to property in Panama.

This legislation is very narrow in scope. It would only apply to contractors located on a military installation of the United States in Panama on December 22, 1989, pursuant to requirements of the contract. Furthermore, only the damages caused by actions of the U.S. Armed Forces during Operation Just Cause would be eligible for reimbursement.

The Secretary of the Army would be authorized to consider a reimbursement if it is presented within 2 years following the date of damages, and only if the damages have not in any way been caused by negligent or wrongful acts of the contractor or the contractor's agents.

Mr. Speaker, I was made aware of the need for this legislation by a company which is headquartered in my congressional district, North American Van Lines. North American owns a Panamanian subsidiary, NAVPAN, which is an authorized United States Government contractor. Approximately 95 percent of the business activity of NAVPAN relates to performing moving services for the Department of Defense, the U.S. Embassy in Panama, and the Panama Canal Commission. As a United States Government contractor, NAVPAN was required to locate its facilities within the perimeter of Albrook Air Force Base, in the Panama Canal Zone. The company has leased an old hangar from the Secretary of the Army since 1963.

This hangar was occupied by armed members of Manuel Noriega's "Dignity Battalion" on December 22, 1989. After unsuccessful efforts to neutralize the enemy with smaller weapons, U.S. forces decided to employ missiles, which destroyed both the hangar and the NAVPAN facilities located within.

North American promptly prepared reimbursement proceedings for the estimated $615,000 of damages which resulted from this action. Unfortunately, the Department of the Army was compelled to deny North American's request, stating that the legislative authority does not exist to reimburse contractors for damages sustained during combat activity.

Mr. Speaker, the legislation which I am introducing today is quite straightforward, and it ought to be noncontroversial. It will simply give the Secretary of the Army the authority to reimburse North American for its losses. In this way, the damages arising from Operation Just Cause may be fairly assessed, and compensations may be made accordingly.

It is a great injustice that the United States is sending millions of dollars to Panama to help rebuild the country after Operation Just Cause, while a United States-owned firm which has faithfully served our Government in Panama for 27 years cannot even get reimbursement for damages considered. Moreover, if NAVPAN is forced to rebuild its facilities without reimbursement funds, it will be less likely for the company to continue operations. This will be a great inconvenience for the U.S. Government agencies which have come to rely on NAVPAN for transportation needs.

Finally, Mr. Speaker, while $600,000 may not sound like much on Capitol Hill anymore, it does represent more than one-quarter of the losses suffered by North American Van Lines last year. Recovery of those losses is expected to determine whether the company will be in the red or the black this year. I am thus concerned about the future of a prominent business which has been in Fort Wayne for nearly 40 years, as well as the future of its 3,000 employees who live in my congressional district.

Mr. Speaker, when the United States invaded Panama last December, we as a nation assumed a great responsibility. The legislation which I have proposed will be a small step toward more completely fulfilling that responsibility.

BILINGUALISM IN GOVERNMENT DOES NOT WORK

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. SHUMWAY. Mr. Speaker, the world is watching as Canada, our good friend to the north, wrestles with a language conflict that threatens to split the fiber of the nation. As we witness the Canadian constitutional crisis, an inescapable conclusion is emerging: Bilingualism in government does not work.

After years of attempting to provide equal status for English and French, Canada is divided by bitterness, resentment, and even hatred. The message for the future of the United States is being played out in present-day Canada.

While language conflicts in our country are serious now, they are not acute. However, as Canadians have learned, linguistic problems often bubble beneath the surface for years before erupting. Discord between French speakers and English speakers dates back 200 years in Canada. The country became officially bilingual in 1969, according equal status to both French and English. However, 5 years later, Quebec adopted French as its official language in an effort to preserve its unique French culture and language. That decision, and subsequent laws to enforce it, created bitterness and resentment in English Canada.

The language issue in Canada differs from that in the United States in some ways. Our country is historically English speaking. For centuries, immigrants coming here have recognized the necessity to learn the common language of the land. Today, however, we are hearing demands for official bilingualism in the United States. These small fissures developing beneath the surface of our national unity may now one day erupt, much as they have in Canada 21 years after that country declared itself officially bilingual.

Canada is living testimony to the divisiveness of official bilingualism and its serious threat to national unity. English and French speakers in Canada are so polarized that, regardless of the outcome, the division will take years to heal. Baseball fans in Toronto have booed the French verses of the national anthem; English speakers have stomped on the Quebec flag in Ontario and Quebec has forbidden stores to post signs in English.

The United States cannot ignore language strife in Canada, nor can it dismiss as unimportant the frequent calls for official bilingualism in this country. Hispanic activists, claiming to speak for Hispanic Americans, are demanding Government services in Spanish. This spring, the Hispanic Issues Conference in

Racine, WI, endorsed a full, bilingual approach to public affairs: Spanish-speaking poll workers at elections; Spanish language news updates in local newspapers; important information printed in both English and Spanish, side by side so that one language would not be higher than another

Some activists maintain that Hispanics will not assimilate into the culture of the United States. Therefore, Government services must be provided in Spanish. Still others point out that there are now areas of the country where a knowledge of Spanish, and not English, is vital for daily living.

In light of all this, as well as the constitutional question in Canada, it is time to ask whether the ultimate goal of these Hispanic activists is to institute bilingual Government in the United States. Do they seek to establish linguistic encalves in this country, much like Quebec?

If the answer is yes, we as a nation need to examine exactly what bilingualism in government will mean. For example, what will be the public expense? In Canada, official bilingualism on the Federal level costs one-half billion dollars annually. The Canadian Government in Ottawa employs 1,500 language experts. The expense of providing Federal bilingualism is a source of resentment.

In the United States the costs would be exorbitant. Of the 208 languages in the world, 148 are represented in this country. If we offer Government services in Spanish, are we also going to offer them in French, German, Italian, Farsi, Tagalog, Greek, and all the others?

Should Canadian unity survive its current crisis, there is still a lesson for the United States concerning our own current language debate. With the Canadian turmoil in mind, perhaps we would do well to heed President Teddy Roosevelt who 75 years ago made an excellent argument for one common language of govenment:

> The one absolutely certain way of bringing this Nation to ruin, of preventing all possibility of its continuing to be a Nation at all, would be to permit it to become a Nation of squabbling nationalities.

To ensure that we remain a nation of unity, one in which strength is forged from rich cultural diversity through a common language, I urge my colleagues to join me in cosponsoring House Joint Resolution 81, the English language amendment to the Constitution, designating English as the official language of the United States.

IN MEMORY OF W.O. COOPER, PAST NATIONAL PRESIDENT OF THE DISABLED AMERICAN VETERANS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. PICKLE. Mr. Speaker, this country recently lost one of its great civic leaders—a pillar of the civic community of the cities of Austin and Dallas and the State of Texas, and an outstanding spokesman for our disabled veterans—William O'Brien Cooper, known to those close to him as "Bill." He died recently in Paris, France, at the age of 81.

In recent years, Bill Cooper lived in my district in Austin, TX, and he was just as active and effective a leader as he was in earlier years with the Dallas and Texas Junior Chambers of Commerce, when he served as president of each group. He loved to take part in youth projects, like the establishment of a summer camp for predelinquent boys.

Bill's service to his Nation began, like many young men of his day, immediately after the attack on Pearl Harbor. Bill enlisted in the Tank Corps of the U.S. Army, serving with the 12th Armored Division from 1942 to 1946. His service earned him the Bronze Star, France's Medal of Liberation, and numerous World War II campaign medals.

When the war ended, Bill became interested in the needs and problems of war veterans and their dependants. He provided great assistance to World War II vets through his work with the Federal Government in veterans, housing, and reemployment programs, serving in the Southwestern States of Arkansas, Louisiana, Oklahoma, and Texas for 4 years before entering private business.

Through his business career, Bill continued to work on behalf of veterans, especially the disabled. He held positions of leadership at the local, State, and national levels in the Disabled American Veterans, becoming its national commander in 1960. Under his leadership, new emphasis was placed on broadening the range of services available to disabled veterans and their dependants. Through the efforts of Bill's administration, the DAV veterans service grew to be one of the most outstanding programs of its kind in the Nation.

The past national adjutant general of the Disabled American Veterans, Denvel D. Adams, credited Bill Cooper not only with the organization's success but it's very survival. "Bill was one of the generals that led the DAV out of the throws of bankruptcy" when the DAV was on the brink of financial ruin, Adams said. Upon learning of Bill's death, past national commander Billy Kirby described Bill as "a man who was everything the DAV stands for, a true gentleman. He never once sought to get anything out of the DAV. He only sought to give what he could give, how he could best serve his fellow man."

Following his tenure as national commander of the DAV, Bill was chosen by the U.S. Department of State to become the Director of the Agency for International Development to the Sudan, a position he held until 1967. For his efforts with the Agency, Bill was honored by the Sudanese on numerous occasions for his personal contributions to the economic development of the country.

Bill continued his lifelong work on behalf of veterans and earned worldwide recognition while serving as Secretary General of the World Veterans Federation from 1967 to 1976. The Federation includes associations of war veterans, former resistance fighters, deportees, prisoners of war, and war victims from 49 countries on 5 continents. Under Bill's leadership, the Federation worked to promote the interests of all people disabled by war.

For his important contributions as WVF Secretary General, Bill was inducted into the Order of Orange-Nassau, one of the highest honors the country of the Netherlands can bestow. During Bill's induction into the Order, the Dutch Secretary of State for Foreign Affairs described Bill as "a man who not only advocated but translated into his daily life the principles of freedom, peace, and human dignity."

Mr. Speaker, from a personal standpoint, I have lost a dear and loyal friend. Bill Cooper and I were not only good friends when it came to veterans matters, we were close personal friends.

For the last 15 years or so, Bill lived in Austin and was active in civic and political affairs. He never let up on his activities, carrying on with the vigor of a much younger man and remaining extraordinarily loyal to his friends and his causes. Somehow you knew that Bill Cooper would always be there to do something for you or for a good cause—not just waiting to be asked, but taking the initiative ahead of time.

Mr. Speaker, Bill Cooper's death is an inestimable loss to veterans in this country and around the world. I have visited his family: his wife Lucille of Austin, TX, his son, Don, and daughter-in-law, Eva, of Alexandria, VA, and two grandchildren, Paul and Stephanie. I feel a very personal loss with the passing of this remarkable, warm and kind man.

BUSH ADMINISTRATION REFUSES TO ENFORCE ANTI-APARTHEID SANCTIONS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. BRYANT. Mr. Speaker, yesterday, President Bush welcomed to the White House, Nelson Mandela, Deputy President of the African National Congress. Today, Mr. Mandela addressed a joint session of the U.S. Congress.

Yet it is ironic that—almost 4 years after the enactment over President Reagan's veto of the Comprehensive Anti-Apartheid Act of 1986—the Bush admninistration, like the Reagan administration before it, continues to refuse to enforce the sanctions required by law against the racist apartheid Government of South Africa.

A year ago, I became aware of the fact—in spite of explicit language in the Anti-Apartheid Act that "no iron or steel produced, or iron ore extracted, in South Africa may be imported into the United States"—that the Reagan and Bush administrations had consciously permitted 1.8 billion pounds of iron and steel products to enter the United States from South Africa in just the first 2 full years of the law.

Not just the failure, but the conscious refusal of the Reagan and Bush administrations to enforce the sanctions with regard to iron and steel contained in the Anti-Apartheid Act was exposed in an excellent series of articles by Kenneth F. Bunting of the Fort Worth Star-Telegram.

Some of the South African steel that the Bush administration says is not covered by Congress' absolute ban—you see the Presi-

dent and his agents say that Congress did not mean what it said in the law—is destined for a bridge over the Houston Ship Channel at Baytown, TX.

The third largest suspension bridge in America and the largest single project ever undertaken by the Texas Department of Highways and Public Transportation will, if the use of the 11 million pounds of South African steel approved for import by the Bush administration is permitted, be a monument to racism.

Many of us in the Congress cosponsored the Comprehensive Anti-Apartheid Act of 1986 and enacted it over President Reagan's veto to send a clear and unquestionable message to the Government of South Africa that the American people do not approve of, will not condone, and will no longer economically support the racist apartheid system which oppresses 26 million South African blacks like Nelson Mandela.

The Bush administration's failure to enforce the letter of the law muddles that message and minimizes its impact at a time when United States policy should be—as Nelson Mandela told the Congress and the American people today—to increase economic and political pressure on South Africa, rather than relax it. The nonracial democratic government demanded by the Anti-Apartheid Act—and nothing short of that—must continue to be our requirement for easing the sanctions.

Sadly, the Reagan and Bush administrations found every conceivable loophole in the Anti-Apartheid Act to avoid enforcing fully the sanctions against South Africa.

Where there were no loopholes—as in the case of the absolute ban on all iron, steel, and iron ore products from South Africa—the Reagan and Bush administrations invented loopholes so big you could bring in enough steel from South Africa to build more than 100 Astrodomes.

Although Kenneth F. Bunting of the Fort Worth Star-Telegram deserves credit for breaking this important story of the Bush administration's failure to enforce the South African steel sanctions, Dan Stets of the Philadelphia Inquirer has done perhaps the most definitive reporting on the Bush administration's refusal to put teeth in the sanctions designed to help end apartheid in South Africa.

As we can still hear the powerful words of Nelson Mandela, I call to the attention of my colleagues and the American people the impressive account reported by Dan Stets: Doing Business With South Africa: Loopholes Hobble U.S. Sanctions.

[From the Philadelphia Inquirer, May 13, 1990]

DOING BUSINESS WITH S. AFRICA: LOOPHOLES HOBBLE U.S. SANCTIONS

(By Dan Stets)

On an October day almost four years ago the senator from Indiana rose in the middle of a torrid Capitol Hill debate to address his colleagues.

"We are dealing with a tragic situation," said Republican Richard G. Lugar. "People are being killed. . . . We are against tyranny, and tyranny is in South Africa."

Riding the tide of that sentiment, the Senate voted, 78-21, to override President Ronald Reagan's veto of legislation imposing economic sanctions.

Congress meant the sanctions to demonstrate that there would be no more business as usual with the ruling white "tyranny" in South Africa.

Nearly four years later, they have demonstrated a lot less than that.

Congress thought it was stopping the flow of U.S. oil to South Africa.

Almost 19 million gallons of U.S. petroleum products have arrived in Durban since 1986.

Congress thought it was putting an end to the U.S. import of South Africa steel.

Eleven million pounds of South African steel is being used to build a bridge near Houston.

Congress thought it was stopping textile imports.

More than 182,000 tons of textile products have arrived from South Africa since 1986.

Congress thought it was banning the shipment of U.S. guns and ammunition to South Africa.

Since then U.S. manufacturers have shipped 53 tons of arms and ammunition to Cape Town—bound, they say, for Zimbabwe.

Congress thought it was banning the import of food from South Africa.

Americans have eaten 1,187 tons of lobster tails and enough tuna to fill 113 million cans, all shipped from South Africa since 1986.

The sanctions passed by Congress have scarcely put a dent in the volume of trade between the United States and South Africa.

In 1985, U.S. companies did $3.28 billion in business with South Africa. In 1989 they did $3.19 billion. The United States is South Africa's third-largest trading partner.

Why did the sanctions turn out to be a paper tiger?

First, the law was compromised from the start by the vague language in which it was cast. And second, neither the Reagan nor the Bush administration aggressively enforced it.

In almost four years, only three violations have been successfully prosectued.

"The Reagan-Bush administration has never been truly supportive of sanctions against South Africa," said Rep. John Bryant (D., Texas). "What they have done is attempt to avoid enforcing them by writing regulations which are far outside the permissible scope of the law."

Both advocates and adversaries of the sanctions law agree that its impact has been far less than many in Congress anticipated.

"The House bill that I introduced was taken by the Senate and watered down," said Rep. William H. Gray 3d. "Certain loopholes and general statements were made which left a lot of room for interpretation."

The Phiadelphia Democrat said he believed the loopholes had been exploited by successive Republican administrations not enamored of the law.

"Over the last four years, it is very clear that the Republican administrations . . . tried every possible way to get around the law," Gray said.

Perhaps, said John A Davies, South African consul in New York, some members of Congress expected too much of their law.

"If you can't topple the government of Cuba in [more than] 20 years, how do you expect your sanctions on South Africa to have any effect, beyond the side effect of putting people out of work?" Davies said.

TUNA

The sanctions law says:

"No article that is suitable for human consumption, that is a product of South Africa may be imported into . . . the United States."

A tuna has no home but the sea.

Just ask the U.S. Customs Service.

Because of that Customs Service ruling, enough tuna has been shipped to the United States from South Africa to fill 113 millions 6½-ounce cans.

Customs decided that the tuna is not really South African because it comes from international waters off South Africa.

The first land the tuna sees is South African, but that does not matter. The tuna is shipped from South Africa, but that does not make it a "product of South Africa" according to a Customs Service ruling.

A key to the ruling: The tuna is caught by Taiwanese fishermen.

This is how the ruling came about.

Star-Kist Foods realized that the anti-apartheid sanctions threatened a vital source of its tuna. The giant tuna company feared that the law could be read to prohibit the import of tuna from Cape Town.

"That act was a lot of concern to us." said Malcolm E. Stockwell, general manager of purchasing for Star-Kist, which is a division of H.J. Heinz Co. of Pittsburgh.

Star-Kist hired James P. Walsh, a Washington lawyer who used to be general counsel to the Senate Commerce Committee.

Walsh received a reply from Gerald J. McManus, acting assistant customs commissioner, which noted a shortcoming that would prove a major stumbling block in the enforcement of the anti-apartheid act. Nowhere did the law define "product of South Africa."

Without that congressional guidance, McManus was left to define it on his own, in accordance with other laws administered by his agency. He decided that under those laws the tuna would not be defined as a South African product.

Star-Kist was allowed to keep importing the tuna because it was caught by Taiwanese—not South African—fishermen.

"There is always an issue about what is a product in fisheries," Walsh said in a recent interview. "What happens frequently is that fish is transshipped around the world, but it basically remains the product of the catching nation. Frequently, Customs get confused about whose product it is."

Before passage of the law, Star-Kist used to buy fish from South African fishermen, Stockwell said.

"Since the law was passed, we have not touched their fish," he said.

Now, he said, Star-Kist only buys fish caught by Taiwanese vessels fishing far out at sea.

How does U.S. Customs know that Star-Kist does not import tuna caught in South African waters or by South African fishermen?

It takes the company's word for it.

That is the answer time and again when it comes to enforcement of the sanctions. The Customs Service does not have enough people to adequately enforce the law, according to a recent study by the General Accounting Office, Congress' investigative arm.

Star-Kist's tuna is frozen and placed in cold storage in Cape Town. The storage areas are bonded warehouses, so, technically speaking, the fish does not enter the customs territory of South Africa.

Then it is shipped aboard a Japanese vessel to Puerto Rico, where the slabs of fish are transformed into the hockey pucks

of tuna that fill familiar cans on grocery shelves across America.

Since passage of the sanctions law, Star-Kist has imported 45 million pounds of tuna from South Africa. That is enough tuna to fill about 44 million cans.

Once Star-Kist got the approval, Bumble Bee Seafoods of San Diego felt free to continue importing tuna through South Africa.

Bill Woods, who supervises procurement for the tuna company, said Bumble Bee also bought exclusively from Taiwanese fishermen who operate off African shores.

"The only port in the area that has cold-storage capacity to consolidate the loads is Cape Town," Woods said. "That's where the vessels discharge their catches. It is then picked up by refrigerated vessels for transportation to Puerto Rico."

Since 1986, those ships have collected 70 million pounds of Bumble Bee tuna from the South African port. That's enough tuna to fill about 69 million cans.

In fact, since Congress passed the sanctions bill, records kept by Piers, a shipping data base owned by the Journal of Commerce in New York, indicate that the amount of tuna arriving in the United States from South Africa has increased dramatically.

Altogether, 116,352 tons of seafood were imported from South Africa to the United States between 1987 and 1989.

But the tuna did not really come from South Africa, the Commerce Department says: It came from the sea.

LOBSTER TAILS

The lobster tails have South Africa written all over them.

No Taiwanese fishermen are involved. No one claims they come from international waters.

They are caught in South African waters by South Africans.

The ruling that exempted tuna from the sanctions law does not apply.

But 1,187 tons of South African lobster tail have been shipped to the United States since Congress passed the anti-apartheid law.

Illegally?

No. Another Customs Service ruling makes legal the import of South African lobster tails.

It is a question not of nationalities or international waters or where the lobsters land. It is, the Customs Service ruled, a question of flags.

Though the lobsters are caught by South Africans operating in South African waters, they are processed on board ships that fly foreign flags—primarily those of Panama and the Cayman Islands, a British colony.

That means that after a lifetime as a South African lobster, the crustacean changes citizenship when it breaks the water's surface.

To justify the ruling, Customs officials went back 20 years to a 1966 case involving fish caught off the coast of Africa by Greek fishermen.

Some of the fish was processed ashore. Some of it was processed aboard Greek ships. Was the fish Greek or African?

Customs ruled that the "country of origin" was the country whose flag flew on the processing vessel.

That same ruling was applied four years ago when Robert L. Follick, a New York lawyer who specializes in customs law, asked whether the sanctions law banned the import of South African lobster tails.

"The ruling merely restated a position that customs had been administratively following for some 20-odd years," Follick said. "There is nothing novel in this result."

Specialty Seafoods of New York is one of the companies that imports frozen fish and lobster tails from South Africa.

"It is foreign product that is landed in South Africa in bond, then imported," said Al Stella of Specialty Seafoods. "It has been coming in for many years."

In 1986, the White House got a "wake-up call" on the matter of apartheid.

"We have an opportunity to provide a moral wake-up call for our President, who doesn't understand the issues," said Rep. Gray, the Philadelphia Democrat.

That wake-up call was a resounding vote in both houses to override Ronald Reagan's veto of the sanctions law.

It was a wake-up call that foes of apartheid might have delivered to several presidents since 1960, when the massacre of 69 blacks in Sharpeville by South African police opened the world's eyes to the problem of apartheid.

By 1960, the rigid system under which six million whites now rule over 24 million blacks was 12 years old.

Under apartheid, the white minority controls most of the land and the economy. Blacks are denied a right in national elections that Americans take for granted—one man, one vote.

The United Nations reacted to Sharpeville with a resolution demanding an end to apartheid. The United States took no such action.

Two years after Sharpeville, the United States criticized the use of sanctions and challenged their effectiveness.

Ten months later, Adlai E. Stevenson, then ambassador to the United Nations, denounced a proposed arms embargo against South Africa.

"The application of sanctions in this situation is not likely to bring about the practical result we seek," Stevenson said.

When other nations fought for sanctions, the United States defended South Africa. It vetoed U.N. Security Council attempts at a mandatory trade embargo in the 1970s and at a mandatory oil embargo in the 1980s.

And when Congress, outraged over decades of White House inaction on the plight of black South Africans, passed the Comprehensive Anti-Apartheid Act 1986, it in was swiftly vetoed by Reagan.

Congress reacted with equal swiftness to override him.

"Whether sanctions work or not is not the issue at all," Sen. Ernest F. Hollings (D., S.C.) said as the Senate completed the override. "It's about your values as a people—and that's one you don't hesitate on."

Values aside, have the sanctions worked? In this watershed year that has seen the release of Nelson Mandela, John Davies of the South African consul's office says no.

"People say that things are changing in South Africa because of sanctions," Davies said. "That is completely untrue.

"The process of change, the process of political reform, began long before the sanctions were imposed," he said. "In the years subsequent to the act, apart from the past six months, there were practically no reforms."

And, while the new law was the toughest measure ever enacted by the United States against South Africa, it still was pretty limited.

"The thing to remember about the Comprehensive Anti-Apartheid Act is that it is by no means comprehensive," Davies said. "It excludes the majority of trade between South Africa and the U.S.

"Most of the [pre-1986] trade was minerals, most of which are not included—gold, diamonds, vanadium, platinum. Those things between them form the bulk of the trade anyway," he said.

Davies was wrong about gold. It is sold by a government agency, and the law bans all trade with South African agencies.

But he was right about the other minerals, particularly those that the United States decided it had to have for defense reasons.

As to the other trade, Davies said, "by and large, we have managed to find alternative markets."

The Japanese and West Germans moved quickly to take advantage of the business opportunity, emerging as South Africa's leading trade partners.

"Nobody would deny that sanctions, in the global sense, have had an impact on the economy simply because of the fact that they undermined confidence in South Africa," Davies said. "That has led to the inability of South Africa to raise capital abroad."

The sanctions law prohibits new investment by U.S. companies in South Africa, and another congressional action has had more far-reaching impact. In 1988, Congress eliminated U.S. tax credits for taxes paid in South Africa.

That action and continuing public pressure from within the United States had led more than 170 U.S. companies to withdraw from South Africa since 1985. the value of the rand, South Africa's currency, has fallen by more than half since 1986.

"The inability of the country to raise new investment abroad had the serious consequence of preventing the economy from expanding," Davies said. "Apart from that, the sanctions have very little impact."

TEXTILES

The law says:

"No . . . textiles . . . that [are] produced or manufactured in South Africa may be imported into the United States."

Men's wear. Infant wear. Women's wear.

Fabrics.

Cotton.

The textiles continue to come.

A total of 182,789 tons have arrived from South Africa since 1986, according to a review of Piers' shipping records.

House of Nations in New York City received 10 tons of boys' jeans from South Africa in January of last year when the freighter Hazelbank arrived from Durban.

A call to the company in New York shed little light on whether House of Nations knew there was a prohibition against importing textiles from South Africa or whether the goods originated in South Africa.

"I don't know who you are, and I am not giving out any information. It's that simple," said the man who answered the phone at House of Nations. He declined to give his name.

The owner of another New York City clothing firm—Darby Classics—said he took great pains to obey the sanctions law.

Peter Oswald said he traveled to Swaziland, a landlocked country bordered on three sides by South Africa, to be certain that his order for flannel shirts was being filled there.

The 68 tons of shirts would be shipped from Durban, but he wanted to be sure that they weren't manufactured in South Africa as well.

The recurring question—when is a product from South Africa not South African—is particularly troubling to businesses that want to deal with other countries in the region, according to a senior Treasury Department official.

The official, who agreed to be interviewed only on the condition that his name not be used, said there were cases when produce and textiles simply passed through South Africa from adjoining landlocked countries.

Why does the Customs Service label them as South African imports?

A mistake, the official said.

"What Customs has found in most of these cases is that the country of origin is incorrectly shown," he said.

But a Customs Service spokesman said it was very difficult for his agency to catch people determined to circumvent the sanctions law.

"You are talking about millions of shipments a year coming from all over the world," said Edward Kittredge. "I would suppose it is not hard to hide something. We have to depend on people dealing honestly."

How does the Customs Service enforce sanctions-law restrictions?

A General Accounting Office report concluded, ". . . its enforcement primarily consists of ensuring that documentation on all imports from South Africa contain . . . required [approval]."

In other words, the Customs Service simply reviews the paperwork submitted by companies whose business involves South Africa.

The Commerce Department says it is pursuing possible violators.

"There are several investigations going on about illegal export of petroleum products to South Africa," said Bill Arvin, a supervisor with the department's Office of Export Enforcement.

Have the Reagan and Bush administrations turned a blind eye toward the exports?

"It is not so much being allowed as it is just not being caught," Arvin said.

Actually, there have been three.

Two people have pleaded guilty and a third awaits trial for attempting to ship 38 anti-tank-missile guidance components to South Africa.

A Connecticut couple received three years' probation, and their two South African partners got six months in jail for plotting to smuggle 8,000 South African pistols into the United States.

The only American to receive a jail term was a New York man who imported four jet engines from South Africa. He was sentenced to three months in jail and a $100,000 fine. His company was fined $1 million. The engines were worth $5 million to $6 million.

CONSUMER PRODUCTS

Try the Pizza Hut or Kentucky Fried Chicken. Fill up with Mobil. Have a Coke, a bowl of Kellogg's Corn Flakes, a dab of Heinz catsup. Shoot a roll of Kodak film. Pick up some Eveready batteries and a bottle of Johnson & Johnson baby oil. Drive a Ford.

Sounds like America?

It's South Africa today.

The U.S. sanctions, targeted at such specific products as oil, steel and food, were not designed to cripple the day-to-day consumer economy of South Africa. And they haven't.

Scores of products that seem to define the American marketplace are available in South Africa.

Sanctions may have helped kill off foreign investment and driven down the value of South African currency, but they have done little to change the shopping habits of South Africans.

Businesses have found countless ways to satisfy the letter of the sanctions law without depriving South African consumers of products many hold dear. And when the market-place has felt the influence of anti-apartheid pressures, more often than not an American company has voluntarily changed its way of doing business.

Often the brand name has been changed or the price is higher.

Kodak, for example, no longer ships its film to South Africa. But the film remains widely available. Wholesalers simply buy the film from suppliers in the Middle East and Australia, passing it on to South Africans at higher prices.

Many shops carry Heinz catsup. But it is made by the H.J. Heinz Co. of Canada, a subsidiary of the Pittsburgh firm, and imported by South African merchants.

Other products retain their American brand names, but are manufactured in South Africa under licensing arrangements.

In some cases, American companies have divested by selling their assets to South African buyers, who continue to market the same products.

General Motors, for instance, sold its assets to South African investors, who formed Delta Motors. Delta manufactures the very same cars that GM once made, using components brought from GM.

IBM sold its local assets to a South African company. The local firm imports and sells IBM computers. The Ford Motor Co. sold its assets to the South African Motor Corp., which still manufactures the "Ford Sierra," a model Ford makes and sells in Europe.

Coca-Cola moved its syrup plant to neighboring Swaziland, selling its South African assets to locals. They formed the National Beverage Services Co, to license bottlers who keep South Africa supplied with Coke.

Tune in to *Dallas, thirtysomething, Designing Women, Wonder Years and Murphy Brown.*

No problem in South Africa.

State-run television runs current episodes of those and other popular American TV shows.

Johannesburg has a video rental shop on virtually every corner, and the counters are piled high with recent American films.

Movies—*Born on the Fourth of July and Driving Miss Daisy*—arrived in South Africa within months of their debuts in New York.

Almost four years after Congress imposed sanctions, South Africans have struggled with the political and psychological impact, but in the marketplace they have barely paid the price.

IRON AND STEEL

The law says:

". . . *no iron or steel produced in South Africa may be imported into the United States.*"

The third-longest suspension bridge in America will arch into the sky just west of Houston. Only the Verrazano Narrows and Golden Gate bridges are longer than the 4,100-foot steel span that soon will carry traffic over the Houston Ship Channel.

On South African steel.

Eleven million pounds of it.

It slipped through a Reagan administration loophole—a ruling by the Customs Service that the sanctions law did not address unassembled bridge sections.

The ruling that created the loophole produced screams of outrage from Rep. Bryant, a member of the House Energy and Commerce Committee, which has oversight responsibility for the Customs Service.

It is a big loophole.

Steel and iron can be fashioned into thousands of products. The Customs Service ruled that the sanctions law only covered 15 types of them, Bryant said.

About 900,000 tons of South African iron and steel—worth more than $350 million—flowed into the United States in 1987 and 1988, Bryant said.

He wrote to Treasury Secretary Nicholas F. Brady to complain, pointing out that nearly half of the imports were pig iron, which clearly was banned under Treasury Department regulations.

"The Treasury Department's failure to enforce the letter of the law muddles the message and minimizes its impact at a time when U.S. policy should be to increase economic and political pressure on South Africa, rather than relax it." he wrote Brady.

The Bush administration defended its ruling at a congressional hearing in February.

Herman J. Cohen, assistant secretary of state for African affairs, said iron and steel were being allowed into the country because of the "legislative history" of the act.

Cohen said that history—including the debate on the floor of the Senate—suggested that Congress envisioned a ban mirroring that of the European Economic Community.

The EEC does not ban all iron and steel products.

If it was not banned in Europe, the Reagan administration ruled, Congress did not intend to ban it here.

Enter the prefabricated steel for the Houston channel bridge.

Bryant said the administration's position was outrageous.

"The law absolutely bans all iron and steel from South Africa after Dec. 31, 1986," he said. "No exceptions are permitted."

OIL AND PETROLEUM PRODUCTS

The law says:

"*No crude oil or refined petroleum product . . . may be exported to South Africa.*"

South Africa has half the world's gold.

South Africa has 12 percent of the world's diamonds.

But it has none of the world's oil.

Turning off the spigot that poured oil into South Africa seemed like the quickest way to undermine its Westernized economy and get the attention of its white leaders.

The Arab oil producers thought so when they announced an embargo in 1973; the United Nations thought so when it approved an embargo in 1979, and the U.S. Congress through so when it voted sanctions into law.

South Africa still has plenty of oil.

Tankers heavy with crude oil sail into Durban almost daily; delivering as much as 3.9 billion gallons of oil a year.

The South African government refuses to discuss oil imports, but a study by an independent shipping research group based in the Netherlands has determined that most of it comes fom Arab countries that ignore the various embargoes.

A study of Piers' shipping records since the sanctions were imposed shows that U.S. companies have stopped open shipments of crude oil to South Africa.

But petroleum-based products are another matter.

U.S. companies have shipped almost 19 million gallons of petroleum-based products to South Africa since 1986.

And most of those shipments have the explicit blessing of the U.S. government.

The products largely are lubricant additives, vital to the machinery of industry and transportation.

Congressional sponsors say they intended a broad ban on such exports, but the Commerce Department has determined that the sanctions law applies to just 49 of the hundreds of variations of petroleum products.

It is difficult to put a precise value of the U.S. petroleum-based products that have gone to South Africa since 1986, but industry analysts estimate they have been worth more than $190 million and perhaps as much as $760 million.

Made in large part from crude oil, the additives give lubricating oil the ability to prevent automobile motors and industrial machinery from overheating.

"Without the additives, your car's engine would burn. The oil would just burn up," said John P. Bye, an industry analyst from Provident National Bank in Philadelphia. "It is an engineered product that is vital."

In other words, the additives keep the engines of South Africa running smoothly, the very engines that Congress had hoped to silence when it passed the sanctions law.

The red, white and blue flag of Liberia fluttered from the stern of the tanker that steamed into the South African port of Durban one September afternoon last year.

There was nothing Liberian about its cargo.

The tanker Stolt Excellence carried more than 300,000 gallons of oil additives manufactured by two American companies. It had taken on the $3 million cargo in Houston three weeks earlier.

In Durban, the additives would be blended with other petroleum products to make lubricating oil.

A petroleum-based product manufactured by a U.S. company and dispatched to South Africa from a U.S. port.

A violation of the sanctions law?

"We are fully in tune with the United States government on this business of South Africa," said Joseph I. Rue, company secretary at Lubrizol Corp. of Wickliffe, Ohio.

The second company that had cargo aboard the Stolt Excellence agreed.

"These are not petroleum products as is commonly accepted. These are additives," said Paul Murphy, a spokesman for Caltex Petroleum Corp., a joint venture of two major U.S. oil companies, Chevron Corp. and Texaco Inc.

"You are talking about petroleum being an ingredient in the product," he said in a telephone interview. "The phone I am using is a petroleum-based product in a sense."

That's the critical question: What is a petroleum product under the sanctions law?

Both company records and a top executive of Lubrizol indicated that the additives it shipped to South Africa were manufactured primarily from crude oil.

John Bye, the industry analyst, said the additive "is not a direct oil product, but it is made from chemicals which are made from oil."

Caltex and Lubrizol did not ship the material without making sure they had the permission of the U.S. government.

"According to the Commerce Department's own definition of petroleum products, and in light of advice we received from product engineers and inside and outside counsel, we concluded these were clearly not petroleum products," Murphy said.

Murphy is right. Under Commerce Department regulations, the shipments to South Africa are legal.

Are those Commerce Department regulations a reflection of what Congress had in mind when it passed the sanctions law?

"If it is a lubricating additive and it is based on petroleum, then the intent of the law is that it would be covered," said Robert Brauer, special counsel to Rep. Ronald V. Dellums, (D., Calif.), one of the chief sponsors of the Anti-Apartheid Act.

The 300,000 gallons of oil additives that the Stolt Excellence delivered to Durban for Lubrizol and Caltex in September reflected the extensive business the two U.S. companies do with South Africa.

Shipping records indicate that Lubrizol has been the prime U.S. exporter of petroleum products to South Africa since 1986, sending dozens of shipments of additives each year.

Since the sanctions went into effect, Lubrizol has shipped 12.5 million gallons of petroleum-derived products worth at least $125 million to South Africa.

Caltex, the second-largest U.S. exporter of petroleum products to South Africa, has shipped 3.3 million gallons worth at least $33 million to South Africa since 1986.

But another big company said the law changed its way of doing business.

"We stopped because of the passage of the law," said John C. Lord, a spokesman for Mobil Corp.

Lord said Mobil believed that the law clearly prohibited the export to South Africa of specialty oil products, including lubricating oils and additives.

Its exports to South Africa dwindled to almost nothing after passage of the law.

FOODS

The law says:

"No agricultural commodity, product, byproduct [or] . . . article that is suitable for human consumption, that is a product of South Africa may be imported into the . . . United States. . . ."

The food from South Africa keeps coming.

Coffee, tea, fruits, tobacco, alcoholic and nonalcoholic beverages.

More than 40,000 tons of food and tobacco have been imported from South Africa since 1986, according to shipping records.

Those imports were valued at $4.3 million in 1988 alone, according to statistics compiled by the Commerce Department.

The food imports—which have dropped considerably since 1986—are something few people want to talk about or own up to.

Those who will talk generally say that the food simply passed through South Africa on its way from another African country to the United States.

Still, there are some puzzling cases.

Take the canned pineapple concentrate shipped from South Africa to Y.S. International of Miami.

Pineapples are grown in several African countries. South Africa is the continent's leading producer and ranks eighth in the world.

Shipping manifests show that Y.S. International received 20 tons of pineapple concentrate—588 containers full—on Nov. 11, 1987. The pineapple came from Durban to Savannah, GA, aboard a Panamanian ship, the Gacka.

"I don't think I have ever handled a shipment from South Africa," said John Southby, owner of Y.S. International in a telephone interview.

Southby, who said he knew nothing about a pineapple shipment, described his firm as a forwarding company that serves various importers.

"Basically, we don't import anything," he said.

Then there's a company called Rohde & Liesenfeld of New York City.

The company received a shipment of 260 tons of tobacco that arrived in Baltimore aboard a freighter, the Virgo, on Oct. 17, 1987. The tobacco came from Durban, according to shipping records.

Although his company imports tobacco, import agent Steve Rofaf said he did not believe Rohde & Liesenfeld ever imported tobacco from South Africa. And if it did, he said, it certainly did not own the tobacco.

"We are just a broker and freight forwarder," Rofaf said. "The merchandise would not have been ours."

Then there is coffee.

General Foods received a shipment of 2.5 million pounds of coffee from South Africa.

General Foods sells coffee under the brand names Maxwell House, Yuban, Sanka and Brim.

The coffee did come from South Africa, according to General Foods spokesman Cliff Sessions. But, he said, it was grown in Uganda.

"It left Uganda on a ship named the Merchant Principal on Sept. 26 [1989]," Sessions said. "It went to Durban, South Africa. For some reasons, the coffee was transferred to the Columbine at Durban and left there Sept. 25."

Again, the Commerce Department accepted the paperwork as sufficient evidence that the shipment was not a "product of South Africa."

ARMS

The law says:

"No item contained on the United States Munition List . . . may be exported to South Africa . . . for use by the armed forces, police, or other security forces of South Africa or for other military use."

The guns are not really going to South Africa. Like the tuna and the lobster and the clothing and the coffee, they are just passing through, according to the U.S. companies that ship them there.

About 53 tons of U.S. small arms and ammunition were shipped to South Africa between 1987 and 1989, according to shipping records.

The guns were bound for Zimbabwe, South Africa's landlocked neighbor, the gun manufacturers said.

"Indeed, the shipment was made," said John R. Falk, of Olin Corp. in Stamford, Conn. "However, South Africa was strictly an intermediate stop. It was consigned to Zimbabwe. It was one of several shipments to Zimbabwe."

The shipping records show that Olin sent pistol and rifle ammunition from its Winchester division in Illinois to Cape Town last year.

To prove that his company had not violated the law, Falk produced a copy of Olin's export declaration, which showed that the company had shipped 9,000 pounds of ammunication to Harare, Zimbabwe, through an intermediary in Cape Town.

Shipping records indicate that Jonas Aircraft & Arms of New York City sent 1,588 pounds of ammunition, four cases of pistols and several crates of rifles to a consignee in Cape Town in 1989.

"We don't export anything to South Africa," said Jeff Steinemann, a salesman for the company. "We sell to Zimbabwe, and its gets passed through South Africa. We would never get an export license to South Africa. That is an impossibility."

All of the shipments to Zimbabwe, formerly known as Rhodesia, are approved by the State Department, he said.

"We are a company that has been in business over 50 years, and we intend to stay in business as long as we can," Steineman said. "There is no reason to do anything that is not legal or appropriate."

Steineman declined to produce export documents that indicated the weaponry had gone to Zimbabwe.

The documents he provided the Commerce Department were sufficient to satisfy the agency.

Once again, the government relied solely on paperwork submitted by the exporter as proof that the shipments went on to Zimbabwe and did not violate the sanctions law. Both companies—Olin and Jonas—were judged by the Commerce Department to be well within the law.

Nelson Mandela has been freed and the wheels of change are clearly turning in South Africa.

Do sanctions matter any more?

Yes, says Anglican Archbishop Desmond Tutu, who says they must continue until there are signs of "irreversible change."

Yes, says Mandela, who is calling for stiffer U.S. sanctions to speed the reforms.

Yes, says Rep. Gray, who recently met with South Africa President F.W. de Klerk in Pretoria.

"I think it is very clear that . . . Reagan and Bush have allowed an interpretation of the Anti-Apartheid Act which gets around the spirit if not the letter of the law and provides economic fuel for the political engine of apartheid," Gray said.

"That must stop," he said.

He predicted that if the South Africa government did not move to abolish apartheid quickly, Congress would put real teeth in the sanctions law.

Gray, who recently led a congressional delegation to South Africa, said de Klerk had told him that he favored majority rule and was willing to negotiate with black leaders to achieve it.

"If there is no substantive negotiations [toward majority rule]," Gray said. "I think you may see Congress in this session seek to close all of the loopholes in [the law.]"

NATIONAL URBAN LEAGUE MARKS 80 YEARS OF PROGRESS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. RANGEL. Mr. Speaker, on the occasion of its 80th anniversary, I would like to pay tribute to the National Urban League.

The National Urban League is a proud and strong coalition of Americans committed to racial equality. For eight decades, it has been committed to equal opportunity and the creation of an open, integrated, and pluralistic society. The league has met many challenges and has led the way with its multiracial and nonpartisan approach.

Born of hope and necessity in 1910, the Committee on Urban Conditions Among Negroes dared to promote interracial cooperation at a time when racism was rampant in America. Since then the National Urban League has been providing education and jobs to minorities across the country. Its history begins with the great migration northward of millions of African Americans leaving the South early in the century. It spans the race riots, World War I, and the building of jobs and families during the twenties. During the Great Depression the National Urban League helped African Americans fight for survival. During World War II, it created national programs to ease racial tension and increase production in the defense industries. After the war, efforts were focused on jobs, training, and housing.

A period of bridge-building followed. The National Urban League built links to businesses, foundations, governments—the power structure of America—to finance programs in education and employment for the disadvantaged. During the turmoil and tragedy of the sixties and seventies, the National Urban League was there as a healer and a helper.

Its presidents became national leaders with their message of hope. Their names are familiar to millions of Americans—George Edmund Haynes, Eugene Kinckle Jones, Lester B. Granger, Whitney M. Young, Jr., Vernon E. Jordan, Jr., and John E. Jacob. These leaders provided hope and inspiration, as well as jobs and education to millions of African Americans.

The National Urban League now has affiliates in 114 cities, representing 34 States and the District of Columbia. With the national headquarters staff and affiliates, the Urban League has more than 2,500 staff members, and over 30,000 volunteers. The league provides programs of direct service to a million people each year. Its name has always been synonymous with employment, training, and job placement. The league also undertakes advocacy, research, and special projects which have a positive impact on the lives of additional millions. Last year it worked in the educational interest of over 2.5 million African-American public school students. Every year it raises more than $50 million in support of skills training, career counseling, and job placement.

John E. Jacob, the league's current president and chief executive officer, is a leader who looks to the future as well as remembers the past. Mr. Jacob has developed an alliance with business and government to help negotiate power from the powerful and give it to the powerless. He has called for a new Urban Marshall Plan to investigate our cities and our people. He has called for black/white parity by the year 2000.

I say it is a dream worthy of a great leader and a great organization. This dream could come true if the White House and Congress were to implement the necessary steps. The ending of the Cold War gives the opportunity to bring this dream to reality. During the coming decade, over a third of the new entrants in the labor force will be composed of minorities. Mr. Jacob has stated, that "This offers an opportunity to integrate the disadvantaged into the economic mainstream. To ignore this opportunity could prove devastating to America, producing a country where people need jobs and jobs need people—without a match between the two."

The National Urban League also plays a leading role with its publication, "The State of Black America", the most authoritative annual document examining the conditions of African Americans. The book addresses the disparities in American society and gives insights into the solutions for achieving justice and equality. It is used by members of Congress and the other influential leaders. And while "The State of Black America" may not be sufficient to change the course of national events, each year it reaches out to the conscience of the country.

The National Urban League annual conference includes provocative addresses by American leaders and scholars. It is called the Nation's foremost forum on race relations.

In this new decade, the league is calling for an Urban Marshall Plan, an intense national effort to educate and employ all of our people, to achieve parity, and to eliminate racism from our national life.

For its vision, leadership and exemplary work, I salute the National Urban League and ask you to join me in support for this outstanding organization.

ADDRESSING CONGRESS IS AN HONOR WHICH HAS BEEN DIMINISHED

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. DELAY. Mr. Speaker, I am saddened to learn that the Members of this body are diminishing the value of the honor of addressing the U.S. Congress.

Today, Mr. Nelson Mandela addressed a joint meeting of Congress. He is not a head of State nor has he been victorious in his struggle. This is unprecedented in the history of our Congress. What's more is that while all of us in Congress want to see an end to apartheid, I doubt that any of our Members would support the kind of governmentally oppressive society that Mr. Mandela would seek to impose.

Keep in mind that Mr. Mandela still actively supports Marxism. Keep in mind that Mr. Mandela still refuses to renounce violence and terrorism. Keep in mind that Mr. Mandela still publicly praises and admires tyrants and terrorists like Fidel Castro, Mu'ammar Qadhafi, and Yasser Arafat.

In fact, Mr. Mandela recently stated that he supported the terrorists who in 1954 attempted to assassinate Members of Congress right here in the hallowed Chamber of the House of Representatives. He praised the terrorists at a rally in New York City and considered them to be comrades.

As recently as 1 month ago, Mr. Mandela declared that Cuba "stands head and shoulders above" the other nations of the world "in its love for human rights and liberty."

Fidel Castro is a tyrant and despot and Mr. Mandela's praise of him is greatly misplaced. It is precisely for this reason that five Cuban-American mayors in south Florida have de-

nounced Mr. Mandela for refusing to condemn the human rights violations in Cuba.

The United States of America and the U.S. Congress have been a beacon of leadership for the principles of liberty, democracy, and human rights for more than 200 years.

Mr. Speaker, make no mistake, Nelson Mandela is no friend to liberty, democracy, or human rights. He is the deputy president of the African National Congress. Their support for liberty and freedom is feigned. The ANC has announced their own constitutional guidelines which call for democracy, the freedom to form political parties, and freedoms of association, thought, worship, and the press.

However, all of these rights are subject to the direct approval of the ANC which could ban any and all state or social institutions which do not "take active steps to eradicate, speedily, the economic and social inequalities produced by racial discrimination." Further, the ANC would reserve the right to ban any or all groups which the ANC believes is ethnically or regionally exclusive.

The ANC does not respect nor defend human rights. Our own Defense Department has appropriately labeled the ANC a terrorist organization. Nelson Mandela even admitted last April that it is a practice of the ANC to torture and execute its own members when they try to exercise freedom of thought and not obey the directives of the ANC. In fact, throughout Nelson Mandela's 27 years of imprisonment, Amnesty International never recognized him as a political prisoner because he was not jailed for his political viewpoints, but for his personal involvement in violent activities.

Mr. Speaker, by allowing Nelson Mandela to address the U.S. Congress without renouncing violence, terrorism, or tyranny we have done an extreme injustice to all of those persons who have come to address Congress before him.

I deeply regret the decision to invite Nelson Mandela to speak at a joint session and cannot participate under these circumstances.

AROOSTOOK MENTAL HEALTH CENTER PREVENTION PROJECT IN TOP TEN

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Ms. SNOWE. Mr. Speaker, I would like to take this opportunity to congratulate the Aroostook Mental Health Center prevention project on being named as an "Exemplary Prevention Program" by the Office of Substance Abuse Prevention. The center's project was recently designated as one of the 10 best in the country and they will be honored this Friday here in Washington for their work.

Substance abuse is a growing problem which has not limited itself to the city streets but has infiltrated our small towns as well. Therefore, the need to educate our youth to the dangers of drug and alcohol abuse is just as important in Madawaska or Caribou as it is in New York City or Miami.

In Caribou and Madawaska the Aroostook Mental Health Center is running a community-based program to help our children, their families, and the community win the fight against drugs. The prevention project's main goal is to develop a community-based substance abuse prevention planning and service model which can be used throughout Aroostook County.

The project provides a spectrum of services such as prevention, education, outreach, intervention, and treatment. With the involvement of parents and community organizations the project provides prevention training and consultation, peer education programs for high school students, and training for parents to help their children develop coping skills. The project also cosponsors a number of preventon activities aimed directly at young people. These programs include Just Say No Clubs, Up With Teens, Buddy System, Aroostook Teen Leadership Camp, and Phone Friends.

Substance abuse is not just an individual problem, it is a community problem because it affects all of us. The Aroostook Mental Health Center's prevention project provides an excellent model for other communities to follow, as it seeks to engage the entire community in the war on drugs.

I hope my colleagues will join me in congratulating the center and the other nine winners for their work on the front lines. They are leaders in our efforts to reach the goal of a drug free America.

JOE WRIGHT—CIVIL RIGHTS LEADER

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. EDWARDS of California. Mr. Speaker, it is with deep regret that we learned of the death at age 37 of Joe Wright on June 15.

I first came to know Joe Wright in the course of years-long effort among Members of Congress and other civil rights activists to overthrow the 1972 convictions of the Wilmington 10, nine black men and one white woman, unjustly convicted for allegedly setting fire to a grocery store in Wilmington, NC. Joe was one of the Wilmington 10 defendants.

Civil rights leaders nationwide charged that the arrests and trials were racially motivated, designed to punish the 10 defendants because of their civil rights activities. Joe Wright and the other nine members of the Wilmington 10 became the rallying point for other civil rights activities throughout the South.

Many Members of Congress protested what were generally considered to be political prosecutions. Amicus briefs were filed by Members of Congress demanding new trials.

In 1978, after questions were raised about the fairness of the trial, Gov. James B. Hunt, Jr., released Joe on parole. He was already on study release at North Carolina State University.

In 1980 the U.S. Court of Appeals for the Fourth Circuit reversed the convictions, ruling unanimously that the defendants had been denied a fair trial. North Carolina officials chose not to seek new trials. Joe was recently successful in obtaining an expungement of his record, representing himself before the North Carolina courts.

Upon his release, Joe came to Washington, DC and served on my staff from 1979 to 1981. He did a fine job, made many friends on the Hill, and was active in civil rights activities.

One could well understand if Joe had emerged from his imprisonment and unjust conviction an embittered man. But such was not the case. He left prison determined to work to make our legal system a better one. During his time on my staff and since, his dedication never faltered. At the time of his death, Joe was looking forward to attending law school in the fall, and to putting to work for social change the skills and knowledge he expected to master there.

All of us who knew and loved Joe Wright were saddened by news of his passing. He was a major hero of the national civil rights movement. He was also a gentle and kind man who leaves a legacy of warmth and affection.

HONORING NEW MEXICO FOREST SERVICE EMPLOYEES

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. RICHARDSON. Mr. Speaker, earlier this month 13 outstanding Forest Service employees in New Mexico were honored by Agriculture Secretary Clayton Yeutter. These superior public servants deserve congressional recognition as well.

The Forest Service staff of the Ghost Ranch Living Museum in Abiquiu received the Superior Service Award for Education and Information. Those honored include Group Leader Albert Martinez, and group members Frances Quintana, Higinio Romeor, Wilfred Sandoval, Benjamin Romero, Fidel Martinez, Elfido Lopez, Robert Garcia, Pacomio Salazar, and Bennie Morales.

These outstanding workers are being recognized for exceptional performance in maintaining, improving, and staffing the Ghost Ranch Living Museum to provide a superior center for environmental education and natural resource information.

The men and women of the Ghost Ranch Living Museum do not have an easy task. They educate visitors using only what mother nature has provided—native, flora, fauna, and habitat. That means putting bobcats, eagles, and lobo wolves in truly natural settings—right down to the sense of space and right down to the type of soil that a specie expects to find. Metal bars don't fool a bear; traditional cages are strictly out.

Every year 100,000 visitors navigate potholed two-lane highways to see the exhibit just north of the village of Abiquiu. Once there, they learn the history of a particular native animal, the habits and traits of that specie, how an enclosure answers that animal's needs. Visitors get guided tours, interpretive talks, and individual attention.

Much of what the staff teaches is not written in books. To find out, for example, why a bobcat prefers one perch to another or that a wire fence is more pleasing to a migratory elk's sense of space than a concrete wall,

employees spend long hours talking to specialists and walking through the habitat to note its most minute details. Literally and figuratively these men and women go the extra mile.

Rodney Replogle, an audio visual production specialist in New Mexico, also received a Superior Service Award for Education and Information. He is being recognized for his contribution for improving the public awareness of the natural world through his audiovisual exhibits and displays.

Tom Pettigrew, a highway engineer, received a Superior Service Award for Mangement Effectiveness and Improvements. Mr. Pettigrew's long-term superior service truly relfects the Forest Service mission of caring for the land and serving people.

Louis Romero, a management analysis officer, also received a Superior Service Award for Management Effectiveness and Improvements. Mr. Romero is being recognized for his work in promoting humanistic policies leading to innovaton, productivity, and job satisfacton among Federal employees.

These 13 superior public servants work under the direction of Regional Forester Dave Jolly who also deserves credit for providing a positive work environment for his employees.

Mr. Speaker, I urge my colleagues to join me in congratulating and honoring these outstanding men and women who have excelled in public service.

SOUTH GATE, CA—ALL-AMERICAN CITY 1990

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. HAWKINS. Mr. Speaker, I would like to take a moment to congratulate the community of South Gate, CA, for its recent acceptance of the 1990 All-America City Award.

This award, which is presented by the National Civil League and sponsored by the Allstate Foundation, was bestowed on the city of South Gate on June 9, 1990. South Gate was chosen from among a pool of 113 applicants in recognition of civil excellence and an ability to improve civic infrastructure. An "All-America City" is described as one which has "worked together to identify and solve common problems."

It is refreshing to see communities that have overcome internal differences succeed in the implementation of programs that revitalize the economy and open opportunities to the residents. South Gate takes pride in three specific programs that have helped the city get back on track after several years of decline: The South Gate Youth Commission, the Smokestacks to Shortstacks—a program of economic recovery and development—and the program entitled Bridging the Cultures. These programs are a direct result of efforts to redevelop community prosperity following various plant closings in the 1970's and 1980's. The 1970's also brought a shift in the ethnic makeup of the area, creating various culture and social problems.

To combat this array of dilemmas, volunteers offered time and money. In 1988 South Gate joined five surrounding cities to address unemployment and job training, using funds from the Federal Job Training Partnership Act. With the help of local government and schools, efforts were made to reach out to the new Latino population. The South Gate Youth Commission also made great inroads with programs ranging from career days to antigang and antidrug rallies.

Strong leadership and community willingness are two key factors in achieving success at revitalization. These elements made it possible for the city to be named "All-America 1990" and it is with pride that I commend the community of South Gate for a remarkable effort.

SHOULD WE FUND THE NEA?

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. ALEXANDER. Mr. Speaker, Congress is engaged in an important debate over the future of Federal support for the arts.

Should we continue to fund artistic endeavors?

If we subsidize the arts, what kind of projects are worthy of Government support?

It is a serious question which deserves serious debate.

All of us are acutely aware of the controversy swirling around the National Endowment for the Arts, a controversy sparked by two exhibits—those of Robert Mapplethorpe and Andre Serrano. I am sure that each of my colleagues has received letters and phone calls from constituents who are concerned with the kind of projects paid for, in part, by their tax dollars.

Let me be clear about my position on this issue. While I have not seen the works involved in the NEA controversy, information that I have reviewed convinces me that I would find them extremely disgusting and vile.

For that reason, I voted last fall to discipline the NEA for funding activities which constituted an affront to the moral and religious sensibilities of the vast majority of the American people.

When the House of Representatives considered the 1990 appropriations bill containing funding for the NEA, I voted with the majority to cut Endowment funding. That vote sent a very clear message that the NEA violated its statutory authority in permitting the works in question to be funded.

In response to congressional concern about these exhibits, the final version of the bill prohibits the NEA from using any funds to support obscene art or art without "serious literary, artistic, political or scientific value."

I believe that these restrictions are justified, that taxpayer dollars not go to fund what most would see as pornographic. Artists would still be able to create works of their choosing, but when they depend on Government funds, they will have to abide by these regulations.

They would make the choice.

On the other hand, I disagree with some of my colleagues who have suggested that instead of addressing this controversy, we should simply cut out all funding for the NEA.

If they are successful in their efforts, it would destroy an agency which has funded many deserving activities and projects.

In my home State of Arkansas, NEA funding has supported many worthwhile projects—projects which have touched the lives of thousands of citizens.

Symphonies, traveling art exhibits, and local arts organizations have received NEA money. In my State, it would be difficult—if not impossible—to continue these programs if NEA ceased to exist.

If we permitted the destruction of this program because errors in judgment allowed the funding of two objectionable exhibits, we would be epitomizing the saying about throwing the baby out with the bath water.

I would urge that we not eradicate support for the arts simply because this is a difficult problem to resolve.

I believe that Federal support for the arts should continue—under appropriate guidelines, guidelines intended to prevent the type of problems NEA has recently encountered.

The arts are an important part of an overall education. They should not be neglected.

WALKING THAT LAST MILE WITH NELSON ROLIHLAHLA MANDELA

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. DE LUGO. Mr. Speaker, I wish today to pay tribute to a man who, through his own dogged persistence, endurance, and sheer will to survive, has become not only a symbol of the struggle for social and economic justice in his own land of South Africa but—just as importantly—has also become a giant symbol upon which all of humanity can focus and gain needed inspiration in the too often lonely and difficult struggle for human rights for all men.

This man—Nelson Rolihlahla Mandela—through his own life's struggles, setbacks, and triumphs has come to embody the very essence of his own words, namely, that "To deny any person their human rights is to challenge their very humanity."

The names in the South African struggle may not be familiar to us all: Sharpeville, Soweto, Crossroads, Biko. But we find common ground and empathy when we remember our own Selma, Birmingham, Little Rock, and King.

However, lest we settle for the cheaper satisfactions of mere sentimentality, Nelson Mandela is quick to continually remind us that, amidst the cheers, handshakes, and falling tickertape that have followed in his wake—as he makes his way across the United States—"We have yet to arrive at a point that we can say South Africa is set on an irreversible course to a democratic, united, and nonracial country."

Until this happens, he reminds us, we must not lift the economic sanctions we now impose on that land. "We would be fools," he adds, "to think that the road ahead is without obstacles."

So, Mr. Speaker, to us Americans who have given him and his people such a joyous, tumultuous welcome here he says, "Together with you, we have made Government listen. We have broken the walls of South African jails."

"Victory is in sight," he tells us. "We ask you to walk this last mile with us. Nothing will stop our date with destiny."

Mr. Speaker, the people of the U.S. Virgin Islands join me in paying well-deserving tribute to this man who has given us a means of alliance with his people's struggle for freedom that is totally consistent with our national history, our national goals, and our national ideals.

COUNT MILITARY PERSONNEL STATIONED OVERSEAS AT THEIR HOME OF RECORD

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. GOODLING. Mr. Speaker, today I rise in strong support of H.R. 4903 which would direct the Census Bureau to count all overseas military personnel at their home of record for purposes of reapportionment. For years I have advocated census practices which will ensure the right of all citizens to be accurately counted in the census.

Our military personnel stationed overseas were finally included in the census process last year. However, they will be counted at their last place of stateside residence, not where they call home.

It only makes sense that our overseas military should be counted in the place they call home and the place they visit on holidays. Our overseas military personnel usually do not consider the location where they were last stationed home.

For purposes of congressional representation, areas which do not have military bases should not have their one person-one vote right diluted by skewed methods of census counting.

I was very pleased to join my colleagues, and especially my colleague from Pennsylvania [Mr. RIDGE], as a cosponsor of this bill to ensure our overseas military personnel are counted where they belong, at their home of record. Service personnel declare their home of record at the time of enlistment and it follows them throughout their tour of service.

Remember, on the floor of the House 2 years ago, this body rejected the current approach of counting military personnel at their last place of stateside residence.

I would like to thank the chairman, the distinguished gentleman from Michigan [BILL FORD], for bringing this legislation to the floor. I would also like to thank the Subcommittee Chairmen Mr. SAWYER and Mr. RIDGE for their leadership on this very important issue.

I urge the rest of my colleagues to join in support of this legislation to count overseas military personnel at their home of record, which is only fair and just.

MANDELA SPEAKS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. TOWNS. Mr. Speaker, I rise today to applaud the incredible achievements of Nelson Mandela. Today, in a joint session of the Congress, Nelson Mandela becomes only the third private citizen in the history of this country to address this body.

It has been said that great men are not born, but are shaped by their circumstances. To paraphrase, the great American poet, Maya Angelou, diamonds are created by pressure. Nelson Mandela is South Africa's most precious diamond.

In South Africa, the apartheid regime exerts incredible pressures on the lives of black people. However, leaders such as Stephen Biko and Nelson Mandela have emerged despite this pressure. Instead of bending to the regime or breaking under its pressure, the great leaders of South Africa have become stronger and strengthened the black community.

Thirty years ago Nelson Mandela was tried and convicted for treason. By an ironic and peculiar twist, the apartheid regime concocted the ludicrous argument that it was treason to encourage the black citizens of South Africa to band together and protest to seek redress from their Government. In South Africa, the rule of law is sometimes replaced with a rule of thumb.

The Government opened fire on the group. Scores of people were killed in the Sharpesville massacre. Nelson Mandela and over 20 other defendants stood trial and were convicted and given a life sentence. This may seem like a strange turn. However in South Africa, such twists and turns are to be expected.

Following his conviction Nelson Mandela went to prison at Robben's Island. He spent 27 years at Robben's Island. However, while he was there he did not give up the desire to be free or the belief that he be free one day. His wife, Winnie Mandela, a tireless and courageous woman, spoke on his behalf to the outside world. I salute her tireless devotion to the struggle to obtain freedom for her country and her husband. It was through her outspoken and diligent efforts that the world was not allowed to forget this noble man. Together, they fought to gain the release of all those who had been unjustly imprisoned. At 70, he was released. After 27 years, this modern Jonah came out of the belly of the whale unscarred and still able to speak eloquently and without malice about the evil that had held him there for so long.

Today, Nelson Mandela spoke to a joint session of the U.S. Congress. His words resounded with a message which was soft-spoken yet unequivocal: Apartheid must end.

LONG-TERM WATER AND POWER NEEDS OF INSULAR AREAS, H.R. 2567

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of H.R. 2567 legislation which will, in part, authorize funding for the Bureau of Reclamation to study the long-term water, sewer, and power needs of the insular areas of the United States. This legislation passed the House of Representatives on June 14, 1990.

Mr. Speaker, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands comprise this country's overseas territories. None of them has water, sewer, or power systems which would be considered adequate by residents of the 50 States. The recent devastation of the Virgin Islands by Hurricane Hugo, and a similar devastation of the Manu'a group of islands in Samoa in 1987, and again in February of this year have brought to the forefront the inadequacy of the water and power systems in our insular areas. The residents of these areas frequently receive contaminated or inadequate supplies of water and power. When hurricanes come, and they come frequently, there is no drinkable water, no power, and no sewage treatment.

The results of the study this bill authorizes will assist the Federal and territorial governments in determining the magnitude of the problem and the steps that should be taken to correct it.

Mr. Speaker, I had intended that this statement be inserted in the RECORD during the debate of the bill on the floor but it was inadvertently not submitted.

Also, Mr. Chairman, the amendment to the bill would not have been possible without the support of Mr. GEORGE MILLER, chairman of the Water and Power Subcommittee and Mr. RON DE LUGO, chairman of the Territorial and International Affairs Subcommittee of the House Committee on Interior and Insular Affairs. Congressman BOB LAGOMARSINO and BEN BLAZ also contributed significantly to the final product.

THE WAR AGAINST ENERGY WASTE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. MARKEY. Mr. Speaker, I am pleased to join today with my friend and colleague, Mr. MACHTLEY, in introducing legislation that will bring more effective energy conservation to the Department of Defense.

Among all Government agencies and branches, the Department of Defense has been the most successful in achieving energy savings. In fiscal year 1989, the Department accomplished a 5.4-percent reduction in total

energy costs, over halfway to the Federal Energy Management Improvement Act's goal of a 10-percent reduction by 1995. Yet there are signifcant savings still available, especially in light of the fact that the Defense Department's energy budget exceeds $2.7 billion a year—representing over 80 percent of the total Federal energy budget.

At present, there is little reason for a military base commander to begin a program of investments in energy conservation or renewable energy technologies. Under current regulations, if there are savings in energy costs, they may be used only during the fiscal year for which they were appropriated. An accurate evaluation of savings, however, is not usually available until the end of the fiscal year, leaving no time for use of the savings.

In pursuing conservation, base commanders must divert the precious resources of money and staff time to new plans and strategies. These strategies will, in the end, save the Government a considerable amount of money. Yet those stationed at a base currently see no benefits from their efforts. These individuals are on the frontline of the war against waste, and they should be compensated for their role.

Our legislation rewards a base commander and his base by passing along a share of the accomplished savings during the succeeding fiscal year for morale, recreation, or minor military construction. This share would amount to one-third of the savings, with one-third going to the Treasury for deficit reduction, and the remaining one-third targeted for further energy investments at the base.

This bill enables Congress to in one stroke help the environment, reduce the deficit, and boost morale among our Nation's military forces taking the lead in energy conservation.

Mr. Speaker, it is my hope that this proposed legislation will be well received by my colleagues, and I urge them to join Mr. MACHTLEY and me in support of this legislation.

HONORING RONNIE AND MICHAEL BECHER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. ENGEL. Mr. Speaker, this past week in my home State of New York, two outstanding members of the community, Ronnie and Michael Becher, were honored as shomrim, guardians of Jewish unity. I would like to join the group that bestowed this honor, CLAL Yisrael—the National Jewish Center for Learning and Leadership—in recognizing the accomplishments of the Bechers.

Michael Becher's experiences as a Holocaust survivor have driven him to dedicate his efforts to political action. He is a member of Salanter/Akiva/Riverdale Academy Board of Trustees, and he serves on the national executive committee of the American Israel Political Action Committee and on its New York board. He and his wife are both members of AIPAC's National Senate Club.

Among her many activities, Ronnie volunteers her time as executive vice president of the Hebrew Institute of Riverdale and is coordinator of the Woman's Tefilah of Riverdale.

The honor of being named shomrim reflects a devotion and commitment to Jewish causes and organizations. Through their work with Jewish groups and many other community services, Michael and Ronnie Becher have shown true leadership and civic responsibility. I congratulate the Bechers and wish them many more years of good health and happiness.

TRIBUTE TO GOLDEN AGE SENIOR CITIZENS OF LOCAL UNION 1331

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Golden Age Senior Citizens of Local Union 1331, an organization that for the past 30 years has served the interests of retirees of L.T.V. Steel, formerly Republic Steel, in my 17th Congressional District of Ohio.

Founded in 1960 by Joseph Hallas, with the assistance of Harry Prislipsky, George Yaroscak, and George Vukovich, this seniors' organization has been a focal point for communal activity among retired L.T.V. steelworkers throughout the Mahoning Valley. Currently, the union proudly boasts 5,000 retirees in its membership, the largest such organization in the State of Ohio.

The present officers of the Golden Age Senior Citizens Local Union 1331 are: Fred Fortunato, president; Joseph Hallas, vice president; Joseph Carlini, secretary; J.R. Moore, financial secretary; Joe Ryzner, treasurer; Lena Costello, trustee; Dan Walters, trustee; Steve Garasic, guide; and Mary Walters, publicity.

Again, I would like to recognize the Golden Age Senior Citizens of Local Union 1331 on their 30-year anniversary. I am proud and honored to represent such a fine organization.

HONORING THE WAHCONAH REGIONAL HIGH SCHOOL STATE QUIZ TEAM CHAMPIONS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. CONTE. Mr. Speaker, I rise today to honor the Wahconah Regional High School quiz team, which recently won the High Q finals and became the Massachusetts State champions. Wahconah Regional High School is located in Dalton, a charming site in the Berkshire Hills, and a most praiseworthy educational facility.

High Q is a statewide scholastic competition involving over 100 Massachusetts public and private secondary schools. To attain a spot in the final championship, the team reigned victorious in both the quarter- and semi-final matches. It was only through the drive and dedication of this team that such a goal was attainable. The team managed to defeat Stoneham High School by a score of 480 to 440.

I am delighted when I think of the constructive way in which these students are growing and developing during these formative years. They have chosen to adopt positive leadership roles and that in itself deserves recognition. Winning the State championship in High Q is the icing on the cake.

My sincere personal praises go to the captain of the team, Michael Donahue, and the other members of the team, John Mason, Stephen Hamm, and Kara Louison. They each contributed significantly to the success of their team.

Mr. Speaker, I am very happy for and proud of the quiz team. Their exemplary performance deserves the highest commendation. I extend my most heartfelt congratulations to the Wahconah Regional High School quiz team and wish them continued success in their academic careers.

TRIBUTE TO THE GENERAL FEDERATION OF WOMEN'S CLUBS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize the 100th anniversary of the General Federation of Women's Clubs.

The General Federation of Women's Clubs truly has "a past to remember, a future to mold." Since its founding, the federation has brought together local women's clubs from around the country and throughout the world. It is admirable that all of their member clubs evolve around community improvement through volunteer service.

The GFWC's programs promote conservation, education, the arts, and health care planning here in the United States. Internationally, they promote educational and cultural exchanges.

The GFWC has made substantial achievements in our communities; 75 percent of our Nation's public libraries were established by this fine organization. They helped to establish kindergartens as part of the public schools for adults as well as reforms in the juvenile court system.

My praise in the federation's achievements could go on and on. The GFWC has proven time and again how much they have contributed to our society.

It is with great pleasure that I salute the 100th anniversary of the General Federation of Women's Clubs. I wish them continued success.

THE DISTINGUISHED CAREER OF CHIEF RONALD NELSON

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. DELLUMS. Mr. Speaker, I rise today to recognize Chief Ronald Nelson of the city of Berkeley's Police Department on the occasion of his retirement, and to draw attention of my colleagues to his distinguished record.

Chief Nelson has been the chief of police for Berkeley since 1982 managing a 300-person full-service department. It is important to note that many of the citizens of the city of Berkeley have a direct, proprietary interest in the functions and services of its police department, and the Berkeley police have undoubtedly had more sensitivity training sessions on the city's multiethnic and multicultural population than any other city of its size.

Before coming to Berkeley, Chief Nelson was city manager of the city of Compton, after having served as the assistant city manager of that city. He has also served as chief of police for the China Lake Police Division of the U.S. Naval Weapons Center, China Lake, CA, and as police commander with the Compton Police Department. He received his early training and experience with the Los Angeles Police Department, which he joined in 1956 as a police officer, advancing to sergeant, lieutenant I and then lieutenant II.

Chief Ronald D. Nelson received his bachelor of arts degree from Drake University, his master of arts degree from Pepperdine, and did additional academic work in sociology and public administration at California State University at Los Angeles, Loyola Marymount, Fort McClennan, California Institute of Technology, and California Polytechnic University. He is also credentialed by the State of California to teach and has taught at Cerro Coso Community College.

It is a pleasure to join with my constituents in recognizing Chief Nelson's work over the years and to wish him every success in his future endeavors.

NELSON MANDELA'S VISIT TO THE UNITED STATES

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. BLILEY. Mr. Speaker, today we marked a new era in the ongoing struggle against South Africa's apartheid government. We have been joined by a black leader of phenomenal spirit, a vocal activist in South Africa's most prominent black organizations, Nelson Mandela. Released from prison only a few short months ago, Mr. Mandela has continued his fight for the termination of South Africa's oppressive apartheid.

For 27 years, Mr. Mandela's voice was heard from behind the bars of a prison cell. Though sometimes that voice was muffled, Mr. Mandela managed to continue his campaign against the white minority government. And in the end, his patience and determination has begun to prevail.

Mr. Mandela is making this monumental trip in the name of furthering his goal. He has come to encourage this country to continue to pursue economic sanctions against South Africa. It is those same sanctions demonstrated globally, that have kept the pressure on the Government of South Africa and brought the dynamic changes to which President F.W. de Klerk referred last month in Brussels. But those changes have not been comprehensive. The majority of the South African people have little if no political power at all. We must continue to pressure the Government in order to achieve that same goal of political freedom on which our country was founded. This year we have witnessed phenomenal changes in the political attitude of the global community. Is it not right to continue to encourage South Africa to make the same changes? To encourage the white minority government to allow the majority to have a voice in their government? I think so. Without continuing the pressure that we have maintained on South Africa's Government, the apartheid system will remain in place.

I congratulate Mr. Mandela on his persistence and his ability to lead his people to meet the challenges which will topple apartheid. I encourage him to continue his crusade through peaceful means, those same means promoted by Martin Luther King, Jr. The renunciation of a violent, armed struggle, and the persistent use of peaceful methods will ensure a continued commitment to his cause by the international community. I enthusiastically welcome him to this country and I wish him luck in his endeavors.

AN EXAMPLE OF AMERICAN GENEROSITY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. GALLEGLY. Mr. Speaker, I rise today to publicly express my deepest appreciation for the assistance given to a family in my district after one member of that family was seriously injured in the recent explosion aboard the U.S.S. *Midway*.

Robert "Shane" Kilgore, a fireman aboard the *Midway*, was one of 16 crewmen injured in last Wednesday's explosion. He is now being treated at the Brooke Army Medical Center at Fort Sam Houston, TX, and is receiving the best care possible.

I would like to thank the Navy for arranging accommodations for Fireman Kilgore's parents and other family members. I would also like to thank two public-spirited companies for their generosity. Continental Airlines agreed to fly the family from Los Angeles to San Antonio at no charge, and Prime Time Shuttle, an airport transportation company, provided free transportation for the family to Los Angeles International Airport. Those companies' quick and compassionate response was greatly appreciated by Fireman Kilgore's family and by myself.

Mr. Speaker, it is a great American tradition to come to others' aid in times of crisis. I am pleased to share with my colleagues this outstanding example of the spirit of compassion and caring that has helped make our country what it is today. I'm sure they join with me in thanking the Navy, Continental Airlines, and Prime Time Shuttle for their efforts, and in extending our prayers for Shane's recovery.

TRIBUTE TO JOHN PAUL McCLELLAN

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. BROWN of California. Mr. Speaker, I would like to ask my colleagues to join me today in saluting Mr. John Paul McClellan, who is celebrating his 50th year as a National Association of Letter Carriers [NALC]-AFL-CIO member. He was honored on Sunday, June 24, 1990, at a dinner in my congressional district.

As a card-carrying union member nearing my 40th anniversary with the I.B.E.W., I am in a position to appreciate the commitment John Paul has shown to the cause of working men and women everywhere. John Paul has served as president of NALC branch in my congressional district from 1968 through the present date. He formerly served as a District Ten officer in the California State Association of Letter Carriers.

Please join me in recognizing John Paul McClellan, who has led the fight for justice and dignity for America's letter carriers for half a century. We look forward to many more years of his outstanding contributions.

SANTEE COOPER HELPS PRESERVE THE LOGGER

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. TALLON. Mr. Speaker, I am pleased to note that Georgetown County in my home State of South Carolina has enacted a progressive program to protect loggerhead sea turtles. The county is the first in my State to pass an ordinance to minimize beach lighting during the turtle's nesting season. And, Mr. Speaker, I am proud that our State-owned utility, Santee Cooper, has volunteered to implement a public awareness campaign to encourage compliance with the new law.

The loggerhead turtle, which is our State reptile, is a threatened species in South Carolina. This makes the Georgetown County and Santee Cooper interest in protecting the turtles even more significant.

Georgetown County's ordinance will regulate artificial lighting along the oceanfront to safeguard female turtles and hatchlings during the nesting season, which lasts from May through October. Street lights, security lights or even house lights can disorient the turtles. They often confuse artificial light with the natural illumination of the ocean. And, rather than heading for the sea, they head farther inland

where they may be trapped in vegetation, hit by cars or eaten by predators.

Santee Cooper recognized the Georgetown County program as an important environmental effort, and I am pleased to say they did not hesitate to volunteer help. Santee Cooper organized and launched a public awareness campaign to notify the citizens and many visitors to the beaches of Georgetown County that care should be taken to protect the turtles. Santee Cooper is distributing free bumper stickers and light switch stickers to residents and visitors to encourage them to turn off beachfront lights after 10 p.m. during the nesting season. The utility is also assisting the county with shielding and screening artificial lighting along the oceanfront.

Santee Cooper's involvement in the turtle program is just the latest effort in a tradition of environmental concern. Throughout its 56-year history in our State, Santee Cooper has worked to preserve and protect the environment. Santee Cooper is known for its timber program, flood control, and protection of striped bass in its lakes. Santee Cooper has also been an innovator in areas of aquatic weed control, agricultural research, and the fight against acid rain.

It is encouraging to see the cooperation between Georgetown County and Santee Cooper on this important project. I am proud of the initiative taken to preserve this threatened species, and I commend the Georgetown County Council and the board and staff of Santee Cooper for their efforts to preserve our natural heritage.

MASS MAILINGS

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. STAGGERS. Mr. Speaker, today I have introduced legislation that would call for a public accounting, on a semiannual basis, of the extent to which mass mailings are made using the franking privilege. At the present time there is no coordinated reporting system. Although it is possible to obtain the information, it is not in a form readily accessible to the American public and taxpayers.

This legislation does not create a new limit on the number of mailings Members of Congress may send out each year. I, like a number of Members of Congress who have sent mailings sparingly during their tenure in office, am frustrated by Members who bemoan the number and costs associated with mass mailings, while at the same time are sending mass mailings.

Although there appears to be legislation that calls for new limits on the number of mailings, there is not, to my knowledge, a straight forward bill that calls for disclosure in the form of a semiannual report that records the number of mailings and the quantity of each of those mailings. It is my belief that the public wants to know how much mass mail is being sent and this legislation will answer that question.

Mr. Speaker, I urge my colleagues to join with me and support the right of the public to know about mass mailings.

TAMPA'S DESIGNATION AS AN ALL-AMERICAN CITY

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 26, 1990

Mr. GIBBONS. Mr. Speaker, I rise today to honor my hometown, Tampa, FL, which recently was named one of the Nation's 10 All-American cities by the National Civic League. With this award, the league recognizes cities that solve local problems through active citizen participation and cooperation.

The All-American City Award is the oldest and most respected community recognition program in the United States. Since its inception in 1949, more than 4,500 American communities have applied for the honor, but only 400 have been selected. Recipients are chosen for their success in bringing business, government, and citizens together at the local level to solve community problems such as economic decline, hunger, natural disasters, affordable housing, health care, homelessness, drugs, and aging.

We are proud of our fair city by the bay. Tampa is touted as the "next great American city" and has been selected to host the 1991 Super Bowl for its 25th anniversary celebration. The All-American City Award recognizes the many conscientious citizens and civic leaders who work together to make Tampa a great place to live.

Tampa's award was based on three innovative projects initiated under the leadership of our dynamic mayor, Sandy Freedman. First is "Paint Your Heart Out, Tampa." Through this program, thousands of volunteers, using donated paints and brushes, paint and clean up homes of low-income and elderly residents. This year, about 3,000 people painted more than 100 homes. Next, Tampa's "Peer-to-Peer" program helps stop code violations such as junk cars, overgrown yards, and deteriorating houses. City officials encourage community groups to recognize violations and send postcards to alert the owners about problems. Last the "Quick Uniform Attack on Drugs," or the QUAD Squad, is a special police force that focuses on drug dealers in inner-city neighborhoods. Officers are assigned to specific city quadrants, and carry beepers which citizens call to report suspected drug activities. Because of this program, response time and relationships between police and citizens have improved.

Mayor Freedman and her staff, especially Bob Harrell, Roger Wehling, Joe Huskey, Nick D'Andrea, Jr., Larry Canalejo, and Bill Doherty, deserve credit for these fine accomplishments. The Tampa Police Department, Lt. John Cuesta III and Sgt. John Garcia also deserve praise. Citizen volunteers like Margaret Vizzi, Doug Lobel, Tom Willett, Linda Hope, and Alice Kelly, as well as other political, business, and civic leaders, have earned high acclaim for their creativity and commitment. Their successful campaigns greatly aided Tampa's efforts to combat those problems familiar to cities throughout America.

My sincere congratulations to Tampa, a city for the 21st century.

HOUSE OF REPRESENTATIVES—*Wednesday, June 27, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, the gift of listening. May our ears be open not only to words we hear, but also to the feelings and attitudes of those to whom we speak. May Your still small voice, O gracious God, be heard in the quiet of our own lives and may Your voice of forgiveness and counsel be our standard and guide, our calm and our hope, now and evermore. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will recognize the gentleman from Texas [Mr. DELAY] to lead us in the Pledge of Allegiance.

Mr. DELAY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE THRIFT BAILOUT

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, last week the President held special meetings and organized a press opportunity here in Washington to discuss his administration's efforts on savings and loan prosecutions. Treasury Secretary Nicholas Brady, Attorney General Richard Thornburgh, and all 93 of our Nation's U.S. Attorneys attended.

From these people the American taxpayers deserve honest answers to the following questions. After all, it is our President, as well as our Nation's chief law enforcement officer, the U.S. Attorney General, that can provide the answers.

First, last year why were Federal courts in Texas only able to issue judgment orders against guilty thrift crooks for financial restitution to the taxpayers for less than 1 percent of the money they were owed? That is, they were only ordered to pay $2.6 million of the estimated $10.8 billion that the courts believe has been swindled. Less than 1 percent. What is wrong with the system?

Again, why had only $29,000 of this paltry $2.6 million actually been collected by the end of the year? As amazing as it sounds, only $29,000 has been recovered in the State of Texas, where most of the damages occurred. That is less than half of the average wage in this country in a year.

Why do 21,000 financial institution criminal referrals to the FBI remain unaddressed?

Mr. Speaker, the U.S. Congress cannot be responsible on a day-to-day basis for the prosecution of thrift criminals. Convicting criminals who have stolen the assets of savings and loans is the job of the Department of Justice. I am glad those who are in charge came to town, but let them get on with the job in the countryside.

GOVERNMENT WASTE

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, let us cut Government waste, not raise taxes. In light of our present situation, the budget crisis, it is crucial that every program be run as efficiently as possible and that every program serves vital national goals. The budget must be cut to the bare bones.

Why is it then, that America pours billions into international funds and programs that serve anything but the national good? Why has American economic development assistance so effectively rewarded wasteful and irresponsible economic policies in less developed nations? These programs have actually harmed economies of Third World countries by depressing local market prices. Furthermore, foreign aid has frequently created hostility toward America.

U.S. taxpayers are now committed to $30 billion in loan guarantees to the World Bank, in addition to America's annual contribution. Yet, the Bank repeatedly gives out loans which there is little chance of repayment, and are contrary to U.S. interests. Furthermore, the Bank is in danger of replicating in the international arena the crisis afflicting the U.S. savings and loan industry by overextending large loans to heavily indebted borrowers.

Frequently, these loans cover up for bad policies and corrupt governments. We do not have the reserves to squander on pointless charity projects. The crisis is here and now. Failure to address these issues of Government waste and mismanagement is the same thing as failing to govern at all.

BOOST AMERICAN PRODUCTIVITY, SIGN THE FAMILY LEAVE BILL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the Family and Medical Leave Act goes to the President today and I hope he signs it.

One of our Republican colleagues continues to oppose the bill, questioning why Americans should support European-style legislation. Why not?

Our economic system owes as much to a European, Adam Smith, as our social welfare system does to Europeans like Lloyd George, Pope Leo XIII, and Otto von Bismark.

The implication of our colleague's chauvinistic sneer, of course, is that European countries have family leave laws and, well, you know, those countries are socialistic and, worse, foreign.

The fact of the matter is that literally every major industrialized country in the world, including the United States, combines free enterprise and social welfare. Every one of these countries, except the United States, has a family leave law.

More importantly, family leave countries are moving ahead of the United States economically—in hourly wages, standard of living, and productivity. For example, the rate of GNP increase last year in Australia, Canada, France, West Germany, Holland, Italy, Japan, and Switzerland—all family leave countries—was higher than in the United States.

If President George Bush wants to help boost American productivity, he will sign the Family and Medical Leave Act.

THE PRESIDENT SHOULD SIGN THE FAMILY MEDICAL LEAVE ACT

(Mr. CAMPBELL of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL of California. Mr. Speaker, I ask the President to sign the Family Medical Leave Act. I am proud to stand up and urge that as a

Republican committed to conservative principles, committed to the free market.

The question is oftentimes raised that perhaps the Family Medical Leave Act would impede America's competitiveness. That is really not correct. In the 12 States that have some form of family and medical leave, the growth of small business has actually outstripped that in other States by over 20 percent.

But even for a moment if there were some cost, let me urge you please, Mr. President, to sign this bill out of a sense of compassion and fairness. Ending the barriers against women is right, and one of the principal barriers to the advancement of women in the workplace is that when they leave to have a child their job is not there when they come back.

I suggest that fairness is not anti-competitive. Compassion is not anti-competitive. Sign the Family Medical Leave Act. Make us proud to have an efficient economy and a compassionate one.

PRESIDENT BUSH WANTS A TAX INCREASE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, President Bush wants a tax increase. Make no mistake about that, President George Bush will raise taxes, Mr. Speaker, and I say as a Democrat, absolutely not.

Before anybody in this House or in the Senate should consider raising taxes, Congress should stop the foreign aid giveaway, cut the defense of other nations that are richer than we are and spending billions on it. Cut the fat at the Pentagon with a chain saw.

But the truth is we both know, both Democrats and Republicans are afraid to death because of the lobbies out there. So what do we do?

We will come back and pass more taxes on the American people. America does not need taxes. Congress needs a brain transplant.

I am saying here today the election is over. The President wants to raise taxes. The Republicans are going to raise taxes. Let them do it. After all, we know what it is all about. Just ask Michael Dukakis and Walter Mondale. They will tell us exactly the way it is out there.

STOP THE BICKERING AND GET ON WITH CLEANING UP THE S&L MESS

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, in the last few weeks I have had the displeasure of hearing some of my colleagues bickering about who is to be blamed for the savings and loan mess. Republicans blame the Democrat majority, and the Democrats try to blame a President who was not even in office.

Well, I have an idea that may sound strange to some of us. I believe the American people do not want to see us quarrel like children. They want to see us clean up this mess and punish those who were responsible.

We must remember that, for every moment spent blaming each other, a moment is lost that could be spent regulating and overseeing the bailout.

Mr. Speaker, it would be almost funny if it were not so serious. Congressmen who should be overseeing this bailout are instead spending their time positioning themselves to deflect the blame for the lack of supervision.

What a backward way of making policy. It seems to me that, if Members did their job, they would not have to position themselves to deflect the blame that comes their way when the job is not done right.

Mr. Speaker, the American people are realizing the scope of this scandal. It is time for the Congress to stop their name calling and get serious about cleaning up this mess.

ANY NEW REVENUES SHOULD COME FROM AMERICA'S WEALTHIEST

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, the President has indicated that we need tax revenues to pass a deficit reduction plan. Mr. Speaker, the question now is, What kind of tax revenues?

The fact is that over the last decade the people who have had increased wealth in this country are the very wealthiest, and the tax system is skewed in their favor. Rather than giving the wealthiest in our country another tax break through a capital gains tax cut that the President recommends, we should be changing the tax rates so that the richest pay more. That, Mr. President, has to be the focus of any new tax revenues.

AMERICA NEEDS THE FAMILY AND MEDICAL LEAVE ACT

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise to reiterate my support for the Family and Medical Leave Act, a bill which will provide the vast majority of American workers with the job security they have thus far been lacking.

The United States and South Africa are the only industrialized nations in the world that do not offer something like the Family and Medical Leave Act to their citizens. In other words, we are the only Nation on Earth that makes its people choose between their families and their jobs. During the past 25 years, the American work force has changed dramatically, and this has wrought an immense burden on our families. Two-thirds of mothers of children under the age of three work outside the home—in a nation where affordable, dependable child care is extremely difficult to find. In the tradition of legislation like the minimum wage, Social Security, and health and safety regulations, the Family and Medical Leave Act addresses an urgent social need—the need for our society to recognize that its citizens are people, as well as workers.

In addition, the bill strikes a balance between the needs of business and those of working families. It allows workers to take 12 weeks off—without pay—for family or medical emergencies, yet it permits employers to replace workers who have not returned after those 12 weeks. In a nation which prides itself in its family values, surely we can permit our citizens to be with their loved ones during times of illness, with their children in the formative months after childbirth.

I sincerely hope that the President will sign this family bill into law.

MILITARY AID TO EL SALVADOR

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, I urge you to support the Moakley-Murtha language as contained in the foreign aid appropriations bill, H.R. 4636. If enacted, we will significantly alter United States policy in El Salvador, a nation ravaged by a bloody, civil war for the past 10 years.

This bill will provide an incentive for peace, a strong inducement for the FMLN and the Salvadoran Government to finally negotiate a settlement to the war. Reducing military assistance by 50 percent will send a clear message to both sides that the U.S. Government favors negotiations for a permanent settlement to the war.

Despite past high levels of funding and increased military education and training by the United States Government, human rights abuses by the Salvadoran military have not been curbed. The Moakley-Murtha provision will compel the military to respect basic human rights. Since U.S. funding began in 1980, 70,000 people have been killed and thousands more tortured in ways too horrible to describe. Many of these deaths have

been attributed to the Salvadoran military. What is most horrifying to me is the fact that 11 of the 14 highest ranking military leaders, who have received training in the United States, now command troops responsible for massacres and other gross human rights violations. Clearly, the failure to place conditions or limits on military aid has been perceived by the military as a signal to increase their unwarranted arrests and harassments.

American taxpayers have spent $4 billion in the past 10 years to fund a military whose actions are often the very antithesis of democracy. The passage of the Moakley-Murtha provision would send a strong message to all facets of Salvadoran society that the United States will no longer tolerate such actions and, furthermore, it will demonstrate the U.S. Government's resolve to obtain a negotiated settlement. Let us stand firm in our resolve to end this war by supporting this provision.

□ 1030

THE DEFINITION OF TAX REVENUE INCREASES

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, make no mistake about it, yesterday the President crossed the Rubicon when he called for new taxes. But not surprisingly, some of the major people in the other party, the White House chief of staff, Mr. GINGRICH, the whip, said the President said nothing new. Well, the President's words were that tax revenue increases are required. I have here Webster's Dictionary. Every word is unambiguous.

If my colleagues do not understand what tax revenue increases are, I offer them this dictionary.

The President called for new taxes, even though the Republican Party may not like it. But there is a larger issue here. Mr. Speaker, that is, how is the President going to lead the country if he cannot lead his own party?

The bottom line is we cannot have a summit if the President says he says one thing, if then the chief of staff says he says another thing and the Republican whip says yet a third? We have a serious problem in this country about the deficit.

The Republican Party ought to step up to the plate and swing at the pitch. By denying the obvious, that the President knows and said we need new taxes, they are delaying any real summit that will bring the deficit down.

THERE WILL BE NO NEW TAXES

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, here is a batter at the plate who is not voting for any new taxes, because Democrats vote for taxes and Republicans do not.

You know, when I came here about 12 years ago, the Federal revenues coming into this body, into this Government, were about $450 billion annually.

You know something, because of the Republican Party and economic growth for the last 8 years, we have doubled the revenues coming into this Federal Government? Doubled them; they're over $1 trillion today.

Do you know why? Because of Republican policies.

This year alone, ladies and gentlemen, without even raising taxes a nickel, we will take in $82 billion in new revenues.

I challenge you on that side of the aisle, let us take most of that and apply it to the $150 billion annual deficit. We'll cut it in half.

You have heard about the peace dividend being bandied around this Congress. All these big spenders and the lobbying groups are just licking their chops to spend that money. You "ain't" going to get the chance because we are going to take whatever that peace dividend is, $15 or $20 billion, and we are going to apply that to what is left of the deficit. Then there is no need to raise taxes of any kind.

We are going to do what American business, American industry, and what the American people do: that is tighten our belts, live within our means, and have no new taxes anywhere, folks.

SUPPORT FAMILY AND MEDICAL LEAVE

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the Family and Medical Leave Act offers working families job protection when devastating illness strikes. It does not cost the Federal Government one dime. The cost to employers is minimal. And it takes full account of the needs of small business.

But the President says he will veto this bill. He says employers should have the option of providing family leave. Well, most workers do not have the option of supporting their families. Family members get sick. A parent ought to be there for his or her child. A government ought to make sure a worker can be.

We heard a lot of nice campaign pledges from this President last year. What is kind about losing your job because your child is sick? What is gentle about letting employers fire workers because they are trying to take care of their families?

This President says he supports traditional values. You bet he does—but they are the traditional Republican values that say, don't protect the workers, don't rock the business boat, don't do anything to help women in the workplace, and if bad things happen to good people in this country—tough luck.

If George Bush vetoes the Family and Medical Leave Act, the families of this country should put him on leave in 1992.

ONCE CONVICTED, S&L CRIMINALS SHOULD PAY THEIR DUE

(Mrs. MARTIN of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, today I am introducing tough sentencing legislation to make sure that once convicted, individuals responsible for stealing billions of dollars through shams, fraud, and embezzlement of our Nation's savings and loans go to prison and stay there. The lack of—or inadquate—prison sentences and restitution for depository institution fraud has for too long given culpable insiders and outsiders in the savings and loans business the message that "crime pays."

I applaud my colleagues who have introduced bills to make sure the Justice Department has the resources it needs to indict and bring to trial the crooks who have defrauded the American public and abused the system. My legislation would ensure that once convicted, the criminals pay their due.

Laudably, the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [FIRREA] passed last August expanded enforcement powers for the Justice Department. Civil penalties were increased up to $1 million. To most of the S&L criminals, however, this is small change. My bill would mandate that no less than 25 percent of the convicted individual's net worth—including so-called family trusts—would be paid for a civil infraction involving financial institutions.

My bill would make a 2-year prison term mandatory for a felon convicted of depository institution offenses. Let me assure you, this is needed. A Committee on Government Operations report details a case in which a senior official at a California S&L was convicted of embezzling $2.8 million and served only 67 days.

I urge all of my colleagues to join me.

There are honest savings and loans. Let us make the dishonest savings and loan felons pay.

LET US NOT INCREASE TAXES FOR THE MIDDLE-INCOME AMERICANS NOR CUT TAXES FOR THE RICHEST AMERICANS

(Mr. HERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERTEL. Mr. Speaker, today's paper reports the Republican administration wants to increase taxes for all Americans.

And yet, incredibly, the paper says the Republican administration wants still a cut in the capital gains tax for the wealthiest few in this country. It is not going to work this time. How did we get into this mess?

In 1981 President Reagan and the Republicans cut taxes for the wealthiest people in this country. Yet middle-income people have reduced incomes over this last decade.

Now we have a tripling of the national debt. The hypocrisy is unbelievable. It will not work; this House, this Congress will not vote for tax increases for middle-income Americans and a tax cut for the richest again.

It will not happen again.

DIRE NEED FOR FAMILY PLANNING IN ROMANIA

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the gentleman from Florida [Mr. LEHMAN] and I will offer an amendment this morning to the foreign assistance appropriation bill to provide $1.5 million for family planning in Romania.

Mr. Speaker, the need is great. The emergency there is a dire one. For 24 years the Ceausescu government did not permit contraception or abortion in that country and illegal abortion became rampant.

On the overthrow of that regime, one of the first acts of the new government was to legalize the individual's right to family planning and to abortion.

But since no family planning facilities were in place and had not been in place for 24 years, abortion is now being used as a birth control method and, Mr. Speaker, there are 100,000 abortions being performed every month.

The need for family planning services, for contraceptives is obvious. A local group was formed. They have invited in the UNFPA and the IPPF, who are on the ground operating in Romania today. They need our resources. They need $1.5 million, and they need it immediately.

There will be an attempt, Mr. Speaker, to turn this family planning issue into some kind of referendum on UNFPA and IPPF. I suggest to the Members that this issue is family planning, it is not abortion, but rather to prevent abortion.

Mr. Speaker, I would urge Members to support Lehman-Porter and to oppose the amendment offered by the gentleman from New Jersey [Mr. SMITH].

WHERE'S DICK?

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, tomorrow the Financial Institutions Subcommittee is holding hearings titled: "When are the savings and loan crooks going to jail?" Attorney General Dick Thornburgh has been invited to testify. I don't know if he will or not.

There is a series of popular children's picture books called "Where's Waldo?" Kids search the pages to find the tireless traveler, Waldo. Getting the Attorney General to attend these hearings is a lot like searching for Waldo. You never know where he will turn up, but it is likely to be where you least expect it. Tomorrow's other question could easily be "where's Dick?"

The American people want to see the S&L crooks in jail, no ifs, ands, or buts. The taxpayers have been sentenced by the crooks to 40 years of hard labor and forced to pay $500 billion as a result of the fraudulent operators. Until last Friday the Justice Department acted as if the chasing the crooks was nothing important.

On Friday, the President recognized what the rest of America knew—jailing savings and loan crooks needed a higher priority. He addressed the U.S. attorneys. Attorney General Thornburgh was given instructions to get moving after the crooks.

The Financial Institutions Subcommittee hearing tomorrow gives the Attorney General an opportunity to present Congress with the President's plan. I hope that he comes to the hearing tomorrow, so people can continue to ask "Where's Waldo?" rather than "Where's Dick?"

Mr. Speaker, it is time to put the S&L crooks in jail.

□ 1030

REDUCTION OF SPENDING IS KEY INGREDIENT TO DEFICIT REDUCTION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, during the decade of the 1980's, specifically between 1981 and 1988, we in Congress tinkered with the Internal Revenue Code 18 times. We reduced taxes significantly in 1981, and the other 17 times we mostly raised taxes. So in that decade, from 1981 to 1990, we reduced taxes by a net amount of a little over $1 trillion.

Some will say that accounts for $1 trillion of the addition to the national debt of $2 trillion in the decade of the 1980's. Perhaps that statement can be made. But the reality is that we increased the national debt in the decade of the 1980's from $1 trillion to $3 trillion, and if net tax reductions are responsible for $1 trillion of that, the only other answer is that the addition of the other $1 trillion was because of too much spending.

Since we are taxing ourselves at the Federal level of about 19 percent of GNP, a historic high in this Nation's history, the solution of the deficit problem is not raising new taxes, it is reducing spending.

Mr. Speaker, that is what Congress has to face, and that is the message I seek to bring to the House this morning and to the President of the United States.

THE GEORGE BUSH TAX HIKE

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, since George Bush's 1988 Presidential campaign, all he said about reducing our mammoth-size budget deficit was no new taxes. No new taxes. No new taxes.

Echoing up and down the halls of Congress last year were the words—no new taxes. And President Bush began the current budget process on the same note—no new taxes. That does not mean the President did not raise taxes last year. He did.

And that doesn't address the issue of how unfair the income and Social Security tax structure is in this country. For it is.

And never mind the budget calisthenics Congress had to go through, just to keep the Government operating: Moving deficit items off budget, including the Social Security trust fund in calculating Government revenues. President Bush meanwhile sat in the White House, whistling—no new taxes.

But that song has gone stale. Like dancing the samba in an hospital operating room, Mr. Bush's no new taxes pledge is no longer appropriate.

Yesterday, President Bush said he would raise taxes. His campaign promise was as empty as his ideas on how to balance the budget without increased Government revenues.

ACTION DEMANDED ON CLEAN AIR LEGISLATION

(Mr. BOEHLERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, it has been 34 days since the House of Representatives passed the Clean Air Act amendments, and yet we still do not have designated the House conferees to deal with our counterparts in the Senate to come to grips with this important legislation.

The President has provided the leadership. He initiated the action in July of 1989. Here we are, almost 1 year later, and we have not completed action.

Mr. Speaker, this is a historic opportunity for the Congress of the United States to deal with the very sensitive problems of acid rain, urban smog, and toxic emissions. The clock is ticking, the days are being marked off on the calendar, and yet it is 34 days without any action.

Mr. Speaker, I urge that you appoint the House conferees. Let us get on with the job of cleaning up the Nation's air.

TAXES

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, yesterday President Bush told us that tax increases will be needed to dig our country out of the massive deficit created over the last decade. But whose taxes? The Republicans have been full of tough talk about "no new taxes." Now they will start some tough talk about so-called fair new taxes. Maybe they will say we ought to have an across-the-board tax increase. But then they will turn around and cut capital gains for the rich. Maybe they will say we ought to restrict Social Security COLA's and raise gas taxes. But then they will hold the Social Security trust fund and the highway trust fund hostage to paper over budget deficits.

Mr. Speaker, it's time for America to really get tough and stand up to the rich and powerful in this country who have seen their taxes drop over the last decade from 70 percent to 28 percent, while their incomes have skyrocketed by 94 percent. It is time we stop sticking it to the poor and working people of this country, who have seen their incomes drop by 9 percent while their taxes have gone up by 3 percent. It is time that we have a little tax justice in America, and no more tax giveaways for the rich.

AN UPDATE ON THE SITUATION IN ROMANIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. WOLF. Mr. Speaker, Romania's recent Government-ordered violence by vigilantes against peaceful demonstrators and innocent bystanders in Bucharest has rightly brought a halt to United States and European Community economic assistance.

I have traveled to Romania several times since 1984, and my heart is broken for the opportunity which Romania is now throwing away.

Last week I also met two of Romania's most prominent democratic activisits—Doina Cornea and Petre Bacanu—and heard about their hopes for freely publishing Romanea Libera, Romania's largest independent newspaper. The newspaper's offices were destroyed in the recent crackdown. Let us wait and see whether Romanea Libera is permitted to publish, attract support and investment, and distribute its paper freely.

In addition, before any legitimacy is conferred on Romania's present authorities, we ought to see the following steps:

Let us see the Government meet its commitment to hold a meaningful dialog with leaders of the independent groups.

Let us see genuine independent groups be fairly granted facilities and otherwise unobstructed in playing a role in the political process.

Let us see the present constraints for news broadcasting on the student-run radio stations lifted.

Let us see free alternative broadcasting permitted on public television and radio stataions, and movement established toward new independent radio/TV facilities.

Let us see the Romanian Government publicly acknowledge the number and identities of former Securitate agents arrested, charged, and scheduled to go on trial; and a clear accounting of all secret police structures and activities.

Above all, Mr. Speaker, I believe every Member of this body joins the international call for Romania to release all of those arrested merely for exercising freedom of expression. Release opposition leaders Marian Munteanu, Nica Leon, Dumitru Dinca, and the hundreds of others still detained. Romania's willingness to release opposition leaders and deal with them constructively will be the principal measure for restoring any United States willingness to deal with Romania's present rulers.

[From the Washington Post, June 25, 1990]

ACTIVISTS ATTEST TO ROMANIA'S IDEA OF DEMOCRACY

(By Michael J. Ybarra)

Petre Bacanu, sentenced to die for starting a clandestine newspaper during the regime of Romanian dictator Nicolae Ceausescu, spent almost a year in prison, watching rats crawl out of the toilet in his tiny cell.

Doina Cornea, a noted human rights activist, was followed everywhere by Ceausescu's hated *securitate*. Once when she tried to meet with foreign journalists, the not-so-secret police threw her to the ground. Five times she tried to rise; five times she was beaten down, she said.

Then came the revolution. Then went the revolution.

Cornea, 61, whose treatment under Ceausescu was the subject of an Amnesty International "urgent action" alert, first grew skeptical of how much things had changed the day after the December revolution. She found out from the radio that she had been included as a member of the National Salvation Front, the new government, along with many old communist faces. She had had nothing to do with her inclusion.

Bacanu, 48, editor of the opposition newspaper Romania Libera, understood the new government's character when about 100 tons of donated U.S. newsprint intended for him ended up being used for the mouthpiece of the Front.

But the fragility of Romania's fledgling civil society did not become clear to the rest of the world until 10 days ago, when miners summoned by the government to clamp down on student protesters rampaged through Bucharest, clubbing anyone in their path and sacking the offices of the opposition political party and Romania Libera.

Cornea and Bacanu were both in Canada at the time, attending an international conference. Shocked at the violence, they arranged a hasty trip to Washington for three days of meetings with members of Congress, administration officials and private groups.

Seeking assistance for the opposition and trying to convince U.S. policymakers of the new regime's perfidy, the duo ran from office to office, slept little and left for home exhausted but pleased with the reception for them and their cause.

"If we'd kept them up 24 hours a day, they would have gone 24 hours a day," said a staff member at National Strategies, the group that picked up the tab for the visit with contributions from Freedom House and the German government's Marshall Fund.

Their days were a blur of meetings: Senator Howard M. Metzenbaum (D-Ohio), President Bush's deputy national security adviser Robert M. Gates, a reception at a Romanian Orthodox church in Bailey's Crossroads and many more. One meeting with a State Department official went to 1 a.m.

At each stop, the two repeated their simple message: Democracy in Romania is in dire need of help.

"We thought fear in Romania was over. We thought everyone will be free to say what they want," Bacanu said, in a quick interview between stops. "It was just a temporary joy. We soon realized that the people in power were not able to think differently than the communists."

Cornea said each day makes it clearer that the Front lives up to its name, that it is nothing more than a facade for former

party hacks who have simply renamed the security apparatus Ceausescu put in place.

"The elections were not free," she said, "the elections we waited for so long." If the government won the vote, it was only because of its tight grip on the media, she said.

It's a grip Bacanu has felt too many times. A journalist for 30 years, the last 30 with Romania Libera—even under Ceausescu the most liberal of the nation's papers—he was constantly threatened, moved from section to section of the paper, his byline sometimes forbidden.

Finally he was arrested as a leader of a dissident group. Then the revolution flung open the door to his cell. "Now we can write anything," he said.

Getting it printed is another matter. The government runs the only printing plant in the country and also controls circulation. Nevertheless, Romania Libera is the largest paper in the country and had a circulation of 1.5 million until the Front decreed a paper shortage, halved Libera's allocation and started up two official publications.

Bacanu has been asking U.S. help so Romania Libera can get its own press and with it independence.

Cornea's weapon has been her conscience. At first she only encouraged her students at Cluj University, where she taught French, to think for themselves.

But after smuggling a letter critical of Ceausescu to Radio Free Europe, she was fired in 1983. Beatings, internal exile and hunger strikes for better treatment followed.

Now, Cornea said, she would like nothing more than to go back to her beloved books. That seems unlikely.

"If the concepts stay at just an intellectual level, they are dead," she said.

INTRODUCTION OF THE PATIENTS' SELF-DETERMINATION ACT—THE PRESIDENT'S NEW POSITION ON TAXES

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, I have comments on two developments of this week. First, let me touch on the Cruzan decision of the Supreme Court.

Whatever one thinks of that decision, it makes it more important than ever that people make clear their wishes about medical treatment in advance of a medical crisis. A number of us have introduced H.R. 5067, the Patients' Self-Determination Act.

Tnat legislation would require health care agencies to inform patients of their rights under State law, to create living wills or durable powers of attorney, and for those agencies to keep a record of the wishes of the patients. I hope that all my colleagues will take a look at that bill.

Second, Mr. Speaker, let me address the President's statement on taxes. He has clearly changed course from the campaign, but he has not yet told the Nation in what direction he wants us to go.

Mr. President, I would say this: "Don't just retreat from a misguided campaign pledge. Tell the Nation how you want us to move, precisely in what direction."

AUTHORIZING THE USE OF THE ROTUNDA OF THE CAPITOL IN CEREMONIES TO GREET HIS ALL HOLINESS PATRIARCH DIMITRIOS

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 344) permitting the use of the rotunda to the Capitol to allow Members of Congress to greet and receive His All Holiness Patriarch Dimitrios, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Illinois?

Mr. GILLMOR. Mr. Speaker, reserving the right to object, I would ask the gentleman from Illinois [Mr. ANNUNZIO] if he would give us an explanation of the concurrent resolution.

□ 1040

Mr. ANNUNZIO. Mr. Speaker, will the gentleman from Ohio, a member of the Committee on House Administration, yield to me?

Mr. GILLMOR. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, the resolution provides for the use of the rotunda for Members of Congress to assemble and to greet His All Holiness Dimitrios, the ecumenical patriarch of Constantinople. He is the spiritual leader of more than 6 million orthodox Christians residing in America, and he comes to Washington in conjunction with the 30th Biennial Clergy-Laity Congress of the Greek Orthodox Archdiocese. We can honor the patriarch by receiving him in the Capitol rotunda, and I would urge my colleagues to attend. The event will take place on July 10 between 6:30 and 7:30 p.m.

Mr. FROST. Mr. Speaker, will the gentleman from Ohio yield?

Mr. GILLMOR. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, I rise in support of House Concurrent Resolution 344. I introduced this resolution to authorize the use of the rotunda of the Capitol for reception so that Members of Congress may greet and receive His All Holiness Dimitrios, the Ecumenical Patriarch of Constantinople.

This is the first-ever visit to North America by the spiritual leader of the world's Eastern Orthodox Christians. It is an extraordinary event which holds great meaning for the more than 6 million Orthodox Christians residing in this country.

His visit to Washington is designed to coincide with the 30th Biennial Clergy-Laity Congress of the Greek Orthodox Archdiocese. His schedule will include visits with President Bush, Members of Congress, and other dignitaries, as well as a variety of tours and activities.

I believe that it is more appropriate for Congress to honor the patriarch by receiving him in the Capitol rotunda. It is a privilege for me to offer this resolution and encourage my colleagues to join with me in marking this very special occasion.

Mr. GILLMOR. Mr. Speaker, I join the gentleman from Illinois [Mr. ANNUNZIO) and the gentleman from Texas [Mr. FROST] in support of this worthy resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 344

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the Capitol is authorized to be used on July 10, 1990 from 6:30 p.m. to 7:30 p.m., to allow Members of Congress to greet and receive His All Holiness Patriarch Dimitrios, the 269th Ecumenical Patriarch of Constantinople. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5114, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 425 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 425

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed ninety minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be considered for amendment under the five-minute rule. During consideration of the bill, all points of order against provisions in the bill for failure to comply with the provisions of clauses 2 and 6 of rule XXI are hereby waived. The bill shall be considered for amendment by title instead of by paragraph and each title shall be considered as having been read. No amendment to the bill shall be in order except for the amendments printed in the report of the Committee on Rules accompanying this resolution. The amendments shall be considered in the order and manner specified in the report, and shall not be subject to amendment except as specified in the report. The amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. All points of order against the amendments in the report are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. DERRICK. Mr. Speaker, House Resolution 425 is a modified open rule providing for the consideration of H.R. 5114, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

The rule provides for 90 minutes of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate, the bill will be read by title for amendment under the 5-minute rule and each title will be considered as read.

The rule waives all points of order against provisions in the bill for failure to comply with clauses 2 and 6 of rule XXI. Clause 2 of rule XXI prohibits unauthorized appropriations or legislative provisions in general appropriations bills and restricts the offering of limitation amendments to such bills.

These waivers are necessary because Congress has not yet enacted laws authorizing various programs funded in the bill, and because some bill language constitutes legislation under the precedents.

Clause 6 of rule XXI prohibits reappropriations in general appropriations bills. These waivers are necessary to allow the transfer of unexpended balances from one account to another and the extension of authority to obligate those funds in the new fiscal year.

The rule permits no amendments to the bill except for the amendments printed in the report of the Committee on Rules accompanying this resolution. The rule waives all points of order against the amendments, which shall be considered in the order and manner prescribed in the report and shall not be subject to amendment except as provided in the report. Each amendment shall be debatable for the period specified, equally divided and controlled by the proponent and a Member opposed thereto.

Finally, the rule provides for one motion to recommit.

Mr. Speaker, H.R. 5114 is our first foreign aid appopriations bill of the post Cold War era. The bill appropriates $15.8 billion for U.S. foreign aid programs for fiscal 1991, and does not exceed the applicable 302(b) allocation. House Resolution 425 will enable the House to work its will expeditiously on the bill, which is carefully tailored to advance our Nation's foreign policy interests in a world swept by profound political, military, and economic change. I urge all Members to support the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with a number of serious reservations about this rule, and I cannot ask Members to support it. First of all, the rule contains an unusually large number of waivers. We have come to expect waivers concerning unauthorized programs, reappropriations, and legislative language in these kinds of general appropriation bills; this rule has all of those waivers. But it also goes a step further. The right that Members would normally have to offer simple cutting amendments has been taken away by this rule. Even the subcommittee chairman, the gentleman from Wisconsin [Mr. OBEY], testifying before the Committee on Rules, said that he would prefer a rule which would allow customary procedures on the debate on this very important bill.

In my view, Members should always have the right in any general appropriations bill to offer amendments to reduce the numbers in any of the accounts contained in that bill. But this rule takes away that right from every Member of this House. It breaks the rules of the House. This seems to be becoming customary around here. Mr. Speaker, it certainly does not sit well with Members on either side of the aisle.

Next I would like to note that taking away the rights of Members to offer cutting amendments serves to amplify the unfairness of this particular rule. Given the arbitrary way in which the other amendments were made in order, and given the number of waivers that had to be issued to make those other amendments in order, it is simply unfair to take away cutting amendments.

Now, ironically, and those Members who are listening should pay attention to this, what this rule does is deny legitimate amendments and make in order illegitimate amendments.

Now, does that make any sense in fairness? It just doesn't make any sense at all. I would reiterate that the process was indeed arbitrary, and that Members on both sides of the aisle are being gagged. Both sides of the aisle. I would be glad to read off the names of those Members if anybody wants to know them.

Third, Members need to know that an unusual gimmick has been worked out with regard to the family planning issue. Elements of an amendment to be offered by the gentleman from New Jersey [Mr. SMITH] have been stripped out of that amendment and reattached to an amendment to be offered by the gentleman from Florida [Mr. LEHMAN].

Mr. Speaker, I am not going to comment on the merits of either amendment, but what does bother me and should bother every Member of this House is that the Committee on Rules gave very short notice on filing of amendments of this bill. We all got back here on Monday morning and found a letter in our mailbox saying that the amendments had to be filed that afternoon. When Members are already burdened by having very little time in which to file amendments, it is unfair for the committee to then start concocting new amendments, amendments that were never filed in the form in which they appear in this rule today.

The committee, I believe, should operate under the same constraints it imposes upon the Members at large.

Mr. Speaker, fourth and finally, I was hoping for more flexibility on the question of across-the-board cutting amendments. I believe a variety of amendments should have been made in order. A number of such amendments, each one making an across-the-board cut of a different proportion, would have enabled this House to determine exactly where the critical mass is to be found in making the

spending reductions, which we heard a lot about here this morning, if we are ever to get this budget problem under control.

□ 1050

As it is, the rule will permit whatever across-the-board cuts we do make to be watered down.

Mr. Speaker, again, that is not fair to the Members of the House.

So I find this rule to be deficient on a number of counts. I know the committee advertised it as being a modified open rule, but frankly, it is closed and, therefore, I do not support it. I cannot ask any of my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, may I just say that it is my understanding that the minority leader is the one who agreed to most of this compromise. I find it rather interesting that the prior speaker so objects.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield on that point?

Mr. DERRICK. The gentleman has plenty of time. He has as much time as I do.

Mr. SOLOMON. I thought we would simply enter into a colloquy.

Mr. DERRICK. Mr. Speaker, I yield 30 seconds to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just point out that there were a lot of negotiations going on, up in the committee, down here on the floor, and in the back rooms; and certainly a number of things were worked out. The fact is the point that I made did not take into account those Members on your side of the aisle whose amendments were not allowed, and it is the same on this side of the aisle.

So I will just say that I cannot support the rule because we were not given, on either side of the aisle, the opportunity to offer germane amendments to the bill.

Mr. DERRICK. I am glad that I was able to give the gentleman some time so that he felt comfortable now to bring all of that out, which he did not in his original statement.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to ask a question of the gentleman from Wisconsin [Mr. OBEY], chairman of the subcommittee who produced this bill, if I may.

I would tell the gentleman from Wisconsin that I chair a task force that Speaker FOLEY created on Eastern and Central Europe to work with the new parliaments in those areas. I notice in your bill that you have $20 million dedicated for democratic activities in Eastern Europe. In looking at the committee report, it does not appear that that is spelled out in any detail as to how this money should be used, and I gather that it is the intention of the subcommittee that the Foreign Affairs Committee through the C2 legislation specify how this money will be used, and of course that bill has not been voted on by the House yet and may be coming up later in this session.

Is that correct, that it would be up to the Foreign Affairs Committee and in the full House in the consideration of that legislation to designate how that $20 million will be used?

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, we have purposely tried to be as flexible as possible in describing how that money should be used because conditions change, the ideas of the administration change, ideas of other people change. We simply felt that there ought to be maximum latitude for the authorizing committee and the administration as well to determine the exact guidelines and directions for the money.

Mr. FROST. I thank the gentleman, because my task force is in the process of making recommendations to Speaker FOLEY and minority leader BOB MICHEL. We intend to work with the joint leadership and to work with the Foreign Affairs Committee in terms of recommendations on how to use this $20 million contained in your bill.

Mr. SOLOMON. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. DANNEMEYER].

(Mr. DANNEMEYER asked and was given permission to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, I would like to ask the gentleman from South Carolina [Mr. DERRICK], did I understand him to say that the minority leader, BOB MICHEL, has approved this rule?

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, no, I did not say that. I get confused. I guess probably it was the minority whip that I understood agreed.

Mr. DANNEMEYER. Is the gentleman saying that the minority whip, NEWT GINGRICH, approved?

Mr. DERRICK. I did not say anybody approved. I said they were part of the negotiations. It was my understanding that they did approve it, that is right.

Mr. DANNEMEYER. I just want to get this clear. Did the minority whip, NEWT GINGRICH, approve?

Mr. OBEY. Mr. Speaker, will the gentleman yield so that I can explain it?

Mr. DANNEMEYER. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, what I think the gentleman from South Carolina [Mr. DERRICK] was responding to was the comments concerning the population amendments before us.

The rule is as it is now, and the amendments are as they are with respect to that subject because of a suggestion, a very useful suggestion made by the gentleman from Georgia [Mr. GINGRICH], as I understand it the deputy Republican leader, who helped break an impasse because of a commitment which I had given to a Republican Member of this House to assure that the gentleman from Illinois [Mr. PORTER] would have full opportunity to offer his population amendment on the floor because he had withheld offering that in committee. I am in support of the administration position on what I think is the most contentious issue in this bill. I was trying to cooperate, nonetheless, with a Member of the Republican Party, the gentleman from Illinois [Mr. PORTER], who had every right to offer an amendment in subcommittee.

Mr. DANNEMEYER. Right.

Mr. OBEY. And he had the votes in subcommittee to adopt his position, which was contrary to the position of the administration.

So the language changes which were referred to by the gentleman from New York in the population amendments were made as a result of a suggestion that was made by the gentleman from Georgia [Mr. GINGRICH] and the rule reflects that suggestion.

Mr. DANNEMEYER. I want to reclaim my time. I think this puts it in perspective.

There may be elements of this rule that were developed as a result of consultation with the gentleman from Georgia [Mr. GINGRICH], the whip on the Republican side. But I do not think that anybody claims Mr. GINGRICH was putting his stamp of approval on the total rule. Is that a fair statement?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, let me just say that the gentleman from Wisconsin [Mr. OBEY] has accurately described the negotiations that took place on that part of the bill. But in no way has the gentleman from Illinois [Mr. MICHEL], or the gentleman from Georgia [Mr. GINGRICH], or any of the Republican leadership agreed to gag this list of Republicans for which I made motions to make germane amendments in order in the Rules Committee. And I do not think anybody on that side of the aisle would disagree with that statement.

Mr. DANNEMEYER. I want to make that point clear, and I thank my col-

league from New York for making that observation.

I want to point out something too, and I am speaking personally as a Californian. We knew there would be no votes on Monday, and so when you come from the west coast, the pattern is to go home, when we recess on a Thursday, and you fly home to California. You get there about 7 or 8 hours after you leave this office, and then if there are no votes on Monday you normally, most of us, get on an airplane at 1 o'clock Monday afternoon to come back here, and we get back to Washington, DC, around 9 o'clock Washington time.

Now, when you put out a rule that says that we have to have amendments filed on a Monday morning by Monday at 5 o'clock, how in the world are Members on the west coast to have an opportunity of offering amendments? That is a practical question. I mean it is not your problem. You are not from California.

I want to share that problem, that with this kind of a deadline on when we file amendments, this Member had to stay here this weekend so that I was here on Monday morning. I had an interest in this bill, and so I got the amendments up there by the deadline.

Now, you did not exactly give any attention to them because the two amendments that I filed, one to cut 5 percent and one to cut 10 percent, you did not make in order, but that is life. You have the votes, and you can do anything you want. You stuffed it, and that is the way it is.

Let me suggest another observation.

Mr. DERRICK. Mr. Speaker, will the gentleman yield so that I can make one suggestion?

Mr. DANNEMEYER. I am happy to yield to my friend, the gentleman from South Carolina.

Mr. DERRICK. Why does the gentleman not try purchasing a fax machine, and then he could go home for the weekend?

Mr. DANNEMEYER. A fax machine? When you are on an airplane, is the gentleman suggesting we have a fax machine on an airplane? I mean that is silly.

The Democrat Members of the House submitted a request for 18 amendments to be in order, and you gave them a little better than half, 10. We Republicans submitted 16 and we got 3. I know you have the votes, but for goodness sake, is there not a sense of fairness somewhere along the line?

This rule is an abomination and a nuisance. In my opinion there is no reason for a rule on an appropriation bill. Let an appropriation bill come to the floor of the House, and let the House work its will.

You have got the rules cranked down where in order for us to have a chance to get language restricting spending we have to keep the committee from rising. You have done that to us in the minority so we are precluded from establishing policy on major spending bills, and now you come with this further restrictive rule, and all I can say is that we do not like it. It is restrictive of the democratic process, and I ask the Members of the House to reject this rule and give us an opportunity of letting the House work its will on those matters that need attention.

□ 1100

Mr. DERRICK. Mr. Speaker, I have no further requests for time, but I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding.

I want to return to something that the gentleman from Wisconsin raised earlier, and that is the question of the amendments on voluntary family planning.

The gentleman from Wisconsin indicated that in the subcommittee I was prepared to offer several amendments on family planning, one dealing with Romania and one dealing with the Mexico City policy.

At his request, I withheld those amendments on assurances that the chairman would allow me to bring those amendments to the floor.

Yesterday, Mr. Speaker, I testified before the Committee on Rules regarding them; and Mr. SMITH of New Jersey also testified, offering amendments to the language that I, Mr. LEHMAN, Mr. MCHUGH, Mr. MRAZEK, and Ms. SNOWE offered.

The Committee on Rules, Mr. Speaker, had great difficulty crafting a fair rule that would take all of the viewpoints into account. I want to say for the record, and very strongly, that the gentleman from Wisconsin, the chairman of the Subcommittee on Foreign Operations, honored in full his commitment to me and to others to have access to the floor and to present the amendments on family planning that we desired to present.

In the final analysis, a compromise was worked out, in a very fair way, I think, to have each of the questions raised and voted upon honestly and directly

As a consequence, Mr. Speaker, Mr. LEHMAN and I will be offering an amendment this afternoon regarding family planning in Romania. I might say, Mr. Speaker, that the need is terribly great. There is a very dire emergency in Romania.

In 1966 the Ceausescu government prevented any kind of contraception or abortion or any family planning of any type in that country. Illegal abortions became rampant. Upon the overthrow of the Ceausescu government last year, one of the first acts of the new Government was to legalize an individual's right to family planning and to abortion services.

Since there were no family planning services anywhere in place in Romania, abortion, very, very unfortunately, Mr. Speaker, is being used as a birth control method.

There are 100,000 abortions being performed every month in Romania today. That I might say, Mr. Speaker, is the same number being performed in the United States, a country that is 10 times as large as Romania.

The need for family planning services is extreme. There are no contraceptives available to people, few groups in place able to provide them, except that a local group has been formed in Romania. They have invited the United Nations Fund for Population Activities and the International Planned Parenthood Federation into the country. They are there on the ground today. They are extremely experienced in providing family planning services.

UNFPA works, in 133 countries worldwide, IPPF in perhaps almost as many.

The need right now is for resources. Our amendment will provide $1.5 million immediately that will avoid abortions, cut down the number, the terrible number of 100,000 per month, and provide immediate family planning services to the people of Romania.

Mr. SMITH will offer an amendment to take the two agencies out of our amendment. And I would hope the Members would resist this. These are the two agencies that are the most experienced in providing family planning services.

There is no money whatsoever for abortion allowed in terms of our amendment. There is only money for contraception and family planning counseling.

I would hope we would not turn this into some kind of abortion question, that we would keep our eyes on family planning and allow the agencies that are there in Romania and already operating, agencies with experience throughout the world, Mr. Speaker, to provide services, and access to the people of Romania as quickly as possible, and provide them with the resources they need.

I would urge Members to support the Lehman-Porter amendment, oppose the Smith amendment to it.

Finally, in closing, let me say that I think we have fairly resolved a very difficult question of presenting this matter fairly to the Members. And I thank the chairman of the Subcommittee on Foreign Operations, on which I am privileged to serve, for honoring his commitment so fully.

Mr. SOLOMON. Mr. Speaker, in my yielding 2 minutes to the gentleman from California [Mr. HERGER], I would

point out that he was one of the Members of this House who was gagged from offering amendments that would reduce various forms of assistance to India to express the disappointment of this Congress at India's human rights record.

Why in the world could not an amendment like that be made in order?

Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I rise in strong opposition to this rule, which prevents the House from addressing a number of very serious issues concerning our Foreign Aid Program.

I intended to offer an amendment to reduce funding for AID programs in India, as a means of calling attention to extremely serious human rights atrocities conducted on a regular basis by the Indian Government against Sikhs, Moslems, and other religious and ethnic minorities. According to the New York Times, these abuses have resulted in more than 4,000 deaths over the last 6 years.

Yet, India remains the only democracy in the world which does not allow human rights groups such as Amnesty International to enter their country. I had hoped Members would express their concerns on this matter through supporting my amendment. This rule prevents us from taking even that small step toward solving a tragic problem. I urge the defeat of this resolution.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, since I am on the floor, I would like to comment on this just briefly if I may. The Congressional Human Rights Caucus that I cochair with the gentleman from California [Mr. LANTOS] has been concerned about this situation for a long, long time; that is, the situation in the Punjab, where individual rights are being denied by a Government that calls itself a democracy, calls itself a Government committed to human rights. Yet, as the gentleman from California just said, it does not even allow the basic human rights groups in to see what is happening in that province.

It is a very serious situation. The Government of India will claim that there are terrorists there. Undoubtedly there are terrorists there. But even people who are accused of terrorism are entitled to be tried according to law.

Even terrorists are entitled to be charged with a crime and not simply held in prisons for years without any charge whatsoever.

It seems to me that the gentleman is very properly directing an effort that ought to be made and ought to be allowed under the rules toward sending a message to the Government of India that we expect a fellow democracy, one that claims the same principles that we claim in our relationship between individuals and the state, to live up to those obligations to those principles and provide access to international organizations such as Amnesty International that are concerned about human rights; would look to their own laws to charge prisoners with crimes and to provide trials for people so accused; would provide the same basic human rights in the Punjab that they say they provide throughout India.

They are not doing it. The gentleman is very proper in raising this question and the Rules Committee very improper in denying him access to the floor to raise it here.

Mr. HERGER. I thank the gentleman for his comments, and I might add to that: Not only is India the only democracy in the world that does not allow human rights organizations in, even countries such as the Soviet Union and Cuba allow human rights organizations in; the question can be posed, and very accurately so, "What does India have to hide?"

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. BURTON], a member of the Committee on Foreign Affairs.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding this time to me.

First of all, Mr. Speaker, I would like to say I support what has just been said by my colleagues from Illinois and California. In the Punjab and in Kashmir, terrible atrocities have been committed upon those people. Women have been raped, men and women and children have been killed. The repression by the Indian Government troops is unbelievable. We have been trying for a long, long time through a number of ways to get international human rights groups in there.

□ 1110

They will not even let the International Red Cross into the area because they do not want the world to see the kind of atrocities that are taking place. Therefore, I would just like to congratulate the gentleman from California [Mr. HERGER] and the gentleman from Illinois [Mr. PORTER] for what they have said and what they have been trying to do. We need to put pressure on the Government of India to allow human rights to exist in the Kashmir and Punjab. We need to put pressure on the Government of India to stop that repression, and the best way to do that is to try to curtail some of the aid going to India. If we did that, we would send them a very clear signal, a very clear message that we want that stopped. We do not want young women raped, we do not want people killed or tortured, we do not want political prisoners put in jail for indefinite periods of time, and go through agonizing torture while we are giving them aid. If we had our way—these three Members—I am sure that that amendment would be in order.

I would like to chastise my colleagues on the Committee on Rules for not allowing it, because I think it is extremely important to send that signal to India, particularly right now because the repression is at its peak.

I would also like to talk about one other amendment I feel very, very strongly about. We are making a major cut in our aid to Turkey. Now, there are certain areas of the world where we should cut foreign aid, but there are certain areas we should not. Turkey has been a NATO ally of ours for a long time. We have military bases there. Turkey is in a very strong, very important strategic position in the world. Turkey has borders with Iran, Iraq, Syria, and the Soviet Union. They are in jeopardy. Iran, Iraq, and Syria all have chemical weapons. Some believe they have nuclear weapons, or at least are working on them. Turkey does not have any of those, and this is our strong ally. We have not only strategic interests in that area, but we have intelligence gathering capabilities in that area. All of these are in jeopardy, and Turkey has not been able to modernize its military facilities, its Armed Forces, for a long time because they have not had the money to do it.

Here we are, at a time when they are in more danger as far as their security is concerned than they have been in the past, and we are making cuts at a time when Eastern Europe is becoming less of a threat to the Western part of the world, the Warsaw Pact is moving away from communism and toward democracy, those weapons that were in the Warsaw Pact, at a time when those pressures in Eastern Europe are diminishing, all those weapons are being moved to other parts of the Soviet Union, particularly along the Turkey-Soviet border. So Turkey is in jeopardy, not only from Syria, Iran, and Iraq, and Moslem fundamentalism, and Kurdish insurgents inside their country, but there is also the arrival of them from the Soviet Union. We have bases there, we have intelligence gathering capabilities there, and we should be doing our dead-level best to help our allies, a friend that has been with the United States, time and again, when we needed them. Here we are, making dramatic cuts in the support we are giving them at a time when they really need it.

I would just like to say to the Committee on Rules members. I am very disappointed they did not allow my amendment which would have reinstituted some of the funds that are being cut. I hope down the road, or maybe in conference committee, maybe we will be able to put those funds back in.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the resolution.

The question was taken; the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 262, nays 157, not voting 13, as follows:

[Roll No. 200]

YEAS—262

Ackerman	Darden	Hatcher
Alexander	de la Garza	Hawkins
Anderson	DeFazio	Hayes (IL)
Andrews	Dellums	Hefner
Annunzio	Derrick	Hertel
Anthony	Dicks	Hoagland
Applegate	Dingell	Hochbrueckner
Aspin	Dixon	Horton
Atkins	Donnelly	Hoyer
AuCoin	Dorgan (ND)	Hubbard
Barnard	Downey	Huckaby
Bates	Durbin	Hughes
Beilenson	Dwyer	Hutto
Bennett	Dymally	Jenkins
Berman	Dyson	Johnson (CT)
Bevill	Early	Johnson (SD)
Bilbray	Eckart	Johnston
Boggs	Edwards (CA)	Jones (GA)
Bonior	Engel	Jones (NC)
Borski	English	Jontz
Bosco	Erdreich	Kanjorski
Boucher	Espy	Kaptur
Boxer	Evans	Kastenmeier
Brennan	Fascell	Kennedy
Brooks	Fazio	Kennelly
Browder	Feighan	Kildee
Brown (CA)	Flake	Kleczka
Brown (CO)	Flippo	Kolter
Bruce	Foglietta	Kostmayer
Bryant	Ford (MI)	LaFalce
Bustamante	Ford (TN)	Lancaster
Byron	Frank	Lantos
Campbell (CO)	Frost	Laughlin
Cardin	Gaydos	Lehman (CA)
Carper	Gejdenson	Lehman (FL)
Carr	Gephardt	Levin (MI)
Chapman	Geren	Levine (CA)
Clarke	Gibbons	Lewis (GA)
Clay	Gilman	Lipinski
Clement	Gingrich	Lloyd
Coleman (TX)	Glickman	Long
Collins	Gonzalez	Lowery (CA)
Condit	Gordon	Lowey (NY)
Conte	Gray	Luken, Thomas
Conyers	Green	Machtley
Cooper	Guarini	Manton
Costello	Hall (OH)	Markey
Coyne	Hamilton	Martinez
Craig	Harris	Matsui
Mavroules	Penny	Stallings
Mazzoli	Perkins	Stark
McCloskey	Pickett	Stenholm
McCurdy	Pickle	Stokes
McDermott	Porter	Studds
McEwen	Poshard	Swift
McHugh	Price	Synar
McMillen (MD)	Quillen	Tallon
McNulty	Rangel	Tanner
Mfume	Ray	Taylor
Miller (CA)	Richardson	Thomas (GA)
Mineta	Roe	Torres
Moakley	Rose	Torricelli
Mollohan	Rostenkowski	Towns
Montgomery	Rowland (CT)	Traficant
Moody	Rowland (GA)	Traxler
Morella	Roybal	Udall
Mrazek	Russo	Unsoeld
Murtha	Sabo	Valentine
Nagle	Sangmeister	Vento
Natcher	Sarpalius	Visclosky
Neal (MA)	Sawyer	Volkmer
Neal (NC)	Saxton	Walgren
Nowak	Scheuer	Washington
Oakar	Schroeder	Watkins
Oberstar	Schumer	Waxman
Obey	Serrano	Weiss
Olin	Sisisky	Wheat
Ortiz	Skaggs	Whitten
Owens (NY)	Skelton	Williams
Owens (UT)	Slattery	Wilson
Pallone	Slaughter (NY)	Wise
Panetta	Smith (FL)	Wolpe
Parker	Smith (IA)	Wyden
Patterson	Smith (NJ)	Yates
Payne (NJ)	Snowe	Yatron
Payne (VA)	Solarz	Young (AK)
Pease	Spratt	
Pelosi	Staggers	

NAYS—157

Archer	Hansen	Rinaldo
Armey	Hastert	Ritter
Baker	Hefley	Roberts
Ballenger	Henry	Robinson
Bartlett	Herger	Rogers
Barton	Hiler	Rohrabacher
Bateman	Hopkins	Ros-Lehtinen
Bentley	Houghton	Roth
Bereuter	Hunter	Roukema
Bilirakis	Inhofe	Saiki
Billey	Ireland	Savage
Boehlert	Jacobs	Schaefer
Broomfield	James	Schiff
Buechner	Kasich	Schneider
Bunning	Kolbe	Sensenbrenner
Burton	Kyl	Sharp
Callahan	Lagomarsino	Shaw
Campbell (CA)	Leach (IA)	Shays
Chandler	Lent	Shumway
Clinger	Lewis (CA)	Shuster
Coble	Lewis (FL)	Sikorski
Coleman (MO)	Lightfoot	Skeen
Combest	Livingston	Slaughter (VA)
Coughlin	Lukens, Donald	Smith (NE)
Courter	Madigan	Smith (TX)
Cox	Marlenee	Smith (VT)
Crane	Martin (IL)	Smith, Denny (OR)
Dannemeyer	Martin (NY)	Smith, Robert (NH)
Davis	McCandless	Smith, Robert (OR)
DeLay	McCollum	Solomon
DeWine	McGrath	Spence
Dickinson	McMillan (NC)	Stangeland
Dornan (CA)	Meyers	Stearns
Douglas	Michel	Stump
Dreier	Miller (OH)	Sundquist
Duncan	Miller (WA)	Tauke
Edwards (OK)	Molinari	Tauzin
Emerson	Moorhead	Thomas (CA)
Fawell	Morrison (WA)	Thomas (WY)
Fields	Murphy	Upton
Fish	Myers	Vander Jagt
Frenzel	Nielson	Vucanovich
Gallegly	Oxley	Walker
Gallo	Packard	Walsh
Gekas	Parris	Weber
Gillmor	Pashayan	Weldon
Goodling	Paxon	Wolf
Goss	Petri	Wylie
Gradison	Pursell	Young (FL)
Grandy	Rahall	
Grant	Ravenel	
Gunderson	Regula	
Hammerschmidt	Rhodes	
Hancock	Ridge	

NOT VOTING—13

Crockett	Leath (TX)	Schuette
Hall (TX)	McCrery	Schulze
Hayes (LA)	McDade	Whittaker
Holloway	Morrison (CT)	
Hyde	Nelson	

□ 1135

Mr. GALLO changed his vote from "yea" to "nay."

Mr. ENGLISH changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING MODIFICATION OF OBEY AMENDMENT TO H.R. 5114, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1991

Mr. OBEY. Mr. Speaker, I ask unanimous consent to make a correction in my across-the-board amendment to H.R. 5114 to simply include the Export-Import Bank on the exemptions list printed on page 6 of Report No. 101-560 of the Committee on Rules.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1991

The SPEAKER pro tempore. Pursuant to House Resolution 425 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5114.

□ 1138

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, with Mr. ECKART in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin [Mr. OBEY] will be recognized for 45 minutes, and the gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 45 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, today I present to the House the $15.8 billion foreign operations and export financing appropriation for fiscal year 1991, and I think we need to place it in historical perspective.

Mr. Chairman, the administration presented a foreign aid budget to us this year, which in my view simply did not reflect the dramatic changes which have taken place around the world. They did not reflect the changes that have taken place in the Soviet Union. They did not reflect the changes which had taken place in Eastern Europe, which has seen the virtual collapse of the Soviet military and political alliance.

The administration, in fact, simply responded to the changes that took place by asking that we increase military spending in this bill this year by almost half a billion dollars. Secretary Baker has himself testified that the budget was formulated before many of those changes occurred. Administration officials indicated that they would try to begin to make necessary changes in the foreign aid bill in the next year.

Mr. Chairman, in the judgment of the committee it is simply not acceptable to wait a year before we respond to the dramatic changes which we have seen worldwide.

□ 1140

In addition to the increases for military aid, which the administration asked us to approve, the administration asked us to reduce export financing assistance by $112 million at a time when we still have very severe trade deficits.

Export assistance, I should point out, has already been cut during the eighties by almost 90 percent, which I think is an outrageous reduction.

The administration asked us that we reduce UNICEF funding by 22 percent, one of the most important programs in the world for saving the lives of children.

They asked us to cut the United Nations environmental program by 17 percent. The committee rejected those suggestions, and instead is bringing you a bill today which is the first bill in a 3- or 4-year process by which we expect to dramatically reorder spending priorities in our foreign aid program.

The bill contains increases above the President's request for Eastern Europe of $189 million. We think emerging democracy is certainly worthy of some support on our side.

The bill contains a $240 million increase in development assistance for Africa, providing $800 million overall, something which is desperately needed in the poorest continent on Earth.

To combat our trade deficit, we are providing a $255 million increase for export assistance, and we are beginning an interest matching program in order to help us remain competitive on the trade front.

The bill also provides a $100 million increase for children's programs, including UNICEF, which will literally save the lives of thousands and thousands of children every day.

We also provide a $45 million increase for refugees. This is probably still the most underfunded portion of the bill. I wish it could be more, and in fact I would predict before the year is over we will need more.

On the military side of the ledger, for the first time we are able to make a significant change in military spending priorities of the administration. We bring this bill in at $193 million below last year's aid level for military aid and $385 million below the President's request for this year.

The bill also contains $574 million in a collection of programs to attack the problems encountered by this country from the infusion of drugs from outside sources.

We provide a $20 million increase for the Peace Corps over last year.

For environmental programs to attack worldwide environmental and climate problems, we provide $100 million.

Concerning China, the bill withholds from obligation the United States' share of IDA World Bank loans left since January for nonbasic human need purposes.

On El Salvador, the bill includes the Murtha-Moakley language previously approved by the House.

On population, we provide a $250 million funding level for family planning accounts, including an increase of $57 million above the President's request. That is a very notable increase and one we think is amply justified.

The committee has reported out a bill which reflects a bipartisan agreement on overall funding and on account levels for almost all provisions in the bill.

There are two items which I think I have an obligation to bring to the attention of the House. One relates to the question of international debt. If you take a look at the committee report, beginning on page 20, you will see that the committee tries to draw attention to the fact that we have a rapidly escalating problem of unpayable debts to Uncle Sam.

Mr. Chairman, what we have on our hands is really a problem which in many ways mirrors the savings and loan problem which is now confronting the U.S. Treasury. The United States is owed $64 billion by foreign governments. Much of that money, in frank terms, is uncollectible bad debt. What happens is that countries participate in what is called Paris Club reschedulings. Under those Paris Club reschedulings, countries which have short-term liquidity problems in financing their debt are supposed to sit down with creditor governments after reaching agreement with the IMF. They are supposed to get their financial house in order, and in return for that they are provided some assistance in deferring debt so that they can ease their way out of their credit problem.

The problem is, what originally started as a discipline to force fiscal reform in debtor countries has rapidly turned into a scam under which the largest creditor nations in the world are able to hide what in fact is a rapidly deteriorating debt situation with respect to debtor countries. Paris Club reschedulings are recurring more and more often. We had about one a year during the seventies. In the eighties, they did over 140. They did 23 alone in 1989.

Zaire, for instance, has had nine Paris Club reschedulings. Poland has had the largest dollar rescheduling so far, $1.8 billion. Egypt has had the second largest rescheduling, $1.6 billion.

What is happening is that these reschedulings are delaying debt repayment, and through the magic of compound interest, they are dramatically increasing the problem of uncollectible debt which we face worldwide.

I would make a flat prediction that the next time the world goes into a recession of even limited duration and limited magnitude, we are going to see for the first time callable capital at the international financial institutions actually called because in my view much of this debt is simply uncollectible, and it is about time that we face up to that.

In addition, we have another problem. This foreign aid bill which I bring to you today actually appears much larger than it really is. Let me explain why. Much of the money in this bill today will simply go to recipient countries so that when they get the money they can write a check and send it right back to Uncle Sam to pay for the past debts. Egypt, for instance, will get $2.1 billion in this bill, but in the same fiscal year will have to repay Uncle Sam $13 billion. Pakistan will get $490 million in this bill. This year they will repay Uncle Sam $522 million. So in reality, there is no aid program in Pakistan. In reality, Pakistan will be paying us more for old debts than they get from the United States in new money.

In addition, we have another problem on the military side of the ledger. The Pentagon continues to help arrange military sales to a wide variety of countries. They are locking in right now very high levels of military sales to a broad number of countries, and if we allow them to get away with it we

are going to allow them in effect to create an entitlement situation in the military sales area.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. OBEY. Mr. Chairman, I yield myself 12 additional minutes.

That unfortunate fact will create a situation in which we will be literally unable to make significant reductions in military aid over the next 5 years. That simply cannot be allowed to happen. That is why this committee brings to you a bill which includes an effort to reform the cash flow nature of foreign aid for a number of recipients. That is why we also are saying that we are not going to provide the full funding for the World Bank hard loan window until we have a more accurate and less myopic look at the total international debt situation.

□ 1150

That is why with respect to the Eastern European Bank, we say that while we appropriate the $70 million that is requested by the administration, none of it can be obligated until the administration has negotiated with the major creditor countries of the world a new arrangement which recognizes the massive uncollectibility of Polish debt.

Mr. Chairman, at the end of World War II the United States forgave a very large share of German debt because we wanted to clear the decks, we wanted to strengthen the ability of democracy to survive in Germany, and we wanted to do that by helping to create the economic conditions that could enable democracy to survive. The fact is we did all of that for the country which plunged us into the bloodiest war in the history of man.

In contrast, Poland was a victim of that war. Poland was invaded by the Soviet Union and by Germany. Poland was divided by those countries. At the end of the war a government was imposed on Poland from the outside by the Soviets. That action was acquiesced in by the West, and as a result Poland was run by a Communist government, which ran up $40 billion in debts to the rest of the world.

Now we have a chance for democracy in Poland, and yet the world is saying to Poland in effect, "Sorry, even though your government was one that was imposed on you from the outside, even though we acquiesced in the imposition of that government, you are still stuck with the debts run up by that government."

If we want to see the chances for democracy succeed in Poland, and if we want to create an opportunity for that same expansion of economic reform in Poland to take root in the Soviet Union, we simply have to recognize that the world's countries need to address the question of uncollectibility of Polish debt and face up to it now.

Germany by all means ought to lead the way in eliminating from their books Polish debt which is simply not collectible. Until they do, we have a provision in this bill which simply says, "Sorry, but the money which we are providing for the East European banks is simply not going to be allowed to flow." I think that is essential if we want to force reform.

In addition, this bill contains a flat-out prohibition on aid to Zaire. Zaire is one of the world's largest outrages. Zaire is a country run by a president who has personally ripped off $5 billion from his own people. Zaire is perhaps the largest kleptocracy on the face of the Earth, and we simply cannot justify providing one dime in aid to Zaire, so long as there is a Government which rips off their own people and mows down their own people in cold blood the minute they express a little dissent. So no American bucks for Zaire.

I have one other statement I would like to make with respect to the Mideast. I am being asked by a lot of Members what we are doing with respect to Middle East funding. Frankly, I am being asked by a lot of Members what we are doing with respect to funding for Israel.

The answer to that question is that we are providing precisely what the administration asked for by way of aid to the Middle East. But having said that, I want to make a couple of statements directed to both the PLO and to the Israeli Government.

First of all, let me simply say that I think it was a tragedy, and I think it was incredibly stupid, that the PLO allowed and then condoned, by its refusal to condemn, the terrorist act which the PLO made on Israel just recently.

I now want to say this to the leaders of the PLO and to the Arab world: you will find no administration more open to reasonable action and reasonable dialog on your part than this administration. This administration has done much to try to open up dialog between the leaders of the PLO and the American Government.

The United States has tried, in my view, extremely hard to try to enable peace talks to begin between Palestinian leaders and Israeli leaders. I would urge the PLO to remember something which was written by Thomas Friedman in the New York Times just a week ago. He said, among other things:

> The U.S.-PLO dialog was also doomed because of Palestinian illusions. The PLO has consistently believed that the road to Jerusalem runs through Washington. If only the PLO could reach an understanding with Washington, then Washington would impose a settlement on Israel. So the PLO has always focused on saying the minimum that would satisfy Americans instead of the maximum that might impress the Israelis.

My message to the PLO is that if they truly want any opportunity at all for a just resolution of the Palestinian problem, they had best heed these remarks, and they had best address themselves to the kind of actions that will enable thoughtful forces in Israel to move the situation toward a meaningful discussion of peace arrangements.

With respect to the Government of Israel, I would simply like to make this statement: Under my chairmanship this committee has responded to every single request made by every administration with respect to funding for Israel, and we have provided for some funding that goes beyond those requests.

I personally facilitated the delivery of badly needed housing guaranty assistance in order to enable Israel to absorb the huge increase in Soviet Jewry, and I think we were right to do that. But I want to make two points.

The Middle East aid that we provide in this bill is not provided in a vacuum. It is provided in a longstanding context in which both Israeli and Arab leaders have understood that the United States supports Resolutions 242 and 338. And the American Government's position has always been that we support the principle of trading land for peace, provided that the security arrangements are sound.

I think we have a right to expect cooperation and candor, not footdragging and obfuscation, on the part of any Israeli Government when it comes to the peace process.

I also want to make something else clear. U.S. policy has always been that settlements in the West Bank and in Gaza are inadvisable and that they are an impediment to peace. Frankly, more and more Members have come to me and told me that this year they are simply not going to vote for this bill because they want to send a message to Israel that they are unhappy with the conduct that is occurring on the West Bank and Gaza.

I simply want to express a very friendly warning to the Israeli Government. I want to make clear that Israel will always be able to count on this Congress to defend her security. They will always be able to count on this Congress for whatever help she needs in an hour of need. And let me make one additional point. I welcome the statement of Mr. Sharon, the new housing minister, who indicated that no additional Soviet emigrants would be settled in the West Bank and Gaza. I think that was a constructive statement. I think it needed to be made, and I congratulate him for it.

But I want to make quite clear, if Israel expands their settlements in any way, or if they add a single new settlement, I will make a flat commitment right now that will support any

request made by the administration to reduce aid to Israel in next year's bill to reflect the cost of that expansion.

□ 1200

The committee report contains a request of the administration that the administration lay out for us what the baseline numbers are by defining for us right now what is being expended on the West Bank and in Gaza for settlement costs. What I am saying is if there is any expansion beyond those baselines I want to put every party on notice right now that they can expect me, as chairman of the subcommittee, to support any administration request to scale our aid to Israel back to reflect the cost of that added expansion.

Israel is a sovereign country. It has the right to do anything it wants domestically and in pursuit of its own foreign policy. But the U.S. Government has no obligation to fund either directly or indirectly settlements which we believe to be an impediment to the peace process, and something which simply will in the long term make matters worse. I think it is important that that be clearly understood, because if it is not I think that we run the risk of damaging a very important, a very correct, and a very crucial relationship which has existed between our countries for a long time.

I want that relationship to continue. I think every Member in this House does on both sides of the aisle. But I want it made perfectly clear that I support foursquare the efforts of the Secretary of State both to deal with this problem and to bring the parties together for the talks that must surely come if we are to avoid long-term tragedy and a mountain of death in the Middle East.

The CHAIRMAN pro tempore (Mr. ECKART). The gentleman from Wisconsin [Mr. OBEY] has consumed 7 minutes.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself as much time as I may consume.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in support of the bill.

This is not a perfect bill, Mr. Chairman. But in the spirit of bipartisanship we have crafted a bill which was supported in the full appropriations committee by Democrats, by Republicans, and by the administration. It is one that I believe every Member of this body should be able to support.

This is not a bill I supported out of subcommittee. Nor is it one that the administration was able to support. But we have worked very hard to improve the bill, and we have done that.

I have a letter here which is signed by Secretary of Defense Dick Cheney, Secretary of State Jim Baker, and National Security Adviser Brent Scowcroft which clearly states the administration's support for the bill and asks all Members to vote for this bill in its present form.

The most important change we have made is to increase the overall level of military assistance in this bill to a level which the Secretary of Defense has told me he supports and he needs to honor our commitments. This assistance will enable us not only to meet our commitments to our closest allies but also to be able to meet our commitments to our base rights countries around the world.

H.R. 5114 also provides much-needed assistance to the emerging democracies in Eastern Europe and Nicaragua. These nations, which are only now escaping from the stranglehold of Communist, totalitarian regimes, urgently need our support. The upcoming years are critical if these nations are to continue down the road toward economic pluralism and market economies. To not adequately fund them would be to turn our back on everything we have fought so hard for for the past 40 years.

H.R. 5114 also fully funds other important programs such as our international peacekeeping efforts, antiterrorism and our overseas war on narcotics which are priorities to the administration and should be top priorities of every Member of this House. The Export-Import Bank, which helps U.S. companies compete on a level playing field for overseas business, has been increased by 33 percent.

Very importantly, this bill also contains fewer earmarks than previous bills. As foreign aid dollars become more scarce, the administration must be given more flexibility in distributing that money. By greatly reducing the number of earmarks this year we allow the administration to be better prepared to meet the challenges of a changing world. I would hope that the House would reject any amendments here today which would reduce the administration's flexibility in allocating this assistance.

In addition H.R. 5114 cuts aid levels to programs which we should not support. In this bill, U.S. contributions to multilateral banks are cut: World Bank funding is reduced by more than 50 percent below the administration's request and nearly $60 million has been cut from the Asian Development Bank. Development assistance accounts—which were increased well above the administration's request in the subcommittee, have been reduced by $62 million. And the IFAD Program has been cut by nearly half from the subcommittee level.

Let me be clear, however. Passage of this bill today is only one step in the process and while I am telling my colleagues about the things in this bill which I think require us to vote for it and to move it forward. The current language on military aid to El Salvador is completely unacceptable to House Republicans and to the administration. Good faith negotiations are ongoing between the leadership on our side, the leadership on the Democratic side, and the administration. These negotiations have not yet yielded the compromise we hope will come from them. If the language in this bill conditioning aid to El Salvador is not substantially changed before this bill emerges from conference with the Senate, the President will veto it and House Republicans will provide the votes to sustain that veto.

The same holds true for population amendments expected to be offered today. If the longstanding Mexico City policy is overturned or if there is any funding in this bill for the UNFPA, the President will veto the bill.

Having said that, let me again repeat that there are many great improvements in this bill since the process began. The level of military assistance is a level which the Secretary of Defense strongly indicates that he needs and has said so in writing, and I join the Secretary of Defense, the Secretary of State and the National Security Adviser to the President and ask all of my colleagues and Members on this side of the aisle to support this bill in its present form.

THE WHITE HOUSE,
Washington, DC, June 26, 1990.

Hon. MICKEY EDWARDS,
House of Representatives,
Washington, DC.

DEAR MICKEY: I understand that the House of Representatives will be considering the Fiscal Year 1991 Foreign Operations Appropriations bill (H.R. 5114), and that amendments will be offered which would nullify the pro-life, pro-human-rights policies which govern the U.S. population assistance program. You have my full backing in your fight to defeat these amendments, which I will veto if necessary.

Last year, I was forced to veto the original FY 1990 Foreign Operations Appropriations bill (H.R. 2939) because it contained language which would have restored U.S. funding to the United Nations Population Fund (UNFPA), even though AID had determined that the organization was in violation of the Kemp-Kasten prohibitions through its support for and endorsement of, the coercive population control program of a specific nation. In my veto message, I noted that the language presented to me (the Mikulski Amendment) would have constituted a radical change in policy, which was rendered no more acceptable by a clause which required the UNFPA to keep its books in such a manner so as to prevent the direct flow of United States assistance to the coercive program in question. In effect, the Mikulski Amendment would have substituted an accounting device for the strong pro-life, pro-human-rights policy embodied in the Kemp-Kasten Amendment, and I found this unacceptable.

I am now advised that Congressman Lehman of Florida intends to offer another amendment which would earmark funds for the UNFPA. In this case, the funds would be used in Romania, but the clear intent is to undercut the Kemp-Kasten Amendment by mandating funding of an organization

which supports coercive population control programs. Moreover, the Lehman Amendment would also mandate funding of the London-based International Planned Parenthood Federation (IPPF), which has refused to comply with the Mexico City Policy—a policy for which I have often expressed my strong support.

If family-planning assistance is to be provided to Romania, as a form of humanitarian assistance, it must be provided through agencies which are in compliance with the Kemp-Kasten Amendment and the Mexico City Policy. The U.S. Agency for International Development has already informed Congress that there are a number of alternative agencies which comply with the Mexico City Policy and Kemp-Kasten could move rapidly into Romania if needed.

I am further advised that Congressman Mrazek intends to offer an amendment which would prevent the President from enforcing such different population assistance funding criteria for private organizations and sovereign governments. There are numerous reasons why such a distinction is appropriate. For example, in addition to providing abortion services and supporting abortion activities, some private organizations are actively engaged in undermining the anti-abortion laws of less-developed nations, and the U.S. should not support organizations which engage in such activities. This concern relative to the undermining of laws of sovereign nations simply does not arise with respect to those governments. The Mrazek Amendment is an obvious attempt to nullify the Mexico City Policy.

Weakening of the Mexico City Policy would result in renewed U.S. funding of organizations which promote abortion, or which campaign to legalize abortion as a method of family planning in less-developed nations. Moreover, for the United States to restore funding to the UNFPA, so long as the UNFPA supports the coercive population control program referred to above, would be a signal that the United States is not serious about supporting only voluntary family planning. Those organizations which advocate coercive methods of population control would proclaim such a change in U.S. policy as a vindication of their position.

As I said in 1989, I strongly support population assistance, so long as U.S funds are directed to those organizations which promote contraception, rather than those which condone or encourage abortion or coercive measures. The Lehman and Mrazek Amendments would weaken the pro-life Mexico City Policy and the Kemp-Kasten anti-coercion law, and I will be forced to veto H.R 5114 if any such language is included in the bill as presented to me.

Sincerely,

GEORGE BUSH.

U.S. DEPARTMENT OF STATE,
OFFICE OF THE SECRETARY OF STATE,
Washington, DC, June 27, 1990.

Hon. MICKEY EDWARDS,
House of Representatives
Washington, DC.

DEAR MICKEY: Over the past several days, we have worked with the Appropriations Committee to make many changes to the proposed foreign aid bill you will consider in the House today. These changes make the bill more satisfactory to the Administration in a number of critical areas. As a result, we ask you and other Republicans to support this bill.

We also want to make clear, however, that we will recommend to the President that he veto the bill if, at the end of the process, it contains the Moakley/Murtha language on El Salvador. Bipartisan discussions on El Salvador are currently proceeding in an encouraging manner and a negative vote on this bill over this issue at this time would be counterproductive to these discussions.

Additionally, the President's senior advisors will recommend that he veto the bill if any provisions are added that would weaken or circumvent the current Kemp-Kasten provision on forced abortion or the Mexico City policy.

Despite all our best efforts, the bill still contains a number of other objectionable provisions. You can be assured we will continue to seek changes as the bill moves through the Senate and Conference.

Sincerely,

JAMES A. BAKER III,
RICHARD B. CHENEY,
BRENT SCOWCROFT.

In other words, the executive branch cannot tell us how good or bad a job it is doing in collecting the past due debts owned to the American people by foreign governments. Data provided to me by the Department of the Treasury does shine some light on this issue. It shows that since 1980, the U.S. Government has entered at least two separate debt rescheduling with 24 nations.

My concern about this issue grew out of work in the early 1970's as a member of a subcommittee of the House Committee on Government Operations. My conclusion was that the U.S. Government, particularly the officials of the Department of State were not vigorously pursuing the collection of debts owed to the U.S. Government by foreign governments.

After more than 2 years of pursuing this matter by other means, I proposed the limitation on assistance to nations which were past due in repayment of loans to our Government that is incorproated in section 518 of this bill.

In the 8 years before my amendment went into effect, the Presidential administrations of Presidents Nixon and Ford had signed nine debt rescheduling agreements with six nations.

In the period between the date my amendment went into effect and January 20, 1981, the Presidential administration signed seven debt rescheduling agreements with five nations. However, in the same period the foreign governments which had been past due in debt repayments when my amendment became law reduced that indebtedness by about $100 million.

As deep as the concern was over the debt collection issue during the 1970's, it is what has happened during the 1980's and this year that has really set the warning flags flying and red lights flashing.

In the 13 years of the 1968 through January 20, 1981, administrations of Presidents Nixon, Ford, and Carter signed a total of 16 debt rescheduling agreements involving 11 nations. That is an average of fewer than two per year.

The 1981 through 1988 period saw a great leap forward in the area of past due debts owed to the United States by foreign governments. President Reagan's administration agreement to debt rescheduling agreements at a supersonic speed. It amassed a grand total of 88. That is almost one a month. Those agreements involved 41 foreign nations.

In the first 13½ months of his Presidency, President Bush's administration signed 28 debt rescheduling agreements. That is more than two per month.

If the foreign nations owing this money had been Arkansas farmers or home buyers, the U.S. Government would have foreclosed on this debt long ago.

I agree that it is in the national security interest of the United States for the borrowing nations to develop and have stable economies. It is at least as important for the U.S. Government to protect the national interest by helping communities in Arkansas to strengthen their economies so our people can find the work they need to support themselves and their families.

In times like these, when the Federal budget for programs such as farm price supports, Medicare, housing, education, economic development, veterans' health care, and highways are being squeezed, serious consideration must be given to reform of the Nation's foreign aid programs.

One of the places this action must start is in the area of debt owned to the U.S. Government by foreign nations. If those debts are not collectible, as many of them seem to be, that ought to be admitted. If they are not good debts, then the United States ought to find different ways to assist needy nations develop the stable economies which are important to the security interests of the United States.

I urge the Members of the House to study the section of the report on this bill which deals with the international debt issue.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Oklahoma [Mr. EDWARDS] has consumed 6 minutes.

Mr. OBEY. Mr. Chairman, I yield 6 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, for nearly 20 years I have had a continuing concern about the U.S. Government's record, or lack thereof, for collecting debts owed to it by foreign nations.

I am in strong agreement with the concerns about the international debt situation, particularly as it relates to

debts owed to the U.S. Government which are expressed in this bill and in the report accompanying it.

The committee has done a good job of addressing the subject on page 19 of the report.

I rise at this time to draw the attention of Members to two provisions of this bill which I believe are particularly important in the time of tight U.S. Federal budgets, enormous U.S. Federal deficits, and continuing concern about the international debt situation.

The first is section 518. It is titled "Limitation on Assistance to Countries in Default." This section prohibits furnishing "assistance to any country which is in default during a period in excess of 1 calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this act."

Except for the waiver relating to drug war assistance to Colombia, Peru, and Bolivia, the language of section 518 is essentially the same as I proposed and this House adopted in 1975. The Alexander amendment provided that the cutoff trigger be 90 days. The Senate changed that to 1 year, in the Brooke amendment.

That provision was intended to promote repayment of debts owed the U.S. Government by foreign nations not as an incentive to find ways to avoid the consequences of failure to repay.

The second section to which I want to draw the Members' attention is section 550. This section requires President Bush's administration to notify the Congress before it enters any new debt relief agreements with foreign governments which are past due in debt repayment to the United States. Debt rescheduling has been used to evade aid cutoff under previous provisions like section 518.

Last year, in pursuit of information about this, I obtained agreement of the subcommittee and the Committee on Appropriations for the inclusion, in the report on the appropriations bill, of a directive to Department of Treasury calling for a detailed account of the management of foreign debt owed to the United States. My language focused on debt rescheduling agreements.

Thus far, the response has been incomplete. However, there has been enough to tell us that the executive branch of the U.S. Government is a lousy recordkeeper. It can tell the Congress how many debt rescheduling agreements have been signed, with which nations, the amount of debt covered, and when the agreements were signed in most cases.

But, the executive branch has been unable to tell us how much has been collected under the agreements or how much debt was owed at the time the agreements were signed.

□ 1310

I would like to ask the chairman of the subcommittee, the gentleman from Wisconsin [Mr. OBEY] and perhaps the ranking member, what advice and experience they have on this question of the debt repayment. How can we in the Congress get a better grip on it? What can we do to require the administration to make an exact accounting, a more detailed accounting of not only those debts owed but of the progress of collecting those debts and the experience that they should be able to report?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, I would simply say that the strongest power the Congress has is the power of the purse. And in my view, unless Congress gets the information that it requires to do its job, it simply ought not appropriate money for the programs about which it is trying to obtain information.

That is one of the reasons that we did what we did with respect to the European Development Bank, and it is a major reason that we withheld the majority of funds for the hard loan window of the World Bank.

Our experience—I should point out extends to the Export-Import Bank as well.

When Mr. Volcker, of sainted memory, was at the Federal Reserve, we tried for 3 years in a row to get the Export-Import Bank to declare a loan loss reserve because we knew they had a lot of uncollectible debts on their books.

In my judgment, the Eximbank is technically broke right now.

When we did that, you would have thought that we had committed a capital crime. Mr. Volcker tried to persuade the Export-Import Bank and the Congress not to do that. Fortunately, the Export-Import Bank finally did it. The world did not collapse; all that happened is that the public has a somewhat better understanding of the somewhat shaky foundation on which institutions rest.

Mr. ALEXANDER. Mr. Chairman, I am not satisfied with the information that Congress is receiving or has received from the administration on the question of debt collection. I would like to serve notice now to the administration that at some point in the not-too-distant future, perhaps on a bill coming from the Committee on Foreign Affairs, that I will offer to collaborate with the gentleman on an amendment which would address this question of cutting off funds in the event that reports are not forthcoming.

Mr. OBEY. If the gentleman will yield further, I think before he does that he ought to take a look at the 5-year debt repayment schedule report which the Treasury has provided this committee. If he will talk to my staff, we would be happy to share it with him.

I think he will find some very interesting information there, much of what he is seeking.

Mr. ALEXANDER. I thank the gentleman very much and appreciate his yielding to me.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. GALLO], a member of the subcommittee.

Mr. GALLO. Mr. Chairman, I rise in support of the bill and ask permission to revise and extend my remarks.

First, let me thank Chairman OBEY and our ranking minority member, MICKEY EDWARDS, for their efforts.

I would like particularly to thank them both for their strong support of the Export-Import Bank. Also my legislative director, Donna Mullins for her work.

After a decade of reductions, we have started to restore the Bank to a level that meets the growing demand in such important areas as Eastern Europe, Central and South America, and Africa.

Overall, we have achieved a compromise bill that responds to the many changes that have occurred around the world.

At the same time we maintain our commitments to our allies.

As our ranking member has indicated, there is one exception to this compromise—the Moakley/Murtha language on El Salvador and I am hopeful we can reach a bipartisan compromise before we go to conference with the Senate.

While this bill is less than 2 percent of the Federal budget, it meets many goals.

Among them:

Our continued support to our allies, including Israel and Egypt.

U.S. support for the NATO alliance.

Humanitarian assistance to needy third world countries.

Continued U.S. participation in multilateral institutions.

And support for U.S. export financing and promotion.

Some of the new directions in this bill include:

Increased resources for the emerging democracies of Eastern Europe, as well as Nicaragua.

Increased resources for Africa.

Restoring the Ex-Im Bank to a level that meets demand.

And a reasonable decrease in our military programs in light of lessening tensions in some areas.

It is not a perfect bill.

Some will find fault in it.

But, overall, it is a realistic balance between many demands and a limited amount of available foreign aid.

I urge your support.

Thank you.

Mr. Chairman, I rise in support of Foreign Operations Appropriations Act for fiscal year 1991 and want to congratulate Chairman OBEY and ranking member MICKEY EDWARDS for their fine work. It is not a perfect bill, but it is a good compromise that has been approved by the administration and that should be approved by the House today. I do have serious reservations about the Moakley/Murtha language on El Salvador. While many strongly oppose this language, I am hopeful that a bipartisan compromise can be reached by the time we go to conference with the Senate on the bill.

Since we enacted the fiscal year 1990 foreign operations appropriations, we have witnessed dramatic changes in the world. These changes still are unfolding before our eyes. In the last year alone, we have seen the democratization of Eastern European nations and in Nicaragua, and the beginnings of hope for a nonracial society in South Africa and the establishment of the new country of Namibia.

As a result of these changes, this foreign aid bill addresses the new challenges as well as maintains our long-standing commitments to our allies and to needy third world countries.

The programs funded range from security assistance to humanitarian assistance, from fulfilling our obligations to multilateral institutions to funding our export financing programs, from refugee assistance to protection of the world's environment.

Specifically, we maintain our full support for Israel and Egypt, as well as our other allies and base rights countries.

Through the Agency for International Development, we address the plight of developing countries by funding programs on agriculture, child survival, education, private sector development, population planning, and environmental protection. These same efforts are bolstered by our contributions to UNICEF, the United Nations Development Program [UNDP] and other voluntary organizations. We promote peace through innovative strategies such as support for bicommunal projects on the island of Cyprus.

Regionally, we have provided a substantial increase for both the countries of Africa and Eastern Europe, while maintaining significant support for Central and South America. I believe, however, that our support for Eastern Europe can be improved by targetting our aid to key sectors, for example, telecommunications.

And, since we have limited resources for our bilateral aid programs, I am pleased that we have used some of our limited dollars to leverage more aid through the World Bank and other multilaterals that provide support for structural reforms in these ailing economies. Over the next 3 years alone, the World Bank expects to make $7 billion in loans to Poland and other Eastern European countries in support of reforms.

We can boost bilateral aid by only so much—we need to continue our participation in multilaterals.

And, in one of the most significant areas, we have reversed the decade-long reduction in funding for export financing programs by providing a $250 million increase in the Export-Import Bank.

Quite frankly, the Export-Import Bank has done a remarkable job given its limited and declining resources. Exim's programs now span the globe—from Eastern Europe to Africa.

In the last year alone, the Exim Bank began or resumed activities in Poland, Czechoslovakia, Namibia, Bolivia, Panama, and Ecuador. Yet, in the past decade, Exim resources have been reduced by 90 percent while our competitors have increased their programs. The Japanese, for example, have a $4.4 billion program.

We have also provided $150 million for Exim's war chest, which enables us to combat the tied aid practices of our competitors. Time after time, American companies have the best product at the best price—but lose the bid because of financing or the tied aid practices of other countries. The Exim Bank, under Mr. Macomber's leadership, has used the war chest more agressively to combat these practices.

Finally, Mr. Chairman, while we can't abandon our support for programs that meet basic human needs in third world countries, in many cases we can meet development goals at the same time we open markets to the United States.

There is a growing awareness that we need to change the way we think about foreign aid—because in the 1990's aid and trade should go hand in hand. Our global economic security is becoming increasingly important. We need to improve our competitiveness, reduce our trade deficit and expand into new markets.

I disagree strongly with OMB's statement that the Exim Bank does not add to our export growth. Each of us can tell individual horror stories of business and jobs lost in our district to the French, the British, the Japanese, and others. In fact, it is impossible to estimate the total amount of business lost to U.S. companies because we lack export financing alternatives and have a sit-on-the-sidelines attitude about tied aid.

In this area, this bill takes a first important step in establishing new directions for our foreign aid programs and I urge your support.

Mr. OBEY. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. MCHUGH], a gentleman who performs an immensely valuable service to the subcommittee in almost every way.

Mr. MCHUGH. Mr. Chairman, I rise in support of the bill and urge my colleagues to vote for it.

As we know, foreign aid is the least popular part of our budget. It is also the least understood. Many people view it as a sort of international welfare program, having little to do with American interests. Most believe it consumes a large portion of our Federal resources. In fact, it represents roughly 1½ percent of our budget, and, if effectively targeted and administered, foreign aid is an indispensable tool in advancing the interests of the United States abroad.

We meet at a time when the world is changing, and it is fair to ask whether this bill reflects those changes. In central and Eastern Europe, we are witnessing the rapid demise of socialism and the onset of what is likely to be a difficult struggle to firmly implant democratic institutions and open markets.

Years of repression have been replaced by hope and expectation in Czechoslovakia, East Germany, Hungary, and Poland, but there is no assurance that these expectations will be fulfilled. The economic transition will be painful, and old ethnic antagonisms could also threaten stabilty in the absence of enlightened leadership or if social and economic progress are too long delayed. Communism is surely dead, but other forms of authoritarianism are not precluded.

The United States, and the West generally, have a strong interest in facilitating the transition and fostering progress. If hopes and expectations go unfilfilled, instability will surely follow, and what then of reform and democracy in Europe? What then of fundamental change in the Soviet Union?

We have a similar stake in Central and Latin America, where newly emerging democracies in Chile, Nicaragua, and Panama also provide hope. In Africa too, with Namibian independence and the release of Nelson Mandela in South Africa, positive change is in the wind. In Asia as well, we see possibilities for peace and stability in such places as Burma and Nepal, Cambodia, and Afghanistan.

Our foreign aid program cannot remake the world. We have neither the power nor the resources to do that, and indeed the primary responsibility rests in the native countries themselves. But as recent visits by Walesa of Poland, Havel of Czechoslovakia, and Mandela of South Africa have amply demonstrated, emerging people still look to the United States for hope and inspiration, as well as for some material assistance in their struggle. It is in this latter context that foreign aid can be of some help, not only as a reflection of our humanitarian concerns but in the pursuit of American self-interest.

In general terms, the changes we are witnessing in the world suggest to me less reliance on military aid and more emphasis on promoting economic growth and development. If the new fragile democracies are going to survive and prosper, if stability is to be assured, it will have much more to do

with economic development, reasonable rates of population growth and prevention of environmental degradation, than it will with military arms and capabilities. In my view, our foreign aid program should reflect this reality, and that means some adjustments are required. In the early Reagan years, there was significant growth in military and security assistance. Whatever one thought of such growth at the time, today's conditions clearly require a reversal of that trend, and I am pleased that this bill does continue a shift begun in the last few years toward relatively more economic assistance. The shift is still relatively modest, but hopefully, it will be continued and expanded in the years ahead.

That is not to say that all military assistance is bad. It is not. There are still states and regions of the world where military assistance helps American friends defend democracy, where military aid is a stabilizing factor. An example is in the Middle East where, unfortunately, established antagonisms have not yet given way to reconciliation. I believe that the administration deserves credit for attempting to promote meaningful negotiations in that region. The administration deserves our support, and we hope that the parties in the region will be more forthcoming in their own interest. In the meantime, however, until there is greater progress it will be necessary to maintain assistance for Israel and Egypt, something which this bill does.

The bill also maintains some military assistance to the Government of El Salvador, one of the most controversial aspects of our foreign aid program. This issue may be debated later in the day, but many of us believe that current policy is not doing enough to promote peace, reduce human rights violations, and stimulate fundamental judicial reforms. Accordingly, we have incorporated in our bill the provisions we initially adopted in our fiscal year 1990 supplemental (H.R. 4636), the thrust of which are to cut military aid to the Government by 50 percent and provide incentives to both the guerrillas and the government to engage in meaningful negotiations leading to a peaceful settlement.

The chairman of our subcommittee, Mr. OBEY, has earlier described other provisions of the bill in detail, and therefore I will not repeat them. However, I would like to emphasize that although the bill is slightly larger than the President's request—by $250 million—it should be seen in the context of the substantial cuts that have been imposed on foreign aid in recent years.

In fiscal year 1985, the United States spent approximately $20.9 billion on foreign assistance, whereas this bill calls for spending of $15.8 billion, a reduction of 25 percent. Using comparable accounting methods, we are recommending $4.5 billion less in real terms than we spent in fiscal year 1981, the last year of the Carter administration. These numbers reflect the serious budget constraints of recent years, constraints that have also impacted important domestic programs, but they do not reflect a dimunition in our challenges, opportunities, and interests abroad. Those interests would justify a greater investment than we are able to recommend in this bill, as well as the adjustment in priorities I previously referred to.

Among the more important adjustments the bill does recommend are the following:

First, substantial increases in funding for sub-Saharan Africa and Eastern Europe. We believe that our economic aid programs should focus on those regions where development problems are the most compelling, and therefore we have proposed an increase for sub-Saharan Africa of almost 40 percent as compared with this year's level. Our recommendation is almost 43 percent higher than the President's request, reflecting the fact that sub-Saharan Africa remains the most desperately underdeveloped region of the world.

The bill also provides about $200 million more than the President requested for eastern Europe, recognizing the main stake we have in the success of the reform process now underway there. Fortunately, we resisted the temptation to earmark these funds so as to give the administration the flexibility to respond to changing circumstances.

Second, this bill also recognizes that we have a special obligation to children. Funding the child survival programs administered by the Agency for International Development [AID] and the United Nation's Children Fund [UNICEF] is up almost 30 percent from the 1990 level, more than 40 percent above the amount the President requested.

Third, finally, the bill increases our efforts to meet the foreign trade challenge we face as a nation. We recommend an increase of almost 22 percent for export promotion, a 48 percent increase above the amount the President requested.

These shifts in priority have been financed in part with some modest reductions in foreign military assistance. Discretionary foreign military aid is down 4 percent from the 1990 level and 7.6 percent from the 1991 request.

There are areas where we should be doing better. For example, we need to do more to assist refugees, and in the future we should place more reliance on multilateral institutions where we can leverage our resources to address challenges and opportunities we face in common with others.

On the whole, however, I believe that this is a good bill, one which serves American interests, and I urge you to support it.

□ 1220

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. CONTE], the ranking member of our committee.

Mr. CONTE. Mr. Chairman, I would also like to rise to pay tribute to a member of my Appropriations staff who is retiring as of tomorrow. Jim Fairchild, Jim R. Fairchild, Jimmy Ray Fairchild, has been a fixture on the staff for many years.

He's the expert on foreign affairs, the State Department, the Department of Commerce, and yes, how many garage attendants are employed in the Capitol. He's carried a heavy load, three subcommittees, for many years.

I want to rise to commend him and thank him for his hard work and to extend my best wishes on his retirement.

Jim has been on Capitol Hill for some 27 years now. Starting as a bright young lad from Kansas, he worked for Garner Shriver from Kansas from 1965 to 1976, interrupted by a brief stint for Ancher Nelson from Minnesota.

In 1977, he was appointed to the Appropriations Committee, and served under my predecessor, Al Cederberg, and has served with me since I became ranking Republican in 1979.

Always loyal, dependable, prepared, knowledgeable, Jim has been a real asset, and I will miss him.

Twenty-seven years is a long time, and this House of Representatives has been made greater because of his work over that time.

I hope he will come back toward the end of July when we will try to put together a little party for him, to which you are all invited.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to congratulate the gentleman on his sport coat. It is the best-looking sport coat I have ever seen him wear.

Mr. CONTE. If it gets monotonous around here, we can play checkers on it.

Mr. OBEY. Second, I would like to add my comments to the gentleman's comments on Jim Fairchild, although he comes from the minority side of the aisle. Jim is one of those public servants who makes institutions like this work, because he knows his substance, he knows the politics of the legislation as well, he understands what is achievable, he understands what is right, and I just want to say it has been a privilege for all Members to

work with him. We wish him well when he leaves this place.

I know that the gentleman in the well has been well served by Jim, as has been every Member in the place, as has the entire House.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, let me echo those words. Since I became ranking member on this subcommittee, Jim has been our top staff assistant. He has done an absolutely superb job. There is no way that we could have done the work, and for the last 3 years, put together a bill that had bipartisan support without Jim Fairchild's help. I join the Members in what they have said. We are going to miss Jim tremendously.

The CHAIRMAN. The Chair would remind the gentleman from Massachusetts [Mr. CONTE] that although points of order on the bill have been waived, points of order dealing with personal decorum on dress on the floor were not waived by the rule.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, I thank the distinguished ranking minority member of the subcommittee for yielding time to me.

I want to commend both him and the distinguished chairman of the subcommittee for putting together a final bill which I urge my colleagues to support. I will use the limited time I have to address an amendment which will be offered by the gentleman from Florida [Mr. LEHMAN] and the gentleman from Illinois [Mr. PORTER] to provide $1.5 million for family planning in Romania through the MFBA, and the International Planned Parenthood Federation, and strongly urge my colleagues to support that amendment.

We all know the tragic situation which has been disclosed in Romania, where to all intents and purposes, contraceptives and family planning were banned by the Ceausescu administration.

□ 1230

The result is that we are facing thousands and thousands of abortions every month and a true emergency in Romania. Providing the funding through the UNFPA and the International Planned Parenthood Federation is the fastest way to deal with this situation and end this stream of abortions.

This are some who, because of concerns because of what the UNFPA and the International Planned Parenthood Federation have done elsewhere, concerns which I think are misplaced, oppose sending this money to Romania through these two agencies. But the agencies they offer are not on the ground in Romania, and they are not agencies which have had the experience in dealing with national family planning programs. If we want to get the money into Romania and stop the abortions there fast, the only way to do it is through the UNFPA and the International Planned Parenthood Federation, and I hope that my colleagues will ignore the red herrings relating to those organizations' activities elsewhere and focus on the situation in Romania.

Mr. Chairman, the way to deal with that situation is through organizations which are there now, which can provide family planning assistance now, and which can stop the wave of abortions now. Those two organizations are there, and if we are serious about stopping abortions in Romania, we will provide funds to those two organizations.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. ARMEY].

(Mr. ARMEY asked and was given permission to revise and extend his remarks.)

Mr. ARMEY. Mr. Chairman, I rise in strong opposition to the passage of this bill on this date.

This morning millions of American working men and women, already beleaguered by excessive taxes and excessive debt, picked up their morning papers and discovered that there is a very good chance that our current budget summit impasse will be resolved by increasing taxes on these Americans, and today during this time we bring to this floor a bill that would borrow over $15 billion on behalf of the American people's indebtedness and spend that to keep good faith and to keep promises with foreigners, foreign governments, and foreign institutions across this globe.

Mr. Chairman, I think the time has come when we must face the fact that we should first keep our promises to the American people, that we must get their indebtedness under control on their behalf, and that we must face the fact that spending cuts here and domestically must precede taxes. I am going to encourage all my colleagues to vote against this bill on this date.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, while many parts of this bill are positive I will not be able to support any conference committee report, and in fact, will strongly oppose it unless the Moakley-Murtha provisions on El Salvador are greatly changed.

At a time we are trying to promote democracy around the world, it is shortsighted and hypocritical to threaten democracy in El Salvador by cutting in half military assistance for the duly elected government of President Cristiani.

By the actions reflected in this appropriations bill, we are only rewarding terrorism and punishing an elected government. In our haste to express our outrage over the senseless murders of six Jesuit priests we are ignoring the tragedy of thousands of innocent Salvadorans killed by terrorist actions by the Marxist FMLN guerrillas.

If peace is to be achieved in El Salvador, it will be accomplished when the Marxist guerrillas finally realize they cannot win a military victory in El Salvador or a political victory in the United States Congress. What they haven't been able to accomplish on the battlefield in El Salvador, they are about to achieve with this foreign aid bill.

By cutting in half the military aid for the Government of El Salvador we are sending the signal that the Congress will not stand behind an ally that undertook successful democratic elections in spite of tremendous pressure from the guerrillas to disrupt the electoral process. We are telling the guerrillas you don't have to negotiate responsibly to achieve peace in El Salvador, you only have to wait until the Congress undercuts the Government of El Salvador, and then you will be given a share of the power by default.

Reducing American military aid for El Salvador would be a responsible and appropriate action following the successful conclusion of peace negotiations between the government and the guerrillas. It is totally unreasonable before such talks have achieved a negotiated settlement. It hardens the position of extremists on both the right and the left and makes more difficult the kind of political compromises necessary to reach a peace accord.

With reports that the recent discussions between the Government of El Salvador and the guerrillas are progressing, this measure offers little incentive to advance the cause of peace in El Salvador.

This bill represents the beginning of the abandonment of a valued ally, and I regret its sponsors have chosen to turn their backs on El Salvador. If it can happen to El Salvador, it can happen to other allies as we. Those who are favored in this foreign aid bill should not feel comfortable that their allotments will always be secure. And those who are anxious for a foreign aid bill should also realize that without adequate support for El Salvador against a direct threat from Communist guerrillas, it is extremely difficult to get some Members to support foreign aid.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, this is a good bill. It is one that has been worked out in subcommittee as well as any bill that I have seen during the entire time I have been in the Congress. I would commend the gentleman from Wisconsin [Mr. OBEY], the chairman of our subcommittee, and the gentleman from Oklahoma [Mr. EDWARDS], our ranking member, for their good work in crafting a bill that does as much as possible to meet our foreign assistance commitments worldwide.

I might also say that we are very fortunate on the subcommittee to have the assistance of such fine staffers: Mr. Peel, Mr. Schuerch, Mr. Murray, and Ms. Maes; and, of course, on our side, Mr. Fairchild, who is completing his 27th year here, 24 as a member of the staff of this committee and whom we have relied upon, who has provided us outstanding service, and who has well earned his retirement and in which we wish him the very best, Mr. Chairman.

This bill contains an earmark for Cyprus. This is the only earmark, the only vote that was taken and passed in committee. It was a proper earmark of $15 million to encourage true bicommunal projects that will hopefully bring the people on each side of the green line closer to one another, encourage them to end their senseless and age-old fights and feuding that have racked Cyprus, and reunite the island into one country once again.

I might say, Mr. Chairman, that it would be most helpful—and I send this message as often as I can—if the leader of the Turkish Cypriots, Rauf Denktash, would find it in his heart and soul to be as forthcoming as the gentleman who leads the Greek Cypriot nation, Mr. Vassiliou, has been in trying to find a key to peace and reconciliation and the key to reuniting Cyprus once again, they will be reunited. I urge both sides to reach out to one another, and this earmark, I believe, gives them that encouragement.

Mr. Chairman, there may be other issues that ought to be considered, but the only thing the bill is really missing, I believe, is that we failed to address the one issue made in order by the Rules Committee, and that is the amendment regarding the dire situation in Romania. Romania is a country where abortion is the only available birth control method, where there are not contraceptives and trained organizations or experienced organizations to provide contraceptive services to prevent abortions, and, Mr. Chairman, 100,000 abortions are being performed every month in Romania. It is a terrible situation in that country, and we must provide them the kinds of resources they need to put into place family planning services for the people.

The reason, of course, this has come about is because the Ceausescu regime, as the gentleman from New York said, banned all family planning and banned abortions for 24 years in that country, and when the Government that overthrew Ceausescu came into place, it allowed family planning services and abortions for the first time in that period. But there are no family planning services available as yet. They have just formed a local family planning association. They have invited the UNFPA and IPPF, who are there now and on the ground, and who need U.S. resources to provide the contraceptives and counseling to prevent this ongoing slaughter resulting from abortions used, tragically, as a birth control method.

So I would hope that the Members would listen very carefully to the debate on this amendment and would support the Lehman-Porter amendment. The issue will arise on whether UNFPA and IPPF are proper organizations to administer this money. Let me say in that regard, Mr. Chairman, that I think there is just one choice. These are the organizations chosen by the Romanian people and who have been invited into that country. These are the organizations that are on the ground and are in place there. These are the organizations that have experience worldwide in providing contraceptives and family planning services, with the UNFPA operating in over 130 countries around the world and IPPF in many, many countries throughout the world also.

So I think the choice is simply not turning this into some kind of a referendum on whether we like the UNFPA or the IPPF. Abortion is not a question here. By the terms of the amendment no funds can be used for abortion. The question is, who can provide the services to the people of Romania? Who can provide the protection to the women of Romania? Who can provide the protection to the children of Romania? That is where the issue must be addressed and decided.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I appreciate the gentleman's yielding this time to me.

Mr. Chairman, yesterday we were told we were going to have a tax increase. Today we are told we are sending over $15 billion overseas, and now we wonder why the American people are upset with Congress.

While there are a few bright lights in this bill, such as support for U.S. export financing, this bill is basically a catalog of reasons why the American people are fed up with Congress. This bill will increase spending, American taxpayer spending, on everything around the globe, on people who are largely ungrateful for American help, and it comes just a day after the majority party in both Houses has finally succeeded in browbeating the President into a tax increase.

□ 1240

Mr. Chairman, this bill provides us with the best reason why taxes, higher taxes, are wrong and are not needed.

This $15 billion bill is riddled with problems. Let me just focus on one issue, the base rights payments.

It is curious to me that the Committee on Appropriations, and I appreciate their hard work, and I know it is not an easy committee to work on, and I know it is not easy issues to address, but the committee would propose a $189 million cut in military support for free base rights countries: Portugal, Turkey, and Greece but not make a similar reduction in payments to the Philippines. The fact that the administration made these requests is not in my opinion an answer. We have our own duty as a Congress to the American people even when our duty calls on us to tell the Defense Department and the State Department, "You're wrong. Enough is enough."

This bill calls for $750 million in American payments to base rights countries. Even though the committee made substantial cuts for the defense in the State Department's requests, no cuts were made in payments to the Philippines, even though that Government has clearly shown its disdain for America and for the sacrifices our people have made to keep them free.

The time has come for Congress to say to these nations and to our own bureaucrats that we will no longer pay for the privilege of defending these countries. The Philippines is the worst-case scenario. The American taxpayer has committed billions to prop up a government which has only the most tenuous support of its own people. What is more, our own Navy brass, upon retirement and when they are free to speak their own mind, tells us that the Philippine bases are not necessary for our Pacific fleet, and there is no reason for us to pay ransom for these bases when their only real purpose is to keep current regimes in power.

Yesterday we are told that we are going to have tax increases. Today we are told we are sending $15 billion overseas. Today I call on my colleagues to reject this bill and to tell the majority leadership in the House, "If you insist on raising our taxes, then don't insult the American people with this bill."

Mr. OBEY. Mr. Chairman, I yield myself 2½ minutes to answer much of the nonsense that I just heard expressed.

Mr. Chairman, the fact is, the record is that this committee has cut $6 billion from the foreign aid request of Republican Presidents since I have become chairman. The fact is that for 3 years in a row this committee made the largest percentage cuts in the budget request of Republican Presidents of any Appropriations Committee on Capitol Hill, and in a forth year we made the second largest percentage reductions in the requested amounts of Republican Presidents.

The gentleman from Wisconsin [Mr. ROTH] is also wrong when he says we did not cut the Philippines. We cut the Philippines by $40 million. Read the report.

The gentleman from Wisconsin [Mr. ROTH] personally amazes me because I see so many people who are all too willing to vote for $300 billion defense budgets. I see so many people who have voted on three successful occasions for aid to the Contras, on millions of dollars, but then do not want to support a bill which represents 5 percent of the military expenditures made by this same administration and the Congress.

So, Mr. Chairman, I would suggest that it strikes me as quaint when Members are willing to support whatever is asked on the military side of the ledger, but are not willing to support a tiny portion of that amount in order to prevent wars from taking place in the first place and to defend America's economic and humanitarian, as well as security, interests around the world.

Mr. Chairman, any suggestion that this committee has imposed tax increase on a Republican President is absolutely absurd. The fact is this committee has saved taxpayers $6 billion. This committee has saved taxpayers $6 billion by cutting the budget requests of Republican Presidents, Republican Presidents that I am sure the previous speaker has voted for.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA] for purposes of engaging in a colloquy with the gentleman from Wisconsin [Mr. OBEY].

Mr. REGULA. Mr. Chairman, if the gentleman from Wisconsin [Mr. OBEY], the chairman, would agree to a colloquy, I have a lot of people express concerns about the use of our foreign aid dollars as to whether they are spent overseas or whether they are, in fact, returned to the United States in the form of purchases, and my first question would be: What portion of our foreign aid program is in the form of aid that is tied or that in effect requires procurement in the United States with the dollars given to the other countries?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr Chairman, let me simply point out that the number that the gentleman from Ohio [Mr. REGULA] is seeking varies depending on who it is that one asks, and the fact is also I think that there is considerable misunderstanding because of the use of the word "tied." But the fact is, if one takes a look at the results in the Food for Peace area, for instance, 94 percent of the money expended is, in fact, tied to U.S. procurement. In military aid, the gentleman would find well over 90 percent tied to U.S. sources. If he takes a look at Export-Import Bank and trade programs, it is all spent assisting the U.S. companies to compete overseas. And, taking a look at development assistance programs, and taking a look at economic support funds, the GAO estimates that about 77 percent of those bilateral economic funds are tied or result in U.S. procurements. Cash transfers funded in the economic programs result in about 76 percent being purchased in the United States. If one takes a look at the international financial institutions, the GAO discovered 4 years ago, that the World Bank and the Inter-American Bank procurements totaled an amount larger than the amount that we contributed to the bank in the first place. The Asian Bank does not do quite as well.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Chairman, I rise to emphasize two different points. The first one is very critical, and that is to urge support for international family planning programs.

Let me just remark to my brothers and sisters in this body that the Mexico City policy has to be reversed. If we are serious about making resources available per capita in a world grown too large for its resources, we cannot simply focus on how much we have. We must also focus on how many people will be asking for those resources. It is said that we must not have any funds going for abortion. That is in the bill, the provision that any assistance funds not go for abortion. Simply because a recipient might give information concerning abortion, however, that recipient ought not be barred from receiving our funds for family planning activity. That is the rule in the United States. That ought to be the rule for our recipients overseas as well.

The exponential growth of the population is so serious that we cannot ignore it in our foreign aid decisions. Ninety-five million new people every year—and we restricting funds for population control.

Mr. Chairman, we speak of global warming. We speak of acid rain, we speak of depletion of the ozone layer, we speak of every environmental problem, and the truth is every one of those is exacerbated by the growth of population.

My second topic is unrelated, but because of the constraints of this debate, I must deal with it in these same few moments, deals with the International Finance Corporation.

□ 1250

I want to thank Chairman OBEY and our ranking member, Mr. MICKEY EDWARDS, for the fine job they did on this bill and especially in support of the International Finance Corporation [IFC], the private sector arm of the World Bank Group.

Over the next several months, the Governments of Eastern Europe will lay the groundwork for their new economies. The center piece of their reforms will be the rebirth of their private sectors.

Events have moved so fast that we have very few institutions capable of helping mobilize private sector investment in Eastern Europe. Many U.S. companies are just beginning operations while the new European Bank for Reconstruction and Development [EBRD] is months or years away from making its first loan. The International Finance Corporation is the only multilateral financial institution currently working in Eastern Europe's private sector. It brings to bear its 35 years of successful investment and advisory experience gained in working with many types of economic systems.

IFC has private sector projects going on right now in Eastern Europe. IFC's advice and assistance to the Governments of these countries is critical in helping them prepare blueprints that will lead to market-based economies with a vigorous private sector. That is why full funding for the IFC, as recommended by the Appropriations Committee in this bill, is so important.

Just this week, IFC is leading a team of Western bankers, headed by former Chairman of the Fed Paul Volcker, to Poland for discussions aimed at pairing foreign banks with their outdated Polish counterparts in order to modernize Polish banks. Other projects include a stock exchange in Hungary, and package loans to Yugoslavia going to several hundred small businessmen. Preliminary work is also beginning in Czechoslovakia and Bulgaria which have asked IFC for help pending their becoming formal members.

These projects underscore the important role IFC must play in the years ahead. Unfortunately this role may be greatly constrained. Under payment plans, the IFC will have to dramatically reduce the start up of new private sector ventures without a capital increase.

In light of the historic changes in Eastern Europe, I believe we cannot fail to support private sector development at this time. It is my understanding that the committee included language in its report supporting discussions about a capital increase. This is very good news. I would urge the administration to pick up on this recommendation and to move

these talks along at the upcoming economic summit in Houston next month.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, we are all too familiar with the tragic results of the Ceausescu government's policy toward family planning. The haunting faces of these lost, institutionalized children are etched in our minds. Even now, with the fall of that repressive government and the legalization of family planning, no contraceptive supplies or education are available to the people of Romania.

Abortion has become the only option, with nearly 100,000 abortions performed every month. Regardless of their choice, women have no other alternatives for family planning.

The Lehman-Porter amendment is an important step in addressing this problem. It will provide $1.5 million for voluntary family planning in Romania and $1.5 million for other health and child survival projects. The funds would be used for contraceptives and birth control and would not be used for abortions.

Further, these funds would not go through the Romanian Government. Half would go for the International Planned Parenthood Federation and the other half for the United Nations Fund for Population Activities.

It is imperative that the funds go through these organizations. Both are established in Romania and have begun modest programs to provide contraceptives and train medical workers in family planning services. Contrary to what some might believe, AID has no mission in Romania and has not given any indication when one might be opened.

Clearly, with 3,000 abortions occurring every day in Romania, there is no time to wait for other groups to establish family planning programs.

Let us approve this humanitarian gesture for the people of Romania. I urge my colleagues to support the Lehman-Porter amendment and oppose any amendment which would weaken this important language.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LEWIS], a member of the subcommittee.

Mr. LEWIS of California. Mr. Chairman, I thank my colleague for yielding me this time.

Mr. Chairman, I would like to express my deep appreciation to the committee chairman, the gentleman from Wisconsin [Mr. OBEY] and to my colleague, the gentleman from Oklahoma [Mr. EDWARDS] for the bipartisan fashion in which they have worked on this bill this year, not just this year, but in the past as well. Their progressive efforts in trying to find bipartisan solutions as well as bipartisan support for foreign aid indeed are more than commendable.

In this year's package we have once again inched our way toward that kind of a compromise, a compromise that I think makes this bill viable, presuming the compromise itself holds together.

Foreign assistance is not the easiest bill to work on in this House. Virtually none of my colleagues has very many constituents who are urging us to spend their taxpayers' dollars on foreign aid. Those same constituents in another context look at America's role in the world in recent years and often point with some pride that our leadership has indeed made a difference in the world. The reality today is that peace is breaking out, not just in Eastern Europe, but indeed in many other parts of the globe. Central America is most important to point to. Without American foreign assistance, as well as a strong America in terms of its military base, we would not be able to provide that kind of leadership and in turn probably the world would be much different today.

Having said that, Mr. Chairman, I am very concerned with the pattern and direction that this year's bill potentially could take us. In our discussions in the subcommittee, we found a partisan division, all Democrats voting with their chairman, all Republicans voting against the bill. This occurred because we saw a shift taking place that would have undermined security assistance, while in turn balancing our bill in a direction that does not reflect the kind of bipartisan support that has been a part of our recent past.

Within this bill, following the work of the subcommittee and the markup of the full committee, the chairman and our ranking member dealing with the administration drew another compromise, one that I have tentatively signed on to, but one with which I have no small amount of discomfort. In the field of foreign military assistance, essentially this bill provides for $200 million less such assistance than was last year's mark. That would suggest that suddenly because peace has broken out in Eastern Europe, for example, America's role in connection with security assistance should suddenly be dramatically reduced.

I would suggest that is a most dangerous course to follow, let alone a conclusion to come to. The reality is that security assistance is in America's interest. Those countries in Europe are stronger today because of this assistance. They reflect a stronger role in terms of our interest because of that assistance. To presume that the past formula has worked and now it is logical for use to say that it is time to walk away, friends, is to follow no line of sensible logic at all, in my judgment.

A word of caution. My chairman has suggested that he may present a 2-percent across-the-board cut during the amendment portion of this bill's hearing on the floor. If such an amendment should pass, those cuts would be highly tilted toward undermining further security assistance. I must say, such cuts would probably get me off the wagon, as it were, in terms of this compromise. I urge my chairman to think again about any suggestion that he might follow that path.

In another area, the administration has expressed strong concerns about amendments relative to the UNFPA, the family planning proposals that are in amendments eligible for consideration on the floor. If such amendments should pass, then this Member may very well have to resist the bill, for it is very likely to send a strong veto signal to the administration.

I did want to mention one other subject area that to my knowledge has not been mentioned on the floor in either 1 minute speeches or in general debate. That is that the country of Iran has recently experienced an incredible tragedy. Some 40,000 to 50,000 Iranian citizens have lost their lives as a result of a horrendous and horrible earthquake. Indeed, in spite of differences in policy, there is little question that the human spirit of America would want to reach out to that human tragedy taking place in Iran. It is very, very important that our voice be heard in connection with providing relief assistance and doing whatever is necessary to see that we help those families whose lives have been so tragically affected.

Mr. Chairman, at this point I urge your positive consideration of this legislation, but watch the amendment process with great care.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise support of this bill and would especially like to commend the distinguished chairman and the many Members—from both sides of the aisle—who have worked so diligently over the last few months to craft the provisions in this bill regarding El Salvador. Over the last 10 years of civil war, the Salvadoran military and security forces have intimidated, persecuted, and murdered thousands of church workers, human rights monitors, humanitarian volunteers, and opposition political leaders. The measure before the House today would cut United States aid to the Salvadoran military by 50 percent, so long as both sides are working to resolve the conflict peacefully.

Hopefully, this provision will help to promote a negotiated settlement that will bring real peace and justice to that troubled nation.

But Mr. Chairman, while we may be moving toward a resolution of the decade-long conflict in El Salvador, I

believe that we are now quietly entangling ourselves in a new guerrilla war, this time in the Andes. This foreign aid bill allocates funds for President Bush's militarized antinarcotics strategy in Peru, Bolivia, and Colombia. U.S. military aid to these countries is rapidly increasing, and the number of American military personnel is beginning to grow.

This policy is especially troubling in Peru, where a militant rebel movement is waging a brutal guerrilla war against the government. The administration has now acknowledged that United States support will not only be used to combat the drug traffickers in Peru, but to fight the guerrilla movement as well.

U.S. involvement in this counterinsurgency campaign is unwise for several reasons.

First of all, this strategy will draw the United States into another protracted guerrilla war in the Third World. Even if the President intends to limit U.S. military personnel to training activities, the proposed escalation will be difficult to reverse. We should have learned by now that it is easier to get into one of these distant conflicts than to get out of one.

Second, United States support for the Peruvian military will associate the United States with one of the most flagrant abusers of human rights in the hemisphere. Gross violations of human rights by Peru's military are numerous and well documented. Given our commitment to human rights around the world, we should not allow ourselves to be implicated—even if only by association—with such atrocities.

Finally, backing the Peruvian military could easily upset the delicate balance between civilian and military leaders in Peru at this time of political transition. The policy, therefore, could actually undercut our long-term goal of stable, civilian democracies in Latin America.

Mr. Chairman, a militarized antinarcotics strategy will not address the root causes of the drug problem; and in the case of Peru, it will do more harm than good.

This policy—and military aid which sustains it—needs to be thoroughly reconsidered by the Congress. As to using our military aid to fight the guerrillas in Peru, that policy must be rejected outright and it must be done before we once again get ourselves bogged down in the big muddy.

□ 1300

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in strong opposition to the Lehman-Porter amendment to be offered to H.R. 5114. Contrary to arguments in favor of this amendment, this is not a vote for family planning; it is a vote to provide funds to family planning organizations that actively participate in abortion as a method of family planning.

Yes, I have heard that over 100,000 abortions are performed in Romania every month and that this is currently the only method of birth control in that country. I have also heard that a vote in favor of the Lehman-Porter amendment will work toward preventing abortion. This simply is not true. Proponents argue that funding the International Planned Parenthood Federation [IPPF] is necessary because abortion is being used as a method of family planning. This argument is ironic when one considers that IPPF has rendered itself ineligible for U.S. funding because it steadfastly refuses to say that it will not promote abortion as a method of family planning.

I have also heard the argument that this amendment precludes funds from being used for abortion as a method of family planning. That is not the point. The two organizations to which the amendment in question proposes targeting funds: the United Nations Population Fund [UNFPA] and IPPF insist on promoting abortion as a family planning option. Moreover, the UNFPA has been and continues to be an active participant in China's population-control program, which has been widely accused of being pervasively coercive. Despite massive documentation from a variety of sources that the Chinese population officials routinely force women to undergo abortions, UNFPA officials consistently deny that the Chinese population program is coercive. Furthermore, UNFPA has been the most vocal defender of the Chinese program.

We, as the greatest provider of family planning funds in less-developed nations, must stand firm in sending a signal to organizations—such as IPPF and UNFPA—that employ compulsory abortion and other coercive population-control methods that they will receive adverse reaction from our Government. To further substantiate this need, I quote from a 1985 message to Congress by the Agency for International Development:

> Abortion is a controversial issue in many countries * * * the U.S. has been criticized in developing countries for its funding of groups which perform abortions with their own funds * * * the administration believes that it is important to avoid the damage to U.S. interests which results from the belief that it supports abortion.

Abortion for social reasons is legal in only 8 out of 126 nations classified as "less-developed" by the United Nations. Yet IPPF sees it as part of its mission to legalize abortion throughout the world.

Mr. Chairman, I am distressed by the reports we have received of human suffering of children and mothers in Romania resulting from self-inflicted abortions and compulsory child-bearing, leaving thousands of children homeless with disease. I strongly support U.S. funding for family planning to rid that country of the awful state in which it finds itself. The issue at hand is not whether family planning should be funded, or how much, but rather, whether organizations such as UNFPA are worthy of United States support even though they participate in and enthusiastically endorse China's population-control program. It is for this reason that I oppose the Lehman-Porter amendment and urge my colleagues to do the same. To accomplish the goal of effective family planning in Romania, I encourage all members to vote instead for the Smith amendment which would direct the funds in question toward organizations which the Agency for International Development has identified as able to put together a new international family planning program—organizations that do not promote abortion and coercive abortion to achieve family planning goals.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I detect from the statements of policy that have been given to me and from the statements that we have had on the floor thus far today that there are not a lot of Members who are enthusiastic about this bill. The chairman of the subcommittee does not appear to be particularly enthusiastic about the bill that he brings to us. The vice chairman of the committee does not appear to be particularly enthuasiastic about the many provisions of the bill. The administration in their statement of policy says that they are for it, but they have an awful lot of questions about it. Even in the letter they sent to the vice chairman of the subcommittee, they are somewhat reluctant to be real enthusiastic about this bill.

I raise that only because we are being told on our side of the aisle that we ought to vote for this bill because the administration is for it. I guess that that is part of the line that is being given to the majority party in the body as well.

My concern is this: This is an administration that yesterday told us they have to raise taxes. Now, there is a place where this all comes together that disturbs me a little bit. We are going to raise taxes to pay $15 billion for programs that nobody is particularly enthusiastic about. My guess is that the American people would see the question a little bit differently. They would probably say to us that

maybe you ought to look at something that all of you are not particularly enthusiastic about and figure that there are some priorities there where we might be able to save enough money to cut some taxes or to do the job of at least not coming up with new taxes.

I think we ought to look at this bill in light of the administration's priorities. The administration has a priority of spending money on these programs. That is something to consider. But they also now have defined that they want a budget that raises taxes. I do not think that for this Member that matches. I think that we have the commitments to the American people that ought to be kept. Those commitments were not to raise taxes in this budget cycle. By defeating this bill it would help fulfill that commitment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, when the Lehman amendment is offered later on in this bill, the gentleman from Illinois [Mr. HYDE] and I will be offering a perfecting amendment which retains the $3 million in assistance to Romania, including the $1.5 million in mandated family planning assistance, but would strike the requirement that the services be provided by the United States Population Fund and by the International Planned Parenthood Federation of London.

Mr. Chairman, the UNFPA and IPPF are currently ineligible for funding under current law due to their proabortion programs. The UNFPA is deeply involved in and vigorously defends the population control policies of the People's Republic of China. The U.S. Agency for International Development and the Federal courts have determined that this involvement violates the Kemp-Kasten anticoercion provision which denies population assistance to any organization which supports or participates in the management of a program of coercive abortion or involuntary sterilization.

The Lehman amendment is a backdoor attack on the Kemp-Kasten anticoercion provision.

Mr. Chairman, in a letter that the President sent to the distinguished chairman of the subcommittee, the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Oklahoma [Mr. EDWARDS] this morning, dated June 26, the President pointed out very clearly that if the Mrazek amendment which reverses the Mexico City policy is adopted—this policy separates abortion from family planning—and if the Lehman amendment, which provides the earmark for the UNFPA and IPPF, is unamended and goes forward from this body and from the conference committee and gets to his desk, that he will veto the bill.

The letter is not ambiguous. The President points out that he would be more than happy to embrace the funding, the $1.5 million for family planning in Romania, but the discretion should be left with AID to decide which agencies will administer the funds in that country.

Mr. Chairman, I just received a letter from Dr. Roskens, the AID Administrator, and he states, and I quote:

I am writing to verify that the Agency for International Development would be able to channel family planning assistance through any of four nongovernmental organizations with whom it has longstanding relationships, which have signed the Mexico City clauses, and which have assured AID that they would be able to immediately begin implementing the proposed family planning assistance in Romania. They would also not be in violation of the Kemp-Kasten provision. These four organizations are the Association for Voluntary Surgical Contraception, Johns Hopkins University's Program for International Education in Gynecology and Obstetrics, Family Health International, and the Center for Development and Population Activities.

Mr. Chairman, I want to make it very clear that there are alternatives. These are not the only two organizations that can provide these services. Both of these organizations currently are out of sync in terms of U.S. policy, UNFPA with regard to the Kemp-Kasten anticoercion policy, and the International Planned Parenthood Federation of London [IPPF], has refused to sign the Mexico City provisions. So again, we do have alternatives. The money will go to Romania. It will provide for family planning. As a matter of fact, the original amendment of the gentleman from Florida [Mr. LEHMAN] provided for $1 million in family planning assistance. I added an additional $500,000 for family planning when I offered my amendment to the Committee on Rules and an additional $1.5 million for humanitarian assistance.

So I would hope Members would see that the profamily planning and the pro-life vote will be in favor of my perfecting amendment to the Lehman amendment to be offered later on today.

Mr. Chairman, I include for the record the letter from the White House addressed to the gentleman from Oklahoma [Mr. EDWARDS], dated June 26, 1990.

THE WHITE HOUSE,
Washington, DC, June 26, 1990.

Hon. MICKEY EDWARDS,
House of Representatives, Washington, DC.

DEAR MICKEY: I understand that the House of Representatives will be considering the Fiscal year 1991 Foreign Operations Appropriations bill (H.R. 5114), and that amendments will be offered which would nullify the pro-life, pro-human rights policies which govern the U.S. population assistance program. You have my full backing in your fight to defeat these amendments, which I will veto if necessary.

Last year, I was forced to veto the original FY 1990 Foreign Operations Appropriations bill (H.R. 2939) because it contained language which would have restored U.S. funding to the United Nations Population Fund (UNFPA), even though AID had determined that the organization was in violation of the Kemp-Kasten prohibitions through its support for, and endorsement of, the coercive population control program of a specific nation. In my veto message, I noted that the language presented to me (the Mikulski Amendment) would have constituted a radical change in policy, which was rendered no more acceptable by a clause which required the UNFPA to keep its books in such a manner so as to prevent the direct flow of United States assistance to the coercive program in question. In effect, the Mikulski Amendment would have substituted an accounting device for the strong pro-life, pro-human-rights policy embodied in the Kemp-Kasten Amendment, and I found this unacceptable.

I am now advised that Congressman Lehman of Florida intends to offer another amendment which would earmark funds for the UNFPA. In this case, the funds would be used in Romania, but the clear intent is to undercut the Kemp-Kasten Amendment by mandating funding of an organization which supports coercive population control programs. Moreover, the Lehman Amendment would also mandate funding of the London-based International Planned Parenthood Federation (IPPF), which has refused to comply with the Mexico City Policy—a policy for which I have often expressed my strong support.

If family-planning assistance is to be provided to Romania, as a form of humanitarian assistance, it must be provided through agencies which are in compliance with the Kemp-Kasten Amendment and the Mexico City Policy. The U.S. Agency for International Development has already informed Congress that there are a number of alternative agencies which comply with the Mexico City Policy and Kemp-Kasten could move rapidly into Romania if needed.

I am further advised that Congressman Mrazek intends to offer an amendment which would prevent the President from enforcing such different population assistance funding criteria for private organizations and sovereign governments. There are numerous reasons why such a distinction is appropriate. For example, in addition to providing abortion services and supporting abortion activities, some private organizations are actively engaged in undermining the anti-abortion laws of less-developed nations, and the U.S. should not support organizations which engage in such activities. This concern relative to the undermining of laws of sovereign nations simply does not arise with respect to those governments. The Mrazek Amendment is an obvious attempt to nullify the Mexico City Policy.

Weakening of the Mexico City Policy would result in renewed U.S. funding of organizations which promote abortion, or which campaign to legalize abortion as a method of family planning in less-developed nations. Moreover, for the United States to restore funding to the UNFPA, so long as the UNFPA supports the coercive population control program referred to above, would be a signal that the United States is not serious about supporting only voluntary family planning. Those organizations which advocate coercive methods of population control would proclaim such a change in U.S. policy as a vindication of their position.

As I said in 1989, I strongly support population assistance, so long as U.S. funds are directed to those organizations which promote contraception, rather than those which condone or encourage abortion or coercive measures. The Lehman and Mrazek Amendments would weaken the pro-life Mexico City Policy and the Kemp-Kasten anti-coercion law, and I will be forced to veto H.R. 5114 if any such language is included in the bill as presented to me.

Sincerely,

GEORGE BUSH.

□ 1310

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to make a comment about the level of military assistance that is in this bill. It has been suggested that perhaps there has been a compromise reached which people are having to swallow very hard to accept. That simply is not the case.

The fact of the matter is that while the El Salvador language I find objectionable, and the President would veto if it is in there at the end of the process, and we have the same problem with the population control language, the level of military assistance is in fact something that the Secretary of Defense has said that he supports. Secretary Cheney is enthusiastically in support of this bill, and so to suggest anybody on this side might want to vote against it because it does not provide enough military assistance, I am not going to be the one to go and tell the Secretary of Defense, "You have not planned it right, Mr. Secretary, you need a lot more money."

He is I think very conscious of what his needs are, and so I would urge the Members on this side to support the administration in that regard.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. BROOMFIELD], vice chairman of the Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Chairman, although I had intended to offer an amendment sharply cutting military assistance levels to Turkey, I will not offer it.

I am disappointed that the procedure is structured in a way that will not allow me to further reduce assistance to Turkey without penalizing Greece in the process. I have serious concerns about the high levels of United States military asistance to Turkey that are found in this bill.

Every year, Turkey receives generous amounts of United States assistance because it claims to be a friend. Where I come from "friends help friends" and I am disappointed that Turkey has failed to assist our country by withdrawing Turkish military forces from Cyprus.

Since 1974, Turkish forces have illegally occupied northern Cyprus. Those units are armed with United States-supplied equipment that was intended for NATO defensive purposes, but illegally transferred to Cyprus.

Sixteen years after the invasion, Turkey still maintains nearly 35,000 troops on that island while pretending to want a peaceful settlement of that longstanding dispute.

There is also a sad human aspect of that Turkish military adventurism. The Turkish attack on Cyprus resulted in the deaths of thousands and the wounding of many more. Over 1,500 Greek Cypriots are still missing and unaccounted for.

Andrew Kassapis, a 17-year-old American from Michigan, was taken away from his family's home on that island and never seen again.

Over 200,000 Greek Cypriots were displaced during the fighting. They abandoned their homes and property in the process of fleeing to the south of the island. The Turkish Government never compensated them for their losses. Their homes are now occupied by some of the 60,000 Turkish settlers brought to that island after the Turkish occupation. Turkey has done little to actually promote peace on Cyprus.

While Turkey claims it want a resolution of the Cyprus conflict, Rauf Denktash, the leader of the Turkish Cypriot community on that island, recently derailed the U.N.-sponsored Cyprus issue, President Vassiliou of the Republic of Cyprus has shown great flexibility and determination in trying to resolve the dispute.0

The key to peace on Cyprus is in Ankara and Turkey should make sincere efforts to promote peace on that long-divided island. For 16 years, U.S. requests to that government to withdraw its forces have fallen on deaf ears. The new Greek Prime Minister, Constantine Mitsotakis, recently visted Washington and strongly voiced his commitment to a peaceful resolution of the Cyprus problem. Now is the time to restart the stalled intercommunal talks if Turkey truly wants peace and desires to assist the United States in attaining this important foreign policy objective. In the past, Turkey has often ignored other requests for help and expressions of concern from the United States.

Ankara has been criticized for its human rights policies by both the Department of State and by Amnesty International. Prisoners are often tortured and abused by Turkish police according to a recent State report. Amnesty noted that thousands of people were imprisoned for political reasons in Turkey. The Turkish Government returned Iranian asylum seekers to Iran without their claims for asylum having been assessed. Some of those returned to Iran were reportedly executed.

The respect for human rights doesn't seem to be very important to some Turkish officials. In this age of growing sensitivity to basic human freedoms, there is simply no excuse for abusing human beings in such a brutal manner.

Despite these problems and others, our Government continues to give more military assistance to that country. We should also look at the ongoing changes in Europe before we vote for yet more assistance to Turkey.

The past 12 months have brought historic changes to Eastern Europe and the Soviet Union. The welcome winds of change that have swept through those once-closed societies have brought democracy and a lessening of tensions between the East and the West.

The possibility of a clash between NATO and the former Warsaw Pact countries is now highly unlikely. It is difficult to envision Soviet tanks crossing into Turkey at this time.

The United States and the Soviet Union are fully engaged in productive efforts to improve our bilateral relations and to minimize regional conflicts. We are trying to reduce tensions and lower force levels in Europe. Turkey really doesn't need large amounts of military assistance during this new age of hope and promise in Europe.

Since 1977 when the United States military relationship was restored with Turkey, United States taxpayers have given billions of dollars in military assistance to that government along with equally high levels of economic assistance. The Turks still want more.

As our Nation struggles to reduce our massive deficit, why are we still giving Turkey millions of dollars in military aid?

Why are we rewarding a country that ignores our requests for help in solving the Cyprus problem? Enough is enough.

It is time for Turkey to show good-faith efforts on the Cyprus dilemma. Turkey should join us in finding a settlement to a dispute that pits two essential NATO allies against each other and causes tensions in the vital eastern Mediterranean.

While I commend the Appropriations Committee for having reduced the administration's requested military assistance levels for Turkey, a $70 million cut is clearly not enough.

It is also regrettable that the language in the bill is structured in a way that makes it impossible to reduce military assistance to Turkey without hurting Greece.

I urge my colleagues to honestly ask themselves if Turkey still needs these high levels of military assistance during this period of reduced tensions between the East and the West? I also encourage the administration to use United States assistance to Turkey as leverage on that reluctant government. I call upon my colleagues to join

me in trying to bring peace to that long-divided island.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I am happy to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I want to thank the gentleman for his remarks and associate myself with the tenor of them and the thrust of those remarks.

The rule of law is what the Government of the United States is all about, and what we seek for the rest of the world with what is happening in East Europe, and I agree with the gentleman on his remarks on Cypress.

Mr. OBEY. Mr. Chairman, I yield 45 seconds to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I appreciate the chairman yielding because I know he is tight on time.

Mr. Chairman, I want to correct some of the statements made by the gentleman from New Jersey [Mr. SMITH] and the gentlewoman from Nevada [Mrs. VUCANOVICH] earlier.

First, there is not one single dollar in this bill for abortion, not one. Not one.

Second, there are only two organizations that are now on the ground functioning in Romania. We may or may not like them, but they are doing the job, and they are not doing any abortion-related work. They are doing family planning. That is the UNFPA and the PPF.

There are over 100,000 abortions being conducted every month in Romania right now. That is over 3,000 per day. It will take many months for any new organization to get established in the country, and if Members really want to stop abortions they should vote for the assistance and what is in the bill.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, the committee's bill includes approximately $420 million in assistance for the new governments in Eastern Europe in fiscal year 1991. Of this amount, $20 million has been set aside for what the committee refers to as support for democratic activities and democratic institutions. This is a very important contribution to the consolidation of democratic governments in Eastern Europe, and I support it with enthusiasm.

Given the critical role played by the press in the development of democratic governments, do you believe that funds set aside in this bill for the support of democratic activities and institutions could be used for the promotion of free and independent media in such countries as Romania, Czechoslovakia, Hungary, Poland, Yugoslavia, and Bulgaria?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. MCCURDY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I do not have any doubt about that. Within the very limited funds available, I think it would be a good idea.

Mr. MCCURDY. I thank the gentleman.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would ask the chairman of the subcommittee a question. I notice that there are many provisions in the bill that drive or would appear to drive exports or encourage exports to the countries as part of the package. I wonder if the chairman would comment on this, because I think it is important to make people realize that this has a great benefit to the citizens of the United States as well as to the recipients of the aid.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would simply say I think one of the reasons we find so many export groups and labor groups in support of this bill is because this represents the first turnaround in which we have been able to strengthen the export financing in this bill in almost a decade.

We are going to be 50 percent above the request for the Export-Import Bank direct loans; we provide for full Exim loan guarantee requests, and we are increasing the war chest to strengthen our position on international markets from $114 to $150 million. We are beginning the interest equalization program which the export community has sought for years in order to create a level playing field for our exports. We have increased the mixed credit level in the ESF program from $5 to $50 million, and allowed a Presidential waiver through the notification process, to go higher if necessary.

This is the best export assistance bill we have been able to bring to the floor in a decade.

Mr. REGULA. Would the gentleman agree it has potential for creating a lot of jobs in the United States?

Mr. OBEY. No question.

Mr. REGULA. I thank the gentleman.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield the remainder of our time to myself.

Mr. Chairman, I rise to ask again that my colleagues support this bill. We have provided a bill after some lengthy effort by ourselves and by the administration that not only provides the security assistance that is needed, that continues our progress in restructing the way foreign aid is handled so that we move it away from the multilateral accounts more toward the security needs of the United States. Over the years we have managed to reduce the amount we spend on foreign aid and to spend it more wisely in advancing the interests of this country.

This is another good bill. It needs a lot of work, but hopefully as we go through the process on El Salvador we will get that problem worked out, and I would urge my colleagues to vote for the bill.

□ 1320

Mr. OBEY. Mr. Chairman, I yield myself the remainder of my time.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] is recognized for 1¾ minutes.

Mr. OBEY. Mr. Chairman, I have two points in closing. With respect to the base rights, the comments that were made by the gentleman from Michigan [Mr. BROOMFIELD], I would simply like to say that the base rights funding in this bill is more than $100 million below last year's level; $190 million below the administration request. This is the down payment on what is going to be a 5-year effort on the part of the subcommittee to dramatically reduce base rights payments because we think they are illegitimate, period.

Second, I simply want to take this time to express my appreciation to the ranking minority member, the gentleman from Oklahoma [Mr. EDWARDS], and all members of the subcommittee for their assistance on the bill. Most of all, to the staff, Terry Peel, Mark Murray, Bill Schuerch, Mike Marek Lori Maes, John Haecker, Chris Walker, and to Jim Fairchild, who has already been mentioned extensively.

I simply want to say if you can work for me, you can work for anybody.

I very much appreciate the tremendous work that the staff has done. This is a tough bill to handle. It is a tough committee to work for, and I appreciate the people's indulgence as well as their hard work.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, it is quite an unusual experience, working with the gentleman, too, I would say.

I think we have produced a good product. I join the gentleman in complimenting all the members of our staff and the members of the subcommittee who have put in an inordinate amount of work into this project.

Mr. KOLBE. Mr. Chairman, I rise today to express my support for the fiscal year 1991

foreign operations appropriations bill. I recognize that this bill is brought to the floor only after hours of intense negotiation and compromise during a very difficult time. Mr. OBEY, Mr. EDWARDS, and all of the subcommittee members are to be commended for their efforts.

I say that crafting this bill was difficult because, even as the world was changing, Secretary Baker admitted that the President's foreign aid request was "business as usual." But Mr. Baker also recognized the changes and said "that won't happen again."

Several Members have been critical of the President's foreign aid request. The fact is, the administration was forced to submit a foreign aid request that was formulated during the greatest period of global change since World War II. I must say, in Congress, we had the luxury of reacting to these changes at a much later date than did the administration.

Given the new reality in the world, the administration agreed to compromises in the bill, including a last minute $385 million reduction in military assistance. The administration also made clear its intention to better reflect changing global realities in future foreign aid requests.

I look forward to the future debates on this issue, and I hope the compromises agreed to in this year's foreign aid budget can set the tone for future years.

One point is key: The United States must not be left behind for lack of an effective foreign aid program. The three goals we set after World War II for our foreign aid program remain vital today.

First, we want to see developing nations embrace democracy;

Second, we want to provide humanitarian assistance to those in poverty and misery; and

Third, we seek strong credit and trade partners.

Despite all of the changes in the world, I still believe that this bill achieves these three goals for the upcoming fiscal year * * * a year that will see further dramatic changes.

First, it contains vital security assistance for some of our allies in the world still threatened by hostile forces.

Second, the bill increases aid for childrens health and world agriculture programs under the jurisdiction of the Agency for International Development. This bill also provides significant increases for the Development Fund for Africa, a region long neglected in our foreign aid priorities.

Finally, I am especially pleased with the subcommittee's efforts to recognize and reward advances in Eastern Europe to the tune of close to $500 million.

This aid will go toward private sector initiatives, housing, and technical training in labor and medicine. Perhaps most importantly, $75 million will be allocated for various environmental programs. Needless to say, the environmental decay left by decades of neglect in Eastern Europe is a global problem.

There is also $20 million in the bill for democratic activities in Eastern Europe, which brings me to an interesting point. The question has constantly been raised in recent months as to whether or not the democratic reforms in Eastern Europe are reversible. I doubt they are. But, to help ensure stability, I believe $20 million is a bargain—especially when compared to the savings that will occur from a lessening of our military presence in Europe that will result from democratic reforms.

Our foreign aid investments in Eastern Europe today could also mean a boom for American business tomorrow. However, it would be folly to believe that such markets in today's competitive world can simply bloom out of a centralized socialist economy. Providing assistance is vital—even mandatory—for countries wishing to be a part of future boom markets. It is no secret why the Japanese, both public and private sector, are taking an intensive interest in Eastern Europe. That's why I was very pleased that the bill includes more than $213 million for East European private sector initiatives.

We all know, Mr. Chairman, that foreign aid is not a popular vote. However, our Nation has a rich tradition of helping others. Helping other nations works for us. We cannot thrive in isolationism. The United States is affected by the development and progress of other nations. If we help foster that development and progress, then it will reflect better on us in the form of open markets and reliable trading partners.

An example is Korea, which now buys more food from the United States in 1 year than it received in 25 years as a United States food recipient. In my opinion, we have been remiss in not properly conveying to our constituents the value of foreign aid.

One final note. Despite the positive aspects I've described in this bill, I am dismayed by the language on El Salvador. This language alone is not enough to cause me to vote against this bill today, but it may be for some of my colleagues. The President has indicated he will veto this bill if it includes the current El Salvador language.

I hope that all Members will carefully consider the debate on this subject today. Like all of us, I supprt the peace process, but holding hostage security assistance to a besieged government, chosen overwhelmingly by its own people, will not bring a lasting peace.

Mr. LAUGHLIN. Mr. Chairman, in this year when there are so many dramatic changes in Eastern Europe, so many emerging democracies, and moves toward arms reductions, there have been many calls from my colleagues to reflect these events in the fiscal year 1991 foreign assistance appropriation. The Appropriations Committee has reported out a bill which would shift funding for military assistance to NATO base rights countries to economic assistance for Eastern Europe and poor nations in Africa.

On the surface this action appears to answer real world demands while making the best use of our scarce resources. However, not all NATO base rights countries, or for that matter NATO allies in general, will reap the same benefits from the demise of the Warsaw Pack alignments of the cold war era.

While other NATO allies border on newly emerging democracies, Turkey geopolitically still lies in a very tough area of the world. Turkey is the only NATO country to share a 1,300-mile border with the Soviet Union where ethnic strife and economic unrest leave its future clouded and uncertain at best. This is no time to abort Turkey's desperately needed modernization needs along this border.

Elections in Bulgaria have brought the former Communists, now dubbed Socialist, back into power. Ethnic Turks in Bulgaria are still threatened, as is the very process of democratization.

Iraq with its modern and sophisticated chemical and biological weapons threatened Turkey from the south.

Iran continues to export Islamic fundamentalism in the region and tries to undermine Turkey's secular democratic institutions. Turkey, as a secular democratic nation with a predominately Moslem population, stands as a role model for other countries in the region.

We continue to reap enormous benefit from our military assistance to Turkey. However, with the critically low $430 million FMS appropriation for Turkey which will barely cover previous debt repayments, Turkey will have to postpone or cancel critical modernization programs and we will lose important capabilities to monitor Soviet military developments and troop movements. Turkey's military equipment is primarily of World War II and Korean war vintage. United States officials have estimated that Turkey should spend $1.2 billion a year for a decade to meet minimum modernization requirements. Although she spends a far greater percentage of her GNP on defense than other NATO allies, Turkey is unable to meet even critical modernization needs.

Turkey is the only base right country adversely affected by the proposed $430 million appropriation. Portugal has been capped at $10 million above last year's appropriated levels. Greece continues to hold over $1 billion in unused FMS funds. Turkey will receive $70 million less than fiscal year 1990.

If we are serious about budgetary cuts and reflecting real needs in our appropriation then we have to take a long hard look at maintaining the arbitrary 7:10 ratio which mandates that $7 in assistance must go to Greece for every $10 that goes to Turkey.

This ratio has been justified as necessary to maintain a military balance between Greece and Turkey, but has had exactly the opposite effect. Greece cannot absorb more FMS aid and begin to use FMS from previous years, let alone need this year $301 million. Turkey's capabilities in numerous areas continue to degenerate and this year will be critically affected if Turkey receives $115 million below the administration request as the current bill stands.

Turkey has steadfastly and consistently met and carried out her responsibilities and those we have requested. If she is not able to meet the challenges both of our countries face in this region of the world, it will not be on account of Turkey's lack of resolve or willingness to make the best use of her scarce resources. We need a fully funded $545 million appropriation in fiscal year 1991 for Turkey.

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support of this foreign operations appropriation bill. I am particularly enthusiastic about the $20 million increase in funding for the Peace Corps. This money will enable the Peace Corps to expand its programs in Poland and Hungary and to extend Peace Corps programs to other nations in Eastern

Europe—including Czechoslovakia, Yugoslavia, and someday even Romania.

Last Monday, history was made. The first Peace Corps volunteers left for Poland and Hungary. These men and women—among which were five young men and women from my district—are the first Peace Corps volunteers to serve in Eastern Europe.

These volunteers will participate in an English teaching program which will begin bridging the cultural gap between Poland and Hungary and the United States, and open the doors for more advanced programs in Eastern Europe.

I was proud to have authored a provision in the SEED bill to provide the Peace Corps with funding to establish programs in Poland and Hungary. These programs were to provide professional and technical assistance to Poland and Hungary—modeled after the Peace Corps' Associate Volunteer Program—a program with demonstrated success in several nations of the world.

In this way the Peace Corps could draw from an untapped pool of American talent—recruiting nontraditional Peace Corps volunteers. These volunteers could be sabbaticaled or retired professionals, loaded with experience and armed with expertise. They could serve as consultants—serving anywhere from 3 to 18 months. They could be agricultural and environmental specialists, engineers, industrialists, bankers, academics, managers—all able to lend the technical skills and know-how the Poles and Hungarians so crave.

There have been many ideas floating around aiming to devise a way to best assist the struggling nations in Eastern Europe. I am pleased that through an increased appropriation for the Peace Corps, this bill recognizes the best structures are those that have proven success.

I am confident that the Peace Corps' track record of apolitical and effective support in 70 nations, coupled with American ingenuity will provide the nations of Eastern Europe with the assistance they desperately need.

I urge my colleagues to support this bill.

Mr. YATRON. Mr. Chairman, I rise in support of H.R. 5114, the Foreign Assistance Appropriations Act for 1991 and to comment on a specific provision in the bill regarding the United States security assistance program for Greece and Turkey.

Consistent with congressional efforts to maintain a balanced United States foreign policy toward these two NATO allies, the Appropriations Committee in its wisdom adjusted the assistance levels to Turkey and Greece to reflect the 10 to 7 ratio. This ratio had the effect of reducing the administration's fiscal year 1991 military assistance request to Turkey from $545 million to $430 million. I strongly support the committee's recommendation to reduce aid to Turkey and to maintain the 10 to 7 ratio. Both initiatives implicitly link United States policy toward Turkey to Ankara's unjust occupation of Cyprus.

Mr. Chairman, this past spring the United Nations-sponsored talks on Cyprus were broken off as a result of the intransigent positions advocated by Turkish Cypriot leader Rauf Denktash and his supporters in the Turkish Government. Observers of Turkish policy have suggested that the failure of these talks would break the spirit of those countries which have consistently called for a peaceful settlement of the Cyprus dispute and the withdrawal of Turkish forces from this eastern Mediterranean nation. Nothing could be further from the truth.

Mr. Chairman, the Appropriations Committee's recommendation to reduce aid to Turkey sends a clear signal to Ankara that Congress remains committed to a settlement of the Cyprus dispute. A settlement to this dispute would be good for both communities on Cyprus, and would serve the interests of Turkey, Greece, and the United States.

I urge my colleagues to support H.R. 5114 and its provision which reduces security assistance to Turkey.

Mr. RICHARDSON. Mr. Chairman, last month I traveled to Chile for a Conference on Democratic Institutions which included several members of the Chilean legislature. While in Chile, I was most impressed at the tremendous strides that nation is making toward restoring its great democratic tradition after 16 years of dictatorial rule.

President Patricio Aylwin has taken positive steps to heal the wounds of his country. He recently appointed the Commission on Truth and Reconciliation which will investigate human rights violations by both the military and leftwing extremists. By investigating past abuses the Commission will boost public confidence in the Government and restore respect for human rights.

Furthermore, President Aylwin has pledged cooperation to bring to a resolution the Letelier-Moffitt assassination case.

Despite Chile's democratic tradition and strong popular support, President Aylwin's government faces several challenges in reestablishing a working democracy. It is the responsibility of the United States to assist, as much as possible, these efforts.

H.R. 5114, the Appropriations for Foreign Operations, includes important provisions which help Chile meet the challenges of reestablishing its democracy.

The bill recommends that AID undertake housing guarantee programs in the amount of $20 million for Chile.

Furthermore, the bill lifts the restriction for aid to Chile for those programs which promote an independent judiciary and build democratic institutions and recommends that as much as $5 million be used for these purposes.

I would like to commend the chairman of the Subcommittee on Appropriations for Foreign Operations—Mr. OBEY—and the subcommittee for recognizing both Chile's significant steps toward democracy and the need to provide United States assistance to that nation.

It is my hope that a new period in United States-Chilean relations is dawning and that we will see our ties to Chile continue to grow and strengthen in the years to come.

[From the Christian Science Monitor, Apr. 11, 1990]

CHILE REACHES FOR DEMOCRACY

(By Peter Hakim and Peter D. Bell)

The inauguration of President Patricio Aylwin in Chile last month was cause for celebration—first and foremost for the Chileans themselves, who after 16 years of military rule had finally regained their freedom and their country.

Chile's return to democracy also holds special significance for the rest of Latin America. Prior to the 1973 coup that brought General Pinochet to power, Chile took pride in the most enduring tradition of democratic rule in all of Latin America.

After the coup, Pinochet came to symbolize the nightmare of military rule in the region. The recent democratic trend in Latin America, no matter how widespread, remained truncated so long as Chile was a dictatorship.

For the Alywin government the time for celebration is over. Now it is time to govern—and that means in Chile what it has meant in virtually every other Latin American country where the basis for authority has shifted from bullets to ballots.

The newly elected authorities must rebuild the institutions of representative government; overcome the legacy of fear, mistrust, and bitterness that continues to divide Chileans; and give more attention to the needs of the people who have suffered most over the last 16 years—the poor.

President Aylwin starts off with one enormous advantage over his counterparts in the region's other countries. Only in Chile has the military turned over a well-functioning economy to its civilian successors. Indeed, the Chilean economy is the healthiest in all of Latin America: The national budget is balanced; unemployment is low; international accounts are in order; exports are booming; and the country has enjoyed five straight years of strong economic growth.

But the recent strength of the Chilean economy should not obscure continuing vulnerabilities. Chile is still a poor country. Per capita income is only 10 percent of that in the United States; its external debt is one of the highest per capita in the entire world, and enormous payments come due in the next two years. Also, Chile still depends on copper for nearly one-half of its foreign exchange earnings. Living standards for most Chileans have not improved much since 1970—and may have actually declined for the 30-40 percent of the country's poorest citizens.

The immediate task of Chile's economic managers is to cool down an overheated economy to avoid fueling inflation, which rose to an annual rate of 30 percent in late 1989. At the same time, they must begin to meet some of the country's long-bottled-up demands for improved education, health care, and housing—and address the legitimate claims of Chile's labor movement, which the military had legislated and intimidated into passivity. All this will be a difficult balancing act.

It will be even more difficult for the Aylwin government to find the right formula for coming to terms with 16 years of systematic human rights abuse. Year after year, Chile's military rulers were cited in the reports of the U.S. State Department, United Nations, Organization of American States, and private human rights organizations for torture, arbitary arrests, "disappearances," and unpunished political killings.

Most Chileans want these abuses investigated and the truth revealed; many would like to see those responsible punished. The justness of these demands cannot be easily denied by a democratic government.

Yet Chile's military forces, which still wield much power, are opposed to such investigations and dead set against any punishment of military officers. Pinochet himself, who remains commander of the army,

has made this menacingly clear on many occasions.

It will take skill and courage for the new Chilean government to navigate these dangerous waters—but Aylwin has wisely promised not to delay in charting his course.

It is not only human rights questions that pose a dilemma for Aylwin in his efforts to amplify and consolidate Chile's democracy. Under the constitution made to his order in 1980, Pinochet not only retains his post as commander of the army, but he also has a seat on—and probably a controlling voice over—the new National Security Council, whose powers limit the authority of both the president and Congress.

Through a flurry of decrees passed in the waning months of his regime, Pinochet imposed all manner of constraints on the new government. He fixed by law the budget for the armed forces for the next five years (at the current inflated level). He also transferred various public buildings and properties to the military, and froze many senior government personnel in their posts. The soldiers, in short may be back in their barracks—but they will exert much political and economic influence. The ultimate threat of military intervention, no matter how remote, hangs over civilian policymakers in Chile. The challenge for Aylwin and his allies is to avoid inciting the generals, while working to assert civilian control.

Another crucial challenge facing President Aylwin is to forge an effective governing coalition out of the loosely structured alliance of 17 parties that joined forces first to deny Picochet's bid to extend his rule in the 1988 plebiscite and then to support Alywin's electoral campaign. Although the alliance has held together for two years, its main constituent parties—ranging from the Socialists on the left to Aylwin's own centrist Christian Democratic party—have traditionally been at odds. Each has its own political agenda and constituency to satisfy. Yet the multiple tasks of managing Chile's affairs, enlarging the space for democratic politics, and reducing the influence of the armed forces require sustained partnership among these diverse groups.

These tasks also require that the government gain the confidence and cooperation of the more conservative political parties, as well as the business and financial communities that supported Pinochet. This will be a severe test of President Alywin's talents as a consensus-builder.

The U.S. has been inconsistent in its support of democracy in Chile. Intermittently, we tolerated—even endorsed—Pinochet's rule, while turning our backs on his democratic opponents who were struggling to restore free politics. Americans, nonetheless, should feel good about recent U.S. policy. After 1985, when ambassador Harry Barnes took charge of our embassy in Santiago, the U.S. clearly aligned itself with the democratic opposition. Chile's new leaders appreciate the countributions made by Washington during their final push for democracy. They have good reason to expect warm ties with the U.S.

One crucial problem must be resolved, however; the Pinochet regime stonewalled the investigation of the 1976 assassination, perpetrated by Chilean agents in Washington, of former Defense Minister Orlando Letelier and a young American colleague. That investigation must now be carried forward by the Aylwin government to remove a serious thorn in U.S.-Chilean relations.

With the inauguration of President Aylwin, the U.S. has a smaller, if still important, role to play to Chile. The new Chilean authorities can benefit from our political and diplomatic support, and from our help in dealing with debt and trade problems.

Strong U.S. ties would bolster confidence in the Aylwin government among Chile's business community. The U.S. should proceed cautiously in resuming relations with the Chilean military—and it should be left to President Aylwin and his civilian advisers to determine the shape those relations will take.

For the present, Chile, like most of Latin America, may be a poor and vulnerable society in which the military continues to exercises undue power. But Chile's democratic turn should be celebrated because it promises a better future for the country and its people.

Chile is not just another facade democracy of, say, the Guatemalan model. Chileans take pride in their long and deep tradition of democratic civility. That tradition is being renewed and promises once again to infuse the country's political life. Democrats everywhere can take heart from the impressive electoral triumphs of Aylwin, the exceptional competence of his cabinet appointees, and the determined moderation and patient commitment that his coalition has demonstrated so far. The obstacles notwithstanding, we are convinced that democracy will prevail in Chile.

[From the Washington Times, Feb. 15, 1990]

A Symbolic Return Trip to Democracy

(By Georgie Anne Geyer)

After Christian Democrat Patricio Aylwin had taken over the presidency of a resurgent and joyous Chile on March 11, he rode away from the historic ceremony in a 1962 black Ford convertible. People outside of Chile could be forgiven for not understanding the touching symbolism.

The old convertible had been used by the first Christian Democrat president, Eduardo Frei, in the summer of 1964 when he was sworn in as president—and when he was widely considered the "last best hope" for Latin America.

Thinking about those halcyon days and what led Chile to them, and then away from them, the 71-year-old Mr. Aylwin reminisced to journalists before the wild joy in Chile this week: "When I was 20 and my generation was 20, there were many injustices in this country and much inequality, but there was freedom. We were proud of Chilean democracy."

His own Christian Democrats, but also Chilean socialists and communists, intended to "transform the country," he went on, "constructing a new Chile that would be just, humane and with solidarity, while conserving freedom."

"Fifty years later," he summed up sadly, "there is more injustice and we do not have freedom. We are a failed generation."

But despite moments of reflective sadness such as this one, Chile no longer represents failure.

Indeed, the Chile that Sunday carried still another superb Christian Democrat to power, ending nearly 17 years of often bitter military rule, is triumphant as it awakens from its long and troubled sleep.

When Mr. Frei was elected president in 1964, Chile presaged changes across the globe. Its long history of democracy was to culminate finally in a more egalitarian social democracy, spurred on by the Chilean Christian Democrat offshoot of the fraternal European parties. Indeed, Mr. Frei's development programs were so good that, by 1973, Chile would have entered the ranks of the developed countries.

But, through an election fluke, the far-leftist socialist Salvador Allende was elected president in 1970, reflecting moves to the left, seemingly inexorable, everywhere. In trying to turn the country to Marxism, Allende was overthrown by the conservative military in 1973. Military rule then became (literally) the order of the day until this week.

Through a careful balancing act, by which the hard-line military dictator, Gen. Augusto Pinochet, keeps control of the military levers of power, democracy was restored. More, Gen. Pinochet's peaceful departure marks the political demise of the last military strongman on the South American continent. He also left Chile as the one country with a booming free-market economy that will unquestionably ease the country's way back to democracy.

There remain serious problems, such as the sobering questions of how to deal with the tortures and executions that attended Gen. Pinochet's military rule. Possibly as many as 1,000 died in the weeks immediately after the 1973 coup, and some 700 more "disappeared" in the next few years.

But in this, Chile is like Argentina or Uruguay—or Lithuania or Soviet Georgia—in that it needs to hammer out ways to reconcile the divergent and often bitterly opposed groups within the nation, while at the same time answering the hunger for justice over the sins of the past.

There is a structural lesson that comes from Chile, and one that is being experimented with all across the globe today. To arrive at this kind of democratic centrist government, first the far left has to be defeated, after which the far right takes over for a time to put the economy in order. This can be a horrendous process involving human suffering.

There is a human lesson, too. Despite what we think at times, everything good of the past is not being destroyed everywhere. When Mr. Aylwin walked down the long, carpeted aisle of the new congress building in Valparaiso—and when Gen. Pinochet handed him the star-shaped brooch that has symbolized executive power for a century and a half—the new president was partaking again of an elegant ceremony that spoke of the "way it was," but also the way it is.

There was surely not, this year, much of the cheerful innocence of 1964 when even the skeptical international press corps applauded Mr. Frei at his first press conference. Too much ugliness has been inflicted since then.

But most important, we should celebrate that the Chilean soul was not lost during the bitterness of these decades. It has been resurrected and can now be the "next best hope."

[From the Washington Times, Mar. 12, 1990]

Leading Chile Away From Ancient Ghosts

(By Jacobo Timerman)

Buenos Aires.—A specter haunts the Chilean military: the ghost of Francisco Franco. In Spain, the dictator died convinced that he had tied up all the loose ends and tied them well. But in the months following Franco's death, his veil of empty power was unraveled by the Spanish citizenry.

In Chile, dictator Gen. Augusto Pinochet and his partisans also believe they have tied up all the loose ends, making the new democratic government in Chile a mere appendage of the military.

The memory of Franco creates uncertainty in Chile's military quarters—and in the moderate civilian sectors that backed the 16-year military regime, but must now participate in assuring the viability of the democratic system being inaugurated in Chile.

During the last weeks of the military regime, Gen. Pinochet and his spokesmen tried to intimidate President Patricio Aylwin, who was inaugurated yesterday, with a shower of threats. "I will be watching and listening," the dictator said in one of his farewell tours across Chilean territory, "because we must not allow any abuse in the name of freedom."

Chile's dictatorship is the last to disappear from the Southern Cone of Latin America—after Argentina, Brazil Uruguay and Paraguay—and it has left behind the most traps in its attempt to maintain a lion's share of power.

Gen. Pinochet continues as commander of the armed forces. Civil and military courts are appointed by commanders of the armed forces. Each doctrine of the armed forces is dictated by its head, not by the government. Armed forces can buy and sell without any kind of economic or political control from the government or Parliament. The president of Chile does not have the power to order the retirement of an officer of the armed forces. The National Intelligence Center, which led the repression under Gen. Pinochet, destroyed its entire archives before dissolving itself. And no judge or member of the government has a right to seek the identity of any former members of the NIC.

Gen. Pinochet's effort to tie up the loose ends does not lack its farcical aspects. For example, he ordered the presidential Mercedes Benz fleet transferred to the army command—that is, to himself—leaving Mr. Aylwin without cars and without a budget to buy them. He sold the Quinteros airport, property of the Chilean Air Force, to one of his friends. The Orbe News Agency went to another friend.

In total, Gen Pinochet is responsible for about 40 new laws created to asphyxiate the democratic government of Patricio Aylwin.

Despite all this, it is possible for Chile to have a democratic transition without military intervention. Even if Gen. Pinochet enjoys his role as commander of the army for some time, he will slowly fade away as a ridiculous old man.

He will be able to do very little when Parliament supports Mr. Aylwin's initiative to impose retirement upon him. Opinion polls indicate that, while Chileans have a positive image of the military forces, they have contempt and hatred for Gen. Pinochet, his aides and his secret servicemen.

Chile now has a civilian president, a civilian minister of defense and civilian secretaries of the armed forces. Further, Chile now has a Parliament in which all political forces in the country, including extreme right and left, are represented. The failure of the Communist Party, which did not win a single new seat in recent elections even though it is the largest, oldest and best organized communist party in Latin America, is added proof of the moderation that rules Chile's political life.

Yet it is well-known to Latin Americans that democracy cannot be assured merely by a freely elected government. There must also be the guarantee of a democratic legal system which creates the minimum guidelines for social equality and justice. Victims of repression, and their families, who shouldered the 16-year burden of disappearances, torture, illegal judicial procedures and invented accusations, will demand this of Mr. Aylwin.

When Argentine President Raul Alfonsip succeeded the military dictatorship in December 1983, he sent the top leaders of the repression to jail and he abolished the amnesty law dictated by the military for the military before it left power.

In Uruguay, President Julio Sanguinetti's government respected the military self-amnesty law, but he was forced to submit his decision to a plebiscite. The Uruguayan people, who overwhelmingly voted for democracy in 1985, approved the military amnesty in 1989. They did not want to endanger democracy. They opted not to forget or forgive but to leave behind.

The Chilean government seems inclined to take a third route. There will be no general amnesty for the political prisoners jailed by the dictatorship, but all processes they were subjected to will be judicially reviewed.

For these prisoners, freedom will come because none of the proceedings against them was legal. Their convictions violated judicial norms. There were abductions, torture and falsifications of evidence.

The Catholic Church has helped speed up the process by using records stored in the archives of its Curate of Solidarity, including records of 700 missing persons. The new government has pledged to investigate these cases until they are resolved.

The minister of justice, Francisco Cumplido, has said that those cases the Justice Department is unable to investigate will be handed over to a special commission. Furthermore, the Aylwin government will rule on reparations for all victims or their families.

The relationship among the military, civilian government and anguished victims of human-rights abuses has traditionally been the principal cause of tension in the early months of democratic transition in Southern Cone Countries.

The men Mr. Aylwin has brought to his government recognize this. They constitute a new generation formed clandestinely, in exile or in the fight for human rights in Chile during the dictatorship. They have fashioned a valiant government, with clear ideas, willing to battle hard without demagoguery. They are a reflection of the spirit of the president himself.

"When I was 20 and my generation was 20," Mr. Aylwin said in 1987, "there were many injustices in this country and much inequality, but there was freedom. We were proud of Chilean democracy. The men of that era proposed—some within the framework of social Christian ideas, others in the framework of Socialist ideas, and others more radical—to end the injustices and transform the country, constructing a new Chile that would be just, humane, and with solidarity, while conserving freedom. Fifty years later, there is more injustice and we do not have freedom. We are a failed generation."

Now that they are in power, the determination of Mr. Aylwin's sober and realistic generation to reverse this harsh verdict is itself the best assurance that Chile's transition to democracy will be successful.

[From the Wall Street Journal, Dec. 29, 1989]

CHILE'S SUCCESSFUL TRANSITION TO DEMOCRACY

(By Daniel Gressel)

SANTIAGO.—"Pinochet doesn't have all the good economists, does he?" asked a well-dressed taxi driver the day after the Chilean election. After 16 years of military rule, Chile has returned to its long democratic tradition with the election of Patricio Aylwin, a moderate Christian Democrat who headed a 17-party coalition formed for this election. Mr. Aylwin's replacement of Augusto Pinochet as president begins the second part of the most important democratic experiment in Latin America

The Aylwin government will embark on a well-deserved period of self-congratulation for having brought democracy back to Chile. The real question is whether the Aylwin government continues the current economic policy. The prognosis that it will seems quite good.

When Gen. Pinochet came to power following the military coup in 1973, no one really believed in free-market economics anywhere in South America. But Gen. Pinochet needed a program to resuscitate the economy and ended up with an entire economic-political model. He imposed free-market economics on Chile and provided for a transition to democracy.

At nearly every step along the way, this program involved difficult short-term costs for different groups. His economic team decontrolled prices, fired excess government workers, reduced tariffs from 100% to 15%, balanced the budget, sold off most state enterprises, privatized social security, and introduced a modified voucher plan for education. He formally declared the state to be subsidiary to the private sector in the economic sphere and then, amazingly enough, acted accordingly.

After initial setbacks, economic performance has been impressive. Gross national product growth probably will be in the 9% range for 1989 following last year's 7.4% rate. Exports have grown 22% in the past three years, investment is climbing and is now about 20% of GNP, and Chile's combined private- and public-sector debt for medium- and long-term loans has fallen in real terms from $17.7 billion in 1985 to $15.4 billion in 1988.

Gen. Pinochet did treat his opponents severely, including violations of fundamental civil liberties, especially at the beginning of his regime. This is one of the major reasons he lost the October 1988 "yes/no" vote on his continuation in power for eight more years. However, that vote and this month's presidential election are unlikely to alter seriously the country's economic path for several important reasons.

First, all parties to this election have agreed to respect the constitution adopted in 1981. In the economic areas, this is a very good document. Property cannot be taken without due process of law and compensation. The Central Bank has been given broad powers and is more independent than the U.S. Federal Reserve, more like the Bundesbank in West Germany. All spending bills must originate with the executive, cutting down on congressional proclivity to pork barrel. The president has the line-item veto.

The Chileans also have some interesting economic-rights provisions in their constitution. There is freedom for anyone to start any business in any area of activity by com-

plying only with general rules, and laws cannot be passed that discriminate either for or against any group or individual. This differs from other Latin nations, which invariably reserve certain economic sectors for the state or private monopolies. If an area of economic activity is proscirbed, such as narcotics, the prohibition must apply to everyone. These portions the constitution must be adequately enforced, however.

Second, the losing candidate, former Minister of Finance Hernan Buchi, campaigned on a platform of continuing his successful economic policies. Instead of running a demagogic campaign, Mr. Aylwin was continually forced to promise stability and sanity in public finances. As a result, his coalition has moved significantly to the right over the past year.

It has pledged to maintain low tariffs, export-oriented growth, the private social-security system, private ownership of the recently privatized companies, a balanced budget and an independent Central Bank. Mr. Aylwin has promised to raise the corporate income tax and spend more money on social programs, but it seems likely that the key economic ministries will be run by growth-oriented economists.

Third, the recent experience of Latin America's newly elected presidents must give pause to any would-be statist. Raul Alfonsin in Argentina, Jose Sarney in Brazil and Alan Garcia in Peru all failed because they followed interventionist economic policies. Mr. Aylwin is quite fortunate compared with his neighbors. Whereas they had to enact policies that entail short-term political costs in order to achieve long-term economic health, Mr. Aylwin's best economic strategy is complete inaction. He doesn't have to do anything other than mouth platitudes about social justice and continued prosperity. The incentives and institutions necessary for economic growth are in place already and the economy is performing superbly.

Fourth, Mr. Aylwin's coalition partners on his left failed at the polls. In the last presidential election in 1970, left-wing parties gained 37% of the vote, which was sufficient to win then. They have significantly less power today.

In the elections to the 120-member Chamber of Deputies, the left-wing parties won 28% of the seats, Mr. Aylwin's centrist Christian Democrats won 32% of the seats and the right won 40% of the vote. In the 47-member Senate, the left won 15% of the seats, the center won 32% of the seats and the right controls 53% of the seats. This last includes nine senators whom Gen. Pinochet appointed based on his contsitutional privileges.

An Aylwin coalition with either the left or the right is sufficient to pass laws through the Chamber of Deputies. But if Mr. Aylwin wants to avoid a Senate veto, he will have to get the support of the right. He has said that he feels committed to his left-wing partners, but that the country wants moderation. The right wing already has offered to work with him on a law-by-law basis. Eventually, he will be forced to compromise with the right if he wants to pass any new laws.

Chile today has an opportunity unlike anything in the rest of South America. Mr. Aylwin is about to take over a well-functioning country in which he doesn't have to make any difficult changes in economic policy. Moreover, through the circumstances of his campaign, and the correlation of forces in the Congress, he is likely to make compromises with the right rather than the left. This will serve to maintain the current economic policy.

No, all the nation's good economists are not engaged exclusively by the Pinochet regime. In fact, Mr. Aylwin plans to hire some of them and is afraid of the consequences of not following their advice. Bad economic policy has too often been the rule in Chile's democratic history and has stymied the development the country is capable of achieving. But this time, most likely, democracy will work.

RICHARDSON-RINALDO AMENDMENT

1. Reaffirms that in a competitive marketplace program exclusivity is a legitimate strategy of cable operators, video programmers and other video providers;

2. Prohibits cable programmers from unreasonably refusing to deal with alternative technologies;

3. Preserves the body of law dealing with intellectual property rights which fosters the creation and dispensation of diverse programming by providing incentives;

4. Is analogous to syndicated exclusivity and network non-duplication for broadcasters which was recently reaffirmed by the FCC; and

5. Represents a restatement of current anti-trust law.

Mr. TOWNS. Mr. Chairman the presence of Nelson Mandela before us, yesterday, was a stark reminder of the devastating effects of the apartheid system. One of the many areas dramatically affected by apartheid is in the area of health care delivery. Hospitals serving blacks in South Africa are understaffed and woefully lacking in the most basic medical equipment and supplies. Moreover, blacks' access to health care is exacerbated by the fact that only 4 percent of the black population has access to health insurance. Given these meager resources for health care delivery, it is no wonder that so little has been done to combat the AIDS virus in South Africa, particularly for black South Africans.

Make no mistake this is an escalating problem. Estimates suggest that there are currently 60,000 HIV-infected South Africans. By the end of 1991, between 300,000 and 450,000 South Africans are expected to test positive for the AIDS virus.

While we have committed substantial resources, some $52 million in this bill, to an international AIDS Program, we need to ensure that any bilateral efforts that we undertake in South Africa include the active participation of nonracial, indigenous private voluntary health organizations.

While the World Health Organization may initiate some programs with the Government of South Africa, it is clear from Mr. Mandela's address to us, yesterday, that the apartheid system is still very much in force. Consequently, it is unlikely that any WHO Program will have much effect in a country where access to health care is determined solely by one's race.

Finally, any effort that AID undertakes to help establish an anti-AIDS campaign can be effective if and only if it reaches the masses of people. Given the political situation in South Africa, it would seem that private voluntary organizations would be best equipped to combat the spread of AIDS amongst South Africans. I hope AID will make every effort to work with indigenous PVO's in combating AIDS.

Mr. BROWN of Colorado. Mr. Chairman, I rise in support of H.R. 5114, the fiscal year 1991 foreign operations appropriations bill.

This bill contains important aid to many worthy recipients. Most importantly, the bill provides $3 billion in economic and military assistance to our only democratic and stable ally in the Middle East—Israel. In addition, during these times of budget constraints, it is important to note that this bill is $900 million below the assumptions used by the House Budget Committee when drafting the fiscal year 1991 budget resolution.

Mr. Chairman, the democratic changes sweeping through Europe have not yet affected the Middle East. If one is seeking a justification to support this bill—which includes vital assistance to Israel—all you need to do is review recent events in the Middle East:

Libyan leader Mu'ammar Qadhafi has vowed to make Israel a "graveyard for the Jews."

The PLO sent a terrorist squad to Israel's beaches in an attempt to slaughter innocent civilians.

Iraqi President Saddam Husayn threatened to "eat half of Israel with fire."

The recent Arab summit in Baghdad denounced the United States and denied Israel's right to exist.

The list goes on and on. The facts alone warrant our full support.

Mr. Chairman, anti-Western, anti-American, and anti-Israel, forces in the Middle East have increased their threatening rhetoric. These forces—antidemocratic by all standards—stand in sharp contrast to Israel—our true stable and reliable, democratic friend and ally in the region.

The strength of Israel's democracy is evident by that country's ability to reorganize under peaceful, parliamentary procedures. In contrast to other parties in the region, Israel's new government has also taken a number of important steps in an effort to advance the Middle East peace process. Most dramatically, Prime Minister Shamir invited Syrian President Assad—considered Israel's most dangerous foe—to Israel for peace talks with no preconditions. As reported in this morning's New York Times, Syria has said "no" to Israel's offer.

Mr. Chairman, Israel is reopening West Bank universities, has invited the United Nations to send a senior aide to examine the situation in the territories, has committed itself to pursuing its peace proposal of May 1989, has authorized the return of hundreds of nonresident Palestinians to the West Bank and Gaza for the purpose of family reunification, has announced it will not direct any Soviet Jewish immigrant to the territories, and has been meeting with Palestinian leaders from the territories in an effort to increase mutual understanding and advance the cause of peace. This bill provides the essential assistance Israel needs to advance the peace process and to continue to take risks for peace.

This bill provides a cost-effective means to advance and protect U.S. interests around the globe. I urge my colleagues to join me in supporting this important legislation.

Mr. GILMAN. Mr. Chairman, I rise to express my support for H.R. 5114, the Foreign Assistance Appropriations Act of 1990, and I commend the gentleman from Wisconsin, the distinguished chairman of the Subcommittee on Foreign Operations, Mr. OBEY, and the distinguished minority Member, Mr. CONTE for their dedicated work on this critically important measure.

This measure which appropriates $15.8 billion for foreign operations, export financing, and related programs, is particularly important because it gives the President more flexibility in limiting earmarks to funds for foreign assistance.

H.R. 5114 also contains important provisions which provide funding for the Bureau of International Narcotics Matters [INM] of the the State Department so that the INM can continue its efforts to link our Nation's foreign policy to the war against drug trafficking.

This measure also appropriates $418.7 million in assistance to the emerging democracies of Eastern Europe, of which $75 million will be used to fund environmental programs. This comes at a particularly significant time, because just 1 month ago, I conferred with the Environmental Minister of the Czech and Slovak Republics who informed me that when the Soviets, withdrew their military forces from Czechoslovakia, they left behind large quantities of toxic material, including petroleum products, mercury, and lead.

This bill also contains $485.6 million in migration and refugee assistance to help the many refugees coming out of such places as the Soviet Union and Asia to resettle and begin a new life.

This appropriation also contains funding for both Egypt and Israel and to Lebanon, in order to enhance the Camp David agreement and to foster peace in the Middle East.

Accordingly Mr. Chairman, I urge the adoption of the many critically important programs incorporated in this measure.

Mr. STUDDS. Mr. Chairman, I rise in reluctant support of H.R. 5114; in enthusiastic praise of its principal sponsor, Mr. OBEY, and the members of his subcommittee; and in the fervent hope that this is the last time we will be asked to support a foreign aid bill whose largest single component is military in nature.

My objections to this bill do not differ greatly from the concerns that have caused me on many occasions to oppose foreign aid authorization and appropriations legislation in the past.

We have needs at home that we have neglected for far too long. Given that, I find it impossible to support any but the truly essential military aid and economic security assistance provisions of this bill.

I find it impossible to justify allocating fully one-third of our entire foreign aid budget to just two countries.

And I do not believe that the efforts we have taken in recent years to reform and to improve accountability in our foreign aid program have yet succeeded. The American people continue to doubt, and to doubt with good reason, that many of our foreign aid dollars truly serve their intended purpose.

Nevertheless, I will vote for this bill.

I do so, first, because this bill is far better than the legislation requested by the administration. Military aid is $385 million below the administration's request. As a result, a far greater portion of the bill is devoted to the basic economic and humanitarian assistance purposes that I believe genuinely serve American interests abroad.

Second, the bill either prohibits entirely or almost entirely the provision of military assistance to countries such as Guatemala, Zaire, Liberia, Sudan, and Somalia that are clearly undeserving of our security aid.

Third, the bill includes desperately needed assistance to relieve human suffering caused by famine and extreme poverty, especially in sub-Saharan Africa; it includes money to help narcotics producing countries to find economically viable substitutes for those deadly crops; it includes far more money than the administration requested to help children survive the plagues of malnutrition and disease; and it includes funds to help curb the spread of AIDS in the less-developed world.

Finally, the bill includes language which I helped write to reduce by 50 percent and—under certain conditions—to eliminate entirely. United States military aid to the Government of El Salvador.

This language would, for the first time, provide a strong incentive for both sides in the Salvadoran civil war to negotiate seriously for peace.

Some say this proposal would hurt President Cristiani by cutting military aid. But under it, military aid will be reduced, if the Government behaves, only if the FMLN stops attacking civilian targets; stops launching offensives; and stops acquiring arms. It must, in short, stop being the FMLN. Nothing we could do would be more helpful to President Cristiani, or more certain to promote peace.

As for the armed forces, I must tell you that—in my judgment—they do not deserve another nickle of our aid. They have grown so used to U.S. dollars; so immune to lectures on human rights; so arrogant in their use of power; so confident in their lies; so secure in their belief that we will never act on our ideals that they will never change unless we shock them into doing so—not with more empty rhetoric, but with a law that will finally hold them accountable for what they do.

Last November 16, one of the best trained, most experienced units in the Salvadoran military surrounded the sleeping quarters of six courageous and compassionate men; the soldiers forced those men to lie face down on the ground; and shot them in the back of the head. The soldiers came across a woman who cooked for those six Jesuit priests, and her 15 year old daughter. They shot them both more than a dozen times. They didn't want any witnesses.

But we are witnesses. Evidence in the Jesuits' case has disappeared. The investigation is at a standstill. Justice—again—may be denied. Of this, too, we are witnesses. But that is not all we have seen.

Over the past decade, we have seen thousands of campesinos, students, labor leaders, educators, priests, nuns—abducted, tortured, often multilated—their bodies left in streets or tossed down wells or thrown in rivers. And we have heard their murderers lie repeatedly about those crimes, while thanking us—in the very next breath—for U.S. military aid.

We have also seen—if we have chosen to see—teenagers with their legs blown off by FMLN mines; mayors assassinated for doing their jobs; civilians caught in the crossfire of a guerrilla offensive launched in the name of the people, but not supported by the people.

Today, we must see—if we see anything at all—that the deaths on one side do not excuse the other. For there is no difference of politics or ideology that justifies the theft of human dignity; no provocation excuses murder or kidnapping or torture.

Today, we must see—unless we are blind—that every day we wait means more injustice, more suffering, more dead. El Salvador's future depends on peace. And this bill will produce progress toward peace.

House consideration of H.R. 5114 is only the first step in the legislative process. This bill must be considered by the other body. It will inevitably be considered by a joint conference committee. And it is potentially subject to a veto by the President of the United States.

In its present form, I support this legislation. But if it is weakened, in response to pressure from the other body, or from the administration, I will not support it on final passage. I will not support it if the ratio of military to economic assistance is changed in the wrong direction. I will not support it if the levels of needed humanitarian assistance are reduced. And I will not support it if the fundamental goal of the language on El Salvador—to encourage progress toward peace—is undermined.

In closing, let me once again express my admiration for the leadership of the gentleman from Wisconsin [Mr. OBEY] and for those from both sides of the aisle who assisted in his efforts to bring the best possible foreign aid bill to this floor.

Mr. GOSS. Mr. Chairman, I rise today to express my concern over the provisons in the foreign assistance appropriations related to El Salvador. The 50-percent reduction in U.S. military assistance cannot be more poorly timed and sends a signal to the Communist FMLN terrorists that U.S. support for the Cristiani government is wavering. This comes at a time when peace negotiations appear to be making more progress than at any time in recent history. Both sides have agreed on the goals of achieving a cease-fire by September and an end to the war by March 1991.

While this is encouraging news it would be most unwise for the United States to send a signal that could be misinterpreted. Traditionally Communists are only willing to negotiate when their opponents show superior strength. If any weakness is showed by the Government of El Salvador, or if there is reason for the FMLN to doubt continued United States support for the government, the peace process will likely break down.

The FMLN showed in November 1989 that it is not the least bit constrained from acts of violence while negotiating. The final offensive launched just 8 months ago is the best example of this.

Mr. Chairman, the provisions in this bill regarding El Salvador are irresponsible. The popularity elected Cristiani government receives a 50-percent cut in military assistance regardless of what it does between now and

the end of the fiscal year. The trigger mechanisms tied to FMLN behavior are unclear.

Is it acceptable for the terrorist FMLN to receive arms from Cuba and Nicaragua if they don't receive significant amounts of arms? What is significant? Is it acceptable for the Communist terrorists to conduct attacks on the democratic government of El Salvador as long as the terrorists are not in a position to threaten the rule of the government? How many assassinations, bombings, and attacks are allowable?

I would like to remind my colleagues that the Communist FMLN seeks to overthrow a pupularly elected democratic government. In the most recent public opinion poll President Cristiani has a 72-percent favorable rating. In the same poll the military was shown to have broad popular support while the terrorist FMLN has little support.

Mr. Chairman, as the world changes and Communist regimes collapse around the globe now is not the time to pull our support from a democratic ally in its struggle against an unpopular Communist insurgency. In the very bill we are discussing there is almost-half billion dollars in foreign assistance money for emerging democracies in Eastern Europe, there is funding for pro-democratic groups in South Africa, yet we propose to cut off 50-percent of the aid to an emerging democratic ally in our own backyard.

Mr. PEASE. Mr. Chairman, I am voting against this bill on final passage with very mixed emotions. I salute the members of the House Appropriations Committee, especially Congressman OBEY, chairman of the Foreign Operations Subcommittee for bringing to the floor a bill that gives genuine hope to Members like myself who want to see some fundamental changes in the purposes and spending priorities of U.S. foreign aid.

The whole post-World War II landscape is undergoing dramatic changes with unforeseen speed. Just as U.S. defense and trade policies must now be reexamined in their totality, so too should foreign aid. Quite literally, an historic watershed has been reached and neither the White House or the Congress has taken up the challenge of reevaluating foreign aid in the scope and with the importance that it deserves. Moreover, quite apart from the startling changes overseas, our Federal budget crisis should dictate a thorough policy review all by itself.

In deciding how to vote on this legislation, I have assigned greatest importance to three fundamental considerations that ought to go into any foreign aid reexamination: First, shifts in spending priorities and corresponding dollar allocations, that is, "numbers"; second, the processes through which the Congress can most constructively help redefine U.S. foreign aid in the post cold war era, that is "process"; and third, who conceives, designs, and benefits from U.S. foreign aid projects, that is, the degree of consultation with foreign recipients of U.S. aid.

First, with regard to spending priorities, I have voted against foreign aid customarily in recent years. Those votes reflected my profound dissatisfaction with Reagan-Bush foreign aid spending priorities. Specifically, there was too much security aid in relation to development assistance. Also, earmarks and the maldistribution of United States bilateral aid resulted in a very inequitable division of the foreign aid pie wherein Israel and Eygpt, for several years, running, have received nearly half of all United States bilateral aid. Furthermore, there has been a steady increase in recent years in overall foreign aid spending during a time when more and more Americans are falling below the poverty line and finding themselves unable to provide a decent family living. Yes, the fiscal year 1990 foreign aid appropriations bill—$15.5 billion—is markedly less than what President Bush sought, but that total still reflects a 7-percent increase—plus $753 million—over the fiscal year 1989 level of spending.

This fiscal year 1991 bill presents a mixed picture in what has previously been pretty much an all-black sky. In actuality, there are some promising policy reversals in what I have long viewed to be negative trends in foreign aid. On the positive side, the bill cuts $767 million in security aid from the fiscal year 1990 level, while it increases bilateral development assistance by $791 million from the fiscal year 1990 level. Overall, the spending level of the bill is within the congressional budget targets and it is modestly $252 million over last year's appropriations level by congressional standards.

On the negative side, nothing in this bill redresses the skewing of the foreign aid pie to the particular favor of Israel and Egypt. Earmarks will guarantee the continuation of current aid levels—$3 billion for Israel and $2.1 billion for Egypt. Also, the overall spending level reaches a plateau after a general upswing in foreign aid throughout much of the 1980's.

Second, I am concerned that foreign aid policy as well as spending for several years now has been more determined by the Appropriations Committee because of many problems getting foreign aid authorization bills enacted. High priority must be given this session to passing comprehensive foreign aid authorization legislation.

Third, I have long held the view that the U.S. foreign aid program is very inadequate in the degree to which it fails to give needy people in foreign countries a substantial voice in what types of assistance they will receive and for what purposes. In practicality, I suspect most projects are conceived, designed, and pursued too much in "top-down" fashion by Washington bureaucrats and vendors who stand to gain professionally and who are closely aligned with the "aid industry" that has become quite entrenched in Washington, DC, over recent decades. This has resulted in steadily increasing foreign aid spending with questionable results except for a comparatively well-heeled array of foreign aid consultants and service vendors based in the United States.

This bill is not the appropriate vehicle to address this underlying problem. It could best be tackled legislatively with an authorizing bill that overhauls and updates for the 1990's a Foreign Assistance Act which remains largely unchanged in its purposes and assumptions since the 1960's. It may be the case that America could have a more effective foreign aid program in the years of budget stringency ahead, while spending less on foreign aid. But this possibility can really only be evaluated, tested, and perhaps realized if the White House and the Congress focus attention on issues of process and LDC consultation in addition to debating changing numbers in the different foreign aid spending accounts that now exist.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered under the 5-minute rule by titles and each title is considered as read.

No amendments to the bill are in order except those amendments printed in House Report 101-560, which shall be considered in the order specified, in the manner specified, and shall not be subject to amendment except as specified in said report.

The clerk will designate title I.

The text of title I is as follows:

H.R. 5114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $50,000,795, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $1,619,692,365.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $1,064,149,500, for the United States contribution to the replenishment, to remain available until expended: *Provided,* That, before obligating funds made available under this heading, the President shall reduce from the amount obligated the United States proportionate share of any loans approved by the Board of Directors for China for non-basic human needs since January 1, 1990: *Provided further,* That such funds withheld from obligation may be obligated only if the President certifies that it is in the national interest of the United States to do so: *Provided further,* That fifteen days prior to the obligation of such funds for the International Development Association, the President shall report his certification to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of

Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $40,330,972, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the paid-in share portion of the increase in capital stock, $57,449,324, and for the United States share of the increases in the resources of the Fund for Special Operations, $20,850,016, to remain available until expended: *Provided*, That the Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to use the voice and vote of the United States to oppose any assistance by the Bank to any recipient of assistance who refuses to agree in writing that in general any procurement of goods or services utilizing Bank funds shall be conducted in a manner that does not discriminate on the basis of nationality against any member country, firm or person interested in providing such goods or services.

LIMITATION ON CALLABLE CAPITAL SUBCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,235,076,561.

INTER-AMERICAN INVESTMENT CORPORATION

For payment to the Inter-American Investment Corporation by the Secretary of the Treasury, $13,000,000, for the United States share of the capital stock of the Corporation, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $243,900,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,451,500, for the United States contribution to the fifth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $10,135,766, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $135,389,294.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $70,020,600, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $163,381,400.

CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND

For payment to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the International Monetary Fund, $10,602,000 to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $268,750,000: *Provided*, That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further*, That the total amount of funds appropriated under this heading shall be made available only as follows: $104,000,000 for the United Nations Development Program; $75,000,000 for the United Nations Children's Fund, of which amount 75 per centum (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum of which shall be expended within thirty days from the start of the United Nations Children's Fund fourth quarter of operations for 1991; $2,000,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Development Fund for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $200,000 for the Intergovernmental Panel on Climate Change; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $500,000 for the World Meterological Organization Special Fund for Climate Studies; $23,555,000 for the International Atomic Energy Agency; $15,800,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $750,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $500,000 for the United Nations Industrial Development Organization Investment Promotion Service; $10,000,000 for the Organization of American States; $6,500,000 for the United Nations Afghanistan Trust Fund; $1,000,000 for the International Tropical Timber Organization; $1,000,000 for the World Food Program; $680,000 for the International Union for the Conservation of Nature; and $20,000,000 for the United States contributions to the replenishment of the International Fund for Agricultural Development: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

The CHAIRMAN. The Clerk will designate title II.

The text of title II is as follows:

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1991, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $481,635,000: *Provided*, That not less than $5,000,000 shall be provided for new development projects of private entities and cooperatives for dairy development: *Provided further*, That not less than $10,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further*, That not less than $375,000 shall be provided to support continued United States participation in the Associate Professional Officers Program of the international food agencies.

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $250,000,000: *Provided*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $135,000,000: *Provided*, That of the funds appropriated

under this heading not less than $5,000,000 shall be provided for activities relating to the control, prevention, and eradication of River Blindness: *Provided further,* That of the funds appropriated under this heading $3,500,000 shall be provided as a contribution to the Pan American Health Organization for funding for the Gorgas Memorial Institute of Tropical and Preventive Medicine in Panama.

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $52,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds appropriated under this heading $26,000,000 shall be provided directly to the World Health Organization for its use in financing the Global Program on AIDS, including activities implemented by the Pan American Health Organization.

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $100,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $134,201,000: *Provided,* That not less than $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: *Provided further,* That $5,400,000 of the funds appropriated under this heading shall be provided for Soviet and East European research and training under the Department of State's Title VIII program on Soviet and regional studies, notwithstanding any other provision of law: *Provided further,* That $10,000,000 of the funds appropriated by this paragraph shall be made available to carry out section 206 (relating to the Center for Cultural and Technical Interchange Between North and South) of the House engrossed amendment (as passed the House of Representatives on May 24, 1990) to the bill S. 2364, and that section is hereby enacted.

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $152,223,000: *Provided,* That not less than $7,500,000 shall be made available only for cooperative projects among the United States, Israel and developing countries of which not less than $5,000,000 shall be made available for the Cooperative Development Program, and of which not less than $2,500,000 shall be made available for cooperative development research projects: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project: *Provided further,* That not less than $5,000,000 of the funds appropriated under this heading or under the heading "Sub-Saharan Africa, Development Assistance", shall be made available for assistance in support of elephant conservation and preservation: *Provided further,* That not less than $20,000,000 shall be for the Office of Energy of the Agency for International Development: *Provided further,* That not less than $75,000,000 of the funds appropriated under this heading shall be made available for environment and global warming activities: *Provided further,* That funds made available under this heading for the purposes of the earmarks contained under this heading and those contained in sections 533 and 534 of this Act may be used to meet the funding requirements of the previous proviso: *Provided further,* That not less than $150,000 shall be for technical assistance and training programs for Soviet and Czechoslovakian statisticians and economists administered by the Bureau of Labor Statistics, notwithstanding any other provision of law.

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,624,000.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $800,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise available for such purposes: *Provided,* That the authorities contained under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), shall be applicable to amounts appropriated under this heading until an Act authorizing assistance for such purposes for the fiscal year 1991 is enacted into law: *Provided further,* That not less than $50,000,000 of the funds appropriated under this heading shall be made available only to assist activities supported by the Southern Africa Development Coordination Conference: *Provided further,* That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1992.

ZAIRE

Funds appropriated by this Act to carry out chapter 1 of part I which are allocated for Zaire shall be made available only through private and voluntary organizations.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided,* That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, to provide humanitarian assistance through international relief agencies to children within Cambodia: *Provided,* That none of the funds made available under this heading may be made available, directly or indirectly, for the Khmer Rouge.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, for medical and related assistance, including the provision of prostheses and vocational rehabilitation and training, for civilians who have been injured as a result of civil strife and warfare.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $3,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided,* That the Agency for International Development shall seek to ensure that country strategies, projects, and programs are designed so that the percentage of women participants will be demonstrably increased.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

APPROPRIATE TECHNOLOGY

Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, not less than $2,000,000 shall be available for Appropriate Technology International: *Provided,* That these funds shall be in addition to $3,000,000 in funds available to Appropriate Technology International under its existing cooperative agreement with the Agency for International Development: *Provided further,* That Appropriate Technology International shall qualify, along with any cooperative development organization, for development assistance funds appropriated or otherwise made available by this Act for United States private and voluntary organizations.

PRIVATE SECTOR REVOLVING FUND

During fiscal year 1991, total commitments to guarantee loans shall not exceed $12,500,000 of contingent liability for loan principal.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $23,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $40,000,000, to remain available until expended: *Provided,* That not less than $500,000 of the funds appropriated under this heading may be made

available for assistance for children who have become orphans as a result of natural disasters.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $40,341,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $435,000,000: *Provided*, That not more than $15,000,000 (except that payment may be made under this limitation only for those categories of services for which charges have been made under Foreign Affairs Administrative Support both in prior years and in the current year) of this amount shall be for Foreign Affairs Administrative Support.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $31,384,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding section 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided*, That up to 3 per centum of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further*, That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further*, That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than two hundred and forty at September 30, 1991.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided*, That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further*, That guarantees issued under this heading shall guarantee 100 per centum of the principal and interest payable on such loans: *Provided further*, That no loans guaranteed under this heading shall be issued or held by the Federal Financing Bank: *Provided further*, That the limitation under this heading on total guarantee commitments which may be made in fiscal year 1991 shall not include the additional authority to enter into guarantee commitments provided in Public Law 101-302: *Provided further*, That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961, and notwithstanding the dollar limitation contained in that section, the borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1991: *Provided further*, That section 222(a) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1991" and inserting in lieu thereof "September 30, 1992": *Provided further*, That section 223(j) of the Foreign Assistance Act of 1961 shall not apply to commitments to guaranty loans, for which authority is provided under this heading, for Chile and Poland.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,460,000,000: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1990, whichever is later: *Provided further*, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further*, That of the funds appropriated under this heading and allocated for El Salvador, up to $1,500,000 (or the equivalent in local currencies generated with funds provided to El Salvador under this heading) may be made available, notwithstanding section 660 of the Foreign Assistance Act of 1961, to assist the Government of El Salvador's Special Investigative Unit, including for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further*, That section 534(e) of the Foreign Assistance Act of 1961 is amended by (1) striking "fiscal year 1990" and inserting in lieu thereof "fiscal year 1991"; and (2) striking "September 30, 1990" and inserting in lieu thereof "September 30, 1991": *Provided further*, That not less than $35,000,000 shall be made available for Jordan: *Provided further*, That not less than $12,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further*, That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus, including bicommunal projects and confidence building measures designed to reduce tensions and to promote peace and cooperation between the two communities on Cyprus, with highest priority given to the resettlement of the Famagusta/Varosha area under the auspices of the United Nations: *Provided further*, That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further*, That prior to the initial obligation of assistance for El Salvador from funds appropriated under this heading, the President shall report to the Congress on the extent to which the Government of El Salvador has made demonstrable progress in settling outstanding expropriation claims of American citizens in compliance with the judgment of the Supreme Court of El Salvador: *Provided further*, That not more than $50,000,000 of the funds appropriated under this heading may be made available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $50,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: *Provided further*, That up to $20,000,000 of the funds appropriated under this heading may be made available to provide grant assistance to capitalize an endowment to be used by nongovernmental organizations to enable such organizations to purchase the discounted commercial debt of Mexico as part of a debt-for-development exchange: *Provided further*, That a grant for the purposes of such an endowment may be made only if nongovernmental contributions have been made in an equal amount to capitalize the endowment: *Provided further*, That such debt-for-development exchanges for Mexico shall support the objectives of chapter 1 of part I of the Foreign Assistance Act of 1961: *Provided further*, That funds made available under this heading shall remain available until September 30, 1992.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II, $20,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until expended.

MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961, $160,000,000, which shall be available for the Multilateral Assistance Initiative for the Philippines: *Provided*, That not less than 75 per centum of the funds appropriated under this heading shall be made available for project and sector activities consistent with the purposes of sections 103 through 106 of such Act: *Provided further*, That the President shall seek to channel through indigenous and United States private voluntary organizations and cooperatives not less than $20,000,000 of the funds appropriated under this heading and of the funds appropriated and allocated for the Philippines to carry out sections 103 through 106 of such Act: *Provided further*, That funds made available under this heading shall remain available until September 30, 1992: *Provided further*, That none of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

ASSISTANCE FOR EASTERN EUROPE

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $418,675,000, to remain available until expended, which shall be available, notwithstanding any other provision of law, for economic assistance for Eastern Europe as follows—

(1) $80,000,000 shall be provided for technical assistance and training, including such activities as support for labor activities, scholarship programs, medical assistance, and support for private sector development;

(2) $30,000,000 shall be provided for technical and other assistance to support the housing sectors in East European countries;

(3) $75,000,000 shall be provided for environment and energy activities;

(4) $20,000,000 shall be provided for activities to foster democratic pluralism;

(5) $113,675,000 shall be provided for the Polish-American and Hungarian-American Enterprise Funds; and

(6) $100,000,000 shall be provided for other private enterprise activities.

(b)(1) Funds allocated by this Act for any of the paragraphs under subsection (a) may be reallocated for the purposes of any other such paragraph if, at least 15 days prior to such reallocation, the Committees on Appropriations are notified in accordance with regular notification procedures.

(2) None of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

(c) Funds made available for the Polish-American and Hungarian-American Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $13,000,000: *Provided*, That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $25,000,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1991 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $40,000,000.

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $250,000,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $186,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $150,000,000.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $485,648,000: *Provided*, That not less than $45,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further*, That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further*, That section 584(a)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended by striking "during the period beginning on March 22, 1988, and ending on September 30, 1990", and inserting "on or after March 22, 1988": *Provided further*, That the ninth proviso under Migration and Refugee Assistance, Department of State, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 is amended by striking "and before the end" and all that follows through "subsection (a)(1)(B) of such section": *Provided further*, That effective as of December 22, 1987, section 584(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202) is amended by striking "the principal alien involved is unmarried and": *Provided further*, That not more than $8,250,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further*, That of the funds appropriated under this heading, $250,000 shall be made available, notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $35,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $12,026,000.

The CHAIRMAN. Under the rule, it is now in order for the gentleman from Wisconsin [Mr. OBEY] to offer his amendments en bloc designated No. 1 in House Report 101-560, which are not subject to amendment.

AMENDMENTS EN BLOC OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. OBEY:

Page 78, line 25, after the period insert the following:

"In carrying out this section, the Administrator of the Agency for International Development shall ensure that an equitable portion of the funds is made available to benefit Afghan women and girls, particularly in programs in refugee camps in Pakistan and in reconstruction projects in Afghanistan."

On page 9, line 4, following "agencies", insert "*Provided further*, That in addition to the funds provided under the heading "International Organizations and Programs", not less than $5,000,000 of the funds appropriated under this paragraph shall be made available for United States contributions to the replenishment of the International Fund for Agricultural Development".

On page 76, line 14 strike "(a)" and all that follows through "(b)" on page 77, line 3.

Mr. OBEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Wisconsin [Mr. OBEY] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

Is there a Member seeking to claim the time in opposition to the amendments en bloc?

If not, the Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I simply want to say that this amendment has three features. First of all, it increases the amount available to the International Fund for Agriculture Development by $5 million to correct a mis-

take made by the Chair, made by me, in setting the level for the program earlier.

This means IFAD would receive a total of $25 million in the bill. The $5 million included in this amendment is derived from the agriculture development account.

Second, it deletes section 534(a) of the bill as reported, which simply contains some sense-of-Congress language with respect to the Montreal protocol facilities fund.

The chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], lodged objections to that language. So we are withdrawing it.

We are retaining the funding involved, so it simply involves a change in language.

Third, we are providing, at the request of the gentleman from California [Mr. DYMALLY], a requirement that AID encourage that females benefit in an equitable way from funds spent to provide humanitarian assistance to the Afghan resistance.

The CHAIRMAN. Does the gentleman from Oklahoma [Mr. EDWARDS] claim the time in opposition?

Mr. EDWARDS of Oklahoma. No, Mr. Chairman. I just wanted to express the fact that I have no opposition.

The CHAIRMAN. There being no Member to claim the time in opposition, the Chair will put the question on the amendments en bloc.

The question is on the amendments en bloc offered by the gentleman from Wisconsin [Mr. OBEY].

[The amendments en bloc were agreed to.]

The CHAIRMAN. Under the rule, it is now in order for the gentleman from Florida [Mr. LEHMAN] to offer his amendment designated No. 2 in House Report 101-560, which is not subject to amendment except the amendment designated No. 3 in said report, if offered by the gentleman from New Jersey [Mr. SMITH] or his designee.

AMENDMENT OFFERED BY MR. LEHMAN OF FLORIDA

Mr. LEHMAN of Florida. Mr. Chairman, I offer an amendment as designated by the Chair in his recent remarks.

The Clerk read as follows:

Amendment offered by Mr. LEHMAN of Florida: Page 17, after line 2, insert the following:

HUMANITARIAN ASSISTANCE FOR ROMANIA

(a) The Congress finds that—

(1) from 20,000 to 200,000 children live in public institutions in Romania, having been abandoned by parents too poor to provide their children with food, clothing, and other basic needs;

(2) children deposited in these "Home for the Deficient and Unsalvagable" suffer from hunger, acquired immune deficiency syndrome (AIDS) and other diseases, and neglect, to the extent that it is not uncommon for 25 percent of the children in such an institution to die each year;

(3) these terrible conditions result from family planning policies of the Ceausescu government which prohibited all forms of contraception and from economic policies which make it impossible for parents to provide the bare necessities for their children and which provide woefully inadequate resources to the institutions to which many parents were forced to abandon their children;

(4) the United Nations Children's Fund (UNICEF), World Vision, and other international and private and voluntary organizations are working with the new government in Romania to reverse the effects of these policies; however, still greater efforts are needed by that government and the world community if these children are to be afforded minimum levels of health care and to see to it that such circumstances are never again to be repeated; and

(5) it is in the national interest of the United States, and consistent with the humanitarian spirit of the American people, to support efforts to address the anticontraception policies of the Ceausescu regime and the legacy of health and social problems that were its result.

(b) Of the aggregate of the funds appropriated by the preceding paragraphs of this title to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (other than funds under the heading "Sub-Saharan Africa, Development Assistance"), not less than $3,000,000 shall be made available for humanitarian assistance for Romania of which $1,500,000 shall be for activities related to:

(1) acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children including the provision of food, medicines, and training of personnel;

(2) improving the facilities available for the care of abandoned children; and

(3) facilitating family reunification or adoption of abandoned children.

Provided further, That funds provided under this section may be made available notwithstanding any provisions of law which restricts assistance to foreign countries.

Provided further, That $1,500,000 shall be for family planning assistance, of which $750,000 shall be contributed to the United National Population Fund for activities in Romania and $750,000 shall be used for a grant to the International Planned Parenthood Federation for activities for Romania notwithstanding any other provision of law or policy, subject to the following:

(1) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 215(b)(f) and section 535 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall apply to the funds made available pursuant to this subsection.

(2) Any recipient of these funds under this heading shall be required to maintain the funds made available pursuant to this subsection in a separate account and not commingle them with any other funds.

(3) Any agreements entered into by the United States to obligate funds under this subsection shall expressly state that the full amount granted by such agreements will be refunded to the United States if any United States funds are used for any family planning programs in countries other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind.

Mr. LEHMAN of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Florida [Mr. LEHMAN] will be recognized for 15 minutes. A Member opposed will be recognized for 15 minutes and the gentleman from Wisconsin [Mr. OBEY] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Florida. [Mr. LEHMAN].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in opposition to the amendment, and I ask unanimous consent that I may be able to yield my time to the gentleman from New Jersey [Mr. SMITH], and that he may be able to further yield that time.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. Mr. Chairman, I reserve my time.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY TO THE AMENDMENT OFFERED BY MR. LEHMAN OF FLORIDA

Mr. SMITH of New Jersey. Mr. Chairman, I offer a perfecting amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey to the amendment offered by Mr. LEHMAN of Florida: In the second proviso of subsection (b), strike all after "assistance," through "policy,".

Mr. SMITH of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. SMITH] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

For what purpose does the gentleman from Florida rise?

Mr. LEHMAN of Florida. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New Jersey to my amendment.

The CHAIRMAN. The gentleman from Florida [Mr. LEHMAN] will be rec-

ognized for 15 minutes, pursuant to the rule.

The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, it has been said that imitating someone or copying someone or something that they have done is one of the highest forms of flattery.

The CHAIRMAN. Will the gentleman from New Jersey [Mr. SMITH] withhold for just a moment.

Let the Chair inquire of the author of the original amendment.

Mr. LEHMAN of Florida. Mr. Chairman, I reclaim my time so that I may speak on my amendment first.

The CHAIRMAN. Since the gentleman from Florida has offered his amendment first, the gentleman is entitled to reclaim his time and speak first in support. The Chair will then recognize the gentleman from New Jersey.

Pursuant to the rule, the gentleman from Florida [Mr. LEHMAN] is recognized.

Mr. LEHMAN of Florida. Mr. Chairman, I thank the gentleman from New Jersey for relinquishing his time, and I yield myself such time as I may consume. Mr. Chairman, first I want to thank the distinguished chairman of our subcommittee, the gentleman from Wisconsin [Mr. OBEY] for making available this amendment. He delivered on his commitment, making available a rule for this amendment. He delivered on his commitment to Mr. PORTER and myself that he would do his very best to provide, that he would guarantee to provide a rule that would make this amendment possible.

I want to thank my friend from Wisconsin for offering us and providing us this opportunity.

First I want to explain to my colleagues, tell my colleagues why they should vote for the Lehman-Porter amendment, and then I want to explain why they should vote against the Smith of New Jersey amendment.

The amendment that Mr. PORTER and I are offering does two things. First it provides $1.5 million for emergency humanitarian needs for Romanian children.

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Second, it provides $1.5 million for emergency family planning needs in Romania. No funds would go to the Romanian Government. Only two international organizations, the United Nations Population Fund and the International Planned Parenthood Federation, started modest voluntary family planning programs after family planning became legal in Romania. There is a dire need for contraceptive supplies and for training medical personnel in providing family planning education and services.

Despite the fact that family planning is now legal, and except for the tiny start by these two organizations I mentioned, no contraceptives or birth control information are available for Romanians. Abortion, which was also made legal, is the only option now. An estimated 100,000 abortions occur each month and women go away without any family planning information.

The Lehman-Porter amendment would make these funds available to these two organizations for contraceptive distribution and training. To assure that the $1.5 million will be allocated for this purpose only, this amendment prohibits any of these funds from being used for abortion, coercive abortion, or involuntary sterilization. This amendment requires that the funds be used only in Romania and requires that these funds are kept in separate accounts and not commingled with non-United States funds. Furthermore, it requires that the funds be refunded to the United States if any of the above violations occur.

Our amendment guarantees that these funds will be used only to provide voluntary family planning alternatives to abortion.

Any Member truly concerned about the high number of abortions taking place in Romania can vote for my amendment—knowing that longstanding statutory prohibitions against abortion are incorporated in this amendment.

Now I want to say why we should vote against the Smith amendment. This amendment strikes at part of the legislation and eliminates the two organizations that are on the ground in Romania for performing their services at the present time. It strikes these only two organizations now working in Romania. The effect of voting for the substitute would be months of delay and more and more abortions each month. Please vote for the passage of the Lehman-Porter amendment, and to the defeat of the Smith substitute. A vote for the Lehman-Porter amendment is a vote against abortion and for immediate family planning services in Romania.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Florida [Mr. LEHMAN] has consumed 5 minutes.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been said imitating or copying someone or something they have done is one of the highest forms of flattery.

So, ladies and gentlemen, let me note at the onset that I am somewhat flattered that the gentleman from Florida [Mr. LEHMAN] and the gentleman from Illinois [Mr. PORTER] have scrapped what was their original amendment providing $1 million for family planning in Romania and are offering today, instead, an amendment I crafted which provides $1.5 million for family planning in Romania along with language appropriating an additional $1.5 million for humanitarian assistance for such things as AIDS and other health and child survival activities. It also provides money to improving the facilities available for the care of the children who have been abandoned in institutions, and facilitating family reunification or adoption of abandoned children.

Mr. Chairman, this is my language, and I am glad we are going to be voting on it shortly.

Mr. Chairman, along with Mr. WOLF of Virginia and Mr. HALL of Ohio, I have been in the lead for the better part of a decade in pressing for human rights in Romania. And now, especially with the demise of the Ceausescu regime, I feel an added burden to help provide humanitarian assistance to that suffering land. Three factfinding trips to Romania, most recently in February of this year, have confirmed in my mind the compelling need for this assistance.

At an orphanage in Bucharest in February, I held several Romanian orphans in my hands and looked deep into their eyes and vowed I would help to alleviate some of their pain and suffering. That is why, Mr. Chairman, I proposed $3 million in humanitarian assistance which, again, is being offered today under the name of the gentleman from Florida [Mr. LEHMAN].

I truly wish that were the end of the story. But there is a glitch. The Lehman amendment has one absolutely fatal flaw that the perfecting amendment I am offering will fix.

While retaining the $1.5 million for family planning in Romania, my amendment strikes the earmarks for the International Planned Parenthood Federation of London and the United Nations Population Fund.

I can say with no fear of contradiction, having received the President's letter, that if this language is not amended and perfected with Smith-Hyde, this entire bill, the foreign operations appropriations bill will be vetoed.

Mr. Chairman, contained within the Lehman amendment are these two earmarks stating to whom, and only to whom, family planning money to Romania can be given. The two are International Planned Parenthood Federation and UNFPA.

Mr. Chairman, the argument has been made over the last several weeks why only these two organizations can provide family planning services to Romania. That is simply not true.

Officials at AID have stated that at least four organizations have already been identified and have been approached concerning the provision of family planning services in Romania.

Dr. Roskens, in a letter which I will ask be made part of the RECORD, says that the Association for Voluntary Surgical Contraception can provide these services. The Johns Hopkins University Program for International Education in Gynecology and Obstetrics can provide these services. Family Health International can provide these services. The Center for Development and Population Activities can provide these services, and they can provide them quickly.

They said they are also certain that one or more of the groups and perhaps others as well, which have long and impressive records of delivering family planning services, could be in Romania within 2 weeks after being given authorization to do an assessment.

Mr. Chairman, the earmarks for these two organizations clearly undermine and circumvent both the Kemp-Kasten anticoercion law, which denies funds to organizations that support, or comanage a coercive population program, and the Mexico City policy which insists that recipients of U.S. funds not promote or perform abortion as a method of family planning.

The underlying amendment, without my perfecting amendment, would earmark funds to the U.N. Population Fund which has been found each year since 1985 to be in violation of the Kemp-Kasten statute. Each year since 1985, the U.N. Population Fund has been found guilty of supporting and comanaging what is clearly the most brutal, oppressive attack on women, unborn babies, newly born infants, and family life in general the world has ever known. The Chinese policy of one child per couple relies heavily on the coercion of forced abortion, which this House has correctly condemned as a crime against humanity, and utilizes these methods to achieve its goals.

Not only has UNFPA provided expert support and assistance to this horrific policy, the leadership of the U.N. Population Fund has emerged as China's most aggressive, unabashed defender. Dr. Nafis Sadik, executive director of the UNFPA, stated that the implementation of the policy in China is purely voluntary. This is simply not true. The other earmark in the Lehman amendment, Mr. Chairman, undermines the Mexico City policy, which has been in effect since 1984, and effectively separates abortion from family planning. Unlike an overwhelming majority of overseas family planning groups, including the International Planned Parenthood Group from the Western Hemisphere Section which agreed to the policy of not promoting abortion as a method of family planning, IPPF of London refused and has not signed the standard clause.

It is clear that to earmark funds to these organizations would significantly undermine that policy.

Mr. Chairman, the consequence of the Lehman earmarks will be aborted children as a means of family planning, because that is what the issue is here. Indeed, we can provide the family planning assistance needed, without in any way undermining or circumventing the Kemp-Kasten anticoercion or the Mexico City policy.

Ladies and gentlemen, if we truly want to provide this desperately needed family planning assistance to Romania, this language is the language that we crafted, both the gentleman from Virginia [Mr. WOLF] and I, and a few others. If we want to provide that needed assistance, the only way to do it is by perfecting this Lehman amendment. I ask that this perfecting amendment be approved.

The letter from Dr. Roskens follows:

AGENCY FOR
INTERNATIONAL DEVELOPMENT,
Washington, DC, June 27, 1990.

Hon. CHRISTOPHER H. SMITH,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SMITH: I am writing to verify that the Agency for International Development (A.I.D.) would be able to channel family planning assistance through any of four nongovernmental organizations with whom it has longstanding relationships, which have signed the Mexico City Clauses, and which have assured A.I.D. that they would be able to immediately begin implementing the proposed family planning assistance in Romania. They would also not be in violation of the Kemp-Kasten provision.

These four organizations are the Association for Voluntary Surgical Contraception, Johns Hopkins University's Program for International Education in Gynecology and Obstetrics, Family Health International and the Center for Development and Population Activities.

Sincerely,

RONALD W. ROSKENS.

I reserve the balance of my time.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

□ 1340

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding this time to me and for his leadership, along with that of the gentleman from Illinois [Mr. PORTER] in presenting this amendment today.

In describing his amendment, the gentleman from Florida [Mr. LEHMAN] mentioned that $1.5 million to the International Planned Parenthood Federation Fund and the United Nations Population Fund were proposed in this amendment. We know that is the solution. The problem is one that is very, very tragic and one that I hope we never see again in the history of the world.

During the Ceausescu regime, there was no family planning or contraception allowed. The only people who could avail themselves of family planning information and contraception were women over 45 who had 5 children. It used to be four children, but Ceausescu wanted to increase the work force, so he lifted the limit to five.

We hear our colleague, the gentleman from New Jersey [Mr. SMITH] talk about coercion. I do not think we should have coercive limitations on families; I do not think we should have coercive family childbearing. So I thank the gentleman from Florida and the gentleman from Illinois [Mr. PORTER] for offering this amendment to help decrease abortion and decrease maternal mortality and decrease abandoned children by increasing this funding.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I think a few things ought to be determined right away. The gentleman from New Jersey [Mr. SMITH], the gentleman from Virginia [Mr. WOLF], and those of us who object to the Lehman-Porter language are for family planning. We are for family planning in Romania. We wanted to get in there as soon as possible, but we wanted it to be contraception family planning, not abortion, as a method of family planning.

Unfortunately, the Smith bill which provides much more money than originally provided by the gentleman from Illinois [Mr. PORTER] and the gentleman from Florida [Mr. LEHMAN] for family planning and for humanitarian help also brings in and earmarks—and this is the fatal flaw—two organizations, International Planned Parenthood Federation of London and the UNFPA.

Now, both of these organizations are very abortion minded. They are the only two that I am aware of in the world that have refused to sign the Mexico City policy developed at a U.N. conference on population in 1984. The policy of the U.N. population conference in 1984, held in Mexico City, says that family planning shall be voluntary. Unfortunately, China has a systematically coercive system where they compel people to have only one child, and if you have more than that, you are severely penalized and oftentimes coercively aborted. The data is here for anyone who wants to see it. It is from AID, it is from our State Department Volume on Human Rights, and it boggles my mine why people who are so sensitive to human rights, who are so outraged at what happened at Tiananmen Square, can all but fall over themselves to get money to the UNFPA, which links arms with the Chinese abortion coercive sterilization program.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. No, I have only 4 minutes. The gentleman might ask me a question on his time.

The International Planned Parenthood Federation is another one that only performs abortions and not only advocates them but lobbies to change the laws of countries where abortions are illegal. And that is the problem. There are only 8 countries of 126 countries determined by the United Nations to be less developed countries that permit legalized abortion. Muslim countries and many Catholic and Christian countries hold abortion as wrong and illegal, but the UNFPA and the London-based International Planned Parenthood Federation, not only perform, they advocate abortions, and they lobby to change the laws.

The question is, Should our tax dollars go to export abortion and abortion lobbying in countries where it is deeply offensive to the government and to the people? That is the problem.

We are for family planning. We are for getting it in quickly. We will hear it said that only two organizations, International Planned Parenthood Federation of London and UNFPA, are on the ground and can meet this need. That is disingenuous, that is inaccurate, and that is untruthful. There are four organizations ready to move, including Johns Hopkins University and three others that can be there in 2 weeks and can teach and provide family planning through contraception, not abortion.

So, Mr. Chairman, we ought to support the Smith amendment, which provides a lot of money for family planning and humanitarian help and which has been piggybacked by the gentleman from Florida [Mr. LEHMAN] and the gentleman from Illinois [Mr. PORTER] but removes the earmarks for the two family planning organizations in the world that advocate and lobby for abortions.

Mr. LEHMAN of California. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I was in Romania last January shortly after the revolution, and the one thing that was clear in Romania—and I would agree with my colleagues in opposition to this—was that the situation for family planning and population control was absolutely horrendous.

The one thing that is done with any efficiency in Romania relates to the provision of abortions. Indeed today there are as many abortions being performed in Romania, a country of 23 million people, as there are in the United States, and it is very clear what the prescription is for that, and that is the provision of family planning services.

The question is how those services shall be provided. I went in and approached the U.S. Ambassador when I was there. The Ambassador told me, no, we cannot provide family planning services because we do not want to get in the middle of a debate over the Mexico City policy.

The United States did nothing after the revolution. I worked since my return, contacted the State Department, wrote a letter to Secretary Eagleburger, and got a letter congratulating me for my interest but I also received a letter on April 12 from AID.

The letter from AID cited the assessments of UNFPA and IPPF, the two agencies we do not put money in, but they are the two agencies the administration and the State Department cited as the experts that underscored the terrible situation in Romania. The same letter indicated that no funds could flow because the UNFPA and IPPF were ineligible for funding. And then the letter from the State Department said that "Our plan at this time is to continue monitoring the needs and the major doner activities and family planning in Romania as we evaluate the efficacy of bilateral support."

AID was unwilling to do anything but monitor and monitor, and they were monitoring the only agencies that are operating in the field, the U.N. Fund for Population Activities and International Planned Parenthood.

After the Foreign Affairs Committee approved $1 million for family planning assistance in Romania, they suddenly started moving and said they have other agencies, agencies that, I might add, have no presence in Romania presently, that do not have any connections with the indigenous Romanian family planning services and two of those organizations support providing the funding through the U.N. Fund for Population Activities and the International Planned Parenthood.

So the issue is not a provision for family planning services; the issue is, should we provide them through people who have an infrastructure, who have the connections and have the ability to provide the services in Romania, or should we provide them through organizations that will not be able to provide the services, that do not have any of the support mechanisms and that never operated in Romania before?

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 30 seconds just to respond very briefly.

Mr. Chairman, the gentleman's information is incorrect. We have been advised by AID that an assessment team could be in Romania within 2 weeks, and that these four organizations have been approached and could provide the necessary contraceptive family planning services that the Romanian people would want.

Perhaps the gentleman was unaware that these organizations were there, but we do have information, and according to Dr. Roskens, these organizations stand ready, willing, and able to provide those necessary services for Romania.

□ 1350

Mr. SMITH of New Jersey. Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, in response to the gentleman from New Jersey [Mr. SMITH], there is no question that these four agencies are well meaning and they want to provide the services, but the fact is that the situation in Romania is chaotic. We just heard earlier this week, medical supplies. There is vast corruption. There is vast inefficiencies in this system.

Mr. Chairman, they cannot do it. That is why two of the agencies have said that their preference is, and this is from CEDPA and from AVSC, that they support providing the funding immediately through the UNFPA and the IPPF.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I appreciate the time yielded to me.

Mr. Chairman, to pick up on what was said, I, too, was in Romania recently, and I can tell my colleagues that the situation there is absolutely horrendous. There are over 3,000 abortions being performed every single day. My colleagues can try to stop that immediately, not 1 month or 6 months from now, and any of the new sets of agencies could go in there. They have nobody in Romania, not one person in Romania, on the ground. They have no one who speaks Romanian, I suspect. They are going to have to start from scratch. Only today did AID give the gentleman from New Jersey [Mr. SMITH] a letter saying they are now prepared to do this. It is going to be months.

If my colleagues want to stop abortion, go at least for now with the people who are prepared to provide the family planning alternatives to abortion. If my colleagues are sincere, and I know they are, about stopping abortion, let us get it stopped now. The way to go now is to go with those people in Romania who have the organizational ability and who our own AID people said are the only effective ones now operating. We can disagree on whether or not in the long term we want to use those agencies, but for now, if my colleagues want to stop 3,000 every day abortions, go with the agencies that are there now.

Reject the amendment of the gentleman from New Jersey [Mr. SMITH] and move on to the amendment of the gentleman from Florida [Mr. LEHMAN].

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I must take this opportunity to respond to the gentleman from Wisconsin [Mr. MOODY]. He referred to the letter received by the gentleman from New Jersey [Mr. SMITH] indicating that it was going to take months in the current circumstances for the AID to begin implementing the proposed family planning assistance in Romania.

Mr. Chairman, the fact of the matter is Mr. Roskins, the administrator of AID, says that they would be able to immediately, not months from now, but actually begin implementing the proposed family planning assistance in Romania and that these would not be in violation of the Kemp-Kasten provision.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, I have no doubt that they would like to start beginning immediately. I have no question, but they are not in Romania now. These other organizations are. They are strictly in the United States, as far as I know. They have no one in Romania.

Mr. Chairman, every day counts. Three thousand abortions every day. Let us stop it right away.

Mr. EMERSON. Mr. Chairman, if I may reclaim my time, I would say also to the gentleman from Wisconsin [Mr. MOODY] that the four organizations that we are referring to are highly credible, qualified organizations. They are the Association for Voluntary Surgical Contraception, the Johns Hopkins University's Program for International Education in Gynecology and Obstetrics, Family Health International, and the Center for Development and Population Activities. These are all very credible organizations with resources that are at their disposal, and that would enable them to act forthwith. The Smith-Hyde perfecting amendment, for which purpose I rise, Mr. Chairman, retains, retains, the $3 million in assistance for Romania, including the $1.5 million in mandated family planning assistance, but would strike the requirement that the services be provided by the U.N. Population Fund and the International Planned Parenthood Federation, but it would enable these other four very credible organizations, which I do not believe anyone would attack, to proceed with family planning in accordance with State law, in accordance with the provisions of the Kemp-Kasten amendment.

Mr. Chairman, I urge a "yes" vote for Smith-Hyde.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise today in strong support of the Romanian amendment offered by Representatives LEHMAN and PORTER. This amendment would provide $1.5 million to the only two institutions providing voluntary family planning service in Romania, UNFPA and IPPF. I support this amendment not only because it reaffirms a United States commitment to Eastern Europe and international voluntary family planning, but, more importantly, because it affirms our support for Romanian women, the real victims of the past regime.

Ceausescu's maniacal, forced pregnancy policy resulted in a horrid environment of high maternal and infant mortality, increased incidence of self-induced abortions and an enormously large orphan population. The new government has attempted to improve the rights of women by reversing that policy of forced pregnancies. They have responded by establishing the Family Planning Association of Romania. However, due to Romania's lack of resources and underdeveloped infrastructure, Romanians now face a severe shortage of contraceptive supplies. Consequently, 100,000 abortions are performed every month as the only means of birth control available.

Mr. Chairman, this situation severely quantifies Romania's shortfall in meeting its family planning needs.

The House should not have to review prior debates made on family planning issues and assistance to Eastern Europe in order to provide dire assistance to Romania. There is overwhelming evidence of Romania's need for family planning assistance and there is already a strong commitment to responsible family planning by UNFPA and IPPF in Romania.

In fact, the House Foreign Affairs Committee has already approved similar language in its fiscal year 1991 foreign assistance authorization bill and both the full House and Senate displayed their support for UNFPA and international family planning during last year's appropriations process.

So I would urge all my colleagues reaffirm your votes for Eastern Europe, for the Romanian people, and for international family planning by voting in favor of this amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 15 seconds just to make one brief point.

Mr. Chairman, just let me make very clear that the only reason that the International Planned Parenthood Federation of London is not receiving population funds from the U.S. Government is because they have refused to sign the Mexico City clauses, providing that they will not promote abortion as a method of family planning.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I think the facts have been stated pretty well. Let me talk about these organizations that Mr. SMITH says are going to provide this family planning.

Mr. Chairman, the Association for Voluntary Surgical Contraception trains doctors in techniques of surgical sterilization, which I am sure is necessary in some cases, but I think would not be looked upon by many people as a traditional means of family planning. Johns Hopkins University Program for International Education in Gynecology and Obstetrics trains physicians in OB/GYN techniques, including corrections of ectopic pregnancies. The Centre for Development and Population Activities brings women managers of family planning clinics to Washington for management training, and the Family Health International establishes traditional family planning clinics.

Now of these, the Centre for Development and Population Activities says:

JUNE 27, 1990.

To whom it may concern:

The Centre for Development and Population Activities (CEDPA) supports the immediate funding of family planning activities in Romania. We fully support the United Nations Population Fund (UNFPA) and the International Planned Parenthood Federation (IPPF) as agencies with the ability to immediately operationalize the infrastructure and services necessary to begin critical programs to save women's lives. CEDPA has no plans or budget allocations to help in this effort, but would be happy to join with other bi- and multilateral and private agencies to provide any expertise and support to the women of Romania. Our effort must be prefaced on the support of our funders, however, to allocate resources for this endeavor.

PEGGY CURLIN,
President.

In addition, Mr. Chairman, the Association for Voluntary Surgical Contraception says somewhat the same thing, that they are not ready to provide family planning in Romania and that they support providing this funding through the UNFPA and the IPPF.

Mr. Chairman, I think it is cruel, it is shortsighted, it lacks compassion to say that we will deny funding to every country in the world through UNFPA because of China's policies. I think we need to support the organizations that are there already providing services. We need to make a start. We should not be part of the problem. We should be part of the solution. Oppose the Smith amendment.

□ 1400

Mr. SMITH of New Jersey. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I rise in support of the Smith-Hyde amendment and in opposition to the Lehman amendment as currently constituted.

I have heard the argument here by those who have supported the United Nations Fund for Population Assistance in the past that we have to stop abortion in Romania. I find that somewhat surprising and possibly somewhat disingenuous, because in the past they have supported strongly funding this organization, which has not only promoted abortion in countries all around the world as a method of family planning, but also support in various ways the family planning program, the coercive forced abortion, forced sterilization program, which is carried out in China.

Mr. Chairman, this amendment, the Lehman amendment, funds the very two organizations that have refused to agree to the policy of not promoting abortion as a method of family planning around the world—the UNFPA and the IPPA, the International Planned Parenthood Association.

The Lehman amendment earmarks funding for these two organizations, both of which openly promote abortion as a method of family planning. This is contrary to the policy of this country under the Mexico City Agreement. Therefore, ironically, the Lehman amendment rewards those two international family planning organizations which have consciously decided not to abide by current U.S. policy. Well, I rise in opposition to that.

The Lehman amendment uses the tragic situation in Romania as the vehicle to achieve funding for these two organizations.

The argument that we need family planning assistance in Romania, that we need family planning assistance around the world, is uncontested. I know I support it. Those who have opposed funding to the UNFPA and to the IPPA in the past, have at the same time supported family planning assistance around the world.

But, it is not necessary to support these two abortion promoting organizations to do that.

Indeed, for those who are concerned about funding family planning in Romania, fear not. The Smith-Hyde amendment would specifically provide such funds, as a matter of fact, when it was proposed yesterday there was considerably more money in the Smith-Hyde amendment than the Lehman amendment for, yes, family planning. Now the Lehman amendment has adopted that level of funding, which we are pleased to see; but the Smith-Hyde amendment would allow this money to go through AID and it would go to organizations who have already agreed not to promote abortion as a method of family planning. That is why we should support family planning, without promoting abortion in these countries, by supporting the Smith-Hyde amendment.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, the Smith amendment is punishment. That is what it is. It is punishment aimed at two effective family planning organizations who cannot—and I stress, cannot use these moneys in any way to promote abortion. Anyone who tells you otherwise is simply not reading you the facts. The law prohibits these funds in any way from being used to promote abortion.

This amendment is a punishment, and do you know who it punishes? It is not that it just punishes two organizations that engender great respect in this country and around the world. It punishes the people in Romania, because these two organizations are the most effective in terms of providing alternatives to abortion. So if we really agree that we want to cut down on the number of abortions, let us make sure these organizations are in there making sure that there are alternatives.

Mr. SMITH of New Jersey. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, if you really are interested in family planning seriously, if you are not kidding, if you are not using this as a device to rehabilitate the UNFPA and the International Planned Parenthood Federation of London, both of which lobby for abortions worldwide, perform abortions, are in the abortion business, if you are really interested in the people of Romania for whom you have rhetorically bled, then you vote for the Smith amendment, because if you do not vote for the Smith amendment the bill will be vetoed. The President has said that. That is a fact. So if you really care about the Romanian people and you care about family planning, you vote for Smith.

If you want to make a point, you want to legitimate the U.N. Family Planning Agency, which is in bed with the Chinese coercive policy, if Tiananmen Square and all of that brutality really are not that important, then you vote for the Lehman amendment. You will defeat the Smith amendment and you will vote for the Lehman amendment.

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from San Francisco where I have lost my heart several times.

Mrs. BOXER. Oh, Mr. Chairman, I am glad to hear that.

I would say to the good gentleman, he and I have discussed this many times before; it seems to me if the gentleman cares, and I know he does, and the gentleman has to believe that I do, I am telling the gentleman that I do.

Mr. HYDE. I believe the gentlewoman does.

Mrs. BOXER. And accept on good faith that it is a shame and a crime that there is no family planning in Romania, then you would vote no on the Smith amendment, because the gentleman from Florida is very clear in his aim here, and that is to ensure that the people there have family planning.

I know I have never heard the gentleman speak as eloquently for family planning before, and if he means it, he would not want to see the two organizations that do it the best lose out.

Mr. HYDE. Mr. Chairman, may I recapture my time?

Mrs. BOXER. Absolutely.

Mr. HYDE. I think the gentlewoman has made her point, with which I disagree wholeheartedly. I am for family planning.

There are 300 agencies in the world that do family planning that have signed the Mexico City policy. There are two that have not.

It is strange to me that the two that have not year after year, month after month, are sought to be legitimated and rehabilitated through amendment after amendment.

I am suggesting that you are inviting a veto of this bill. If you really want family planning, support the Smith amendment. Send the millions that we advocate for family planning, let AID send in one of the four agencies that says they are ready to go in and counsel on family planning.

If the gentlewoman will forgive me, we have very limited time and I have used more than I should, but I will be happy to talk to the gentlewoman later.

Mr. LEHMAN of Florida. Mr. Chairman I yield 1½ minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the Porter-Lehman amendment. When Romania's dictator was overthrown, the world was exposed to the horrible consequences of his population policies, which denied Romanian families both contraceptives and the option of legal abortion: the highest infant mortality rate of any other European country, widespread malnutrition, orphanages overflowing with abandoned children, infected with AIDS and living in inhumane conditions, and the deaths of thousands of women who attempted illegal abortions each year.

We now have the opportunity to come to the aid of the Romanian fami-

lies. Let me be absolutely clear about what this amendment does from the very beginning. It provides contraceptive supplies and training for doctors and nurses to administer these supplies for Romanian couples, since all information about contraception even in medical education was banned since 1966.

Let me be clear that no money could be used for abortions. No money for abortion counseling. No money for abortion promotion. No money for any coercive measures. If it is found that United States funds have been used in any other country except Romania, or for abortions or any coercive measures, all funds will be refunded to the United States.

This amendment will prevent the need for abortions. Right now the only option for birth control in Romania is abortion. No Romanian factories produce contraceptives and the country lacks the hard currency to purchase them abroad. Thus, 100,000 abortions are being performed each month.

Only two international family planning organizations are already in Romania and have set up family planning programs. Mr. ATKINS wrote to AID and inquired, if AID received money for family planning aid in Romania, what organizations would they give it to, how would it get to Romanian women, and how fast could they do it. Three months have passed, with no response from AID.

The four organizations referred to provide sterilization as an alternative, management training, IUD's, and one provides for abstinence. None provides comprehensive family planning services. Are we to provide such narrow options for the women of Romania?

IPPF and UNFPA have been working around the clock in Romania for six months. They have the language skills, local connections, and international track record to provide these much needed services.

Specifically, IPPF has fully funded the opening of a family planning clinic in a Romanian hospital; has distributed over 100,000 cycles of birth control pills in Romania; has translated a family planning workbook for doctors and nurses; has created a training program for doctors and nurses, who received no family planning training under Ceausescu's reign; and has initiated a training program for peer counseling in family planning and reproductive health.

UNFPA has provided over $350,000 for the production of contraceptives and family planning training; has initiated a program that will enable Romania to produce all needed contraceptives within 5 years; and is working with Romanian family planning workers to establish a network of contraceptive distribution.

How much longer will you wait and how many more abortions will you tolerate? I urge you to support the amendment.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, we are not suggesting that these are the only four organizations that can provide these services. We are saying that AID should retain the discretion to decide who can most effectively provide this, commensurate with the Mexico City policy and the Kemp-Kasten language.

Family Health International, one of the four that I mentioned earlier, Dr. Roskens mentioned as well, has a 5-year contract level currently of $63 million for the provision of family planning assistance on a worldwide basis.

□ 1410

So we are not talking about small, inconsequential vendors of these services.

It is also misleading to suggest as some Members have, that any of these four organizations are primarily involved in natural family planning or the promotion of abstinence. This is simply not true.

We have also heard an allegation that approval of my perfecting amendment could lead to some Romanian women being sterilized against their will. Such a charge is absolutely ludicrous.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 2 minutes to the coauthor and stalwart of this amendment, the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I cannot imagine, very frankly, that anyone, including the President, would use this emergency, and it is a dire emergency, to reintroduce any question of abortion involved, no funds for abortion. It is a question of family planning.

Now, the Romanian Family Planning Association, the only group that is in that country, is working with UNFPA and IPPF today. These organizations have been invited to Romania to provide family planning services to the Romanian people. They are there on the ground operating and only need resources.

Mr. Chairman, these are the world's most experienced family planning organizations. They are present and operating programs in almost every country in this world. The Romanians have invited them in.

Now we have an amendment that says let us not invite them in because we do not like them, because the gentleman from New Jersey [Mr. SMITH] does not like them. He said AID should administer the funds, but AID is not there. We have no mission in Romania, and we should not have a mission in Romania. But the gentleman says no, they can contract with four groups. Those four groups are not there. They have no programs in place. The Romanians have never heard of those groups. Yet we want to impose them upon them.

One of those groups, the Association for Voluntary Surgical Contraception, has said in a letter, that they do not have a program ready. They would take time. They could not get on the ground quickly at all. And all they offer is sterilization.

Another organization endorses UNFPA and IPPF and says it has no plans nor budget allocations to help in this effort.

A third program provides abstinence as the only contraceptive method, and the fourth one is primarily a research organization, not a service organization at all.

But the gentleman from New Jersey [Mr. SMITH] would impose them on the Romanians, not because UNFPA and IPPF are not experienced, not because they are not there, not because they cannot do the job, not because Romania has not invited them, but because the gentleman from New Jersey [Mr. SMITH] does not like them.

Mr. SMITH of New Jersey. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from New Jersey [Mr. SMITH] has 10½ minutes remaining, the gentleman from Florida [Mr. LEHMAN] has 12½ minutes remaining, and the gentleman from Wisconsin [Mr. OBEY] has 10 minutes remaining.

Mr. SMITH of New Jersey. Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, I would like to address a question to the gentleman from New Jersey [Mr. SMITH] if I might.

As someone who signed contracts with several of the organizations mentioned by AID when I was assistant administrator, name me, if you would, one organization other than UNFPA and IPPF which has a broad-based family planning capacity which has expressed a willingness to be involved in the Romanian population program?

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. LEVIN of Michigan. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I would be glad to answer the gentleman. I mentioned four. That is as per AID's assessment of four that currently would be able to provide the service. But they have also indicated that they are searching for others as well.

One has to remember this is a fiscal year 1991 appropriations bill. Presumably it would not be in effect for sever-

al weeks minimally at best, October 1 being the beginning of the new fiscal year.

Mr. LEVIN of Michigan. Mr. Chairman, reclaiming my time, the problem is in part none of the four, based on my firsthand experience, has a broadly based family planning background or capacity. What we are doing here is coming in and saying use somebody else, when nobody else is presently capacitated to undertake this, not abortion-related activities, because that is prohibited under U.S. law, but family planning.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would remind Members that back in 1985, when the Mexico City policy was implemented, Member after Member made the point of what they thought would be the case, that family planning organizations would not accept the idea of separating abortion from family planning.

I have a list in front of me for 1988 of the 300-odd contractors that have accepted the Mexico City policy and have separated themselves from the promotion of abortion or the advocacy of abortion. I would say that just as then, their predictions are not true, and likewise we will be able to provide the proper vendors in Romania.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER of New York. Mr. Chairman, I am pleased about one thing today. I have heard all sides agreeing on the necessity for family planning. I think that is a great step forward, although I realize that many of us may disagree on what that is, particularly since the gentleman from Illinois [Mr. PORTER] said one of the agencies recommended by the Smith amendment only advises abstinence.

Mr. Chairman, we have never had as graphic a demonstration of compulsory childbirth as we have had in Romania. The pictures that we have seen of the thousands of abandoned children, many of them ill, numbers of them handicapped because their mothers botched abortions that were illegal for them, lots of them abandoned because families could not have another child, we shall never see anything like that again. The pictures should wring even a heart of stone.

Given the fact that those children live out day after day tied to beds, alone, no love, very little stimulation except what good people outside in the world are trying to give them, it seems to me that the least we can do would be sending family planning assistance to the people of Romania that they can use.

Mr. SMITH of New Jersey. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I rise in strong support of the Smith amendment. I think the gentlewoman from New York [Ms. SLAUGHTER] that we just heard from in some respects makes the case of what we are trying to say here.

Why do we allow the past history of the Romanian Government and its treatment of its people to now become the sine qua non as to how we approach the problem here? Why do we allow that to become the bridge by which we seek to attack years of what has been the policy of this country relative to foreign aid, relative to the whole issue of family planning?

Mr. Chairman, I am second to none in this body in support of family planning assistance. But to equate abortion and the practice of abortion as a means of family planning is an inconsistency in terms. That is not planning whatsoever. That is ripping out life.

I know we have any number of distinctions which I am willing to admit intellectually and morally in terms of the criteria for abortion. We have debated them over and over again, and I suspect we are not going to settle them in the limited time available to us, as we have forced the issue once again.

Mr. Chairman, I want to point out that it is your side of the aisle which has put the issue in such a way as to attempt to define once again family planning assistance on a ground other than that upon which this House has voted over and over and over again, and established without doubt a very explicit promise of the President of the United States to veto this legislation if this language is not satisfactorily amended to adapt itself to what has been the existing policy of this country for numerous years.

There are in fact numerous other agencies willing to provide these services. There is nothing to suggest the Romanian Government could not participate and utilize the services of those agencies. It is really a backhanded attempt, as far as I am concerned, to do an end run around what we have debated every year on this bill since I have been a Member of this House.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I rise in strong support of the Lehman-Porter amendment to provide $1.5 million in family planning assistance to Romania.

The chilling consequences of Romanian Dictator Ceausescu's coercive child-bearing policies are now painfully evident—overflowing orphanages whose squalor defies description, soaring maternal and infant mortality rates, a pediatric AIDS crisis, and the long-term ill effects for thousands of desperate women who resorted to life-threatening and highly illegal abortions.

International relief organizations are now trying to grapple with these appalling conditions, the result of a policy which outlawed all forms of contraception.

This amendment will give Romanian families the humanitarian and urgently needed option of preventing unwanted pregnancies in the first place.

We must do all we can to help the thousands of abandoned children, many of whom have suffered irreparable mental and physical harm due to isolation, malnutrition, and lack of basic medical and emotional care.

We must also provide relief for the desperate Romanian women who have endured the intolerable horrors of the Securitate-administered forced-birth policy under Ceausescu.

The allocation for voluntary family planning provided by the Lehman-Porter amendment properly designates the International Planned Parenthood Federation and the U.N. Fund for Population Activities to administer the Family Planning Program in Romania. These agencies are the most experienced organizations to provide family planning assistance.

This is simply not the time or place for Members to express their dissatisfaction with the IPPF or the UNFPA. In a situation as desperate as the one that exists in Romania, it would be immoral to do anything to restrict the efficient delivery of these urgently needed services to that country.

I urge my colleagues to fully support the Lehman-Porter amendment.

□ 1420

Mr. SMITH of New Jersey. Mr. Chairman, I have one final speaker, and it is my understanding that we have the ability to close debate?

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] as the defender of the bill has the right to use his portion of time last.

Mr. SMITH of New Jersey. Then we are next to last?

The CHAIRMAN. The gentleman is correct.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Florida for yielding time to me.

It is very clear today that the gentleman from Florida's amendment is the antiabortion amendment.

Let us face it, every day that goes by without getting family planning services in Romania equals 3,000 more abortions. The gentleman from Florida is pointing out that there are two agencies on the ground. No one questions their ability to deliver family planning services. Not only that, it is

the most cost-effective way to go forward.

To say that we are going to delay by finding four other groups who say they do not want this, "Thank you very much, but we don't want this"; second, one of the groups says, "We do sterilization." The only thing more radical I think than an abortion is forcing a whole population to be sterilized, for heaven's sakes. Another group says that it does abstinence. Give me a break. This is 1990, and abstinence is not family planning. We call people who use natural family planning parents anywhere you want to go. And we have not done anything about the abortion statistics.

Vote for the amendment of the gentleman from Florida. It is the only way to stop what is going on in Romania.

Mr. SMITH of New Jersey. Mr. Chairman, I yield myself 30 seconds just to respond briefly.

We have heard time and time again how these two organizations are on the ground, providing all of these services, yet at the same time the rate of abortion in Romania has been skyrocketing. We hear figures of 3,000 abortions per day.

These are the kinds of organizations, especially IPPF, that consider abortion a matter of family planning. So it is not surprising that they are increasing the number of abortions in Romania. These are the same folks who applauded when Romania adopted this permissive abortion on demand policy.

Mr. Chairman, I reserve the balance of my time.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute 30 seconds to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Chairman, I rise to speak in favor of the Lehman-Porter amendment authorizing emergency family planning assistance for Romania.

For the past 20 years the women of Romania were subjected to the diabolical whims of a regime that treated them as little more than brood animals.

Childbearing for Romanian women was not a matter of personal desire or choice. Rather, giving birth became a government mandate with a quota system.

As reported, contraceptive aids were denied to women under the age of 45 unless they had met the five-child quota.

Women desperate to avoid exposing another child to malnutrition, poverty, and poor health care turned to dangerous and illegal methods of birth control. Maternal deaths soared, with 86 percent of the fatalities attributed to illegal abortions.

Since the overthrow of the Ceausescu government, policies affecting women and family planning have changed; unfortunately, the reality has not.

Women still do not have access to safe and reliable forms of contraception. The present medical establishment has virtually no knowledge of family planning methods and no inventory of contraceptive devices. As a consequence, abortions are being performed at a rate of nearly 100,000 a month.

This amendment funds two family planning agencies, the International Planned Parenthood Federation and the United Nations Fund for Population Activities. The organizations would share $1.5 million to continue their efforts at training health professionals and women on family planning methods and providing them with contraceptive supplies.

During the debate we have heard about other groups willing to go into Romania and provide family planning assistance, and that is encouraging. Romania needs all the help it can get. The problem is that Romania cannot wait while we decide which group does or does not pass a political litmus test.

The language of the amendment is specific that not one penny of the $1.5 million would be allowed for abortion services or involuntary sterilizations. If any of those funds are diverted for abortions, the money must be returned to the U.S. Government in full.

If you want the abortions to stop, if you want to give the women of Romania the freedom to plan their lives and families, if you want to do the right thing, vote for passage of the Lehman-Porter amendment.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, those who have followed the tortured path of the abortion issue on the floor of this House know many Members are easily identified as pro-life or pro-choice. But many of us who comprise the swing votes on this issue struggle over each legislative proposal on abortion.

I must tell Members that the position of this administration, the gentleman from New Jersey and some pro-life groups on family planning, in my view, is not only naive but morally and logically inconsistent. Not a penny of these funds can go for the commission of an abortion. Not a penny of these funds that we would send to Romania would go for the promotion of abortion. This money has to be used for family planning.

But because this administration and some Members have nothing short of a vendetta against two organizations who cannot use this money for abortion, they would deny the funds to Romania. Abortions will continue in that country at the rate of 3,000 a day while so-called pro-life groups fight over the efforts to bring family planning to Romania.

Ladies and gentleman of the House, I ask you to look closely at the language of this amendment, to look closely at the safeguards put in this amendment by the gentleman from Illinois and the gentleman from Florida.

If proponents of abortion must accept the responsibility for lives lost, those who support the Smith amendment must accept the responsibility for prolonging this disgraceful tragedy in Romania. The administration cannot give us pious sermons about children, homilies on the sanctity of life, and then ignore the horrors which this narrow-minded policy would visit on the helpless women and children of Romania.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 1 minute to the gentleman form Pennsylvania [Mr. KOSTMAYER.]

Mr. KOSTMAYER. Mr. Chairman, I just got off the phone with the four groups, Family Planning, Health International, Johns Hopkins, Center for Development Population and Population Services.

The first group says they have never done any work in Eastern Europe, "it would take a long time to set up," a direct quote.

Johns Hopkins says they are not there and have no plans on going.

The Center for Development of Population sent me a letter. They say, "We have no plans or budget allocations to help in this effort."

And Population Services says that they are a research organization, not delivery of services.

None of these four organizations are there. None of these four organizations have any plans to go.

Are you so hostile to UNFPA and IPPF that you would allow 100,000 abortions? Did you see the pictures in the Sunday New York Times Magazine of kids tied to their cribs by ropes because of the problems that exist? That is what we are talking about. Are you so hostile toward these two organizations that you will allow 100,000 abortions a month to continue because you would deny funds to these organizations which do not perform or commission any abortions at all, whatsoever?

Mr. SMITH of New Jersey. Mr. Chairman, I yield 30 seconds to the gentleman from West Virgina, [Mr. MOLLOHAN].

Mr. MOLLOHAN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to ask the gentleman who just sopke a question about the four organizations. Did the gentleman check with the 100-some organizations that were on the list of the gentleman from New Jersey as possible providers of this service in Romania?

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, these are the organizations that the gentleman from New Jersey [Mr. SMITH] said would be providing services.

Mr. MOLLOHAN. No, those are a target list specified by AID. But there is a big, long list.

Mr. KOSTMAYER. We did check. We have asked these, but we have not called the 100.

Mr. MOLLOHAN. What I am saying is is the gentleman suggesting there is not anybody else in the world who could provide these family planning services, an organization that does not promote abortion?

Mr. KOSTMAYER. Not for at least 12 or 14 months, and that is 125,000 more abortions.

Mr. LEHMAN of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this debate represents an extraordinarily progressive dialog because it makes it clear to America that both prolife and prochoice advocates in Congress favor family planning.

□ 1430

Nonetheless, as reasonable and responsible as it is to have differences on approach as contrasted with differences of judgment as to whether to advance family planning, I am concerned that the amendment has as a principal goal the undercutting of the most effective international organizations in the field and has, as an effect, a delay in providing services for women desperately in need. Nothing would be more unfortunate than if ideological litmus test approaches to American domestic politics come to undercut American leadership on this compelling critical humanitarian issue.

This amendment, while offered in good conscience, should be defeated and a message sent to the world's poor that America cares and that freedom is a responsibility from which America will not shirk.

The CHAIRMAN. The gentleman from Florida [Mr. LEHMAN] has 2½ minutes remaining, the gentleman from New Jersey [Mr. SMITH] has 7 minutes remaining, and the gentleman from Wisconsin [Mr. OBEY], who has the right to close this debate, has 10 minutes remaining.

Mr. LEHMAN of Florida. Mr. Chairman, I reserve the balance of my time for closing remarks in opposition to the Smith amendment by the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida, my colleague [Mr. FASCELL].

The CHAIRMAN. Are there additional speakers seeking time before we go to the last speaker in each group?

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman from Florida yield 10 seconds to me?

Mr. LEHMAN of Florida. Mr. Chairman, I yield 30 seconds to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. I thank the gentleman for yielding.

Mr. Chairman, there was an earlier statement made that was inaccurate. It was said that the IPPF and UNFPA were increasing the amount of abortions done in Romania. Neither organization is performing abortions in Romania.

IPPF abides by the laws of the country, and they are not performing them in Romania. UNFPA does not do abortions anywhere, but especially I would like to emphasize that in Romania, they are not performing abortions.

The CHAIRMAN. There being no additional speakers save for the closing speaker, the gentleman from Florida will go first, the gentleman from New Jersey will go second, and the gentleman from Wisconsin is entitled to close debate.

It is the Chair's understanding that the gentleman from Florida [Mr. LEHMAN], yields the balance of his time, 2 minutes, to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Chairman, I rise in strong support of the Lehman amendment to provide $3 million in child survival and family planning assistance for Romania. This amendment is one of the strongest profamily planning, anti-abortion provisions which the House has had the opportunity to vote on. The Foreign Affairs Committee endorsed a similar provision when it marked up the supplemental foreign aid authorization earlier this year.

One of the first actions taken after Ceausescu was overthrown was to legalize family planning. However, contraceptive supplies are in extremely limited supply in the country. As a result, as many as 100,000 Romanian women are seeking abortions each month, because they have no birth control alternatives available. We can help to change this situation by providing support to the IPPF and the U.N. population fund, the only organizations currently prepared to provide family planning assistance in Romania.

Today's debate illustrates dramatically the corners we paint ourselves into with overly restrictive legislation. Why should we even discuss sending much needed support to Romania, through the two organizations best qualified to distribute that assistance? Why are we arguing? If you are appalled that 100,000 Romanian women a month are seeking abortions, you should support this amendment. If you are in favor of using the most efficient and effective organizations available to distribute our aid, you should support this amendment.

None of the funds in this amendment will be used for abortion and no funds will go to the Government of Romania. I urge you to support the Lehman amendment and oppose the Smith perfecting amendment, in order to provide urgently needed voluntary family planning and to reduce abortion in Romania.

The CHAIRMAN. The time of the gentleman from Florida [Mr. LEHMAN] has expired.

The gentleman from New Jersey [Mr. SMITH] is now entitled to 7 minutes.

Mr. SMITH of New Jersey. Mr. Chairman, I yield the remainder of the time to the gentleman from Virginia [Mr. WOLF].

The CHAIRMAN. The gentleman from Virginia [Mr. WOLF] is recognized for 7 minutes for purposes of closing debate for the gentleman from New Jersey [Mr. SMITH].

Mr. WOLF. I thank the gentleman for yielding.

Mr. Chairman, let me begin by saying a couple of things at the outset.

First, I have heard all the other arguments, but I want to look at this issue from a totally different perspective.

Second, I want to make it clear: I am for family planning and for contraceptives.

Third, the issue here is not abortion. The issue is what kind of aid we should provide to the people of Romania and how soon are we going to get it there.

Fourth, President Bush will veto this bill if this amendment is defeated.

The Bush record is 13 and 0. After this it will be 14 and 0.

So, if this amendment does not pass, the help is not going to be getting to Romania.

Fifth, I care very deeply.

Last, let me commend the gentleman from Florida [Mr. LEHMAN] and the gentleman from Illinois [Mr. PORTER]. I think what they have done is very constructive and I want to commend them. I think family planning to take care of these kids and other kids in Romania is absolutely necessary.

Also, it was important to add the money for AIDS testing and to add the money for family planning and reunification and for adoption.

I agree with virtually all of the provisions included in the Porter-Lehman amendment, which we just approved, and I commend the gentlemen for attempting to address a very serious problem in Romania.

As many Members know, I have traveled to Romania several times in the past few years, including just days after the December revolution, and I know first hand of the problems that face the people of that country—especially the children.

The amendment we just approved contains all of the provisions of an amendment submitted to the Rules Committee on Monday and that was to be offered on the floor today.

That amendment contained $1.5 million for family planning activities in Romania. I support family planning and contraception and I think providing funds for this purpose to the people of Romania is the right thing to do.

□ 1440

The amendment we submitted contained funds for AIDS testing for children. It also contained funds for child survival activities and provided money to improve orphanages in Romania where as many as 200,000 innocent children languish. That amendment encouraged adoption of orphans and provided funds to reunite young children with their mothers and fathers.

Interestingly, as submitted to the Rules Committee the amendment we just considered provided just $1 million for family planning activities and did not address any of the other critical problems facing Romania-especially the thousands of children in warehouse-like orphanages.

The Rules Committee, however, by a process that was frankly very disappointing, took, all of the humanitarian provisions in our amendment—AIDS testing for children, child survival provisions, family reunification, adoption, an additional $500,000 for family planning—and incorporated them into the Porter amendment. The only provision of the original Porter amendment that was retained was a provision earmarking the family planning funds for the United Nations Population Fund [UNFPA] and the International Planned Parenthood Federation [IPPF]—and that is where the problem lies.

Mr. Chairman, though I was disappointed in the process the Rules Committee used, I was pleased that they agreed that we were right on AIDS testing for children. And that we were right in providing funds to improve treatment of children in Romanian orphanages. And I was pleased that the Rules Committee agreed with us on child survival activities and adoption and family reunification.

We were right on all of those issues, Mr. Chairman, and we are right on insisting that the provision earmarking the family planning funds in the Porter amendment be dropped.

By including the earmarking provisions, the sponsors of this amendment are attempting to deal with an issue other than family planning and children in orphanages.

These are human lives that we are talking about. Innocent children who live in dirty, crowded orphanages. They suffer from AIDS. They are never touched. They have little hope of ever seeing their families again.

The Washington Post described the situation recently in a front page feature:

[D]azed toddlers lie or sit in iron cribs in closed stuffy rooms. Their foreheads are speckled with flies and with scabs and bruises that come from banging their heads and mouths on crib rails. Some cry, but most are silent and appear bewildered behind their bars with the doomed air of laboratory animals.

It is clear that by earmarking the family planning funds, sponsors of the amendment are attempting to change policy unrelated to the children in Romania.

Regardless of individual Members views on the larger issues the sponsors of the Porter amendment are trying to address we should not use these children to vent our views on those issues.

These children are victims. They deserve better than to become the victims of politics over difficult and complex issues.

By earmarking the family planning funds, Members assure that aid to families and children in Romania will be delayed and probably denied. The suffering will continue. More children will die. Family planning assistance will be delayed and perhaps will never reach Romania.

The administration has clearly and unequivocally stated that if these earmarking provisions are included in the bill, it will be vetoed. And that means that aid will never reach the people it is designed to help.

The Agency for International Development, which will administer these funds, has told me that if the funds are earmarked through the UNFPA and the IPPF, aid will also be delayed because they have no contract mechanism in place to deal with these organizations. Even though these two groups are already in Romania, the money could not flow to them until AID could establish the necessary contracting framework and that could take several months.

To you and me several months is not a long time. But several months can be a lifetime to a young child who is suffering from AIDS. What about the children who die everyday? Or the ones who live, handicapped, without clothes or shoes, without enough to eat?

It was said that the money should be funneled through UNFPA and IPPF in part because they were asked to come into the country by the current government.

That is the same government that calls in brutal miners to crush spontaneous protests and says they would do it again. That is the same government that is threatening to shut down the only free, independent newspaper in the country refusing to allow them to have their own printing press. It is the same government that harassed political candidates during recent elections. They are many of the same people who served under Ceausescu during the very years the state-run institutions for orphans were opened.

Do we really want to funnel the money through these two organizations because the government has asked them to come into the country. I don't think so.

Mr. Chairman, everyone is moved by the plight of the children in Romanian orphanages and everyone agrees that we have an obligation to help.

Historically, this House has not given Romania the attention or treatment it deserves. When Congressman TONY HALL and Congressman SMITH and I tried several years ago to revoke Most Favored Nation [MFN] trading status for Romania, this body did not respond as quickly as it should have.

Some Members argued that we needed to continue assistance to Romania because Ceausescu was one of our best allies in Eastern Europe. Well they were wrong, Mr. Chairman. Ceausescu was not our friend. And he wasn't a friend to his own people in Romania.

We shouldn't treat Romania as a backburner issue any longer. Romania and its problems are important. They deserve to be treated responsibly—not as a secondary issue while members try to raise and debate what they consider to be larger, more important issues.

The Smith amendment ensures that aid gets to the people quickly. The other amendment assures that it will be stopped or at least delayed. If you really want to help, vote yes on Smith.

Mr. PORTER. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, I want to correct the statement that the gentleman said. I do not think anyone here said the Iliescu government invited anyone in. It is the Romanian Family Planning Association that made the invitation. They are the only private organization operating in family planning in Romania.

Mr. WOLF. With all due respect, no person goes into the Romanian cities and government in Bucharest without the permission of the Iliescu government. We cannot even get a printing press in there so the newspaper can print. No person moves in that government without the Securitate and Iliescu government. They are, for all purposes, the Ceausescu administration.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Is the gentleman aware that there was money in our supplemental appropriations for the year 1990 of $4 million for the family and children assistance in Romania?

Mr. WOLF. Yes.

Mr. LEHMAN of Florida. So there is money at the present available.

Mr. WOLF. Mr. Chairman, I do, and I give credit to the gentleman from Oregon [Mr. AUCOIN], who took the leadership with regard to that.

For my last comment, 13 and 0. Bush won on vetoes no Members on our side thought he could win. He will win on this. It will be 14 and 0. These kids will not be dealt with. Let the bill be signed so they can have family planning and all the things we want to happen in Romania.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. To close debate, the Chair recognizes the gentleman from Wisconsin [Mr. OBEY], chairman of the subcommittee.

Mr. OBEY. Mr. Chairman, as has been already indicated by a number of other speakers, these kids are going to be taken care of one way or another. We provided several million dollars in the appropriations supplemental which we approved just about 60 days ago, because the gentleman from Oregon [Mr. AUCOIN] came to me, explained the situation and the committee in effect said of course, why not. If we cannot provide help to people like that, we do not belong here, and we did.

Both of these amendments attempt to provide help to these kids. Unfortunately, we are not really talking about these kids today. Unfortunately, what we are really talking about is politics. I think politics in its ugliest form has invaded this bill on this issue, because I think people's emotions about abortion, I think people's justifiable emotions about kids in trouble are being manipulated because we have a variety of constituencies in this country on both sides of the abortion issue, and as a consequence, the politicians deliver the rhetoric, and those kids get stuck with the consequences. That is the problem.

Very frankly, I do not think that there is a whole lot of harm done by the Lehman-Porter amendment. If I were an independent agent, I would probably vote for it, because I think that given the fact that these two agencies are on the ground, they can probably provide the assistance quickest. However, when we are Members of the House of Representatives, and when you are a chairman of the committee that deals with a bill that is this important to so many people who will die without the assistance provided in this bill, we have to make some judgments. We have to make some compromises. So your set of values determines which issue represents the overriding consideration, and which represents consideration on a lower step on the ladder.

Being in that position, I, as I always do, go to what is my political bible, which is an ancient book entitled "the lives and times of archy and mehitabel." I have mentioned my friend archy many times. Archy was a cockroach who lived in a newspaperman's office. He was a character invented back in the 1920's by a writer by the name of Don Marquis, and he had a saying for almost every political occasion. He said something which I said fits this occasion. He said:

> The trouble with most people is that they lose their sense of proportion. Of what use is it for a queen bee to fall in love with a bull.

Now, if you think about that a minute, I think you will understand what archy meant.

The fact is that this is an important issue. I do not mean to denigrate it; but in the end, we are talking about whether or not $3 million will be delivered through one group of organizations or through another. It is immaterial to me through which groups the help is delivered, so long as it gets there. But we have a very practical problem.

The President, in our system, is the big gorilla on the block. That is the way the American system of government works. Going back to 1946, no Congress has ever changed any President's budget by more than by 2 percent. So as chairman, I am faced with a dilemma. The way I am going to resolve it is that I am going to vote for the Smith perfecting amendment to the Lehman amendment, and ask other Members to do the same.

If the Smith amendment is not adopted, I would ask people to vote against the Lehman amendment, I recognize every Member will follow his or her own conscience. However, the reason I do that is because my sense of proportion tells me this: No money that goes through United Nations, UNFPA, will become law. I have absolutely no doubt about that.

So it seems to me that what we need to do is to protect some of the other priorities in the bill. This bill makes a reduction of $381 million in military aid. I think it is crucial for the future political and economic welfare of this country that we begin to squeeze down that military aid so we can begin to rebuild our own economy. It provides $100 million to deal with the problems of the environment worldwide, the single most catastrophic problem that confronts potentially all mankind, the destruction of our own climate as we have known it. It contains $250 million to provide the various family planning services which everyone on both sides of the aisle, on both sides of this bill, indicates that we want to see provided, a $57 million increase above the President's request. That is a major step forward. It provides a major increase for UNICEF, which saves the lives of more children than any other program in this bill and any other program funded by the United States Government. It provides an increase of $240 million for Africa. That continent, more than any other, is literally starving. It provides a $250 million increase in our export assistance to help buttress our trade position, and it provides $45 million more than the President asked to help the poorest wretches in the world, the world's refugees, who count on those of us in safe houses, with good incomes, decent shelter, to deal with their minimum needs, simply because we have that moral obligation, because we share this planet with each other.

□ 1440

I am going to ask the Members to vote for the Smith amendment and against the Lehman amendment, but regardless of what happens, I am asking each and every Member of this House on both sides of the aisle to rise above their feelings on this individual issue and support the bill on final passage, because in the end that is the only way to deliver help to these kids or any other kids we are trying to help, no matter what the vehicle is.

There are 14 million kids alive today in the Third World who will be dead by this same date next year. The bill, through UNICEF, through the Child Survival Program, and through all the other mercy initiatives in this legislation, will provide some marginal assistance in keeping those kids alive.

We have a moral obligation to provide that assistance, so I am asking the Members to recognize the sense of reality and support the Smith amendment, and I am asking them, regardless of what happens, to vote for final passage for this bill. Our moral obligation requires it, and our practical sense ought to require it.

Mr. LEHMAN of Florida. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I am glad to yield to the gentleman from Florida.

Mr. LEHMAN of Florida. Mr. Chairman, I thank the distinguished subcommittee chairman for yielding.

Mr. Chairman, I know the score is 13 to 0, and I know my chairman has crafted a wonderful foreign operations appropriation bill, but as far as any certitude of politics in government, the fact is that the biggest ruler on the block may veto this bill. There is nothing certain. This week the President has changed his mind twice, once on off-shore oil and once on taxes.

Who knows what the President might decide to do two or three months from now?

Mr. Chairman, I say to the Members, let us vote the way our consciences direct.

Mr. OBEY. Mr. Chairman, I respect the gentleman from Florida [Mr. LEHMAN]. There is not a nicer person in the House; there is not a more respected Member of the House than the gentleman from Florida. I love him dearly. I just happen to have reached a different conclusion for, I think, equally constructive reasons. I would simply urge the Members to follow their conscience. But in the end I would urge them to support the Smith amendment, and whatever happens on that, I urge them to support the bill. We have a moral obligation to everything we believe in if we do believe in the Judeo-Christian ethic which guides this country, and I believe we have an obligation to vote for this bill in the end.

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of the Lehman-Porter amendment to the Foreign Operations appropriations bill. This amendment would provide family planning assistance to Romanian women who were denied access to fundamental reproductive health care services under the Ceausescu Regime.

Under the repressive Ceausescu administration, abortion was illegal in all circumstances and the use of contraceptives was banned for women under the age of 45 who did not have at least 5 children. In his scheme to double the Romanian population by the year 2000, Ceausescu forced thousands of women to relinquish control over family size or risk their lives to obtain illegal—often unsafe—abortions.

Although the current government has legalized contraceptives and abortion, 3,000 Romanian women seek abortions daily because contraceptive services and training are simply not available. The organizations best equipped to provide these services are the United Nations Population Fund and the International Planned Parenthood Federation. They are currently making progress in providing services to Romania, but they need our help.

The Lehman-Porter amendment provides funds for the United Nations Population Fund and the International Planned Parenthood Federation, organizations which are known worldwide for their success in implementing family planning programs. Opponents of this amendment will ask you to support another amendment which would provide funds through U.S. aid. Surely it is more sensible to support programs which are already in place, rather than reinvent the wheel by starting totally new programs.

I urge my colleagues to support the Lehman-Porter language.

Mr. LIGHTFOOT. Mr. Chairman, I rise in opposition to efforts to restore funding for the United Nations Population Fund [UNPFA] within the fiscal year 1991 Foreign Operations Appropriations which we are considering today. My opposition is based on the fact that the UNPFA has, for some time, been a supporter of the coercive population control policy of China. China has practiced a policy of forced population control that gives its citizens no choice of any kind whatsoever in family planning issues. Chinese officials have admitted that they use a policy of eugenics, which is hereditary improvement by genetic control, by forcibly sterilizing retarded citizens. In addition, Chinese women are routinely forced to submit to abortions by Chinese public officials, even in the latter stages of pregnancy. Also, the State Department has found that China continues to employ coercion in its population control program. Details of China's coercive policy have been reported in the Washington Post, the New York Times and as I noted earlier, the 1990 State Department human rights report. The Members of the Senate have in fact, just this year, condemned the use of coercive abortion and sterilization in China. The United States Court of Appeals has ruled that the UNPFA actually participates in the management of China's population program. President Bush specifically cited UNPFA's support of China's compulsory population control program in his veto of last year's Foreign Operations appropriations bill. Therefore, there is much evidence to substantiate that such practices exist in China.

However, this has not deterred the UNPFA from offering its support for and endorsement of, China's coercive policies. China's Family Planning Minister has in the past, received the United Nation's top award for population control. The UNPFA has said that his organization and the Government of China believe that their family planning policy is purely voluntary in nature. This is in direct contradiction to evidence I offered earlier.

Given this track record, I cannot support language which would direct funds toward the UNPFA. According to the U.S. Agency for International Development [USAID] there are at least four other organizations which are ready to conduct contraceptive programs and have stated they are able to do so quickly. These organizations are: Association for Voluntary Surgical Contraception, Center for Development and Population Activities, Family Health International, and Johns Hopkins Program for International Education in Gynecology and Obstetrics. I am aware the money considered in the amendment offered by my colleagues, Congressmen LEHMAN and PORTER, would be directed toward family planning services in Romania. Since the fall of Ceausescu, we have all been saddened and repulsed by the stories of his regime's unbelievably repressive population control policy. Like others in this body, I have read the accounts and seen the pictures of the children; dirty, sick, unclothed, unloved, and unnoticed when they died from a total lack of the most basic care. I am aware of the many women who died from botched abortions because they simply could not afford to give birth to another child. Obviously, the people of Romania are in desperate need of education about family planning and access to contraception, which they did not have under a dictatorial government. But, in my view, in light of its support for a policy that is similarly repressive, the UNPFA is not the agency that should offer these services. That is why I support the efforts of my colleague Congressman CHRIS SMITH to remove the funding for this organization and to redirect the money to organizations such as the ones I mentioned earlier which have agreed not to use abortion as a method of family planning. I urge my colleagues in the House to do the same.

Mr. GALLO. Mr. Chairman, I rise in support of the amendment to provide $15 million to help the people of Romania. The Communist dictatorship of Nicolae Ceausescu has ended, but his reign of terror has left a horrible legacy.

During Ceausescu's brutal regime, he imposed harsh restrictions on women of child bearing age because this dictator and his wife decided that the Romanian population must increase by 7 million in a decade and required women to bear at least five children.

The results of this misguided and cruel policy have been widely reported in recent weeks, both on television and in the national press. Unable to feed themselves, let alone five children, Romanian couples had no choice but to abandon their children, leaving them to orphanages that were hopelessly overcrowded and incredibly unsanitary. Many women defied Ceausescu's ban and attempted self-induced abortions. The methods and conditions under which these abortions were performed are too gruesome to speak of on this floor. As a result, Romania has one of the world's highest mortality rates among women of child bearing age, as well as among children.

This horrible legacy is compounded by the worst legacy of all, the treatment of the children. During the Ceausescu regime, according to the German publication Der Spiegel, a special board "sorted" the children when they reached the age of 3, and those with IQs under 30 were sentenced to death camps. The few strong and healthy children were snatched up by the Government to serve in the secret police. Most of the children, the rejects, were sent to the orphanages. These prisons for children still exist. They are overcrowded, unheated, and dark. The children were neglected and often left to die—some of starvation and some from AIDS due to contaminated blood supplies.

On April 3, I received a letter from a constituent informing me that problems still persist, and that the childrens' plight is perhaps even worse than before. At least 100,000 children and adolescents remain in State run institutions and orphanages. In order to provide some assistance, I worked with my colleagues on the Appropriations Committee to appropriate $4 million for health-care needs of children in Romania, channeled through UNICEF and the International Red Cross.

Now that there is a new government in Romania, it is important that we help the women and children of Romania to take control of their lives.

Mr. Chairman, we have already provided $4 million for emergency aid to help the children of Romania, but this $1 million is needed to stop the deaths of thousands of women who are at risk. Our aid can save the lives of mothers and children. This is a unique situation that requires a unique response. I urge my colleagues to support this life-saving amendment.

Mrs. VUCANOVICH. Mr. Chairman, I rise in strong opposition to Lehman/Porter amendment and in strong support of the perfecting amendment of the gentleman from New Jersey, Mr. SMITH, I feel that a desperate need for family planning assistance to Romania exists and strongly support such an effort. However, I denounce U.S. funds being awarded to organizations that support abortion—both voluntary and coercive—as a means of family planning.

The two organizations to which the Lehman/Porter amendment proposes targeting funds: The UNFPA and IPPF insist on promoting abortion as a family planning option. Moreover, the UNFPA has been and continues to be an active participant in China's population-control program, which has been widely accused of being pervasively coercive. Despite massive documentations from a variety of sources that the Chinese population officials routinely force women to undergo abortions, UNFPA officials consistently deny that the Chinese population program is coercive. Furthermore, UNFPA has been the most vocal defender of the Chinese program.

It is for this reason that I oppose the Lehman/Porter amendment and urge my colleagues to do the same. To accomplish the goal of effective family planning in Romania, I encourage all members to vote instead for the Smith amendment which would direct the funds in question toward organizations which the Agency for International Development has identified as able to put together a new international family planning program—organizations that do not promote abortion and coercive abortion to achieve family planning goals.

Mr. SCHEUER. Mr. Chairman, it is tragic that the Lehman amendment to the foreign affairs appropriation bill was marred by the amendment offered by Mr. SMITH and discouraged others from offering further amendments on family planning. The net result of it all will be an increase in the number of abortions in Romania which otherwise would have been prevented.

It is sad that in this, the environmental decade, our U.S. policy does not reflect the grim reality underlying the population and environment equation: The single greatest cause of environmental degradation is population growth. All the major environmental groups in the United States have repeatedly urged President Bush to renounce the Mexico City policy. They realize that global warming, land degradation, deforestation, desertification all are driven by one tragic phenomenon: burgeoning population growth.

World population stands at 5 billion. By the end of this century we will be at 6 billion and United Nations projects 14 billion by the end of the next century.

Already these numbers are causing environmental devastation throughout the world.

In sub-Saharan Africa the population will most likely account for more than a quarter of the world's population by the middle of the next century—2.5 billion people, from one-eighth—their current 600 million of a present global population of 5 billion to one-fourth the 10 billion total global population toward the end of the next century. Already, today, the African Continent cannot produce enough food to sustain the population of 600 million. The local people say, "the land is growing rocks." That is what desertification and deforestation mean in real-world terms to a peasant in Africa.

The world simply cannot support the current level of growth. In Africa alone the starvation rate could be in the tens and tens of millions annually. The pictures we saw from Ethiopia several years ago would become commonplace across the continent. This would dwarf any human tragedy we have seen in the history of humankind. In Africa there would be more deaths annually than the entire Soviet loss of 25 million dead in World War II. The 50,000 deaths in last week's Iranian earthquake would be a mere grain in this desert of sorrow and tragedy.

We cannot continue to rape our natural resources, plunder our soils, ravage our forests, poison our waters and pollute our airs. We must slow the planet's unsustainable population growth rate before humankind becomes the next endangered species. We should take our cue from the environmental community and overturn the Mexico City policy—a policy that is as cruel and destructive of human welfare as it is embarrassing to our country in the eyes of thinking people the world over.

The CHAIRMAN. Under the rule, all time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH] to the amendment offered by the gentleman from Florida [Mr. LEHMAN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEHMAN of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Committee Members that this will be a 15-minute vote, upon which, if there is a demand or an agreement for a second vote, that second vote will also be a 15-minute vote. It cannot be made a 5-minute vote. So there is the possibility of consecutive 15-minute rollcalls.

The vote was taken by electronic device, and there were—ayes 224, noes 198, not voting 10, as follows:

[Roll No. 201]

AYES—224

Annunzio	Bruce	Dorgan (ND)
Applegate	Buechner	Dornan (CA)
Archer	Bunning	Douglas
Armey	Burton	Dreier
Aspin	Byron	Duncan
Baker	Callahan	Dyson
Ballenger	Chapman	Early
Barnard	Clarke	Edwards (OK)
Bartlett	Clement	Emerson
Barton	Clinger	English
Bateman	Coble	Fields
Bennett	Coleman (MO)	Fish
Bentley	Combest	Flippo
Bereuter	Cooper	Gallegly
Bevill	Costello	Gaydos
Bilbray	Cox	Geren
Bilirakis	Craig	Gibbons
Bliley	Crane	Gillmor
Boggs	Dannemeyer	Gingrich
Bonior	Davis	Goodling
Borski	DeLay	Goss
Broomfield	DeWine	Gradison
Browder	Donnelly	Grandy
Grant	McCollum	Sarpalius
Gunderson	McCrery	Savage
Hall (OH)	McDade	Saxton
Hammerschmidt	McEwen	Schaefer
Hancock	McGrath	Schiff
Hansen	McMillan (NC)	Schuette
Harris	Michel	Sensenbrenner
Hastert	Miller (OH)	Shaw
Hefley	Moakley	Shumway
Hefner	Mollohan	Shuster
Henry	Montgomery	Skeen
Herger	Moorhead	Skelton
Hertel	Murphy	Slattery
Hiler	Murtha	Slaughter (VA)
Holloway	Myers	Smith (NE)
Hopkins	Natcher	Smith (NJ)
Hubbard	Neal (MA)	Smith (TX)
Huckaby	Nielson	Smith, Denny (OR)
Hunter	Nowak	Smith, Robert (NH)
Hutto	Oakar	Smith, Robert (OR)
Hyde	Oberstar	Solomon
Inhofe	Obey	Spence
Ireland	Ortiz	Staggers
James	Oxley	Stallings
Jenkins	Packard	Stangeland
Johnson (SD)	Parker	Stearns
Kanjorski	Parris	Stenholm
Kaptur	Pashayan	Stump
Kasich	Paxon	Sundquist
Kildee	Payne (VA)	Tauke
Kolter	Penny	Tauzin
Kyl	Perkins	Taylor
LaFalce	Petri	Thomas (CA)
Lagomarsino	Poshard	Thomas (WY)
Laughlin	Quillen	Traxler
Leath (TX)	Rahall	Vander Jagt
Lent	Ravenel	Volkmer
Lewis (FL)	Ray	Vucanovich
Lightfoot	Regula	Walker
Lipinski	Rhodes	Walsh
Livingston	Ridge	Weber
Lloyd	Rinaldo	Weldon
Lowery (CA)	Ritter	Whittaker
Luken, Thomas	Roberts	Whitten
Lukens, Donald	Robinson	Wolf
Madigan	Roe	Wylie
Manton	Rogers	Yatron
Marlenee	Rohrabacher	Young (AK)
Martin (NY)	Ros-Lehtinen	Young (FL)
Mavroules	Rostenkowski	
Mazzoli	Roth	
McCandless	Russo	
McCloskey	Sangmeister	

NOES—198

Ackerman	Dickinson	Horton
Alexander	Dicks	Houghton
Anderson	Dingell	Hoyer
Andrews	Dixon	Hughes
Anthony	Downey	Jacobs
Atkins	Durbin	Johnson (CT)
AuCoin	Dwyer	Johnston
Bates	Dymally	Jones (GA)
Beilenson	Eckart	Jones (NC)
Berman	Edwards (CA)	Jontz
Boehlert	Engel	Kastenmeier
Bosco	Erdreich	Kennedy
Boucher	Espy	Kennelly
Boxer	Evans	Kleczka
Brennan	Fascell	Kolbe
Brooks	Fawell	Kostmayer
Brown (CA)	Fazio	Lancaster
Brown (CO)	Feighan	Lantos
Bryant	Flake	Leach (IA)
Bustamante	Foglietta	Lehman (CA)
Campbell (CA)	Ford (MI)	Lehman (FL)
Campbell (CO)	Ford (TN)	Levin (MI)
Cardin	Frank	Levine (CA)
Carper	Frost	Lewis (CA)
Carr	Gallo	Lewis (GA)
Chandler	Gejdenson	Long
Clay	Gekas	Lowey (NY)
Coleman (TX)	Gephardt	Machtley
Collins	Gilman	Markey
Condit	Glickman	Martin (IL)
Conte	Gonzalez	Martinez
Conyers	Gordon	Matsui
Coughlin	Green	McCurdy
Courter	Guarini	McDermott
Coyne	Hamilton	McHugh
Darden	Hatcher	McMillen (MD)
de la Garza	Hawkins	McNulty
DeFazio	Hayes (IL)	Meyers
Dellums	Hoagland	Mfume
Derrick	Hochbrueckner	Miller (CA)

Miller (WA)
Mineta
Molinari
Moody
Morella
Morrison (WA)
Mrazek
Nagle
Neal (NC)
Olin
Owens (NY)
Owens (UT)
Pallone
Patterson
Payne (NJ)
Pease
Pelosi
Pickett
Pickle
Porter
Price
Pursell
Rangel
Richardson
Rose
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (VT)
Snowe
Solarz
Spratt
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Walgren
Watkins
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates

NOT VOTING—10

Crockett
Frenzel
Gray
Hall (TX)
Hayes (LA)
Morrison (CT)
Nelson
Panetta
Schulze
Washington

□ 1515

The Clerk announced the following pair:

On this vote:

Mr. Schulze for, with Mr. Frenzel against.

Mrs. KENNELLY and Mr. DERRICK changed their vote from "aye" to "no."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. LEHMAN], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PORTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 406, noes 11, not voting 15, as follows:

[Roll No. 202]

AYES—406

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyne
Craig
Dannemeyer
Darden
Davis
DeFazio
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Grant
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schuette
Schumer
Serrano
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Synar
Tallon
Tanner
Tauke
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—11

Crane
Hancock
Marlenee
Petri
Rahall
Roukema
Savage
Sensenbrenner
Stump
Tauzin
Taylor

NOT VOTING—15

Berman
Crockett
de la Garza
Dickinson
Ford (MI)
Gillmor
Hall (TX)
Hayes (LA)
Miller (CA)
Morrison (CT)
Nelson
Pease
Schulze
Swift
Washington

□ 1533

Mrs. ROUKEMA and Mr. HANCOCK changed their vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. JONES of Georgia). The Chair understands the gentleman from New York [Mr. MRAZEK] is not going to offer his amendment.

Under the rule, it is now in order for the gentlewoman from Ohio [Ms. OAKAR] to offer her amendment designated No. 6 in House Report 101-560, which is not subject to amendment.

AMENDMENT OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. OAKAR. Page 23, line 6, before the period, insert the following:

": *Provided further*, That of the funds appropriated under this heading, not less than $7,500,000 shall be available only for Lebanon.".

The CHAIRMAN pro tempore. Under the rule, the gentlewoman from Ohio [Ms. OAKAR] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, at the risk of appearing impolite, I would simply say I understand the content of the gentlewoman's amendment. I personally have no objection to it.

We have been trying to keep earmarks off the bill as a courtesy to the administration, but since at least two others were adopted beyond those

that I suggested in the markup, I personally have no problem with it. It would simply close the circle in terms of the Middle East.

Ms. OAKAR. I thank the chairman and wish to thank him personally for his gracious and courteous consideration. I would also like to thank in particular, Mr. MOAKLEY, chairman of the Rules Committee and Mr. FASCELL, the chairman of the authorizing committee for foreign aid.

Mr. Chairman, today I am offering an amendment to earmark $7.5 million in economic support funds for humanitarian aid for Lebanon. This aid would be made available to private voluntary organizations and educational organizations who are able to help those in need and carry out effective programs in humanitarian relief and rehabilitation assistance in a nonpartisan manner. In addition, by supporting this amendment we signal to the people of Lebanon that we have not given up support of the people of Lebanon.

Since the fighting resumed in February, over 1,000 people have been killed and over 3,500 people have been wounded. Such basic commodities as food and water are scarce. In this tragic hour, United States aid provides valuable support and humanitarian assistance to people in Lebanon.

During consideration of the foreign aid authorization last year, the House unanimously adopted my amendment to earmark $7.5 million in development assistance or economic support assistance for fiscal year 1990 and $7.5 million in development assistance or economic support assistance for fiscal year 1991 for Lebanon as part of Chairman FASCELL's en bloc amendment. The foreign operations appropriation for fiscal year 1990 included an earmark of $7.5 million for Lebanon.

This money is being used to meet basic human needs. For fiscal year 1990, the Agency for International Development will distribute $2,100,000 to Save the Children, $1,400,000 for Catholic Relief Services, $1,000,000 for the YMCA Humanitarian Assistance Program, $1,000,000 for the Red Cross, $500,000 for rural rehabilitation, $750,000 for the hospital at American University in Beirut, $500,000 for Beirut University College, and $150,000 for small grants to indigenous private voluntary organizations. More specifically, with our help this year Catholic Relief Services will provide portable electricity generators and portable water pumps for 15 hospitals. The YMCA Humanitarian Assistance Program will provide basic relief assistance to the most needy displaced and war affected families in Lebanon. Their program will also repair shelters and improve displacement centers damaged by the war. The American University in Beirut hospital will be able to treat those injured by the fighting, most of whom are civilians. Last year they received over 20,855 patients. They treated almost 50 percent of all casualties and 75 percent of casualties in West Beirut.

Regrettably, the administration proposed in its budget request that we provide $1 million in economic support assistance for Lebanon. Without my amendment, the United States will cut economic support funds to Lebanon to $1 million, despite the mounting toll of dead and injured and despite the Lebanese people's desperate need for help. Our Nation's continued assistance to Lebanon is an important symbol of support and a signal to the people that the United States has not forgotten them and is willing to help.

Mr. Chairman, I know of few other nations who have suffered as much as Lebanon. I urge Members to respond to their cry for help by supporting my amendment. My colleagues, by supporting my amendment it will be a clear signal and symbol that the United States believes in the people of Lebanon—that we believe in Lebanon's sovereignty and its territorial integrity. The people of Lebanon need our support, and by passing my amendment we will be renewing our commitment to Lebanon and its people.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I am happy to yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, as I explained to the gentlewoman from Ohio, my only concern about the amendment is that we have made an effort to avoid earmarking in the bill, and she understands that. That is how I will have to vote, but I do not have any real objection to her amendment other than that.

Mr. FASCELL. Mr. Chairman, will the gentlewoman yield?

Ms. OAKAR. I yield to the distinguished chairman of the authorizing committee, to whom I am very grateful.

Mr. FASCELL. Mr. Chairman, I rise in strong support of the gentlewoman's amendment.

Mr. Chairman, I rise in strong support of the amendment being offered by our colleague from Ohio, Ms. OAKAR, which serves to earmark $7.5 million in United States Economic Support Fund assistance to provide humanitarian aid for the beleaguered nation of Lebanon, and urge its unanimous adoption. In this regard, it is regrettable that in its budget presentation, the Bush administration only requested $1 million in Economic Support Fund assistance for Lebanon in fiscal year 1991. This meager request is $6.5 million less than the amount both authorized and appropriated by Congress for Economic Support Fund assistance for Lebanon in fiscal year 1990, and in my mind, makes little sense.

Last year, the House of Representatives overwhelmingly approved a 2-year authorization for Economic Support Fund assistance for Lebanon in the bill, H.R. 2655, which received the final support of more than 300 Members of the House. The amount of Economic Support Fund assistance that we approved and earmarked at that time was the same exact amount—$7.5 million—which is called for by the Oakar amendment.

These moneys were properly allocated to various private voluntary organizations, and educational groups to carry out both effective and efficient relief programs that were aimed at providing humanitarian assistance to those peoples of Lebanon most in need of such aid. In this regard, the United States allocated some: $2.4 million to Save the Children; $1.4 million to Catholic Relief Services; $1 million to the Young Men's Christian Association; $1 million to the International Red Cross; $750,000 to the American University of Beirut; and some $1.1 million to other organizations involved in this benevolent effort.

Mr. Chairman, the senseless bloodshed in Lebanon must come to an end. Clearly, the wanton violence that has been the norm in Lebanon for the last 15 years represents one of the greatest human tragedies of modern history, and while $7.5 million in humanitarian Economic Support Fund assistance may not serve to bring this tragedy to an end, it does serve notice of a consistent American commitment to those humanitarian efforts that are aimed at relieving those most in need of assistance in Lebanon.

In my opinion, we should not, today, be reducing the amount of humanitarian assistance that we provide to Lebanon as recommended by the administration's budget request, but rather, we should be upholding those same assistance levels that we both authorized and appropriated for Lebanon last year. The Oakar amendment serves that purpose and demonstrates American commitment through consistency to providing humanitarian relief for Lebanon. Once again, I urge its unanimous adoption.

Ms. OAKAR. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentlewoman for yielding time to me. I too rise in strong support of her amendment. I think it is a critical area of what we have done too little about, and I thank the gentlewoman for her leadership in trying to help bring peace to that war-torn area.

I urge my colleagues to support the amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentlelady from Ohio, to earmark $7.5 million in economic support assistance for humanitarian reasons to Lebanon.

During the last several months, more than 20,000 shells and rockets have fallen on residential areas in Lebanon. Vital sources of food, water, and electricity have been destroyed. The destruction of this nation brings feelings of remorse to those of us who respect and admire the many contributions of Lebanese-Americans to our own society.

Lebanon is a nation which has played a critical role in the geopolitical stability of the

Middle East. The reinstitution of democratic government and the removal of all foreign military and paramilitary forces are essential to the preservation of Lebanon's territorial integrity and sovereignty.

Mr. Chairman, the failure of the presidential elections of September 1988 in Lebanon has deepened the divisions within Lebanese society. We must encourage all parties to end the strife and loss of life between Moslems and Christians and respond to the international call for cease-fire. The process of internal reconciliation must begin. I believe this measure will do much to assist the difficult plight of the Lebanese people, and I urge its passage.

Ms. OAKAR. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise in support of the Oakar amendment. As many of us know from direct experience with Lebanese in our districts, the situation in Lebanon is desperate. In the last year alone, thousands have been killed and wounded in fighting between Christian and Moslem factions. Virtually all families have suffered the loss of family members, the constant pain of trying to live in the rubble of Beirut, and the fear of whether tomorrow will bring another day of intensive shelling of residential neighborhoods. Despite our frustration with finding a constructive role in resolving this conflict, we must not, and cannot, abandon the Lebanese people.

Ms. OAKAR's amendment earmarks a modest amount of money for humanitarian aid in Lebanon. The need is compelling and I urge my colleagues to support the amendment.

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Mrs. BOXER. Mr. Chairman, will the gentleman yield to me?

Ms. OAKAR. Mr. Chairman, I yield to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in strong support of the amendment of the gentlewoman from Ohio [Ms. OAKAR].

I want to commend the gentlewoman on her leadership. I know the gentlewoman has suffered along with the people of Lebanon for so many years. I know this means a lot to the gentlewoman. I want to congratulate the gentlewoman from Ohio again on her very fine amendment.

Ms. OAKAR. I thank the gentlewoman.

Mr. Chairman, my distinguished chairman, the gentleman from Wisconsin has asked that my friends revise and extend their remarks. I do not want to offend him, because he has been so gracious in allowing me to offer this amendment. But I would like to recognize the distinguished deputy whip and then I will go to the gentleman from California [Mr. DREIER] for a unanimous-consent request.

Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BONIOR].

(Mr. BONIOR asked and was given permission to revise and extend his remarks.)

Mr. BONIOR. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I thank my colleague for her eloquent remarks, strongly support her amendment, and commend her for her actions.

Mr. Chairman, I rise in strong support of the Oakar amendment. The violence that has gripped Lebanon for the past 16 years has claimed thousands of lives. Most of these casualties and fatalities are innocent civilians. I believe that the United States must not turn its back on the people of Lebanon who so desperately need our help.

There is an enormous need for emergency and rehabilitative medical care in Lebanon. In addition, the fighting has devastated all aspects of that country's economic infrastructure. It will take years to rebuild Lebanon to the prosperous nation it once was.

This amendment would earmark $7.5 million in humanitarian aid to Lebanon. This aid will go to private voluntary organizations that can best deliver the assistance. These organizations include the YMCA, Catholic Relief Services, Save the Children, and the World Rehabilitation Fund. This money will also go to the American University Hospital in Beirut.

Until peace can finally be achieved, we must, at the very least, try to alleviate the suffering of the Lebanese people. Mr. Speaker, let us extend a helping hand to a fellow democratic nation in its hour of darkness. Let us show, in this House, the traditional compassion of the American people in the face of human suffering. And let us demonstrate our commitment to peace in that deeply troubled country. I urge my colleagues to vote for the Oakar amendment.

Ms. OAKAR. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. I thank the gentlewoman for yielding.

Mr. Chairman, I want to commend the gentlewoman from Ohio for her leadership in offering this amendment. I certainly rise in strong support.

The conflict that has wrecked the country of Lebanon for 15 years now has affected not only Americans of Lebanese descent, as the gentlewoman from Ohio and myself, but many Americans. We know that the people of Lebanon do want peace. They are not the ones responsible for the taking of American hostages or any hostages in that country. Indeed the people of Lebanon are being held hostage themselves to outside powers that only fuel the flames of fighting in that country for their own selfish purposes.

The gentlewoman stressed very well that this $7.5 million goes to private voluntary organizations, not to any militia leaders.

The gentlewoman mentioned the trip to Lebanon that she took late last year, which I had the honor to join her. At that time we were able to see that the devastation has not only affected the western Moslem section of Beirut but now is affecting the eastern Christian sectors of Beirut as well.

The devastation in the Christian sector, for example, has been worse in the last 3 or 4 months than in perhaps the last 15 years of fighting in that country.

So this is money desperately needed by the people of Lebanon, the people that love the American people, the people that love our country, want to be our friends.

This is only a pittance, I believe, of what we can do in return for their friendship, for our desire to seek peace in the country, to see the territorial sovereignty of Lebanon and the recognition of all the boundaries of the countries in the region, to live in peace, free from continued devastation and human suffering.

Ms. OAKAR. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I thank the gentlewoman from Ohio for yielding to me. I too would like to congratulate her for the amendment and am proud that she agreed to allow me to join as a cosponsor of this amendment.

Mr. Chairman, it is clear to me that the humanitarian thrust of this amendment is very important for us to recognize.

A recent study that was put forward by Dr. Mona Maksoud, of 2,000 young Lebanese children who have been victimized, provided some incredible figures. Ninety percent of the children in Lebanon have been exposed to bombardment; 68 percent have been displaced from their homes and schools; 54 percent live in extreme poverty and deprivation; 50 percent witnessed major acts of violence; 26 percent have lost a member of their family in this war.

The humanitarian thrust is exactly what my friend, the gentlewoman from Ohio is going toward. My constituent, Dr. Antoine Garabet, is an eye surgeon working in Lebanon today. I believe that this amendment will be very helpful in trying to meet that important need, and I thank my friend.

The CHAIRMAN. The time allotted to the gentlewoman under the rule has expired. Does any Member desire to claim the time allotted under the rule in opposition to the amendment?

Ms. OAKAR. Mr. Chairman, may I just inquire of my distinguished friend, the gentleman from Oklahoma,

that I be able to address my friend for 10 seconds?

Mr. EDWARDS of Oklahoma. If the gentlewoman would permit, I will claim the time in opposition.

The CHAIRMAN. The gentleman from Oklahoma [Mr. EDWARDS] is recognized for 10 minutes under the rule.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank my colleague and friend, the gentlewoman from Ohio, for her leadership on this issue. I rise in support of the gentlewoman's amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, I rise in support of the amendment and thank the gentlewoman from Ohio [Ms. OAKAR] for her fine amendment.

Mr. Chairman, as one who taught in the American University in Beirut and knows how beautiful that country was in 1970, I note the devastation that has occurred since and am very happy to see that we are trying to correct the problem in that area, after years of neglecting a very humanitarian problem.

I congratulate the gentlewoman from Ohio.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment.

You know, Lebanon has kind of receded into the past, so to speak. Not much attention has been paid to it with all the other momentous changes that are occurring all around the world. But it is still there, still suffering. It still deserves our attention and support.

Mr. Chairman, I congratulate the gentlewoman from Ohio for offering the amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I would like to reaffirm my support for Chairman OBEY'S remarks in regard to the Middle East peace process. Human rights are fundamental and indivisible and it is my hope that the efforts of the Chairman and the Congress will result in constructive steps toward peace. Positive movement forward in peace talks cannot occur too soon for me. I rise in strong support of the Oakar amendment to provide $7.5 million in economic support funds for humanitarian assistance to Lebanon. The people of Lebanon and th Middle East have suffered enough. It is time that Congress provides the essential funding to alleviate some of the great human suffering experienced by the people of Lebanon.

I firmly support all efforts to move the Middle East peace process foward and I would like to reiterate my support for the foreign operations appropriations bill report language on the Middle East peace process and the West Bank settlements. Let me quote some of this language. It reads as follows:

MIDDLE EAST PEACE PROCESS

The committee consistently has expressed its support for the Middle East peace process and especially for the recent efforts of Secretary of State Baker to put forward a fair, responsible, and constructive proposal to get the process moving. While that proposal forcused on process, not substance, it offered the best opportuntiy to begin implementation of the proposal first offered by Israeli Prime Minister Shamir that included elections for Palestinian representatives to negotiate an interim arrangement for the West Bank and Gaza and then negotiations for a final agreeement for the territories. The committee is concerned about the failure of the Israeli Government to respond positively to the Secretary's efforts.

The committee strongly urges the administration, the Government of Israel, and Palestinians to work to move to meaningful negotiations about both short-term and long-term arrangements that will assure Israel's security and the legitimate rights of the Palestinian people.

WEST BANK SETTLEMENTS

The administration is to report to the committee by February 1, 1991 on the extent of the Government of Israel's investment in new and expanded settlements in the West Bank and Gaza.

Ms. KAPTUR. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentlewoman's amendment. Mr. Chairman, I come from a community with a large number of Lebanese-Americans who know, as all of us know, that the way to build peace in the Middle East is to make this kind of contribution. My only hope is that the chairman of the committee will continue with his fine efforts to move the peace process forward through the various appropriation bills, especially through amendments like this.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR], the author of the amendment.

Ms. OAKAR. I simply want to conclude by thanking the gentleman, the distinguished chairman of the subcommittee, and I urge my colleagues to support the Oakar amendment to demonstrate not only humanitarian assistance for these people but also that we have not forgotten the people of Lebanon.

I thank the gentleman for yielding, and I ask support of my amendment.

Mrs. BENTLEY. Mr. Chairman, I am very pleased to rise in strong support of the amendment of the gentlewoman from Ohio [Ms. OAKAR], to provide $7.5 million in economic support funds for humanitarian assistance to Lebanon.

Few countries are in greater need of our assistance than Lebanon, which has been ravaged by internal strife for so many years.

This amendment provides us with the opportunity to help the people of Lebanon who have suffered so greatly, and will go a long way toward providing assistance to these people, and reinforcing the good will of the people of the United States as well.

The gentlewoman's amendment is a very modest proposal of how we can assist the people of Lebanon during this period, and I urge my colleagues to support this humanitarian amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time having expired, the question is on the amendment offered by the gentlewoman from Ohio [Ms. OAKAR].

The amendment was agreed to.

The CHAIRMAN. The Clerk will designate title III.

The text of title III is as follows:

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,196,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,229,920,800: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, not less than $50,000,000 shall be available for grants only for Jordan, and not less than $1,300,000,000 shall be available for grants only for Egypt: *Provided further,* That of the funds made available for Egypt not less than $100,000,000 may be used for repayments pursuant to section 23(e) of the Arms Export Control Act: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That grants provided with funds made available by this paragraph shall be implemented by grant documents which do not include a requirement to repay the United States Government, notwith-

standing any requirement in section 23 of the Arms Export Control Act.

For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $405,000,000: *Provided*, That any funds made available by this paragraph, except as otherwise specified, may be made available at concessional rates of interest: *Provided further*, That the concessional rate of interest on Foreign Military Financing Program loans shall be not less than 5 per centum per year: *Provided further*, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures: *Provided further*, That during fiscal year 1991, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $405,000,000.

Funds appropriated under this heading that are allocated to Greece and Turkey shall be provided according to a 7 to 10 ratio: *Provided*, That if Turkey receives any funds under this heading on a grant basis then not less than $30,000,000 of the funds provided for Greece shall be made available as grants: *Provided further*, That funds previously obligated for the Philippines under the heading "Foreign Military Credit Sales" but uncommitted on the date of enactment of this Act, shall be used at any time hereafter only to finance sales made under the Arms Export Control Act: *Provided further*, That uncommitted balances of loans for the Philippines made under the authority of section 23 of the Arms Export Control Act may be committed to a contract only until January 1, 1991: *Provided further*, That of the funds appropriated under this heading not more than $2,887,000 shall be available for non-lethal assistance for Guatemala: *Provided further*, That funds made available under this heading for Guatemala shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds appropriated under this heading shall be available for Zaire, Sudan or Somalia: *Provided further*, That not more than $300,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further*, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further*, That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to nonlethal items such as transportation and communications equipment and uniforms: *Provided further*, That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further*, That not more than $27,920,800 of the funds appropriated under this heading may be obligated for necesary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further*, That of the funds appropriated under this heading, not more than $301,000,000 shall be available for Greece, not more than $430,000,000 shall be available for Turkey, and not more than $95,000,000 shall be available for Portugal.

FOREIGN MILITARY SALES DEBT REFORM

Funds made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1991.

GUARANTY RESERVE FUND

If during fiscal year 1991 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military Sales Debt Reform", the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $278,796,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1991, to remain available for obligation until September 30, 1993: *Provided*, That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $32,800,000.

The CHAIRMAN. The clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $750,000,000: *Provided*, That there are hereby appropriated $150,000,000 to be made available for tied aid grants in accordance with section 15 of the Export-Import Bank Act of 1945, as amended, or, at the discretion of the Chairman of the Export-Import Bank, in accordance with the Trade and Development Enhancement Act of 1983, as amended: *Provided further*, That there are hereby appropriated $8,000,000 to be made available for interest subsidy payments in accordance with the Export-Import Bank Act of 1945, as amended: *Provided further*, That the funds made available under this heading for both grant and subsidy purposes, including tied aid financed in part through the combined use of concessional financing or grants offered by the Agency for International Development, shall be subject to the regular notification procedures of the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That $150,000,000 of the funds made available for tied aid grant purposes and $8,000,000 of the funds made available for interest subsidy payments shall be subject to the limitation on the gross obligations for the principal amount of direct loans specified under this heading: *Provided further*, That the Bank shall use all amounts appropriated to carry out the interest subsidy program to make commitments to commercial lending institutions and other lenders, subject only to the availability of qualified lenders under the program: *Provided further*, That during the fiscal year 1991, total commitments to guarantee loans shall not

exceed $10,599,064,000 of contingent liability for loan principal: *Provided further*, That the direct loan, tied aid grant and interest subsidy authority provided under this heading shall remain available until September 30, 1992.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $23,171,000 (to be computed on an accrual basis) shall be available during fiscal year 1991 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided*, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $35,000,000.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1991 total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Central America pursuant to the authorities of section 224 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided*, That section 224(c) of the Foreign Assistance Act of 1961, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991".

During fiscal year 1991, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Poland, pursuant to the authorities of section 225 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided*, That notwithstanding section 225(b) of such Act guaranteees provided under this paragraph may be available for medium-term guarantees and insurance extended by the Export-Import Bank.

The CHAIRMAN. The Clerk will designate title V.

The text of title V is as follows:

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1991, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act for any narcotics-related assistance in Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

(c) None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SURPLUS COMMODITIES

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the

Committees on Appropriations are notified fifteen days in advance of such commitment or unless such commitment is necessitated by an emergency and the Committees are notified within three days after the commitment is made with an explanation of the emergency circumstances: *Provided further*, That with respect to assistance provided under chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, the requirements of this section for notification prior to reprogramming funds shall apply only for a project, program, or activity (1) which was not justified in Congressional presentation documents for the current fiscal year and for which assistance was not provided in the preceding fiscal year, (2) the purpose for which is significantly different from the purpose previously justified, or (3) the assistance would cause the total amount allocated for a country from such chapter to exceed the amount allocated for that country from such chapter (or would be in excess of the total amount allocated from such chapter) in the report required by section 653(a) of the Foreign Assistance Act of 1961.

CONSULTING SERVICES

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization (or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it), Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided*, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1992.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 527. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 528. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 529. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 530. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

ASSISTANCE FOR EL SALVADOR

SEC. 531. (a) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hostilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

(B) the actions of each side that affect the basic human rights of the Salvadoran people.

(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

(1) FISCAL YEAR 1991.—

(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military assistance for El Salvador for fiscal year 1991 may not exceed $85,000,000.

(B) CONDITIONAL WITHHOLDING OF HALF OF MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1991 shall be withheld from obligation for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

(C) TRANCHING OF ASSISTANCE.—Not more than half of the amount allocated for military assistance for El Salvador for fiscal year 1991 that is not being withheld from obligation pursuant to subparagraph (B) may be obligated before March 1, 1991. In order to provide time for congressional review of the report required to be submitted on that date by subsection (g), funds that become available for obligation under this subparagraph as of that date may not be expended during the 30-day period beginning on that date.

(2) USE OF FUNDS IF DETERMINATION REGARDING FMLN NOT MADE.—At the end of fiscal year 1991, the President shall transfer any military assistance funds then being withheld pursuant to paragraph (1)(B) to appropriations accounts for development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) for use in providing assistance for child nutrition, health, housing, education, or other programs serving the basic human needs of the people of El Salvador. Funds so transferred shall remain available until expended notwithstanding any other provision of law. Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies with respect to the obligation of any funds so transferred.

(3) TERMINATION OF MILITARY ASSISTANCE.—If the President submits to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), all military assistance for El Salvador for fiscal year 1991 shall be terminated, including deliveries of previously obligated military assistance. All military assistance shall be terminated pursuant to this paragraph without regard to whether a report is submitted containing the determination regarding the FMLN described in subsection (c).

(4) RESUMPTION OF MILITARY ASSISTANCE.—If, after submitting to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), the President finds that the facts giving rise to that determination no longer prevail, the President may submit to the Congress a report describing the reasons for such finding. If the President submits such a report under this paragraph, military assistance for El Salvador may be resumed, subject to the requirements of this section.

(c) CONDUCT OF THE FMLN RESULTING IN A RELEASE OF WITHHELD ASSISTANCE.—The de-

termination described in this subsection is a determination by the President that—

(1) the representatives of the FMLN—

(A) are declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict in El Salvador, or

(B) are rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress;

(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN; or

(4) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(d) CONDUCT OF THE GOVERNMENT OF EL SALVADOR RESULTING IN A TERMINATION OF ASSISTANCE.—The determination described in this subsection is a determination by the President that—

(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the eight murders at the University of Central America on November 16, 1989; or

(4) the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

(e) SUBMISSION OF REPORTS CONTAINING DETERMINATIONS.—The President may submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

(f) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, military assistance for fiscal year 1991 may be delivered to the armed forces of El Salvador only with the prior approval of the President of El Salvador.

(g) REPORTS ON SITUATION IN EL SALVADOR.—Thirty days after the date of enactment of this Act and on March 1, 1991, the President shall submit to the Congress a report describing—

(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

(2) the status of the negotiations;

(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

(4)(A) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people;

(B) progress made by the Government of El Salvador toward—

(i) the establishment of an effective judicial system, including the establishment of an independent, civilian investigative service;

(ii) ensuring freedom of the press and assembly; and

(iii) military reform, including the establishment of an officer promotion system based on merit and professional competence, respect for human rights, and respect for civilian control over the armed forces;

(C) the effects on the civilian population of El Salvador of economic sabotage and other acts of violence committed against civilian targets by the FMLN; and

(D) the status of investigations into the politically motivated murders of prominent political, religious, labor, and other officials in recent years, and the extent to which the armed forces of El Salvador and the FMLN are each cooperating in those investigations.

(h) SUPPORT FOR DEMOCRACY PROGRAM.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

(B) establish an effective judicial system;

(C) facilitate the free and open exchange of political views;

(D) provide for monitoring and other activities in support of free and fair elections; and

(E) increase respect for basic civil and human rights.

(2) ELECTION MONITORING.—Of the amount made available to carry out this subsection, $2,000,000 may be used only for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as Secretary General of the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

(3) ASSISTANCE.—Up to $10,000,000 of the funds appropriated under the heading "Economic Support Fund", may be used to carry out this subsection.

(i) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

(1) DEFINITION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

(A) which—

(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

(ii) in the case of the Senate, is reported by the Committee on Foreign Relations,

during the thirty-day period beginning on March 1, 1991;

(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foreign Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

(3) DEBATE TIME.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than four hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the time, in the same manner, and to the same extent as in the case of any other rule of that House.

(j) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 532. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least fifteen days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

ENVIRONMENT AND GLOBAL WARMING

SEC. 533. (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

(1) expand programs in energy conservation, end-use energy efficiency, and renewable energy and promotion by—

(A) continuing to augment and expand professional staffs with expertise in these areas;

(B) giving priority to these areas in the "least cost" energy sector investment plans;

(C) encouraging and promoting these areas in policy-based energy sector lending;

(D) developing loans for these purposes; and

(E) convening seminars for MDB staff and board members on these areas and alternative energy investment opportunities;

(2) provide analysis for each proposed loan to support additional power generating capacity comparing demand reduction costs to proposal costs;

(3) continue to assure that environmental impact assessments (EIA) of proposed energy projects are conducted early in the project cycle, include consideration of alternatives to the proposed project, and encourage public participation in the EIA process;

(4) continue to include the environmental costs of proposed projects with significant environmental impacts in economic assessments; and

(5) continue to provide technical assistance as a component of energy sector lending.

(b) The Secretary of the Treasury shall, not later than March 1, 1991, submit an annual report to the Congress which shall include—

(1) a detailed description of how the natural resource management initiatives mandated by this section have been incorporated in the Administration's efforts to address Third World Debt (the Brady Plan);

(2) a detailed description of progress made by each of the MDBs in adopting and implementing programs meeting the standards set out in subsection (a) including, in particular, efforts by the Department of the Treasury to assure implementation of this section, progress made by each MDB in subsection (a)(1)(B), and the amounts and proportion of lending in the energy sector for projects or programs in subsection (a)(1);

(3) the progress the Inter-American Development Bank has made in implementing environmental reforms;

(4) an updated analysis of each MDB's forestry sector loans, and a current analysis of each MDB's energy sector loans, and their impact on emissions of CO_2 and the status of proposals for specific forestry and energy sector activities to reduce CO_2 emissions; and

(5) the progress the International Bank for Reconstruction and Development has made in implementing the recommendations set forth in the April 1, 1988, report on "Debt-for-Nature Swaps" by the World Bank.

(c)(1) The Administrator of the Agency for International Development shall update and issue guidance to all Agency missions and bureaus detailing the elements of the "Global Warming Initiative", which will continue to emphasize the need to reduce emissions of greenhouse gases, especially CO_2 and CFCs, through strategies consistent with continued economic development. This initiative shall continue to emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

(2) The Administrator shall pursue this initiative by, among other things—

(A) increasing the number and expertise of personnel devoted to this initiative in all bureaus and missions;

(B) devoting increased resources to technical training of mission directors;

(C) accelerating the activities of the Multi-Agency Working Group on Power Sector Innovation;

(D) focusing tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases to the global environment;

(E) assisting countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry;

(F) focusing energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases; and

(G) continuing to follow the directives with respect to key countries and countries that receive large Economic Support Fund assistance contained in section 534(b)(3) of Public Law 101-167.

(3) None of the funds appropriated in this Act shall be used for any project that would result in any significant loss of tropical forests.

(4) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(5) Funds appropriated by this Act to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 may be used for expenses (including related support costs) relating to the environment and energy sectors, of employees or individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warming Initiative" described in this subsection.

(6) Not less than $15,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 (including funds for sub-Saharan Africa) shall be made available for biological diversity activities, of which $3,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act.

(7) Not less than $30,000,000 of the funds appropriated to carry out the provisions of section 106 of the Foreign Assistance Act of 1961 shall be made available to support the "Global Warming Initiative" as described in this subsection.

MONTREAL PROTOCOL FACILITATION FUNDS

(INCLUDING TRANSFER OF FUNDS)

SEC. 534. (a) It is the sense of Congress that the United States should support amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer that would establish financial mechanisms to enable developing countries to meet the requirements of the present and a future strengthened Protocol. Provision of additional financial assistance is critical to securing developing country participation in international efforts to protect the stratospheric ozone layer. It is further the sense of the Congress that the United States should abide by the commitment made under Article 5 of the Protocol to "undertake to facilitate bilaterally or multilaterally the provision of subsidies, aid, credit, guarantees or insurance programs to Parties that are developing countries for the use of alternative technology and for substitute products."

(b) Not less than $10,000,000 of the funds appropriated by this Act to carry out section 106 of the Foreign Assistance Act of 1961 shall be used to support the creation of a fund to facilitate and support global participation in the Montreal Protocol on Substances that Deplete the Ozone Layer: *Provided*, That these funds shall be transferred to the Bureau of Oceans, International Environment and Scientific Affairs of the Department of State and shall be made available, after consultations with the Environmental Protection Agency, to the United

Nations Environment Program in its role as Secretariat to the Protocol: *Provided further,* That the United States representative to the Secretariat shall seek assurances that none of these funds shall be contributed to any developing country that is not a party to the Protocol and operating under Article 5 of the Protocol.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 535. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 536. Of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, up to $70,000,000 may be made available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 537. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 538. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders, (3) pursued all legal avenues to bring to trial those who ordered and carried out the September 1988 massacre of ten peasants near the town of San Francisco, El Salvador, and to obtain a verdict, and (4) pursued all legal avenues to bring to trial those who ordered and carried out the November 1989 murders of six Jesuit priests and their associates, and to obtain a verdict.

REFUGEE RESETTLEMENT

SEC. 539. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Financing Program", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 540. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 541. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 542. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 543. Of the funds made available by this Act for assistance for health, child survival, and AIDS, up to $8,000,000 may be used to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That personnel who are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

CHILE

SEC. 544. Funds appropriated by this Act under the heading "Economic Support Fund" may be used under the authority of section 534(b)(4) and (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society. Assistance may be provided under this section without regard to the requirements of section 726(b) of the International Security and Development Cooperation Act of 1981.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 545. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

SEC. 546. Section 61(a) of the Arms Export Control Act is amended by striking out "1990" and inserting in lieu thereof "1991".

DEFENSE EQUIPMENT DRAWDOWN

SEC. 547. (a) Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided,* That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

(b) Section 506(a) of the Foreign Assistance Act of 1961 is amended by inserting the following new paragraph:

"(3) An aggregate value of not to exceed $100,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to paragraphs (1) and (2) of this subsection.".

(c) Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 548. Prior to providing excess Department of Defense articles in accordance with

section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided*, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 549. Funds appropriated by this Act may be obligated and expended subject to section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 550. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided*, That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements: *Provided further*, That the transmittal of a copy of a debt relief agreement under this section shall be treated for purposes of review by the Committees on Appropriations as if it were a notification submitted pursuant to section 523 of this Act.

MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

SEC. 551. (a) Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $7,000,000 from funds appropriated under the heading "Economic Support Fund".

(b) Section 556(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended by striking out "September 30, 1990" and inserting in lieu thereof "July 31, 1991".

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 552. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 553. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Pakistan.

EARMARKS

SEC. 554. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 555. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 556. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1990, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

HONDURAS—RAMIREZ CASE

SEC. 557. It is the sense of the Congress that, pursuant to the procedures contained in section (j) under the heading "Assistance for Central America" enacted in Public Law 100-71, the Honduran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the owner of the property in question is strongly encouraged to accept the proposed settlement. Therefore, notwithstanding the provisions of such section, $5,000,000 of the Economic Support Fund assistance made available by Public Law 100-71 for Honduras but withheld from expenditure shall be available for expenditure upon enactment of this Act: *Provided*, That if a settlement is reached on the property in question, then the additional $10,000,000 withheld from expenditure pursuant to such section shall then be available for expenditure.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 558. Of the funds made available by this Act under the heading "Economic Support Fund", $10,000,000 may be made available for scholarships for disadvantaged South Africans.

NARCOTICS CONTROL PROGRAM

SEC. 559. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund", $59,900,000 may be made available for Bolivia, Ecuador, Jamaica, and Peru.

(2) In addition to funds made available under paragraph (1), of the funds appropriated by this Act under the heading "Economic Support Fund", $195,000,000 may be made available for Peru, Bolivia, Colombia, and Ecuador: *Provided*, That funds under this paragraph may be made available to a country only if such country is making significant progress, as appropriate, in (A) satisfying the goals agreed to in the applicable bilateral narcotics agreement between such country and the United States, or a comparable multilateral agreement, (B) preventing narcotic drugs and other controlled substances from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States, (C) preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and (D) preventing and punishing public corruption which facilitates the illicit production, processing, or shipment of narcotic drugs and other controlled substances, or which discourages the investigation and prosecution of such acts.

(3) For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act may be made available for Bolivia, Peru, Colombia, Ecuador, and Jamaica to promote the production, processing, and the marketing of products which can be economically produced in those countries, notwithstanding section 521 of this Act.

(4) Of the funds appropriated by this Act under the heading "Foreign Military Financing Program", not more than $118,000,000 may be made available for Bolivia, Peru, and Colombia: *Provided*, That no funds may be made available under this paragraph to the government of any coun-

try which engages in a consistent pattern of gross violations of internationally recognized human rights.

(5)(A) Of the funds appropriated by this Act to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, up to $2,000,000, except through the regular notification procedures of the Committees on Appropriations, may be made available for Bolivia, Peru, Colombia, and Ecuador, notwithstanding section 660 of such Act, for—

(i) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts; and

(ii) the expenses of deploying, upon the request of the government of such foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(B) Education and training under this paragraph may be provided only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(6) Funds made available by this Act to carry out the provisions of the Arms Export Control Act and section 534 of the Foreign Assistance Act of 1961 may be provided for training and equipment for law enforcement agencies or other units in Colombia, Bolivia, and Peru that are organized for the specific purpose of narcotics enforcement: *Provided,* That assistance under this paragraph may be provided notwithstanding section 660 of the Foreign Assistance Act of 1961 and the second sentence of section 534(e) of that Act: *Provided further,* That assistance provided pursuant to this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

(7) Funds made available under this subsection shall be available for obligation consistent with the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control).

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1990, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(B) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

(d) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs) of the Agency for International Development, and $40,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

SEC. 560. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 561. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

CAMBODIA

SEC. 562. None of the funds appropriated by this Act may be obligated or expended for any assistance for the Khmer Rouge or the non-Communist resistance including any assistance which would, directly or indirectly, promote, augment, or sustain the capacity of the Khmer Rouge or the non-Communist resistance to conduct military or paramilitary operations in Cambodia or elsewhere in Indochina. Up to $10,000,000 of the funds appropriated by this Act under the heading "Economic Support Fund" may be made available notwithstanding any other provision of law, subject to the notification procedures of the Committees on Appropriations, for support of international activities in support of a peaceful resolution of the conflict in Cambodia and for resettlement and repatriation of displaced Cambodians and Cambodian refugees.

COMPETITIVE INSURANCE

SEC. 563. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate.

IRELAND

SEC. 564. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

ASSISTANCE TO AFGHANISTAN

SEC. 565. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 566. Not less than 25 per centum of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

DISADVANTAGED ENTERPRISES

SEC. 567. (a) Except to the extent that the Administrator of the Agency for International Development of the Foreign Assistance Act of 1961 determines otherwise, not less than 10 percent of the aggregate amount made available for the current fiscal year for development assistance and assistance for famine recovery and development in Africa shall be made available only for activities of United States organizations and individuals that are—

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 per centum of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for famine recovery and development in Africa for fiscal year 1990.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals, and organizations contained in paragraphs (2) through (4) of subsection (a)—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Ad-

ministrator's discretion, may best achieve the purpose of this section; and

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 per centum of the dollar value of the contract be subcontracted to entities described in subsection (a), except—

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

(3) Each person with contracting authority who is attached to the agency's headquarters in Washington, as well as all agency missions and regional offices, shall notify the agency's Office of Small and Disadvantaged Business Utilization at least seven business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year.

(6) The Administrator shall issue interim regulations to carry out this section within ninety days after the date of the enactment of this Act and final regulations within one hundred and eighty days after that date.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 8(d) of the Small Business Act, except that the term includes women.

STINGERS IN THE PERSIAN GULF REGION

SEC. 568. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 569. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

APPROPRIATIONS OF EXCESS CURRENCIES

SEC. 570. The provisions of section 1306 of title 31, United States Code, shall not be waived to carry out the provisions of the Foreign Assistance Act of 1961 by any provision of law enacted after the date of enactment of this Act unless such provision makes specific reference to this section.

DEBT-FOR-DEVELOPMENT

SEC. 571. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including debt-for-development and debt-for-nature exchanges, a nongovernmental organization may invest local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be used, including for the establishment of an endowment, for the purpose for which the assistance was provided to that organization.

LEBANON

SEC. 572. Funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are made available for Lebanon may be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

LOCATION OF STOCKPILES

SEC. 573. (a) Except for stockpiles located in the Republic of Korea, Thailand, a country which is a member of the North Atlantic Treaty Organization, or a country which is a major non-NATO ally, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.

(b) Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h) is amended by striking out "$165,000,000 for fiscal year 1990" and inserting in lieu thereof "$178,000,000 for fiscal year 1991".

ASSISTANCE FOR PAKISTAN

SEC. 574. Section 620E(d) of the Foreign Assistance Act of 1961 is amended by striking out "April 1, 1991" and inserting in lieu thereof "April 1, 1992".

SEPARATE ACCOUNTS

SEC. 575. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961 under arrangements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 of part I or chapter 4 of part II (as the case may be), or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ELIGIBILITY FOR OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 576. (a) PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 is

amended by inserting "Czechoslovakia," after "Hungary,".

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—(1) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland, Hungary, and Czechoslovakia which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(2) For purposes of this subsection, the term "nongovernmental sector" in Poland, Hungary, and Czechoslovakia includes private enterprises, cooperatives (insofar as they are not administered by the Governments of Poland, Hungary, or Czechoslovakia), joint ventures (including partners which are not the Governments of Poland, Hungary, or Czechoslovakia or instrumentalities thereof), businesses in Poland, Hungary, or Czechoslovakia that are wholly or partly owned by United States citizens, including those of Polish, Hungarian, or Czechoslovak descent, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

(c) DEFINITION OF ELIGIBLE INVESTOR.—Notwithstanding subsection (b), the term "eligible investor" with respect to OPIC's programs in Czechoslovakia, Poland and Hungary has the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.

(d) EFFECTIVE DATE.—The authority of the Overseas Private Investment Corporation to issue insurance, reinsurance, guarantees, and to provide any assistance under its direct loan and equity programs with respect to projects undertaken in Czechoslovakia, Poland and Hungary shall take effect upon the date of enactment of this Act and shall remain in effect until September 30, 1992.

ASSISTANCE FOR NICARAGUA

SEC. 577. (a) None of the funds appropriated by this Act shall be provided for any member of the Nicaraguan resistance who has not disarmed and is not abiding by the terms of the cease-fire agreement and the addendums to the Toncontin Agreement signed on April 19, 1990.

(b) Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101-215), is amended by repealing subsection (c).

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 578. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

WITHHOLDING OF OBLIGATIONS FOR THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

SEC. 579. (a) None of the funds made available by this Act for the European Bank for Reconstruction and Development may be obligated until (1) the President reaches an agreement, the authority to enter into which he is hereby granted notwithstanding any other provision of law, which accurately reflects the real collectability of debts of the Polish Government to the Government of the United States, and, (2)—

(A) an International Monetary Fund agreement is in effect with respect to Poland, and that it is the intent of the Polish Government to continue full implementation of that program,

(B) the recent historic change of the Polish Government into a democracy is being maintained,

(C) the Polish Government is seeking comparable treatment of both public and private external debt, and

(D) final debt adjustment agreements provide comparable treatment of both public and private external creditors in order to avoid inequity between different categories of creditors.

(b) Debt adjustment agreements for the democratic Government of Poland should recognize that Polish economic conditions and therefore the collectability of Polish debt are far worse than the economic conditions which faced the Federal Republic of Germany in the early 1950's when its external debts were adjusted under both the London Agreement on German External Debts and under other postwar official bilateral debt agreements reached with the Allied powers and Denmark. At that time, the German debt to GNP ratio was 15.6 percent and the German debt to export ratio was 87.1 percent. For Poland today these same ratios, which reflect the dire economic circumstances in Poland and the inability of the Polish Government to service its debt, are 63.9 percent and 300.7 percent.

(c) Funds may be obligated notwithstanding subsection (a) subject to the regular notification procedures of the Committees on Appropriations.

FMF FOR FMS DEBT REPAYMENT

SEC. 580. Section 23 of the Arms Export Control Act is amended by inserting a new subsection (e), as follows:

"(e)(1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 24, subject to paragraph (2).

"(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).".

CASH FLOW FINANCING LIMITATION

SEC. 581. Effective October 1, 1993, not more than 75 percent of the funds allocated to each country in any fiscal year under the Foreign Military Financing Program may be used for the practice of "cash flow financing" as defined in section 25(d) of the Arms Export Control Act.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991".

□ 1550

Mr. CHAIRMAN. Under the rule, it is now in order for the gentleman from Oklahoma [Mr. EDWARDS] to offer his amendment, designated No. 7 in House Report 101-560 which is not subject to amendment, except the substitute amendment designated No. 8 in such report, if offered by the gentleman from Wisconsin [Mr. OBEY] or his designee.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I choose not to offer the amendment at this time.

AMENDMENT OFFERED BY MR. SOLARZ

Mr. SOLARZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLARZ: Page 95, strike out line 22 and all that follows: through line 11 on page 96 and insert in lieu thereof the following:

CAMBODIAN NONCOMMUNIST RESISTANCE FORCES

SEC. 562. (a) ASSISTANCE.—Not to exceed $7,000,000 of the funds appropriated by this Act under the heading "ECONOMIC SUPPORT FUND" may be made available for assistance for the Cambodian noncommunist resistance forces and noncommunist civilians in Cambodia, notwithstanding any other provisions of law (except that section 531(a) and 634A of the Foreign Assistance Act of 1961 and section 523 of this Act apply with respect to funds used under this section).

(b) PROHIBITION ON DIRECT OR INDIRECT ASSISANCE FOR THE KHUMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the international Security and Development Cooperation Act of 1985.

(2) The President shall terminate assistance under this section to any noncommunist resistance organization that he determines is engaged in a pattern of military cooperation and coordination designed to assist the Khmer Rouge.

(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN—Any assistance provided under this section shall be in addition to the assistance provided for under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN"

Mr. SOLARZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] will be recognized for 20 minutes in opposition to the amendment.

The gentleman from New York [Mr. SOLARZ] is recognized in support of his amendment.

Mr. SOLARZ. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, my amendment, whch is offered together with the gentleman from Michigan [Mr. BROOMFIELD], is designed to permit the program of nonlethal assistance to the non-Communist resistance forces whom we have supported for many years in Cambodia to continue, while simultaneously prohibiting any assistance directly or indirectly to the Khmer Rouge.

The amendment would strike a provision in the bill before Members which would prohibit any and all assistance, even nonlethal assistance, to the non-Communist resistance forces in Cambodia. Mr. Chairman, I think we have three main objectives which we need to consider in Cambodia. The first is to prevent Pol Pot and the Khmer Rouge from returning to power. The second is to bring the fighting in that country to an end. The third is to make it possible for the people of Cambodia, at long last, to have the opportunity for self-determination.

Mr. Chairman, I will submit that the provision in the bill which completely prohibits any assistance whatsoever to the non-Communist resistance forces would strike a deadly blow against our efforts to prevent the Khmer Rouge from returning to power, to make a free and fair election possible, and to bring the fight in Cambodia to an end. Indeed, I would suggest that if our amendment is defeated and the language in the bill is preserved, it would play right into the hands of the Khmer Rouge. It would play into the hands of the Khmer Rouge by greatly diminishing the prospects for a political settlement of the Cambodian conflict which would bring the fighting to an end, which would facilitate the introduction of a large United Nations peacekeeping force, and which would make possible an internationally supervised free and fair election.

In a free and fair election, Pol Pot and the Khmer Rouge would have no chance whatsoever. The anti-Khmer Rouge elements in Cambodia will not need Roger Ailes to make negative spots in order to defeat the Khmer Rouge in an election. However, if there is no political settlement and the fighting continues, then Pol Pot and the Khmer Rouge, who have 40,000 men still under arms and constitute the most formidable and fanatical of the various Cambodian factions in the field, could very easily battle their way back to power in Phnom Penh over the next few years.

The reason that the defeat of this amendment and the adoption of the language in the bill would diminish the prospects for a political settlement, thereby playing into the hands of Pol Pot, is that it would greatly diminish the incentive which Vietnam has to agree to a political settlement. We are now closer to achieving a political settlement of the Cambodian conflict than at any time in the last 15 years. The five permanent members of the Security Council are essentially in agreement on how to do it, by bringing in the United Nations, and by having an internationally supervised free and fair election. China is behind it, the Soviet Union is behind it, the United States is behind it, but Vietnam and the puppet government in Cambodia are not. If we now abandon the non-Communists, we will be sending a signal to the Vietnamese that time is on their side, and their incentive to make the concessions necessary to get a settlement will be greatly diminished.

Now, it will be said by the opponents of my amendment that the aid we have given to the non-Communists in the past had ended up in the hands of the Khmer Rouge. That is simply not true. I have looked into it. I have had closed briefings on it, and there is not a shred of credible evidence that any of our aid to the non-Communists in the past has ended up in the hands of the Khmer Rouge. If it were true, I would be leading the fight to cut off this aid to the non-Communists, but it is not true. It will also be said by opponents of my amendment that Prince Sihanouk, who we are trying to help, is a front man for the Khmer Rouge. This is hogwash. The best evidence that it is hogwash is the fact that 1 month ago the Japanese convened a conference in Tokyo to move the peace process on Cambodia forward. All the Cambodian factions were present, and at the end of the conference they had a communique calling for a cease-fire and a political settlement. Hun Sen signed it, Sihanouk signed it, Son Sanr signed it, but the Khmer Rouge did not sign it. If Sihanouk is a front man to the Khmer Rouge, why would he be signing agreements opposed by the Khmer Rouge and which exclude the Khmer Rouge from power?

I urge Members, as does the administration, as do all of the ASEAN ambassadors, to support my amendment and prevent the Khmer Rouge from returning to power.

Mr. OBEY. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. ATKINS].

□ 1600

Mr. ATKINS. Mr. Chairman, for many years we have all hoped for a peaceful resolution to the terrible civil war plaguing Cambodia. In the last 10 years, this tiny country has endured unspeakable acts of horror: genocide at the hands of Khmer Rouge maniacs; starvation; concentration camps; desperate poverty; unchecked disease; and the limbs of children, farmers, and young mothers torn apart by so many land mines that no one can even remember who planted them and why and where. This is the legacy of the Khmer Rouge.

It would seem so obvious that of all the great imponderables about Indochina, the only clear purpose for us as a nation is to deliver the Cambodian people from the haunting fear that the Khmer Rouge will again visit upon them a reign of terror. And, yet, ours is a policy that every day breathes new life and strength into the Khmer Rouge. Ours is not a policy of malice or evil intent; but it is one that has grown so convoluted and so complex that we have lost our way. The amendment presently before us sustains this misguided policy.

I have listened to the arguments made by the gentleman from New York in his efforts to restore funding for those non-Communist forces who are in league with the Khmer Rouge. They are compelling and they are dynamic, but they represent only the wishful thinking of all of us who are thousands of miles away from the reality that is Indochina. With all my hears, I wish it were true.

I must ask each of you, "How is it possible for us to support with exclusivity the non-Communist resistance that sits in a war council with the Khmer Rouge?" There is no figleaf large enough to obscure the fact that for 10 years the non-Communist leaders have shared their seat with the Khmer Rouge—with United States encouragement—at the United Nations, proudly flying the Khmer Rouge flag over U.N. Plaza. Is there no one among us who finds irony in the fact that Prince Sihanouk, the principal repository of our largesse and our hopes for democracy in Cambodia, winters in Beijing and summers in North Korea? It is from the same world that the Khmer Rouge and Prince Sihanouk derive their sustenance. The credibility, the materiel, the sources of strength are so intertwined, it is folly to assume that the United States can possess the ability to separate all of these entities any longer.

On the 17th of June, Khmer Rouge radio boasted of the military prowess of the unified three-party national liberation forces. Specifically, kudos were offered to "our national resistance forces who jointly attacked and completely liberated the town of Kompong Thom." This is not—though with all my heart, I wish it were—an isolated incident. This is the pattern. This is the norm. These forces are in a fight for their lives and they are not going

to observe the niceties of American law and forsake the strength they derive from the commonality of their dream of retaking Cambodia.

If the amendment of the gentleman from New York passes, all it will accomplish is to push these military leaders just a little further into the jungle infested Cardamon Mountains to plan their attacks—out of earshot of the handful of Khmer speakers the United States may have on the ground. They will not stop talking, or cooperating, or fighting.

For two years, I have wanted to stop our funding of the tripartite resistance forces. Two years ago I wanted to do this, but I listened to those who said "no"—peace talks in Indonesia are imminent—don't upset things, Mr. ATKINS. Those talks collapsed.

Last summer, I wanted again to delete funding to this tripartite force. But, no, we were going to Paris—to talk—again. So, I waited. But, those talks failed.

Now, I am told again not to touch the policy because the United Nations Permanent Five is undertaking the arduous task of negotiating for peace. Well, the United Nations Perm 5 are shuttling between Paris and New York—but the July meeting with the Cambodians themselves was just canceled—because the Khmer Rouge were balking. Didn't we learn in Geneva in 1954 and in 1961 and thereafter that superpowers cannot from afar impose a policy absent an expression from the people of the country in question?

Forty-eight hours ago, the Prime Minister of Japan stated that millions of dollars of pending aid would not be forthcoming to China unless their support for the Khmer Rouge is diminished. All of us harangue and wring our hands about China's support for the Khmer Rouge, but blithely we go on supplying the full complement of our own aid to our own Cambodians—without any acknowledgement of the hypocrisy of our own actions. But, others in the region have taken note and are perplexed by our intransigence.

In the language contained in the appropriations bill before us, it was our intent to create a fund to any credible activities for a peaceful resolution in the region. Thus, the non-Communist resistance would not, in the event that theirs are efforts to achieve peace, be left bereft of U.S. support.

In the event that the United Nations were to prove successful, the bill's funds would be available to augment their efforts. Ironically, the idea that the United Nations might unlock the mystery of a peaceful settlement, began with the most honorable and humane intentions of the gentleman from New York. It was, in some measure, to honor his own quest for peace through the United Nations that the Appropriations Committee created a peace fund. Sadly, this amendment would seek to eliminate these funds and revive, instead, a vain attempt to promote a military solution.

Last summer Prince Sihanouk went to Paris to attend an international conference trying unsuccessfully to find a peaceful settlement in Cambodia. Mr. Chairman, colleagues, Prince Sihanouk and his counterpart in the non-Communist acceded to—indeed sought—the complete erasure of any record of genocide in Cambodia during their reign of terror. My god, these wanton acts occurred just a decade ago—how are we suppose to forget? Are we in the United States of America to agree to officially pretend that genocide never occurred and, more egregiously, are we to act in concert with and be supportive of those who would urge us to do so?

Let us put an end to this—today. Let us tell the architects of our own policy that, in a complex world, we are to be guided by one overarching principle—that the Khmer Rouge not be emboldened, not be legitimized, not be helped, even by indirection, by the United States of America. Please, vote no on the Solarz-Broomfield amendment.

Mr. SOLARZ. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, at the outset, I wish to commend the chairman of the Asian and Pacific Affairs Subcommittee, Mr. SOLARZ, for his dedicated efforts to contribute to a peaceful settlement of the conflict in Cambodia. Like him, I believe strongly that we need a political settlement that would prevent the bloody Khmer Rouge from ever returning to power.

We may finally be close to such a settlement. It would include comprehensive political arrangements—with a major U.N. role—that would create a process of free and fair elections. Only such a political settlement can provide a way to keep the Khmer Rouge from returning to power.

However, the provisions of the bill would undermine the effort to reach a political solution. As reported by the Appropriations Committee, the bill includes a prohibition on assistance to the non-Communist resistance [NCR] in Cambodia, to which we have been providing nonlethal assistance since 1986.

At a time when we are close to a settlement, H.R. 5114 would have us change our strategy—to change horses in midstream. Where is the logic in this proposal?

The NCR does not have the military strength to beat either the Khmer Rouge or the Communist regime on the battlefield. But we are approaching a point where the diplomatic and political process is intensifying. The NCR has significant political assets, including international and domestic support. It is essential that the NCR have the capacity to assert its interests in such a process if there is a chance to bring peace and stability to Cambodia. Withdrawing our support at this time could take them out of the process.

The Solarz-Broomfield amendment would restore the authorization for nonlethal assistance to the NCR. It also provides that none of the assistance can be used directly or indirectly to strengthen the Khmer Rouge, and that military cooperation with the Khmer Rouge is unacceptable.

Mr. Chairman, I believe the Solarz-Broomfield amendment is a necessary improvement to H.R. 5114. The administration strongly supports this amendment because they believe that ending assistance to the NCR now would cripple efforts to find a solution to the conflict in Cambodia.

Our amendment effectively deals with any concern about the relationship between the Khmer Rouge and the NCR, while maintaining the NCR as a force in any negotiated political settlement. Most importantly, it allows the search for a peaceful political settlement in Cambodia with the Khmer Rouge to continue. I urge my colleagues to support the Solarz-Broomfield amendment.

Mr. SOLARZ. Mr. Chairman, I yield 30 seconds to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I thank the gentleman for yielding this time to me, and I do not want to take much of his time.

I just want to emphasize my strong support for the gentleman's amendment. I think it is an extremely important amendment. Failure to adopt this would have very adverse consequences, and I compliment the gentleman from New York [Mr. SOLARZ] for offering it.

THE DEPUTY SECRETARY OF STATE,
Washington, DC, June 27, 1990.

Hon. ROBERT H. MICHEL,
House of Representatives, Washington, DC.

DEAR MR. MICHEL: As you begin consideration of H.R. 5114, FY-91 Foreign Operations Appropriations, I want to express my views on provisions in the bill regarding Cambodia.

The Administration opposes any effort at this time to end the program of assistance to the Cambodian Non-Communist Resistance. This assistance is crucial to our active efforts to find a solution to the tragic conflict in Cambodia. The Administration recommends removal of the existing language for Section 562 and replacement with the amended Section 562 offered by Mr. Solarz and Mr. Broomfield. The Administration could accept conditional funding language as follows: "The President shall terminate assistance under this section to any non-communist resistance organization that he determines is engaged in a pattern of military cooperation and coordination designed to assist the Khmer Rouge" as provided in the Solarz/Broomfield amendment.

The objective of our Cambodia policy is a comprehensive political settlement, involv-

ing a major U.N. role and culminating in a process of free and fair elections. Our policy is to assure that the Khmer Rouge can never return to power.

In the absence of a viable non-communist resistance, the outcome in Cambodia would desend into a battlefield struggle between two implacably hostile communist groups, with the Khmer Rouge the likely beneficiary. The NCR has significant political assets including international and domestic support. With the pace of the diplomatic process intensifying over the past few months, it is essential that the NCR have the wherewithal to assert its interests if, at long last, there is a chance to bring peace and prosperity to the Cambodian people.

The Administration will continue to monitor the issue of possible military cooperation between the NCR and the Khmer Rouge. To date we have detected no overall pattern of cooperation, although field reports indicate that battlefield exigencies have resulted in occasional coordination for tactical purposes. We have made clear to the NCR that even these contacts must cease.

It is critical that money continue to flow to the Non-Communist Resistance as our diplomatic efforts evolve. Should we end our non-lethal assistance to the NCR, those who wish to continue fighting against the Vietnam-imposed regime in Phnom Penh would likely turn to the Khmer Rouge and China for arms and other support. To continue fighting, they could be forced to join the Khmer Rouge. This would provide the Khmer Rouge the greatest windfall in manpower and arms they have yet received.

I urge you to support the Solarz/Broomfield amendment to restore funding to the Non-Communist Resistance and advance the prospects of a comprehensive political settlement.

Sincerely,

LAWRENCE S. EAGLEBURGER.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. LEVINE], a member of the Committee on Foreign Affairs.

Mr. LEVINE of California. Mr. Chairman, I rise in opposition to the Solarz amendment.

Given assistance to the non-Communist resistance forces in Cambodia will not advance the cause of peace. It will not promote a negotiated solution to the war.

Our aid to the NCR will only encourage them to keep fighting a war they simply cannot win. The only effective fighting force in Cambodia is the Khmer Rouge, and it is the Khmer Rouge that will inevitably reap the rewards of any limited military gains the NCR might achieve.

It frankly is of little relevance whether the NCR is actually coordinating military activities with the Khmer Rouge. The Khmer Rouge and the NCR are allies, fighting a common enemy. This is not just a paper alliance "for the purpose of U.N. politics," as the authors of this amendment alledge.

Even if it is not their explicit intention, the NCR is helping the Khmer Rouge achieve a military victory over the Hun Sen government. So long as the NCR is helping the Khmer Rouge come to power, the United States should not provide them the means to do so.

The Solarz amendment endorses the continuation of a failed United States policy in Cambodia.

What has this failed policy achieved?

However well intended it has been, it has helped bring about substantial military gains for the Khmer Rouge, making them ever more reluctant to sit down to serious peace talks. Why should they negotiate when a military victory is in sight?

Our policy of aiding the Khmer Rouge alliance has given respectability to the most genocidal killers since the Nazis.

Replenishing aid that the NCR, as the Solarz amendment would do, would be a particularly egregious mistake at this time. Earlier this month at the Tokyo peace talks, we saw the beginnings of the diplomatic and military isolation of the Khmer Rouge.

Prince Sihanouk and the NCR have begun the sensible search for an alternative to fighting a war they are doomed to lose. The language contained in the bill will support this effort.

If the Solarz amendment passes, we will be approving new aid for Sihanouk to fight side by side with the Khmer Rouge at the very moment He is attempting to break away from his alliance with them. This would be a grave mistake and would undermine the limited progress toward isolating the Khmer Rouge which has been achieved thus far.

It's a joke to think that the trivial aid program promoted by the Solarz amendment is somehow going to drive the Khmer Rouge to its knees, or at least to the negotiating table. Nothing could be further from the truth. The NCR never has and never will pose a threat to the Khmer Rouge, regardless of whether we aid them.

All the Solarz aid restoration will accomplish is to drive the NCR and Khmer Rouge closer together in a deadly alliance of convenience.

It would be nice to pretend, as this amendment seems to, that the NCR was an equal partner in this equation, and that our support could force both Hun Sen and Pol Pot to abandon their quest for power. Unfortunately, this is an idle fantasy. We should stop basing policy on idle fantasies.

The unfortunate reality of the situation is that if we want to prevent the Khmer Rouge from returning to power, our best hope is to encourage the NCR and the government of Hun Sen to join forces against the Khmer Rouge.

The appropriations bill before us makes the appropriate correction to a misguided policy.

Vote against the Solarz amendment.

Mr. SOLARZ. Mr. Chairman, I yield 2 minutes to the very distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I rise in strong support of the Solarz amendment to restore the $7 million in nonlethal aid to the non-Communist resistance forces in Cambodia.

Mr. Chairman, I have a problem with some of the logic that has been expounded here today. If the Khmer Rouge and the Hun Sen governments are at each other's throats and the Hobson's choice is who hates each other the most in order to be the victor and the United States has as a matter of policy seen fit to lend support, for whatever reasons, political or otherwise, in a nonlethal sense to non-Communist forces, then it seems to me that to argue to take away that money, which changes United States policy, simply leaves the fight to the Vietnamese Government that was installed or the Communists that were there, and, therefore, in some way that is going to solve the problem. I do not see that at all. I do not see how that logic follows.

They have a war going on here, and the only possibility we have for an oar for the United States is the fact that we have declared ourselves for the non-Communist forces. That can be blurred, it can be mixed, and it can even be blended, but the fact is that that is where we are in an effort with the other powers to achieve a settlement.

Now, the minute we drop out of that, that is a change in policy, but I do not think it is going to bring the improvement that we sought. So the only way I see that we can do it is to have at least the figment, if not the reality, of a third force involved, which gives us some hope of negotiating with the other powers.

Mr. Chairman, I rise in support of the Solarz amendment to restore up to $7 million in nonlethal aid to the non-Communist resistance forces in Cambodia. The amendment would ensure that the United States remains influential in reaching a settlement of the tragic war in Cambodia.

Those who would cut off aid to the non-Communist resistance argue that U.S. assistance directly or indirectly helps the Khmer Rouge. This charge is counterintuitive and unsupportable on its face. To suggest that $7 million helps the Khmer Rouge because of their military association of convenience with the non-Communists is to imply U.S. support for Pol Pot and his faction, despite years of U.S. statements and actions to the contrary. The assistance program is in fact designed to keep the NCR relevant to the process, so that Cambodia is not faced with the Hobson's choice of a Khmer Rouge return or a government run solely by Hun Sen, a former Khmer Rouge member installed in Phnom Penh by the Vietnamese. The Khmer Rouge remain

well-supported by China and are the most effective fighting force in Cambodia—as the Vietnamese discovered, independent of any United States involvement on behalf of the NCR.

Cutting aid would amount to the United States opting out of the process in Cambodia, and would ratify the Vietnamese invasion and installation of Hun Sen, which occurred against the wishes of a majority of the Cambodian people.

Mr. Chairman, the peace process in Cambodia is at a delicate state. I urge support for the Solarz amendment in order to facilitate a solution to the conflict in Cambodia which protects the rights of all Cambodians.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, this is a close issue, but it is my sense that it has been a profound mistake for the United States to equate Cambodian nationalism with the personage of Prince Sihanouk. Sihanouk may be a symbol of Cambodian nationalism, but I must confess to never having met a Cambodian who was not a nationalist and who didn't aspire to a free and independent homeland.

In this regard, we ought to be very clear in understanding that Sihanouk is the symbol of Cambodian royalty, which is an altogether different phenomenon than nationalism.

In world history Communists and royalists are frequently at odds, but they have one thing in common—an antipathy to democratic institutions. In the case of Cambodia, the forces of political elitism have formed an unholy alliance that shouldn't be sanctioned or supported from the outside. Instead of continuing to give our "good housekeeping" seal of approval, we should wash our hands of the sordid alliance between Sihanouk and Pol Pot, and stand for our principles, not someone else's expediency.

We ought to be for Cambodian nationalism and Cambodian democracy. Sihanouk has chosen not only this moment but other junctures to ally himself with the Khmer Rouge. Is it credible to think, as the Solarz policy implies, that the United States can buy his loyalty today? Based on history such a pledge would appear to be worth little; based on our own principles it is ridiculous. It is our principles, not our money, which gives us the strongest stake at the negotiating table.

To the degree money is at issue, we would have a stronger voice in multilateral discussions within a U.N. context if we paid up our past dues, including peacekeeping, to the world's foremost international organization, the United Nations, instead of continuing to support a self-proclaimed God-king who for two decades, despite persecution of his family, has worked in alliance with and helped legitimize the murderers of his children and his country's soul, the Khmer Rouge.

Nothing is more pompous than to quote oneself, but in the context of this debate, I would like to reference a statement I made before the Asian and Pacific Affairs Subcommittee in March 1985, in opposition to authorizing aid to Sihanouk and his allies.

One of the lessons of our involvement in the Vietnam war, I suggested when this particular Cambodian policy was sprung by and on the Congress, was "the difficulty of reversing a course of action when a policy is not working and the pride of politicians become at stake. The classic political slippery slope is not simply one which is not recognized along the way, but one which, despite failed results, causes a domino decisionmaking effect whereby a small public involvement leads to a larger and larger involvement which may in final measure, produce an unintended course of action."

The unintended consequence of aiding Sihanouk has been United States support for an opposition coalition that includes the Khmer Rouge.

Whether the Khmer Rouge are using Sihanouk or vice versa is not the issue. We simply cannot recuse ourselves from making moral judgments, nor excuse ourselves from pursuing policies based on such judgments. With inexplicable reluctance, the Department of State acknowledges that a genocide occurred in Cambodia under the Khmer Rouge, but this acknowledgment lacks conviction because our policies ignore the implication of our historical judgment.

Now is the time to end this anomaly in American foreign policy and bring our policies in line with our principles. The Solarz amendment should be defeated.

□ 1610

Mr. SOLARZ. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I rise in support of the amendment of the gentleman from New York [Mr. SOLARZ]. I want to commend the gentleman from New York and the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], and the gentleman from Michigan [Mr. BROOMFIELD] for bringing this issue to light.

Mr. Chairman, this is not an easy vote for Members, especially Members in this body who have not paid particularly close attention to the very difficult situation in Cambodia and Southeast Asia.

Recently I was in Thailand and attempted to gain a greater understanding of the choice there, and it is clear, in a great way, that this is one of those classic cases of a Hobson's choice.

However difficult this issue is, Mr. Chairman, I want to also commend the gentleman from Massachusetts for taking the time and learning the many details of this issue and for the discussions that I have had with him. However, having listened to both the gentleman from Massachusetts and the gentleman from New York and having discussions with the administration, I come to the conclusion that, although it may not be a great choice, and it is not perhaps one of the clearest choices we have ever had in this body, that logic would conclude, and in my case I believe that the clearest logic is to support the Solarz amendment, continue the humanitarian, nonlethal support to the noncommunist resistance in Cambodia.

It is clear that we do not support Son Sann, a former Khmer Rouge, a former member of that regime, and also a puppet leader of the Vietnamese who put him in power, nor do we want Pol Pot, and that by cutting assistance, removing the United States from a position of influence in the region, it creates a vacuum, and a vacuum in my belief will not solve this problem. A vacuum will exacerbate the problem, and, if anything, will continue the bloodshed, and, as we have seen in this case, the degree of bloodshed in this country far surpasses that of human understanding.

So, Mr. Chairman, I believe that the better choice for us today, although it may not be the clearest and only history will tell, is to support the Solarz amendment. Accordingly, Mr. Chairman, I urge my colleagues to support the amendment.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, it is with great reluctance that I oppose the amendment of the gentleman from New York [Mr. SOLARZ], my colleague who is the foremost expert in this area. I have supported in the past the administration policy in Cambodia. What has led me to change?

First of all, Mr. Chairman, what we have is a situation where our own allies. Sihanouk and others, are getting closer to the Khmer Rouge. What we are talking about is military cooperation. There have been widespread reports, and, for those of us on the Select Committee on Intelligence, we cannot go beyond that. But what we have is a pattern where the United States has to take a stand.

Mr. Chairman, what we need to do is send a signal, and the biggest signal of a vote today is that the United States under no circumstances supports any kind of an alliance, directly or indirectly, with the Khmer Rouge. Second, that what we have is a poten-

tial for peace, mainly through the efforts of the gentleman from New York [Mr. SOLARZ] at diplomacy, the U.N. peacekeeping force, election. But continuing to put money into Sihanouk, who is unpredictable, he is not reliable; yes, he has suffered like all Cambodians, but, if we proceed with not sending a message, because our policy will not change, by this vote, there will be other factors. If we send a message that the United States support peacekeeping, we will under no circumstances ally ourselves with the killing fields of the Khmer Rouge. I think that is the greatest step we need to take.

Mr. Chairman, I here supported the lethal and nonlethal assistance in the past. But I have seen, as over a million Cambodians have died and continue to die, as I see the chances for peace increasing because of the United Nations and the personal diplomacy of the gentleman from New York [Mr. SOLARZ], I regret that I think passing this Solarz amendment at this time would be a grave mistake.

The Khmer Rouge's genocidal rule over Cambodia left over 1 million Cambodians dead and displaced thousands of others. Now, the Khmer Rouge is in an alliance with the non-Communist resistance, which receives nonlethal U.S. aid. This raises the frightening possibility that the Khmer Rouge is benefiting, either directly or indirectly, from U.S. assistance.

The United States has for several years provided nonlethal assistance to the non-Communist resistance. Thus, lending moral support to the NCR and legitimacy to the Khmer Rouge.

The non-Communist resistance has chosen to fight side by side with the Khmer Rouge—to enter into a political coalition which allows the Khmer Rouge to be represented at the United Nations.

The foreign aid bill we are considering today proposes cutting off U.S. aid to the NCR because it augments and legitimizes the military capacity of the NCR where it fights side by side with the Khmer Rouge.

The Appropriations Committee has acted wisely and thoughtfully to structure United States assistance in a manner which promotes peace and supports international efforts to arrive at a negotiated resolution of the Cambodian conflict.

The bill proposes setting aside $10 million for peace building efforts in Cambodia. This would include: verification of Vietnamese troop withdrawals, U.N. peacekeeping activities, international efforts for a peaceful resolution, and support for and eventual repatriation of refugees.

U.S. policy should back efforts to promote peace, not protracted conflict. The language in the appropriations will reverse a policy which has only brought the Khmer Rouge closer to their stated aim—control of Cambodia. Sadly, this will mean a return to the killing fields.

None of the funds appropriated by this act may be obligated or expended for any assistance for the Khmer Rouge or the non-Communist resistance including any assistance which would, directly or indirectly, promote, augment, or sustain the capacity of the Khmer Rouge or the non-Communist resistance to conduct military or paramilitary operations in Cambodia or elsewhere in Indochina. Up to $10 million of the funds appropriated by this act under the heading "Economic Support Fund" may be made available notwithstanding any other provision of law, subject to the notification procedures of the Committees on Appropriations, for support of international activities in support of a peaceful resolution of the conflict in Cambodia and for resettlement and repatriation of displaced Cambodians and Cambodian refugees.

In the course of the year, a number of efforts have been underway—including those presently occurring under the auspices of the permanent five members of the United Nations Security Council—to bring a peaceful and enduring conclusion to the civil war in Cambodia.

The committee believes that the time has come to redirect the assistance that the United States has provided to the non-Communist resistance [NCR]—which has been used to sustain and augment the military capacity of the NCR and their allies, the Khmer Rouge—and instead utilize United States assistance to encourage and to enhance international efforts in support of a peaceful resolution of the Cambodian conflict.

The committee does not believe that any funds should go to the NCR. Although it has been long-standing policy of the United States to limit our assistance to the non-Communist factions to humanitarian, nonlethal purposes. The distinction between military and nonmilitary assistance has been blurred in recent years and American aid has clearly been used to embolden the resistance groups militarily. Military enterprises in the region have impoverished the Cambodian people and debilitated the warring factions without engendering durable, democratic institutions within any of the factions.

Moreover, as the NCR is in a formal alliance, both militarily and politically, with the Khmer Rouge, it has become impossible to guarantee that our assistance is not also aiding the Khmer Rouge on the battlefield and in the course of international negotiations. Above all else the world has the most to fear from any resurgence of power of the genocidal Khmer Rouge and this should govern United States action in Indochina.

The committee has provided up to $10 million to be used to support credible efforts to end the violence in Cambodia and bring about a lasting peace. Such activities would include verification of the withdrawal of the preponderance of Vietnamese troops from Cambodia, improvements within Cambodia to facilitate an enhanced role for the United Nations or other international entities pursuing a peaceful settlement of the Cambodian conflict and planning for elections and other reconciliation efforts, a safe and unrestricted repatriation of Cambodian refugees and displaced persons presently housed in Thailand, and the provision of humanitarian assistance within Cambodia for the purpose of easing the integration of the various factions in their homeland.

Mr. SOLARZ. Mr. Chairman, I yield 1 minute to my very good friend the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the bipartisan amendment offered by Mr. SOLARZ, the chairman of the Foreign Affairs Subcommittee on Asian and Pacific Affairs, and Mr. BROOMFIELD, the vice chairman of the House Foreign Affairs Committee, to provide assistance to the non-Communist resistance in Cambodia. As a member of the Asia Subcommittee Mr. SOLARZ chairs, I can attest that he is quite an expert on the region and the position he has taken on aid to Cambodia has only been made after much thought, research and deliberation. Like BILL BROOMFIELD and me, I know he is very adamantly opposed to the genocidal Khmer Rouge. Nothing in this amendment would remove the statutory prohibition against aid—direct or indirect—to the Khmer Rouge.

I believe that it is necessary for us to continue assistance to the non-Communist resistance to better preclude the chances of the Khmer Rouge taking over. That is not to say that I disagree with the Appropriations Committee position that we should provide support for international activities for a peaceful resolution of the Cambodian conflict. I think such support is warranted and I am very much in favor of new constructive efforts for peace. The Solarz-Broomfield will allow for this type of support. But our support for international peace efforts alone will do very little, in reality, to prevent the barbaric Khmer Rouge from seizing power and returning the long suffering Cambodian people to the killing fields.

The plain, hard fact is that the Khmer Rouge is a very powerful, violent force—just as it was in the early 1970's. Similar arguments were made back then to cut off aid to non-Communist forces and give peace a chance. What happened? Without any coun-

terbalancing force, the Khmer Rouge—which some liberal activists actually supported and called peasant agrarian reformers—seized power and began its reign of slaughter. I have noted that some of these same naive activists are singing this same tune again today. Just like then, if we cut off aid to the counterbalance today, the Khmer Rouge has a better chance at taking control tomorrow. We should learn from history.

If the Khmer Rouge seizes control or gains additional power, international peace efforts will stand even less chance of success. The Khmer Rouge appears to me to be quite uninterested in a free, democratic Cambodia. How effective will international efforts be against a stronger Khmer Rouge? About as effective as they were in the late 1970's, which was not at all. Aiding the non-Communist resistance keeps the Khmer Rouge's power in check, gives the Khmer Rouge and the Chinese more incentive to turn to negotiated, international peace efforts and keeps pressure on the Hun Sen regime to seriously work with these peace efforts. A credible non-Communist resistance, I believe, continues to enhance peace efforts.

While the non-Communist resistance is part of the so-called coalition that occupies the Cambodia seat at the United Nations, those with even minimum knowledge of the situation know that this is a coalition on paper only created for the purposes of international public diplomacy—specifically occupying the U.N. seat.

Furthermore, the argument is made that the Khmer Rouge and the non-Communist resistance are fighting together against the Vietnamese puppet government installed by a Vietnamese invasion. Yes, both the Khmer Rouge and the non-Communists are fighting the Vietnamese—who are still in Cambodia with sizable numbers of combat troops contary to their claims of withdrawal. But having a common enemy does not mean the non-Communist forces and the Khmer Rouge are allies. They are not. It is really a three-sided conflict with the non-Communist resistance being the most acceptable side—the side struggling for real self-determination and a free, peaceful Cambodia. Cutting them off only helps the other two.

Another reason I support the Solarz-Broomfield amemdment is that I am concerned that by prohibiting nonlethal assistance to the non-Communist resistance and supporting only so-called international peace efforts, some will interpret this as allowing aid to the illegal Hun Sen regime in Phnom Penh. While some may dispute this interpretation, already groups have come to my office making this linkage.

Installed by Vietnamese occupation forces, the Hun Sen regime is viewed by Cambodians as a foreign puppet. Its own human rights record is atrocious which is hardly surprising since its leadership was formerly part of Pol Pot's tyranny. The Hun Sen regime is the Lon Nol experience revisited—only much worse. It has many of the same weaknesses including corruption, poor command and control, and significant reliance on foreign help. Lacking national support, without Vietnamese forces propping it up, it would easily fall to the Khmer Rouge. Supporting Hun Sen is replaying 1975 all over again.

We know that the Khmer Rouge receives its support from the Red Chinese. For the Khmer Rouge to take international peace efforts seriously and agree to a negotiated settlement resulting in free and fair elections in Cambodia—something we all want—pressure must be exerted by China—the only power able to really influence the Khmer Rouge. Unfortunately, this fact does complicate our relationship with China. Instituting greater sanctions against China for the terror it has unleashed at home against its indigenous prodemocracy movement will adversely affect our ability to influence China into pressuring the Khmer Rouge to agree to a peaceful, negotiated settlement.

This is all the more reason not to cut off aid to the non-Communist resistance. How well are we able to pressure the Chinese? Because of our support for the prodemocracy movement in China, how willing are the Chinese to pressure the Khmer Rouge on our behalf? Do the Chinese really want a peaceful settlement or are they just waiting for us to cut off the non-Communist resistance so that their allies, the Khmer Rouge, can seize control? By continuing to aid the non-Communist resistance, we are keeping a counterbalance to the Khmer Rouge—one not dependent on dubious Chinese cooperation.

Whether we like it or or not, the situation in Cambodia is a very complex one. Some of the significant players, like the Khmer Rouge, are genocidal tyrants who do not play by our rules, do not share our morals and principles about freedom, democracy and human rights, and do not share our objectives for a peaceful, negotiated settlement in which the Cambodian people can freely choose their leaders.

We can satisfy our short-term conscience, just like we did in the early 1970's, by ignoring the harsh realities of the Communist Khmer Rouge threat and voting for peace by cutting off aid to those who share our goals. But, our long-term conscience will be marred by the fact that we actually undercut the real-politik type peace efforts prolonging the tragedy in Cambodia. We can avoid this hypocracy by supporting the Solarz-Broomfield amendment and keeping the Khmer Rouge from taking over. Or course, nothing in the Solarz-Broomfield precludes supporting constructive international peace efforts. Some are making this out to be an either or choice. The Solarz-Broomfield gives us both opportunities and, therefore, is better.

I urge my colleagues to join me in really isolating the Khmer Rouge, not just in speech but also in action, by supporting the Solarz-Broomfield amendment.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished majority whip, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Chairman, few countries in the world have suffered as much as Cambodia. Unwillingly pulled into the Vietnam war, taken over by the brutal Khmer Rouge, engaged in civil war and in conflict with the Vietnamese occupation army for the past decade, the Cambodian people have certainly suffered enough.

□ 1620

More than 1 million Cambodians lost their lives at the hands of the Khmer Rouge who engaged in systematic, mechanical destruction of these people.

Mr. Chairman, I think the Appropriations Committee has done an excellent job in restructuring our assistance to Cambodia so that it promotes peace. We have to be on the side of the international agencies and organizations that are trying to move this conflict to a peaceful resolution.

The funds in the language of the appropriation bill will be used to verify Vietnamese troop withdrawal, support U.N. peacekeeping efforts, repatriate refugees, and set up an electoral mechanism. These are all steps and important steps to bring to a conclusion a conflict that has raged for so long and in such a brutal way.

Sometimes, Mr. Chairman, there are limited things a country can do, but nonetheless constructive things. I think we have captured the essence of what needs to be done and what we in fact can accomplish in the appropriation bill.

In addition to that, there is language in the bill providing for $5 million in aid for children in Cambodia, which I think will be of some help in resolving, or at least ameliorating the suffering that they are undergoing.

So Mr. Chairman, I hope the committee will reject the amendment that is being offered by my distinguished colleague, the gentleman from New York, and support the committee position.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman from Wisconsin for yielding this time to me.

Mr. Chairman, last year my colleague, the gentleman from California [Mr. LEVINE] and I were going to offer an amendment to delete the funds to the NCR, but it was because of the reassurances of the gentleman from New York [Mr. SOLARZ] that we did not offer that.

I want to read to you what the gentleman from New York [Mr. SOLARZ] told me on this floor last year, and I am quoting him:

> There is explicit language in the bill which prohibits any of our assistance directly or indirectly from going to the Khmer Rouge. We have assurances from the leadership of the NCR.

Well, Mr. Chairman, that just does not square with the facts. We know that Mr. Sihanouk was on Peter Jennings show bragging of his alliance with the Khmer Rouge, and just on the 17th of June the Khmer Rouge radio boasted of the military prowess of the National Liberation Forces, specifically kudos were offered to "our national resistance forces who jointly attacked and completely liberated the town of Kompong Som."

Mr. Chairman, it is time that we stopped this aid to the Khmer Rouge. I urge a "no" vote.

Any indirect military support to the NCR and thus the Khmer Rouge only increases the chances that the Khmer Rouge, the strongest of the factions fighting the current government, will rise again to kill, rape, multilate, and ravage their countrymen.

We are all aware of the atrocities committed by the Khmer Rouge, but it is important to keep in mind the utter ruthlessness of the Khmer Rouge that was responsible for the murder of 1 million Cambodians in 4 short years and which has left hundreds of thousands destitute. It is important to keep this in mind because we should not underestimate the ability of the Khmer Rouge to seize the opportunity to reclaim power. That would literally be a deadly mistake for the Cambodian people.

In short, I oppose all aid to the NCR, whether it be overt, covert, military, or disguised as nonlethal aid. This is not going to end but will perpetuate the long nightmare of this poor country.

I urge my colleagues to defeat the Solarz amendment and support the committee position.

Mr. SOLARZ. Mr. Chairman, I yield 2 minutes to my very good friend, the distinguished gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, I rise in support of the Solarz amendment. This amendment is carefully worded to ensure that no assistance can be provided to any non-Communist resistance organization that is engaged in a pattern of military cooperation and/or coordination that would assist the Khmer Rouge.

The Solarz amendment is consistent with the policy of our allies in Southeast Asia. It sends a message to the Khmer Rouge that the free countries of the world will continue to provide assistance to the enemies of the Khmer Rouge, and offers the best approach to the essential settlement of the conflict.

I just want to say that I went to Cambodia in 1974. We landed in an Air American plane. The airport was being rocketed at the time. We went into the capital, which was practically abandoned.

I came to the conclusion that the Khmer Rouge were the most barbaric, vicious organization in the world today.

I came back and told Senator Humphrey's subcommittee that I believed there would be a blood bath in Cambodia if the Khmer Rouge prevailed, and that is exactly what happened.

All of us know that there were 1 million people killed and many of the atrocities were hidden from the world.

I think it is absolutely imperative that we remain a player in Cambodia today. I think the signal we would send if we were to withdraw completely would be absolutely the wrong signal, that we would say to the world that we are no longer interested in preventing the Khmer Rouge from taking power. They have the arms that they need. All the information indicates to us that they have more than enough arms, ammunition, and manpower, and if we do not provide arms for the non-Communist forces, the Khmer Rouge, this barbaric regime, will prevail in Cambodia.

So I would recommend to the Members of the House that they vote for the $7 million in the Solarz amendment in order to prevent the Khmer Rouge from taking power in Cambodia.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. Mr. Chairman, I rise in opposition to the Solarz amendment.

We Americans have a tendency always to be filled with hope. We are an optimistic people. I regret that the administration is filled with hope and the gentleman from New York [Mr. SOLARZ] is filled with hope in a situation that seems to me to approach hopelessness. The reason is because what we are faced with here today is the Khmer Rouge.

I would like to believe that Prince Sihanouk and the democratic forces, as they are called, will be able to withstand the Khmer Rouge; but what we are doing here is validating, and that is the right word, we are validating the Khmer Rouge if we adopt the Solarz amendment. We have castigated the Khmer Rouge, but the reality of it is that if we adopt the Solarz amendment, I fear that we will give the vampire of Southeast Asia, the Khmer Rouge, an extra hour of moonlight. They will inevitably suck the life out of any democracy. They will inevitably reenact the Killing Fields.

Mr. Chairman, this is an emotional issue, but it is a difficult issue. I would hope we would reject the Solarz amendment.

Mr. SOLARZ. Mr. Chairman, I yield 3 minutes to my very good friend, the distinguished gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I know that we all feel the euphoria of the end of the cold war. Cambodia and Vietnam seem to many a long time ago; but, Mr. Chairman, the future and the past are not so easily separated. Peace has not come to Vietnam. The tragedy of its acts in this awful play of history continues; but there is a strategy. It is a strategy that began 5 years ago in this Congress. It recognized that there is no military solution in Cambodia. It recognized that there must be a negotiated answer and it believed more than anything else that the choice of a Son San imposed by a Vietnamese invasion, or the Khmer Rouge in all its brutality, is a false choice, that American policy could participate in producing a different answer. That answer is this strategy that you will be voting on today.

The irony of this fight is that it is succeeding. The Vietnamese instituted a withdrawal. Negotiations began and the Khmer Rouge were denied a military victory that they might otherwise have had if there had been no democratic forces.

There is something else, Mr. Chairman. American leadership in Southeast Asia, which had been lost with repercussions around the world, was restored. Indeed, on this vote today the ASEAN nations who once again had believed in American leadership wrote asking this Congress to continue this policy and maintain the aid represented by the Solarz amendment.

□ 1630

Mr. Chairman, the Solarz amendment is an answer. It is an answer to keep the democratic forces in the field viable, with nonlethal assistance, so they can remain at the peace table, providing an answer to the Khmer Rouge and the Vietnamese.

I know the desire in this House to hold our resources, the enthusiasm to begin the post-cold war world. But peace does not mean an end to responsibility. The tragedy of Cambodia may have begun with errors of American policy, but it will only be compounded if we cast a blind eye now on Southeast Asia.

The irony of this fight is that we all have the same objective, to bring peace to Southeast Asia, to stop the Vietnamese or the Khmer Rouge from having succeeded. But the failure of the Solarz amendment has only one certainty: either the Vietnamese succeed, or the Khmer Rouge will be restored to power.

Support the Solarz amendment. Think carefully. Have patience and understand that in the end, a democratic solution only comes from seeing this policy through.

Mr. OBEY. Mr. Chairman, I yield 2½ minutes to the gentleman from New York [Mr. MRAZEK], a member of the subcommittee.

Mr. MRAZEK. Mr. Chairman, it must be confusing for any Americans who are watching this debate on C-SPAN to understand how both sides on this debate can claim that they are opposed to the Khmer Rouge, and that if one votes with their position, that money will not go to the Khmer Rouge.

There are some simple facts that perhaps have been overlooked in this debate. This great Nation has lived a lie before in Southeast Asia, and now we are doing it again. What is that lie? That United States aid is substantially contributing to a peaceful solution of the problem; that United States aid has caused, in fact, the withdrawal of the Vietnamese soldiers from Cambodia; that United States aid to the non-Communist resistance does not benefit the Khmer Rouge, either directly or indirectly.

Well, let me just suggest that those are lies. It is a lie to say that our aid does not benefit the Khmer Rouge. What money does get through, because it is important to remember that the inspector general has sent us two letters in the last 3 years saying this program has been ripped off to a greater extent from corruption in the Thai military, more than any aid program we have in the United States Government.

Now, that has involved millions of dollars of the money that was supposed to go to the non-Communist resistance. What money has gotten through the corruption of the Thai military has not gone through to the non-Communist resistance, it has gone through to the Khmer Rouge. Why? Because Sihanouk supplies the Khmer Rouge. Why? Because his people do not have the will to fight.

The Khmer Rouge we know has the will to fight and kill, and they turned Cambodia into a bloody battleground for many years. But through a wink and a nod from Prince Sihanouk and his son, this money goes directly to the Khmer Rouge.

So what is at stake here is that we can support the committee position. We can support the committee position. Very simply, what does that do? It says the money will be used for U.N. peacekeeping forces, verification of the Vietnamese troop withdrawal, and a political neutral camp for refugees, where they are not coerced and extorted from by the Khmer Rouge. Or we can continue to covertly support the Khmer Rouge and continue the killing in Cambodia.

Support the committee position. Oppose the Solarz amendment.

Mr. SOLARZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I rise in support of the Solarz amendment to continue nonlethal aid to the non-Communist resistance in Cambodia. My colleagues on both sides of this issue are against the Khmer Rouge.

To quote Calvin Coolidge on being asked what a clergyman preaching on sin had said, "He said he was against it." It is not enough to say we are against the Khmer Rouge. Obviously all of us are against the Khmer Rouge. The question is what policy will have a better chance of preventing the Khmer Rouge's return to power? And what policy offers the better chance of encouraging democatic forces? Strengthening Prince Sihanouk and Sol San through limited nonlethal aid has a better chance of preventing the Khmer Rouge's return to power. And it offers a better chance, albeit a small one, of promoting democracy in Cambodia. Morally, we want to stop the Khmer Rouge. But morality consists in the courage of making a choice I urge you to make the right choice and support this amendment.

Mr. SOLARZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in closing this debate, I want to make a few very brief points. First, the best way, perhaps the only way, to prevent the Khmer Rouge from returning to power in Cambodia is to get a political settlement which brings the fighting to an end and makes possible a free and fair election.

If this amendment is defeated and we abandon the non-Communist resistance, the prospect for a political settlement will be greatly diminished.

Second, the gentleman from New York [Mr. MRAZEK] said our aid to the non-Communist resistance has been going to the Khmer Rouge. I want to say right now that that is flatly untrue, and I stake my reputation for integrity on the proposition that there is no credible evidence whatsoever to justify the conclusion that our aid is going to the Khmer Rouge.

Third, my amendment has a provision which would require the termination of all assistance to the non-Communist resistance forces if any of our aid does end up in the hands of the Khmer Rouge. I want to say to the gentleman from New York [Mr. MRAZEK] that if I find out our aid is going to the Khmer Rouge, I will lead the fight to terminate this program.

Finally, I urge Members to support this amendment, which was supported not only by the administration, not only by all of the ASEAN countries, including Thailand, which certainly wants peace in Cambodia, but which is also supported by the overwhelming majority of the Cambodian people in this country, who are the greatest victims of the Khmer Rouge, who are the survivors of the Cambodian holocaust, and who want us to bring peace to that tortured country.

Vote for the Solarz-Broomfield amendment.

Mr. OBEY. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. MCCLOSKEY]

Mr. McCLOSKEY. Mr. Chairman, I rise in strong opposition to the Solarz amendment, which unfortunately, however well-intended, would make it much more likely the Khmer Rouge would come back to power.

I rise in opposition to the Solarz amendment which would provide $7 million in aid to the Cambodian rebels. Although the amendment would prohibit direct or indirect assistance to the Khmer Rouge, the non-Communist resistance is dominated by the Khmer Rouge and there is no legislative language that can prevent some of this aid from reaching the Khmer Rouge in one form or another.

The road to hell is paved with good intentions. The intentions of this amendment are clearly honorable: To prevent the Khmer Rouge from regaining power and to facilitate ultimately stability and peace in Cambodia. However, this humanitarian assistance, boots, jeeps, medical assistance, etc., will not miraculously enable the non-Communist resistance to defeat the government of Hun Sen, much less the Khmer Rouge. Numerically, the non-Communist forces are greatly outnumbered by the Khmer Rouge, much less the toops of Hun Sen, the Vietnamese-installed Prime Minister. This humanitarian assistance will not be sufficient to enable these forces to overcome the 30–40,000 Khmer Rouge troops, much less the 50,000 troops of the Phnom Penh government or its 200–300,000 man militia fighters. There is a high likelihood that any direct conflict between these forces will lead to defeat of the non-Communist troops. Should this occur, this assistance will find its way into the hands of .he Khmer Rouge.

A negotiated political settlement in Cambodia remains a difficult goal. It is true that the current language in the H.R. 5114 will weaken, to some degree the non-Communist resistance. It is also true however that this prohibition will also weaken the Khmer Rouge.

A vote for the Solarz amendment is a vote for a failed policy and a vote for continued war. Vote against this amendment, however well intentioned it may be, and thereby support an end to this brutal civil war.

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Khmer Rouge killed 2 million people. The administration has indicated that they would support a transitional role for the Khmer Rouge. One hundred seventy-seven Members of this House have signed a letter expressing great concern over that policy. Money which we have provided to date to the non-Communist alliance has been stolen by the Thai military.

The gentleman from New York [Mr. SOLARZ] says: "Do not cut off the money. We need it as a bargining chip."

The problem is that last year we were told the same thing. Last year Indonesia was pursuing peace talks. Then they shifted to Paris. Then the Japanese tried to help. The problem is, the war is still going on.

I know Americans do not like the Vietnamese Government. I do not like the Vietnamese Government. But no one, no one is as bad as the Khmer Rouge.

Mr. Sihanouk, unfortunately, is ineffectual. He and the non-Communist resistance and the Khmer Rouge are heavily influenced by the Chinese, if not actual puppets of the Chinese.

We need to send a message to the Chinese they are alone in this policy, they are isolated in this policy. We need to send a message to all of the members of the non-Communist resistance saying we are not going to support you while there is any danger whatsoever of association with the Khmer Rouge.

I greatly respect the gentleman from New York [Mr. SOLARZ]. I think he is one of the finest Members of this House. I just do not happen to trust the instincts of the administration on this issue, an administration which has demonstrated all too many times a willingness to take into account the sensitivities of the Red Chinese Government. I just do not happen to trust their instincts on this issue any more.

If you want to guarantee that the Khmer Rouge get not one dime of American money, either directly or indirectly, you vote against the Solarz amendment. You stick with the language in the committee bill.

I would remind Members in addition that if they vote for the Solarz amendment, they vote to eliminate the $10 million which we have made available for use in the peace process.

The Khmer Rouge have more blood on their hands than anyone since Stalin and Hitler. Do not let them with our money add one more person's blood. Vote no on Solarz; stick with the committee amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. SOLARZ].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROOMFIELD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 163, not voting 9, as follows:

[Roll No. 203]

AYES—260

Ackerman	Frost	Mfume
Alexander	Gallegly	Michel
Anderson	Gallo	Miller (OH)
Annunzio	Gekas	Miller (WA)
Anthony	Geren	Molinari
Archer	Gibbons	Mollohan
Armey	Gillmor	Montgomery
Aspin	Gilman	Moorhead
Baker	Gingrich	Morrison (WA)
Ballenger	Glickman	Murtha
Barnard	Goodling	Myers
Bartlett	Goss	Neal (NC)
Barton	Gradison	Nielson
Bateman	Grant	Nowak
Beilenson	Green	Ortiz
Bennett	Gunderson	Owens (UT)
Bentley	Hammerschmidt	Oxley
Bereuter	Hancock	Packard
Bevill	Hansen	Pallone
Bilbray	Harris	Parker
Bilirakis	Hastert	Parris
Bliley	Hatcher	Paxon
Boehlert	Hefley	Payne (VA)
Boggs	Henry	Penny
Borski	Herger	Petri
Bosco	Hiler	Pickett
Boucher	Hoagland	Pickle
Broomfield	Hochbrueckner	Price
Browder	Holloway	Pursell
Brown (CO)	Hopkins	Quillen
Bryant	Houghton	Rahall
Bunning	Hoyer	Ravenel
Burton	Hubbard	Ray
Bustamante	Huckaby	Regula
Byron	Hughes	Rhodes
Callahan	Hunter	Ridge
Campbell (CO)	Hutto	Rinaldo
Chandler	Hyde	Ritter
Chapman	Inhofe	Roberts
Clarke	Ireland	Robinson
Clement	James	Roe
Clinger	Jenkins	Rogers
Coble	Johnson (CT)	Rohrabacher
Coleman (MO)	Kanjorski	Ros-Lehtinen
Combest	Kasich	Rose
Condit	Kennelly	Roth
Cooper	Kolbe	Roukema
Coughlin	Kolter	Rowland (CT)
Courter	Kostmayer	Rowland (GA)
Cox	Kyl	Saiki
Craig	LaFalce	Sarpalius
Crane	Lagomarsino	Saxton
Dannemeyer	Lancaster	Schaefer
Darden	Lent	Scheuer
de la Garza	Lewis (CA)	Schuette
DeLay	Lewis (FL)	Shaw
DeWine	Lightfoot	Shays
Dickinson	Lipinski	Shumway
Dicks	Livingston	Shuster
Dornan (CA)	Lloyd	Skeen
Dreier	Long	Skelton
Duncan	Lowery (CA)	Slattery
Dymally	Lowey (NY)	Slaughter (VA)
Dyson	Madigan	Smith (FL)
Eckart	Manton	Smith (NE)
Edwards (OK)	Marlenee	Smith (NJ)
Emerson	Martin (NY)	Smith (TX)
Engel	Martinez	Smith, Denny (OR)
English	McCandless	Smith, Robert (NH)
Erdreich	McCollum	Solarz
Espy	McCrery	Solomon
Fascell	McCurdy	Spence
Fawell	McDade	Stangeland
Feighan	McEwen	Stearns
Fields	McHugh	Stenholm
Fish	McMillan (NC)	Stump
Flake	McMillen (MD)	Sundquist
Flippo	McNulty	Tallon
Frenzel	Meyers	Tauzin
		Taylor
		Thomas (CA)
		Thomas (GA)
		Thomas (WY)
		Torricelli
		Udall
		Upton
	Vander Jagt	Whittaker
	Volkmer	Wilson
	Vucanovich	Wolf
	Walgren	Wylie
	Walker	Yatron
	Walsh	Young (AK)
	Watkins	Young (FL)
	Weber	
	Weldon	

NOES—163

Andrews	Hefner	Porter
Applegate	Hertel	Poshard
Atkins	Horton	Rangel
AuCoin	Jacobs	Rostenkowski
Bates	Johnson (SD)	Roybal
Berman	Johnston	Russo
Bonior	Jones (GA)	Sabo
Boxer	Jones (NC)	Sangmeister
Brennan	Jontz	Savage
Brooks	Kaptur	Sawyer
Brown (CA)	Kastenmeier	Schiff
Bruce	Kennedy	Schneider
Buechner	Kildee	Schroeder
Campbell (CA)	Kleczka	Schumer
Cardin	Lantos	Sensenbrenner
Carper	Laughlin	Serrano
Carr	Leach (IA)	Sharp
Clay	Lehman (CA)	Sikorski
Coleman (TX)	Lehman (FL)	Sisisky
Collins	Levin (MI)	Skaggs
Conte	Levine (CA)	Slaughter (NY)
Conyers	Lewis (GA)	Smith (IA)
Costello	Luken, Thomas	Smith (VT)
Coyne	Lukens, Donald	Smith, Robert (OR)
Davis	Machtley	Snowe
DeFazio	Markey	Spratt
Dellums	Martin (IL)	Staggers
Derrick	Matsui	Stallings
Dingell	Mavroules	Stark
Dixon	Mazzoli	Stokes
Dorgan (ND)	McCloskey	Studds
Douglas	McDermott	Swift
Downey	McGrath	Synar
Durbin	Miller (CA)	Tanner
Dwyer	Mineta	Tauke
Early	Moakley	Torres
Edwards (CA)	Moody	Towns
Evans	Morella	Traficant
Fazio	Mrazek	Traxler
Foglietta	Murphy	Unsoeld
Ford (MI)	Nagle	Valentine
Ford (TN)	Natcher	Vento
Frank	Neal (MA)	Visclosky
Gaydos	Oakar	Washington
Gejdenson	Oberstar	Waxman
Gephardt	Obey	Weiss
Gonzalez	Olin	Wheat
Gordon	Owens (NY)	Whitten
Grandy	Panetta	Williams
Gray	Pashayan	Wise
Guarini	Patterson	Wolpe
Hall (OH)	Payne (NJ)	Wyden
Hamilton	Pease	Yates
Hawkins	Pelosi	
Hayes (IL)	Perkins	

NOT VOTING—9

Crockett	Hayes (LA)	Nelson
Donnelly	Leath (TX)	Richardson
Hall (TX)	Morrison (CT)	Schulze

□ 1700

The Clerk announced the following pair:

On this vote:

Mr. Schulze for, with Mr. Morrison of Connecticut against.

Mrs. ROUKEMA, Mrs. LLOYD, Mrs. MEYERS of Kansas, and Messrs. VOLKMER, SPENCE, and FLIPPO changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, it is now in order for the gentleman from Ohio [Mr. TRAFICANT] to offer his amendment designated No. 10 in

House Report No. 101-560, which is not subject to amendment except the substitute amendment designated No. 11 in said report, if offered by the gentleman from Wisconsin [Mr. OBEY] or his designee.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 111, after line 18, add the following:

TITLE VI—REDUCTION IN APPROPRIATIONS

PERCENTAGE REDUCTION

SEC. 601. (a) REDUCTION IN APPROPRIATIONS.—Except as provided in subsection (b), each amount of new budget authority provided by this Act is hereby reduced by 10 percent.

(b) EXCEPTIONS.—Subsection (a) does not apply with respect to the new budget authority provided under the heading "INTERNATIONAL NARCOTICS CONTROL" or the new budget authority provided for the Export-Import Bank of the United States.

(c) REDUCTION OF EARMARKINGS.—Each amount of funds within an appropriation account in this Act that is earmarked by this Act for a specific country, organization, or purpose shall be deemed reduced by the percentage specified in subsection (a).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] will be recognized in opposition to the amendment.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I would like to ask the subcommittee chairman and the ranking minority member a question, if they could answer it for me, please.

I would like to ask the subcommittee chairman or the ranking minority member of the subcommittee a question, if they would both accommodate me. To your knowledge, in the last 10 years, are there any recipient countries receiving foreign aid from America that have purchased any of our T bills or any Government debts or instruments?

Mr. Chairman, I do not want to waste all my time. I have requested a question of the subcommittee, if they would, to the chairman or the ranking minority member. To the best of their knowledge, is there any countries receiving foreign aid from America that are purchasing or have purchased in the last 10 years, T bills or any of our Government debts or instruments?

Mr. Chairman, I ask unanimous consent that the House agree that my question be posed to anyone who can answer it, and I have 10 calendar days to receive such an answer.

The CHAIRMAN. That is not a proper question to be made in the Committee of the Whole at this time. The gentleman is still recognized under the rule.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that because no one would answer my question that that time not be subtracted from my 10 minutes.

The CHAIRMAN. The Chair will advise the gentleman from Ohio, in propounding the question it is a procedure that he is entitled to make, and therefore is, in fact, deducted from his time. The gentleman is still recognized in support of his amendment under the rule.

Mr. TRAFICANT. Mr. Chairman, I have asked a question. I asked a question, if anybody receiving money from our taxpayers is going around a buying our Treasury bills or investing in the America's debt structure, and I was not able to get any person to stand up and give me an answer, and not any Member in this House seems to care.

Now, earlier today, I had seen the gentleman from Wisconsin [Mr. ROTH] on the floor, and he posed a question that he really feels is important to him, and when he was done he was made to look less than a worthy Member. I think he is a great Member.

Now, I want to know if any country getting foreign aid from our taxpayers is buying our T bills, and I cannot get an answer. Now, we have a President that today is asking for a tax increase. Now, let me tell Members, I know I am a demagog, I am anti-Semitic, I am the whole ball of wax. Here is what I want to say today: I do not want to cut education anymore, I do not want to cut housing, I do not want to cut nutrition, I am tired of the roads falling apart. This is a priority area where I want to cut. I probably have about as much chance as the man in the Moon, but I want Members to just pay attention for 1 minute, because I am not going to belabor it. Many Members have asked me not to ask for a vote. Many Members asked me to exempt Israel. Mine is going to treat everybody alike. Mine is a cut.

Now, here is what we are doing. America goes and borrows money from rich countries, then turns around and gives that borrowed money to poor countries in the form of foreign aid. It does not stop there. America then goes back and borrows some more money from those rich countries, then takes that borrowed money and spends that borrowed money to provide defense and protection for the same rich countries that gave the United States the borrowed money in the first place. Now, we have $200 billion worth of annual debts averaging the last 8 years. Our interest payment on the national debt is $200 billion. We spend at least conservatively $120 billion to protect NATO allies, who many of them have a lot more money that we have. We spend another $15 to $20 billion, depending who you are, after all of the additional appropriation bills, and all the little hidden appropriators. That is about $550 billion, folks. Any wonder we are going bankrupt?

Now, I am going to vote no on the bill, but I exempted narcotics money because our country is in a hell of a fix, and most of the drugs come from overseas. I exempted Export-Import Bank because we are going to spend a little money to try and help our workers sell a little something. But I have listened to this debate, and do Members know what I was listening to? I was thinking of coming and trying to get Members more money because they turned it into a jobs bill for America.

□ 1710

Mr. Chairman, this is the most ridiculous thing I have every seen or heard. I must really be screwed up because I do not understand it, folks.

Mr. Chairman, I reserve the balance of my time, and I ask, how much time do I have remaining?

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] has 5 minutes remaining.

AMENDMENT AS MODIFIED, OFFERED BY MR. CLEMENT, AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. TRAFICANT

Mr. CLEMENT. Mr. Chairman, I offer an amendment as a substitute for the amendment, as made in order under the rule.

The CHAIRMAN. The Chair will inquire, is the gentleman from Tennessee [Mr. CLEMENT] the designee of the gentleman from Wisconsin [Mr. OBEY] for the amendment made in order under the rule?

Mr. CLEMENT. That is correct; yes, Mr. Chairman.

The CHAIRMAN. The Clerk will report the substitute amendment.

The Clerk read as follows:

Amendment as modified, offered by Mr. CLEMENT, as a substutite for the amendment offered by Mr. TRAFICANT: Page 111, insert after line 15 the following new section:

SEC. 582. Except for amounts appropriated for Sub-Saharan Africa Development Assistance, the Peace Corps, Anti-Terrorism Assistance, International Narcotics Control, Migration and Refugee Assistance, Emergency Refugee Migration Assistance, the Export-Import Bank, payment to the Foreign Service Retirement and Disability Fund, and the Guaranty Reserve Fund, appropriations contained in this Act for each account shall be reduced by 2 percent of the

aggregate of the appropriated and unearmarked funds.

Mr. CLEMENT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The text of the foregoing amendment prior to its modification, is as follows:

Page 111, insert after line 15 the following new section:

SEC. 582. Except for amounts appropriated for Sub-Saharan Africa Development Assistance, the Peace Corps, Anti-Terrorism Assistance, International Narcotics Control, Migration and Refugee Assistance, Emergency Refugee Migration Assistance, Payment to the Foreign Service Retirement and Disability Fund, and the Guaranty Reserve Fund, appropriations contained in this Act for each account shall be reduced by 2 percent of the aggregate of the appropriated and unearmarked funds.

The CHAIRMAN. Under the rule, the gentleman from Tennessee [Mr. CLEMENT] is the designee of the gentleman from Wisconsin [Mr. OBEY] and is, therefore, entitled to be recognized in support of that amendment for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Oklahoma [Mr. EDWARDS] will be recognized in the opposition role for 10 minutes.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, I think it is highly unusual that the ranking minority member should be recognized in opposition for that time. I think that the time should have been granted to some Member who is truly in opposition to that amendment.

The CHAIRMAN. The Chair is not in a position to question the motives of the gentleman.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I am in opposition to the amendment.

The CHAIRMAN. The gentleman in effect stated his opposition, and under the rules, he is entitled to the time.

Mr. EDWARDS of Oklahoma. Mr. Chairman, if the gentleman does not believe me, he can watch to see how I vote. Read my lips.

Mr. TRAFICANT. I have been reading all your lips. We have to read your mind, that is the problem.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to thank Chairman OBEY for allowing me the opportunity to offer this substitute amendment to reduce many of the accounts in this bill by 2 percent.

Mr. Chairman, the American people are a generous people. At home and abroad, the American people willingly extend a hand to assist both their neighbors and total strangers. Certainly the bill before us is an example of that generosity and of our Nation's longstanding commitment to help all nations and all peoples of the world.

However, there are times when our generosity must be tempered by a realistic understanding of the problems we face at home. And, at present, one of the greatest problems we face is that of a burgeoning Federal budget deficit.

While some may feel that the seriousness of this problem may warrant a cut of the magnitude of the one offered by the gentleman from Ohio, I believe that people of good judgment and common sense can reasonably support a cut that brings the bill into line with the President's request and the amounts appropriated last year.

Mr. Chairman, a 2-percent cut recognizes that the United States cannot retreat from its role in the world. By design and by the grace of God, the United States enjoys a standard of living second to none. It is incumbent on us as world leaders and as the world's greatest consumers to help other peoples who share this globe with us. Yet Congress' first responsibility is, and always will be, to ensure that our own citizens are treated fairly and with the respect due them as those to whom this Government owes its very existence.

The substitute amendment, in my view, strikes a balance between these two conflicting values. While an amendment cuts 2 percent from most accounts, it does so by respecting many of the priorities set forth by the Appropriations Committee and the President. In particular, the amendment provides the amounts the committee voted for such as international narcotics control, antiterrorism aid, the Foreign Service retirement and disability fund, amounts earmarked for Israel, Egypt, several other valued allies, sub-Saharan Africa development, and the Peace Corps.

Mr. Chairman, the substitute is a responsible amendment. While some may disagree with some of the particulars, I believe it recognizes the role the United States must play while respecting the citizens whose incomes we tax to meet these worldwide responsibilites. The substitute has the effect of cutting $139.8 million from the bill.

I urge my colleagues to support the substitute amendment. Thank you.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair now recognizes the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am opposed to both of these amendments. There are two different problems with them. In the case of the Traficant amendment, let me try to deal with that very quickly and very directly.

Basically, the Traficant amendment would devastate our security assistance accounts. ESF would be cut by $346 million, FMF would be cut by $463 million, and our ability to use our foreign assistance program to enhance the security of the United States would be devastated by this amendment.

Our allies would be cut. Israel would be cut by $300 million, Egypt would be cut by $211 million, the Peace Corps would be cut by $18 million, and UNICEF would be cut by $7.5 million. The people in Eastern Europe who have risked their lives to try to emerge from the oppression they have lived under for so many years and create new democracies need our help desperately, and the funding for Eastern Europe would be cut by $48 million.

The problem with the amendment the gentleman from Ohio has offered is that it does not discriminate between what is good and what is bad, and it makes very serious reductions in our ability to use security assistance to help the people in Ohio and in Oklahoma and other places to live in a free, peaceful, and secure world, which I would imagine they would consider to be among their highest priorities.

Finally, let me make a comment about the 2-percent cut. Had this 2-percent cut been drafted differently, I would have supported it. I have supported cuts in other appropriation bills as well.

The problem is that this one has said, "Here are a few sacred cows we are going to set aside, we are going to see the cuts come out of ESF and out of FMF," things that the administration negotiated very seriously with Congressman OBEY about to try to get them into the bill, "but we are going to take other things because we are worried about the sub-Saharan and Africa, and we are going to move those over here and we are going to move over here and we are not going to touch them."

So the amendment was originally drafted by the gentleman from Wisconsin [Mr. OBEY], in my opinion, while it would have been good to have a straight 2-percent cut, just does not do it in the right way.

So, Mr. Chairman, I am going to oppose both amendments.

Mr. Chairman, I reserve the balance of my time.

Mr. CLEMENT. Mr. Chairman, I reserve the balance of my time.

□ 1720

Mr. TRAFICANT. Mr. Chairman, would the gentleman from Wisconsin [Mr. OBEY], being that he is not going to use any of his time and did not get any time in opposition, yield it to me for our use since I have several speakers?

The gentleman from Wisconsin [Mr. OBEY] will not answer the question on the T-bill and will not give us any time.

I have time.

Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I appreciate the gentleman from Ohio [Mr. TRAFICANT] yielding to me.

Mr. Chairman, I rise in support of the amendment.

I would like to ask the gentleman from Wisconsin [Mr. OBEY] a question on my time, if I may, sir.

There is money in this bill for the State Department, as I understand it. Would there be any, or put it more distinctly, does the gentleman have any knowledge of who paid for the visit of Mr. Mandela to this country currently taking place? Were any Federal tax dollars used in paying for that visit?

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I suggest that the gentleman from California [Mr. DANNEMEYER] has got the wrong bill. If he has any question about State Departments costs, he ought to talk to the gentleman from Iowa [Mr. SMITH].0

Mr. DANNEMEYER. Mr. Chairman, does the gentleman from Wisconsin [Mr. OBEY] have any knowledge as to whether or not any Federal tax dollars paid for the visit for Mr. Mandela?

Mr. OBEY. Mr. Chairman, I have no idea.

Mr. TRAFICANT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Ohio [Mr. TRAFICANT] for yielding, and I just wanted to make several comments.

I think now, as we are looking at maybe having to raise taxes, which I hope we do not do, we better look at some of our priorities much more vigorously.

My colleagues, this is a bill where I have a lot of trouble with priorities, and I think the gentleman from Ohio [Mr. TRAFICANT] is pointing something out. We are not killing this bill. He is cutting it back 10 percent. He is being very fair. Everybody takes a hit.

Mr. Chairman, I come from a State that just took a terrible hit. We took a terrible hit by a tornado, and an entire town was wiped out. It is absolutely amazing to me that the Federal Government said there was no money for that town. The best they can do was find maybe some SBA loans, and, other than that, they are to go to the Red Cross. However, we seem to have money to go every other place.

Mr. Chairman, I think there are some other real serious issues in this bill that trouble me a lot. No. 1, one of the major donors in this bill allows circumcision against women. It is, I think, a horrendous human rights violation. We do not consider crimes against women human rights violations. We allow those to go under the cultural name. Mr. Chairman, I do not really appreciate my tax money going that way.

I do not like the fact that we still have the Mexico City amendment in here, so we are not doing realistic family planning. I think all the environmental stuff we are doing, I think everything we are doing, goes right down the chute if we do not do family planning in this world. There are 2.5 billion people on the planet that have no access to family planning at all, and we are not paying any attention to that. The world population doubles in 20 years. Everything we have done environmentally is totally gone. So, I really think this is a total problem.

There is another problem, and that is an awful lot of this bill, I think, really is nothing but rent for bases, and it really probably belongs under the defense bill.

So, Mr. Chairman, I think the 10 percent cut of the gentleman from Ohio [Mr. TRAFICANT] sounds reasonable.

Mr. CLEMENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the 10-percent across-the-board cutting amendment of the gentleman from Ohio [Mr. TRAFICANT] will cut a total of $1.487 billion from this bill.

In short, Mr. Chairman, it would gut the bill, completely dislodge the compromise reached with the administration and seriously threatens many of our most important foreign aid programs.

My amendment cuts 2 percent from the bill, but exempts all earmarks, as well as funds, in the bill for Africa, the Peace Corps, migration, refugee assistance, Export Bank, antiterrorism, antinarcotics, as well as mandatory programs in the bill. This substitute has the effect of cutting $140 million from the bill and is the most responsible approach.

Mr. Chairman, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Chairman, if these opponents do not want their time, I would ask they yield some time to me since we have Members who would like to offer their opinions.

Mr. Chairman, would any of these distinguished gentlemen yield some of their time that they are not going to use to me?

Mr. CLEMENT. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I am simply rising to suggest that we support the amendment of the gentleman from Tennessee [Mr. CLEMENT], which is a reasonable 2-percent reduction in contrast to the 10-percent reduction urged by the gentleman from Ohio [Mr. TRAFICANT].

Mr. Chairman, the fact is we spent $120 billion a year to defend Western Europe. We are now in a position where what we are trying to do is to take a tiny portion of that amount and invest it in the building of democracy in Eastern Europe and other places of the world so that we can avoid the future necessity to expend the kind of money that we have had to spend over the last generation in Western Europe and elsewhere.

Mr. Chairman, as I said earlier, I am always amazed at those Members of this House who will spend billions for military, but not 1 cent to prevent the conditions which lead to the use of military equipment in wartime.

I would simply suggest that the reduction which we are making in the bank of $34 million is very tolerable; in development assistance, $23 million, very tolerable; Philippines, $3 million; FMS, $30 million; ESF, $25 million. I think they are defensible cuts. They are discrete. This is in contrast to the blunderbuss approach which we find in the amendment of the gentleman from Ohio [Mr. TRAFICANT] which would do in my judgment tremendous damage to the security of the United States.

My colleagues, do we really want to cut antiterrorism? Do we really want to cut antinarcotics control money? I do not think we want to do that. That is why I suggest my colleagues support the amendment of the gentleman from Tennessee [Mr. CLEMENT].

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. The amendment, my amendment, exempts the international narcotic money.

The CHAIRMAN. That is not within the nature of a parliamentary inquiry.

Mr. CLEMENT. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Tennessee [Mr. CLEMENT].

Yesterday, before the Committee on Rules, three Members requested an opportunity to offer a 2-percent reduction amendment. The gentleman from Ohio [Mr. TRAFICANT] was one of those. I was another, and the gentleman from Wisconsin [Mr. OBEY] was the third. I indicated to the Committee on Rules at that time that I was not particular as to who was given authority to offer that amendment. I made an exemption in my amendment of the drug money. I am comfortable with the additional exemptions that the gentleman from Wisconsin [Mr. OBEY] has made. I think on balance he has reprioritized within the foreign aid budget in an exemplary way, and this amendment further enhances the positive aspects of this foreign aid bill. This will achieve, I think, somewhere in the neighborhood of 130 million dollars' worth of savings.

Mr. Chairman, this 2-percent amendment is prudent. It is responsible. I urge its adoption.

Mr. OBEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Ohio [Mr. TRAFICANT] yield back his time?

Mr. TRAFICANT. No, I do not Mr. Chairman.

Mr. Chairman, I would like to know who has the right to close the debate.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] has the right to close debate on the original Traficant amendment.

Mr. TRAFICANT. Mr. Chairman, do the others yield back their time?

Mr. CLEMENT. Mr. Chairman, I yield back the balance of my time.

□ 1730

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, during the Carter years there was a crisis. We sold some gold. The biggest purchaser of that gold was India and they were getting foreign aid from America.

I want to say that again.

Now, I have heard all about this meat cleaver business. Let us get off it.

I do not support all that military buildup. My amendment exempts narcotics.

No. 2, why not have Western Europe, who is doing better than us, give some money to Eastern Europe? Why do we not spend the money we are going to spend in Eastern Europe in Eastern America where the cities are falling apart?

One other thing I would like to say, if we have to use the foreign aid accounts to protect Ohio and Oklahoma, that is how screwed up this Congress is.

We have a $300 billion defense budget with MX missiles that cannot fly straight and M-1 tanks that could not hit the ocean if fired from dockside. Remember that?

Now, here is $1.5 billion. Let me tell you, every recipient on this list can do with that cut. I am telling you right now, you keep cutting housing, cutting infrastructure, cutting education, and see that America is up against the wall, where they are.

I still want to know if any countries in the last 10 years have purchased our debt instruments. Now, that should tell every Member of Congress, they do not need this aid. America needs this aid very much.

I am asking for your vote. America is asking for your vote.

I have nothing against this chairman. I wish he was a chairman that had priorities over jobs. He is one of the best. That is why I am wondering maybe why he is handling foreign aid.

There are countries that need money. I was proud to see our Nation host the distinguished gentleman, Mr. Mandela; but I am just not going to cut any more from America and this is one place where TRAFICANT can cut, and if it is with a chain saw I would like to use a battering ram.

Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the last speech that was just given is a very easy speech to make. It is the easiest speech to make in all of American politics, because everybody likes to have something for nothing in this world. Everybody likes to exercise their rights. Nobody likes to exercise their obligations.

The fact is that we happen to be lucky enough to be born as citizens of the greatest country on the face of the Earth. We are great not only because we have tended to the needs of our own people, but because we have also recognized our leadership role in the world. That leadership role requires us to do some things which occasionally are a little difficult, which occasionally cost a little money.

We have spent literally trillions of dollars on weapons of war over the past 45 years. We have seen hundreds of thousands of Americans die in war after war after war.

We spend, as I said, $120 billion a year in Eastern Europe to defend the West from the threat that used to come from the Soviet Union and the Warsaw Pact. Now we have quite a different set of circumstances. Countries which were run by Communists for years are becoming free societies. They need help to sink down deep the roots of democracy in countries such as Poland, just as we had to work to sink down the roots of democracy in Germany at the end of World War II.

We like to think of investments, and we ought to make those investments domestically as well as at home.

I need no lectures from the gentleman from Ohio or anybody else in this House and neither does any other Member of his House need any lectures on the subject of cutting money from foreign aid to provide for help here at home. Every Member of this House who has voted for foreign aid legislation over the past 6 years has voted to cut $6 billion in unnecessary foreign assistance and move it into housing here at home, move it into education here at home, move it into health care here at home, and move it into transportation here at home. That is what we have done every time we voted for this bill, because we took Presidential requests, we cut out unnecessary money to be spent abroad, we moved it back home to take care of our own constituents. That is an obligation we had. We met that obligation. You can all be proud of it.

Now we are asked to do something easy, cut 10 percent. It sounds great, but the fact is this $15 billion is a tiny fraction of what we provide military budgets annually without blinking an eye. I would like to eliminate it all if I could, but I would suggest it is not in the interest of the United States to abandon Eastern Europe to the forces pummeling them after the Communist governments finally gave up their power or had it taken away from them.

I do not think it is in the interests of the United States to eliminate or to reduce the support we are providing for refugees.

I do not believe it is in the interest of the United States to unilaterally just automatically cut $463 million more out of the military accounts. I might personally like to do that over a 2-year time period. I do not honestly think you can do it right now.

So I simply suggest the amendment offered by the gentleman from Tennessee is a reasonable alternative. It gives you an opportunity to do what you have done for the last 5 years, to save some money in this bill so that it is freed up for domestic priorities without savaging the national interest in the process.

Now, and then we have got to do tough things. I do not think it is especially tough here this afternoon to ask you to vote for this amendment as a substitute for the Traficant amendment. It is the responsible thing to do and I would urge you to do it so we can all go home.

Mr. HALL of Ohio. Mr. Chairman, I rise in support of H.R. 5114, the foreign aid appropriations bill. This excellent bill contains many provisions I strongly support. I would particularly like to commend the gentleman from Wisconsin, chairman of the subcommittee, on his attention to the following matters of great concern to the Select Committee on Hunger:

The Child Survival Fund is increased from $71 to $100 million in the bill, and strong report language supports an increase from $200 million to at least $225 million for child survival activities from all sources in the bill.

Funding for refugee assistance is $45 million above the administration's request—$35 million more for the Migration and Refugee Assistance [MRA] Account and $10 million more for the Emergency Refugee and Migration Assistance Fund [ERMA]; this should lead to as much as $35 million more for refugees overseas.

AID's vitamin A deficiency program is increased from $8 to $10 million. These programs prevent child blindness, sickness, and death.

Not less than $5,000,000 is earmarked "to encourage and promote the participation and integration of women as equal partners in the development process in developing countries" and recommends that funds be provided to two important U.N. agencies—UNIFEM and INSTRAW—which concentrate on this issue.

The bill also provides UNICEF with $75 million—$25 million above the administration request, and an item as worthy of support as any in the bill.

In addition, I congratulate the chairman of the subcommittee on his amendment to add $5 million in funding for the International Fund for Agricultural Development [IFAD]. IFAD plays an essential role in working for a sustainable end to world hunger, and the additional $5 million—which increases IFAD's appropriation from $20 to $25 million—keeps the United States on schedule in our obligations to the organization.

The report accompanying the bill notes that "saving and improving the lives of children is one aspect of foreign assistance that has been shown to work. The committee believes that the administration should follow through next year in planning and requesting adequate funds so that the United States can be seen as a world leader in the cause of saving and improving the lives of children." As chairman of the Hunger Committee, I could not agree more.

Mr. FEIGHAN. Mr. Speaker, I want to commend my distinguished colleague and friend, MARY ROSE OAKAR, for her leadership in offering an amendment to H.R. 5114, the Foreign Operations Appropriations bill for fiscal year 1991. This amendment will provide $7.5 million in economic support funds for Lebanon. The House unanimously authorized the same amount for Lebanon in fiscal year 1990 and fiscal year 1991 as part of Chairman FASCELL's en bloc amendment.

We all know that the destruction and bloodshed in Lebanon continues. In a country with a population of almost 3.2 million—and 15 years of cruel, armed conflict—there are estimates that 150,000 have been killed and hundreds of thousands more wounded, left homeless, and in chronic dispair with no hope that they will ever have a normal future. Of those killed, 40,000 were children less than 15 years of age, and another 90,000 were the adult civilian relatives of these children.

During these tragic times in Labanon, United States aid provides valuable support and humanitarian assistance for the innocent civilians and children who have suffered the most. Homes, schools, hospitals, and the infrastructure have been destroyed with little hope that these symbols of possession and nationhood will ever be rebuilt or restored. This amendment would at least allow private voluntary organizations and educational institutions to carry out effective programs in humanitarian, relief, and rehabilitation services. These funds would also help provide portable electricity generators and portable water pumps for hospitals and family shelters and displacement centers destroyed by the recurring fighting.

These are only a few of the remedial steps that can be taken with this assistance to help alleviate some of the suffering and hardships while diplomatic efforts are under way to solve the political and military problems.

Mr. Chairman, since the Bush administration has recommended only $1 million in fiscal year 1991 for Lebanon, Lebanon will receive this amount, at most, but could receive a small portion due to general provisions funding in the House bill for economic support funds, disaster assistance, and development assistance. This Nation's assistance to Lebanon is an important symbol of support to the people of that beleaguered country letting them know that the United States has not forgotten their tragic plight.

There are more than 3 million Americans of Lebanese descent in the United States. In my district and throughout greater Cleveland, hundreds of my Lebanese constituents plead the case for the United States to use its influence to help restore peace in Lebanon. I support their determination to ensure that Lebanon remains a top priority on the Bush administration's foreign policy agenda. The least we can do now is support this amendment to provide $7.5 million in economic assistance funds to Lebanon.

Mr. McMILLAN of North Carolina. Mr. Chairman, today, we are like a drowning man in 30 feet of water who does not have the will to come up for air and sinks further with each passing moment.

The latest CBO numbers estimate a deficit of $159 billion in fiscal year 1990 without including the numbers from the RTC bailout of the savings and loans. That is $49 billion over the Gramm-Rudman-Hollings target of $110 billion.

The baseline deficit estimate for the fiscal year 1991 deficit is $162 billion before looking at the RTC numbers. That is $88 billion over the Gramm-Rudman-Hollings target for that year.

The projected baseline total outlays based on existing law plus inflation is $1,287 billion for 1991. It requires a reduction of 6.9 percent or $90 billion to achieve the Gramm-Rudman-Hollings target even before RTC funding. If you don't want to cut spending 6.9 percent, then you apparently want to increase taxes by close to 7.8 percent which is $88 billion bringing revenues up to $1.211 trillion.

This amendment offered by my colleague from Minnesota and myself is a bare minimum this House should to as a step toward rising up to the fresh air of a balanced budget. This amendment may save $300 million, peanuts when you are talking about what really needs to be done which is closer to $100 billion in deficit reduction.

I would suggest that if you are really serious about reducing the deficit according to Gramm-Rudman-Hollings targets without a full tax increase of 7.8 percent, then you are compelled to support this amendment to reduce federal outlays. If you don't, you should be ready to support higher taxes.

The American people have already started to blame Congress for being asleep at the wheel during the savings and loan crisis. The President showed his willingness to take political difficult steps yesterday whether some of us on this side like it or not. Let's give him and the American people some hope that there is still some semblance of leadership left in Congress.

Vote for this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Tennessee [Mr. CLEMENT] as a substitute for the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. TRAFICANT. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment, as modified, offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. ECKART, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, pursuant to House Resolution 425, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 308, nays 117, not voting 7, as follows:

[Roll No. 204]

YEAS—308

Ackerman	Dorgan (ND)	Jones (GA)
Anderson	Dornan (CA)	Jontz
Andrews	Douglas	Kanjorski
Annunzio	Downey	Kaptur
Anthony	Dreier	Kasich
Aspin	Durbin	Kennedy
Atkins	Dwyer	Kennelly
AuCoin	Dymally	Kildee
Bartlett	Dyson	Kleczka
Bateman	Eckart	Kolbe
Bates	Edwards (CA)	Kostmayer
Beilenson	Edwards (OK)	Kyl
Bentley	Emerson	LaFalce
Bereuter	Engel	Lagomarsino
Berman	Erdreich	Lancaster
Bevill	Espy	Lantos
Bilbray	Evans	Laughlin
Bliley	Fascell	Leach (IA)
Boehlert	Fawell	Leath (TX)
Boggs	Fazio	Lehman (CA)
Bonior	Feighan	Lehman (FL)
Borski	Fish	Lent
Bosco	Flake	Levin (MI)
Boucher	Flippo	Levine (CA)
Boxer	Foglietta	Lewis (GA)
Brennan	Ford (MI)	Lightfoot
Brooks	Ford (TN)	Lipinski
Broomfield	Frank	Long
Browder	Frenzel	Lowery (CA)
Brown (CA)	Frost	Lowey (NY)
Brown (CO)	Gallegly	Luken, Thomas
Bruce	Gallo	Lukens, Donald
Buechner	Gejdenson	Machtley
Burton	Gephardt	Madigan
Bustamante	Geren	Manton
Byron	Gillmor	Markey
Campbell (CA)	Gilman	Martin (NY)
Campbell (CO)	Gingrich	Martinez
Cardin	Glickman	Matsui
Carper	Gordon	Mavroules
Carr	Goss	McCloskey
Chandler	Grandy	McCrery
Chapman	Grant	McCurdy
Clarke	Gray	McDade
Clay	Green	McDermott
Clement	Gunderson	McEwen
Clinger	Hall (OH)	McGrath
Coble	Hamilton	McHugh
Coleman (MO)	Harris	McMillan (NC)
Coleman (TX)	Hastert	McMillen (MD)
Collins	Hatcher	McNulty
Condit	Hawkins	Mfume
Conte	Hayes (IL)	Michel
Conyers	Hefley	Miller (WA)
Cooper	Hertel	Mineta
Costello	Hiler	Moakley
Coughlin	Hoagland	Molinari
Courter	Hochbrueckner	Moody
Cox	Holloway	Morella
Coyne	Horton	Morrison (WA)
Darden	Houghton	Mrazek
Davis	Hoyer	Murtha
de la Garza	Hunter	Myers
DeFazio	Hutto	Nagle
Dellums	Hyde	Natcher
Derrick	Inhofe	Neal (MA)
DeWine	Ireland	Nowak
Dicks	Johnson (CT)	Oakar
Dingell	Johnson (SD)	Oberstar
Dixon	Johnston	Obey
Olin	Sabo	Stokes
Ortiz	Saiki	Studds
Owens (NY)	Sangmeister	Sundquist
Owens (UT)	Sarpalius	Swift
Pallone	Sawyer	Synar
Panetta	Saxton	Tallon
Parker	Schaefer	Thomas (CA)
Paxon	Scheuer	Thomas (GA)
Payne (NJ)	Schiff	Torres
Payne (VA)	Schneider	Torricelli
Pelosi	Schuette	Towns
Penny	Schumer	Traxler
Pickett	Serrano	Udall
Pickle	Sharp	Unsoeld
Porter	Shaw	Upton
Price	Shays	Vander Jagt
Pursell	Sikorski	Vento
Quillen	Sisisky	Visclosky
Rangel	Skaggs	Vucanovich
Ravenel	Skeen	Walsh
Regula	Skelton	Washington
Rhodes	Slaughter (NY)	Waxman
Richardson	Smith (FL)	Weber
Ridge	Smith (IA)	Weiss
Rinaldo	Smith (NJ)	Wheat
Ritter	Smith (TX)	Whitten
Roe	Smith (VT)	Wise
Rohrabacher	Smith, Denny (OR)	Wolf
Ros-Lehtinen	Solarz	Wolpe
Rose	Spratt	Wyden
Rostenkowski	Stallings	Yates
Rowland (CT)	Stenholm	Yatron
Rowland (GA)		Young (AK)

NAYS—117

Alexander	Jacobs	Roybal
Applegate	James	Russo
Archer	Jenkins	Savage
Armey	Jones (NC)	Schroeder
Baker	Kastenmeier	Sensenbrenner
Ballenger	Kolter	Shumway
Barnard	Lewis (CA)	Shuster
Barton	Lewis (FL)	Slattery
Bennett	Livingston	Slaughter (VA)
Bilirakis	Lloyd	Smith (NE)
Bryant	Marlenee	Smith, Robert (NH)
Bunning	Martin (IL)	Smith, Robert (OR)
Callahan	Mazzoli	Snowe
Combest	McCandless	Solomon
Craig	McCollum	Spence
Crane	Meyers	Staggers
Dannemeyer	Miller (CA)	Stangeland
DeLay	Miller (OH)	Stark
Dickinson	Mollohan	Stearns
Duncan	Montgomery	Stump
Early	Moorhead	Tanner
English	Murphy	Tauke
Fields	Neal (NC)	Tauzin
Gaydos	Nielson	Taylor
Gekas	Oxley	Thomas (WY)
Gibbons	Packard	Traficant
Gonzalez	Parris	Valentine
Goodling	Pashayan	Volkmer
Gradison	Patterson	Walgren
Guarini	Pease	Walker
Hammerschmidt	Perkins	Watkins
Hancock	Petri	Weldon
Hansen	Poshard	Whittaker
Hefner	Rahall	Williams
Henry	Ray	Wilson
Herger	Roberts	Wylie
Hopkins	Robinson	Young (FL)
Hubbard	Rogers	
Huckaby	Roth	
Hughes	Roukema	

NOT VOTING—7

Crockett	Hayes (LA)	Schulze
Donnelly	Morrison (CT)	
Hall (TX)	Nelson	

□ 1758

Mr. CRAIG changed his vote from "yea" to "nay."

Mrs. SAIKI and Mr. DERRICK changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 5114, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT 1991

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the Clerk be allowed to make technical changes, cross references, and citations in the engrossment of H.R. 5114, the bill just passed.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. OBEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 5114, and that I may be permitted to include charts, tables, and other materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcalls No. 200, No. 202, No. 203, and No. 204 and "nay" on rollcall No. 201.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall votes. Had I been here I would have voted in the following manner: "Aye" on rollcall 200; "nay" on rollcall 201; "aye" on rollcall 202; and "aye" on rollcall 204.

PERSONAL EXPLANATION

Mr. TALLON. Mr. Speaker, I was incorrectly recorded as having voted "no" on recorded vote 201.

I want it to be on the record that I fully support our Mexico City policy to withhold all funding to the International Planned Parenthood Federation and the United Nations Population Fund as long as these organizations promote abortion as a form of contraception.

I regret that due to mechanical or human error that my vote did not reflect my strong pro-life position on this amendment to the foreign operations appropriations bill. Thank you.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5158, DEPARTMENTS OF VETERANS AFFAIRS, HOUSING AND URBAN DEVELOPMENT, AND SUNDRY AGENCIES APPROPRIATIONS ACT, 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-564) on the resolution (H. Res. 426) waiving certain points of order during consideration of the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs, and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1990, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION CONFERENCE REPORT ON S. 933, AMERICANS WITH DISABILITIES ACT OF 1989, AND AGAINST ITS CONSIDERATION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-565) on the resolution (H. Res. 427) waiving certain points of order against the conference report on the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, and against its consideration, which was referred to the House Calendar and ordered to be printed.

NOTICE OF INTENT TO OFFER MOTION TO INSTRUCT CONFEREES ON S. 933, AMERICANS WITH DISABILITIES ACT OF 1989

Mr. DANNEMEYER. Mr. Speaker, pursuant to House rule XXVIII, section 1, clause (c), I hereby give notice that on Thursday, June 28, 1990, I intend to offer a motion to instruct conferees on the part of the House on the Senate bill, S. 933, and that they be instructed to insist on the amendment of the gentleman from Texas [Mr. CHAPMAN] which reads as follows:

(d) FOOD HANDLING JOBS.—It shall not be a violation of this Act for an employer to refuse to assign or continue to assign any employee with an infectious disease or communicable disease of public health significance to a job involving food handling, provided that the employer shall make reasonable accommodation that would offer an alternative employment opportunity for which the employee is qualified and for which the employee would sustain no economic damage.

NOTICE OF INTENT TO OFFER MOTION TO INSTRUCT CONFEREES ON S. 933, AMERICANS WITH DISABILITIES ACT OF 1989

Mr. CHAPMAN. Mr. Speaker, in accordance with House rule XXVIII, clause 1(c) pertaining to notice of intent to instruct conferees, I wish to give notice that I intend to offer a motion directing managers on the part of the House at the conference on S. 933, the Americans With Disabilities Act, to insist upon the retention of the provisions contained in section 103(d) of the House amendment, if the other body adopts a motion to recommit the conference agreement on S. 933 to conference. And I hereby offer the text of my motion in accordance with such rule, as follows:

Mr. CHAPMAN moves that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the House amendment to the bill, S. 933, be instructed to insist upon the provisions contained in section 103(d) of the House amendment.

PRESIDENT BUSH ABANDONS HIS NO NEW TAXES PLEDGE

(Mr. DONALD E. "BUZ" LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DONALD E. "BUZ" LUKENS. Mr. Speaker, it is not often that I cannot support a position taken by the President on taxes and spending. But I am stunned by his apparent abandonment of his no new taxes pledge.

The tax burden on the American people does not need to be increased. The spending habits of this body and the Senate need to be controlled. The elected Representatives of the House and Senate are more concerned with sending pork back home than they are with reducing the Federal deficit.

Mr. Speaker, tax revenues have increased by $80 billion the last 2 years. Has this money been used to reduce the deficit? Of course not.

I would like to submit, for the RECORD, an editorial in today's Washington Times that expresses my feelings toward the President's change of heart. I hope this administration and the Congress will control spending and not needlessly raise taxes.

READ OUR LIPS

President Bush said it yesterday, but in typical Washington fashion he dissembled: "It is clear to me," he said in a written statement, "that both the size of the deficit problem and the need for a package that can be enacted require all of the following: entitlement and mandatory program reform; tax revenue increases, growth incentives . . ."

Stop right there: "tax revenue increases." This phrase can mean one of two things. Either the president wants pro-growth tax cuts, such as a reduction in the capital gains tax, or he has gone off his nut and agreed to raise taxes. You can find confirmation of both views. Yesterday the stock market roared higher upon news of the president's statement, which also referred to "pro-growth measures"—viewed on Wall Street as an endorsement of a capital-gains cut. At the same time, however, congressional Democrats could be seen yelping and leaping in office halls and sun-drenched sidewalks. They figured the president had just broken his vow not to raise taxes and in the process had given away 15-20 seats in the House of Representatives.

Chances are, both sides are right. The president may have won a capital-gains cut in exchange for other tax increases. In so doing he would earn the esteem of the press and his political foes while garroting his political party.

But why would any administration commit political capital to solving the deficit, a problem about which people care little, by offering up a tax increase, which the public opposes vehemently? Calls to the White House in recent weeks have run 20-to-1 against tax hikes, and a Wirthlin poll released late last week indicated that a significant majority of the voting public would reject a congressional candidate if he or she had voted to increase taxes for whatever purpose.

This focus on the deficit, which helped the Republican Party lose dozens of elections between 1932 and 1980, makes as little sense economically as it does politically. Our national debt, including the deficit and interest on it, continues to shrink as a portion of our gross national product. It's just not that big a deal. Furthermore, a tax hike won't affect the biggest contributor to the deficit. The savings and loan mess grows because federal deposit insurance remains in place. Neither the president nor Congress has dared address deposit insurance, which means the debacle will continue to deepen. Banks meanwhile have been sent reeling by overzealous regulation in light of the S&L crisis.

If Congress really, honestly and truly wants to pare the deficit, it ought to do what normal people do. It ought to spend less. It ought to cut its own benefits—staff, franking, etc. It ought to wave good-bye to porkbarrel projects. It ought to subject social programs to ruthless scrutiny. No tax hike in U.S. history has reduced a deficit. Every tax hike has whetted congressional spending appetites. Yesterday's budget conference—which significantly excluded Republican leaders who oppose tax hikes—took place precisely because Congress lacked the discipline to follow its own rules and the White House lacked the will to enforce them.

The president, by playing the negotiate-in-the-back-room game, seems to place the demands of Democratic leadership above the desires of the American public. He also seems to have told Congress to keep on spending. Most administrations fall victim from time to time to vain pretensions that they can wipe away vexing social problems with a simple legislative master stroke, and most make themselves look meretricious and stupid in the process. The Bush administration's eagerness to strike a grand deal on the budget just may fall into this category, although no one can say for sure. If Mr. Bush wants to take the lead on budget reform, he ought to say what he means and mean what he says. As things stand, virtually everyone is trying to figure what yester-

day's statement means, and just about everybody is getting mad.

UPDATE ON RUSSIAN ASSISTANCE IN AFGHANISTAN AND SOVIET CLIENT-STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, I have taken out this 5 minutes this evening because I have been kind of sparked by the debate that we have had today on the foreign operations bill.

We have been talking about a wide number of spots in the world from Southeast Asia to Lord knows where. I think it is very interesting for us to underscore some developments which have taken place in some other rather interesting spots in the world just within the past several days. I would like to go on record, Mr. Speaker, first of all by extending a hearty congratulations to the administration for the very bold and dynamic steps that they have taken in dealing with the Soviets as we look at the very tragic situation in Afghanistan.

We know that Secretary Baker indicated just this past weekend that he would be bringing about a wide range of talks with Minister Shevardnadze. The goal, of course, is to bring to a successful conclusion this horrible decade-long war which has taken place in Afghanistan.

When we look at this situation, Mr. Speaker, it has been a very tragic one: 1.5 million people throughout the decade of the 1980's have lost their lives; fully a third of the population of Afghanistan, which before the war was 15 million, has been forced into refuge; 3.2 million in Pakistan, 1.8 million in Iran, a total of 5 million people.

That would be as if basically 70 million people in the United States were forced into refuge into Mexico and Canada.

So it has been a very, very difficult conflict. We are seeing nations throughout the world move toward democracy, and I hope very much that the talks which take place between Schvardnadze and Secretary Baker do bring about a peaceful resolution to that very, very tragic situation.

Going hand in hand with that, Mr. Speaker, I thought I would comment on another situation which I was not too pleased about, that also came about this past weekend.

Our Western Allies gave an indication, specifically Helmut Kohl in West Germany, that they would like to see a $20 billion aid package from the West to the Soviet Union. We know that is something that was debated very vigorously on the floor of the House. A couple of months ago one of our colleagues made a recommendation that we provide assistance to the Soviet Union. I cannot help but think that we are no closer to considering that today, or we should not be any closer to considering that today, than we were a couple of months ago when our colleague made that recommendation.

Now, as you look at this $20 billion package that has been called for, Mr. Speaker, I cannot help but think that the Soviets have the capability to come up with at least $17 billion of that very easily.

The $17 billion, of course, comes in the direct assistance, primarily military assistance, which they have been providing to Third World nations throughout the world, and actually client states other than Third World.

I mentioned a few moments ago Afghanistan; I think the very first and boldest step that can be taken is in dealing with the $4 billion per year that continues to flow into Afghanistan.

Mr. Speaker, $6 billion a year goes to Cuba, $2.5 billion a year goes to Vietnam, $1.5 billion has gone to Syria, $1 billion to North Korea and $1 billion to Libya, and $1 billion to Angola.

□ 1700

It is very clear that this $17 billion aid package would be the first step that the Soviets could take in providing this $200 billion aid package that has been discussed by our Western European allies. At most, if we want to consider a $3 billion aid package, that might be something that they should discuss. However, I hope that Chancellor Kohl and the other Western Europeans who are calling for this package of aid to the Soviet Union will look at the client state support that the Soviets continue to this day to offer.

One other item I would like to mention briefly, Mr. Speaker, I am one who joined with Members on both sides of the aisle in calling for very, very strong actions against the Chinese Government following the June 4 Tiananmen Square massacre that took place last year. I was among those who marched up to the Chinese Embassy with Ambassador Han Xu, and I am one who voted to override the President's veto of the Chinese student legislation last year. Mr. Speaker, what I would like to do is extend congratulations for this small but first important step, that being the release of Fang Lizhi, the dissident who had been seeking refuge in our Embassy in Beijing for the last year. We have a long way to go in the area of human rights in China, Mr. Speaker, but I believe this is a first step in light of the debate that took place today.

Mr. Speaker, I just wanted to speak about these three specific items that have been in the forefront of the last few days.

DEFENSE STRATEGY FOR THE FUTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, in this time of tight Federal budgets, dramatic moves toward democracy in Eastern Europe and the Soviet Union, and major alterations in United States security requirements, there is a parallel need for revising our national defense plan and force structure.

Using a dual basing plan which stations up to 90 percent U.S. military forces here at home, available deployment for crisis response and training is the most rational and affordable option available to us. For months, I have been discussing this option with defense officials and experts and with Members of Congress. And, I am a cosponsor with Congresswoman PAT SCHROEDER, chairwoman of the Subcommittee on Military Installations and Facilities of the Committee on Armed Services, of H.R. 4582, a bill which deals with dual basing.

On Sunday, June 24, 1990, the Washington Post, in its "Outlook" section, published an excellent, informed, and concise article on dual basing by Congresswoman SCHROEDER. I urge the Members of the House study this article, titled "Bring Our Troops Back Home—and Save a Few Billion," and make its text a part of the CONGRESSIONAL RECORD at this time.

BRING OUR TROOPS BACK HOME—AND SAVE A FEW BILLION

(By Pat Schroeder)

Entering the U.S. Army base at Mannheim is like going home. Driving through the gate, you leave behind the medieval architecture of a German city on the banks of the Rhine and enter Middle America. You find yourself in a small city that might be in Colorado, Ohio or Alabama, complete with supermarkets and split-level homes, swimming pools and schools, bowling alleys and barber shops, bars and barbecue pits, barking dogs and screaming kids.

American outposts like Mannheim made sense during the height of the Cold War, but they make little sense today. They are incredibly expensive, inflexible to changes in threat, and packed with support staff who can contribute little to fighting a war.

More than 400,000 American military personnel, along with their dependents, civilian employees and contractors, live in these little Knots Landings abroad. The largest number—a quarter of a million soldiers, 220,000 dependents and 125,000 civilians employees—are in Germany; others are stationed in England, Japan, Korea, Italy, the Philippines, Panama and a dozen more countries.

This basing pattern reflects a reality that no longer exists. The number of American troops stationed abroad should and will plummet over the next decade. In Europe, the number will drop from 325,000 to 50,000; in the Pacific from 110,000 to 40,000. Yet some in the Pentagon want to reduce troop levels without changing how they are based. This would be a mistake. Heavily armored

troops in a fixed position are the way of the past; Soviet tanks on the Central Plains of Europe no longer pose the greatest threat to our security. Rather we must be ready for the unexpected, with forces that are mobile and quickly deployable.

That's why dual basing is the best system for the future. Here's how it works. Only units that cannot perform their missions if based in the United States—like those engaged in intelligence collection, host-nation relations, maintenance of pre-positioned war materiel, and treaty verification—would be permanently based outside the United States. The number of these troops would likely be fewer than 20,000 worldwide.

All other units, including infantry, artillery, fighter aircraft and close air support, would be permanently based in the United States. On a rotation basis, units would be deployed forward for short-term assignments at bare-boned bases. The soldiers' families would remain here near relatives, schools, churches. Short-term deployments could be as brief as a month or as long as one year, as is now the case for unaccompanied tours in Korea. Heavy equipment, including tanks and planes, as well as ammunition, tents, radios, rations and the like would remain overseas.

Based in foreign countries would be provided by the host nation. If Germany is now willing to pony up $450 million for interim stationing of Soviet troops in East Germany, it should be willing to pay to keep up bare-bones deployment bases for us.

Dual basing occurred to me when I was being briefed on Air Force plans to relocate the F-16s of the 401st Tactical Fighter Wing from Torrejon, Spain, to a brand-new base at Crotone, Italy, at a cost of nearly $1 billion. The planes, pilots and crews of the 401st do not operate out of Torrejon and would not operate out of Crotone. Rather, they deploy to bases in Turkey and Italy to conduct their primary—if outdated—mission of striking dropping Warsaw Pact bases. Each squadron, and its associated personnel, is gone from Torrejon about four months a year. The 401st proves that dual basing works; but why is its home base in Europe? Even ignoring new construction costs, Air Force figures show that it is 16 percent cheaper to operate a wing here than abroad.

Dual basing should be our standard method of operation. The advantages would be enormous. Defense experts, both here and abroad, have long complained that American troops have long complained that American troops are long on tail and short on tooth. That is, we may have 325,000 troops in Europe, but many of them are civil engineers, cooks, drivers, budgeteers and others who are better suited to managing our extraterritorial American cities than to fighting a war. With dual basing, virtually all American troops abroad will be fighters. This means that 50,000 troops in a dual basing mode can provide as much deterrence in Europe as will 195,000 American troops (the number in the Central Region under NATO's conventional-arms limitation proposal) living in Middle American outposts.

Dual basing would also heighten readiness. Today, U.S. troops based here get ample training and regular exercise in air-to-air combat, tank maneuvers and the like. Troops stationed abroad get limited realistic training to minimize citizen complaints about noise, environmental damage and safety. In Germany, the restrictions are most severe. And except for a few special units, none of our troops get much training or exercise in rapid deployment. Dual basing, however, will force deployment exercises by its very nature.

In addition, dual basing is far less expensive than the current system. True, it would entail some added spending for airlift and sealift. But that would be more than offset by savings on base operating costs abroad. According to a Department of Defense report, the cost of our overseas commitment ran $27 billion in fiscal year 1990, excluding any costs for weapons.

In 1988, the United States spent $3.5 billion to construct and maintain bases overseas, $2.7 billion to hire foreign nationls, $1.5 billion for overseas cost-of-living differentials, $1.5 billion to move troops and $2.5 billion to operate overseas bases. Just to operate the overseas Department of Defense Dependents School program (DODDS) for 150,000 kids costs nearly $1 billion a year—only slightly less than the $1.3 billion we spent on Head Start last year.

Every month, the Pentagon flies 12,000 soldiers and another 10,000 dependents between the U.S. and Germany alone—enough to fill two 747s every day of the week except Sunday. It costs about $4,000 to relocate an enlisted soldier and family to Germany, and about $13,00 to relocate an officer. And once there, their dollars no longer buy what they used to: In 1987, a greenback was worth 3.5 marks; today, it's 1.6.

To meet the needs of American consumers at these bases, taxpayers spend a quarter of a billion dollars to transport goods to commissaries and post exchanges. Like bringing coals to Newcastle, U.S. taxpayers pay to ship beer to Germany. And we transport 432,000 cases of cat and dog food abroad each year to feed the pets of soldiers. In fact, the army even ships pet food to Korea, where soldiers are not allowed to take their pets.

The Defense Department ships 750 milion pounds of household goods overseas each year at a cost of about half a billion dollars. In 1989, the army sent nearly 50,000 service member's cars to Europe at a cost of $1,000 per car. Not infrequently, the cost of shipping exceeds the value of the vehicle. Each year, the Pentagon spends about the same amount of money to ship ammunition to overseas bases as it does to transport service members' cars.

Currently, troops are reassigned every two or three years to new bases This frenzied rotation schedule costs money and often means that no one ever becomes expert in his or her job. Having one-quarter of all U.S. troops stationed abroad is what drives this rotation. With many fewer troops assigned abroad, tour lengths can be extended to four or five years. At the same time, the less expensive forces of the National Guard and reserves can take over more jobs from the active forces. As a result, we will have higher-quality, more experienced staff.

Moreover, while dual basing would cut costs abroad, it would not require any new construction in the United States. We are now closing bases because of excess capacity. It would also eliminate a potential logistical nightmare; Were the Soviets ever to march through Europe or revolution to break out in the Philippines, we would be saddled with a horrendous problem of evacuating dependents. Not under dual basing.

Meanwhile, permanent overseas bases are getting harder to sustain. As the current Philippine negotiations show, some countries regard our bases as violations of sovereignty and extensions of colonialism. Many countries cannot, politically, allow us to maintain permanent bases on their soil. Where we are permitted, it is often because we pay through the nose. According to a 1987 Pentagon study, we are being held up to the tune of $2 billion a year in rental payments for bases disguised as foreign aid linked to foreign base rights. Now some in the Philippines are talking about raising their rental charge from $500 million to $2 billion a year.

Dual basing is a stable model for burden-sharing. Fair sharing of the common defense burden is more than an equal division of costs. It also means a regime whereby each partner provides what it can best offer. In Germany, for example, dual basing would mean that the Germans provide and maintain training areas, cantonment areas and storage facilities. We would provide the level of troops necessary to provide stability.

Though the world is changing fast, we remain the single benign superpower with global obligations. Threats can come from any direction and call for carefully calibrated responses. Who knows where we might want to deploy troops tomorrow? Dual basing pemits us to deal with these threats as they arise. It is not withdrawing from the world, but preparing for new world conditions. It means a stronger military at a lower price.

MAYOR RAY WILLAS INSPIRES GATHERING WITH D-DAY ADDRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I would like to call to the attention of my colleagues an address given recently by Mayor Ray Willas of Harwood Heights, IL, located in the 11th Congressional District of Illinois which I am privileged to represent.

Harwood Heights is a suburban community adjacent to the northwest side of Chicago, and Mayor Willas has compiled an outstanding record of achievement during 18 years of dedicated service as mayor of Harwood Heights.

Mayor Willas' address was given on June 6, 1990, the 46th anniversary of D-Day, which marked the beginning of the allied crusade in Normandy to liberate Western Europe. His address is entitled "The Last Thoughts of the First Man To Die on Normandy Beach," and describes the innermost feelings of a young trooper as he leaves his crowded troopship and dies on the Normandy beachhead.

In making these remarks, it was Mayor Willas' wish to describe for those too young to know or remember the heroism of our soldiers and sailors who served in World War II and helped make today's free Europe a possibility.

The full text of Mayor Willas' remarks follows:

THE LAST THOUGHTS OF THE FIRST MAN TO DIE ON NORMANDY BEACH

(By Mayor Ray Willas)

The ship rolled just as he was getting out of his bunk. The movement made his descent easier. He made his way through the maze of compartments to a passageway leading to the head. The mingled odor of human bodies aftershave, toothpaste, soap and deodorant was familiar. Four thousand men had been living aboard for the past 2 weeks and conditions were far from comfortable.

He decided to go top side for some fresh air. He passed his shipmates as he headed for the stern. Some laughing and joking,

some playing cards and craps, some writing letters and some just praying.

Glancing at his watch, he calculated Mom would be getting up soon; starting the chores of the day with breakfast. He wondered if they had any idea of the significance of this day.

He glanced around the ocean surrounding the ship and as far as the eye could pierce the darkness he could see ship after ship. Battlewagons, cruisers, destroyers, and hundred's of troopships. The greatest single armada gathered by man in the history of the world.

He took a series of deep breaths before going below and thought how clear and crisp the air felt. Upon reaching his bunk, he saw his last letter from his fiancee, Mary. He'd read it often enough to have it memorized. He smiled about the part she wrote complaining about rationing, how ration stamps and tokens for meat, butter and sugar were more valuable than money. Also how badly she needed nylons. But Mary agreed that if this all helped the war effort and got him home sooner, it was all worth it. He thought about getting home after this was all over and what their lives would be like.

Sitting on his bunk, he checked his M-1 Rifle for the 100th time. Pulling back the bolt and allowing it to come forward sharply. He knew his life would depend on this equipment. His thoughts once again crossed over the ocean to home.

Dad would be reading the morning paper and probably complaining about yesterday's Cubs' Pitching. Tommy, his younger brother would be just about ready for school. Was he in sixth or seventh grade now? He wasn't sure. When Tommy would find out about his part in today's operation he sure would be proud. His thoughts were interrupted by the blare of the PA System.

"NOW HEAR THIS" "NOW HEAR THIS" A message came from Supreme European Headquarters delivered to the troops by Eisenhower wishing them a safe victory and God Speed.

The PA system sounded again. This time the order was for all personnel to assemble at their assigned staging areas. Deembarkation was about to begin.

Standing with the others of his platoon, he silently made peace with his God and prayed for a successful operation.

As they descended on nets made of rope the landing craft bounced against the ship's hull making boarding difficult. He and 49 others occupied the L-ST. As the L-ST began to circle in the rough waters, lining up for the first wave of assault, he looked at the beach, and knew if he could make it that far he would be safe. The first wave of landing craft started in the direction of the beach.

The heavy guns of the battleships had been pounding the shores for more than an hour in an attempt to soften the landing. P-47 Thunderbolts strafed the beach without enemy air opposition. The landing craft approached the beach. 500 yards . . . 400 . . . 300 . . .

Suddenly the craft lurched to a stop. The front gate swung down hitting the water with a tremendous splash. The beach was 50 yards away. He plunged into the icy waters. A little deeper than he had expected. Moving forward the enemy fire increased. Then, in an instant, an electrifying shock possessed his body. A white flash blinded him. His body fell forward. Into the water just feet from the beach he tried to reach.

These were the last thoughts of the first man to die on the beaches of Normandy. June 6, 1944. 46 years ago today.

The significance of that day is more important today than it was 46 years ago. In light of the happenings of the past year in Europe, democracy and freedom are stronger than ever. These events could never take place without the supreme sacrifice of so many brave men. Before this day ends, lets all say a prayer for those who gave so that we lived free these past 46 years.

SDI DISCUSSIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. KYL] is recognized for 60 minutes.

Mr. KYL. Mr. Speaker, tonight I would like to address the subject of the strategic defense initiative, or SDI, or what some people have called star wars. It is a program that was first announced by President Reagan in March 1983 as a research program to determine whether or not this country could put into space and on our land a defense which would make it irrelevant for any enemy to try to launch ballistic missiles against the United States and thus deter such an attack.

As our colleague who just finished speaking, a lot has happened in the last few years. Some even say that the cold war is over. Be that as it may, the reason for my discussion this evening is to examine a threat that has arisen in the last few years that the SDI could address, and is yet another reason for the strategic defense initiative. I am specifically talking, Mr. Speaker, about the threat of either an accidental launch or a launch by a Third World country, or by some unstable element in the Soviet Union.

I would like to begin by reminding my colleagues of President Bush's recent comment about the strategic defense initiative, where he said, "In the 1990's SDI makes more sense than ever before." Why did the President say this? First of all, he said it on the occasion of his visit to Lawrence Livermore Laboratory developing a component of SDI called brilliant pebbles. Brilliant pebbles are the small satellites that would be orbited as part of a space-based component of SDI that have eyes that can see down onto Earth, and a computer brain, and therefore the ability to detect a launch from somewhere on Earth, and to determine whether or not that launch can be intercepted by each particular satellite. Upon a ground command these brilliant pebbles would be commanded to intercept such a missile and destroy it. When the President saw the brilliant pebbles demonstrated at Lawrence Livermore Laboratory, he recognized that the technology for SDI is now almost here. As a matter of fact, this year and next year are the critical tests to confirm that brilliant pebbles will indeed do what its developers and its inventories determined it can do and predicted it can do.

So the President was saying that the technology is essentially here now, and because the cost of brilliant pebbles is significantly less than the original estimates of the SDI Program, the President also understood that cost was no longer necessarily an obstacle for SDI, and therefore, the critical question boiled down to whether or not the United States had the political will to move forward with the program. So when he said it makes more sense now than ever before, the first thing he was talking about was the fact from a technical point of view it is almost here.

Now, there is another reason that it makes more sense now than ever before, and that is the fact that the threat from the Third World is an increasing threat in the 1990's and on into the next century. I will come to that in a moment, but there are 2 additional rationales for SDI. One borne out by the summit, which the President just conducted with President Gorbachev of the Soviet Union. That has to do with arms control. The strategic defense initiative is an essential component of our arms control policies in the future, and the reason is essentially this: because it is very difficult to verify the compliance with arms control agreements as we begin to get into areas like chemical warheads, for example, ALCOM's and SLIKCOM's, the air-based and submarine-launched missiles, and some of the other mobile missiles that would have to be the subject of any future arms control negotiation, because of the difficulties of verification we are going to have to have the confidence that we can enter into such agreements without fear that the other side would cheat in a way that would render such an agreement very detrimental to the United States.

□ 1820

Now, SDI gives us the confidence, the assurance, and indeed the insurance to be able to make arms control commitments with the understanding that even if another side did cheat, it would not make that much difference, because with the strategic defenses in orbit, we could still stop whatever any enemy might throw at us.

Let me give an illustration that I think makes the point. Let us say that you are a couple of cowboys on a dusty street in a cowboy movie and you are like the United States and the Soviet Union today; you both have a 6-gun with six chambers in it, and maybe you decided to cut back a little bit, so only five of the chambers have bullets in them, but one side decides to cheat, and so one of these gunslingers puts an extra bullet in the gun. So now he has got six, and you have got five.

Well, that amount of cheating does not really matter a whole lot in the overall scheme of things. But if we get down to a regime in the future where the number of warheads that we would have are much, much less than we have today, cheating matters a whole lot.

For example, the START negotiation was supposed to cut the number of warheads in half, from roughly 12,000 down to 6,000. The reality is it does not quite do that good, but let us say for a moment that we are at approximately the 6,000 level, and let us say that we decide to enter into the second round of negotiations called START II, which have actually been discussed, even though START I has not been signed yet. Under such a regime, we would try to cut in half again the number of warheads. Now we would be down to the area of about 3,000. Our experts tell us, if you get much below that, let us say down in the 2,000 range, you are at a level where a little bit of cheating makes a big, big difference, because then if you add 300 or 400 warheads, you have significantly altered the balance, given the fact that it takes maybe 5,000 or 6,000 warheads by both sides to cover all the targets they would want to cover against the opposition.

So cheating makes a lot of difference at the levels we are talking about. But with SDI, we can with great confidence still proceed with these arms negotiations and continue the process of limiting these dangerous, dangerous weapons that both sides have and thus reduce the possibility of a nuclear holocaust.

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. KYL. I am happy to yield to the gentleman from Wisconsin.

Mr. MOODY. How much would SDI cost?

Mr. KYL. It depends upon how much of a system we field. But let me give the gentleman just two different examples. Let us say we field the system that currently would meet the requirements of the Joint Chiefs.

Mr. MOODY. Is that the so-called point defense, where we defend missile installations instead of cities?

Mr. KYL. No, this would be a much more robust defense. That would be a defense which in the eyes of the Joint Chiefs would be adequate to deter an all-out Soviet attack. In other words, it is the most expensive, the most robust system, and it would include both ground- and space-based components.

Mr. MOODY. It would defense cities as well as installations?

Mr. KYL. It would defend cities as well as installations, that is correct. So the cost of that overall system would be in the neighborhood of $55 billion to $59 billion.

Mr. MOODY. Where do we get that kind of money?

Mr. KYL. Well, this would be deployed over a period of 10 to 12 years. And if you had a system which could protect against a threat which might be posed by a Third World country or an accidental threat or even a rogue commander in the Soviet Union, for example, which is the subject of my special order tonight, such a system, including space-based components, Brilliant Pebbles, would cost on the order of $10 billion.

Mr. MOODY. Mr. Speaker, will the gentleman yield further?

Mr. KYL. I am happy to yield to the gentleman from Wisconsin.

Mr. MOODY. I appreciate the gentleman's yielding.

What if a terrorist nation, let us say, a kind of madman from Syria or from some other country decided to bring a nuclear weapon in a diplomatic pouch—they are reducible to suitcase sized devices now—and he put it in Grand Central Station and set it to go off the next day; if a terrorist or a Third World nation, as opposed to some super power, had access to that kind of technology, Brilliant Pebbles would not do a thing to stop that, and that would probably be really the most terrifyingly scenario, unfortunately. So in that case, what would the $10 billion do for us?

Mr. KYL. I am happy to respond to that. First of all, that technology does not exist yet, but we assume that someday someboby will acquire the technology to actually develop a nuclear weapon that would be small enough to be brought in in different components and assembled in the United States, and perhaps it would present some kind of a threat like that. Let us assume that happens over the course of the next 5 to 10 years. Nothing we have, neither Brilliant Pebbles nor anything else that we have, neither Brilliant Pebbles nor anything that we have designed to try to stop such a terrorist threat, would stop that. As a matter of fact, it is virtually impossible to stop all the terrorist threats that we could imagine. However, that is not the most likely thing to occur with respect to these kinds of Third World Nations in the future, and let me explain what I mean by that.

Let me divide it into two different parts. First of all, let us talk about the ability of the United States to conduct its foreign policy. Let us say that we wanted to take action against another Manuel Noreiga. This is a good example because it has already happened. We went down there and we grabbed Noreiga after a while and brought democracy back to Panama. And there are other places in the world where we might have to conduct foreign policy in a similar way. If Noreiga had the kind of missiles that China currently produces and had either a chemical or biological warhead which today exists proliferation and perhaps in the future had a nuclear warhead, he could simply say to the United States in that kind of a situation: "Well, President Bush, I understand that you are looking to come down and take me over, take my country, grab me, whatever you want to do, but I am telling you that you had better not do it because I have 10, 20 or 30 of these missiles, and here is my bill of sale from the Chinese. I have got them, and if you take one step toward me, these missiles get launched at the United States."

That is the reason we need to have the kind of protection that SDI would provide, so we can say, "Manuel Noreiga of the future, take your best shot. We can stop you. You can't hurt us. You can't keep us from conducting our foreign policy the way we think we need to do it." In other words, we would prohibit the kind of blackmail that would result if these kinds of countries had that.

Let me just expand that to the Middle East, for example, because the kinds of countries that are acquiring this kind of technology are countries like this: India, Pakistan, Iran, Iraq, Syria, Israel and Libya. These are not the most stable countries in the world. Only a couple of these countries I indicated are really close allies of the United States. That is the tinderbox part of the world, and it seems pretty obvious that over the course of the next decade, if one of these countries decided to take a shot at one of the other countries and they had that kind of capability, we could quickly be brought into the kind of holocaust situation that we fear being dragged into.

But SDI again prohibits that. It says, "If you want to acquire these weapons and use them against U.S. facilities, U.S.-deployed facilities, or another country in the world, it is not going to do you any good because SDI can prevent them from being successful."

Mr. Speaker, does my colleague wish to respond to that?

Mr. MOODY. I thank the gentleman. I appreciate that.

Mr. KYL. I am happy to yield to the gentleman from Wisconsin.

Mr. MOODY. The gentleman seems to be saying several things. One is that SDI gives us the ability to invade a country for whatever the cause. In the case of Noreiga, the cause would be obviously far different than it might be in other cases. It gives us the ability to invade other countries with impunity. That seems to be sort of what the gentleman is saying, and it is an interesting proposition. I have never heard SDI sold on that ground before, but it is an interesting idea. It gives us the ability to invade another country without any kickback. It is sort of an

might-makes-right argument which we, I do not think, usually respect when we hear it coming out of the mouths of anyone but ourselves. So I do not feel very comfortable with that argument.

But the next thing the gentleman said caught my attention even more. He said that if India, Pakistan, or some other country may develop a nuclear capability and tried to hit each other with nuclear weapons, SDI could step in and stop it. That is sort of what the gentleman said.

Is the gentleman saying we would deploy SDI not only as an umbrella or a bubble over the United States but we would take it on our shoulders to be sort of the policeman for the whole world so we could pick out of the sky missiles that would be traveling between any pair of countries, so we would be sort of the world's policeman and would sort of encircle the whole globe with the SDI?

That is an interesting role for the United States, to be a policeman, which I do not think the American public is ready to assume, and I certainly would think that the price tag would go up astronomically from the $60 billion.

Mr. KYL. Mr. Speaker, if I may respond to that, first of all, the price tag is $10 billion. That is the cost of a system which would be required to employ enough Brilliant Pebbles to cover the entire world against an accidently launch, a rougue type of launch, or a launch that a Third World country would be capable of, at least in the near term.

Mr. MOODY. With $10 billion? We could do the whole world for $10 billion?

Mr. KYL. For $10 billion, that is correct. We could cover the entire world in that kind of an attack. Let us bear in mind this is not going to cover an attack of 5,000 warheads launched from the Soviet Union. I am talking about a limited system or, as it is called, a minimum protection system.

Let me respond further to the gentleman's points. It is not my suggestion that the United States should become the policeman of the world. What I said was that the United States has deployed forces all over the world. We have deployed forces in the Mediterranean, in the Middle East, and we have bases in the country of Italy. We have NATO allies that are in that immediate vacinity, and we have allies in the state of Israel, for example, which might require us to be drawn into a conflict of this sort.

For example, suppose that Israel's enemy should decide to begin launching these kinds of missiles at the state of Israel, and the state of Israel said, "Look, we are not asking the United States to send troops, soldiers, men, to come over here and die in a battle that is being fought on Middle East sands against belligerents in this part of the world, but as long as you have those Brilliant Pebbles up there, would you make it irrelevant for any enemy to attack us with those kinds on missiles which have chemical warheads on them, for example?"

□ 1830

Mr. Speaker, the threat is not one which could be described as fanciful because Saddam Husayn has already said that, should he be engaged in that kind of conflict with the state of Israel, that he would not hesitate a moment to use chemical warheads, as has already been done in other Middle East conflicts, including by the country of Iraq.

Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Speaker, the gentleman is confirming the point that one of the rationales for Star Wars then would be to prevent police conflicts between other countries.

Mr. KYL. A potential use of a minimum protection system would be to enable us to conduct a foreign policy which protected our forward deployed forces and our allies from attacks by others, yes.

Mr. MOODY. We do not have forward deployed forces in India, or Pakistan or any of the countries that I think the gentleman from Arizona [Mr. KYL] mentioned were hot spots. We do not have any troops in Israel, or we have no troops in Pakistan.

Mr. KYL. No, I indicated precisely that we have forward deployed troops in the Mediterranean, we have air bases in Italy, and I just might indicate that we are not talking about a threat that is purely fanciful here.

During the time of the raid on Libya, the country of Libya launched, and I will be a little careful about what I say here, but they did launch a certain number of missiles against a United States facility over the coast of Italy. Fortunately they were not very good shots, and those were rather primitive missiles, but the missiles they are requiring right now are much, much better as the Chinese are beginning to manufacture these in very large numbers and sell them around the world.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I am running very late to a prior engagement, or some family members are waiting for me, but I am drawn into this, and I appreciate the gentleman from Arizona [Mr. KYL] for taking this special order.

Mr. Speaker, I think the questions of the distinguished gentleman from Arizona [Mr. KYL] are very thoughtful, and it is a new era, but I just wanted to add some thoughts to this because we have an anniversary coming up; that is, one of the most important battles ever fought in the history of western civilization. It is the first major air battle and the major air battle of the entire Second World War, the Battle of Britain. Its dates are July 10 to October 31, which was sort of an arbitrary cutoff date of the munition activity by the Luftwaffe, and we are coming up on the 50th anniversary starting in just a few days, 13 days from now. The central day, when most of the memorial services will be held, for what is called Battle of Britain Day is September 15, which will be the 50th anniversary of the maximum effort of the Luftwaffe, and, when they shifted, and it was a great strategic error which cost them the battle, they shifted the vengeance raids on London instead of crushing the remaining RAF fighter bases which they had reeling from one blow after another.

Mr. Chairman, I went over to London this weekend for 2 days preparing to help in some way this September for this 50th anniversary, and I am reading my sixth book on the Battle of Britain, and a lot of things that many of us had researched for the 50th anniversary of Munich a year and a half ago that our former colleague, Cabinet officer now, Jack Kemp, shared in, I kept feeling this deja vu of the thirties of Great Britain and the debates in the parliament. Well, there is a new book out by two fine British historians, one of them, the principal historian of the RAF, and he uses the term in the 1935-36 context of defensive defense.

It was the attitude of the war office and the Admiralty, the two principal British agencies that were trying to reabsorb the RAF. I had always thought the RAF was sacrosanct since April 1, 1918, World War I, and that we patterned our Air Force out of it much later, in 1947. But it was in danger of elimination all during the twenties, and this is why they called the senior chief of staff of the RAF, General Trenchard, the father of the RAF because he protected it from 1929.

So, Mr. Speaker, here is this constant term hitting me. I am writing it in the margin to show the gentleman from Arizona [Mr. KYL], which I will tomorrow, "defensive defense," and what the war office kept saying was, "There is only one way to defend Great Britain: Offense." And there are the words in quotes. "Offensive strategy is the only defense," the only defense, and those of us who defend strategic defense or the initative, SDI, know that this is not true, and it was not true in Great Britain. There were maybe a series of 20 or more individual decisions that, if each one had not been made in 1934, 1935, 1936, 1937, as late as 1938, on building Hurricanes, building Spitfires, developing radar under a young Scottish scientist,

Robert Watson-Watt, that if they have the balloon corps, the redevelopment of the observer corps, which had all been shut down in 1918 after it had been developed, a whole lot of zeppelin attacks and gas bomber attacks—incredible how they had to reinvent the wheel, develop the defensive defense, and it saved Great Britain in the Battle of Britain in 1940.

Mr. Speaker, the gentleman from Arizona [Mr. KYL] has provocative, but very thoughtful, questions about policeman of the world. Under Thomas Jefferson we made our first policeman of the world move to wipe out pirates in the Mediterranean who were raiding all ship nations, and we played the role of a policeman. Our role is much better remembered in history when what we do is take warring parties to the negotiating table. One of our most vigorous Presidents, our youngest ever who retired at age 50, Teddy Roosevelt, had a Nobel Prize that sits over three in the Executive Office, old Executive Office Building, because he brought the Soviet Union and the Japanese together at Portsmouth, NH, and he won the Nobel Prize for his efforts to stop that war. But what better way to stop a war than to say without favoritism to either side, we stopped this missile from Iraq, we stopped that missile from Iran, and I can assure my colleagues, if they were poison gas missiles, and I was just getting a briefing today on saran, on mustard gas, much more powerful than World War II, on cyanide gas, nerve gas, all used in Halabjah, in Iraq, and now the evidence seems to be that the Iranians were using the cyanide. If we could have stopped that use of weapons that turned Halabjah into about a ghost town, why would a decent, moral country with the power, the ability to do that, do that?

But I keep coming back to what I think the No. 1 targeted country of the world is, and they are not only an ally, formally, as of the last few years, informally for 40 years, and it is Israel. Israel is that country, and it will not be Jerusalem, respected as a holy city by three of the world's major religions, but it will be a commercial city, probably not Tel Aviv because it is too close to Jerusalem. Winds could destroy a holy city. The most targeted city or endangered city in the world to me is the port city of Haifa, and, if the United States of America has the capability to reach out and stop a single, or 6 or 10 missiles, I do not care if it is built by Communist China or smuggled out of some Moslem republic in south central Siberia, if we could stop the destruction of every man, woman, baby, and senior citizen in Haifa, I would say this Congress would vote unanimously to stop that missile, block it, destroy it.

Mr. KYL. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. MOODY] for a moment, and then I want to make a couple of comments about the fine comments of the gentleman from California [Mr. DORNAN].

Mr. MOODY. Mr. Speaker, it was a very inspiring story about the Battle of Britain, and all of us are inspired whenever we revisit that history, but the gentleman says the best defense was an offense. I do not think the SDI has been sold as an offense.

Mr. DORNAN of California. What I am saying is that was the British war office's theory. They did not want to waste money on fighters. They wanted to build up bomber command, which took serious cuts in 1935 or did not get its portion of the budget so they could build more Hurricanes and Spitfires, that what some people were saying is that we had better be ready for defense here and worry about strategic offense if we survive the defense.

Mr. MOODY. Let me just say that I was just halfway into my thought. Can I just finish this up?

Nuclear warfare is so different from conventional warfare. It is very, I think, dangerous to try to make analogies. A few bombers can be let through in conventional warfare, and still win the war. We cannot let a few missiles get through, which I think is the point of the gentleman from California [Mr. DORNAN] and still win the war. There are so many differences between conventional and nuclear warfare, and I am not sure the Battle of Britain gives us enough insight.

Mr. KYL. Mr. Speaker, let me just reclaim my time on that point because I want to compliment the gentleman from California [Mr. DORNAN] for making a point that specifically relates to history lessons learned.

I had dinner with Dr. Edward Teller not too long ago, and he told me the last greatest wish that he had was that we develop SDI, and one of the reasons is because he went back to World War II and recalled the same lesson that my colleague, the gentleman from California [Mr. DORNAN], has just recalled, namely that, when we had the ability to focus on defense, the leaders at that time simply were too short-sighted to understand what could be accomplished by that, were too focused on offense, and so they ignored that, went forward with offense, and the result was literally thousands and tens of thousands of lost lives and probably a prolonged war.

□ 1840

Ultimately what helped us was the development of radar and the very gallant fight that was carried on in the so-called Battle of Britain by a defensive weapon, the RAF fighter plane that was able to stop the Luftwaffe.

What Dr. Teller said to me was that throughout history there have been ebbs and flows of offensive weapons having dominant and then defensive weapons having the dominance. It is his considered opinion, this brilliant scientist who studied this issue, who has made his life's work this issue, that we are in a time when the defense will dominate if we will continue with the technology to develop that defense, and there are a variety of reasons. They include the size, the miniaturization of the computers, for example; speed, the ability to locate in space and therefore to intercept at literally speeds which cannot possibly be achieved here in the Earth's atmosphere, and cost, because at the margins something like a brilliant pebble which may cost half a million dollars, for example, is so cheap when compared with the cost of building more missiles that you simply cannot overwhelm the system by building more and more of the offense. So it was his view that we should not repeat the mistake of the British before World War II, that we should in effect build our radar, which in this age is the SDI so that we can detect and stop the enemy missiles.

The missile is the weapon of choice today. We saw that in the battle between Iraq and Iran. They are cheap. They do not require any manpower and they have horrible destructive force. It is credited with having brought Iran to the bargaining table in this conflict with Iran.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield, and then I will give the distinguished gentleman from Wisconsin the last word.

Mr. KYL. I yield to the gentleman from California.

Mr. DORNAN of California. On your desks tomorrow I am going to have Xeroxed, because I do not know how to get this book, "The Battle of Britain" by Howe and Richards. I will Xerox one chapter. This is all the prolog to the buildup of the battle. The title of the chapter is a quote out of the mouth of a Tory Conservative, Prime Minister Stanley Baldwin. He was succeeded by Chamberlain and then by Churchill. Baldwin says, and here is the title of the chapter, "The Bombers Will Always Get Through."

The last line in that chapter is, "The bombers will not always get through."

The point was some got through, a lot got through, but not enough to destroy Britain.

The gentleman is right in this horror of the difference between nuclear weapons, that we never should have talked about conventional nuclear field weapons. Goldwater got himself in a rut that he never got out of, a distinguished colleague of ours and I admire him, but in the 1964 campaign he said that in a tactical battle, with nuclear weapons, there is no difference except in explosive power.

No, it moves into a different area of destruction, like poison gas, which brings in a human factor here.

What we are going to is this all-important word and we are trying to add an adjective in front of it called enhanced deterrent.

Today we are still trying to avoid nuclear weapons, that the very power, if you let the enemy planners know that all the bombers will not get through, that Prime Minister Stanley Baldwin was incorrect, and thank God wiser people rejected his advice and went for a defensive defense and worried about offense after Great Britain survived this key battle, that this chapter is I think perfectly, really, in spite of this horror of nuclear weapons, applicable to the mixed defense that we come up with today of defensive defense and offense and saying to any adversary, "All your bombers will not get through. As a matter of fact, you better rethink your whole equation."

When it comes to a single terror weapon, 1 nuclear bomb or 6 or 10, you can truly say with what has been developed in SDI that none of your terror bombing devices will get through, none of them.

I think that will bring peace in some conflicts in the future.

Just one final thought. This Congressman was observing, and the tension is building in Kashmir right now between Pakistan and India, and we have friends on both sides, if one side or the other, I say this with impunity, were to decide there was some tactical advantage to be gained, and what I am taught by wise men today is what they would do is start a conflict, hoping the world would immediately rush in and stop them from destroying one another, but if they could get some tactical, if not a strategic advantage, out of a quick exchange, that they would win and then the world stops them.

I would say that is the insane reasoning, and we stop your missiles right now.

This hand comes down and crushes them and then they rethink that position.

I have got to go. The gentleman from Wisconsin will get the last word. I am going to read the record and I will have that chapter on your desks in the morning.

Mr. MOODY. Mr. Speaker, if the gentleman will yield further, I hope the gentleman from California will not leave. I have a point. Let me respond.

If we analogized to England which was weak, alone and an isolated nation in the face of enormous military machinery called the Nazi war machine and you say that is our position today, then you have a point; but that is not our position today. We are enormously powerful. We are the most powerful Nation on earth, in my judgment, militarily as well as any other way. To analogize to a weak and isolated English island is very much to miss the point.

Mr. KYL. Well, I would just ask my colleague this question——

Mr. MOODY. Mr. Speaker, if the gentleman will yield further, let me finish a couple points that go together.

To move from that to India and Pakistan is another leap of faith which I think is totally illogical. What brought Nazi Germany to its knees was not the Spitfire, but it was the overwhelming might of the United States and the allied armies.

Mr. KYL. Well, I want to reclaim my time, because I disagree with the gentleman here. What ended the Battle of Britain was the superiority of the RAF fighters over the Luftwaffe and their ability to prevent enough bombers from getting through that the German high command finally decided that the losses were too great and they decided in effect to call the battle off.

Mr. MOODY. But we are not in that position.

Mr. KYL. But the war, the ultimate war was won when the United States came into the battle with our overwhelming superiority of material and men and all of that.

What my colleague was talking about, and the only purpose of the analogy here was to make the point that this is a case where originally they thought that offense would win it, and what they found out was that defense was what ultimately won that battle for them.

Mr. Speaker, I am happy to yield further to the gentleman from Wisconsin.

Mr. MOODY. I am sorry if I jumped in.

I merely am saying that we are not in an analogous position as England was at the start of World War II, totally different. The Soviet Union is the country that is more and more isolated and less powerful militarily and not the United States. We are not in England's position, No. 1.

No. 2, if a terrorist wanted to attack the United States with a nuclear weapon or set off a nuclear device in the United States, intercontinental ballistic missiles would not be the cheapest or easiest way to do so. It would be very easy with current technology to find out where they came from and go back and totally annihilate the nation that did it.

Mr. KYL. As I told my colleague, there is almost nothing that any nation can do if somebody is intent enough on engaging in some horrible act of terrorism, and in the future that may even include chemical, biological or even nuclear, but that misses the point.

Mr. MOODY. The gentleman says it would be the weapon of choice. It would not be the weapon of choice. It would be an illogical weapon. A more logical weapon would be to put something in a small package and bring it in.

Mr. KYL. Let me reclaim my time.

The point is this. We would be precluded from engaging in a foreign policy which give us the maximum option, the freedom of action that we have always tried to maintain. If we do not have the capability of stopping these missiles, which CIA Director Webster says will be acquired by the end of the century by 15 Third World countries, six of those will have intercontinental ballistic missile capability and six of them will have nuclear capability.

Now, it is, of course, the case that we may never be able to guarantee that some terrorist cannot do something to us. The fact that we have not figured out how to stop every single kind of terrorism does not detract from the desirability of having a deterrent. We certainly do not eliminate all our armed forces. We do not eliminate all our Navy. We do not eliminate all our Air Force and we do not eliminate our Marines simply because a terrorist can come into this country. There is a purpose for all these forces, and the purpose of SDI is not to deal with that single terrorist threat, but rather to enable us to conduct our foreign policy in such a way that no nation can blackmail us, no nation can say that unless you do what we want we are going to launch a missile against you. It is a lot different for them to say we might figure out a way over the course of the next 3 or 4 years to smuggle something into your country and maybe blow somebody up. That is not a whole lot of a threat.

□ 1850

But if they say, "Here is our bill of sale for 30 missiles. You know we have got them. Your intelligence shows that, and we are not afraid to launch them against you," it would sure be nice to have SDI up there to say, "Take your best shot. It is not going to work."

Mr. MOODY. If the gentleman would yield further, that would be a pretty risky strategy, because nothing is foolproof. Nothing is 100 percent. If only one of those nuclear missiles got through, it would change civilization.

Mr. KYL. Reclaiming my time, if I could just make this point, obviously we do not want to be hostage to a situation where even one missile getting through prohibits us from acting in our best interest the way we want to act. That is why we need a defense that is, if not absolutely foolproof in the sense of providing minimum or limited protection, at least pretty darn foolproof. If we have nothing, then we have absolutely no capability, and we

are vulnerable to this kind of blackmail.

Mr. MOODY. If the gentleman will yield, in nuclear war you cannot be, if I can say, and pardon the expression, a little bit pregnant. You have to stop all nuclear weapons, or forget it.

Mr. KYL. Let me reclaim my time, because the gentleman has changed from providing minimum or limited protection to a nuclear war. We are dealing with two totally different situations. We are not talking about nuclear war here, where we are trying to prevent every missile getting through. What I am trying to focus on tonight is the threat from Third World countries, or from an unstable Soviet Union, which I have not had the time to talk about yet here this evening, and I do want to address, or an accidental launch, which it is believed a minimum SDI deployment would protect us against 100 percent. Depending on how much of it you deploy, you can provide that 100 percent protection.

Now, if the gentleman is saying over the course of 50 years if we have such a system and various people try to challenge it in various ways over those years and many different missiles are launched, and so on, is it possible at some time one of them might get through, of course. Nobody can predict with absolute certainty that will not happen.

Think of the millions of lives that perhaps would be saved and the way our foreign policy could be enhanced if we can conduct it knowing that we have a system which protects us, if not 100 percent, at least close to that, from missiles getting through.

I would be happy to yield again.

Mr. MOODY. The gentleman has me at a disadvantage because I start to develop a point and then he reclaims the time, so I do not get to the sequence.

There is not a lot of point, it seems to me, in having a system that is pretty good against missiles, as the gentleman says, when he talks cavalierly about "Take your best shot" and endangering millions of lives, when in fact no system is 100 percent. We need to avoid that kind of dark scenario, where we get into that kind of confrontation with people.

Mr. KYL. Are the facilities that we have at our airports to try to detect weapons 100 percent error free, I would ask my colleague? No, of course they are not. Yet there is still utility in having them. Are laws against violating crimes absolutely irrelevant because sometimes crimes get committed anyway? No.

Absolute certainty in this world is something I know of no one achieving. Yet we try to achieve a policy, a goal, by doing the very best we can. And if we have something, which as in the case of a limited protection system, makes it clear to a potential adversary that their chances of succeeding are so small it is not worth trying, then I submit that the deterrence that my colleague, the gentleman from California [Mr. DORNAN], talked about would work.

I would be happy to yield again.

Mr. MOODY. I am happy to act as a straight man to the questions. I tried to answer your question and you answered it for me.

No, we know that law enforcement is not 100 percent perfect. We know that conventional weaponry is not 100 percent perfect. But as the gentleman from California [Mr. DORNAN] agreed with me a few minutes ago, there is something very different about nuclear weaponry defense or offense. It has to be totally certain, or it is no good at all. You cannot let one missile in. It would destroy Washington in a snap of the fingers, or destroy Detroit, or any other city.

You cannot let any missiles in, which means we need a world order which depends on not getting down to the last countdown when they are taking their best shot and we say go ahead, take your best shot. That means a lot more international cooperation in a lot more arenas, including nonproliferation, which I wish we were working harder on.

Mr. KYL. Let me address that point. What I said earlier, I am not sure I arrived at, one of the reasons why our arms negotiators are so strongly in favor of SDI, why they want it, is it provides the assurance to them we can continue to build down the number of horrible warheads. The gentleman and I agree it is important for us to continue to reduce these horrible weapons so that both sides reduce them down to very low levels. In order to do that, our arms negotiators need the confidence that there is a system to take the place, in effect, to solve the risk problem of cheating that would be inherent in reducing weapons to low numbers, and thus achieve a balance between offensive and defensive weapons.

Now to the point my colleague makes, and this is a fundamental point, it is not necessary for SDI or any other system that we have be 100 percent perfect. It is not necessary, as my colleague said, that if one missile gets through the system has failed.

As a matter of fact, in defense planning, the whole idea of defense is that you have complicated the enemy's defense planning to such an extent, not that you have destroyed it by 100 percent, but you have injected enough uncertainty into its plans that he would be foolish to launch that attack because he cannot have a high enough percentage of guarantee of success to permit him to logically proceed.

That is why the Joint Chiefs' statement with respect to a robust SDI system that would relate to a potential enemy like the Soviet Union has always said if SDI can destroy a certain percentage, and we are not at liberty to discuss that here tonight, Mr. Speaker, but a certain percentage of those missiles that would be launched, that percentage is enough to convince a rational defense planner on the other side that he might as well not proceed because he cannot succeed in the end. If enough of his forces are destroyed up front, it does not matter that one or two or even 10 maybe got through. He cannot succeed in his attack. So he will never attack in the first place.

That is why it is deterrence. It is the same kind of deterrence that we have today, although not as effective, I would argue today, with an offensive capability. We do not ever want to launch our offensive capability against another country including the Soviet Union. But that is the sole deterrence that we have today.

Today would any missile get through if a Soviet planner decided to attack the United States? Yes. Not only would any of them get through, all of them would get through, because we have no defense today.

We are not saying that a defense has to be perfect. The defense we have today is not only not perfect, it does not protect us from a single missile. We rely instead on the idea of deterrence, that a rational person is on the other side and he says if he launches against us, we will still have enough left over that we could launch against him that will so destroy him that he cannot succeed at the end of that war, so he does not start it in the first place. That is what deterrence is.

SDI adds to that deterrence by making it even more difficult for such an enemy to succeed.

Mr. MOODY. If the gentleman would yield, we were discussing protecting against a rouge launch or a terrorist. Now the gentleman has switched to a rational major opponent like the Soviet Union. We did not really nail the other one down. I do not think the gentleman has answered my points that a rogue or a terrorist attempt to intimidate or blackmail the United States would almost always find it cheaper and easier to use simple technology of bringing an atomic weapon into the United States by barge, by courier pouch, and by assembling it, or a number of other ways. We cannot even prevent tons and tons of marijuana from coming in and cocaine from coming in across our borders. We certainly could not prevent 100 pounds of equipment from coming in.

A rogue destroyer would always find it much easier to do it that way, if that is their goal, than to launch an intercontinental ballistic missile. I do

not think that argument was answered.

But the gentleman switched to the Soviet Union or a well-organized, powerful, and rationally acting opponent. Yes, it is true that if we had SDI it would make it less likely that such an attack would come from that kind of an opponent. I grant you that.

I would ask the gentleman two things: what would the margin of deterrence be relative to the cost, and you have admitted it would be up to nearly $60 billion. I assume before the end of the night the gentleman will explain whether or not you support tax increases to pay for that, because if you do not want to raise taxes to pay for it, then I would like to know where it would come from, since we have been cutting most of the investment accounts in the budget and are still running a huge deficit.

If the gentleman decides to do that, yes, you do get I would say a slight margin of increased protection, but some. And the gentleman is right there. Would the cost be worth the benefit? I do not think so, because it is already overwhelmingly illogical for the Soviet Union to attack us because of the triad, because we have bombers, we have nuclear submarines that are better than any SDI since they are undetectable, they surface and launch, totally destroying the Soviet Union. It would be incredibly irrational already for the Soviet Union to start anything, and they know that. That is why they are suing for a reduction in arms, just as we want them to come down, because it would be totally irrational for either side.

So you really have not altered in any significant way the sort of mutual insured destruction [MID] balance of terror that has been with us for quite some while, except we as this Congress has funded and again and again done thing after thing to enhance the triad and its survivability. Nuclear submarines are one obvious one, but so is the bomber force, and so is the ICBM's pointed at the Soviet Union.

□ 1900

When the gentleman says Soviet missiles coming in would have no stoppage, that they would all come in, that is true, but they would be the last thing the Soviet Union did because we would blast it off the face of the Earth, with or without SDI. So it would be irrational to do with SDI or without SDI.

Is it worth the $60 billion, and are we willing to raise taxes to pay for it? That is the question the public must consider.

Mr. KYL. If I can reclaim my time, my colleague raised several very good questions. Before I run out of paper, let me respond, and then I am happy to engage in further debate.

First of all to the point, is it worth it, again we are talking about two different systems, and we are right to try to divide the issue. With regard to the overall robust system that would deter the Soviet Union from attacking under the Joint Chiefs of Staff requirements, we are talking about a system that would cost approximately $55 billion. That is the system that would provide enhanced deterrence, as my colleague agreed. We may simply disagree about the degree of that enhanced deterrent and whether it is worth the cost.

But with respect to the minimum protection provided by a $10 billion investment, a protection that would be provided to all of the continental United States as well as covering all the rest of the Earth except for just a couple of points because of the orbits of satellites, the cost of that is about $10 billion. If we apply that cost to the number of people in the United States, it comes out I think, by my calculation, to about $40 for every man, woman, and child in the United States, and that does not even count all of the other people in the world that might be protected by the system. It is a one-time cost.

I would ask my colleagues, Mr. Speaker, is it worth $40 paid out one time for every man, woman, and child in the country to have an absolute protection against the kind of threat that might come from a third world country that is going to acquire that kind of technology, or against an accidental launch coming from the Soviet Union, for example, or one of these inexperienced third world countries, or by a rogue commander in the Soviet Union, which is an increasing concern because of the perceived breakup of parts of the Soviet Union, some areas of which contain these kinds of weapons? I do not think that is too high a price to pay.

I would love to be engaged in a debate as to what the level of price is that it is worth to pay to protect the people of the United States, and I do not think $40 for every man, woman, and child is that high of a price to pay.

My colleague also said, and it is an interesting idea, that we would become the policemen of the world. Nobody is talking about becoming the policemen of the world. But our colleague from California made the point when he said if we could be in a position to prevent whatever country it is that would launch these chemical warheads against the Port of Haifa, or some other city in Israel, for example, would we not want to do that? As a matter of fact, would we not even be willing to pay a fraction of that $10 billion to be able to provide that kind of protection? Mr. Speaker, I would even be willing to pay a significant percentage of that cost to protect the Soviet Union from such an attack, because it does not seem to me that it is civilized in this time when we are almost ready to move into the third millenium for any country in the world to have power to threaten others or to actually use these weapons like chemical and biological weapons against others, not to mention nuclear weapons. And if the United States had the capability of preventing those weapons from being effective, even though I do not think we would march around the world as the world's policemen, we could certainly present ourselves as a strong, moral force in this world against the use of such weapons. And if we could prevent the deaths of tens or hundreds of people or the misery created by the effects of these weapons over the course of the next several decades, I think it is a price that Americans would be willing to pay, because it would provide security for Americans, and maybe even some protection for people in some other parts of the world.

Therefore, I would answer my colleague when he says would we be the policemen of the world, no. But would it not be nice to have the ability to stop these kinds of horrible weapons?

My colleague also asked the question: Do we not already have enough weapons to provide a sufficient deterrent against the Soviet Union? This is the last point that I would make in deviation from what I primarily came here to talk about tonight, but that is that the Soviet Union still maintains the largest force of nuclear weapons in the world today, and it is a force that is getting larger and more modern, not smaller and older, unlike the force in the United States. That is why the United States wants to engage in arms control.

The Soviets last year deployed 140 new warheads or new missiles, I should say, and the United States 12. The Soviet Union is modernizing its force. It has a missile called the SS-18, MOD 5, which is so big that the United States has nothing even remotely close to it, and they are going to add the MOD 6 and perhaps the MOD 7 following that, a giant weapon with up to 14 warheads that it can carry, and we have nothing comparable.

The Soviet Union has developed two mobile missiles, and the United States has not mobilized any of our missiles. They have one on rail and they have one on trucks, and they are deploying these, and they are difficult for the United States to deal with because we cannot find them. The United States debates about whether we will develop a mobile missile for trucks, and it refuses to put our MX or Peacekeeper missile on railroad cars so it can be dis-

persed and be secure from attack in times of difficulty.

So, Mr. Speaker, the United States is not modernizing our missile forces in the hopes, I presume, that we will be able to reduce them through the START negotiations. But the Soviet Union continues to do so. And because we have to, as responsible people in the Government, have got to have the ability, have got to prepare our Government to provide for the defense, to have the ability to deter an attack by these weapons, we cannot simply be guided by expressed intentions today, because if the last year has taught us anything, it is that the world situation changes rapidly. We do not know whether Mikhail Gorbachev is going to be President of the Soviet Union next year any more than we know whether any of us are going to be here. His future is very uncertain, and if the hardliners are actually coming into ascendancy, as recent news reports indicated, if the military is going to have an increasing role in the Soviet Union, we do not know whether it is going to be irrelevant to provide deterrence against their very powerful weapons. I suggest at least for the next several years we are going to have to keep our powder dry, maintain our defense, and build it down as rapidly as we can under the circumstances. But that does not mean to throw everything away today.

For that reason I think that our modernization effort ought to go forward, and in the meantime we ought to proceed with SDI to obviate this buildup of the Soviet Union, and at the same time proceed with arms control in order to build these weapons down on both sides. And what did I say was the prerequisite for arms control before? Again, SDI, because it does provide that insurance that whatever the other side does it can mobilize its missiles, it can cheat, but none of those things will do any good because we have a strategic defense that prohibits their missiles from getting through.

Let me just close, Mr. Speaker, by addressing the subject of the Third World threat I began with tonight. Over the course of the next decade there will be 15 Third World countries that are going to possess this capability, and they are countries like the following: Afghanistan, Argentina, Brazil, Egypt, India, Iran, Iraq, Israel, North Korea, Pakistan, Saudi Arabia, South Africa, South Korea, Syria, South Yemen. These are countries that already possess some kind of ballistic missile. Now not all of the ballistic missiles they possess are of the intercontinental variety, but several of them have purchased missiles from the Chinese, who do have ballistic missile capability of a significant distance, a sufficient distance to threaten much of the world. I have a chart here, Mr. Speaker, which I will enlarge and in a future debate be able to demonstrate to my colleagues. But essentially what it shows is the countries I have read off, using even the missiles that they currently have, have a range and a capability to cover a great deal of Asia, the Middle East, and Africa, and thereby threaten the peoples that live within that area, a very populous area of the world, with this kind of chemical and biological warfare.

Is it totally unlikely that there is going to be any conflict in the Middle East over the next decade? I think not, Mr. Speaker. At a recent meeting I asked several colleagues of mine if any of them agreed with me that over the next decade there was at least a 30-percent chance that the State of Israel would be drawn into a major conflict with some of its neighbors, and every single one of the defense planners in that room agreed that there was at least a 30-percent chance that that kind of a conflict would exist, and that the United States would be asked to play some kind of a role in that.

Those are pretty bad chances, I would suggest, chances that would tell us that it would be very desirable for us to have some method of protection against that kind of missile launch. The United States might well be drawn into such a conflict.

The United States deployed forces in the Mediterranean in our NATO allied countries, in Turkey, in Greece, in Italy, or even places further away, could well be in jeopardy as a result of such a conflict. But with the strategic defense deployed in its minimum protection mode for, as I said, a price of approximately $10 billion, both our forces and those of our allies could be protected from this kind of missile launch. I submit that that would provide a great deal of deterrence to those who would otherwise rather freely launch those missiles.

The recent Iraqi-Iranian war demonstrated beyond any doubt that these people are willing to launch such missiles against each other, and they are willing to cause great destruction at a relatively cheap price, because they do not have to send their soldiers and their tanks into battle against the enemy by simply launching these missiles long range.

□ 1910

They are a weapon of terror, as I said before, and are credited with having, in the case of Iraq, rained such terror upon Iran that it was actually moved to sue for peace in that particular conflict.

In this particular situation it would make a lot of sense for us to have a strategic defense, not only to protect the United States in its wide interests but be able to intervene in such a situation and protect the lives of other people in the world.

But the bottom line, as I said before, is that we would be able to protect the lives of American citizens by preventing any Third World country from deciding ever to launch against us in the first place.

The final point, Mr. Speaker, is in the case of an accident. We have been very fortunate in the last 40 years that there has not been any nuclear accident. But we in this country are very concerned about that. We are so concerned that we even have recently removed some nuclear weapons from our B-52 bombers because of a very grim prospect, very small prospect, I should say, of an accident but at least enough of a prospect that we do not want to take a chance.

Because we are so careful with our weapons, we do not want to see anybody hurt in this country, it seems to me to make sense to have a system that would protect us against an accidental launch by someone else in the world.

As these Third World countries acquire this kind of capability, I wonder whether they are going to have the same kind of scientific and engineering capability, the same kind of concern for safety that we do here in this country, and the ability to build in the same kind of safeguards that have been built into the weapons of the United States.

If they do not, then there could very easily be a situation where one of these missiles was accidentally launched.

In addition to that, there is great concern in the Soviet Union, because of the turmoil in that country, the fact that there have alreadly been attacks on military installations on more than one occasion by people in that country who are fed up with the situation there, that there could be situations where these weapons could fall into the hands of people who would than either try to use them or, because of their inexperience with them, permit them to be launched accidentally.

It was only a couple of years ago, Mr. Speaker, that a Soviet submarine off the coast of the United States had a missile come up partly through its tube. The tube did not blow. There was a fire. Eventually, that submarine sank, I might add. And because the hatch never blew off and the missile was never launched, it was never a threat to us. But all of those missiles are preprogrammed by computer and their warheads know exactly where they are going once they are launched.

If that missile had gotten out of its tube and had headed for the east coast, let me paint the scenario the President would have been faced with:

The telephone rings, and somebody from the Joint Chiefs says, "Mr. President, there is a missile on the way."

Or, "There are six missiles on the way," whatever the case may be.

The President says, "What are my options?" The military advisers would then say, "Mr. President, you have two options: One option is to sit here and do nothing and accept the damage." And there may be 10, 20, 30 million lives lost as a result. But chalk it up to a bad day. It was an accident.

We have no ability to intercept those missiles today, none. And we are not acquiring any if we do not do SDI.

The other option, "Mr. President, is to assume this was not an accident, that it was an intentional act of the Soviet Union and this was merely the first in a series of moves they might make. Therefore, what you need to do is to launch all of our missiles against the Soviet Union in a retaliatory strike before they can launch all of their missiles against us and destroy everything in the United States."

The President is going to say, "That is not a very attractive option either. In the first place, we don't know. In the second place, I would hate to be the one responsible for blowing up half the world myself and perhaps precipitating the rest of it being blown up." Two very poor options.

The President could have a lot more time and a lot more in the way of flexibility if there were a third option, if he had SDI. When the defense planners presented this scenario to him, he says, "Are those the only options?" And the Joint Chiefs' representative would say, "No, Mr. President, there is a third option. We can deploy our SDI. We have satellites orbiting, we have them in orbit sufficient to intercept these missiles that have been launched against us. And those missiles can be destroyed."

Then the President says, "Well, if it is an accident, then nobody should care." That is right. And "if somebody is deliberately launching an attack against us, it will show them that we have the capability of at least blunting this part of the attack." That's correct. "In either event, no Americans are going to be killed." That is correct, and that is the point.

SDI, for a relatively small price, enables us to provide that kind of protection and that additional important option to the President of the United States. That is why it is so important for us to proceed with the SDI program.

All we are talking about, Mr. Speaker, at this point is continuing to fund the research for this program.

This year, the next fiscal year are critical times for testing of the key components of SDI. We will demonstrate whether Brilliant Pebbles can work. And I predict that it will be shown that it can work.

Then in 2 or 3 years we therefore would have tested enough of the system to know whether or not we can deploy an effective system.

That is what our funding decision would be all about this year, Mr. Speaker. That is why I urge my colleagues, for the reasons we have been discussing here tonight, to support the kind of funding which will permit the SDI program to move forward so that the President will be able to make a decision as to whether it should be deployed.

CONCERNING HUMAN RIGHTS VIOLATIONS IN THE PROVINCE OF KASHMIR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise again today, with a deep sense of urgency, to focus our attention on the continuing human rights violations occurring in the province of Kashmir. Many children have been killed and women have been raped as Indian troops unlawfully search the homes of those people who support the Kashmiri independence movement. Recent reports indicate that in the past months, approximately 11,000 to 15,000 Kashmiri citizens have been arbitrarily arrested or detained without charge or trial for suspected involvement in the Kashmir independence movement. It appears as if these human rights violations are being committed with the complicity of the Indian Government.

Mr. Speaker, I call upon the Bush administration to investigate the human rights violations that are occurring in Kashmir and to act immediately.

Mr. Speaker, I offer several relevant newspaper articles and reports covering human rights violations in Kashmir.

[From the New York Times, June 15, 1990]

AMID KASHMIR "PARADISE," A DEADLY STRUGGLE

(By Barbara Crossette)

SRINAGAR, KASHMIR.—Silent, barefoot men dug a very small grave recently at the Idgar Martyrs' Cemetery, a new landmark on the outskirts of this battered city. The grave was for 6-year-old Sajad Ahmad Sofi, shot by Indian troops, his relatives said, as he tried to hide between his father's legs during a search of the family home.

"Put aside the malnutrition, the shortage of vaccines, the gastroenteritis, the trauma, the nightmares of children," said Altaf Hussain, a pediatrician. "Here we have 3-year-olds, 4-year-olds subjected to bullets. And to add insult to injury, we hear them dubbed 'terrorists' on the evening news from Delhi."

Over the last two years, there has been a silent revolution in the Kashmir Valley, the verdant home of poetry and song that Mogul emperors called Paradise on Earth.

SEPARTISTS GAIN SUPPORT

Small groups of armed Muslim separatists, who 15 months ago were described as a radical fringe attractive mostly to unemployed youth, now apparently have the support of an alienated, influential middle class.

Kashmiris say the introduction late last year of thousands of Indian troops and paramilitary forces, who patrolled deserted streets and searched houses only speeded up a process of alienation that has been going on for more than 40 years.

"They have made every Muslim a suspect," a businessman said of the Indian armed forces' attempts to subdue a fast-growing independence movement. "We are all militants now."

More than 10,000 civil servants are said to have signed an "open letter to the citizens of the world" cataloguing the human toll of extended curfews, violent searches, the interrogations of young men and women, the gang-rape of a bride and the firing on mourners carrying the body of the assassinated religious leader, Moulvi Mohammad Farooq.

"It was not bullets," the letter says, "but something worse than venom being poured out of those guns that has shattered hundreds of families, brought shame to Indian democracy and left a scar on the psyche of Kashmir that would never be removed."

[In New Delhi, Jagmohan, who served twice as Governor of Jammu and Kashmir state, said in an interview that by the beginning of his second term "all the components of power had been taken over by the terrorist or their supporters." Mr. Jagmohan, who uses only one name, served from April 1984 to July 1989 and from January through May of this year. He was dismissed after troops fired on a funeral procession, killing at least 47.

["By mid-1988," he said, "they could call a general strike and the government couldn't do anything. In two years they had the upper hand in every aspect of the establishment—administration, schools, hospitals." The former governor said he had no alternative but to impose long curfews—one lasted 16 days—and crack down on military while trying to rebuild local administration.]

HUMAN RIGHTS MONITORS BARRED

India bars international human rights organizations from visiting Kashmir, where all foreigners must register with the police on entering the valley. But several Indian teams of concerned citizens have visited the valley and written very critical reports.

In Srinager, Mufti Bahauddin Farooqi, a former chief justice of the Jammu and Kashmir High Court, and his son, Shoukat Ahmed Farooqi, a lawyer, have begun documenting allegations of human and civil rights violations against Kashmiris.

Talking about their work in an interview at Justice Farooqi's home, they say they focus on both the state and administration and on the array of federal forces deployed here: the Indian Army, and paramilitary Central Reserve Police Force, the Border Security Force, the Indo-Tibetan Border Patrol, National Security Guards and various intelligence agencies.

Troops in Srinagar alone have commandeered at least 15 hotels as well as guest houses and private homes.

Justice Farooqi said the armed forces were sent to Kashmir in contravention of Jammu and Kashmir's special status in the Indian Constitution.

Between 11,000 and 15,000 Kashmiris have been detained without trial, according to members of the Kashmir Bar Association, who also say that bodies of some have been dumped along the Pakistan border to be labeled as "infiltrators."

Reporters visiting the Kashmir Valley are inevitably introduced to victims of torture. Sometimes these are local policemen, who say they are distrusted by Indian forces, who doubt their loyality. A state police constable Baramulla said he was picked up, wearning civilian clothes, at a bus stop by federal troops.

"I showed them my police identity card," he said. "The colonel said, 'This has no value in my eyes'." Refusing to implicate a Kashmir police officer in the terrorist movement, he said, he was subjected to electric shock.

"They also put hot irons on my back and thighs," he said. "When I asked for water they threw petrol mixed with chillis on my wounds.

"On the fourth day, they threw me in a truck and told the driver to dump me at the side of the road and back over me," he said.

He lifts his shirt, and loosens his hospital trousers to show dozens of branding iron burns on his body.

Kashmiris also charge Indian forces with theft—an allegation also made by northern Sri Lanka when Indians were stationed there from 1987 until early this year.

A woman in her mid-70's said 32 soldiers of the Border Security Force entered the home where she lives with her son and his family. It was just after midnight. There was no warning.

"They came in here where we were sleeping. I had 37,700 rupees [about $2,000]. They took 26,000. After they left, we discovered they had also stolen our radio, a watch, shoes, slippers water glasses, a flashlight and a nut cracker."

Surgeons and other medical staff of one of Srinagar's largest hospitals crowded into a consulting room, all offering accounts of torture cases they have seen, including a man whose rectum had been torn by the insertion of a dirty bamboo pole.

Whenever the medical professor has extended a hand to victims of the violence in our society, there have been problems," a doctor said. "The security forces have entered hospitals beaten patients, hit doctors, entered operating theaters, smashed instruments. Ambulances have been attacked, curfew passes are confiscated. A number of people have died, unable to reach hospitals."

Doctors say there are shortages of medicines for diabetics, cardiac patients, ulcer treatments, hypertension and cancer. They charge that Indian Airlines won't accept shipments of drugs from New Deihi, 600 miles away. The airlines says it is curtailing cargo shipments for security reasons.

[From the Dallas Morning News, Apr. 29, 1990]

INDIA VERSUS PAKISTAN—SUPERPOWERS CAN HELP COOL SITUATION

Cut from the same colonial cloth, largely Hindu India and largely Muslim Pakistan have been at each other's throats since the two nations came into being with the retreat of the British empire in 1947. The trigger for much of the fighting has been a territory known as Kashmir, a province divided between the two nations and China. An uneasy cease-fire line has held since the last India-Pakistan war in 1972. Now the two South Asian nations are edging toward armed conflict once more.

Although Pakistan has been a friend of the United States, especially since the Soviet invasion of Afghanistan, and India a friend of the Soviet Union, the current conflict is not one born of the Cold War. It is rooted in deep and ancient hatreds, religious differences and the needs of political leaders to whip up populist sentiment.

The conflict is an illustration that in much of the world, ancient histories have long shelf lives and are likely to haunt the world long after the Soviet and American patrons of feuding nations abandon their clients. Indeed, there is reason to fear that as the superpowers lose interest and loosen their control over regional allies, old hatreds will fuel more, not fewer, regional wars.

The India-Pakistan feud also is an example of how governments unable to face up to their larger social and economic problems often try to whip up popular sentiment for war to cover their more meaningful failures. The Indian government of V.P. Singh hangs by a thread; waving the battle flag is one way to hold on. The Pakistani government of Benazir Bhutto is struggling at sea, and Ms. Bhutto, too, may see confrontational rhetoric as the only way to consolidate her hold on political power. How much better if these governments could get on with the business of nation building.

Some may be tempted to sigh with relief that the superpowers have no real stake here. Sadly, this conflict carries grave implications for all nations, because both Pakistan and India have, or are at least on the brink of developing, nuclear weapons. The idea of two regional giants lobbing nukes at each other is frightening.

The battle for the Kashmir also illustrates the painful limitations of the United Nations. The U.N. General Assembly in 1956 called for a plebiscite in the Jammu and Kashmir province to allow the people there to have self-determination. India has said nothing doing, and it has the military muscle to enforce its decision.

Obviously, a U.N.-administered plebiscite is the right way to go. Hope that this could occur seems scant, but there is some. The generals in neither nation seem to want war. What might help would be a joint U.S. Soviet peace initiative to defuse the current crisis. India is still very dependent on the U.S.S.R., economically and military, and would be very susceptible to pressure from the Soviets to allow a vote. However, the Soviets are unlikely to do so, unless they have assurances that the U.S. will not use Pakistan as a base to destabilize Muslim republics in the southern Soviet Union.

If the Cold War really is ending, and an era of little wars is at hand, superpower cooperation to extinguish long-glowing embers of ancient hatreds is a must.

[From the Christian Science Monitor, June 21, 1990]

KASHMIR'S TROUBLES, U.S. INTERESTS

(By Dhruv Khanna)

As peace is breaking out in Eastern Europe, Nicaragua, and even South Africa, India and Pakistan are on the warpath over Kashmir. The United States is in a position to play a critical role in restraining the two countries, in particular its long-time ally, Pakistan.

With US-Soviet relations better than they have been in years, Washington has less reason to automatically lend its support to Pakistan to balance India's historical friendship with the Soviets. The US should take a close look at the roots of the dispute over Kashmir and at its ramifications for America's interests and values.

For my generation of Indians, born well after the partition of India in 1947, the film "Gandhi," as much as anything we read in our history books, etched in our minds the nature of the Hindu-Muslim divide and its ongoing tragedy. The partition of India into a Muslim Pakistan and theoretically Hindu India, we know well, did not solve any problems and created many new ones. India was left with more than 10 percent of its population still Muslim, and with significant numbers of Sikhs, Buddhists, Christians, Zoroastrians, Jews, and others.

India has emerged as a tolerant secular democracy, establishing a Muslim civil code for Muslims to reflect Muslim customs and a Hindu civil code for Hindus. Muslims in India (like Sikhs, Christians, and others) have routinely risen to cabinet posts and other positions of political and judicial significance.

Muslims freely practice their religion in their mosques all over India, not just in Kashmir, much like Sikhs in their gurdwaras, Christians in their churches, and Hindus in their temples. India has gone further than to treat Muslims, Sikhs, Christians, and others on par with Hindus; it has provided special benefits, much like affirmative action plans in the US, for such minorities. For example, while Kashmiris are free to buy land anywhere in India, a special constitutional provision bars non-Kashmiris from purchasing land in Kashmir. Thus, Kashmir's Muslim-majority status has been protected, and, unfortunately, the state's full integration into India precluded.

Pakistan's post-independence history has been less complex. For most of the period, military dictatorships have ruled the country. In 1971 East Pakistan broke away to become Bangladesh. In the 1980s Muslim fundamentalism took root, with General Zia Ul-Haq as its chief patron; the most obnoxious aspects of Muslim law—the public floggings, the stoning to death of women found guilty of adultery—were propagated and enforced with renewed vigor.

Pakistan's present-day democracy is fragile at best. Prime Minister Benazir Bhutto has little freedom, and the military, especially with respect to India, continues to have the upper hand. Ms. Bhutto has been unable to repeal the anti-women laws which she personally opposes. Because of Supreme Court rulings striking down some provisions of Muslim law. Muslim women in India have more rights and greater freedom than the prime minister of Pakistan.

It is no wonder, then, that while the Kashmiri fundamentalist movement has the support of Muslims in other countries, most Muslims in other parts of India do not support the movement.

While there can be no doubt that Kashmir's economy has been mismanaged, the same is true about the rest of the Indian economy. Nevertheless, India's economy, including that of Kashmir, compares favorably with Pakistan's. And, once again, there can be no doubt that Indians, including Kashmiri Indians, have enjoyed more democracy and freedom since the departure of the British in 1947 than their brethren in Pakistan.

The US should take a hard look at what is at issue in the Pakistan-India quarrel. For years, liberal apologists in the US coddled the Soviet Union regardless of its totalitarian governmnent. Conservatives were right

in demanding that the East Bloc countries meet western standards of democracy and freedom. Likewise, the US should now take a stand against totalitarian Muslim fundamentalism in Kashmir, Iran, Labanon, and Pakistan.

The US would be making a mistake to coddle its long-time Pakistani friends during today's rapprochement with the Soviet Union. The US has considerably more in common with India than with Pakistan. The US cannot, without compromising its values, continue to supply Pakistan arms, to wink at its heroin-smuggling, and ignore its close ties with the mullahs of Iran and with Colonel Qaddafi.

The US should immediately end its supply of arms to Pakistan and instead express solidarity with India's position on Kashmir, while continuing to restrain India and Pakistan from going to war.

[From the Globe and Mail, July 1, 1989]

WHAT LAY BEHIND THE AIR-INDIA DISASTER

("Soft Target" By Zuhair Kashmeri and Brian McAndrew)

(Review by David Kilgour)

This book will be received with hostility by External Affairs Minister Joe Clark and his departmental advisers on India, the Indian High Commission in Ottawa and segments of the RCMP and CSIS. Canadians who cling to the romantic but fast-fading notion that the present government in New Delhi is a beacon of hope for a non-violent and democratic world will also be skeptical.

Basing their conclusions partly on information leaked by RCMP, CSIS and Metro Toronto Police investigators, journalists Zuhair Kashmeri and Brian McAndrew contend in Soft Target that during most of the eighties senior Canadian Cabinet ministers and their officials—who were obsessed with winning the favor of the two Gandhi governments for trade, Commonwealth and North-South reasons—were easily duped by Indian agents operating within Canada. This manipulation, begun partly because India's Congress I Party needed the Sikhs as scapegoats to win votes on a law-and-order platform, resulted in a large community of hard-working and enterprising Canadians becoming estranged from both Ottawa and a good deal of Canadian society.

A particularly refreshing feature of Soft Target is its treatment of Sikhism, a 500-year-old faith few Canadians know much about. The founder, Guru Nanak, believed in one God, a classless democracy and equality of the sexes. A later guru built the Golden Temple in Punjab, probably more spiritually important to Sikhs worldwide than the Vatican to Catholics or Mecca to Moslems. The last and most influential guru, Gobind Singh, first persuaded many Sikhs to wear the turban and four other faith symbols largely so that they could not deny their religion when persecuted for it. The Sikh homeland, which at its peak stretched from Tibet to Afghanistan, was lost in 1839 when its ruler converted to Christianity and came under the control of England's ubiquitous Queen Victoria.

The first Sikhs who in 1904 managed to settle on Canada's West Coast, despite MacKenzie King's effort, as deputy labor minister, to bar all Indian immigrants until 1947, experienced much hardship. By the eighties, however, 200,000 to 250,000 Sikhs were prospering across Western and Central Canada, when Indira Gandhi ordered the attack on the Golden Temple. She had first detained hundreds of suspected Sikh separatists and, in 1981, unleashed a surveillance operation against expatriate Khalistani supporters in Canada and elswhere.

Two cases examined here are the shooting of Toronto policeman Chris Fernandes and the Air-India disaster. About the Fernandes killing, the authors conclude that agents provocateurs from the Toronto Indian consulate, seeking to discredit Sikhs generally among Canadians in effect engineered the violence at the demonstration where Fernandes was shot. The vice-consul had inflamed some of the participants, had predicted in advance that violence might break out and even hired a friend's son to photograph the event. Canadian public opinion predictably sided with the Indian and Canadian governments against the Sikhs.

The worst mass murder in Canadian history occurred near Ireland four years ago, killing 329 Air-India passengers, many of them Canadian citizens, and crew. Many people concluded that Canadian Sikhs had placed a bomb on board but a nation-wide investigation, costing an estimate $60-million, has left the crime still unsolved.

According to Soft Target, some senior CSIS officials and one RCMP officer eventually concluded that an Indian intelligence service was probably the real culprit. After all, a number of persons associated with the Indian government had cancelled their reservations on the doomed flight. And why did the Indian consul-general in Toronto have a near-perfect account of what happened so soon after the event?

Moreover, a similar bombing had occurred at the Madras airport in southern India about a year earlier, most probably caused by the Third agency, an Indian intelligence group created in the early eighties to win support for Indira Gandhi's government by encouraging Sikh extremists in Punjab. One group at CSIS concluded from the exclusively circumstantial evidence available that most likely the Third agency ordered the bombing, knowing that suspicion would fall on Sikhs generally and Canadian ones in particular. Another CSIS group inferred that the planting of a bomb was not authorized in New Delhi, but originated solely with local security agents.

Some Canadians became convinced that Talwinder Singh Parmar, head of a tiny extremist Sikh group based in Vancouver, the Babbar Khalsa, was the Air-India murderer. The RCMP, say Kashmeri and McAndrew, eventually decided that Parmar was an agent of the government of India. They query why, among numerous contradictions, a major financial backer of Parmar in Vancouver received a $2-million loan from the State Bank of India (Canada). By early 1989, Parmar had disappeared, and Joe Clark finally ordered several Indian diplomats to leave. Until then, as detailed carefully in Soft Target, Clark and his officials had accommodated the Indian government repeatedly in ways that seemed to have the effect of poisoning the minds of Canadians against Sikhs.

This controversial book examines some important issues and is largerly convincing. All who want Ottawa to do the correct thing for correct reasons in both domestic and foreign policy should read it.

SIKH LEADER DENIED PASSPORT—POLICE OPPRESSION AND THE VIOLATION OF HUMAN RIGHTS IN PUNJAB

WASHINGTON DC, June 26, 1990.—Retired Sikh General of the Indian army and current Vice Chairman of the Punjab Human Rights Organization, Maj. Gen. Narinder Singh (Retd.) has been denied a passport by the Indian government despite repeated request.

"This is not such an uncommon incident in Punjab," says Dr. Gurmit Singh Aulakh, President of the Council of Khalistan which represents the Sikh freedom struggle worldwide. "The Indian government has a vested interest in restraining those who have witnessed first hand the gross human rights violations Sikhs in Punjab suffer at the hands of the so-called 'world's largest democracy.' The last thing Prime Minister V.P. Singh wants is for someone as respected as Maj. Gen. Narinder Singh to travel abroad and speak the truth so he keeps him at home. If the Indian government can keep Sikh leaders relatively unknown to the outside world then it will not have to suffer the same embarrassment it suffered when Indian security forces assassinated the Muslim religious leader, Mr. Farooq. I fear that Maj. General Narinder Singh's life is in grave danger and I warn V.P. Singh to be cautious because Sikhs will no longer sit by and watch their leaders be gunned down."

Though Sikhs worldwide had originally hoped that V.P. Singh's new government would put an end to the genocidal policies of the Gandhi regime the reality has been quite the opposite. "Not only are we being denied passports," says Dr. Aulakh, "but there are a least 20 to 30 Sikhs killed every day in extrajudicial killings. The atrocities have actually increased under V.P. Singh. The police and the Indian security forces have a license kill in Punjab. And some people dare to question why we demand freedom."

Outside reports confirm Dr. Aulakh's outrage. "The New York Times" reported on May 31, 1990 that "at least 600 people have died this year in violence in Punjab, 200 in the last month." At the same time, "20,000 Sikh men and boys had 'disappeared' in the custody of Indian policemen and intelligence agents over the last few years." It is not so much of a mystery, therefore, to understand why India is the only so-called democracy in the world which does not allow Amnesty International within its borders to investigate human rights abuses.

Other Sikh leaders experience the humiliation and the persecution that Maj. Gen. Narinder Singh has suffered as well. On June 5, 1990, armed Indian security forces prevented Sikhs from all over Punjab from gathering in commemoration of the June 1984 Golden Temple attack by the Indian government which killed over 20,000 Sikhs. Among the over 3000 arrested for attempting to pay tribute to the dead were Maj. Gen. Narinder Singh; Members or Parliament Simranjit Singh Mann and Bimal Kuar Khalsa; Justice Ajit Singh Bains, Chairman of the Punjab Human Rights Organization; and Bhai Manjit Singh, leader of the Sikh Student Federation. These men were not informed concerning under what charges they were being arrested because they had done nothing even remotely illegal. They were, nevertheless, detained for three days as police filed false reports to legalize the arrests. The Punjab Human Rights Organization has issued a statement to expose the concocted false case registered against the Sikh leadership.

"This is the way the Indian government operates," protests Dr. Aulakh. "We are being killed. The Indian government does not even allow the most respected Sikhs the freedom of movement. When they deny General Narinder Singh a passport they are even worse than the Soviet Union. Khalistan, a free Sikh homeland is what we need,

not promises that the atrocities might end if we behave like the docile, obedient slaves that the Indian government wants us to be. We want simply to live as humans have the right to live and this is why the Declaration of Independence of Khalistan is irrevocable, irreversible and nonnegotiable."

NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. FALEOMAVAEGA. Mr. Speaker, it was only yesterday that our distinguished colleagues in this great Chamber approved House Joint Resolution 577 without dissent or objection, and I sincerely want to thank my colleagues for this bipartisan support of this resolution which declares the will and sense of the Congress that the month of November this year be declared as National American Indian Heritage Month.

Mr. Speaker, I want to personally thank the distinguished chairman of the House Post Office/Civil Service Subcommittee on Census and Population, the gentleman from Ohio, Mr. THOMAS SAWYER for his outstanding leadership and kind assistance for which this resolution would have never passed the House without his guidance and support. Mr. Speaker, I also want to thank the distinguished gentleman from Pennsylvania, Mr. THOMAS RIDGE from the other side of the aisle for his support and acceptance of this proposed resolution, when it was brought before the House floor yesterday for consideration.

Mr. Speaker, I also want to thank both the majority and minority staff of the Post Office Committee for their assistance in developing this resolution. I want to thank Ms. Terriann Lowenthal of the majority and Ms. Ann Williams of the minority for their guidance. In particular I want to thank my legislative director, Mr. Martin Yerick, and my office assistants, Mrs. Nancy Leong, Ms. Kawen Young, and Ms. Merina Sunia for all that they have done regarding the logistical and research data necessary to develope this resolution.

Mr. Speaker, House Joint Resolution 577 will set aside the month of November of this year, that we as a nation may honor past and present American Indians. This resolution will not make up for the atrocities of the past or placate the victims of the present; however, the resolution does honor the contributions that native Americans have given to our Nation and indeed the world, for the past five centuries.

As the original inhabitants of this land, the American Indians were made up of many unique cultures that we as a nation have benefited by and continue to benefit by. Had it not been for the American Indians, the first Pilgrams would not have survived. I realize that this may seem trivial to most of the public as it is something that all American children learn in grade school; however, it is a sad fact of human nature that the majority of people take for granted some of the most important things in life. Knowing that dark side of our nature, let me remind everyone of a few important facts pertaining to our history.

It was through the Indians' knowledge of hunting, fishing, and farming that the first settlers learned to exist in this land, and it was through the generous nature of the Indians that those people were able to make a home on this continent. One of our first history lessons is how the Indians came to welcome the pilgrims and shared with them their knowledge of how to grow corn and squash, how to fertilize the ground, and how to make different foods with what they produced. Children all learn how their friendship helped save the early settlers. Often what is not taught is that many social events of those early colonists can be traced back to American Indian origins, even that first famous Thanksgiving dinner was not only shared with the native Americans, but was a direct result of their kindness and a tradition that they had been practicing for centuries. I believe that it is time we acknowledge this fact.

Mr. Speaker, the Revolutionary War, our War for Independence, the war that brought this great Nation into existence, would have been much different had it not been for the American Indians. Had it not been for their assistance so freely given to our Founding Fathers, the facts surrounding the Revolution would be much more tragic than history remembers them.

It was the American Indians who led many troops through the woodlands and forests. It was their knowledge of the terrain that safely guided many of our soldiers through battles over unfamiliar ground. It was the aid and assistance of the American Indians that helped Gen. George Washington and his troops through that terrible winter at Valley Forge; it was the American Indians who brought those men food and medicine to help them survive. It was the American Indians who taught our soldiers warfare tactics and the art of ambush; the American Indians who gave us that extra element of surprise that helped our Founding Fathers win the War for Independence. I believe that it is time we acknowledge this fact.

Mr. Speaker, the Declaration of Independence, that sacred charter that our Founding Fathers wrote to help this Nation, was influenced by the American Indian. The Constitution, the laws and creeds that generations of Americans have lived by and will continue to live by, was influenced by the American Indian. The balance of power within government, the separation of powers within a government, were all found within various political systems of American Indian nations. The representation of separate States to one unifying council was a form of government already practiced for centuries by the American Indians.

Mr. Speaker, in the 1500's an American Indian of the Huron Tribe named, Deganawidah, had a dream. In his dream he saw a wonderful tree. It was the tree of "great peace". The roots of this tree were made up of five different tribes, the Mohawk, Onondaga, Cayuga, Seneca, and the Oneida. Deganawidah traveled among the tribes and told them of his dream. Although the tribes were not on friendly terms they realized the wisdom behind the tree of "great peace". Each had, in the past, fallen victim to the larger neighboring tribes, and they realized that by unifying their powers they could protect themselves from their larger, more aggressive neighbors. Thus, almost 300 years before the U.S. Constitution was established, the Iroquois Nation formed a democracy with an oral constitution and a governing council made up of representatives from each individual tribal state. At its peak, this nation of Iroquois controlled almost all of north-eastern America from the Missouri River to the Atlantic Ocean and from the Great Lakes into the Carolinas.

Mr. Speaker, the Iroquois Confederacy of Tribal States was greatly admired for its unity, strength, and effectiveness. In 1744, at a meeting of the Iroquois Council, the great Chief Canasatego gave advice to the Virginia Colonial Governor, "Our wise forefathers established union and amity between five nations. This has given us great weight and authority with our neighboring nations and by observing the same methods our wise forefathers have taken, you will acquire such strength and power." Benjamin Franklin shared this advice with other Representatives. When they met in Albany to form a union, Mr. Franklin said, "It would be a very strange thing, if six nations of ignorant savages should be capable of forming a scheme for such a union * * * and yet that a like union should be impracticable for ten or a dozen English colonies, to whom it is more necessary". This democracy that we take so much pride in was not simply an original idea of our Founding Fathers, we stand here today as a direct result of a previous successful model, that of the Six Nations of the Iroquois Confederacy.

Now at the end of the 20th century we are not the only people following this early example. More and more governments are beginning to form democracies indirectly copied from the American Indian. Even the United Nations, that world governing body, is an indirect result of American Indian thought and perception of governmental organizations.

Mr. Speaker, let's discuss freedom of speech—that privilege that we hold so dear—that inherent right of each and

every citizen to say what they believe without fear of persecution—that one little clause that has for so long set us apart from other nations—a key to democracy, was not something new, but was already being practiced by the ancestors of the American Indian. I believe that it is time we acknowledge this fact of history—and as the saying goes—give credit where credit is due.

Mr. Speaker, throughout history American Indians have continued to contribute to the growth and welfare of this country. Medicines which are used to save many lives have been introduced to us by the American Indian. Indeed many of the herbs and roots used by Indian healers centuries ago are still used as the basis of some of the medical advancements to our modern world.

I would like to share with you this excerpt from the book, "The World of the American Indian," written by, Jules B. Billard,

And I quote:

Snakeroot to cure snakebites. Willow for fever. Tobacco for "flem and other grosse humors." So reads the pharmacopoeia of Indian medicine. From bark of root to leaf of shrub tribal healers drew on a rich array of botanicals about them. Tribal lore and trial-and-error yielded the medicines; modern science accords validity to many. Nearly 200 "yarbs and roots" have gone into official compendiums'. Willow bark, for example contains the salicin now produced synthetically as the effective ingredient in asprin. Indians recognized both natural and supernatural sources of ailments. Treatment was by individual practitioners—herbalists who handled symptoms and medicine men who dealt with origins—and by the "social" approach of medicine societies. Pioneering whites had such faith in Indian healing that 19th century charlatans could reap success peddling "modoc oil", "old sachem bitters", of "kickapoo cough syrup".

Mr. Speaker, American Indians have also played a key role in the defense of this Nation. Since the times of those native Americans who helped guide our troops during the Revolutionary War, American Indians have continued to serve this country. Whenever the call has gone out to help defend this Nation and all that it stands for, American Indians have answered that call in a far greater percentage than most other nationalities in our country. During World War II the Navajo code talkers became famous for transmitting and receiving messages in their own language, making it impossible for the enemy to decode them. Two Indians from the famous Thunderbird Division, Jack Montgomery, a Cherokee, and Ernest Childers, a Creek, were both awarded the Congressional Medal of Honor in Europe. Ira Hayes a marine from the Pima Tribe, helped raise the flag at Iwo Jima. An Osage from the Army Air Corps, Gen. Clarence Tinker, died in the Pacific. And Brummett Echohawk from the Pawnee used his expertise to train commandos in hand to hand combat. The flag that has been the cause of so much recent controversy, that symbol of freedom and hope, that emblem of all the beliefs that we cherish, has covered countless caskets containing the remains of American Indians who have died to protect the land that was once taken away from them. I believe that it is time we acknowledge this fact.

Mr. Speaker, it is also my sincere hope that this resolution will enable us non-indians to learn more and appreciate better our American Indian brothers and sisters. For centuries American Indians have been somewhat a mystery to the majority of the American public. When asked to describe an Indian, most Americans would come up with a picture similar to that described by Mr. Robert Easton in his article. "Humor of the American Indian," and I quote: "All Indians are stoic, solid, and devoid of humor. This is firmly believed by that great mass of white people who have never known any Indians."

Mr. Easton's belief is shared by Mr. Vine Deloria. "The American public feels most comfortable with the mythical Indians of stereotype-land who were always there. These Indians are fierce, they wear feathers and grunt."

This image of American Indians could not be farther from the truth, as both Mr. Easton and Mr. Deloria go on to state, and I quote Mr. Easton: "Despite what most white people think, American Indians enjoy a rich legacy of laughter."

And Mr. Deloria qualifies, further adds: "Most of us don't fit this idealized figure since we only grunt when over eating, which is seldom."

Mr. Speaker, it is sad that most of our Nation's people view the American Indian in this way. However, I believe that most of them do this subconsciously as a way to protect themselves. In acknowledging the American Indians and the contributions that they have made to this Nation, we must also acknowledge our own mistakes and those of our ancestors. The taking of land; the long list of broken treaties and promises; the historical acts of violence and oppression that have been inflicted upon American Indians, are common knowledge and it is hard for most of us to believe and to accept; and sadly, the contemporary public response is for us to either pity the American Indians or ignore them completely. I am not suggesting that we dwell on the mistakes of the past, nor should we be seeking pity because the American Indian does not want nor need our pity. What I am asking is that we acknowledge and honor the American Indian people for their acts of loyalty, heroism, and patriotism that they as individuals and as a people have shown toward this country. And in doing so let us put an end to such mean and negative stereotypes as have been attributed to the American Indian for the past several centuries. I believe that it is time we acknowledge this fact.

Mr. Speaker, I would like to share with my colleagues an excerpt from a book entitled, "Custer Died for Your Sins," by Mr. Vine Deloria, Jr., that I believe explains this very well, and I quote:

The legend of the Indian was embellished or tarnished according to the need of the intermediates to gain leverage in their struggle to solve problems that never existed outside their own minds. The classic example, of course, is the old time missionary box. People were horrified that Indians continued to dress in their traditional garb. Since whites did not wear buckskin and beads, they equated such dress with savagery. So do-gooders in the East held fantastic clothing drives to supply the Indians with civilized clothes. Soon boxes of discarded evening gowns, tuxedos, tennis shoes, and uniforms flooded the reservations. Indians were made to dress in these remnants so they could be civilized * * * law after law was passed requiring him to conform to the white institution. Indian children were kidnapped and forced into white boarding schools thousands of miles from their homes to learn the white mans ways. Reservations were turned over to different Christian denominations for governing. Reservations were for a longtime church operated. Everything possible was done to ensure that Indians were forced into American life * * * the deep impression made upon American minds by the Indian struggle of last century has made the contemporary Indian somewhat invisible compared with his ancestors * * * Indians are probably invisible because of the tremendous amount of misinformation about them. Most books about Indians cover some abstract and esoteric topic of the last century. Contemporary books are predominately by whites trying to solve the "Indian problem." Between the two extremes lives a dynamic people in a social structure of their own, asking only to be freed from cultural oppression.

Mr. Speaker, Westerners started the process with those first missionary boxes and have continued it throughout history. The American Indians were forbidden many of their ancient rights and ceremonies simply because Westerners did not understand them and they were, therefore, hedonistic and wrong. American Indians were denied their religious beliefs and forced to live on reservations governed by different denominations simply because Westerners did not understand their beliefs and, therefore, they were wrong. The Western people took everything that they did not understand about the Indian and labeled it wrong. Never did they take into consideration the fact that they were dealing with people who had a unique culture dating back thousands of years. Once again I would like to share with you Mr. Deloria's words from his book, and I quote:

One of the foremost differences separating white and Indian was simply one of origin. Whites derived predominately from Western Europe. The earliest settlers on the

Atlantic seaboard came from England and the low countries. For the most part they shared the common experiences of their peoples and dwelt within the world view which had dominated Western Europe for over a millenium.

Conversely Indians has always been in the Western Hemisphere. Life on this continent and views concerning it were not shaped in a post-Roman atmosphere. The entire outlook of the people was one of simplicity and mystery, not scientific or abstract. The Western Hemisphere produced wisdom, Western Europe produced knowledge.

Perhaps this distinction seems too simple to mention. It is not. Many is the time I have sat in congressional hearings and heard the chairman of the committee crow about "our" Great Angle-Saxon heritage of law and order. Looking about the hearing room I saw row after row of full-blood Indians with blank expressions on their faces. As far as they were concerned, Sir Walter Raleigh was a brand of pipe tobacco that you got at the trading post.

When we talk about European background, we are talking about feudalism, kings, queens, their devine right to rule their subjects, the reformation, christianity, the magna charta and all of the events that went to make up European history.

American Indians do not share that heritage. They do not look wistfully back across the seas to the old country. The Apache were not at runymede to make King John sign the magna charta. The Cherokee did not create English common law. The pima had no experience with the rise of capitalism and industrialism. The blackfeet had no monasteries. No tribe has an emotional, historical, or political relationship to events of another continent and age.

Indians have had their own political history which has shaped the outlook of the tribes. There were great confederacies throughout the country before the time of the white invader. The Eastern Iroquois formed a strong league because as single tribes they had been weak and powerless against larger tribes. The Deep South was controlled by three confederacies: The Creeks with their town system, the Natchez, and the Powhattan confederation which extended into Tidelands Virginia. The Pequots and their cousins the Mohicans controlled the area of Connecticut, Massachusetts, Rhode Island, and Long Island.

True democracy was more prevalent among Indian tribes in pre-Columbian days than it has been since. Despotic power was abhorred by tribes that were loose combinations of hunting parties rather than political entities.

Conforming their absolute freedom to fit rigid European political forms has been very difficult for most tribes, but on the whole they have managed extremely well. Under the Indian Reorganization Act Indian people have generally created a modern version of the old tribal political structure and yet have been able to develop comprehensive reservation programs which compare favorably with governmental structures anywhere.

Mr. Speaker, human nature is such that we tend to fear the unknown, and in the extreme we pretend to know that which we do not understand. Often times we do this to try to hide our ignorance. Westerners began by fearing what they did not know about the Indian and continued by denying what they did not understand about the Indian. Now we add to those mistakes by alternating between pitying the American Indians or ignoring them completely. By setting aside a time we as a nation can honor American Indians and their culture, I believe that we can correct these mistakes. We need to replace our ignorance and self-pity with appreciation and respect of the American Indian. I believe that it is time we acknowledge this fact.

Mr. Speaker, we have taken from the American Indians those beliefs that we share and have interwoven them into the very soul of this Nation, among these being, the freedom of speech, the freedom of religion, and the pursuit of happiness. Generations of Americans have been raised with these beliefs, have lived by these beliefs and have died for these inalienable rights granted to us by the Founding Fathers of our Nation. Yet we have denied the above principles to the very people whom we relied upon for support and sustenance when the survival of the ancestors of our Founding Fathers depended upon their grace and kindness—the American Indian.

Yet through all of this, the Indian people have survived. They have watched while everything they hold dear was systematically stripped away from them. Their homes, their lands, their heritage, all stripped away, and still they remain a proud and honorable people who laugh and love and hold on to the belief that 1 day they will once again live in peace and harmony with themselves and with their non-Indian brothers and sisters. I would like to share with you the words of D'Arcy McNickle from "The World of the American Indian" and I quote:

The Indian wars make for sensational reading, but more important is the story of the Indian will to survive and to preserve his own sense of a moral order. The Indian fought when he had to, and fought well even when outgunned. But the harmony he prized as the proper relationship between man and his universe was not achieved in battle. Men cleansed themselves after combat; the peace chief, not the war chief, invariably ranked first in tribal councils. This view of the moral order and the good life still persists. The ravages of disease, the decimating wars, the reservation confinement have not destroyed it.

The thread of continuity which bound the Indian experience together, through time and across geographical space, was the vision of a native America free of domination by the outsider * * * tribal prophets had dreamed of this, and as often as their dream was demolished by gunfire and by burned-out villages, other prophets dreamed it again. Ten thousand years of growing up with the land had made the dream; five hundred years of denial would not extinguish it.

Mr. Speaker, I suggest that this is a culture we do not understand, and I believe that it is time we acknowledge this fact.

Mr. Speaker, another purpose of this resolution is quite simple. We in Congress will be providing young American Indians a more positive outlook toward themselves and the outside world. In saying this, I am not suggesting that young American Indians have no pride. I am sure that young Indians have just as much pride as non-Indians. What I am suggesting is that by setting aside a special time this year to honor American Indians and their culture, we will be letting the young Indians of today know that we as a nation honor their heroes, their writers like Tony Hillerman, Louis Elrich, and Vine Deloria, Jr., whose effective words can provide wisdom and understanding for many; Maria Tallchief whose desire to become a dancer can give inspiration to us all; actors such as Burt Reynolds, Bob Barker, James Garner, Jay Silverheels, and Will Rogers have all given their contributions to our culture and history, and they can all provide young people with the hope to aspire to higher goals and ambitions in life. Athletes like Jim Thorpe, Sonny Sixkiller, and Billy Mills can provide them with dreams and goals and the courage to achieve such goals; political leaders like Charles Curtis, Larry Echohawk, and our own friend and colleague BEN KNIGHTHORSE CAMPBELL, are sources of pride and strength for young American Indians who want to serve and contribute to the needs of mankind.

Mr. Speaker, again I want to share with my colleagues selected quotes from Mr. Robert Easton's article, "Humor of the American Indian," the richness of American Indian humor but with pearls of wisdom and wit, and I quote:

Indians also have a rich store of humorous proverbs. The great Chief Joseph of the Nez Perce was quoted by the New York Sun as having used these: Look twice at a two-faced man; Cursed be the hand that scalps the reputation of the dead; The eye tells what the tongue would hide; Fire-water courage ends in trembling fear; Big name often stands on small legs, and finest fur may cover toughest meat.

In 1906 The Boston Herald reprinted these Indian proverbs collected in that part of Oklahoma which was then the Indian territory:

There are three things it takes a strong man to hold—a young warrior, a wild horse, and a handsome squaw;

No Indian ever sold his daughter for a name;

Before the paleface came there was no poison in the Indian's corn;

When a fox walks lame, old rabbit jumps;

The paleface's arm is no longer than his word;

A squaw's tongue runs faster than the wind's legs;

There is nothing so eloquent as a rattlesnakes tail;

If the Indian would lie like the paleface, he would rule the earth;

The Indian scalps his enemy; the paleface skins his friends;

The Indian takes his dog to heaven; the paleface sends his brother to hell; and

There will be hungry palefaces as long as there is any Indian land to swallow;

Other Indian proverbs not overly flattering to the Paleface include:

White man build one fire—freeze face and burn backside. Indian build two fires and stand between;

White man cheat Indian once, white man's fault; and

White man cheat Indian twice, Indian's fault.

Here are a few moral maxims: May I walk in another man's moccasins for two weeks before I pass judgment on him (Sioux); A man must make his own arrows (Omaha); and, All strangers are potentially gods in disguise, honor them as such—until they prove that they are not.

And as a final benediction, here are some good practical advise: Don't use up all your kindling to get the fire started; Color don't count if the colt don't trot (Cherokee); Even a hawk is an eagle among crows (Apache); Speak not loudly to each other unless the teepee is on fire (Ojibwa advice to the newly wed); Do not use a tomahawk to remove a fly from your friend's forehead.

Mr. Speaker, I believe that by doing this we will be able to let future generations of Americans Indians know that we respect who they are, we take pride in their contributions, and we can give back to these people what history has for so long tried to deny them, their great cultural heritage and history. And I believe that it is time we acknowledge this fact.

In closing, Mr. Speaker, I would like to share with my colleagues the words of what is generally known as the Indian prayer. I submit the prayer has great meaning and substance, and in it contains what I believe is the embodiment of the heart and soul of the American Indian. And I would like to share this prayer with my colleagues:

O' great spirit,
Whose voice I hear in the winds,
And whose breath gives life to all the world,
Hear me! I am small and weak, I need your strength and wisdom.

Let me walk in beauty, and make my eyes
Ever to behold the red and purple sunset.

Make my hands respect the things you have made,
And my ears sharp to hear your voice.

Make me wise so that I may understand
The things you have taught my people.

Let me learn the lessons you have hidden
Under every leaf and rock.

I seek strength not to be greater than my brother
But to fight my greatest enemy—myself.

Make me always ready to come to you
With clean hands and straight eyes.

So when life fades as the fading sunset
My spirit may come to you
Without shame.

Mr. Speaker, this prayer in my humble opinion, is probably the most accurate portrayal of the character of the American Indian. And I want to thank many of my good friends who are of American Indian ancestry for their true friendship and understanding of me as a member of Samoan Tribe, if you will. I have come to appreciate their struggles and aspirations for a better future for their children now and the generations to come.

Mr. Speaker, it is my earnest hope my colleagues will support the American Indian not with pity but with compassion and understanding. What I have said on this occasion may never be heard again, but it matters not. What does matter, Mr. Speaker, is that history and events have a funny way of repeating themselves. It may be, Mr. Speaker, that one day in the distant future we are again going to call upon the American Indian for his help, and that the survival of this Nation may even hang in the balance if we do not make an honest effort to lift these sons and daughters of the forest from their misery and poverty. The good Lord help us if we fail in this responsibility.

Mr. Speaker, it is my sincere hope that this November will be one of Thanksgiving both to God and to the American Indian. And come 1992, may we be more thoughtful of what we really need to do to remind ourselves of 500 years that the Indians in the Americas have given to the world, and what Western civilization has done to a great and noble people.

Mr. Speaker, I insert for the RECORD the text of House Joint Resolution 55, National American Indian Heritage Month.

H.J. RES. 577

To authorize and request the President to proclaim the month of November 1990 as "National American Indian Heritage Month".

Whereas American Indians were the original inhabitants of the lands that now constitute the United States of America;

Whereas American Indians have made an essential and unique contribution to our Nation, not the least of which is the contribution of most of the land which now comprises these United States;

Whereas American Indians have made essential contributions to the world, including prehistoric cultivation and harvesting of corn and sweet potatoes;

Whereas the people of the United States should be reminded of the assistance given to the early European visitors to North America by the ancestors of today's American Indians, including knowledge and training provided to the pilgrims in survival, hunting, and cultivation, and fertilization of indigenous crops;

Whereas the people and Government of the United States should be reminded of the assistance given to this country's Founding Fathers by the ancestors of today's American Indians, including the support the original inhabitants provided to George Washington and his troops during the winter of 1777-1778, which they spent in Valley Forge;

Whereas the people and Government of the United States should be reminded that certain concepts such as freedom of speech, the separation of powers in government, and the balance of power within government, all of which were found in the political systems of various American Indian nations, influenced the formulation of the Government of the United States of America;

Whereas the Members of the Senate and House of Representatives believe that a resolution and proclamation of the nature requested in this resolution can encourage activities which provide positive benefits of enhanced self-esteem, pride, and self-awareness to young American Indians;

Whereas the approaching 500th anniversary of the arrival of Christopher Columbus to the Western Hemisphere provides an opportunity for the people of the United States to consider and reflect on our Nation's current relationship with our American Indians; and

Whereas the month of November concludes the traditional harvest season of American Indians and was generally a time of celebration and giving thanks: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1990 is designated as "National American Indian Heritage Month", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

□ 1940

AN EQUITABLE WAY TO DEAL WITH THE DEFICIT: RECONCILING THE MOYNIHAN AND ROSTENKOWSKI PROPOSALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 60 minutes.

Mr. LAFALCE. Mr. Speaker, I requested this special order tonight to present to our colleagues a proposal for dealing with two major problems in our Nation's fiscal affairs: an inequitable system of taxation and our pressing deficit situation.

I believe that reducing the deficit is essential for our economic health. But I think that doing so without also correcting the serious inequities in how the American public is taxed would be wrong.

To his credit, President Bush has finally agreed that new revenues will be necessary in addressing the deficit. Now, perhaps, the deadlock can be broken and we can move forward.

Earlier this year we were presented with two good ideas, going in different directions. Chairman DAN ROSTENKOWSKI of the House Ways and Means Committee put forward a comprehensive deficit reduction plan, but that package did not address the fundamental question of fairness and equity for the vast majority of taxpayers in our tax system. And Senator DANIEL PATRICK MOYNIHAN'S proposed cutting regressive payroll taxes for hardpressed American workers and businesses, which addressed fairness but was silent about how to relate it to the deficit problem.

I believe it is possible to reconcile the Rostenkowski and Moynihan proposals, and that we have a golden opportunity in 1990 to do the right thing for our own generation, and to ensure that we do not saddle countless future generations with the debts of our consumption. We must not let this opportunity slip by.

These proposals, if adopted, would bring substantial relief from payroll taxes and, at the same time, reduce our deficit by over $500 billion in 5 years. Like Chairman ROSTENKOWSKI'S, this program is balanced. Spending cuts constitute more than 57 percent of the total, net new revenues 27 percent, and interest savings almost 15 percent. I should emphasize that I would not favor a number of the individual proposals standing alone, but only as part of a broad package—the whole is greater than the sum of its parts. Further, I would not expect such a program to be adopted without broad bipartisan support from the President, the Senate majority and minority leaders, the House Speaker and minority leader, and a majority of both parties from both Houses of Congress.

Following are the major elements in the plan:

SPENDING CUTS

The program would cut the defense budget by $250 billion over the 5-year period—fiscal years 1991 through 1995—the amount approved by the House of Representatives when it passed the first budget resolution in May.

As to domestic spending, the program modifies one element contained in Chairman ROSTENKOWSKI'S: a 1-year reduction in spending for nondefense discretionary programs—2 percent less than inflation—rather than his proposal to freeze these programs completely for 1 year—it is relevant to note that these programs have undergone 25 percent in cuts over the past 10 years in real terms. It includes Medicare spending cuts already adopted in the House-passed budget. Non-means-tested cost-of-living adjustments [COLA's] would be reduced, for 1 year only, by 2-percent less than the cost of living—Chairman ROSTENKOWSKI would have skipped COLA's entirely in 1991.

Over 5 years, these spending cuts amount to $305.2 billion and comprise approximately 57 percent of the overall deficit reduction program.

TAX REDUCTIONS

Payroll taxes—the combined Social Security and Medicare taxes levied on employers and employees up to a present cap of $51,300 in annual wages and salary—would be reduced to 7.15 percent in 1991 and 6.65 percent in 1992, 1 percent each for employees and employers from the present 7.65 percent rate, the same as those proposed by Senator MOYNIHAN but starting 1 year later.

This will be welcome and needed relief from our most regressive tax for employees and businesses alike, and it will be of particular benefit to small businesses, in that such enterprises tend to be more labor intensive than larger firms.

Most importantly, reducing this tax will help reverse one of the worst trends of the 1980's: actual decline in real take-home income for average Americans. Adjusted for inflation, the average worker's gross earnings were 9.2 percent less in 1989 than in 1979. And after payroll taxes, the disparity grew to 10.5 percent less. Average workers took a cut in pay while America's wealthiest received tax breaks of major proportions.

Over the five years, these tax cuts come to $253.6 billion.

EXCISE TAXES AND USER FEES

The excise tax on cigarettes was 8 cents a pack from 1951 to 1983, when it was raised to 16 cents a pack. This means that today, in real dollar terms, cigarettes are taxed at only about half the rate they were in 1951. The program would double the cigarette tax—as does the Rostenkowski plan—raising it to approximately the level it had been in 1951.

Excise taxes on beer and wine have not changed a bit since 1951, despite inflation. The tax on beer, like the cigarette tax, would be doubled—also in the Rostenkowski proposal—putting that tax at a level approximately half what it was in 1951. The tax on wine, presently about one-fifth that levied on beer when measured by alcoholic content, would be made equal to the tax on beer by such a measurement—Chairman ROSTENKOWSKI's program would have retained the disparity between beer and wine.

In addition to raising revenues, higher taxes on smoking and drinking would help shift many of the costs of those activities to those who use tobacco and alcohol, and higher prices may also help reduce the use—and abuse—of these products.

The United States has lower motor fuel taxes, by far, than any other industrialized nation. Higher gasoline taxes would help improve conservation, reduce our dependence on foreign oil and enhance environmental goals. The program would increase the gasoline tax by 15 cents in 1991—equal to the change proposed by Chairman ROSTENKOWSKI—and then index the rate to keep pace with inflation thereafter. To help ease the impact on the lowest income taxpayers, the earned income tax credit would be increased by an amount equal to 20 percent of the motor fuel tax increase.

To make the excise tax system more progressive, a new transfer tax—one-half of 1 percent—would be levied on securities transactions.

Finally, the package includes environmental taxes on pollutants recommended by Chairman ROSTENKOWSKI to help deter environmentally harmful activities, as well as new fees so that the users of inland waterways and Coast Guard services will pay a larger share of those costs.

Over 5 years these changes comes to $181.1 billion.

FRINGE BENEFITS

More and more, employers are substituting tax-free fringe benefits for taxable cash compensation to their employees. As a result, workers and businesses who cannot or do not make such substitutions subsidize their more fortunate neighbors and competitors. This is both unfair and inefficient.

To address these inequities, the program includes the following changes:

First, nonpension fringe benefits in excess of $100 per month for individuals, or $250 per month for families, would be made taxable—for income tax purposes but not for payroll taxes. These limits would then be indexed to keep pace with inflation. This would permit employers to continue providing a decent health insurance program. This proposal was first put forward by President Reagan in 1984; the limits are the same as those he proposed at that time, adjusted for inflation.

Second, the earnings of pension funds would be taxed at 5 percent.

Third, to correct one of the more glaring inequities in the Tax Code, unincorporated business owners would be permitted to deduct 100 percent of their health insurance premiums—presently such entities, unlike corporations, are limited to 25 percent. These people would, however, be subject to the $100/$250 per month limits.

INCOME TAX CHANGES

The income tax is the most progressive means of raising revenues for needed public purposes, despite the fact that it became far less progressive during the early 1980's. Nine out of ten Americans presently pay more in combined Federal taxes than they did in 1980. Only the top 10 percent of our population pay less in taxes, and their cuts were substantial. Action to ameliorate this is an important part of dealing with the deficit.

To replace the revenues lost by the cut in payroll taxes, and to contribute toward deficit reduction, the program contains the following changes in the income tax laws. These changes come to a total of $132.1 billion:

First, while the present system ostensibly has only two tax brackets, 15 percent and 28 percent, there is actually a third 33-percent bracket which incongruously applies to upper-middle-income taxpayers, not to those with the highest incomes. The program would adopt three genuine brackets, keeping the first at 15 percent, and setting the other two at 29 percent and 34 percent.

Second, to complement the freezes in spending and the partial freeze on COLA's, there would be a 1-year suspension in the indexing of tax brackets. Chairman ROSTENKOWSKI would do this as well, but he would also have suspended indexation of the personal exemption and standard deduction, important protections for lower- and middle-income taxpayers.

SOCIAL SECURITY CHANGES

Some employees of State and local governments do not pay Social Security and/or Medicare taxes. The program would require that all new employees of those entities become full participants in Social Security and Medicare.

In addition, the package would raise the level at which Social Security benefits are taxable from 50 percent to 85 percent for those with total incomes over $25,000—individuals— or $32,000—joint returns. This is the percentage of benefits which were not contributed by the recipients. When seniors have the highest incomes of any age cohort in the Nation, it is only fair that these higher-income retirees be taxed essentially the same as other Americans are.

In 5 years these changes total $33 billion.

LEGISLATIVE APPROPRIATIONS AND PAY

All Americans have to share in the pain of eliminating our crushing budget deficit. Congress must not exempt itself. The program calls for legislative appropriations to be cut 5 percent from the 1990 level. This will amount to an approximate 10 percent real cut.

While the dollar amount of these cuts—approximately $60 million—is relatively small both equity and good politics says that this kind of step must be included.

INTEREST SAVINGS

As we bring the deficit down we reduce the new borrowing which the Treasury would otherwise have to undertake. And as the budget goes into surplus, old debt can be paid down. Both of these factors result in substantial reductions in the amount of interest needed to maintain the national debt.

The deficit reductions contained in the program will reduce interest payments by some $76 billion over 5 years. This constitutes 14.5 percent of the total program.

It should be noted that many noted economists believe that the method of computing interest savings is overly conservative. These other experts believe that enactment of meaningful deficit reduction will have an immediate and substantial effect on interest rates, and that interest savings would constitute as much as 30 percent or 40 percent of the amount of deficit reduction achieved by policy changes. If they are right, the total in interest savings could be as high as $150 to $200 billion.

THE SAVINGS AND LOAN DEBACLE

I strongly opposed the savings and loan bailout bill sought and achieved by President Bush in 1989, believing it the wrong solution to a misdiagnosed problem. But so long as that approach prevails, it must be financed.

Already the savings and loan situation has cost the Government some $50 billion. But one wouldn't know that by looking at the Federal budget, because last year's deal put $30 billion of it "off-budget" and ignored all $50 billion for purposes of calculating the deficit under the Gramm-Rudman act.

That does not mean, however, that these costs were not absorbed by the taxpayers, nor does it mean that future costs won't show up in our tax bills, too.

Estimates of the total long-term costs of the S&L problem are vague, but they have one thing in common: they keep going up. The latest, from Treasury Secretary Brady, is that another $84 billion will be required, on top of the $50 billion already spent. Others say that it may come to $100 billion more.

Last year I urged that we put these costs on the budget and make them subject to the Gramm-Rudman limits. And I suggested that the best way to finance the costs would be through a temporary surtax.

This problem should not be foisted onto our children. This generation ought to clean up problems caused in this generation.

Accordingly, there would be a 3- to 5-year income surtax to raise funds for the cleanup of the savings and loan crisis.

CONCLUSION

The American people, through the ages, have had the wisdom and foresight necessary to deal with innumerable crises. They well understand that for the last 10 years the Federal Government spending has been vastly more than its revenues. And they also understand that, in the aggregate, Federal programs and activities are at a level that the Nation as a whole supports.

Further, the American people have a history of doing almost anything they reasonably can to make life easier and better for their children. There is little likelihood that the present generation of Americans wants consciously to mortgage the future and pass along today's bills to their children and their children's children. No, they want to do what every generation has done before: pay their own bills and leave behind a better country, and a better world, for future generations to enjoy.

Americans are not selfish people. We do not believe that those least fortunate among us should have to fend totally for themselves. We want to help such people, not only because helping them become productive citizens helps the Nation but also because it is simply the right and the unselfish thing to do.

But finally, the American people believe deeply in a sense of fairness and equity, and they believe that the present tax system does not meet the test of fundamental fairness. Rather, it is weighted too heavily in favor of the wealthiest among us.

My program, therefore, meets our fiscal challenge but includes significant protections for middle-income taxpayers. Most important of these is a payroll tax cut of a quarter of a trillion dollars over 5 years. But it also includes the regressivity offset against the motor fuel tax, continued indexation of the standard deduction and the personal exemption, and retention of the 15-percent rate for the lowest income tax bracket. These will help ensure that we aren't balancing the budget on the backs of those who are right now struggling to stay afloat.

No doubt some Americans—including some of my constituents—will be unhappy with some parts of this program. But I firmly believe that the vast majority of them will respect that action to reduce the deficit is essential, that some sacrifice for everyone would have to be part of such a program for it to be fair and equitable, and that their elected Representatives should deal forcefully, honestly, and directly with this issue. And finally, I believe that most Americans would agree that increasing the progressivity and improving the fairness of our tax structure are important elements in dealing with the deficits caused in great part by regressive tax actions of the past 10 years.

Tables providing the details of this plan follow:

SUMMARY OF THE LaFALCE PLAN

[In billions of dollars]

	1991	1992	1993	1994	1995	Total	Percent of total deficit reduction
Spending cuts	(19.1)	(41.0)	(62.1)	(81.8)	(101.2)	(305.2)	58.5
Tax cuts (payroll)	28.7	44.5	56.2	60.1	64.0	253.6	−48.6
Tax increases:							
Excise taxes and user fees	(29.0)	(34.5)	(35.1)	(35.8)	(36.5)	(171.0)	32.8
Fringe benefits	(6.5)	(11.8)	(12.4)	(13.1)	(14.5)	(58.5)	11.2
Income tax changes	(13.3)	(25.5)	(28.1)	(31.1)	(34.2)	(132.1)	25.3
Social Security changes	(1.6)	(5.5)	(7.0)	(8.6)	(10.3)	(33.0)	6.3
Net revenues	(21.7)	(32.8)	(26.4)	(28.7)	(31.5)	(141.0)	27.0
Deficit reduction	(40.8)	(73.8)	(88.5)	(110.4)	(132.7)	(446.2)	85.5
Interest savings	(1.5)	(6.5)	(13.2)	(21.9)	(32.4)	(75.6)	14.5
Total deficit reduction	(42.3)	(80.3)	(101.8)	(132.3)	(165.1)	(521.8)	
CBO baseline deficit	161.0	124.0	132.0	121.0	110.0	648.0	
Resulting deficit (surplus)	118.7	43.7	30.2	(11.3)	(55.1)	126.2	
Rostenkowski proposal deficit (surplus)	105.6	36.7	24.7	(7.7)	(41.1)	118.2	
Income surtax for savings and loan cleanup (5 percent, 5 percent, 5 percent, 4 percent, 3 percent)	(14.4)	(27.5)	23.8)	(19.4)	(14.6)	(99.8)	

Note.—Figure in parentheses represent reductions in the deficit. Figures not in parentheses represent increase in the deficit.

DETAILS OF THE LaFALCE PLAN

	1991	1992	1993	1994	1995	Total
Spending cuts:						
Defense (House-passed budget)	(11.4)	(30.1)	(50.5)	(69.7)	(88.8)	(250.5)
Nondefense discretionary (inflation less 2 percent for 1 year)	(1.5)	(2.5)	(2.9)	(3.1)	(3.3)	(13.2)
Medicare (House-passed budget)	(1.7)	(2.3)	(2.5)	(2.7)	(2.9)	(12.1)
Nonmeans tested COLA's (COLA minus 2 percent for 1 year)	(4.5)	(6.2)	(6.3)	(6.3)	(6.2)	(29.4)
Total spending cuts	(19.1)	(41.0)	(62.1)	(81.8)	(101.2)	(305.2)
Tax cuts: Reduce FICA to 7.15 in 1991 and 6.65 in 1992	28.7	44.5	56.2	60.1	64.0	253.6
Tax increases:						
Excise taxes and user fees:						
Double cigarette tax to 32 cents	(2.8)	(2.8)	(2.8)	(2.7)	(2.7)	(13.8)
Double beer taxes and increase wine to same by alcohol content	(2.2)	(2.4)	(2.4)	(2.4)	(2.4)	(11.6)

DETAILS OF THE LAFALCE PLAN—Continued

	1991	1992	1993	1994	1995	Total
Motor fuel up 15 cts., then index (20 percent regressivity offset)	(12.0)	(12.1)	(11.9)	(12.1)	(12.2)	(60.2)
0.5 percent transfer tax on securities transactions	(7.8)	(11.6)	(12.2)	(12.8)	(13.4)	(57.8)
Environmental taxes	(3.2)	(4.7)	(4.7)	(4.7)	(4.7)	(22.0)
Inland Wtr. & Cct. Gd. fees	(1.0)	(1.0)	(1.2)	(1.2)	(1.2)	(5.6)
Total excise taxes and user fees	(29.0)	(34.5)	(35.1)	(35.8)	(36.5)	(171.0)
Fringe benefits:						
Tax fringe benefits over $100/mo. individual; $250 fam.; then index (Income tax only, not payroll)	(3.4)	(5.9)	(6.3)	(6.9)	(7.7)	(30.2)
5 percent on earnings of pension funds	(4.4)	(7.4)	(7.9)	(8.4)	(9.0)	(37.1)
Self-Empl. Health Ins. 100 percent Ded.	1.3	1.5	1.8	2.0	2.2	8.8
Total fringe benefits	(6.5)	(11.8)	(12.4)	(13.3)	(14.5)	(58.5)
Income tax changes:						
Eliminate the bubble	(4.2)	(8.2)	(9.3)	(10.6)	(12.0)	(44.3)
Increase 28 percent and 33 percent rates to 29 percent and 34 percent	(6.4)	(12.2)	(13.4)	(14.8)	(16.2)	(62.9)
Suspend tax bracket indexing	(2.7)	(5.1)	(5.4)	(5.7)	(6.0)	(24.9)
Total income tax changes	(13.3)	(25.5)	(28.1)	(31.1)	(34.2)	(132.1)
Social Security changes:						
Tax 85 percent, not 50 percent, of Social Security benefits	(1.1)	(3.9)	(4.4)	(5.0)	(5.7)	(20.1)
New State/local workers in FICA	(.5)	(1.6)	(2.6)	(3.6)	(4.6)	(12.9)
Total Social Security changes	(1.6)	(5.5)	(7.0)	(8.6)	(10.3)	(33.0)

Note.—Figures in paraentheses represent reductions in the deficit. Figures not in parentheses represent increases in the deficit.

TRUST FUNDS AND THE BUDGET

The SPEAKER pro tempore. Under a previous order of the the House, the gentleman from Ohio [Mr. MCEWEN] is recognized for 5 minutes.

Mr. MCEWEN. Mr. Speaker, I would like to discuss with my colleagues a proposition that will be coming before the Congress right after our return from the Fourth of July recess. It has to do with the trust funds that are now being discussed at the budget summit, but particularly the airport and airways trust fund. If I could share with you just a little bit as to why these are different, as you know, under the jurisdiction of the Public Works Committee there are three trust funds, the water and waterways trust fund, the airport and airways trust fund, as well as the surface transportation trust fund. These are fed by fees that are levied upon people who use those particular items. Every time a person in America purchases a gallon of gasoline, 9 cents goes into the highway trust fund. There are other fees levied as well.

Every time a person purchases an airline ticket, 8 percent of the cost of the airline ticket goes into the airway trust fund. We then run an airport improvement program that takes that money and apportions it out to the individual States for the construction of airports and airways, the maintenance of the airports through the FAA, the computer system, the traffic control system and the rest.

I point that out because the way the law is written and the way the tax is levied, it goes particularly into those trust funds, and they cannot be used for any other purpose.

□ 1950

That is that they are assigned, and therefore the Congress cannot spend the money that was paid for highways, they cannot spend it on foreign aid, for example.

Now, that system worked very, very well, up until 1969, when the President, having difficulty in financing the war on poverty and Vietnam and other things, decided if we would take these trust funds and include them in the budget process, we would show additional revenue coming into the Federal Government. Then as that flowed out, perhaps it would flow out less rapidly than it flowed in, and it would appear to create a surplus.

So in the 1969 budget, which is in 1968, of course, for the fiscal year 1969, beginning October 1968, those trust funds were placed into the budget process. If one checks back to find the budgets for the United States, they find out from 1953 until this year we have run a deficit every year except one, and the one year was 1969 when we took all these trust funds and put them on, and lo and behold, more money was flowing in than flowing out for that one year.

That in and of itself was not that critical. But what began to happen in the late 1970's and early 1980's was that since we are on a cash-in-cash-out basis, that if we begin to back money up into these trust funds, and rather than spending them for the purpose for which they were used, and we allowed money to accumulate in them, therefore money flowing in would be high and money flowing out would be low and it would appear as though we were balancing the budget.

So what we began to do was back money up into these trust funds and spend less than was coming in, until today we now have nearly $20 billion in these trust funds. We have $14 billion in the airway trust fund, $21 billion in the transportation trust fund, or highway trust fund, and $6 or $7 billion in the waterway trust fund, all at a time that our bridges and highways are deteriorating, and at a time when the Air Traffic Control System is extremely overburdened.

Since 1978, the number of people traveling in airports and airways has more than doubled, yet we have not built a single new airport in the last 2 years. Yet I repeat $14 billion is resting in these trust funds just for airways alone.

Now, I have gone through all of that to say this: when we come back after the fourth of July we are going to have the authorization bill for the Federal Aviation Administration. An amendment will be offered either by the gentleman from California [Mr. MINETA] or myself or jointly, in which we will seek to take the airport and airways trust fund off budget.

Now, that does not do anything. It does not change anything. It just releases it from the bind in which it finds itself presently, and that is that every time there is a budget summit, someone says, "I know how we can balance the budget and we will appear to save half a billion dollars or appear to save $1 billion, because we are just going to keep it in this trust fund, rather than spending it out, and that will make our balances look better." By taking it out of the unified budget, it can then be freed up to do the purpose for which it was intended.

Now, why have we not done that a long time ago? Let me tell you why. Because every year we have always taken in more than we have spent. Every time we try to do this, the last time in 1987, we came within three votes of passing it; Congressman Howard did it once; I had a motion to recommit I think in 1986, in which we came within 14 votes. But one of the Budget Committee members would stand at each door back here and simply say, "This adds $2 billion to the deficit; this adds half a billion dollars to the deficit, this adds three-quarters

of a billion dollars to the deficit." Most Members never focused on what they were talking about.

Well, I am going to warn my colleagues that over the next 2 weeks you are going to be inundated with information on how this works. I want and request your support for taking the airways trust funds off budget when the gentleman from California [Mr. MINETA] makes that motion during the month of July after the recess.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. CRAIG, for 60 minutes, on June 28.

Mr. MCEWEN, for 5 minutes, today.

(The following Members (at the request of Mr. MCCLOSKEY) to revise and extend their remarks and include extraneous material:)

Mr. ALEXANDER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LAFALCE, for 60 minutes, today.

Mr. ANNUNZIO, for 15 minutes, on June 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. LOWEY of New York prior to the Lehman of Florida amendment in the Committee of the Whole today.

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous matter:)

Mr. SHUMWAY.
Mr. WEBER.
Mr. MILLER of Washington.
Mr. MICHEL.
Mr. IRELAND.
Mr. PORTER in two instances.
Mr. DEWINE.
Mr. INHOFE.
Mr. MCMILLAN of North Carolina.
Ms. ROS-LEHTINEN in two instances.
Mr. CRANE.
Mr. BROOMFIELD.
Mrs. ROUKEMA.

(The following Members (at the request of Mr. MCCLOSKEY) and to include extraneous matter:)

Mr. LANTOS.
Mr. HAMILTON.
Mr. GUARINI.
Mr. TORRICELLI.
Mr. BRYANT.
Mr. HERTEL.
Mr. GRAY in two instances.
Mr. RICHARDSON.
Mr. TRAFICANT in two instances.
Mr. UDALL.
Mr. VOLKMER.
Mr. WISE.
Mr. MORRISON of Connecticut.
Mr. ANNUNZIO in two instances.
Mr. CARDIN.
Mr. BERMAN.
Mr. FAZIO.
Mr. DARDEN in two instances.
Mr. TOWNS.

JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, joint resolutions of the House of the following titles:

On June 26, 1990:

H.J. Res. 555. Joint resolution to commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed; and

H.J. Res. 575. Joint resolution to designate June 25, 1990, as "Korean War Remembrance Day."

ADJOURNMENT

Mr. FALEOMAVAEGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 55 minutes p.m.) the House adjourned until tomorrow, Thursday, June 28, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows: [Submitted June 27, 1990]

3465. A letter from the Assistant Secretary of the Treasury, transmitting a report of actions taken by the Secretary to increase the use of underutilized minority banks, women's banks, and low-income credit unions, pursuant to Public Law 101-73, section 1204(b) (103 Stat. 521); to the Committee on Banking, Finance and Urban Affairs.

3466. A letter from the Secretary of Housing and Urban Development, transmitting a report on the feasibility of providing foreclosed properties owned by the Secretary to 1989 disaster victims, pursuant to Public Law 101-235, section 137(a)(2) (103 Stat. 2029); to the Committee on Banking, Finance and Urban Affairs.

3467. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 8-222, "Prohibition Against Betting on Sporting Events Amendment Temporary Act of 1990," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3468. A letter from the District of Columbia, transmitting a copy of D.C. Act 8-221, "Green Line Merchants Assistant Program Amendment Temporary Act of 1990," pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

3469. A letter from the Administrator, Energy Information Administration, transmitting the Energy Information Administration's annual report for calendar year 1989, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

3470. A letter from the Administrator, Environmental Protection Agency, transmitting a copy of a report entitled, "Medical Waste Management in the United States—First Interm Report"; to the Committee on Energy and Commerce.

3471. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of the defense articles to Israel (Transmittal No. 11-90), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3472. A letter from the Director, U.S. Information Agency, transmitting a report on USIA-TV's production expenses for the first two quarters of fiscal year 1990, pursuant to Public Law 101-246, section 205(a) (104 Stat. 51); to the Committee on Foreign Affairs.

3473. A letter from the Federal Reserve Employee Benefits System, transmitting a copy of the retirement plan for employees of the Federal Reserve System, as of December 31, 1989, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3474. A letter from the Attorney General, Department of Justice, transmitting a copy of a report entitled, "Identifying Persons, Other Than Felons, Ineligible to Purchase Firearms: A Feasibility Study," pursuant to Public Law 100-670, section 6213(c) (102 Stat. 4360); to the Committee on the Judiciary.

3475. A letter from the Counsel, Pacific Tropical Botanical Garden, transmitting the annual audit report of the Pacific Tropical Botanical Garden, Calendar Year 1990, pursuant to Public Law 88-449, section 10(b) (78 Stat. 498); to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 3053. A bill to authorize the Secretary of Veterans Affairs to issue exemplary rehabilitation certificates for certain individuals discharged from the Armed Forces; with amendments (Rept. 101-561, part 1). Ordered to be printed.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4087. A bill to amend title 38, United States Code, with respect to employment and training programs for veterans; with amendments (Rept. 101-562). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4089. A bill to amend title 38, United States Code, with respect to educational and vocational counseling for veterans, and for other purposes; with amendments (Rept. 101-563). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 426. Resolution, waiving certain points of order during consideration of the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, com-

missions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-564). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 427. Resolution waiving certain points of order against the conference report on the bill (S. 933) to establish a clear and comprehensive prohibition of discrimination on the basis of disability, and against its consideration (Rept. 101-565). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS (for himself, Mr. APPLEGATE, Mr. EDWARDS of California, Mr. EVANS, Mr. HARRIS, Mr. HOCHBRUECKNER, Mr. PAYNE of Virginia, and Mr. ROWLAND of Connecticut):

H.R. 5169. A bill to amend title 38, United States Code, to revise the limitations on the payment of attorneys' fees in connection with Department of Veterans Affairs benefits proceedings; to the Committee on Veterans' Affairs.

By Mr. OBERSTAR (for himself, Mr. ANDERSON, Mr. HAMMERSCHMIDT, and Mr. CLINGER):

H.R. 5170. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the Airport and Airway Trust Fund, to authorize the Secretary of Transportation to grant authority for the imposition of airport passenger facility charges, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BLILEY:

H.R. 5171. A bill to extend the existing suspension of duty on 1-(3-Sulfopropy) pyridinium hydroxide; to the Committee on Ways and Means.

By Mr. BROWN of Colorado:

H.R. 5172. A bill to establish the Cache La Proudre National Heritage Corridor in the State of Colorado; to the Committee on Interior and Insular Affairs.

By Mr. DYMALLY:

H.R. 5173. A bill to establish the United States Commission on Obesity; to the Committee on Energy and Commerce.

By Mr. FAZIO (for himself, Mr. ASPIN, Mrs. SCHROEDER, Mrs. BOXER, Mr. MATSUI, Mr. RAY, Mr. LOWERY of California, Mr. HOCHBRUECKNER, and Mr. HEFNER):

H.R. 5174. A bill to provide improved funding for necessary environmental restoration projects at military installations scheduled to be closed; to the Committee on Armed Services.

By Mr. GEJDENSON (for himself, Mr. ROTH, Mr. BEREUTER, Mr. WOLPE, Mr. HOUGHTON, Mr. MILLER of Washington, Mr. FEIGHAN, Mr. FALEOMAVAEGA, Mr. DEWINE, Mr. KOSTMAYER, Mr. ENGEL, Mr. LEVINE of California, and Mr. JOHNSTON of Florida):

H.R. 5175. A bill to make certain changes in the authorities of the Agricultural Trade Development and Assistance Act of 1954 regarding the overseas distribution of U.S. agricultural commodities and to otherwise promote exports of U.S. agricultural commodities; jointly, to the Committees on Foreign Affairs and Agriculture.

By Mr. GIBBONS:

H.R. 5176. A bill to amend title 28, United States Code, to provide for the appointment of an additional bankruptcy judge for the Middle District of Florida; to the Committee on the Judiciary.

By Mr. GRADISON:

H.R. 5177. A bill to amend title XVIII of the Social Security Act to promote the offering of Medicare supplemental policies that incorporate managed care; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. LAGOMARSINO (for himself, Mr. THOMAS of California, and Mr. GALLEGLY):

H.R. 5178. A bill to provide for the equitable treatment of oil and gas resources from certain public lands in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LENT (for himself and Mr. MCGRATH):

H.R. 5179. A bill to authorize the transfer of Coast Guard property to the town of Hempstead, Nassau County, NY; to the Committee on Merchant Marine and Fisheries.

By Mrs. MARTIN of Illinois (for herself, Mr. CRANE, Mr. SCHUETTE, Mr. SMITH of New Hampshire, Mrs. VUCANOVICH, Mr. WEBER, Mr. SMITH of Vermont, and Mr. SOLOMON):

H.R. 5180. A bill to increase the penalties for violations of law involving depository institutions; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. MONTGOMERY:

H.R. 5181. A bill to authorize funds for the Mary Holmes College Learning Resources Center, and for other purposes; to the Committee on Education and Labor.

By Mr. NEAL of North Carolina:

H.R. 5182. A bill to establish the Health Care Crisis Policy Commission; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. OWENS of Utah:

H.R. 5183. A bill to designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as components of the Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. OWENS of Utah (for himself, Mr. BILBRAY, and Mr. WILSON):

H.R. 5184. A bill to amend the Solid Waste Disposal Act to authorize each State to prohibit the importation of hazardous waste into the State for treatment or disposal; to the Committee on Energy and Commerce.

By Mr. ROYBAL (for himself, Mr. DE LA GARZA, Ms. PELOSI, Ms. SCHROEDER, Mr. FUSTER, Mr. SERRANO, Mr. DELLUMS, Mr. FAUNTROY, Mr. BUSTAMANTE, Mr. TOWNS, Mr. OWENS of New York, Mr. MARTINEZ, Mr. MINETA, Mr. EDWARDS of California, Mr. MATSUI, Mr. RANGEL, Mr. TORRES, and Mrs. COLLINS):

H.R. 5185. A bill to repeal provisions of law regarding employer sanctions and unfair immigration-related employment practices, to strengthen enforcement of laws regarding illegal entry into the United States, and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. UDALL:

H.R. 5186. A bill to establish a demonstration program to allow drug-addicted mothers to reside in drug abuse treatment facilities with their children, and to offer such mothers new behavior and education skills which can help prevent substance abuse in subsequent generations; to the Committee on Energy and Commerce.

By Mr. DREIER of California:

H. Con. Res. 345. Concurrent resolution expressing the strong disapproval of the Government of Malaysia's denial of first asylum to Indochinese asylum seekers, that United States tourists and businesses should consider Malaysia's policy of rejecting Indochinese refugees when making travel or business plans, and urging the President to take certain actions with respect to such policy; to the Committee on Foreign Affairs.

By Mr. HYDE:

H. Con. Res. 346. Concurrent resolution concerning the availability of Romanian children to foreign adoption; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

[Omitted from the Record of June 26, 1990]

450. By the SPEAKER: Memorial of the General Assembly of the State of Indiana, relative to the site of a new international airport; to the Committee on Public Works and Transportation.

451. Also, memorial of the Senate of the State of Louisiana, relative to croplands under cultivation from the Federal definition of regulable wetlands; to the Committee on Agriculture.

452. Also, memorial of the Senate of the State of Louisiana, relative to American prisoners of war; to the Committee on Government Operations.

[Submitted June 27, 1990]

453. By the SPEAKER: Memorial of the Legislature of the State of California, relative to Lithuania, Latvia, and Estonia; to the Committee on Foreign Affairs.

454. Also, memorial of the Senate of the State of Illinois, relative to the National Collegiate Athletic Association; to the Committee on the Judiciary.

455. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to the desecration of the American flag; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. JAMES introduced a bill (H.R. 5187) to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States, which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 290: Mr. DAVIS.

H.R. 446: Mr. JONES of North Carolina, Mr. GINGRICH, Mr. CLARKE, Mr. HOAGLAND, Mr. DICKINSON, Mr. THOMAS of Wyoming, and Mr. MYERS of Indiana.

H.R. 1713: Mr. KLECZKA.

H.R. 1875: Mr. HANSEN.

H.R. 2121: Mr. GEREN.
H.R. 2353: Mr. GRANT, Mr. BRUCE, and Mr. ROBERT F. SMITH.
H.R. 2418: Mr. INHOFE.
H.R. 2437: Mr. WOLPE and Mr. SMITH of Texas.
H.R. 2816: Mr. LOWERY of California.
H.R. 2840: Mr. MOAKLEY, Mr. NEAL of Massachusetts, Mr. FIELDS, Mr. SOLARZ, Mr. MARKEY, Mr. YOUNG of Alaska, Mr. SAXTON, Mr. CONTE, Mr. HUTTO, Mr. ORTIZ, Mr. HUGHES, Mr. MILLER of Washington, Mr. CARPER, Mr. BOSCO, Mr. HERTEL, Mr. JONES of North Carolina, Mr. TAUZIN, Mr. BENNETT, Mr. BRENNAN, Mr. LAUGHLIN, Mrs. LOWEY of New York, Mr. DAVIS, and Mr. GOSS.
H.R. 2902: Mr. MCHUGH.
H.R. 3004: Mr. TAUKE and Mr. WASHINGTON.
H.R. 3053: Mr. MONTGOMERY, Mr. PENNY, Mr. ROWLAND of Georgia, Mr. KENNEDY, Mr. JONTZ, Mr. PAYNE of Virginia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, and Mr. GEREN.
H.R. 3120: Mr. SAXTON.
H.R. 3405: Mr. WEISS.
H.R. 3643: Mr. DERRICK.
H.R. 3732: Mr. ENGEL, Mr. MOLLOHAN, Mr. MARTINEZ, Mr. YOUNG of Florida, Mr. GRANDY, Mrs. MARTIN of Illinois, Mr. PAYNE of New Jersey, and Mr. MCCURDY.
H.R. 4025: Mr. JACOBS.
H.R. 4048: Mr. BONIOR.
H.R. 4121: Mr. SMITH of Texas and Mr. NIELSON of Utah.
H.R. 4375: Mr. CRANE and Mr. JACOBS.
H.R. 4408: Mr. MACHTLEY, Mr. TOWNS, Mr. SOLARZ, Mr. ECKART, Mr. HOCHBRUECKNER, Mr. HUGHES, Mr. CLEMENT, Mr. BRENNAN, Mr. LEWIS of Florida, Mr. KANJORSKI, Mr. HUBBARD, Mr. DWYER of New Jersey, Mr. BATEMAN, Mr. RITTER, Mr. FLAKE, Mr. STOKES, Mr. OXLEY, Mr. SLATTERY, Mr. DURBIN, Mr. APPLEGATE, Mr. SISISKY, Mr. GINGRICH, Mr. GORDON, Mr. PICKETT, Mrs. LLOYD, Mr. RINALDO, Mr. KOLTER, Ms. LONG, Mr. MCCRERY, Mr. THOMAS of Georgia, Mr. HAMMERSCHMIDT, Mr. PAYNE of Virginia, Mr. SPENCE, Mr. HENRY, Mr. MANTON, Mr. PAXON, Mr. POSHARD, Mr. HOUGHTON, Mr. KOSTMAYER, Mr. MORRISON of Washington, Mr. LEHMAN of Florida, Mr. NEAL of North Carolina, Mr. BRUCE, Mr. BOEHLERT, Mr. GEKAS, Mr. JONES of Georgia, Mr. SCHUETTE, Mr. PRICE, Mr. MONTGOMERY, Mr. HARRIS, Mr. TALLON, Mr. HAYES of Louisiana, Mr. STUMP, Mr. OLIN, Mr. NOWAK, Mr. WILSON, Mr. MAVROULES, Mr. RAVENEL, Mr. BEVILL, Mr. HALL of Texas, Mr. RAHALL, Mr. ROSE, Mr. MCEWEN, Mr. RAY, Mr. ESPY, Mr. KOLBE, Mr. PALLONE, Mr. TAYLOR, Mr. ROBINSON, Mr. GALLO, Mr. ROE, and Mr. HORTON.
H.R. 4421: Mr. OWENS of Utah.
H.R. 4471: Mr. JOHNSTON of Florida, Mr. LANCASTER, Mr. BOEHLERT, Mr. DEFAZIO, Mr. FALEOMAVAEGA, Mr. ECKART, and Mr. HOUGHTON.
H.R. 4472: Mr. JOHNSTON of Florida, Mr. LANCASTER, Mr. BOEHLERT, Mr. DEFAZIO, Mr. FALEOMAVAEGA, Mr. ECKART, and Mr. HOUGHTON.
H.R. 4473: Mr. JOHNSTON of Florida, Mr. LANCASTER, Mr. BOEHLERT, Mr. DEFAZIO, Mr. FALEOMAVAEGA, Mr. ECKART, and Mr. HOUGHTON.
H.R. 4474: Mr. JOHNSTON of Florida, Mr. LANCASTER, Mr. BOEHLERT, Mr. DEFAZIO, Mr. FALEOMAVAEGA, Mr. ECKART, and Mr. HOUGHTON.
H.R. 4476: Mr. JOHNSTON of Florida, Mr. LANCASTER, Mr. BOEHLERT, Mr. DEFAZIO, Mr. FALEOMAVAEGA, Mr. ECKART, and Mr. HOUGHTON.
H.R. 4485: Mr. HYDE, Mr. JACOBS, Mr. BENNETT, Mr. SWIFT, Mr. NEAL of Massachusetts, Mr. VENTO, Ms. OAKAR, and Mr. TRAXLER.
H.R. 4492: Mr. LAFALCE, Mr. SERRANO, and Mr. WEISS.
H.R. 4494: Mr. COMBEST, Mr. WHITTEN, Mr. WALSH, Mr. MURTHA, Mr. VANDER JAGT, Mr. UPTON, Mr. JONTZ, Mr. NAGLE, Mr. ATKINS, Mr. GIBBONS, Mr. HAYES of Illinois, Mr. ANNUNZIO, Mr. SOLARZ, Mr. MARTIN of New York, Mr. CAMPBELL of California, Mr. THOMAS of California, Mr. MORRISON of Connecticut, Mr. HUNTER, Mr. COX, Mr. TAUZIN, Mr. MACHTLEY, Mr. THOMAS A. LUKEN, Mr. HARRIS, Mr. TRAXLER, Mr. KENNEDY, Mr. SPENCE, Mr. ANTHONY, and Mrs. SAIKI.
H.R. 4496: Mr. JACOBS, Mr. COLEMAN of Missouri, Mr. JOHNSTON of Florida, and Mr. VISCLOSKY.
H.R. 4512: Mr. GALLEGLY and Mr. CRANE.
H.R. 4528: Mr. BERMAN.
H.R. 4548: Mr. LEHMAN of Florida, Mr. OWENS of New York, Mrs. COLLINS, and Mr. CLAY.
H.R. 4684: Mr. FAUNTROY.
H.R. 4714: Ms. SCHNEIDER and Mr. MURPHY.
H.R. 4729: Mr. RITTER.
H.R. 4753: Mr. MINETA and Mr. HERGER.
H.R. 4761: Mr. RAHALL.
H.R. 4770: Mr. DUNCAN, Mr. WOLF, Mr. SAVAGE, Ms. SLAUGHTER of New York, Mrs. MARTIN of Illinois, Mr. BORSKI, Ms. OAKAR, Mr. TOWNS, Mr. LEWIS of Georgia, Ms. KAPTUR, Mr. ROE, Mr. SYNAR, Mr. FAZIO, Mrs. BYRON, Mr. JONTZ, Mr. DWYER of New Jersey, Mr. ENGLISH, Mr. CROCKETT, Mr. WOLPE, Mr. DEFAZIO, Mrs. VUCANOVICH, Mr. SMITH of Florida, Mr. HUGHES, Mr. GEJDENSON, Mr. BRYANT, Mr. LANCASTER, Mrs. MORELLA, Mr. EMERSON, Ms. SCHNEIDER, and Mr. FEIGHAN.
H.R. 4795: Mr. LIPINSKI.
H.R. 4875: Mr. SHAW and Mr. GRANT.
H.R. 4880: Mr. PICKETT, Ms. ROS-LEHTINEN, Mr. LENT, Mr. FAUNTROY, Mr. COLEMAN of Missouri, and Mr. MRAZEK.
H.R. 4907: Mr. JAMES and Mr. EMERSON.
H.R. 4923: Mr. MAVROULES.
H.R. 4958: Mr. SIKORSKI.
H.R. 4990: Mr. JONES of North Carolina.
H.R. 4999: Mr. OWENS of Utah.
H.R. 5007: Mr. MONTGOMERY, Mr. HAMMERSCHMIDT, Mr. HUGHES, Mr. RANGEL, Mr. LIVINGSTON, and Mr. PICKLE.
H.R. 5064: Mr. MFUME and Mr. ROBINSON.
H.R. 5083: Mr. TRAXLER, Mr. GEPHARDT, Mr. ENGEL, and Mr. SCHEUER.
H.R. 5123: Mr. HILER.
H.R. 5127: Mr. WYDEN, Mr. MAVROULES, Mrs. MORELLA, Mr. COSTELLO, Mr. OWENS of New York, Ms. PELOSI, and Mr. NOWAK.
H.R. 5133: Mr. SMITH of Vermont and Mr. FROST.
H.J. Res. 486: Mr. SKEEN, Mr. GILLMOR, Mr. NELSON of Florida, and Mr. HANSEN.
H.J. Res. 512: Ms. PELOSI, Mrs. BYRON, Mr. COLEMAN of Texas, Mr. EVANS, Mr. SMITH of New Hampshire, Mr. HAMILTON, Mr. STARK, Mr. DYMALLY, Mr. HUBBARD, Mr. LIPINSKI, Mr. MFUME, Mr. LEWIS of Georgia, Mr. BATES, Mr. DINGELL, Mr. LANCASTER, Mr. HAYES of Illinois, Mrs. KENNELLY, Mr. JONES of Georgia, Mr. BUECHNER, Mr. CLINGER, Mr. FISH, Mr. NIELSON of Utah, Mr. INHOFE, and Mr. STANGELAND.
H.J. Res. 518: Mr. FAZIO, Mr. BROWDER, Mr. PASHAYAN, Mr. EVANS, Mrs. BENTLEY, Mr. RAVENEL, Mr. COOPER, Mr. CLEMENT, Mr. HUCKABY, Mr. FUSTER, Mr. PARRIS, Mr. FROST, and Mr. STANGELAND.
H.J. Res. 521: Mr. PORTER.
H.J. Res. 524: Mr. HUCKABY, Mr. SMITH of Florida, Mr. HOCHBRUECKNER, and Mr. WHITTAKER.
H.J. Res. 528: Mr. CONTE, Mr. STANGELAND, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PALLONE, Mr. POSHARD, Mr. RAHALL, Mr. ROE, Mr. PRICE, Mrs. SAIKI, Mrs. BENTLEY, Mr. BEVILL, Mr. BORSKI, Mr. BOUCHER, Mr. BUSTAMANTE, Mr. COBLE, Mr. DE LUGO, Mr. DICKS, Mr. DWYER of New Jersey, Mr. BOSCO, Mr. SKELTON, Mr. SAVAGE, and Mr. COURTER.
H.J. Res. 576: Mr. MCMILLEN of Maryland, Mr. YATES, Mr. FALEOMAVAEGA, Mr. ACKERMAN, Mr. SCHEUER, and Mr. HAYES of Illinois.
H.J. Res. 585: Mrs. BYRON, Mr. HAMMERSCHMIDT, and Mr. ROBERT F. SMITH.
H.J. Res. 591: Mr. ANDERSON, Mr. APPLEGATE, Mr. ASPIN, Mr. AUCOIN, Mr. BATES, Mr. BENNETT, Mr. BERMAN, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLAZ, Mr. BORSKI, Mr. BOSCO, Mr. BOUCHER, Mrs. BOXER, Mr. BRENNAN, Mr. BROWN of Colorado, Mr. BROWN of California, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mr. CARPER, Mr. CLEMENT, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. CONYERS, Mr. COSTELLO, Mr. COURTER, Mr. DEFAZIO, Mr. DE LUGO, Mr. DICKS, Mr. DONNELLY, Mr. ERDREICH, Mr. ESPY, Mr. FAZIO, Mr. FEIGHAN, Mr. FLIPPO, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FROST, Mr. COX, Mr. DOUGLAS, Mr. GEJDENSON, Mr. GEKAS, Mr. GEREN of Texas, Mr. GORDON, Mr. GRANT, Mr. GUARINI, Mr. HASTERT, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HUCKABY, Mr. JOHNSTON of Florida, Mr. JONTZ, Ms. KAPTUR, Mr. KASICH, Mr. KENNEDY, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LANTOS, Mr. LENT, Mr. LEVIN of Michigan, Mr. LEWIS of Georgia, Mr. LEWIS of Florida, Mr. LIPINSKI, Mr. MCCOLLUM, Mr. MCMILLEN of Maryland, Mr. MADIGAN, Mr. MANTON, Mr. MATSUI, Mr. MFUME, Mr. MRAZEK, Mr. NAGLE, Mr. NATCHER, Mr. NELSON of Florida, Mr. NIELSON of Utah, Mr. OBERSTAR, Mr. OWENS of Utah, Mr. OWENS of New York, Mr. PALLONE, Mr. PASHAYAN, Mr. POSHARD, Mr. PRICE, Mr. QUILLEN, Mr. RAHALL, Mr. RAVENEL, Mr. RHODES, Mr. RICHARDSON, Mr. SAVAGE, Mr. SCHEUER, Mr. SERRANO, Mr. SHAW, Mr. ROBERT F. SMITH, Mr. SOLARZ, Mr. SPRATT, Mr. STANGELAND, Mr. TAUKE, Mr. THOMAS of Wyoming, Mr. TRAXLER, Mr. UPTON, Mr. WALSH, Mr. WEISS, and Mr. WOLF.
H.J. Res. 595: Mr. SPRATT, Mr. BERMAN, Mr. HUCKABY, Mr. DENNY SMITH, Mr. BLILEY, Mr. HILER, Mr. MCDADE, Mrs. JOHNSON of Connecticut, Mr. RINALDO, Mr. MARTINEZ, Mr. ORTIZ, Mr. SMITH of Florida, Mr. MADIGAN, Mr. MCNULTY, Mr. HUGHES, Mr. BILBRAY, Mr. CONTE, Mr. TOWNS, Mr. SERRANO, Mr. HAYES of Illinois, Mr. SPENCE, Mr. FROST, Mr. WOLF, Mr. MANTON, Mr. DORNAN of California, Mr. COBLE, Mr. CRAIG, Mr. QUILLEN, Mr. FLIPPO, Mr. HORTON, Mr. ROBERT F. SMITH, Mr. MATSUI, Mr. NIELSON of Utah, Mrs. VUCANOVICH, Ms. OAKAR, Mr. SHUMWAY, Mr. COSTELLO, Mr. GREEN, Mr. MAZZOLI, and Mr. PAXON.
H. Con. Res. 39: Mr. ESPY, Mr. NEAL of North Carolina, Mr. BLILEY, Mr. TAYLOR, Mr. CARPER, Mr. RITTER, Mr. SMITH of New Hampshire, Mr. DOUGLAS, and Mr. KOLBE.
H. Con. Res. 259: Mr. DOWNEY, Mrs. LOWEY of New York, Mr. HORTON, Mr. WHEAT, Mr. DICKS, Mr. SYNAR, Mr. UPTON, Mr. MATSUI, Ms. LONG, Mr. TRAXLER, Mr. CARDIN, Ms. SLAUGHTER of New York, Mr. SPRATT, Mr. CONYERS, Mr. DONNELLY, Mr. MOODY, Mr. NEAL of Massachusetts, Mr. GLICKMAN, Mr. STUDDS, Mr. RANGEL, Mr. MORRISON of Washington, Mr. ATKINS, Mr.

ROYBAL, Mr. HALL of Ohio, Ms. OAKAR, Mr. MILLER of California, Mr. MFUME, and Mr. HYDE.

H. Con. Res. 270: Mr. FEIGHAN, Mr. BERMAN, Mr. BLILEY, and Mr. SABO.

H. Con. Res. 318: Mr. BOEHLERT, Mr. BEVILL, Mr. EVANS, Mr. QUILLEN, Mr. OWENS of Utah, Mr. FORD of Tennessee, Mr. FIELDS, Mr. HOPKINS, and Mr. MURTHA.

H. Con. Res. 329: Mr. MARKEY and Mr. FALEOMAVAEGA.

H. Res. 134: Mr. OWENS of New York, Mr. LEWIS of Florida, Mr. STUMP, Mr. COMBEST, Mr. MANTON, and Mr. MURPHY.

H. Res. 312: Mrs. BOXER, Mr. SISISKY, Mr. EMERSON, Mr. NEAL of North Carolina, and Mr. DELLUMS.

H. Res. 363: Mr. HUGHES, Mr. PARKER, Mr. PETRI, Mr. LANCASTER, and Mr. MILLER of Washington.

H. Res. 402: Mr. WAXMAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4329

By Mr. ROE:

[The amendments are stated in terms of page and line numbers of H.R. 5072.]

—Page 39, line 25, insert "and" after "are not now occurring;".

—Page 40, line 3, strike "; and" and insert in lieu thereof a period.

—Page 40, lines 4 through 7, strike paragraph (5).

—Page 44, lines 3 through 11, strike subsection (c).

H.R. 5158

By Mr. DREIER of California:

—Page 33, after line 3, insert the following:

The amounts otherwise provided in this title under the heading "HOUSING PROGRAMS—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING" for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families, are decreased by $50,000,000, and under the heading "HOUSING PROGRAMS—DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING" are increased by $50,000,000.

SENATE—*Wednesday, June 27, 1990*

(Legislative day of Monday, June 11, 1990)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Today's prayer will be offered by guest chaplain Msgr. E. James Petersen, St. Anthony of Padua, Fresno, CA. Monsignor Petersen.

PRAYER

Msgr. E. James Petersen, St. Anthony of Padua, Fresno, CA, offered the following prayer:

Let us pray:

God Creator and Provider, we have called on Your name from the first days of our Republic even until this morning. We place our trust in You. We place our hope in You. Without You we would stumble and fall. You have been "the Lamp unto our feet."

Hear us now as we call on all creation to praise Your holy name:

All nations of the Earth, bless the Lord.

Bless the Lord's name both now and forever!

Let those who are set free from oppression bless the Lord.

Let those who free them bless the Lord.

All of America, bless the Lord.

Women and men, young and old, bless the Lord.

Boys and girls and infants, bless the Lord.

Rivers and streams, lakes and oceans, bless the Lord.

Hills and mountains, valleys and plains, bless the Lord.

Sun and Moon and stars, bless the Lord.

Night and day, thunder, lightning, and rain, bless the Lord.

Let everything created bless the Lord, both now and forever.

Republicans and Democrats, bless the Lord.

East and West, North and South, bless the Lord.

Rich and poor, schooled and unschooled, bless the Lord.

Let every color, every religion, every school of thought bless the Lord.

Let historians, teachers, artists, bless the Lord.

All God's children bless the Lord. May the name of the Lord be praised both now and forever! Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business and the Senator from Minnesota [Mr. BOSCHWITZ] is recognized to speak for not to exceed 1 hour.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum has been raised. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Minnesota is recognized. He has 56 minutes and 45 seconds remaining.

REDUCING THE CAPITAL GAINS TAX

Mr. BOSCHWITZ. Mr. President, we are here this morning to discuss the capital gains tax and to talk about the desirability of reducing the rate both as a growth-oriented type of measure for the economy and also from the standpoint of bringing additional revenues to the Federal Government.

I saw in this morning's paper the fact that something new allegedly had been brought forward by the President of the United States in that he had abandoned his campaign pledge and is calling for new taxes. It was not clear to me at all that he had abandoned his campaign pledge, though it was clear to me for quite some time that he was calling for new taxes if for no other reason than he was calling for a reduction of the capital gains rate and that indeed would bring about more tax revenues. He has also talked consistently about other user fees. Certainly they are taxes as well.

I did not find in his statement that he had taken a new tack. But nevertheless I see that those in the press feel he has.

The idea of lowering the capital gains rate and thereby bringing about additional revenues is apparently for some reason a matter of some controversy. It depends who you ask. If you ask somebody who favors the idea of lower capital gains rates, then you will get the answer that lower capital gains rates will bring about additional revenues. If you ask somebody who opposes the idea of lower capital gains rates, you will find the result of any investigation is that you will lose revenue if you lower the capital gains rate.

So let me analogize it to my own experience in business, because I think that the answer is fairly clear. Prior to coming to the Senate, Mr. President, as the Presiding Officer knows, I was a businessman. I was a retailer and started with one retail establishment. We call them warehouses. It was quite large.

Prior to coming to the Senate, I had 68 of those places in 8 different States and in my region of the country. So I felt I knew something about retailing of remodeling materials, and indeed was quite a leader. When I wanted to increase the volume of my company, I did not raise the price and say that, well, if we raise the price by 10 percent, thereupon we would have 10 percent more volume—indeed, probably more property, because if you just raise the price and continue your volume, you are certainly in better condition. But the competitive factors of the marketplace clearly would not allow that.

However, if you did want to raise your volume, run more stuff through the warehouse, and increase the volume of business you will sell, you had a sale, and you lowered the price. So you made a little less on each sale, as they say, but you made it up in volume. And hopefully the total of your gross profits would exceed the normal totals that you have in your normal growth profit picture, because you lower the growth profit and you have more transactions.

But the price that the Government imposes on a sale, on a transaction, is the rate of tax. It is quite clear to me that in a capital gains transaction, if you lower the price, you are going to have more transactions because just as in my business back in Minnesota, the Dakotas, Iowa, Wisconsin, around the Chicago area, people who came to my places of business did so as a voluntary act.

So the sale of a capital asset is very much a voluntary act. It is not like receiving a paycheck that comes with regularity on a biweekly or monthly basis. It is a capital transaction that one undertakes because he or she wants to. It is a capital transaction that is undertaken because of the choices made by the taxpayer. If the price of undertaking that capital transaction is too high, and I will

bring out a letter from one of my constituents shortly to indicate how a high price can prevent the capital transaction from occurring, if the price is too high, the capital transaction simply does not occur.

So lowering the price of the transaction causes more transactions to occur, and in the tax business the more transactions you have, the more taxes you collect. That, of course, is the objective in order to bring about a balanced budget. That is one of the things the President is talking about when he said in yesterday's press statement "It is clear to me that both the size of the deficit problem and the need for a package that can be enacted requires all of the following entitlement and mandatory program reforms, tax revenue increases, growth incentives," and so forth.

This has been part of that package for a long time. There is both the growth incentive and a tax revenue increase. Those are the words the President used. In the event that you lower the capital gains rate, there is no question about the fact that you will get more transactions. And if you get more transactions, you are going to collect more taxes. That is one of the reasons for the capital gains reduction rate, just a practical result that you will stir up the market a little bit and cause some positive results.

There are many, many positive results to really seek in today's market. Today's real estate market, for instance, is "depressed," as it is commonly known. It perhaps will be depressed even more because of the large amounts of property that is being dumped onto the market because of the RTC, because of the failure of so many thrifts, and because the thrifts have so much real estate that will now be dumped on the market.

I have suggested to many that, in order to raise the value of that real estate and for the purpose of reducing the loss to the Federal Government, two things be done with respect to it.

No. 1, the old passive loss rules be applied to that real estate so that would raise the value of that real estate, and furthermore, that no capital gains tax be applied to the first transaction on that real estate. So if I become a buyer, or if any other taxpayer becomes a buyer from the RTC of a piece of real estate, there would be no capital gains on the first sale of that piece of real estate after it has been acquired. In addition to it, the old passive loss rules would apply to that real estate.

As you know, Mr. President, in the 1986 tax law, passive losses were not deductible against other income. Therefore, if you had a passive loss from operation of real estate, you could not deduct that loss against income that you received from other sources. That caused the value of real estate to go down very materially. That caused the value of the real estate that is held by the RTC to go down.

In the event we could raise the value of that real estate, it would, indeed, be an advantage not only for the RTC and the taxpayer, but for the Nation. Think just for a moment. If you owned a piece of property and you had struggled through some rather hard times with that piece of property, now comes the RTC and sells a similar piece of property 1 mile, 2 miles away, or perhaps right next door—sells that piece of property at a bargain-basement rate. The buyer of that piece of property is going to have an investment in that property so much less than you that you will find yourself in a noncompetitive situation.

So for the purpose of raising the value of those properties, the passive loss rules did not apply. If the capital gains rate did not apply for the first sale of that piece of property, you would be able to raise the value. You would be able to raise the value of the property held by the RTC. You would be able to minimize the losses that the taxpayer would have to bear, and you would also create a situation of fairness for the people who held real estate in that general area.

That bears only indirectly on the question of capital gains. Is the idea of capital gains fair or does it inure only to the rich? I would like to address that question as well.

Having first addressed the question that indeed if you lower the capital gains rate, in all of my experience and in all of the experience of the Federal Government, you get more transactions. You get more transactions, you make more sales, and you get more revenues into the Federal Government. Every time we have lowered the capital gains rate, indeed, that has been the result.

Second, let me talk about the element of fairness that is involved with respect to capital gains. Is it fair or do capital gains only inure to the rich? I have seen figures that say that 70 percent of capital gains inure to people whose income exceeds $100,000. It would not surprise me, Mr. President, for a moment if that were the fact; that 70 percent of the reportable capital gains, capital gains that are reported on tax statements, inure to people who have incomes in excess of $100,000.

I think there are some reasons for that. For one, the President, I know, has an understanding of the fact that many capital transactions are not taxable, and therefore do not appear. For instance, I am in the process of selling my house in McLean, VA, having purchased a new house here on Capitol Hill.

In the event that I sell the old house in a specific period of time, buy a new house, and invest the proceeds of the sale of the first house into the second house, even though that is the principal asset of most Americans, that again is not recognized.

That gain never appears on tax statements. So if you take out principal assets of Americans and say that your gain on that asset is not going to be taxed, you set aside that whole series of transactions and exclude them from the capital gains transactions and from the capital gains consideration.

So it is no wonder that the pie becomes a little smaller; the pie of capital gains that are subject to transactions is reduced.

Then you have pension funds, employer contributions, and gains by pension funds. Pension funds now constitute approximately 25 percent of the entirety of the capital base of this country. There are huge amounts of money in pension funds. Yet, all of the gains that inure to the benefit of those pension funds are exempted from capital gains taxation. They, too, do not appear on the rolls of the taxpayers, when you make up this graph about who gets the benefit of capital gains, because it is not a taxable transaction.

The measure is that taxpayers with income in excess of $100,000 benefit primarily from capital gains transactions. First, you eliminate the principal asset of most Americans—their homes. That is not a capital transaction subject to taxation. Then you eliminate the second largest asset of most Americans—the moneys that are in their pension funds. That, too, is not subject to capital gains taxation.

There are other things that are eliminated, so-called like-kind transactions, where you have like-kind real estate transactions. And then, of course, in the event that you are over 55 and you make a sale of your piece of property, the first $125,000 is tax exempt as well. So that many of the principal assets—perhaps not most of the American people have been exempted by legislation from capital gains taxation.

So then you have a rather small pie left. You have the pie of those who are entrepreneurs. You have the pie of those who are in the investment community. Those are the gains that are subject to tax. Indeed, it may be that those gains inure principally to people who have incomes in excess of $100,000.

I have a letter from one of my constituents that arrived 2½ weeks ago. It says:

> DEAR SENATOR BOSCHWITZ: I am asking for help in a matter most urgent to my parents. I've just been informed by my tearful mother that they cannot afford to sell their farm of approximately 180 acres because of the capital gains taxes.

She goes on to say that her parents are in their sixties, they have been "hard working, God-fearing people all their lives." Now they want to sell their farm to get out from their debt load, and they cannot because they will not be able to afford the taxes.

We do not have the precise figures, but it is quite apparent what happened there, and that is that the taxes will be such that between the State and Federal taxes, that is, they indeed might be in a bracket as high as 40 percent; and that there will not be enough left to pay their debts if they sell the farm.

Their tax adviser has suggested to them that they go bankrupt. They have been to see three lawyers, and they are working with Farm Credit Services, and the advice they received was to let the farm go back to the Farm Credit Services. That means foreclosure, that means publishing this in the newspaper. Can you imagine how humiliating this is to someone who has always paid their own way, never collected welfare or food stamps? Is there something wrong with our system that forces small people to have to go through this?

That is because of high capital gains taxes. Let me say, this letter is one other element of capital gains and why capital gains does not inure principally to the rich. One hundred and eighty acres. Surely, if it is normal Minnesota land, that is worth probably a quarter of a million dollars, perhaps more, perhaps $300,000. Depending upon what part of the State it is in, it could be worth even more than that.

If they had been on that farm for a large number of years, they may have a very sizable and substantial gain from the sale of that real estate. Or somebody else who operates his or her business during most of their adult lifetime and finally gets the real estate, and they have a hardware store, a lumberyard, or whatever the business is, they appreciate it down to nothing, pay it off and turn around and sell it. They probably have income in excess of $100,000 that year, and they are listed among the rich.

In talking to the various people who put together those figures, they say, yes, those people are listed among the rich or among the people who have incomes in excess of $100,000. So, of course, in the year preceding and in the year succeeding the incomes, those people could return to a more normal pace. But those people, too, are included in those who are among the rich.

So perhaps I could even agree that 70 percent of the capital gains inured to people who would be considered among the rich. But high capital gains rates really steal from those people who spend a lifetime building a business or building a farm or establishing an asset. Those who spend a lifetime establishing that asset really are just being recompensed for the inflation that that asset has experienced over the years.

The New York Times, on June 6, had an editorial entitled, "The Capital Gains Promise, Still False." By and large the New York Times opposes the idea of capital gains changes. It says this was part of the deal—and indeed it was—that it became the compromise known as the 1986 tax law reform package. Then they conclude that while it was part of the deal, nevertheless, it could be fairly changed, and they say:

> The fairest way to treat gains is to index them so investors pay tax only on the real, not paper, gains. And if Congress wanted a real increase in revenue, it would tax gains at death.

The fairest way to treat gains is to index them so investors pay the tax only on the real, not the paper, gains.

If the parents of Linda Friesen of Comfrey, MN, were able to index that gain, they would probably not be faced with the problem that they are facing today. If somebody buys an asset and if the basis of that asset is allowed to rise with inflation over the years and then the gain as it exceeds inflation is taxed at regular rates, that would be fair.

(Mr. KOHL assumed the chair.)

Mr. BOSCHWITZ. That indeed would be fair. But if the capital gains rates apply to the entirety of the gain, even though the asset may have been held for a lifetime, that is not fair and that is the problem that these folks from Comfrey, MN, are having.

So, Mr. President, in summary, lowering the capital gains rate will certainly produce additional revenues.

I see that the Presiding Officer now was a retailer prior to coming to the Senate. He knows that the argument I made prior to his arrival as the Presiding Officer is indeed the case, that if you want more volume you lower the price, that in business if you wanted to get more volume out the door and increase the volume of your business, you had a sale, you lowered the price.

The price that the Federal Government imposes on transactions is a tax. So it has always been the experience of the Federal Government that when the price is lowered, that indeed you get more transactions and the Federal Government raises more money. That is what I believe the President said when he said, yes, we should have new taxes, there would be new taxes, there would be additional revenue in the event the capital gains tax was lowered.

Again I say that, yes, perhaps capital gains taxes do inure principally to the rich, but that is because pension funds are exempted from taxation and they are not counted. One of the principal assets held by most Americans, homes, are exempted from taxation effectively and not counted. That, too, is the principal asset. And after you exempt all these various pieces of property, all these various assets, and then just measure capital gains on what is left, indeed the gains then may inure principally to the rich.

Mr. President, because I see that my colleague from Alabama is on the floor to participate in this hour of discussions on capital gains, finally, I say that equity really would require that if capital gains are to be taxed at regular rates, then the basis of the asset should be allowed to rise with inflation so that a letter such as the one that I spoke about earlier, where a daughter writes that her parents cannot sell the farm because capital gains taxes are so high that there will not be enough left to pay the mortgage, that should not occur; that if they were on that farm for 10 or 20 years, the basis of that farm should be allowed to rise with inflation and then the gain, as it exceeds inflation, could fairly be taxed at the regular rates, and then there would be more equity into the code.

Mr. President, I yield to the Senator from Alabama such time as he requires.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

KASTEN-MACK-SHELBY PROPOSAL TO REINSTATE THE CAPITAL GAINS PREFERENCE

Mr. SHELBY. Mr. President, I rise today in support of a reinstatement of the capital gains preference. It is my opinion that a rate reduction on the taxation of long-term capital gains will play a vital and instrumental role in the continued health of the economy and our future competitiveness. To maintain and upgrade our competitive edge, it is necessary to implement a fiscal policy that encourages long-term investments. The benefits of such a policy include, but are not limited to, a greater infusion of capital into the domestic economy, enhanced consumer welfarism, increased wages and the psychological reward one gains from savings.

The debate over the capital gains issue is not new but this issue has been healthy for the country. Views have been articulated and debated. The pro-capital gains school is not composed of conservatives or just Republicans. Democrats like myself and others, have contributed immensely to the debate, arguing for a reinstatement of the capital gains preference. Some of the more mainstream economists have also stated that a tax cut in the top capital gains rate would be beneficial to the economy.

In addressing the capital gains issue there are several areas that I would like to discuss this morning. They are, including timber assets in a capital gains preference proposal, increasing

the U.S. savings rate, providing for corporate capital gains, assisting the venture capital industry, and the indexing of capital gains.

TIMBER ASSETS AS PART OF CAPITAL GAINS PROPOSAL

For many of our States, forestry is an integral part of our economic stability and economic development. Alabama, my State, is such a State. Forests occupy two-thirds of Alabama's land area, and forest products compose Alabama's leading manufacturing industry. In terms of fairness, timber assets should be part of any capital gains proposal. The inclusion of timber assets would benefit the Pacific Northwest as well as the Southeastern States.

To deny timberland owners benefits of a capital gains preference on gain that is, many times illusory, is punitive. Because of the long-term commitment that timber owners must make to each crop, the lack of providing a capital gains tax cut serves as a disincentive to efficient timber management. In the long run such a disincentive will reduce future supplies of timber and other forest products.

I am especially concerned about the current economic situation of small timberland owners. I am an original cosponsor of S. 1692, a bill that would allow thousands of small timberland owners to return to the practice of deducting their business expenses as incurred, which will allow the timber owners to efficiently manage their timber stands. The bill does more than just provide relief for small timberland owners, it addresses the policy issue of securing a future timber supply and the very important policy of ensuring conservation. To deny small timberland owners the right to currently offset their cash expenditures against other sources of income requires these owners to capitalize their timber management expenses until they sell their trees which is years later. I hope that this legislation receives favorable treatment in the Senate.

INCREASING THE U.S. SAVINGS RATE

As a matter of public policy, assisting individuals to achieve financial objectives for the years ahead is a necessary and proper task for Government. I believe that the satisfaction one receives from saving hard earned money is enormous. The prudent role of Government, therefore, is to aid the American people in rediscovering the financial and psychological benefits of savings in this country.

One part of the solution to curtail Government dissavings is to reduce the budget deficit. A balanced budget amendment to the Constitution, with the adequate prudential safeguards, could ameliorate the negative consequences of the deficit. This is another area that must be discussed that cannot be pushed aside. In addition to curtailing Government dissavings, steps to increase private savings are also needed. Reduction of the tax rate on capital gains is a dispositive component of a fiscal policy to increase savings and capital formation in this country.

Empirical evidence shows that savers do respond positively to higher aftertax rates of return. The capital gains tax increase of the Tax Reform Act of 1986 reduced aftertax rates of return to investors and therefore made savings considerably less attractive. This increase took place in the context of an increasingly competitive world where most nations tax capital gains more lightly than we did even before the 1986 Tax Act.

I believe that a preferential tax rate for capital gains is an important part of a policy to keep America in the first rank of industrial powers. We must consciously adopt strategies to encourage companies and individuals to set aside more to invest in the future.

PROVIDING FOR CORPORATE CAPITAL GAINS

Corporate capital gains restoration would be highly beneficial to the economy. Corporate capital gains would improve U.S. productivity. A lower corporate capital gains tax rate is a key motivator to modernize plant and equipment. Competitiveness on the international playing field today is keyed directly to an ability to respond quickly and efficiently to change. As our international competitors have so clearly illustrated, the ability to make such responses is tied directly to flexibility in one's productivity capacity—and that requires state-of-the-art machinery and equipment.

Since all taxes of corporations are ultimately paid by individuals, a reduction in the corporate capital gains rate is an incentive for individual equity investment in corporations. Thus, such a change would further reduce the U.S. cost of capital which I believe is very important to our economy.

Corporations are responsive to tax rate changes. The potential level of corporate responsiveness is documented by recent data on tax returns filed in anticipation of the rate changes under the 1986 Tax Reform Act. With full knowledge that the corporate capital gains tax was about to increase six full percentage points January 1, 1987, from 28 to 34 percent, corporations responded with a 94-percent increase in capital gains realizations in 1986. This increase was identical to the capital gains response by individuals in that year.

To summarize, it is vital to the broad interests of the U.S. economy to include corporations in any proposal to extend capital gains tax relief. It is important to restore a level of rationality and logic to the treatment of various taxpayers under our tax code.

ASSISTING THE VENTURE CAPITAL INDUSTRY

Restoring a capital gains tax differential would have a powerful impact on the entrepreneurial sector of the American economy, making possible new technological breakthroughs, new start-up companies, and new jobs. Venture capital is a process requiring a number of participants who are sensitive to after-tax rates of return. The key to successful, venture capital investment is the ability to attract and motivate the entrepreneur. By taxing the entrepreneur's potential gain at a higher rate, either the pool of qualified entrepreneurs will be reduced or the investors will have to accept a lower rate of return. In either case, the implications for the American economy are clearly negative.

Making the entrepreneurial process work and flourish is dependent on the strengths and abilities of the various individuals involved, but their activities are greatly affected by Government policies that we make right here in the Senate. The capital gains tax has a significant impact on the individual, group, and corporate decisions to invest in the venture capital entrepreneurial process. The historical record has been that when the capital gains tax is raised, the entrepreneurial process suffers.

There is a need for a tax incentive to encourage these investments. These investments do involve real and substantial risk. These are investments which investors are reluctant to make; but there are investments which must be made if we are to compete in international markets. A tax policy that provides a reduction in the tax rate on long-term capital gains would be beneficial for the competitiveness of American business.

INDEXING FOR INFLATION

One unfair aspect of the Tax Code is the taxation of inflationary gain when capital assets are sold or exchanged. It is grossly unfair when illusory profits created by inflation are taxed at ordinary rates. In essence, a taxpayer is being penalized for making a long-term investment, rather than being encouraged to do so. I find this fiscally ironic in a period when many individuals are stressing the need for long-term investments and capital accumulation.

I believe that we should remove the effects of inflation on capital gains by allowing the tax rate of eligible assets to be adjusted by the amount of inflation that has occurred since those assets were purchased. Indexation protects investors from the value-eroding effects of high inflation to save in capital assets today, instead of channeling their income into consumption.

CONCLUSION

In conclusion, it is my opinion that a reduction in the tax rate on long-term capital gains is in the best interest of

the economy. A reduction is responsible fiscal policy. Aiding and assisting U.S. businesses to strengthen their competitive edge vis-a-vis foreign competitors must be an integral part of any long-term economic policy. Encouraging individuals to save and reduce consumption has to be part of a national economic agenda.

Attractive capital gains treatment can stimulate the economy and benefit both corporate America and individuals. The beneficial consequences of the rate reduction include more revenue for the Government, a lowering of capital costs, and an increase in the national savings rate. Lower marginal tax rates positively affect realizations. The Kasten-Mack-Shelby proposal encourages investment and capital accumulation. The Kasten-Mack-Shelby proposal is needed legislation to strengthen the United States international economic position vis-a-vis our trading partners.

I urge my colleagues to support the Kasten-Mack-Shelby proposal.

Mr. BOSCHWITZ. Mr. President, I yield 7 minutes to the Senator from Montana.

THE NEED FOR A REDUCTION IN THE CAPITAL GAINS TAX

Mr. BURNS. Mr. President, I thank the Senator from Minnesota [Mr. BOSCHWITZ].

I would like to first of all associate myself with the remarks of the Senator from Alabama [Mr. SHELBY]. I think he was right on target with regard to the timber industry and how it affects rural America.

I would also preface these remarks by saying that Senator BOSCHWITZ of Minnesota has been right on target when it comes to these issues. He is a man that brings a world of experience to this body, and there is something to be said, instead of making a career out of politics, you bring career into politics.

We need that insight. We need that wisdom of a person that has been in the business world a long time and understands the workings of competition, free enterprise, and the effects of some taxes and some legislation, or how Government can absolutely be worked to the benefit of not only the commerce of this country but also the working men and women who spend their lives in the work force.

I want to just rise this morning in support of this capital gains reform rate and cutting it back a little.

Since coming to office 17 months ago much of the capital gains rhetoric has focused on the distribution of benefits, with some lawmakers dismissing it as a "giveway to the rich." The past few months I have received a number of letters telling me a tax cut in this situation is a crummy idea and enclosing some bread crumbs to represent how little the rest of America gets or benefits from this.

Mr. President, I am here today to tell this body there is someone who deserves a cut in capital gains tax who is not rich, who is not investing in short term bonds and stocks. He is not trying to get rich quick. This person does not pick up the Wall Street Journal every morning. This person and I have a very personal relationship—the person that gets up early in the morning and turns on the radio and listens to the farm market report, farm news, at the crack of dawn. This person is the American farmer and rancher.

Mr. President, the American farmer and rancher is entitled to this reform. Opponents to the cut say only the richest 10 percent in the public will benefit from this legislation. I think we all know that the farm and ranch folks of our country are not the richest 10 percent.

Mr. President, I ask unanimous consent that I be allowed to have printed in the RECORD a study by Ron Durst and Clifford Rossi who work for the Agriculture and Rural Economy Division of the Department of Agriculture. They paint a broader picture of the effects of capital gains reform on farm investments.

I ask unanimous consent that that be printed in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

ALTERNATIVES FOR TAXING CAPITAL GAINS; EFFECTS ON FARMLAND

(By Ron Durst and Clifford Rossi)

ABSTRACT

This paper compares effective tax rates for real capital gains under current law and various preferential tax treatment alternatives. Results suggest that an exclusion for long-term capital gains performs poorly in compensating for the effect of inflation. In addition, indexing capital assets for inflation would produce the lowest per acre tax on unrealized capital gains for current farmland owners.

INTRODUCTION

The Tax Reform Act of 1986 (TRA) resulted in the most comprehensive overhaul of the tax code in over 30 years. The Act substantially reduced marginal tax rates and broadened the income tax base by eliminating many of the exclusions and deductions that had been introduced into the tax code over the years.

One of the most significant provisions contained in the Tax Reform Act was the elimination of the exclusion for long-term capital gains. This change increased the tax rate on capital gains despite the sharp reductions in marginal tax rates. This increase has raised concerns regarding our ability to sustain a flow of capital to long-term, innovative types of activities that are necessary to keep the United States competitive with the major industrial nations of the world.

These concerns have resulted in a number of proposals for the restoration of a preferential tax to encourage long-term commitments of capital. These include the recent proposal by President Bush to restore an exclusion for long-term capital gains and several proposals by members of Congress to provide a similar exclusion or to index capital assets for inflation.

The objective of this paper is to analyze the effects of alternative proposals for restoring a preferential tax rate for long-term capital gains. Our primary emphasis is on investments in farmland. We compare effective tax rates on real capital gains under current law, the President's proposal, and an indexing alternative. Implications for land values and for tax burdens for current farmland owners are also explored.

BACKGROUND, CURRENT LAW AND CAPITAL GAINS PROPOSALS

Background and Current Law

For the first time in over 50 years, long-term capital gains are taxed at the same rate as ordinary income. Prior to the Tax Reform Act, 60 percent of long-term capital gain was excluded from income. Thus, with a top marginal tax rate of 50 percent, the maximum tax rate on long-term capital gains was 20 percent. For low and moderate income taxpayers the tax rate ranged from 5 to 10 percent. With the repeal of the exclusion, capital gains are now subject to a 15, 28 or 33 percent marginal rate with an overall tax rate not to exceed 28 percent.

The President's Proposal

The President's 1990 budget proposal calls for the restoration of a 45-percent exclusion for long-term capital gains. The proposal also provides for a maximum rate of 15 percent and a 100 percent exclusion for taxpayers with an adjusted gross income of less than $20,000. Based on recent Internal Revenue Service statistics on farm sole proprietors, about half of all farm sole proprietors would be eligible for the 100 percent exclusion. A large number of farm partnerships would also be eligible for this exclusion.

Given the emphasis on long-term investments, the proposal would require a 3-year holding period once fully phased in. In addition, depreciable assets used in a trade or business would not be eligible for the preferential treatment. Thus, orchard and vineyards, farm machinery, equipment and structures as well as livestock used for draft, dairy or breeding purposes would be excluded from preferential treatment. However, non-depreciable assets used in a trade or business such as farmland would be eligible for the exclusion.

Indexing Capital Gains for Inflation

Under current law, taxes are imposed on the nominal change in the value of an asset. For assets with relatively long holding periods, a large part of the increase in value can often be attributed to inflation. As a result, the tax rate on the real gain or increase in value can be quite high.

The exclusion for long-term capital gains has frequently been justified as an allowance for this overstatement of capital gains caused by inflation. Yet the exclusion is a very imprecise adjustment for inflation. Except for the minimum holding period requirement, the exclusion amount does not vary with the holding period of the asset or with the actual rate of inflation during the holding period. As a result, the exclusion undertaxes real gain at low rates of inflation and overtaxes real gain at higher rates of inflation. In addition, an exclusion does not prevent the taxation of purely inflationary gains in those instances in which the nominal value has increased but the taxpayer has in fact suffered an economic loss due to a decline in the real value of the asset.

There are a wide variety of options for indexing capital gains for inflation. These in-

clude adjusting for inflation above a certain specified level or adjusting for inflation plus or minus a specified amount. For purposes of this analysis, we adjust the historical cost or basis of the asset for the entire amount of inflation during the holding period. As a result, tax liabilities are imposed only on the inflation adjusted gain or loss.

CAPITAL GAINS TAX RATES

The President's and indexing proposals for capital gains taxation were compared to related provisions under current law by estimating real effective capital gains tax rates. The real effective capital gains tax rate is that portion of the real capital gain that is paid as taxes and was computed by the following expression:

Formula 1 not reproducible for the CONGRESSIONAL RECORD where P is the purchase price for land, u is the marginal tax rate, a is the annual nominal increase in the value of land, i is the annual inflation rate, n is the holding period for land, and c is the percent of long-term capital gain excluded from income. The numerator measures the real capital gains tax. The denominator represents the real gain expected from holding the asset for n periods.

With the bases of capital assets indexed for inflation, only inflation adjusted capital gains are taxed. Thus, equation 1 can be rewritten as,

Formula 2 not reproducible for the CONGRESSIONAL RECORD.

Under current law, capital gains are subject to the same statutory tax rates as ordinary income. However, only realized gains are taxed. Thus, the tax on accrued gains is deferred until a sale or other taxable exchange occurs. Capital gains that are not realized during the owner's lifetime are not subject to the Federal income tax due to a stepped-up basis to the new owner. This deferral of tax lowers the effective tax rate on the real gain.

Figure 1 demonstrates the effect of taxing nominal capital gains. Assuming an 8 percent nominal increase in value, a 4 percent inflation rate, and a 28 percent marginal tax rate, the real effective tax rate for a one-year holding period is about 56 percent. However, as the length of the holding period increases, the tax rate declines due to the decrease in the proportion the gain attributed to inflation. For a 30-year holding period, the rate declines to about 37 percent. Since in effect the President's proposal merely lowers the maximum tax rate to 15 percent, the pattern of declining rates is similar to those under current law only at a lower level. Rates drop from 30 percent for a one-year holding period to a 20 percent rate for a 30 year holding period.

Graphic not reproducible for the CONGRESSIONAL RECORD.

The pattern under an indexing alternative, however, is different. Under indexing, the proportion of the nominal increase in value that is subject to tax does not change with the holding period. Thus, the rate does not decline as under current law or the President's proposal. In fact, under the conditions previously outlined, indexing for inflation would result in a lower tax rate than the President's proposal only for holding periods of 5 years or less. For holding periods of more than 5 years the President's proposal results in lower tax rates with the difference widening as the length of the holding period increases.

Since under current law the tax is imposed on the nominal increase in value, the greater the proportion of that increase that is inflation, the higher the effective tax rate on the real gain. Figure 2 illustrates the effects of increasing the rate of inflation from 0 to 10 percent for a 30-year holding period with the nominal increase in value equal to the inflation rate plus 4 percent.

Graphic not reproducible for the CONGRESSIONAL RECORD.

Under current law, the tax rate climbs from approximately 28 percent at 0 inflation to just over 42 percent at a 10 percent rate. Under the President's proposal, the rate rises from about 15 percent to a little over 22 percent. However, under an indexing alternative, the tax rate remains constant at 28 percent regardless of the rate of inflation.

It is also important to point out that the tax rate curves representing current law and the President's proposal would shift up if the nominal increase in value was reduced below 4 percent above inflation and would shift down if the nominal increase were in excess of 4 percent above the rate of inflation. However, the tax rate under indexing would not vary. Thus, the relative attractive-ness of one capital gains taxing scheme over the other depends not only upon the holding period and the rate of inflation but also on the proportion of the nominal increase in value that is attributed to inflation.

In almost all instances, the President's proposal and an indexing alternative produce lower tax rates than under current law. In general, the shorter the holding period, the greater the proportion of the nominal gain attributed to inflation and the higher the rate of inflation, the more favorable the indexing alternative relative to the President's proposal. However, it should be noted that at all levels of inflation for the 30 year holding period examined in Figure 2, the President's proposal provides the most favorable tax treatment.

TAX BURDENS FOR CURRENT FARMLAND OWNERS

Repeal of the exclusion for long-term capital gains substantially increased the potential tax burden associated with the sale of farmland that has appreciated in value over the years. This is especially true for those farmers planning to dispose of property for retirement purposes or those forced to reconvey land to a lender due to financial problems. To illustrate the differences in potential tax burdens under the various alternatives for taxing capital gains, we estimate the tax liability associated with the sale of an acre of Iowa farmland in 1989. We examine holding periods of 1, 5, 10, 15 and 30 years. In each case, the purchase price is based on historical values consistent with a purchase date necessary to satisfy the desired holding period. For example, assuming a 1989 sale date, the purchase price for the one year holding period would be the average value of Iowa farmland in 1988 while the relevant purchase price for the 30 year holding period would be the average value of an acre of Iowa farmland in 1959.

Iowa farmland was chosen because of the large variation in land values over the 30 year period. Land purchased in 1988 and sold in 1989 would result in a substantial real gain. Under these circumstances, an exclusion overcompensates for inflation during this period. Thus, tax liability per acre is lowest for the President's proposal at $26 per acre compared to $49 per acre under current law and $37 per acre with indexing (Figure 3). However, the results for the 5, 10, 15, and 30 year holding periods are very different. For both the 5 and 10 year holding periods, both nominal and real values declined. As a result, a tax loss is reported under each of the 3 taxing alternatives with the largest loss under the indexing alternative.

Graphic not reproducible for the CONGRESSIONAL RECORD.

For the 15 year holding period, the nominal value has increased while the real value has actually declined. Thus, while the indexing alternative results in a $94 per acre deduction or loss, the other alternatives produce a positive tax liability with a high of $155 per acre under current law.

For land purchased in 1959 (30 year holding period), the nominal value has increased approximately $900 per acre while the real value has increased only slightly more than $100. Thus, real gain represents only a small percentage of the total gain. Under such conditions, an exclusion only partially compensates for the effects of inflation. Thus, tax liability is lowest under the indexing alternative at $34 per acre compared to $135 per acre under the President's alternative. Tax liability under current law would be about $252 per acre or 8 times the indexing alternatve and more than double the actual real gain.

POTENTIAL IMPACT ON LAND VALUES

Land values are influenced by a number of tax policies. One of the most important of these policies is the tax treatment of capital gains. We utilize a simple bid price model to examine the potential impact of various alternatives for taxing capital gains on farmland. Bid price analyses have been used previously to study the impacts of taxes and other variables on land values (Harris and Nehring; Klemme and Schoney; Rossi and Jeremias).

The bid price of land is defined to be the price that would yield a given required after-tax return to an investor. Consider an investor who is preparing a bid on a tract of farmland that will be farmed or rented for n years and then sold. Assuming real land income and land value remain constant over time while nominal income and value increase with inflation, the maximum bid price for land equals the present discounted value of the n years of expected after-tax income and the future sales proceeds net of the tax on inflationary capital gains.

Formula 3 not reproducible for the CONGRESSIONAL RECORD.

Where B is the bid price, u is the investor's marginal tax rate, R is the real annual income to land, r is the investor's real required after-tax rate of return, x is the percent of long-term capital gains included in income and i is the rate of inflation. The first term on the right side of this equation measures the present value of the after-tax returns from the annual income to land. The second and third terms measure the present value of the after-tax proceeds from the sale of the land at the end of the holding period. Equation (3) is solved for B to obtain a formula for the bid price of land:

Formula 4 not reproducible for the CONGRESSIONAL RECORD.

This formula is used to compare bid prices under current law with those that would exist after enactment of preferential treatment for capital gains. The results are shown in Figures 4 and 5.

Graphics not reproducible for the CONGRESSIONAL RECORD.

Figure 4 presents bid prices for an investor in the 28-percent tax bracket with full-equity financing, a 5 year holding period and inflation rates of 4 and 8 percent. A 6 percent required after tax rate of return and an initial income from land of $100 is

assumed for all bid price estimates. At the 4 percent level of inflation, the bid price under current law was estimated at $1053. Enactment of the President's proposal would increase bid prices by $63 or about 6 percent. Indexing would raise the bid price by 14 percent to $1200. At the 8 percent level, the effect of providing preferential treatment for long-term capital gains is even more significant. Bid prices would increase by 10 percent under the President's proposal and 25 percent under the indexing alternative.

For longer-holding periods, the effect on bid prices is substantially less. Figure 5 presents bid prices for a 30 years holding period. While bid prices increase for both the 4 and 8 percent level of inflation, the increase is only about 2 percent under the President's proposal and between 4 and 5 percent for the indexing alternative. Thus, restoring preferential treatment for long-term capital gains would have its greatest impact on bid prices under shorter holding periods and at higher rates of inflation. Also, it should be noted, in those instances in which no real change in land value is expected, indexing the basis of farmland for inflation neutralizes the effect of inflation and the length of the holding period on bid prices for farmland.

CONCLUSIONS

The increase in the tax rate on long-term capital gains produced by the Tax Reform Act of 1986 has led to a number of proposals for restoring preferential tax treatment for capital gains. An evaluation of these alternatives suggests that an exclusion poorly compensates for the effects of inflation on the tax rate on real gain. During periods of low inflation and high real gain, the exclusion overcompensates for inflation. On the otherhand, the exclusion undercompensates for the effects of inflation during periods of high rates of inflation and low real gain.

An evaluation of the effects on actual land values produced similar results. Based on historical land values for Iowa, the indexing alternative produced the lowest per acre tax. Tax burdens under current law and the President's proposal were generally higher and in some cases resulted in a substantial tax liability during periods of real decline in farmland values.

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Mr. BURNS. Mr. President, these two gentlemen based their conclusion on the President's original capital gains proposal, but I believe the overall result would still be the same with the current proposal. The results of their study suggests that an exclusion for long-term capital gain performs poorly in compensating for the effect on inflation. In addition, indexing capital assets for inflation would produce the lowest per-acre tax on unrealized capital gains for current farmland owners.

It is the farmers and ranchers that typically hold assets for a long time, during which inflation may create the illusion of a big gain. If the value of an investment increases by less than the rate of inflation, the investor may have to pay a tax on a loss. That is what we have seen coming through the 1980's.

Therefore, a cut in the capital gains tax will help stabilize and strengthen land values. This will improve the overall collateral and financial condition of both the borrowers and lenders.

And how many times have we come to this body and said agriculture, or some industry, is in dire straits. We have to do something to help them out.

We are not helping out those people. Sometimes we are helping out the lenders.

Therefore, this will improve the overall collateral and financial conditions of both the borrower and lender. A cut would increase land values, reduce land liabilities, and provide a major relief for older farmers whose land is their major investment for retirement.

Finally, a cut would increase the turnover in the land market. Older farmers will be more willing to sell land and thus open up some opportunities for new, young farmers to come on board.

So, Mr. President, with that in mind—and we know we have farms for sale and older folks who want to retire but right now they cannot—I believe a cut in capital gains will truly help all Americans, especially in that sector that is charged with the responsibility of feeding and clothing this society. It will stay competitive and it will stay strong.

I recommend to my colleagues that this legislation be supported, even from the standpoint of feeding and clothing this great society.

I thank the Senator from Minnesota and yield the floor.

Mr. BOSCHWITZ. I thank the Senator from Montana. Prior to his coming to the floor I put a letter in the RECORD from a daughter who said she had just been informed by her mother that they cannot afford to sell their farm because of capital gains taxes—so the Senator is so right on the mark. I have had the same experience.

I yield approximately 5 minutes to the Senator from Florida.

TAX REVENUE INCREASES AND CAPITAL GAINS

Mr. MACK. I thank the Senator for yielding.

I will try to be brief. There are many different aspects of the capital gains tax we can talk about today, but I think the area I would like to focus on has to do with the increase in revenues.

Capital gains tax reduction I think would increase the value of assets, reduce the cost of the S&L bailout, it would make America more competitive, it would help in job creation, it would provide hope and opportunity for millions of Americans, again helping the creation of millions of new jobs.

But I think yesterday's excitement created by the words "tax revenue increases" probably makes a comment about how capital gains would impact that rather important. I remember reviewing the materials on the last major debate on the capital gains tax cut, which was in 1977. All the same arguments were made in 1977 that are being made today; that, in essence, by lowering the capital gains you are going to make the wealthy wealthier and you are going to cost the Federal Government billions of dollars in revenues. In fact, Secretary Blumenthal testified before one of the committees of the Congress that if you lowered the capital gains rate, there would be approximately a 25-percent reduction in the revenues to the Federal Government as a result of that.

I am sure he must have been stunned, then, when the news came in the following year, after the reduction, that rather than their being a fall in the revenues to the Federal Government there actually was an increase in the revenues from capital gains.

Most people have a tendency to look at this issue with a static model; that is, if you lower the capital gains rate, assuming everything else remains the same, you would be correct to conclude that this would be a reduction in revenues. But things do not remain the same. That is the significant thing about taxes and tax rates, they do impact the way people make decisions

and what conclusions they draw about what types of investments they ought to make.

So I make the argument that a lower capital gains rate actually encourages people to invest more, to save more, to take risks, and to accumulate capital. A reduction in the capital gains rate, contrary to what your initial reaction would be, actually increases the revenues to the Federal Government.

There is a very, very simple explanation, at least from one perspective. The capital gains tax is a voluntary tax. I want to say that over again. The capital gains tax is a voluntary tax. You do not pay a capital gains tax unless you voluntarily sell an asset. As the Senator from Minnesota said just a moment ago, he knows of people who have not sold an asset because the economic return, the financial return to them is not great enough, in their opinion, to cause them to sell that asset. It is a voluntary tax.

If you believe the tax rate is too high relative to other rates, if you believe the return to you is too low, you do not sell the asset. If you do not sell that asset, there is no income to you. If there is no income to you, there is no revenue to be gained for the Federal Government.

So I believe our objective is to try to find an optimum rate that will both encourage the sale of an asset and the reinvestment of that asset. Again, all we have to do is go back to the 1977 debate. Exactly the same issues were raised, exactly the same points were made.

We now know from past experience, from statistical data that is now available to us, that by reducing the capital gains rate you actually increase the revenues to the Federal Government. There have been studies done by several economists at Harvard that have indicated that the revenues to the Federal Government over a 5-year period could increase by from $30 billion in 5 years to as high as $100 billion over a 5-year period. It is time for us to make this change.

As I said in the beginning, if we want to do something about the cost of the S&L bailout, if we want to increase the value of assets in this country, if we want to get the economy going again, if we want to make America more competitive, create more jobs and opportunity, then we should reduce the capital gains rate.

I thank the Senator from Minnesota for yielding.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I yield 5 minutes to the Senator from Idaho. I note my hour is almost up. Since there are no other Senators on the floor that desire to speak, I ask unanimous consent that the hour be extended by 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAPITAL GAINS AND PROPERTY VALUES

Mr. SYMMS. Mr. President, I thank my good friend from Minnesota for the time, but I also thank him for his efforts, and his very clear understanding of the importance of this issue; to help restore the engine of economic growth in the United States of America.

Mr. President, we have seen the budget debate be somewhat of a standoff this year. I cannot help but think about the fact that if we go back and look where we came from, it always helps project into the future. In my opinion, we would need less money for the S&L bailout, we would have fewer problems in the budget standoff, if the capital gains rate reduction had been passed last year, because it would have made it easier for people to dispose of properties. It would have helped with the asset value of real estate.

If we are going to solve this budget crisis then we are going to have to look at all aspects of the budget. We have to be willing to seriously look at reforming the entitlement spending. We have to look at defense and nondefense appropriated accounts. We have to have everything out on the table, as has been talked about. One of the things the President has talked about since he has taken office is that we would actually generate revenues by reducing the rates on capital gains.

I was pleased to note in this special order hour this morning that Senator SHELBY was on the floor speaking as a Member of the majority party favoring a reduction in the capital gains rate, and I praise him for that. Because he does come from a business background, he understands this is not a tax giveway to the rich. I hope many of my colleagues would not invalue themselves in that rhetorical position by saying it is a tax giveaway to the rich that I have heard stated so many times here on the floor.

Reducing the tax on capital gains would, all by itself increase the underlying asset values in the United States. If we increase the asset values in the United States, it will be easier to get the deficit down. With the capital gains tax reduction, alone if we did not do anything else, it would help on the deficit question. The cost of the S&L bailout would shrink dramatically with a 15-percent rate on capital gains tax. All capital assets would increase sharply in value with the rate announced. All commercial real estate, mortgages, and bonds would increase in value if they did not have to someday pass through a 33-percent tax rate.

Because of this, the principal problem of the S&L portfolios, the lower rate would be helping lift those S&L's above water. As former President Kennedy said about the tide, all boats rise with the tide. In this particular case, it is a shame that we did not do this last year. I think the Senate and the majority who did the blocking can take some of the responsibility for some of the mess we are in now because we did not do it. But we cannot go back and redo what has been done.

We have probably added, because of the inaction of the Congress to reduce this tax last year, another $100 billion on the liability side of the Federal Treasury deficit because of the costs of the S&L bailout having increased that much since last October.

Mr. BOSCHWITZ. Will the Senator yield for a moment?

Mr. SYMMS. I will be happy to yield.

Mr. BOSCHWITZ. I have written to the head of the RTC, the Secretary of the Treasury, and many others—I am sorry I have not sent a copy of that letter to the Senator from Idaho—suggesting that several things be done with the assets that are being held by the RTC.

No. 1, the passive loss rules should not be applied to those assets. In that way, you would raise the value of those assets so that when they come onto the market, the loss to the taxpayer would be reduced in the so-called savings and loan debacle, and a debacle it surely is. But the value of the assets held by the RTC would be raised if the old passive law rules were applied to that property.

Furthermore, I have suggested that no capital gains tax be assessed to the first buyer of the property from the RTC. That, too, would raise the value of the property. That, too, would lower the amount of the loss that is occasioned by the RTC and, ultimately, the taxpayer.

I point out that if I owned a piece of property next door to someone else who struggled through some rather hard times and did not turn his property back to the bank, and yet next door the piece was turned back to the bank, or maybe it was 2 miles away, and had a similar use and would be directly competitive with property held by somebody who really struggled through hard times, suddenly the RTC sells a comparable piece of property for a much lower cost. That person who struggled through difficult times would now find themselves competing with property or properties that others have been able to acquire at lower costs. And so even though they struggle through that difficult time, they will have new difficulties imposed upon them by the RTC because new forms of competition have been place in their way.

So I very much agree with the direction the Senator is taking.

Mr. SYMMS. I appreciate the Senator's comments. I hope this is something that all of our colleagues will

give consideration to. When we sat on the Senate floor last year and listened to the debate and saw the majority block the reduction of the capital gains rate, we saw an asset value sink that Congress had already guaranteed through past legislation of guaranteeing $100,000 in each savings account in the S&L's.

Not only that, the very day that the President and the White House threw the towel in, the stock market dropped 200 points. So there was an asset value loss. It has since recovered a great deal of that.

Those things should be considered by the Congress because our actions have a direct cause and effect on the marketplace.

The higher capital gains rate that we have today is effectively the highest it has ever been.

I know that some would say, "no, that is not correct, it used to be higher." Let me explain why. When the rate was 48 percent, the country had not yet experienced the inflation of the 1970's and a great majority of American workers, savers, and investors were in tax brackets between 10 and 20 percent, which meant that the capital gains exclusion brought them down to between 5 and 10 percent. The higher capital gains rate in those days was not so heavily ballooned by inflation. When the gains were realized from the sale of an asset, the gains were real, not simply inflated by the Government's devaluation of the dollar. This is an extremely important point that anyone concerned about tax policy should keep in mind.

Think about it. With the kind of inflation we witnessed in the last 15 years in this country since the middle 1970's of the appreciation in value, appreciation in dollar price, when there is no increase in value and then someone has to come in and tax it at a rate of 33 percent. They find out that their taxes are even more than the original investment in many cases and they end up the net loser in trying to sell real estate property.

It is pure confiscation by the Government. It is an anticapitalistic tax. It is basically un-American in many ways. Yet, through the misunderstanding of many people on the Senate floor, they say this is just some kind of a way to protect the rich when, in fact, it is the working Americans, who own homes, who own houses, who have some assets in the family, that it hurts the worse.

If we had been allowed to vote on the capital gains measure, the economy in my opinion, would be growing appreciably faster today than it is. The jobless rate would be falling; the value of stocks, bonds, and real estate would be higher, along with the GNP.

I do not say that, Mr. President, just to say I told you so. I say that because I hope we do not make the same mistakes again and again that Congress consistently makes. I am one who is a great proponent of capitalism, but I have to say that I am absolutely astounded sometimes by how much abuse the marketplace can stand from the things that happen in the Congress.

What is more, not only the marketplace, the Federal bucket would be better off if we had already reduced this capital rate tax, but every political subdivision in the Nation would be experiencing higher revenues.

The lock-in effects that all economists say exists at the Federal level automatically mean there is a lock-in effect elsewhere, and I am talking about State and local fiscal problems, also.

The Northeast States and California happen to be the places in the country that contain most of the Nation's capital. They could also be looking at balanced budgets instead of looking to raise taxes.

Mr. President, I ask unanimous consent to extend my time for another 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I thank the Chair. Those States, instead of looking to raise taxes to extract more money out of the blood of the working men and women in the Northeast and California, would be looking at balanced budgets. School districts would be seeing more revenues depressed property values bounce back up against the ad valorem taxes. The bill that passed the House last September is still alive and it has been blocked up to now by the Senate majority leadership.

It does not give me any great pleasure, and I do not enjoy coming in here and making statements like that, but those are the facts, Mr. President. The Democratic majority in the U.S. Senate has blocked the American people from having a reduction of the capital gains rate of taxation.

I do not know whether the strategy was they wanted to get some other taxes when this reduction is taking place; even though it will generate revenue, I do not know what the strategy was. But the point I want to make is that I think we in the Senate should make an effort to do things that would generate more growth, more opportunity, more economic viability for the economy which will, in the long run, make a stronger America that is a better place for people to live.

Now we have an opportunity. It appears that the deadlock in the budget may just have some faint hope that an agreement will be hammered out by the administration and by the leadership in the House and the Senate. We have an opportunity in that process to revive this issue and bring it up for a vote.

A reduction in the capital gains tax will encourage long-term investment; it will make America more competitive and create more jobs, it will lower the taxes on capital gains, and it will help reduce the cost of capital, which offers all Americans the benefits of a productive economy.

So, Mr. President, I think Senator BOSCHWITZ and others have done a good service to the Senate to focus on this issue. I think we also should take a look at our competitive position abroad.

It is interesting that in spite of what is happening with the failure to get that capital gains rate reduced last year, we still are becoming more and more competitive in the United States on a daily and weekly and monthly basis, and exports are expanding to the tune of about 16 percent a year over the last 4 years. So we are making headway. Things are going the right way.

We need to solve this budget problem, and as a part of this budget problem solution, we definitely need to stop overlooking the most obvious benefit of reducing the capital gains rate of taxation. That is an increased value of the asset base of this country, which will mean that our attempts in resolving the budget problem will be much easier to accomplish.

Mr. President, I thank the Presiding Officer for his indulgence. I yield the floor.

REDUCING THE CAPITAL GAINS TAX

Mr. KASTEN. Mr. President, promoting economic growth ought to be the chief goal of national economic policy—and cutting the capital gains tax is item No. 1 on the progrowth agenda.

We have been around the block on capital gains a number of times. I have personally sponsored a number of capital gains tax cut initiatives in the past, always getting closer and closer to enactment but—so far—not being able to push this measure to final passage.

I think we should use the current budget negotiations as a brandnew opportunity to put forward a pure, progrowth capital gains initiative—one that would increase revenues to the Federal Treasury as well as spark productivity gains.

On June 14, I was joined by Senator CONNIE MACK and Senator RICHARD SHELBY in introducing S. 2744, the Economic Growth and Venture Capital Act of 1990. This measure now has a total of 22 sponsors, more than any other capital gains bill in the Senate.

Our bill is a simple, fair, and broad-based capital gains tax cut designed to maximize economic growth.

It would establish a maximum 15-percent tax rate on all capital gains realized from the sale of all capital assets by all taxpayers, both individ-

uals and corporations. The bill would cut the capital gains tax for low- and middle-income taxpayers to 7.5 percent. This measure would also index all capital gains for inflation.

We believe that the Kasten-Mack-Shelby bill should be the marker by which any capital gains bill should be judged. If cutting the capital gains tax is worth doing, and it certainly is, then it is worth doing right. The basic rate of 15 percent is precisely what President Bush asked for in the 1988 campaign.

We all know about the effect a lower capital gains rate has on investment and economic growth. But recently some more compelling arguments have been added to the list of reasons to cut this tax.

First, it would ease the budget impact of the S&L bailout. Cutting capital gains will increase the market value of all capital assets—including those held by banks and thrifts. The S&L's would be able to market higher-valued bonds, mortgages and commercial real estate, so fewer of them would need to be bailed out at taxpayer expense.

Even the ones who do need to be bailed out would fetch a higher price at auction due to the increased value of their capital assets—thus increasing the flow of funds to the Treasury and making further tax increases for the S&L bailout unnecessary.

Cutting the capital gains rate will both help save some S&L's and help pay for the bailout of others. Either way, the edifice of our national banking system is strengthened.

Second, a capital gains cut would create more economic opportunity and upward mobility for minority Americans.

Black Americans account for 13 percent of this country's population, but for only 0.5 percent of the wealth. The high capital gains tax is locking capital into conservative investments like blue-chip stocks and tax-free bonds. Lower taxes would free up this capital, meaning that the benefit from the tax-cut bill will adhere with special vigor to the new issues of stock by high-risk minority start-ups.

Taxing gains due to inflation is fundamentally unfair. It is particularly unfair to America's family farmers who have seen their property values driven up by inflation. And it is unfair to America's elderly who purchase stock for their retirement only to see a significant portion of their investment taxed for illusory gains.

That is why our capital gains proposal includes inflation indexing. In effect, our bill provides only for the taxation of real capital gains.

Mr. President, a consensus has formed among economists from across the spectrum that a capital gains tax cut will increase Federal tax revenue. Supply-side economists Gary Robbins of the National Center for Policy Analysis and Lawrence Lindsay, formerly a professor at Harvard University, have separately estimated that a 15-percent capital gains rate would raise between $7 and $11 billion a year. Preliminary research by keynesian economist Allen Sinai shows that a 15-percent capital gains tax rate could result in even greater revenue gains.

If the budget submitters want to raise Federal tax revenue as part of overall package to cut the deficit, they should adopt a cut in the capital gains tax rate, one that would raise a significant amount of tax revenue as well as spark economic growth.

Mr. President, the case for a capital gains tax cut is becoming more and more compelling, because the 1980's proved to Americans of all political persuasions that growth is good. We are almost ready, as a nation, to eliminate the excessive handicap this capital gains tax is imposing on workers and businesses.

Our competitors—including Japan, West Germany, Taiwan, and South Korea—have a head start in the global marketplace because they tax capital gains very lightly, and in some cases they don't tax those gains at all.

That is why it is important that we enact a significant reduction in the capital gains tax in order to maximize entrepreneurship, international competitiveness and long-term economic growth in America.

I yield the floor.

CAPITAL GAINS TAX RATE REDUCTION

Mr. HATCH. Mr. President, I rise today to express my support for a reduction in the tax rate on capital gains.

Mr. President, this Nation is witnessing a tremendous debate over the issue of whether our Tax Code should differentiate between ordinary income and capital gains income. I congratulate President Bush for his leadership in making this issue an important part of his administration's agenda. The capital gains debate seems to be focused on three key points of disagreement: fairness, economic benefit, and revenue effect. I would like to address each of these points.

Mr. President, some of my colleagues on the other side of the aisle have strongly stated that a cut in the capital gains tax rate would unfairly benefit this Nation's wealthiest taxpayers at the expense of middle and lower income taxpayers. They point to studies that purportedly demonstrate that more than 90 percent of the benefits of a capital gains tax reduction will be claimed by taxpayers with income of more than $100,000 per year. Many of the statements I have heard that are based on such studies are downright misleading. The income figures used in these studies are comprised of the entire income of the taxpayer, including the capital gains.

Let me give you an example. An elderly couple living in Cache Valley, UT, has been farming on land they have owned for 40 years. The land was purchased for $50,000 in 1950. Because of health problems, they have decided to sell the farm and retire to St. George, a city in the State with a warmer climate. They sell the farm for $250,000. This couple has never reported more than $35,000 of gross income on their tax returns. But in the year of the sale, they report more than $200,000 of gross income. Are these people among the very wealthiest income earners of our Nation? Of course not. But opponents of the capital gains tax cut say that this family is extremely wealthy. This one-time capital gains represents the effects of inflation and the urbanization of our country. It is totally misleading to classify this couple as being in the upper income brackets simply because, for this 1 year only, they sold their major asset.

A far more accurate study of the distribution of capital gains benefits would include only recurring, or ordinary, income. One study using such methodology shows that 74 percent of taxpayers with capital gains have ordinary income of under $50,000, and that 49 percent of taxpayers with capital gains have ordinary income of under $30,000. Does this sound as though only the wealthy are able to take advantage of a capital gains tax reduction? It is the average American taxpayer who is, to a large degree, paying taxes on capital gains. I'll repeat, Mr. President: Studies that indicate that a reduction in the capital gains rate will only benefit high income taxpayers are misleading.

I ask my colleagues who believe that a capital gains tax rate reduction is not fair this question: Is it fair to tax the effects of inflation? The capital gains tax is an additional tax on the rewards of saving and investing. The investor of a capital asset has paid tax once on the income used to purchase the asset. The gains accruing to a capital asset represent the reward to the investor and the effects of inflation. It is not fair to treat these gains the same as income earned through salaries or wages.

A second point of contention on this issue, Mr. President, is that of economic benefit. Opponents of the capital gains rate reduction do not believe that such a reduction will result in an economic benefit to the nation commensurate to the loss of revenue. In all candor, the facts show otherwise. Investing in capital assets is a form of saving. Capital gains are the rewards investors receive for the risks of their investment. Taxing those capital gains creates a bias against saving and toward consumption. This, of course, discourages saving and encourages

consumption. Most economists agree that one of our Nation's greatest needs is to encourage a higher savings rate. One way to do this is to reduce the capital gains tax.

Increasing the Nation's saving rate reduces the cost of capital. This leads to a greater amount of capital available for the formation of new ventures. New ventures lead to new jobs, and new jobs generate new revenues.

Another way the reduction in the capital gains tax rate will benefit the economy is by reducing the lock-in effect created by the capital gains tax. Because investors can pay the tax on capital gains when they sell their assets, the capital gains tax creates a disincentive to sell. Assets that would otherwise be exchanged more freely are locked in because the owner does not wish to pay the tax. This imposes investors from moving their investments into other ventures that may offer a higher return and contribute more to the Nation's gross national product. The higher the capital gains tax, the greater the disincentive.

Mr. President, it is no secret that our major trading partners tax capital gains more lightly than we do. These nations generally enjoy a significantly higher savings rate than does the United States. By reducing the disincentive to saving, these nations find that capital is more readily available. I ask my colleagues, are we not being shortsighted by encouraging consumption rather than saving?

The crux of the debate about capital gains, Mr. President, is the long-term revenue effect of lowering the rate. Opponents of lowering the rate contend that the proposal loses revenue over the long run. They cite studies that back up this contention. However, history indicates otherwise. After the capital gains rate cuts of both 1979 and 1982, the Treasury received large increases in revenue from capital gains transactions. The Joint Committee on Taxation estimated that President Bush's capital gains reduction proposal would produce a revenue loss in the 1989 to 1994 period. This estimate, however, does not take all relevant factors into consideration. The methodology employed in estimating the revenue effects of a lower capital gains tax only considers the unlocking effect produced when investors are induced to sell their assets because of a lower tax.

There are at least two other factors that would increase revenue to the Government, yet are not considered in the joint committee's study. One is referred to by economists as the valuation effect. Because all capital assets obtain their value from the income they generate, the valuation effect increases the value of all capital assets when the tax rate is reduced. This is only common sense, Mr. President. By decreasing the tax rate, the cash-flow to the investor is increased. Increasing the cash-flow from an asset is going to increase that asset's value, which, in turn, increases the sales price and the amount of capital gains that is realized.

The second effect which will increase revenue from a capital gains rate reduction is the base broadening that would occur as a result of the increase in economic activity that comes from more accessible and cheaper capital. This economic activity will lead to more jobs, and more jobs will lead to higher revenues.

Mr. President, a reduction in the capital gains tax rate makes good economic sense for our Nation. It benefits all of us, not just the rich. It promotes fairness; it enhances our economic well-being; and it will increase revenue in both the short and long term.

We are experiencing the longest peacetime economic expansion in our history. This expansion is no accident. It is the direct result of lower taxes which have broadened our economic base and created jobs at an unprecedented rate. Federal revenues have greatly increased as a result of this economic expansion. Our budget deficit would be far worse than it is had not this revenue growth outpaced our out-of-control spending growth. We must keep this economic expansion going. A cut in the capital gains rate, in conjunction with an increased emphasis on saving, will help us reach this goal.

Sustained economic growth is a key to our fiscal problems, Mr. President. I see the capital gains rate reduction as a solid step in the direction of sustaining our economic growth. At the same time, this proposal promotes fairness to taxpayers. I strongly urge my colleagues to support a reduction in the capital gains tax rate.

Mr. BOSCHWITZ. Mr. President, I note that Senator HATCH makes a point that we have made during the course of this morning, that a person who works at his or her business over a lifetime and then sells that business should certainly not be counted among the Nation's rich.

Very often, those businesses are small businesses, a business where a person runs a hardware store, a retail store, a small business, a farm, over a period of many years, and gets the real estate that may be the principal asset of that business finally depreciated down to nothing and in that year, indeed, they have a large capital gain.

The work of a lifetime is taxed at 28 plus the rate of tax of the State, which in my case is 6 to 7 percent so that the work of a lifetime, the gains of a lifetime, the gains that often are attributable more to inflation than anything else, are unfairly taxed. I agree with the editorial in the New York Times which said the fairest way to treat gains is to index them so investors pay tax only on real, not paper, gains.

In the event we were to do that, in the event that there was an indexing of the bases, then I think it would, indeed, be fair if the regular rates of tax were to apply.

TAX REFORM AND THE "BUBBLE"

Mr. President, one of the arguments I hear most frequently during debates on capital gains reform is that any reduction in such rates should be accompanied by a tax increase on high income taxpayers. Those who make this argument assert, incorrectly, in my judgment, that the Tax Code is biased unfairly toward wealthy taxpayers, made worse, in their view, by lower capital gains rates.

Such proponents claim that one way to resolve this so-called lack of progressivity would be to pop the "bubble" on the individual rates and establish a new third tax rate at 33 percent for high income taxpayers.

Let me refresh the recollection of my colleagues by briefly describing what the tax bubble is and how it works. The bubble refers to the fact that at about $83,000, a family of four filing a joint tax return is required to pay an effective 33 percent marginal rate on all additional income instead of the top rate of 28 percent. When the taxpayer reaches $308,000, the marginal rate falls back to 28 percent.

I fundamentally reject the argument that popping the bubble and creating a new third tier will introduce any additional fairness to the Tax Code. A recent column by my friend, Warren T. Brookes, which appeared in the Washington Times, clearly demonstrates that the bubble actually serves to build in progressivity by phasing out the benefit of the 15-percent rate on income of about $32,000 or less.

For example, assuming a family of four filing a joint tax return, the average tax rate for those earning $208,000 or more is 28 percent; the average tax rate for those earning $164,000 is 26 percent; at $110,000, about 21 percent; at $82,500, about 20 percent; and at $39,000, about 12 percent.

The bubble does not tilt the Tax Code unfairly toward one group of taxpayers at the expense of another. It does ensure an appropriate degree of progressivity in the Tax Code while at the same time ensuring the generation of sufficient revenues to support the current two-tiered rate structure, which is the heart of tax reform.

Put simply, those who argue for a new tier aren't concerned about fairness, only about raising taxes. But doing as they want would be irresponsible, in my judgment. The Brookes column notes that a recent study done for the Institute for Policy Innovation and my colleague from Minnesota, Congressman BILL FRENZEL, warns that raising the top rate will cut eco-

nomic growth by about 0.9 percent of GNP, resulting in a loss of about 377,000 jobs over 10 years. I agree.

Mr. President, I ask unanimous consent that the column by Warren Brookes be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, May 31, 1990]

TAX RATES UNDER THE "BUBBLE"

[Joint return, four exemptions]

Income level	Percent— Marginal rate	Average rate
$38,950	15	12
$82,850	28	20
$110,000	33	21
$135,000	33	23
$163,000	33	26
$208,120	28	28

Source: Arthur Andersen & Co.

(By Warren T. Brookes)

Liberals are incredibly good at subverting conservative reforms and then using that subversion to put those reforms on the defensive. A textbook example is the current drive to kill the so-called "tax bubble" and raise the top income tax rate to 33 percent.

The "tax bubble" refers to the fact that at about $83,000, a joint income tax filing family of four suddenly starts paying an effective 33 percent marginal rate on all additional income instead of the 28 percent nominal top marginal rate. When that taxpayer reaches $208,000, the marginal rate falls back to 28 percent.

Superficially, this seems egregiously unfair, a terrible reflection on everyone who voted for it. But among the endorsers of this proposal were most liberal Democrats trying to put more "progressivity" into the 1986 Tax Reform and raise more revenues.

To refresh your memory, the Senate led by then Finance Committee Chairman Robert Packwood, Oregon Republican, and Sen. Bill Bradley, New Jersey Democrat, was about to enact the most sweeping tax code change in U.S. history, cutting the number of tax brackets from 14 to two and the top rate from 50 percent to 28 percent.

This was balanced off by closing tax loopholes used mostly by the rich. While top marginal rates came down, the escape hatches that made a mockery of those top rates were closed.

At the last minute, the revenue beancounters pointed out that their proposal still fell about $6 billion to $7 billion per year shy of total revenue "neutrality." Some liberals, led by Sen. George Mitchell, Maine Democrat, proposed an additional; 33 percent top rate on the highest income groups. But as Mr. Packwood recalls, "We were already having trouble holding the coalition together at 28 percent. At 33 percent, a whole raft of exemptions would have to be restored, and the entire reform process would have unraveled."

At that point, committee staff generated a "progressive" solution: Make those at the very top income levels above $170,000 or so pay the full 28 percent top rate on all their income by taking away the 15 percent initial rate on the first $32,000 or so and all personal exemptions.

The problem was how to phase in this otherwise-abrupt canellation of benefits? The mathematical answer was simple: Impose an effective 5 percent higher marginal rate on a "bubble" of incomes below the "rich" cutoff point. The size of the bubble is roughly the amount of income on which a 5 percent higher rate must be imposed to gradually offset all those benefits.

There is in fact no explicit 33 percent rate in the tax code. There is only a phaseout of benefits, but the effect of that phaseout is to create an implicit 33 percent rate.

Furthermore, since all those benefits disappear at the top of the bubble, there is no tax advantage to being in the higher income groups. The average tax rate paid by those at $208,000 is 28 percent. The average tax rate of those at $164,000 is 26 percent, at $135,000, it's about 23 percent, and at $110,000, is about 21 percent. Thus the whole "unfairness" argument now being used by the Democrats is specious, and they know it. (See Table.)

Over a year ago, I asked Mr. Bradley how he responded to the "bubble" challenge, and he said, "No one on either side of the aisle has been able to show me how to end the bubble without either losing revenues or putting in a new higher tax rate. If you do that, we are likely to start putting tax loopholes back into the system. That could kill tax reform."

Mr. Packwood agrees: "Getting rid of the bubble would mean a higher tax rate, and that would unravel tax reform. I can't imagine any summit budget compromise that would do that."

Yet that is precisely the real agenda of many in Congress. Tax reform has taken away most of the goodies once dispensed to those in top marginal tax brackets. With those brackets gone, a huge fund-raising potential was destroyed.

With the budget deficit "crisis," they see an opportunity to use revenue needs to start pushing rates back up. Under a "static" revenue analysis, raising the top rate to 33 percent would generate about $11 billion a year over the next five years.

That, however, assumes no adverse effects on the economy. A study done for the Institute for Policy Innovation and Rep. Bill Frenzel, Minnesota Republican (a member of the Budget Summit team), warns that raising this top rate will cut economic growth by about 0.9 percent of gross national product and capital stock by about 2 percent, cutting job creation by 377,000 over 10 years. That's because economists Gary and Aldona Robbins say it will raise the cost of labor by 8.7 percent and the cost of capital by 1.2 percent. These negative effects could make the federal deficit higher, not lower.

Sen. Carl Levin, Michigan Democrat, one of only three who voted against tax reform, is now using the "bubble" issue against his challenger, Rep. Bill Schuette, Michigan Republican. But Mr. Schuette, an anti-tax hawk, says, "The bubble is a phony issue which Democrats are using to sell a tax increase for all Americans. President Bush needs to take a firm stand on this." He's right.

CAPITAL GAINS REVENUE ESTIMATE MISLEADING

Mr. BOSCHWITZ. Mr. President, capital gains reform should be part of the budget package being negotiated between the White House and leaders of Congress. I am a strong supporter of the 1986 Tax Reform Act, but one aspect of that legislation I opposed was the repeal of the partial exclusion for capital gains. Since 1986, through legislation I have introduced—proposing a reduction in tax rates for capital gains and indexing gains for inflation—and through the capital gains caucus, which I founded 2 years ago, I have been seeking to reinstate lower tax rates for capital gains.

In that regard, I strongly support the President's capital gains proposal, S. 2071, which has been introduced in the Senate by Senator PACKWOOD. The House companion, H.R. 3792, has been introduced by Congressman ARCHER. I also have cosponsored legislation recently introduced by Senators KASTEN, MACK, and SHELBY.

BUSH PROPOSAL

Under the Bush proposal, taxpayers in 1990 would be allowed a 30-percent exclusion from income for capital gains held for more than 1 year. The exclusion would apply to all capital assets—except collectibles—and would be available to individuals only.

Beginning on January 1, 1991, the 30-percent exclusion would be available only for assets held more than 2 years; for assets held less than 2 years—but more than 1 year—a 20-percent exclusion would apply. Finally, beginning on January 1, 1992, the 30-percent exclusion would apply for assets held between 2 and 3 years; and a 10-percent exclusion would apply for assets held between 1 and 2 years. The major shortcoming of the administration's proposal is the failure to include a provision allowing indexing of assets to offset for the effects of inflation.

JOINT TAX COMMITTEE ANALYSIS

Mr. President, recently the Joint Tax Committee completed an analysis of the Bush proposal. Joint Tax concluded it would lose $11.4 billion in tax revenues through 1995. In stark contrast, the Treasury Department estimators concluded the proposal would bring in $12.5 billion in additional Federal taxes over the same period. The difference between the two studies is a staggering $23.9 billion.

What could explain this wild divergence of opinion between the economists at Joint Tax and Treasury? One factor could be the use of assumptions. For example, Joint Tax claims that two-thirds of the tax cut dollars under the Bush plan would go to taxpayers with annual incomes of $200,000 or more.

When someone is described as having an annual income of $200,000 or more, I assume the income level is fairly constant year-to-year, or perhaps growing. I think most people use such a definition. But in the case of Joint Tax, the taxpayer lumped into the high income classification may actually only have a low or modest annual income, but may have sold a large asset in the year being studied, such as a business or farm. So for that 1 year, the taxpayer will have a large income. But in ensuing years, his or her income may be very modest.

Referring to a small business owner or farmer who has built a business or farm over a lifetime as a rich person or a fat cat is unfair to them and distorts economic reality, particularly when one considers that most of their gain is the result of inflation. Subjecting such gains to full taxation, as is currently the case, is particularly unfair. So, Mr. President, I think it is misleading and unfortunate that Joint Tax chose to set up its distribution table without using a more realistic definition of annual income. I cannot help but wonder whether this discrepancy did not contribute to the wide divergence between Joint Tax and Treasury.

Another more significant reason for the discrepancy may be that Joint Tax did not attempt to estimate the additional revenues which would be generated if a capital gains tax reduction were enacted. Instead, as I understand it, Joint Tax assumes no change in taxpayer behavior if tax rates for capital gains are reduced. Consequently, the revenue estimate dramatically understates tax realizations.

History has consistently shown, indeed has never shown otherwise, that a rate reduction for capital gains results in increased tax revenues, with the bulk of those additional taxes paid by high earners. Mr. President, the decision to sell an asset and realize a gain is a voluntary one. Yet, Joint Tax apparently rejects the view that taxpayers are rational and will sell their assets only when they perceive they will come out ahead after paying taxes.

I am not an economist, but I have to believe Joint Tax errs when it fails to consider the voluntary aspect of taxpayer behavior in connection with capital gains.

Finally, with regard to the Joint Tax study, I believe another reason for its negative findings may be the failure to consider a broad range of capital gains which are not currently taxed or are taxed on a deferred basis. As my colleagues know, the Tax Code provides numerous ways for taxpayers to lawfully avoid paying taxes on capital gains:

Employer contributions and gains by pension funds, $47 billion;

Rollover on gains from the sale of a personal residence, $13 billion;

The one-time exclusion on a sale of residence for taxpayers over 55, $3.25 billion;

Like-kind exchange of real estate, $220 million;

Total: $63.5 billion in capital gains.

These figures are estimates for fiscal year 1991.

Mr. President, I do not know whether Joint Tax should have considered the tax exclusions and deferrals I have referred to in its analysis. But what I do know, is that by focusing only on gains which are taxable right now, Joint Tax presents a distorted picture of capital gains and beneficiaries of those gains. Clearly, taxpayers in all income classifications recieve the benefit of the lawful exclusions and deferrals I have outlined. I can not imagine many of my colleagues would say these types of gains are not treated properly, indeed fairly, under the code.

Consequently, I am puzzled by the statements of those who oppose capital gains reform on the basis that it unduly benefits upper income taxpayers. If indeed these taxpayers would benefit unduly from lower capital tax rates, it follows as a consequence that they will pay more Federal taxes. Clearly, that would be the result. Therefore, I am mystified by the opposition of some to increasing their burden.

Mr. President, I strongly support the capital gains proposal put forth by President Bush. It does not do everything I would like—I would modify it to include indexing—but it is fair and raises necessary revenues to help us reduce the budget deficit.

Mr. President, a couple of years ago we put together a capital gains caucus. There is a large number of Senators, as I recall approximately two dozen or more, who are now members of that capital gains caucus. We have taken this hour this morning, some of us who are members of that caucus, to speak about capital gains and to speak about the desirability of reducing the capital gains rate both from the standpoint of equity and also from the standpoint of benefiting the Federal Government by increased investments, by increased productivity, and also by increased revenue.

I thank the Chair for its cooperation, and I yield the floor.

A FAVORABLE TAX RATE ON CAPITAL GAINS

Mr. COATS. Mr. President, I wish to voice my strong support this morning for a reduction in the capital gains tax rate.

There is so much talk today in business, academia, and government about America's loss of its competitive edge. So it is truly amazing that those same voices are so seldom raised to discuss something that will eventually lead to the competitive decline of our economy—the high price of capital.

The current capital gains rate in America is among the highest of the industrial democracies. Not coincidentally, this economic policy has boosted the cost of capital to the top of that list as well.

Today we have the opportunity to put this Nation's future growth and prosperity at the top of our agenda by giving strong support to S. 2744, the Economic Growth and Venture Capital Act of 1990. S. 2744 would lower the current 33 percent rate, the highest since 1978, to a maximum of 15 percent. This legislation would also end the unfair taxation of inflationary gains, requiring instead that gains be indexed to inflation. By this change, only real gains will be taxed.

The current level of capital gains taxation discriminates against capital income, impedes job creation, and undercuts America's competitiveness overseas by making the cost of capital higher for U.S. companies. A lower capital gains rate would create new opportunities for economic growth by stimulating new investment and decreasing the cost of capital in the United States.

In a recent speech, my friend Jack Kemp very clearly set forth the benefits to the economically underprivileged of our country of a lower capital gains rate:

> The capital gains tax reduction isn't to help the rich or secure old wealth, but to free up or unlock old capital and old wealth to help new business, new risktakers, jobcreation, and economic growth. Virtually every survey shows that the major problem for inner city entrepreneurs is the absence of seed capital. The capital gains tax reduction * * * will help "unlock" existing, status-quo capital to fund and support a whole new generation of budding entrepreneurs in America's inner cities where economic opportunity is needed most.
>
> Not only would a lower capital gains tax rate help the poor, but it would also increase tax revenues. Lower capital gains rates would greatly increase the number of capital gains transactions passing through Federal, State, and local tax gates, raise the total value of assets throughout the economy, and make the economy bigger, more efficient, and more productive.

Mr. President, as the cold war comes to a close, we seem to face a new international reality. Success will not be measured primarily by a military balance or control of strategic geography. It will be counted and accumulated in the currency of commercial competitiveness. In this new international situation, a high capital gains tax is a form of unilateral disarmament. It handicaps our efforts to fight for newly opened markets. It slows our ability to respond to change. It is surrendering our advantages even before we start.

ADVENTURE CAPITAL—THE REAL CAPITAL GAINS CRISIS

Mr. BUMPERS. Mr. President, the capital gains debate, including this morning's statements during morning business, is failing to focus on the most critical capital formation crisis in America—the need for seed capital for startup small businesses.

Seed capital investments go beyond venture capital. They are often referred to as adventure capital. And, more than any other type of investment, it is seed capital that will create the new jobs, new technology, and new markets of tomorrow.

What we need is a tax incentive that will create a whole new adventure capital industry that provides seed capital

to America's entrepreneurs. The venture capital industry has become too institutionalized and risk averse to serve this role.

Providing a capital gains incentive for nearly every investment that anyone ever thought to make, which is what President Bush and some Senators propose, has very little to do with America's seed capital crisis or even venture capital investments.

Estimates are that only 1 percent of the President's capital gains incentive would go to venture capital investments. And, even less would go to seed capital investments, which even venture capitalists often find to be too risky.

Seed capital is the money or resources that are used by a small business when it exists mostly in the mind of the entrepreneur or inventor, when it is just beginning to develop a product or service and has no product or service ready to be tested in the marketplace, and when it has no profits to distribute to its shareholders.

Without seed capital, these small businesses often die for lack of capital, their products or services are never developed or tested, and the firms never generate the jobs and economic growth that will improve our Nation's standard of living and global competitiveness.

For investors, seed capital investments are the riskiest of investments.

These are the investments that are long term, with investors sometimes waiting many years before they see any dividend or can find a secondary market for the stock.

These are the investments where the investor is often called upon by the entrepreneur to take an active role in shepherding the company from one crisis to another.

Mostly President Bush and others, want to reward investors for making the same investments they are making today without any capital gains incentive.

American investors have not stopped buying stocks of Fortune 500 companies or buying homes just because there's no capital gains tax break.

In the Congress we need to ask, "If investors are willing to make these investments without any capital gains incentive, why should we give them a tax windfall?"

And, it's even more absurd to give investors a tax break for selling the investments that they have already made some time ago with no expectation of any capital gains break. For them the gains break is a gift, pure and simple.

Would someone tell me what liquidating one's portfolio has to do with capital formation and taking risks?

What we need is to encourage investors to change their portfolio strategy and to take more risk, to invest for a longer term, and to focus more on economic growth.

We need a tax incentive that will change investor behavior, not a tax windfall to reinforce the status quo.

There are many who say that there is plenty of venture capital available but there aren't enough good deals in which to invest. But, at the same time, America's venture capitalists are much less adventurous and much less inclined than they once were in making seed capital investments.

Of course, the problem is that by neglecting the seed capital market, venture capitalists have neglected the farm system that fed them the growing businesses that they take into the major leagues.

Without seed capital infusions, small companies will never be sophisticated enough to approach venture capitalists or to undertake an IPO of stock.

The failure of the President's capital gains proposal and the other across-the-board capital gains tax cuts to address this critical problem is what leads me today to introduce the Seed Capital Formation Act. This bill provides for 100 percent tax exemption for gains on direct seed capital investments that are held for at least 10 years.

My incentive rewards investors for putting capital directly into the hands of entrepreneurs. This is literal capital formation. The President's proposal encourages investors to shuffle investments among one another.

My incentive calls on America's wealthiest taxpayers to take the lead in providing the seed capital that will nurture a resurgence of American capitalism. Low and middle income taxpayers can become seed capitalists by founding their own businesses, but normally they should not invest their savings in startup small businesses. It's just too risky.

My proposal for a 100-percent tax exemption is warranted given the risk involved with seed capital investments. This incentive makes the President's capital gains plan look timid and miserly by comparison.

We can afford to provide a powerful seed capital gains incentive because it's focused only on the most productive and riskiest of investments. Preliminary estimates are that my seed capital proposal will lose less than 10 percent as much revenue as would the President's giveway gains plan.

I ask unanimous consent that a chart be printed at the conclusion of my statement comparing my seed capital bill with the venture capital gains bill, S. 348, that I introduced last year. The two bills are related to one another in the sense that the seed capital bill encourages investors to invest in startup businesses and the venture capital bill encourages investors to nurture these companies once they are up and running as small businesses.

We have a choice, provide a windfall for status quo investments or enact an incentive for investors to become adventure capitalists.

Status quo investing will lead our Nation to disaster.

Only by taking more risk and providing the seed capital that will grow the businesses of tomorrow can we hope to compete in international markets.

Only in this way can we recapture America's spirit of adventure.

The capital gains debate and the capital gains bills introduced take us backward, entrench the status quo, and provide an undeserved windfall.

A seed capital incentive will lead us into a new world of free enterprise like we have not before discovered, even in the bastion of free enterprise, America.

Politicians need to take risks if we are to have any credibility in encouraging investors to take risks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF VENTURE CAPITAL BILL AND SEED CAPITAL FORMATION PROPOSAL

	Venture capital bill (S. 348)	Seed capital proposal
Taxpayers covered	Individual and corporate	Same.
Maximum tax rate for individuals.	15% (givers larger benefit than 25% exclusion to individuals in 33% bracket).	Same.
Exclusion on gain for individuals.	25% (5 year hold)	25% (5 year hold). 40% (6 year hold). 55% (7 year hold). 70% (8 year hold). 85% (9 year hold). 100% (10 year hold).
Maximum tax rate for corporations.	25.5% (gives larger benefit than 25% exclusion to corporations in 39% bracket).	Same.
Exclusion on gain for corporations.	25%	Same exclusions as for individuals above.
Minimum holding period.	5 years	Same.
Investments covered.	Stock of small business ($100 million or less in paid-in capital).	Stock of small business ($5 million or less in paid-in capital; applies to section 1244 stock but with $5 million threshold).
Tax losses	No benefit	Capital losses on stock of small businesses ($5 million in paid-in capital) qualify for special section 1244 loss benefits.
Conversion of debt	No benefit	If debt is converted to equity, holding period runs from date debt is incurred.
Capital formation	Covers only direct investments that puts capital in hands of entrepreneurs.	Same.
Windfall element	No windfall for past investments; only applies to new investments made in response to the incentive.	Same.
Minimum tax	Applies	Does not apply; only wealthy individuals should make seed capital investment and the incentive is much weaker if the minimum tax applies to them.
Revenue loss	$218 million over 5 years: Joint Tax Committee.	Request for estimate made to Joint Tax Committee.

MORNING BUSINESS

The PRESIDING OFFICER. Morning business is scheduled until 10 o'clock with Senators permitted to speak therein for 5 minutes.

A TIME FOR ACTION

Mr. COHEN. Mr. President, the time for forceful action on the savings and loan crisis is now. Each day the cost of this debacle is allowed to continue, it is going to grow to even more staggering levels. The most recent GAO estimate puts the cost at between $325 billion and $500 billion over the next 40 years. When these estimates are expressed in personal terms, it means we will be asking every man, woman, and child in this Nation to contribute, at least $2,000 to fund this bailout.

The American people are justifiably outraged that they are being asked to pay for a scandal they had no part in creating, while those individuals who do bear responsibility for it are not being held accountable for their actions.

I would be the first to recognize that not all the costs associated with this crisis are attributable to fraudulent activity, but instead might reflect imprudent business decisions. But there is compelling and persuasive evidence that fraudulent activities have been pervasive in the savings and loan industry.

For example, we know that the FBI has received more than 20,000 referrals of fraudulent financial activity and there are more than 1,000 inactive major fraud and embezzlement cases which have not been pursued because the FBI has lacked adequate resources.

Attorney General Thornburgh has recently noted that at least 25 to 30 percent of thrift failures can be attributed to criminal activity by S&L officers. The Chairman of the Resolution Trust Corporation, William Seidman, has stated that fraud has been discovered in 60 percent of the thrifts that have been seized by the Government. Revelations about the extent of the scandal and cost of the cleanup continue to emerge on a daily basis. Just last week, the New York Times reported that auditors have discovered misconduct occuring in the Government's own program established to sell off the thrift properties it has acquired. Speaking about the upcoming sale of additional properties, Comptroller General Charles Bowsher contends that there exists, in his words, "a high potential for more scandal and ripoffs." Clearly, we cannot wait for additional S&L-related crimes to surface. We must take decisive action now to demonstrate that the Government is committed to vigorously prosecuting every case of S&L fraud.

There has recently been much debate about who should bear the brunt of the blame for this crisis. Certainly, there is sufficient blame to go around. I believe that instead of wasting valuable time pointing fingers at each other, we would better serve the American people if we admit that mistakes were made and move forward to effectively address the very serious problems that now confront us. We must now work together with the administration and other Members of Congress in a true bipartisan spirit. Only in this manner can a comprehensive enforcement package be forged. The American people are not concerned with whether a Democratic or a Republican proposal is put forward. What they are concerned with is whether an effective and vigorous enforcement effort is made. The public wants action now and they deserve nothing less than an all out effort by their Government to investigate, prosecute, and sanction those who broke laws, and recover as many funds as possible for the American taxpayers.

For these important reasons, I am pleased to join Senator BIDEN in introducing the Bank Crimes Enforcement Act of 1990. I believe this proposal encompasses the kind of comprehensive and forceful measures that will be required to effectively go after and prosecute those individuals responsible for acts of financial wrongdoing. First of all, this proposal will greatly strengthen the penalties imposed for bank fraud and embezzlement crimes. For example, it will impose a 5-year mandatory minimum penalty in major bank fraud and embezzlement cases to ensure that S&L violators receive prison time. This proposed legislation will also create a special division within the Justice Department to investigate crimes involving banks, thrifts, and other financial institutions. Another very important part of this proposal addresses the problem of inadequate resources that has seriously hampered the efforts of the FBI and the Justice Department. The number of investigators and prosecutors will be significantly increased and will ensure that these agencies are equipped with the level of assistance that this massive enforcement effort will require. This bill also contains a very important provision that will expand the ability of the Federal Government in S&L cases to seize assets and recapture funds illegally obtained. This provision is important in guaranteeing that some portion of the bailout costs will be recovered directly from those parties that have acted to defraud the Government, thereby reducing the share that taxpayers will have to bear.

I commend Senator BIDEN for introducing this critically important legislation and I look forward to working with the administration and my fellow colleagues in further developing the kind of tough and effective initiatives that will be required to deal with the massive problems posed by the savings and loan scandal.

I might say that this legislation is not the only legislation that will emanate, certainly from this body. There are other proposals also which have great merit, and I certainly have no hesitation whatsoever, be they Republican or Democratic initiatives, to join in the effort to deal with this problem effectively.

I yield the floor, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call to the roll.

The bill clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

SUSPENSION OF TALKS WITH THE PLO

Mr. AKAKA. Mr. President, I am very pleased that President Bush announced suspension of United States talks with the Palestinian Liberation Organization, pending PLO condemnation of last month's abortive Palestinian attack on Israel.

Like many of my colleagues, I felt that the President responded much too mildly to the horrifying terrorist act on the Israeli beach, for which the Palestine Liberation Front—a faction of the PLO—declared full responsibility. Accordingly, I joined a number of other Senators in cosponsoring Senate Concurrent Resolution 138, which urged the President to suspend the United States-Palestinian dialog, unless the PLO condemns the May 30 attack and expels Abu Abbas from the PLO Executive Committee.

I realize that suspension of the United States-Palestinian dialog will temporarily set back the drive for peace in the Middle East. But it is clear that negotiations cannot bear fruit unless the PLO abides by the basic conditions accepted in 1988 by PLO Chairman Arafat.

These conditions are recognizing Israel's right to exist and renouncing terrorism. In regard to these conditions, the United States must remain true to principle and refuse to backtrack on the issue of terrorism. I do not see how the United States can engage in meaningful discussions with the PLO without insisting that Chairman Arafat honor past commitments and censure those responsible for this latest incident of terrorism.

We all want to see peace at long last realized in this historically troubled and strategically vital region of the world. However, in our desire to promote give-and-take negotiation, we

must always be sensitive to the precarious nature of Israel's existence, surrounded as that nation is by hostile neighbors. It is easy, from a comfortable distance, to overlook the apprehension of Israeli citizens who have to face the scourge of terrorism every day. Efforts to further the peace process must not dilute our commitment to ensure the continued security of Israel against terrorist actions.

STOCK MARKET TURF WAR ADVERTISING

Mr. DIXON. Mr. President, last Monday, a New York Stock Exchange member placed identical ads in the Wall Street Journal, New York Times, and Washington Post. Here is the Washington Post ad. As I understand it, placing ads like this one and the ads placed in the other newspapers, costs roughly a quarter of a million dollars. That is serious money and suggests that something serious is at stake.

According to these ads, the serious issue is whether our stock markets are going to be controlled by investors or speculators. To protect the stock market from ruin, concludes the ads, jurisdiction over stock index futures should be removed from the Commodity Futures Trading Commission and transferred to the Securities and Exchange Commission.

I do not have $250,000 to spend on full page ads in major newspapers, but I agree that something important is at issue. In fact, these ads, and others that have been placed by other New York Stock Exchange members demonstrate what that issue really is—turf.

Now turf issues are sometimes legitimate, but before Congress steps in to settle them, we need to be sure that adjusting the turf boundaries will actually solve real problems. Giving the SEC more authority is not always and automatically a desirable thing in and of itself. We first need to examine the merits of the argument.

Unfortunately for those in New York and Washington that are looking for more turf, Mr. President, that is where the argument breaks down. The simple truth is that, on the merits, jurisdictional transfer is a wrongheaded solution that is based on a wrongheaded analysis of the problems facing our stock markets.

There are many, many flaws in the arguments that purport to support jurisdictional transfer. At this time, however, I want to make four points.

First, the futures markets were created because of demand from investors—mainly the large institutional investors that increasingly dominate the New York markets. These institutions have fiduciary responsibilities to the money they manage. They are not speculators by any means. In fact, if the stock index futures markets were nothing more than speculative gambling arenas, these institutions would not even be able to use this market.

They do, however, participate heavily because they know that the stock index futures market can help them to better and more efficiently manage their huge stock and bond portfolios. These institutional investors know that stock market futures have important benefits, just as Treasury futures do. And even the Treasury Department, which backs unwise and unnecessary jurisdictional transfer legislation right now, has stated time and time again that Treasury futures play an extremely important and beneficial role in that critical bond market.

Second, futures and stock margins are not comparable. I stress that, Mr. President, most people on the floor understand to some extent everything we do; very few understand the markets very well. But let me stress again futures and stock markets and their margins in that regard are not comparable. The margins are not comparable. Futures contracts clear overnight, while stocks take 5 days to clear. In that context it is worth remembering that the reason the Fed had to intervene so heavily in the 1987 crash was because no one knew what the true financial position was in the stock markets. The futures markets, however, cleared overnight and had intraday margin calls, so its financial ability to continue trading was absolutely clear. Stock index futures margins were therefore clearly sufficient to meet prudential concerns.

The real argument about margins is that it somehow adds to stock market volatility. That, however, is competely untrue. I do not ask my colleagues to take my word for that. Instead, let me quote the distinguished Chairman of the Federal Reserve Board, an acknowledged financial expert who is in a position to give completely unbiased advice on this subject. Chairman Greenspan said:

> The Board, as best I can judge, is unanimous on the question that the appropriate margins for stock index futures and for stocks should be prudential only. Had we found such a relationship [between margins and volatility], I suspect we would be arguing that margins should be constructed in a manner which picked up not only prudential requirements but also an element of additional margin which would act to presumably suppress the degree of volatility in the system. All of the analytical tools we have brought to bear have failed to find any such relationship. As a consequence, of that, we are unanimous on the issue that prudential margins are the realistically sole purpose of putting margins in place.

The Chairman and the entire Federal Reserve Board of Governors therefore made it absolutely clear that they do not believe that there is a relationship between the margins on stock index futures contracts traded on futures exchanges and volatility in the equities markets.

Third, the SEC is not capable of taking on stock index futures jurisdiction. Again, I do not ask my colleagues to take my word for that fact. Instead, I would like to quote a Wall Street Journal story. That story, headlined "SEC's Powers Shouldn't Be Expanded, Says Head of Market-Crash Task Force" states that Secretary of the Treasury Brady, who was, at the time of this article, head of the Presidential task force that analyzed the October 1987 stock market crash, as arguing that:

> The SEC isn't even capable of taking on the job of overseeing cross-market issues such as margins, "circuit breakers" to coordinate closing of overheated markets, and clearing and settlement of trades.

Fourth, transferring jurisdiction will have no significant beneficial effects. Chairman Greenspan made this point clear at a March Banking Committee hearing. When he was asked about the consequences of Congress failing to act on legislation to address stock and futures issues, and on what dangers we would face if we failed to act, he responded that:

> Were that not done, I do not think that we leave the structure in total at risk. I think it will be more difficult to resolve certain issues, but I would scarcely want to argue that action is mandatory because if action fails that the system would be put in jeopardy. I don't believe that.
>
> I think that if there is a major market reaction, it is likely to occur with or without changes that we're talking about and I'm not certain the extent to which the types of changes we're talking about would make all that much substantial difference in how the particular market break worked its way through the system.

I think there are real issues that need to be addressed. Jurisdictional transfer, however, does not begin to solve any of them. We ought to be working together to address these real issues, and not wasting our time on phony turf wars.

Mr. President, I say again in the presence of my 99 other colleagues, this is nothing more than a brutal, bitter, contentious, nasty turf war between the city of New York and the city of Chicago. It has nothing to do with prudential operation of a market system in America.

I would like to close, Mr. President, in this vein: I hold in my hand, Mr. President, and would ask to be placed in the RECORD, a Wall Street letter, a publication of Institutional Investor, volume XXII, No. 24, June 18, 1990. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Wall Street Letter, June 18, 1990]

TREASURY PRESSING STREET TO LINE UP BEHIND JURISDICTION BILL

Representatives from Wall Street firms, stock exchanges, and commercial banks last week were asked by the Treasury in lend strong lobbying support of the Administration's proposal to shift jurisdiction over stock index futures to the Securities and Exchange Commission, sources reported. However, even after "hardball" tactics were used by Treasury officials at Tuesday's meeting many Street firms "are not willing to spend chips on a bill that looks like a loser to most people," in the words of one source who attended the meeting.

Sources who attended the meeting said Treasury is "turning the screws tight," knowing that firms and exchanges would like to enjoy Treasury's support on other issues in the future. But only firms concentrating on retail business have much to gain from the bill's passage, sources said. Retail firms hope the shift would lead to less volatile markets and would assure the small investor of rigorous oversight on intermarket trading abuses.

The Securities Industry Association is favoring the shift, and last week canvassed Congress with letters indicating SIA's support. Furthermore, the industry association is trying to generate a grass roots campaign from its member firms. But sources noted that most of the heavyweight firms are internally divided on the issue because they have profitable subsidiaries in the commodities and futures business. A strong stand in favor of the bill could cause backlash to the firm's commodities sub from the Commodities Futures Trading Commission, which is strongly opposed to the shift, and from congressmen who support the CFTC's position. One source noted that Merrill Lynch had initially indicated strong support, but toned down its position after "they heard noise from their very own futures folks—who happen to turn a pretty penny." A Merrill spokesman had not returned calls at press time.

"It was almost pathetic that the Treasury was imploring private sector support," said one source. "If Nick Brady can't do it, why should firms go out on a limb that looks like it's going to snap?" added another source. An official at Treasury said, the secretary is involved, but cannot educate all 100 senators without some help from the securities industry.

In the House, the bill was introduced on request, indicating to most sources that "even John Dingell, the SEC's biggest champion, isn't heralding this." Several Senate sources remained hopeful the leadership would bring the bill to the floor soon, despite reports that Treasury is trying to stall for time to garner more votes. The bill nearly came to a vote last week, sources confirmed, but a hold was placed on the bill. Majority Leader George Mitchell (D-Maine) has not taken a formal position on the issue, he "often seeks advice from Sens. Alan Dixon (D-Ill), Thomas Daschle (D-S.D.) and Wyche Fowler (D-Ga.), all of whom oppose the regulatory shift, said a source. Mitchell's office did not return calls by prestime.—Lauren Martin.

Mr. DIXON. I want to read from this Wall Street letter to my colleagues in the Senate.

"Treasury Pressing Street To Line Up Behind Jurisdiction Bill." That is the headline.

This is an inside letter. This is one guy on New York's stock exchange and on Wall Street talking to another. This is inside.

Representatives from Wall Street firms, stock exchanges, and commercial banks last week were asked by the Treasury to lend strong lobbying support to the Administration's proposal to shift jurisdiction over stock index futures to the Securities and Exchange Commission, sources reported. However, even after, "hardball" tactics were used by Treasury officials at Tuesday's meeting.

Now listen to this. This is the insider folks talking to one another.

However, even after "hardball" tactics were used by Treasury officials at Tuesday's meeting many Street firms "are not willing to spend chips on a bill that looks like a loser to most people," in the words of one source who attended the meeting.

Sources who attended the meeting said Treasury is "turning the screws tight," knowing that firms and exchanges would like to enjoy Treasury's support on other issues in the future. But only firms concentrating on retail business have much to gain from the bill's passage, sources said. Retail firms hope the shift would lead to less volatile markets and would assure the small investor of rigorous oversight on intermarket trading abuses.

I want to skip some, but I am going to put it all in the RECORD.

Now listen to this direct quote.

"It was almost pathetic that the Treasury was imploring private sector support," said one source. "If Nick Brady can't do it, why should firms go out on a limb that looks like it's going to snap?" added another source. An official at Treasury said the secretary is involved, but cannot educate all 100 senators without some help from the securities industry.

Well, I have put that in the RECORD. He will not educate this Senator to his point of view, Mr. President.

I only want to say in conclusion that the industry is spending hundreds of thousands of dollars at the direction of the Secretary of the Treasury's people. They have hired the biggest or one of the biggest law firms in the city to do lobbying for them, at I am sure, some very spectacular and immense sum of money, and that lobbying firm is all over town now talking to all of the Senators and Members of the House. They are putting on a full court press on this one, Mr. President. I regret that very much.

I would say to Treasury that there is a lot to be done in the thrift crisis in America. I would say to Treasury there is a lot of attention that ought to be paid to some of the horror stories all of us are hearing about the very poor job the RTC is doing in many areas.

I told a story last week about a furnitures and fixtures sale they had in Texas, an inside deal; one fellow warehoused the stuff, did the inventory, made the sale, took in the cash and reported the sale and sent the money back to the Treasury for the taxpayers of America; $3,300,000 in inventory assets, Mr. President. What do you think the taxpayers of America got back? $57,000.

That is a General Accounting Office report. That is not this Senator.

The Senator from Arkansas told a story last week of the fellow that was doing one of their sales for them had four automobiles, one a Mercedes. He did not know what to do with them. He gave the four automobiles to his friends.

There are a lot of things out there to be worried, about, and a turf battle between New York City and Chicago is not one of them.

So that fight will take place shortly, Mr. President. I regret that it will occur. The Agriculture Committee, may I say, with the support of every agriculture group in the country from the Farm Bureau on down, has brought us in a bill that is tied up on the floor now that we cannot get to because there are so many objections to taking up the bill for the continuation and the extension of the Commodity Futures Trading Commission. We have some decent legislation that strengthens supervisory and regulatory authority to the CFTC. We have a competent chairperson of the CFTC in the opinion of this Senator in Wendy Gramm. We should go forward with that legislation and do the job. We ought not to get involved in a tremendous, divisive, bitter, and I think unfortunate turf battle.

I conclude now, Mr. President, because one of my favorite Senators has come to the floor. I think he has something on his mind, so I am going to yield the floor. I thank the Chair for permitting me to take this time.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President I would in a way want to shortcircuit the distinguished Senator from Illinois by merely coming on the floor, because I was interested in what he had to say.

QUENTIN AND JOCELYN BURDICK: 30 YEARS OF SERVICE AND 30 YEARS TOGETHER

Mr. HATFIELD. Mr. President, I would like to make a few remarks concerning one of our colleagues who is reaching a very important milestone in his life. I refer to the senior Senator from North Dakota, Senator QUENTIN BURDICK.

I think most of us would agree that when those of us now serving in the Senate look back on our careers, we will have friendships that we have made here that will stand out in our memories above everything else. The issues will be forgotten and yet the friendships will be remembered.

I think that issues and politics and styles come and go, but it is friendships that will ultimately be the enduring experience and memory.

So it is with great pleasure that I rise to make a few comments about a man I consider to be a dear and enduring friend, QUENTIN BURDICK. As he and his wife Jocelyn celebrate the 30 years they have spent serving the people of North Dakota here in Washington—and the 30 years they have spent together in marriage—I hope they will accept the gratitude they have earned and the warmth they have engendered, amongst their colleagues and friends.

Perhaps the highest compliment I can pay to them both is that these past 30 years in the U.S. Senate have not changed QUENTIN BURDICK. He was a gentle man when I first met him in 1967, and he is a gentle man today. He has taught us all that we do not need to be loud to be heard—that we do not need to shake our fists and pound on tables to make our presence known. Over the years, QUENTIN BURDICK has resisted the temptations of soundbites and slogans, and built his strength—his enduring strength—on substance instead.

Who is QUENTIN BURDICK? He is the man of courage and principle who came out against United States involvement in Vietnam long before it was fashionable to do so—and who stood up against the madness of the nuclear arms race when very few people would. He is the decent and honest man whose vote on this floor and in the Senate Appropriations Committee always is cast with people in mind—with human needs in mind. And most of all, QUENTIN BURDICK is a man who has earned one of the most precious commodities of all: trust.

That simple word, Mr. President, speaks volumes. Trust is the basis of our personal relationships—and the basis of our relationship with the people who elect us. Everything else flows from that—and QUENTIN BURDICK has risen through our ranks to become a leader among us because he has earned our trust and the abiding trust of the people of North Dakota.

No doubt the late Congressman Usher Burdick would be proud of his son—not just today, but every day. I know that I am proud to serve with him, and even prouder to count him as a friend.

Again, Mr. President, I offer my congratulations to QUENTIN and Jocelyn Burdick: as they celebrate 30 years here and 30 years together. And on behalf of the many people whose lives they have touched through their commitment to public service, I also offer sincere thanks.

RAISING REVENUES TO DEAL WITH THE BUDGET DEFICIT

Mr. D'AMATO. Mr. President, yesterday President Bush's comment and statement in regard to the budget and the budget summit gave some the opportunity to come forward and be rather critical of the President as it related to the issue of raising revenues to deal with the budget deficit.

I would like to say at this point in time I do not believe any Senator wants taxes to be raised, regardless of where they come from. Taxes are a bad word. But the fact of the matter is that the business of the people is more important.

I spoke to the President's Chief of Staff, Mr. Sununu, and I am convinced that the President is headed in the right direction in attempting to deal with the incredible fiscal problems that we find ourselves in. We cannot have a $200 billion deficit that is created, that was unanticipated 2 years ago, as it relates to the savings and loan debacle, and then say we are going to do business as usual. We cannot do that.

I believe that the President certainly did intend, when he made his promise "no new Taxes" to keep that promise. But when you find a situation that is threatening to the well-being of the taxpayers of this country, to this Nation, that could plunk us into a recession, that could have the impact of making it impossible for us to borrow those funds necessary to meet our obligations, that would create an incredible rise in interest rates, that would precipitate the kind of inflation and the kind of interest rate increases that would be detrimental to every working person in this country, then sometimes one has to reevaluate his or her position. I believe that is what the President has done.

So I do not say with great joy that I move to the position to be supportive of him, but I do. I support President Bush in his attempt to deal with the problems that we have. Certainly, there is going to have to be give and take on both sides.

Fiscal discipline is something that we are going to need, also. Just to go out and raise revenues to continue business as usual is not enough; it is going to be something that the American people will oppose if that is fiscal discipline. All of us must take a step back and maybe our favorite program cannot get funded this year, maybe we are going to have to delay implementations on the military side, on the domestic side of some of the programs that we all feel are important.

But if that is going to bring about a cessation of the ever rising deficits, if that will bring about economic stability and encourage growth, then I think those of us who have championed the call for no new taxes owe to the American people and owe to the President of this Nation support for programs that make sense and will deal with the calamity that will take place if we fail to do something.

We have had too much in the way of rhetoric, by the way, on both sides. And I think if the President is willing to step up to the plate and take some bitter medicine on behalf of the people to keep this Nation strong, then this Senator is going to be supportive of him. I do not say that easily. There may be some who are critical back home.

But the fact of the matter is you cannot ignore the realities, and those are that there is an enormous deficit that is growing every day. And you cannot go out there and just borrow, borrow, borrow, borrow, because I will tell you, the lenders are not coming up. Those interest rates are going to be enormous, and that costs the programs. And for the taxpayer, it is going to be greater; better we face that now. I am convinced the President is headed in the right direction.

As I say, I spoke to his chief of Staff, Mr. Sununu. I hope we can, and I know the budget people are working literally at this moment to come up with a program by which to deal with this problem.

THE PROPOSED FLAG AMENDMENT

Mr. NUNN. Mr. President, yesterday I voted for the Dole-Heflin resolution which would have allowed the States to consider a constitutional amendment to prohibit desecration of our flag.

While I supported the resolution, I had misgivings about why we needed to be debating this proposal at this time. Nothing the Senate could do would enable the States to consider a constitutional amendment. The House has failed to approve this measure by the constitutionally required two-thirds majority.

Yet, because this measure has become a political hot button issue, there was an apparent pressing need for the Senate to rush to judgment, but for what? To provide ammunition for 30 second campaign spots? For more political fodder for demagoguery back home on the campaign trail?

We have all heard the public statements by some supporters of this amendment that they hope that they lose by one vote so they can make our flag a partisan political issue this fall. I can only conclude, Mr. President, that there is more than one way to desecrate the flag.

While I voted with those who supported a constitutional amendment, I do not identify with those who are working full time to make this a partisan issue. It would be the height of irony if those who wish to protect the

flag proceed to undermine the very values it represents by questioning the patriotism of those who oppose the amendment. Principled and thoughtful persons can disagree. The last result that we need from this debate is the kind of "partisan disputes about meaner ends," which Justice Stevens cautioned against in his dissent in the United States versus Eichman flag desecration case.

Instead, we should celebrate the ideals symbolized by the flag by rejecting destructive political attacks and by embracing the concepts of liberty and tolerance which constitute the foundation of our system of government.

Last year, I was deeply disappointed by the Supreme Court's 5-to-4 decision in the Texas versus Johnson case which nullified the flag desecration laws of the States and the Federal Government.

Sharing my concerns, Congress last year enacted the Flag Protection Act to ensure the continued protection of our flag. I supported this narrowly drawn statute and was disappointed by yet another 5-to-4 recent Supreme Court decision in the Eichman case holding that law unconstitutional. If there remains a statutory approach that could pass constitutional muster, I prefer this route.

Yesterday, the Senate considered a statutory approach offered by Senator BUMPERS. His proposal would have made it an offense for a person to purposely or knowingly desecrate the flag in a way that the person knows is likely to lead to a breach of the peace. On a constitutional point of order, his amendment was declared unconstitutional by the narrow margin of 51 to 48.

I believe that the Bumpers proposal is a reasonable approach, and I question how the same people who believe the Court made the wrong decision on the flag cases could vote to declare Bumpers' amendment unconstitutional, thereby rendering a Senate decision similar to the Court's majority.

Because of the Eichman decision—which I clearly think was wrong—I supported a narrowly drawn constitutional amendment. However, I did so with some concern. Had this been an attempt to create an exception to the Bill of Rights, I would not have supported the resolution. Rather, I viewed this as a difficult, but necessary, effort to prohibit the expansion of the first amendment to cover inflammatory conduct, not essential to the exercise of free speech.

If this were merely a case of a protester holding up a flag and screaming profanities about the United States of America, then his ravings would constitute obnoxious, but protected speech. But, in my opinion, burning a flag is not a form of speech, it is an offensive action which the Government has a legitimate interest in prohibiting, given the unique qualities of the flag. If someone wants to voice strong opposition to our country, they have the freedom to do so in a number of other ways—short of igniting the nearest flag.

Clearly, if desecrating the flag is not essential to freedom of expression, our Government has a legitimate interest in protecting that flag.

In my view, the American flag represents the preeminent symbol of our Republic. The American flag also serves as a living memorial to our Nation's brave war veterans, those still living, the over 1 million who died while serving, and those who today still bear the wounds of war.

The Supreme Court's majority opinions, in Johnson last year and in Eichman this year, treat the American flag as just another symbol like many others, and thus hold desecration of the flag to be a form of political expression protected under the first amendment.

I agree with Justice Stevens who stated in his dissent in Johnson that the American flag is, "more than a proud symbol of the courage, the determination and the gifts of nature that transformed 13 fledging colonies into a world power" and that "the interest in preserving that value for the future is both significant and legitimate."

Over 20 years ago, Justice Hugo Black, a former Senator, noted jurist, and the first amendment's staunchest defender, stated that he did not know of "anything in the Federal Constitution which bars a State from making the deliberate burning of the American flag an offense." Also some 20 years ago, Chief Justice Earl Warren wrote that he believed that "the States and the Federal Government do have the power to protect the flag from acts of desecration and disgrace."

Mr. President, I agree with Justices Stevens, Black, and Warren. Our flag deserves protection. I also question why we voted yesterday when the issue had been decided. Since the House of Representatives did not give its two-third's approval to this constitutional amendment, there are now only two avenues to pursue. One is a second attempt at a statute. The second is the Court itself.

The last two appointees to the Supreme Court nominated by President Reagan, Justices Scalia and Kennedy, voted that the flag could not be protected. In the final analysis, President Bush's nominee for the next vacancy on the Supreme Court could determine whether this new, expanded constitutional interpretation remains the law of the land. I am hopeful that a change of one vote will obviate the need to revisit this constitutional amendment.

TRIBUTE TO SENATOR QUENTIN N. BURDICK

Mr. COCHRAN. Mr. President, tomorrow marks a major milestone in the career of one of our colleagues. QUENTIN BURDICK, the distinguished senior Senator from North Dakota, celebrates 30 years in the U.S. Senate. Only 35 others have earned this distinction.

In addition to his 30 years in the Senate, he served 2 years in the U.S. House of Representatives. In fact, he was elected in 1958 to the House seat vacated by his father when he retired.

North Dakota has been represented in Washington by Burdicks for more than 50 years.

Since 1986, Senator BURDICK has been chairman of the Senate Environment and Public Works Committee and chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies. These positions have given him important responsibilities over two major areas of legislation.

It is on the Agriculture Appropriations Subcommittee that I have come to know Senator BURDICK best. In 1981 I became chairman of this subcommittee and served for 6 years. After the Democrats elected a Senate majority in 1986, I served as the subcommittee's ranking Republican member. The Senator from North Dakota has always been friendly, conscientious, and very knowledgeable on the broad range of Federal programs that come under the jurisdiction of the subcommittee. The subject matter of this subcommittee includes virtually every agriculture program, as well as rural housing programs, rural development initiatives, food distribution, and national school lunch programs.

In addition to obtaining millions of dollars in Federal funding for North Dakota projects, Senator BURDICK has been a strong supporter of funding for rural electric and telephone programs and soil conservation programs. He has introduced and helped enact major drought relief legislation, and he has supported efforts to boost agricultural exports. His expertise in the field of agriculture appropriations and his interest in improving the lives of farm families have benefited not only the people of North Dakota, but those who live in the small towns and rural communities of other States as well.

Senator BURDICK has never sought the limelight, but he has always worked effectively for family farm agriculture and rural America.

Mr. President, I congratulate my friend, Senator QUENTIN BURDICK, on his anniversary of 30 years of Senate service.

EL SALVADOR: A WINDOW OF DEMOCRATIC OPPORTUNITY

Mr. CRANSTON. Mr. President, in a world and in a hemisphere where democracy is on the march, the small Central American nation of El Salvador continues to tug at our consciences while confounding our pundits and policymakers.

In a few short weeks, this body will again be faced with an administration request for more money to feed, clothe, and arm a Salvadoran military which acts more as an occupation force in its own country than as an armed institution dedicated to protection of national sovereignty.

Despite the fact that the United States has spent more than $1 billion in military assistance in the past decade—always under the guise of helping bring true democracy to El Salvador—the investment has had a very dismal return.

Recently an editorial entitled "Dollars and Death Squads" appeared in the New Republic. It points out that:

> With its seemingly incurable contempt for law and human decency, the Salvadoran military has very nearly exhausted the patience of its great benefactor, the United States. * * *
>
> Murder and other abuse of civilians continue, corruption has mounted, military efficiency has not improved, and no officer is ever punished for wrongdoing.

Where the Salvadoran military is concerned, progress is always around a never-ending corner, leading to a tunnel whose light ebbs ceaselessly into even more distant reaches.

Mr. President, there are several proposals before the Senate to cut back, or end, military aid to El Salvador. I plan to support the most stringent measures possible.

I do so thinking of the events of last November, when six Jesuit priests, their housekeeper and her daughter, were dragged from their beds and slaughtered by Salvadoran soldiers.

I do so remembering the massacre of 10 peasants at the hands of army troops in the village of San Sebastian in September 1988.

I do so pondering the purpose of the murders—all at the hands of the Salvadoran military and its death squad allies—of Bishop Oscar Romero, of the four American churchwomen, some of whom were raped, of the two American labor organizers, and of tens of thousands of poor and dispossessed of El Salvador.

Mr. President, not one Salvadoran military officer has been tried and convicted of any of these crimes. Yet, the military's fingerprints are all over these cases. Rather than justice, obfuscation, coverup, and that feeling of uncertainty and fear that comes from living in a situation of state-sponsored terror await the Salvadoran people.

Take, for example, the case of Jose Orellana, a soldier charged with the slaying of television journalist Mauricio Pineda last year. Following the murder, high-ranking military officers told the press that Orellana had fired upon Pineda's pickup truck without provocation or justification.

Yet, Orellana was acquitted. Why? Perhaps it had something to do with the fact that when the jury began its deliberations, about some 30 members of Orellana's unit—the elite Arce infantry battalion—appeared en masse at the courthouse. There is a saying in Spanish, "al buen entendedor, pocas palabras"—to those who understand, few words are needed.

Mr. President, few words are needed. It is time to stop making excuses, and start making examples. It is time to disassociate the United States from a killing machine that neither learns nor forgets anything.

This is not to say that the United States should wash its hands of El Salvador, however. Despite the grim news on the human rights front, there is reason to hope that a negotiated settlement to this terrible conflict will be achieved in the not-to-distant future.

There appears to be on both sides—the civilian right and the insurgent left—a new realism. Part of this new mood was a direct, if unintended, result of last year's guerrilla offensive.

The offensive did several things. First, although the leftist uprising was militarily more successful than many would have thought, it obviously did not spark a generalized popular revolt. FMLN rhetoric about popular rebellions was deflated by the fact the people, in their vast majority, did not participate in the revolt.

A the same time, the offensive struck a blow against some of the most cherished beliefs of leaders of the ruling Arena Party. After the offensive, it was clear that the Government has not been able to eliminate the guerrilla threat within months of taking office, as Arena spokesmen had bragged that they would be able to do. And, it was also clear that, bravado aside, Arena claims that the economy could continue to grow in the midst of an insurgency was merely a case of voodoo economics.

Finally, I believe that the tragic murders of the Jesuits may have brought home the message to important civilian sectors within Arena that the issues dividing the Salvadoran nation do not cut merely between left and right, but also between civilian and military.

Since the time of the offensive, respresentatives of the Salvadoran Government and the rebels have begun a process of negotiations. Recently, Tom Gibb and Frank Smyth produced a well-researched report for the Washington Office on Latin America. Entitled, "El Salvador: Is Peace Possible?—A Report on the Prospects for Negotiations and U.S. Policy," the paper argues convincingly that the chance for negotiations to succeed now is better than at any time previously. "Despite its tragic legacy of violence," Smyth and Gibb report, El Salvador's "problems do not appear to be hopelessly insoluble."

> * * * The positions of the government and the FMLN have indeed converged. Peace seems more feasible now than ever before: First, both accept democracy and the electoral process as the only vehicle by which power may be ultimately competed for and attained. Second, both accept the legitimacy of the armed forces as an institution. And third, both accept the legitimacy of El Salvador's 1983 constitution and agree that negotiations must remain within the bounds of its framework. In addition, each side professes support for a negotiated settlement, and have formally recognized the other in the context of diplomatic talks.

The authors point out that, although substantial differences remain on such issues as the date of elections, the need for judicial reform, and the form a cessation of hostilities or ceasefire would take, these are not the major stumbling blocks to peace.

"The most serious point of divergence is over the future of the armed forces," Smyth and Gibb noted.

> The FMLN accepts the military as an institution, but demands that it undergo major restructuring. The Government has publicly rejected any potential reforms, until the FMLN first disarms and disbands. These two views are fundamentally incompatible. Unless the government and the FMLN agree on the issue of military reform, a peaceful settlement is unlikely, if not impossible.

Mr. President, I believe that there are a number of steps that can and must be taken to strengthen the negotiating process and help break this stalemate.

First, I believe that outside groups could play an important role in identifying confidence building measures in El Salvador that could lead to healthier civil-military relations. Perhaps a group of civilians and military officers most identified with the democratic transitions of Spain, Portugal, Uruguay, Argentina, and Panama could be brought together in El Salvador, along with the United States experts in the field, to stimulate dialog and the search for consensus. A short list of specific recommendations might help bring both sides closer together at the negotiation table.

Obviously, a key goal would be the redefinition of the military's eventual mission as one of strictly national defense, with the Salvadoran police delinked from armed forces' control and given the role of protection of the public safety.

The civilianization of the police forces in El Salvador would be in keeping with a process already in existence in Costa Rica, and currently underway in Panama. This idea had begun to be implemented by the Government of

the late Salvadoran President José Napoleon Duarte. I might add that the position of President Duarte's Christian Democrats on the role of the military and police appears closer to that of the FMLN, than to that of ARENA.

One way the United States could send a clear message in this regard is by announcing its support for the establishment of a regional police academy, whose primary objective would be the formation of police professionals who respond to civilian control.

As the military issue is hammered out in negotiations, there are several other steps the United States ought to be taken to ensure that the talks succeed.

Since the beginning of May, the nine legally registered Salvadoran political parties have been discussing reforms to the current electoral law.

Mr. President, this is no parlour debate. According to Salvadoran law, any constitutional reforms—the crux of the agenda being discussed at the negotiating table—must be approved by two separate parliaments.

Next March, Salvadorans will participate in municipal and legislative assembly elections. This will be the first time in the history of the 10-year-old civil war that all sides are preparing to participate. For the opposition parties, including the FMLN, the incentive to participate in and respect the results of the elections is that they may serve as a kind of referendum of the policies and negotiating position of the ARENA government.

In turn, the Government might see itself as a beneficiary for three reasons: First, while the elections could be seen as a national referendum, the Presidency—and thus ultimate national power—is not being contested.

Second, a few weeks ago, the Government finally agreed that the elections should be subjected to prolonged international observation. This could redound to its favor, as truly free and fair elections could put a final step of legitimacy to an electoral cycle that was initiated in 1984.

Free and fair elections also would put enormous pressure upon the FMLN to demobilize and disarm, a process that could begin simultaneously with the announcement of security guarantees and efforts to overhaul the Salvadoran military command structure.

And finally, elections will provide a window of opportunity for the accords reached in the negotiations to be approved by the required two legislatures. This possibility alone should demand that the United States and the international community begin now to help fortify the electoral process.

Mr. President, there are several things that might be done to assist the Salvadoran people in the runup to the elections.

As I mentioned earlier, one initiative would be to involve international experts on the role of the military in democratic transitions in the debate about the future of the Salvadoran Armed Forces in a postconflict setting.

I also propose that part of the money which will inevitably be cut from the military aid request be specifically earmarked to assist the Government and opposition parties in carrying out a massive voter registration and civic education drive.

Currently, some 600,000 Salvadorans out of a possible of 2.3 eligible voters are shut out of the process. They will not be able to vote next year unless they are registered and obtain their electoral cards. Unfortunately, the Cristiani government has cut the budget of the Central Elections Council—which is in charge of this process—by 46 percent this year.

A clear signal of official concern about this situation ought to emanate from Washington sooner rather than later. Although the elections are in March, the political parties must decide within the next 3 months whether they plan to participate.

Obviously, the greater the spectrum of parties that do participate, the more legitimate the elections will seem. However, the decision to participate will just as obviously be tied to whether all sectors of Salvadoran society will be able to enter a level playing field.

The importance of election monitoring also cannot be ignored. International organizations such as the United Nations and the Organization of American States ought to be encouraged to have a presence in El Salvador 6 months in advance, as was the case of Nicaragua. An extensive international profile could provide important guarantees for political parties as they work to organize throughout the country.

Finally, the administration ought to bring every pressure to bear to ensure that the elections—and the runup to them—take place in a demilitarized setting.

Since 1984, no serious organization has charged that elections held in El Salvador have been marred by fraud. However, in the past both the FMLN and the Salvadoran military have done things to heighten tensions surrounding the elections, such as intimidating and physically harming activists and common citizens seeking to take part.

Mr. President, as I noted in the beginning of my remarks, we are all both challenged and captivated by the new winds of change advancing liberal democracy across the globe. But the battle is not over. El Salvador formed part of the point of the lance during a period of cold war tension. Now let us help bring peace to that troubled land with a similar vigor.

I ask unanimous consent for the attached articles to be published in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

EL SALVADOR: IS PEACE POSSIBLE—A REPORT ON THE PROSPECTS FOR NEGOTIATIONS AND U.S. POLICY

(By Tom Gibb and Frank Smyth)

POSSIBILITIES FOR A NEGOTIATED SETTLEMENT

An unusual photograph recently appeared in one of the main Salvadoran newspapers. It showed El Salvador's Ambassador to Honduras shaking hands with an FMLN guerrilla fighter in northern Morazán province. The Ambassador stopped to talk with the rebel while accompanying several thousand war refugees repatriating to their homeland. During the encounter, both the government diplomat and the guerrilla fighter were smiling; the photograph, like the smiles, were unprecedented.

El Salvador, like Lebanon, is frequently portrayed as one of the world's worst hotspots, where conflict is expected to be unending. El Salvador's decade-long civil war is indeed deeply rooted. But El Salvador is not characterized by age-old nationalist, religious, or other sectarian divisions. Rather, it is a division of class and ideology where families often find themselves on different sides of the divide. Despite its tragic legacy of violence, the country's problems do not appear to be hopelessly insoluble.

As we have argued in this paper, the positions of the government and the FMLN have indeed converged. Peace seems more feasible now than ever before: First, both accept democracy and the electoral process as the only vehicle by which power may be ultimately competed for and attained. Second, both accept the legitimacy of the Armed Forces as an institution. And third, both accept the legitimacy of El Salvador's 1983 Constitution and agree that negotiations must remain within the bounds of its framework. In addition, each side professes support for a negotiated settlement, and have formally recognized the other in the context of diplomatic talks.

THE REMAINING OBSTACLES

For negotiations to succeed, however, a number of remaining obstacles need to be overcome. The most obvious hurdle is the gap remaining between the two sides' platforms:

Whether the date of elections can be changed is at issue, because the timetable for elections is mandated by the Constitution. At present, legislative and municipal elections are scheduled for March 1991 and presidential elections for 1994. However, changing election dates does not appear to be a bottom-line rebel demand.

There is disagreement over judicial reform. Both sides agree some reform is needed, but positions vary greatly as to its extent.

There is still fundamental disagreement over what a cessation of hostilities or ceasefire would involve. In previous talks, the government has insisted that this should include ceasing all actions, such as demonstrations, strikes and other protests, by trade union, peasant, student and other groups which the government considers to be FMLN "front organizations." A legal code, agreed upon by both sides, would need to be established to allow for peaceful expression of dissent. At present, for instance, most

large strikes are routinely declared illegal. Entire work forces in both the public and private sector have been summarily dismissed for attempting to organize trade unions.

For its part, the FMLN has insisted that a ceasefire should include a cessation of government counterinsurgency operations. The rebels have recognized that El Salvador's territory cannot be permanently divided. However, as much as one-third of El Salvador's terrain, especially in rural areas, remains mostly under FMLN control. In these areas, the Armed Forces maintain no permanent bases or presence. During a process of resolution, the rebels insist that the government refrain from launching military operations in these zones.

The most serious point of divergence is over the future of the Armed Forces. The FMLN accepts the military as an institution, but demands that it undergo major restructuring. The government has publicly rejected any potential reforms, until the FMLN first disarms and disbands. These two views are fundamentally incompatible. Unless the government and the FMLN agree on the issue of military reform, a peaceful settlement is unlikely, if not impossible.

Another major problem is that of the dissenters on both sides. While President Cristiani and some military officers, possibly including Chief of Staff Ponce, have indicated privately they would be willing to consider making concessions in the area of military reform, they face fierce opposition by entrenched military and government interests prepared to use violence. That concessions are only mentioned in private as "possibilities" suggests there is still a long way to go before a consensus can emerge to formally change the government's platform.

In the rebel camp, there remain those who believe the only pure revolution can be made by the gun. Such forces continue to favor an absolute military victory. But they do not appear to have the strength or influence to reverse the rebels' present position.

If a peace process were to begin, security on both sides would therefore be a primary concern. Both the government and the FMLN would need to demonstrate their resolve to prevent their respective hardliners from trying to undermine progress. At the same time, both sides would also have to recognize that neither is completely capable of controlling all the elements associated with its camp. Individual acts of violence by maverick elements associated with either side should not be allowed to derail the entire process.

A TIMETABLE FOR PEACE

The hardest step of the actual negotiations would be to set up a timetable toward peace. Both sides, for instance, agree the first step of the renewed talks would be a ceasefire. But the government wants the FMLN to permanently stop all hostilities and agree to demobilize before discussing other points. The FMLN, on the other hand, wants some initial reforms in the military as guarantees that the government is serious before they will agree to stop fighting.

In agreeing upon a timetable, there are important lessons to be learned from the example of Nicaragua. There the first step was a ceasefire and a gradual military de-escalation of the war. Simultaneously, the Sandinistas opened up the political system, giving more space for the opposition to organize for the elections. Unprecedented international monitoring also helped ensure that opposition leaders were not victimized to the point of being unable to organize effectively. The key to the process overall was to hold elections that were accepted as free and fair by both sides—to decide what the future balance of political power in the country would be.

Both the opposition and the United States also agreed that the contras needed to be kept intact as a military force until after the elections. Only after the vote have we seen real negotiations for a process of demilitarization on both sides. The Sandinista army will likely be reduced and restructured. The contras will simultaneously demobilize. It is worth noting that the entire timetable has taken several years to implement.

Realistically, in El Salvador it is unlikely that either the FMLN or the Armed Forces would be willing to begin a process of demilitarization until after presidential elections. Given that these will not occur until 1994, the country faces a long and delicate transition period.

The question of when to demilitarize is important because it is here that the main lack of trust lies. The government and military's fear is that the FMLN would merely use the peace process to build up their military strength, scale back the size of the Armed Forces, and reduce U.S. aid, leaving the door open for the rebels to seize power. The FMLN's fear is that the military would lure the rebels' clandestine structure above ground, gather intelligence on those involved, and then eliminate them in a massive "dirty war." The rebels also fear that the military would never allow the left to take power even if they were to win an election. To overcome such concerns, as in Nicaragua, demobilization of the rebels as a military force and the reduction of the Armed Forces would probably be the last step of the process.

Ultimately, a negotiated settlement would need to create a political system where real power is allocated by elections. The winners must be guaranteed that they would obtain genuine control over government decisions. The losers must be guaranteed that opportunities for their political participation would continue and that they would not be subsequently repressed or eliminated. Considering that, in the past decade, over 70,000 Salvadorans (more than one percent of the country's population) have been killed—most of them by government or far rightist forces—this a formidable task.

CREATING A CLIMATE FOR PEACEFUL RESOLUTION

For negotiations to be successful, a climate would need to be created in which it would be too costly for either side to back out of the peace process and return to the war. Enough domestic and international momentum would need to be created to ensure that either side would face both an immediate loss of credibility and political isolation if it attempted to withdraw from the process.

The mediating role of a neutral international body in the actual negotiating process, ideally the United Nations, is therefore crucial. This would allow concessions to be made by either side, without appearing to be direct capitulation to the other's demands.

International supervision of a cease-fire, as well as the overall process of democratization, would also be important. For the most part, it is not that El Salvador's existing laws and Constitution are inadequate; it is simply that they are regularly ignored. In the area of human rights, for instance, heavy international monitoring would be essential. It would be the only feasible way to overcome the country's presently entrenched climate of fear, which is fundamentally incompatible with an open democratic system. It is standard practice for the government, for instance, to pay informers to identify alleged rebel sympathizers. Such individuals are usually then abducted, interrogated, and detained. An alarming number of such individuals disappear. Occasionally, their multilated bodies are found dumped "death-squad" style several days later. Those detained and interrogated are frequently mistreated or tortured—in order to compel them to provide names of additional alleged rebel supporters. Few if any such individuals have ever been tried. While such tactics are used only infrequently against known opposition leaders familiar to the press, they are routinely employed against relatively anonymous residents of poor rural and urban communities.

Rebel human rights abuses include a policy of summarily executing those they believe are acting as informers for the government. Most are also residents of poor neighborhoods, adding to this climate of fear and insecurity.

The focus of international monitoring would be to defuse this climate. The International Red Cross and some church groups already play an important role in this arena. But clearly, international supervision at least as great as occurred in Nicaragua would be required. The Organization of American States, the European Communities and other international bodies could play a part. It should be noted, however, that President Cristiani has already received stiff criticism from rightist forces for permitting the United Nations to play an intermediary role. They regard it as an unwarranted violation of El Salvador's national sovereignty. For such a process to succeed, this opposition would need to be overcome.

CHANGING ATTITUDES ENTRENCHED BY WAR

A peaceful settlement would need to change attitudes on both sides. As mentioned earlier, for years both Salvadoran and U.S. officials have accused various leftist political and other groups of being "guerrilla fronts." But in the context of a negotiated settlement, FMLN rebels and their civilian supporters would need to be encouraged to use such organizations as legitimate vehicles of expression.

These "popular organizations" in El Salvador represent the most tenacious movement of its kind in Central America. Rather than constituting a target for repression, they could stand as an example of how far-reaching "leftist" objectives can be strived for, as an alternative to armed resistance. For negotiations to succeed, the government and Armed Forces would not only have to accept such groups as legitimate in their own right; they would also need to recognize that the pursuit of the reformist and even radical socio-economic and political changes which they demand as a legitimate endeavor.

For its part, the FMLN has long argued that the Salvadoran government's "crisis" is rooted in the society's socio-economic inequities. But by accepting elections, the rebels would also need to accept that reform of such structures cannot be imposed—as through a government based on power-sharing—but would need to be the object of debate and competition within the context of a democratic political system. However, rightist elements strongly opposed to such changes—such as the country's U.S.-backed

1980 land reform, which was never fully carried out—would need to accept their implementation, if adopted through the democratic process.

Indeed, all sides would need to recognize that the basis for democracy is compromise, not confrontation.

CONCLUSION

Whether a peaceful resolution of the conflict in El Salvador can ultimately be attained depends largely on the attitudes and actions of the Salvadorans themselves. The United States, however, could act to set into motion forces in favor of negotiations. If the United States were to support a policy of negotiations in both word and deed, it would be more difficult for entrenched minority interests to both oppose and undermine a genuine process of reconciliation.

While the FMLN guerrillas have seen their options sharply curtailed, largely due to changes in the Soviet Union and Eastern Europe, the Salvadoran Armed Forces have little incentive to opt for a peaceful settlement as long as the United States is prepared to bankroll and unending war. A growing number of voices have begun to say that a negotiated settlement based on deciding power by elections, reforming the military and demobilizing the FMLN would be in the best interests of both El Salvador and the United States. If the Salvadoran military were also to receive this message from their U.S. backers, prospects for peace might not seem so far away.

[From the New Republic, June 18, 1990]

DOLLARS AND DEATH SQUADS

With its seemingly incurable contempt for law and human decency, the Salvadoran military has very nearly exhausted the patience of its great benefactor, the United States. A majority of the U.S. House of Representatives served notice on May 22 that it is prepared to cut military aid to El Salvador in half right now, and if the government cannot bring military killers to justice, to cut it off entirely. High officials of the Bush administration say they are "fed up" with the military's violations of human rights. They have quietly informed Congress that they are changing U.S. policy. The administration still opposes an outright cut in aid but now says it is willing to condition aid on improved respect for human rights and on good-faith performance in negotiations with the Farabundo Marti National Liberation Front.

In the case of Nicaragua, the administration creatively worked out agreements with Congress and the Soviet Union that ultimately got results. It's not too much to hope that something analogous might now happen in El Salvador. We agree with Congress that Salvador's military needs the cold shock of an immediate reduction in aid. But we also agree with the administration—and with Democratic moderates such as Representative Dave McCurdy of Oklahoma—that the military should be able to earn back its aid if it truly sets itself on the road to reform. Congress and the administration should agree upon a deadline—say, one year from now—after which, if specific moves toward reform are not taken, further military cuts will be imposed.

The administration opposes any immediate aid cut because it says this will undermine elected President Alfredo Cristiani as he enters peace talks with the FMLN. But we see no other way to get the military's attention, and we think it's in Cristiani's own interest that the military be brought under control. For ten years the United States has been feeding the military, arming it, training it, and trying to convert it into a defender of democracy, rather than an oppressor of its own people, at a total cost of $900 million.

It's not quite fair to say there is nothing to show for this. In 1980 and 1981 some 800 civilians a month were butchered by death squads connected to the government. Nowadays the civilian death rate is twenty per month. This is still appalling—imagine the uproar if the perpetrator was the Soviet army in Lithuania—but it must be counted a kind of progress. The military used to stage coups against elected leaders it opposed; now it lets them run at least the civilian side of government. And the military is supporting the current government's participation in U.N.-supervised peace talks with the FMLN.

Yet murder and other abuse of civilians continue, corruption has mounted, military efficiency has not improved, and no officer is ever punished for wrongdoing. In the most egregious recent case, Colonel Guillermo Benavides is in custody in connection with the murder last November 16 of six prominent Jesuit priests, their housekeeper, and her daughter—but suddenly the investigation has bogged down, evidence is missing, and leads pointing to involvement by an even higher-ranking officer, Vice Minister of Defense Juan Zepeda, are not being followed up. In an earlier case—that of the massacre of ten peasants in the village of San Sebastian in September 1988—all defendants except one have been freed. A major who is thought to have ordered the crime remains in custody, but U.S. officials suspect that since the perpetrators are free, they will not testify against their commander. The San Sebastian case, by the way, is one that Vice President Dan Quayle and U.S. Ambassador William Walker had said was a crucial test of Salvadoran justice.

In fact, in every well-known case—from the killing of Archbishop Oscar Romero in 1980 to the rape-murder of four American churchwomen in 1980 to the assassination of two American labor organizers in 1981 to the operation of a kidnap ring by high-ranking army officers—no military officer has ever gone to jail. Nor has any officer been punished for the thousands of deaths, rapes, tortures, and thefts inflicted on civilians by the military. Occasionally an officer will be relieved of command, as happened to well-connected Colonel Mauricio Staben, the alleged mastermind of the kidnap ring. But in most cases officers are simply promoted to higher rank on the basis of military academy class solidarity—regardless of wrongdoing, and regardless of military valor or (more commonly) lack of it.

The military is under fire not only from Democrats in Congress, many of whom have long wanted to slash aid regardless of the assistance this might lend the FMLN, but also from U.S. Embassy officials in San Salvador. One recent congressional task force report showed that fourteen of the fifteen highest-ranking officers in the Salvadoran army (eleven of them U.S.-trained) have commanded troops who have repeatdly committed serious human rights abuses. Another team accused the military of "corruption, incompetence, and frequent failure to accept civilian authority" and concluded, "The problems of human rights and a paralyzed judicial system are not caused by a few renegade officers, but reside at the heart of the armed forces as an institution."

The U.S. Embassy, which formerly resisted reductions in military aid, is sounding a new tune. Ambassador Walker, asked by The Washington Post if the Salvadoran military breeds in its men any ability to distinguish right from wrong, paused for a long moment and said, "I really don't know. . . . I think there is greater awareness than there was ten years ago." Another embassy official told Phil Bronstein of The San Francisco Examiner that "trying to reform them is like squeezing a bag of water. Now we have to play hard-ball. We're now basically supporting the move to condition or cut military aid."

The administration reportedly has drawn up a specific agenda of reforms that it wants to see the military undertake. These include a merit promotion system, financial disclosures by officers, a code of conduct, creation of an inspector general's office, and removal of certain current high-ranking offices with foul records. Members of Congress have suggested other reforms, such as funneling military aid through Cristiani, establishing a truly independent judiciary, and successfully prosecuting the Jesuits' and San Sebastian murder cases.

Were the military seriously to undertake these reforms, it should be able to earn back the full $85 million in aid that the Bush administration requested for fiscal year 1991. Under legislation passed by the House on March 22, then defeated in a subsequent procedural vote but certain to be revived in June, restoration of aid could take place only if the FMLN failed to negotiate with the government in good faith or if "the survival of the constitutional government of El Salvador is being jeopardized by substantial and sustained offensive military operations by the FMLN." Restoration of military aid should depend not merely upon the FMLN's bad behavior, but also on good behavior by the military.

The last decade's history of American policy in El Salvador is littered with administration promises that the military would shape up if only the aid kept flowing. A certain cynicism is therefore in order. Even so, the Bush administration has earned the right to some leeway in running Salvadoran policy. It proved in Nicaragua that it is far more flexible than the Reagan administration. It is no longer driving for an unattainable military victory in El Salvador. It is pushing for a negotiated peace, which it believes is more possible than ever before, thanks to the withdrawal of Soviet influence from the region, the defeat of the Sandinistas in Nicaragua and Manuel Noriega in Panama, the legitimacy of the Cristiani government, and the failure of the FMLN's 1989 offensive to ignite general insurrection in the country.

In the past, every time the FMLN has promised to negotiate it has merely used the time to plan another "final" offensive. But the FMLN has never before had much reason to believe that the U.S. and the Salvadoran government would ever move negotiations beyond the minimum required to placate Congress. That may now be changing. A real solution for El Salvador would require the FMLN to realize that it cannot win a military victory and to agree, as several other guerrilla movements in Latin America have done, to come in from the hills and participate in the political process. The other half of a solution would require the Salvadoran military to be induced, or coerced, to respect the agreement and the rule of law. If the administration is right and circumstances are forcing the FMLN to talk peace, it is incumbent upon the United

States also to create circumstances whereby the military will respect civilian authority.

This will require more than tough talk. It will require some tough action, too. Of course, there is never a "good" time to cut military aid to an embattled friendly government like El Salvador's. It can always be argued that the regime is about to enter negotiations, or is in negotiations, or needs to be coaxed into negotiations. But the present moment—when there is no danger of defeat on the battlefield, and when a rebuke to the military might actually strengthen the hand of the civilian authorities—is in fact a relatively opportune one. Ten years of "next time" threats have created a deficit in Washington's credibility balance in San Salvador. A measured cut in aid would put it back in the black. And a cut now might avoid a situation in which what we end up cutting down the road is not our aid but our losses.

JURY ABSOLVES SOLDIER IN JOURNALIST SLAYING

(By Douglas Grant Mine)

SAN SALVADOR, EL SALVADOR.—A jury has absolved an army soldier in last year's killing of a TV journalist. Colleagues of the slain soundman on Thursday lamented what they termed another example of military impunity.

The verdict in the case of the slaying of Mauricio Pineda was delivered Wednesday in the eastern provincial capital of San Miguel. A five-person jury absolved soldier Jose Orellana, who had been charged with Pineda's murder.

The jury began its brief deliberation after some 30 members of Orellana's unit, the elite Arce infantry battalion, appeared at the courthouse. Two officers, in what amounted to a character reference, testified on Orellana's behalf after evidence compiled in the investigation was presented to the jury.

"It (the soldiers' presence) could have had an effect," President Alfredo Cristiani acknowledged Thursday during a press conference. "Certainly, in many cases, the reaching of a decision completely free from outside influence is difficult."

The prosecution said it would appeal the verdict.

Narciso Castillo, news director for the Channel 12 television station for which Pineda worked, said the absence of the defendant at the trial and the "intimidatory" presence of soldiers constitute solid grounds for appeal.

Pineda was killed March 19, 1989 by a shot fired from a soldier at a military roadblock. The soundman was part of a crew in a pickup truck covering that day's nationwide presidential and legislative elections.

Two other journalists were killed and another was seriously wounded that election weekend. One died in a cross-fire during combat between leftist rebels and government troops. The other was killed by air force paratroopers at a roadblock in the same incident in which the third man was wounded.

The paratroopers implicated in the shooting of the two journalists have yet to go to trial.

In the days following the slayings, the country's highest ranking military authorities told representatives of the press corps the killing of Pineda was the most open-and-shut case. They admitted Drellana fired on the Channel 12 pickup without provocation or justification.

Raul Beltran, a Salvadoran journalist who was right next to Pineda when he was shot, said Thursday of the verdict: "It is not just. This kind of administration of justice is disappointing."

Marcos Antonio Guevara, who covered the trial for Channel 12, said of the soldiers presence: "They were telling the jury in so many words that if they delivered a guilty verdict, they would have to contend with the Arce battalion. The jury members live there. They leave the court alone and have their skins to think about."

Though the armed forces have been blamed for many thousands of summary executions, kidnappings and torture of suspected opponents in the 10-year-old civil war, no officer has been convicted, or even tried, for a crime of human rights abuse.

Four officers, including a colonel, are among eight army men charged with murder in the November 16 slaying of six Jesuit priests, their housekeeper and her daughter.

According to testimony from those charged, the priests were killed by a unit of the elite U.S.—trained Atlacatl battalion.

Atlacatl commander Col. Oscar Leon Linares on Wednesday bade farewell to his troops prior to leaving for his new post. Leon was promoted June 1 to military commander of Morazan Province.

According to testimony, the Jesuits—widely respected academics—were killed because many high-ranking army officers considered them guerrilla ideologues.

Far from mentioning the Jesuit massacre as a black mark on the Atlacatl record and cautioning his troops against repetition of such action, Leon told them in his good-bye speech: "You must remember that in front of us we have a terrorist combatant . . . but behind that combatant there are intelligent sectors that use any kind of calumny and other tricks to gain ground."

GLOBAL CLIMATE CHANGE IS HURTING OUR OCEANS

Mr. PELL. Mr. President, global climate change is no longer an unproven theory. The scientific evidence is mounting and numerous scientific studies tell us clearly that global climate change caused by greenhouse gases and ozone-destroying chemicals is underway.

The American Oceans Campaign [AOC] this morning, at a press conference in the Smithsonian Castle, revealed new and disturbing findings from a recent scientific study of the oceans.

The scientists who conducted the study found that increased ultraviolet radiation, reaching the Earth through a depleted ozone layer, threatens to cause a growing loss of phyto-plankton in wide areas of the oceans.

Their message is a warning to us all: one of the fundamental links in our global food chain is being hurt by our pollution and the ocean itself is in danger of losing its ability to buffer the greenhouse effect.

The message is clear. In fact, it could not be more telegraphic. We must act now. The battle must be on all fronts, from increased energy efficiency and conservation to the preservation of rain forests and the development of alternative fuels.

Mr. President, I ask unanimous consent that the "White Paper" released by the American Oceans Campaign be printed in the CONGRESSIONAL RECORD as if read.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

AMERICAN OCEANS CAMPAIGN WHITE PAPER: OZONE DEPLETION AND THE OCEANS: A CASE FOR QUICK ACTION

Recent scientific studies (see attachment) published within the past year in respected scientific journals conclusively refute the notion that the global climate change is as yet an unproven theory. Global climate change, caused by greenhouse gases and ozone destroying chemicals, is underway. Evidence is particularly compelling in the case of ocean processes. New findings include significant potential reductions of primary productivity of phyto-plankton in wide areas of the oceans caused by increased ultraviolet radiation. These findings and other studies strongly suggest that we will experience major alterations of marine ecosystems on an unprecedented scale in the near future unless steps are taken soon. Based on the rapidly accumulating evidence, it is imperative that industrialized countries take the lead in seeking immediate reductions and quick elimination of ozone destroying compounds and other greenhouse gases.

OZONE DEPLETION

Since the alarming detection by British scientists in the early 1980's of a hole in the stratospheric ozone layer of Antarctica, significant attention of the scientific community has been focused on the cause and effects of this phenomenon. As a result of scientific study, there is now no doubt that the primary cause of the depletion, beyond seasonal fluctuations, are certain chemicals which interact to destroy the ozone. For some time, chlorofluorocarbons compounds (CFCs) were suspected to be the chief culprit. More recently other compounds including halon, carbon tetrachloride, methyl chloroform, and HCFCs (CFC substitutes) have been identified as ozone destroying compounds.

Stratospheric ozone is essential for screening out biologically damaging ultaviolet-B (UV-B) radiation. Without the protection provided by this upper atmospheric layer, most life forms could not survive. Terrestrial biological effects from increased UV-B have long been suspected as leading to increased incidence of skin cancers in humans and a reduction of plant growth. UV-B is known to cause population reduction in phytoplankton, zooplankton (microscopic organisms, larvae of fish and shellfish) and some adult species such as northern anchovies (Hunter et al, 1981). Until quite recently, evidence of these effects in the field over a wide area of the ocean has been lacking.

The effect of ozone depletion is more severe in the polar regions, but an overall thinning of the layer has been measured at all latitudes. One study, published this year (Blumthaler & Ambach) has measured an increase in ground level incident UV-B of 1% per year during the period 1981-1989 in Switzerland.[1] Data such as this give cre-

[1] The significance of this study is that it was conducted at a higher altitude than those in the past, thus eliminating the potential of interference of ground ozone produced by vehicles and industrial plants.

dence to the alarming and rapid decline of stratospheric ozone on a globe-wide basis, and is not confined just to the poles.

THE SOUTHEAST PACIFIC OCEAN STUDY

In one of the most significant findings to date on the impact of increased UV-B, a report by researchers Behrenfield, Hardy, Gucinski, and Wones documents for the first time that current estimated increases in UV-B will likely result in significant decreases in the marine phytoplankton productivity in surface layers over large regions of the ocean. The study's findings are based on field data collected over a wide area of the southeast Pacific during February/March of 1989.

The study concluded that if present trends of ozone depletion continued, then by the year 2060 the primary production of phytoplankton in the surface layers of the ocean would decrease from a range of 1% at the equator to at least 32% or more at mid latitudes (45 degrees South).

The consequences of such a reduction in the primary productivity of the oceans surface waters would by all accounts produce dramatic changes in marine ecosystems. The near surface layers of the oceans are important for photosynthesis, for the larval stages of many fish and shellfish, and for the production of various zooplankton upon which many commercial species depend for their food supply.

Decreases in the phytoplankton and zooplankton would result in lower fisheries yields. Even more worrisome, the reduction of phytoplankton photosynthesis would decrease the ocean's capacity to assimilate carbon dioxide (CO_2). This could create a potentially dangerous feedback response. The oceans are known to play an important role in sequestering excess atmospheric CO_2. By reducing the capacity of the oceans to absorb CO_2, CFCs will have a two-fold impact on climate change. This results from the fact that CFC, on the one hand, is a potent greenhouse gas while, on the other hand, serves as an agent to reduce the assimilation capacity of the oceans.

OTHER ULTRAVIOLET RADIATION EFFECTS

There is additional mounting evidence to suggest that increased UV-B radiation from ozone depletion will adversely affect phytoplankton in the oceans through indirect chemical action. Reactive chemicals (some of which are known as "free radicals") are generated by the interaction of UV-B with sea water. These chemicals can also damage populations of phytoplankton.[2] Resulting population alterations with phytoplankton communities would generate a "ripple" effect throughout marine ecosystems and induce changes in abundance of other species. One consequence is a probable loss in commercially important fish and shellfish production.

GLOBAL WARMING AND MARINE ECOSYSTEM IMPACTS.

While the primary focus of this white paper is on the effects of UV-B on oceanic organisms, it is impossible to ignore important new findings on the alterations to marine systems due to the greenhouse effect. These effects, combined with the impacts from increased UV-B, will almost certainly cause dramatic and harmful alteration in oceanic and coastal biological communities. These new studies, listed below, document these detected changes.

The warming of the ocean's surface at a rate of 0.1 degree centigrade per year during the period 1982-1988 (Strong, 1989).

The rise of eustatic sea level at a rate of 2.4 +/−0.9 mm/year between the years 1920-1970 (Peltier and Tushingham, 1989).[3]

A significant 40 year increasing trend of alongshore wind stress moving toward the equator (Bakun, 1990).[4]

CONCLUSION

American Oceans Campaign finds the results of the studies cited in this paper compelling reasons for nations to take quick and decisive action to reduce and eliminate ozone depleting chemicals. In addition, the AOC sees good cause for developing a global climate agreement to reduce CO_2 levels by 20% from current levels by the year 2000. While it is essential that we continue to do more research to better define and understand the nature of impacts caused by human-induced changes in our atmosphere and oceans, the already detected changes and the scope of likely impacts is cause for considerable alarm. Action to mitigate and reduce these impacts must come sooner rather than later.

To argue, as some with the present U.S. Administration have, that we need a clear and complete data set before taking action, will doom us and our children to scrambling to survive on a radically altered planet. Developing complete data for much of the oceanic and marine research could take ten years or longer to collect and evaluate. Such a course of action would, in the end, be a recipe for disaster and foreclose many courses of action available now which might provide significant opportunities for avoiding or mitigating the worst of the impacts.

AOC is convinced that the real solution to limiting global climate change and decreasing ozone layer damage is best done by halting avoidable inputs of harmful gases. Quick fixes and grandiose technological schemes, such as seeding the oceans with iron to stimulate plankton growth, should be viewed with considerable suspicion and concern. Proposals such as these could divert needed funds and energy away from other, ultimately more fruitful research. In addition, they provide cover for those whose agenda is to avoid doing the necessary actions to stabilize climate change. These actions include: eliminating harmful chemical compounds like those that deplete ozone; reducing the emission of greenhouse gases; reducing fossil fuel consumption by use of alternatives and increasing efficiency; and, halting rainforest destruction.

The steps necessary to save our planet will not always be easy or painless, although most will have broad benefits for society as a whole. Yet efforts to postpone or divert nations from taking essential actions will only increase the pain and the scope of the adjustments which will inevitably have to be taken.

[2] Evidence indicates that some types of phytoplankton are more sensitive to free radicals than others. The result would likely be a selective reduction in phytoplankton population levels.

[3] Eustatic sea level is the calculated sea level with local variances such as subsidence or geological rebound factored out. Increasing sea-level will substantially alter biologically important coastal habitats, especially wetlands and estuarine systems.

[4] This type of wind stress drives coastal upwelling. Alterations in upwelling would probably effect the location and abundance of many commercially important species.

SOURCES

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Peltier, W.R. and A.M. Tushingham. 1989. Global sea level rise and the greenhouse effect: might they be connected? Science. 244: 806-810

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CONSTITUTIONAL AMENDMENT TO PROHIBIT FLAG DESECRATION

Mr. PELL. Mr. President, yesterday the U.S. Senate undertook one of its most solemn constitutional responsibilities. We had to decide whether the Bill of Rights, which has protected the liberties of the people of this Nation for almost 200 years, should be amended to protect the American flag.

I should say at the outset of my remarks, Mr. President, that I find it irrelevant that the Senate's action will have no practical effect. The fact that the House of Representatives has defeated a constitutional amendment, rendering our action superfluous, does not provide an excuse to cast a vote that is politically expedient. Our constitutional duty is no less significant when the impact of our actions is limited.

With this solemn obligation in mind, Mr. President, I must first say that I am deeply offended by any act of mutilation, defacing, or burning of our flag. To me, the flag represents all the best of our Nation and is a vibrant symbol of our most cherished ideals. I know that many citizens across this Nation and many of my colleague here in the Senate share my strong disapproval of such acts. Indeed, I was glad to cosponsor and vote for the bill introduced by my distinguished colleague from Delaware, Senator BIDEN, and passed by the Senate, to protect the physical integrity of the flag.

But the Supreme Court of the United States has ruled that that statute is unconstitutional. While I regret the Court's decision, we are now called upon to decide if the remedy of a constitutional amendment is an appropriate one.

Because of my love and respect for the American flag, I have thought very carefully about whether I could support a constitutional amendment. I find weighty the fact that the first

amendment to our Constitution, the bedrock of our Republic and our democratic values, has not been altered in almost 200 years.

In my view, our flag will wave more proudly if as we seek to protect it, we also protect the Bill of Rights. Therefore, I have concluded once again that I could not support a constitutional amendment to prohibit flag desecration.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,929th day that Terry Anderson has been held in captivity in Beirut.

IN TRIBUTE TO SENATOR QUENTIN BURDICK FOR 30 YEARS OF SERVICE IN THE U.S. SENATE

Mr. EXON. Mr. President, I rise today to join my colleagues in paying tribute to the senior Senator from North Dakota. QUENTIN's 30 years of service in the Senate have been good for North Dakota; they have been good for Nebraska; and they have been good for the United States of America. We owe him a debt of gratitude.

When I stop to think about my 12 years in the Senate and my longstanding association with QUENTIN BURDICK, I am reminded of the importance of the fellowship we enjoy. The Senate and the Nation run better in an atmosphere of trust and understanding. QUENTIN BURDICK has always had my trust and he has always approached my concerns with understanding. There can be no higher tribute to a legislator.

I could go on at length about all the things he has done for our United States and all the tough decisions he has made. But there is no way that any summary I could give would be complete. I will leave that task to historians and scholars and close simply by saying that QUENTIN BURDICK has been a true friend of agriculture, a true friend of rural America, and a true friend of JIM EXON's.

NORTH CAROLINA DESERVES ITS FAIR SHARE OF FEDERAL FUNDS

Mr. SANFORD. Mr. President, there are many arguments in favor of altering the formula for the Community Development Block Grant Program. The current formula for the program is extremely complex and tends to discriminate against States like North Carolina that have a relatively new but substandard housing stock.

North Carolina has tremendous housing problems that can and should be addressed by the CDBG program. According to a recent study, nearly 250,000 households in North Carolina lack running water or an indoor bathroom. The State ranks second in the Nation in the number of occupied substandard housing units trailing only Texas. One rural county in northeastern North Carolina has more occupied homes without complete plumbing than the entire State of Wyoming.

North Carolina ranks 44th among States in median household income, and 13th in the percentage of families below the poverty level. My State has a high percentage of overcrowded housing and ranks 10th in the Nation in overall population.

From these statistics, one would think that the Community Development Block Grant Program would provide substantial assistance to North Carolina. But in fact the opposite is true. Throughout the United States, the per capita receipt of CDBG funds totals $11.68, but the per capita receipt of CDBG funds in North Carolina totals only $7.70.

This issue is of particular interest to me because North Carolina has traditionally ranked close to last in the per capita receipt of Federal funds. I have tried to improve this situation over the past few years—but the State in fiscal year 1989 still ranked 48th.

To some degree, North Carolina's poor performance in receiving Federal assistance is due to the lack of Government contractors in the State. But to a great extent, North Carolina has been adversely affected by Federal formulas that are biased toward other States or regions of the country.

In the CDBG formula, I am particularly concerned about the weight given to the age of housing in each State. The inordinate weight given to this variable channels additional CDBG funds to older, more urban States and leaves the rural States with newer, but substandard housing conditions out in the cold. I am also concerned that the vast majority of funds are targeted to the entitlement program for large, urban centers while the allocation for the small cities program and the allocation for rural areas suffer with small funding totals.

I recognize that allocating CDBG funds according to population presents some problems because the allocation will not reflect the housing need in each State. However, this amendment has taken an important step in identifying the failure of the CDBG formula to respond to housing needs throughout the Nation.

As a member of the Banking Committee, I urge the chairman of the committee, and the chairman of the Housing Subcommittee to reconsider the current CDBG formula and to make appropriate changes that ensure that North Carolina receives the share of CDBG funds requisite with its terrible housing problems.

AIDS UPDATE

Mr. CRANSTON. Mr. President, according to the Centers for Disease Control, as of May 31, 136,204 Americans have been diagnosed with AIDS; 81,906 Americans have died from AIDS; and 54,298 Americans are currently living with AIDS.

During the month of May, 3,637 more Americans have developed AIDS and 2,319 Americans have died from this horrible disease.

AIDS: THE SECOND DECADE

Mr. President, the National Research Council of the National Academy of Sciences has published a hard-hitting, comprehensive report on the AIDS epidemic. The report tells us that the number of AIDS cases will continue to grow, with "a continuing toll of sickness and death" for a larger and larger number of Americans. The report tells us that more teenage females are infected than ever before and that the number of women with AIDS has grown from 6 percent in 1982 to about 10 percent today.

The Council advocates that a far greater share of the Federal AIDS dollar be spent on education and prevention. As we know, AIDS is a preventable disease. What we don't tell Americans can literally kill them.

I ask unanimous consent that an article from the Washington Post entitled "U.S. Report Predicts Wider Spread of AIDS," and a portion of the National Research Council's AIDS report summary be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 21, 1990]

U.S. REPORT PREDICTS WIDER SPREAD OF AIDS

(By Michael Specter)

SAN FRANCISCO, June 20.—The next decade on the AIDS epidemic will be worse and more complex than the first, with the disease spreading among women and adolescents and into demographic pockets that are now considered "safe," according to a three-year study issued today by a branch of the National Academy of Sciences.

The report was released by the National Research Council on the opening day of the Sixth International AIDS Conference, which was also marked by the arrest outside the building of about 100 demonstrators protesting U.S. immigration policies toward AIDS victims.

The report states in blunt terms that, contrary to recent reports that suggest the AIDS epidemic may have peaked, its "dimensions are sizable and will continue to grow" for years.

"We can find little credible evidence that the end of the AIDS epidemic is in sight," said Don C. Des Jarlais, vice chairman of the committee and an expert on AIDS among drug abusers. "We believe the picture of AIDS and HIV infection in the foreseeable future is one of a continuing toll of sickness and death for a steadily broadening profile of individuals."

For adolescents, the forecast was especially troubling. Studies of recruits for military service show that in most cities rates of infection have become equal among 17- and 18-year-old men and women. In the past, nearly three times as many men were infected as women.

The report cites a variety of statistics and surveys for its conclusions, including the rise in numbers of infected women who are sexual partners of intravenous drug users and the rise of infections among users of crack cocaine and alcohol. Although neither crack nor alcohol transmits the AIDS virus, both are heavily associated with the type of unsafe sexual behavior that does.

The proportion of all reported AIDS cases occurring among women has grown from about 6 percent in 1982 to roughly 10 percent today, the study found. In Northeast cities the figure has risen from 8 percent in 1982 to 18 percent today. Most of those cases are among women who have themselves injected drugs, but the number stemming from sexual contact has grown as well.

In a surprising but positive finding, the researchers reported that, despite early fears they could find no evidence that female prostitutes were transmitting AIDS cases to the larger heterosexual population in significant numbers. A large percentage of prostitutes reported using condums, and most clients say they prefer oral sex, which is not thought likely too transmit the virus.

The panel issued a variety of recommendations that flow from one theme: Do more. They expressed particular concern that the federal government continues to devote only $200 million of its multibillion-dollar annual AIDS budget to prevention and education.

"We need to be frank and explicit," Des Jarlais said at a briefing here. "There has been a long American tradition of not talking about sex in explicit detail and there has been an American tradition of not providing adequate health care to people with substance abuse problems. AIDS has upped the ante."

As have many other such panels, including those of the Institute of Medicine, the President's AIDS Commission and the National Commission on AIDS, the committee found a "critical need" to conduct a broad national survey of sexual behavior and to aim prevention strategies at groups that need them most. Currently, the information used to guide most decisions on who is at greatest risk comes from the sexual behavior data in the Kinsey Report, published nearly 50 years ago.

[From AIDS: The Second Decade, National Regional Council, Washington, DC]

SYNOPSIS AND MAJOR RECOMMENDATIONS

Throughout the report the committee reviews a variety of issues and presents a series of recommendations. Because the materiai is presented in some detail, the committee wishes to highlight some of the major points here.

The committee finds that the broadening scope of the AIDS epidemic calls for increased prevention efforts to reach a variety of subpopulations at differential risk, such as adults and adolescents, men and women, homosexuals and heterosexuals. The committee is particularly concerned about the epidemiological evidence that finds a disproportionate burden of disease among minority subpopulations. Therefore, the committee recommends that the agencies of the Public Health Service encourage and strengthen behavioral science research aimed at understanding the transmission of HIV in various black and Hispanic subpopulations, including men who have sex with men, drug users and their sexual partners, and youth. The committee further recommends that the PHS develop plans for appropriate interventions targeted toward these groups and support the implementation of intervention strategies (together with appropriate evaluation components) in both demonstration projects and larger scale efforts.

Adolescents and women are other groups that present both important opportunities to prevent future disease and challenges to providing effective intervention programs. It is during the adolescent years (and sometimes earlier) that many of the behaviors that risk transmission of HIV are initiated. For programs to be most effective, however, teens must be reached before they begin the behaviors that put them at risk. Thus, the committee recommends that AIDS prevention programs make special efforts to reach very young teens and, in some subpopulations, to reach youth before they enter adolescence. Thus far over the course of the epidemic, a considerable proportion of the resources allocated to prevent horizontal and vertical transmission among women have been devoted to counseling and testing programs. Yet important questions remain about how this service is delivered and what impact it has on subsequent risk-associated behaviors. Therefore, the committee recommends careful review of the goals of testing and counseling programs for women of childbearing age and the implementation of research to ascertain the effect of such programs on future risk-taking behavior. Moreover, the committee recommends that the Public Health Service support research to develop protective measures other than condoms for preventing HIV transmission during sexual contact—specifically, methods that can be used unilaterally by women and methods that will be acceptable to both men and women who do not currently use condoms.

Designing and implementing relevant and effective programs requires knowledge about the targeted population and the risk-associated behaviors of concern. Thus, the committee recommends:

That the Public Health Service encourage and support behavioral research programs that study the behaviors that transmit HIV infection and that the PHS develop and evaluate mechanisms for facilitating and sustaining change in those behaviors;

That intervention programs incorporate planned variations that can be carefully evaluated to determine their relative effectiveness;

That the PHS regularly summarize the data derived from currently funded behavioral and epidemiological research on AIDS (in terms of incidence of infection and high-risk behaviors) to determine intervention priorities for various subpopulations at risk; and

That all agencies of the PHS that are currently funding intervention programs and evaluation research regularly summarize the data derived from these studies to determine which, if any, programs can be recommended for wider dissemination.

Understanding the behaviors that transmit the virus depends on the availability of valid and reliable data regarding those behaviors, including the distribution and variation of the behaviors across various subpopulations. Unfortunately, the data on AIDS-related behaviors are extremely limited, and most are out of date. Moreover, these data rely for the most part on self-reported information of unknown quality. Consequently, the committee recommends that the Public Health Service and other organizations supporting AIDS research provide increased support for methodological research on the measurement of behaviors that transmit HIV. Such research should consider inferential problems introduced by nonresponse and nonsampling factors, including (but not limited to) the effects of question wording and question context, the time periods and events that respondents are asked to recall, and the effects of anonymity guarantees on survey responses.

In addition to the diversity of at-risk groups, the committee wishes to note the dynamic nature of the patterns of behavior that contribute to the spread of infection. The role played by IV drug use in HIV transmission has been apparent since the early years of the epidemic, but only recently has there been a growing appreciation of the role of other drugs, such as crack and cocaine, in sexual transmission of the AIDS virus. Therefore, the committee recommends that the Public Health Service establish mechanisms across its agencies for rapid identification and assessment of the relationship of new drug use problems to the spread of HIV. Given the continued threat of HIV and AIDS and given the lack of biomedical solutions to this serious health problem, the committee finds that sustaining behavioral change and preventing relapse are issues that require immediate and sustained attention. Thus, the committee recommends that the Alcohol, Drug Abuse, and Mental Health Administration focus research efforts on AIDS-related relapse prevention, including the determinants of such relapse and the role that alcohol and other drugs play in the return to unsafe sexual and injection practices.

There has been substantial progress in reducing the risks of HIV transmission associated with the blood supply, progress achieved through technological solutions, augmented by behavioral interventions. Yet, as the risk of exposure to contaminated blood and blood products diminishes, the issue of maintaining an adequate supply of blood arises. Efforts to exclude at-risk donors must take into account the need to maintain sufficient quantities of blood donated by individuals who pose no risk to the blood supply. The committee recommends that:

Blood collection agencies strive for clearer communication of the exclusion criteria to potential and actual donors;

Blood collection agencies work to increase donation by those who can safely give and abstention by those who are at even minimal risk through recruitment approaches that stress altruistic appeals rather than the use of competitions, incentives, and social pressure;

The National Heart, Lung, and Blood Institute continue its support for research to investigate why some donors with identifiable risk factors continue to donate while others without risk factors inappropriately exclude themselves; and

Physicians and blood banks encourage autologous donation in cases in which surgery is anticipated.

Reducing the exposure of potential transfusion recipients to homologous blood can be accomplished in several ways, depending on the circumstances that prompt transfusion. Educating physicians and their patients, establishing guidelines for blood use,

and modifying prescribing behavior are necessary to achieve this goal.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL AFFORDABLE HOUSING ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 566, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 566) to authorize a new housing opportunities partnerships program to support State and local strategies for achieving more affordable housing to increase home ownership, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Cranston (for D'Amato) Amendment No. 2041, to express the sense of the Senate regarding the Mutual Mortgage Insurance Fund of the Federal Housing Administration.

(2) D'Amato Modified Amendment No. 2042 (to Amendment No. 2041), in the nature of a substitute.

AMENDMENT NO. 2042 TO AMENDMENT NO. 2041

The PRESIDING OFFICER. The pending question is the amendment offered by the Senator from New York, No. 2042.

Mr. CRANSTON. Mr. President, assuming the Senator from New York will set that aside because of the agreement we have reached on and other matters, I will send a package amendment to the desk by several Senators that Senator D'AMATO and I have both agreed to.

Mr. D'AMATO. Mr. President, I will agree to lay the amendment aside so that we can consider the package of amendments that has been discussed. I say to my distinguished colleague, though, that I do understand that there my be some question as it relates to some of the legislative language, and I hope that prior of our pursuing this, we could get those differences ironed out.

I do not think if behoooves us to move forward on a comprehensive package, when we have put in as much time as we have, if we do not have all of the legislative language ironed out.

I ask my colleague to withhold, and I will suggest the absence of a quorum, if he does not want to suggest this, for a moment, so that we might have an opportunity to see whether or not the legislative language is as they have indicated, unless the Senator has other statements he would like to make.

I see this is a small unanimous consent package, not the comprehensive package. So this has been cleared on both sides, Mr. President, and I think it would be in the interest of the bill if we can move forward on it, certainly.

The PRESIDING OFFICER. The pending amendment is temporarily laid aside.

AMENDMENT NO. 2069

Mr. CRANSTON. I send a package amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 2069.

Mr. CRANSTON. I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 358, line 4, insert at the following before the period: "and facilitating resident management of eligible properties".

On page 358, line 20, insert the term "and".

On page 358, line 25, insert the following: "and

"(8) the provision of financial assistance to resident management corporations and resident councils, as defined by the Secretary, in eligible properties that obtain, by contract or otherwise, technical assistance for the development of resident management entities in such projects, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of such properties, and the securing of such support, except that assistance under this paragraph may be provided with respect to a property owned other than by the Secretary only if the owner agrees to the award of the assistance."

On page 379, line 11, insert at the end the following:

"For purposes of planning grants under section 413(b)(8), the term "eligible property" also means a property insured under the National Housing Act and assisted under section 8 of the United States Housing Act of 1937".

At the appropriate place, insert the following:

SEC. PAYMENT WITH RESPECT TO INDIAN HOUSING.

Section 107(a) of the Housing and Community Development of 1974 is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) to units of general local government that are located in North Dakota for public services provided with respect to Indian housing;".

On page 627, line, between lines 13 and 14, insert the following:

"(e) HIGH INTENSITY DRUG TRAFFICKING AREAS.—In evaluating the extent of the drug-related crime problem pursuant to subsection (b), the Secretary shall consider whether housing projects proposed for assistance are located in a high intensity drug trafficking area designated pursuant to Section 1005 of the Anti-Drug Abuse Act of 1988.".

On page 626, line 6, insert after "CRITERIA.—" the following: "Except as provided by subsections (c), (d), and (e),".

On page 626, line 14, insert immediately after "assistance" the following:", including the extent to which the plan includes initiatives that can be sustained over a period of several years".

On page 629, line 10, insert immediately after "jurisdictions" the following: ", (4) the extent to which grants awarded under this chapter have been awarded for housing projects in high intensity drug trafficking areas as designated pursuant to Section 1005 of the Anti-Drug Abuse Act of 1988, and other areas with particularly serious drug problems".

On page 629, line 11, delete "(4)" and insert in lieu thereof the following: "(5)".

On page 629, insert at the end of line 14 the following: "In conducting this review, the Secretary shall consult with Federal, State, and local law enforcement agencies and prosecutors, and with housing authorities, owners of federally assisted, low-income housing, and affected tenants".

On page 626, line 5, insert immediately after "plan" the following: "; and (G) a discussion of the extent to which the initiatives proposed in the strategy can be sustained over a period of several years".

On page 626, delete line 3.

The national rate of homeownership has been declining;

Average housing prices and, therefore, downpayment requirements have risen above the means of many first-time homebuyers;

Homeownership promotes self-sufficiency and individual prosperity;

Spouses, parents and grandparents are more likely to have sufficient financial resources to subsidize first-time home purchases;

It is the sense of the Senate that:

An IRA owner should be allowed to make withdrawals from his or her retirement account on behalf of a qualified first-home purchaser, such as a son or daughter or grandchild, without incurring a penalty; such provisions should be adopted as part of any tax legislation considered during this session of Congress.

Mr. CRANSTON. The amendment I offer contains several provisions that have been suggested to me and Senator D'AMATO by several colleagues.

As managers of the bill, we have considered each of these provisions and believe that they will enhance the bill now before us. In order to facilitate the process here today, we are offering them as one package amendment. I will briefly describe the provisions included in this committee amendment.

The first amendment, submitted by Senator NICKLES, would authorize HUD to provide assistance to resident management corporations and resident councils in housing that was developed under federally subsidized programs like section 236 and section 8. The funding for such activities will come from the HOPE for Multifamily Homeownership Program.

The second amendment, submitted by Senator CONRAD, would ensure that small communities in North Dakota are adequately compensated by the Federal Government for the services they provide to Indian housing.

The third amendment, submitted by Senator D'AMATO, would make additional amendments to the Public Housing Drug Elimination Program.

Most importantly, it would require HUD to consider the extent to which the initiatives outlined in an application for funding can be sustained over several years and whether such initiatives and the projects to be assisted would be located in a high drug intensity area. This amendment has been cleared by the author of the Drug Elimination Program, Senator LAUTENBERG.

The fourth amendment, submitted by Senators BOSCHWITZ and MCCLURE, would express it is the sense of the Senate that an owner of individual retirement accounts or IRA's should be allowed to withdraw funds, without penalty, on behalf of a qualified first-time homebuyer such as a son or daughter or grandchild. This proposal is somewhat different from an IRA revision that was contained in earlier versions of the National Affordable Housing Act: namely, allowing home buyers to invest their IRA or 401(k) in their home. I support this amendment because it recognizes that the purchase of a home is correctly considered part of a retirement package.

Mr. President, I believe these are all sound amendments that will enhance the bill. I hope they will be accepted promptly by my colleagues by unanimous consent.

The PRESIDING OFFICER. Is there further debate?

The Senator from New York.

Mr. D'AMATO. Mr. President, I commend those Senators who have offered these amendments. I think they are constructive. I think the IRA proposal for first-time homebuyers certainly makes a good deal of sense.

I believe that in our one area of amendments, that dealing with the public housing and the problems of drug trafficking, particularly in the high-intensity drug trafficking areas, that we certainly have to do more and a better job than we are doing. That is the purpose in submitting one of these amendments, to attempt to support State and local strategies for achieving better results in ridding these housing projects of the drug dealers.

In just this past week, Senator DECONCINI and I went to one of the projects in one of the high-intensity areas in New York City. What we found is limited success in moving the drug dealers and traffickers off the corners, which oftentimes results in them moving into the housing projects themselves, soon becoming partners and oftentimes actually displacing the person who has the lease on these premises, creating intolerable situations for the neighbors, for the residents of these projects and as a result of the addicts coming in to purchase their drugs, open warfare.

We find that in one of these projects we were told that there is at least one shooting a week. Some of this legislation has concerned itself with attempting to expedite grants to the projects in high-intensity drug trafficking areas.

It seems to me that we have a special responsibility in the Congress of the United States as it relates to seeing to it that the public housing projects that we spend billions of dollars on in terms of constructing and thereafter in terms of maintaining should be drug-free. It does not make sense to have a situation where we are directly subsidizing to the extent of billions of dollars Federal Government housing projects that become shooting galleries and become totally unsafe for decent people to reside in.

So I thank Senator CRANSTON. I thank his colleagues on the other side for particularly accepting this amendment with the speed in which they have done it. We have just added this to the package in the last several hours. I am deeply appreciative of the graciousness of the Senator and staff in seeing to it that this amendment is added, because possibly it will give us the ability to do a lot more. I certainly support the package and urge its adoption.

The PRESIDING OFFICER. Is there further debate?

The Senator from California [Mr. CRANSTON].

Mr. CRANSTON. Mr. President, it appears there is a necessity of checking out whether there is any concern about this measure with Senator LAUTENBERG on the crime aspect and with the Finance Committee on the IRA aspect. I think that can be done momentarily. I thought it had been done but it has not. But I suggest we not proceed at this moment to vote.

Let me say also on the general package amendment that Senator D'AMATO and I will offer that embraces the agreement worked out in negotiation with the administration and with concerned Senators, that I believe there is no major difficulty on agreeing on the language. It is just a matter of putting it together. I hope we can offer this amendment shortly and have the agreement that we have reached that broke the logjam on this measure with the administration turned into legislative action very swiftly.

I expect that we will be spending the day on into the evening on the housing bill and that we will get as close as we can today to final passage of the measure. I urge Senators that have any amendments that are going to require floor action to come to the floor as soon as they can do so that we can act upon their amendments. I urge listening staff to try to persuade their Senators to come to the floor. I will be working directly with all concerned to try to get them to the floor.

A major amendment that will have to be dealt with as soon as possible is that offered by Senator GRAMM relating to a new formula on CDBG grant programs. I have discussed with Senator GRAMM when he would be able to come to the floor with that amendment, which we have to dispose of in order to clear the way for final passage of the bill. He is involved this morning in the budget summit negotiations that follow upon the breakthrough of yesterday on the major issues that will have to be dealt with and were agreed to in connection with the budget. But he indicated he could probably be here sometime after 12 noon, presuming the summit session does not go on into the afternoon. So I am hopeful we will get the Gramm amendment up very early this afternoon.

If the Senator from New York has no business at the moment I will suggest the absence of a quorum.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. If the Senator from California wishes to withhold to permit the Senator from New York to address the body, the Senator from New York.

Mr. D'AMATO. Mr. President, I would hope that we could accomplish almost all, if not all of our work on this bill, and subject to other legislative business obviously be able to call it a day at a reasonable hour, something like 5 or 6 o'clock. There is no reason for us not to be able to do that. It appears to me that we have one piece of unfinished business, as it relates to the bulk of the bill, and that deals with the use of vouchers and language describing the purposes in which they may or may not be used. We are attempting to work that out now.

The Gramm amendment will be a contentious one, but there is another amendment that I believe Senator BOSCHWITZ—I do not know that we have worked that out—will be offering. There is the legislative initiatives undertaken by Senator METZENBAUM that will probably be considered by the body.

But I am not aware of any other contentious matters and, as Senator CRANSTON has indicated, and as this Senator would also join in saying to those of our colleagues if you have amendments come on down to the floor and let us dispose of them.

We have come a long way. This package has a number of initiatives and, more importantly, it has a number of safeguards as it relates to the FHA problem that we find ourselves in. I believe we have come to an agreement that will make the fund actuarially sound, certainly move it in the right direction. I hope that we could complete business by 5 o'clock. I do not see why we should not. Even the most contentious of the amendments can be disposed of and dealt with, it would seem to me, prior to

that time if Senators are willing to go forward.

Mr. President, I think we are waiting to get clearance on the language as it relates to the total package, and I do not know if Senator CRANSTON has anything else he would like to add.

Mr. CRANSTON. If the Senator from New York will yield, we have cleared the amendment relating to the drug elimination program which was the amendment of the Senator from New York. The Finance Committee wants to take a further look at the Boschwitz-McClure amendment relating to IRA's. So I suggest we remove that from the package and agree to the rest of them.

Mr. D'AMATO. OK.

Mr. CRANSTON. I modify my amendment to eliminate the fourth amendment that I listed, which was the amendment submitted by Senators BOSCHWITZ and MCCLURE.

The PRESIDING OFFICER. The Senator has that privilege. The amendment is modified accordingly.

The amendment, as modified, is as follows:

On page 358, line 4, insert the following before the period: "and facilitating resident management of eligible properties".

On page 358, line 20, strike the term "and".

On page 358, line 25, insert the following: "and

"(8) the provision of financial assistance to resident management corporations and resident councils, as defined by the Secretary, in eligible properties that obtain, by contract or otherwise, technical assistance for the development of resident management entities in such projects, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of such properties, and the securing of such support, except that assistance under this paragraph may be provided with respect to a property owned other than by the Secretary only if the owner agrees to the award of the assistance".

On page 379, line 11, insert at the end the following:

"For purposes of planning grants under section 413(b)(8), the term "eligible property" also means a property insured under the National Housing Act and assisted under section 8 of the United States Housing Act of 1937".

At the appropriate place, insert the following:

SEC. . PAYMENTS WITH RESPECT TO INDIAN HOUSING.

Section 107(a) of the Housing and Community Development of 1974 is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) to units of general local government that are located in North Dakota for public services provided with respect to Indian housing;".

On page 627, between lines 13 and 14, insert the following:

"(e) HIGH INTENSITY DRUG TRAFFICKING AREAS.—In evaluating the extent of the drug-related crime problem pursuant to subsection (b), the Secretary shall consider whether housing projects proposed for assistance are located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988.".

On page 626, line 6, insert after "CRITERIA.—" the following: "Except as provided by subsections (c), (d), and (e),".

On page 626, line 14, insert immediately after "assistance" the following: ", including the extent to which the plan includes initiatives that can be sustained over a period of several years".

On page 629, line 10, insert immediately after "jurisdictions" the following: ", (4) the extent to which grants awarded under this chapter have been awarded for housing projects in high intensity drug trafficking areas as designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988, and other areas with particularly serious drug problems".

On page 629, line 11, delete "(4)" and insert in lieu thereof the following: "(5)".

On page 629, insert at the end of line 14 the following: "In conducting this review, the Secretary shall consult with Federal, State, and local law enforcement agencies and prosecutors, and with housing authorities, owners of federally assisted, low-income housing, and affected tenants".

On page 628, line 5, insert immediately after "plan" the following: "; and (G) a discussion of the extent to which the initiatives proposed in the strategy can be sustained over a period of several years".

On page 626, delete line 3.

The PRESIDING OFFICER. Is there further debate on the amended package?

If not, the question is on agreeing to the amendment of the Senator from California, as modified.

The amendment (No. 2069), as modified, was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agree to.

Mr. CONRAD. Mr. President, this amendment on behalf of myself and Senator BURDICK is essential to the viability of several small towns in North Dakota.

My amendment will help ensure that these communities are adequately compensated by the Federal Government for the services they provide to Indian housing. The Department of Housing and Urban Development uses an antiquated formula to determine the amount that towns should be reimbursed for providing services such as water and sewer, garbage pickup, road construction, and community facilities. Under the formula, towns receive an amount equal to 10 percent of shelter rents minus utilities. Since utility payments are so high, subtracting them from the shelter rent calculation results in a negative number. Therefore, the towns do not receive a dime.

While I recognize that the formula is not meant to completely reimburse towns for the services they provide, it is equally evident that the purpose of the formula is to provide towns with at least some level of reimbursement.

The Select Committee on Indian Affairs recently held a hearing which highlighted the needs of small rural communities that should be receiving payments from HUD. They are faced with cutting back basic services ranging from road repair to the community swimming pool. Parshall, ND, a town of 1,079 residents has 20 percent of its land in trust. It is easy to see the economic burden this places on such a small town, especially after 3 years of drought. Few small towns find themselves with such a larger percentage of their property tax base in Federal ownership. And the Federal Government's failure to pay its due only exacerbates the situation.

Mr. President, my amendment calls for fairness—pure and simple. It makes these towns eligible to apply for discretionary grants under section 107 of the Housing and Community Development Act of 1974. The towns may then use the grants to pay for a small portion of the services they provide to Indian housing. This will make it a little easier for these towns to get by. And it will help to ease potential tensions between the local Indian housing authority and the towns.

I would like to thank the managers for their assistance on this amendment.

Mr. NICKLES. Mr. President, today I have introduced an amendment which expands section 413, the planning grants section of S. 566, to make resident management groups eligible to receive planning grants. My amendment has became part of the unanimous-consent agreement which was passed by the Senate and became part of the housing bill.

Under my amendment, resident management groups will be eligible to receive planning grants to be used for the following:

Technical assistance for the development of resident management entities;

The development of the management capability of newly formed or existing entities;

The identification of the social support needs of residents of such properties; and

The securing of such support.

It is important to note that the securing of this assistance is provided if the property is owned by the Secretary or if the private owner agrees to the award of the assistance.

I decided to pursue this amendment as a result of a VA/HUD appropriations subcommittee field hearing that I held in Tulsa, OK, last March. My close involvement with two section 8 properties which were the subject of the hearing, Morningstar Village and Vernon Manor, has heightened my

awareness of the strength of resident councils. I have seen that these resident groups have the necessary motivation but not always the necessary tools to take over the management of their properties. This amendment will provide them with those tools.

Unfortunately, many of our public housing facilities as well as our section 8 properties have become run-down and crime-ridden. In many cases, the projects have moved away from providing transitional housing. Tenants are caught in the poverty cycle and the federally assisted housing properties have become long-term homes for many tenants.

In recent years, there has been a movement toward tenant management and control. In 1973, a group of tenants at the Bromley-Heath project, in Boston decided to take control of their lives and of their homes.

Mildred Hailey organized her fellow residents to clean up their properties, patch leaky roofs, repair boilers and replace over 4,000 broken windows. These actions led to pride in their homes and a sense of community. Soon the tenants formed a management group and began to screen tenants and collect rent. Today, Bromley-Heath has its own job-training programs, onsite employment for residents at a day-care center and private security patrol, and a health clinic staffed by community volunteers.

Another example of a transformation into tenant management is right here in the district at the Kenilworth-Parkside project. In 1982 when the tenants signed a contract to manage Kenilworth, many residents had been without heat or hot water for 2 years or more and 85 percent of the residents were welfare dependent.

Four years later, the following results occurred; crime had fallen by 75 percent, welfare dependency had been reduced by 60 percent, and the number of teen-age pregnancies had been halved.

Furthermore, according to an audit by the accounting firm of Coopers & Lybrand; rent collection has increased 77 percent, operating costs had been cut by 45 percent, and the vacancy rate had fallen from 18 percent to just 5.4 percent. Coopers and Lybrand also found that: "at least 132 residents were removed from public assistance dependency through the direct intervention" of resident management corporation, which also has helped find jobs for more than 30 more tenants.

In the 15 years before tenant management at Kenilworth Park, only two residents had enrolled in college; but the projects "College Here We Come Program" has sent almost 600 residents to unversities, 75 percent of whom have already graduated.

Across the country, 13 resident management corporations are currently operating public housing developments. An additional 72 are enrolled in HUD-sponsored management training and are receiving technical assistance in property management and community development from private groups under contract to HUD. HUD officials note that four tenant groups apply for every place available in the program.

I applaud the efforts of Secretary Kemp to promote home ownership and empowerment for tenants. My amendment will further those efforts by providing the opportunity for residents of section 8 properties to obtain assistance in becoming the managers of their own properties.

I thank the Chair.

Mr. CRANSTON. I think we will be ready shortly with the bipartisan agreement, but we are not quite ready. So I suggest the absence of a quorum at this point.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, there has been a great deal of discussion, both on this floor and off, about the National Affordable Housing Act. Today, it is a pleasure to join with colleagues on both sides of the aisle in an attempt to describe to our colleagues the wide range of improvements that have been made to the bill which I think make it now a very strong bill, one which was crafted on a bipartisan basis and should enjoy bipartisan support.

I am particularly appreciative of the efforts of Senator CRANSTON, the chairman of the subcommittee, who worked diligently to incorporate the concerns that some on our side of the aisle and some in the administration had, who followed through on the bill. Senator SARBANES was a very constructive force in the negotiations. Obviously, on our side, our ranking member, Senator D'AMATO from New York, has played an important role over 3 years in getting this bill to where it is. There has been tremendous input from Senator MACK and others on our side.

I also believe that Secretary Jack Kemp, who has brought new commitment, enthusiasm, and vitality to the cause of housing in this administration, deserves a great deal of credit.

This measure, in my view, incorporates the best of Senators CRANSTON and D'AMATO's HOP Program, the best of Secretary Kemp's HOPE proposals, and I think some very good proposals, a few of which I proposed, as well, are in here.

We have, as I have said before on this floor, neglected housing in recent years. We have to put enough money into housing, which is a Federal responsibility that we had assumed. But now we have changed the framework so when we do put money into it, it will be used in the most effective manner.

I have stated before on this floor that I think that many of the problems we have encountered in HUD have come about because of the unnecessary red tape, bureaucratic logjams and bureaucracies that have been built-up by legislation in the past.

I would note that as a part of the compromise, we have had to reinstitute some regulations and some conditions, and there are some hurdles which must be overcome. So we cannot say that we are pure. This is not a totally clear-cut block grant program to the State and localities that I would have liked to have seen, but I think in theory it has much to commend it. But as we discussed the various provisions of this amendment, I think we recognized that the limitations and the restrictions put in actually enabled us to accommodate very strongly held views on both sides of the aisle.

I have stated before that I think one of the most important things this bill does is to reform the way we deal with public housing authorities. In the past, we have put restraints and restrictions and required regional bureaucratic approval for PHA's to get moneys to moderize their housing authority. In those instances, we have come up with situations where a housing authority wanted and needed more money to repair their elevators. The regional bureaucrats at HUD said you need fire extinguishers. So that one housing authority has the finest fire extinguishers of any housing authority in the region but it does not have elevators that work. I believe we have gotten around that.

I say now if the public housig authority is well run—and, by and large, the vast majority of them are—and they are shown to be so under the indicators that are set up under this program to be established by the Secretary, they will be able to count on their modernization funds.

In addition, for those public housing authorities which are not well run, we will not continue the system where the residents of the developments are punished by having HUD take away the modernization funds that the PHA could use on that development or project. Instead, HUD will be directed to negotiate an improvement contract, an agreement to improve performance by the PHA.

If they do not do that, HUD can contract out the management of that PHA. I believe the residents of HUD housing will be much better served as a result.

In addition, early on, I, with my colleague, Senator HEINZ from Pennsylvania, proposed some modifications in the basic program essentially to blockgrant the PHA funds and to blockgrant most of the subsidization funds leaving out the 202 and a few other programs which were accepted by the sponsors of the amendment and formed the basis of the bill as it moved out of the committee.

Since we have come to the floor, we have had some long and I think very fruitful discussions on, for example, what to do about FHA. We all ought to be concerned, Mr. President, when a study by a top, well-known accounting firm said that FHA is not accountably sound. We did not have that report at the time we reported out the bill, so we had to come up with some improvements in FHA which would ensure that the fund does not go broke, that we do not have another S&L debacle in FHA.

We had some very good proposals put forth by Senator D'AMATO, Senator CRANSTON, and the administration. It was my suggestion that we agree on some basic principles, and ask the actuaries, the accounting firms, the GAO, and OMB, to look at it and give us their best proposals. Those principles are, No. 1, we ought to encourage the broadest possible use of FHA assistance to get first-time home buyers into homes; No. 2, we had to reduce the number of defaults and to move the system back toward an actuarially sound position.

As a result, in the compromise that is before us, the administration will be able to suspend pay out of the distributive shares until the entire fund returns to actuarial soundness. Unfortunately, paying out funds for years in which the fund happened to be performing well did not take into account the losses that had come about more recently.

The Secretary will be directed to make periodic adjustments based on independent actuarial analysis of the fund, to ensure that fund reserves equal to 1.25 percent of the insurance in force within 18 months of enactment of the act building to 2 percent by the year 2000.

In other words, the actuary assumed, in computing the structure of the fund and the premiums to be paid, that there be a 4-percent increase in price, or 4-percent inflation in real estate values. If it is more than that, the fees will not have to be so high. If it is less than that, they will have to be higher.

This proposal before us is not a proposal from the Democratic side. It is a proposal put together by the best actuarial and accounting advice we could receive, and it is a proposal I think we all must accept, even though it may not achieve our own personal goals for seeing the level of FHA activity we would like.

It does no good to put people into new homes with the assistance of FHA if they are going to default and lose those homes. We have to make sure the system itself, however, is sound. I believe this proposal will do it.

There are a couple of other areas where agreement has been reached. The administration pointed out that there was not enough targeting to really low-income groups. It was the intent, I believe, of the sponsors in the Banking Committee to make sure that people who are most in need get the majority of the funds. Under agreement with the administration, everyone has agreed to a target in rentals that 90 percent of the rental assistance goes to very low income, below 50 percent of median income in the area; 10 percent can go to law income, that is the 50- to 80-percent group.

For home ownership, 100 percent of the assistance would have to go to the low-income group. In vouchers, there would be a 15-percent cap on all certificates on project-based assistance.

The major adjustments on new construction were an accommodation of the concerns by the administration that this not be used for new construction. They wanted a complete ban on new construction. Frankly, I felt, and many others felt, this was unduly restrictive. There has to be some room for new construction.

Under this agreed-upon compromise, HOP funds may not be used for new construction unless the jurisdiction can show that it has a shortage of supply of available housing renting below fair market rent for the area as indicated by objective criteria.

HOP funds also can be used for new construction of housing for large families or especially designed supportive housing for persons with disabilities, for a single room occupancy—which is very important in areas where there are special needs, where many homeless may be found—and also there must be a severe shortage in the jurisdiction of structures that can be rehabilitated as rental housing.

There is an exemption for limitation for funds for new construction that is part of a neighborhood revitalization program.

This again moves away from the block grant aspect but it accommodates the administration's concerns. It allows us, in areas where there may be a real shortage of housing, even housing that can be rehabilitated, to make sure that the local jurisdiction can use some of the funds for construction.

Further, under the agreement there would be an additional match requirement by the local jurisdiction which in my view will be the most effective check on unwise or unnecessary commitment to substantial rehabilitation or new construction. Basically, for vouchers and moderate rehabilitation, the match is 4 to 1. Substantial rehabilitation in excess of $25,000 per unit would require a 3-to-1 match. And new construction, if you are going out and building new, the local jurisdiction would have to match on a 2-to-1 basis.

This, to me, is a very sound approach to ensure that people at the local level will not be opting for new construction unless they really need it.

Finally, Mr. President, we had a great deal of debate and a very close vote last week on an amendment by the Senator from Florida [Mr. MACK]; one that I supported, which I felt was also necessary to assure flexibility.

Senator MACK proposed that in those areas where there is an adequate supply of housing that would meet the needs of those seeking housing and eligible for assistance, that they not be required to use HOP funds solely for rehabilitation or construction, but they could use the funds for vouchers. This is important.

In two major cities in my State, St. Louis and Kansas City, where there is plenty of housing available and lots of people who need it, there is simply a lack of money to put people in the housing. There is not a great need for rehabilitation.

Under an agreement worked out and supported by the administration and by Senator MACK and those who support his amendment, it was agreed that tenant-based rental assistance would be a permissible use of HOP funds if the jurisdiction certifies the use of HOP funds for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply of decent, affordable housing, and the tenant-based assistance is to provide for persons with section 8 assistance with applicable preferences from the waiting lists, and HOP level assistance contracts could be for no more than 24 months to avoid making long-term commitments.

This is my idea. This is my suggestion. It is a means of accommodating the concerns on the majority side that HOP not be gutted and used for vouchers to take away money from rehabilitation and ultimately lead to phasing out of the voucher program.

I think the same kind of conditions were imposed on the Mack proposal as were imposed on the new construction options. These do require some substantial hurdles to be overcome at the local jurisdiction, but I believe they reflect a sound compromise.

Senator SARBANES was very concerned that the HOP funds not be used to substitute for rental assistance generally. I believe that is incorporated in the amendment.

I think, Mr. President, in summary, thanks to a great deal of work, accommodation by the Secretary of HUD

and his staff, with very good help from the Office of Management and Budget, Director Darman and his assistant, Mr. Diefenderfer, there have been accommodations on the administration side, and we have had the greatest in bipartisan cooperation.

Again, my sincerest thanks to Senator CRANSTON and Senator SARBANES and the others on that side of the aisle as well as our thanks to Senator D'AMATO for his leadership.

I believe we have a very sound housing bill. I commend it to my colleagues. I hope we can pass it substantially as is, and I am pleased to be able to support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. I thank the Chair.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 2793 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I am going to take this opportunity, since we have a lull in activity and are looking to clear the way for a number of amendments, to make a statement as it relates to the housing legislation which we have been considering, and the work that has taken place.

Negotiations over the weekend and in the first couple days of this week, Mr. President, have resulted in meetings between Senators and the administration. Now we come to the floor after some 3 years of work and many long hours with a compromise package.

I want to congratulate the chairman of the subcommittee, Senator CRANSTON, on a job well done, and congratulate all the staffs on both sides. After 3 years, we are finally ready to pass a housing bill. The particularly crucial agreement has been reached to keep the outlays from fiscal year 1991 no greater than $1.2 billion.

As a matter of fact, that agreement has been reached and there must be an accord as relates to where some of these funds come from. That is one of the things that we are still working on. I believe we can achieve it. I think we are down to about $50 or $60 million. This outlay level must be maintained in order for the administration to support the bill. That was the condition of OMB's and the administration's support for this legislation.

Senator CRANSTON has recognized this threshold and has been willing to work within its limits. I have appreciated his cooperativeness on the issue, and I am personally proud of a number of other stands that the bill has taken. As to the fact that there are provisions regarding FHA, recent reports indicate that the FHA fund is not in good shape. For most of us, the themes have been all too familiar.

Once again, an insurance fund has lost billions of dollars in values over the last 7 years; $5 billion, to be exact. The billions may escalate further unless we are willing to take certain actions. Certainly, the appreciation of property is not something we can look forward to in today's climate.

That may, Mr. President, exacerbate the problem. Even the modest reforms contained in the compromise package may not be sufficient.

We could have allowed another financial disaster to take place without moving to act. I think that would have been foolish. I think this bill goes a long way in doing the right thing. I am convinced that FHA reforms that this bill puts forth is a victory for the FHA homebuyer in the final analysis, as well as a victory for the American taxpayer.

Let me briefly describe the FHA reform provisions contained in the compromise package. This provision embodies four essential goals: One, making the FHA actuarially sound; two, reducing the high default rate associated with the FHA program; three, increasing FHA's capital requirements; and finally, the fourth, ensuring FHA continues to be an attractive option for first-time home buyers.

The provision is a modification of the legislative initiatives that I, as well as Senator HEINZ, have put forth, as well as the administration's proposal. It blends the two proposals, and it has bipartisan support. It does the following: It establishes a risk-base premium. It requires that two-thirds of closing costs be paid up front. Under the present situation, the purchaser can finance all of the closing costs.

Consequently, in some situations, we have people obtaining 103 percent financing. They have mortgaged out plus, as a result of all of the closing costs being wrapped in and a very small, minimal downpayment.

It makes the current mortgage limits permanent. It increases capital requirements for the Mutual Mortgage Insurance Fund, that is the FHA single-family fund. It cancels all payments of distributive shares, and it provides discretion to the HUD Secretary to adjust premiums for changes in economic circumstances.

What are we talking about there? If property values continue to sink or level off, it will impact the soundness of the FHA fund. It very well may be necessary, Mr. President, for the Secretary then to require more in the way of financing, more of a downpayment. We believe he should have that opportunity.

If, on the other hand, the economic situation improves and we find actuarially the fund is moving in the right direction and is accumulating a surplus—and we all hope that will take place—it would give, again, to the Secretary, discretion based upon those economic considerations to make an adjustment in the fund which might require a lower downpayment to encourage homeownership.

So the Secretary will have that opportunity. He will not have to come to the Congress.

I am particularly pleased with this proposal because it would require a homebuyer to have more equity in his or her home. This is a key issue because experience has shown us that there is a direct correlation between home equity and default rates. The smaller the town equity, the greater the default rate. There is a direct correlation between them. That correlation, Mr. President, does not exist as it relates to the income of the people, but there is a correlation that has definitely been demonstrated as it relates to the amount and size of the downpayment. The smaller the size of the downpayment, the greater the risk of there being a default. That is why we think we are not doing homeowners any favors by lowering downpayments to a point where we actually do them a disservice.

My colleagues in the oil belt all are familiar with what takes place when the tragedies associated with foreclosures come about. We do not do taxpayers a service and certainly not the people who lose their homes.

The FHA measure in this bill will lower default rates. Price Waterhouse indicates that this reform package, as written, will ultimately provide a significant reduction in the rate of claims as it relates to these defaults. We are certainly delighted.

In addition, this FHA package will provide $910 million in additional value to the fund.

All of these reforms are major improvements to the program, and I look forward to working with my colleagues in the Senate and the administration to keep this provision in the final housing bill that comes out of conference. I think it is going to be essential.

There are other provisions of the bill, Mr. President, on which I would like to touch. The bill provides a locality with the necessary flexibility and resources to design a strategy to meet its housing needs. All too often we set categorical grants from here in Washington. They are not sufficient to meet the needs, or they are not flexible enough so that the local community can deal with them. That means a

community could use funds in a variety of ways under this bill, whether it is to expand shelter opportunities for homeless or whether it is rental assistance, whether it is moderate rehabilitation or whether it is intensive rehabilitation or in some cases new construction, if new construction makes sense.

Flexibility is probably the most important aspect of this bill. I think we have to get away from the inefficient and wasteful new construction programs of the past which were simply mandated upon communities, in many cases, if they wanted to use these funds. So this bill really does, I think, do the peoples' business best by giving to the local communities the opportunity to leverage Federal funds with State and local funds to certainly meet the needs of their people.

I want to remind my colleagues that we still have a long way to go even if we are successful in the enactment of this bill, and I believe we will and can be by either the close of business today or certainly by tomorrow. But the House has yet to come to the floor to debate their housing bill. That bill contains some 800 pages. So after that bill is adopted, if it is, then comes the conference. So I think we have a long way to go, but I am an optimist.

I know that Senator CRANSTON shares in this because this is the culmination of some 3 years of work. I hope that we can complete this work today and certainly go to conference with the House and produce a housing bill that will give the kind of opportunity to those who need a chance in life. To the homeless, this bill offers an opportunity not only for shelter but for counseling, for guidance, for HHS services to be provided to try to break that cycle of homelessness and street people wandering about, many of whom need these kinds of supportive services, psychiatric care, drug treatment. Otherwise, we are going to see that population continue to grow.

This bill contains important elements in that area, so while I recognize in a bill of this magnitude I might have certain disagreements with it, overall I think it is a good bill and it deserves our support.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, we are currently considering the Housing Act and there is no specific amendment pending on the floor at this time. I am advised that Senator GRAMM of Texas will be offering an amendment this afternoon to change the formula for distributing community development block grant funds.

Senator GRAMM gave notice of his intention to offer this amendment at the Republican caucus yesterday afternoon, and I just discussed with one of the managers of the bills, the scheduling of the Gramm amendment for later today. Since I will not be able to be on the floor when the amendment is scheduled to be offered and debated, I have a number of comments which I choose to make at this time in opposition to the amendment, which will reallocate community development block grant funds.

The proposal, as outlined, would allocate community development block grant funds based specifically on the State's population without any consideration of the portion of the population which may be economically disadvantaged.

After a State receives it community development block grant allocation under that formula, the State would then distribute the funds on the basis on the existing need based formula.

Mr. President, that would make a terrific reallocation of funds because on a need basis considerable additional funding would go to States like mine, Pennsylvania, New York, Illinois, Massachusetts, the old-line industrial States where the needs are the greatest. Such a change would reallocate these funds to other States like Texas where the needs are not as great.

This amendment, I suggest, would alter the basic purpose of the existing community development block grant legislation. Further, it would constitute a diversion of funds away from a group of States now in need to a group of States which have been beneficiaries of reallocations under the savings and loan funding, and also a group of States which have been beneficiaries of allocations under defense allocations.

Mr. President, for both of those reasons, I think that the Gramm amendment is inappropriate and contrary to public policy in the United States.

We have seen in the course of the past several decades a very significant shift of funding to States in the so-called Sun Belt, away from the northeastern industrial States.

Early in the 1980's, 1981, 1982, 1983, and 1984, when I cochaired the Northeast-Midwest Coalition, in the State of the distinguished Senator from Illinois [Mr. DIXON], who is on the floor now, there was considerable concern because of the disproportionate share of defense funding which went to the Sun Belt. Quite a number of efforts were made to achieve a more equitable allocation of funding. And while some improvements were made, still the basic thrust of defense expenditures tilted very hard to the Sun Belt, away from the Frost Belt in what was essentially an unfair allocation.

Yet, despite the principle that we ought to try to make the availability of defense funding and defense contracts as equitable across the country as it could be done, that was not accomplished.

Now we have seen the tremendous problem in the United States on the savings and loan crisis. And the allocation, as recently reported, would direct a disproportionate share of funds and a reallocation of assets in this country again to States like Texas, the State of the author of this proposed amendment.

So, Mr. President, I think in the matter of basic fairness, national interest and equality that we ought to do what we can as a threshold matter to see to it that there is no unfair reallocation of funds to the Sun Belt. We ought to do that at the very outset of any consideration of legislative policy in this country.

There is perhaps even a more fundamental reason why this amendment ought not to be adopted. That is, because it undercuts the very basis of the community development block grants, which was to provide Federal support for community development activities to achieve or reduce slums and blight, the prevention of blighting influences, and the deterioration of neighborhoods and community facilities which are of importance to the welfare principally of persons of low and moderate income.

A second objective of the community development block grants was the elimination of conditions which are detrimental to health, safety and public welfare.

A third objective was the conservation and expansion of the Nation's housing stock in order to provide a decent home and suitable living environment for all persons, but principally those of low and moderate incomes.

Another objective was the expansion and improvement of the quality and quantity of community services, principally for persons of low and moderate income, which are essential for sound community development.

Another objective was a more rational utilization of land and other natural resources.

Still a further objective was the reduction of the isolation of income groups within communities and geographical areas, and the promotion of an increase in the diversity and vitality of neighborhoods.

And, still a further objective was the restoration and preservation of properties of special value for historic, architectural, and aesthetic reasons.

Clearly, Mr. President, these objectives demonstrate a national public policy toward assisting low- and mod-

erate-income individuals who reside in deteriorating neighborhoods.

The administration, Mr. President, opposes the Gramm amendment because it lessens the degree to which community development block grant funds will be targeted to low-income individuals.

The existing formulas heavily weight those funds toward communities with a significant population in poverty and a large supply of older and overcrowded housing. These factors facilitate the use of funds to mitigate the problems of the poor in our urban areas.

Mr. President, the cities and towns of America have had a special problem since revenue sharing was eliminated. This Senator fought hard to retain revenue sharing, but we lost the votes and it was a program which went by the boards. My distinguished colleague from Illinois nods in the affirmative. I think it is those of us who represent large metropolitan States like Pennsylvania where we have many, many cities in addition to Philadelphia and Pittsburgh. We have Erie, Harrisburg, Allentown, Wilkes-Barre, Scranton, the Lehigh Valley—and I had better not go on for fear of omitting some—a State like Illinois, has Chicago as well as others; and the Republican ranking member, Senator D'AMATO representing New York State, has very, very heavy population centers. Income sharing is important not only for heavy population centers but for other communities.

Just Monday of this week in traveling through Pennsylvania, which is my Monday pursuit, as it is the pursuit of many of us; you might call that the "Senator's Monday." We do what we can to touch the home base before returning later in the day to Washington. I was in Wilkes-Barre, PA, and I met the mayor and the town council and went over the needs of that community which is looking for an Enterprise Zone, which they have applied for as of January 1989.

Enterprise Zone legislation ought to be enacted. It is my hope that with the leadership of Secretary Kemp of the Department of Housing and Urban Development, we would have a real effort in that direction, as Congressman Kemp was a leader in that field many years ago.

But that legislation has not moved forward. In the absence of an Enterprise Zone, which might provide some Federal assistance and with the demise of revenue sharing, the city of Wilkes-Barre looks eagerly to its community development block grant funds. There is a city which is in urgent need of assistance, and if the Gramm amendment were to be adopted, there would be a tilt of funding away from a community like Wilkes-Barre, PA, to Mr. GRAMM's home State of Texas.

We all understand the thrust of legislation which seeks to have some benefit for our home States. Mr. President, it is a vital necessity that there be a balance in our national policy, and there has been too much of a tilt toward States like Texas. I do not seek to isolate Texas, but it is illustrative, because that is the home State of the author. While I understand his motives, it is up to the Senate to see there is some balance and equity. The tilt has been much, much too strong to States like Texas, and where you have the basic thrust of community development block grants being for the poor, on matters of fundamental national public policy, this kind of amendment ought to be rejected.

Instead, Mr. President, we ought to be looking for ways to help communities like Wilkes-Barre, PA, which I mention, again, only because I happen to have been there 2 days ago, the day before yesterday, as illustrative of the problems of many of the cities in many of our States struggling to give low-income homeowners and communities an opportunity for fairness and equity in our society.

I thank the chair and yield the floor.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, will my distinguished friend from Pennsylvania yield for one or two questions? First, may I say I endorse completely every word he has uttered in support of his position opposing the amendment that I understand my friend from Texas will shortly offer to the housing bill. Will my friend yield?

Mr. SPECTER. I am delighted to have a discussion with my distinguished colleague from Illinois.

Mr. DIXON. I thought I heard, and I hope I heard, my friend from Pennsylvania suggest that the administration opposes the amendment that would be offered by my friend from Texas?

Mr. SPECTER. That is my understanding. That is what I have been advised.

Mr. DIXON. I am just delighted to know that, and I ask my friend from Pennsylvania if he did not say—and I think this is a fact—that while we are not trying to single out or pick on any State, it is strange that our friend from Texas would offer an amendment to try to change the formula on CDBG grants at the same time that there is tremendous publicity in the country about the dramatic funds that will come from the Federal Government and flow to Texas a consequence of the FIRREA legislation that we passed last year.

I thought I saw something in the paper the other day—perhaps the Washington Post, or it might have been the Wall Street Journal—that suggested that every resident of Texas, if this information is correct, would receive $4,700 under the FIRREA bailout plan. My own State, Illinois, was indicated as losing $670 a person. I do not know what the impact was on Pennsylvania. Did my friend notice that publicity?

Mr. SPECTER. I did, and that was a source of an earlier comment I made, that the reallocation of funding under the S&L crisis benefits, I believe it was 13 Southwestern States at the expense of States like Pennsylvania and Illinois. It was characterized as a major reallocation of national wealth in this country. That follows really a long trend line of the defense spending.

As I indicated, we have seen in this country a major reallocation of funds away from States like Pennsylvania and Illinois, New York and Massachusetts, to States like Texas, so that it comes as a little bit of a surprise to this Senator that on this bill we would be taking up a subject like allocation of community development block grants, which would further aggravate and exacerbate this trend.

Mr. DIXON. I thank my friend from Pennsylvania.

Mr. President, I would like to be supportive of Senator SPECTER's remarks and extend into the RECORD some more remarks of my own on this subject matter.

I am advised by my counsel here that under the bailout fund provisions of FIRREA, Texas will receive 60 percent of the money in this massive, gross expenditure of the public funds, as a consequence of the terrible experience over the last decade, in connection with the thrift crisis.

I only want to support what my friend from Pennsylvania said in this way. I do not think it is necessary to say this kind of thing in a body like the U.S. Senate, but I have the highest personal regard for the junior Senator from Texas on a number of issues, including one of very great importance to my State, and shortly we will be together in a very substantial and contentious debate in the Senate. So sometimes we agree and sometimes we disagree, may I say about my friend from Texas. I am sorry he is not on the floor, but I know that he will be more than competent to express his own view about this subject matter when he comes to the floor.

Let me say, Mr. President, it is a peculiar thing how similar in many ways Illinois and Pennsylvania are. We have been acting together, my colleague from Pennsylvania and this Senator, in the Northeast-Midwest Coalition. I think it is always remarkable to look at the similarities between Illinois and Pennsylvania, two very large States, in the so-called Rust Belt of America with big cities and similar problems.

Illinois, since long before this Senator came to the U.S. Senate, has been one of the 15 loser States in America, Mr. President. Year after interminable year, the people from Illinois send more to Washington than they get back—always, every year. That is a fact of life.

Recently, there was a tremendous dispute around here about the superconducting super collider. In my State, the Fermi Lab is a famous scientific institution. Everyone in the world felt that clearly my State, which has been so long deprived, would be the beneficiary of that independent commission study concerning the location of that great scientific laboratory, the superconducting super collider.

At that time, it so happens the President of the United States was from Texas, the Speaker of the House was from Texas, and the President in that chair knows who got the superconducting super collider, $6 to $8 billion of the taxpayers' money going to Texas.

In this thrift debacle, 60 percent of the funds are to Texas. I am not critical of my friend from Texas when he represents the interest of his State. I understand he is doing that now. But to take these programs like CDBG grants that were absolutely designed in their inception to be helpful to the New Yorks, the Pennsylvanias, the Ohios, the Illinoises, the Michigans, the Indianas of America, and to change that distribution formula claiming that that makes a level-playing field, I think does violence to what we try to accomplish here as an institution from time to time.

I will be heard later at greater length when this debate is before us. But, Mr. President, may I say that I will oppose as strenuously as I can at the appropriate time the amendment that will be offered by my friend, the Senator from Texas.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 2794 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. HEINZ. Mr. President, I ask unanimous consent that I might proceed as if in morning business for no more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISABLED CHILDREN AND SSA RECORDS

Mr. HEINZ. Mr. President, I want to bring to the attention of the Senate a letter that I am sending to the Secretary of Health and Human Services, Dr. Louis H. Sullivan, today.

I bring it to the attention of the Senate because it deals with a routine bureaucratic activity that could undermine the equity and fairness that the courts in the recent Zebley decision have now bestowed on several hundred thousand disabled children.

The problem is basically this: that Social Security field offices and Federal records centers routinely destroy files. It has come to my attention because of the April 10, 1990, teletype which instructed SSA offices to resume destruction of SSI claims and postentitlement materials that there could be an unintended injustice which could indeed prejudice hundreds of thousands of children who have been wrongly denied disability benefits. Thanks to the February decision of the Supreme Court in the Zebley case, these children are now clearly entitled to those benefits.

Since the Court decision reaches back at least until 1983 and probably to 1980, it means that the Social Security Administration may be inadvertently destroying critical evidence. That is clearly unfair. It is unjust and it is most of all unnecessary.

So I am writing to Secretary Sullivan not only to alert him to this problem, but to ask for his guarantee that the Zebley files are not being destroyed at the field offices or any record centers, and that he agrees that the only reasonable and responsible approach is to issue an immediate order that no childhood disability cases and records be destroyed.

Mr. President, I ask unanimous consent that the text of my letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SPECIAL COMMITTEE ON AGING,
Washington, DC, June 26, 1990.

Dr. LOUIS H. SULLIVAN,
Secretary of Health and Human Services, Washington, DC.

DEAR LOU: I am writing to express my alarm over the potential destruction of SSI children's disability files by SSA field offices and federal records centers. It has come to my attention that an April 10, 1990 teletype instructed SSA offices to resume destruction of SSI claims and post entitlement materials. The folder destruction guidelines do not mention any exception for Zebley cases. As a result of the February Supreme Court decision, we know that denied childhood disability claims dating back to at least 1983 will need to be re-adjudicated, and I am concerned that SSA may be inadvertently destroying critical evidence.

The operating guidelines (POMS) cited in this teletype (SM01201.099) specifically state that initial SSI disability claim denials "can be destroyed 2 years after the case is placed in terminated status." This would mean that childhood disability cases denied before 1988 could be included in any file destruction. The benefits of thousands of children could be jeopardized.

I have heard from field offices throughout the country that when files are destroyed, there are no assurances that childhood cases would be protected. I also understand that the majority of old files have been sent to records centers in Wilkes-Barre, Philadelphia, or Seattle, and that files are destroyed at these locations.

Lou, I know you share my concern that all the Zebley class members receive thorough and fair review of their previous denials. Although SSA's official position is that retrieving old files is unnecessary and administratively cumbersome, I believe the best way to ensure the most equitable review is to have access to the child's past records. Once these files are destroyed, valuable medical and income history will be lost, as well as information needed to locate children's families. This will make it extremely difficult and time-consuming to reconstruct evidence.

I am asking for your guarantee that Zebley files are not being destroyed at the field offices or any records centers. The reasonable and responsible approach is to issue an immediate order that no childhood disability cases be destroyed.

If you are not in a position to issue such an order, then I will ask for a Court order from Judge Fullam. The destruction of these files will risk the well-being of vulnerable children who have fought too long for the equitable treatment the Supreme Court overwhelmingly ruled they deserve.

Sincerely,

JOHN HEINZ.

Mr. HEINZ. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized.

NATIONAL AFFORDABLE HOUSING ACT

The Senate continued with the consideration of the bill.

Mr. SARBANES. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The Chair advises the Senator that it would be necessary to set aside two pending amendments.

Mr. SARBANES. Will the Chair state the pending amendments?

The PRESIDING OFFICER. The D'Amato second-degree amendment 2042 to the D'Amato 2041.

Mr. SARBANES. I ask unanimous consent that the pending amendments be set aside in order to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2070

Mr. SARBANES. Mr. President, I send an amendment to the desk on behalf of Senator CRANSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for Mr. CRANSTON, proposes an amendment numbered 2070.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . STUDY OF PUBLIC HOUSING FUNDING SYSTEMS.

At the appropriate place in the bill, insert the following new section:

The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing sufficient federal funds to public housing agencies for the operation, maintenance and modernization of public housing. In analyzing such alternatives, the Secretary shall compare and contrast existing methods of funding in public housing with those used by the Department in housing assisted under Section 8 of the United States Housing Act of 1937. In preparing the study mandated by this section, the Secretary shall, in particular, review the results of the study entitled "Alternative Operating Subsidies Systems for the Public Housing Program" released by the Department's Office of Policy, Development and Research in May 1982 and update such study as may be necessary. The Secretary shall issue a report to the authorizing committees of Congress within 12 months after the enactment of this act detailing the findings of the study conducted under this section.

Mr. SARBANES. Mr. President, this amendment would direct the Department of Housing and Urban Development to conduct a study on alternative ways of funding the operation, maintenance and rehabilitation needs of public housing. Specifically, the amendment would direct the Department to compare and contrast the method of funding in privately owned section 8 housing with the funding methods currently used in public housing. The amendment would require the Department of Housing and Urban Development to review and, if necessary, update a 1982 study on similar issues.

My understanding is that this amendment has been cleared on both sides.

Mr. D'AMATO. Mr. President, we have no objection, and we support the amendment. It requires HUD, as indicated, to conduct a study as it relates to public housing assistance, and how section 8 could be used in public housing. We support the amendment and urge its adoption.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendments of the Senator from California.

The amendment (No. 2070) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I wish to send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will inform the Senator from Pennsylvania there are two pending amendments.

Mr. HEINZ. Mr. President, I ask unanimous consent that the pending amendments be temporarily laid aside so that the Senate might consider an amendment.

The PRESIDING OFFICER. Without our objection, it is so ordered.

AMENDMENT NO. 2071

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 2071.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

"SEC. . STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING.

"The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies (PHA's). In analyzing such alternatives, the Secretary will examine methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments to PHA's on behalf of low income public housing tenants. The Secretary shall assess, within the capitated funding alternatives, means of (a) providing for tenant participation in the release of such capitated payments to PHA's; (b) providing financial incentives for PHA overall performance and efficiency; (c) designating certain PHA's as distressed and eligible for special federal assistance; (d) differential treatment of PHA's based on differences in local population demographics, rental housing markets, and other pertinent factors, and (e) calculating annual inflation-based increases in capitated Federal payments. Such report will be made to the authorizing committees of Congress within 12 months after the date of enactment of this Act."

Mr. HEINZ. Mr. President, I will just take a moment to describe this amendment. We are all very proud that the housing bill that is before the Senate has reached the position where the administration, the majority, the minority have achieved we think a very desirable and favorable compromise on the legislation.

As I indicated at our press conference, this bill is very different from the kind of compromise we had during the years of the Reagan administration where mainly compromise was based on whether or not there was agreement on the number of dollars that were going to be committed to a program. Usually a compromise meant that the administration had started by cutting the program, the Congress had resisted cutting it that much, and the result was a program cut that was some kind of a compromise where both sides were tempted and often did say that we are going to do more with less.

What is different about the housing bill that we have worked out is that it does not represent a diminution of resources; it is an increase in resources. With each unit of those resources, with each dollar we are going to do more. But the best news is we are not only going to do more for each dollar; we are going to do more with more.

Boy, is that a change. I think it represents, I might add, a change in the philosophy that George Bush represents. George Bush is not an enemy of Government. He does not believe that all Government programs are bad. He does not believe that the reason people are poor is that they are morally flawed. He believes that Government should be limited but that there

are legitimate purposes for Government and where those purposes are legitimate that Government has a responsibility to fulfill. And when it comes to helping low- and moderate-income people who cannot otherwise get housing, the Bush administration feels strongly that it is the Government's role to provide significant help. That is what this housing bill is about. It is about a $4 billion increase over 3 years in our housing authorization.

So it is more to do more. And the more is going to be not only more housing but more hope, more empowerment of tenants, more opportunity. And you might say, curiously this legislation also is going to allow us with more to do less, less in the way of freezing people into a position of despair, despondency, dependence, and poverty, less in the way of temptations for corrupt developers, less in the way of risk for the taxpayers' dollars.

So this legislation, Mr. President, is a major reform of our housing programs as well as a major increase in our commitment to them.

The amendment that I have sent to the desk sets the stage for perhaps future and even more far-reaching reforms in one of the largest aspects of our Housing Program commitment; namely the type and quality of Federal housing assistance to and through local public housing agencies.

Our amendment asks that the Secretary examine new methods of reimbursing public housing authorities, in particular methods of prospective payment, including but not necessarily limited to the conversion of PHA operating assistance, modernization funds and other housing assistance directed from the Federal Government to PHA's to a schedule of steady and predictable capitated payments to these PHA's on behalf of the tenants that they serve.

We are asking that the Secretary, within the capitated funding alternative, assess several other alternatives or factors such as the means of providing for tenant participation in the release of such capitated payments to public housing authorities.

So there is a new method of holding public housing authorities accountable.

To provide financial incentives for public housing authority overall performance and efficiency, to designate certain public housing authorities as distressed and eligible for special Federal assistance, to provide for differential treatment of PHA's based on differences such as local population demographics, rental housing markets, and other pertinent factors, and to find the means of calculating annual inflation-based increases in capitated Federal payments.

Mr. President, this does not predetermine the results of HUD's study, but the objectives of the study are to find ways to compensate our public housing authorities in ways that are for them more dependable and rational, which give them a stake, one might call it a positive financial incentive, even a profit if they do a good job, and with that profit they will be empowered in principle to render more in the way of services.

This is not—and I repeat, not—aimed as any kind of a budget or cost control device the way DRG's in Medicare are aimed at. This is a means of achieving and creating an incentive system where public housing authorities will have more freedom and flexibility and reward for doing a good job and where the tenants, if we can do this right, also have a much more substantial impact in making sure that public housing authorities do the job that many of them do, some of them, and some do not as well as they should.

This is a study that requires that the Secretary report to us within 12 months after the date of enactment.

I have discussed this with our managers on both sides of the aisle. I believe it is acceptable to both Senator SARBANES on behalf of the Banking Committee as well as Senator D'AMATO.

Mr. President, I want to elaborate on the person that compelled me to develop and pursue my amendment to the Cranston-D'Amato housing bill which directs the Secretary of the Department of Housing and Urban Development to study the potential of reforming the way we authorize our Nation's public housing authorities for the housing services they provide to those in need.

I met a few weeks ago in my office with Joe Schiff, the designee for HUD Assistant Secretary for Public Housing, and we had a very illuminating discussion about the way in which the Federal Government funds public housing. In essence, the Federal Government rewards inefficiency and penalizes housing authorities that do a good job.

Permit me to illustrate with a comparison of two housing authorities in my State, and I assure my colleagues they will find similar examples in their own States.

In Westmoreland County, a western Pennsylvania county hard pressed by the setbacks in the steel and coal industries and beset by high unemployment, the housing authority manages about 2,000 units of low rent public housing. At the end of last year, it had only $6,000 in outstanding uncollected rents. Its vacancy rate is zero—as fast as an apartment is vacated, a new family is moved in.

This year it will receive from HUD about $900,000 in operating subsidies—the difference between its annual operating costs and its rent income from tenants—or less than $40 per unit per month in subsidy.

Contrast this with the Philadelphia Housing Authority. It manages more than 20,000 units of public housing. At the end of last year, it had nearly $9 million in uncollected rent moneys. It has a vacancy rate of about 16 percent, and on average it takes the housing authority 238 days to fill a vacant apartment.

The Philadelphia Housing Authority will receive in fiscal year 1990 more than $78 million in HUD operating subsidies—about $400 per month per unit, or 10 times as much per unit as its sister housing authority in western Pennsylvania.

Even with that amount of operating subsidy, Mr. President, slower than anticipated rent collections and increasing costs have brought the Philadelphia Housing Authority to the brink of bankruptcy.

The new executive director and the new chairman of the Philadelphia Housing Authority board characterize the housing authority payroll as "horribly bloated;" they acknowledge that they do not know exactly how many public housing units they have nor where they all are; they admit that years of deferred maintenance and poor management have reduced thousands of the authority's units to States or deterioration and uninhabitability that will require hundreds of millions of dollars to fix; and they say in private that no matter how successful their reform efforts are, it will be years before they can get things under some semblance of financial and management control.

How is this possible, you might ask. There are two primary causes.

First, there is the way the Federal Government calculates operating assistance. In essence, we pay the difference between what the housing authority spends and what it collects in tenant rent. We make good on the difference, no matter how profligate, no matter how poorly run the housing authority is. We write a blank check.

The second problem is that too many local governments and housing authorities are only too glad to take advantage of the situation—by using housing authorities as political patronage dumping grounds, by making no-bid contracts the rule not the exception, by bleeding from the housing authorities hundreds of millions of taxpayers dollars that are intended to help sustain poor families in decent housing. If we offer a blank check, they are only too willing to fill in a big number.

Mr. President, we confronted a similar situation several years ago. There was a wide disparity in what hospitals charged for the same medical procedures. Inefficient hospitals had no incentive to improve, because they could

simply pass along their high costs to Medicare and their patients.

Congress commissioned a study of how the Medicare reimbursement system could be reformed, and the result was DRG's. As a result, hospitals know in advance what medicare will allow for a medical procedure. Inefficient hospitals lose under this system, and the efficient hospitals, who can provide medical care for a little less than the Medicare allowance, are permitted to keep the difference. DRG's provide an incentive for hospitals to operate efficiently, and both medicare and patients save as a result.

The amendment I offer today, to commission a study by the Secretary of Housing and Urban Development of a capitated system of subsidy to housing authorities, aims at reforming public housing assistance in the same way that DRG's forced fiscal discipline and efficient management on hospitals.

Obviously, the demographics of a tenant population, regional cost differences, and other factors translate into legitimate differences in housing authority operating costs. But when one housing authority operates 10 times more efficiently than another, and there is no incentive to be more efficient, we need to reform the system. We need to look at new ways of protecting the taxpayers, and the tenants of public housing. We need to put a hold on that blank check made out to political hacks, incompetient managers, and irresponsible local officials.

Some formulation of capitated funding for public housing would be welcomed by the housing authorities that are operating efficiently. It would give them an ability to budget more efficiently, to make long range plans for necessary capital improvements, to invest in energy efficiently, to add services for tenants—to do better what they already are doing well, and to be rewarded for it.

A capitated system, on the other hand, would force housing authorities, all who do business with the authorities, and local governments to discipline themselves. There would be a penalty for waste and incompetence. Payrolls swollen by decades of political patronage would have to be slashed. Outside contracts would be subjected to the happy rigors of competitive bidding. Local elected officials and housing authority managers would be accountable to public housing tenants and local taxpayers for providing decent housing and living within a budget.

Mr. President, I believe if we could find a way to reform something as complex as the way the Federal Government/Medicare pays for health care, we can certainly do the same for public housing. We can do better for the tenants, we can do better for the communities in which they live, and we can do better for the taxpayers. And I believe that commissioning a study of capitated payments—of DRG's for public housing—will set us on the right track, and allow us as soon as next year to impart some reason and accountability to a Federal program vital to hundreds of thousands of our constituents.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Maryland.

Mr. SARBANES. Mr. President, we have examined the amendment and we will be happy to accept it. I know this is an issue on which the able Senator from Pennsylvania has been interested and I know that it is his hope and perhaps expectation that this study will, in fact, demonstrate that there are some advantages which may accrue from following this process. But we obviously all agree we need a study up front in order to ascertain that. It has a fairly short timetable on it, I think, within 12 months of the submission of the report. Therefore we have the benefit of the study and the expertise flowing therefrom. We are happy to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. D'AMATO. Mr. President, we support the amendment. I think it makes good sense. It is a great study. I think it may very well result in findings that would mitigate for us to do something and to implement the program which we think might make greater sense in public housing. I do support it and urge its adoption.

Mr. HEINZ. Mr. President, I thank both the managers of the bill for their help in this. They not only looked over the amendment but their staff made very helpful suggestions. I am thankful to both of them for expeditious and positive support of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 2071) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CRANSTON-D'AMATO SUBSTITUTE AMENDMENT

Mr. KASTEN. Mr. President, I rise in strong support of the Cranston-D'Amato substitute amendment to S. 566, the National Affordable Housing Act.

First of all, I want to commend HUD Secretary Kemp, Senator CRANSTON, Senator D'AMATO, Senator MACK, and others for working out a compromise that, if enacted, will truly empower the poor, create a ladder of opportunity out of poverty and bring the dream of homeownership closer to all Americans.

This agreement represents a dramatic shift in the policies and priorities of the original committee-reported housing bill. The agreement emphasizes empowerment strategies that help the poor over housing production. It provides more flexibility for State and local governments to meet low-income housing needs. And finally this legislation includes reforms that will put FHA back on the road to solvency.

I would also like to commend the negotiators for including most of the changes that I had suggested in my proposed amendments.

One of my chief reservations about S. 566 was that it did not target assistance to the very poor. Only one-quarter of the proposed HOP Block Grant Program would be targeted to the worst-case families—those with incomes of less than 25 percent of an area's median income. At a time when these worst-case housing needs will grow to 4.5 million by 1995, we must target scarce housing funds to the truly needy.

My amendment would have required that 100 percent of HOP funds be used for the benefit of very-low-income families—those with incomes below 50 percent of an area median income—and that families be selected for HOP assistance on the basis of current preference rules for low-income housing programs. The compromise amendment would target 90 percent of HOP funds to very low-income families.

I am also pleased that the compromise package restores the vital components of the President's Operation Bootstrap Program. Operation Bootstrap is an attempt to apply new thinking to America's housing problems. Under this program, public housing authorities would be required to link vouchers and supportive services. The recipients of housing aid will simultaneously be provided with the services they need in order to achieve upward mobility—services like job training, child care, and transportation.

Operation Bootstrap is a wholistic approach to moving the poor toward self-sufficiency. It is built on the basis premise that Government assistance is a two-way street: If the taxpayers provide them housing assistance, recipients should do everything they can to achieve self-sufficiency and join the economic mainstream.

Under the compromise, Operation Bootstrap would be available to all PHA's, and it would be mandatory for families with members capable of working. I believe that low-income families have an obligation to work

their way off of public assistance and not just indefinitely receive housing assistance as another alternative to self-sufficiency.

The compromise agreement, however, does not include my amendment to restore the shopping incentive for voucher recipients. The shopping incentive provision allows poor families to keep the savings they realize from finding less expensive rents in the voucher program. This puts low-income families more in control of their own budgets and their own lives. It also empowers families to decide how much they want to spend on housing and how much to save for other family needs. I hope that this issue can be resolved in conference.

The agreement also limits new construction, expands the use of housing vouchers, and fully funds Secretary Kemp's Homeownership and Opportunity for People Everywhere [HOPE] proposal. All of these changes will give low-income people more choices about where they want to live, more opportunities to become homeowners, and more power to help themselves.

Finally, the compromise package adopts Secretary Kemp's five-point program to strengthen the FHA fund. By putting a lid on the FHA loan limit, moving toward risk-rated insurance premiums and requiring home buyers to have a greater equity share in their homes, Secretary Kemp's reforms will put FHA back on sound financial footing—and prevent the occurrence of another S&L taxpayer bailout disaster.

Mr. President, now more than ever, America needs a new housing policy, one that brings the dream of homeownership to all Americans. The old approach of building new public housing simply does not work. Instead of spending more money on bricks and mortar, we ought to put dollars directly in to the hands of poor people. Not bureaucrats. Not big developers. The assistance should go to those struggling Americans who need it the most. And we ought to expand opportunities for poor people to own their homes.

Mr. President, I believe that this compromise moves forward toward many of these goals. It is a victory for the progressive conservative ideas developed by the Heritage Foundation, the National Center for Neighborhood Enterprise, Jack Kemp, CONNIE MACK, SLADE GORTON, and others to empower the poor and create an opportunity society.

This compromise is only the first step toward an effective housing policy. We need to enact the other components of the President's housing program—Enterprise Zones, IRA's for first-time home buyers, and a capital gains tax cut to 15 percent.

Let's not forget that a sound, job-creating, wealth-generating economy is the best housing policy.

Mr. D'AMATO. Mr. President, we are waiting for, I believe, Senator GRAMM of Texas to come to the floor with a very interesting amendment that he will be proposing, which is a redistribution formula as it relates to community development and block grant funds. It basically does away with any of the criteria that has been used for the distribution of these funds from the inception of the Community Development Block Grant Program, without the benefit of any hearings, without the benefit of the support of the administration, regardless of the poverty that a community has or does not have.

The Senator's amendment, as I understand it, would have the impact of simply saying that based on population, that will be the only criteria for the distribution of community development block grant funds. I believe that amendment will be contentious and will take some debate.

I will oppose that amendment—and I know a number of Senators will want to be heard—as well as its impact, regardless of whether a State is enhanced as a result of its passing, which I think flies in the face of why community development block grants were set up. And targeting the fund, by the way; the administration talks about targeting to the needy, and this totally does away with needs factors, with age of housing factors, with any of those factors that we have come to associate with need. I simply think that it flies in the face of what we are about.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

AMENDMENT NO. 2072

(Purpose: To provide for fair and equitable allocation of Community Development Block Grant funds among the States of the Union)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I send this amendment to the desk on behalf of myself, Senator GORTON, Senator BENTSEN, Senator MACK, and Senator KASTEN.

The PRESIDING OFFICER. The Senator is advised there are amendments that need to be set aside.

Mr. GRAMM. Mr. President, I ask unanimous consent that the pending amendments be set aside for the consideration of this amendment.

The PRESIDING OFFICER. Without objection, they are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. GORTON, Mr. BENTSEN, Mr. MACK, and Mr. KASTEN, proposes an amendment numbered 2072:

At the appropriate place in the bill, insert the following:

"SEC. . FAIR ALLOCATION AMONG STATES OF CDBG FUNDS.

"Notwithstanding any other provision of the Housing and Community Development Act of 1974, beginning with fiscal year 1991, of the amount approved in an appropriation Act to be used for Community Development Block Grants, such funds shall be allocated so that each state, as well as the District of Columbia and Puerto Rico, receives a share of such funds proportionately equal, in the aggregate, to its share of the entire population.".

Mr. GRAMM. Mr. President, this amendment is pretty clear. I do not intend to hold the floor for a long time arguing on behalf of it.

Let me begin by saying that this is a very serious amendment. I hope that those who might try, in debating the issue, to tilt the outcome in their favor, which after all is what debate and parliamentary procedure is about, will treat this amendment with the seriousness that it deserves.

Mr. President, as all Members of the Senate are aware, we allocate Federal moneys based on formulas. Over the years these formulas tend to change, and often, quite frankly, they are changed based on who is in position of authority when final agreements are written, either in conference committee or when they are written into the bill initially in committee.

These formulas often are not well understood, and the implications of the formulas are not well understood. But the result ends up being well understood by the States involved.

A perfect example is the formula under which we allocate community development block grants. Let me go over the formulas. There are two formulas, and States are allowed to choose which formula most advantages them. Of course, when the choices are made and the money is allocated, if one State gets more, the other States in the aggregate get less.

In the first formula, population is weighted once, the extent of poverty weighted twice, and the extent of housing overcrowding weighted once.

You can either use that or the following formula: the extent of growth lag weighted once, the extent of poverty weighted 1½, and the age of housing weighted 2½.

The element that is skewing the allocation of money more than any other is the age of housing. I am sure that many who read this, Mr. President, will say if you have old housing, you have poor people.

Mr. President, that is not the case. In fact, some of the best housing in America is old. Some of the poorest housing in America is new. I have in my State housing that is not 5 years

old. It is made out of cardboard, does not have electricity, does not have running water; it is new, but it is crummy. All we have to do to see old housing that is among the best housing in America is to go to our Eastern cities and look at some of the older historic areas where housing has been renovated but where the actual housing unit is old.

Mr. President, my proposal is straightforward, simple, and fair. What it says is that we will continue to use the formulas to allocate money within States but, so that money will be divided fairly among the several States, we will divide the money based on population.

Let me explain the result which that generates. The result is that we have 36 States which gain as a result of going with population rather than with these convoluted formulas.

I am sure there are many people who will say that you are taking money away from the poor States. Exactly the opposite is true. Ten out of the 14 States that are currently receiving more than their fair share of community development block grants rank among the top half of States in terms of per capita income, and 6 of the 14 that are receiving more than their fair share rank among the 15 richest States in the union.

As to the States that lose by terminating, in terms of allocation among the States, these convoluted formulas, formulas that were designed to skew the results of the allocation, and instead going strictly with population, it is totally false to argue that this hurts poor States. In fact, 10 out of the 14 that lose are in the upper 50 percentile in terms of income and 6 of these are among the richest States in the Union.

Conversely, 13 of the 15 percent poorest States in the country in terms of per capita income receive more money under this formula—that is, by allocating on the basis of population—than they receive under convoluted formula which gives 2½ times the weight to age housing.

Mr. President, I know in addition there are going to be those who say, well, Senator GRAMM has offered an amendment because Texas gets cheated by the current formula and, boy, are they right. That is why I am offering this amendment. But 35 other States get cheated by this formula, and when you look at the correction that occurs, you look down here, you see Texas, Virginia, and California are the biggest beneficiaries of the change. But part of the reason they are big beneficiaries is because they are big.

When you adjust for the per capita impact, let me give you what Texas benefits and what impact it has on other States. On a per capita basis, by eliminating the biased formula and going just with population, Texas benefits $1.30 per capita.

Let me just give you some comparisons. Alaska benefits $4.90 per capita; Arizona, $3.40 per capita; Arkansas, $1.50 per capita; Colorado, $3.80 per capita; Delaware, $2.24 per capita; Florida, $2.04 per capita; Georgia, $2.11 per capita; Nebraska, $1.75 per capita; Nevada, $4.73 per capita; North Carolina, $3.35 per capita.

So in fact, Mr. President, while Texas benefits because we have a lot of people, we have many States that get two and three times as much per capita as we do in Texas by eliminating this biased formula.

Mr. President, what was the logic of ever having a formula to begin with that multiplied the age of housing times 2½ in allocating money? Mr. President, the logic of that formula was pure and simple. It was like virtually every other formula that has been written and allocated to the distribution of Federal money; that is, it benefited the States that it was intended to benefit.

Mr. President, some day, some where, these programs have to be made fair. People in my State pay taxes just as people in every State in the Union pay taxes. I do not know of a fairer way to allocate the money than to give it to States on a per capita basis. Thirty-six States benefit by making the formula fair. Of the States that benefit, 13 of the 15 poorest States in the Union benefit by allocating on a per capita basis.

There is not a relationship between the age of housing and poverty. There is obviously a relationship between the quality of housing and poverty. In Texas, we have lots of new housing that is very substandard housing—often without electricity, often without water. Yet, because housing in what nationally would be called a slum area, what we call the colonias, an area where people do not have electricity, do not have water, that area ends up not getting any weighting in the formula despite the fact they do not have running water, and they do not have electricity, they are disadvantaged because the housing is not old.

Mr. President, my amendment seeks to eliminate a terrible inequity. I expect Senators from the States that benefited from the inequity to be against this formula. I have great confidence that they will speak with great eloquence about how the current unfairness came down from Mount Sinai and that it should be preserved.

But, Mr. President, when States—like Kentucky—that are not noted for being rich States are being cheated by this formula, then I say the time has come to fix it. This amendment does fix it. I think it is virtually important that it be adopted.

I hope my colleagues will brush aside all of the arguments for special interests and allocate funds on the one formula that is fair, simple, and that is easily understood; that is, States will get money based on the number of people in the State. Then we will use the existing formulas to allocate within the State.

I yield the floor.

Several Senators addressed the Chair.

Mr. BENTSEN. Mr. President, I rise in support of the amendment by my distinguished colleague, the junior Senator from Texas.

I have been down on the floor before on this kind of issue and frustrated by the kind of formulas that we have been subjected to. Look at the situation where you have a $2 million house in Georgetown and you get the full credit for that. But then I look at a tin shed that has been built in a colonia down in Brownsville, TX, built last year to try to house some of the people coming in there. No credit whatsoever. That is not right. That is not fair.

What we are talking about is trying to bring some equity to this formula that would provide a fairer, more equitable distribution of funds under that community development block grant.

We are talking about something that we have seen happen to us time and time again in this misallocation of resources. The formula is weighted for age. It uses that as a factor. It is the most heavily weighted single factor in determining who gets money under this program. It is weighted 2½ times.

By contrast, the extent of poverty, it is weighted only 1½ times under the formula with the age of housing and only twice in the alternative ranking formula.

We need to look at the Urban Development Action Grant Program as an example of what happens when funding formulas get so skewed that they are perceived as being unfair.

I was talking about Georgetown. We can talk about Boston, Chicago. We can talk about the mansions that have been built there and the kinds of credits that they are getting.

So I am pleased to join with the Senator from Texas to correct this kind of an inequity. This formula proposed in this amendment is one that is based purely on population. That may not be the final and it may not be the best answer but it sure is a step forward. It is a great improvement over what we are being subjected to at the present time.

I believe that this problem of fairness needs to be addressed in order to bring about the long-term health of important and useful programs like the community development block grant.

We are meeting today, as we have been for several weeks, in the Capitol with representatives of the House of

Representatives and the administration. We are having so-called budget summit talks that the President has requested. I hope that these talks succeed. I am making every effort to see that come about.

But I think that everyone understands that any agreement coming out of this budget summit is going to bring about some major cuts in spending. Domestic programs, including CDBG, have been under severe budget restraints and pressure for the last decade. We need to be sure that those limited funds that are left operate fairly in order to get the broad support to continue those programs.

Mr. President, I believe the Federal Government can and should make a contribution to our society in the area of community development. The needs are clearly there. They should be addressed. But we ought to have some equity when we bring it about. We should accurately assess the real need and distribute those funds accordingly. Funding formulas biased with factors of age of housing do not bring that about.

This funding formula that has been introduced by my colleague is much more equitable than we now have in the law. I strongly urge its adoption.

AMENDMENT NO. 2073 TO AMENDMENT NO. 2072

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself and Mr. DIXON, proposes an amendment numbered 2073 to amendment numbered 2072.

At the end of the amendment add the following:

SEC. . (a) In no year following fiscal year 1990, shall any State in which are located federally insured depository institutions which, during the years 1986 through 1989, either received funds from or had its deposit liabilities assumed by a Federal Deposit Insurance Fund or the Resolution Trust Corporation, receive greater funds under the Housing and Community Development Act of 1974 than it received in fiscal year 1990, if said institutions receipt of federal deposit insurance or RTC funds exceeded that States per capita proportional share of such funds paid during the years 1986 through 1989.

(b) Such States as are described in paragraph (a) shall have CDBG funding reduced for years after fiscal year 1990 in proportion to the degree to which Federal Depository institutions in that State have received funds from or had deposit obligations assumed by a Federal Deposit Insurance Fund or the Resolution Trust Corporation as compared to the amount that that State's citizens, as a group, will bear the burden of funding the obligations of the Resolution Funding Corporation or of the United States Treasury for the purposes of the Resolution Trust Corporation.

SEC. . (a) In each year following fiscal year 1990, any State in which the federally insured depository institutions located therein have, in total, during the years 1986 through 1989, received funds from or had its deposit liabilities assumed by a Federal Deposit Insurance Fund or the Resolution Trust Corporation, in an amount less than its per capita proportional share of such funds paid or obligations assumed during the years 1986 through 1989, shall receive no less than, and shall be eligible for funds under the Community Development Act of 1974 in excess of, the amount it received in fiscal year 1990 under said Act.

(b) Any increase in CDBG funding over 1990 fiscal year amounts to a State, authorized by paragraph (a) shall reflect the amount of that State's citizens' burden to fund the obligations of the Resolution Funding Corporation or of the United States Treasury for the purposes of the Resolution Trust Corporation as compared to the amount of funds or assumption of obligations obtained by depository institutions located in that State.

Mr. DIXON. Will my friend and colleague from New York State permit me to cosponsor that amendment?

Mr. D'AMATO. I am delighted.

Mr. DIXON. Mr. President, I ask unanimous consent that I be shown as a principal cosponsor with my friend from New York State, and I may want to talk to him about further elaborations and extensions of that amendment that would be more meaningful to the taxpayers of America.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I have some extended remarks which I intend to touch on. We talk about fairness and about need. Let me tell you something; that has been the essence of our undertaking legislative efforts in this body—need. I did not know it was a formula based just upon population when it suits one State, to advantage them, regardless of the need.

This program, the community development block grant action, came into being in 1974. There was a need in housing because of the age of housing, condition of housing, overcrowding, growth lag, to address urban plight.

I find it very difficult to understand how it is the administration in last year's budget and this year's budget says we should target community development block grant aid to those in need. As a matter of fact, they are asking us to do more, to target. We did it in this housing bill.

I find it incredibly difficult to understand an amendment of this type, the magnitude, enormity of what the consequences would be; there would be a $100 million loss to my State. And certainly the need is there.

I do not know if there are any greater needs, but certainly in other urban centers there are similar needs, perhaps in the great city of Chicago and in the city of Detroit. Certainly, we are just going to wrench it out, wipe it out. No hearings.

We did not go into whether or not the formula should be weighted differently. This Senator is not opposed to that, as to whether or not we should study what other consequences should be built into this.

We come to the floor and say "population" because it advantages my State. What about as it relates to giving out and weighting formulas as it relates to farm subsidies, floor control, control projects, and on and on we go. Now we are faced with a crisis of $150 billion, $200 billion, who knows how much. There are some studies that indicate that the people of New York are going to pay $17 billion for the savings and loan bailout, $17 billion—almost none of our making.

The State of Texas gets 59 percent of that money; 59 percent of the $17 billion is going to go to bail out the institutions down in Texas. Should we have come forward and said, "Wait a second. In Illinois, New York and Massachusetts, why are our taxpayers being disadvantaged? Why should every man, woman and child in my State have to come up and pony up thousands of dollars individually as taxpayers?" I thought it was need, national purpose, all together. That is part of what makes this country. If we have to get down into this parochialism, "If I can gain at your expense," then this is the kind of amendment the Senator from New York will push for.

Who created the problem? The people in New York did not create the savings and loan debacle. Bankers in New York did not create it. So why should we be called upon now, my citizens, to give it up? This formula which we put forth—and I want to talk about revenue sharing, community sharing, community development block grant. If you have benefited disproportionately, and those States, whether it be Oklahoma, Texas and others, disproportionately, then you should not be entitled now to reap additional benefits.

So those States that have been disadvantaged, they should get a greater proportionate share from community development block grants. What the heck, it has as much relevance as population. If you are going to soak my people on the one hand, why not redistribute these formulas to help them, because they are paying to help the Texas bankers, the Oklahoma bankers; 59 percent or 57 percent of the money is going to these States.

I am just beginning, as it relates to this area. I have some extended remarks that go into some details as it relates to this. My colleague points out that CDBG funds are distributed in a manner which does not correlate exactly to population and that the State of Texas, in particular, receives less than its proportional share.

But I have to tell you that people in New York are getting a heck of a lot more in the way of taxes that they have to pay now as a result of the fail-

ures in Texas. That money is going right on down. Talk about disproportionate shares.

Mr. President, population is a factor in allocating CDBG funds under the current law. Population is but one of a few criteria.

The other considerations are poverty, housing overcrowding, and aged housing. That is what these funds were intended for, not for the benefit of one State who does not have need as great as another State in terms of its people, their needs.

These additional factors amount to a single factor and that is, in essence, need. Population is an important factor, but the Senator from Texas would make it the only factor.

Eliminating any consideration of need; what kind of formula is that? What kind of program is that? Not to have a hearing, not to discuss it?

Needs testing is a familiar phrase; it is important in allocation of many Federal funding programs. The criterion of "need" certainly has been applied in our most recent notable use of Federal funds. Notwithstanding population or cause of the problem, the savings and loan cleanup, which is going on, where there is a need that exists, it will be drawn from all parts of the country. In some cases only a few problems, if any, exist. All are contributing to the hole; there is a giant hole in Texas.

Only a handful of States have incurred most of the losses in the S&L debacle. Edward Hill, whose work was reported in articles in Monday's Wall Street Journal and New York Times, says that, including money spent both before and after the establishment of the RTC, the cost of paying off depositors of failed thrifts will be between $159 billion and $203 billion. Those funds will go to where they are needed, regardless of population. Those funds will come from each taxpayer in proportion to their per capita share of Federal tax burden.

I will speak more to this later. But it should be no secret that the per capita Federal tax burden is highest in the East and lowest in the South and West.

It is also no secret that most of these Federal thrift bailout funds will go to a handful of States where the savings and loan crisis began, grew and will end only after $200 billion of Federal funds have been collected from all over the country and sent to those few States. The New England States will receive none of these funds. The Mid-Atlantic will receive 2.3 percent. The Midwest's portion will be about 8.1 percent. The Western States will receive about 16½ percent. California will receive about 13 percent. And the grand prize, the granddaddy of the thrift bailout beneficiaries? Yes, it is the South. Southern States as a whole combined for a whopping 73.2 percent of the bailout.

But the granddaddy, Big Daddy, he comes home and now he wants to take more back. My State sent $17 billion. It is not enough. Now we want to cut $100 million in community development block grants that go to the poorest of the poor. Fifty-nine percent of the Federal bailout funds all by itself goes to Texas. If the total cost goes to $200 billion, $118 billion goes to Texas.

Maybe I should amend my amendment to see to it that all of its share goes to Texas. I think we only take about 50 percent of the community development block grant funds by my amendment. After all, you are only going to cost my State $17 billion.

Let us talk about population. By population each Texan will receive a net benefit—that is Federal funds flowing into the State minus bailout contributions flowing to other States—$4,775 each. We want to give them more. Other States do pretty well also. New Mexico will receive, per capita, $3,349; Arkansas will get $4,106 a head; Arizona, $2,143, Alaska, Kansas, and Louisiana will each receive more than $1,000 per person.

Mr. President, that is our system of government. If there is a tornado, if there is a wipe out, if it costs the State $2 or $3 billion we all come in on the basis of need. That was the formula that was set up in the community development block grant.

I say my amendment is ludicrous on its face. I say that but certainly the underlying amendment does greater violence to this whole business of us coming together as a people not just when it benefits us, but for the benefit of the people and the benefit of the whole of the United States.

When we crafted the FIRREA bill in the Senate, we did not take into account this disproportion. Why? Why did not we do it then? We did not do it because there was a need.

But now with the amendment of the Senator from Texas we must look at these funds as proportions of population. After all, if we are going to do it for one then let us do it for all. Let us start if off right now and do everything on the basis of proportion of population.

Mr. Hill's study also shows where the money will come from. By population, the money to bail out this handful of States will come from the taxpayer of course. And it will come most disproportionately from States with no thrift crisis or with a smaller one, but with a high Federal tax burden. The citizens of Connecticut will pay the most—$1,237 per person; District of Columbia—$1,114, Massachusetts—$1,026, New York—$972, and Illinois—$697 for each man, woman, and child.

And when you multiply that by population, the State of New York is on the hook for $17.3 billion to clean up a problem that its citizens did not cause and who will receive no benefit from its solution.

Indeed, Mr. President, the citizens of New York will pay taxes to clean up the problem elsewhere and be deprived of the economic use of those funds. Worse still, the empty office space and cheap homes built with S&L money can be used to lure businesses away from New York and Connecticut to that State that has had this incredible haul, many costing jobs and tax revenues from New York and northeast.

Should we discuss something other than "population" or "need"? Should we discuss "blame"? State legislatures authorized thrifts to undertake all kinds of risky ventures and activities, and we in the Senate should have stopped it and said "no." We have FDIC insurance and FSLIC insurance. That is taxpayers money. We should not let you do this. But on the altar of States rights we did not do it. Oh, no, do not step in and interfere with the legislators, we heard them say. I have fallen victim to that line of malarkey too. We forgot we had taxpayers' money guaranteeing that activity and certainly had a responsibility and it was abdicated.

So now in the years 1987 through 1989, State chartered institutions suffered 66 percent, 75 percent and 76 percent of the billions of dollars lost in this debacle.

Of these enormous losses, State chartered thrifts in Texas and California lost in 1987, 54 percent of the total lost in all State-chartered thrifts, 36 percent of total S&L losses. In 1988, Texas and California chartered thrifts accounted for 46 percent of the Nation's S&L losses. In 1989, again 46 percent of total losses in the S&L industry were incurred by thrifts using the broad powers allowed by Texas and California State charters.

It was not this Congress but certainly we could have done better and we should have seen and the regulators should have seen.

But that is just a sad footnote, Mr. President. There is plenty of blame to go around. So let us put blame aside. Let us look at the raw numbers of where the money comes from and where it will go. According to Mr. Hill only 13 States will receive more thrift bailout funds than their taxpayers put up—Texas, New Mexico, Arkansas, Arizona, Alaska, Kansas, Louisiana, Nebraska, Minnesota, Colorado, Utah, Mississippi, and Missouri. The same Wall Street Journal article reports that 24 States stand to lose more than $1 billion, led by New York at over $17 billion.

While Mr. Hill's calculations do not take brokered deposits into account, and some economist do not accept Mr. Hill's conclusions or methodology,

most economists, according to the New York Times, "subscribe to the thesis that the bailout will lead to a regional redistribution of wealth. * * * Donald Kettl, a political scientist at Vanderbilt University, suggested that the shift would be as large as it was in the 1970's, when higher oil prices caused by the Arab boycott created large profits for Texas at the expense of Northern consumers."

When we look at the history of the thrifts debacle it is hardly a secret that almost the entire Federal Savings and Loan Insurance Fund and tens of billions of RTC funds have gone into a few States. It is a remarkable thing about the U.S. Senate, Mr. President, that in the entire process of identifying and fashioning a solution to the savings and loan debacle there was barely a murmur of regionalism—blaming one part of the country—though it was clearly a temptation for many of us. In many States, thrifts had already faced the same hard times as Southwestern thrifts and survived without a Federal bailout.

This remarkable equanimity is a good example of the genius of this body—its purpose is to maintain the integrity of the Nation—to find national solutions, and to allocate the Nation's resources according to national needs rather than by narrow parochial interests.

So I do not relish this debate. Passage of the Gramm amendment would foster a damaging precedent in the Senate and further exacerbate a growing resentment that has now surfaced in the national press. I agree with Senator KERRY of Massachusetts who said, according to the Wall Street Journal, "Taxpayers are upset there is a subsidy going to our friends in Texas. Texas pays 7 percent of Federal taxes but is getting 60 percent of the bailout."

The amendment which I offer does no more than make the burdens and benefits of the thrift bailout a factor, which will be considered in CDBG allocation, consistent with the amendment of the Senator from Texas; according to population. If the issue of proportional benefits and burdens is on the table, it is the least we can do for the "long suffering American taxpayer" of the East.

Mr. President, I ask unanimous consent that Senator SIMON be added as a cosponsor, and that Senator MOYNIHAN also be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, the amendment offered by Senator GRAMM would substantially alter the allocation of the funding for committees receiving community development block grant assistance. I am from a State that would gain assistance under this amendment. But I do not believe we should pit the fast growing State against the slower growing States.

So despite the fact that it would appear to be helpful to my State I do not think it really would be, for reasons I will explain. But, nonetheless, I oppose the amendment.

This amendment would substantially change the scope and direction of the CDBG Program without public hearings. In the course of developing the National Affordable Housing Act, hearings were held on the CDBG Program. Several changes to the program were considered and rejected by the committee. Senator GRAMM sits on the Banking Committee and was afforded the opportunity to air his idea of redirecting the CDBG funding based on population. He chose to bypass the committee and bring this issue to the floor.

When the block grant was established, the Congress debated the issue of criteria for determining funding distribution. We wanted to establish criteria which reflected the need for housing rehabilitation and community revitalization. There is no direct correlation between the total population and the amount of housing or community deterioration. The total population of an area has no relationship to the poverty population.

Presently, grant amounts are determined on a formula basis which look at the community's population growth lag, number of people in poverty, extent of overcrowding and the age of housing. These criteria help us better target CDBG on communities most in need. Simply allocating funding based on population does not take into account whether the community is most in need of Federal assistance. With such scarce Federal resources to serve struggling communities it is imperative that the funds be concentrated in communities most in need.

CDBG works. Communities find it a valuable tool to help them meet a variety of local needs. Instead of redirecting the program from those communities most in need to those with the largest population we should be restoring some of the funding that was cut away from the program in the 1980's. CDBG has received a 50-percent real cut in funding since 1980. Communities cannot continue to meet an increasing demand for CDBG dollars with no increases in funding.

I would welcome an amendment from the Senator from Texas that would increase CDBG funding provided that, in the important part he is playing in the budget summit, he was able to find the money there to cover an increase.

Several Senators, Mr. President, on both sides of the aisle, who have played a key role in developing and supporting the housing bill that is now before us, have told me in no uncertain terms that they look upon Senator GRAMM'S amendment as a killer amendment. If it is adopted, they would no longer support the bill. They would be transformed into opponents of the bill. This would be most unfortunate.

The bill, as written, will help people in every one of the 50 States of our Union. If the bill is defeated due to adoption of the amendment of the Senator from Texas, the people of all 50 States will be deprived of support. For example, on its face, the bill would appear to help my State. In fact, it would hurt the people of my State. For these reasons, I strongly oppose the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to try to respond. I am going to have to go back into the budget summit at some point here, but I would like to go through and respond, and I certainly want to give other people an opportunity to speak.

First of all, I want to note that the National Association of Realtors has endorsed my amendment. I ask unanimous consent that their letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF REALTORS,
Washington, DC, June 27, 1990.

DEAR SENATOR: I am writing on behalf of the National Association of Realtors (NAR) to express our support for an amendment regarding structural changes to the allocation formula for the Community Development Block Grant program (CDBG). Senator Phil Gramm has indicated that he will be introducting this amendment during floor consideration of S. 566, The National Affordable Housing Act.

Currently, HUD utilizes a CDBG distribution formula based on a compilation of various indices (number of low-income units in an area etc.) in a specified area. Under the Gramm proposal, CDBG funds would be calculated according to the population of an area in relation to the U.S. population. The fundamental question here is one of fairness and equality. In addition to distributing Federal assistance funds more equitably, this formula would address the tremendous problem rapidly expanding areas have in accessing greater Federal assistance to match quickly growing demands on their resources. NAR believes states and communities are entitled to their equitable share of funding, particularly those area which are often neglected when it comes to Federal government assistance formulas and the equitable distribution of Federal resources.

CDBG has played a vital role in addressing the infrastructure needs of many communities across America. NAR has always believed that the success of our business results from the success of a community. Thus, on behalf of thousands of realtors

across America, we urge your support for the Gramm amendment.

Sincerely,

WILLIAM D. NORTH,
Executive Vice President.

Mr. GRAMM. Mr. President, I do not want to use harsh language here, but I would be less than honest to the English language if I did not say that the amendment that has been offered by my distinguished colleague and dear friend from New York is absolutely outrageous. The distinguished Senator from New York acts as if the savings and loan crisis is benefiting my State and benefiting the 13 other States that would be affected by his amendment as well.

The truth is, these States have already suffered more than the taxpayer is suffering. We are not talking about any gift that is being given to a State; we are talking about the Federal Government fulfilling a commitment it made under the Federal Deposit Insurance Corporation. So where all these billions of dollars are going is simply to make good on the fact that those deposits are good. No one is receiving any benefit that they did not believe they had. And to equate in any way the savings and loan bailout with the formula for allocating community development block grant funds, a formula that in its current incarnation is absolutely unfair, is just outrageous.

Now, that is all I have to say on that subject.

In terms of my dear colleague from New York who has made a passionate argument on behalf of the poor, let me just simply respond—and, again, I am not trying to beat a regional horse here. I am trying to right a terrible wrong in the allocation of money.

But let me remind my dear colleague from New York, with all of his alligator tears about the poor, that New York, in terms of per capita income, ranks sixth in the United States of America. It ranks third in per capita benefits from the Federal Government. And so I do not think New York has any room to cry tears about the allocation of funds.

Might I remind my colleague that my own State ranks 33d in per capita income and ranks 49th in terms of receipt of benefits from the Federal Government. I am not here to protest the Federal Government as an allocator of money away from Texas today. I am simply here to point out that a formula which is written arbitrarily to give a weight of 2½ to the age of housing greatly distorts the allocation of funds for the Community Development Block Grant Program. In fact, the formula which is being defended here today——

Mr. SARBANES. Will the Senator yield? What is the Senator's definition of receipt of benefits from the Federal Government, as he uses that term?

Mr. GRAMM. The point I made is, and a point that I think is self-evident, is—I assume my colleague is talking about the bailout of the savings and loan.

Mr. SARBANES. No. At the moment, I am talking about the Senator's use of the phrase "receipt of benefits from the Federal Government" and then to begin to list different States on that basis.

Mr. GRAMM. What I am using is Federal aid to State and local government selected programs by State in the Statistical Abstract of the United States of America, 1990.

Mr. SARBANES. Select programs. So you are talking about certain programs?

Mr. GRAMM. Well, you can look on the bottom of page 277 and see the great bulk of programs that are listed here. As far as I am aware, this does not include entitlements such as Social Security, which people receive, by the way, not on the basis of what State they live in but on the basis of the amount they paid into the program.

Mr. SARBANES. I am not interested in what it does not include. I am interested in what it does include, in terms of the phraseology that the Senator is using.

Mr. GRAMM. I would be happy for my colleague to look at it. If he has any objection to it as being unfair, I would be glad to hear it.

Mr. SARBANES. But it does not include the savings and loan bailout, is that correct?

Mr. GRAMM. The point that I made earlier is that our dear colleague from New York acts as if the savings and loan bailout has covered 13 States in money. The truth is that not one person has gotten one dime except to ensure that that person's deposit in an insured institution is safe. If a little bitty lady from Bryan, TX, had $70,000 in a savings and loan and that money was insured by FSLIC and the savings and loan went broke, is it a gift to her that the $70,000 is good? I say, no; that was an insurance that existed that the institution paid for, that she counted on. So to act as if somehow that is a gift is outrageous.

Mr. SARBANES. The reason that that lady's insurance has to be covered and she has to be paid is because the operators of that savings and loan in which she had her deposit walked away with a lot of money. I mean the GAO has told us that the overwhelming reason for these savings and loans going under has been fraud and abuse within the management of the savings and loan; two-thirds, is their estimate.

I have great sympathy with the lady in Bryan, TX, that you are talking about. We are paying on her insurance. But she is in trouble because the people who ran that S&L in Texas in which she had her money walked away with it.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. GRAMM. Mr. President, I am not interested, though I would be willing to get to a debate here on the floor of the U.S. Senate, as to who acted 4 years ago when the White House asked for $15 billion to deal with this program. It is not my intent to get into that today. Nor is it my intention to get into today the fact that when the President asked us to act, the capital of savings and loans in Texas was positive, and by the time we got around to acting, it was negative $6.7 billion in terms of their capital. That is not the point here today.

The point I am making here today is a point that I think is obvious: That we are not talking about a gift to various States where savings and loans went broke and cost millions of people billions of dollars. Not all the costs were covered by the taxpayers. The people who lost their jobs, the economic upheaval it was part of, those costs were borne by people who live in those 13 States.

Mr. KERRY. Will the Senator yield for a question?

Mr. GRAMM. I do not yield. Let me finish my statement, then others on their own time can make their own statement.

My point is, in going back to the comments of the Senator from New York, that this existing formula makes no sense economically whatsoever, because there is no correlation between the age of housing in the aggregate and the quality. In fact, this formula makes rich States richer in terms of allocation and, in general, poor States poorer.

I will just give an example. Under this formula, New York, with the third highest per capita income in the country, gets $16.78 per capita, and Texas, with the 33d per capita income in the country, gets $10.15.

My point is that if the distinguished Senator from New York wants to bring in quality of housing, great. I am for that. If he wants to bring in poverty, great. I am for that.

But this formula was written to skew the results.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. GRAMM. I will not yield. Let me finish my statement and then everybody can finish their statement.

Mr. D'AMATO. But the Senator's formula, if I might just address an observation, his formula does neither of those. And this Senator has indicated if he wants to change and use formula based on criteria that more adequately identifies the need, I have no quarrel with that. But there is certainly no attempt in the underlying amendment

to do that. It just says, strictly on the basis of number of people.

Mr. GRAMM. Mr. President, if the distinguished Senator wanted to amend the formula to include poverty, that is not an amendment that I would oppose. I think, quite frankly, the simple way to do it is on the basis of population. I think if anybody looks at the numbers, and the numbers I think speak for themselves, 13 of the 15 poorest States in America will gain by going on a population basis. Whereas the losers are preponderately States that have very high income.

So I understand people, in trying to defend their State. It is something I do often, and that is our job here as U.S. Senators. I do not quarrel with my distinguished colleagues from New York for doing that.

The point I want to make is simply this. First of all, to relate this to the savings and loan bailout is totally and absolutely unfair and outrageous.

Mr. D'AMATO. True.

Mr. GRAMM. Second——

Mr. KERRY. Will the Senator yield for a question on that point?

Mr. GRAMM. No, I do not yield.

Second, let me say what I am trying to do here is not tilt the system. If fact there are many other States that benefit per capita more than Texas does by this change. What I am trying to do here is simply to come up with a formula that makes sense. Nobody here can justify why we have put 2.5 weightings on age of housing, other than to skew the results.

So let me, in yielding the floor to let everybody have their say, let me make the following points:

One; if this frivolous D'Amato amendment is adopted, and I hope it will not be, this is not going to be the end of this debate. Because the next amendment is going to be knocking this 2.5 weighting out of this formula. We are going to address this issue while this bill is on the floor of the United States Senate. This formula is unfair. It has been unfair for too long. And it is going to be addressed.

It may very well be that we will have——

Mr. D'AMATO. Will the Senator yield for a question?

Mr. GRAMM. I do not yield.

It may well be that we will vote down that amendment, but Members are going to get an opportunity to vote.

If we second-degree the amendment all day so people never get an opportunity to vote on it, I am going to be here and I would just as soon keep offering it until finally we get a vote.

It may well be that the majority will decide to reject my amendment. It may well be, if they reject it that they will decide to reject the amendment striking the 2.5 weighting on age of housing.

If they do that, then we have had the debate, I have presented my viewpoint and I have lost. But if the idea is that we are going to use trumped up amendments related to the savings and loan bailout to deny me a vote, let me assure my colleagues I am not going to be easily dissuaded, and I am not in any hurry. I am going to continue to offer amendments until either those amendments are not allowed by some cloture, which I will oppose, or until I get a vote.

If they are defeated or if they are tabled, that is fine. That is how the process works. But I just want to let my colleagues know that these cute and clever amendments are not going to prevent my opportunity to vote on these issues. That is all I have to say.

Mr. D'AMATO. Will the Senator yield for an observation?

Mr. GRAMM. I will be happy to yield.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas has not yet relinquished the floor.

Mr. GRAMM. Mr. President, if it is in order to yield for an observation, I have been waiting for one and I would be happy to yield. I guess it has to be in the form of a question.

Mr. D'AMATO. In the form of a question.

The PRESIDING OFFICER. The Senator yields for a question?

Mr. GRAMM. I do yield to the Senator from New York for a question.

Mr. D'AMATO. I do not know whether the Senator was aware of it but there is a proposal in House Appropriations report language to require a study of CDBG formulas, to evaluate whether it should be changed, particularly with regard to the effects of the 1990 census. This study will review the formula's fairness and evaluate whether the current formula should be modified. This study could look into the Senator's concerns.

I do not know whether the Senator is aware of that. Certainly the Senator does not come to the floor with this amendment simply to oppose any amendment with a second degree. I indicated to my colleague my fellings on it, but was the Senator aware of that? Would that not seem to be the method to look at and to examine the concerns of the Senator as they relate to the formula composition?

Mr. GRAMM. Let me, if I may, reclaim my time and respond. I might very well be willing to sign onto a proposal that HUD analyze the formula, look at the census, and report back to us their recommendation for changing the formula, if we could have some procedure whereby that could be considered. But I ask my colleague, when did we pass the last housing bill?

Mr. D'AMATO. I guess we passed that—2 years ago? HUD reform?

Mr. GRAMM. It may well be there is room for compromise, but we have certainly not moved in the direction of any compromise in the pending amendment.

I yield the floor and I thank the Chair for its indulgence.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. DIXON. Mr. President, I do want to make some remarks, but without yielding the floor I had indicated to my friend from Massachusetts that if he wanted to ask one question of the Senator from Texas, I would permit that before I go into my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. Does the Senator from Texas——

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I thank the distinguished Senator from Illinois who has been waiting patiently. I will make it a short question.

Before the Senator from Texas—if I could have his attention for a moment—before the Senator from Texas leaves the floor, I wanted to address a question to the appropriateness of the S&L bailout process being part of a consideration of fairness here.

Each citizen of Massachusetts is going to pay between $785 and $1,026, per person, to fund the bailout. Every resident of Texas is going to receive, on average, $4,775.

Mr. GRAMM. Will the distinguished Senator yield on that point?

Mr. KERRY. Let me just make the point and then I will be happy to yield. But I want to respect the time of the Senator from Illinois here.

The fact is that in Texas, between the years 1980 and 1985, deposits in federally insured State-chartered thrifts grew by a staggering 186 percent, compared to a 26-percent increase in the rest of the country.

By 1985, 85 percent of the federally insured deposits in Texas resided in State-chartered institutions. And the fact is, because of the oil boom and an extraordinary burst of speculation from which Texas residents benefited, during that period of time the Texas banks wound up offering the highest interest rates of return in the country in order to draw in the most speculative of leveraged buyouts.

So, if it is a matter of fairness, Massachusetts citizens, Illinois citizens, New York citizens, to an extraordinary proportion, who have nothing to do with the per capita basis, are paying for the excesses of a State-chartered system that was not regulated properly and that has resulted in the extraordinary unfairness of the current situation. But, because we bought into the Federal Deposit Insur-

ance Corporation process, we have accepted a concept of fairness by which we all share that burden.

For 15 years the Community Development Block Grant Program has accepted a formula based on need, on urban need, on blight, on poverty, on housing overcrowding.

And to suddenly shift the formula at this point, I think, violates the very notion of fairness that the Senator from Texas is invoking.

Mr. DIXON. Mr. President, if I may have back my time.

Mr. GRAMM. Is the distinguished Senator going to give me an opportunity to respond? He is posing the question to me, as I listened.

Mr. KERRY. I do not think it is up to me. I was yielded to by the Senator from Illinois.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Illinois has the floor.

Mr. DIXON. In the interest of courtesy, I will yield to my friend from Texas.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the Senator from Illinois that he be permitted to yield to the Senator from Texas, without losing his right to the floor? Without objection, it is so ordered.

Mr. GRAMM. I will return the courtesy and be brief.

Mr. President, the formula we are debating has nothing to do with need. I already demonstrated in the numbers, that in terms of changing the formula and going to population, 13 of the 15 poorest States of the Union benefit by changing the formula. So the current formula has nothing to do with need. The current formula has to do with the political power of those who wrote the formula to begin with. I have great respect for political power. I just resent it when others have it and I do not. In this case, they were wrong, and their mistakes ought to be corrected.

The final point I want to make is, and I want to make it as clearly and concisely as I can, many of these deposits which this study in the Wall Street Journal presents as being in Texas, in fact, were not in Texas, as the distinguished Senator recognized. Many of these were broker deposits from New York and Massachusetts. In fact, what is happening is the FDIC is making those deposits good.

It is not as if this great dump truck has pulled up in Nebraska, in Texas, in Arizona, in Louisiana, and is dumping out all this cash. What has happened is that some investor in Boston put $100,000 into some savings and loan in Texas. They did it based on an insurance contract with the FSLIC. The savings and loans went broke. Who is responsible? Lots of people, including the U.S. Congress that for 4 years did not respond to cries of help from the administration. I am willing to say everybody is responsible.

But my point is this: Nobody has gotten $4,775. What has happened is that an investor in Boston, that placed $100,000 in the bank, rather than walking away naked, he got the insurance on that deposit. Are such people richer than they thought they were? Have they benefited by $4,475? No. They put in $100,000. It was insured. They got the insurance. Are they better off? No. Are they worse off? No. Is the taxpayer worse off? Yes.

But my point is that listening to the distinguished Senator from Massachusetts, and the distinguished Senator from New York, you get the idea that the State has benefited. For every dollar lost by the taxpayer, there have been several dollars lost by people in the parts of the country that have been through a recession in the last 4 years.

I appreciate my dear colleague yielding.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DIXON. I thank the Chair.

Mr. President, I begin by making this point: My friend from Texas, who has offered this amendment, serves on the Banking Committee. The Chair is a member of that committee. The Senator from New York State is a member of that committee. The Senator from Massachusetts I see in the Chamber is a member of that committee. Somewhere near at hand and ultimately to be involved in this debate, the Senator from Michigan is the chairman of that committee. The manager on our side, the Senator from California is on that committee.

The Senator from Texas did not offer this amendment to the housing bill while this bill was being considered for many, many, many months in the subcommittee of the Banking Committee, nor did he offer this amendment in the Banking Committee at the time of markup.

At no time has our friend from Texas who comes to this floor now eloquently pleading for his equity ever presented a decent case to the jurisdictional committee to support his point of view.

The fact is that his own administration, Mr. President, opposes this amendment. The distinguished Senator from Pennsylvania [Mr. SPECTER] made that statement earlier today. I am now advised by other informative and reliable sources that that is the case. The chairman and the ranking members of both the Banking Committee and its housing subcommittees, respectively, and the League of Cities of America all oppose the amendment offered by the Senator from Texas.

Mr. President, let us talk dollars for a minute. Our friend from Texas offers this amendment and says do it on a population basis, that is what is fair; that is what is equitable.

Mr. President, if the formula of the Senator from Texas was applied to fiscal 1990 funds, the Northeast-Midwest region of the country, the region that has suffered the most for the last decade, that region, under his amendment, would lose $176 million or 12.6 percent of its CDBG funding, $1.137 billion. Texas, Mr. President, not surprisingly, stands to gain $22.1 million, a 12.8-percent increase.

One might say that the Senator from Texas makes a point about the S&L crisis that has some validity. But let me tell my colleagues this: If we assume that the taxpayers finance 75 percent of the Texas S&L bailout, the Northeast-Midwest region will shoulder nearly 47 percent of that burden, or $10.5 billion of direct transfer of almost $100 from every man, woman, and child in the region that we live in, in the Northeast-Midwest to the State of Texas. Funds that could be used to rebuild our roads and bridges, educate our children, house our poor, and create jobs and economic growth will instead be spent purchasing vacant office buildings in Dallas and Houston.

Mr. President, why do we have a CDBG formula as we have it now? The existing CDBG formula is based on population, poverty, overcrowded housing, age of housing, and growth. It is designed to deal with the major problems in urban America, the problems that are causing us so many difficult times in this country.

I would like, Mr. President, to print in the RECORD the New York Times article of Monday, June 25.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOUTHWEST TO GET ECONOMIC BENEFITS IN SAVINGS BAILOUT

(By David E. Rosenbaum)

WASHINGTON, June 24.—The Federal cleanup of the savings and loan disaster will result in a significant transfer of wealth from the Northeast and Middle West to Texas and other states in the Southwest, many economists and politicians have concluded.

As a consequence, they say, the economy in Texas and its neighboring states, where most of the cost of the savings and loan failures was incurred, will be stronger in the years ahead and the economy in most other states will be weaker.

This shift of resources reignites an old political controversy.

For years, Eastern and Northern lawmakers complained that their regions did not get their fair share of Federal money because of the prevalence of military installations in the South and West. The rapid growth of Government social programs in the 1970's went a long way toward correcting the balance, because the Northern industrial states are the main beneficiaries of Federal grants for the poor.

BALANCE OF PAYMENTS

"At just the time when we had got our balance of payments situation into a reason-

able relationship, which is to say we do about as well as we could expect on Federal outlays, along comes this," said Senator Daniel Patrick Moynihan, the New York Democrat.

How much money will be shifted is difficult to estimate, but some experts have tried. For example, Prof. Edward W. Hill of Cleveland State University, who has been studying the situation for the last two years, has calculated that wealth will be transferred from 37 states and the District of Columbia to the 13 states where the savings and loan failures are concentrated.

The cost of the bailout to Connecticut residents, he figures, will be up to $1,237 a person and to New Yorkers up to $972. That is money that would have been available for investment in those states, creating more jobs and better business conditions.

The additional money flowing to Texas will amount to as much as $4,775 a resident, Professor Hill estimates.

Many economists do not accept Professor Hill's numbers or his methodology, but most subscribe to the thesis that the bailout will lead to a regional redistribution of wealth to one degree or another. Donald F. Kettl, a political scientist at Vanderbilt University, suggested that the shift would be as large as it was in the 1970's, when higher oil prices caused by the Arab boycott created large profits in Texas at the expense of Northern consumers.

Some experts, like Bernard L. Weinstein, director of the Center for Economic Development and Research at the University of North Texas, question even the premise.

"You're going to have to wait 20 years to see how the dust settles," Mr. Weinstein said. "You're going to have to look at who ends up owning the assets. The ownership is going to shift outside of Texas and the Southwest because we don't have any money here to buy them."

Lawmakers from the states who feel especially disadvantaged by the bailout program acknowledge that the Government has no alternative but to use general tax revenues collected in all the states to cover the depositors at the institutions that went under. But they suggest that to offset the situation. Congress should give special attention to their states when money is allocated for other programs.

CORRECTING THE BALANCE

"It's hard within the system to right the balance," said Representative Jim Leach of Iowa, the second-ranking Republican on the House Banking Committee. "But because of this enormous transfer of wealth, Congress ought to go out of its way in future programming to give breaks to the regions that are footing the bill for the Southwest."

Representative Howard Wolpe, a Michigan Democrat who is chairman of the Northeast-Midwest Coalition, an organization of lawmakers from 18 states, said he and his colleagues were "especially galled" because they feel Texas and its neighboring states brought the savings and loan mess on themselves.

Most failures, their argument goes, occurred in states like Texas where the savings and loans were state-chartered and state-regulated, and the regulation was even more lax than it was in states where the institutions were subject to Federal supervision.

"This is not a natural disaster like a hurricane or an earthquake," Mr. Wolpe said in an interview. "This is a man-made disaster."

HEALTHIER INSTITUTIONS

Through the end of last year, no savings institutions in New England had failed, and relatively few had gone under in the other Northern and Eastern states.

On the other hand, the cost of rescuing depositors in Texas is expected to be five or six times greater than that in any other state. And when the cost in Arkansas, Louisiana, New Mexico and Arizona is added to the Texas total, it will account for the bulk of the Government's outlays.

The Government's cost will be high in California and Florida also, but those states are so populous that the outlays will be only a tiny fraction of the Federal taxes collected there.

In an interview this week, Representative Michael A. Andrews, a Texas Democrat who heads a caucus of lawmakers from Sunbelt states, acknowledged that Texas would get a big share of the bailout money at the expense of other states.

But he took issue with Mr. Wolpe and others who maintain that Texans should bear a bigger burden of the cost or that special benefits should accure to Northern states to compensate them for their outlays for the savings and loan rescue.

"A NATIONAL PROBLEM"

"That's not the way this Government works," Mr. Andrews said. "This is a national problem, and we've never played by those rules before."

Because the deposits in the savings associations that collapsed were insured by the Federal Government, the Government, using a general revenue, is obligated to make good on every dime. In some instances, the depositors are paid off directly. But normally, to save money, the Government takes over the repossessed property and other assets of the failed institutions, sells them for as much as possible and pays a fee to a healthy bank in the area to assume the deposits.

That has two effects in regional economic terms. It means that deposits stay in the locale of the institutions that failed and are more likely to be reinvested there. And it means that the empty office buildings, new houses and other structures built over the last decade with money supplied by the savings and loans that have failed will be on the market at a relatively low price for businesses that want to relocate there.

INFUSIONS OF CASH

Professor Hill, the Cleveland State economist, wrote in the May-June issue of Challenge magazine: "Those states and regions with large numbers of problem thrifts will be receiving infusions of cash to support their assets and secure their liabilities. This injection of money will help hold off regional recessions, while other states and regions will be footing the bill."

In one respect, that situation is offset by the fact that some deposits in the failed savings and loans were lured from out of state by the higher rates. But academic studies suggest that the average figure is probably less than 25 percent. In regional terms, the effect of the out-of-state deposits may be canceled out by the fact that some Northern savings associations failed because of unwise investments they made in the Southwest.

The residents of the Northeast are actually paying twice for the mistakes in the Southwest, in the view of Senator John F. Kerry, Democrat of Massachusetts. First, Mr. Kerry says, the Northeasterners' tax money will finance the bailout. And second, he maintains, credit is tighter now in his region because regulators want to avoid the mistakes made in Texas.

A BREAKDOWN OF THE BAILOUT

Losers and gainers in the Federal bailout of the savings and loan industry. Losers will pay more per person in taxes than they will receive in money from the bailout; gainers will receive more than they pay. Figures assume a net bailout cost of $203 billion.

Losers: The cost per person

Alabama	$222
California	397
Connecticut	1,237
Delaware	886
District of Columbia	1,114
Florida	276
Georgia	494
Hawaii	793
Idaho	477
Illinois	697
Indiana	657
Iowa	459
Kentucky	553
Maine	639
Maryland	506
Massachusetts	1,026
Michigan	787
Montana	523
Nevada	963
New Hampshire	1,007
New Jersey	1,074
New York	972
North Carolina	598
North Dakota	149
Ohio	670
Oklahoma	342
Oregon	665
Pennsylvania	319
Rhode Island	825
South Carolina	498
South Dakota	535
Tennessee	544
Vermont	670
Virginia	835
Washington	801
West Virginia	484
Wisconsin	592
Wyoming	588

Gainers: The benefit per person

Alaska	$1,410
Arizona	2,143
Arkansas	4,106
Colorado	735
Kansas	1,123
Louisiana	1,003
Minnesota	762
Mississippi	266
Missouri	15
Nebraska	815
New Mexico	4,349
Texas	4,775
Utah	367

Source: Edward W. Hill, Cleveland State University.

Mr. DIXON. Mr. President, friends of mine have referred to that—the Senator from Massachusetts, the Senator from New York State and others. But I want to talk about the Northeast-Midwest. Under the thrift bailout legislation, my State of Illinois loses $697; New York State, $972; Massachusetts, $1,026; Michigan, $787. You can go all through the country. Pennsylvania, $319. The greatest gainer State in America under this legislation passed last year, FIRREA, is Texas, $4,775.

My friend from Texas has said, how is that material?

I did not hear my friend from Texas, on those days when we passed that legislation, complaining when we did that for Texas and other parts of this country. The plain fact is that under that legislation Texas does benefit substantially.

I send to the desk that New York Times article and ask unanimous consent it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, June 25, 1990]

EXPERTS SEE S&L DRAIN ON MIDWEST

WASHINGTON.—The federal cleanup of the savings and loan disaster will result in a significant transfer of wealth from the Northeast and Middle West to Texas and other Southwest states, many economists and politicians have concluded.

As a consequence, they say, the economies in Texas and its neighboring states, where most of the cost of S&L failures was incurred, will be stronger in the years ahead and the economies in most other states will be weaker.

The shift of resources rekindles an old political controversy.

For years, Eastern and Northern lawmakers complained that their regions didn't get their fair share of federal money because of the prevalence of military installations in the South and West.

The rapid growth of government social programs in the 1970s went a long way toward correcting the balance because Northern industrial states are the main beneficiaries of federal grants for the poor.

"At just the time when we had got our balance of payments situation into a reasonable relationship, which is to say we do about as well as we could expect on federal outlays, along comes this," said Sen. Daniel Patrick Moynihan (D-N.Y.).

Rep. Howard Wolpe (D-Mich.), chairman of the Northeast-Midwest Coalition, an organization of lawmakers from 18 states, said he and his colleagues are "especially galled" because they feel Texas and its neighboring states brought the savings and loan mess on themselves.

Most failures, their arguments goes, occurred in states such as Texas where S&Ls were state-chartered and state-regulated, but regulation was even more lax than it was in states where the institutions were subject to federal supervision.

"This is not a natural disaster like a hurricane or an earthquake," Wolpe said. "This is a man-made disaster."

Professor Edward W. Hill of Cleveland State University, has been studying the situation for the last two years. Hill calculates that wealth will be transferred from 37 states and the District of Columbia to the 13 states where S&L failures are concentrated.

The cost of the bailout to Connecticut residents, he figures, will be up to $1,237 a person and to New Yorkers up to $972. That is money that would be available for investment in those states, creating more jobs and better business conditions.

Additional money flowing to Texas will amount to as much as $4,775 a resident, Hill estimates.

Many economists challenge Hill's numbers and methodology, but most agree that the bailout will lead to a regional redistribution of wealth.

Donald F. Kettl, a Vanderbilt University political scientist, says the shift could be as large as it was in the 1970s, when higher oil prices caused by the Arab boycott created large profits in Texas at the expense of Northern consumers.

Other experts, such as Bernard L. Weinstein, director of the Center for Economic Development and Research at the University of North Texas, question the assumption that wealth will shift from one region to another.

"You're going to have to wait 20 years to see how the dust settles," Weinstein said. "You're going to have to look at who ends up owning the assets. The ownership is going to shift outside of Texas and the Southwest because we don't have any money here to buy them."

Lawmakers from the states who feel especially disadvantaged by the bailout program acknowledge that the government has no alternative than to use general tax revenues collected in all the states to cover depositors at the institutions that went under.

But they suggest that to offset the situation, Congress should give special attention to their states when money is allocated for other programs.

"It's hard within the system to right the balance," said Rep. Jim Leach of Iowa, the second-ranking Republican on the House Banking Committee. "But because of this enormous transfer of wealth, Congress ought to go out of its way in future programming to give breaks to the regions that are footing the bill for the Southwest."

Through the end of last year, no savings institutions in New England had failed, and relatively few had gone under in the other Northern and Eastern states.

On the other hand, the cost of rescuing depositors in Texas is expected to be five or six times greater than that in any other state. When the cost in Arkansas, Louisiana, New Mexico and Arizona is added to the Texas total, it will account for the bulk of the government's outlays.

Government costs also will be high in California and Florida, but those states are so populous that the outlays will be only a tiny fraction of federal taxes collected there.

In an interview last week, Rep. Michael A. Andrews, a Texas Democrat who heads a caucus of lawmakers from Sunbelt states, acknowledged that Texas would get a big share of the bailout money at the expense of other states.

But he took issue with Wolpe and others who maintain that Texans should bear a bigger burden of the cost or that special benefits should accrue to Northern states to compensate them for their outlays for the savings and loan rescue.

"That's not the way this government works," Andrews said. "This is a national problem, and we've never played by those rules before."

Because the deposits in the savings associations that collapsed were insured by the federal government, the government, using general revenue, is obligated to make good on every dime.

In some instances, depositors are paid off directly.

But normally, to save money, the government takes over the repossessed property and other assets of the failed institutions, sells them for as much as possible and pays a fee to a healthy bank in the area to assume the deposits.

That has two effects in regional economic terms.

It means that deposits stay in the locale of the institutions that failed and are more likely to be reinvested there.

And it means that empty office buildings, new houses and other structures built over the last decade with money supplied by the savings and loans that have failed will be on the market at a relatively low price for businesses that want to relocate there.

Hill, the Cleveland State economist, wrote in the May-June issue of Challenge magazine: "Those states and regions with large numbers of problem thrifts will be receiving infusions of cash to support their assets and secure their liabilities. This injection of money will help hold off regional recessions, while other states and regions will be footing the bill."

Mr. DIXON. Mr. President, listen to this figure. The present value of the cost of the Texas S&L bailouts, almost $30 billion, Mr. President, 59 percent of the total cost—think of it, 60 percent almost of the total cost of the country is Texas.

The U.S. taxpayers pay 75 percent of that. The Illinois taxpayer burden for that is $1.225 billion, 5.5 percent. That is a Northeast-Midwest coalition mathematical computation that I believe to be accurate.

I would like to put in the RECORD, Mr. President, an article from the Wall Street Journal of Monday, June 25, 1990, entitled "Bailout of Thrifts to Transfer Wealth Only to Few States. Texas Seen Gaining Most; Resentment Is Provoked Among Those Paying the Bill."

I ask unanimous consent that the article be printed in the RECORD, Mr. President.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal June 25, 1990]

BAILOUT OF THRIFTS TO TRANSFER WEALTH ONLY TO FEW STATES

(By Hilary Stout)

WASHINGTON.—The government's thrift-industry bailout amounts to an enormous transfer of wealth to a few states that have the bulk of the U.S.'s sick savings-and-loans, a fact that is beginning to provoke resentment in states left to foot the bill.

The more than $100 billion the U.S. expects to spend to close failed thrifts and pay off depositors will help prop up the economies of Texas and several other states. But it means taxpayers in the Northeast. Midwest and other regions will be shipping huge sums of money to them without receiving direct benefits in return.

"I think there's starting to be a lot of anger," said Keith Laughlin, staff director of the Northeast-Midwest Congressional Coalition, a bipartisan group of House members. "We're hearing this from our members. First, they don't know why their tax dollars should be doing this, because they caused so little of the problem."

Last week, Rep. Marcy Kaptur (D., Ohio) complained on the House floor that Ohio taxpayers "are being asked to bear too great a share of the Bush savings-and-loan bailout." Saying that Ohio was one of 17 states with a thrift industry in the black last year, Rep. Kaptur declared. "Our citizens are

being asked to pay for collapsing institutions in other parts of the country."

Edward Hill, a Cleveland State University economist who has closely studied the regional economic implications of the thrift bailout, says that only 13 states—Texas, New Mexico, Arkansas, Arizona, Alaska, Kansas, Louisiana, Nebraska, Minnesota, Colorado, Utah, Mississippi and Missouri—will receive more money than they pay out in the bailout. The remaining 37 states and the District of Columbia, he says, will be net losers.

"The thrift crisis has wide-ranging regional implications, and the solution will shift wealth between the states and affect the way in which regional economies develop," Mr. Hill wrote in a recent article.

The biggest winner, most analysts agree, will be Texas. After oil prices crashed in the mid-1980s, the state's real estate market collapsed, leaving many Texas thrifts stuck with bad loans. That has left the state's S&Ls with liabilities exceeding assets by more than $10 billion, according to Mr. Hill's calculations.

But it the nation's taxpayers were to write a check today for their share of cleaning up the S&L mess, based on Mr. Hill's caclulations. Connecticut residents would end up losing an average of between $949 and $1,237 each, while funds arriving in Texas would result in a net gain of between $3,737 and $4,775 for every resident of the state.

The discrepancy is becoming hard to swallow for some of the rest of the country. At as Senate hearing last week, Sen. John Kerry (D., Mass), said: "Taxpayers are upset there is a subsidy going to our friends in Texas. Texas pays 7% of federal taxes but is getting 60% of the bailout." In Massachusetts, which has had relatively few thrift problems, residents stand to lose between $785 and $1,026 each in the bailout, according to Mr. Hill.

Mr. Hill's estimates range from $159 billion to $203 billion because he includes the money already spent to resolve insolvent S&L cases and makes a few other adjustments.

To reach his conclusions, Mr. Hill analyzed the distribution of federal income taxes and deposit-insurance premiums paid by the states. To measure the flow of bailout funds into states, he distributed the present value of the thrift-cleanup costs according to each state's portion of overall bad thrift assets.

He concluded that 24 states may end up losing more than $1 billion in the bailout, led by New York, where the net cost could be between $13.5 billion and $17.3 billion. Incensed by the costs of the thrift disaster, New York Gov. Mario Cuomo has made criticism of the S&L bailout a regular feature of his speeches.

Despite escalating complaints about the inequities of the bailout, most people agree that the government has no choice but to honor its commitment to reimburse depositors in failed thrifts. "We have deposit insurance to spread the risk, and we spread it," says James Smith, and economist at the University of North Carolina business school.

Nevertheless, some lawmakers plan to press the regional issue. Reps. Kaptur and Howard Wolpe (D. Mich.) are planning to introduce a bill that would require states with the greatest state-chartered thrift losses to assume a bigger share of the bailout bill. The measure was introduced as an amendment to S&L bailout legislation last year, but if failed.

Regional anger over the thrift bailout could affect the current budget talks between the Bush administration and Congress too. Mr. Laughlin of the Northeast-Midwest Coalition, for example, said his group would fight any proposal for an oil-import fee to raise government revenue.

"That would be like rewarding the guilty and punishing the innocent," he said. "It would clearly benefit the oil-producing states and hurt the oil-consuming states."

However, the controversy could also give some impetus to the idea of an increase in the gasoline tax, because that would hit hardest in states such as Texas.

Mr. DIXON. Mr. President, I have asked unanimous consent to place in the RECORD an article from the Chicago Tribune of June 25, 1990, entitled "Experts See S&L Drain on Midwest," and this article is replete with all of the record about the devastation to the Northeast and the Midwest of this country to the tremendous advantage of the State of Texas.

Mr. President, I read to you from the world's greatest newspaper, the Chicago Tribune. It says so right on the top of the newspaper, Mr. President.

Seeing red over the thrift bailout.

Pardon us hayseeds in the Midwest, but we've had it up to the top of our bib overalls with the savings and loan bailout.

Instead of working together to clean up the mess, the politicians in Washington are bickering over who's to blame and now the economists are telling us what we suspected all along. We're going to have to foot a huge chunk of the multibillion-dollar bill for the fiasco—one we had little to do with creating.

Mr. President, I am not going to read it all but down here it says, "One economist, Edward Hill, of Cleveland State University, has tried to compute the amount States will receive from the bailout," and so forth. "The Midwestern States are big losers," mentioning Illinois, Wisconsin, Indiana, Michigan. "The Northeast, according to Hill, will bear an even heavier burden"—mentioning Connecticut, Massachusetts, New Hampshire, New Jersey, New York. "But Texas,"—Texas, Texas—"the biggest winner, will realize a net gain of $4,775 per resident * * *. It's enough to make you want to place an order for bumper stickers that read: Let Texans rot in their empty skyscrapers."

I did not say that, may I say to my friend from Texas—the Tribune.

Mr. President, nobody has a greater recognition of the value, the intellectual capacity, and the ability to articulate an issue of the Senator from Texas than this Senator. Nobody loves to have an argument with the Senator from Texas more than this Senator, or who has a greater admiration for him on a personal basis. But he comes here like the child who murdered his father and then went to court and asked that the court be kind to an orphan.

Texas thrifts used this money of our country to lend to build unrentable office buildings, condo projects, and other things. These absolutely useless projects generated thousands of jobs and billions of dollars of economic activity in Texas, and now that these economic projects have gone belly up and now that they are without these benefits, they come to us and they ask us to pay the bill.

Let me say this in conclusion. There are not very many places left where the poor, old Northeast-Midwest part of this country with its great cities gets a little help once in a while—not many. The CDB grants are one.

Mr. President, historically, for decades, long before I came to the United States, Senate, my State of Illinois has been 1 of the 15 losers year after interminable year. For decades we have sent more money here than they have sent back to us. Now my friend from Texas wants to take this pittance, this pittance for the poor in the inner cities of America, after the administration he loves so stripped us of the money for urban areas of America, left us to work the best will we can in our own way, for his State. I think that is an unacceptable, greedy attitude to take.

I ask my colleagues to express their outrage at this last groveling attempt to tear off what little is left for Texas. How about the rest of America, the 49 other States? How about a bow in their direction just once in a while so that the rest of the country can enjoy the great largess of this great Nation.

I urge my colleagues to support the amendment of the Senator from New York; if it fails, to oppose the amendment offered by the Senator from Texas and to leave the CDBG Program in the manner in which it is now formulated which I consider to be the appropriate manner.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I do not intend to take only a moment or two.

When we talk about per capita income in terms of attempting to measure wealth of a State and its contributions, there have been a number of studies which indicated that that simply is inappropriate. As a matter of fact, it is the assets that a State may have, the underlying assets, whether they be gas or oil or whatever, that give great value and strength to that State. That is certainly something that was not alluded to.

But let us take a look at New York in terms of what it does, in terms of its burdens. From fiscal years 1981 through 1988, New York received 7.4 percent of Federal spending and it shouldered 8.5 percent of the Nation's tax burden. So while it received 7.4 percent, it contributed 8.5 percent of that tax burden, and it was home to 7.5 percent of the Nation's population.

Surely, under any statistic, it had a greater population than return. In terms of taxes which went to Washington and returned, it was less.

I will give you statistically where we end up. If New York's share of total Federal spending had equaled the share of the Nation's tax burden during the fiscal period 1981 to 1988, the State would have $59.6 million more. If we had received the same amount that we put in—New York was not given any great largesse—we would have received $59.6 million more. If you had taken it on the top population basis, we would have received $700 million more.

Mr. President, there are different ways we can play with figures. To come to the floor at this point in time and to suggest that we just adopt a formula—one which is as simplistic as simply population as the criteria when we are talking about needs for housing for the impoverished, for the homeless, we are talking about giving communities and inner core cities the ability to determine those needs and to meet them—is simply unconscionable.

I tell you it is as unconscionable as the amendment that the Senator from New York puts forth. I said that. I said that in my statement.

So when my good friend the Senator from Texas says it is outrageous, he is right. My amendment is outrageous. It is intended to demonstrate how outrageous coming to the floor and saying that a program as complex, where the needs are for the poor and for their housing, should be distorted simply on the basis of population, is absolutely correct. That is why I hope we will defeat that amendment.

If we are talking about changing the formula let us go forth with the kind of study necessary in detail, a study that we could have debate on, a study that would give us in the Banking Committee the opportunity to establish what criteria should be or should not be. But not simply a population basis, because it happens when applied to this particular program, helps certain States and disadvantages others. I do not believe that is the best way of undertaking this. I think we want to do it on the basis of fairness and need.

This Senator does not suggest that there may not be additional criteria, or that weighting various factors as it relates to the distribution of these funds should not be considered. But I certainly would say it is simplistic to say that the formula should be changed simply on the basis of population.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I rise in support of and to comment on the amendment of the Senator from New York and in opposition to the amendment of the Senator from Texas. I thank the distinguished Chair for his comments, which I think were strong and to the point, and important in the context of this debate.

This proposal is not just unfair, but it goes against the original intent and purpose of the Community Development Block Grant Program. A proposal to now distribute those funds which were distributed for the past 15 years based on a carefully constructed committee input formula which we have seen work and now suddenly on the floor, without the hearings, without the input of the administration, or the agencies involved in the process, I think is not only ill-advised but it also winds up being cruel.

There is no rationale for a population-based formula. You might have an increase of population in a State where it has an entirely new infrastructure, new roads, new buildings, new factories, new industrial parks, because of the more recent influx of population and a very solid tax base. And you could have a part of the country where the tax base is diminishing, where people are moving away, where you have the hardest hit drug areas, the oldest housing, the oldest infrastructure, and the product of neglect over these past years because we have been unwilling to invest in these areas, and all of a sudden we are going to say we are going to defy the formula, strip money away from those areas, and give it to the people who have absolutely no shown need whatsoever merely because there are more people who live in that particular State. It does not make sense.

It goes back to the very formula of the original revenue-sharing program and the distinguished Senator from Texas was one of those people who was most adamant about getting rid of that program in the first place. It surprises me that the distinguished Senator from Texas, who usually does proceed through the committee basis and who is a member of the Banking Committee, did not raise this in the course of our work which has gone on for 3 years on this bill.

We have had 3 years to work out this change in formula. We have had countless opportunities to work with the groups that are affected by it. And that has not happened here.

This amendment would arbitrarily slash money from some areas and arbitrarily, without any review by the Congress, grant it to other areas.

So I assert again that there simply is not a rationale for creating a general revenue-sharing program out of CDBG when for 15 years that is not what it has been. The Secretary of HUD, Jack Kemp, opposes this change. The Conference of Mayors opposes this change. The National League of Cities opposes this change. And people who have been part of and worked in this program oppose this change.

As the distinguished Presiding Officer said, and as the Senator from New York has said, this is a grab. There is not any mystery about this. The arguments are seductive. What could be fairer than giving out this money on a population basis? Why discriminate against the newer communities and so forth? That was the original battle that was fought a long time ago when the CDBG Program was created in the first place.

Mr. President, in fact, the original intent of the CDBG Program is more real today than it was when it was originally passed, precisely because of the impact of the programs that the Senator from Texas has backed so wholeheartedly. There has been a stripping of housing, a stripping of the urban assistance programs, a stripping of most of the programs that assist our communities. The crippled, hurt, States in those regions of the country where there is now a recession, have had to rely on the CDBG Program as a sole source to make up for the impact of these cuts over these past years.

In the Northeast right now we are in a recession. Right now State and local budgets are in a state of disarray. We are already raising taxes right now. In addition, yesterday the President of the United States told us a tax increase is necessary. He told us that spending cuts are required.

So here we are with the President now saying that the Government is in less of a position to help, a role that it has often played in the past to help regions out of recession. And now we propose to contribute further to the decline by creating some new arbitrary formula that has no relationship to need and taking money away from those areas that already hurt.

Mr. President, I think the Senator from Texas, I know the senior Senator from Texas, understands this deeply. This amendment has the possibility of creating enormous regional animosities, of tearing us apart at a time when we are calling on citizens in this country to come together in an effort to try to deal with economic problems that abound around the country, the savings and loan crisis being one of them.

It seems to me that the Senate, the Congress, and the legislative process do not benefit from this change. In fact, I think that the formula change would result in a negative impact on our process of legislating that would go far beyond any of the monetary benefits that any individual States might gain.

Let me be specific. A farm bill is going to come to the floor very soon. Hidden in the nooks and crannies are

goodies galore for every segment and subsegment of American agriculture. But without regional cooperation that bill is not going to pass the U.S. Senate in a reasonable form.

If we set a precedent today of coming in without committee input, without agency input, and of just putting together an arbitrary slash and burn policy with respect to the CDBG's, then I would suggest that we are going to set a precedent for a different kind of formulamaking and the repercussions of that are going to play out as we debate the farm bill, a debate which would subsequently, I think, last for a long, long time.

Moreover, Mr. President, there is little guarantee that this redistribution formula is going to result in program funds reaching the community development programs that it was originally designed to serve.

The law says this program is for low- and moderate-income persons. I believe that any legislative analysis will show that the current formula has been carefully crafted and is a needs based formula which allocates very scarce resources on factors or on proxies of need that include the following: the extent of poverty, of population, overcrowded housing, growth lag, and the age of the housing stock. The current formula is obviously highly targeted as a result of these indicators of need with the most distressed cities in the country receiving up to 3.7 times the funding that the least distressed receive.

Population by itself now is not one of the proxies of need with respect to the most deteriorated neighborhoods that fall under this program. The program has three statutory objectives: No. 1, to primarily benefit low- and moderate-income persons; No. 2, to remove slums and blight, and No. 3, to meet other urgent needs where those conditions pose a serious threat to the health and welfare of the community.

I think that these objectives are appropriate. They are precisely why we ought to be distributing and trying to allocate the economic pie and the revenues of this country through a special targeted needs program.

The CDBG Program is also at this point in time the largest and most important source of Federal funding for the States, cities, and towns. I think it has allowed them, if you were to review how the funding has been put to use, to improve the physical, economic, and social conditions in their communities. I am not going to go through each of the programs, but in the 31 or so cities and towns that qualify in Massachusetts we have had an extraordinary capacity to address the kinds of urban blight and need that I have just talked about. We simply could not have done it without this program.

Now the Senator from Texas has suggested that there is an inequity in our trying to talk about the amount of money that goes out as a result of the savings and loan. I agree with the Senator from Texas, that there are investors from other parts of the country. That is accurate. There are people whose money is drawn to Texas. But the simple reality is, Mr. President, that those people were drawn by virtue of a State government policy. They were drawn by a government policy which, as I said earlier, saw the State-chartered thrifts rise at a 160-percent higher rate than the deposits of anywhere else in the country.

Why did that happen? Why so much money to Texas? Because Texas bent over backward to make it attractive in those State-chartered institutions, and because the regulators there were willing to create a differential with the rest of the country. And the differential, Mr. President, was a differential in responsibility. Other parts of the country were more responsible about their banking practice and how they were to attract money.

So now we are asking citizens of other parts of the country, whether or not they are directly repaying other citizens or not, to respond to a Texas government policy. That is a fact. As a result, we are paying that enormous differential which I just described.

The S&L bailout, we are told, is going to be $250 billion, $300 billion, $400 billion? We do not know exactly. We cannot even get those precise figures at this point in time. But 70 percent of the amount is going to be paid by the American taxpayer.

The State of Texas, as has been pointed out, and, as I pointed out in the Banking Committee a week ago, pays about 7 percent of the Nation's taxes. But it is responsible for 59 percent of the bailout costs. What that means is that for a citizen in my State you cannot differentiate. The Senator from Texas can sit here and say, well, some people deposit it from here or there. It does not matter. The guy in South Boston, Worcester, or New Bedford, sits there and says I am paying 1,000 bucks of my money and it is not paying my mortgage. It is not going for my kids' education. It is not going so I can pay my bills. It is going to Texas. It is going to California. That is where it is going.

The fact is that on average in Texas, the residents receive $4,775 in benefit. You cannot call it anything else. It is a benefit. We are willing to do that. It has been done. That is accepted. But apparently that is not enough now. Now Texas is going to come in here and say we are going to take the formula away, change it; we want population, we want more.

Mr. President, I think this is extraordinary. Texas banks were willing to take enormous risks with other peoples' dollars. What it means is if they succeeded, they won. If they failed, we lost. It is like the old flip of the coin. You know: Heads I win, tails you lose. But in point of fact, in this case, the State of Illinois lost, the State of New York lost, and the State of Massachusetts lost.

Mr. President, from Massachusetts, we have almost a neglible cost of S&L losses, almost negligible at the time we passed FIRREA. Notwithstanding that, our citizens have to be told why it is that we are bailing them out. We try to do that. But I think if we are going to talk abut fairness on the floor of the U.S. Senate, if we are going to talk about fairness, then let us talk about the legislative process of the U.S. Senate.

Fairness dictates that we understand the impact, why we are doing this; that there be a rationale worked out in committee; that the committee have a chance to talk to the agencies who administer it; that we go through a process of deciding what the impact would be, and we make a more rational decision than suddently coming to the floor with this new formula to change 15 years of process by which we have administered this program.

So, Mr. President, if we are going to talk about equity, then I think that the proposal of the Senator from New York proposes equity, tit for tat, same or same. If we are not going to do this, I think it would make sense for both of these amendments to be pulled down and to come up with some kind of compromise that makes sense in terms of the long-term interests of both of our States.

I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The distinguished senior Senator from Texas.

Mr. BENTSEN. Mr. President, on the matter of equity, I cannot help but think back to some of the things that we have done when different parts of the country have been in trouble. I look at the State of my distinguished friend from Illinois, and I can remember Continental-Illinois Bank going bankrupt. They said, "We cannot let it go broke because it is too big a bank, too big an impact on the credit institutions of this country. We are going to step in not just to save the depositors, but to save the shareholders of that bank."

I agree with that; I thought that is what we should have done. I supported that. But then I watched the banks in Texas get in trouble, eventually. I watched the biggest holding companies in the State of Texas getting in serious trouble. I saw families that spent their lives, and their fathers before them, in the banking institution. They were conservative bankers, and I watched them go broke. The reg-

ulators then said, "Let them go broke; let them go under."

I look at a situation today where I do not know of a major holding company or bank that is controlled by people from Texas anymore; they are controlled by people from other States. I see scavenger funds coming down to Texas to take advantage of those situations.

I watched the depression in Mexico. It cut our trade with Mexico, and it cost us some 50,000 jobs. Forty-five percent of our exports from Texas go to Mexico, so we were hit by that. It was not our fault that that happened.

We watched the same thing happen to the oil industry in our State. Twenty-seven percent of our economy depended on the oil industry, and it put those folks out of jobs. Those were high-paying, skilled jobs.

Those are the compounded things that have happened to my State. The fault of the State? Part of it. I agree with that. But I watched the Federal Government come in in the era of deregulation, not just on S&L's, but other financial institutions, too.

I watched a situation where from 1981 to 1985 the examiners we had to check on the institutions were cut. I watched that deregulation, and the Government said, "Go for the gold, fellas." I watched the 1986 tax bill and what that did to values of real estate. I watched them make it retroactive, as they took their stand on passive losses in the 1986 bill.

I fought it with everything I could fight it with. I said that this is a serious, drastic mistake. Making it retroactive, you change the rules. For example, in a typical deal someone bought a piece of commercial real estate with the idea that they had a cash flow there. The general partner sold pieces of it out to limited partners. All of a sudden, the crowd in Washington changes the rules retroactively.

Suddenly that cash flow is not there. So what does the limited partner do? He drops it. He has no personal obligation. He gets out of the deal and it goes back to the general partner, it comes in from all directions to the general partner. What happens to him? He goes bankrupt. He is personally on the line for that one. Then where does it go? Then it goes to the S&L and all of sudden they are engulfed with them, covered up with these deals.

The oil market has gone to the pits. Those people cannot afford to make a payment on their homes any more. The 50,000 jobs in the export business are gone due to Mexico. Those people cannot make the payments on their homes, any more. Those are the things that have hit my State.

Talk about recession. We have had a full-blown depression in my State. Talk about per capita income. Do you think the lowest per capita income is in West Virginia? Do you think it is in Mississippi? No. It is in south Texas—that is where I was born and reared—and we have not recovered from that.

Those are my concerns.

I looked at the problem of the bailout of New York City. How do you think the people in Texas felt about the bailout in New York City? Not very friendly; not supportive, because, competing with the show "Dallas" on TV that is supposed to typify Texas in many minds, which is outrageous and ridiculous, was the idea in Texas of all that big money in New York. A little jealousy there? Sure. But this Senator stepped up and voted for the bailout of New York City because he thought it was important to our country and the stability of our country. It was a great city, it was in trouble, it had excesses, and it should have a chance to recover. I supported that because I thought it was right for our country.

So the problem is now with Texas. I have fellows who sidle up to me, friends of mine, kidding me—on the square, I guess—and say, "I am sending $4,000 per capita from my State back to your State." I do not think that is right.

I look at this study put out by Prof. Edward Hill, of the Cleveland State University, saying that you have 37 States shifting resources to 13 States. He even came up with per capita figures. But that study is very basically flawed. In fact David Rosenbaum, writing on the front page of Monday's New York Times said: "Many economists do not accept Professor Hill's numbers or methodology."

Of course, the point has been made earlier that these deposits were bundled up and sent from those States that had the most discretionary income, had some of the highest income, and sent down to the S&L's in Texas that had interest rates that were exorbitant and should not have been that high. I agree with that. There was a substantial amount of mismanagement, but along with it were some good managers that went down the tube along with those who were not good managers and were guilty of malfeasance.

The next question is one that we have had before this body in the past. This amendment that we have before us is not the one I would have chosen, with the formula based purely on population. I think you have to do it on more than that. But I think when you load the existing formula on age of housing by a factor 2½ to 1, I think that is wrong because I look at mansions down in Georgetown, $1, $2, $3 million, and they get credits for that under current law. Then I go down to Brownsville, TX, and I see them put up poor Mexican-Americans in tin sheds, like they did last year, that do not have running water. We do not get credit for that. I do not think that is right. I think it is a flawed formula, and I think it is one that ought to be worked over by the committee.

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. BENTSEN. Yes.

Mr. KERRY. I share with the Senator his feeling about the depth of the depression. I understand, and I know those banks indeed are now owned by non-Texans.

I ask him if, procedurally, as the chairman of the Finance Committee, he does not think that, if this were a proposal that had not been approved by the Finance Committee, he would sense there was a need to have the committee study it and look at it? Maybe there is a need for some adjustment with respect to Texas, but not to come in this form at this time and arbitrarily go at it. I wonder if the Senator would entertain that.

Mr. BENTSEN. No question. I do. But I have historically not negated or precluded amendments from the floor that are germane, and apparently this one is, and I have been concerned about the formula that has been utilized for some time.

Mr. KERRY. I think the Senator will entertain the concept of perhaps trying to see if we could reach agreement on language which engages the Secretary of HUD in some kind of analysis of this issue so we can know really how we are proceeding and perhaps put a timetable on it and proceed that way as opposed to the way we are.

Mr. BENTSEN. Of course, we can. But I am not the author of the amendment.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. BENTSEN. I am delighted to.

Mr. RIEGLE. On that same point, I would like, if I may, to follow up for a moment on what Senator KERRY said.

I have before me a proposal for such a study that apparently is in the House version of this bill and let me just give the Senator an indication of what it says because we are obviously in a stalemate situation.

I think it is fair to say this amendment as now drafted is a killer amendment. If it goes on this bill, I do not think you are going to see a bill. That is the judgment of this Senator looking at it from the point of view of being chairman of the Banking Committee.

Here is what the House is proposing. And like the Senator from Massachusetts, I am interested in the problems of Texas and I want to help solve them. Every State in this country is important to all of us, and, if we have a situation that requires a fresh look, then it ought to be taken, and I, for one, will see it is taken.

But the House has proposed as follows:

The Secretary of Housing and Urban Development shall, not later than June 1, 1993, report to the Congress with respect to the adequacy, effectiveness, and equity of the formula used for allocation of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the structure of the formula's eligibility criteria, the formula factors, and the actual weight that is assigned to the formula factors.

This is a point that the Senator from Texas has been raising.

The study would also specifically examine the appropriateness of using pre-1940 housing as a factor, without considering the occupants of such housing, effects of increasing emphasis on poverty, and effects of grants caused by the increasing number of entitlement communities. The study will be completed using the data derived from the 1990 census, which will give us up-to-date information. The House bill includes the study of the CDBG formula.

I am concerned that this matter has not come through the committee. Of course, our colleague from Texas, who is offering the amendment, serves on the committee. This issue should have been raised in the committee. It was not studied and debated in the committee. But I would certainly be willing in the normal process and in one manner or another to spell out the fact that we will get this issue up in some responsible, timely, studied format and take a look at it, evaluate it, and if adjustment is warranted, let the facts bring that forward.

I will say this: Until we go through that kind of process, involving the Secretary in the Cabinet responsible for this, in an orderly way, I have to tell the Senator that to throw out the old formula, which is a distressed-based formula, to put that aside because we have a version that we think is fairer, at least with respect to our own individual State circumstances as we know them is not the way to properly settle that issue. That does not necessarily prove, nor have I heard the Senator argue, that there is not distress in the other States, and that it may be as severe. We are not saying that at all, and I appreciate the fact the Senator is not implying that. We do not want, in effect, to take money from one distressed community and just send it off to another distressed community. We do not want to rob Peter to pay Paul here.

If we have a problem that is not being recognized, we may have to change the formula and have to also increase the number of dollars in that program to pick up the needs of Mexican-Americans or others that may be in the areas which the Senator speaks of with more recently constructed but clearly substandard housing. This problem is something that we will need to understand better, and need to consider if it is of a size in that area of Texas that the Senator describes.

I see the Senator's colleague is on the floor. I am wondering if there is a possibility, along the lines of what the Senator from Massachusetts has said, that we could work out an understanding here to include in the bill a study of this sort, patterned after what the House has included. We can obviously state it in the fashion that we would like and not try to alter this formula, as complex as it would be to change it on the floor here. That will not work in the view of this Senator.

Rather than jettison the whole housing bill, I think we would be much better off to set ourselves in motion on a process that can give us an answer on a timely basis to precisely the questions that the senior Senator from Texas is raising.

Mr. BENTSEN. I say to the distinguished Senator that, of course, that is the prerogative really of the sponsor of the amendment, who is on the floor now. I would suggest that it be taken up with him.

Mr. RIEGLE. In any event, I will yield the floor. I do want to make a full statement on this issue a little bit later. But I would like to put that out on the table because I think it is a reasonable solution to this problem and I see no other way out. But I appreciate the comments of the senior Senator from Texas.

The PRESIDING OFFICER. The senior Senator from Texas still has the floor.

Mr. SARBANES. Will the Senator yield?

Mr. BENTSEN. Yes.

Mr. SARBANES. First of all, let me say to the Senator, we appreciate the thoughtful way in which he has gone at this issue. And I do recognize that repeatedly in the past, the Senator from Texas has taken a national view of problems with which we have confronted and has seen a national responsibility to address problems that may be regionally focused. He alluded, of course, to his support of the loan in New York City, for example, which proved itself out. In fact, the Federal Government in the end made some money from that loan. It did not lose money. That was not my State, but I supported the loan on the same rationale.

The situation we have had here is that the Senator from New York would never have offered this amendment with respect to the savings and loan money—because he has conceded in his own statement that he recognizes his broader responsibility—if the amendment had not been offered by the junior Senator from Texas.

Mr. D'AMATO. I might go a step further, with the indulgence of the Chair, if I could respond. That amendment, in the second degree which I offered, is mischief making. It was intended to make the point that if we are going to break down into this regionalism and looking at one as opposed to the other, it flies right in the face of what the distinguished senior Senator from Texas has talked about, about coming to the aid, whether it be in Illinois or in New York.

I certainly do no object, nor do I think anyone else does, to reasonable recapitulation of a formula in the proper manner. But, you do not come forth and offer a total deviation of a formula that was put forth based on need, and now make it one that goes back to general revenue sharing based on population. I believe that is totally inappropriate, particularly since it did not have the hearings there should have been.

So I confess to that and I would not have come forth with that kind of an amendment—it was to demonstrate and to make the point—nor do I think that we enhance the body by doing that.

Mr. SARBANES. I think the Senator from New York made the point very effectively.

I do say to the junior Senator from Texas, who I now see on the floor, that it seems to me an extraordinarily opportune time for him to be coming with his amendment when there is increasing discussion in the press and amongst the Members of the Congress about whether the S&L bailout does not, in fact, represent a major shift of resources in this country.

Now it is a reasonable issue. I know the Senator has reacted very sharply to its being raised, but it is increasingly being discussed and may have to be addressed.

Let me make this point because both Texas Senators are here now. This housing bill is important for Texas. This is a good housing bill that we have here. It will enable us to get at the problem of affordable housing, of trying to meet the housing needs of our lower income citizens everywhere in America—Texas and each of the other 49 States.

So, this is a good bill. It is a good bill for the country. It is a good bill for each of the States in the country.

The amendment on the community development block grant which has provoked such strong opposition—my State would gain money under the proposal of the junior Senator from Texas. If the community development block grant were allocated on population only, without relationship to this formula, which tries to weight poverty and housing needs and so forth, my State would get more money than it gets right now.

However, I oppose the amendment of the Senator from Texas because I think the community development block grant ought to go out on a for-

mula basis. I think most of the items that are in this formula are the right ones. I do not mind looking at the formula to see whether you should change some of the weighting or include some of the other items. That is a legitimate part of the legislative process and that is what the Senator from Michigan has suggested.

But, I do not favor scrapping this formula, which is designed for certain purposes, and to put it on a population basis, and I would not favor scrapping other formulas, many of which the chairman of the Finance Committee has devised over the years as he has dealt with legislation directed to a particular problem.

If the problem is in my State to an inordinate degree, then we profit from such a formula. If it is not, we become contributors. What does a union mean? What does it mean to have a union of States if we do not engage in this effort to, in effect, use the national resources to help address the problems which may exist on a regional basis.

So I think the mischief making, if I may say to the Senator from New York, the real mischief making here, was in the initial amendment offered by the junior Senator from Texas. That is an amendment which jeopardizes the entire bill. It is an amendment which has provoked the amendment of the Senator from New York and has provoked this debate.

If we want to have these kinds of debates, fine. We are prepared to go at it and we have done it. The junior Senator from Texas has made the points the deposits flowed into Texas; that the deposit insurance is covering widows, orphans, and children, which is quite true. But the fact of the matter is that the GAO has shown that in two-thirds of the institutions that failed, that required the payment of the deposit insurance, it was because of fraud and abuse on the part of the management of those institutions who, in effect, siphoned resources out of the institution and into their own pockets.

Now that benefit was essentially a localized one. We have undertaken to honor the deposit insurance. We cannot get away from the fact that the deposit insurance payment is for perfectly innocent people. But, the people who provoked that situation and require the payment of the deposit insurance were not entirely innocent people.

The PRESIDING OFFICER. I think it is going to be necessary to remind Senators that the senior Senator from Texas has the floor.

Mr. BENTSEN. Mr. President, I have the usual problem that Senators have of trying to be two places at the same time. I have to get back to the budget summit meeting. I have expressed my views and concerns. I appreciate the offer the Senator has made.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. MOYNIHAN. Will the Senator yield for one comment?

Mr. RIEGLE. I thank the Chair. I will yield just a moment for a comment from the Senator from New York.

Mr. MOYNIHAN. Before the Senator from Texas has to leave the Senate.

The PRESIDING OFFICER. The Senator from New York State is recognized.

Mr. MOYNIHAN. Can I just say, before the day is out we shall hear again of the New York City bailout. The New York City bailout made money for the Federal Government.

Mr. BENTSEN. Oh, Let me say to my friend, I do not question that.

Mr. MOYNIHAN. The Senator says he does not question that. It was a loan repaid with interest.

Mr. BENTSEN. I agree. In response to the hits I took in Texas over supporting that loan, I have cited that time and time again, that it made money. But at the time, my friend, it looked pretty shaky. We were delighted to step in and do what we did, and you in New York performed well and we got our money back. I would say the same thing about Chrysler, and I say the same thing about Continental Illinois Bank. In each instance we got our money back.

Mr. MOYNIHAN. But a prudent Texas bank might not have made the loan. The Federal Government needed to do it. I thank the Chair.

Mr. RIEGLE. Mr. President, let me add another statistic to this debate on the second-degree amendment that I do not think has been mentioned. I appreciate the fact that the Senator from New York [Mr. D'AMATO] has made it clear that he is offering his second-degree amendment to make a point, not to enact it but to make a point as to the lack of good sense in the first-degree amendment. I strongly support his point on that.

With respect to the debate that has gone on about the money in the savings and loan recovery effort going disproportionately to Texas, we talked about the number of institutions in Texas, State chartered institutions in Texas and California, that constitute the overwhelming majority of the number of failures in the country as a whole. In fact, looking at the cost of the total thrift resolutions, year-by-year—this takes two States, although I would have to say that Texas is the overwhelming part of this and I could give the breakdown—in 1987, 54 percent of all the losses in the country in the savings and loan system were by State chartered institutions in Texas and California. Coming ahead to 1988, that figure jumped up to 70 percent for State chartered institutions in just those States. In 1989 it was 62 percent. Thus far this year, according to the Office of Thrift Supervision, it is running about 57 percent. They expect that to go higher.

So the overwhelming majority, two-thirds at least of the total losses have been there. But with respect to the deposits, and insuring the deposits, and paying off the deposits out of the Federal insurance fund, the next question is where did the deposits go? The deposits were overwhelmingly invested in assets in those States.

Listen to this. As of June 12, which is the most recent data we have, the RTC, the Resolution Trust Corporation, is having to take back real estate properties from failed savings and loans. They had taken back 35,908 properties across the country, almost 36,000 different real estate properties. The estimated that those properties had a book value of roughly $15 billion.

Of those properties, over 19,000 of them, of the individual properties involved, or 53 percent of the total number of properties, were in the State of Texas—not in any one of the other 49 States but over half were in Texas. Moreover, if the Senator looked at their percentage of the total asset value, the book value of those Texas repossessed assets was $10.2 billion, or 68 percent of the asset value of all those properties now under the control of the RTC.

So, if my colleagues want to know where the deposits went from, say, the woman who was cited earlier who might have $70,000 in an account—yes, we provided the Federal insurance to pay back her deposit. But her deposit went overwhelmingly to new investment in Texas in these very assets that have now come back to the Federal Government. And 68 percent of the total assets, the total value of the assets now held by the Government, are in that State.

What that means, as others have pointed out in these studies, is there has been an enormous transfer of national wealth across the country from the other 49 States into the State of Texas because the money that was invested in those properties now represents the physical assets that are in repossession and have come back to the Government.

We are not talking about chicken feed, we are talking about book value in excess of $10 billion. That is a heck of a revenue-sharing program.

Of course, we are about to send the super collider down to Texas. I think the price tag on that is somewhere around $11 or $12 billion. It keeps going up. It is hard to keep track of it all.

But, if there is a flaw in the formula, and if there is unique distress in Texas

or other States, we ought to know about it. We ought to respond to it. We ought to go through the normal process, look at the formula, see if it needs revision and take a look around the country.

I do not think the sponsor of an amendment can come in here and say we really want the money disbursed in a problem area on the basis of distress—take the savings and loan situation, most of the distress is in Texas so most of the money goes to Texas—but then turn right around and say but here is another program where the money is being sent out around the country based on distress but we do not want you to use distress in that area to make the determination. We want a fair share.

If we applied the fair share thinking to the savings and loan recovery effort, Texas would get a very small share, instead of over half of the money which they are now getting.

The Senator cannot have it both ways. He cannot come in here on a program that responds to a severe problem and on the one hand say we want the lion's share of the money because most of the distress is in our State and, once we have settled that, not let us go over to this program but we want to change the rationale over here. We do not want the money in this program being passed out on a distress basis because we do not get enough that way. We would like to change it and we will go to a fair share program.

He cannot have it both ways. If we are going to have programs based on distress, then the money has to go where the distress, by formula, is found to be.

If we were to follow the formula in this basic amendment offered by the Senator from Texas it would mean in the case of the Mount St. Helens volcano eruption, that instead of sending the money which we did send out to that State to cleanup from the problem, following the rationale that he is offering here there ought to be a fair share formula and some of it ought to go to all 50 States despite the fact that the distress is in one area. Send the money everywhere.

That does not make any sense. First of all, we do not have that kind of money to give away these days. We have a very limited amount of money and that is why it has to be targeted in the areas where the greatest problem is. If the formula needs revision, if it needs a fresh look, let us take a fresh look.

The House has a proposal in their bill to look at this. But this was never presented in the committee. I say with all due respect to the Senator from Texas, a member of the committee, he did not offer the proposal in the committee. There was not a minute's debate on this. We have had no hearings on this. We have not heard from the Cabinet officer and the executive branch on this subject. Not a word has been said on it because it has not been a subject of focus and of concentration.

This is not the place to change a formula of this importance and magnitude and especially when the logic is so contradictory. I mean, we cannot have a situation where right now the whole country is digging down deep into its pocket to send a ton, multibillions of dollars to Texas, not just to reimburse deposits but to cover the investments in real estate and in fixed assets in the State of Texas, and turn around and say yes, we want all that money with the one hand but we are not prepared to see a distress formula used in another program that sends money in disproportionate amounts but aimed on the distress levels in other States. That is not consistent. That is not fair. That is just not logical and it is not sound.

That is why it is a killer amendment. If that were placed on this bill at this time under these circumstances it torpedoes the whole housing bill because, first of all, it is extraneous to the topic we have up under debate here. I know an argument could be made that it indirectly relates to this so we ought to bring in in here and so forth. But there are orderly procedures to follow in the event we are going to move in that direction and in my view they were not followed here.

That does not mean the Senator cannot offer an amendment on the floor. He is perfectly within his rights to do so. But that does not carry with it any compelling logic that we should make this kind of a change, and particularly in light of the fact, as I think is illustrated by the second-degree amendment of the Senator from New York, that there is an inherent contradiction built in. This is an enormous transfer of wealth from around the country down to Texas, to pay for the failure of these State-chartered thrifts in this massive investment in real estate and fixed assets in that State; at least 10 billion dollars' worth, right now, this minute, in that State is represented here. In a sense it is a massive transfer of national wealth to that State.

I yield to the Senator from New York.

(Mr. GORE assumed the chair.)

Mr. D'AMATO. For purposes of attempting to review the legislation, I think the Senator made a point. I think it bears repeating. We eliminated general revenue sharing because we said: First, we could not afford it, and second, it was not targeted. It was on per capita; is that not correct?

Mr. RIEGLE. That is exactly right.

Mr. D'AMATO. Now if we were to accept the amendment of the Senator from Texas, would it not be revenue sharing without there being any attached purpose as it relates to dealing with the infrastructure of the old cities and housing and the deteriorating problems they have?

Mr. RIEGLE. I agree, in effect, that is what it becomes. It becomes a formula that is, in fact, a general revenue-sharing formula.

Mr. D'AMATO. The Senator was engaged in intensive negotiations, as were other members of the Banking Committee, dealing with this housing bill. Was not the primary concern of the administration and Secretary Kemp that of targeting aid to those areas that were in greatest need and distressed?

Mr. RIEGLE. Absolutely. In fact, if I heard him correctly today, my understanding is he opposes this amendment.

Mr. D'AMATO. That was my understanding, and my next question was: Were you given to believe by the Secretary that he opposes this amendment?

Mr. RIEGLE. That is my understanding with respect to the underlying amendment offered by the Senator from Texas.

Mr. D'AMATO. I was given that same understanding. I just make the observation, I believe notwithstanding, and we are not attempting to create regional problems here, but the Senator, as he related not only to the history of this funding and the formula and the necessity for having a formula that is based on need—a need—that what a terrible tragedy at this point in time when there is so much in the way of pent-up frustration, anger of the American people to be coming forth with a formula that would strip away desperately needed revenues to those who are, again, in need.

I want to commend the Senator from Maryland and most of our body who year after year have stood up and said, listen, notwithstanding the application of a particular formula, if it were to be changed, might not give our State more money, but we are basing our support on need and getting it to those who do need. That is what I believe the Senator from Maryland was attempting to make as his point, and the Senator from Michigan. I just want to attempt to reemphasize. We had a general revenue-sharing program, which is exactly what this amendment would be, putting us back into that and not based on need. That would be a terrible disservice.

Mr. RIEGLE. I know there are others standing and waiting to speak. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, when I first heard the junior Senator from

Texas was going to offer this amendment, I asked my staff to get me a copy because I could not believe that the Senator from Texas would offer an amendment which, indeed, he has offered so transparent in its perversity, in its greed, in its contradictory nature and, most of all, in the fact that it is self-defeating and will not achieve the objective that he says it is to achieve.

I say the amendment is perverse. Let me explain why. The amendment is perverse because it says that we should distribute CDBG money to our States solely based on population, and it would, therefore, repeal the factors in the existing formulas which measure various kinds of need, such as poverty, such as crowding, such as age of housing stock, such as loss of population.

So the perversity of this amendment is that if you have two States of the same size, and they might be right next to each other, and if one State were very poor, had a very large number of poor people, and those people were crowded several to a room, if the housing stock was dilapidated or if that community or State was losing population and, therefore, its tax base and right next door to it was a State of the same population with no poverty, where everybody lived in a large mansion, one person for every two or three rooms, where housing was all brand new, like some of those vacant office buildings down in Houston, and where there had been a migration of people into that State so that the tax base was healthy and strong, under the Gramm amendment, we would treat the rich State with the same population exactly the same as the poor State.

Mr. President, that is perverse, and that is as mild a word as I can find to describe it. But if the junior Senator from Texas wants to be consistent in the perversity of his amendment, then maybe what we should do is distribute the $100 billion of the S&L bailout not based on where the troubled institutions are, but based on population. That way the taxpayers in my State would come out about $4.5 billion better off than they are going to come out. Maybe we should distribute disaster assistance not based on where there is a tornado or a flood or an earthquake or an eruption, in the case of Mount St. Helens, but based on population, and then everybody can make a contribution to the Red Cross and we will send it to those affected indirectly.

Maybe what we ought to do is distribute farm program payments not based on crops, not based on where farmland is, but let us distribute our farm program payments based on populations. So instead of paying wheat farmers a support price, let us pay people a support price so they can go buy the wheat in the form of bread and let people make a choice as to whether they like Kansas-wheat-made bread or Iowa-wheat-made bread. Let us really go in for population basing.

Maybe, rather than spending money for cotton growers in Texas and California, what we ought to do—rather than spending that money so that it goes to those cotton growers in the form of price supports—is to give the money based on population to people for cotton clothing. I am wearing a cotton shirt. Why do we not just give the people the money so they can decide whether they want a cotton shirt or a pair of Levis or a wool sweater? Maybe that would help our sheep farmers.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. HEINZ. Not yet.

Mr. D'AMATO. Just on the cotton shirts. Would it just be per capita? In other words, would it be on population basis?

Mr. HEINZ. That is the logic of the amendment of the Senator from Texas.

Mr. D'AMATO. Rich people, poor people.

Mr. HEINZ. Exactly. Why shouldn't Donald Trump——

Mr. D'AMATO. He might need one now.

Mr. HEINZ. I do not know whether he is rich or poor. But why shouldn't Donald Trump be treated exactly the same way as everybody else? That would be consistent with the amendment of the Senator from Texas.

Mr. D'AMATO. The billionaire would get his shirt subsidy.

Mr. HEINZ. If you want to treat the Cotton Program in a fashion consistent with the amendment of the Senator from Texas, Donald Trump should get his cotton shirt allowance just as everybody else. After all, he is having a tough time, I understand, getting by on $450,000 a month. Maybe the bankers took the shirt off his back.

Mr. D'AMATO. I just make mention that the Senator's analogy is correct.

Mr. HEINZ. I thank my friend from New York.

Mr. D'AMATO. And it is perverse. When one carries the illogical extension of this kind of application out, one sees the perversity.

Mr. HEINZ. Mr. President, I hope that people do not think I am being funny about this. There is some irony, but the logic of this amendment is to say we do not care about logic; we do not care about need; we do not care about the public policy reasons behind public policy decisions. The fact of the matter is, it would be illogical to distribute disaster assistance based on population. It would be perverse to distribute farm payments, although perhaps less so, based on population and to give Donald Trump the same kind of shirt allowance as anybody else. It would be perverse and illogical and bad public policy to distribute our military spending and our military contracts and locate our miliary bases based on population. But that is the issue here.

(Mr. WIRTH assumed the chair.)

Mr. GRAMM. Will the Senator yield at this time?

Mr. HEINZ. Not at this time.

Mr. GRAMM. I figured so.

Mr. HEINZ. Not at this time. I said that the amendment was also greedy, and that is too kind a word. It is greedy. I must confess to a little bit of personal gall that the taxpayers in my State are being asked to outlay about $5 billion over the next several years of that $100 billion estimated S&L bailout, a huge portion of which is going to go to Texas.

We have spent $30 billion in the last 4 years bailing out insolvent, not federally chartered but State chartered S&L's, not in the Southwest but just in Texas—$30 billion already, and we have not even started, apparently, according to the latest estimates.

So what the Senator from Texas wants to do is change not only the policy in the CDBG Program by eliminating any measures of need: poverty, aged housing stock, and so forth, but what he wants to do is in addition to his share, about 60 percent of the $5 billion coming from my State—that is about $3 billion—he wants, in addition, to take another $48 million, about a third of our CDBG Program right out of Pennsylvania.

That is what I mean by greed. Maybe there is no end to greed in this country. Maybe the ripoff artists that we know about in the S&L industry are only the tip of the iceberg. I had hoped the ripoffs of the S&L program and taxpayers stopped with the corrupt, with the inept, with the absolutely criminal S&L cheats and thiefs, but apparently that is not the case. Now those ripoffs have to continue from the CDBG Program. This is one Senator who says no, no, hell no, to that.

The third element of this legislation is it plays a time honored and, I had thought by now, discredited game, and that, Mr. President, is the game of winners and losers, because this amendment, which is wonderfully named—the "fair share" amendment—who can be against the fair share amendment if you do not know what it is about—is artfully constructed so that there are about 3 times as many, 2½ times as many winners as losers. So there are going to be a lot of people in this Chamber tempted to say, "Is my State going to come out another $1 or $2 million ahead?" And damn the public policy or the reason for the public program.

I suppose that is human nature, or that we all want to see if our State is

going to be a winner or a loser. But let me tell you, if that is the basis on which we legislate around here, it is a very poor bargain. It is not only a poor bargain because we are going to have to change our disaster assistance program, our farm program, our military program, our S&L bailout program, to a fair share program, but it is a very poor bargain for anybody who wants the continuation of the CDBG Program.

The Senator from New York just a moment ago asked a penetrating questin of the Senator from Michigan, one that I raised at lunch—I think he may have been there—which is, "What happens to the CDGB Program when it is converted into a population based program?" The answer is it becomes revenue sharing. It becomes a non-needs-tested program, and the most vulnerable kind of program, as we found out with general revenue sharing for States a few years ago. Revenue sharing is the very first thing Congress cuts when it is under pressure, as we are indeed under pressure with this budget summit and the budget situation in which we will find ourselves for at least the next 5 years. Non-needs-based programs: they are the first to go.

So State revenue sharing went out about 6 or 7 years ago, and it was shortly followed about 4 or 5 years ago by the elimination of revenue sharing for cities and counties. Anyone from any of the winning States who votes for this amendment may come out a 5- or a 10-percent winner today, but he or she is going to end up a 50-percent loser within just 1 or 2 years—maybe by the end of this year—because in changing CDBG's from a needs-based program to a non-needs-based program, it will be utterly vulnerable not to the budget scalpel but to the budget ax, and that ax will fall heavily and very nearly completely on this program if the amendment of the Senator from Texas prevails.

Mr. President, what I am saying to our colleagues is that if they do not like, if they really want to get rid of, if they want to eliminate and terminate the Community Development Block Grant Program, then they should vote for the amendment of the Senator from Texas.

If anybody thinks that the CDBG Program is a bad program, a waste of money, just has no business existing, I urge them: Support the amendment of the Senator from Texas, because you will be voting for the elimination of this program; you will be eliminating from your State the millions of dollars that now flow to it, maybe not this year but most assuredly next year or the year after.

That is why, Mr. President, I said at the beginning if indeed the objective of the Senator from Texas is to get more money for Texas, his is a self-defeating amendment. Under his amendment, within 1 or 2 years, Texas will be worse off than it is today.

No one ever knows what is in the back of another person's mind, and I cannot speculate as to the objectives of the Senator from Texas. But if they are as he has stated them, then the result is going to be less money for Texas and less money for all the cities in our States that currently depend very much on this needs-based program.

So, Mr. President, I urge the defeat of the Gramm amendment.

I want just to add that before I came in the Chamber today, having talked with Secretary Kemp on two or three occasions over the last 4 days about this amendment, I received word—and it is signed by Larry Harlow, representing the administration here—that the Bush administration is clearly and unalterably opposed to the Gramm amendment.

I say that to my Republican colleagues in particular, because I do not want any of them to think that there is some kind of party or partisan issue here. I think it would be a mistake, as sometimes happens around here, that simply because a Republican is offering an amendment it deserves Repubican votes. In this case, the shoe is on the other foot. The administration is telling Republicans in particular that they should not vote for this amendment because our President, and he is our President, opposes it and apparently opposes it strongly.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, my distinguished senior Senator has been waiting for a long time. If you will indulge me 30 seconds, I think the Senator from Pennsylvania has given us all the reasons why this amendment should be defeated. I hope we can come to a compromise and not put our colleagues in the business of having to pick winners and losers—which State gains $12 million or $3 million.

If we can do that and dispose of it in this manner, the body is going to be better for it. I want to commend Senator HEINZ for his very accurate conclusion. If this amendment passes, not only does it bring out the worst as it relates to regionalism and parochial interests, but I have to tell you that in the long run, it is the death knell of what will become a revenue sharing or a community development block grant program as we know it. There will be no funds.

He is right. How can you justify the Congress sending money with no criteria, taking it out on a per capital basis, with our deficit problems? I commend the Senator for his observations.

I yield the floor. I thank my distinguished senior Senator from New York.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, as the President may know, the Senator from Pennsylvania [Mr. HEINZ] and I are for this Congress the cochairmen of the Northeast-Midwest Senate Coalition, which was formed for the purpose of bringing some degree of analysis and measurement to this issue of regional bias in expenditures and outlays.

We have been at this for some time now. We have learned a great deal about the subject. We have been able to measure some of the different outcomes. We established with a very firm continuity the flow of Federal funds away from the Northeast to other parts of the country.

The pattern of these flows is a combination of three things, at least three things. First is that traditionally higher money incomes are often reflected in higher taxes. Just as Alaska has the highest money income in the country, the Northeast has higher incomes, and in consequence has paid more in Federal income taxes than other regions.

In exactly the same way, programs designed to deal with low-income problems have tended to move in the direction of the South, though recently not so much the Southwest. The pattern of representation in the U.S. Senate has for the last century meant large flows of agricultural farm supports to sparsely populated States and to States where there is heavy incidence of agriculture in particular commodities: cotton, peanuts, tobacco, corn, that sort of thing.

The third item is that defense outlays have traditionally been in the South by reasons of control of the Armed Services Committee by southern chairmen who locate installations in the South. And then also three specific wars in the second half of this century have placed many installations on the west coast, up in Alaska, over in Hawaii; or which has made for a sustained change in transfer of wealth out of one region to another.

We have not greatly objected to this. We thought it the price of Union; we thought we were all Americans.

Mr. President, once each year, I have issued a report called "New York State and the Federal FISC." I have done that for 13 years. This last year we put in a table. We calculated the balance of payments, the difference between what the States send to Washington and what they get back. We listed the 10 States with the largest positive balance of payments.

Mr. President, they are, in ranked order: New Mexico, Virginia, Mississip-

pi, North Dakota, South Dakota, Hawaii, Montana, Utah, Alabama, and Idaho—not one in the Northeast. They are New Mexico, that is defense expenditure; Virginia, that is Federal Government and defense; Mississippi, that is poverty and defense; North Dakota and South Dakota, that is agriculture; Hawaii, defense; Montana, combination of many things, Utah, the same; Alabama, poverty, agriculture; Idaho, agriculture.

Here, Mr. President, are the 10 States with the largest negative balance of payments. They are New Jersey, New Hampshire, Connecticut, Illinois, Delaware, Michigan, New York, Wisconsin, Nevada, and Indiana. Take away Nevada, and you have the entire Northeast. We have known this.

Again, as the price of Union, in the sense of our national interest, we have not hesitated. I am still hearing about one time New York City had to borrow some money from the Federal Government, which it paid with interest above Treasury rates. That was in the national interest.

Mr. President, may I ask at this point that the table with the 10 largest balance of payment surpluses and the 10 largest deficits be placed in the RECORD?

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 6.—PER CAPITA EXPENDITURES, SELECTED PROGRAMS, SELECTED STATES, FISCAL YEAR 1988

[Dollars per capita]

	Defense	Nondefense	Transfer payments	Grants in-aid
A. Ten States with the largest positive balance of payments:				
New Mexico	$1,014	$4,737	$1,569	$550
Virginia	3,237	2,717	1,767	327
Mississippi	1,312	2,454	1,700	504
North Dakota	619	3,726	1,615	697
South Dakota	384	3,380	1,671	620
Hawaii	2,344	2,191	1,569	437
Montana	330	3,314	1,701	679
Utah	1,056	2,345	1,220	429
Alabama	904	2,574	1,740	417
Idaho	310	3,014	1,496	447
Average	1,151	3,054	1,605	514
B. Ten States with the largest negative balance of payments:				
New Jersey	646	2,461	1,707	431
New Hampshire	881	2,035	1,460	363
Connecticut	1,696	2,553	1,609	476
Illinois	281	2,488	1,575	405
Delaware	671	2,492	1,615	483
Michigan	227	2,316	1,595	456
New York	521	2,869	1,738	698
Wisconsin	262	2,440	1,604	459
Nevada	600	2,635	1,564	317
Indiana	427	2,229	1,539	352
Average	621	2,452	1,601	444

Note: Numbers may not add due to rounding.

Source: (Same as table 4.) U.S. Bureau of the Census, "Federal Expenditures by State for Fiscal Year 1988."

Mr. MOYNIHAN. This weekend, this Monday, Mr. David E. Rosenbaum, in the New York Times, published a very cogent analysis of the bailout of the savings and loans.

It was the lead article. It said "Southwest To Get Economic Benefits in Savings Bailout." "Big Transfer of Wealth," and "Region Where Rescue Cost Is Highest To Be Bolstered at Expense of 37 States."

We did not say that on the floor. That was independent reporting. Although we knew it, we did not know it in the detail we learned from Mr. Rosenbaum, but there was clearly a national interest involved. There was clearly an interest, if I may say, in protecting the insurance system of savings banks which was begun at the behest of Franklin D. Roosevelt of New York.

Mr. President, an item which I never thought I would find myself discussing on the Senate floor, which I am surprised to be discussing on the Senate floor, is this year's water bill. Properly speaking, it is the Water Resource Development Act of 1990, S. 2740. It is on the calendar. I am chairman on the Subcommittee on Water Resources, Transportation, and Infrastructure. We have been working for a year on this bill.

There was a period—Senators might want to record this—from 1970 to 1986, when not a single water bill passed the Congress. Not one became law. In 1986, we finally put together a procedure and, with a lot of effort, brought the first water bill to the floor, took it to the House, and passed it. And it began. We did it again in 1988. And this evening I had expected to call up this bill, have it passed, and go to the House.

From the very first day that the U.S. Government began to involve itself in public improvements, as the term was, the pattern has been for projects to be developed in the Ohio and Mississippi Rivers, culminating in that most expensive canal ever built in history, the Tennessee Tombigbee, very little of which is in Tennessee. It was a great, two-mule, three-barge canal when envisioned in the Jeffersonian days, but not such a good idea in the latter part of the 20th century, clearing the Mississippi and building locks and dams in the Monogahela, the Ohio at Lowellville.

This particular bill that was going to be before us this evening, and may yet be before us this evening, could have been enacted in 1940. It deals with the Ohio River, the Monogahela River, rivers in Alabama.

The one time New York State asked for any help in these matters was when we decided to build the Erie Canal, an immensely important project. We were turned down and had to do it on our own. This became part of the critique of the Congress, the rivers and harbors bill.

I say to the distinguished Senator from Texas, if he would want to hear this, that there are 19 water resource development projects in this bill, 19. They are located in 16 States and Puerto Rico. I will read the States: Alabama, Arizona, California, Florida, Indiana, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, Puerto Rico, South Carolina, Texas, Utah, Kentucky, and Pennsylvania.

One-third of the money goes to Texas. One-third goes to Texas. Not a penny goes to New York for water projects.

I put this bill together piece by piece on the basis of what the Corps of Engineers says are the needs of the Nation. They said the needs of the Nation are one-half billion dollars to go into Texas. And here it is, here is the report. Without any hesitation, we put one-third of this money into Texas, because it was a national interest.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. MOYNIHAN. Yes.

Mr. D'AMATO. How would New York come up if we were to do it on a per capita basis?

Mr. MOYNIHAN. Very simple. I will give the Senator an approximate answer in a moment here. The total outlay is $1.8 billion, and I will multiply that by our 8 percent share of which means we would get $144 million.

Mr. D'AMATO. Well, that might be well if we could blend the two, then we would come out with a net——

Mr. MOYNIHAN. Per capita water projects and per capita CDBG. The Senator is on. I do not see takers yet, but it is a proposition I had not thought of, water projects on a per capita basis.

Mr. D'AMATO. I think the distinguished Senator has made the point. I hope that some of our colleagues who are in the smaller States and who are supposedly going to benefit by this redistribution formula here will listen to my distinguished colleague, because we could all play this game, and none of us are better for it.

I commend the Senator for making the point.

Mr. MOYNIHAN. I thank my distinguished friend. I want to say that I hope this measure does not pass. I hope it does not pass. I love water projects. I think they have made this country incomparably better off. But I do not have to love them to the point of disabling the principles of allocation of resources by need, not when our region is so obviously disadvantaged.

I see the Senator from Maryland has risen. I do not want to hold the floor. Let me say that I hope, if you ever were a federalist, if you were with Alexander Hamilton espousing the need for internal improvements, if you have ever been the chairman of a bill, if you have any sense of American history, put in mind that one of the great institutions of the American Republic, the water bill, the rivers and harbor bill, is

at jeopardy on this floor this very minute. I ask unanimous consent to have an article from the New York Times printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 25, 1990]

SOUTHWEST TO GET ECONOMIC BENEFITS IN SAVINGS BAILOUT

(By David E. Rosenbaum)

WASHINGTON, June 24.—The Federal cleanup of the savings and loan disaster will result in a significant transfer of wealth from the Northeast and Middle West to Texas and other states in the Southwest, many economists and politicians have concluded.

As a consequence, they say, the economy in Texas and its neighboring states, where most of the cost of the savings and loan failures was incurred, will be stronger in the years ahead and the economy in most other states will be weaker.

This shift of resources reignites an old political controversy.

For years, Eastern and Northern lawmakers complained that their regions did not get their fair share of Federal money because of the prevalence of military installations in the South and West. The rapid growth of Government social programs in the 1970's went a long way toward correcting the balance, because the Northern industrial states are the main beneficiaries of Federal grants for the poor.

BALANCE OF PAYMENTS

"At just the time when we had got our balance of payments situation into a reasonable relationship, which is to say we do about as well as we could expect on Federal outlays, along comes this," said Senator Daniel Patrick Moynihan, the New York Democrat.

How much money will be shifted is difficult to estimate, but some experts have tried. For example, Prof. Edward W. Hill of Cleveland State University, who has been studying the situation for the last two years, has calculated that wealth will be transferred from 37 states and the District of Columbia to the 13 states where the savings and loan failures are concentrated.

The cost of the bailout to Connecticut residents, he figures, will be up to $1,237 a person and to New Yorkers up to $972. That is money that would have been available for investment in those states, creating more jobs and better business conditions.

The additional money flowing to Texas will amount to as much as $4,775 a resident, Professor Hill estimates.

Many economists do not accept Professor Hill's numbers or his methodology, but most subscribe to the thesis that the bailout will lead to a regional redistribution of wealth to one degree or another. Donald F. Kettl, a political scientist at Vanderbilt University, suggested that the shift would be as large as it was in the 1970's, when higher oil prices caused by the Arab boycott created large profits in Texas at the expense of Northern consumers.

Some experts, like Bernard L. Weinstein, director of the Center for Economic Development and Research at the University of North Texas, question even the premise.

"You're going to have to wait 20 years to see how the dust settles," Mr. Weinstein said. "You're going to have to look at who ends up owning the assets. The ownership is going to shift outside of Texas and the Southwest because we don't have any money here to buy them."

Lawmakers from the states who feel especially disadvantaged by the bailout program acknowledge that the Government has no alternative but to use general tax revenues collected in all the states to cover the depositors at the institutions that went under. But they suggest that to offset the situation, Congress should give special attention to their states when money is allocated for other programs.

CORRECTING THE BALANCE

"It's hard within the system to right the balance," said Representative Jim Leach of Iowa, the second-ranking Republican on the House Banking Committee. "But because of this enormous transfer of wealth, Congress ought to go out of its way in future programming to give breaks to the regions that are footing the bill for the Southwest."

Representative Howard Wolpe, a Michigan Democrat who is chairman of the Northeast-Midwest Coalition, an organization of lawmakers from 18 states, said he and his colleagues were "especially galled" because they feel Texas and its neighboring states brought the savings and loan mess on themselves.

Most failures, their argument goes, occurred in states like Texas where the savings and loans were state-chartered and state-regulated, and the regulation was even more lax than it was in states where the institutions were subject to Federal supervision.

"This is not a natural disaster like a hurricane or an earthquake," Mr. Wolpe said in an interview. "This is a man-made disaster."

HEALTHIER INSTITUTIONS

Although the end of last year, no savings institutions in New England had failed, and relatively few had gone under in the other Northern and Eastern states.

On the other hand, the cost of rescuing depositors in Texas is expected to be five or six times greater than that in any other state. And when the cost in Arkansas, Louisiana, New Mexico and Arizona is added to the Texas total, it will account for the bulk of the Government's outlays.

The Government's cost will be high in California and Florida also, but those states are so populous that the outlays will be only a tiny fraction of the Federal taxes collected there.

In an interview this week, Representative Michael A. Andrews, a Texas Democrat who heads a caucus of lawmakers from Sunbelt states, acknowledged that Texas would get a big share of the bailout money at the expense of other states.

But he took issue with Mr. Wolpe and others who maintain that Texans should bear a bigger burden of the cost or that special benefits should accrue to Northern states to compensate them for their outlays for the savings and loan rescue.

"A NATIONAL PROBLEM"

"That's not the way this Government works," Mr. Andrews said. "This is a national problem, and we've never played by those rules before."

Because the deposits in the savings associations that collapsed were insured by the Federal Government, the Government, using general revenue, is obligated to make good on every dime. In some instances, the depositors are paid off directly. But normally, to save money, the Government takes over the repossessed property and other assets of the failed institutions, sells them for as much as possible and pays a fee to a healthy bank in the area to assume the deposits.

That has two effects in regional economic terms. It means that deposits stay in the locale of the institutions that failed and are more likely to be reinvested there. And it means that the empty office buildings, new houses and other structures built over the last decade with money supplied by the savings and loans that have failed will be on the market at a relatively low price for businesses that want to relocate there.

INFUSIONS OF CASH

Professor Hill, the Cleveland State economist, wrote in the May-June issue of Challenge magazine: "Those states and regions with large numbers of problem thrifts will be receiving infusions of cash to support their assets and secure their liabilities. This injection of money will help hold off regional recessions, while other states and regions will be footing the bill."

In one respect, that situation is offset by the fact that some deposits in the failed savings and loans were lured from out of state by the higher rates. But academic studies suggest that the average figure is probably less than 25 percent. In regional terms, the effect of the out-of-state deposits may be canceled out by the fact that some Northern savings associations failed because of unwise investments they made in the Southwest.

The residents of the Northeast are actually paying twice for the mistakes in the Southwest, in the view of Senator John F. Kerry, Democrat of Massachusetts. First, Mr. Kerry says, the Northeasterners' tax money will finance the bailout. And second, he maintains, credit is tighter now in his region because regulators want to avoid the mistakes made in Texas.

A BREAKDOWN OF THE BAILOUT

Losers and gainers in the Federal bailout of the savings and loan industry. Losers will pay more per person in taxes than they will receive in money from the bailout; gainers will receive more than they pay. Figures assume a net bailout cost of $203 billion.

Losers: The cost per person

Alabama	$222
California	397
Connecticut	1,237
Delaware	886
District of Columbia	1,114
Florida	276
Georgia	494
Hawaii	793
Idaho	477
Illinois	697
Indiana	657
Iowa	459
Kentucky	553
Maine	639
Maryland	506
Massachusetts	1,026
Michigan	787
Montana	523
Nevada	963
New Hampshire	1,007
New Jersey	1,074
New York	972
North Carolina	598
North Dakota	149
Ohio	670
Oklahoma	342
Oregon	665
Pennsylvania	319
Rhode Island	825
South Carolina	498
South Dakota	535
Tennessee	544

Vermont	670
Virginia	835
Washington	801
West Virgina	484
Wisconsin	592
Wyoming	588

Gainers: The benefit per person

Alaska	$1,410
Arizona	2,143
Arkansas	4,106
Colorado	735
Kansas	1,123
Louisiana	1,003
Minnesota	762
Mississippi	266
Missouri	15
Nebraska	815
New Mexico	4,349
Texas	4,775
Utah	367

Source: Edward W. Hill, Cleveland State University.

Mr. MOYNIHAN. I yield the floor.

Mr. SARBANES. Mr. President, a parliamentary inquiry. Would a motion to table the Gramm amendment take with it the D'Amato amendment?

The PRESIDING OFFICER. The Senator is correct, it would.

Mr. SARBANES. I suggest to the managers of the bill that perhaps that is the way to proceed, having listened to the Senator from New York. I think it is very clear that we have opened up a Pandora's box here. We have proceeded on the basis, in this institution, that we are a union of States and that there are national needs and problems which we address, and then when we address that national need or problem, we tailor our response to where the need and problem is located.

For the Community Development Block Grant Program, our response has to do with our aging population centers, and a housing problem, and a community problem. In the water bill it has to do with a different range of factors. As the Senator from New York has pointed out, there is absolutely no money in that water bill for the State of New York.

Mr. MOYNIHAN. Or Maryland.

Mr. SARBANES. And a third, as I understand, goes to the State of Texas.

Mr. MOYNIHAN. Mostly to the Houston area, a $544.6 million project, the Buffalo Bayou project in the Houston area.

Mr. SARBANES. The junior Senator from New York pointed out that his amendment on the savings and loan allocation was designed to, in effect, dramatize or illustrate the mischief in the amendment of the Senator from Texas.

It seems to me what this debate has shown is that it is an extremely dangerous enterprise—we could take all the formula.

Mr. D'AMATO. I wish my good friend might make the point to dramatize the real mischief made by the underlying amendment.

Mr. SARBANES. That is exactly what I meant. That is the mischiefmaking amendment.

Mr. D'AMATO. Yes.

Mr. SARBANES. The amendment of the Senator from New York would never be here but for the fact the other amendment was offered first. That is the mischiefmaking amendment. It seems to me the best thing for this institution and the development of national policy and for the Union is to table both of these amendments and clear them off the deck.

Mr. MOYNIHAN. I agree.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I have been advised that a number of our colleagues are at the Pentagon, that they need some notice. I have been asked to put in a quorum call, and then I would ask for the rescission of that quorum call in about 5 minutes, because they are meeting now with the Secretary of Defense, both chairmen of a number of committees dealing with the defense budget.

So for those purposes, because I think we have discussed this, we have had a full discussion, I am going to suggest the absence of a quorum with the idea to give them time to come to the Chamber and let them know within 5 minutes I am going to then make a tabling motion.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I do not believe that the yeas and nays have been asked for. Mr. President, I ask for the yeas and nays. That is on the Gramm amendment.

The PRESIDING OFFICER. Is there a sufficient second on the amendment?

Mr. D'AMATO. On the Gramm amendment, I ask for the yeas and nays.

The PRESIDING OFFICER. Without objection, the request is in order.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who seeks recognition?

The Senator from Texas.

Mr. GRAMM. Mr. President, I have listened, running back and forth to the budget summit, as attentively as I could to the arguments that have been made. I want to give a very brief response to them, because I think they deserve to be answered.

Let me start with the argument about need and distress and targeting. I think we have had four Members who have gotten up and said: Look, what you need here is a formula that focuses the money on the needy and what is wrong with the amendment which is pending is that it allocates funds on the basis of population.

The distinguished Senator from Pennsylvania went to great lengths to talk about how it made no sense to overlook the poor people that we are trying to help here.

Mr. President, that is beautiful rhetoric. And, in fact, there is a great advantage in debate if you are not constrained by any logic. But the basic point is that the formula which is now in law, the formula that the distinguished Senator from Pennsylvania defends, the formula which is held out as having come down from Mount Sinai, does not help the needy.

Let me remind my colleagues that as nice as it is to look at this formula and all of its convoluted weightings the bottom line is that 10 out of the 15 richest States in the Union benefit relative to their fair population-based share by this formula; and 13 of the 15 poorest States in the Union lose as compared to their population-based share by the use of this existing formula.

So my dear colleagues have stood up here today with great passion and righteousness and talked about the absurdity of leaving need out when we are allocating programs to the needy, as if the formula they defend gives money to the needy.

In fact, the formula that they defend, which is in fact indefensible, and which is why they are not defending it based on its own merit, is a formula that, in fact, allocates money not to the poorest States, but to the richest States by a convoluted formula that has nothing to do with need and nothing to do with the quality of housing.

Mr. D'AMATO. Will the Senator yield for a question as it relates to need and the formula?

Mr. GRAMM. Let me finish my statement, and then I would be happy to yield.

The amendment before us raises the share of funds available to 36 States as opposed to the formula which is in current law. There are 14 States which lose by this new formula. It is interesting to note, however, that 13 of the 15 poorest States in the Union gain by the use of population to allocate funding and lose by creating a totally arbitrary formula, which is what the current law does, that puts a weighting of 2.5 on the age of the housing. Mr. President, age of housing is no proxy, no proxy, for quality of housing.

As I pointed out in my earlier statement, many of the housing units in

my State that are most deficient, located in areas that we call colonias, have been built in the last 3 or 4 years. They have been built out of cardboard. They do not have running water, and they do not have electricity. The fact that they are new does not mean that they represent high quality housing.

It is wonderful to say that the funds ought to be allocated to the needy. I agree with that. But the formula that is defended here, in a reverse Robin Hood fashion takes the money away from the needy States and gives it to the States with the highest per capita income, not the ones with the lowest.

My colleagues talk about regional animosity. Mr. President, the existing formula creates regional animosity. Why should we have an arbitrary formula that gives funds to some States relative to others, not based on need but because they happen to have been represented by the people writing the formula? The proposal that I have made, far from creating regional animosity, eliminates it by making the program fairer, broadening the base of political support for the program.

Mr. President, in terms of the debate about fairness, the formula that I propose simply gives funds to the States based on population. It is far fairer to the poor States, gives them more on average than the existing formula. It does not change the allocation within States, but it does change the allocation among States.

Finally, let me address this issue that has been raised here—and Mr. President, I must say that my temptation to broaden the debate into the savings and loan bailout has been almost overwhelming, because, Mr. President, I have heard a portrayal here that offends me.

The portrayal is that my State benefited from the fact that every major savings and loan in the State has been in financial trouble, that we do not have a single major bank in Texas that is owned by people in Texas. They are owned by people that are in New York, or Chicago, or around the country. It has been asserted that somehow all the deposits in Texas, many of which were brokered deposits from Pittsburgh, and New York, and Los Angeles, and from around the country, that somehow all the deposits in all these savings and loans were owned by Texans, which is totally false and verifiably false. In a State that has had the highest unemployment rate in the Nation for the last 4 years, this is supposed to be a great bonanza, to listen to our opponents here. Frankly, I wish that they had this bonanza in their State rather than me having it in mine.

Now I do not wish that they had simply shared the misery. But if they think it has been such a sweet deal, I would be very happy to step aside and let it be their problem. Because the plain truth is that Texas has lost more from this than any other State in the Union. And how someone from New York with a brokered deposit for $100,000 is now richer because the Government lived up to its contract since that brokered deposit was in a savings and loan in San Antonio, I do not understand, nor do I think anyone else would ever understand.

I have been very tempted in this debate to ask that we look at when Congress voted on dealing with this problem in the past, but I did not think that would achieve any objective, and animosity here is something that does not promote our objective. But Mr. President, I have been greatly offended by the whole lack of logic of this debate.

So let me sum up by saying the following things: first of all, the savings and loan bailout problem is a national tragedy of unparalleled proportion. I agree with that. We could debate forever about who caused it, and we would find that the Congress would be at or near the top of the list.

But, Mr. President, the idea that this is somehow relevant to the allocation of money under the community development block grants is just totally fallacious. Mr. President, we have a formula. It is an unfair formula. It is a formula that gives to the richest States, that denies money to most of the poorest States in the Union. I have proposed a simple formula that eliminates much of the inequity.

Mr. President, that is the issue that should be debated here. Does the existing formula represent fairness and efficiency or does it not? I would argue that it does not. As a result, I have offered an amendment that is an effort to correct this problem.

I do not think much protracted debate helps in this area, so I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. Before I make my tabling motion, I am going to yield to my distinguished senior Senator, then I would like to make some observations about what our formula does and about how unfair—maybe this formula is not fair that we are operating under, but I will tell you that it becomes a tragedy because there is no basis of need as it relates to per capita; none at all. We better examine the formula, and I am willing to do that.

I yield at this point to the senior Senator from New York.

Mr. LAUTENBERG. Mr. President, I rise to express my strong opposition to the amendment offered by the distinguished Senator from Texas.

Mr. President, the Community Development Block Grant Program is the cornerstone of our Nation's commitment to our cities and communities. It is designed to provide suitable living conditions and enhanced economic opportunities, particularly for people with low or moderate incomes who live in distressed ares.

Mr. President, around the country, local governments are using CDBG grants to meet a variety of basic human needs. To provide shelter for the homeless. To provide hot meals and health screenings for the elderly. To revitalize deteriorating neighborhoods.

Mr. President, the CDBG Program works. It's made a real difference for millions of low- and moderate-income Americans. And yet over the past decade, its funding has been cut in real terms by 50 percent.

Mr. President, the cuts in CDGB have been only part of a decade-long assault on programs for our Nation's urban areas. The Urban Development Action Grant Program has been terminated. The General Revenue Sharing Program has met a similar fate. Housing programs that benefit cities have been slashed dramatically.

Now, Mr. President, the underlying Gramm amendment seeks to continue the assault.

Mr. President, CDBG's are supposed to be targeted to low- and moderate-income persons. They're supposed to eliminate slums and blight. They're supposed to go disproportionately to cities and towns with the greatest needs.

Yet, Mr. President, this amendment runs directly counter to these goals. Instead of distributing funds using factors like poverty levels and housing needs, the amendment would rely exclusively on population levels.

That just does not make sense.

You know, Mr. President, it is ironic. Secretary Kemp and others have complained loud and hard that we need to better target housing funds to people who need it most. That was the basis of one of the administration's primary complaints about this bill as originally reported by the Banking Committee. Yet this amendment runs 180 degrees in the opposite direction. It would make the CDBG Program less targeted to people in need.

Mr. President, for all the rhetoric about the supposed miracle of Reaganomics, the fact is that many people are still stuck in deteriorating urban and rural areas that are pervaded by poverty. Take the city of Newark, for example. While New York and its suburbs enjoyed an explosion of wealth in the 1980's, nearby Newark remained among the most economically distressed areas in the country. Mayor Sharpe James and the people of Newark are trying to pull themselves up by their own bootstraps. But still, about two-thirds of the city's popula-

tion receives some form of governmental assistance.

Mr. President, we should be looking for ways to target more resources to needy cities like Newark. But instead, the Senator from Texas ignores need altogether. His proposal would hand out money only on the basis of population.

That just does not make sense. And it is not the right way to spend hard-earned taxpayer dollars.

Mr. President, the distinguished Senator from Texas does implicitly acknowledge the validity of a need-based formula when he argues that the current formula does not adequately measure need. He argues, specifically, that age of housing does not correlate with quality of housing or poverty.

Yet does he propose to change the formula from age of housing to quality of housing? No. Does he propose to give greater weight to the poverty? No. Does the Senator's amendment provide any other basis of establishing need? No.

Mr. President, if the Senator is serious in his complaint that the current formula is not well targeted, the answer is not to give up and make the formula simply population-based. It is to propose a better need-based formula.

Mr. President, let me explain another serious problem I have with the underlying amendment.

We are now in the middle of the greatest financial scandal in the history of the United States. It is a scandal with many dimensions. But one important dimension is the extent to which the S&L bailout has redistributed wealth among different regions of our country.

Mr. President, I have nothing against the State of Texas. It is a fine State with many good people.

But the fact is, the S&L scandal has meant an enormous transfer of our Nation's wealth into Texas. According to one study, for example, each Texan will get an average of $4,775 from the bailout. By contrast, each person in New Jersey must pay an average of $1,074.

Mr. President, that is enough to make New Jersey's blood boil.

Compounding matters, Mr. President, this massive theft of New Jerseyans' pocketbooks was not some random bolt of lightning from God. It was largely a result of conscious, calculated decisions made by Texas itself.

Mr. President, when Texas set free its State-chartered thrifts to invest in junk bonds and questionable real estate deals, it ignited an explosion of fraud and abuse.

In effect, Texas opened the vaults of the U.S. Mint, handed the keys to a bunch of crooks and reckless cowboys, and said "come on in, y'all."

Mr. President, that was not the fault of the people of New Jersey. They had no say in that decision.

But today, they are being asked to pay the price. And, let me tell you, they resent it.

When they see that 59 percent of FSLIC's bailout costs go to Texas, they resent it.

When they see the lavish lifestyles of those Texan con artists, they resent it.

And as their Senator, when I see an unprovoked attempt to take almost $5 million in community development funds from New Jersey so that a State like Texas can get an extra $22 million, I resent it, too.

Mr. President, my constituents do not get lavish taxpayer handouts for producing cotton. They do not share in the wasteful subsidies for rice production. And they are not getting billions and billions of dollars for the superconducting super collider, the costs of which are exploding faster than the protons and electrons of a smashed atom.

Mr. President, the people of New Jersey are willing to share the burden for legitimate national needs. Frankly, we do more than our share. But do not push us too far.

Enough is enough.

Mr. President, let me make one more point.

A fundamental change in a major program like CDBG should not be made without careful consideration in the appropriate authorizing committee. It is not just a question of fairness to the low- and moderate-income people for whom this program is primarily designed. It is also a matter of fairness to America's taxpayers.

Mr. President, the people who pay the bills around here—the taxpayers—are asked to trust the Congress to spend their hard-earned money with care. We abuse that trust if we make significant changes in spending programs without adequate consideration.

Mr. President, the distinguished Senator from Texas is a member of the Banking Committee. He had every opportunity to offer this amendment during committee consideration of the bill. He did not. Nor have there been any hearings on this proposal, nor any serious analyses of its impact on the goals of the CDBG Program.

Mr. President, that is not the right way to handle the taxpayers' money.

In conclusion, Mr. President, the Gramm amendment runs directly contrary to the purposes of the CDBG Program. It shifts funding from areas with real needs to areas with fewer needs. It reaches into the pockets of people with little spare change, and deposits the money in the accounts of those who have benefited from the excesses of the past decade.

And it does so without any hearings or serious analysis by the appropriate committee.

I urge my colleagues to table the Gramm amendment.

Mr. LEVIN. Mr. President, in introducing his amendment, Senator GRAMM emphasized that his amendment to change the formula for distributing community development bock grant funds is a serious amendment. I agree it is a serious amendment. Its consequences would have a very serious impact on my home State of Michigan.

The purpose of the CDBG Program is to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for middle- and low-income individuals. This program has been very important in Michigan's efforts to maintain a decent quality of life for its citizens.

The Gramm amendment would change the current formula so that Federal funds would be distributed solely on the bases of population. Senator GRAMM made a point of saying that the current formula is flawed from his perspective because it takes into account the age of housing. His amendment would eliminate that factor. But, it is that very factor of age of housing which is of particular benefit to Michigan. If the Gramm amendment were to become law, Michigan would lose more than $8 million from the CDBG Program.

In addition, Mr. President, this amendment would exacerbate a trend in this country over the past decade which has resulted in a drain in Federal dollars from the Northeast and Midwest to the South and West. This trend in Federal spending has been propelled by the budgets submitted by the Reagan and Bush administrations during the 1980's. To put some raw numbers on this trend, the Northeast-Midwest Institute recently completed a study which demonstrated that if total Federal spending per region were equal to the tax burden per region, then the Midwest would have received almost $240 billion more in Federal spending from fiscal year 1981 to fiscal year 1990 than it actually did. As we enter the 1990's, military spending, which contributed to the regional maldistribution of the previous decade, is being curtailed. However, the bailout of the savings and loan industry will take its place in directing a disproportionate amount of Federal spending to the South and the West. To change the CDBG formula to direct CDBG funds away from the Midwest and Northeastern States would add insult to injury in a very real sense.

For these reasons, I oppose the Gramm amendment and urge the Senate to defeat it.

Mr. BRADLEY. Mr. President, I rise in strong opposition to the amendment offered by my colleague Mr. GRAMM of Texas. This amendment will change the formula used in the community development block grants [CDBG] and completely undermine the purpose of these grants.

To "superimpose an allocation requirement based on population" is, simply stated, a change in the formula. By altering the allocations you are altering the priorities inherent in the formula. CDBG grants are meant to help truly needy, poverty-stricken communities where the housing stock has become old and overcrowded. CDBG grants are not supposed to be used for communities that do not have these problems.

Just as poverty and need are not distributed fairly among the States, it is ridiculous to think that programs which aid poverty-stricken communities should be distributed fairly among the States. The CDBG Program is fair as it is because it administers desperately needed funding to those Americans who have the greatest need, not because each Senator is able to bring home an equal portion of the funding pie.

Since the inception of the CDBG Program in 1975, New Jersey has received $1,457,000,000 in CDBG funding. In fiscal year 1989, $29,305,000 went to New Jersey's six largest cities: Newark: $10,416,000; Jersey City: $7,144,000; Paterson: $3,321,000; Camden: $3,191,000; Trenton: $3,005,000; Elizabeth: $2,228,000. These New Jersey cities receive this funding because they are old and suffer from unemployment, housing stock problems, and poverty. To enact the Gramm amendment would deprive these and other truly needy communities of the funding that they rightly deserve.

CDBG funding has effectively assisted low- and moderate-income persons, prevented and eliminated slums and blight, and addressed other emergency community development needs. The program has been successful in communities across the country and specifically in New Jersey. I do not want to see this program undermined.

Mr. MOYNIHAN. Mr. President, two quick observations. The first is that I wrote the better part of the Presidential message sent to the Congress in August 1969 that proposed general revenue sharing at State and local levels, at a time when their was a case for getting moneys directly to city governments—we were thinking city governments—and the Federal resources were sufficient. We had in mind the principal of subsidiarity, as it is known in European politics more perhaps than in our own. Subsidiarity simply says that you would seek out the lowest level of government, the most compact, in which you can most efficiently carry out an activity. If there is activity at a national level that can be carried out at the State level, choose the State. If a State activity can be carried out at an urban level, choose the city. It is not all that different from the principle of federalism, but it is more elaborated in our time.

I saw that program go into effect, and I saw it destroyed on this floor. And one of the principal advocates of destroying it was the junior Senator from Texas who now brings it back in this limp condition.

We will not see revenue sharing again in this century. It is over. We may never see it again. It was a very important device for diffusing authority and releasing energies. That is one of the things that the community development block grant has done. I have been involved with urban programs for a long while and I have to say to you I have not ever seen one which had as strong a sense of effectiveness on the part of the mayors and city councils as this one.

I sense the Presiding Officer, having been a State officer, of course, probably recognizes that highways came and went and smashed everything in their way. Urban renewal knocked down what would be treasures in older cities. Some urban programs were administered well, some not so badly. Few are missed. This would be missed.

As an example of subsidiarity, I think, the CDBG Program is a supremely intelligent one.

The second point, Mr. President, is that we put at risk the principle of federalism if we ever begin to insist on this floor that any activity which has a disproportionate impact on one State or region as against another cannot be accepted. This floor saw the terrible divisions on regionalism that led to the most awful trauma of our national existence, which we have still not overcome, still not put behind us—the Civil War.

There is a desk on this floor where a man was clubbed insensible, beaten insensible, over regional issues.

All our intelligence says: Respond to need and be thoughtful and be accommodating and try to see that there is some rough balance. I spoke earlier of our having documented the imbalance and that we live with it.

The Advisory Commission on Intergovernmental Relations has documented this, has spoken of the inappropriateness of per capita income as the only measure of need. But, in any event, I have here the water bill. It took 10 years to get the water bill back—19 projects, 16 States and Puerto Rico, one-third of the money to Texas. I would not want to see that money put in jeopardy. I would not want to see Houston lose a half billion dollar water project it needs.

So, Mr. President, I look forward to hearing from my distinguished friend, the Senator from New York, and the Senator from California as they make their closing arguments.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, the amendment I am going to move to table has no element of fairness whatsoever; it has no element as to measuring the worth, the value, the need of these dollars for the individual States.

I might say in the formulas, the Senator from Texas has failed to reflect that the States who are wealthy do not give these moneys to wealthy areas, like Garden City, Long Island, or Locust Valley—the high-income regions. The high-income areas of Connecticut are not eligible for these funds. They go to the areas where they have poverty and they are used where the incomes are 80 percent or below the area median.

Mr. President, I move to table Senator GRAMM's amendment, the pending amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. Mr. President, parliamentary inquiry.

Will the motion now before the Senate to table the Gramm amendment carry with it the D'Amato amendment, carry with it both amendments, and allowing us to proceed with the housing bill?

The PRESIDING OFFICER. If the motion is agreed to, both amendments will be tabled.

Mr. SARBANES. I thank the Chair.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the motion.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Rhode Island [Mr. PELL], is necessarily absent.

I further announced that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 63, nays 35, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—63

Adams	Bumpers	Dixon
Akaka	Byrd	Dodd
Baucus	Chafee	Dole
Biden	Cochran	Durenberger
Bingaman	Cohen	Ford
Bond	Cranston	Fowler
Boschwitz	D'Amato	Garn
Bradley	Danforth	Glenn
Breaux	DeConcini	Gore

Grassley	Kohl	Nunn
Harkin	Lautenberg	Pryor
Hatfield	Leahy	Riegle
Heflin	Levin	Rockefeller
Heinz	Lieberman	Roth
Hollings	Lott	Rudman
Inouye	McConnell	Sarbanes
Jeffords	Metzenbaum	Sasser
Johnston	Mikulski	Shelby
Kassebaum	Mitchell	Simon
Kennedy	Moynihan	Specter
Kerry	Murkowski	Wirth

NAYS—35

Bentsen	Gramm	Pressler
Boren	Hatch	Reid
Bryan	Helms	Robb
Burdick	Humphrey	Sanford
Burns	Kasten	Simpson
Coats	Kerrey	Stevens
Conrad	Lugar	Symms
Daschle	Mack	Thurmond
Domenici	McCain	Wallop
Exon	McClure	Warner
Gorton	Nickles	Wilson
Graham	Packwood	

NOT VOTING—2

Armstrong Pell

So, the motion to lay on the table the amendment (No. 2072) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

AMENDMENT NO. 2074

(Purpose: To provide access to the check cashing services and basic banking services)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself and Senator HATFIELD.

Mr. President, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. HATFIELD, proposes an amendment numbered 2074.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE —CHECK CASHING

SEC. 01. SHORT TITLE.

This title may be cited as the "Government Check Cashing Act of 1990".

SEC. 02. DEFINITIONS.

For purposes of this title—

(1) FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCY.—The term "Federal depository institutions regulatory agency" means—

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board with respect to member banks of the Federal Reserve System (other than national banks);

(C) the Board of Directors of the Federal Deposit Insurance Corporation with respect to federally insured depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than national banks and member banks of the Federal Reserve System);

(D) the Director of the Office of Thrift Supervision with respect to federally insured depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act; and

(E) the National Credit Union Administration Board with respect to federally insured depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) DEPOSITORY INSTITUTION.—The term "depository institution" means and federally insured depository institution with assets greater than $25 million described in clauses (i) to (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(4) GOVERNMENT CHECK DEFINED.—The term "government check" means any check, other than a procurement or tax refund check which was issued by—

(A) the United States, any State, or any agency of the United States; or

(B) any agency of the State in which the check is presented for cashing purposes (in connection with a government check cashing service), any local unit of local government of such State, or agency of any such unit of local government.

(5) GOVERNMENT CHECK CASHING RELATIONSHIP.—The term "government check cashing relationship" means a relationship between an individual and a depository institution under which a government check cashing service is provided pursuant to section 3(b) of this Act.

(6) STATE.—The term "State" has the meaning given to such term in section 3(a) of the Federal Deposit Insurance Act.

(7) TRANSACTION ACCOUNT.—The term "transaction account" has the meaning given such term by section 19(b)(1)(C) of the Federal Reserve Act.

SEC. 03. GOVERNMENT CHECK CASHING SERVICES.

(a) REQUIREMENT TO OFFER SERVICES.—Each depository institution shall offer a government check cashing service that meets the requirements of this section.

Any depository institution which cashed government checks, as defined by this title, for a cost of two dollars or less per check for nonaccount holders as of June 21, 1990, shall be exempt from the provisions of this title for as long as it continues to offer such same government check cashing services. The institution shall notify the appropriate depository regulatory agency as to whether the institute satisfies the terms of the exemption.

(b) TERMS AND CONDITIONS OF SERVICE.—A government check cashing service offered by the depository institution meets the requirements of this section if the service—

(1) is available to individuals for the purpose of cashing government checks in the amount of $1,500 or less when the individual presenting the check is the individual to whom the check has been issued;

(2) does not require any other relationship with such depository institution;

(3) does not require the individual to meet any prerequisite which would discriminate against low-income individuals in order to use such service;

(4) has a check cashing fee, if such a fee is assessed, which does not exceed the real and demonstrable costs of providing such service (including fraud losses) plus a modest profit not to exceed 10 percent of such costs. The depository institution shall base such fee on actual time studies and actual net processing cost studies performed either by the depository institution or the Federal Reserve Board pursuant to section of this Act. The Board shall perform actual time and net processing cost studies in each of its regions, with, at a minimum, one cost study per one major population area and one in a rural area in each region. The Board will provide the results of such studies to serve as models to institutions in that region, and any institution using such model will be exempt from the complaint section;

(5) allows the customer to designate at least 3 deposit taking offices of such depository institution (or fewer if the depository institution does not have 3 offices) at which such customer may cash government checks; and

(6) allows the customer to cash government checks upon the presentation of—

(A) a copy of the registration provided in accordance with subsection (d); and

(B) an identification card in the form described in subsection (d)(2)(D) of this section.

(c) EXCEPTION.—A depository institution is not required to provide a government check cashing service under this title to any individual who—

(1) has a transaction account at any other depository institution,

(2) has a government check cashing relationship at any other depository institution, or

(3) has committed or has attempted to commit fraud against a depository institution.

(d) REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—A depository institution that requires a customer to register in order to use the government check cashing service shall take such action as may be necessary to establish a customer registration program.

(2) MINIMUM REQUIREMENTS.—The program under paragraph (1) shall provide for the following:

(A) Each depository institution shall provide for registration in all of its deposit taking offices staffed by individuals employed by such depository institution.

(B) A depository institution may require an applicant for a government check cashing relationship to submit an application containing the application date, and the name, address, date of birth, and handwritten signature of the applicant, or government issued identification number.

(C) At the time of service registration, an applicant may be required by the depository institution to sign a document in which he or she states whether he or she has or has applied for any transaction account or other government check cashing service.

(D) At the time of service registration, an applicant may be required to present an identification card which includes the signature and a photograph of such customer.

(E) The applicant shall be provided a copy of the completed service registration evidencing the fact that the registration has been received and filed with the depository institution within 20 days of such filing.

(F) A depository institution may not require a registration fee.

(3) REJECTION FOR INTENTIONAL MATERIAL MISREPRESENTATION.—If the depository insti-

tution has reason to believe that an applicant has made an intentional material misrepresentation in his or her application for a government check cashing relationship, the depository institution may reject such applicant's registration.

(e) INFORMATION ON SERVICE.—Upon request by any individual, a depository institution shall provide such individual with a written summary describing the government check cashing service offered by such depository institution.

(f) SPECIAL RULE FOR CREDIT UNIONS.—Any credit union which, in the ordinary course of business, cashes checks for members shall cash any government check in an amount of $1,500 or less for any member without charge if the member presenting the check is the individual to whom the check has been issued.

(g) SPECIAL RULE FOR CERTAIN DEPOSITORY INSTITUTIONS.—A depository institution, other than a credit union, which does not in the ordinary course of business cash checks for customers or offer transaction accounts for the general public shall not be required to provide government check cashing services pursuant to this Act.

(h) PREVENTION OF FRAUD LOSSES.—A depository institution is not required to cash a check under this section if—

(1) the check is clearly fraudulent; or

(2) the individual presenting the check is clearly misrepresenting his or her identity.

SEC. 04. POSTING OF NOTICES.

(a) NOTICE REQUIRED.—Each depository institution shall post a conspicuous notice in the appropriate area of each location where deposits are accepted that informs customers and potential customers that government check cashing services are available pursuant to this title.

(b) CONTENTS OF NOTICE.—Any notice required under subsection (a) shall clearly explain the material features and limitations of government check cashing services, so that customers can reasonably be expected to understand the terms of the service offered.

SEC. 05. ADMINISTRATIVE ENFORCEMENT.

(a) ADMINISTRATIVE ENFORCEMENT.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the Comptroller of the Currency with respect to national banks;

(B) by the Board with respect to member banks of the Federal Reserve System (other than a national bank); and

(C) by the Board of Directors of the Federal Deposit Insurance Corporation with respect to banks the deposits of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System);

(2) section 5(d) of the Home Owners' Loan Act, by the Director of the Office of Thrift Supervision with respect to any depository institution which is subject to such section; and

(3) section 206 of the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any insured credit union.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS TITLE TREATED AS VIOLATION OF OTHER ACTS—For purposes of the exercise by any Federal depository institutions regulatory agency of any such agency's powers under any Act referred to in subsection (a), a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to any Federal depository institutions regulatory agency's powers under any provision of law referred to in subsection (a), each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by any other law.

(c) INVESTIGATION AND REPORT.—A Federal depository institutions regulatory agency that receives a complaint regarding a possible violation of this Act shall conduct an investigation of such complaint as such agency deems necessary, and if such complaint is verified, shall carry out enforcement actions according to the powers of this Act and shall provide the results of such investigation in writing to the individual filing such complaint, the depository institution investigated, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committe on Banking, Finance and Urban Affairs of the House of Representaties.

SEC. 06. OTHER RELIEF.

Upon application by an aggrieved party, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this Act.

SEC. 07. REPORTS.

(a) TREASURY REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of the Treasury shall transmit to Congress a report examining the feasibility of staggering payment of Social Security and other benefit checks so that payments do not all occur on the first and fifteenth of the month.

(b) GAO STUDY AND REPORT.—

(1) STUDY.—No later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study to determine the feasibility of utilizing the United States Postal Service as an additional provider of government check cashing services. In addition, the Comptroller General shall conduct a study examining current practices of check cashing outlets, as they impact customers, incuding fee and practices, as well as the potential need for Federal or State regulation.

(2) REPORT.—Not later than the date which is 1 year after the date of enactment of this act, the Comptroller General shall provide Congress with a report regarding the results of the study described in paragraph (1) along with any recommendations for legislative or administrative action that should be taken to addres the check cashing needs of low-income individuals.

SEC. 08. EFFECTIVE DATE.

This title shall take effect on the expiration of the date which is 180 days after the date of enactment of this Act.

Mr. METZENBAUM. Mr. President, this is a revised Government check-cashing amendment, very much revised from the original that I brought to the floor last week. It will still help low-income and elderly Americans obtain an important banking service without unduly burdening financial institutions.

I have attempted to address some of the concerns I have heard about my legislation over the past several days. As a consequence, I have substantially modified my amendment. I want to be clear about the changes I have made. I do not want there to be any confusion as to whether this reflects a compromise or not. It is definitely a compromise. As a matter of fact, the compromise came about because the distinguished minority leader indicated that he had a concern about small banks, and we have taken action in that respect. I hope to engage in a colloquy with him on that subject.

It does not include any provisions requiring basic banking accounts. It deals only with Government check cashing. The amendment exempts small financial institutions with assets of less than $25 million. According to FDIC statistics, such an exemption would exclude one-third of the banks in this country.

As a matter of fact, it is almost a given that practically all of the rural banks in this country except the very largest ones would be excluded by reason of this amendment.

The amendment also exempts those financial institutions which are already cashing Government checks for $2 or less per check.

These provisions should eliminate any potential burden for small banks and savings and loans with limited assets. They should protect those financial institutions which are already doing the right thing in cashing Government checks for people at reasonable fees.

I want to point out another provision in our amendment. The junior Senator from Missouri and others have argued that the Postal Service could provide check cashing services. He may be right. Perhaps the Postal Service could provide a decent alternative. I do not know. My legislation includes a study to determine whether the U.S. Postal Service could provide such services in the future. It occurs to me that there might be problems as to the need to have large amounts of cash at hand in every postal office in the country. But certainly it is an area that this Senator has no difficulty in having explored, because the ultimate concern and interest is to see that the checks of veterans, senior citizens, and welfare recipients can be cashed without an exorbitant fee.

I doubt that the Postal Service is ready to do it today. But we know banks and savings and loans are ready. They cash Government checks all the time.

I have tried very hard to address the issue of fraud. I am confident the amendment provides the banks and savings and loans an ample cushion to cover any potential fraud losses. I want to emphasize the word "potential" because to date the facts do not demonstrate that institutions which are already cashing Government

checks are experiencing huge fraud losses.

In GAO's 1988 Government check-cashing report, the GAO said that fraud losses from Government checks could be estimated to be as low as about 10 cents per $1,000 of checks cashed on a volume of $623 billion. The GAO noted that banks even recover some of this money from the person who cashed the bad check. I understand that in Connecticut, where the banks are required by law to cash Government assistance checks, check fraud is not a big problem.

Nevertheless, my amendment should satisfy those who are concerned that fraud might be a problem. The legislation allows financial institutions to set fees which cover check-cashing costs, including fraud losses, and allows for an additional 10 percent profit. This should provide an ample margin to cover any bad checks. The amendment also specifically permits institutions to reject checks which are clearly fraudulent. We also require people to register. You could not just walk in off the street and cash these checks.

This amendment is extremely reasonable. I changed a major portion of it because the Republican leader had a concern. I changed a major portion of it because the Senator from Arkansas had a concern. I have attempted to meet the concerns of various other Members of this body. But when all is said and done, it is an amendment that is very meaningful to the senior citizens of this country, to the veterans of this country, and to the poor of this country.

The American Association of Retired Persons did a survey of metropolitan areas and found that 9 out of 10 financial institutions refused to cash Government checks for nonaccount holders. The Consumer Federation of America found that 70 percent of the banks they surveyed refused to cash such checks. A 1989 U.S. public interest research group surveyed approximately 500 institutions in four States and found that only 31 percent of the institutions would cash Government checks for nondepositors.

As the Consumer Federation of America noted yesterday when it released its annual study of bank fees, the costs of banking is escalating. More and more people are becoming disenfranchised from the banking system. More and more people are forced to pay exorbitant fees at check-cashing outlets when attempting to cash Government assistance checks. We have a chance to take a modest step forward in bringing people back into the banking system.

Let me repeat. A person trying to cash a Social Security, public assistance, railroad retirement, or veterans benefit check should not have to pay $10, $20, or $30 for the privilege. My amendment simply gives veterans, retired railroaders, the elderly, and low-income Americans access to safe and affordable places to cash their checks.

I urge its adoption.

AMENDMENT NO. 2075 TO AMENDMENT NO. 2074

(Purpose: To provide access to check cashing services and basic banking services)

Mr. CRANSTON. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 2075.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "TITLE" in the pending amendment and insert the following:

—CHECK CASHING

SEC. —01. SHORT TITLE.

This title may be cited as the "Government Check Cashing Act of 1990.

SEC. —02. DEFINITIONS.

For purposes of this title—

(1) FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCY.—The term "Federal depository institutions regulatory agency" means—

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board with respect to member banks of the Federal Reserve System (other than national banks);

(C) the Board of Directors of the Federal Deposit Insurance Corporation with respect to federally insured depository institutions described in clause (i) (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than national banks and member banks of the Federal Reserve System);

(D) the Director of the Office of Thrift Supervision with respect to federally insured depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act; and

(E) the National Credit Union Administration Board with respect to federally insured depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) DEPOSITORY INSTITUTION.—The term "depository institution" means any federally insured depository institution with assets greater than $25 million described in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(4) GOVERNMENT CHECK DEFINED—The term "government check" means any check other than a procurement or tax refund check which was issued by—

(A) the United States, any State, or any agency of the United States; or

(B) any agency of the State in which the check is presented for cashing purposes (in connection with a government check cashing service), any local unit of local government of such State, or any agency of any such unit of local government.

(5) GOVERNMENT CHECK KKCASHING RELATIONSHIP.—The term "government check cashing relationship" means a relationship between an individual and a depository institution under which a government check cashing service is provided pursuant to section 3(b) of this Act.

(6)STATE—The term "State" has the mneaning given to such term in section 3(a) of the Federal Deposit Insurance Act.

(7) TRANSACTION ACCOUNT.—The term "transaction account" has the meaning given such term by section 19(b)(1)(C) of the Federal Reserve Act,

SEC. —03. GOVERNMENT CHECK CASHING SERVICES.

(a) REQUIREMENT TO OFFER SERVICES.—Each depository institution shall offer a government check cashing service that meets the requirements of this section. Any depository institution which cashed government checks, as defined by this title, for a cost of two dollars or less per check for nonaccount holders as of June 20, 1990, shall be exempt from the provisions of this title for as long as it continues to offer such same government check cashing services. The depository institution shall notify the appropriate depository regulatory agency as to whether the institution satisfies the terms of the exemption.

(b) TERMS AND CONDITIONS OF SERVICE.—A government check cashing service offered by a depository institution meets the requirements of this section if the service—

(1) is available to individuals for the purpose of cashing government checks in the amount of $1,500 or less when the individual presenting the check is the individual to whom the check has been issued;

(2) does not require any other relationship with such depository institution;

(3) does not require the individual to meet any prerequisite which would discriminate against low-income individuals in order to provide such service;

(4) has a check cashing fee, if such a fee is assessed, which does not exceed the real and demonstrable costs of providing such service (including fraud losses) plus a modest profit not to exceed 10 percent of such costs. The depository institution shall base such fee on actual time studies and actual net processing cost studies performed either by the depository institution or the Federal Reserve Board pursuant to section —— of this Act. The Board shall perform actual time and net processing cost studies in each of its regions, with, at minimum, one cost study per one major population area and one in a rural area in each region. The Board will provide the results of such studies to serve as models to institutions in that region, and any institution using such model will be exempt from the complaint section;

(5) allows the customer to designate at least 3 deposit taking offices of such depository institution (or fewer if the depository institution does not have 3 offices) at which such customer may cash government checks;

(6) allows the customer to cash government checks upon the presentation of—

(A) a copy of the registration provided in accordance with subsection (d); and

(B) an identification card in the form described in subsection (d)(2)(D) of this section.

(c) EXCEPTION.—A depository institution is not required to provide a government check cashing service under this title to any individual who—

(1) has a transaction account at any other depository institution.

(2) has a government check cashing relationship at any other depository institution, or

(3) has committed or has attempted to commit fraud against a depository institution.

(d) REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—A depository institution that requires a customer to register in order to use the government check cashing service shall take such action as may be necessary to establish a customer registration program.

(2) MINIMUM REQUIREMENTS.—The program under paragraph (1) shall provide for the following:

(A) Each depository institution shall provide for registration in all of its deposit taking offices staffed by individuals employed by such depository institution.

(B) A depository institution may require an applicant for a government check cashing relationship to submit an application containing the application date, and the name, address, date of birth, and handwritten signature of the applicant, or government issued identification number.

(C) At the time of service registration, an applicant may be required by the depository institution to sign a document in which he or she states whether he or she has or has not applied for any transaction account or other government check cashing service.

(D) At the time of service registration, an applicant may be required to present an identification card which includes the signature and a photograph of such customer.

(E) The applicant shall be provided a copy of the completed service registration evidencing the fact that the registration has been received and filed with the depository institution within 20 days of such filing.

(F) A depository institution may not require a registration fee.

(3) REJECTION FOR INTENTIONAL MATERIAL MISREPRESENATION.—If the depository institution has reason to believe that an applicant has made an intentional material misrepresentation in his or her application for a government check cashing relationship, the depository institution may reject such applicant's registration.

(e) INFORMATION ON SERVICE.—Upon request by any individual, a depository institution shall provide such individual with a written summary describing the government check cashing service offer by such depository institution.

(f) SPECIAL RULE FOR CREDIT UNIONS.—Any credit union which, in the ordinary course of business, cashes checks for members shall cash any government check in an amount of $1,500 or less for any member without charge if the member presenting the check is the individual to whom the check has been issued.

(g) SPECIAL RULE FOR CERTAIN DEPOSITORY INSTITUTIONS.—A depository institution, other than a credit union, which does not in the ordinary course of business cash checks for customers or offer transaction accounts for the general public, shall not be required to provide government check cashing services pursuant to this Act.

(h) PREVENTION OF FRAUD LOSSES.—A depository insitutition is not required to cash a check under this section if—

(1) the check is clearly fraudulent; or

(2) the individual presenting the check is clearly misrepresenting his or her identity.

SEC. _04. POSTING OF NOTICES.

(a) NOTICE REQUIRED.—Each depository institution shall post a conspicuous notice in the appropriate area of each location where deposits are accepted that informs customers and potential customers that government check cashing services are available pursuant to this title.

(b) CONTENTS OF NOTICE.—Any notice required under subsection (a) shall clearly explain the material features and limitations of government check cashing services, so that customers can reasonably be expected to understand the terms of the service offered.

SEC. 05. ADMINISTRATIVE ENFORCEMENT.

(a) ADMINISTRATIVE ENFORCEMENT.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the Comptroller of the Currency with respect to national banks;

(B) by the Board with respect to member banks of the Federal Reserve System (other than a national bank); and

(C) by the Board of Directors of the Federal Deposit Insurance Corporation with respect to banks the deposits of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System);

(2) section 5(d) of the Home Owners' Loan Act, by the Director of the Office of Thrift Supervision with respect to any depository institution which is subject to such section; and

(3) section 206 of the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any insured credit union.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS TITLE TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any Federal depository institutions regulatory agency of any such agency's powers under any Act referred to in subsection (a), a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to any Federal depository institutions regulatory agency's powers under any provision of law referred to in subsection (a), each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by any other law.

(c) INVESTIGATION AND REPORT.—A Federal depository institutions regulatory agency that receives a complaint regarding a possible violation of this Act shall conduct an investigation of such complaint as such agency deems necessary, and if such complaint is verified, shall carry out enforcement actions according to the powers of this Act, shall provide the results of such investigation in writing to the individual filing such complaint, the depository institution investigated, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

SEC. 06. OTHER RELIEF.

Upon application by an aggrieved party, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this Act.

SEC. 07. REPORTS.

(a) TREASURY REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of the Treasury shall transmit to Congress a report examining the feasibility of staggering payment of Social Security and other benefit checks so that payments do not all occur on the first and fifteenth of the month.

(b) GAO, STUDY AND REPORT.—

(1) STUDY.—No later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study to determine the feasibility of utilizing the United States Postal Service as an additional provider of government check cashing services. In addition, the Comptroller General shall conduct a study examining current practices of check cashing outlets, as they impact customers, including fee and practices, as well as the potential need for Federal or State regulation.

(2) REPORT.—Not later than the date which is 1 year after the date of enactment of this Act, the Comptroller General shall provide Congress with a report regarding the results of the study described in paragraph (1) along with any recommendations for legislative or administrative action that should be taken to address the check cashing needs of low-income individuals.

SEC. 08. EFFECTIVE DATE.

This title shall take effect on the expiration of the date which is 180 days after the date of enactment of this Act.

Mr. CRANSTON. I will explain that it makes no substantive change in the underlying Metzenbaum amendment.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, we have had discussions with the Senator from Ohio. I can assure you that he has made what I think are substantial improvements in the Government check-cashing amendment. But I still must oppose it, and I urge my collegues to do so as well.

I previously laid out the policy reasons why I think this amendment is unwise. The electronic delivery of Government benefits is a far more promising way to ensure access to benefits. It is more efficient and it also is more likely to provide the funds available to those who truly need the benefits in a way where they are less subject to robbery, attack, or to take the large amounts from the people who must cash a check, and take all of the proceeds of the check in one lump sum.

But the most important reason for opposing this amendment, and the reason I ask my colleagues to oppose it, is that this is the wrong vehicle for the amendment. We are very close to an agreement on a major housing bill. I have expressed today my appreciation to the distingished Senator from California and many others who have worked a long time to bring this housing bill together. We are very close to a major piece of housing legislation.

I think that bill is good for Missouri. I believe it is good for Ohio. I believe it is good for California, and I believe it is good for the country. It would be wrong, in my opinion, to tie up a vitally important bill on an unrelated and, I can assure you, a potentially contentious issue like Government check cashing.

The issue is one that is properly raised and debated as a part of the bank powers and financial restructuring bill. The question of what public responsibilities banks should be required to undertake in exchange for Government benefits that they receive is properly debated as a part of the banking bill. It does not have any place on a housing bill.

The chairman of the Banking Committee has scheduled an ambitious agenda of financial modernization hearings, and I am confident that we will report out a deposit insurance reform financial modernization bill next year. The issue should be debated in that context.

My friend and colleague from Illinois, Senator DIXON, who is the chairman of the subcommittee, has worked long and hard on a compromise on this issue. I hope we can work something out. I would suggest there are many reasons that we should not be going into this debate on the housing bill, as to why this is not the right approach.

In the 1986 regulators' policy statement on the Community Reinvestment Act, there were standards set out to encourage Government check cashing. I know that many banks in my State, and I believe in other States as well, follow those guidelines and that much progress has been made as a part of the CRA.

In addition, I call my colleagues' attention to the testimony last year of the head of the Financial Management Service Department of the Treasury before our committee. Commissioner Douglas noted that last year the Department of the Treasury reclaimed $68 million from banks and businesses because they had honored Government checks with forged or improper endorsements. That is a substantial sum to claim.

It is true that, as I understand, they do not have much problems in Connecticut. We found out why in Connecticut, which requires Government check cashing. The State of Connecticut indemnifies the banks who cash the checks. Are we talking about indemnification in this amendment? That is another one of the elements that would have to be debated in consideration of a measure such as this.

I believe we can work something out. But to put this amendment on this bill invites mischief in the conference. I would hate to see the bill come back with an amendment not like the one we had passed today, that may be substantially different and warrant opposition to a badly needed housing bill.

Let me just make the final point. If we get involved in this kind of skirmish, it opens the door to nongermane amendments. As one who has worked long and hard on the housing bill, I have agreed to oppose nongermane amendments.

I know there are some good amendments out there that are arguably in the scope of the Banking Committee that my friends have said they were going to propose. I will oppose them as long as this amendment does not go on the bill.

But, if this amendment is agreed to, I know my colleagues well enough to know that there are a number of other Banking Committee amendments. There are probably some good amendments from people who could not get them on the crime bill, that might be added to this bill. I might even add what I consider to be a very important bill on infant restraint seats on airlines. I think that is extremely important, too. But it does not have anything to do with the housing bill. That is why I ask my colleagues to oppose this amendment and support a tabling motion.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I appreciate the comments of my colleague from Missouri, but absent his presence, the Senator from Kansas, the Republican leader, had raised with the Senator from Ohio the question of strengthening this amendment when it went over to the House or in the conference committee. I have made a commitment to him that I would see to it that it not be strengthened in the House; if it were strengthened in the House, I have committed that I would go to the conference committee and see to it that it not be changed from the language that is presently in this amendment.

And the question was then asked to me, well, that may be your commitment, but you have supporters—the AARP, Consumer Federation of America; what about them?

I stand here on the floor and represent to the Senator that they have also agreed that they will make no effort to have this amendment go any further, to change the language of this amendment. If this amendment is adopted on this bill, goes to the House, we all will put our shoulders to the wheel to see to it that it does not become any different than that which is in the present language. And should it come back from the conference having stronger language, I will come to the floor and ask that we not agree to the conference report. I will stand firmly and solidly that this amendment be the amendment and nothing beyond that which is in the amendment.

I have made that commitment to Senator DOLE. He asked me the same question. We had talked about a colloquy on the subject, and I see him on the floor now, but I wanted to clarify it for the Senator. There is no way for the Senator to have known that fact, but I want the Senator to understand that.

With reference to it being germane, I think when we are talking about housing and banking, we are not that far afield. This is not something that goes as far afield as some might want. This is not the first time this subject has been before the Senate. It passed once on the floor of the Senate. It has come out of the committee on another occasion, and has been on the bill when the bill itself did not get passed, but not by reason of this question.

I just say to my colleague that it is not much; it is just a little. It will help the veterans and retired railroaders, and it will help senior citizens and those on welfare. It will not place any burden on the banks of this country. The amendment, as presently drafted, eliminates about one-third of all the banks in this country, and practically all of the rural banks, except maybe a few very large ones.

I hope that the Senator would see fit to join others, including the chairman of the Banking Committee and manager of the bill on this side and some other members on his side of the aisle, who have indicated they are prepared to accept the amendment; and I hope he will see fit to do so, as well, notwithstanding the vigor and the zeal of his excellent presentation in opposition thereto.

I see the Senator from Kansas on the floor. I hope I have not misstated the facts as he and I have previously discussed.

Mr. DOLE. If somebody might yield for 2 minutes.

Mr. METZENBAUM. I yield the floor.

Mr. DOLE. Does the Senator from Missouri have the floor?

The PRESIDING OFFICER. The Senator from Missouri was recognized, and the Senator from Missouri has the floor.

Mr. BOND. I yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, I have listened with interest. I did raise this question last week. We had been contacted by a number of bankers in my State, and we have been trying to be objective as far as the amendment was concerned. It was suggested that maybe we can sit down and ask the Senator from Ohio if he would make certain changes.

I must say, he made every one, every change we requested. We thought they were reasonable. Certainly, I was

skeptical when you start mandating services that in many instances the marketplace is already providing. But I think in this case, he has dropped the most objectionable part of the bill, as I saw it and my staff saw it, along with those we have contacted in Kansas. That is mandating basic banking services, as I understand it, and currently offering the Government check cashing service of $2 or less a check. He indicated he agreed to exempt small banks of less than $25 million. In my State that is more than half of the banks, 345 out of 613.

One of the concerns that I have heard, one just addressed by the Senator from Ohio, no matter how many changes he might have been willing to make, when this went to conference, it was all going to pop back up again. He indicated, and he satisfied me earlier today, that would not be the case. He is prepared to go to the conference committee and make that statement. He has given me those assurances, and the Senator from Ohio is known to speak plainly, without any reason to obfuscate it.

So I think, in light of those comments, I am certainly taking a look at the amendment, and it seems to me now it should not be objectionable, from my standpoint. It may not satisfy the Senator from Missouri, who is a member of the committee and probably knows more about it than this Senator.

Checking with the people in my State, through my staff, I say that the Senator from Ohio has addressed the primary concerns we expressed, particularly, the matter of what happens when the bill goes to conference.

Mr. METZENBAUM. I thank the Senator from Kansas.

Mr. BOND. Mr. President, I appreciate the commitment of the Senator from Ohio. Unfortunately, what comes out of conference is not always controllable by those who are not on the conference, and I accept his willingness to oppose any strengthening of or changing, let us say, of the amendment in conference.

However, he suggested as a remedy something that I think would be very harmful. If something is changed, if in fact it does get changed, then we see the situation where we have opposition to the conference report, and though he might agree with every other part of the housing provisions in the bill and not object to it, he would be obligated to oppose it. We might wind up in a situation where we lose a very important housing bill.

There are, as I have stated before, a good number of reasons we are going in the wrong direction. These can best be debated on a bank powers bill when we can talk about electronic delivery of benefits, which I think has much greater opportunity to benefit consumers.

I think that the real danger in this amendment is that it opens the floodgates to nongermane amendments. We are talking about housing; we are talking about the Department of HUD and how it works with local and State governments, what they need, what they can do to provide housing to the poor, homeless, needy, and to the destitute. I do not believe it makes sense to bring in a different entity, a different problem, even though banks are included in the jurisdiction of the Banking, Housing and Urban Affairs Committee.

I would be happy to yield to the distinguished Senator from Ohio for brief comments before offering a tabling motion.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I have been in this body about 15 years. A lot of people in this body take issue with me on a lot of issues. No one in this body has ever been able to say when I have given my word I have not kept my word.

I am saying to this Senate and every Member of this body that if the bill comes back with a stronger amendment, stronger language on this subject, I know enough about the parliamentary rules to move to recommit it to the conference committee and delete the amendment that the Senator from Ohio has proposed. You have my assurance and commitment on it.

Once this amendment is agreed to the Senate if it becomes anything stronger than that which it is in the present form I will personally see to it that the amendment does not become law.

Mr. AKAKA. Mr. President, I rise in reluctant opposition to the amendment offered by my colleague, Senator METZENBAUM. While this mandated check-cashing provision has a certain attraction in general theory, it contains a number of provisions which leave banks open to fraud losses and the potential for substantial new costs.

First, this proposal would still require banks and thrifts to offer government designated products and services at a Government-monitored price, imposing the type of public utility treatment usually reserved for firms which have been granted a virtual monopoly on an industry which has thousands of vigorously competing participants. This is completely inappropriate. It also will impose an unnecessary burden on both the Federal Reserve Board and banks, as they are called upon to determine appropriate regional fees. Community banks and thrifts will have to hire teams of accountants and lawyers to conduct studies and prepare arguments to justify a different fee.

Second, the amendment duplicates services already provided in most cities and regions of our Nation. A recent Consumer Bankers Association survey of 50 major American cities revealed that at least three institutions in each city offered some lifeline banking and over half offered government check cashing for noncustomers. My office has received letters from a number of financial institutions in my State explaining that they already offer a diverse array of check cashing and basic banking products designed to meet the needs of the people of Hawaii. Mandating check cashing may be appropriate for some mainland cities, but that does not mean that it's needed by consumers in most cities and towns, much less residents of smaller communities and rural areas, who already have access to check-cashing service. Yet, they will inevitably share in the higher costs incurred by banks and thrifts.

Third, at a time when safety and soundness of financial institutions are foremost in our minds, adoption of this proposal would dramatically increase the exposure of financial institutions to being ripped-off by fraud artists. The check-cashing provisions of this proposal would require a bank to cash what appears to be a Government check even if it has strong reason to believe that the check is counterfeit or stolen. This is not speculation. Last year, Forbes magazine had a cover story detailing how criminal organizations can reproduce virtually undetectable corporate and Government checks for about a $5,000 investment in a computerized desktop publishing system. You can be sure that if we take away all discretion from our bankers to refuse what they believe is a suspicious check, criminal elements are going to gear up to exploit this opportunity. The Senator's amendment has been altered to let banks refuse to cash clearly fraudulent checks. But these counterfeit checks will not be clearly fraudulent, and the bill does not let banks defer on the basis of sophisticated means of detecting fraud patterns.

Now many may say that all this speculation about fraud is exaggerated, that it's really nothing to worry about. If so, why are we not sure enough of that to be willing to indemnify banks and thrifts which suffer fraud losses as a result of this legislation? If we are going to order them to do something against their best judgment, and if they subsequently lose money as a result, then we ought to be willing to make up the loss, and if we are not then we should not require them to dot it in the first place. When the criminal working a check-cashing scam disappears, the bank is never going to find him to recover. He as no account relationship and has probably used a false identification card. That money is gone forever. Particularly in

the case of smaller banks and thrifts, even a modest size check would represent a significant loss of income.

While well-intentioned, this amendment subjects financial institutions to tremendous regulatory burden and higher operating costs for questionable results, and ultimately it exposes the American taxpayer to further unnecessary expenses which may result from higher banking costs or fraud.

Mr. SANFORD. Mr. President, I rise to extend my appreciation to the Senator from Ohio [Mr. METZENBAUM] for the efforts he has made to accommodate the concerns of many Senators regarding the establishment of Federal requirements for the cashing of Government checks. I think the changes he has made are very significant and deserve to be emphasized.

First, he has exempted small banks from this amendment, exempting from its provisions all banks with less than $25 million in assets.

Second, he has removed from his original amendment the more problematic and complex provisions regarding lifeline bank accounts.

Third, he has exempted from the Government check-cashing requirements all banks, thrifts, and credit unions which currently cash Government checks for $2 or less.

Finally, he has included provisions calling for a study of the possibility of post offices providing check-cashing services for certain Government checks.

I might add that I think the $2 fee the Senator from Ohio has suggested might be a bit low. Most of the banks in my State that already provide services at least as broad as those called for by the Senator's amendment have found that a $3 fee is a more realistic fee to cover costs and potential losses.

Nonetheless, I appreciate all the fine work the Senator has done to strike a fair compromise on this issue.

However, I am concerned that the amendment may have the affect of delaying prompt action on this important housing bill, particularly if changes are made to these provisions by our colleagues in the House during conference on this bill.

I would hope that rather than take this amendment up now, that the Banking Committee work from the compromise language that the Senator from Ohio has developed and that we finally address this issue as part of upcoming banking legislation.

I have often stated that this is a problem that many banks are already addressing and that legislation requiring institutions to cash Government checks may be unnecessary. Nonetheless, if the problem remains, as the Senator has suggested, then I believe the Senator from Ohio has now put before us a plan that the Banking Committee should take up in the near future.

Mr. BOND. Mr. President, I have no question about the commitment of the Senator from Ohio. I think it would be a tragedy if the conference committee sent something back that was different and that he did have to delay and move to recommit what I think is a good housing bill. It does open the floodgates to nongermane amendments. We have stated the arguments pro and con.

I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is the Senator moving to table on the underlying amendment?

Mr. BOND. I move to table the underlying amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri to lay on the table the amendment of the Senator from Ohio.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. LEVIN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 130 Leg.]

YEAS—55

Akaka	Ford	McClure
Bentsen	Garn	McConnell
Bingaman	Gorton	Murkowski
Bond	Graham	Nickles
Boren	Gramm	Pressler
Boschwitz	Grassley	Pryor
Breaux	Hatch	Reid
Bryan	Heflin	Robb
Bumpers	Helms	Roth
Burns	Inouye	Sanford
Byrd	Jeffords	Sasser
Cochran	Kassebaum	Shelby
Conrad	Kasten	Simpson
Danforth	Kerrey	Symms
Daschle	Kohl	Thurmond
Dixon	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	
Exon	McCain	

NAYS—43

Adams	Gore	Mitchell
Baucus	Harkin	Moynihan
Biden	Hatfield	Nunn
Bradley	Heinz	Packwood
Burdick	Hollings	Riegle
Chafee	Humphrey	Rockefeller
Coats	Johnston	Rudman
Cohen	Kennedy	Sarbanes
Cranston	Kerry	Simon
D'Amato	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dodd	Levin	Wilson
Dole	Lieberman	Wirth
Fowler	Metzenbaum	
Glenn	Mikulski	

NOT VOTING—2

Armstrong Pell

So the motion to lay on the table amendment No. 2074 was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent to lay aside the pending amendments.

The PRESIDING OFFICER. Is there objection? Hearing none, the pending amendments are laid aside.

The Senator from Minnesota is recognized.

AMENDMENT NO. 2076

(Purpose: To provide for housing opportunity zones)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ], for himself, Mr. GRASSLEY, Mr. GORTON, Mr. MACK, Mr. KASTEN, Mr. BURNS, and Mr. COATS, proposes an amendment numbered 2076.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

TITLE HOUSING OPPORTUNITY ZONES

SEC. 01. SHORT TITLE.

This title may be cited as the "Housing Opportunity Zones Act of 1990".

SEC. 02. DEFINITIONS.

As used in this title—

(1) The term "barrier" means any requirement promulgated by the legislative or executive body of any State or local governmental entity that inhibits the production in the eligible jurisdiction of housing that is affordable to lower-, moderate-, and middle-income families.

(2) The term "city" means a city, as defined in section 102 of the Housing and Community Development Act of 1974.

(3) The term "eligible jurisdiction" means a city that has a population of 50,000 or more, or an urban county, that received a formula allocation of rental rehabilitation grants under section 17(b)(1) of the United States Housing Act of 1937 for the fiscal year immediately preceding the fiscal year in which Housing Opportunity Zones and Barrier Removal Plans are designated and approved, respectively.

(4) The term "Housing Opportunity Zone" means a geographic area designated by the Secretary that—

(A) has amounts of vacant land or vacant buildings that have potential for development or redevelopment for housing affordable to lower-, moderate-, and middle-income families;

(B) has continuous boundaries and covers the entire area within these boundaries; and

(C) covers an area that is less than coterminous with, but wholly within, the boundaries of the eligible jurisdiction.

(5) The term "lower-income family" means a family or individual whose income does not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Moderate-income family shall mean a family or individual whose income exceeds 80 percent, but does not exceed 95 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 95 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Middle-income family shall mean a family or individual whose income exceeds 95 percent, but does not exceed 115 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 115 of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "urban county" means an urban county, as defined in section 102 of the Housing and Community Development Act of 1974.

SEC. 03. BASIC AUTHORITY AND PURPOSE.

(a) AUTHORITY AND PURPOSE.—The Secretary is authorized to designate Housing Opportunity Zones and approve Barrier Removal Plans for cities and urban counties, as provided by and in accordance with this title, for the purpose of encouraging these jurisdictions to remove legislative and administrative barriers to the production of new and substantially rehabilitated housing that is affordable to lower-, moderate-, and middle-income families.

(b) NOTICE.—The Secretary shall establish standards to implement the provisions of this title by notice published in the Federal Register not later than 120 days after the date of enactment of this title.

(c) RELATED ASSISTANCE.—The Secretary is authorized to promulgate or revise any insurance, guarantee, or financial or other assistance program or administrative requirement or regulation of the Secretary that is not required by law, in support of Barrier Removal Plans and Housing Opportunity Zones. To the extent such promulgation or revision relates only to actions that pertain to such Zones or such Plans, the Secretary may take such action by notice published in the Federal Register.

SEC. 04. HOUSING OPPORTUNITY ZONES.

(a) DESIGNATION.—The Secretary shall designate not more than 50 Housing Opportunity Zones. All Zone designations shall be made at one time. The Secretary shall make Zone designations for those eligible jurisdictions that, in the Secretary's discretion, as reflected in the applications, have the best chances of achieving the purposes of this title, except that the Secretary also shall have discretion to attain geographic diversity in making Zone designations.

(b) APPLICATIONS.—Each Zone designation shall be made on the basis of an application from an eligible jurisdiction. Each application for designation of a Housing Opportunity Zone shall specify—

(1) the location, boundaries, and character of the proposed Zone, including any maps or other supporting material that the Secretary deems appropriate;

(2) the actions that the applicant will take during the term of the designation to remove particular barriers within the Zone, including the applicant's timetable for taking the actions;

(3) a plan for the production of housing affordable to lower-, moderate-, and middle-income families, respectively, in the Zone, which plan shall include a description of the quantities and types of housing to be produced and a timetable for their production;

(4) a clear delineation of the relationship between barriers to be removed and the housing to be produced, included the effect of removing the barriers on reducing the price of housing;

(5) actions that an applicant shall take to emphasize homeownership opportunities for lower-, moderate-, and middle-income families;

(6) any other local support for Zone activities, including commitments of financial or technical assistance from public and private entities and persons, including (but not limited to) such resources derived from community development block grants and programs of State assistance, donations of land, buildings, and other resources, and the abatement of relevant taxes, fees, and charges; and

(7) such other information as the Secretary shall require.

(c) HIGHER INCOME AREAS.—In the case of an eligible jurisdiction having a median family income higher than the median family income for the metropolitan statistical area in which it is located, the application for designation of a Housing Opportunity Zone shall particularly emphasize producing housing to meet the needs of lower-income families.

SEC. 05. SELECTION OF HOUSING OPPORTUNITY ZONES.

The Secretary shall designate Housing Opportunity Zones on the basis of a national competition, using the following selection criteria:

(1) The extent to which the Zone has substantial potential for accommodating the production of housing.

(2) The extent to which housing produced in the Zone will be affordable to lower-, moderate-, or middle-income families.

(3) The extent to which the removal of the barriers specified in the application will have a substantial effect lowering the cost of housing.

(4) The extent to which the application emphasizes homeownership opportunities.

(5) The extent to which the applicant's proposed barrier removals and housing activities are capable of accomplishment within the period of the Zone designation.

(6) The extent of any other local support for Zone activities.

(7) Such other factors as the Secretary may require.

SEC. 06. BARRIER REMOVAL PLANS.

The Secretary may approve Barrier Removal Plans submitted by eligible jurisdictions. All such approvals shall be made at one time, when the Housing Opportunity Zones are designated under this title. Eligible jurisdictions may apply both for Housing Opportunity Zone designation and Barrier Removal Plan approval, but may not be approved for both. Plans shall apply to the entire jurisdiction for which application is made, and shall identify the barriers to affordable housing for lower-, moderate-, and middle-income families; describe the steps that the locality intends to take to remove the barriers; and set forth a timetable for achieving such steps. The Secretary shall specify in the notice referred to in section 03(b) such minimum standards for the approval of Plans as the Secretary deems appropriate.

SEC. 07. TERM AND REVOCATION OF HOUSING OPPORTUNITY ZONE DESIGNATIONS AND BARRIER REMOVAL PLAN APPROVALS.

(a) TERM OF APPROVAL OR DESIGNATION.—The approval of any Barrier Removal Plan and the designation of any Housing Opportunity Zone shall be effective for a term that shall not exceed 3 years.

(b) REVIEW AND REVOCATION.—At least annually, the Secretary shall review the progress of each jurisdiction with a designated Zone or an approved Plan in undertaking the actions specified in its application. If, in the Secretary's sole judgment, the jurisdiction is not making substantial progress in achieving the purposes of this title, the Secretary may revoke the approval of the Barrier Removal Plan or the designation of the Housing Opportunity Zone.

(c) OBLIGATION UNDER RELATED PROGRAMS.—(1) The revocation of a Plan approval or Zone designation under this title shall not affect obligations under any other law except to the extent that there is documentary evidence that the Secretary made such obligation subject to the continuation without revocation of the approval or designation.

(2) For a period of one year after the approval or designation ceases to be effective, the Secretary shall have the authority to accord to the jurisdiction that has had a designated Zone the benefits of section 203(b)(2)(iv) and 203(k)(6) of the National Housing Act.

SEC. 08. REPORTS.

(a) ANNUAL PERFORMANCE REPORTS.—The Secretary may require each jurisdiction that has an approved Barrier Removal Plan or a designated Housing Opportunity Zone, to make annual performance reports, in support of the Secretary's responsibility to conduct progress reviews, and otherwise.

(b) FINAL REPORTS.—Each jurisdiction that has an approved Barrier Removal Plan or a designated Housing Opportunity Zone shall submit a final report to the Secretary, in such form as the Secretary requires, within 6 months after the Plan approval or Zone designation ceases to be effective.

(c) REPORT TO CONGRESS.—The Secretary shall evaluate the programs under this title, and report conclusions and make recommendations to the Congress within 5 years following the date of the original designations and approvals.

SEC. 09. RENTAL REHABILITATION GRANT BONUS.

Section 17(b)(2) of the United States Housing Act of 1937 is amended by adding at the end the following:

"(C) The Secretary is authorized to increase by 5 percent for an approved Barrier Removal Plan, or 10 percent for a designated Housing Opportunity Zone, the amount allocated and otherwise adjusted under this subsection for any jurisdiction that has an approved Plan or a a designated Zone, respectively, under the Housing Opportunity Zones Act of 1990.".

SEC. 10. CDBG LOW- AND MODERATE-INCOME BENEFIT IN HOUSING OPPORTUNITY ZONES.

Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out "and (B)" and inserting in lieu thereof the following: "(B) if the grantee is a severely distressed unit of local government and conducts an activity in a designated Housing Opportunity Zone under the Act of 1990, to the extent so conducted, the activity will be deemed to principally benefit low- and moderate-income persons; for purposes of construing the immediately preceding clause, severely distressed unit of local government, means a unit of general local government—

"(i) for which a major disaster is declared, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that meets such other standards as the Secretary may determine, or

"(ii) that meets the standards established by the Secretary for determining severe distress, which standards shall be based upon measures of the lack of capacity of units of general local government to meet the needs of low- and moderate-income persons with their own resources; and (C)".

SEC. 11. REUSE OF URBAN RENEWAL LAND IN HOUSING OPPORTUNITY ZONES.

The Secretary is authorized to modify or waive any term or condition for the benefit of the Secretary, or the United States, regarding the use or disposition of urban renewal project land, any part of which is located in a Housing Opportunity Zone, including payment of disposition proceeds to the Secretary, under a closeout grant made pursuant to section 106(i) of the Housing Act of 1949 or section 103(b) of the Housing and Community Development Act of 1974, if such action may assist in the carrying out of any activity in such Zone.

SEC. 12. URBAN HOMESTEADING PREFERENCE.

Section 810 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof a new subsection, as follows:

"(m)(1) In selecting urban homesteading programs for approval under subsection (b), the Secretary shall give preference to any unit of general local government that includes a designated Housing Opportunity Zone under the Housing Opportunity Zones Act of 1990.

"(2) In allocating money for reimbursement under subsection (g), the Secretary shall give preference to making reimbursements for properties that are requested by units of general local government that include a designated Housing Opportunity Zone.".

SEC. 13. SINGLE FAMILY MORTGAGE INSURANCE IN HOUSING OPPORTUNITY ZONES.

(a) MORTGAGE INSURANCE.—The last sentence of paragraph (2) of section 203(b) of the National Housing Act is amended by striking out "or" immediately before "(iii)" and inserting immediately before the final period the following: ", or (iv) the dwelling is located in a designated Housing Opportunity Zone under the Housing Opportunity Zones Act of 1990".

(b) REGULATIONS.—Section 203(k) of the National Housing Act is amended by adding a new paragraph at the end thereof as follows:

"(6)(A) The Secretary is authorized to promulgate regulations that shall, in addition to other purposes under this Act, promote the rehabilitation of housing for lower-, moderate-, and middle-income families (as defined in the Housing Opportunity Zones Act of 1990) in Housing Opportunity Zones designated under such Act.

"(B) The regulations under this paragraph may provide for the Secretary—

"(i) to delegate to a public agency the authority under this subsection to prescribe and implement standards and procedures that shall be in accord with this section and approved by the Secretary, for credit reviews, rehabilitation activities, and other eligibility requirements; and

"(ii) to share the insurance risk with a public agency, through indemnification, coinsurance, or other means the Secretary finds to be appropriate.

"(C) Any action taken by a public agency pursuant to the delegated authority shall be subject to review by the Secretary.".

SEC. 14. APPLICABILITY OF RELOCATION ENVIRONMENTAL REVIEW, AND RELATED LAWS.

Neither the approval of a Barrier Removal Plan nor the designation of a Housing Opportunity Zone under this title shall be deemed to constitute—

(1) acquisition of real property or displacement of any person under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(2) a Federal action or proposal under the National Environmental Policy Act of 1969; or

(3) an action, event, program, project, or undertaking that would invoke the applicability of any procedural duties that would otherwise arise from a Federal environmental or historic preservation law, Executive order, or regulation.

Mr. BOSCHWITZ. Mr. President, cosponsors of this amendment are Senators GRASSLEY, GORTON, MACK, KASTEN, BURNS, and COATS.

Mr. President, I yield to my colleague from California.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I thank my friend from Minnesota. I ask unanimous consent to proceed for 3 minutes as in morning business for purposes of introducing a joint resolution.

The PRESIDING OFFICER. The Senate will be in order.

Has the Senator from Minnesota yielded the floor?

Mr. BOSCHWITZ. I yield the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from California to proceed in morning business for the purpose of introducing a joint resolution?

Mr. SARBANES. Mr. President, for how long is the Senator seeking to proceed?

The PRESIDING OFFICER. The request is for 3 minutes.

The Senator from California.

Mr. WILSON. I thank the Chair.

(The remarks of Mr. WILSON pertaining to the introduction of Senate Joint Resolution 341 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NATIONAL AFFORDABLE HOUSING ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 2077 TO AMENDMENT NO. 2076

(Purpose: To provide for Housing Opportunity Zones)

Mr. CRANSTON. I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 2077 to amendment No. 2076.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted insert the following:

TITLE HOUSING OPPORTUNITY ZONES

SEC. 01. SHORT TITLE.

This title may be cited as the "Housing Opportunity Zones Act of 1990".

SEC. 02. DEFINITIONS.

As used in this title—

(1) The term "barrier" means any requirement promulgated by the legislative or executive body of any State or local governmental entity that inhibits the production in the eligible jurisdiction of housing that is affordable to lower-, moderate-, and middle-income families.

(2) The term "city" means a city, as defined in section 102 of the Housing and Community Development Act of 1974.

(3) The term "eligible jurisdiction" means a city that has a population of 51,000 or more, or an urban county, that received a formula allocation of rental rehabilitation grants under section 17(b)(1) of the United States Housing Act of 1937 for the fiscal year immediately preceding the fiscal year in which Housing Opportunity Zones and Barrier Removal Plans are designated and approved, respectively.

(4) The term "Housing Opportunity Zone" means a geographic area designated by the Secretary that—

(A) has significant amounts of vacant land or vacant buildings that have potential for development or redevelopment for housing affordable to lower-, moderate-, and middle-income families;

(B) has continuous boundaries and covers the entire area within these boundaries; and

(C) covers an area that is less than coterminous with, but wholly within, the boundaries of the eligible jurisdiction.

(5) The term "lower-income family" means a family or individual whose income does not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for

smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Moderate-income family shall mean a family or individual whose income exceeds 80 percent, but does not exceed 95 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 95 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Middle-income family shall mean a family or individual whose income exceeds 95 percent, but does not exceed 115 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 115 of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "urban county" means an urban county, as defined in section 102 of the Housing and Community Development Act of 1974.

SEC. 03. BASIC AUTHORITY AND PURPOSE.

(a) AUTHORITY AND PURPOSE.—The Secretary is authorized to designate Housing Opportunity Zones and approve Barrier Removal Plans for cities and urban counties, as provided by and in accordance with this title, for the purpose of encouraging these jurisdictions to remove legislative and administrative barriers to the production of new and substantially rehabilitated housing that is affordable to lower-, moderate-, and middle-income families.

(b) NOTICE.—The Secretary shall establish standards to implement the provisions of this title by notice published in the Federal Register not later than 120 days after the date of enactment of this title.

(c) RELATED ASSISTANCE.—The Secretary is authorized to promulgate or revise any insurance, guarantee, or financial or other assistance program or administrative requirement or regulation of the Secretary that is not required by law, in support of Barrier Removal Plans and Housing Opportunity Zones. To the extent such promulgation or revision relates only to actions that pertain to such Zones or such Plans, the Secretary may take such action by notice published in the Federal Register.

SEC. 04. HOUSING OPPORTUNITY ZONES.

(a) DESIGNATION.—The Secretary shall designate not more than 50 Housing Opportunity Zones. All Zone designations shall be made at one time. The Secretary shall make Zone designations for those eligible jurisdictions that, in the Secretary's discretion, as reflected in the applications, have the best chances of achieving the purposes of this title, except that the Secretary also shall have discretion to attain geographic diversity in making Zone designations.

(b) APPLICATIONS.—Each Zone designation shall be made on the basis of an application from an eligible jurisdiction. Each application for designation of a Housing Opportunity Zone shall specify—

(1) the location, boundaries, and character of the proposed Zone, including any maps or other supporting material that the Secretary deems appropriate;

(2) the actions that the applicant will take during the term of the designation to remove particular barriers within the Zone, including the applicant's timetable for taking the actions;

(3) a plan for the production of housing affordable to lower-, moderate-, and middle-income families, respectively, in the Zone, which plan shall include a description of the quantities and types of housing to be produced and a timetable for their production;

(4) a clear delineation of the relationship between barriers to be removed and the housing to be produced, including the effect of removing the barriers on reducing the price of housing;

(5) actions that an applicant shall take to emphasize homeownership opportunities for lower-, moderate- and middle-income families;

(6) any other local support for Zone activities, including commitments of financial or technical assistance from public and private entities and persons, including (but not limited to) such resources derived from community development block grants and programs of State assistance, donations of land, buildings, and other resources, and the abatement of relevant taxes, fees, and charges; and

(7) such other information as the Secretary shall require.

(c) HIGHER INCOME AREAS.—In the case of an eligible jurisdiction having a median family income higher than the median family income for the metropolitan statistical area in which it is located, the application for designation of a Housing Opportunity Zone shall particularly emphasize producing housing to meet the needs of lower-income families.

SEC. 05. SELECTION OF HOUSING OPPORTUNITY ZONES.

The Secretary shall designate Housing Opportunity Zones on the basis of a national competition, using the following selection criteria:

(1) The extent to which the Zone has substantial potential for accommodating the production of housing.

(2) The extent to which housing produced in the Zone will be affordable to lower-, moderate-, or middle-income families.

(3) The extent to which the removal of the barriers specified in the application will have a substantial effect lowering the cost of housing.

(4) The extent to which the application emphasizes homeownership opportunities.

(5) The extent to which the applicant's proposed barrier removals and housing activities are capable of accomplishment within the period of the Zone designation.

(6) The extent to any other local support for Zone activities.

(7) Such other factors as the Secretary may require.

SEC. 06. BARRIER REMOVAL PLANS.

The Secretary may approve Barrier Removal Plans submitted by eligible jurisdictions. All such approvals shall be made at one time, when the Housing Opportunity Zones are designated under this title. Eligible jurisdictions may apply both for Housing Opportunity Zone designation and Barrier Removal Plan approval, but may not be approved for both. Plans shall apply to the entire jurisdiction for which application is made, and shall idenfity the barriers to affordable housing for lower-, moderate-, and middle-income families; describe the steps that the locality intends to take to remove the barriers; and set forth a timetable for achieving such steps. The Secretary shall specify in the notice referred to in section 03(b) such minimum standards for the approval of Plans as the Secretary deems appropriate.

SEC. 07. TERM AND REVOCATION OF HOUSING OPPORTUNITY ZONE DESIGNATIONS AND BARRIER REMOVAL PLAN APPROVALS.

(a) TERM OF APPROVAL OR DESIGNATION.—The approval of any Barrier Removal Plan and the designation of any Housing Opportunity Zone shall be effective for a term that shall not exceed 3 years.

(b) REVIEW AND REVOCATION.—At least annually, the Secretary shall review the progress of each jurisdiction with a designated Zone or an approved Plan in undertaking the actions specified in its application. If, in the Secretary's sole judgment, the jurisdiction is not making substantial progress in achieving the purposes of this title, the Secretary may revoke the approval of the Barrier Removal Plan or the designation of the Housing Opportunity Zone.

(c) OBLIGATION UNDER RELATED PROGRAMS.—(1) The revocation of a Plan approval or Zone designation under this title shall not affect obligations under any other law except to the extent that there is documentary evidence that the Secretary made such obligation subject to the continuation without revocation of the approval or designation.

(2) For a period of one year after the approval or designation ceases to be effective, the Secretary shall have the authority to accord to the jurisdiction that has had a designated Zone the benefits of sections 203(b)(2)(iv) and 203(k)(6) of the National Housing Act.

SEC. 08. REPORTS.

(a) ANNUAL PERFORMANCE REPORTS.—The Secretary may require each jurisdiction that has an approved Barrier Removal Plan or a designated Housing Opportunity Zone, to make annual performance reports, in support of the Secretary's responsibility to conduct progress reviews, and otherwise.

(b) FINAL REPORTS.—Each jurisdiction that has an approved Barrier Removal Plan or a designated Housing Opportunity Zone shall submit a final report to the Secretary, in such form as the Secretary requires, within 6 months after the Plan approval or Zone designation ceases to be effective.

(c) REPORT TO CONGRESS.—The Secretary shall evaluate the programs under this title, and report conclusions and make recommendations to the Congress within 5 years following the date of the original designations and approvals.

SEC. 09. RENTAL REHABILITATION GRANT BONUS.

Section 17(b)(2) of the United States Housing Act of 1937 is amended by adding at the end the following:

"(C) The Secretary is authorized to increase by 5 percent for an approved Barrier Removal Plan, or 10 percent for a designated Housing Opportunity Zone, the amount allocated and otherwise adjusted under this subsection for any jurisdiction that has an approved Plan or a designated Zone, respectively, under the Housing Opportunity Zones Act of 1990.".

SEC. _10. CDBG LOW- AND MODERATE-INCOME BENEFIT IN HOUSING OPPORTUNITY ZONES.

Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out "and (B)" and inserting in lieu thereof the following: "(B) if the grantee is a severely distressed unit of local government and conducts an activity in a designated Housing Opportunity Zone under the Act of 1990, to the extent so conducted, the activity will be deemed to principally benefit low- and moderate-income persons; for purposes of construing the immediately preceding clause, severely distressed unit of local government, means a unit of general local government—

"(i) for which a major disaster is declared, in accordance with the Robert T. Stafford Disaster Refief and Emergency Assistant Act, and that meets such other standards as the Secretary may determine, or

"(ii) that meets the standards established by the Secretary for determining severe distress, which standards shall be based upon measures of the lack of capacity of units of general local government to meet the needs of low- and moderate-income persons with their own resources; and (C)".

SEC. _11. REUSE OF URBAN RENEWAL LAND IN HOUSING OPPORTUNITY ZONES.

The Secretary is authorized to modify or waive any term or condition for the benefit of the Secretary, or the United States, regarding the use or disposition of urban renewal project land, any part of which is located in a Housing Opportunity Zone, including payment of disposition proceeds to the Secretary, under a closeout grant made pursuant to section 106(i) of the Housing Act of 1949 or section 103(b) of the Housing and Community Development Act of 1974, if such action may assist in the carrying out of any activity in such Zone.

SEC. _12. URBAN HOMESTEADING PREFERENCE.

Section 810 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof a new subsection, as follows:

"(m)(1) In selecting urban homesteading programs for approval under subsection (b), the Secretary shall give preference to any unit of general local government that includes a designated Housing Opportunity Zone under the Housing and Opportunity Zones Act of 1990.

"(2) In allocating money for reimbursement under subsection (g), the Secretary shall give preference to making reimbursements for properties that are requested by units of general local government that include a designated Housing Opportunity Zone.".

SEC. _13. SINGLE FAMILY MORTGAGE INSURANCE IN HOUSING OPPORTUNITY ZONES.

(a) MORTGAGE INSURANCE.—The last sentence of paragraph (2) of section 203(b) of the National Housing Act is amended by striking out "or" immediately before "(iii)" and inserting immediately before the final period the following: ", or (iv) the dwelling is located in a designated Housing Opportunity Zone under the Housing Opportunity Zones Act of 1990".

(b) REGULATIONS.—Section 203(k) of the National Housing Act is amended by adding a new paragraph at the end thereof as follows:

"(6)(A) the Secretary is authorized to promulgate regulations that shall, in addition to other purposes under this Act, promote the rehabilitation of housing for lower-, moderate-, and middle-income families (as defined in the Housing Opportunity Zones Act of 1990) in Housing Opportunity Zones designated under such Act.

"(B) The regulations under this paragraph may provide for the Secretary—

"(i) to delegate to a public agency the authority under this subsection to prescribe and implement standards and procedures that shall be in accord with this section and approved by the Secretary, for credit reviews, rehabilitation activities, and other eligibility requirements; and

"(ii) to share the insurance risk with a public agency, through indemnification, coinsurance, or other means the Secretary finds to be appropriate.

"(C) Any action taken by a public agency pursuant to the delegated authority shall be subject to review by the Secretary.".

SEC. _14. APPLICABILITY OF RELOCATION ENVIRONMENTAL REVIEW, AND RELATED LAWS.

Neither the approval of a Barrier Removal Plan nor the designation of a Housing Opportunity Zone under this title shall be deemed to constitute—

(1) acquisition of real property or displacement of any person under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(2) a Federal action or proposal under the National Environmental Policy Act of 1969; or

(3) an action, event, program, project, or undertaking that would invoke the applicability of any procedural duties that would otherwise arise from a Federal environmental or historical preservation law, Executive order, or regulation.

Mr. CRANSTON. Mr. President, the amendment was sent to the desk simply to provide us an opportunity to present and consider the Boschwitz amendment. It makes no substantive change in the Boschwitz amendment.

Mr. BOSCHWITZ. Mr. President, I thank the senior Senator from California for placing on this a second-degree amendment so that we will be able to have a vote on the amendment up or down in that way, rather than having the amendment effectively preempted by an amendment in the second degree.

Mr. President, 10 years ago, I introduced the Urban Jobs and Enterprise Zone Act of 1980. That measure, along with the House companion bill introduced by my good friend, then-Congressman Jack Kemp, was the seed from which the enterprise zones idea grew.

Really, it was Mr. Kemp's idea, it was his seed and he introduced it in the House. And then I followed, together with the Senator from Wisconsin [Mr. KASTEN] and others, in introducing it in the Senate.

While Congress has been painfully slow to approve enterprise zones at the Federal level, many State and local governments have shown remarkable enthusiasm for the idea of bringing down Government barriers to entrepreneurship, offering tax and regulatory incentives, and realizing that they can help revitalize distressed areas.

It has worked in Minnesota and it has worked in approximately two dozen other States as well. Thousands of new jobs have been created in our Nation's most economically depressed regions by the enterprise zone programs in States and localities around the country.

Now 10 years after we introduced the first enterprise zone legislation in Congress, the time has come to expand the scope of this idea to encompass the needs of low- and moderate-income Americans in the vitally important area of housing.

Mr. President, I rise today to offer an amendment that will create 50 housing opportunities zones. We are all aware of the great difficulties facing many American cities and towns in the area of housing affordability for people with low and moderate incomes. That is the whole purpose of this bill, to try to ease that particular problem for those with low and moderate income.

Housing opportunities combine two necessary methods for attacking these problems. First, enticements to State and local governments to bring down their barriers to affordable housing and second, a strong set of Federal incentives to pursue entrepreneurial activities in the housing sectors of America's most distressed areas.

Recent studies suggest that in some parts of the country, one-third or more of the price of a new home is attributable to the regulatory restraints imposed by State and local governments. It is an amazing figure, Mr. President, that one-third or more of the price of new homes is attributable to regulatory restraint.

These regulations include rent controls, exclusive zoning restrictions, overly complex building codes, regressive property taxes, and other restraints. These restrictions add tens of thousands of dollars to the cost of building a home, and create disincentives which allow buildings to deteriorate.

Unfortunately, the bulk of the restraints on home construction and rehabilitation originates at the State and local level and cannot be reached by Federal agencies directly, and that is the reason for this particular amendment because that is where housing opportunity zones come in. These zones are designed to put money into areas where housing stock is deteriorating, yet the local regulatory and tax barriers are stopping rehabilitation or new construction.

Cities and towns competing to be designated a housing opportunity zone will be required to offer a plan to eliminate barriers to home construction and home improvement.

In addition to bringing down the barriers I mentioned, the applicant could also offer low-priced land, vacant publicly owned land, low interest loans, or real estate tax abatement.

Once designated a housing opportunity zone, the local incentives will be boosted by a series of Federal incentives. These would include rental rehabilitation grant bonuses, community development block grant benefits, targeted FHA insurance, and urban homesteading preferences.

I am convinced that improvements in housing quality and affordability will result in the freer markets in these zones, and providing better and more affordable housing opportunties to our Nation's low and moderate income people is what this bill really is all about.

Housing opportunity zones provide a means for converting areas with large amounts of poor housing, limited ownership, and vacant, substandard housing into areas with livable and affordable housing for people who are in need.

I would like to commend President Bush and Housing Secretary Jack Kemp for their efforts to promote housing opportunity zones in their HOPE initiative, the home ownership and opportunity for people everywhere initiative. I had hoped that this provision would be included in the National Affordable Housing Act.

It is now up to Congress to move the ball forward in this important area. I urge my colleagues on both sides of the aisle to join me in support of this amendment.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I rise in opposition to the amendment offered by the Senator from Minnesota.

Over the past week, I have met repeatedly with Senators on a bipartisan basis—along with Secretary Kemp and senior officials from OMB. After generous and often reluctant concessions from all sides, yesterday, we finally came to agreement on a package amendment that resolves the four outstanding issues in the housing bill: FHA, new construction, HOPE funding, and income targeting.

But now the Senator from Minnesota has decided to introduce yet another issue. That is his prerogative, of course. But I would hope that the Senator, and all other Senators, recognize that the floor time for the housing bill is quite limited. Amendments such as this carry the serious risk of bringing this housing bill to a screeching halt due to the limited amount of time available on the floor.

This amendment is especially inappropriate in light of the agreement we have with the administration. I do not doubt for a moment that the Senator from Minnesota thinks that his amendment enhances the bill.

But the administration agreed to confine its requests for changes in this bill to those that were raised and agreed to in good faith and with considerable compromise. And this amendment stems from an administration request that was made before we reached our compromise agreement.

The housing opportunity zones would, at a minimum, encourage localities to eliminate or reduce building codes, regulations or permitting processes. In many cases, these local requirements are designed to protect the public health, safety and welfare of the community. The solution proposed in this amendment is to pressure local governments to eliminate local housing laws and regulations that the Secretary believes are barriers.

The amendment never actually defines what it means by "local barriers to affordable housing." The amendment would bring back the coinsurance program by allowing the Secretary to engage in risk sharing with local governments who participate in the program.

And, finally, the amendment allows an area that is designated a housing zone to automatically qualify for CDBG assistance, even though the locality could be constructing middle class housing within the zone. This contradicts the administration's emphasis in our negotiations for tightly targeted Federal housing programs.

For those reasons and others, I oppose this amendment and I urge my colleagues to vote against it.

Mr. D'AMATO. Mr. President, I do not intend to take a great deal of time. We should be able to vote on this amendment, hopefully, within the hour, which gives us 7 minutes.

Specifically, this amendment would create 50 housing opportunity zones, and it would target Federal incentives such as bonuses for HUD housing grants and regulatory awards to those communities that have the best strategy to remove regulatory barriers to affordable housing.

Mr. President, we have heard builder after builder, developer after developer, community-based programs in particular, saying it is a nightmare dealing with the local cities, dealing with the local bureaucracy. That is what this amendment tends to do, to cut through those barriers and to say to those communities that take down the barriers to development, yes, we are going to work with you. I commend Senator BOSCHWITZ for this amendment.

Senator CRANSTON was right; It was not an element that was agreed upon. We did not think it was critical, to make or break the bill. But certainly it does a better job in getting those funds to those communities that eliminate artificial barriers. I think that is what we are targeting. We are not talking about eliminating the necessary State codes or building codes that make sense and are there to see to it that people are not taken advantage of in the construction of decent, affordable housing.

I support the amendment offered by the Senator from Minnesota. I believe it represents a good idea. It is an improvement to the committee bill.

Mr. President, I do not believe the yeas and nays have been asked for. So I am going to ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BOSCHWITZ. Mr. President, in my business career I built a lot of houses, and I certainly agree with the Senator from New York that getting the various permits, going through all the steps, meeting all the requirements can often be a nightmare. As a matter of fact, as the Senator from New York spoke, I thought of the very many nights I sat at various community planning commissions. After going through the planning commission, I went to the city council, sitting until 1 or 2 in the morning in order to get permission to build either homes or warehouses or some other type of structure. That adds an enormous amount to the cost. I remember many times when I sat there with my attorney, I just got steamed because I was paying that fellow by the hour, and he was sitting there with me. Each hour we sat there, of course, the meter was running, as they say, and the cost of building whatever we were seeking to build went up. Somehow that cost has to be recaptured. It has to be recaptured from the buyer.

I know that my colleague from Iowa is here and wants to speak to this amendment. I will talk about some of my own experiences and also the experiences of others, and then I will turn to the chart that we have, local government permit processing chart, to illustrate how difficult it is to go through the steps and that, indeed, can often increase the cost of a home easily by a third by the various requirements that are imposed.

Many of the requirements are reasonable. I say to my friend from California, we do not want to do away with reasonable requirements. We just want to streamline them. Those communities that streamline them would get special attention, and in the process of streamlining requirements, quite clearly the cost of housing will become more affordable to those in the lower and moderate income brackets whom we are trying to help by this bill.

I yield the floor.

Mr. GRASSLEY. Mr. President, I happen to be a cosponsor of this amendment. I think it is a very good piece of legislation. It is going to cut through a lot of redtape. It is going to help the housing industry. It is going to accomplish a lot without spending a

lot of money in Washington. I think it is a wonderful opportunity for this body to go on record doing something that the private sector can accomplish, as opposed to Government accomplishing. So often we in the Congress tend to rely upon our ability to appropriate money to get housing. Obviously, that is not where you get most of your housing, and that is not going to solve the housing problem because the housing problem has not been solved after about 60 years of trying.

So I look forward to cooperate in efforts that break down bureaucratic redtape and other things that prevent the private sector from providing housing that is needed.

The housing opportunity zones amendment is an innovative approach to the housing needs of our country. Housing opportunity zones are designed to revitalize stressed areas by eliminating government barriers to entrepreneurship and offering tax and regulatory incentives. In some parts of the country, up to one-third of the price of a new home can be attributed to regulatory restraints imposed by different layers of government. These regulations include exclusive zoning restrictions, overly complex building codes, regressive property taxes, rent controls, and a lot of other restraints that can be mentioned. Eventually, disincentives like this lead to deterioration of housing, and, in turn, to the deterioration of the communities in which those houses are located. The solutions to housing problems need to be addressed at the local level, not in Washington. This bill helps to foster that approach, and the Boschwitz amendment is heading in the right direction.

Mr. President, put quite simply, Washington needs to cut bureaucracy rather than to create it. If there was ever a bureaucracy that needed cutting, it is the bureaucracy of a local, State and Federal level that deals with the housing industry, particularly the restrictions put on the housing industry.

This bill would spur housing construction in areas that that need help with an effective incentive-based approach. These zones will bring improvements in housing quality and affordability through freer markets.

Mr. President, we have an opportunity here today. We have the opportunity to say "yes" to local initiatives. We have the opportunity to say "no" excessive Government bureaucracy. We have the opportunity to vote for a piece of legislation that will unleash the free market system toward providing affordable housing for areas of the country that are being restricted from this goal.

I urge my colleagues to take advantage of this opportunity.

So, Mr. President, surely the dream of owning a home has always been a vital part of a America's pioneering spirit. This amendment will be more attainable, or this amendment will make that dream more attainable for people of our country. This amendment attempts to bring this dream quite a bit closer. I ask for its adoption. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the distinguished Senator from Minnesota has for many years been a strong and eloquent advocate of opportunities, of trying to see to it that various of the inhibitions which governments, Federal, State, and local, can place on business enterprises or, in this connection, housing, are removed in certain parts of the country where needs are particularly large.

In order to determine whether or not those changes will in fact inspire and encourage economic development and, in this case, an increase in the housing supply, the amendment which my friend from Minnesota has offered calls for the creation or the designation of 50 housing opportunity zones across the country. No community would be forced to accept a housing opportunity zone. They would be inspired to do so by an additional direction of various forms of Federal aid in the bill which we are debating here today.

In exchange for that additional Federal direction or Federal assistance, they would have to look into the restrictive zoning codes, artificial building codes, many of the rules of which are 50 or 100 years old. They would have to do their part to bring down the cost of housing for people for whom housing is needed. In return, the Department of Housing and Urban Development would focus much of this assistance on these particular zones.

I believe that there are two overwhelming reasons, overriding reasons, which call for support for the amendment proposed by the Senator from Minnesota. The first is that it will provide more housing for less money in precisely 50 areas in which housing is particularly urgently needed. Second, it will give us an opportunity to see whether or not a reduction in the maze, which is a part of the sway the Senator from Minnesota has already spoken to, will, in fact, have the positive impacts which its sponsors believe it will have.

Fifty enterprise zones, housing enterprise zones, is a modest addition to the kind of challenges which we face at the present time. It is truly a pilot program designed to determine the extent to which housing opportunities are inhibited by various kinds of codes, local and State restraints, which have grown up willy-nilly over the course of years, not with any design that they lower the availability of housing, but with the real, very real effect of lowering the availability of housing.

I commend my friend from Minnesota. I think he has a good idea. He has been pressing ideas like this for a substantial number of years. The time has come, when we have this magnificent new housing bill about to pass, to try just one more experiment to provide more housing for more people where that housing is needed. The Boschwitz amendment will do exactly that. I commend it to the favorable consideration of our colleagues.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I have back here a chart that should be of interest to Members of the Senate. It is the local government permitting process in Orange County, CA. It is a continuous chart. It does not end here. At this point the house does not get built. But it goes all through these sets. Finally, down here, the house is completed. It shows more graphically than one can express in words the difficulties that a builder has in the process of building homes.

As I said earlier, Mr. President, in my business career I built several hundred homes, though that was not my principal occupation. Indeed, it was very difficult. Indeed, it was often encumbered by a mass of regulations, some of which, as the Senator from Washington has stated, grew up in a willy-nilly kind of manner to address a single situation, and then stayed on the books and had to be considered in all projects thereafter.

As I speak about these things, again the many hours come to mind that I have sat with building inspectors, city planners, and others, in order to get approval of various plans; the zoning changes that I have had to obtain, which is almost par for the course—that zoning changes should be required in the process of building, particularly if it is a development, particularly if it is a little larger development.

We used to build on peoples' lots and often the lots were in various parts of the region of the Twin Cities of Minneapolis and St. Paul. This was often difficult because, as the lots were in different communities and in Minneapolis and St. Paul there are approximately 40 different communities, each with their own set of regulations, each with their own set of rules.

It is my hope in offering this amendment that perhaps some of these communities will join together and seek to become a housing opportunity zone. Or that the city of Minneapolis or the city of St. Paul, particularly with its inner city, would join and seek to make part of it a housing opportunity

zone, where the strictures of all, and the constraints of all the regulations and all the rules would be relaxed—I would say to my friend from California, that reasonable restraints and reasonable restrictions not be relaxed, not at all. Many of them protect the public welfare.

As the Senator from California has pointed out, it is not those that we are after. It is rather the barriers that I will discuss here in a moment that stand in the way of building reasonably priced homes.

This is a subdivision flow chart that I have often encountered myself. All this is an environmental impact report that has become more and more difficult in recent years, and that we have made more difficult here in the Congress as well.

Then the use permit, conditional permits in the event that there is any difference in the size of the homes, the size of the lots, or where they are placed, and so forth. Grading permits have always been a problem, and how far one must dig, and to what degree. In our part of the world where the freezes are very hard, the requirements are quite strict.

Yet, we have found ways of building homes quite satisfactorily that do not require full basements. That can be made much more reasonable without a full basement. Yet, in some communities they cannot be put up.

There are the building permits, of course, and the final step in the whole process, the inspections that they place during parts of building, and for which the builder often has to stop and wait for the inspector.

For instance, that is one reform that could easily be made and that would be very practical. A community would agree that within 2 hours of completing a certain development or certain stage of development they would send out an inspector. It is not unusual to reach a certain stage, for instance, in plumbing, or to reach a certain stage in electrical installation and then to have to stop and wait for the inspector, and to have your people sitting there waiting for the inspector to come. It may be that one of the very practical elements of these kinds of housing opportunity zones would be a pledge by a community that within an hour or 2 hours of completion of a particular stage, that a building inspector would come out, that there would not be these extended delays, which are very costly, and during which you have to pay your people, unless you want to send them home and bring them back on another day and pay them again for another full day.

There are very many ways that we can make adjustments to the housing codes that exist and that are part of the encumbrances that stand in the way of reasonable housing. President Bush said:

> No city, State, or town should receive a single penny of Federal housing funding until they have identified barriers to affordable housing in their own back yard and have taken steps to remove them.

This amendment is offered in the spirit of that statement. It encourages State and local governments in the Nation's most distressed areas to bring down their barriers to affordable housing, and it encourages the private sector to build and rehabilitate low-income housing.

State and local government-imposed barriers add tens of thousands of dollars to the cost of affordable housing, pricing low- and moderate-income people right out of the marketplace. While the Federal Government can provide assistance to low-income families, local communities must cooperate in closing the housing affordability gap by lifting regulations that really are antihousing. With the removal of those barriers and with the right Federal incentives, the private sector really can offer dramatic new additions to affordable housing stock. The private sector will also create and rehabilitate low-income housing cheaper than the Federal Government can, and without the potential for corruption or mismanagement.

Mr. President, I want to just give a couple of illustrations, and I say to my colleague that I will not be too long. In 1973, a developer bought 2,640 acres in a tract and planned to build 10,500 housing units in northern New Jersey. That was before the builder got caught in the web of regulations, bureaucratic delays, and impact assessments.

Today, 17 years later, the original tract of over 2,600 acres has been whittled down to 800. Only 1,995 homes will be allowed to be built, 80 percent less than first planned. And the price of a home will be increased by an average of $68,000. They still have not begun construction even now, 17 years later. But if you can imagine, Mr. President, building 2,000 houses instead of 10,000 houses, those 2,000 houses have to carry the cost of the entire tract, and that obviously increases the price of each of the homes.

In addition, for the privilege of building homes, the developer had to construct a $6 million senior citizen center, a 250-space parking lot covering 7 acres, a 200-acre park with tennis courts and other recreational areas; and these facilities required sidewalks, street lighting, and other direct benefits to the township and will cost more than $47 million. The total of all of these regulations has been estimated at nearly $100 million, all before the first house has been built.

Certainly, those are the things we are trying to get at. Some of those things are certainly beneficial. I have seen some very nice developments where parks have been required and some lovely developments where some acreage has been set aside for recreation and also where cars have been removed from the streets. But this development in northern New Jersey has made houses in an area, which were supposed to be affordable, nonaffordable.

The Claremont, CA, Institute which prepared this chart estimates that zoning laws, regulations, building codes and fees can increase new home prices in Orange County, CA, by 50 to 100 percent, up to a doubling of the price of a new home. They have estimated that within middle-income housing, for every thousand dollar increase in the price of a home 300,000 people can no longer afford to buy the home. For every $1,000 you increase the price, the Claremont Institute estiamtes that 300,000 people cannot achieve the goal of home ownership, which is really one of the foundations of the American dream.

Exclusionary zoning laws and the "not in my backyard" syndrome work to deny many families access to affordable housing. In Brookhaven Township, NY, for example, a proposal to build 160 apartments on 30 acres for low-income families was rejected by the town council. People simply did not want low-income housing in their area. That, too, is the kind of zoning regulation, the kind of restraint that could be removed by the housing opportunity zone amendment.

Rent controls in many major cities have crippled the construction market for new rental housing by making it unprofitable to be a landlord. Like most other government building and housing regulations, rent control is a great deal for people who want to preserve the status quo, but a lousy deal for low- and middle-income families looking for a home or apartment.

Make no mistake about it, rent controls do not help the poor. They help mostly affluent residents who want to remain entrenched in cheap, rent-controlled apartments. Very often, particularly in large cities where you find a large apartment where a family has grown up, which is rent controlled and where the parents, or perhaps just one parent now, occupies many rooms, but because of rent control, that apartment or that person really has no incentive to move or cannot move, and because of rent control new apartments are not built. the apartments in the area simply are not affordable to the low- and moderate-income people.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. BOSCHWITZ. Yes.

Mr. D'AMATO. I had intended to support this, but when the Senator wanders into the area of rent control, that perks up this Senator's curiosity.

I would say it may even be doing some violence to the position of cutting through barriers. I just mention that and throw it out, and I wonder if we can move to a vote on this.

Mr. BOSCHWITZ. I say that we will move to a vote on it, if he would exercise reasonable patience. I say to my colleague that rent control is one of the items that indeed could be waived or changed. I give that as an example of what can be changed in a housing opportunity zone.

I know that the Senator is anxious to vote, and I am just about prepared to vote on this. I thank him for asking for the yeas and nays on the amendment.

Again, I say that this is an effort to cut through some of the regulations, to say that throughout the country there are 50 zones to be created that would receive some preferences in Federal programs, in the event that local and State agencies remove some of the restraints now placed on building new homes.

This amendment would lower the cost of homes. Clearly, it would.

I say again to my friend from New York and others that, in the process of building hundreds of homes, I can attest to the fact that the regulations do increase the cost of homes; that the regulations often are, just as my friend from the State of Washington has noted, willy-nilly piled one on top of the other; that the regulations really do not add much to the value of the home or to the protection of the public welfare; and it is for that reason that I offer this amendment.

Anyone who has been in the business of building homes, anyone who has been in the business of lending on homes, anyone who has in any way been connected with the housing industry would recognize the purposefulness of this amendment and the validity of the idea that various restraints on building, various restraints on construction, could be modified and eased. The cost of construction would go down, and indeed, low- and moderate-income families would have a greater opportunity to buy homes and achieve the American dream of becoming a homeowner.

I yield the floor.

Mr. METZENBAUM. Vote.

The PRESIDING OFFICER. Is there further debate?

The question is on the second-degree amendment to amendment 2077.

Mr. CRANSTON. The vote should be on the underlying amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 2077) was agreed to.

Mr. D'AMATO. The second-degree amendment, a point of inquiry?

The PRESIDING OFFICER. The second-degree amendment.

Mr. CRANSTON. Now a rollcall on first-degree amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended, of the Senator from Minnesota.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas Mr. BENTSEN], the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The result was announced—yeas 42, nays 54, as follows:

[Rollcall Vote No. 131 Leg.]

YEAS—42

Bond	Grassley	McConnell
Boschwitz	Hatch	Murkowski
Burns	Hatfield	Nickles
Chafee	Heinz	Packwood
Coats	Helms	Pressler
Cochran	Humphrey	Roth
D'Amato	Jeffords	Simpson
Danforth	Kassebaum	Specter
Dole	Kasten	Stevens
Domenici	Lott	Symms
Durenberger	Lugar	Thurmond
Garn	Mack	Wallop
Gorton	McCain	Warner
Gramm	McClure	Wilson

NAYS—54

Adams	Dodd	Levin
Akaka	Exon	Lieberman
Baucus	Ford	Metzenbaum
Biden	Fowler	Mikulski
Bingaman	Glenn	Mitchell
Boren	Gore	Moynihan
Bradley	Graham	Nunn
Breaux	Harkin	Pryor
Bryan	Heflin	Reid
Bumpers	Hollings	Riegle
Burdick	Inouye	Robb
Byrd	Johnston	Rockefeller
Cohen	Kennedy	Rudman
Conrad	Kerrey	Sanford
Cranston	Kerry	Sarbanes
Daschle	Kohl	Sasser
DeConcini	Lautenberg	Shelby
Dixon	Leahy	Wirth

NOT VOTING—4

Armstrong	Pell	Simon
Bentsen		

So the amendment (No. 2076), as amended, was rejected.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I want to advise all Senators that if the matter involving the Gramm amendment is resolved, if a call for a study is satisfactory, the prospects are we can complete action on this measure in the next 10 minutes and start a rollcall on final passage.

Let me say, one other step has to be taken but it will just take a few moments.

A bipartisan agreement has been reached, as is well known, by the administration and the majority and the minority, Secretary Kemp, OMB Director Darman, and many Senators who have been involved in this. Senator D'AMATO and I are now offering an amendment that embraces that agreement. It covers new construction, targeting FHA actuarial soundness, and funding, including funding for the HOPE Program of the administration.

The amendment we are offering also covers amendments offered by several Senators, including GORTON, HEINZ, BOSCHWITZ, and GRAHAM of Florida, noncontroversial amendments that we are all able to accept. Most of them simply call for studies or sense-of-the-Senate resolutions.

I offer this amendment, Mr. President, as an indication of our willingness to be cooperative and, second, in the hopes we can now move to passage of this landmark legislation. Many problems will still face us in dealing with the House in conference. We need everyone's cooperation so we can enact the first truly significant housing measure since 1968.

The PRESIDING OFFICER. The chair would remind the Senator there is an amendment pending.

Mr. CRANSTON. I ask unanimous consent the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2078

(Purpose: To make a series of amendments)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself and Mr. GRAHAM, Mr. BOSCHWITZ, Mr. MCCLURE, and Mr. HEINZ, proposes an amendment numbered 2078.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 2079 TO AMENDMENT NO. 2078

(Purpose: To make a series of amendments)

Mr. D'AMATO. Mr. President, I send an amendment in the nature of a second degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 2079.

Mr. CRANSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. CRANSTON. Mr. President, I am very pleased that bipartisan agreement has been reached on the key objections raised by the administration to S. 566, the major housing bill now pending in the Senate. This is an important breakthrough that could assure passage of a major housing bill this year.

Secretary Kemp, OMB Director Darman and a number of Senators of both parties have all participated in reaching this agreement. We all recognize that we need to complete Senate action promptly if a housing bill is to be enacted this year.

I am pleased to join with Senator D'AMATO in offering this amendment, which will incorporate the agreement in the National Affordable Housing Act.

I am hopeful that, with cooperation on all sides, Senate passage of this bill will occur in a very short time, quite possible before 7 p.m.

The agreement was produced by intense negotiations during the past 3 weeks. I greatly appreciate the cooperation of Secretary Jack Kemp, OMB Director Richard Darman, Deputy Director William Diefenderfer and Senators on both sides of the aisle who have made this agreement possible.

One key issue on which there has been no disagreement is the need to return the FHA home mortgage insurance fund to financial health. TheSenate has had three competing solutions. Price Waterhouse believes all three would achieve actuarial soundness, but there has been a significant difference in emphasis. the administration's solution and a more stringent one offered by Senator D'AMATO emphasized the need to reduce FHA's default rate. I offered a third solution that likewise aimed at reducing FHA's default rate and also emphasized the need to avoid increasing the barriers to first time homebuyers.

We have agreed to adopt the administration approach and to include two provisions in my proposal: One to stop the drain on FHA reserves caused by distributive share payments until the fund returns to financial health; and another that would provide for annual, independent review of the fund's actuarial soundness.

I believe this is a sound decision, although I remain concerned about the impact on home buyers, particularly young families who are struggling to buy their first home. And I will continue to explore ways to improve this proposal as it moves through conference.

The amendment resolves a number of other disagreements—some of which derive from differences in philosophy and some of which derive from misunderstanding about the intent of the Senate-reported bill. The Senate housing bill is designed to provide more affordable housing by building on the lessons of recent years. It would strengthen imaginative new partnerships among States, local communities and the private sector. It is designed to change public policies that drive up the cost of housing and to mobilize our housing resources in ways that will ease the growing pressure on low income and very low income families.

The administration has wanted to launch a new effort to sell publicly owned housing to low-income tenants and to emphasize rental assistance through vouchers. I believe the agreement provides a Senate housing bill that gives balanced emphasis to each of those important objectives. It would fully auhorize the administration's proposed HOPE Grant Program.

Mr. President, the compromise package contains a series of amendments to the Housing Opportunities Partnerships [HOP] Program.

The first major HOP amendment would set restrictions on new construction under the program. I believe the bill reported by the Banking Committee had an appropriately balance approach—requiring jurisdictions receiving HOP funds to give preference to the rehabilitation of substandard housing, while allowing new construction because of the diversity of housing markets. In the interest of compromise, I have accepted limited restrictions on new construction; for its part, the administration has backed away from a blanket prohibition against new production.

New construction would, therefore, be prohibited unless a jurisdiction certifies that it meets objective tests pertaining to the tightness of its housing market. Senators were concerned that the Secretary not be able to set criteria so tight that no community could meet them. Therefore, the agreement would require that the criteria would have to enable at least 30 percent of the jurisdictions participating in the HOP to undertake new construction activities on their own discretion.

Two significant exceptions would be allowed, however.

A jurisdiction could use HOP funds to construct supportive housing required by persons with special needs—families with children, persons with disabilities, the homeless—if certain conditions are met. Specifically, a jurisdiction would have to certify through objective data that there is a shortage of this specialized housing in its market area.

A nonprofit could also use HOP funds for new construction where it is part of a neighborhood revitalization program. Everyone agrees that the type of revitalization strategies that leading nonprofit organizations undertake in marginal neighborhoods require construction—either to fill in vacant lots that blight so many urban neighborhood, to replace completely dilapidated buildings, or to transform large tracts of vacant land that exist in areas like the South Bronx.

The second major HOP amendment would establish guidelines to govern a jurisdiction's use of HOP funds for tenant-based rental assistance. These are reasonable restrictions that recognize the primary mission of the HOP Program is to expand the supply of decent, affordable housing. They would also protect against HUD abuse by ensuring that a jurisdiction's section 8 fair share allocation would be unaffected by the use of HOP rental assistance. The restrictions would also disallow the use of HOP rental assistance to renew expiring contracts under section 8 or to carry out other section 8 activities like replacing demolished public housing or preserving federally assisted housing subject to prepayment.

The third major HOP amendment would direct the Secretary to establish limits on the amount of HOP funds that could be made available on a per-unit basis. The limits would be established on a market-by-market basis, with adjustments made for bedroom size. Adjustments would also be made annually to reflect inflation. Distinct limits could be set for different eligible activities under HOP: new construction, substantial rehabilitation, moderate rehabilitation, and acquisition.

The fourth major HOP amendment would establish different matching requirements for the four major eligible activities authorized under the HOP Program. A 4-to-1 match would be established for tenant-based rental assistance and moderate rehabilitation activities. A 3-to-1 match would be established for substantial rehabilitation activities. A 2-to-1 match would be required for new construction activities. The provision would clarify that State and local matching funds must be made only with respect to units that are occupied by low-income families.

The fifth major HOP amendment would revise the income targeting rules in the HOP Program. For rental housing developed with HOP funds, 90 percent of the units would have to be made available to very low-income families and 10 percent to low-income families.

Where housing for homeownership is developed with HOP funds, all units would have to go to low-income fami-

lies. Moderate-income families—the families served under so many successful programs, including the Nehemiah Program authored by the Senator from New York—could be served with generous contributions from State, local, and private sources.

The administration has conceded that Federal housing programs should encourage mixed income housing to avoid segregating the poor in unlivable projects in distressed neighborhoods. Such targeting learns from past mistakes. As public housing tenants know too well, housing built solely for the poor tends to isolate tenants geographically and socially.

If housing is to be occupied only by subsidized tenants, concern for location and design is weakened, and the result too often can be low-income housing that is poorly designed and placed in bad locations. In contrast, a policy that encourages mixed income housing is more likely to give developers an incentive to build for the market, find good sites and produce marketable designs. More units of affordable housing can result because neighborhood opposition is lessened.

The compromise package also contains a series of amendments to other sections of the bill.

The first amendment would authorize the three major components of the HOPE Program at the levels requested in the President's budget; $240 million would be authorized for the three programs in fiscal year 1991; $650 million in fiscal year 1992; and $1 billion in fiscal year 1993.

The second amendment would ease up on the ability of communities with soft markets to use vouchers to replace public housing that is sold to tenants.

The third amendment would incorporate the administration's Operation Bootstrap Program as a permanent rather than a demonstration program. The program would encourage and ultimately compel public housing agencies to coordinate the provision of section 8 rental assistance and public and private economic self-sufficiency programs to enable low-income families to achieve economic independence. The program would be made voluntary in fiscal years 1991 and 1992 and mandatory only beginning in fiscal year 1993. GAO would be instructed to review a range of issues relating to implementation of the program, including an analysis of the additional costs that public housing agencies will incur under the program.

The fourth amendment would give localities greater flexibility in the selection of tenants for new or vacant public housing units. The effect of the existing rules has been to concentrate the poorest of the poor—many of whom have multiple social, health and educational problems—in public housing developments. Giving localities the discretion to select 30 percent of the new tenants in accordance with locally defined preferences will enhance their ability to develop and sustain viable housing communities.

The fifth amendment would reinstitute the existing 15 percent limit on the number of rental certificates that can be attached to units or "project-based." The Secretary would be required to conduct an annual survey of public housing agencies to determine the extent to which the 15-percent limit is being exceeded and to report the results of such survey to Congress.

A sixth amendment would revise the prepayment provisions of the bill to permit HUD to provide incentives only to owners whose projects are located in rental markets with an inadequate supply of decent, affordable housing. Clearly, the preservation of the existing federally assisted housing will be one of the critical issues facing the House and Senate in conference.

Other amendments would include suggestions from Senators GORTON, GRAHAM, BOSCHWITZ, MCCLURE, and HEINZ.

In conclusion, Mr. President, I offer this package amendment, first, as an indication of my willingness of other Senators to respond to issues raised by the administration—and, second, in the hopes that we can now expeditiously move to complete action on a landmark piece of housing legislation.

Many difficult issues will remain to be resolved in conference with the House. And the legislative calendar is becoming very tight.

We will need everyone's cooperation so that Congress can enact a major bill that will improve the housing for millions of Americans. I urge adoption of this amendment.

Mr. AKAKA. Mr. President, I rise in support of S. 566, the National Affordable Housing Act. I commend Senator CRANSTON and Senator D'AMATO on their efforts to reach a workable compromise to enact this legislation in an expeditious fashion. However, I continue to have reservations about the FHA reform provisions incorporated in the bipartisan compromise. I hope this issue will be revisited in conference or later this year.

The Federal Housing Association [FHA] created the Mutual Mortgage Insurance Fund [MMIF] to provide assistance to the low-, moderate-, and middle-income home buyers in America. Price Waterhouse confirmed that the fund is solvent and, if not properly protected, will be jeopardized in times of economic hardship.

I am concerned that increasing the up-front premium and the amount of nonfinanceable closing cost will pose additional and unnecessary restraints on potential home buyers. The cost of housing in many areas already prevents millions of Americans from purchasing a home. Why should we further burden the people of America?

The median price of homes in many States and cities throughout the Nation exceed the current statutory FHA loan ceiling of 150 percent of the national ceiling, or $101,250. Last year, an amendment to raise the maximum FHA loan limit to $124,875 was incorporated in the VA/HUD appropriations bill. The compromise my colleagues are offering will extend this increased limit for 2 years.

As you know, I offered an amendment last week to permanently increase the FHA ceiling to 80 percent of the Fannie Mae/Freddie Mac maximum loan limit, or $149,960. Senator CRANSTON has graciously agreed to hold hearings on my bill which will soon be introduced. We must address the needs of high housing cost areas. The availability of FHA loans to these areas would benefit the FHA program and the consumer. FHA loans would gain a greater geographical base and more stable revenues. Consumers would receive more affordable housing.

Actuarial soundness of the FHA program must be preserved. I do not believe anyone here can dispute that. However, the FHA provisions before us today do not constitute the best approach toward protecting the fund's solvency. A more equitable approach must be sought. Rather than defeat the purpose of the fund, I would prefer a more balanced sharing of the risk to accentuate the mutuality of the fund.

Again, let me reiterate my endorsement for this strong housing bill. In the meanwhile, let us proceed with deliberate caution on these items of special interest.

Mr. GORTON. Mr. President, I am delighted to support the compromise agreement reached by the administration, Senator D'AMATO, Senator CRANSTON, and the many other Senators who took particular interest in delivering to the American people a new direction in Federal housing policy we all know is so desperately needed.

Mr. President, the agreement presented here today is the result of lengthy, rather intense negotiations on a number of issues. The ideas and philosophies of a number of Senators, both liberal and conservative, have been debated and, in most cases, resolved and included in this bill.

Most importantly, Mr. President, this compromise represents a great victory for the ideas behind President Bush's and Secretary Kemp's Homeownership and Opportunity for People Everywhere [HOPE] Program.

Funding for the HOPE Program has been restored to the levels requested by the administration—$1.9 billion over 3 years—and will ensure that the goals of placing empowerment and

homeownership at the forefront of a new housing policy will be met.

Furthermore, Mr. President, provisions included in the bill better target Federal dollars to low-income people, offer more flexibility to States and localities on how they meet their housing needs, and provides a framework in which the FHA can continue to provide assistance to first-time home buyers at no future risk to the taxpayers.

Mr. President, this bill is a great victory for the American people, and I commend it to my colleagues.

Ms. MIKULSKI. Mr. President, I rise once again to offer my thoughts on the National Affordable Housing Act as chair of the Subcommittee on HUD Appropriations.

The compromise before the Senate today is not the same bill that was before us last week. Aspects of the new legislation give me very serious concern—so much so that I even considered voting against the bill. Despite my serious reservations about portions of this bill, I will not play a role in derailing legislation which attempts to construct housing opportunities in our country. So it is with a great deal of reservation that I will vote to send this bill to conference.

I want my colleagues to know that I strongly urge those Members who will represent the Senate in conference to address the concerns I have about this legislation. It is in the conference that I hope we will come to sensible solutions for the problems this bill attempts to solve, and those it creates.

As chair of the Appropriations Subcommittee, I would request and hope that the ranking minority member, Senator GARN, and I will be consulted, as well as our counterparts in the other body, Representatives GREEN and TRAXLER.

Let me be specific. For those of us who must work on HUD's appropriation on an annual basis, we face serious hurdles as we enter the 1991 appropriations cycle. There is an expensive "must do" list. Section 8 contract renewals require a 600-percent funding increase in 1991. That's over $6.5 billion more than last year, just to keep people who have a place to live right now from being put out on the street next year.

We also have serious staffing shortfalls at HUD that require substantial increases if we are to correct the worst mistakes left by the HUD scandals. We need an increase in public housing operating subsidies of $300 million, to modernize and repair existing housing—let us make the Government a model landlord, not a slum landlord. And we need $500 million more to get lead paint out of the projects. These and other ongoing HUD programs require more money than we will probably have available to us this year. So my colleagues need to know that funds for new initiatives will be enormously difficult to find.

As a social worker, and as an activist who has worked on behalf of those who have been left out and left behind, there are certain provisions in this bill that I oppose. I oppose the elimination of the Nehemiah Program. I oppose stopping new public housing construction. and I oppose ending the section 312 loan program. These programs have proven their effectiveness and they need to be restored. Does the Congress really want to fund these new initiatives at the expense of proven, and scandal-free programs?

There are other provisions in this bill about which I have serious reservations. Right now we do not have enough money appropriated to make our public housing projects safe and healthy for the families who live there. There are no funds authorized to address the fastest growing public health issue of the nineties: poisoning from lead-based paint in both public and private housing. In addition, the bill freezes the level of public housing operating subsidies at last year's appropriated level, preventing us from stepping up our fight against drugs in public housing.

This bill authorizes far too few new units of section 8 housing—only 76,000 units, despite the fact that the House Appropriations Committee yesterday voted to provide 100,000 new units. With over 4 million families in need of some sort of rental assistance in this country, we can and we must do more to provide help to them.

I am also troubled by the blanket adoption of the administration's proposals on the reform of the Federal Housing Administration. I am troubled by reports that higher FHA premiums for middle-income homebuyers, and higher upfront closing costs, will lead to as many as 100,000 fewer middle-income American families realizing their dream of home ownership. I believe we should act to put FHA on an actuarially sound basis, and it should not come at the expense of the very people for whom it was created. Middle America did not create the collapse of the economies in the oil patch or the Farm Belt. They are not responsible for the scandals and bankruptcies in the S&L industry. And yet I am afraid that it is those very Americans of modest means whom we will be locking out of the housing market, if we adopt this FHA proposal.

This compromise would authorize the administration's new HOPE Program, whose central goal is tenant ownership of public housing. I strongly believe in the empowerment of the poor, and that public housing is a part of the opportunity structure of our country for them.

However, before we sell off a single unit of public housing, let us make every unit fit to live in. And before we sell it off, we must guarantee replacement of it with a new unit of public housing, so that the 800,000 Americans waiting for homes in this country will be able to share Secretary Kep's and my dream of decent affordable housing.

I want to thank the cochairs of the National Housing Task Force, Jim Rouse and David Maxwell, for the work they have done. Their inspiration and their shared commitment to decent and affordable housing were the foundation of the Housing Opportunity Program. With Jim and David, I support the goals of cooperation between local and Federal authorities to provide more housing opportunity. I strongly believe that home ownership is a cornerstone of the American dream.

Finally, I want to commend all those who have worked so long and so hard on this bill. The people who put their heart and soul into this cause are building a better nation—every day. I hope that we can come out of conference with a bill that preserves and strengthens those programs which have proven effective and does not seek to fund new initiatives at their expense.

RESIDENT SELECTION PROCEDURES FOR SECTION 202 PROJECTS

Mr. PACKWOOD. Mr. President, I would like to take a moment of my colleagues' time during debate of the National Affordable Housing Act to discuss resident selection procedures for section 202 projects of the Department of Housing and Urban Development. This issue is a top priority in the senior housing community.

Currently, nonelderly individuals are applying for admission to housing projects intended to serve the elderly and elderly handicapped. During the last several years, section 504 of the Civil Rights Act has been revised to broaden the meaning of handicap to include a host of disabilities. Projects which were originally intended to serve the "elderly and elderly handicapped" are now expected to serve the "elderly or handicapped." Providing senior housing to elderly and elderly handicapped individuals—the motive that led to the development of these homes in the first place— will be jeopardized if the clarifications of admission policies are not clear. I do not, however, condone discrimination in any form. Among elderly applicants, discrimination solely on the basis of handicap would be prohibited, consistent with the fair housing law. To the extent that nonelderly individuals seek admission to housing facilities because there are no appropriate housing facilities for these special populations; this problem should be addressed on its own merits.

In my own State of Oregon, Marshall Union Manor in Portland exem-

plifies the predicament jeopardy in which retirement homes find themselves. It denied entry to two nonelderly individuals who applied based on their handicap. One was a manic-depressive in his early 1920's and the other was a middle-aged AIDS victim. These individuals would have required a much greater level of care, such as medication monitoring, than Marshall Union Manor could provide. The residents served by Marshall Union Manor are independent and need no special care. As a result of refusing to admit the two nonelderly individuals, Marshall Union Manor currently finds itself embroiled in litigation.

On November 6, 1989, I contacted HUD Secretary Jack Kemp to express my concern about admission policies that exist in a number of senior housing projects. Last month, I received a response to my letter from HUD. Interestingly enough, the Assistant Secretary, Timothy Coyle, stated:

> Not every section 202 project must house every (handicapped) subpopulation; rather, section 202 projects are tailored to specific clienteles based on a sponsor's stated intent and service capabilities.

If HUD-assisted senior housing is to retain its status as a specialized housing resource, the admissions policy must be changed to allow tenants to develop housing for the elderly and elderly handicapped only. Mr. President, I am hopeful the distinguished member of the Subcommittee on Housing will address these problems in a manner that is consistent with the fair housing law, and also supports the rights of seniors to live in acceptable public housing facilities.

Mr. CRANSTON. Mr. President, I would briefly like to address the comments of my distinguished colleague from Oregon.

During the past year, public housing officials have reported a rapid growth in the number of nonelderly persons with mental disabilities residing in housing that was originally developed for the elderly.

I have recently requested the General Accounting Office to conduct a study on the effect of these mixed populations in elderly public housing projects.

The study will examine the statutory and regulatory factors that have prompted this sudden rise in the population of persons with mental illness in public housing for the elderly. It will identify the specific kinds of management problems identified in mixed population elderly housing. The study will also include an examination of what additional resources—particularly support services funding—are necessary to meet the needs of this situation.

The results of this study should provide a clearer understanding of the situation, the roots of these recent trends and the effect on the living environment in and management of these public housing projects. The results of this study will also inform how the issue is addressed in the section 202 program. I have requested that the GAO will submit its report by October 1, 1990. I hope to address the issue after reviewing this report.

I thank the Senator from Oregon for his interest in the section 202 program.

Mr. LEVIN. I am pleased to be a cosponsor of the amendment offered by Senator BOSCHWITZ which would express the sense of the Senate that an individual retirement account owner should be allowed to make withdrawals from his or her retirement account on behalf of a qualified first-home purchaser, such as a son or daughter or grandchild without incurring a penalty. This amendment is consistent with legislation that I introduced in April of this year, S. 2517.

It is clear that the American dream of homeownership is slipping away from more and more families. What had at one time almost been taken for granted—that at some point in their lives people would have the real possibility of buying their own homes and raising their families in them—is now much more uncertain. The Federal Government should do what it can to reverse this trend. It cannot stand idly by as the American dream is turned into an unrealistic fantasy.

I support the use of IRA funds by first time home buyers in their effort to join the ranks of homeowners. Allowing this use of IRA funds without incurring a penalty for early withdrawal should expand the pool of available resources for home downpayments.

However, limiting the penalty free withdrawal by first-time home buyers to their own IRA's ignores the reality that many—probably most—of those potential home buyers have not accumulated sufficient funds in their own IRA's to make a significant dent in meeting the downpayment requirement. That is why I introduced legislation earlier this year to provide that parents and grandparents can make penalty free withdrawals from their own IRA's on behalf of their children and grandchildren. This would provide first time homebuyers one more option for finding the funds to achieve the American goal of home ownership.

Passage of the Boschwitz amendment would send an important signal to the tax writing committees that any IRA reform legislation which is designed to help first time homeowners should include this element in it. If our goal is to provide meaningful help to first time homebuyers—and it should be—then let us recognize the reality of family finances through the passage of this sense of the Senate resolution and through the passage of legislation along the lines of S. 2517 to actually implement the intent of this resolution.

Mr. CRANSTON. Mr. President, the compromise amendment includes an amendment somewhat similar to an amendment adopted last year on the VA/HUD appropriations bill.

The original amendment adopted on the VA/HUD appropriations bill dealt with the problem of excessive force being used by law enforcement officials in some instances of civil disobedience demonstrations.

I certainly agree that we should discourage in every possible way the use of excessive force in civil disobedience situations, although I am not entirely sure that withdrawing community development block grant funds is the most effective approach to dealing with this problem. Nevertheless, regardless of one's position on the issue, excessive force by law enforcement personnel should never be tolerated.

However, an equally important issue involves the failure of some law enforcement officials to provide an adequate law enforcement response in situations where medical facilities which provide abortion services for women are the subject of clinic blockades. I have met with a number of clinic providers in my own State of California who have described terrifying experiences where patients and staff have been held prisoner for hours by clinic blockaders while law enforcement officials have delayed action.

For example, in Oakland, CA, it has been reported that it took more than 4 hours for the police to begin arresting protesters blockading a clinic. In Sunnyvale, a clinic was blockaded for an entire day while the police refused to respond. Local pro-choice advocates have made repeated requests, to no avail, that women's health clinics in this community be provided with the same law enforcement protection that would be provided to any other facility.

In an incident in Fort Wayne, IN, it was revealed during subsequent litigation that the local law enforcement officials, who had been antagonistic toward the health clinic which had requested assistance, had met prior to the incident with protesters to negotiate a time agreement as to how long protesters would be allowed to barricade the facility before police would begin to make arrests. As a result, the clinic was blockaded for about 5 hours. The clinic staff was not privy to or made aware of the discussion between the police and the protesters to allow this lengthy blockade. This is not to suggest, however, that it is inappropriate for law enforcement officials to meet with both sides in order to develop a plan for management of these tense situations in an effective manner.

At a New Jersey clinic last month, over 200 Operation Rescue protesters blocked the doors to a clinic from 7 a.m. to about 11:30 a.m. Approximately 20 police officers were reported to have stood by, refusing to make any arrests claiming that they did not have sufficient manpower. In fact, the police asked the clinic to close for the day so that they could avoid having to make any arrests. The clinic refused.

Finally, Mr. President, in one Texas case reported in the media last January, the local sheriff announced to the press that he had no intention of stopping protesters from blocking health facilities which provided abortions and that no law enforcement officer under his supervision would be allowed to do so either.

These are only a handful of examples of the problems that women's health facilities have faced in getting adequate law enforcement protection. Although there are many, many local law enforcement officers who have and continue to do an excellent job of maintaining law and order and protecting the rights of individual women and women's health facilities, it is sad to report that others—as in the examples I have cited—have not shown a similar commitment.

This amendment provides simply that in addition to having a policy prohibiting the use of excessive force in dealing with nonviolent demonstrations, that the municipality which is the recipient of community development block grant funds also adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of the demonstration.

This is a reasonable approach which is aimed at protecting both sides of this emotional issue.

Mr. CRANSTON. Mr. President, we are ready, I believe, for a voice vote on this pending amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CRANSTON. May we have a vote on the underlying amendment?

The PRESIDING OFFICER. The Chair will withhold for a moment. The second-degree amendment needs to be disposed of before we can get to this. That is the D'Amato amendment, No. 2079.

Mr. D'AMATO. Mr. President, I ask unanimous consent the amendment I had proposed, the D'Amato amendment dealing with FHA, be withdrawn, both the first- and second-degree amendments.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendments.

If there be no further debate, the question is on agreeing to the Cranston amendment 2078.

The amendment (No. 2078) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I believe we will be ready in a moment with the solution to the Gramm issue, and then we will be ready with a rollcall on final passage.

Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, while we are waiting for the resolution of the Gramm amendment, I would like to take the time to compliment all of those who have made this possible. Certainly Senator CRANSTON and Senator D'AMATO have worked very hard on it. Senator SARBANES and Senator RIEGLE, on my side of the aisle; Senator MACK and Senator BOND put a great deal of time into it. What we thought was maybe impossible a couple of weeks ago, to come to an agreement, has been possible between the majority and minority, as well as OMB and Secretary Kemp.

I wish it were possible to resolve more bills in this manner.

I just wished to take the floor to compliment all those who have made this possible.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, prior, the Senator requested unanimous consent that the amendments that had been sent to the desk dealing with FHA, 2041 and 2042, be withdrawn.

I believe possibly the Chair had ruled that my second-degree amendment could be withdrawn. It was not my intention to do so. So I ask the second-degree amendment be reinstated, if there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair will point out to the Senator that was precisely the amendment he asked to have withdrawn, which the Chair granted the withdrawal of.

Mr. D'AMATO. I again renew, or restate, my request that 2041 and 2042 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I will be sending an amendment to the desk in a moment that represents a compromise on the items we have been debating most of the day. Mr. President, I think there is a strong feeling in the Senate that the formula which allocates funds under the Community Development Block Grant Program is flawed. Any formula that is supposed to be a needs-based formula but that cuts funding for 13 of the 15 poorest States in the Union and gives increased funding for many of the richest States in the Union is clearly not achieving its objective. It was my hope today that we might change the formula with a simple, straightforward allocation on the basis of population. I think that represented too dramatic a change, so the solution that we have worked out is a very simple one and, I think, quite frankly, it is a good one that should satisfy anybody who wants a fair and equitable formula.

That solution is to require that the Secretary of HUD institute a study of the existing formula. We set out guidelines for the study. We require that he report to the Congress no later than July 1, 1991, on any proposal that he concludes should be put forward to change the formula if, in fact, the formula turns out to be flawed.

We would then require that both Banking Committees hold hearings on the Secretary's proposal. This would get the proposal before the committees, and I think it would put us in a position at that point, and, hopefully, with the 1990 census data, to correct the problem that does now exist.

Mr. President, as soon as we have the amendment completely drafted, I will send it forward. At this point, if someone else wants to speak on it, I will yield the floor.

Mr. CRANSTON. Mr. President, I assume this amendment is one we will be able to accept that resolves a matter of the issue that Senator GRAMM presented to the Senate.

This is now to give Senators a slightly less encouraging report of where we stand as to final action. We had assumed that all amendments had been discussed with us and we were ready to vote on final passage. Now it turns out Senator HELMS has one amendment that may or may not be controversial that he intends to offer following action on the Gramm amendment. So we may or may not be ready soon for a rollcall on final passage.

Mr. D'AMATO. Mr. President, I would like to compliment the Senator from Texas for the spirit in which he now submits this new amendment,

which undertakes a study of the formula dealing with community development block grants. It is specific. It will deal with the the criteria that is presently used to formulate the awarding of funds as to its fariness, whether or not it needs modification, how it can be improved, and I believe that that is the kind of approach that can lead to constructive change, if any, or improvement. Certainly everyone wants to deal with these funds in a fair manner. So let me at this time compliment the Senator from Texas for his spirit to attempt to deal with the problem in a manner which I think makes the most sense.

Mr. President, I see the Senator from New Mexico on the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, a parliamentary inquiry. Is there some kind of an order or time limits that have been established?

The PRESIDING OFFICER. There has been no such request.

Mr. DOMENICI. I do not intend to take very much time, but might I engage the Senator from New York in a colloquy and, perhaps, if Senator CRANSTON is around—I have submitted a colloquy to two managers that I think is very important. I ask, if they have not had time, that they take a couple of minutes and see if it makes sense. I am going to speak about it, but I would like very much to have some concurrence.

Mr. President, let me say to the Senate that, while this is a housing bill and I join in the praise for all those who were able to negotiate a bipartisan bill, obviously, a few days ago that seemed to be very farfetched. It is time to get a new housing bill with some innovative and different approaches to our responsibilities to those who are in need.

But I do want to thank the managers and Senator KENNEDY for another thing that is in this bill. I think it is very exciting, and I hope to watch its progress. The Senator from New Mexico wants to do everything he can, and he hopes that others in the appropriations process will help because this is just an authorizing bill. But we have been very concerned about those people in the United States who are homeless. As a matter of fact, the people in this country about a year ago had a very, very big heart, and somehow or another that sensitivity has dwindled a bit.

Frankly, I think I know why. The Senator from New Mexico believes it is because most of those who are homeless today are either mentally ill or suffering from significant addiction, either to alcohol or serious drugs. I need not say more. That makes it very difficult. Because of their conduct, most of which is beyond their control, it makes it very difficult for some to continue to have empathy and concern.

But in this bill now we are going to experiment with a whole new approach in trying to help with this serious problem. In putting together the compromise, we have increased to $120 million the money authorized for services, which is very exciting to put in a housing bill, for services to homeless people who are mentally ill or suffering from addiction.

Why is that important? That is important because it is now obvious to everyone that housing for these kinds of people in and of itself does not solve the problem. You need services with it. So we have in this bill now the amendment which Senator KENNEDY and I had adopted by an overwhelming vote which we call the PATH approach. Those services now are going to go out by formula to the mayors and Governors for services for this population.

The missing link is to have housing join up with it. We were not able to do that in its entirety. The bill which we both hoped would have been adopted had housing and services combined, blocked, going to the same governmental entity at the same time for the multiple purpose of housing and services. We could not do that. And that approach was, for the first time, I think, in an issue like this, supported overwhelmingly by Governors. The Governors Conference supported it, the Conference of Mayors supported it, and all those organizations that deal with addicts on the street and the mentally ill on the street support it.

So we have the service component. What is concerning the Senator from New Mexico is that since we could not put the counterpart housing block grant that ran right along with it, we could not get that done. But rather, it is the understanding of the Senator from New Mexico that there is a block grant for homeless in the United States on the housing side in this bill. My colleagues have blocked, as I understand it, housing for the homeless.

My concern is that we do not have the same formula for distribution of the housing as we do in the $120 million authorization for the services. What I would like to see done, if we can—and I say this to my friend from California—is to urge that the Secretary do everything he can under the homeless housing block grant to make these programs run as much in harmony as possible so that as the blocked money for homeless housing, mentally ill, or alcoholic or drug addiction is distributed, that it has the best possible chance to be matched up with the service money that goes to the mayors and Governors.

It is an exchange of questions and answers in reference to that that is in a proposed colloquy I have submitted to the distinguished Senator from California and the distinguished Senator from New York, who are the floor managers.

I am very hopeful, Mr. President, before we have final passage we will get some response from them as to the colloquy which would establish that as the intention and desire of the Senate.

I thank the Chair and I yield the floor.

Mr. HELMS. Mr. President, I assume that the bill is open for further amendment?

The PRESIDING OFFICER (Mr. BREAUX). The Senator is correct.

Mr. HELMS. There is no amendment pending; is that correct?

The PRESIDING OFFICER. The pending business is the committee substitute, as amended.

AMENDMENT NO. 2080

Mr. HELMS. Very well.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Before the clerk reports the amendment, let me say to the managers of the bill, I intend to take no more than 10 minutes myself on this amendment. I will be willing to enter into a time agreement to that effect.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from North Carolina.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. MCCLURE, Mr. MACK, Mr. LOTT, Mr. SYMMS, Mr. GRASSLEY, and Mr. HATCH, proposes an amendment numbered 2080.

At the end of the amendment, add the following:

"The Congress finds that:

"The elimination of Government waste should be the major component of deficit reduction.

"Revenues for fiscal year 1990 will grow by more than $82 billion as a result of economic gorwth.

"The Comptroller General has stated that there is approximately $100 to 200 billion in annual Government waste, fraud, and mismanagement.

"There is more than $125 billion in outstanding delinquent debts owed to the Government by individuals.

"The Office of Management and Budget has identified more than 100 "high-risk" programs that are vulnerable to fraud, waste, and abuse.

"The Federal Government has more than $5.7 trillion in outstanding credit and insurance, representing a massive potential risk to taxpayers.

"Citizens Against Government Waste has issued a report outlining 107 recomendations for cutting waste in the Federal Government.

"If enacted, these recommendations would save the Federal Government more than $300 billion over five years without impairing essential Government programs.

"Tax increases of any kind will reduce savings and investment and have a negative effect on the economy.

"Reducing waste would free the inefficient use of resources by the Government and release them into the private sector.

"It is the Sense of the Senate that the President and the members of the budget summit should base their deficit reduction recommendations on enactment of the waste-cutting proposals contained in the June 1990 report of the Citizens Against Government Waste rather than on enactment of new or increased taxes.".

Mr. HELMS. Mr. President, the cosponsors of this amendment are Mr. MCCLURE, Mr. MACK, Mr. LOTT, Mr. SYMMS, Mr. GRASSLEY, and Mr. HATCH.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the yeas and nays. There is not a sufficient second.

Mr. HELMS. I suggest the absence of a quorum until we can get the yeas and nays.

Mr. CRANSTON. Mr. President, I suggest the quorum call not begin, and I ask for the yeas and nays again.

The PRESIDING OFFICER. Does the Senator from North Carolina seek the yeas and nays.

Mr. HELMS. Very well.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, it is an outrage that we can even talk about raising taxes to reduce the deficit when we have available the means to save more than $300 billion over the next 5 years through the reduction in waste, fraud and mismanagement in the Federal Government.

The purpose of this amendment, obviously, is to send a message to those taking part in the so-called budget summit that instead of spending time figuring out which taxes to increase, they should spend their time figuring out how to cut the waste out of the Federal Government.

Cutting waste will reduce the deficit more efficiently, and it will not have the same negative effect on the economy, as would any tax increase. More importantly, it is unfair to the American people to be considering any increase in their tax burden when we have before us proposals that could save hundreds of billions of dollars in Government waste and mismanagement.

The suggestion that our annual deficits and our national debt are the result of insufficient revenues is, on its face, ludicrous. Federal revenues have grown substantially due to economic growth. It is, for example, estimated that in fiscal year 1990, Federal receipts—that is, income—will increase by more than $80 billion.

Those estimates may vary $1 billion or so, depending on whose economic assumptions you use, but that is a pretty good ballpark figure and demonstrates that revenues are not the problem. The problem is the increase in spending and the massive waste in the Government as identified by the Grace Commission.

Citizens Against Government Waste is a nonpartisan, nonprofit organization that was formed to educate the American people about the findings of the Grace Commission, which disclosed the extent of waste, mismanagement and inefficiency in the Federal Government. Some of the Grace Commission recommendations have been implemented and they have helped hold down the deficit, but we have a long way to go, and we ought to get about it.

Mr. SARBANES. Will the Senator yield for a question?

Mr. HELMS. The most recent report issued by the Citizens Against Government Waste sets forth 107 recommendations that can save more than $300 billion over 5 years by reducing waste, fraud and mismanagement in our Federal Government. All of these proposals could be implemented—at least they could be considered—without eliminating essential government services.

Mr. SARBANES. Will the Senator yield for a question? Does he have a copy of the report?

Mr. HELMS. I will, if the Senator will forbear for just one moment.

The purpose of this amendment is to send a message to those participating in the so-called budget summit that we think they should reorder their priorities and make the elimination of waste the basis of whatever recommendation they make to Congress. I yield the floor.

Mr. SARBANES. I just have a simple question. Does the Senator have copies of the report of the Citizens Against Government Waste available for us to look at?

Mr. HELMS. Sure. I am sure they are available. All Senators were sent a copy. I assume the Senator from Maryland read his.

Mr. SARBANES. As I understand, the amendment is geared to the recommendations contained in the report of the Citizens Against Government Waste. Is that correct?

Mr. HELMS. Generally, yes.

Mr. SARBANES. It would be very helpful if copies of that report were available so we could see what the recommendations are, I say to the Senator.

Mr. HELMS. If the Senator wants to delay that long, we will find some copies.

Mr. SARBANES. I have just been handed one by, I take it, staff to the Senator. I thank the Senator.

Mr. HELMS. Very well.

Mr. SARBANES. If there are other copies available, I am sure other Members would be interested in looking at it.

Mr. HELMS. As I say, all Senators were sent copies before. I assume all Senators read it.

Mr. LOTT. Will the Senator yield?

Mr. HELMS. Yes.

Mr. LOTT. I note the language does include "The Comptroller General has stated there is $100 to $200 billion in annual government waste, fraud and mismanagement." That is the GAO, the General Accounting Office?

Mr. HELMS. The Senator is absolutely correct.

Mr. LOTT. Is this a recent report that has been produced by the General Accounting Office?

Mr. HELMS. Let me see if I can ascertain what year it was. I can find out for the Senator, and I will let him know.

Mr. LOTT. I was under the impression it is a recent report, and if we could get that information I would like it in the RECORD; that the General Accounting Office itself came up with this information, so all Members would be aware of what it was.

Mr. HELMS. I am advised that the report from the General Accounting Office was made earlier this year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina yields the floor.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from North Carolina?

Mr. MITCHELL. Mr. President, I had hoped that we were going to be able to complete action on the housing bill by this hour and conclude our activities for the evening.

I just learned of this amendment when it was offered by the Senator, and obviously it is something that Senators will want to consider and evaluate. I have not personally read of the report of the Citizens Against Government Waste. We will make every effort to obtain a copy of it. I hope other Senators will now.

Obviously the Senator has a perfect right to offer his amendment, and to discuss it as long as he wishes. But we are going to complete action, I hope we can, on the bill tonight. Since it will take some time for Senators who as I know all are interested in this amendment and the report to review that report, the Senator from Alaska previously indicated that he and others were waiting to go to other events, I am very sorry but we will have to have the opportunity to look at this, evaluate this, dispose of this amendment, and vote this evening. So I expect that we will have to be here for a while to complete action on this matter.

In order to afford Senators the opportunity to read the amendment and to find and read the report on which the amendment is based, Mr. President, I suggest the absence of a quorum.

Mr. SARBANES. Mr. President, will the majority leader withhold?

Mr. MITCHELL. I withhold. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to underscore the statement of the majority leader. I have just gotten the report, a copy of this report to which the amendment is geared. In other words, these proposals contained in this report is what should be enacted.

I have just leafed through it very quickly. It includes recommendations to eliminate Federal airport grants, establish the Federal Aviation Administration as a private corporation, establish means tests of eligibility to receive Federal farm support, cut dairy price supports, change the Federal Crop Insurance Program, and I am only now looking at the agricultural section of this report.

Mr. COHEN. Is there anything in the report about tobacco subsidies?

Mr. SARBANES. Given the genesis of the amendment, I assume not. I do not see it.

Mr. COHEN. Might I inquire is there anything in the report that will affect the subsidization of water rights in the West, the Western States? Is that something that the Citizens Against Waste in Government have come out in opposition to?

Mr. SARBANES. I do not know the answer. What is the Senators question again?

Mr. COHEN. The question was whether the report contains any recommendation that we eliminate the subsidization of water rates for those States in the Western part of this country who have enjoyed preferential treatment in terms of having low and subsidized water rates compared to the East?

Mr. SARBANES. I do not see that. I have just gotten the report.

We are now being asked to pass a sense-of-the-Senate resolution in effect endorsing the recommendations of this report. I do not see it. I am leafing through it very quickly.

I see that the rural housing program is going to be impacted. I am just reading headings now. And Small Business Administration loans, guarantees on the environment, eliminate Federal grants for construction of waste water treatment plants, and there is something here on grazing fees for those that are concerned about that. That is not an issue in my State. Cut the low-income home energy assistance program; then there is a section on education and training, cut back on some of those programs. There is a whole range of recommendations in here. This is a 36-page document.

Medicare would be significantly impacted. Bases would be closed. I am not sure what the procedure would be for doing that. But that is an item mentioned here: military bases and facilities, both at home and overseas, military commissaries would be closed.

Mr. COHEN. Is Fort Bragg included as far as recommended closures?

Mr. SARBANES. Once again, I would say to the Senator, given the genesis of the amendment, I would assume that Fort Bragg is not included.

But I think the suggestion of the majority leader that Members need to look at this report is a very important suggestion. For instance, there is one recommendation to impose a royalty payment on communication users of electromagnetic spectrums. I am not sure of the implications of that to be very honest with my distinguished colleague.

Mr. COHEN. If the Senator will yield further, is there a recommendation contained in that report that we have more IRS agents to enforce collection of debts which have thus far gone uncollected by virtue of having insufficient Internal Revenue Service force to go out and get the debts?

Mr. SARBANES. I see no such recommendation here.

Mr. COHEN. I believe there have been a number of studies which have indicated that there are literally billions of dollars, certainly hundreds of millions of dollars, which have gone uncollected because we have not funded the IRS with sufficient resources to allow for that kind of collection.

Mr. SARBANES. That is not contained in the report.

There is a major proposal to change the sale of electric power through Federal dams which I assume will be of interest to many of my colleagues from the West, where they rely upon the Federal dam and the Regional Power Marketing Administration for their access to electricity. They will cut the Rural Electrification Administration. The superconductor super collider would be suspended under one of the recommendations contained in the report.

I keep looking for the tobacco issue because it would seem to me that in any recommendation of a group of citizens against Government waste, we would find that in here. But I cannot find it. It may be in here. I just do not know. But I certainly have not been able to find it. The Agricultural Extension Service would be cut under this proposal.

I understand, unfortunately, this is apparently the only copy in the Chamber. Maybe it is the only copy extent. I do not know on that point. I would assume not. I do not mean to deprecate the work of the Citizens Against Government Waste. Obviously, we have a system where we have all kinds of different groups who come in with all kinds of different recommendations.

But the concluding paragraph of the amendment that was offered, "It is the sense of the Senate that the President and the members of the budget summit should base their deficit reduction recommendations on enactment of the waste cutting proposals contained in the June 1990 report of the Citizens Against Government Waste * * *."

In other words, the sense of the Senate resolution is geared to these recommendations, and it, therefore, behooves every Member of the Senate to acquaint themselves with what is contained in this pamphlet. Some of the items in there, I think it is fair to assume, maybe we can do something like that. I am opposed, for instance, to eliminating Federal grants for construction of wastewater treatment plants. The Federal role in improving the environment requires it to play some part with respect to the wastewater treatment plants.

Now we changed that formula recently to shift the burden, to some extent, increase the burden on local and State authorities. But I would not subscribe, for instance, to that particular recommendation.

Then we have improved pricing for commercial and recreational uses of public lands.

Well, this is the proposal to charge people to make use of the public lands. Does that make sense? One has to look carefully at that.

Mr. WIRTH. Will the Senator yield?

Mr. SARBANES. Yes.

Mr. WIRTH. This is, I understand, introduced by a number of distinguished Senators on the other side of the aisle saying "It is the sense of the Senate that the President and the members of the budget summit should base their deficit reduction recommendations on enactment of the waste-cutting proposals * * *."

Were these proposals made by the President or by the leadership on the minority side during the budget summit discussions?

Mr. SARBANES. I am not in the budget summit. But my understanding is that the offer of the amendment has, in effect, adopted wholesale, obviously, all of the recommendations contained in this report and which is to place the Senate on record in support of each and every one of these recommendations.

Mr. WIRTH. Those would go right to the summit, and that would be the basis of the discussions in the summit; is that the Senator's understanding? If this passed and became law, that is what this would be all about, would it not?

Mr. SARBANES. It says they should base their deficit reduction recommendations on enactment of these proposals contained in this report, of which I am holding at the moment the only copy that is available.

Mr. WIRTH. Where is our guaranteed deposits for people who have bank accounts? Is that one of the high-risk programs that are vulnerable to fraud, waste and abuse, that, therefore, ought to be cut out; do we know? By doing this, we are going to cut our all guaranteed insurance for people who put deposits in small banks and big banks, medium size banks?

Mr. SARBANES. Let me just read, because it is a very good question that the Senator has asked. There is a heading, "Reform Deposit Insurance and Strengthen Internal Controls in the Thrift Industry."

"Limit deposit insurance to $10,000 per depositor rather than $100,000 per depositor."

So, in effect, that is an issue that is now under study with respect to deposit insurance, as the distinguished Senator knows. In fact, the Treasury is itself studying that issue. This proposed amendment would place us on record as wishing to limit the deposit insurance and to cut it from what it is now: $100,000 per deposit. And there are some who have been considering that it should be $100,000 per depositor. This would cut it to $10,000 per depositor, not deposit, but per depositor.

So it represents a very drastic change in the deposit insurance program. Literally, millions of people are dependent on the deposit insurance program for the protection of their savings.

Mr. WIRTH. And is the deposit insurance worth encouraging people to save money and money which we have to have? Are student loans—if the Senator yields for another question—defined in here as high-risk programs, that are vulnerable and can be eliminated in this?

Mr. SARBANES. I say to the distinguished Senator that on a previous quick look through, I say something that mentions student loans, but I do not have that particular provision in front of me. I have never seen this report until now. I hope the Senator understands that.

Mr. WIRTH. Who did this?

Mr. SARBANES. This is the first time I have seen this report, and I asked to see it, because we have this amendment that has been offered which seeks to place the Senate on record as supporting the recommendations contained in this report. It seemed to me a reasonable question to ask to see the report in order to find out what recommendations are in it. That does not seem to me to be an unreasonable position to take. I am trying to look through them, and as I do, I see a number of amendments that cause me concern.

Mr. WIRTH. So from our previous colloquy, we might come to understand that the authors of the amendment would therefore want to limit deposit insurance down to $10,000 per depositor. They are on record as suggested that they would want to be dramatically cutting back on student aid programs, they are suggesting that here; is that not the case?

Mr. SARBANES. Excuse me. I just want to say to the distinguished Republican leader that apparently this is the only copy that is available. I have looked through it twice, and I am perfectly happy to convey it to the Senator so he has an opportunity to look through it.

The sense-of-the-Senate resolution would place the Senate on the record in support of the recommendation in this report—I particularly commend to the Senator the agricultural recommendations; I know of the Senator's interest in the farm economy. He may well want to look at that—also, water, energy and electricity in the West.

Of course, I know that the Senator knows something about the transportation problems because of the very distinguished work which his wife did as the Secretary of Transportation, and one should look at those proposal as well—no more airport grants, for example, and other things of that sort.

Mr. MITCHELL. Will the Senator yield?

Mr. SARBANES. Yes.

Mr. MITCHELL. Perhaps, I might ask one of the cosponsors of this measure whether he agrees that each of the recommendations in this report should be enacted.

Mr. HATCH. As I read it, it says that any waste savings should come from that report. It does not say each and every waste savings.

Mr. MITCHELL. It said the budget summit.

Mr. HATCH. There are natural savings in there. For instance, if this impacted and somebody tried to advocate this impact on some of the interests in my State, I would have to say I did not agree with that.

The purpose of that resolution, as I look at it, is to awaken us to the fact that there is a lot of waste, fraud, mismanagement in the Government, and it ought to be resolved.

This particular group—I do not have a copy of the resolution—has done what many feel is a commendable job to try and point out hundreds of billions of dollars of waste, fraud, and mismanagement.

Do I agree with every aspect of that report? No, I do not. Neither does anybody else.

But as I recall the language at bottom of that, it says:

It is the sense of the Senate—

This is not binding—

That the President and the members of the budget summit should base their deficit reduction recommendations on enactment of the waste-cutting proposals contained in the June 1990 report of the Citizens Against Government Waste rather than on enactment of new or increased taxes.

I do not read that as saying they should enact every deficit reduction recommendation in that particular report. There are many good ones in that report, there are many we ought to be looking at, and there are many we ought to be enacting instead of fighting against it. We ought to all support it and vote for it.

We are all going to have differences on what is waste and what is not. Let us at least look at the report and base any recommendation we have on some of the recommendations they have. I think the distinguished Senator from North Carolina is doing the Senate a favor, doing Congress a favor, in pointing out that there are literally hundreds of billions of dollars that have already been identified that really are waste issues in Federal Government programs. We all know it. We all understand it, and we all do hardly anything about it.

All he is doing is saying, let us have a sense-of-the-Senate resolution to commit ourselves in trying to find a way, whatever it is. That is the way I interpret it. If it is to be interpreted in another way, I would like to hear it.

Mr. MITCHELL. I thank the Senator.

I merely would like to call to his attention that the resolution to which he is a cosponsor says "on enactment of the waste-cutting proposals contained in the June 1990 report of the Citizens Against Government Waste." It does not say "some"; it does not say "a part of"; it does not say "consider"; it says "enactment of the waste-cutting proposals contained in—" the report. That is rather clear and unambiguous language.

Mr. HATCH. Will the Senator yield?

Mr. MITCHELL. If I could finish the sentence, I will be pleased to yield.

That is clear and unabiguous language. The Senator from North Carolina has presented clear and unambiguous language in this resolution which the Senator from Utah has cosponsored.

Mr. HATCH. That is correct.

Mr. MITCHELL. Now I gather he is saying, well, "some." But I merely point out that the language of this resolution does not say "some"; it does not say "a few"; it does not say "most"; it do not say "many"; it says "the waste cutting proposals." I think that is what the Senate is called upon to vote on.

Mr. HATCH. Mr. President, if the distinguished majority leader will yield, it says:

It is the sense of the Senate that the Budget Summit should base their deficit reduction recommendations—

I do not interpret that as being on each and every one of the recommendations we have. It says "base." If the distinguished Senator interprets it the other way, he has a right to do so. I interpret it this way.

I think most of the recommendations that the Citizens Against Government Waste have in that report are good recommendations to us. And they amount to hundreds of billions of dollars in waste.

I think that is all the distinguished Senator from North Carolina is trying to do. There is always going to be a question whether something is waste or not. I think we have an obligation to look at it and that is what he is asking us to do, and I support that.

The PRESIDING OFFICER. The Senator from Maryland, the Chair will observe, is holding the floor at the present time.

Mr. SARBANES. Mr. President, I am going to yield the floor in a moment. I earlier said that I thought the copy of the report which I handed over to the minority leader for his perusal was the only copy in the Chamber. I note apparently there is also one or more perhaps up in the Press Gallery. I just wanted to note that fact. So apparently it is available there and not available here.

I would hope that at some point Members will have a chance to peruse this report for themselves because I think some of the items I read—and there was only a very partial selection of the items—indicate there is a great deal of difficulty associated with some of the recommendations. Others it seems to me would be worth considering.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, the matter that has been brought before the Senate by the Senator from North Carolina has nothing direclty to do with the housing bill. While consideration is underway what to do about it, we could dispose a couple of very small matters that are agreed to, or not controversial, do not require rollcalls, that would enable us to at least be ready for final passage after we finish whatever occurs on the Helms amendment.

UNANIMOUS-CONSENT AGREEMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that without his being permanently displaced, we deal with the unanimous-consent requests in regard to a secondary amendment that needs to be withdrawn, deal with a Gramm amendment, and deal with a DeConcini amendment, and then return to Senator HELMS. That will just take a few moments.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. HELMS. Mr. President, reserving the right to object, and I will object only temporarily, for about 1 minute and 20 seconds for what I have to say.

Mr. President, the Senator from Maryland raised a good point. As a matter of fact, I think the distinguished Senator from Utah had done that. We can nitpick around as much as we like. I think the amendment speaks for itself.

Of course, being a sense-of-the-Senate amendment, it is not the intent of the amendment to require that every proposal or any particular proposal be enacted. This is not enacting legislation. It is the sense of the Senate. Senators can vote as they please on it. Congress, of course, will have to consider any proposals that are recommended and determine which ones, if any, to enact.

This amendment simply expresses to those negotiating the budget that the basis for their negotiations be the elimination of Government waste and inefficiency rather than increasing taxes.

Mr. WALLOP. Mr. President, will my friend from North Carolina yield for a question?

Mr. HELMS. Yes.

Mr. WALLOP. Mr. President, having read the sense-of-the-Senate resolution, it does say "base." Clearly the American people would prefer to have us eliminate waste to the extent we can before enacting taxes upon them. That is the simplicity of this. One can make all kinds of arguments and say that we need taxes. But Americans, I think the Senator will agree, and I ask him that as my question, clearly Americans would prefer to have waste eliminated before their pockets raided?

Mr. HELMS. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from California.

Mr. HELMS. That is fine.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. CRANSTON. I yield to the Senator from Texas.

AMENDMENT NO. 2081

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], proposes an amendment numbered 2081.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title IX of the committee substitute insert the following:

The Secretary of Housing and Urban Development shall not later than July 1, 1991, report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Housing and Urban Affairs with respect to the adequacy, effectiveness, and equity of the formula used for allocations of funds under Title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the structure of the formulas, the eligibility criteria, the formula factors, and the weights that are assigned to the formula factors. The study should specifically examine the appropriateness of using the age of housing as a factor and also consider quality of housing as an additional factor and desirability of including at an equal or greater weight the age of housing and the quality of housing. Based on the Secretary's analysis, the Secretary shall submit a new formula for the allocation of funds if the Secretary determines that the study indicates that a new formula is required to meet the purposes of Title I of the Housing and Community Development Act of 1974. The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking of the House of Representatives shall hold hearings on the Secretary's recommendations not later than 60 days after the receipt of the report. The study should be completed using the data derived from the 1990 census or the most recent census data available.".

Mr. GRAMM. Mr. President, this is an agreed-upon amendment. We spent much of the day debating the formula for allocating community development block grant funds. This mandates that the Secretary of HUD study the existing formula, see if it is reasonable, equitable, efficient, and then recommend to us any changes if he deems changes are necessary in the formula, at which point we would hold hearings on those changes.

I can assure my colleagues that if the Secretary reports back, as I have every confidence he will, that the formula should be changed, we will get plenty of opportunities to vote on it.

I thank those who have been reasonable in working out this important compromise.

Mr. KOHL. Mr. President, Senator GRAMM's amendment, on its face, presented a tough choice for the Senator from Wisconsin. Wisconsin's community development block grant funding could increase almost 8 percent under the population-based formula Senator GRAMM proposes.

But at what cost would these new funds have come to Wisconsin? What frightens me about Senator GRAMM's amendment—and the reason I oppose it—is I believe it would make Wisconsin pay for a quick $4.7 million today.

The Gramm amendment is a bad precedent; it turns a targeted spending program into a general revenue sharing program. I don't believe this is a

policy we should pursue. How would Wisconsin fare if the Federal Government allocated farm spending based on population rather than based on the location of agricultural activity? Not at all well. We would lose millions of dollars.

When we design a program to promote some social goal—revitalizing our inner cities, encouraging dairy farming, building small businesses—we target our efforts to the groups we are trying to help. It just doesn't make sense to do otherwise. It doesn't make sense to divide up a Federal appropriation on the basis of population, and then say, "Oh by the way, use this to promote dairy farming." What would the people in New York City do with that sort of program? How would the money we ship to New York City help Wisconsin dairy farms?

The Gramm amendment isn't just senseless—it's dangerous. It is the first shot in a regional funding war. I would hate to see the Congress stop the difficult work of debating national priorities and take up a regional cat fight over which State gets the most money. That's a fight in which there is one winner—and 49 losers.

Over the last few weeks, we've witnessed the disorder and discord that our neighbor, Canada, has suffered because of regional in-fighting. Is this what we want for our United States?

The Gramm amendment is trouble. If the population based allocation it suggests becomes a precedent, it's trouble for Wisconsin. If its theme of selfish regionalism is embraced, that's trouble for the country. For these reasons, I voted against the Gramm amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Texas.

The amendment (No. 2081) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 2079 WITHDRAWN

Mr. CRANSTON. Mr. President, on behalf of Senator D'AMATO, for technical reasons, I ask unanimous consent to withdraw amendment 2079, a secondary amendment which is not needed now.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2079) was withdrawn.

AMENDMENT NO. 2082

(Purpose: To require a study to determine effectiveness of current assignment program notice regulations.)

Mr. CRANSTON. Mr. President, I send an amendment to the desk on behalf of Senator DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for Mr. DECONCINI, proposes an amendment numbered 2082.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title X add the following:

SEC. . STUDY OF USE OF CERTIFIED MAIL.

The Secretary shall carry out a study to determine the extent to which the use of certified mail to notify mortgagor's of the availability of counseling to which the mortgagor may be entitled would improve mortgagor participation in the Assignment Program, reduce unwarranted foreclosures, and reduce FHA mortgage insurance program costs associated with delays in foreclosure proceedings. The Secretary shall report the results of such study to Congress no later than 6 months after the enactment of this Act.

Mr. CRANSTON. Mr. President, this amendment would direct the Department of Housing and Urban Development to study the extent to which the use of certified mail to notify borrowers of the availability of counseling would improve participation in the FHA assignment program and reduce foreclosures.

The amendment has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not the question is on agreeing to the amendment.

The amendment (No. 2082) was agreed to.

Mr. CRANSTON. Mr. President, I thank many people for all their hard work on this measure. A number of Senators have been extremely active in helping move us along; among them Senator SARBANES on our side, Senator BOND on the other side, and many others whom I have already mentioned.

I pay tribute to the majority staff led by Don Campbell. Truly magnificent work was done by Senior Counsel Bruce Katz, Larry Parks, Eileen Gallagher, Dan Potish, and Tracy Sturman. I also thank the minority staff led by Grace Morgan. They have all done very great work literally over years. In recent weeks, there have been many near all-night sessions, very late sessions with committee staff, very early morning gatherings by them to produce this result. They worked harmoniously and effectively and have been of inestimable value to Senators, and I think them very much for their contribution to this measure. I believe it is a landmark, historic bill. Secretary Kemp used that language this morning. The staff members have played a significant part in producing this monumental legislation.

The PRESIDING OFFICER. The Chair will observe that under the previous order the Senate will now return to the Helms amendment which is the pending matter.

The Senator from Maine.

Mr. SARBANES. Mr. President, will the Senator yield so I might ask a question of the manager of the bill?

Mr. COHEN. Yes.

Mr. CRANSTON. Yes.

Mr. SARBANES. Could I ask the manager, I take it we are in the situation where all amendments have now been, with the exception of the pending amendment to the bill, taken care of?

Mr. CRANSTON. All amendments we heard of have been taken care of. The only thing holding up final action on the final bill is the amendment brought up by the Senator from North Carolina.

Mr. SARBANES. All technical amendments have been taken care of.

Mr. CRANSTON. Yes.

Mr. SARBANES. So that we are ready to go to final passage once this pending amendment is handled; is that correct?

Mr. CRANSTON. Yes.

Mr. SARBANES. I thank the Senator, and I thank the Senator from Maine for yielding.

AMENDMENT NO. 2083 TO AMENDMENT NO. 2080

Mr. COHEN. Mr. President, I send an amendment to the desk and ask it be considered as an amendment in the second degree.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 2083 to amendment No. 2080.

At the end of the last sentence add the following: "The first item of waste to be considered shall be the tobacco subsidies, loans promotions and all Federal funds expended in relation to tobacco.".

The PRESIDING OFFICER. The Senator from Maine is recognized. The Senate will be in order, and also the galleries.

The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I do not offer this amendment in order to stir any frivolity, certainly, on the Senate floor, nor do I do it for any reason other than to try to focus the debate on what we are in fact about.

I believe that the Senator from North Carolina has the sincerest of intentions in trying to establish what

should be the priorities of the Senate budget conference members. I do not have any doubt about that whatsoever. The difficulty I have, No. 1, is I am not sure of all of the items contained in the report or study conducted by the Citizens Against Fraud and Waste and Abuse in Federal Programs.

I assume that that group consists of a wide variety of very esteemed and responsible men and women. And so I salute the effort that they have made, and I also commend the Senator from North Carolina for what he is seeking to do; namely, to keep our attention focused upon the great deal of waste that we all know is contained in many of the Federal programs.

The difficulty I have is I do not know all of the items that are contained in the report. But more importantly, or as importantly, I should say, I am not familiar with what is not in the report. I think that may be as critical as the items that are listed; what has not been listed. What are the other areas that we might look toward in the way of saving money for the Federal taxpayers?

So I raise this because I personally feel that it is wrong to be providing subsidies to tobacco growers. I do not have tobacco growers in my State, obviously. The Senator from North Carolina does. I believe the argument will probably be made that there is no net loss to the taxpayers of this country through the tobacco subsidy program, and that may very well be true.

So in that sense, you cannot characterize that as a wasteful Federal program unless you take into account what I believe to be the case, and that is that there is a causal connection between the inhalation of smoke and the cause of cancer, of lung cancer, of throat cancer. I believe that there is a causal connection between the kind of expenditures that we have to have for health care programs; that we are running far short of reimbursement policies necessary to fully fund many of our programs for hospitals, some of the programs which are dedicated to the treatment of cancer.

So I believe I can at least logically make an argument that there is a casual connection between the programs that we subsidize and the programs that we fail to adequately reimburse; that there is, in essence, a wasteful Federal policy by not being consistent, by trying to satisfy the interests of one State and one industry, and not fully satisfying or dealing effectively with the problems that that industry might generate in the way of health and safety causes.

I raise this issue because I think the Senator from North Carolina is precisely correct in saying "let us us look for fraud and waste first, before we go to taxes." As a generalization, I have absolutely no quarrel with that. In fact, I support that. I absolutely support that. I think that of all the things we have to do, we have to find out ways in which we can expend our resources more efficiently and with less waste, and certainly with less fraud, as we have seen in the savings and loan bailout bills that are now being considered. So I commend him for the objective.

I object to the nature of the language used in the last resolution itself, because it implies that we should incorporate all of those provisions, or at least selectively some of those provisions which are contained in the report itself, so that each Member is free to pick and choose which ones he or she supports and which ones he or she opposes.

And what ultimately one is left with is really a symbolic statement. If you support the resolution, you are for eliminating fraud, waste, and abuse; and if you oppose it, you are in favor of taxes. I would suggest the way in which that is characterized is certainly not accurate, as far as I am concerned, and it may not be accurate on the part of others.

So if it were what lawyers call precatory language—it would be our hope that those who are negotiating the budget summit will try to eliminate as much waste as possible before ever turning to any form of new taxes—then I can support it, and I may very well, if that is the intent.

If the intent is to incorporate the elimination of waste into water treatment subsidies when we mandate these programs for cities and communities, and say, "You must build these in order to clean up your rivers, but we are going to take away the subsidy to allow you to do that," then I have objections to that.

If the language is either understood to be expressive, precatory, hopeful, or encouraging that we turn to fraud and waste first before going to taxes, then I can certainly support it.

But let me say what I think is really at stake here, what has prompted this action. It had to do with what the President said yesterday. The way in which it has been characterized, and it may or may not be accurate, is that the President indicated that he would now be at least open to the raising of taxes.

It was said with some ambiguity, apparently, because I have heard different interpretations of what exactly the President meant and what he intended. It has been argued, for example, that that was no new statement, nothing new was added yesterday by the President's statement because, after all, he submitted a budget to the Hill that would require some $19.7 billion in new revenues.

Now, a part of those new revenues would include a capital gains reduction which would generate additional revenue, but, nonetheless, in that budget were some new revenues, which means higher taxes, I assume. Call them user fees; call them what you will. There were going to be some taxes in the Presidents budget that he submitted earlier this spring.

Several weeks ago, the President said everything was going to be on the table. And that was taken also as an indication that the President's mind was open. There was some ambiguity again about that because the Chief of Staff indicated yes, everything was on the table; the Democrats could put the taxes on the table and the Republicans would be free to take them off. That was not, I do not think, quite what the President meant. Perhaps it was. So there has been some questions about exactly what the President has in mind about would he be willing to consider new taxes.

It is my personal judgment that we would all be better off and I think the President would be better off if he had clarified personally exactly what he intended so there would be no doubt about in what direction he would like the Congress to go. It is may judgment, based upon secondhand reports, that what the President was really trying to do was to find a way to break the logjam that still exists up here on the Hill; that there was no movement made to ever reach accommodation on a budget summit.

And what he was saying yesterday, is that if necessary, if this is the only way to reach some accommodation to somehow avoid the Gramm-Rudman Act, which is going to come down on October 1, he would be open to consider it; not to adopt it, but at least be willing to talk about it.

I would have preferred that he had said that directly, that he had gone to the American people and said: Here is the situation we face. We are looking at the possibility of a $150 billion or $155 billion deficit for the fiscal year. We have Gramm-Rudman-Hollings, targets that are going to be very difficult, if not impossible, to meet; that we are looking at the potential for anywhere between a $60 billion to $80 billion cut under the Gramm-Rudman-Hollings provision as of October 1; that he, as President of the United States, is concerned that we are on some shaky economic ground now; that a cut of that magnitude might very well push us even into a deeper recession; and that he would like to avoid that if at all possible.

I hope that is the message the President carries to the American people and that was the reason why he said everything, again, was open. Not that he favored taxes, because I believe that he does not, but, rather, he is willing to listen and, if that statement would break a logjam, then he was prepared to make it.

Mr. President, if we look down the list of those items contained in the report—and again I will take more time to review them later—then I think we should be prepared to go on record as saying we are opposed to farm subsidies, not only tobacco subsidies. I did that to make a rhetorical point and, as a matter of fact, I do not intend to push that as a point, but simply to focus our attention on what is one person's subsidy, what is one person's waste, or what is one person's program of abuse may be another's means of survival in their States for their industries.

So, as we look down at which programs are going to be eliminated, we have to say, are we prepared to eliminate all farm subsidies? I do not have as big a problem with that. Most of the products in Maine do not receive subsidies, if, indeed, any do. We have to compete against western farmers. Our potato farmers do not get those kinds of subsidies, nor do our apple growers or other producers. That is not a hard decision. It is very easy. I can oppose farm subsidies, and I will wait for the minority leader to come out and perhaps address this issue.

How about the Tennessee Valley Authority? Should we start eliminating the subsidies for the Tennessee Valley Authority? What about the water subsidies for those in Western States? I was tempted to amend my amendment to include that.

Is that waste or does that encourage the farmers in the West by keeping a commitment we made back in the early twenties or thirties to help settle the West by providing these subsidies? Have they long since passed? Should they not stand on their own? I think so. We have to in the East, Let the West stand on its own. Those are programs we would be willing to eliminate as well.

The Agriculture Extension Service? I happen to think that program is very worthwhile. For a small investment we have enormous benefits and gains from that.

Mr. President, I raise the issue tonight. It comes with very short notice. I certainly would favor and go on record as being in favor, on each and every occasion, of being opposed to waste and fraud in all Federal programs. Let us look there first. It is my hope to say I would encourage the budget summiteers to do precisely that.

What I do not want is my vote to be recorded as directing those budget summiteers that they must follow the recommendations contained in each and every case in that pamphlet, the recommendations made by hardworking, and I assume very dedicated citizens. But I also say, how about other recommendations that were not contained in there? Should we not add some more, if that is going to be the case?

If the Senator will simply assure me that all he is indicating is that he would like to have hopeful language, precatory language, encourage the budget summiteers to look at these recommendations and choose those first and as a last resort, if at all, look to new taxes, I have no problem with that.

Mr. HELMS. Will the Senator yield?

Mr. COHEN. I yield.

Mr. HELMS. Let me say I assure the Senator of that and I think the amendment says that. Let that be a part of the legislative history.

As for tobacco subsidies, I will be glad to accept that amendment because their is no tobacco subsidy. I took care of that several years ago with the reform of the tobacco program. And the Senator voted for it and I appreciate it. It is working fine. It is not costing the taxpayers a cent.

The rest of his argument about health and that sort of thing is for another day. The Senator mentioned that specifically.

But I will be glad to accept the Senator's amendment on a voice vote if he really wants it in there.

Mr. COHEN. I yield the floor. I urge the adoption of the amendment in the second degree.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I am not going to proceed for long, but I did want to make a few remarks about this exercise. I assure the majority leader that I am not going to delay the Senate.

Mr. President, when I was in my office and first heard this discussion, my immediate response was, I have been a total chump for the last 13 years or so in the Senate. The whole time that I have been here, we have been worrying about the budget deficit. That worry has been ratcheted up year by year. Now we have budget summiteers meeting and possibly very difficult decisions about to be made; Republicans and Democrats trying to get their act together.

I turned on the television set and I said to myself, why have I been such a dope? Why have I cast all of these votes in the Finance Committee, in the Budget Committee, on the floor of the Senate, to deal with the budget deficit? Why have I voted to cut spending programs? Why have I voted on the various things that we have done in reconciliation in the Finance Committee with respect to revenues? Why, back in 1986 when Senator Wilson was wheeled on to the floor of the Senate, was I part of that stupid cabal? When the answer, in fact, was that all we have to do is vote on a sense-of-the-Senate resolution against waste. Why did I not think of that? Call off the summit. Forget about the work of the Finance Committee or the Budget Committee. Let us pass a sense-of-the-Senate resolution against waste.

I saw this resolution and I do not know what the Citizens Against Government Waste is. [Laughter in the Chamber.]

And I do not know what its report is, which also shows that I am a dunderhead in these matters. Why did I not even hear about the citizens—is this the Grace Committee? Oh, I have heard about that. But I thought also, what is excluded, just as Senator COHEN did. For example, today some good soul suggested to me that the Senate of the United States wastes money because we do not separate our trash. We do not, I am told—I did not realize this—we do not put our aluminum cans in separate containers. And this person says, why not help with the budget deficit by recycling aluminum cans?

I would like, if we are going to proceed with this, to at least consider the possibility of saying that we should base deficit reduction recommendations on enactment of the waste-cutting proposals contained in the June 1990 report of the Citizens Against Government Waste and on recycling aluminum cans, rather than on enactment of new or increased taxes.

This good citizen suggested not only should we recycle aluminum cans, but that we should help with the defense budget by using the metal in the aluminum cans to build missiles. In other words, we would be beating our cans into swords. [Laughter in the Chamber.]

Now, that is a proposal. [Laughter in the Chamber.]

Mr. President, I make this point trying to say something that I hope is worth saying. Here is the problem with trying to fix this thing. Here is the problem with trying to come up with some language that does maybe the same thing without reference to the Citizens Against Government Waste. The problem is that it trivializes the problem. That is the problem. That is the problem, it trivializes the problem. It says we do not really have to make hard decisions around here. We do not have to make hard decisions. We do not have to vote on taxes. We do not want to do it. It is unpopular and, good news, we do not have to.

And entitlement programs, oh, no, that is unpopular and we do not want

to vote on that. It is an election year. And we do not have to. Why, there are all other kinds of things we can do, and it does not require taxes. And we do not have to cut popular programs. Cut waste. Cut waste; and if there is anything else we can do, save cans; and of course cut congressional pay; and the budget is going to be taken care of.

Mr. President, it is not. It is not going to be taken care of by this kind of thing. This is a vote to say that there are not any difficult choices anymore. This is a vote to say that there is not any hard work to do anymore. This is a vote to say that the people involved in the summit need not be involved in the summit, that there is not anything that is challenging, that there is not anything that is unpopular, there is not even anything that requires the time of the President, or the majority leader, or the minority leader, or all the other people involved in the summit. Why take the time? Why cast the tough votes? Why worry about trying to form some bipartisan compromise solving a difficult problem if the problem is not even difficult? It is a snap. Cut waste, and all of our problems are over.

So I do not know what the upshot of this tirade is except I do hope if we agree to adopt the report of the Citizens Against Government Waste we will also agree to recycle aluminum cans.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, I promise my short tirade will be shorter than the short tirade of the Senator from Missouri. He is a good friend, and I respect him greatly. But he is dead wrong.

The most difficult choice we face is how to provide Americans a government that is both efficient and delivers bang for the buck. We can talk about recycling cans and beating cans into plowshares and it is amusing and I laughed as well as everybody else in here.

But that is not the point, Mr. President. The point is that there is waste. The point is that before we ask American citizens to deliver their hard-earned wages into the tax bucket, we owe it to them to look through not only the report of the Citizens Against Government Waste but the report of the GAO, the report of OMB, the report of CBO, and others because there is waste that we can and in fact should eliminate before taking the hard-earned money of the American taxpayers.

These are in fact the most difficult questions. It is easy to make sin taxes. It is easy, I say to my friend from Missouri, to tax that fellow behind the tree. It is easy to soak the rich. It is easy to do all these things that you have heard discussed and ranted upon in public, so long as it is somebody else who pays it, not realizing that the fundamental asset this country has is that the people spend their money more efficiently than does the Government.

So I would ask the Senate not to react other than in amusement, as did I, to the comments of my friend from Missouri but to have the summiteers look seriously at the possibility of eliminating waste before raising their taxes. It is not a great request, but it is a request that I think ought to be heeded before we heed the siren call for just new taxes. That is an easier vote than to eliminate some of the bureaucracy that exists.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. I am sure my colleagues will vote in a very short time. I just want to make a couple comments.

I enjoyed the comments of my friend from Missouri. He has a way of stating things that finally come down to the point, and he made it and he made it well.

I want to make another point to my friend from North Carolina, and my friend from Wyoming, and maybe in 2 or 3 minutes—it will not be longer—possibly educate some people who have not had the great pleasure of serving on both the Budget and the Appropriations Committees and a few others for the last several years.

When we start talking about all this waste, my friends, I am going to give you some numbers that should make everybody's hair stand on end, including the American people who are part of the problem, who really believe that it is waste.

This year's budget will be 50 percent entitlement programs—Social Security, Medicare, Medicaid, agricultural subsidies, subsidies for certain kinds of student loans, Federal civil service retirement, Federal military retirement—50 cents of every dollar.

If we cut that defense budget as much as some in this body would like to cut it, we will cut it down to about 21 or 22 percent. It was as high as 27 percent. It will be down to 22 percent. That will be the defense budget. I for one think that is getting perilously low, but it may get down to 20.

Let us take interest on the debt. Interest on the debt this year, depending on whose rate you listen to, is between 16 and 18 percent. I will split it and call it 17—17 percent of this Nation's lifeblood being spent on interest, much of it overseas, I might say, by those smart foreigners who buy U.S. securities, because they still are the best and safest buy in the world irrespective of our economic problems.

If you add up the 50 and the 22 and the 17, you get to 89 percent. Everything else that the American people call Government, which is what I think that report talks about—everything else is 11 percent, maybe 12.

CBO has estimated that if you closed the Federal Government tonight and left only defense, entitlements, and interest, you would still—and I mean close the entire Government—have $40 billion as the deficit next year—$40 billion.

Those numbers are real. I can back them up. That is what the Budget Committee has before it. That is what the testimony was of the OMB director. You have between 48 and 50 percent entitlements—by the way, next year higher, and if unrestrained, 55 by fiscal 1993—22 percent interest, and 17 percent. That is it.

Mr. WALLOP. WIll my friend yield for an observation?

Mr. RUDMAN. I am happy to yield.

Mr. WALLOP. I quite agree with the Senator. Nobody has not suggested that we not deal with entitlements. This amendment does not suggest that we not. And in fact neither does the report of GAO, OMB, or Citizens Against Government Waste. It is part and parcel of the same concept. But nobody suggests, and certainly this amendment does not, that it is the only means by which you address the budget deficit. It suggests, I might say to my friend, only one thing, and that is that before we raise the taxes, we look at ways to eliminate waste—nothing more. It is not sinister.

Mr. RUDMAN. I agree totally, but I will make a flat statement. There is no way that there is the political will in this body, including some of the cosponsors of this resolution, to do the kinds of tough things with entitlement programs that have to be done to save the real dollars that we need to save. I would agree you might find $10 billion, you might find $15 billion, you might find $20 billion—I will even give you $30 billion—of waste. We ought to get it. We ought to root it out. That would still leave this year, exclusive of the S&L crisis, a Federal deficit of $160 billion.

I submit that it is a disservice, which was the point of the Senator from Missouri, to give the American people the impression that we can solve all of this with waste. If we put a substitute up here that says let us look hard at waste and we get all that we can, let us get on with the agenda, I am for that.

Mr. WALLOP. Will the Senator yield for another observation?

Mr. RUDMAN. Of course.

Mr. WALLOP. Nobody suggested, and this amendment does not suggest, that all of it be solved by this. But $30 billion, if that is the figure that the Senator says we could agree to, is not trivia.

Mr. RUDMAN. I agree.

Mr. WALLOP. It helps.

Mr. RUDMAN. I agree.

Mr. WALLOP. That is the sole and delicate purpose of this amendment.

Mr. RUDMAN. I agree, but I make the final point that if you could enact that tonight and send it to the House and they passed it and you got that $60 billion this year, you would have a $140 billion deficit on October 1.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I send to the desk an amendment and ask it be considered. It is a modification of the amendment in the second degree.

The PRESIDING OFFICER. Is the Senator seeking to modify his amendment?

Mr. COHEN. Yes. I ask unanimous consent that I be allowed to modify it.

The PRESIDING OFFICER. The Senator has that right.

The amendment, as modified, is as follows:

In lieu of the matter proposed to be inserted, insert the following:

"The Congress finds that:

"The elimination of government waste should be the major component of deficit reduction.

"Revenues for fiscal year 1990 will grow by more than $82 billion as a result of economic growth.

"The Comptroller General has stated that there is approximately $100 to $200 billion in annual Government waste, fraud, and mismanagement.

"There is more than $125 billion in outstanding delinquent debt owed to the Government by individuals.

"The Office of Management and Budget has identified more than 100 "high-risk" programs that are vulnerable to fraud, waste and abuse.

"The Federal Government has more than $5.7 trillion in outstanding credit and insurance, representing a massive potential risk to taxpayers.

"Reducing waste would free the inefficient use of resources by the Government and release them into the private sector.

"It is the sense of the Senate that the President and the Members of the budget summit should consider the most feasible of the deficit reduction recommendations contained in the June 1990 Report of CAGW, as new as those in the public record of CBO, GAO, OMB, and other agencies before considering new or increased taxes.".

Mr. COHEN. Let me outline very quickly the changes that were made.

Mr. President, the change that was made was to eliminate the specific reference to the Citizens Against Government Waste. Many of the Members, indeed most of the Members, have never seen the report, and have not had time to read this evening. It may indeed contain a number of very positive recommendations we have not done, or things that we refused to do. But at least it seems to me that we should eliminate that specific reference and instead I have offered the following substitute:

It is the sense of the Senate the President and members of the budget summit should consider the most feasible of the deficit reduction recommendations contained in the June 1990 report of the citizens group as well as those in the public record of CBO, GAO, OMB and other agencies before considering new or increased taxes.

I believe that is the sentiment that the Senator from North Carolina really desires to express. I agree with my colleague from Missouri. This piece of paper will not save one penny. It will not cut the deficit 1 cent. All it will do, I assume, is send a message to those who may have the impulse now to rush to adopt new taxes that perhaps there are other methods they should look at first in terms of cutting programs or reducing programs or eliminating subsidies or perhaps beating the F-15's into the Pepsi generation cans. There may be a number of variety of ways we would look to save money before turning to new taxes.

If that is the purpose and intent of the Senator from North Carolina, then I would recommend that we adopt the amendment, as amended.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. That is and has been the purpose all along, as I believe I stated earlier. I ask unanimous consent that all of the sponsors and cosponsors identified in the underlying amendment be similarly identified as sponsors and cosponsors of the amendment by the distinguished Senator from Maine.

There was one error. I have not been able to talk to Senator THURMOND. His name is on the list. Without being able to talk to him, I feel uncomfortable having his name on it. So I ask his name be stricken and the names of Mr. KASTEN and Mr. WALLOP be added to both bills.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Is there further debate on the amendment?

Mr. COHEN. Just one final point. In the amendment itself it refers to the CAGW. That should be spelled out as Citizens Against Government Waste as a formal part of the resolution. I ask unanimous consent it be modified to reflect that.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment, as modified, is as follows:

In lieu of the matter proposed to be inserted, the following:

"The Congress finds that:

"The elimination of Government waste should be the major component of deficit reduction.

"Revenues for fiscal year 1990 will grow by more than $82 billion as a result of economic growth.

"The Comptroller General has stated that there is approximately $100 to $200 billion in annual Government waste, fraud, and mismanagement.

"There is more than $125 billion in outstanding delinquent debt owed to the Government by individuals.

"The Office of Management and Budget has identified more than 100 "high-risk" programs that are vulnerable to fraud, waste, and abuse.

"The Federal Government has more than $5.7 trillion in outstanding credit and insurance, representing a massive potential risk to taxpayers.

"Reducing waste would free the inefficient use of resources by the Government and release them into the private sector.

"It is the sense of the Senate that the President and the Members of the budget summit should consider the most feasible of the deficit reduction recommendations contained in the June 1990 report of Citizens Against Government Waste, as well as those in the public agencies before considering new or increased taxes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine, as modified.

The amendment (No. 2083), as modified, was agreed to.

Mr. HELMS. Mr. President, the question occurs on the underlying amendment as modified?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. The yeas and nays have been ordered on that.

The PRESIDING OFFICER. The yeas and nays have been ordered on the underlying amendment.

Mr. CHAFEE. Mr. President, can I make an inquiry? Will they not accept this amendment? Is it necessary to have the yeas and nays?

Mr. HELMS. The cosponsors want the rollcall vote and I want a rollcall vote.

Mr. MITCHELL. Mr. President, might I inquire of the distinguished Senator from North Carolina? I know he shares my concern and the concern of other Senators and many Senators responsible. We had hoped to conclude action on the housing bill some time ago. When it became apparent that it would not occur, a number of Senators left the Capitol area to attend other functions with their families. We are now in a situation where we are trying to get them back.

Mr. HELMS If the Senator will yield, is he suggesting we carry the vote over to tomorrow?

Mr. MITCHELL. No. We are going to finish the housing bill. What I am asking is if the Senator would permit us to voice vote this, and then take what steps are necessary to proceed to a final vote, on a rollcall vote on final passage, which will give other Senators the opportunity to get back here, and will give the minimum inconvenience to the Senators who are present so that we can do this as expeditiously as possible in a manner that is as inconvenient to as few Senators as possible. I am merely asking that.

The amendment is acceptable. It will be a unanimous vote by voice vote and we will be able to get out earlier than otherwise and inconvenience fewer Senators than otherwise. I place it entirely on the basis of attempting to accommodate the convenience of as many Senators as possible.

Mr. HELMS. Well, do I have the assurance from those present that if there were a rollcall vote, each of them would vote for it?

Mr. MITCHELL. Yes.

Mr. HELMS. The point is that I do not want anybody attempting to minimize the significance of this amendment by saying that it was a voice vote late at night, and all that good stuff.

Frankly, I do not understand the difference. Are they coming back for a rollcall vote on final passage?

Mr. MITCHELL. That is right.

Mr. HELMS. What is the difference? Fifteen minutes?

Mr. MITCHELL. The difference probably would be 20 minutes, and we will have to delay for just a little while. We are now delaying in fact to give people the chance to get back here.

I do not like to cut off the vote when Senators are in Washington and on their way back. As the Senator from North Carolina knows, I have attempted to accommodate as many Senators as possible. It will get the vote over, and then Senators can leave and still have some time with their families.

Mr. WALLOP. If the leader will yield for just a moment, I urge my friend from North Carolina because I think there is no question but that this will be adopted 100 to nothing. The most important part of it is that this puts us on record as a Senate in favor of finding a way to eliminate as much of the tax burden to the American people as we can. The Senator from North Carolina has done us a service tonight. I think by accepting it the service becomes complete.

Mr. HELMS. The distinguished majority leader has accommodated all of us, including me. I would rather have a rollcall vote, but I will accept a voice vote.

I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, that will be the order.

The question now occurs on the amendment, as amended.

The amendment (No. 2080), as amended, was agreed to.

Mr. KERRY. Mr. President, in a short time we will vote on final passage of the National Affordable Housing Act, and the labors and efforts expended over the last 3 years are about to come to fruition. As I mentioned several days ago at the beginning of the debate on this bill, we were embarking upon an important journey with respect to the entire effort related to housing in this country. Along the way, there has been a great deal of compromise, a great deal of give and take. The final result, however, is that we are about to enact landmark housing legislation. It is landmark because it represents, for the first time in 10 years, our efforts to define our priorities regarding national housing policy and to reaffirm our commitment—a commitment that has been stated from administration to administration, from the late 1940's until the beginning of the 1980's—that we provide decent and affordable housing for all Americans.

I am proud and pleased to be an original cosponsor of this legislation and I am proud of the bill we will shortly enact in this Chamber. It goes a long way to fulfilling our objectives of providing affordable housing, of alleviating homelessness, of assisting first-time homebuyers and of protecting the stock of housing threatened with loss as a result of the expiring use issue.

I do want to mention briefly that I am pleased that the Senate soundly rejected the amendment offered by the Senator from Texas earlier this afternoon, to change the allocation formula for the Community Development Block Grant Program. Had this amendment passed, it would have meant a loss of 18 million in vital CDBG funds to Massachusetts. While some States stood to gain from this amendment, I am pleased that my colleagues looked beyond their regional concerns to address the issues of fairness and equity.

There are several items in the bill of particular interest and concern to me and to the people of Massachusetts. First, I think we have made a bold effort under difficult circumstances to work out a compromise with respect to the issue of preservation and the threatened loss of hundreds of thousands of affordable housing units, 30,000 of which are in Massachusetts. Although I have suggestions to improve our compromise that I have discussed with the distinguished chairman of the subcommittee, Senator CRANSTON and which will continue as we move to conference, I believe that on the whole the Senate bill creates the best balance possible at this time. In this regard, I am also pleased that the Senator from California has agreed to work with me to find a solution to State preservation programs, such as the 13(a) program in Massachusetts.

Second, I am pleased that we were able to include in the homeless amendment, language to give priority to homeless veterans and to those organizations that have demonstrated effectiveness in serving homeless veterans. The situation of homeless veterans is a disgrace to our country and we take an important step forward in this legislation to ensure that those who have served their country in its time of need are not left homeless, without shelter and abandoned in their time of need.

I also want to mention the inclusion of the reauthorization of the 1988 Public Housing Drug Elimination Act and its expansion to include federally assisted housing as well. Too much of our public and federally assisted housing have become warehouses for the sale of drugs and too many children living in these areas have been exposed to extraordinary levels of violence and drug-related crime. The grants provided by this program will provide yet another tool in our efforts to rid this housing of drugs and to provide a decent place for people to live.

Mr. President, the bill also contains two amendments that I authored and which were accepted and I would like to mention them briefly. The amendments call for three studies to be conducted by the Secretary of Housing and Urban Development. The first asks the Secretary to determine the actuarial soundness of providing downpayment guarantees to first-time home buyers, based on a system of savings payments into an interest tax-exempt account. This study will help to determine the actuarial soundness of legislation I introduced last year to assist first-time home buyers.

The other two studies would examine, first, the feasibility of providing incentives for companies to invest in areas with high incidence of drug use and drug related crime and second, the feasibility of establishing an enterprise zone development corps.

The first study builds upon the concept of enterprise zones and asks the Secretary to provide recommendations on ways that designated enterprise zones suffering from acute drug use and related crime can find additional benefits to meet their needs. Enterprise zones are designed to encourage business investment in economically distressed areas in the expectation that this will lead to job growth and economic development. It seems to me that our drug infested areas present us with that very special challenge.

The second study asks the Secretary to examine the feasibility of establishing a national volunteer corps—an enterprise zone development corps, made up of representatives from the business and labor community, executives or companies and others who are currently in the business world. This corps would lend their management expertise and their labor skills to provide technical assistance to businesses and nonprofit organizations who are located specifically within enterprise zones.

Before concluding, Mr. President, I would like to mention several concerns I have with the bill. I recognize that in order for us to get to the point of final

passage we all had to give a little and I certainly have no qualms about operating in the spirit of compromise. Nevertheless, I want to voice my concern about several of the changes made during the course of our negotiations. First, I have some concerns about the limitations placed on new construction as part of the Housing Opportunity Partnership [HOP] Program. It is ironic to attempt to provide States and localities with flexibility and then to impose a series of hoops for them to jump through prior to achieving this flexibility.

Second, I have serious concerns about the level of targeting contained in the compromise proposal. I want to make it clear that I support the notion that we should use every effort to assist the very poor with our limited Federal resources. Nevertheless, I do not subscribe to the notion that the way to help them is to make permanent enclaves of nothing but the poor as the solution. I am fearful that the targeting provided by this bill may preclude or at least diminish States and local capacity to produce mixed-income housing. In this same vein, I am also concerned with the requirement that in order for the State and local match to count for the corresponding Federal match, the State and local dollars must all go to serve a defined population. I do not think it wise to tell the State and local governments how they should best utilize their own resources, and as I mentioned previously, this may serve as yet another disincentive to the production of mixed-income housing.

I am hopeful that as we move to conference there may be opportunities to refine these provisions so that they are less onerous.

Mr. President, we have come a very long way in redefining our national priorities in housing. I am pleased with the work done by my colleagues on the Banking Committee and I would be remiss if I did not commend the distinguished Senator from California for his tireless efforts in bringing us to this point today. In the same vein, the distinguished Senator from New York has worked long and hard to help use finally achieve a significant housing bill.

I am pleased to cast my vote in support of this legislation. We are taking a bold step today—a step that has been long in the making but which is also long overdue. That step will mean a great deal to millions of people throughout this country who look to us for leadership, compassion and concern and who expect us to live up to the goals we set for ourselves back in 1949.

Mr. MITCHELL. Mr. President, the foundation upon which American families rely is a decent and affordable home. Too many American families today have no home. Too many live in substandard housing. Too many struggle each month paying an enormous portion of their meager incomes for rent.

As part of the Democratic agenda announced last year, we sought enactment of a major housing bill. Legislation to address the availability and affordability of housing, a basic necessity for all American families.

I cosponsored the National Affordable Housing Act over a year ago upon its introduction. I made a commitment to bring the bill to the floor at the earliest possible time.

I want to commend Senators CRANSTON and D'AMATO for their work over the last several years in putting the National Affordable Housing Act together. I also want to thank Senator RIEGLE, the chairman of the Banking, Housing, and Urban Affairs Committee for placing passage of housing legislation on the top of the committee agenda. Without the continued devotion and dedication of these members, we would not have made progress on this bill.

In Maine and throughout the Nation, the lack of affordable housing is a serious problem.

Despite several years of economic growth, the percentage of Americans owning their own home has fallen to its lowest level in 15 years.

In many areas of the Nation, young families are simply priced out of the market. Homeownership is becoming a distant dream for this generation of young Americans.

For low-income renters, the situation is worse. Funds for HUD assisted housing have been slashed by 80 percent during this decade. Waiting lists are long and often closed. The ranks of the homeless are growing. And a national embarrassment has grown into a national disgrace, now that families with children are the fastest growing group among the homeless.

As majority leader, I recognize the difficult budget dilemma we face; the many unmet needs in our society that must be reconciled with budget restraint. But I also recognize the importance of an affordable housing program for this Nation and I believe this must be a priority for this Congress.

During the last decade we repeatedly heard that the Nation's housing problem was one of affordability, not availability. That's incorrect. It's both.

The National Affordable Housing Act will give States and local governments more flexibility in designing strategies to expand the supply of affordable housing.

It is time we assist cities and States with providing the tools necessary to rebuild this Nation. It makes little sense to wait for families to become homeless before we begin to care whether or not they have a home.

I applaud and commend Secretary Kemp's attitude toward Federal housing assistance. Repeatedly in 1989 Secretary Kemp announced, and I quote, "I don't want to be the Secretary of vouchers."

I agree with Secretary Kemp. Vouchers can be part of a housing policy, but cannot be the housing policy. The HOP Program will ensure that cities and States have the flexibility to address housing needs as they determine best.

There are 21.7 million American households classified as very low income, that is with incomes below 50 percent of the area median income. There are another 14.5 million American households classified as low income, with incomes below 80 percent of the area median income.

It was for these families that this legislation was designed. The private sector can't provide for these families. There is little incentive. The cost of construction and maintenance is high, and the income of these families is low. Without Federal assistance, they will be forced to pay an exorbitant amount of their income in rent or live in substandard and unsafe housing.

I believe that the National Affordable Housing Act is a sound bill. Compared to the need, it makes a modest attempt to recognize that we ought to set a priority to provide housing—one of the most basic of necessities—to those families who are struggling.

A national housing policy that restores the reality of the American dream for ordinary working people is both a defense against disrupted communities and one way to restore hope to all Americans.

Mr. PRESSLER. Mr. President, the basic purpose of section 1003 of the pending legislation, the National Affordable Housing Act, originally was contained in a bill—S. 2491—that I introduced earlier this year. It provides a minimum State share in certain categorical housing programs administered by the Department of Housing and Urban Development [HUD]. It provides a floor below which HUD cannot go in allocating funds for such programs among metropolitan cities, urban counties, and States.

The need for the provisions contained in section 1003 arises from the fact that the housing and community development programs of HUD generally are targeted to urban or metropolitan areas. In the allocation of funds, farm States and rural areas far too often are on the short end of the stick. Let me cite a few examples.

During fiscal year 1988, my home State of South Dakota received absolutely no new assistance in the Moderate Rehabilitation Program or in the section 312 Rehabilitation Loan Program. In recent years, South Dakota has received less than a handful of approvals in the section 202 Elderly and Handicapped Housing Program that

provides direct loans and rental assistance for elderly and disabled persons.

Altogether during fiscal year 1988, our good friends in North Dakota received only $8.9 million in categorical programs, which is substantially below what the State would have received if allocations were made on a per capita basis. Our colleagues from Idaho also might wonder why their State received only $8.2 million, which is about one-third of what it would have received on a per capita basis.

More telling, Mr. President, is a briefing report issued by the General Accounting Office [GAO] in January 1989 entitled "Rural Development—Federal Funds That Focus on Rural America and Its Economic Development." It classifies as rural counties those counties with urban populations of less than 20,000, as listed in the 1980 census and census updates.

Of the 3,096 counties in the United States, 2,097—about two-thirds—are rural counties under this definition. The GAO then identified 828 Federal programs with funding of about $640 billion in fiscal year 1987. It found that overall, these programs provided an average of only 17 percent of total program funds directly to rural counties. And what is most startling, Mr. President, is the GAO finding that of the total funding comprising the Housing and Urban Development programs, rural counties received a meager 4 percent! I repeat—4 percent. With that situation in mind, can anyone wonder why we have provided for the minimum State share contained in section 1003 of the pending bill?

Patterned after the Federal aid for highway legislation, my amendment provides a minimum share for each State equal to one-half of 1 percent of the aggregate funding for the following programs: section 202 housing for elderly persons and persons with disabilities, public housing modernization [CIAP], public housing operating subsidies, and Indian housing development. Other programs were included in my original amendment, but these subsequently were deleted in a general amendment which was agreed to at the close of the committee markup.

Section 1003 brings a fairness to these programs that currently is lacking. I urge my colleagues to support the minimum State share provision.

Mr. BRADLEY. Mr. President, I rise today in support of S. 566, the National Affordable Housing Act. This major piece of housing legislation is long overdue. The U.S. Congress has mandated the Department of Housing and Urban Development to create conditions under which every family will have decent and affordable housing. We have a long way to go to reach that goal, but I believe this legislation is an important step in the right direction. I commend my colleagues in the Subcommittee on Housing and Urban Affairs for bringing this legislation to the floor.

With this bill we can begin to move toward bringing housing vouchers and new construction together to stop the slow burn of affordable housing stock in our cities. The great error of the Reagan administration was in treating vouchers as a substitute for new construction. Vouchers are a key component of sound housing policy, but vouchers are not houses and apartments. We need balanced programs that provide more housing while putting vouchers in people's hands that enable them to afford it. New construction programs and vouchers should reinforce one another in every community rather than compete with one another without meeting this country's increasingly severe housing needs.

The condition of housing for many Americans is deplorable. Across America there are millions of people without shelter, and New Jersey is no exception. There is a severe housing crisis in New Jersey. The shortage of rental housing is so extreme that in 1987 over 1,000 families were not able to use their section 8 rental subsidy certificates because they could not find standard rental housing.

The Homeownership Opportunity Partnership [HOP] provision in the bill will be a first step in expanding the supply of affordable housing. I am glad that this provision allocates housing assistance to State and local governments through an open, objective process. This process gives more flexibility to those who are best able to provide low-income housing.

I am pleased to see that the proposal put forth from Secretary Kemp regarding tenants owning their homes has been incorporated into this bill. The Homeownership and Opportunity for People Everywhere [HOPE] proposal will give many low-income families the economic empowerment that they so desperately need. Improved home ownership opportunity along with the supportive services that will go along with this proposal will provide a critical stepping stone for many low-income Americans.

I am particularly pleased to see that this bill addresses the issue of prepayment in an equitable manner. The Congressional Budget Office has determined that during the 1990's, over 28,000 federally assisted housing units will become eligible for prepayment and will be lost to low and moderate income families when they are converted to market prices. In New Jersey, the effect could be staggering, with 1,334 low-income units at risk this year, and 8,839 units by the year 2000—2,210 of these units are senior housing. We owe our most vulnerable citizens special protection. The Senate bill contains a fair prepayment solution which balances the interests of owners, tenants, and affected communities. I hope that this provision will survive as this bill moves to conference.

In addition to prepayments, I am especially pleased that the bill directly addresses the problems of homelessness. This legislation consolidates existing McKinney housing programs with control given to the States and local governments who are best able to assess the extent of their homeless problems and devise long-term comprehensive strategies for addressing them. The existing programs are too rigid and many small, community-based nonprofit groups find them difficult and cumbersome. It is necessary that States and localities be given the flexibility to use formula funds under the consolidated program as they see fit to address homelessness in their area.

Built into the legislation is authority to intervene with emergency help to keep families from eviction or foreclosure. This kind of effort prevents more people from joining the ranks of the homeless. David Schwartz, an assemblyman in my State and a recognized expert on housing, has testified before the Subcommittee on Housing and Urban Affairs on the effectiveness of New Jersey's program to do just that. I was pleased to see that aspects of the New Jersey program, developed by Assemblyman Schwartz, are included in this legislation.

Mr. President, the eighties have been a decade of neglect for many Americans when it comes to basic human needs like shelter. I urge my colleagues to reverse this trend and make the nineties a decade of hope when all citizens, will be able to experience the American dream and have a decent home to call their own.

Mr. SHELBY. Mr. President, I want to take this opportunity to commend the chairman of the Housing Subcommittee, as well as the minority leadership and their respective staff for their Herculean efforts in getting this bill to the Senate floor and getting it passed. While this legislation has not been without debate and without controversy, the ease with which it has gone through the floor process is testimony to the ability of the leadership to create a consensus on complex issues. They and their staff have done an excellent job. Since this bill's conception, they have contended with a change in the administration conflicting signals from the White House and the Department of Housing and Urban Development. Their efforts were delayed by the disheartening discovery of scandal, mismanagement, and fraud at HUD. Yet they have persevered and ultimately were successful in bringing good legislation to the Senate floor.

It has been a long time coming. While the availability and quality of housing varies widely across the country. I believe that the average American has been made aware that there is a housing crisis in this country. This awareness comes not necessarily from the growing numbers of homeless persons sleeping over grates but from the increasing difficulty of first-time home buyers to price into the market. Prospective homeowners feel the pinch not only in the obvious areas, large cities such as Washington, DC, New York City, and Los Angeles but also in middle-size cities like Birmingham, AL., Atlanta, GA, and Nashville, TN.

People of all economic strata have been forced to compromise, to lower their standards, to accept something less than their parents would have been able to afford. Families that in another ERA would have had the house with the proverbial white picket fence now live in townhouses or apartments; children no longer play in the backyard but in the parking lot or on the sidewalk. And what's more, it requires two incomes to obtain even this standard of living; one paycheck is no longer enough.

Working class neighborhoods have been gentrified throughout the past decade; neighborhoods that formerly housed the working class have become home to young urban professionals as lower-income housing has been transformed into upscale condominiums, luxury apartments, and expensive single family houses. The working class has been pushed farther out, farther away from work, and/or into less desirable, even substandard housing. Generations double up, with three or four generations living in one home.

While gentrification is less of a problem in rural areas, it is there that the limited availability of decent affordable housing poses perhaps an even greater problem. The National Housing Task Force found that there is a higher rate of poverty and unemployment in nonmetropolitan areas and that the incidence of substandard housing is also higher. Almost a half of those experiencing housing problems in nonmetropolitan areas have problems with basic things like plumbing.

In my State of Alabama, 21 of our 67 counties have a poverty rate of greater than 21 percent, while the percentage of houses without adequate plumbing in these counties is greater than 11 percent. In any effort to better meet the needs of rural residents, I supported a measure introduced by the distinguished Senator from North Carolina, Senator SANFORD. The Rural Housing Revitalization Act was largely incorporated into the National Affordable Housing Act and for that I am particularly pleased.

Today's legislation owes its roots to the report by the National Housing Task Force, an outstanding product from a group led by David Maxwell at Fannie Mae and James Rouse, the well-known developer and leader of the Enterprise Foundation. This report articulated the problem and issued a set of recommendations to address them. The National Affordable Housing Act effectively carries out those recommendations.

This bill takes a fresh approach to housing and seeks to revitalize the Federal role in increasing the availability of affordable housing. Eight years of Reagan administration cuts in funds for housing, coupled with egregious misallocations by HUD, have resulted in a widespread shortage of affordable housing. This legislation encourages creative partnerships between the Federal, State, and local governments for the construction of new housing and the rehabilitation of existing housing.

This legislation embraces a proposal expounded by Secretary Kemp at HUD that empowers tenants in public housing developments by allowing them to purchase their units. The need to rehabilitate so much of public housing can be at least partially attributed to the failure of tenants to maintain that in which they have no ownership stake. Secretary Kemp, through his HOPE initiative, would provide tenants that ownership. This will, thus, hopefully, stem the decay of public housing as well as boost the circumstances of these residents.

This legislation also tackles the problems of the FHA. Actuarially unsound at this time, this legislation contains a number of steps to put the FHA back on sound footing. I commend once again, the leadership for successfully resolving this issue.

Mr. President, this is a landmark day. Since 1949, we have had articulated in statute the goal of a "decent home and a suitable living environment" for every American. While certainly many Americans enjoy a better home and a higher standard of living than the citizens of most of the other countries on Earth, many Americans have been shut out of this dream. I believe that today's legislation goes a long way toward restoring the Federal commitment to provide for decent housing. I am pleased to support it and hope for a successful and expeditious conference.

Mr. GRAHAM. Mr. President, this debate has been a very important, indeed historic debate in the Senate. Passage of S. 566 marks the beginning of a reinvigorated Federal commitment to ensuring that each family in this Nation has a decent, safe, and affordable place in which to live.

History will show that the 1980's was a decade of retreat in Federal housing policy. Housing costs skyrocketed. HUD was wracked with scandal. Its budget was decimated. The 1986 tax reform significantly reduced incentives to expand the housing supply.

The current housing crisis in this country encompasses a shortage of affordable housing for those with moderate incomes and a shortage of decent, safe, and sanitary housing for those with low incomes.

Young families are affected. Single parents are affected. Senior citizens are affected. Working people in every age group are affected. The growing numbers of homeless on our streets are the most visible and shocking evidence of this problem.

Our children will inherit the legacy of this crisis as they transition into adulthood without what has historically been an American birthright—the secure sense of place, of a home, of belonging somewhere.

Homeownership is the fundamental American dream. Homeownership separates our society from others around the world. It is the cradle of our values of family and neighborhood. Homeowners are truly stockholders in America. Increasingly, the door to homeownership in America is being closed.

Mr. President, the decade of the nineties must be the decade in which the Federal Government renews its commitment to the American dream. The National Affordable Housing Act takes a significant step in that direction.

I want to commend the chairman and ranking member of the Subcommittee on Housing for their tireless efforts in seeking a broad based solution to the affordable housing problem. Their work culminates tonight in the passage of S. 566.

Over the last 3 years, Senator CRANSTON and Senator D'AMATO have held numerous hearings, roundtables, and informal discussions centered around the Rouse-Maxwell report, "A Decent Place to Live." Individuals and groups representing every dimension of the affordable housing problem in this country testified before the subcommitee.

S. 566 is a very carefully crafted and well-balanced legislative package that is sensitive to the housing needs of every American. It is responsive to the suggestions of each and every participant in this long process.

Most important, Mr. President, is the recognition in the structure of the bill that each and every community in America has different needs, different resources, and different populations to serve. No longer will the Federal Government mandate its solution to the perceived problems of States and localities.

The Housing Opportunity Partnership [HOP] is S. 566 will allow each participating jurisdiction to devise their own distinct housing strategies in cooperation with citizens, the private sector and nonprofit groups.

Every tool in the tool box, including new construction, rehabilitation, and rental assistance should be made available to them so that they may tailor HOP funds to meet their specific needs.

The role of the Federal Government, the proper role, should be to outline broad Federal policy goals, provide flexible funding to leverage State and local housing strategies, while ensuring that the needs of special populations are being served.

I am particularly pleased with the manner in which S. 566 addresses the pressing needs of the State of Florida. It includes innovative provisions like project retrofit that will provide supportive services for the elderly, particularly the frail elderly. Distressed rural areas are targeted for assistance and the authorization levels for rural housing programs are increased.

The homeless will benefit through a streamlined delivery of McKinney Act funds. Persons with disabilities will receive the specialized attention they deserve. Efforts to improve the living conditions of public housing residents and to assist them in their transition to independence are redoubled.

Also, the Banking Committee included in S. 566 legislation I introduced to expand the Reverse Equity Mortgage Program for the elderly. Another provision approved by the committee is a model "sweat equity" program that will support the efforts of groups like Habitat for Humanity that assist low-income families in building or rehabilitating their own homes. Finally, the bill addresses my concern that the Rental Rehabilitation Program be given strong protections so that communities in Florida and throughout the Nation will continue to receive its significant benefits during and after the transition to HOP.

Again, I congratulate the architects of this bill and the chairman of the Banking Committee and look forward to quick action by the conference committee.

Mr. DODD. Mr. President, the legislative landscape of the last decade is littered with the remains of countless housing proposals that died in the chilly, contrarian winds of official Washington. The eighties were a decade in which a President and a majority in Congress claimed over and over again that, as far as Washington was concerned, there were not the resources, inclination or time to care whether the wealthiest Nation on Earth provided safe and affordable housing for its citizens. Since 1980, the budget for housing has been slashed by more than two-thirds—savaging programs put forward by both Democrats and Republicans alike. In the meantime, the ranks of the homeless continued to swell, the American dream of homeownership continued to fade and indifference seemed to be the watchword from Washington.

Today is a new day.

Today, we stand ready to declare that housing has regained its rightful place on the agenda of national priorities. We stand ready—Democrats and Republicans alike—to affirm that the establishment of a viable and responsive national housing policy is a priority that this Nation must never again let slip from the highest levels of that national agenda.

The dawn of this new day in housing really began 3 years ago when Senator ALAN CRANSTON and Senator AL D'AMATO spearheaded an unprecedented effort to bring together the best housing minds from across the country to forge legislation in response to our Nation's housing crisis. For their leadership and for their tireless efforts on behalf of the housing needs of all Americans, we owe an extraordinary debt of gratitude to both Senator CRANSTON and Senator D'AMATO.

Mr. President, we've traversed some rocky terrain to find ourselves standing here today—poised to pass this landmark legislation. We have been, at turns, combative; we have listened to the other side; we have stood firm; we have compromised. But what makes this legislative accomplishment distinctive, in my mind, is that through all the months and years of work, we have, in an ultimate spirit of bipartisanship—kept our eyes on the far horizon. Democrat and Republican alike have stood firm on the most important issue: That we are committed at long last to bridging the gap between the rhetoric and reality of our Nation's housing policy by beginning to link the resources of all levels of government and the private sector in the shared pursuit of providing safe and affordable housing for all Americans.

S. 566 is a comprehensive package of innovative reforms created to meet the housing needs of many Americans—from the homeless to the first-time homebuyer, from the disabled to the elderly. The National Affordable Housing Act is a wide-ranging blueprint for action that emphasizes the fundamental partnership of the Federal Government and State and local governments in the establishment of effective national housing policy.

The central provision of the legislation is the HOP or Housing Opportunity Partnerships—essentially a new block grant production program. Two years ago, AL D'AMATO and I introduced legislation, the 1988 Housing Gap Program, also a block grant, which would have established a new housing partnership between all levels of government—Federal, State and local—and the private sector in developing a comprehensive Federal housing policy. The irony of the last neglectful decade in housing policy has been that expertise and programs of great innovation developed at the State and local level. Reflecting the principles of the Dodd-D'Amato bill of 1988, the HOP builds upon the partnerships that have begun to develop between States, localities, nonprofits, private managers and investors.

The central HOP block grant would have an initial authorization of $2 billion—$1.45 billion in new funds and $450 million through consolidation of existing HUD programs. With the development of a 5-year housing strategy, a State or local government can use HOP funds to invest in rental or homeownership housing for low-income and moderate income families. Preference is given to rehabilitation of substandard housing, but funds can also be used to construct new units—where that is determined by the State and locality to be the most efficient and effective means of meeting the housing needs of its citizens. HOP funds can be invested as equity, loans or interest subsidies. HOP funds can also be used to expand homeownership opportunities for low- and moderate-income first-time homebuyers.

I was pleased to see included in the bill a provision introduced by myself and Senator D'AMATO which would consolidate nine existing HUD programs, totaling $450 million, into the HOP. Those existing categorical programs include the rental rehab program, which would be continued on a transitional basis for 2 years, the 312 rehab loan program, the mod rehab program, and the public housing development program.

Consolidation, streamlining and the elimination of unnecessary redtape have been themes that have echoed with accord and consistency throughout the development of this legislation over the last 3 years. Applying those themes of consolidation to existing HUD programs in conjunction with new programs strengthens the purpose and activity of HOP.

Subtitle VI of the National Affordable Housing Act would streamline the distribution of McKinney homelessness funding to States and localities. Since its passage 3 years ago, the McKinney homelessness legislation has been plagued by overly complicated regulations, funding and a HUD ill-equipped and frankly, ill-committed, to administer. Homelessness is a problem that needs immediate and emergency responses. S. 566 recognizes that those responses are best achieved at the State and local level by consolidating homeless programs and distributing 80 percent of the funding for the consolidated programs directly to the States and localities.

Included in a package of amendments approved by the Senate yesterday are two of my amendments which provide increased flexibility for the McKinney homeless programs.

Under current law, homelessness prevention assistance is considered one of several essential services under the Emergency Shelter Grants [ESG] Program under title IV of the McKinney Act. Currently, there is a 20-percent cap on the amount of ESG dollars that may be used for essential services. Therefore, homelessness prevention—and essential service—has heretofore been limited.

Homelessness prevention—back payments on rents and utilities, security deposits, programs for landlord/tenant mediation and legal representation, foreclosure payment assistance—is important because it provides short-term assistance that can prevent homelessness before it begins. There is little disagreement that it is much more cost-effective, in both program costs and human terms, to assist a person or family before they become homeless.

In fact, officials in my home State of Connecticut and in other States estimate that intervention before a family becomes homeless is three times cheaper than putting a family up in an emergency shelter. It is 30 times cheaper than putting that same family up in a welfare hotel. Prevention programs have especially helped homeless families with children—the fastest growing component of the Nation's homeless population.

While S. 566 raised the cap on essential services from 20 percent to 30 percent, my amendment allows funding for homeless prevention activities to be unrestricted. Communities can now best determine how to address the homelessness prevention needs in their particular State or locality.

The second accepted amendment would allow staff costs to be included as an operational expense for emergency shelters. Under current law, operational expenses for emergency shelters are defined as payments for maintenance, operation—other than staff—insurance, utilities, and furnishings.

However, the largest expense related to shelter operations are costs related to maintaining permanent and skilled personnel. Even though all shelters make significant use of volunteers to support their continued operations, paid, skilled staff is still critical. Shelters need permanent staff who have professional skills in management, drug addiction treatment, and other areas.

By including staff costs as an operational expense, the Emergency Shelter Program now parallels the transitional housing, permanent housing, and supplemental assistance programs under the McKinney Act—all of which permit staff as an operational expense.

Mr. President, on May 9, I joined Senator KENNEDY and 19 other of our colleagues in introducing S. 2600, the Homelessness Prevention and Community Revitalization Act. In simplest terms, that legislation recognized that the problem of homelessness goes beyond the simple lack of shelter. It recognized that if the scourge of homelessness is to end, it must first be acknowledged that homelessness is often the end result of varied and complex social ills that go far beyond the provision of shelter.

Finding housing for the homeless and calling it a solution is like finding a hospital bed for a cancer patient and calling it a cure. S. 2600 would strike at the root of homelessness and work toward a cure by establishing family support centers in or near low-income housing, by establishing home health services in low-income neighborhoods and by providing substance abuse counseling, out-patient drug therapy, job and life skills training and mental health care in group home settings.

I am pleased to know that the main substance of S. 2600 has been included and enhanced as a bipartisan amendment to the National Affordable Housing Act. Title III of S. 2600 as introduced was replaced by Senator DOMENICI's projects to aid the transition from homelessness [PATH] proposal. The Domenici proposal, which I strongly support, replaces the current mental health block grant component of the McKinney Act by providing mental health and social services for homeless or near-homeless who suffer from serious mental illness and/or substance abuse problems.

Mr. President, I don't agree with every provision of this legislation. It is my view, for example, that while this legislation goes a long way toward improving the development and management of public housing, it still falls short in coming to terms with the long-term vulnerability of our public housing stock. If we had been able to come up with an airtight provision unequivocally committing the Federal Government to maintaining—or increasing—its funding of public housing, I would have been comfortable with the inclusion of all public housing programs under the HOP. It's my belief that the best interests of the low-income Americans who need—and continue to need—public housing, will be best served when the dollars that fund public housing are brought closer to the local politics that understand the needs of that community. To me, this is an inevitable Debate: How do we become politically accountable for public housing and to the citizens who live there and do so in a way that includes public housing as part of a holistic approach to developing national housing policy?

I would have preferred that limitations on new construction in the agreed upon compromise of amendments be less restrictive. If the spirit of HOP is the spirit of a new and strong partnership between the Federal and State and local government, then the parameters of that partnership must reflect the real needs of particular communities. The parameters of that partnership should not be defined by an ideological opposition to new construction. The needs of every area of this country differ. Rehabilitation might be the cornerstone of housing strategy in one area; new development may be the key to a successful housing strategy in another area. Either way, restrictions should not be placed on a State or locality's ability to define the parameters of their new partnership with the Federal Government.

I would have preferred that the targeting levels agreed to in the compromise package under the HOP had been less deep. For rental housing, jurisdictions would be required to invest not less than 90 percent of HOP funds in dwelling units occupied by very low-income families and the remaining amounts in units occupied by low-income families. For housing that is made available for home ownership, jurisdictions would be required to invest 100 percent of the HOP funds in units occupied by low-income families. I agree with the administration's contention that Federal housing policy should respond first to those most in need. However, it has long been my further contention that we need to have mixed income housing programs. I am concerned that the targeting in this bill might go too far in placing income targeting limitations on programs under the HOP.

I commend my colleagues on both sides of the aisle and the administration for the important revisions agreed upon that relate to the FHA mortgage insurance fund. Based on actuarial soundness standards outlined in the June 6 Price Waterhouse actuarial review of the FHA mutual mortgage insurance fund, the agreed upon package of reforms of the FHA strikes a critical balance between the need to assure the fund's actuarial soundness and the need to keep the fund within its mandate to meet the home buying needs of low and moderate income Americans.

Yet, even with the reservations I express here today, I support the overall compromise package agreed to after substantial and earnest negotiations with both HUD and OMB. I feel confident that all participants in the negotations came to the table willing to compromise—and all sides did. I am pleased that the negotiations have most importantly yielded a superior piece of legislation that we can carry with confidence to the American people.

Mr. President, as I look toward the housing landscape of the next decade and the new century, I envision that the National Affordable Housing Act—

and the principles that it embodies in action—will stand the test of time and be worthy of the trust that the American people place in us today to meet their urgent housing needs.

TO REQUIRE A STUDY OF THE USE OF CERTIFIED MAIL FOR PRECLOSURE NOTICES

Mr. DECONCINI. Mr. President, it is not often that we have the opportunity to address a provision that benefits, the public, the Government, and both a financial lender and the borrower. All too often the interests of one must be sacrificed for the benefit of another. Today, I am offering an amendment that I believe would benefit all of the parties involved in FHA mortgages.

As everyone in this Senate is aware, the FHA mortgage assignment program was designed to assist individuals who, as a result of temporary financial hardship, have been unable to make a timely payment on their federally guaranteed home mortgage loans. Foreclosure deferral in such instances provides maximum benefit to all parties and to the Federal taxpayer. Putting the mortgage into assignment provides the short-term payment flexibility needed to allow the mortgagor to recover and get back on his feet financially. By preventing immediate foreclosure when the financial hardship is only temporary, this excellent program saves the Federal Government from the losses of foreclosure, saves the mortgage institution from the expenses associated with forbearance until regulatory compliance is verified, and most importantly, it keeps the mortgagor in his home and protects the honest financial investment he has made in the home.

Unfortunately, many homeowners that fall into temporary hardship who may benefit from the program fail to enroll in it. I have received numerous allegations from my constituents that often such potential participants are not provided notice of the program's existence by the mortgage lender as required by law. I suggest that sending the required notification by certified mail, or some other method that would provide objective evidence of receipt, would help to ensure that homeowners are fully advised of their rights and of all the assistance options available to them.

In addition, such certified notification would benefit the lending institution. When the institution moves on foreclosure procedures, completion of those procedures and disposition of the property is sometimes delayed when disputes arise over whether or not the homeowner was adequately notified of the impending foreclosure and of their potential eligibility for the assignment program. Objective evidence of receipt of notification would reduce such delays when foreclosure is required for the benefit of all parties.

I realize that this requirement would entail increased costs to the mortgage industry. However, I am certain that the failure to more aggressively place such homeowners into the assignment program results in far greater cost to the Federal taxpayers. Furthermore, I believe that the benefits resulting from the requirement would more than offset any increase in any new costs to the lending institution.

The amendment I am offering does not directly require widespread notification by certified mail or some other objective evidence of receipt. Rather, it directs the Secretary of Housing and Urban Development to conduct a study of the effectiveness of such a requirement. It's a simple idea. I believe it will work, but I am willing to delay mandating it's implementation until the Senate receives a comprehensive evaluation of current procedures. Hence, the approach taken today is rational and cost-effective.

Mr. GARN. Mr. President, I am pleased to see that the price tag of S. 566 is at a level which the administration can support.

When this legislation was passed out of the Banking Committee, I was one of four Senators who voted against the bill. However, at the markup, I qualified my negative vote by saying that I did, and do want a housing bill. I am just committed to bringing out a fiscally responsible bill, one which the administration can support, and so can I.

I think that bill is before us now. The price tag is at a level which the administration can support. And in good conscience, I can support the bill as well.

One amendment to be added to S. 566 during negotiations concerns the FHA program. It's an amendment which I agree with wholeheartedly. It's no secret that over the years, I have been a strong supporter of the FHA Single Family Mortgage Insurance Program. This program helps first-time homebuyers reach their goal as homeowners long before they might otherwise be able.

The amendment, now a part of the bill, ensures that the FHA fund will remain solvent and put it back on the track of actuarial soundness. It's critically important for the fund to be sound for two reasons:

First, FHA must remain sound to fulfill its public purpose to insure home mortgages; and

Second, if the fund were ever to become insolvent, a taxpayer bailout would have to occur because FHA carries with it an explicit Government guarantee. We have to be absolutely vigilant that no such bailout will ever be necessary for FHA.

Mr. President, I support the housing bill as amended, and I will be voting in favor of its passage.

OPERATION BOOTSTRAP

Mr. MACK. Mr. President, I am pleased that the administration's proposal on Operation Bootstrap has been incorporated into S. 566, the National Affordable Housing Act.

Mr. President, Operation Bootstrap is no longer an experiment. Approximately 3,000 certificates were available in the 1989 Bootstrap Program, but eight times that number were requested by public housing authorities throughout the country.

Operation Bootstrap is designed to coordinate housing assistance and social services such as day care, job training, transportation, mental health counseling and even clothing for interviews. This combination works.

The Clearwater Housing Authority in Florida participates in the Operation Bootstrap Program. The director of the Clearwater Housing Authority, Deborah Vincent, strongly supports the program. She has shared with me Operation Bootstrap success stories. Below are two letters from constituents who turned their lives around thanks to Operation Bootstrap. I commend Laura Beckwith and Gina Coventry for their hard work and wish them all the best as they continue to strive toward their goals. I ask unanimous consent that their letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

I used to think that God made two kinds of people; lucky and unlucky. I came to this conclusion at 7 years old living with two alcoholic parents, and I still believed it when I married an alcoholic. Most of us have probably been involved with some kind of abuse whether our own or someone we love. In my case I was left emotionally crippled, totally unprepared for the things that life demanded. Left with two children, no skills, exhausted and isolated from this "gift" called life. My sponsor kept telling me I had a choice but I hated that word because it meant responsibility and that was terrifying me. I felt much better playing the victim, blaming others for my misfortune and misery. Leaving my husband was the hardest thing I ever did, but I realize it was my first real decision and I acted on it. I began to see that having choices and making decisions was what God gave all of us the ability to do, and He expected us to. Even though I didn't always know what I was doing or what to expect, I welcomed the mistakes to learn from. It has made me stronger and confident, something I never thought I could be. So luck has nothing to do with it. We do!! I have finished one training program and entered St. Petersburg Junior College last January. My kids are doing great and life is no longer an accident waiting to happen. Thanks to all of the wonderful friends that have loved me and supported me. Mostly I thank Operation Bootstrap for believing in me when I didn't believe in myself. You have truly helped me to choose life, one day at a time.

LAURA BECKWITH,
An Operation Bootstrap Participant.

My life has changed, to say the least. It all began in November of 1978. I married a man whom I believed was the perfect mate for me. I dreamed of living happily ever after. I had just graduated from High School and hoped to go to College. I got married instead. We both worked making an average salary. We bought a house and began our journey of broken dreams. I had married a drug addict. After seven years, we lost our home and moved to Florida in search of a better life although bringing our troubles with us. We lived in our car when we first arrived in Clearwater. We had little food and no money. I worked as a maid. My parents sent us money for an apartment. We thought it was all going to be better. Little did we know that it would get worse. After eleven years of marriage and constant chaos, I asked my husband to leave. I was then left with the responsibility of raising our daughter and providing for us as well. I worked an average of fifty hours a week trying to make ends meet. I just couldn't make it. We were hungry and received disconnection notices from the light and water companies. The rent was more than I could afford, so I had to look for another place with no down payment. I could not find anything I could afford. I heard about the program Operation Bootstrap from my counselor. I applied for the programs knowing it was my only hope to survive. The day I was accepted, was the day the dreams in my life became a real answer to prayer. My daughter and I have a good home to live in. There is no fear of going hungry or being without lights or water, I no longer choose to live with drug addiction or any of it's consequences. I will be graduating from St. Petersburg Junior College in December of 1990. I am on the honour roll and recently received an award from the "Who's Who Among Students in American Junior Colleges". I will be transferring to the University of South Florida, in hopes of receiving a degree in Education. I hope that I can encourage a future generation to stay in school and become all that they have the ability to be. Life is too short to waste it on broken dreams. I believe in God and I believe in our Country. Together we can make a difference. Thanks Operation Bootstrap for making those dreams come true.

GINA COVENTRY,
Operation Bootstrap.

Mr. COHEN. Mr. President, the National Affordable Housing Act, S. 566, is a bill that is sorely needed in many areas of the country if we are to address the problem of affordable housing. I want to commend the members of the Senate Banking and Housing Committee, particularly Senators CRANSTON and D'AMATO, for the hard work they have done over the past several years to bring us to a point where we are considering an innovative, thoughtful bill that reaffirms the Federal commitment to providing decent housing for all Americans. I hope that we can see a bill like this enacted into law in the near future.

Over the past several years, the inability of many low and moderate income individuals and families to find decent, affordable housing has become an increasingly pervasive problem. In Maine, this is certainly the case, where studies have shown that over 50 percent of the population can afford only 2 percent of the available housing on the market. Families have been forced to rent at high rates or buy inadequate housing, and the dream of home ownership or even decent rental housing has become just a pipe dream for many.

In addition, problems of homelessness have increased dramatically and the need for adequate shelter for the elderly, the disabled and rural residents has not diminished.

The clamor for decent housing from all segments of our society has gotten louder in the past several years, and S. 566 attempts to provide relief for every particular need.

This is the first comprehensive housing bill under consideration in the Senate in 10 years. In that time, in Maine and many other States around the country, the cost of housing has grown at a greater rate than wages, and a significant number of residents cannot afford to buy their first home or must pay very high rent for decent housing. In addition, the stock of low income housing has decreased steadily, further exacerbating the problem many citizens have in locating adequate shelter. In Maine, 41 per cent of the State's housing was built before 1940, resulting in the existence of many substandard apartments and homes.

As housing problems have worsened, it has become evident that existing Federal housing programs are inadequate to the task of expanding the supply of affordable housing.

The legislation before the Senate attempts to provide State and local governments and private and non profit housing groups a greater role in providing housing to the needy. It consolidates a number of existing programs and provides block grant funding to States and local entities so that local needs and concerns can be addressed.

In addition, the bill continues the Federal commitment to provide housing for the elderly, disabled, and rural residents. This type of housing has been extremely important in addressing particular needs in Maine, and its continuation will continue to assist in helping these individuals and families.

This is particularly true of the Farmers Home Administration rural housing program, which has helped thousands of individuals and families locate decent housing in remote areas. The National Affordable Housing Act increases the authorization level for FmHA rural programs by $300 million, an amount that is sorely needed nationwide and in Maine in particular. Past budget reductions, which I argued against, and FmHA policy changes have resulted in a severe reduction of housing funds to the State of Maine in the past 5 years. For instance, Maine's allocation under the section 515 rental housing program has dropped from over $20 million to just over $11 million during that time. This has had a serious impact on the ability of low-income and elderly renters to live in a home with adequate space, indoor plumbing, and other amenities often taken for granted. I have also heard from a number of eligible FmHA applicants who cannot participate in the Section 502 Home Loan Program simply because there is not enough money. This is an extremely frustrating situation, because the demand for adequate housing in rural areas remains high.

The policy changes made by FmHA that have adversely affected Maine were aimed at spreading program funds to more States. I have no quarrel with that, because it makes the entire program more effective. The only solution to the existing dilemma, then, is an overall increase in funding, which will allow Maine to receive more funds than it does now. I hope that this will improve the situation in Maine and allow more low-income households to benefit from this extremely successful housing program. I appreciate the efforts of Senator SANFORD and others to see that adequate funding for rural housing programs was included in S. 566.

I am also pleased that the bill as approved by the Senate will include a provision I proposed along with Senator MITCHELL to preserve the Congregate Housing Services Program, and another I cosponsored with Senator SANFORD that will set aside 20 percent of the Section 202 Program funds for rural areas. These two amendments should help continue needed assistance to the elderly who want to live independently in a congregate housing program, and maintain the ability of the elderly and disabled in rural areas to live in respectable, low cost housing.

There are many other important components of the bill addressing homelessness, rental assistance to the poor, public housing improvements, and community development activities which reauthorize or in some cases expand existing programs.

The National Affordable Housing Act, taken as a whole, is a responsible bill that improves local input into housing programs in an effort to mold those programs to local needs and circumstances. Through this legislation, it is hoped that more Americans will be able to find decent, affordable housing. It is a worthy goal, and one that I support.

Again, I commend Senators CRANSTON and D'AMATO for their work on this issue, and hope to see a final bill enacted into law in the near future.

LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOME OWNERSHIP

Mr. LEAHY. Mr. President, I want to commend the senior Senator from California for his excellent work in bringing S. 566, the National Afford-

able Housing Act, to the floor of the Senate for timely consideration.

I am particularly interested in the subtitle of S. 566 referred to as the Low Income Housing Preservation and Resident Homeownership Act of 1990. This subtitle is critical in my home State of Vermont, where one nonprofit development team is renovating a 336-unit HUD 221(d)(3) rental complex, and three other nonprofit groups are negotiating for the purchase and renovation of three large and important HUD 236 rental complexes. These four projects are all being developed with the ongoing involvement of their lower income residents.

I want to bring to the Senator's attention three sections of this subtitle that I consider problematic. My concerns are based on an analysis by Vermont housing professionals who have extensive hands-on experience with the preservation of affordable federally assisted rental housing.

Specifically, I question an appraisal provision in section 228 of the title; the transition rule in section 507; and section 508, which sets an effective date for the title. On all three sections, I have worked out alternative language which strengthens the low-income housing preservation subtitle of the bill by eliminating flaws which I believe would jeopardize the completion of three Vermont projects, and others nationwide.

Specifically, I believe that section 228(b) would be improved by providing more flexibility on the date that appraisals are completed on HUD "236" and "221(d)(3)" complexes that are under option for purchase and renovation as of January 1, 1990. Second, I submit that section 507 would be improved by extending the Emergency Low Income Housing Preservation Act of 1987 until the effective date of the new legislation. Finally, regarding section 508, I believe that changing the effective date of the subtitle to the date that HUD issues interim regulations, and setting a deadline for issuance of those regulations, would be a marked improvement over the present provision.

I am concerned that sections 507 and 508 of the housing preservation subtitle in S. 566, taken together as they are now written, effectively create a moratorium on transfers or prepayments until HUD issues final regulations. Such a loss of time could very well mean a loss of opportunity, especially for nonprofit development consortia, that are least able to afford and overcome HUD-caused delays.

My staff has spoken with the Senator's staff on these provisions. Is the Senator familiar with my concerns, and with the amended bill language that I have proposed for addressing concerns?

Mr. CRANSTON. I have been advised by my staff of the senior Senator from Vermont's concerns with these sections of the housing preservation subtitle. I appreciate the importance and timeliness of this matter for nonprofit developers and affordable housing residents in the Senator's home State.

Mr. LEAHY. I thank the Senator for his interest. I have considered offering a floor amendment to address my concerns. However, in the interest of expediting the passage of S. 566, would prefer that our staffs meet on this matter after the passage of the bill to discuss my concerns and proposed changes. My goal is to give the Senator time to research and consider this highly technical and sensitive section of the bill, and to take my language to conference and work out a solution that addresses my concerns in negotiations there. Is that approach agreeable to the Senator?

Mr. CRANSTON. The Senator's suggestion is reasonable, and I accept it. I will direct my staff to meet with the Senator's staff, and to consult with the hands-on housing preservation professionals in your home State if necessary, to resolve this technical matter which could have such strong impacts on low income tenants. The Senator has my assurance that we will take the matter to conference and make every effort to work out a solution that will allow housing preservation projects that benefit low income tenants in Vermont, and elsewhere, to move toward completion on a timely basis.

Mr. LEAHY. I thank the Senator for his assurance, and look forward to working with him on this critical matter.

STATE-INITIATED HOUSING PRODUCTION

Mr. KERRY. Mr. President, I would like to take a few moments to engage in a colloquy with the Senator from California.

As my colleague is aware, I had intended to offer an amendment to the Affordable Housing Act that would assist those States who initiated their own housing production programs similar to the Federal 236 and 221(d)(3) programs. I will not offer this amendment today as I will explain in a moment, but would like to engage the Senator from California in a discussion of this issue.

In Massachusetts, the program is known as the 13(a) program and was structured as an adjunct to existing Federal programs. During the period when President Nixon imposed a Federal moratorium on housing production, the State 13(a) program went into full production to bridge the gap in housing supply during the moratorium. The Massachusetts program was modeled after the Federal programs and properties built under the State 13(a) program were also subject to affordability use restrictions for a minimum of 20 years. In Massachusetts, 6,800 units were built under the State 13(a) program and within the next 4 to 5 years, 1,500 of these affordable units could be lost and tenants displaced as owners have the option to prepay their mortgages and convert to luxury rate rentals or condominiums.

My amendment was designed to assist States with their own mortgage interest reduction subsidy program in providing incentives to owners to retain these properties as affordable the same way we attempt to do in the Federal preservation section of the National Affordable Housing Act.

As we worked on this amendment, however, the Senator from California raised a number of concerns that we need to examine carefully prior to implementation of this amendment. These concerns include an adequate State plan of action that is in accord with the Federal preservation plan contained in this bill; adequate controls for monitoring the State program and assurances that these incentives will be well-targeted so that we are not in a position of taking resources from those who need them the most.

The concerns raised by my distinguished colleague are valid and I would like to work with him between now and when this bill goes to conference with the House so that we may reach some agreement on these issues of concern.

It is my understanding that a provision similar to my proposed amendment is contained in the House bill. I would hope that as we move to conference and work out the concerns raised, we will be in a position to encourage the Senate conferees on this bill to accept the House provision relating to this issue.

Mr. CRANSTON. I thank the Senator for his comments. The principles underlying his amendment are very worthwhile and I am generally supportive of the goals of his amendment. The Senator should be commended for his diligence in attempting to preserve affordable housing units on yet another level. Encouraging State and local initiatives is one of the basic goals of the National Affordable Housing Act, and States such as Massachusetts who stepped in to help fill a Federal void in affordable housing production years ago, should be assisted, to the extent possible, in their efforts to preserve this stock as affordable.

While I support the Senator's amendment generally, my concern rests with the implementation of this program on the State level. As the Senator noted, we need to be certain that there are adequate controls in place; we need to ensure that our limited resources are well-targeted and that the State Implementation Program is in line with the Federal Preservation Program contained in this legislation. I would like to work with

my colleague from Massachusetts to get more specificity on these issues. I am confident that we will be able to get enough detail on these issues so that we can work on a resolution with the House in conference.

Mr. KERRY. I thank the Senator for his comments and his support.

SECTION 521 (b) (2)

Mr. REID. Many States, particularly those in the Sun Belt, have large percentages of citizens living in manufactured housing. Specifically, they live in housing that before 1976 would have been referred to as mobilehomes. Some 26 percent of those in manufactured homes are retired, 29 percent hold blue collar jobs, 23 percent have income less than $10,000 and 35 percent have income between $10,000 and $19,999. In my State of Nevada, fully 18 percent of the population is housed in mobilehomes. The numbers are similar throughout the South and Southwest. In Arizona it is 9.3 percent and in Florida 16 percent. These statistics indicate mobilehomes are an attractive housing alternative for millions of Americans particularly those of modest income.

Since 1980, manufactured homes have accounted for 14.2 percent of new housing production and 29.4 percent of all new single-family homes sold. Approximately 10 percent of all Americans now live in mobilehomes. Under existing law, mobilehome residents of low- and very low-income who qualify for section 8 rental assistance may use the benefits for both homes and spaces, popularly known as "pads." Despite this authorization, the program is not working as intended.

In Nevada, fair market rents are often set too low to assist with space rentals. HUD inflexibility on the establishment of fair market rents for space rents has prevented section 8 assistance from benefiting a large number of otherwise qualified low-income individuals. Yet I believe the National Affordable Housing Act contains one possible solution to this problem.

Section 521(b)(2) of the bill permits the establishment of alternative fair market rent schedules that reflect rent variations within a market area. I ask that, in conference, the Senator from California make explicit that such alternative schedules could reflect the actual cost of mobilehome space rents within the market area of a public housing agency.

Mr. CRANSTON. I thank the Senator for bringing this important issue to my attention. I assure my colleague that I will take a close look at this issue before we proceed to conference. I hope that an appropriate solution can be found in conference.

Mr. DURENBERGER. Mr. President, I wish to congratulate the Senators from New York and California for crafting what is probably the most important piece of new housing legislation in a decade. Granted, this bill is not perfect, but it contains some important new programs which will help advance homeownership and reduce homelessness in America.

I continue to have a strong personal interest in housing policy which started over 20 years ago when I was an aide to Governor Levander of Minnesota and worked on the creation of the Minnesota Housing Finance Agency. Unfortunately, over the years, our housing problems have not gone away but have metamorphosed into new problems which require new solutions. This bill attempts to provide some of these solutions.

All Americans should be given the opportunity to own their own homes. Secretary Kemp's HOPE Program is an innovative way to provide the chance of homeowership to those in society who would probably not have an opportunity otherwise. Such a major change should not be made overnight and I agree with the decision to try this program on a small scale first. I look forward to monitoring the success of the HOPE Program to see if it should be expanded in the future.

Clearly, we need fresh thinking in the delivery of public housing to those in need. Many of today's housing projects are in an advanced degree of decay and some are even abandoned—this at a time when we are experiencing soaring rates of homelessness and a drop in affordable housing. We must do better. I have some reservations about the consolidation of so many good housing programs within HOPE but I am willing to support this experiment in the search of a simplified delivery system for public housing grants.

I believe the prepayment provisions in S. 566 adequately address one of the most acute problems facing public housing today—the potential loss of much of our public housing stock to mortgage prepayment. The "preservation value" stipulation in S. 566 gives adequate return to private investors while allowing the public to benefit from the continued availability of low-cost housing.

On FHA, I am extremely wary of the trend toward insolvency of this important program. While it is both politically and socially painful to increase the costs to home buyers under the FHA Program, I believe it is clearly fiscally pruduent to keep this program solvent and operational for the long term. We cannot afford another S&L type debacle. Some personal fiscal discomfort in the short term is necessary to keep our costs down in the long term.

The dark blotch of homelessness continues to mar the picture of housing in America. I joined with several of my colleagues in attaching an amendment to start a $452 million program to help prevent homelessness, and assisting those who have become homeless in receiving counseling and placement into transitional housing. This program will not end homelessness, but it is another step in the long journey toward reducing this intractable problem.

I look forward to working with my colleagues on further housing legislation in the future as we continue to look for better ways to improve housing opportunities for all Americans.

PUBLIC HOUSING AUTHORITIES

Mr. SARBANES. Mr. President, many public housing authorities have begun acquiring and developing low-cost housing units using a variety of funding sources by piecing together private, State, and local resources as other nonprofit housing groups have done.

I think this activity reflects the very spirit of the HOP Program we are enacting, and we should encourage it.

Public housing authorities [PHA's] have extensive development experience and a commitment to expanding the supply of affordable housing. As public housing development funds have been scaled back, many PHA's are developing low-cost housing that is not traditional public housing and has no Federal assistance under the Public Housing Program.

Unfortunately, the lowest income members of our society frequently cannot afford the rents which must be charged even in low-rent housing units owned by public housing agencies. Thus, many low-income families need section 8 rental assistance, whether project-based or tenant-based, to live in these units. However, I understand that HUD has been discouraging this activity by PHA's through restrictive regulations against the use of section 8 rental assistance in PHA-owned units. I am unaware of any statutory basis for the restrictive HUD view and would like to ask the distinguished chairman of the Housing Subcommittee, Senator CRANSTON, whether he agrees with my concern that this restriction is contrary to our intent that PHA's fully participate in the effort to provide affordable housing and to receive and use HOP funds just as any other nonprofit group may.

Mr. CRANSTON. I share the concern of the Senator from Maryland and note that this bill abolishes the separate category of public housing development grants, with the expectation that public housing authorities will compete for Federal development funds as any private nonprofit group might. Any HUD regulations which prevent PHA's from developing housing with HOP grants and accepting section 8 assistance, whether tenant-based or project-based, would be contrary to the intent of Congress; and I

know of no statutory basis for the current regulatory restrictions.

These regulations are thus among the many which HUD will have to review in order to implement this bill when it becomes law. We are confident that HUD will be able to do so and preserve any necessary program safeguards. For instance, we are aware that HUD questions whether PHA's will set appropriate rents or enforce housing quality standards for units they own. However, in final rules issued this March, HUD began setting rents for all project-based assistance; and it could do the same for any units owned by a PHA or an affiliated entity that receives section 8 project-based assistance. Similarly, mechanisms already in place to oversee housing quality in public housing can be readily transferred to oversee housing quality standards in nonpublic housing owned by a PHA or an affiliated entity.

SERVICES AND HOUSING FOR THE HOMELESS

Mr. DOMENICI. Mr. President, I would like to discuss a vital point in this bill about services and housing for the homeless. It is very important that we merge the new expanded homeless mental health and substance abuse services with housing assistance under the terms of the National Affordable Housing Act, S. 566, as this bill passes the Senate.

Mr. CRANSTON. I will be glad to respond to the comments of my friend from New Mexico.

Mr. DOMENICI. As my good friend from California is well aware, the Senate on June 20 passed a Kennedy-Domenici amendment (No. 2038) to S. 566 by an large majority—89 to 11. Subtitle C of the Kennedy-Domenici amendment, as passed, is the Domenici-Kennedy bill, S. 2747, PATH (Projects to Aid the Transition from Homelessness) grants for the homeless who are mentally ill and/or substance abusers.

As my primary cosponsor, Senator KENNEDY did a lot to secure support for our effort in expanding mental health and substance abuse treatment services for the homeless people of America.

In adopting amendment No. 2038, we could not include all of the housing provisions of the Domenici-Kennedy bill. But except for a few housing activities like minor repairs, security deposits, and one time rental payments to prevent eviction, our amendment essentially expands services.

The Labor Committee jurisdictional lines limited that committee's ability to add the additional $150 million for housing activities, as included in our original bill.

Mr. CRANSTON. I understand the jurisdictional problems of adding housing to a Labor Committee bill. There is a parallel problem in my committee with legislation on mental health or substance abuse treatment programs.

I am also sympathetic to the goals of the Domenici-Kennedy PATH grants bill; namely, to provide both housing and treatment services in a single grant to States and large cities, In fact, I voted for the Kennedy-Domenici amendment.

Mr. DOMENICI. I thank the Senator for his understanding and support. I would like to further clarify the linkage I hope to obtain between housing and services, especially for those homeless people with serious mental illnesses and/or substance abuse problems, homeless families with children, and homeless individuals with debilitating diseases and conditions.

There is no question that treatment efforts are greatly enhanced for a person suffering from serious mental illness when their daily lives can be stabilized in a housing situation of some kind, whether that be in a group home or an apartment.

I understand that this bill, S. 566, as reported out of committee, and as now pending before the full Senate, makes a significant change in housing programs for the homeless. I understand further that this change will improve our ability to link housing to mental health and substance abuse treatment services.

Mr. CRANSTON. The Senator is correct. Title VI of the bill, housing, for persons with special needs, has a subtitle C, supportive housing for the homeless. This subtitle consolidates four important HUD housing programs for the homeless authorized in the McKinney Act: First, emergency shelter grants; second, transitional housing; third, permanent housing for homeless handicapped persons; and fourth, supplemental assistance for facilities to assist the homeless [SAFAH]

Our bill directs the Secretary of HUD to establish an allocation formula based on the best data available on the homeless population. States and localities will receive 80 percent of the funds of the consolidated program; $220 million is authorized in fiscal year 1991. No State would receive less than $250,000 each year.

Mr. DOMENICI. I applaud that, as it moves much closer to the original concept of the PATH grants; this is a single grant for both services and housing. With the passage of the Kennedy-Domenici amendment and the consolidation of the housing programs for the homeless, it now appears that the Senate is planning to create two formula grants for the homeless for the target population in the PATH grant bill.

The first is the grant for consolidated homeless housing programs as you just described, and the second is the formula allocation for treatment services for the homeless mentally ill and substance abusers in the PATH grants, as modified in the Kennedy-Domenici amendment.

Mr. CRANSTON. Yes. We are doing our best to simplify the Federal Government's role in providing assistance to homeless people.

Mr. DOMENICI. If this bill is passed, States and localities can expect two checks for assistance for the homeless who are mentally ill or substance abusers?

Mr. CRANSTON. Our consolidated program is intended to reach the homeless mentally ill as well as other homeless persons in need of housing assistance. There is no doubt that the homeless mentally ill and/or homeless substance abusers are intended recipients of consolidated housing assistance.

The second check would come from the PATH grant formula allocation, as passed earlier by this body.

Mr. DOMENICI. May I also ask the distinguished chairman of the Housing and Urban Affairs Subcommittee about any requirements in this bill to promote the further coordination of services and housing assistance?

Mr. CRANSTON. Certainly. In our revised McKinney Act programs, section 414—permanent housing for homeless persons with disabilities, we encourage and allow technical assistance in establishing and operating permanent housing for homeless persons with disabilities, or the provision of supportive services.

We further require that a project sponsor agree to operate the project as permanent housing for homeless persons with disabilities for at leasst 10 years. The sponsor must also provide residential supervision necessary for the delivery of services.

The kind of special mental health and substance abuse treatment services in the PATH grants are precisely the type of service we had in mind when we wrote these requirements.

Mr. DOMENICI. Then I can conclude that the mayor of Albuquerque, for example, can expect to receive both a PATH grant and a housing grant if this bill becomes law.

Mr. CRANSTON. Yes. And in section 529 of the Kennedy-Domenici amendment, there is the further requirement for "coordination among eligible entities of housing and service strategies."

Mr. DOMENICI. Yes, the Secretary of Health and Human Services must work with the Secretary of Housing and Urban Development for the best use of the PATH grants.

We also want Governors and mayors to coordinate their mental health and substance abuse plans to encourage the maximum of cooperation on providing treatment services.

On a final point of clarification, I would inquire of the Senator from

California, if his committee intends that the Secretary of Health and Human Services and the Secretary of Housing and Urban Development continue their cooperative agreements under the terms of their current memorandum of understanding to coordinate housing with services?

Mr. CRANSTON. Definitely. The provisions of this bill should make their coordination efforts simpler. I would hope that every effort be made between these two Federal departments to enhance and enrich housing based services for the mentally ill, substance abusers, and people with debilitating diseases like AIDS.

Mr. DOMENICI. I appreciate the positive and encouraging comments of the chairman of the Senate Subcommitte on Housing and Urban Affairs.

I will continue my effort to give the homeless who have other serious mental or physical problems the best chance to make the transition back to health and a home. This effort requires the best treatment we can make available. It also requires that the treatment be given in a stable environment.

I commend the Senator from California for his continuing efforts to make life better for the homeless people of this Nation. I concur fully in our mutual intent to make every effort to combine housing with appropriate services.

The Senate bill goes a long way toward this goal, and I hope the Secretaries of Health and Human Services and Housing and Urban Development will continue their fine effort to bring housing and services together for homeless people of America.

As far as the homeless mentally ill and homeless substance abusers are concerned their treatment will be a waste of funds if we fail to stabilize their daily lives by providing an essential home for the duration of their treatment programs.

Mr. D'AMATO. Mr. President, I have listened attentively to the colloquy between Senators DOMENICI and CRANSTON. I would like to add that, as an original cosponsor of Senator DOMENICI's PATH grants, S. 2747, I wholeheartedly concur in their statements of fact and intentions that housing and services be brought together at every possible opportunity for the benefit of America's homeless people.

Mr. DOMENICI. I thank the Senators from California and New York for their enthusiastic support of this fundamental concept. We need to base as many homeless treatment services as possible in a home setting. We should then begin to see more transition from homelessness.

Mr. ROCKEFELLER. Mr. President, I rise in support of the National Affordable Housing Act and believe that this legislation points Federal housing policy in the right direction. After almost a decade of decline, this comprehensive package seeks to reinvigorate national housing policy with fresh approaches and flexible programs. This bill is a compromise package, but it does clearly reestablish, redirect, and renew our national commitment to affordable housing for all Americans—young families, senior citizens, and those with special housing needs.

This legislation maps out an investment program designed to rehabilitate and expand affordable housing stock throughout America. The legislation and its new programs will be securely rooted in long-term housing strategies developed by States and communities with Federal input and review. Essentially, this bill encourages and strengthens Federal, State, local, and private sector partnerships aimed at building a network of affordable housing. Flexibility and cooperation will be the key.

Federal policy and porgrams have been revised to emphasize flexibility. Under the proposed Housing Opportunity Partnership [HOP] Program, HUD will offer housing assistance on a one stop basis. This effort to streamline and consolidate programs should help us focus energy on promoting housing, rather than juggling programs. Under this bill, housing leaders from urban and rural areas across the country will be able to rely on HOP for flexible housing assistance.

Mr. President, I must note that I have some concerns about a compromise which changes the matching requirement for new construction from 4:1 to 2:1. This change will create a true hardship for my State of West Virginia. Unfortunately, many of our most hard pressed and distressed areas will not be able to meet this matching requirement. Over the long-run, I hope that we will be able to find a way to provide more flexible assistance to distressed areas that demonstrate a genuine need for new construction. I intend to press this case further with the administration and with my colleagues, with the hope that a more responsive matching arrangement can be incorporated into this legislation. But I want to see many other provisions of this bill enacted, which will be of significant benefit to my State and others with similar needs. I understand the need for compromise, and believe we simply must agree to a housing package that can and will be enacted into law. I believe this bill, and the committee amendment, represents such a compromise.

A very positive aspect of this package is the investment it makes in supportive services, including literacy, job training, education and health care for people in dire need of this assistance. Housing is a basic, critical need for everyone, but our families, seniors, and others need more than just a roof or a room to have a decent life and hope of a productive, secure future. This legislation recognizes the social needs related to housing. It calls for investment in education, child care, nutrition and health care. There are a variety of innovative support programs in the package—Senator KENNEDY's Family Support Centers, Senator DOMENICI's PATH Program, Senator MIKULSKI's Gateway initiative, Secretary Kemp's Bootstrap Program, and others. Providing basic supportive service will help families struggling on the brink to avoid homelessness and it will give them practical help and hope for a better future. Investing in a variety of initiatives is a balanced way to develop a supportive network that reaches out to varied and diverse needs of our families and seniors.

It is also good to see that this housing package strengthens Farmers Home Administration [FmHA] Programs which will make a real difference in West Virginia and rural areas across the country. This legislation includes increased funding and policy improvements for FmHA, a tried and true program. I was proud to work with Senator SANFORD and others in securing an additional $300 million for FmHA's rural housing program.

Mr. President, this legislation is not a cure-all for our Nation's housing problems. A decade of decline cannot be reversed in a single stroke, but this bill is a solid step toward rebuilding our Nation's housing policy. Last year, Congress enacted an important package of reforms to respond to the problems of fraud and abuse that plagued our Federal housing agency. Reform was vital to restore public confidence. Today, we are taking our first, important steps beyond reform. We are charting a new course on housing policy.

West Virginia will welcome a renewed Federal commitment to housing. My State and our housing stock clearly suffered under the recent years of neglect and fraud. But West Virginia also has a strong network of committed State housing leaders who will effectively use the new tools provided in this legislation to address the pressing needs of West Virginia.

At a statewide housing conference for public housing authorities, the needs in my State were discussed with concern and compassion. In addition to their concerns about the waiting lists and repairs, the housing officials recognized that tenants need—and deserve—support services to help improve the quality of their lives. Our package will provide this type of support. It will provide new monies for successful Farmers Home Programs that will help rural families in my State.

It is truly time to renew and strengthen America's commitment to affordable housing and to revitalize Federal housing policy. My State of West Virginia has waited for this action for too long. I hope that we both succeed in passing this legislation and making further progress to meet the housing needs of our Nation's citizens and to respond to the tragic problems of homelessness and substandard housing.

Mr. MACK. Mr. President, last week we debated S. 566, the National Affordable Housing Act. The bill is a 3-year authorization of housing assistance. Much of S. 566 reauthorizes current housing programs. In addition, the bill authorizes $7.5 billion over 3 years for a new program called the Housing Opportunities Partnership [HOP].

Although I voted against the bill in the Senate Banking Committee on May 2, 1990, I am pleased to support the bill for final passage in light of the changes made in recent days.

As I commented in my additional views when the bill was reported out of committee, I voted against S. 566 at that time because of its excessive budget level and more importantly because the bill did not sufficiently move away from the failed Federal construction policies of the past and toward the people we are supposed to be serving.

I found this especially troubling in light of the Senate Banking Committee's current investigation of the U.S. Department of Housing and Urban Development [HUD]. As ranking member of the subcommittee conducting the investigation, I have heard testimony indicating that a substantial portion of these problems stemmed from a flawed manner of providing housing assistance. Complicated programs, large pots of discretionary dollars and programs encouraging the involvement of consultants and middlemen led to a widespread misuse of Federal housing dollars.

These problems associated with production programs had to be addressed before I would support final passage.

As the bill was reported out of the Senate Banking Committee, direct tenant-based assistance was a prohibited use of HOP's $7.5 billion in funding. Eligible uses included new construction and rehabilitation of existing housing. Clearly, the prohibition of direct assistance made HOP a new housing production program which may be of little benefit to thousands of communities with little or no housing supply problem.

For this reason, I offered an amendment that would allow States and localities to use HOP funds for rental assistance.

Evidence demonstrating the advantages of direct rental assistance and disadvantages of new construction suggested that S. 566 would have failed to comprehensively address America's housing needs had we not succeeded in altering the bill.

According to the U.S. Department of Housing and Urban Development, current vacancy rates for rental housing affordable to tenants available to recipients of direct rental assistance are at an all-time high—over 7 percent—and are increasing.

I was amazed to also learn from a 1990 report prepared by the U.S. Departments of Commerce and Housing that the average rental vacancy rate for the Miami-Fort Lauderdale area was recently 13.2 percent. More significantly, the rental vacancy rate was actually greater for rents less than $500 at 16.6 percent in that area, indicating an abundant supply of adequate housing for low-income people.

Information from the most recent American Housing Survey shows many communities—both urban and rural—considerably exceeding the national rate, including Houston, 19 percent; Atlanta, 10 percent; and Chicago, Seattle, and St. Louis, 8 percent.

It seemed to me that these communities and others do not need new construction, they need rental assistance for the low-income citizens who are unable to afford available housing. Indeed, 2.9 million—or 76 percent—of the 3.8 million families with the Nation's worst case needs have rent burdens above 50 percent of income as their only housing problem. Since these families live in adequate, uncrowded housing, they could use tenant-based assistance in their present housing, without moving, to solve their housing problem. This further emphasizes the extent to which America's housing problem is more an affordability problem than a supply problem.

I was pleased that my amendment was included in S. 566. It is a win for the States and recipients of low-income housing. It will give States and localities the opportunity to use HOP funds for tenant-based assistance if they believe it would be the most effective use of scarce Federal dollars. Most importantly, it will offer low-income families the freedom and opportunity to live where they choose, not somewhere where the Government tells them to live.

Finally, I am able to support this bill since many of the administration's housing initiatives were included in the final version of S. 566. These provisions offer the Senate the opportunity to move toward a new direction of housing policy that focuses on people, rather than on bricks and mortar, or units of housing. In particular, the administration's proposals on homeownership, Operation Bootstrap, Shelter Plus Care, Elderly Independence respond to a broad spectrum of people in a manner sensitive to their individual needs. Each offers the opportunity for people to attain dignity, self-sufficiency, and independence.

Although I still have concerns over the bill's high budget level, I believe the policy gains we have achieved in the final negotiations outweigh that consideration. I would like to commend Secretary of Housing Jack Kemp for advancing these policy initiatives. His vision for empowering the poor and redirecting America's housing policy will have a lasting and positive effect on low-income people throughout the country.

Mr. REID. Mr. President, I would like to ask the Senator from Nevada [Mr. BRYAN] a question regarding the effect of the Bryan amendment to S. 566 on the enforcement of Federal securities laws. Specifically, will the Senator confirm that the Bryan amendment has no effect on the jurisdiction of the Securities and Exchange Commission under the Federal securities laws?

Mr. BRYAN. I am happy to confirm that my amendment does not, nor is it intended to, change the authority of SEC in any way. For example, if a depository institution sells its securities through a broker-dealer affiliate, the broker-dealer's sales practices are fully subject to the SEC's current jurisdiction over securities sales and sales practices involving depository institutions and their affiliates.

Furthermore, the SEC has authority under current law to enforce the antifraud provisions of the Federal securities law, including SEC rule 10b-5 and most of the SEC's other antifraud rules, against depository institutions. Again, the amendment does not affect this authority of the SEC.

Mr. REID. In permitting the Federal banking agencies to grant regulatory exemptions from the Bryan amendment's basic prohibition against lobby sales of the evidences of indebtedness or owership interests, does the Bryan amendment affect the applicability of the Federal securities laws to such offerings?

Mr. BRYAN. No; the exemption procedure permitted under the amendment applies only to the prohibitions established by the amendment; that is, to the prohibition against on-premise debt and equity offerings and sales. The amendment does not grant the banking agencies authority to exempt such sales from the otherwise applicable provisions of the Federal securities laws.

Mr. REID. The Senator's amendment prohibits any insured depository institution from selling or offering to sell any evidence of indebtedness of, or ownership interest in, the institutions or its affiliates in the institution's domestic branch offices at which deposits are accepted and in the institution's head office if it accepts insured

deposits and is located in the United States. Would the Senator confirm his intent that the term "head office" as used in the amendment refers to the institution's home office and that the prohibition on sales or offers to sell securities applies only to locations where deposits are accepted.

Mr. BRYAN. That is correct. The bill is intended to protect depositors by preventing indebtedness of, or ownership interest in, a depository institution and its affiliates from being confused with insured deposits. The term "head office" refers to an institution's home office and the prohibition extends only to locations where deposits are accepted. For example, if an institution's home office is in a 10-story building but deposits are accepted only on the ground floor, the amendment would not necessarily prohibit securities from being sold on the 10th floor.

Mr. LAUTENBERG. Mr. President, I rise to express my support for the National Affordable Housing Act.

Mr. President, the lack of affordable housing in this country has reached crisis proportions. It is a crisis with many dimensions.

On one level, it is a problem of the average, middle class American. The young person who wants a home but can't afford a downpayment.

On another level, it is a problem of millions of working people. Men and women who must live in crowded, substandard conditions, paying a disproportionate share of their income for rent.

And then, at the most basic level of all, it is the problem of the homeless. Those hundreds of thousands—if not millions—of Americans who are completely without a place to call home.

Mr. President, the housing crisis is especially serious in my State of New Jersey. The cost of homes in New Jersey is going through the roof. And in many areas of the State, there is a severe shortage of affordable housing. As a result, countless thousands of my constituents are without shelter.

Mr. President, it is our job in Congress to set national priorities. And the first priority of any society should be to meet the most basic human needs of its people. By any measure, shelter is such a basic need. And yet right here, in the greatest country on the face of the Earth, American citizens live and sleep in a public park across from the White House. It is a moral outrage, Mr. President.

No, Mr. President, there is not enough money. But if we can find hundreds of billions for the thrift bailout, surely we can find the means to bail out the homeless.

Mr. President, over the past 10 years, funding for low-income housing programs has been cut by 80 percent. And this year's administration budget—Jack Kemp notwithstanding—only continues that neglect.

It is time to reverse this trend and make housing a real national priority. And the National Affordable Housing Act is an important first step in that direction. I am proud to be an original cosponsor. And the distinguished Senator from California, Senator CRANSTON, deserves enormous credit for taking the lead on this. Without his efforts, in conjunction with the distinguished ranking minority member of the Housing Subcommittee, Senator D'AMATO, we wouldn't see a housing bill at all here on the Senate floor.

And yet, as I suspect even Senator CRANSTON would agree, we have a long way to go to restore the commitment to housing that was dismantled by the past administration. In 1980, we appropriated about $32 billion for low-income housing. Adjusted for inflation, that is roughly $50 billion in 1990 dollars. By contrast, in fiscal year 1990 we are committing under $8 billion.

Think about that. From $50 billion to $8 billion. And now we propose to add back $3 billion.

Mr. President, that is a modest step. It still leaves us far below the Federal commitment of the 1970's. And it still leaves us with much work to do.

Mr. President, if we are serious about addressing housing needs, we will simply have to shift some real resources to do it. And that includes shifting resources to improve oversight—to make sure we do not allow the crooks to undermine housing programs.

But we need to do more than improve HUD oversight. We've also got to develop new and better approaches to housing.

I have taken the lead in pushing one particularly promising approach: the development of affordable housing by nonprofit housing organizations, and I want to discuss that approach here today.

Mr. President, as the Federal Government has withdrawn support for housing over the decades, thousands of community-based groups have emerged to fill the vacuum. From the New Community Corp. in Newark, to the Community Housing Corp. in Santa Barbara, to the Nehemiah project in Brooklyn, these grassroots organizations have built housing and rebuilt communities.

Groups like these can do even more, if we give them the chance.

That is why I introduced the Community Housing Partnership Act, a bill to provide matching grants and technical assistance for community-based nonprofits. I have been working with Senator CRANSTON on this, and I am pleased that the bill before us does include a significant program for nonprofits.

Mr. President, there are many reasons to give nonprofit housing organizations an important role in national housing policy.

First, nonprofits are closely tied to their local communities. Unlike HUD's massive, distant bureaucracy, nonprofits consist largely of local people who care about their communities and who are sensitive to local needs. Their initiatives often enjoy strong neighborhood support.

That's important. After all, efforts to provide affordable housing are often complicated by community resistance to outside authorities and developers. Yet most nonprofits are of, by and for the people of the community. As a result, their initiatives often avoid the costly, time-consuming problems that face other developers of affordable housing.

In part because of their close community ties, nonprofits undertake projects that other developers consider too risky, too small or too unprofitable. And nonprofits generally are in it for the long haul—they are not looking forward to converting affordable housing into high-rent condominiums.

In addition, nonprofit housing is often just one component of broader neighborhood revitalization efforts. Nonprofits do not just build housing. They often hire and train local youths. Improve other commercial and recreational facilities. And offer other services. In short, they build communities. They make people's lives better.

For all these reasons, nonprofits deserve to play an important role in Federal housing policy. And I am pleased that Senator CRANSTON and the Banking Committee agree.

Mr. President, I would like now to turn to another issue addressed in this bill: the problem of drugs in public housing.

Mr. President, the residents of public housing all too often feel like they are living in a war zone—terrorized by armies of drug dealers and afraid to leave their apartments. It is an inhuman, intolerable situation. And I think we have an obligation to do something about it.

That is why 2 years ago I developed the Public Housing Drug Elimination Act—a competitive grant program under which housing authorities and tenants can get the tools they need to fight back. Grants can be used for a variety of antidrug initiatives, including the hiring of additional security personnel, physical improvements designed to enhance security, and drug education and prevention programs.

The program is just now getting off the ground, and I am happy to report that it is off to a very good start. There was a tremendous response from housing authorities around the country. About 500 applied, though there was only $8.2 million available—enough for 37 awards.

From all indications, HUD selected applications in a fair, unbiased manner. Since only 7 percent of the

applications were funded, some complaints were inevitable. But Secretary Kemp has stated that he is committed to making any necessary adjustments in the program, and I think once we distribute the $97 million available for grants this year, things will fall into place.

This bill would reauthorize the Public Housing Drug Elimination Act for 3 years. It also would make various changes to the program, some of which were included in free-standing legislation I introduced earlier this Congress, S. 1832. For example, the bill expands the selection criteria to include resident involvement in the design and implementation of anti-drug plans. I think that is important, and is consistent with Secretary Kemp's emphasis on involving tenants.

The program also would be expanded to allow applications from owners of federally assisted, low income housing. I had called for a study of this in S. 1832, and I share the Banking Committee's interest in helping tenants in assisted housing projects, many of whom also face serious drug problems. I do have a concern, however, about dramatically increasing the demands on the program without increasing the resources available to it. I know the Banking Committee is sensitive to this concern, as it included language in the committee report indicating that the program would remain primarily for public housing. I anticipate that this will be a topic of discussion in conference, and I look forward to working with Senator CRANSTON on the matter as that discussion moves forward.

Mr. President, I also want to comment on a provision included at my request in a leadership amendment offered previously by Senator CRANSTON and approved by the Senate. The provision would authorize HUD to facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance, and demonstration projects. I want to express my appreciation to Senator CRANSTON and Senator D'AMATO for their cooperation in securing passage of this amendment.

Mr. President, employer-assisted housing is another relatively new means of providing housing that has enormous promise. Congress already recognized the potential of this approach when we amended the Taft-Hartley Act to allow creation of housing trust funds. Yet there is much more that can be done to encourage employers and employees to work together to meet housing needs.

A leading advocate of employer-assisted housing is Assemblyman David Schwartz of New Jersey, who has devoted his considerable talent and energy to promoting this concept. Increasingly, employers and workers are finding that it is in their common interests—and the community's interest generally—to develop employer-assisted housing plans.

We need to help businesses and workers develop such plans. And the provision included in the leadership amendment will allow HUD to help facilitate and support these efforts. Such assistance should prove a cost-effective way for the Federal Government to help meet housing needs.

In closing, Mr. President, I support this bill. It is an important first step toward a renewed Federal commitment to housing and I urge my colleagues to support it.

Mr. RIEGLE. Mr. President, today, as chairman of the Committee on Banking, Housing, and Urban Affairs, I commend my colleagues in the Senate on passage of the National Affordable Housing Act. The bill is the product of over 3 years of effort by the Housing Subcommittee under the able leadership of Senators CRANSTON and D'AMATO. It has been carefully crafted to achieve meaningful comprehensive housing legislation. The bill establishes an effective new direction in providing decent affordable housing for all Americans.

Today, we have a rare opportunity—probably the best opportunity since the 1940's—to shape a fresh, effective national housing policy. In seizing this opportunity, we are moving housing back up to the high place it deserves on the national agenda and mobilizing the country's resources to provide the affordable housing that our people will need during the next decade and beyond. The time for action is long overdue.

NATIONAL HOUSING CRISIS

During the Reagan administration the Federal Government got out of the housing business. In the 1980's, HUD's budget authority was cut in real terms by 80 percent.

As a result, we are in the midst of a national affordable housing crisis. While the outcry was first heard from low-income housing groups, they have been joined by a wide range of housing analysts, State and local government officials, nonprofits, and industry representatives.

Let me share with you a few grim statistics which illustrate the severity of the problem.

Nationally it is estimated that some 730,000 Americans are homeless on a given night, and between 1.3 million and 2 million persons experience homelessness each year. The problem has become so severe that, for the first time in U.S. history, the Census Bureau has tried to count homeless persons as part of the 1990 Census.

Four million American families live in substandard housing or pay more than 50 percent of their income for rent.

The Congressional Budget Office estimates that two-thirds of all households that are poor enough to qualify for Federal housing assistance receive no aid whatsoever.

Over 1.5 million units of privately owned low-cost housing have been lost this decade due to decay, abandonment, gentrification, and conversion. According to the National Low Income Housing Preservation Commission another half-million will be lost in the next 15 years.

And, after rising for 35 years, the U.S. homeownership rate has fallen consistently since 1980.

The affordable housing crisis is not just a east and west coast phenomena. In my home State of Michigan—

The average purchase price of homes in Michigan increased 51 percent from 1984 to 1989.

Ninety percent of needy residents in the State are paying in excess of 30 percent of their incomes for housing.

There are approximately 173,000 elderly households in need of assistance.

Estimates of the homeless are as high as 90,000. The fastest growing segment of the homeless population are women and children. It is estimated that they represent at least 25 percent of the homeless population.

A 1989 study done by the Low Income Housing Information Service indicated that in Michigan, a full-time worker needs to earn $7.88 an hour to rent a one-bedroom unit, and make $9.23 an hour for a two-bedroom unit—more than twice the minimum wage. This means that even families with two full-time workers often cannot afford housing.

NATIONAL AFFORDABLE HOUSING ACT

The National Affordable Housing Act accomplishes several important goals. S. 566 dedicates $3.1 billion in new Federal resoures for housing and will commit the Federal Government to a long-term partnership with States and local governments. It devotes significant new funding resources to both expand the availability of affordable low and moderate income housing and to address the problems of homelessness.

A. HOUSING OPPORTUNITY PARTNERSHIPS

Housing Opportunity Partnerships—or HOP funds—will be available to support State and local strategies to expand the supply of affordable housing.

The HOP will provide $2 billion which will be distributed on an entitlement basis to State and local governments.

HOP will use Federal funds to leverage local investment. Federal funds will act as a catalyst for the creation of affordable housing and reinvestment in neighborhoods.

S. 566 is designed to promote new and strengthen existing partnerships by providing new Federal resources that are dedicated to housing.

B. OTHER LEGISLATIVE PROVISIONS

The bill also includes other provisions that address a number of urgent national housing needs. These provisions should go a long way toward resolving a number of the Nation's housing crisis.

S. 566 incorporates the administration's proposal for HOPE grants. The HOPE Program would provide grants to facilitate the transfer of federally assisted housing to tenants. HOPE grants would assist low-income families realize the dream of homeownership.

The potential loss of a quarter-of-a-million federally assisted units is one of the most pressing and controversial housing issues facing the Congress today. This bill will establish a permanent solution to the prepayment problem which places prime emphasis on preserving the low-income character of this housing and providing a fair return to project owners.

The bill will increase funding for rental assistance through vouchers and certificates. Approximately 22,000 new units of rental assistance will be funded.

S. 566 will expand the supply of housing that meets the special needs of elderly persons, persons with disabilities, and the homeless. Funding will be provided for supportive services and rehabilitation to meet the physical needs of the tenants.

The bill proposes to increase funding for and streamline the McKinney Act programs so that States and localities can provide an emergency response to the needs of individuals who must face the tragedy of homelessness.

Public housing will be improved by increasing funding for modernization. The bill also creates a system to help public housing residents gain greater access to employment, day care, and educational opportunities.

The bill authorizes the Community Development Block Grant Program.

Finally, the bill makes several reforms to the FHA Program intended to assure the financial safety and soundness of the FHA Mutual Mortgage Insurance Fund. The FHA reforms were based on recommendations from the administration and an independent actuarial analysis conducted by Price-Waterhouse.

CONCLUSION

The affordable housing crisis which grips our nation is all too clear. As a nation, we have the responsibility to see that all Americans are given a safe, decent, and affordable place to live.

After almost a decade of abandonment of the Federal commitment to low-income housing, today with the passage of this bill the Senate we affirm our goal of ensuring that every American family can afford a decent home in a suitable environment. I have designated the passage of comprehensive housing legislation as a high priority of the Banking Committee this session. I look forward to working with the House in conference to assure that meaningful comprehensive housing legislation is, in fact, enacted this year.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. HELMS. Mr. President, Senator BOND asked me to announce that he wished to be a cosponsor, and I ask unanimous consent that he be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, this will be the last rollcall vote this evening. However, following this vote we will attempt to obtain unanimous consent to proceed to the crime bill.

There has been a great deal of effort by the chairman of the committee, and counterpart on the minority side and several others, to reach an agreement that will permit us to take up and pass the crime bill—at least dispose of the crime bill—within a fixed time period.

So those Senators who have an interest in that bill should be aware that an attempt will be made to obtain unanimous consent this evening and, therefore, should remain for that purpose.

Mr. President, I thank my colleagues.

I thank the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this guestion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

I also announce that the Senator from Massachusetts [Mr. KENNEDY] is absent on official business.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Rhode Island [Mr. PELL] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. SIMON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 132 Leg.]

YEAS—96

Adams	Ford	McCain
Akaka	Fowler	McClure
Baucus	Garn	McConnell
Bentsen	Glenn	Metzenbaum
Biden	Gore	Mikulski
Bingaman	Gorton	Mitchell
Bond	Graham	Moynihan
Boren	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Bradley	Harkin	Nunn
Breaux	Hatch	Packwood
Bryan	Hatfield	Pressler
Bumpers	Heflin	Pryor
Burdick	Heinz	Reid
Burns	Helms	Riegle
Byrd	Hollings	Robb
Chafee	Humphrey	Rockefeller
Coats	Inouye	Rudman
Cochran	Jeffords	Sanford
Cohen	Johnston	Sarbanes
Conrad	Kassebaum	Sasser
Cranston	Kasten	Shelby
D'Amato	Kerrey	Simon
Danforth	Kerry	Simpson
Daschle	Kohl	Specter
DeConcini	Lautenberg	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	Wilson
Exon	Mack	Wirth

NAYS—1

Roth

NOT VOTING—3

Armstrong	Kennedy	Pell

So, the bill (S. 566), as amended, was passed as follows:

S. 566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Affordable Housing Act".

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TITLE I—GENERAL PROVISIONS AND POLICIES

SEC. 101. THE NATIONAL HOUSING GOAL.

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

SEC. 102. OBJECTIVE OF NATIONAL HOUSING POLICY.

The objective of national housing policy shall be to strengthen a nationwide partnership of public and private institutions able—

(1) to ensure that no resident of the United States is without either access to decent shelter or assistance in avoiding homelessness;

(2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

(6) to provide every American community with a reliable, readily available supply of mortgage finance at the lowest possible interest rates; and

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved.

SEC. 103. PURPOSES OF THE NATIONAL AFFORDABLE HOUSING ACT.

The purposes of this Act are—

(1) to help families not owning a home to save for a down payment for the purchase of a home;

(2) to retain wherever feasible as housing affordable to low-income families those dwelling units produced for such purpose with Federal assistance;

(3) to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of housing affordable to low-income and moderate-income families;

(4) to expand and improve Federal rental assistance for very low-income families; and

(5) to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence.

SEC. 104. DEFINITIONS.

As used in this Act—

(1) The term "unit of general local government" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 316(2)(B) of this Act; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term "State" means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) The term "jurisdiction" means a State or unit of general local government.

(4) The term "participating jurisdiction" means any State or unit of general local government whose comprehensive affordable housing strategy has been approved by the Secretary in accordance with section 105 of this Act.

(5) The term "nonprofit organization" means any private, nonprofit organization that—

(A) is organized under State or local laws,

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term "community housing development organization" means a nonprofit organization, within the definition of paragraph (5), that—

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income beneficiaries and low-income community residents with regard to decisions on the design, siting, development, and management of affordable housing;

(C) has a demonstrated capacity for carrying out activities assisted under this Act; and

(D) has a history of serving the local community or communities within which housing to be assisted under this Act is to be located.

(7) The term "government-sponsored mortgage finance corporations" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation.

(8) The term "very low-income families" means low-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(9) The term "low-income families" means families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10) The term "moderate-income families" means families whose incomes do not exceed the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term "families" includes families consisting of a single person in the case of (A) a person who is at least 62 years of age, or is a person with disabilities within the meaning of section 521(j)(2) of this Act, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations of the Secretary.

(12) The term "security" has the same meaning as in section 2 of the Securities Act of 1933.

(13) The term "first-time homebuyer" means (A) an individual and his or her spouse who have had no ownership interest in a residence during the previous 3-year period, or (B) a person who, during the previous 3-year period, has become a displaced homemaker, which means an individual who may have had an ownership interest in a principle home and whose marriage has resulted in a legal separation, divorce, or death.

(14) The term "Secretary" means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(15) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of $25,000 per dwelling unit.

SEC. 105. STATE AND LOCAL HOUSING STRATEGIES.

(a) IN GENERAL.—The Secretary shall provide assistance directly to a jurisdiction only if—

(1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the "housing strategy");

(2) the jurisdiction submits annual updates of the housing strategy; and

(3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under this Act. If the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction's housing strategy.

(b) CONTENTS.—A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided under this Act and shall—

(1) describe the jurisdiction's estimated housing needs projected for the ensuing 5-year period, and the jurisdiction's need for assistance for low-income and moderate-income persons under this Act, specifying such needs for different types of tenure and for different categories of residents, such as very low-income, low-income, and moderate-income persons, the elderly, single persons, large families, residents of nonmetropolitan areas, and other categories of residents that the Secretary determines to be appropriate;

(2) describe the nature and extent of homelessness within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, and a description of the jurisdiction's strategy for (A) helping very low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction's housing market, indicating how those characteristics will influence the use of funds made available under this Act for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain how the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction's strategy to remove or ameliorate any negative effects of such policies;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and public sources other than this Act that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available under this Act will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction's plan for investment or other use of housing funds made available under this Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the Stuart B. McKinney Homeless Assistance Act, during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe the means of cooperation and coordination among the State and any participating units of general local government in the development, submission, and implementation of their housing strategies;

(9) describe the number of public housing units in the jurisdiction, the physical condition of such units, and how they fit into the jurisdiction's housing strategy;

(10) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(11) include a certification that the jurisdiction will affirmatively further fair housing; and

(12) include the number of families the jurisdiction will provide affordable housing as defined in section 315 using funds made available under this Act.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be participating jurisdictions under this Act. Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

(c) APPROVAL.—

(1) IN GENERAL.—The Secretary shall review the housing strategy upon receipt. Not later than 60 days after receipt by the Secretary, the housing strategy shall be ap-

proved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following enactment of this Act, the Secretary may extend the review period to not longer than 90 days.

(2) ACTIONS IN CASE OF DISAPPROVAL.—If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

(3) AMENDMENTS AND RESUBMISSION.—The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved. The Secretary shall approve or disapprove a housing strategy not less than 30 days after receipt of such amendments or resubmission.

(d) COORDINATION OF STATE AND LOCAL HOUSING STRATEGIES.—The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

(e) CONSULTATION WITH SOCIAL SERVICE AGENCIES.—When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies.

(f) BARRIER REMOVAL.—Not later than 4 months after completion of the final report of the Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary's recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination.

SEC. 106. CERTIFICATION.

The Secretary shall, by regulation or otherwise, as deemed by the Secretary to be appropriate, require any application for housing assistance under this Act, the Housing and Community Development Act of 1974, or the Stuart B. McKinney Homeless Assistance Act, to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served.

SEC. 107. CITIZEN PARTICIPATION.

(a) IN GENERAL.—Before submitting a housing strategy under this section, a jurisdiction shall—

(1) make available to its citizens, public agencies, and other interested parties with information concerning the amount of assistance the jurisdiction expects to receive under this Act and the range of investment or other uses of such assistance that the jurisdiction may undertake;

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any past uses of any assistance the jurisdiction may have received under this Act.

(b) NOTICE AND COMMENT.—Before submitting any performance report or substantial amendment to a housing strategy under this section, a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

(c) CONSIDERATION OF COMMENTS.—A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such comments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing strategy, amendment, or report shall be made available to the public.

(d) REGULATIONS.—The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or performance reports.

SEC. 108. COMPLIANCE.

(a) PERFORMANCE REPORTS.—(1) Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting its goal established in section 105(b)(12) of this Act, and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available under this Act.

(2) The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

(3) If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under this Act may be—

(A) suspended until a report satisfactory to the Secretary is submitted; or

(B) withdrawn and reallocated among participating jurisdictions in accordance with section 316(5) of this Act if the Secretary finds, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(b) PERFORMANCE REVIEW BY SECRETARY.—(1) The Secretary shall ensure that activities of each participating jurisdiction are reviewed for compliance with the provisions of this Act not less frequently than annually. Such review shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the participating jurisdiction's—

(A) management of funds made available under programs administered by the Secretary;

(B) compliance with its housing strategy;

(C) accuracy in the preparation of performance reports under subsection (h); and

(D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual agreements and the requirements of law.

(2) The Secretary shall report on the performance review in writing. The Secretary shall give the participating jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the participating jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

(c) REVIEW BY COURTS.—The adequacy of information submitted under subsection (b)(4) shall not be reviewable by any Federal, State, or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining whether the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

SEC. 109. ENERGY EFFICIENCY STANDARDS.

The Secretary of Housing and Urban Development shall, not later than one year after the date of enactment of this Act, promulgate energy efficiency standards for new construction of public and assisted housing. Such standards shall meet or exceed the provisions of the Model Energy Code of the Council of American Building Officials. The Secretary shall develop such standards through a Task Force composed of homebuilders, National, State, and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretary.

SEC. 110. TAX AND HOUSING COORDINATING COUNCIL.

(a) ESTABLISHMENT.—There is created a Tax and Housing Coordinating Council that shall consist of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the President's Chief Domestic Policy Advisor.

(b) DUTIES.—The Council shall (1) advise the President regarding the consistency among existing and proposed Federal housing policies and tax policies; (2) comment on tax legislation proposed in Congress or by the Administration; and (3) submit to both Houses of the Congress within the first 90 days of each Congress a report on the state of the Nation's housing, including a section considering Federal housing policies, their tax component, and the relationship between tax and housing policies.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—The Council may secure directly from any department or agency of the United States such data and information as the Council may require for the purpose of this subtitle. Upon request of the Council, any such department or agency shall furnish such data or information.

SEC. 111. CAPACITY STUDY.

(a) IN GENERAL.—The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities, and to implement the provisions of this Act.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to the Committee on B, H, and UA of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department's plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

TITLE II—HOMEOWNERSHIP

SEC. 201. FHA CEILING.

Section 203(b)(2) of the National Housing Act is amended by striking "during fiscal year 1990" and inserting "until September 30, 1992".

SEC. 202. DELEGATION OF PROCESSING.

Section 202 of the National Housing Act is amended by adding at the end the following:

"(s)(1) Not later than the expiration of the 60-day period beginning on the date of enactment of the National Affordable Housing Act, the Secretary shall implement a system of mortgage insurance for mortgages insured under this section or section 221, 223, 232, or 241 that delegates processing functions to selected approved mortgagees. Under such system, the Secretary shall retain the authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment.

"(2) Notwithstanding paragraph (1), the Secretary shall maintain a viable system for full insurance programs under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development.".

SEC. 203. REVERSE MORTGAGE INSURANCE.

(a) LIMITATION ON INSURANCE AUTHORITY AND MAXIMUM AMOUNT INSURED.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "1991" and inserting "1993", and by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000.".

(b) TYPES OF LOANS.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

"(A) based upon a line of credit;

"(B) on a monthly basis over a term specified by the mortgagor;

"(C) on a monthly basis over a term specified by the mortgagor and based on a line of credit;

"(D) on a monthly basis over the tenure of the mortgagor;

"(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

"(F) on any other basis that the Secretary considers appropriate; and

"(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that for fixed rate mortgages, the Secretary may prescribe regulations limiting convertability under this paragraph.".

(c) LIMITATION ON LIABILITY OF MORTGAGOR.—Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z-20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or".

SEC. 204. FIRST-TIME HOMEBUYERS.

The Secretary shall undertake a study to determine the actuarial soundness of implementing a program to guarantee downpayments for first-time homebuyers based on a system of downpayment savings accounts and payment schedules that require monthly or other periodic payments over a specified period of time in an amount equal to a specified percentage of the value of housing at the time of purchase in a specified housing market area or census tract.

SEC. 205. UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.

Section 203 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(v) DEVELOP A UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.—

"(1) The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall within 2 years of the passage of the National Affordable Housing Act (NAHA), promulgate a uniform plan to make housing more affordable through mortgage financing incentives for energy efficiency.

"(2) To develop this plan, the Secretary shall form a task force to make recommendation on financing energy efficiency in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, mortgage bankers, homebuilders, real estate brokers, private mortgage insurers, energy suppliers, and nonprofit housing and energy organizations.".

SEC. 206. REPORT TO CONGRESS.

(a) Before the end of the 60-day period beginning on the date of the enactment of the National Affordable Housing Act the Department of Housing and Urban Development shall submit to the Congress a report containing a description of the strategy and action plan developed to assist in the disposition of foreclosed properties in the HUD stock, paying particular attention to those properties which have been in the HUD inventory for more than 12 months. HUD will solicit recommendations from State and local governments, nonprofit organizations, housing finance authorities, and community housing development organizations in its preparation of the report.

(b)(1) The report shall contain, without limitation, provisions regarding mechanisms to facilitate units of local government, nonprofit organizations, housing finance authorities, and community housing development organizations efforts to work with eligible families to purchase these homes. The report shall also include, without limitation, recommendations for innovative approaches for (A) evaluating the rehabilitation costs of the properties necessary to achieve the minimum standards, (B) involving non-Federal entities in the sale and rehabilitation of the properties and (C) providing the means to make the older stock readily attainable.

(2) The report shall also include, without limitation, proposals directed toward very-low income, low-income and moderate-income families, who seek to be first-time homebuyers, and the assistance the aforementioned entities may provide to foster purchase.

SEC. 207. ACTUARIAL SOUNDNESS FOR THE MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act is amended by adding the following new subsections at the end thereof:

"(e)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of at least 1.25 percent within 18 months of the date of enactment of this subsection, and shall ensure that at least this ratio is maintained at all times thereafter. If the Secretary determines that the Fund does not have a capital ratio of at least 1.25 percent at any time from the date of enactment of this subsection, the Secretary shall, at least annually, report to the Congress on the financial status of the Fund, advise the Congress of any administrative measures being taken to attain and maintain a capital ratio of at least 1.25 percent, and make any legislative recommendations that the Secretary deems appropriate.

"(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains and maintains a capital ratio of at least 2 percent. Beginning 3 years from the date of enactment of this subsection, the Secretary shall report annually to the Congress on the financial status of the Mutual Mortgage Insurance Fund and efforts to meet the capital ratio goal of at least 2 percent.

"(3) For purposes of this subsection—

"(A) the term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required by section 538 of this Act;

"(B) the term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund;

"(C) the term 'capital ratio' means the ratio of capital to unamortized insurance-in-force; and

"(D) the term 'unamortized insurance-in-force' means the Secretary's estimate of the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund.

"(f) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund.

"(g) If the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (f) shows that the Mutual Mortgage Insurance Fund is not meeting the following principles of operation:

"(1) maintaining an adequate capital ratio as defined in subsections (e)(1) and (e)(2); and

"(2) Meeting the needs of first-time homebuyers by providing access to mortgage credit; and

"(3) Avoiding the problems of adverse selection by establishing premiums related to the probability of homeowner default; and

"(4) Minimizing the risk to the Fund and to homeowners from homeowner default;

then the Secretary may propose through regulation and implement any adjustments to the insurance premiums referred to in section 203(c), or any other program requirements established by the Secretary, as is necessary to achieve these principles. As soon as the Secretary determines that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for it. Such premium change shall take effect not earlier than 90 days following such notification, unless Congress acts during such time to prevent it.".

SEC. 208. RISK-BASED PERIODIC MORTGAGE INSURANCE PREMIUM.

Section 203(c) of the National Housing Act is amended by adding the following at the end thereof:

"Notwithstanding any other provision of law, the Secretary may require payment on mortgages which are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice and taking into account high loan-to-value ratios. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments, and may be required (A) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 95 percent, (B) for up to 10 years if the initial loan-to-value ratio is equal to or less than 95 percent but equal to or greater than 93 percent, and (C) for up to 4 years if the initial loan-to-value ratio is less than 93 percent but greater than or equal to 90 percent. The Secretary may establish a periodic premium rate higher than that referred to in the preceding sentence if necessary to achieve actuarial soundness. The Secretary shall not require payment of an additional premium charge where the initial loan-to-value ratio of the mortgage is less than 90 percent. For purposes of this paragraph, the premium charges shall not be included in the determination off the initial loan-to-value ratio of the mortgage.".

SEC. 209. MORTGAGOR EQUITY IN THE BASIC FHA HOME MORTGAGE INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act is amended by inserting at the end thereof the following new paragraph.

"Notwithstanding any other provision of this paragraph, a mortgage may not have a principal obligation in excess of 98 percent of the appraised value of the property (97 percent, in the case of a mortgage with an appraised v› lue in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, 'appraised value' shall be the amount set forth in the written statement required by section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 210. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act is amended by adding at the end the following:

"(g) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

SEC. 211. SENSE OF THE SENATE REGARDING USE OF IRA'S FOR FIRST-TIME HOME PURCHASES.

(a) FINDINGS.—The Senate finds that—

(1) the national rate of homeownership has been declining,

(2) average housing prices and, therefore, down payment requirements have risen above the means of many first-time homebuyers,

(3) homeownership promotes self-sufficiency and individual prosperity, and

(4) parents and grandparents are more likely to have sufficient financial resources to assist in first-time home purchases.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) an owner of an individual retirement account should be allowed to make withdrawals from an account for the purpose of a first-time home purchase, without incurring a penalty, and

(2) the appropriate changes in law should be considered as part of tax legislation during this session of Congress.

TITLE III—INVESTMENT IN AFFORDABLE HOUSING

SEC. 301. SHORT TITLE.

This title may be cited as the "Housing Opportunities Partnerships Act".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to expand the capacity of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply of affordable housing for low-income and moderate-income Americans;

(2) to provide participating jurisdictions, to the extent feasible on a one-stop basis, the various forms of Federal housing assistance needed to promote the development of partnerships among the Federal Government, States, and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources for affordable housing;

(3) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing affordable housing, and accelerate the application of such methods where appropriate throughout the United States to achieve the prudent and efficient use of funds made available under this title;

(4) to increase the investment of private capital and the use of private sector resources in the provision of affordable housing;

(5) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula and incentive allocation;

(6) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(7) to establish for each participating jurisdiction a housing investment trust fund with a line of credit for investment in affordable housing, with repayments back to the housing investment trust fund being made available for reinvestment by the jurisdiction; and

(8) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage finance institutions when most efficient and supplementing their activities when appropriate.

SEC. 303. COORDINATED FEDERAL SUPPORT FOR HOUSING STRATEGIES.

To the maximum extent practicable, the Secretary shall make assistance under this title, together with mortgage insurance, rental assistance, and other housing assistance provided by the Secretary, available to participating jurisdictions on a coordinated basis with respect to housing assisted under this title.

SEC. 304. ESTABLISHMENT OF HOUSING OPPORTUNITIES PARTNERSHIPS ADVISORY BOARD.

(a) IN GENERAL.—There is created a Housing Opportunities Partnerships Advisory Board, which shall continue to exist until dissolved by Act of Congress. The members of the Advisory Board shall represent the public interest in the achievement of the purposes of this title. The Advisory Board shall periodically review the activities under this title and provide advice to the Secretary with respect to the formulation of general policies related to the Housing Opportunities Partnerships and such other matters as the Secretary may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act.

(b) COMPOSITION.—The Advisory Board shall be composed of 18 members to be appointed from among individuals who have expertise and broad experience related to the purposes of the Housing Opportunities Partnerships program, of whom—

(1) 10 shall be appointed by the Secretary;

(2) 4 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(3) 4 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(c) QUALIFICATIONS.—Membership of the Advisory Board shall include—

(1) not less than 3 persons who have had distinguished, private sector careers in housing finance, management or development industries;

(2) not less than 2 persons from State government and 2 persons from local government who have made outstanding achievements in housing finance or development;

(3) not less than 3 persons who have backgrounds of leadership in representing the interests of low-income tenants; and

(4) not less than 3 persons who have achieved excellence in nonprofit housing development.

(d) POLITICAL AFFILIATION.—Not more than 10 members of the Advisory Board may be from any one political party.

(e) TERMS.—Of the members of the Advisory Board first appointed, 6 shall have terms of 1 year, and 6 shall have terms of 2 years. Their successors and all other appointees shall have 3-year terms.

(f) AUTHORITY.—The Advisory Board shall have power to confer with, request information of, and make recommendations to the Secretary. The Secretary shall promptly provide the Advisory Board with information that the Advisory Board determines is needed to carry out its review of the activities and policies related to the Housing Opportunities Partnerships program.

(g) REPORT.—The Advisory Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the activities under this title and its recommendations for improvement. Such report shall include any minority views.

(h) MEETINGS.—The Advisory Board shall meet at Washington, District of Columbia, not less than twice a year, or more frequently if requested by the Secretary or approved by a majority of the members. The Advisory Board may select its chairman, vice chairman and secretary, and adopt methods of procedure.

(i) COMPENSATION.—Subject to the provisions of section 7 of the Federal Advisory Committee Act, all members of the Advisory Board may be compensated, and shall be entitled to reimbursement from the Secretary for traveling expenses incurred in attendance at meetings of the Advisory Board.

SEC. 305. AUTHORIZATION.

There are authorized to be appropriated to carry out this title $2,000,000,000 for fiscal year 1991, $2,500,000,000 for fiscal year 1992, and $3,000,000,000 for fiscal year 1993, of which—

(1) $25,000,000 for fiscal year 1991, $25,000,000 for fiscal year 1992, and $25,000,000 for fiscal year 1993 shall be for activities authorized under subtitle C, and

(2) an amount equal to the amount appropriated for the fiscal year in which this Act is enacted to carry out section 17 of United States Housing Act of 1937 shall be for grants under such section.

Any funds appropriated under this section shall remain available until expended.

SEC. 306. NOTICE.

The Secretary shall establish standards to implement the provisions of this title by notice published in the Federal Register not later than 180 days after the date of enactment of this Act.

Subtitle A—Housing Opportunity Partnerships (HOP)

SEC. 311. AUTHORITY.

The Secretary is authorized to make funds available to participating jurisdictions for investment to expand the supply of affordable housing and increase the number of families served with affordable housing in accordance with provisions of this subtitle.

SEC. 312. ELIGIBLE USES OF INVESTMENT.

(a) HOUSING USES.—

(1) IN GENERAL.—Funds made available under this subtitle may be used by participating jurisdictions to provide incentives to support rental housing and homeownership affordability through the acquisition, construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including relocation expenses of any displaced persons, families, businesses, or organizations, and to provide tenant-based rental assistance.

(2) PREFERENCE TO REHABILITATION.—A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that such rehabilitation is not the most cost effective way to meet the jurisdiction's need to expand the supply of affordable housing.

(3) RESTRICTION ON NEW CONSTRUCTION.—

(A) IN GENERAL.—Funds made available under this subtitle may not be used for construction of housing in a local area unless the participating jurisdiction certifies to the Secretary that—

(i) the local market area has an inadequate supply of housing at rentals below the fair market rent established for the area under section 8 of the United States Housing Act of 1937, and

(ii) there is a severe shortage of structures in the jurisdiction that are suitable for rehabilitation as rental housing.

(B) CRITERIA FOR CERTIFICATIONS.—The Secretary shall establish criteria to determine whether a jurisdiction's housing supply is sufficiently inadequate to permit new construction pursuant to subparagraph (A). Such criteria shall permit new construction by not less than 30 percent of the jurisdictions eligible to participate in the program under this subtitle. Such criteria shall include objective data on housing market conditions such as low vacancy rates, low turnover of units with rents below fair market rents, and a high proportion of substandard housing.

(C) NEIGHBORHOOD REVITALIZATION.—Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of affordable housing if the participating jurisdiction certifies that—

(i) the program of construction is needed to facilitate a neighborhood revitalization program for an area designated by the jurisdiction that emphasizes rehabilitation of substandard housing for rental or homeownership opportunities by low-income and moderate-income families;

(ii) the project is located in a low- or moderate-income neighborhood, as defined in section 10(j)(13) of the Federal Home Loan Bank Act;

(iii) the number of units to be constructed with assistance under this subtitle does not exceed 20 percent of the total number of units in the neighborhood revitalization program that are assisted with funds under this subtitle; and

(iv) the housing is to be produced by a community housing development organization, as defined in section 104(6), or a public agency.

Clause (iii) of the preceding sentence shall not apply in the case of severely distressed areas with large tracts of vacant land and abandoned buildings.

(D) SPECIAL NEEDS HOUSING.—Notwithstanding the restriction provided in subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of—

(i) affordable housing for large families;

(ii) supportive housing for persons with disabilities;

(iii) single room occupancy housing; and

(iv) other categories of affordable housing for persons with special needs that the Secretary may designate;

if the participating jurisdiction certifies on the basis of objective data in its annual housing strategy that a high priority need for such housing exists in the jurisdiction, and that there is not a supply of vacant, habitable, public housing units in excess of normal vacancies resulting from turnovers that could meet the specified need.

(E) AUDIT.—The Secretary is authorized by audit to determine the validity of certifications under this subsection.

(4) TENANT-BASED RENTAL ASSISTANCE.—(A) A participating jurisdiction may use funds provided under this subtitle for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this subtitle for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply of decent, affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided to persons eligible for section 8 assistance in accordance with the applicable preferences from the waiting lists.

(B) The jurisdiction's section 8 fair share allocation shall be unaffected by the use of assistance under this subtitle.

(C) Rental assistance contracts made available with assistance under this subtitle shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) In any case where assistance under section 8 of the United States Housing Act of 1937 becomes available to a participating jurisdiction, recipients of rental assistance under this subtitle shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this subtitle. A rental assistance program under this subtitle shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and rent reasonableness.

(b) INVESTMENTS.—Participating jurisdictions shall have discretion to invest funds made available under this subtitle as equity investments, interest-bearing loans, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this subtitle. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) PROHIBITED USES.—Funds made available under this subtitle may not be used to—

(1) defray any administrative cost of a participating jurisdiction,

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 program, including replacing public housing that is demolished or disposed of preserving federally assisted housing, assisting in the disposition of HUD-owned and HUD-held housing, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 8 of the United States Housing Act of 1937,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 9 of the United States Housing Act of 1937,

(5) carry out activities authorized under section 14 of the Housing Act of 1937, or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(d) COST LIMITS.—

(1) IN GENERAL.—The Secretary shall establish limits on the amount of funds under this subtitle that may be invested on a per unit basis. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) CRITERIA.—In calculating per unit limits, the Secretary shall take into account that assistance under this subtitle is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions; and

(C) facilitate mixed-income housing.

(3) CONSULTATION.—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(e) CERTIFICATION OF COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

(f) MANUFACTURED HOUSING.—For purposes of this subtitle, the term "housing" includes manufactured housing and manufactured housing lots.

SEC. 313. DEVELOPMENT OF MODEL PROGRAMS.

(a) IN GENERAL.—The Secretary shall—

(1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this title;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this subtitle through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this subtitle.

(b) ADOPTION OF PROGRAMS.—Except as provided in section 324(2), each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) SUBTITLE D PROGRAMS.—The selection of model programs shall include programs meeting the objectives set forth in subtitle D.

SEC. 314. INCOME TARGETING.

Each participating jurisdiction shall invest funds made available under this subtitle within each fiscal year so that—

(1) with respect to rental assistance and rental units, not less than 90 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as very low-income families at the time of occupancy or at the time funds are invested, whichever is later, and the remainder of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families (other than very low-income families) at the time of occupancy or at the time funds are invested, whichever is later;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by househholds that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later; and

(3) all such funds are invested with respect to housing that qualifies as affordable housing under section 315.

SEC. 315. QUALIFICATION AS AFFORDABLE HOUSING.

(a) RENTAL HOUSING.—

(1) QUALIFICATION.—Housing that is for rental shall qualify as affordable housing under this title only if the housing—

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 8 of the United States Housing Act of 1937, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986;

(C) is occupied only by households that qualify as low-income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such rental credit, voucher, or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics, the purposes of this title, and the objective of this Act; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

(2) ADJUSTMENT OF QUALIFYING RENT.—The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project.

(3) INCREASES IN TENANT INCOME.—Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent not less than 30 percent of the family's adjusted monthly income, as recertified annually.

(4) MIXED-INCOME PROJECT.—Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

(5) MIXED-USE PROJECT.—Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

(b) HOMEOWNERSHIP.—Housing that is for homeownership shall qualify as affordable housing under this title only if the housing—

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;

(3) is made available for initial purchase only to first-time homebuyers;

(4) is made available for subsequent purchase only—

(A) to persons who meet the qualifications specified under paragraph (2), and

(B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate to provide the owner with a fair return on investment, including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low income homebuyers; and

(5) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

SEC. 316. PARTICIPATION BY STATES AND LOCAL GOVERNMENTS.

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall provide for the following:

(1) ALLOCATION.—Not later than 20 days after funds to carry out this subtitle become available (or, during the first year after enactment of this Act, not later than 20 days after (A) funds to carry out this subtitle are provided in an appropriation Act, or (B) regulations to implement this subtitle are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 317 and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

(2) ELIGIBILITY.—A jurisdiction receiving a formula allocation under section 317 shall be eligible to become a participating jurisdiction if its formula allocation is $2,000,000 or greater, or if—

(A) the Secretary finds that—

(i) the jurisdiction is the city with the largest population in a metropolitan area, has a local housing authority, and has demonstrated a capacity to carry out provisions of this subtitle, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and $2,000,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this subtitle; or

(B) geographically contiguous units of general local government have formed a consortium that, in the determination of the Secretary—

(i) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the purposes of this Act,

(ii) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of the State's or the States' most severe housing problems, and

(iii) is comprised only of jurisdictions that have received a formula allocation for the fiscal year. Such a consortium shall be deemed to be a unit of general local government for purposes of this subtitle.

(C) If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 317(a)(1) and the amount made available to the jurisdiction under paragraph (A)(ii). The formula allocation for a consortium that has met the requirements under subparagraph (B) shall equal the total of the formula allocations of its member jurisdictions.

(3) NOTIFICATION.—If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 317(d)(1)) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, by formula in accordance with section 317(d), any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

(4) SUBMISSION OF STRATEGY.—Not later than 90 days after providing notification under paragraph (3), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 105.

(5) REALLOCATION.—If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 105(c)(3), disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

(A) STATE.—If a State has failed to meet the requirements, the Secretary shall—

(i) make any funds reserved for the State available by incentive allocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 317(c) are received within 12 months after the funds become available for the incentive allocation, and

(ii) reallocate the remainder by formula in accordance with section 317(d).

(B) LOCAL.—If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality.

(C) DIRECT REALLOCATION.—If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall—

(i) make any funds reserved for the locality available for use within the State by incentive allocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 317(c) are received within 12 months after the funds become available for the incentive allocation with priority going to applications for affordable housing within the locality, and

(ii) reallocate the remainder in accordance with section 317(d).

(D) CERTAIN JURISDICTIONS DEEMED TO BE PARTICIPATING JURISDICTIONS.—If a State or unit of general local government is meeting the requirements of paragraphs (2), (3), and (4), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

(6) DESIGNATION.—The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 105.

(7) CONTINUOUS DESIGNATION.—Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (8). The provisions of paragraphs (2) through (5) shall not apply to participating jurisdictions.

(8) REVOCATION.—The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if—

(A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this title, or

(B) the jurisdiction's allocation falls below $2,000,000 for 3 consecutive years, below $1,750,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of $1,500,000 or more in any 1 year.

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's housing investment trust fund established under section 318 shall be reallocated by formula in accordance with section 317(d).

SEC. 317. ALLOCATION OF RESOURCES.

(a) IN GENERAL.—(1) After reserving such amounts for Indian tribes as required under paragraph (2) of this subsection, the Secretary shall allocate among participating jurisdictions such funds as are approved in an appropriations Act to carry out this subtitle as follows:

(A) 80 percent of the funds approved in an appropriations Act shall be allocated according to a formula established under subsection (b). Of the funds made available under the previous sentence, the Secretary shall (i) for fiscal years 1991 and 1992, allocate 60 percent among units of general local government and 40 percent among States, and (ii) for subsequent fiscal years, allocate such percentage among units of general local government and such percentage among States as are determined under subsection (e).

(B) 20 percent of the funds approved in an appropriations Act shall be allocated according to an incentive allocation as provided in subsection (c).

(2) For each fiscal year, of the amount approved in an appropriations Act to carry out this subtitle, the Secretary shall reserve for grants to Indian tribes not less than 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.

(b) FORMULA ALLOCATION.—

(1) IN GENERAL.—The Secretary shall issue regulations establishing an allocation formula that reflects each jurisdiction's share of the Nation's need for an increased supply of affordable housing for low-income and moderate-income families of differing size, as identified by objective measures of tightness in the housing market, inadequate housing, poverty, unemployment, and the costs of producing housing. This formula shall be used for all formula allocations and reallocations provided for in this subtitle. The data to be used for allocation of funds within a fiscal year shall be those that are available to the Secretary 90 days prior to the beginning of that fiscal year.

(2) MINIMUM STATE ALLOCATION.—

(A) If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than $3,000,000 to any State, the allocation for such State shall be $3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

(B) If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be increased by $1,500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of cities within the State that are the largest city within a metropolitan area. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States.

(3) MINIMUM LOCAL ALLOCATION.—The Secretary shall allocate funds available for formula allocation to units of general local government so that, when all such funds are allocated by the formula, only those jurisdictions that are allocated an amount of $1,500,000 or greater shall receive an allocation.

(4) MAXIMUM ALLOCATIONS.—No State shall be allocated an amount greater than 15 percent of the total allocated under subsection (a)(1) among States, and no unit of general local government shall be allocated an amount greater than 15 percent of the total allocated under subsection (a)(1) among units of general local government.

(c) INCENTIVE ALLOCATION.—The Secretary shall make an incentive allocation among participating jurisdictions for funds made available under subsection (a)(1)(B). A jurisdiction shall be eligible for an incentive allocation under this paragraph only if the jurisdiction demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies under this title. The Secretary shall by regulation establish selection criteria for such incentive allocations, which criteria shall take into account—

(1) the applicant's demonstrated commitment to expand the supply of affordable housing through actions that—

(A) direct funds made available under this subtitle to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 314, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 8 of the United States Housing Act of 1937 to the selection of tenants for housing assisted under this subtitle;

(C) provide matching resources in excess of funds required under section 320; and

(D) stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations;

(2) the degree to which the applicant is pursuing policies that—

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 105(b)(4) may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income, low-income, and moderate-income persons, particularly in areas that are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities; and

(3) the degree to which the applicant needs an allocation under this section to carry out an approved housing affordability strategy that, in the determination of the Secretary, will—

(A) serve as a national model,

(B) demonstrate promising new methods for expanding the supply of affordable housing,

(C) ease a severe regional shortage in one or more categories of affordable housing, or

(D) respond to particularly difficult housing problems.

The total amount allocated to a jurisdiction under this subsection in any fiscal year shall not exceed the jurisdiction's allocation under subsection (b) in that fiscal year.

(d) REALLOCATIONS.—

(1) IN GENERAL.—The Secretary shall make any reallocations under this subtitle periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (2), (3), and (4) of section 316.

(2) COMMITMENTS.—The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this section, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

(3) LIMITATION.—Unless otherwise specified in this subtitle, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local government shall be made only among all participating units of general local government.

(e) REVIEW OF ALLOCATION PERCENTAGE.—

(1) IN GENERAL.—For fiscal years that begin later than 18 months after the enactment of this Act, the Secretary shall provide annually for an independent study of the participation under this title of States and eligible units of general local government to determine the appropriate percentage allocation among units of general local government and among States under subsection (a)(1). Such study shall consider—

(A) the percentage of States and of eligible units of general local government that have become participating jurisdictions;

(B) the extent to which participating States and units of general local government exceed the income targeting requirements under section 314; and

(C) the extent to which participating States and units of local government exceed the matching requirements under section 320, after taking into account differences in fiscal capacity among jurisdictions.

(2) RECOMMENDATIONS.—Alter consulting with the Housing Opportunity Partnerships Advisory Board on the results of the independent study, the Secretary shall submit to Congress any recommendation for change in the percentage allocation among States and among units of general local government under subsection (a)(1) that the Secretary deems to be appropriate.

(3) CONTINUITY.—Notwithstanding other provisions of this section, if a percentage allocation among States and among units of general local government has not been specified in statute for a fiscal year prior to the beginning of the fiscal year, such percentage allocation for the fiscal year shall be the same as the percentage allocation for the previous fiscal year.

SEC. 318. HOUSING INVESTMENT TRUST FUNDS.

(a) ESTABLISHMENT.—The Secretary shall establish for each participating jurisdiction a housing investment trust fund, which shall be an account (or accounts as provided in section 319(c)) for use solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subtitle.

(b) LINE OF CREDIT.—The Secretary shall establish a line of credit in the housing investment trust fund of each participating jurisdiction, which line of credit shall include—

(1) funds allocated or reallocated to the participating jurisdiction under section 317, and

(2) any payment or repayment made pursuant to section 319.

(c) REDUCTIONS.—A participating jurisdiction's line of credit shall be reduced by—

(1) funds drawn from the housing investment trust fund by the participating jurisdiction,

(2) funds expiring under subsection (g), and

(3) any penalties assessed by the Secretary under section 324.

(d) CERTIFICATION.—A participating jurisdiction may draw funds from its housing investment trust fund, but not to exceed the remaining line of credit, only after providing certification, in a form satisfactory to the Secretary, that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this title. When such certification is received, such funds shall be immediately disbursed in accordance with the form of the assistance determined by the participating jurisdiction.

(e) INVESTMENT WITHIN 15 DAYS.—The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's housing investment trust fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

(f) NO INTEREST OR FEES.—The Secretary shall not charge any interest or levy any other fee with regard to funds in a housing investment trust fund.

(g) EXPIRATION OF RIGHT TO DRAW FUNDS.—If any funds becoming available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's housing investment trust fund, the jurisdiction's right to draw such funds from the housing investment trust fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's housing investment trust fund by the expiring amount and shall reallocate the funds by formula in accordance with section 317(d).

(h) ADMINISTRATIVE PROVISION.—The Secretary shall keep each participating jurisdiction informed of the status of its housing investment trust fund, including the status of amounts under various stages of commitment.

SEC. 319. REPAYMENT OF INVESTMENT.

(a) IN GENERAL.—Any repayment of funds drawn from a jurisdiction's housing investment trust fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's housing investment trust fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 317(d). Repayments of funds under this subsection are not receipts of the Federal Government.

(b) ASSURANCE OF REPAYMENT.—Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this subtitle are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the housing investment trust fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 317(d).

(c) AVAILABILITY.—The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a housing investment trust fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this subtitle that apply to funds that are allocated under section 317. Actions authorized under the preceding sentence may include the establishment for a participating jurisdiction of a housing investment trust fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subtitle.

SEC. 320. MATCHING REQUIREMENTS.

(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to affordable housing assisted under this subtitle that total, throughout a fiscal year, not less than—

(1) 25 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to rental assistance and housing rehabilitation;

(2) 33 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to substantial rehabilitation; and

(3) 50 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to new construction.

Such contributions shall be in addition to any amounts made available under section 316(2)(A)(ii).

(b) RECOGNITION.—A contribution shall be recognized for purposes of subsection (a) only if it is made with respect to housing that qualifies as affordable housing under section 315.

(2) ADMINISTRATIVE EXPENSES.—Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of funds provided for investment under this title.

(c) FORM.—Such contributions may be in the form of—

(1) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(2) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(3) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferrd in a manner that achieves affordability of housing assisted under this title;

(4) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(5) the value of sweat equity invested in the housing as determined by the Secretary;

(6) the value of investment in on-site and off-site infrastructure required for affordable housing assisted under this subtitle, or

(7) such other in-kind contributions as the Secretary may approve.

(d) REDUCTION OF REQUIREMENT.—If a jurisdiction demonstrates to the satisfaction of the Secretary that a reduction of the matching requirement specified in subsection (a) is necessary to permit the jurisdiction to carry out the purposes of this title, the Secretary may reduce the matching requirement during a period not to exceed 3 years after the jurisdiction is first designated as a participating jurisdiction. Such reduction shall be not more than 75 percent in the first year, not more than 50 percent in the second year, and not more than 25 percent in the third year.

SEC. 321. PRIVATE-PUBLIC PARTNERSHIP.

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in the implementation of the jurisdiction's housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction's housing strategy.

SEC. 322. DISTRIBUTION OF ASSISTANCE.

(a) LOCAL.—Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this subtitle geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction's approved housing strategy.

(b) STATE.—Participating States shall be responsible for distributing assistance throughout the State according to the State's assessment of the geographical distribution of the housing need within the State, as identified in the State's approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 105 of this Act. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

SEC. 323. SET-ASIDE FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) IN GENERAL.—Each participating jurisdiction, for a period of 18 months after funds under this subtitle are made available to the jurisdiction, shall reserve not less than 10 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Following the third year after a jurisdiction first becomes a participating jurisdiction, the share to be reserved under the previous sentence shall increase to 15 percent, unless the jurisdiction annually demonstrates to the satisfaction of the Secretary that such amounts cannot be used effectively by qualified community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

(b) RECAPTURE AND REUSE.—If any reserved funds remain uninvested for a period of 18 months and the participating jurisdiction demonstrates to the satisfaction of the Secretary that it has complied with subsection (a) but such funds cannot be used effectively within the participating jurisdiction by qualified community housing development organizations, then the participating jurisdiction shall, for a period not to exceed 12 months, have the right to invest not more than 50 percent of such funds without regard to the requirements of subsection (a), and the Secretary shall, to the extent deemed appropriate by the Secretary, make the remainder of such funds available by incentive allocation (1) among community housing development organizations to achieve the purposes of this title, or (2) among eligible organizations to carry out capacity development of community housing development organizations consistent with section 352(3), with preference to community housing development organizations serving the jurisdiction.

(c) RECAPTURE AND DEDUCTION.—If any reserved funds remain uninvested for a period of 18 months and the participating jurisdiction has not demonstrated to the satisfaction of the Secretary that it has complied with subsection (a), the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's housing investment trust fund and make such funds available by incentive allocation among community housing development organizations giving preference to approvable applications from qualified community housing development organizations for affordable housing within the boundaries of the jurisdiction.

(d) INCENTIVE ALLOCATION CRITERIA.—Insofar as practicable, incentive allocations under this section shall be made according to the selection criteria established under section 317(c).

SEC. 324. PENALTIES FOR MISUSE OF FUNDS.

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this subtitle and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdic-

tion's housing investment trust fund by the amount of any expenditures that were not in accordance with the requirements of this subtitle, and the Secretary may—

(1) prevent withdrawals from the participating jurisdiction's housing investment trust fund for activities affected by such failure to comply;

(2) restrict the participating jurisdiction's activities under this title to activities that conform to one or more model programs made available under section 313; or

(3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this subtitle.

SEC. 325. LIMITATION ON JURISDICTIONS UNDER COURT ORDER.

Notwithstanding any other provision of this Act, if a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964, the Fair Housing Act, or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or if a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, the Secretary shall ensure that funds provided under this subtitle shall be employed to carry out all housing remedies, other than fines or penalties, required by such judgment or settlement until the Secretary is satisfied that all such housing remedies have been carried out.

SEC. 326. TENANT AND PARTICIPANT PROTECTIONS.

(a) LEASE.—(1) The lease between a tenant and an owner of affordable housing assisted under this title for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(2) Each lease shall provide that the tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in activity that adversely affects the health, safety, or right to quiet enjoyment of the premises of other tenants, and shall not engage in criminal activity, including drug-related criminal activity, that threatens the health or safety of, or right to quiet enjoyment by, the other tenants of the premises, and such criminal activity shall be cause for termination of tenancy.

(b) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by the owner's service upon the tenant of a written notice specifying the grounds for the action.

(c) MAINTENANCE AND REPLACEMENT.—The owner of rental housing assisted under this title shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(d) TENANT SELECTION.—The owner of rental housing assisted under this title shall adopt written tenant selection policies and criteria that are (1) consistent with the purpose of providing housing for very low-income and low-income families, and (2) reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease. Tenants shall be selected from a written waiting list in the chronological order of their application, insofar as is practicable. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

SEC. 327. MONITORING OF COMPLIANCE.

(a) ENFORCEABLE AGREEMENTS.—Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this title. Such measures shall provide for (1) enforcement of the provisions of this title by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) PERIODIC MONITORING.—Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this title for rental to assess compliance with the requirements of this title. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 108(a) and made available to the public.

SEC. 328. TRANSITION RULE FOR RENTAL REHABILITATION PROGRAM.

Notwithstanding any other provision of this title, the Secretary shall, during fiscal years 1991 and 1992, set aside such portion of the funds made available under section 317(a)(1)(A) that is equal to the amount appropriated in fiscal year 1990 under section 17(a) of the United States Housing Act of 1937 to carry out a transitional rental rehabilitation program. The Secretary shall administer such program in accordance with the rules and regulations promulgated pursuant to sections 17(a), (b) and (c) of the United States Housing Act of 1937 that were in effect on the date of enactment of this Act.

SEC. 329. EQUAL OPPORTUNITY.

(a) SOLICITATION OF CONTRACTS.—Each participating jurisdiction shall prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts, entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Before the end of the 180-day period beginning on the date regulations are promulgated under this title, the Secretary shall submit to the Congress a report containing a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as the Department may determine to be appropriate to carry out the purposes of such subsection.

(2) REPORT.—The Secretary shall include in each annual report required under section 383 a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as may be appropriate to carry out the purposes of such subsection.

Subtitle B—Mortgage Credit Enhancement

SEC. 331. ESTABLISHMENT OF COMMISSION ON CREDIT ENHANCEMENT.

There is created a Commission on Credit Enhancements ("Commission"), which shall exist for 9 months after the appointment of the members. The Commission shall carry out a study of ways in which financing for affordable housing may be made available to assist in the most efficient implementation of comprehensive housing affordability strategies of participating jurisdictions. In conducting the study, the Commission shall draw upon the expertise of such representatives of State and local government, State and local housing finance agencies, agencies of the United States, government-sponsored mortgage finance corporations, for-profit and nonprofit housing developers, private financial institutions, and sources of long-term mortgage investment, as the Commission determines to be appropriate. The Commission shall, in all other respects, be subject to the provision of the Federal Advisory Committee Act.

SEC. 332. COMPOSITION OF THE COMMISSION.

(a) APPOINTMENTS.—The Commission shall be composed of 15 members to be appointed from among individuals who have expertise and broad experience related to the purposes of the Commission, of whom—

(1) 5 shall be appointed by the Secretary;

(2) 5 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(3) 5 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(b) QUALIFICATIONS.—Membership of the Commission shall include—

(1) not less than 3 persons who have had distinguished, private sector careers in the housing finance, management, or development industries;

(2) not less than 3 persons from State government who have made outstanding achievements in housing finance or development;

(3) not less than 3 persons from local government who have made outstanding achievements in housing finance or development;

(4) not less than 3 persons who have backgrounds of leadership in representing the interests of low-income tenants; and

(5) not less than 3 persons who have achieved excellence in nonprofit housing development.

(c) POLITICAL AFFILIATION.—Not more than 8 members of the Commission may be from any one political party. All members shall be appointed within 6 months of the enactment of the National Affordable Housing Act.

(d) REPORT.—The Commission shall submit to the Secretary and the Congress its final report containing any recommendations for legislative or administrative actions needed to improve the availability of mortgage finance for affordable housing. Such report shall include any minority views. The study shall include, but need not be limited to, an assessment of—

(1) the need for the Department of Housing and Urban Development, government sponsored mortgage finance corporations, or other agencies of the United States to provide partial credit enhancement to make fi-

nancing for affordable housing available efficiently and at the lowest possible cost; and

(2) alternative ways in which—

(A) the Department could provide any needed credit enhancement on a one-stop basis for participating jurisdictions, in coordination with other forms of assistance under this subtitle;

(B) the Department or other agencies of the Federal Government could assist government-sponsored mortgage finance corporations in the financing of mortgages on affordable housing through the development of mortgage-backed securities that are more standardized and readily traded in the capital markets;

(C) the capacities of existing agencies of the United States could be used to provide mortgage finance more efficiently for affordable housing through government-sponsored mortgage finance corporations; and

(D) the interests of the Federal Government could be protected and any risks of loss could be minimized through requirements for fees, mortgage insurance, risk-sharing, secure collateral, and guarantees by other parties, and through standards relating to minimum capital and prior experience with underwriting, origination and servicing.

(e) ADMINISTRATION.—The Commission shall meet at Washington, District of Columbia, as requested by the Secretary or approved by a majority of the members. The Commission shall select its chairman, vice chairman and secretary, and adopt methods of procedure.

(f) COMPENSATION.—Subject to the provision of section 7 of the Federal Advisory Committee Act, all members of the Commission may be compensated, and shall be entitled to reimbursement from HUD for traveling expenses incurred in attendance at meetings of the Commission.

Subtitle C—Other Support for State and Local Housing Strategies

SEC. 351. AUTHORITY.

The Secretary shall, insofar as is feasible through contract with eligible organizations, develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit corporations, working in partnership, to identify and meet needs for an increased supply of decent, affordable housing.

SEC. 352. PRIORITIES FOR CAPACITY DEVELOPMENT.

To carry out section 351, the Secretary shall provide assistance under this subtitle to—

(1) facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this title, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies, particularly those States and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) increase the ability of community housing development organizations to maintain, rehabilitate or construct housing for low-income and moderate-income families, particularly in areas with substantial need for such housing and inadequate resources to produce such housing;

(4) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this title;

(5) increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income home buyers;

(6) support locally initiated efforts to establish privately owned, local community development banks and credit unions to finance affordable housing;

(7) improve the ability of States and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing; and

(8) facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance and demonstration projects.

SEC. 353. CONDITIONS OF CONTRACTS.

(a) ELIGIBLE ORGANIZATIONS.—The Secretary shall carry out this subtitle insofar as is practicable through contract with—

(1) a participating jurisdiction or agency thereof;

(2) a public purpose organization established pursuant to State or local legislation and responsible to the chief elected official of a participating jurisdiction;

(3) an agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this title;

(4) a national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (1), (2), or (3); or

(5) a nonprofit organization that—

(A) customarily provides in more than one State services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(B) has demonstrated experience in providing a range of assistance, such as financing, grants, technical assistance, construction and property management assistance, capacity building and training, to community housing development organizations or similar organizations that engage in community revitalization; and

(C) has a demonstrated ability to provide technical assistance and training for local developers of affordable housing.

(b) CONTRACT TERMS.—Contracts under this section shall be for not more than 3 years and shall provide not more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 20 percent of the funds appropriated under this subtitle in that fiscal year.

(c) MATCHING REQUIREMENT FOR TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall not enter into contracts pursuant to paragraph (3) of section 352 for amounts that exceed 50 percent of the projected costs that the Secretary determines to be appropriately related to a project in preparation for approval of an application for assistance under this Act and insurance under the National Housing Act.

(2) ELIGIBLE USES OF FUNDS UNDER THIS SECTION.—Funds made available under paragraph (3) of section 352 may be used only for costs that the Secretary determines to be customary and reasonable project preparation costs, including but not limited to—

(A) assessment of market and financial feasibility;

(B) engagement of a development team;

(C) preliminary design and engineering costs;

(D) site control and title clearance;

(E) cost estimation; and

(F) other professional costs related to the development of the housing, including committed staff.

(3) ELIGIBLE MATCHING CONTRIBUTIONS.—An organization entering into a contract with the Secretary under this section shall make matching contributions to project preparation costs from non-Federal resources in amounts not less than 50 percent of the project preparation costs, as determined by the Secretary under paragraph (1), which contributions may include but not necessarily be limited to—

(A) costs that are eligible under paragraph (2);

(B) identification, screening, and counseling of prospective residents; and

(C) administrative and planning costs that the Secretary determines are appropriately related to the project and the ongoing provision of affordable housing in the area to be served by the project.

(4) ADJUSTMENTS OF OTHER ASSISTANCE.—The Secretary shall take account of assistance provided to a project under paragraph (3) of section 352 when adjusting other assistance to be provided to the project as required by section 102(d) of the Department of Housing and Urban Development, Reform Act of 1989.

SEC. 354. RESEARCH IN HOUSING AFFORDABILITY.

The Secretary is authorized to support, through contracts with eligible organizations and otherwise, such research and publishing such reports as will assist in the achievement of the purposes of this title. Activities authorized by the previous sentence may include an ongoing analysis of the impact of public policies at the Federal, State, and local levels, both individually and in the aggregate, on the incentives to expand and maintain the supply of energy-efficient affordable housing in the United States, particularly in areas with severe problems of housing affordability. For purposes of this section, agencies of the United States, government-sponsored mortgage finance corporations, and qualified research organizations shall be included as eligible organizations in addition to eligible organizations specified under section 353.

Subtitle D—Specified Model Programs

SEC. 361. IN GENERAL.

Among the alternative model programs that the Secretary shall make available for use by participating jurisdictions under the provisions of section 313 shall be model programs specified in this subtitle.

SEC. 362. RENTAL REHABILITATION.

(a) IN GENERAL.—The Secretary shall make available a model program to support the rehabilitation of privately owned rental housing located in neighborhoods where the median income does not exceed 80 percent of the area median as determined by the Secretary and where rents can reasonably

be expected not to change materially over an extended period of time.

(b) AMOUNT OF SUBSIDY.—The amount of the rehabilitation subsidy shall be moderate and shall generally not exceed 50 percent of the total costs associated with the rehabilitation of the housing.

(c) OWNER AGREEMENTS.—Owners of assisted housing shall agree not to discriminate against prospective tenants on the basis of their receipt of or eligibility for housing assistance under any Federal, State or local housing assistance program for at least 10 years beginning on the date on which the rehabilitated units in the housing are made available for occupancy. For the purposes of activities under such model program, the Secretary may determine, under section 315(a)(1)(E) of this Act, that a period of 10 years is the longest feasible period of time consistent with sound economics.

(d) ADDITIONAL RESTRICTIONS.—The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 17(c) of the United States Housing Act of 1937.

SEC. 363. REHABILITATION LOANS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide direct loans to finance the rehabilitation of low and moderate income single family and multifamily residential properties.

(b) CONDITION OF LOANS.—The Secretary shall establish terms and conditions to ensure that such loans are acceptable risks, taking into consideration the need for rehabilitation, the security for the loan and the ability of the borrower to repay the loan. The Secretary may establish the interest rate for loans under the model program, which shall include special interest rates for loans to borrowers with incomes below 80 percent of the area median income.

(c) ADDITIONAL RESTRICTIONS.—Guidelines for the model program may require that the property—

(1) be located in an area that contains a substantial number of dwellings in need of rehabilitation;

(2) the property is residential and owner-occupied; and

(3) the property is in need of rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with a local plan for rehabilitation or code enforcement.

Additional guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 312 of the Housing Act of 1964.

SEC. 364. SWEAT EQUITY MODEL PROGRAM.

(a) IN GENERAL.—The Secretary shall make available to participating jurisdictions as described in section 313 a model program to provide grants to public and private nonprofit organizations and community housing development organizations to provide technical and supervisory assistance to low-income and very low-income families, including the homeless, in acquiring, rehabilitating, and constructing housing by the self-help housing method.

(b) REHABILITATION OF PROPERTIES.—The program shall target for rehabilitation properties which have been acquired by the Federal, State, or local governments.

(c) HOMEOWNERSHIP OPPORTUNITIES THROUGH SWEAT EQUITY.—

(1) The program shall utilize the skilled or unskilled labor of eligible families in exchange for acquisition of the property.

(2) Basic training shall be provided to eligible families in home maintenance skills and homeownership counseling.

(d) RENTAL OPPORTUNITIES THROUGH SWEAT EQUITY.—(1) The program shall include rental opportunities for eligible families which will help expand the stock of affordable housing which is most appropriate for the target group.

(2) The use of the tenant's skilled or unskilled labor shall be encouraged in lieu of or as a supplement to rent payments by the tenant.

(e) DEFINITION.—The term "self-help housing" means the same as in section 523 of the Housing Act of 1949.

(f) ADDITIONAL RESTRICTIONS.—The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 523 of the Housing Act of 1949.

Subtitle E—General Provisions

SEC. 381. NONDISCRIMINATION.

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

SEC. 382. ANNUAL AUDITS AND ACCOUNTABILITY.

(a) INDEPENDENT AUDITS.—The Secretary, except as provided in paragraph (b)(1), shall contract annually with an independent accounting firm to provide for a full financial audit of the records of the Housing Opportunities Partnerships program for each fiscal year. Each audit shall be performed as soon as practicable after the close of the fiscal year and in accordance with generally accepted Government auditing standards approved by the Comptroller General of the United States ("Comptroller General"), and shall be consistent with the requirements of sections 9105 and 9106 of title 31, United States Code. The Secretary shall promptly submit the report of the independent accounting firm to the Congress, consistent with the requirements of section 9106 of title 31, United States Code, and such report shall be published. The requirement for an audit under this section shall be in lieu of the requirement for an audit by the Comptroller General under section 9105(a) of title 31, United States Code.

(b) AUDITS BY THE COMPTROLLER GENERAL.—

(1) AUDITS OF THE HOUSING OPPORTUNITIES PARTNERSHIPS PROGRAM.—The Comptroller General, when the Comptroller General deems it to be appropriate or when requested by the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Banking, Finance and Urban Affairs of the House of Representatives, shall conduct a full financial audit of the records of the Housing Opportunities Partnerships program for any fiscal year. The initiation of an audit for a fiscal year under the previous sentence shall obviate the requirement for an audit by an independent accounting firm under paragraph (a) for that fiscal year. The report of the Comptroller General shall be submitted promptly to the Secretary and the Congress and shall be published.

(2) AUDITS OF RECIPIENTS.—The financial transactions of participating jurisdictions and of other recipients of funds provided under this title may, insofar as they relate to funds provided under this title, be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

SEC. 383. UNIFORM RECORDKEEPING AND REPORTS TO THE CONGRESS.

(a) UNIFORM REQUIREMENTS.—The Secretary shall develop and establish uniform recordkeeping, performance reporting, and auditing requirements for use by participating jurisdictions.

(b) REPORT TO THE CONGRESS.—Not later than 120 days after the end of each fiscal year, the Secretary shall make an annual report to the Congress that summarizes and assesses the results of reports provided under this section.

SEC. 384. CITIZEN PARTICIPATION.

The Secretary shall ensure that each participating jurisdiction, and each jurisdiction seeking to become a participating jurisdiction, complies with the requirements of section 105(i) of this Act.

SEC. 385. LABOR.

Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a—276a-5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract. The Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

SEC. 386. INTERSTATE AGREEMENTS.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

SEC. 387. ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environ-

ment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to participating jurisdictions under this title who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects the participating jurisdiction has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary,

(2) be executed by the chief executive officer or other officer of the recipient of assistance under this title qualified under regulations of the Secretary,

(3) specify that the recipient of assistance under this title has fully carried out its responsibilities as described under subsection (a), and

(4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the participating jurisdiction and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(d) ASSISTANCE TO A STATE.—In the case of assistance to States, the State shall perform those actions of the Secretary described in subsection (b) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such subsection.

TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY THROUGH HOPE

Subtitle A—HOPE Grants for Public and Indian Housing Homeownership

SEC. 401. HOPE FOR PUBLIC AND INDIAN HOUSING HOME- OWNERSHIP.

The United States Housing Act of 1937 is amended by adding the following new title at the end thereof:

"TITLE III—HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP

"AUTHORITY

"SEC. 301. (a) PROGRAM AUTHORITY.—The Secretary is authorized to make—

"(1) planning grants to help applicants to develop homeownership programs for specified public housing projects in accordance with this title; and

"(2) implementation grants to carry out specified public housing projects and homeownership programs in accordance with this title.

"(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

"(c) AUTHORIZATION.—There are authorized to be appropriated for grants under this title $96,000,000 for fiscal year 1991, $260,000,000 for fiscal year 1992, and $400,000,000 for fiscal year 1993, of which not more than $2,000,000 may be appropriated in any fiscal year for planning grants under this title. Sums appropriated pursuant to this subsection shall remain available until expended.

"PLANNING GRANTS

"SEC. 302. (a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for the following activities—

"(1) development of resident management corporations and resident councils;

"(2) training and technical assistance for applicants;

"(3) development of homeownership programs, including determining their affordability;

"(4) preliminary architectural and engineering work;

"(5) tenant and homebuyer counseling and training;

"(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

"(7) development of security plans; and

"(8) preparation of an application for an implementation grant under this title.

"(c) APPLICATION.—(1) An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) The Secretary shall require that an application contain at a minimum—

"(A) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located;

"(B) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, and the amount of the grant requested;

"(C) a description of the applicant and a statement of its qualifications;

"(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

"(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income.

"(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the extent of tenant interest in the development of a homeownership program for the project;

"(3) the potential for developing an affordable homeownership program and the suitability of the project for homeownership;

"(4) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

"(e) LIMITATION ON PLANNING GRANTS.—Assistance provided under this section with respect to any public housing project may not exceed $100,000.

"IMPLEMENTATION GRANTS

"SEC. 303. (a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this title.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for the following activities—

"(1) architectural and engineering work;

"(2) acquisition of the public housing project from a public housing agency for the purpose of transferring ownership to eligible families in accordance with an approved homeownership program;

"(3) rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary;

"(4) administrative costs of the applicant and any charges by the applicant for developing and carrying out the homeownership program;

"(5) legal fees;

"(6) counseling and training of homebuyers and homeowners under the homeownership program;

"(7) defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program;

"(8) defraying costs related to relocation of tenants who elect to move;

"(9) defraying costs related to any necessary temporary relocation of tenants during rehabilitation;

"(10) economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

"(11) funding of operating and replacement reserves of the project covered by the homeownership program; and

"(12) defraying some or all of the costs related to implementation of a replacement housing plan.

"(c) MATCHING FUNDING.—(1) Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section shall be provided from non-Federal sources to carry out the homeownership program.

"(2) Such contributions may be in the form of—

"(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 106(b) or section 106(d)

of the Housing and Community Development Act of 1974;

"(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

"(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

"(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

"(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

"(d) APPLICATION.—(1) An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) The Secretary shall require that an application contain at a minimum—

"(A) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that (i) the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located, and (ii) the matching funding required under subsection (c) shall be provided;

"(B) a request for an implementation grant, specifying the amount of the grant requested;

"(C) where applicable, an application for assistance under section 9 of this Act (i) specifying the proposed uses of such assistance and the period during which the assistance will be needed, and (ii) including an economic self-sufficiency plan specifying an estimated target date for phasing out the section 9 assistance;

"(D) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, specifying the activities proposed to be carried out and their estimated costs, demonstrating that the program will be affordable to eligible families, and identifying the schedules for carrying it out;

"(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(F) a workable plan for giving all tenants an opportunity to become owners, which plan shall identify—

"(i) the price at which the applicant intends to transfer ownership interests in, or shares representing, units in the project;

"(ii) the factors that will influence the setting of such price;

"(iii) how such price compares to the estimated appraised value of the ownership interests or shares;

"(iv) the underwriting standard the applicant plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

"(v) the financing arrangements the tenants are expected to pursue or be provided; and

"(vi) a workable schedule of sale (subject to the limitations of section 304(p)) based on estimated tenant incomes.

"(G) a description of the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

"(H) identification and description of the financing proposed;

"(I) where the applicant is not a public housing agency, the proposed sales price, if any, and terms to the applicant;

"(J) identification and description of the entity that will operate and manage the property;

"(K) a plan for—

"(i) identifying and selecting eligible families to participate in the homeownership program;

"(ii) providing relocation assistance to families who elect to move;

"(iii) assuring continued affordability by tenants, homebuyers, and homeowners in the project; and

"(iv) providing ongoing training and counseling for homebuyers and homeowners; and

"(L) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

"(2) the extent to which current tenants and other eligible families will be able to afford the purchase;

"(3) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

"(4) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program; and

"(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the National Affordable Housing Act.

"(f) APPROVAL.—The Secretary shall notify the applicant whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 9 assistance is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

"OTHER PROGRAM REQUIREMENTS AND LIMITATIONS

"SEC. 304. (a) LOCATION WITHIN PARTICIPATING JURISDICTIONS.—The Secretary may approve applications for grants under this title only for public housing projects located within the boundaries of jurisdictions that are participating jurisdictions under title III of the National Affordable Housing Act.

"(b) FINANCING.—(1) The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

"(2) Property transferred under this title shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

"(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

"(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

"(C) any debt obligation can be serviced from project income, including operating assistance that is provided in accordance with subsection (j); and

"(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (c) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this title.

"(3) Any lender that provides financing in connection with a homeownership program under this title shall give the public housing agency, resident management corporation, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

"(c) HOUSING STANDARDS.—(1) Public housing projects transferred under this title shall meet housing standards established by the Secretary. The Secretary, in response to a written plan contained in an application, may give an applicant a period of not to exceed 3 years (from the date the property is transferred from the public housing agency to the applicant or another entity specified in the approved application) to meet such housing standards.

"(2) A public housing agency shall not convey fee simple title to a public housing project transferred under this title until the property meets the housing standards established under paragraph (1).

"(d) QUALIFIED MANAGEMENT.—As a condition of approval of a homeownership program under this title, the resident management corporation (or such other entity representing the interests of the tenants) shall have demonstrated its abilities to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

"(e) ECONOMIC SELF-SUFFICIENCY PLAN.—Where a homeownership program involves the use of section 9 assistance for homebuyers or homeowners, the application shall include an economic self-sufficiency plan designed to reduce the need for the assistance through the provision of training, employment, and supportive services opportunities.

"(f) SALE BY PUBLIC HOUSING AGENCY TO APPLICANT OR OTHER ENTITY REQUIRED.—Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency shall transfer the project to such other applicant, in accordance with the approved homeownership program.

"(g) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in the project independence program authorized under section 14(j) of this Act, or in another economic self-sufficiency program specified by the Secretary.

"(h) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle.

"(i) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(j) OPERATING SUBSIDIES.—To the extent that the total income of a public housing project transferred under this title is not sufficient to cover the costs of operation, the public housing agency may enter into a 5-year operating assistance contract from amounts made available for use under section 9 of this Act, subject to the availability of appropriations, to provide assistance for the operating costs of an approved homeownership program. The total amount of the contract shall not exceed 5 times the current annual operating subsidy determined under section 9 of this Act with respect to the project for the year before sale of the project under this title, plus an annual inflation adjustment determined by the Secretary. The assistance shall be paid on an annual basis, and may not exceed an amount for each year that is equal to the annual operating subsidy determined under section 9 of this Act with respect to the project for the year before sale of the project under this title, plus an annual inflation adjustment determined by the Secretary.

"(k) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, business opportunities for lower income families, and supportive services related to the homeownership program; additional homeownership opportunities; and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(l) RESTRICTIONS ON RESALE BY HOMEOWNERS.—(1) A homeowner under a homeownership program may transfer the homeowner's interest in, or shares representing, the unit only (A) to low-income families; and (B) at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return on investment (subject to paragraph (2)), including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. Where a resident management corporation or resident council has jurisdiction over the unit, that entity shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity elects to purchase, it shall make the unit available for purchase by eligible families in accordance with the preferences established under subsection (f).

"(2) If the sale to the first eligible family is for less than market value, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for—

"(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

"(B) limiting the family's consideration for its interest in the property to the total of—

"(i) the contribution to equity paid by the family;

"(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

"(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity; such entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed;

"(C) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

"(D) any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit for at least 10 years.

"(3) Upon sale, the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

"(4) Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to paragraph (2) shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(m) REPLACEMENT PLAN.—(1) Public housing projects shall not be transferred under this title unless the Secretary has entered into a binding agreement with the local public housing agency to make available to such agency any Federal funding assistance to provide an additional decent, safe, sanitary, and affordable dwelling unit as a replacement for each unit in a public housing project to be transferred. Such replacement housing may consist of—

"(A) the development of new public housing units by the public housing agency in accordance with section 5;

"(B) the rehabilitation of vacant public housing units by the public housing agency in accordance with section 14(n)(1);

"(C) the use of 5-year, tenant-based rental assistance under section 8(b)(2) and section 8(o)(9);

"(D) the use of a State or local program that is comparable to any of the Federal programs referred to in subparagraphs (A) through (C) as to housing standards, eligibility, and contribution to rent, and provides a term of assistance of not less than 5 years;

"(E) where the applicant is a resident management corporation, resident council, or cooperative association, the acquisition of nonpublicly owned housing units, which the applicant shall operate as rental housing comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent; or

"(F) any combination of such methods.

"(2) Tenant-based rental assistance under section 8 (or a comparable State or local program) shall be counted as replacement housing only if the Secretary finds that replacement with assistance specified under subparagraphs (1) (A) and (B) is not feasible, and the supply of private rental housing actually available to those who would receive tenant-based assistance is sufficient for the total number of certificates and vouchers available in the community after implementation of the agreement under subparagraph (1) and that such supply is likely to remain available for the full 5-year term of such assistance. Notwithstanding the preceding sentence, vouchers may be used to provide replacement housing in any community where the vacancy rate for standard rental units renting at less than the fair market rental exceeds the national average vacancy rate for such units.

"(n) PROTECTION OF NON-PURCHASING FAMILIES.—(1) No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

"(2) If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of the operating assistance contract entered into under subsection (j), permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 3(a) of this Act or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project, or

(B) section 8 assistance for use in other housing.

"(3) The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

"(4) Tenants renting a unit in a project transferred under this subtitle shall have all rights provided to tenants of public housing under this Act.

"(o) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 302 and 303, and under section 14 of this Act, may be used for economic development activities under sections 302(b)(6) and 303(b)(10) for any project.

"(p) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for very low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection. Tenants renting a unit in a project transferred under this subtitle shall have all rights provided to tenants of public housing under this Act.

"(q) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—(1) Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (k) and (l)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(2) The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

"(3) The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

"DEFINITIONS

"SEC. 305. For purposes of this title—

"(1) The term 'applicant' means the following entities that may represent the tenants of the project: a public housing agency (including an Indian housing authority); a resident management corporation, established in accordance with requirements of the Secretary under section 20 of this Act; a resident council; a cooperative association; a public or private nonprofit organization; or a public body, including an agency or instrumentality thereof.

"(2) The term 'eligible family' means a family or individual who is a tenant in the public or Indian housing project on the date the Secretary approves an implementation grant, a lower income family, or a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture.

"(3) The term 'homeownership program' means a program providing for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

"(4) The term 'recipient' means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this title.

"(5) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the tenants of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the tenants of the housing.

"RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES

"SEC. 306. The provisions of this title shall not apply to housing developed or transferred for homeownership purposes prior to the enactment of the National Affordable Housing Act under the turnkey III, the mutual help, or any other homeownership program established under section 5(h), section 6(c)(4)(D), or section 21 of this Act.

"ANNUAL REPORT

"SEC. 307. The Secretary shall annually submit to the Congress a report setting forth—

"(1) the number, type, and cost of public housing units sold pursuant to this title;

"(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title;

"(3) the amount and type of financial assistance provided under and in conjunction with this title;

"(4) the amount of financial assistance provided under this title that was needed to ensure continued affordability and meet future maintenance and repair costs; and

"(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

"LIMITATION

"SEC. 308. Any authority of the Secretary under this title to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.".

SEC. 402. RELATED AMENDMENTS TO SECTION 18, DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

(a) REPEAL OF DISPOSITION AUTHORITY.—Section 18(b)(1) of such Act is amended by striking out "disposition" and inserting in lieu thereof the following: "disposition, and the tenant councils and resident management corporation, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application,".

(b) APPLICABILITY.—Section 18 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(e) The provisions of this section shall not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III of this Act.".

SEC. 403. RELATED AMENDMENT TO SECTION 8.

(a) ELIGIBILITY.—The first sentence of section 8(o)(3) of such Act is amended by—

(1) striking "or"; and

(2) insert the following before the period: ", or

"(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the National Affordable Housing Act.".

(b) REPLACEMENT HOUSING.—(1) Section 8(b) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months.".

(2) Section 8(o) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(9) The Secretary is authorized to enter into contracts with public housing agencies to provide rental vouchers for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this paragraph shall be for a term of not more than 60 months.".

SEC. 404. RELATED CIAP AMENDMENTS.

Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following subsection:

"(n)(1) The Secretary shall make available and contract to make available assistance in the form of grants for the purpose of rehabilitating vacant public housing units as replacement housing for public housing transferred in accordance with title III of this Act.

"(2) The Secretary shall make available and contract to make available assistance in the form of grants for the purpose of supplementing implementation grants made available in accordance with title III of this Act.

"(3) Grants under paragraphs (1) and (2) shall be made only from amounts provided for such purposes in appropriations Acts.".

SEC. 405. RELATED AMENDMENT TO RESIDENT MANAGEMENT.

Section 20(f)(1) of the United States Housing Act of 1937 is amended by adding in the first sentence after "financial assistance" the following: "for activities not in conjunction with activities assisted under title III of this Act.".

SEC. 406. RELATED AMENDMENT TO SECTION 9, PUBLIC HOUSING OPERATING SUBSIDIES.

Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) if a public housing agency transfers a public housing project in accordance with an approved homeownership program under title III of this Act, the payments received under this section with respect to such project shall continue for a 5-year period,

subject to the availability of appropriations for such purpose, in amounts not less than the amounts that would have been received without such transfer.".

SEC. 407. IMPLEMENTATION.

(a) IN GENERAL.—Not later than 120 days after the date funds authorized under title III of the United States Housing Act of 1937 first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this title. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice.

(b) TERMINATION OF EXISTING PUBLIC HOUSING HOMEOWNERSHIP PROVISIONS.—

(1) IN GENERAL.—Effective on the date of enactment of this Act, section 5(h) and section 21 of the United States Housing Act of 1937 are repealed.

(2) SAVINGS PROVISION.—The provisions of paragraph (1) shall not affect housing transferred for homeownership purposes prior to the enactment of this Act under section 5(h) or section 21 of this Act.

SEC. 408. APPLICABILITY.

In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that nothing in this title affects the program under section 202 of such Act.

Subtitle B—HOPE for HUD Multifamily Homeownership

SEC. 411. PROGRAM AUTHORITY.

(a) The Secretary is authorized to make—

(A) technical assistance grants to develop the capacity of applicants to develop and carry out homeownership programs for specified eligible properties in accordance with this subtitle;

(B) planning grants to enable applicants to develop homeownership programs for specified eligible properties in accordance with this subtitle; and

(C) implementation grants to enable applicants to carry out homeownership programs for specified eligible properties in accordance with this subtitle.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary—

(1) to provide housing assistance to an otherwise qualified eligible family, for use by the family in connection with the purchase and continued ownership by the family of an ownership interest in, or shares representing, a unit in the property; and

(2) to provide rental assistance for a nonpurchasing tenant who resides in the property on the date the Secretary approves an application for an implementation grant, for use by the tenant in that or another property.

(c) AUTHORIZATION.—There are authorized to be appropriated for grants under this subtitle $72,000,000 for fiscal year 1991, $195,000,000 for fiscal year 1992, and $300,000,000 for fiscal year 1993, of which not more than $1,000,000 may be appropriated in any fiscal year for technical assistance grants under this subtitle and not more than $1,000,000 may be appropriated in any fiscal year for planning grants under this subtitle. Sums appropriated pursuant to this subsection shall remain available until expended.

SEC. 412. TECHNICAL ASSISTANCE GRANTS.

(a) GRANTS.—The Secretary is authorized to make technical assistance grants to applicants for the purpose of developing the capacity of applicants to develop and carry out homeownership programs under this subtitle and under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and to develop and carry out other homeownership opportunities involving acquisition of single family property, containing no more than four units, owned by the Secretary.

(b) ELIGIBLE ACTIVITIES.—Technical assistance grants may be used for the purpose of providing training and technical assistance for potential applicants.

(c) APPLICATION.—(1) An application for a technical assistance grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) The Secretary shall require that an application contain at a minimum—

(A) a certification by the public housing official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the eligible property is located;

(B) a request for a technical assistance grant, specifying the activities proposed to be carried out, the schedule for completing the activities, and the amount of the grant requested; and

(C) a description of the applicant and a statement of its qualifications.

(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria, which shall include—

(1) the qualification or potential capabilities of the applicant; and

(2) such other factors as the Secretary determines to be appropriate for purposes of the program established by this title.

SEC. 413. PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle and facilitating resident management of eligible properties.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for the following activities—

(1) training and technical assistance of applicants related to the development of a specific homeownership program;

(2) development of homeownership programs, including determining their affordability;

(3) preliminary architectural and engineering work;

(4) tenant and homebuyer counseling and training;

(5) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(6) development of security plans;

(7) preparation of an application for an implementation grant under this subtitle or of a homeownership program proposal under the Low-Income Housing Preservation and Resident Homeownership Act of 1990; and

(8) the provision of financial assistance to resident management corporations and resident councils, as defined by the Secretary, in eligible properties that obtain, by contract or otherwise, technical assistance for the development of resident management entities in such projects, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of such properties, and the securing of such support, except that assistance under this paragraph may be provided with respect to a property owned other than by the Secretary only if the owner agrees to award of the assistance.

(c) APPLICATION.—(1) An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) The Secretary shall require that an application contain at a minimum—

(A) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located;

(B) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, and the amount of the grant requested;

(C) a description of the applicant and a statement of its qualifications;

(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

(E) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income.

(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential for developing an affordable homeownership program and the suitability of the property for homeownership; and

(4) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the subtitle in an effective and efficient manner.

(e) LIMITATION ON PLANNING GRANTS.—Assistance provided under this section with respect to any eligible property may not exceed $100,000.

SEC. 414. IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for the following activities—

(1) architectural and engineering work;

(2) acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with an approved homeownership program;

(3) rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary;

(4) administrative costs of the applicant and any charges by the applicant for developing and carrying out the homeownership program;

(5) legal fees;

(6) counseling and training of homebuyers and homeowners under the homeownership program;

(7) defraying costs related to ongoing training needs of the recipient related to developing and carrying out the homeownership program;

(8) defraying costs related to relocation of tenants who elect to move;

(9) defraying costs related to any necessary temporary relocation of tenants during rehabilitation;

(10) economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of the project's homebuyers and homeowners of the property covered by the homeownership program; and

(11) funding for operating and replacement reserves of the property covered by the homeownership program.

(c) MATCHING FUNDING.—(1) Each recipient shall assure that contributions equal to not less than 25 percent of the grant amounts made available under this section shall be provided from non-Federal sources to carry out the homeownership program.

(2) Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—(1) An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) The Secretary shall require that an application contain at a minimum—

(A) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that (i) the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located, and (ii) the matching funding required under subsection (c) shall be provided;

(B) a request for an implementation grant, specifying the amount of the grant requested;

(C) where applicable, an application for assistance under section 9 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(D) a description of the proposed homeownership program, consistent with section 415 and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, demonstrating the program will be affordable by eligible families, and identifying the schedule for carrying it out;

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a workable plan for giving all tenants an opportunity to become owners, which plan shall identify—

(i) the price at which the applicant intends to transfer ownership interests in, or shares representing, units in the project;

(ii) the factors that will influence the setting of such price;

(iii) how such price compares to the estimated appraised value of the ownership interests or shares;

(iv) the underwriting standard the applicant plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

(v) the financing arrangements the tenants are expected to pursue or be provided; and

(vi) a workable schedule of sale (subject to the limitations of section 415(m)) based on estimated tenant incomes.

(G) a description of the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(H) identification and description of the financing proposed;

(I) the proposed sales price and terms to an entity, if any, that will purchase the property for resale to eligible families;

(J) identification and description of the entity that will operate and manage the property;

(K) a plan for—

(i) identifying and selecting eligible families to participate in the homeownership program;

(ii) providing relocation assistance to families who elect to move;

(iii) assuring continued affordability by tenants, homebuyers, and homeowners in the property;

(iv) providing ongoing training and counseling for homebuyers and homeowners; and

(v) where homebuyers or homeowners under a homeownership program are expected to receive the benefit of Federal, State, or local assistance, promoting economic self-sufficiency of homebuyers and homeowners; and

(L) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) APPROVAL.—The Secretary shall notify the applicant whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

(f) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

(2) the extent to which current tenants and other eligible families will be able to afford to purchase;

(3) the quality and viability of the proposed homeownership program;

(4) the extent and urgency of the need to approve the application in order to protect the opportunity to provide homeownership of units in the property;

(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program; and

(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the National Affordable Housing Act.

SEC. 415. OTHER PROGRAM REQUIREMENTS AND LIMITATIONS.

(a) LOCATION WITHIN PARTICIPATING JURISDICTIONS.—The Secretary may approve applications for grants under this subtitle only for eligible properties located within the boundaries of jurisdictions that are participating jurisdictions under title III of the National Affordable Housing Act.

(b) FINANCING.—(1) The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the property, where applicable, by a resident or other entity for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the property. Financing may include use of the implementation grant, sale for cash, and other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) Property transferred under this subtitle shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) the Federal Government will not be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance that is provided in accordance with section 415; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (c) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subtitle.

(3) Any lender that provides financing in connection with a homeownership program

under this subtitle shall give the Secretary, the resident management corporation, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(c) HOUSING STANDARDS.—(1) Eligible properties transferred under this subtitle shall meet housing standards established by the Secretary. The Secretary, in response to a written plan contained in an application, may give an applicant a period of not to exceed 3 years (from the date the property is transferred from the Secretary or an existing owner to the applicant or another entity specified in the approved application) to meet such housing standards.

(2) Neither the Secretary nor an existing owner shall convey fee simple title to an eligible property transferred under this subtitle until the property meets the housing standards established under paragraph (1).

(d) QUALIFIED MANAGEMENT.—As a condition of approval of a homeownership program under this subtitle, the resident management corporation (or such other entity representing the interests of the tenants) shall have demonstrated its abilities to manage eligible properties by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

(e) ECONOMIC SELF-SUFFICIENCY PLAN.—Where a homebuyer or homeowner under a homeownership program is expected to receive the benefit of Federal, State, or local assistance, the application shall include an economic self-sufficiency plan designed to provide training, employment, and supportive services opportunities in order to eliminate the need for assistance for such persons.

(f) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in the project independence program authorized under section 14(j) of the United States Housing Act of 1937, or in another economic self-sufficiency program specified by the Secretary.

(g) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle.

(h) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, business opportunities for lower income families, and supportive services related to the homeownership program; additional homeownership opportunities; and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(i) RESTRICTIONS ON RESALE BY HOMEOWNERS.—(1) A homeowner under a homeownership program may transfer the homeowner's interest in, or shares representing, the unit only (A) to low-income families; and (B) at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return on investment (subject to paragraph (2)), including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low-income homebuyers.

(2) If the sale to the first eligible family is for less than fair market value, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for—

(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

(B) limiting the family's consideration for its interest in the property to the total of—

(i) the contribution to equity paid by the family;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity; such entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed;

(C) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the recipient or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

(D) any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit for at least 10 years.

(3) Upon sale, the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(4) Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to paragraph (2) shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(j) PROTECTION OF NONPURCHASING FAMILIES.—(1) No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(2) If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant in that or another property.

(3) The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

(k) SALE OF ELIGIBLE PROPERTIES BY THE SECRETARY—FORECLOSURE SALES.—In connection with a foreclosure sale, the Secretary may require, as a term or condition of sale, that an eligible property be used by the purchaser, and its successors and assigns, only in accordance with a homeownership program approved under this subtitle.

(l) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $225,000 from amounts made available under sections 413 and 414 may be used for economic development activities under sections 413(b)(5) and 414(b)(10) for any project.

(m) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for very low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(n) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—(1) Each recipient shall keep such records as may reasonably be necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (including any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (h) and (i)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) The Secretary shall have access for the purpose of audit and examination to any books, documents, papers and records of the recipient that are pertinent to assistance received under this subtitle.

(3) The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers and records of the recipient that are pertinent to assistance received under this subtitle.

(o) CERTAIN ENTITIES NOT ELIGIBLE.—Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

SEC. 416. SECTION 8 ASSISTANCE.

(a) HOMEOWNERSHIP.—To the extent that the total income of an eligible property transferred under this subtitle is not sufficient to cover the costs of operation, the Secretary may extend existing contracts for loan management assistance under section 8(v) for a period not to exceed 5 years and, if such extensions are not sufficient, provide additional rental assistance under section 8(b)(3), subject to the availability of appropriations, to provide assistance for the operating costs of an approved homeownership program.

(b) EXCEPTION TO SECTION 8 PREFERENCE.—The requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) shall not apply to the provision of assistance to a family residing in a dwelling unit in an eligible project on the date the Secretary approves an application for an implementation grant.

SEC. 417. DEFINITIONS.

For purposes of this title—

(1) The term "applicant" means the following entities that may represent the tenants of the housing: a resident management corporation or a resident council, established in accordance with requirements of the Secretary; a cooperative association; or a public or private nonprofit organization; a public body (including an agency or instrumentality thereof); or a public housing agency (including an Indian housing authority). For purposes of technical assistance grants under section 412, the term "applicant" also means any other entity determined to be suitable by the Secretary to receive a grant and to provide training and technical assistance to potential applicants for homeownership programs under this subtitle or to other entities interested in developing other homeownership opportunities involving eligible property.

(2) The term "eligible family" means a family or individual who is a tenant of the eligible property on the date the Secretary approves an implementation grant or who is a lower income family.

(3) The term "eligible property" means a multifamily rental property, containing five or more units, that is (A) owned by the Secretary and was financed by a loan or mortgage that was insured or held by the Secretary under the National Housing Act or by a loan held by the Secretary under section 312 of the Housing Act of 1964; (B) financed by a loan or mortgage that is held by the Secretary and was insured by the Secretary under such Act; or (C) determined by the Secretary to have serious physical or financial problems under the terms of such an insurance or loan program. For purposes of technical assistance grants under section 412, the term "eligible property" also means single family property, containing no more than four units, owned by the Secretary and eligible low-income housing, as defined in the Low-Income Housing Preservation and Resident Homeownership of 1990. For purposes of planning grants under section 413(b)(8), the term "eligible property" also means a property insured under the National Housing Act and assisted under section 8 of the United States Housing Act of 1937.

(4) The term "homeownership program" means a program providing for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(6) The term "low income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this subtitle or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(9) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 418. ANNUAL REPORT.

The Secretary shall annually submit to the Congress a report setting forth—

(1) the number, type and cost of eligible properties transferred pursuant to this subtitle;

(2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this subtitle;

(3) the amount and type of financial assistance provided under and in conjunction with this subtitle;

(4) the amount of financial assistance provided under this subtitle that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

SEC. 419. LIMITATION.

Any authority of the Secretary under this subtitle to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.

SEC. 420. EXEMPTION.

Eligible property covered by a homeownership program approved under this subtitle shall not be subject to (1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990, or (2) the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

SEC. 421. RELATED NATIONAL HOUSING ACT AMENDMENT.

Section 203(b)(9) of the National Housing Act is amended by inserting after "Housing Act of 1961," the following: "or with respect to a mortgage covering a single family home in connection with a homeownership program under title IV of the National Affordable Housing Act,".

SEC. 422. RELATED SECTION 8 AMENDMENT.

Section 8(b) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(3) The Secretary is authorized to enter into a contract for assistance payments with an owner of eligible property transferred in accordance with subtitle B of title IV of the National Affordable Housing Act to provide assistance for the operating costs of an approved homeownership program. Each contract entered into under this section shall be for a term of not more than 60 months.".

SEC. 423. IMPLEMENTATION.

Not later than 120 days after the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice.

Subtitle C—HOPE for Homeownership Through Nonprofit Organizations

SEC. 431. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized to make implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this section which will be used for a homeownership program covering an occupied eligible property, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary to provide rental assistance for a non-purchasing tenant who resides in the property on the date the Secretary approves the application for an implementation grant, for use by the tenant in that or another property.

(c) AUTHORIZATION.—There are authorized to be appropriated for grants under this subtitle $72,000,000 for fiscal year 1991, $195,000,000 for fiscal year 1992, and $300,000,000 for fiscal year 1993. Sums appropriated pursuant to this subsection shall remain available until expended.

SEC. 432. IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for the following activities—

(1) architectural and engineering work;

(2) acquisition of the property for the purpose of transferring ownership to eligible families in accordance with an approved homeownership program;

(3) rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary;

(4) administrative costs of the applicant and any charges by the applicant for developing and carrying out the homeownership program;

(5) legal fees;

(6) counseling and training of homebuyers and homeowners under the homeownership program;

(7) defraying costs related to ongoing training needs of the recipient that are re-

lated to developing and carrying out the homeownership program;

(8) defraying costs related to relocation of tenants who elect to move;

(9) defraying costs related to any necessary temporary relocation of tenants during rehabilitation; and

(10) funding of replacement reserves of the property covered by the homeownership program.

(c) MATCHING FUNDING.—(1) Each recipient shall assure that contributions equal to not less than 25 percent of the grant amounts under this section are provided from non-Federal sources to carry out the homeownership program.

(2) Such contributions may be in the form of—

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—(1) An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) The Secretary shall require that an application contain at a minimum—

(A) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that (i) the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located and (ii) the matching fund required under subsection (c) shall be provided;

(B) a request for an implementation grant, specifying the amount of the grant requested;

(C) where section 8 assistance is to be used, (i) a certification from the applicant that it has entered into an agreement with a public housing agency under which the agency has agreed to apply for and administer any necessary section 8 assistance for use under the homeownership program; or (ii) an application from a public housing agency for assistance under section 9 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(D) a description of the qualifications and experience of the applicant in providing lower income housing; and where the applicant is a private nonprofit organization, a statement from the State or unit of general local government endorsing the application;

(E) a description of the proposed homeownership program, consistent with section 422 and the other requirements of this subtitle (i) specifying the activities proposed to be carried out and their estimated costs (including an estimated range of acquisition and rehabilitation costs), (ii) identifying the area proposed to be served, (iii) demonstrating the financial affordability of the program, and (iv) identifying the schedule for carrying out the proposed program;

(F) where properties are occupied by tenants, a workable plan for giving all tenants an opportunity to become owners, which plan shall identify—

(i) the price at which the applicant intends to transfer ownership interest in or shares representing, the unit or units in the project;

(ii) the factors that will influence the setting of such price;

(iii) how such price compares to the estimated appraised value of the ownership interests or shares;

(iv) the underwriting standard the applicant plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

(v) the financing arrangements the tenants are expected to pursue or be provided; and

(vi) a workable schedule of sale (subject to the limitations of section 414(m)) based on estimated tenant incomes;

(G) a description of the types of properties to be covered by the homeownership program (identifying the current owners, in the case of eligible property as defined in sections 424(3) (A) and (B), and demonstrating that it appears feasible to acquire eligible property from the owners), and a description of the composition of potential eligible families, including family size and income;

(H) a description of the resources that are expected to be made available to provide the matching funding required under subsection (c);

(I) identification and description of the financing proposed;

(J) a plan for—

(i) identifying and selecting eligible families to participate in the homeownership program;

(ii) providing relocation assistance to families who elect to move; and

(iii) assuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this subtitle, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the quality and viability of the proposed homeownership program;

(3) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned; and

(4) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the National Affordable Housing Act.

SEC. 433. OTHER PROGRAM REQUIREMENTS AND LIMITATIONS.

(a) HOMEOWNERSHIP PROGRAM.—A homeownership program under this subtitle shall provide for—

(1) the recipient to acquire the eligible property and to reimburse the seller;

(2) the eligible family to acquire an ownership interest in, or shares representing, the unit from the recipient only if the unit meets housing standards established by the Secretary;

(3) the eligible family to make payments towards the costs of homeownership in accordance with the affordability standards set forth in the homeownership program;

(4) the eligible family to make or cause to be made repairs and improvements required to (A) correct all defects that pose a substantial danger to health and safety within one year, (B) make such repairs and improvements to the property as may be necessary to meet housing standards established by the Secretary within three years, and (C) permit reasonable periodic inspections at reasonable times by the unit of general local government or the recipient; and

(5) the recipient to convey fee simple title to, or shares representing, the unit, upon compliance by the family with the requirements of paragraph (4) and any other requirements specified by the Secretary.

(b) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who participate in the project independence program under section 14(j) of the United States Housing Act of 1937 or another economic self-sufficiency program specified by the Secretary.

(c) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle.

(d) RESALE BY HOMEOWNERS.—(1) A homeowner under a homeownership program may transfer the homeowner's interest in, or shares representing, the unit only (A) to low-income families; and (B) at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return on investment (subject to paragraph (2)), including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low-income homebuyers.

(2) If the sale to the first eligible family is for less than market value, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for—

(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

(B) limiting the family's consideration for its interest in the property to the total of—

(i) the contribution to equity paid by the family;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity, such equity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed;

(C) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the recipient or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

(D) any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit.

(3) Upon sale, the entity that transferred ownership interests in, or shares representing, unity to eligible families, or another entity specified in the approved application, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(4) In the case of multifamily projects, 50 percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to paragraph (3) shall be paid to the recipient, for use by the recipient for eligible activities under this subtitle. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(e) PROTECTION OF NONPURCHASING FAMILIES.—(1) No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle. If the tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant (who meets the eligibility requirements under such section).

(2) The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

SEC. 434. EXCEPTION TO SECTION 8 PREFERENCE.

The requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) shall not apply to the provision of assistance to a family residing in a dwelling unit in an eligible property on the date the Secretary approves an application for an implementation grant.

SEC. 435. DEFINITIONS.

For purposes of this title—

(1) The term "applicant" means (A) a private nonprofit organization, or (B) a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term "eligible family" means a family or individual who is a lower income family and who does not currently own a home.

(3) The term "eligible property" means (A) a single family property, containing no more than four units, owned by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, a State or local government, or a public housing agency (including an Indian housing authority), (B) a multifamily property, containing five or more units, that is owned by any public entity specified in subparagraph (A), other than by the Secretary or a public housing agency, or (C) manufactured housing owned by the Secretary.

(4) The term "homeownership program" means a program providing for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(6) The term "low income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this title.

(9) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 436. IMPLEMENTATION.

Not later than 120 days after the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice.

TITLE V—AFFORDABLE RENTAL HOUSING

Subtitle A—Preservation of Affordable Rental Housing

SEC. 501. MANAGEMENT AND PRESERVATION OF FEDERALLY ASSISTED HOUSING.

(a) SECTION 236.—Section 236(f) of the National Housing Act is amended by adding the following new paragraph after paragraph (4):

"(5)(A) Notwithstanding paragraph (1), tenants whose incomes exceed 80 percent of area median income shall pay as rent the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located.

"(B) An owner shall phase in any increase in rents for current tenants resulting from subparagraph (A). Rental charges collected in excess of the basic rental charges shall continue to be credited to the reserve fund described in subsection (g)(1).".

(b) SECTION 221.—Section 221 of the National Housing Act is amended by inserting the following after subsection (k):

"(l)(1) Notwithstanding any other provision of law, tenants residing in eligible multifamily housing whose incomes exceed 80 percent of area median income shall pay as rent not more than the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located. An owner shall phase in any increase in rents for current tenants resulting from this subsection.

"(2) For purposes of this subsection, the term 'eligible multifamily housing' means any housing financed by a loan or mortgage that is (A) insured or held by the Secretary under subsection (d)(3) and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937; or (B) insured or held by the Secretary and bears interest at a rate determined under the proviso of subsection (d)(5).".

SEC. 502. FLEXIBLE SUBSIDY PROGRAM.

(a) EXTENSION.—Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1991" and inserting "September 30, 1993".

(b) AUTHORIZATION.—Section 201(j) of the National Housing Act is amended by adding at the end the following paragraph:

"(5) There are authorized to be appropriated for assistance under the flexible subsidy Fund not to exceed $50,000,000 for fiscal year 1991, $52,000,000 for fiscal year 1992, and $54,080,000 for fiscal year 1993.".

SEC. 503. PRESERVATION OF LOW-INCOME HOUSING AND RESIDENT HOMEOWNERSHIP.

(a) IN GENERAL.—Subtitles A and B of the Emergency Low Income Housing Preservation Act of 1987 are amended to read as follows:

"TITLE II—PRESERVATION OF LOW-INCOME HOUSING AND RESIDENT HOMEOWNERSHIP

"Subtitle A—Short Title

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Low-Income Housing Preservation and Resident Homeownership Act of 1990'.

"Subtitle B—Prepayment of Mortgages Insured Under the National Housing Act and Resident Homeownership

"SEC. 221. GENERAL PREPAYMENT LIMITATION.

"An owner of eligible low-income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary under this subtitle. An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act ('voluntary termination') only in accordance with a plan of action approved by the Secretary under this subtitle. A mortgagee may not foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project without the approval of the Secretary.

"SEC. 222. NOTICE OF INTENT.

"(a) FILING WITH THE SECRETARY.—An owner of eligible low-income housing that intends to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 224 or seeks to extend the low-income affordability restrictions of the housing in accordance with section 225, or transfer the housing to a qualified purchaser in accordance with section 226, shall file with the Secretary a notice indicating this intent in such form and manner as the Sec-

retary shall prescribe. An owner shall not be eligible to file a notice of intent under this subsection if—

"(1) the mortgage covering the housing falls into default on or after the effective date of the National Affordable Housing Act; or

"(2)(A) the mortgage covering the housing fell into default before, but is current as of, that date; and

"(B) the owner does not agree to recompense, in such amount as the Secretary may determine, the appropriate Insurance Fund for any losses sustained by the Fund as a result of any work-out or other arrangement agreed to by the Secretary and the owner with respect to the defaulted mortgage.

"(b) FILING WITH THE STATE OR LOCAL GOVERNMENT; COPY TO TENANTS.—The owner shall simultaneously file the notice of intent with the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located, and advise the tenants of the housing.

"SEC. 223. INFORMATION FROM THE SECRETARY: PLAN OF ACTION.

"(a) INFORMATION FROM THE SECRETARY.—

"(1) TO OWNER.—Within 6 months of receipt of a notice of intent under section 222 the Secretary shall provide the owner with such information as the owner needs to prepare a plan of action. In the case of an owner seeking to terminate the low-income affordability restrictions of the housing, this information shall include a description of the criteria specified under section 224 and the documentation required to satisfy such criteria. In the case of an owner seeking to extend the low-income affordability restrictions of the housing or transfer the housing to a qualified purchaser, this information shall include (A) notice of the housing's preservation value as calculated in accordance with section 228; and (B) a description of the Federal incentives authorized under sections 225 and 226 of this title.

"(2) TO TENANTS.—The Secretary shall make the information referred to in paragraph (1), as well as other information related to the rights and opportunities of the tenants, available to the tenants of the housing.

"(b) SUBMISSION OF PLAN OF ACTION.—

"(1) TIME FOR SUBMISSION.—Within 6 months of receipt of the information from the Secretary under subsection (a), the owner may submit the plan of action to the Secretary in such form and manner as the Secretary shall prescribe.

"(2) COPIES OF PLAN.—If the owner submits a plan to the Secretary under paragraph (1), the owner shall also submit a copy to the tenants of the housing. The owner shall simultaneously submit the plan of action to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located. An appropriate agency of such State or local government shall review the plan and advise the tenants of the housing of any programs that are available to assist the tenants in carrying out the purposes of this title.

"(3) FAILURE TO SUBMIT A PLAN.—If the owner does not submit a plan of action to the Secretary within the 6-month period referred to in paragraph (1) (or such longer period as the Secretary determines to be appropriate where the owner seeks to transfer the housing to a qualified purchaser), the notice of intent shall be null and void and the owner may not submit another notice of intent under section 222 for 6 additional months.

"(c) CONTENTS.—(1) If the notice of intent seeks to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 224, the plan of action shall include—

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of any proposed changes in the low-income affordability restrictions;

"(C) a description of any change in ownership that is related to prepayment or voluntary termination;

"(D) an assessment of the effect of the proposed changes on existing tenants;

"(E) an analysis of the effect of the proposed changes on the supply of housing affordable to low and very low-income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

"(F) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(2) If the notice of intent seeks to extend the low-income affordability restrictions of the housing in accordance with section 225 or transfer the housing to a qualified purchaser in accordance with section 226, the plan of action shall include—

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of the Federal incentives requested including cash flow projections, and analyses of how the owner will address any physical or financial deficiencies and maintain the low-income affordability restrictions of the housing;

"(C) a description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and the agencies; or

"(D) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(d) REVISIONS.—The owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle. The owner shall submit any revision to the Secretary and to the tenants of the housing.

"SEC. 224. PREPAYMENT AND VOLUNTARY TERMINATION.

"The Secretary may approve a plan of action that seeks termination of the low-income affordability restrictions through prepayment or voluntary termination only upon a written finding that—

"(1) implementation of the plan of action will not materially increase economic hardship for current tenants (and will not in any event result in (A) a monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (B) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower)) or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement; and

"(2) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

"(A) the availability of decent, safe, and sanitary housing affordable to low-income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

"(B) the ability of low-income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

"(C) the housing opportunities of minorities in the community within which the housing is located.

"SEC. 225. INCENTIVES TO EXTEND LOW-INCOME USE.

"(a) AGREEMENTS BY SECRETARY.—After receiving a plan of action from an owner of eligible low-income housing that includes the owner's plan to extend the low-income affordability restrictions of the housing, the Secretary shall, subject to the availability of appropriations for such purpose, enter into such agreements as are necessary to satisfy the criteria for approval under section 227.

"(b) PERMISSIBLE INCENTIVES.—Such agreements may include one or more of the following incentives that the Secretary, after taking into account local market conditions, determines to be necessary to provide an annual return equal to 8 percent of the owner's equity in the housing (the preservation value established under section 228 minus the outstanding balance on the HUD-assisted mortgage):

"(1) Increased access to residual receipts accounts.

"(2) Subject to the availability of amounts provided in appropriations Acts—

"(A) an increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or

"(B) additional assistance under section 8 or an extension of any project-based assistance attached to the housing.

"(3) An increase in the rents on units occupied by current tenants as permitted under section 227.

"(4) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

"(5) Financing of capital improvements through provision of insurance for a second mortgage under section 241 of the National Housing Act.

"(6) In the case of housing defined in section 233(a)(A)(iii), redirection of the Interest Reduction Payment subsidies to a second mortgage.

"(7) Other incentives authorized in law.

"(c) WINDFALL PROFITS.—The Secretary shall provide a report to the Congress within 90 days of the enactment of the National Affordable Housing Act, evaluating the availability, quality, and reliability of data to measure the accessibility of decent, affordable housing in all areas where properties are eligible to submit a notice of intent to prepay under section 222. To prevent payment of windfall profits, the Secretary may make available incentive payments only to owners in those rental markets where there is an adequate supply of decent, affordable housing, if the Secretary determines that adequate data can be obtained to permit objective and fair implementation.

"SEC. 226. INCENTIVES TO TRANSFER THE HOUSING TO QUALIFIED PURCHASERS.

"(a) IN GENERAL.—Where the notice of intent submitted by the owner under section 222 indicates an intention to transfer the housing to a qualified purchaser, the owner shall, prior to offering to sell the housing to any qualified purchaser, give priority purchasers a right of first offer to purchase the housing in accordance with subsection (b).

"(b) RIGHT OF FIRST OFFER.—(1) For the 3-month period following receipt of a notice of intent submitted by an owner under section 222, priority purchasers shall have an opportunity to give a written notice to the owner and the Secretary stating their interest in acquiring the housing ('expression of interest'). Such written notice shall be in such form and include such information as the Secretary may prescribe.

"(2) Within 30 days of receipt of an expression of interest by a priority purchaser, the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide appropriate information on the housing, to be determined by the Secretary. Priority purchasers shall have 9 months from the date of receipt of such information to negotiate a purchase with the owner and submit (with the owner) a plan of action requesting assistance under subsection (d).

"(c) OFFERS TO PURCHASE.—In the event that (1) no priority purchasers submit a timely expression of interest in acquiring the housing as provided in subsection (b); or (2) the owner is unable to reach agreement on the terms of a sale with any priority purchaser after the 9-month negotiation period has expired, the owner shall be free to offer to sell the housing to any other qualified purchaser.

"(d) ASSISTANCE.—(1) The Secretary shall approve a plan of action requesting assistance submitted by an owner and a qualified purchaser only if residents of the housing who comprise at least 50 percent of the units in the housing support such transfer. Where the qualified purchaser is a resident council, the Secretary shall, prior to approval, find that the council's proposed resident homeownership program meets the requirements specified in section 230. For all other qualified purchasers, the Secretary shall, prior to approval, find that the criteria of approval specified in section 227 have been satisfied.

"(2) The Secretary shall, for approvable plans of action, provide assistance sufficient to enable qualified purchasers to (A) acquire the eligible low-income housing from the current owner for a purchase price equal to the preservation value of the housing; (B) rehabilitate the housing up to housing standards established for this subtitle; and (C) establish adequate operating and replacement reserves. In the case of an approved resident homeownership program, the Secretary shall also provide assistance to cover the costs of training for the resident council, homeownership counseling and training, the fees for the nonprofit entity or public agency working with the resident council and costs related to relocation of tenants who elect to move.

"(3)(A) Where the qualified purchaser is a priority purchaser, the Secretary may provide assistance (in the form of a grant) for each unit in the housing in an amount, as determined by the Secretary, that is no greater than the present value of the total of the projected published fair market rents for existing housing established by the Secretary under section 8(c) of the United States Housing Act of 1937 for the next 10 years (or such longer period if additional assistance is necessary to cover the costs referenced under paragraph (2)).

"(B) For all qualified purchasers, the Secretary may provide assistance for an approved application in the form of one or more of the incentives authorized under section 225(b). The Secretary may also provide insurance for a second mortgage under subsections (d) and (f) of section 241 of the National Housing Act for purposes of acquisition and rehabilitation.

"(5)(A) For purposes of this title, the term 'priority purchaser' means (i) a resident council organized to acquire the housing in accordance with a resident homeownership program that meets the requirements of section 228; and (ii) qualified nonprofit organizations dedicated to the promotion of affordable housing and State and local agencies that agree to maintain low-income affordability restrictions for the remaining useful life of the housing.

"(B) The term 'qualified purchaser' includes priority purchasers and for-profit entities that agree to maintain low-income affordability restrictions for the remaining useful life of the housing.

"SEC. 227. CRITERIA FOR APPROVAL OF PLAN OF ACTION INVOLVING INCENTIVES.

"(a) IN GENERAL.—The Secretary may approve a plan of action that describes the owner's plan to extend the low-income affordability restrictions of the housing or transfer the housing to a qualified purchaser (other than a resident council) only upon finding that—

"(1) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title;

"(2) binding commitments have been made to ensure that—

"(A) the housing will be retained as housing affordable for very low-income families or persons, low income families or persons, and moderate-income families or persons for the remaining useful life of such housing;

"(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing;

"(C) current tenants will not be involuntarily displaced (except for good cause);

"(D) any increase in rent contributions for current tenants will be to a level that does not exceed 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937, whichever is lower (current tenants shall not qualify for a reduction in rent contributions by reason of this subparagraph);

"(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

"(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

"(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided if necessary to mitigate any adverse effect on current income-eligible tenants; and

"(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, low income families or persons, and moderate income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Secretary in February, 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing; and

"(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle and shall make provision for such annual rent adjustments as may be made necessary by future reasonable increases in operating costs; and

"(3) no incentives under sections 225 and 226 will go into effect until the Secretary determines the project meets housing standards established by the Secretary, except that incentives under such sections and other incentives designed to correct deficiencies in the project may be provided.

"(b) SECTION 8 RENTAL ASSISTANCE.—When providing rental assistance under section 8, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods as is necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):

"(1) Modify the binding commitments made pursuant to subsection (a) that are dependent on such rental assistance.

"(2) Terminate the plan of action and any implementing use agreements or restrictions, but only if the owner agrees in writing to take the actions specified in the plan to ensure that any tenants displaced are relocated to affordable housing.

At least 30 days before making a request under the preceding sentence, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under subsection (a).

"(c) RELOCATION OF DISPLACED TENANTS.—Any plan of action that includes incentives shall specify actions that the Secretary and the owner shall take to ensure that any tenants displaced as a result of modifications taken pursuant to subsection (b) are relocated to affordable housing.

"(d) AFFORDABILITY.—Agreements to maintain the low-income affordability restrictions for the remaining useful life of the housing may be made through execution of a new regulatory agreement, modifications to the existing regulatory agreement or mortgage, or, in the case of the prepayment

of a mortgage or voluntary termination of mortgage insurance, a recorded instrument.

"SEC. 228. PRESERVATION VALUE.

"(a) IN GENERAL.—The preservation value of eligible low-income housing under this subtitle shall be an amount equal to the fair market value of the housing as multifamily rental housing, as calculated in accordance with subsection (b).

"(b) FAIR MARKET VALUE DETERMINATION.—(1) The fair market value of the housing shall be determined by two independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the owner. If the two appraisers fail to agree on the fair market value, the Secretary and the owner shall jointly select a third appraiser, whose appraisal shall be binding on the parties.

"(2) The Secretary shall provide written guidelines for appraisals of fair market value under this section, which shall assume repayment of the existing HUD-assisted mortgage, termination of the existing low-income affordability restrictions and conversion to market rate, multifamily rental housing. Such guidelines shall establish methods for (A) determining rehabilitation expenditures that would be necessary to bring the housing up to quality standards required to attract and sustain a market rate tenancy upon conversion and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to market rate, multifamily rental housing. The guidelines may permit reliance upon assessments of rehabilitation needs and other conversion costs determined by an appropriate State agency, as determined by the Secretary. The value of the property calculated in accordance with the guidelines shall be discounted by such percentage as the Secretary determines to be an appropriate adjustment to reflect the residual value of the prior Federal assistance in the development, operation and maintenance of the housing.

"(3) The Secretary may approve a plan of action under section 225 or section 226 only based upon an appraisal conducted in accordance with this section that is not more than one year old.

"SEC. 229. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

"(a) NOTIFICATION OF DEFICIENCIES.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan could be revised to meet the criteria for approval.

"(b) NOTIFICATION OF APPROVAL.—

"(1) IN GENERAL.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

"(A) the reasons for withholding approval; and

"(B) the actions that could be taken to meet the criteria for approval.

"(2) OPPORTUNITY TO REVISE.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

"SEC. 230. RESIDENT HOMEOWNERSHIP PROGRAM.

"(a) FORMATION OF RESIDENT COUNCIL.—Tenants seeking to purchase eligible low-income housing in accordance with section 226 shall organize a resident council for the purpose of developing a resident homeownership program in accordance with standards established by the Secretary. The resident council shall work with a public or private nonprofit organization or a public body (including an agency or instrumentality thereof). Such organization or public body shall have experience that will enable it to help the tenants consider their options and to develop the capacity necessary to own and manage the housing, where appropriate, and shall be approved by the Secretary.

"(b) OTHER PROGRAM REQUIREMENTS AND LIMITATIONS.—

"(1) SALES TO RESIDENTS.—As a condition of approval of a homeownership program under this subtitle, the resident council shall prepare a workable plan acceptable to the Secretary for giving all residents an opportunity to become owners, which plan shall identify—

"(A) the price at which the resident council intends to transfer ownership interests in, or shares representing, units in the housing;

"(B) the factors that will influence the setting of such price;

"(C) how such price compares to the estimated appraised value of the ownership interests or shares;

"(D) the underwriting standard the resident council plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

"(E) the financing arrangements the tenants are expected to pursue or be provided; and

"(F) a workable schedule of sale (subject to the limitations of paragraph (8)) based on estimated tenant incomes.

"(2) APPROVAL OF METHOD OF CONVERSION.—The Secretary shall approve the method for converting the housing to homeownership, which may involve acquisition of ownership interests in, or shares representing, the units in a project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership).

"(3) REQUIRED CONDITIONS.—The Secretary shall require that the form of homeownership impose appropriate conditions, including conditions to assure that—

"(A) the number of initial owners that are very low-income, lower income, or moderate-income persons at initial occupancy meet standards required or approved by the Secretary;

"(B) occupancy charges payable by the owners meet requirements established by the Secretary;

"(C) the aggregate incomes of initial and subsequent owners and other sources of funds for the project are sufficient to permit occupancy charges to cover the full operating costs of the housing and any debt service; and

"(D) each initial owner occupies the unit it acquires.

"(4) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project; and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under section 226, subject to limitations contained in appropriations Acts.

Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(5) RESTRICTIONS ON RESALE BY HOMEOWNERS.—(A) A homeowner under a homeownership program may transfer the homeowner's interest in, or shares representing, the unit only (i) to low-income families; and (ii) at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return on investment (subject to paragraph (2)), including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low-income homebuyers.

"(B) If the sale to the first eligible family is for less than market value, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for—

"(i) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

"(ii) limiting the family's consideration for its interest in the property to the total of—

"(I) the contribution to equity paid by the family;

"(II) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

"(III) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity; such entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed;

"(iii) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the recipient or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

"(iv) any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit for at least 10 years.

"(C) Upon sale, the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

"(D) Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to subparagraph (B) shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportu-

nities in the project; and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under section 226, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(6) PROTECTION OF NONPURCHASING FAMILIES.—(A) No tenant residing in a dwelling unit in a property on the date the Secretary approves a plan of action may be evicted by reason of a homeownership program approved under this subtitle.

"(B) If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant (that meets the eligibility requirements under such section) in that or another property. The requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) of the United States Housing Act of 1937 shall not apply to the provision of assistance to such families.

"(C) The resident council shall also inform each such tenant that if the tenant chooses to move, the owner will pay relocation assistance in accordance with the approved homeownership program.

"(7) QUALIFIED MANAGEMENT.—As a condition of approval of a homeownership program under this subtitle, the resident council shall have demonstrated its abilities to manage eligible properties by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

"(8) TIMELY HOMEOWNERSHIP.—Resident councils shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the resident council shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of providing housing for very low-income families. The resident council shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(9) RECORDS AND AUDIT OF RESIDENT COUNCILS.—(A) Each resident council shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such resident council of the proceeds of assistance received under this subtitle (including any proceeds from sales under paragraphs (4) and (5)(D)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(B) The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

"(C) The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

"(10) Any entity that assumes, as determined by the Secretary, a mortgage covering low-income housing in connection with the acquisition of the housing from an owner under this section must comply with any low-income affordability restrictions for the remaining useful life of the housing. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

"SEC. 231. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

"(a) IN GENERAL.—The Secretary shall delegate responsibility for implementing this subtitle to a State housing agency if such agency submits a preservation plan acceptable to the Secretary.

"(b) APPROVAL.—State preservation plans shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary may approve plans that contain—

"(1) an inventory of low-income housing located within the State that is or will be eligible low-income housing under this subtitle within 5 years;

"(2) a description of the agency's experience in the area of multifamily financing and restructuring;

"(3) a description of the administrative resources that the agency will commit to the processing of plans of action in accordance with this title;

"(4) a description of the administrative resources that the agency will commit to the monitoring of approved plans of action in accordance with this subtitle;

"(5) an independent analysis of the performance of the multifamily housing inventory financed or otherwise monitored by the agency;

"(6) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State within which the eligible low-income housing is located; and

"(7) such other certifications or information that the Secretary determines to be necessary or appropriate to achieve the purposes of this subtitle.

"(c) IMPLEMENTATION AGREEMENTS.—The Secretary may enter into such agreements as are necessary to implement an approved State preservation plan, which agreements may include incentives that are authorized in other provisions of this subtitle.

"SEC. 232. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

"The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under this subtitle. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this subtitle.

"SEC. 233. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'eligible low-income housing' means any housing financed by a loan or mortgage—

"(A) that is—

"(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

"(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

"(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

"(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

"(B) that, under regulation or contract in effect before February 5, 1988, is or will within 18 months become eligible for prepayment without prior approval of the Secretary.

"(2) The term 'low-income affordability restrictions' means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low-income housing.

"(3) The terms 'low income families or persons' and 'very low-income families or persons' mean families or persons whose incomes do not exceed the respective levels established for low income families and very low-income families, respectively, under section 3(b)(2) of the United States Housing Act of 1937.

"(4) The term 'moderate-income families or persons' means families or persons whose incomes are between 80 percent and 95 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(5) The term 'owner' means the current or subsequent owner or owners of eligible low-income housing.

"(6) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(7) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the resident of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the housing.

"SEC. 234. NOTICE TO TENANTS.

"Where a provision of this subtitle requires that information or material be given to tenants of the housing, the requirement may be met by (a) posting a copy of the information or material in readily accessible locations within each affected building, or posting notices in each such location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined, and (b) supplying a copy of the information or material to a representative of the tenants.

"SEC. 235. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for assistance and incentives authorized under this subtitle $412,500,000 for fiscal year 1991, $858,000,000 for fiscal year 1992, and $892,320,000 for fiscal year 1993.

"SEC. 236. APPLICABILITY.

"The requirements of this subtitle shall apply to any project that is eligible low-income housing on or after November 1, 1987.".

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by striking the

items relating to subtitles A and B of title II and inserting the following:

"Subtitle A—Short Title

"Sec. 201. Short title.

"Subtitle B—Prepayment of Mortgages Insured Under the National Housing Act and Resident Homeownership

"Sec. 221. General prepayment limitation.
"Sec. 222. Notice of intent.
"Sec. 223. Information from the Secretary; plan of action.
"Sec. 224. Prepayment and voluntary termination.
"Sec. 225. Incentives to extend low-income use.
"Sec. 226. Incentives to transfer the housing to qualified purchasers.
"Sec. 227. Criteria for approval of plan of action involving incentives.
"Sec. 228. Preservation value.
"Sec. 229. Timetable for approval of plan of action.
"Sec. 230. Resident homeownership program.
"Sec. 231. Delegated responsibility to State agencies.
"Sec. 232. Consultations with other interested parties.
"Sec. 233. Definitions.
"Sec. 234. Notice to tenants.
"Sec. 235. Authorization of appropriations.
"Sec. 236. Applicability.".

SEC. 504. RELATED NATIONAL HOUSING ACT AMENDMENTS.

(a) CONFORMING AMENDMENTS.—Section 241(f) of the National Housing Act is amended by—

(1) in paragraph (1), striking out "section 233 of the Emergency Low Income Housing Preservation Act of 1987" and inserting in lieu thereof "section 232 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990";

(2) in paragraph (2)(A), striking out "value" and all that follows through the second comma and inserting in lieu thereof "preservation value determined by the Secretary under section 228 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990"; and

(3) in paragraph (2)(A), striking out "section 225(b) of the Emergency Low Income Housing Preservation Act of 1987" and inserting in lieu thereof "section 227 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990".

(b) APPROVAL PRIOR TO FORECLOSURE.—Section 250(b) of such Act is amended to read as follows:

"(b) A mortgagee may not foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any project to which subsection (a) of this section applies, without the approval of the Secretary.".

(c) REPEALER.—Section 250(c) of such Act is hereby repealed, and section 250(d) is redesignated as section 250(c).

SEC. 505. RELATED UNITED STATES HOUSING ACT OF 1937 AMENDMENTS.

Section 8(v)(2) of the United States Housing Act of 1937 is amended by striking out "Emergency Low Income Housing Preservation Act of 1987" and inserting in lieu thereof "Low-Income Housing Preservation and Resident Homeownership Act of 1990".

SEC. 506. EXTENSION OF PRIOR LAW UNTIL EFFECTIVE DATE OF THIS ACT.

Section 203 of the Emergency Low Income Housing Preservation Act of 1987 is hereby repealed. This section shall take effect upon enactment of this Act.

SEC. 507. TRANSITION.

Any owner of eligible low-income housing covered by the Emergency Low Income Housing Preservation Act of 1987 shall instead be subject to the Low-Income Housing Preservation and Resident Homeownership Act of 1990 unless the owner has (a) submitted a notice of intent under the Emergency Low Income Housing Preservation Act of 1987 before January 1, 1990, and (b) before the effective date of this title—

(1) has received approval from the Secretary of Housing and Urban Development to prepay a mortgage or voluntarily terminate mortgage insurance pursuant to a plan of action approved under section 225(a) of the Emergency Low Income Housing Preservation Act of 1987, and

(2) has (A) executed and recorded a use restriction or regulatory agreement modification under a plan of action approved by the Secretary under section 225(b) of such Act; or (B) entered into a regulatory agreement modification pursuant to section 228 of such Act.

SEC. 508. EFFECTIVE DATE.

The effective date of this title (other than section 506) shall be the effective date of final regulations issued by the Secretary.

Subtitle B—Low-Income Rental Assistance

SEC. 521. SECTION 8 REVISIONS.

(a) DESIGNATION OF CERTIFICATE AND VOUCHER PROGRAMS.—

(1) Section 8(b) of the United States Housing Act of 1937 is amended by striking "(b)(1)" and inserting "(b) RENTAL CERTIFICATES.—".

(2) Section 8(o) of the United States Housing Act of 1937 is amended by inserting "RENTAL VOUCHERS.—" after "(o)".

(b) FAIR MARKET RENT REFINEMENT.—

(1) Section 8(c)(1) of the United States Housing Act of 1937 is amended—

(A) by inserting "(A)" after "(c)(1)";

(B) by paragraphing and inserting "(B)" at the beginning of the fourth sentence;

(C) by paragraphing and inserting "(C)" at the beginning of the sixth sentence;

(D) by paragraphing and inserting "(D)" at the beginning of the seventh sentence; and

(E) by paragraphing and inserting "(E)" at the beginning of the eighth sentence.

(2) Section 8(c)(1)(B) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The Secretary may approve an alternative schedule with more than one fair market rent for an area if a participating jurisdiction or jurisdictions whose boundaries encompass all or part of the area demonstrate to the satisfaction of the Secretary that such alternative fair market rent schedule (i) accurately reflects rent variations among submarkets within the area, and (ii) will (I) improve housing opportunities for disadvantaged minorities and families with special needs, (II) provide very low-income families with better access to employment and education opportunities, or (III) otherwise further the objectives of national housing policy as affirmed by Congress.".

(c) TENANT RENT CONTRIBUTIONS UNDER TENANT-BASED CERTIFICATE PROGRAM.—

(1) Section 8(c)(3) of the United States Housing Act of 1937 is amended—

(A) by inserting "(A)" after "(3)" the first time it appears; and

(B) by adding at the end the following new subparagraph:

"(B)(i) A family receiving tenant-based rental assistance under subsection (b)(1) may pay a higher percentage of income than that specified under section 3(a) of this Act if—

"(I) the family notifies the local public housing agency of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area under paragraph (1), and

"(II) such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses.

"(ii) A public housing agency shall not approve such excess rentals for more than 10 percent of its annual allocation of incremental rental assistance under subsection (b)(1). A public housing agency that approves such excess rentals for more than 5 percent of its annual allocation shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall describe the public housing agency's reasons for making the exceptions, including any available evidence that the exceptions were made necessary by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary.

"(iii) The Secretary shall, not later than 3 months following the end of each fiscal year, submit a report to Congress that identifies the public housing agencies that have submitted reports for such fiscal year under clause (ii), summarizes and assesses such reports, and includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports.".

(2) The second sentence of section 8(c)(1)(A) of the United States Housing Act of 1937 is amended by—

(A) inserting "(i)" after "fair market rental" the second time it appears; and

(B) by striking "a local housing assistance plan" and all that follows through the end of the sentence and inserting in lieu thereof the following: "a housing strategy as defined in section 105 of the National Affordable Housing Act, or (ii) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B).".

(d) SPECIAL REVISIONS TO PROJECT-BASED CERTIFICATE PROGRAM.—

(1) TENANT SELECTION.—Section 8(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new subparagraph:

"(D) Where a contract for assistance payments is attached to a structure, the owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income families; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. An owner shall promptly notify in writing any rejected applicant of the grounds for any rejection.".

(2) PROJECT-BASING OF CERTIFICATES.—Section 8(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new subparagraph:

"(E) The Secretary shall annually survey public housing agencies to determine the

extent to which the 15 percent limitations contained in subparagraphs (A) and (B) are exceeded, and shall report to the Congress on the results of such survey.".

(3) TERM OF ASSISTANCE.—Section 8(d)(2)(C) of the United States Housing Act of 1937 is amended to read as follows:

"(C) In the case of a contract for assistance payments that is attached to a structure under this paragraph, a public housing agency shall enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for assistance payments as provided in appropriations Acts, to extend the term of the underlying contract for assistance payments for such period or periods as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying contract for assistance payments accepted by the owner and the owner's successors in interest.".

(4) ENERGY EFFICIENCY STANDARDS.—Section 8(d)(2)(B) of the United States Housing Act of 1937 is amended—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and "; and

(C) by adding at the end thereof the following:

"(iii) the structure meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act.".

(e) REVISIONS TO VOUCHER PROGRAM.—

(1) REASONABLENESS OF RENTS.—Section 8(o) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(10)(A) The rent for units assisted under this subsection shall be reasonable in comparison with rents charged for comparable units in the private unassisted market or assisted under section (b)(1). A public housing agency shall, at the request of a family assisted under this subsection, assist such family in negotiating a reasonable rent with an owner. A public housing agency shall review all rents for units under consideration by families assisted under this subsection (and all rent increases for units under lease by families assisted under this subsection) to determine whether the rent (or rent increase) requested by an owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a unit is not reasonable, the agency may disapprove a lease for such unit.".

(2) DOCUMENTATION OF EXCESSIVE RENT BURDENS.—Section 8(o)(9) of the United States Housing Act of 1937 is amended by adding at the end the following new subparagraph:

"(B)(i) A public housing agency shall, at least annually, in a written form satisfactory to the Secretary, obtain information on the percentage of income paid for rent of all families assisted under this subsection. If, during any fiscal year, more than 10 percent of the families assisted under this subsection by a public housing agency pay a higher percentage of income than that specified under section 3(a) of this Act, the local public housing agency shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall contain the public housing agency's assessment of the reasons for such excessive rent burdens, including any available evidence that the excessive rent burdens were caused by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary.

"(ii) The Secretary shall, not later than 3 months following the end of a fiscal year, submit a report to Congress that—

"(I) identifies the public housing agencies that have submitted reports for such fiscal year under clause (i),

"(II) summarizes and assesses such reports, and

"(III) includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports.".

(3)(A) ADJUSTMENT OF SUBSIDY.—Section 8(o)(2) of the United States Housing Act of 1937 is amended—

(i) by striking "The" after "(2)" and inserting "(A) Except as provided for in subparagraph (B), the"; and

(ii) by adding at the end the following new subparagraph:

"(B) The monthly assistance payment for a family residing in the same unit in which it resided at the time the family received a voucher shall be the amount by which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 30 percent of the family's monthly adjusted income: *Provided*, That the rent is equal to or less than the payment standard.".

(B) The amendment made by subparagraph (A) shall apply only to vouchers made available in appropriations Acts after the date of enactment of the National Affordable Housing Act.

(f) TENANT PROTECTIONS.—Section 8(d)(1)(B) of the United States Housing Act is amended by—

(1) striking "and" before "(ii)"; and

(2) adding at the end the following new clauses:

"(iii) the lease between the tenant and the owner shall provide that the tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in activity that adversely affects the health, safety, or right to quiet enjoyment of the premises by other tenants, and shall not engage in criminal activity, including drug-related criminal activity, that threatens the health, safety, or right to quiet enjoyment of the premises by other tenants, and that such criminal activity shall be a cause for termination of tenancy; and

"(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action.".

(g) DISTRIBUTION OF CERTIFICATES.—Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 is amended by adding at the end the following new sentence: "Assistance under section 8(b)(1) of the United States Housing Act of 1937 shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the National Affordable Housing Act. Such jurisdictions shall submit recommendations for allocating assistance under section 8(b)(1) of such Act to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. For purposes of this subparagraph, the term 'participating jurisdiction' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title III of the National Affordable Housing Act.".

(h) RENEWAL OF EXPIRING CONTRACTS.—(1) Section 8 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(w) Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since the enactment of the Housing and Community Development Act of 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months.".

(2) Section 8(d)(2) of the United States Housing Act of 1937 is amended by inserting after the first sentence the following: "The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.".

(i) DEFINITION OF PARTICIPATING JURISDICTION.—Section 8(f) of the United States Housing Act is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3); and

(3) by adding at the end the following new paragraphs:

"(4) the term 'participating jurisdiction' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title III of the National Affordable Housing Act; and

"(5) the term 'drug-related criminal activity' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

(j) LOW-INCOME TERM.—The United States Housing Act of 1937 is amended—

(1) by striking "lower income families" each place it appears and inserting "low income families",

(2) by striking "lower income housing" each place it appears and inserting "low income housing".

(k) DRUG-RELATED AMENDMENTS.—Section 8(c)(2)(B) of the United States Housing Act of 1937 is amended by adding at the end the following: "Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may, subject to the availability of appropriations for contract amendments for this purpose, on a project by project basis, provide adjustments to the maximum

monthly rents, to a level no greater than the existing fair market rents established for the areas by the Secretary in accordance with paragraph (1), to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence.".

(l) REVISIONS TO PREFERENCE RULES.—

(1) CERTIFICATE PROGRAM.—Section 8(d)(1)(A) of the United States Housing Act of 1937 is amended—

(A) by striking "(i)" the first time it appears;

(B) by inserting after "shall" the third time it appears the following: "(i) for not less than 90 percent of the families who initially receive assistance in any 1-year period,"; and

(C) by amending clause (ii) to read as follows: "(ii) for any remaining assistance in any 1-year period, give preference to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) avoiding breakup of families and preserving and strengthening families and achieving other objectives identified in cooperation with child welfare agencies and other appropriate human service agencies; or (IV) achieving other objectives of national housing policy as affirmed by Congress; and (iii) prohibit any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity (as defined in subsection (f)(5)) from having a preference under any provision of this subparagraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary;".

(2) VOUCHER PROGRAM.—Section 8(o)(3) of the United States Housing Act of 1937 is amended—

(A) by inserting "(A)" after "(3)";

(B) by striking "(A)" and inserting in lieu thereof "(i)";

(C) by striking "(B)" and inserting in lieu thereof "(ii)";

(D) by striking "(C)" and inserting in lieu thereof "(iii)";

(E) by paragraphing and inserting "(B)" after the first sentence; and

(F) by adding at the end the following new sentence: "The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) avoiding breakup of families and preserving and strengthening families and achieving other objectives identified in cooperation with child welfare agencies and other appropriate human service agencies, or (iii) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity (as defined in subsection (f)(5)) is not eligible for a preference under any provision of this subparagraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary.".

(m) SECTION 8 OPT-OUTS.—Section 8(c)(9) of the United States Housing Act of 1937 is amended by—

(1) inserting at the end of the first sentence the following sentence: "The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."; and

(2) inserting before the final sentence the following sentence: "Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision.".

SEC. 522. AUTHORIZATIONS.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for contracts for annual contributions under section 8, for other assistance under section 8 and for amendments to existing contracts is increased (to the extent approved in appropriations Acts) by $2,826,360,000 on October 1, 1990, $2,865,748,000 on October 1, 1991, and $2,809,346,000 on October 1, 1992.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Section 5(c)(7) of the United States Housing Act of 1937 is amended to read as follows:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1991, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8(b)(1)—

"(I) not more than $1,138,800,000 for increment rental assistance,

"(II) not more than $324,570,000 for property disposition activities,

"(III) not more than $149,400,000 for loan management activities, and

"(IV) not more than $108,750,000 for public housing replacement activities; and

"(ii) for assistance under section 8(o), not more than $1,104,840,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1992, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8(b)(1),

"(I) not more than $1,129,190,000 for incremental assistance,

"(II) not more than $343,759,000 for property disposition activities,

"(III) not more than $155,376,000 for loan management activities, and

"(IV) not more than $113,100,000 for public housing replacement activities; and

"(ii) for assistance under section 8(a), not more than $1,124,323,000.

"(C) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8(b)(1),

"(I) not more than $1,057,935,000 for incremental assistance,

"(II) not more than $357,510,000 for property disposition activities,

"(III) not more than $161,591,000 for loan management activities, and

"(IV) not more than $117,624,000 for public housing replacement activities; and

"(ii) for assistance under section 8(a) not more than $1,114,686,000.".

SEC. 523. HOUSING ASSISTANCE TO PREVENT UNNECESSARY FOSTER CARE PLACEMENT.

(a) UNITED STATES HOUSING ACTS.—

(1) OF 1937.—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended by adding at the end thereof the following new sentence: "The temporary absence of a child from the home due to placement in foster care shall not be considered in considering family composition and family size.".

(2) OF 1949.—Section 501(b)(3) of the Housing Act of 1949 (42 U.S.C. 1471(b)(3)) is amended by adding at the end thereof the following new sentence: "The temporary absence of a child from the home due to placement in foster care should not be considered in considering family composition and family size.".

SEC. 524. STUDY OF PUBLIC HOUSING FUNDING SYSTEM.

The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for the operation, maintenance and modernization of public housing. In analyzing such alternatives, the Secretary shall compare and contrast existing methods of funding in public housing with those used by the Department in housing assisted under section 8 of the United States Housing Act of 1937. In preparing the study mandated by this section, the Secretary shall, in particular, review the results of the study entitled "Alternative Operating Subsidies Systems for the Public Housing Program" released by the Department's Office of Policy, Development and Research in May, 1982 and update such study as may be necessary. The Secretary shall issue a report to the authorizing committees of Congress within 12 months after the enactment of this Act detailing the findings of the study conducted under this section.

SEC. 525. STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING.

The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies (PHA's). In analyzing such alternatives, the Secretary will examine methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments to PHA's on behalf of low income public housing tenants. The Secretary shall assess, within the capitated funding alternative, means of (a) providing for tenant participation in the release of such capitated payments to PHA's; (b) providing financial incentives for PHA overall performance and efficiency; (c) designating certain PHA's as distressed and eligible for special Federal assistance; (d) differential treatment of PHA's based on differences in local population demographics, rental housing markets, and other pertinent factors, and (e) calculating

annual inflation-based increases in capitated Federal payments. Such report will be made to the authorizing committees of Congress within 12 months after the date of enactment of this Act.

SEC. 526. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT STUDY.

(a) The Secretary of the United States Department of Housing and Urban Development shall conduct a study to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded. The Secretary shall place particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development. The Secretary shall convene individuals, of his choosing, who have demonstrated an expertise in such private nonprofit initiatives from across the country and draw on their expertise in implementing such programs. The study shall include the results of, and suggestions by, such individuals.

(b) The Secretary shall report to the Congress of the United States of America the findings of this study not later than twelve months after this bill becomes Public Law.

Subtitle C—Operation Bootstrap

SEC. 531. OPERATION BOOTSTRAP PROGRAM.

(a) IN GENERAL.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 22. OPERATION BOOTSTRAP PROGRAM.

"(a) PURPOSE.—The purpose of the Operation Bootstrap Program established under this section is to promote the development of local strategies to coordinate assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

"(b) ESTABLISHMENT OF PROGRAM.—

"(1) REQUIRED PROGRAMS.—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (o) of section 8 may carry out a local Operation Bootstrap Program under this section, and effective on October 1, 1992, the Secretary shall require each agency to carry out such a program. Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the Operation Bootstrap Program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program. The public housing agency shall take steps to ensure that, at the earliest practicable time, the number of families participating under the Operation Bootstrap Program shall be no less than a number equal to the aggregate number of certificates and vouchers that may be funded from such additional assistance, beginning with fiscal year 1991. The agency shall continue to operate the program for that number of families as long as it has sufficient funding under its certificate and voucher programs to do so.

"(2) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency demonstrates, to the satisfaction of the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, including—

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; and

"(D) any other circumstances that the Secretary may consider appropriate.

"(c) CONTRACT OF PARTICIPATION.—

"(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with participating leaseholders receiving assistance under the certificate and voucher programs of the public housing agency under section 8 who elect to participate in the Operation Bootstrap Program under this section. The contract shall set forth the provisions of the local program and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family.

"(2) SUPPORTIVE SERVICES.—A local program under this section shall provide supportive services in accordance with the terms and conditions of the contract of participation under paragraph (1) to each participating family. The supportive services shall be provided during the period the family is receiving assistance under section 8, and may include—

"(A) child care;

"(B) transportation necessary to receive services;

"(C) remedial education;

"(D) education for completion of high school;

"(E) job training and preparation;

"(F) substance abuse treatment and counseling;

"(G) training in homemaking and parenting skills;

"(H) training in money management;

"(I) training in household management;

"(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

"(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

"(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

"(d) MAXIMUM RENTS AND ESCROW SAVINGS ACCOUNTS.—

"(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by a participating family for occupancy in the dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family. Upon completion of the contract of participation if the participating family continues to qualify for and reside in housing assisted under section 8, the rent charged the participating family shall be increased to 30 percent of the monthly adjusted income of the family.

"(2) ESCROW SAVINGS ACCOUNTS.—For each participating family, the difference between 30 percent of the income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.

"(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for benefits, or amount of benefits payable to the family, under any Federal of federally assisted program based on need unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

"(f) PROGRAM COORDINATING COMMITTEE.—

"(1) FUNCTIONS.—Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

"(2) MEMBERSHIP.—The program coordinating committee shall consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

"(g) ACTION PLAN.—

"(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the Operation Bootstrap Program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

"(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit

service providers and private businesses), and any other public and private service providers affected by the operation of the local program.

"(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

"(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local Operation Bootstrap Program;

"(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

"(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 program, which shall be provided by both public and private resources;

"(D) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

"(E) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

"(F) a timetable for implementation of the local program; and

"(G) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training program under part F of title IV of the Social Security Act and program under the Job Training Partnership Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

"(h) ALLOWABLE SECTION 8 ADMINISTRATIVE FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the Operation Bootstrap Program under this section. The fee shall be the fee in effect under such section on June 1, 1990, until the Comptroller General of the United States reports under section 532 of the National Affordable Housing Act when the Secretary shall adopt the fee recommended in the Comptroller General's report.

"(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

"(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

"(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local Operation Bootstrap Program under this section. The Secretary shall establish performance criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

"(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local Operation Bootstrap Program established by the public housing agency under this section.

"(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974 the Secretary shall reserve not less than 10 percent of the budget authority available in fiscal year 1991 and fiscal year 1992 for certificate and voucher assistance under section 8 for allocation under this subsection.

"(j) FLEXIBILITY.—In establishing and carrying out the Operation Bootstrap Program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

"(k) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency that carries out a local Operation Bootstrap Program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

"(A) a description of the activities carried out under the program;

"(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

"(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

"(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the Operation Bootstrap Program carried out by the Secretary and ensure the effectiveness of the program.

"(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the Operation Bootstrap Program under this section.

"(l) GAO REPORT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the Operation Bootstrap Program carried out by the Secretary under this section.

"(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on the date of the enactment of the National Affordable Housing Act.

"(B) A final report, not later than the expiration of the 5-year period beginning on the date of the enactment of the National Affordable Housing Act.

"(m) DEFINITIONS.—As used in this section:

"(1) The term 'contract of participation' means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

"(2) The term 'earned income' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

"(3) The term 'local program' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

"(4) The term 'participating family' means a family that resides in housing assisted under section 8 and elects to participate in a local Operation Bootstrap Program under this section.

"(n) EFFECTIVE DATE AND REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the National Affordable Housing Act, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.".

SEC. 532. GAO STUDY ON LINKING FEDERAL HOUSING ASSISTANCE TO ECONOMIC SELF-SUFFICIENCY PROGRAMS.

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, not later than 18 months following the date of enactment of the National Affordable Housing Act, a report evaluating the policy and administrative implications of requiring State and local governments to tie the provision of rental assistance under section 8 of the United States Housing Act of 1937 to participation in economic self-sufficiency programs. In addition, in preparing such report, the Comptroller General shall consider the additional costs to public housng agencies under such programs and shall recommend a change in the amount of the administrative fee under section 8(q) of the United States Housing Act of 1937 to cover the additional costs of carrying out the Operation Bootstrap Program.

(b) SCOPE OF REPORT.—The report shall include—

(1) an evaluation of Federal programs to link housing and supportive services for the promotion of economic self-sufficiency, including programs that are being or have been administered by the Secretary of Housing and Urban Development such as Project Self-Sufficiency, Operation Bootstrap, and the Public Housing Comprehensive Transition Demonstration;

(2) an analysis of the extent to which public housng agencies can reasonably and effectively obtain supportive services in connection with the Operation Bootstrap Program and other programs that link supportive services to Federal housing assistance; and

(3) an assessment of the policy and administrative implications of allocating section 8 rental assistance only to localities that have a plan for providing incremental rental assistance only in conjunction with economic self-sufficiency programs.

(c) CONSULTATION.—In preparing the report under this section, the Comptroller General shall consult with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of Labor, other appropriate Federal officials, appropriate State and local officials, other knowledgeable individuals, and national and other organizations representing eligible beneficiaries, State and local welfare and employment agencies, public housing agencies, business, public and pri-

vate education or training institutions, and other service providers.

(d) DEFINITION.—The term "economic self-sufficiency program" means public and private programs that are designed to enable economically disadvantaged individuals achieve economic independence, including programs authorized under the Job Training Partnership Act and the Family Support Act of 1988.

TITLE VI—HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A—Supportive Housing for the Elderly

SEC. 601. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) IN GENERAL.—Section 202 of the Housing Act of 1959 is amended to read as follows:

"SEC. 202. SUPPORTIVE HOUSING FOR THE ELDERLY.

"(a) PURPOSE.—The purpose of this section is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that—

"(1) is designed to accommodate the special needs of elderly persons; and

"(2) provides a range of services that are tailored to the needs of elderly persons occupying such housing.

"(b) GENERAL AUTHORITY.—The Secretary is authorized to provide assistance to private nonprofit organizations and consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance shall be provided as (1) capital advances in accordance with subsection (c)(1), and (2) contracts for project rental assistance in accordance with subsection (c)(2). Such assistance may be used to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure to be used as supportive housing for the elderly in accordance with this section. Assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly.

"(c) FORMS OF ASSISTANCE.—

"(1) CAPITAL ADVANCES.—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly persons in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

"(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income elderly persons that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units so occupied and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs.

"(3) TENANT RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under this section the highest of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

"(d) TERM OF COMMITMENT.—

"(1) USE LIMITATIONS.—All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

"(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (c)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

"(e) APPLICATIONS.—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed housing;

"(2) a description of the assistance the applicant seeks under this section;

"(3) a description of the resources that are expected to be made available in compliance with subsection (h);

"(4) a description of (A) the category or categories of elderly persons the housing is intended to serve; (B) the supportive services, if any, to be provided to the persons occupying such housing; (C) the manner in which such services will be provided to such persons, including, in the case of frail elderly persons, evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and (D) the public or private sources of assistance that can reasonably be expected to fund or provide such services;

"(5) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of services identified in paragraph (4) is well designed to serve the special needs of the category or categories of elderly persons the housing is intended to serve;

"(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the National Affordable Housing Act that the proposed project is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

"(f) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and operate the proposed housing;

"(2) the need for supportive housing for the elderly in the area to be served;

"(3) the extent to which the proposed size and unit mix of the housing will enable the applicant to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;

"(4) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;

"(5) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(3) will be provided on a consistent, long-term basis;

"(6) the extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve; and

"(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(g) PROVISIONS OF SERVICES.—

"(1) IN GENERAL.—In carrying out the provisions of this section, the Secretary shall ensure that housing assisted under this section provides a range of services tailored to the needs of the category or categories of elderly persons occupying such housing. Such services may include (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance; (D) transportation services; (E) health-related services; and (F) such other services as the Secretary deems essential for maintaining independent living. The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

"(2) APPLICATION OF PROJECT RETROFIT REQUIREMENTS.—The Secretary shall apply the requirements governing Project Retrofit under section 512(f) of the National Affordable Housing Act to housing assisted under this section that is intended to serve frail elderly persons.

"(3) LOCAL COORDINATION OF SERVICES.—The Secretary shall ensure that owners have the managerial capacity to—

"(A) assess on an ongoing basis the service needs of residents;

"(B) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and

"(C) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

Any cost associated with this subsection, including any cost associated with the employment of a service coordinator in housing serving frail elderly persons, shall be an eligible cost under subsection (c)(2). The provisions governing the responsibilities and qualifications of a service coordinator under section 512(c) of the National Affordable Housing Act shall apply to this section.

"(h) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—Each applicant shall contribute not less than 5 percent of the development cost calculated in accordance with subsection (i) to assure the applicant's commitment to the housing. Such contributions may be in the form of (A) cash investment from private resources; (B) the value of land or other real or personal property as appraised according to procedures acceptable to the Secretary; and (C) the present value of supportive services that the applicant has committed to provide from private resources in accordance with this section.

"(2) REDUCTION OF REQUIREMENT.—(A) MANDATORY WAIVER.—The Secretary shall reduce or waive the matching requirement specified under paragraph (1) for individual applicants who are community-based nonprofit organizations that are not affiliated with national nonprofit organizations.

"(B) DISCRETIONARY WAVIER.—The Secretary may reduce or waive the matching requirement specified under paragraph (1) for individual applicants where the Secretary finds that such waiver or reduction is necessary to achieve the purposes of this section provided that the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to manage and maintain the housing in accordance with this section.

"(i) DEVELOPMENT COST LIMITATIONS.—

"(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for the elderly by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect (A) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes; (B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary; (C) the cost of special design features necessary to make the housing accessible to elderly persons; (D) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly persons; (E) the cost of congregate space necessary to accommodate the provision of supportive services to elderly persons; (F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act; and (G) the cost of land, including necessary site improvement. In establishing development cost limitations for a given market area under this subsection, the Secretary shall use data that reflect currently prevailing costs of construction, reconstruction, or rehabilitation, and land acquisition in the area. For purposes of this paragraph, the term 'congregate space' shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

"(2) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of construction, reconstruction, or rehabilitation costs.

"(3) INCENTIVES FOR SAVINGS.—(A) The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners after taking into account the matching requirements specified under subsection (h). Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special housing account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

"(B) The special housing account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

"(4) DESIGN FLEXIBILITY.—The Secretary shall, to the extent practicable, give owners the flexibility to design housing appropriate to their location and proposed resident population within broadly defined parameters.

"(5) USE OF FUNDS FROM OTHER SOURCES.—A owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for the elderly if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

"(j) TENANT SELECTION.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (1) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (2) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(k) MISCELLANEOUS PROVISIONS.—

"(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

"(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

"(3) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

"(4) LABOR STANDARDS.—The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section and designed for dwelling use by 12 or more elderly persons shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (the Davis-Bacon Act); but the Secretary shall waive the application of this paragraph in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

"(l) DEFINITIONS.—

"(1) The term 'elderly person' means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

"(2) The term 'frail elderly' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligible requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

"(3) The term 'owner' means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for the elderly.

"(4) The term 'private nonprofit organization' means any incorporated private institution or foundation—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located, and (ii) which is responsible for the operation of the housing assisted under this section; and

"(C) which is approved by the Secretary as to financial responsibility.

"(5) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

"(6) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(7) The term 'supportive housing for the elderly' means housing that is designed (A) to meet the special physical needs of elderly persons and (B) to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

"(8) The term 'very low-income' has the same meaning as given the term 'very low-income families' under section 3(b)(2) of the United States Housing Act of 1937.

"(m) AUTHORIZATIONS.—

"(1) CAPITAL ADVANCES.—There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (c)(1) $628,000,000 for fiscal year 1991, $659,000,000 for fiscal year 1992, and $685,360,000 for fiscal year 1993. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of the National Affordable Housing Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

"(2) PROJECT RENTAL ASSISTANCE.—For the purpose of funding contracts for project rental assistance in accordance with subsection (c)(2) the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $346,000,000 for fiscal year 1991, $363,000,000 for fiscal year 1992, and $377,520,000 for fiscal year 1993.

"(3) NONMETROPOLITAN ALLOCATION.—Not less than 20 per centum of the funds made available under this subtitle shall be allocated by the Secretary on a national basis for nonmetropolitan areas.".

(b) CONFORMING AMENDMENT.—Section 213(a) of the Housing and Community Development Act of 1974 is amended by striking "section 202 of the Housing Act of 1959".

(c) EFFECTIVE DATE AND APPLICABILITY.—

(1) The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as they were in effect when such assistance was made or reserved.

(2) When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

(d) EXPEDITED FINANCING AND CONSTRUCTION.—

(1) IN GENERAL.—The Secretary may, subject to the availability of appropriations for contract amendments for the purposes of this subsection—

(A) provide such adjustments and waivers to the cost limitations specified under 24 CFR 885.410(a)(1); and

(B) make such adjustments to the relevant fair market rent limitations established under section 8(c)(1) of the United States Housing Act of 1937 in providing assistance under such Act,

as are necessary to ensure the expedited financing and construction of qualified supportive housing for the elderly provided that the Secretary finds that any applicable cost containment rules and regulations have been satisfied.

(2) DEFINITION.—For purposes of this subsection, the term "supportive housing for the elderly" means housing—

(A) located in a high-cost jurisdiction; and

(B) for which a loan reservation was made under section 202 of the Housing Act of 1959, 3 years before the date of enactment of this Act but for which no loan has been executed and recorded.

SEC. 602. PROJECT RETROFIT.

(a) PURPOSE.—The purpose of this section is to enable frail elderly persons residing in federally assisted housing to live with dignity and independence, avoiding unnecessary institutionalization by—

(1) retrofitting individual dwelling units and renovating public and common areas in such housing to meet the special physical needs of eligible residents;

(2) creating and rehabilitating congregate space in or adjacent to such housing to accommodate supportive services that enhance independent living;

(3) providing transitional funding for those qualifying supportive services that cannot otherwise be funded; and

(4) improving the capacity of management to assess the service needs of eligible residents, coordinate the provision of supportive services that meet the needs of eligible residents and ensure the long-term provision of such services.

(b) AUTHORIZATION TO PROVIDE ASSISTANCE.—The Secretary is authorized to provide assistance in the form of grants to adapt eligible housing for the elderly so that such housing better accommodates the physical requirements and service needs of eligible residents. The Secretary may determine the amount of individual grants that can be used for meals and supportive services. Assistance under this section shall be made available only to owners that demonstrate, to the satisfaction of the Secretary, that the assistance is necessary for the provision of qualifying supportive services that will receive long-term support from sources other than this Act.

(c) ELIGIBLE ACTIVITIES.—

(1) RETROFIT AND RENOVATION.—Assistance under this section may be provided with respect to eligible housing for the elderly for—

(A) retrofitting of individual dwelling units to meet the special physical needs of current or future residents who are or are expected to be eligible residents, which retrofitting may include—

(i) widening of doors to allow passage by persons with disabilities in wheelchairs into and within units in the project;

(ii) placement of light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(iii) installation of grab bars in bathrooms or the placement of reinforcements in bathroom walls to allow later installation of grab bars;

(iv) redesign of usable kitchens and bathrooms to permit a person in a wheelchair to maneuver about the space; and

(v) such other features of adaptive design that the Secretary finds are appropriate to meet the special needs of such residents;

(B) such renovation as is necessary to ensure that public and common areas are readily accessible to and usable by eligible residents;

(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to eligible residents;

(D) renovation of existing congregate space to accommodate the provision of supportive services to eligible residents; and

(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to eligible residents.

For purposes of this paragraph, the term "congregate space" shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(2) TRANSITIONAL SUPPORT FOR SERVICES.—Assistance under this section may also be provided with respect to eligible housing for the elderly for—

(A) the transitional provision of qualifying supportive services if the owner demonstrates to the satisfaction of the Secretary that—

(i) the qualifying services are necessary to help eligible residents live independently and avoid unnecessary institutionalization;

(ii) the owner has made diligent efforts to use or obtain other available resources to fund the designated services; and

(iii) long-term funding for the qualifying services will be available from other sources; and

(B) the renewal of contracts entered into under the Congregate Housing Services Act of 1978.

Assistance under subparagraph (A) shall be phased out over a period not to exceed 3 years. Assistance under subparagraph (B) shall be for a period of not to exceed 3 years and may be renewed, subject to the availability of appropriations, upon a determination of continuing need.

(3) SERVICE COORDINATOR.—The employment of one or more individuals (hereinafter referred to as "service coordinator") who may be responsible for—

(A) working with the professional assessment committee established under subsection (f) on an ongoing basis to assess the service needs of eligible residents;

(B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents;

(C) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to subsection (d)(1) can be funded over the time period identified under such subsection;

(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

(E) performing such other duties and functions that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management. The Secretary may fund the employment of service coordinators by using amounts appropriated under subsection (k) and by permitting owners to use existing sources of funds, including excess project reserves.

(d) APPLICATION.—The funds made available under this section shall be allocated by the Secretary among approvable applications submitted by owners. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain—

(1) a description of qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under subsection (c)(1) that involve substantial rehabilitation);

(2) a firm commitment from one or more sources of assistance ensuring that some or all of the qualifying supportive services identified under paragraph (1) will be provided for not less than 1 year following the completion of activities assisted under subsection (c)(1);

(3) a description of public or private sources of assistance that are likely to fund or provide qualifying supportive services for the entire period specified under paragraph (1), including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including for-profit and nonprofit organizations);

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that (A) the provision of the qualifying supportive services identified under paragraph (1) will enable eligible residents to live independently and avoid unnecessary institutionalization, and (B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under paragraph (1);

(5) evidence that the owner has established a professional assessment committee in accordance with subsection (f);

(6) a description of assistance that the owner seeks under this section;

(7) a description of any fees that would be established pursuant to subsection (f)(3); and

(8) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(e) PROGRAM SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section which shall include—

(1) the ability of the owner or a designated service provider to provide the qualifying supportive services identified pursuant to subsection (d)(1);

(2) the need for such services in the housing;

(3) the extent to which the envisioned renovation and conversion activities will foster the provision of such services;

(4) the extent to which the owner has demonstrated that such services will be provided over the period identified pursuant to subsection (d)(1);

(5) the extent to which the owner has had a good record of maintaining and operating housing for the elderly; and

(6) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(f) PROVISION OF SERVICES.—

(1) ESTABLISHMENT OF PROFESSIONAL ASSESSMENT COMMITTEE.—(A) Each owner shall establish a professional assessment committee composed of at least three persons, each of whom is a qualified medical professional or other health or social services professional competent to appraise the functional abilities of frail elderly persons in relation to the performance of normal activities of daily living.

(B) The professional assessment committee shall identify residents eligible to receive qualifying supportive services and designate the services appropriate for each eligible resident. Residents shall be accorded fair treatment and due process and a right of appeal in determinations of eligibility. Personal and medical records made available for determinations of eligibility shall remain confidential.

(2) PARTICIPATION BY OTHER RESIDENTS.—Residents other than eligible residents may participate in a supportive service program receiving capital or operating assistance under this section if the owner determines that the participation of such residents will not adversely affect the cost-effectiveness or operation of the program. The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

(3) FEES.—An owner may charge fees for meals and other qualifying supportive services. Such fees shall be reasonable, shall not exceed the cost of providing the service, and shall be calculated on a sliding scale related to income which permits the provision of services to eligible residents who cannot afford meal and service fees. Fees for services provided to residents who are not eligible residents shall be reasonable and shall not exceed the cost of providing the service. The Secretary may set a ceiling for the total fees paid by residents.

(4) RESIDENT ELIGIBILITY.—The Secretary shall establish the standards and guidelines governing the eligibility of residents for qualifying supportive services under this section after consultation with the Secretary of Health and Human Services and with appropriate organizations representing the elderly, as determined by the Secretary.

(g) MEAL SERVICES.—Supportive services assisted under this section may include meal service. Meal service shall adequately meet at least one-third of the daily nutritional needs of eligible project residents as follows:

(1) FOOD STAMPS AND AGRICULTURAL COMMODITIES.—In the event meal services are provided as part of a service program under this section such program—

(A) shall—

(i) apply for approval as a retail food store under section 9 of the Food Stamp Act of 1977 (42 U.S.C. 2018); and

(ii) if approved under such section, accept coupons (as defined in section 3(e) of such Act) as payment from individuals to whom such meal services are provided; and

(B) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(2) PREFERENCE FOR NUTRITIONAL PROVIDERS.—In contracting for or otherwise providing for meal services under this paragraph, each supportive services program shall give preference to any provider of meal services who—

(A) receives assistance under title III of the Older Americans Act of 1965; or

(B) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 or any other program for supportive services.

(h) MINIMUM REQUIREMENTS FOR MEALS AND SUPPORTIVE SERVICES.—Meals and supportive services provided under this section must meet such requirements for quality and individuals' rights as are published or developed by the Secretary. The Secretary shall consult with the Secretary of the Department of Health and Human Services in developing such requirements. Such requirements shall include a process for receiving and responding to resident's appeals.

(i) REPORTS.—

(1) OWNERS' REPORTS.—Each owner shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, an annual report evaluating the use of funds made available under this section.

(2) ANNUAL REPORT TO THE CONGRESS.—The Secretary shall submit to Congress, not less than annually for each fiscal year for which assistance is provided for supportive services under this section, a report containing the following information:

(A) A statement of the number of eligible residents served under such programs and the types of services provided to such resident.

(B) A statement of the percentage of the total number of residents in each project receiving assistance under this section that received supportive services.

(C) A statement of the number of deinstitutionalized individuals served under programs.

(D) A statement of any new resources for providing services that have been developed on the State or local level.

(E) The cost to States and projects of providing services.

(F) A description of how effective the services are at meeting the needs of project residents, local governments and housing sponsors, and State governments.

(G) A statement of the total amount of fees for supportive services collected from residents in eligible projects assisted under this section.

(H) A description of the reasons for termination of services provided to eligible project residents.

(I) A statement of the number of persons who previously received supportive services under a supportive services program assisted under this section who have since been institutionalized.

(J) A description of the manner in which supportive services were provided in eligible housing projects located in the poorest areas (with respect to median area income) and that were the most isolated (with respect to access to services) in each State.

(K) Any other information that the Secretary concerned considers helpful to the Congress in evaluation of the effectiveness of this section.

(j) STUDY COMPARING THE TWO APPROACHES TO SERVICES TO THE ELDERLY UNDER THIS TITLE.—The Secretary shall provide a study comparing the two approaches to services to the elderly under this title. Such a study should acquire data both before and after the intervention of services and follow the effectiveness of congregate versus scattered site services provision over a period of at least 2 years. Included in the study should be at least—

(1) the relative costs of the two services approaches,

(2) the quality of the services and their effectiveness in promoting independence;

(3) the satisfaction of participants in the program; and

(4) the relative success in meeting other objectives, such as preservation or marketing troubled projects.

(k) RESERVE FUND.—The Secretary may reserve not more than 5 percent of the amounts made available in each fiscal year to supplement grants awarded to owners under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

(l) MISCELLANEOUS PROVISIONS.—

(1) PARTICIPATION OF RESIDENTS.—Each owner shall, to the maximum extent practicable, employ residents of eligible housing for the elderly who are not eligible residents, to provide services assisted under this section or from other sources. Such persons shall be paid at a rate not less than the highest of—

(A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he or she were not exempt under section 13 thereof;

(B) the State or local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) DISREGARD OF SERVICE AS INCOME.—No service provided to a resident of eligible housing for the elderly under this section, except for wages paid under paragraph (1) of this section, may be treated as income for the purpose of any other program or provision of State or Federal law.

(3) RESIDENCE.—Persons receiving services assisted under this section shall be deemed to be residents of their own households, and not to be residents of a public institution, for the purpose of any other program or provision of State or Federal law.

(m) DEFINITIONS.—For the purpose of this section—

(1) the term "elderly person" means a person who is 62 years of age or over;

(2) the term "eligible housing for the elderly" means housing that is occupied by elderly persons and their families and is—

(A) public housing assisted under the Housing Act of 1937;

(B) assisted under section 202 of the Housing Act of 1959;

(C) insured, assisted, or held by the Secretary under section 236 of the National Housing Act;

(D) insured or held under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(E) insured or held by the Secretary and subject to a loan or mortgage bearing interest at a rate determined under the proviso to section 221(d)(5) of the National Housing Act;

(F) assisted under section 515 of the Housing Act of 1949; or

(G) assisted under section 8 of the United States Housing Act of 1937, all of the units of which receive the benefit of assistance under such section.

(3) the term "eligible resident" means a person residing in eligible housing for the elderly who qualifies under the definition of frail elderly, person with disabilities (regardless of whether the person is elderly), or temporarily disabled;

(4) the term "frail elderly" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligible requirements (acceptable to the Secretary) based on the standards in local supportive services programs;

(5) the term "person with disabilities" has the meaning given the term under section 521 of this Act;

(6) the term "owner" means a public housing agency that operates public housing, a nonprofit entity that owns and operates all other types of eligible housing under paragraph (2), or a for-profit entity that owns and operates all other types of eligible housing under paragraph (2) and agrees to operate such housing as low income housing through the term of the original mortgage;

(7) the term "public housing" has the meaning given the term in section 3(b)(1) of the United States Housing Act of 1937;

(8) the term "public housing agency" has the meaning given the term in section 3(b)(6) of the United States Housing Act of 1937;

(9) the term "qualifying supportive services" shall mean new or significantly expanded services that the Secretary deems essential to enable eligible residents to live independently and avoid unnecessary institutionalization. Such services may include but not be limited to; (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance (which may include, but is not limited to, aid given to eligible residents in grooming, dressing, and other activities which maintain personal appearance and hygiene); (D) transportation services; (E) health-related services; and (F) personal emergency response systems; the owner may provide the qualifying services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers;

(10) the term "Secretary" means the Secretary of Housing and Urban Development; and

(11) the term "temporarily disabled" means an impairment which (A) is expected to be of no more than 6 months' duration, and (B) substantially impedes a person's ability to live independently unless the person receives qualifying supportive services.

(n) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle $50,000,000 for fiscal year 1991, $52,000,000 for fiscal year 1992, and $54,080,000 for fiscal year 1993. Any amount appropriated under this section shall remain available until expended.

(o) CONFORMING AMENDMENT.—Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended—

(1) by striking "and" at the end of clause (iv);

(2) by striking the period at the end of clause (v) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(vi) if a public housing agency renovates, converts, or combines one or more dwelling units in a public housing project to create congregate space to accommodate the provision of supportive services in accordance with section 512 of the National Affordable Housing Act, the payments received under this section shall not be reduced because of the resulting reduction in the number of dwelling units.".

SEC. 603. HOPE FOR ELDERLY INDEPENDENCE.

(a) PURPOSE.—The purpose of this section is to establish a demonstration program to test the effectiveness of combining housing vouchers and supportive services to assist frail elderly persons to continue to live independently. The demonstration period shall be five years.

(b) HOUSING VOUCHER ASSISTANCE.—In connection with this demonstration, the Secretary may enter into contracts with public housing agencies to provide housing assistance under the voucher program authorized under section 8(o) of the United States Housing Act of 1937. The Secretary shall set aside not more than 1,500 incremental rental vouchers for the purpose of carrying out this demonstration. A public housing agency may not require that a frail elderly person live in a particular structure or unit, but may require that the person live within a particular geographic area, as a condition of participation, where necessary to assure that the provision of supportive services is feasible. At the end of the demonstration period, the public housing agency shall give each frail elderly person the option to continue to receive assistance under the housing voucher program of the agency.

(c) SUPPORTIVE SERVICES REQUIREMENTS; MATCHING FUNDING.—

(1) FEDERAL, PHA AND INDIVIDUAL CONTRIBUTIONS.—The amount estimated by the public housing agency and approved by the Secretary as necessary to provide the supportive services for the demonstration period shall be funded as follows:

(A) the Secretary shall provide 40 percent, using amounts appropriated under this section;

(B) the public housing agency shall assure the provision of at least 50 percent from sources other than under this section; and

(C) notwithstanding any other provision of law, each frail elderly person shall pay 10 percent of the costs of the supportive services the person receives.

(2) PROVISION OF SERVICES FOR ENTIRE DEMONSTRATION.—Each public housing agency shall assure that supportive services appropriate to the needs of the frail elderly persons to be served under this demonstration are provided throughout the demonstration period. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the frail elderly persons assisted under this section. A public housing agency may use up to 20 percent of the Federal assistance provided for supportive services in each year of this demonstration and any amounts from any prior year in which the public housing agency did not use 20 percent of the available Federal assistance. Notwithstanding any other provision of law, eligibility for supportive services shall be limited to persons who are receiving housing assistance under this section.

(3) CALCULATION OF THE MATCH.—In determining compliance with paragraph (1)(B), an agency may include the value of such items as the Secretary determines to be appropriate, which may include the salary paid to staff to provide supportive services.

(d) APPLICATIONS.—An application under this section shall request both housing voucher and supportive services assistance, and shall be submitted by a public housing agency in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

(1) an application for voucher assistance under section 8(o) of the United States Housing Act of 1937;

(2) a description of the size and characteristics of the population of frail elderly persons and of their housing and supportive services needs;

(3) a description of the proposed method of determining whether a person qualifies as a frail elderly person (specifying any additional eligibility requirements proposed by the agency), and of selecting frail elderly persons to participate;

(4) a statement that the public housing agency will create a professional assessment committee or will work with another entity which will assist the public housing agency in identifying and providing only those services that each frail elderly person needs to remain living independently;

(5) a description of the mechanisms for developing housing and supportive services plans for each person and for monitoring the person's progress in meeting that plan;

(6) the identity of the proposed service provider and a statement of its qualifications;

(7) a description of the supportive services the public housing agency proposes to make available for the frail elderly persons to be served, the estimated costs of such services, a description of the resources that are expected to be made available to cover the portion of the costs required by subsection (c)(3);

(8) assurances satisfactory to the Secretary that the supportive services will be provided for the demonstration period;

(9) the plan for coordinating the provision of voucher assistance and supportive services;

(10) a description of how the public housing agency will ensure that the service providers are providing supportive services, at a reasonable cost, adequate to meet the needs of the persons to be served;

(11) a plan for continuing supportive services to frail elderly persons that continue to receive voucher assistance after the end of the demonstration period; and

(12) a statement that the application has been developed in consultation with the

area agency on aging under title III of the Older Americans Act and that the public housing agency will periodically consult with the area agency during the demonstration.

(e) SELECTION.—

(1) CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(A) the ability of the public housing agency to develop and operate the proposed housing voucher and supportive services program;

(B) the need for a program providing both housing assistance and supportive services for frail elderly persons in the area to be served;

(C) the quality of the proposed program for providing supportive services;

(D) the extent to which the proposed funding for the supportive services is or will be available;

(E) the extent to which the program would meet the needs of the frail elderly persons proposed to be served by the program; and

(F) such other factors as the Secretary specifies to be appropriate for purposes of carrying out the demonstration program established by this section in an effective and efficient manner.

(2) CONSULTATION WITH HHS.—In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

(3) FUNDING LIMITATIONS.—No more than 10 percent of the assistance made available under this section may be used for programs located within any one unit of general local government.

(f) REQUIRED AGREEMENTS.—The Secretary may not approve any assistance for any program under this section unless the public housing agency agrees—

(1) to operate the proposed program in accordance with the program requirements established by the Secretary;

(2) to conduct an ongoing assessment of the voucher assistance and supportive services required by each frail elderly person participating in the program;

(3) to assure the adequate provision of supportive services, at a reasonable cost, to each frail elderly person participating in the program; and

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "frail elderly person" means a person who, or a family where each person, is at least 62 years old, is eligible to receive a voucher under the first sentence of section 8(o)(3) of the United States Housing Act of 1937, and is unable to perform at least three activities of daily living adopted by the Secretary for the purposes of this program. Public housing agencies may establish additional eligibility requirements based on the standards in local service programs.

(2) The term "professional assessment committee" means a group of at least three persons appointed by a public housing agency which shall include at least one qualified medical professional and other persons professionally competent to appraise the functional abilities of the frail elderly in relation to the performance of activities of daily living.

(3) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937. The term includes an Indian Housing Authority, as defined in section 3(b)(11) of such Act.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

(5) The term "supportive services" means assistance that the Secretary determines (A) addresses the special needs of frail elderly persons; and (B) provides appropriate supportive services or assists such persons in obtaining appropriate services, including personal assistance with activities of daily living, case management services, counseling, supervision, and other services essential for achieving and maintaining independent living. Supportive services shall not include medical services, as determined by the Secretary.

(h) REPORT.—

(1) INTERIM REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Congress an interim report evaluating the effectiveness of the demonstration program under this section.

(2) FINAL REPORT.—Not later than 2 years after the termination of the demonstration period under this section, the Secretary shall submit to Congress a final report evaluating the effectiveness of the demonstration program under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the Secretary's responsibilities for supportive services under this demonstration, $10,000,000 to become available in fiscal year 1991, and remain available until expended.

(j) IMPLEMENTATION.—Not later than 120 days after the date funds authorized for the demonstration under this section first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the demonstration program authorized under this section.

Subtitle B—Supportive Housing for Persons with Disabilities

SEC. 611. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

(a) PURPOSE.—The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of such persons; and

(2) provides supportive services that address the individual health, mental health, and other needs of such persons.

(b) GENERAL AUTHORITY.—The Secretary is authorized to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities. Such assistance shall be provided as—

(1) capital advances in accordance with subsection (d)(1), and

(2) contracts for project rental assistance in accordance with subsection (d)(2).

Such assistance may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(c) GENERAL REQUIREMENTS.—The Secretary shall take such actions as may be necessary to ensure that—

(1) assistance made available under this section will be used to meet the special needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and

(2) supportive housing for persons with disabilities assisted under this section shall—

(A) provide persons with disabilities occupying such housing with supportive services that address their individual needs;

(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities, and

(C) facilitate access by such persons to the community at large and to suitable employment opportunities within such community.

(d) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

(3) RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under this section the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the person were being assisted under title XVI of the Social Security Act.

(e) TERM OF COMMITMENT.—

(1) USE LIMITATIONS.—All units in housing assisted under this section shall be made available for occupancy by very low-income persons with disabilities for not less than 40 years.

(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (d)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(f) APPLICATIONS.—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed housing;

(2) a description of the assistance the applicant seeks under this section;

(3) a supportive service plan that contains—

(A) a description of the needs of persons with disabilities that the housing is expected to serve;

(B) assurances that persons with disabilities occupying such housing will receive supportive services based on their individual needs;

(C) evidence of the applicant's (or a designated service provider's) experience in providing such supportive services;

(D) a description of the manner in which such services will be provided to such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and

(E) identification of the extent of State and local funds available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the special needs of persons with disabilities;

(5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;

(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the National Affordable Housing Act that the proposed housing is consistent with the approved housing strategy; and

(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(g) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and operate the proposed housing;

(2) the need for housing for persons with disabilities in the area to be served;

(3) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

(4) the extent to which the applicant has demonstrated that the necessary supportive services will be provided on a consistent, long-term basis;

(5) the extent to which the proposed design of the housing will accommodate the provision of such services;

(6) the extent to which the applicant has control of the site of the proposed housing; and

(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for persons with disabilities by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of acquisition, construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that (i) meets applicable State and local housing and building codes; (ii) conforms with the design characteristics of the neighborhood in which it is to be located;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to persons with disabilities;

(D) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to persons with disabilities;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area.

(2) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

(3) INCENTIVES FOR SAVINGS.—(A) The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

(B) The special project account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set-aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(4) FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

(i) TENANT SELECTION.—(1) An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) Notwithstanding any other provision of law, an owner may, with the approval of the Secretary, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity; and

(3) SITE CONTROL.—An applicant may obtain ownership or control of a suitable site different from the site specified in the initial application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for assistance, the assistance shall be recaptured and reallocated.

(4) OWNER DEPOSIT.—The Secretary may require an owner to deposit an amount not to exceed $10,000 in a special escrow account to assure the owner's commitment to the housing.

(5) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(6) LABOR STANDARDS.—The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section and designed for dwelling use by 12 or more persons with disabilities shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (the Davis-Bacon Act); but the Secretary may waive the application of this paragraph in cases or classes of cases where

laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

(k) DEFINITIONS.—As used in this section—

(1) The term "acquired immunodeficiency syndrome and related diseases" means the disease of acquired immunodeficiency syndrome and any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. The term does not include any condition of asymptomatic infection with the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "group home" means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project. Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

(3) The term "person with disabilities" means a household composed of one or more persons at least one of whom has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-7) or is a person with acquired immunodeficiency syndrome and related diseases. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

(4) The term "supportive housing for persons with disabilities" means housing that—

(A) is designed to meet the special needs of persons with disabilities, and

(B) provides supportive services that address the individual health, mental health or other special needs of such persons.

(5) The term "independent living facility" means a project designed for occupancy by not more than 20 persons with disabilities in separate dwelling units where each dwelling unit includes a kitchen and a bath.

(6) The term "owner" means a private nonprofit organization that receives assistance under this section to develop and operate a project for supportive housing for persons with disabilities.

(7) The term "private nonprofit organization" means any incorporated private institution or foundation—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(C) which is approved by the Secretary as to financial responsibility.

(8) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(9) The term "Secretary" means the Secretary of Housing and Urban Development.

(10) The term "very low-income" has the same meaning as given the term "very low-income families" under section 3(b)(2) of the United States Housing Act of 1937.

(l) AUTHORIZATIONS.—

(1) CAPITAL ADVANCES.—There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (d)(1) $258,000,000 for fiscal year 1991, $271,000,000 for fiscal year 1992, and $281,840,000 for fiscal year 1993. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of this Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(2) PROJECT RENTAL ASSISTANCE.—For the purpose of funding contracts for project rental assistance in accordance with subsection (d)(2), the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $234,000,000 for fiscal year 1991, $246,000,000 for fiscal year 1992, and $255,840,000 for fiscal year 1993.

(m) EFFECTIVE DATE AND APPLICABILITY.—

(1) The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as they were in effect when such assistance was made or reserved.

(2) When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

Subtitle C—Supportive Housing for the Homeless

SEC. 621. AMENDMENT TO MCKINNEY ACT.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

"SEC. 401. PURPOSE.

"(a) IN GENERAL.—The purpose of this title is to expand the Federal commitment to alleviate homelessness in this Nation by providing States, Indian tribes, and localities with the resources to—

"(1) help very low-income families avoid becoming homeless;

"(2) meet the emergency shelter needs of homeless persons and families;

"(3) provide transitional housing to facilitate the movement of homeless persons and families to independent living;

"(4) provide specialized permanent housing for homeless persons who require a supportive living environment; and

"(5) provide supportive services to help homeless persons and families lead independent and dignified lives.

"SEC. 402. DEFINITIONS.

"For purposes of this title—

"(1) The term 'assistance' means noninterest bearing advances to assist the acquisition, lease, renovation, substantial rehabilitation, operation, or conversion of facilities to assist the homeless, grants for moderate rehabilitation, grants for other purposes, and other assistance made eligible under section 405 and subtitle B.

"(2) The term 'emergency activities' means supportive services that are provided in an emergency shelter developed in accordance with section 412.

"(3) The term 'families' has the same meaning given the term under section 104(11) of the National Affordable Housing Act.

"(4) The term 'grantee' means a State or unit of general local government receiving grants from the Secretary under section 403(a). For purposes of section 406 and subsections (a), (b), (c), and (f) of section 408, Indian tribe, Indian housing authority or a private nonprofit organization receiving a direct grant under section 405 shall be treated as a grantee.

"(5) The term 'person with disabilities' has the same meaning given the term in section 521 of the National Affordable Housing Act.

"(6) The term 'homeless person with disabilities' means a person with disabilities who is a homeless person within the meaning of section 103, is at risk of becoming a homeless person, or has been a resident of transitional housing carried out pursuant to this Act or the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591.

"(7) The term 'locality' means the geographical area within the jurisdiction of a local government.

"(8) The term 'operating costs' means expenses incurred by a project sponsor operating any housing assisted under this title with respect to—

"(A) the administration, maintenance, repair, and security of such housing; and

"(B) utilities, fuels, furnishings, and equipment for such housing.

"(9) The term 'operating costs' includes expenses incurred by a project sponsor operating transitional housing under this title with respect to—

"(A) the conducting of the assessment required by section 413(c)(1)(B); and

"(B) the provision of supportive services to the residents of such housing.

"(10) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient sub-

stance abuse services, and case management services.

"(11) The term 'private nonprofit organization' means a secular or religious organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that does not discriminate in the provision of assistance.

"(12) the term 'project' means a structure or a portion of a structure that is acquired or rehabilitated with assistance provided under this title or with respect to which the Secretary provides technical assistance or annual payments for operating costs.

"(13) The term 'project sponsor' means any governmental or private nonprofit organization that—

"(A) receives assistance from the Secretary or from a grantee under section 403(a),

"(B) is approved by the grantee as to financial responsibility, and

"(C) is directly responsible for the administration of assistance provided under this title.

Each project sponsor shall act as the fiscal agent of the Secretary with respect to assistance provided to such project sponsor under this title.

"(14) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) The term 'State' means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

"(16)(A) The term 'supportive services' means assistance designed by a project sponsor that—

"(i) addresses the special needs of homeless persons, such as deinstitutionalized persons, families with children, persons with mental disabilities, other persons with disabilities, the elderly, and veterans intended to be served by a project; and

"(ii) assists in accomplishing the purposes of the different types of housing for the homeless made eligible under this subtitle.

"(B) The term includes—

"(i) food services, child care, substance abuse treatment, assistance in obtaining permanent housing, outpatient health services, employment counseling, nutritional counseling, security arrangements for the protection of residents of facilities to assist the homeless, and such other services essential for maintaining or moving towards independent living as the Secretary determines to be appropriate; and

"(ii) assistance to homeless persons in obtaining other Federal, State, and local assistance available for such individuals, including public assistance benefits, mental health benefits, employment counseling, and medical assistance.

"(C) Such term does not include the provision of major medical equipment.

"(D) All or part of the supportive services may be provided directly by the project sponsor or by arrangements with other public or private service providers.

"(17) The term 'unit of general local government' means any city, town, township, county, parish, village, or other general purpose subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 404(b)(1)(B) of this Act; and any other territory or possession of the United States.

"(18) The term 'very low-income families' has the same meaning given the term under section 104(8) of the National Affordable Housing Act.

"(19) The terms 'Indian tribe' and 'Indian housing authority' have the same meanings as in section 3 of the United States Housing Act of 1937.

"SEC. 403. GENERAL AUTHORITY.

"(a) GRANTS FOR HOMELESS HOUSING ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 409, make grants to States and units of general local government and to eligible applicants under section 405 in order to (A) carry out activities designed to meet the emergency, transitional, and permanent housing needs of the homeless, (B) help very low-income families and persons avoid becoming homeless, and (C) help homeless families and persons make the transition to permanent housing. A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of the National Affordable Housing Act. A grantee shall carry out activities authorized under this subsection through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.

"(2) ALLOCATION OF RESOURCES.—

"(A) FORMULA GRANTS.—(i) 80 percent of the amounts approved in appropriations Acts under section 409 shall be allocated in accordance with a formula established under section 404. Of the amounts made available under the previous sentence, the Secretary shall allocate 70 percent among units of general local government and 30 percent among States.

"(ii) Grants allocated under this subparagraph shall be available only for approved activities. Approved activities shall include—

"(I) the provision of assistance to help very low-income families avoid becoming homeless in accordance with section 411;

"(II) the development of emergency shelters for the homeless in accordance with section 412;

"(III) the development of transitional housing to facilitate the transition of homeless persons to independent living in accordance with section 413;

"(IV) the development of permanent housing for homeless persons with disabilities in accordance with section 414;

"(V) the provision of assistance to help very low-income families who are residing in emergency shelter or transitional housing make the transition to permanent housing in accordance with section 415; and

"(VI) such other activities that the Secretary develops in cooperation with grantees in accordance with section 416.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

"(iii) A grantee may use not more than 30 percent of the grants allocated in accordance with this subparagraph for emergency activities as defined in section 402(2). The Secretary may approve a higher limitation if the grantee demonstrates that other approved activities under this subparagraph are already being carried out in the jurisdiction with other resources.

"(B) DISCRETIONARY ALLOCATIONS.—20 percent of the amounts approved in appropriations Acts under section 409 shall be allocated among appropriate applications in accordance with section 405.

"(b) SRO RENOVATION.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 422, provide rental assistance to public housing agencies or other contracting agencies for the renovation of single room occupancy dwellings in accordance with subtitle C.

"SEC. 404. ALLOCATION FORMULA.

"(a) ESTABLISHMENT OF FORMULA.—The Secretary shall issue regulations establishing an allocation formula that reflects each jurisdiction's share of the Nation's need for housing assistance for the homeless as identified by—

"(1) objective measures of the incidence of homelessness;

"(2) the relation between the supply of affordable housing for very low-income families and the number of such families in the jurisdiction;

"(3) poverty; and

"(4) housing overcrowding.

The data to be used for allocation of funds within a fiscal year shall be those that are available to the Secretary 90 days prior to the beginning of that fiscal year.

"(b) ALLOCATION RULES.—

"(1) MINIMUM LOCAL ALLOCATION.—The Secretary shall allocate amounts available for formula allocation to units of general local government so that, when all such amounts are allocated by the formula, only those jurisdictions that are allocated an amount of $200,000 or greater shall receive an allocation. A jurisdiction receiving a formula allocation shall be eligible to receive grants if its formula allocation is $250,000 or greater, or if—

"(A) the Secretary finds that—

"(i) the jurisdiction is the city with the greatest population in a metropolitan area and has demonstrated a capacity to carry out provisions of section 403(a), and

"(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and $250,000 or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of section 403(a); or

"(B) geographically contiguous local governments have formed a consortium that, in the determination of the Secretary—

"(i) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a), and

"(ii) is comprised only of jurisdictions that have received a formula allocation for the fiscal year.

Such a consortium shall be deemed to be a unit of general local government for purposes of this section. If a jurisdiction has met the requirements of subparagraph (A),

the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under this subsection and the amount made available to the jurisdiction under subparagraph (A)(ii). The formula allocation for a consortium that has met the requirements, under this subparagraph shall equal the total of the allocations of its member jurisdictions.

"(2) MINIMUM STATE ALLOCATION.—(A) If the formula, when applied to the funds available in accordance with section 403(a)(2)(A), would allocate less than $250,000 to any State, the allocation for such State shall be $250,000, and the increase shall be deducted pro rata from the allocations of other States.

"(B) If no unit of general local government within a State receives an allocation under paragraph (1), the Secretary may increase the State's allocation by $125,000 after determining that such increase is necessary to provide appropriate levels of housing assistance to homeless persons and families within the State. Priority of use of such increased allocation shall go to the provision of housing assistance for the homeless within the boundaries of cities within the State that are the largest city within a metropolitan area. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government.

"(3) GRANTEE STATUS.—Once a State or unit of general local government becomes a grantee, it shall remain eligible to receive grants for subsequent fiscal years, except as provided in paragraph (4).

"(4) REVOCATION.—The Secretary may revoke a jurisdiction's status as a grantee if (A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this subtitle, or (B) the jurisdiction's formula allocation falls below $250,000 for 3 consecutive years, below $225,000 for 2 consecutive years, or below $200,000 in any 1 year.

"(d) INITIAL ALLOCATION OF ASSISTANCE.—Not later than 30 days after funds to carry out this section are provided in an appropriations Act (or, during the first year after enactment of this Act, not later than 30 days after regulations to implement this section are promulgated or due), the Secretary shall allocate funds in accordance with subsections (a) and (b) and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a local jurisdiction is not eligible to receive grants because its allocation amount is too low, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become eligible to receive grants.

"(e) DISTRIBUTION OF ASSISTANCE BY A STATE.—Each State shall distribute its allocation of assistance under this section in accordance with the need for homeless assistance as identified in the State's housing strategy approved under section 105 of the National Affordable Housing Act and shall coordinate its efforts where assistance is distributed to a unit of general local government that is a grantee.

"(f) ALLOCATION TO TERRITORIES.—In addition to the other allocations required in this section, the Secretary may make such allocations under this subtitle as the Secretary determines to be appropriate to Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands and any other territory or possession of the United States.

"SEC. 405. DISCRETIONARY ALLOCATION.

"(a) IN GENERAL.—The Secretary shall, to the extent of amounts made available under section 403(a)(2)(B) or reallocated under subsection 408(e), make grants to eligible applicants to meet urgent needs of homeless persons that are not being met by available public and private sources in areas with an unusually high incidence of homelessness. For purposes of this section, the term 'eligible applicant' means a grantee, Indian tribe, Indian housing authority or private nonprofit organization, except that a grantee shall not be permitted to submit an application if the Secretary finds that the grantee is in noncompliance with sections 406 and 408.

"(b) ELIGIBLE ACTIVITIES.—Assistance provided under this section may be used for approved activities under subtitle B and for the following additional activities:

"(1) the purchase, lease, rehabilitation, renovation, operation, or conversion of facilities to assist the homeless;

"(2) the transitional provision of supportive services designed to meet special needs of homeless persons, including families with children, deinstitutionalized persons, persons with mental disabilities, other persons with disabilities, the elderly, and veterans. Assistance provided under this paragraph shall be phased out over a period not to exceed 3 years; and

"(3) the provision of supplemental assistance to projects assisted under sections 412 and 413 if such assistance is required to meet the special needs of homeless persons residing in such projects.

"(c) APPLICATIONS.—Funds made available under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed activities;

"(2) a description of the size and characteristics of the homeless population that would be served by the proposed activities;

"(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

"(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section (except for property to be used as emergency shelter in accordance with section 412) shall be operated for not less than 10 years for the purpose specified in the application;

"(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs of homeless persons that are not being met by available public and private sources;

"(6) if submitted by a private nonprofit organization, a certification from the public official responsible for submitting a housing strategy in accordance with section 105 of the National Affordable Housing Act that the application is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

"(d) SELECTION CRITERIA.—

"(1) IN GENERAL.—The Secretary shall establish selection criteria for assistance under this subsection, which shall principally take into account—

"(A) the extent to which the proposed activities meet urgent needs of homeless persons that are not being met by available public and private sources; and

"(B) the extent to which the area in which the proposed activities are to be carried out is an area with an unusually high incidence of homelessness.

"(2) ADDITIONAL CRITERIA.—Selection criteria established by the Secretary shall also take into account—

"(A) the extent to which the proposed activities would provide assistance to homeless persons who are most difficult to serve;

"(B) the extent to which the proposed activities would make available as housing for homeless persons property owned by the Federal Government, a State, a unit of general local government, or other public entity, including in rem property, public buildings, and public land;

"(C) the extent to which the proposed activities would be carried out in a jurisdiction that has demonstrated exemplary coordination among State and local agencies administering housing, child welfare, and public assistance activities;

"(D) the extent to which the applicant has demonstrated the capacity to carry out the proposed activities; and

"(E) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(e) SPECIAL RULES FOR SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.—

"(1) The Secretary may not provide assistance under subsection (b)(3) unless the Secretary determines that—

"(A) the applicant has made reasonable efforts to utilize all available local resources and resources available under the other provisions of this title; and

"(B) other resources are not sufficient or are not available to carry out the purpose for which the assistance is being sought.

No assistance provided under subsection (b)(3) may be used to supplant any non-Federal resources provided with respect to any project.

"(2) Not more than $10,000 of any grant or advance under subsection (b)(3) may be used for outpatient health services (excluding the cost of any rehabilitation or conversion of a structure to accommodate the provision of such services).

"(3) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining under this section the appropriateness of proposed outpatient health services. Such guidelines shall include such provisions as are necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this section for the final selection of applications for assistance.

"(f) ADMINISTRATIVE PROVISIONS.—The total amount allocated to a grantee under this section in any fiscal year shall not exceed the grantee's formula allocation under section 404 in that fiscal year.

"SEC. 406. RESPONSIBILITIES OF GRANTEES AND PROJECT SPONSORS.

"(a) MATCHING REQUIREMENTS.—Each grantee shall be required to supplement the grants provided under this title with an equal amount of funds from non-Federal sources. Each grantee shall certify to the Secretary its compliance with this subsec-

tion, describing the sources and amounts of such supplemental funds. Supplemental funds may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of a project sponsor, and the value of the time and services contributed by volunteers to carry out the program of a project sponsor at a rate determined by the Secretary.

"(b) HOUSING QUALITY.—Each grantee shall assure that housing assisted under this subtitle shall be decent, safe, and sanitary and, when appropriate, meet all applicable State and local housing and building codes and licensing requirements in the jurisdiction in which the housing is located.

"(c) CONSISTENCY WITH HOUSING STRATEGY.—Each grantee shall certify, to the satisfaction of the Secretary, that activities undertaken by project sponsors with assistance from the grantee are consistent with the housing strategy submitted by the grantee in accordance with section 105 of the National Affordable Housing Act.

"(d) ASSISTANCE TO HOMELESS PERSONS.—Each grantee shall certify that each project sponsor shall administer, in good faith, a policy designed to ensure that any shelter or housing assisted under this subtitle is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

"(e) LIMITATION ON USE OF FUNDS.—Each grantee shall certify, to the satisfaction of the Secretary, that neither assistance received under this subtitle nor any State or local government funds used to supplement such assistance will be used to replace other public funds previously used, or designated for use, to assist the homeless.

"(f) CIVIL RIGHTS COMPLIANCE.—Each grantee shall certify, to the satisfaction of the Secretary, that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the Fair Housing Act and the grantee will affirmatively further fair housing.

"(g) REPORTS.—

"(1) Each grantee shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, a performance and evaluation report on the use of amounts made available under this subtitle, together with the grantee's assessment of the relationship of such usage to the grantee's approved housing strategy. The report shall include information on the number of homeless persons served and the reasons for their homelessness. The report shall also specify the amounts made available under this subtitle for each approved activity under subtitle B. The report shall be made available to the public so that citizens, public agencies, and other interested parties have an opportunity to comment on the report prior to its submission. The report shall include a summary of any comments received from interested parties.

"(2) The Secretary shall consult with national associations of States, local governments, and other housing interests to develop uniform recordkeeping, performance reporting, and auditing requirements. After considering the results of such consultations, the Secretary shall establish uniform recordkeeping, performance reporting, and auditing requirements for assistance made available under this subtitle.

"(h) SITE CONTROL.—Each grantee or project sponsor shall furnish reasonable assurances that it will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. A suitable site different from the site specified in the application satisfies the requirement of this subsection. If ownership or control of a site is not obtained within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(i) PREVENTION OF UNDUE BENEFITS.—The Secretary may prescribe such terms and conditions as he deems necessary to prevent project sponsors from unduly benefiting from the sale or other disposition of projects constructed, rehabilitated, or acquired with assistance under this subtitle other than a sale or other disposition resulting in the use of the project for the direct benefit of very low-income families.

"(j) ADDITIONAL REQUIREMENTS.—The Secretary may establish such other program requirements as the Secretary determines are necessary for grantees to administer activities authorized under this subtitle in an efficient manner.

"SEC. 407. STRATEGY TO ELIMINATE WELFARE HOTELS AND UNFIT TRANSIENT FACILITIES.

"(a) IN GENERAL.—The Secretary shall, not more than 4 months after the date of enactment of the National Affordable Housing Act, identify the States and units of general local government which use welfare hotels and other unfit transient facilities as housing for homeless families with children and develop and publish in the Federal Register a strategy to eliminate such use by January 1, 1992. In developing the strategy required under this section, the Secretary shall consult with the Secretary of the Department of Health and Human Services, the Administrator of the Federal Emergency Management Agency, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons and other experts.

"(b) CONTENTS OF STRATEGY.—The strategy developed under this section shall specify—

"(1) actions to be taken to ensure that families with children currently residing in welfare hotels or unfit transient facilities will make a timely transition to permanent housing;

"(2) actions to be taken to provide sufficient emergency, transitional, and permanent housing to preclude the future use of welfare hotels or unfit transient facilities as housing for homeless families with children; and

"(3) changes in Federal, State, and local statutes and regulations that are needed to eliminate the use of welfare hotels and unfit transient facilities as housing for homeless families with children.

"(c) IMPLEMENTATION OF STRATEGY.—To ensure that the strategy developed under this section is carried out within the statutory deadline, the Secretary shall be authorized to use and apply the following additional resources and powers:

"(1) such preferences in the allocation of resources under section 405 as the Secretary determines to be appropriate;

"(2) such limitations upon a jurisdiction's discretion to allocate resources among approved activities under section 403(a)(2)(A) of this title as the Secretary determines to be appropriate;

"(3) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and

"(4) such additional constraints on the use of funds under other provisions of Federal law as the Secretary determines to be appropriate.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'unfit transient facility' means a facility that provides transient accommodations to homeless persons and families in an environment that does not meet the minimum standards of habitability established by the Secretary in accordance with section 412(b); and

"(2) the term 'welfare hotel' means a commercial hotel or motel used by a jurisdiction to provide transient accommodations to homeless persons and families receiving some type of public assistance.

"SEC. 408. ADMINISTRATIVE PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee may not use more than 5 percent of the assistance received under this subtitle for administrative purposes.

"(b) INCOME ELIGIBILITY.—A homeless person shall be eligible for assistance under any program provided by this subtitle, or by the amendments made by this subtitle, only if the person has income not exceeding 50 percent of the median income for the area, as adjusted in accordance with section 3(b)(2) of the United States Housing Act of 1937.

"(c) FLOOD ELEVATION REQUIREMENTS.—Flood protection standards applicable to housing acquired, rehabilitated, or assisted under any provision of this subtitle shall be no more restrictive than the standards applicable to any other program administered by the Secretary.

"(d) APPLICABILITY OF SECTION 104(g) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this subtitle.

"(e) RECAPTURE AND REALLOCATION OF FUNDS.—

"(1) FORMULA REALLOCATIONS.—If a State or unit of general local government receiving a formula allocation under section 404 fails to obtain approval of its housing strategy in accordance with section 105 of the National Affordable Housing Act, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

"(A) If a State fails to obtain approval of its housing strategy, the Secretary shall make the State's formula allocation available in accordance with section 405. The Secretary shall, insofar as practicable, give priority to funding projects that assist the homeless population within the State.

"(B) If a unit of general local government eligible for a grant under section 404 fails to obtain approval of its housing strategy, the Secretary shall promptly reallocate the locality's formula allocation to the State in which the locality is located if the State has obtained approval of its housing strategy. The State shall give priority to funding projects that assist the homeless population within the locality.

"(C) If a unit of general local government eligible for a grant under section 404 fails to obtain approval of its housing strategy, and is located within a State that also fails to obtain approval of its housing strategy, the Secretary shall make the locality's formula allocation available in accordance with section 405. The Secretary shall, insofar as practicable, give priority to funding projects that assist the homeless population within the locality.

"(2) NONCOMPLIANCE.—The Secretary may recapture assistance made available to a grantee if the Secretary determines that the grantee is in noncompliance with program requirements and shall reallocate such assistance in accordance with section 405.

"(3) OTHER REALLOCATIONS.—If, following the receipt of applications for the final funding round under section 405 for any fiscal year, any amount set aside for assistance pursuant to section 405 will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for use under subtitle C.

"(f) GAO AUDITS.—Insofar as they relate to funds provided under this section, the financial transactions of grantees and project sponsors may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by, such grantees and project sponsors pertaining to the financial transactions and necessary to facilitate the audit.

"SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $220,000,000 for fiscal year 1991, $228,800,000 for fiscal year 1992, and $237,952,000 for fiscal year 1993. Any amount appropriated under this section shall remain available until expended.

"SEC. 410. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this title and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall summarize and assess the results of performance reports provided in accordance with subsection 406(g). The report shall be submitted not later than 3 months after the end of each fiscal year.

"Subtitle B—Approved Activities

"SEC. 411. HOMELESSNESS PREVENTION.

"(a) DEFINITION.—Assistance to help very low-income families avoid becoming homeless may include activities other than those that the Secretary has found to be inconsistent with the purposes of this Act.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide financial assistance to very low-income families who have received eviction notices or notices of termination of utility services if—

"(1) the inability of the family to make the required payments is due to a sudden reduction in income;

"(2) the assistance is necessary to avoid the eviction or termination of services;

"(3) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

"(4) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

"SEC. 412. EMERGENCY SHELTER.

"(a) DEFINITION.—A project shall be considered 'emergency shelter' if it is designed to provide overnight sleeping accommodations and appropriate eating and cooking accommodations for homeless persons.

"(b) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of emergency shelter:

"(1) a grant for the renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters;

"(2) a grant for the provision of supportive services if such services do not supplant any services provided by the local government during any part of the immediately preceding 12-month period; and

"(3) annual payments for maintenance, operation, insurance, utilities, and furnishings.

"(d) PROGRAM REQUIREMENTS.—A grantee may approve assistance for a project under this subsection only if the project sponsor has agreed that it will—

"(1) in the case of assistance involving major rehabilitation or conversion of a building, maintain the building as a shelter for homeless persons and families for not less than a 10-year period;

"(2) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion of a building), maintain the building as a shelter for homeless persons and families for not less than a 3-year period;

"(3) in the case of assistance involving only activities described in paragraphs (2) and (3) of subsection (c), provide services or shelter to homeless persons and families at the original site or structure or other sites or structures serving the same general population for the period during which such assistance is provided;

"(4) comply with the standards of habitability prescribed by the Secretary and (if applicable) the State or unit of general local government; and

"(5) assist homeless persons in obtaining—

"(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

"(B) other Federal, State, local, and private assistance available for homeless persons.

"SEC. 413. TRANSITIONAL HOUSING FOR THE HOMELESS.

"(a) DEFINITION.—A project shall be considered 'transitional housing' if it is designed to facilitate the movement of homeless persons to independent living within 24 months (or such longer period as the Secretary determines is necessary to facilitate the transition of homeless persons to independent living). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless persons and other homeless persons with mental disabilities, and homeless families with children.

"(b) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of transitional housing:

"(1) An advance not to exceed cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as transitional housing. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as transitional housing prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as transitional housing.

"(3) Annual payments for operating costs of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act) not to exceed 75 percent of the annual operating costs of such housing.

"(4) Technical assistance in—

"(A) establishing transitional housing in an existing structure;

"(B) operating transitional housing in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act).

"(5) A grant for establishing and operating an employment assistance program for the residents of transitional housing, which shall include—

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.

"(6) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.

A project sponsor may receive assistance under both paragraphs (1) and (2).

"(c) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for a project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as transitional housing for not less than 10 years;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project;

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) OCCUPANT RENT.—Each homeless person residing in a facility assisted under this section shall pay as rent an amount determined in accordance with the provisions

of section 3(a) of the United States Housing Act of 1937.

"(3) ALTERNATIVE USE.—A project may continue to be treated as transitional housing for purposes of this subsection if the grantee determines that such project is no longer needed for use as transitional housing and approves the use of such project for the direct benefit of very low-income families.

"SEC. 414. PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.

"(a) DEFINITION.—A project shall be considered 'permanent housing for homeless persons with disabilities' if it provides community-based long-term housing and supportive services for not more than 8 homeless persons with disabilities. The Secretary may waive the limitation contained in the preceding sentence if the grantee demonstrates that local market conditions dictate the development of a larger project.

"(b) PROJECT DESIGN AND SITING.—Each project assisted under this subtitle shall be either a home designed solely for housing persons with disabilities or dwelling units in a multifamily housing project, condominium project, or cooperative project. Not more than 1 home may be located on any 1 site and no such home may be located on a site contiguous to another site containing such a home.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of permanent housing for homeless persons with disabilities:

"(1) An advance not to exceed the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as permanent housing for homeless persons with disabilities prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities.

"(3) Annual payments for operating costs for permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act), not to exceed 50 percent of the annual operating costs of such housing for the first year of operation, and not to exceed 25 percent of such costs for the second year of operation.

"(4) Technical assistance in—

"(A) establishing permanent housing for homeless persons with disabilities in an existing structure;

"(B) operating permanent housing for homeless persons with disabilities in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act).

"(d) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for any project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as permanent housing for homeless persons with disabilities for not less than 10 years;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project; and

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) STATE PARTICIPATION.—Each grantee providing assistance to a project under this section shall transmit to the Secretary a letter of participation from the State assuring that the State will promptly transmit assistance to the project sponsor and will facilitate the provision of necessary supportive services to the residents of the project;

"(3) OCCUPANT RENT.—Each homeless person residing in a project assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) ALTERNATIVE USE.—A project may continue to be treated as permanent housing for homeless persons with disabilities for purposes of this subsection if the grantee determines that such project is no longer needed for use as such housing and approves the use of such project for the direct benefit of very low-income families.

"(5) TENANT SELECTION.—(A) A project sponsor owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Project sponsors shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(B) Notwithstanding any other provision of law, a project sponsor may, with the approval of the grantee, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

"SEC. 415. TRANSITION TO PERMANENT HOUSING.

"(a) DEFINITION.—Assistance to help eligible families make the transition to permanent housing shall include the provision of security deposits and the cost of rent for one month. For purposes of this section, the term 'eligible family' means a very low-income family who has resided in emergency shelter or transitional housing and who meets other conditions of eligibility as the Secretary determines to be appropriate.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide financial assistance to eligible families in the form of a security deposit and the cost of rent for not more than one month if—

"(1) the grantee determines that the rental charge for the subject unit is reasonable in comparison with rents charged for comparable units in the private, unassisted market;

"(2) there is a reasonable prospect that the family will be able to sustain the rental payments for a reasonable period of time; and

"(3) the eligible family has made reasonable efforts to receive assistance under the program of aid to families with dependent children under part A of title IV of the Social Security Act or a similar local, State, or Federal public assistance program.

"(c) PARTICIPATING LANDLORD.—If an eligible family vacates the rental unit, a landlord participating in this program shall return to the grantee any portion of the security deposit (including reasonable interest) against which such landlord does not have a claim. Any returned funds may be used by a grantee in accordance with section 403(a).

"SEC. 416. DEVELOPMENT OF ADDITIONAL APPROVED ACTIVITIES.

"The Secretary, in cooperation with grantees and other appropriate parties, shall develop additional approved activities to carry out the purposes of this title.

"Subtitle C—Section 8 Single Room Occupancy

"SEC. 421. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY PROVISIONS.

"(a) USE OF FUNDS.—The amounts made available under this subtitle shall be used only in connection with the moderate rehabilitation of housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons, except that such amounts may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.

"(b) ALLOCATION.—The amounts made available under this subtitle shall be allocated by the Secretary among approvable applications to the applicant public housing agencies or other contracting agencies that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this subtitle. To be considered for assistance under this section, an applicant shall submit to the Secretary a proposal containing—

"(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

"(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

"(3) an inventory of suitable housing stock to be rehabilitated with such assistance; and

"(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program.

No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this subtitle.

"(c) FIRE AND SAFETY IMPROVEMENTS.—Each rental credit contract entered into with the authority provided under this subtitle shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this subsection, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"(d) COST LIMITATION.—

"(1) The total cost of rehabilitation that may be compensated for in a rental credit contract entered into with the authority provided under this subtitle shall not exceed

$15,000 per unit, plus the expenditures required by subsection (d).

"(2) The Secretary shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including—

"(A) high construction costs; or

"(B) stringent fire or building codes.

"(3) The Secretary shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.

"(e) CONTRACT REQUIREMENTS.—Each contract for annual contributions entered into with a public housing agency or other contracting agency to obligate the authority made available under this subtitle shall—

"(1) commit the Secretary to make such authority available to the public housing agency or other contracting agency for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this subtitle shall be given to homeless persons.

"SEC. 422. INCREASE IN BUDGET AUTHORITY.

"The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $78,694,000 on or after October 1, 1990, by $81,842,000 on or after October 1, 1991, and by $85,115,000 on or after October 1, 1992. Any funds appropriated under this section shall remain available until expended.

"Subtitle D—Shelter Plus Care Program

"PART 1—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 431. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) in connection with supportive services funded from sources other than this subtitle.

"SEC. 432. RENTAL HOUSING ASSISTANCE.

"The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"SEC. 433. SUPPORTIVE SERVICES REQUIREMENTS; MATCHING FUNDING.

"(a) SUPPLEMENTAL FUNDS.—Each recipient shall assure that the amount of budget authority obligated by the Secretary for rental housing assistance under this subtitle is supplemented with at least an equal amount of funds from other sources. The funds shall be used for the provision of supportive services to eligible persons under this subtitle. In calculating the amount of these funds, a recipient may include the value of such items determined appropriate by the Secretary.

"(b) ASSURANCES.—Each recipient shall give reasonable assurances that supportive services appropriate to the needs of eligible persons to be served under its program will be provided for the full term of the rental housing assistance under parts II, III, and IV, as appropriate. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the persons assisted under the program.

"(c) RECAPTURE.—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 434. APPLICATIONS.

"(a) IN GENERAL.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) MINIMUM CONTENTS.—The Secretary shall require that an application contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(4) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(5) a description of the resources that are expected to be made available to provide the supportive services required by section 433;

"(6) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(7) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(8) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(9) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), will be brought into the program;

"(10) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(11) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 435. SELECTION CRITERIA.

"(a) IN GENERAL.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(3) the quality of the proposed program for providing supportive services and housing assistance;

"(4) the extent to which the proposed funding for the supportive services is or will be available;

"(5) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(6) the cost-effectiveness of the proposed program; and

"(7) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) CONSULTATION WITH HHS.—In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

"(c) FUNDING LIMITATION.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 436. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 437. TERMINATION OF ASSISTANCE.

"If an eligible person who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance.

"SEC. 438. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the same meaning given the term in section 521 of the National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian

tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'chronic problems with alcohol, other drugs, or both' shall have such meaning as proposed by the applicant and approved by the Secretary.

"(4) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases).

"(5) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(6) The term 'person with disabilities' has the same meaning given the term in section 521 of the National Affordable Housing Act.

"(7) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(8) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(9) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(12) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In- patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated $160,800,000 for fiscal year 1991, $167,213,000 for fiscal year 1992, and $173,400,000 for fiscal year 1993.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $49,571,000 on or after October 1, 1990, $54,193,000 on or after October 1, 1991, and $56,144,000 on or after October 1, 1992.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated $35,835,000 for fiscal year 1991, $37,233,000 for fiscal year 1992, and $38,573,000 for fiscal year 1993.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 441. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 442. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (a) in a particular structure or unit for up to the first two years of participation, and (b) within a particular geographic area for the full period of participation or the period remaining after the period referred to in subsection (a).

"SEC. 443. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of five years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 444. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part; and

"(2) the recipient make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 445. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 446. ADMINISTRATIVE FEES.

"The Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 451. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by very low-income eligible persons. However, amounts made available under section 439(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 452. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into using the authority provided under section 439(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 453. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 439(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to very low-income eligible persons.

"SEC. 454. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"(c) INAPPLICABILITY OF 'OTHER SINGLE PERSON' LIMITATIONS.—The limitations on the eligibility of other single persons contained in section 3(b)(3) of the United States Housing Act of 1937 shall not apply to eligible persons under this part.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(c) of this subtitle only in connection with the provision of rental housing assistance under section 611 of the National Affordable Housing Act for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the re-

quirements of section 611 of such Act for the purpose of providing such rental housing assistance.

"SEC. 462. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 463. HOUSING STANDARDS AND RENT REASONABLENESS.

"The Secretary shall require that (a) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (b) the recipient make at least annual inspections of each unit during the contract term. No assistance may be provided for a dwelling unit (a) for which the occupancy charge is not reasonable, or (b) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 464. ADMINISTRATIVE FEES.

"The Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"Subtitle E—Miscellaneous

"SEC. 471. ENVIRONMENTAL REVIEW.

"The provisions of, and the regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title.".

(b) IMPLEMENTATION.—Not later than 120 days after the date funds authorized under section 439 of the Stewart B. McKinney Homeless Assistance Act, as amended by this Act, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle D of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the date of enactment of this Act, that are or become available for obligation shall be available for use under subtitle D of title IV of the McKinney Act, as amended by this Act.

SEC. 622. DEFINITION OF "HOMELESS PERSON".

Section 103(a) of the Stewart B. McKinney Homeless Assistance Act is amended by adding after "homeless individual" the following: "or homeless person".

SEC. 623. TRANSITIONAL RULE.

Notwithstanding section 404(a) of the Stewart B. McKinney Homeless Assistance Act (as amended by section 531), during the period not to exceed 1 year following the enactment of this Act, the Secretary is authorized to allocate homeless assistance made available under such Act in accordance with regulations in effect on January 1, 1989, to the extent determined by the Secretary to be necessary to provide for orderly transition to the regulations issued under such section.

SEC. 624. CONFORMING AMENDMENT.

That part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

"Sec. 401. Purpose.
"Sec. 402. Definitions.
"Sec. 403. General authority.
"Sec. 404. Allocation formula.
"Sec. 405. Discretionary allocation.
"Sec. 406. Responsibilities of grantees and project sponsors.
"Sec. 407. Strategy to eliminate welfare hotels and unfit transient facilities.
"Sec. 408. Administrative provisions.
"Sec. 409. Authorization of appropriations.
"Sec. 410. Reports to Congress.

"Subtitle B—Approved Activities.

"Sec. 411. Homelessness prevention.
"Sec. 412. Emergency shelter.
"Sec. 413. Transitional housing for the homeless.
"Sec. 414. Permanent housing for homeless persons with disabilities.
"Sec. 415. Transition to permanent housing.
"Sec. 416. Development of additional approved activities.

"Subtitle C—Section 8 Single Room Occupancy

"Sec. 421. Section 8 single room occupancy provisions.
"Sec. 422. Increase in budget authority.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 431. Purpose.
"Sec. 432. Rental housing assistance.
"Sec. 433. Supportive services requirements; matching funding.
"Sec. 434. Applications.
"Sec. 435. Selection criteria.
"Sec. 436. Required agreements.
"Sec. 437. Termination of assistance.
"Sec. 438. Definitions.
"Sec. 439. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"Sec. 441. Purpose.
"Sec. 442. Housing assistance.
"Sec. 443. Amount of assistance.
"Sec. 444. Housing standards and rent reasonableness.
"Sec. 445. Tenant rent.
"Sec. 446. Administrative fees.

"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"Sec. 451. Purpose.
"Sec. 452. Fire and safety improvements.
"Sec. 453. Contract requirements.
"Sec. 454. Occupancy.

"PART IV—SECTION 202 RENTAL ASSISTANCE

"Sec. 461. Purpose.
"Sec. 462. Amount of assistance.
"Sec. 463. Housing standards and rent reasonableness.
"Sec. 464. Administrative fees.

"Subtitle E—Miscellaneous

"Sec. 471. Environmental review.".

SEC. 625. STRATEGY TO ASSIST HOMELESS PERSONS WITH ACQUIRED IMMUNODEFICIENCY SYNDROME AND RELATED DISEASES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, not more than 12 months after the date of enactment of the National Affordable Housing Act, develop and publish in the Federal Register a strategy to expand the supply of supportive housing for homeless persons with acquired immunodeficiency syndrome and related diseases. In developing the strategy required under this section, the Secretary shall consult with the Secretary of the Department of Health and Human Services, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons with acquired immunodeficiency syndrome and related diseases and other experts.

(b) PRELIMINARY INFORMATION.—In developing the strategy required under this section, the Secretary shall—

(1) identify the States and units of general local government that have a significant population of homeless persons with acquired immunodeficiency syndrome and related diseases;

(2) assess the extent to which Federal housing and supportive service programs (and comparable State and local programs) are adequately serving such population within the jurisdictions identified under paragraph (1);

(3) identify provisions in Federal, State, and local statutes and regulations that inhibit the development of supportive housing for homeless persons with acquired immunodeficiency syndrome and related diseases; and

(4) identify other barriers that inhibit the implementation of Federal housing and supportive service programs (and comparable State and local programs) within the jurisdictions identified under paragraph (1).

(c) CONTENTS OF STRATEGY.—The strategy developed under this section shall specify—

(1) recommended changes in Federal, State, and local statutes and regulations identified under subsection (b)(3);

(2) actions to be taken to build the capacity of nonprofit organizations that are dedicated to the development of supportive housing for persons with acquired immunodeficiency syndrome and related diseases;

(3) such preferences in the allocation of resources under section 405 of the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(4) such limitations upon a jurisdiction's discretion to allocate resources among approved activities under section 403(a)(2)(A) of the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(5) such set-aside of tenant-based rental assistance under section 8(o) of the United States Housing Act of 1987 as the Secretary determines to be appropriate;

(6) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and

(7) such additional constraints on the use of funds under other provisions of Federal

law as the Secretary determines to be appropriate.

(d) DEFINITIONS.—As used in this section—

(1) The term "acquired immunodeficiency syndrome and related diseases" means the disease of acquired immunodeficiency syndrome and any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. The term does not include any condition of asymptomatic infection with the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "Federal housing and supportive service programs" shall include but not be limited to public housing developed under the United States Housing Act of 1937, housing developed under section 202 of the Housing Act of 1959, housing developed or assistance provided under section 8 of the United States Housing Act of 1937, housing developed under title IV of the Stewart B. McKinney Homeless Assistance Act, and related supportive services provided under programs administered by the Department of Health and Human Services and other agencies and departments of the Federal Government.

Subtitle D—White House Conference on Homelessness

SEC. 631. SHORT TITLE.

This title may be cited as the "White House Conference on Homelessness Act".

SEC. 632. AUTHORIZATION OF CONFERENCE.

(a) IN GENERAL.—The President shall call and conduct a National White House Conference on Homelessness (hereinafter referred to as the "Conference") within 18 months of the date of enactment of this Act, to carry out the purposes described in section 638 of this Act. The Conference shall be preceded by State and regional conferences with at least one such conference being held in each State and the District of Columbia.

(b) PRIOR STATE AND REGIONAL CONFERENCES.—Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the Executive Director of the Interagency Council on the Homeless, and shall direct such conferences and activities toward the consideration of the purposes of the Conference described in section 638 of this Act in order to prepare for the Conference.

SEC. 633. PURPOSES OF CONFERENCE.

The purposes of the Conference shall be—

(1) to increase public awareness of homelessness;

(2) to identify the problems of homeless individuals;

(3) to examine the status of homeless individuals;

(4) to assemble individuals involved in policies and programs related to the homeless;

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problem of homelessness; and

(6) to review the existing laws and regulations related to public policy regarding the homeless.

SEC. 634. CONFERENCE PARTICIPANTS.

(a) IN GENERAL.—In order to carry out the purposes specified in section 638 of this Act, the Conference shall bring together individuals concerned with issues and programs, both public and private, relating to homelessness. No person involved in providing services to, or advocacy for, homeless individuals may be denied admission to any State or regional conference, nor may any fee or charge be imposed on any attendee except a registration fee of not to exceed $10.

(b) SELECTION.—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences. In addition—

(1) each Governor may appoint one delegate and one alternate;

(2) each Member of the United States House of Representatives, including each Delegate, and each Member of the United States Senate may appoint one delegate and one alternate;

(3) the President may appoint 100 delegates and up to 30 alternates;

(4) each organization enumerated in section 301(b) of the Stewart B. McKinney Homeless Assistance Act may appoint one delegate and one alternate; and

(5) each mayor of a city with a population of 175,000 or more, according to the latest available census, may appoint one delegate and one alternate.

Only individuals involved in providing services to, or advocacy for, homeless individuals shall be eligible for appointment pursuant to this subsection.

SEC. 635. PLANNING AND ADMINISTRATION OF CONFERENCE

(a) FEDERAL SUPPORT.—All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) EXECUTIVE DIRECTOR OF INTERAGENCY COUNCIL.—In carrying out the provisions of this title, the Executive Director of the Interagency Council on the Homeless—

(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels as authorized under section 632(b) of this Act.

(2) is authorized to enter into contracts with public agencies, private organizations and academic institutions to carry out the provisions of this title; and

(3) shall assist in carrying out the provisions of this title by preparing and providing background materials for use by participants in the Conference, as well as by participants in State and regional conferences.

(c) NONREIMBURSEMENT.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed either from funds appropriated pursuant to this title or the Stewart B. McKinney Homeless Assistance Act.

(d) STAFF.—(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the exective director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

SEC. 636. REPORTS REQUIRED.

Not more than 6 months after the date on which the National Conference is convened a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

SEC. 637. FOLLOWUP ACTIONS.

The Interagency Council on the Homeless shall include in its annual report to the President and the Congress the status and implementation of the findings and recommendations of the Conference.

SEC. 638. AVAILABILITY OF FUNDS.

(a) AUTHORIZATION.—There are hereby authorized to be appropriated $6,000,000 for fiscal year 1991 to carry out the provisions of this title, and they shall remain available until expended. New spending authority or authority to enter contracts as provided in this title shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(b) LIMITATION, DISPOSITION OF UNEXPENDED BALANCES.—No funds appropriated to the Interagency Council on the Homeless shall be made available to carry out the provisions of this title other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

SEC. 639. AUTHORIZATION OF APPROPRIATIONS

Notwithstanding any other provision of this Act, each authorization of appropriations contained in a provision of this Act (other than a provision of this subtitle) shall be reduced by an amount that bears the same ratio to $6,000,000 for a fiscal year 1991 authorization.

TITLE VII—PUBLIC AND INDIAN HOUSING

SEC. 701. PURPOSES.

The purposes of this title are—

(1) to modernize the Nation's stock of low-income public and Indian housing and provide operating assistance needed for such housing to be a suitable living environment;

(2) to make adequate provisions for one-for-one replacement of any public housing dwelling units that are demolished or disposed of;

(3) to establish Project Independence to help families with children living in public housing gain better access to jobs and educational opportunities; and

(4) to reduce the cost of operating assistance to public and Indian housing by improving the energy efficiency of the housing stock.

Subtitle A—Public Housing Revisions

SEC. 711. PUBLIC HOUSING REVISIONS

Section 14 of the United States Housing Act of 1937 is amended by inserting at the end the following new subsection:

"(p) MAJOR RECONSTRUCTION.—The Secretary shall make available and contract to make available assistance in the form of grants to enable the substantial redesign, reconstruction or redevelopment of existing public housing projects or units. Of the total amount of assistance approved in appropriation Acts under section 5(c), there shall be set aside to carry out this subsection $92,000,000 for fiscal year 1991, $96,000,000 for fiscal year 1992 and $100,000,000 for fiscal year 1993.".

SEC. 712. REPLACEMENT HOUSING.

(a) BUDGET REQUEST.—Section 18(c)(2) of the United States Housing Act of 1937 is amended by adding at the end the following: "As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall transmit to the Congress a report—

"(A) outlining the commitments the Secretary entered into during the preceding year to fund plans approved under subsection (b)(3); and

"(B) specifying, by fiscal year, the budget authority required to carry out the commitments specified in paragraph (A).".

(b) REPEALER.—Section 18(c)(3) of the United States Housing Act is repealed.

SEC. 713. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) PERFORMANCE INDICATORS FOR PUBLIC HOUSING AGENCIES.—Section 6(j) of the United States Housing Act of 1937 is amended to read as follows:

"(j)(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies in all major areas of management operations. The Secretary shall, in particular, use the following indicators:

"(A) the number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies;

"(B) the amount and percentage of funds obligated to the PHA under section 14 of this Act which remain unexpended after 3 years;

"(C) the percentage of rents uncollected;

"(D) the energy consumption per unit (with appropriate adjustments to reflect different regions and unit sizes);

"(E) the average period of time that an agency requires to repair and turn-around vacant units;

"(F) the proportion of maintenance work orders outstanding;

"(G) the percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments for large and small agencies); and

"(H) such other factors as the Secretary deems appropriate.

"(2)(A) The Secretary shall establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate.

"(B) The Secretary shall seek to enter into an agreement with each troubled public housing agency setting forth—

"(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

"(ii) strategies for meeting those targets; and

"(iii) incentives or sanctions for effective implementation of those strategies, which may include such constraints on the use of funds made available under this Act and the Housing and Community Development Act of 1974 as the Secretary determines to be appropriate.

The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

"(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary—

"(i) may solicit competitive bids from housing management agents in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency; and

"(ii) may petition for the appointment of a receiver (which may be a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection.

"(B) In any proceeding under subparagraph (A)(i), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

"(C) The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.

"(4) The Secretary shall annually submit to the Congress a report identifying the public housing agencies that have been designated as troubled under paragraph (2), describing the agreements that have been entered into with such agencies under such paragraph, describing the status of progress under such agreements, and describing any action that has been taken in accordance with paragraph (3). In preparing such report, the Secretary shall consult with the Public Housing Advisory Board established under section 5(n) of this Act.".

(b) PROJECT-BASED ACCOUNTING SYSTEMS.—Section 6(c)(4) of the United States Housing Act is amended by adding at the end the following:

"(E) the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) on a project basis.

The Secretary shall develop such guidelines and timetables as the Secretary determines to be appropriate, taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with paragraph (4)(E) not later than January 1, 1993.".

(c) REDUCTION OF OPERATING SUBSIDY FOR VACANT UNITS.—Section 9 of the United States Housing Act of 1937 is amended by adding at the end the following:

"(f) REDUCTION.—The Secretary may reduce operating subsidies for public housing units that have been continuously vacant for 1 year or longer where such vacancies have been caused by factors within the control of the public housing agency.".

(d) REPORT.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the operation and efficiency of the Buffalo Municipal Housing Authority ("the Authority"), using, among other criteria, the performance indicators listed in section 6(j)(1) of the United States Housing Act of 1937, and giving special attention to the Authority's desegregation program and to the vacancy rate.

(2) SPECIFIC RECOMMENDATIONS.—For purposes of the report required by paragraph (1), the Secretary may specifically determine whether to—

(A) petition for the appointment of a receiver for the Authority under the provisions of section 6(j)(3) of the United States Housing Act of 1937, or

(B) reduce operating subsidies for the Authority under the provisions of section 9 of the United States Housing Act of 1937.

SEC. 714. TERMINATION OF TENANCY IN PUBLIC HOUSING.

(a) IN GENERAL.—Section 6(l)(5) of the Housing Act of 1937 is amended by striking the words after "shall not engage in" and before "and such criminal activity" and by inserting "activity that adversely affects the health, safety, and right to quiet enjoyment of the premises by other tenants and shall not engage in criminal activity, including drug-related criminal activity, that threatens the health or safety of, or right to quiet enjoyment of the premises by, other tenants,".

(b) NO PREFERENCE.—Section 3(b)(3) of the United States Housing Act of 1937 is amended by inserting at the end the following new sentence: "Any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity (as defined in section 6(l)) is not eligible for a preference under any provision of this paragraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary.".

SEC. 715. ENERGY EFFICIENCY DEMONSTRATION.

(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program to encourage the use of private energy service companies in accordance with section 118(a) of the Housing and Community Development Act of 1987. The Secretary shall provide technical assistance to 5 public housing agencies to demonstrate the opportunities for energy cost reduction in 5 public housing projects through energy services contracts. Not later than 90 days after enactment of this Act, the Secretary shall establish such selection criteria for this demonstration as the Secretary deems appropriate after consultation with representatives of public housing agencies and energy efficiency organizations.

(b) REPORT.—As soon as practicable following one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section. The Secretary shall disseminate such report, to the extent practicable, to other public housing agencies.

(c) FUNDING.—Of the total amount approved in appropriation Acts under section

911 of this Act, there shall be set aside to carry out this section $500,000 for fiscal year 1991.

SEC. 716. PREFERENCE RULES.

Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended—

(1) by inserting the following after "which" the second time it appears: "(i) for not less than 70 percent of the units that are made available for occupancy in a given fiscal year,";

(2) by inserting the following after "Act": "(ii) for any remaining units to be made available for occupancy, gives preferences in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, and (iii) prohibits any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary,"; and

(3) by striking all that follows after "problems" and inserting in lieu thereof a period.

SEC. 717. PUBLIC HOUSING REPLACEMENT.

Section 18(b) of the United States Housing Act of 1937 is amended by—

(1) striking "and" at the end of paragraph (2); and

(2) inserting at the end the following new paragraphs:

"(4) the public housing agency has developed a plan for the provision of not less than an additional decent, safe, sanitary and affordable dwelling unit for each two public housing dwelling units to be demolished or disposed of under such application (which plan otherwise complies with the requirements of paragraph (3)) where—

"(A) the project or portion of the project to be demolished or disposed of has had vacancies exceeding 35 percent for each of the 5 years preceding submission of the application under this section;

"(B) the project is located within a jurisdiction that has a vacancy rate for standard rental units that exceeds 10 percent (as reported in the most recent comprehensive housing affordability housing strategy filed and approved in accordance with section 105 of the National Affordable Housing Act); and

"(C) the project is located within jurisdiction that is deemed by the Secretary to be experiencing severe economic distress in accordance with standards established under section 119(b)(1) of the Housing and Community Development Act of 1974; and

"(5) the public housing agency has held an open, public hearing to obtain citizen views on the application, which hearing shall be held after adequate notice, at a time and location convenient to parties who will be affected by the demolition or disposition and with accommodation for persons with disabilities.".

SEC. 718. PUBLIC HOUSING ADVISORY BOARD.

Section 5 of the United States Housing Act of 1937 is amended by inserting at the end the following new subsection:

"(n) PUBLIC HOUSING ADVISORY BOARD.—

"(1) There is created a Public Housing Advisory Board that shall provide advice to the Assistant Secretary for Public and Indian Housing with respect to the formulation of general policies and significant regulations governing public housing and such other matters as the Secretary and the Assistant Secretary may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act.

"(2)(A) The Advisory Board shall be composed of 15 members to be appointed from among individuals who have substantial expertise and broad experience in public housing of whom—

"(i) 9 shall be appointed by the Secretary;

"(ii) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs of the Senate; and

"(iii) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(B) Membership on the Advisory Board shall include—

"(i) not less than 8 persons with distinguished careers in public housing, including persons who serve or have served as executive directors of public housing agencies or as receivers for public housing agencies;

"(ii) not less than 2 persons who are distinguished professionals such as architects, engineers, or builders who are associated with the development or modernization of public housing;

"(iii) not less than 2 persons who are elected public officials at the State or local level;

"(iv) not less than 2 persons who are tenants or representatives of tenants or a tenant organization; and

"(v) not less than 1 person who is a distinguished academic in the field of housing and urban development, particularly public housing.

"(C) The initial appointments to the Advisory Board shall be made not later than 90 days after the date of enactment of this Act in accordance with this subsection.

"(3) Members of the Advisory Board shall be selected to ensure, to the greatest extent practicable, geographical representation of every region of the country.

"(4) Membership of the Advisory Board shall not include any person who, during the previous 24-month period, was required to register with the Secretary under section 112(c) of the Department of Housing and Urban Development Reform Act of 1989 or employed a person for purposes that required such person to so register.

"(5) Of the members of the Advisory Board first appointed, 5 shall have terms of 1 year, and 5 shall have terms of 2 years. Their successors and all other appointees shall have terms of 3 years.

"(6) The Advisory Board is empowered to confer with, request information of, and make recommendations to the Assistant Secretary for Public and Indian Housing. The Assistant Secretary shall promptly provide the Advisory Board with such information as the Board determines to be necessary to carry out its review of the activities and policies of the Department of Housing and Urban Development that affect public housing.

"(7) The Advisory Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the Department's activities affecting public housing, including the appropriateness of existing and proposed regulations, the adequacy of information systems (especially the Performance Funding System), the appropriateness of staffing patterns, the adequacy of staff work experience in public housing and other matters related to the Department's ability to help public housing agencies maintain and improve the living conditions in public housing. Such report shall contain the Board's recommendations for improvement and include any minority views.

"(8) The Board shall meet in Washington, D.C., not less than twice annually, or more frequently if requested by the Assistant Secretary for Public and Indian Housing or a majority of its members. The Board shall elect a chairman, vice chairman and secretary and adopt methods of procedure. The Board may establish committees and subcommittees as needed.

"(9) Subject to the provisions of section 7 of the Federal Advisory Committee Act, all members of the Board may be compensated and shall be entitled to reimbursement from the Department for traveling expenses incurred in attendance at meetings of the Board.".

SEC. 719. EVICTION FOR CRIMINAL ACTIVITY.

(a) NOTICE TO POST OFFICE.—Section 6 of the United States Housing Act of 1937 is amended by adding at the end the following subsection:

"(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.".

(b) GRIEVANCE PROCEDURES.—Section 6(k) of the United States Housing Act of 1937 is amended by adding: "An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug-related criminal activity, that adversely affects the health, safety and welfare of the public housing tenants on the premises provided that the agency notifies the tenant of the reason for the action to evict or terminate tenancy." between "on the proposed action." and "An agency may exclude", and by adding "for criminal activity, including drug-related criminal activity, that adversely affects the health, safety and welfare of the public housing tenants on the premises." between "termination of tenancy" and "in any jurisdiction".

SEC. 720. PERFORMANCE FUNDING SYSTEM.

In determining the Performance Funding System utility subsidy for public housing agencies, the Secretary shall include a cooling degree day adjustment factor. The method by which a cooling degree day adjustment factor is included shall be identical to the method by which the heating degree day adjustment factor is included.

Subtitle B—Authorizations

SEC. 721. AUTHORIZATION OF OPERATING SUBSIDIES.

Section 9(c) of the United States Housing Act of 1937 is amended to read as follows:

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section $1,865,000,000 for fiscal year 1991, $1,940,100,000 for fiscal year 1992, and $2,017,200,000 for fiscal year 1993.".

SEC. 722. AUTHORIZATION OF THE COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AND PUBLIC HOUSING RESIDENT MANAGEMENT.

(a) COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM.—Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for compre-

hensive improvement assistance grants under section 14 is increased by $2,217,000,000 on October 1, 1990, by $2,306,000,000 on October 1, 1991, and by $2,398,400,000 on October 1, 1992.".

(b) PUBLIC HOUSING RESIDENT MANAGEMENT.—Section 20(f)(3) of the United States Housing Act of 1937 is amended to read as follows:

"(3) FUNDING.—Of the amounts made available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $2,500,000 for fiscal year 1991, $2,500,000 for fiscal year 1992, and $2,500,000 for fiscal year 1993.".

Subtitle C—Project Independence

SEC. 731. PURPOSE.

The purpose of this subtitle is to provide families with children living in public housing with better access to educational and employment opportunities by—

(1) developing facilities for training and support services in or near public housing;

(2) mobilizing public and private resources to expand and improve the delivery of such training and services;

(3) providing transitional funding for essential training and support services that cannot otherwise be funded; and

(4) improving the capacity of management to assess the training and service needs of families with children, coordinate the provision of training and services that meet such needs and ensure the long-term provision of such training and services.

SEC. 732. PROJECT INDEPENDENCE.

Section 14 of the United States Housing Act of 1937 is amended—

(1) by redesignating subsections (j) through (n) as (k) through (o); and

(2) by inserting after subsection (i) the following new subsection:

"(j)(1) The Secretary shall make available and contract to make available assistance in the form of grants to adapt public housing to help families with children gain better access to educational and job opportunities. Assistance under this subsection shall be made available only to public housing agencies that demonstrate to the satisfaction of the Secretary that such assistance is necessary to accommodate the provision of supportive services that will receive support from sources other than this Act. Facilities to be assisted under this subsection shall be in or near the premises of public housing. Such assistance shall be made without regard to the requirements of subsections (c) through (h). Of the total amount of assistance approved in appropriations Acts under section 5(c), there shall be set aside to carry out this subsection $50,000,000 for fiscal year 1991, $52,000,000 for fiscal year 1992, and $54,080,000 for fiscal year 1993.

"(2)(A) Assistance provided under this subsection may be used for—

"(i) the renovation, conversion, or combination of vacant dwelling units in a public housing project to create congregate space to accommodate the provision of supportive services;

"(ii) the renovation of existing congregate space in a public housing project to accommodate the provision of supportive services;

"(iii) the renovation of facilities located near the premises of one or more public housing projects to accommodate the provision of supportive services;

"(iv) the transitional provision of qualifying supportive services if the public housing agency demonstrates to the satisfaction of the Secretary that—

"(I) the qualifying services are appropriate to improve the access of eligible residents to employment and educational opportunities;

"(II) the public housing agency has made diligent efforts to use or obtain other available resources to fund the designated services; and

"(III) long-term funding for the qualifying services will be available from other services; and

"(v) the employment of management personnel (hereinafter referred to as 'service coordinator') who may be responsible for—

"(I) assessing the training and service needs of eligible residents;

"(II) working with service providers to coordinate the provision of services and tailor such services to the needs and characteristics of eligible residents;

"(III) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to paragraph (4)(A) can be funded over the time period identified under such paragraph;

"(IV) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

"(V) performing such other duties and functions that the Secretary deems appropriate to provide families with children living in public housing with better access to educational and employment opportunities.

"(B) Assistance provided to carry out activities specified in subparagraph (A)(iv) shall be phased out over a period not to exceed 3 years.

"(C) The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management.

"(3) Assistance under this subsection shall be allocated by the Secretary among approvable applications submitted by public housing agencies.

"(4) Applications for assistance under this subsection shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain—

"(A) a description of the qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under paragraph (2)(A) that involve substantial rehabilitation);

"(B) a firm commitment of assistance from one or more sources ensuring that qualifying supportive services will be provided for not less than 1 year following the completion of activities assisted under paragraph (2)(A);

"(C) a description of public or private sources of assistance that can reasonably be expected to fund or provide qualifying supportive services for the entire period specified under subparagraph (A), including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations);

"(D) a certification from the appropriate State or local agency (as determined by the Secretary) that (i) the provision of the qualifying supportive services identified under subparagraph (A) will provide eligible residents with better access to educational and employment opportunities, and (ii) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under subparagraph (A);

"(E) a description of assistance that the public housing agency seeks under this subsection; and

"(F) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this subsection.

"(5) The Secretary shall establish selection criteria for assistance under this subsection which shall take into account—

"(A) the ability of the public housing agency or a designated service provider to provide the qualifying supportive services identified under paragraph (4)(A);

"(B) the need for such services in the public housing project;

"(C) the extent to which the envisioned renovation, conversion and combination activities will foster the provision of such services;

"(D) the extent to which the public housing agency has demonstrated that such services will be provided for the period identified under paragraph (4)(A);

"(E) the extent to which the public housing agency has had a good record of maintaining and operating public housing; and

"(F) such other factors that the Secretary determines to be appropriate to ensure that funds made available under this subsection are used effectively.

"(6)(A) Each public housing agency shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, an annual progress report evaluating the use of funds made available under this subsection.

"(B) The Secretary shall submit to the Congress, not later than 120 days after the end of each fiscal year, an annual report evaluating the effectiveness of activities assisted under this subsection in such fiscal year. Such report shall summarize the progress reports submitted pursuant to subparagraph (A).

"(7) The Secretary may reserve not more than 5 percent of the amounts available in each fiscal year under this subsection to supplement grants awarded to public housing agencies under this subsection when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

"(8)(A) Each public housing agency shall, to the maximum extent practicable, employ public housing residents to provide the services assisted under this subsection or from other sources. Such persons shall be paid at a rate not less than the highest of—

"(i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he or she were not exempt under section 13 thereof;

"(ii) the State or local minimum wage for the most nearly comparable covered employment; or

"(iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

"(B) No service provided to a public housing resident under this subsection may be treated as income for the purpose of any other program or provision of State or Federal law.

"(9) For purpose of this subsection—

"(A) the term 'eligible resident' means a person residing in public housing who—

"(i) is a single parent head of household with 1 or more children under the age of 10; and

"(ii) is economically disadvantaged within the meaning of sections 4(8) (A) and (B) of the Job Training Partnership Act;

"(B) the term 'qualifying supportive services' shall mean new or significantly expanded services that the Secretary deems essential to provide families living with children in public housing with better access to educational and employment opportunities. Such services may include but not be limited to—

"(i) child care;

"(ii) employment training and counseling;

"(iii) literacy training;

"(iv) computer skills training; and

"(v) assistance in the attainment of certificates of high school equivalency.

The public housing agency may provide such services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers.".

SEC. 733. CONFORMING AMENDMENTS.

(a) NO REDUCTION OF OPERATING SUBSIDY.—Section 9(a)(3)(B)(v) of the United States Housing Act of 1937 (as added by section 512(1) of this Act) is amended by inserting "section 14(j) of this Act or" before "section 512".

(b) BENEFITS EXCLUDED FROM INCOME.—Section 3(a) of the United States Housing Act of 1937, is amended by adding at the end the following new paragraph:

"(3) The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 14(j) of this Act or any comparable Federal, State or local law shall not be considered as income for the purposes of determining a limitation on the amount of rent paid by the resident during—

"(A) the period that the resident participates in such program; and

"(B) the period, not to exceed 18 months, that—

"(i) begins with the commencement of employment of the resident in the first job acquired by the person after completion of such program that is not funded by assistance under this Act; and

"(ii) ends on—

"(I) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or

"(II) the expiration of the 18-month period following the commencement of the period described in clause (i), whichever event occurs first.".

Subtitle D—Indian Housing

SEC. 741. DISPOSITION OF INTERESTS ON INDIAN LAND.

Section 509 of the Housing Act of 1949 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, he shall not sell, transfer, or otherwise dispose or alienate the property except to one of the aforementioned entities.".

SEC. 742. AUTHORIZATIONS.

Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end the following: "The aggregate amount of budget authority that may be obligated for Indian housing public housing grants is increased (to the extent approved in appropriation Acts) by $233,700,000 on October 1, 1990, by $243,048,000 on October 1, 1991, and by $252,770,000 on October 1, 1992.".

SEC. 743. WAIVER OF MATCHING FUNDS REQUIREMENTS IN INDIAN HOUSING PROGRAMS.

(a) AUTHORIZATION OF WAIVER.—For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any other provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under title I of the Housing and Community Development Act of 1974.

(b) EXTENT OF WAIVER.—The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974.

(c) DEFINITION OF HOUSING PROGRAM.—For purposes of this section, the term "housing program" means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

SEC. 744. ELIGIBILITY OF INDIAN MUTUAL HELP HOUSING FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE.

Section 202(b) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) ELIGIBILITY FOR CIAP.—Notwithstanding the provisions of section 14(c), the Secretary may provide assistance under section 14 for the housing projects under this section for the purposes under section 14.".

SEC. 745. ADJUSTMENT IN AUTHORIZATION LEVELS.

Notwithstanding any other provision of this Act, each authorization of appropriations contained in a provision of this Act (other than a provision of this subtitle) shall be reduced by an amount that bears the same ratio to—

(1) $54,530,000 for a fiscal year 1991 authorization;

(2) $56,711,000 for a fiscal year 1992 authorization;

(3) $58,980,000 for a fiscal year 1993 authorization;

as the amount authorized by such provision bears to the total amount authorized by this Act.

SEC. 746. PAYMENTS WITH RESPECT TO INDIAN HOUSING.

Section 107(a) of the Housing and Community Development Act of 1974 is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) to units of general local government that are located in North Dakota for public services provided with respect to Indian housing;".

Subtitle E—Public and Assisted Housing Drug Elimination

SEC. 751. REAUTHORIZATION OF THE PUBLIC HOUSING DRUG ELIMINATION ACT.

(a) IN GENERAL.—The Public Housing Drug Elimination Act of 1988 (chapter 2 of subtitle C of title V of Public Law 100-690) is amended to read as follows:

"CHAPTER 2—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the "Public and Assisted Housing Drug Elimination Act of 1990".

"SEC. 5122. CONGRESSIONAL FINDINGS.

"The Congress finds that—

"(1) the Federal Government has a duty to provide public and other federally assisted housing that is decent, safe, and free from illegal drugs;

"(2) public and other federally assisted housing in many areas suffers from rampant drug-related crime;

"(3) drug dealers are increasingly imposing a reign of terror on public and other federally assisted housing tenants;

"(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

"(5) local law enforcement authorities often lack the resources to deal with the drug problem in public and other federally assisted housing, particularly in light of the recent reductions in Federal aid to cities.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants to public housing agencies (including Indian Housing Authorities) and private, for-profit and nonprofit owners of federally assisted, low-income housing for use in eliminating drug-related crime.

"SEC. 5124. ELIGIBLE ACTIVITIES.

"Grants under this chapter may be used in public housing or other federally assisted low-income housing projects for—

"(1) the employment of security personnel;

"(2) reimbursement of local law enforcement agencies for additional security and protective services;

"(3) physical improvements which are specifically designed to enhance security;

"(4) the employment of one or more individuals—

"(A) to investigate drug-related crime on or about the real property comprising any public or other federally assisted, low-income housing project; and

"(B) to provide evidence relating to such crime in any administrative or judicial proceeding;

"(5) the provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials;

"(6) programs designed to reduce use of drugs in and around public or other federally assisted housing projects; and

"(7) providing funding to nonprofit public housing resident management corporation and tenant councils to develop security and drug abuse prevention programs involving site residents.

"SEC. 5125. APPLICATIONS.

"(a) IN GENERAL.—To receive a grant under this chapter, a public housing agency or an owner of federally assisted, low-income housing shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the premises of the housing administered or owned by the applicant for which the application is being submitted. The plan shall include the following:

"(1) An assessment of the nature and extent of the problem of drug-related crime and the problems associated with drug-related crime in the projects administered or owned by the applicant for which the application is being submitted.

"(2) A discussion of the activities currently being undertaken and a listing of the resources being provided by the applicant, governmental entities, resident management corporations, and resident councils to address the problem of drug-related crime in the projects proposed for assistance under this chapter.

"(3) A discussion of the applicant's strategy for addressing the problem of drug-related crime in each of the projects proposed for assistance under this chapter including—

"(A) a description of each component of the applicant's strategy to be undertaken with funding under this chapter and how these components interrelate;

"(B) the anticipated cost of each component of the strategy and the financial and other resources that may reasonably be expected to be available to carry out each component;

"(C) a schedule for beginning and completing each component of the strategy;

"(D) an estimate of the results that the strategy is supposed to achieve;

"(E) the role of affected tenants, resident management corporations, tenant councils and any other entities, such as local and State governments and community organizations, in planning and implementing the strategy; and

"(F) evidence of local government, local community and tenant support for the plan; and

"(G) a discussion of the extent to which the initiatives proposed in the strategy can be sustained over a period of several years.

"(b) CRITERIA.—Except as provided by subsections (c), (d), and (e), the Secretary shall approve applications under this chapter based exclusively on—

"(1) the extent of the drug-related crime problem in the public or federally assisted, low-income housing project, or projects proposed for assistance;

"(2) the quality of the plan to address the crime problem in the public or federally assisted, low-income housing project or projects proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a period of several years;

"(3) the capability of the applicant to carry out the plan as reflected by funding or other commitments of support for each aspect of the plan, its administrative capability to manage its projects, its record of previous efforts to eliminate drugs from its projects and its degree of commitment to addressing the problem of drug-related crime; and

"(4) the extent to which tenants, the local government and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

"(c) PREFERENCE.—In the case of applications submitted by private owners, the Secretary shall give preference to applicants who contribute or raise resources for the implementation of their plan. The Secretary shall reject the application of any private owner who has received more than a reasonable return, as determined by the Secretary, on the project or projects referred to in the owner's plan.

"(d) FEDERALLY ASSISTED LOW-INCOME HOUSING.—In addition to the selection criteria specified in subsection (b), the Secretary may establish other criteria for the evaluation of applications submitted by owners of federally assisted, low-income housing, except that such additional criteria shall be designed only to reflect—

"(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted, low-income housing, or

"(2) relevant differences between the problem of drug-related crime in public housing and the problem of drug-related crime in federally assisted, low-income housing.

"(e) HIGH INTENSITY DRUG TRAFFICKING AREAS.—In evaluating the extent of the drug-related crime problem pursuant to subsection (b), the Secretary shall consider whether housing projects proposed for assistance are located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988.

"SEC. 5126. DEFINITIONS.

"For the purposes of this chapter:

"(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given such term in section 102 of the Controlled Substance Act (21 U.S.C. 802).

"(2) DRUG-RELATED CRIME.—The term 'drug-related crime' means the illegal manufacture, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(4) FEDERALLY ASSISTED, LOW-INCOME HOUSING.—The term 'federally assisted, low-income housing' means housing assisted under—

"(A) section 221(d)(3) or section 221(d)(4) of the National Housing Act;

"(B) section 101 of the Housing and Urban Development Act of 1965; or

"(C) section 8 of the United States Housing Act of 1937.

"SEC. 5127. IMPLEMENTATION.

"The Secretary shall issue regulations to implement this chapter within 180 days after the date of enactment of the National Affordable Housing Act.

"SEC. 5128. REPORTS.

"The Secretary shall require grantees to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 5125(a), and the incidence of drug-related crime in projects assisted under this chapter.

"SEC. 5129. EVALUATION.

"(a) IN GENERAL.—To increase the efficiency and effectiveness of programs funded under this chapter, the Secretary shall conduct a comprehensive evaluation of the programs funded under this chapter.

"(b) FACTORS TO BE CONSIDERED.—In conducting this review, the Secretary shall consider—

"(1) whether the programs funded under this chapter establish or demonstrate an effective approach to reducing drug-related criminal activity in public and other federally assisted, low-income housing;

"(2) the cost of such programs and the number of similar programs funded under this chapter.

"(3) whether the programs can easily be replicated in other jurisdictions;

"(4) the extent to which grants awarded under this chapter have been awarded for housing projects in high intensity drug trafficking areas as designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988, and other areas with particularly serious drug problems; and

"(5) whether there is substantial public awareness and community involvement in the programs.

Evaluation shall include the routine auditing, monitoring, and internal assessment of the programs. In conducting this review, the Secretary shall consult with Federal, State, and local law enforcement agencies and prosecutors, and with housing authorities, owners of federally assisted, low-income housing, and affected tenants.

"(c) REPORT.—The Secretary shall annually report to the Congress on the nature and findings of the evaluation required under this section.

"SEC. 5130. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this chapter $150,000,000 for fiscal year 1991, $156,000,000 for fiscal year 1992, and $162,240,000 for fiscal year 1993. Any amount appropriated under this section shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—The table of contents for title V of Public Law 100-690 is amended by striking the items relating to chapter 2 and insert the following:

"CHAPTER 2—Public and Assisted Housing Drug Elimination

"Sec. 5121. Short title.
"Sec. 5122. Congressional findings.
"Sec. 5123. Authority to make grants.
"Sec. 5124. Eligible activities.
"Sec. 5125. Applications.
"Sec. 5126. Definitions.
"Sec. 5127. Implementation.
"Sec. 5128. Reports.
"Sec. 5129. Evaluation.
"Sec. 5130. Authorization of appropriations.".

TITLE VIII—RURAL HOUSING

SEC. 801. PURPOSES.

The purposes of this title are—

(1) to reaffirm the National commitment to expand homeownership and produce affordable rental housing for low-income persons in rural areas;

(2) to promote the full utilization of the section 502 program by very low-income people through the use of partially deferred mortgages; and

(3) to improve the quality of affordable housing in communities that have extremely high concentrations of poverty and substandard housing and that have been underserved by rural housing programs by direct-

ing Farmers Home Administration assistance toward designated underserved areas.

SEC. 802. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title in aggregate amounts not to exceed $2,160,000,000 during fiscal year 1991, $2,246,400,000 during fiscal year 1992, and $2,336,256,000 during fiscal year 1993, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of borrowers receiving assistance under section 521(a)(1) or receiving guaranteed loans pursuant to section 304 of the Housing and Community Development Act of 1987, $1,457,465,000 for fiscal year 1991, $1,515,764,000 for fiscal year 1992, and $1,576,394,000 for fiscal year 1993.

"(B) For loans under section 504, $11,715,000 for fiscal year 1991, $12,184,000 for fiscal year 1992, and $12,671,000 for fiscal year 1993.

"(C) For insured loans under section 514, $11,870,000 for fiscal year 1991, $12,344,000 for fiscal year 1992, and $12,839,000 for fiscal year 1993.

"(D) For insured loans under section 515, $677,840,000 for fiscal year 1991, $704,954,000 for fiscal year 1992, and $733,152,000 for fiscal year 1993.

"(E) For loans under section 523(b)(1), $520,000 for fiscal year 1991, $540,000 for fiscal year 1992, and $562,000 for fiscal year 1993.

"(F) For site loans under section 524, $590,000 for fiscal year 1991, $614,000 for fiscal year 1992, and $638,000 for fiscal year 1993."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 is amended to read as follows:

"(b) There are authorized to be appropriated, to remain available until expended, the following amounts:

"(1) For grants under section 504, $19,000,000 for fiscal year 1991, $19,760,000 for fiscal year 1992, and $20,550,000 for fiscal year 1993.

"(2) For purposes of section 509(c), $520,000 for fiscal year 1991, $540,000 for fiscal year 1992, and $562,000 for fiscal year 1993.

"(3) Such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(4) For financial assistance under section 516, $20,340,000 for fiscal year 1991, $21,154,000 for fiscal year 1992, and $22,000,000 for fiscal year 1993.

"(5) For grants under section 523(f), $14,340,000 for fiscal year 1991, $14,914,000 for fiscal year 1992, and $15,510,000 for fiscal year 1993.

"(6) For grants under section 533, $25,800,000 for fiscal year 1991, $26,832,000 for fiscal year 1992, and $27,906,000 for fiscal year 1993.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c)(1) of the Housing Act of 1949 is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $395,000,000 for fiscal year 1991, $410,800,000 for fiscal year 1992, and $427,232,000 for fiscal year 1993.".

(d) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "September 30, 1990" and inserting "September 30, 1993".

(e) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking "September 30, 1990" and inserting "September 30, 1993".

(f) RURAL RENTAL REHABILITATION DEMONSTRATION.—Section 311(d) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1992".

SEC. 803. SECTION 502 DEFERRED REPAYMENT.

Section 502 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(f) AUTHORITY FOR DEFERRED REPAYMENT.—

"(1) IN GENERAL.—To the extent provided in appropriations Acts, the Secretary may allow a borrower to defer repayment of not more than 20 percent of the principal on a loan made or insured under this section after the date of enactment of the National Affordable Housing Act if the Secretary determines that—

"(A) the borrower resides in a State in which an average of 10 percent or more of the set-asides established in section 502(d) have not been obligated since November 30, 1983;

"(B) the deferral is necessary to enable the borrower to afford payment on the loan; and

"(C) the borrower can reasonably be expected fully to amortize the deferred principal over the remaining life of the loan.

"(2) SUBSEQUENT ADJUSTMENTS.—When the Secretary finds that a borrower deferring repayments under this subsection is able to make an increased mortgage payment in accordance with the schedules and repayment plans prescribed by the Secretary under section 502(b)(2), the Secretary shall first apply any increase in the monthly mortgage payment to repayment of deferred principal and interest on that principal and then, when principal is no longer being deferred, to an increase in the interest rate payable on the loan.

"(3) INTEREST ON DEFERRED PRINCIPAL.—Interest on the deferred principal shall remain at 1 percent until the deferral has been repaid in full.".

SEC. 804. HOUSING IN UNDERSERVED AREAS.

Section 509 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(e) HOUSING IN UNDERSERVED AREAS.—

"(1) DESIGNATION OF UNDERSERVED AREA.—The Secretary shall designate as targeted underserved areas 100 counties in fiscal years 1991, 1992, and 1993 that have severe, unmet housing needs as determined by the Secretary. A county shall be eligible for designation if—

"(A) during fiscal years 1986 through 1988, the number of housing units assisted in the county under sections 502, 504, and 515 of this title as a percentage of rural households with incomes below 80 percent of area median in the county is less than the number of housing units assisted in the State as a percentage of the rural households with incomes below 80 percent of area median in the State, as determined by the Secretary; and

"(B) the county has a high combined—

"(i) number of county rural households with incomes below 50 percent of area median income as a percentage of total county rural households; and

"(ii) number of county rural occupied substandard housing units as a percentage of total county rural households.

In any State, notwithstanding subparagraph (A) above, the Secretary may consider for targeting the county with the highest combined percentage as set forth in subparagraph (B) above.

"(2) OUTREACH PROGRAM.—The Secretary shall publicize the availability to targeted underserved areas of grants and loans under this title and promote, to the maximum extent feasible, efforts to apply for those grants and loans for housing in targeted underserved areas.

"(3) SET-ASIDE FOR TARGETED UNDERSERVED AREAS.—The Secretary shall set aside and reserve for assistance in targeted underserved areas $25,000,000 in section 515, $40,000,000 in section 502, and $1,000,000 each in section 504 loans and grants during fiscal years 1991, 1992, and 1993. During each such fiscal year, the Secretary shall set aside an amount of section 521 rental assistance that is appropriate to provide assistance with respect to the lending authority under section 515 that is set aside for such fiscal year. Any assistance set aside for targeted underserved areas that has not been obligated by a reasonable date established by the Secretary shall be subject to year-end pooling procedures established by the Secretary.

"(4) LIST OF UNDERSERVED AREAS.—The Secretary shall publish the current list of targeted underserved areas.

"(5) PROJECT PREPARATION ASSISTANCE.—

"(A) IN GENERAL.—The Secretary is authorized to provide grants to community housing development organizations or units of general local government for the development of affordable housing in targeted underserved areas. As used in this paragraph, the term community housing development organization has the same meaning as in section 105(6) of the National Affordable Housing Act.

"(B) PURPOSE.—A grant under this section shall not exceed an amount that the Secretary determines to equal the customary and reasonable costs of preparing an application for a loan under section 502, 504, 514, 515, or 524, including preapplication planning, site analysis, market analysis, and other necessary technical assistance. The Secretary shall adjust the loan amount to take account of project preparation costs that have been paid from grant proceeds and that normally would be reimbursed with proceeds of the loan.

"(C) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph not to exceed $10,000,000 for fiscal year 1991, $10,400,000 for fiscal year 1992, and $10,816,000 for fiscal year 1993. Any funds so appropriated shall remain available until expended.".

SEC. 805. HOUSING PRESERVATION GRANTS.

(a) USE OF DEOBLIGATED FUNDS.—Section 533(c)(1) of the Housing Act of 1949 is amended by adding at the end the following: "Funds obligated, but subsequently unspent and deobligated, may remain available for use as housing preservation grants in ensuing fiscal years.".

(b) REALLOCATION.—Section 533(g) of the Housing Act of 1949 is amended by striking the last sentence and inserting the following: "Any amounts which become available

as a result of actions under this subsection shall be reallocated as housing preservation grants to such grantee or grantees as the Secretary may determine.".

SEC. 806. TRANSFER OF SECTION 502 INVENTORY FOR USE UNDER SECTION 515.

Section 510(e) of the Housing Act of 1949 is amended by striking "or public bodies" and inserting ", public bodies, or for profit entities, which have good records of providing low-income housing under section 515".

SEC. 807. REUSE OF SECTION 515 LOAN AUTHORITY.

Section 515 of the Housing Act of 1949 is amended by adding at the end the following:

"(t) Any amounts appropriated for loans under this section shall remain available until expended.".

SEC. 808. RIGHTS OF APPEAL.

Section 510(g) of the Housing Act of 1949 is amended by inserting before the semicolon the following: ", except that rules issued under this subsection may not exclude from their coverage decisions made by the Secretary that are not based on objective standards contained in published regulations".

SEC. 809. EQUITY TAKEOUT INCENTIVE FOR NEW RURAL HOUSING LOANS.

Section 515(t)(4) of the Housing Act of 1949 is amended by adding at the end the following sentence: "A moderate income tenant, or a low-income tenant receiving rental assistance, who occupies a unit previously occupied by a low-income unassisted tenant shall pay a rent that includes the annual increases which that unit would have incurred. An unassisted low-income tenant who occupies a unit previously occupied by either a moderate-income tenant or a low-income tenant receiving rental assistance, shall pay only the basic rent plus $2.00.".

SEC. 810. ESCROW ACCOUNTS.

Section 501(e) of the Housing Act of 1949 is amended by inserting after the third sentence the following: "The Secretary shall pay the same rate of interest on escrowed funds as is required to be paid on escrowed funds held by other lenders in any State where State law requires payment of interest on escrowed funds.".

SEC. 811. SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.

Section 515 of the Housing Act of 1949, is amended by adding at the end thereof the following new subsection:

"(u) SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.—

"(1) AUTHORITY.—Not less than 7 per centum of the funds available for loans authorized under this section in fiscal year 1991, and not less than 8 per centum of the funds available for loans authorized under this section in fiscal year 1992, and not less than 10 per centum of the funds available for loans authorized under this section in fiscal year 1993 shall be set aside for eligible entities as specified in subsection (a).

(2) EXCEPTION.—Funds not obligated by a reasonable date established by the Secretary shall be subject to year-end pooling procedures established by the Secretary.

SEC. 812. ASSISTANCE TO REDUCE RENT OVERBURDEN.

Section 521(a)(2)(C) of the Housing Act of 1949 is amended by adding at the end the following: "Notwithstanding the preceding sentence, excess funds received from tenants in projects financed under section 515 during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with respect to very low-income and low-income families to reduce housing rentals to the levels specified in subparagraph (A).".

TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community Development

SEC. 901. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—The second sentence of section 103 of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for purposes of assistance under sections 106 and 107 $3,031,700,000 for fiscal year 1991, $3,154,100,000 for fiscal year 1992, and $3,279,400,000 for fiscal year 1993.".

(b) ELIGIBLE ACTIVITIES.—Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "and" at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting "; and"; and

(3) by adding at the end the following:

"(20) provision of technical assistance to public or private nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or community economic development.".

(c) PUBLIC SERVICES.—(1) Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting after "under this title" the second place it appears "including program income".

(2) Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting after "unit of general local government" the third time it appears "(or in the case of nonentitled communities not more than 15 per centum statewide)".

(d) GUARANTEES.—The last sentence of section 108(a) of the Housing and Community Development Act of 1974 is amended by striking "$150,000,000 during fiscal year 1988, and $156,150,000 during fiscal year 1989" and inserting "$160,000,000 during each of the fiscal years 1991, 1992, and 1993".

(e) NEIGHBORHOOD REINVESTMENT CORPORATION.—Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended by striking "$18,300,000 for fiscal year 1988, and $18,300,000 for fiscal year 1989" and inserting "$28,000,000 for each of the fiscal years 1991, 1992, and 1993".

(f) NEIGHBORHOOD DEVELOPMENT DEMONSTRATION.—Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking "1988 and 1989" and inserting "1991, 1992, and 1993".

SEC. 902. CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(1) by striking the second sentence and inserting in lieu thereof the following: "any city that was classified as a metropolitan city for at least two years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city.";

(2) by striking "for fiscal year 1988 or 1989" in the fourth sentence; and

(3) by striking "the first or second sentence of" and "under such first or second sentence" in the last sentence.

(b) URBAN COUNTY.—Section 102(a)(6)(B) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(B) Any county that was classified as an urban county for at least two years pursuant to subparagraph (A) of this paragraph shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.".

SEC. 903. CDBG SANCTIONS.

(a) SYNTHESIS OF BLOCK GRANT SANCTIONS.—Section 104(e) of the Housing and Community Development Act of 1974 is amended by striking the eighth sentence and inserting the following: "If, after providing a grantee a hearing, the Secretary determines that the grantee is continuing to fail to satisfy standards published in regulations to measure grantee performance pursuant to the reviews and audits described in the previous sentence, the Secretary may adjust, reduce, withhold, or withdraw amounts of the annual grants made (but not yet obligated) or to be made, in accordance with the Secretary's findings under this subsection".

(b) CONFORMING AMENDMENT.—Section 111(a) of such Act is amended by striking "shall—" and all that follows up to the period and inserting: "may adjust, reduce, withhold, or withdraw amounts of the annual grants made (but not yet obligated) or to be made".

SEC. 904. PROTECTION OF INDIVIDUALS ENGAGING IN NON-VIOLENT CIVIL RIGHTS DEMONSTRATIONS.

(a) Section 104 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(l) PROTECTION OF INDIVIDUALS ENGAGING IN NON-VIOLENT CIVIL RIGHTS DEMONSTRATIONS.—No funds authorized to be appropriated under section 103 of this Act may be obligated or expended to any municipality that:

"(1) fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations; or

"(2) fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within the jurisdiction of said municipality.".

(b) This section shall be in effect for fiscal years beginning after September 30, 1990.

Subtitle B—Miscellaneous Programs

SEC. 911. RESEARCH AND DEVELOPMENT.

Section 501 of the Housing and Urban Development Act of 1970 is amended by striking the second sentence and inserting the following: "There are authorized to be appropriated to carry out this title $21,200,000 for fiscal year 1991, $22,100,000 for fiscal year 1992, and $23,000,000 for fiscal year 1993.".

SEC. 912. FAIR HOUSING INITIATIVES PROGRAM.

(a) AUTHORIZATION.—Section 561(d) of the Housing and Community Development Act of 1987 is amended by striking the first sen-

tence and inserting the following: "There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $6,000,000 for fiscal year 1991, $6,258,000 for fiscal year 1992, and $6,527,000 for fiscal year 1993.".

(b) EXTENSION OF AUTHORITY.—Section 561(e) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting in lieu thereof the following: "September 30, 1993".

SEC. 913. ALLOCATION FORMULA IN CASES OF ANNEXATION.

(a) IN GENERAL.—Section 102(a)(12) of the Housing and Community Development Act of 1974 is amended by inserting at the end thereof the following: "Where the boundaries for a metropolitan city or urban county used for the 1980 Census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 Census in the boundaries used for the 1980 Census over the population based on the 1980 Census in the current boundaries.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to the extent approved in appropriations Acts to the first allocation of assistance under section 106 that is made after the date of enactment of this section and to each allocation thereafter for a period not to exceed three years after the date of annexation.

SEC. 914. ALLOCATION OF FUNDS UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

The Secretary of Housing and Urban Development shall, not later than July 1, 1991, report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs with respect to the adequacy, effectiveness, and equity of the formula used for allocations of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the structure of the formulas, the eligibility criteria, the formula factors, and the weights that are assigned to the formula factors. The study should specifically examine the appropriateness of using the age of housing as a factor and also consider quality of housing as an additional factor and the desirability of including at an equal or greater weight the age of housing and the quality of housing. Based on the Secretary's analysis, the Secretary shall submit a new formula for the allocation of funds if the Secretary determines that the study indicates that a new formula is required to meet the purposes of title I of the Housing and Community Development Act of 1974. The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall hold hearings on the Secretary's recommendations not later than 60 days after receipt of the report. The study should be completed using the data derived from the 1990 census or the most recent census data available.

SEC. 915. HAWAIIAN HOME LANDS.

Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended by adding at the end the following new subsection:

"(d) The provisions of this section and section 104(b)(2) which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this title to the Hawaiian Home Lands.".

TITLE X—CONFORMING AMENDMENTS AND MISCELLANEOUS PROVISIONS

SEC. 1001. AMENDMENT TO TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

Section 104(c) of the Housing and Community Development Act of 1974 is amended to read as follows: "Any grant made under section 106(b) shall be made only if the unit of general local government certifies that it is following a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the National Affordable Housing Act or a housing assistance plan which was approved by the Secretary not later than 180 days after enactment of the National Affordable Housing Act.".

SEC. 1002. REPORT ON RESIDUAL RECEIPTS ACCOUNTS IN SECTION 8 AND SECTION 202 HOUSING.

The Secretary of Housing and Urban Development shall conduct a study of a statistically significant sample of housing assisted under section 8 of the United States Housing Act of 1937 and section 202 of the Housing Act of 1959 to determine the amounts that are contained in existing residual receipts accounts. The Secretary shall identify the existing rules and regulations governing the permissible uses of such accounts. Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study.

SEC. 1003. MINIMUM STATE SHARE FOR CERTAIN HOUSING PROGRAMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, each State shall be entitled to receive not less than one-half of 1 percent of the aggregate amount of funds available in each fiscal year to carry out the following housing assistance programs:

(1) Elderly and handicapped housing loans under section 202 of the Housing Act of 1959.

(2) Public housing modernization under section 14 of the United States Housing Act of 1937.

(3) Public housing operating subsidies under the United States Housing Act of 1937.

(4) Indian housing development under the United States Housing Act of 1937.

(b) REGULATIONS.—The Secretary of Housing and Urban Development is authorized to prescribe regulations to carry out the provisions of this section.

(c) CALCULATION.—For the purpose of this section, amounts of assistance provided to any agency or instrumentality of a State, any political subdivision or public agency within a State, and any private nonprofit or for-profit sponsor or developer participating in a State on a project assisted under a program referred to in subsection (a) are amounts provided to a State.

SEC. 1004. TERMINATION OF EXISTING HOUSING PROGRAMS.

Except with respect to projects and programs for which funds have been previously appropriated, no new grants or loans shall be made after October 1, 1990 under—

(1) section 17(d) of the United States Housing Act of 1937;

(2) section 312 of the Housing Act of 1964;

(3) title VI of the Housing and Community Development Act of 1987;

(4) section 8(e)(2) of the United States Housing Act of 1937, except where funds are allocated under this authority for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act;

(5) section 810 of the Housing and Community Development Act of 1974;

(6) title IV of the Housing and Community Development Amendments of 1978;

(7) section 106 of the Housing and Urban Development Act of 1968;

(8) section 5(a)(2) of the United States Housing Act of 1937; and

(9) except as authorized under section 328 on a transitional basis, section 17(a) of the United States Housing Act of 1937.

SEC. 1005. STUDY OF PENSION FUND FINANCING OF HOUSING.

The Secretary of Housing and Urban Development shall conduct a study of ways in which State and local pension funds can be used to finance construction of low and moderate income housing. Not later than ninety days after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the result of such study.

SEC. 1006. EXEMPTION FROM DAVIS-BACON ACT REQUIREMENTS OF VOLUNTEERS UNDER HOUSING PROGRAMS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT.—Section 110 of the Housing and Community Development Act of 1974 (42 U.S.C. 5310) is amended—

(1) by inserting "(a)" after "SEC. 110."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a) and the provisions of the Davis-Bacon Act shall not apply to any volunteer laborers or mechanics engaged in any construction, rehabilitation, or maintenance financed in whole or in part with assistance received under this title.".

(b) PUBLIC HOUSING AND SECTION 8 ASSISTANCE.—Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended—

(1) by inserting "(a)" after "SEC. 12."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a), the provisions relating to wages (pursuant to subsection (a)), in any contract for loans, contributions, sale, or lease pursuant to this Act, and the provisions of the Davis-Bacon Act shall not apply to any volunteer laborers or mechanics engaged in any construction, rehabilitation, or maintenance of any lower income housing project under any such contract.".

SEC. 1007. CLARIFICATION OF THE TERM "AREA".

It is the sense of the Senate that in areas where FHA mortgage insurance is not accessible for a significant number of homebuyers because of diverse economies in the area the Secretary of Housing and Urban Development has sufficient authority under law to redefine the term "area", in establishing mortgage limits under section 203 of the National Housing Act.

SEC. 1008. GAO STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall carry out a study of the Davis-Bacon Act as it applies to Federal housing contracts. In the course of such study, the Comptroller General shall consider—

(1) the original aims of the Davis-Bacon Act;

(2) possible changes in the Davis-Bacon Act;

(3) an analysis of the relevant construction industry labor market including geographic variations, skills, training, productivity, and quality of work product;

(4) any productivity or quality differences between private and government sponsored construction;

(5) the effects of the Davis-Bacon Act on Federal housing construction costs, construction wages, construction quality, the local and national economy, and the ability to create low-income housing; and

(6) the effects of business practices designed to avoid coverage of the Davis-Bacon Act.

(b) OPTIONS TO BE CONSIDERED IN MAKING RECOMMENDATIONS.—The Comptroller General shall examine and make recommendations regarding the following possible congressional actions with respect to the housing construction industry:

(1) reform of the Davis-Bacon Act;

(2) changing the dollar threshold;

(3) changing the definition of "prevailing wage";

(4) expanding or restricting the use of helpers;

(5) reducing or expanding required compliance activities for contractors;

(6) changes in administrative or other enforcement;

(7) regulating the splitting of contracts; and

(8) any other recommendations.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report setting forth the results of the study required by this section.

SEC. 1009. AMENDMENT RELATING TO EXPEDITED FUNDS AVAILABILITY ACT.

(a) ATM DEPOSITS.—

(1) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(A) in paragraph (1)(A), by striking "6" and inserting "4";

(B) in paragraph (1)(C), by striking "1990" and inserting "1994"; and

(C) in paragraph (2)(D), by striking "1990" and inserting "1994".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall take effect on September 1, 1990.

SEC. 1010. STUDY OF USE OF CERTIFIED MAIL.

The Secretary shall carry out a study to determine the extent to which the use of certified mail to notify mortgagors of the availability of counseling to which the mortgagor may be entitled would improve mortgagor participation in the Assignment program, reduce unwarranted foreclosures, and reduce FHA mortgage insurance program costs associated with delays in foreclosure proceedings. The Secretary shall report the results of such study to Congress no later than 6 months after the enactment of this Act.

TITLE XI—FEDERAL GOVERNMENT COOPERATIVE PROGRAM WITH THE ADVANCED BUILDING CONSORTIUM

SEC. 1101. SHORT TITLE.

This title may be cited as the "Advanced Building Consortium Act".

SEC. 1102. FINDINGS.

The Congress finds that—

(1) there is a growing shortage of affordable housing for newly formed households, low- and moderate-income families and the homeless;

(2) one significant reason for this critical shortage is the high cost of constructing new housing or renovating existing buildings;

(3) recent technological advances could be applied to the design, construction, maintenance and operations of buildings which could significantly reduce costs;

(4) the unique characteristics of the building industry, which is highly diversified and composed primarily of small businesses that are continually confronted with a wide variety of financial, technical and regulatory uncertainties, make it difficult for those responsible for the design, construction, installation, operation, maintenance and financing of buildings to assume additional uncertainties and risks which they associate with innovative building technologies;

(5) the Federal Government has a responsibility, as the owner and operator of the Nation's largest inventory of buildings in every geographical region, to seek reductions in the costs of constructing and operating buildings;

(6) the Federal Government has expended hundreds of millions of dollars in support of research and development of technologies that could be applied to buildings, but the results of that research are not applied to the Federal Government's buildings because the current procurement system makes it difficult for new building technologies to compete successfully with conventional technologies;

(7) the building industry, which has historically accounted for a significant portion of the gross national product, is now confronted with increasing foreign competition that threatens domestic companies in important market sectors, with corresponding substantial losses in employment;

(8) current institutional constraints impose high costs and require as much as 20 years to obtain the necessary market acceptance of new building technologies and therefore inhibit the private sector of the economy from investing in such worthwhile endeavors;

(9) the development of a cooperative program between the Federal Government and a responsible entity representing leaders of the building industry who are concerned with improving the above described conditions and capable of providing expertise and leadership to provide for the introduction, use and evaluation of cost-saving technological innovations in new and existing buildings owned and operated by the Federal Government, could facilitate the introduction and the early use of such cost saving innovative building technologies by Federal, State and local public agencies and by the private sector of the economy;

(10) while a new cooperative program of the Federal Government and the building industry is needed to facilitate introduction of technological innovations, various private organizations and institutions, private industry, labor, and Federal and other governmental agencies and other entities are presently engaged in building research, technology development, testing and evaluations and information dissemination and these capabilities should be effectively utilized wherever possible and appropriate in the implementation of this title; and

(11) an authoritative nongovernmental instrumentality needs to be created by the Federal Government to address the problems and issues described in this section, with the advice and assistance of the various sectors of the building community, including labor and management, technical experts in building science and technology and State and local governments.

SEC. 1103. CONSORTIUM AUTHORIZATION.

(a) ESTABLISHMENT.—There is established, for the purposes described in section 1102, an appropriate nonprofit, nongovernmental instrument to be known as the Advanced Buildings Consortium (hereafter referred to as the "Consortium"), which shall not be an agency or establishment of the United States Government. The Consortium shall be subject to the provisions of this title and, to the extent consistent with this title, to the District of Columbia Nonprofit Corporation Act.

(b) DIRECTORS.—The Consortium shall have a Board of Directors (hereafter referred to as the "Board") consisting of not less than 15 nor more than 21 members who shall be appointed by the Secretary of Housing and Urban Development, in consultation with cooperating Federal agencies, from among senior executives representing the various segments of the building community of the various regions of the country with extensive experience in building industries, including (1) representatives of the building industry, product manufacturers, and experts in health, fire and safety, and (2) members representative of the public interest highly experienced in building technologies, including architects, professional engineers and representatives of consumer organizations. No Federal official shall be a member of the Board. Members of the Board shall not participate in any deliberations of the Board affecting technologies or related matters where they hold a financial interest or membership in, or employment by, or receive other compensation from, any company, association, or other group associated with the manufacture, distribution, installation, or maintenance of the building products, equipment, systems, subsystems, or other construction materials and techniques associated with the building technology under consideration or with the conventional technology for which the new technology may be a substitute.

(c) NO STOCK.—The Consortium shall have no power to issue any shares of stock or to declare or pay any dividends. No part of the income or assets of the Consortium shall inure to the benefit of any director, officer, employee or other individual except as salary or reasonable compensation for services.

(d) POLITICAL CONTRIBUTIONS.—The Consortium shall not contribute to or otherwise support any political party or candidate for elective public office.

SEC. 1104. CONSORTIUM FUNCTIONS AND RESPONSIBILITIES.

(a) IN GENERAL.—The Consortium shall conduct research involving, and take actions to facilitate and promote the use of, new, cost-saving building technologies. In carrying out its activities, the Consortium shall—

(1) select and evaluate new building technologies, including energy cost savings technologies, that conform to recognized performance criteria and meet test standards for maintenance of life, safety, health, and public welfare when used in occupied buildings;

(2) conduct needed investigations in direct support of paragraph (1);

(3) conduct economic analyses of proposed new technologies when produced and installed in buildings at volumes associated with comparable conventional technologies;

(4) in collaboration with cooperating Federal agencies, advise building designers, installers, subcontractors, contractors and supervising officials responsible for buildings in the appropriate design and use of the innovative building technology incorporated in federally owned or operated buildings;

(5) in collaboration with cooperating Federal agencies, monitor and evaluate the performance of new building technologies for at least 1 year after installation and building occupancy; and

(6) assemble and disseminate technical data and other information directly related to activities described in paragraphs (1) through (5) of this subsection.

(b) DELEGATION AND MONITORING.—The Consortium, in exercising its functions and responsibilities described in subsection (a) of this section, shall—

(1) assign and delegate to the maximum extent possible, responsibility for conducting each of the activities described in subsection (a) to private organizations, institutions, agencies, and Federal and other governmental entities that have a demonstrated capacity to exercise or contribute to the exercise of such responsibility,

(2) monitor the performance achieved through assignment and delegation, and

(3) when deemed necessary, reassign and delegate such responsibility.

(c) CONSISTENCY WITH OTHER LAW.—The Consortium, in exercising its functions and responsibilities under subsections (a) and (b) of this section, shall—

(1) assure to the extent possible that its actions and recommendations are consistent with nationally recognized performance criteria, standards, and other technical provisions of Federal, State, and local building codes and regulations and conform with generally accepted community and environmental standards; and

(2) consult with the Department of Justice and other agencies of Government to the extent necessary to insure that the national interest is protected and promoted in the exercise of its functions and responsibilities.

SEC. 1105. FEDERAL PARTICIPATION.

(a) COOPERATIVE PROGRAM.—The Secretary of Housing and Urban Development, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Energy, and the Administrator of General Services, and other departments, agencies and establishments of the Federal Government having responsibility for more than 1,000 buildings or for operating buildings at an annual cost of at least $1,000,000 shall participate in a cooperative program with the Consortium to develop and implement programs to incorporate one or more of the recommended new technologies in a new or existing building within each department. The initial selection of the new technology and the specific building project in which the new technology will be incorporated shall be determined jointly by the cooperating Federal agency and the consortium within 1 year after the date of enactment of this Act. The technology selected shall be appropriate to the building selected, and its intended uses, and shall offer maximum opportunity to demonstrate cost savings.

(b) REQUIRED ASSURANCES.—Upon agreement between the Federal agency and the Consortium with respect to the selection of the appropriate technology and the schedule of necessary work, the Consortium shall—

(1) provide the Federal agency with a 5-year guarantee from the technology manufacturer that all necessary corrections to the technology will be made in the design, installation, and maintenance of the technology and that all malfunctions will be repaired without delay and that the technology manufacturer will be responsible for removal of the technology in the event of its failure to perform as required;

(2) provide the Federal agency and its officials responsible for constructing or renovating the buildings utilizing the new technology, as well as the designers, installers, subcontractors and contractors responsible for the design, construction or renovation of the buildings utilizing the new technology with the technical information necessary to assure the most appropriate use of the new technology;

(3) in collaboration with the Federal agency, monitor and evaluate the performance of the new technology; and

(4) prepare reports to be made available to public agencies at all levels of government, to the industry and to the public on the performance of the new technology.

(c) PROCUREMENT WAIVER.—Each Federal agency participating in this program is authorized to waive the applicability of procurement laws or regulations and deem the Consortium to be a sole source of the agreed-upon new technology for the selected building or facility. Competitive bidding for all other work in the selected building or facility shall conform with Federal building procurement regulations.

(d) SET-ASIDE.—Each Federal agency participating in this cooperative program shall set aside special funds in its annual appropriated building construction and renovation budget, in an amount not exceeding $1,000,000 in any fiscal year to provide for the costs of testing, monitoring, and evaluating the new technologies employed in this program.

(e) ANNUAL REPORT.—Each participating Federal agency shall report annually to the Congress on its efforts to implement the purpose of this title.

SEC. 1106. AUTHORIZATION.

There are authorized to be appropriated to the Consortium an amount not to exceed $500,000 for each of the first 2 years of the Consortium's operation. Such funds shall remain available to the Consortium until expended.

SEC. 1107. ANNUAL REPORT.

The Consortium shall submit an annual report for the preceding year to the President for transmittal to the Congress within 60 days of its receipt. The report shall be a comprehensive and detailed report of the Consortium's operations, activities, financial condition, and accomplishments under this title and of the extent of the cooperation received from participating Federal agencies, and may include recommendations as the Consortium deems appropriate.

TITLE XII—COINAGE DESIGNS

SEC. 1201. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 1202. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the two hundredth anniversary of the United States Constitution for a period of 2 years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1-year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 1203. DESIGN ON OBVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection.".

SEC. 1204. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutitonal concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the United States Commission on Fine Arts.

SEC. 1205. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

TITLE XIII—PROVISION OF COMPREHENSIVE SERVICES TO FAMILIES AND INDIVIDUALS WITH SPECIAL NEEDS

SEC. 1301. SHORT TITLE.

This title may be cited as the "Homelessness Prevention and Community Revitalization Act of 1990".

SEC. 1302. PURPOSE.

It is the purpose of this title—

(1) help create safe, positive environments for families, children and individuals in low income housing and neighborhoods;

(2) reduce homelessness and institutionalization by making permanent housing accessible and hospitable to low income families, homeless veterans, frail elderly and individuals of special needs; and

(3) prevent additional homelessness by providing on-site social services and case management to families and individuals who are at risk of homelessness due to income level, illness, mental illness or lack of social and economic support networks.

Subtitle A—Family Support Centers

SEC. 1311. DEFINITIONS.

As used in this subtitle:

(1) ADVISORY COUNCIL.—The term "advisory council" means the advisory council established under section 1312(d)(2)(K).

(2) ELIGIBLE AGENCY.—The term "eligible agency" means State or local agencies, a Head Start agency, any community-based organization including an organization officially designated as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, and in addition includes an institution of higher education, a public hospital, a community development corporation, a community health center, and other public or private nonprofit agency or organization specializing in delivering housing or social services.

(3) FAMILY CASE MANAGERS.—The term "family case managers" means advisers operating under the provisions of section 1316.

(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term "governmentally subsidized housing" means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

(5) HOMELESS.—The term "homeless" has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term "intensive and comprehensive supportive services" means—

(A) in the case of services provided to infants, children and youth, infant and child primary and health services designed to enhance the physical, social, emotional, educational and intellectual development of such infants and children and that shall include, where appropriate, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness services, education and support services for youth (including basic skills and literacy services), and nutritional services;

(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling and treatment or referral for treatment, employment counseling and job training as appropriate, lifeskills training and personal financial counseling, education including basic skills and literacy services, parenting classes, health care and mental health services, peer counseling and crisis intervention services; and

(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment or referral for treatment, family violence counseling services, violence counseling and peer support services, family advocacy services, and housing assistance activities including emergency rental or mortgage assistance payments, housing counseling and eviction or foreclosure prevention assistance.

(7) LOW INCOME.—The term "low income" when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) VERY LOW INCOME.—The term "very low income" when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

SEC. 1312. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, emotional, educational, and intellectual development of low-income families, especially those very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless.

(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

(2) the proximity of the agencies and facilities associated with the program to the low-income families to be served by the program or the ability of the agency to provide offsite services;

(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, and other relevant services), with public or private nonprofit agencies and organizations that provide assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

(4) the management and accounting skills of the eligible agency;

(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program; and

(6) the involvement of project participants and community representatives in the planning and operation of the program.

(d) REQUIREMENTS.—

(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall—

(A) if a planning grant application has been approved for such agency under section 1313(b), have such application on file with the Secretary;

(B) have experience in providing or arranging for the provision of services such as those required under this section; and

(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

(A) identify the population and geographic location to be served by the program;

(B) provide assurances that services are closely related to the identifiable needs of the target population;

(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

(D) identify the referral providers, agencies, and organizations that the program will use;

(E) describe the method of furnishing services at offsite locations, if appropriate;

(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, social, substance abuse, and income maintenance services;

(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

(J) describe the manner in which the applicant will implement the requirement of section 1314;

(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall consist of not more than 15 members that shall include—

(i) prospective participants in the program;

(ii) representatives of local private industry;

(iii) individuals with expertise in the services the program intends to offer;

(iv) representatives of the community in which the program will be located;

(v) representatives of local government social service providers;

(vi) representatives of local law enforcement agencies; and

(vii) representatives of the local public housing agency, where appropriate;

(L) describe plans for evaluating the impact of the program;

(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds cur-

rently utilized to provide services of the type described in this section.

(e) FAMILY SUPPORT CENTER.—Each program that receives assistance under this section shall establish at least one family support center that shall operate out, or in the immediate vicinity, of governmentally subsidized housing. Such centers shall be the primary location for the administration of the programs and the provision of services under this subtitle.

SEC. 1313. PLANNING GRANTS.

(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 1312.

(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require. Each such application shall—

(1) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to this subtitle;

(2) describe the low-income families to be served by the program including the number to be served and information on the population and geographic location to be served;

(3) describe how the needs of individuals identified under paragraph (2) will be met by the program;

(4) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

(5) describe the manner in which the program will be operated together with the involvement of other community groups and public agencies;

(6) specify the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

(7) contain assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 1312(d)(2)(K), that shall include—

(A) prospective participants in the program,

(B) individuals with expertise in the services the program intends to offer;

(C) representatives of the community in which the program will be located;

(D) representatives of local government social service providers;

(E) representatives of local law enforcement agencies; and

(F) representatives of local public housing agencies;

(8) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonable require;

(9) contain an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 1312; and

(10) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(c) ADMINISTRATIVE PROVISIONS.—

(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this subsection.

(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 1312 unless such applicant receives a grant under this section.

(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

SEC. 1314. TRAINING AND RETENTION.

The Secretary shall require that agencies that receive a grant under section 1312 use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

SEC. 1315. AMOUNTS OF GRANTS.

(a) IN GENERAL.—The Secretary shall pay to an eligible agency having an application approved under section 1312 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

(c) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

(2) PRIVATE CONTRIBUTIONS.—Of the non-Federal share, 25 percent of such amount shall be provided through contributions from private entities.

(d) PAYMENTS.—Payments under this subtitle may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

SEC. 1316. FAMILY CASE MANAGERS.

(a) REQUIREMENT.—Each program that receives a grant under section 1312 shall employ, subject to subsection (e), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

(b) NEEDS ASSESSMENT.—Each low-income family that desires to receive services from a program that receives assistance under this subtitle shall be assessed by a family case manager on such families initial visit to such program as to their need for services.

(c) CONTINUING FUNCTIONS.—Family case managers shall formulate a plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and services, including school advocacy services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities.

(d) SPECIAL SERVICES.—Case managers shall provide comprehensive services as required under the application submitted under section 1312, that places special emphasis on services relating to substance abuse and domestic violence.

(e) LIMITATION.—No family crisis adviser shall carry a caseload of in excess of 20 families.

SEC. 1317. EVALUATIONS.

(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this subtitle be evaluated, by a third party with expertise in the types of services to be provided under this subtitle, on an annual basis.

(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this subtitle in—

(1) enhancing the living conditions in low income housing and in neighborhoods;

(2) improving the physical, social, emotional, educational, and intellectual development of low income children and families served by the program;

(3) increasing the self-sufficiency of families served by the program; and

(4) such other factors that the Secretary may reasonably require.

(c) INFORMATION.—Each eligible agency receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

SEC. 1318. REPORT.

Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

(1) concerning the evaluations required under section 1317, together with such recommendations, as the Secretary considers appropriate; and

(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle.

SEC. 1319. CONSTRUCTION.

Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

SEC. 1320. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

Subtitle B—Provision of Services to Elderly Individuals and Individuals with Chronic and Debilitating Illnesses and Conditions

SEC. 1331. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"PART L—PROVISION OF SERVICES TO FRAIL ELDERLY INDIVIDUALS AND INDIVIDUALS WITH CHRONIC AND DEBILITATING ILLNESSES AND CONDITIONS

"SEC. 399B. DEFINITIONS.

"As used in this part:

"(1) ADVISORY COUNCIL.—The term 'advisory council' means the advisory council established under section 399C(d)(2)(K).

"(2) ELIGIBLE AGENCY.—The term 'eligible agency' means any community-based organization, State or local agency, community health center, public or private nonprofit agency or other institution that will provide

or arrange for the provision of appropriate comprehensive services to frail elderly or seriously ill individuals.

"(3) FRAIL ELDERLY.—The term 'frail elderly' has the same meaning given such term in section 602.

"(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of low income families or individuals.

"(5) HOMELESS.—The term 'homeless' has the same meaning given such term in subsection (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

"(6) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

"(7) VERY LOW INCOME.—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 399C. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

"(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies to pay the Federal share of the cost of programs designed to encourage the provision of eligible services to low-income elderly or low-income seriously ill individuals, especially those very low income elderly or seriously ill individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

"(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

"(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the agencies and facilities associated with the program to the low-income individuals to be served by the program, or the ability of the agency to provide offsite services;

"(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for health and mental health services, social services, nutrition, and other relevant services), with public or private nonprofit agencies providing assistance to homeless individuals and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) the management and accounting skills of the eligible agency;

"(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program;

"(6) the involvement of program participants and community representatives in the planning and operation of the program; and

"(7) the demonstrated or potential effectiveness of the eligible agency in serving the populations or subpopulations intended to be served under this section.

"(d) REQUIREMENTS.—

"(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) APPLICATION.—Each application submitted under paragraph (1) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of eligible services of the type described in section 399D;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

"(G) describe how the program will relate to the State and local agencies providing health, nutritional, social, and income maintenance services;

"(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(J) describe the manner in which the applicant will implement the requirement of section 399F;

"(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall include—

"(i) prospective participants in the program;

"(ii) individuals with expertise in the services the program intends to offer;

"(iii) representatives of the community in which the program will be located;

"(iv) representatives of local government social service providers;

"(v) community based organizations with a history of providing service to participants;

"(vi) representatives of local public housing agencies, where appropriate; and

"(vii) representatives of local health care professions;

"(L) describe plans for evaluating the impact of the program;

"(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

"(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

"(e) HOME HEALTH SERVICE PROGRAM.—Each recipient that receives assistance under this section shall establish at least one home health service program that shall operate out of, or in the immediate vicinity of, governmentally subsidized housing. Such programs shall be the primary location for the administration of the programs and the provision of services under this part. Such programs may operate out of existing family support centers.

"SEC. 399D. PLANNING GRANTS.

"(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 399C.

"(b) APPLICATION.—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require, including—

"(1) a description of the capacity of the eligible agency to provide or ensure the availability of services pursuant to this part;

"(2) a description of the low-income frail elderly or low-income seriously ill individuals to be served by the program including the number to be served and information on the population and geographic location to be served;

"(3) a description of the needs of individuals identified under paragraph (2) that will be met by the program;

"(4) a description of the services that program planners intend to address in the development of the plan;

"(5) a description of the manner in which the program will be operated together with the involvement of other community groups and public agencies;

"(6) a specification of the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

"(7) assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 399C(d)(2)(K), that shall include—

"(A) prospective participants in the program;

"(B) individuals with expertise in the services the program intends to offer;

"(C) representatives of the community in which the program will be located;

"(D) representatives of local government social service providers;

"(E) representatives of local public housing agencies, where appropriate;

"(8) a description of the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

"(9) an assurance that the agency will use funds received under this section to prepare

a plan as described in this subsection and submit such plan in an application for a grant under section 399C; and

"(10) an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant State and local funds currently utilized to provide services of the type described in this section.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

"(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this section.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 399C unless such applicant receives a grant under this section.

"(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

"SEC. 399E. ELIGIBLE SERVICES.

"(a) IN GENERAL.—Grants awarded under this part shall be used to provide services of the type described in subsection (b) to low-income frail elderly or low-income seriously ill individuals.

"(b) SERVICES.—Agencies receiving grants under this part shall use such grants to provide comprehensive services, in accordance with the service plan, that shall include, where appropriate—

"(1) 24-hours nursing supervision services;

"(2) case management services;

"(3) home health care services;

"(4) homemaker services;

"(5) meal provision services;

"(6) attendant services;

"(7) volunteer visiting services;

"(8) adult day care service;

"(9) treatment for substance abuse;

"(10) hospice services;

"(11) post hospitalization respite care services;

"(12) transportation services;

"(13) assistance in accessing and maintaining appropriate public assistance;

"(14) housing assistance activities, including emergency rental or mortgage assistance payments, housing counseling, and eviction or foreclosure prevention assistance;

"(15) mental health services; and

"(16) any other services determined appropriate by the Secretary.

"(c) COORDINATION.—Programs that receive assistance under this part shall be coordinated with a local hospital or community health center that regularly provides emergency medical care services.

"(d) SET-ASIDE FOR ELDERLY.—The Secretary shall require that at least 20 percent of the grants made under this part shall be set aside for the provision of subsidized housing-based services to elderly individuals, especially those very low income elderly individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"SEC. 399F. TRAINING AND RETENTION.

"The Secretary shall require that agencies that receive a grant under section 399C use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

"SEC. 399G. AMOUNTS OF GRANTS.

"(a) IN GENERAL.—The Secretary shall pay to eligible agencies having applications approved under section 399C the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

"(c) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(2) CASH.—At least 25 percent of the non-Federal share under paragraph (1) shall be in the form of cash.

"(d) PAYMENTS.—Payments under this part may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"SEC. 399H. EVALUATIONS.

"(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this part are evaluated, by a third party with expertise in the types of services to be provided under this part, on an annual basis.

"(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this part in—

"(1) enhancing the living conditions for low income frail elderly and seriously ill individuals;

"(2) improving the opportunity for individuals served by the program to live independently and to avoid institutionalization; and

"(3) such other factors that the Secretary may reasonably require.

"(c) INFORMATION.—Each eligible agency receiving a grant under this part shall furnish information requested by evaluators in order to carry out this section.

"(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

"SEC. 399I. REPORT.

"Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

"(1) concerning the evaluations required under section 399H, together with such recommendations, including recommendations for legislation, as the Secretary considers appropriate; and

"(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this part.

"SEC. 399J. CONSTRUCTION.

"Nothing in this part shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 399K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

Subtitle C—Projects to Aid the Transition from Homelessness

SEC. 1341. PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

Part C of title V of the Public Health Service Act (42 U.S.C. 290cc et seq.) is amended to read as follows:

"PART C—PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS

"SEC. 521. SHORT TITLE.

"This part may be cited as the 'Projects to Aid the Transition from Homelessness (PATH) Act of 1990'.

"SEC. 522. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, a metropolitan city, or an urban county.

"(2) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual, including a veteran, who is—

"(A) afflicted with serious mental illness, alcoholism, substance abuse or a combination thereof; and

"(B) homeless or at imminent risk of becoming homeless.

"(3) METROPOLITAN CITY.—The term 'metropolitan city' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

"(4) SERVICE PROVIDER.—The term 'service provider' includes any general purpose unit of local government, a city, county, town, township, parish, village or combination thereof, a public or private nonprofit agency including a veterans' community based service provider, or a community based organization.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau.

"(6) URBAN COUNTY.—The term 'urban county' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 523. ALLOTMENT.

"(a) IN GENERAL.—The Secretary shall utilize amounts appropriated under section 532 in each fiscal year, to make an allotment to metropolitan cities, urban counties, and States (for distribution to service providers in the States) in the same manner as the Secretary of Housing and Urban Development makes allocations under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), except that the Secretary shall—

"(1) substitute 50 percent for 70 percent in subsection (a) of such section 106; and

"(2) substitute 50 percent for 30 percent in subsection (d) of such section 106.

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—If, under the allotment provisions applicable under this part, any city or urban county would receive an allotment of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallotted to the State, except that any metropolitan city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of

$1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allotted to such city under subsection (a).

"(2) MINIMUM.—Notwithstanding any other provision of law, the total amount allotted to each State under this part, including amounts allotted to each eligible entity within the State, shall not be less than—

"(A) $500,000; or

"(B) the amount of the allotment such State received pursuant to this part in fiscal year 1990 plus 30 percent of such allotment.

"(3) RATABLE REDUCTION.—The Secretary shall ratably reduce the allotments made pursuant to subsection (a) in order to carry out the provisions of this subsection.

"(c) ALLOTMENTS TO TERRITORIES.—In addition to the other allotments required in this section, the Secretary shall (for amounts appropriated under section 532) make allotments under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau, and any other territory or possession of the United States, in accordance with an allotment formula established by the Secretary, but in no case shall the total amount allotted to all of the territories and possessions exceed 2 percent of the total amount appropriated under section 532.

"(d) REMAINING AMOUNTS.—The Secretary may allocate any unclaimed or remaining funds to eligible entities determined by the Secretary to be in need of additional assistance.

"(e) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under this part to an eligible entity unless such entity agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided under the allotment.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Except as provided in paragraph (3), amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(3) SPECIAL RULE.—Funds received pursuant to section 106 of the Housing and Community Development Act of 1974, and the value of any property, buildings, or housing received and fairly evaluated may be included in determining the amount of such non-Federal contributions.

"(4) WAIVER.—The Secretary may waive the requirements of paragraph (1) for metropolitan cities and urban counties which are unable to provide such matching funds.

"(5) PARTICIPATING LOCALITIES.—Each State receiving an allotment under this part shall not require participating localities to provide non-Federal contributions in excess of the non-Federal contributions described in paragraph (1).

"SEC. 524. ALLOTMENT APPLICATION.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Each eligible entity desiring an allotment under section 523 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) APPLICATION PERIOD.—The Secretary shall provide for a 90-day period during which applications may be submitted pursuant to paragraph (1).

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities and services for which the allotment is sought;

"(2) identify existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(3) include a plan for providing services and housing to eligible homeless individuals that shall—

"(A) describe the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) include documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(4) describe the source of the non-Federal contributions described in section 523;

"(5) contain assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(6) describe any voucher system that may be used to carry out this part; and

"(7) contain such other information or assurances as the Secretary may reasonably require.

"SEC. 525. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USE OF GRANT FUNDS.

"(a) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity for any fiscal year unless—

"(1) the eligible entity submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the eligible entity is applying pursuant to such section;

"(2) such description identifies the geographic areas within the eligible entity in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the eligible entity agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the eligible entity pursuant to section 523.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall not make an allotment under section 523 to an eligible entity for a fiscal year unless the eligible entity agrees that, in developing and carrying out the description required in subsection (a), the eligible entity will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEATH SERVICES PLAN.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) SPECIAL RULE.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"SEC. 526. USE OF ALLOTMENT.

"(a) USE OF ALLOTMENT.—

"(1) IN GENERAL.—Each eligible entity receiving an allotment under section 523 shall use such allotment to pay the Federal share of awarding grants to or entering into contracts with service providers to enable such service providers to provide comprehensive services and allowable housing assistance to homeless individuals in accordance with the provisions of this part.

"(2) SPECIAL CONSIDERATION.—Each eligible entity receiving an allotment under section 523 shall give special consideration to the provision of services to homeless veterans who are otherwise eligible for services under this subtitle. In providing such services to homeless veterans, such eligible entities shall give priority to service providers with a demonstrated effectiveness in serving homeless veterans.

"(3) FEDERAL SHARE.—The Federal share shall be 75 percent.

"(4) SPECIAL RULE.—Each eligible entity receiving an allotment under section 523 shall use at least two-thirds of such allotment to assist eligible homeless individuals who have—

"(A) a primary diagnosis of a serious mental illness; or

"(B) a diagnosis involving a serious mental illness and substance abuse.

"(5) COORDINATION.—Each eligible entity receiving an allotment under section 523 shall only make grants pursuant to paragraph (1) to service providers that have the capacity to meet or coordinate the comprehensive services and housing needs of eligible homeless individuals, including referral services. Such capacity includes contractual arrangements and viable referral plans among service providers of mental health, substance abuse, or housing services so that the comprehensive needs of individuals who are both mentally ill and substance abusers are met.

"(6) ADMINISTRATIVE EXPENSES.—Notwithstanding the provisions of this subsection, each eligible entity receiving an allotment pursuant to section 523 may reserve not to exceed 4 percent of such allotment for administrative expenses.

"(b) SPECIAL RULES.—Each eligible entity receiving an allotment under section 523 shall not award a grant to a service provider that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; and

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

"(c) SUPPLEMENTATION.—Each eligible entity receiving an allotment under section 523 shall only use such funds to supplement and not supplant Federal, State and local government funds currently utilized to provide services of the type described in this part.

"SEC. 527. LOCAL APPLICATION.

"Each service provider desiring a grant pursuant to section 526(a) shall submit an application to the appropriate eligible entity at such time, in such manner and accompanied by such information as the eligible entity may reasonable require.

"SEC. 528. LOCAL USE OF GRANT FUNDS.

"(a) SERVICES.—Grants awarded pursuant to section 526(a) shall be used to provide either on-site or off-site services to eligible homeless individuals, including homeless veterans. Such services shall include—

"(1) outreach and engagement services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individual, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such Act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referral to primary health services;

"(10) referral to job training and education programs; and

"(11) referral to other relevant service or housing programs.

"(b) HOUSING.—Not to exceed 20 percent of amounts received under a grant awarded pursuant to section 526(a) may be used for—

"(1) minor renovation, expansion, and repair;

"(2) planning;

"(3) technical assistance in applying for housing assistance;

"(4) improving the coordination of housing services;

"(5) security deposits;

"(6) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(7) one time rental payments to prevent eviction.

"(c) LIMITATIONS.—Grants awarded pursuant to section 526(a) shall not be used—

"(1) to support emergency shelters or construction of housing facilities;

"(2) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; and

"(3) to make cash payments to intended recipients of mental health, substance abuse, or housing services.

"SEC. 529. COORDINATION.

"(a) IN GENERAL.—The Secretary shall provide for coordination among eligible entities of housing and service strategies used in carrying out the provisions of this part.

"(b) INFORMATION.—In carrying out the provisions of subsection (a) the Secretary shall make available to eligible entities—

"(1) the information contained in the application and plan submitted pursuant to section 524; and

"(2) the annual report described in section 531.

"SEC. 530. TECHNICAL ASSISTANCE.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, may provide technical assistance to eligible entities in developing planning and operating programs in accordance with the provisions of this part.

"SEC. 531. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 523 were expended and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operation.

"SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $120,000,000 in fiscal year 1991, and $150,000,000 in each of the fiscal years 1992 through 1995 to carry out this part.".

Subtitle D—Community Development Corporation Improvement Grants

SEC. 1351. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

Part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 634. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop low-income housing and to develop community economic development projects.

"(2) USE OF FUNDS.—Grantees may use funds obtained under this section—

"(A) to purchase training and technical assistance from agencies or institutions that have experience in the construction, development and management of low-income housing or experience in community economic development; or

"(B) to purchase such assistance from other highly successful community development corporations.

"(c) OPERATING GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to support an administrative capability for planning, developing, constructing and managing low-income housing, and for other community economic development projects.

"(2) USE OF FUNDS.—Of amounts made available in any fiscal year for operating grants under this subsection, the Secretary of Health and Human Services shall use—

"(A) 40 percent of such amounts to assist in starting up community development corporations; and

"(B) 60 percent of such amounts to assist established community development corporations.

"(3) TERMS AND CONDITIONS.—Assistance provided through operating grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(d) GRANTS FOR COMMUNITY DEVELOPMENT CORPORATION EQUITY ACCOUNTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to any nongovernmental, nonprofit entity that is principally involved with the development, construction or management of low-income housing, or to community development corporations, to enable such entities to establish and maintain equity accounts with which such corporations may plan, develop, construct and manage low-income housing.

"(2) TERMS AND CONDITIONS.—Assistance provided through equity account grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(e) APPLICATIONS.—Community development corporations that desire to receive assistance under this section shall prepare and submit, to the Secretary of Health and Human Services, an application at such time, in such form, and containing such information as the Secretary shall reasonably require. Such Secretary shall not require project-specific information for applications for assistance under subsections (b), (c) and (d).

"(f) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

"(2) USE.—The Secretary of Health and Human Services shall use—

"(A) 20 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (b);

"(B) 30 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (c); and

"(C) 50 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (d).

"(3) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(h) DEFINITION.—As used in this section, the term 'community development corporation' means a nonprofit entity of the type described in this section and that meets the resident control and governing body requirements of 42 U.S.C. 9807(a)(1).".

Subtitle E—Public Housing Gateway

SEC. 1361. SHORT TITLE.

This subtitle may be cited as the "Public Housing Gateway Act of 1990".

SEC. 1362. STATEMENT OF PURPOSE.

The purpose of this subtitle is to establish programs, through public housing agencies, to increase the abilities and self-sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. 1363. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Labor may make grants under this subtitle to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) SELECTION OF GRANT RECIPIENTS.—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) PROVISION OF FACILITIES.—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this subtitle.

(2) NEED AND CAPABILITY TO PROVIDE SERVICES.—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section 1364(a) to individuals qualified to receive the training and services under section 1365.

(3) PROVISION OF SERVICES TO QUALIFIED INDIVIDUALS.—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this subtitle will be provided only to individuals qualified to receive the training and services under section 1365.

(4) PROVISION OF SERVICES TO YOUNG FAMILIES.—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this subtitle will be provided to residents of public housing projects where a significant number of young families receiving public assistance reside.

(5) COOPERATION WITH PRIVATE, NONPROFIT ORGANIZATIONS, OR COMMUNITY BASED ORGANIZATIONS.—The public housing agency shall demonstrate to the Secretary the ability to create cooperative working relationships with private organizations, nonprofit organizations, or community based organizations that are to provide training and services under this subtitle and are located in the same community as the public housing agency.

(c) APPLICATIONS FOR GRANTS.—

(1) IN GENERAL.—The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

(2) PRIORITY.—The Secretary shall give priority to applications that demonstrate significant cooperation and coordination with existing private organizations, nonprofit organizations, or community based organizations.

SEC. 1364. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) MANDATORY TRAINING AND SERVICES.—Any public housing agency that receives a grant under section 1363 shall use the grant to establish a gateway program to make available to individuals eligible under section 1365 all of the following training and services, subject to the limitations of section 1365:

(1) INFORMATION.—The provision of information designed to make individuals aware of training, employment, education, counseling or the provision of services offered by the public housing agency, including the training and services available under this subtitle.

(2) LITERACY TRAINING.—Literacy training and bilingual training.

(3) BASIC SKILLS TRAINING.—Remedial education and training in basic skills.

(4) DEVELOPMENT OF WORK HABITS.—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) CHILD CARE.—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to participate in the training and services provided under this section.

(b) PERMISSIVE TRAINING AND SERVICES.—Public housing agencies that receive grants under section 1363 may make available as part of their gateway programs to individuals qualified under section 1365 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section 1365, including the following:

(1) EMPLOYMENT ASSISTANCE.—Assistance in acquiring employment.

(2) EMPLOYMENT COUNSELING.—Employment counseling and vocational exploration services.

(3) DEVELOPMENT OF JOBS.—Development of employment positions.

(4) PRIVATE JOB TRAINING.—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) OTHER FEDERAL EMPLOYMENT TRAINING OR SERVICES.—Training or services coordinated with other Federal employment-related activities.

(6) HIGH SCHOOL EDUCATION.—Assistance in the attainment of certificates of high school equivalency.

(7) COMPUTER SKILLS TRAINING.—Training in computer skills for use in education, skills training, and employment preparation.

(8) TRAINING IN APPLICATION OF SKILLS.—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) TRANSITIONAL ACTIVITIES.—Activities designed to provide transition from education to employment.

(10) DRUG PREVENTION SERVICES.—Services to assist individuals with drug prevention, drug counseling, and drug education programs.

(11) SUPPORT SERVICES.—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. 1365. LIMITATIONS ON GATEWAY PROGRAMS.

(a) ELIGIBILITY IN GENERAL.—Public housing agencies receiving grants under this subtitle shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) RESIDENCY.—The individual shall be a resident of public housing.

(2) AGE.—The individual shall be not more than 25 years of age.

(3) ECONOMIC DISADVANTAGE.—The individual shall be economically disadvantaged.

(4) EDUCATIONAL DISADVANTAGE.—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) LIMITATIONS ON CHILD CARE SERVICES.—

(1) ELIGIBILITY.—Public housing agencies receiving grants under this subtitle shall limit the provision of child care services under section 1364(a)(5) to the following individuals:

(A) PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services.

(B) UNEMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) COMMENCEMENT.—The period shall begin on the completion of the training or services by the individual.

(ii) TERMINATION.—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this subtitle.

(C) EMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this subtitle, during the 12-month period that begins with commencement of the employment of the individual.

(2) COMPLIANCE WITH STATE AND LOCAL LAWS.—A public housing agency that provides child care services under this subtitle shall ensure that the child care complies with applicable State and local laws.

(c) LIMITATIONS ON SUPPORT SERVICES.—An individual may receive support services under this subtitle after the individual terminates any participation in training or services under a gateway program (not including the provision of support services) only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) LIMITATION ON NONRESIDENT PERSONNEL.—A public housing agency receiving a grant made under this subtitle shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. 1366. EFFECT OF GATEWAY PROGRAMS.

(a) NONCONSIDERATION AS INCOME FOR PARTICIPATING INDIVIDUALS.—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) PERIOD OF PARTICIPATION UNDER GATEWAY PROGRAM.—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) EMPLOYMENT PERIOD.—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) COMMENCEMENT.—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this subtitle.

(B) TERMINATION.—The period shall end on whichever of the following occurs first—

(i) the expiration of the 18-month period following the commencement of the period described in subparagraph (A); or

(ii) the individual ceases to continue employment without good cause, as the Secretary shall determine.

(b) PUBLIC HOUSING OPERATING ASSISTANCE.—The use of the facilities of a public housing agency receiving a grant under this subtitle in the provision of training or services under a gateway program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. 1367. REVIEW AND SANCTIONS.

(a) REVIEW.—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this subtitle with the provisions of this subtitle.

(b) SANCTIONS FOR NONCOMPLIANCE.—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this subtitle, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this subtitle until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary shall not make further grant payments to the public housing agency under this subtitle.

SEC. 1368. REPORTS.

The Secretary shall transmit annually to the President and to the appropriate Committees of Congress a report containing a detailed statement of the activities of the public housing agencies receiving grants under this subtitle and the recommendations for any action the Secretary considers appropriate. Such reports shall include an evaluation of the effectiveness of such activities in enhancing the employability of residents of public housing.

SEC. 1369. DEFINITIONS.

As used in this subtitle:

(1) BASIC SKILLS.—The term "basic skills" means the rudimentary skills necessary for an individual to function in daily living, including literacy, arithmetic skills, and problem-solving.

(2) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(3) GATEWAY PROGRAM.—The term "gateway program" means a program for the provision of training and services described in section 1364 established by a public housing agency under a grant made by the Secretary under this subtitle.

(4) LITERACY.—The term "literacy" means the knowledge and skills necessary to communicate, including reading, writing, speaking, and listening normally associated with the ability to function at a level greater than the 8th grade level.

(5) OFFICER.—The term "officer" has the meaning given the term in section 2104 of title 5, United States Code.

(6) PUBLIC ASSISTANCE.—The term "public assistance" means cash payments, credits, or other assistance or benefits provided to individuals or families under Federal law.

(7) PUBLIC HOUSING.—The term "public housing" has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(8) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SUPPORT SERVICES.—The term "support services" means services to facilitate the participation of residents of public housing in training and services under gateway programs. The term includes child care services under section 1364(a)(5) and services under section 1364(b)(10).

SEC. 1370. REGULATIONS.

The Secretary shall promulgate regulations necessary to carry out this subtitle.

SEC. 1371. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $40,000,000 for fiscal year 1991, and $50,000,000 for each of the fiscal years 1992 through 1995. Any amount appropriated under this section shall remain available until expended.

Subtitle F—Homeless Youth Demonstration Projects

SEC. 1381. SHORT TITLE.

This subtitle may be cited as the "Homeless Youth Demonstration Project Act of 1990".

SEC. 1382. DEMONSTRATION PROJECTS.

Subtitle E of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11472 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 763. DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) HOMELESS YOUTH.—The term 'homeless youth' means an individual who is 21 years of age or younger, is in need of services, and lacks a permanent place of shelter that provides appropriate supervision and care for such individual or who resides in a group home on a temporary basis.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish not to exceed three demonstration projects that are designed to assist private and public agencies and organizations in working together to provide a network of comprehensive services, including medical, mental health, health, legal, social, outreach, and emergency services, to homeless youth.

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall award grants to not to exceed three private, nonprofit organizations with demonstrated success in providing direct services to homeless youth, in subcontracting for such services, and in coordinating the provision of such services with other agencies, as referred to in paragraph (1).

"(B) LOCATION.—In awarding grants under subparagraph (A), the Secretary shall select organizations that are located in urban areas with a high concentration of out-of-city, out-of-county, and out-of-State homeless youth.

"(C) ABILITY TO PROVIDE SERVICES.—To be eligible for a grant under subparagraph (A), an organization shall demonstrate to the Secretary the ability of such organization, or another competent organization with which such organization has a subcontract,

to provide a comprehensive network of each of the services described in paragraph (1).

"(D) PREFERENCE.—In awarding grants under subparagraph (A), the Secretary shall give preference to organizations that would involve a network of public and private agencies in the delivery of services to homeless youth.

"(3) EVALUATION OF DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall monitor each demonstration project established under paragraph (1) to determine whether such project is complying with the requirements of this section.

"(B) INDEPENDENT EVALUATOR.—

"(i) IN GENERAL.—The Secretary shall contract with an independent evaluator to evaluate the process and outcome of each demonstration project established under paragraph (1), and to make suggestions for the implementation of other similar demonstration projects in other areas of the country.

"(ii) STABILITY OF HOMELESS YOUTH.—The independent evaluator referred to in clause (i) shall assess the stability of homeless youth that are served by a demonstration project established under paragraph (1) after such youth are either reunited with family or settled in a stable environment.

"(4) ELIGIBLE YOUTH.—

"(A) IN GENERAL.—Except as provided for in subparagraph (B), an individual wishing to receive services under this section shall be not more than 21 years of age.

"(B) EXCEPTION.—The Secretary may grant waivers to provide services under this section to individuals who are 22 through 24 years of age for not more than 10 percent of the funds awarded for grants under paragraph (2).

"(5) LENGTH OF DEMONSTRATION PROJECTS.—Each of the demonstration projects established under paragraph (1) shall not exceed a period of 3 years.

"(6) AUTHORIZATION OF APPROPRIATION.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991, 1992, and 1993.

"(B) INDEPENDENT EVALUATOR.—Of the amounts authorized to be appropriated under subparagraph (A), not to exceed $500,000 shall be utilized for the contract referred to in paragraph (3)(B).".

Subtitle G—Plan for Cooperation

SEC. 1391. PLAN FOR COOPERATION.

(a) IN GENERAL.—Not later than the date on which regulations necessary to carry out subtitle A of this title, part L of title III of the Public Health Service Act (as added by subtitle B), part C of title V of the Public Health Service Act (as amended by subtitle C), section 634 of the Community Economic Development Act of 1981 (as added under subtitle D), or subtitle E are issued, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a plan concerning the programs to be carried out under such subtitle, parts, and section.

(b) CONTENTS.—The plan prepared under subsection (a) shall—

(1) describe the method in which the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall consult with one another in implementing and administering the programs described in subsection (a) and coordinate the implementation of such programs with other relevant programs and Acts (including the programs established under the Stewart B. McKinney Homeless Assistance Act, or the amendments made by such Act, and under Federal housing Acts);

(2) contain an assurance that such Secretaries will consult with one another on an ongoing and continuous basis in such implementation; and

(3) contain procedures, developed by the Secretary of Housing and Urban Development, for granting priority in the provision of construction, rehabilitation or renovation assistance by such Secretary, to applicants that receive grants under the subtitle, parts, and section referred to in subsection (a).

TITLE XIV—DEPOSITOR PROTECTION AND ANTI-FRAUD ACT

SEC. 1401. SHORT TITLE.

This title may be cited as the "Depositor Protection and Anti-Fraud Act of 1990".

SEC. 1402. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FDIC-INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED DEPOSITORY INSTITUTIONS.—

"(1) PROHIBITION ON SELLING CERTAIN INSTRUMENTS.—No insured depository institution may permit any evidence of indebtedness of, or ownership interest in, that institution or any affiliate to be sold or offered for sale in any of the following:

"(A) A domestic branch of that institution at which insured deposits are accepted.

"(B) That institution's head office, if it accepts insured deposits and is located in the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any of the following:

"(A) A deposit in an insured depository institution.

"(B) A traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by insured depository institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940, or otherwise regulated by the appropriate Federal banking agency.

"(D) A sale of instruments in minimum amounts of $100,000 to a sophisticated investor.

"(E) A sale of instruments pursuant to converting a depository institution from mutual to stock ownership if that conversion has been approved by the appropriate Federal banking agency and, where applicable, any appropriate State agency.

"(3) REGULATORY EXEMPTIONS.—The appropriate Federal banking agency may by regulation provide exemptions from paragraph (1) if at a minimum:

"(A) the exemption is in the public interest;

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured deposit because of the manner in which it is sold or offered for sale, or for any other reason;

"(C) the evidence of indebtedness or ownership interest would be sold or offered for sale on terms (including price) no less favorable for depositors than for persons similarly situated who are not depositors;

"(D) the seller or offeror institutes and follows procedures to determine before selling the instrument whether the instrument is appropriate for the purchaser, except to the extent that the agency determines that, in particular cases or classes of transactions, such procedures are not necessary to protect the public;

"(E) no broker or dealer registered under the Securities Exchange Act of 1934 (or any associated person) receives a greater sales commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1); and

"(F) none of the following persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured depository institution.

"(ii) An affiliate of the insured depository institution.

"(iii) An employee of the insured depository institution or any of its affiliates, or a person under the direction and control of the insured depository institution or any of its affiliates.

"(4) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences between that agency's regulations under this subsection and the regulations adopted by the other agencies under this subsection. Each report shall explain the reasons for any such differences, and shall be published in the Federal Register.".

(b) REGULATIONS.—Not less than 180 days after the date of enactment of this Act, each appropriate Federal banking agency shall promulgate regulations to administer and carry out the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to depository institutions regulated by each appropriate Federal banking agency immediately upon the effectiveness of final regulations promulgated by that agency under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

SEC. 1403. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FEDERALLY INSURED CREDIT UNIONS.

(a) IN GENERAL.—Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end the following new subsection:

"(j) REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED CREDIT UNIONS.—

"(1) PROHIBITION ON SELLING CERTAIN INSTRUMENTS.—No insured credit union may permit any evidence of indebtedness of that credit union or any evidence of indebtedness of, or ownership interest in, any affiliate of that credit union to be sold or offered for sale in any of the following:

"(A) A domestic branch of that credit union at which insured shares are accepted.

"(B) That credit union's head office, if it accepts insured deposits and is located in the United States.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any of the following:

"(A) An insured share in an insured credit union.

"(B) A traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by federally insured depository institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940, or otherwise regulated by the Board.

"(D) A sale of instruments in minimum amounts of $100,000 to a sophisticated investor.

"(3) REGULATORY EXEMPTIONS.—The Board may by regulation provide exemptions from paragraph (1) if at a minimum:

"(A) the exemption is in the public interest;

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured share because of the manner in which it is sold or offered for sale, or for any other reason;

"(C) the evidence of indebtedness or ownership interest would be sold or offered for sale on terms (including price) no less favorable for shareholders than for persons similarly situated who are not shareholders;

"(D) the seller or offeror institutes and follows procedures to determine before selling the instrument whether the instrument is appropriate for the purchaser, except to the extent that the Board determines that, in particular cases or classes of transactions, such procedures are not necessary to protect the public;

"(E) no broker or a dealer registered under the Securities Exchange Act of 1934 (or any associated person) receives a greater commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1); and

"(F) none of the following persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured credit union.

"(ii) An affiliate of the insured credit union.

"(iii) An employee of the insured credit union or any of its affiliates, or any person under the direction or control of the insured credit union or any of its affiliates.

"(4) AFFILIATE DEFINED.—For the purposes of this subsection, the term 'affiliate' means any company that controls, is controlled by, or is under common control with another company.

"(5) ANNUAL REPORTS REQUIRED.—The Board shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences between the Board's regulations under this subsection and the regulations adopted by the Federal banking agencies under section 18(o) of the Federal Deposit Insurance Act. The report shall explain the reasons for any such differences, and shall be published in the Federal Register.".

(b) REGULATIONS.—Not less than 180 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate regulations to administer and carry out the purposes of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective immediately upon the effectiveness of final regulations promulgated under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

TITLE XV—GENERAL ACCOUNTING OFFICE STUDY

SEC. 1501. EXTENT TO WHICH FEDERAL ASSISTANCE PROGRAMS DISCOURAGES INDIVIDUALS FROM LEAVING SUCH PROGRAMS.

(a) The Comptroller General of the United States of America shall conduct a study to examine how housing policies and social service policies affect beneficiaries, particularly those receiving public assistance, when such beneficiaries gain employment and experience a rise in income. The study shall analyze the extent to which existing housing and other laws create disincentives to upward income mobility and shall recommend any changes to existing law which would remove such disincentives.

(b) The Comptroller General shall report to the Congress of the United States of America the findings of this study not later than twelve months after this bill becomes Public Law.

TITLE XVI—GENERAL PROVISIONS

SEC. 1601. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE.

It shall not be in order in the Senate to consider any bill dealing with the public debt, or amendment or conference report thereon if Congress has not acted to remove the OASDI revenues and expenditures from the calculation of the deficit of the United States Government pursuant to the Gramm-Rudman-Hollings Deficit Reduction Act.

SEC. 1602. VIDEO EQUIPMENT USE IN DETECTING PERSONS DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE.

Section 408(f) of title 23, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for the acquisition of video equipment to be used in detecting persons driving under the influence of alcohol or a controlled substance and in effectively prosecuting those persons.".

SEC. 1603. STUDY ON ENTERPRISE ZONES DEVELOPMENT CORPS.

Within 90 days from the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs, on the feasibility of establishing a national volunteer corps made up of representatives from the business and labor communities who would provide management expertise or technical assistance to businesses or nonprofit organizations located in designated enterprise zones.

SEC. 1604. STUDY ON TURNING DRUG ZONES INTO OPPORTUNITY ZONES.

Within 90 days from the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs, on ways in which areas ravaged by drug trade, drug related crime and drug abuse may be made more attractive as investment locations for companies, including the provision of special incentives to encourage companies to invest in these areas, in order to provide economic opportunity within communities to the residents of these communities. This study shall include recommendations on how areas that would qualify for benefits as an enterprise zone might receive additional benefits if they met criteria demonstrating that the community suffered from acute drug use and related crime.

SEC. 1605. DEFICIT REDUCTION RECOMMENDATIONS.

(a) The Congress finds that:

(1) The elimination of Government waste should be the major component of deficit reduction.

(2) Revenues for fiscal year 1990 will grow by more than $82,000,000,000 as a result of economic growth.

(3) The Comptroller General has stated that there is approximately $100,000,000,000 to $200,000,000,000 in annual Government waste, fraud and mismanagement.

(4) There is more than $125,000,000,000 in outstanding delinquent debt owed to the Government by individuals.

(5) The Office of Management and Budget has identified more than one hundred "high-risk" programs that are vulnerable to fraud, waste and abuse.

(6) The Federal Government has more than $5,700,000,000,000 in outstanding credit and insurance, representing a massive potential risk to taxpayers.

(7) Reducing waste would free the inefficient use of resources by the government and release them into the private sector.

(b) It is the sense of the Senate that the President and the members of the budget summit should consider the most feasible of the deficit reduction recommendations contained to the June 1990 report of Citizens against Government Waste, as well as those in the public record of Congressional Budget Office, General Accounting Office, Office of Management and Budget, and other agencies before considering new or increased taxes.

Mr. CRANSTON. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

CHANGE OF VOTE

Mr. KOHL. Mr. President, on rollcall vote on the motion to table the Metzenbaum amendment, I was recorded as voting in the negative.

I ask unanimous consent at this time to change my vote to favor the motion to table. It will have no effect on the outcome of the vote, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The above request, by unanimous consent, is reflected in rollcall vote No. 130 Leg.)

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, maybe it is the way it should be, the fact that I am standing at the manager's position here, because I want to pay tribute to the manager, Senator CRANSTON, his fine job in handling this bill and working for 3 years, never losing hope, running into obstacles, but yet persisting in steadfast purpose. Let me congratulate him for this housing bill, for a job well done.

I would also like to take the time, Mr. President, to congratulate the administration, Secretary Kemp, Bill Diefenderfer of the office of OMB. Their help make it possible to put a bill together, to compromise where many times it looked like there would be no possibility of going forward.

Ken Ryder, Kathy Peroff, and Shawn Smeallie of the OMB team did a great job.

Of course the staff for both the majority and the minority, the professional staff that always kept in mind their objectives but yet understood that sometimes, compromise had to be. And they were the craftsmen who fashioned those. Don Campbell, Bruce Katz, Larry Parks, Eileen Gallegher, Dan Potash, and Tracy Sturman for the majority.

And, of course, those Senators, the ranking member, Senator GARN, who gave constant support to my efforts.

Senator DODD, I just take the time out to mention what a steadfastness of purpose he demonstrated in forging compromises, and his housing aid, Kathleen Harrington.

Then, of course, Mary Dwyer Pembroke, Garth Rieman, Lydia Morris, Preston Lee, Pam Ray-Strunk, Brian Borders and, of course, there are others on our Republican staff—Grace Morgan always had the whip there. Excuse me, always encouraged us.

The fact is, they all make this possible.

Our legislative counsel, Frank Burke, who drafted this bill: drafted, redrafted, redrafted and recrafted, and my colleagues on and off the Banking Committee who helped us devise a housing bill which will assist people in need across the Nation.

As I looked over to this side of the aisle, I said maybe again it is somewhat prophetic we had people moving from one side of the aisle to the other, to fashion a bill in a true bipartisan spirit.

Again, let me commend Senator CRANSTON for his job, for his patience, for his persistence. He never lost sight of the objective to do the business of the people in crafting this legislation. Thank you, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. As we bring this phase of the housing bill to a close successfully with an overwhelming vote, only one negative cast, I want to thank my partner in this enterprise, AL D'AMATO from New York, for the very fine work he did over the years on this legislation.

He was great to work with. At times we split a little bit, then we came back together. We started out together. We wound up together.

Our partnership today is in the best tradition of the Senate. I thank him for his generous words. I owe him a debt of gratitude for all his fine work on this measure.

I have already thanked many, many other people who have worked on this measure.

Let me say, finally, that this is truly a monumental, landmark piece of legislation that is on its way to enactment. We still have the hurdle of the conference with the House. I trust that we will once again be able to work with the people of both parties. And out of that we will fashion a bill even finer than the one we have now passed, and finer than the one the House will pass very soon. Working in collaboration with the administration, it will be a bill it can wholeheartedly support.

This promises to be the most significant piece of housing legislation since 1968. There have been other measures, but nothing, I believe, that could do as much for people who need help with their housing needs in our country than this measure. Thus, it is truly a landmark piece of legislation that is going to help many, many people: The homeless, the near and next homeless, people who have rather good incomes but who are not able to put together a downpayment, senior citizens, handicapped people, and many others who need help. It is going to provide many jobs, and business opportunities, so it can be a boon to our society.

As this legislation gets rolling, as we deal with the deficit, we will be able to put more resource into it. I trust our goal of affordable housing for most Americans by the year 2000 will be met.

We want to do a lot more along that way, and this bill will give us that opportunity. I thank all concerned for what they have done to bring us to this moment.

The PRESIDING OFFICER. Does anyone seek the floor?

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO QUENTIN BURDICK

Mr. LUGAR. Mr. President, I am privileged to count QUENTIN BURDICK as a loyal friend. Long before I came to the U.S. Senate, I knew of his service to the people of North Dakota, and during the past 14 years, I have witnessed that service every day.

On several occasions, each week, I ride with QUENTIN BURDICK from the Hart Building to the U.S. Capitol on the underground railway which connects the buildings. During these tens of visits, we have talked about North Dakota and Indiana. We have talked frequently about the farmers in our two States and about the quality of rural life. QUENTIN BURDICK has been dedicated to rural development and to the provision of greater services and opportunities for those who live in the heartland of our country. I have shared his idealism.

QUENTIN BURDICK is also a great athlete and sportsman. We have enjoyed may conversations about college football and the importance of sports and physical fitness to all of our countrymen.

In his vital work in the Senate Appropriations Committee, QUENTIN BURDICK has been especially thoughtful about the needs of Americans who need a special boost in order to enjoy more fully the opportunities which our great country presents. I admire his evenhanded fairness in sorting out a seemingly impossible list of requests for even small expenditures that will make a difference in the quality of life.

It is a privilege to congratulate Senator QUENTIN BURDICK on 30 years of service in the U.S. Senate. I wish him strength, courage, and wisdom for many more years of service to the people with the satisfaction that such service brings to his life each day.

SENATOR BURDICK'S 30-YEAR ANNIVERSARY

Mr. D'AMATO. Mr. President, it gives me great pleasure to have this opportunity to congratulate the distinguished Senator from North Dakota on his upcoming 30-year anniversary of service in the Senate.

After six straight losses for political office, QUENTIN was finally elected to the House in 1958. In 1960, his election to the Senate began a long and distin-

guished career in this body which has always been characterized by his strength of character and dedication to public service.

Although we have been on different sides of the political fence, I have had the pleasure of working with QUENTIN on a variety of issues, and I feel that his commitment and dedication have benefited all of our efforts, both Democratic and Republican.

I wish my distinguished colleague continued success in all that he undertakes, and heartfelt congratulations as he celebrates his 30-year anniversary.

Thank you, Mr. President.

REMARKS OF SENATOR PACKWOOD AT AIPAC POLICY CONFERENCE

Mr. COHEN. Mr. President, I would venture to say there are few Members of Congress who are as forceful, vigorous, or effective in their support for Israel as our distinguished colleague Senator PACKWOOD. Senator PACKWOOD has not only been a friend of Israel, but one of its leading champions on Capitol Hill.

Earlier this month, Senator PACKWOOD delivered a stirring speech before the American Israel Public Affairs Committee Policy Conference. In his remarks, Senator PACKWOOD reviews the history of Israel from the 6th century B.C. to the present, and addresses the question of Israel's claim to Judea and Samaria. I believe that these remarks warrant the attention of my colleagues and others who are interested in the question of recent developments in the Middle East.

I ask unanimous consent that his remarks be entered into the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR BOB PACKWOOD AT AIPAC POLICY CONFERENCE, June 11, 1990

I had forgotten it was 11 years ago when I last spoke to this conference. I remember this speech. It was a whale of a good speech, I thought. I've no invitation to come back since that time. I can't help but feel a little bit like the revenuer down in the hills of Kentucky walking down the road. He sees a young boy alongside of the road whittling on a stick and he says, "Mornin' son." "Mornin'." "Where's your dad, son." "Up at the still." "Oh, up at the still, making whiskey?" "Um-hum." "Well, son, I'm rather interested in that type of business, do you think you can take me up there and let me see his place of operation." The kid nods but he doesn't move and he keeps whittling on the stick and the revenuer says, "Well, son, I really would like to go up and see this thing. Can we go up now." The kid says, "Yep," but he doesn't move. Then finally the revenuer somewhat in frustration says, "Son, let me tell you something. I'm a federal man. You can trust my word. Now take me up there and when we come back I'll give you a buck." The kid says, "No, I want my buck now mister, you ain't comin' back."

Sort of the same way I felt after that last conference when I spoke here. And then when Ruth Mentioned NYU, that's a true story, but it wasn't quite the backwoods. I was raised in Portland, Oregon. But indeed I had no Jewish background, no tradition, never met anyone named Cohen in all my life until I went off to NYU Law School. Then they called the roll: Abraham Cohen, Benjamin Cohen, David Cohen. . . . But the most enjoyable experience for me at NYU was not a Cohen, but a Berger, who is here tonight. Paul Berger, who was a classmate of mine, took me aside and taught me all of the lore and tradition, and most especially the love of the Jewish religion. He taught me the dietary laws, taught me why he wouldn't work, wouldn't turn on the lights, wouldn't ride elevators, wouldn't make anybody else work on Saturday. He would read by daylight. That was all right. We lived on the 7th floor and on Saturday morning when I would be going down to get the New York Times, he would ask me to get him a copy if I did not take the elevator. So down I'd go, seven floors down, pay for the Times, seven floors back up, and give Paul his Times. He spent three years with me teaching me the history, and the tradition, and the love. I was there during the '56 war. It was a stunning experience for a kid with no Jewish background to see the affect that it had on his classmates in a school that was probably 70 to 75 percent Jewish. So I left that law school a changed person because of the school, and especially because of Paul. I never intended to stay in New York. I went back to Oregon hoping to go into politics, and I did.

Finally, I came to the Senate, a committed zealot. In the years that I've been there, nothing has changed in my judgment. I've been to Israel on a number of occasions and each time I go the fortification becomes stronger. And If I were arguing for the position of the United States and Israel, I would argue for it on a moral plane. Not so much a geopolitical plane. Is Israel a sensational ally? Of course. Are they the most extraordinary intelligence post we have in the world? Of course. But geopolitical arguments, often give the impression of arguing power; strength, and if you lose that you lose your credibilty. But if your argument is morality, you may lose battles on occasion, but in the long run you win the wars.

So let's take a look, historically, at Israel and the moral claims. I could make an argument, and I would be prepared to defend an argument that there is no better historical claim to Judea and Samaria than the Jews. It was not fault that we were kicked out by the Babylonians in the 6th Century B.C., or by the Romans shortly after the start of the Christian Period. And don't say we were kicked out and left voluntarily. Don't say that to the Maccabees. Don't say that to those who spent three years on top of Masada. Don't say that to Bar Kochba. They may have been defeated in battle, but they left a legacy and memory and morality that pinions a claim that in my judgment is still legitimate.

But if we want to talk about geopolitics, if you want to talk about who had the most effective rule in the Middle East for the longest period of time, it's probably Rome. I haven't seen any recent claim that we should give the West Bank to Italy because of that. Turkey ruled the Middle East for 400 years roughly from 1500 to the end of World War I. But they made the mistake of ending up on the wrong side allied with Germany in World War I. But they had it for 400 years. Ruled it badly, ineffectively, but they were sovereign. However, I haven't seen any serious Turkish claims to any part of Israel. Well, people say that's ancient history. Who is going back to the Diaspora? Who's going back to Rome? Who's going back to Turkey? Let's talk about this century. O.K., let's talk about this century.

Turkey had the Middle East, they had what was Iraq, Syria, Lebanon, Israel and other portions of the Middle East. There were none of these countries that we now know at the turn of the century. Britian and France at the end of World War I, simply took the Middle East from Turkey. They said that there were going to divide it up between us. France took what is now Syria and Lebanon. Britian took what is now Iraq, Jordan, and Israel. But at the time it was simply a division between the two winning powers. And then the Balfour Declaration, of course, said some place out of the British portion in this division would come a homeland for the Jews. And that was confirmed at the San Remo Agreement in 1920. Confirmed by the League of Nations who said fine. Some place in the territory there is going to be homeland for the Jews.

And then what happened? The Emir Abdullah, the grandfather of the present King Hussein, had probably the best Arab army in the area. And he'd been dealt out. He didn't get a country. And so he decided he would move on Damascus, which was in the French territory. And the French said to the British, "Look he's in your part. You do something." So what did the British do? They created the country of Transjordan. "Trans" meaning across—east of the Jordan River. It was 80 percent of the then-existing Palestinian mandate—80 percent. And on the day the country of Transjordan was created, it was closed to Jewish settlement. And what few Jewish settlers were there were expelled or worse. Buy there was no outcry from world Jewry. Don't give me this argument about are the Jews willing to give up land for peace. They gave up 80 percent of the mandate in the hopes of getting peace.

And then what happens during the '20s and '30s? You have terrorism on both sides. I'm not going to get into an argument here as to who was better or worse. You had incidents of terrorism on both sides in the remaining mandate. The British has a terrible problem trying to keep peace among anybody. Finally, they created a commission called the Peel Commission in 1937 to recommend how the mandate should be divided. The Peel Commission said Britian should keep Jerusalem, the Arabs would get the West Bank and the Negev, the Jews would get Northern Israel. I want to emphasize again what this division was. Britian would keep Jerusalem, the Arabs would get the West Bank and the Negev, we would get the rest. And who accepted it, We did, the Jews did. Who turned it down? The Arabs, when they could have had the West Bank and the Negev, and the mandate remaining in Jerusalem. Don't tell me we weren't willing to give up land for peace.

In 1938, the Jewish Agency itself suggested a partition of the remainder of the mandate. Jerusalem would now be divided under the Jewish Agency suggested partition, between the British Jews. The Arabs would still get the West Bank and most of the Negev, and the Jews would get Northern Israel. Again, this was turned down by the Arabs. This is the Jewish Agency making the suggestion.

In 1946, the Jewish Agency made another suggestion, that Jerusalem should be internationalized. Not a suggestion that it be in

Israel, or part of Israel, but internationalized. The Arabs would get the West Bank. Because of settlements that had been made in the northern part of the Negev, finally, there was a suggestion that the Jews should have the Negev and Northern Israel. Who turned it down? The Arabs turned it down. In 1947 the United Nations partitioned the mandate. Jerusalem again would be an international zone administered by the United Nations. The Arabs would get the West Bank. The Jews would get Northern Israel and the Negev. I don't need to tell you who turns it down. It isn't the Jews. It's the Arabs.

The Union Jack comes down May 15, 1948, we were attacked from all sides. How we survived, I don't know, but somehow through sheer grit and blood we manged to hold on, create a country and get a de facto armistice. Jordan held the West Bank from 1949 to 1967. I didn't see any suggestions of a Palestinian State in the West Bank during that time.

And who gives up land in the hopes of getting peace. We're attacked in '56, we took the Sinai and we gave it back. We're attacked in '67, we took the Sinai and we gave it back. We're attacked in '73, we took the Sinai and we gave it back. Finally, to their credit, to their heroic credit, we get a peace treaty with Egypt. I say to their credit, because that was a heroic and difficult step for Egypt to take. And I understand there had been fissures and fractions disputes. But the treaty is holding. And so long as the treaty holds, there can be no major war in the Middle East. There can be terrorist attacks on our beaches. We can have children thrown off the roofs of building, but so long at that treaty holds, there will not be major war. We gave up land, and we got a treaty. From the time of David Ben Gurion, when he was prime minister onward, we have willing to negotiate with every Arab monarch, prime minister, and president who has existed. Syria, Jordan, Saudi Arabia, whoever else would meet. Only Egypt would meet. It is not Israel that is obdurate. Rather it is the Arabs, sans Egypt.

I don't think I've ever seen a more extraordinary exchange than I saw on June 22, 1982. Israel had been involved in Southern Lebanon and the massacres had occurred at the Sabra and Shatilla camps. Youi'll remember the unfair television coverage and how much Israel was blamed for the massacres. You'll recall the pictures of the bodies on the covers of our news magazines. Prime Minister Begin was in Washington. Tremendous hostility was directed against the Prime Minister—almost as if he were personally to blame for the massacres. Prime Minister Begin had a meeting with about 60 Senators. One Senator, who is still in the Senate but not here tonight, got up and scornfully exclaimed, "Don't tell me we can't question your actions, Mr. Prime Minister. We're footing the bill." And Prime Minister Begin responded, "Don't threaten us with cutting of your aid, it will not work. I'm not a Jew with trembling knees. I'm a proud Jew with 3,700 years of civilized history. Nobody came to our aid when we were dying in the gas chambers and ovens. Nobody come to our aid when we were striving to create our country. We paid for it. We fought for it. We died for it. We still stand by our principles, and we will defend them when necessary and if required, we will die for them again, with or without your aid. Don't threaten me, Senator."

That is what has not changed. Don't threaten us. We are prepared. I think Israel frankly would give up more land that I would give up. In the same situation my policy would be, "not one inch." As far as I'm concerned, we do not negotiate, whether that as a Republican be David Duke in Louisiana, or Yasir Arafat in Tunisia, we do not negotiate.

So what should be policy of this country be? In concert with Israel, this would be the statement: "We seek not to impose our system on others. We shall, however, against all odds preserve that system for ourselves. America and Israel, now and forever, one and inseparable will survive. And, if necessary for survival, we will fight. And, without question, if we fight, we will win."

Shalom.

EMERGENCY IN YUGOSLAV PROVINCE OF KOSOVO

Mr. PRESSLER. Mr. President, yesterday, June 26, 1990, the Serbian Republic Assembly took the drastic action of destroying what little remained of political autonomy in the predominantly Albanian-Yugoslavian province of Kosovo.

According to our own Department of State, more than 700,000 Albanian-Yugoslavians have joined the pro-democracy movement in Kosovo. Could it be, Mr. President, that the strongest remaining bastion of communism in Yugoslavia—Serbia—has begun the process of destroying the democracy movement in Kosovo?

Just 5 days ago, Max Kampelman, head of the United States delegation to the Copenhagen meeting of the Conference on the Human Dimension Plenary, praised the Federal Presidency of Yugoslavia for lifting the state of emergency in Kosovo. That oppressive martial law had led to much violence and bloodshed. Mr. Kampelman expressed the great concern arising from the human rights abuses in Kosovo. As Kampelman said, it is not easy to achieve protection of the rights of minorities, but putting off a reconciliation between traditionally hostile ethnic communities only prolongs the cycle of violence.

How sad it is, Mr. President, to witness now the action of the Serbian Assembly just yesterday. It has done the opposite of what Mr. Kampelman urged. It has raised the threat of further violence by stripping Albanian citizens of Kosovo of what little remained of their right to govern themselves. There are reports that vigilantes from Serbia are ready to move into Kosovo. The threat to peace in the Balkan region has never been greater it recent times than it is now.

Mr. President, tomorrow I and several other Senators will be sending cables to Yugoslavian authorities and Ambassador Warren Zimmerman in Belgrade urging immediate action to reverse the Serbian Assembly's suspension of Kosovo's partial autonomy. I strongly encourage all of our colleagues to considering joining in this effort to avoid further violence, bloodshed and abuse of minority rights in this key region of the world.

THE MIDDLE EAST TINDERBOX

Mr. EXON. Mr. President, events of the last several weeks have produced mixed results for the United States.

On the positive side, President Bush just completed a successful summit meeting with President Gorbachev of the Soviet Union. The framework for a new START arms reduction agreement was signed and negotiations are underway in earnest which will hopefully lead to both nuclear and conventional arms reductions by year's end. Trade and other agreements were signed, the Warsaw Pact is continuing to dissolve and democratic elections are taking place all over the globe. Democracy, indeed, is on the move and represents the wave of the future in reality rather than just in our hopes.

However, in contrast to this rosier world picture stands the middle east situation. Apart from Israel, the principal method of succession to power in the region is assassination. While the arms race is building down elsewhere, the arms race is building up in the Middle East.

The arsenals of the Arab world are continuing to grow by leaps and bounds. Last January, on this Senate floor, I warned of the renewed Iraqi threat in the form of its ballistic misile technology. Subsequently, the Iraqi leader Saddam Hussein threatened to use that capability to strike at Israel with chemical weapons. This is only one of the many new weapons in the hands of radical leaders in the region. Unlike other implied threats, however, Iraq actually used chemical weapons against Iran in the recent gulf war.

The superpowers are heavily involved in the Middle East and the danger of miscalculation and war are greater right now in this region than anywhere else in the world.

The recent PLO attack on Israel shows that despite the olive branch in the left hand of Yassir Arafat, his right hand holds a hand grenade. This was a terrorist attack, pure and simple, and President Bush has said so. This action, and the PLO's unwillingness to fully condemn it, calls into severe question our "dialogue" with the PLO. recently, Vice President Quayle said the President would "do the right thing" in future dealings with the PLO. I hope he does and believe that he will.

In Israel, a new government has been assembled. It may not prove to be a government we all would have "picked." But it is a democratically elected government, which is more than can be said for any other in the Middle East. We have and will continue to have our differences with this

ally; However, it is important to continue our role as a mediator and force for peace. The Palestinian issue must have a resolution, but that resolution must not result in jeopardizing the state of Israel.

Israel was born following the holocaust of World War II. The United States, indeed the world, cannot allow a new holocaust to take place—this time by the hands of those whose motivation is once again simply hating Jews.

As the United States continues its role as a peacemaker, we must retain our ability to work with both sides. We continue to make overtures to Arab leaders and assist them whenever possible such as in the case of Egypt. Without the current solid relationship with Egypt, where would we be in working for peace with the Arab world? Without a secure Israel, the Middle East would be left to feudal warlords.

So this is the situation today. The new Israeli Government must now make a move for peace before the perception of intransigence becomes deeply rooted in the minds of its potential hostile neighbors in the Arab world. Someone from the Arab world must step forward and show the courage of Anwar Sadat and break the mold of intransigence on their side. The United States must stand steadfast to its principles and continue to be a mediator. Perhaps we can use our improved relationship with the Soviet Union to get the two sides together.

In the middle of this tinderbox, the U.S. must remain engaged. We cannot afford to back away from commitments made. Our domestic problems command center stage; however, a Middle East conflagration could quickly render the budget deficit to the back page of the news.

While I am no proponent of massive amounts of foreign assistance due to the fiscal difficulties we face, because of the threat to world peace in the Middle East I have opposed efforts to decrease assistance to Israel and Egypt at this critical juncture and would remain opposed at this time. In the foreseeable future, we must continue our commitment to Middle East diplomacy and assistance to our principal ally in the region, Israel, and Egypt. Indeed it is in our security interests and certainly in the interests of peace. We must not interject even more instability into the region by becoming less engaged. The business of a superpower never ends and we must not back away now when our commitment to peace is needed most. An investment for peace is needed and we must stand firm, today and in the future.

Now is the time for peace. We must take a leading role and keep working for the day when the Middle East tinderbox can be defused.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:10 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, without amendment:

S. 2124. An act to authorize appropriations for the National Space Council, and for other purposes; and

S.J. Res. 278. Joint resolution designating July 19, 1990, as "Flight Attendant Safety Professional Day."

At 6:22 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4903. An act to amend title 13, United States Code, to ensure that military personnel stationed outside the United States are not excluded from any census of population; and

H.J. Res. 577. Joint resolution designating the month of November 1990 as "National American Indian Heritage Month."

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 333. Concurrent resolution expressing the sense of the Congress concerning a 1991 White House Conference on Aging.

MEASURES REFERRED

The following bill and joint resolution were read the first and second times by unanimous censent, and referred as indicated:

H.R. 4903. An act to amend title 13, United States Code, to ensure that military personnel stationed outside the United States are not excluded from any census of population; to the Committee on Governmental Affairs.

H.J. Res. 577. Joint resolution designating the month of November 1990 as "National American Indian Heritage Month"; to the Committee on the Judiciary.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 333. Concurrent resolution expressing the sense of the Congress concerning a 1991 White House Conference on Aging; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 2795. An original bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for other purposes (Rept. No. 101-338).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 1178. A bill to improve and expand programs for the protection of marine and coastal waters (Rept. No. 101-339).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. 2472. A bill to establish a Senior Executive Service in the Library of Congress (Rept. No. 101-340).

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute and an amendment to the title:

S. 2539. A bill to authorize the establishment of a Senior Executive Service in the Smithsonian Institution, and for other purposes (Rept. No. 101-341).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. 2540. A bill to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes (Rept. No. 101-342).

S. 2636. A bill to authorize the Board of Regents of the Smithsonian Institution to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport, and for other purposes (Rept. No. 101-343).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. 2799. An original bill to authorize appropriations for the Federal Election Commission for fiscal year 1991 (Rept. No. 101-344).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S.J. Res. 302. Joint resolution providing for the reappointment of Anne L. Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 101-345).

S.J. Res. 318. Joint resolution providing for the appointment of Ira Michael Heyman of California as a citizen regent of the Board Regents of the Smithsonian Institution (Rept. No. 101-346).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 305. An original resolution managing the expenditure of funds for Senate official mail (Rept. No. 101-347).

S. Res. 306. An original resolution to amend the Standing Rules of the Senate for the use of the recording studio and mass mailings with respect to uncontested elections (Rept. No. 101-348).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

H. Con. Res. 272: Concurrent resolution authorizing printing of the transcript of proceedings of the Committee on Post Office and Civil Service of the House of Representatives incident to presentation of a portrait of the Honorable WILLIAM D. FORD.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 304. An original resolution relating to the purchase of calendars.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 279. Joint resolution to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week."

S.J. Res. 282. Joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child."

S.J. Res. 313. Joint resolution designating October 3, 1990, as "National Teacher Appreciation Day."

S.J. Res. 324. Joint resolution to designate June 3 through 9, 1990, as "Week of the National Observance of the 50th Anniversary of World War II."

S.J. Res. 326. Joint resolution to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism."

S.J. Res. 339. Joint resolution to designate August 1, 1990, as "Helsinki Human Rights Day."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

John K. Lauber, of Maryland, to be a Member of the National Transportation Safety Board for the term expiring December 31, 1994.

Olin L. Greene, Jr., of Oregon, to be Administrator of the United States Fire Administration.

Ming Hsu, of New Jersey, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1991.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Michael L. Williams, of Texas, to be Assistant Secretary for Civil Rights, Department of Education.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Richard F. Suhrheinrich, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Karen LeCraft Henderson, of South Carolina, to be United States Circuit Judge for the District of Columbia Circuit;

David C. Norton, of South Carolina, to be United States District Judge for the District of South Carolina;

Frederick P. Stamp, Jr., of West Virginia, to be United States District Judge for the Northern District of West Virginia;

Lourdes G. Baird, of California, to be United States Attorney for the Central District of California for the term of four years;

Julie E. Carnes, of Georgia, to be a Member of the United States Sentencing Commission for a term expiring October 31, 1995;

Michael S. Gelacak, of Virginia, to be a Member of the United States Sentencing Commission for the remainder of the term expiring October 31, 1991; and

A. David Mazzone, of Massachusetts, to be a Member of the United States Sentencing Commission for a term expiring October 31, 1995.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KERRY:

S. 2792. A bill to amend title 5, United States Code, to provide higher rates of basic pay for Federal employees within certain geographic areas; to the Committee on Governmental Affairs.

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. KENNEDY, Mr. PELL, Mr. ADAMS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOREN, Mr. BURDICK, Mr. COCHRAN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DIXON, Mr. DODD, Mr. FORD, Mr. GORE, Mr. HARKIN, Mr. HATFIELD, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. LEAHY, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. SANFORD, Mr. SARBANES, Mr. SPECTER, and Mr. WARNER):

S. 2793. A bill to amend the United States Institute of Peace Act to honor the memory of the late Spark M. Matsunaga, United States Senator from the State of Hawaii, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HEINZ (for himself, Mr. PRYOR, Mr. DOLE, Mr. RIEGLE, Mr. MOYNIHAN, and Mr. MCCAIN):

S. 2794. A bill to make technical amendments to title XVI of the Social Security Act; to the Committee on Finance.

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

S. 2795. An original bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for other purposes; placed on the calendar.

By Mr. COHEN:

S. 2796. A bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association; to the Committee on Labor and Human Resources.

By Mr. HATCH (for himself, Mr. KENNEDY, Mr. DECONCINI, Mr. CRANSTON, and Mr. BINGAMAN):

S. 2797. A bill to repeal provisions of law regarding employer sanctions and unfair immigration-related employment practices, to strengthen enforcement of laws regarding illegal entry into the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. BUMPERS:

S. 2798. A bill to amend section 1244 of the Internal Revenue Code of 1986 to create a new seed capital industry by providing an incentive for high-risk, long-term, growth-oriented capital investments in small business ventures, and for other purposes; to the Committee on Finance.

By Mr. FORD, from the Committee on Rules and Administration:

S. 2799. An original bill to authorize appropriations for the Federal Election Commission for fiscal year 1991; placed on the calendar.

By Mr. BURNS (for himself, Mr. DOLE, Mr. GORE, Mr. DANFORTH, Mr. FORD, Mr. GORTON, Mr. MCCAIN, AND Mr. LOTT):

S. 2800. A bill to permit telephone companies to engage in video programming; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE (for himself, Mr. DANFORTH, Mr. DASCHLE, Mrs. KASSEBAUM, Mr. KERRY, Mr. MCCAIN, Mr. MOYNIHAN, and Mr. PRYOR):

S. 2801. A bill to direct the Secretary of Health and Human Services to phase in the update to the area wage index used to determine the amount of payment made to a hospital under Part A of the Medicare program for the operating costs of inpatient hospital services for inpatient discharges occurring during fiscal year 1991, and for other purposes; to the Committee on Finance.

By Mr. CONRAD (for himself and Mr. BURDICK):

S. 2802. A bill to authorize the establishment of the Fort Totten National Historic Site; to the Committee on Energy and Natural Resources.

By Mr. WILSON (for himself, Mr. STEVENS, Mr. WARNER, Mr. BOSCHWITZ, and Mr. DECONCINI):

S.J. Res. 341. A joint resolution to designate the week of July 22 through July 28, 1990, as "National Invent America! Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD from the Committee on Rules and Administration:

S. Res. 304. An original resolution relating to the purchase of calendars; placed on the calendar.

S. Res. 305. An original resolution managing the expenditure of funds for Senate official mail; placed on the calendar.

S. Res. 306. An original resolution to amend the Standing Rules of the Senate for the use of the recording studio and mass

mailings with respect to uncontested elections; placed on the calendar.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 307. A resolution to direct the Senate Legal Counsel to represent Senator Conrad Burns in the case of Fulop v. Burns; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 2792. A bill to amend title 5, United States Code, to provide higher rates of basic pay within certain geographic areas; to the Committee on Governmental Affairs.

LOCALITY PAY FOR MASSACHUSETTS

● Mr. KERRY. Mr. President, I rise today to introduce a bill to provide higher rates of pay for Federal employees in certain metropolitan statistical areas of Massachusetts. This is companion legislation to H.R. 4923 introduced by my colleague from Massachusetts, Congressman FRANK.

Earlier this year, President Bush proposed "locality pay" for Federal employees in New York, San Francisco, and Los Angeles, but neglected to include the second most expensive city on the U.S. mainland—Boston. Boston has had the second highest rate of inflation since 1981 and has had to contend with an extremely tight labor market in which fewer individuals interested in public service are available to recruit. My legislation will provide an 8-percent addition to basic pay to Federal employees in Boston as well as other high-cost metropolitan areas of Massachusetts.

I feel it is necessary to specify the Massachusetts statistical area for locality pay because the status of the Federal workers there affects not only the New England area, but the rest of the Nation as well. As a result of a study commissioned by the Boston Federal Executive Board, it is estimated that in the city of Boston alone, the cost of dealing with excess turnover, recruitment, and training is approximately $60 million. The relative costs of a Federal solution would be moderate, assuming that each area in need of locality pay experiences similar losses.

By instituting a national approach to solving this problem, in Boston as well as other localities, it will be possible to balance the interests of Federal workers in each city instead of pitting one high-cost area against another.

I urge my colleagues to support this legislation and I ask unanimous consent that the text of the legislation be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2792

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter VII of chapter 53 of title 5, United States Code, is amended by adding at the end the following:

"§ 5376. Higher pay based on locality

"(a) For the purpose of this section—

"(1) the term 'statutory pay system' has the meaning given such term by section 5301(c) (and includes the pay system under chapter 54); and

"(2) any reference to a consolidated metropolitan statistical area or metropolitan statistical area shall be considered to be a reference to that area, as established by the Office of Management and Budget as of the date of the enactment of this Act.

"(b) Effective for pay periods beginning on or after January 1, 1991—

"(1) the rate of basic pay for any employee under a statutory pay system who is employed within any area identified in subsection (c) shall be equal to 108 percent of the rate of basic pay which would otherwise apply, subject to paragraph (2); and

"(2) the maximum rate of basic pay payable to any employee under this section shall be equal to 108 percent of the maximum rate allowable under section 5308.

"(c) The areas to which this section applies are as follows:

"(1) The Boston-Lawrence-Salem, MA-NH Consolidated Metropolitan Statistical Area.

"(2) The Providence-Pawtucket-Fall River, MA-RI Consolidated Metropolitan Statistical Area.

"(3) The New Bedford, MA Metropolitan Statistical Area.

"(4) The Worcester, MA Metropolitan Statistical Area.

"(5) Any part of Bristol County, MA not included under any of the preceding provisions of this subsection.

"(d) For purposes of applying subchapter VI to an employee who changes from a position which is subject to this section to a position which is not, a rate of basic pay payable to such employee, as of any time before the change, shall be determined as if this section had never been enacted.

"(e) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section, including regulations for determining where an individual is employed.

"(f) For purposes of section 5303, rates of pay established under this section may be taken into account to such extent as the President (or the Office of Personnel Management or other agency, as applicable) considers appropriate.

"(g)(1) This section shall cease to be effective as of the effective date of any legislation which the Office determines to constitute pay reform legislation which makes this section unnecessary.

"(2) Any rate of pay in effect under this section on the date as of which this section ceases to be effective shall remain in effect until adjusted by or in accordance with law."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 5, United States Code, is amended by adding after the item relating to section 5375 the following: "5376. Higher pay based on locality.".●

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. KENNEDY, Mr. PELL, Mr. ADAMS, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOREN, Mr. BURDICK, Mr. COCHRAN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DIXON, Mr. DODD, Mr. FORD, Mr. GORE, Mr. HARKIN, Mr. HATFIELD, Mr. JEFFORDS, Ms. KASSEBAUM, Mr. LEAHY, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. SANFORD, Mr. SARBANES, Mr. SPECTER, and Mr. WARNER):

S. 2793. A bill to amend the United States Institute of Peace Act to honor the memory of the late Spark Matsunaga, United States Senator from the State of Hawaii, and for other purposes; to the Committee on Labor and Human Resources.

MEMORIAL PEACE EDUCATION ACT

● Mr. AKAKA. Mr. President, today I am introducing the Spark M. Matsunaga Peace Education Act, which will permanently authorize the funding of the U.S. Institute of Peace.

I am pleased to say that 26 colleagues are joining me in this effort to recognize Spark's dedication and commitment toward international cooperation and world peace.

The cold war has ended and democracy is spreading throughout the world. Now more than ever, it is vitally important to fulfill our departed colleague's vision of global peace. The Spark M. Matsunaga Peace Education Act will continue the efforts of our beloved friend.

The legislation introduced today establishes the Spark M. Matsunaga Medal of Peace, to be awarded annually to a person or organization who has contributed to world peace. Also, it expands the Institute's scholarship and educational activities under the direction of the Spark M. Matsunaga Scholars Program.

Senator Matsunaga spent 22 years pursuing a peace institute. This bill would continue his unwaivering efforts by establishing a permanent authorization for appropriations at $18 million a year, and allows the U.S. Institute of Peace to receive private gifts and contributions. Finally, the bill makes a one-time grant of $10 million to the Spark M. Matsunaga Peace Foundation in Hawaii to be used for scholarships, grants, and other educational endeavors.

Throughout 40 years of service to his country, Spark Matsunaga was devoted to the cause of peace. His diligent efforts resulted in the foundation of the U.S. Peace Institute, and with our help, his vision of world peace will be realized. Spark was a man of the future. This legislation will serve as a constant reminder of his vision, determination, and achievements on behalf of this noblest of causes.

I urge my colleagues to join me in support of this legislation, and I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) United States Senator Spark M. Matsunaga of the State of Hawaii served his country for 40 years as a soldier and statesmand, including service in the United States Senate and House of Representatives for a period of 28 years.

(2) Senator Matsunaga had a distinguished record in Congress, including service as a deputy majority whip and as a member of the Committee on Rules, the Committee on Agriculture, and the Committee on Post Office and Civil Service while a Member of the House of Representatives. Senator Matsunaga's distinguished career as a Senator included service as chief deputy whip and as a member of the Committee on Finance, the Committee on Labor and Human Resources, the Committee on Energy and Natural Resources, and the Committee on Veterans' Affairs.

(3) Senator Matsunaga long maintained a special interest in the promotion of international peace and the peaceful resolution of conflicts among the nations and peoples of the world, having served as the Chairman of the Commission on Proposals for the National Academy of Peace and Conflict Resolution and having sponsored legislation which resulted in the establishment of the United States Institute of Peace.

(4) Through Senator Matsunaga's inspiration, the Spark M. Matsunaga Peace Foundation, formerly called the Pacific Peace Foundation, was established in Hawaii to carry on his goal of a world at peace where human conflicts are resolved, not by force of arms but through peaceful negotiations. With the emerging democracies of Eastern Europe and the rest of the world, United States support of the Spark M. Matsunaga Peace Foundation could not be more timely today.

SEC. 2. SPARK M. MATSUNAGA MEDAL OF PEACE.

(a) IN GENERAL.—Section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604) is amended—

(1) in subsection (b)—

(A) by adding "and" after the semicolon at the end of subsection (8);

(B) by striking out paragraph (9); and

(C) by redesignating paragraph (10) as paragraph (9); and

(2) by redesignating subsections (c) through (n) as subsections (d) through (o), respectively, and

(3) by inserting after subsection (b) the following:

"(c)(1)(A) The Institute, acting through the Board, may each year make an award to such person or persons who it determines to have contributed in extraordinary ways to peace among the nations and peoples of the world, giving special attention to contributions that advance society's knowledge and skill in peacemaking and conflict management. The award shall include the public presentation to such person or persons of the Spark M. Matsunaga Medal of Peace and a cash award in an amount of not to exceed $25,000 for any recipient.

"(B)(i) The Secretary of the Treasury shall strike the Spark M. Matsunaga Medal of Peace with suitable emblems, devices, and inscriptions which capture the goals for which the Medal is presented. The design of the medals shall be determined by the Secretary of the Treasury in consultation with the Board and the Commission of Fine Arts.

"(ii) The Spark M. Matsunaga Medal of Peace shall be struck in bronze and in the size determined by the Secretary of the Treasury in consultation with the Board.

"(iii) The appropriate account of the Treasury of the United States shall be reimbursed for costs incurred in carrying out this subparagraph out of funds appropriated pursuant to section 1710(a)(1).".

"(2) The Board shall establish an advisory panel composed of persons eminent in peacemaking, diplomacy, public affairs, and scholarship, and such advisory panel shall advise the Board during its consideration of the selection of the recipient of the award.

"(3) The Institute shall inform the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate about the selection procedures it intends to follow, together with any other matters relevant to making the award and emphasizing its prominence and significance."

(b) USE OF MEDAL NAME.—Section 1704(e)(1) of the United States Institute of Peace Act (22 U.S.C. 4603(e)(1)) is amended by inserting "Spark M. Matsunaga Medal of Peace," after "International Peace,".

(c) CONFORMING AMENDMENT.—Section 1705(b) of the United States Institute of Peace Act (22 U.S.C. 4605(b)) is amended by striking out "section 1703(g)(3)" and inserting in lieu thereof "section 1703(h)(3)".

SEC. 3. SPARK M. MATSUNAGA SCHOLARS PROGRAM.

(a) IN GENERAL.—Section 1705(b) of the United States Institute of Peace Act (22 U.S.C. 4604(b)), as amended by section 2(a), is further amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) (as redesignated by section 2(a)(2)) and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(10) establish the Spark M. Matsunaga Scholars Program, which shall include the provision of scholarships and educational programs in international peace and conflict management and related fields for outstanding high school students and scholarships to outstanding undergraduate students, with program participants and recipients of such scholarships and fellowships to be known as 'Spark M. Matsunaga Scholars'.".

SEC. 4. PRIVATE GIFTS AND CONTRIBUTIONS.

Section 1705(h)(3) of the United States Institute of Peace Act (as redesingated by section 2(a)(2)) is amended by inserting after "individual" the following: ", except—

"(1) for the purpose of purchasing, leasing for purchase, or otherwise acquiring, constructing, improving, furnishing, and maintaining a suitable permanent headquarters, any related facility, or any site or sites for such facilities, for the Institute and the legal entity described in section 1704(c),

"(2) for raising additional private funds for any such purpose, or

"(3) for providing program-related hospitality, including that connected with the presentation of the Spark M. Matsunaga Medal of Peace".

SEC. 5. PERMANENT AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 1710(a)(1) of the United States Institute of Peace Act (22 U.S.C. 4609(a)(1)) is amended to read as follows:

"SEC. 1710. (a)(1) For the purpose of carrying out this title, there are authorized to be appropriated $18,000,000 for each fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1990.

SEC. 6. GRANT TO THE SPARK M. MATSUNAGA PEACE FOUNDATION.

(a) IN GENERAL.—The Secretary of Education shall, using funds appropriated pursuant to this subsection, make a grant to the Spark M. Matsunaga Peace Foundation, a non-profit entity incorporated under the laws of the State of Hawaii, to be used for scholarships, grants, and endowed professorships to individuals and organizations pursuing peace studies and the application of conflict resolution techniques.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Education $10,000,000 for the grant described in subsection (a).

(c) RETENTION OF INTEREST ON THE GRANT.—Notwithstanding any other provision of law, the Spark M. Matsunaga Peace Foundation may retain interest earned on the grant made under this section pending its disbursement in accordance with this section, without further appropriation by the Congress.●

● Mr. INOUYE. Mr. President, I join my colleagues today in introducing the Spark M. Matsunaga Memorial Peace Education Act to honor the memory of our late and beloved colleague, Spark M. Matsunaga.

Spark served as a distinguished Member of Congress for 28 years. He will always be respected for his outstanding legislative record, and as a crusader for world peace. Spark had seen first-hand the horrors of war as a World War II veteran. Once in Congress, he fought another battle, for international peace, in hopes that war would never again soil a chapter in our history. Spark was determined that our Nation devote itself, if even a fraction, to the pursuit of peace. Throughout this fight he knew that peace was more than the cessation of violence and healing of wounds. It is the expression of human dignity; it is a state of inner freedom and serenity.

Spark worked diligently for over 20 years to establish the U.S. Institute of Peace in 1984. He adamantly believed that people could learn the art of peace. Men and women, he thought, could learn about peace and peacemaking as easily as they could learn about war and killing. His lasting vision of international cooperation, global security, and nonviolent conflict resolution is embodied in this institution.

With the emerging democracies of Eastern Europe and the rest of the world, Spark's work toward world peace could not be more timely. Our legislation carries his vision forward, and hopefully, we will be prepared for a day when human conflicts are resolved, not by force of arms but rather by force of words through which

peaceful negotiations and reasoned compromise are the result.

Our bill will permanently authorize the U.S. Institute of Peace at $18 million per fiscal year. The Spark M. Matsunaga Memorial Peace Education Act contains the following provisions.

First, it establishes the Spark M. Matsunaga Medal of Peace. The medal will be annually awarded by the Institute to a person or organization that has extraordinarily contributed to world peace without recourse to violence. Its intent will be to focus on contributions that advance society's knowledge and skill in peacemaking and conflict management.

Second, the Institute will continue and expand its scholarship and educational programs in peace and conflict management, such as the currently sponsored peace essay contest for high school students. Such innovative activities will be directed under the Spark M. Matsunaga Scholars Program.

Finally, the bill will provide for a one-time grant of $10 million to the Spark M. Matsunaga Peace Foundation in Hawaii to be used for scholarships and grants in the promotion of international peace and the peaceful resolution of conflicts.

As recent history indicates, we have taken unprecedented strides toward global unity and peaceful relations. We must not fall short of these ideals. I take great pride in joining my colleagues in introducing the Spark M. Matsunaga Memorial Peace Education Act to pay a lasting tribute to my dear friend Spark.●

By Mr. HEINZ (for himself, Mr. PRYOR, Mr. DOLE, Mr. RIEGLE, Mr. MOYNIHAN, and Mr. MCCAIN):

S. 2794. A bill to make technical amendments to title XVI of the Social Security Act; to the Committee on Finance.

SSI TECHNICAL AMENDMENTS ACT

Mr. HEINZ. Mr. President, I rise today to introduce legislation which will assist thousands of low-income and disabled persons who are applying for benefits under the Supplemental Security Income, or SSI Program.

I am especially pleased that my colleague, Senator PRYOR of Arkansas, with whom I am privileged to serve as ranking member on the Special Committee on Aging, has joined, as has Senator DOLE, our Republican leader. Indeed, I also ask unanimous consent to add Senators MOYNIHAN, RIEGLE, and MCCAIN as original cosponsors of the bill.

The PRESIDING OFFICER. Without objeciton, it is so ordered.

Mr. HEINZ. Mr. President, our bill is important. It will correct a number of extremely unfortunate problems with the eligibility rules of the SSI Program, rules which have needlessly created unconquerable and unfair hurdles for many needy persons for whom the program was originally designed to help.

Mr. President, back in 1972, Congress determined that there was a very significant group of people who, in traditional efforts made through the welfare system, were not being reached. These particularly included the aged, the blind, and the disabled.

The aged were those who often had marginal attachment to the work force, and received little if anything from Social Security. Indeed this was also true for the blind and disabled because their disabilities often were viewed as such an impediment to gainful employment that they did not receive enough quarters for coverage under Social Security.

For many disabled adults what has been guaranteed is not income but inconsistency. And what is delivered falls far short of what is deserved. That is what this legislation is designed to correct.

Our bill makes a number of changes, and I would like to discuss them briefly. One of the problems that we noted is that too often families with disabled children must balance tremendous financial burdens of medical care, medication, and special assistance for a disabled child with the demands of nondisabled children living in the household. The problem is that the current SSI resource standards make that a much more difficult struggle because they do not take into account the number or the needs of these other children.

If there is one child on SSI, and whether parent or parents have one or six other children in that family, their needs obviously stretch to the limit whatever little income they have, and then to past the breaking point at times. We do not take that kind of need into account.

So our first provisions is to change the way family resources are determined when considering the income of the family of a disabled or blind child. We estimate that this provision will help some 2,000 disabled children who would qualify for SSI.

Our second change is to deal with the problem that, when the original SSI legislation was written, it provided that a life insurance policy with a face value of $1,500 or less would not be counted in the SSI asset test, which currently is only $2,000. Well, today, it is hard to get a life insurance policy with a face value as little as $1,500 and still have something left over, or still have enough for burial expenses.

So a lot of people who simply are trying to set aside a very modest amount of money, either for their own personal burial or a little life insurance for a loved one, are exempted from SSI. We address that by modestly raising the exempt amount of life insurance and burial funds to $2,500 from $1,500.

Third, we address those cases where an individual receives a paycheck on a weekly or a biweekly basis, and the problem that is created when there is a fifth weekly payment in that month, or a third biweekly payment in that month. Right now, SSI benefits may be reduced or actually terminated because the program looks at your monthly income. If you should be unfortunate enough to be paid on Fridays in a month where there are five Fridays, that can put you over the SSI income limit. And you may lose your entire eligibility. So we change the way weekly and biweekly income is counted in determining eligibility for SSI.

Fourth, our legislation deals with the problem of how we now treat workers compensation and unemployment compensation for SSI purposes. At the present time, workers compensation and unemployment compensation are treated as unearned income, which means that the first $20 is disregarded in determining eligibility for SSI. This provision would treat workers compensation and unemployment compensation as earned income, as indeed those benefits are. They are called compensation for a reason.

You would otherwise be earning wages if you had not been disabled and put on workers compensation, or if you had not become involuntarily unemployed and gone on unemployment compensation. Our legislation has the effect of allowing the first $65, plus one-half of the remainder of workers and unemployment compensation to be exempted in the eligibility analysis.

Our fifth change deals with the extremely unfair situation that occurs when a person who is receiving SSI disability is required to apply for all other benefits, including Social Security. That may seem on its face to be reasonable. But consider the circumstances of an aged blind or disabled person on SSI who becomes eligible for Social Security at age 62, at which point you could receive an actuarially reduced benefit.

If that Social Security is just $1 more than the SSI level, you might think the person is going to be better off. And if all you look at is income, that would be true. But the moment that person loses their eligibility for SSI because they receive $1 above the SSI income level, they also lose their health insurance called Medicaid.

Those benefits can be extremely important if you are age 62, or 63, or 64, but are lost to you in spite of the fact that you will not become eligible for Medicare until age 65. So there is a very significant group of people who are caught in the middle. Our legislation would allow spouses to retain

Medicaid eligibility when SSI benefits are lost upon entitlement to Social Security spousal benefits prior to age 65.

Mr. President, on one level I would inform the Senate that these amendments in many respects are modest. Like home repairs, we are not rebuilding a house. We are not building a new house. We are not starting a new program. It is the equivalent of fixing a broken pipe, or putting in new wiring. The combined cost to the taxpayer is even modest, about $15 million if we enacted them now for fiscal 1991, about $140 million over 5 years. But let me tell you for the thousands of vulnerable Americans who would be helped by this legislation, it literally represents the difference between being sheltered and being out in the cold.

So what may seem like home repairs to some is literally the difference between living in dignity, or perhaps not being able to make it at all.

So I hope, Mr. President, that our colleagues will agree that these amendments represent a substantial step toward fairness and equity for a better life for people who certainly are among the poorest in our country.

Mr. President, I ask unanimous consent the full text of our legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "SSI Technical Amendments Act of 1990".

SEC. 2. DETERMINATION OF FAMILY RESOURCES DEEMED AVAILABLE TO DISABLED OR BLIND CHILD.

(a) IN GENERAL.—Section 1614(f)(2) of the Social Security Act (42 U.S.C. 1382c(f)(2)) is amended—

(1) in subparagraph (A), by inserting before the period "and except as provided in subparagraph (C)"; and

(2) by adding at the end the following new subparagraph:

"(C) In determining the amount of parental resources deemed available to a disabled or blind child, the Secretary shall exclude from such resources the sum of—

"(i) the amounts that would be excluded under section 1613(a) if such resources were the resources of an eligible individual; and

"(ii)(I) the applicable amount determined under section 1611(a)(3)(B), multiplied by

"(II) the sum of—

"(aa) the number of parents of such child that are living in the same household as the child; and

"(bb) the number of children who are not disabled or blind and who are living in the same household as the child.".

(b) EFFECTIVE DATE.—The amendments made in subsection (a) shall beome effective on January 1, 1991.

SEC. 3. MODIFICATION IN CASH VALUE LIMITS ON LIFE INSURANCE AND BURIAL FUND ACCOUNTS.

(a) LIFE INSURANCE.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) is amended in the matter after paragraph (8) by striking "$1,500" and inserting "$2,500".

(b) BURIAL FUND ACCOUNTS.—Paragraphs (1) and (2) of section 1613(d) of such Act (42 U.S.C. 1382b(d)) are each amended by striking "$1,500" and inserting "$2,500".

(c) MODIFICATIONS TO BE SUBJECT TO WAIVER AND RECOVERY RULES.—Section 1613(d)(3) of such Act (42 U.S.C. 1382b(d)(3)) is amended by inserting ", subject to the rules set forth in section 1631(b)(1)(B)" before the period.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1991.

SEC. 4. ELIGIBILITY DETERMINATIONS FOR CERTAIN MONTHS IN CASE OF INDIVIDUALS WITH WEEKLY OR BIWEEKLY INCOME.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended—

(1) in paragraph (1), by inserting "(subject to paragraph 8))" after "An individual's eligiblity for a benefit under this title for a month"; and

(2) by adding at the end the following new paragraph:

"(8)(A) In any case where—

"(i) an individual is paid or otherwise receives income in any month on a regular weekly or biweekly basis (or is deemed under section 1614(f) to have income so paid or received); and

"(ii) such individual would (but for this paragraph) be determined under paragraph (1) to be ineligible for a benefit under this title for such month solely by reason of the income referred to in clause (i) (or solely by reason of such income and other income), but would not be determined to be ineligible for such a benefit if the income referred to in clause (i) were instead being paid or received on a regular monthly basis at the same annual rate.

the amount of the income referred to in clause (i), paid to or received by such individual (or deemed to be so paid or received) in such month, shall be treated, for purposes of paragraph (1), as paid to or received by such individual on a regular monthly basis at the same annual rate.

"(B) For purposes of subparagraph (A)—

"(i) the annual rate of income being paid to or received by an individual on a weekly basis in any month is 52 times the amount of the weekly income during such month (or of the average weekly income, if there is a change in the actual weekly rate during such month), and the annual rate of income being paid to or received by an individual on a biweekly basis in any month is 26 times the amount of the biweekly income during such month (or of the average biweekly rate during such month); and

"(ii) the amount of such income to be considered as being paid to or received by an individual on a regular monthly basis at the 'same annual rate' (in such month) is 1½ of the annual rate determined under clause (i) with respect to the weekly or biweekly income involved.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective beginning on January 1, 1991.

SEC. 5. RETENTION OF MEDICAID ELIGIBILITY WHEN SSI BLINDNESS OR DISABILITY BENEFITS ARE LOST UPON ENTITLEMENT TO SPOUSE'S OR RETIRED WORKER'S BENEFTS AT AGE 62.

(a) IN GENERAL.—Section 1634(d) (42 U.S.C. 1383c(d)) is amended—

(1) by redesignating paragraph (1) as subparagraph (A) of paragraph (1);

(2) by striking "and" after subparagraph (A) of paragraph (1), as redesignated by paragraph (1) of this subsection, and inserting in lieu thereof "or"; and

(3) by inserting after such subparagraph the following new subparagraph:

"(B) applies for an obtains monthly insurance benefits under subsection (a), (b), or (c) of section 202 (or under any other subsection of section 202, other than subsection (e) or (f) of such section) if such person is also eligible for benefits under such subsection (a), (b), or (c)) as required by section 1611(e)(2), being then at least 62 years of age but not entitled to hospital insurance benefits under part A of title XVIII of this Act, and".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply with respect to determinations made before, on, or after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsection (a) shall not render any individual eligible for assistance under title XIX of the Social Security Act before January 1, 1991.

(c) NOTICE REQUIREMENT.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Commissioner of Social Security, shall issue a notice to any individual who—

(1) on or before January 1, 1991, attains the age of 62 years but does not attain the age of 65 years, and

(2)(A) received supplemental security income benefits under title XVI of the Social Security Act before attaining the age of 62 years, and

(B) lost such benefits by reason of the receipt of monthly insurance benefits under subsection (a), (b), or (c) of section 202 of the Social Security Act.

Each such notice shall set forth and explain the provisions of section 1634(d)(1)(B) of the Social Security Act and shall advise the individual that is the subject of the notice to contact the Secretary or the appropriate State agency concerning the possible eligibility of such individual to receive medical assistance benefits under title XIX of the Social Security Act.

(d) TECHNICAL AMENDMENT.—

(1) IN GENERAL.—Section 1634(d) (42 U.S.C. 1383c(d)) is amended by striking "deemed to be a recipient of" and inserting "considered to be receiving".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendment made by section 9116(a) of the Omnibus Budget Reconciliation Act of 1987.

SEC. 6. TREATMENT OF UNEMPLOYMENT COMPENSATION AND WORKER'S COMPENSATION AS EARNED INCOME FOR SSI PURPOSES.

(a) IN GENERAL.—Section 1612(a) of the Social Security Act (42 U.S.C. 1382a(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by striking "and" at the end of the subparagraph; and

(B) by adding at the end the following new subparagraph:

"(E) unemployment compensation benefits paid under any State law and worker's compensation benefits paid under any Federal or State law; and"; and

(2) in paragraph (2)(B)—

(A) by striking "workmen's compensation payments,";

(B) by inserting "and" before "railroad"; and

(C) by striking ", and unemployment insurance benefits".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1991.

Mr. PRYOR. Mr. President, I am pleased to join my friend the Senator from Pennsylvania [Mr. HEINZ] and others as a cosponsor of this bill to reform the Supplemental Security Income Program. The bill is intended to assist our most vulnerable citizens. Although the provisions are technical and seemingly modest in nature, they in fact can make a world of difference for the people they are designed to help.

This bill does not propose a new Federal program. It does not place whole new categories of beneficiaries on the rolls. Rather, it makes the current SSI Program more sensible and fair.

I am especially pleased that this bill includes two provisions from a bill this Senator introduced, S. 600. The first provision increases the face value of life insurance policies and burial funds allowed in meeting the SSI resource test. The other allows the annual income of a person to be considered in calculating the average monthly amount to determine the SSI benefit level.

What strikes me as significant is that this bill addresses problems which already should have been ironed out of the program. If a typical American citizen were to look at the problems the bill addresses, he or she would probably wonder why such anomalies exist in the program, and consider the proposed solutions quite sensible.

Specifically, Mr. President, consider some examples. Current SSI resource standards, used to determine if a family is poor enough to qualify for SSI for a disabled child, do not take into account the number or needs of other children in the family. The Government doesn't distinguish whether a family has only one disabled child to care for, or if that burden is on top of taking care of 10 other children with mouths to feed and young bodies to clothe. Can you imagine, Mr. President, a typical American parent saying his or her financial situation would be the same whether they had 1 child or 10 children? The answer, and our responsibility to respond, is clear.

Consider another problem. A person receiving SSI disability is required to apply for all other benefits, such as regular Social Security. A spouse is often eligible for benefits at age 62. If the check is high enough to render them ineligible for SSI, they are dropped from the program. At first glance, this seems fair enough since their Social Security cash check would be higher than their SSI check. But here's the problem: this person won't be eligible for Medicare until age 65, and when SSI is lost, Medicaid is lost. The result is, the person loses their health insurance. I doubt the average American would think that is fair or the right thing for the Government to do to our older citizens. This bill would allow these people to continue receiving Medicaid until they are eligible for Medicare when they become 65.

Mr. President, enacting this bill is the decent thing to do. This Senator looks forward to working with the Senator from Pennsylvania and our other colleagues on the Committee on Finance and in the Senate to enact it this year.

By Mr. COHEN:

S. 2796. A bill to amend Title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their Title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accreditation Committee of the American Osteopathic Association; to the Committee on Labor and Human Resources.

RESIDENT PHYSICIAN STUDENT LOAN DEFERMENT ACT

● Mr. COHEN. Mr. President, I rise today to offer legislation which would provide a measure of relief to our Nation's aspiring physicians. No one needs to remind many of my colleagues that the cost of higher education continues to rise. Educating a son or daughter at a college or university can be a daunting prospect for many Americans. Assisting a child through postgraduate studies, can be financially devastating. Of all the postsecondary degrees, the most expensive is the one that places the scalpel in the hand of a surgeon or the pediatrician at the bedside of a sick child.

As a result, medical students—like many students at each level of postsecondary education—turn to federally supported loans to help defray the cost of their educations. By the time they graduate, they are carrying staggering debts. At Tufts University, for example, where many Maine students pursue their medical degrees, tuition for this year is $22,980. Add the cost of books and living expenses and the estimated budget for a student is between $33,750 and $36,400. It is not unusual for a student to leave Tufts $100,000 in debt.

Indeed, nationally, the picture is no better. In 1989, according to the American Association of Medical Colleges, 83.4 percent of all medical graduates incurred an average educational debt of $42,200. Of those with debt, 24 percent carried a total educational debt of over $50,000.

The University of New England, located in Biddeford, ME, educates students in the skills of osteopathic medicine. A survey of its graduating class this spring revealed that 26 percent of its graduates owed at least $100,000 in graduate school debt alone. One student had the unenviable status of owing the most: $139,000—just to complete the osteopathic training.

But the problem does not end there. Upon leaving school, all student borrowers must begin repaying their loans, usually after 6 months. Under the Omnibus Budget Reconciliation Act of 1989, these repayments may be deferred for a maximum of 2 years if the student is completing an internship. In most cases, that deferment solves the financial crunch the graduate may face. But in the case of doctors, the internship and residency requirements do not end after 2 years. In fact, residencies may last for 6 or 7 years, during which time the resident's salary is relatively low.

A look, again to my own home State, bears this out. At the Maine Medical Center, there are 142 residents. These residents start at a salary of $26,775 a year. By the third year, they earn $30,025. Neither salary is low by Maine standards and even in a city as desirable as Portland—where rents can be high—these salaries should be sufficient to make ends meet. Unless, of course, the resident must pay back medical school loans. Deduct $700 each month from that salary—a figure many students must pay to keep their loans out of default—and nearly a third of the resident's gross pay is gone.

Worse, if the student considers a residency in a rural hospital—one which cannot pay the higher salary offered in Portland—this indebtedness may preclude a decision to go where the need is greatest. By requiring medical graduates to pay back loans at this stage in their careers, we drive them to hospitals which are able to pay them sufficient salaries to cover these debts. We encourage the graduate to cut training short. And we further exacerbate the needs of rural areas for the well trained, dedicated country doctor.

The legislation I introduce today would allow resident physicians to defer student loan repayments while completing residency programs. It would amend title IV of the Higher Education Act to permit resident physicians to defer repayment of title IV student loans while completing their graduate medical education. By extending loan deferments, we make residencies in underserved areas possible for the many young men and women who are motivated to serve where they are needed most. We do not penalize the medical or osteopathic school graduate for seeking the training to best serve those in need of medical care. And we cease to discourage the student whose quest for knowledge and desire to serve draws him or her towards understanding the intricacies

of the human hand, the heart, or the mind.

I urge my colleagues to join me in supporting this legislation.●

By Mr. HATCH (for himself, Mr. KENNEDY, Mr. DECONCINI, Mr. CRANSTON, and Mr. BINGAMAN):

S. 2797. A bill to repeal provisions of law regarding employer sanctions and unfair immigration-related employment practices, to strengthen enforcement of laws regarding illegal entry into the United States, and for other purposes; to the Committee on the Judiciary.

EMPLOYER SANCTIONS REPEAL ACT

Mr. HATCH. Mr. President, today I, along with several of my colleagues, Senators KENNEDY, DECONCINI, CRANSTON, and BINGAMAN, am introducing the Employer Sanctions Repeal Act of 1990.

In my opinion, the employer sanctions and verification provisions of the Immigration Reform and Control Act of 1986 [IRCA] have not successfully controlled illegal immigration.

Illegal aliens continue to pour into this country. A cottage industry in counterfeit and fraudulent documents has flourished, and an increasingly lucrative black market in smuggling aliens has thrived.

At the same time, some employers have engaged in illegal discrimination against Americans who look or sound foreign, or have foreign-sounding names, in order to avoid potential lawsuits, fines, and jail sentences under IRCA's sanctions provisions. In particular, Hispanic and Asian Americans have experienced this kind of discrimination. Further, the paperwork and related burdens on America's businesses—as small as entities with just one employee—impose costs passed on to the American consumer.

In my view, employer sanctions simply are not worth the price in increased employment discrimination and increased burdens on business. Half-hearted measures, such as a moratorium on sanctions and underfunded and short-lived employer education efforts, are totally inadequate to avert these consequences. The search for the holy grail of a single identification document is doomed to be costly, lengthy, and futile. Similarly, the band-aid approach of expanding anti-discrimination requirements and resources will never catch-up to all of the sanctions' driven discrimination—only eliminating the source of the discrimination itself will solve the problem.

A different approach should be used to control illegal immigration without the negative consequences of sanctions. Accordingly, I am introducing legislation today which will:

First, repeal employer sanctions in IRCA.

Second, repeal the requirement in IRCA that employers verify the eligibility of employees for work.

Third, repeal the prohibition against employment discrimination contained in IRCA. With the repeal of sanctions, the rationale for this prohibition is removed. The legislation will, however, retain mechanisms for handling all discrimination cases arising prior to the repeal of sanctions.

Fourth, (a) Increased the authorized personnel for the Border Patrol of INS for the following fiscal year to 6,600, and authorize such sums as may be needed for such increase.

(b) Provide $50 million in additional funds for equipment, support services, and training for Border Patrol officers.

(c) Provide $2 million for inservice training for the Border Patrol.

Fifth, add 250 persons to the Wage and Hour Division of the Department of Labor for the purpose of investigating violations of the wage and hour laws in areas where the Attorney General advises the Secretary of Labor of high concentrations of undocumented aliens.

Sixth, add 21 assistant U.S. attorneys, to be assigned by the Attorney General, for the purpose of prosecution of persons who bring in and harbor illegal aliens.

Seventh, increase the penalty for bringing in and harboring illegal aliens for profit and make clear that employers are not subject to penalty for merely employing illegal aliens.

Eighth, enact a sense of the Senate resolution that the Attorney General and Secretary of State initiate discussions with Mexico and Canada to establish formal bilateral programs to prevent and prosecute smugglers of illegal aliens into the United States.

I am committed to seeing this effort through to a successful conclusion, no matter how long it takes.

I urge my colleagues to join with the original cosponsors in supporting this measure.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2797

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employer Sanctions Repeal Act of 1990".

SEC. 2. REPEALS.

(a) IN GENERAL.—The following provisions of law are hereby repealed:

(1) Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), sections 101 and 402 of the Immigration Reform and Control Act of 1986, and section 8704 of title 46, United States Code, each section relating to the unlawful employment of aliens.

(2) Section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) and section 102 of the Immigration Reform and Control Act, each section relating to unfair immigration-related employment practices.

(b) CONFORMING AMENDMENTS.—(1) The table of contents of the Immigration and Nationality Act is amended by striking out the items relating to section 274A and 274B.

(2) The table of sections for chapter 87 of title 46, United States Code, is amended by striking out the item relating to section 8704.

SEC. 3. SAVINGS PROVISION.

(a) CONTINUATION OF DUTIES BY SPECIAL COUNSEL.—The Special Counsel for Immigration-Related Unfair Employment Practices appointed pursuant to section 274B(c) of the Immigration and Nationality Act shall, for a period of one year after the date of enactment of this Act, continue to carry out his or her duties under section 274B of that Act as in effect on the day before the date of enactment of this Act with respect to charges of unfair immigration-related employment practices filed within 180 days of practices which occurred before the date of enactment of this Act.

(b) CONTINUATION OF DUTIES BY ATTORNEY GENERAL.—At the expiration of the one-year period described in subsection (a), the Attorney General, acting through the Civil Rights Division of the Department of Justice, shall assume all the duties carried out by the Special Counsel with respect to charges filed as described in subsection (a).

SEC. 4. STRENGTHENED ENFORCEMENT OF IMMIGRATION AND WAGE AND HOUR LAWS.

(a) INCREASED PERSONNEL LEVELS OF THE BORDER PATROL.—The number of full-time officer positions in the Border Patrol of the Department of Justice for the fiscal year 1991 shall be increased to 6,600 positions.

(b) INCREASED FUNDING LEVELS FOR THE BORDER PATROL.—(1) In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the Attorney General $50,000,000 for the fiscal year 1991, which amount shall be available only for equipment, support services, and initial training for the Border Patrol of the Department of Justice.

(2) Funds appropriated pursuant to this subsection are authorized to remain available until expended.

(c) INSERVICE TRAINING FOR THE BORDER PATROL.—(1) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is further amended by adding at the end the following new subsection:

"(c)(1) The Attorney General shall provide for such programs of inservice training for full-time and part-time personnel of the Border Patrol in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom they have contact in their work.

"(2) The Attorney General shall provide that the annual report of the Service includes a description of steps taken to carry out paragraph (1).".

(2)(A) There are authorized to be appropriated to the Attorney General $2,000,000 for the fiscal year 1991 to carry out the inservice training described in section 103(c) of the Immigration and Nationality Act.

(B) Funds appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(d) INCREASED PERSONNEL LEVELS FOR THE LABOR DEPARTMENT.—(1) The number of full-time positions in the Wage and Hour Division within the Employment Standards Administration of the Department of Labor for the fiscal year 1991 shall be increased by 250 positions above the number of equivalent positions available to the Wage and Hour Division as of September 30, 1990.

(2) Individuals employed to fill the additional positions described in paragraph (1) shall be assigned to investment violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of undocumented aliens.

(e) INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS.—(1) The number of Assistant United States Attorneys that may be employed by the Department of Justice for the fiscal year 1991 shall be increased by 21 above the number of Assistant United States Attorneys that could be employed as of September 30, 1990.

(2) Individuals employed to fill the additional positions described in paragraph (1) shall be used only for the prosecution of persons who bring into the United States or harbor illegal aliens.

SEC. 5. INCREASING CRIMINAL PENALTIES FOR BRINGING IN AND HARBORING ALIENS FOR PROFIT.

Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in subsection (a)(1), by striking out "Any and inserting in lieu thereof "Except as provided in subsection (d), any";

(2) in subsection (a)(2), by inserting before the period at the end thereof the following: ", except that a person who commits an offense under subparagraph (B)(ii) shall be fined in accordance with that title, or imprisoned not more than 10 years, or both"; and

(3) by adding at the end thereof the following new subsections:

"(d) Any person who commits any of the offenses described in paragraph (1) of subsection (a) for profit shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 10 years, or both.

"(e) For purposes of this section, the employment of an individual (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring.".

SEC. 6. NEGOTIATIONS WITH MEXICO AND CANADA.

It is the sense of the Congress that—

(1) the Attorney General, jointly with the Secretary of State, should initiate discussions with Mexico and Canada to establish formal bilateral programs with those countries to prevent and to prosecute the smuggling of undocumented aliens into the United States;

(2) not later than one year after the date of enactment of this Act, the Attorney General should report to the Congress concerning the progress made in establishing such programs; and

(3) in any such program, major emphasis should be placed on deterring and prosecuting persons involved in the organized and continuing smuggling for profit.

SEC. 7. CONFORMING AMENDMENTS.

(a) Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended—

(1) in subsection (h)(1), by striking out "and to provide notice for purposes of section 274A";

(2) in subsection (i)(1), by striking out "(as defined in section 274A(h))"; and

(3) by adding at the end of subsection (i) the following:

"(3) The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.".

(b) The Immigration Reform and Control Act of 1986 is amended—

(1) in section 304(b)(1)(C), by striking out "and the employers' sanctions";

(2) in section 304(j), by striking out paragraph (1); and

(3) in section 304(j), by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(c) Section 1546 of title 18, United States Code, is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(d) The Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended in section 103(a)—

(1) by inserting "or" at the end of paragraph (4);

(2) at the end of paragraph (5), by striking out "; or" and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Except as otherwise specifically provided by section 4(b) and section 4(c)(2), there are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

EMPLOYER SANCTIONS REPEAL ACT OF 1990

SECTION-BY-SECTION SUMMARY

Section 1. Short Title.

Act may be cited as the "Employer Sanctions Repeal Act of 1990."

Section 2. Repeals.

(a) In General. Repeals:

(1) Section 274A of the Immigration and Nationality Act (INA) (making it unlawful to hire or recruit unauthorized aliens or refer them for a fee);

Section 101 of the Immigration Reform and Control Act of 1986 (IRCA) (control of unlawful employment of aliens);

IRCA Section 402 (requiring the Administration to report annually to Congress on the implementation of INA Section 274A);

46 U.S.C. Section 8704 (regarding aliens working on fishing vessels who are "deemed to be employed in the U.S." for purposes of INA Section 274A);

(2) INA Section 274B and IRCA Section 102 (prohibiting discrimination in hiring based on national origin or citizenship status). Congress enacted the anti-discrimination provision of IRCA to address employer discrimination caused by IRCA's sanctions and verification provisions. With the repeal of the latter, the rationale for the anti-discrimination provisions is removed.

(b) Conforming Amendments. Changes in the Table of Contents for the INA and Chapter 87 of 46 U.S.C.

Section 3. Savings Provision:

(a) Continuation of Duties by Special Counsel. Continues for one year after enactment the office and duties of the Special Counsel for Immigration-Related Unfair Employment Practices established by IRCA. The Special Counsel will address discrimination occurring before the date of enactment of this Act, provided that charges are filed within 180 days of such discrimination, the statute of limitations contained in IRCA.

(b) Continuation of Duties by Attorney General. After the expiration of this one-year period, the Special Counsel's duties will be assumed by the Civil Rights Division of the Department of Justice. This ensures that if any anti-discrimination cases are still pending, they will be seen through to their conclusion.

Section 4. Strengthened Enforcement of Immigration and Wage and Hour Laws.

(a) Increased Personnel Levels of the Border Patrol. For fiscal year 1991, increases the number of full-time Border Patrol positions to 6,600.

(b) Increased Funding Levels for the Border Patrol. For fiscal year 1991, authorizes $50,000,000 in additional funds for equipment, support services, and initial training for the Border Patrol. This could include patrol vehicles, electronic sensors along the border, and similar equipment. Funds remain available until expended.

(c) Inservice Training for the Border Patrol.

(1) Adds new subsection to INA Section 103 to provide for inservice training for Border Patrol personnel to familiarize them with the rights and varied cultural backgrounds of aliens and citizens. The Annual Report of the INS shall contain a description of steps taken to implement this training program.

(2) For FY 1991, authorizes $2,000,000 for this training program. Funds are to remain available until expended.

(d) Increased Personnel Levels for the Labor Department. For FY 1991, increases by 250 the number of full-time positions in the Wage and Hour Division of the Department of Labor. New employees will be assigned to investigate wage and hour violations in areas where there are high concentrations of undocumented aliens.

(e) Increased Number of Assistant United States Attorneys. For FY 1991, increases by 21 the number of Assistant U.S. Attorneys. New AUSAs shall only prosecute persons who traffic in or harbor "illegal aliens."

Section 5. Increasing Criminal Penalties for Bringing in and Harboring Aliens.

(1) Increases the general criminal penalty in INA Section 274(a)(1) for trafficking in, transporting, or harboring undocumented aliens from five years' imprisonment to 10 years in cases where such activity is for profit.

(2) Increases the criminal penalty in INA Section 274(a)(2)(B)(ii) for knowingly bringing undocumented aliens into the U.S. for profit from five years to ten years.

(3) For purposes of this section, the employment of an individual shall not be deemed to constitute harboring.

Section 6. Negotiations with Mexico and Canada.

Reflects the "sense of Congress" that the Attorney General and the Secretary of State should establish programs with Canada and Mexico to prevent and prosecute the smuggling of aliens, concentrating on persons who smuggle for profit.

Section 7. Conforming Amendments.

(a) Amends INA Section 218 (admission of temporary H-2(a) workers) to:

(1) Eliminate that part of subsection (h)(1) requiring the Attorney General to endorse entry and exit documents of H-2a nonimmigrants for use as proof of employ-

ment authorization under INA Section 274A;

(2) Remove the reference to INA Section 274A in Section 218(i)(1)'s definition of who is an "eligible individual" for purposes of employment;

(3) Add a new subsection (i)(3) defining "unauthorized alien" as an alien who is not a permanent resident or otherwise authorized by the Attorney General or the INA to be employed.

(b) Amends IRCA by:

In Section 304(b)(1)(c), eliminating review of the impact of legalization and employer sanctions on the supply of agricultural labor from the list of functions of the Commission on Agricultural Workers;

(2) In Section 304(j), deleting the definition of "employer sanctions."

(c) Amends 18 U.S.C. Section 1546 by: removing subsection (b) (which established a fine and/or prison term for persons utilizing fraudulent identification documents to prove employment authorization under INA Section 274A).

(d) Amends the Migrant and Seasonal Agricultural Worker Protection Act (P.L. 97-470) by:

Deleting Section 103(a)(6) (authorizing the Secretary of Labor to refuse to issue or renew, or to suspend or revoke, a certificate or registration issued under this Act if the applicant or holder has hired, recruited, or referred for a fee aliens not authorized to work).

Section 8. Authorization of Appropriations:

(a) Authorization of Appropriations. Except as otherwise provided in the bill, authorizes to be appropriated such sums as may be necessary to carry out the Act.

(b) Availability of Funds. Funds appropriated under this section are available until expended.

Mr. KENNEDY. Mr. President, I am pleased to join Senator HATCH in this effort to repeal the employer sanctions in our immigration laws. The General Accounting Office, as well as many other organizations, found that the sanctions have led to widespread discrimination, and they ought to be repealed.

The GAO report confirmed what many of us in Congress feared when the sanctions were first enacted—that they were inherently unfair to Hispanic-American citizens, Asian-American citizens, and other ethnic minorities—and that they would be difficult to enforce in a way that avoided discrimination.

According to the GAO, large numbers of employers have engaged in such discrimination, and thousands of American workers and other legal residents have been denied the ability to earn a living.

In the face of such evidence, there is no justification for Congress to retain on the statute books these provisions that lead to unintended discrimination.

I support reasonable measures to achieve the goal of these sanctions. In this case, however Congress made the wrong move. We aimed at illegal aliens—but we hit law-abiding Americans, and it is time to rectify our mistake.

Again, Mr. President, I commend my colleague Senator HATCH for introducing this bill, and I am pleased to have the opportunity to join him as an original cosponsor.

Mr. BINGAMAN. Mr. President, I am pleased to join my colleagues—Senators HATCH, KENNEDY, DECONCINI, and CRANSTON—in introducing the Employer Sanctions Repeal Act of 1990.

Yesterday, for only the third time in the 200-year history of the U.S. Congress, a private citizen—Mr. Nelson Mandela—addressed the Members of Congress. He spoke to us about the trials his people have endured for generations. He spoke about the struggles they continue to face in their quest for the basic rights that are legitimately theirs, rights that should be guaranteed to all people: the rights of freedom and equality.

Mr. Mandela reminded us of the struggles our Nation endured in America's fight for democracy, equality, and basic human rights for all. And while I was sitting in the Chamber of the House of Representatives yesterday morning, I thought: Our Nation's struggles—like those of Mr. Mandela's people—have not yet ended.

Freedom and equality, the basic rights of all humanity, are not yet guaranteed to all Americans. Discrimination still exists in this country, and it is our duty to work toward its end.

So, I am proud to be a cosponsor of the Employer Sanctions Repeal Act of 1990. This legislation addresses a controversial aspect of Federal immigration law and is a direct response to the recent report of the General Accounting Office, which found a widespread pattern of job discrimination in the implementation of the Immigration Reform and Control Act of 1986.

By introducing this legislation today, I hope we are sending a signal to the Nation that we cannot and will not tolerate the discrimination found by the GAO. I strongly support this bill, and I pledge to work with my colleagues in the Senate and my good friends in the House—Representative ROYBAL, Representative MARTINEZ, Representative RICHARDSON, and others—to ensure that we put an end to this intolerable form of discrimination—discrimination based solely on the fact that a person looks foreign.

But Mr. President, this bill is only a first step toward correction of an unfair law. We must not stop our journey or reverse our course after today. We must face our responsibilities and admit our mistakes to all the citizens and workers of this country.

We must work together to repeal employer sanctions and put the duty of enforcing our Nation's immigration laws where it belongs: With the Federal Government.

If a majority of our colleagues or the President do not yet agree with us, we must not give up. We must be committed to ensuring that all Americans, regardless of the color of their skin or the accent in their voice, are guaranteed the basic right to seek and hold a job. We can do no less.

We must be committed to repealing employer sanctions. Based on the GAO's findings, we know that sanctions against employers are not the answer to the underlying problem of illegal immigration. How can a policy that has had the effect of legitimizing discrimination against American citizens and legal permanent residents be considered a viable option any longer?

A more appropriate focus, I believe, is to strengthen existing laws designed to protect workers. Many of these laws can effectively reduce illegal immigration without creating discrimination. This legislation has that focus:

By increasing the number of full-time positions in the Wage and Hour Division of the Department of Labor, we will help ensure that violations of labor laws—including minimum wage, excessive overtime, and health and safety violations—are investigated and corrected.

By increasing the number of assistant U.S. attorneys, we will help ensure that individuals who smuggle and harbor illegal aliens for profit are prosecuted. And by increasing penalties against these individuals, we will help ensure that they are properly punished.

By increasing funding levels for the U.S. Border Patrol, we can increase the number of border patrol agents, and we can enhance their in-service training programs to help prevent potential civil and human rights abuses. In other words, we can help ensure that increased border enforcement is humane border enforcement.

Most important, by repealing employer sanctions, we will help put an end to employment discrimination based on the color of one's skin.

Mr. President, I urge my colleagues to look carefully at this legislation and lend it their support.

Mr. CRANSTON. Mr. President, I am very pleased to join my good friends Senators HATCH, KENNEDY, DECONCINI, and BINGAMAN in introducing legislation today to repeal the employer sanctions provisions of the Immigration Reform Control Act of 1986.

Mr. President, the use of employer sanctions, that is the imposition of civil and criminal penalties on employers who hire persons without legal authority to work in this country, has resulted in widespread discrimination against those who are perceived as being foreign. In other words, because of employer sanctions men and women who are U.S. citizens, permanent residents, or have legal authority to work in this country are being denied employment or are having the law selectively enforced against them.

Mr. President, we must control our borders, but this is not the way. Hundreds of thousands of employers, fearing sanctions, are refusing to hire Hispanics, Asians, and other minorities for employment because they look foreign or sound foreign. No less insidious is the practice of requiring work authorization documents from only those persons who are perceived to be foreign. In any view, the human indignity and economic hardship that are the direct results of this so-called deterrent to illegal immigration are simply too great a price to pay. The cost in terms of damage to our fundamental constitutional and moral commitment to freedom from bigotry and discrimination is unconscionable.

Mr. President, an absolute repeal of the sanctions is the only right thing to do, and I am very pleased to be part of the effort to retire this failed experiment once and for all. Congress ought to be in the business of eradicating discrimination, not encouraging it. Continued enforcement of employers sanctions is going to lead to continued human indignities and economic hardships from many, many Hispanics, Asian-Americans and others who have already been victimized by the law.

Mr. President the sanctions provisions have proved unworkable. It is time to cut our losses and repeal them. I look forward to working very closely with my colleagues in the Senate to get this law off the books. In my view there is no public policy justification for continuing this rampant discrimination.

Mr. DECONCINI. Mr. President, I am pleased to join today with Senators HATCH, KENNEDY, CRANSTON, and BINGAMAN as a cosponsor of the Employer Sanctions Repeal Act of 1990. I have been a longstanding opponent of employer sanctions and I voted against these provisions during consideration of the Immigration Reform and Control Act of 1986 [IRCA]. However, IRCA was passed with the employer sanctions provision and employers were forced to verify the eligibility of all applicants, under threat of criminal penalties. Thankfully, Senator KENNEDY had the foresight to include the General Accounting Office [GAO] survey provision which required a study to investigate any possible discriminatory effects caused by IRCA. That survey confirmed my worst fears and demonstrated that employer sanctions resulted in what is, in effect, Government-sponsored discrimination.

The March 29, 1990 GAO study found that the employer sanctions of IRCA have resulted in widespread discrimination in the American job market. At least 19 percent of the Nation's employers began discriminatory practices of some kind as a result of employer sanctions. The numbers are even higher in areas densely populated by minorities. The GAO performed a hiring audit with pairs of persons, one of foreign extraction with a noticeable accent; the other an Anglo with no accent. The audit showed that the member of foreign origin was three times more likely to encounter unfavorable treatment than the Anglo. The Anglo members received 52 percent more job offers than the minority members. The studies show that employer sanctions have exacerbated discrimination in the job market.

Employer sanctions have also created hardships for the business community. The cost to the business community of complying with the law has been estimated between $180 million and $675 million. Employer sanctions are particularly burdensome for small businesses which are forced to add the cost of compliance to their overhead. Employers are also forced to determine eligibility from the 17 different approved verification documents. Businesses should not be asked to scrutinize these documents which are easily counterfeited. As I have asserted from the beginning, businesses are not equipped to act as the enforcer of immigration law.

Mr. President, I believe the onus of reducing illegal immigration should be placed squarely back upon the shoulders of law enforcement where it belongs, not upon the business community. I have repeatedly supported and introduced measures to strengthen our border enforcement efforts. The Border Patrol is the logical instrument of our immigration law enforcement efforts, but it cannot be effective if it is understaffed and ill-equipped. By doubling the number of Border Patrol agents, we can make some positive steps toward controlling the flow of aliens into this country. This bill gives the Border Patrol the resources it so badly needs to make an earnest effort to reduce illegal immigration.

I also believe we can take a positive step in reducing illegal immigration by going forward with a free trade agreement with Mexico. An improvement in the economic situation in Mexico will reduce the incentive for illegal emigration to America. I recently traveled to Mexico and met with President Salinas regarding Mexico's trade with the United States. I am hopeful that our two countries can proceed toward an agreement that will enable both countries to prosper. By assisting Mexico in its desire to improve its economy, we can reduce the incentive many aliens have to emigrate to our country.

Employer sanctions are not a viable solution to our immigration problems. Illegal immigrants continue to pour across the border while our businesses are burdened with enforcing a useless law. Employer sanctions have only served to increase job-related discrimination. We cannot sit by and attempt to make justifications for such an unfair law while people are discriminated against simply because they appear to be of foreign extraction. Employer sanctions are not working to stem the tide of immigration the way its proponents hoped they would. Let's correct this mistake and start enforcing the immigration laws where they should be enforced—at the border.

By Mr. BUMPERS:

S. 2798. A bill to amend section 1244 of the Internal Revenue Code of 1986 to create a new seed capital industry by providing an incentive for high-risk, long-term, growth-oriented capital investments in small business ventures, and for other purposes; to the Committee on Finance.

SEED CAPITAL FORMATION ACT

● Mr. BUMPERS. Mr. President, the capital gains debate has begun again with the President's submission of his capital gains tax cut proposal. Unfortuantely, the debate in the last session and the President's new proposal completely ignore the capital formation that we most need if America is to grow and prosper in the international marketplace—seed capital investments.

This is why I am today introducing the Seed Capital Formation Act of 1990. Introduction of this legislation marks the true beginning of the capital gains debate for the second session of the Congress.

The purpose of the Seed Capital Formation Act is not simply to stimulate seed capital investments. It is to create a new capital formation industry, a seed capital industry. In 1978 and 1981 with the capital gains tax cuts, we helped to create the venture capital industry and now we need to create a seed capital industry that will take risks that most of the venture capital industry is no longer willing to take.

This is what we need with a capital gains incentive, an incentive for investors to make investments that they are not now inclined to make, not a tax windfall to investors for making the same low risk investments they already make. We do not need to reward investors for the risks they are already willing to take without a capital gains incentive; we need to encourage them to take the risks that they are not willing to take without a tax incentive to offset some of that risk. We don't need an incentive that rewards the status quo; we need an incentive that moves us in a new, more entrepreneurial direction that will ensure that America can compete in the 21st century.

SEED CAPITAL INVESTMENTS

The Seed Capital Formation Act that I am introducing today provides a powerful tax incentive in favor of direct investments in a business that exists mostly in the mind of an entrepreneur or inventor, direct investments in a business that is just begin-

ning to develop a product or service and has no product or service ready to test in the marketplace, and direct investments in a business that often has inexperienced management and that is a long ways from generating any profits to distribute to its shareholders.

The legislation seeks to make available to entrepreneurs or inventors the risk seed capital they need to prove that they have an idea that can grow into a business. Without these high risk capital investments, these businesses often die for lack of capital, their products or services are never developed or tested in the marketplace, and the firms never generate the jobs and economic growth that will improve our Nation's standard of living and global competitiveness.

These are high risk seed capital investments. There is no more important capital formation in the life of a business and these are the investments we most need to encourage with a new capital formation incentive.

Seed capital investments involve the highest risk and the longest holding period of any type of investment. The nascent businesses often die even when they obtain the seed capital they need. If they survive, they can struggle for many years before they turn a profit. All the earnings of the business tend to be funneled back into the business for research, product development, capital expenditures, marketing, legal assistance, or other expenses.

Investors can lose their shirt with a direct seed capital investment, find themselves stuck with an investment for which there is no secondary market to sell their stock, be called upon to provide all types of nonfinancial assistance to the firms' often inexperienced managers on crises that arise with the business, and wait for many years without receiving any return on their investment.

This is the American capitalist spirit at work. This is free enterprise in its classic, risk-taking form. This is frontier of risk-taking. This is long-term investing. This is the American entrepreneur. This is the Horatio Alger story in the real world. This is what has made America so prosperous and free. This is the world of direct seed capital investments.

Seed capital investments has been the fuel that make the American dream come true. Without rekindling direct seed capital investing, America will become increasingly stale and uncompetitive in the international marketplace. The future of our post-war prosperity literally depends on our investments in the future, our investments in change, in short, our seed capital investments. Our ability to form and own our own innovative small firms, we need to provide them with the seed capital that they need to resist dependence on foreign investors.

With so much risk involved with seed capital investments, it is not surprising that the firms that have the greatest difficulty raising capital are these small, start-up firms. They stand last in line for capital, they are charged a premium for the seed capital they can obtain, and they are under constant pressure from their creditors or shareholders to show a profit.

The search for seed capital and the pressure that current entrepreneurs feel to show a quick profit distracts them from the task of nurturing their business and undermines the investments in the firm that are necessary for strategic, long-term growth. At crucial times in the launching of a new business, the energy and time of the founders often are diverted to solving a financial crisis. This puts pressure on the often inexperienced managers of the firm that can be debilitating. It is not surprising that so many start up small businesses fail.

At the same time, seed capital formation gives the greatest economic return to the Nation. The pace of change in the marketplace is accelerating, competition in international markets is intensifying, and the cost of risk capital in America remains among the highest in the world. In the face of these challenges, the small firms that take root and manage to grow can create whole new industries, with tens of thousands of employees and will pay hundreds of millions of dollars in Government taxes. The Nation's standard of living depends on the growth of new businesses on the cutting edge of technology and new global markets.

This means that there is no stronger public policy rationale for a capital formation incentive than for a gains incentive for seed capital investments. This is what my Seed Capital Formation Act is all about, promoting seed capital investments in America's future and creating a new seed capital industry for America.

SEED VERSUS VENTURE CAPITAL

Seed capital investments are different from venture capital investments. This fact is reflected in the differences between the Seed Capital Formation Act I am introducing today and the Venture Capital Gains Act, S. 348, which I introduced on February 7, 1989.

The seed capital formation bill and the venture capital gains bill complement one another. The one is the logical underpinning and outgrowth of the other. Since I first introduced the venture capital gains bill in April of 1987, S. 931, I have studied the capital markets for start up business and talked with many entrepreneurs and investors about the capital needs of start up businesses. This research leads to my introducing the Seed Capital Formation Act.

If I had known all I now know about the capital formation problem of start up business, I might have introduced the seed capital formation bill first. In many ways it is a more important statement and a more innovative proposal than the venture capital gains bill. But, I am happy to say that the ventue capital gains bill stands on its own as a well-crafted, well-focused remedy to the needs of venture capitalists. Many of its provisions and concepts have been carried over into the seed capital formation bill.

The seed and venture capital bills provide different investment incentives that are appropriate for the different types of investments and levels of risk taking that we need to encourage. There is much greater risk with direct seed capital investments, so the incentive provided is more generous. Entrepreneures and inventors attempting to start a business need high risk working capital that is patient, so the seed capital bill provides an incentive that encourages very long-term investments. The two bills complement one another and they interact to ensure that capital is available to nurture a business through its roughest and most uncertain years.

Taken together, the seed capital formation and venture capital gains bills address the critical capital formation issues in America, the need for seed capital to support an entrepreneur starting a new small business and the need for venture capital to support small businesses that are ready to grow into profitable companies.

When the Congress considers the capital gains issue, the first priority should be to provide a risk-offsetting tax incentive to encourage renewing seed capital investing and the second priority should be to provide an incentive for follow-on venture capital investments. Only when we have met these two priorities should we give consideration to providing a tax incentive for investments that involve far less risk for the investor and generate far less economic growth for the Nation. Only then should we consider including secondary trading of investments, which puts no direct capital flow into the hands of entrepreneurs.

JAPANESE SEED CAPITAL INVESTMENTS

As with so many other measures of America's economic health, it is useful to contrast the new look of America's venture capitalists with the actions of our foreign competitors.

While America's venture capitalists become more timid, and "has been restructuring itself in a way that is eroding its historic role as a source of seed money, this has created an enormous opportunity for foreign companies to both fill the gap and get in at the start of new technology cycles." ("Venture Capital's New Look," Wall Street Journal, May 20, 1988).

It should come as no surprise that it is "becoming easier for a talented American high-tech entrepreneur to get seed money from a Japanese, Korean, German or British firm than from Silicon Valley or New York." (Id.) Foreign investors used to shy away from start-ups, but this has changed. Now foreign firms prefer direct investment in U.S. high-technology firms rather than simply investing in U.S. venture capital funds. (Id.)

Japanese investing, for example, is "driven mainly by strategic concerns, not just the strong yen or tax considerations." (Id.) One Japanese venture fund manager anticipates "a doubling or tripling" of seed capital investments in the United States because Japanese firms "want access to technology they can get only in America." (Id.) They aren't solely interested in an immediate return on their investment, unlike their American counterparts.

In the 1980's former entrepreneurs became the early high risk U.S. venture capitalists and they led the way in taking America to the lead in high-technology research and manufacturing. Now too often it is joining the trend in favor of financial restructuring and short-term returns. The contrast with the orientation of our foreign competitors is all-too familiar and all-too threatening to the next generation of Americans in terms of jobs and prosperity.

RHETORIC VERSES REALITY

Most of the rhetoric we hear from those who favor restoring a capital gains differential focuses on risk-takers, small, growth companies, entrepreneurs and inventors, and competitiveness.

We hear endless stories about the brilliant entrepreneur who borrows money using his own home as collateral, who starts a computer company in his garage, who develops a technology that all the fortune 500 companies have ignored, and who becomes a mega-millionaire when his company finally goes public.

However, restoring an across-the-board capital gains differential for nearly every type of investment transaction has very little to do with this rhetoric. Most of the benefits of a broad-based capital gains differential go to transactions that have nothing to do with the brilliant entrepreneur attempting to start a company in Silicon Valley or on route 128.

According to one detailed analysis, an across-the-board cut in capital gains tax rates mostly provides tax benefits to sectors other than new businesses. James Poterba, "Venture Capital and Capital Gains Taxation", in Tax Policy and the Economy, 1989. This conclusion is based on the fact that less than "one-quarter of realized—capital—gains reflects appreciation of common stock, and venture capital activity is only a small share of this equity component." (Id. at 63.) The pool of venture capital funds under management is less than 1 percent of the value of U.S. equity markets. (Id.)

The flow of initial public offerings [IPO's] of new firms suggests that "the venture IPO's accounted for 0.5 percent and 0.65 percent, respectively (for 1985 and 1986) of realized (capital) gains." (Id. at 65) "These statistics illustrate the basic fact that a subsidy to all appreciating assets, such as an across-the-board reduction in capital gains rates, largely benefits non-venture capital assets." (Id.) Such an across-the-board cut in capital gains tax rates is a "relatively blunt device for encouraging venture investments." (Id. at 48).

The contrast between the pending capital gains bills—the President's bill, the Jenkins amendment and the Packwood bill—and my seed capital formation and venture capital gains bills could not be more stark. The across-the-board capital gains bills steal the rhetoric of enterpreneurs and give most of the benefits to leveraged buy-out artists and Wall Street traders.

By way of contrast, the seed capital formation and venture capital gains bills provide a tax incentive that is specifically targeted to form capital for entrepreneurs and inventors struggling to grow small start-up businesses. These are working capital investments that can create jobs, new technologies, and new markets. The seed capital formation and venture capital gains bills match the capital gains rhetoric with the targeted provisions of the legislation.

The seed capital formation and venture capital gains bills set the standard by which we should judge all other capital gains proposals. We can use the seed capital formation and venture capital gains bills to judge all other claimants for a capital gains preference. We can compare these claimants by how much risk they involve, how long the investor must hold the investment waiting for a return, and how much economic growth is generated.

When these comparisons are made, I think it will be clear that there is a stronger national policy rationale for focusing a capital gains tax incentive on seed capital formation and venture capital than on any other types of investment. In fact, it will be clear that the policy rationale for the capital gains proposals of the President, Congressman JENKINS and Senator PACKWOOD is weak and unpersuasive.

I am talking about national priorities. I am not saying that no other types of investments should be covered by a capital gains tax incentive. I come from a State where timber is an important industry and strong arguments can be made for extending some type of a capital incentive to other, less risky classes of investments.

In terms of priorities, an incentive for seed capital formation and venture capital should form the core of any capital gains considered by the Congress. These forms of direct investments are the paradigm for investments that are high-risk, long term, and growth oriented.

When one sets priorities, it is clear that there are different types of investments, there are different degrees of risk, there are different capital formation barriers, and there are differently taxed investors. We need to match an analysis of the need for a capital formation incentive with the provisions of an incentive that meets that need to offset the risk that is associated with the investment.

In short, the capital gains issue is one that involves balancing and choices, not one that is simply a question of one's support for or opposition to a general concept. The seed capital formation and venture capital gains bills set priorities that match the capital gains rhetoric with the targeted provisions of the bills.

REVIEW OF WILLIAM WETZEL

Mr. William Wetzel, Director, Center for Venture Research and Forbes professor of management at the University of New Hampshire, has reviewed the Seed Capital Formation Act. Mr. Wetzel is the founding father of the Venture Capital Network in the United States, a service that matches entrepreneurs with adventure capitalists. He is also the acknowledged guru on the role of individual investors in providing direct financial support to entrepreneurs. He has prepared number studies for the Small Business Administration on this subject and he knows more about the subject of this legislation than any other individual.

Mr. Wetzel wrote to me that "the seed capital proposal and the venture capital bill—S. 348—are the first evidence I have seen that Congress understands the importance of entrepreneurs and the complementary roles played by wealthy individuals and venture capital funds in the financing of early-stage ventures." He has found that "(C)ompared to alternative capital gains tax proposals, the (Bumpers seed capital) bill should achieve most of the desired economic benefits at a fraction of the cost." I very much appreciate Mr. Wetzel's comments and know that they will carry great weight in the venture capital and adventure capital industry.

I would like to acknowledge the outstanding contribution that Mr. Michael P. Belanger has made to the concept and drafting of this legislation. Mr. Belanger is the principal of his own firm, Emerging Technologies, Inc., and the founder of the Route 128 Venture Group, the New York Venture Group and the Baltimore-Washington Venture Group, each of which

is a forum where entrepreneurs can meet directly with adventure capitalists.

COMPARISON OF SEED CAPITAL FORMATION AND VENTURE CAPITAL BILLS

The Seed Capital Formation Act I am introducing today is similar to the Venture Capital Gains Act, S. 348, but it is much more sharply focused, more targeted to risk-taking investors, and contains several provisions that are not yet incorporated in S. 348.

The Seed Capital Formation and Venture Capital Gains Acts are similar in that they both have the following features: apply to individual and corporate taxpayers; apply only to the purchase of corporate stock; apply only to stock purchased directly from the corporation; provide for a 15-percent maximum tax rate and a 25-percent deduction for individual taxpayers who hold stock for 5 years; provide for a 25.5-percent maximum tax rate and a 25-percent deduction for corporate taxpayers who hold stock for 5 years; require a 5-year minimum holding period; and are not retroactive to old investments.

The two bills differ in the following respects: the definition of what constitutes small business stock is different—$5 million in paid-in capital under the Seed Capital Formation Act and $100 million under the Venture Capital Gains Act; the tax deduction is progressively larger the longer a seed capital investment is held; the tax deduction can reach 100 percent for seed capital stock held for 10 or more years; the holding period for a seed capital investment runs from the date that loans are made to the company if the loans later are repaid with stock issued by the company; losses on the investment may be deducted against ordinary income under section 1244; and the minimum tax does not apply to the gains excluded under the seed capital bill.

This last difference regarding the application of the minimum tax is very important. Low- and middle-income taxpayers should not take the risk with seed capital investments, unless, of course, they are founding their own business. Seed capital investments are entirely too risky for any outside investor other than one who is well-to-do or even wealthy. These investors are very sensitive to the application of the minimum tax and it is essential that we exempt them from the minimum tax if this seed capital incentive is to be fully effective. I would strongly oppose any exemption from the minimum tax for nearly every other type of tax incentive.

The philosophy of the seed and venture capital bills is similar. Both are targeted at the companies with the most severe capital formation problem. Neither applies to the myriad of other types of capital transactions that previously qualified for capital gains. They seek to match the rhetoric in the capital gains debate with the substance of the legislation.

INVESTING IN AMERICA'S FUTURE

We do have a seed capital formation crisis in America and it is most severe for America's entrepreneurs. That is where we have a problem. When small start-up businesses cannot raise the capital they need to grow and prosper, it will flow to them from offshore investors and we all will suffer. We will no longer have the ownership interest in our most innovative small businesses, businesses that will create the jobs and the industries of tomorrow.

We have a unique opportunity here on the capital gains issue. The repeal of the old, open-door capital gains incentive provides an opportunity for those who are concerned about capital formation for emerging businesses. We have an opportunity to fashion a capital formation incentive that is powerful, focused, and valuable to small businesses.

But, this opportunity will be lost in the shuffle of a broader gains incentive. Small businesses can actually lose in this debate if an unfocused capital gains incentive is adopted. That is why we need to match the capital gains rhetoric with the provisions of the capital gains bill.

That is what the Seed Capital Formation and Venture Capital Gains Acts would do. The titles to these two bills say it all—Seed Capital Formation Act and Venture Capital Gains Act. These titles constitute truth in advertising on capital gains.

The venture capital and seed capital formation bills do not simply steal the rhetoric of entrepreneurs and growth; they provide an incentive that will help entrepreneurs and spur economic growth. They are an incentive for high-risk, long-term, growth-oriented investments, the type of investment that America needs to compete in international markets.

My bills promote investments in America's future. These are investments we must make if our next century is to be as prosperous as the last two.

To save on printing costs for the CONGRESSIONAL RECORD, I have prepared a much more detailed statement about the Seed Capital Formation Act that is available upon request from the Senate Small Business Committee. Requests for the detailed statement should be made to Chuck Ludlam, Chief Tax Counsel, Senate Small Business Committee.

I ask unanimous consent that there be printed in the RECORD a table comparing my venture capital gains bill, S. 348, with the seed capital formation bill I am introducing today and a copy of the letter of William Wetzel to which I have referred in my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF VENTURE CAPITAL BILL AND SEED CAPITAL FORMATION PROPOSAL

	Venture capital bill (S. 348)	Seed capital proposal
Taxpayers covered	Individual and Corporate	Same.
Maximum tax rate for individuals.	15% (givers larger benefit than 25% exclusion to individuals in 33% bracket).	Same.
Exclusion on gain for individuals.	25% (5 year hold)	25% (5 year hold). 40% (6 year hold). 55% (7 year hold). 70% (8 year hold). 85% (9 year hold). 100% (10 year hold).
Maximum tax rate for corporations.	25.5% (gives larger benefit than 25% exclusion to corporations in 39% bracket).	Same.
Exclusion on gain for corporations.	25%	Same exclusions as for individuals above.
Minimum holding period.	5 years	Same.
Investments covered.	Stock of small business ($100 million or less in paid-in capital).	Stock of small business ($5 million or less in paid-in capital; applies to section 1244 stock but with $5 million threshold).
Tax losses	No benefit	Capital losses on stock of small businesses ($5 million in paid-in capital) qualify for special section 1244 loss benefits.
Conversion of debt	No benefit	If debt is converted to equity, holding period runs from date debt is incurred.
Capital formation	Covers only direct investments that puts capital in hands of entrepreneurs.	Same.
Windfall element	No windfall for past investments; only applies to new investments made in response to the incentive.	Same.
Minimum tax	Applies	Does not apply; only wealthy individuals should make seed capital investment and the incentive is much weaker if the minimum tax applies to them.
Revenue loss	$218 million over 5 years: Joint Tax Committee.	Request for estimate made to Joint Tax Committee.

UNIVERSITY OF NEW HAMPSHIRE,
Durham, NH, March 5, 1990.

CHUCK LUDLUM,
Chief Tax Counsel, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR CHUCK: Thank you for the material describing Senator Bumpers' proposed Seed Capital Formation Act. I have studied the terms of the bill and the Senator's background statement with care. In my judgment, the bill breaks important new ground in the area of capital formation and public policy.

My enthusiastic support for the bill is based upon two underlying premises:

(1) The United States' entrepreneurs and venture capital markets constitute a vital competitive edge in world markets.

(2) The know-how and the capital of self-made high net worth individuals are two of the nation's most potent but least understood and underutilized economic resources.

Whether the test is new jobs, innovative technology or international trade, reducing the cost of capital and increasing the management know-how available to entrepreneurs, technology-based entrepreneurs in particular, is crucial if the nation is to remain competitive in global markets. Self-made high net worth individuals play a

little known but central role in fueling our entrepreneurial economy.

Senator Bumpers' seed capital proposal and his venture capital bill (S. 348) bill are the first evidence I have seen that Congress understands the importance of entrepreneurs and the complementary roles played by wealthy individuals and venture capital funds in the financing of early-stage ventures.

High risk and lack of liquidity are characteristic of investments in the entrepreneurial ventures. The financial rewards from venture investing are realized in the form of long term capital gains and only when ventures succeed, i.e., when jobs have been created, new products and services developed, new markets opened up and, of course, new tax revenues generated. Successful entrepreneurial venture generate public benefits as well as private rewards.

For reasons that have only recently been recognized, raising the first round of seed capital is the toughest financial obstacle confronted by start-up ventures. Many potentially successful ventures never overcome this obstacle.

In a study of the financing of two hundred eighty-four new technology-based firms, the Center for Venture Research found that one hundred seventy-seven required outside equity financing. One hundred twenty raised capital from private investors and ninety from venture capital funds. More importantly, sixty percent of private investor financing was provided at the seed or start-up stage compared to twenty-eight percent of venture fund financing. Eighty-two percent of private investor financing involved less than $500 thousand per round compared to thirteen percent of venture fund financing. In a study conducted for the National Venture Capital Association, the Center found that 35% of the companies in venture capital fund portfolios had raised capital from private investors prior to venture fund financing.

It is abundantly clear that individual investors are the primary source of the high risk early-stage financing required to launch new companies. There are no directories of individual venture investors and no public records of their venture investments. Yet clues to the scale of this informal venture capital market suggest that, compared to venture capital funds, these "invisible" private investors provide five to ten times more capital for twenty to thirty times more ventures.

The typical high net worth individual is a self-made entrepreneur. TIME magazine reported recently that the number of millionaires in the United States exceeds two million and that ninety percent of these individuals earned their fortunes by starting their own successful ventures. These self-made high net worth investors have the knowledge and experience to evaluate the merits and the risks of prospective investments. When they do invest they typically provide know-how as well as capital. The Center's studies reveal that the street smarts contributed by private investors receive high marks from entrepreneurs.

In my judgment, we have only begun to tap the know-how and the capital of self-made high net worth individuals. Encouraging wealthy individuals to take the lead in seed capital investing should head the list of public policies designed to stimulate investment in the most productive segment of our economy. Senator Bumpers' seed capital proposal is crafted to accomplis.. this objective. Compared to alternative capital gains tax proposals, the Senator's bill should achieve most of the desired economic benefits at a fraction of the cost. By recognizing the role played by high net worth investors, the Senator's Seed Capital Formation Act will sharpen the debate over capital gains tax legislation.

Senator Bumpers has made a real contribution toward dispelling misconceptions about the sources of financing for our country's entrepreneurs. Please do not hesitate to call on me if I can assist in efforts to advance his Venture Capital Bill (S. 348) and his proposed Seed Capital Formation Act.

Best wishes.

Very truly yours,

WILLIAM E. WETZEL, Jr.,
Director,
Forbes Professor of Management.●

By Mr. DOLE (for himself, Mr. DANFORTH, Mr. DASCHLE, Mrs. KASSEBAUM, Mr. KERRY, Mr. MCCAIN, Mr. MOYNIHAN, and Mr. PRYOR):

S. 2801. A bill to direct the Secretary of Health and Human Services to phase in the update to the area wage index used to determine the amount of payment made to a hospital under Part A of the Medicare Program for the operating costs of inpatient hospital services for inpatient discharged occurring during fiscal year 1991, and for other purposes; to the Committee on Finance.

HOSPITALS AREA WAGE INDEX ADJUSTMENT

Mr. DOLE. Mr. President, I join other distinguished colleagues of mine today—Senators DANFORTH, DASCHLE, KASSEBAUM, KERRY, MCCAIN, MOYNIHAN, and PRYOR—in introducing a bill to make adjustments in the area wage index [AWI] for hospitals. This bill, referred to as Hospitals Area Wage Index Adjustment of 1990, proposes a blend of 75 percent of the new proposed index value based on 1988 data and 25 percent of the current index value based on 1984 data for hospitals under Medicare's prospective payment system.

The area wage index is the broadest reflection of hospitals labor cost. Such cost includes the adjustment of contract labor, home office when hospitals are owned or managed by multihospital systems, and professional staff to the extent that they are paid for services covered under Medicare Part A.

Changes in the area wage index, in principle, reflect relative changes in hourly employee compensation. Hospital wages represent about 71 percent of their total operating cost. This index was last updated in fiscal year 1989 from 1984 data. Knowing that the area wage index for hospitals has not been updated since 1984, you recognize that many hospitals' true costs have not been correctly reflected for some time now. Because other time lag between the last update and the method Health Care Financing Administration [HCFA] ultimately used to construct this index, the area wage index values for many areas have changed substantially. Positive or negative changes in the area wage index demonstrate no clear pattern with respect to characteristics of the labor market. While some rural markets are experiencing reduction in the area wage index, other rural areas will have their index increased. This same trend also occurs for many urban hospitals. Various hospitals throughout many States show mixed labor market impacts by the current HCFA proposed AWI update. The blend proposed by this bill will not change those characteristics but will moderate the impact.

Legislation introduced today attempts to fairly limit the wide swings in hospitals' payments for all areas of this country. A 1-year transition period is proposed by this bill with full AWI implementation by 1992. This adjustment in AWI's should be done in a budget-neutral manner as instructed in OBRA 1989. The Secretary of Health and Human Services has been directed to implement a new hospital area wage index in October 1, 1990, again in October 1, 1993, and annual updates after fiscal year 1993. This is not a perfect solution but represent a relief for hospitals adversely affected by this new area wage index. When HCFA made efforts to construct an area wage index using both direct and contracted labor, problems with the reliability of some of the data resulted in HCFA excluding contracted labor from the construction of the fiscal year 1991 index.

Mr. President, I encourage other colleagues of mine to join us in a spirit of compromise with the hospitals throughout this Nation to pass this provision.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2801

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PHASE-IN OF UPDATE TO AREA WAGE INDEX FOR MEDICARE INPATIENT HOSPITAL DISCHARGES IN FISCAL YEAR 1991.

Subject to the last sentence of section 1886(d)(3)(E) of the Social Security Act, for purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services, the Secretary of Health and Human Services, in adjusting such amount under section 1886(d)(3)(E) of such Act to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level, shall—

(1) for discharges occurring during fiscal year 1991, apply a combined area wage index consisting of—

(A) 75 percent of the area wage index determined by using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section, and

(B) 25 percent of the area wage index applicable to the hospital for discharges occurring during fiscal year 1990, as determined by using the survey of the 1984 wages and wage-related costs of hospitals in the United States conducted under such section; and

(2) for discharges occurring during fiscal year 1992, apply the area wage index otherwise applicable to the hospital under such section for discharges occurring during such fiscal year.

SEC. 2. REQUIRING NEXT WAGE INDEX SURVEY TO BE CONDUCTED BY OCTOBER 1, 1992.

Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by striking "October 1, 1993" and inserting "October 1, 1992".

Mr. PRYOR. Mr. President, today, I join Senator DOLE and several of my distinguished colleagues in introducing legislation that would assist hospitals across the United States in implementing Medicare's fiscal year 1991 area wage index. The area wage index comprises about 70 percent of the total Medicare payment to hospitals, and is therefore an extremely important component of the payment equation.

The most recent change to the area wage index occurred in fiscal year 1989, using data from 1984. The next area wage index adjustment is slated to occur in fiscal year 1991, with data from 1988. Because there is a span of 4 years between the data used for the fiscal year 1989 update and the fiscal year 1991 update, there is a great deal of change in some areas.

It is important to keep in mind that changes in the area wage index are relative. For example, even though hospital wages in Little Rock increased over that 4-year-time period, wages in other areas increased even more. As a result, under current law, Little Rock would see about an 8-percent decrease in their area wage index. The bill we are introducing today would assure that any decrease would be moderated.

By formulating an index for fiscal year 1991 based on a blend of the current and the proposed area wage index, this legislation would ease the transition for many hospitals. Blending 25 percent of the current wage index and 75 percent of the proposed index would, for most hospitals, lessen the impact of the changes in their payments. In fiscal year 1992, the new proposed index, based on 1988 data, would be used. This cost neutral legislation also moves up the date of the next scheduled increase from fiscal year 1993 to fiscal year 1992; it would occur yearly thereafter. An annual increase using up-to-date information will assure a much more responsive and accurate area wage index.

In recent years, our Nation's hospitals have borne much of the burden of our efforts to reduce Medicare costs. With hospital wages increasing across the country, I think it is illogical for us to ask hospitals to take a dramatic cut in their Medicare payments for labor-related costs. Senator DOLE's approach is the very least we can do to mitigate the effects of this change. It has the support of the Arkansas Hospital Association, as well as the American Hospital Association, and has been introduced in the House by Congressmen DONNELLY and PICKLE. I urge my colleagues to join us in supporting this important legislation.

By Mr. CONRAD (for himself and Mr. BURDICK):

S. 2802. A bill to authorize the establishment of the Fort Totten National Historic Site; to the Committee on Energy and Natural Resources.

FORT TOTTEN NATIONAL HISTORIC SITE

● Mr. CONRAD. Mr. President, I rise today to introduce legislation that would designate Fort Totten, a former military post and Indian school near Devils Lake, ND, as a national historic site. I am pleased that my colleague, Senator BURDICK, has cosponsored this bill.

Fort Totten State Historic Site on the shores of Devils Lake stands as a monument to the relationship between the U.S. Government and the American Indians. From the policy of pacification practiced during the mid-19th century, to the attempt to assimilate Indians into the society's mainstream, to the mid-20th century effort to terminate reservation, Fort Totten reflected the Federal responses to the "Indian question."

Fort Totten was founded as a military installation in 1867 and closed as a reservation community school in 1959. It is one of the best preserved military posts surviving from the Indian wars in the tran-Mississippi west. Fort Totten played a significant role in American Indian history, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school.

To the army during the nineteenth century, the Devils Lake area appeared as an oasis. As a result of the constant water supply to Devils Lake, the region had rich vegetation, wild game and fish. Because it was remote from the civilized centers of 19th-century America, however, the Devils Lake region drew few white explorers in its early history. The Indian that sought the game and shelter of the Devils Lake region generally belonged to the great Sioux or Dakota Nation, a tribe that traced its relations with white settlers back into the 17th century.

The initial spark for military activity was struck with the Great Sioux Uprising of 1862 in Minnesota. The uprising was the culmination of generations of white harassment, broken treaties, and the noticeable absence of the military due to the drain of the Civil War. Gen. Harry Hastings Sibley was sent to quash the rebellion, and after Congress abrogated all existing treaties early in 1863, many Sioux bands migrated to areas of refuge and security and so the forest and waters of the Devils Lake areas became a haven.

The War Department found that killing of whites and depredations to property posed a major threat to the expanding agricultural frontier and thus demanded a positive and forceful reaction. By the spring of 1867, the majority of hostile attacks had been limited to main travel routes, mail carriers, and interfort communication routes. Nevertheless, the sporadic harassment of the growing and vital lines of communication and travel became an increasing concern for the military. What had been mostly incident-reprisal warfare between the whites and the Indians became a constant Sioux guerrilla war on early trade, supply, and travel routes.

In the summer of 1867, 323 soldiers of the 31st Infantry under the command of Capt. Samuel A. Wainwright built Fort Totten about 900 feet from the shore of Devils Lake. From 1867 to 1880, the post served an an important link in a chain of posts that included forts throughout the Dakotas and Montana. The last hurrah of real military action for the fort came in 1865 when the northern border regions became insecure as a result of the Riel Rebellion in Canada.

When Secretary of War Redfield Proctor submitted his Annual Report of 1890-91, he recommended that the fort be closed due to relative calm in the region. The final military unit at Fort Totten, 10 men under the direction of the last post commander, Major S.S. Conrad, left the post for Fort Abraham Lincoln near Mandan, ND, on December 21, 1890. On the same day all post buildings were turned over to the superintendent of the Indian School at Devils Lake, and the Devils Lake Sioux opened their first school session at the abandoned post on January 19, 1891.

Fort Totten's original function had been the protection of the routes of travel and communication that grew through its jurisdiction. The men who struggled with the harsh earlier life of the prairies went about their duties protecting the first mail and travel routes and escorting the varied mapping, survey, and telegraph and rail crews. In turn, this growth provided an umbrella of protection for new communities. The garrison was a market for the new farms, a store for manufactured foods for the area's population, and a source of new settlers.

The military years of the fort, however, were only a part of the colorful

history of the site. The military stage represented only 23 of the 92 years of operation. The Dawes Act of 1887 attempted to make Indians self-sufficient citizens rather than wards of the U.S. Government and emphasized the need for a system of industrial schools to be developed to speed up the process of assimilation. Fort Totten became one of those schools, and its subsequent history is a microcosm of the successes and failures of the Federal relationship with the American Indian.

Fort Totten remains significant, in part, for its magnificent physical survival. It is also significant as a result of the soldiers who lived and survived there and the Indians who struggled with Federal policies toward Native Americans. It is significant for the life Fort Totten brought—the towns and farms that now inhabit the region. The legislation that Senator BURDICK and I are introducing today would recognize that significance by establishing Fort Totten as a National Historic Site.●

By Mr. WILSON (for himself, Mr. STEVENS, Mr. WARNER, Mr. BOSCHWITZ, and Mr. DECONCINI):

S.J. Res. 341. Joint resolution to designate the week of July 22 through 28, 1990, as "National Invent America! Week"; to the Committee on the Judiciary.

NATIONAL INVENT AMERICA! WEEK

● Mr. WILSON. Mr. President, I rise today to introduce legislation designating the week of July 22 through July 28, 1990, as "National Invent America! Week."

This country was built by Americans who turned a simple idea into a grand invention using nothing more than their bare hands and ingenuity. Alexander Graham Bell's telephone, Thomas Edison's electric light, the Wright Brothers' airplane, and Bob Noyce's semiconductor are mileposts of American innovation that spans two centuries.

To kindle this entrepreneural spirit, we must inspire ingenuity and entrepreneurship within our children, the future inventors of this Nation.

The Invent America! Program helps us accomplish this goal.

Implemented in 1987 by the United States Patent Model Foundation, Invent America! is now widely recognized as one of the most successful public-private partnerships expanding student knowledge and innovation.

Besides its many corporate sponsors, the program enjoys the support of both the Department of Education and Commerce, as well as the National Science Foundation.

By sponsoring student invention programs and competitions, Invent America! fosters creativity and analytical problem-solving skills within our children enrolled in elementary and intermediate education.

Invent America! also sponsors conferences and workshops for educators and parents to provide additional inspiration to our inventors of tomorrow.

I am particularly proud of two young Californians whose innovations were encouraged under the Invent America! Program.

Amanda Parham of Walnut Creek was only 7 years old when she traveled to our Nation's Capital as a 1988 national finalist. Amanda designed a home smoke alarm for the hearing impaired.

Eight-year-old David Chituras of Modesto was named a 1989 National Finalist for designing the "SOS Tab," a modified safety pin that can be used to replace a broken zipper tab.

The Invent America! Program gave these young achievers the opportunity to utilize their creativity to overcome inconveniences and to address needs present in our day-to-day lives.

Next month, 45 regional finalists in the 1990 Invent America! contest will visit our Nation's Capital for a week of festivities to announce national winners.

To recognize Invent Ameria's commitment to encouraging the curiosity and creativity of young people and to honor these outstanding students, I urge my colleagues to join with me in designating the week of July 22 through July 28, 1990, as "National Invent America! Week." ●

ADDITIONAL COSPONSORS

S. 435

At the request of Mr. REID, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules determining contributions in aid of construction.

S. 814

At the request of Mr. DOMENICI, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 814, a bill to provide for the minting and circulation of one dollar coins, and for other purposes.

S. 865

At the request of Mr. METZENBAUM, the names of the Senator from Nevada [Mr. REID] and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 865, a bill to amend the Sherman Act regarding retail competition.

S. 930

At the request of Mr. DODD, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 930, a bill to amend the Occupational Safety and Health Act of 1970 to establish an Office of Construction, Safety, Health, and Education within OSHA, to improve inspections, investigations, reporting, and recordkeeping in the construction industry, to require certain construction contractors to establish construction safety and health programs and onsite plans and appoint construction safety specialists, and for other purposes.

S. 1651

At the request of Mr. MCCAIN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the U.S. Organization.

S. 2032

At the request of Mr. COHEN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2032, a bill to amend the Internal Revenue Code of 1986 to provide for a credit for health insurance expenses.

S. 2044

At the request of Mr. BIDEN, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2128

At the request of Mr. KERRY, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2128, a bill to direct the Secretary of Veterans Affairs to establish and maintain a comprehensive services program for homeless veterans.

S. 2186

At the request of Mr. MCCONNELL, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2186, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 2214

At the request of Mr. PACKWOOD, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2214, a bill to provide incentives to health care providers serving rural areas, to eliminate the Medicare reimbursement differential between hospitals located in rural and urban areas, and for other purposes.

S. 2244

At the request of Mr. GLENN, the names of the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2244, a bill to prevent and control infestations of the coastal and inland waters of the United States by the zebra mussel, and

other nonindigenous aquatic nuisance species.

S. 2247

At the request of Mr. GRAHAM, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2247, a bill to establish the Florida Keys National Marine Sanctuary in the State of Florida and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2413

At the request of Mr. KERRY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 2413, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner of taken captive by a hostile foreign government or its agents or a hostile force before April 15, 1962, and for other purposes.

S. 2442

At the request of Mr. SIMON, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 2442, a bill to amend the Occupational Safety and Health Act of 1970 to expand the rights of victims of occupational safety and health hazards, and for other purposes.

S. 2500

At the request of Mr. CHAFEE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2500, a bill to amend title 23, United States Code, to control billboard advertising adjacent to Interstate Federal-aid primary highways, and for other purposes.

S. 2602

At the request of Mr. METZENBAUM, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2602, a bill to amend the Public Health Service Act to provide assistance for biomedical and health services research, treatment programs and for other purposes relating to Alzheimer's disease and related disorders.

S. 2615

At the request of Mr. CRANSTON, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2615, a bill to amend title 38, United States Code, to clarify that the prohibition on the payment of attorneys' fees in connection with Department of Veterans Affairs benefits proceedings applies only where the individual is applying for benefits.

S. 2663

At the request of Mr. MCCAIN, the names of the Senator from Indiana [Mr. COATS] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 2663, a bill to provide increased and special benefits to individuals involuntarily separated from the Armed Forces, and for other purposes.

S. 2677

At the request of Mr. LAUTENBERG, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 2677, a bill to extend for 2 years the operation of sections 599D and 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

S. 2750

At the request of Mr. SASSER, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 2750, a bill to amend the Federal Property and Administrator Services Act of 1949 to authorize the Administrator of General Services to make available for humanitarian relief purposes any nonlethal surplus personal property, and for other purposes.

S. 2776

At the request of Mr. HARKIN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2776, a bill to provide for the development and dissemination of educational materials regarding the American flag.

S. 2786

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 2786, a bill to mount a national crackdown on fraud and embezzlement in the thrift and banking industries.

At the request of Mr. BIDEN, the names of the Senator from Maryland [Mr. SARBANES], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. SASSER], the Senator from North Carolina [Mr. SANFORD], the Senator from Nevada [Mr. BRYAN], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 2786, supra.

SENATE JOINT RESOLUTION 272

At the request of Mr. COCHRAN, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Texas [Mr. BENTSEN], the Senator from Virginia [Mr. ROBB], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from New Mexico [Mr. DOMENICI], were added as cosponsors of Senate Joint Resolution 272, a joint resolution to designate March 30, 1990, as "National Doctor's Day."

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Illinois [Mr. DIXON], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990, as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 293

At the request of Mr. RIEGLE, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Georgia [Mr. NUNN], were added as cosponsors of Senate Joint Resolution 293, a joint resolution to designate November 6, 1990, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the name of the Senator from West Virginia [Mr. BYRD], was added as a cosponsor of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the name of the Senator from Connecticut [Mr. DODD], was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990, through June 23, 1990, as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933," and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.

SENATE JOINT RESOLUTION 335

At the request of Mr. JOHNSTON, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Ohio [Mr. METZENBAUM], and the Senator from West Virginia [Mr. BYRD], were added as cosponsors of Senate Joint Resolution 335, a joint resolution designating July 1, 1990, as "Imported Oil Dependence Day."

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. HATFIELD, the names of the Senator from Ohio [Mr. METZENBAUM], and the Senator from Hawaii [Mr. AKAKA], were added as cosponsors of Senate Concurrent Resolution 91, a concurrent resolution expressing the sense of the Congress with respect to achieving common security in the world by reducing reliance on the military and redirecting resources toward overcoming hunger and poverty and meeting basic human needs.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the name of the Senator from Michigan [Mr. RIEGLE], was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of the Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Concilia-

tion Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

SENATE RESOLUTION 231

At the request of Mr. BRADLEY, the name of the Senator from Kansas [Mr. DOLE], was added as a cosponsor of Senate Resolution 231, a resolution urging the submission of the Convention on the Rights of the Child to the Senate for its advice and consent to ratification.

SENATE RESOLUTION 304—RELATING TO THE PURCHASE OF CALENDARS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 304

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $72,800 for the purchase of one hundred and four thousand 1991 "We the People" historical calendars. The calendars shall be distributed as prescribed by the committee.

SENATE RESOLUTION 305—MANAGING THE EXPENDITURE OF FUNDS FOR SENATE OFFICIAL MAIL

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 305

Resolved, That for purposes of this resolution—

(1) the term "election fiscal year" means a fiscal year in which regular biannual general elections of Senators are held;

(2) the term "final printing and mailing clearance" means an approval of a blue line, color key, or other page proof giving final authorization to print and mail material submitted by a Senate office to the Senate Service Department;

(3) the term "franked mail" has the meaning given that term by section 3201(4) of title 39, United States Code;

(4) the term "mass mailing" has the meaning given that term in section 3210(a)(6)(E) of title 39, United States Code;

(5) the term "non-election fiscal year" means a fiscal year other than an election fiscal year;

(6) the term "official mail costs" means the equivalent of—

(A) postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege; and

(B) the portions of the fees and charges paid for handling and delivery by the Postal Service of mailgrams considered as franked mail under section 3219 of title 39, United States Code; and

(7) the term "Senate office" means the Vice President of the United States, a United States Senator, a United States Senator-elect, a committee of the Senate, the Joint Committee on Printing, the Joint Economic Committee, an officer of the Senate, or an office of the Senate authorized by section 3210(b)(1) of title 39, United States Code, to send franked mail.

SEC. 2. (a) Notwithstanding any law or rule of the Senate, the amount that may be incurred by a Senate office for official mail costs for a nonelection fiscal year shall not exceed the amount allocated to that Senate office for that period by the Committee on Rules and Administration in accordance with this section.

(b) With respect to a nonelection fiscal year, as soon as practicable after the enactment of the appropriation for Senate official mail costs for such year, the Committee on Rules and Administration shall determine the following amounts:

(1) The amount that has been appropriated for official mail costs of the Senate for the nonelection fiscal year.

(2) The amount necessary for official mail costs of Senate offices other than Senators for the nonelection fiscal year.

(3) The amount necessary to be reserved for contingencies, which shall not exceed 10 percent of the amount determined pursuant to paragraph (1).

(4) The amount for Senators to send one postal patron mailing per Senator.

(c) As soon as practicable after making the determination described in subsection (b), the Committee on Rules and Administration shall make the following allocations:

(1) The allocation to a Senate office (other than a Senator) for the nonelection fiscal year.

(2) The allocation of a Senator, for official mail costs for the nonelection fiscal year in an amount equal to the amount determined pursuant to subsection (b)(4), multiplied by the ratio that the number of addresses in the State represented by the Senator bears to twice the total number of addresses in the States: *Provided,* That a Senator who is elected from a State that has one at-large Representative to the House of Representatives shall be allocated from the contingent fund provided for in subsection (b)(3) such sums as are required to send one statewide postal patron mailing.

SEC. 3. (a) Notwithstanding any law or Standing Rule of the Senate, the amount that may be incurred by a Senate office for official mail costs for an election fiscal year shall not exceed the amount allocated to that Senate office for that period by the Committee on Rules and Administration in accordance with this section.

(b) With respect to an election fiscal year, as soon as practicable after the enactment of the appropriation for Senate official mail costs for such year, the Committee on Rules and Administration shall determine the following amounts:

(1) The amount that has been appropriated for official mail costs of the Senate for the election fiscal year.

(2) The amount necessary for official mail costs of Senate offices other than Senators and Senators-elect for the election fiscal year.

(3) The amount necessary for the official mail costs of Senators-elect for the period beginning the date immediately following the date of the general elections and ending January 3 of the election fiscal year: *Provided,* That such amount shall not include amounts for mass mailings.

(4) The amounts for newly-elected Senators to send one postal patron mailing per Senator for the period January 3 through September 30 of the election fiscal year: *Provided,* That the sum of such amounts shall not exceed three-fourths of the total amount that those Senators would receive for the full election fiscal year.

(5) The amount necessary for the official mail costs of Senators whose service as Senators will end on January 3 of the election fiscal year, for the period October 1 through April 3 of the election fiscal year: *Provided,* That not more than one-fourth of the amount that such Senators would receive for the full election fiscal year shall be available for the period October 1 through January 3 of the election fiscal year: *Provided further,* That no amount shall be provided for mass mailings for the period January 3 through April 3 of the election fiscal year.

(6) The amount necessary to be reserved for contingencies, which shall not exceed 10 percent of the amount determined pursuant to paragraph (1).

(7) The amounts for Senators other than Senators whose terms of service as Senators will begin or end on January 3 of the election fiscal year to send one postal patron mailing per Senator.

(c) As soon as practicable after making the determination described in subsection (b), the Committee on Rules and Administration shall make the following allocations:

(1) The allocation to a Senate office (other than a Senator or a Senator-elect) for the election fiscal year.

(2) The allocation of a Senator-elect for official mail costs for the portion of the election fiscal year beginning the date immediately following the date of the general elections and ending the date the Senator-elect is appointed to the Senate, in an amount equal to—

(A) the amount determined pursuant to subsection (b)(3), multiplied by

(B) the ratio that the population of the State represented by the Senator-elect bears to the total population of States represented by Senators-elect.

(3) The allocation of a newly elected Senator for official mail costs for the period January 3 through September 30 of the election fiscal year, in an amount equal to the amount determined pursuant to subsection (b)(4), multiplied by the ratio that the number of addresses in the State represented by the newly-elected Senator bears to the total number of addresses in the States represented by newly-elected Senators: *Provided,* That a newly elected Senator whose allocation pursuant to the preceding provisions of this paragraph would be less than three-fourths of the allocation that would be made if the proviso in paragraph (5) were applicable, at the request of the Senator to the Committee on Rules and Administration, shall be allocated such additional sums from the contingent fund provided for in subsection (b)(6) as are required to bring the Senator's allocation up to three-fourths of the allocation that would be made if the proviso in paragraph (5) were applicable.

(4) The allocation of a Senator whose service as a Senator will end on January 3 of the election fiscal year for official mail costs for the period October 1 through April 3 of the election fiscal year, in an amount equal to—

(A) the amount determined pursuant to subsection (b)(5), multiplied by

(B) the ratio that the population of the State represented by the Senator bears to the total population of the States represented by such Senators.

(5) The allocation of a Senator whose term of service as a Senator does not begin or end on January 3 of the election fiscal year, for official mail costs for the election fiscal year in an amount equal to the

amount determined pursuant to subsection (b)(7), multiplied by the ratio that the number of addresses in the State represented by the Senator bears to the total number of addresses in the States represented by such Senators: *Provided*, That a Senator who is elected from a State that has one at-large Representative to the House of Representatives shall be allocated from the contingent fund provided for in subsection (b)(3) such sums as are required to send one statewide postal patron mailing.

SEC. 4. (a) The amounts described in sections 2(b)(3) and 3(b)(6) shall be available for distribution by the Committee on Rules and Administration only for—

(1) providing a Senator appointed to complete the term of a Senator who dies or retires with an allocation for the fiscal year in which such appointment is effective;

(2) providing the Secretary of the Senate with sufficient postage to send franked mail as provided for by section 3218 of title 39, United States Code;

(3) reimbursing a Senator for a charge to the Senator's allocation for official mail costs when the charge is the result of an error on the part of an office of the Sergeant at Arms; and

(4) making additional allocations to Senators provided for in sections 2(c)(2), 3(c)(3), and 3(c)(5).

(b) Portions of the amounts described in sections 2(b)(3) and 3(b)(6) remaining unused at the end of a fiscal year may be distributed among Senators in accordance with the allocation formulas set forth in this resolution or retained in the reserve for contingencies.

SEC. 5. In determining official mail costs and making allocations to Senate offices pursuant to sections 2 and 3, the Committee on Rules and Administration shall consult with the Postmaster General.

SEC. 6. (a) Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senate office a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senate office during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Senate Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. Such summary tabulation shall set forth for each Senate office the following information: the Senate office's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and, in the case of Senators, the cost of such mail divided by the total population of the State from which the Senator was elected, and the total number of pieces of mass mail divided by the total population of the State from which the Senator was elected.

(b) A mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) by a Senate office shall contain the following notice in a prominent place on the bottom of the cover page of the document: "PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE".

SEC. 7. A mass mailing by a Senator shall not exceed 2 sheets of legal size paper (or their equivalent), including any enclosure that—

(1) is prepared by or for the Senator who makes the mailing; or

(2) contains information concerning, expresses the views of, or otherwise relates to the Senator who makes the mailing.

SEC. 8. (1) The Committee on Rules and Administration shall—

(A) monitor all expenditures for official mail by all Senate offices; and

(B) promulgate regulations to assure compliance by each Senate office with allocations, allowances, and restrictions provided for in this resolution.

(2) The regulations promulgated pursuant to paragraph (1) shall prescribe a procedure whereby portions of an allocation made to a Senate office may be transferred to another Senate office.

SEC. 9. (a) All mass mailings by Senate offices shall be printed, prepared, and mailed by the Senate Service Department and shall be mailed under the frank.

(b) The Committee on Rules and Administration is authorized to approve exceptions to subsection (a) of this section.

SEC. 10. (a) The maximum number of pieces of mass mail that may be mailed as franked mail during any fiscal year by a Senator shall not exceed an amount equal to 3 times the number of separate mailing addresses to which such mail can be sent in the State represented by the Senator (as determined on the basis of the most recent statistics of the United States Postal Service available prior to the beginning of the fiscal year). The actual number of pieces of mail that may be mailed within this maximum is limited by the availability of appropriated funds as set forth in subsection (d).

(b) A mass mailing that—

(1) relates solely to a notice of appearance or a scheduled itinerary of a Senator in the State represented by the Senator; and

(2) is mailed to the part of the State where such appearance is to occur,

shall not count against the limitation stated in subsection (a).

(c)(1) Except as stated in paragraph (2), a mass mailing shall count against the limitation stated in subsection (a) for the fiscal year in which it is mailed.

(2) A mass mailing may be counted against the limitation stated in subsection (a) for the fiscal year immediately preceding the fiscal year in which it is mailed if—

(A) the appropriation Act for the preceding fiscal year specifies that the funds appropriated for Senate mailing expenses for that fiscal year shall remain available until expended;

(B) the Senate office for which the mailing is made has a balance in its allocation made pursuant to section 2 or 3 for the preceding fiscal year against which all or a portion of the cost of the mailing may be charged;

(C) the initial work order for the mass mailing was submitted to the Senate Service Department prior to its close of business on the last day of the preceding fiscal year; and

(D) the Senate office for which the mass mailing is mailed gives the Senate Service Department, prior to its close of business on November 15 of the fiscal year in which the mailing is made, a final printing and mailing clearance.

(d) The quantity of mail that may be mailed by a Senate office under this section is limited by the availability of funds allocated to such office pursuant to this Resolution.

SEC. 11. (a)(1)(A) Each year the Secretary of the Senate shall provide each Senator with the greater of—

(i) one and one-third sheets of blank paper per adult constituent, as reported by the Bureau of the Census; or

(ii) 1,800,000 sheets of blank paper.

(B) Each year the Secretary of the Senate shall provide each Senator with letterhead paper and envelopes in the greater of the following quantities:

(i) 100 sheets and 100 envelopes per 1,000 constituents of the Senator; or

(ii) 180,000 sheets and 180,000 envelopes.

(2) A portion of a Senator's allowance for paper that is unused at the end of a year may be used during the following year. A portion of such an allowance for a year that is unused at the end of the year following the year for which the allowance is made shall lapse and shall not be available for use thereafter.

(3) A portion of a Senator's allowance for paper that is unused at the time the Senator resigns, retires, or otherwise leaves office shall lapse and shall not be available for use thereafter.

(4) No portion of the paper allowance of a Senator may be given or otherwise transferred to another Senate office.

(b)(1) Each year the Secretary of the Senate shall provide each office set forth below with 180,000 sheets of blank paper, 180,000 sheets of letterhead paper, and 180,000 envelopes:

(A) Each standing committee of the Senate.

(B) Each select committee of the Senate.

(C) Each special committee of the Senate.

(D) Each impeachment trial committee of the Senate.

(2) A portion of an allowance for paper made pursuant to paragraph (1) that is unused at the end of a year shall not be available for use thereafter.

(c)(1) The Secretary of the Senate shall provide each office named in paragraph (4) with such quantities of paper and envelopes as may be necessary for the performance of its official duties.

(2) Except as provided in paragraph (3), no portion of an allowance for paper made pursuant to paragraph (1) may be given or otherwise transferred to a Senator or an office named in subsection (b)(1).

(3) Paper from the allowance of the Sergeant at Arms may be used to reprint matter previously printed and charged to the allowance of another office if—

(A) an error in the previously printed matter was caused by the Senate Service Department; and

(B)(i) the previously printed matter was destroyed prior to distribution; or

(ii) the previously printed matter was distributed before the discovery of the error, and the reprinted matter is noted as a corrected version of such previously printed matter.

(4) The offices referred to in paragraph (1) are the following:

(A) The Joint Committee on the Library.

(B) The Joint Committee on Printing.

(C) The Joint Committee on Taxation.

(D) The Joint Economic Committee.

(E) The Joint Congressional Committee on Inaugural Ceremonies.

(F) The President of the Senate.

(G) The President pro tempore of the Senate.

(H) The Majority Leader of the Senate.

(I) The Assistant Majority Leader of the Senate.

(J) The Secretary for the Majority.

(K) The Minority Leader of the Senate.
(L) The Assistant Minority Leader of the Senate.
(M) The Secretary for the Minority.
(N) The Republican Conference.
(O) The Republican Policy Committee.
(P) The Republican Steering Committee.
(Q) The Democratic Conference.
(R) The Democratic Policy Committee.
(S) The Democratic Steering Committee.
(T) The Architect of the Capitol, including the Senate Restaurants and the Superintendent of the Senate Office Buildings.
(U) The Attending Physician.
(V) The Capitol Police.
(W) The Chaplain of the Senate.
(X) The Secretary of the Senate, including all offices reporting thereto.
(Y) The Senate Legislative Counsel.
(Z) The Senate Legal Counsel.
(AA) The Senate Sergeant at Arms, including all offices reporting thereto.
(BB) The Congressional Budget Office.
(CC) The Office of Technology Assessment.
(DD) The Democratic Senatorial Campaign Committee.
(EE) The Republican Senatorial Campaign Committee.
(FF) The Senate Employees' Federal Credit Union.
(GG) The Senate Day Care Center.
(HH) The Senate Defense Liaison Office.
(II) The Senate Press Galleries.
(d) For the purposes of this section—
(1) blank paper means paper that is 8.5 inches by 11 inches or 8.5 inches by 14 inches; and
(2) letterhead paper means paper that is 8.5 inches by 11 inches.
(e) For the purposes of this section, the term "year" means the period beginning on January 3 of a calendar year and ending on January 2 of the following year. Paper for any mass mailing the work order for which is submitted prior to the close of business of the Senate Service Department on January 2 of any year shall be charged to the allotment for such year ending on January 2 (or, in the case of Senators, to any remaining balance from the previous year) if the office for which the mass mailing is being prepared gives the Senate Service Department, by its close of business the following February 14, a final printing and mailing clearance. If final clearance for printing is not given by close of business on February 14, the work order for such work shall be canceled and, if the office still desires to have the work completed, a new work order shall be prepared and the paper charged to the year in which such work order is dated (or, in the case of Senators, to any remaining balance from the previous year). Costs incurred in processing a work order that is canceled because the final clearance for printing was not received prior to close of business February 14 shall be reported in the cost report for the quarter ending March 31.

SEC. 12. The third unnumbered subparagraph of paragraph 1 of chapter 3 of the "Regulations Governing the Use of the Mailing Frank by Members and Officers of the United States Senate", issued by the Senate Select Committee on Ethics pursuant to section 3210(a)(6)(D) of title 39, United States Code, shall be amended to read as follows:

"A franked mailing made specifically and solely in response to, and mailed not more than 120 days after the date of receipt of, a written request, inquiry, or expression of opinion or concern from the person to whom it is addressed is not a mass mailing.".

SEC. 13. In the event of a reduction in the amount appropriated for Senate official mail for a fiscal year as a result of a sequester pursuant to the Gramm-Rudman-Hollings Act, the amount allocated to each Senate office pursuant to section 2 or 3 of this Resolution shall be reduced by the same percentage as the percentage reduction in the amount appropriated.

SENATE RESOLUTION 306—RELATIVE TO USE OF THE RECORDING STUDIO AND MASS MAILINGS WITH RESPECT TO UNCONTESTED ELECTIONS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 306

Resolved, That (a) paragraph 1 of rule XL of the Standing Rules of the Senate is amended by striking the period at the end and inserting ", unless the candidacy of the Senator in such election is uncontested.".

(b) Paragraph 6(a) of rule XL of the Standing Rules of the Senate is amended by striking the period at the end and inserting ", unless the candidacy of the Senator in such election is uncontested.".

SENATE RESOLUTION 307—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 307

Whereas, in the case of Fulop v. Burns, Case No. 90-0870, pending in United States District Court for the District of Columbia, the plaintiff has asserted a claim against Senator Conrad Burns;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1) (1988), the Senate may direct its counsel to defend the members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Conrad Burns in the case of Fulop v. Burns.

AMENDMENTS SUBMITTED

NATIONAL AFFORDABLE HOUSING ACT

CRANSTON AMENDMENT NO. 2069

Mr. CRANSTON proposed an amendment to the bill (S. 566) to authorize a new corporation to support State and local strategies for achieving more affordable housing; to increase homeownership; and for other purposes, as follows:

On page 358, line 4, insert the following before the period: "and facilitating resident management of eligible properties".

On page 358, line 20, strike the term "and".

On page 358, line 25, insert the following: "and

"(8) the provision of financial assistance to resident management corporations and resident councils, as defined by the Secretary, in eligible properties that obtain, by contract or otherwise, technical assistance for the development of resident management entities in such projects, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of such properties, and the securing of such support, except that assistance under this paragraph may be provided with respect to a property owned other than by the Secretary only if the owner agrees to the award of the assistance.".

On page 379, line 11, insert at the end the following:

"For purposes of planning grants under section 413(b)(8), the term 'eligible property' also means a property insured under the National Housing Act and assisted under section 8 of the United States Housing Act of 1937.".

At the appropriate place, insert the following:

"SEC. . PAYMENTS WITH RESPECT TO INDIAN HOUSING.

"Section 107(a) of the Housing and Community Development Act of 1974 is amended—

"(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

"(2) by inserting after paragraph (2) the following:

" '(3) to units of general local government that are located in North Dakota for public services provided with respect to Indian housing.' ".

On page 627, between lines 13 and 14, insert the following:

"(e) HIGH INTENSITY DRUG TRAFFICKING AREAS.—In evaluating the extent of the drug-related crime problem pursuant to subsection (b), the Secretary shall consider whether housing projects proposed for assistance are located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988.".

On page 626, line 6, insert after "CRITERIA.—" the following: "Except as provided by subsections (c), (d), and (e),".

On page 626, line 14, insert immediately after "assistance" the following: ", including the extent to which the plan includes initiatives that can be sustained over a period of several years".

On page 629, line 10, insert immediately after "jurisdictions" the following: ", (4) the extent to which grants awarded under this chapter have been awarded for housing projects in high intensity drug trafficking areas as designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988, and other areas with particularly serious drug problems".

On page 629, line 11, delete "(4)" and insert in lieu thereof the following: "(5)".

On page 629, insert at the end of line 14 the following: "In conducting this review, the Secretary shall consult with Federal, State, and local law enforcement agencies and prosecutors, and with housing authorities, owners of federally assisted low-income housing, and affected tenants".

On page 626, line 5, insert immediately after "plan" the following: "; and (G) a discussion of the extent to which the initiatives proposed in the strategy can be sustained over a period of several years".

On page 627, delete line 3.

CRANSTON AMENDMENT NO. 2070

Mr. SARBANES (for Mr. CRANSTON) proposed an amendment to the bill S. 566, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY OF PUBLIC HOUSING FUNDING SYSTEMS.

The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing sufficient federal funds to public housing agencies for the operation, maintenance and modernization of public housing. In analyzing such alternatives, the Secretary shall compare and contrast existing methods of funding in public housing with those used by the Department in housing assisted under Section 8 of the United States Housing Act of 1937. In preparing the study mandated by this section, the Secretary shall, in particular, review the results of the study entitled "Alternative Operating Subsidies Systems for the Public Housing Program" released by the Department's Office of Policy, Development and Research in May 1982 and update such study as may be necessary. The Secretary shall issue a report to the authorizing committees of Congress within 12 months after the enactment of this act detailing the findings of the study conducted under this section.

HEINZ AMENDMENT NO. 2071

Mr. HENIZ proposed an amendment to the bill S. 566, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING.

"The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing federal housing assistance through local public housing agencies (PHA's). In analyzing such alternatives, the Secretary will examine methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other federal housing assistance to a schedule of steady and predictable capitated federal payments to PHA's on behalf of low income public housing tenants. The Secretary shall assess, within the capitated funding alternative, means of (a) providing for tenant participation in the release of such capitated payments to PHA's; (b) providing financial incentives for PHA overall performance and efficiency; (c) designated certain PHA's as distressed and eligible for special federal assistance; (d) differential treatment of PHA's based on differences in local population demographics, rental housing markets, and other pertinent factors, and (e) calculating annual inflation-based increases in capitated federal payments. Such report will be made to the authorizing committees of Congress within 12 months after the date of enactment of this Act."

GRAMM (AND OTHERS) AMENDMENT NO. 2072

Mr. GRAMM (for himself, Mr. GORTON, Mr. BENTSEN, Mr. MACK, and Mr. KASTEN) proposed an amendment to the bill S. 566, supra, as follows:

At the appropriate place in the bill, insert the following:

"SEC. . FAIR ALLOCATION AMONG STATES OF CDBG FUNDS.

"Notwithstanding any other provision of the Housing and Community Development Act of 1974, beginning with fiscal year 1991, of the amount approved in an appropriation Act to be used for Community Development Block Grants, such funds shall be allocated so that each state, as well as the District of Columbia and Puerto Roco, receives a share of such funds proportionately equal, in the aggregate, to its share of the entire population."

D'AMATO (AND OTHERS) AMENDMENT NO. 2073

Mr. D'AMATO (for himself, Mr. DIXON, Mr. SIMON, and Mr. MOYNIHAN) proposed an amendment to amendment No. 2072 proposed by Mr. GRAMM (and others) to the bill S. 566, supra, as follows:

At the end of the amendment add the following:

SEC. . (a) In no year following fiscal year 1990, shall any state in which are located federally insured depository institutions which, during the years 1986 through 1989, either received funds from or had its deposit liabilities assumed by a Federal Deposit Insurance Fund or the Resolution Trust Corporation, receive greater funds under the the Housing and Community Development Act of 1974 than it received in fiscal year 1990, if said institutions receipt of Federal Deposit Insurance or RTC Funds exceeded that States per capita proportional share of such funds paid during the years 1986 through 1989.

(b) Such States as are described in in paragraph (a) shall have CDBG funding reduced for years after fiscal year 1990 in proportion to the degree to which Federal depository institutions in that State have received funds from or had deposit obligations assumed by a Federal Deposit Insurance Fund or the Resolution Trust Corporation as compared to the amount that that State's citizens, as a group, will bear the burden of funding the obligations of the Resolution Funding Corporation or of the United States Treasury for the purposes of the Resolution Trust Corporation.

SEC. . (a) In each year following fiscal year 1990, any State in which the federally insured depository institutions located therein have, in total, during the years 1986 through 1989, received funds from or had its deposit liabilities assumed by a Federal Deposit Insurance Fund or the Resolution Trust Corporation, in an amount less than its per capita proportional share of such funds paid or obligations assumed during the years 1986 through 1989, shall receive no less than, and shall be eligible for funds under the Community Development Act of 1974 in excess of, the amount it received in fiscal year 1990 under said Act.

(b) Any increase in CDBG funding over 1990 fiscal year amounts to a State, authorized by paragraph (a) shall reflect the amount of that State's citizens' burden to fund the obligations of the Resolution Funding Corporation or of the United States Treasury for the purposes of the Resolution Trust Corporation as compared to the amount of funds or assumption of obligations obtained by depository institutions located in that state.

METZENBAUM (AND HATFIELD) AMENDMENT NO. 2074

Mr. METZENBAUM (for himself and Mr. HATFIELD) proposed an amendment to the bill S. 566, supra, as follows:

At the end of the bill, add the following:

TITLE —CHECK CASHING

SEC. 01. SHORT TITLE.

This title may be cited as the "Government Check Cashing Act of 1990".

SEC. 02. DEFINITIONS.

For purposes of this title—

(1) FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCY.—The term "Federal depository institutions regulatory agency" means—

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board with respect to member banks of the Federal Reserve System (other than national banks);

(C) the Board of Directors of the Federal Deposit Insurance Corporation with respect to federally insured depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than national banks and member banks of the Federal Reserve System);

(D) the Director of the Office of Thrift Supervision with respect to federally insured depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act; and

(E) the National Credit Union Administration Board with respect to federally insured depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) DEPOSITORY INSTITUTION.—The term "depository institution" means any federally insured depository institution with assets greater than $25 million described in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(4) GOVERNMENT CHECK DEFINED.—The term "government check" means any check, other than a procurement or tax refund check which was issued by—

(A) the United States, any State, or any agency of the United States; or

(B) any agency of the State in which the check is presented for cashing purposes (in connection with a government check cashing service), any local unit of local government of such State, or agency of any such unit of local government.

(5) GOVERNMENT CHECK CASHING RELATIONSHIP.—The term "government check cashing relationship" means a relationship between an individual and a depository institution under which a government check cashing service is provided pursuant to section 3(b) of this Act.

(6) STATE.—The term "State" has the meaning given to such term in section 3(a) of the Federal Deposit Insurance Act.

(7) TRANSACTION ACCOUNT.—The term "transaction account" has the meaning given such term by section 19(b)(1)(C) of the Federal Reserve Act.

SEC. . 03. GOVERNMENT CHECK CASHING SERVICES.

(a) REQUIREMENT TO OFFER SERVICES.—Each depository institution shall offer a government check cashing service that meets the requirements of this section.

Any depository institution which cashed government checks, as defined by this title, for a cost of two dollars or less per check for nonaccount holders as of June 21, 1990, shall be exempt from the provisions of this title for as long as it continues to offer such same government check cashing services. The depository institution shall notify the appropriate depository regulatory agency as to whether the institution satisfies the terms of the exemption.

(b) TERMS AND CONDITIONS OF SERVICE.—A government check cashing service offered by the depository institution meets the requirements of this section if the service—

(1) is available to individuals for the purpose of cashing government checks in the amount of $1,500 or less when the individual presenting the check is the individual to whom the check has been issued;

(2) does not require any other relationship with such depository institution;

(3) does not require the individual to meet any prerequisite which would discriminate against low-income individuals in order to use such service;

(4) has a check cashing fee, if such a fee is assessed, which does not exceed the real and demonstrable costs of providing such service (including fraud losses) plus a modest profit not to exceed 10 percent of such costs. The depository institution shall base such fee on actual time studies and actual net processing cost studies performed either by the depository institution or the Federal Reserve Board pursuant to section of this Act. The Board shall perform actual time and net processing cost studies in each of its regions, with, at a minimum, one cost study per one major population area and one in a rural area in each region. The Board will provide the results of such studies to serve as models to institutions in that region, and any institution using such model will be exempt from the complaint section;

(5) allows the customer to designate at least 3 deposit taking offices of such depository institution (or fewer if the depository institution does not have 3 offices) at which such customer may cash government checks; and

(6) allows the customer to cash government checks upon the presentation of—

(A) a copy of the registration provided in accordance with subsection (d); and

(B) an identification card in the form described in subsection (d)(2)(D) of this section.

(c) EXCEPTION.—A depository institution is not required to provide a government check cashing service under this title to any individual who—

(1) has a transaction account at any other depository institution,

(2) has a government check cashing relationship at any other depository institution, or

(3) has committed or has attempted to commit fraud against a depository institution.

(d) REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—A depository institution that requires a customer to register in order to use the government check cashing service shall take such action as may be necessary to establish a customer registration program.

(2) MINIMUM REQUIREMENTS.—The program under paragraph (1) shall provide for the following:

(A) Each depository institution shall provide for registration in all of its deposit taking offices staffed by individuals employed by such depository institution.

(B) A depository institution may require an applicant for a government check cashing relationship to submit an application containing the application date, and the name, address, date of birth, and handwritten signature of the applicant, or government issued identification number.

(C) At the time of service registration, an applicant may be required by the depository institution to sign a document in which he or she states whether he or she has or has applied for any transaction account or other government check cashing service.

(D) At the time of service registration, an applicant may be required to present an identification card which includes the signature and a photograph of such customer.

(E) The applicant shall be provided a copy of the completed service registration evidencing the fact that the registration has been received and filed with the depository institution within 20 days of such filing.

(F) A depository institution may not require a registration fee.

(3) REJECTION FOR INTENTIONAL MATERIAL MISREPRESENTATION.—If the depository institution has reason to believe that an applicant has made an intentional material misrepresentation in his or her application for a government check cashing relationship, the depository institution may reject such applicant's registration.

(e) INFORMATION ON SERVICE.—Upon request by any individual, a depository institution shall provide such individual with a written summary describing the government check cashing service offered by such depository institution.

(f) SPECIAL RULE FOR CREDIT UNIONS.—Any credit union which, in the ordinary course of business, cashes checks for members shall cash any government check in an amount of $1,500 or less for any member without charge if the member presenting the check is the individual to whom the check has been issued.

(g) SPECIAL RULE FOR CERTAIN DEPOSITORY INSTITUTIONS.—A depository institution, other than a credit union, which does not in the ordinary course of business cash checks for customers or offer transaction accounts for the general public shall not be required to provide government check cashing services pursuant to this Act.

(h) PREVENTION OF FRAUD LOSSES.—A depository institution is not required to cash a check under this section if—

(1) the check is clearly fraudulent; or

(2) the individual presenting the check is clearly misrepresenting his or her identity.

SEC. 04. POSTING OF NOTICES.

(a) NOTICE REQUIRED.—Each depository institution shall post a conspicuous notice in the appropriate area of each location where deposits are accepted that informs customers and potential customers that government check cashing services are available pursuant to this title.

(b) CONTENTS OF NOTICE.—Any notice required under subsection (a) shall clearly explain the material features and limitations of government check cashing services, so that customers can reasonably be expected to understand the terms of the service offered.

SEC. 05. ADMINISTRATIVE ENFORCEMENT.

(a) ADMINISTRATIVE ENFORCEMENT.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the Comptroller of the Currency with respect to national banks;

(B) by the Board with respect to member banks of the Federal Reserve System (other than a national bank); and

(C) by the Board of Directors of the Federal Deposit Insurance Corporation with respect to banks the deposits of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System);

(2) section 5(d) of the Home Owners' Loan Act, by the Director of the Office of Thrift Supervision with respect to any depository institution which is subject to such section; and

(3) section 206 of the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any insured credit union.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS TITLE TREATED AS VIOLATION OF OTHER ACTS—For purposes of the exercise by any Federal depository institutions regulatory agency of any such agency's powers under any Act referred to in subsection (a), a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to any Federal depository institutions regulatory agency's powers under any provision of law referred to in subsection (a), each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by any other law.

(c) INVESTIGATION AND REPORT.—A Federal depository institutions regulatory agency that receives a complaint regarding a possible violation of this Act shall conduct an investigation of such complaint as such agency deems necessary, and if such complaint is verified, shall carry out enforcement actions according to the powers of this Act and shall provide the results of such investigation in writing to the individual filing such complaint, the depository institution investigated, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

SEC. 06. OTHER RELIEF.

Upon application by an aggrieved party, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this Act.

SEC. 07. REPORTS.

(a) TREASURY REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of the Treasury shall transmit to Congress a report examining the feasibility of staggering payment of Social Security and other benefit checks so that payments do not all occur on the first and fifteenth of the month.

(b) GAO STUDY AND REPORT.—

(1) STUDY.—No later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study to determine the feasibility of utilizing the United States Postal

Service as an additional provider of government check cashing services. In addition, the Comptroller General shall conduct a study examining current practices of check cashing outlets, as they impact customers, incuding fee and practices, as well as the potential need for Federal or State regulation.

(2) REPORT.—Not later than the date which is 1 year after the date of enactment of this act, the Comptroller General shall provide Congress with a report regarding the results of the study described in paragraph (1) along with any recommendations for legislative or administrative action that should be taken to address the check cashing needs of low-income individuals.

SEC. 08. EFFECTIVE DATE.

This title shall take effect on the expiration of the date which is 180 days after the date of enactment of this Act.

CRANSTON AMENDMENT NO. 2075

Mr. CRANSTON proposed an amendment to amendment No. 2074 proposed by Mr. METZENBAUM (and Mr. HATFIELD) to the bill S. 566, supra, as follows:

Strike all after the word "TITLE" in the pending amendment and insert the following:

—CHECK CASHING

SEC. —01. SHORT TITLE.

This title may be cited as the "Government Check Cashing Act of 1990.

SEC. —02. DEFINITIONS.

For purposes of this title—

(1) FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCY.—The term "Federal depository institutions regulatory agency" means—

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board with respect to member banks of the Federal Reserve System (other than national banks);

(C) the Board of Directors of the Federal Deposit Insurance Corporation with respect to federally insured depository institutions described in clause (i) (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than national banks and member banks of the Federal Reserve System);

(D) the Director of the Office of Thrift Supervision with respect to federally insured depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act; and

(E) the National Credit Union Administration Board with respect to federally insured depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) DEPOSITORY INSTITUTION.—The term "depository institution" means any federally insured depository institution with assets greater than $25 million described in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(4) GOVERNMENT CHECK DEFINED—The term "government check" means any check other than a procurement or tax refund check which was issued by—

(A) the United States, and State, or any agency of the United States; or

(B) any agency of the State in which he check is presented for cashing purposes (in connection with a government check cashing service)(, any local unit of local government of such State, or any agency of any such unit of local government.

(5) GOVERNMENT CHECK CASHING RELATIONSHIP.—The term "government check cashing relationship" means a relationship between an individuial and a depository institution under which a government check cashing service is provided pursuant to section 3(b) of this Act.

(6) STATE—The term "State" has the meaning given to such term in section 3(a) of the Federal Deposit Insurance Act.

(7) TRANSACTION ACCOUNT.—The term "transaction account" has the meaning given such term by section 19(b)(1)(C) of the Federal Reserve Act,

SEC. —03. GOVERNMENT CHECK CASHING SERVICES.

(a) REQUIREMENT TO OFFER SERVICES.—Each depository institution shall offer a government check cashing service that meets the requirements of this section. Any depository institution which cashed government checks, as defined by this title, for a cost of two dollars or less per check for nonaccount holders as of June 27, 1990, shall be exempt from the provisions of this title for as long as it continues to offer such same government check cashing services. The depository institution shall notify the appropriate depository regulatory agency as to whether the institution satisfies the terms of the exemption.

(b) TERMS AND CONDITIONS OF SERVICE.—A government check cashing service offered by a depository institution meets the requirements of this section if the service—

(1) is available to individuals for the purpose of cashing government checks in the amount of $1,500 or less when the individual presenting the check is the individual to whom the check has been issued;

(2) does not require any other relationship with such depository institution;

(3) does not require the individual to meet any prerequisite which would discriminate against low-income individuals in order to such service;

(4) has a check cashing fee, if such a fee is assessed, which does not exceed the real and demonstrable costs of providing such service (including fraud losses) plus a modest profit not to exceed 10 percent of such costs. The depository institution shall base such fee on actual time studies and actual net processing cost studies performed either by the depository institution or the Federal Reserve Board pursuant to section —— of this Act. The Board shall perform actual time and net processing cost studies in each of its regions, with, at minimum, one cost study per one major population area and one in a rural area in each region. The Board will provide the results of such studies to serve as models to institutions in that region, and any institution using such model will be exempt from the complaint section;

(5) allows the customer to designate at least 3 deposit taking offices of such depository institution (or fewer if the depository institution does not have 3 offices) at which such customer may cash government checks;

(6) allows the customer to cash government checks upon the presentation of—

(A) a copy of the registration provided in accordance with subsection (d); and

(B) an identification card in the form described in subsection (d)(2)(D) of this section.

(c) EXCEPTION.—A depository institution is not required to provide a government check cashing service under this title to any individual who—

(1) has a transaction account at any other depository institution.

(2) has a government check cashing relationship at any other depository institution, or

(3) has committed or has attempted to commit fraud against a depository institution.

(d) REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—A depository institution that requires a customer to register in order to use the government check cashing service shall take such action as may be necessary to establish a customer registration program.

(2) MINIMUM REQUIREMENTS.—The program under paragraph (1) shall provide for the following:

(A) Each depository institution shall provide for registration in all of its deposit taking offices staffed by individuals employed by such depository institution.

(B) A depository institution may require an applicant for a government check cashing relationship to submit an application containing the application date, and the name, address, date of birth, and handwritten signature of the applicant, or government issued identification number.

(C) At the time of service registration, an applicant may be required by the depository institution to sign a document in which he or she states whether he or she has not or has applied for any transaction account or other government check cashing service.

(D) At the time of service registration, an applicant may be required to present an identification card which includes the signature and a photograph of such customer.

(E) The applicant shall be provided a copy of the completed service registration evidencing the fact that the registration has been received and filed with the depository institution within 20 days of such filing.

(F) A depository institution may not require a registration fee.

(3) REJECTION FOR INTENTIONAL MATERIAL MISREPRESENATION.—If the depository institution has reason to believe that an applicant has made an intentional material misrepresentation in his or her application for a government check cashing relationship, the depository institution may reject such applicant's registration.

(e) INFORMATION ON SERVICE.—Upon request by any individual, a depository institution shall provide such individual with a written summary describing the government check cashing service offer by such depository institution.

(f) SPECIAL RULE FOR CREDIT UNIONS.—Any credit union which, in the ordinary course of business, cashes checks for members shall cash any government check in an amount of $1,500 or less for any member without charge if the member presenting the check is the individual to whom the check has been issued.

(g) SPECIAL RULE FOR CERTAIN DEPOSITORY INSTITUTIONS.—A depository institution, other than a credit union, which does not in the ordinary course of business cash checks for customers or offer transaction accounts for the general public, shall not be required to provide government check cashing services pursuant to this Act.

(h) PREVENTION OF FRAUD LOSSES.—A depository institution is not required to cash a check under this section if—

(1) the check is clearly fraudulent; or

(2) the individual presenting the check is clearly misrepresenting his or her identity.

SEC. _04. POSTING OF NOTICES.

(a) NOTICE REQUIRED.—Each depository institution shall post a conspicuous notice in the appropriate area of each location where deposits are accepted that informs customers and potential customers that government check cashing services are available pursuant to this title.

(b) CONTENTS OF NOTICE.—Any notice required under subsection (a) shall clearly explain the material features and limitations of government check cashing services, so that customers can reasonably be expected to understand the terms of the service offered.

SEC. _05. ADMINISTRATIVE ENFORCEMENT.

(a) ADMINISTRATIVE ENFORCEMENT.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the Comptroller of the Currency with respect to national banks;

(B) by the Board with respect to member banks of the Federal Reserve System (other than a national bank); and

(C) by the Board of Directors of the Federal Deposit Insurance Corporation with respect to banks the deposits of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System);

(2) section 5(d) of the Home Owners' Loan Act, by the Director of the Office of Thrift Supervision with respect to any depository institution which is subject to such section; and

(3) section 206 of the Federal Credit Union Act, by the National Credit Union Administration Board with respect to any insured credit union.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS TITLE TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any Federal depository institutions regulatory agency of any such agency's powers under any Act referred to in subsection (a), a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to any Federal depository institutions regulatory agency's powers under any provision of law referred to in subsection (a), each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by any other law.

(c) INVESTIGATION AND REPORT.—A Federal depository institutions regulatory agency that receives a complaint regarding a possible violation of this Act shall conduct an investigation of such complaint as such agency deems necessary, and if such complaint is verfied, shall carry out enforcement actions according to the powers of this Act, shall provide the results of such investigation in writing to the individual filing such complaint, the depository institution investigated, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

SEC. 06. OTHER RELIEF.

Upon application by an aggrieved party, the appropriate United States district court or any other court of competent jurisdiction may grant such equitable and declaratory relief as is necessary to enforce the requirements imposed under this Act.

SEC. 07. REPORTS.

(a) TREASURY REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of the Treasury shall transmit to Congress a report examining the feasibility of staggering payment of Social Security and other benefit checks so that payments do not all occur on the first and fifteenth of the month.

(b) GAO, STUDY AND REPORT.—

(1) STUDY.—No later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study to determine the feasibility of utilizing the United States Postal Service as an additional provider of government check cashing services. In addition, the Comptroller General shall conduct a study examining current practices of check cashing outlets, as they impact customers, including fee and practices, as well as the potential need for Federal or State regulation.

(2) REPORT.—Not later than the date which is 1 year after the date of enactment of this Act, the Comptroller General shall provide Congress with a report regarding the results of the study described in paragraph (1) along with any recommendations for legislative or administrative action that should be taken to address the check cashing needs of low-income individuals.

SEC. 08. EFFECTIVE DATE.

This title shall take effect on the expiration of the date which is 180 days after the date of enactment of this Act.

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 2076

Mr. BOSCHWITZ (for himself, Mr. GRASSLEY, Mr. GORTON, Mr. MACK, Mr. KASTEN, Mr. BURNS, and Mr. COATS) proposed amendment to the bill S. 566, supra, as follows:

At the end of the bill, add the following:

TITLE—HOUSING OPPORTUNITY ZONES

SEC. 01. SHORT TITLE.

This title may be cited as the "Housing Opportunity Zones Act of 1990".

SEC. 02. DEFINITIONS.

As used in this title—

(1) The term "barrier" means any requirement promulgated by the legislative or executive body of any State or local governmental entity that inhibits the production in the eligible jurisdiction of housing that is affordable to lower-, moderate-, and middle-income families.

(2) The term "city" means a city, as defined in section 102 of the Housing and Community Development Act of 1974.

(3) The term "eligible jurisdiction" means a city that has a population of 50,000 or more, or an urban county, that received a formula allocation of rental rehabilitation grants under section 17(b)(1) of the United States Housing Act of 1937 for the fiscal year immediately preceding the fiscal year in which Housing Opportunity Zones and Barrier Removal Plans are designated and approved, respectively.

(4) The term "Housing Opportunity Zone" means a geographic area designated by the Secretary that—

(A) has amounts of vacant land or vacant buildings that have potential for development or redevelopment for housing affordable to lower-, moderate-, and middle-income families;

(B) has continuous boundaries and covers the entire area within these boundaries; and

(C) covers an area that is less than coterminous with, but wholly within, the boundaries of the eligible jurisdiction.

(5) The term "lower-income family" means a family or individual whose income does not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Moderate-income family shall mean a family or individual whose income exceeds 80 percent, but does not exceed 95 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 95 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Middle-income family shall mean a family or individual whose income exceeds 95 percent, but does not exceed 115 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 115 of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "urban county" means an urban county, as defined in section 102 of the Housing and Community Development Act of 1974.

SEC. 03. BASIC AUTHORITY AND PURPOSE.

(a) AUTHORITY AND PURPOSE.—The Secretary is authorized to designate Housing Opportunity Zones and approve Barrier Removal Plans for cities and urban counties, as provided by and in accordance with this title, for the purpose of encouraging these jurisdictions to remove legislative and administrative barriers to the prodution of new and substantially rehabilitated housing that is affordable to lower-, moderate-, and middle-income families.

(b) NOTICE.—The Secretary shall establish standards to implement the provisions of this title by notice published in the Federal Register not later than 120 days after the date of enactment of this title.

(c) RELATED ASSISTANCE.—The Secretary is authorized to promulgate or revise any insurance, guarantee, or financial or other assistance program or administrative requirement or regulation of the Secretary that is not required by law, in support of Barrier Removal Plans and Housing Opportunity Zones. To the extent such promulgation or revision relates only to actions that pertain to such Zones or such Plans, the Secretary may take such action by notice published in the Federal Register.

SEC. _04. HOUSING OPPORTUNITY ZONES.

(a) DESIGNATION.—The Secretary shall designate not more than 50 Housing Oppor-

tunity Zones. All Zone designations shall be made at one time. The Secretary shall make Zone designations for those eligible jurisdictions that, in the Secretary's discretion, as reflected in the applications, have the best chances of achieving the purposes of this title, except that the Secretary also shall have discretion to attain geographic diversity in making Zone designations.

(b) APPLICATIONS.—Each Zone designation shall be made on the basis of an application from an eligible jurisdiction. Each application for designation of a Housing Opportunity Zone shall specify—

(1) the location, boundaries, and character of the proposed Zone, including any maps or other supporting material that the Secretary deems appropriate;

(2) the actions that the applicant will take during the term of the designation to remove particular barriers within the Zone, including the applicant's timetable for taking the actions;

(3) a plan for the production of housing affordable to lower-, moderate-, and middle-income families, respectively, in the Zone, which plan shall include a description of the quantities and types of housing to be produced and a timetable for their production;

(4) a clear delineation of the relationship between barriers to be removed and the housing to be produced, included the effect of removing the barriers on reducing the price of housing;

(5) actions that an applicant shall take to emphasize homeownership opportunities for lower-, moderate-, and middle-income families;

(6) any other local support for Zone activities, including commitments of financial or technical assistance from public and private entities and persons, including (but not limited to) such resources derived from community development block grants and programs of State assistance, donations of land, buildings, and other resources, and the abatement of relevant taxes, fees, and charges; and

(7) such other information as the Secretary shall require.

(c) HIGHER INCOME AREAS.—In the case of an eligible jurisdiction having a median family income higher than the median family income for the metropolitan statistical area in which it is located, the application for designation of a Housing Opportunity Zone shall particularly emphasize producing housing to meet the needs of lower-income families.

SEC. _05. SELECTION OF HOUSING OPPORTUNITY ZONES.

The Secretary shall designate Housing Opportunity Zones on the basis of a national competition, using the following selection criteria:

(1) The extent to which the Zone has substantial potential for accommodating the production of housing.

(2) The extent to which housing produced in the Zone will be affordable to lower-, moderate-, or middle-income families.

(3) The extent to which the removal of the barriers specified in the application will have a substantial effect lowering the cost of housing.

(4) The extent to which the application emphasizes homeownership opportunities.

(5) The extent to which the applicant's proposed barrier removals and housing activities are capable of accomplishment within the period of the Zone designation.

(6) The extent of any other local support for Zone activities.

(7) Such other factors as the Secretary may require.

SEC. _06. BARRIER REMOVAL PLANS.

The Secretary may approve Barrier Removal Plans submitted by eligible jurisdictions. All such approvals shall be made at one time, when the Housing Opportunity Zones are designated under this title. Eligible jurisdictions may apply both for Housing Opportunity Zone designation and Barrier Removal Plan approval, but may not be approved for both. Plans shall apply to the entire jurisdiction for which application is made, and shall identify the barriers to affordable housing for lower-, moderate-, and middle-income families; describe the steps that the locality intends to take to remove the barriers; and set forth a timetable for achieving such steps. The Secretary shall specify in the notice referred to in section 03(b) such minimum standards for the approval of Plans as the Secretary deems appropriate.

SEC. _07. TERM AND REVOCATION OF HOUSING OPPORTUNITY ZONE DESIGNATIONS AND BARRIER REMOVAL PLAN APPROVALS.

(a) TERM OF APPROVAL OR DESIGNATION.—The approval of any Barrier Removal Plan and the designation of any Housing Opportunity Zone shall be effective for a term that shall not exceed 3 years.

(b) REVIEW AND REVOCATION.—At least annually, the Secretary shall review the progress of each jurisdiction with a designated Zone or an approved Plan in undertaking the actions specified in its application. If, in the Secretary's sole judgment, the jurisdiction is not making substantial progress in achieving the purposes of this title, the Secretary may revoke the approval of the Barrier Removal Plan or the designation of the Housing Opportunity Zone.

(c) OBLIGATION UNDER RELATED PROGRAMS.—(1) The revocation of a Plan approval or Zone designation under this title shall not affect obligations under any other law except to the extent that there is documentary evidence that the Secretary made such obligation subject to the continuation without revocation of the approval or designation.

(2) For a period of one year after the approval or designation ceases to be effective, the Secretary shall have the authority to accord to the jurisdiction that has had a designated Zone the benefits of section 203(b)(2)(iv) and 203(k)(6) of the National Housing Act.

SEC. _08. REPORTS.

(a) ANNUAL PERFORMANCE REPORTS.—The Secretary may require each jurisdiction that has an approved Barrier Removal Plan or a designated Housing Opportunity Zone, to make annual performance reports, in support of the Secretary's responsibility to conduct progress reviews, and otherwise.

(b) FINAL REPORTS.—Each jurisdiction that has an approved Barrier Removal Plan or a designated Housing Opportunity Zone shall submit a final report to the Secretary, in such form as the Secretary requires, within 6 months after the Plan approval or Zone designation ceases to be effective.

(c) REPORT TO CONGRESS.—The Secretary shall evaluate the programs under this title, and report conclusions and make recommendations to the Congress within 5 years following the date of the original designations and approvals.

SEC. _09. RENTAL REHABILITATION GRANT BONUS.

Section 17(b)(2) of the United States Housing Act of 1937 is amended by adding at the end the following:

"(C) The Secretary is authorized to increase by 5 percent for an approved Barrier Removal Plan, or 10 percent for a designated Housing Opportunity Zone, the amount allocated and otherwise adjusted under this subsection for any jurisdiction that has an approved Plan or a a designated Zone, respectively, under the Housing Opportunity Zones Act of 1990.".

SEC. _10. CDBG LOW- AND MODERATE-INCOME BENEFIT IN HOUSING OPPORTUNITY ZONES.

Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out "and (B)" and inserting in lieu thereof the following: "(B) if the grantee is a severely distressed unit of local government and conducts an activity in a designated Housing Opportunity Zone under the Act of 1990, to the extent so conducted, the activity will be deemed to principally benefit low- and moderate-income persons; for purposes of construing the immediately preceding clause, severely distressed unit of local government, means a unit of general local government—

"(i) for which a major disaster is declared, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that meets such other standards as the Secretary may determine, or

"(ii) that meets the standards established by the Secretary for determining severe distress, which standards shall be based upon measures of the lack of capacity of units of general local government to meet the needs of low- and moderate-income persons with their own resources; and (C)".

SEC. _11. REUSE OF URBAN RENEWAL LAND IN HOUSING OPPORTUNITY ZONES.

The Secretary is authorized to modify or waive any term or condition for the benefit of the Secretary, or the United States, regarding the use or disposition of urban renewal project land, any part of which is located in a Housing Opportunity Zone, including payment of disposition proceeds to the Secretary, under a closeout grant made pursuant to section 106(i) of the Housing Act of 1949 or section 103(b) of the Housing and Community Development Act of 1974, if such action may assist in the carrying out of any activity in such Zone.

SEC. _12. URBAN HOMESTEADING PREFERENCE.

Section 810 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof a new subsection, as follows:

"(m)(1) In selecting urban homesteading programs for approval under subsection (b), the Secretary shall give preference to any unit of general local government that includes a designated Housing Opportunity Zone under the Housing Opportunity Zones Act of 1990.

"(2) In allocating money for reimbursement under subsection (g), the Secretary shall give preference to making reimbursements for properties that are requested by units of general local government that include a designated Housing Opportunity Zone.".

SEC. _13. SINGLE FAMILY MORTGAGE INSURANCE IN HOUSING OPPORTUNITY ZONES.

(a) MORTGAGE INSURANCE.—The last sentence of paragraph (2) of section 203(b) of the National Housing Act is amended by striking out "or" immediately before "(iii)" and inserting immediately before the final period the following: ", or (iv) the dwelling is located in a designated Housing Opportu-

nity Zone under the Housing Opportunity Zones Act of 1990".

(b) REGULATIONS.—Section 203(k) of the National Housing Act is amended by adding a new paragraph at the end thereof as follows:

"(6)(A) The Secretary is authorized to promulgate regulations that shall, in addition to other purposes under this Act, promote the rehabilitation of housing for lower-, moderate-, and middle-income families (as defined in the Housing Opportunity Zones Act of 1990) in Housing Opportunity Zones designated under such Act.

"(B) The regulations under this paragraph may provide for the Secretary—

"(i) to delegate to a public agency the authority under this subsection to prescribe and implement standards and procedures that shall be in accord with this section and approved by the Secretary, for credit reviews, rehabilitation activities, and other eligibility requirements; and

"(ii) to share the insurance risk with a public agency, through indemnification, coinsurance, or other means the Secretary finds to be appropriate.

"(C) Any action taken by a public agency pursuant to the delegated authority shall be subject to review by the Secretary.".

SEC. _14. APPLICABILITY OF RELOCATION ENVIRONMENTAL REVIEW, AND RELATED LAWS.

Neither the approval of a Barrier Removal Plan nor the designation of a Housing Opportunity Zone under this title shall be deemed to constitute—

(1) acquisition of real property or displacement of any person under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(2) a Federal action or proposal under the National Environmental Policy Act of 1969; or

(3) an action, event, program, project, or undertaking that would invoke the applicability of any procedural duties that would otherwise arise from a Federal environmental or historic preservation law, Executive order, or regulation.

CRANSTON AMENDMENT NO. 2077

Mr. CRANSTON proposed an amendment to amendment No. 2076 proposed by Mr. BOSCHWITZ (and others) to the bill S. 566, supra, as follows:

In lieu of the matter proposed to be inserted insert the following:

TITLE —HOUSING OPPORTUNITY ZONES

SEC. 01. SHORT TITLE.

This title may be cited as the "Housing Opportunity Zones Act of 1990".

SEC. 02. DEFINITIONS.

As used in this title—

(1) The term "barrier" means any requirement promulgated by the legislative or executive body of any State or local governmental entity that inhibits the production in the eligible jurisdiction of housing that is affordable to lower-, moderate-, and middle-income families.

(2) The term "city" means a city, as defined in section 102 of the Housing and Community Development Act of 1974.

(3) The term "eligible jurisdiction" means a city that has a population of 51,000 or more, or an urban county, that received a formula allocation of rental rehabilitation grants under section 17(b)(1) of the United States Housing Act of 1937 for the fiscal year immediately preceding the fiscal year in which Housing Opportunity Zones and Barrier Removal Plans are designated and approved, respectively.

(4) The term "Housing Opportunity Zone" means a geographic area designated by the Secretary that—

(A) has significant amounts of vacant land or vacant buildings that have potential for development or redevelopment for housing affordable to lower-, moderate-, and middle-income families;

(B) has continuous boundaries and covers the entire area within these boundaries; and

(C) covers an area that is less than coterminous with, but wholly within, the boundaries of the eligible jurisdiction.

(5) The term "lower-income family" means a family or individual whose income does not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Moderate-income family shall mean a family or individual whose income exceeds 80 percent, but does not exceed 95 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 95 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. Middle-income family shall mean a family or individual whose income exceeds 95 percent, but does not exceed 115 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 115 of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "urban county" means an urban county, as defined in section 102 of the Housing and Community Development Act of 1974.

SEC. 03. BASIC AUTHORITY AND PURPOSE.

(a) AUTHORITY AND PURPOSE.—The Secretary is authorized to designate Housing Opportunity Zones and approve Barrier Removal Plans for cities and urban counties, as provided by and in accordance with this title, for the purpose of encouraging these jurisdictions to remove legislative and administrative barriers to the production of new and substantially rehabilitated housing that is affordable to lower-, moderate-, and middle-income families.

(b) NOTICE.—The Secretary shall establish standards to implement the provisions of this title by notice published in the Federal Register not later than 120 days after the date of enactment of this title.

(c) RELATED ASSISTANCE.—The Secretary is authorized to promulgate or revise any insurance, guarantee, or financial or other assistance program or administrative requirement or regulation of the Secretary that is not required by law, in support of Barrier Removal Plans and Housing Opportunity Zones. To the extent such promulgation or revision relates only to actions that pertain to such Zones or such Plans, the Secretary may take such action by notice published in the Federal Register.

SEC. 04. HOUSING OPPORTUNITY ZONES.

(a) DESIGNATION.—The Secretary shall designate not more than 50 Housing Opportunity Zones. All Zone designations shall be made at one time. The Secretary shall make Zone designations for those eligible jurisdictions that, in the Secretary's discretion, as reflected in the applications, have the best chances of achieving the purposes of this title, except that the Secretary also shall have discretion to attain geographic diversity in making Zone designations.

(b) APPLICATIONS.—Each Zone designation shall be made on the basis of an application from an eligible jurisdiction. Each application for designation of a Housing Opportunity Zone shall specify—

(1) the location, boundaries, and character of the proposed Zone, including any maps or other supporting material that the Secretary deems appropriate;

(2) the actions that the applicant will take during the term of the designation to remove particular barriers within the Zone, including the applicant's timetable for taking the actions;

(3) a plan for the production of housing affordable to lower-, moderate-, and middle-income families, respectively, in the Zone, which plan shall include a description of the quantities and types of housing to be produced and a timetable for their production;

(4) a clear delineation of the relationship between barriers to be removed and the housing to be produced, including the effect of removing the barriers on reducing the price of housing;

(5) actions that an applicant shall take to emphasize homeownership opportunities for lower-, moderate- and middle-income families;

(6) any other local support for Zone activities, including commitments of financial or technical assistance from public and private entities and persons, including (but not limited to) such resources derived from community development block grants and programs of State assistance, donations of land, buildings, and other resources, and the abatement of relevant taxes, fees, and charges; and

(7) such other information as the Secretary shall require.

(c) HIGHER INCOME AREAS.—In the case of an eligible jurisdiction having a median family income higher than the median family income for the metropolitan statistical area in which it is located, the application for designation of a Housing Opportunity Zone shall particularly emphasize producing housing to meet the needs of lower-income families.

SEC. 05. SELECTION OF HOUSING OPPORTUNITY ZONES.

The Secretary shall designate Housing Opportunity Zones on the basis of a national competition, using the following selection criteria:

(1) The extent to which the Zone has substantial potential for accommodating the production of housing.

(2) The extent to which housing produced in the Zone will be affordable to lower-, moderate-, or middle-income families.

(3) The extent to which the removal of the barriers specified in the application will have a substantial effect lowering the cost of housing.

(4) The extent to which the application emphasizes homeownership opportunities.

(5) The extent to which the applicant's proposed barrier removals and housing activities are capable of accomplishment within the period of the Zone designation.

(6) The extent to any other local support for Zone activities.

(7) Such other factors as the Secretary may require.

SEC. __06. BARRIER REMOVAL PLANS.

The Secretary may approve Barrier Removal Plans submitted by eligible jurisdictions. All such approvals shall be made at one time, when the Housing Opportunity Zones are designated under this title. Eligible jurisdictions may apply both for Housing Opportunity Zone designation and Barrier Removal Plan approval, but may not be approved for both. Plans shall apply to the entire jurisdiction for which application is made, and shall identify the barriers to affordable housing for lower-, moderate-, and middle-income families; describe the steps that the locality intends to take to remove the barriers; and set forth a timetable for achieving such steps. The Secretary shall specify in the notice referred to in section __03(b) such minimum standards for the approval of Plans as the Secretary deems appropriate.

SEC. __07. TERM AND REVOCATION OF HOUSING OPPORTUNITY ZONE DESIGNATIONS AND BARRIER REMOVAL PLAN APPROVALS.

(a) TERM OF APPROVAL OR DESIGNATION.—The approval of any Barrier Removal Plan and the designation of any Housing Opportunity Zone shall be effective for a term that shall not exceed 3 years.

(b) REVIEW AND REVOCATION.—At least annually, the Secretary shall review the progress of each jurisdiction with a designated Zone or an approved Plan in undertaking the actions specified in its application. If, in the Secretary's sole judgment, the jurisdiction is not making substantial progress in achieving the purposes of this title, the Secretary may revoke the approval of the Barrier Removal Plan or the designation of the Housing Opportunity Zone.

(c) OBLIGATION UNDER RELATED PROGRAMS.—(1) The revocation of a Plan approval or Zone designation under this title shall not affect obligations under any other law except to the extent that there is documentary evidence that the Secretary made such obligation subject to the continuation without revocation of the approval or designation.

(2) For a period of one year after the approval or designation ceases to be effective, the Secretary shall have the authority to accord to the jurisdiction that has had a designated Zone the benefits of sections 203(b)(2)(iv) and 203(k)(6) of the National Housing Act.

SEC. __08. REPORTS.

(a) ANNUAL PERFORMANCE REPORTS.—The Secretary may require each jurisdiction that has an approved Barrier Removal Plan or a designated Housing Opportunity Zone, to make annual performance reports, in support of the Secretary's responsibility to conduct progress reviews, and otherwise.

(b) FINAL REPORTS.—Each jurisdiction that has an approved Barrier Removal Plan or a designated Housing Opportunity Zone shall submit a final report to the Secretary, in such form as the Secretary requires, within 6 months after the Plan approval or Zone designation ceases to be effective.

(c) REPORT TO CONGRESS.—The Secretary shall evaluate the programs under this title, and report conclusions and make recommendations to the Congress within 5 years following the date of the original designations and approvals.

SEC. __09. RENTAL REHABILITATION GRANT BONUS.

Section 17(b)(2) of the United States Housing Act of 1937 is amended by adding at the end the following:

"(C) The Secretary is authorized to increase by 5 percent for an approved Barrier Removal Plan, or 10 percent for a designated Housing Opportunity Zone, the amount allocated and otherwise adjusted under this subsection for any jurisdiction that has an approved Plan or a designated Zone, respectively, under the Housing Opportunity Zones Act of 1990.".

SEC. __10. CDBG LOW- AND MODERATE-INCOME BENEFIT IN HOUSING OPPORTUNITY ZONES.

Section 104(b)(3) of the Housing and Community Development Act of 1974 is amended by—

(1) striking out "and (B)" and inserting in lieu thereof the following: "(B) if the grantee is a severely distressed unit of local government and conducts an activity in a designated Housing Opportunity Zone under the Act of 1990, to the extent so conducted, the activity will be deemed to principally benefit low- and moderate-income persons; for purposes of construing the immediately preceding clause, severely distressed unit of local government, means a unit of general local government—

"(i) for which a major disaster is declared, in accordance with the Robert T. Stafford Disaster Refief and Emergency Assistant Act, and that meets such other standards as the Secretary may determine, or

"(ii) that meets the standards established by the Secretary for determining severe distress, which standards shall be based upon measures of the lack of capacity of units of general local government to meet the needs of low- and moderate-income persons with their own resources; and (C)".

SEC. __11. REUSE OF URBAN RENEWAL LAND IN HOUSING OPPORTUNITY ZONES.

The Secretary is authorized to modify or waive any term or condition for the benefit of the Secretary, or the United States, regarding the use or disposition of urban renewal project land, any part of which is located in a Housing Opportunity Zone, including payment of disposition proceeds to the Secretary, under a closeout grant made pursuant to section 106(i) of the Housing Act of 1949 or section 103(b) of the Housing and Community Development Act of 1974, if such action may assist in the carrying out of any activity in such Zone.

SEC. __12. URBAN HOMESTEADING PREFERENCE.

Section 810 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof a new subsection, as follows:

"(m)(1) In selecting urban homesteading programs for approval under subsection (b), the Secretary shall give preference to any unit of general local government that includes a designated Housing Opportunity Zone under the Housing and Opportunity Zones Act of 1990.

"(2) In allocating money for reimbursement under subsection (g), the Secretary shall give preference to making reimbursements for properties that are requested by units of general local government that include a designated Housing Opportunity Zone.".

SEC. __13. SINGLE FAMILY MORTGAGE INSURANCE IN HOUSING OPPORTUNITY ZONES.

(a) MORTGAGE INSURANCE.—The last sentence of paragraph (2) of section 203(b) of the National Housing Act is amended by striking out "or" immediately before "(iii)" and inserting immediately before the final period the following: ", or (iv) the dwelling is located in a designated Housing Opportunity Zone under the Housing Opportunity Zones Act of 1990".

(b) REGULATIONS.—Section 203(k) of the National Housing Act is amended by adding a new paragraph at the end thereof as follows:

"(6)(A) the Secretary is authorized to promulgate regulations that shall, in addition to other purposes under this Act, promote the rehabilitation of housing for lower-, moderate-, and middle-income families (as defined in the Housing Opportunity Zones Act of 1990) in Housing Opportunity Zones designated under such Act.

"(B) The regulations under this paragraph may provide for the Secretary—

"(i) to delegate to a public agency the authority under this subsection to prescribe and implement standards and procedures that shall be in accord with this section and approved by the Secretary, for credit reviews, rehabilitation activities, and other eligibility requirements; and

"(ii) to share the insurance risk with a public agency, through indemnification, coinsurance, or other means the Secretary finds to be appropriate.

"(C) Any action taken by a public agency pursuant to the delegated authority shall be subject to review by the Secretary.".

SEC. __14. APPLICABILITY OF RELOCATION ENVIRONMENTAL REVIEW, AND RELATED LAWS.

Neither the approval of a Barrier Removal Plan nor the designation of a Housing Opportunity Zone under this title shall be deemed to constitute—

(1) acquisition of real property or displacement of any person under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(2) a Federal action or proposal under the National Environmental Policy Act of 1969; or

(3) an action, event, program, project, or undertaking that would invoke the applicability of any procedural duties that would otherwise arise from a Federal environmental or historical preservation law, Executive order, or regulation.

CRANSTON AMENDMENT NO. 2078

Mr. CRANSTON proposed an amendment to the bill S. 566, supra, as follows:

On page 244, between lines 3 and 4, insert the following:

(15) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of $25,000 per dwelling unit.

On page 260, between lines 3 and 4, insert the following:

SEC. 204. ACTUARIAL SOUNDNESS FOR THE MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act is amended by adding the following new subsections at the end thereof:

"(e)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of at least 1.25 percent within 18 months of the date of enactment of this subsection, and shall ensure that at least this ratio is maintained at all times thereafter. If the Secretary determines that the Fund does not have a capital ratio of at least 1.25 percent at any time from the date of enactment of this subsection, the Secretary shall, at least annually, report to the Congress on the financial status of the Fund, advise the Congress of any administrative measures being taken to attain and maintain a capital ratio of at least 1.25 percent, and make any legislative recommendations that the Secretary deems appropriate.

"(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains and maintains a capital ratio of at least 2 percent. Beginning 3 years from the date of enactment of this subsection, the Secretary shall report annually to the Congress on the financial status of the Mutual Mortgage Insurance Fund and efforts to meet the capital ratio goal of at least 2 percent.

"(3) For purposes of this subsection—

"(A) the term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required by section 538 of this Act;

"(B) the term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund;

"(C) the term 'capital ratio' means the ratio of capital to unamortized insurance-in-force; and

"(D) the term 'unamortized insurance-in-force' means the Secretary's estimate of the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund.

"(f) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund.".

Insert on page 3, after "fund." on line 18, the following:

"(g) If the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (f) shows that the Mutual Mortgage Insurance Fund is not meeting the following principles of operation;

(1) maintaining an adequate capital ratio as defined in subsection (e)(1) and (e)(2); and

(2) Meeting the needs of first-time homebuyers by providing access to mortgage credit; and

(3) Avoiding the problems of adverse selection by establishing premiums related to the probability of homeowner default; and

(4) Minimizing the risk to the Fund and to homeowners from homeowner default;

then the Secretary may propose through regulation and implement any adjustments to the insurance premiums referred to in section 203(c), or any other program requirements established by the Secretary, as is necessary to achieve these principles. As soon as the Secretary determines that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for it. Such premium change shall take effect not earlier than 90 days following such notification, unless Congress acts during such time to prevent it.

SEC. 205. RISK-BASED PERIODIC MORTGAGE INSURANCE PREMIUM.

Section 203(c) of the National Housing Act is amended by adding the following at the end thereof:

"Notwithstanding any other provision of law, the Secretary may require payment on mortgages which are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice and taking into account high loan-to-value ratios. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments, and may be required (A) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 95 percent, (B) for up to 10 years if the initial loan-to-value ratio is equal to or less than 95 percent but equal to or greater than 93 percent, and (C) for up to 4 years if the initial loan-to-value ratio is less than 93 percent but greater than or equal to 90 percent. The Secretary may establish a periodic premium rate higher than that referred to in the preceding sentence if necessary to achieve actuarial soundness. The Secretary shall not require payment of an additional premium charge where the initial loan-to-value ratio of the mortgage is less than 90 percent. For purposes of this paragraph, the premium charges shall not be included in the determination of the initial loan-to-value ratio of the mortgage.".

SEC. 206. MORTGAGOR EQUITY IN THE BASIC FHA HOME MORTGAGE INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act is amended by inserting at the end thereof the following new paragraph:

"Notwithstanding any other provision of this paragraph, a mortgage may not have a principal obligation in excess of 98 percent of the appraised value of the property (97 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, 'appraised value' shall be the amount set forth in the written statement required by section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 207. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act is amended by adding at the end the following:

"(g) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

On page 266, line 24, before the period insert ", and to provide tenant-based rental assistance".

On page 267, between lines 4 and 5, insert the following:

(3) RESTRICTION ON NEW CONSTRUCTION.—

(A) IN GENERAL.—Funds made available under this subtitle may not be used for construction of housing in a local area unless the participating jurisdiction certifies to the Secretary that—

(i) the local market area has an inadequate supply of housing at rentals below the fair market rent established for the area under section 8 of the United States Housing Act of 1937, and

(ii) there is a severe shortage of structures in the jurisdiction that are suitable for rehabilitation as rental housing.

(B) CRITERIA FOR CERTIFICATIONS.—The Secretary shall establish criteria to determine whether a jurisdiction's housing supply is sufficiently inadequate to permit new construction pursuant to subparagraph (A). Such criteria shall permit new construction by not less than 30 percent of the jurisdictions eligible to participate in the program under this subtitle. Such criteria shall include objective data on housing market conditions such as low vacancy rates, low turnover of units with rents below fair market rents, and a high proportion of substandard housing.

(C) NEIGHBORHOOD REVITALIZATION.—Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of affordable housing if the participating jurisdiction certifies that—

(i) the program of construction is needed to facilitate a neighborhood revitalization program for an area designated by the jurisdiction that emphasizes rehabilitation of substandard housing for rental or homeownership opportunities by low-income and moderate-income families;

(ii) the project is located in a low- or moderate-income neighborhood, as defined in section 10(j)(13) of the Federal Home Loan Bank Act;

(iii) the number of units to be constructed with assistance under this subtitle does not exceed 20 percent of the total number of units in the neighborhood revitalization program that are assisted with funds under this subtitle; and

(iv) the housing is to be produced by a community housing development organization, as defined in section 104(6), or a public agency.

Clause (iii) of the preceding sentence shall not apply in the case of severely distressed areas with large tracts of vacant land and abandoned buildings.

(D) SPECIAL NEEDS HOUSING.—Notwithstanding the restriction provided in subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of—

(i) affordable housing for large families;

(ii) supportive housing for persons with disabilities;

(iii) single room occupancy housing; and

(iv) other categories of affordable housing for persons with special needs that the Secretary may designate;

if the participating jurisdiction certifies on the basis of objective data in its annual housing strategy that a high priority need for such housing exists in the jurisdiction, and that there is not a supply of vacant, habitable, public housing units in excess of normal vacancies resulting from turnovers that could meet the specified need.

(E) AUDIT.—The Secretary is authorized by audit to determine the validity of certifications under this subsection.

(4) TENANT-BASED RENTAL ASSISTANCE.—(A) A participating jurisdiction may use funds

provided under this subtitle for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this subtitle for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply of decent, affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided to persons eligible for section 8 assistance in accordance with the applicable preferences from the waiting lists.

(B) The jurisdiction's section 8 fair share allocation shall be unaffected by the use of assistance under this subtitle.

(C) Rental assistance contracts made available with assistance under this subtitle shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) In any case where assistance under section 8 of the United States Housing Act of 1937 becomes available to a participating jurisdiction, recipients of rental assistance under this subtitle shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this subtitle. A rental assistance program under this subtitle shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and rent reasonableness.

On page 267, strike line 17 and insert the following:

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of HUD-owned and HUD-held housing, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 8 of the United States Housing Act of 1937;

On page 268, between lines 2 and 3, insert the following:

(d) COST LIMITS.—

(1) IN GENERAL.—The Secretary shall establish limits on the amount of funds under this subtitle that may be invested on a per unit basis. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) CRITERIA.—In calculating per unit limits, the Secretary shall take into account that assistance under this subtitle is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions; and

(C) facilitate mixed-income housing.

(3) CONSULTATION.—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(e) CERTIFICATION OF COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

On page 268, line 3, strike "(d)" and insert "(f)".

On page 270, strike lines 7 through 17 and insert the following:

(1) with respect to rental assistance and rental units, not less than 90 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as very low-income families at the time of occupancy or at the time funds are invested, whichever is later, and the remainder of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families (other than very low-income families) at the time of occupancy or at the time funds are invested, whichever is later;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later; and

On page 274, line 7, strike "moderate" and insert "low".

On page 274, strike lines 9 through 12.

Redesignate accordingly.

On page 275, line 1, strike "moderate" and insert "low".

On page 285, between lines 20 and 21, insert the following:

(B) apply the tenant selection preference categories applicable under section 8 of the United States Housing Act of 1937 to the selection of tenants for housing assisted under this subtitle;

On page 285, line 21, strike "(B)" and insert "(C)".

On page 285, line 23, strike "(C)" and insert "(D)".

Beginning with page 293, line 13, strike all through page 294, line 7, and insert the following:

(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to affordable housing assisted under this subtitle that total, throughout a fiscal year, not less than—

(1) 25 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to rental assistance and housing rehabilitation;

(2) 33 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to substantial rehabilitation; and

(3) 50 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to new construction.

Such contributions shall be in addition to any amounts made available under section 316(2)(A)(ii).

(b) RECOGNITION.—A contribution shall be recognized for purposes of subsection (a) only if it is made with respect to housing that qualifies as affordable housing under section 315.

On page 345, line 4, after the period, add the following: "Notwithstanding the preceding sentence, vouchers may be used to provide replacement housing in any community where the vacancy rate for standard rental units renting at less than the fair market rental exceeds the national average vacancy rate for such units.".

On page 409, between lines 10 and 11, insert the following:

"(c) WINDFALL PROFITS.—The Secretary shall provide a report to the Congress within 90 days of the enactment of the National Affordable Housing Act, evaluating the availability, quality, and reliability of data to measure the accessibility of decent, affordable housing in all areas where properties are eligible to submit a notice of intent to prepay under section 222. To prevent payment of windfall profits, the Secretary may make available incentive payments only to owners in those rental markets where there is an adequate supply of decent, affordable housing, if the Secretary determines that adequate data can be obtained to permit objective and fair implementation.".

Beginning with page 441, line 19, strike all through page 442, line 3, and insert the following:

(2) PROJECT BASING OF CERTIFICATES.—Section 8(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new subparagraph:

"(E) The Secretary shall annually survey public housing agencies to determine the extent to which the 15 percent limitations contained in subparagraphs (A) and (B) are exceeded, and shall report to the Congress on the results of such survey.".

On page 442, strike lines 23 and 24, and insert the following:

8(d)(2)(B) of the United States Housing Act of 1937 is amended—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end thereof the following:

On page 443, line 1, strike "(ii)" and insert "(iii)".

Beginning with page 456, line 13, strike all through page 462, line 16, and insert the following:

SEC. 531. OPERATION BOOTSTRAP PROGRAM.

(a) IN GENERAL.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 22. OPERATION BOOTSTRAP PROGRAM.

"(a) PURPOSE.—The purpose of the Operation Bootstrap Program established under this section is to promote the development of local strategies to coordinate assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

"(b) ESTABLISHMENT OF PROGRAM.—

"(1) REQUIRED PROGRAMS.—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (o) of section 8 may carry out a local Operation Bootstrap Program under this section, and effective on October 1, 1992, the Secretary shall require each agency to carry out such a program. Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the Operation Bootstrap Program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordi-

nator to administer the local program. The public housing agency shall take steps to ensure that, at the earliest practicable time, the number of families participating under the Operation Bootstrap Program shall be no less than a number equal to the aggregate number of certificates and vouchers that may be funded from such additional assistance, beginning with fiscal year 1991. The agency shall continue to operate the program for that number of families as long as it has sufficient funding under its certificate and voucher programs to do so.

"(2) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency demonstrates, to the satisfaction of the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, including—

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; and

"(D) any other circumstances that the Secretary may consider appropriate.

"(c) CONTRACT OF PARTICIPATION.—

"(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with participating leaseholders receiving assistance under the certificate and voucher programs of the public housing agency under section 8 who elect to participate in the Operation Bootstrap Program under this section. The contract shall set forth the provisions of the local program and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family.

"(2) SUPPORTIVE SERVICES.—A local program under this section shall provide supportive services in accordance with the terms and conditions of the contract of participation under paragraph (1) to each participating family. The supportive services shall be provided during the period the family is receiving assistance under section 8, and may include—

"(A) child care;

"(B) transportation necessary to receive services;

"(C) remedial education;

"(D) education for completion of high school;

"(E) job training and preparation;

"(F) substance abuse treatment and counseling;

"(G) training in homemaking and parenting skills;

"(H) training in money management;

"(I) training in household management;

"(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

"(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

"(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

"(d) MAXIMUM RENTS AND ESCROW SAVINGS ACCOUNTS.—

"(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by a participating family for occupancy in the dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in housing assisted under section 8, the rent charged the participating family shall be increased to 30 percent of the monthly adjusted income of the family.

"(2) ESCROW SAVINGS ACCOUNTS.—For each participating family, the difference between 30 percent of the income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.

"(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for benefits, or amount of benefits payable to the family, under any Federal of federally assisted program based on need, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

"(f) PROGRAM COORDINATING COMMITTEE.—

"(1) FUNCTIONS.—Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

"(2) MEMBERSHIP.—The program coordinating committee shall consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

"(g) ACTION PLAN.—

"(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the Operation Bootstrap Program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

"(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

"(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

"(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local Operation Bootstrap Program;

"(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

"(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 program, which shall be provided by both public and private resources;

"(D) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

"(E) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

"(F) a timetable for implementation of the local program; and

"(G) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training program under part F of title IV of the Social Security Act and program under the Job Training Partnership Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

"(h) ALLOWABLE SECTION 8 ADMINISTRATIVE FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the Operation Bootstrap Program under this section. The fee shall be the fee in effect under such section on June 1, 1990, until the Comptroller General of the United States reports under section 532 of the National Affordable Housing Act when the Secretary shall adopt the fee recommended in the Comptroller General's report.

"(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

"(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

"(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local Operation Bootstrap Program under this section. The Secretary shall establish performance criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

"(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local Operation Bootstrap Program established by the public housing agency under this section.

"(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve not less than 10 percent of the budget authority available in fiscal year 1991 and fiscal year 1992 for certificate and voucher assistance under section 8 for allocation under this subsection.

"(j) FLEXIBILITY.—In establishing and carrying out the Operation Bootstrap Program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

"(k) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency that carries out a local Operation Bootstrap Program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

"(A) a description of the activities carried out under the program;

"(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

"(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self sufficiency; and

"(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the Operation Bootstrap Program carried out by the Secretary and ensure the effectiveness of the program.

"(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the Operation Bootstrap Program under this section.

"(l) GAO REPORT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the Operation Bootstrap Program carried out by the Secretary under this section.

"(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on the date of the enactment of the National Affordable Housing Act.

"(B) A final report, not later than the expiration of the 5-year period beginning on the date of the enactment of the National Affordable Housing Act.

"(m) DEFINITIONS.—As used in this section:

"(1) The term 'contract of participation' means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

"(2) The term 'earned income' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

"(3) The term 'local program' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

"(4) The term 'participating family' means a family that resides in housing assisted under section 8 and elects to participate in a local Operation Bootstrap Program under this section.

"(n) EFFECTIVE DATE AND REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the National Affordable Housing Act, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.".

On page 463, line 2, after the period, insert the following: "In addition, in preparing such report, the Comptroller General shall consider the additional costs to public housing agencies under such programs and shall recommend a change in the amount of the administrative fee under section 8(q) of the United States Housing Act of 1937 to cover the additional costs of carrying out the Operation Bootstrap Program.".

On page 463, between lines 10 and 11, insert the following:

(2) an analysis of the extent to which public housing agencies can reasonably and effectively obtain supportive services in connection with the Operation Bootstrap Program and other programs that link supportive services to Federal housing assistance;

On page 463, line 12, strike "(2)" and insert "(3)".

On page 602, line 2, strike "50" and insert "70".

On page 18, line 11, strike "$100,000,000" and all that follows through the period on line 13, and insert "$90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

On page 33, line 1, strike "$100,000,000" and all that follows through the first period on line 3, and insert "$90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

On page 48 strike all of the matter on lines 11 through 13, and insert the following: "There are authorized to be appropriated $120,000,000 in fiscal year 1991, and $150,000,000 in each of the fiscal years 1992 through 1995 to carry out this part.".

On page 51, line 21, strike "$50,000,000" and all that follows through the period on line 23, and insert "$40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

On page 65, line 20, strike "50,000,000" and all that follows though "1995." on line 21, and insert "$40,000,000 for fiscal year 1991, and $50,000,000 for each of the fiscal years 1992 through 1995.".

On page 325, line 4, strike "$50,000,000" and insert "$96,000,000".

On page 325, line 5, strike "$75,000,000" and insert "$260,000,000".

On page 325, line 6, strike "$100,000,000" and insert "$400,000,000".

On page 355, line 25, strike "$25,000,000" and insert "$72,000,000".

On page 356, line 1, strike "$35,000,000" and insert "$195,000,000".

On page 356, line 2, strike "$45,000,000" and insert "$300,000,000".

On page 383, line 23, strike "$25,000,000" and insert "$72,000,000".

On page 383, line 24, strike "$35,000,000" and insert "$195,000,000".

On page 384, line 1, strike "$45,000,000" and insert "$300,000,000".

On page 454, line 9, strike "$2,896,920,000" and insert "$2,826,360,000".

On page 454, line 10, strike "$3,019,003,000" and insert "$2,865,748,000".

On page 454, line 10, strike "$3,139,764,000" and insert "$2,809,346,000".

On page 454, line 21, strike "$1,185,600,000" and insert "$1,138,800,000".

On page 455, line 4, strike "$1,128,600,000" and insert "$1,104,840,000".

On page 455, line 11, strike "$1,233,024,000" and insert "$1,129,190,000".

On page 455, line 20, strike "$1,173,744,000" and insert "$1,124,323,000".

On page 456, line 2, strike "$1,282,345,000" and insert "$1,057,935,000".

On page 456, line 11, strike "$1,220,694,000" and insert "$1,114,686,000".

On page 644, after line 19, add the following new section:

SEC. 904. PROTECTION OF INDIVIDUALS ENGAGING IN NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS.

(a) Section 104 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(1) Protection of individuals engaging in nonviolent civil rights demonstrations.

"No funds authorized to be appropriated under section 103 of this Act may be obligated or expended to any municipality that:

"(1) fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations; or

"(2) fails to adopt and enforce a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within the jurisdiction of said municipality."

(b) This section shall be in effect for fiscal years beginning after September 30, 1990.

SEC. . DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT STUDY.

The Secretary of the United States Department of Housing and Urban Development shall conduct a study to examine how private non-profit initiatives to provide low-income housing development in local communities across the country have succeeded. The Secretary shall place particular empha-

sis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development. The Secretary shall convene individuals, of his choosing, who have demonstrated an expertise in such private non-profit initiatives from across the country and draw on their expertise in implementing such programs. The study shall include the results of, and suggestions by, such individuals.

The Secretary shall report to the Congress of the United States of America the findings of this study not later than twelve months after this bill becomes public law.

On page 247, line 25, strike the word "and".

On page 248, line 2, strike the period at the end of the sentence and insert "; and".

On page 248, between lines 2 and 3, insert the following new paragraph:

"(12) include the number of families the jurisdiction will provide affordable housing as defined in section 315 using funds made available under this Act.".

On page 253, line 2, after "include" insert the following: "an evaluation of the jurisdiction's progress in meeting its goal established in section 105(b)(12) of this Act, and".

On page 266, line 11, after "housing" insert the following: "and increase the number of families served with affordable housing".

On page 260, between lines 3 and 4, insert the following:

SEC. . SENSE OF THE SENATE REGARDING USE OF IRA'S FOR FIRST-TIME HOME PURCHASES.

(a) FINDINGS.—The Senate finds that—

(1) the national rate of homeownership has been declining.

(2) average housing prices and, therefore, down payment requirements have risen above the means of many first-time homebuyers.

(3) homeownership promotes self-sufficiency and individual prosperity, and

(4) parents and grandparents are more likely to have sufficient financial resources to assist in first-time home purchases.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) an owner of an individual retirement account should be allowed to make withdrawals from an account for the purpose of a first-time home purchase, without incurring a penalty, and

(2) the appropriate changes in law should be considered as part of tax legislation during this session of Congress.

SEC. . AMENDMENTS RELATING TO EXPEDITED FUNDS AVAILABILITY ACT.

(1) ATM DEPOSITS.—

(1) IN GENERAL.—Section 603(a) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(A) in paragraph (1)(A), by striking "6" and inserting "4";

(B) in paragraph (1)(C), by striking "1990" and inserting "1994".

(C) in paragraph (2)(D), by striking "1990" and inserting "1994".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall take effect on September 1, 1990.

D'AMATO AMENDMENT NO. 2079

Mr. D'AMATO proposed an amendment to amendment No. 2078 proposed by Mr. CRANSTON to the bill S. 566, supra, as follows:

On page 244, between lines 3 and 4, insert the following:

(15) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of $25,000 per dwelling unit.

On page 260, between lines 3 and 4, insert the following:

SEC. 204. ACTUARIAL SOUNDNESS FOR THE MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act is amended by adding the following new subsections at the end thereof:

"(e)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of at least 1.25 percent within 18 months of the date of enactment of this subsection, and shall ensure that at least this ratio is maintained at all times thereafter. If the Secretary determines that the Fund does not have a capital ratio of at least 1.25 percent at any time from the date of enactment of this subsection, the Secretary shall, at least annually, report to the Congress on the financial status of the Fund, advise the Congress of any administrative measures being taken to attain and maintain a capital ratio of at least 1.25 percent, and make any legislative recommendations that the Secretary deems appropriate.

"(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains and maintains a capital ratio of at least 2 percent. Beginning 3 years from the date of enactment of this subsection, the Secretary shall report annually to the Congress on the financial status of the Mutual Mortgage Insurance Fund and efforts to meet the capital ratio goal of at least 2 percent.

"(3) For purposes of this subsection—

"(A) the term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required by section 538 of this Act;

"(B) the term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund;

"(C) the term 'capital ratio' means the ratio of capital to unamortized insurance-in-force; and

"(D) the term 'unamortized insurance-in-force' means the Secretary's estimate of the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund.

"(f) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund.".

Insert on page 3, after "Fund" on line 18, the following:

"(g) If the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (f) shows that the Mutual Mortgage Insurance Fund is not meeting the following principles of operation:

"(1) maintaining an adequate capital ratio as defined in subsection (e)(1) and (e)(2); and

"(2) Meeting the needs of first-time homebuyers by providing access to mortgage credit; and

"(3) Avoiding the problems of adverse selection by establishing premiums related to the probability of homeowner default; and

"(4) Minimizing the risk to the Fund and to homeowners from homeowner default;

then the Secretary may propose through regulation and implement any adjustments to the insurance premiums referred to in section 203(c), or any other program requirements established by the Sectetary as is necessary to achieve these principles. As soon as the Secretary determines that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for it. Such premium change shall take effect not earlier than 90 days following such notification, unless Congress acts during such time to prevent it.".

SEC. 205. RISK-BASED PERIODIC MORTGAGE INSURANCE PREMIUM.

Section 203(c) of the National Housing Act is amended by adding the following at the end thereof:

"Notwithstanding any other provision of law, the Secretary may require payment on mortgages which are obligations of the Mutual Mortgage Insurance Fund of an additional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice and taking into account high loan-to-value ratios. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments, and may be required (A) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 95 percent, (B) for up to 10 years if the initial loan-to-value ratio is equal to or less than 95 percent but equal to or greater than 93 percent, and (C) for up to 4 years if the initial loan-to-value ratio is less than 93 percent but greater than or equal to 90 percent. The Secretary may establish a periodic premium rate higher than that referred to in the preceding sentence if necessary to achieve actuarial soundness. The Secretary shall not require payment of an additional premium charge where the initial loan-to-value ratio of the mortgage is less than 90 percent. For purposes of this paragraph, the premium charges shall not be included in the determination of the initial loan-to-value ratio of the mortgage.".

SEC. 206. MORTGAGOR EQUITY IN THE BASIC FHA HOME MORTGAGE INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act is amended by inserting at the end thereof the following new paragraph:

"Notwithstanding any other provision of this paragraph, a mortgage may not have a principal obligation in excess of 98 percent of the appraised value of the property (97 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, 'appraised value' shall be the amount set forth in the written statement required by section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 207. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act is amended by adding at the end the following:

"(g) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into

account the actuarial status of the entire Fund.".

On page 266, line 24, before the period insert ", and to provide tenant-based rental assistance".

On page 267, between lines 4 and 5, insert the following:

(3) RESTRICTION ON NEW CONSTRUCTION.—

(A) IN GENERAL.—Funds made available under this subtitle may not be used for construction of housing in a local area unless the participating jurisdiction certifies to the Secretary that—

(i) the local market area has an inadequate supply of housing at rentals below the fair market rent established for the area under section 8 of the United States Housing Act of 1937, and

(ii) there is a severe shortage of structures in the jurisdiction that are suitable for rehabilitation as rental housing.

(B) CRITERIA FOR CERTIFICATIONS.—The Secretary shall establish criteria to determine whether a jurisdiction's housing supply is sufficiently inadequate to permit new construction pursuant to subparagraph (A). Such criteria shall permit new construction by not less than 30 percent of the jurisdictions eligible to participate in the program under this subtitle. Such criteria shall include objective data on housing market conditions such as low vacancy rates, low turnover of units with rents below fair market rents, and a high proportion of substandard housing.

(C) NEIGHBORHOOD REVITALIZATION.—Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of affordable housing if the participating jurisdiction certifies that—

(i) the program of construction is needed to facilitate a neighborhood revitalization program for an area designated by the jurisdiction that emphasizes rehabilitation of substandard housing for rental or homeownership opportunities by low-income and moderate-income families;

(ii) the project is located in a low- or moderate-income neighborhood, as defined in section 10(j)(13) of the Federal Home Loan Bank Act;

(iii) the number of units to be constructed with assistance under this subtitle does not exceed 20 percent of the total number of units in the neighborhood revitalization program that are assisted with funds under this subtitle; and

(iv) the housing is to be produced by a community housing development organization, as defined in section 104(6), or a public agency.

Clause (iii) of the preceding sentence shall not apply in the case of severely distressed areas with large tracts of vacant land and abandoned buildings.

(D) SPECIAL NEEDS HOUSING.—Notwithstanding the restriction provided in subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of—

(i) affordable housing for large families;

(ii) supportive housing for persons with disabilities;

(iii) single room occupancy housing; and

(iv) other categories of affordable housing for persons with special needs that the Secretary may designate;

if the participating jurisdiction certifies on the basis of objective data in its annual housing strategy that a high priority need for such housing exists in the jurisdiction, and that there is not a supply of vacant, habitable public housing units in excess of normal vacancies resulting from turnovers that could meet the specified need.

(E) AUDIT.—The Secretary is authorized by audit to determine the validity of certifications under this subsection.

(4) TENANT-BASED RENTAL ASSISTANCE.—(A) A participating jurisdiction may use funds provided under this subtitle for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this subtitle for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply of decent, affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided to persons eligible for section 8 assistance in accordance with the applicable preferences from the waiting lists.

(B) The jurisdiction's section 8 fair share allocation shall be unaffected by the use of assistance under this subtitle.

(C) Rental assistance contracts made available with assistance under this subtitle shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) In any case where assistance under section 8 of the United States Housing Act of 1937 becomes available to a participating jurisdiction, recipients of rental assistance under this subtitle shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this subtitle. A rental assistance program under this subtitle shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and rent reasonableness.

On page 267, strike line 17 and insert the following:

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of HUD-owned and HUD-held housing, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 8 of the United States Housing Act of 1937;

On page 268, between lines 2 and 3, insert the following:

(d) COST LIMITS.—

(1) IN GENERAL.—The Secretary shall establish limits on the amount of funds under this subtitle that may be invested on a per unit basis. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) CRITERIA.—In calculating per unit limits, the Secretary shall take into account that assistance under this subtitle is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions; and

(C) facilitate mixed-income housing.

(3) CONSULTATION.—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(e) CERTIFICATION OF COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

On page 268, line 3, strike "(d)" and insert "(f)".

On page 270, strike lines 7 through 17 and insert the following:

(1) with respect to rental assistance and rental units, not less than 90 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as very low-income families at the time of occupancy or at the time funds are invested, whichever is later, and the remainder of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families (other than very low-income families) at the time of occupancy or at the time funds are invested, whichever is later;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later; and

On page 274, line 7, strike "moderate" and insert "low".

On page 274, strike lines 9 through 12.

Redesignate accordingly.

On page 275, line 1, strike "moderate" and insert "low".

On page 285, between lines 20 and 21, insert the following:

(B) apply the tenant selection preference categories applicable under section 8 of the United States Housing Act of 1937 to the selection of tenants for housing assisted under this subtitle;

On page 285, line 21, strike "(B)" and insert "(C)".

On page 285, line 23, strike "(C)" and insert "(D)".

Beginning with page 293, line 13, strike all through page 294, line 7, and insert the following:

(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to affordable housing assisted under this subtitle that total, throughout a fiscal year, not less than—

(1) 25 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to rental assistance and housing rehabilitation;

(2) 33 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to substantial rehabilitation; and

(3) 50 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to new construction.

Such contributions shall be in addition to any amounts made available under section 316(2)(A)(ii).

(b) RECOGNITION.—A contribution shall be recognized for purposes of subsection (a) only if it is made with respect to housing that qualifies as affordable housing under section 315.

On page 345, line 4, after the period, add the following: "Notwithstanding the preceding sentence, vouchers may be used to provide replacement housing in any community where the vacancy rate for standard rental units renting at less than the fair market

rental exceeds the national average vacancy rate for such units.".

On page 409, between lines 10 and 11, insert the following:

"(c) WINDFALL PROFITS.—The Secretary shall provide a report to the Congress within 90 days of the enactment of the National Affordable Housing Act, evaluating the availability, quality, and reliability of data to measure the accessibility of decent, affordable housing in all areas where properties are eligible to submit a notice of intent to prepay under section 222. To prevent payment of windfall profits, the Secretary may make available incentive payments only to owners in those rental markets where there is an adequate supply of decent, affordable housing, if the Secretary determines that adequate data can be obtained to permit objective and fair implementation.

Beginning with page 441, line 19, strike all through page 442, line 3, and insert the following:

(2) PROJECT BASING OF CERTIFICATES.—Section 8(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new subparagraph:

"(E) The Secretary shall annually survey public housing agencies to determine the extent to which the 15 percent limitations contained in subparagraphs (A) and (B) are exceeded, and shall report to the Congress on the results of such survey.".

On page 442, strike lines 23 and 24, and insert the following:

8(d)(2)(B) of the United States Housing Act of 1937 is amended—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end thereof the following:

On page 443, line 1, strike "(ii)" and insert "(iii)".

Beginning with page 456, line 13, strike all through page 462, line 16, and insert the following:

SEC. 531. OPERATION BOOTSTRAP PROGRAM.

(a) IN GENERAL.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 22. OPERATION BOOTSTRAP PROGRAM.

"(a) PURPOSE.—The purpose of the Operation Bootstrap Program established under this section is to promote the development of local strategies to coordinate assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

"(b) ESTABLISHMENT OF PROGRAM.—

"(1) REQUIRED PROGRAMS.—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (o) of section 8 may carry out a local Operation Bootstrap Program under this section, and effective on October 1, 1992, the Secretary shall require each agency to carry out such a program. Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the Operation Bootstrap Program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program. The public housing agency shall take steps to ensure that, at the earliest practicable time, the number of families participating under the Operation Bootstrap Program shall be no less than a number equal to the aggregate number of certificates and vouchers that may be funded from such additional assistance, beginning with fiscal year 1991. The agency shall continue to operate the program for that number of families as long as it has sufficient funding under its certificate and voucher programs to do so.

"(2) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency demonstrates, to the satisfaction of the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, including—

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; and

"(D) any other circumstances that the Secretary may consider appropriate.

"(c) CONTRACT OF PARTICIPATION.—

"(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with participating leaseholders receiving assistance under the certificate and voucher programs of the public housing agency under section 8 who elect to participate in the Operation Bootstrap Program under this section. The contract shall set forth the provisions of the local program and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family.

"(2) SUPPORTIVE SERVICES.—A local program under this section shall provide supportive services in accordance with the terms and conditions of the contract of participation under paragraph (1) to each participating family. The supportive services shall be provided during the period the family is receiving assistance under section 8, and may include—

"(A) child care;

"(B) transportation necessary to receive services;

"(C) remedial education;

"(D) education for completion of high school;

"(E) job training and preparation;

"(F) substance abuse treatment and counseling;

"(G) training in homemaking and parenting skills;

"(H) training in money management;

"(I) training in household management;

"(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

"(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

"(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

"(d) MAXIMUM RENTS AND ESCROW SAVINGS ACCOUNTS.—

"(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by a participating family for occupancy in the dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in housing assisted under section 8, the rent charged the participating family shall be increased to 30 percent of the monthly adjusted income of the family.

"(2) ESCROW SAVINGS ACCOUNTS.—For each participating family, the difference between 30 percent of the income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.

"(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for benefits, or amount of benefits payable to the family, under any Federal of federally assisted program based on need, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

"(f) PROGRAM COORDINATING COMMITTEE.—

"(1) FUNCTIONS.—Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

"(2) MEMBERSHIP.—The program coordinating committee shall consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

"(g) ACTION PLAN.—

"(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the Operation Bootstrap Program under this section to submit to the Secretary, for approval by the Secre-

tary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

"(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

"(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

"(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local Operation Bootstrap Program;

"(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

"(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 program, which shall be provided by both public and private resources;

"(D) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

"(E) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

"(F) a timetable for implementation of the local program; and

"(G) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training program under part F of title IV of the Social Security Act and program under the Job Training Partnership Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

"(h) ALLOWABLE SECTION 8 ADMINISTRATIVE FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the Operation Bootstrap Program under this section. The fee shall be the fee in effect under such section on June 1, 1990, until the Comptroller General of the United States reports under section 532 of the National Affordable Housing Act when the Secretary shall adopt the fee recommended in the Comptroller General's report.

"(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

"(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

"(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local Operation Bootstrap Program under this section. The Secretary shall establish performance criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

"(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local Operation Bootstrap Program established by the public housing agency under this section.

"(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve not less than 10 percent of the budget authority available in fiscal year 1991 and fiscal year 1992 for certificate and voucher assistance under section 8 for allocation under this subsection.

"(j) FLEXIBILITY.—In establishing and carrying out the Operation Bootstrap Program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

"(k) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency that carries out a local Operation Bootstrap Program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

"(A) a description of the activities carried out under the program;

"(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

"(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self sufficiency; and

"(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the Operation Bootstrap Program carried out by the Secretary and ensure the effectiveness of the program.

"(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the Operation Bootstrap Program under this section.

"(l) GAO REPORT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the Operation Bootstrap Program carried out by the Secretary under this section.

"(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on the date of the enactment of the National Affordable Housing Act.

"(B) A final report, not later than the expiration of the 5-year period beginning on the date of the enactment of the National Affordable Housing Act.

"(m) DEFINITIONS.—As used in this section:

"(1) The term 'contract of participation' means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

"(2) The term 'earned income' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

"(3) The term 'local program' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

"(4) The term 'participating family' means a family that resides in housing assisted under section 8 and elects to participate in a local Operation Bootstrap Program under this section.

"(n) EFFECTIVE DATE AND REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the National Affordable Housing Act, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.".

On page 463, line 2, after the period, insert the following: "In addition, in preparing such report, the Comptroller General shall consider the additional costs to public housing agencies under such programs and shall recommend a change in the amount of the administrative fee under section 8(q) of the United States Housing Act of 1937 to cover the additional costs of carrying out the Operation Bootstrap Program.".

On page 463, between lines 10 and 11, insert the following:

(2) an analysis of the extent to which public housing agencies can reasonably and effectively obtain supportive services in connection with the Operation Bootstrap Program and other programs that link supportive services to Federal housing assistance;

On page 463, line 12, strike "(2)" and insert "(3)".

On page 602, line 2, strike "50" and insert "70".

On page 325, line 4, strike "$50,000,000" and insert $96,000,000".

On page 325, line 5, strike "$75,000,000" and insert $260,000,000".

On page 325, line 6, strike "$100,000,000" and insert $400,000,000".

On page 355, line 25, strike "$25,000,000" and insert $72,000,000".

On page 356, line 1, strike "$35,000,000" and insert $195,000,000".

On page 356, line 2, strike "$45,000,000" and insert $300,000,000".

On page 383, line 23, strike "$25,000,000" and insert $72,000,000".

On page 383, line 24, strike "$35,000,000" and insert $195,000,000".

On page 384, line 1, strike "$45,000,000" and insert $300,000,000".

On page 454, line 9, strike "$2,896,920,000" and insert $2,826,360,000".

On page 454, line 10, strike "$3,019,003,000" and insert $2,865,748,000".

On page 18, line 11, strike "$100,000,000" and all that follows through the period on line 13, and insert "$90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

On page 33, line 1, strike "$100,000,000" and all that follows through the first period on line 3, and insert "$90,000,000 for fiscal year 1991, $100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

On page 48, strike all of the matter on lines 11 through 13, and insert the following: "There are authorized to be appropriated $120,000,000 in fiscal year 1991, and $150,000,000 in each of the fiscal years 1992 through 1995 to carry out this part.".

On page 51, line 21, strike "$50,000,000" and all that follows through the period on line 23, and insert "$40,000,000 for fiscal year 1991, $50,000,000 for fiscal years 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

On page 65, line 20, strike "$50,000,000" and all that follows through "1995" on line 21, and insert "$40,000,000 for fiscal year 1991, and $50,000,000 for each of the fiscal years 1992 through 1995.".

On page 454, line 10, strike "$3,139,764,000" and insert "$2,809,346,000".

On page 454, line 21, strike "$1,185,600,000" and insert "$1,138,800,000".

On page 455, line 4, strike "$1,128,600,000" and insert "$1,104,840,000".

On page 455, line 11, strike "$1,233,024,000" and insert "$1,129,190,000".

On page 455, line 20, strike "$1,173,744,000" and insert "$1,124,323,000".

On page 456, line 2, strike "$1,282,345,000" and insert "$1,057,935,000".

On page 456, line 11, strike "$1,220,694,000" and insert "$1,114,686,000".

On page 644, after line 19, add the following new section:

SEC. 904. PROTECTION OF INDIVIDUALS ENGAGING IN NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS.

(a) Section 104 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(*l*) Protection of individuals engaging in nonviolent civil rights demonstrations.

"No funds authorized to be appropriated under section 103 of this Act may be obligated or expended to any municipality that:

"(1) fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations; or

"(2) fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within the jurisdiction of said municipality."

(b) This section shall be in effect for fiscal years beginning after September 30, 1990.

SEC. . DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT STUDY.

The Secretary of the United States Department of Housing and Urban Development shall conduct a study to assess how private non-profit initiatives to provide low-income housing development in local communities across the country have succeeded. The Secretary shall place particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development. The Secretary shall convene individuals, of his choosing, who have demonstrated an expertise in such private nonprofit initiatives from across the country and draw on their expertise in implementing such programs. The study shall include the results of, and suggestions by, such individuals.

The Secretary shall report to the Congress of the United States of America the findings of this study not later than twelve months after this bill becomes Public Law.

On page 247, line 25, strike the word "and".

On page 248, line 2, strike the period at the end of the sentence and insert "; and".

On page 248, between lines 2 and 3, insert the following new paragraph:

"(12) include the number of families the jurisdiction will provide affordable housing as defined in section 315 using funds made available under this Act.".

On page 253, line 2, after "include" insert the following: "an evaluation of the jurisdiction's progress in meeting its goals established in section 105(b)(12) of this Act, and".

On page 266, line 11 after "housing" insert the following: "and increase the number of families served with affordable housing".

On page 260, between lines 3 and 4, insert the following:

SEC. . SENSE OF THE SENATE REGARDING USE OF IRA'S FOR FIRST-TIME HOME PURCHASES.

(a) FINDINGS.—The Senate finds that—

(1) the national rate of homeownership has been declining.

(2) average housing prices and, therefore, down payment requirements have risen above the means of many first-time homebuyers,

(3) homeownership promotes self-sufficiency and individual prosperity, and

(4) parents and grandparents are more likely to have sufficient financial resources to assist in first-time home purchases.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) an owner of an individual retirement account should be allowed to make withdrawals from an account for the purpose of a first-time home purchase, without incurring a penalty, and

(2) the appropriate changes in law should be considered as part of tax legislation during this session of Congress.

SEC. . AMENDMENT RELATING TO EXPEDITED FUNDS AVAILABILITY ACT.

(a) ATM DEPOSIT.—

(1) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(A) in paragraph (1)(A), by striking "6" and inserting "4";

(B) in paragraph (1)(C), by striking "1990" and inserting "1994".

(C) in paragraph (2)(D), by striking "1990" and inserting "1994".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall take effect on September 1, 1990.

HELMS (AND OTHERS) AMENDMENT NO. 2080

Mr. HELMS (for himself, Mr. MCCLURE, Mr. MACK, Mr. LOTT, Mr. SYMMS, Mr. GRASSLEY, Mr. HATCH, Mr. KASTEN, and Mr. WALLOP) proposed an amendment to the bill S. 566, supra, as follows:

At the end of the amendment, add the following:

"The Congress finds that:

"The elimination of Government waste should be the major component of deficit reduction.

"Revenues for fiscal year 1990 will grow by more than $82 billion as a result of economic growth.

"The Comptroller General has stated that there is approximately $100 to $200 billion in annual Government waste, fraud, and mismanagement.

"There is more than $125 billion in outstanding delinquent debt owed to the Government by individuals.

"The Office of Management and Budget has identified more than 100 "high-risk" programs that are vulnerable to fraud, waste, and abuse.

"The Federal Government has more than $5.7 trillion in outstanding credit and insurance, representing a massive potential risk to taxpayers.

"Citizens Against Government Waste has issued a report outlining 107 recommendations for cutting waste in the Federal Government.

"If enacted, these recommendations would save the Federal Government more than $300 billion over five years without impairing essential Government programs.

"Tax increases of any kind will reduce savings and investment and have a negative effect on the economy.

"Reducing waste would free the inefficient use of resources by the Government and release them into the private sector.

"It is the sense of the Senate that the President and the members of the budget summit should base their deficit reduction recommendations on enactment of the waste-cutting proposals contained in the June 1990 report of the Citizens Against Government Waste rather than on enactment of new or increased taxes.".

GRAMM AMENDMENT NO. 2081

Mr. GRAMM proposed an amendment to the bill S. 566, supra, as follows:

At the appropriate place in title IX of the Committee substitute insert the following:

The Secretary of Housing and Urban Development shall not later than July 1, 1991, report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Housing, and Urban Affairs with respect to the adequacy, effectiveness, and equity of the formula used for allocations of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the structure of the formulas, the eligibility criteria, the forumla factors, and the weights that are assigned to the formula factors.

The study should specifically examine the appropriateness of using the age of housing as a factor and also consider quality of housing as an additional factor and the desirability of including at an equal or greater weight the age of housing and the quality of housing. Based on the Secretary's analysis, the Secretary shall submit a new formula for the allocation of funds if the Secretary determines that the study indicates that a new formula is required to meet the pur-

poses of title I of the Housing and Community Development Act of 1974. The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking of the House of Representatives shall hold hearings on the Secretary's recommendations not later than 60 days after the receipt of the report.

The study should be completed using the data derived from the 1990 census or the most recent census data available.".

DeCONCINI AMENDMENT NO. 2082

Mr. CRANSTON (for Mr. DeCONCINI) proposed an amendment to the bill S. 566, supra, as follows:

At the end of title X add the following:

SEC. . STUDY OF USE OF CERTIFIED MAIL.

The Secretray shall carry out a study to determine the extent to which the use of certified mail to notify mortgagors of the availability of counseling to which the mortgagor may be entitled would improve mortgagor participation in the Assignment Program, reduce unwarranted foreclosures, and reduce FHA mortgage insurance program costs associated with delays in foreclosure proceedings. The secretary shall report the results of such study to Congress no later than 6 months after the enactment of this Act.

COHEN (AND OTHERS) AMENDMENT NO. 2083

Mr. COHEN (for himself, Mr. HELMS, Mr. McCLURE, Mr. MACK, Mr. LOTT, Mr. SYMMS, Mr. GRASSLEY, Mr. HATCH, Mr. KASTEN, and Mr. WALLOP) proposed an amendment, which was subsequently modified, to amendment No. 2080 proposed by Mr. HELMS to the bill S. 566, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

"The Congress finds that:

"The elimination of Government waste should be the major component of deficit reduction.

"Revenues for fiscal year 1990 will grow by more than $82 billion as a result of economic growth.

"The Comptroller General has stated that there is approximately $100 to $200 billion in annual Government waste, fraud, and mismanagement.

"There is more than $125 billion in outstanding delinquent debt owed to the Government by individuals.

"The Office of Management and Budget has identified more than 100 "high-risk" programs that are vulnerable to fraud, waste, and abuse.

"The Federal Government has more than $5.7 trillion in outstanding credit and insurance, representing a massive potential risk to taxpayers.

"Reducing waste would free the inefficient use of resources by the Government and release them into the private sector.

"It is the sense of the Senate that the President and the members of the budget summit should consider the most feasible of the deficit reduction recommendations contained in the June 1990 Report of Citizens Against Government Waste, as well as those in the public record of CBO, GAO, OMB and other agencies before considering new or increased taxes.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that two oversight field hearings have been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The first hearing will take place on Friday, July 13, 1990, beginning at 10 a.m. and ending at approximately 12:30 p.m. The hearing will be held in the auditorium of the Hawaii State Capitol in Honolulu, Hawaii.

The purpose of the hearing will be to receive testimony regarding the reforestation of rare or declining varieties of native trees in Hawaii.

The second hearing will take place on Saturday, July 14, 1990, from 10 a.m. until 12:30 p.m. This hearing also will be held in the State capitol auditorium in Honolulu.

The purpose of the second hearing is to receive testimony concerning the possiblity of establishing a unit of the National Park System along the Ka Iwi shoreline on the island of Oahu.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony may bring two copies to the hearing, or send two copies to either Senator Akaka's Honolulu office in the Kalanianaole Federal Building, 3104 Prince Jonah Kuhio, Honolulu, HI 96813, or to the Subcommittee on Public Lands, National Parks and Forests, Committee on Energy and Natural Resources, 364 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the subcommittee staff in Washington at (202) 224-9863.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unaimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, June 27, 15 9:30 a.m. for a hearing on the legislation: S. 1978, the Trade and Technology Promotion Act of 1989.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, June 27, beginning at 9:30 a.m., to conduct a hearing to consider S. 2637, the Lead Exposure Reduction Act of 1990 and S. 2593, the Lead Ban Act of 1990, legislation to reduce lead in the environment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 27, at 9:30 a.m., for an executive session on pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FULL COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., June 27, 1990, for a business meeting to conduct pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on June 27, 1990, at 10:30 a.m., to hold a hearing on the nomination of A. Raymond Randolph, to be U.S. circuit judge for the District of Columbia, Graham C. Mullen, to be U.S. district judge for the Western District of North Carolina, Federico A. Moreno, to be U.S. district judge for the Southern District of Florida, and William Pelham Barr, to be Deputy Attorney General, U.S. Department of Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Agricultural Taxation and the Subcommittee on Taxation and Debt Management of the Committee on Finance be authorized to meet during the session of the Senate on June 27, 1990, at 2 p.m. to hold a joint hearing on proposals to prevent abuses in determining estate and gift tax values.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 28, 1990, at 10 a.m. to hold a hearing on the most tragic victims of drug abuse, infants and other children.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on June 27, 1990, at 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation, be authorized to meet during the session of the Senate on June 27, 1990, at 10 a.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection it is so ordered.

ADDITIONAL STATEMENTS

AMERICA RICH IN DIVERSITY

● Mr. GRAHAM. Mr. President, many characteristics of this great Nation are unique to America.

Today, we can note with pride a phenomenon that makes the United States of America stand out among nations. America is rich in its diversity and its sense of nationalism.

Mr. President, other nations on this Earth have great diversity in their populations. For example, the Soviet Union is quite diverse, but the U.S.S.R. faces tremendous tension from within. The Soviet Union sometimes seems to be a misnomer, because the federation of Socialist Republics is coming apart.

So when we look around the world, we can be proud of our ability to combine diversity and nationalism. This unique ability puts even greater emphasis on our symbols.

Of all our national symbols, the most unifying is our flag. And, therefore, this national symbol is perhaps more important today than ever in our history.

Mr. President, assaults on our national symbol, therefore, are very serious. An assault on our symbol tears away at the national fiber.

Protection of our flag from assault is a worthy cause of our society. Since the highest court in the land has removed the legislative protection for the flag, I lend my support for constitutional protection.●

A TRIBUTE TO THE GEORGIA SOUTHERN UNIVERSITY AND UNIVERSITY OF GEORGIA BASEBALL TEAMS

● Mr. FOWLER. Mr. President, I would like to take a brief moment to pay tribute to two groups of outstanding young men. They are the members of the Georgia Southern University and the University of Georgia baseball teams. These teams have displayed great excellence in their field and deserve the highest of recognition.

This spring, Georgia Southern University made its first College World Series appearance since 1973, breaking or tying eight school records in the process. Ranked eighth nationally in the final ESPN poll, the Eagles defeated defending national champion Wichita State 4 to 2 in a thrilling game which lasted 13 innings.

Mr. President, Georgia Southern was led by heroes such as Todd Greene, Joey Hamilton, and Rob Fitzpatrick; all who received national recognition for their achievements. The skipper of the Eagles is Coach Jack Stallings whose 960 career victories is matched by few active coaches.

Mr. President, the University of Georgia baseball team displayed courage and perseverance en route to its first ever national championship in baseball.

Mr. President, the Buildogs showed outstanding team unity and poise throughout the College World Series with contributions from all members of the squad. This fine effort culminated in a 2 to 1 victory over consensus favorite Oklahoma State in the national championship game. As Georgia All-American designated hitter Brian Jester stated, "We're just a bunch of overachievers who put it all together at the right time, and now we're national champions."

Buildog head coach Steve Webber was named National Coach of the Year by Collegiate Baseball magazine. Furthermore, players Dave Fleming, Brian Jester, and J.R. Showalter were named to the All-America team for 1990. Coach Webber and his staff led the Buildogs to their best season ever with a fine record of 52-19.

Mr. President, I would like to say to all the members of the Georgia Southern University and University of Georgia baseball programs, both the State of Georgia and especially this U.S. Senator and baseball fan are truly proud of your great accomplishments.●

PRAYER FOR FREEDOM AND DEMOCRACY IN CUBA

● Mr. GRAHAM. Mr. President, at a time when democracy and a heightened concern for human rights are sweeping the globe, Fidel Castro's Cuba stands out as one of the world's last remaining bastions of oppression.

In recognition of this sad fact, people who care about democracy in Cuba are organizing a worldwide day of prayer for freedom and democracy in Cuba on July 15.

Organizers of this event are seeking support from 50,000 congregations of different denominations around the world. The objectives are fourfold:

To implore the divine intervention for the liberation of Cuba.

To seek the liberation of Cuba without bloodshed.

To increase international pressure against Cuba's Communist regime.

To deliver a message of goodwill to the Cuban believers on the island from the free believers around the world.

The organizing commission is composed of lay Cubans of different denominations united by two characteristics—faith in the power of prayer and their desire to see their country free and democratic.

It is indeed appropriate that this group is now organizing its prayer vigil. At no time have we been more in need of such efforts.

In the face of growing isolation, Castro has recently renewed his harsh crackdown on Cuba's human rights community. In fact, Castro is tightening the screws against anyone who criticizes his regime. The Cuban people are getting fed up.

So are democratic leaders throughout Latin America. And they have begun to speak out.

Venezuelan President Carlos Andres Perez has urged Castro to return to a democratic system with a government elected by a free and secret ballot.

Former Costa Rican president and nobel prize winner Oscar Arias has predicted that the "day will come" when Cuba will attain democracy. "We are profoundly proud that for the first time in many years Latin American leaders wear suits and ties and that military uniforms have become museum pieces."

Even such long-time friends of Castro as Gabriel Garcia Marquez, the prize winning novelist, says that "Cuba needs profound reforms, such as greater democratization of society."

Mr. President, it is therefore entirely appropriate that this commission is organizing an effort to focus world attention on Castro's tyranny. Their purpose is a worthy one and they are to be congratulated.●

BLOOMINGDALE'S HONORS NEW MEXICO

● Mr. DOMENICI. Mr. President, I would like to bring to the attention of my colleagues an important promotion in New York City, a promotion that showcases New Mexico at the famous Bloomingdale's department store.

All New Mexicans are proud of this effort, and I know that it will enable Bloomingdale's customers to discover a great deal about what an exciting place New Mexico is.

This entire project is the brainchild of a college business student. The idea developed from an effort to come up with some ways to bolster economic development and offer business opportunities to the youth in New Mexico—

and it has turned out to be much more than expected.

The student is Kelly Ward, who attends the University of New Mexico. To see New Mexico in the headlines and the advertising of one of the Nation's best known department stores is certainly a tribute to Kelly's foresight.

Mr. Ward, now a senior, belongs to an organization called the Association of College Entrepreneurs. This organization considered a variety of ideas for combining economic development with opportunity for young New Mexicans.

Kelly came up with the idea of promoting New Mexico at Bloomingdale's, and the store responded with enthusiasm.

And what a success it has been.

The opening gala for the promotion was filled with music, food, and Southwestern color and spice. Mariachis, country fiddlers, and Indian flute players provided entertainment for some 700 people, who were wearing everything from cowboy boots to spangles. And during the evening they sampled New Mexican treats, including such items as peanut butter brittle, blue corn tortilla chips, salsas, chile rellenos, and chile spiced jams.

During the month-long promotion, food is the hot topic. I know that customers will truly enjoy the spice and flavor that New Mexican cooking adds to their range of eating tastes.

More than 120 foods made by small New Mexican producers can be found in the bakery, gourmet food, and candy shop on the first floor of Bloomingdale's on Lexington Avenue. A lot of the foods are seasoned with green and red chiles or both, in foods such as: Hors d'oeuvres, Dillion's chilitos, Santa Fe Ole's, chile peanut butter, and even chile honey.

Many of the fresh foods are prepared according to recipes from New Mexican restaurants. This gives people in the East the opportunity to taste authentic New Mexican cooking.

Maybe New Yorkers can even help us resolve the long standing conflict over how to spell "chile:" With an "e," as it is spelled in New Mexico, or with an "i," as they misspell the word in Texas.

Mr. President, the Bloomingdale's promotion offers a great opportunity for New Mexico to enhance our reputation as a State with many things to offer in the way of arts and crafts, people, and foods—all the things that make the land of enchantment exactly that.

Maybe Bloomingdale's will even help Easterners realize that New Mexico is in fact, a State in the Union, so people from New Mexico won't be asked how they like visiting the United States, or if they still use horses to get around.

The Bloomingdale's project is just a preview and rehearsal for the annual Festival of American Folklife, which is held annually by the Smithsonian Institution. New Mexico, with its rich multicultural history, will be the featured State in the 1992 celebration, which will be held on the Mall in Washington.

This is an event that will bring the land of enchantment to more than 1.5 million people. All of the Bloomingdale's participants will be encouraged to join in the festival.

New Mexico needs to market its products throughout the United States and the world. Opportunities like Bloomingdale's and the Festival of American Folklife are just the opportunities that can lead to greater markets, bigger sales, and more jobs.

Both the Bloomingdale's and Festival of American Folklife projects are just what Kelly Ward wanted: Opportunity, bigger markets, and more jobs created in our state for the youth of New Mexico now and in the future.

Mr. President, for the interest of any of my colleagues visiting New York in the near future, the New Mexico promotion will continue through July 11. In addition, New Mexican products will be featured at 17 other Bloomingdale's locations throughout the country.

Mr. President, I ask that a list of all the vendors and the products that are being sold at Boomingdale's during the promotion be printed at this point in the RECORD.

The listing follows:

PRODUCTS LIST FOR NEW MEXICO VENDORS

The following is a list of New Mexico vendors and their products being promoted at Bloomingdale's in New York.

Bien Mur Indian Market Center, Indian Arts and Crafts.
Chris's Crafts, Indian Arts and Crafts.
From Me To You Products.
Indian Pueblo Cultural Center, Inc., Indian Arts and Crafts.
Little Iron House, Iron Works.
New Mexico Anne Engelhardt Studio, Clocks.
Patolli Games, Inc., Board Games.
Pepper's Chile Charm's.
Rio Grande Planned Parenthood, Poster.
Ryan-Hunt, Candle Sconces.
Story Hearths, Wood StoryBoards.
Sultman Metal Works, Tin frames and candleholders.
Tin Ornamentals by: Bonifacio F. Sandoval, Tin Works.
Zia Designs, Furniture.
Stumps, Weeds & Stuff.
Muriel R. Findley Manufacturing Co., Small Tables.
West By Southwest, Frames.
Owl Peak Pottery, Pottery.
Tierra Wools, Hand Woven Blankets.
O.C.M.S. Naturals.
Frames West, Frames.
Christopher Thompson, Ind.
Brian Burnett.
Dahl Glass, Ornamental Glass Wear.
Designs by Monique.
New Studio West.
Primitech, Inc., Furniture.
Rob Sanders Designs.
Santa Fe Floorcloth Co., Clothworks.
Snakeworks, Wooden Snakes.
The Third Hand, Furniture.
WWW Designs, Furniture.
Vessels, Ceramics.
EMS Enterprises.
Fragrances of the Southwest, Perfumes and Incensces.
Hands of America, Furniture.
Lighthearted Press/Rumplestillskin Designs, Posters.
Lobz, Jewelry.
Luz Designs.
Mei Ming of Santa Fe, Inc., Pottery.
Michael Griego Tinwork, Tin Works.
Virginia Lierz, Postcards & Photographs.
Abetura.
Abydos Designs, Cards.
Katherine Irish Studio, Ceramics.
Prickly Pear Cactus Co.
Taos Mountain Candles, Candles.
Franzetti Design.
Jou Jou Enterprises, Wooden Toys.
Bergen Wholesale.
Carretas. The Cart Co., Wooden Carts.
Douglas Kent Hall.
Indian Clay, Clay Ristras.
Southwestern Woodcarving by: Alvarez, Wood Carvings.

FOOD VENDORS

Eagle Ranch Pistacio Groves.
Five Sandoval Indian Pueblos Inc., Flour.
Sparrow Hawk Farm.
L&J Lite Cookies, Cookies.
La Carreta, Vinegar Ciders, Cider Jams.
Fantasy Baskets & Stuff, Baskets.
Alicia's Pueblo Cookie & Pies, Cookies, Pies.
Apple A Day Pie Kitchen, Pies.
Blue Corn Connection, Corn Chips.
Bueno Foods, Frozen NM foods.
Candies by JJ, Candy
Casa Noel, Ltd., Cookie Cutters.
Carmen's of N.M. USA, Chile Oil.
Cooking Sherri, Green Chile.
Enchantment Delights, Biscochitos.
Graceline, Wine Jelly with Chile.
Lin's Lucious Truffles, Truffles.
Mi Tierra Chocolate Co., Chocolates.
Old Southwest Trading Co, Gourmet Pinto Beans.
Out of Taos, Pasta.
Willie Powdrell's Bar-B-Que, Bar-B-Que.
Robbs Ribs, B-B-Q Sauce Ribs.
Sandia Publishing Corp., Cookbook.
Santa Fe Chili Inc., Salsa.
Santa Fe Springs, Water.
Santa Fe Salsa, Inc., Salsa.
Stephen's, Baked Goods.
Taos Mountain Water, Water.
The Candy Lady, Candy.
TLC Bakery, Baked Goods.
University Hospital Service League, Cookbook.
Hatch Chile Express, Fresh Chile.
Mangum Enterprises, Peanut Brittle Chile Fudge.
Adelina's Products, Chile Pasta.
Desert Grove, Inc., Pecans, Pasta.
La Cueva Horticulture, Inc., Fresh rasberries Jams.
New Mexico To Co, Wine.
Rancho Mesilla.
New Mexico Wineries, Wine.
J. Eric Chocolatier, Chocolates.
Don Schwebach Farm, Pinto Beans.
Native American Waters, Inc., Water.
Coonridge Goat Cheese, Goat Cheese.
Sunland, Inc., Peanuts.
Chile de Ristra, Chile Ristras.
Roswell Symphony Guild Publications, Inc., Cookbook.
Becker's Delicatessen, Granola.
Blue Sky Natural Beverage Co., Sodas.
Chocolate Maven, Baked Goods.
Cindy's Santa Fe Bite-size Bakery, Bite-size Cookies.

Clear Light Publishers, Books.
Dillon's of Santa Fe, Frozen Chile Rellenos.
El Pico de Santa Fe, Salsa.
Howard's Original Smart Cooky, Cookies.
Josie's Best New Mexican Foods, Sopapilla & Tortilla Mixes.
Los Chileros de Nuevo Mexico, Dried Fruits.
Palace Seasonings, Inc., Spices, Oils.
Pollen Path Distributors, Natural Candy.
Tierra Publications, Cookbook.
Second Sun, Inc.
Santa Cafe, Cookbook.
Santa Fe Cookie Co., Cookies.
Santa Fe Exotix, Salsas.
Santa Fe Gourmet Foods.
Santa Fe Jam, Jams.
Santa Fe Ole Food Co., Salsa.
Santa Fe Seasons, Seasonings.
Santa Fe Wings, Gourmet Dog Biscuits.
Swan Farm.
Taos Honey-Berry Farm, Honey.
World Champion Spices, Inc., Spices, Pinto Beans.
Spaghetti Western Foods, Chile Pastas.
Sierra Farms, Inc.
Cervantes Enterprises.●

FAILURE TO OVERRIDE PRESIDENT'S VETO OF S. 135

● Mr. SIMON. Mr. President, I rise today to express my disappointment in both President's Bush's veto of the Hatch Act Reform Act and in the Senate's failure to override that veto.

My colleague, Senator GLENN, did an outstanding job of drafting and passing a bill that allowed, for the first time in 50 years, 3 million Federal employees the right to participate in key parts of our political process. The 1939 Hatch Act is outdated and has encroached upon the basic rights of individuals for too long. The goal of the reform bill was to expand the political freedom of Federal employees by allowing them to participate in grassroots politics, which are at the heart of our democratic society. The Senate recognized this opportunity to enhance our democratic system and voted overwhelmingly to reform the 1939 act. I regret that we did not have the administration's support on such an important piece of legislation.

In 1939 the Hatch Act, as it was written, made sense. Today it does not. This 50-year-old bill is onerous and burdensome. The argument that reforming the bill means that people employed by the Federal Government will be open for harrassment is wrong. Employees were not left unprotected under the reform bill. Changes were made that afforded them the right to participate in certain political activities, like working on a phone bank during a campaign, or participating actively in a political caucus. S. 135 maintained the integrity of the civil service by prohibiting political activity on the job and it strengthened penalties for violation of the Hatch Act. I believe that far from weakening the Hatch Act, this reform bill improved and enhanced the original intent of the 1939 bill.

Without reform, the Hatch Act is a contradiction to our democratic values. The Senate voted to amend the restrictive nature of that law. We voted to encourage participation in the democratic process at a time when democracies are emerging all over the world. I guarantee that the Senate will revisit this issue. Millions of Federal employees are not going to sit still while their constitutional rights to participate in the political process are denied.●

DOLPHIN PROTECTION CONSUMER INFORMATION ACT OF 1990

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2044, the Dolphin Protection Consumer Information Act of 1990. I am pleased to join the effort to protect the world's population of dolphins from senseless slaughter during the harvesting of tuna.

The Dolphin Protection Consumer Information Act of 1990 would require that all tuna cans be labeled to reflect whether or not the fish were caught with technologies lethal to dolphins. These technologies include purse-seine nettin which intentionally traps dolphins as well as tuna. More than 100,000 dolphins die each year from these practices.

Major firms in the tuna industry, such as Starkist, have begun to change these practices in response to concerns from consumers. These efforts are commendable, and the Federal Government msut extend and codify this protection of the dolphins. The information these labels would provide will allow consumers to make choices indicating their disapproval of the senseless killing of dolphins.

As the world's largest consumer of tuna, the United States can end this massacre with the force of consumer choice. The Dolphin Protection Consumer Information Act of 1990 gives Americans that choice.

I encourage my colleagues to join me in supporting this important measure and protecting the world's dolphin population.●

H.R. 4525, THE ETHICS IN GOVERNMENT ACT OF 1990 AMENDMENT

● Mr. COHEN. Mr. President, I rise in support of H.R. 4525, the Ethics in Government Act of 1990. This bill would increase the current annual authorization of appropriations for the Office of Government Ethics from $3.5 to $5 million for each of the fiscal years 1991 through 1994.

The Office of Government Ethics was established by the Ethics in Government Act of 1978 to provide overall direction of executive branch policies relating to ethics and the prevention of conflicts of interest. The Office of Government Ethics is a very small office with very large and very important responsibilities, such as developing regulations regarding the postemployment restrictions on government employees, monitoring and investigating the executive branch agencies' ethics programs, interpreting rules and regulations concerning standards of conduct for Government officials and employees, and reviewing and approving the financial disclosure reports of Presidential nominees.

Each time the Congress has reauthorized the Office of Government Ethics, the Congress has also increased the responsibilities and tasks of this Office. In 1988, for example, the Office of Government Ethics was given additional authority to investigate possible ethics violations and, if appropriate, to order corrective action and to recommend disciplinary action for an executive branch official or employee. In addition to these new authorities given to the Office of Government Ethics during the reauthorization process, the Office of Government Ethics has been charged with even more duties as a result of three separate ethics initiatives that have been adopted over the past 2 years, namely, President Bush's new Executive order revising the standards of conduct for executive branch officials and employees, the comprehensive Ethics Reform Act of 1989 which was passed by Congress at the end of last year, and the procurement integrity provisions of the Department of Defense Authorization Act.

While each of these ethics reforms are important to ensure and promote high ethical standards for Government officials and employees, these new laws have also placed strains on the small staff and budget of the Office of Government Ethics. Donald Campbell, the Acting Director of the Office of Government Ethics recently testified at a Governmental Affairs Committee hearing that the current authorization ceiling of $3.5 million for the Office of Government Ethics will not even support the Office of Government Ethics's rent and the salaries of the additional staff positions which have been approved by the Congress and which are necessary to prepare and issue regulations under the new ethics laws and the Executive order.

H.R. 4523 will increase the authorization level for the Office of Government Ethics by $1.5 million for each fiscal year 1991 through 1994. This increase was required by the administration and is supported by the Governmental Affairs Committee, which is the authorizing committee for the Office of Government Ethics. I believe

that this is a reasonable, necessary increase in the authorization level of this Office which plays such a critical role in promoting and enforcing strong ethical standards within the executive branch. I urge my colleagues to support this measure so that we can give the Office of Government Ethics the tool and the support necessary to perform the tasks that we have given to it under the ethics laws.●

THRIFT SAVINGS PLAN TECHNICAL AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 576, H.R. 2514, to amend subchapter III of chapter 84 of title 5, United States Code.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2514) amending subchapter III of chapter 84 of title 5, United States Code.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2514) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIRECTING THE SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTIONS

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Senator DOLE, I send to the desk a resolution on representation by the Senate Legal Counsel and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 307) to direct the Senate Legal Counsel to represent Senator CONRAD BURNS in the case of Fulop v. Burns.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, a plaintiff has named Senator CONRAD BURNS as the defendant in a lawsuit filed in the U.S. District Court for the District of Columbia. The complaint contains allegations relating to the failure to hire the plaintiff for a position on the Senator's staff and failure to provide her with requested assistance.

This resolution will authorize the Senate legal counsel to represent Senator BURNS in this case and to seek dismissal of the complaint.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 307) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 307

Whereas, in the case of Fulop [illegible] Case No. 90-0870, pending in United States District Court for the District of Columbia, the plaintiff has asserted a claim against Senator CONRAD BURNS;

Whereas, pursuant to section 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1) (1988), the Senate may direct its counsel to defend the members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator CONRAD BURNS in the case of Fulop v. Burns.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for weeks now, there has been an intense negotiation with respect to the crime bill. It is my understanding from discussions with the principals on both sides that the provisions of an agreement are now virtually in place. It is a lengthy agreement covering, as it does, a number of amendments.

In order to permit the agreement to be typed up and studied in final form by the respective sides, and in order to give everyone who has an interest in the legislation the opportunity to be present when it is propounded, it is my intention to propound the agreement at or shortly after 10:30 a.m. tomorrow morning upon the completion of the morning business to which I earlier alluded.

I wish to make clear that no final agreement has been reached, no agreement has been propounded, and, therefore, each Senator reserves the right to make objection or has that right reserved. But I emphasize that if a Senator does have an objection, that Senator, or Senators, is expected to be present on the floor tomorrow morning to express his or her objection.

A great deal of time and effort has gone into this negotiation in an effort to bring this bill before the Senate and to enact it. As all Senators will recall, I indicated prior to the second cloture vote, which was held weeks ago, that if we could not get cloture at that time, that would be it because it would be impossible to deal with the bill with several hundred amendments pending, as was the case at that time.

I was urged at the request of our Republican colleagues to reconsider that decision and to open negotiations to see if it would not be possible to move to the bill's consideration and to move to the bill's passage. That is possible.

That has been urged upon me repeatedly in the intervening weeks. As I indicated earlier, and I repeat, a great deal of effort on both sides in good faith, led by the distinguished chairman of the Senate Judiciary Committee, Senator BIDEN, and the distinguished former chairman of the Judiciary Committee, Senator THURMOND, has gone into that negotiation to bring us to this point. It is my hope we will be able to gain approval of the agreement tomorrow and permit us to proceed to that legislation promptly.

Upon return from the July 4 recess, there are numerous important measures pending before the Senate. I will tomorrow or Friday advise all Senators of the new schedule which will be necessitated during that period to accommodate all of these matters.

It is and has been my strong hope and desire that we could complete action on the crime bill prior to the recess. I still hope that will be the case. Delay beyond then will leave this important legislation to an uncertain fate. Depending upon other factors, I hope very much we can be able to do that. That is my hope and that will be my intention as we propound this agreement tomorrow morning.

I want to thank very much all of those who have been involved in this discussion, including those I have mentioned, and the distinguished Senator from Wyoming, who has been very active in a very constructive way during this entire process.

So Senators should be aware I will propound the agreement—it will be almost exactly 12 hours from now at or about 10:30 a.m. tomorrow and I hope we will be able to get cooperation at that time.

As I indicated, the interested Senators and their dedicated staff will work

throughout the remainder of tonight and into tomorrow to get the agreement prepared in final form and to have it ready for presentation at that time.

I want to thank them for their effort which, when we finish here shortly, will not be over as they will have to stay here this evening to make sure it is ready tomorrow morning.

Mr. President, I yield to the distinguished acting Republican leader.

Mr. SIMPSON. Mr. President, I thank the majority leader. I will be brief.

I want to particularly thank Senator BIDEN and Senator THURMOND for their absolute extraordinary persistence. Neither one of these find colleagues wants to see the crime bill die.

Yes, there were these issues with regard to cloture, and indeed, I cannot in any way fault the majority leader. In fact, I do not fault him at all on anything he does. He treats us with great civility, a patience which is far beyond anything I have been able to gather up in 58 years of experience of life. He, with his ultimate patience, leads us in this body in a civil and courteous way. He is very accommodating, very, very accommodating, to those of us on this side of the aisle.

He held himself in abeyance to conclude and end the debate on the crime bill while Senators BIDEN and THURMOND and HATCH worked doggedly and are now almost just moments away from what I think will be accomplished because we have worked through every single, thorny issue of it—all of it.

The pressure to conclude it will be heavy. Those who wish to object are certainly entitled to do so. There may be two. I think one of them can be resolved. The other one has to do with scheduling and that type of thing. But we have resolved it into nine amendments on each side in the first degree and four amendments on each side in the second degree.

Absolute fairness, tough, good negotiations done, as the majority leader says, in absolute good faith. So I hope that we can get the agreement. I would hope it can be done at the appointed hour. I sincerely hope that.

I can only express to the majority leader I have done everything I can in good faith under the direction of the minority leader, Senator DOLE, and, Senator THURMOND, who is so superb. He is an inspiration to us all.

He is always the last one out of the building when we are always complaining about the schedule or something, which is certainly the essence of the man.

In any event, I hope it can be done. I pledge to do everything I can to try to get it accomplished. I know Senator THURMOND feels the same, and he has been, with Senator BIDEN, just the most extraordinary, persistent, and conscientious that one can imagine in this endeavor. I thank the Senator for it.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., tomorrow, Thursday, June 28, 1990; that following the prayer, the Journal of proceedings be approved to date; that the time for the two leaders be reserved for their use later in the day; that upon reservation of the leaders' time there be a period for morning business, and that Senator NUNN be recognized and control the time not to extend beyond 10 a.m.; that at 10 a.m. there be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 10 a.m. tomorrow, Senator HELMS be recognized to speak for 15 minutes, and that there be a period for morning business from the hours of 10:15 a.m. to 10:30 a.m., with Senators permitted to therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess as under the previous order until 9 a.m.

There being no objection, the Senate, at 10:25 p.m., recessed until tomorrow, Thursday, June 28, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate, June 27, 1990:

U.S. INFORMATION AGENCY

GEORGE F. MURPHY, JR., OF MARYLAND, TO BE INSPECTOR GENERAL, U.S. INFORMATION AGENCY, VICE ANTHONY J. GABRIEL, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. RUSSELL C. DAVIS, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. RICHARD W. GODFREY, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. JERALD D. SLACK, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. GERALD W. SWARTZBAUGH, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. JOHN O. AHNERT, JR., xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. CHARLES M. BUTLER, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. ROBERT D. CARDWELL, JR., xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. PAUL G. COHEN, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RONALD E. FARRELL, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. HUGH P. GOETTEL, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. WALLACE M. GREEN, JR., xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DON V. HUBBARD, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JAN P. JOHNSON, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. NEIL D. KENNEDY, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. LAWRENCE A. MACIARIELLO, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. LESTER L. MCINTYRE, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN A. MOLINI, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. HERBERT J. SPIER, JR., xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. ERROL G. STUMP, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN M. WALLACE, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DAVID E. B. WARD, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JERRY W. WHITMAN, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. PHILIP A. WILLIAMS, xxx-xx-xxxx FG, AIR NATIONAL GUARD OF THE UNITED STATES.

IN THE ARMY

THE ARMY NATIONAL GUARD OFFICERS OF THE UNITED STATES NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

To be major general

BRIG. GEN. THOMAS T. THOMPSON, xxx-xx-xxxx

To be brigadier general

COL. MICHAEL E. BYRNE, xxx-xx-xxxx

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. ERNEST T. COOK, JR., xxx-xx-xxxx, USMC.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY:

To be lieutenant general

MAJ. GEN. WALTER E. BOOMER, xxx-xx-xxxx, USMC.

EXTENSIONS OF REMARKS

AMERICAN HOLOCAUST SURVIVORS HONORED BY THE U.S. HOLOCAUST MEMORIAL COUNCIL

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. LANTOS. Mr. Speaker, I invite my colleagues in the Congress to join me in paying well-deserved tribute to Holocaust survivors who are now visiting our Nation's Capital. These survivors are Americans whose homes stretch across our entire Nation, and they are in Washington, DC, in support of the U.S. Holocaust Memorial Museum which, as my colleagues know, is being built on the Mall.

These men and women are each a shining example of an American success story. They arrived here after losing all—family, friends, homes, businesses, livelihood. Here in this wonderful land of opportunity, they have achieved greatness in many ways—in science, business, politics, and law. Most of all, they have provided an example for us that every human life is precious.

These men and women are a testimony to the perseverance and courage of the human spirit. They experienced the greatest evil inflicted upon man, yet they retained the motivation to do good. Although they lost so much, they continuously strive to give of themselves to others. Their presence here in Washington is only one such example—they are here to help us remember those who perished and suffered, and to ensure that history's darkest hour is never repeated.

Mr. Speaker, these men and women teach us directly and show us by example that every human life has infinite value. They have each recreated their own lives, which were considered worthless during the Holocaust, and their lives are now filled with strength and hope. They teach us that one voice can make a difference, that one life filled with caring can hold immeasurable power.

The lessons learned from these survivors and from the Holocaust will be taught in the U.S. Holocaust Memorial Museum, which is scheduled to open in April 1993. Since 1980—with the creation of the U.S. Holocaust Memorial Council—Congress and three successive Presidents have acknowledged the vital role the museum can play in the moral and ethical education of our great Nation. As supporters of the museum, these survivors will help us remember what can happen when prejudice, racism, and bigotry are allowed to develop unchecked. And conversely, we will never forget what greatness can occur when hope, courage, and perseverance prevail.

Mr. Speaker, I invite my colleagues to join me in paying tribute to these survivors from across our Nation, for their courage, appreciation, and commitment to human life.

Irving Balsam, of Riverdale, NY, who was liberated from Gunskirchen, Austria.

Martin Bloch, of Uniondale, NY.

Sam Bloch, of Flushing, NY, who was liberated from Bergen-Belsen.

Adam Boren of West Deal, NJ, who was liberated on a death march from Sachsenhausen.

Samuel Boymel of Fairfield, OH, who was liberated from Turszysk.

Joseph Brodecki, National Campaign Director of the United States Holocaust Memorial Museum, who was born in a Displaced Persons' Camp in Landsberg, Germany.

Joseph Bukiet of Clifton, NJ, who was liberated from Theresienstadt.

Jacob Burstyn of Springfield, NJ, and his wife Ernestine.

Severin Caitung of Northbrook, IL, who was liberated from Praga, Poland, and his wife, Marge.

David Chase of Hartford, CT.

Fred Diament of Los Angeles, CA, who was liberated from Auschwitz.

Alex Eisen of Ontario, Canada, who was liberated from Milldorf, Germany.

Olga Eisen of Ontario, Canada, who was liberated from Reichenbach.

Dalck Feith of Philadelphia, PA, and his wife.

Roselyn Finkelstein of Lakewood, CA, who was liberated in Czechoslovakia.

Samuel Frankel of Shaker Heights, OH, who was liberated from Gorlitz.

Rina Frankel of Shaker Heights, OH, who was liberated in the Soviet Union.

Henry Friedman of Mercer Island, WA, who was liberated from Suchowola.

Fritzie Fritzshall of Skokie, IL, who was liberated from Auschwitz.

Erna Gans of Northbrook, IL, who was liberated in the English Occupation Zone.

Joseph Garay of Los Angeles, CA.

Sam Goetz of Los Angeles, CA, who was liberted from Mauthausen/Ebensee.

Gertude Goetz of Los Angeles, CA, who was liberated from Castilenti, Italy.

Jona Goldrich of Culver City, CA.

Saul Gottlieb of Beechwood, OH, who was liberated from Bire near Magdaburg.

Ralph Grunewald, Deputy Director and Counsel of the United States Holocaust Memorial Museum, who was born to German survivors in Guayuquil, Ecuador.

Max Haber of Chicago, IL, who was liberated in the Soviet Union, and his wife, Rita.

Arie Halpern of Woodbridge, NJ.

Isadore Hollander of Overbrook Hills, PA, who worked in the Gheio Rovno Underground and Minsk Mogilev.

Anni Hollander of Overbrook Hills, PA, who was liberated from Peterwaldan, Germany.

Mike Jacobs of Dallas, TX, who was liberated from Mauthausen-Gusen II, and his wife, Ginger.

Charles Katz of Bethesda, MD, who was liberated from Vilna, and worked in the Narach Underground.

Betty Katz of Bethesda, MD, who was liberated from Wilno.

Nathan Katz of East Hills, NY, who was liberated from Lithuania, and his wife, Sima.

Ernst Kaufman of Milwaukee, WI, who was liberated in Brussels, and his wife, Carole.

William Konar of Rochester, NY.

Simon Konover of Hartford, CT, who was a member of the Soviet Army, and his wife, Doris.

Maryla Korn of Washington, DC, who was liberated in Romania.

David Korn of Washington, DC, who was liberated in the Soviet Union.

Fred Kort of Los Angeles, CA, who escaped from Treblinka, and his wife, Barbara.

Emil Kroo of Montreal, Canada, and his wife, Rosa.

Jacob Kryszek of Portland, OR, who was liberated from Dora, and his wife, Rachella.

Rae Kushner of Hillside, NJ, who fought with the "Belskis," an anti-Nazi partisan group in the Novogzudek Ghetto in Poland.

Jennifer Loew, Campaign Associate of the United States Holocaust Memorial Museum, who was born to Polish survivors in Maryland.

Miles Lerman of Vineland, NJ, who was a resistance leader in Poland.

Chris Lerman of Vineland, NJ, who was liberated from Auschwitz.

Max Liebmann of Bayside, NY, who escaped from occupied France.

Johanna Liebmann of Bayside, NY, who escaped from occupied France.

Art Lumer of Beverly Hills, CA, who was liberated from Mittenwald, Germany.

Jack Lumer of Beverly Hills, CA, who was liberated in Poland.

Sara Lumer of Beverly Hills, CA, who was liberated from Mauthausen.

Sophia Lumer of Beverly Hills, CA, who was liberated in Poland.

Paul Mandel of Beverly Hills, CA, who was liberated from Mittenwald, Germany, and his wife, Rhoda.

Benjamin Meed of New York, NY, who was a member of the Warsaw Ghetto underground.

Vladka Meed of New York, NY, who was a member of the Warsaw Ghetto underground.

Mel Mermelstein of Huntington Beach, CA, who was liberated from Buchenwald.

Bernard Milch of Lawrence, NY, who was liberated from Kozoa, in the Western Ukraine.

Lusia Milch of Lawrence, NY, who was liberated from Skalat in the Western Ukraine.

Jack Nagel of Van Nuys, CA, who was liberated from Dachau.

Gitta Nagel of Van Nuys, CA, who was liberated in Amsterdam.

Murray Pantirer of Hillside, NJ, who was liberated from Brinetz.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Sidney Pressberg of Miami, FL, who was liberated in the Soviet Union.

Abe Resnick of Miami Beach, FL, who escaped from Nazi-occupied territory in the Soviet Union.

Sol Rosenberg of Monroe, LA, who was liberated from Dachau.

Tola Rosenberg of Monroe, LA, who was liberated from Buchloe.

Izy Rosenblat of Potomac, MD, who was liberated from Vaihingen, Germany.

Idek Rosenblum of Clifton, NJ, who was liberated from Guzen.

Jack Rosenthal of Albertson, NY, who was liberated from Buchenwald, and his wife, Elizabeth.

Jack Salzberg of Beverly Hills, CA, who was liberated from Pesing, Germany, and his wife, Sima.

Joseph Schmerler, M.D., of Lakeood,, CA, who was liberated from Buchenwald.

David Smuschkowitz of Thornhill, Ontario, Canada, who was liberated in the Koziany forests.

Adam Starkopf of Chicago, IL, who was liberated from Siedlce, Poland.

Pela Starkopf of Chicago, IL, who was liberated from Siedlce, Poland.

Jack Tramiel of Sunnyvale, CA, who was liberated from Bergen-Belsen.

Helen Tramiel of Sunnyvale, CA, who was liberated from Bergen-Belsen.

William Ungar of Great Neck, NY, who was liberated from Lwow, Poland, and his wife, Jerry.

Max Webb of Beverly Hills, CA, who was liberated from Waldenburg.

Leon Weinberg of Hamden, CT, who was liberated from a death march near Buchenwald.

Ben Weiss of Chicago, IL, who was liberated from Bunclow.

Rae Weiss of Chicago, IL, who was liberated from Ludwig Lust.

Harry Wilf of Union, NJ, who escaped from Nazi-occupied territory in the Soviet Union.

Judith Wilf of Union, NJ, who was liberated from Nazi-occupied territory in the Soviet Union.

Harry Zansberg of Fairlawn, NJ, who was liberated from Stamsried, Bavaria.

Abraham Zuckerman of Hillside, NJ, who was liberated from Gusen II, Austria.

A CROSS-COUNTY METRO WOULD RELIEVE TRAFFIC

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. GRAY. Mr. Speaker, I would like to submit for the RECORD an excellent article by my colleague from Pennsylvania, Mr. KOSTMAYER, that appeared in the Philadelphia Inquirer. It is an excellent analysis of how to relieve some of the traffic problems of our city.

[From the Philadelphia Inquirer, May 25, 1990]

A CROSS-COUNTY METRO WOULD RELIEVE TRAFFIC

(By Peter H. Kostmayer)

Several decades ago, the counties bordering Philadelphia to the north and west began to grow. And grow. And grow.

A tidal wave of development now endangers the very qualities that have brought so many people and businesses to Philadelphia suburbs. Issues of overdevelopment, loss of open space, environmental protection, traffic and mass transit now top the list of concerns of most area residents. The infrastructure of the region, particularly our transportation system, has in many cases become overwhelmed.

Traffic volume on existing roads has swelled to dangerous levels. Long delays are commonplace.

Traditional solutions, including rail lines to carry commuters in and out of Philadelphia, have met with only limited success in alleviating congestion.

Recently, however, a real opportunity has emerged for a regionwide solution. The idea stems from studies SEPTA recently conducted which show that traditional traffic patterns around Philadelphia have changed dramatically in recent years.

At one time, virtually all daytime travel in our area was radial to and from Philadelphia. Now, patterns are more dispersed. Two major demographic factors need to be recognized to understand this phenomenon.

First, the distribution of our regional population has changed. Philadelphia, long the population center of the region, now represents only 40 percent of Southeastern Pennsylvania residents. Fully 60 percent of the population now resides in the four suburban counties. Similarly, 60 percent of all work travel in the area is now intra-suburban.

Second, while Philadelphia continues to enjoy incremental growth on a very large employment base, the suburbs have blossomed into independent employment centers following the pattern of express highways that have been built in the region. A series of employment centers are spaced about six to 10 miles apart and stretch from areas near Morrisville in Bucks County to Downingtown in Chester County, roughly paralleling the Pennsylvania Turnpike and part of U.S. 202.

Demographic studies suggest that these new employment centers will continue to grow. Montgomery County is projected to have some 544,800 jobs by 2010, compared to 878,000 in Philadelphia the same year.

SEPTA currently captures very little of this cross-county market. Now, however, the agency has issued a proposal for a new passenger rail line from the Downingtown area to the Morrisville area.

Through an accident of history, a predecessor railroad of SEPTA and Conrail long ago constructed a railroad line from eastern Bucks County to western Chester County known as the Trenton Cut-Off. At the time it was built, the line went through relatively unpopulated rural areas.

Today, Downingtown, Exton King of Prussia, Norristown, Plymouth Meeting, Fort Washington, Willow Grove, Southampton, Oxford Valley, and the Morrisville-Trenton areas surround the railroad right-of-way.

The opportunity now exists to use the Trenton Cut-off as the first cross-county passenger rail service, interconnecting these employment centers and providing transfer stations with eight of SEPTA's rail lines: the R7 line from Center City to Trenton, the R3 line to West Trenton, the R8 to Newtown (not currently in use), the R2 to Warminster, the R5 to Doylestown, the R6 extension to Plymouth Meeting, the R6 to Norristown and the R5 to Exton and Downingtown.

The existing line is designed to high speed standards (80 miles per hour or more) and is virtually free of grade crossings.

With implementation of the "cross-county metro" service, SEPTA would be able to create a series of transportation centers to provide easy connections to all parts of the region using rail, bus, van or auto, very similar to the concept now in place at the Norristown Transportation Center and at 69th Street Terminal.

SEPTA estimates that a comprehensive package for preliminary feasibility, engineering and environmental analysis would cost about $5 million.

On April 26, I requested the U.S. House Appropriations Committee to commit $200,000 over and above SEPTA's annual federal appropriation to begin work on this project.

The challenge for SEPTA, indeed for all in the Delaware Valley is to find new regional solutions to our transit problems. Equally important, the cross-county metro can illustrate that mass transit is vital to the entire Delaware Valley. It could prove a major step toward achieving those twin objectives. SEPTA planners have stated that the cross-county metro "can have a more beneficial effect on reducing road congestion than any other single investment the public can make." They are right.

CHAIRMAN ANNUNZIO ASSAILS HEALTH WASTE AND ABUSE

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. ANNUNZIO. Mr. Speaker, the health care system in the United States, especially for the elderly, is critically ill. Waste, fraud and mismanagement in the $100 billion Medicare Program are major symptoms of the illness. The reason can be found in the Reagan and Bush administrations for the lack of oversight of the program by their regulators.

Testimony at a recent congressional hearing indicated that the Medicare Program will overpay up to $1.5 billion next year because insufficient funds are being provided to audit doctor and hospital bills and monitor service patterns.

Vernon R. Loucks, Jr., chairman and chief executive officer of Illinois-based Baxter International which makes and markets health-care products and services, said in a recent article in the Chicago Tribune that projections made by his company show a dangerous gap between growth in demand for health care and resources likely to be available to meet it.

Mr. Loucks said demand is likely to grow 65 percent by the year 2000 and 160 percent because of increased population growth and aging, some expanded access and new technologies. He said the crunch between demand and resources is already painful, not just for the health care system but for those it is supposed to serve: 422 U.S. hospitals have

closed in the last 5 years, 80 of them last year; 13 have closed in Chicago.

Mr. Loucks said the economy and effectiveness of the health care system can be improved in numerous ways. As an example, he said cutting one-third of diagnostic tests that are probably unnecessary would save as much as $10 billion.

For those reasons, I heartily support Chairman PETE STARK, Democrat of California, of the House Ways and Means Subcommittee on Health who has held hearings on fiscal year 1991 budget issues relating to waste and abuse in the Medicare Program.

Medicare is the fourth largest category of Federal spending after Defense, Social Security, and interest payments on the national debt. During the current fiscal year ending September 30, Medicare is expected to provide health coverage for over 33 million aged and disabled persons at a cost of $109 billion. Of this amount, $1.9 billion, or 1.7 percent, represents administrative costs. However, funding cutbacks have caused a deterioration in Medicare's ability to insure the accuracy of program payments.

In my 26 years in Congress, I have supported all legislation to improve benefits and programs to protect the rights of senior citizens. They include the Older Americans Act of 1965, the Age Discrimination in Employment Act of 1967, the Medicare-Medicaid Anti-Fraud and Abuse Act of 1977 and the Health Insurance for the Aged Act, which created the Medicare Program in 1965.

Mr. Speaker, we must increase health services for the elderly, not costs.

TRIBUTE TO JILL KIRILA, ANTHONY NAPLES, MICHAEL STANTON, AND BRIAN KIRIN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the recipients of the Mahoning Valley Chapter of the National Italian American Sports Hall of Fame Scholarship Awards. This year's recipients were Jill Kirila, Anthony Naples, Michael Stanton, and Brian Kirlin, all of my 17th Congressional District of Ohio.

Jill Kirila attended Brookfield High School and will be attending Miami University in Oxford, OH. She plans to major in political science, and once she has received her degree she would like to attend law school. While attending high school Jill participated in a variety of sports, including cross country, tennis, basketball, and track. She was the 1989 Brookfield High School Homecoming Queen, president of the student council, and captain of the prep bowl team. She was a member of the National Honor Society, Future Teachers Association, and Students Against Drunk Driving. She is the daughter of George and Joyce Kirila.

Anthony Naples attended John F. Kennedy High School and is considered to be one of the best student-athletes ever to come out of JFK. While at JFK he was an outstanding lineman for the Eagle football team. He was widely recognized for his many contributions to the team, including being named "Lineman of the Year" for all-northern Ohio. He was named to the first team All-State, All NOE, Mahoning Valley Conference as well as this year's most valuable player for the Eagles. Besides being an exceptional football player he was also an excellent student. He was a member of the National Honor Society and graduated fifth in his class. Anthony will be attending Youngstown State University and plans to major in education. He is the son of Michael and Suzanne Naples.

The third recipient of this prestigious award was Michael Stanton who attended Warren G. Harding High School and plans to attend Northwestern University this fall. He was a 2-year varsity letterman for the Panther baseball team. Michael graduated with a perfect 4.0 grade point average and was ranked first out of a class of 240. While at Northwestern Michael plans to major in electrical engineering. He feels engineering is responsible for the advances in today's society and would like to be apart of these new innovations. He is the son of James and Sandra Stanton.

The final recipient of the award was Brian Kirin of Mathews High School. Brian was a member of both the basketball and baseball teams. He was named to the first-team all-conference in baseball and honorable mention all-northeast Ohio in basketball. Brian excelled in academics as well in sports. He was the class Valedictorian and ranked first in a class of 103. He will be attending Case Western Reserve University this fall and plans to major in computer science. He is the son of Jack and Geraldine Kirin.

Mr. Speaker, I would like to take this opportunity to recognize these four young people for their outstanding achievements. Jill, Anthony, Michael, and Brian are all exceptional students as well as athletes who have a great future ahead of them. I wish them the best of luck in their future endeavors.

TRIBUTE TO THE "DEADLINE GANG" OF WEST SPRINGFIELD, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to the "Deadline Gang" of West Springfield, MA.

Although the name "Deadline Gang" may sound a bit ominous, especially in today's definition of the world gang, the "Deadline Gang" was far from a destructive unit. The members were mostly the sons and daughters of immigrants who came to this country around the turn of the century. They were virtually penniless and, like so many others, came seeking a better life. They were pioneers to the Memorial Avenue area of West Springfield, where they became industrious and law-abiding citizens.

The origins of the name "Deadline Gang" is actually rather simple. In the 1920's and 1930's the young men of the area set deadlines at Agawam Bridge and the Memorial Avenue railroad crossing, prepared to defend their territory against any invaders, especially when it concerned parents, women or property.

The people were for the most part a proud, though poor, group and held a deep sense of what true Americanism entailed. They were peace-loving and raised their children to respect the law and the rights of others.

Part of this nurturing included sports activities for the young men, many of whom attained national recognition, and homemaking and education for the young women to prepare them for life's future endeavors.

Among the athletes that came out of the "Deadline Gang" were Angelo Bertelli, football all-American and Heisman Trophy winner at Notre Dame; Mario and Babe Zucchini, heros in an Italian Olympic victory over the United States team in hockey; Gene Grazia, a member of the 1960 U.S. Olympic Gold Medal Hockey Team; Henry Campanini, a hockey captain at Michigan State; Amo Bessone, a National Coach of the Year Award winner in hockey at Michigan State; and the man they are honoring at their third reunion, the late Peter Bessone. Peter spent 10 years in the American Hockey League and a season with the National Hockey League's Detroit Red Wings, the first western Massachusetts athlete to make hockey's big league.

Mr. Bessone learned to skate on the ponds around his Memorial Avenue home and became West Springfield High School's first hockey superstar. He inspired many of the neighborhood children to follow his footsteps into various levels of the game including the professional ranks. Mr. Bessone was one of the first players to be admitted to the U.S. Hockey Hall of Fame, where he is honored along side many of hockey's greats.

At the third reunion of the "Deadline Gang," Pete will be posthumously honored with an appropriate plaque, presented by Angelo Bertelli, 1943 Heisman Trophy winner and former friend and neighbor of Mr. Bessone.

Mr. Speaker, I appreciate having had this opportunity to speak on behalf of the "Deadline Gang" and hockey legend Peter "the Hermit" Bessone. I wish the gang all the best for their reunion and pay my respects to the late, great Peter Bessone.

TRADE NEGOTIATIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 27, 1990, into the CONGRESSIONAL RECORD:

TRADE NEGOTIATIONS

For the first time since 1979, negotiations to reduce world trade barriers are coming to a head. Trade negotiations seldom make headlines and their effects are slow in coming. Yet past experience shows that they can greatly influence the opportunities of farmers, and businessmen and have major consequences for consumers.

U.S. TRADE POLICY

For 45 years, the U.S. has promoted the General Agreement on Tariffs and Trade (GATT) to reduce tariffs, eliminate quotas, and discourage government regulations that inhibit trade. Open international trade is a key to sustained growth. It opens markets for each nation's enterprises, carries innovation in technology around the world, stimulates investment, and spurs each nation to greater productivity. It also brings countries closer together, which helps reduce the risks of war, and lowers prices and expands choices for consumers. In addition, the urgent desire by the governments of Eastern Europe to become full participants in the Western trading system has been one of the strongest driving forces behind the dramatic changes there.

The problem today is that the world market is in danger of being choked by a growing accumulation of restrictive measures. Industries demand protection; trading rules are increasingly being ignored and evaded; mechanisms to resolve disputes are unsatisfactory; bilateral trade agreements are proliferating. If the trends toward trade restrictions continue, then sustained economic growth will be threatened. Deteriorating trade relations will create new political conflict.

In the current round of GATT negotiations, the U.S. is seeking a new commitment to open trade. The multilateral trading system should be strengthened, and countries should be subject to regular oversight. If the trading rules are kept up to date and consistently enforced, then all nations will benefit.

PAST GATT NEGOTIATIONS

Participation in GATT rounds has expanded from a handful of industrial countries in 1947 to more than 100 today, which often makes negotiation unwieldy. The first five GATT rounds in the 1940s and 1950s focused on reducing tariffs among the industrial countries. Recent rounds have put more emphasis on rules against non-tariff barriers, such as subsidies and discriminatory government purchases and regulations. Prior to the GATT, tariffs of 40 to 80 percent were common in the U.S. and abroad.

The GATT's greatest success has come in lowering tariffs to an average of 3 to 5 percent for most manufactured products traded among industrial, market-based countries. The GATT has had little effect on nontariff barriers or on trade in agricultural products and services (such as banking and engineering). It has provided wide loopholes for non-industrial economies, and nonmarket economies have generally not participated. Overall, the GATT rules still govern only a fraction of world trade.

THE CURRENT ROUND

The current round of GATT talks is dubbed the "Uruguay Round" because it began there in 1986. The official timetable calls for agreement on general principles when trade negotiators meet in late July and final agreement on specific language in December.

As in each of the previous seven trade rounds, the U.S. has been a prime mover behind the talks. President Bush has made the Uruguay Round the top priority in trade policy, and U.S. negotiators have set very ambitious goals. They want to reduce barriers to trade in agriculture, services, investment rules, and intellectual property (patents, copyrights, and trademarks). Strong constituencies in other countries oppose such changes, and the diversity of rules among GATT countries compounds the problem.

In agriculture, the U.S. has pursued a goal of eliminating all "trade distorting subsidies" and import quotas over a period of time. Much of current U.S. farm policy—and the farm bill now working its way through Congress—conflicts with the principles put forward by U.S. negotiators. Given the very strong support of Europeans and others to farm subsidies, the U.S. will probably have to compromise and accept commitments to scale back subsidies and quotas, but time is running short for such an agreement.

Other U.S. priorities touch equally sensitive nerves back home for foreign negotiators. Businesses in many developing countries thrive by using patents and copyrights without paying royalties and have little fear of free competition from foreign firms. Nonetheless, the governments of such key countries as Brazil, Korea, and Mexico seem receptive to more open trade, increasing U.S. hopes for agreement.

The U.S. cannot expect to achieve lower barriers abroad and not give concessions of its own. U.S. negotiators have proposed to phase out a complex system of negotiated quotas on textiles and apparel (the Multi Fiber Agreement), and to consider scaling back its new law for putting pressure on countries to remove unfair trade practices. Major cuts in some tariffs may also occur.

OVERALL OUTLOOK

All negotiators are reluctant to make commitments to liberalize trade that would be politically unpopular at home. Rather than agreements that truly liberalize trade by rolling back current restrictions, we may well see agreements with "grandfather" clauses and "standstill" commitments: countries could keep their current restrictive practices but could not make them tighter.

My own view is that it is probably better to have no agreement at all than to put together a weak package of meaningless reforms. Congress remains skeptical of the GATT negotiations and is reluctant to repeal the law providing for sanctions against countries deemed to be trading unfairly. President Bush wants a strong package to emerge from the Uruguay Round, not just because of its intrinsic merits but also because it will be more acceptable to Congress.

The GATT system has achieved unprecedented trade expansion and world prosperity. But now it has to be built afresh, filling in the gaps that have arisen as the world economy has changed. Services and agriculture have to be brought within its scope; market disruption and dispute settlement mechanisms have to be overhauled.

REGULATOR DECISIONS UNDERMINING LOCAL ECONOMY

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. MORRISON of Connecticut. Mr. Speaker, on June 21, 1990, I testified before the Senate Committee on Banking, Housing, and Urban Affairs about the credit crunch in Connecticut and the rest of New England.

I would like to share the text of my written comments with my colleagues in the House of Representatives.

STATEMENT OF HON. BRUCE A. MORRISON

Mr. Chairman and Members of the Committee on Banking, Housing, and Urban Affairs. Thank you for inviting me to testify on the credit crunch issue.

There's a credit problem in Connecticut. It's real. It's hurting businesses—both big and small. And it's helping to propel Connecticut into an economic recession.

This is not a story for the business pages. It should be on the front page. And the headline should read: "Regulator Decisions Undermining Local Economy."

I know that it is no longer considered to be very sensible for someone in political life to criticize the activities of the nation's bank regulators. But somebody has got to start standing up for the thousands of working men and women whose jobs and economic well-being are being threatened by a band of zealots who don't understand that it is possible to have too much of a good thing. After years of laxness and regulatory neglect, the pendulum is swinging back at us with a vengeance and the economies of Connecticut and the other New England states are suffering for it.

There is no doubt that there has been a substantial reduction in the availability of credit to all kinds of businesses in the Northeast. I'm not talking about just commercial and residential real estate development. I'm talking about manufacturing, wholesale and retail trade, consumer and professional services, and construction.

The shortage of credit has been documented in surveys conducted by the Connecticut Business and Industry Association, the Small Business Association of New England (SBANE), and the Massachusetts Industrial Finance Agency (MIFA), among others.

And businesses are being squeezed regardless of whether they are particularly dependent on the region's fragile economy. Earlier this week, one Connecticut company reported that it is having its credit lines restricted even though it is having the best year in its history and sells to a national market.

Many banks have not only stopped lending to the business community, but are actually calling loans made to some of their most creditworthy customers. Just what is going on?

Well, what's happened is actually rather straightforward for those with a mathematical bent.

The amount that a bank can lend is a multiple of its capital, about a 12 to 1 ratio for an extremely well capitalized institution. By forcing banks to recognize huge writeoffs, bank capital has been reduced, leading inexorably to a shrinkage in overall lending capacity. One bank analyst has reported that more than $4.5 billion in capital has been wiped off the books of New England commercial banks.

When capital shrinks, banks shrink. And its not just the Bank of New England that's been put on a strict diet.

Connecticut Savings Bank President Paul Johnson, whose bank just announced a significant layoff and will be "downsized" to meet regulatory requirements, described the process in an April 9 letter to one of my House colleagues:

"The early stages of shrinkage produces sales of assets to other financial institutions with little noticeable effects on the local economy. As the process continues, however, the 'downsizing' strategy takes a deeper and deeper bite out of the local economy.

Bank management responds by closing the lending window to any and all requests as it accelerates towards its new target size. There is a quick realization that sales and no loans will not produce the desired outcome in a time frame sufficient to meet Regulators' expectations. The final, and most destructive phase comes when the bank begins to call good loans from good customers in order to satisfy the tight time frame requirement."

That's what is going on right now.

There's no question that a lot of imprudent loans have been made—and good loans gone bad. The banks should have slowed lending to commercial and residential real estate developers much more rapidly as demand began to ease. Many loans have soured—and that ought to be recognized.

The problem is that the regulators—who, for all practical purposes, walked off the job in New England for about three or four years—have not only forced banks in our region to reserve huge amounts for loans that are not current, but also have required reserves against loans that are still current as to principal and interest repayments—often referred to as "performing non-performing loans."

In effect, what they have done is to force recognition of past, current, and possible future losses in one quarter and required huge reserves to protect against them.

Just how harsh are the regulators being? After its recent examination, Shawmut National Bank reported $1.164 billion or 6.76 percent of its assets were non-performing, with approximately $330 million or 28 percent of that amount representing loans that are still current as to principal and interest. It was required to reserve $772 million or 66 percent of the total assets classified as non-performing. If you exclude the $330 million in "performing non-performing loans," the bank was required to reserve 92 percent of the value of the loans classified as impaired. There are plenty of other examples.

Contrast that to the treatment accorded to RepublicBank of Texas in 1986 when a loan loss reserve of $307 million was required against $853 million in non-performing assets. Or how about the way that regulators have treated third world debt held by New York's money center banks. Money center banks are carrying reserve of 30 to 40 percent against loans that often sell for 20 cents on the dollar and less.

I say it is time for a little more candor from the regulators about what they're up to and a little more sensitivity about the impact they're having on the economies of Connecticut and the other New England states.

After all, you can't produce jobs or homes without credit. You can't keep an economy growing without lending. And you can't strengthen the banks by wrecking the local economies in which they operate.

TRIBUTE TO ANNA FRIEDMAN DIAMOND

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. GRAY. Mr. Speaker, I wish today to bring to the attention of Congress the singular achievement of one person who understands the value of education.

Anna Diamond is 71, and she was graduated May 12 from Holy Family College in Philadelphia, my hometown. Of the 231 graduates, Anna was the oldest. She was on the dean's list with a 3.4 average. Mrs. Diamond understands that education is its own reward.

Anna Friedman Diamond grew up with her four brothers and sisters in the lower East Side of New York during the depression. Her parents were unable to send any of their children to college. Anna tried on her own, but found she needed first to earn a living.

She and her husband, Morton, raised three children in Philadelphia. Mort started a cub scout and boy scout troup. Anna went back to work to help put the children through college. Her children earned seven graduate and post-graduate degrees among them. One son was recognized last year as the Oregon State Technology Teacher of the Year. Her daughter has been a teacher, too, and is the author of numerous children's books. She recently received a National Jewish Book Award. Their other son is a senior partner in a prominent law firm.

Several years ago, Mrs. Diamond retired from the position of supervising medical assistants at the Uptown House for the Aged in Philadelphia.

She had always stressed the importance of education to her children, and she had seen them benefit from that advice. Now at last, it was her turn.

Now everyone understood her decision. She was not like most of the other students. She found that at first the younger students looked at her with curiosity. Likewise, she no longer had that youthful endurance to cram for exams late into the night. But she was organized, and she was motivated. She wasn't to be distracted. After 5 years, she realized her lifelong dream to finish college.

Anna Diamond spent the weekend of graduation with her husband, her children, and their families. The day after graduation was Mother's Day. And as is fitting, the children were proud: Proud of her lifelong encouragement to learn and proud that she was proof of her own advice.

As we look ahead to our own future and the role education has played in shaping our country, I think it is fitting to recognize one who embodies our national commitment to education: Learning because we want to, learning because we need to, and improving the lives around us because we have learned. It is never too early or too late to learn something new as proven by the achievement of Anna Diamond.

COMMEMORATION OF THE BATTLE OF KOSOVO

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. ANNUNZIO. Mr. Speaker, June 28 commemorates the anniversary of the Serbian Battle of Kosovo. Occurring on June 15, 1389, on the Julian calendar, this historic battle was a turning point in Serbian history.

Twenty-five thousand Serbian patriots fought valiantly against Turkish soldiers, only to see their homeland lost in the most decisive battle between the Christians and Moslems. As the leader of the defenders of Christianity, Prince Lazar, the czar of Serbia, was determined to fight until the end.

Facing a surprise attack by Turkish Sultan Murad I's troops, as well as internal difficulties, Lazar united his army toward a common goal, only to see their homes crushed by Turkish aggression. The lost of life on both sides included the execution of Lazar and the murder of Murad I. Serbian patriot, Milosh Obilich, murdered the Turkish Sultan on the eve of the battle, a testament to his unyielding loyalty to Lazar and the Serbians. Regarded as a hero, Obilich is the subject of much Serbian poetry and tradition.

Lazar's place in Serbian history, however, goes even deeper. According to tradition, the prophet Elijah appeared before Lazar asking him to choose between the worlds of heaven and earth. Lazar sacrificed his people's life on Earth, in order that they might have an eternal homeland in Heaven. Prince Lazar is an example of one man's bravery and determination to fight for his country despite great obstacles. In many ways, his courage has been the uniting force among the Serbians, as they have attempted to preserve their religion, language, heritage, and civilization throughout the years of Turkish domination.

Turkish domination of the Serbian state actually began with the Ottoman campaign in 1371. Since the Battle of Kosovo, on the "Field of Blackbirds," the Serbs endured five centuries of Turkish rule and complete subjugation of their national heritage. Throughout these years of suffering, the Serbian Orthodox Church acted as the main unifying, stabilizing force, while fostering a sense of pride and Serbian nationalism.

This nationalism is evidenced by the pilgrimages to the tomb of Lazar at the main Orthodox Cathedral in Belgrade on the anniversary of the battle. Although it is a day of mourning for the losses suffered over 600 years ago, it is also a day of celebrating the rich culture heritage all Serbians share, as they remain hopeful for the complete restoration of their own political freedom.

Mr. Speaker, I am honored to join with the Serbian-Americans of the 11th Congressional District, whom I am honored to represent, and throughout the Nation, in commemorating the 601st anniversary of the Battle of Kosovo. The Serbians are a symbol to all of us of a people dedicated to the cause of self-determination, freedom, and liberty.

TRIBUTE TO PAUL SHOFF

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mr. Paul Shoff, who is retiring after 50 years of dedicated service to the Vienna Fire Department within my 17th Congressional District of Ohio.

Born on March 10, 1915, Mr. Shoff joined the Vienna Fire Department in 1940 and has served the department in an exemplary fash-

ion for 50 years. This was evidenced when he was appointed fire chief in 1978. Throughout his many years of service with the fire department, Mr. Shoff has always held the respect of his peers and admiration of his community.

Mr. Shoff married the former Lillian Davis on October 17, 1937. The couple has four children, and now have eight grandchildren. His family has been extremely supportive in his career as a fireman, and is especially proud of his commitment to the Vienna Fire Department.

Again, I would like to recognize and congratulate Mr. Paul Shoff for over 50 years of exemplary work with the Vienna Fire Department. I am proud and honored to represent such a fine citizen.

THE UNIVERSITY OF GEORGIA CONQUERS THE NATIONAL PASTIME

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. DARDEN. Mr. Speaker, on several occasions you and my colleagues have heard me stand here and tell, some would say brag, about the various and plentiful accomplishments of my alma mater—the Nation's oldest state-chartered land-grant university, the University of Georgia.

Once again, Mr. Speaker, I am more than pleased to bring to the attention of this body the fact that the University of Georgia has successfully demonstrated its superiority in another endeavor. This time, however, the Bulldogs of Georgia have earned a place in athletic history by winning the college national championship in that most American of sports, the national pastime: baseball.

As most of the Nation's baseball fans should already know, the University of Georgia won the College World Series by defeating Oklahoma State on June 9, 1990.

Coach Steve Webber and his Bulldogs were decided underdogs as they entered the tournament and faced the perennial powers of college baseball. But Coach Webber and his players proved that heart, determination, and teamwork can overcome the longest of odds.

The members of the 1990 National Championship baseball team from the University of Georgia are: Joey Alfonso, Bruce Chick, Terry Childers, Jeff Cooper, Steve DeBlasi, Dave Fleming, Matt Hoitsma, Brian Jester, Joe Kelly, Ray Kirschner, Don Norris, Tommy Owen, Stan Payne, David Perno, Doug Radziewicz, Mike Rebhan, Kendall Rhine, J.R. Showalter, McKay Smith, J.P. Stewart, Ray Suplee, Tracy Wildes, and Tom Zdanowicz.

Joining Coach Webber in the outstanding coaching effort were assistants Greg Appleton and Jim Bagnall and student assistant Mike Hawkins. Manager Pat Foren, trainer Jeff Chambers, SID Mike Nayman, and SID assistant Rodney Wood were also valuable components of this great team effort.

The Georgia baseball team was honored at the White House yesterday by a former college first baseman and the current "first fan," President Bush. I am pleased that he has joined the proud University of Georgia faithful in saying, "How about them Bulldogs!"

IN COMMEMORATION OF COLOMBIAN INDEPENDENCE DAY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to commemorate Colombian Independence Day. Colombia is named in honor of Christopher Columbus, and Independence Day is officially celebrated on July 20.

The independence movement initially began as a regional phenomena; however, it soon became a mass movement which incorporated all sectors of the country as they declared their desire for independence. This desire became a reality due to the persistent efforts of the people, when in 1819, Simon Bolivar defeated Spain in the Battle of Boyaca which ultimately led to the formation of Gran Colombia. Though this association lasted only a short time, the Colombia of today stands as a shining example of independence and democracy. Indeed, Colombia, has had an elected government throughout most of its history indicating a firm conviction for a democratic way of life.

Though struggle and strife still exists in this country, broad strides are being made toward added improvement in all areas of economic, social and cultural life. And I am convinced, as evidenced by Colombia's rich history, that the people of Colombia will once again rise, as they did so long ago, to join together in solving the problems they face today.

In Miami, a Colombian Independence Day Gala is being organized by members of the Colombian American Small Business Association [CASBA] and special recognition needs to be given to the organizing committee: Fernando Cerratto, public relations liaison; Norma Rengifo, CASBA director; Maria Clara Ospina de Lora, honorary member of the Colombian Consulate; Eduardo Erazo, CASBA promotions director; and Nidia Bennett, CASBA promotions director.

So in commemoration of Colombian Independence Day, let us remember all the countries presently fighting for their own self-determination and hope that peace comes soon.

THE EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1990

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. CONTE. Mr. Speaker, I rise today to commend all the Members of this body who worked so diligently, under the leadership of Mr. MAJOR OWENS and Mr. STEVE BARTLETT, to secure passage of H.R. 1013, the Education of the Handicapped Act Amendments of 1990 on June 18, 1990.

H.R. 1013 represents a bipartisan effort to reauthorize the discretionary section of the act that funds activities and programs related to personnel training, model projects, and research. Since enactment, this section of Public Law 94-142 has been responsible for fostering new educational approaches, disseminating valuable information, training personnel, and assisting parents.

H.R. 1013 strengthens these programs and fosters expanded access and quality education programs for all children with disabilities. Among other things, the bill provides for: Transition services for children with disabilities so they become productively employed when their schooling ends; involvement of the medical community in early intervention activities designed to help disabled babies be ready for school when it's time; recruitment, training, and retention of minorities to fill educational leadership posts in schools; and an ombudsman program for settling disagreements over equitable services.

H.R. 1013 also recognizes for the first time, the special needs for children with attention deficit disorders. The bill places ADD children in the category of other health impairments and makes special education services available to them.

Attention deficit/hyperactive disorder [ADD] affects between 3 and 5 percent of children, mostly boys. It is characterized by impulsivity, impaired attention, and hyperactivity. The underlying cause of the disorder is unknown but there may be a genetic basis involving neurotransmitter disturbances. About 30 to 60 percent of ADD children will carry some form of this disability into adult life. Children with attention deficit disorder often have other disorders in conduct, learning, and mood.

The solid evidence linking attention deficit and learning deficits suggests about 10 percent of children with ADD have significant learning disorders. ADD children who also have learning problems often fall way behind their peers in school. One study stated ADD children are seven times more likely to experience difficulty in all academic areas.

By including ADD in the bill, Congress acknowledges the unique nature of attention deficit disorders and responds to the difficulty parents and professionals have experienced in getting appropriate services for ADD youngsters under the previous law. The biggest frustration parents and professionals faced was finding a category within the law where attention deficit children could be served. Since they were not mentally retarded or emotionally disturbed, it became apparent that another category was needed. H.R. 1013 filled that void and opened the door for a previously neglected group of disabled children to now be served.

I have worked during the past year to get children with attention deficit disorders included in the act because of my deep concern about children who are, because of unusual circumstances, unable to achieve their fullest potential in both school and life. In many cases, the learning difficulties of underachieving students arise from the inability of the educational environment to respond to the child's unique learning style. The inclusion of ADD in the act makes the system more responsive to a heretofore unserved group of children, many of whom have been called underachievers.

My involvement in Congress on behalf of attention deficit disordered children is largely due to the diligent efforts of Sandy Thomas, president of Children with Attention Deficit Disorders. Sandy is a constituent of mine from Greenfield, MA. A parent of an ADD student, Sandy helped me recognize just how misunderstood and underserved attention deficit disorder children really are, and urged me to work on their behalf during the reauthorization of the Education of the Handicapped Act. Sandy's tireless attempts to secure recognition for attention deficit disorders are worthy of our highest praise.

In closing, let me take this opportunity to thank everyone who worked on the successful reauthorization of the Education of the Handicapped Act. It is a bill of which we can all be proud. I look forward to considering the provisions of this law in my role as ranking member on the House Committee on Appropriations.

HAZARDOUS WASTE DISPOSAL

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. OWENS of Utah. Mr. Speaker, I am introducing legislation today that is intended to spark debate over the shell game with hazardous waste disposal in our country. I ask, "Does it make sense to ship hazardous waste across the country when there are waste treatment and disposal facilities closer to the generating source?" It makes no sense to me to transport waste to States with open spaces, clean air, and clear waters just because they lag behind in environmental regulation.

If incinerator technology is so clean, then locate these facilities closer to the generating source where emergency response capabilities already exist. Transporting this waste over long distances with small towns and volunteer fire departments is not realistic.

My bill will allow a State to "just say no" to hazardous waste generated outside of that State. It also gives States clear authority to remove the economic incentive to ship hazardous wastes to States charging lower fees for disposal or treatment.

Most waste generators decide where the waste will be disposed by:

First, the cost of disposal fees and transportation;

Second, the waste treatment facility design and reputation;

Third, whether they own the facility;

Fourth, they want all of their waste in one location for long-term liability; and

Fifth, the unique needs of specific Superfund site cleanups. This bill will level the playing field between industrialized States and rural States.

In the West a new carpetbagger has arrived, boasting of clean technology and new jobs. If this technology is so clean then why are these facilities locating in States with lesser enforcement capabilities and small staffs? Why are incineration companies applying for permits within Indian reservations where enforcement jurisdiction is less clear?

Locating these incinerators in nonindustrialized States is another symptom of the fact that we need a clear national policy that focuses on both reducing the waste stream and treating the waste closer to the generating source. We need to scrutinize the effectiveness of the capacity assurance plans required under the Superfund Act.

Utah is known from its pioneer heritage as the crossroads of the West. I will not allow my State to become the crossroads of the waste.

TRIBUTE TO MR. PATRICK BOLDEN

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. GUARINI. Mr. Speaker, I rise today to pay tribute to and congratulate Mr. Patrick Bolden, a constituent of mine, who will celebrate his 100th birthday on Saturday, July 7, 1990. For 72 years, Mr. Bolden has been an outstanding member of the Jersey City, NJ, community, and his continued exuberant presence and activity in the community is an inspiration to us all.

Therefore, I wish to have entered into the RECORD the following resolution:

RESOLUTION TO RECOGNIZE THE 100TH BIRTHDAY OF MR. PATRICK BOLDEN

Whereas, Mr. Patrick Bolden, of Jersey City, New Jersey, was born on July 7, 1890, in Ridgeland, South Carolina, the third of thirteen children born to Richard and Lucinda Bolden;

Whereas, Mr. Bolden migrated to Jersey City, New Jersey in 1918, where he continues to live today;

Whereas, Mr. Bolden spent most of his laboring years working for a building demolishing company, his major task being the reclaiming and cleaning of bricks;

Whereas, Mr. Bolden's longtime stature in the community and the vigorous way in which this centenarian continues to approach his daily life is an inspiration to all of his family and the community;

Whereas, In recognition of Mr. Patrick Bolden's achievement, his family will host a Service of Celebration to be held on Saturday, July 7, 1990 at the St. John's Baptist Church in Jersey City, New Jersey, and the members of Mr. Bolden's family will travel from South Carolina, Rhode Island, New York, Washington, D.C., as well as various parts of New Jersey to join in this celebration: Therefore; be it

Resolved, That, to commemorate the 100th birthday of this long-time stalwart citizen of the Jersey City, New Jersey community, this resolution and the date of Mr. Patrick Bolden's 100th birthday, July 7, 1990, be entered into the Congressional Record, and that a United States Flag be flown over the Capitol in his honor.

I am certain that my colleagues here in the House of Representatives will join me in saluting Mr. Patrick Bolden on the occasion of his 100th birthday.

A LOOMING SQUEEZE ON INSURANCE COMPANIES

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. TORRICELLI. Mr. Speaker, I would like to bring to the attention of my colleagues an article by Melvin L. Schweitzer, a partner in the law firm of Rogers and Wells in New York City. Mr. Schweitzer, an eminent and respected attorney, calls attention to the growing danger, which has so far received little attention, of insolvencies among insurers.

The article follows:

[From the New York Times, June 8, 1990]

INSURER INSOLVENCIES: NEXT MEGA-CRISIS?

(By Melvin L. Schweitzer)

Unless appropriate regulatory and enforcement actions are taken, the nation could face a crisis in the insurance industry rivaling the thrift debacle. The parallels are disturbing.

Since 1970, more than 150 insurance companies have become insolvent, with more than half failing in the past five years. The four largest insurance insolvencies since 1985 could, by current estimates, cost the public more than $5 billion.

Only four years ago, the Federal Home Loan Bank Board predicted a drain of only $6 billion from savings and loan failures. Now we hear that these failures may actually cost American taxpayers up to $500 billion over the next 30 years.

The thrifts were caught in a squeeze between tremendous pressures to enhance profitability and the necessity of paying higher and higher interest rates to attract depositors. To achieve necessary rates of return, they ventured far beyond mortgage lending—their traditional area of expertise—to making risky loans in areas they knew nothing about. In addition, fraud and mismanagement were rampant, and regulatory oversight and enforcement were lax.

Today, insurers are similarly squeezed. With more than 250 property and casualty companies and 2,400 life insurers, insurance is a highly competitive but mature industry facing a shrinking market.

For example, sophisticated buyers of liability insurance often self-insure routine property loss risks, seeking outside insurance only for less predictable losses. As a result, some insurance companies have been writing exotic policies in areas where there is very little loss experience. Many others have cut prices and loosened underwriting standards.

Ultimately, these insurers are faced with claims they did not foresee or did not factor into their pricing. Thus they are either forced out of business or compelled to write still riskier policies to obtain necessary cash from premiums, only to face still larger liabilities in the future.

Life insurers, traditionally more stable, are no longer immune. In response to consumers' demands, they have offered investment vehicles with high guaranteed returns and interest-sensitive products, such as annuities tied to the performance of bond and money market portfolios.

At the same time, the quality and liquidity of the investments insurers must make to deliver these higher rates of return have deteriorated. Life insurers hold 30 percent of

the $200 billion of junk bonds outstanding (6 percent of the life insurers' total investments), and 24 percent of their portfolios are invested in illiquid commercial mortgages.

In a severe economic downturn or a decline in major investment markets, consumers could rush headlong to cash in these new products. This, in turn, could produce a "run on the bank" mentality that could cascade into widespread insolvencies.

A spate of bankruptcies could lead to a collapse of the state guaranty fund system, which is designed to protect policy holders and creditors. The system is patently ill equipped, financially or administratively, to handle such a calamity. It is a frightening—but realistic—scenario.

There is no shortage of proposals to help avoid an insurance crisis. One expert, Richard Stewart, former insurance Superintendent of New York State, argues for swift action—or at least public notification of problems—to hasten a weak company's slide into involvency, and thus contain the damage.

George Bernstein, former Federal Insurance Administrator, proposes that insurance company ratings be handled by the Government, not just private rating services, and that assessments for states' guaranty funds be inversely proportional to a company's ratings—the higher the rating, the lower the assessment. Many observers feel that the added financial burden on weaker companies would hasten their bankruptcy.

There are numerous other proposals, including more rigorous law enforcement. Greedy and unethical operators have caused som of the more prominent failures to date. But what is missing, as in the early stages of the savings and loan crisis, is the political will to act.

Congress, state insurance officials and the industry itself must do something. The U.S. cannot afford another financial disaster.

PERPETUAL SCHOLARSHIP NAMED FOR HON. SILVIO O. CONTE BY ORDER SONS OF ITALY IN AMERICA

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. MICHEL. Mr. Speaker, it was my distinct pleasure to participate in a scholarship award ceremony in the House Appropriations Committee room on June 7, 1990, wherein a perpetual scholarship in the name of our distinguished colleague, Mr. CONTE, was given to a deserving young high school senior.

The Silvio O. Conte Scholarship was one of 10 grants awarded that day to exceptional high school, college and graduate students from around the country under the auspices of the National Leadership Grant Program of the Order Sons of Italy in America [OSIA]. The Lou Carnesecca Scholarship, named for the noted St. John's University head basketball coach, was also given at that time.

In my opinion, OSIA acted wisely when it chose to honor Mr. CONTE. Known for his dedication to public service and his enviable work ethic, Mr. CONTE is widely recognized by his peers as a leader in securing funds for education, the environment, transportation, medical research, and job-training programs, while cutting wasteful Government programs to reduce the Federal budget deficit.

No one in the House of Representatives works harder than Mr. CONTE. Certainly no one has committed themselves more completely or tirelessly over the years to the cause of education than he. As Mr. CONTE, himself, put it, he learned early in his own life that anything that strengthens America, such as education, is worth fighting for. No more forceful advocate of public education has ever served this Nation.

I was profoundly pleased and gratified to participate in OSIA's glowing tribute to this extraordinary public servant, as I know were my colleagues, Messers. D'AMATO, NATCHER, and WHITTEN.

Moreover, I commend OSIA and the Sons of Italy Foundation for its longtime and steadfast commitment to education. The National Leadership Grants represent merely OSIA's national manifestation of an annual scholarship program that covers activities in 35 States and exceeds $500,000 in yearly largesse. As the oldest and largest organization representing Italian Americans, with more than 450,000 members spread throughout the Nation, OSIA has contributed more than $12 million to education since 1968 alone.

Finally, I ask that President Bush's laudatory remarks, read aloud at the award ceremony by OSIA's national executive director, Dr. Philip R. Piccigallo, be reprinted in the RECORD in their entirety.

THE WHITE HOUSE,
Washington, June 5, 1990.

I am delighted to send greetings to all those gathered in our Nation's Capital for the Educational Conference of the Order Sons of Italy in America. My congratulations to your National Leadership Grant recipients and to Congressman Silvio Conte, to whom you are paying special tribute.

Sil Conte is one of our Nation's most distinguished Italian-American legislators. His outstanding leadership in the House of Representatives, including his efforts to make excellence the spur of our national education system, make it especially fitting that the Order Sons of Italy in America establish a scholarship in his name. The Silvio Conte Scholarship will certainly be an inspiration, for it honors a man whose patriotism, loyalty, and dedication to the public good serve as an example to all Americans.

Barbara joins me in sending best wishes to Sil and to all of you for an enjoyable and productive conference.

GEORGE BUSH.

TRIBUTE TO HERB BUTLER

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. DARDEN. Mr. Speaker, one of the hardest working men in Georgia, Herb Butler, is retiring this year. Herb first joined local 10 in 1945 at the Bell-Marietta aircraft plant. He has served with distinction in several different positions of responsibility within the union, culminating in his current position as area director for Atlanta and vicinity.

His interests and talents go beyond his union work. He was appointed by former Georgia Gov. George Busbee to the State Board of Natural Resources, where he has played an important role in bringing attention and action to the effort to protect Georgia's parks, natural resources, and environment. He has been a leader in civil rights and charitable programs in Georgia. His efforts in the workplace and the community have not gone unrecognized as he has received numerous awards for his service.

Herb is being honored on July 2 by the UAW local 10 and some of his many friends as he prepares for his retirement. His active presence will certainly be missed, but he is deserving of some time for himself and his family. No doubt, Herb will continue to serve his community and his State, and I look forward to seeing him enjoy this new phase of his life.

A TRIBUTE TO MR. JEFF FAINE AND DR. ALBERT ARAN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, Mr. Chaim Khaves, a Soviet Jew who emigrated to south Florida 2 months ago, is able to see his new country with clearer vision thanks to surgery donated by Dr. Albert Aran, a north Miami physician.

On June 19, 1990, Mr. Chaim Khaves received cataract and pseudo exfoliation surgery to correct his vision that made him legally blind in his right eye. Performed at the Visual Health and Surgical Center, MediVision, doctors removed a cloudy buildup on his eye that hampered his vision.

Mr. Jeff Faine, general director of MediVision, heard about Mr. Khaves' eye problems from synagogue members. He sought the support of Dr. Albert Aran, the medical director of MediVision. Dr. Aran performed the surgery at no cost to Mr. Khaves.

Mr. Khaves and his daughter, Freda, had been trying to come to the United States since 1979. They finally arrived in April under a program coordinated by the Jewish Family Services of Broward County. Members of local synagogues adopt Soviet families and help them find homes and employment.

The assistance that Mr. Jeff Faine and Dr. Albert Aran contributed to Mr. Chaim Khaves is extraordinary. These two gentlemen understand the nature of giving and they ought to be commended for all of their efforts. I thank these two individuals for reminding us of the special pride we all feel when we give to others.

ACHIEVEMENT AGAINST THE ODDS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. PORTER. Mr. Speaker, I want to call Members' attention to a unique and inspira-

tional program held recently in Washington. On May 4, 1990, the Allstate Foundation and National Center for Neighborhood Enterprise sponsored the First Annual Achievement Against the Odds Awards Program. The program recognized low-income Americans who overcame social, economic, and physical barriers, to establish productive lives within their communities. The program sponsors sought to counter the myth that low-income Americans have no chance for success.

This year's award recipients came from a wide range of backgrounds, and each has risen above adversity through his own individual self-help approach. The honorees were Charles Ballard from Cleveland Heights, OH; Bobby Drayton from Washington, DC; Alfredo Garcia from San Antonio, TX; Cheryl Hayes from Milwaukee, WI; Kathleen Johnson from Montclair, NJ; Vivienne Thomson from Jamaica Plain, MA; and Brad Linnenkamp from Shawnee, KS. These outstanding individuals have demonstrated that hard work and perseverance can overcome daunting obstacles in their quest for success.

The Allstate Foundation proudly sponsored Achievement Against the Odds Program. Established in 1952, the Allstate Foundation is the philanthropic branch of the Allstate Insurance Co. which funds national and local programs in three focus areas of health, neighborhood revitalization, and education. The foundation is one of the largest corporate foundations in the Chicago area and an active participant in national grantmaking.

The National Center for Neighborhood Enterprise [NCNE] developed the awards program in order to give low-income people the support they deserve and need. The NCNE is a research, demonstration, and development organization dedicated to the idea that communities must use their own strengths to successfully deal with economic and social problems.

The Achievement Against the Odds Program featured Secretary of Housing and Urban Development [HUD] Jack Kemp and the chairman and CEO of Allstate Wayne Hedien. Mr. Hedien's remarks captured the spirit of the evening and I am proud to have them reprinted here for your consideration.

The remarks follow:

REMARKS BY WAYNE E. HEDIEN, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, ALLSTATE INSURANCE CO.

There is a tradition of community involvement at Allstate.

It probably goes all the way back to our parent company, Sears Roebuck. A long time ago, Sears' legendary Chairman General Robert Wood said, "business must account for its stewardship, not only on the balance sheet, but also in matters of social responsibility."

We've tried to put that principle into practice in a number of ways.

Since 1951, for instance, the Allstate Foundation has been making significant contributions to worthwhile causes across the country.

As a corporation, we've also crusaded for safety on the highways, and in the home.

We've worked to increase the availability of affordable housing in urban neighborhoods.

We've helped promote health and fitness for all age groups in our society.

And above all, we've tried to lend a hand to our neighbors—wherever and however we can.

We even have an organization in Allstate called "Helping hands," that supports the involvement of Allstate people in a wide variety of charitable projects.

I'm proud to say that three out of every four Allstate employees are active in these volunteer programs across the country—from community gardens . . . to special olympics . . . to seniors day celebrations.

So the idea of sharing our talents and resources with others is pretty well ingrained at Allstate. In fact, the commitment to society and community has been formally identified as one of four basic principles that guide the decision-making process in our company.

It's a priority right up there with our commitment to customers . . . to employees . . . and to quality in everything we do.

It's a commitment I personally support as Allstate's C.E.O.

But I don't think that makes me or my company unique.

For most leading corporations today, business as usual includes a dedication to corporate citizenship of the highest order.

In some ways, that represents a change from the prevailing attitudes of a century . . . or even a generation . . . ago.

But it's definitely a change for the better. And it's based on some very sound reasons.

In the first place, community involvement makes good business sense. Better fed, better housed, better educated employees make better workers.

And better communities make it easier to hire and retain them.

We've also learned that corporate social responsibility is good for our image. And a good image is absolutely essential in today's media-conscious environment.

But beyond these sometimes self-serving reasons, business gets involved in the community because this is America.

In Europe, for instance, companies traditionally aren't as active in civic and philanthropic affairs.

But in our pluralist and populist tradition, we believe that the ultimate aim of every institution must include serving the public interest.

That's true for government. It's true for nonprofit groups and community organizations. And it's true for business, too.

We have to pay our democratic dues just like everyone else.

But all that just helps explain why companies are involved with society in general.

What about the issue we are addressing today?

Why are corporations especially concerned with the future of America's schools?

And what can we do to help ensure the success of our joint efforts?

Let me briefly take a crack at answering those two questions.

First, why has business made the issue of education such a priority on its social agenda?

I think there are two reasons.

The first is simple self-preservation.

As we begin the '90s, businesspeople like me find themselves staring at a double-barreled dilemma.

On the one hand, we're facing a severe labor shortage by the end of the decade.

Our population is increasing at a rate slower than in any era since the great depression. Its also getting older.

As a result, by the year 2000, the workforce will be growing at less than 1 per cent per year . . . while economists expect the GNP to be growing at something like 3 per cent annually.

But that's only part of the problem, because while we will have fewer workers to draw on . . . we will also be making more demands on them.

We may think that computers and cable TV already bombard us with too many facts. But as the information age unfolds, tomorrow's workers will have to know more than ever—about all kinds of things.

And it's not just raw knowledge they'll need. After all, Microchips can shrink centuries of learning down into circuits smaller than your thumbnail.

But in a world where change is the rule, rather than the exception, what we really need are people who know how to use the information at their fingertips.

That means we need people who can make connections . . . explore options. We need innovation and entrepreneurship.

So when business looks at the year 2000, we see a world where fewer workers . . . will have to exercise more creativity and initiative than ever before.

Employees and corporations will have to learn how to work harder and, above all, smarter!

Obviously, such a scenario suggests that CEOs and school superintendents alike should re-think the way we prepare ourselves and our people for the future.

Which brings me to my second reason why business has become so involved with education—because corporations and the schools face many of the same issues . . . and have many of the same goals.

Take the labor shortage I mentioned. The same demographic facts of life will also produce a student shortage.

Or take another issue—the increasing ethnic diversity of our student and employee population.

By the year 2000, more than 85 percent of all new employees entering the workforce will be minorities and women . . . while one out of every three American students will be members of minority groups.

For both our institutions, the real challenge will be to create environments that are truly "heterogeneous"—where people are neither advantaged nor disadvantaged because of their background . . . and where different people are encouraged to make the best possible use of their different talents.

One more common issue facing business and education is the globalization of industry and ideas.

We're moving closer and closer to a world marketplace. Europe 1992 . . . the emerging economies of the Eastern Bloc and Pacific Rim—all the signs point to greater economic interdependence in the future.

Meanwhile, we're also moving closer to a world culture. Fashions . . . music . . . the media—they look and sound familiar, whether you're in Tokyo . . . Turin . . . or Toledo.

Now, globalization creates opportunities as well as challenges.

But when more than half of all adult Americans can't find England or France on a map . . . and when the average American business school graduate knows about as much math as the average eighth grader in Japan . . . we're clearly not ready to become full-fledged citizens of the world.

So as executives and educators, we face many of the same issues. There are many ways we can learn from . . . and help . . . each other.

Which brings me to my second topic.

What can we do to ensure the success of our emerging business/education partnerships?

Well, at meetings like this, we usually focus on the external obstacles we face. Funding. Logistics. Bureaucracy.

But to paraphrase "POGO" . . . when it comes to joint efforts by executives and educators . . . maybe the real enemy is us.

Because even though we both have an enormous stake in the success of our schools, we still approach education reform from different directions . . . and envision solutions largely from our own perspective.

That's something we don't often say out loud. But it's an observation that's reinforced by the results of surveys done over the past year in conjunction with this forum.

The first, you may remember, was conducted last year by Allstate and Fortune magazine. It questioned business leaders around the country—people like me, and my colleagues.

The second survey was conducted this year by our Allstate Research Center. It was co-sponsored by the American Association of School Administrators.

We asked many of the same questions as in the Fortune study. This time, though, we surveyed members of the education establishment—people like Dean Speicher and his colleagues.

Comparing responses to the two surveys revealed some interesting differences of opinion and perspective.

For instance, asked to grade the performance of American public education, Dr. Speicher's colleagues said the system was doing a pretty good job. They gave it a B−.

My colleagues said the performance was only fair, and gave it a C−.

Here is maybe an even more revealing result. More than half of the educators said America's school system is as good or better than Japan's.

More than nine out of ten executives thought ours is clearly worse.

But what about trends—where we've been, and where we're going?

Well, about three-fourths of the educators said they believe our public schools are better in 1990 than they were ten years ago.

About the same percentage expects them to improve during the coming decade, too.

Almost two out of three executives, on the other hand, said public education got worse—not better during the '80s.

And less than half predicted any real improvement in the next ten years.

All right then, we asked, why are our schools having problems?

Here, Dr. Speicher's colleagues and business people did agree on several important factors—including lack of parental involvement . . . and poorly motivated students.

But there were significant differences, too. Educators, for instance, were more than twice as likely to place part of the blame on budget cuts . . .

While executives cited inadequately trained teachers . . . low academic standards . . . and lack of emphasis on basic skills—again, twice as often as educators.

When we asked what it would take to turn our schools around, we did get agreement on several key points.

Both educators and executives believe getting parents more involved . . . making teachers more accountable . . . and doing a better job of motivating students were key objectives.

Again, though, there were differences. Some you might not expect—for instance, executives were more likely than educators to propose bigger salaries and smaller classes for teachers.

But executives were also twice as likely to favor a greater emphasis on basic skills . . . and three times more supportive of parents' right to choose whatever schools seem best for their children.

Finally, when we asked what companies should do to help the schools, educators were inclined to suggest supporting tax increases . . . and contributing materials and equipment.

Executives favored contributing materials, too. But they were also more likely to mention donating money . . . manpower, in the form of employee lecturers and tutors . . . and giving part time jobs to students.

Now, based on these differing responses, I'm not saying who's right . . . or whose perspective makes more sense. In most cases, the answer probably lies somewhere in the middle.

But one thing is clear. What we have here is a real failure to communicate. And it's costing us.

Look, for example, at the survey's final question. We asked, "overall considering what you know about current involvement, how much difference do you think U.S. companies' efforts have made in the quality of the education provided by your area's public education system?"

Only about a fourth of the executives and educators said companies were having a real impact on the schools in their area.

More than half said they hadn't made a difference at all.

If that's true, it probably reflects the fact that business and education have been focusing on joint efforts for a relatively short time.

Our first forum, for instance, was only helf a year ago. And we all know it can take large organizations a while to translate ideas into action.

But, if business isn't having a major impact on education, it also reflects the fact that . . . executives and educators still often see the world in different ways.

And it's hampering our efforts to get America's learning curve pointed in the right direction once again.

So what can we do about it?

It seems to me we have two choices.

We can draw a line in the dirt and say, "You stay on your side, and we'll stay on ours."

That's been our traditional approach. Oh, we've crossed over from time to time with programs like adopt-a-school. But basically, we've kept our distance.

That plan, however, hasn't really resolved some of the fundamental problems confronting American education which is why we created this forum in the first place. We believed that if executives and educators want to be truly effective advocates for reform, we have to get past our preconceptions . . . and focus on the problems instead; and we have to include others in the effort.

In other words, we need to rub out the line between us . . . draw a big circle instead . . . and invite everyone in.

As our first forum report makes clear, the best way to do all that is to tackle the issue where it matters most . . . and where we can do the most good—at the local level.

In just a few minutes, we'll hear examples of that principle in action.

The projects highlighted on this afternoon's program . . . and in the supplemental forum report you'll be receiving today . . . were based on a consensus that came from within the community—not just business or education . . . but all the constituencies concerned about our schools.

Their education shows that when people of good will get together, something very powerful happens.

Talk to those involved and you'll find that parents and teachers . . . executives and administrators . . . Government officials and civic leaders . . . don't have to sit down for very long before they find that the other guys have something to offer, too.

From there, it's possible to create a common agenda . . . and a shared strategy; and from that vision, springs success.

So that's our first recommendation—the revolution begins with one school . . . one district . . . one town at a time. And everyone plays a part.

But there is also a need to support that kind of consensus at the state and national level, too.

To keep communicating between and among the various groups with a stake in America's educational future.

I'll tell you the truth—I think of myself as a person who's fairly aware of the issues facing education. I read the articles and the reports, like all of you do.

But I rarely get the chance to exchange ideas with people like Lauro Cavazos and Phil Swain . . . Dean Speicher and Al Shanker . . . Bob Jones and Jean McGrew . . . and the panelists that we've assembled for this afternoon.

And every time I do get the opportunity . . . like today . . . I learn something. I see an issue in a different way. I think about a problem from another perspective.

In other words, I also get educated.

So what I'm proposing is a kind of continuing education program for educators . . . and executives . . . and everyone else interested in our schools.

An ongoing forum where we can share insights and suggestions. Where we can learn more about each other's proposals. Where we can clear the air, and take a fresh look at our options.

I don't know what form such a group should take. But I do know that it's necessary if we expect to achieve real and lasting education reform in America.

So I promise that Allstate will further explore the idea in conjunction with other groups and individuals; and we'll report back to you with the results.

Let me leave you with one final thought.

This is our third such forum on education. And it's our biggest turnout yet, which suggests that more and more executives and educators understand the importance of such efforts.

We realize we must act together, and soon, because we're not just talking about improving our productivity . . . or raising S.A.T. scores.

We're talking about improving our society . . . and raising our expectations for generations to come.

When predecessor, Dick Haayen, opened the first Allstate forum on education, he talked about "the wealth of nations."

He said Adam Smith's concept of people as a country's most valuable asset has been best illustrated by the history of free enterprise in America.

But history is full of little ironies. Today, we find millions of workers in Eastern Europe demonstrating—and even dying—for that ideal. . .

While back here at home, America goes on squandering its human resources by allow-

ing our schools and our students to settle for less than the best.

Maybe it's time we took a cue from the folks over there.

In his first New Year's Day address last month, new Czechoslovakian President Vaclav Havel told his people that they were at least partially responsible for 40 years of communism because "(we) accepted it as an inalterable fact, and thereby kept it running."

The same might be said of us—if we accept substandard education as an inalterable fact . . . and thereby keep our schools running at a fraction of their potential.

As Charles deGaulle—another European leader of an earlier generation—said: "people get the history they deserve."

Let's agree to do what's necessary today . . . so that a generation from now, history can say we gave the children of America the education they deserved.

Thank you. And good luck in your good work.

HONORING RICHARD JULIN

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. HERTEL. Mr. Speaker, I rise today to honor Mr. Richard Julin on the occasion of his retirement. Barbara, his wife of 27 years, his two children, Jackie and John, and the labor community join us in paying tribute to Rich.

Richard Julin was born on July 1, 1934. He attended St. David's Elementary School and St. Joe's High School. Rich began his career by joining the Lathers Local Union No. 5 in April 1954, and in 1957 became a journeyman lather.

Rich, a third generation lather, served as a business representative for two consecutive terms in the Lather's Council. He also served as an executive board member of Local No. 5, and remains a member in good standing.

Rich Julin was also the first inspector for the State of Michigan with the construction safety commission in 1963. He then served as the assistant chief inspector from 1966 until his retirement on January 31, 1990.

Rich served his country as a member of the U.S. Army from 1957 until his honorable discharge in April 1963. Since then, he has been a member of Beaudry Post of the VFW in Detroit, MI.

Rich Julin has always been an outstanding member of his community. He found time in his busy schedule to do everything from coaching Little League to campaigning for candidates seeking public office. Rich's great sense of humor and willingness to help others have endeared him to his many friends and colleagues.

My dear colleagues, I ask that you join with me in congratulating my good friend Rich Julin on his retirement. Rich's contributions are truly appreciated in the Detroit community and throughout the State of Michigan. We thank him for his years of dedication to local No. 5 and to this community, and extend sincere congratulations and warmest wishes to Rich.

INTRODUCTION OF BASE CLOSURE CLEANUP BILL

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. FAZIO. Mr. Speaker, the Department of Defense [DOD] is currently in the process of closing 86 domestic military installations as directed by the Base Closure and Realignment Act of 1988. A fundamental tenet of the act is to cleanup these facilities to enable affected communities to convert these installations to civilian use in an expeditious manner.

Already, communities throughout the United States are making plans for the development and reuse of these facilities—fully expecting that they will be cleaned up and made available so that they can begin the process of recovering from the economic impact of the closures. In my district, the Sacramento community has established a Mather Conversion Committee to explore the opportunities that the closure of Mather Air Force Base can provide for the area. Alternatives being considered range from using the base as an airport to building residential housing for the elderly.

The process that is underway in Sacramento is exactly what other communities must do, and are doing, to make the best of a difficult transition. But, communities were promised in the Base Closure Act that they would be able to develop the bases to create civilian jobs and restore civilian investment in the local economy. They were promised that they would be able to achieve these objectives by 1995.

Unfortunately, the energy with which communities are addressing base closures is not being matched by the Department of Defense. DOD is simply not focusing the amount of attention needed to ensure the expeditious cleanup of base closure sites. And, without adequate cleanup at these installations, communities will be very limited in the alternatives available to them for conversion of the bases.

In fact, some communities may find that only portions of the bases are available for development by the local communities and even then restrictions may be imposed on the reuse of the property due to environmental risks. Still other areas may be fenced off as toxic reservations that won't be eligible for cleanup dollars through the traditional process for years, if not decades. If the real estate market is down now, imagine the difficulties communities will face when they post "For Sale" signs up next to "Danger, Do Not Enter" signs at some of these bases.

Just look at the situation with Hamilton Air Force Base in Navato, CA. This installation closed in the mid-1970's. Yet, more than 15 years later, cleanup has still not been completed, the base has not been sold, and the community has had absolutely no opportunity to develop the base and recover some of the economic losses associated with the base's deactivation.

Another example, Mather Air Force Base is scheduled to close in fiscal year 1993. However, Mather environmental officials indicate that cleanup activities will not be completed until 1996 at the earliest. This schedule assumes that funding and regulatory procedures will go smoothly.

Compounding this problem is the fact that there is no funding source dedicated solely for the purpose of environmental restoration activities at base closure sites. Funding for such environmental work is currently derived from the Defense Environmental Restoration Act [DERA] account and the operations and maintenance [O&M] account. Therefore, the environmental restoration work needed at base closure sites must compete for limited funds used to cleanup active duty bases as well as for other programs important to our military readiness. This competition could seriously subvert the ability of DOD to pursue cleanup activities at bases targeted for closure in a timely fashion, especially in light of growing strains on the defense budget.

Furthermore, there is no guarantee that money budgeted for environmental restoration activities at base closure sites will actually be spent for such purposes. For example, the Army has budgeted $10 million in fiscal year 1991 for cleanup work at the Army Material Technology Laboratory in Watertown, MA. However, the DERA budget does not have the Watertown site listed as a project for fiscal year 1991. The same is true for O&M funds where discretion over the use of these funds is even greater.

For these reasons, Mr. Speaker, I am introducing legislation today that will create a pool of funds under the base closure account dedicated solely for cleanup of base closure sites. This new funding source will help ensure that funding is available for environmental restoration activities required under the Base Closure Act and will ensure that the closing facilities will be given priority consideration in the budget process.

In addition, my legislation would create an interagency task force, comprised of the Department of Defense, the Department of Justice, the Environmental Protection Agency, the General Services Administration, the Army Corps of Engineers, and representatives from State environmental protection agencies, to develop methods of coordinating cleanup activities and procedures among these agencies.

With 86 base closures currently underway, and the prospect of even more base closures in the future, we must begin to develop a clear policy on how we are going to deal with environmental cleanup activities at military bases, and particularly, bases that are closing. We cannot leave these facilities lying fallow for years before the cleanup and transfer of the property is completed.

With neither a change in the current funding scenario nor clear direction from Congress that cleanups at base closure sites should be given priority, communities will not be able to convert these military installations to the most beneficial use in a timely fashion. Mr. Speaker, this prospect is diametrically opposed to the intent of the Base Closure Act and must be corrected. I urge my colleagues to join me in supporting this important legislation.

A copy of this legislation follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FUNDING FOR ENVIRONMENTAL RESTORATION AT MILITARY INSTALLATIONS SCHEDULED FOR CLOSURE.

(a) AUTHORIZATION OF APROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Defense Base Closure Account for fiscal year 1991, in addition to any other funds authorized to be appropriated to that account for that fiscal year, the sum of $81,600,000. Amounts appropriated to that account pursuant to the preceding sentence shall be available only for activities for the purpose of environmental restoration at military installations (or portions of military installations) to be closed under title II of Public Law 100-526, as authorized under section 204(a)(3) of that title.

(b) EXCLUSIVE SOURCE OF FUNDING.—(1) Section 207 of Public Law 100-526 is amended by adding at the end the following:

"(b) BASE CLOSURE ACCOUNT TO BE EXCLUSIVE SOURCE OF FUNDS FOR ENVIRONMENTAL RESTORATION PROJECTS.—No funds may be used for purposes described in section 204(a)(3) other than funds that have been authorized for and appropriated to the Account. The prohibition in the preceding sentence expires upon the termination of the authority of the Secretary to carry out a closure or realignment under this title.".

(2) The amendment made by paragraph (1) does not apply with repect to the availability of funds appropriated before the date of the enactment of this Act.

SEC. 2. INTERAGENCY TASK FORCE.

(a) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the findings and recommendations of the task force etablished under subsection (b) concerning—

(1) ways to improve interagency coordination, within existing laws, regulations, and administrative policies, of environmental restoration activities at military installations (or portions) that are being closed, to be closed, pursuant to Law 100-526; and

and streamline, laws, regulations, and administrative agencies other than the Department of Defense with respect to restoration activities so as to enable those activities to be carried out more expeditiously.

(b) CREATION.—There is hereby established an interagency task force to make the findings and recommendations, and to prepare the report, required by subsection (a). The task force shall consist of the following (or their designees):

(1) The Secretary of Defense, who shall be chairman of the task force.

(2) The Attorney General.

(3) The Administrator of the General Services Administration.

(4) The Administrator of the Environmental Protection Agency.

(5) The Chief of Engineers, Department of the Army.

(6) A representative of a State enviromental protection agency appointed by the head of the National Governors Association.

A TRIBUTE TO THE NATIONAL ASSOCIATION OF POSTAL SUPERVISORS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of my colleagues and the American people the great work done by the members of the National Association of Postal Supervisors. They are to be praised for their dedication and determination in providing our country with exemplary service.

On June 29 and 30, the National Association of Postal Supervisors will convene in Florida to decide on a matter of great importance: first, for improving the already high caliber of service provided by the Postal Service and second, for widening the range of opportunity for supervisory postal employees. Especially recognized are the members of the board who have dedicated themselves to the achievement of these goals: President, Al Hernandez; national secretary, Margaret Grant; national vice president of Field Services, James Putnam; southern region national vice president, Paul Stevens; Southeast area vice president, Al Hawks; Cotton Belt Area vice president, Harold Mettz; and the Florida State president, Tim Ford.

The delegates from Florida to the National Association of Postal Supervisors include; Postal Governor, Tirso del Junco, M.D.; Southern Region Postmaster General, William Campbell; Assistant Postmaster General, Peter Jacobson; State of Florida division managers Woodrow Conner, Miami division; Bob Davis, Tampa division; and Robert Hodges, Jacksonville division; EEO council investigator and winner of Federal Employee of the Year for the Other Category, Jacinto Acebal; and past Federal Employee of the Year, Rolando Jimenez.

Mr. Speaker, I would like to make known my acclaim for these individuals "who make the Post Office their life work" and their noble cause.

HAZARDOUS WASTE DISPOSAL SHELL GAME

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. OWENS of Utah. Mr. Speaker, I am introducing legislation today that is intended to spark debate over the shell game with hazardous waste disposal in our country. I ask, does it make sense to ship hazardous waste across the country when there are waste treatment and disposal facilities closer to the generating source? It makes no sense to me to transport waste to States with open spaces, clean air, and clear waters just because they lag behind in environmental regulation. If incinerator technology is so clean, then locate these facilities closer to the generating source where emergency response capabilities already exist. Transporting this waste over long distances with small towns and volunteer fire departments is not realistic.

My bill will allow a State to "just say no" to hazardous waste generated outside of that State. It also gives States clear authority to remove the economic incentive to ship hazardous wastes to States charging lower fees for disposal or treatment.

In the West a new carpetbagger has arrived, boasting of clean technology and new jobs. If this technology is so clean then why are these facilities locating in States with lesser enforcement capabilities and small staffs?

Utah is known from its pioneer heritage as the crossroads of the West. I will not allow my State to become the crossroads of the waste.

REAPPRAISE AMERICAN MIDDLE EAST POLICY

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. WEBER. Mr. Speaker, recent events in the Middle East have again focused international attention on this highly volatile region. Unfortunately, these developments, particularly the foiled attack against Israel by the Palestine Liberation Front, have proved ominous for the Middle East peace process. The administration took the necessary step of discontinuing the dialog with the PLO until that organization disassociates itself from terrorism. Many of us in Congress applaud this action.

Mr. Speaker, we now have the opportunity to examine the fundamental basis of our policy and evaluate our approach to achieving peace in the Middle East. In this regard, I would like to call to my colleagues' attention an insightful analysis by the Center for Security Policy:

TIME TO REINVIGORATE THE UNITED STATES-ISRAELI STRATEGIC RELATIONSHIP

Monday's election of a new Israeli government may prove to be an historic watershed in relations between the United States and Israel. Conventional wisdom hold that the installation in Jerusalem of a coalition that is steadfastly opposed to key aspects of the Bush Administration's Middle East policy will produce still greater frictions in an alliance already severely strained over the past year.

In fact, the Center for Security Policy believes that a different outcome is both possible and necessary. The convergence of two key developments—Prime Minister Yitzhak Shamir's success in assembling a governing coalition comprised exclusively of conserative political parties on the one hand and, on the other, recent irrefutable evidence of the Palestine Liberation Organization's continuing embrace of terrorism—necessitates a fundamental U.S. reappraisal of the present American policy in the region.

If such a reappraisal is performed without illusions and on the basis of the actual international and regional conditions (as opposed to wishful thinking about the way things might or "should" be), it could create a basis for a far more harmonious U.S.-Israeli relationship and improve the prospects for preserving the peace in the over volatile Middle East. The following analysis is in-

tended to serve as a catalyst for that reappraisal and to identify key elements of present American policy which should be specifically addressed—and corrected.

It does not necessarily follow from the proposition that U.S.-Soviet relations are improving that the international environment is actually becoming safer for peaceloving nations. In fact, the chance of conflict at the sub-strategic level arguably is increasing substantially now that the prospect of conflict between the superpowers is judged to be waning and less susceptible to triggering by hostilities between their respective clients.

Indeed, the improvement in superpower relations may actually have the effect of exacerbating this danger as it relates to Israel. Perceptions of firm American support for Israel may be the single most decisive factor in the calculations of her regional enemies concerning the consequences of attacks against the Jewish state.

To the extent that the United States seeks to "cash in" on one of the putative benefits of the thaw in the Cold War—namely, the opportunity to obtain Soviet cooperation in "resolving" the Middle East crisis—it may foster the impression that the U.S. is prepared to subordinate its commitment to Israel to the pursuit of new diplomatic joint ventures with the USSR. As a practical matter, such cooperation would almost certainly take the form of a mutual effort to pressure Israel into making concessions concerning negotiating procedures and/or substantive positions, e.g., exchanging "land for peace."

This result is all the more likely to the extent that the Bush Administration perceives a perishable "window of opportunity" for dealing with the Soviet Union. As the Washington summit demonstrated, the more uncertain becomes Gorbachev's fate the greater the self-imposed pressure on the U.S. government to make concessions to Moscow, ostensibly in the interest of bolstering the Soviet leader's domestic position. Some even seem to view Gorbachev's weakness as requiring a sort of noblesse oblige on the part of the United States to be manifested in the arms control, trade and regional contexts as a greater willingness to be accommodating of the Kremlin's positions where American and Soviet interests are said roughly to converge.

In one such area, the Middle East, the pressure to accommodate Soviet interests (which often have much in common with the agendas of Moscow's radical Arab clients in the region) is welcomed by many within the American foreign policy establishment. Notably, Arabists in the U.S. Foreign Servicer have been particularly quick to urge that the "Soviet card" be played; they recognize the considerable potential of such a diplomatic initiative to distance the United States from Israel and to allow a closer alignment with so-called "moderate" Arab regimes.

Curiously, such sentiments seem to be dominating Bush Administration policy toward the region at the very moment that State Department experts are confronting the unravelling of one of their principal theses, i.e., that time is on the side of the Arabs. In fact, two strategic developments suggest that, all other things being equal, time is actually on Israel's side.

For one thing, the decline of the Soviet Union, or at least its preoccupation with other issues, holds out the possibility that several of the Soviet client states most hostile to Israel (notably, Syria, Iraq and Libya) may find that the flow of advanced weaponry and material and other support from Moscow is going to be sharply reduced.

Secondly, the emigration of tens and potentially hundreds of thousands of Jews from the USSR to Israel promises to bolster Israel demographically, strategically, and economically insuring (among other things) Israel's future ability to marshall sufficient human and other resources needed to protect itself. Perhaps nearly as important has been the renewed popular awareness of the ralson d'erre for the state of Israel—a sure refuge for Jews obliged to flee persecution and oppression. It is presumably just such considerations that have aroused the bitter opposition of the Arab world to this Soviet exodus.

In addition to misjudging the true character of the strategic context for the Middle East "crisis," many analysts fail to appreciate that the conflict with which they are concerned is actually an Arab-Israeli one, not an Israeli-Palestinian one. For them, Israel has, in the course of the Intafada, ceased to be the David surrounded by well-armed and threatening Goliaths; instead, it is now seen as a monstrous Goliath in its own right, bent on oppressing the stone-throwing Davids of a would-be Palestinian state.

The reality is that Israel continues to face a severe and potentially overwhelming threat—not from the Palestinians but from their Arab state backers.

Israel's pre-1967 geographic disposition (a width, at its narrowest point, shorter than what most American commuters travel to get to work) left it extremely vulnerable to lightning attack and dismemberment.

The proximity of its adversaries means that such attack is entirely possible with the barest of warning.

The unchecked belligerency of those adversaries ensures that such attack could come at virtually any moment.

Consequently, true peace in the Middle East can only come from genuine amelioration of these factors. It cannot result from a "peace process" such as that demanded by the United States which is disconnected from them—or, worse yet, which may actually exacerbate them.

While Israel's real security problem lies with its Arab state enemies and not with the Palestinians, American policy-makers also need to revisit their working assumptions about the true character of the PLO. The fact of the matter is that the Palestine Liberation Organization remains formally committed by word and by deed to the destruction of the state of Israel. It is comprised not of Jeffersonian democrats but of radical extremists, sworn to advance their anti-democratic goals not through "dialogue" but through force of arms.

Were there any doubt on this score, the situation in Lebanon should be sufficient proof of the real complexion of the PLO's modus operandi and preferred style of government. The notion that a peaceful PLO-dominated entity could be implanted in the midst of Israeli territory and not represent a security nightmare is laughable. At best, such a "homeland" would be a festering sore that would make the Intafada look tame by comparison; at worst it would be a pretext for large-scale Arab assaults on Israel.

What is more, the United States can be under no illusion that the PLO and their Arab state backers are other than the principal source of terrorism worldwide. As last week's abortive seaborne raid on the Tel Aviv hotel district made abundantly clear, Yasir Arafat's organization has not abandoned murder of innocent civilians as an instrument to advance its cause. To the contrary, in the year following Arafat's much-ballyhooed December 1988 "renunciation" of terrorism, his organization and associated groups conducted no fewer than 13 terrorist attacks inside Israel (i.e., within the pre-1967 borders), 17 cross-border attacks, and 125 murders of Palestinian civilians.

Even as the PLO and its factions have mounted this campaign of terror, Arafat's organization has been awarded unprecedented prestige and legitimacy through a diplomatic dialogue with the United States. This despite the fact that such contacts had been explicitly predicated by the U.S. on a pledge by Arafat not to employ terrorism.

Worse yet, when this dialogue was initiated on 15 December 1988, its continuation in the future was expressly tied by the United States to three conditions: (1) "No American administration can sustain the dialogue if terrorism continues by the PLO or any of its factions;" (2) the PLO was required to "publicly disassociate" itself from "terrorism by any Palestinian group operating anywhere;" and (3) "in the event of a terrorist action by any element of the PLO or one or more of its members" the United States would expect the PLO "not only [to] condemn this action publicly but also discipline those responsible for it, at least by expelling them from the PLO."

In fact, with the publication of a report on the PLO's compliance with its commitments in March 1990, the Bush Administration went one step further: It whitewashed the actual record by concluding that "the PLO has adhered to its commitment undertaken in 1988 to renounce terrorism." In so doing, the United States became an accomplice to Arafat's effort to perpetrate international terror without bearing any of the costs that the community of civilized nations might impose for doing so.

While it must be acknowledged that this is hardly the only occasion when an American government betrayed those who have placed trust in it, such behavior begs the question: Why on earth should Israel put its future security at risk by entering into negotiations with the Palestinians predicated on the exchange of "land for peace" if the ultimate safeguard is supposed to be American willingness to guarantee any agreement reached and come to Israel's rescue if things go badly? In light of current U.S. behavior, the patronizing notion of some U.S. government officials and non-governmental experts that America must coerce Israel to accept such risks on the basis of a U.S. guarantee is worse than extortion; it becomes a prescription for Israel's national suicide.

In light of the foregoing, the Center for Security Policy believes that American Middle East policy simply cannot continue on its present course. Specifically, the Center concludes that:

The Bush Administration's present diplomatic strategy which, if successful, would inevitably give rise to a Palestinian homeland on parts of territory now held by Israel, is a formula for disaster for U.S. as well as Israeli security interests.

Such a homeland would create a Lebanon in Israel, not simply a Northern Ireland. It would imperil the security of a key regional ally and vital strategic asset. And it would foster a radical anti-West and anti-democratic entity in the midst of a region already excessively susceptible to such sentiments.

If recent experience with the Soviet Union teaches anything, it is that—far from fostering desired change—diplomacy and detente in the face of irreconcilable substantive differences can simply serve to slow the realization of such change. Instead, it can have the effect of actually propping up unpalatable regimes, rather than increasing pressure for their reform. Real change—to the extent it is occurring in the Eastern bloc—is a product of conversion, not compromise. There is no evidence that such conversion is in the offing or likely on the part of either Israel or the Arabs.

Concepts like "land for peace" are doomed to fail; Israel must settle for nothing less than "peace for peace."

Peace must be made with the Arab states that constitute the real threat to Israeli security—not with the PLO alone. Peace must be on the basis of a real and explicit—not grudging, oral or hollow—acceptance of the right of Israel to exist and to preserve its security.

Under present circumstances, such outcomes are not likely to emerge from negotiations with the Palestinians—irrespective of Israel's willingness to engage in them.

In fact, the PLO is spitting in the United States' face with its shameless pursuit of terrorism in violation of the terms of the diplomatic dialogue, to say nothing of humanitarian and international law. Ignoring this—at the very moment that the U.S. is asking the Israelis to place faith in our willingness to act in the future should the PLO behave unacceptably—is an insult to a valued ally. It is, moreover, calculated to encourage precisely that sort of behavior from an organization hostile to U.S. and Israeli interests.

Accordingly, it is the height of folly for the United States to persist in a policy that is tantamount to extorting Israel to enter into negotiations with the Palestinians on the basis of such U.S. guarantees. This extortion has taken the form of, among other things, President Bush's personal intervention on the question of Jewish homes in East Jerusalem in a manner seemingly calculated to bring down the previous, coalition government.

The certain result if this American coercion continues will be further to exacerbate U.S.-Israeli ties. More worrisome still, it may cause Israel's enemies in the region to believe that the existing U.S. security guarantee to Israel is less than absolute. Such a perception can only invite aggression against Israel to both her detriment and that of this country. Indeed, the intended purpose of the exercise—namely, resolution of the Palestinian problem—is extremely unlikely to be advanced if the United States winds up undermining Israel's security as a device to force it to treat with its adversaries on unfavorable terms.

The current Middle East crisis is simply not amenable to the sort of expeditious resolution sought by President Bush and Secretary of State Baker. They are in serious danger of repeating the mistakes of a number of their predecessors, i.e., of squandering personal energies and national prestige in this region to no avail.

In fact, U.S. interests—and those of the Bush Administration—will be better served by displaying the sort of steadiness of purpose and support for an ally that is likely to preserve both Israel's security, U.S. interests and the peace. Accordingly, the time and political capital of the United States government should not be wasted further in trying to force a "solution" to the Middle East problem on the new Shamir government—particularly by doing so at the expense of the U.S.-Israeli security partnership.

TRIBUTE TO THE LATE FRANK LAUSCHE

HON. MICHAEL DeWINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. DEWINE. Mr. Speaker, Frank Lausche, former Governor of Ohio and former U.S. Senator, passed away earlier this year. Robert Thomas, staff columnist for the Streetsboro Record News, wrote the following tribute to him. I commend it to my colleagues:

SUM OF OUTSTANDING QUALITIES IS GREATNESS

He was the son of Slovenian immigrants who settled on Cleveland's east side.

He was a talented baseball player in his youth and won recognition on the diamond as an athlete. Had he chosen, he could have made it in the big leagues.

He was a soldier in the U.S. Army during World War I rising from private to sergeant.

He was a graduate of the John Marshall College of Law and briefly engaged in private practice.

He was an astute politician, but much more than that he was a dedicated public servant.

He was a municipal judge, common pleas court judge, mayor of Cleveland, a five-term governor of Ohio and a United States senator for two terms.

He was resolutely independent owing allegiance only to the total electorate.

He was a forceful, persistent fighter, the knight in shining armor, who took on organized crime, battled the labor bosses, opposed the powerful Ohio Education Association lobby, refused to call a special legislative session to hand out World War II veterans' bonuses and turned his back on pressures exerted on him by leaders of his own Democratic Party and all other special interest groups.

He was an ardent patriot constantly extolling the virtues of the American way of life.

He was a proponent of capitalism and a disciple of fiscal responsibility.

He was a devout Christian and faithful follower of his Roman Catholic faith.

He was a devoted husband and one who cherished family and friends.

He was a humble yet colorful man.

He was an articulate, impassioned speaker who could mesmerize the many and the few.

He was a serious, intense man, but also a possessor of a captivating sense of humor.

He was a man of unquestionable integrity.

On a warm, sunny April afternoon, we entered the Slovenian National Home at 6409 St. Clair Avenue and as we walked up the steps to the auditorium, an announcement on a stand told why we were there. It stated quite simply that the "very honorable" Frank Lausche, former governor and senator, was lying in state.

Two days before, the stout heart stopped beating and the resonant voice fell silent. Frank J. Lausche had passed from this earthly scene after a full and useful life of 94 years. Ohioans had lost a distinguished and, indeed, a "very honorable" son.

THE EMPLOYER SANCTIONS REPEAL ACT OF 1990

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. ROYBAL. Mr. Speaker, today I am introducing the Employer Sanctions Repeal Act of 1990, which terminates the employer sanctions provisions of the Immigration and Reform and Control Act of 1986 [IRCA]. The basis of this resolution is founded on the results of the General Accounting Office [GAO] report that clearly shows employer sanctions to be the cause of a widespread pattern of discrimination against foreign looking and speaking American citizens and others eligible to work in this country.

When employer sanctions were debated in Congress, some of my colleagues and I expressed deep concern that employer sanctions would cause employment discrimination against U.S. citizens and others who are authorized to work in the United States but look foreign or speak English with an accent. Three years after the implementation of employer sanctions, I regret that our concerns have been confirmed by reports from the General Accounting Office, the highly regarded California Employment and Housing Commission, and the New York Commission on Human Rights.

The evidence that employer sanctions have caused a widespread pattern of discrimination is clear. The General Accounting Office concludes that, "The employer survey results are sufficient to conclude that a widespread pattern of discrimination has resulted against eligible workers."

Furthermore, the GAO report—March 29, 1990—found that nearly 20 percent of employers surveyed had discriminated on the basis of national origin and citizenship as a result of employer sanctions. In some areas of the country, such as Los Angeles and Texas, nearly 30 percent of employers began discriminating on the basis of a job applicants' appearance and accent. Similarly, the U.S. Commission on Civil Rights, in both California and New York issued reports that found that employers discriminated against U.S. citizens and other eligible workers out of fear of employer sanctions.

Under an expedited process provided by section 247(1) of the Immigration and Nationality Act, the employer sanctions provisions are terminated if:

First, the General Accounting Office concludes that these sanctions have caused a widespread pattern of discrimination against citizens and nationals of the United States or against eligible workers seeking employment, and

Second, Congress passes a joint resolution approving the Comptroller General's findings within 30 days of the transmittal of the report to Congress.

Since the GAO transmitted the report March 29, the 30 days terminated May 10, 1990. In my opinion, the failure of Congress to repeal employer sanctions is tantamount to the abdication of its responsibility to protect the rights

of Americans, regardless of their race or ethnic origin. By allowing a system which has proven to cause discrimination is a sign to the American public that some discrimination is acceptable. This is a dangerous message to send.

Today, I am appealing to you to support me in a quest to end discrimination against legal workers who look foreign or speak English with an accent. For this reason, today I am introducing a resolution which calls for the repeal of the employer sanctions provision of IRCA, and provides for stricter enforcement of wage and hour laws, increased personnel levels of the U.S. Border Patrol, in-service training of U.S. Border Patrol and Immigration and Naturalization Service personnel, and increased penalties for commercial smuggling and harboring of undocumented immigrants.

Specifically, my new legislation includes the following provisions:

Increased personnel levels of the Border Patrol. For fiscal year 1991, my legislation increases the current number of full-time border patrol positions to 5,300. Rather than needlessly threatening our civil liberties, it uses the common sense and cost-effective solutions to controlling our borders by increasing the resources and personnel of the INS.

Increased enforcement of wage and hour laws. Enforcement will be used to remove incentive for employers to hire undocumented workers. Additional personnel will be assigned to investigate wage and hour violations in areas where there are high concentrations of undocumented workers.

Provide inservice training of U.S. Border Patrol and INS personnel.—This bill provides for inservice training to familiarize personnel with the civil rights and varied cultural backgrounds of immigrants and citizens. The sum of $2,000,000 will be appropriated to the Attorney General for fiscal year 1991 to carry out the inservice training.

Increase penalties for commercial smuggling and harboring undocumented immigrants.—The penalty for commercial trafficking in, transporting, or harboring undocumented immigrants will increase from 5 years imprisonment to 10 years.

In addition, my legislation allows the Office of Special Counsel for Immigration-related Unfair Employment to remain intact for 1 year to address discrimination cases with respect to charges of unfair immigration-related employment practices filed within 180 days of practices, which occurred before the date of enactment of this act.

At the expiration of the 1-year period, the Attorney General, acting through the Civil Rights Division of the Department of Justice, shall assume all the duties carried out by the Special Counsel with respect to charges of unfair immigration-related employment practices.

As a country with a rich history of immigration, and an abhorrence for discrimination, we cannot continue implementing a program for employers to discriminate against U.S. citizens and other legal workers. I strongly urge you to cosponsor and support this legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employer Sanctions Repeal Act of 1990".

SEC. 2. REPEALS.

(a) IN GENERAL.—Sections 274A and 274B of the Immigration and Nationality Act (8 U.S.C. 1324a, 1324b), relating to unlawful employment of aliens and to unfair immigration-related employment practices, are repealed.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) The table of contents of the Immigration and Nationality Act is amended by striking out the items relating to sections 274A and 274B.

(2)(A) Section 8704 of title 46, United State Code (relating to alien deemed to be employed in the United States) is repealed.

(B) The table of sections for chapter 87 of such title is amended by striking out the item relating to section 8704.

SEC. 3. SAVINGS PROVISION.

(a) CONTINUATION OF DUTIES BY SPECIAL COUNSEL.—The Special Counsel for Immigration-Related Unfair Employment Practices appointed pursuant to section 274B(c) of the Immigration and Nationality Act shall, for a period of one year after the date of enactment of this Act, continue to carry out his or her duties under section 274B of that Act as in effect on the day before the date of enactment of this Act with respect to charges of unfair immigration-related employment practices filed within 180 days of practices which occurred before the date of enactment of this Act.

(b) CONTINUATION OF DUTIES BY ATTORNEY GENERAL.—At the expiration of the one-year period described in subsection (a), the Attorney General, acting through the Civil Rights Division of the Department of Justice, shall assume all the duties carried out by the Special Counsel with respect to charges filed as described in subsection (a).

SEC. 4. STRENGTHENED ENFORCEMENT OF IMMIGRATION AND WAGE AND HOUR LAWS.

(a) INCREASED PERSONNEL LEVELS OF THE BORDER PATROL.—The number of full-time officer positions in the Border Patrol of the Department of Justice for the fiscal year 1991 shall be increased to 5,300 positions.

(b) INSERVICE TRAINING FOR THE BORDER PATROL.—(1) Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is further amended by adding at the end the following new subsection:

"(c)(1) The Attorney General shall provide for such programs of inservice training for full-time and part-time personnel of the Service in contact with the public as will familiarize the personnel with the rights and varied cultural backgrounds of aliens and citizens in order to ensure and safeguard the constitutional and civil rights, personal safety, and human dignity of all individuals, aliens as well as citizens, within the jurisdiction of the United States with whom they have contact in their work.

"(2) The Attorney General shall provide that the annual report of the Service includes a description of steps taken to carry out paragraph (1).".

(2)(A) There are authorized to be appropriated to the Attorney General $2,000,000 for the fiscal year 1991 to carry out the inservice training described in section 103(c) of the Immigration and Nationality Act.

(B) Funds appropriated pursuant to subparagraph (A) are authorized to remain available until expended.

(c) INCREASED PERSONNEL LEVELS FOR THE LABOR DEPARTMENT.—(1) The number of full-time positions in the Wage and Hour Division within the Employment Standards Administration of the Department of Labor for the fiscal year 1991 shall be increased by at least 250 positions above the number of equivalent positions available to the Wage and Hour Division as of September 30, 1990.

(2) Individuals employed to fill the additional positions described in paragraph (1) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of undocumented aliens.

(d) INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS.—(1) The number of Assistant United States Attorneys that may be employed by the Department of Justice for the fiscal year 1991 shall be increased by at least 21 above the number of Assistant United States Attorneys that could be employed as of September 30, 1990.

(2) Individuals employed to fill the additional positions described in paragraph (1) shall be used only for the prosecution of persons who bring into the United States or harbor illegal aliens.

SEC. 5. INCREASING CRIMINAL PENALTIES FOR BRINGING IN AND HARBORING ALIENS FOR PROFIT.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1), by inserting "(or 10 years in the case of such an offense done for the purpose of commercial advantage or private financial gain)" after "five years";

(2) in paragraph (2)(A), by striking "or" at the end;

(3) in paragraph (2)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by redesignating clause (iii) as clause (ii);

(4) by adding at the end of paragraph (2) the following new subparagraph:

"(C) in the case of an offense done for the purpose of commercial advantage or private financial gain, be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both."; and

(5) by adding at the end the following:

"(3) For purposes of this section, the employment of an individual (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring.".

SEC. 6. NEGOTIATIONS WITH MEXICO AND CANADA.

It is the sense of the Congress that—

(1) the Attorney General, jointly with the Secretary of State, should initiate discussions with Mexico and Canada to establish formal bilateral programs with those countries to prevent and to prosecute the smuggling of undocumented aliens into the United States;

(2) not later than one year after the date of enactment of this Act, the Attorney General should report to the Congress concerning the progress made in establishing such programs; and

(3) in any such program, major emphasis should be placed on deterring and prosecuting persons involved in the organized and continuing smuggling for profit.

SEC. 7. CONFORMING AMENDMENTS.

(a) Section 218 of the Immigration and Nationality Act (8 U.S.C. 1188) is amended—

(1) in subsection (h)(1), by striking out "and to provide notice for purposes of section 274A";

(2) in subsection (i)(1), by striking out "(as defined in section 274A(h))"; and

(3) by adding at the end of subsection (i) the following:

"(3) The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.".

(b) The Immigration Reform and Control Act of 1986 is amended—

(1) in section 304(b)(1)(C), by striking out "and the employers' sanctions";

(2) in section 304(j), by striking out paragraph (1); and

(3) in section 304(j), by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(c) Section 1546 of title 18, United States Code, is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(d) Section 103(a) of the Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470) is amended—

(1) by inserting "or" at the end of paragraph (4);

(2) at the end of paragraph (5), by striking out "; or" and inserting in lieu thereof a period; and

(3) by striking out paragraph (6).

(e) Section 5(f) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239) is amended by striking out paragraph (3).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Except as otherwise specifically provided by section 4(b)(2), there are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

RECOGNIZING RENNE SCHICK FOR 25 YEARS OF TEACHING

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to pay tribute to a dedicated teacher, Renne Schick, who retires this year after 25 years of service in Bay Harbor Island, FL. Mrs. Schick is a valuable example to the community of a person who finds her calling and goes to all lengths to excel in it.

Mrs. Schick moved to Bay Harbor Island from Englewood Cliffs, NJ, in 1963. After enrolling her two daughters in Bay Harbor Elementary, she found herself thrust into the world of education through the PTA as well as other activities. Until then, Mrs. Schick's work experience involved working in radio and advertising copy writing. She found the principal relying more and more on her to do the music work and finally decided to fully take on the job of music teacher. She had a bachelor's degree in music and English and decided to acquire a master's degree in education by attending night classes at the University of Miami.

Mrs. Schick was loyal to Bay Harbor Elementary from the first day. She aided the school through its dramatic growth from 300 students to over 600 students, as well as its passing of a nongrading policy. Due to a shortage of specialized instructors, Mrs. Schick taught Spanish in addition to music.

Renne Schick's dedication and talent will be missed at Bay Harbor Elementary School but will be cherished forever. She was especially remembered on June 7 when the mayor of Bay Harbor had proclaimed "Renne Schick Day." I wish Mrs. Schick great success in her future plans of travel and writing.

MODEL RESIDENTIAL PROJECTS FOR ALCOHOL AND DRUG ABUSING WOMEN AND THEIR CHILDREN

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. UDALL. Mr. Speaker, today I am introducing legislation that will make a difference in our war against drugs. Everyone agrees that this country's drug situation has little chance of getting better without tough laws against drug abuse and trafficking in coordination with effective treatment programs to help the drug abuser overcome the addiction. It is the latter point that this legislation will address.

Drug and alcohol abusing women who have children traditionally experience significant barriers to treatment because most programs they enter do not accommodate their children. As a result, many of these women either are reluctant to seek the treatment they need or are forced to put their children in State foster homes at a time when there is a severe shortage of people willing and able to provide foster care in the United States. In the end, the addicted mother does not receive the treatment she needs to deal with a habit that will eventually kill her if untreated.

Not only should the addicted mother receive treatment, but it is extremely important she complete treatment. The fact is, treatment outcomes improve with the length of treatment. Statistics from drug treatment facilities in Tucson, AZ, San Francisco, CA, and New York City have shown that women whose children resided with them during treatment consistently stayed in treatment longer than those women who had to find care for their children if they wanted treament.

As evidence of this, Operation Par, a drug treatment facility in Florida, has hard statistical evidence that women stay in treatment for a significantly shorter period of time than do men, if their particular needs are not addressed. In treatment centers that do not address these issues, 25 percent of the men left treatment within the first 90 days. On the other hand, 65 to 70 percent of the women left within the first 90 days. The reason most women gave for leaving treatment was that they needed to go home to take care of their children.

For two decades, researches have recommended that women and children be given a higher priority in terms of delivered drug treatment services. Despite this fact, according to the American Public Welfare Association, only 23 States have statewide drug treatment programs for children and only 25 have them for parents.

Compounding the States' neglect of special treatment programs for women and children is the fact that drug use has increased among women of childbearing age. Researchers estimate that of 56 million American women between the ages of 15 and 44, 15 percent are currently substance abusers. Orphanages are filling up for the first time since the turn of the century. And because of drugs, we are turning hospital pediatric units into warehouses for children of drug addicted parents.

It is also a well-known fact that most alcohol and drug abusers are children of alcohol and drug abusers. Without treatment, the drug problem will continue to expand exponentially as this disease travels from generation to generation.

Mr. Speaker, this legislation will rebuild drug affected families by reducing the barriers to successful drug treatment for high-risk mothers by allowing them to bring their children into treatment programs with them. It would also offer the mother new behavior and employment skills which can help to break the cycle of drug addiction in the next generation.

My legislation would amend the Public Health Service Act to create a new section to fund five demonstration projects in which addicted mothers in residential treatment would be allowed to have their children with them. These residential drug treament programs would target economically disadvantaged, addicted women and their children, aged 10 years or younger. The programs would offer child care, parenting and jobs skills, nutrition, and other health, social, education and employment services as deemed necessary.

Similar legislation has been introduced in the Senate by Senator DECONCINI and has gained the support of 11 Senators. I urge my House colleagues to lend ther support to this important bill.

HONORING SCOTTY HUBERT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. RICHARDSON. Mr. Speaker, it is with great pleasure that I share with you some good news about an outstanding Federal employee who is making a positive and concerted effort to help the public.

I would like to take this moment to honor Mrs. Scotty Hubert who is employed in the Social Security Administration's office in Farmington, NM. She recently offered assistance to Christena and Joe Abrams of Farmington. Mr. and Mrs. Abrams were so impressed with Mrs. Hubert's abilities, that they contacted their State representative, Jerry Sandel, who in turn notified me.

Mr. and Mrs. Abrams said they had been getting the run around from the Social Security Administration offices in New Mexico and Wyoming for several years. But, that all ended when Mrs. Hubert took their case. This is how the Abrams described Mrs. Hubert's effort:

Not only did she expedite matters in an efficient and thoroughly professional manner, but she did it with grace and dignity, treating us as human beings not just

numbers. She was patient, considerate, and most of all understanding. She totally restored our faith in "the system," no small accomplishment."

As public officials, we hear mostly complaints from our constituents. People tend not to contact us when they've received the service they sought. But the Abrams were different. They were so impressed with Mrs. Hubert's work, that they felt compelled to write to their representative to spread the word about the outstanding effort by Mrs. Hubert.

I ask my colleagues to join me in honoring a truly exceptional Federal employee who is obviously making a difference in Farmington, NM.

COMMEMORATING TURKEY LOVERS' MONTH

HON. W.G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. HEFNER. Mr. Speaker, during the past decade the turkey industry has developed numerous innovative products to satisfy America's need for nutritious, convenient, and low-fat foods. I would like to join the National Turkey Federation and the turkey industry in North Carolina in celebrating June as Turkey Lovers' Month.

Turkey isn't just for holidays anymore. In fact, according to the "Executive Summary on Consumption Patterns and Attitudes of Consumers of Turkey—1980 to 1989," prepared for the National Turkey Federation by the NPD Group's National Eating Trends Service, in 1989 over 41 percent of American households reported serving turkey on a regular basis in their daily menus. That number was 26 percent just 4 years ago.

My State, North Carolina, continues to lead the Nation in turkey production, producing over 1 billion pounds of turkey last year. That translates to 51 million turkeys, a new production record for a single State. The turkeys we raise are also processed in the State and are then shipped all over the world.

I am pleased to join in the celebration of Turkey Lovers' Month and am proud of the leading role my State—and in particular, Union County in my district—plays in this growing industry.

WINSHARE—A SUCCESSFUL PARTICIPATIVE MANAGEMENT SYSTEM AT ERICSSON GE MOBILE COMMUNICATIONS, INC.

HON. LEWIS F. PAYNE, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. PAYNE of Virginia. Mr. Speaker, recently I had an opportunity to visit Ericsson GE Mobile Communications, Inc., in Lynchburg, VA, on the occasion of their annual Winshare Fair. Winshare is the best practical application of a participative management system I have ever witnessed. Every employee I spoke with spoke as if they were an owner of this business.

Winshare is a revolutionary system for involving the entire work force to participate in creating a vision for the company and to promote its success. The Winshare Program works because employees have greater responsibility in their jobs; have ownership in the company; and management commits resources to promote creativity, effective communication, and recognition of employee accomplishments.

The Winshare Program is structured such that employees are put in teams of 5 to 50 people. Teams take on different projects that promote morale and self-esteem. These range from fun activities—pep rallys, fairs, et cetera—to encouraging employees to become involved in trade shows, the multiple communications channels—newsletters, bulletin boards, and weekly newspaper, or become volunteer tour guides for customers, dealers, new employees, and guests.

GE Winshare programs encourage employee involvement in the company's future and is characterized by a company theme: "If you can Dream it . . . We can do it." GE Winshare is a company that works not only because it produces a quality product but because it also promotes a quality workplace.

I submit this report because of Winshare's proven success and the possibility that it can be replicated by other interested business concerns who are striving for excellence in this highly competitive environment.

COMMUNITY AWARENESS PROGRAM

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. IRELAND. Mr. Speaker, crime prevention is an important and essential item to the well-being of a community. I rise today to commend the good work of Sheriff Lawrence W. Crow, Jr. and his Community Awareness Program. Thanks to them, a new edge is being gained in the prevention of crime in Polk County, FL.

The Community Awareness Program started as a cooperative effort of the sheriff's department and the Federation of Mobile Home Owners to increase citizen involvement in the fight against crime. A liaison was appointed by the sheriff to work with the people and to set up a line of communication with the community and local law enforcement. The program then expanded into a 14-hour course designed to create a knowledgeable public as to the operation and availability of community services.

The Community Awareness Program strives to teach citizens crime prevention techniques while bettering the relations between local law enforcement and Polk County residents. Areas covered by the course include identification of personal property, home security techniques, hurricane preparedness, proper emergency procedures, awareness of frauds and con-games, and the formation of neighborhood watch groups.

Community response to the program has been extremely positive. Impressive test results and encouraging community feedback show that the Community Awareness Program is making a difference. Neighborhood blocks, mobile home parks along with various clubs and organizations have joined together to help the Polk County Sheriff's Department through better crime awareness. By evaluating and then educating neighborhood residents, the Community Awareness Program is helping to eliminate the opportunity for criminals to act, thus, creating a safer and more peaceful place to live.

The Polk County Sheriff's Department has taken a new and successful approach to crime prevention by implementing the Community Awareness Program. Sheriff Crow and his staff should be commended on a job well done. By creating a working relationship with local law enforcement and Polk County residents, the Community Awareness Program has made much headway and has taken a bite out of crime.

FOOD FOR PEACE PROGRAM

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. GEJDENSON. Mr. Speaker, today I am introducing the Food for Peace and Agricultural Export Promotion Act. This legislation is identical to the text approved on June 5, 1990 by the Foreign Affairs Subcommittee on International Economic Policy and Trade, which I chair.

In reauthorizing the Food for Peace program, this legislation clarifies the authorities of USDA and AID in an effort to increase accountability and to reduce the bureacratic turf fights that have come to characterize the program. USDA will be responsible for the title I concessional loan program which will have market development as its mandate. That agency will be responsible for choosing the commodities sold, the countries eligible for loans and the market development activities to be funded by the local currencies generated from the program.

AID will be responsible for a new title I grant program that will be devoted to economic development. It will be responsible for selecting the commodities to be used in the program, the countries chosen for grant aid and the economic development activities to be funded by local currencies.

Title II of Food for Peace will continue to be a commodity donation program for disaster relief, economic development and feeding programs in the poorest countries. As in current law, title II will be managed by AID, with private voluntary agencies and cooperatives responsible for running most of the program.

This legislation has a new title II program of agricultural assistance to emerging democracies. Entitled "Food for Freedom" this is a program of up to $120 million annually in sales or grants of commodities to countries that are on a path to representative government and market-oriented economies. Many

countries in Eastern Europe will be eligible for title III assistance.

U.S. agricultural export promotion programs are also reauthorized by this legislation. The primary export promotion efforts reauthorized by the bill include the Export Promotion Program, the GSM-102 and GSM-103 Programs, and the Market Promotion Program, which is currently called the Targeted Export Assistance Program.

This legislation will increase exports of U.S. agricultural commodities and products by making export promotion programs more cost-effective, by increasing funding and guarantee authorization levels for certain programs and by ensuring that export promotion programs meet the challenges posed by economic and political reform in Eastern Europe and Latin America.

Specifically, this legislation, in addition to reauthorizing all U.S. agricultural export promotion programs for 5 years, provides new loan guarantee authority under GSM-102 and GSM-103 to guarantee agricultural exports to emerging democracies. It would also provide new agricultural fellowships to students from emerging democracies and authorize a new program of exchanges of agricultural experts between the United States and emerging democracies.

This bill would also require significant improvements in USDA administration of all agricultural export promotion programs, to ensure that U.S. taxpayer dollars are not wasted.

USDA would also be required, for the first time, to create a long-term strategy governing the implementation and coordination of U.S. agricultural export promotion programs over 3 years, instead of the current 1-year agricultural trade strategy currently required.

This legislation would also denounce the potentially negative impact of the European Community's product standards and testing policies upon U.S. agricultural exporters, and urges the President to use all available means to changes these policies.

DR. WELDON B. ROGERS HONORED FOR 50 YEARS OF SERVICE BY TEXAS DENTAL ASSOCIATION

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. BRYANT. Mr. Speaker, Dr. Weldon B. Rogers, D.D.S., was born in east Texas, the youngest son of a country doctor. He grew up in the small town of Cushing in the tall Texas pine country outside of Nacogdoches.

Like many others who grew up in the Great Depression, Weldon Rogers knew what it meant to have a dream, dig in, and scape for it. He knew that the best way to make a dream come true is work hard for it.

As a young dental student, he worked his way through school in a variety of jobs—from truck driver to short order cook, from milkman to car hop. He and his wife, Eula, saved every cent possible to achieve their mutual goal—Dr. Rogers' own dental practice.

World War II interrupted, and Dr. Rogers spent several years in the U.S. Navy stationed in Port Hueneme, CA. After military service, he immediately returned to Houston, TX and resumed his dental practice.

Now, after 50 years of continuous service to his community, his neighbors, and his profession, Dr. Weldon B. Rogers has been honored by the Texas Dental Association. And he still remains active in his chosen profession, counseling and helping younger dentists realize their goals, as he has his, through hard work and dedication.

Dr. Rogers is a credit both to his profession and to the people of Houston he has served for half a century.

I call the attention of my colleagues and the people of our State and Nation to the achievements and well-deserved recognition Dr. Weldon B. Rogers has received, which are reflected in a recent article in the Houston Chronicle that I am pleased to share:

[From the Houston Chronicle, June 21, 1990]

DENTIST REMINISCES ON 50-YEAR CAREER

(By Kathy Williams)

In this day when job-hopping and mid-life career re-tooling are the accepted order of operation, Dr. Weldon B. Rogers stands apart as a reminder of the rewards of a career based on dedication and commitment to a single goal.

It was Roger's commitment to providing quality dental care to the residents of south Houston that won him the Texas Dental Association's 50-year service award. That award was presented to him at the association's annual convention recently in San Antonio.

Rogers said that the advances in dental technology since th eday he graduated from the Texas Dental College in 1940 have been revolutionary.

"But the principle we work on remains the same," he said. "We're still struggling to help our patients hang onto that tooth."

When Rogers opened his office at 517 N. Broadway 50 years ago, the materials he had to use in his daily battle against decay and gum disease were limited to "silver and gold for fillings and synthetic procelain for caps."

Today, the 82-year-old East Texas native said, the choices are almost limitless, ranging from his old standbys through a myriad of plastics for reconstruction and spaceage bonding materials to hold those plastics in place.

"We have almost reached the point today that we can literally rebuild an entire tooth, if even the smallest part of the original is strong enough to support the reconstruction job," Rogers said.

The scope of the changes in dental equipment have been so sweeping that when Rogers closed his Broadway office in 1978, he was unable to sell most of his older equipment.

"It cost me $25,000 to equip my office back then," he said. "And believe me, that was some chunk of money. I invested in the best of everything, the latest the technology had to offer. My wife, Eula, had to teach school and help out in the office so we could pay off the loan." he said. By the time he closed his shop, all that fancy equipment was considered antique, fit only for exhibit in a dental museum.

And Eula's "helping out" turned into a life-long partnership with the two Rogers working side-by-side throughout his long years in practice.

"There were days when we had just a tad more togetherness than we really needed," Rogers said. "But one good thing about it, I could always depend on the help to be there."

It was Eula who kept the books for the practice and its was with her help that Rogers recently conducted an informal review of his clientele.

"We knew it was a big practice," he said. "We had people coming from too far away—from places like Beaumont and Lukfin. And we never worked an eight hour day. It was always more like 10 or 12. But, when Eula told me she thought we'd seen almost 70,000 different people over the years—well, I was astounded."

One of his favorites among those 70,000 was a young Aggie, who Rogers called "the toughest person in the world." This young man came in once with a bad wisdom tooth and, while Rogers prepared for the extraction, "blustered around about how he hardly ever felt pain."

The extraction went smoothly, but when the Aggie rose from the chair to leave, he fainted.

"My little assistant had to catch that big, tough guy in her arms," Rogers said. "Maybe the reason he never felt pain was because he was always unconscious when there was any pain around."

It isn't just technology that's changed over the years, according to Rogers. "Attitudes and the state of the economy have a lot to do with the advances in the state of the nation's dental health," he said.

Rogers recalled that it was almost considered normal, when he first entered practice, for people to lose all their teeth before they turned 60.

"People didn't used to have the money to worry about their teeth except when they caused problems," he said. "Often, by the time the dentist saw a tooth, it was so far gone that all he could do was pull it."

The attitudes Rogers said contributed to poor dental health "right in this very century" are represented by a belief that used to be prevalent in East Texas that pulling teeth helped a person heal.

"I can remember a time when, if the doctors couldn't figure out what else to do, they had the local dentist extract the patient's teeth," he said. "It was always a last resort and, of course, it never worked, although sometimes the patient got well anyway."

Rogers worked as a short order cook, milkman, truck driver and car hop to pay his way through dental school. One of his favorite tasks was odd-jobbing it at the old Gables Drug Store, whose main claim to fame was that it once employed Clyde Barrow, a notorious criminal

"He was before my time," Rogers said. "He used to drive the delivery motorcycle. The people who knew him said he was a real nice guy. Too bad he decided to get into the business he did."

Rogers continued, even after his official retirement at age 70, to work almost a full schedule, helping out in colleagues' offices and designing and making jewelry. He gave up both those activities just this year and only because of failing health and vision.

Although he insists that the thousands of rings he made from scraps of dental gold and silver collected over the years were "nothing special," he does admit to a certain pride in the fact that these rings can now be found all over the world.

"I'm not real sure how all those pieces got away from me," he said. "I always seemed to

be giving one away for one reason or the other. Over the years, I've given them to friends as far away as Yugoslavia and Japan. The places I couldn't go, the rings went for me."

CORRECT THE NOTCH UNFAIRNESS

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. NEAL of North Carolina. Mr. Speaker, the Social Security notch situation is unfair. Social Security benefits for 20 million Americans born between 1917 and 1921 have been arbitrarily lowered by an average of $660 per year when compared to benefits received by retirees of similar age. I urge the support of my colleagues for legislation to correct this inequity.

Mr. Speaker, the consequences of inaction on the notch issue are severe. They include a loss of public confidence in the Social Security system and the blatant injustice of denying a vulnerable group of Americans the benefits to which they should be entitled. Most unacceptable is the fact that the notch is an unintended result of the Social Security Amendments Act approved by Congress in 1977.

In 1977, we in Congress sought to rectify the overindexed 1972 Social Security benefit formula. We tried to create an equitable situation where the replacement rate, which was flawed, was lowered to make the Social Security trust funds secure.

We believed that the transition period built into the 1977 amendments would protect those individuals retiring as the new formula was implemented from a sudden loss of benefits. Yet, when we look at the benefit levels for those people in the transition period, we see that they are receiving a substantially lower benefit—about 10 to 15 percent lower—than was intended.

Mr. Speaker, I believe it would be tragic for Congress to fail to restore benefits to the notch group. Over 200 of our colleagues have agreed and have cosponsored notch correction legislation in this Congress. Correcting the problem would not negatively affect the long-term health of the Social Security system, and it would bolster public confidence in the program. The price tag we are talking about is one we can afford; however, we cannot afford to continue to postpone corrective action.

I am a strong believer in the Social Security system. If we do not respond to this inequity, I am afraid it will undermine the entire system for generations to come.

How can we expect young workers of today to be willing to pay taxes into a program that discriminates against their grandparents simply because they happened to be born in a certain year?

How can we possibly refuse to correct an inequity we in Congress unintentionally created? We addressed the problem facing Social Security in the fairest way we knew at the time. We now see that we made a mistake, and we need to correct it.

Mr. Speaker, I urge the Way and Means Committee to act favorably on notch legislation so that Congress can remedy this terrible inequity. Twenty million older Americans are counting on us to ensure that they receive the Social Security benefits they deserve. Congress has an obligation to do right by the notch babies. We should not let them down.

A TRIBUTE TO GEORGE WILLIS, EXECUTIVE DIRECTOR OF THE BERGEN COUNTY MEDICAL SOCIETY

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mrs. ROUKEMA. Mr. Speaker, I would like to pay tribute to one of northern New Jersey's most distinguished citizens, George Willis, executive director of the Bergen County Medical Society in New Jersey.

In a few short weeks, Mr. Willis will be retiring from the position he has proudly held for 20 years. This week, George will be honored by the Bergen County Medical Society and will be installed as an honorary member of this organization and of the Medical Society of New Jersey. I would like to join the medical society and the entire Bergen County community in recognizing the achievements and loyal service of George Willis.

George was born in Philadelphia, PA, in 1915. Before joining the Bergen County Medical Society he worked at the Record of Hackensack as special events and school coordinator. In addition to his association with the Bergen Medical Society, George Willis is an active member of the American Association of Medical Society Executives. Over the years, he has contributed numerous articles to their magazine. In addition, his achievements in health care were recognized by the Bergen/Passaic Osteopathic Medical Society several years ago when he received the Society's Humanitarian Award.

Since 1970, he has contributed mightily to the welfare of his community. George has contributed his time and many talents as a board member of the Bergen County chapter of the American Cancer Society and the Girl Scouts Council of Bergen County. We all should commend his dedication to volunteerism.

Everyone who has come in contact with George over the past two decades has a warm story about his energy, his helpfulness, and his positive attitude. The one I will share here relates to our cooperative effort to bring tangible assistance to starving refugees in faraway Ethiopia.

In 1984, after my return from a congressional fact-finding tour of famine-plagued Ethiopia, I proposed to send some rather modest, but badly needed materials to the overcrowded field hospital at the Makele refugee camp in Gondar Province. When I turned to the Bergen Medical Society for help, it was George Willis who dove into the project with vigor. His assistance throughout the entire project was invaluable. I owe him a debt of gratitude. The people of Ethiopia owe him a debt of gratitude.

There is no doubt that George has made important contributions to the lives of many of us. I urge my colleagues to join me in saluting this outstanding individual. We wish George, his wife Faith, and his entire family the best for the future.

I am proud to call him friend. Bergen County is proud to have enjoyed his service.

A CONGRESSIONAL SALUTE TO GENETHER "BUD" HUDSON

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to Mr. Genether "Bud" Hudson. Mr. Hudson is the outgoing president of the San Pedro Peninsula Chamber of Commerce. This occasion gives me the opportunity to express my appreciation for his work on behalf of the San Pedro community.

This longtime resident of San Pedro has been an outstanding leader and a tireless worker for the area. A native of Birmingham, AL, Bud came to California as a student at Long Beach City College and then attended the University of California at Los Angeles as a business major. From 1954 to 1958 he served in the U.S. Air Force. Bud then joined the Auto Club of Southern California as their first black salesman. He worked his way up to the position of district manager of Compton, Monrovia, Arcadia, Inglewood, and most recently of San Pedro.

Bud has not only had a successful business career, but has been extraordinarily active in civic and volunteer work as well. His talent, energy, and dedication are quite evident in the great number of positions and responsibilities he has held over the years. Beginning in the early 1970's, Bud has been involved with the Monrovia Chamber of Commerce as treasurer, the Downtown Long Beach Men's Club as president, the Compton Chamber of Commerce as president, the Compton Overall Economic Steering Committee as vice chairman. He has also been a member of the community council of the Los Angeles Police Department, a member of the San Pedro Peninsula Hospital Foundation board of trustees, the Downtown San Pedro Specific Plan Committee, the Port Area Transportation Specific Plan Committee, the Wilmington Boys and Girls Club, and the 15th District Citizen Advisory Council. Bud has also been on two of Mayor Tom Bradley's committees: the Harbor Area Truck Traffic Committee. And last, but certainly not least, Bud has been actively involved in the San Pedro Peninsula Chamber of Commerce as a board member, vice president, and president. As this long string of activities attests to, Bud has been the kind of man we have all looked to in our efforts to make this community a better place. Obviously, Bud has always been there, working tirelessly for our young people, our business interests, our police, our port, and to solve our everyday problems such as traffic congestion.

I, along with my wife Lee, want to thank Bud for his immense generosity and gifts of time. As he moves on, we wish him all the best in the years to come and thank him for all he has given.

CONVENING OF THE 30TH BIENNIAL CLERGY-LAITY CONGRESS OF THE GREEK ORTHODOX ARCHDIOCESE OF NORTH AND SOUTH AMERICA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. BROOMFIELD. Mr. Speaker, I support House Concurrent Resolution 344, which will permit the Capitol rotunda to be used on July 10, 1990 for a reception honoring His All Holiness Patriarch Dimitrios, the 269th Ecumenical Patriarch of Constantinople. The highlight of the activities of the 30 Biennial Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America will be a tribute to public service. This important event will be held in the Capitol rotunda.

The 30th Congress will be especially significant for the 8 million Orthodox Christians in the Western Hemisphere because of the presence of Patriarch Dimitrios. He is internationally recognized as a man of peace who has taken an active role in promoting negotiated settlements to the Cyprus dispute and to other conflicts around the world. All of us are deeply honored to have him visit the Congress.

I hope that all Members will join me as we welcome His All Holiness to our country, and recognize that this special occasion represents the first time in history that the spiritual leader of more than 250 million Orthodox Christians worldwide has visited the Americas.

Finally, I want to recognize the gentleman from Texas, Mr. FROST, for his leadership in this matter, and to express my special appreciation to the chairman of the House Administration Committee, Mr. ANNUNZIO, for making this historic occasion possible by speeding this resolution to the floor.

TRIBUTE TO VIVIAN BRIGHT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to Vivian Bright. Mrs. Bright has been a source of strength and encouragement to the East New York community for over 25 years. Recognition of her tireless work and devotion to the improvement of this community is long overdue.

Vivian Bright's diverse professional career has spanned many years. She has held positions which assisted the development of the community in substantial and meaningful ways. She has served as the chief executive officer of the Local Development Corp. of East New York, executive director of United African American Churches of New York, and executive director of Housing for Berean Community Development Center New Horizon Village, Inc. Her work in New Horizon Village, Inc. resulted in the development of 255 single-family homes in the Brownsville community.

In addition to an extremely active and productive professional life, Mrs. Bright has exhibited her commitment to her community through her imvolvement in many local and national organizations. She is the supervisor to the Youth Lay League of the Berean Missionary Baptist Church. In addition, she holds lifetime memberships in Zeta Phi Beta Sorority, Inc. and the National Council of Negro Women. She is also an active member of the Concerned Women of Brooklyn, the Black Women's Agenda, and the Coalition of 100 Black Women. She has served as chair of the board of directors of Cypress Community Day Care Center and a member of the board of directors for Brooklyn Branch of the Kings County NAACP, Kings County Hospital, and the East New York Neighborhood Family Care Center. In addition, she has served on Community Board No. 5 and as the president of the Leadership Council of Open Communities of Brooklyn, Inc., Finally, she has served as a Girl Scout leader for over 30 years.

Although actively involved with professional and community activities, Mrs. Bright has not failed to recognize the importance of education. Her academic credentials include a masters degree in human resources and management. She has received many honors and is listed in "Who's Who of American Women."

I salute this diverse and talented woman who has shown that it is possible to do and have all of the richness and beauty which life has to offer.

TRIBUTE TO PEGGY NORRIS

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. TANNER. Mr. Speaker, I rise today to extend special recognition to a dedicated public servant in the Eighth District of Tennessee. She is Mrs. Peggy Norris, the Register of Deeds in Lake County, TN, for the past 32 years.

Mrs. Norris' longevity in her office as the keeper of the records in her home county has bestowed upon her the distinction of being the longest serving female elected official in the State of Tennessee. This distinction is a testament to Mrs. Norris' commitment to unselfish public service.

Like all local officials, Mrs. Norris is on the firing line everyday responding to the needs and requests for the superlative quality of the work that is done in her office. It is the reason that after 32 years of service, she is running for re-election this year without opposition.

To Mrs. Norris and her family, I want to extend my sincere best wishes and heartfelt gratitude for her willingness to serve her friends and neighbors in the Office of Register of Deeds in Lake County.

TRIBUTE TO JOHN McCAULEY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. CARDIN. Mr. Speaker, I rise today to draw my colleagues' attention to the career of Mr. John McCauley of Baltimore, MD.

For two decades John McCauley has worked for the city of Baltimore's Department of Housing and Community Development. He filled many roles and served more than a few bosses. All are indebted to his service. But he is most appreciated by the countless Baltimoreans who recognize that a decent place to live is a basic human right that each of us owes to one another. Through service to his principles he served the City.

John McCauley once told me he was just a simple bureaucrat, perhaps the only misleading statement that ever passed his lips. "Bureaucrat" is a word too often used pejoratively to describe a paper pusher, somebody who shows up, puts in his time, goes through the motions, but doesn't care whether he ever gets anything done. Nobody who knew him, or benefited from his efforts, and thousands of Baltimoreans fit the bill, would ever think of John in those terms.

The stereotype that perfectly described John McCauley was that of the selfless public servant. He understood that while it is important that government work best for the citizens who need it most. We all know the challenge of making a bureaucracy sensitive to the needs of the community is no simple feat. Opportunities for failure far outnumber the chances for praise. Those who accept these challenges and succeed deserve our special praise and gratitude.

I ask my colleagues to join me in recognizing the accomplishments of John McCauley on behalf of the city of Baltimore and in wishing him an enjoyable retirement.

TRIBUTE TO BURTON LEVINSON

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding community leader and an individual I am proud to call my friend—Burton Levinson. Burton, and his wife, Anita, have been at the vanguard of public life for decades. Burton is being honored for the exceptional service, he has rendered to the Anti-Defamation League [ADL] and for 40 years of commitment to the Jewish community.

Since 1986, Burton has served as national chairman of the ADL. During his tenure he has played a key role in strengthening and expanding one of the American Jewish community's premier organizations. Under Burton's leadership, the ADL has vigorously fought racism and anti-Semitism and documented and exposed hate crimes.

Burton has always been passionately committed to the cause of Soviet Jewry. He is a past national chairman of the National Conference on Soviet Jewry and was the first American to attend a trial of a Soviet Jew in June 1974. For Burton, the historic exodus of Soviet Jewry is a profound and deeply moving vindication of his work.

Burton has also devoted much of his time to the defense of Israel. He is a member of the executive committee of the American Israel Public Affairs Committee [AIPAC], and sits on the boards of the Jewish Telegraphic Agency and the Hebrew Immigrant Aid Society. His direct and personal involvement with many of Israel's top leaders along with his unshakable belief and dedication has made Burton a powerful advocate for the Jewish state.

Burton has also been a leader in the Los Angeles community. He is a vice president of the Jewish Federation Council and a past chairman of the San Fernando Valley Community Relations Committee. His national perspective has enabled Burton to catalyze intercommunity development and cooperation.

Mr. Speaker, it is my privilege and honor to ask my colleagues to join with me in saluting Burton Levinson—an exemplary community leader and role model to all.

LET'S CUT GOVERNMENT WASTE AND NOT RAISE TAXES

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. SHUMWAY. Mr. Speaker, I, too, say let's cut Govenment waste, not raise taxes. I just cannot comprehend how we can sit here in Congress and authorize one pork barrel project after another, and then turn around and tell the American people that we must raise their taxes!

One example of unthinking runaway spending occurred recently when the Education and Labor Committee authorized $12 million for a new building for the Washington Center, which offers internships and academic seminars to college students. I am pleased to report that some of us in the House were able to at least stall that effort last week.

Obviously, in certain cases, sponsoring an intern is justified. However, this particular project demonstrates the blindness with which some of my colleagues choose to spend the taxpayers' money. In effect, the aurhorization would allow for the building of a private university. Furthermore, the belief that it would aid underprivileged students is unfounded: Only about 16 percent of these students would receive scholarship funds. At a time of huge budget deficits, we have no business spending $122 million in this manner.

Such a lack of responsible spending has to end, now! Those participating in the so-called "budget summit" need to be reminded that there is far too much existing waste to justify any new taxes!

TRIBUTE TO ED RAMON

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. INHOFE. Mr. Speaker, I rise today to pay tribute to a true American for his valiant efforts for his country and his friends. Ed Ramon, a Shoshone-Comanche Indian residing in my district, earned 42 military decorations during his two tours in Vietnam as helicopter pilot. One has to ask why a man would go back for a second tour in Vietnam. "It was because my buddies were still there fighting and dying," he told me. "I thought I could make a difference," said Ramon.

To the many young men who he evacuated, Ed Ramon did make the difference—the difference between life and death—the biggest difference in the whole world.

Like so many soldiers returning from Vietnam, Ed found a new perspective on life. Domestic problems, dealing with his memories of Vietnam, and his brother's suicide due to postwar depression instilled the desire to publish an anthology of poems about his experiences.

His collection, entitled "Scars and Stripes Forever," has the ability to provide strength to many veterans who have found themselves in this same postwar situation.

I applaud Ed for all the work he has done for his country and for his fellow soldiers. On May 30, 1990, at Driller's Park in Tulsa, OK, I will have the honor of presenting Ed Ramon with many of his decorations earned in Vietnam. I am proud to be acquainted with a true American like Ed Ramon.

S. 2615

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 27, 1990

Mr. STAGGERS. Mr. Speaker, today, I, along with DOUG APPLEGATE, DON EDWARDS, LANE EVANS, CLAUDE HARRIS, GEORGE HOCHBRUECKNER, L.F. PAYNE, and JOHN ROWLAND, all members of the House Veterans' Affairs Committee, have introduced legislation that would allow veterans alleged to owe debts to the Department of Veterans Affairs to be permitted the same right that nearly every other American citizen enjoys in debt collection cases, to employ counsel to represent and defend against what, in some cases, is an improper allegation of debt and unwarranted debt collection efforts.

In April, the Housing and Memorial Affairs Subcommittee held an oversight hearing regarding the Home Loan Guaranty Program. Several witnesses at that hearing discussed the very difficult position that veterans are in when their DVA guaranteed home loan is defaulted upon.

Two of our witnesses testified that without the assistance of legal counsel their attempts to fight what they considered to be unjust claims would be impossible. It is a very difficult system to work under without legal advice since, in many cases, the veteran may not even be aware of an indebtedness until collection efforts have begun.

The legislation that I, along with my colleagues on the House Veterans' Affairs Committee, have introduced here today calls for the lifting of the prohibition on allowing attorneys to be employed when the DVA is collecting debts from veterans. In debt collection the full weight of the government can be employed to collect with assistance inside and outside the Government, to deny veterans assistance of attorneys is ludicrous. Not only many debt collection efforts hurt the credit rating of the veterans, for active duty personnel it may mean the denial of a security clearance; the effective end of an otherwise excellent military career.

One needs to be mindful that the DVA in debt collection cases cannot be both the veteran's friend and the agency charged with aggressively pursuing debt collection. To deny the veteran the opportunity to have a zealous advocate is to deny the precis of the fundamental of due process enjoyed by citizens of our great nation.

This legislation is similar to S. 2615—introduced by Senate Veterans' Affairs Chairman Mr. CRANSTON and Mr. ROCKEFELLER, a member of the committee. I expect S. 2615 to receive prompt attention in the Senate.

I urge my colleagues to join with me and allow veterans the right to adequately defend themselves.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 28, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 29

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Andrew C. Hove, of Nebraska, to be a Member and Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation; and to consider the nomination of Joseph G. Schiff, of Kentucky, to be an Assistant

Secretary of Housing and Urban Development.

SD-538

Banking, Housing, and Urban Affairs
HUD/Moderate Rehabilitation Subcommittee
To hold hearings to review the Department of Housing and Urban Development (HUD) Inspector General's semiannual report.

SH-216

JULY 11

10:00 a.m.
Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2729, to revise the Coastal Barrier Resources Act (Public Law 97-348).

SD-406

Judiciary
Constitution Subcommittee
To hold joint hearings with the House Committee on the Judiciary's Subcommittee on Courts, Intellectual Property, and the Administration of Justice on S. 2370, to revise Federal copyright law to apply the fair use doctrine to all copyrighted work, whether published or unpublished.

SD-226

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings to review the status of the human genome project of the Department of Energy and the National Institute of Health.

SD-366

JULY 12

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the Department of the Interior.

S-128, Capitol

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings to examine issues relating to the interstate transport of solid waste.

SD-406

Select on Indian Affairs
To hold hearings to examine protective services for Indian children, focusing on alcohol and substance abuse programs.

SR-485

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the U.S.-Canada open border trade agreement, focusing on meat and poultry.

SR-328A

JULY 26

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the current operations and future mission of the Department of Energy's national laboratories, focusing on ongoing programs at the laboratories and potential new and enhanced programs, and math and science initiatives that could utilize the expertise of the national laboratories.

SD-366

HOUSE OF REPRESENTATIVES—*Thursday, June 28, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we anticipate the season of celebration of our Nation's birth, we are grateful, O God, for those traditions that have given opportunity and freedom to many. We express our gratitude for those good gifts even as we are aware of those who have not received the bounty of these blessings. May we be diligent and unfailing in our work for justice that these gifts may be with us and be shared by every person. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Maryland [Mr. McMILLEN] will please come forward and lead the House in the Pledge of Allegiance.

Mr. McMILLEN of Maryland led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2514. An act amending subchapter III of chapter 84 of title 5, United States Code.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3045. An act to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit today, June 28, 1990, while the House is under the 5-minute rule.

This request has been cleared by the minority leadership of both the House and the Committee on Public Works and Transportation.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

INCREASED TAXES MUST BE COUPLED WITH TAX CODE REFORM

(Mr. DURBIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, so now the President, who solemnly promised in 1988 there would be no new taxes, has changed his mind. At the risk of being penalized for piling on, I will not join the chorus criticizing him for this about-face. But if honesty and candor are now the watchwords at the White House, I hope the President will admit two other facts.

The economic mess which caused the President to change his mind is the savings and loan crisis, and the mismanagement of this savings and loan crisis has caused the debt which this country did not anticipate and the President did not anticipate. The proper management of the savings and loan mess holds out the possibility that this tax increase may be kept under control.

Second, working families across America do not need an increase in their income taxes. We need to see real reform in our Tax Code where the wealthy Americans who can afford to pay start to pay. If that is going to happen, it certainly will not include any capital gains break for the wealthiest of American families.

GOVERNMENT WASTE

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, let us cut Government waste, not raise taxes. Once Congress creates a program, it rarely lets it die. Hundreds of congressional programs have fulfilled their purpose, yet have not been abolished. Therefore, billions of dollars are poured into useless or dead causes.

The military commissary system was created to provide foodstuffs to the cavalry on the Western plains in the 1800's. The program continues today, although over 80 percent of military commissaries are within 10 miles of two or more commercial supermarkets.

The Export-Import Bank was created in 1934 to finance exports to Russia. Sixty-five years later the Bank loses about $400 million a year financing exports for some of America's largest international corporations.

The Rural Electrification Administratıcn was created in 1935 to bring electricity, and later telephone service, to rural areas of the country. Today, 99 percent of rural Americans have electricity and 96 percent have telephones. Yet, the REA still exists at a cost to taxpayers of $2 billion per year.

These are but a few examples of the outrageous spending habits of Congress. Need I say more?

TAX INCREASES SHOULD GO TO THE RICH, NOT MIDDLE-INCOME TAXPAYERS

(Mr. WISE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, would it seem possible to you that disgraced S&L executives may get a tax break? No; you say. Well, let us see.

First, the American people are disgusted that jail doors are not slamming on the S&L crooks, who will cost every American taxpayer $2,000. Put the S&L crooks in jail, they tell me.

Second, along comes President Bush, who says it is time for tax increases. So where do the tax increases come from?

I predict that President Bush intends for the same working people paying for the S&L bailout to pay the new taxes, with no taxes on the upper income folks while middle-income taxpayers pay excise taxes and gasoline taxes. They might give a capital gains cut to the rich and meanwhile ignore the middle income.

And where will the new taxes go? We all know where—to bail out the S&L's. Middle-income taxpayers have their taxes raised to pay for defunct

S&L's. And what about the people responsible? They get a capital gains tax cut.

Mr. Speaker, if Charles Keating and other S&L moguls end up bailed out and with their taxes cut, read my lips—"it's wrong—wrong—wrong."

THE NEXUS BETWEEN THE S&L CRISIS AND CAMPAIGN REFORM

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I cannot believe what I am hearing. The President is to blame for the S&L mess? Just a second. Was it not the President who, even before he took office in January 1989, created an S&L bailout program to solve the problem created by the Congress of the United States in the 1980's?

If we want to talk about the S&L issue, then let us talk about it relating to campaign finance reform. Is it any secret that over 80 percent of the money the S&L's donated in political action committee money went to the Democrats in the Congress and in the Senate?

There is a way to solve that. It is called campaign reform. Our Republican leader, BOB MICHEL, has listed 15 different campaign reform initiatives that he has introduced.

Dave Broder, the political columnist, has said this, and I want the Members to listen to it:

"But the Democrats seem bent on writing a partisan bill, which, even if it passed, would draw a Presidential veto. To add insult to injury, they are planning to muzzle MICHEL's ability to offer his amendments when they finally bring their bill to the floor.

"That's a pretty shabby record. BOB MICHEL is not the only one who ought to be angry about it."

Mr. Speaker, I say to the majority, if you want to clean up the S&L mess, if you want to clean up campaign reform, give us campaign reform on the floor of the House in July, and give it to us with an open rule.

A REALISTIC PLAN NEEDED FOR THE FUTURE OF THE S&L INDUSTRY

(Mr. McMILLEN of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McMILLEN of Maryland. Mr. Speaker, several days ago, Treasury Secretary Brady commented that the Congress should have acted earlier in halting the savings and loan crisis. Well, it is pretty hard to solve a crisis that, according to the Bush-Reagan administrations, did not exist.

The Danny Wall era at the Home Loan Bank Board could be classified as the "don't worry, be happy" age of regulation. Consistently, Danny Wall and the Republican administrations publicly understated the cost of the S&L crisis. As late as October 1988, 1 month before the election, Danny Wall testified that the cost of the thrift bailout would be no more than $30 billion. Well, 1½ years later we have a $500 billion bailout and it's growing daily.

Not only have the last two Republican administrations tried to sweep the actual cost of the crisis under the carpet, but the agency they created to end the bailout has been an unmitigated disaster. The Resolution Trust Corporation [RTC] has helped to increase the cost of the bailout as well as precipitate a credit crunch. The RTC has proved again that the Government has trouble selling anything, let alone complicated real estate assets and junk bonds.

Mr. Speaker, I think it is time that the administration stop trying to rewrite the history of the S&L crisis, and begin preparing a realistic plan for the future of the industry.

□ 1010

JULY 17 IS THE MAGIC DAY

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, next month, when we get back here from our 4th of July recess, the liberals will have one of the most exciting things they enjoy doing in this body. They will again be able to raise the debt limit above $3 trillion. They will also be able to impose more taxes on the American people.

However, Mr. Speaker, there is one thing we are also going to do next month. It is going to be the key vote for everybody that is running in November, and that is the balanced budget amendment to the Constitution.

July 17 is the magic date. That is when we can separate everybody who is a spender from everybody who wants to start putting some real restraint on this body.

Mr. Speaker, these voting cards that they give us, and there are 435 of them loose in this building, are the cards that can charge trillions of dollars to our children and our grandchildren.

We owe it to those folks, Mr. Speaker, to put some limits on our spending, and the only way we can do it is on July 17 when we vote in favor of a balance budget amendment to the Constitution.

S&L CRISIS THREATENS TO TURN INTO A CALAMITY

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, today I rise to talk about the S&L crisis.

As we all know, problems do not go away by themselves. Left unattended, they turn into crises. And a crisis is exactly what we have on our hands. The administration has not responded quickly or appropriately to the failure of S&L's across this country.

Last year, Congress authorized $75 million for the Justice Department to appoint needed investigators and prosecutors to deal with this situation.

The administration rejected the authorization approved by Congress, and the Justice Department was appropriated only $50 million.

The Department has 21,000 fraud referrals pending. They do not have the resources to pursue those referrals, and they have only attained one indictment connected with the S&L fraud.

The cost of this crisis will be the burden of our taxpayers. Today that price tag is estimated to be anywhere from $100 billion to $500 billion, and that estimate seems to grow everytime we turn around.

Mr. Bush's resounding campaign promise was "no new taxes." Mr. President, the American taxpayer should not be expected to pay for the administration's failure to act in the mist of this crisis. And that, Mr. President, means no new taxes to bail out those responsible for the S&L crisis.

It is time the administration and the Justice Department act quickly and responsibly. We cannot afford to let a crisis turn into a calamity.

ODE TO OUR ANCIENT FORESTS OF THE PACIFIC NORTHWEST

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, I quote from Time magazine:

In Oregon's Umpqua National Forest, a lumberjack presses his snarling chain saw into the flesh of a Douglas fir that has held its place against wind and fire, rockslide and flood, for 200 years. The white pulpy fiber scatters in a plume beside him, and in 90 seconds, 4 feet of searing steel have ripped through the thick bark, the thin film of living tissue and the growth rings spanning ages. With an excruciating groan, all 190 feet of trunk and green spire crash to earth * * * and the ancient forest of the Pacific Northwest has retreated one more step.

Day after day the chain saws snarl
In forests primeval belonging to all;
Vanishing remnants of what clothed our land,
Victims of greed, some shipped to Japan.

Shame on a nation to not quickly command
An end to destruction of nature so grand.

THE IRS SAYS, "WE'RE SORRY"

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the IRS is being audited. The IRS is being accused of ripping off the Postal Service for $3 million.

Mr. Speaker, the IRS said, "We're sorry. This was an honest mistake."

Now let me ask Members, "What about Joe Sixpack when he makes an honest mistake? What does the IRS say to him?

Mr. Speaker, they drag him to court. He has to pay huge legal fees. They compound the interest daily. Joe may even end up losing his house, and, worse yet, the IRS even takes Joe's pickup truck.

Honest mistake? Very sorry? My God, they may, they may have to go to Tax Court. Do my colleagues really think the IRS is in any trouble? Maybe the IRS should consider the lament that the American people are being taxed to death and being forced into courts a little bit unfairly.

A BALANCED BUDGET AMENDMENT—FISCAL RESPONSIBILITY

(Mr. CRAIG asked and was given permission to address the House for 1 minute.)

Mr. CRAIG. Mr. Speaker, as a result of years of bipartisan effort in this House, on July 17 this body will have an opportunity to vote up or down on a balanced budget amendment to the Constitution. It will come to the floor under an open rule so everyone can participate in the debate and offer changes as they see fit.

However, Mr. Speaker, the bottom line will come, and that vote will be, "Are you in favor of setting in motion a process that will reform our budget and provide what the American people have been asking for, fiscal responsibility instead of political economics?"

I ask the President of this country, and the Speaker and all who join in the summit to solve our budget crisis, to consider that a balanced budget amendment to the Constitution just might fit as part of what we can offer the American people in a reasonable solution to our budget concern.

Today, at 11 o'clock on the grassy triangle in front of this body, there will be a press conference to announce the date of the 17th, and we would ask all who are in favor of a balanced budget amendment and who would join with us on the 17th in debate and in the consideration to join in telling the American people that we are going to become part of the solution instead of the ongoing problem.

POOR WOMEN AND CHILDREN SUFFER WIC PROGRAM SHORTFALLS

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, I rise today to express deep concern about the health of 240,000 women, infants, and children.

The Select Committee on Hunger and several national studies have reported that the WIC Program is in serious financial trouble.

States are experiencing shortfalls which are forcing them to cut, and in some cases, eliminate altogether the health and nutritional services low-income women and their families so desperately need.

Low weight infants literally fight for their lives.

They face a much greater risk of having a lifelong disability.

The $11 million my home State of Maine gets in WIC funds, gives Maine women a chance to bring healthier babies into this world.

The Hunger Committee reports that we will need an additional $67 million this year to avoid terminating thousands of poor women and children from WIC.

I ask my colleagues to join me in urging the Appropriations Committee to provide the necessary funds for 240,000 poor women and children.

I cannot think of a better and more humane use of our tax dollars, than support for the WIC Program.

ELECTIONS IN AFGHANISTAN

(Mr. PORTER asked and was given permission to address the House for 1 minute.)

Mr. PORTER. Mr. Speaker, in the last year, fair elections have taken place in Taiwan, Nicaragua, Poland, Hungary, and the Soviet Union. Mr. Speaker, there is no reason that they cannot be held in Afghanistan, as well. Yes, in Afghanistan.

Secretary Baker and Foreign Minister Shevardnadze appear close to an agreement, but our country must remain resolved that Najib must go before the transition period, and that free and fair elections must be absolutely ensured.

The people of Afghanistan have endured untold horror and violence since Soviet tanks invaded more than a decade ago. Now that peace may be near, it's time for the military commanders to step aside and allow the people of Afghanistan to decide who will lead them.

The United States cannot play favorites or interfere in this process. Our policy must be primarily directed toward a fair electoral process. It is the only morally just position for us to take. And it is the only hope for future freedom in Afghanistan.

□ 1020

DECLASSIFICATION OF LOW-LEVEL RADIOACTIVE WASTES AS BELOW REGULATORY CONCERN

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, what in the world is going on in the minds of our friends over at the Nuclear Regulatory Commission that would compel them to want to deregulate the disposal of low-level nuclear wastes? What kind of mindset would tolerate this kind of insensitivity?

We have a nuclear waste problem that will cost hundreds of billions of dollars to remedy. We have nuclear plants that are deemed unsafe across the country because the NRC has not been doing its job; so the NRC, already suffering a severe credibility, decides that the wisest thing to do now is to let low-level nuclear wastes be thrown out with the ordinary trash.

Mr. Speaker, our constituents will not stand for this. The States will not stand for this, and I certainly hope this Congress will not tolerate this cavalier disregard of public health and safety.

Nobody knows precisely how many additional Americans would suffer a significantly higher risk of radiation-induced cancer because the NRC chooses to walk away from its responsibility, but no one doubts that additional radiation casualties would be the result of this decision.

Perhaps the most extraordinary thing is that the NRC decided to do this dastardly deed against the advice of their own professionals and the advice of the Environmental Protection Agency. What kind of agency ignores its own experts?

It is time, I suggest, that we take a very careful look at the Nuclear Regulatory Commission. Its very limited credibility has been further damaged by its recklessness. If ever there were a reason for congressional oversight, it is now.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

ENCOURAGING PROSPECTS FOR PEACE IN CENTRAL AMERICA

(Mr. DREIER of California asked and was given permission to address

the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, when we got the encouraging news yesterday that Nicaraguan Democratic Resistance Leader Commander Franklin had turned his gun in to Mrs. Chamorro, it was a very encouraging sign for the movement toward peace. In the well of this House and at all these other tables throughout the past decade we have had vitriolic debate over aid to the Democratic resistance in Nicaragua.

Well, I am very encouraged by the prospect of peace. Commander Franklin turning in his gun to Mrs. Chamorro yesterday, he was the 19,000th to do it, bringing to an even higher level than most of us had anticipated the size of the Democratic resistance in Nicaragua.

But Mr. Speaker, it is important that as we congratulate them for bringing about this great victory that we monitor closely the fact that Yasser Arafat and Mu'ammar Qadhafi are the people to whom the Sandinistas are now looking for support and organization. That news has come out in the past few weeks, and I think that we will need to continue to be very vigilant, as will the people in the duly-elected Government of Nicaragua, as we face that challenge.

BALANCED-BUDGET AMENDMENT

(Mr. POSHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POSHARD. Mr. Speaker, the time for a balanced-budget amendment has come.

Until a balanced budget is the law of the land, we will never find our revenue matching our expenditures.

Until a balanced budget is the law of the land, we can summit and shadowbox and read lips or read tea leaves for that matter, but we will still not have our fiscal house in order.

I join my colleagues who support this amendment as the only sensible way to solve our budget deficit.

Forced discipline is not what we want, but it appears to be the only way for us to make progress on this issue.

If we in this Congress are asking every household in this country to balance their checkbooks, we ought to expect no less of ourselves.

The weight of trillion-dollar deficits is riding heavily on the backs of American workers. This balanced-budget amendment is the best chance we have to lift that load.

DARE PROGRAM EFFECTIVE TO COMBAT ILLEGAL DRUGS

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, in galvanizing our young people against illegal drugs, DARE, which stands for Drug Abuse Resistance Education, has become a powerful new tool in many schools across our Nation.

It is a 16-week course for children that is taught by uniformed police officers. The DARE Program does more than just tell children to say no to drugs. It teaches them how to say no to drugs.

Children in this program learn how to respond to the inevitable peer pressure to use drugs, about risktaking, about effective decisionmaking techniques, about how to deal with stress and how to build a stronger self-image.

The cities of Norfolk and Virginia Beach in my district have wisely committed substantial resources to the DARE Program. On each day that schools are in session, 20 uniformed police officers are busy making their rounds to teach DARE classes. By all accounts, the DARE Program is making a difference. In schools where the DARE Program is offered, studies show that drug use has gone down, school performance and self-esteem have gone up, and fewer young people fall victim to drugs and the violence they spawn.

Mr. Speaker, the DARE Program is a ray of light in our country's battle against drugs. I commend the educators and police officers who make this program work. And I would urge any community not using the DARE Program to implement it in their schools promptly.

PRESIDENT WANTS TO BALANCE BUDGET ON BACKS OF THE POOR

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, President "read-my-lips-but-not-my-mind" Bush says now that he wants new taxes. Is this the first step to balancing the budget?

Well, before he asked for anything else, what he asked for was to review the entitlement programs.

Do you know what that means? He is talking about when you review, that means you want to cut Social Security. You want to cut veterans' hospitalization and medical care, their compensation and their pensions. You want to cut black lung benefits. You want to cut Medicare. These are America's most deserving and neediest people. You cannot start balancing the budget on their backs.

We spend billions of dollars on foreign aid. We spend billions of dollars on defense. Why do we not take a look at that? Yet he wants to review these, and he did not even mention to review or take a look at the 5-percent discount that they give to the wealthiest people in this country. They pay less than the people under them pay.

I think before we do anything else, I think we had better get our heads screwed on properly and find out what our real priorities are to the people of this country.

THE RETIRED TEACHERS ACT

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, over the next decade 1.3 million teachers will leave the profession. To replace this loss, it is necessary that 23 percent of each college graduating class enter the teaching field.

To help meet this need I have introduced the Retired Teachers Act with my distinguished colleague, Mr. BYRON DORGAN. This legislation recognizes that the attraction and retention of qualified and caring teachers must be made a national priority. The act would exempt teachers, who have a lifetime worth of knowledge and experience, from the Social Security earnings test. By enabling these talented seniors to work part time as a teacher, a teacher's aide, or a provider of before- and after-school care, we can help to alleviate the impending crisis faced by our public school system.

This part April, I introduced legislation that would meet the education needs of homeless children. Together, these bills would help to provide desperately needed assistance to educational agencies that are confronted with new and more rigourous demands.

DUAL BASING OF AMERICAN TROOPS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, as the budget summit begins to reveal the gravity and severity of the true Federal deficit to the American people, Members of Congress are searching diligently for ways to reduce Federal spending. We are literally looking under every rock in Washington for ways to reduce Federal spending.

One of the most ingenious proposals that I have heard that is now being discussed around the Halls of Congress has been advanced by our colleague, the gentlewoman from Colora-

do [Mrs. SCHROEDER], and that is the idea of dual basing, the idea of bringing our troops that are assigned to foreign bases back to home base then in the United States, but to assign them to their foreign assignments for the purpose of training and for combat and for an emergency should it be needed.

The gentlewoman from Colorado [Mrs. SCHROEDER] wrote an article which was published in the Washington Post last Sunday, which I included in my remarks last evening in the CONGRESSIONAL RECORD.

I would hope that the legislative staff around the Capitol would pay attention to that wonderful article, that ingenious article. Later I will send it around to my colleagues, hoping for their interest and their consideration.

□ 1030

SOCIAL SECURITY NOTCH

(Mr. YATRON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YATRON. Mr. Speaker, I rise today to talk about fairness. We pride ourselves on fairness, on justice, although some Americans are unfairly penalized because of their birthdate.

In meeting after meeting with constituents, I am continually asked "When is Congress going to help the notch babies?" Most of those affected by the notch recognize that when Congress acted in 1977 to stop the Social Security system from being bankrupted, it did not intend to cause injustice. However, an injustice was created, and notch babies feel that Congress is waiting for them to die so the problem will go away.

Notch babies want nothing more than what they are entitled to. Right now, a retiree born in 1917 who did the exact work, for the exact pay, for the exact number of years gets substantially less in Social Security than a retiree born just 1 year before. That is unfair, and the longer we allow this to continue, the longer we are complicit in perpetrating this injustice.

I call on my colleagues in the Ways and Means Committee to allow the various notch bills to come before the full House. I call on all of my colleagues in the House to sign the discharge petition and allow us to debate the notch. Simply put, I call on my colleagues to act in the name of fairness.

SUPPORT URGED FOR MANDELA AND ANC IN EFFORTS TO ABOLISH APARTHEID

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, I rise this morning out of great concern about the negative views that have been expressed by a few of my colleagues regarding Mr. Nelson Mandela. Some are long held views and others have recently been formulated based on statements made by Mr. Mandela during his visit to the United States.

Unfortunately, many of my colleagues are selective listeners. Those who objected to Mr. Mandela's appearance before this body did so because he advocated violence as an alternative to eliminating apartheid in South Africa. Others objected to his appearance because he allied himself with movements that are not embraced by the United States or the interests of certain ethnics within the United States. Where were United States interests when the majority of blacks in South Africa needed them when petty apartheid laws were implemented in 1948?

Just where were these colleagues when South African security forces massacred more than 60 people in Sharpeville in 1960? Did we hear their voices of outrage in 1960? Did we hear their voices of indignation after Mr. Mandela and thousands of other political prisoners were jailed in South Africa in the early 1960's for denouncing the most racist regime since Hitler's Germany? Did they raise their voices in righteous indignation at the implementation of the so-called State of Emergency in 1985? The answer to all three of these questions is a resounding "No."

However, these same critics of Mr. Mandela supported so-called freedom fighters and advocated the use of violence in the overthrow of the Ortega regime in Nicaragua. These are the same people who also advocated the use of violence to overthrow the Soviet dominated regime in Afghanistan.

I must say that there is a clear and racist double standard operating here. If you are white, it is fine to use force or violence as a means of gaining control or defending your government. On the other hand, however, blacks and other people of color must achieve their goals by any other means but violence. In other words, they must remain submissive and wait another 300 years to gain the basic human rights that they are due from the white minority government of South Africa.

I would suggest that my colleagues heed the comments of an enlightened member of the Foreign Affairs Committee, Mr. WOLPE, who recently stated that, "Only in the case of South Africa has the doctrine of nonviolence emerged as a central element of our policy. * * * Race gets in the way of seeing the South African struggle * * * as the same as our own." I urge my colleagues to support Nelson Mandela and the efforts of the African National Congress to abolish apartheid in South Africa by any means necessary.

THE UNITED STATES-MEXICO FREE-TRADE AGREEMENT

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, for 4 years I have advocated negotiations of a United States-Mexico Free-Trade Agreement. Now that we are at the brink of realizing this goal, I want to continue to press Congress to recognize the great benefits such an agreement would hold for both the United States and Mexico.

A United States-Mexico Free-Trade Agreement will benefit both our countries. We will benefit from increased access to investment opportunities, a growing market for our products, protection for intellectual property rights, and stability and prosperity along our border. Mexico will benefit from greater access to technology, increased investment flows, and renewed economic growth and development they so desperately need after a decade of negative growth and tough economic reforms.

With questions of competitiveness central to so many of our trade and economic debates, we should not hesitate to take advantage of the opportunity presented to us by Mexico to link our markets and eventually provide for the free flow of goods through the entire North American continent. As other parts of the world become more closely integrated, we should also take advantage of opportunities to strengthen our ties in this hemisphere. The economies of Mexico and the United States uniquely complement each other, and a free-trade agreement will enhance the ability of both our countries to compete in an increasingly global market.

As this discussion continues throughout the remainder of this year, I urge my colleagues to look closely at the great benefits to be found in a free-trade agreement with Mexico, and to join me in working toward this goal.

THE CONGRESSIONAL BLACK CAUCUS BUDGET

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker and Members of the House, I note with great interest today in the Washington Post an article indicating that now the President of the United States has embraced the issue of raising taxes

that the debate on the budget has not ended but just begun.

In that regard, I would then remind my distinguished colleagues that the 24 members of the Congressional Black Caucus just several weeks ago when we debated the national budget brought forward a budget rooted in competence, based on compassion, and framed in integrity. I would remind my colleagues that in that budget we presented to them and through them to the American people we were the only budget that had the courage and the integrity to address the issue of taxes. In that budget we said, "Stop the wealthy who are paying at the 28-percent marginal tax rate; make them pay at the 33-percent marginal tax rate." We would derive $3.1 billion. We said, "Take the top 10 percent of the corporate earners in this country and levy a 10-percent surtax upon them, the powerful and the wealthy." We would derive $6.5 billion. Take $8.2 billion of the President's 13-plus billion dollars of so-called new revenue options and reject the reactionary aspects of it. Cut $23.7 billion from the military budget. Reject that part of the science and technology budget that studies war at a time when the world is crying out for peace, and we can indeed derive over $40 billion in revenue options to address the human misery of this country and march America along a direction that not only seeks peace but reduces the budget deficit in this country.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL 6 P.M. TUESDAY, JULY 3, 1990, TO FILE REPORT ON H.R. 3950, FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the House Committee on Agriculture may have until 6 p.m. Tuesday, July 3, to file the report on H.R. 3950, the Food and Agricultural Resources Act of 1990.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

SPEND ON RETRAINING AT HOME, NOT FOREIGN MILITARY AID

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I have the utmost respect for our colleague, the gentleman from Wisconsin [Mr. OBEY], and his chairmanship of the debate on the foreign aid bill yesterday was extraordinarily well done.

However, as sympathetic and as disposed to him as I am, I could not vote for his bill. His bill was one of the very best foreign aid bills ever brought to this floor, but still about one-third of the money, of the $15 billion appropriated, was devoted to military foreign aid.

In a very happy era of world history in which we are finding tensions eased around the globe and we are encountering sharply curtailed U.S. spending on defense issues, it seems to me that the same reduction ought to have appeared in the foreign aid bill. It did not, relative to recent foreign aid bills, with, again, about one-third devoted to military spending.

I think the money needs to be spent here at home, Mr. Speaker. We will need to transition our communities, including my own of Louisville and Jefferson County, from a defense-spending posture to a non-defense-spending posture. We will need to help workers be retrained for the civilian jobs. That is where the money ought to be spent, Mr. Speaker, not on foreign military aid.

ENTERPRISE FOR THE AMERICAS

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. LEWIS of California. Mr. Speaker, President Bush has launched a bold new initiative designed to support and strengthen the economic growth of our neighbors in Latin America. This new program—enterprise for the Americas—will provide the framework for nations in Latin America and the Caribbean to become full trading partners in this hemisphere and in the highly competitive global markets.

Enterprise for the Americas provides a positive response to our friends in Latin America who seek our cooperation in effecting mutually advantageous trade agreements, stimulating new investment from domestic and international sources, and seeking innovative ways to deal with the crushing debt service problems faced by these governments.

The President is to be commended for his thoughtful and innovative approach to find solutions to long-standing economic and social problems. We should join the President and support his effort to bring about these critical changes in the Americas which will benefit so many.

□ 1040

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 426 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 426

Resolved, That all points of order against consideration of the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, for failure to comply with the provisions of section 302(f) of the Congressional Budget Act of 1974, as amended, clause 2(l)(6) of rule XI and clause 7 of rule XXI are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with clause 2 of rule XXI are waived: beginning on page 4, lines 13 through 17; beginning on page 4, line 20 through page 5, line 22; beginning on page 6, lines 9 through 15; beginning on page 6, line 17 through page 7, line 6; beginning on page 7, line 11 through page 9, line 11; beginning on page 12, line 14 through page 17, line 15; beginning on page 18, line 1 through page 20, line 7; beginning on page 20, line 20 through page 24, line 8; beginning on page 24, line 19 through page 28, line 15; beginning on page 28, line 23 through page 33, line 3; beginning on page 34, line 15 through page 35, line 2; beginning on page 35, line 19 through page 36, line 11; beginning on page 36, line 22 through page 37, line 18; beginning on page 37, line 24 through page 38, line 22; beginning on page 39, line 5 through page 41, line 21; beginning on page 42, line 21 through page 43, line 8; beginning on page 43, line 13 through page 45, line 3; beginning on page 46, line 1 through page 50, line 2; beginning on page 50, lines 12 through 16; and beginning on page 54, lines 8 through 14; and all points of order against the following provisions in the bill for failure to comply with the provisions of clause 6 of rule XXI are hereby waived: beginning on page 12, line 14 through page 16, line 12; beginning on page 20, line 20 through page 21, line 15; beginning on page 26, lines 4 through 15; and beginning on page 44, lines 3 through 22.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my dear friend, the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 426

is the rule waiving points of order against H.R. 5158, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for fiscal year 1991.

Since general appropriations bills are privileged, the legislation will be considered under the normal legislative process for consideration of appropriations bills. The time devoted to general debate will be determined by a unanimous-consent request. The bill will be open to amendment under the 5-minute rule. Any amendment which does not violate the rules of the House will be in order.

The rule waives section 302(f) of the Congressional Budget Act, which prohibits consideration of measures that would cause the relevant subcommittee level ceilings to be exceeded. This waiver is needed to continue the FHA single-family mortgage insurance limit at $124,875. Continuing the mortgage insurance limit at this level, which has the consent of the chairman of the Committee on Banking, Finance, and Urban Affairs, Mr. GONZALEZ, results in a higher level of mortgage activity than would occur if the mortgage insurance level reverted to $101,250—the level that would be effective on October 1, 1990, without further legislation. This resulting increase in mortgage activity causes CBO to score the subcommittee as being $3 billion above the limit on primary loan guarantees. However, it actually results in outlay savings of $197 million, due to an increase in insurance premiums being deposited into the FHA fund. This same waiver was contained in the rule providing for consideration of last year's VA, HUD, and independent agencies appropriations bill. The Rules Committee knows of no one who objects to the requested waiver.

The rule before us also waives clause 2(l)(6) of rule XI, requiring a 3-day layover, and clause 7 of rule XXI, requiring relevant printed hearings and report to be available for 3 days prior to consideration of a general appropriation bill. These two waivers are necessary to permit the House to consider H.R. 5158 before breaking for the Fourth of July district work period.

In addition, the rule waives clause 2 of rule XXI, prohibiting unauthorized appropriations or legislative provisions in general appropriations bills, and restricting the offering of limitation amendments to such bills. This waiver is necessary because Congress has not yet enacted laws authorizing various programs funded in the bill, and because some bill language constitutes legislation. Authorization for programs in the Department of Housing and Urban Development, H.R. 1180, has been reported by the Committee on Banking, Finance, and Urban Affairs. The rule before us also waives clause 6 of rule XXI, prohibiting reappropriations in a general appropriation bill.

I urge adoption of this rule so that the House can proceed to consideration of this important measure.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Massachusetts [Mr. MOAKLEY], the able leader of the Committee on Rules, for explaining the provisions of the rule in detail. I also want to commend the chairman and ranking Republican member of the Appropriations Subcommittee on VA, HUD, and Independent Agencies, the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] for all the work they have put into this bill. In taking the lead on legislation of this magnitude, they have had to balance many competing priorities, and they have done a good job.

The largest single item in this bill is funding for the Department of Veterans Affairs. Providing assistance to our Nation's veterans and their widows and orphans should always be a top priority. Veterans are the people who served the Nation in its hour of need, and the Nation should not forget them when they need help.

Mr. Speaker, I should note that since the rule does not add any restrictions to the normal amending process, Members will be free to offer any amendments which comply with the House rules. Because the rules prohibit legislation on appropriations bills, and because the Budget Act prohibits spending over the subcommittee's budget allocation, most of the amendments which would be in order would either cut funding or strike provisions already in the bill.

Mr. Speaker, I think this is a very well drafted bill, honestly presented, and it deserves the support of the Members of this body. I urge adoption of the rule and passage of the bill when it is debated this afternoon.

Mr. Speaker, at this time I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I rise in strong support of the rule. I would call attention to the Members of this body that even though an explanation of the rule which may appear on your desks or in front of you now does call for a waiver of the Congressional Budget Act, it in no way exceeds the budget as far as moneys spent is concerned. It simply raises the mortgage cap. In other words, it raises the credit ceiling. It does not exceed the budget authority in moneys spent. I think all Members of this body should know that. Consequently, Members really should support the rule.

□ 1050

I also would like to commend the gentleman from Michigan [Mr. TRAXLER], as well as the gentleman from New York [Mr. GREEN], for the really yeoman work that they do on the veterans' portion of this budget. We all know the terrible problems we have had over recent years with properly and adequately funding the VA budget, particularly the medical care delivery system. And because of the work done by these gentlemen and their staffs on both sides of the aisle we are finally coming close to being able to provide for the needs, particularly in the veterans' hospitals and some of the psychiatric centers across this Nation. So again I want to commend both of them for the great job that they have done, and I hope that after the rule does pass unanimously that we go ahead and we pass the HUD and independent agencies bill. It is a well-developed bill.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, the distinguished chairman of the Rules Committee, my friend, the gentleman from Massachusetts [Mr. MOAKLEY], indicated that he did not know anybody who was opposed to the rule. I am.

The distinguished gentleman from New York [Mr. SOLOMON] indicated we are going to pass the rule unanimously. We may do that, but only if I am closeted in a summit somewhere and not able to be on hand.

I want to apologize to the distinguished gentleman from Massachusetts [Mr. MOAKLEY] for not appearing before his committee on this bill. I was beginning to feel I had worn out my welcome up there, and I had hoped the gentleman would assume that I was opposed to most of his rules, at least those which waived the Budget Act as this one does.

But seriously, Mr. Speaker, I rise in vigorous opposition to the rule. It, as usual, waives the Budget Act and waives the House rules. This rule means that we are again showing that we cannot even accept those tiny little shreds of self-discipline we attempt to lay upon ourselves. It is another major act of profligacy by this House.

The bill provides, as the distinguished chairman told us, $3 billion of additional VA loan guarantees over the amount assumed in the House-passed resolution. Members will remember we deemed the 302(b) levels by the passage of a previous bit of ingenuity from the Rules Committee which provided for a $30 billion increase in discretionary domestic spending over the budget resolution of last year.

This particular bill goes billions over our own budget resolution and, therefore, it is the worst of the bills that have proceeded from the Appropria-

tions Committee through the Rules Committee.

Many of my colleagues will remember that the budget resolution attempted to impose a credit ceiling. This is a bill that busts the credit ceiling. Some may also remember that the President's budget had a new section this year in which it showed that we had about $6 trillion of liability for Federal guarantees of Government-sponsored enterprises in various loan programs.

This bill is adding an enormous amount to those particular guarantees. The $6 trillion liability and efforts like this bill to add to that amount are going to be a problem leading to continuing fiscal despair in the future.

As I say, not only are we not following good fiscal sense, we are not even following the rules that we laid down for ourselves when we passed a very open handed budget resolution.

What the bill does when it provides this extra credit authority is exactly as the chairman described earlier. The extra credit authority generates $197 million more in premiums. The committee cleverly seized the opportunity to spend that money. And, were it not for the excess of credit provided over and above the budget resolution, the bill would be $200 million over the 302 limits in outlays.

So what the appropriations subcommittee has done for us in providing this $3 billion of extra credit, and shattering our credit budget, was simply to provide $200 million more spending for itself, which was not allowed in the already generous 302(b) allocation. This subcommittee has distinguished itself again, at least at this stage, as being the champion spender of the appropriation subcommittees so far this year.

Let me illustrate. The revised 1990 appropriation is $48.5 billion. This particular bill is around $63.5 billion, so we have managed to spend $15 billion more than we appropriated last year. This is perhaps not a world's record, but it is 30 percent more than last year, and even when we separate out some of the housing commitments it still is 17 percent more than last year.

So if Members like big spending, if they think the taxpayers are not paying enough, if they think the Federal Government is the most efficient way to spend their money, vote for the rule. I do not intend to, and I thank the gentleman for yielding the time.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, but the opposition to the rule to the contrary notwithstanding, I urge the adoption of the rule and the bill when it is presented before the Members of this body. It is a good rule and it should be adopted.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 351, nays 59, not voting 22, as follows:

[Roll No. 205]

YEAS—351

Ackerman	Dellums	Hertel
Alexander	Derrick	Hiler
Anderson	DeWine	Hoagland
Andrews	Dickinson	Hochbrueckner
Annunzio	Dicks	Holloway
Anthony	Dingell	Horton
Applegate	Dixon	Hoyer
Armey	Dorgan (ND)	Hubbard
Aspin	Douglas	Huckaby
Atkins	Downey	Hughes
AuCoin	Durbin	Hutto
Baker	Dwyer	Inhofe
Barnard	Dymally	Ireland
Bates	Dyson	Jacobs
Bennett	Early	James
Bentley	Eckart	Jenkins
Bereuter	Edwards (CA)	Johnson (CT)
Berman	Emerson	Johnson (SD)
Bevill	Engel	Johnston
Bilbray	English	Jones (GA)
Bilirakis	Erdreich	Jones (NC)
Bliley	Espy	Jontz
Boehlert	Evans	Kanjorski
Boggs	Fascell	Kaptur
Borski	Fazio	Kastenmeier
Bosco	Feighan	Kennedy
Boucher	Fields	Kennelly
Boxer	Fish	Kildee
Brennan	Flake	Kleczka
Brooks	Flippo	Kolter
Broomfield	Foglietta	Kostmayer
Browder	Ford (MI)	LaFalce
Brown (CA)	Ford (TN)	Lancaster
Bruce	Frank	Lantos
Bryant	Frost	Laughlin
Byron	Gallo	Leach (IA)
Campbell (CA)	Gaydos	Leath (TX)
Campbell (CO)	Gejdenson	Lehman (CA)
Cardin	Gephardt	Lehman (FL)
Carper	Geren	Levin (MI)
Carr	Gibbons	Levine (CA)
Chapman	Gillmor	Lewis (CA)
Clarke	Gilman	Lewis (FL)
Clay	Gingrich	Lewis (GA)
Clement	Glickman	Lipinski
Clinger	Gonzalez	Livingston
Coleman (TX)	Gordon	Lloyd
Collins	Goss	Long
Condit	Gradison	Lowery (CA)
Conte	Grandy	Lowey (NY)
Cooper	Grant	Luken, Thomas
Costello	Gray	Machtley
Coughlin	Green	Madigan
Courter	Guarini	Manton
Cox	Gunderson	Markey
Coyne	Hamilton	Martin (NY)
Craig	Hammerschmidt	Matsui
Crockett	Hansen	Mavroules
Darden	Harris	Mazzoli
Davis	Hatcher	McCloskey
de la Garza	Hawkins	McCollum
DeFazio	Hayes (IL)	McCrery
DeLay	Hefner	McCurdy
McDade	Price	Snowe
McDermott	Pursell	Solarz
McGrath	Quillen	Solomon
McHugh	Rahall	Spence
McMillan (NC)	Rangel	Spratt
McMillen (MD)	Ravenel	Staggers
McNulty	Ray	Stallings
Meyers	Regula	Stangeland
Mfume	Rhodes	Stark
Michel	Richardson	Stearns
Miller (CA)	Rinaldo	Stenholm
Miller (OH)	Ritter	Stokes
Miller (WA)	Roberts	Studds
Mineta	Robinson	Sundquist
Moakley	Roe	Swift
Molinari	Rohrabacher	Synar
Mollohan	Ros-Lehtinen	Tallon
Montgomery	Rose	Tanner
Moody	Rostenkowski	Tauke
Morella	Roth	Tauzin
Morrison (WA)	Roukema	Taylor
Mrazek	Rowland (CT)	Thomas (GA)
Murphy	Rowland (GA)	Thomas (WY)
Murtha	Roybal	Torres
Myers	Sabo	Torricelli
Nagle	Saiki	Towns
Natcher	Sangmeister	Traficant
Neal (MA)	Sarpalius	Traxler
Neal (NC)	Savage	Udall
Nowak	Sawyer	Unsoeld
Oakar	Saxton	Valentine
Oberstar	Scheuer	Vento
Obey	Schiff	Visclosky
Olin	Schneider	Volkmer
Ortiz	Schroeder	Walgren
Owens (NY)	Schuette	Walsh
Owens (UT)	Schumer	Washington
Oxley	Serrano	Watkins
Pallone	Sharp	Waxman
Panetta	Shaw	Weber
Parker	Sikorski	Weiss
Parris	Sisisky	Weldon
Pashayan	Skaggs	Wheat
Patterson	Skeen	Whittaker
Paxon	Skelton	Whitten
Payne (NJ)	Slattery	Williams
Payne (VA)	Slaughter (NY)	Wise
Pease	Slaughter (VA)	Wolf
Pelosi	Smith (FL)	Wolpe
Penny	Smith (IA)	Wyden
Perkins	Smith (NE)	Wylie
Pickett	Smith (NJ)	Yates
Pickle	Smith (TX)	Yatron
Poshard	Smith (VT)	Young (FL)

NAYS—59

Archer	Gekas	Packard
Ballenger	Goodling	Petri
Bartlett	Hancock	Porter
Bateman	Hastert	Rogers
Brown (CO)	Hefley	Schaefer
Buechner	Henry	Sensenbrenner
Bunning	Herger	Shays
Burton	Hopkins	Shumway
Chandler	Houghton	Shuster
Coble	Hunter	Smith, Denny (OR)
Coleman (MO)	Kasich	Smith, Robert (NH)
Combest	Kolbe	Smith, Robert (OR)
Crane	Kyl	Stump
Dannemeyer	Lagomarsino	Thomas (CA)
Dornan (CA)	Lightfoot	Upton
Dreier	Lukens, Donald	Vucanovich
Duncan	Marlenee	Young (AK)
Edwards (OK)	Martin (IL)	
Fawell	McCandless	
Frenzel	McEwen	
Gallegly	Moorhead	

NOT VOTING—22

Barton	Hall (TX)	Ridge
Beilenson	Hayes (LA)	Russo
Bonior	Hyde	Schulze
Bustamante	Lent	Vander Jagt
Callahan	Martinez	Walker
Conyers	Morrison (CT)	Wilson
Donnelly	Nelson	
Hall (OH)	Nielson	

□ 1120

Mr. SHAYS changed his vote from "yea" to "nay."

Mrs. MEYERS of Kansas, Mr. HOLLOWAY, and Mr. ROHRA-

BACHER changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 770. An act to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO HAVE UNTIL 5 P.M., FRIDAY, JULY 6, 1990, TO FILE SUNDRY REPORTS

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor may have until 5 p.m. on Friday, July 6, 1990, to file the committee's reports on H.R. 5115, Equity and Excellence in Education Act of 1990; H.R. 4982, Dwight D. Eisenhower Mathematics and Science Education Amendments Act of 1990; H.R. 5064, Drug Abuse Resistance Education Act of 1990; H.R. 5124, Anti-Drug Education Act of 1990; H.R. 5140, School Dropout and Basic Skills Improvement Act of 1990; and H.R. 5149, Child Nutrition Act Amendments regarding WIC Program.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM THURSDAY, JUNE 28, 1990, OR FRIDAY, JUNE 29, 1990 TO TUESDAY, JULY 10, 1990, AND ADJOURNMENT OR RECESS OF THE SENATE FROM THURSDAY, JUNE 28, 1990, OR FRIDAY, JUNE 29, 1990, OR SATURDAY, JUNE 30, 1990 TO TUESDAY, JULY 10, 1990

Mr. HOYER. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 347) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 347

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 28, 1990, or Friday, June 29, 1990, pursuant to a motion made by the Majority Leader, or his designee, it stand adjourned until 12 o'clock meridian on Tuesday, July 10, 1990, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, June 28, 1990, or Friday, June 29, 1990, or Saturday, June 30, 1990, pursuant to a motion made by the Majority Leader, or his designee, it stand in recess or stand adjourned until 9:30 ante meridiem on Tuesday, July 10, 1990, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

Mr. HOYER (during the reading). Mr. Speaker, I ask unanimous consent that House Concurrent Resolution 347 be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RESCISSIONS AFFECTING PROGRAMS OF THE DEPARTMENT OF DEFENSE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-207)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, Thursday, June 28, 1990.)

GENERAL LEAVE

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 5158 and that I be able to include tables, charts, and other extraneous materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1991

Mr. TRAXLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York [Mr. GREEN] and myself.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. TRAXLER].

The motion was agreed to.

The SPEAKER pro tempore. The Chair appoints the gentleman from California [Mr. BEILENSON] as the Chairman of the Committee of the Whole, and requests the gentleman from Florida [Mr. FASCELL] to assume the chair temporarily.

□ 1124

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5158, with Mr. FASCELL, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN pro tempore. Under the unanimous-consent agreement, the gentleman from Michigan [Mr. TRAXLER] will be recognized for 30 minutes, and the gentleman from New York [Mr. GREEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first I would like to express my deep appreciation to the members of the subcommittee, most especially my distinguished colleague, the gentleman from New York [Mr. GREEN], the ranking minority member. This committee's jurisdiction includes, in my judgment, some of the most important matters to be considered by this body. In addition to that I think

the members of the subcommittee are just outstanding, and without their valuable contributions this very fine work product would not be available to us today. In addition, Mr. Chairman, I would be remiss if I did not recognize the important contributions that the staff, both at the full committee level and at the subcommittee level, have made to this product, and for that I am extremely grateful. I should also say that we have associate staff members who have been most helpful in this process to their members, to the full committee and to myself.

Mr. Chairman, we bring before the House today the 1991 appropriations bill for VA, HUD, and independent agencies. This is never an easy bill to mark up, it covers a variety of agencies and interests that represent the diversity of this Nation.

First, the Department of Housing and Urban Development deals with the very poorest of the poor in our housing programs. Further, the Department of Veterans Affairs deals with our veterans and their dependents, many of whom are low- and middle-income individuals, both in terms of the medical care for the veterans themselves and for the compensation for themselves and their survivors. Additionally, NASA deals with the leading edge of American technology in the Space Program and the national aerospace plane. Furthermore, Mr. Chairman, the Environmental Protection Agency has the responsibility for protecting our air, and water and cleaning up the environment. Additionally, Mr. Chairman, the Federal Emergency Management Agency has been very important to the disaster-struck parts of our Nation, and States and the people. They play an important role in the rehabilitation following those disasters. Additionally, the bill provides continued support for the highest quality and the most outstanding research that is done in the world through the National Science Foundation. Additionally, the National Science Foundation provides student grants and graduate stipends; in addition, summer continuing education for high school and elementary science teachers are very important to the technological future of this Nation. Additionally, the Consumer Product Safety Commission, and Office of Consumer Affairs, deal with the important areas of consumer protection and protecting our children and citizens through their efforts—and it goes on with the various other agencies within the jurisdiction of the committee.

Mr. Chairman, in my judgment no other appropriation bill coming before the House has such a broad spectrum and diversity of Federal contributions to such a range of our citizenry as this one. But, Mr. Chairman, in these times of extreme budget constraints, I believe that we bring before you a bill that is very creditable, one that we have tried to balance very carefully among the needs and interests of the various agencies within our jurisdiction.

Let us take a closer look at this bottom line, the financial bottom line. This is a little technical, but the 302(b) allocation that we received from the full committee for this subcommittee is about $700 million in outlays—in outlays—below the President's budget request. Mr. Chairman, on top of that we added some budget authority in very selected programs that will cost us roughly another $300 million in outlays.

□ 1130

However, what that means is that even if we had not added a penny to the President's budget, we would still have had to make cuts in order to meet our 302(b) allocation.

Before we talk about those cuts, let me say a word or two about where we added some money, and I hope this will meet with the approval of the body.

First, we added about $100 million to the President's request for the VA medical care and medical research programs. In my judgment, we should have done better. We could have done better to meet the needs of the veterans, but these are very difficult financial times and under the circumstances I think we have done as well as could be expected.

I must say that our VA hospitals, and I am very proud of this, as each and every Member must be of the VA medical staffs, operate with a staff to patient ratio that is one-half of that of the private hospitals in the District of Columbia, a remarkable achievement and a remarkable record. But if we cannot keep that minimum staffing in place and unless we add money to the VA medical care above the President's request, and I do not believe that we have added enough, I hope that we can find in the course of the coming months another $100 million for this valuable account, I fear that in the future VA medical care will suffer some deterioration, something that no one in this body wants. We made this very clear to the committee over these past months.

Next we added about $175 million for public housing and operating subsidies. The Department of Housing and Urban Development has consistently underestimated the performance of funding formula requirements for public housing operations, and without these moneys, in my judgment, all we are doing is helping the drug pushers.

Now, why is that? Well, because without sufficient public housing operating funds, the local PHA's are going to pay the utility bill and lay off security people, and that plays into the hands of the drug dealers, drug pushers, and drug handlers that are inclined to hang out in public housing areas.

Finally, we added about $150 million to the operating programs of the Environmental Protection Agency.

I want to congratulate the President for sending us one of the best EPA requests that this subcommittee has seen in many years. He deserves our support for that.

But that request included virtually no funding for nonpoint source pollution, which I consider to be one of the biggest problems we face in the environmental area today, and it included no funding, regretfully, for asbestos removal in schools.

We added about $40 million for nonpoint source abatement and $48 million for the asbestos-in-schools program, bringing both of those to roughly the levels of last year.

So, Mr. Chairman, those were the major add-ons that increased our outlays.

Now, what about our cuts? What did we do to meet our 302(b) ceiling that was imposed upon us? Well, first, NASA had a 24-percent increase in the President's budget. Regretfully, because of the constraints that were placed upon us in that 302(b) allocation, we reduced NASA by $828 million, something no one in this committee is proud of, but still we provided—and this is vital—we still provided a 17.5-percent increase for NASA over last year's appropriation. That is the biggest increase that NASA has had in the last 10 years, and every penny of that, in my judgment, is justified and necessary.

We also cut the EPA Superfund Program by about $160 million. That program has had a number of problems. We think it can handle this reduction, but let us not kid ourselves, this is one of the most serious areas in the EPA jurisdiction. We hope that we can continue to work with them on a positive basis. They have a fine administrator and we think that the Agency is on the right path and the right course in this problem-plagued program thus far.

We cut disaster assistance by about $170 million, which we believe we can accommodate because there is a sufficient carryover of funds appropriated during the disasters of last year that we think will bring us through the 1991 fiscal year.

Now, there are one or two other things we have done in this bill that add money to critical programs, but because of the odd way in which we score outlays, by counting only the first-year impact, these add-ons do not impact on our outlay problem, but they do use up budget authority. We think they will meet with your approval.

First, we added about $4.3 billion to HUD's subsidized housing program for the poor. New, that is the largest increase we have been able to fund in more than 10 years. It brings the assisted housing account up to about $11 billion, still a far cry from the $25 billion that we appropriated to this program in 1981.

Now, that additional budget authority has allowed us to increase funding for Indian housing, for incremental housing voucher and housing certificate units, for new public housing units, and for section 202 housing for the elderly and handicapped units.

Furthermore, we have increased rental rehabilitation grants.

We added $244 million to the Community Development Block Grant Program. That should please all of your constituencies in the urban areas and elsewhere. It brings it up to the $3 billion level.

Finally, we added about $400 million to the Wastewater Treatment Construction Grant Program in the EPA. We once again restored that program to the 1990 level, and I do not believe there is anything more important that we could do to clean up our waters than this particular appropriation.

Another thing, Mr. Chairman, the bill before us includes virtually no budget gimmicks. We have only two "creative financing" proposals in here. They both have been cleared by the CBO.

First, we delay the obligation of $278 million of VA medical care equipment funds until August 1 of next year. That saves us about $170 million in outlays.

Second, we extended the FHA mortgage ceiling, which was raised in the bill last year to $124,875. We have extended that for an additional year until October 1, 1991. That provided us with another $197 million in outlays.

That, Mr. Chairman, was done with the full permission and consent of the authorizing committee and its chairman. I am extremely grateful for their cooperation. This language is contained in the housing bill and we lifted it in its entirety from the housing bill.

We think it is a good bill. It is balanced. It is a bill that does not fully fund one activity at the expense of another. We do not favor one child over another, and it is a bill that I think the entire membership can easily support; but you know, that probably will not be the case. I have discovered that you cannot please everyone and that 435 Members can have differences of opinion.

Even though we have recommended a 17.5-percent increase for NASA, some people will not agree that that is enough. They probably will have some amendments dealing with that issue.

Mr. Chairman, on the whole, I would commend and recommend this bill to the membership. It deserves everyone's support.

I will include a table comparing the amounts recommended with the 1990 appropriations and the revised 1991 budget requests at this point:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1990 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1991

Agency and item	New budget (obligational) authority appropriated, 1990 (enacted to date)	Budget estimates of new (obligational) authority, 1991	New budget (obligational) authority recommended in bill	Bill compared with new budget (obligational) authority, 1990	Bill compared with budget estimates of new (obligational) authority, 1991
(1)	(2)	(3)	(4)	(5)	(6)
TITLE I					
DEPARTMENT OF VETERANS AFFAIRS					
Veterans Benefits Administration					
Compensation and pensions	15,555,495,000	15,204,451,000	15,684,551,000	+129,056,000	+480,100,000
Readjustment benefits	497,813,000	502,500,000	502,500,000	+4,687,000	.....
Veterans insurance and indemnities	13,940,000	15,410,000	15,410,000	+1,470,000	.....
Loan guaranty revolving fund	558,500,000	512,200,000	670,200,000	+111,700,000	+158,000,000
Guaranty and indemnity fund	.....	80,800,000	80,800,000	+80,800,000	.....
Direct loan revolving fund (limitation on direct loans)	*(985,000)*	*(1,000,000)*	*(1,000,000)*	*(+15,000)*	.....
Total, Veterans Benefits Administration	16,625,748,000	16,315,361,000	16,953,461,000	+327,713,000	+638,100,000
Veterans Health Service and Research Administration					
Medical care	11,419,706,000	12,227,066,000	12,310,490,000	+890,784,000	+83,424,000
Medical and prosthetic research	212,652,000	198,537,000	216,795,000	+4,143,000	+18,258,000
Medical administration and miscellaneous operating expenses	46,697,000	47,729,000	52,047,000	+5,350,000	+4,318,000
Grants to the Republic of the Philippines	492,000	484,000	484,000	-8,000	.....
Total, Veterans Health Service and Research Administration	11,679,547,000	12,473,816,000	12,579,816,000	+900,269,000	+106,000,000
Departmental Administration					
General operating expenses	811,628,000	902,514,000	902,514,000	+90,886,000	.....
Office of Inspector General	21,786,000	26,859,000	26,859,000	+5,073,000	.....
Construction, major projects	408,542,000	530,000,000	575,456,000	+166,914,000	+45,456,000
Construction, minor projects	91,637,000	145,640,000	146,140,000	+54,503,000	+500,000
(Limitation on administrative expenses)	*(43,452,000)*	*(44,420,000)*	*(44,420,000)*	*(+968,000)*	.....
Parking garage revolving fund	28,543,000	18,900,000	28,900,000	+357,000	+10,000,000
Grants for construction of State extended care facilities	41,349,000	42,000,000	65,000,000	+23,651,000	+23,000,000
Grants for the construction of State veterans cemetaries	4,288,000	3,946,000	3,946,000	-342,000	.....
Total, Departmental Administration	1,407,773,000	1,669,859,000	1,748,815,000	+341,042,000	+78,956,000
Total, title I, Department of Veterans Affairs:					
New budget (obligational) authority	29,713,068,000	30,459,036,000	31,282,092,000	+1,569,024,000	+823,056,000
(Limitation on direct loans)	*(985,000)*	*(1,000,000)*	*(1,000,000)*	*(+15,000)*	.....
(Limitation on administrative expenses)	*(43,452,000)*	*(44,420,000)*	*(44,420,000)*	*(+968,000)*	.....
TITLE II					
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
Housing Programs					
Annual contributions for assisted housing	7,799,355,000	7,352,317,300	11,625,086,000	+3,825,731,000	+4,272,768,700
Rescission of assisted housing deobligations (budget authority, indefinite)	-311,236,000	-236,375,000	-236,375,000	+74,861,000	.....
(By transfer)	.....	*(157,000,000)*	*(70,000,000)*	*(+70,000,000)*	*(-87,000,000)*
Total, annual contributions for assisted housing (net)	7,488,119,000	7,115,942,300	11,388,711,000	+3,900,592,000	+4,272,768,700
Assistance for the renewal of expiring section 8 subsidy contracts	1,074,492,000	7,734,985,400	7,734,985,400	+6,660,493,400	.....
Rental rehabilitation grants	127,985,000	70,000,000	135,000,000	+7,015,000	+65,000,000
Rental housing assistance:					
Rescission of budget authority, indefinite	-48,000,000	-46,000,000	-46,000,000	+2,000,000	.....
(Limitation on annual contract authority, indefinite)	*(-2,000,000)*	*(-2,000,000)*	*(-2,000,000)*	.....	.....
Housing for the elderly or handicapped fund:					
(Limitation on direct loans)	*(472,664,000)*	*(282,543,000)*	*(491,570,000)*	*(+18,906,000)*	*(+209,027,000)*
Authority to borrow, indefinite	412,969,000	220,480,000	437,044,000	+24,075,000	+216,564,000
Congregate services	5,829,000	.....	7,000,000	+1,171,000	+7,000,000
Payments for operation of low-income housing projects	1,865,031,000	1,825,731,000	2,000,000,000	+134,969,000	+174,269,000
Housing counseling assistance	3,446,000	3,500,000	5,000,000	+1,554,000	+1,500,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1990 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1991--Continued

Agency and item	New budget (obligational) authority appropriated, 1990 (enacted to date)	Budget estimates of new (obligational) authority, 1991	New budget (obligational) authority recommended in bill	Bill compared with new budget (obligational) authority, 1990	Bill compared with budget estimates of new (obligational) authority, 1991
(1)	(2)	(3)	(4)	(5)	(6)
Federal Housing Administration Fund	350,093,000		317,366,000	-32,727,000	+317,366,000
(Limitation on guaranteed loans)	*(73,837,500,000)*		*(75,000,000,000)*	*(+1,162,500,000)*	*(+75,000,000,000)*
Temporary mortgage assistance payments (limitation on direct loans)	*(87,227,000)*		*(151,125,000)*	*(+63,898,000)*	*(+151,125,000)*
FHA - Mututal Mortage and Cooperative Manangement Housing Insurance Funds:					
(Limitation on guaranteed loans)		*(62,000,000,000)*			*(-62,000,000,000)*
(Limitation on direct loans, TMAP)		*(123,500,000)*			*(-123,500,000)*
FHA - General and special risk insurance funds		317,366,000			-317,366,000
(Limitation on guaranteed loans)		*(13,000,000,000)*			*(-13,000,000,000)*
(Limitation on direct loans, TMAP)		*(27,625,000)*			*(-27,625,000)*
Total, Federal Housing Administration Fund	350,093,000	317,366,000	317,366,000	-32,727,000	
Nonprofit sponsor assistance (limitation on direct loans)	*(1,069,000)*	*(530,000)*	*(1,100,000)*	*(+31,000)*	*(+570,000)*
Homewnership and opportunity for people everywhere grants (HOPE grants)		250,000,000			-250,000,000
Drug elimination grants for low-income housing		150,000,000	100,000,000	+100,000,000	-50,000,000
Government National Mortgage Association					
Guarantees of mortgage-backed securities (limitation on guaranteed loans)	*(81,713,500,000)*	*(80,000,000,000)*	*(80,000,000,000)*	*(-1,713,500,000)*	
Total, Housing Programs (net)	11,279,964,000	17,642,004,700	22,079,106,400	+10,799,142,400	+4,437,101,700
Homeless Assistance					
Emergency shelter grants program	73,164,000	71,285,000	75,000,000	+1,836,000	+3,715,000
Transitional and supportive housing demonstration program	126,825,000	143,592,000	150,000,000	+23,175,000	+6,408,000
Supplemental assistance for facilities to assist the homeless	10,830,000	161,000,000	15,000,000	+4,170,000	-146,000,000
Section 8 moderate rehabilitation: Single room occupancy	73,185,000	49,571,300	100,000,000	+26,815,000	+50,428,700
Total, Homeless Assistance	284,004,000	425,448,300	340,000,000	+55,996,000	-85,448,300
Community Planning and Development					
Community development grants	2,926,514,000	2,756,000,000	3,000,000,000	+73,486,000	+244,000,000
(Limitation on guaranteed loans)	*(141,768,000)*		*(140,000,000)*	*(-1,768,000)*	*(+140,000,000)*
Urban development action grants (rescission)	-11,450,000	-10,000,000		+11,450,000	+10,000,000
Urban homesteading	12,995,000	50,000,000	15,000,000	+2,005,000	-35,000,000
Total, Community Planning and Development	2,928,059,000	2,796,000,000	3,015,000,000	+86,941,000	+219,000,000
Policy Development and Research					
Research and technology	20,426,000	23,000,000	30,000,000	+9,574,000	+7,000,000
(By transfer)		*(25,000,000)*			*(-25,000,000)*
Fair Housing and Equal Opportunity					
Fair housing activities	12,410,000	12,200,000	12,200,000	-210,000	
Management and Administration					
Salaries and expenses	345,407,000	426,124,000	426,124,000	+80,717,000	
(By transfer, limitation on FHA corporate funds)	*(385,659,000)*	*(380,342,000)*	*(390,342,000)*	*(+4,683,000)*	*(+10,000,000)*
Office of Inspector General	23,795,000	29,283,000	29,283,000	+5,488,000	
(By transfer, limitation on FHA corporate funds)	*(6,391,000)*	*(8,557,000)*	*(8,557,000)*	*(+2,166,000)*	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1990 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1991--Continued

Agency and item	New budget (obligational) authority appropriated, 1990 (enacted to date)	Budget estimates of new (obligational) authority, 1991	New budget (obligational) authority recommended in bill	Bill compared with new budget (obligational) authority, 1990	Bill compared with budget estimates of new (obligational) authority, 1991
(1)	(2)	(3)	(4)	(5)	(6)
Total, title II, Department of Housing and Urban Development:					
New budget (obligational) authority (net)	14,894,065,000	21,354,060,000	25,931,713,400	+11,037,648,400	+4,577,653,400
Appropriations	(14,851,782,000)	(21,425,955,000)	(25,777,044,400)	(+10,925,262,400)	(+4,351,089,400)
Authority to borrow	(412,969,000)	(220,480,000)	(437,044,000)	(+24,075,000)	(+216,564,000)
Rescissions	(-370,686,000)	(-292,375,000)	(-282,375,000)	(+88,311,000)	(+10,000,000)
(By transfer)		*(182,000,000)*	*(70,000,000)*	*(+70,000,000)*	*(-112,000,000)*
(Limitation on annual contract authority, indefinite)	*(-2,000,000)*	*(-2,000,000)*	*(-2,000,000)*		
(Limitation on direct loans)	*(560,960,000)*	*(434,198,000)*	*(643,795,000)*	*(+82,835,000)*	*(+209,597,000)*
(Limitation on guaranteed loans)	*(155,692,768,000)*	*(155,000,000,000)*	*(155,140,000,000)*	*(-552,768,000)*	*(+140,000,000)*
(Limitation on corporate funds to be expended)	*(392,050,000)*	*(388,899,000)*	*(398,899,000)*	*(+6,849,000)*	*(+10,000,000)*
TITLE III					
INDEPENDENT AGENCIES					
American Battle Monuments Commission					
Salaries and expenses	16,032,000	15,402,000	15,900,000	-132,000	+498,000
Consumer Product Safety Commission					
Salaries and expenses	35,147,000	35,609,000	37,109,000	+1,962,000	+1,500,000
Court of Veterans Appeals					
Salaries and expenses	3,893,000	9,560,000	9,560,000	+5,667,000	
Department of Defense - Civil					
Cemeterial Expenses, Army					
Salaries and expenses	12,374,000	12,236,000	12,236,000	-138,000	
Environmental Protection Agency					
Salaries and expenses	864,409,000	999,700,000	995,000,000	+130,591,000	-4,700,000
Office of Inspector General	30,903,000	38,709,000	37,000,000	+6,097,000	-1,709,000
Research and development	229,820,000	249,000,000	254,900,000	+25,080,000	+5,900,000
Abatement, control, and compliance	798,434,000	865,300,000	1,006,525,000	+208,091,000	+141,225,000
Buildings and facilities	14,652,000	13,000,000	34,000,000	+19,348,000	+21,000,000
Subtotal, operating programs	1,938,218,000	2,165,709,000	2,327,425,000	+389,207,000	+161,716,000
Hazardous substance superfund	1,530,228,000	1,740,000,000	1,610,200,000	+79,972,000	-129,800,000
(Limitation on administrative expenses)	*(213,825,000)*	*(230,000,000)*	*(233,000,000)*	*(+19,175,000)*	*(+3,000,000)*
Leaking underground storage tank trust fund	74,097,000	75,000,000	75,000,000	+903,000	
(Limitation on administrative expenses)	*(5,834,000)*	*(6,000,000)*	*(6,000,000)*	*(+166,000)*	
Construction grants	1,991,720,000	1,600,000,000	2,000,000,000	+8,280,000	+400,000,000
Rescission	-47,700,000			+47,700,000	
Total, Environmental Protection Agency (net)	5,486,563,000	5,580,709,000	6,012,625,000	+526,062,000	+431,916,000
Executive Office of the President					
Council on Environmental Quality and Office of Environmental Quality	1,465,000	2,780,000	2,780,000	+1,315,000	
National Space Council	983,000	1,363,000	1,000,000	+17,000	-363,000
Office of Science and Technology Policy	2,829,000	3,300,000	3,300,000	+471,000	
Total, Executive Office of the President	5,277,000	7,443,000	7,080,000	+1,803,000	-363,000
Federal Emergency Management Agency					
Disaster relief	1,248,450,000	270,000,000	100,000,000	-1,148,450,000	-170,000,000
Salaries and expenses	138,572,000	143,334,000	143,459,000	+4,887,000	+125,000
Office of Inspector General	2,563,000	3,905,000	3,905,000	+1,342,000	
Emergency management planning and assistance	270,643,000	277,042,000	275,423,000	+4,780,000	-1,619,000
Emergency food and shelter program	130,092,000	124,991,000	134,000,000	+3,908,000	+9,009,000
Total, Federal Emergency Management Agency	1,790,320,000	819,272,000	656,787,000	-1,133,533,000	-162,485,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1990 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1991--Continued

Agency and item	New budget (obligational) authority appropriated, 1990 (enacted to date)	Budget estimates of new (obligational) authority, 1991	New budget (obligational) authority recommended in bill	Bill compared with new budget (obligational) authority, 1990	Bill compared with budget estimates of new (obligational) authority, 1991
(1)	(2)	(3)	(4)	(5)	(6)
General Services Administration					
Consumer Information Center	1,339,000	1,540,000	1,540,000	+201,000	.....
(Limitation on administrative expenses)	*(2,052,000)*	*(2,172,000)*	*(2,172,000)*	*(+120,000)*	.....
Department of Health and Human Services					
Office of Consumer Affairs	1,834,000	1,889,000	1,889,000	+55,000	.....
Interagency Council on the Homeless					
Salaries and expenses	1,083,000	1,214,000	1,214,000	+131,000	.....
National Aeronautics and Space Administration					
Research and development	5,227,776,000	7,074,000,000	7,034,094,000	+1,806,318,000	-39,906,000
Space flight, control and data communications	4,550,715,000	6,499,132,000	6,530,351,000	+1,979,636,000	+31,219,000
Portion applied to debt reduction	.....	-1,209,732,000	-1,209,732,000	-1,209,732,000	.....
Construction of facilities	443,960,000	497,900,000	485,000,000	+41,040,000	-12,900,000
Research and program management	1,990,464,000	2,252,900,000	1,446,212,000	-544,252,000	-806,688,000
Office of Inspector General	8,659,000	11,000,000	10,500,000	+1,841,000	-500,000
Total, National Aeronautics and Space Administration	12,221,574,000	15,125,200,000	14,296,425,000	+2,074,851,000	-828,775,000
National Commission on American Indian, Alsaka Native, and Native Hawaiian Housing					
Salaries and expenses	500,000	.....	.....	-500,000	.....
National Commission on Severely Distressed Public Housing					
Salaries and expenses	2,000,000	.....	.....	-2,000,000	.....
National Credit Union Administration					
Central liquidity facility:					
Community development credit union revolving loan fund (transfer to Neighborhood Reinvestment Corporation)	.....	*(-6,605,000)*	.....	.....	*(+6,605,000)*
(Limitation on direct loans)	*(590,700,000)*	*(600,000,000)*	*(600,000,000)*	*(+9,300,000)*	.....
(Limitation on administrative expenses, corporate funds)	*(851,000)*	*(893,000)*	*(893,000)*	*(+42,000)*	.....
National Institute of Building Sciences					
Payment to the National Institute of Building Sciences	492,000	.....	250,000	-242,000	+250,000
National Science Foundation					
Research and related activities	1,702,411,000	1,954,000,000	1,854,000,000	+151,589,000	-100,000,000
Program development and management (limitation on administrative expenses)	*(96,383,000)*	*(102,500,000)*	*(100,000,000)*	*(+3,617,000)*	*(-2,500,000)*
Academic research facilities	19,690,000	.....	20,000,000	+310,000	+20,000,000
United States Antarctic Program activities	71,953,000	175,000,000	100,000,000	+28,047,000	-75,000,000
United States Antarctic logistical support activities	79,729,000	.....	75,000,000	-4,729,000	+75,000,000
Science education activities	204,265,000	251,000,000	285,000,000	+80,735,000	+34,000,000
Office of Inspector General	2,560,000	3,000,000	3,000,000	+440,000	.....
Total, National Science Foundation	2,080,608,000	2,383,000,000	2,337,000,000	+256,392,000	-46,000,000
Neighborhood Reinvestment Corporation					
Payment to the Neighborhood Reinvestment Corporation	26,554,000	17,895,000	24,500,000	-2,054,000	+6,605,000
(By transfer)	.....	*(6,605,000)*	.....	.....	*(-6,605,000)*

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1990 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1991--Continued

Agency and item	New budget (obligational) authority appropriated, 1990 (enacted to date)	Budget estimates of new (obligational) authority, 1991	New budget (obligational) authority recommended in bill	Bill compared with new budget (obligational) authority, 1990	Bill compared with budget estimates of new (obligational) authority, 1991
(1)	(2)	(3)	(4)	(5)	(6)
Selective Service System					
Salaries and expenses	25,905,000	26,635,000	26,635,000	+730,000	
Total, title III, Independent Agencies:					
New budget (obligational) authority (net)	21,711,495,000	24,037,604,000	23,440,750,000	+1,729,255,000	-596,854,000
Appropriations	(21,759,195,000)	(25,247,336,000)	(24,650,482,000)	(+2,891,287,000)	(-596,854,000)
Rescission	(-47,700,000)			(+47,700,000)	
(Limitation on administrative expenses)	*(318,094,000)*	*(340,672,000)*	*(341,172,000)*	*(+23,078,000)*	*(+500,000)*
(Limitation on direct loans)	*(590,700,000)*	*(600,000,000)*	*(600,000,000)*	*(+9,300,000)*	
(Limitation on corporate funds to be expended)	*(851,000)*	*(893,000)*	*(893,000)*	*(+42,000)*	
TITLE IV					
CORPORATIONS					
Federal Deposit Insurance Corporation:					
FSLIC Resolution Fund 1/	4,962,000,000	2,915,744,000	2,915,744,000	-2,046,256,000	
Resolution Trust Corporation:					
Office of Inspector General		10,785,000	10,785,000	+10,785,000	
Total, title IV, Corporations	4,962,000,000	2,926,529,000	2,926,529,000	-2,035,471,000	
Grand total:					
New budget (obligational) authority (net)	71,280,628,000	78,777,229,000	83,581,084,400	+12,300,456,400	+4,803,855,400
Appropriations	(71,286,045,000)	(80,058,856,000)	(84,636,147,400)	(+13,350,102,400)	(+4,577,291,400)
Authority to borrow	(412,969,000)	(220,480,000)	(437,044,000)	(+24,075,000)	(+216,564,000)
Rescissions	(-418,386,000)	(-292,375,000)	(-282,375,000)	(+136,011,000)	(+10,000,000)
(By transfer)		*(182,000,000)*	*(70,000,000)*	*(+70,000,000)*	*(-112,000,000)*
(Limitation on administrative expenses)	*(361,546,000)*	*(385,092,000)*	*(385,592,000)*	*(+24,046,000)*	*(+500,000)*
(Limitation on annual contract authority, indefinite)	*(-2,000,000)*	*(-2,000,000)*	*(-2,000,000)*		
(Limitation on direct loans)	*(1,152,645,000)*	*(1,035,198,000)*	*(1,244,795,000)*	*(+92,150,000)*	*(+209,597,000)*
(Limitation on guaranteed loans)	*(155,692,768,000)*	*(155,000,000,000)*	*(155,140,000,000)*	*(-552,768,000)*	*(+140,000,000)*
(Limitation on corporate funds to be expended)	*(392,901,000)*	*(389,792,000)*	*(399,792,000)*	*(+6,891,000)*	*(+10,000,000)*

1/ Current indefinite authority, current estimate only

Mr. GREEN of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this appropriation bill. I think the distinguished chairman of the subcommittee has laid out the details of the bill. It is a very complicated bill; there are different financing mechanisms for different agencies involved in the bill. I think I could not improve on the explanation of the bill that the distinguished chairman of the subcommittee, the gentleman from Michigan, has given, and I shall not try to improve on it or to repeat it.

I should, however, like to make a few observations about the bill which may help place it in context for my colleagues.

During the debate on the rule, the gentleman from Minnesota [Mr. FRENZEL] made some comments about the bill. They were very critical of the size of the bill and the percentage of the increase over the current fiscal year's funding for the departments and agencies involved in this bill.

I think it is important that my colleagues, and particularly those on this side of the aisle, understand that that has largely been driven by requests from the President. In fact, the outlays in this bill are some half billion dollars less than the outlays that would have resulted had the President's budget request for the departments and agencies involved in this bill been fully funded in this bill.

□ 1140

It is not any profligacy on the part of this subcommittee or the Committee on Appropriations that leads to the size of this bill. It is the fact that we are trying, to the extent that we can and that we deem appropriate, to accommodate the requests of the President of the United States. That is nowhere more clear, for example, than in the funding for the space program where the President requested very, very substantial increases for NASA. We were not able fully to accommodate those, but we do, indeed, have a very large increase for the NASA programs here.

Similarly, in the case of HUD, the President requested an additional $7 billion that is necessary to provide budget authority to fund renewal of housing subsidy contracts that are expiring. Unless the families that are covered by those agreements are to be thrown out on the street, evicted from their dwellings, that money, we agree with the President, must be appropriated, but obviously $7 billion is a lot of budget authority, and we recognize that. But the President saw the need for it, and we see the need for it, and I do not think it is appropriate to criticize either of us for doing what has to be done.

In the case of the VA medical account, again, we were delighted that the President asked for a substantial increase in that account. As the veter-

ans' population, the majority of which is of World War II vintage, becomes older, demand on the VA medical system for services increases, and that need has to be accommodated. The President requested the funds, and we provided the funds to address those needs.

In the case of the National Science Foundation, for example, the President wants to double the funding for the National Science Foundation over a 5-year period. We believe that that is a very important area for increased funding, in that the National Science Foundation does a great deal, not just to increase our store of basic scientific knowledge, but also to improve the competitiveness of the United States in a very competitive economic world. So we do have a substantial increase, not as much as I should have liked, but as much as we could afford in the National Science Foundation accounts.

I hope that my colleagues, particularly my colleagues on this side of the aisle, will not be put off by the very substantial percentage increase in this bill. We are simply responding to the very substantial percentage increase that the President of the United States requested for the departments and agencies involved in this bill.

Let me conclude my remarks by addressing one particular area, and that is the situation with respect to the proposals we have made for the Department of Housing and Urban Development. We are very aware in our subcommittee that our colleagues on the Committee on Banking, Finance and Urban Affairs are hard at work on housing legislation on the House side. The Committee on Banking, Finance and Urban Affairs has a bill pending for us that I understand we shall be addressing shortly after we return from the district work period.

The Senate worked long hours yesterday and passed a somewhat different housing bill. However, at the time we marked up this bill, it was not possible for us to know what the final shape of the programs was going to be. Perhaps by the time we go to conference the issues between the House and the Senate will be resolved on the shape of this year's housing legislation. Maybe they will not be.

It is not appropriate for me to speculate as to that, but I certainly hope our friends on the Committee on Banking, Finance and Urban Affairs will understand that the reason we have not tried to deal with those new programs on which they are hard at work is the fact that we simply do not know what final shape they are going to take.

Moreover, because of the rules that the Congress has imposed on HUD in terms of drafting implementing regulations, that process typically takes a fairly substantial period of time, and so it seems to us wise to proceed with this bill on the basis of the existing law, fully recognizing that by the end of this session we may be facing a new, and let us hope, improved housing law and fully cognizant of the very hard work that our colleagues on the Committee on Banking, Finance and Urban Affairs are putting in to bring us to that conclusion.

I do want to express my appreciation to our friends on the Committee on Banking, Finance and Urban Affairs for their understanding and also for permitting us to continue the $124,750 ceiling on FHA mortgage insurance that the House voted for the current fiscal year.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I want to compliment the Committee on Appropriations. They have worked pretty hard, too.

Mr. Chairman, the full committee did pass out the housing and community development bill. We had thought we would go to the Committee on Rules this morning, but legislative counsel did not have the necessary documentation, so it is scheduled for the first day upon our return after the July break.

In the meanwhile, I understand it will be scheduled for floor debate on July 13. I do want to assure the gentleman that the Senate's action whereby they reconciled two of their most difficult areas is very promising. I think that the action of the committee on the House side broke, or helped break, the logjam they were in over in the Senate, so some Senator said.

I wanted to recognize the ranking minority member, the gentlewoman from New Jersey [Mrs. ROUKEMA], on the Subcommittee on Housing, because we have worked together. We have what we consider to be a good bill. There will be some areas in which there is agreement, some areas in which we will appeal to the full House membership. They will be discussed thoroughly under an open rule, no qualifications whatsoever.

I wanted to express my gratitude to the gentlewoman and to the gentleman from Ohio [Mr. WYLIE], who is the ranking minority member of the full committee. We have had a bipartisan effort. It has come out that way to the committee, and it looks as if we will have an authorization bill for the Members.

I want to thank the gentleman for his kind and generous remarks.

Mr. GREEN of New York. Mr. Chairman, I yield 5 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise in support of the housing section of the fiscal year 1991 VA/HUD appropriations bill.

As the ranking Republican of the Housing Subcommittee I regret that our authorization bill has not yet come to the floor for consideration and that several new programs and directions which we in the Housing Committee approved will not be funded in this appropriations bill. However, this appropriation is well within the levels of our bill and should come close to covering those additional initiatives. It is my expectation that we will consider the authorization bill soon after our district work period and we can conform this appropriations bill to our national housing policy. And, indeed, I too am optimistic that House and Senate will report a bill.

However, Mr. Chairman, I want to confine my opening remarks today to bring to the attention of my colleagues the very important issue of lead-based paint abatement.

On April 1, HUD, in accordance with previous legislation and amendments to the McKinney Act, and direction from the Appropriations Committee, published its long-waited guidelines relating to the testing and abatement of lead-based paint in our national public housing stock.

As the members of the Housing Committee know, I have been especially interested in this problem for some time, and I am cautiously optimistic that we have finally moved the overly reluctant Federal bureaucracy toward a more realistic approach to the issues related to lead-based paint.

The problem of lead paint is pervasive. Dr. Herbert Needleman, the most recognized expert on lead poisoning from the University of Pittsburgh, has said:

> Childhood lead poisoning is a man-made disease and unlike other important illnesses, its nature is clear. Few mysteries surround it; the greater enigma is why lead has been permitted to persist in the human environment in the face of a mass of convincing data about where it is, what it does, and what is needed to get rid of it.

The effects of lead poisoning are devastating and well-documented as lead poisoning can impair children's intelligence, growth, ability to hear and perceive language, and to focus, maintain, and shift attention. It produces hyperactivity and aggression. It can lead to decreased play activity, lethargy, loss of motor skills, development of behavorial disorders, seizures, and even death.

In addition, substantial evidence has emerged over the last year indicating that many of the current abatement efforts around the country are being performed poorly and that abatement done improperly can do more harm than good. We now know that improper removal leads to the creation of lead dust which is then inhaled or in-

gested by children which further increases their risk of exposure.

In short, we are enduring a national tragedy, and something must be done now to address this problem. The time for foot dragging and buck passing is over. The law is clear and the Federal Government must act.

For the past 2 years, the Department of Housing and Urban Development [HUD] has been developing regulations which include detailed standards and guidelines for testing and abatement of lead-based paint.

No one wants unsafe abatement to continue. But it does not have to. As far as I am concerned, we know how to clean up lead paint safely and effectively. It is being done in some parts of the country. What we needed was the issuance of the standards and guidelines so that everyone will do it safely. Now that this has been accomplished, it becomes the responsibility of the Congress to provide the funding necessary to carry out the program.

I recognize that the anticipated cost of this program will be expensive. In testimony before our Housing Committee we received cost estimates ranging from $350 million to $600 million needed in fiscal year 1991 alone. Beyond that, the total cost will be unknown until the testing program is complete.

Congress will have to directly appropriate these funds through the traditional HUD modernization programs. And, I am glad to see that the Appropriations Committee has increased the budget for public housing modernization by $850 million to help cover the cost of lead paint abatement.

The lives and future well-being of our children cannot be measured in terms of cost to HUD or the Federal Government. "We can pay now or pay later but we will pay."

But if we have to pay later, we will not only be paying increased medical and educational expenses incurred for our exposed children, but we may pay with the lives of our next generations. I for one would rather pay now.

Mr. Chairman, I appreciate the efforts of the Appropriations Committee and their effort in attempting to fulfillment of the congressional mandate to rid this Nation of this lead-poisoning threat. I thank the distinguished chairman of the subcommittee and the ranking member, who also shares my concern, for addressing this issue and assisting in the resolution of this terrible problem.

□ 1150

Mr. Chairman, I would like to have a colloquy with the gentleman from Michigan [Mr. TRAXLER]. I want to congratulate the gentleman and the subcommittee for recognizing the need to increase the problem of lead-based paint and for increasing the amount of CIAP funds for this process. As the chairman realizes, the lead paint program will be very expensive over at least a 5-year period. Is the committee in this appropriation committing itself to the long-term abatement of lead in our public housing stock?

Mr. TRAXLER. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, the answer is yes. Let me say how much I appreciate the interest of the gentlewoman from New Jersey [Mrs. ROUKEMA] in this area. The subcommittee is most grateful.

Mrs. ROUKEMA. Mr. Chairman, I appreciate the continuing cooperation of the gentleman from Michigan [Mr. TRAXLER]. Will the committee continue to fund this abatement through an increase in CIAP funding rather than creating a separate line item for the lead paint funding?

Mr. TRAXLER. Mr. Chairman, the answer is yes.

Mrs. ROUKEMA. The authorization committee will take a little different tack, I might note, but this is for clarification of the legislative intent here. Does the committee intend that HUD place any arbitrary limit on the fiscal year 1991 amount of CIAP funds to carry out the lead-paint abatement program?

Mr. TRAXLER. Mr. Chairman, the answer is no.

Mrs. ROUKEMA. Mr. Chairman, I appreciate the clarification for the legislative record.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the honorable gentleman from Mississippi [Mr. WHITTEN], the distinguished chairman of the full Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, I take this time to congratulate the gentleman from Michigan [Mr. TRAXLER], the gentleman from New York [Mr. GREEN], and my fellow members of the subcommittee.

I shall not at this time go into the various programs financed in the bill which our chairman the gentleman from Michigan [Mr. TRAXLER] has already done and which the ranking member the gentleman from New York [Mr. GREEN] has also explained.

Again, may I say this is a changing world, and much of the money in this bill is for the purpose of keeping up with scientific developments.

I think we have done a good job in trying to balance the various programs in this bill—veterans, NASA, housing and the like. Included are funds for housing for the elderly and the handicapped and other housing programs, community development grants, emergency shelter grants, supplemental assistance for the homeless, hazardous substance Superfund, waste water construction grants, disaster relief, emergency food and shelter program, the National Science Foundation, and the National Aeronautics and Space Administration, including funds for the advanced solid rocket motor program which will be constructed at Yellow Creek in my district.

Mr. Chairman, again, it has been a real pleasure as a member of this subcommittee to have firsthand knowledge of the great job the gentleman from Michigan [Mr. TRAXLER] has done with the support of the gentleman from New York [Mr. GREEN] and the other members of the subcommittee.

Mr. GREEN of New York. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. YOUNG], a member of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of this bill and congratulate the chairman and ranking member and all of the members of the subcommittee for bringing us a good appropriations bill here today. I am pleased that the amount appropriated for NASA recognizes the excellent job and the excellent record that NASA has established over the years, and also the tremendous responsibility that we have given NASA as to further our efforts in space exploration and technology research and development.

Mr. Chairman, the main reason I rise today is because those of us in Florida are very proud that our State is home to one of the largest populations of America's veterans of any of the 50 States. In the last 12 months some 60,000 new veterans and their families have taken up residence in the great State of Florida. We are very happy to see the increase that the subcommittee has recommended for veterans programs. I think that it reaffirms that we are not going to renege on our commitment to our veterans. To the contrary, we are going to see that those programs that we have promised are funded.

Mr. Chairman, there is one point I would like to make as this legislation goes through the entire process. Because of the large growth in the veteran population in Florida and the many visitors we welcome to our State each year who are veterans, we need to understand that the way some of these increased funds are allocated, sometimes does not recognize the tremendous growth in Florida's veterans population. I would hope that we might recognize that as we go through the process.

Mr. Chairman, I rise in strong support of H.R. 5158, the fiscal year 1991 Department of Veterans Affairs appropriations bill. As a member of the Appropriations Committee, I am pleased to say this is the largest allocation for veterans programs ever recommended by our committee.

This legislation provides $1.6 billion more in 1991 than is available for these benefits and

services in the current year and follows enactment earlier this year of a supplemental appropriations bill which provided an additional $529 million for 1990 veterans services and medical care.

As the Representative from the Eighth Congressional District of Florida, I proudly represent one of the largest populations of veterans of any member of the House. In recognition of the great contributions veterans have made to our Nation, we have established in Pinellas County one of the best veterans service programs anywhere in our Nation. To meet their health care needs, we have at Bay Pines the most modern and technologically advanced medical facility in the Department of Veterans Affairs health care system. With the 1990 supplemental funding and the bill our committee brings to the House today, I continue my efforts to ensure that the Congress provides adequate funding to fully staff its operations. In fact, the 1991 Veterans Affairs appropriations bill provides for an almost 10-percent increase in the medical care account.

To further provide for the needs of Florida's veterans, St. Petersburg is home to the Department of Veterans Affairs Regional Office which handles benefits and claims for Florida's 1.5 million veterans. It handles one of the largest caseloads of any regional office.

Bay Pines and the St. Petersburg Regional Office are two of the most active VA facilities because they must meet the needs of our State's veterans population, which is increasing at a rate unmatched in our country. With as many as 5,000 veterans moving into Florida each month, I am leading an effort by our entire congressional delegation to ensure that our State receives an equitable share of the funds we appropriate for the Department of Veterans Affairs. There is no doubt that the increasing veterans population has strained the resources of VA facilities in Florida. Evidence of this strain is the 50-percent increase in the number of veterans treated as inpatients at Bay Pines between 1985 and 1989, and an almost 40-percent increase in outpatient visits during the same time period. If we are to realize the benefits of the increasing resources our committee provides for veterans programs, we must continue our work to change the way in which the VA distributes its medical care funds and personnel to make sure that Florida is fairly compensated for its increasing veterans population and caseload.

With the support of my colleagues on the Appropriations Committee and in our congressional delegation, we have taken great strides over the past 2 years to provide new and expanded facilities for the health care needs of our veterans. Last year this Committee provided funding for a new medical center at West Palm Beach, for expansion of the spinal cord injury clinic in Tampa, and the modernization of the psychiatric facilities in Gainesville. This year the Committee has included in its bill funding for a new nursing home at West Palm Beach and another in Lake City. The Committee also has indicated its support for construction of a major new medical center in east central Florida once final selection for the project is complete. When completed, this major expansion of VA facilities within our State will increase the number of hospital beds by 50 percent and double the number of nursing home beds.

This long-term commitment to the veterans of Florida and our Nation makes good on a promise by a grateful Nation to those who came to the defense of our great country and the ideals of freedom, liberty, and democracy throughout the world. They served our Nation in its time of need and this member of the House will ensure that the Congress continues to provide the necessary funds to care for our veterans in their time of need.

For we must never forget, especially in this period of historic change throughout the world, that America's veterans are the real heroes of freedom in East Germany, Poland, and those on the verge of freedom elsewhere in Eastern Europe and the Baltic States of the Soviet Union. If not for our veterans, there would be no freedom in Western Europe or the United States for these countries to emulate.

American veterans, who fought against oppression in the name of freedom in combat all over the world, provided the beacon of hope for the people of those war ravaged lands. The courage and struggle of all Americans who have carried the Stars and Stripes into battle around the world showed the oppressed and downtrodden citizens under siege the value of freedom and the great lengths that our Nation is willing to go to preserve this inalienable human right.

There is a great debate in our Nation over how strong our national defense must be to preserve our freedom and the freedom of our allies. Throughout our history we have made the decision to maintain the strongest, most well-equipped, and best-trained military possible so that we could remain the lighthouse of hope and beacon of freedom for people throughout the world who were being denied their freedom and basic human rights. Through our strength we were able to give conviction and strength to the freedom movement in Poland, East Germany, Estonia, Latvia, Lithuania, and the Soviet Union. And we will continue to be that lighthouse of hope and beacon of freedom for these people until they realize the dream of living in a land governed by the leaders of their choice selected in free elections.

Our Nation has cause to be proud of our veterans and of our powerful military strength that we have never used to take away another country's rights or freedoms. Instead, we have used that force to restore freedom where freedom was threatened, to restore peace where peace no longer existed, and to deter aggression where otherwise small and defenseless nations would be overrun by tyrannical forces.

The memories of those who scaled the Iron Curtain and brought it down with hammers and picks last November were captured in pictures on the front pages of the world's newspapers and in the film of broadcasters from every continent. The world media, however, fails to recall the American heroes who preserved a free Europe on the other side of the wall. We must never lose sight or forget symbols of Communism such as the Iron Curtain which was built to keep its people in rather than to keep others from entering. Free nations, such as the United States, need no walls to keep their people from leaving. In fact, we have to regulate the number of emigrants to our Nation because so many people dream of the day when they can come here to live and worship freely.

That dream is only possible because of America's veterans and their unselfish service. As we embark on a new decade, I believe the 1990's will bring new found freedoms for many more formerly communist nations. Let us hope that the euphoria surrounding the opening of every closed border and the tumbling of every wall does not overshadow the deeds of America's veterans who kept alive the dream of freedom in the hearts and minds of the newly liberated people of the world.

Mr. Speaker, today the Congress continues its enduring commitment to our Nation's veterans, a commitment so well stated more than 100 years ago by President Abraham Lincoln that it is carved into the walls of the Department of Veterans Affairs. It was in his Second Inaugural Address that Lincoln charged the Congress: "* * * to care for him who shall have borne the battle and for his widow and his orphan * * *."

We should give thanks for all those who "have borne the battle" every time we read or hear of another person or country gaining new found freedom. This is the message we send to America's veterans today with approval of this appropriations bill as we once again deliver on the promise of a grateful nation to provide for them in their time of need.

Mr. TRAXLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. STOKES], the ranking majority member of the Subcommittee on VA, HUD and Independent Agencies.

Mr. STOKES. Mr. Chairman, I rise in support of final passage of H.R. 5158, the VA-HUD-independent agencies appropriations bill for fiscal year 1991. I want to commend the distinguished Chairman, the gentleman from Michigan [Mr. TRAXLER], the ranking minority Member, the gentleman from New York [Mr. GREEN], and the other members of the subcommittee for doing an exemplary job in bringing this legislation to the floor. The members of this subcommittee have labored arduously to ensure that our veterans, elderly, and poor receive the services they need and deserve. It is a good bill.

Many of the programs which are vital to the development of our Nation are contained in this bill. H.R. 5158 provides a total of $83.6 billion in funding for our Nation's veterans, environmental, housing, science and space, and emergency management programs. This level of funding is $5 million less than the 302(b) allocation approved by the Appropriations Committee.

Major highlights of the bill include significant funding increases for housing and space programs in fiscal year 1991, including $22.1 billion for housing programs, over $10 billion more than the amount provided in last year's appropriations; $14.3 billion in

funding also was provided for our Nation's space programs. This level of funding is $2.1 billion more than the amount provided last year.

The committee has provided $100 million in drug elimination grants for public housing authorities; about $680 million in homeless assistance programs; $3 billion in community development block grants; $12.3 billion in veterans medical care; $2 billion for sewer construction grants; and $2.3 billion for the development of the space station.

In addition to these initiatives, Mr. Chairman, there are several projects contained in this bill which are of special interest to me. Language contained in the bill directs both NASA and the EPA to provide 8 percent of the funds appropriated for contracts, grants, and awards to minority- and women-owned businesses. Similar language was included in last year's bill for NASA. This year the subcommittee added another provision to include EPA. I particularly want to thank the gentlewoman from Louisiana, LINDY BOGGS, for assisting me with this effort.

The serious dearth of minorities and women in the science and engineering fields may result in a crisis for our Nation if remedial programs are not adopted quickly at the Federal level. This is a conclusion which has been drawn by several studies, and which has been acknowledged by leading experts in the math, science, and engineering areas. During testimony before our subcommittee, for example, Dr. Bloch of the National Science Foundation, Admiral Truly, the NASA Administrator, and Dr. Bromley, the President's science adviser all expressed their concern about this issue. The consensus is that immediate, effective action must be taken.

Well over half of the money we appropriate to NASA and EPA each year is awarded to private businesses in the form of contracts and other awards. In many instances, minorities and women have received only a fraction of these funds. For instance—of the direct contracts awarded by EPA in fiscal year 1989, minorities only received 0.8 percent of these funds. The language I had included in this bill directing the EPA and NASA to provide at least 8 percent of these funds to minority- and women-owned business will assist them in addressing this problem.

Also under the EPA section of the report, I included language which appropriates $2 million for Clark Atlanta University to enhance the participation of minority scientists, engineers, and students in emergency environmental Superfund research areas. Additionally, $1.6 million has been provided to train union and minority workers in the areas of asbestos. Minority contractors also will receive funding for training purposes in the radon and Superfund areas.

Under the housing section, language was included in the report which directs the Department of Housing and Urban Development to coordinate its lead-based paint abatement efforts with the centers for disease control. Currently, many children being treated under CDC programs are being returned to public housing which has not been abated. Oftentimes, they become poisoned again, and suffer adverse health effects.

HUD also has been directed to work to ensure that public housing authorities in large cities receive grants under the Drug Elimination Grant Program. Last year, no large cities were selected as grantees. Considering the severity of the drug problem in cities like New York, Cleveland, and elsewhere, the exclusion of large cities seriously undermines the agency's efforts.

Mr. Chairman, these are just a few of the many programs being funded by this bill. As you can see, the committee has reported a fine bill, despite the difficult choices it had to make. I have enjoyed serving as a member of this subcommittee, and I, again, commend Chairman TRAXLER, BILL GREEN, and the other members of the subcommittee for the leadership they provided in guaranteeing the funding of these important programs. Mr. Chairman, I strongly urge my colleagues to support final passage of H.R. 5158.

Mr. Chairman, I would like to engage in a colloquy with my distinguished chairman, the gentleman from Michigan [Mr. TRAXLER].

In the past, the subcommittee has included report language to encourage the Environmental Protection Agency [EPA] to make greater use of Senior Environmental Employment [SEE] enrollees. The report for the fiscal year 1991 VA-HUD-Independent Agencies Appropriations Act does not have this report language.

It is my understanding, Mr. Chairman, that the VA-HUD-Independent Agencies Appropriations Subcommittee and the Appropriations Committee intend for EPA to make greater use of SEE enrollees in environmental-related activities. Moreover, both the subcommittee and the full committee strongly urge EPA to make greater use of SEE participants in the Asbestos Hazard Emergency Response Act [AHERA] initiative, Superfund activities, and Earth Day-related activities. Additionally, EPA should encourage State programs which are funded by EPA to utilize SEE enrollees to provide technical assistance in emerging environmental concerns, such as monitoring the quality of indoor air, inspecting leakage in underground tanks, and others.

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield, my distinguished colleague from Ohio [Mr. STOKES] is absolutely correct in his understanding. He has stated accurately the intent of the subcommittee and the committee on this matter.

Mr. STOKES. Mr. Chairman, I thank the distinguished chairman.

Mr. GREEN. Mr. Chairman, I am delighted to yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE], the distinguished ranking minority member of the Committee on Appropriations.

Mr. CONTE. Mr. Chairman, I rise in strong support of H.R. 5158, providing fiscal year 1991 appropriations for the Departments of Veterans Affairs and Housing and Urban Development and sundry independent agencies.

Mr. Chairman, it is never easy for any of the Appropriations Subcommittees to order the spending priorities of the Federal Government. The task is enormously complicated, however, when a particular subcommittee is called upon to balance the competing demands of programs as diverse and as varied as the national aerospace plane and prosthetic research. Veterans medical care and civil defense. Disaster assistance and teacher training. Emergncy housing shelters and battle monuments. Consumer information and home mortgage insurance. Draft registration and toxic waste cleanup. The Subcommittee on VA, HUD, and Independent Agencies must establish funding priorities for all of these programs, along with many, many others. It is an extraordinarily difficult task, and yet the subcommittee has developed a spending package that is comprehensive, fair and worthy of this body's support.

It is, of course, impossible to do everything we would like to do in this bill, but the measure provides generous increases for programs that desperately need additional resources. For example, the bill provides $12.3 billion for veterans medical care in fiscal year 1991.

□ 1200

This is an increase of $83 million over the President's request and nearly $900 million more than last year. The bill also provides $217 million for VA medical and prosthetic research, an increase of $18.3 million over the budget estimate. The subcommittee has once again demonstrated its commitment to the living heroes of this country who have sacrificed life and limb in defense of our liberty.

Mr. Chairman, I am especially pleased that the committee, under the leadership of the gentleman from Michigan [Mr. TRAXLER], chairman of the committee, and the ranking minority member, the gentleman from New York [Mr. GREEN] accepted my amendment to provide an additional $6 million for VA medical care to preserve needed services at long-term psy-

chiatric hospitals in the VA health care system.

In many ways, these psychiatric facilities have become the poor orphans of the VA system. The veterans who require psychiatric care lack a political voice and risk neglect by the system.

I have learned just how great the need is for additional psychiatric care resources in my own district at Luds Hospital, and I understand the problem is national in scope. I am proud that the committee has taken forceful action to ensure that the provision of needed services will be maintained at these institutions, especially at Luds in Northamption.

The subcommittee has also provided generous support for assisted housing, homelessness programs, and community development efforts administered by the Department of Housing and Urban Development. The $11.6 billion appropriation for assisted housing will support 118,000 incremental housing units in fiscal year 1991; provide $2.7 billion for public housing modernization; and sustain a diverse mix of housing options for low-income Americans in need of assistance.

The subcommittee has also provided an overall funding increase for the Environmental Protection Agency, an agency which I would like to see—and all of us would like to see—operating as a Cabinet-level department in the near future. The bill provides over $6 billion for the agency, $431 million more than requested by the President and over a half billion dollars more than we appropriated last year. This level permits continuance of the EPA's Construction Grants Program at the $2 billion level for fiscal year 1991. Given increasing financial constraints at the State and local level, communities across the Nation have come to depend on these funds as a source of assistance for the construction of wastewater treatment plants.

The bill also contains $20 million to continue Federal participation in the cleanup of Boston Harbor.

This is very very important for that polluted harbor in Boston, and the appropriation keeps the Federal Government right on track to satisfy by fiscal year 1992 its obligation under the Clean Water Act to assist in this extraordinary public works effort. The cleanup project will help restore one of America's most historic natural resources to its former beauty. It got polluted when they started throwing tea in there, you know, many years ago in the Boston Harbor, and we will be cleaning all of that up. It is going to be swimmable and fishable some day.

The subcommittee was unable to provide two important agencies—the National Science Foundation and National Aeronautics and Space Administration—with the full amount of new money sought by the administration. But in both cases the bill provides healthy increases over last year. At $14.3 billion, NASA receives an increase in excess of $2 billion over last year. This 17-percent funding boost will doubtless represent one of the largest percentage increases of any agency in the Federal Government this year.

Boy, I would love to have this increase for the National Institutes of Health for research on cancer, heart disease, and diabetes. I think it is more important to find a cure for AIDS and a cure for cancer than to fund the space programs, and I am glad we are going to have an amendment here to knock out $6 million to find the little green monsters trying to come down here to a Chicago ballfield.

Likewise, the bill's appropriation of $2.337 billion for the National Science Foundation is a $256-million increase over last year. Although the committee would have liked to commit even more funds to the worthy programs of NSF, it was unable to do so because of fiscal constraints.

I am also pleased to note that the bill provides full funding—$3.3 million—for the Office of Science and Technology Policy. OSTP will be using some of these funds to develop an interagency program for Government-sponsored research relating to the diseases and disorders of the brain and nervous system. OSTP has been designated by the Appropriations Committee as the lead agency to coordinate Governmentwide activities pertaining to the "Decade of the Brain," and I am optimistic that the Office's efforts will lead to a coordinated and comprehensive approach by the Federal Government to harness our knowledge about brain physiology and function during the 1990's. We sure need it.

Mr. Chairman, I wish to commend my dear friend and colleague, the wise, and dedicated chairman of the subcommittee, the honorable gentleman from Michigan, BOB TRAXLER, for the outstanding job he has done in developing this legislation. He has been a master. He has been tough but he has been fair. I appreciate the enormity of his job and congratulate him on a job well done.

I would also like to recognize my dear and beloved friend, the astute ranking member of the subcommittee, the sage and honorable gentleman from New York [Mr. GREEN], who maybe knows more about housing than anyone in this Congress. His knowledge of this bill, his keen grasp of its complexities, and his determined work have been invaluable assets to the committee.

I would also like to thank all of the other members of the subcommittee for their difficult work in crafting this important legislation.

Mr. Chairman, I urge favorable consideration of the bill.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield to me for a question?

Mr. CONTE. I am glad to yield to my good friend of many years, the gentleman from Texas.

Mr. GONZALEZ. The gentleman is right, we are big friends.

I wanted to ask the gentleman and my friend, what did he say about green monsters?

Mr. CONTE. Yes.

Mr. GONZALEZ. I wanted to ask if they had anything to do with the gentleman's attire? The reason I am asking is that I am envious, and I would like to contact them. I would like to get something like that.

Mr. CONTE. They dropped them on the west front lawn, and I picked them up.

Mr. GREEN of New York. Mr. Chairman, may I inquire how much time remains on each side?

The CHAIRMAN. The gentleman from New York [Mr. GREEN] has 6 minutes remaining, and the gentleman from Michigan [Mr. TRAXLER] has 14 minutes remaining.

Mr. TRAXLER. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Ohio [Ms. KAPTUR], a member of the full committee.

Ms. KAPTUR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, while I believe that the gentleman from Michigan [Mr. TRAXLER], the distinguished chairman and the members of the committee have brought a bill to the floor today that is an excellent piece of legislation, especially the sections dealing with veterans' programs, housing, and environmental protection, I cannot lend full support to the bill and, therefore, will vote "present" this afternoon. I wanted to place on the record the reasons for that.

I think it is unfortunate that the laws of the land as a result of the passage last year of the Financial Institutions Recovery and Reform Act of 1989 require the committee to include in the bill $2.9 billion more to the Federal Deposit Insurance Corporation to pay for the controversial thrift bailout deal put together by the former Chairman of the Federal Home Loan Bank Board, Mr. Danny Wall. We know that the committee had to do this to protect the depositors. But I can remember well as a member of the Committee on Banking, Finance and Urban Affairs, the Reagan-Bush appointed Chairman Danny Wall of the Federal Home Loan Bank Board consistently coming before the Committee back in 1988 stating that FSLIC had adequate private resources to fund his controversial Southwest plan. And, of course, it could not be done, and we are forced to do this today, to take tax dollars for

general revenue and put this monkey on the back of our taxpayers. I am unwilling to do so.

Of course, the American people now understand that the Wall plan was a massive failure. The $2.9 billion in taxpayer dollars appropriated to the FDIC in this bill will go to meet long-term obligations incurred by Mr. Wall under his failed plan.

To summarize, the $2.9 billion will go to the FDIC to pay for the costs of administering the FSLIC Resolution Fund [FRF]. The FRF was established in the FIRREA to liquidate the remaining obligations of the former FSLIC—that is, pre-1989 thrift resolutions. These obligations were principally incurred by Danny Wall in the controversial deals that he entered into under the Southwest Plan. These deals typically included three major elements:

First, "FICO notes"—"FSLIC Notes" were issued to private acquirers of failed thrifts to cover the negative net worth of the failed thrifts; these notes were in lieu of cash because FSLIC was at the time bankrupt. Tax dollars are now being appropriated to pay interest on these notes or to pay-off the note—that is, substitute the note with cash—which is cheaper and is in the interest of the taxpayer since we avoid interest costs on the notes.

Second, "capital loss coverage" provided payment for the difference between book value and net sales proceeds on "covered assets." "Covered assets" were typically nonperforming assets such as real estate loans. The amount and nature of covered assets was negotiated in each agreement. Tax dollars are now being appropriated to make up this difference when an acquirer sells a covered asset.

Third, "yield maintenance agreements" ensured acquirers a defined rate of return on covered assets—usually 100 to 200 basis points above a thrift industry cost-of-funds index. For example, an acquirer would agree to manage, maintain and try to sell a vacant office building for the FSLIC. However, this approach was fundamentally flawed because acquirers had no incentive to sell the property since FSLIC guaranteed a profit to the acquirer to hold on to the asset. Tax dollars are now being appropriated to fund these yield maintenance agreements.

The $2.9 billion in the HUD/VA appropriations bill will go to pay the above obligations incurred under the Danny Wall Southwest Plan. Therefore, I cannot lend my vote for the HUD/VA appropriations bill since taxpayer dollars are being appropriated to fund a bailout. That is fundamentally ill-conceived and unworkable.

Mr. GREEN of New York. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. COUGHLIN], a member of the subcommittee and its former ranking minority member.

Mr. COUGHLIN. Mr. Chairman, I rise in strong support of the fiscal year 1991 VA, HUD and independent agencies appropriation bill which we are considering today. I have served on this subcommittee I believe as long or longer than any other Member, and I want to particularly congratulate the chairman who has done, with unfailing good humor, an excellent job on this bill; and the distinguished gentleman from New York [Mr. GREEN], the ranking member and vice chairman who, as has been pointed out, is perhaps the most knowledgeable person in this House about hands-on housing programs. This is a very difficult bill always to put together because it has such disparate functions, but the chairman and the ranking member have done a marvelous job, as has the staff in doing this.

Under the able leadership of our panel's chairman and vice chairman, we bring before the House today a measure which appropriates $83.6 billion for the varied programs of the Department of Veterans Affairs, the Department of Housing and Urban Development, the Environmental Protection Agency, NASA, and the NSF. Funds for many other vital Government functions are also allocated with this bill.

Throughout the formation of H.R. 5158, our subcommittee was forced to choose between many different national priorities. Federal assistance for the homeless, public housing, environmental protection initiatives, hazardous waste cleanup, space exploration, and scientific exploratory research are all key Government initiatives. I think the product we bring before you today balances the priorities in an effective manner.

We were able to propose needed funding increases over last year's level for these acknowledged national priorities. The subcommittee also recommends that additional funds be appropriated to enable key agencies to respond to new responsibilities like those proposed in the pending Clean Air Act reauthorization. Our panel has, in my opinion, made hard choices. While not everyone will agree with the hundreds of allocations proposed, I believe—in total—the bill warrants adoption.

I, therefore, urge my colleagues to support H.R. 5158.

Mr. GREEN of New York. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LEWIS], a distinguished member of our subcommittee.

□ 1210

Mr. LEWIS of California. Mr. Chairman, I rise also in support of the work of the Subcommittee on Veterans, Housing and independent agencies. I could not begin to duplicate the praise extended to my two colleagues, the chairman and the ranking member, as it was extended by the gentleman from Massachusetts a moment ago. There has been a very effective bipartisan effort within the subcommittee which deserves to be commended.

I might bring to the attention of the Members and others who are interested in this subject matter, that the subcommittee does have a very difficult process through which it must operate. It is a most difficult situation when we take important programs like housing for the poor and veterans' medical care and research, and place them in competition, in the same subcommittee, with programs such as those at NASA, and the National Science Foundation. It is very important that we recognize that these programs deserve consideration that is positive. In the future we may very well place a significant demand upon the subcommittee's allocation for just these exact scientific programs and endeavors.

NASA, for example, is in the midst of moving forward on a manned space station. We have contracts in place that are going to cost more money. Whether we like it or not, that competition will be very real. If America is going to continue to play an effective role in space, if indeed we are going to use that manned space station effectively, we are going to have to be willing to commit to these dollars in the years ahead.

I must say I was somewhat concerned that we cut the $309 million that would help better evaluate alternatives for manned exploration of Mars utilizing a space station. I was pleased with the committee's projected expansion of the National Science Foundation. Within that activity, for example, we were able to lift the cap on salaries of scientists who are employed as NSF rotators. This is a meaningful and perhaps overdue change on behalf of the best and the brightest in American academic life.

The bill includes, also, a piece of funding that is necessary for AIDS. It reserves some 500 housing units for victims of AIDS. These section 202 units for people with AIDS are the result of the work of my colleague, the gentleman from New York, which is very important.

The CHAIRMAN. The gentleman's time has expired.

Mr. TRAXLER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I wanted to mention one other item. We have up to $15 million in funding for medical research at the VA, an opportunity not only to provide needed service, but also to get a better understanding of some of the

services that are needed in connection with this dread disease.

One of the very unique programs within housing is the Neighborhood Reinvestment Corporation. It has received additional funding and, indeed, is one of those new areas where real progress is being made in providing neighborhood housing for those people who are truly in need.

Mr. Chairman, I appreciate both gentlemen yielding time to me, and would like to add my voice to the support for this bill.

Mr. TRAXLER. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The Chair believes the gentleman has 5 minutes remaining, since he yielded 7 minutes to the gentleman from New York [Mr. GREEN].

Mr. TRAXLER. Mr. Chairman, I yield 4 minutes to a very valuable colleague, my great friend, the distinguished gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, I thank my good friend for all of the kind accolades, and for yielding time to me.

I join in support of this legislation, and thank the chairman and the ranking member, the gentleman from New York [Mr. GREEN], all the staff, and the Members for this very fine piece of legislation. It does contain, as everyone has said, a lot of valuable programs so important to our country.

However, I do have questions that I raised in full committee about title IV. We heard a lot about the so-called bailout of the savings and loans, and the attempt that we are going to make in the future in the next few years of paying back the depositors, some who put their life savings in certain savings and loans only to see the savings and loans fail. What I am concerned about, as I understand the law in trying to read it, the Federal Deposit Insurance Corporation, which is the insurance company for commercial bank accounts, for the commercial banks, has been given the responsibility of assisting FSLIC and others in recovering the assets of some of these failed savings and loans.

Now, last year this committee appropriated about $5 billion to FDIC to carry out that responsibility. This year I note that appropriations have been reduced back to about $3 billion, a reduction of $2 billion. Now, we are being criticized for allowing the savings and loans to go under, but now is the opportunity as these savings and loans are failing to recapture some of the assets before they fritter it away. This is, as I understand it, the FDIC's responsibility, to try to recapture these assets before they do get away.

Now, back when I used to work for a living, I was a commercial banker. I know assets can sure get away. I usually made good loans, but once in a while somebody else made a loan, or maybe I had my head turned the wrong direction and we had some bad loans, and sometimes those assets that we do not get real quick can sure get away. So it seems to me that we as a Congress should do everything we can to make sure we capture these, and we get those assets back in and recovered, so the taxpayers of this country will not have to spend any more money than possible to pay back the depositors who expect to be paid in some way.

Therefore, if this is going to shore up and make the availability of the FDIC to do its job—although I think we should have gone back to the $5 billion—but in any event, I do see here that we do have about $11 million in round figures for the Office of Inspector General, who has the responsibility for prosecuting those who made mistakes intentionally. I am certainly not opposed to prosecuting those who did not carry out their jobs, but prosecution is one thing. I think the American people expect that. However, that does not repay debt. It does not repay the depositors.

As I understand, FDIC has the responsibility, so I hope this committee has done everything possible to make sure that the FDIC is given every tool available to recover all the assets before they get away, so we can save the American taxpayer the responsibility of again repaying depositors. If there are assets there, they should be used properly.

I hope the committee has done that, and I thank Members for that, but I think in Congress, while we have limited oversight in the Committee on Appropriations, I know the legislation has been printed on its oversight, but I do hope the committee and the Congress will watch that very closely and make sure everything is done to recover those assets.

Mr. GREEN of New York. Mr. Chairman, I am delighted to yield 3½ minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I like many of my colleagues, I have been a strong supporter of space for many years. I have a personal interest in our Nation's space initiative. That is why I rise today. The subcommittee, of which I am not a member, has eliminated the President's space exploration initiative, despite the strong public support in favor of this program.

The rationale for the space exploration initiative are diverse. It means pushing back the frontiers of knowledge. It means new technologies to enhance U.S. competitiveness. It will inspire a new generation of Americans to excell in important fields of math, science, and physics. Space exploration can directly produce new industries, economic opportunities, and resources here in the United States.

Space exploration is critical to long-term U.S. competitiveness. As international tensions reduce and defense spending is cut, space exploration will provide the impetus to new technologies and industries which national security R&D did in the past.

International competition has eroded the once commanding advantage America enjoyed in technology. At present, the U.S. industry enjoys less than 5 percent of the consumer electronics market. As an example, U.S. industry once held a 90-percent share of the American market for phonographs, while today we only hold a 1-percent share. Our ability to compete in the international marketplace depends on the capacity of our industries to innovate and upgrade. The President's space exploration initiative, will provide a long-term mechanism to enhance America's ability to compete more effectively in a growing global marketplace.

Referring to another part of the bill, when Members read the bill and report, they will find we are spending $1.5 billion for 8,035 units of section 8 and section 202 housing. If my arithmetic is right, that amounts to roughly $187,000 per unit. I associate my thoughts with the gentleman from California. It is terrible that this subcommittee has to pit problems with visions of the future, but that is reality, and we have to live with it.

I think we would even save money if we took the gentleman from Indiana's advice and took ROTC assets and gave them to the elderly and handicapped and free up money for the future. I just hope, as this bill moves through the process, that the President will have his vision honored and space exploration funding will be restored, thereby insuring a competitive future for this country.

Mr. GREEN of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I rise today in strong support of H.R. 5158, the VA, HUD, and independent agencies appropriations bill. I would also like to thank and congratulate the subcommittee chairman, the gentleman from Michigan [Mr. TRAXLER] and the ranking Republican, the gentleman from New York [Mr. GREEN] for their tremendous work on this bill.

However, I would especially like to thank the chairman. Last year, he promised to give full and proper consideration to my request to fund the Veterans' Nursing Home at Palm Beach, FL. He has kept his promise, a rate attribute in this business these days, and I, along with the veterans of south Florida, thank him as well.

Mr. Chairman, this 120-bed nursing home is a long time in coming to Palm Beach County. It was in the early 1980's that the VA first realized a nursing home must be an integral part of the 400-bed medical center, despite the fact that no person denied to me the nursing home was the first part to be excluded when the Veterans' Administration fought to trim the budget project.

I have always considered it unreasonable and irresponsible to cut out the most important part of the facility by gutting the heart of it. I am grateful that the committee has seen the mistake in this thinking.

□ 1220

Mr. Chairman, as we Floridians know, our veteran population is growing rapidly, and this population is aging. This makes the construction of this nursing home vital if we are to adequately serve those who so valiantly served our Nation, those who secured our freedoms that we enjoy.

It is significant that this bill is considered today and during this period recognizing the forgotten war fought in Korea 40 years ago.

Mr. Chairman, if I still have time, I would like to also mention another project in H.R. 5158 which I consider very important, and this is the National Aerospace Plane.

Again, I would like to congratulate and thank the committee for their support of this project and express my support for making what I believe to be a wise decision in including adequate funding for NASP. In particular, I would like to congratulate my colleague, the gentleman from California [Mr. LEWIS], for his long-time support of this project. Without him this project would be in danger.

Mr. GREEN of New York. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman from New York [Mr. GREEN], my colleague, for yielding me this time.

Mr. Chairman, I am not privileged to serve on the Committee on Appropriations, and I have a question really of the gentleman from Michigan [Mr. TRAXLER]. I have a question I would like to ask him, if I may, and I mean this sincerely.

This morning we had a press conference outside the Capitol announcing that we will be having a vote on a constitutional amendment on a balanced budget next month, and there were Members from both sides of the aisle there. It is a bipartisan effort seeking to bring some fiscal restraint into the spending habits of the Congress of the United States.

When I look at this appropriation bill that is now on the floor, I notice that in 1990, the current year, we appropriated $71.2 billion roughly for this purpose, and this bill, which the committee of the gentleman from Michigan [Mr. TRAXLER] has brought to the floor proposes an increase of 17.3 percent to some $83.5 billion.

Mr. Chairman, my question is: What goes on in the Committee on Appropriations? Do those folks have a policy of striving, when they bring appropriations bills to the floor, to have a freeze on what was spent in 1990 for 1991, or to let spending grow by just the rate of inflation? What is the policy?

Mr. TRAXLER. Mr. Chairman, will the gentleman yield,

Mr. DANNEMEYER. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I thank the gentleman from California [Mr. DANNEMEYER] for his concern on a matter of keen interest to myself, the subcommittee and, I think, the general membership of this body.

I know the gentleman from California [Mr. DANNEMEYER] will be pleased to know that this bill in real dollars, outlay dollars—that is what counts, is $700 million under the President's request by $700 million.

Mr. DANNEMEYER. Mr. Chairman, I say to the gentleman, "I hear you, but that's not my question."

See, we are spending this year for this purpose $71.2 billion.

Mr. TRAXLER. The gentleman from California is correct.

Mr. DANNEMEYER. And this bill would propose we spend $83.5 bilion, an increase of 17 percent.

How do we justify that kind of increase?

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. GREEN of New York. Again, Mr. Chairman, the President justified it because we needed $7 billion addition for HUD because subsidy contracts that were entered into, most 15 years ago, are expiring, and unless the people are going to be evicted and thrown on the street, they have to be renewed.

The President wanted a substantial increase in NASA's activities. We could not give him all he wanted, but we did give him a lot of it.

The President wanted to double the National Science Foundation in 5 years. We could not give him all he wanted. We gave him what we could.

Mr. Chairman, this bill is driven very heavily by the President's request for additional funding for the departments and agencies that it covers.

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman from New York [Mr. GREEN], my colleague, for that answer, and I am being sincere about this. If we are ever going to get a handle on spending, and bear in mind that we are going to add about a quarter of a trillion dollars to the national debt this year, the only way we are going to do it is to have a policy that we are going to freeze spending, and that is what prompts me to raise this question.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I think it deserves an answer. As one member of the Committee on Appropriations, I can say that a lot of us understand that in America it does not stay frozen. The population of America increases annually. Indeed, more and more children are born every year in America than the year before. I think it seems only appropriate that Americans understand that just like inflation. It does not stay static, nor is it frozen.

Mr. TRAXLER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me stress the issue of deficits and budgets for a moment. It is a troublesome one for each and every one of us. Currently there are negotiations going forward between the President and the leadership of the House and the Senate, and we wish them well in those very serious, and what I consider to be necessary, efforts in order to protect the future credit of this Nation and prohibiting us from going into insolvency, and of course that is the direction we have been heading.

Mr. Chairman, the responsibility for budgeting rests both with the President and with the Congress, and the tenor of what we do in this body and the appropriation process is established by the President when he forards his budget proposals to us. Everyone knows that at any point in time the President may, if he chooses, send us a balanced budget. We do not have such a request as yet.

Mr. ALEXANDER. Mr. Chairman, I rise in support of this bill which provides funding for programs benefitting some of the Nation's most deserving citizens—America's military veterans, their families, and survivors.

Mr. Chairman, Mr. TRAXLER; ranking Republican member, Mr. GREEN; other members of the subcommittee and the subcommittee staff have worked hard to bring a good bill to the House.

They have recommended appropriation of $813.9 million more for veterans programs that the President's budget proposed. Every cent of that money is needed to help meet the needs of veterans and their families. These dollars are essential to helping keep the commitments made to the men and women who answered this Nation's call to arms.

In return for risking their lives and health in service to the security needs of all Americans, the Nation agreed to provide aid to our veterans of military service. It is vitally important that the Federal Government fulfill these agreements.

The Department of Veterans Affairs administers the programs supported by this proposal. It manages the benefits programs for 27.1 million veterans, 44 million family members of living veterans and 1.7 million survivors of deceased veterans.

As the Nation's military veteran population ages their needs, particularly in the area of health care, increase. This bill provides $12.6 billion for veterans health service and health research. That is $106 million more than the President requested.

The bill recommends $15.7 billion for veterans compensation and pensions. This is an increase of $480.1 million more than the President requested.

This money provides payments to service-connected disabled veterans, aid to family members of living veterans and survivors of veterans, and assistance to nonservice connected veterans who have a severe economic need.

I urge that the House support the committee's recommendations for programs benefiting veterans which are included in this bill.

It is true that this bill includes more funding than the President requested. But, that is not the end of the appropriations story this year. I would remind the House that in 39 of the past 45 years, the Congress has appropriated less than Presidential budgets requested.

At this point, I would like to include in the CONGRESSIONAL RECORD an historic data table maintained by the House Committee on Appropriations. It compares the Presidential budget requests for appropriations, the amounts appropriated by the Congress and shows the differences between the two during the years 1945 through 1989. This table establishes that during that period, the Congress has appropriated $173.5 billion less than Presidents requested be appropriated.

The table follows:

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION BILLS COMPARISON OF ADMINISTRATION BUDGET REQUESTS AND APPROPRIATIONS ENACTED

	Administration budget requests	Appropriations enacted	Difference (under −) (over +)
Calendar year:			
1945	$62,453,310,868	$61,042,345,331	−$1,410,965,537
1946	30,051,109,870	28,459,502,172	−1,591,607,698
1947	33,367,507,923	30,130,762,141	−3,236,745,782
1948	35,409,550,523	32,699,846,731	−2,709,703,792
1949	39,545,529,108	37,825,026,214	−1,720,502,894
1950	54,316,658,423	52,427,926,629	−1,888,731,794
1951	96,340,781,110	91,059,713,307	−5,281,067,803
1952	83,964,877,176	75,355,434,201	−8,609,442,975
1953	66,568,694,353	54,539,342,491	−12,029,351,862
1954	50,257,490,985	47,642,131,205	−2,615,359,760
1955	55,044,333,729	53,124,821,215	−1,919,512,514
1956	60,892,420,237	60,647,917,590	−244,502,647
1957	64,638,110,610	59,589,731,631	−5,048,378,979
1958	73,272,859,573	72,653,476,248	−619,383,325
1959	74,859,472,045	72,977,957,952	−1,881,514,093
1960	73,845,974,490	73,634,335,992	−211,638,498
1961	91,597,448,953	86,606,487,273	−4,990,960,780
1962	96,803,292,115	92,260,154,659	−4,543,137,456
1963	98,904,155,136	92,432,923,132	−6,471,232,004
1964	96,297,358,556	94,162,918,996	−4,134,439,560
1965	109,448,074,896	107,037,566,896	−2,410,508,000
1966	131,164,926,586	130,281,568,460	−883,358,106
1967	147,804,557,929	141,872,346,664	−5,932,211,265
1968	147,908,612,996	133,339,868,734	−14,568,744,262
1969	142,701,346,215	134,431,463,135	−8,269,883,080
1970	147,765,358,434	144,273,528,504	−3,491,829,930
1971	167,874,624,937	165,225,661,865	−2,648,963,072
1972	185,431,804,552	178,960,105,864	−6,471,697,688
1973	177,959,504,255	174,901,434,304	−3,058,069,951
1974	213,667,190,007	204,012,311,514	−9,654,878,493
1975	267,224,774,434	259,852,322,212	−7,372,452,222
1976	282,142,432,093	282,536,694,665	+394,262,572
1977	364,867,240,174	354,025,780,783	−10,841,459,391
1978	348,506,124,701	337,859,466,730	−10,646,557,971
1979	388,311,676,432	379,244,855,439	−9,066,810,993
1980	446,690,302,845	441,290,587,343	−5,399,715,502
1981	541,827,827,909	544,457,423,541	+2,629,595,632
1982	507,740,133,484	514,832,375,371	+7,092,241,887
1983	542,956,052,209	551,620,505,328	+8,664,453,119
1984	576,343,258,980	559,151,835,986	−17,191,422,994
1985	588,698,503,939	583,446,885,087	−5,251,618,852
1986	590,345,199,494	577,279,102,494	−13,066,097,000
1987	618,268,0-3,956	614,526,518,150	−3,741,530,806
1988	621,250,663,756	625,967,372,769	+4,716,709,013
1989	652,138,432,359	666,211,680,769	+14,073,248,410
Total	10,249,467,607,455	10,075,912,028,737	−173,555,578,718

REGULAR ANNUAL, SUPPLEMENTAL, AND DEFICIENCY APPROPRIATION BILLS COMPARISON OF ADMINISTRATION BUDGET REQUESTS AND APPROPRIATIONS ENACTED—Continued

Note.—Prepared by House Committee on Appropriations.

Mr. WYLIE. Mr. Chairman, I want to commend Chairman TRAXLER, ranking member GREEN and all members of the VA–HUD-Independent Agencies Subcommittee for the new budget priority which they have placed on HUD and housing assistance for our Nation's low-income families.

As Chairman GONZALEZ mentioned, the Banking Committee has reported out H.R. 1180, the Housing and Community Development Act of 1990. While I do not wish to minimize the contributions made by the Appropriations Committee here in H.R. 5158, I feel compelled to express some disappointment over the issue of timing. Unlike the pessimistic outlook expressed in the committee's report on H.R. 5158, my personal feeling is that the passage of housing authorization legislation is very likely during this session. It was my hope that the committee would give recognition to the efforts of the Banking Committee and Secretary Kemp by, at the minimum, including a line item for certain important priorities in H.R. 1180.

In this regard, I am concerned that the funding provided in the loan management account for preservation of low-income housing may be inadequate. As the subcommittee members are well aware, the prepayment of low-income housing stock is one of the most difficult housing issues facing the Congress this year. The Banking Committee has devised a permanent, bipartisan solution to the prepayment problem. It is my hope that, either in conference or in a supplemental appropriation, a permanent solution to low-income housing preservation will be funded.

Mr. Chairman, I would like to bring up the subject of FHA just briefly. I commend the committee's necessary $10 milllion increase in FHA staff funding. Given the importance of the FHA's contribution to affordable, multifamily rental housing, it is gratifying to see authorizers and appropriators working together to improve the FHA's multifamily insurance programs. Moreover, the recently completed Price Waterhouse study has forcefully pointed out the existing problems with the Federal Housing Administration's single family insurance fund. One of the key recommendations of that study warned against raising the FHA high cost mortgage limits without first taking certain reform actions. In concert with Chairman GONZALEZ and other members of the Banking Committee, we will include FHA reform in housing authorization legislation this year in order to restore actuarial soundness to FHA. In the interim, I am pleased to see that H.R. 5158 is consistent with our housing authorization bill and recognized the importance of leaving the FHA high cost mortgage limits at $124,875.

Finally, I would like to comment on one other issue. The public housing drug elimination program plays a key role in protecting and enhancing the lives of public housing tenants in this country. While the program is funded at $100 million in H.R. 5158, this level falls short of the President's request for $150 million. Moreover, together with the ranking member of the full committee, Mr. CONTE, I have authorization pending on an adjunct program, the Public Housing Youth Sports Program. Funded from drug elimination grants, the Public Housing Youths Sports Program will provide the youth in public housing an effective alternative to drug use. It is my hope that the funding for the Drug Elimination Program might be increased some time in the future.

Again, Mr. Chairman, I want to give great credit to the subcommittee chairman, Mr. TRAXLER, and the ranking member, Mr. GREEN, for their leadership and hard work on H.R. 5158. The competing priorities included within Veterans, HUD, and the independent agencies appropriation make for some difficult choices. Thank you, Mr. Chairman.

Mr. GILMAN. Mr. Chairman, I am pleased to rise in strong support of H.R. 5158, a measure to appropriate a total of $83.6 billion in fiscal year 1991 new budget for the Departments of Veterans Affairs and Housing and Urban Development.

I commend the gentleman from Missouri [Mr. TRAXLER] for introducing this important measure, and the distinguished chairman of the Veterans Committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority members, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts on behalf of our Nation's veterans.

H.R. 5158 authorizes an increase of $12.3 billion over the fiscal year 1990 budget. This measure not only increases funds for the Departments of Veterans Affairs and Housing and Urban Development, but also includes the National Aeronautics and Space Administration, the National Science Foundation and the Environmental Protection Agency.

Mr. Chairman, our support of this measure confirms the support in Congress for our veterans by increasing funding to VA. H.R. 5158 will provide $31.3 billion to fund the Veterans Health Service and Research Administration. This includes increases in medical care, medical and prosthetic research, as well as increases in compensation and benefits.

In regard to health care programs and personnel, H.R. 5158 will increase funding by $1.6 billion more than fiscal year 1990. This measure will enable the steps that have been taken to improve the quality of health care for our Nation's veterans to continue, as well as, to enhance the recruitment and retainment of qualified personnel for the Department of Veterans Affairs.

Mr. Chairman, funding programs that will help our Nation's veterans has continued to be a major concern. H.R. 5158 will provide $12.3 billion directly to the Department of Veterans Affairs to make certain that the problem

or a lack of medical care and personnel shortages will remain problems of the past. Accordingly, I urge my colleagues to join in support of this measure.

Mr. RAHALL. Mr. Chairman, I rise in strong support of H.R. 5158, the fiscal year 1991 appropriations bill for VA, HUD, and Independent Agencies. Many of the programs funded in this $83.6 billion measure are of great importance to my home State of West Virginia, and I would like to take this opportunity to highlight a few of them.

The bill appropriates $31.3 billion for the Department of Veterans Affairs, including $12.6 billion for veterans' medical care, which is $900 million over the fiscal year funding level. These funds will allow VA hospitals to treat more patients, purchase much needed supplies and equipment, and provide for homeless programs for veterans as authorized by the McKinney Homeless Assistance Act.

In addition, $15.6 billion is appropriated for veterans' service connected compensation payments and pensions. The measure also includes $575.5 million for major construction projects and $146.1 million for minor construction projects. The VA will determine how the money appropriated for minor construction projects will be allocated. Veterans' Affairs Medical Center hospitals, such as those in Beckley and Huntington, will be eligible to receive funds.

Also of great importance to West Virginia is the $400 million contained in the bill for HUD programs to assist the homeless. This funding level is $56 million more than the fiscal year 1990 level and is money well spent. According to the most recent data, 9,224 homeless individuals received services to meet basic needs in West Virginia, with 2,655 such individuals receiving shelter in fiscal year 1987. While it is difficult to estimate the total number of homeless in this country, or even in West Virginia, it is clear that the number is significant. While it is doubtful that the funds in this bill will solve the homeless problem, they will go far toward alleviating the homeless in the United States. I am confident that West Virginia and other States will use this increased funding to the fullest extent possible.

Directly related to the efforts to solve the homeless problem are the housing programs contained in the bill. The bill provides a total of $22 billion for various housing programs which is $10.7 billion more than the fiscal year 1990 appropriations level, and $4.6 billion more than the level requested by the administration. I think it is very important that we continue to work to see that affordable housing is available for people on low income. This is the best preventive measure the Federal Government can take to stop homelessness before it happens.

The bill also provides a total of $3 billion in fiscal year for the Community Development Block Grant [CDBG] Program which is $219 million more than the administration request. This program supplies much needed development assistance to towns and cities throughout West Virginia and the Nation. While I am pleased that this program has not suffered drastic cuts in this bill, it is my hope that we will provide significantly more funding for community development programs in the future. At a time when we should be promoting economic growth to increase our tax base, increase employment, increase our share of the world market, and ultimately working to decrease the dual deficits, it seems to me we should be more strongly supporting programs like CDBG, which help to accomplish these goals.

Finally, also of great importance to West Virginia is the $2 billion appropriated for wastewater treatment construction grants to State revolving funds under the Environmental Protection Agency [EPA]. While I believe that this program should be augmented by the title II construction grant program which will be phased out at the end of this fiscal year, I believe that these funds are greatly needed to address our serious wastewater treatment needs. Since the EPA has estimated that these needs total $83.5 billion, it is my hope that greater funds will be provided in the future. Increased funds are important because many communities in West Virginia and States across the country are struggling to comply with the secondary sewage treatment standards mandated by the Clean Water Act. The funding provided by this measure for the sewer grants program is critical for these and other communities throughout the Nation, which simply do not have the financial resources to meet the sewage treatment requirements on their own.

While I generally believe that we should be putting more resources into revitalizing our communities and enhancing our competitiveness, this bill provides reasonable increases in such programs over last year's levels. I strongly urge my colleagues to support passage of the bill.

Mr. STANGELAND. Mr. Chairman, I rise today to address provisions in the fiscal year 1991 VA, HUD and independent agencies appropriations bill.

It is always reassuring to see that the authorizing subcommittee for the Clean Water Act, and the appropriations subcommittee can work together to produce strong legislation to help clean and maintain our Nation's valuable waters.

I also would like to commend the subcommittee for addressing several needs of EPA that will not only be beneficial to Minnesota, but the country as a whole.

First of all, the Construction Grant/State Revolving Loan Program has proven successful in improving the quality of our lakes, rivers, and oceans through the appropriations of moneys to States and municipalities. I appreciate the committee providing appropriations for State revolving loan funds and thus continuing to support the efforts of our communities in eliminating polluted discharge.

Second, I wish to thank the chairman and members of the committee for an additional $40 million for nonpoint source pollution. The Construction Grant Program has done an excellent job in cleaning up point source pollution nationwide, and we in Congress must now increase our efforts on eliminating nonpoint source pollution. This will not be an easy task, yet this money is a good step in the right direction.

Third, I am happy to see the Clean Lakes Program receiving additional funding. As many of us in the Great Lakes region know, this program has been extremely successful in tackling some of the pollution problems in the Great Lakes as well as lakes in other parts of the country. It deserves our continued support in both appropriations and authorizations. That is why I have introduced legislation, the Sustainable Agriculture and Clean Water Act of 1991 (H.R. 4509), which would reauthorize the Clean Lakes Program for another 5 years.

I next would like to thank the committee for their attention to the State of Minnesota's Wastewater Outreach Program. We in Minnesota are extremely grateful for this appropriation and know that it will be put to good use in training wastewater treatment operators and community officials on how to treat wastewater and save dollars.

Last, as both the ranking Republican member on the Subcommittee on Water Resources and the Subcommittee on Cotton, Rice, and Sugar, and as an avid sportsman, I know the importance of wetlands, and what they provide in terms of wildlife habitat, flood control, ground water filtration, and wastewater treatment. I sincerely appreciate the attention that has been given to wetlands research and restoration in this bill.

Again, Mr. Chairman and members of the committee, I thank you for your efforts and urge my colleagues to support these measures relating to EPA's water quality programs.

Mr. TRAXLER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate having expired, the Clerk will read.

The Clerk read as follows:

H.R. 5158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $15,684,551,000, to remain available until expended.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this for the purpose first of commending the distinguished chairman of the subcommit-

tee, the gentleman from Michigan [Mr. TRAXLER] and the distinguished ranking member, the gentleman from New York [Mr. GREEN] for the excellent job that they have done with the appropriation bill this year. Obviously it is not completely satisfactory to me or to probably anyone because of the pressures put upon the subcommittee by the budget deficit and other factors which are not controllable, but in general I think the committee has done a good job.

Mr. Chairman, I want to ask the gentleman from Michigan [Mr. TRAXLER], the distinguished subcommittee chairman, just briefly about a small item which is beginning to get a great deal of attention in the press and media of all kinds having to do with the topic of electric and magnetic fields research which has been contained in the past in the EPA budget.

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In our Committee on Science, Space, and Technology, we have just passed legislation which increases the authorization for funding of this vital research area which may have effects upon the health of a large number of people in this country that we are not aware of. In the past, the Appropriations Committee has contained language especially appropriating funds for this particular area of research, but no such language is contained in this year's legislation. However, there are adequate funds in the EPA authorized amount which the subcommittee has granted at the full level of the President's budget to cover this, if they were to be given a little encouragement by the Appropriations Committee.

So my question basically, Mr. Chairman, is, could the gentleman see fit to give them a little encouragement, especially through language in the report or in conference or something like that?

Mr. TRAXLER. Mr. Chairman, if the gentleman will yield, may I congratulate the distinguished gentleman from California [Mr. BROWN] for raising this very, very important issue. I know it is one in which he has been involved for a number of years and in which he has a strong, strong personal concern. He is absolutely correct in stating that we have provided funding for electric and magnetic fuel research in prior years.

The Committee supports funding for electric and magnetic fuel programs in the EPA's research and development appropriation account. As for the specific amount, we will do our very best in conference to reach the $1 million level that is in the authorizing legislation.

I must add as a caveat that we, as a subcommittee, do not know what our final allocation is going to be. You will remember that the Senate has yet to do its bills, and we do not know what the consequences of the budget summit are going to mean to the appropriations process and, of course, specifically to this subcommittee and indeed even to this account. So with that sort of caveat, I hope the gentleman knows of the priority we attach to this research. We want to do all in our power to achieve the desired result.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the distinguished gentleman from New York.

Mr. GREEN of New York. Mr. Chairman, I just want to say, without presuming to guess how the research will turn out, that it does seem to me this is an important field of research. We certainly have seen some studies which indicate there may be some problems here, and I agree with the gentleman that it is a valid place for the EPA to take a look.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for his support, and I commend the committee for the work it has done under difficult circumstances. I know that it will do its best to focus attention on this area. I appreciate that very much.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise only to engage in a small dialog with the distinguished chairman of the subcommittee. It has to do with what our colleague, the gentleman from Indiana [Mr. MYERS], referred to on page 71 of the report, having to do with the FSLIC resolution fund.

Here the Appropriations Committee has no alternative but to rigidly obey the request of the administration. This year the administration is saying that the exact amount in indefinite sums as shall be necessary will be over $4 billion. Now, I want the record to show that this goes back to the 1986 fiscal area for FSLIC, based on the issuance of the so-called FICO bonds which really never were marketable to any extent but did enable the Home Loan Bank Board to enter into questionable areas which I have challenged since then, and that is that for 10 years they have given these guarantees to these defunct associations which have drained and continue to drain not only the insurance funds but the Treasury.

So I wanted to just advise this committee that we are very concerned. I have been personally concerned, and last year we were not able to put an end to that and we had to swallow in conference this indefinite language: Such sums as may be necessary to support the FSLIC resolution fund, the so-called FRF.

We intend to do something about it. We want to advise our colleagues on the Appropriations Committee that we did not want to delay in any manner, shape, or form what really should be the processes in the appropriation bill because of the fact that this should be something that we should address on the authorization level. So I wanted to advise that we intend to do so. This is an open-ended run on the Treasury that I do not think any one of us desires.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I am delighted to yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I want to thank the gentleman from Texas for his comment, because I think we should all understand that under the legislation which the gentleman successfully piloted through the House and the Congress last year the role of the Appropriations Committee, which had always been a very limited one with respect to FSLIC and the Federal Home Loan Bank Board, in essence is considerably reduced. We have only a vestigial role in that, and we are dependent on the gentleman's committee for congressional oversight of this operation.

Mr. GONZALEZ. Mr. Chairman, I might add also to my distinguished colleagues and the distinguished chairman of the subcommittee that I have been very jealous of the prerogatives of the authorization as well as the appropriation, and I would like to call attention to this effort by referring to the article on the first page of the financial section of the Washington Post this morning where I am quoted as stoutly defending the appropriations process.

Mr. TRAXLER. Mr. Chairman, will the gentleman be kind enough to yield to me?

Mr. GONZALEZ. I yield to the chairman of the subcommittee.

Mr. TRAXLER. Mr. Chairman, we commend the gentleman from Texas. We, of course, have the highest regard for him. He is a very outstanding and distinguished Member.

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to visit for just a moment on this subject with respect to health care for veterans which is included in this appropriation bill.

We in North Dakota, a State of some 70,000 square miles, have one veterans' hospital, the VA hospital in Fargo. It serves literally thousands and thousands of square miles, in fact, the entire State of North Dakota and part of western Minnesota.

Access to health care for veterans is critically important, and it is difficult to get in an area as broad as ours is. We have a good VA hospital. The VA

hospital in Fargo, ND, is a good hospital, but it is in desperate trouble.

I want to tell the chairman of the subcommittee just a brief story. A young man who lives west of Minot, ND, had been shot in the head during the Vietnam conflict. He suffered severe brain damage and is incapacitated for life. Because of that wound suffered in Vietnam, he had muscle atrophy, and as a result of that, he had to have some toes removed through surgery. His father loaded him in the car and took him to the nearest community, Minot, ND, and there the toes were removed.

The VA was sent the bill for that, and the VA said,

We can't pay for that. You had a requirement to load him in a car and drive him nearly 300 miles one way to Fargo to the VA center, in which case we would have paid for it.

I got involved in that case, and we eventually got the VA to reimburse in that situation. This is a young man whose life has been drastically changed because of a severe war wound suffered in the Vietnam conflict, being buffeted around by a health care system that seems to know about costs but not about value.

I tell that story simply to point out how critical access to health care is to veterans in rural areas of the country. North Dakota has a high percentage of veterans, and as those veterans from World War II increasingly reach an age when they need access to a VA center, not in Minneapolis, but in the middle part of North Dakota, Minnesota, and Montana, what is happening is that the VA is squeezing like a lemon the financial resources of the VA hospital in our area. I do not know about the rest of the hospitals, but I can speak for ours.

I want to give the Members some examples, Mr. Chairman, because I think it is critically important that we understand we are heading toward a big time problem in this area, and we have to deal with it. The VA and the administration, I am afraid, are not willing to deal with it.

We had 166 beds in the VA hospital in Fargo; we now have 73 that are utilized. This has happened because of staffing and funding problems. That is a 44-percent reduction. As there is a greater need for the beds, we have a reduction of the beds available, with wards closed because they did not have the money.

Radiation therapy is no longer available. Oh, we give radiation therapy, but instead of giving it in Fargo where they used to do it, they now put them on a plane and send them to Minneapolis, which I assume costs more for the same kind of service.

Cataract surgery used to be done there, they put the veterans on planes and send them down to Minneapolis. There is less service and more cost.

What on earth is going on? This is happening at this time, although the World War II veterans, when they served were given a promise of health care through the VA system, but they are now discovering that that promise was not quite the kind of promise they expected and is not being kept the way they expected it to be kept.

□ 1240

I have raised these issues with the VA and they say to me, "You know, look we've got serious funding problems."

I understand that, but if I look at the amount of money allocated to veterans' health care and then I understand that the exponential increase in the cost of health care in the private sector and lay that on top of the VA, I understand as well that the promise is not going to be kept to these veterans, and I think it is a very important promise that we keep.

I would just like to say this, Mr. Chairman. We need to work on this problem because those of us who represent areas like North Dakota where you have got 70,000 square miles and one veterans hospital to serve veterans who show up at the door who do not have money, are suffering from a serious problem and are told either:

We don't do that for you anymore. We have to turn you away,

or,

If we do that, we are going to put you on a bus or a plane and you have got to go to Minneapolis somehow to figure out how to get that done at the VA center in Minneapolis.

We have got to fix that. If we can spend $300 billion a year on defense, then surely we can have a health care system that keeps our promise to veterans who fought for this country.

I simply want to raise that today with respect to the one hospital that I know of that I serve and represent in North Dakota. It is in serious trouble. I fear that ultimately what is going to happen is they are going to come along and say to us,

Well, now the numbers of beds being utilized are down. We are sending all these cases to Minneapolis, so we are going to close the hospital.

That will be the result of what I think is a serious problem in administrative policy here with respect to the VA hospitals around the country.

The CHAIRMAN. The time of the gentleman from North Dakota has expired.

By unanimous consent, Mr. DORGAN of North Dakota was allowed to proceed for 1 additional minute.)

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I want to commend the gentleman for his statement. I wish he did not have to make it. I want to pledge to him that we will work with him to correct some of the inequities and the wrongs that are clearly present there. It would be my hope that across this town, not just within the confines of this building, but across this town other people who are involved in Federal budgeting could have heard the gentleman's statement and would be more willing to respond with the necessary dollars and personnel.

We are $83 million over the President's request in terms of personnel funds for medical care. As I said in my opening statement, I am proud of that, but I also know in my heart of hearts they could use more.

Mr. DORGAN of North Dakota. Well, I thank the gentleman for his statement.

I just say that part of our promise to veterans is part of the defense cost to this country. When we discuss B-2 bombers and MX missiles, let us also discuss elderly, poor veterans, who fought for their country who now cannot get the health care they were promised. There is something wrong with that and something we can correct and something this administration can correct.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on behalf of scorekeeping from the Budget Committee, this bill provides $63.3 billion in discretionary authority and $59.1 billion in discretionary outlays.

I am pleased to note that it is about $5 million below the level of discretionary budget authority and equal to the outlays that were set by the resolution that was adopted by the House and the subdivision that was then made by the Appropriations Committee.

As chairman of the Budget Committee, I have been informing the House on scorekeeping of all the bills. This is the fourth of 13 appropriation bills. I want to commend the chairman and the ranking member for doing a fine job in the bill that they have presented to the House.

Mr. Chairman, I rise in support of H.R. 5158, Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies appropriations bill for fiscal year 1991, and request permission to revise and extend my remarks. This is the fourth of the 13 annual appropriations bills.

The bill provides $63.395 billion in discretionary budget authority and $59.175 billion in discretionary outlays. I am pleased to note that the bill is $5 million below the level of discretionary budget authority and equal to the outlays as set by the subdivision for this subcommittee.

As chairman of the Budget Committee, I plan to inform the House of the status of all spending legislation, and will be issuing a dear

colleague on how each bill compares to the budget resolution.

I look forward to working with the Appropriations Committee on its other bills.

COMMITTEE ON THE BUDGET,
Washington, DC, June 27, 1990.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 5158, Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Bill. This bill is scheduled for consideration on Thursday, June 28, subject to a rule being adopted.

This is the fourth appropriations bill for fiscal year 1991.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[Fact sheet]

H.R. 5158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1991 (H. REPT. 101-556)

The House Appropriations Committee reported the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations bill for fiscal year 1991 on Tuesday, June 26, 1990. This bill is scheduled for floor action on Thursday, June 28, subject to a rule being adopted.

COMPARISON TO THE 302(b) SUBDIVISION

The bill, as reported, provides $63.395 million of discretionary budget authority, $5 million less than the appropriations subdivision for this subcommittee. The Budget Act provides a point of order if the target for discretionary budget authority is breached. Since the bill is $5 million under the allocation for discretionary budget authority, there is no such point of order against this bill. The bill is equal to the subdivision total for estimated discretionary outlays. A detailed comparison of the bill to the spending and credit subdivisions follows:

COMPARISON TO SPENDING ALLOCATION

[In millions of dollars]

	VA/HUD and independent agencies appropriations bill		Appropriations committee 302(b) subdivision		Bill over (+)/under (−) committee 302(b), 302(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	63,395	59,175	63,400	59,175	−5	
Mandatory [1]	17,446	20,249	17,446	20,249		
Total	80,841	79,424	80,846	79,424	−5	

Note.—BA—New budget authority; O—Estimated outlays.

The bill as reported provides $871 million in direct loan authority, which is $24 million less than the appropriations subdivision for this subcommittee. However the bill provides $58,893 million in loan guarantees, which is $3,003 million above the subcommittee subdivision and is therefore subject to a 302(f) point of order. Adoption of the rule would waive the point of order.

COMPARISON TO CREDIT ALLOCATION

[In millions of dollars]

	VA/HUD and Independent Agencies appropriations bill		Appropriations Committee 302(b) subdivision		Bill over (+)/ under (−) committee 302(b) subdivision	
	DL	LG	DL	LG	DL	LG
Discretionary	871	58,893	895	55,890	−24	+3,003
Mandatory						
Total	871	58,893	895	55,890	−24	+3,003

Note.—DL—New direct loan obligations; LG—New loan guarantee commitments.

The House Appropriations reported the committee's subdivision of budget authority, outlays and credit authority in House Report 101-545. Those subdivisions are consistent with the total "allocation of spending and credit responsibilities to committees" as contained in House Report 101-445 to accompany H. Con. Res. 310, concurrent resolution on the Budget for Fiscal Year 1991 which was adopted by the House on May 1, 1990.

The following are the major program highlights for the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations bill for FY 1991, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Housing and Urban Development:		
HUD Salary and Expenses (S&E)	426	341
Assisted Housing (excludes $236 million rescission)	11,695	32
Renewal of Expiring Section 8 Contracts	7,735	190
Public Housing Operating Subsidies	2,000	920
Section 202 Loans for Elderly or Handicapped Housing	437	0
Direct Loans	(492)	
Community Development Block Grants	3,000	120
Primary Loan Guarantee	(140)	
Subsidized Housing (rental)	135	7
Drug Elimination Grants for Low-Income Housing	100	46
Emergency Shelter Grants (Homeless)	75	11
Transitional Housing (Homeless)	150	0
Rental Housing Assistance (Homeless)	15	3
Section 8 SRO MOD-Rehabilitation (Homeless)	100	1
Federal Housing Administration-Guaranteed Loans [1]	(75,000)	
Government National Mortgage Association: Secondary Loan Limit	(80,000)	
Section 312 Rehabilitation Loan Fund: Direct Loans	(75)	
Environmental Protection Agency:		
EPA Research and Development	255	88
EPA Sewer Construction Grants	2,000	70
EPA S&E	1,032	880
EPA Abatement, Control, Compliance	1,007	453
Hazardous Substance Response Trust Fund (Superfund)	1,610	419
Leaking Underground Storage Tank Trust Fund	75	19
NASA:		
NASA Space Flight	5,321	3,719
NASA R&D	7,034	3,816
NASA Research and Program Management	1,446	1,241
Construction of Facilities	485	49
Veterans Administration:		
Veterans Administration Compensation and Pensions and Burial Benefits (Mandatory)	15,685	14,326
Veterans Medical Care	12,310	10,417
Veterans Readjustment Benefits (Mandatory)	503	503
Veterans General Operating Expenses	903	812
Veterans Construction, Major Projects	575	26
Veterans Construction, Minor Projects	146	69
Veterans Loan Guaranty Revolving Fund	670	486
National Science Foundation (NSF) and other activities	2,337	1,130
FEMA (Salary and Expense and Planning), including defense	423	284
Emergency Food and Shelter (FEMA) (Homelss)	134	134
Diaster Relief	100	40

[1] The limit in the bill exceeds the CBO estimate of market demand for these guarantees, which is estimated $58,753 million including the effect of the Committee's provision to increase the maximum mortgage amount eligible for FHA insurance in fiscal year 1991 to $125,875.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $502,500,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $15,410,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $670,200,000, to remain available until expended.

During 1991, the resources of the loan guaranty revolving fund shall be available for expenses for operations related to property acquisition, disposition, and other loan guaranty and insurance operations as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided,* That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1991, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Secretary of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1991, within the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

GUARANTY AND INDEMNITY FUND

For purposes of making the credits to the Guaranty and Indemnity Fund authorized by law (38 U.S.C. 1825 and 1829), such sums as may be necessary to remain available until expended.

DIRECT LOAN REVOLVING FUND

During 1991, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise pro-

vided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $12,310,490,000, plus reimbursements: *Provided*, That of the sum appropriated, $7,904,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further*, That of the funds made available under this heading, $278,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1992, $216,795,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $52,047,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $484,000, to remain available until September 30, 1992.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $7,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of four passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $902,514,000, including $616,658,000 for the Veterans Benefits Administration: *Provided*, That, during fiscal year 1991, jurisdictional average employment shall not be less than 12,550 for the Veterans Benefits Administration.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $26,859,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $575,456,000, to remain available until expended: *Provided*, That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further*, That funds provided in this appropriation for fiscal year 1991, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1991, and (2) by the awarding of a construction contract by September 30, 1992: *Provided further*, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further*, That no funds from any other account except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further*, That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further*, That not to exceed $3,300,000 of the funds available shall be used for the settlement of contractor claims arising from the modernization of a hospital at the Department of Veterans Affairs Medical Center, New Orleans, LA: *Provided further*, That not to exceed $3,100,000 of the funds available shall be used for the settlement of contractor claims arising from the construction of outpatient improvements at the Department of Veterans Affairs Medical Center, Pittsburgh, PA.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $146,140,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided*, That not more than $44,420,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $28,900,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $65,000,000, to remain available until September 30, 1993.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $3,946,000, to remain available until September 30, 1993.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1991 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1991 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1991 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1990.

Mr. TRAXLER (during the reading). Mr. Chairman, I know of no amendments, and I ask unanimous consent that the remainder of title I be consid-

ered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any points of order against the remainder of title I?

If not, are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $11,625,086,000, to remain available until expended and in addition, to be transferred to and merged under this head, not to exceed $70,000,000 from the reserve fund authorized by section 236(g), notwithstanding section 236 (f)(3) and (g): *Provided*, That of the new budget authority provided herein, $194,468,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $550,320,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,700,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), of which $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $890,800,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $186,000,000 for amendments to section 8 contracts for projects developed for the elderly and handicapped under section 202 of the Housing Act of 1959, as amended; $1,767,125,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f) including project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987, of which $65,150,000 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families); $1,370,225,000 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); $1,883,442,000 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, of which $70,000,000 shall be for rental adjustments resulting from the application of an annual adjustment factor in accordance with section 801 of the Department of Housing and Urban Development Reform Act of 1989; up to $1,486,850,000 shall be available for section 8 assistance for property disposition and loan management; and, any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: *Provided further*, That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further*, That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further*, That of the $11,625,086,000 provided herein, $321,762,000 shall be used to assist handicapped families in accordance with section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q) and $52,000,000 shall be for amendments to contracts under section 202(h) (2), (3), and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q); and $25,000,000, shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof: *Provided further*, That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1991, shall be rescinded: *Provided further*, That 50 percent of the amounts of budget authority, or in lieu thereof 50 percent of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further*, That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(INCLUDING TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $7,734,985,400, to remain available until expended: *Provided*, That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further*, That to the extent the amount in this paragraph is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $300,000,000 to fund such insufficiency, and the $1,883,442,000 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred: *Provided further*, That the Secretary may maintain consolidated accounting data for funds disbursed at the Public Housing Agency or Indian Housing Authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

RENTAL REHABILITATION GRANTS

For the rental rehabilitation grants program, pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (423 U.S.C. 1437o), $135,000,000, to remain available until September 30, 1993.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1991 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1991, $491,570,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided*, That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That 25 per centum of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped, with the mentally ill homeless handicapped receiving priority: *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further*, That of the direct loan authority provided under this heading, an amount necessary to provide for 500 dwelling units shall be used only for the purpose of providing dwelling units for persons who have con-

tracted the disease of acquired immune deficiency syndrome: *Provided further*, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1991 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

Section 202(h) of the Housing Act of 1959 (12 U.S.C. 1701q(h)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding section 504 of the Rehabilitation Act of 1973, the Secretary shall provide assistance under this subsection for housing and related facilities for handicapped families for which occupancy is limited to families and persons having acquired immune deficiency syndrome.".

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $7,000,000, to remain available until September 30, 1992.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,000,000,000.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), and section 106(a)(2), and section 106(c) of the Housing and Urban Development Act of 1968, as amended, $5,000,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1990, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1991, which are in excess of the $70,000,000 authorized to be transferred to the annual contributions for assisted housing account, to remain available until expended: *Provided*, That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $317,366,000, to remain available until expended.

During fiscal year 1991, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1991, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $75,000,000,000.

During fiscal year 1991, gross obligations for direct loans of not to exceed $151,125,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1991, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,100,000.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901-11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, $100,000,000, to remain available until expended: *Provided*, That $1,000,000 of the foregoing amount shall be available for grants, contracts, or other assistance for technical assistance and training for or on behalf of public housing agencies and resident organizations (including the costs of necessary travel for participants in such training).

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1991, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $80,000,000,000 of loan principal.

HOMELESS ASSISTANCE

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $75,000,000 to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $150,000,000, to remain available until expended.

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless as authorized under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended $15,000,000, to remain available until expended.

SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), $100,000,000, to remain available until expended.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

All funds previously appropriated under this head that are recaptured or that otherwise are or become available for obligation in fiscal year 1991 or thereafter, including all such amounts affected by the order of the United States District Court, Southern District of New York, in Dabney v. Reagan, 82 Civ. 2231-CSH, dated March 20, 1985, shall be withdrawn, pursuant to 31 U.S.C. 1555 et seq.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000, to remain available until September 30, 1993: *Provided*, That not to exceed $14,500,000 shall be available for "special purpose grants" pursuant to section 107 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301): *Provided further*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following proviso) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z-6 note): *Provided further*, That after September 30, 1990, no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974, as amended, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

During fiscal year 1991, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $140,000,000 of contingent liability for loan principal.

REHABILITATION LOAN FUND

During fiscal year 1991, collections, unexpended balances of prior appropriations (including any recoveries of prior obligations) and any other amounts in the revolving fund established pursuant to section 312 of

the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1990, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided*, That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Secretary of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Secretary of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, $15,000,000, to remain available until expended, and of which not to exceed $250,000 shall be available to provide technical assistance as authorized by section 810(c) of such Act.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $30,000,000, to remain available until September 30, 1992.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, $12,200,000, to remain available until September 30, 1992: *Provided*, That not less than $5,600,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $816,466,000, of which $390,342,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That during fiscal year 1991, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,402 for Public and Indian Housing Programs.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $37,840,000, of which $8,557,000 shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

Notwithstanding any other provision of law or other requirement, the City of Lebanon, in the Commonwealth of Pennsylvania, is authorized to retain any land disposition proceeds from the financially closed-out Southside Urban Renewal Project (R-635(C)) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Lebanon shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

Notwithstanding any other provision of law or other requirement, the City of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort, all in the County of Luzerne and in the Commonwealth of Pennsylvania, are authorized to retain any categorical settlement grant funds, urban renewal grant funds, and land disposition proceeds that remain after the financial closeout of the Lower Broadway Disaster Urban Renewal Project (No. B-79-UR-42-0001) in the City of Nanticoke, the Plymouth Disaster Urban Renewal Project (No. PA-R-617 and No. B-79-UR-42-0007) in the Borough of Plymouth, and the Forty Fort Disaster Urban Renewal Project (No. PA-R-613 and No. B-79-UR-42-0003) in the Borough of Forty Fort, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

Notwithstanding any other provision of law or other requirement, the City of Pittsfield in the Commonwealth of Massachusetts, is authorized to retain any land disposition proceeds from the financially closed-out Columbus Urban Renewal Project, Parcel 5 (No. Mass. R-90) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Pittsfield shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

Notwithstanding any other provision of law or other requirement, the Borough of East Stroudsburg, in the Commonwealth of Pennsylvania, is authorized to retain any land disposition proceeds from the closed-out Courtland Plaza Urban Renewal Project (No. PA-R-352) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Borough of East Stroudsburg shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.

The Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Fairmount Heights, Maryland, relating to the public facilities loan (project number MD-18-PFL0003) issued July 1, 1969, under title II of the Housing Amendments of 1955. The Town of Fairmount Heights is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall approve the use by the Housing Authority of the City of Seattle of excess residual reserve receipts from the Bay View Tower (No. 127-38044) and Market House Projects (No. WA19-8023-005) for any purpose which inures to the benefit of the low-income tenants of federally or locally financed projects owned by the Authority. Excess residual receipt funds are those receipts in excess of 25 percent of the average annual operating costs during the immediately preceding five-year period.

The $784,000 in the Housing Development Action Grant (HoDAG) funding previously awarded to the City of Santa Cruz, California by the Department of Housing and Urban Development under Section 17 of the U.S. Housing Act of 1937 (42 U.S.C. 1437o), as amended, are hereby restored to the City of Santa Cruz from previously appropriated funds for the construction of low-income housing at the site known as the Alborada project.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "(185 percent during fiscal year 1990)" and inserting the following: "(185 percent during fiscal year 1991)".

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Department of Housing and Urban Development shall not exceed: (1) 28 staff years for the Immediate Office of the Secretary/Under Secretary, (2) 18 staff years for the Deputy Under Secretary for Field Coordination, (3) 29 staff years for the Office of Public Affairs, (4) 28 staff years for the Office of Legislation and Congressional Relations, (5) 1,117 staff years for the Assistant Secretary for Housing—Federal Housing Commissioner, (6) 148 staff years for the Assistant Secretary for Public and Indian Housing, (7) 271 staff years for the Assistant Secretary for Community Planning and Development, (8) 147 staff years for the Assistant Secretary for Policy Development and Research, (9) 170 staff years for the Assistant Secretary for Fair Housing and Equal Opportunity, and (10) 238 staff years for the Office of General Counsel.

Mr. TRAXLER (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

Are there any amendments to title II?

AMENDMENT OFFERED BY MR. DREIER OF CALIFORNIA

Mr. DREIER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DREIER of California: Page 33, after line 3, insert the following:

The amounts otherwise provided in this title under the heading "HOUSING PROGRAMS—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING" for the development of acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families, are decreased by $50,000,000, and under the heading "HOUSING PROGRAMS—DRUG ELIMINATION GRANTS OR LOW-INCOME HOUSING" are increased by $50,000,000.

Mr. TRAXLER. Mr. Chairman, I reserve a point of order against the amendment.

Mr. DREIER of California. Mr. Chairman, this amendment seeks to improve the condition of already existing public housing which, as my colleagues all know, face an epidemic of drug-related violence and other forms of criminal activity. This amendment will take the small sum of $50 million from the public housing new construction account and add it to the $100 million already earmarked for the Public Housing Drug Elimination Grant Program. Secretary Kemp had proposed, as part of the fiscal year 1991 budget submission, that this grant program be funded at $150 million.

The grant program was first authorized in the Anti-Drug Abuse Act of 1988, and it received $8.2 million in fiscal year 1989. Secretary Kemp received 500 applications for these funds but was only able to fund 37 programs. For fiscal year 1990, he has proposed to increase funding levels for larger public housing agencies and has budgeted $97.4 million. Assuming that the Secretary receives the same number of applications in fiscal year 1991, $126.1 million would be needed.

However, Secretary Kemp anticipates receiving even more applications than in the program's first year because of increased antidrug efforts in public housing. He also proposes to expand the grant program to include a demonstration project to address the needs of assisted housing. In addition, the extra $50 million provided in this antidrug amendment will go toward efforts such as the Drug Information and Strategy Clearinghouse, as well as training and technical assistance.

The $150 million called for to fund the drug-free public housing initiative will help to make public housing decent, safe, and free from illegal drugs. It is clearly an investment in both the physical property and the safety of tenants in public housing. We can either spend $150 million today, or several billions of dollars tomorrow to rehabilitate the physical environment of public housing as a result of the damage being done by drug lords and gang violence.

Mr. Chairman, as I said earlier, this is a modest amendment that emphasizes human needs at the expense of bricks and mortar. It will help to rid our public housing projects of drug-related criminal activity, and I urge support for the amendment.

Mr. Chairman, I urge my colleagues to support this amendment, which I think could be very well received.

Mr. Chairman, I yield to the distinguished gentleman from Massachusetts [Mr. CONTE], who indicated to me he wanted to be recognized at this point.

Mr. CONTE. Mr. Chairman, this program is not authorized and, therefore, a point of order will lie against it.

Mr. Chairman, I want to take this opportunity to congratulate the gentleman from California for his initiative and his leadership. I know he has spoken to me on many, many occasions on this program, and I have spoken with Jack Kemp on it.

The program has a tremendous amount of merit. It goes to the source of the problem. Funds go where the drug users are and cleans them out of these neighborhoods. I want to take this opportunity to commend the gentleman from California for his leadership in this effort.

Mr. DREIER of California. Mr. Chairman, I thank my friend.

Mr. Chairman, I would simply say it is very clear that we have to do everything that we possibly can to try and expedite efforts to get these drug dealers out of public housing. It is a goal that we have been discussing.

I see the chairman of the full Committe on Banking, Finance, and Urban Affairs and the distinguished gentleman from Georgia are here. We have been discussing this in the authorization process, and I hope very much that we will be able to proceed and get the kind of resources to the Department of Housing and Urban Development there so that they will, in fact, be able to get these people out of public housing.

Mr. Chairman, I thank the gentleman from Michigan, the distinguished chairman of the subcommittee, for his recognition of our attempt to do this.

Mr. Chairman, in light of the fact the gentleman has raised a point of order on the amendment, I ask unanimous consent to withdraw the amendment at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $15,900,000, to remain available until expended: *Provided*, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further*, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further*, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further*, That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further*, That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, purchase of nominal awards to recognize non-federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $37,109,000: *Provided*, That not more than $365,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the U.S. Court of Veterans Appeals as authorized by 38 U.S.C. 4051-4091, $9,560,000: *Provided*, That such sum shall be available without regard to section 509 of this Act.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and im-

provement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $12,236,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $5,000 for official reception and representation expenses; $995,000,000: *Provided*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, $37,000,000, of which $13,107,000 shall be derived from the Hazardous Substance Superfund trust fund and $575,000 shall be derived from the Leaking Underground Storage Tank Trust Fund.

RESEARCH AND DEVELOPMENT

For research and development activities, $254,900,000, to remain available until September 30, 1992: *Provided*, That not more than $11,600,000 of these funds shall be available for procurement of laboratory equipment.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $1,006,525,000, to remain available until September 30, 1992: *Provided*, That up to $2,800,000 shall be available for grants and cooperative agreements to develop and implement asbestos training and accreditation programs: *Provided further*, That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further*, That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $34,000,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,610,200,000, to be derived from the Hazardous Substance Superfund, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $135,000,000 during fiscal year 1991, with all of such funds to remain available until expended: *Provided*, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further*, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $47,500,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further*, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1991: *Provided further*, That no more than $233,000,000 of these funds shall be available for administrative expenses.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $75,000,000, to remain available until expended: *Provided*, That no more than $6,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,000,000,000, to remain available until expended, of which $1,964,300,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $35,700,000 shall be for title V of the Water Quality Act of 1987, consisting of $15,700,000 for section 510 and $20,000,000 for section 513: *Provided*, That the $15,700,000 for section 510 shall be for the United States share of an international wastewater treatment plant in San Diego to treat Tijuana wastewater and these amounts shall only become available upon approval of a Minute of the International Boundary and Water Commission by Mexico and the United States in which Mexico agrees to finance: (1) all operating and maintenance costs of treating Tijuana wastewater at the plant; and (2) all construction, operations, and maintenance costs for any future capacity needed to treat Tijuana wastewater in excess of the 25 million gallon per day capacity to be provided at the international plant: *Provided further*, That, nothwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act.

ADMINISTRATIVE PROVISIONS

The Administrator of the Environmental Protection Agency shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including the contracts for wastewater treatment and leaking underground storage tanks grants be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

Notwithstanding any provision of the Federal Water Pollution Control Act, the Delavan Lake Sanitary District shall be entitled to retain all funds received under EPA construction grants c550549-01 and c550549-02.

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 44 workyears for the Immediate Office of the Administrator, (2) 50 workyears for the Office of Congressional and Legislative Affairs, (3) 64 workyears for the Office of Communications and Public Affairs, (4) 146 workyears for the Office of General Counsel, (5) 52 workyears for the Office of International Activities, (6) 35 workyears for the Office of Federal Activities, (7) 257 workyears for the Office of Policy, Planning, and Evaluation, and (8) 1,095 workyears for the Office of Administration and Resources Management.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $2,780,000.

NATIONAL SPACE COUNCIL

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; $1,000,000: *Provided*, That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $3,300,000: *Provided*, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $100,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $143,459,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,905,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $275,423,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $11,078,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $46,023,000 shall, upon enactment of the Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1992. In fiscal year 1991, no funds in excess of (1) $32,000,000 for operating expenses, (2) $183,500,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $134,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided*, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,540,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1991 shall not exceed $2,172,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1991 in excess of $5,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,889,000.

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311-11319), as amended, $1,214,000, to remain available until expended: *Provided*, That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; purchase, lease, hire, maintenance, and operation of aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $7,034,094,000, to remain available until September 30, 1992: *Provided*, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

Mr. TRAXLER (during the reading). Mr. Chairman, I ask unanimous consent that title III through page 47, line 5, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any points of order against that portion of title III?

If not, are there any amendments to that portion of title III?

AMENDMENT OFFERED BY MR. MACHTLEY

Mr. MACHTLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MACHTLEY: Page 46, line 25, strike "$7,034,094,000" and insert "$7,027,994,000".

Mr. MACHTLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. MACHTLEY. Mr. Chairman, my amendment is quite simple. On page 61 of the report accompanying this bill, the Committee on Appropriations calls for spending $6.1 million on a program called SETI [search for extraterrestrial intelligence].

My amendment reduces the appropriations for NASA research and development by $6.1 million, and it is intended to eliminate in this fiscal 1991 budget such funding.

Mr. Chairman, no one in this body can doubt that we are in the middle of a financial crisis. The budget summit negotiations have been working to come up with an agreement to reduce the Federal deficit which, we are told, may be as high as $200 billion.

In this strapped fiscal environment, NASA has asked Congress for $12 million this year and $100 million over the next decade to search for extraterrestrial intelligence and to see, in fact, whether it is in existence.

Mr. Chairman, frankly, I would rather see a special terrestrial intelligence program in our schools and colleges in this country. We do not have to go into outer space to find minds and intelligence that need to be developed. In every State, in every city in this country there is intelligence, there are minds that need to be developed. Ask any parent who is trying to pay a tuition bill for their kids to go to college today.

We are just beginning to realize the costs associated with the S&L bailout. Might we spend some of this NASA money to find where the absence of intelligence was that led to this failure?

Does any Congressperson think that for a second he or she can explain to their constituents how important it is to spend $6.1 million to find out if ET really exists? And then we are going to have to raise their taxes to pay for it.

Indeed, former Senator William Proxmire gave this program in 1978 the Golden Fleece Award. If SETI does proceed as planned, I might suggest that we adopt the SCOTI Pro-

gram. The SCOTI is the search for congressional intelligence.

This may be an oversimplification, but, frankly, when I was a kid, I wanted to go to the west coast from the east coast. It might have been exciting. I might have learned something, and I may have found another form of life. But my family could not afford it. I did not go, and, frankly, I survived.

It is frankly the same with our Nation. A search into outer space for extraterrestrial life might be exciting. We might learn something. We may even discover another form of life. But today our country just cannot afford the trip. If we do not do it, I would suggest that since we have survived for 15 billion years without knowing whether there is extraterrestrial life, we may just survive a few billion more.

There is no doubt that there is some scientific curiosity and perhaps even public curiosity as to whether ET is real. One has to only see the popularity of the movie ET and Close Encounters of the Third Kind to appreciate this fact.

As an engineer myself in undergraduate studies, I certainly appreciate and applaud scientific research and exploration. However, the question, the difficult question, that we in this body must ask is: Can we, in fact, today afford this type of expenditure?

We have no, and I repeat no, scientific evidence that there is anything beyond our galaxy except we do have some curiosity. The answer that I would suggest is that we cannot spend money on curiosity today when we have a deficit.

I would suggest that our constituents would agree that money ought not to be spent on curiosity. If there is a scientific justification for SETI, in fact, I think there is justification scientifically to not proceed.

Scientists have argued that, in fact, there is an evolutionary cycle on this Earth that if we have a 15-billion-year galaxy that probably there is an alien form of life beyond. Some of our constituents might suggest that there is an alien form of life which has already arrived here in Washington.

I might suggest that, in fact, if there is such a superintelligent form of life out there, might it be easier just to listen and let them call us?

As frivolous as part of this might have been, I think we are talking about serious dollars, and I believe that, in fact, we owe it to our constituents to cut out some of this that we just, frankly, cannot afford.

I would suggest that this is the answer to those who would argue that we should have a line-item veto. This is a specific amendment to delete a specific program that we cannot afford.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. MACHTLEY. I am happy to yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Chairman, I have to tell the gentleman that I think there is little likelihood that a line-item veto would be exercised on this item since the administration sent us a request for $12.1 million, and we cut it to $6.1 million in the subcommittee.

Mr. MACHTLEY. Mr. Chairman, I would suggest that we in Congress can, in fact, cut it down to zero, and that is my hope today.

I would ask my colleagues respectfully to recognize the seriousness of this issue and, in fact, support my amendment.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. MACHTLEY. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, of course, we did not give the President his $12 million for this research, but we did yield $6 million to him. Do I understand what the gentleman wants us to do now is take away the last penny that the President has requested for this program?

Mr. MACHTLEY. I would suggest it is NASA's, and I would say that we should take away everything.

□ 1300

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the honorable gentleman from Rhode Island [Mr. MACHTLEY] has offered an amendment to terminate funding for the SETI program of NASA. SETI [search for extraterrestrial intelligence] is, quite simply, an effort to locate space aliens.

Mr. Chairman, at a time when good people of America can't find affordable housing, we shouldn't be spending precious dollars to look for little green men with misshapen heads.

I commend the Subcommittee on VA, HUD, and Independent Agencies for cutting NASA's request for this program. The fiscal year 1991 budget request for this $100.5 million rip off was $12.1 million. The subcommittee, however, reduced this amount by $6 million, leaving $6.1 million in the bill currently under consideration. But it's time to put this crippled dog out of its misery and kill it with a forceful blow.

Mr. Chairman, of course, there are space aliens.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, it has just been on the AP wire, they have located some extraterrestrial beams, and they are wearing striped coats.

Mr. CONTE. Mr. Chairman, reclaiming my time, of course there are flying saucers and advanced civilizations in outer space. But we don't need to spend $6 million this year to find evidence of these rascally creatures. We only need 75 cents to buy a tabloid at the local supermarket. Conclusive evidence of these crafty crittters can be found at checkout counters from coast to coast.

This article—Exhibit 1—from the Weekly World News, for example, describes how UFO's were poised to land at Chicago's Soldier Field during halftime of last year's Bears-Eagles game. They were scared off, though, by gridlock traffic of blimps, helicopters, and airplanes over the stadium.

Mr. Chairman, I submit the article for the RECORD.

[Exhibit 1]

BLIMP SCARED UFOs AWAY FROM STADIUM

(By Beatrice Dexter)

UFOs were poised to land during Monday Night Football at Chicago's Soldier Field—but they shied away because of the gridlock traffic of blimps, helicopters and airplanes over the stadium!

That's the contention of Ufologist Andy Reiss, whose headline-making attempt to attract aliens to the October 2 game resulted in a no-show.

The Los Angeles space specialist had orchestrated an incredible national effort—featured in a recent issue of *The NEWS*—to invite aliens to Earth by sending a psychic message to them in outer space. Millions of Americans across the country are believed to have cooperated in the psychic experiment.

"I have heard from a number of Ufologists around the country that sightings in the Midwest were way up," he told *The NEWS*. "I think the aliens responded to our invitation and buzzed the planet more than once—but decided against landing during the Eagles-Bears game at halftime.

"The stadium was swarming with air traffic, including the Goodyear blimp. There's no way you could land a giant starship without causing a tragic accident. I think our space friends are going to wait for us to find a better place."

Reiss says he's trying to keep communication open with the aliens by concentrating on a friendly message to them 20 minutes each day. He plans to organize another landing effort within the next few months, he said.

"We achieved a great deal with our first effort, and even though we didn't see a landing, we did see signs of an alien response," Reiss said.

"Now that we've had so much publicity and mass cooperation, we don't need to have them land in a public place. For our next effort we're going to select a quiet, isolated place."

We also know that Noah's Ark was built by space aliens. I submit exhibit 2 that I have here in my file.

[Exhibit 2]

NOAH'S ARK WAS BUILT BY SPACE ALIENS

(By Mickey McGuire)

Pictures on an ancient stone tablet found near Mount Ararat prove beyond a doubt that Noah didn't build the ark that survived the great flood—it was brought to Earth by space aliens!

The crude pictures, which probably were carved in the tablets by Noah himself, clearly show the ark being beamed to Earth from

an enormous space ship that appears to stretch from horizon to horizon.

The tablet also shows eight human figures standing beneath the ark. They are believed to represent Noah and his sons, Shem, Ham and Japhet, and their wives.

Using the human figures as a comparison scale, the ark would have been about 550 feet long, 91 feet wide and 55 feet high. "Those measurements are almost an exact match of those in the Holy Bible," declared Dr. Sabah Ozdikir, a Turkish archaeologist and Bible expert who has searched for the ark's remains for almost a half-century.

"In Genesis 6:15, the ark is described as 300 cubits long, 50 cubits wide and 30 cubits high," Dr. Ozdikir explained.

"In modern measurements, the ark shown on the stone tablet is more or less a perfect match of the one described in the Bible," Dr. Ozdikir said, compared to the size of the figures on the tablet, the spaceship would have been three miles long by one mile high.

That's roughly the same size as a UFO seen by millions of people in skies over China in the early 1980s.

"According to the Bible, God warned Noah that a great flood would cover the Earth and destroy all living creatures on the land," Dr. Ozdikir said. "He told Noah to build the ark and take aboard a male and female of every animal so they could replenish the Earth with their kind after the flood.

"But we're certain Noah couldn't finish the ark in time. You see, one of the pictures on the tablet clearly shows an obviously uncompleted ark being overturned by a large wave.

"More than a dozen experts in hieroglyphics have studied the picture and all reached the same conclusion: Creatures from another world brought a completed ark to Earth and saved Noah and the animals just in the nick of time.

"However, we also believe that God, seeing Noah's plight, told the space beings to deliver the ark to Earth."

Why spend $5 million to search radio waves, when we already know that space aliens are stealing our frogs. I submit for the RECORD exhibit 3.

[Exhibit 3]

WEBBED CREATURES VANISHING FROM EARTH BY LEAPS AND BOUNDS—SPACE ALIENS STEALING OUR FROGS!

(By John Stern)

A UFO researcher says space aliens are wiping out the world's frog population because they eat tadpoles and use the mature creatures for research!

The decline of frogs is a worldwide phenomenon that has repeatedly been blamed on pollution and the destruction of natural habitat.

Walter Caine contends that the environmental explanation is all hogwash.

He further claims to have the evidence to prove that extraterrestrial hunters alone are wiping frogs out. In some areas populations have declined as much as 90 percent, scientists report.

"It's the only explanation that makes any sense," said Caine, who founded the California-based research group. Extraterrestrial Today.

"I have hundreds of reports from eyewitnesses who have seen extraterrestrials gathering frogs and tadpoles all over the world.

"I can't vouch for the character and credibility of all these witnesses but I know for a fact that most of them are rock solid.

"Their independent descriptions of saucer-shaped UFOs and slender, large-headed space aliens are uncannily similar. And these people swear they saw the extraterrestrials stealing frogs and eating tadpoles."

Washington sources refused to comment on Caine's theory and report but conceded that American and other governments are investigating UFO activity in regions where frogs grow and breed.

Caine says that's evidence enough to show that world authorities are aware of alien interference in earth ecology.

And he has called on them to take "immediate steps to end the interference before the only frogs we see are in books."

"There isn't a doubt in my mind that space aliens are eating our tadpoles as a delicacy and experimenting with our frogs." said Caine.

"This is a very serious situation."

The intergalactic frog and tadpole theft, reported by hundreds of eye witnesses, has become a serious global problem. Perhaps the $6 million could be better spent by the Attorney General in bringing these orbiting scofflaws to justice.

We know that a UFO blasted out of the ocean and hovered for 15 terrifying minutes over a frightened Sri Lankan tanker crew, and we also know that this UFO cured 22 sick, blind, and lame people in Turkey. I submit those exhibits for the RECORD.

[Exhibit 4]

UFO FLIES OUT OF THE OCEAN!

(By Ann Hughey)

A saucer-shaped UFO stunned the crew of a tanker when it blasted out of the ocean and circled their ship for 15 terrifying minutes before vanishing without a trace back into the sea!

According to Sri Lankan newspaper reports, the incident took place in broad daylight in late March, 210 miles south of Matara, Sri Lanka, in the Indian Ocean.

No one was injured but the 175-foot-long tanker *Kim Seng* suffered severe structural damage from the towering waves that were kicked up when the UFO rose out of and later returned to the water, the press said.

"It was enormous—at least five times the size of our ship," Rasika Mawatha, the 47-year-old captain of the *Kim Seng*, told reporters.

"I'd just come up on deck when the huge silver orb flew out of the sea and hovered just off the starboard bow of the ship. We almost sank from the waves it made as it left the water.

"At first, I was so shocked I nearly fainted from fright. My crew was terrified, too.

"They fell to the deck in shock—covering their eyes and cowering like small children.

"All the ship's instruments went haywire and the needle on the compass kept spinning around and around. I couldn't even use the radio to call for help," he said.

"The spacecraft glowed and pulsated with a silvery light and another eerie beam of light shone from the bottom of the ship. It seemed as if whoever was in the craft was scanning our ship, but for what purpose, I don't know."

After about 15 minutes, the UFO disappeared as suddenly as it had appeared.

"One minute it was there and the next it had vanished back into the sea in a blinding flash of light," said Capt. Mawatha.

"And it kicked up such huge waves that it almost capsized the ship again."

Immediately after the UFO disappeared, all the ship's instruments began working again as if nothing had happened.

"I radioed authorities about what had happened and they sent planes and ships to scan the area but they came up with nothing," said Capt. Mawatha.

Officials searched for days but not a trace of the UFO could be found anywhere.

"We spent days searching for signs of the alleged spaceship but couldn't find anything," says Adi Chandrakar, a spokesman for the coastal authority in Matara.

"Even though we couldn't find any concrete evidence of the UFO, we know that something highly unusual did happen out there because of the damage to the ship.

"Only extremely rough water like you'd experience in a severe storm could cause that kind of damage and there wasn't a cloud in the sky.

"We're calling this incident an official UFO sighting because there's no other explanation for what happened."

[Exhibit 5]

MAGIC RAY FROM THIS UFO CURES 22 PEOPLE!

(By Mickey McGuire)

At least 22 sick and crippled people were miraculously cured when they were bathed in eerie greenish light—that pulsated from a gigantic UFO hovering over their city!

Official reports from western Turkey said the incredible cures began moments after the silvery, saucer-shaped spaceship streaked silently down from the heavens to hover for more than an hour just over the rooftops.

And what is being hailed as the most sensational photograph ever made of a flying saucer was taken by a Turkish soldier home on leave.

"There is no doubt the photograph is real," declared a Turkish official in the city of Manisa. "Hundreds of people here saw the UFO. They saw it arrive and they watched it depart.

"But even more amazing than the photograph is the overwhelming evidence that something from the ship healed at least 22 sick and crippled people."

A physician, Dr. Mehmet Nadi, said he talked to a woman named Inisa Tokap, whose 46 year-old husband Alaattin was miraculously cured of crippling arthritis that had kept him bedridden for years.

"With tears streaming from her eyes she told me how his twisted limbs slowly straightened as the UFO's greenish light washed over his frail body," Dr. Nadi recalled.

"She said when the light from the UFO touched him the pain vanished from his body and his gnarled, twisted fingers slowly began to become relaxed and began to straighten.

"His feet and toes became straight and he was able to stand and walk for the first time in years."

Dr. Nadi said he has examined several other patients and found them completely cured of their ailments, including Kamal Yilmaz, a middle-aged man who had been in a stroke-induced coma for months.

"I couldn't believe my eyes when Kamal came walking into my office as healthy as an ox," he said. "I've known him for years,

but I made him show me some identification. I just couldn't believe it was true. But it was."

Medical officials from Ankara are now in the area to examine dozens of other people who also have reported being cured by the strange light.

"So far, we know of several people who were dying of cancer who now appear to be completely cured," one doctor confirmed. "But only time will tell us if the cures are permanent or merely some kind of coincidental mass remission."

Another doctor confirmed that a 9-year-old boy, identified as Hasan Koru, comatose and near death with total kidney failure, awoke and got out of bed after the mysterious light filtered through a window and swept over his still body. Other doctors verified that a woman blinded by cataracts regained her sight, a man deaf since birth had his hearing restored and a day-old infant girl dying of some undiagnosed malady now appears to be normal and healthy because of the miracle light.

The UFO, which hovered over the village for about 70 minutes, before it suddenly streaked off into space, is believed to be the same spaceship that landed in a Soviet city about 1,300 miles to the north on September 27.

The NEWS revealed in its November 7 issue that the captain of the spaceship was captured by KGB agents when the aliens left their craft after landing in a park in the city of Veronezh.

"It would be too much of a coincidence for two UFOs to be making such dramatic visits within weeks of each other," one Turkish official declared.

If we are willing to spend just a few dollars more than the 75 cents I have proposed, we could take out an advertisement in the personals to locate some of these devlish foreigners. It could read:

Single blue planet seeks out alien life forms for fun, adventure and possible romance. I am middle-aged, well-built and relatively attractive, despite premature ozone loss. I'm looking for an energetic green biped who likes to dance, cuddle and take long, romantic spacewalks—someone who will help to ease my global tension. Call 976-SETI.

This amendment gives us a chance to prove that there is still intelligent life on Earth. Let us save our hard-earned money and let the space aliens spend their currency to find us.

If we continue to fund this dog—a Golden Fleece award winner in 1978—then we should seriously consider funding of an even more ambitious program—SCI: Search for Congressional Intelligence.

Support the amendment.

Mr. TRAXLER. Mr. Chairman, the logic of the distinguished gentleman from Massachusetts [Mr. CONTE] and the maker of the amendment is irrefutable. I think we had better exercise a congressional veto on this Presidential request. We accept the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Rhode Island [Mr. MACHTLEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 47, line 5, after "conclusive" insert the following: ": *Provided further*, That not more than $266,900,000 shall be made available under this heading for the Space Exploration Initiative, to be derived from transfers of funds appropriated under this title for other accounts and activities of the National Aeronautics and Space Administration."

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

POINT OF ORDER

Mr. TRAXLER. Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Pennsylvania [Mr. WALKER]. In my judgment it provides for an unauthorized transfer of funds between NASA appropriations, and, therefore, the amendment violates clause 2 of rule XXI. I would ask for a ruling from the Chair.

Mr. WALKER. Mr. Chairman, I concede the point of order, and move to strike the last word.

The CHAIRMAN (Mr. BEILENSON). The point of order is conceded and sustained.

Mr. WALKER. Mr. Chairman, it has been said that a nation that lacks vision is doomed. I had hoped that this amendment would be considered today, and I am disappointed, of course, that the point of order was offered against it. Because what it sought to do was to put at least a portion of the money back in, that the President had requested for his Moon-Mars initiative. It is money that was authorized by the House last year in the House-passed authorization bill, which never got through the Senate, but which the authorizing committee felt was an important initiative for this Nation's future.

We were somewhat stunned when the Committee on Appropriations decided to completely eliminate all funding for this program. I sat here a moment ago and listened to the Committee on Appropriations decide to eliminate another program, one that has been a scientific effort that has been around for many years on the NASA agenda, and one which I realize is nice to make fun of, and I appreciated the good humor of the Members who came to the floor.

The fact is though that this is another program that was looking out beyond our galaxy, looking out to try to find out what it is that human beings should know about this final frontier on which we are engaged.

My concern about the bill that we have before us, and I do not doubt the good work of the committee, the committee has struggled hard to look at a number of things. I might say to the subcommittee, I am particularly grateful for a policy judgment that was made in the housing section that I think was particularly meritorious, and I appreciate the good humor with which that was dealt in the full committee.

But I am concerned about the priorities reflected in this particular appropriations measure, because it seems to me that where your priorities lie, as defined in this bill, is simply on funding what is and maybe even looking back.

Oh, yes, there are new initiatives in the program. You have funded things like the Earth observation system and so on, which I happen to support. But you have given it far more than the administration requested, money that many of us who have looked at it feel will be money wasted in the program because the community that has to do the work cannot absorb the money at the present time. The President's increase in funding was more than enough to take care of the program. But instead, you decided to go that route, which is essentially a program that is good science, but looks back, not forward; that looks inward, not outward.

You decided to go that direction. That is your judgment. But I have got to say that that does not reflect the judgment of the authorizing committee, and I thought maybe we had some role to play in this whole process.

Sure, we have obligations that have to be met. We have priorities to make. But I would suggest that a nation that fails to look outward, fails to show vision, is in fact a nation that is in descendancy, rather than ascendancy.

I would like to think as we head toward the next century, we are going to have a space program to be proud of somewhere there, and it ought to be one we plan for at the present time.

Mr. Chairman, when President Kennedy stood in this Chamber nearly 30 years ago to deliver in those now famous words the challenge to the Nation to land a man on the Moon by the end of the 1960's, I do not believe that he meant for us to stop our exploration when that goal was reached.

□ 1310

Although world circumstances have changed significantly since those days of the space race with the Soviet Union, President Kennedy's words still have relevance in today's climate. He said, in part:

For while we cannot guarantee that we shall one day be first, we can guarantee that

any failure to make this effort will make us last * * * space is open to us now; and our eagerness to share its meaning is not governed by the efforts of others. We go into space because whatever mankind must undertake, free men must fully share.

After 20 years of proceeding without a firm vision for our space program, President Bush has finally articulated a very specific goal, returning to the Moon and going to Mars.

As exciting as the prospect of that voyage is, the space exploration initiative will be much more than that. SEI will spur the development of new technologies to enhance U.S. competitiveness. SEI will inspire young people to pursue educations in math, science and engineering.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. SEI will create new industries and new economic opportunities, including new sources of energy and information that will help make the Earth more environmentally sound.

Recent public opinion polls have demonstrated that Americans strongly support the space program. Nearly 69 percent of Americans surveyed indicated they supported the President's proposal to undertake a vigorous program of manned exploration. Sixty-seven percent agreed that NASA's funding should be boosted from 1 to 2 percent of the Federal budget to help pay for these new initiatives, and 87 percent stated they believe it is vitally important to them, that the space program is something which keeps America competitive.

The Appropriations Committee has determined we cannot afford the space exploration initiative. I understand that, and they did their work as best they knew how. But I say that we cannot afford not to undertake that commitment to expanding our frontiers in space, and I am sorry that the lack of vision prevailed on this other program and we instead will not move aggressively forward.

Mr. GREEN of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the gentleman from Pennsylvania [Mr. WALKER] for a very thoughful statement. I think he does right to raise the issue he raises, because it is an important issue and one about which the House should hear.

I take this opportunity to try to explain, at least from my perspective, why we did not accept the administration request for the additional funding for the Moon-Mars Program. I think it is essentially a question of priorities within funds that we have, and that is spelled out in some detail on page 62 of the committee report.

From my point of view, mission to Planet Earth is the No. 1 priority of NASA. That is an effort to use NASA's look-down capability to tell us what is going on in terms of the Earth's climate.

It is extraordinary to me that scientists think they can tell us what happened in the first second of the universe, they think they can tell us what is going on in the inside of the Sun, but they really can tell us very little about how the world works as a system, and particularly about how the world's climate works.

That gap in knowledge might not have been very important some decades ago. But as the evidence is becoming very clear that with the vast explosion of human population, and the vast explosion of technology, we are having a significant impact on that system and on the Earth's climate, I think it is very important that we start to know how the world's climate functions and what we are doing to it. Mission to Planet Earth, which is a Presidential initiative, is our means of finding that out.

Yes, we did put in some extra money compared with what the President requested, but I think that is fully justified by the situation. We put in $10 million to make a start on the synthetic apperture radar, an instrument which most of the scientists in the field tell me ought to be flying at the same time as the polar orbiting platform, and which has to be a different orbit, at a different level, from the polar orbiting platform, and it is necessary in order to give us information on biomass and moisture.

We put in $10 million for a new total ozone mapping spectrometer because our capacity at the present time is rapidly deteriorating to measure the decline in the ozone, and we know that is a very important issue.

Most significantly, we put in $8 million toward trying to be able to handle the vast amount of data that this whole program is going to generate. Just by way of comparison, the entire data base of the Internal Revenue Service is said to be 30 trillion bits of information. According to what we are told by the advisory committee on this program, the polar orbiting platform will generate every day 10 trillion bits of information. In 3 days it will generate as much information as the entire data base of the Internal Revenue Service.

We have no capacity to process that information at the present time, and if Members want to talk about NASA programs that can drive technology and keep us competitive internationally, it seems to me that learning how to receive, manage, and make accessible that vast quantity of data is going to be an extraordinary challenge with extraordinary opportunities for payoffs not just in terms of science but in terms of our world competitiveness in the data processing and data management fields.

The second area of priorities is of course the shuttle itself, and I regret that we were not able to do the full amount that the President requested there. But plainly a lot remains to be done with respect to the shuttle program. We have not done everything that those who reviewed the shuttle program following the *Challenger* tragedy thought out to be done. It is our only means of getting human beings into space at the present time, so that those who are interested in the Moon-Mars Program must surely want the shuttle put in first-class reliable condition, and we know from the recent *Columbia* pullback that it is far from a reliable instrument at the present time.

Then, of course, we have the space station. There are those who have more enthusiasm for the space station than I do. But certainly if we are going to find out what happens to human beings who spend long times in space, essential for any Moon-Mars Program, we do have to move ahead with the station, and again I regret that we could not do the full amount that the administration required. But there are limits.

Have we been fair to NASA? I think we have. It is already on an upward curve. In fiscal 1988 the appropriations for NASA were $8.8 billion.

The CHAIRMAN. The time of the gentleman from New York [Mr. GREEN] has expired.

(By unanimous consent Mr. GREEN of New York was allowed to proceed for 3 additional minutes.)

Mr. GREEN of New York. In fiscal year 1989 funding for NASA was $10.7 billion. In fiscal year 1990 it was $12.2 billion, and in fiscal year 1991 it is $14.3 billion. No other agency in this bill is growing at that rate.

But we simply do not have the money to do all of the missions that NASA wants to do if we have to go ahead and do the Moon-Mars mission.

The National Academy of Sciences in its report cites "leadership imperatives 'and' revitalizing the national research and development effort" as the cardinal goals of the mission; $500 billion is a huge price for these goals.

Although the administration requested only a $300 million increase for Moon-Mars that is a very thin edge of a very wide wedge. When we were briefed at the White House a year ago on the dimensions of the program we were told that within short order the program would require an expenditure of $15 billion a year. For our subcommittee, that would be a 25-percent increase in our discretionary account over what we currently have.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding, because the statement of the Academy of Sciences, as the gentleman knows, was referencing the $400 or $500 billion cost that this program is supposedly going to cost. Those are NASA figures, and no one knows whether they are true. There are some people who now think that we can do the whole Moon-Mars effort for around $30 billion spent over a period of 10 years.

Mr. GREEN of New York. If I may reclaim my time, I can only tell the gentleman in my 10 years on this subcommittee I have never seen NASA estimates be too high, and certainly not too high by an order of tenfold. These programs only grow, as happened with the shuttle, as happened with the space station So I have to say to the gentleman I think the $15 million will turn out to be an underestimate, not an overestimate.

□ 1320

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding, because the point here is one of the things we wanted to look at in the SEI was whether or not we ought to look toward a more research/development program outside of NASA's bounds; maybe there are some people out there with ideas NASA has not thought about.

But you have zeroed it out. You have not even given us a chance to explore some of the minor issues let alone some of the major ones. So by zeroing out, you have given us no chance to resolve some of the questions that the gentleman raises about it. I find that extremely disappointing.

Mr. GREEN of New York. If I may reclaim my time, it is a mistake to say we zeroed it out. The fact of the matter is the program encompasses a number of areas of research which NASA has conducted in the past and which we shall continue to fund.

The CHAIRMAN. The time of the gentleman from New York [Mr. GREEN] has expired.

(By unanimous consent, Mr. GREEN of New York was allowed to proceed for 1 additional minute.)

Mr. GREEN of New York. We continue to fund those items so that they can move forward. The only ones that I know of who are proposing radically different approaches to Moon-Mars are in another agency, in another appropriation bill, the Subcommittee on Energy and Water bill. If those who manage that bill want to undertake the work at Lawrence Livermore that some suggest, that is within their jurisdiction to recommend to us.

But I think, given the priorities we have within NASA, and given the vast expansion of the NASA program we have supported over these last several years, there is no way that we can see under present circumstances that our subcommittee is going to be able to get a 25-percent increase in our 302(b) allowance in order to be able to fund this program.

So we have stuck with what we think are sensible priorities for the Congress and for NASA, and I hope that my colleagues will support us in that.

Mr. TRAXLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the administration is not happy with the committee's recommendation to cut the Moon-Mars increase. We gave NASA the biggest increase in the past 15 years—17.5 percent—or about $2 billion—the very best we could under the circumstances.

But—yes—we did have to cut NASA by about $800 million below the President's request.

We had to cut the shuttle program by $100 million—and that program has just about the highest priority in the agency. In fact, I'm not sure we should have cut it at all. Anybody who has been reading the newspapers lately—including the President—should be aware of the fact that the shuttle program is having a number of problems and probably needs every dime it can get.

And we had to cut the space station program by $195 million. Now on a percentage basis that was less of a cut than we took last year but the program does enjoy a higher priority than Moon-Mars.

And—above all—we have honored the Administrator's priorities by providing every dollar for NASA's salaries account—the account that he pays for staff and maintenance. Its very vital.

I can't tell you how many center directors have come to us from Kennedy—from Johnson—from Marshall—and told us that we had to provide full funding for the NASA infrastructure because there are serious problems. So those were our priorities: First, agency infrastructure—full funding; second, shuttle; and third, space station.

And by the way, one other priority we didn't forget about was science—things like the earth observing system [EOS] which we funded and which this President has suggested is so important. We can't find out how bad global warming will be unless we have an earth observing system—so we funded that program at about the President's request.

But when we had to make cuts—yes—we picked on the Moon-Mars Program. The President ought to know that common sense would suggest that we would do that.

Why,

Because on any scale the Moon-Mars initiatives is not as vital as ongoing NASA programs.

The fact is that the space station program is in deep trouble. And unless we fund this program and get it moving and insist that the problems are solved—we are going to continue to spend billions and never build a single piece of hardware. I suppose we could have cut the space station program another $100–$200 million to fund the President's Moon-Mars initiative program. But, does that make any sense? Of course, it doesn't.

I think it violates what is a commonsense approach to funding this agency in tough budget times.

Who are we kidding around here? Do you really believe that NASA's going to end up at $14.3 billion? The committee's recommendation is easily the high water mark this budget year—with the Federal Government running a $200 billion deficit—more than $100 billion above what the President told us it would be 6 months ago.

Frankly, the fact is that we have probably tilted too much in favor of NASA. What we should have done is to add some extra money over and above what we provided for veterans medical care. But we stuck every last dollar into NASA that we could find—and we did it on the basis of simple straightforward priorities.

And if anyone is not happy with that—stay tuned—because it's going to get a lot worse in the budget wars ahead.

Mr. DURBIN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first let me say as a member of the Committee on Appropriations that I value the hard work of the gentleman from Michigan [Mr. TRAXLER] and the gentleman from New York [Mr. GREEN] in preparing this important appropriation for consideration by the House of Representatives.

I support it, and I look forward to working with the House and the members of the committee as this measure moves through the conference committee.

But, ladies and gentlemen of the House, let me say that I have asked for a few moments to speak this afternoon to address what I consider to be a watershed issue for this Congress. We have been engaged in the last year in a debate as to what we will do when America faces new spending priorities. We have been elated by the news coming from Eastern Europe and the Soviet Union that the military conflict of past decades is finally abating and gives us an opportunity to declare what has been called a peace dividend; to bring back some of the money and some of the troops and spend it on priorities in America.

That is why I think it is absolutely critical that we take a look at this Space Program at this moment and consider what we are being asked to do. Let me say at the outset that I have served on what was then the Committee on Science and Technology, I supported the Space Program and I still do. I think it is important that we as a leading Nation in the

world invest in space, invest in the future, and invest in research as well.

But there are some troubling signs on the horizon when we consider the drift of the debate on our Space Program.

Let me first call the attention of the Members to something they all received this week, a copy of a local newspaper here on Capitol Hill, given to us twice a week, and I think it is very widely read.

You may have noted an insert in this week's newspaper, coincidentally the same week we are considering this appropriation bill, which addresses America's new role in space.

I read most of the articles in this paper. The thing I found interesting to note, though, is who paid for the advertising in this newspaper.

As you page through, you are going to find four or five major corporations; not surprisingly all of these corporations are defense contractors today. They are defense contractors looking for new opportunities for Federal spending in the future. They see the new opportunities in terms of our Space Program.

Some of us can remember those days in the Pentagon no too many years ago when, week after week and month after month, we were told of cost overruns, overspending by some of these very same companies.

Now we are being told today that these same companies want to be involved in the effort to push forward in space. I do not think they should be disqualified, but I do believe this House and the taxpayers of this Nation should be sensitive to the fact that many of the companies that brought us the horror stories from the Pentagon are the same companies that now want to take us on missions into space.

The second point I would like to make is the fact that we have greatly increased this budget for NASA. It is a substantial increase, perhaps not to the level the President asked for, but I think realistic in terms of the deficit we are facing.

When you look at the size of some of the projects we are being asked to invest in, I can tell you that the youngest child seated in the gallery today may still be paying taxes late in life, waiting to see the end of some of these programs.

Let me give you a couple of examples: the space station. The original estimate for the space station was $8 billion; then it went up to $16 billion and now it is up to $40 billion, and another $80 billion to operate.

What is the net impact of that kind of major expenditure? It does several things. First, when you put limited Federal resources into that type of massive program, you necessarily crowd out other scientific research. There just is not enough money to go around.

When you focus on the big-ticket items, you do it at the expense of other important research. Let me give you one example.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just wanted to make the point that I share some of the gentleman's concerns about this space station. I think the reason why it is important to note this is that a lot of distinguished experts, including, I am told, Mr. Keyworth, former science adviser to the President, now looks at this with a great amount of skepticism.

My only concern here, to the gentleman from Illinois, is that he is aware of what I am trying to do on armed services and budget to get things under control. I only wish that we had all been able to spend more time looking at the policy decisions that had been made by the authorizing committee in the area of space, whether it is the telescope that right now is not working properly or whether it is the space station, whose mission could be—in some quarters is labeled as dubious because of problems with space junk and other difficulties associated with it. I think we have carved out a direction in space.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. DURBIN] has expired.

(By unanimous consent, Mr. DURBIN was allowed to proceed for 5 additional minutes.)

Mr. DURBIN. I yield further to the gentleman from Ohio.

Mr. KASICH. I thank the gentleman for yielding further.

Mr. Chairman, I am just very concerned that we as a Congress should have been more involved in these early policy decisions. I am not sure it is too late now for us to get ourselves involved in these decisions. But I really want to compliment the gentleman on raising the issue about these big-ticket items and what they mean.

We are not just doing it for the sake of saying we are doing it for science. We all support science and our activities in space. But just because somebody says this means science, there is a lot of defense contractors who say they need X, Y, and Z weapons. I want to make sure that what we do in space really makes sense and that we play a full role. I hope to work with the gentleman in the future in becoming more and more involved in analyzing these programs.

Mr. DURBIN. I thank my colleague from Ohio.

Mr. Chairman, lest anyone in the audience believe that I have an aversion to science, let me give you a practical example of a priority decision which is being made by this Congress as it relates to a choice between sciences.

Shall we take this money, $14 billion, and put it in the Space Program? Or shall we take several billion dollars and put it into health research?

At this very moment, the National Institutes of Health, right outside the District of Columbia, are considering applications from health researchers around the United States of America. These are applications for research on things as basic as treatment and cures for cancer, treatment of heart disease. I will tell you, ladies and gentlemen of the House, what is happening: Of all of the research grants which are being approved by the National Institutes of Health, three out of four are not presently funded because they do not have enough money.

When you speak to the future of science and the quality of life in America, I for one believe that a greater investment in the health of Americans and a greater investment in the health of other people around the world really is going to seal our fate in the future as much as whether we should discover at some future point some alien in outer space.

It makes as much sense for me, from my point of view, to put money into medical science as it does space science and perhaps even more sense.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman made an excellent point about spending priorities. I have always found it interesting that as we discuss these bills, the appropriations that we want to make as a body, there are some who have continued to come to the floor always to point fingers and say, "Well, this side of the aisle, that group, they are the big spenders."

I observe that if you take a close look at what we spend around here, there is not a plugged nickel's worth of difference between an appetite to spend a dollar. Some have priorities in space, others have priorities in research in health care.

□ 1330

All Members around here have their agenda. This is a good example today.

The gentleman from Pennsylvania comes to the floor on space. He does it often. Nothing wrong with that. It is just that I tend to share the gentleman's priorities. It is interesting to watch people want to run off to Mars when we have so much left to do on Earth, especially at home. I was on the floor briefly about those who are now

turning—are veterans who are turning at an age when they need increasing house care at the VA hospitals, and the hospitals are squeezed like a lemon with no resources.

Is it more important to find aliens in outer space, or rush to Mars, when we cannot get health care to a poor veteran who fought for the country? The point the gentleman in the well makes is critical, and a point we will have to deal with increasingly on the floor. It will be difficult for all Members, not just for this side of the aisle, but for all Members in this House of Representatives. I appreciate the gentleman raising the point today.

Mr. DURBIN. Mr. Chairman, I will conclude my remarks by saying the following: There is another element that has to be mentioned. What is being invested in the space program is being invested in a very specific region of the United States of America. The Sunbelt States which have profited so much from defense spending in the past, will continue to profit by the space program. Ironically, some of the same States that are soaking up so many American tax dollars because of the savings and loan crisis will be benefactors of additional expenditures in the Space Program.

I live in the Midwest. I believe we need balanced growth across this country and across our economy. As we concentrate on investments in the Sunbelt States, and as we concentrate our investments in those particular companies, we do it at the expense of many other worthy endeavors which must go begging. I support the work of the subcommittee. I think they have done a fine job. I hope this Congress will at least pause and reflect as to whether or not we will make a major long-term space investment at the expense of medical research, at the expense of education, at the expense of some of the basics that we value in this country.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this legislation. I really want to compliment the distinguished chairman of the subcommittee, the VA, HUD, and independent agencies, the gentleman from Michigan [Mr. TRAXLER], my close friend and very able ranking minority member, the gentleman from New York [Mr. GREEN], certainly for their support as far as the veterans are concerned in this legislation.

The veterans' programs come under the subcommittee that also handles other agencies of the Government. I would say, Mr. Chairman, I am pleased with the appropriation levels contained in this bill for the Department of Veterans Affairs. The bill generally tracks the President's budget. The President did make a recommendation over OMB that a billion dollars be added to veterans' health care. It has been mentioned by speakers before this body that we do have a problem in medical health care for our veterans. We think we have the best system, we have the cheapest system, cheaper than Medicaid, Medicare, with which to treat the veterans. Certainly, we want to keep this medical care for our veterans, to keep it strong and viable and doing the job. Therefore, I support this legislation.

Mr. Chairman, I want to compliment the distinguished chairman of the Subcommittee on VA, HUD, and Independent Agencies, Mr. TRAXLER, and the very able ranking minority member, Mr. GREEN of New York, for the work they have done on this bill and their efforts on behalf of our Nation's veterans. I am generally pleased with the appropriation levels contained in this bill for the Department of Veterans Affairs. The bill generally tracks the President's budget.

The two areas of concern that I have relate to medical care and general operating expenses. For health care, the bill contains a level of funding of $12.3 billion for fiscal year 1991—about the same as proposed by the President. The funds allow for a staffing level of 194,638.

I am disappointed that the committee has reduced the level of funding for equipment, supplies, and materials by almost $29 million. Our committee has documented the fact that the equipment account over the last 5 years has eroded by almost one-half billion dollars. Therefore, the reduction in this bill is only going to add to the problem. Language has been included in the bill to delay the $278 million for equipment until August 1, 1991. I understand the delay was necessary so that the total outlays in the bill could be reduced for fiscal year 1991.

In the area of health care, I must question the action of the committee to spend $87 million over the next 10 years to install private computers in two additional hospitals. In my view, this is an absolute waste of medical care funds and I am at a loss to understand why, while there is a shortage of medical funds, the committee feels it is necessary to dismantle computer systems that are now operational at two hospitals in order to install two private systems. I have questioned this from the very beginning but to no avail.

Mr. Chairman, I am not pleased with the amount of funds contained in this bill for general operating expenses, which are at the level recommended by the President. We all know the administration's GOE request was short in the first place. The bill would supposedly add 216 FTEE to increase the number of staff in the field processing veterans' claims, but in order to provide funds for the 216 FTEE increase, the bill would require reductions in other areas, including the General Counsel's Office, and the National Cemetery System.

Our committee documented the need to increase the level of funding in the National Cemetery System. If we can't keep our National Cemetery System to the standards we all expect, how can we afford to spend at the levels we have been for other new programs?

Notwithstanding my feelings in these areas, Mr. Chairman, I know my good friends, BILL TRAXLER of Michigan, and BILL GREEN of New York, have done the best they possibly can with this bill. The chairman and I have discussed the budget at length on a number of occasions and I don't want my criticism in the areas I have outlined to suggest in any way that on balance this is not a good bill for veterans. I guess my problem is that, if we can afford to spend money on some domestic programs at the levels contained in this bill, I wonder why we can't afford to do a little better for veterans. It's a question of priorities. If we can increase the President's budget by over $4 billion for subsidized housing, I believe we can spend a few extra million to help veterans who are in need.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I want to commend the distinguished chairman, the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the Committee on Veterans' Affairs. Every veteran in this Nation owes the gentleman from Mississippi [Mr. MONTGOMERY] a deep sense of gratitude for the careful way that he has looked after those programs which are so vital to the American veterans and their families. They are all indebted to the gentleman. On their behalf, I want to extend our thanks.

Mr. MONTGOMERY. I thank the chairman of the subcommittee, and also to the other subcommittee members, as well as the staff. Everybody has been very cooperative. Sometimes we do not get what we came for. No person does. However, at least they listen to our requests. They talk to the Members. That is very important.

Mr. GREEN of New York. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New York.

Mr. GREEN of New York. Mr. Chairman, I want to thank the gentleman for his kind words about my role on this bill, and also want to compliment him for his leadership in the field of veterans' affairs.

Obviously, we do listen to his advice very conscientously. We also appreciate it, and we try to do as much as we can within the dollar limits we are faced with to accommodate the very, very real needs that he is always pointing out to Members.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman from New York. Really, the best friend the veterans have is this Congress. They do the best job for the veteran right here in the Halls of this Congress. I certainly want to express my appreciation.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, although the gentleman from Mississippi [Mr. MONTGOMERY]

was not on the floor, I believe when I made a statement earlier today about the VA health care system, I want to reiterate just in 30 seconds that I think we face extraordinarily serious problems with some of the VA hospitals, especially the one in North Dakota. However, it is symptomatic of what is going on around the country.

I know of the work the gentleman has done. I, too, served with the gentleman on the Committee on Veterans' Affairs for a term, and I hope and I know that the gentleman will join with the rest of the Members who are concerned about that, to try to figure out a way to solve this problem, with the Secretary and others, because we cannot allow veterans who are reaching retirement age, who fought for the country, to show up at the VA hospitals and be told that America will not keep its promises. We cannot allow that to happen.

Mr. MONTGOMERY. Mr. Chairman, the gentleman is right. We have been getting 4- or 5-percent cost-of-living increases the last 10 years in running the hospitals, and it takes a 10-percent cost-of-living increase. We actually ran out of money. We are turning away veterans. We closed wards, we closed beds.

However, this budget gives Members a chance to open wards again, to buy new equipment, and maybe get better service to the veteran. The gentleman is right, and I appreciate him pointing it out.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I want to concur in your remarks about progress we have made in this bill in restoring needed support for our veterans' health system.

We did lose ground during the decade of the eighties. We were at a point where beds were not filled, while veterans were waiting in line. That is an unconscionable development. It necessitated a reinvestment in veterans' health care.

I am pleased that the new administrator at the Department, the new Secretary of Veterans Affairs, Mr. Derwinski, has been an outspoken advocate on behalf of veterans' health care needs and was successful in obtaining some needed relief in this area as part of the President's budget. We have done somewhat better here in the Congress in allocating additional resources beyond that for these needs, and while I will be addressing these budget programs with an amendment later today, in deference to the importance of these VA health care systems, they are exempt from the amendment.

Mr. BARTLETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to comment on the conference report on the report here before Members, the Committee on HUD, on the HUD appropriations bill, HUD and Independent Agencies.

I have several comments on some issues that have come up on the House floor in prior appropriations bills that do not arise from this bill. With that, I would seek to commend the subcommittee and the Committee on Appropriations for resisting putting into the appropriation bill those special interest obligations which would appropriate money for particular projects to particular recipients of projects, in particular locations, for no other reason than there was a sponsor on the Committee on Appropriations.

As I read the Committee on Appropriations' legislation before Members, the bill that is before Members, I note that the committee has resisted that in virtually every case. In fact, brings to Members what we can all call a clean appropriations bill that appropriates money on the basis of public policy and of prioritizing.

I would note that in the last session, the last appropriations bill that did come to Members in the same form in the House, but then when the other body passed their appropriation bill and the two bills were sent to conference, the other body apparently began adding special interest items that were individually earmarked for particular projects and a particular recipient that had not been completed.

I would note that the conferees did not resist that, and in fact, in our body, we added our own. That led to the regrettable series of motions and floor fights and amendments that only got resolved in this last supplemental appropriation. Therefore, I would suggest, and I want to say publicly on the floor that first I commend the Subcommittee on VA, HUD, and Independent Agencies and the chairman, the gentleman from Michigan [Mr. TRAXLER], the ranking Republican from New York [Mr. GREEN], for resisting those special interest projects in this appropriation bill. Second, I would commend them for doing that, and I would urge them to continue to resist those special interest projects when we do get conference from the other body.

It would be my intention to offer a motion to instruct our conferees to resist those special interest projects and, as a way of helping our own conferees in understanding that this body does not want to start down that road again.

Mr. Chairman, I yield to the gentleman from Michigan [Mr. TRAXLER].

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Mr. TRAXLER. Mr. Chairman, I thank the gentleman for yielding, and I just want to say regretfully that the gentleman is correct.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for his understanding of the realities of both the budget and the need to appropriate based on public policy purposes only.

I would also note that there is a long process left to go, and when the conference report comes back, it would be my hope, and, I believe, the hope of this body that it would come back in as clean a form as it was when we sent it over, if not cleaner, because I think it does not do this body good service to be debating on the House floor special interest projects that only go to a particular project or a particular recipient because of whom they know.

I would note on two other matters that I would also hope we would take a harder look at some of the prioritizing in this committee report or in this legislation, and specifically I refer to a home ownership program called Urban Homestead, in which low-income families are given the opportunity to purchase a single-family home. The HUD appropriation bill before us erroneously reduces the program to $15 million while increasing other programs that I think do a lot less good for low-income families. I would bring to the attention of the Members the fact that I think it would do a lot more benefit to low-income families to increase the amount of urban homestead money in this bill from $15 million to a minimum of $50 to $75 million.

Second, I would note that the preservation section that is appropriated for $450 million to attempt to preserve a subsidized unit appears to be the appropriate amount of money, that is, the total of $450 million. I say that as a member of the authorizing committee. But I would also note that the authorizing committee is completely redoing the authorization for preservation. We would expect to have that on the House floor sometime during the month of July, and I would very much hope that the appropriators would pay careful attention to our new authorization and take the same amount of money approximately and to make the appropriations fit the new authorizations. The authorization may not be completed by both bodies and signed into law by the time the appropriations bill is finally passed.

I would just urge the appropriators, though, to take into account the changing authorization and to make the appropriate amount apply to whatever we end up with.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTLETT] has expired.

(By unanimous consent, Mr. BARTLETT was allowed to proceed for 1 additional minute.)

Mr. BARTLETT. So, Mr. Chairman, I would urge the committee to take that into account and to appropriate the amount of money, allowing either the current authorizing language or

the new authorizing language after October 1 to take precedence.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BARTLETT. I yield to the chairman of the subcommittee.

Mr. TRAXLER. Mr. Chairman, the gentleman makes a valid point in terms of the authorizing legislation. We are not sure when it will be completed.

Let me alert the gentleman to this problem. Of course, we fully expect to follow the authorizing legislation with this caveat, and that is has that our experience is that it has taken about one year for the Department to implement new legislation. So if the gentleman will allow us some leeway in that regard, we do not want to leave a gap between the new and the old authorization. We will work with the Department and with the gentleman to make sure that things dovetail nicely.

Mr. BARTLETT. Mr. Chairman, the gentleman is correct. I think the amount of money is approximately correct. We want to make sure that the money is appropriated in a way that is authorized either under the old program or the new program, and that there is a transition. I commend the sponsors, the subcommittee chairman, and the ranking member for their courtesies and for the cleanliness of H.R. 5168.

The Clerk will read:

The Clerk read as follows:

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for, including support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; tracking and data relay satellite services as authorized by law; purchase, lease, hire, maintenance, and operation of aircraft; $6,530,351,000, to remain available until September 30, 1992: *Provided*, That funds provided under this paragraph, with sums provided for "Research and development", may be utilized for the purchase of one mission management aircraft for replacement only (for which partial payment may be made by exchange of at least one existing mission management aircraft and such other existing aircraft as may be considered appropriate).

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $485,000,000, to remain available until September 30, 1993: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses for personnel and related costs and for travel expenses, $1,446,212,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $10,500,000.

ADMINISTRATIVE PROVISION

The NASA Administrator shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6)), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1991, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1991 shall not exceed $893,000.

NATIONAL INSTITUTE OF BUILDING SCIENCES

PAYMENT TO THE NATIONAL INSTITUTE OF BUILDING SCIENCES

For payment to the National Institute of Building Sciences, $250,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,854,000,000, to remain available until September 30, 1992: *Provided*, That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $100,000,000 shall be available for program development and management in fiscal year 1991: *Provided further*, That contracts may be entered into under the program development and management limitation in fiscal year 1991 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

ACADEMIC RESEARCH FACILITIES

For necessary expenses in carrying out an academic research facilities program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $20,000,000, to remain available until September 20, 1992.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; $100,000,000, to remain available until expended: *Provided*, That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; maintenance and operation of research ships and charter or lease of ships for research and

operations support; hire of passenger motor vehicles; not to exceed $75,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $285,000,000, to remain available until September 30, 1992: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,000,000, to remain available until September 30, 1992.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $24,500,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,635,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further,* That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1991 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1991, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, such sums as may be necessary: *Provided,* That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $10,785,000.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) The expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Con-

sumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

Mr. TRAXLER (during the reading). Mr. Chairman, I ask unanimous consent that the bill, through line 7, page 62, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. Are there any points of order to be made on any portions of the bill?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

SEC. 515. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 516. None of the funds appropriated under title II of this Act under the heading entitled Community Planning and Development, Community Development Grants, to any department, agency, or instrumentality of the United States may be obligated or expended to any municipality that fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individual engaged in nonviolent civil rights demonstrations.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: Page 62, insert after line 19 the following new section:

SEC. 517. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 14.5 percent, except that this reduction shall not apply with respect to amounts appropriated or otherwise made available by title I for "MEDICAL CARE" under "VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION".

Mr. FRENZEL. Mr. Chairman, this is an across-the-board cut of 14.5 percent, excluding the VA medical account, which by itself amounts to about $12.3 billion of the total.

The reason for the number, 14.5 percent, was that I wanted to take the bill back to last year's appropriated level after letting the committee add in some $6.8 billion in expired housing authority. I regret that I have to bring a cut as large as 14.5 percent, but, of course, I also had to exclude $12.3 billion of VA medical, which I think no Member of this House seeks to decrease. The reason that the numbers are so large is because the subcommittee has been so egregious in its openhandedness.

Last year's bill amounted to $48.5 billion. This year's bill, including the expired housing program, runs to $63.5 billion, an increase of more than 30 percent. Now, I do not believe that any Member of this House is going to be able to go home and defend a 30-percent increase in anything, regardless of expiring contracts or regardless of the needs at hand. And I am sure all of the needs are here.

Not too long ago the House was treated to a little presentation indicating it was about time we began to pick out the proper priorities. This bill is a perfect example of determining that everything the subcommittee does is a priority. The way we got into our fiscal trouble around here was deciding that if each Member had a proposition, the proper compromise was to suggest them all and to fund them all as richly as we could. That has given us a $3 trillion-plus national debt, and it is going to provide for us this year, absent a miracle at the summit, another deficit of somewhere between $150 billion and $200 billion.

I do not expect a lot of Members will vote for a cut as severe as 1.4 percent. On the other had, I do not expect a lot of Members to ever vote for any cuts, because if we look at the record around here, we see that nobody votes for anything like that; they only vote for more spending. And if one looks at our debt, they can see the result of our continous voting for more and more and more, and saying that "my program must be wonderful, and to get everybody to vote for it, I will vote for their programs." Then when we get all done, we find we have a $3 trillion deficit and a $6 trillion unfunded liability in our credit budget.

□ 1350

So, Mr. Chairman, I am going to offer this amendment as a pious hope, knowing that it is not going to succeed and knowing that the Members are going to continue spewing out money that the taxpayers have not contributed that will only have to be paid in terms of interest charges and of a huge debt laid upon our children and grandchildren.

Mr. Chairman, I wish to prolong this no longer.

Mr. GREEN of New York. Mr. Chairman, I rise in opposition to the amendment.

As the Republican manager of this bill, I find myself in a very curious situation at the moment. On the one hand, our ranking Republican on the Committee on the Budget is pillorying me for the profligacy of this bill. On the other hand, I have a message from the Executive Office of the President in which six paragraphs are devoted to criticizing us for cutting the President's request, and only two are devoted to the fact that we have proposed some appropriations above what the President wanted.

So, our Republican President is saying we are spending too little, and the gentleman from Minnesota [Mr. FRENZEL] is saying we are spending too much. That might indicate to our colleagues that we probably have a pretty reasonable balance in this bill.

I again point out that we are more than half a billion below the President's request in terms of the outlays in this bill. The President requested very substantial increases for HUD for the expiring subsidies, as the gentleman from Minnesota [Mr. FRENZEL] noted. He requested very large increases for the space program. He requested substantial increases for the National Science Foundation, a small one for EPA, and the bill reflects the increases the President requested. Our 302(b) allocation reflected the respect that the chairman of the Committee on Appropriations and the full Committee on Appropriations shows for the President's budget requests, and I think we got a more generous 302(b) allocation than we otherwise would have because of the fact that the President made a very substantial request for increases for the departments and agencies involved in this bill.

So, Mr. Chairman, I particularly urge my colleagues on the Republican side of the aisle who may want to support the President's request for additional spending for those agencies to vote against this amendment, which in many cases would cut the bill well below the President's request.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, if the gentleman's bill is right, may we assume in the future that about a 30-percent increase is going to be the subcommittee's target?

I say the gentleman from New York [Mr. GREEN] describes the bill as being just right in its spending. May we then assume that the subcommittee's target for the future is going to be a 30-percent increase each year?

Mr. GREEN of New York. Mr. Chairman, I should be surprised if the subcommittee would be able to sustain a 30-percent increase each year, and that of course is the reason why earlier in the day I rose in opposition to the suggestion that we ought to fund the Moon Mars program. We know we are not going to get that kind of increase, and that is why we did not make a start on that program.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from New York [Mr. GREEN] for his help.

Mr. TRAXLER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think my distinguished colleague, the gentleman from New York [Mr. GREEN], the ranking minority member, has made the case in opposition to the amendment and has made an eloquent defense of the President's request.

I would say though to the sponsor that he enjoys the love and affection of this body. He has been, I think, a watchdog on matters affecting the budget. He has been on the Committee on the Budget; I cannot remember when he was not there, in fact, and of course this is his last term. In a sense we all ought to honor him by supporting his amendment.

However, Mr. Chairman, we cannot be that generous. He knows that our hearts are with him though.

I will be careful what I say because we do not know the outcome of the deliberations which the gentleman is an active participant in. We are not certain as to what package, if any package, will come out of these negotiations that are going forward with the President and important Members of the Congress' bipartisan group. Certainly what we see in this bill today in my judgment is the high point for this bill, and before it goes to the President the bill will be reduced in some fashion.

Mr. Chairman, I do not say that to my colleagues to encourage them to vote against this amendment. I say it to them as a point of information and what I believe to be fact.

I would oppose the amendment and wish the gentleman from Minnesota [Mr. FRENZEL] well in the negotiations and discussions. I hope it is a product that every Member of this body can support when it finally comes before us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken be electronic device.

The following Members responded to their names:

[Roll No. 206]

Ackerman	Carper	Edwards (OK)
Alexander	Carr	Emerson
Anderson	Chandler	Engel
Andrews	Chapman	English
Annunzio	Clarke	Erdreich
Anthony	Clay	Espy
Applegate	Clement	Evans
Archer	Clinger	Fascell
Armey	Coble	Fawell
Aspin	Coleman (MO)	Fazio
Atkins	Coleman (TX)	Feighan
AuCoin	Collins	Fields
Baker	Combest	Fish
Ballenger	Condit	Flake
Barnard	Conte	Flippo
Bartlett	Cooper	Foglietta
Bateman	Costello	Ford (MI)
Bates	Coughlin	Ford (TN)
Beilenson	Courter	Frenzel
Bennett	Cox	Frost
Bentley	Coyne	Gallegly
Bereuter	Craig	Gallo
Berman	Crane	Gaydos
Bevill	Crockett	Gejdenson
Bilbray	Dannemeyer	Gekas
Bilirakis	Darden	Gephardt
Bliley	Davis	Geren
Boehlert	DeFazio	Gibbons
Boggs	DeLay	Gillmor
Bonior	Dellums	Gilman
Borski	Derrick	Gingrich
Bosco	DeWine	Glickman
Boucher	Dickinson	Gonzalez
Boxer	Dicks	Goodling
Brennan	Dingell	Gordon
Brooks	Dixon	Goss
Broomfield	Dorgan (ND)	Gradison
Browder	Dornan (CA)	Grandy
Brown (CA)	Douglas	Grant
Brown (CO)	Downey	Gray
Bruce	Dreier	Green
Buechner	Duncan	Guarini
Bunning	Durbin	Gunderson
Burton	Dwyer	Hall (OH)
Byron	Dymally	Hamilton
Callahan	Dyson	Hammerschmidt
Campbell (CA)	Early	Hancock
Campbell (CO)	Eckart	Hansen
Cardin	Edwards (CA)	Harris
Hastert	McMillen (MD)	Schroeder
Hatcher	McNulty	Schuette
Hawkins	Meyers	Schumer
Hayes (IL)	Mfume	Sensenbrenner
Hayes (LA)	Michel	Serrano
Hefley	Miller (CA)	Sharp
Hefner	Miller (OH)	Shaw
Henry	Miller (WA)	Shays
Herger	Mineta	Shumway
Hertel	Molinari	Shuster
Hiler	Mollohan	Sikorski
Hoagland	Montgomery	Sisisky
Hochbrueckner	Moody	Skaggs
Holloway	Moorhead	Skeen
Hopkins	Morella	Skelton
Horton	Morrison (WA)	Slattery
Houghton	Mrazek	Slaughter (NY)
Hoyer	Murphy	Slaughter (VA)
Hubbard	Murtha	Smith (FL)
Huckaby	Myers	Smith (IA)
Hughes	Nagle	Smith (NE)
Hunter	Natcher	Smith (NJ)
Hutto	Neal (MA)	Smith (TX)
Hyde	Neal (NC)	Smith (VT)
Inhofe	Nowak	Smith, Denny (OR)
Ireland	Oakar	Smith, Robert (NH)
Jacobs	Oberstar	Smith, Robert (OR)
James	Obey	Snowe
Johnson (CT)	Olin	Solarz
Johnson (SD)	Ortiz	Solomon
Johnston	Owens (UT)	Spence
Jones (GA)	Oxley	Spratt
Jones (NC)	Packard	Staggers
Jontz	Pallone	Stallings
Kanjorski	Panetta	Stangeland
Kaptur	Parker	Stearns
Kasich	Parris	Stenholm
Kastenmeier	Pashayan	Stokes
Kennedy	Patterson	Studds
Kennelly	Paxon	Stump
Kildee	Payne (NJ)	Sundquist
Kleczka	Payne (VA)	Swift
Kolbe	Pease	Synar
Kolter	Pelosi	Tallon
Kostmayer	Penny	Tanner
Kyl	Perkins	Tauke
LaFalce	Petri	Tauzin
Lagomarsino	Pickett	Taylor
Lancaster	Pickle	Thomas (CA)
Lantos	Porter	Thomas (GA)
Laughlin	Poshard	Thomas (WY)
Leach (IA)	Price	Torres
Leath (TX)	Pursell	Torricelli
Lehman (CA)	Quillen	Traficant
Lehman (FL)	Rahall	Traxler
Lent	Rangel	Udall
Levin (MI)	Ravenel	Unsoeld
Levine (CA)	Ray	Upton
Lewis (CA)	Regula	Valentine
Lewis (FL)	Rhodes	Vander Jagt
Lewis (GA)	Richardson	Visclosky
Lightfoot	Ridge	Volkmer
Lipinski	Rinaldo	Vucanovich
Livingston	Ritter	Walgren
Lloyd	Roberts	Walker
Long	Robinson	Walsh
Lowery (CA)	Roe	Watkins
Lowey (NY)	Rogers	Waxman
Lukens, Donald	Rohrabacher	Weber
Machtley	Ros-Lehtinen	Weiss
Madigan	Rose	Weldon
Markey	Rostenkowski	Wheat
Marlenee	Roth	Whittaker
Martin (NY)	Roukema	Whitten
Martinez	Rowland (CT)	Williams
Matsui	Rowland (GA)	Wise
Mavroules	Roybal	Wolf
Mazzoli	Russo	Wolpe
McCandless	Sabo	Wyden
McCloskey	Saiki	Wylie
McCollum	Sangmeister	Yates
McCrery	Sarpalius	Yatron
McCurdy	Savage	Young (AK)
McDade	Sawyer	Young (FL)
McDermott	Saxton	
McEwen	Schaefer	
McGrath	Scheuer	
McHugh	Schiff	
McMillan (NC)	Schneider	

□ 1415

The CHAIRMAN. Four hundred and nine Members have answered to their

name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Minnesota [Mr. FRENZEL] for a recorded vote. The Chair would remind members that 5 minutes will be allowed for the vote.

Without objection, a recorded vote is ordered.

There was no objection.

The vote was taken by electronic device, and there were—ayes 72, noes 337, not voting 23, as follows:

[Roll No. 207]

AYES—72

Archer	Gunderson	Porter
Armey	Hamilton	Roberts
Ballenger	Hancock	Robinson
Bartlett	Hansen	Roth
Bennett	Hastert	Schaefer
Bliley	Hefley	Sensenbrenner
Bunning	Henry	Sharp
Campbell (CA)	Herger	Shumway
Clinger	Houghton	Shuster
Coble	Ireland	Slaughter (VA)
Combest	Johnson (CT)	Smith, Denny (OR)
Cooper	Kasich	Smith, Robert (NH)
Courter	Lightfoot	Smith, Robert (OR)
Cox	Marlenee	Stangeland
Crane	McCandless	Stenholm
Dannemeyer	McEwen	Tauzin
Dornan (CA)	McMillan (NC)	Thomas (CA)
Douglas	Michel	Thomas (WY)
Dreier	Miller (OH)	Upton
Duncan	Moorhead	Vander Jagt
Fawell	Olin	Walker
Fields	Oxley	Whittaker
Frenzel	Packard	
Gingrich	Pashayan	
Gradison	Petri	

NOES—337

Ackerman	Clay	Ford (MI)
Alexander	Clement	Ford (TN)
Anderson	Coleman (MO)	Frank
Andrews	Coleman (TX)	Frost
Annunzio	Collins	Gallegly
Anthony	Condit	Gallo
Applegate	Conte	Gaydos
Aspin	Costello	Gejdenson
Atkins	Coughlin	Gekas
AuCoin	Coyne	Gephardt
Baker	Craig	Geren
Barnard	Crockett	Gibbons
Bateman	Darden	Gillmor
Bates	Davis	Gilman
Beilenson	DeFazio	Glickman
Bentley	DeLay	Gonzalez
Bereuter	Dellums	Goodling
Berman	Derrick	Gordon
Bevill	DeWine	Goss
Bilbray	Dickinson	Grandy
Bilirakis	Dicks	Grant
Boehlert	Dingell	Gray
Boggs	Dixon	Green
Bonior	Dorgan (ND)	Hall (OH)
Borski	Downey	Hammerschmidt
Bosco	Durbin	Harris
Boucher	Dwyer	Hatcher
Boxer	Dymally	Hawkins
Brennan	Dyson	Hayes (IL)
Brooks	Early	Hayes (LA)
Broomfield	Eckart	Hefner
Browder	Edwards (CA)	Hertel
Brown (CA)	Edwards (OK)	Hiler
Brown (CO)	Emerson	Hoagland
Bruce	Engel	Hochbrueckner
Buechner	English	Holloway
Burton	Erdreich	Hopkins
Byron	Espy	Horton
Callahan	Evans	Hoyer
Campbell (CO)	Fascell	Hubbard
Cardin	Fazio	Huckaby
Carper	Feighan	Hughes
Carr	Fish	Hunter
Chandler	Flake	Hutto
Chapman	Flippo	Hyde
Clarke	Foglietta	Inhofe
Jacobs	Morrison (WA)	Shaw
James	Mrazek	Shays
Johnson (SD)	Murphy	Sikorski
Johnston	Murtha	Sisisky
Jones (GA)	Myers	Skaggs
Jones (NC)	Nagle	Skeen
Jontz	Natcher	Skelton
Kanjorski	Neal (MA)	Slattery
Kaptur	Neal (NC)	Slaughter (NY)
Kastenmeier	Nowak	Smith (FL)
Kennedy	Oakar	Smith (IA)
Kennelly	Oberstar	Smith (NE)
Kildee	Obey	Smith (NJ)
Kleczka	Ortiz	Smith (TX)
Kolbe	Owens (NY)	Smith (VT)
Kolter	Owens (UT)	Snowe
Kostmayer	Pallone	Solarz
Kyl	Panetta	Solomon
LaFalce	Parker	Spence
Lagomarsino	Parris	Spratt
Lancaster	Patterson	Staggers
Lantos	Paxon	Stallings
Laughlin	Payne (NJ)	Stearns
Leach (IA)	Payne (VA)	Stokes
Leath (TX)	Pease	Studds
Lehman (CA)	Pelosi	Stump
Lehman (FL)	Penny	Sundquist
Lent	Perkins	Swift
Levin (MI)	Pickett	Synar
Levine (CA)	Pickle	Tallon
Lewis (CA)	Poshard	Tanner
Lewis (FL)	Price	Tauke
Lewis (GA)	Pursell	Taylor
Lipinski	Quillen	Thomas (GA)
Livingston	Rahall	Torres
Lloyd	Rangel	Torricelli
Long	Ravenel	Towns
Lowey (NY)	Ray	Traficant
Lukens, Donald	Regula	Traxler
Machtley	Rhodes	Udall
Madigan	Richardson	Unsoeld
Markey	Ridge	Valentine
Martin (NY)	Rinaldo	Vento
Martinez	Roe	Visclosky
Matsui	Rogers	Volkmer
Mavroules	Rohrabacher	Vucanovich
Mazzoli	Ros-Lehtinen	Walsh
McCloskey	Rostenkowski	Washington
McCollum	Roukema	Watkins
McCrery	Rowland (CT)	Waxman
McCurdy	Rowland (GA)	Weber
McDade	Roybal	Weiss
McDermott	Russo	Weldon
McGrath	Sabo	Wheat
McHugh	Saiki	Whitten
McMillen (MD)	Sangmeister	Williams
McNulty	Sarpalius	Wise
Meyers	Savage	Wolf
Mfume	Sawyer	Wolpe
Miller (CA)	Saxton	Wyden
Miller (WA)	Scheuer	Wylie
Mineta	Schiff	Yates
Molinari	Schneider	Yatron
Mollohan	Schroeder	Young (AK)
Montgomery	Schuette	Young (FL)
Moody	Schumer	
Morella	Serrano	

NOT VOTING—23

Barton	Jenkins	Nielson
Bryant	Lowery (CA)	Ritter
Bustamante	Luken, Thomas	Rose
Conyers	Manton	Schulze
de la Garza	Martin (IL)	Stark
Donnelly	Moakley	Walgren
Guarini	Morrison (CT)	Wilson
Hall (TX)	Nelson	

□ 1423

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 62 insert after line 19 the following new section:

SEC. 517. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 5 percent.

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman, in this fiscal year for the HUD, VA, independent agency appropriations we are spending about $71.2 billion. The bill before us for fiscal year 1991 would raise that by 17.3 percent to $83.5 billion, approximately.

Mr. Chairman, I just do not believe that we are in an era when we should be approving increases in appropriations bills for 1991 over 1990 by 17.3 percent, or anything close to it.

My amendment would reduce what is proposed to be spent in 1991 over 1990 in this bill by 5 percent. That would result in a reduction of $4.1 billion, but still let spending be in the total amount of $79.4 billion, which represents an 11.4 percent increase over what we are spending this year.

I would hope that most Members would be able to say that an increase of 11.4 percent over what is spent this year is a decent reduction, a reasonable deduction. This across-the-board reduction is to me the only fair way that we can go at getting a handle on runaway spending, because the moment we begin to exempt certain programs from the reduction, we are then I think helping to defeat the very thing we seek to achieve, a sense of fairness and equity in the appropriations process.

Mr. Chairman, I will not take all of my 5 minutes on behalf of the amendment because I think many Members have heard the arguments that we could address.

Mr. Chairman, in conclusion, this amendment would cut 5 percent from what is contained in the bill, some $83.5 billion, and that would still permit an increase of some 11.4 percent over what we are spending for this year. I ask for your aye vote.

□ 1430

Mr. GREEN of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I again want to remind my colleagues that it is the increases requested by the President that have largely led to the very large increases in the bill. The bill is $590 million plus under the President's request. It is fully within the 302(b) budget authority and outlay allocations.

The White House has expressed concern in its communication to us at the

cuts that have already been made. This amendment would make still deeper cuts in accounts in which the White House is vitally interested.

It would make a cut of $714 million in the NASA accounts, which would bring them to $1.5 billion below the President's request. It would make a $116 million cut in the National Science Foundation appropriation, which would leave it $160 million below the President's request.

So I remind colleagues on both sides of the aisle that if they want to support the President on his request for funding for NASA and the National Science Foundation and the other accounts they should vote against the Dannemeyer amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 53, noes 343, not voting 36, as follows:

[Roll No. 208]

AYES—53

Archer	Duncan	Meyers
Armey	Fields	Moorhead
Bartlett	Frenzel	Packard
Beilenson	Gallegly	Petri
Bennett	Gekas	Porter
Brown (CO)	Gradison	Robinson
Bunning	Hamilton	Rohrabacher
Campbell (CA)	Hancock	Roth
Clinger	Hastert	Russo
Courter	Hefley	Sensenbrenner
Cox	Hopkins	Shumway
Craig	Houghton	Shuster
Crane	Hunter	Smith, Robert (NH)
Dannemeyer	Hyde	Stenholm
DeLay	Ireland	Thomas (CA)
Dickinson	Johnson (CT)	Thomas (WY)
Douglas	Lagomarsino	Walker
Dreier	Lightfoot	

NOES—343

Ackerman	Broomfield	Davis
Alexander	Browder	DeFazio
Anderson	Brown (CA)	Dellums
Andrews	Bruce	Derrick
Annunzio	Buechner	DeWine
Anthony	Burton	Dicks
Applegate	Byron	Dingell
Aspin	Callahan	Dixon
Atkins	Campbell (CO)	Dorgan (ND)
AuCoin	Cardin	Dornan (CA)
Baker	Carper	Downey
Barnard	Carr	Durbin
Bateman	Chandler	Dwyer
Bates	Chapman	Dymally
Bentley	Clarke	Dyson
Bereuter	Clay	Early
Berman	Clement	Eckart
Bevill	Coble	Edwards (CA)
Bilbray	Coleman (MO)	Edwards (OK)
Bilirakis	Coleman (TX)	Emerson
Boehlert	Collins	Engel
Boggs	Condit	English
Bonior	Conte	Erdreich
Borski	Cooper	Espy
Bosco	Costello	Evans
Boucher	Coughlin	Fascell
Boxer	Coyne	Fazio
Brennan	Crockett	Fish
Brooks	Darden	Flake
Flippo	Markey	Sarpalius
Foglietta	Marlenee	Savage
Ford (MI)	Martin (NY)	Sawyer
Ford (TN)	Martinez	Saxton
Frank	Matsui	Schaefer
Frost	Mavroules	Scheuer
Gallo	Mazzoli	Schiff
Gaydos	McCloskey	Schneider
Gejdenson	McCollum	Schroeder
Gephardt	McCurdy	Schuette
Geren	McDade	Schumer
Gibbons	McDermott	Serrano
Gilman	McGrath	Sharp
Gingrich	McHugh	Shaw
Glickman	McMillan (NC)	Shays
Gonzalez	McMillen (MD)	Sikorski
Goodling	McNulty	Sisisky
Gordon	Mfume	Skaggs
Goss	Michel	Skeen
Grandy	Miller (CA)	Skelton
Grant	Miller (OH)	Slattery
Gray	Miller (WA)	Slaughter (NY)
Green	Mineta	Slaughter (VA)
Guarini	Molinari	Smith (FL)
Gunderson	Mollohan	Smith (IA)
Hall (OH)	Montgomery	Smith (NE)
Hammerschmidt	Moody	Smith (NJ)
Harris	Morella	Smith (TX)
Hatcher	Morrison (WA)	Smith (VT)
Hawkins	Mrazek	Smith, Robert (OR)
Hayes (IL)	Murphy	Snowe
Hayes (LA)	Murtha	Solarz
Hefner	Myers	Solomon
Henry	Nagle	Spence
Hertel	Natcher	Spratt
Hoagland	Neal (MA)	Staggers
Hochbrueckner	Neal (NC)	Stallings
Holloway	Nowak	Stangeland
Horton	Oakar	Stearns
Hoyer	Oberstar	Stokes
Hubbard	Obey	Studds
Huckaby	Olin	Stump
Hughes	Ortiz	Sundquist
Hutto	Owens (NY)	Swift
Inhofe	Owens (UT)	Synar
Jacobs	Pallone	Tallon
James	Panetta	Tanner
Johnson (SD)	Parker	Tauke
Johnston	Pashayan	Tauzin
Jones (GA)	Patterson	Taylor
Jones (NC)	Paxon	Thomas (GA)
Jontz	Payne (NJ)	Torres
Kanjorski	Payne (VA)	Torricelli
Kaptur	Pease	Towns
Kasich	Pelosi	Traficant
Kastenmeier	Penny	Traxler
Kennelly	Perkins	Udall
Kildee	Pickett	Unsoeld
Kleczka	Pickle	Upton
Kolbe	Poshard	Valentine
Kolter	Price	Vento
Kostmayer	Pursell	Visclosky
Kyl	Quillen	Volkmer
LaFalce	Rahall	Walgren
Lancaster	Rangel	Walsh
Lantos	Ravenel	Washington
Laughlin	Ray	Watkins
Leach (IA)	Regula	Waxman
Leath (TX)	Rhodes	Weber
Lehman (CA)	Richardson	Weiss
Lehman (FL)	Ridge	Weldon
Lent	Rinaldo	Wheat
Levin (MI)	Ritter	Whittaker
Levine (CA)	Roberts	Whitten
Lewis (CA)	Roe	Williams
Lewis (FL)	Rogers	Wise
Lewis (GA)	Ros-Lehtinen	Wolf
Lipinski	Rose	Wolpe
Livingston	Rostenkowski	Wyden
Lloyd	Roukema	Wylie
Long	Rowland (CT)	Yates
Lowery (CA)	Rowland (GA)	Yatron
Lowey (NY)	Roybal	Young (AK)
Lukens, Donald	Sabo	Young (FL)
Machtley	Saiki	
Madigan	Sangmeister	

NOT VOTING—36

Ballenger	de la Garza	Herger
Barton	Donnelly	Hiler
Bliley	Fawell	Jenkins
Bryant	Feighan	Kennedy
Bustamante	Gillmor	Luken, Thomas
Combest	Hall (TX)	Manton
Conyers	Hansen	Martin (IL)
McCandless	Nielson	Stark
McCrery	Oxley	Vander Jagt
McEwen	Parris	Vucanovich
Moakley	Schulze	Wilson
Morrison (CT)	Smith, Denny (OR)	
Nelson		

□ 1450

Mr. WHITTAKER and Mr. GINGRICH changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FAWELL. Mr. Chairman, I was unavoidably detained at the White House when the Dannemeyer amendment to H.R. 5158 was voted upon.

I ask that the RECORD reflect that fact, and if I were present, I would have voted "aye" on the Dannemeyer amendment.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 62, insert after line 19 the following new section:

SEC. 517. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent, except that this reduction shall not apply with respect to amounts appropriated or otherwise made available by title I for "MEDICAL CARE" under "VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION" or by title II for "ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS" under "HOUSING PROGRAMS".

Mr. PENNY. Mr. Chairman, this represents a 2-percent cut across the board in the accounts under which legislation authorizing appropriations for the Department of Veterans Affairs, Housing and Urban Development, and independent agencies.

We make two exceptions to this across-the-board cut. One exception is VA health care. In the last number of years we have seen support for VA health care deteriorate. In this year's budget, both the White House and the Congress have attempted to restore needed moneys for health care for America's veterans. My amendment exempts health care programs within the Department of Veterans Affairs from the 2-percent cut.

We also exempt section 8 subsidy contract under housing program. The purpose for exempting section 8 housing program from the cuts is, these are contractual obligations and must be honored. It did not seem prudent to subject that account to the same cuts of 2 percent that all other accounts will receive.

However, with these two exceptions, VA health care and section 8 housing, this 2-percent cut would apply across the board to all programs within this legislation.

Let me stress for Members that this is a relatively painless cut. In fact, the world "cut" does not really apply. Perhaps "scratch" or "sliver" would be a far better term to use in describing this amendment. These are modest reductions. As was explained by the gentleman from Minnesota [Mr. FRENZEL] in offerng his amendment earlier, if we were to take the spending levels in this bill back down to the levels appropriated in fiscal year 1990, we would have to apply somewhere in the neighborhood of a 14-percent cut to all the accounts. So clearly, there is significant growth in the programs included in this bill, and a 2-percent cut will still allow for significant growth.

For example, even with the adoption of this amendment we will allow a 37-percent increase in VA major construction programs. There will be a 54-percent increase in State veterans' home programs. In addition to that, housing programs will receive sizable increases. NASA will receive a 24-percent increase in its R&D account, and in space flight control and data communication, a 38-percent increase. Sizable upward adjustments are evidenced in this bill, even with a modest 2-percent adjustment.

I would urge Members to give serious consideration to this amendment. It will cut close to $1 billion from the appropriated levels in this bill, and it will send a signal to our budget negotiators that we understand in the final analysis, spending levels for these programs will be far less than anything being contemplated here today, at the very least we ought to cast a symbolic vote for some restraint by adopting this 2-percent cut.

Mr. McMILLAN of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from North Carolina.

Mr. McMILLAN of North Carolina. Mr. Chairman, I rise in support of the amendment.

Mr. Speaker, today, we are like a drowning man in 40 feet of water who does not have the will to come up for air and sinks further with each passing moment.

The latest CBO numbers estimate a deficit of $159 billion in fiscal year 1990 without including the numbers from the RTC bailout of the savings and loans. That is $49 billion over the Gramm-Rudman-Hollings target of $110 billion.

The baseline deficit estimate for the fiscal year 1991 deficit is $162 billion before looking at the RTC numbers. That is $88 billion over the Gramm-Rudman-Hollings target for that year.

CBO projects total baseline outlays plus inflation of $1,287 billion for 1991. That would require a reduction of 6.9 percent or $90 billion to achieve the Gramm-Rudman-Hollings target even before RTC funding. If you aren't willing to cut projected outlays by 6.9 percent, not much more than a freeze at last year's level, when you apparently are willing to increase taxes by close to 7.8 percent which is $90 billion to bring revenues up to $1.211 trillion. The amendment offered by my colleague from Minnesota is a bare minimum this House should do as a stroke toward rising up to the fresh air of a balanced budget. This amendment may save only peanuts when you are talking about what really needs to be done which is closer to $100 billion in deficit reduction.

I would suggest that if you are really serious about reducing the deficit according to Gramm-Rudman targets without a full tax increase of 7.8 percent, then you are compelled to support this amendment to reduce Federal outlays. If you don't, you should be ready to support higher taxes.

The American people have already started to blame Congress for being asleep at the wheel during the savings and loan crisis. The President showed his willingness to take politically difficult steps yesterday whether some of us on this side like it or not. Let's give him and the American people some hope that there is still some semblance of leadership left in Congress. Vote for this amendment.

Mr. GREEN of New York. Mr. Chairman, I rise in opposition to the amendment. Again, I would point out to my colleagues that the increase in this bill are substantial, though they are largely the increases requested by the President. We are $500 million plus, below, in outlays what the President requested. We are within our 302(b) allocations, both as to budget authority and as to outlays. The 2-percent cut is said to be nominal cut, but it will have the effect of reducing the NASA budget by $285 million, which I would suggest is more than a nominal cut in NASA. The 2-percent cut is said to be a nominal cut, will have the effect of cutting the National Science Foundation appropriation by $46 million, which I have to tell the gentleman in that account is more than a nominal cut. It will leave NASA $1.1 million below the President's request. It will leave the National Science Foundation $92 million below the President's request.

The President, in his statement of administration policy on this bill, has criticized the cuts that we have already made in his request, and I particularly urge those of my colleagues on the Republican side who want to support the Presidential request of the National Science Foundation, NASA, and other agencies, to vote against the amendment.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I have two quick questions. My first question, with the 2 percent in either of the instances the gentleman cited, National Aeronautics and Space Administration and the National Science Foundation, will we be spending less in fiscal year 1991 than in 1990?

Mr. GREEN of New York. I know we will not in the space program. I will do the calculations for the National Science Foundation program, although I would rather doubt it there.

Again, as the gentleman knows, the President wants to double the funding for the National Science Foundation over a 5-year period. Again, we have undertaken a lot of things which are now wrapping us up as we knew when we voted for them last year in the NASA program, most notably the space station. It seems to me the cuts the gentleman will want to make will be very destructive. We have already gone well under what the President requested on both of these items. I hope my colleagues will not cut requests further.

Mr. PENNY. If the gentleman will continue to yield, the second question I have, given the fact my amendment could reduce in total somewhat less than $1 million in appropriations from this bill, could the gentleman share with the membership the dollar amount, the difference between the appropriated level in fiscal year 1990 and fiscal year 1991?

□ 1500

Mr. GREEN of New York. The dollar difference in this bill?

Mr. PENNY. As compared to fiscal year 1990.

Mr. GREEN of New York. There are a lot of different items, as the gentleman knows, as between outlays.

Mr. PENNY. Is it true the increase is somewhere in the neighborhood of $12 billion, and my amendment would cut maybe $1 billion?

Mr. GREEN of New York. Mr. Chairman, I think the gentleman is absolutely correct in that. I think the gentleman ought to understand that of that $12 billion, to use his number, $7 billion in budget authority simply deals with the fact that section 8 existing housing contracts and other similar contracts are expiring.

Mr. PENNY. Yes.

Mr. GREEN of New York. They have to be replaced or those families will get evicted because they cannot afford the rent. The President requested that, Secretary Kemp has requested that, and if the gentleman is requesting that we ought to cut 2 percent out of that, then he is simply saying that we are going to be throwing some families out of the street because we are not going to provide the full amount of money the President requested and that Secretary Kemp said is necessary.

Mr. PENNY. Mr. Chairman, I appreciate that observation, and it is for that reason that I exempted those section 8 housing programs from my cut.

Ms. OAKAR. Mr. Chairman, I move to strike the requisite number of

words, and I rise in opposition to the amendment.

Mr. Chairman, I hope that the Members know that if we cut these programs, we are cutting the homeless program. We have had hearings, for example, relative to HUD on community development, and the U.S. Conference of Mayors has been telling us we are not doing our share in terms of attacking urban problems. They say we not only cut section 8 but we are going to cut all the other housing programs and we are going to cut community development.

We already eliminated revenue sharing. How can we expect these urban problems to be allayed if we do not at least meet the request of the committee? I think the committee has done a very fine job. Yet I am disappointed that the space station, for example, is not fully funded. However, I go along with the subcommittee chairman in trying to work it out. He has decreased the funds, I understand, by millions of dollars from the original request by the administration for NASA.

We cannot afford to cut Veterans Affairs, the Environment Protection Agency, and the areas of HUD that attack our urban problems any further.

So, Mr. Chairman, I strongly urge the Members not to be tempted to cut this budget any further, and I hope we will defeat this amendment.

Mr. Chairman, I wish to express my views on the fiscal year 1991 appropriations bill for VA/HUD/IA, including the National Aeronautics and Space Administration.

In today's budget climate, it is more difficult that ever before to find adequate funding for major scientific initiatives. We must commit ourselves to do all that is necessary to ensure that Space Station *Freedom* is developed. I plan to work with my colleagues to ensure that full funding for the Space Station Program is obtained if our current budget summit discussions make additional moneys available.

I know what a difficult job the House Appropriations Committee faced when deciding on the cuts to the VA/HUD/IA bill. It is unfortunate they were unable to fully fund the Space Station *Freedom;* however, I support their efforts.

After 20 years of declining budgets, America has renewed its commitment to space. President Bush proposed an increase in the fiscal year 1991 NASA budget. Today it is our turn to express to the citizens across this country our commitment to space exploration and development. One of the foundations of assuring U.S. leadership in space is to provide the funds needed to allow NASA to continue development of the Space Station *Freedom.*

The Lewis Research Center located in Cleveland, OH, was once threatened with closure due to cuts in the NASA budget during 1980–81. Today it plays a major role in many important NASA programs, most notably Space Station *Freedom.* Lewis is developing the electrical power system for the station, which will allow important experiments to be conducted; sensor observations to be powered; and astronaut habitats to be supported. Without power the Space Station *Freedom* could not be used. In fact, the House Appropriations Committee took particular note of the importance of power in the report accompanying this bill.

I am very proud of the work being conducted at the Lewis Center, where significant progress has been made on the development and testing of power hardware. I am particularly impressed with the newly constructed space power lab and the recent solar dynamic hardware test. An outgrowth of the Department of Energy's terrestrial solar energy program, solar dynamic power is key to our Nation's energy security in the next century. I believe continued investment in this technology is prudent. The United States is the only country to have developed this new power technology and I believe it will keep America competitive.

Solar dynamic power will also provide a space station with a more efficient source of power and one which offers life cycle cost savings over the 30-year life of the station of $4.8 billion. Recent studies have also shown that solar dynamic power is a cheaper way to grow beyond 75 kw than photovoltaic power.

Space Station *Freedom* is absolutely essential to the U.S. future in space because it is central to our plans for Earth observation, space research, applications, technology development, and exploration in the coming decades. Moreover, it is a key investment in the technological and economic future of the United States. Technology derived from *Freedom*'s development and operation will enable continued U.S. leadership in new products and processes. This, in turn, will lead to increased employment, an improved balance of trade, and sustained economic growth.

I strongly believe that Space Station *Freedom* will sharpen our national competitiveness and economic strength. The U.S. technology base must constantly be reinvigorated with new research and development efforts. We need the space station if we are to stay competitive in the coming decades.

In addition, Space Station *Freedom* will revitalize and capture the imaginations of our young people in math and science. Our children will enter demanding fields like science and engineering only if we nurture their interest while they are young and sustain it as they grow older. Space Station *Freedom* has already started to do this and I believe it will grow in its influence over our children as the program matures.

The National Science Foundation estimates a shortage of some 67,500 scientists and engineers by the year 2000. This phenomenon is driven by the following factors: the increase in the need for specialized workers as contrasted with decreases in the number of college students opting to prepare for science and engineering careers; a stalemate in the science proficiency of the Nation's young people; and the continued underrepresentation of science and mathematics education training programs of minorities and women who will constitute the bulk of the work force by the year 2000.

In the year 2000, 85 percent of the new entrants to the Nation's work force will be members of minority groups and women. Studies prove that children start to become engineers, scientists, or science literate before grade three. I work closely with the aerospace industry and NASA to increase the number of programs which reach out to teachers and minority students in the kindergarten through eighth grade educational pipeline.

Investment in the NASA budget does not just result in major accomplishments in space—the benefits here on planet Earth are just as great, if not greater.

Again, I hope that working with our Senate colleagues, we will be able to fully fund Space Station *Freedom.*

Mr. TRAXLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. MFUME. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I am pleased to yield to the gentleman from Maryland.

Mr. MFUME. Mr. Chairman, I rise in opposition to the amendment.

Mr. TRAXLER. Mr. Chairman, this amendment would reduce the National Science Foundation, it would reduce NASA, and it would reduce HUD. It is unacceptable. Already this bill is some $700 million below the President in outlays.

This is the third bill on which this amendment has been offered. It has filed on each and every one of them.

Mr. Chairman, this is a vital bill. The Members all know the importance of it to their constituencies. I encourage a no vote on this amendment.

Mr. APPLEGATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I may just take a few minutes, I would like to ask the sponsor of the amendment a question with regard to the veterans programs.

Will any of the entitlement programs be affected?

Mr. PENNY. Mr. Chairman, if the gentleman will yield, no entitlement programs are affected by the amendment; it is only discretionary accounts.

Mr. APPLEGATE. How many full-time employees will be lost by this 2-percent cut?

Mr. PENNY. Within the Department of Veterans Affairs?

Mr. APPLEGATE. Yes.

Mr. PENNY. I do not have that number for the gentleman, but since this would apply to the bureaucratic structure of the Department, if this bill provided, let us say, a 5-percent increase in appropriations for that staffing level, it would be a 3-percent increase after the effect of my amendment were felt.

Mr. APPLEGATE. But the amendment will cause some loss of full-time employees?

Mr. PENNY. It does not necessarily cause a loss in staffing. It depends on what the funding level is for the bureaucracy at the Department. Off-

hand, I do not have that number for the gentleman.

Mr. APPLEGATE. Mr. Chairman, the reason I mentioned that is the fact that we have been fighting to increase the number of full-time employees because they have been decreasing over the years, thereby extending the amount of time veterans have in order to get their benefits, and it has been entirely too long.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PENNY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 172, noes 235, not voting 25, as follows:

[Roll No. 209]

AYES—172

Andrews	Grandy	Payne (VA)
Archer	Guarini	Penny
Armey	Gunderson	Petri
Baker	Hall (OH)	Pickle
Ballenger	Hamilton	Porter
Barnard	Hammerschmidt	Ray
Bartlett	Hancock	Rhodes
Bateman	Hansen	Ridge
Beilenson	Hastert	Roberts
Bennett	Hefley	Robinson
Bereuter	Henry	Rogers
Bliley	Herger	Rohrabacher
Broomfield	Hiler	Roth
Brown (CO)	Hoagland	Roukema
Bunning	Hopkins	Rowland (CT)
Burton	Houghton	Russo
Byron	Huckaby	Saxton
Callahan	Hughes	Schaefer
Campbell (CA)	Hunter	Schroeder
Campbell (CO)	Hyde	Sensenbrenner
Chandler	Inhofe	Shaw
Clement	Ireland	Shays
Clinger	Jacobs	Shumway
Coble	Johnson (CT)	Shuster
Coleman (MO)	Jones (NC)	Slattery
Condit	Jontz	Slaughter (NY)
Cooper	Kaptur	Slaughter (VA)
Courter	Kasich	Smith (NE)
Cox	Kolbe	Smith, Denny (OR)
Craig	Kyl	Smith, Robert (NH)
Crane	Lagomarsino	Smith, Robert (OR)
Dannemeyer	Lancaster	Snowe
Darden	Leach (IA)	Stallings
DeLay	Lehman (CA)	Stangeland
DeWine	Lightfoot	Stearns
Dickinson	Livingston	Stenholm
Dorgan (ND)	Long	Stump
Dornan (CA)	Lukens, Donald	Sundquist
Douglas	McCandless	Tauke
Dreier	McCollum	Tauzin
Duncan	McCrery	Thomas (CA)
Dyson	McCurdy	Thomas (WY)
Edwards (OK)	McEwen	Udall
English	McMillan (NC)	Upton
Fawell	Meyers	Vander Jagt
Fields	Michel	Vucanovich
Fish	Miller (OH)	Walgren
Frenzel	Miller (WA)	Walker
Gallegly	Moody	Walsh
Gallo	Moorhead	Weber
Gekas	Morrison (WA)	Weldon
Geren	Murphy	Whittaker
Gibbons	Neal (NC)	Wolf
Gillmor	Olin	Wylie
Gingrich	Oxley	
Glickman	Packard	
Goodling	Parris	
Goss	Pashayan	
Gradison	Patterson	

NOES—235

Ackerman	Hawkins	Perkins
Alexander	Hayes (IL)	Pickett
Anderson	Hayes (LA)	Poshard
Annunzio	Hefner	Price
Anthony	Hertel	Pursell
Applegate	Hochbrueckner	Quillen
Aspin	Holloway	Rahall
Atkins	Horton	Rangel
AuCoin	Hoyer	Ravenel
Bates	Hubbard	Regula
Bentley	Hutto	Richardson
Berman	James	Rinaldo
Bevill	Johnson (SD)	Ritter
Bilbray	Johnston	Roe
Bilirakis	Jones (GA)	Ros-Lehtinen
Boehlert	Kanjorski	Rose
Boggs	Kastenmeier	Rostenkowski
Bonior	Kennedy	Rowland (GA)
Borski	Kennelly	Roybal
Bosco	Kildee	Sabo
Boucher	Kleczka	Saiki
Boxer	Kolter	Sangmeister
Brennan	Kostmayer	Sarpalius
Brooks	LaFalce	Savage
Browder	Lantos	Sawyer
Brown (CA)	Laughlin	Scheuer
Bruce	Leath (TX)	Schiff
Bryant	Lehman (FL)	Schneider
Buechner	Lent	Schuette
Cardin	Levin (MI)	Schumer
Carper	Levine (CA)	Serrano
Carr	Lewis (CA)	Sharp
Chapman	Lewis (FL)	Sikorski
Clarke	Lewis (GA)	Sisisky
Clay	Lipinski	Skaggs
Coleman (TX)	Lloyd	Skeen
Collins	Lowery (CA)	Skelton
Conte	Lowey (NY)	Smith (IA)
Costello	Machtley	Smith (NJ)
Coughlin	Madigan	Smith (TX)
Coyne	Markey	Smith (VT)
Davis	Marlenee	Solarz
DeFazio	Matsui	Solomon
Dellums	Mavroules	Spence
Derrick	Mazzoli	Spratt
Dicks	McCloskey	Staggers
Dingell	McDade	Stokes
Dixon	McDermott	Studds
Downey	McGrath	Swift
Durbin	McHugh	Synar
Dwyer	McMillen (MD)	Tallon
Dymally	McNulty	Tanner
Early	Mfume	Taylor
Eckart	Miller (CA)	Thomas (GA)
Edwards (CA)	Mineta	Torres
Emerson	Molinari	Torricelli
Engel	Mollohan	Towns
Erdreich	Montgomery	Traficant
Espy	Morella	Traxler
Evans	Mrazek	Unsoeld
Fascell	Murtha	Valentine
Fazio	Myers	Vento
Flake	Nagle	Visclosky
Flippo	Natcher	Volkmer
Foglietta	Neal (MA)	Washington
Ford (MI)	Nowak	Watkins
Ford (TN)	Oakar	Waxman
Frank	Oberstar	Weiss
Gaydos	Obey	Wheat
Gejdenson	Ortiz	Whitten
Gephardt	Owens (NY)	Wise
Gilman	Owens (UT)	Wolpe
Gonzalez	Pallone	Wyden
Gordon	Panetta	Yates
Grant	Parker	Yatron
Gray	Paxon	Young (AK)
Green	Payne (NJ)	Young (FL)
Harris	Pease	
Hatcher	Pelosi	

NOT VOTING—25

Barton	Hall (TX)	Nelson
Bustamante	Jenkins	Nielson
Combest	Luken, Thomas	Schulze
Conyers	Manton	Smith (FL)
Crockett	Martin (IL)	Stark
de la Garza	Martin (NY)	Williams
Donnelly	Martinez	Wilson
Feighan	Moakley	
Frost	Morrison (CT)	

□ 1524

The Clerk announced the following pairs:

On this vote:

Mrs. Martin of Illinois for, with Mr. Moakley against.

Mr. Schulze for, with Mr. Bustamante against.

Messrs. LOWERY of California, HUTTO, PAXON, and OWENS of Utah changed their vote from "aye" to "no."

Ms. KAPTUR changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WEISS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to commend Chairman TRAXLER and the other members of the subcommittee for restoring needed support for our veterans' health care system. H.R. 5158 raises spending levels above this year's level for veterans' care, compensation and pensions, health facilities, and mortgage loans.

As we adopt this important piece of legislation, however, I want to note that we have still not addressed one very serious problem many Vietnam veterans face; our failure to provide benefits for veterans who have certain diseases connected to their exposure to agent orange—the toxic herbicide used in Vietnam.

Our Government sent millions of young Americans to fight an unpopular war under the most difficult conditions. While serving their country, many of them were exposed to toxic chemicals sprayed by U.S. forces. When they began to contract illnesses and when they began to give birth to infants with birth defects as a result of their exposure to agent orange, Vietnam veterans sought compensation for their suffering. They asked for justice, but instead, had their claims rejected and had scientific studies of their illnesses fraudulently manipulated by White House officials on a mission to reduce Government spending.

The Federal Government continues to insist that agent orange exposure cannot be assessed, despite evidence to the contrary. Testimony before the Subcommittee on Human Resources and Intergovernmental Relations, which I have the privilege of chairing, has repeatedly provided such evidence, most recently this past Tuesday by retired Adm. Elmo Zumwalt. The Department of Veterans Affairs continues to deny the vast majority of more than 30,000 claims by veterans with diseases associated with dioxin, the chemical contaminant in agent orange.

Our colleague, LANE EVANS, has introduced a bill to provide benefits for Vietnam veterans who have contracted diseases related to agent orange expo-

sure. After hearings were held, however, the Department of Veterans Affairs asked that the bill be stalled until further studies are completed. That tune has become stale and is wasting lives.

Our deserving veterans have waited long enough. The way the Government has treated these veterans is the ultimate affront to brave men and women who fought and died in combat on foreign soil, and who die yet today from their exposure to toxic chemicals two decades ago.

□ 1530

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the measure.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991".

Mr. GREEN of New York. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before the House concludes with this bill, I just want to pay tribute to the distinguished chairman of the subcommittee. As I said at the outset, this is a very complicated bill. It involves agencies with very complicated financing mechanisms, and the mastery which in just 1½ years the chairman has developed with all of these programs and all of these agencies is really extraordinary, and I commend him for bringing us thus far so well.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, it could not be possible without the gentleman's help and the help of the members of the subcommittee. For that I am very grateful.

Mr. GREEN of New York. My chairman is very kind.

Mr. TRAXLER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. KILDEE] having assumed the chair, Mr. BEILENSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with an amendment, with the recommendation that the amendment be agreed to, and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 355, nays 48, answered "present" 3, not voting 26, as follows:

[Roll No. 210]

YEAS—355

Ackerman	Clinger	Gallo
Alexander	Coble	Gaydos
Anderson	Coleman (MO)	Gejdenson
Andrews	Coleman (TX)	Gephardt
Annunzio	Collins	Geren
Anthony	Conte	Gibbons
Applegate	Cooper	Gillmor
Aspin	Costello	Gilman
Atkins	Coughlin	Gingrich
AuCoin	Courter	Glickman
Baker	Coyne	Gonzalez
Ballenger	Craig	Goodling
Barnard	Darden	Gordon
Bateman	Davis	Goss
Bates	DeFazio	Grandy
Bennett	Dellums	Grant
Bentley	Derrick	Gray
Bereuter	DeWine	Green
Berman	Dickinson	Guarini
Bevill	Dicks	Gunderson
Bilbray	Dingell	Hall (OH)
Bilirakis	Dixon	Hamilton
Bliley	Dorgan (ND)	Hammerschmidt
Boehlert	Dornan (CA)	Hansen
Boggs	Downey	Harris
Bonior	Dreier	Hastert
Borski	Durbin	Hatcher
Bosco	Dwyer	Hawkins
Boucher	Dymally	Hayes (IL)
Boxer	Early	Hayes (LA)
Brennan	Eckart	Hefley
Brooks	Edwards (CA)	Hefner
Broomfield	Edwards (OK)	Hertel
Browder	Emerson	Hiler
Brown (CA)	Engel	Hoagland
Brown (CO)	English	Hochbrueckner
Bruce	Erdreich	Holloway
Bryant	Espy	Horton
Buechner	Evans	Houghton
Burton	Fascell	Hoyer
Callahan	Fazio	Hubbard
Campbell (CO)	Feighan	Huckaby
Cardin	Fish	Hughes
Carper	Flake	Hunter
Carr	Flippo	Hutto
Chandler	Foglietta	Hyde
Chapman	Ford (MI)	Inhofe
Clarke	Ford (TN)	Ireland
Clay	Frank	James
Clement	Gallegly	Johnson (SD)
Johnston	Murtha	Skaggs
Jones (GA)	Myers	Skeen
Jones (NC)	Nagle	Skelton
Jontz	Natcher	Slattery
Kanjorski	Neal (MA)	Slaughter (NY)
Kasich	Neal (NC)	Slaughter (VA)
Kastenmeier	Nowak	Smith (IA)
Kennedy	Oakar	Smith (NE)
Kennelly	Oberstar	Smith (NJ)
Kildee	Obey	Smith (TX)
Kleczka	Ortiz	Smith (VT)
Kolbe	Owens (NY)	Smith, Denny (OR)
Kolter	Owens (UT)	Smith, Robert (OR)
Kostmayer	Oxley	Snowe
LaFalce	Pallone	Solarz
Lagomarsino	Panetta	Solomon
Lancaster	Parker	Spence
Lantos	Parris	Spratt
Laughlin	Pashayan	Staggers
Leach (IA)	Patterson	Stallings
Leath (TX)	Paxon	Stangeland
Lehman (CA)	Payne (NJ)	Stearns
Lehman (FL)	Payne (VA)	Stenholm
Lent	Pelosi	Stokes
Levin (MI)	Perkins	Studds
Levine (CA)	Porter	Sundquist
Lewis (FL)	Poshard	Swift
Lewis (GA)	Price	Synar
Lightfoot	Pursell	Tallon
Lipinski	Quillen	Tanner
Livingston	Rahall	Tauzin
Lloyd	Rangel	Taylor
Long	Ravenel	Thomas (CA)
Lowery (CA)	Ray	Thomas (GA)
Lowey (NY)	Regula	Torres
Machtley	Rhodes	Torricelli
Madigan	Richardson	Towns
Markey	Ridge	Traficant
Marlenee	Rinaldo	Traxler
Martin (NY)	Ritter	Udall
Matsui	Roe	Unsoeld
Mavroules	Rogers	Valentine
Mazzoli	Ros-Lehtinen	Vander Jagt
McCandless	Rose	Vento
McCloskey	Rostenkowski	Visclosky
McCollum	Roth	Volkmer
McCrery	Roukema	Vucanovich
McCurdy	Rowland (CT)	Walgren
McDade	Rowland (GA)	Walsh
McDermott	Roybal	Washington
McGrath	Sabo	Watkins
McHugh	Saiki	Waxman
McMillen (MD)	Sangmeister	Weber
McNulty	Sarpalius	Weiss
Meyers	Savage	Weldon
Mfume	Sawyer	Wheat
Miller (CA)	Saxton	Whittaker
Miller (OH)	Schaefer	Whitten
Miller (WA)	Scheuer	Wise
Mineta	Schiff	Wolf
Moakley	Schneider	Wolpe
Molinari	Schroeder	Wyden
Mollohan	Schumer	Wylie
Montgomery	Serrano	Yates
Moody	Sharp	Yatron
Morella	Shaw	Young (AK)
Morrison (WA)	Shays	Young (FL)
Mrazek	Sikorski	
Murphy	Sisisky	

NAYS—48

Archer	Gradison	Pickett
Armey	Hancock	Roberts
Bartlett	Henry	Rohrabacher
Beilenson	Herger	Russo
Bunning	Hopkins	Sensenbrenner
Byron	Jacobs	Shumway
Campbell (CA)	Johnson (CT)	Shuster
Cox	Kyl	Smith, Robert (NH)
Crane	McEwen	Stump
Dannemeyer	McMillan (NC)	Tauke
DeLay	Michel	Thomas (WY)
Douglas	Moorhead	Upton
Duncan	Olin	Walker
Fawell	Packard	Williams
Fields	Pease	
Frenzel	Penny	
Gekas	Petri	

ANSWERED "PRESENT"—3

Condit	Dyson	Kaptur

NOT VOTING—26

Barton	Combest	Crockett
Bustamante	Conyers	de la Garza

Donnelly	Manton	Robinson
Frost	Martin (IL)	Schuette
Hall (TX)	Martinez	Schulze
Jenkins	Morrison (CT)	Smith (FL)
Lewis (CA)	Nelson	Stark
Luken, Thomas	Nielson	Wilson
Lukens, Donald	Pickle	

□ 1551

The Clerk announced the following pairs:

On this vote:

Mr. Nelson for, with Mrs. Martin of Illinois against.

Mr. Lewis of California for, with Mr. Nielson of Utah against.

Mr. PEASE changed his vote from "yea" to "nay."

Mr. SLAUGHTER of Virginia changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SMITH of Florida. Mr. Speaker, I was delayed off the Hill on the previous vote, rollcall 210, the final passage of the HUD appropriations. Mr. Speaker, if I had been here, I would have voted in the affirmative.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I regret that I was unavoidably absent from the House today and missed a total of five rollcall votes on H.R. 5158, the bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and independent agencies. I would have voted "yea" on rollcall 205, which occurred on House Resolution 426, the rule for H.R. 5158. I would have voted "no" on rollcall votes 207, 208, and 209, which occurred on the amendments to H.R. 5158 offered by Mr. FRENZEL, Mr. DANNEMEYER, and Mr. PENNY, respectively. Finally, I would have voted "yea" on rollcall 210, which occurred on passage.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "aye" on rollcall No. 205 and "nay" on rollcalls Nos. 207, 208, and 209.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, I was unavoidably detained during House consideration of the Dannemeyer amendment to H.R. 5158, the VA, HUD, appropriations bill. Had I been present, I would have voted "no" on rollcall 208.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL THE WEEK OF JULY 2, 1990, TO FILE REPORTS ON H.R. 2647 and H.R. 2926

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be granted permission to have until the week of July 2, 1990 to file its report on H.R. 2647, the Coastal Defense Initiative, and H.R. 2926, the Dolphin Protection Act, during the week of July 2, 1990.

I am advised there is no objection to this request by the minority.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

FURTHER MESSAGE FROM THE PRESIDENT

A further message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

CHILD NUTRITION ACT AMENDMENTS

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the bill (H.R. 5149) to amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amounts returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from California [Mr. MILLER] so that he can explain his request.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding. I would say to the Members of the House this is legislation introduced by our colleague, the gentleman from Ohio [Mr. HALL], that will allow the State WIC directors to borrow up to 3 percent of their next year's appropriation for the purpose of continuing the WIC program throughout the rest of this fiscal year, and be able to provide a full program for women and children that are on this critical program, to improve healthy pregnancies and healthy children and to make sure that we do not have to continue to knock people off, and that some of the people that have been knocked off of this program because of increased costs due to food price increases can be restored to this program.

This has been cleared with the chairman of the Education and Labor Committee, Mr. HAWKINS, with the chairman of the Appropriations Committee, Mr. WHITTEN, with the members of the minority, Mr. GINGRICH, Mr. MICHEL, Mr. GOODLING, and my understanding is that the White House has also signed off on this legislation.

Mr. Speaker, I will have an amendment that will address some of the concerns that were raised by OMB, by the Senate and others to make sure that we have tight fiscal controls on this program, and that this program will not be used to expand the program, that these monies would not be used to expand the program, but simply to maintain the caseload that we have experienced throughout 1990.

Mr. GOODLING. Further reserving the right to object, I do so to yield to the gentleman from Ohio [Mr. HALL] so that he might further indicate the necessity for this move.

I rise in strong support of this bill. I want to thank Chairman HAWKINS for bringing this emergency legislation to the floor.

This bill is about children. It's about protecting children from anemia and malnutrition. In some cases, it's about saving their lives.

Mr. Speaker, the Special Supplemental Feeding Program for Women, Infants, and Children, known as the WIC program, is our first line of defense against infant mortality, low birthweight, malnutrition, and anemia in American children. Studies have shown that every dollar spent on WIC saves $3 in future health care costs.

Back in April, the Select Committee on Hunger conducted a State-by-State survey of WIC administrators, which revealed a nationwide shortfall, affecting 34 States, and totalling $67 million. Worst of all, we found that more than half the States were beginning to actually drop eligible women and children from their programs.

A new survey by the National Association of WIC Directors shows that more than a quarter of a million women and children are currently being forced off the program.

Mr. Speaker, H.R. 5149 provides a short-term solution to this problem, by allowing States to borrow up to 5 percent of next year's appropriation for use during this fiscal year to address the shortfall problem. Current law allows States to borrow up to 1 percent. My bill simply raises the ceiling from 1 percent to 5 percent. I want to emphasize that this legislation is not designed to fund caseload expansion during this year. It's designed to allow States to put women and children who had been eliminated from the program back on the program rolls, or to prevent caseload reduction.

This bill won't solve all of WIC's problems. I realize that we're going to have to adjust the fiscal year 1991 appropriation for WIC to reflect the fact that we're spending it in 1990. I hope to work with my colleagues on the Appropriations Committee on that in the next few weeks.

But we'll never be able to really solve the problem until we recognize this fact: WIC ought to be available to everybody who needs it.

I don't understand how we can have a program that is as beneficial as WIC is, as effective as WIC is, as cost efficient as WIC is, and deny it to the people who need it. I don't understand how we can bail out the S&L administrators—at a cost of $300 billion—and we can't find a fraction of that money to feed hungry children. I know money's tight, but, as the saying goes, it's hard to tighten your belt when you're wearing diapers.

We don't send only half our children to school, we don't give only half our children clothing or shelter. There's no reason that only half of the children eligible for WIC should get a nutritious diet.

I supported an increase of $150 million in the budget for WIC for next year because I believe WIC should be expanded. But it's pretty clear to me now that expanding WIC is going to cost more than $150 million. I think it's worth it. I think it's high time we made the health of our most vulnerable children a national priority.

Mr. Speaker, this bill was reported out of the Education and Labor Committee with bipartisan support. It's been endorsed by groups as diverse as the Children's Defense Fund and the National Right to Life, Bread for the World, the Center on Budget and Policy Priorities, and the Food Research and Action Center, the Coalition on Human Needs. It deserves the support of the House of Representatives.

Finally, Mr. Speaker, I want to thank my colleagues who helped move this emergency bill through so quickly. You know, the Hunger Committee is not a legislative committee, so we have to depend on our friends in the authorizing and appropriating committees to help us with our issues. I'm very grateful to Chairman HAWKINS of the Education and Labor Committee for moving this bill through the Education and Labor Committee so quickly, and Mr. GOODLING, whose advice and modifications helped expedite the process. I'm extremely grateful to my good friend GEORGE MILLER, chairman of the Select Committee on Children, Youth, and Families for carrying this bill through the committee process. Congresswoman BOXER held a crucial public hearing on this issue in the Budget Committee today that helped to move this legislation along.

I must say, Mr. Speaker, I've been a Member of the House for nearly 12 years, and it's very rare that you see legislation move so quickly. I think that's a testament to the effectiveness of the WIC Program. I'm proud of this House for reacting to this crisis so promptly. If we pass this bill today, and get quick action in the Senate and by the administration, we'll be able to put these kids back on the program before any permanent damage is done. I urge my colleagues to support this bill and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I want to thank the gentleman from Pennsylvania for yielding to me, and I sincerely say that because he has played a major role in helping move this bill.

Mr. GOODLING. Further reserving the right to object, I shall not object, but I do want to point out in the amendment that will be offered by the gentleman from California, I want to specifically make sure that everyone understands particularly on my side section (F) which says,

Each State agency which intends to use the authority provided in (E) shall request approval from the Secretary in advance and shall submit a plan showing how the State's caseload will be managed to meet funding limitations. The Secretary shall review and make determinations on such plans on an expedited basis.

Then (G) says, "No State can use the authority provided under (E) to increase the caseload level above the highest level to date in fiscal year 1990."

We are not asking for permanent changes. We are saying that we have an emergency for many reasons, the freeze in relationship to oranges or orange juice, the lack of available milk because of surpluses not being available, all these things which have caused the cost of the package to increase dramatically and, therefore, this is necessary.

Mr. FAZIO. Mr. Speaker, I strongly support H.R. 5149, the WIC Services Restoration Act and I commend three of my colleagues for their outstanding leadership on this issue. Congressman TONY HALL, chairman of the Select Committee on Hunger, and Congressman GEORGE MILLER, chairman of the Select Committee on Children, Youth, and Families, have worked tirelessly on behalf of this legislation and the WIC Program. Congressman JAMIE WHITTEN, chairman of the House Appropriations Committee and the chairman of the panel's Agriculture Subcommittee, and his subcommittee staff, deserve our sincere thanks for their efforts to work out a solution to this crisis in the WIC Program. Chairman WHITTEN's assistance with this legislation was vital to its prompt consideration.

Over the years, the Special Supplemental Feeding Program for Women, Infants, and Children, or WIC, has helped to safeguard the health of pregnant and nursing women, infants, and children who are nutritionally at risk because of inadequate nutrition and income. Numerous studies have shown that WIC is both a worthwhile and cost-effective program. For example, an extensive medical evaluation of WIC by USDA demonstrated that WIC contributed to a reduction of 20 to 33⅓ percent in late fetal death rate. Furthermore, women who participate in WIC were shown to have longer pregnancies leading to fewer premature births. Another study conducted by the Harvard School of Public Health found that WIC reduced the incidence of low birthweight and that each dollar spent on the prenatal component of WIC averts $3 spent in hospitalization costs.

Unfortunately, unexpected increases in consumer prices of key foods in the WIC package, such as milk, cereal, and juice, have resulted in budgetary shortfalls in more than half of State WIC programs. According to a survey conducted by the National Association of WIC Directors, WIC participation in 25 States would have to be cut by almost 250,000 by the end of September unless some type of action is taken. In my own State of California, 36,000 individuals will be dropped from participation in the program.

H.R. 5149 seeks to address this shortfall by allowing States to borrow against future funding in order to bring caseloads to their pre-crisis levels. Under current law, States have the ability to borrow up to 1 percent of future appropriations during a current fiscal year. H.R. 5149 simply raises that ceiling from 1 percent to 5 percent for the current year.

WIC represents an extremely worthwhile Federal investment in our Nation's future. I urge my colleagues to support this much-needed legislation as well as increased funding when we consider the fiscal year 1991 agriculture appropriations legislation.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill as follows:

H.R. 5149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE CHILD NUTRITION ACT OF 1966.

Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended—

(1) in paragraph (1), by adding at the end the following: "In the fiscal year 1991, the Secretary may not adjust the allocation to any State agency under this subsection solely on the basis of the return by such agency during the fiscal year 1990 of any amounts allocated to such agency under this subsection for such fiscal year."; and

(2) in clause (i) of paragraph (3)(A), by inserting before the semicolon the following: "and a State agency may expend, from the amount of funds allocated to such agency for supplemental foods for the fiscal year 1991, the amount necessary to cover expenses incurred in the fiscal year 1990 for purposes of continuing to provide services under the program during the fiscal year 1990 at the level at which such services were being provided on March 1, 1990".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MILLER of California: Strike all after the enacting clause and insert the following:

SECTION 1. AMENDMENT TO THE CHILD NUTRITION ACT OF 1966.

Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended at the end thereof by adding new subparagraphs (3) (E), (F) and (G) which read:

"(E) Notwithstanding any other provision in this paragraph and paragraph (2) a State agency may, subject to the approval of the Secretary under (F), expend not more than 3 percent of the amount of funds allocated to such agency for supplemental foods for the fiscal year 1991 for expenses incurred under this section for supplemental foods during the fiscal year 1990.

"(F) Each State agency which intends to use the authority provided in (E) shall request approval from the Secretary in advance and shall submit a plan showing how the State's caseload will be managed to meet funding limitations. The Secretary shall review and make determinations on such plans on an expedited basis.

"(G) No State can use the authority provided under (E) to increase the caseload level above the highest level to date in fiscal year 1990."

□ 1600

Mr. MILLER of California (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. MILLER].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5149, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONSIDERATION OF THE AMERICANS WITH DISABILITIES ACT

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I received a letter today from Douglas Vollmer, associate executive director for government relations of the Paralyzed Veterans of America. It said in the second paragraph, "To delay and possibly even thwart passage of this much-needed legislation," referring to the Americans With Disabilities Act, "due to an amendment that is predicated upon ignorance and bias and fosters continued discrimination would be unconscionable." He was referring, of course, to the delay in the consideration of the Americans With Disabilities Act today.

I regret to inform the Members that it does not appear that the U.S. Senate is prepared to transfer the papers back to the House of Representatives this afternoon. As a result, I regret to inform the Members that we will not be considering the Americans With Disabilities Act this afternoon and, therefore, will not be considering it until after we return.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman, my friend from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, I want to reiterate the announcement that the gentleman from Maryland [Mr. HOYER] made. That is, there will not be a vote on the ADA this afternoon, that the ADA will be held off until after the recess.

Mr. Speaker, I want to commend the gentleman for that decision, on two bases. First of all, on process: It seems to me that the rules of the House which say that the other body needs to act first, in fact, rule No. 555, states rather explicitly that in all cases of conference asked after votes of disagreement the conferees of the House making it are to leave the papers with the conferees of the other.

We have had disputes informally during the course of the day as to whether those papers could somehow be transferred back to this House even though the other body is required under the House rules to act first.

It seems to me that had that happened, it would have been disruptive to the process and Members would not have had sufficient, adequate notification as to which body was going to act first.

Second, I would note that 79 out of 81 of the items in disagreement between the House and the Senate have been resolved by the conferees. The conference report has been signed by a majority of the conferees, all but two. I have signed the conference report; I believe it is a good conference report.

In fact, all of the items except two have been resolved and they have all been resolved in favor of the bill that the House wrote, by and large. I think that is to the credit of the four committees that acted.

I would say to the gentleman from Maryland there is still an item in dispute that is an item of substance. It does not affect most people who are affected by the ADA, it is not an issue that I believe should be involved in a disabilities act in any event, but others think it should be.

It is an item in dispute in substance regarding food handling, those with contagious diseases who handle food. It was the Chapman amendment. I want to note that the Chapman amendment passed this body on a rollcall vote. The other body instructed its conferees to accept the conference report, the Chapman amendment, in conference, on a rollcall vote.

The conferees, when they met, chose to disregard the will of the majority of both bodies and took it out.

I want to suggest to the gentleman that when we come back from recess when tempers have cooled a little bit, it seems to me that we could find a middle ground on the Chapman amendment, that we could find a middle ground that will in fact allow us to move forward as needs to happen on the Americans With Disabilities Act.

Mr. Speaker, I support the Americans With Disabilities Act. I believe it is long overdue, that we ought to pass it, that we will pass it this session.

I regret, as much as the gentleman from Maryland [Mr. HOYER] that the Chapman amendment has not yet been resolved. But I would suggest that items of substance ought to be resolved substantively by votes of both bodies and that what ought to happen is that we bring the Chapman amendment back to the conferees, perhaps back to the other body for a vote and debate so that we could resolve it on the substance and not based on procedure.

I would hope that right after the recess we would be able to resolve the Chapman amendment, bring it back, pass the ADA and declare independence for those with disabilities in this country.

I thank the gentleman for yielding.

Mr. HOYER. Mr. Speaker, reclaiming my time, I would observe only that the gentleman is, of course, reading from Jefferson's Manual, not from the Rules of the House.

Mr. BARTLETT. The gentleman is correct.

Mr. HOYER. As I understand it, either House can take up the conference committee report, which of course was suggested to be done to

move this very important legislation forward before Independence Day.

I think both the gentleman from Texas and I perceive this to be one of the major pieces of legislation that we will pass in this Congress on the independence for 43 million Americans. It is a shame that we have gotten mired in one amendment which the conference pretty handily rejected. But I understand the gentleman's position.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California [Mr. DANNEMEYER].

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I would like, if I may, to ask a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, if the Senate, when it takes up the conference report, would consider a motion to recommit the bill to conference because of the failure of the conferees to adopt the provision of both Houses on the Chapman amendment and that motion to recommit would be successful, would it then be in order, since the conferees are still in existence and in business, for the House to then consider a motion to instruct conferees on the Chapman amendment?

The SPEAKER pro tempore. The gentleman's conclusion is correct.

Mr. DANNEMEYER. I thank my colleague for yielding me this time.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. HOYER. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I have been listening to the discussion, and I understand now that we will not have the ADA bill up today.

Mr. HOYER. The gentleman is correct.

Mr. WALKER. It is my understanding that the only business left for the House is a motion to instruct conferees on clean air, and my understanding is that there is probably not going to be a vote on that. If the gentleman could tell us whether or not there is going to be any other business—I am not aware of any—we could let the Members go on home.

Mr. HOYER. Mr. Speaker, this gentleman from Maryland is looking for somebody who knows the answer to that question.

The SPEAKER. The Chair would interrupt, perhaps, to say that it is the Chair's intention to appoint conferees on the clean air bill immediately.

Mr. WALKER. If the gentleman will continue to yield so that I may pursue the question: If the motion to instruct is not going to a vote, that will be the final business of the day; is that my understanding?

The SPEAKER. That is my understanding.

Mr. WALKER. I thank the Speaker, and I thank the gentleman from Maryland.

Mr. HOYER. That is a much better answer with much more clarity than I would be able to give.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield further?

Mr. HOYER. I yield to the gentleman briefly.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, I would note, in addition to what was said earlier, it would be possible, but I think erroneous, for anyone to accuse the "other side" on the Chapman amendment of delaying the ADA. The fact is the Chapman amendment has not yet reached an agreement with a majority of both bodies. So while I could—but would not, it would be wrong—accuse the other side of delaying the ADA over the Chapman amendment and the other side could accuse me of delaying it, I think either of those conclusions would be incorrect. The fact is a legislative body has to reach some kind of a majority agreement on items of substance.

The Chapman amendment, with all of the unpleasant debate that goes on with it, is still in dispute. I believe firmly, before the month of July is out, we will reach an agreement on the substance of the Chapman amendment and at that point we will have an Americans With Disabilities Act that we will be proud of and, therefore, make a declaration of independence.

So for those who are concerned about delay, a delay at this time is not the fault of any one side or the other; it is just simply that there is an item remaining in dispute, but the ADA will be passed this session.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Speaker, I sincerely thank the gentleman from Maryland [Mr. HOYER] for the tremendous time and effort he has put in here. I am sure the gentleman feels very, very discouraged at this moment because we had so desperately wanted the Fourth of July to include independence for every American for the first time. That was a wonderful goal. The gentleman from Maryland [Mr. HOYER] should not feel bad. He has done everything he could to get it here.

My understanding is we could have even solved the Chapman amendment, at least on the House side, if we had gotten the papers, and the other body has not sent them.

So I thank the gentleman from Maryland. I know he has been scrambling all afternoon. Mr. Speaker, I am amazed he is looking so calm and cool, because he has tried everything he knows how to do except blast them out of the other body to get them over here.

I certainly think every American should salute the gentleman from Maryland [Mr. HOYER] and the effort he put in. How tragic it is that one more Fourth of July goes by where not everybody has full independence.

Mr. HOYER. I thank the gentlewoman from Colorado and yield back the balance of my time.

MOTION TO INSTRUCT HOUSE CONFEREES ON S. 1630, CLEAN AIR RESTORATION AND STANDARDS ATTAINMENT ACT OF 1989

Mr. LENT. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. LENT moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate bill, S. 1630, be instructed to maintain the environmental protections in the House amendment, achieve such protections in the most cost-effective way, and minimize the aggregate costs on the economy of such protections.

□ 1610

The SPEAKER. The gentleman from New York [Mr. LENT] is recognized for 30 minutes.

Mr. LENT. Mr. Speaker, I understand that House conferees for the Clean Air Act Amendments of 1990 will shortly be appointed today. I am pleased to hear that this step—which is obviously essential to getting the conference underway—will soon be taken. I appreciate the Speaker's action in this regard.

Given the importance of this legislation, I have been concerned over the length of time it has taken to designate our conferees. It has been a month since the House passed H.R. 3030. We were under intense pressure to deliver this bill to the floor before Memorial Day. And we did it! We congratulated each other and slapped each other on the back. But now I am concerned that our momentum has been stalled.

Even under the best of circumstances, this conference promises to be long and difficult. Losing a month serves to reduce, not increase, our chances of completing action on the President's clean air initiative before the 101st Congress adjourns. And yet, I believe that after 13 long years of stalemate and after all the hard work over the past year which has produced remarkable compromises, the only acceptable outcome this year is to send

the President a bill that he can sign. Regrettably, the delay makes this task more difficult.

My motion to instruct, however, should assist conferees in their efforts to fashion a bill that the House and the President will find acceptable. The motion instructs the conferees to: First, maintain the environmental protections in the House bill; second, achieve the environmental protections in the most cost-effective way; and third, minimize the aggregate costs on the economy of the environmental protections.

Mr. Speaker, in letters to the leadership of both the House and Senate, the President has indicated that these considerations are among the most important factors that he will use to decide whether he signs our final product. The President has stated that he will only sign a bill that is balanced and reasonable. The instructions in my motion will help ensure that result.

Mr. Speaker, this motion was shown to our majority on the committee; and some changes were made to accommodate concerns expressed. As far as we know, there are no objections.

In closing, Mr. Speaker, almost a year has passed since the President presented Congress with the challenge of passing his comprehensive clean air amendments. We have responded by pushing a fair and effective bill through the House. But, more work remains. The principles contained in my motion will help ensure that we send the President a bill he can sign. Accordingly, I urge my colleagues to support my motion.

The SPEAKER. The gentleman from California [Mr. WAXMAN] is recognized, if he so chooses, for 30 minutes.

Mr. WAXMAN. Mr. Speaker, we had an opportunity to review the proposal to instruct. I think it is consistent with the bill that was passed by the House of Representatives with regard to the Clean Air Act. We have no objections to those instructions.

The SPEAKER. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER. The question is on the motion to instruct conferees offered by the gentleman from New York [Mr. LENT].

The motion to instruct was agreed to.

APPOINTMENT OF CONFEREES ON S. 1630

The SPEAKER. The Chair appoints the following conferees, and without objection, reserves the authority to make additional appointments of conferees and to specify particular portions of the Senate bill and House amendment as the subject of the various appointments.

From the Committee on Energy and Commerce, for consideration of the Senate bill—except that portion of section 702 adding a new section 512(a) to the Clean Air Act—and the House amendment, and modifications committed to conference:

Messrs. DINGELL, SCHEUER, WAXMAN, SHARP, THOMAS A. LUKEN, SWIFT, SYNAR, TAUZIN, WYDEN, HALL of Texas, ECKART, SLATTERY, SIKORSKI, BOUCHER, ROWLAND of Georgia, MANTON, LENT, MADIGAN, MOORHEAD, DANNEMEYER, WHITTAKER, BLILEY, FIELDS, OXLEY, NIELSON of Utah, and BILIRAKIS.

From the Committee on Public Works and Transportation, for consideration of section 106 (g) and (h) of the Senate bill, and that portion of section 101(c) adding a new section 110(m) to the Clean Air Act, sections 101(f) and 102(g) of the House amendment, and modifications committed to conference:

Messrs. ANDERSON, ROE, MINETA, OBERSTAR, NOWAK, RAHALL, APPLEGATE, SAVAGE, BOSCO, BORSKI, KOLTER, VALENTINE, LIPINSKI, VISCLOSKY, TRAFICANT, LEWIS of Georgia, HAMMERSCHMIDT, SHUSTER, STANGELAND, CLINGER, MCEWEN, PETRI, PACKARD, BOEHLERT, LIGHTFOOT, and HASTERT.

From the Committee on Public Works and Transportation, for consideration of sections 103, 106(f), those portions of section 106(g) adding new sections 108(f) (3) and (4) to the Clean Air Act, those portions of section 107 adding new sections 183 (b)(4)(B) and (c)(1) to the Clean Air Act, that portion of section 108 adding a new section 189(a) to the Clean Air Act, 222, 226, and that portion of section 301 adding a new section 112(n) to the Clean Air Act of the Senate bill, and for sections 102 (d), those portions of section 103 adding new sections 182 (c)(5), (d)(1), and (e)(4) to the Clean Air Act, that portion of section 104 adding new section 187(a)(2) to the Clean Air Act, 108(a) and that portion of section 301 adding a new section 112(n)(1) to the Clean Air Act of the House amendment, and modifications committed to conference:

Messrs. ANDERSON, ROE, MINETA, HAMMERSCHMIDT, and SHUSTER.

Except that, for consideration of that portion of section 301 adding a new section 112(n) to the Clean Air Act, of the Senate bill, and for consideration of that portion of section 301 adding a new section 112(n)(1) to the Clean Air Act, of the House amendment, Mr. NOWAK is appointed in lieu of Mr. MINETA, and Mr. STANGELAND is appointed in lieu of Mr. SHUSTER.

From the Committee on Ways and Means, for consideration of that portion of section 702 adding a new section 512(a) to the Clean Air Act of the Senate bill, and modifications committed to conference:

Messrs. ROSTENKOWSKI, GIBBONS, and ARCHER.

From the Committee on Ways and Means, for consideration of section 111 of the House amendment, and modifications committed to conference:

Messrs. ROSTENKOWSKI, FORD of Tennessee, DOWNEY, PEASE, and MATSUI, Mrs. KENNELLY, and Messrs. ANDREWS, COYNE, GIBBONS, PICKLE, RANGEL, STARK, JACOBS, JENKINS, GUARINI, RUSSO, ARCHER, VANDER JAGT, CRANE, FRENZEL, SCHULZE, GRADISON, THOMAS of California, MCGRATH, CHANDLER, and SHAW.

From the Committee on Ways and Means, for consideration of those portions of section 103 adding new sections 183 (e)(4), (e)(5), and 185 to the Clean Air Act, that portion of section 108 adding a new section 302(y) to the Clean Air Act, and that portion of section 401 adding a new section 401(b)(3) to the Clean Air Act, and section 802 of the House amendment, and modifications committed to conference:

Messrs. ROSTENKOWSKI, PICKLE, RANGEL, ARCHER, and VANDER JAGT.

Except that, for consideration of section 802 of the House amendment, Mr. GIBBONS is appointed in lieu of Mr. RANGEL.

From the Committee on Education and Labor, for consideration of section 303 of the Senate bill, and sections 112–114, and 302 of the House amendment, and modifications committed to conference:

Messrs. HAWKINS, FORD of Michigan, GAYDOS, CLAY, MILLER of California, MURPHY, KILDEE, WILLIAMS, MARTINEZ, OWENS of New York, HAYES of Illinois, PERKINS, SAWYER, PAYNE of New Jersey, and POSHARD, Mrs. UNSOELD, and Messrs. GOODLING, GUNDERSON, HENRY, and SMITH of Vermont, Mrs. ROUKEMA, and Messrs. FAWELL, BALLENGER, PETRI, GRANDY, and ROBINSON.

From the Committee on Interior and Insular Affairs, for consideration of section 112 of the Senate bill, and section 712 of the House amendment, and modifications committed to conference:

Messrs. UDALL, MILLER of California, LEVINE of California, YOUNG of Alaska, and CRAIG.

From the Committee on Merchant Marine and Fisheries, for consideration of section 112, that portion of section 301 adding a new section 112(n) to the Clean Air Act, 411 and 412 of the Senate bill, and that portion of section 103 adding a new section 183(f) to the Clean Air Act, that portion of section 301 adding a new section 112(n)(1) to the Clean Air Act, sections 712, 805, and 901(e) of the House amendment, and modifications committed to conference:

Messrs. JONES of North Carolina, STUDDS, TAUZIN, DAVIS, and SHUMWAY.

From the Committee on Science, Space, and Technology, for consideration of that portion of section 304 adding a new section 129(e)(7) to the Clean Air Act, sections 310, 408 and 1103 of the Senate bill, and titles IX

and X of the House amendment, and modifications committed to conference:

Mr. ROE, Mr. BROWN of California, Mrs. LLOYD, Messrs. GLICKMAN, VOLKMER, MCCURDY, MINETA, VALENTINE, TORRICELLI, STALLINGS, NOWAK, NAGLE, HAYES of Louisiana, COSTELLO, TANNER, BROWDER, WALKER, and SENSENBRENNER, Ms. SCHNEIDER, Messrs. BOEHLERT, LEWIS of Florida, MORRISON of Washington, PACKARD, and HENRY, Mrs. MORELLA, and Mr. CAMPBELL of California.

From the Committee on Science, Space, and Technology, for consideration of those portions of section 301 adding new sections 112 (n) and (r) to the Clean Air Act of the Senate bill, and those portions of section 301 adding new sections 112 (i) and (n)(1) to the Clean Air Act of the House amendment, and modifications committed to conference:

Mr. ROE, Mr. BROWN of California, Mrs. LLOYD, Mr. WALKER, and Ms. SCHNEIDER.

As an additional conferee, for consideration of subtitle B of title I of the House amendment, and modifications committed to conference:

Mr. WISE.

As an additional conferee, for consideration of section 709 of the House amendment, and modifications committed to conference:

Mr. COOPER.

There was no objection.

□ 1620

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4462

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Florida [Mr. LEHMAN] be removed as a cosponsor of the bill, H.R. 4462. The gentleman's name was added in error.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and w. s given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majority leader concerning the program for the balance of this week and then as we reconvene after the Fourth of July recess.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the business of the House will soon be finished today. There will not be further votes. There will not be votes on tomorrow or on Monday, July 9, and the House will not be in session. We will have the Independence Day recess, and, of course, all of next week will be during the Independence Day recess.

On Tuesday, July 10, the House will meet at noon to consider 13 bills under suspension of the rules. Recorded votes on those suspensions will be postponed until after debate on all suspensions. The bills under suspension are as follows:

H.R. 4087, Veterans' Employment and Training Amendments of 1990;

H.R. 4089, Veterans' Educational and Vocational Counseling Amendments of 1990;

H.R. 4111, Strategic and Critical Minerals Act;

H.R. 4053, Coalfield Environment Enhancement Act;

S. 666, Regarding Alaskan Settlement Act;

H.R. 3888, Pertaining to the use of property in Rockingham County, VA;

H.R. 4834, Providing for a visitor center at Salem Maritime National Historic Site;

H.R. 988, Camp W.G. Williams Land Exchange Act;

H.R. 4982, Dwight D. Eisenhower Mathematics and Science Education Amendments of 1990;

H.R. 5064, Drug Abuse Resistance Education Act of 1990;

H.R. 5124, Anti-Drug Education Act of 1990;

H.R. 5140, School Drop-Out Prevention and Basic Skill Improvement Act of 1990; and

H. Con. Res. 291, Regarding POW's and MIA's.

Mr. Speaker, on Wednesday, July 11, the House will meet at noon and will consider H.R. 4329, the American Technology Preeminence Act, under an open rule, with 1 hour of debate. Then if the bill is ready and the problems surrounding it have been dealt with, we will take up H.R. 1180, the omnibus housing authorization, subject to a rule.

On Thursday, July 12, and Friday, July 13, the House will meet at noon on Thursday and at 10 a.m. on Friday. First we will take up H.R. 5115, the Equity and Excellence in Education Act of 1990, and then we will consider the transportation appropriations for 1991, subject to a rule.

Conference reports may be brought up at any time, and any further program will announced later.

Sometime soon we hope to have a calendar for July in front of Members. I would only say to Members that there is a good deal of legislation that has to be dealt with in July, and it would be likely that we would have votes on most Mondays and Fridays during that month. We have the remaining appropriations bills and a housing bill which I mentioned. We also have the Balanced Budget Amendment, the defense authorization bill, and the agriculture bill, and we have to deal with the debt limit. There are other matters of importance also that have to be dealt with during this period.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman, and I would certainly concur with him that there is going to be a full platter if we intend to have our normal August recess that would begin, as I reall, on August 3 or August 4.

Because of the distinguished majority leader and the gentleman from Illinois being tied up in the summit negotiations, I have not had an opportunity to counsel with the Speaker on some of the other items that the gentleman did not mention. For example, there is campaign reform. Will the majority leader give me any indication as to whether or not he has had any conversation with the Speaker to indicate when that might come up on the floor? The last time I talked with the Speaker, he said it would be sometime after we returned from our Fourth of July recess, but no time certain had been set. Does the gentleman have any idea about that? Would that be on the agenda sometime in that period?

Mr. GEPHARDT. Mr. Speaker, I believe our goal is to try to deal with it in July.

Mr. MICHEL. The gentleman, of course, then mentioned the balanced budget amendment. Since we have had a discharge petition on that bill, there will be an opportunity for Members to vote on that. And the farm bill will be very significant for all of us from agricultural areas. Then there is the debt limit.

Incidentially, I will include with my remarks a letter which I have just had handed to me from the summit by the Secretary of the Treasury addressed to me on the need for our action on the debt limit. I will not take the time of the Members to read that at this juncture.

Conceivably, there will be a budget conference report sometime during July, and then the crime bill, is that a possibility?

Mr. GEPHARDT. The chairman will report, we think by the middle of July, and we may have that up in July. It is not yet clear, but we expect the committees to report by about that time.

Mr. MICHEL. And what about civil rights?

Mr. GEPHARDT. That is still in the Judiciary Committee. It may come in July. I have my doubts that we can get all of these things done in this month.

I think in listing these bills, Members can get a sense of how much business there is to finish. This is the last clump of time before the September-October period when we have to finish up before the election.

Mr. MICHEL. The Ethics Committee has had under consideration now for some time several matters, and there has been conjecture as to whether or not there is going to be a recommendation from the committee this week or next week or sometime soon. Does the gentleman have any idea on that? Will we be confronted with those recommendations?

Mr. GEPHARDT. Mr. Speaker, I will say to the gentleman that these matters have to be concluded. I do not have a sense of when exactly they will be finished.

Mr. MICHEL. I have been asked by one of the coauthors and movers of the balanced budget amendment, the gentleman from Idaho [Mr. CRAIG], whether or not that balanced budget amendment would be scheduled specifically for July 17.

Mr. GEPHARDT. That is the date we have been looking at. I do not think we have locked down specifically the fact that that is the date. That week and that date is what we have been looking at as the time to do it.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I will ask the majority leader a question.

We have had quite a bit of concern on our side about the fact that when these restrictive rules are being written and the time for amendments to be filed is announced, Members are out of town and have not had time to respond to that. Can the gentleman tell me, with regard to the schedule for the week that we come back, whether or not it is anticipated we will have any such restrictive rules where time will be of essence to the Members who want to file amendments?

Mr. GEPHARDT. I do not know enough about it to know that there will be a restrictive rule. I take it the gentleman is referring probably to the Omnibus Housing Authorization Act in particular?

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, that is the one that at least was a suspicious candidate there, because it is a fairly broad bill, and to have it considered in 1 day, it certainly appears as though it might be a candidate for a restrictive rule, and it is one where I think a number of Members would want to have advance notice if they have to have amendments filed.

Mr. GEPHARDT. I understand the gentleman's concern. I have real doubts, though, whether that bill will actually be able to be considered on Wednesday, but we will keep the gentleman's concerns in mind.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I think that covers it, I will say to the majority leader, and I appreciate receiving the schedule.

Mr. Speaker, under my leave to include extraneous material, as we close our exchange here, I will include with my remarks the letter from Nicholas Brady, the Secretary of the Treasury, with regard to the debt ceiling to which I referred earlier. The text of the letter is as follows:

THE SECRETARY OF THE TREASURY,
Washington, DC, June 28, 1990.

Hon. ROBERT H. MICHEL,
Republican Leader, U.S. House of Representatives, Washington, DC.

DEAR MR. LEADER: I am writing to advise you of the need for action by Congress on legislation to increase the limit on the public debt in early August before the schedule Congressional recess.

As you know, the Resolution Trust Corporation's (RTC) borrowing from the Federal Financing Bank is funded through the normal Treasury debt management process, and, therefore, affects the debt subject to limit. As a result, our debt and cash estimates for the rest of Fiscal Year 1990 are subject to a greater-than-usual degree of uncertainty because of the RTC's difficulty in predicting the timing and level of its need for funds.

Based on our current estimate, it appears likely that, without an increase in the debt limit, the Treasury will run out of cash and borrowing authority and default on the Government's obligations in Mid-August. However, a significant increase in the level of RTC spending above the current estimate could accelerate the need for an increase in the debt limit to early August. In any case, it is highly likely that default would occur before Congress returns in September.

As you are aware, the limit is ordinarily raised to a new permanent level sufficient to fund the Government's needs for the upcoming Fiscal Year. Treasury will request a permanent debt limit increase as soon as the mid-session review of the budget is available from OMB. At that time, we will also advise you of our best estimate of the date that default would occur absent action to increase the debt limit.

I urge the Congress to act in a timely manner on a debt limit increase in order to avert a default with its adverse consequences on domestic and international confidence and trust in the United States.

Sincerely,

NICHOLAS F. BRADY.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 11, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 11, 1990.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, JULY 11, 1990, AND ON THURSDAY, JULY 12, 1990

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, July 10, 1990, and on Wednesday, July 11, 1990, it adjourn to meet at noon on Wednesday, July 11, 1990, and on Thursday, July 12, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING THE SPEAKER AND THE MINORITY LEADER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES, NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Tuesday, July 10, 1990, the Speaker and the minority leader be authorized to accept resignations and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ANNUAL REPORT OF THE FEDERAL COUNCIL ON THE AGING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of today, Thursday, June 28, 1990.)

□ 1630

WYOMING CENTENNIAL DAY

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 271) to designate July 10, 1990, as "Wyoming Centennial Day" and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Indiana?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Wyoming [Mr. THOMAS], who not only is the chief sponsor of this resolution, but who has worked tirelessly during the past very days to get the requisite signatures in order to bring it up before

we went on recess. I applaud him, not only for his resolution, but his untiring effort in order to accomplish that very difficult task.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Speaker, it is a great honor for me to speak on this occasion to urge passage of a resolution giving official recognition to the 100th anniversary of the statehood of Wyoming.

The great State of Wyoming will be 100 years old on July 10, 1990. And to mark the day, when Wyoming became the 44th State in this Union, I believe it is appropriate to give congressional and national attention to this great event.

This resolution authorizes and requests President Bush to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Wyoming to the United States.

Wyoming contains many firsts: Yellowstone, our Nation's first national park; Devils Tower, the Nation's first national monument; Shoshone National Forest, the first in America; the first woman Governor, Mrs. Nellie Tayloe Ross; the first State to give women the right to vote. And the list goes on.

The essence of this designation is the opportunity to celebrate the past, present, and future of Wyoming. Wyoming's lasting legacy to this Nation is a spirit of the true West and the promise of a great future. God bless the great State of Wyoming.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 271

Whereas on July 10, 1890, President Benjamin Harrison signed a proclamation admitting Wyoming as the forty-fourth State in the Union.

Whereas Wyoming is known as the Equality forty-fourth State;

Whereas Wyoming was the first State to recognize the rights of women and allow them voting privileges;

Whereas Wyoming appointed the frist woman Justice of the Peace, Esther Hobart Morris, whose statue now graces the United States Capitol;

Whereas Wyoming is the home of the first national forest, the Shoshone;

Whereas Wyoming elected the first woman governor, Mrs. Nellie Tayloe Ross;

Whereas Wyoming, which represents the ideal in outdoor recreation, became the home of our Nation's first national park, Yellowstone National Park, the founding gem and is the site of the magnificent Grand Tetons;

Whereas Wyoming is also the home of America's first national monument, Devils Tower;

Whereas Wyoming is the site of the mother store of J.C. Penney's Department store in Kemmerer, founding a familiar fixture on mainstreets across America;

Whereas renowned inventor Thomas Alva Edison received the inspiration for the invention of the incandescent bulb while fishing and camping in Encampment, Wyoming;

Whereas Wyoming is home to the Nation's largest rodeo, Cheyenne Frontier Days, "the Daddy of them all";

Whereas Wyoming's beautiful mountains, trees, ranches, and natural resources are appreciated nationwide; and

Whereas on July 10, 1990, the State of Wyoming will see the dawn of a new century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 10, 1990, is designated "Wyoming Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social and historic contributions of the people of Wyoming to the United States of America over the past century.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DUCKS AND WETLANDS DAY

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 599) to designate July 1, 1990, as "National Ducks and Wetlands Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to the gentleman from Minnesota [Mr. STANGELAND], who is the chief sponsor of the joint resolution and who also performed a yeoman's service in getting the necessary signatures.

Mr. STANGELAND. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Speaker, I am pleased and honored that the House is considering commemorative legislation, House Joint Resolution 599, which designates July 1, 1990, as "National Ducks and Wetlands Day."

On Sunday, July 1, 1990, the Fish and Wildlife Service of the Department of the Interior will issue a Federal duck stamp that will go on sale at post offices nationwide.

The duck stamp of 1990 was designed by Jim Hautman of Plymouth, MN. On Sunday, the U.S. Postal Service will host a ceremony at the new Minnesota Valley Wildlife Refuge Visitors Center to honor Mr. Hautman, Minnesota's 14th designer of the duck stamp.

Through the Federal Duck Stamp Program, the U.S. Department of the Interior has been able to acquire almost 4 million acres of wetlands for the National Refuge System.

Every year, more than 1.5 million duck stamps are purchased at a cost of $12.50 by Americans to support the conservation benefits of saving these prime habitats. Wetlands sustain nearly one-third of the Nation's endangered and threatened species, while providing breeding and wintering grounds for waterfowl and shore birds. During the past 56 years, the Federal duck stamp program has raised over $400 million for wetland preservation.

This resolution has the strong support of Ducks Unlimited, Friends of the Minnesota Valley, Minnesota Conservation Federation, Minnesota Waterfowl Association, the University of Minnesota Band Alumni, National Fish and Wildlife Foundation, the U.S. Fish and Wildlife Service, U.S. Postal Service, Wild Wings, the staff of the Minnesota Valley National Wildlife Refuge and local Minnesota businesses.

Undeniably, the Federal duck stamp has been one of our Government's most successful conservation programs.

I want to thank Mr. SAWYER, the chairman of the Census and Population Subcommittee, Mr. RIDGE, the ranking minority member, the Post Office and Civil Service Committee's chairman, Mr. FORD and all my House colleagues without whose support House Joint Resolution 599 would not have come to the House floor.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 599

Whereas the United States converts almost 500,000 acres of wetlands to other uses each year;

Whereas the Department of the Interior annually issues a Federal duck stamp and uses all funds raised by the sale of the stamp to acquire wildlife habitat in the form of wetlands that support both waterfowl and other wildlife;

Whereas the United States Postal Service sells more than 1,500,000 duck stamps annually;

Whereas citizens of the United States have purchased duck stamps for over half a century to support the conservation benefits of saving wetlands;

Whereas the sale of duck stamps has raised more than $400,000,000 since the inception of the program, and these proceeds have been used to acquire almost 4,000,000 acres of prime habitat for the National Refuge System;

Whereas on Sunday, July 1, 1990, the Fish and Wildlife Service of the Department of the Interior will issue a Federal duck stamp

that will go on sale at post offices nationwide;

Whereas according to popular tradition, the artist who designed the new stamp will be honored at a First Day of Sale Ceremony to be held near the hometown of the artist;

Whereas the United States Postal Service will host a ceremony at the new Minnesota Valley Wildlife Refuge Visitors Center to honor the fourteenth duck stamp to be designed by a Minnesota artist; and

Whereas the citizens of Minnesota have dedicated an afternoon program of ceremony, information, and family activities to support the conservation of wetlands and waterfowl: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 1, 1990, is designated as "National Ducks and Wetlands Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities and to support conservation efforts by purchasing duck stamps.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

INTRODUCTION OF ENTERPRISE ZONE LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today, I am introducing the Enterprise Zone Tax Incentives Act of 1990, legislation to address those areas of the country which have been bypassed by the economic recovery occurring generally in our country over the last decade. Many areas of the country have experienced increased incomes and close to full employment. On the other hand, the areas my bill addresses have not prospered. They have remained poor. Many of their residents fall within our country's 5.3-percent unemployment rate. As I said last fall when the Committee on Ways and Means held hearings on enterprise zone proposals, the lack of job opportunities, poor educational facilities, and job skills keyed to a changing economy form a vicious cycle of poverty in many of these areas.

My bill is a comprehensive effort to improve the economic and personal quality of life in these areas of the country. It would provide direct Federal incentives for employment, child care, housing, health insurance, and capital investment. It also recognizes that direct Federal tax incentives alone will not turn these areas around. Businesses want to operate in safe communities, with access to markets and quality schools and housing to attract good workers. In addition, startup businesses and other small businesses may not have the profits necessary to use Federal tax incentives. My bill would award extra Federal tax incentives to those communities demonstrating a financial commitment to their enterprise zones in the form of crime prevention, infrastructure, property and sales tax abatements, and loan or grants to small businesses.

It is essential that we find a way to inject new capital investment into these impoverished areas. We need to help new businesses develop and existing businesses thrive and remain in enterprise zones. This legislation would allow the deferral of capital gain on the sale of any asset wherever located if it were reinvested in an enterprise zone. It would share part of the risk of investing in an unproven enterprise zone business by making losses on stock or debt of those businesses fully deductible against ordinary income. It would provide accelerated depreciation for nonresidential real property. It would focus the use of small issue tax-exempt bonds in enterprise zones to encourage the development of manufacturing jobs and to help end the cycle of poverty.

Mr. Speaker, much would be gained by encouraging people to live in the same general area in which they work. Right now, the schoolteacher lives in the suburbs but teaches in the ghetto. The fireman lives on the far north or south side of the city, but works in the inner city. The policeman does the same thing. I'd like to see the teacher, the fireman, and the policeman, all work in the communities where their children are being educated, because if there's anything enterprising about the American system, it's the fact that we govern ourselves. So, if the kids are drag racing out in front of the poor person's home, but the policeman lives over on the northwest side, he says, "Oh, they do that down here." If they did it in his community, and his kids were playing out on the street, even if he was off duty, he would do something about the drag racing. The teacher wouldn't be looking at an IBM card and, saying, "Oh, this poor kid is failing." If the teacher's kid was going to school in the same school that he or she was teaching in, you can bet that that teacher would make an extra effort. Talk about an enterprise zone, that's the way to create activity in an inner city.

So, my bill doesn't just focus on bringing capital investment to an enterprise zone. It would give small business tax credits for employing people living in that same zone. It would give businesses credits for providing these same residents with health insurance. It would bring money for housing into the enterprise zones. It would bring in money for child care, both in the parents' apartment building or in their places of work. It would pay for rehabilitation of existing buildings, so that it wouldn't be necessary to tear them down and disrupt the fabric of a neighborhood. The more resources a State or local government was willing to dedicate to an area, the more likely that that area would be designated an enterprise zone and the more Federal tax incentives that zone will receive.

I do not believe that the administration's enterprise zone proposals would be effective in providing the broad range of incentives that would be necessary to revitalize our most impoverished areas. However, while I believe that we must look to innovative solutions to our Nation's most troubling problems, I am a realist about our ability and willingness to finance solutions. Consequently, Mr. Speaker, in keeping with my strongly held views on fiscal responsibility, my bill would place an annual cap on the amount of tax incentives an enterprise zone could use. That cap would be roughly equivalent to what the administration has said that its enterprise zone package would cost. If this enterprise zone proposal moves forward in the legislative process, it is my intention that the plan be fully financed in the course of the normal budget reconciliation process. My bill would provide for the designation of 25 zones over a 4-year period. It would require the effectiveness of the incentives to be studied, so that the Congress could determine whether to extend or expand the program after 1995.

Mr. Speaker, I request that a more detailed summary of my bill be included in the RECORD following this statement.

SUMMARY OF H.R. 5190, THE ENTERPRISE ZONE TAX INCENTIVES ACT OF 1990

GOALS

1. To revitalize distressed areas both economically and physically, with emphasis on new business starts, retention of existing businesses, and expansion of existing businesses.

2. To promote meaningful employment of EZ residents.

3. To encourage employees to live in the EZs in which they work.

CRITERIA

The Secretary of Housing and Urban Development is to designate 25 demonstration EZs by applying certain criteria discussed below to rank those applications submitted by State and local governments. Ten zones are to be designated for 1992, and five zones are to be designated for each year thereafter through 1995, in each case from applications submitted within a reasonable time before the year for which the designation is sought. The following criteria must be satisfied for a nominated area to be eligible for designation. They are similar to those contained in the Housing and Community Development Act of 1987 42 U.S.C. Sections 11501 et seq., although the proposal amends the Internal Revenue Code, but not the 1987 Housing Act.

1. Population.—The area must have a population of at least 4,000.

2. Distress.—The area must be one of pervasive poverty, unemployment, and general distress.

3. Size.—An EZ may not exceed 12 square miles. The borders of the EZ need not be entirely coterminous with the borders of census tracts; provided, however, that no EZ may consist of more than 3 noncontiguous areas. Each EZ with one continuous border and each zone comprised of noncontiguous areas, if any, must be located entirely within traditional neighborhood or community boundaries and, where appropriate, be bounded by major natural or man-made physical boundaries, such as bodies of water, railroad lines, or limited-access highways.

4. Unemployment rate.—The unemployment rate must not be less than 1.5 times the national unemployment rate, as determined by the appropriate available data.

5. Poverty rate.—The poverty rate for at least 90 percent of the populous census tracts within the EZ must be at least 20 percent, as determined by the most recent census data available.

6. State and local course of action.—The State and local governments in which the EZ is located must agree in writing that, during the period of EZ designation, they will follow a specified course of action to reduce the various burdens borne by employers or employees in the EZ. The course of actiom must include at least 3 of the following provisions (2 of which must be provisions h and i):

a. A reduction of tax rates or fees applying within the EZ.

b. An increase in the level of public services, or in the efficiency of the delivery of public services, within the EZ.

c. Actions to reduce, remove, simplify, or streamline paperwork requirements within the EZ.

d. Involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area.

e. The giving of special preference to contractors owned and operated by members of any minority.

f. The gift (or sale at below fair market value) of surplus land in the EZ to neighborhood organizations agreeing to operate a business on the land.

g. The establishment of a program under which employers within the EZ may purchase health insurance for their employees on a pooled basis.

h. Establishment of a program to encourage local financial institutions to satisy their obligations under the Community Reinvestment Act by making loans to EZ businesses, with emphasis on small (as defined in the Small Business Act, 15 U.S.C. Section 632(a)) and/or start-up businesses.

i. The giving of special preference to (1) qualified low-income housing projects located in EZs in the allocation of the State housing credit ceiling (in the event that the low-income housing credit is extended past its current December 31, 1990 expiration date) and (2) facilities located in EZs in the allocaiton of the State ceiling on private activity bonds.

Once the Secretary of HUD has determined which nominated areas are eligible for designation as EZs, he must make designations on the basis of the following equally weighted factors:

1. The strength and quality of the contributions which have been promised as part of the courses of action, relative to the fiscal ability of the nominating State and local governments.

2. The effectiveness and enforceability of the guarantees that the courses of action will actually be carried out.

3. The level of commitments by private entities of additional resources and contributions to the economies of the nominated areas, including the creation of new or expanded business activities.

4. The average ranking of the nominated areas with respect to the poverty and unemployment criteria discussed above.

5. The potential for the revitalization of the nominated areas as a result of zone designation, taking into account particularly the number of jobs to be created and retained.

BUSINESS INCENTIVES

1. Wage credit.—A credit will be permitted to be claimed by small (no more than 100 employees) EZ employers equal to 10 percent of (a) wages paid by such employers to EZ resident employees and (b) the cost of health insurance provided to such employees. No credit may be claimed with respect to employees with wages in excess of $30,000. The amount of the credit will reduce deductible wages.

2. Targeting of qualified small issue tax-exempt bond provisions.—Issuance of qualified small issue bonds will be permitted only for the benefit of EZ businesses.

3. Expansion of rehabilitation credit.—The rehabilitation tax credit will be permitted to be used in EZs even with respect to buildings placed in service after 1935, as long as the buildings are at least 30 years old.

4. Encouragement of investment.

a. Faster depreciation of non-residential real property.—The useful life of newly constructed non-residential real property located in EZs will be reduced to 28.5 years, so that straight-line depreciation over that period will approximate the 150 percent declining balance method over the current 31.5 years.

b. Capital gain deferral.—Deferral of tax on capital gain for 10 years from the sale or exchange of any asset whether located within or without the EZ will be permitted if the gain is invested in new EZ property; provided that deferral will terminate, and interest at the underpayment rate will be due from the date of gain realization, if the property purchased with the gain is sold within 5 years.

c. Ordinary loss treatment.—Losses on worthless stock or debt instruments of an EZ business will be treated as ordinary, rather than capital, in nature. The underlying investment must have been new capital in the EZ when made.

d. Loans to small and/or start-up businesses.—State and local governments must establish a program to encourage financial institutions to satisfy their obligations under the Community Reinvestment Act by making loans to small and/or start-up EZ businesses, as described under Criteria. State and local governments may receive increased EZ volume cap (with a maximum of a 10 percent increase) to the extent they make loans or grants to small and/or start-up EZ businesses, as described under State and Local Government Incentives.

5. Foreign trade zone status for EZs.—EZs are to receive priority in the designation of foreign trade zones. Foreign trade zone status will permit storage, exhibition, sale, and general dealing (*e.g.*, repacking, assembling, distributing, sorting) with respect to foreign commerce without subjecting it to United States Customs laws.

LABOR INCENTIVES

1. Encouragement of EZ employment.—An employer wage and health insurance credit for compensation paid, and health insurance provided, to EZ resident employees will encourage employment of EZ residents.

2. Construction of low- and moderate-income housing.—In the event that the low-income housing credit is extended generally past its current December 31, 1990 expiration date, the existing 130 percent basis rule will apply only in EZs.

3. Child care facilities.

a. The proposal presumes that the earned income tax credit will be increased in child care legislation now before the Congress for all low-income people, not just those living in EZs.

b. Parts of EZ low-income rental buildings used for child care centers for children of EZ residents, with priority given to children of building residents, will be included in qualified basis for purposes of the low-income housing credit (in the event that the low-income housing credit is extended past its current December 31, 1990 expiration date).

c. The cost of employer-provided child care facilities located in EZ businesses will be eligible for 60-month amortization.

STATE AND LOCAL GOVERNMENT INCENTIVES

1. Expansion of EZ cap.—The EZ cap will be expanded (with a 10 percent limit) if, and to the extent, matched by State and local tax abatements in EZs, State and local loans or grants to small and/or start-up businesses in EZs, or State and local expenditures in EZs for infrastructure or crime prevention.

MISCELLANEOUS

1. Demonstration program.—The proposal is for a demonstration program of 25 zones designated over a 4-year period, beginning in 1992. Ten zones will be designated for 1992, 5 for 1993, 5 for 1994, and 5 for 1995. Each zone will be in effect for 24 years. Studies of the effectiveness of the proposal's incentives based on the first 3 years' experience with the program, is required to be delivered by Treasury and GAO by July, 1995.

2. Minimum tax.—All benefits will be coordinated with the minimum tax on individuals and corporations to prevent complete avoidance of taxation.

3. Volume cap.—A volume cap analogous to that for tax-exempt bonds and the low-income housing credit will control the revenue cost of this proposal to approximately the same amount as the Administration says that its bill would produce over the period from 1992 through 1995. The Federal/State and local government matching portion of the bill will, if fully utilized, raise the cost by 10 percent in each of those years.

REVENUE, THE ENVIRONMENT, AND ENERGY CONSERVATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, on June 25, over 6,000 people attended the Annual Conference of the Air and Waste Management Association in Pittsburgh. One of Pittsburgh's distinguished citizens, Paul H. O'Neill, addressed the conference and set forth his proposal for addressing simultaneously the three problems of environmental quality, energy conservation, and the Federal budget deficit.

I commend Mr. O'Neill's remarks to my colleagues because of his unique experience as chairman and CEO of ALCOA, his tenure as Deputy Director of the Office of Management and Budget in the Ford administration, and his concern as a private citizen.

PRESENTATION TO THE AIR AND WASTE MANAGEMENT ASSOCIATION, JUNE 25, 1990

(By Paul H. O'Neill)

I am happy to have this opportunity to speak today. As I look at the program, I find myself between a government official and an environmentalist. I assume my assigned label is "industrialst." After all, I am the Chairman of a large industrial company and, therefore, I must, by association, be "an industrialist" and can be counted on the deliver the "industrial viewpoint."

It is true I have been an industrialist for the past thirteen years but before that I was a government official for fifteen years—serving for ten of those years in the Executive Office of the President at the Office of Management and Budget.

But I am not here to speak as an industrialist, or as a former government official—or as an environmentalist. I'm here to speak for myself, as a citizen.

To begin—it seems particularly fitting that this conference is being held in Pittsburgh, Pennsylvania because this city exemplifies, environmentally, man's capacity for constructive change.

You can't be here very long without an "old-timer" telling you about life in Pittsburgh in 1950—when it was standard practice to take an extra shirt to work for a change at noon because the morning shirt was dirty by then from the pollution in the air—or about how they used to burn street lamps all day because the sun couldn't penetrate the stuff in the air. And even earlier in Pittsburgh's history when a British writer labeled the place "Hell with the lid off"—and no one objected.

The key point of remembering all of this is to celebrate the demonstrated capacity for constructive environmental change.

It is interesting to note that the roots of this change predate the Environmental Protection Agency and Rachel Carson's galvanizing book.

Before there was a broad-based environmental movement, the people of Pittsburgh set aside their historical practices and acted to clean up their environment. It took time to accomplish the change, and in the process, there were significant disruption for individuals and businesses. But few would dispute: Pittsburgh is better for the change.

This is the theme of what I want to say to you today. In order to accommodate to the imperative living with our environment, we must change. We need to plan the change. We need to accept the fact that change will create disruption in our established ways of doing things. We need to be flexible in our policy—prepared to change if our interventions don't produce the desired consequences, but above all, we need to get on with change.

Now, as I think about the environment, nothing seems clearer to me than the seemingly unserverable connection between the condition of the environment and energy utilization. In fact, if we were limited to only one policy intervention to improve the environmental condition and future prospect of the United States, I would choose a policy aimed at energy productivity and conservation. And because I think our economic system does a great job of translating general incentives into specific actions, my choice of a policy instrument would be a Federal tax on energy.

The pros and cons of such policy have been debated endlessly over the last twenty years. It seems to me, we should stop debating and act. The literature is full of specific ideas as to how we should impose an energy tax—everything from a tax on oil or gasoline to a BTU tax—to the current talk about a carbon tax.

I don't have a personal favorite; each one has its own complications. But however we intervene, our policy should be aimed at energy productivity and conservation. Our policy intervention should be large enough to be meaningful but not so quickly implemented that it shuts down our economy. In an economy that is running at a rate of over $5 trillion, we do have some latitude, especially if we think about a phased-in tax that gives individuals and businesses fair warning of an impending change.

In order of magnitude, I believe we should be thinking about a tax of about $40 to $50 billion per year—when fully phased in.

That would imply a BTU tax of about 12 percent on current value, or a $10 per barrel tax on all oil consumption or a 40 cent per gallon increase in motor fuel taxes.

There is much dispute about the distributional effects of these different taxes and a clamor about the competitive implications for our industries but it helps me to put these into perspective when I remember that the average national price of gasoline was $1.39 per gallon in 1981—compared to $1.15 in 1989.

Incidentally, in inflation adjusted dollars, that is a 40 percent drop.

From the point of view of an individual driving 10,000 miles per year in a car with 20 mile per gallon fuel efficiency, a 10 cent per gallon gasoline tax would mean $50 per year or 13 cents per day.

In any event, the consequences of a meaningful energy tax are manageable and I beleive the benefit to our environmental position are clear.

In addition, if the proceeds of an energy tax were dedicated to reducing the Federal debt, we would create a larger pool of societal savings and investment which would enhance our world economic competitive position.

To a former Federal budget official, this seems like an intervention made in social policy heaven—an action that benefits the environment while reducing energy consumption and the Federal debt.

The great curiosity is why we haven't done something along these lines long ago. Instead, we've limped along with analysis paralysis.

A favorite notion of policy analysts these days is "robustness." Essentially, a robust policy is one that can be changed to accommodate new information or different conditions. An energy tax could certainly meet the test of being a robust policy instrument.

So my call to you today is for you to become advocates for an energy tax. The Administration and the Congress are discussing budget and tax policy right now. They have certainly heard from you on all nuances of regulatory schemes as they have worked on the Clean Air Act. I venture to say they have heard very little from you on your willingness to lead the fight for an energy tax.

As you go about your deliberations over the next several days, I hope you will resolve to direct your activism toward the enactment of an energy tax.

PARENTS AS TEACHERS LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. WHEAT] is recognized for 5 minutes.

Mr. WHEAT. Mr. Speaker, in our national debate about education, we often overlook the most valuable teachers our children could ever hope to find—their parents. Through its Parents as Teachers program, Missouri has shown the value of early childhood education programs in preparing our youngest citizens of the future.

Today using Missouri's pioneering effort as a model, I am introducing legislation to bring the success of the Missouri program to families around the Nation. This legislation is designed to build on the success of the Missouri example, which began with pilot programs in Independence and three other locations and now serves 50,000 families statewide.

This bill is based on the principle that parents who take an early and active role in their child's education increase these youngsters changes for academic success and give them a lifelong interest in learning. In the process, they develop a greater sense of involvement in the well-being of their children. Through coordination with local school districts, this valuable program engages parents in a long-term partnership with their children's schools.

The Federal Parents as Teachers legislation would provide $100 million in Federal grant money in the next five years for States wishing to create or expand their own early childhood education programs. As in Missouri, the national Parents as Teachers plan would provide for home visits by trained parent educators who would help design an individual program for each family. Parent would receive a wide range of useful and understandable information about the development of their children.

Far too many children in our society never see a doctor before they enter school and medical problems that can interfere with learning go undiagnosed. The National Parents as Teachers bill would address this problem by providing periodic health screenings for infants, toddlers, and preschoolers.

Parents from all walks of life face similar issues as they attempt to raise their children. This legislation—which would provide services to all families with children three and under—gives participating parents an opportunity to meet in groups and share their childraising experiences.

It is my expectation that states will pick up an increasing share of the costs as the benefits of the program become apparent. In Missouri, for example participating children scored significantly higher on standardized tests than nonparticipants—a good indicator of future academic success. Many parents continue to take a active role in their child's education well beyond the end of the program.

Parents are the first and most important teachers a child will ever have. As a nation, we must give parents every possible means of assistance to help their children start with healthy and curious minds and sound bodies.

THE SAVINGS AND LOAN CRISIS DID NOT HAVE TO HAPPEN

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Illinois [Mr. ANNUNZIO] is recognized for 15 minutes.

Mr. ANNUNZIO. Mr. Speaker, every day newspapers, magazines, and radio and television are filled with stories about the savings and loan crisis and about the ultimate cost of the crisis to the taxpayers. It is estimated that the final cost to the taxpayers could reach as high as $1 trillion when the cost of the interest on the 40-year bonds to pay for the debacle is included.

Our Government and the taxpayers of this country cannot afford the cost of the savings and loan crisis. At a time when the national debt is over $3 trillion, there simply is not room in the Federal budget to pay for this tragedy.

President Bush has now proposed a tax increase, and many Government officials say that the tax increase is necessary in part to pay for the savings and loan crisis. I cannot support such a tax increase. A tax increase will be asking the American people to pay for the actions of a group of crooks who stole billions of dollars through the operation of savings and loan institutions.

Many States have adopted victim restitution programs under which victims of crimes receive payments from both the State, and in many cases the person, who committed the crime. The administration's tax increase proposal is victim restitution in reverse. The tax increase will be asking the victims of the crimes, the taxpayers, to pay to clean up the mess made by the crooks. And that is not right.

But perhaps the saddest part of the savings and loan crisis was that it did not have to happen. We must go back to 1980 to find the origins of the problem, and to study the reasons that the crisis need not have occurred.

In 1980, Congress passed the Depository Institutions Deregulation and Monetary Control Act. In short, this legislation began the deregulation process of financial institutions in general, and savings and loans, in particular. Among the items in that bill was an increase in the insurance provided by the Federal Government to bank depositors from $40,000 an account to $100,000 per account. Virtually every story written about the savings and loan crisis blames the increase in deposit insurance for a major portion of the problem. I agree with that analysis. It is easy to see now how the $100,000 insurance increase was to blame for the problem.

But in 1980, a decade ago, I saw the problem, and spoke out about it at that time. In 1980 I was a member of the comference committee that ultimately wrote the ill-fated Depository Institutions Deregulation and Monetary Control Act. I warned during those conference committees that if we wrote a bill along the lines that were ultimately adopted, that it would lead to tragedy.

I predicted in 1980 that the financial institutions of our country, particularly the savings and loan industry, would be severely damaged by deregulation. I predicted virtually on a line-by-line basis what was going to happen to the savings and loan industry.

Unfortunately, not many people listened. I was the only member of that conference committee from either the House or the Senate who refused to sign the conference report as a sign of protest against a bad bill. Members of that conference committee pleaded with me to go along, or at least to sign the conference report, but I resisted because I knew it was a document dedicated to tragedy.

When the conference report reached the House floor, I was one of only 13 Members of this body who voted against the conference report. Had that conference report been defeated, the savings and loan crisis would never have happened, and the American people would not face a tax increase in order to pay for the crimes of the savings and loan crooks.

One of the biggest mistakes made with the 1980 law was not only the increase in the deposit coverage from $40,000 to $100,000, but of just as great importance was the fact that the premiums paid by the financial institutions for this coverage were not raised. When have you ever heard of an insurance company increasing your coverage by more than 100 percent and not increasing your premium? Any insurance company that would operate in that manner would soon go bankrupt, and that is exactly what happened with the Federal Savings and Loan Insurance Corporation, and that is the path being taken by the Federal Deposit Insurance Corporation.

The failure of the 1980 Deregulation Act was guaranteed shortly after its passage when the Reagan administration came into office. The Reagan administration came into office with the promise to take Government off the backs of business. We now see that is exactly what the Reagan administration did. It took Government off the backs of business and put it right on the backs of taxpayers, who now must pay the cost of the savings and loan crisis.

During the decade of the eighties, I constantly pleaded with the administration to beef up the examiner force at the various Federal bank regulatory agencies. I pointed out that deregulation would make it too easy for financial operators to violate the public trust, and they must be watched closely. But instead of hiring more bank and savings and loan examiners, the Reagan administration actually decreased the number. One bank regulator went to the Reagan administration and asked for 450 new examiners. He was told he could only have 35.

During this same period, the savings and loan industry, which prior to 1980 had financed 80 percent of all of the new homes in America, began moving away from home financing into highly speculative-type business lending. Since there were very few examiners to check on these high flyer deals, the industry continued to move in that direction, and eventually the industry saw its home financing portfolio reduced to only 40 percent of all the new homes in America.

It must be pointed out that there were many savings and loans that operated in a sound and profitable manner. But it should also be pointed out that in virtually every one of these good institutions the majority of their loans were in single-family residence and in the area served by that institution. In short, the institutions that stuck to home lending did not get into trouble. And they are not costing the taxpayers any money today.

But when the switch away from home lending started, I pleaded with the regulators to keep the savings and loan industry in home lending and not to allow investments such as windmill farms, race horse sperm banks, and gambling casinos. But once again, my pleas were ignored.

When the Nation finally realized last year what I realized in 1980, I fought hard to make certain that those responsible for the crisis would pay. I authored legislation that would force officials of S&L's that didn't follow the regulations to pay a fine of $1 million a day. I authored an amendment that would provide $75 million to the Justice Department on an annual basis to go after the S&L crooks. And I also made sure that the industry would no longer continue its high flying ways. My amendment requiring the industry to have 70 percent of its investments in home mortgage lending was adopted overwhelmingly.

Mr. Speaker, as we continue to try to pick up the pieces of the savings and loan crisis, we must remember that this was not an act of nature. It was a man-made disaster. It is a crisis of perhaps the greatest financial magnitude in the history of this Nation. The sad story is, however, that it is a crisis that did not have to happen.

A REVIEW OF THE THRIFT CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 60 minutes.

Mr. LAFALCE. Mr. Speaker, I have requested this special order to review: First, the history of the problems in the thrift industry; second, difficulties with the FIRREA legislation; and third, some of the issues that I believe we must confront in the future.

I. THE HISTORY OF THE THRIFT CRISIS

The history of the problems in the thrift industry bears recounting. One of my major concerns is that we will learn the wrong lessons from this thrift crisis. Too many glibly say that deregulation caused the thrift crisis. In fact, a number of complicated factors brought us where we are today. Unless we understand the sources of the problems, we will be unable to correct the situation.

I believe the thrift crisis has evolved through three distinct phases: First, the interest rate mismatch phase; second, the bad asset, coupled with poor supervision, phase; and, now, third, the FIRREA phase.

A. PHASE I—THE INTEREST RATE MISMATCH

In many ways, the original problem—the interest rate mismatch problem—was quite fundamental: the market changed. Significant changes occurred in financial delivery systems and monetary policy, and thrift institutions were not in a position to respond. In the 1960's, deposit interest rate controls had been extended to the thrift business as a way to keep mortgage rates low. But, by the early 1970's, highly regulated depository institutions began to face unbelievable new competition from new entrants into the industry who were playing by a different set of rules. The Merrill Lynches and Prudential Baches created money market mutual funds and threatened to

make a dinosaur of the traditional financial services sector. The result was that the new competition in the industry virtually inhaled your deposits. We had never seen such massive disintermediation in the industry, and it looked as if thrifts would become extinct.

The economics of the situation necessitated some response. The 1980 Monetary Control Act was passed overwhelmingly in a bipartisan fashion. This legislation was the culmination of the effort to deal with the distinermediation issue by deregulating liabilities—that is, lifting the ceiling on the interest rates depositors would receive—and a phased, 6-year deregulation of bank and thrift deposit rates was initiated.

But in trying to solve one problem, another was created—a serious interest rate mismatch between the asset and liability side of the balance sheet. Thrifts, needing to offer higher returns to customers to prevent deposits from going to money market funds, were nevertheless locked into fixed rates of return on long-term mortgages. And it took a long time for variable rate mortgages to become a norm of the industry in some areas.

In response, efforts were made to assist the asset side of the balance sheet so that thrifts could diversify their portfolios and hopefully improve their earnings. New poers were granted to thrift institutions by State legislatures followed by the Garn-St Germain Act at the Federal level. In retrospect, criticism has been leveled at those decisions made in 1980 and 1982. But it is important to recall again that these were not hotly contested or partisan issues—both bills were embraced by the administration and passed by overwhelming bipartisan margins. They reflected a significant consensus that it was impossible for the industry to remain as it was and survive. The structural problems inherent in the thrift industry had been recognized as early as 1961, when the Commission on Money and Credit recommended that thrifts be given substantially greater flexibility regarding their investments. The bills passed in the early 1980's were not some sort of radical anomaly, but responsible efforts to bring the industry back to health. They reflected the thinking of numerous expert commissions, several administrations, and a number of congressional studies over a period of years that expansion of the asset powers of thrift institutions was essential to their viability and survival. Those expert judgments should not now be forgotten in a frenzied effort to place blame.

What is true, though, is that many States went much, much further in granting new investment authority to thrifts, making and implementing investment decisions that the Federal insurance fund had to ultimately stand behind. It has become axiomatic to emphasis the benefits of our dual banking system, and there are benefits. But those benefits appear far less clear when Federal taxpayers end up paying the bill for the actions of what were largely State-chartered institutions operating under lax or nonexistent State regulation and supervision. That is an abuse of the system, and must not be permitted to happen again.

In addition to the expansion of asset powers, in order to prevent the industry from being overwhelmed by the problems it faced, the Reagan administration and the Congress moved together to bolster the industry's situation through a variety of devices, including net worth certificates, deferred losses on asset sales, and favorable accounting treatment in other areas, including the acquisition of failing institutions. These devices did not contribute to real earnings or net worth. But they did delay insolvency and bought time, allowing institutions to stay alive until they could, hopefully, work their way out of their problems. Many institutions that used that time to work their way out of their interest rate mismatch problems did so; many if not most institutions that used that time to grow their way out of the problem did not do so.

B. PHASE II—THE BAD ASSET/POOR SUPERVISION PHASE

Here, we enter the second state of the thrift crisis. As interest rate problems abated, asset quality problems arose. It is crucial to distinguish between the interest rate mismatch problems of the early 1980's and the bad asset problems of the mid and late 1980's. They are fundamentally different.

A variety of factors had an influence in this second phase. Some institutions simply did not have the professional expertise to move into the higher risk activities in a prudent manner. Real estate markets subsequently deteriorated most in precisely those areas where loans could be most readily booked. You had a convergence of regional economic collapse precisely where State laws were most lenient and State supervision, most weak. Geographic constraints prevented the spreading of risk. And plain old-fashioned crooks became a significant element in the business. It was, indeed, a perfect setup—every high-rolling operator knew that all profits were his, and all losses belonged to the taxpayer. It was not a scenario that would induce prudence. It was a scenario that cried out for close scrutiny and supervision. Instead, we had a major breakdown in examination, supervision, and regulation. That was the major problem.

State regulators were asleep at the switch, and Federal regulators did nothing to awaken them, despite the insurance funds they should have been protecting.

At a time when it was critical that the Bank Board protect the insurance fund by close monitoring of institutions, the closing down of insolvent institutions, and the placing of appropriate constraints on growth and lending, the pressure coming from the administration was for a hands-off policy. I fault the philosophy that government should not govern, that the private sector can be trusted to play—unsupervised—with taxpayer dollars, with insured funds.

Beginning in the early 1980's, the Bank Board, with substantial congressional support, did repeatedly seek from the administration more examiners and a higher pay scale for its examination and supervision staff, so the industry, now operating under new lending laws, could be closely monitored. But those efforts were stymied by an administration bent on not governing. OMB blocked necesssary increases in the size and pay scale of the examination force. That is part of the historical record. In fact, the administration actually cut back on manpower within the regulatory agencies. The theory was that the private sector should not be burdened by a regulatory presence. We can see the result.

Only after many years was the Bank Board able to circumvent the administration's resistance by transferring its examination staff into the Home Loan Bank System. This was a move with which I strongly concurred. But by then, much of the damage had been done and it was too late.

By that time, it was clear that a problem was developing. But no one was really sure of its scope. The problem festered, while Congress continued to operate in an information vacuum.

Congress relied on the Bank Board and Treasury for their estimates of the problem over the years, and they either didn't have or wouldn't share information regarding the full scope of the problem. I believe that you would now admit that your league itself was, at that time, also a significant part of the problem. The industry kept insisting we had, at most, a $2 to $3 billion, perhaps $5 billion, problem, and strongly resisted any meaningful congressional attempt to move on this issue.

In 1986, Congress debated a $15 billion recapitalization of FSLIC, but the bill bogged down in conference on an unrelated issue, the nonbank bank loophole. Almost everyone in Congress was concerned about this. I was never concerned about the so-called nonbank bank loophole. I didn't think it was a problem, or even a loophole. I thought it increased competition in the industry and was proconsumer. And I wanted to deal with real problems, such as bad assets and poor supervision.

In early 1987, the Banking Committee had hearings on the thrift issue. I always and consistently favored at least a $15 billion recapitalization of the FSLIC and the administration consistently stated that a $15 billion recap was adequate. Unfortunately, the House only voted for a $5 billion recap, responsive largely to intense pressure from the thrift industry, which continued to minimize the scope of the problem. This, despite floor speeches by Speaker JIM WRIGHT and Banking Committee Chairman ST GERMAIN strongly urging a full $15 billion recapitalization, a fact often overlooked by most commentators.

The conference finally came to agreement on a $7.5 billion recap, half of what the administration sought, with, however, an annual limitation of approximately $3 billion on the FICO bonds that could be issued, ostensibly because the industry argued that the market could not sustain bonds beyond that level but, in fact, to minimize cost to the industry. I argued that the industry was minimizing the problem so it could avoid paying for it, since the FICO bond program relied on industry funding, and could then turn to the taxpayer in the next administration. Whether that was or was not your intent, that is precisely what happened.

In subsequent hearings in 1988, the administration was again given the opportunity to define the nature and scope of the problem, but no new information was forthcoming. Indeed, as late as September of 1988, Treasury testified before the Banking Committee that $15 billion would be adequate.

Toward the end of 1988, I again attempted to go beyond the $7.5 billion authorized and introduced legislation that would have increased the level of recapitalization to the full $15 billion sought by the administration and eliminated the annual cap on bond issuance. The bill was reported out of the Banking Committee. But I was stymied in the Rules Committee. Industry opposition was one of the principal reasons.

As the problem continued to fester, we heard from Vice President Bush's and Governor Dukakis' campaigns. What we heard was silence. For if they discussed the problem, it would be incumbent upon them to discuss solutions. And since the problem and the solution were bad news, they didn't choose to discuss them. Instead they discussed Willy Horton and the flag.

After the election, Secretary Brady finally began a serious effort to diagnose the problem. To do so, he brought in individuals who helped study the 1987 stock market crash to work with Dick Breeden, now SEC Chairman, in the study of the issue. I gave them credit for coming in with a sincere effort to diagnose and offer prescriptions for the problem. Unfortunately, I believed that the Bush administration's diagnosis was seriously flawed and the prescriptions, while perhaps appropriate for the illnesses perceived by the administration, were destined to make the real problems far worse and to turn a regional problem into a national crisis.

C. PHASE III—FIRREA AND ITS IMPLEMENTATION

That brings us to the third phase of the crisis. From its inception, I voiced major objections to the FIRREA legislation. I believed that legislation and its implementation have helped turn a primarily regional problem into what is now a national crisis.

What are the objections I had then and have now to FIRREA, the third and most serious phase of the thrift crisis?

The assumptions: First of all, FIRREA was based on a series of wild eyed, unbelievably rosy assumptions regarding interest rates, deposit growth in the industry, recovery level on assets, and unrealistic estimates of the ultimate industry contribution. As a result of all of these false assumptions, the administration could and did grossly underestimate the ultimate cost of the bailout to the taxpayers.

Funding mechanism: My second, and perhaps my strongest, objection was the funding mechanism. We were borrowing money to deal with the problem, over a long-term period, first 30 years, now 40 years. Indeed, we might go on borrowing forever.

When do you use long-term money? For capital expenditures. You don't lend long-term for present consumption, for operations and maintenance. If you did, you'd be fired. And you would never lend long-term money for past consumption, money already spent. If you did, you would not only be fired, you'd be institutionalized. But the President and Congress did it, and foisted the problem on to future generations. But we couldn't get the media to focus on this issue—just on being tough, or whether the money should be on- or off-budget. In my view, the on- versus off-budget issue was never the critical issue. The key issue was whether the costs should be on- or off-Gramm-Rudman. If the costs had been counted toward the Gramm-Rudman targets, this generation would be paying for its problems, as is appropriate, rather than foisting those problems on future generations.

Regional inequity: The third problem I had was the regional inequity. Most of the problems were concentrated in the Southwest because of State-chartered institutions operating under State law and State supervision. The States have obligations as well as rights under the dual banking system and I believe that they should have made a contribution to the cost of the bailout. They were not required to do so, and the result could be a massive redistribution of wealth to the Southwest. Fourth, the problem has now spread throughout the rest of the country, creating a national crisis. How did this happen? Because of the way that we treated the problem—not of failed, but frail—institutions.

Treatment of problem institutions: The administration's approach erred, in my view, in adding unnecessary new shocks to a system already reeling from previous ones. FIRREA was the largest shock to the system. New capital requirements were essential, but the precipitous application of new requirements in some cases can create more problems than it will solve. In fact, the administration's own original proposal granted regulators far more discretion in the application of new capital standards than did the final product. Ultimately, the impulse of the administration and some Members of Congress to play tough to the media inhibited a discriminating analysis of the issue.

I thought that meaningful distinctions needed to be drawn between basket case institutions that have no hope of recovery and are only incurring new losses that will increase taxpayer liability, and other weakened institutions, who have problems, but are in a position to gradually, but substantially and consistently, increase their tangible capital position. To treat these institutions alike was to unnecessarily increase taxpayer liability.

A particular problem that raised, in my view, fundamental questions of equity was also not effectively addressed. A number of institutions, in cooperation with the Bank Board, had entered into supervisory agreements as the result of acquisitions of failing institutions. In imposing new requirements across the board on the industry, the Government in effect broke these contracts, putting many of these institutions into impossible situations and creating total, absolute uncertainty about any future government deals whatsoever among potential acquirors. Where institutions were making tangible progress under existing supervisory agreements, I believe some greater accommodation should have been made.

Some exemption authority was given, and I hope it will be used effectively. But I had concerns at the time, and these concerns continue, that the provision does not give the regulator adequate discretion. Such discretion is critical if we are not to unnecessarily place weak but viable institutions into the group that the taxpayer must eventually bailout.

Further, I believe that the administration's implementation of FIRREA has resulted in our rushing institutions into conservatorship to no real end. The RTC is now inundated with a caseload far in excess of its ability to resolve in a timely fashion. Meanwhile, conservatorship status in and of itself has a significantly negative effect on the institution's franchise value, making the acquisition process all the more difficult. Nor has the RTC been substantially successful in eliminating high-cost deposits in Government-run institutions.

The ever-mounting caseload has also induced the RTC to develop targets regarding the number of institutions it will attempt to resolve within a certain time frame, so the appearance of steady progress can be maintained. But the progress is not real progress. Deadlines for "resolution" give potential buyers undue leverage and allow acquirors to make a killing. Moreover, little is actually resolved. In most cases, whole thrifts are not being sold. Most typically, deposits are purchased for a great premium and the bad assets go to the RTC, pushing the real problems to the future, and at a much, much higher cost to the taxpayer.

Impact on strong institutions: We have increased the vulnerability of those who have long run a sound and profitable business by specializing in home mortgage lending. The thrift charter is less valuable today than it once was, to put it mildly. Relatively higher premiums have placed thrift institutions at a competitive disadvantage. Pressures on the Home Loan Bank System have decreased dividends flowing to member institutions. Many institutions argue that the QTL test unduly hampers their ability to effectively diversify. And because of both the real problems and the media presentation of them, the very name "savings and loan" has become a competitive disadvantage.

Nature and function of the RTC: But I think one of our fundamental problems in FIRREA as constructed may have been the belief that Government could somehow solve the problem by bringing it into the public sector, rather than working it out with the private sector. During the course of congressional deliberations on FIRREA, far too little attention was paid to the nature of the RTC or the oversight board and their respective functions.

In fact, the administration's compromise on the structure of the RTC was dropped in the Congress' lap during the waning hours of the conference, after weeks of internal debate within the executive branch over the balance of power between the Treasury and the RTC. The result was a convoluted structure which reflected no conclusive determination regarding the locus of decisionmaking authority and promoted ongoing tensions that have delayed the process of resolution.

Perceptions as to the fundamental nature and function of the RTC were unclear. Many anticipated that the RTC would be of a relatively skeletal nature, certainly not a massive new bureaucracy. Indeed, I recall administration officials saying they estimated the RTC might have no more than 100 employees. But the RTC has become this country's largest financial institution, with asset disposition responsibilities unmatched in our history. Such a misperception was possible because the administration also misperceived the course of case resolution. At the time, it was anticipated that the whole institutions transaction more typical of previous FDIC case resolutions

would be the likely approach. But with the Federal Government now a proven contract breaker, it has become clear that the private investor community has little appetite for whole thrifts.

Reforming deposit insurance: Finally, one of the most fundamental problems with FIRREA was what was not addressed at all—the need to reform our deposit insurance system. In addition to the expanded powers of State-chartered institutions, the lack of supervision at the State level, and a depressed economy in the Southwest, deposit insurance can be added to the mix of factors responsible for bringing about the thrift crisis. By increasing the level of deposit insurance from $40,000 to $100,000 in the Monetary Control Act of 1980, the intent was to draw more funds into the thrift industry after the outflow that had occurred when interest rates skyrocketed in the late 1970's.

But, as many tried to point out at the time and in the immediately following years, deregulation of interest rates had to be accompanied by increased supervision of thrifts and by fundamental reform of the deposit insurance system to insure that funds flowed to the stronger, more creditworthy thrifts, rather than to the high flyers that were willing to pay the highest rates.

Unfortunately, those warnings were not heeded. The most stunning abuse of the deposit insurance system may have been brokered deposits. Investors looking for risk free investments used Wall Street brokers to allocate their funds to those thrifts offering the highest CD rates. Any hope of market discipline was destroyed when investors were free to shop for the highest rate, with no thought given to the creditworthiness of the individual thrift issuing the CD, effectively shielded by deposit insurance from any risky investments that thrift made. In fact, the more troubled an institution, the higher its rates. This resulted in the thrifts that were least deserving of reward being rewarded with an inflow of deposits from around the country. These thrifts were then free to use these deposits to make high risk investments. Indeed, only such high risk investments could earn a high enough return to pay the high interest rates these thrifts were paying on their CD's. All the while, the thrift manager could be assured that the Government would pay for any risky investment that did not succeed.

It was indeed a downward spiral that resulted from the combination of deregulated interest rates, lack of supervision, and the use of brokered deposits. Although the FDIC and FSLIC attempted to restrain the use of brokered deposits, the Treasury Department under Don Regan opposed any effort to do so. The Regan Treasury was very effective in rallying Wall Street to oppose any restrictions on what the FDIC and FSLIC considered an abuse of the system. As a result, brokered deposits continued to fuel the thrift debacle, allowing the worst thrifts to thrive and their owners and management to enrich themselves without any personal risk. This, in turn, forced what had been healthy, well-run institutions to increase their own rates, and distort their own business practices in order to survive in this poisoned environment.

Some significant changes were made in FIRREA—for example, giving the FDIC greater authority to withdraw or withhold insurance from State-chartered institutions. But, I believe that the entire concept of deposit insurance must be re-examined. We have lost sight of the original intent of deposit insurance, which was to protect small unsophisticated depositors. The incredible abuse of the deposit insurance system by the use of brokered deposits should be sufficient to convince us of the need to drastically reform the existing system. Although it can be argued that deposit insurance has been beneficial in preventing bank runs and affording stability to the financial system, we are now being forced to recognize the cost attached to a deposit insurance system that is not properly managed. And those costs are monumental. We must act to reduce the exposure of the American taxpayer.

We need to face a fundamental element of our market economy—the need for market discipline. We can choose to ignore that reality, but we do so at taxpayer expense. We might even remember that President Roosevelt had serious qualms about the viability of a deposit insurance scheme, believing that it would allow high risk institutions to be subsidized by more conservative, well-managed institutions. Some people have foresight.

II. WHERE DO WE GO FROM HERE?

So where do we go from here? We cannot undo what has been done. The problem has been magnified unbelievably, especially in this third phase, from the beginning of 1989 to the present. But if we recognize where we have gone wrong, we can change course and deal more effectively with the continuing problems we face.

What direction should we take on some key issues?

Funding: With respect to the funding, it is now clear that significantly higher levels of funding will be necessary. Secretary Brady has emphasized that it is illegitimate to factor in interest costs when discussing the cost of the bailout. I disagree fundamentally. Those interest expenses are real, as is the burden they impose on our taxpayers. Interest payments on Government debt account for an ever growing portion of expenditures—moneys that could otherwise be turned toward productive investment. It is irresponsible for us to blithely add to that burden and then treat that additional burden as somehow irrelevant to the discussion. Stanford University recently made an estimate that, because of paying interest on interest on interest, we are dealing ultimately with a $1 trillion problem.

Whatever we do in the future, let us put it on budget and on Gramm-Rudman and deal with it in this generation. I hope we will come to recognize that we are engaging in massive child abuse of our children and grandchildren, and stop it.

I believe we should pay for the thrift bailout through a special surtax. I called for such a surtax in 1989. Two weeks ago, Felix Rohatyn called for one. To ensure that the burden is shared as equitably as possible, that surtax should be imposed on a more progressive system than the one we have now—which, in my view, requires decreasing payroll taxes and making the overall income tax structure more progressive by raising the rate on upper income individuals.

What's the administration position? The administration has suggested that Congress might provide the RTC with a blank check through the back door using the budget resolution to get the RTC a permanent appropriation like that on interest payments on Federal debt. Again, I fundamentally disagree and will forcefully oppose that approach. I believe the Congress will too. It is painful, to be sure, but Congress must know on an ongoing basis how much money is necessary, why, and how it is to be spent. There can be no blank check.

Treatment of problem institutions: How should we deal with problem institutions? Driving institutions relentlessly into conservatorship status may make for good press and reduce agency vulnerability to congressional criticism. In fact congressional criticism has been responsible for some of the regulators' overly ambitious action and the increasing stringency in reviewing portfolios. But the relentless effort to push institutions into conservatorship status is increasing taxpayer cost. Institutions with no hope of recovery should not be permitted to incur further losses that will increase the taxpayer's burden. But institutions that show a good prospect of recovery should not be driven relentlessly into conservatorship by a too rigid and precipitous application of inflexible standards. The regulators require some reasonable flexibility, and they should not be afraid to apply it intelligently. And we should not make them afraid to apply it intelligently. That will require much less demagoguery from the Administration and the Congress.

For example, the FDIC has noted that it has insufficient flexibility to grant waivers regarding the powers available to state-chartered savings associations even where such waivers would be beneficial to the thrift and, in the judgment of the FDIC, pose no risk to the insurance fund. Issues such as these must be reexamined.

Reducing taxpayer costs: We must also place a premium on reducing taxpayer costs. If there is value to be realized in failed or failing institutions, that value should act to defray Government, and therefore, taxpayer obligations. For example, we may have to consider increasing the FDIC's authority to ensure that taxpayer obligations are not unduly increased, S&L management does not unduly benefit, and that holding companies cannot hide from their legitimate obligations. FIRREA gives the FDIC, in its role as conservator or receiver, the power to repudiate any contracts that are burdensome. This new power will be particularly helpful in the repudiation of golden parachutes. However, the FDIC would appear to need additional authority to prohibit or limit excess or abusive golden parachutes. They should be given this authority.

And we must fully support legislation which I hope will be enacted soon to keep S&L crooks from hiding their assets behind personal bankruptcy. This issue, too, should be addressed as soon as possible.

FIRREA also establishes the cross guarantee liability of insured affiliated banks and savings associations to prevent multi-institution

holding companies from abandoning failing insured affiliates. But, there appear to be loopholes in the provision that are creating an incentive for holding companies to sell or otherwise separate the healthy insured institutions prior to a failure to avoid this obligation. We should examine this carefully.

It also appears that State law is having the effect of increasing taxpayer obligations in purchase and assumption transactions. In a number of cases, State law provides that the RTC must share any proceeds from an institution's assets with unsecured creditors including uninsured depositors, so the RTC recoups only a portion of available funds. This necessarily increases the taxpayer obligation, and this too should be examined.

Asset disposition: What of asset disposition? We are now making too many decisions for the wrong reasons. Decisions as to whether assets should be held or rapidly sold should be a function of what will do the least damage to the market and maximize value. The decision should not be driven by what best serves RTC's increasing need for funds or how we might best evade the fundamental budget issue. I think those concerns are the primary motivation right now. We should explore all alternative approaches for securing greater involvement by the private sector in asset management and disposition.

Organizational changes: With respect to organizational changes, I do not want to delve into such changes right now. The RTC and the Treasury have made some progress in working out tensions in the organizational structure, and things are beginning to function more smoothly. I do not want to disrupt that at this juncture. But I do believe that the regulatory structure in financial services requires significant reorganization and any further changes in the structure of thrift industry regulation should be a part of that comprehensive process.

Rethinking the structure of financial services: Let me turn to that comprehensive process or rethinking the structure of our financial services industry. We must be willing to rethink whether the solution devised last year deals effectively with the problems as we now see it, and how that solution relates to other reforms we must undertake in the financial services industry.

We know a great deal now that was not generally known when we began deliberating on the thrift crisis: the problem is much bigger than most thought; the appetite for sick thrifts in the investor community much smaller; the asset disposition problem much more substantial; the real estate market much softer. Given this new information, we must consider whether everyone's interest is best served by nationalizing S&L's as quickly as possible, as is being done, and then having the government try to manage and sell an ever mounting stockpile of assets.

In truth, our archaic and segmented financial services industry is badly in need of complete restructuring. As chairman of the House Banking Committee Task Force on the International Competitiveness of U.S. Financial Institutions, it has become clear to me that a highly compartmentalized and fractionalized financial services industry cannot survive in this newly competitive internationally driven financial world—the inherent inefficiencies are just too debilitating and costly to society. We must overcome artificial barriers, such as State branching restrictions that are inhibiting acquisitions, that preclude necessary and appropriate mergers, consolidations, and acquisitions from occuring so that we can build capital strength in those institutions that remain viable.

Finally, it is not for the Government, but the market, to decide the fate of the thrift industry. I believe there is a place in our financial services system for institutions, whatever they're called, which specialize in mortgage finance. Whether those institutions are commercial banks, or mortgage banks or thrifts should depend on who is the best and most efficient provider of particular services.

The Government should neither tax the industry out of existence nor insure its continued place as a separate industry. In that regard, those factors that arguably deny the thrift industry a level playing field should be reassesed—the premium structure, the appropriation of district bank earnings, the nature of the QTL, restrictions on transferring from SAIF to BIF.

III. CONCLUSION

Mr. Speaker, we have a monumental problem on our hands. The thrift industry problem has been transformed into a national crisis unlike any in our national history. We won't deal with it in 1990, unless there is a lame duck session, and even then comprehensive action is unlikely. But whether in a lame duck session or in 1991, we must address three issues: revisit the FIRREA legislation, reexamine the deposit insurance system, and address the whole question of restructuring the totality of our financial services industry. These issues are inextricably interrelated.

□ 1640

THE BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho [Mr. CRAIG] is recognized for 60 minutes.

Mr. CRAIG. Mr. Speaker, on July 17 the U.S. House will have an opportunity for the first time since 1982 to vote on a balanced budget amendment to the U.S. Constitution. Over the course of the last two decades, the American people when polled on an annual basis have between 70 and 80 percent agreed that the Congress of the United States should balance the Federal budget on an annual basis and not continue to mount the large Federal debt that we have today.

As most of us know, many of our States operate under a balanced budget amendment to their constitution. They must in fact on an annual basis bring about a State budget that has receipts and expenditures in balance, and a failure to do that is a violation of their constitution. So their legislatures automatically and in a fiscally responsible way simply comply.

Of course, if the public feels necessary to shift priorities of programs or to raise additional revenues for new programs or expansion of programs, then they do the wise and judicious thing. They vote for tax increases and they go home to their constituents to convince them or to otherwise be convinced that they have done the right or the wrong thing.

That is why I and others since 1984 have worked in a bipartisan manner to build a majority conensus in this House that someday we could ultimately vote on a balanced budget amendment to the Constitution.

The gentleman from Texas [Mr. STENHOLM] and I over a year ago introduced House Joint Resolution 268. This resolution is the balanced budget amendment to our Constitution that now has 248 cosponsors. A week ago last Tuesday, 218 Members of this House signed a discharge petition that discharged the rule that will now allow this issue to come to the floor. The leadership of the House this week agreed that we would use the rule that we have discharged and allow full debate and a vote on this issue on July 17.

Let me now read for the body this very simple amendment, one that I believe will set new standards and demand an entire reforming of the budget process of the House, and in fact that budget process of this Congress and the Government itself:

Resolved by the Senate and House or Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress and the President shall agree on an estimate of total receipts for that fiscal year by enactment into law of a joint resolution devoted solely to that subject. Total outlays for that year shall not exceed the level of estimated receipts set forth in such joint resolution, unless three-fifths of the total membership of each House of Congress shall provide, by a rollcall vote, for a specific excess of outlays over estimated receipts.

"SECTION 2. The public debt of the United States shall not be increased unless three-fifths of the total membership of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the total membership of each House by a rollcall vote.

"SECTION 5. The provisions of this article are waived for any fiscal year in which a declaration of war is in effect.

"SECTION 6. Total receipts shall include all receipts of the United States (except those derived from borrowing.) Total outlays shall include all outlays of the United States except for those for repayment of debt principal.

"SECTION 7. This article shall take effect beginning with fiscal year 1993 or with the second fiscal year beginning after its ratification, whichever is later.".

So today I have read into the RECORD what is our proposed constitutional amendment. It is simple and straightforward, clear and easy to understand, setting forth a procedure and a process that for the first time asks the President of the United States to submit a balanced budget. For the first time it asks both the Congress and the President to agree on a revenue estimate and that to change that revenue estimate would require a three-fifths vote, to agree that if a debt ceiling increase is necessary that that, too, would require a three-fifths vote of the whole House; in other words, very tough votes, and if revenue increases were deemed necessary, to require a majority of the total membership, a constitutional majority, in a rollcall vote. A simple process, a tool that has been necessary for over 200 years, that this Congress because the Constitution is silent to the issue has been without.

Thomas Jefferson said years following the ratification of the Constitution that if he had to make but one change in the Constitution, it would be to disallow the Federal Government the ability to borrow; in other words, to insist that expenditures only be that derived equal to the receipts on an annual basis; in other words, to provide for a balanced budget to our Constitution.

Today this Congress, for all intents and purposes, has lost the political will to be fiscally responsible. We have not had a balanced budget in our Government since 1969. Since World War II ended, we have had only six balanced budgets, of which only one has occurred since 1960.

When I say we have lost the political will to be fiscally responsible, I think I speak the obvious truth. Although many of our colleagues oppose the idea of a constitutional amendment, I have suggested to them on more than one occasion that it is the clear and necessary tool that provides them, if they deem it necessary, with the political safeguards and the protection to go home on an annual basis, to tell their citizens that they could only vote for those issues of public policy that required expenditures that were within the confines of the total receipts so designated by the Congress itself.

Today our voters know that if we truly wish to, we can spend beyond our ability to gain receipts. In other words, we can borrow at will as this Congress has for the last several decades to mount today the phenomenal debt that is nearing $3 trillion, that commands on an annual basis now well over $100 billion a year just to pay the interest on the national debt.

Our President and the leaders of this House and the leaders of the other body today would not be meeting in summit if this balanced budget amendment were in place. There would simply be no need to. That would all have been determined by an act of the budget and an act of this Congress itself agreeing with the Executive on the total outlay and the total receipts and then to move forth in the discussion and the debate of public policy and public priority as to where those dollars ought to be spent.

Whether we like it or not, whether this country or those who represent this country in the Congress of the United States will admit, we are truly at a crossroads. We are in a major budget crisis today. This is the second time in a decade that the executive and the legislative branches have met in summit announcing a major budget crisis and the need to arrive at new policies and changes and new directions if we are to stave off fiscal insolvency, or at least if we are to be responsive to the Budget Act as we know it.

Several years ago we passed the Gramm-Rudman-Hollings Budget Limitation Act. That was to set forth and to bring in balance this year the Federal budget; but of course, we all know that as we pass laws on the floor of this House and as they are signed by the President, they can be changed just the way they have been passed.

□ 1650

Although the Gramm-Rudman-Hollings Act has provided some fiscal discipline, it has failed to balance the budget as was its intent and was its requirement when it was originally passed.

Why has it been possible to avoid the law or to change the law? Simply because it is so easy to do. We do not have the people's law, the Constitution that this Congress cannot change, but only the people can, as our guideline, as our direction, as the body of law that insists that we comply on an annual basis with a balanced budget.

That is why I and others have been so insistent over the years that the only way to bring about fiscal solvency, that the only way to avoid the ultimate crisis at hand was to insist that we move toward a balanced budget, that we propose an amendment and send it forth to the States for ratification. Today in a press conference in the triangle here in front of the Capitol, I said that the Congress of the United States would not really debate this issue. We would, in a limited way, discuss it, and hopefully pass it, and our counterparts in the other body would do the same, and we would send it forth to the States of the Union for the ultimate debate, and then in all legislatures across this great country over the next 2-year period, we would hear and become part of probably one of the most fascinating debates since the ratification of the Constitution and the Bill of Rights over 200 years ago. That would be how to bring about fiscal solvency in this country and manage the fiscal affairs of this Nation, and whether the people want it and would accept and, therefore, ratify an amendment to our Constitution that would insist that on an annual basis this Congress balance the budget for the Federal Government and live within the confines of that balanced budget.

Mr. Speaker, I yield to my colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I thank the gentleman from Idaho for yielding to me.

Mr. Speaker, I must commend the gentleman for holding this special order, but, more importantly, to commend the gentleman for his tireless attempt to pass a balanced-budget amendment. I know the gentleman has been working on this for years, and finally he is seeing the fruits of his labors by a vote that we hopefully will have on the balanced-budget amendment in the month of July.

The gentleman understands that this Congress is responsible for the deficits that we have been running up over these years, that this Congress is responsible for ignoring calls for cuts in spending, and this Congress is also responsible for pushing the President and laying on the table tax revenue increases in the budget summit in order to even come to the summit, because this Congress and the majority in this Congress want to raise taxes so they can continue to spend on their favorite programs that they have instituted over the years, and new programs which they want to institute in the future.

If the gentleman will just indulge me for just a moment, behind the calls for new taxes are assumptions that the Federal budget already has been cut to the bare bones. If one reads the press, the press will tell the American people that we have got to raise taxes. Yes, well, we have to raise taxes if we want to continue the spending practices of the past, but if we truly want to reform this Government, cut it down to size to provide programs that are beneficial, to eliminate programs that are not providing any benefits to the American people, then we can do it, and we do not have to raise taxes. The only way that we can do it, the

only thing that will bring us the discipline to do it, is the gentleman's balanced-budget amendment.

The press and the Members of this Congress try to put a sham on the American people that the budget has been cut to the bare bones, that every program is running as efficiently as possible, and that every program serves some vital national goal that cannot be accomplished by State and local governments or by the private sector.

Analysts have identified billions of dollars; I know there is a group called the Citizens Against Government Waste that has identified well over $185 billion over a 5-year period of savings if we just made our Government more efficient and cut out a number of wastes.

The Heritage Foundation has identifed $130 billion in spending cuts and budget savings that could be made without harming programs or compromising the so-called social safety net. However, Congress has repeatedly ignored reputable studies calling for hundreds of billions of dollars in spending cuts.

In 1984, for instance, the President's private sector survey on cost control known as the Grace Commission, after the Commission Chairman, J. Peter Grace, recommended spending reductions and efficiency measures totaling $424 billion over 3 years, but the year following the Commission's report, Congress increased Federal spending by $94.5 billion, an inflation-adjusted increase of 7.2 percent. Congress repeatedly has ignored revelations of wasteful spending by its own respected research arms. Last November, for example, the General Accounting Office released its fourth annual report on the implementation of the Federal Managers' Financial Integrity Act of 1982. This act was intended to control waste in Federal financial management systems. The GAO found over $180 billion in program waste, fraud, and financial mismanagement.

Said Comptroller General Charles Bowsher before the Senate Governmental Affairs Committee, "The problems that exist are not limited to a few agencies or a few programs, rather, all the major agencies have serious problems."

Each year the Congressional Budget Office is required by the Congressional Budget Act of 1974 to produce a survey of recommended budgetary options for the Senate and House Budget Committees. This year's report released in February recommended program reforms that yield roughly $60 billion in savings in the first year of implementation, and CBO is known for erring on the side of caution, yet Congress so far has ignored these recommendations.

Americans are paying a higher percentage of their income to the Federal Government than ever before, and the Federal Government is collecting record amounts of revenue. Therefore, rather than turning to more taxes to deal with the budget deficit, Congress must turn seriously to the task of cutting spending. Legislators in this Congress face a very difficult task when spending reductions are necessary. Most Government spending benefits some group of individuals or interests. If there are no limits to revenues, Congress could find many worthy projects to fund, but Government spending is at the expense of the taxpayer.

Helping one interest always harms another. Congress, therefore, must decide which expenditures truly serve the national interest and which should be left to State and local governments or to the private sector. Unless we have a balanced-budget amendment, the Federal Government will continue to operate with a budget deficit. Congress and the administration must justify to the American taxpayer why each dollar of revenue is needed, why the last dollar did not accomplish what lawmakers promised, and why existing programs should continue.

If the gentleman will yield further, I would like to just point out a couple of examples. I would like to list a few things while not necessarily expressing support for any one of these, but just pointing out the kinds of things that this Congress will not do. These are the kinds of decisions that this Congress chooses not to take, in lieu of raising taxes, because they are tough decisions.

Congress makes it illegal to use privatization to reduce costs. Congress constantly blocks attempts to inject market incentives into Government. After years of academic analysis and successes at the local level, there is no longer any question that the private sector can provide many Government services at greatly reduced costs.

Let me give a couple of examples. The General Services Administration is prohibited from contracting out guard, elevator operations, messengers, and custodial services.

□ 1700

The Legal Services Corporation may not use vouchers or hire private legal clinics as an alternative to staff lawyers employed by a limited number of legal service agencies. Thus it cannot employ the services of private for-profit legal clinics such as the Hyatt Legal Services or private arbitration or mediation companies such as In Dispute, Inc. or New York City's Dispute Center.

Another example, due to congressionally mandated employment levels, the Food and Drug Administration, the Veterans' Administration, and the Coast Guard Maintenance Yard, are effectively prohibited from reducing costs through privatization or eliminating duplicative staffing.

The Congress refuses to close down programs that have completed their purpose. Examples are the Davis-Bacon Act of 1931, which establishes inflated prevailing wages for Federal construction contracts over $2,000. It was enacted to protect unionized construction workers, the majority of whom were white, from competition from lower cost nonunion labor, the majority of whom were black. For 60 years that law had denied opportunities to black tradesmen and raised Federal construction costs by $1.5 billion per year. Yet Congress refuses to abolish it.

I mentioned earlier today in a 1-minute speech the Export-Import Bank, which was created in 1934 to finance exports to Russia. Sixty-five years later the Bank loses about $400 million a year financing exports for some of America's largest international corporations.

The Rural Electrification Administration was created in 1935 to bring electricity and later telephone service to rural areas of the country. Today 99 percent of rural Americans have electricity, and 96 percent have telephones. yet, REA still exists at a cost to the taxpayers of $2 billion per year.

I could go on and on. I have a list this long, if the gentleman will permit me, but I will yield back to the gentleman for his comments. Then if he will give me some more time, I would like to give more examples.

Mr. CRAIG. I thank the gentleman from Texas [Mr. DELAY] for his tremendous effort over the last good number of years to point out waste that has gone on in our Government, waste that certainly has been picked out and pointed out by different agencies and by different outside organizations and study groups, this Congressman's tireless efforts with the activities on the outside, his forming of special caucuses to draw attention by Members of Congress to this issue.

Now, why has it not happened? It has not happened because this Congress has not had to establish priorities, plain and simple. It had a checkbook and it had unlimited borrowing power, and it had the American taxpayer to pick up the tab. It was not forced to do what we are suggesting it be forced to do in the coming years, and that is live within some reasonable constraints of a balanced budget or the reasonable constraints of an economy in which it spends only a limited amount of it.

We debated a bill today in which there was an increase in spending of 17 percent. I do not think any of us would pick any one part of the bill and say it was not worthwhile or it was not necessary. Because to the individual or to the recipients on the outside it

would have been tremendously necessary. But here we struggle along in this Congress, with our economy growing at the rate of about 2 or 2½ percent annually. But on the whole we will see requests for a Federal budget that will grow at the rate of about 12 percent this year, even with the strong possibility that we will reduce defense spending by upward of some tens of billions of dollars. So the area that has received the most attention over the last decade as the great culprit of deficit creators will now be a shrinking portion of an ever rapidly growing Federal budget.

For once and for all, those who study what we do here will not have the excuse of a massive defense expenditure as the excuse for Federal deficit spending. They will no longer have the opportunity to say well, it is somebody else's fault. It was the Russians' fault that we had to spend all of this money.

The fault must rest here in this Congress. The fault must rest with the individual Members. The fault must rest with the process. That is why I believe, as many do, that it is fundamentally important that in that process of the budget, that we make fundamental changes, and that those changes recognize the importance of saying there is only so much money to spend on an annual basis, and that in an honest and fair way to the American taxpayer, that if in fact we want to spend more money, that with a super majority we would so vote and record that vote, and then go home and say well, you know, we did not have enough money, we had other programs of high priority and I voted to raise taxes for that purpose.

Now, that is fair and that is honest. Of course, it is important that some of our folks be forced into that situation, because they always hide behind the excuse that some other Member of Congress did it.

Mr. MOODY. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I am happy to yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I have listened with great interest to your comments. In fact, that is what brought me to the floor. The gentleman is aware, of course, and I hope he did not mean to imply to anyone who might be listening, to the contrary, that the fastest growing part of the Federal budget is, of course, the interest bill, which is not discretionary, not based on some unlimited checkbook that Congress decided to write, to use your words, but based on an absolute obligation of this country because of the borrowing binge this country has been on, the two straight Republican Presidents have asked us for, and which in fact we have given them less than they asked us for.

It is not just Congress that spends money, my friend, it is the executive branch that spends it. We appropriate.

In the last 200 years the Congress has never deviated more than 2 percent from what the President himself has asked. So let us share the blame in this, and there is plenty of blame to go around. Let us not pretend this body has gone out on a spending binge.

Mr. CRAIG. Mr. Speaker, reclaiming my time, let me suggest to the gentleman from Wisconsin [Mr. MOODY] that I agree, and I in no way have insinuated that it has been that this is Congress' sole responsibility. In fact, the gentleman will notice that for the first time in the 200-year history of this Government, that we are proposing that the Constitution require that the President of the United States submit a balanced budget annually.

Mr. MOODY. I give the gentleman credit.

Mr. CRAIG. But I have been here 10 years, and I do not really put much credit in any argument that comes to the floor and points fingers in 10 different directions, unless you are willing to point the finger at yourself.

Mr. MOODY. Absolutely.

Mr. CRAIG. For the simple reason that this body, and I have been here and have watched the budget battles, and Democrats like to blame Republicans and Republicans like to blame Democrats, and let me tell you, Democratic Congresses delight in blaming Republican Presidents. But you and I both know there is a world of blame to go around, because there is no political will to be fiscally responsible. There is no will to cut, and I have to say there is a growing will to raise taxes.

Of course, that is alarming to me, because I see a good many programs, many like mentioned by the gentleman from Texas [Mr. DELAY], which simply do not justify being on the books any more. But no one here has the wherewithal or, more importantly, political will to say no.

Now I yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. I appreciate the gentleman yielding. I really do appreciate the gentleman letting me participate. I was going to say that yes, there is blame to go around. I do not think that Congress in the 1980's should have given President Reagan nearly as much spending as he asked for. I blame the Congress for going along with the President. We gave him most of what he wanted, but we did not give him everything he wanted. If we gave him all the military spending he asked for, the deficit today would not be $200 billion, it would be almost $300 billion. With compound interest rates, it makes a big difference.

But the only thing that has grown in the last several years, and I think should redound to the credit of both the President and the Congress, have been those parts of the budget which are almost locked in, unless we are willing to touch the entitlements. Half the budget is entitlements, and that is based not on our appetites, but based on demographics.

We are an aging society. We have more and more people growing old. That is not something we decide in Congress, that is happening by the population. That is driving Medicare and Social Security and the other entitlement costs up very fast.

That, plus interest, is almost two-thirds of the budget. Two thirds of the budget has been growing rapidly, most rapidly interest payments because of the borrowing, because we did not want to cover it with taxes.

The other one-third of the budget, discretionary spending, has in fact not been growing.

Mr. CRAIG. Reclaiming my time, let me ask the gentleman from Wisconsin [Mr. MOODY] one question. On July 17 we will debate a balanced budget amendment to the Constitution. The gentleman and I agree on many of the budgetary problems that this Congress has faced. Will you vote in support of sending to the people of the United States a balanced budget amendment to the Constitution? That is a simple question.

Mr. MOODY. I am going to answer it. I have begun to study the latest proposal. There have been so many proposals in the past, I have not supported them.

Mr. CRAIG. This has been the lead proposal for the last 4 years here in Congress.

Mr. MOODY. It is not the only proposal in Congress.

Mr. CRAIG. That is correct.

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Mr. MOODY. In the past I have always opposed them because they tend to put us in a straitjacket in terms of managing the economy. That is a straight balanced budget economy would require us to raise taxes in a recession because our revenues would drop, and it would require us to raise taxes even higher in a depression, which then forces us into a deeper depression. So we augment the cycle, the business cycle.

Mr. CRAIG. The gentleman will find that this one has flexibility to disallow that.

Mr. MOODY. What I like about the latest proposal is the flexibility, and I am giving it serious consideration and may well support it.

I think the borrowing we are now on, my friend, the 8-year borrowing binge or the 9-year borrowing binge is so serious that it is beginning to swamp the other reservations that one might have about this.

Mr. CRAIG. Out of fairness to my cosponsor and my colleague, the gen-

tleman from Texas [Mr. STENHOLM], and the bipartisan effort that has gone on this issue, let me now yield to the gentleman from Texas, coauthor of House Joint Resolution 268.

Mr. STENHOLM. I thank my friend for yielding, and I will not take a large amount of time so that I can yield to my colleague from Texas and others who would like to talk. I also appreciate very much the input of the gentleman from Wisconsin [Mr. MOODY], and the spirit in which he in fact is looking at this particular proposal, because as we all have labored since 1982 to try to put together a proper constitutional restraint on the propensity of both Congress and Presidents to spend more than we have, or that we are willing to in fact tax the American people to spend, we have listened to the gentleman from Wisconsin [Mr. MOODY] who has been very constructive in his help on this side of the aisle in attempting to rationalize and to put together the proper language, because this is one Member that understands the significance and the severity of amending the Constitution of the United States. I too am concerned about straitjackets.

We have tried this through Gramm-Rudman in a legislative straitjacket and it did not work. If in fact we make it so tight that we cannot escape, we in fact will escape. It is just as simple as that.

What we have tried to do in this amendment and in this proposal that we will be voting on on the floor on July 17 is to present it in such a way that it is perceived, and not just perceived but actually would be some help for the Congress. When we propose that the first major economic item of business for every year shall be for the House and the Senate, in a concurrent resolution, to agree on how much money we are going to have to spend, and the President signs it, to me that is a significant improvement over the manner in which we deal with our Nation's fiscal business today. I happen to believe very strongly had this amendment been in place in 1980 we would not have borrowed $2 trillion over the last 9 years. I do not believe we would have had up and down votes on this House floor to borrow beforehand, but to borrow up to $200 billion a year to spend if we had had to make that an overt act on the part of the House.

So we propose in this that we vote then, and we decide how much we are going to spend, and then keep it simple so not only the American people can understand it, but also we Members of Congress can understand it. We keep it simple by saying that then if, in the wisdom of the House or the Congress that we need to spend more, we can. But we make it difficult to spend more than we have. If we are going to borrow that money it will take a 60-percent vote on the floor of this House to borrow money. That does not mean should the economy be in a recession, if in the wisdom of 60 percent of the Representatives we need to borrow money in order to stimulate the economy, it cannot be done because it can under this, but it makes it more difficult.

And that dreaded "T" word, there are those who believe that we should make it impossible to raise the "T" word. They are going to have a chance to vote on that. My colleague in the well will be offering that amendment, and we will have a chance to work our will on that.

So this is not a straitjacket; if in the wisdom of the people's representatives we decide that we need more, then we can provide money on a pay-as-you-go basis or borrow it, but it is going to be tougher. But that is the spirit in which we have worked so hard with my colleague, who in the spirit of taking this world and the Congress as it is, and really truly amending the Constitution, not talking about the Bill of Rights here, but we are talking about taking away the freedom of the U.S. Congress to spend more money than we have for the people's programs. I believe that fundamentally is a major change.

Mr. MOODY. If the gentleman will yield, it is also taking away the ability of the President to propose a budget that is incredibly out of balance, which we have seen over the last several years.

Mr. STENHOLM. Absolutely. The gentleman is correct. That is one of the requirements, one of the articles in this amendment. It says that the President must submit a balanced budget in the same spirit and under the same constitutional restraints that the Congress does, and I would be the first one to point out that I have been in Congress 11½ years, and no President that I have served with, and there is three, has submitted a balanced budget.

I totally agree with the remarks and comments of the gentleman from Wisconsin earlier in talking about spending. I am a little tired as a Member of Congress of getting blamed for this $2 trillion of debt when we actually have spent within $20 billion what the President has asked us to spend during the Reagan administration. How can it be our fault?

But again, this is not the point of the discussion now. This is all hindsight.

What we have to look forward to now is first off a realistic summit agreement in which we do something about the deficit we are running today. This constitutional amendment proposal will not touch that, never has been intended to touch that. What we have to do are the tough things in this body later this year, in July, I hope, when we begin to address those.

Let me sum up by saying first off, this amendment is designed to be in place when we, in fact, have shown our backbone in this body following leadership and backbone at the other end of Pennsylvania Avenue to deal with our Nation's fiscal problems. Once we have done that, over the next 5 years, I hope, then we will have a constitutional restraint in place that will make it much more difficult, if not impossible, for future Congresses and future Presidents to do as the last President and the last four Congresses that I have served in have done, and this is not meant as a slap to anybody, and the finger is pointing to CHARLIE STENHOLM. We believe that we have a proposal worthy of the consideration of the Members, hopefully of two-thirds of the body.

I am glad to yield back to my colleague so that others may participate.

Mr. CRAIG. I thank my colleague from Texas for his comments and for this effort over the last good number of years in working together in the refinememt of and the ultimate proposing of House Joint Resolution 268. I think both Congressman STENHOLM and I would agree, this document is not, by our definition, perfect, but it is as close as we can come based on the input of a good many people as to what would serve as the proper guideline for directing the Congress of the United States and the President in proposing and bringing about Federal budgets.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I am happy to yield back to my colleague, the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there are a couple of misstatements that have been made that I need to correct, because it is these kinds of misstatements that undermine the reason for having a balanced budget amendment. I am not defending any one President, because I feel that the President is not using, this President or the President preceding, did not use the veto. It is true that neither Ronald Reagan nor George Bush has submitted a balanced budget to Congress; yet, if we had enacted all of the budgets proposed by Ronald Reagan without adding all of the little add-ons that we add, we would be at a balanced budget today.

What happens, and the gentleman knows this, and I am on the Appropriations Committee and have to agree with the gentleman from Wisconsin [Mr. MOODY], about some of the problem. He is totally correct about borrowing and paying interest on what we borrow. That is totally correct.

But the problem is we borrow money to spend, and that is where the real problem lies, is in the spending.

The gentleman is also correct that entitlements are half the budget, and that is the biggest problem.

A lot of times the Appropriation Committee is blamed by the public for the entitlements, and the entitlements are in the committee of the gentleman from Wisconsin, [Mr. MOODY], the Ways and Means Committee, and the entitlements need to be reformed. I have plenty of examples where we need to reform entitlements, and I agree with that.

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The problem is—and I will submit this for the record—that Congress has not spent less than the President. I am as guilty as anybody. But when the Committee on Appropriations brings a bill to the floor and tells you that it is below the President's requests, that is true. Most appropriation bills are below the President's requests as they come to the floor. What they do not tell you is that you have got to add the supplementals and everything else on top of that, which are way above the President's requests.

The total, in the 8 years that we have been spending, from 1982 to what is projected to be spent in 1990, Congress has approved bills—and I will say that the Presidents have signed them and they need to veto more—$285 billion over what the Presidents of those years have requested.

Now, what happens is the President has his favorite programs, Congress has their favorite programs, and what we have seen over the years is the President gets most of his, Congress gets most of theirs and we send the President one big package. Then the President has a choice of either voting against his own by vetoing the package or going along with it. There is a deal struck between the President and Congress, and we end up spending.

Mr. CRAIG. I yield to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I will accept these figures that the gentleman is putting into the record as being accurate. I totally agree with his assessment that these are money that have been signed and spent by the President. I think this proves both of our points, though, because $285 billion is far short of the $2 trillion that we have borrowed. That is the significant point that we have to make.

The President requested within $285 billion of what we spent. Now, I said 20, maybe I missed it. So I will concede the number of the gentleman at $285 billion.

I will still state that these are the kinds of games that we, with this amendment, want to stop being played by both ends of Pennsylvania Avenue.

Mr. Speaker, I think my friend from Texas [Mr. DELAY] concurs on that.

Mr. DELAY. I totally concur and appreciate the gentleman in his efforts to pass this amendment.

Mr. CRAIG. I yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. I do not know if the figures are accurate, but I will take the word of my colleague, the gentleman from Texas.

Mr. DELAY. Again, if I may, they are from the Office of Management and Budget.

Mr. MOODY. Assuming they are accurate, I think they should be labeled "the Congress spent and the President signed." The Congress proposed that the President authorize and the Presidents signed it in big bold letters "Ronald Reagan" or "George Bush," and it was both parties, the top representatives of both parties that conspired to put these numbers together.

I think what the gentleman from Texas said a moment ago, if it is accurate, Congress and the President had a different set of priorities over the last 9 years, particularly the previous administration, the Reagan administration. The President wanted more military spending than generally the Congress was willing to grant. They granted most of it in the early years. Congress was unwilling to cut the domestic as much as the President wanted, particularly entitlements. Nobody wanted to touch those. So Congress tried to protect the discretionary spending. Nobody touched the entitlements at all, or hardly very much. The President wanted to protect or even augment the military spending. As the gentleman knows, rather than force themselves into trade-offs, which I gather this amendment would require trade-offs, they said, "Well, let's have both."

So the Congress protected the women and the children and orphans and old folks and the poor folks and the handicapped, by the way, the environment and law enforcement. That was both sides of the aisle. You remember Ronald Reagan's budget got only some 30 votes in this House. It was not the Democrats rejecting Ronald Reagan's budget, the slim budget on the domestic side. It was Republicans and Democrats.

In the Senate—in 1 year, Jack Kemp, our former colleague, was the only vote for the Reagan budget. Does the gentleman remember that?

Mr. DELAY. I was not here.

Mr. MOODY. The only Republican in the whole body to vote for the Reagan budget was Jack Kemp, former Congressman from Buffalo. Every Republican in this body rejected the President's priorities, which would have slashed discretionary spending on environment, education, health, and so forth.

So as my colleague from Texas, Mr. STENHOLM, says, there is plenty of burden to go around here as to who we got in this mess.

Mr. CRAIG. I yield to the gentleman from Texas.

Mr. DELAY. The gentleman makes a decent point. A pox on all houses.

But the point here is now that we are in this budget summit, this Congress is unwilling to make the kinds of spending cuts to avoid raising taxes. That is where we are. We are at a crisis situation, and there is plenty, plenty of spending cuts that can be made that do not eliminate the social safety net. But we refuse to make those tough choices.

Mr. Speaker, I submit the following article for the RECORD:

HOW CONGRESS FORCES UNCLE SAM TO WASTE MONEY

(By Scott Hodge, Grover M. Hermann Fellow)

Lawmakers are always quick to argue that cuts in federal programs are impossible to achieve without significant reductions in the quality or quantity of essential services. They give the impression that all spending is necessary and relevant to the goals of government, and that they have taken all possible steps to permit the Executive Branch to use the most efficient means available to deliver services.

The reality is very different. In a number of ways, Congress consciously prevents the federal government from saving money without reducing necessary services. Thus billions of dollars must, by law, be wasted, rather than being used to reduce the deficit.

(1) Congress makes it illegal to use privatization to reduce costs

Congress constantly blocks atempts to inject market incentives into government. After years of academic analysis and successes at the local level, there is no longer any question that the private sector can provide many government services at greatly reduced costs. Yet during the Reagan Administration, Congress in many cases passed legislation explicitly blocking White House attempts to expand federal contracting and the sale of certain federal assets. In some cases laws were passed to prevent agencies even from studying ways to save money through privatization. Currently there are 37 laws blocking privatization, including measures that exempt 70 percent of federal commercial services from competition. In addition, Congress often micromanages programs, bypassing the normal chain of command, to require programs to serve certain constituencies. The total cost to taxpayers of these prohibitions: $5 billion per year.

Example: The General Services Administration is prohibited from contracting out guard, elevator operation, messenger, and custodial services.

Example: The Legal Services Corporation may not use vouchers or hire private legal clinics as an alternative to staff lawyers employed by a limited number of legal service agencies. Thus, it cannot employ the services of private for-profit legal clinics, such as Hyatt Legal Services, or private arbitration or mediation organizations, such as EN-Dispute Inc. and New York City's Dispute Center.

Example: Due to congressionally mandated employment levels, the Food and Drug

Administration, the Veterans' Administration, and the Coast Guard Maintenance yard are effectively prohibited from reducing costs through privatization or eliminating duplicative staffing.

Example: The Commission created in 1987 to explore the privatization of Amtrak was denied funding and future studies of privatizing Amtrak were prohibited.

(2) Congress refuses to close down programs that have completed their purpose

Once Congress creates a program it rarely lets it die. If the program succeeds, some new constituency is found that "needs" help from the program. Washington's bureaucrats are remarkably entrepreneurial, creating new missions for their programs and creating new political constituencies.

Some 35 states and many local governments avoid this problem by enacting "sunset" laws. These laws mandate that an agency or program must expire after a specified period of time, unless the legislature takes specific action to extend its life. But the federal government has yet to accept such a comprehensive system of automatic agency and program review. Failure to close down agencies and programs that have fulfilled their mission may cost taxpayers as much as $20 billion per year.

Example: The Davis-Bacon Act of 1931, which establishes inflated "prevailing wages" for federal construction contracts over $2,000, was enacted to protect unionized construction workers, the majority of whom were white, from competition from lower cost non-union labor, the majority of whom were black. For 60 years this law denied opportunities to black tradesmen and raised federal construction costs by $1.5 billion per year. Yet Congress refuses to abolish it.

Example: The military commissary system was created to provide foodstuffs to the cavalry on the Western plains in the 1800s. The program continues today, although over 80 percent of military commissaries are within 10 miles of two or more commercial supermarkets.

Example: The Export-Import Bank was created in 1934 to finance exports to Russia. Sixty-five years later the Bank loses about $400 million a year financing exports for some of America's largest international corporations.

Example: The Rural Electrification Administration was created in 1935 to bring electricity, and later telephone service, to rural areas of the country. Today, 99 percent of rural Americans have electricity and 96 percent have telephones. Yet REA still exists at a cost to taxpayers of $2 billion per year.

(3) Congress is addicted to creating programs

Congress rarely designs just one program to solve a problem; rather, Congress tends to "spread-out" a program over many agencies so that as many constituencies as possible become reliant on the program. If a program proves to be a failure, Congress never reforms or abolishes it. Rather, a new program is created to "solve" the problem or a new layer of bureaucracy is added onto the old one.

Example: There are roughly sixty anti-poverty programs administered by the federal government. Nearly every federal agency has its own anti-poverty program. This includes the military if certain veterans programs are counted.

Example: The Stewart B. McKinney Homeless Assistance Act of 1987, intended to help the homeless, created seventeen different programs administered through seven federal agencies. Yet, there were already over sixty separate federal programs providing assistance to the homeless.

(4) Congress does not trust people to help themselves

With few exceptions, Congress designs programs to empower bureaucrats and private sector professionals, not those individuals that a program was intended to help. For instance, federal money for the poor reaches recipients only after it has trickled through a half million poverty-industry bureaucrats and untold numbers of private sector specialists, such as doctors, real estate developers, and social workers.

Example: Since the mid-sixties the federal government has spent about a quarter of a trillion dollars to build or subsidize the construction of over four million low-income housing units. The use of housing vouchers, like food stamps, would have allowed the government to help twice as many poor individuals, using market demand to stimulate construction of more low- and moderate-income housing. More important, vouchers give the poor a greater sense of efficacy because vouchers allow the poor to live where they choose, near the good schools and good jobs, for example.

Congress is addicted to "porkbarrel" spending

The election process provides powerful incentives for each member of Congress to bring more federal money back to the home district than the voters in the district paid in federal taxes. This is the political equivalent of the "tragedy of the commons" problem found with limited natural resources. Because the resource does not have an identifiable owner, it is to everyone's advantage to obtain as much of the resource as possible before it runs out. The result of this situation is obvious; the resource is quickly destroyed by everyone's rush to "get their's." In budgetary terms, the result is "porkbarrel" spending and consistent budget deficits. The cost to the American taxpayers is difficult to calculate.

Some representative examples of porkbarrel spending are: [1]

A $107,000 grant from the National Science Foundation and the National Institute of Mental Health for the study of "sexual looking, classical conditioning of sexual arousal, and improvement of copulatory performance with practice" of the Japanese quail. The conclusion: male quails prefer female quails over male quails and female ducks for mating purposes. Congress has renewed this study with a $100,000 grant.

$2,500 to study the causes of rudeness, lying and cheating on tennis courts.

$84,000 to study why people fall in love.

$500,000 to build a ten-story replica of the Great Pyramid of Cheops in Bedford, Indiana, and an additional $200,000 to the same city to build a 800-foot replica of the Great Wall of China.

$46,000 to study how long it takes to cook breakfast eggs.

$221,000 to send twenty-one members of Congress and their "officials" to the Paris Air Show.

$68,000 to send officials of the Urban Mass Transit Administration to Disney World to study the secrets of the Disney transportation system.

$150,000 for Broom Snakeweed research in New Mexico.

The burden is on Congress to change the way it does business. Taxpayers should no longer have to pinch pennies so that Congress can spend them with abandon.

Slashing the Deficit: FY 1991

Last year, in the monograph Slashing the Deficit: FY 1990, Heritage Foundation experts recommended $128 billion in budgetary spending cuts. The following recommendations are based in part on that monograph, though greatly summarized. But, reflecting recent concern over the budget deficit some new recommendations have been added and other recommendations which were to phase-out programs over many years have been modified. Therefore, Heritage analysts suggest over $130 billion in cuts this year;

Although the three fastest growing programs in the budget, Social Security, Medicaid, and Medicare are not addressed here. These programs are in such serious need of reform that they are beyond the scope of this paper. Congress should, however, freeze spending for these programs for one-year at 1990 levels. This one-year period should be used to develop long-term reform policies to bring the spiraling costs of these programs under control. All suggested spending cuts are reductions from Fiscal Year 1990 outlays and are, therefore, real dollar cuts, not reductions in projected baseline increases.

LEGISLATIVE BRANCH

Legislative Branch Expenses—Deficit Reduction: $220 million

Repeal the congressional payraise and reduce funding for Congress and Legislative Branch agencies and activities by 10 percent. Congress should not receive a pay raise until a balanced budget has been achieved without a tax increase.

Congressional Mail Privilege—Deficit Reduction: $50 million

Reduce expenditures by 50 percent on congressional mailings, known as the "franking privilege." Members of Congress use this free mailing privilege to enhance their chances for reelection. In 1987, lawmakers sent out 12,000 pieces of mail for every piece received on Capitol Hill.

GENERAL GOVERNMENT MANAGEMENT

Contracting Out Federal Services—Deficit Reduction: $5 billion

Issue an executive order requiring federal agencies to contract out to private firms or groups of federal employees all functions that are not inherently governmental.

Merge the Department of Energy with the Departments of Interior, Commerce and Defense—Deficit Reduction: $2 billion

Close the Department of Energy and transfer all defense related activities to the Department of Defense; place regulatory functions with the Department of Commerce; and, merge resource management functions with the Department of the Interior, creating a Department of Natural Resources.

Merge HUD and HHS—Deficit Reduction: $2 billion

Move all low income housing programs into the Department of Health and Human Services; replace all low income housing assistance with vouchers; transfer HUD's economic development functions to the states and the Department of Commerce.

[1] See: "Pork Barrel Items in the FY 1990 Appropriations Bills," Citizens Against Government Waste, March 27, 1990 and Walter Williams, "Your Tax Dollars at Work," The Washington Times, April 13, 1990.

Streamline the Department of Agriculture—Deficit Reduction: $1 billion

Streamline the Department of Agriculture: Move the Food Stamp and nutrition programs into the Department of Health and Human Services; move the Forest Service into the Department of Interior and the agricultural trade programs into the Department of Commerce; close the Farmers Home Administration and place all low-income housing programs in HHS.

Expand Federal Loan Sales and Include Revenues in Deficit Reduction Calculations—Deficit Reduction: $4 billion

Initiate a comprehensive credit reform program requiring federal lending agencies to sell the existing $250 billion federal loan portfolio, plus all new loans to the private sector through competitive auctions.

Require Reinsurance on Federal Loan Guarantees—Deficit Reduction: $3 billion

Require all federal lending agencies to purchase reinsurance from the private sector for all federally-guaranteed loans; establish a new federal loan guarantee policy prohibiting lending agencies from granting a guarantee of more than 90 percent of the face value of a loan.

Cut the Capital Gains Tax—Deficit Reduction: $4 billion

Cut the capital gains tax from 33 percent to 15 percent.

Improve Federal Debt Collection—Deficit Reduction: $2.5 billion

Adopt the standard debt collection procedures found in the private sector.

Modernize Federal Cash Management—Deficit Reduction: $40 million

Charge states and cities interest on federal grant and loan money that is paid before the funds are actually spent. A Treasury Department revolving fund should be established to insure that the federal government is fully compensated for early payments to the states and cities, as recommended by the Grace Commission. This revolving fund similarly should reimburse cities and states for late federal payments.

Repeal the Davis-Bacon Act—Deficit Reduction: $1.5 billion

Repeal the 1931 Davis-Bacon Act, which establishes inflated "prevailing wages" for federal contracts over $2,000. This law was designed to protect white labor from competition from lower cost Black labor and has continued to have a disparate impact on minority labor.

Repeal the Service Contract Act—Deficit Reduction: $500 million

Repeal the Service Contract Act of 1965, which establishes inflated "prevailing wages" for federal service contracts of more then $2,500. This law has been especially harmful to small, minority-owned businesses.

NATIONAL DEFENSE—DEFICIT REDUCTION: $11.2 BILLION

Bush's proposed 1991 Pentagon budget already trims 2.1 percent from last year's defense outlays, for a saving (in 1991 dollars) of $6.2 billion. Bush accomplished the savings by terminating thirteen programs including the M-1 tank (saving $1.1 billion in 1991), Maverick missile (saving $367 million in 1991), and Sea Lance anti-submarine warfare missile (saving $156 million in 1991). He also proposed cutting two divisions from the army for savings of $1.2 billion in 1991 and closed 35 military installations.

New Bush proposals will trim the budget by an additional $2.5 billion in 1991: a cutback in spending for the B-2 bomber, C-17 transport and Advanced Tactical Fighter aircraft programs, and termination of the Follow-on-to-Lance missile, a 280 mile-range nuclear missile designed primarily for use in Europe. These cuts were recommended in a Heritage Foundation Back-grounder, Four Imperatives for Cutting the Defense Budget, in March.

On top of these savings, Bush can trim another percent or so from the budget by such measures as: Postponing production of the C-17 aircraft; putting the equivalent of another army light division in the reserves; and slowing down procurement plans for the Army Light Helicopter and other programs geared mainly to meet advanced Soviet forces.

As important an issue as how the Pentagon budget is cut is which the question of which programs are protected from the budget ax. Key areas of the budget which should be protected are: (1) strategic nuclear forces, particularly land- and sea-based intercontinental missile modernization programs; (2) the Strategic Defense Initiative (SDI); (3) Marines and Special Forces most likely to be engaged in combat, (4) research and development, and; (5) programs critical to armed forces morale and professionalism, such as training time and benefits for military personnel.

INTERNATIONAL AFFAIRS

Reduce U.S. Contributions to the World Bank—Deficit Reduction: $110.6 million

U.S. taxpayers now are committed to $30 billion in loan guarantees to the World Bank, in addition to America's annual contribution. Yet the Bank repeatedly gives out loans contrary to U.S. interests. Funds go to governments in less developed countries which mismanage their economies and waste countless billions of dollars. Moreover, the World Bank continues to increase its loans to less developed countries that have little hope of repaying the loans.

P.L. 480 "Food for Peace" Program—Deficit Reduction: $146.3 million

Eliminate Food for Peace funding except for temporary food shipments in emergencies like earthquakes, droughts, and famines. This program has actually harmed the economies of the Third World countries by depressing the market prices that local farmers can obtain for their crops.

Agency for International Development (AID)—Foreign Aid—Deficit Reduction: $3.1 billion

Cut the overall AID budget by 50 percent and phase out the remainder of the program over three years. American economic development assistance has effectively rewarded wasteful and irresponsible economic policies in less developed nations. Any U.S. economic development aid should be given contingent on reforms toward free enterprise, free markets, and local entrepreneurship.

U.S. Contributions to the United Nations—Deficit Reduction: $190 million

Cut U.S. contributions to those programs that clearly do not serve American interests, completely eliminating funding for those which are fundamentally hostile or ineffective. Specifically: U.N. Food and Organization (FAO); U.N. Industrial Development Organization (UNIDO); World Intellectual Property Organization (WIPO); World Health Organization (WHO); World Heritage Fund; U.N. Relief and Works Agency (UNRWA); U.N. Education and Training Program for South Africa and the U.N. Trust Fund for South Africa; and, the U.N. Development Program (UNDP).

International Monetary Fund (IMF)—Deficit Reduction: $5 million

End all U.S. direct funding of the IMF and prohibit any new U.S. commitments in contingent liabilities. It is now requesting a $60 billion capitol increase which will bring its total operating assets to some $175 billion. The IMF does not need expanded lending authority. Moreover, IMF lending policies have actually led to less economic development in recipient countries because IMF loans tend to cover up for bad economic policies and corrupt governments.

Export Import Bank (Eximbank)—Deficit Reduction: $364 million

Close the Export Import Bank. The Bank's existing loan guarantee commitments should be honored, but the Bank should be forbidden from insuring any new loans. The Bank was established in 1934 to finance U.S. exports to the Soviet Union. In recent years, the Bank loses an average of around $400 million a year financing exports for some of America's largest multinational companies.

SCIENCE, SPACE, AND TECHNOLOGY

NASA—Space Station—Deficit Reduction: $1.7 billion

Delay federal funding of the planned Space Station Freedom (highlight) for two years. This period should be used for further study of less expensive options such as encouraging privatization of commercial space activity, or sponsorship of a joint public-private venture.

NASA-Mars Project—Deficit Reduction: $150 million

Delay federal funding of the proposed manned mission to Mars. The entire Mars program is estimated to cost as much as $400 billion, according to the Congressional Budget Office (CBO). While a manned landing on Mars is a noble goal further thought should be given toward developing less expensive alternatives.

Superconducting Super Collider (SCS)—Deficit Reduction: $218 million

Cease funding of the (SSC). The SSC would be the world's largest, and most powerful, high energy particle accelerator, with a projected total cost of $8 billion to construct and $270 million annually to operate. The SSC will drain funds form less exotic, and less costly, research projects with greater commercial potential.

ENERGY

Naval Petroleum Reserves (NPR)—Deficit Reduction: $1.6 billion

Sell the NPRs through a well-publicized public stock offering. For over 70 years the federal government has owned and operated commercial oil fields at Elk Hills, California and Teapot Dome in Wyoming in case of a national emergency. Since these reserves account for about 1 percent of U.S. domestic output, the government has no reason to continue operating these cites.

Federal Dams: The Five Regional Power Marketing Administrations (PMA)—Deficit Reduction: $5 billion

Sell the Power Marketing Administrations through public stock offerings. With few exceptions, the government has not reviewed or revised its policy for pricing the electrical output of these dams since the 1930s, when many of them were built. Consumers of PMA electricity receive over $1.5 billion worth of subsidies yearly. The federal

Treasury could be receiving more than $4 billion per year if the government let buyers bid for the electricity. Underpriced federal power even lights gambling casinos in Las Vegas.

The Tennessee Valley Authority (TVA)—Deficit Reduction $5 billion

Sell the TVA through a public stock offering after dividing it into three or four independent power generating companies. The TVA, which is a government-owned corporation created in 1933 to bring electricity to the Tennessee River Valley, is effectively bankrupt. Of TVAs $22 billion in assets, some $15 billion are inoperative. The only way to ensure service to this region is to sell it to the private sector.

Uranium Enrichment Enterprise—Deficit Reduction: $1.8 billion

Sell the U.S. uranium enrichment facilities to the private sector. The logical buyers for this enterprise are current employees, in addition to the 108 commercial nuclear power plants located in the U.S. that purchase the uranium.

Fossil Energy Research and Development—Deficit Reduction: $383.7 million

Eliminate the Fossil Energy Research and Development programs which support research and development for new technologies intended for commercial markets. Alternatively, the government should require private sector cost sharing for all federal energy research and development expenditures with commercial applications. The government should impose a 50 percent upfront cost-sharing charge before launching new research projects and recoup 100 percent of the federal investment if the technology is eventually commercialized.

Rural Electrification Administration (REA)—Deficit Reduction: $2 billion

Eliminate the REA by phasing out REA loans by 1993 and selling existing loans to private investors and commercial banks. The REA was created in 1935 to bring electricity, and later telephone service, to rural areas of the country. Today, 99 percent of rural residents have electricity and 96 percent have phone service. Yet REA still distributes $2 billion in below-market cost loans each year.

Clean Coal Technology Program (CCTP)—Deficit Reduction: $151.5 million

Eliminate funding for the CCTP which was created to assist private industry in developing environmentally safer coal technologies. The federal government is currently funding 60 percent of the program's costs while private industry funds the remainder. Since private industry is the beneficiary of this program, it should bear the full costs. Alternatively, regulations should be changed to allow power companies to use cleaner fuels.

Energy Conservation Programs—Deficit Reduction: $340.6 million

Eliminate funding for energy conservation programs which support research and development of technologies intended for future use by the private sector. Since private industry potentially may receive lucrative benefits from this technology it should bear the full costs.

Energy Supply, Research and Development Activities—Deficit Reduction: $2 billion

Eliminate funding for Energy Supply, Research and Development Activities which support research and development on technologies ranging from solar power to magnetic fusion. Continue funding on "pure scientific research" projects. Over the last fifteen years, the government has spent billions on research projects that have brought little or no return to the government or the private sector. For instance, over $10 billion was spent on nuclear energy research even though ten years has passed since the last commercial reactor was built in this country.

NATURAL RESOURCES AND ENVIRONMENT

Bureau of Land Management (BLM)—Deficit Reduction: $3 billion

Sell the most marketable portions of the 340 million acres of Western land owned by the Bureau of Land Management and transfer ownership of the remaining land to the respective states. This should include the same 600,000 acres of land classified as "in urbanized areas or with residential, commercial, or industrial value," in addition to the 350,000 acres of federal property classified as "no longer needed for federal purposes". Private buyers could include: Environmental groups; Recreational associations; Ranchers; Mining interests; or, individual citizens. Federal ownership of Western land is an historical anomaly with no environmental or economic purpose. These are lands that were not transferred to the private sector under the Homestead Act, state land grants, and similar means in the 19th and early 20th centuries.

Bureau of Reclamation—Water and Construction Projects—Deficit Reduction: $665 million

Close down the Bureau of Reclamation, which was formed in 1902 to promote economic development in the arid West. Begin by withholding all appropriations for new water projects which the Bureau itself recommends. Also, transfer all water distribution and pricing responsibilities to the private sector, thus bringing market efficiencies to the very inefficient and inequitable Western water market.

Offshore Oil and Gas Leasing—Deficit Reduction: $800 million

End current moratoriums on exploration and drilling of the Outer Continental Shelf (OCS). Technology can prevent the oil spills that drilling restrictions are intended to prevent. Experience of the past two decades demonstrates that offshore drilling need not damage the environment. Most spills occur as a result of shipping oil over long distances, not from offshore drilling.

Arctic National Wildlife Refuge (ANWR) Leasing—Deficit Reduction: $1 billion

Lease the Arctic National Wildlife Refuge (ANWR) tracks immediately through competitive bidding under standard Department of Interior leasing guidelines. According to a 1987 Department of Interior study, ANWR oil could bring $38 billion in new revenue to the federal Treasury.

Powder River Basin Coal—Deficit Reduction: $2 billion

Sell the federally-owned coal that lies under the privately-owned surface land in the Powder River Basin in Wyoming. The sale should be accomplished through competitive auctions, or possibly through the public sale of stock in a newly created coal management corporation.

U.S. Forest Service—Road Building—Deficit Reduction: $224 million

Discontinue subsidized road building for private timber companies. The U.S. Forest Service is the world's largest road builder. Under its direction over 342,000 miles of roads have been built, eight times the mileage of the U.S. Interstate Highway System. This program is extremely harmful to the environment, yet it continues only because the Forest Service claims that timber sales yield considerable revenues to the U.S. Treasury. According to the Wilderness Society, these claims are false, the Forest Service actually has averaged $406 million in annual losses since 1982.

Land Acquisition—U.S. Forest Service and National Park Service—Deficit Reduction: $210 million

Cancel all new land purchases by the U.S. Forest Service and the National Park Service. The federal government already owns 727 million acres of property. Only the Soviet Union and China own more public land. The government should begin to facilitate the purchase and stewardship of existing Federal holdings by private conservation organizations.

Recreational Lands—User Fees—Deficit Reduction: $1 billion

Raise entrance fees for federal recreational lands to reflect the costs of maintenance and operations. Congress prevents federal land management agencies, such as the National Park Service, the Army Corps of Engineers, and the National Forest Service, from charging fees for use of most public lands and facilities. Minimal fees collected by the Park Service, about $55 million, do not come close to covering the agency's annual outlays of $729 million. Meanwhile, the fragile environment of these parks suffers near irreparable stress because there is no market mechanism to regulate visitorship.

Environmental Protection Agency (EPA)—Enforcement Activities—Deficit Reduction: $200 million

Allow independent, private environmental auditors to take over the (EPA) monitoring of industry compliance with EPA standards. EPA currently spends nearly $800 million on the Abatement, Control, and Compliance program. Yet, much of this monitoring could be accomplished through the private markets, as is done with financial auditing.

EPA—Wastewater Treatment Construction Grants—Deficit Reduction: $2 billion

Eliminate the wastewater treatment construction grants program; which provide initial capital to states' Revolving Funds for loans to local governments to construct treatment facilities. The $50 billion spent in this program since 1972 has encouraged local governments to build "gold-plated" treatment facilities rather than look for lower-cost and more environmentally safe alternatives.

National Oceanic and Atmospheric Administration (NOAA)—Deficit Reduction: $40 million

Impose a $100 annual licensing fee on fisherman for the right to fish in federal waters. Other fishing user fees should also be reviewed. The National Marine Fisheries Service spends over $100 million a year promoting fishing and conserving fishing resources in federal waters. Fishermen should pay for some of the benefit they receive.

Bureau of Mines—Deficit Reduction: $180 million

Close the Bureau of Mines. The Bureau's important data gathering activities should be merged with other research agencies within the Department of Interior. The research and development facilities of the Bureau should be closed or sold to the pri-

vate sector which has a direct financial interest in conducting some of this research.

Federal Helium Reserves—Deficit Reduction: $60 million

Sell the federal helium reserves and the Exell helium refining plant near Amarillo, Texas. Between 1929 and 1961 the federal government was virtually the sole supplier of helium. The private market flow now is flourishing and should not have to compete with subsidized government helium.

The National Weather Service—Deficit Reduction: $60 million

Institute user fees that reflect the true cost of service. Additionally, close or contract out any activities that compete with the private sector. There are approximately 100 private companies in the U.S. preparing and disseminating weather forecasts to businesses and the public on a commercial basis.

AGRICULTURE

Farm Subsidies—Deficit Reduction: $10 billion

Discontinue direct subsidies to farmers and the federal crop price support programs managed by the Agricultural Stabilization and Conservation Service and the Commodity Credit Corporation. Farm subsidies are anti-consumer, and are especially burdensome for low-income families. Farm subsidies add as much as $10 billion more in higher food prices for American households. Moreover, according to Cato Institute scholar, James Bovard, "With the $260 billion that government and consumers have spent on farm subsidies since 1980, Uncle Sam could have bought every farm, barn, and tractor in thirty-three states." [2]

Federal Crop Insurance Corporation (FCIC)—Deficit Reduction: $500 million

Phase out (FCIC), which insures farmers against crop losses resulting from natural disasters such as droughts, floods, hurricanes, fire, and insect infestation. The government should use measures to promote a more mature private crop insurance industry. While participation in FCIC currently is voluntary, farmers receiving any level of agricultural subsidies or loans should be required to purchase crop insurance from private insurers. The role of the FCIC should be relegated to that of a reinsurer of private insurance firms.

Agriculture Extension Service—Deficit Reduction: $190 million

Reduce the Agriculture Extension Service budget by half and phase out the remainder of the program over three years. The County Cooperative Extension Program was established in 1914, at a time when 35 percent of Americans lived on farms. Though only 2.2 percent now reside on farms the program continues. The training, education, and marketing assistance activities of the Extension are duplicated by dozens of other state and local programs in addition to private groups such as the American Farm Bureau Association.

COMMERCE AND HOUSING CREDIT

Federal National Mortgage Association ("Fannie Mae") and Federal Home Loan Mortgage Corporation ("Freddie Mac")—Deficit Reduction: $500 million

Begin the process to phase-out over ten years all special government benefits enjoyed by FNMA and FHLMC. Place a temporary annual fee of 0.25 percent on all single-family and multifamily mortgages sold to or guaranteed by FNMA or FHLMC. This fee should be paid by borrowers, collected by lenders, and passed through to the Treasury. Reduce the cap on the maximum mortgage amount that can be held or traded by FNMA or FHLMC to 150 percent of local conventional home loan values. Remove the exemption from Securities and Exchange Commission reporting requirements that each enjoy.

Federal Housing Administration (FHA)—Deficit Reduction: $1 billion

The FHA may soon become the next Savings and Loan Crisis. The FHA must be held to the same capital requirements as private mortgage insurers, 4 percent. Also, require a minimum downpayment of 5 percent of the morgage amount from homebuyers obtaining FHA insurance. Default rates are exceedingly high for loans with less than 5 percent downpayments. Impose on lenders a 5 percent coinsurance requirement on all FHA-insured loans, and discontinue FHA mortgage insurance on second homes or investor properties.

Small Business Administration (SBA)—Deficit Reduction: $340 million

Close the SBA and sell all outstanding loans to the private sector. The SBA has been a dismal failure, with around 12 percent lost each year on the $3 billion of loan guarantees it issues. As many as 20 percent of SBA direct loans default. Only two-tenths of 1 percent of all small businesses in the nation receive SBA loans. To be eligible for SBA direct and guaranteed loans small businesses must have been rejected by two previous banks. As a result, SBA loans divert venture capital away from enterprises that seem likely to succeed to those with are more likely to fail.

Federal Communications Commission Auctioning of the Electromagnetic Spectrum—Deficit Reduction: $2.3 billion

Auction licenses for unassigned frequencies of the electromagnetic spectrum to the highest bidder, with the revenues from the auction going to the U.S. Treasury. Auctioning is a more efficient and equitable method of assigning frequencies.

TRANSPORTATION

Interstate Commerce Commission (ICC)—Deficit Reduction: $43 million.

Complete the deregulation of the trucking industry, and abolish the ICC. Remaining ICC functions should be distributed to other agencies. The ICC's rail regulatory functions, for instance, should be moved to the Department of Transportation, while its consumer protection functions could be handled by the Federal Trade Commission.

Urban Mass Transportation Administration (UMTA)—Deficit Reduction: $2 billion

Eliminate all federal transit operating subsidies immediately, since they subsidize inefficiency in transit operations. Cost-sharing by local governments should be raised to 50 percent from 25 percent on all new projects. Despite a $40 billion investment in urban transit projects over the past quarter century, 10 percent fewer transit trips were taken in 1986 than in 1963, the year before the program began. Much of the $40 billion in federal aid has been spent on gold-plated transit projects which attract few riders.

Amtrak—Deficit Reduction: $500 million

Sell Amtrak to the private sector in the same manner as the sale of Conrail. While Amtrak is becoming more self-sufficient than the past, federal subsidies to Amtrak average about $25 per passenger trip.

Federal Highway Administration—Deficit Reduction: $4 billion

Declare the interstate highway system complete. Over 98 percent has been completed, any further construction should be done by the states or by private companies using toll road arrangements. Eliminate funding for all highway "demonstration" projects. Allow states to impose tolls to cover the cost of maintaining and extending roads that have received no more than 75 percent federal funding. This would lift the current ban on direct user fees for primary and urban roads, but continue the ban on tolls on portions of the interstate highway system.

Federal Aviation Administration (FAA)—Deficit Reduction: $2 billion

Eliminate payments for aviation from the general treasury, except for the estimated 15 percent of FAA costs due to military use. The success of airline "in-air" deregulation should be extended to "on-the-ground" operations. The Department of Transportation should be more aggressive in selling airports to private firms or contracting out a greater portion of airport management.

Maritime Administration—Deficit Reduction: $400

Repeal the "cargo preference" requirement for exports shipped and financed by the U.S. government. Although the Maritime Administration's activities originally were designed to promote U.S. national security interests, today many of its programs—particularly the "cargo preference" law—are little more than protectionist measures intended to shield the U.S. shipping industry from foreign competition. Protectionism for U.S. shipping interests adds to the costs of U.S. exporters and thus harms America's competitiveness.

United States Coast Guard—Deficit Reduction: $500 million

Charge fees for Coast Guard services, such as aids to navigation, boat towing, and ice breaking, which benefit easily identifiable users. Conduct a comprehensive inventory of Coast Guard property holdings and begin to sell unnecessary land and facilities.

COMMUNITY DEVELOPMENT

Community Development Block Grants (CDSBG's)—Deficit Reduction: $2.5 billion

End the Community Development Block Grant program, and apply $500 million of the program's funding toward tax abatement in federal enterprise zones in blighted areas.

Farmers Home Administration (FmHA)—Deficit Reduction: $3 billion

Close the FmHA and shift all low income housing programs to the Department of Housing and Urban Development. Repeal the 1987 congressional prohibition on further sales of FmHA loans to the private sector. Sell off the mounting inventories of defaulted properties as FmHA accumulates them. FmHA has been a disaster. The General Accounting Office estimated that 1987 losses totaled $13 billion, pushing FmHA's accumulated deficit to a staggering $42 billion. The situation is getting worse each year.

Appalachian Regional Commission (ARC)—Deficit Reduction: $108 million

Abolish the Appalachian Regional Commission. Since this program was enacted in 1965, the federal government has spent nearly $6 billion in this economically distressed region, two-thirds of that invest-

[2] James Bovard, *The Farm Fiasco*, (Institute for Contemporary Studies Press, San Francisco, 1989), p. 1.

ment on roads. The ARC duplicates fourteen federal rural aid programs provided by the Departments of Transportation, Labor, and Agriculture.

EDUCATION

Impact Aid—Deficit Reduction: $764 million

Eliminate the Impact Aid program which is intended to compensate local governments for the ostensible cost of educating school children of federal employees. This prgoram was established during World War II based on the erroneous premise that military bases and other federal facilities are a "cost" for local communities.

Bilingual Education Programs—Deficit Reduction: $100 million

Cut federal funding for bilingual education by 50 percent and remove all restrictions on the instructional methods adopted by local schools. The remaining funds should be given to local school districts to develop the programs they deem most appropriate and effective.

Stafford Student Loan Program—Deficit Reduction Reduction: $1 billion

Reform the Stafford Student Loan program by eliminating all federal interest rate subsidies to students after they leave school. Serious study should be given to imposing a 10 percent to 15 percent co-insurance requirement on lenders. Default rates on student loans are nearing 15 percent, and nearly 3 million Americans now hold delinquent loans, worth $5.5 billion to the federal Treasury.

Howard University—Deficit Reduction: $100 million

Reduce total federal support for Howard University by 50 percent. Although Howard University, in Washington, D.C., is a private institution, it receives nearly $200 million annually in federal support. Howard should be required to develop a plan for self-sufficiency over ten years using a graduated matching grant system.

College Work Study Program (CWS)—Deficit Reduction: $606 million

End the federal role in the College Work-Study program which makes grants to participating institutions that provide part-time jobs for disadvantaged graduate and undergraduate students. Nearly all of the students who take advantage of this program already collect student aid in other forms. The federal government should not have to pay for both a student's education and his or her part-time job.

Corporation for Public Broadcasting—Deficit Reduction: $150 million

Reduce funding for the Corporation for Public Broadcasting to $80 million and phase-out support over the next three years. With today's boom in cable television and the rental movie market, taxpayer supported television and radio, if it was ever justified, is now unnecessary and should be ended.

National Foundation on the Arts and the Humanities—Deficit Reduction: $210 million

Reduce by two-thirds federal funding for the National Foundation on the Arts and Humanities which gives grants to the National Endowment for the Arts and the National Endowment for the Humanities; then expand the Challenge Grants program currently operated by the National Endowment for Arts. Funding would be phased-out over three years. There is no shortage of private financial support devoted to the arts and humanities. The American Association of Fund-Raising Councils calculates that in 1987 private donations to "arts, culture, and the humanities" was $6.41 billion.

Job Training Partnership Act (JTPA)—Deficit Reduction: $3.9 billion

Terminate the Job Training Partnership Act, which is designed to provide job training for poor youth through block grants to the states, in addition to federally managed programs, such as the Job Corps. Government directed job training programs have a long history of failure. More often than not, job training programs have simply been a boondoggle for private operators and bureaucrats. There are other methods of achieving the same end that should be tried, such as: the Earned Income Tax Credit, lowering the minimum wage, repealing occupational licensing laws at the local level, or, perhaps, eliminating any tax burden on individuals below the poverty line.

Job Corps—Deficit Reduction: $767 million

If JTPA is not eliminated, Congress should at least terminate the Job Corps program which is intended to provide training for disadvantaged, unemployed youth. Discontinue the construction of all new centers, and sell off the remaining centers under government control. Job Corps has a twenty-five year record of failure. According to the Office of Management and Budget, the Job Corps is the most expensive job training program administered by the Department of Labor. Training costs per youth average between $15,000 (privately managed facilities) and $21,000 (federally managed centers) for an eight-month session.

Trade Adjustment Assistance—Deficit Reduction: $196 million

Eliminate all funding for Trade Adjustment Assistance, which is intended to aid workers whose jobs have been lost due to import competition. Workers who lose their jobs as a result of foreign competition should not receive government benefits that exceed the assistance available to those laid off due to domestic competition.

Community Services Block Grants (CSBGs)—Deficit Reduction: $300 million

End the Community Services Block Grant (CSBG) program, which was created in 1981 by consolidating several federally funded community action programs that had been part of Lyndon Johnson's Great Society efforts. The $90 million remaining in this program's $390 million budget should be directed toward federal tax abatement in enterprise zones in blighted areas. A recent General Accounting Office (GAO) study found that more than 30 percent of CSBG funds are used to defray the administrative costs incurred by local social service agencies as a result of local and federal regulations. The Davis-Bacon wage setting law can add 25 percent to administrative costs and local building and zoning codes can add 15 percent to 25 percent to the cost of building low income housing.

HEALTH CARE

National Institutes of Health (NIH)—Deficit Reduction: $1.14 billion

Reduce by 30 percent funding for the NIH, which fund biomedical research in a variety of health care areas. During the 1980s, as much as 30 percent of NIH extramural grant funds went to recipients' indirect overhead costs rather than basic research. Institute a graduated matching-grant program which would require recipients to find additional sources of support for their work. This would also act as a check on the validity of the research conducted.

Health Resources and Services Administration (HRSA)—Deficit Reduction: $370 million

Reduce by 20 percent funding for the HRSA. Transfer control of community health centers, migrant centers, and black lung clinics to the states by transforming HRSA funds into a Primary Care Block Grant. Reducing the strings attached to this block grant would allow each state to tailor assistance to meet unique local primary care needs.

Consumer Product Safety Commission (CPSC)—Deficit Reduction: $35 million

Abolish the CPSC. Consumers and firms do not need the CPSC. The legal system has more than adequately protection against defective products. Moreover, product monitoring is handled very capably by private firms, such as Underwriters Laboratory, Inc., and publications, such as *Consumer Reports.*

INCOME SECURITY (600)

Civil Service Employee Retirement—Deficit Reduction: $3 billion

Bring Civil Service Retirement benefits in line with private sector packages. Such reforms should include: Raising the federal retirement age from 55 to 65; Eliminating the lump-sum retirement option; Calculating retirement benefits based on an average of the five highest annual salaries in an employee's earnings history, rather than the current top three years earnings base; and, reduce cost-of-living adjustments (COLAs) from full CPI to the CPI less 1 percent. The government pays out over $30 billion a year to two million civil service retirees. The unfunded liabilities of the civil service retirement system are mushrooming to potentially catastrophic levels, $1 trillion by some accounts.

Unemployment Insurance—Deficit Reduction: $2 billion

Reform the Federal-State Unemployment Insurance program, which will pay out $19.5 billion to unemployed workers this year. Initial reforms should include delaying the 26 weeks of unemployment benefits for unemployed workers for two weeks, and allowing firms to opt out of the program if instead they establish and make payments to Personal Unemployment Insurance and Training Accounts for all employees. Another long-term reform is to give workers tax incentives for purchasing individual unemployment insurance.

Privatize Public Housing—Deficit Reduction: $1.3 billion

Initiate the process of privatizing public housing. There are approximately 1.4 million public housing units nationwide, managed by 3,300 local public housing authorities. Federal expenditures now total over $6.5 billion a year.

(1) Offer all public housing developments nationwide for sale to the highest bidder. An estimated 20 percent would be purchased in the first year, yielding immediate savings to the federal government (as well as income from sales).

(2) Require purchasers to maintain the properties sold as privately managed public housing for 5 years. Purchasers would underwrite all maintenance and operating costs and freeze rents at pre-sale levels, with annual increases for inflation. After 5 years, purchasers would own property free and

clear, with the option to convert to other uses or retain as low-income housing.

(3) Use the proceeds from the sale of public housing units to fund housing vouchers for displaced tenants, and apply the balance to deficit reduction. Twice as many poor can be assisted with vouchers than is possible with public housing.

Child Nutrition Programs—Deficit Reduction: $1 billion

Estimate $1 billion of the $4.9 billion in federal grants to states which compensate for families with incomes over 130 percent of the poverty level who participate in School Lunch programs, School Breakfast programs, and Child Care Feeding programs. Families with incomes below 130 percent of the poverty level with children in schools that do not participate in the meals program should be given additional food stamps or government cash assistance equal to the amount of subsidy in the child nutrition program.

Aid to Families With Dependent Children (AFDC), MEDICAID, and Related Welfare Benefits—Deficit Reduction: $6.5 billion

Limit to seven years the time that a family can remain on the Aid to Families with Dependent Children assistance rolls. This will reduce the current welfare rolls by roughly one-third and reduce total state and federal spending by $10.2 billion. There are 3.7 million families currently receiving AFDC assistance; and, these families will, on average, stay on the program 11.5 years. Two million of the current beneficiaries will receive benefits over 10 years, with an on-average stay of 16.5 years. This prolonged welfare dependence provides an unsuitable environment for raising young children.

Low Income Home Energy Assistance—Deficit Reduction: $1.4 billion

Immediately end the Low Income Home Energy Assistance program and replace it with a scaled-back program to provide only emergency and temporary energy aid to very low-income families facing disconnection of their utilities.

VETERANS BENEFITS

Veterans Medical Benefits—Deficit Reduction: $3 billion

Convert veterans' health benefits to a reimbursement system, paying for treatment by private doctors, hospitals, and nursing homes, with full coverage provided for treatment of service-related disabilities and tapered coinsurance charges for treatment of nonservice-related disabilities. Also, reduce VA medical staff levels over several years in areas where adequate alternative treatment facilities exist. VA health care equipment and buildings located in these areas should be sold to the private sector or closed.

JUSTICE

Legal Services Corporation—Deficit Reduction: $306 million

Eliminate funding for the Legal Services Corporation which is intended to provide legal assistance to low income individuals. Encourage the use of private-nonprofit dispute resolution organizations and give vouchers to those who need other legal assistance. The Legal Services Corporation has betrayed its mission by involving itself in political advocacy work, not legal aid to the poor.

The Bureau of Prisons—Deficit Reduction: $100 million

Begin gradually to contract with private corrections firms to administer and operate prison facilities, particularly the "special need" facilities, such as juvenile institutions and illegal immigration facilities. Also, finance the construction and expansion of federal prisons through lease-purchase arrangements, rather than by issuing general obligation bonds.

Federal Blue Collar Salaries (920)—Deficit Reduction: $900 million

Reevaluate the pay rates for non-key jobs. Reform the step classification system within each occupational grade level to bring federal pay into line with private sector pay rates.

Mr. CRAIG. I yield to the gentleman from Wisconsin.

Mr. MOODY. We have about half the budget in entitlements and another 16 percent in interest payments. That is some 66 percent of the budget. So if you are not suggesting that that be cut, then you are suggesting that one-third of the budget bear the $80 billion or $90 billion cut.

Mr. DELAY. Certainly not. Absolutely not. I suggest strong entitlement reforms. In fact, I am personally—I represent my district—I am against entitlements, period. Congress ought to look at these programs every budget cycle, see whether they are working, and how do you fix them? To automatically say just because you fit into a particular class of individuals that you are entitled to benefits is a poor way of governing and it is what has gotten us into this mess.

I think they are all on the table except for taxes.

Mr. CRAIG. I yield just one more time to both of these gentlemen because I only have a few minutes left to close out this special order. I yield to the gentleman from Wisconsin.

Mr. MOODY. Where I would disagree with the gentleman is if you put the promises that have been made, rightly or wrongly, to veterans, senior citizens and others about what we will do for them in their old age, if you are saying we are prepared to cancel those promises, then I think we part company. But if you are talking about any new entitlements, reform is in order.

Bear in mind if you want to find 60, 80, 90 billions of dollars and you only want to look at the discretionary spending, you are looking at a base of only about $160 billion, $170 billion. I do not think waste, fraud and abuse, for all the waste, fraud and abuse we have seen in the S&L and HUD, would probably find that much.

So let us be honest about what we can really pull out of spending.

Mr. CRAIG. I am going to have to pull back my time.

I would like to thank both my colleagues for their debate and their consideration.

I hope they are active in the debate that will be very valuable to us here in the Congress, and to the public, as we discuss, debate on July 17 a balanced budget amendment.

I would now yield to my colleague and cosponsor of House Joint Resolution 268, CHARLEY STENHOLM of Texas, to discuss the rule under which the balanced budget amendment will come to the floor.

Mr. STENHOLM. I thank my colleague for yielding.

I think indeed we would be remiss if we did not discuss the legislative process that brings us to this point. I would like to again publicly thank the Speaker of the House and the entire leadership on our side of the aisle for the open-mindedness that they have shown, in some cases, where they have not quite as yet agreed with the wisdom of this effort. And I say, "as yet," because I think the dynamics of the severity of the fiscal problems facing this country are going to cause all of us, even those who have had previously fixed positions regarding a constitutional restraint on spending and taxing, are going to take another look at it because we have got some tough votes coming up.

Here I want to point out that Mr. CRAIG of Idaho, myself, Mr. CARPER of Delaware, Mr. SMITH of Washington, we have spent many hours meeting with many of our colleagues as well as others out there who are interested in this particular legislation.

We have always thought of this as a very serious process. Amending the Constitution is serious.

Therefore, when we discharge this rule, we discharge what everyone now agrees is a very fair rule. We recognize that it is a modified open rule. We provide for 4 hours of general debate. We provide for amendments under the 5-minute rule so that others, perhaps more scholarly, more constitutionally correct, perhaps can offer amendments that, in fact, would find the support of 290 Members of this body.

We provide that a comparable balanced budget amendment, should it pass in the Senate prior to us taking it up here on July 17, should it pass, it too would be considered first. Then the Judiciary Committee, which is the committee of jurisdiction on this, should they have a substitute, they are made in order. Then we follow with House Joint Resolution 268. That would be the final vote.

□ 1730

We will have ample opportunity to discuss and to debate the wisdom of amending the Constitution for this purpose. I think when we say that, that I will have to close my remarks now by a letter written to John Taylor, dated November 26, 1789, by Thomas Jefferson.

I wish it were possible to obtain a single amendment to our Constitution. I would be willing to attend on that alone for the reduction of the administration of our government to the genuine principles of its Constitution. I mean, an additional article taking

from the government the power of borrowing.

What we are suggesting with this is not taking it completely away, but putting it in such form that it will not be nearly so easy for future Congresses and future Presidents to do what we have been doing in playing so many games over these last several weeks and months and years.

I thank my colleague for that, and I hope we will do this again prior to July 17, and that we will get additional input. I appreciate the gentleman from Wisconsin [Mr. MOODY] coming, and I hope others as they listen to this debate will participate both on the floor that day and beforehand, so that, in fact, we will do the kind of job that the gentleman from Idaho and myself want to see Members do on this very serious process of amending our Constitution.

Mr. CRAIG. Mr. Speaker, I thank my colleague, the gentleman from Texas [Mr. STENHOLM] for his remarks.

Mr. President, Mr. Minority Leader of the House, Mr. Majority Leader of the House, Mr. Minority Leader and Mr. Majority Leader of the U.S. Senate, or should I say the other body, please listen here. Please listen to Members here as we suggest to others in the budget summit that if we are to ask the American people to pay even a larger percentage of their hard-earned dollars to support the activities of this Government, that we allow them to put in place a process that will ensure to them and their children that this Congress and this executive branch of their Government will not continue to spend nor continue to borrow out of control, and with the lack of fiscal responsibility that has mounted a near $3 trillion debt, and a $200 billion deficit. It is our responsibility to be fiscally responsible, and I would trust if we can put in place within the Constitution the effective guidelines of that fiscal responsibility, that the political will, will follow to adhere to the guidelines of that Constitution.

For 200 years we have laughed at that. In that time we have mounted a debt and a deficit that even our grandchildren will probably not see paid. We can offer them one thing for the future, and that is that it would not grow, and that at some point in the near future, it might begin to shrink, and would continue as a Government to serve those who are truly in need and to adhere to the responsibilities that our Constitution and that the laws of this land entrust to Members. I would hope in the coming days that my colleagues would join with these Members not only in the debate but in the sincere consideration of this proposal, and that it can include an active part of the budget summit, and that it, in fact, could be sent forth to the States for them to consider, for them to debate, and for them to ratify, to become a part of the Constitution of this country.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 347. Concurrent resolution providing for an adjournment of the two Houses for the July 4th recess.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4493

Mr. TORRICELLI. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4493.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 560

Mr. TORRICELLI. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Ohio [Mr. FEIGHAN] be stricken as a cosponsor of H.R. 560.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

HEALTH CARE CHOICES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BYRON] is recognized for 60 minutes.

Mrs. BYRON. Mr. Speaker, what I have come before my colleagues and this body is to bring out an issue that I think is very, very important to those people in our country, and that is health care. Our older Americans agonize over the economics, and sadly, not the psychological impact on long-term illnesses. Hospitals struggling to stay open, as they confront the cost of caring for the uninsured patients. More and more physicians are practicing defensive medicine in strong part because of the fear of malpractice suits. Small businesses debate on a regular basis whether they can afford to take over the health benefits for additional workers that they need. For the majority of citizens with health insurance, we accept the reality of "cost sharing" needs to offset the costs of providing health care for those unable to cover for themselves.

Paying for health care is something that we all must confront. It is not strictly limited to the elderly or to the uninsured. I know this as chairman of the Subcommittee on Military Personnel and Compensation. Last year, the Department of Defense spent $6,164,000,000 on medical care for active duty members, and members and their families and retirees. This year, DOD estimates that health care costs will be $6,283,000,000. Of that, $2,448,000,000 will be dedicated to CHAMPUS, the health insurance plan used by military retirees and dependents for private care. Like the family or the small business owners faced with an increase in their health insurance premiums, my subcommittee is trying to address the problems of cost inflation and the inability to precisely predict medical expenses for those in the armed services.

This year, we are looking at a $740 million unanticipated shortfall in our health care budget. Health care has become increasingly expensive for everyone. I think we need to talk about it. We really need to try to understand what is causing it, to see if we cannot reach some agreement on how to deal with this escalation in cost.

Some people seem anxious to declare our health care system a failure. Clearly, we are faced with some serious problems with health care delivery. However, I think that we need to recognize that our system can provide the best health care in the world. Before we throw out the system, we better really look at it and look at what we want out of the health care system. We need to evaluate exactly how much we are willing to pay for that system.

I think it is imperative that our system reflect the diversity of our country. A bigger system is not necessarily better. In fact, I think a bigger system sometimes could sacrifice the choices that we have today. Since the beginning of June, I have held three consumer forums in western Maryland on health care and the cost. They were informal public meetings which I think gave me a pretty good gage of what my constituents think about their health care. I would like to share some of the common themes I heard at these meetings. I learned very early in my tenure in this body that my constituents are the smartest by far on issues. When they came before me with their papers and pages and their health care costs, I learned about one couple not yet eligible for Medicare. They said they have to pay $4,800 a year for health care insurance coverage. The husband had been a meatcutter before leaving his job, and subsequently losing his health insurance. They could not be without it. The best policy that they could find cost them $1,200 a quarter. A younger individual related his experience in not being able to find health insurance coverage because of a preexisting condition. No one would insure them. At least not at

a rate he could reasonably afford. I had another constituent that came before me and said that he was to be admitted to the local hospital for a surgical procedure. As he went into the admission office he asked what would the cost of his room be for the day. They looked at him and said, "I beg you pardon?" And he said, "What will the cost of my room be?" They said, "Well, what difference does it make, you have insurance." He said, "It makes a great deal of difference to me." So, 3½ hours later and five people later, they finally got the answer on what the cost of his room would be for 1 day.

The subsequent comments surrounding the Medicare Program concerns reimbursement rate structure, and it was generally criticized for being arbitrary.

□ 1740

One woman said it was embarrassing going to her doctor knowing that the rate at which she was being reimbursed by Medicare was not covering his services.

Mr. Speaker, I have a constituent that is in Florida in the winter. She tries to get most of her work done down there because it is covered at a higher rate than locally. I had an attorney call me that is trying to settle an estate, but because Medicare will not finally resolve a discrepancy, the court is after him to close the estate. He cannot close it until the discrepancy is completed.

Mr. Speaker, we have seen defensive medicine identified as a major contributor to the rising health care costs. The physician was not blamed for this. Instead, my constituents advocated possibly capping the malpractice awards or tort reform as a solution.

How many times have we seen a physician, someone we have all known and loved as a part of our community, who may for one reason or another hit those golden years of the mid-fifties, which really is not golden years in this day and age, but because of the cost of malpractice insurance decides that he does not care to practice 24 hours a day, 7 days a week, and, therefore, it is easier for him to hang up his shingle, go to tend his garden, play a little golf and leave health care to someone else? I think we have a tremendous number of individuals in this country that could be served by these physicians, not full time, but talented physicians that would still like to practice.

Mr. Speaker, we have seen a deterioration in the physician-patient relationship, and that was discussed, the desire to let my doctor and me decide what is the best for me which has been sacrificed in a lot of cases as a primary focus on cutting health care costs. Common sense and caring sometimes has been lost to Government regulations.

Mr. Speaker, I am a Member that does better when I cite cases in point. I had an 88-year-old gentleman that was admitted to the hospital for a gall bladder surgery. The prospective payment system says that he should be hospitalized for just 2 days. It is time for him to be discharged and to be sent home for continued care. But the only person at home to give that continued care is his 83-year-old wife who is legally blind herself. Regardless of the practicality of the situation, this gentleman is discharged. Against the advice of his physician this gentleman has been discharged. That is what the manual says, and that is what the hospital must do. So, in this case 5 days later the 83-year-old legally blind wife returned her 88-year-old husband to the hospital. He had to be readmitted.

The frustration that we see over the shortfalls in our own health care system and the outrage over the cost of medicine has made many of us look at the Canadian and the Swedish health care plans and think maybe they look attractive. There are benefits to some of these systems, but they are not perfect either.

Are we willing to pay higher taxes for health care? Are we prepared to reduce the supply of medical resources required to make these plans economically feasible? I am not sure that we, as a nation, are ready for that.

Do we want to be told where to go for surgery? Do we want to go 200 miles away to a hospital?

Mr. Speaker, following these three consumer forums that I held, I followed up with a roundtable discussion on health care costs with health care providers from western Maryland. We had a lot of talent in that room. Not a lot of people, but a lot of talent. We had hospital administrators, we had physicians, we had nurses, nursing home administrators, health benefit counsellors, health planning agency directors, individuals actively involved in our health care system. We had a small business man that has a health care plan for his company. We had a large business that has a health care plan for their company.

Mr. Speaker, it came as somewhat of a surprise to me that the concerns that I heard from my three forums were the same concerns that closely reflected those voices at the roundtable. Included in these issues was paper work, paper work choking the system. Twenty-two percent of our health care expenses go toward administrative costs.

One hospital administrator told me that their computer screens are split three ways to account for the multiple requirements needed by insurance companies and excessive Government regulations. We all know what has happened with the nine-digit system that we have on DRG coding. I was told that rather than simplifying the system, it is just getting more complicated. On an average there is a new regulation issued every day.

Mr. Speaker, I had one individual tell me that on their form they need to know on a 92-year-old woman what her mother's maiden name was and what her father's address is. This all costs.

A primary physician that practiced for 26 years said that with all the regulation hassle and the fear of malpractice he has lost his love of medicine. He once enjoyed medicine. I think that is important for all of us because the good physician is the doctor who truly loves to practice medicine and who feels a part of his or her community, and today this is becoming nearly impossible.

How often have we as Members of Congress heard people say that Congress really is the problem? That all Congress people are bad? That all Congress men and women are crooks? We have also heard that same person say, "That is except for mine."

We are now hearing that all physicians are bad. That is except mine.

But beyond the dollar issue, there was a general agreement that attitudes will have to be changed. We go to the doctor so we can feel better, and, if we do not feel better, is there something wrong with the doctor? Perhaps our demands for health care will need to be reevaluated.

The meetings that I had showed me that people are extremely concerned about the high cost of health care. It is clear that changes are needed. Unfortunately, we are short on specifics. Personal experiences from our constituents can give us a rough outline of all of the problems, the self-employed painter that has a wife and three children, but because he is self-employed cannot afford any health care. These personal experiences can set up the flags needed to avoid repeating the costly mistakes that we have already made. Hopefully this special order will make some of us stop and think on how we can add to that debate.

We have looked in Eastern Europe, at the emerging nations of Eastern Europe. We have seen the chaos that their health care system is in. We have seen many times people talking about our own health delivery system not meeting our needs, yet our health care system is one of the finest in the world. How often do we see foreign physicians coming here for training, return to their homeland to practice, and yet then shortly after return to this country to practice?

I would like to close by leaving a few thoughts to my colleagues and some recommendations offered during the roundtable discussions, and it is this:

It is dangerous to advocate major changes to our system until we have defined what we expect to get from

that system. What are we willing to pay for it? Are there limits to the definition of what is adequate health care? We cannot reasonably expect to improve our health care delivery without having a clear national health policy, and, until we do this, I think our health care dollars will continue to chase what is available with no end to the rising costs.

We, each and every one of us, the American public, have an obligation to take some responsibility for our health. We have to take a responsibility for our body and to make sure that it functions and it is there when we need it. So, it is up to us in Congress to do our work and to formulate a policy for all Americans for preventive medicine.

Mr. Speaker, I think the time has come that we as a Congress make those tough decisions to say how the health care costs, and the rising escalation and the delivery system for the American population is put into a proper priority.

□ 1750

GENERAL LEAVE

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. COMBEST (at the request of Mr. MICHEL), for today after 2:30 p.m., on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Goss) to revise and extend their remarks and include extraneous material:)

Mr. DOUGLAS, for 5 minutes, today.

Mr. DELAY, for 5 minutes, today.

Mr. HANCOCK, for 5 minutes, today.

Mr. COX, for 5 minutes, today.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. COYNE, for 5 minutes, today.

Mr. WHEAT, for 5 minutes, today.

Mr. LAFALCE, for 60 minutes, today.

Mr. GONZALEZ, for 60 minutes each day, on July 10, 12, 16, 19, and 20.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Goss) and to include extraneous matter:)

Mr. KOLBE in two instances.

Mr. DANNEMEYER.

Mr. PORTER in three instances.

Mr. BURTON of Indiana.

Mr. CRAIG in two instances.

Mr. RINALDO.

Ms. SCHNEIDER.

Mr. SUNDQUIST.

Mr. SCHIFF.

Mr. GALLEGLY.

Mr. SCHULZE.

Ms. ROS-LEHTINEN in four instances.

Mr. TAUKE in two instances.

Mr. MILLER of Washington.

Mr. MILLER of Ohio in two instances.

Mr. BROOMFIELD.

Mr. HASTERT in three instances.

Mr. WALSH.

Mr. Goss.

Mr. GILMAN in two instances.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. FASCELL, in three instances.

Mr. ATKINS, in two instances.

Mr. KANJORSKI.

Mr. THOMAS A. LUKEN.

Mr. MAVROULES, in three instances.

Mr. HAWKINS.

Mr. ROSTENKOWSKI.

Mr. MURTHA.

Mr. CARR.

Mr. STOKES.

Mr. KILDEE.

Mr. DELLUMS.

Mr. DYAMALLY.

Mr. MONTGOMERY.

Mr. RANGEL.

Mr. WALGREN.

Mr. MRAZEK.

Mr. DORGAN of North Dakota.

Mr. LEVIN of Michigan.

Mr. NELSON of Florida

Ms. OAKAR.

Mr. CARDIN.

Mr. HOYER.

Mr. LAFALCE.

Mr. STALLINGS.

Mr. DINGELL.

Mr. MORRISON of Connecticut.

Mr. JOHNSON of South Dakota.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 770. An act to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employees' employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave; and

H.R. 5075. An act to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolution of the Senate of the following titles:

S. 2124. An act to authorize appropriations for the National Space Council, and for other purposes; and

S.J. Res. 278. Joint resolution designating July 19, 1990, as "Flight Attendent Safety Professionals Day."

ADJOURNMENT

Mrs. BYRON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 347 of the 101st Congress, the House stands adjourned until 12 noon, Tuesday, July 10, 1990.

Thereupon (at 5 o'clock and 50 minutes p.m.), pursuant to House Concurrent Resolution 347, the House adjourned until Tuesday, July 10, 1990, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3476. A letter from the Secretary of Defense, transmitting a combined annual report on U.S. efforts to promote the standardization of equipment with NATO members and cooperative R&D projects with allied countries, pursuant to 10 U.S.C. 2350a, 2457; to the Committee on Armed Services.

3477. A letter from the Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations and Environment), transmitting a draft of proposed legislation to delete the line-of-duty requirement for surviving dependents of members of the uniformed services occupying family housing or receiving basic allowance for quarters; to the Committee on Armed Services.

3478. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Analysis of Appropriated Out-of-Town Travel Funds Shown in Current Budget," pursuant to D.C. Code Section 47-117(d); to the Committee on the District of Columbia.

3479. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Michael Martin Skol, of Illinois, to be Ambassador to the Republic of Venezuela, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3480. A letter from the Inspector General, General Services Administration, transmitting the semiannual report of the inspector

general for the period October 1, 1989, through March 31, 1990, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

3481. A letter from the Chairman, Federal Election Commission, transmitting proposed forms for the submission of debt settlement plans by political committees, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

3482. A letter from the Director, Office of Personnel Management, transmitting notification of a proposed OPM demonstration project, pursuant to 5 U.S.C. 4703(b)(6); to the Committee on Post Office and Civil Service.

3483. A letter from the Secretary of Transportation, transmitting the 1988 annual report on fatal and injury accident rates on public roads in the United States, pursuant to 23 U.S.C. 401 nt.; to the Committee on Public Works and Transportation.

3484. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army, dated February 12, 1990, submitting a report together with accompanying papers and illustrations, on Buffalo Bayou and Tributaries, TX (H. Doc. No. 101-208); to the Committee on Public Works and Transportation and ordered to be printed.

3485. A letter from the Secretary of Transportation, transmitting the 11th annual report on administration of the offshore oil pollution compensation fund, pursuant to section 314 of title III of the Outer Continental Shelf Lands Act Amendments of 1978; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAWKINS: Committee on Education and Labor. H.R. 4825. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes (Rept. 101-566). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4952. A bill to amend the Consumer Product Safety Act to reauthorize the Consumer Product Safety Commission and to improve the Commission's regulatory process and for other purposes; with an amendment (Rept. 101-567). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3664. A bill entitled the "Omnibus Agricultural Commodity Promotion and Research Act of 1989"; with amendments; referred to the Committee on Ways and Means for a period ending not later than July 13, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(v), rule X (Rept. 101-568, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BATES:

H.R. 5188. A bill to prohibit the spraying of toxic pesticides over densely populated areas; to the Committee on Agriculture.

By Mr. BILIRAKIS (for himself, Mr. MACHTLEY, and Mr. BLILEY):

H.R. 5189. A bill to amend the Internal Revenue Code of 1986 to allow individuals a tax deduction for expenses exceeding 5 percent of adjusted gross income incurred in care of certain elderly individuals, to allow physicians and registered professional nurses a tax deduction for the cost of certain goods and services donated by them to elderly individuals, and to permit tax-free withdrawals from individual retirement accounts to pay certain long-term care expenses or purchase insurance to cover such expenses; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself, Mr. RANGEL, Mr. GUARINI, Mr. MATSUI, Mrs. KENNELLY, Mr. ANDREWS, and Mr. CARDIN):

H.R. 5190. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; to the Committee on Ways and Means.

By Mr. BROWN of California (for himself, Mrs. BOXER, Mr. MADIGAN, Ms. PELOSI, Mr. STARK, Mr. CAMPBELL of Colorado, Mr. MATSUI, Mr. PALLONE, Mrs. COLLINS, Mr. DELLUMS, Mr. LEWIS of California, Mr. FAUNTROY, and Mr. SCHEUER):

H.R. 5191. A bill relating to the procedures to be followed and protections to be afforded to Federal employees in the event of a major reduction in force; to the Committee on Post Office and Civil Service.

By Mr. CAMPBELL of Colorado:

H.R. 5192. A bill to establish the Curecanti National Recreation Area in the State of Colorado as a unit of the National Park System, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 5193. A bill to authorize and direct an exchange of lands in Colorado; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. CRAIG (for himself and Mr. STALLINGS):

H.R. 5194. A bill to amend the Federal Power Act; to the Committee on Energy and Commerce.

By Mr. CRAIG (for himself, Mr. MCDERMOTT, and Mr. RHODES):

H.R. 5195. A bill to amend the act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CROCKETT (for himself, Mr. FAUNTROY, Mr. MFUME, Mr. DYMALLY, Mr. KOSTMAYER, Mr. JOHNSTON of Florida, Mr. FALEOMAVAEGA, Mr. PAYNE of New Jersey, Mr. GUARINI, Mr. FUSTER, and Mr. FRENZEL):

H.R. 5196. A bill to promote economic development in the Caribbean through a debt for development program; jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

By Mr. ECKART:

H.R. 5197. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for recycling and to increase the environmental income tax to generate additional revenue to promote recycling; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ESPY:

H.R. 5198. A bill to aid minority farmers, and for other purposes; to the Committee on Agriculture.

By Mr. GEJDENSON:

H.R. 5199. A bill to require the Secretary of Energy to provide contractors whose contracts for naval reactors are being terminated with assistance in using patents, designs, processes, and manufacturing data developed under the contractor in civilian production; to the Committee on Armed Services.

By Mr. OBERSTAR (for himself, Mr. HAMMERSCHMIDT, Mr. FASCELL, and Mr. BROOMFIELD):

H.R. 5200. A bill to promote and strengthen aviation security, and for other purposes; jointly, to the Committees on Public Works and Transportation and Foreign Affairs.

By Mr. GEREN of Texas (for himself, Mr. ANDREWS, and Mr. CHAPMAN):

H.R. 5201. A bill to amend the Export-Import Bank Act of 1945 to reform U.S. bilateral economic assistance programs, to promote the purchase of U.S. goods and services, and for other purposes; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. HOCHBRUECKNER (for himself, Mr. BENNETT, Mr. BRENNAN, Mr. BROWN of California, Mr. DICKS, Mr. EVANS, Mr. FAZIO, Mr. GEREN of Texas, Mr. HAMILTON, Mr. HORTON, Mr. SABO, Mr. SMITH of New Hampshire, Mr. TANNER, Mr. LANCASTER, Mrs. UNSOELD, Mr. PALLONE, and Mr. MCGRATH):

H.R. 5202. A bill to authorize funding for environmental activities of the Department of Defense, to require the creation of a major force program category for environmental activities in the Department of Defense, to require a report on the Department of Defense's management of personnel carrying out such environmental activities, and for other purposes; to the Committee on Armed Services.

By Mr. HYDE:

H.R. 5203. A bill to amend title 11 of the United States Code to make nondischargable debts for liabilities under the terms of a property settlement agreement entered into in connection with a separation agreement or divorce decree; to the Committee on the Judiciary.

By Mr. JOHNSON of South Dakota:

H.R. 5204. A bill to establish a tribal cattle herd pilot project, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. JONES of North Carolina:

H.R. 5205. A bill to redesignate the National Fish and Wildlife Forensics Laboratory located in Ashland, OR, as the "Clark R. Bavin National Fish and Wildlife Forensics Laboratory; to the Committee on Merchant Marine and Fisheries.

By Mr. JONES of North Carolina (for himself, Mr. DAVIS, and Mr. LENT):

H.R. 5206. A bill to provide for the bonding of non-vessel-operating common carriers and for other purposes; to the Committee on Merchant Marine and Fisheries.

By LEVIN of Michigan (for himself and Mr. VANDER JAGT):

H.R. 5207. A bill to amend section 842 of the Internal Revenue Code of 1986 to require the use of same year tax return data in calculating minimum effectively connected net investment income and to provide for a carryover account; to the Committee on Ways and Means.

By Mr. THOMAS A. LUKEN (for himself, Mr. WHITTAKER, Mr. DURBIN, Mr. MRAZEK, Mr. ATKINS, Mr. CHANDLER, Mr. WYDEN, Mr. WAXMAN, and Mrs. COLLINS):

H.R. 5208. A bill to amend the Toxic Substances Control Act to make that act applicable to tobacco products; to the Committee on Energy and Commerce.

By Mr. McCLOSKEY (for himself, Mr. FORD of Michigan, Mr. HAYES of Illinois, and Mr. PURSELL):

H.R. 5209. A bill to amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements; to the Committee on Post Office and Civil Service.

By Mr. MAVROULES:

H.R. 5210. A bill to amend title 10, United States Code, to improve the acquisition process by establishing a presumption that certain contracts will be awarded by the Department of Defense based on initial proposals without discussion with the offerors, and for other purposes; to the Committee on Armed Services.

By Mr. MAVROULES (for himself, Mr. HOPKINS, Mr. HERTEL, Mr. TANNER, Mr. McCLOSKEY, and Mr. IRELAND):

H.R. 5211. A bill to improve the quality and professionalism of the defense acquisition work force in the Department of Defense; to the Committees on Armed Services, and Post Office and Civil Service.

By Mr. MINETA:

H.R. 5212. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to strengthen penalties for offenses involving crystalline methamphetamine, and for other purposes; jointly to the Committees on Energy and Commerce, the Judiciary, and Education and Labor.

By Mr. MOODY (for himself, Mr. CHANDLER, Mr. PICKLE, Mrs. JOHNSON of Connecticut, Mr. LEVIN of Michigan, and Mr. CARDIN):

H.R. 5213. A bill to amend title XVIII of the Social Security Act to provide for payment under the Medicare Program for the services of home dialysis aides who provide medical assistance during hemodialysis treatment at the homes of end stage renal disease patients, and for other purposes; jointly to the Committees on Ways and Means and Energy and Commerce.

By Mr. OWENS of Utah (for himself, Mr. NIELSON of Utah, and Mr. HANSEN):

H.R. 5214. A bill to establish the Kokapelli National Outdoor Theater in the State of Utah, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SCHIFF (for himself, Mr. SKEEN, and Mr. RICHARDSON):

H.R. 5215. A bill to make a technical correction in a land description contained in the San Juan Basin Wilderness Protection Act of 1984; to the Committee on Interior and Insular Affairs.

By Mr. SCHULZE:

H.R. 5216. A bill to amend the Internal Revenue Code of 1986 to more fairly apportion between foreign and domestic sources interest attributable to environmental control assets; to the Committee on Ways and Means.

By Ms. SLAUGHTER of New York (for herself and Mr. DORGAN of North Dakota):

H.R. 5217. A bill to amend title II of the Social Security Act to exclude from amounts treated as wages in applying the earnings test remuneration for certain part-time service for a public elementary or secondary school; to the Committee on Ways and Means.

By Mr. SMITH of Vermont (for himself, Mr. POSHARD, Mr. MACHTLEY, Mr. PAXON, Mr. LANCASTER, Mr. IRELAND, Mr. HENRY, Mrs. JOHNSON of Connecticut, Mr. GRANDY, Mr. SKEEN, Mr. GUNDERSON, Mr. GILLMOR, Mrs. SAIKI, Mr. BOEHLERT, Mr. HILER, Mr. FAWELL, Mr. DOUGLAS, and Mr. SCHAEFER):

H.R. 5218. A bill to establish a national demonstration program for educational performance agreements for school restructuring; to the Committee on Education and Labor.

By Mr. SOLOMON:

H.R. 5219. A bill to increase the penalties for violations of law involving depository institutions; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. STUDDS (for himself and Mr. MILLER of California):

H.R. 5220. A bill to clarify the existing authority of the Administrator of the Environmental Protection Agency and the Secretary of the Army to use environmental improvement projects when enforcing applicable water pollution laws; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. SUNDQUIST:

H.R. 5221. A bill to amend title 10, United States Code, to repeal the Social Security offset applicable to certain annuities for surviving spouses paid under the survivor benefit plan for retired members of the Armed Forces to the extent that such offset is due to Social Security benefits based on the surviving spouse's own earning or self-employment; to the Committee on Armed Services.

By Mr. TAUKE:

H.R. 5222. A bill to improve and expand restitution remedies available to victims of crimes, to provide incentive grants for State-based restitution centers, and for other purposes; to the Committee on the Judiciary.

By Mr. UDALL (for himself and Mr. RHODES)

H.R. 5223. A bill to provide for the settlement of the water rights claims of the San Carlos Apache Tribe in Arizona, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WALGREN (for himself, Mr. OXLEY, Mr. ECKART, Mr. RITTER, Mr. MURPHY, and Mr. BLILEY):

H.R. 5224. A bill to clarify the application of the functional relationship test to gas utility holding companies registered under the Public Utilities Holding Company Act of 1935; to the Committee on Energy and Commerce.

By Mr. WALGREN (for himself, Ms. OAKAR, Mr. GEPHARDT, Mr. BRYANT, Mr. ECKART, Mr. SIKORSKI, Mr. MINETA, and Mr. LEVINE of California):

H.R. 5225. A bill to amend the Defense Production Act of 1950 to clarify and strengthen provisions pertaining to national security takeovers; jointly, to the Committees on Banking, Finance and Urban Affairs; Energy and Commerce; and Foreign Affairs.

By Mr. WHEAT (for himself, Mr. CALLAHAN, and Mr. GEPHARDT):

H.R. 5226. A bill to encourage States to establish Parents as Teachers Programs; to the Committee on Education and Labor.

By Mr. ERDREICH (for himself, Mr. FLIPPO, Mr. HARRIS, Mr. BEVILL, Mr. CALLAHAN, Mr. BROWDER, Mr. MRAZEK, Mr. COSTELLO, Mr. SHUMWAY, Mr. BOEHLERT, Mr. DERRICK, Mr. PALLONE, Mr. DWYER of New Jersey, Mr. DOWNEY, Mr. TRAFICANT, Mr. BATES, Mr. FEIGHAN, Mr. ROE, Mr. PAYNE of New Jersey, Mr. BUSTAMANTE, Mr. TOWNS, Mr. McNULTY, Mr. PAXON, Ms. SLAUGHTER of New York, Mr. ROBINSON, Mr. MURPHY, Mrs. BOXER, Mr. OLIN, Mr. SMITH of Texas, Mr. GEKAS, Mrs. MARTIN of Illinois, Mr. LEVIN of Michigan, Mr. SKELTON, and Mr. PATTERSON):

H.J. Res. 613. Joint resolution designating April 7 through 13, 1991, as "National County Government Week"; to the Committee on Post Office and Civil Service.

By Mrs. MARTIN of Illinois:

H.J. Res. 614. Joint resolution to designate the decade beginning January 1, 1990, as the "Decade of the Child"; to the Committee on Post Office and Civil Service.

By Mr. HOYER:

H. Con. Res. 347. Concurrent resolution providing for an adjournment of the two Houses for the July 4th recess; considered and agreed to.

By Mr. DYMALLY:

H. Con. Res. 348. Concurrent resolution supporting peace between India and Pakistan and a peaceful resolution of the crisis in Kashmir; to the Committee on Foreign Affairs.

By Mr. HYDE (for himself and Mr. BROOMFIELD):

H. Con. Res. 349. Concurrent resolution with respect to United States policy toward the People's Republic of China; to the Committee on Foreign Affairs.

By Mr. SOLOMON (for himself and Mr. ANNUNZIO):

H. Con. Res. 350. Concurrent resolution expressing the sense of the Congress that American workers, farmers, and businesses should not finance the savings and loan bailout through tax increases; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

456. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to chronic fatigue syndrome research; to the Committee on Energy and Commerce.

457. Also, memorial of the Legislature of the State of Louisiana, relative to democracy in Nicaragua; to the Committee on Foreign Affairs.

458. Also, memorial of the Legislature of the State of Louisiana, relative to the land and water conservation fund grant program; to the Committee on Interior and Insular Affairs.

459. Also, memorial of the Legislature of the State of Louisiana, relative to the maximum speed limit on public road; to the

Committee on Public Works and Transportation.

460. Also, memorial of the Legislature of the State of Louisiana, relative to the issue of wetlands; jointly, to the Committees on Public Works and Transportation, Agriculture, and Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HOCHBRUECKNER:

H.R. 5227. A bill to authorize issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel *Sea wind*; to the Committee on Merchant Marine and Fisheries.

By Mr. SMITH of Florida:

H.R. 5228. A bill for the relief of Hossein Alipour and Zehra Alipour; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. OWENS of Utah.

H.R. 118: Mr. CARPER and Mr. BATEMAN.

H.R. 222: Mr. FASCELL.

H.R. 303: Ms. SLAUGHTER of New York.

H.R. 529: Mr. TRAFICANT and Mr. EVANS.

H.R. 530: Mr. TRAFICANT and Mr. EVANS.

H.R. 579: Mr. GOSS.

H.R. 711: Mr. MAVROULES.

H.R. 857: Mr. DOWNEY and Mr. SABO.

H.R. 1083: Mr. STAGGERS, Mr. WALGREN, Mr. WELDON, Mr. JAMES, and Mr. CLINGER.

H.R. 1130: Mr. MINETA.

H.R. 1174: Mr. MINETA.

H.R. 1292: Mr. DYSON and Mr. QUILLEN.

H.R. 1317: Mr. HAWKINS, Mr. HUNTER, Mr. WHITTEN, and Mr. MARTINEZ.

H.R. 1493: Mr. YATES.

H.R. 1500: Mr. WEISS, Mr. BONIOR, and Mr. KENNEDY.

H.R. 1767: Mr. LEVINE of California.

H.R. 1899: Mrs. BOXER and Mr. MCDERMOTT.

H.R. 2098: Mrs. LLOYD, Mr. BRENNAN, Mr. GEREN, Mr. HANSEN, Mr. HAYES of Louisiana, Mr. WILSON, Mr. KYL, and Mr. MANTON.

H.R. 2319: Mr. SERRANO.

H.R. 2437: Mrs. LOWEY of New York.

H.R. 2460: Mr. HOCHBRUECKNER.

H.R. 2664: Mr. WASHINGTON.

H.R. 2776: Mr. HOCHBRUECKNER.

H.R. 2911: Mr. LEWIS of Georgia, Mr. EMERSON, and Mr. LEVINE of California.

H.R. 3272: Mr. HOAGLAND.

H.R. 3409: Mr. SCHEUER, Mr. RAVENEL, Mr. DANNEMEYER, and Mr. OWENS of New York.

H.R. 3547: Mr. GIBBONS, Mr. THOMAS of California, Mr. MCGRATH, Mr. SHAW, Mrs. JOHNSON of Connecticut, Mr. ARCHER, and Mr. VANDER JAGT.

H.R. 3604: Mr. OXLEY.

H.R. 3659: Mr. BLILEY.

H.R. 3690: Mr. MINETA.

H.R. 3719: Mr. GOSS and Mr. WEISS.

H.R. 3733: Mr. SWIFT and Mr. GRAY.

H.R. 3880: Mr. MARLENEE.

H.R. 3970: Mr. SIKORSKI.

H.R. 4003: Mr. BENNETT and Mr. DORNAN of California.

H.R. 4025: Mr. MCDERMOTT.

H.R. 4040: Mr. WEISS.

H.R. 4063: Mr. SOLOMON.

H.R. 4121: Mr. SKELTON, Mr. MYERS of Indiana, Mr. PARRIS, and Mr. NEAL of North Carolina.

H.R. 4125: Mr. PALLONE, Mr. EVANS, Mr. CARPER, Mr. JACOBS, Mr. EDWARDS of California, Mr. BENNETT, Mr. DEFAZIO, Mr. MCCURDY, Mr. MILLER of California, Mr. MURPHY, Mrs. SCHROEDER, and Mr. FRANK.

H.R. 4224: Mr. BROOKS, Mr. GALLO, Mr. GUARINI, and Mr. LEWIS of Georgia.

H.R. 4287: Mr. DORGAN of North Dakota, Mr. UPTON, Mr. ARMEY, Mr. ENGLISH, Mr. HAYES of Louisiana, Mrs. BOXER, Mr. VANDER JAGT, Mr. LEHMAN of Florida, Mr. DICKINSON, Mr. HOPKINS, Mr. STAGGERS, Mr. ROBINSON, Mrs. BYRON, Mr. KASICH, and Mr. GEKAS.

H.R. 4300: Mr. MACHTLEY.

H.R. 4310: Mr. FALEOMAVAEGA.

H.R. 4349: Mr. VENTO and Mr. DWYER of New Jersey.

H.R. 4369: Mr. SYNAR.

H.R. 4412: Mr. KOLBE.

H.R. 4421: Mr. FRANK.

H.R. 4431: Mr. JACOBS and Mrs. JOHNSON of Connecticut.

H.R. 4464: Mr. QUILLEN.

H.R. 4487: Mr. MARKEY, Mr. DELAY, Mr. CLARKE, and Mrs. BYRON.

H.R. 4494: Mrs. MORELLA, Mr. GEREN, Mr. STENHOLM, Mr. ROGERS, Mr. DARDEN, Mr. STALLINGS, Mr. ROE, Mr. DUNCAN, Mr. BATES, and Mr. MOORHEAD.

H.R. 4548: Mr. EVANS.

H.R. 4589: Mr. FALEOMAVAEGA, Mr. MOORHEAD, and Mr. HANCOCK.

H.R. 4590: Mr. ANDREWS.

H.R. 4593: Mr. KOLBE.

H.R. 4618: Mr. AUCOIN, Mr. BATES, Mr. BUSTAMANTE, Mr. CLAY, Mr. CROCKETT, Mr. DURBIN, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FAUNTROY, Mr. RANGEL, Mr. SYNAR, Mr. TOWNS, Mr. UDALL, Mr. WEISS, Mr. WHEAT, Mr. YATES, and Mr. WOLPE.

H.R. 4669: Mr. EMERSON, Mr. FAZIO, Mr. HOCHBRUECKNER, and Mrs. MEYERS of Kansas.

H.R. 4680: Mr. MILLER of Washington, Mr. CRANE, Mr. ARMEY, Mr. FAWELL, Mr. LEWIS of California, Mr. DORNAN of California, Mr. FALEOMAVAEGA, and Mr. SMITH of Texas.

H.R. 4683: Mr. GOODLING, Mr. RINALDO, Mrs. MEYERS of Kansas, Mr. SHUMWAY, Mr. NIELSON of Utah, Mr. MILLER of Washington, Mr. SPENCE, and Mr. LAGOMARSINO.

H.R. 4690: Mr. LEVINE of California, Mr. GUNDERSON, Ms. PELOSI, and Mr. HAMMERSCHMIDT.

H.R. 4691: Mr. TRAXLER.

H.R. 4714: Mr. NEAL of Massachusetts.

H.R. 4729: Mr. BRUCE.

H.R. 4761: Mr. SPENCE.

H.R. 4772: Mr. EMERSON, Mr. LEWIS of Florida, and Mr. MCCRERY.

H.R. 4793: Mr. BOEHLERT and Mr. OWENS of New York.

H.R. 4808: Mr. LEWIS of California.

H.R. 4814: Mr. COX and Mr. FIELDS.

H.R. 4816: Mr. TRAXLER, Mr. HUCKABY, and Mr. MADIGAN.

H.R. 4864: Mr. WHITTAKER, Mr. LEWIS of Georgia, Mr. SAVAGE, Mr. KOLTER, Mr. DWYER of New Jersey, Mr. GREEN of New York, Mr. BRUCE, Mr. FASCELL, Mr. SMITH of Florida, Mr. RAHALL, Mr. OWENS of Utah, Mr. RICHARDSON, Mr. JAMES, Mr. RAVENEL, Mr. HORTON, Mr. FRANK, Mr. SOLARZ, Mr. FROST, and Mr. PENNY.

H.R. 4865: Mr. WHITTAKER, Mr. KOLTER, Mr. DWYER of New Jersey, Mr. GREEN of New York, Mr. BRUCE, Mr. FASCELL, Mr. SMITH of Florida, Mr. RAHALL, Mr. OWENS of Utah, Mr. JAMES, Mr. RAVENEL, Mr. HORTON, Mr. FRANK, Mr. SOLARZ, Mr. FROST, Mrs. BENTLEY, and Mr. PENNY.

H.R. 4866: Mr. KYL, Mr. DOUGLAS, Mr. CARPER, Mr. SCHIFF, Mr. LEWIS of Florida, Mr. SPENCE, Mr. HOPKINS, Mr. FAUNTROY, Mr. MCNULTY, Mr. COX, Mr. NEAL of North Carolina, and Mrs. COLLINS.

H.R. 4868: Mr. FAZIO and Mr. WATKINS.

H.R. 4915: Mr. ANDERSON, Mr. ROYBAL, Mr. WAXMAN, Mr. LEHMAN of California, Mr. PANETTA, Ms. PELOSI, Mr. DIXON, Mrs. COLLINS, Mr. FAZIO, Mr. STARK, Mr. HORTON, and Mr. BEILENSON.

H.R. 4916: Mr. KYL.

H.R. 4923: Mr. MACHTLEY.

H.R. 4953: Mr. HYDE, Mr. LEHMAN of Florida, Mr. LAGOMARSINO, Mr. MCMILLEN of Maryland, and Mr. SAXTON.

H.R. 4955: Mr. TOWNS, Mrs. COLLINS, Mr. JENKINS, Mr. ENGLISH, Mr. HORTON, and Mr. LEVINE of California.

H.R. 4959: Mr. TAUKE and Mr. LAGOMARSINO.

H.R. 4992: Mr. SAIKI, Mr. MCDERMOTT, and Mr. LEVINE of California.

H.R. 4993: Mr. CRANE.

H.R. 4995: Mr. ANNUNZIO and Mr. PARKER.

H.R. 5007: Mr. MOORHEAD and Mr. HOLLOWAY.

H.R. 5013: Mr. STENHOLM, Mr. HARRIS, and Mr. MARLENEE.

H.R. 5023: Mrs. BOXER.

H.R. 5050: Mr. STANGELAND, Mrs. COLLINS, Mr. SERRANO, Mr. TORRES, Ms. SCHNEIDER, Mr. STEARNS, Mr. HORTON, Mr. LEWIS of California, Mr. SIKORSKI, Mr. MILLER of Ohio, Mr. JONES of Georgia, Mr. GALLEGLY, Mrs. MORELLA, Mr. DOUGLAS, Mr. TAUKE, Mrs. VUCANOVICH, Mrs. SMITH of Nebraska, Mr. WELDON, Mr. BARTON of Texas, Mr. GUNDERSON, Ms. PELOSI, Mr. EVANS, Mr. ROBERTS, Mr. ROWLAND of Connecticut, Mr. PAXON, Mr. SCHEUER, Mr. HAWKINS, Mr. SUNDQUIST, Mr. EDWARDS of Oklahoma, Mr. GINGRICH, Mr. CROCKETT, and Mr. ENGEL.

H.R. 5053: Mrs. BENTLEY, Mr. BENNETT, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLILEY, Mr. BORSKI, Mr. BROWN of California, Mr. CLEMENT, Mr. COOPER, Mr. DANNEMEYER, Mr. DE LUGO, Mr. DORNAN of California, Mr. DYSON, Mr. FALEOMAVAEGA, Mr. FEIGHAN, Mr. HANSEN, Mr. HUGHES, Mr. LENT, Mr. MCGRATH, Mr. PANETTA, Mrs. SAIKI, Mr. SCHULZE, Mr. STANGELAND, Mr. TRAXLER, Mr. VANDER JAGT, Mr. ANDERSON, Mr. BATEMAN, Mr. BILBRAY, Mr. BLAZ, Mr. BOEHLERT, Mr. BOUCHER, Mr. BUSTAMANTE, Mr. CONYERS, Mr. COYNE, Mr. DE LA GARZA, Mr. DONNELLY, Mr. DUNCAN, Mr. EMERSON, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. HORTON, Mr. HYDE, Mr. MCCLOSKEY, Mr. PALLONE, Mr. RICHARDSON, Mr. SCHIFF, Mr. SOLOMON, Mr. THOMAS of Wyoming, Mr. VALENTINE, Mr. WILSON, Mr. WOLF, Mr. BROWN of Colorado, Mr. CLARKE, Mr. GILMAN, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. KASICH, and Mr. MCEWEN.

H.R. 5054: Mr. FOGLIETTA, Mr. BILBRAY, Mr. WALSH, Mr. PEASE, Mr. BOSCO, and Mr. SMITH of New Hampshire.

H.R. 5055: Mr. SKEEN.

H.R. 5067: Mrs. JOHNSON of Connecticut.

H.R. 5088: Mr. BERMAN and Mr. LEVINE of California.

H.R. 5095: Mr. HAYES of Louisiana, Mr. CHAPMAN, Mr. DELAY, Mr. UPTON, Mr. BROOMFIELD, Mr. PURSELL, Mr. ROBINSON, and Mr. DORGAN of North Dakota.

H.R. 5098: Mr. KANJORSKI, Mr. RITTER, Mr. OWENS of New York, Mr. WYDEN, Mr. MORRISON of Connecticut, Mr. MCNULTY, Mrs. KENNELLY, Mr. MINETA Mr. DEFAZIO, Mrs. MEYERS of Kansas, Mr. YATRON, Mrs. COLLINS, Mr. MAZZOLI, Mr. MACHTLEY, Mr. EVANS, and Mr. SKEEN.

H.R. 5101: Mr. EVANS and Mr. MCMILLEN of Maryland.

H.R. 5162: Mr. MCCLOSKEY.

H.J. Res. 8: Mr. SOLOMON.

H.J. Res. 268: Ms. ROS-LEHTINEN.

H.J. Res. 285: Mr. WOLF, Mr. GORDON, Mr. GEREN, Mr. GINGRICH, Mr. STENHOLM, Mrs. BENTLEY, Mr. CHANDLER, Mr. CLEMENT, Mr. CARPER, Mr. DORNAN of California, Mr. ROBINSON, Mr. INHOFE, Mr. LEWIS of Florida, Mr. MONTGOMERY, Mr. SPENCE, Mr. SKEEN, Mr. WILSON, Mr. GOODLING, Mr. SCHUETTE, Mr. MADIGAN, Mr. THOMAS of Wyoming, and Mr. HUNTER.

H.J. Res. 459: Ms. OAKAR, Mr. BROOMFIELD, Mr. THOMAS of Wyoming, Mr. FROST, and Mr. RANGEL.

H.J. Res. 507: Mr. FORD of Michigan, Mr. SCHAEFER, Mr. PAYNE of New Jersey, and Mr. BERMAN.

H.J. Res. 510: Mr. BARNARD, Mr. BRUCE, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CARPER, Mr. COOPER, Mr. MONTGOMERY, Mr. DAVIS, Mr. DIXON, Mr. ESPY, Mr. PRICE, Mr. GRANT, Mr. HALL of Texas, Mr. SPRATT, Mr. JONES of Georgia, Mr. TRAFICANT, Mr. DEFAZIO, Mr. OXLEY, Mr. DELAY, Mr. STEARNS, Mr. WISE, Mr. KENNEDY, Mr. OLIN, Mr. LAUGHLIN, Mr. NEAL of Massachusetts, Mr. DORGAN of North Dakota, Mr. JOHNSON of South Dakota, Mr. LOWERY of California, Mr. MCCLOSKEY, Mr. KYL, Mr. FASCELL, Ms. SLAUGHTER of New York, Mr. HUBBARD, Mr. GEKAS, Mr. PAXON, Mrs. SMITH of Nebraska, Mr. ROSE, Mr. ROYBAL, Mr. REGULA, Mr. HEFLEY, Mr. MARTINEZ, Mr. GINGRICH, Mr. GAYDOS, Mr. COYNE, Mr. ENGEL, Mr. JAMES, Mr. ROHRABACHER, Mr. SCHIFF, Mr. GILLMOR, Mr. MURTHA, Mr. SHUMWAY, Mr. KOLTER, Mr. CHAPMAN, Mr. TAUKE, Mr. FISH, Mr. EVANS, Mr. VANDER JAGT, Mr. GUARINI, Mr. LEWIS of Florida, Mr. DERRICK, Mr. CRANE, Mr. CALLAHAN, Mr. SAVAGE, Mr. MCCOLLUM, Mr. SISISKY, Mr. ASPIN, Ms. OAKAR, Mr. BUECHNER, Mr. COBLE, Mr. TAYLOR, Mr. BATEMAN, Mr. YOUNG of Florida, Mr. GALLO, Mr. CLINGER, Mr. CHANDLER, Mr. SYNAR, Mr. SKEEN, Mr. HOUGHTON, Mr. ROGERS, Mr. STAGGERS, Mr. KOSTMAYER, Mr. BUNNING, Mr. HERGER, Mr. COURTER, Mr. BOEHLERT, Mr. PETRI, Mr. UPTON, Mr. GOSS, Mr. COX, Mrs. COLLINS, Mr. CONDIT, Mr. SMITH of New Hampshire, Mr. BURTON of Indiana, Mr. MILLER of Washington, Mr. SLAUGHTER of Virginia, Mr. WELDON, Mr. IRELAND, Mr. PURSELL, Mr. HASTERT, Mr. CLARKE, Mr. BROWDER, Mr. DUNCAN, Mrs. SAIKI, Mr. MACHTLEY, Mr. THOMAS of California, Mr. BATES, Mr. SMITH of Texas, Mr. RANGEL, Mr. DOUGLAS, Mr. FORD of Tennessee, Mr. SMITH of Vermont, Mr. CAMPBELL of Colorado, Mr. PORTER, Mr. RIDGE, Mr. HYDE, Mr. SLATTERY, Mr. SKELTON, Mr. SCHUETTE, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. TAUZIN, Mr. TOWNS, Mr. LEVINE of California, Mrs. UNSOELD, Mr. WALGREN, Mr. JONTZ, Mr. FOGLIETTA, Mr. PICKLE, Mr. WYDEN, Mr. NATCHER, Mr. CONTE, Mr. COUGHLIN, Mr. ROBINSON, Mr. JONES of North Carolina, Mr. BENNETT, Mr. CLEMENT, Mr. PARRIS, Mr. FAZIO, Ms. MOLINARI, Mr. ORTIZ, Mr. MCGRATH, Mr. MANTON, Mr. ARCHER, Mr. WEBER, Mr. HAYES of Illinois, Mr. HAMMERSCHMIDT, Mr. STANGELAND, Mr. PARKER, Mr. SCHEUER, Mr. SAWYER, Mr. BORSKI, Mr. SPENCE, Mr. HARRIS, Mr. BILIRAKIS, Mr. LIPINSKI, Mr. PASHAYAN, Mr. PAYNE of New Jersey, Mr. RAVENEL, Mr. EDWARDS of Oklahoma, Mr. HANSEN, Mr. SMITH of Florida, Mr. ROE, Mr. CROCKETT, Mr. HEFNER, Mr. HENRY, Mr. FALEOMAVAEGA, Mr. DORNAN of California, Mr. HUNTER, Mr. SAXTON, Mr. BEVILL, Mr. THOMAS A. LUKEN, Mr. DONALD E. LUKENS, Mr. MCDADE, Mr. MCEWEN, Mr. MATSUI, Mr. MICHEL, Mr. MURPHY, Mr. DENNY SMITH, Mr. TALLON, Mr. FROST, Mr. BROWN of Colorado, Mr. PALLONE, Mr. ROWLAND of Connecticut, Mr. SARPALIUS, Mr. HORTON, Mr. DICKS, Mr. ROBERTS, Mr. DURBIN, Mr. LEATH of Texas, Mr. DE LA GARZA, Mr. FAUNTROY, and Mr. BARTLETT.

H.J. Res. 519: Mr. FLAKE, Mr. FORD of Tennessee, Mr. WEBER, Mr. NOWAK, Mr. BORSKI, Mrs. LLOYD, and Mr. BATEMAN.

H.J. Res. 521: Mr. TORRES.

H.J. Res. 525: Mr. HYDE, Mr. KLECZKA, Mr. MARTINEZ, and Mr. LANCASTER.

H.J. Res. 528: Mr. PICKETT, Mr. RANGEL, Mr. PANETTA, Mr. EVANS, Mr. FAUNTROY, Mr. FOGLIETTA, Mr. FUSTER, Mr. FAWELL, Mr. FRANK, Mr. ROBERTS, Mr. BROOKS, Mr. WILSON, Mrs. UNSOELD, Mr. SHAYS, Mr. WOLPE, Mr. WYDEN, Mr. HORTON, Mr. GINGRICH, Mr. MCGRATH, Mr. MCHUGH, Mr. BENNETT, Mr. SMITH of Florida, Ms. SLAUGHTER of New York, Mr. SCHEUER, Mr. TAUZIN, Mr. WALSH, Mrs. KENNELLY, Mr. SCHUMER, Mr. TALLON, and Mr. YATRON.

H.J. Res. 532: Mr. FUSTER, Mr. CLEMENT, Mr. WEBER, Mr. CROCKETT, Mr. FROST, Mr. FAUNTROY, Mr. PAXON, Mr. SAXTON, Mr. VALENTINE, Mr. TOWNS, Mr. STUMP, Mr. CONTE, and Mr. HAWKINS.

H.J. Res. 538: Mr. WAXMAN, Mr. KOLTER, Mr. TALLON, Mr. RINALDO, Mr. WALSH, Mr. FROST, Mr. RAVENEL, Mr. DERRICK, and Mr. FAUNTROY.

H.J. Res. 543: Mr. MADIGAN.

H.J. Res. 552: Mr. PICKETT, Mrs. COLLINS, Mr. PASHAYAN, Mr. CLEMENT, Mr. FALEOMAVAEGA, Mr. MANTON, Mr. TRAXLER, Mr. BENNETT, Mr. MCGRATH, Mr. JONTZ, Mrs. MORELLA, Mr. MOORHEAD, Mr. CROCKETT, Mr. GRANDY, Mr. MARTINEZ, Mr. EVANS, Mr. GONZALEZ, Mr. STOKES, and Mr. DYMALLY.

H.J. Res. 554: Mr. GALLO, Mr. KOLTER, Mr. PASHAYAN, Mr. BARTLETT, Mr. OWENS of Utah, Mr. ECKART, Mrs. COLLINS, Mr. GEREN of Texas, and Mr. THOMAS of Wyoming.

H.J. Res. 562: Mr. RAVENEL, Mr. STANGELAND, Mr. MILLER of Washington, Mr. LEHMAN of Florida, Mr. FROST, Mr. FOGLIETTA, Mr. HUGHES, Mr. RANGEL, Mr. FAUNTROY, Mr. OWENS of New York, Mr. PALLONE, Mrs. JOHNSON of Connecticut, Mr. MARTINEZ, and Mr. THOMAS of Wyoming.

H.J. Res. 570: Mr. HORTON, Mr. FAWELL, Mr. GRANT, Mr. SUNDQUIST, Mr. MCDERMOTT, Mr. SPRATT, Mr. WOLF, Mr. TAUKE, Mr. MANTON, Mr. NELSON of Florida, Mr. COOPER, Mr. PAYNE of New Jersey, Mr. LEWIS of Florida, Mr. FAUNTROY, Mr. GORDON, Mr. BARTLETT, Mr. SAWYER, Ms. KAPTUR, Mr. GILLMOR, Mrs. ROUKEMA, Mr. FASCELL, Mr. GALLEGLY, Mr. BENNETT, Mr. JONTZ, Mr. SPENCE, Mr. ROWLAND of Georgia, Mr. GEJDENSON, Mr. MARTINEZ, Mr. HUGHES, Mr. ERDREICH, Mr. LANCASTER, Mr. BRENNAN, Mr. LEWIS of Georgia, Mr. FORD of Tennessee, Mr. FUSTER, Mrs. PATTERSON, Mr. CROCKETT, Mr. NIELSON of Utah, Mr. KOLTER, Mr. HEFNER, Mr. COLEMAN of Texas, Mr. SMITH of Florida, Mr. OXLEY, Mrs. MEYERS of Kansas, Mr. TRAXLER, Mr. EMERSON, Mr. ROBERT F. SMITH, Mr. PURSELL, Mr. BUNNING, Mr. HATCHER, Mrs. LLOYD, Mrs. JOHNSON of Connecticut, Mr. KASICH, Mr. QUILLEN, Mr. SERRANO, Mr. LEHMAN of Florida, and Mr. APPLEGATE.

H.J. Res. 571: Mr. RAVENEL.

H.J. Res 581: Mr. CARPER, Mr. COX, Mr. ENGEL, Mr. PANETTA, and Mr. SCHEUER.

H.J. Res 586: Mr. KYL, Mr. DOUGLAS, Mr. CARPER, Mr. SCHIFF, Mr. LEWIS of Florida, Mr. SPENCE, Mr. HOPKINS, Mr. FAUNTROY, Mr. MCNULTY, Mr. COX, Mr. NEAL of North Carolina, and Mrs. COLLINS.

H.J. Res. 590: Mr. EVANS.

H.J. Res. 592: Mr. BEILENSON.

H.J. Res. 593: Mr. BEILENSON.

H.J. Res. 594: Mr. BEILENSON.

H.J. Res. 598: Mr. HUCKABY, Mr. BALLENGER, Mr. STANGELAND, Mr. QUILLEN, and Mr. CHAPMAN.

H.J. Res. 599: Mr. ACKERMAN, Mr. ARCHER, Mr. ANDERSON, Mr. ANTHONY, Mr. APPLEGATE, Mr. ASPIN, Mr. AUCOIN, Mr. BAKER, Mr. BALLENGER, Mr. BARNARD, Mr. BATEMAN, Mr. BENNETT, Mr. BEREUTER, Mr. BEVILL, Mr. BILBRAY, Mr. BLILEY, Mr. BOEHLERT, Mr. BONIOR, Mr. BORSKI, Mr. BROOMFIELD, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. BUECHNER, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mr. CARPER, Mr. CHANDLER, Mr. CLAY, Mr. COLEMAN of Texas, Mr. CONTE, Mr. CONYERS, Mr. CRAIG, Mr. CROCKETT, Mr. DARDEN, Mr. DEFAZIO, Mr. DICKINSON, Mr. DICKS, Mr. DORNAN of California, Mr. DUNCAN, Mr. ENGLISH, Mr. ESPY, Mr. FAUNTROY, Mr. FALEOMAVAEGA, Mr. FAWELL, Mr. FLIPPO, Mr. FOGLIETTA, Mr. FRANK, Mr. FROST, Mr. FUSTER, Mr. GALLO, Mr. GEKAS, Mr. GILMAN, Mr. GONZALEZ, Mr. GOODLING, Mr. GOSS, Mr. GRANT, Mr. GUNDERSON, Mr. HALL of Ohio, Mr. HANSEN, Mr. HEFLEY, Mr. HEFNER, Mr. HENRY, Mr. HOCHBRUECKNER, Mr. HUBBARD, Mr. HUGHES, Mr. HYDE, Mr. JACOBS, Mr. JENKINS, Mrs. JOHNSON of Connecticut, Mr. JONES of Georgia, Mr. KASICH, Mr. KASTENMEIER, Mr. KENNEDY, Mr. KLECZKA, Mr. KOLTER, Mr. LANCASTER, Mr. LEACH of Iowa, Mr. LEATH of Texas, Mr. LEHMAN of Florida, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LIPINSKI, Mr. LIVINGSTON, Mrs. LLOYD, Mr. LOWERY of California, Mr. THOMAS A. LUKEN, Mr. DONALD E. LUKENS, Mr. MCEWEN, Mr. MCGRATH, Mr. MADIGAN, Mr. MARTIN of New York, Mr. MAZZOLI, Mr. MILLER of California, Mr. MILLER of Washington, Ms. MOLINARI, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. MRAZEK, Mr. MURTHA, Mr. NIELSON of Utah, Mr. NOWAK, Ms. OAKAR, Mr. OLIN, Mr. ORTIZ, Mr. PALLONE, Mr. PACKARD, Mr. PARKER, Mr. PARRIS, Mr. PETRI, Mr. PICKETT, Mr. PRICE, Mr. RAHALL, Mr. RAY, Mr. RHODES, Mr. RICHARDSON, Mr. ROBERTS, Mr. ROBINSON, Mr. ROSE, Mr. SARPALIUS, Mr. SAVAGE, Mr. SAWYER, Mr. SCHAEFER, Mr. SCHEUER, Mr. SCHUETTE, Mr. SERRANO, Mr. SIKORSKI, Mr. SKEEN, Mr. SKELTON, Mr. SLATTERY, Mr. SLAUGHTER of Virginia, Mr. SMITH of Texas, Mr. SMITH of Florida, Mr. STALLINGS, Mr. STUMP, Mr. THOMAS of Wyoming, Mr. TRAFICANT, Mr. TRAXLER, Mr. TAUKE, Mr. UDALL, Mr. VALENTINE, Mr. VANDER JAGT, Mr. VENTO, Mr. VOLKMER, Mr. WAXMAN, Mr. WILSON, Mr. WISE, Mr. WHITTAKER, Mr. WOLF, Mr. WYDEN, Mr. YOUNG of Florida, Mr. PURSELL, and Mr. PORTER.

H. Con. Res. 249: Mr. OBERSTAR, Mr. EDWARDS of California, Mrs. BENTLEY, Mr. NAGLE, Mr. TORRES, Ms. PELOSI, Mrs. COLLINS, Mrs. BOXER, Mr. AUCOIN, Mr. PAYNE of New Jersey, Mr. HAYES of Illinois, and Mr. HASTERT.

H. Con. Res. 264: Mr. LEWIS of Georgia.

H. Con. Res. 270: Mr. HUGHES.

H. Res. 374: Mr. ARMEY.

H. Res. 390: Mrs. UNSOELD and Mr. SLATTERY.

H. Res. 402: Mr. BATEMAN and Mr. DYMALLY.

H. Res. 407: Mr. DERRICK, Mr. ROTH, Mr. KOLBE, Mr. LAUGHLIN, Mr. LANTOS, Mr. SHAW, Mr. GAYDOS, Mr. ENGLISH, Mr. FIELDS, Mr. MINETA, Mr. GIBBONS, Mr. MCNULTY, Mr. OWENS of New York, Mr. WASHINGTON, Mr. SERRANO, Mr. NEAL of Massachusetts, Mr. MCMILLAN of North Carolina, Mr. PAYNE of New Jersey, and Mr. BARTLETT.

H. Res. 414: Mr. FORD of Tennessee, Mr. FUSTER, Mr. GRAY, Mr. HOUGHTON, Mr. MOODY, and Mr. SIKORSKI.

H. Res. 418: Mr. PURSELL, Mr. RITTER, Mr. THOMAS A. LUKEN, Mr. SHUMWAY, and Mr. DENNY SMITH.

H. Res. 419: Mr. FROST, Mr. STANGELAND, Mr. LEVINE of California, Mr. LEHMAN of Florida, Mr. APPLEGATE, Mr. BILIRAKIS, Mr. ROE, Mr. MURPHY, Mr. THOMAS of Wyoming, Mr. MCCOLLUM, Mr. SMITH of Florida, Mr. FISH, Mr. THOMAS A. LUKEN, Mr. DENNY SMITH, Mr. BARNARD, Mr. WILSON, Mr. HEFNER, Mr. EMERSON, Mr. DANNEMEYER, Mrs. BYRON, Mr. MONTGOMERY, Mr. BAKER, Mr. IRELAND, Mr. GALLEGLY, Mr. BURTON of Indiana, Mr. PASHAYAN, Mr. RHODES, Mr. PURSELL, Mr. RINALDO, Mr. SMITH of New Jersey, Mr. OXLEY, Mr. MCGRATH, Mr. PACKARD, Mr. FIELDS, Mr. THOMAS of California, Mr. LAGOMARSINO, Mr. SLATTERY, Mr. BROWN of Colorado, Mr. HILER, Mr. EDWARDS of Oklahoma, Mr. LIVINGSTON, Mr. COBLE, Mr. SHUMWAY, Mr. LEWIS of California, Mrs. BENTLEY, Mr. COURTER, Mr. VANDER JAGT, Mr. CAMPBELL of California, Mr. HUNTER, Mr. WEBER, Mr. GINGRICH, Mr. HYDE, Mr. TAUKE, Mr. MCEWEN, Mr. WOLF, Mr. LIGHTFOOT, Mr. HAMMERSCHMIDT, Mr. MCCANDLESS, Mr. SUNDQUIST, Mr. PARRIS, Mr. MARTIN of New York, Mr. BOEHLERT, Ms. SNOWE, Mr. DELAY, Mr. SOLOMON, Mr. LEACH of Iowa, Mr. DREIER of California, Mr. LOWERY of California, Mrs. VUCANOVICH, Mr. MCDADE, Mr. MOORHEAD, Mrs. MARTIN of Illinois, Mr. ROWLAND of Connecticut, Mr. ROBERT F. SMITH, Mr. HOPKINS, Mr. GREEN, Mr. GUNDERSON, Mr. YOUNG of Alaska, Mr. DICKINSON, Mr. WALKER, Mr. PORTER, Mr. ARMEY, Mr. BROOMFIELD, Mr. LENT, Mr. BLAZ, Mr. GILMAN, Mr. MILLER of Washington, Ms. MOLINARI, Mr. RIDGE, Mr. REGULA, Mr. RITTER, Mr. SLAUGHTER of Virginia, Mr. FAWELL, Mr. HUBBARD, Mr. DWYER of New Jersey, and Mr. POSHARD.

H. Res. 421: Mr. DICKINSON, Mr. MARTIN of New York, Mr. MCCURDY, Mr. MARLENEE, Mr. SKELTON, Mr. GUNDERSON, Mr. MCDADE, Mr. ROWLAND of Georgia, Mr. VALENTINE, Mr. LEATH of Texas, Mr. JOHNSON of South Dakota, Mr. POSHARD, Mr. MADIGAN, Mr. RANGEL, Mr. THOMAS of Georgia, Mr. OLIN, Mr. WEBER, Mr. HANCOCK, Mr. LIGHTFOOT, Mr. FALEOMAVAEGA, and Mr. SKEEN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 560: Mr. FEIGHAN.
H.R. 4462: Mr. LEHMAN of Florida.
H.R. 4493: Mr. TORRICELLI.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

199. The SPEAKER presented a petition of the Council of the borough of Somerset, PA, relative to opening up the cable industry to more competition; which was referred to the Committee on Energy and Commerce.

SENATE—*Thursday, June 28, 1990*

(Legislative day of Monday, June 11, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Blessed is the nation whose God is the Lord * * *.*—Psalm 33:12.

God of Abraham, Isaac, and Israel, God of our fathers, Lord of the nations, we were reminded by Nelson Mandela of the "fundamental rights of man." From whence those rights if not from Thee, Lord? Godless governments recognize no human rights. Our Constitution was crafted in recognition of the fact that "All men are created equal and that they are endowed by their Creator with certain inalienable rights" which "government is instituted to secure."

Forgive us, Lord, that it took so long for us to begin to take this basic reality seriously. Forgive us in our continuing failure to honor it as we ought. As we anticipate the celebration of our independence in 7 days, help us in our hearts to rededicate ourselves to the "fundamental freedom of humanity" in our Nation and throughout the world.

In His name who promised, "You shall know the truth and the truth shall set you free." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 28, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY REID, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERS' TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time of both the minority and majority leader is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a time period for the transaction of morning business, and the Senator from Georgia [Mr. NUNN] is recognized and controls the time, not to extend beyond the hour of 10 o'clock this day.

Mr. NUNN. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Senator NUNN controls the time from now until 10 a.m.

Mr. NUNN. How much time does the Senator wish?

Mr. HEINZ. Mr. President, I am unaware of the parliamentary situation with respect to Senator NUNN. I was going to ask unanimous consent that I might proceed for 5 minutes as in morning business.

Mr. NUNN. I will object. We have three or four Senators that have reserved time this morning, and we plan to make a presentation. We may have some time at the end, and in that case, I will be delighted to share it.

STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM

Mr. NUNN. Mr. President, today I join with several of my colleagues from the Senate Armed Services Committee in outlining a program designed to harness some of the resources of the Defense Establishment—the Defense Department, certain elements of the intelligence community, and the national security activities of the Department of Energy—to confront the massive environmental problems facing our Nation and the world today. These are problems that will pose an increasing threat to our national security in the years ahead.

During our committee's markup of the fiscal year 1991 Defense authorization bill next month, we intend to propose a Strategic Environmental Research Program. This initiative will make use of the unique skills and technological capabilities of the various Federal laboratories in the Defense Department and the Department of Energy that in the past have been devoted primarily to traditional military needs.

America's technological capability is one of our Nation's greatest assets. Our real peace dividend will consist of the research talent that will be made available as our Defense Establishment is reduced—thousands of highly trained and educated scientists, engineers, and technicians. As our defense requirements change, we have an opportunity to redirect this tremendous national resource toward the environmental challenges we face in the 1990's: Understanding what we are doing to the environment today, cleaning up the damage we have done in the past, and modernizing U.S. industries and Government to establish and maintain technological leadership in this critical area in the future.

Mr. President, environmental technology is likely to be the growth industry of the next 20 years. Some have recently estimated that by the middle of this decade 2 to 3 percent of the industrialized nations' gross domestic product would be spent cleaning up the environment. The Defense Establishment should be at the forefront of this technological effort for a number of reasons: First, because environmental deterioration in a very real sense threatens our Nation's security and the security of the world; second, because the Defense Establishment has unique data collection and technological capabilities; and third, because the Defense Establishment helped create some of the environmental problems we face today.

CHANGES IN THE THREATS TO OUR SECURITY

The world has changed dramatically in the past year. The Berlin Wall has fallen, the Iron Curtain has been lifted, and a tide of democracy is sweeping the globe. These events should be a source of pride for every American. We hope and pray that this trend will continue. These events represent the fulfillment of national security objectives laid out for America by the leaders of our Nation at the end of World War II, and followed by every Democratic and Republican Adminis-

tration since then. The dedication of our men and women in uniform and the perseverance of the American taxpayer have brought us to this point.

The upheavals in the world in the past year have fundamentally changed many of the assumptions on which our national security policy, our military strategy and our defense budget have been based for the last four decades. Over the past 8 months, for example, the Warsaw Pact has ceased to exist as an effective military alliance. At the same time, we must recognize that the growing collapse of communism does not mean the end of confrontation and danger for the world. From the Soviet strategic nuclear arsenal, to North Korea, to proliferation of nuclear weapons, chemical weapons and missiles in the Third World, to radical Moslem fundamentalism, to global terrorism and narco-trafficking, we still face formidable threats to our national security.

ENVIRONMENTAL DESTRUCTION—A GROWING NATIONAL SECURITY THREAT

However, I am persuaded that there is also a new and different threat to our national security emerging—the destruction of our environment. The Defense Establishment has a clear stake in countering this growing threat. I believe that one of our key national security objectives must be to reverse the accelerating pace of environmental destruction around the globe.

While the end of the cold war has greatly reduced the risk of superpower confrontation, the dangers of ethnic and regional conflicts are on the rise. Many of the parties to these possible conflicts have arsenals of sophisticated and powerful conventional weapons, and an increasing number of them now have or soon will have weapons of mass destruction. These ethnic or regional conflicts could well be exacerbated by environmental problems:

Population growth is already pressing supplies of clean water and food in many areas.

Deforestation on a vast scale is resulting in the loss of thousands of species of living things—including many species that contain genetic resources of enormous potential value to agriculture and medicine.

Rapidly increasing atmospheric concentrations of gases such as chlorofluorocarbons and halons, if unchecked, will lead to ozone depletion, increasing exposure to cancer-causing ultra-violet radiation.

Although there is still a good deal of uncertainty associated with global warming, some reputable scientists have predicted that increasing production of "greenhouse" gases may ultimately lead to major global environmental changes and massive crop failures, floods, and drought—events that could rival a nuclear war in their destructive impact.

Mr. President, I believe that America must lead the way in marshaling a global response to the problems of environmental degradation, and the Defense Establishment should play an important role in this effort.

UTILIZING THE DEFENSE ESTABLISHMENT'S UNIQUE CAPABILITIES FOR ENVIRONMENTAL RESEARCH

I have been working with several of my colleagues in the Armed Services Committee on an initiative to utilize the unique capabilities of the Defense Department, the intelligence community, and the Department of Energy in meeting the environmental challenges facing our Nation and the world. We have identified several major areas where the Defense Establishment can make a greater contribution to understanding and dealing with environmental problems.

GATHERING DATA AND ANALYSIS

In the area of data gathering and analysis, the Defense Establishment is in a unique position to augment the capabilities of the civilian scientific community to conduct research on global environmental change in several important respects:

First, the Defense Establishment has a wealth of information gathered by intelligence sources that can be used by DOD, DOE, universities, and the scientific community to study and track changes in the atmosphere, the oceans and the surface of the Earth.

Second, military aircraft, surface ships, and submarines have the ability to collect additional information so that we can begin to understand global warming—whether it is happening and what are the effects. The Navy can be particularly helpful in this regard because of its oceanographic work. Most experts believe that the first indications of global warming will be changes in the flow and temperature of the oceans.

Third, the Defense Department and the Department of Energy can make supercomputers available to civilian research agencies. This would dramatically increase the scientific community's computer capabilities to analyze data and to model and predict changes in the water and the air. These improvements, in turn, would support more accurate methodologies for predicting the impact of human activities on the environment—and vice versa. We don't fully understand the impact of temperature changes on the environment. Will the great plains continue to be the bread basket of the world? What effect would rising ocean levels have on our coasts and port cities? We must begin to understand the degree of change that could be experienced if there are significant changes in the global environment.

ADVANCED ENERGY TECHNOLOGIES

Energy generation and conservation are areas where national security and private sector interests coincide. America must be assured of access to the energy sources required to meet the security and industrial needs of the next century, at costs that are consistent with a robust economy, and in forms that relieve pressure on the global economy.

Both the Department of Defense and the Department of Energy are involved in a number of military programs dealing with advanced energy technologies, including new nuclear reactor designs, fusion energy, and energy storage systems based on superconducting materials. It would be very beneficial if the energy research activities in DOD and DOE were more purposefully coordinated to identify transfers of cost-effective technologies from defense to the civilian sector. In addition, both DOD and DOE are major energy consumers in their own right, and can become leaders in the application of energy conservation measures to their facilities and motor vehicle pools.

TECHNOLOGIES FOR ENVIRONMENTAL CLEANUP

The Defense Establishment also has an obligation to pursue research on environmental cleanup technologies because they are a part of the problem. Past activities in the Department of Defense and the Department of Energy have created radioactive, toxic, and mixed-waste dumps and repositories that pose the risk of major contamination of soil, ground water, and surface waters.

Both DOD and DOE have a clear and immediate interest in developing better technologies for tracing ground and surface migration patterns of contaminants, as well as cost-effective methods of identifying, treating, and cleaning up sites containing toxic, radioactive, and hazardous materials. For instance, DOD and DOE can work to understand more completely what they have put into the ground at a particular site, where the material is going, and when it will reach critical drinking water supplies. DOD and DOE also have a vested interest in more effective methods of disposal of the radioactive and hazardous byproducts that are the result of continuing national security activities.

U.S. technologies for more effective identification, treatment and cleanup of hazardous wastes will find ready markets in other countries, particularly in the newly emerging democracies of Eastern Europe and in Third World countries. Development of these new technologies will also help DOD and DOE meet their environmental cleanup and treatment obligations more quickly and more efficiently and at lower overall cost. I am also looking carefully into the possibility of using

independent research and development [IR&D] funds for environmental research, in order to make greater use of the talents and innovative skills of defense contractors.

STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM

Mr. President, when the Armed Services Committee begins markup of the fiscal year 1991 Defense authorization bill next month, we will propose creation and funding of a Strategic Environmental Research Program which would be administered by a new Defense Environmental Research Council. This Council will be responsible for the formulation and direction of a coordinated environmental research effort among all of the DOD and DOE national security activities, research laboratories, universities and Federal Contract Research Centers.

The first task of the new Defense Environmental Research Council will be to develop a comprehensive 5-year program for environmental research affecting our national security in each of the areas I outlined earlier; data collection and analysis; alternative energy technologies; and environmental cleanup technology. The primary mission of the Council will be to initiate and coordinate research to better understand the link between man's activities and environmental events; to better assess the damage done by the Departments of Defense and Energy in the past to the soil, ground water and surface water; to develop the technology to restore the environment promptly and economically; and then to facilitate transfer of the knowledge gained and technology developed to the private sector and to other nations. If the industrialized nations are going to be devoting 2-3 percent of their gross domestic product to environmental cleanup in the future, I want it to be American technology that is used in this effort—both in this country and around the world. Converting part of the defense establishment's technological know-how from defense to environmental protection can produce a competitive advantage in world markets for U.S industries.

The new Defense Environmental Research Council must also consult and work closely with the Environmental Protection Agency [EPA]. We look at the EPA to provide guidance to the Council as it develops its 5-year plan. The defense establishment has tremendous capability that can be utilized in a meaningful way to assist the EPA and the rest of the environmental community in meeting our environmental challenges and responsibilities.

Mr. President, there are a number of members of the Committee who have been working on this initiative and have given this area a great deal of thought. I have consulted closely with Senator EXON, Senator GORE, Senator BINGAMAN, Senator WIRTH and others. Each has devoted a great deal of effort to this initiative. We are bringing this to the attention of our colleagues at this time in order to solicit their suggestions as well as their support for this important concept. I have also discussed this matter with Senator WARNER, and I look forward to working with members of the Committee on both sides of the aisle as we develop and refine this initiative.

Mr. President, again, I thank Senator GORE and Senator BINGAMAN and others for their leadership and for their advice. At this point I would yield such time as the Senator from Tennessee may desire.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I wish to thank the distinguished senior Senator from Georgia for his leadership, for his vision, and for his hard work on this proposal.

I might pause during these comments, Mr. President, to inquire if my distinguished colleague, the Senator from New Mexico, who I understand has a hearing this morning, might wish to speak. I have some remarks that might take a little time here. I would inquire if the Senator from New Mexico wishes me to let him intervene.

Mr. BINGAMAN. Mr. President, let me thank my colleague from Tennessee. I do have a hearing that I do need to chair in a few minutes. If I could intervene for a short period of time, I would appreciate it.

The ACTING PRESIDENT pro tempore. The Senator from Georgia controls the time.

Mr. NUNN. Mr. President, I yield the Senator such time as he may desire.

STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM

Mr. BINGAMAN. Mr. President, I want to commend the Senator from Georgia for taking the lead in developing the concept of a strategic environmental research program. This program would tap the tremendous capabilities of the DOD and DOE research communities to solve urgent problems which affect our national security in the broadest sense in fundamental ways.

Mr. President, last year the Armed Services Committee took several steps in the fiscal year 1990 Defense Authorization Act that helped lay the foundation for this initiative. Under Senator EXON's leadership, the Strategic Subcommittee significantly expanded the research component of the Department of Energy's Environmental Research Program. We realized that we desperately needed new technology to reduce the massive costs to clean up the aging nuclear weapons complex.

Under Senator EXON's leadership, we also made environmental restoration a core mission of the DOE defense establishment under the Atomic Energy Act, the first time that mission statement had been changed in 35 years.

Similarly, I worked in the Defense Industry and Technology Subcommittee in consultation with my colleague from New Mexico, Senator DOMENICI, to make technology transfer from the DOE defense program laboratories to the private sector a core atomic energy act mission as well. And through the National Competitiveness Technology Transfer Act of 1989 included in last year's defense authorization bill, we established effective mechanisms for carrying out such transfer. Moreover, another section of the bill, authored by Senator NUNN and me, provided DARPA with greater flexibility to enter into cooperative agreements and other transactions with U.S. universities and industry to spur development of dual-use military and civilian technologies.

Mr. President, this year we are proposing to build on that record. We recognize that the DOD and DOE research communities have a tremendous potential to address environmental and energy problems facing the entire planet. We see the primary contributions coming in three areas: data gathering and analysis, advanced energy technologies, and technologies both to clean up and restore the environment and to minimize and eliminate future waste and hazards in industrial processes. Technology transfer to the private sector and to other nations will be at the heart of this program.

I would like to cite just a few ways the DOE defense program laboratories might be able to contribute to this initiative. The DOE labs have strong capabilities in such areas as:

High speed computing, including massively parallel processing, which is key to regional and global climate prediction and to handling the vast data streams from climate measurement programs;

Modeling of complex three dimensional phenomena, such as fluid flows and radiation transfer, which is essential to understanding the Earth's energy balance;

Development of remote sensing probes and their integration into extensive field programs;

Extensive experience in dealing with large, multidisciplinary programs involving aspects from research through field testing and deployment;

Environmentally conscious manufacturing; and

A broad range of energy programs.

Mr. President, one of the areas that I hope will be highlighted in this program will be the need to come up with environmentally sound manufacturing processes for use in the defense industry and DOE production complex and more generally in the civilian sector.

We need to undertake efforts to eliminate chlorofluorocarbons and chlorinated hydrocarbon solvents throughout the DOE weapons complex. We need to reduce the use of toxic metals, such as chromium, cadmium, and cyanide in plating and coating processes. We need to understand the environmental effects of the vast array of new materials we are developing for both defense and civilian purposes.

Mr. President, I hope that this initiative will win broad support among our colleagues as the fiscal year 1991 defense authorization bill is developed in the coming month. Let me conclude by again commending Senator NUNN for taking the lead in broadening the mission of the DOD and DOE research communities in the environmental area. It has been a pleasure working with him, Senator GORE, Senator EXON, and Senator WIRTH on this concept.

So I appreciate the chance to participate and support this initiative. I will certainly do all I can as we work through the markup of the legislation and the consideration of this legislation on the Senate floor to see that it is put together in a way that benefits both the country and all those who worked so hard in this area in the past.

I again appreciate the chance to participate and compliment the Senator from Georgia and the Senator from Tennessee for putting this initiative together.

Mr. NUNN. I thank my friend from New Mexico for his leadership. As he mentioned, the laboratories that are in his State are among our most important reservoirs of tremendous talent. We know that they already have made major contributions to our Nation's security and I think there is an awful lot they can do in these areas if properly challenged.

I also might make it absolutely clear that we in the Armed Services Committee are not trying to assert jurisdiction over the Department of Energy except in those parts that are under Department of Defense. We have a split jurisdiction over the Department of Energy. Our committee deals only with national security activities of the Energy Department. We will be working very carefully with the Energy Committee on this. So this is not going to become a jurisdictional matter.

Mr. BINGAMAN. Again, I thank my colleague from Georgia and my colleague from Tennessee for their courtesy in yielding to me at this point.

Mr. NUNN. Mr. President, I yield to the Senator from Tennessee.

Mr. GORE. Mr. President, I note the important work already underway at the Oak Ridge National Laboratory in connection with the colloquy just entered into.

STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM

Mr. GORE. Mr. President, this proposal for a Strategic Environmental Research Program, which the Senator from Georgia has just outlined, is something whose specific content will be worked out in the weeks just ahead of us by members of the Senate Armed Services Committee. But I believe, Mr. President, that it is vital that we take note of the present moment and recognize clearly what is taking place; indeed, what has already taken place; namly, a seminal adaptation of the very concept of national security, to better reflect the changing nature of the forces that are at work in the world today, forces with which American policy must contend.

The senior Senator from Georgia has long been identified by Members of this body on both sides of the aisle and by Americans generally as one of those rare individuals who looks far into the future and identifies problems before many others and then organizes a very sensible response to those problems. I think it is extremely significant that he has outlined his proposal here today.

National security, Mr. President, consists of those matters that can directly and imminently menace the interests of the United States and the safety of the American people at the fundamental level of survival. To this point the national security agenda has been dominated by military issues embedded in the context of a global struggle between the United States and the Soviet Union. It is unclear whether that struggle is now being put completely aside forever or deferred or transformed into some new kind of competition.

Moreover, the proliferation of weapons of mass destruction into the hands of governments that may not be rational, by our standards, reminds us that the future may present new risks even if the United States-Soviet confrontation passes entirely from the scene.

Nothing about the behavior of nations is foreordained, and therefore nothing relieves us of the responsibility to provide for the physical defense of the Nation against aggression. However, we are recognizing that our society can also be threatened by new forces. Among these forces we must certainly give the highest standing to the consequences of a damaged and destabilized natural environment.

In thinking about the environment, it is important to differentiate between what the military would call variations in the level of threat. Military planners have long recognized that there are local threats, regional threats, or theater conflicts; and global, or strategic conflicts. The threats to our natural environment can be seen in similar terms.

Certain environmental problems are essentially local in nature. Others, like acid rain, are regional in nature and cross national boundaries. Still others, some of them newly recognized, are global and should be approached in a strategic manner.

Problems at any of these levels may well become the source of very serious international tensions in the future, or may aggravate already troubled relations among states.

Some of these problems are easier to grasp than others. For example, shortages of water, compounded by the growth of population and by shortsighted policies of water management, are clearly going to be increasingly bitter sources of dispute among nations. Local environmental problems in fast-growing cities can cause enormous threats to the health and safety of populations.

But we experience, a quantum jump in the severity of environmental problems and in the difficulty of comprehension and acceptance when it comes to environmental problems that are global in nature. Just in this century human civilization has rather suddenly acquired the ability to degrade the environment everywhere on Earth simultaneously.

As an example, the air in this historic Chamber contains 600 percent more chlorine atoms in each lungfull of breath than it did when this Chamber was constructed; six times as many chlorine atoms in each breath than 40 years ago—or 1 million years ago, for that matter. Because just in the last four decades, for the first time in the entire history of the Earth and certainly the history of human beings' presence on this Earth, we discovered one new family of chemicals which suddenly became used worldwide. And, when these chemicals floated up into the stratosphere, encountering high levels of radiation, they broke down in a complex chemical process. They ended up creating lots of new chlorine atoms.

That does not affect human health directly as far as we know. It is not a local environmental problem. It is not a regional environmental problem. But it is a global environmental problem because it changes the makeup of the entire Earth's atmosphere.

It is that concentration of chlorine atoms which is eating a hole in the ozone layer above Antarctica and, as discovered just this past year, is eating a smaller hole above the North Pole. As reported just this week, the protective ozone layer above Washington, DC, or Atlanta, GA, or Carthage, TN, has declined approximately 6 percent compared to the ozone layer that existed only 25 to 30 years ago.

For each 1 percent decline, that is a 3 percent increase in skin cancer. The decline suppresses the effectiveness of

the immune system for all 5 billion people on Earth. It interferes with the food chain, the web of life upon which we depend for sustenance. It creates many other problems as well.

The solutions have to be approached on a global basis. They are strategic in nature. And these problems affect our national security.

In the case of global warming we face increasingly credible forecasts of climatic dislocation, of serious disruptions of growing cycles for food, of inundations of coastal areas with a loss to the sea of some parts of the world that are heavily populated, and of potentially catastrophic gaps in the oceanic food chain.

Global warming, like the depletion of stratospheric ozone, is a strategic threat in the full and heaviest sense of that term. It is capable of exacting an enormous toll in human suffering and is capable of exacerbating international tensions to the point of actual warfare, including the risk of nuclear war.

Look at the news this week, Mr. President. Look at what is happening in the city of Phoenix. Two days ago the temperature in Phoenix was 122 degrees. Yesterday it went down to a mere 118 degrees. They were frying eggs on the sidewalks. Record highs. They have never seen anything like it.

No scientist will say the temperature was 122 degrees in Phoenix because of global warming. But the vast majority of scientists, who are expert in this field, have said and are saying that because of global warming the incidence of 100-degree-plus days everywhere in the United States will increase dramatically. And, the likelihood of other areas experiencing temperatures higher than they have ever seen will increase in the future.

Recent evidence compiled from measurements of temperatures worldwide, in the first 6 months of 1990, indicate preliminarily that the temperatures globally for the first 6 months of this year have been not only the hottest of any 6-month period since temperatures have been recorded, but the hottest by a country mile. Up until this year, the five hottest years in the record were in the 1980's. Again, perhaps that is a coincidence. But perhaps, Mr. President, it is not a coincidence.

There are essentially three causes to this problem. First is the explosion of population. It took 1 million years of human existence on Earth to reach a population of 2 billion people, by the end of World War II. In the last 45 years we have gone from 2 to 5.3 billion. And in the next 40 years we are going to at least 10 billion and, soon after, probably to 14 or 15 billion.

To recap those statistics, it took 1 million years to reach 2 billion, and one lifetime to go from 2 to 10 billion. If we project the next 40 years, it is virtually a mathematical certainty that we will reach 10 billion within that 40-year period. That is the first cause.

The second cause of our environmental problems is technology. We have magnified the ability of every human being on Earth to affect the global environment with new technologies and new chemicals. In the advanced industrial world, most of us drive cars and, therefore, take 4,000 pounds of metal with us everywhere we go. Most of us produce on average 3.5 pounds of garbage every single day. We see medical waste floating up on the beaches and, not long after, we see dead dolphins floating up. We are having an impact because we have new technologies that increase our ability to have an impact.

Let me use a military analogy to illustrate this point, Mr. President. Wars have been fought for thousands of years. But when nuclear technology became available and applied to warfare, the consequences of warfare suddenly changed so dramatically that we had to completely rethink the institution of warfare in human civilization. The history of the last four decades has been marked by a rather encouraging effort by those nations possessing nuclear weapons to reconsider what war is all about.

And the impressive forbearance on the part of the United States and the Soviet Union alike in reaching a series of arms control agreements designed to lessen the tensions and reduce the likelihood of war have come about essentially because the new technology made the old habit no longer tenable or thinkable.

Now, with that as an analogy, let's look at the way that human beings have gained sustenance from the Earth for thousands of years, indeed, for as long as we have lived on this Earth. Hundreds of new technologies have become available that increase our power to exploit the Earth for our sustenance.

The cumulative effect of all these new technologies, many of them discovered just in recent decades, has been to increase our power to exploit the Earth so much that the consequences of the old patterns are no longer acceptable and we have to change our way of thinking about our relationship to the Earth.

The third cause of our environmental problems is the old way of thinking, which now must change. It is changing, Mr. President. In one of the morning newspapers, there is a report about the negotiations to protect the ozone layer underway in London as of yesterday. Ambassador Richard Benedick, who negotiated the Montreal protocol, is quoted as saying the following:

> We're seeing something completely unprecedented in the history of diplomacy. Politicians from every bloc and region of the world are setting aside politics to reach agreement on protecting the global environment. Governments are backing off hardened positions to get an agreement, and even the customary disagreements between north and south—the developed nations versus the developing nations—lack their usual edge.

Times are changing, Mr. President, because thinking is changing. And what is taking place on this floor in this Chamber this morning serves as evidence that thinking is changing. Our national security is threatened by these global trends damaging the environment.

A year ago in May, in a speech at the National Academy of Sciences, I noted that the solutions for global environmental degradation represent a supreme test for modern industrial civilization. The test is whether we can devise very dynamic new strategies which will accommodate economic growth within a stabilized environment. That is an extreme demand to place upon technology. There is no real assurance that such a balance can, in fact, be struck.

Nevertheless, the effort must be made, and because of the urgency and scope of such an endeavor, I suggested that it be called a strategic environment initiative. The reference to SDI as a model for SEI was not accidental. Even opponents of SDI, such as myself, have long recognized that effort's success in drawing together previously disconnected Government programs, in stimulating the development of new technologies, and in forcing new thinking.

We need the same kind of focus and intensity to deal comprehensively with the environmental crisis. Today's proposal for a Strategic Environmental Research Program is fully consistent with the notion of a broad and concerted attack on environmental problems seen as a threat to global stability and to national security.

First, it recognizes that the environment is producing political, economic, and security effects that are meaningful to the concerns and missions of the Department of Defense.

Second, it recognizes that there are some activities within the Department of Defense and the defense sector of the Department of Energy that are germane to these environmental problems; for example, as the Senator from Georgia has noted, data gathering and analysis, energy, and environmental remediation.

Third, it recognizes the value to the Nation of managing these activities in such a way as to derive benefits for civilian environmental priorities; and conversely, of calling on the best civilian environmental technologies for ideas of value to the military.

Fourth, it recognizes that certain sometimes quite serious environmental problems have been caused within the

Department of Defense itself and need to be remedied quickly.

Finally, it recognizes the need to organize this approach on a sustained, long-term basis funded at serious levels.

The Senator from Georgia gave several examples of what can be done. Planes can gather air samples needed for an analysis of what is going on in the atmosphere. I recently conducted, with the Senator from Maryland [Ms. MIKULSKI], a long series of roundtable discussions with the most distinguished scientists in our Nation who are working on this problem. And they agree that air samples from military training flights could be of invaluable assistance in helping us to better understand the trend now underway in the atmosphere.

Water sampling from ships at sea, again, is a contribution that can be made; also, ice measurements from our nuclear submarines in the Arctic Ocean.

Again, in one of our other morning newspapers, Mr. President, there is an article that says: "The Polar Ice Cap Is Thinning, British Researcher Finds." I am not convinced myself that the evidence reported in this article sustains the headline or the conclusion reported in this particular story. But I agree with one point in the story, and that is that the evidence on ice thickness in the Arctic gathered by U.S. Navy submarines can be of invaluable assistance in helping us to understand what trends are underway.

Within the last 6 months, Mr. President, I undertook in this regard to negotiate an agreement with the U.S. Navy, whereby they have undertaken to release their record of sonar measurements of ice over the last 30 years. I convened a panel of ice scientists who had been designated by those expert in the field as the best and most talented. They now have that ice record and are analyzing it.

I went, incidentally, Mr. President, to the north polar ice cap in a submarine, the U.S.S. *Sea Horse*, and traveled under the ice cap looking at the instruments they use to measure ice thickness. The scientists who were on board talked about very cheap, simple improvements to the devices now used which could yield tremendous benefits by way of our enhanced understanding of the problem.

Finally, there are computer facilities in the Department of Defense, and I have undertaken a series of conversations with the SDI office and the climate modeling community, which I think again demonstrates how useful this initiative can be in that regard.

In short, Mr. President, and in conclusion, the proposal which Senator NUNN has described this morning gives us the opportunity to legislate a meaningful and creative expansion of the concept of national security, updating it to meet the emerging realities of the new world situation we are now facing.

I hope very much that this proposal will appeal to Members of both parties, both in the Armed Services Committee and in the Senate as a whole. It is a chance for all of us to contribute to the safety of the Nation and the peace of the world.

Our colleague from Georgia is to be warmly commended for showing us the way and leading along that way.

Mr. WARNER. Mr. President, I have listened with great interest to the proposal of our distinguished colleagues on the committee. I wonder if I may ask one question which may not be fully answered during the brief time we have.

I know my colleague, Mr. EXON, is ready to speak. There is the doctrine of the peace dividend from the Department of Defense, and indeed the overall defense efforts, which everyone is examining and following, and the funds as a consequence of whatever curtailment the President and the Congress decide upon.

Then that dividend would be prioritized by other departments and agenices in the Federal Government in terms of the Nation's need. I wonder if at some point the Senator could clarify how we deal with the doctrine of the peace dividend, the prioritization by other departments and agencies, indeed the President himself, and the need to go forward with certain parts of the Department of Defense, which by inference would be, we might say, surplus as a consequence of the reduced defense spending program.

Certainly the collection concept, the sharing of information, our platforms, be they air, surface, or subsurface, are marvelous collection platforms, but as we begin to direct civilians in the employment of the Department of Defense on payrolls funded by defense for work in this area, it seems to me we have answered the question of should not those funds be allowed to go from defense into the other arenas for prioritization as opposed to being retained in the Department of Defense?

Mr. NUNN. May I say to my friend from Virginia, the initiative we have under way here would take into account existing missions that are going to continue; for instance, the polar missions with submarines, the air mission, the space mission, intelligence mission. So we are talking about channeling an awful lot of ongoing efforts, that are going to be there anyway, for environmental purposes. We are also talking about using supercomputers, where we are going to continue in that vein with all sorts of defense technology, but to open those up for broader usage for environmental purposes. So those are two key dimensions.

I also believe that the main feature of the peace dividend, given the black hole we are in with budget deficits, is going to be people. I believe we are going to have a tremendous number of talented people we are going to try to want to hold together if we can. For example, I think it would be a tragedy if we were to cripple or cut out the national laboratories. We have some of the most talented scientific talent in our country involved in defense and Department of Energy work. I believe we need to make sure that talent is utilized to the maximum extent possible.

This does not mean we will not be cutting the defense budget. We will. It means we will be trying to find funds within those cuts to carry out what we believe is important research and to channel that research in an environmental arena which has not been the focus of defense in the past.

Mr. WARNER. Mr. President, I commend my distinguished colleagues. I think this proposal deserves most thoughtful consideration.

Mr. NUNN. As I said earlier before the Senator arrived, we look forward to getting his advice and working with him before we draw this up. I hope all colleagues will be coming together on it before we begin the markup.

I thank the Senator from Tennessee for his leadership. I thank the Senator from Nebraska for his leadership in this area. I know he is going to be working on this in the subcommittee and full committee. He has already spent an enormous amount of time on it.

I yield to the Senator from Nebraska the remainder of my time.

The PRESIDING OFFICER. The Senator from Nebraska has approximately 6 minutes.

Mr. EXON. I thank my colleague and chairman of the Armed Services Committee and salute him once again for his dedicated leadership in the field of national security.

What we are focusing on today as members of the Armed Services Committee is trying to alert the Senate as to what we think should be done in addition to what we have already done with regard to the scope of national security and particularly with regard to the peace dividend, the reductions that obviously are necessary in the armed services budget given the significantly reduced threat that we have highlighted with a whole series of meetings in the Armed Services Committee, where experts from all fields have been called in to give testimony to the Armed Services Committee. I believe we are on the right track.

What we are attempting to do this morning, Mr. President, is to outline as best we can some of these matters so that the Senate as a whole will understand more fully what the Armed

Services Committee is recommending in these important areas.

I certainly am pleased, therefore, Mr. President, to join with my colleagues on the Armed Services Committee in focusing attention on the national security implications of maintaining a stable and certainly a clean environment.

The Subcommittee on Strategic Forces and Nuclear Deterrence has purview over the Department of Energy's defense programs and activities. This encompasses the production of nuclear materials, the formation of those materials into nuclear weapons in our deterrent arsenal, and the refurbishment and recovery of valuable materials from older weapons.

As many of my colleagues know all too well, the operations of the Department of Energy and its predecessor organizations, the ERDA and the AEC, have led to widespread damage to the environment. This is one of the unfortunate consequences of ensuring our national security.

We are hardly the only country with environmental problems in need of cleanup. Both the developing nations and some of the other nuclear powers have their share of problems similar to ours.

This is why, in November of last year, I urged President Bush to discuss with President Gorbachev the possibility of accelerating our two nations' mutual exploratory effort in the areas of nuclear waste management and nuclear waste safety.

Only by further exploring and developing cooperation between the United States and the Soviet Union on nuclear safety and waste management can we hope to adequately address this global challenge.

Mr. President, it seems to me that nations like the Soviet Union and the United States, which are now working constructively together to reduce nuclear armament, should at the same time be working together to solve the problems of the environment that the creation of the nuclear deterrent has brought about in both countries.

Mr. President, I gave a talk on this matter in November of 1989 that I will read again into the RECORD in just a few moments to emphasize my concern in this matter and to, hopefully, express to the Senate some suggestions that we think would be very helpful. I will also enter into the RECORD the letter I wrote last year to President Bush and ask that be printed in full in the RECORD at the proper time.

The environmental problems of which I speak are well known, and they are very widespread; They involve materials like plutonium, uranium, and mercury, which are among the most deadly; and they involve a whole host of hazardous and toxic chemicals used in the manufacturing process. Often these are mixed together. The end result is that some of the most fearsome "witches' brew" to man were created, displaying both toxic and radioactive characteristics. Worse yet, in many cases these "witches' brews" have been poorly handled and very poorly stored.

Many of the worst sites are the results of past practices that were not illegal at the time but were insensitive to the environment. In all too many instances, disposal consisted of digging a hole somewhere on a remote Government reservation, dumping in the "witches' brew," then simply covering it over.

As chairman of the subcommittee, I have prodded the Department of Energy to get on with the cleanup, to do a comprehensive survey of all of their dumps and storage sites, and to develop a plan that can cure the problem.

GAO's most recent estimate of the cost of the cleanup is $130 billion. Many believe that still may be an underestimate. Indeed, until the full costs of the savings and loan scandal began to emerge, I had always thought this cleanup activity at the Department of Energy was the most expensive Government project I would see.

That turns out not to be the case, but it does not take away a moment from the need to get on with this very expensive proposition. It is a must for America. Given the evidence of the size of the problem, this committee has also taken the lead in addressing the cleanup.

Mr. EXON. I ask unanimous consent for an additional two minutes.

The PRESIDING OFFICER (Mr. BRYAN). The hour from 10 o'clock to 10:15 is controlled by the Senator from North Carolina.

Mr. HELMS. Mr. President, let the Senator continue. I will be glad to delay a few minutes if the Chair wishes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I thank my friend from North Carolina. Indeed, until the full cost of the savings and loan scandal began to emerge, I had always thought that this cleanup activity at DOE was the most expensive Government project I would see.

Given the evidence on the size of the problem, this committee has also taken the lead in addressing the cleanup. The Armed Services Committee has urged the Department to move forward as quickly as possible in the cleanup process.

In fiscal year 1989, the committee recommended a 40-percent increase in the environmental restoration budget. In fiscal year 1990, the committee recommended a 37-percent increase over the administration's budget request.

We have also created a special fund for research on innovative new cleanup methods, since some of the sites are so complex that cost-effective cleanup technology isn't available.

We intend to continue and enhance this research program, so that the techniques we develop will be the finest in the world.

I believe the United States can become the world leader in cleanup technologies, and that there will be many ready markets for the use of this technology. That's why I am pleased to join my colleagues today in declaring that some aspects of environmental deterioration can indeed be a threat to our security.

I intend to support vigorously the proposal of the Senator from Georgia.

Mr. President, I ask unanimous consent that at this point in the RECORD there be printed my statement of last November, and attached thereto a letter to the President of the United States that I mentioned earlier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR JIM EXON URGING THE DISCUSSION OF JOINT U.S.-SOVIET EXPLORATORY EFFORTS IN THE AREA OF NUCLEAR SAFETY AND WASTE MANAGEMENT, NOVEMBER 1989

Mr. President, as my colleagues know, I am the chairman of the Senate Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence. My subcommittee has oversight responsibility for the the energy department's nuclear weapons complex. The problems facing this complex in the areas of safety, modernization, production, protection of the environment, and the management of nuclear waste are great in number. All deserve our immediate attention and focus. The same is also true for the management of nuclear waste originating from commercial reactors and industry.

These problems, however, are not unique to the United States. In fact, the other superpower in the world, the Soviet Union, faces at least as great a challenge, if not more, in these areas. we know that Soviet safety and nuclear waste management practices have not and do not come close to ours—and ours fall far short of what should be acceptable for the long-term.

The Secretary of Energy and my good friend, Adm. Jim Watkins, took the initiative in exploring with the Soviets the possibility of joint U.S.-Soviet efforts in the areas of nuclear safety and nuclear waste management. He did so during the September meeting of the International Atomic Energy Agency and the Soviet response was favorable. Efforts are ongoing to build upon these exploratory discussions and I strongly applaud them.

In fact, these efforts could be reinforced and expedited if the subjects of nuclear safety and waste management were to be addressed by President Bush and General Secretary Gorbachev during the meeting at sea in the Mediterranean in early December. I have expressed these thoughts in a letter to the President and I request that this letter be included in the RECORD.

Discussion of these important and timely issues fits in nicely with the President's

desire to address a wide range of issues at the December meeting. I applaud the President's initiative in arranging this meeting and I sincerely hope that, at this meeting, he will further explore and develop cooperative U.S.-Soviet efforts on nuclear safety and waste management.

U.S. SENATE,
Washington, DC, November 17, 1989.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I applaud your initiative in arranging a meeting with General Secretary Gorbachev at sea in the Mediterranean on December 2nd and 3rd. Your intent to pursue a wide range of issues at this meeting seems prudent and timely to me.

As part of these talks. I recommend that you discuss with Secretary Gorbachev the possibility of accelerating our two nation's mutual exploratory efforts in the areas of nuclear waste management and safety. If both nations can agree on measures to limit and reduce nuclear weapons, I do not see why we cannot cooperate on the issues of nuclear safety and cleanup which plague both nations.

Last September, at a meeting of the International Atomic Energy Agency in Vienna, Secretary of Energy Jim Watkins raised these issues with Mr. Protsenko of the Soviet Delegation. The Soviet response was indeed encouraging and Admiral Watkins is pursuing this avenue with Soviet officials. The Admiral's initiative is commendable and deserving of further development.

Mr. President, as the Chairman of the Senate Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence, I have taken the lead in the Congress in responding to the crisis situation we are experiencing with our nuclear weapons complex. The problems with this complex are of crisis proportions. Many nations, including our own, are also facing a similar challenge in the commercial nuclear waste field. The situation is bad, getting worse, and of immediate concern to people everywhere.

Your meeting with General Secretary Gorbachev offers an excellent setting to pursue this matter. The nature of the problem facing both superpowers is such that there is every incentive for the United States and the Soviet Union to move ahead aggressively and jointly on this issue. It would be most fitting if the first two nuclear powers in history could combine their efforts to make their nuclear facilities safer and to ensure the restoration and protection of the environment.

I hope that you will build upon earlier U.S.-Soviet discussions of these matters and further explore them during your December meeting with Mr. Gorbachev.

With warm regards and best wishes for your upcoming meeting.

Sincerely,

J. JAMES EXON,
U.S. Senator.

Mr. WIRTH. Mr. President, I want to comment briefly on the exceptional remarks that we have heard this morning from Senator NUNN, the distinguished chairman of the Armed Services Committee, on the strategic environment initiative. The initiative that is being launched here today could be one of the most farsighted and strategically sound as we will consider for the rest of the year.

As we enter the last decade of this most extraordinary century, we are witnessing the end of the postwar order in Europe. The political, military, and economic structure which dominated East-West relations since the end of World War II is fundamentally and irrevocably changing. Across the globe, the old dynamic of ideological confrontation is being replaced by a model of governance which draws on openness and cooperation rather than secrecy and authoritarianism.

As East-West tensions subside and the threat of nuclear war diminishes, the world will become a different place. No longer will United States-Soviet rivalry serve as a kind of geopolitical magnetic field, holding in alignment the diverse nations in the world. The world will likely become more conflict-ridden as ethnic strife and resource competition in an increasingly populous world are no longer held in abeyance by superpower rivalry. Rather than representing the "end of history," the end of the cold war signifies the "resumption of history" as long dormant conflicts reappear.

The end of the cold war demands, therefore, a redefinition of national security. I believe that redefinition will result in less emphasis on the military dimensions of security—and much greater focus on the demographic and resource conflicts which will increasingly define the dynamics of international relations in the 1990's and beyond. The global environment is where the issues of population and resources come together.

ASSAULT ON THE GLOBAL COMMONS

At the time of World War II, 2 billion people inhabitated the globe. Today, more than 5 billion people live on Earth. In the next 35 years, the United Nations estimates that global population will double again, to 10 million.

Coupled with rapid industrialization, modernization and development, these demographic trends have resulted in an environmental casualty list. Chlorofluorocarbons did not exist until 50 years ago. Today more than a billion pounds are produced each year. The casualty is the Earth's ozone layer, which protects all living things from the Sun's harmful ultraviolet radiation.

Emissions of sulfur dioxide and nitrogen oxides, the precursors of acid rain, have also risen precipitously during our generation. The United States alone pumps more than 20 million tons of sulfur into the atmosphere. The casualty—forests and streams in North America and Europe. Indeed, recent indications are that the worst destruction could be occurring in Eastern Europe, where lakes, streams, and ecosystems are devoid of any life whatsoever. They are dead.

The constituents of local air pollution—smog—have sullied the air of Denver. The brown haze of pollution is well known to all of the major cities around the world. The casualty—human health and productivity.

Most ominously, we have witnessed the persistent and dramatic increase in so-called greenhouse gases. Since the dawn of the industrial revolution, carbon dioxide levels have increased by 25 percent. Scientists have confirmed that we live under an atmospheric blanket of carbon dioxide, water vapor, and other trace gases, which trap heat at the Earth's surface. By altering the composition of that blanket, we are slowly warming the globe. The casualty will be the health of the planet itself.

The implications of global climate change present very real challenges to America's national security in the next century:

When the world becomes warmer, and oceans rise, what happens to our assumptions of coast lines, coastal integrity and sealanes?

As deforestation grows, along with deserts, where do populations move—and what kind of political pressures result?

As agricultural patterns change, can we adapt through research rapidly enough to avert enormous famine?

A warmer climate encourages greater disease, more insects, and increasingly subtle and frightening threats to human life.

And North-South disparities can multiply, with escalating potential for confrontation.

These examples could be multiplied endlessly. They portray a planet beset not by single, great difficulties like the nuclear balance of terror but by a host of complex, interlocking conflicts at a more local scale—many of them involving deep-seated cultural beliefs, traditions, and religious convictions. To sustain peace and order in such a world will be inordinately more difficult than solving the classic great-powers' security problems.

The global environment is a commons—that is, a resource shared by all peoples and nations and used in common by them in ways that both affect and depend upon its quality. If one country manufactures chlorofluorocarbons, it affects the ozone layer that affords equal protection to all countries. States that burn coal generate acid rain that falls on States that do not. Nations that burn their forests and nations that consume large amounts of fossil fuel per capita contribute carbon dioxide to the atmospheric greenhouse and contribute to global warming, but we all get warm together.

The unity of the global climate will be—indeed, must be—a strong inducer of interdependence. It will profoundly rearrange the power relationships among nations. So we must begin to

examine the conditions of life as it will be lived under new rules. That examination will be challenging, and we had better be ready for some surprises.

AN AGENDA FOR GLOBAL ENVIRONMENTAL ACTION

Specifically, we must concentrate on five areas:

First, we have to work together on energy efficiency. Increasingly, we are finding our greatest environmental challenges—and this as true in the East and as it is in the West—derive from the way we use energy. Energy efficiency is the top priority for environmentally sound economic activity. Japan and Western Europe produce a unit of GNP with half the energy required by the United States. The Soviets are half as efficient as the United States and the rest of the centrally planned economies lag much further behind.

Last year, the National Energy Engineering Board of the National Academy of Sciences began discussions with their counterparts in the Soviet Union. The first meetings in the Soviet Union were most successful. We simply must ensure that this, and other initiatives on energy efficiency are accelerated.

Second, we have a great deal of work to do in the area of water conservation. The death of the Aral Sea is directly related to the inefficient means with which the Soviets use water. Our heavy reliance on agricultural fertilizers is a grave threat to ground water quality around the world. Water conservation and water quality should be another focus for cooperative efforts.

Third, certainly we can find common ground on the dreadful rate of deforestation around the globe. In the tropics, forests are being slashed at the rate of one football field per second. An area the size of Pennsylvania is lost each year—loading the atmosphere with carbon dioxide and creating new problems for the industrialized nations as soils erode, land grows scarce and food security in the developing world becomes more marginal.

Deforestation is also robbing all nations of the wealth of biologic diversity that forests are home to. Species are disappearing on a daily basis. Man has cataloged only a fraction of the plant and animal species that may be useful to us, and yet 25 percent of all pharmaceuticals in this country are derived, in part, from the rainforests. Undoubtedly, there are important medicines, chemicals and other substances that can benefit East and West. Again, we must cooperate in protecting these resources.

Fourth, we must take on the issue of global population. There is a serious question as to whether the planet and its environmental systems can sustain a population of 10 billion. Can we produce enough food, preserve atmospheric systems and the like? No one knows. It seems to me that a prudent first step for our efforts would be to work together to ensure that every individual who desires it has access to basic family planning services.

Fifth, a large scientific research agenda exists. Many of these arrangements are underway already. However, we need to step up cooperative ventures to understand the scope of the problems we face, particularly in Eastern Europe, and to improve the precision of our responses.

A NEW ORDER

In this country, we have experienced an exponential acceleration of change in every facet of human existence. But the change we have wrought on our biosphere is catching up with us and it is unforgiving. The end of the cold war brings with it the potential to transform the dynamic of international relations to protect the global commons. We appear to be on the verge of controlling the awesome destructive power of nuclear weapons. Can we together control our assault on the planet?

Forty-four years ago at the dawn of the nuclear age, Albert Einstein observed that "everything has changed except our way of thinking." Rising to meet the challenges of that new world, an extraordinary group of wise men fashioned a policy to provide peace and stability in the international system. That effort has succeeded. But it no longer is sufficient to meet the emerging and daunting challenges we face in the international system as we enter the 21st Century.

Today, we must create a new order—new assumptions, paradigms, institutions—to cope with the environmental challenges we face. We will need all the creativity and wisdom that guided us through the immediate post-war years.

The challenges are enormous, but so are our resources, talents and institutions—if we have the collective will and political courage to recognize and undertake the task. The end of the cold war presents us with new challenges and unique opportunities. Will we take advantage of them?

The proposal set forth by the distinguished chairman of the Senate Armed Services Committee is an attempt to harness this opportunity, to step up to the new realities of the international order and to meet our responsibilities to the future.

The proposed Strategic Environmental Research Program would help coordinate environmental research among DOD, DOE, research labs and universities. This program's first priority must be to develop a comprehensive 5-year plan of action involving the three areas identified by the Senator from Georgia in his remarks.

1. DATA COLLECTION AND ANALYSIS

The vast resources of the Defense Department and the Services can be used very effectively in providing greater data on global climate change, especially in remote areas such as the Arctic. Aircraft can help perform air monitoring tasks, while ships and submarines can provide invaluable data on climatic and oceanographic change.

The DOD also maintains some of the most sophisticated computing and analysis capacity found anywhere, and we can and should put this enormous resource to work. The SDI National Test Bed in Colorado Springs, for example, could make its Cray 2 computers available for global climate modelling. The nuclear winter research performed by the Defense Nuclear Agency can be applied to better understand the dynamics of global warming.

2. ADVANCED ENERGY TECHNOLOGIES

The DOD and DOE have a wide range of research programs in advanced energy technologies, including superconductors and new reactor designs. These efforts—and additional ones—should be coordinated with an eye toward maximum utilization in the commercial and defense sectors. As the largest single consumer of energy in the United States—if not the world—the Department of Defense can also lead the way in energy efficiency at its own facilities and utilization of new technologies, such as natural gas motor vehicles.

3. ENVIRONMENTAL CLEANUP

DOE and DOD have large environmental cleanup responsibilities—Rocky Flats and Rocky Mountain Arsenal in Colorado among them—which will cost untold billions of dollars in the 1990's. We have a need and an opportunity to redouble our own research efforts in waste treatment and disposal technologies to develop more cost-effective means of identifying, treating and cleaning up hazardous waste in the air, ground and water. As important as addressing global climate change is, we must acknowledge that it is difficult to motivate public action on global problems when their air is unbreatheable, water undrinkable, and ground unarable. This is the situation in Eastern Europe and in many parts of the developing world. We can help ourselves by helping other nations address these immediate environmental needs.

Mr. President, some may suggest that involving the Defense Department in environmental matters would be inappropriate and ill-advised. To the contrary, it is imperative that we begin to develop a better understanding of the national security implications of global climate change and other environmental threats—an issue stressed by Senator GORE earlier. Water shortages, soil depletion, environmental refugees and population explosion are all phenomena that can lead to political instability and actual conflict among nations. The first task of the Defense Environmental Re-

search Council should be to assess the implications of population growth and environmental degradation on future resource shortages, demographic changes, economic deprivation, and political instability.

An extremely thoughtful article by Jessica Tuchman Mathews appeared in the spring 1989 edition of Foreign Affairs titled "Redefining Security" begins to address the scope and nature of the national security impact of environmental degradation. I ask unanimous consent that it be reprinted in the RECORD immediately following my remarks. I hope that any of my colleagues who may doubt the relevance of environmental concerns to our own national security will read this seminal article.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WIRTH. Finally, Mr. President, I would like to address the crucial role which American industry can play in meeting the environmental challenges of the 1990's. There are incredible opportunities to retool some of America's best and brightest scientists and organizations to focus on environmental technology. But this will not occur unless we in Washington outline a clear vision and framework to attract private sector energies.

I recently received a "white paper" from Joe Lehman, director of business development at Martin Marietta, on the opportunities for utilizing aerospace technology for environmental protection. I ask unanimous consent that that paper be also be printed in the RECORD following my remarks, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WIRTH. Mr. Lehman notes that—

* * * the same technology which produces sensors for the battlefield can produce environmental monitoring devices. The same computer whizzes who now model the interaction of troops in combat can model the interaction of chemical compounds in the atmosphere. The same systems engineers who integrate complex components in an intercontinental ballistic missile can integrate technologies in a waste management system. The same robotics experts who design and build pilotless drones for battlefield surveillance can build them for atmospheric sampling. In materials, structures, propulsion, combustion, electronics, computers, radioactivity, thermal effects, chemistry, human factors, artificial intelligence and more, the defense/aerospace community has enormous expertise which could and should be brought to bear in a disciplined approach to pollution control and abatement.

We must find a way to energize the enormous resource base that Mr. Lehman refers to. While it would be too much to hope that the administration would propose a national environmental initiative comparable in scope and purpose to the Apollo Program or Manhattan Project, we can provide modest but important incentives to involve industry more closely in environmental research. One suggestion would be to make the independent research and development program applicable to environmental as well as defense applications.

I commend Senator NUNN and his colleagues on the committee, Senator EXON, Senator BINGAMAN, Senator GORE, and others and look forward to working with them in support of this very valuable effort.

EXHIBIT 1

[From Foreign Affairs, Spring 1989]

REDEFINING SECURITY

(By Jessica Tuchman Mathews[1])

The 1990s will demand a redefinition of what constitutes national security. In the 1970s the concept was expanded to include international economics as it became clear that the U.S. economy was no longer the independent force it had once been, but was powerfully affected by economic policies in dozens of other countries. Global developments now suggest the need for another analogous, broadening definition of national security to include resource, environmental and demographic issues.

The assumptions and institutions that have governed international relations in the postwar era are a poor fit with these new realities. Environmental strains that transcend national borders are already beginning to break down the sacred boundaries of national sovereignty, previously rendered porous by the information and communication revolutions and the instantaneous global movement of financial capital. The once sharp dividing line between foreign and domestic policy is blurred, forcing governments to grapple in international forums with issues that were contentious enough in the domestic arena.

II

Despite the headlines of 1988—the polluted coastlines, the climatic extremes, the accelerating deforestation and flooding that plagued the planet—human society has not arrived at the brink of some absolute limit to its growth. The planet may ultimately be able to accommodate the additional five or six billion people projected to be living here by the year 2100. But it seems unlikely that the world will be able to do so unless the means of production change dramatically. Global economic output has quadrupled change dramatically. Global economic output has quadrupled since 1950 and it must continue to grow rapidly simply to meet basic human needs, to say nothing of the challenge of lifting billions from poverty. But economic growth as we currently know it requires more energy use, more emissions and wastes, more land converted from its natural state, and more need for the products of natural systems. Whether the planet can accommodate all of these demands remains an open question.

Individuals and governments alike are beginning to feel the cost of substituting for (or doing without) the goods and services once freely provided by health ecosystems. Nature's bill is presented in many different forms: the cost of commercial fertilizer needed to replenish once naturally fertile soils; the expense of dredging rivers that flood their banks because of soil erosion hundreds of miles upstream; the loss in crop failures due to the indiscriminate use of pesticides that inadvertently kill insert pollinators; or the price of worsening pollution, once filtered from the air by vegetation. Whatever the immediate cause for concern, the value and absolute necessity for human life of functioning ecosystems is finally becoming apparent.

Moreover, for the first time in its history, mankind is rapidly—if inadvertently—altering the basic physiology of the planet. Global changes currently taking place in the chemical composition of the atmosphere, in the generic diversity of species inhabiting the planet, and in the cycling of vital chemicals through the oceans, atmosphere, biosphere and geosphere, are unprecedented in both their pace and scale. If left unchecked, the consequences will be profound and, unlike familiar types of local damage, irreversible.

III

Population growth lies at the core of most environmental trends. It took 130 years for world population to grow from one billion to two billion; it will take just a decade to climb from today's five billion to six billion. More than 90 percent of the added billion will live in the developing world, with the result that by the end of the 1990s the developed countries will be home to only 20 percent of the world's people, compared to almost 40 percent at the end of World War II. Sheer numbers do not translate into political power, especially when most of the added billion will be living in poverty. But the demographic shift will thrust the welfare of developing nations further toward the center of international affairs.

The relationship linking population levels and the resource base in complex. Policies, technologies and institutions determine the impact of population growth. These factors can spell the difference between a highly stressed, degraded environment and one that can provide for many more people. At any given level of investment and knowledge, absolute population numbers can be crucial. For example, traditional systems of shifting agriculture—in which land is left fallow for a few years to recover from human use—can sustain people for centuries, only to crumble in a short time when population densities exceed a certain threshold. More important, though, is the *rate* of growth. A government that is fully capable of providing food, housing, jobs and health care for a population growing at one percent per year (therefore doubling its population in 72 years), might be completely overwhelmed by an annual growth rate of three percent, which would double the population in 24 years.

Today the United States and the Soviet Union are growing at just under one percent annually (Europe is growing only half that fast). But Africa's population is expanding by almost three percent per year, Latin America's by nearly two percent and Asia's somewhat less. By 2025 the working-age population in developing countries alone will be larger than the world's current total population. This growth comes at a time when technological advance requires higher levels of education and displaces more labor than ever before. For many developing

[1] Jessica Tuchman Mathews is Vice President of the World Resources Institute. She served on the National Security Council from 1977 to 1979 as Director of the Office of Global Issues. The author acknowledges a great debt to colleagues at W.R.I.

countries, continued growth at current rates means that available capital is swallowed up in meeting the daily needs of people, rather than invested in resource conservation and job creation. Such policies inescapably lay the foundations of a bleak future.

An important paradox to bear in mind when examining natural resource trends is that so-called nonrenewable resources—such as coal, oil and minerals—are in fact inexhaustible, while so-called renewable resources can be finite. As a nonrenewable resource becomes scarce and more expensive, demand falls, and substitutes and alternative technologies appear. For that reason we will never pump the last barrel of oil or anything close to it. On the other hand, a fishery fished beyond a certain point will not recover, a species driven to extinction will not reappear, and eroded topsoil cannot be replaced (except over geological time). There are, thus, threshold effects for renewable resources that belie the name given them, with unfortunate consequences for policy.

The most serious form of renewable resource decline is the deforestation taking place throughout the tropics. An area the size of Austria is deforested each year. Tropical forests are fragile ecosystems, extremely vulnerable to human disruption. Once disturbed, the entire ecosystem can unravel. The loss of the trees causes the interruption of nutrient cycling above and below the soil, the soil loses fertility, plant and animal species lose their habitats and become extinct, and acute fuelwood shortages appear (especially in the dry tropical forests). The soil erodes without the ground cover provided by trees and plants, and downstream rivers suffer siltation, causing floods and droughts, and damaging expensive irrigation and hydroelectric systems. Traced through its effects on agriculture, energy supply and water resources, tropic deforestation impoverishes about a billion people. This pattern is endemic throughout Central American, much of Asia, sub-Saharan Africa and South America.

The planet's evolutionary heritage—its genetic diversity—is heavily concentrated in these same forests. It is therefore disappearing today on a scale not seen since the age of the dinosaurs, and at an unprecedented pace. Biologists estimate that species are being lost in the tropical forests 1,000–10,000 times faster than the natural rate of extinction.[1] As many as 20 percent of all the species now living may be gone by the year 2000. The loss will be felt aesthetically, scientifically and, above all, economically. These genetic resources are an important source of food, materials for energy and construction, chemicals for pharmaceuticals and industry, vehicles for health and safety testing, natural pest controls and dozens of other uses.

The only reason that species loss is not a front-page issue is that the majority of species have not yet been discovered, much less studied, so that none but a few conservation biologists can even guess at the number and kinds of species that are vanishing. The bitter irony is that genetic diversity is disappearing on a grand scale at the very moment when biotechnology makes it possible to exploit fully this resource for the first time.

Soil degration is another major concern. Both a cause and a consequence of poverty, desertification, as it is generally called, is causing declining agricultural productivity on nearly two billion hectares, 15 percent of the earth's land area. The causes are overcultivation, overgrazing, erosion, and salinization and waterlogging due to poorly managed irrigation. In countries as diverse as Haiti, Guatemala, Turkey and India, soil erosion has sharply curtailed agricultural production and potential, sometimes destroying it completely. Though the data are uncertain, it is estimated that the amount of land permanently removed from cultivation due to salinization and waterlogging is equal to the amount of land newly irrigated at great expense each year.

Finally, patterns of land tenure, though not strictly an environmental condition, have an immense environmental impact. In 1975, seven percent of landowners in Latin America possessed 93 percent of all the arable land in this vast region. In Guatemala, a typical case, two percent of the population in 1980 owned 80 percent of the land, while 83 percent of farmers lived on plots too small to support a household. At the same time, even in Costa Rica, with its national concern for social equity, three percent of landowners held 54 percent of the land. These large holdings generally include the most desirable land. The great mass of the rural population is pushed onto the most damage-prone land, usually dry or highly erodible slopes, and into the forests. Land reform is among the most difficult of all political undertakings, but without it many countries will be unable to create a healthy agricultural sector to fuel economic growth.

Environmental decline occasionally leads directly to conflict, especially when scarce water resources must be shared. Generally, however, its impact on nations' security is felt in the downward pull on economic performance and, therefore, on political stability. The underlying cause of turmoil is often ignored; instead governments address the poverty and instability that are its results.

In the Philippines, for example, the government regularly granted logging concessions of less than ten years. Since it takes 30–35 years for a second-growth forest to mature, loggers had no incentive to replant. Compounding the error, flat royalties encouraged the loggers to remove only the most valuable species. A horrendous 40 percent of the harvestable lumber never left the forests but, having been damaged in the logging, rotted or was burned in place. The unsurprising result of these and related policies is that out of 17 million hectares of closed forests that flourished early in the century only 1.2 million remain today. Moreover, the Philippine government received a fraction of the revenues it could have collected if it had followed sound resource management policies that would have also preserved the forest capital. This is biological deficit financing writ large.

Similarly, investments in high-technology fishing equipment led to larger harvests but simultaneously depleted the stock. Today, ten of 50 major Philippine fishing grounds are believed to be overfished; the net result of heavy investment is that the availability of fish per capita has actually dropped. These and other self-destructive environmental policies, combined with rapid population growth, played a significant role in the economic decline that led to the downfall of the Marcos regime. So far, the government of Corazon Aquino has made few changes in the forestry, fishery and other environmental policies it inherited.

Conditions in sub-Saharan Africa, to take another case, have reached catastrophic dimensions. In the first half of this decade export earnings fell by almost one-third, foreign debt soared to 58 percent of GNP, food imports grew rapidly while consumption dropped, and per capita GNP fell by more than three percent. A large share of those woes can be traced to Africa's dependence on a fragile, mismanaged and overstressed natural resource base.

Exports of mineral and agricultural commodities alone account for a quarter of the region's GNP, and nearly three-quarters of the population makes its living off the land, which also supplies, as fuelwood, 80 percent of the energy consumed. The land's capacity to produce is ebbing away under the pressure of rapidly growing numbers of people who do not have the wherewithal to put back into the land what they take from it. A vicious cycle of human and resource impoverishment sets in. As the vegetative cover—trees, shrubs and grass—shrinks from deforestation and overgrazing, soil loses its capacity to retain moisture and nourish crops. The decline accelerates as farmers burn dung and crop residues in place of fuelwood, rather than using them to sustain the soil. Agricultural yields then fall further, and the land becomes steadily more vulnerable to the naturally variable rainfall that is the hallmark of arid and semiarid regions, turning dry spells into droughts and periods of food shortage into famines. Ethiopia is only the most familiar case. The sequence is repeated throughout the region with similarly tragic results.

If such resource and population trends are not addressed, as they are not in so much of the world today, the resulting economic decline leads to frustration, resentment, domestic unrest or even civil war. Human suffering and turmoil make countries ripe for authoritarian government or external subversion. Environmental refugees spread the disruption across national borders. Haiti, a classic example, was once so forested and fertile that it was known as the "Pearl of the Antilles." Now deforested, soil erosion in Haiti is so rapid that some farmers believe stones grow in their fields, while bulldozers are needed to clear the streets of Port-au-Prince of topsoil that flows down from the mountains in the rainy season. While many of the boat people who fled to the United States left because of the brutality of the Duvalier regimes, there is no question that—and this is not widely recognized—many Haitians were forced into the boats by the impossible task of farming bare rock. Until Haiti is reforested, it will never be politically stable.

Haitians are by no means the world's only environmental refugees. In Indonesia, Central America and sub-Saharan Africa, millions have been forced to leave their homes in part because the loss of tree cover, the disappearance of soil, and other environmental ills have made it impossible to grow food. Sudan, despite its civil war, has taken in more than a million refugees from Ethiopia, Uganda and Chad. Immigrants from the spreading Sahel make up one-fifth of the total population in the Ivory Coast. Wherever refugees settle, they flood the labor market, add to the local demand for food and put new burdens on the land, thus spreading the environmental stress that originally forced them from their homes. Resource mismanagement is not the only cause of these mass movements, of course. Religious and ethnic conflicts, political repression and other forces are at work. But the environmental causes are an essential factor.

[1] E.O. Wilson, ed., *Biodiversity*, Washington, D.C.: National Academy Press, 1988, pp. 3–18.

IV

A different kind of environmental concern has arisen from mankind's new ability to alter the environment on a planetary scale. The earth's physiology is shaped by the characteristics of four elements (carbon, nitrogen, phosphorous and sulfur); by its living inhabitants (the biosphere); and by the interactions of the atmosphere and oceans, which produce our climate.

Mankind is altering both the carbon and nitrogen cycles, having increased the natural carbon dioxide concentration in the atmosphere by 25 percent. This has occurred largely in the last three decades through fossil-fuel use and deforestation. The production of commercial fertilizer has doubled the amount of nitrogen nature makes available to living things. The use of a single, minor class of chemicals, chlorofluorocarbons, has punched a continent-sized "hole" in the ozone layer at the top of the stratosphere over Antarctica, and caused a smaller, but growing loss of ozone all around the planet. Species loss is destroying the work of three billion years of evolution. Together these changes could drastically alter the conditions in which life on earth has evolved.

The greenhouse effect results from the fact that the planet's atmosphere is largely transparent to incoming radiation from the sun but absorbs much of the lower energy radiation reemitted by the earth. This natural phenomenon makes the earth warm enough to support life. But as emissions of greenhouse gases increase, the planet is warmed unnaturally. Carbon dioxide produced from the combustion of fossil fuels and by deforestation is responsible for about half of the greenhouse effect. A number of other gases, notably methane (natural gas), nitrous oxide, ozone (in the lower atmosphere, as distinguished from the protective ozone layer in the stratosphere) and the man-made chlorofluorocarbons are responsible for the other half.

Despite important uncertainties about aspects of the greenhouse warming, a virtually unanimous scientific consensus exists on its central features. If present emission trends continue, and unless some as yet undocumented phenomenon (possibly increased cloudiness) causes an offsetting cooling, the planet will, on average, get hotter because of the accumulation of these gases. Exactly how large the warming will be, and how fast it will occur, are uncertain. Existing models place the date of commitment to an average global warming of 1.5-4.5°C (3-8°F) in the early 2030s. The earth has not been this hot for two million years, long before human society, and indeed even Homo sapiens, existed.

Hotter temperatures will be only one result of the continuing greenhouse warming. At some point, perhaps quite soon, precipitation patterns are likely to shift, possibly causing dustbowl-like conditions in the U.S. grain belt. Ocean currents are expected to do the same dramatically altering the climates of many regions. A diversion of the Gulf Stream, for example, would transform Western Europe's climate, making it far colder than it is today. Sea level will rise due to the expansion of water when it is warmed and to the melting of land-based ice. The oceans are presently rising by one-half inch per decade, enough to cause serious erosion along much of the U.S. coast. The projected rise is one to four feet by the year 2050. Such a large rise in the sea level would inundate vast coastal regions, erode shorelines, destroy coastal marshes and swamps (areas of very high biological productivity), pollute water supplies through the intrusion of salt water, and put at high risk the vastly disproportionate share of the world's economic wealth that is packed along coastlines. The river deltas, from the Mississippi to the Ganges, would be flooded. Estimates are that a half-meter rise in Egypt would displace 16 percent of the population, while a two-meter rise in Bangladesh would claim 28 percent of the land where 30 million people live today and where more than 59 million are projected to live by 2030.

Positive consequences would be likely as well. Some plants would grow more quickly, fertilized by the additional carbon dioxide. (Many of them, however, will be weeds.) Rainfall might rise in what are now arid but potentially fertile regions, such as parts of sub-Saharan Africa. Conditions for agriculture would also improve in those northern areas that have both adequate soils and water supplies. Nonetheless, as the 1988 drought in the United States vividly demonstrated, human societies, industrial no less than rural, depend on the normal, predictable functioning of the climate system. Climate undergoing rapid change will not only be less predictable because it is different, but may be inherently more variable. Many climatologists believe that as accumulating greenhouse gases force the climate out of equilibrium, climate extremes—such as hurricanes, droughts, cold snaps and typhoons—will become more frequent and perhaps more intense.

Since climate change will be felt in every economic sector, adapting to its impact will be extremely expensive. Developing countries with their small reserves of capital, shortages of scientists and engineers, and weak central governments will be the least able to adapt, and the gap between the developed and developing worlds will almost certainly widen. Many of the adaptations needed will be prohibitively costly, and many impacts, notably the effects on wildlife and ecosystems, will be beyond the reach of human correction. A global strategy that relies on future adaptation almost certainly means greater economic and human costs, and vastly larger biological losses, than would a strategy that attempts to control the extent and speed of the warming.

Greenhouse change is closely linked to stratospheric ozone depletion, which is also caused by chlorofluorocarbons. The increased ultraviolet radiation resulting from losses in that protective layer will cause an increase in skin cancers and eye damage. It will have many still uncertain impacts on plant and animal life, and may suppress the immune systems of many species.

Serious enough in itself, ozone depletion illustrates a worrisome feature of man's newfound ability to cause global change. It is almost impossible to predict accurately the long-term impact of new chemicals or processes on the environment. Chlorofluorocarbons were thoroughly tested when first introduced, and found to be benign. Their effect on the remote stratosphere was never considered.

Not only is it difficult to anticipate all the possible consequences in a highly interdependent, complex system, the system itself is poorly understood. When British scientists announced the appearance of a continent-sized "hole" in the ozone layer over Antarctica in 1985, the discovery sent shock waves through the scientific community. Although stratospheric ozone depletion had been the subject of intense study and debate for more than a decade, no one had predicted the Antarctic hole and no theory could account for it.

The lesson is this: current knowledge of planetary mechanisms is so scanty that the possibility of surprise, perhaps quite nasty surprise, must be rated rather high. The greatest risk may well come from a completely unanticipated direction. We lack both crucial knowledge and early warning systems.

V

Absent profound change in man's relationship to his environment, the future does not look bright. Consider the planet without such change in the year 2050. Economic growth is projected to have quintupled by then. Energy use could also quintuple; or if post-1973 trends continue, it may grow more slowly, perhaps only doubling or tripling. The human species already consumes or destroys 40 percent of all the energy produced by terrestrial photosynthesis, that is, 40 percent of the food energy potentially available to living things on land. While that fraction may be sustainable, it is doubtful that it could keep pace with the expected doubling of the world's population. Human use of 80 percent of the planet's potential productivity does not seem compatible with the continued functioning of the biosphere as we know it. The expected rate of species loss would have risen from perhaps a few each day to several hundred a day. The pollution and toxic waste burden would likely prove unmanageable. Tropical forests would have largely disappeared, and arable land, a vital resource in a world of ten billion people, would be rapidly decreasing due to soil degradation. In short, sweeping change in economic production systems is not a choice but a necessity.

Happily, this grim sketch of conditions in 2050 is not a prediction, but a projection, based on current trends. Like all projections, it says more about the present and the recent past than it does about the future. The planet is not destined to a slow and painful decline into environmental chaos. There are technical, scientific and economical solutions that are feasible to many current trends, and enough is known about promising new approaches to be confident that the right kinds of research will produce huge payoffs. Embedded in current practices are vast costs in lost opportunities and waste, which, if corrected, would bring massive benefits. Some such steps will require only a reallocation of money, while others will require sizable capital investments. None of the needed steps, however, requires globally unaffordable sums of money. What they do demand is a sizable shift in priorities.

For example, family-planning services cost about $10 per user, a tiny fraction of the cost of the basic human needs that would otherwise have to be met. Already identified opportunities for raising the efficiency of energy use in the United States cost one-half to one-seventh the cost of new energy supply. Comparable savings are available in most other countries. Agroforestry techniques in which carefully selected combinations of trees and shrubs are planted together with crops, can not only replace the need for purchased fertilizer but also improve soil quality, make more water available to crops, hold down weeds, and provide fuelwood and higher agricultural yields all at the same time.

But if the technological opportunities are boundless, the social, political and institutional barriers are huge. Subsidies, pricing policies and economic discount rates encourage resource depletion in the name of economic growth, while delivering only the illusion of sustainable growth. Population control remains a controversial subject in much of the world. The traditional prerogatives of nation states are poorly matched with the needs for regional cooperation and global decisionmaking. And ignorance of the biological underpinning of human society blocks a clear view of where the long-term threats to global security lie.

Overcoming these economic and political barriers will require social and institutional inventions comparable in scale and vision to the new arrangements conceived in the decade following World War II. Without the sharp political turning point of a major war, and with threats that are diffuse and long term, the task will be more difficult. But if we are to avoid irreversible damage to the planet and a heavy toll in human suffering, nothing less is likely to suffice. A partial list of the specific changes suggests how demanding a task it will be.

Achieving sustainable economic growth will require the remodeling of agriculture, energy use and industrial production after nature's example—their reinvention, in fact. These economic systems must become circular rather than linear. Industry and manufacturing will need processes that use materials and energy with high efficiency, recycle by-products and produce little waste. Energy demand will have to be met with the highest efficiency consistent with full economic growth. Agriculture will rely heavily upon free ecosystem services instead of nearly exclusive reliance on man-made substitutes. And all systems will have to price goods and services to reflect the environmental costs of their provision.

A vital first step, one that can and should be taken in the very near term, would be to reinvent the national income accounts by which gross national product is measured. GNP is the foundation on which national economic policies are built, yet its calculation does not take into account resource depletion. A country can consume its forests, wildlife and fisheries, its minerals, its clean water and its topsoil, without seeing a reflection of the loss in its GNP. Nor are ecosystem services—sustaining soil fertility, moderating and storing rainfall, filtering air and regulating the climate—valued, though their loss may entail great expense. The result is that economic policymakers are profoundly misled by their chief guide.

A second step would be to invent a set of indicators by which global environmental health could be measured. Economic planning would be adrift without GNP, unemployment rates, and the like, and social planning without demographic indicators—fertility rates, infant mortality, literacy, life expectancy—would be impossible. Yet this is precisely where environmental policymaking stands today.

Development assistance also requires new tools. Bilateral and multilateral donors have found that project success rates climb when nongovernmental organizations distribute funds and direct programs. This is especially true in agriculture, forestry and conservation projects. The reasons are not mysterious. Such projects are more decentralized, more attuned to local needs and desires, and have a much higher degree of local participation in project planning. They are usually quite small in scale, however, and not capable of handling very large amounts of development funding. Often, too, their independent status threatens the national government. Finding ways to make far greater use of the strengths of such groups without weakening national governments is another priority for institutional innovation.

Better ways must also be found to turn the scientific and engineering strengths of the industrialized world to the solution of the developing world's problems. The challenges include learning enough about local constraints and conditions to ask the right questions, making such research professionally rewarding to the individual scientist, and transferring technology more effectively. The international centers for agricultural research, a jointly managed network of thirteen institutions launched in the 1960s, might be improved upon and applied in other areas.

On the political front, the need for a new diplomacy and for new institutions and regulatory regimes to cope with the world's growing environmental interdependence is even more compelling. Put bluntly, our accepted definition of the limits of national sovereignty as coinciding with national borders is obsolete. The government of Bangladesh, no matter how hard it tries, cannot prevent tragic floods, such as it suffered last year. Preventing them requires active cooperation from Nepal and India. The government of Canada cannot protect its water resources from acid rain without collaboration with the United States. Eighteen diverse nations share the heavily polluted Mediterranean Sea. Even the Caribbean Islands, as physically isolated as they are, find themselves affected by others' resource management policies as locusts, inadvertently bred through generations of exposure to pesticides and now strong enough to fly all the way from Africa, infest their shores.

The majority of environmental problems demand regional solutions which encroach upon what we now think of as the prerogatives of national governments. This is because the phenomena themselves are defined by the limits of watershed, ecosystem, or atmospheric transport, not by national borders. Indeed the costs and benefits of alternative policies cannot often be accurately judged without considering the region rather than the nation.

The developing countries especially will need to pool their efforts in the search for solutions. Three-quarters of the countries in sub-Saharan Africa, for example, have fewer people than live in New York City. National scientific and research capabilities cannot be built on such a small population base. Regional cooperation is required.

Dealing with global change will be more difficult. No one nation or even group of nations can meet these challenges, and no nation can protect itself from the actions—or inaction—or others. No existing institution matches these criteria. It will be necessary to reduce the dominance of the superpower relationship which so often encourages other countries to adopt a wait-and-see attitude (you solve your problems first, then talk to us about change).

The United States, in particular, will have to assign a far greater prominence than it has heretofore to the practice of multilateral diplomacy. This would mean changes that range from the organization of the State Department and the language proficiency of the Foreign Service, to the definition of an international role that allows leadership without primacy, both in the slogging work of negotiation and all adherence to final outcomes. Above all, ways must soon be found to step around the deeply entrenched North-South cleavage and to replace it with a planetary sense of shared destiny. Perhaps the successes of the U.N. specialized agencies can be built upon for this purpose. But certainly the task of forging a global energy policy in order to control the greenhouse effect, for example, is a very long way from eradicating smallpox or sharing weather information.

The recent Soviet proposal to turn the U.N. Trusteeship Council, which has outlived the colonies it oversaw, into a trusteeship for managing the global commons (the oceans, the atmosphere, biological diversity and planetary climate) deserves close scrutiny. If a newly defined council could sidestep the U.N.'s political fault lines, and incorporate, rather than supplant, the existing strengths of the United Nations Environment Programme, it might provide a useful forum for reaching global environmental decisions at a far higher political level than anything that exists now.

Today's negotiating models—the Law of the Sea Treaty, the Nuclear Nonproliferation Treaty, even the promising Convention to Protect the Ozone Layer—are inadequate. Typically, such agreements take about 15 years to negotiate and enter into force, and perhaps another ten years before substantial changes in behavior are actually achieved. (The NPT, which required only seven years to complete these steps, is a notable exception.) Far better approaches will be needed.

Among these new approaches, perhaps the most difficult to achieve will be ways to negotiate successful in the presence of substantial scientific uncertainty. The present model is static: years of negotiation leading to a final product. The new model will have to be fluid, allowing a rolling process of intermediate or self-adjusting agreements that respond quickly to growing scientific understanding. The recent Montreal agreement on the ozone layer supplies a useful precedent by providing that one-third of the parties can reconvene a scientific experts group to consider new evidence as it becomes available. The new model will require new economic methods for assessing risk, especially where the possible outcomes are irreversible. It will depend on a more active political role for biologists and chemists than they have been accustomed to, and far greater technical competence in the natural and planetary sciences among policymakers. Finally, the new model may need to forge a more involved and constructive role for the private sector. Relegating the affected industries to a heel-dragging, adversarial, outsiders role almost guaranteed a slow process. The ozone agreement, to cite again this recent example, would not have been reached as quickly, and perhaps not at all, had it not been for the cooperation of the chlorofluorocarbon producers.

International law, broadly speaking, has declined in influence in recent years. With leadership and commitment from the major powers it might regain its lost status. But that will not be sufficient. To be effective, future arrangements will require provisions for monitoring, enforcement and compensation, even when damage cannot be assigned a precise monetary value. These are all areas where international law has traditionally been weak.

This is only a partial agenda for the needed decade of invention. Meanwhile, much can and must be done with existing means. Four steps are most important:

prompt revision of the Montreal Treaty, to eliminate completely the production of chlorofluorocarbons no later than the year 2000; full support for and implementation of the global Tropical Forestry Action Plan developed by the World Bank, the U.N.'s Development Programme, the Food and Agricultural Organization, and the World Resources Institute; sufficient support for family planning programs to ensure that all who want contraceptives have affordable access to them at least by the end of the decade; and, for the United States, a ten-year energy policy with the goal of increasing the energy productivity of our economy (i.e., reducing the amount of energy required to produce a dollar of GNP) by about three percent each year. While choosing four priorities from dozens of needed initiatives is highly arbitrary, these four stand out as ambitious yet achievable goals on which a broad consensus could be developed, and whose success would bring multiple, long-term global benefits touching every major international environmental concern.

VI

Reflecting on the discovery of atomic energy, Albert Einstein noted "everything changed." And indeed, nuclear fission became the dominant force—military, geopolitical, and even psychological and social—of the ensuing decades. In the same sense, the driving force of the coming decades may well be environmental change. Man is still utterly dependent on the natural world but now has for the first time the ability to alter it, rapidly and on a global scale. Because of that difference, Einstein's verdict that "we shall require a substantially new manner of thinking if mankind is to survive" still seems apt.

EXHIBIT 2

AEROSPACE TECHNOLOGY AND ENVIRONMENTAL PROTECTION—A BLUEPRINT FOR ECONOMIC CONVERSION

(By Joseph Lehman, Director of Business Development, Martin Marietta Corp.)

The rapid evolution of political structures in Eastern Europe and the Soviet Union has produced a new international reality: The Cold War is over. While the future of U.S.-Soviet relations remains fragile and uncertain, analysts across the political spectrum are convinced that it will not resemble the past. The threat of a militarily integrated, centrally controlled Warsaw Pact Alliance no longer supports the force structures and doctrines built up by NATO in the 45 years since the end of World War II.

The purpose of this paper is not to propose alternative approaches to security policy, however. It is to deal with the economic, social and technological implications of going from a wartime industrial footing to a true peacetime economy. For, in fact, the American economy never demobilized after World War II.

Four factors were extremely important in preserving the momentum of a wartime economy:

1. Post-war Soviet aggression in Eastern Europe and elsewhere, which required a new, worldwide political and military role for the United States.

2. The advent of jet aircraft, ballistic missiles, the atomic bomb, and other sophisticated weapons, which required an advanced industrial base.

3. The enormously productive and effective "military-industrial complex", which had come about as a consequence of wartime necessity. Its approach to capitalization, planning and production produced industries was uniquely suited to supplying war materiel, but particularly unsuited to competitive, commercial enterprises.

4. The prosperity which attended the industrialization of World War II. New Deal programs notwithstanding, the United States was still in the grips of the Depression until lend-lease orders began to heat up the economy in advance of our entry into the war. By 1945, the pump-priming infusion of wartime orders had revitalized the American economy and produced new industrial conglomerates of enormous sophistication and productivity. Above all, it had produced JOBS.

We are now faced, 45 years later, with the prospect of at least partially dismantling the industrial and economic structures left in place by World War II. But of the four factors listed above, how many have changed? I would assert that only one has improved, albeit the most significant one: The Soviet Union is no longer aggressively postured and challenging the West at every turn. Three realities remain, however, and are in some cases aggravated by modern developments: Modern weaponry is more sophisticated than ever, and increasingly in the hands of unstable, Third World regimes. Modern defense and aerospace firms are still the repository of a large proportion of America's most skilled and inventive engineers, scientists and production personnel, and yet still lack the products and markets to transition readily to the civilian economy. And the jobs produced and taxes paid by these industries constitute key elements of our local and national economies.

What this means, of course, is that, while beating swords into plowshares, we must be mindful of the fact that a sword can have two edges.

How, then, can public policy be formed in a way that can reap the benefits of peace without succumbing to a foolish and giddy self-delusion regarding the threats of a still dangerous world? How do we ease the transition of defense-based industries to non-military work without destroying them in the process? How do we preserve the often unique teams of skilled people, the research and development facilities, and the focus on innovation which characterize much of their work? And last, how do we preserve the jobs and economic base of the defense industry without indulging in wasteful and counterproductive pork-barrel politics.

A facile answer to some of the above question is found in the phrase, "economic conversion". Long a mantra for disarmament proponents, economic conversion was never taken seriously as a public policy issue until Perestroika. It is in fact an ostensible theme of Mikhail Gorbachev's attempt to transform the Soviet economy. It will be irony indeed if the U.S. is forced to initiate a similar process as a direct consequence of his success.

As economic conversion becomes more than an academic sideshow, the Congress and the Administration will be forced to develop a cooperative approach to the problem. Is there a policy option which could conceivably be palatable to both, one in which Republicans and Democrats, Liberals and Conservatives could find something of value? There just may be.

ENVIRONMENTAL POLLUTION—A GLOBAL ISSUE/A LOCAL ISSUE

Before her tragic death of ovarian cancer, comedian Gilda Radner published an autobiography entitled "It's Always Something." Proof of that lament can be found in the fact that now, just when the Cold War appears to be over, the worldwide threat of environmental disaster begins to loom large. The depletion of the ozone layer threatens overexposure to ultraviolet radiation, the enormous chemical output related to the burning of fossil fuels threatens a global warming and dire consequences, and the effects of acid rain, radioactive emissions, and rain forest depletion know no borders. Yet we in America are proving ourselves to be far more adept at foreseeing and deterring military agression than at preventing the emergence of threats to our environment.

Successive Administrations and Congresses have made the observation about the weather, "Everybody talks about it, but nobody does anything about it," seem equally applicable to the environment. In part because of the diverse and unquantified nature of the problem, no clear public policy has been proposed by either political party. Public pronouncements have been long on piety but short on prescriptions.

Yet public patience with this dithering is growing short. Public confidence in the ability of government to do anything worthwhile is at an all-time low, as reflected in declining voter turnout. This bodes well for neither party.

What if Congress and the Administration, in a rare display of cooperation, were to announce a major initiative, similar in scope and intensity to the Manhattan or Apollo projects, to analyze, define and correct the major causes of pollution in the air, water, and ground. And suppose they asked the nation's defense and aerospace industries to commit their talents and resources to a massive, multifaceted assault on this problem? Would this not meet numerous objectives?

First, good might indeed come of it. Engineers are notorious for wanting to attack complicated problems, to define them and then to develop logical solutions. The aerospace industry has long experience for instance, in analyzing and controlling the production and disposition of wastes in a closed environment (Apollo, Skylab, Space Station). The same technology which produces sensors for the battlefield can produce environmental monitoring devices. The same computer whizzes who now model the interaction of troops in combat can model the interaction of chemical compounds in the atmosphere. The same systems engineers who integrate complex components in an intercontinental ballistic missile can integrate technologies in a waste management system. The same robotics experts who design and build pilotless drones for battlefield surveillance can build them for atmospheric sampling. In materials, structures, propulsion, combustion, electronics, computers, radioactivity, thermal effects, chemistry, human factors, artificial intelligence and more, the defense/aerospace community has enormous expertise which could and should be brought to bear in a disciplined approach to pollution control and abatement.

Ah, you say, there must be a catch. There is.

These firms are, for the most part, publicly held corporations with a financial responsibility to their stockholders. This means they are unlikely to commit large sums of stockholder money (capital, R&D) in pursuit of non-existent business. Non-existent here means of such small value and/or uncertain sponsorship as to be inconsequential. What is lacking is: 1) a major entity to act as the project sponsor (a cabinet-level

department of Environmental Protection is a logical candidate), 2) a significant budget (A $10 billion annual budget would get attention), and 3) an Independent Research and Development (IRAD) program.

This last is an unusual but particularly successful practice of the Department of Defense, designed to foster innovation in technology and processes by its contractors. The details are predictably complex, as are most federal regulations. But public law 91-441, enacted in 1970, established a system whereby a contractor, having invested private research and development funds in support of DoD requirements, can request reimbursement. This request is evaluated by various laboratories, military commands, and individuals, and is judged by a criterion called Potential Military Relevance (PMR). To the extent that it meets this and other standards, a contractor's research expenditures may be reimbursed up to a ceiling amount which is set annually.

One could easily imagine a standard of Potential Environmental Relevance (PER) by which a Department of Environmental Protection contractor could be reimbursed for useful research into, say, a spaceborne ozone detection device.

The worth of such an approach, beyond actually promoting innovation, is that it will create the incentives necessary to encourage the commitment of resources by private contractors. This, coupled with a reasonable profit on goods and services provided, will establish a business base capable of sustaining the interest of the major, and most capable, firms.

IMPLEMENTATION

In addition to authorizing programs and appropriating funds, national legislative vehicles for such an undertaking would direct the appropriate executive branch agency to give some form of preference in contract awards to bidders which are on a list of those likely to be disadvantaged by defense budget reductions and considered to be key elements of the defense industrial base.

The sponsoring agency should take a leaf from the DoD book in establishing milestones for technologies and systems. Concept exploration, concept development, research, advanced development, full-scale engineering development, deployment, operations and maintenance are time-honored and useful stages in such a process. While not applicable in every case, they would help bring a results-oriented philosophy to what has heretofore been an analytical field.

INTERNATIONAL ISSUES

As mentioned earlier, pollution and environmental degradation are often global in scope. While this makes the problems more difficult in some respect, there are causes for optimism. Starting with automobile pollution controls in the 1960's, the United States has acquired the most experience in the field of environmental science and remediation. For this reason, our technology could be exported to, for instance, the countries of Eastern Europe, where outdated practices and technologies have produced a nightmarish landscape in many industrialized areas. A worldwide market for sophisticated monitoring and controls technologies is likely in the near future. The balance-of-payments impact of such commerce could be highly beneficial.

CONCLUSION

We are at a point in history where a failure of imagination will have lasting, negative consequences. We in America have a vantage point from which we have already seen the future of the rest of the world. We can turn that perspective to our, and the world's advantage. The peril lies in the consequences of doing "business as usual". A declining defense budget, unaccompanied by new thinking, will inevitably destroy our industrial base, disperse talented people, and swell the unemployment lines.

Forthright and visionary policies are called for to avoid such an outcome. There are few real "two-fers" in life. Seizing the opportunities presented by the outbreak of peace can help meet the environmental and the economic challenges which lie ahead.

Mr. LEVIN. Mr. President, for many years we have defined our national security in terms of the troops and weapons we have used to deter aggression against our Nation. But with the collapse of the Warsaw Pact and the changes in the Soviet Union we have been afforded an opportunity to look beyond military needs when we discuss the requirements of our national security.

Economic health is one obvious need to be addressed as we face this new world, but the health of our planet and our people is also vital. The Armed Services Committee has recognized this need and with the leadership of the chairman, Senator SAM NUNN, the committee will propose a Strategic Environmental Research Program.

I fully support the approach of this program. We have tremendous resources and human capability residing in the research efforts of the Departments of Defense and Energy. These laboratories have served the defense needs of our Nation well, but we are in need of additional research on our environmental problems.

Last year, I offered an amendment that would have reduced the funding for the MX rail-garrison missile and transfer some of those funds to research on new technologies that would help this Nation clean up nuclear waste. I offered that amendment because I believed that the security of the people of this Nation would be better served by helping to clean up toxic nuclear waste than by purchasing a new MX missiles system that would add nothing to our robust present level of nuclear deterrence.

As we have seen in the defense area, research and development can often yield great breakthroughs. We need to apply more R&D dollars to new and innovative technologies that can help us solve the mounting environmental problems that we face. One R&D dollar spent today could save us many more in the future if we can clean up waste faster and more efficiently.

As the cold war fades and we face the new challenges of the next decade, we need to look beyond our traditional definition of national security. Securing a clean and safe environment for future generations is a step in the right direction.

THE STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM

Mr. DIXON. Mr. President, I want to join my good friend Senator NUNN, chairman of the Armed Services Committee, and other colleagues from the Armed Services Committee, in urging the creation of a strategic environmental research program. This initiative will enable the Department of Defense, the intelligence agencies of this country, and the Department of Energy to put their unique technological capabilities to work on the many environmental problems facing not only our country but the world.

It may seem odd to be talking about using the Defense Department in an environmental role. However, many of the high-technology areas the Defense Department is involved in have important environmental spinoffs. For example, many of the technologies needed to keep an army in the field in a combat zone—such as drinking water technologies—are usable in the civilian sector. Further, the Defense Department has an enormous environmental cleanup problem itself, and therefore has a huge interest in coming up with environmentally sound, cost-efficient cleanup solutions.

The most critical Defense Department asset, however, is its people. The Defense Department, our national laboratories—such as Argonne, in my State, and the rest of our national security establishment, have many, many top drawer scientists, and engineers whose special skills and experience can be profitably applied to our environmental problems. Our defense labs, and our national labs are vital national assets that can significantly enhance our ability to address environmental issues. Since we are now in the process of reducing our military forces, these people and these facilities will be available to add their efforts to those already underway.

We all know we need to do more environmentally. This proposal offers a new, cost-effective, way to do more to meet the environmental challenges that we will face in the 1990's and beyond. We must help modernize U.S. industry and establish the United States as the technological leader in this area.

I support Senator NUNN and my other colleagues on the committee in establishing a strategic environmental research program. As chairman of the Subcommittee on Readiness, Sustainability and Support, I have directed that we increase the spending for environmental cleanup of military bases in the United States. Therefore, I urge all my colleagues to support the Armed Services Committee when we bring this proposal to the floor as a part of the 1991 Defense authorization bill next month.

Thank you, Mr. President.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized for a period not to exceed 15 minutes.

SONY AMERICA AND TAXES

Mr. HELMS. Mr. President, thank you very much. Today I want to talk about how the American taxpayers are being cheated. I think it is self-evident that they are, and the American taxpayers may be interested in some figures which I will shortly present to the Senate.

It all began back in April when I received a letter from Mr. Maurice Kupritz of Livingston, NJ. The Chair may ask who is this Mr. Kupritz? He identified himself to me as having been, until recently, the director of import-export and government compliance for a company named Sony America. He alleged that Sony America was, and I am quoting him: "Cheating on taxes, import tariffs, and compliance with U.S. laws." That is not JESSE HELMS talking. That is Mr. Kupritz, who left Sony America recently.

Specifically, he alleged that Sony America was manipulating accounts between itself and its parent company, which is, of course, Sony Tokyo. So that Sony America's liability for Federal income taxes was drastically and improperly reduced.

As an example, Mr. Kupritz alleged that "in 1988 Sony America reported revenues of $8 billion." This is Sony America. How much profit do you reckon they made, Mr. President, or they said they made? That is what they pay taxes on, $10 million. Out of a gross of $8 billion in sales, they paid taxes on $10 million.

I did a little calculation. I computed that Sony America was earning a return of one-tenth of 1 percent on its gross receipts. Anybody who believes that will believe anything. That is not nearly enough to justify its high-flying position on the New York and Tokyo Stock Exchanges.

Of course, Mr. President, I am in no position to judge these allegations. So I turned the Kupritz letter over to investigators for the Internal Revenue Service, the General Accounting Office, and the House Ways and Means Oversight Committee. And I have written to the chairman of the board of Sony America, Mr. Morita. I have yet to get a reply.

The point is this, Mr. President: I have received similar allegations from American businessmen and academics concerning the issue of under-reporting of income by a number of foreign corporations operating in the United States. In fact, for more than a year they have been looking into it, and in March I asked the General Accounting Office to begin a full-scale investigation. This issue is serious that the Joint Committee on Taxation has joined in my request to the General Accounting Office.

All right. If anything is clear, this is clear. Tens of billions of dollars are at stake. It is also becoming clear that there has been a pattern of abuse by foreign companies operating in the United States, and that abuse has been going on for years and years.

For example, the American press reports that the IRS has begun an intensified audit of U.S. operations of foreign manufacturing companies and banks. The Japanese press reports that the IRS is asking Toshiba, Hitachi, and Panasonic for hundreds of millions of dollars in back taxes. Read my lips. I hope they collect it.

I do not know whether the cameras can focus on the charts here. But just look at the one on the left, Mr. President, entitled "Japanese Controlled U.S. Corporations Receipts," $184.9 billion. Look at the middle one. "Japanese Controlled U.S. Corporations Assets in Billions of Dollars," $172 billion. "The Japanese Company Net Income, Less Deficit," in 1984, was $1.8 billion, in 1985, $1.3 billion, in 1986, $0.629 billion, and in 1987, $0.219 billion.

Do you believe that? These companies on the New York Stock Exchange, and everybody rushing to buy the stock in them. I do not believe it.

Bear in mind that 1987 is the last year for which we have the data. I have just pointed to the charts. The IRS sources of income data showed that the 1980's were excellent years for foreign companies operating in the United States.

Well, the average businessman out across America could have told the IRS that. From 1981 to 1987, U.S. assets of foreign companies rose 150 percent, and gross receipts went up 85 percent. The income they reported to the Internal Revenue Service went nowhere, as I have just illustrated, in 1986. These companies reported to collective loss, if you can believe that, of $1.5 billion.

The activities of Japanese companies are even more peculiar the more you think about it. From 1984 to 1987, their assets in the United States rose from $113 billion to $185 billion, as I have just indicated, which is a rather spectacular rise. And their U.S. receipts and their income went from $66 billion to $172 billion, yet their income—this is what they pay taxes on—declined every year, eventually reaching a collective total of $219 million.

That makes no economic sense, and I am not the biggest spender in the world in the U.S. Senate, but if the IRS does not now have enough personnel, I will say to the Senator from New York to look into this and look into it carefully. I will vote right now to provide the money to do it.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. HELMS. Yes, sir.

Mr. D'AMATO. I am looking at these charts, and these figures are absolutely startling; they say a picture is worth a thousand words. What the charts depict is that although there is $185 billion in Japanese controlled corporations, in terms of receipts and billions of dollars, and this has gone up dramatically since, I guess from 1984, and that their revenues that they report, net income, they say at the same time is going down. It has gone from $1.8 billion to $220 million.

Mr. HELMS. The Senator is right. I am glad I had his attention.

Mr. D'AMATO. He claimed my attention. I am wondering what is taking place to have created this kind of situation. There must be some really creative accounting, to take $1.8 billion in net income and report it down to $219 million dollars. They must be writing everything over. I wonder if they ever had an audit?

Mr. HELMS. That is what I want IRS to find out. To be fair to the IRS, they say they are on to this, too. I think the American people ought to know about it, particularly at a time when people are debating about what we ought to do——

Mr. D'AMATO. About raising revenues to deal with the deficit.

Mr. HELMS. Right.

Mr. D'AMATO. I say that I am on the Treasury, Postal Committee. They asked us for more personnel, more funds, and it would seem to me that they certainly should target this area, and we should, at the very least, get an explanation as to how this situation is coming about.

Mr. HELMS. I thank the Senator.

Mr. D'AMATO. I thank the Senator from North Carolina.

Mr. HELMS. Mr. President, I will conclude in a minute, because the distinguished Senator from Arizona wishes to take the floor. I just want to ask the Chair a question. I will not ask the American people a question.

If there were a news media interested in this story, I would ask them, but they are not here. They do not care about this sort of thing. Does it make sense for foreign companies to claim that they are earning substantially less than 1 percent profit before taxes, when competing with American firms that are earning 8 or 9 percent and paying taxes on it?

I think I know what the answer of the chair would be. If the foreign firms were that darn profitable, they do not know how to manage the business any better than that, but I do think they know what they are doing. They can just put their money in Treasury bills, or CD's, or something like that. Those are guaranteed, and in the 1980's, these poor Japanese com-

panies could have earned about 6 percent.

Mr. President, this is an issue which the Congress must address. I thank my friend from New York for his comment.

In particular, we must ensure, I think, that taxes owed are collected before the American people are asked to pay another additional penny in taxes.

Mr. President, I ask unanimous consent that excerpts from the letter sent to me by Mr. Kupritz, my letter to Mr. Morita, to which I have referred, and a couple of articles from the New York Times and the Japanese Economic Journal all be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIVINGSTON, NJ,
April 1, 1990.

Here is another cause. I remember reading recently another front-page article in The Times which appeared on February 18, 1990. This one was headlined "I.R.S. Investigating Foreign Companies for Tax Cheating. Loss of Billions Feared." As the article pointed out, the gross income of foreign-owned companies more than doubled in a decade but the total taxes they paid hardly changed, according to data compiled by the I.R.S.

Until recently, I worked for the Sony Corporation of America. In 1988 Sony reported U.S. revenues of $8 billion and profits of only around $10 million. One of the ways the company lowered its exposure to U.S. taxes was to construct a variety of "service charges" between Sony Tokyo and Sony America which could be deducted as expenses in the U.S. My job was that of Director of Import/Export and Government Compliance. When I began to suspect that some of the pieces of paper being passed back and forth by Sony Tokyo for all sorts of service charges were probably not in accordance with U.S. regulations I wrote a brief memo to my boss. Faster than you can say "Akio Morita" I was told to destroy all copies of this memo and within one month was dismissed from my position on trumped-up charges.

If Congress will be looking into this issue, I will certainly be more than happy to tell about my experiences as an American employee of a foreign-owned company that, in spite of its concern about its slipping image, nevertheless could not resist cheating on taxes, import tariffs and compliance with U.S. laws.

Sincerely,

MAURICE KUPRITZ.

[From the Japan Economic Journal, June 16, 1990]

TOSHIBA HITACHI, MATSUSHITA OWE TAXES IN UNITED STATES

The U.S. Internal Revenue Service (IRS) has determined that three Japanese electronics companies' U.S. units have failed to pay proper corporate taxes and owe taxes totaling more than 50 billion yen, because they did not report income from their international deals, company sources said June 14.

The U.S. is applying a strict taxation assessment method on foreign companies operating in the U.S. Units of Hitachi Ltd., Toshiba Corp. and Matsushita Electric Industrial Co. illicitly transferred profits into their affiliated companies abroad in the early 1980s, according to the IRS.

If the companies pay the taxes that are owed in the U.S., Japan's National Tax Administration Agency would refund a corresponding amount of corporate tax to the parent companies to avoid double taxation, observers in Tokyo said.

However, since it would involve transfer of a large amount of tax revenues, the issue will likely entail consultations between the tax authorities of the two countries, the observers said.

According to Hitachi sources, the company's U.S. subsidiaries have been requested by the Internal Revenue Service (IRS) to pay more than 10 billion yen in taxes for failure to report revenues in the early 1980s. The sources also said U.S. marketing units of other Hitachi group companies, including Hitachi Metals Ltd., Hitachi Chemical Co. and Nissei Sangyo Co., also owe taxes.

Toshiba sources said that the IRS has informed production and sales subsidiaries of Toshiba America Inc., a holding company, that payments of some 30 billion yen are owed. The company apparently failed to declare some revenues in the four years ended March 1983.

Matsushita sources said its U.S. marketing subsidiary, Matsushita Electric Corp. of America, owes taxes of almost 10 billion yen.

Japanese company sources indicated that U.S. sales subsidiaries of other Japanese electronics firms and automakers are being audited for inaccuracies.

Sony Corp, has been asked to submit some financial documents stored at its Tokyo headquarters, comapny officials said.

The U.S. tax system aims at levying taxes on a corporation's revenues from its international deals with overseas affiliates, the observers said. Under the system, tax is imposed if a company, whether foreign or American, transfers profits in some illegitimate way, such as by manipulating export prices and royalty incomes.

In obtaining proper taxable incomes of a particular company, the IRS bases its calculations on reasonable prices, rather than prices provided by the company. Because the notion of reasonable prices is not clearly defined, the three Japanese companies involved are contesting the differences between figures they provide and the reasonable prices.

The IRS is apparently not assigning proper values to the contributions of manufacturing sectors to product prices, Japanese company sources said.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 27, 1990.

MR. AKIO MORITA,
Chairman, Sony Corp., Tokyo, Japan.

DEAR MR. MORITA: Recently I received a letter from Mr. Maurice Kupritz of Livingston, New Jersey. In his letter Mr. Kupritz stated that until recently, he had been the Director of Import/Export and Government Compliance for Sony America. He alleged that Sony America was "cheating on taxes, import tariffs and compliance with U.S. laws." Specifically Mr. Kupritz alleged that Sony America improperly manipulated accounts between itself and Sony, Tokyo, so that Sony America's liability for U.S. federal income taxes was improperly reduced.

As an example, he alleged that "in 1988 Sony reported revenues of $8 billion and profits of only around $10 million." If this is true, then Sony America was earning a return of only one-tenth of one percent.

Since I am not in a position to judge the validity of these claims, I have since turned this letter over to the investigators of both the Internal Revenue Service and the General Accounting Office. They are both investigating the validity of these charges. Because of the seriousness of these accusations, I am also asking for your comment on several questions that have arisen from the Kupritz letter:

1. Was Mr. Maurice Kupritz an employee of Sony America and did he hold the position that he indicated?

2. Is it true that Sony America reported "revenues of $8 billion and profits of only around $10 million?" If this is not true, would you supply me with the correct figures?

3. What is the procedure that Sony America uses to report account information to its parent firm?

4. Is there any validity to the charges leveled in the Kupritz letter?

I appreciate your attention to this request and await your response.

Sincerely,

JESSE HELMS.

[From the New York Times, June 18, 1990]

IRS AUDITS RISING FOR FOREIGN BANKS DOING U.S. BUSINESS

(By Robert Pear)

WASHINGTON, June 17.—The Internal Revenue Service has sharply increased its audits of foreign banks that do business in the United States, after finding that many paid little or no income tax in the mid-1980's.

While tax officials said they could not estimate the amount that might be collected through such audits, they said the audits of 10 foreign banks last year produced more than $100 million in added taxes. A former I.R.S. official who now works for a large accounting firm said billions of dollars were at stake in disputes over bank taxes.

Foreign banks account for a large and growing share of the American market. They control 22.6 percent of United States banking assets and hold 28.5 percent of American business loans, according to the latest annual survey by American Banker, an industry newspaper. Seventy-five percent of large American companies now use one or more foreign banks, according to Greenwich Associates, a consulting firm in Greenwich, Conn.

AUDITS AROUSED SUSPICION

Federal tax officials said they suspected that many foreign banks had taken excessive deductions for their interest expenses. The suspicion is based on audits conducted in the last few years and on the extensive analysis of data collected from the tax returns of foreign banks.

"The I.R.S. thinks that international banks are getting away with murder plain and simple, that we have emasculated the tax law or subverted it, which is untrue," said Andrew D. Barkin, vice president at the New York office of Tokai Bank Ltd. of Japan. He said the bank, one of the 10 largest in the world, was undergoing a comprehensive audit by revenue service agents.

Lawrence R. Uhlick, executive director of the Institute of International Bankers, a trade association that represents more than 250 foreign banks operating in the United States, said foreign banks had longstanding disagreements with the revenue service

about how to compute their interest costs. He said that the agency's rules were "incredibly complex" and he asserted that banks from certain countries were allowed by treaty to calculate their interest deductions by other means.

Like other multinational companies, banks face hard tax questions all the time because they do business in nations with widely varying tax systems.

"These are great banks from all over the world with impeccable reputations," Mr. Uhlick said. "They are not deadbeats. They do not finagle on their taxes. They take seriously their tax obligations, and they are prepared to pay their fair share."

In 1986, the last year for which the revenue service has complete data, foreign banks with American branches reported total receipts of $26.3 billion from their American operations. They took deductions totaling $25.9 billion, according to the tax agency. Interest is the biggest expense for most banks, and interest costs, computed by a complex formula, are often the most important factor in determining a foreign bank's tax liability in the United States.

"I don't understand how foreign banks could be doing business here for 10 years and not be making any money," said Richard A. Ward, chief of planning and special programs in the international audit division of the revenue service. "It raises a lot of questions. The banks came here to make money."

The bank audits are part of a general effort by the revenue service to scrutinize foreign companies more closely. Congress recently gave the agency additional power to demand access to the books and records of such companies.

Some people see a political motive for the audits. John O. Hatab, director of international banking services for the Price Waterhouse accounting and consulting firm, who advises more than 40 banks from 25 countries, said: "The I.R.S. appears to be following the political lead of Congress. There is a perception in Congress that foreign businesses are not paying their fair share of U.S. taxes. The I.R.S. is starting a program to see if that's true."

22-AGENT TEAM FORMED

Federal tax officials said they had recently established a team of 22 agents to comb through the tax returns of foreign banks and identify those in which there was significant potential to collect more revenue.

As part of its inquiry, the revenue service retrieved and reviewed all tax returns filed for 1986 and 1987 by foreign banks with American branches of significant size. About half of the 189 banks were selected for auditing, tax officials said.

Nearly two-thirds of the foreign banks doing business in the United States reported no profits from their activities in this country in the mid-1980's—and therefore no taxable income—tax officials said.

Tokai is not the only Japanese bank being audited. The American tax director of another large Japanese bank, who asked not to be identified, said tax agents had established a year-round presence in his New York office, visited the bank's London branch, asked the bank to retrieve documents from seven overseas offices, and assessed "tens of millions of dollars" in additional taxes.

Such assessments are often reduced through negotiations with the Government. But tax officials said some foreign banks had paid large sums without protest.

"These are big banks, and we are not talking about small amounts of money," said Mr. Uhlick of the Institute of International Bankers.

The I.R.S.'s Mr. Ward said the agency was not aiming at the banks of any country but was auditing returns with the greatest potential for additional revenue.

POWER OF JAPANESE BANKS

The attention paid to Japanese banks reflects their economic importance. Seven of the 10 largest foreign banks in the United States are Japanese, and more than 30 Japanese banks have American branches. Revenue service officials said banks based in West Germany, France, Britain and other countries were also under review.

Foreign banks with American branches reported a Federal tax liability totaling $328 million for 1986, according to the tax agency. Of that amount, $118 million was offset by credits for taxes paid to other countries. Thus, the banks paid $210 million in Federal income taxes for that year.

The Institute of International Bankers reports that at least 20 members have received letters from the revenue agency asking for an extension of the statute of limitations so that the Government can thoroughly audit their 1986 tax returns. Ordinarily, a tax must be assessed within three years after the original return is filed, or the Government loses the right to assess additional taxes. Tax officials said they would ask other banks for extensions as the need arose.

Large companies usually agree to such extensions because otherwise the revenue service is likely to protect the Government's interest by issuing a notice of deficiency to the taxpayer, the formal beginning of a collection process.

In a memorandum to foreign banks last month, Mr. Uhlick said: "These letters are important not only because they indicate a potentially significant increase in the total number of foreign bank audits, but also because they reflect a stepped-up level of foreign bank audit activity by the I.R.S. Assistant Commissioner (International) in Washington. These activities confirm the information we have received over the last few months that the I.R.S. plans to increase the level of its audit activity of the foreign banking community on an ongoing basis."

LOSSES IN EARLY 80'S

In his memorandum, Mr. Uhlick quoted revenue service officials as saying they had "recently reviewed the 1986 and 1987 tax returns of virtually every foreign bank engaged in business in the United States."

Mr. Hatab of Price Waterhouse said, "In the early 1980's, the total tax bill for foreign banks doing business here was not very big." But, he added, that could be explained by the fact that many banks were just moving into the American market and were losing money. Under the law, he noted, a taxpayer can use such losses to offset profits for up to 15 years.

British officials have repeatedly complained to the United States Treasury, saying the revenue service was trying to enforce regulations that were inconsistent with a British-American tax treaty.

The tax agency rejected that argument in a formal "revenue ruling" last year. It said British banks must use the formula prescribed by the agency because the 1980 treaty contained no "specific rule" for computing the interest-expense deduction.

Most international banks doing business in the United States operate through branch offices, rather than separately incorporated subsidiaries. A branch is permitted much higher lending limits because the capital and assets of the parent corporation are assumed to be available to support the branch operations.

When an individual wants to take a tax deduction for interest payments, it is usually a straightforward procedure. The amount of the deduction is the amount of interest paid.

But when the American branch of a foreign bank borrows money, the parent company is legally responsible for repaying the debt. Under Federal law, the foreign bank, not just the branch, is the taxpayer. The revenue service maintains that money borrowed for one purpose frees money for other purposes, so a foreign bank cannot meaningfully link its interest payments to the specific activity for which the loan was obtained.

In 1980, the tax agency established the formula telling foreign corporations how to decide what portion of their worldwide interest expenses could be taken as a tax deduction in the United States. The calculation is complicated because banks borrow in many different currencies, at interest rates that change from day to day. The formula requires them to compute the "average interest rate" for various types of borrowing.

Mr. HELMS. I yield the floor.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. McCAIN pertaining to the introduction of S. 2807 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO].

THE PRESIDENT'S LEADERSHIP

Mr. D'AMATO. Mr. President, today, our President George Bush is faced with a monumental crisis—the problem of the budget deficit, the problem of dealing and keeping this economy strong and vibrant. It is going to take some tough action. I think he has started that process.

I commend our President for not being afraid and, yes, for taking some brickbats, maybe, and, oh, yes, the editorial writers who will say he has broken his promise. Oh, look at this, remember when he said "Read my lips"? I think maybe it is time to reflect upon just what our President has done.

He has taken some tough and courageous stands and they have proven correct, decisive military action in Panama, opening broad, new relations with the Soviet Union and a tough balanced approach dealing with the problems of crime and drugs. Now he asks us to follow his lead in dealing with

the economic crisis, in dealing with the deficit which threatens to engulf us all and wipe out any economic gains that we have made.

Mr. President, I have decided—although I share reservations that apparently a majority of Americans share about the approaching problems, in terms of dealing with revenue increases, and taxes—yes, we need spending reductions and all of us have to hold the line and cut and eliminate where we can those programs that we can no longer justify no matter how good they might be if we are talking about keeping this country afloat, keeping it strong, economically.

President Bush has earned the right to our trust. As a taxpayer and a Senator from the great State of New York and as a Republican, I am going to urge all Americans to give our President the benefit of the doubt in dealing with this difficult crisis, put aside the rhetoric of campaigns, and let us recognize that we have some unusual, difficult situations that none could have foreseen in the campaigns of 1987 and 1988.

Two-hundred-billion-dollar thrift crisis, a bailout—who could have anticipated that? So I suggest that we give our President the support that he needs. He has earned it. I believe he will continue to provide the kind of leadership, that we will solve this problem, and I intend to support the President, notwithstanding the fact that it is pretty easy to come out and say, no, no taxes any time, any place.

Certainly, we have to make the kinds of cuts wherever we can and reduce spending wherever we can, but when we do all of that, we are going to need some revenues to close the deficit and to keep America strong.

I commend President Bush for having the courage to stand up and take a leadership position.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH] is recognized.

Mr. WIRTH. Mr. President, I ask unanimous consent to address the Senate for 8 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, do we need to obtain consent to proceed to morning business?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. I ask unanimous consent that I be allowed to proceed in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE TRAINING OF STATE CORRECTIONS OFFICIALS IN "SHOCK INCARCERATION" TECHNIQUES

Mr. LEVIN. Mr. President, I would like to take a few minutes this morning to alert my colleagues to a new program being conducted by the Department of Defense to help State and local governments establish and operate boot camp prisons.

Boot camp prisons—or shock incarceration, as it's called in some States—now exist in at least 14 States. A number of other States are considering setting up boot camp prisons. Boot camps provide an alternative to incarceration in a traditional prison for young adult offenders who have not been imprisoned before. They involve intensive, short-term confinement, usually for 90 to 180 days. During that period, offenders are subject to rigorous discipline, hard work, physical labor, and a military-like atmosphere that leaves no room for street-smart talk or actions. If an offender cannot make it through the boot camp program, he is sent to a regular prison, usually for a substantially longer period of time.

I believe that boot camp prisons can play a valuable role in breaking the cycle of crime plaguing our Nation. They are designed to instill self-discipline and the work ethic in young offenders and to send them back into our communities as productive human beings instead of as more hardened criminals. Boot camp prisons may prove to be a more efficient use of corrections dollars and may help stop the revolving door phenomenon—where criminals are turned back on to the streets because there is not enough room for them in the prisons.

The boot camp prison concept is fairly new. The first boot camps were established in Oklahoma and Georgia, but the idea has been spreading fast. Michigan now has them. My staff and I have visited boot camp prisons, and we have been impressed with what we have seen.

The Subcommittee on Oversight of Government Management, which I chair, has conducted two hearings looking into the boot camp concept. We have examined the Federal role in supporting and promoting shock incarceration programs. Senator COATS and I have introduced legislation calling for Federal grants to help States establish and run boot camp programs.

Earlier this year, the Department of Defense began a pilot program that I believe can make a valuable contribution to State and local governments that have created or are considering creating boot camp prisons. The Department of Defense is making its expertise available—through the Army, Navy, and Marine Corps—to train State and local corrections officials in the techniques of running boot camps.

This is a small program so far: just five correctional officers from Maryland have completed a 3-week program at Quantico, VA. But the Department of Defense plans to expand the program and has already received additional requests for training and information. They are prepared to tailor future training to the needs of the corrections departments requesting help.

The military has a lot to offer civilian corrections officials who want to run a boot camp program. Military drill instructors are experts in instilling discipline, directing physical training, facilitating socialization, and organizing activities. They also offer corrections officials instruction in general management techniques.

I was pleased to learn that Secretary Cheney is making the military's training services available to State and local governments to help fight the war on drugs. I think this is a valuable program, and I hope that States and localities will make full use of its potential.

I ask unanimous consent that a copy of a letter I received from the Department of Defense describing the program be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE, COORDINATOR FOR DRUG ENFORCEMENT POLICY AND SUPPORT,
Washington, DC, June 11, 1990.

Hon. CARL LEVIN,
Chairman, Subcommittee on Oversight of Government Management, Committee on Government Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am responding to your letter of May 18, 1990, to Secretary Dick Cheney about Department of Defense training for civilian law enforcement agencies in shock incarceration techniques.

On January 22, 1990, Secretary Cheney approved an initiative to provide appropriate training services to requesting Federal, state, and local agencies on the establishment and operation of rehabilitation-oriented training camps for first offense drug abusers.

The United States Marine Corps established and tested a pilot program for personnel from the Maryland Department of Corrections. The instruction was held at Quantico, VA from January 29 through February 15, 1990 for seven correctional officers, five of whom satisfactorily completed the course. A summary of the program of instruction is enclosed. Both the instructors and the Maryland Department of Corrections have told us that the course was very productive.

Subsequently, the American Jail Association published a short article in their association journal about our program. As a result of the notice, DoD has received six requests for training and five requests for information about the instruction.

We are currently working with both the Navy and the Army to develop the program further and to expand the installations which can provide the training. We expect to have additional locations available to receive trainees by July 1, 1990.

Answers to your specific questions are listed below and are keyed to the paragraph numbers in your letter.

1. The training session was held at Quantico Marine Base, Virginia. Future sessions will be held primarily on installations where basic training is offered. In some instances, a mobile training team may be sent to a location more favorable to the requesting agency. Although each program will be tailored to the needs of the requester, the approximate length of the course will be three weeks. The instructors will primarily be drill instructors of the Services. The program of instruction is enclosed.

2. So far, five individuals from the State of Maryland have completed the course. Participants are screened and selected by the requesting correctional agency.

3. The program is geared to train correctional personnel in instilling discipline, leading physical training, facilitating socialization, and organizing the activities of detainees, as well as in general management techniques.

We believe that this program is one of many ways in which the Department can contribute its expertise in accomplishing the goals of the President's National Drug Control Strategy, and we appreciate your interest in the program and your support for it. I hope that this information is helpful. Should your staff require more detailed information, they can contact Colonel McCullough at 697-5656.

Sincerely,

STEPHEN M. DUNCAN.

Program of instruction summary

	Hours
Day 1	
Daily preparation for duty	[1] 1.5
Introduction to the program	1
Beginning socialization	[2] 4
Drill and ceremonies	3
Day 2	
Daily preparation for duty	1.5
Physical training	1
Techniques of group organization	1
Leadership training	2.5
Drill and ceremonies	1
Command techniques	2.5
Day 3	
Daily preparation for duty	1.5
Drill and ceremonies	2
Leadership training	4
Value development	1.5
Day 4	
Daily preparation for duty	1.5
Training management techniques	2
Drill and ceremonies	1
Inspection techniques	1
Techniques of physical training	1
Drill and ceremonies	2
Day 5	
Daily preparation for duty	1.5
Uses and management of stress	2
Drill and ceremonies	1
Techniques of hygiene inspections	1
Techniques of physical training	1
Remedial physical training	1
Drill and ceremonies	2
Day 6	
Daily preparation for duty	1.5
Techniques of physical training	3
Training management techniques	2
Techniques of inspections	1
Group behavior	2
Day 7	
Daily preparation for duty	1.5
Drill and ceremonies	2
Training management techniques	2
Leadership training	1.5
Inspection techniques	2.5
Day 8	
Daily preparation for duty	1.5
Techniques of physical training	2
Drill and ceremonies	2
Group socialization techniques	1
Leadership training	1.5
Inspection techniques	1.5
Day 9	
Daily preparation for duty	1.5
Student practical exercise	2
Techniques of physical training	2
Drill and ceremonies	4
Day 10	
Daily preparation for duty	1.5
Inspection techniques	1
Training management techniques	2
Drill and ceremonies	3
Performance counseling	2
Day 11	
Daily preparation for duty	1.5
Techniques of dealing with discipline problems	1
Student practical exercise—drill & ceremonies	2
Group socilaization techniques	2
Training management techniques	2
Day 12	
Daily preparation for duty	1.5
Counseling techniques	1
Student practical exercise—drill & ceremonies	2
Group socialization techniques	2
Leadership training	2
Day 15	
Daily preparation for duty	1.5
Student practical exercise—leadership techniques	7.5
Graduation	

[1] Includes morning formations and area clean-up prior to commencement of the training day.

[2] Socialization techniques include introduction to, functioning in, and use of the new environment.

Mr. LEVIN. I thank the Chair and I yield the floor.

Mr. COATS. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not.

Mr. COATS. Mr. President I ask unanimous consent that we proceed as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, we were going in order. I have been waiting here.

Mr. COATS. I apologize to the Senator. Perhaps I can just ask this. Senator LEVIN and I are offering this amendment together. I simply wanted to get my statement in. I will take 30 seconds.

The PRESIDING OFFICER. Without objection, the request to proceed as if in morning business is agreed to.

Mr. COATS. I just simply want to associate myself with the remarks of the Senator from Michigan. We have worked on this amendment to the crime bill which I think provides a very important added dimension to our ability to effectively deal with incarceration, in a program that can both save the taxpayers a considerable amount of money and also provide effective rehabilitation, deterrence to criminals and others through the boot camp programs. It is an innovative program that has been tried now in 14 States. The State of Michigan is one that has a very successful program.

I wanted to thank the Senator from Michigan for working with me and allowing me to testify before his committee and working together to develop what I think is a very important piece of legislation.

Again I apologize to the senior Senator from Ohio. I was simply trying to associate myself with the remarks of the Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent I be allowed to proceed for 1 minute in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, first let me commend Senator COATS. The Coats-Levin amendment he refers to, which will be offered if we proceed to the crime bill, is an important amendment. I believe that it has great support in this body. Senator COATS has taken a major leadership effort in it, and I will have more to say about that amendment when we proceed to the crime bill.

Mr. METZENBAUM. Mr. President, I ask unanimous consent the Senator from Ohio be permitted to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REREGULATING THE CABLE INDUSTRY

Mr. METZENBAUM. Mr. President, earlier this month, the Senate Commerce Committee reported a bill aimed at reining in the monopoly power wielded by the cable industry.

Virtually every cable system in the country is free from either competition or regulation. The industry is an unregulated monopoly. There are no constraints on the prices charged for cable service. It has become all powerful.

It is no wonder that, since deregulation, cable rates have jumped by 39 percent, more than three times the rate of inflation.

Last year, before this subject was such a hot one, I introduced a cable reregulation bill and I am frank to say a number of my colleagues looked at me and asked: Where are you coming from on this? We just deregulated it only 3 or 4 years earlier.

My feeling then was we ought to give a signal to the cable industry that we have had enough and the consumers of this country were entitled to some protection. In retrospect, we made a mistake when we deregulated the cable industry rates.

The cable issue represents a critically important pocketbook issue for consumers. I am pleased the Commerce

Committee has reported a cable bill. It is a good start, a very good start. But I believe it may require some strengthening.

The bill reported by the Commerce Committee would allow rate regulation of basic cable service unless consumers are served by an alternative multichannel provider such as another cable system or a wireless cable company. This section is similar to the rate regulation provision in the bill I introduced a year ago.

Unfortunately, the cable industry is moving ahead of us. It is already shifting many popular cable channels—such as ESPN, TNT, and USA—off the basic tier in order to prevent such channels from being regulated in the future. Consumers will not be happy if Congress passes cable legislation which does not constrain the prices charged for these popular cable channels.

The Commerce Committee bill would allow only limited regulation of programming services that are not offered on the basic tier but I believe this provision needs to be strengthened because, under the provision in the bill, in order to have reregulation of these program services, there has to be a determination made by the FCC that the rate is significantly excessive.

Frankly, Mr. President, I am not certain how the average consumer would be able to prove that rates are significantly excessive. What are the standards that would be used in making that determination? I think that language is too tough. I commend those who have moved in that direction but I hope, as the bill moves to the floor, we can find language that perhaps indicates if the rates are unreasonable, there would be reregulation. Or perhaps some other language, which would be easier and more effective in protecting the consumer.

With respect to other aspects of the bill, it may be practical to have some of the regulatory responsibilities outlined in the bill more evenly shared between the FCC and local authorities. In addition, it may be necessary to enact more stringent limitations on the cable industry's ability to co-opt potential competitors such as direct broadcast satellite.

Let us not kid ourselves. The cable industry has gotten so powerful it is now in a position to control the programming and it is in a position to move in and control the potential competitors that are out there in the field at the moment. Unless this Congress does something to protect the American consumer, the cable industry will continue to increase its rates, make less services available, and frankly, rip off the American consumer.

I have some other concerns about the bill which I will spell out at a later time. But I do want to note that the administration has made it clear that it opposes the bill reported by the Commerce Committee as well as the legislation moving through the House. Frankly, I am startled by the administration's position. It brings back memories of the Reagan days. In the Reagan days, you say "do not regulate anything." So we had the savings and loan fiasco. "Do not regulate anything," and so we had the biggest mergers in the history of this Nation. "Do not regulate anything," and the American people were gouged and the American people were taken advantage of.

I had hoped the Bush administration was moving in a different direction. There were some indicators to suggest that. But the fact is that the administration opposes rate regulation, even though cable currently faces no competition.

They also oppose the program access proposals which are necessary to help alternative technologies compete with cable. The administration says it favors competition, but then it turns around and opposes proposals which are essential to spur competition.

But the most ridiculous claim made by the administration is its assertion that current antitrust law can protect potential competitors against cable industry abuses. The Department of Justice and the FTC have never lifted a finger to protect the marketplace from abuses by the cable monopolies. Their inaction is inexcusable particularly since there is ample evidence that the vertically integrated cable companies have used their control over programming to forestall competition from wireless cable, and the satellite dish industry.

The antitrust division of the Department of Justice, and the FTC, closed their eyes, and turned their backs, when the big Time-Warner merger occurred. Too many other mergers have occurred, too many other actions have taken place, and the American consumer has been left unprotected.

It is simply absurd for the administration to ignore antitrust abuses in the cable industry and then oppose cable legislation by claiming that antitrust law will ensure a competitive market.

I hope the administration reconsiders its opposition to these provisions. And I hope we soon move to consideration of this important legislation. I think it is a major step in the right direction by the Commerce Committee. I also commend the Members in the House who are moving forward on similar legislation. I think the effort is the right one. I think the direction is the right one. I hope we can go even a bit further than the committee has done.

OLDER WORKERS BENEFIT PROTECTION ACT

Mr. PRYOR. Mr. President, if I could have the attention of the distinguished majority leader for a moment, I would like to ask him a question regarding scheduling of Senate floor action.

Mr. President, last August I introduced legislation to close a loophole left in the protections of the Age Discrimination in Employment Act [ADEA] by the Supreme Court's decision in Public Employees Retirement System of Ohio versus Betts. In that case, the Court held that Congress never intended for employee benefits to be covered by the ADEA, selectively ignoring legislative history and abandoning 20 years of fair and consistent statutory interpretation.

As a result of this decision, older workers are now unprotected from arbitrary age discrimination in the area of the employment relationship that is probably the most important to them. I have worked closely with Senators METZENBAUM, JEFFORDS, and HEINZ, and a number of others on both sides of the aisle on this bill. We are convinced that if we do not act soon to close this loophole in the law, the consequences will be grave for those older individuals who counted on employee benefits to protect them from the crippling cost of medical care, and to provide them with a secure retirement. With this in mind, I want to ask the distinguished majority leader for his thoughts about bringing this very important bill before the Senate.

Mr. MITCHELL. Mr. President, I appreciate the Senator from Arkansas' leadership on this issue, and I share his interest and concern. The Older Workers Benefit Protection Act is important legislation, and it should be acted on expeditiously. I would like to bring it before the Senate soon. I know that a number of issues still need to be addressed on the bill. The Maine State retirement system, for example, has raised some concerns with me. I currently am working with Senators PRYOR and METZENBAUM to address them.

I support the overall purpose of S. 1511. I am working with its sponsors to mitigate any adverse impacts on the State of Maine and other States similarly situated. I encourage others to do so as well. I would hope that in the next few days, or over the July recess, all parties will work to resolve any outstanding issues. This is important legislation. The Senate should act on it as soon as possible.

Mr. PRYOR. I thank the distinguished majority leader for those comments, and I want to emphasize that the sponsors are ready and willing to work with anyone who has reasonable problems with the bill and who offers practical alternatives to address them.

I hope that the business community, the administration, and my colleagues will accept this invitation to help us bring to the floor legislation that protects older workers and that does not place unreasonable burdens on employers.

TRIBUTE TO SENATOR BURDICK'S 30 YEARS IN THE SENATE

Mr. INOUYE. Mr. President, I am pleased to join my distinguished colleagues in commemorating the 30th anniversary of Senator QUENTIN BURDICK's election to the U.S. Senate.

Having served the great State of North Dakota, which just celebrated its 100th anniversary in 1989, for over one-quarter of a century, Senator BURDICK has been a major force in promoting the State's agricultural industry. With nearly 25 percent of North Dakota's population committed to farming, North Dakotans rely on Senator BURDICK to represent their interests. As the chairman of the Senate Appropriations Subcommittee on Agriculture and Related Agencies, Senator BURDICK has represented his farming community, as well as our Nation's farmers, most ably and with integrity. Senator BURDICK is the third most senior Member of the Senate, and he has served North Dakota and the people of this Nation well for 30 years.

I am honored and proud to have served in the U.S. Senate with North Dakota's senior Senator for 28 years. We have fought many battles and defended many causes together. I look forward to many more in the bright years ahead.

TRIBUTE TO SENATOR QUENTIN BURDICK TO HONOR HIS 30TH YEAR IN THE U.S. SENATE

Mr. THURMOND. Mr. President, I rise today to join my colleagues in honoring a distinguished Member of this body, Senator QUENTIN BURDICK, on his 30th year of service representing the people of North Dakota in the U.S. Senate.

Senator BURDICK attended the University of Minnesota, earning both a bachelor of arts and a law degree. In addition to his academic achievements, he was a star football player and wrestler. Upon graduation for law school, Senator BURDICK entered private practice in Fargo, ND, as a trial lawyer.

When Senator BURDICK's father, the Honorable Usher L. Burdick, vacated his seat in the U.S. House of Representatives in 1958, the junior BURDICK successfully ran for the seat and thereby became the first Democrat ever sent to Congress by the people of North Dakota.

After only one term in the House, Senator BURDICK was chosen in a special election to fill the unexpired term of the late U.S. Senator William Langer. Since that first election, he has been returned to the Senate in an unbroken string of electoral victories stretching from 1964 to 1988.

During his tenure in the U.S. Senate, Senator BURDICK has served as chairman of the Environment and Public Works Committee, and as a member of the Appropriations Committee, the Special Committee on Aging, and the Select Committee on Indian Affairs.

I commend Senator BURDICK on this important milestone in his career; he is the 36th Senator in history to reach the 30-year mark. Senator BURDICK has made a lasting contribution to this body, to the State of North Dakota and to our great Nation. Nancy joins me in sending our best wishes to Senator BURDICK and his lovely wife Jocelyn.

A TRIBUTE TO SENATOR BURDICK

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a special colleague, Senator QUENTIN BURDICK. He is one of only 36 Senators in the history of the United States that has celebrated a 30th anniversary in the U.S. Senate. The great State of North Dakota has been well represented by the Burdick family for more than 50 years. Prior to serving in the Senate, Senator BURDICK was a member of the U.S. House of Representatives. He won his father's House seat in 1958.

Senator BURDICK has provided a strong voice for the rural Northwestern States. He has notably voiced the concerns of rural communities, farmers, native Americans, and senior citizens. His leadership in the Senate Environment and Public Works Committee has kept vital water resources flowing in the West. As chairman of the Appropriations Subcommittee on Agriculture and Related Agencies, Senator BURDICK has had the opportunity to wrangle the very issues which have long concerned him.

Mr. . President, Senator QUENTIN BURDICK is a gentleman and distinguished colleague, who continues to establish supreme standards for the U.S. Senate.

I have been honored to serve with Senator BURDICK and wanted to call attention to his many devoted years of public service to North Dakota and the Nation.

SENATOR QUENTIN BURDICK—30 YEARS IN THE U.S. SENATE

Mr. REID. Mr. President, on Thursday, June 28, 1990, Senator QUENTIN BURDICK will celebrate his 30th anniversary of dedicated service to the people of North Dakota in the U.S. Senate. I rise today to commend our colleague from North Dakota on his record of accomplishments to date and to encourage him onward for those that still lie ahead. During this centennial year of North Dakota's statehood, it is only fitting that we recognize the gentleman who has demonstrated a selfless commitment to the people of North Dakota, to this body, and to the Nation.

Before I arrived in the Senate, some 4 years ago, I was counseled by former Senators from Nevada, Alan Bible and Howard Cannon, about the practices of and the stalwarts in the Senate. Senator BURDICK was highlighted as one of those who knows the process and who gets the job done with little pomp and ceremony. I was encouraged to observe this master technician plying his trade among his peers. This was sound advice.

During this Congress, I have the distinct honor of serving on the identical slate of committees as Senator BURDICK. For this reason, I have had the opportunity to work with the senior Senator from North Dakota on a wide variety of issues on which we share common interests. In every undertaking, his personal commitment and principled approach to governance shines through. He has set an exemplary model to emulate.

While Senator BURDICK has demonstrated that he is a tireless champion of those causes affecting his home State, he has also undertaken the role of a national leader for issues under his purview. He has demonstrated his leadership time and again on issue after issue during his tenure. Today, as threats to the environment gain in prominence, we can be confident that the chairman of the Committee on Environment and Public Works will lead the assault to improve the quality of our lives and the environment in which we live.

Over the last 30 years, our friend from North Dakota has worked diligently in the Senate to see critical legislation enacted; I consider it an honor for the opportunity to work with him. I extend warm congratulations to him on achieving this milestone of service in the Senate, on his 82d birthday in recent days, and for his upcoming 30th wedding anniversary with his lovely wife, Jocelyn. I look forward to serving many more years with him.

The PRESIDING OFFICER. The majority leader is recognized.

OMNIBUS CRIME BILL

Mr. MITCHELL. Mr. President, as I indicated last evening, negotiations—which have been ongoing for approximately 3 weeks with respect to the crime bill, headed by the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the distinguished former chairman of the Judiciary Committee, Senator THURMOND—had

reached a point of completion of the negotiating process and I announced I would propound a unanimous-consent agreement this morning to take up and dispose of the crime bill.

Since the cloture votes on June 5 and 7, the distinguished former chairman of the committee, Senator THURMOND, has repeatedly, publicly, and privately urged that I bring up the crime bill. The distinguished Republican leader has similarly urged that, and I have indicated in response and on my own initiative, since I stated publicly that I want to bring up the crime bill, that I would do so as soon as we completed action on the housing bill and as soon as we were ready with this agreement. I indicated that would be this week. So we have set aside today and, if need be, some portion of tomorrow, to complete action on this important bill.

Last night, at the conclusion of the negotiations, I was asked, in behalf of one or more Republican Senators, that the final passage of the bill be delayed until after the recess. And so the agreement I am about to propound is an attempt to accommodate that request by Republican Senators. I prefer we complete the entire bill prior to the recess, but what the agreement contemplates is that we would limit the amendments to those specified and that we would go through everything up to third reading and then have the vote on final passage on the first day when we return from the recess. That is not my preference. It is an effort to accommodate the request of Republican Senators.

I have further been advised this morning by the distinguished acting Republican leader and previously yesterday by the distinguished Republican leader that there are two separate amendments, which I will list as I read off the list, dealing with the savings and loan crisis that they would prefer to have combined into one. What I have indicated this morning to the distinguished acting Republican leader is that I suggest we get the agreement—and I have already communicated just moments ago, in response to that suggestion, with the chairman of the Judiciary Committee requesting that after we get the agreement that he convene all of the interested parties to see if that could be worked out.

What I would like to do now, Mr. President, is to proceed to propound the agreement, and then I know that the distinguished Senator from Oregon wishes to make comment with respect to it, as does the distinguished acting Republican leader and the distinguished Senator from Texas, as well.

Before I propound the request, I just want to say the longer we go before completing action on the crime bill, the less likely it is that a crime bill will become law. I think that is obvious to all of us in the legislative process. The House has not yet acted and there is a tendency on both sides to say this is complex, controversial legislation and, if the other body is not going to act, there is no need for us to act. Until someone goes first, the likelihood of anyone acting or of any bill becoming law is reduced. So any further delay in taking up and passing this legislation makes enactment of a crime bill into law less likely.

One of the reasons why I have been trying, for example, to proceed and move this important legislation forward is not to merely have action in the Senate, but also to have something written into law.

With respect to the period after the July recess—I discussed this with the distinguished Republican leader—there are numerous important bills to be taken up in a very limited period of time. Just as a nonexhaustive, illustrative list, we have the civil rights bill I have already indicated we will take up promptly upon our return; we have the farm bill, which I know is very important to many Senators; we have the campaign finance reform bill; we have the debt limit extension, which I am advised in a preliminary way by the Department of the Treasury will have to occur prior to the August recess, and included in that is a budget process series of amendments, including but not limited to, taking Social Security off budget; we have the Department of Defense authorization bill, which invariably in the past has taken more than 1 week and often 2 or more weeks; and we will, of course, have all of the appropriations bills, none of which have been taken up by the Senate.

So it will be very difficult to work this legislation in after the July 4 recess, particularly since these are the days, today and tomorrow, which we have set aside and publicly announced that we are going to take up this bill.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Accordingly, Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, may, at any time, notwithstanding the provision of rule XXII, turn to the consideration of S. 1970, the crime bill.

I further ask unanimous consent that when the Senate resumes consideration of the bill, title III—Exclusionary Rule—and title VI—Department of Justice Reorganization—be stricken from the bill; that the amendments listed below be the only amendments in order to the bill notwithstanding the adoption of previous amendments; that time on each be equally divided in the usual form as follows—30 minutes on each first-degree amendment and 20 minutes on each second-degree amendment, with no time on the bill.

And that it not be in order to offer any amendment to any bill, resolution, or motion during the remainder of this session of Congress on the topics of the death penalty, habeas corpus reform, title II of S. 1970, title VI of S. 1970, and the availability of firearms for purchase.

Provided, however, that the above limitation on further amendments shall not apply to an amendment to a House bill relating to any of these topics, or to a message from the House on S. 1970, so long as such amendment does not exceed the scope of either S. 1970 or the underlying House bill.

Mr. President, I will now read the list of amendments which, in some cases, include specified second-degree amendments. I will identify them by number as they are listed here.

First, Senators WIRTH, GRAHAM, DIXON, BIDEN, and SIMON, regarding savings and loan enforcement and penalties.

Second, Senators HEINZ and DOLE, regarding the savings and loan crisis; subject to a second-degree amendment by Senator METZENBAUM relating to priority of creditors.

Third, Senator REID, regarding child abuse; subject to a second-degree amendment by Senator KOHL concerning treatment for victims and also subject to a second-degree amendment by Senator THURMOND concerning pornography and penalties.

Fourth, Senator HATFIELD, regarding mandatory life; subject to a second-degree amendment by Senators LEVIN and CRANSTON regarding restitution.

Fifth, an amendment by Senator GRAMM regarding striking title IV and insert mandatory sentences; subject to a second-degree amendment by Senator DECONCINI concerning assault weapons and penalties.

Sixth, Senators BIDEN, SIMON, BAUCUS, and PRYOR, regarding law enforcement.

Seventh, Senator D'AMATO, regarding death penalty for drug kingpins.

Eighth, Senator KERRY, regarding State and local law enforcement.

Ninth, Senators GRASSLEY and NICKLES, regarding victim impact statement and victims' rights.

Tenth, Senator AKAKA, regarding ice; subject to a second-degree amendment by Senator GORTON on precursor chemicals.

Eleventh, Senators GRAHAM and LIEBERMAN, regarding a race bias study; subject to a second-degree amendment by Senator HATCH limiting the study's scope.

Twelfth, Senators LOTT, DOLE, and HELMS, regarding prison work requirements and tent prisons.

Thirteenth, Senator DECONCINI, regarding law enforcement pay; subject to a second-degree amendment by Senators GLENN and ROTH on the same subject.

Fourteenth, an amendment by Senator BOSCHWITZ regarding kidnaping of children.

Fifteenth, an amendment by Senator INOUYE regarding death penalty and Indian lands; subject to a second-degree amendment by Senator MCCLURE concerning Indian lands.

Sixteenth, an amendment by Senator WILSON regarding death penalty and civil rights.

Seventeenth, an amendment by Senator LEVIN regarding criminal restitution and bankruptcy.

Eighteenth, an amendment by Senator SPECTER regarding police corps.

Nineteenth, a bipartisan managers' amendment.

Mr. President, I further ask unanimous consent that there be no motions to commit in order; that when the Senate resumes the bill, Senator GRAMM be recognized to offer the first amendment; that the bill be advanced to third reading before the Senate adjourns for the July 4 recess; and that a vote on final passage of the bill occur at 10 a.m. on Tuesday, July 10.

Mr. HATFIELD. Reserving the right to object, and I appreciate the many hours that have gone into negotiating this bill to a point where we possibly can act upon it, and also I would like to observe that there are many good parts of this bill that I enthusiastically support.

But also there is one component to this bill I find increasingly troublesome. That relates to the death penalty. Mr. President, we have now expanded the death penalty to some 22 Federal crimes, and there are amendments in this bill that even expand it further. In fact, one amendment even expands it to a situation where a homicide has not occurred, in order to get at some of the slime that we can hardly call humanity, namely the drug kingpins. There is no question that his amendment seeks to deal with one of the growing problems of this country and of the world, which I applaud. Nevertheless, I feel the amendment calls for far too extreme a penalty, where there is not direct homicide.

Now, when you begin to open this death penalty up to nonhomicidal crimes, what about the crimes or the deaths that occur from the sale of alcohol, which is a legal drug? What about the cancer that is directly attributed to the use of tobacco? When you begin to relate the death of people to an action, whether it is legal or illegal drugs, you are opening a whole new scope of application of the death penalty. And so that troubles me.

I might make one further observation. We have all read the media. We have read the stories of the gubernatorial campaign in the State of California and the death penalty role that is played there, particularly in the change of the poll standing of the Democratic nominee for Governor. We have read those national media articles about the Presidential politics that are being positioned now for 1992, and the role of the death penalty in some of that Presidential realm.

We might ask the question, why is there such a body of public opinion that supports the death penalty? I suggest it is because of the frustration of seeing people who are convicted, legally convicted through our judicial system, sentenced to life imprisonment and then are out on the streets, paroled, freed, within a brief period of time. Life imprisonment does not mean life imprisonment and the public is frustrated.

I think in part that is why we sense this popular support for the death penalty. Nevertheless, we are elected to be leaders, not merely to put a wet finger in the air to find out where the political winds are blowing, but to give leadership. And so I hope to offset this particular trend, this lustful idea of expanding the application of the death penalty, having to overcome the myth that somehow the death penalty is a deterrent when the facts do not prove the case at all, but offering an amendment to this bill that would mandate life sentence to be life in lieu of the death penalty. So we will have an option.

I do not think we have to be locked into what we perceive to be popular opinion. There are times when we should take the bold role of leader to change public opinion, and especially when that public opinion is based upon so much myth that is perpetrated by so many people who are such advocates of the death penalty.

Nevertheless, Mr. President, I will not object because I will have my day in court, so to speak, and I will not hold up this bill. I am told that an objection could perhaps cause the collapse of the entire crime package bill. I do not want to take that action because there is much in this bill that I do support, including the limitations on assault weapons. But I do want to make the point this morning that I refrain from objecting to this unanimous consent for the purposes and for the reasons that I have stated, and I will be back, assuming that this bill proceeds now, to offer my amendment that was included in the package and to debate the issue of capital punishment.

The PRESIDING OFFICER (Mr. ROBB). Is there objection to the unanimous-consent request?

Mr. GRAMM. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me remind my colleagues where we are on the issue about which I am concerned. We had a vote on assault weapons. That vote was a motion to table, or motion to strike. There was no alternative presented at that time.

I hope in this bill—in fact it is in order under the rule—that I would offer a criminal control measure as an alternative to the gun control measure. The problem I have, Mr. President, is that in order to have my amendment in order, I have to allow the DeConcini amendment, which my amendment seeks to strike, to be offered as a second-degree amendment so that we have to have that vote which we had before, which was a virtual tie, before I can give people an opportunity to choose between criminal control and gun control.

That creates a problem for me in part because the Vice President needs to be here in case we have a tie vote, and it also creates a problem in that I have the inherent disadvantage that I have to defeat an amendment that was already accepted before I can offer an alternative to that amendment.

So I would say, since I know that an objection will be raised later, the Republican leader suggesting that final passage occur when we get back, I would be amenable to two potential agreements: One, that we have a date certain when we return that my amendment would be in order and be voted on. Having checked with the Vice President, I would like July 11 at 2 p.m. The second alternative would be if I could get an up-or-down vote on my amendment, that is, strike the DeConcini second-degree amendment so that people have a choice between the two, where my amendment would be an alternative to the DeConcini amendment, then I would be willing to make that agreement.

But, barring that agreement, I would feel constrained to object to preserve my ability to, one, assure that the Vice President was here and, two, give the inherent disadvantage of my position, since I had been in the budget summit and have been limited, I would like to have the time, given that we are going to vote on final passage in any case when we come back, to have my amendment as the final amendment. I would agree to a short time period. But that available time is critical to have a full and fair hearing on my amendment.

Mr. BIDEN. Will the Senator yield?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader retains the floor.

Mr. MITCHELL. Mr. President, I have been majority leader for a year and a half. I have received in that time hundreds, perhaps thousands, of requests from individual Senators for accommodation, but I do not recall ever having any Senator ask me that I have to give a specific time certain when his or her amendment is to be considered at some future time.

I just simply say to the Senator I have tried very, very hard to be accommodating as much as I can, but can the Senator conceive of the difficulties that will occur in this Senate, an already extremely difficult place to move legislation forward, if individual Senators now ask for a specific time certain, weeks in advance, when their amendment is to be considered, before we can do anything else on any other legislation.

Now, I know that would be convenient for the Senator. The same thing would be convenient for every other Senator including myself. We have a lot of other legislation to take up.

One of the problems we have is neither I nor anyone else can predict a day in advance, let alone a week, or month, in advance, which amendments will be offered to other bills, how long they will be discussed, or how long Senators will debate issues.

I have asked over and over again to bring up the crime bill by Republicans. I have said publicly over and over again, we are going to bring it up this week, as soon as we finish the housing bill, and as soon as we did get this agreement. But that is something that has been said publicly repeatedly. I want to be accommodating. I am trying to be accommodating.

Can anyone here imagine what would happen if individual Senators now say what I am to say to other Senators who say, "Well, I want my amendment brought up on August 2 at 9:45 a.m." When I say, "Well, I cannot do that," they say, "Well, you did it for Senator GRAMM. Why cannot you do it for me?" Or another Senator wants it at 11:23 a.m. on July 19.

I want to be accommodating. We have been urged to bring the bill up. We said we are going to bring up the bill now. The Senator has been involved in the negotiations. We want to bring the bill up now. That is what I would like to do. The Senator is here. He would be recognized first to offer the amendment, or if he wants to get a certain time today perhaps he can work that out with the managers. It is not uncommon, of course, for Senators to talk to the managers and say, "Well, the bill is up, it is 11:10 but I have something to do, and could you bring up my amendment at 1 o'clock or around 1:30," something like that. That is perfectly fine. I encourage the Senator to do that. I strongly encourage the managers to accommodate the Senator. We do that all the time.

But this kind of request, I am deeply concerned about how we are going to handle other legislation. We will be on another bill at that time. We have other legislation. I have no idea how long that other bill will take. I have no idea how many Senators want to speak, how many amendments there will be. I just think it could lead us into a very difficult situation. I hope the Senator will keep that in mind.

Mr. GRAMM. Let me first say to the distinguished majority leader that I greatly appreciate his courtesy. I do not believe I have ever objected to a unanimous-consent request by the distinguished majority leader. I have tried to be accommodating. I only suggested a time certain to try to narrow it down. If the time certain creates a problem for the distinguished majority leader, then it is not essential to me.

But what is essential to me if we are not going to vote on final passage until we return anyway, I would like to have the opportunity without delaying the bill to have my amendmnet the last amendment and to be voted on. I remind the distinguished majority leader that I have been quite accommodating to this point by agreeing to have the very amendment I seek to strike offered as a second-degree amendment, which really prejudices the debate against me.

If that were eliminated, and I simply had the opportunity to offer my amendment on a straight up-or-down vote where people in the Senate could choose between the two alternatives, crime control and gun control, then I would be perfectly happy to do my amendment now, to have it the first order of business, to debate it and have an up-or-down vote. But as I am sure the distinguished majority leader understands, I offer the amendment because I hope it is adopted. Under the circumstances with the prejudice in the nature with which it will be presented, it is essential to me to have it, since we are going to vote on final passage when we come back anyway and the bill would not be held up, on the day we come back.

Mr. MITCHELL. Just to respond briefly, and I will let the chairman of the Judiciary Committee respond to the nature of the negotiations. First, let me say that, in the agreement, the vote on final passage when we return was inserted in response to the request of the acting Republican leader. I understood it was the request, perhaps the Senator from Texas or others that wanted that. I did not want that.

Now having done that to accommodate the request, now having that used as an argument to move other things back, it seems like kind of a bootstrap operation, is my only comment as to the substance of it.

The agreement which I did not negotiate I thought was to accommodate the Senator from Texas, and it provides that he will be first. I assumed that was done at his request. The former chairman of the Judiciary Committee and others negotiated this agreement. The agreement explicitly provides the Senator from Texas will go first. Was the Senator not aware of that? I assume it was at his request.

Mr. GRAMM. I enjoy leading and going first. I had assumed when we were negotiating this agreement that we were going to do this when we returned from the recess. At that point, I would be perfectly prepared to debate the amendment and would be in a position to at least work to assure that the Vice President would be here since the amendment that will be offered in a second degree is an amendment that was virtually a tie before. That is critical to me in this debate.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Does the majority leader yield?

Mr. MITCHELL. I yield to the chairman of the Judiciary Committee.

Mr. BIDEN. Mr. President, what is one man's prejudice is another man's justice around here. I would like to set the record straight.

Mr. MITCHELL. May I interrupt before my colleague starts? Let me just say that I checked and have been advised that the Vice President is in town today. So if that is the concern of the Senator from Texas, why do not we do his amendment today?

Mr. GRAMM. If I might respond, I gave the time of July 11 because that is the time when we get back that he will be here.

Mr. MITCHELL. But he is here today. So if the concern is that it should be done when the Vice President if here, why do not we do it when the Vice President is here?

Mr. GRAMM. I have two reasons. One is I have an inherent disadvantage so I need the time to make the case for my amendment. The other is the potential for breaking the tie.

Mr. BIDEN. Mr. President, let me speak to this inherent disadvantage and prejudice. The Senator from Texas being the tough-minded negotiator he is, he is asking those who oppose him to give up all of the procedural safeguards built in under the rules of the Senate to benefit him. He is asking something quite unusual. He is asking that those who disagree with him in order to accommodate and increase the prospects of his prevailing after having failed on two votes already on this issue of striking DeConcini, not inserting penalties, but striking DeConcini, he is now saying that all right, we, the Republicans, voted down cloture. His amendment would not be in order under cloture. So had we had cloture on this bill, he would not even be able to stand up and talk about introducing the amendment. So he voted down cloture, and voted against cloture. So he killed the bill, and killed the crime bill.

Then comes back to the Senator from Delaware, as chairman of the committee and says but we want a crime bill now. We kill the crime bill, and we could not defeat DeConcini. So, "Biden, and Mitchell, and others,

why do not you agree to come along and have an unanimous-consent agreement whereby it is not going to hang on our shoulders, we kill the crime bill, and then we will have a crime bill?" I say OK, fine let us negotiate. So we negotiate. We say each side will have the same number of amendments.

Last night the distinguished Senator from Texas came to the Senator from Delaware and said, "Look, Joe, you have an inherent advantage. Pryor wants to introduce an amendment on penalties. We are going to second degree that with Hatch." He said, "That makes it doubly difficult for me." He said, "If we can just get down to having a Gramm amendment second degree by DeConcini, then we are square."

So I go and do everything but beat the distinguished Senator from Arkansas over the head and get him to withdraw what he has a right to introduce—an amendment on penalties—thinking we have a deal; for the second time yielding a legitimate advantage we have under the rules.

Now the Senator from Texas says this morning he is being prejudiced because he wants something that he would not be allowed to do under cloture, but now we are voluntarily negotiating an agreement he still, under the rules, is not entitled to get, and that is a clean vote on his amendment without any second degree amendments.

After already convincing the Senator from Delaware to plead with the Senator from Arkansas, who has a first-degree amendment like the Senator from the State of Texas, and he says, get rid of that one for me, JOE. So I get rid of that one.

I say to my friend from Texas, let us make them all first degree; let us have the Pryor vote, and let us have the Senator's vote. He does not want that. He wants me to get rid of the first-degree vote, then he wants me to get rid of the second-degree vote, and I suspect next he is going to be asking me to vote with him.

Mr. GRAMM. I would be happy to have the Senator.

Mr. BIDEN. I admire the tenacity of the Senator from Texas. He is fully within his rights to suggest this. To suggest that he is prejudiced as a consequence of 200 years of precedent in the Senate would be accurate. But to suggest that he is prejudiced because of something that we are doing, that implicitly takes advantage of him, with all due respect, that is preposterous.

I respect him. If he does not want a crime bill or wants to kill this, fine. It is within his rights to do that. I respect that. There are certain things I feel strongly enough about that I would kill the crime bill for, or I would kill other legislation for; that is why we come here. But, for goodness sakes, we stayed here until 10:30 last night—and I do not think there is one single Republican who was present who would think that there was anything other than a request from the Senator of Delaware to strike Pryor—and we had a deal. I will not ask people to do that. But as our former colleague Barry Goldwater would say, "In your heart, you know I am right."

We had a deal. It is fully within the power of the Senator to come back and change the deal. But, for goodness sake, do not use a word like "prejudiced." We had a deal. He came and changed the deal. That is his right. He broke the deal. That is his right. Do not suggest, for goodness sake, that somehow he is being manipulated or taken advantage of by the majority.

Mr. GRAMM. Mr. President, let me first say that when we voted against cloture, we were not voting to kill the crime bill. We were voting to continue debate to allow exactly the kind of amendments that will be offered here today to be presented. A vote against cloture is not a vote to kill a bill; it is a vote to continue the amendment process with such amendments as, "10 years in prison without parole for selling drugs to children." I consider that strengthening the bill, not killing it. I have no complaint with the distinguished Senator.

Mr. BIDEN. Why did the Senator object to all my legislation, which he made me take out last night, that strengthens the bill by significantly adding resources for localities to fight juvenile drug gangs, if he wants to strengthen the bill.

Mr. GRAMM. I think the Senator is confused. I never even discussed that amendment. My basic discussion was to get an up-or-down vote.

If I may complete, I will try to be brief.

In our discussions last night, it was my assumption, as it was the assumption of many on this side—perhaps incorrectly—that we were looking at the bill coming up after the recess. It is clear now that the attempt is being made to bring it up before the recess, which is perfectly within the rights of the majority leader. But the points I want to make are, (A) in voting against cloture, I was voting to continue to strengthen the bill, not to kill the bill; (B) I would be willing to agree to an unanimous-consent request, if I could have a straight up-or-down vote on my amendment. But barring that, I need the time, which is my right as a Member of the Senate. It is an extraordinary thing to grant unanimous consent and, therefore, to structure the rules of the Senate limiting the Senators' ability to debate.

So I am not trying to be obstructionist. It is clear that it will be very much to my advantage to vote on my amendment when we get back. I would like to have an opportunity to do that. That in no way represents bad faith.

Mr. BIDEN. Mr. President, if I may respond.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I know the distinguished Senator from Texas is one of the brightest Members of this body, and he has demonstrated that by his ability to make his case here, and he is not a lawyer, he is an economist. But one thing apparently lawyers and economists have in common is their ability to argue in the alternative. What the Senator said is totally inconsistent.

First of all, everybody who was there, except the Senator from Texas—and I will not embarrass anybody by asking them—knew full well that the attempt to get an agreement last night and to stay here last night to do it was—first of all, we wanted to begin on the bill last night. That was a negotiation. Every Senator and every staff person knew that, except the Senator from Texas. I believe he did not know that, but everybody else did, No. 1.

No. 2, this motion that he wants to operate in a way to get an up-or-down vote, and the reason he voted against cloture was to have an opportunity to propose his amendment, which would not be in order under cloture, assuming that to be the case—if that is what he wants, under the rules, without cloture he is not entitled to deny second-degree amendments. It is preposterous, as preposterous as my saying, as the author of this legislation, that I did not want any second-degree amendment on any element of the bill. It is bizarre, absolutely bizarre.

I wrote a habeas corpus legislation. It was in the Biden bill, which was the core bill here. The Senator from Texas and everyone else wanted to come in and eviscerate that, change it drastically. Had I stood on the floor and said, let me tell you, gentlemen, if you want to have a vote on crime, I understand it, but it is totally inappropriate, and I am entitled to an up-or-down vote on the Biden habeas corpus provision. The Senator from Texas would have gone, as my 9-year-old daughter says, "ballistic," if I did that.

Here he is, a good economist, who has a lawyer's mind, arguing in the alternative. The reason I was against cloture is you folks were cutting me off from having amendments and curtailing the normal functioning of the rules. Now we defeat a cloture and, by the way, Biden, now that we do not have cloture, let us have my amendment but not the rules—change the rules.

I admire his ingenuity, but it is a preposterous assertion to suggest that, (a) I do not want to kill the bill. I voted against cloture; (b) I want the

Senate to work in the normal fashion, but I do not want it to because I do not want second-degree amendments. If we have to have second-degree amendments, I do not want to vote when everybody wanted to vote. If you do, I want to do it at a time when I am sure I have the votes. If I do not have the votes, I am not going to let you vote them.

That is wonderful. It is significantly ingenious. I admire him. But, my goodness, it is bizarre. It is absolutely bizarre. I respect it.

I hope that when I feel as strongly about a piece of legislation, I am going to be able to do what he is doing here, and I hope enough people are going to sit like some people are doing and pretending that what he is saying makes sense. I hope they do that for me.

I want to publicly apologize to the Senator from Arkansas who I cornered in the Cloakroom, and I pled with him that for the good of the Nation that crime bill will go down, unless in response to a request from the Senator from Texas, the Senator from Arkansas withdraws his amendment. I apologize.

I compliment the Senator from Texas. I suggest that we go home, because these Senators do not want a crime bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection to the request propounded by the majority leader.

Mr. SIMPSON. Mr. President, reserving the right to object, this has been a bit of high drama now injected into what has been a very serious month-long determination.

No one loves humor more than I do. But it really is not very funny.

Mr. BIDEN. I also do not think it is.

Mr. SIMPSON. There is nothing really very funny and I admonish the Chair to admonish the gallery not to be involved in laughter. That is one of our rules. We are not here to do that.

The minority leader has assigned me yesterday to get involved in this and try to, if we could, get something together.

So, being a good lieutenant for my Captain DOLE, I wandered into the fray about 5 o'clock yesterday afternoon.

Here we have the chairman of the Judiciary Committee and the ranking member who have worked and slaved to put together a piece of legislation, and done a magnificent job of it. We also are fortunate to have a side of this minority leader who has to run our shop and does it with extraordinary patience, more than I could ever muster. I was the majority leader of the Wyoming State House of Representatives. That is not exactly in the big leagues, but the problems are exactly the same. You have to go mash people around, you have to take away their toys, you have to tell them when they can take a nap and get their cookies to them at the proper break. That is not for fun. It just gets that absurd. They have to be at a fundraiser; they cannot be here; the plane does not land; they have a wedding; they have a funeral; and you do all that. The leader does all that beautifully.

So, I watched Senator BIDEN, an exceedingly genial man, with great wisdom and wit, working toward a goal he has been working for for years. And Senator THURMOND, steady, patient, persistent, doggedly working for the same goal.

So, here we are now talking about whether we had a deal or not. I feel a very great sense of responsibility there. We were putting together a deal and late in the darkening hour we went into the majority leader's office and had it put together, in a sense, and then I realized that there was one part of that I had left unsaid. That was my error. That was the part that one of the Members on our side of the aisle said do not forget. We do not want to have a vote on that until we get back. That is what was said. That was an entreaty from my side.

And the majority leader gulped and said, "I don't remember that." I said, "No reason you should. I am expressing it to you now. It came about an hour ago while we were in the midst of a chaotic little exercise, and that is something I did not share with you."

So he came back and placed that into the unanimous-consent request this morning.

Senator HATFIELD is a singular person in this Chamber. Who does not know the intensity of his feelings on capital punishment and war and peace? And he is just Senator MARK HATFIELD as we know him, totally authentic in what he does.

Last night he could not make any kind of agreement to go forward. Today, which is his wont, he is ready to go forward. So we do not have that vexatious problem which would have caused objection by Senator D'AMATO. Now we are ready to go forward on capital punishment, and the Senator from Oregon knows he will have his day, and he should.

Then we had another Senator who did not feel he could go forward today with final passage. That was Senator ARMSTRONG whose mother is very critically ill. He was not here. As you all know, he is a player in this kind of activity.

Senator GRAMM has to leave and will leave regardless of what we do today, without question. He has obligations that he has had for a long time.

I guess what I would like to just wind down with is that I know what the agenda is. We can reach that agenda during this session, I am talking about a civil rights bill. The Republican leader has been off the floor, because we are in serious negotiations down to language alone which will give us a civil rights bill we all want. We all say we do not want quotas and yet the language everybody is using who are the proponents of the bill really does that. So now we are down to lawyers' language and I think they are going to get a civil rights bill that the President will be glad to sign and all of us will just be delighted to participate in because it will be what we all said. We do not want quotas and we will not have them. OK, we will not. That is what is going on right now today in our Chambers with the minority leader.

We will get a farm bill. We know we have to do that. We will get the debt limit. We will get the DOD authorization. We have key bills in conference and those conferences will move. We will have clean air and all the rest of it.

But I am saying to the majority leader in all sincerity that we can go forward today. I do not care who gets the credit or who gets the blame because, you see, the American people really do not give a whit. Six months from now they will not know who was for taxes or who was for entitlements reform. That is not a nasty comment; that is because they are raising their babies and going to work and they do not get involved in the gyrations and hyperbole that we do here.

I tell you where we are. We could not finish this in any event today. We have first-degree amendments, nine on each side. That is 9 hours. We could finish it on Thursday night which we have been told is our late night. I am ready to do that. I am ready to wait here until tomorrow and ready to go Saturday. I think at some point in time the majority leader might have to twist the crank and do this. I would not bat an eye if the majority leader said, you know, "we are going to crank about.

We should not throw bricks at the institution when we are all involved, I think, in doing what he wants us to do and all he needs to do. He is going to do that, I feel, today, and give us the marching order for what we are going to do Friday and Monday. Here is where we are and our leader will determine how to go forward.

We have first-degree amendments on each side, 9 hours. Second-degree amendments, four on each side; that is 4½ hours. We have 14 votes, 15 to 20 minutes; that is 15 hours. It is now 11:30. We could go forward. I say this so the record is clear. We could go forward and move on this bill. At some future time if there is a cloture vote, I have a hunch that the result will not be the same, I assure you of that, because nobody wants to kill the bill. All they wanted was an opportunity to present their amendments.

We know the issue of germane versus nongermane after cloture is invoked. We all know that so well. So that is what we are. We had 187 amendments on our side of the aisle, and the Democrats had 87 on their side of the aisle.

We could go forward from this side of the aisle with amendments. We could go on the Democratic side with the Reid amendment. We could go with the Biden law enforcement amendment. We could go with the Kerry amendment on State and local assistance, go with the Grassley-Nickles amendment on victims rights, and go with Senator AKAKA's amendment and the Gramm-Lieberman second degree on that; Graham-Dole amendment on prisons, Boschwitz-Inouye amendment on Indian lands, and Senator SPECTER's Police Corps amendment.

I will tell you what will happen if we did that. These things come to you in the night. We could even finish our work on combining the savings and loan amendments. There are two of them. At one time Senator BIDEN presented these and said, "I hope these can be bipartisan," and somebody shot that up. I do not know who did that. We are ready to make that a bipartisan package. Let us put the savings and loan amendments together. I think we can do that and that can be done today.

Then we can do the final wrapup. We have resolved the death penalty issue. We can set a time certain for Senator GRAMM's amendment. I realize that is an extraordinary accommodation. That is what we do all day long. He does not, as he says, spend much time asking for those things. Then we can put this package together today in the form of a unanimous-consent agreement which I feel we can reach this afternoon without question. That is my view. Get the unanimous consent. We started to try to get unanimous consent back on May 23, 1990. That was not possible because of the amendments. And I have just described the number of them.

Then the cloture votes. We know why that happened. We know what was done. We have made a good faith effort to pare everything back. If we can get the S&L authors together in one room and come up with a bipartisan amendment on that, we should be able to proceed. In my opinion, and I think the opinion of the minority leader, we could finish the crime bill as early as Wednesday of the week we return from the July 4 recess.

There needs to be some resolution on the DeConcini amendment regarding law enforcement pay. That is a jurisdictional dispute. It comes from the Governmental Affairs Committee. Senator GLENN and Senator ROTH have problems there. That is within reach.

We have been working for over a month to resolve this. We can have a good crime bill if we can just be patient for a few more hours. I think an agreement can be reached and a bill completed on Wednesday, July 11 or on the 12th.

So, I will just conclude: We are ready to go forward. We are ready to meet the needs of the majority leader to do the business of the Senate. We are in session. We could have rollcall votes today. We could proceed. There is no trickery involved. Everybody wants a crime bill. Who wants to leave here without a crime bill in this atmosphere, in an election year? That would be bizarre.

Do not mark me down as a killer just because I did not vote for cloture. I was just acting to allow the people on my side of the aisle to respond so they would not be cut short. As they say out in the Wild West, "if you hold your horses," we can wind this up by July 12.

The PRESIDING OFFICER. Is there objection to the request propounded by the majority leader?

Mr. GRAHAM. Mr. President, reserving the right to object, and I do not intend to do so, I would like some clarification. On June 14, there was a colloquy between the majority and minority leaders relative to the interpretation of the provision of the unanimous consent that deals with the restriction on offering further amendments, and the consequence of various dispositions of S. 1970.

Can we assume that the statements made on June 14 relative to that unanimous consent would be applicable to the unanimous consent that is being considered today?

Mr. MITCHELL. I do not recall the precise words I stated on June 14. I do not have them before me.

Mr. GRAHAM. The words that I am particularly interested in, and this comes out of my deep interest and long concern, along with the Senator from South Carolina, on habeas corpus aspects of this legislation. Senator DOLE asked this question:

> But if the Senate fails to pass a crime bill, or we fail to get further agreement on the amendments to be offered, the agreement regarding the death penalty and all the others referred to would be null and void.
>
> In other words, I do not mean by that that we are going to be restrained from offering any of these amendments until we try to reach an agreement, but if we cannot reach an agreement or if we cannot pass the bill, then all bets are off.
>
> Mr. MITCHELL. That is correct.

Is that the same understanding that would be applicable to this unanimous consent?

Mr. MITCHELL. Yes, certainly. And I believe the distinguished Republican leader would want it that way, and I believe it should be that way, that if we either do not reach an agreement or if we do reach an agreement and then fail to pass the bill, all bets are off, and such amendments could be offered.

Mr. GRAHAM. My second question.

Mr. THURMOND. Will the distinguished majority leader yield?

I just want to say that the understanding was that when we have finished with the provisions there with regard to these appeals, it would not be amended. That is the only provision in the bill, I believe, that could not be amended; is that not correct?

Mr. BIDEN. Mr. President, that is correct. But a further element of the unanimous-consent request is that if we end up getting an agreement and passing a crime bill, all the matters that are contained in the crime bill, the core crime bill, such as habeas corpus and the death penalty, would no longer be in order for the remainder of this bill.

If we do not get a crime bill, if the crime bill fails, then the Senator from South Carolina and the Senator from Florida and others would clearly be within their rights under the unanimous-consent request to come to the floor and seek legislative amendments on habeas corpus, or anything else.

Mr. THURMOND. On habeas corpus, I believe their was a clear agreement it would not be amended.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, I sat here patiently, and I have also sat in the Senate for a number of months waiting for a crime bill. Now I am frank to say there are a lot of provisions in the crime bill that I do not like. I share the concerns of the Senator from Oregon [Mr. HATFIELD]. There are many other concerns that I have, such as the exclusionary rule, and other concerns as well. But it occurred to me that there was a sense of responsibility to let the matter go forward and have a crime bill.

When cloture vote was defeated, no matter what the Senator from Texas says, there was an indication that the Members on that side were not prepared to move forward to pass a crime bill, and that was the only interpretation that one could give about it.

Now we come here this morning with a unanimous-consent request, and I thought we were going to dispose of the crime bill today or tomorrow. I thought we were going to dispose of it today or tomorrow, whatever time it takes. There are other matters the Senate has to take up, a lot of other legislation that has to be taken up.

I get to the floor, and I find that instead of disposing of it today, the proposal is that we will vote on everything today except final passage,

which will be when we return. The majority leader has proposed that.

I am not going to object to it, but I must say I am not happy with it. I think we ought to get rid of this bill once and for all; pass it or defeat it. Then I hear a provision that the Senator from Texas is going to have his amendment considered first. I say, hey, where did that come from? Why should his amendment be considered before any other amendment?

I say if others have agreed to that, I am willing to be reasonable. I will go along with that. If that is the understanding, so be it.

Then the next thing I hear is that there is, that the Senator from Texas now does not want to be first, he wants to be last, and he wants to do it when we come back. And he wants to do it because the Vice President is not here.

The majority leader checks and finds out the Vice President is here. Now, I do not know of any reason why not to go forward today. If we are going to make some changes, and if we are going to have some special things considered when we come back, some special amendments, I have some amendments that I want to take up. They do not necessarily pertain to this subject, but there are a lot of bills I would like to get on the floor. I think the only way we can get our bills on the floor is to get rid of the crime bill; pass it or defeat it. And it is our responsibility to do so. We have been dragging our feet for months.

The majority leader has been trying to get the crime bill up. Those on this side want to pass a crime bill. The failure to invoke cloture as a slowing down of that effort to pass a crime bill because there were so many amendments hanging out there. Last night, they worked out an agreement. I was not a party to the negotiations, although some of my staff were present. But I go along with it. I am not at all particularly happy about it.

But I am not going to sit here and agree that when we come back, we are going to vote on the crime bill, which is bad enough—I think we ought to vote on it now—but second, to agree that we are going to take up the amendment of the Senator from Texas or the Senator from Arkansas, or anybody else's amendment. If we are going to do that, let us take up a few amendments of the Senator from Ohio, as well.

If the concern is that the Senator from Colorado is not here—and I can count, and so can the Senator from Texas—if his concern is that the Senator from Colorado is not here and therefore his side is going to be hurt, I will give that Senator a pair. I will give him a pair so he will not be hurt. And the Vice President is available, so the Senator will not be hurt in that respect.

I say, let us vote. If you have the votes, fine; you prevail. But if you do not, let us get it over with. I think it is time for the U.S. Senate to face the music, to stand up and be counted, to pass a crime bill, defeat a crime bill, whatever is the will of the majority. But I think it is time to quit fiddling and faddling around. I think it is time for us to move forward and get it over with.

I do not object.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, I shall object, but I want to just refer to what the Senator from Ohio has said.

It ought to be very clear that no one that I know on our side of the aisle is trying to kill the crime bill. There are people who wish to have their amendments presented, and we have done a brutalization job to get them down from 187 to 9. So, if anybody is interested in a crime bill, come over and join us in how we club our Members to get them to get their amendments out of the game. We got rid of 178 amendments—whatever it is. That is what we have been doing for a month.

So, we are ready and we are ready right now, at this moment, to go forward with this bill to accommodate the leader, to have rollcall votes, tonight, and into the morning. We are ready to go forward with the bill and have people here ready to present their amendments.

Even though we have not entered into the unanimous-consent agreement, and we will not because I will object on behalf of a Member on our side of the aisle, we will go forward. We are ready to go forward. Our people are here and, even though we do not have a unanimous-consent agreement, we are ready to go forward under the proposed time agreement.

Mr. President, I reserve the right to object, and yield to the majority leader.

Mr. MITCHELL. Mr. President, I thank my colleagues for their comments. It is imperative, in my judgment, that we move forward. Accordingly, I am going to momentarily suggest the absence of a quorum to permit me to have a private discussion with the Republican leader to see if we can resolve this in a manner that will permit us to move forward.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, I have a second question of interpretation I wish to ask, if I could. That is, in the same area that restricts further consideration of various provisions in the core bill, there is language that restricts that limitation to amendments to a House bill relating to these topics or a message from the House on S. 1970, so long as such amendment does not exceed the scope of either S. 1970 or the underlying House bill.

My question is, What is the definition of the phrase "does not exceed the scope"? What are intended to be the parameters around which there would be the ability to offer an amendment subject to that paragraph?

Mr. MITCHELL. I will respond to the distinguished Senator by saying I did not draft this agreement or participate in the negotiations leading up to it. But my understanding of it is that "does not exceed the scope" means does not exceed the scope in either subject matter or substance of the underlying House bill or S. 1970.

Mr. GRAHAM. The question would be, on a hypothetical, the House sends us, either as a separate bill or as an amendment to S. 1970, legislation that contains one or more but not all of the items that are prohibited under the first paragraph on page 2, such as the bill contains the death penalty, exclusionary rule, and firearms but does not contain habeas corpus. Would we be allowed to offer an amendment to such a House bill or to such an amendment to 1970 to reinsert habeas corpus?

Mr. MITCHELL. I am advised by the staff member most directly involved and most intimately acquainted with the agreement and the negotiations, that the answer is "Yes."

Mr. GRAHAM. I thank the majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent there now be a period for morning business, and that the Senator from Montana be recognized to address the Senate for up to 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized as in morning business.

Mr. BURNS. I thank the majority leader.

THE COMMUNICATIONS COMPETITIVENESS AND INFRASTRUCTURE MODERNIZATION ACT OF 1990

Mr. BURNS. Mr. President, yesterday I introduced what I think is a landmark piece of legislation to move America forward into the Information

Age. It is a bill that will permit telephone companies to engage in video programming. The bill is entitled the Communications Competitiveness and Infrastructure Modernization Act of 1990.

I. INTRODUCTION

In 1984, Congress passed the Cable Communications Policy Act prohibiting telephone companies [telcos] from providing "video programming" in the same area where they provide telephone service. The Bell Operating Companies [BOC's] are further constrained by restrictions in the AT&T consent decree.

The Cable Act also effectively deregulated the cable television industry. The Cable Act was passed based on the major premise that cable operators would be subject to competition.

The cable industry, however, has been able to position itself so that in most instances local cable operators are the only ones who can deliver cable programming into the home.

This lack of competition, combined with the lack of regulatory constraints, has translated into fewer choices for consumers—in both prices and service. We notice in our letters from our consumers that those are the things they are concerned about.

I propose to inject competition to the cable industry by permitting limited entry by telephone companies into the business of providing cable services and programming. My purpose is not to harm the cable industry. In fact, I fully recognize the substantial benefits brought about by deregulation of the industry. We have seen phenomenal growth.

The cable industry has made substantial investments in programming, plant and equipment—investments that have directly benefited American consumers.

But if all we heed and hear are the problems of cable, then I am afraid that we will have lost an important opportunity—a chance to look into the future and to shape it. Yes, we are looking to be heard.

Telco entry into cable service and programming is not simply a turf battle among industries. The issue is of far greater importance.

The timely deployment of fiber optics to every business, school and home is essential to maintain American competitiveness in the Information Age, to provide the best possible education and training to our students and workers, our public service people that have to respond to the different emergencies in our neighborhoods, and to bring advanced information services to rural America.

The degree of competition in cable service and programming will determine the rate at which fiber optic deployment will occur in America. We have to have something that drives it. If this country continues antiquated regulatory policies which stifle competition in this critical field, the United States will fall behind other nations which, at this time, are accelerating the installation of fiber and fiber optic technology. The long-term consequences will be quite detrimental to our interests as a Nation.

The Telecommunications Industry Association [TIA], which is composed of manufacturers of telecommunications equipment and components for both the cable and telephone industries, has determined through a comprehensive assessment of all studies on the subject, that deployment of fiber to every consumer is "stalled on the way to the home" under current Government policies. The TIA assessment clearly and unequivocally demonstrates that fiber deployment will only be accelerated if telco entry into both cable service and programming is permitted.

The Burns bill, the Communications Competitiveness and Infrastructure Modernization Act of 1990, permits limited telco competition in cable and programming services. Enactment of the bill will greatly accelerate the rate of fiber deployment in the United States and inject much needed competition in the video programming marketplace.

The policy of this great Nation is to support competition in the marketplace. Recent studies have shown that our ability to compete internationally depends upon healthy competition among industries at home. The current communications policy scheme, and, in particular, the prohibition on telcos in video programming, is industrial policy, pure and simple. The prohibition on telco provision of video programming has the effect of picking winners and losers by favoring one segment of the communications industry over another.

The issue of telco entry is a test of our commitment to competition. The current situation also presents an opportunity for the Congress to support a populist proposal that has tremendous benefits and great public appeal to the consumer, educator, health care professional, businessman, student, and worker.

II. FIBER OPTICS: THE SUPERHIGHWAY OF THE FUTURE

Simply put, fiber to the home, school and business is an essential infrastructure for economic development in the information age of the 21st century, just as railroads were in the last century and highways were in this century. As the economy shifted from agrarian-based to industrial-based, our ability to move goods via railroad first and highways later proved essential.

Now we are shifting toward a service-based economy in which the ability to transmit information will prove essential. Even today, over half of our GNP and employment are tied to the distribution of information.

Fiber optics is technologically the most effective superhighway for telecommunications:

Fiber has virtually unlimited information carrying capacity—or what is technically called bandwidth.

Once installed, a fiber network's information carrying capacity can be easily expanded by changing the electronics on the ends of the fiber.

Fiber is not subject to interference common to wire and radio transmissions.

Fiber cable is easier to install than wire because it's lighter weight—one-quarter pound of fiber does the work of 33 tons of cooper wire.

Fiber systems are cheaper to maintain than wire systems.

III. INTERNATIONAL COMPETITIVENESS IN THE INFORMATION AGE

The installation of fiber in every home, school, and business in America will fundamentally improve our international competitiveness in the information Age because it will bring new and different services with it that will improve our national productivity and our quality of life. These include, for example:

Enhanced educational opportunities, especially for rural areas, through two-way interactive video education and training;

Improved ability to move information intensive business tasks to rural areas with plentiful labor and lower living costs;

Enhanced access by businesses of all sizes to product information, market data, research, and other resources to enhance competitiveness;

Improved ability to work at home in ubran areas, thus reducing congestion on our Nation's highways;

Reduced personal and business travel through at-home or business video teleconferencing;

Improved medical care, especially in rural areas, through various techniques, including the transmission of x rays and other medical imaging to major medical centers for immediate diagnostic interpretation;

Improved ability for at-home banking and shopping via two-way video transmission; and

Improved entertainiment through HDTV and video programming with viewer choice on what to see and when to see it.

As far as industrial competitiveness is concerned, the Hudson Institute said it best:

The single most important thing that the United States could do now to promote U.S. industrial interests is to speed the wiring up of this country with a fiber optic communications network—an electronic pipeline that will make it simple and fast to exchange images and data and whatever from machine to machine as it is to call to your Aunt in Dubuque today. (See *Competitiveness*

and Telecommunications, Hudson Institute, p. 21.)

Because of these obvious benefits, other countries are rapidly moving ahead to deploy fiber. In fact, for the first time in the history of the fiber optic technology, other countries deployed more fiber in 1989 than the United States.

More importantly, Japan's NTT has announced that by the year 2015 all Japanese families will be served by fiber optics. This compares to an estimate given by Bell Atlantic on April 20, 1990, in testimony before the House Commerce Subcommittee on Telecommunications that the United States under present policies will not attain this goal until the year 2030 or 2040. In the field of advanced telecommunications, the difference of 15 to 25 years would be devastating.

The TIA assessment, mentioned above, shows that fiber deployment will be substantially accelerated in this country only if telco entry into both cable service and programming is permitted.

IV. COMPETITIVE V. RE-REGULATION

In developing public policy for dealing with cable's excessive market power, the debate often seems to turn on a choice between imposing reregulation and introducing competition. The benefits of competition are substantial and can be highlighted as follows:

Competition—or even the threat of competition—can force cable operators to reduce rates. In fact, this has been the result in those few instances where competing firms have overbuilt incumbent cable systems.

Competition—or even the threat of competition—can force cable operators to expand their coverage and improve service quality. These objectives are much more difficult to accomplish through regulation. For example, many existing cable franchises require universal service. However, without the spur of competition, those promises are not likely to be kept. Thus, competition could mean access to cable for millions of Americans in rural areas or urban centers who are denied it today.

Competition will expand the options for program providers who are currently forced to deal with a single cable company in each market. A number of large motion picture producers have endorsed telephone company entry into cable precisely for this reason.

Competition will benefit consumers by increasing program diversity and choice. Reregulation may have the unintended effect of reducing new program options.

Some argue that competition for cable will come from over-the-air broadcasting, cable overbuilders, wireless cable [MMDS] and direct broadcast satellites [DBS]. However desirable competition from those sources might be, it is unlikely to provide an effective check on cable's market power. For example:

The availability of broadcast stations is not a check at all on the rates charged for cable networks and pay services. This is true whether there are 3, 5, or 15 television signals available in a market.

Overbuilds have been few and far between, primarily because no major cable company wants to risk retaliation by overbuilding another system. Also, the cable industry has obtained legislation in many States which makes overbuilding more costly.

Wireless cable [MMDS] can only serve within the path of its signal which relies on line of sight. In addition, wireless cable has very limited channel capacity.

Direct broadcast satellites [DBS] has been a promising technology for over a decade, yet no systems have been deployed. The ones currently being proposed are several years away from coming into existence—if they ever do. Also, the two major proposed DBS systems—Sky Cable and K Prime—are owned or controlled by cable interests and, as such, can hardly be expected to provide effective competition.

The one competitive alternative that has real promise—which helps explain the intensity of the cable industry's opposition to it—is the broadband network deployed by local telephone companies. The benefits of telephone company entry into cable are:

Telephone companies have the resources with which to compete.

Telephone companies are already deploying fiber optics in their local networks. Relaxing the cross-ownership restrictions will accelerate that deployment.

Telephone companies have a tradition of providing reliable, universal service.

Telphone company entry can open the door to two-way switched broadband systems which provide consumers with virtually unlimited options. Also because the telephone network is switched, it allows for new applications; for example, for the delivery of education and health care, which are not possible using DBS.

In order to compete with entrenched cable companies, telcos will have to offer innovative services. Consumers will benefit from this innovation.

It is argued by some that telephone companies should be limited to providing video transport only. However, that scenario is a loser for both telephone companies and consumers. Consider the following:

Telcos have been allowed to provide transport for the past 20 years, yet there are few instances where cable companies have turned to telcos for transport. Cable companies want to control their own facilities and do not want an environment where multiple companies could use telco facilities to compete.

Telcos need the freedom to package, market and even program if they are to compete with an established company which can do all three has a big headstart. The large cable companies are vertically integrated; to deny telcos the same opportunity and still expect them to compete would be unfair.

As shown in the TIA assessment, without the ability to stimulate usage of their own broadband network, telcos will not deploy fiber as rapidly. Consumers will lose the opportunity for new services, and the U.S. economy will loss jobs and it technological edge.

IV. BURNS' BILL SAFEGUARDS

Telephone company entry can be accommodated with appropriate safeguards. While no regulatory scheme can remove all risk of anticompetitive behavior, any risks should be balanced against the benefits of telephone company entry, and of competition generally, as enumerated above.

Specifically, the Burns bill contains a package of strict regulatory safeguards that addresses all of the legitimate concerns which have been raised by various parties to the telco entry debate. Such a structure will ensure that telco entry will prejudice competing technologies or consumers. It is a middle ground—a compromise—approach.

The safeguards include:

The requirement of a separate subsidiary for the creation or packaging of affiliated programming so that telephone users will not subsidize the telephone company's cable service and programming operations;

The divestiture of the separate subsidiary if the telco engages in willful cross-subsidization, thus providing yet another disincentive for anticompetitive activity;

Guaranteed access for unaffiliated programmers to no less than three-fourths of the channels of a telco cable operation;

The requirement for establishment of a video gateway so that unaffiliated, third-party program services will have access to a telco's integrated broadband fiber facilities on equal terms and conditions as the telco's affiliated program service;

The creation of a cost allocation/customer protection scheme to ensure that telco entry into cable does not result in higher rates to telephone ratepayers;

A prohibition on buyouts of incumbent cable systems by a telco to preclude one monopoly from replacing another monopoly;

Mandated carriage of all local broadcast signals on a must carry/no pay

basis to help preserve free over-the-air broadcasting;

A requirement that telcos obtain a local franchise and pay franchise fees like traditional cable;

A limitation on the local franchising authorities; ability to unreasonably refuse to award a second competitive franchise.

A Federal right of access to telco poles and conduits for the cable industry, and

A restriction that forbids telco employees from marketing the separate subsidiary's cable service.

This procompetitive approach to the cable problem will ensure that America does not fall behind in the Information Age.

I ask unanimous consent that Senator BOND be added as an original cosponsor of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I ask unanimous consent that the bill and a summary of the bill appear at this point in the RECORD, and that the TIA study I referenced in remarks be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2800

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Communications Competitiveness and Infrastructure Modernization Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) the absence of effective competition for cable television companies has resulted in high consumer rates and poor service quality;

(2) consumers will benefit from the competition which could occur if telephone companies are permitted to provide video programming service, subject to appropriate safeguards;

(3) such competition will also stimulate innovative two-way interactive video services with applications for education, health care, and information exchange;

(4) competition in the provision of video services by telephone and cable television companies can accelerate the development of modern broadcast networks and technology;

(5) competition in the provision of video services will strengthen the position of the United States in world markets by stimulating innovation;

(6) competition will help to ensure that video services and advanced communications services are made available in all areas of the country and to all consumers;

(7) the ability of telephone companies to create new programming services will expand consumer choice and accelerate the deployment of modern broadband networks;

(8) the creation of video gateways will guarantee access for other program services and ensure diversity; and

(9) consumers can gain further benefits of market competition if franchising authorities abandon the practice of awarding exclusive cable television franchises and instead award franchises in the same locality to competitive cable systems.

CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES

SEC. 3. (a) Section 613(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended to read as follows:

"(b) It shall be unlawful for any common carrier, subject in whole or in part to title II of this Act, to provide video programming in its telephone exchange service area except as provided in part V and other provisions of this title.".

(b) Title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

"PART V.—CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES

"SEPARATE VIDEO SUBSIDIARY

"SEC. 651. (a) Except as provided in subsection (d) of this section, a carrier which provides telephone exchange service shall not provide video program service in its telephone exchange service area unless such video program service is provided through an affiliated video program subsidiary that is separate from such carrier.

"(b) A video program subsidiary of a carrier which provides telephone exchange service shall—

"(1) maintain books, records, and accounts separate from such carrier which identify all transactions with such carrier;

"(2) carry out directly (or through any nonaffiliate or any other subsidiary of such carrier) its own marketing and sales except that the institutional advertising carried out by such carrier shall be permitted so long as each party bears its pro rata share of the costs; and

"(3) not own real or personal property in common with such carrier.

"(c) Any contract, agreement, arrangement, joint venture, partnership, or other manner of conducting business, between a carrier which provides telephone exchange service and an affiliated video program subsidiary, providing for—

"(1) the sale, exchange, or leasing of property between such subsidiary and such affiliated carrier;

"(2) the loan of money or other extension of credit between such subsidiary and such affiliated carrier or between such subsidiary and a third party directly or indirectly guaranteed by such affiliated carrier;

"(3) the furnishing of goods between such subsidiary and such affiliated carrier; or

"(4) the transfer to or use by such subsidiary for its benefit of any assets of such affiliated carrier,

shall be pursuant to regulation prescribed by the Commission, shall be on a fully compensatory and auditable basis, shall be without cost to the ratepayer of the carrier which provides telephone exchange service, and shall be in compliance with rules established by the Commission which will be sufficient to enable the Commission to assess the compliance of any transaction.

"(d) The requirements of this section may upon the showing of good cause, by a carrier, video program subsidiary, or any other person, be waived by the Commission if the Commission determines that the public interest, convenience, and necessity will be served by the waiver.

"PROHIBITION OF CROSS-SUBSIDIZATION

"652. (a) A carrier which provides telephone exchange service shall not engage in practices (including but not limited to the improper assignment of costs) which are prohibited by the Commission or by the States in order to subsidize directly or indirectly its separate video program subsidiary.

"(b) If the Commission finds, after notice and opportunity for hearing, that any such carrier has willfully and knowingly violated subsection (a), the Commission shall order such carrier to divest itself of any ownership in, or control over, such separate video program subsidiary.

"PROVISION OF AFFILIATED VIDEO PROGRAM SERVICES

"SEC. 653. (a) A video program packager may not provide affiliated video programming services numbering in excess of one-fourth of the total number of video program services simultaneously available for customer selection.

"(b) The Commission shall, not later than two years after the date of enactment of this part and every two years thereafter, evaluate the effect of subsection (a) on the video programming marketplace and, on the basis of that evaluation, make recommendations to Congress concerning appropriate modifications, if any, to subsection (a).

"(c) The carriage of local broadcast signals pursuant to section 614 shall not constitute the provision of affiliated video program services and, therefore, shall not be counted against the capacity limitation imposed on affiliated program services under this section.

"ESTABLISHMENT OF VIDEO GATEWAYS

"SEC. 654. Any carrier which provides telephone exchange service and the video program service of its video program subsidiary over an integrated broadband distribution system in its telephone exchange service area shall establish a video gateway. The Commission, together with the States, shall establish the rates, terms, and conditions for access to such gateway, except that the carrier shall be prohibited from discriminating in favor of its affiliated video programming services or its own video program packaging in providing access to such gateway or in providing services with respect to such gateway.

"PROHIBITION ON BUYOUTS

"SEC. 655. (a) No carrier which provides telephone exchange service, nor any entity owned by or under common ownership or control with such carrier, may purchase or otherwise obtain control over any cable system which is located within its telephone exchange service area and is owned by an unaffiliated person; except that such carrier shall not be prevented from obtaining a noncontrolling interest in such cable system through joint venture or other means.

"(b) The Commission may waive the restrictions in subsection (a) of this section only upon a showing by a carrier that—

"(1) the facilities of the cable system will be substantially upgraded through the deployment of modern technology, including fiber optics;

"(2) the capacity of the cable system and types of services offered will be expanded;

"(3) the purchase or acquisition of control will otherwise be in the public interest; and

"(4) the local franchising authority approves of such waiver.

"POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY

"SEC. 656. (a) Any carrier which provides telephone exchange service and which seeks to provide an affiliated video program service in its telephone exchange service area shall demonstrate to the Commission that it makes available to one or more unaffiliated

cable operators, within the limits of technical feasibility, attachment rights to any pole, duct, conduit, or right-of-way which is owned by the carrier within such telephone exchange service area.

"(b) The showing required by subsection (a) of this section shall be deemed to have been made if an unaffiliated cable operator currently has obtained the attachment rights described in subsection (a).

"(c) Nothing in this section shall affect the authority of the Commission or the States to regulate the rates, terms, and conditions for pole attachments as provided for in section 224 of this Act.

"PROHIBITION ON MARKETING AND SELLING VIDEO PROGRAM SERVICES

"SEC. 657. Notwithstanding any provision of this part or any rule or regulation prescribed by the Commission under this part, no employee of a carrier which provides telephone exchange service shall market or sell video program services to such carrier's telephone exchange service customers.

"CUSTOMER PROTECTION

"SEC. 658. (a) The Commission shall, within 180 days after the date of enactment of this part, convene a Federal-State Joint Board under the provisions of section 410(c) of this Act for the purpose of establishing the practices, classifications, and regulations as may be necessary to ensure proper jurisdictional separation and allocation of the costs of providing broadband services, including video transport service.

"(b) The Commission, with respect to interstate switched access service, and the States, with respect to telephone exchange service and intrastate switched service, shall within one year after the date of enactment of this part establish rules and regulations as may be necessary to ensure that no customer pays more for such services than would have been the case if the carrier providing such services to such customer was not also providing video program services.

"(c) Nothing in this section shall be construed to limit or supersede the authority of any State or the Commission with respect to the allocation of costs associated with intrastate or interstate communication services.

"REQUIREMENT FOR FREE CARRIAGE OF LOCAL BROADCAST SIGNALS

"SEC. 659. Notwithstanding any other provision of this Act, a video program subsidiary of any carrier which provides telephone exchange service may not charge a local broadcast station for making available its signal to subscribers.

"RURAL TELEPHONE EXCHANGE SERVICE CARRIERS

"SEC. 660. Notwithstanding the provisions of section 612 and 623, no Federal agency or State may regulate the rates for basic cable service charged by a carrier providing simultaneously both telephone exchange service and video program services in a rural area on the date of enactment of this part, unless—

"(1) the rates charged by such carrier increase by more than five percent per annum; or

"(2) more than ten percent of the customers of such program services have submitted a formal complaint to the Federal or State agency with jurisdiction over such rates.

"RURAL AREA EXEMPTION

"SEC. 661. The requirements of this part, other than those set forth in section 660, shall not apply to video program services provided in a rural area by a carrier that provides telephone exchange service in the same area.

"APPLICABILITY TO CERTAIN TELEPHONE COMPANIES

"SEC. 662. (a) The provisions of this title, other than those set forth in sections 651, 652, 655, 656, 657, and 658, shall not apply to a common carrier, subject in whole or in part to title II of this Act, if—

"(1) the public switched network of the carrier has the capability to transmit video programming directly to subscribers;

"(2) the common carrier has no editorial control over or ownership interest in the content of the video programming; and

"(3) such capability is offered to subscribers on a regulated common carrier basis, including nondiscriminatory access.

"(b) Neither a carrier to which subsection (a) applies, nor the users of the capability of that carrier described in subsection (a)(1), shall be required to have a franchise under this title.

"EFFECT ON CERTAIN ANTITRUST RESTRICTIONS

"SEC. 663. Nothing in this part shall be construed to permit any telephone company to have any ownership interest in any video program service provided to subscribers, if such telephone company is otherwise restricted under the antitrust laws of the United States from owning such an interest.

"DEFINITIONS

"SEC. 664. For purposes of this part—

"(1) the term 'affiliated video program service' means any video program service which is owned by or under common ownership with the video program packager which is distributing such video program service directly to subscribers;

"(2) the term 'rural area' means a geographic area that does not include either—

"(A) any incorporated or unincorporated place of 20,000 inhabitants or more, or any part thereof; or

"(B) any territory, incorporated or unincorporated, included in an urbanized area;

"(3) the term 'video gateway' means a broadband switched service which enables a subscriber to interactively select from multiple video program services which are simultaneously available;

"(4) the term 'video program packager' means a cable operator that is affiliated with a carrier which provided telephone exchange service, or a person so affiliated who provides video program packaging to subscribers over a cable system or other video distribution system; and

"(5) the term 'video program packaging' means the offering of a specific video program service or services together with the advertising or other promotion of such service or services, except that such term does not include billing and collection for video program services or the advertising and promotion of video services generally; and

"(6) the term 'video program service' means a video service offering which provides a single channel of video programming for an extended period of time, together with accompanying audio and text programming, and which is offered to subscribers either singly or as a part of a package of several services.".

FRANCHISES

SEC. 4. (a) Section 621(a)(1) of the Communications Act of 1934 (47 U.S.C. 541(a)(1)) is amended by inserting immediately before the period at the end the following: "except that a franchising authority may not unreasonably refuse to award a second competitive franchise. For purposes of this subsection, refusal to award a second franchise on the grounds of technical infeasibility shall be deemed not to be unreasonable. Any applicant whose application for a second franchise has been denied by a final decision of the franchising authority may appeal such final decision pursuant to the provisions of section 635 for failure to comply with this subsection".

(b) Section 635(a) of the Communications Act of 1934 (47 U.S.C. 555(a)) is amended by inserting "621(a)(1)," immediately after "section".

(c) Section 621 of the Communications Act of 1934 (47 U.S.C. 541) is amended by adding at the end the following new subsection:

"(f) Any cable operator which—

"(1) is owned or controlled by a carrier that provides telephone exchange service, and

"(2) seeks to provide cable service over a cable system,

may not provide cable service without a franchise.".

SENATOR BURNS' TELCO ENTRY AND SAFEGUARDS BILL: THE COMMUNICATIONS COMPETITIVENESS AND INFRASTRUCTURE MODERNIZATION ACT OF 1990

SEPARATE SUBSIDIARY

In order to address the possibility of cross-subsidization, telephone companies (telcos) which provide affiliated program services and/or package such services must do so through a separate video subsidiary. The structure and business relationship are fully defined and subject to audit.

CROSS-SUBSIDIZATION PENALTY

In order to provide a further disincentive for telcos to engage in cross-subsidization, the bill contains a "death penalty" clause requiring divestiture of the separate video subsidiary if the telco willfully or knowingly engages in cross-subsidization. This penalty will be in addition to the existing penalty of $1 million per violation.

MANDATED ACCESS TO UNAFFILIATED PROGRAMMERS

To address the possibility that a telco would favor its own programming, the bill mandates the availability to unaffiliated programmers of no less than three-fourths of the channels of a telco's cable system. The table below shows the number of channels allowed for telco program services:

Available channels	Allowed programming
20	5
60	15
100	25
200	50

REQUIREMENT FOR ESTABLISHMENT OF VIDEO GATEWAY

In addition, unaffiliated program services will have access through a video gateway to a telco's integrated broadband fiber facilities on equal terms and conditions as the telco's affiliated programming. Furthermore, not only will telcos be prohibited from discriminating in favor of its affiliated video program service in providing access to such gateway, but also in providing services with respect to such gateway.

PROHIBITION ON BUYOUTS

To address the concern that telcos would enter the cable business through buyouts of

existing cable systems within their service areas (which would result in replacing one monopoly with another), the bill prohibits a telephone company from buying out a cable system in its telephone service area without a strictly limited FCC waiver and approval by the local franchising authority.

POLE/CONDUIT RIGHTS

In order to protect aginst telco abuse of control over pole and conduit access, the bill establishes a federal right of access for unaffiliated cable operators to poles or conduits owned by telcos.

PROHIBITION ON MARKETING AND SELLING VIDEO PROGRAM SERVICES

Even with a separate subsidiary requirement in place, concerns have been raised that employees of a telco who are marketing telephone service might have an unfair advantage in selling the affiliated video program services. The bill explicitly prohibits such conduct.

CUSTOMER PROTECTION/COST ALLOCATION

In order to specifically address consumer group concerns that basic telephone rates not increase, FCC and state regulators will be required to develop cost allocation rules to ensure that telephone customers will pay no more for telephone service due to telco entry into the video market through the deployment of fiber optic technology.

MUST CARRY/NO PAY

In order to specifically respond to broadcaster's concerns that telco entry not result in damage to the free over-the-air broadcast system, the proposal (1) would require telcos to carry all local broadcast stations and (2) broadcasters would not have to pay for such carriage. If telco entry is as a regulated common carrier providing transport only, then broadcasters would be carried like any other program service and would be required to pay for access. The proposal also makes clear that telcos can not alter the content of the broadcast signal and that the compulsory license applies as it would to a cable operator's use of that signal.

RURAL EXEMPTION AND GRANDFATHERING CLAUSES

To encourage deployment of fiber optic technology to rural America, specific exemptions and grandfathering clauses will be provided for telcos serving "rural areas" except that rate regulation will be imposed if rates have increased more than 5% per year since deregulation or 10% of the system's customers file complaints. Further, statutory language will modify the FCC's current definition of "rural area" from the current figure of 2,500 inhabitants or less to any community of 20,000 inhabitants or less.

NO IMPACT ON MFJ

In order to address concerns expressed by newspapers and publishing interests, the bill contains a provision which clearly states that telcos cannot have an ownership interest in a video programming service if they are precluded from owning such an interest pursuant to the antitrust law.

MULTIPLE FRANCHISES

In order to eliminate the current regulatory barrier to entry resulting from grant of a single local franchise to cable operators, the bill makes clear Congress' intent that cities not unreasonably refuse to award a second, competitive franchise. The bill, however, in responding to local franchising authorities' concerns, makes clear that refusal to award a second franchise on grounds of technical infeasibility will not be deemed unreasonable.

TELCO FRANCHISE REQUIREMENT

In order to further address the concerns of local franchising authorities, the bill makes clear that cable operators who are owned or controlled by telcos must obtain a local franchise and pay franchise fees in accordance with the 1984 Cable Act if they seek to provide cable service in the same manner as a traditional cable operator.

AN ASSESSMENT OF FIBER-TO-THE-SUBSCRIBER ECONOMICS: STALLED ON THE WAY TO THE HOME

(By Hal Selander)

(A working paper prepared for the Telecommunications Industry Association, June 4, 1990)

[Graphics not reproducible in the Record:]

The report that follows is based on a review and interpretation of economic assessments of fiber-to-the-subscriber available from the public literature. The specific sources are listed in the Appendices.

This study was prepared for the Telecommunications Industry Association by Hal Selander, a Senior Manager at Braxton Associates. Mr. Selander has spent a considerable amount of his career at Braxton dealing with strategic issues in the telecommunications industry. This paper does not represent an "official policy position" of Braxton or of its affiliates.

Questions raised by this material should be directed to Braxton Associates at (617) 439-7100.

PREFACE

Accelerating the installation of fiber-to-the-subscriber systems is highly desirable because of the potential cost effectiveness of such systems in delivering today's voice, data and video services. But beyond this, ubiquitous deployment of such systems would make possible a new whole new generation of switched broadband services. That prospect would set off competition among various service providers, network operators and manufacturers to determine what specific versions of such services would be most popular with consumers. Establishing global leadership in this field would provide important benefits to the United States in terms of productivity, economic growth and international competitiveness.

Unfortunately, there is currently a great deal of confusion over the economics of fiber to the home. Accordingly, the purpose of this paper is to examine the costs of these fiber networks using information in the public domain. Informed public policy requires that economic issues be clarified so that decision makers are better able to assess the extent to which current and proposed regulations provide incentives or disincentives to install a fiber-based switched broadband network in this country.

EXECUTIVE SUMMARY

Many claims have been made about the economics of fiber-to-the-subscriber. Fiber proponents argue that serious deployment will soon begin. Others argue that fiber-to-the-home is a 21st century technology that will cost over $450 billion to deploy. Who's right? And, what are the implications of the answer to this question for public policy makers interested in realizing the benefits of broadband fiber technology?

A review of the public literature on the economics of fiber-to-the-home concludes that truth lies between these extreme views. There is no doubt that fiber-almost-to-the-home, or fiber-to-the-curb, for existing telephone services will become economical for new builds within the next few years. But the deployment of fiber systems may well be stalled on the way to the home. Service providers lack strong incentives to deploy fiber technology expeditiously and systematically. Without changes in public policy, the prospects for fiber to the subscriber for broadband switched video service—the type of service for which fiber optic technology is optimally suited—are distant at best.

Fiber-to-the-curb systems will be deployed faster because they cost less. Such systems reduce the cost of deployment by sharing electronics among many homes and using copper and/or coaxial cable in the "drop" to the home. They allow only for the provision of narrowband telephone-type or broadcast video services available today, not switched broadband services of tomorrow. Furthermore, not all fiber-to-the-curb systems provide a logical migration path to switched broadband services.

The costs of narrowband fiber-to-the-curb systems are increasingly attractive. However, without the incentive of providing broadband services, the economics of these narrowband systems are not sufficiently compelling for their rapid deployment. With fiber network costs only at parity with copper, a decision to deploy these systems expeditiously involves a presumption on the part of service providers that policy changes at the Federal level are imminent, thus allowing the rate payer to eventually reap the benefits of fiber in terms of new services, in addition to immediate benefits from network modernization.

Broadband fiber-to-the-home systems—that is, systems to the home that are capable of providing two-way switched video services—are currently beyond reach, because their installed first costs are much higher than that of existing copper technology. Today, broadband fiber systems are on average about three times more expensive than the existing copper links to the home. Service providers lack a strong case for deploying such systems to the home without the prospect of additional revenue opportunities to help shoulder the burden of the incremental costs.

The good news is that the cost of all types of fiber-based systems will fall dramatically once their deployment begins. The experience curve inherent in the production of optical fiber and opto-electronic components will bring the cost of those systems down dramatically as production volume accumulates. This experience curve phenomenon is well-known and universally recognized.

Fiber systems will be routinely deployed only if they cost about the same as other technologies delivering the same set of services (the narrowband and broadband crossover points). While a "strategic investment" might be necessary to get these systems "over the hump," in almost any cost or service scenario most homes will be wired at costs less than the level of these crossover points. This incremental investment associated with a fiber network is certainly not the hundreds of billions of dollars as has been suggested by some. In fact, the cumulative strategic investment for a (field-tested, fully upgradeable) narrowband fiber system through 1998 is estimated at less than $80 per residence. The strategic investment is difficult to calculate with certainty, as the investment ($7 billion in total) could be reduced almost to zero if systems less costly but perhaps more difficult to upgrade

are instead deployed. A more substantial strategic investment is necessary in the case of broadband fiber.

Expediting the installation of fiber-to-the-home systems is desirable because of the potential cost effectiveness of such systems in delivering today's voice, data and video services. But beyond this, they would make possible a whole new generation of switched broadband services. Switched video is the key—it is the service that requires the substantial information carrying capabilities of fiber optics, and it is the enabling technology that allows residential customers access to the benefits of an advanced communications network.

Costs would be less an issue and fiber-based broadband systems could be deployed sooner if services requiring more bandwidth could be provided on the same network. Video service revenues are required to reduce the up front investment risk and to provide longer term financial incentives. However, no single video service offering is sufficient, by itself, to justify the investment. The pace of fiber deployment to the home then depends on whether restrictions on service providers are removed to allow provision of multiple broadband service offerings.

If service providers are not allowed to provide new services, broadband fiber to the home will remain stalled. If they are allowed to provide multiple broadband video services, the deployment of both narrowband and broadband fiber optic technologies will be expedited and the process of cost reduction will be hastened.

OBJECTIVES

The objective of this report is to determine the prospects for fiber to the subscriber by closely examining the economics of fiber deployment. As such, this review does not speculate on what services could conceivably be provided or what benefits fiber could realize (the demand side). Rather, it is focused on the supply side—determining whether there is a path forward for deploying a fiber network that makes economic sense. As part of this effort, these questions needed to be answered:

(1) Will fiber-to-the-subscriber soon be economical?

(2) Will the pace of deployment meet expectations?

(3) Does what we are doing today make sense for the longer term?

The methodology used was to examine economic assessments of fiber-to-the-home in the public literature. This evaluation used only that information which is available to *any* party interested in these issues.

BACKGROUND AND KEY ISSUES

Fiber optics recently gained status in the trade and public press as a realistic economic alternative to copper twisted pair in the last mile of the residential subscriber loop. The advent of fiber-to-the-subscriber is creating considerable excitement over the prospects of realizing the substantial benefits possible from upgrading the nation's wire infrastructure to a more advanced communications network.

This new status for fiber optics should not be considered surprising. Fiber technology has been on a steady march toward this goal for almost a decade. During the 1980's increased telecommunications competition led to expanded demand for optical technologies. Rapid market expansion led to substantial cost reductions, resulting in rapid but predictable penetration in various communications markets. Fiber optics first penetrated long haul and later central office intra-LATA connections, and then proceeded into the feeder portion of the network, especially for serving areas with high concentrations of businesses.

Today, most economic assessments of fiber-to-the-subscriber concludes that declining costs will "soon" result in cost-effective residential fiber deployment for the provisioning of "plain old telephone service" (POTS) for new builds. Furthermore, service providers and suppliers interested in installing fiber optics in the subscriber loop have publicly stated that fiber is within striking distance of local loop copper costs "now", and will be at cost parity when commercial volume purchase materialize.

Most service providers and suppliers believe that in the 1990's, further cost reduction, especially in opto-electronic components, could establish fiber optics as competitive with copper in ever increasing numbers and types of residential installations. They envision the switched network evolving gracefully towards a higher quality, more advanced communications network. Capturing these network benefits through the "rewiring of America" need not require the ominous financial burden once thought by those skeptical of fiber's potential. In fact, net savings over copper—both capital and operating—will eventually be realized.

Proponents of fiber for the local loop are already investing in the technology. Some foreign governments, such as in France and Japan, have recognized the benefits of modernizing their communications networks. They believe that fiber is the means to accomplish that goal. They have moved quickly to encourage fiber deployment using progressive national communications policies to encourage improvements in their country's overall competitiveness.

In this country several local exchange carriers (telephone operating companies, or in industry jargon, telcos) have begun to test fiber to the residence through technical and marketing field trials. Table I shows the increasing interest in residential fiber over the last few years. (Domestic residential field trials are presented in greater detail in Appendix I.)

TABLE I.—FIBER FIELD TRIAL TRENDS

"Turn-On" year	Cumulative No. of telcos doing trials	Cumulative No. of trial locations
1986	1	1
1987	1	1
1988	4	5
1989	9	16
2Q-1990	13	25

Note.—The table excludes trials that are not predominantly residential tests. Multiple tests during a trial counted as one trial.

In addition to telco interest in fiber, some cable television companies are testing (and in a few situations already deploying) fiber technology, principally to increase capaciy and to address quality and reliability concerns with supertrunk links. As yet there is no residential testing of fiber, although in some installations fiber has been deployed quite near the home.

But absent changes in public policy, fiber-to-the-subscriber will likely be deployed in commercial volumes more slowly in this country than in Japan, France and other key industrial countries. Although the same underlying set of economics should be at work here, fiber may well be stalled on the way to the home. In the U.S., fiber optics must overcome roadblocks created by regulatory constraints at state and federal levels.

For example, telcos and CATV providers are both excluded from capturing much of the economic benefits of fiber, since both are limited today in the services they may provide. As technology increasingly creates the potential for their transport services to overlap, it is of increasing concern that public policy encourage the emergence of switched broadband services.

Furthermore, regulatory policies may inadvertently affect technology development. The fiber-to-the-curb (FTTC) systems emerging from the regulatory guantlet are cost optimized for today's regulatory setting. They are not necessarily optimized for future service flexibility.

Therefore, even though fiber-to-the-subscriber economics for POTS services are nearly at hand, it should not be surprising that many parties—telcos and cable providers, suppliers, enhanced service providers and regulatory authorities—have chosen to take a wait and see approach. While the investment to get "over the hump" is much less than some have indicated, many parties have apparently decided that the investment returns are insufficient or the current regulatory rules of the game too uncertain to proceed expeditiously.

Even if narrowband gets over the hump, will we be content with a low-cost but POTS-only glass and light substitute for copper and electrons? The residential customer together with small businesses could realize significant benefits from an advanced, broadband fiber-based switched digital network. No one knows precisely what services will develop if service providers/developers are given the chance. But these benefits could include dramatic improvements over current approaches to education, in-home businesses, work-at-home, home health care and a number of other services affecting our quality of life.

BARRIERS TO FIBER DEPLOYMENT

One or more "chicken and egg" problems may cause fiber to be stalled: (1) high cost components due to lack of volume vs. low cost components realizable through high volume production, and/or (2) lack of broadband services vs. lack of broadband distribution options. Can these dilemmas be resolved easily?

If the goal is simply a low-cost fiber network now, the goal can be met: skip the opto-electronics! The economic review that follows discusses some new fiber designs (fiber-almost-to-the-home or fiber/to-the-curb) so lean in optical components that their costs are considered by some experts to be at par now with copper twisted pair economics. These systems are likely to be deployed faster because they cost less. Such systems reduce the cost of deployment by sharing electronics among many homes and using copper and/or coaxial cable in the "drop" to the home. But such systems may not fundamentally improve the service capabilities of the existing subscriber loop unless they are designed at the outset to be upgradeable to broadband.

Suppliers offer several FATTH designs, and companies are testing these in field trials around the world. There is considerable discussion in the public literature on which designs are best given different design parameters and network objectives. Most fiber-to-the-curb designs are optimized for low cost for the provision of today's narrowband telephone-type or broadcast video services in today's regulatory environment.

Suppliers have pointed out that designs or topologies could instead be optimized for other factors, such as cost-effective or flexible migration to switched broadband. Vendors have announced that the goal of their broadband systems is to be comparable with the cost of copper plus coaxial cable, and that with volume commitments from customers they can meet this goal.

For example, if migration to switched broadband was probable or known, perhaps service providers might choose an alternative fiber design for deployment. Furthermore, large volume commitments from customers could reduce costs such that a design could "come from behind" to win over another.

Resolving the service demand/deliverability dilemma is more problematic. Fiber installation economics do show favorable trends, but the story is not compelling. Service providers lack the incentives to deploy even narrowband technology expeditiously. Other market drivers are required.

The benefits possible from a fiber-based communications network are probably unattainable without changes in public policy. Unfortunately for those hoping to reap its benefits, this dilemma may require rethinking controversial issues: who should be allowed to provide various services, who pays, and who will be allowed what returns on the investment required to get those services underway.

Some had hoped that narrowband FATTH could be deployed now, and that simply waiting for the day that broadband FTTH becomes inexpensive would be sufficient. However, there may not be sufficient and timely opto-electronics volume in these FATTH network designs to drive the component costs satisfactorily down their experience curves. Without this narrowband component volume or without significant broadband component volume commitments from customers, broadband will remain nearly as expensive tomorrow as it is today. In fact, deployment of certain FATTH system architectures may frustrate eventual upgrades to FTTH switched broadband networks.

A reasonable conclusion from the various economic assessments is that narrowband fiber is a near economic prove-in for plain old telephone service (POTS) in so-called "new build" installations. But until broadband fiber systems are allowed to compete on the merits of service capabilities in addition to their cost position, deployment barriers may prove to be insurmountable, and the fiber residential penetration rate may be slowed, even for narrowband.

A. Deployment Hurdles: Local Exchange Carrier Perspective

While it would seem that service providers would be extremely pleased to have at hand another tool to defend and upgrade their service base, some of the news for fiber is not as favorable. Among the barriers:

A shortage of objective economic information has complicated the debate on fiber-to-the-subscriber.

New and probably much lower cost designs such as fiber-to-the-curb remain largely untested.

Even after the trials, a "strategic investment" may still be required to get fiber "over the hump." This investment is discussed in more detail later.

At the crossover point where copper and fiber are at comparable installed first costs, the associated service level is limited to narrowband services for local exchange carriers (POTS and data communications).

Today's best fiber topologies (based on low installed first costs) are not necessarily the best options for the future, particularly for switched broadband upgrades and for enhanced network services expected in the future.

B. Deployment Hurdles: Cable Television Industry Perspective

Cable companies have been quick to deploy fiber technology once adapted to the needs of the cable industry. Source technology for AM (analog) systems has only recently begun to meet technical requirements for adequate performance. The technology for cable is therefore at a nascent stage compared to digital fiber technology used by telcos.

Pal Kagen & Associates estimates that, if fiber optics can meet the CATV industry's specific technical needs, cable could be a notable purchaser of fiber in this country in three to five years. Furthermore, much of the promising areas of research in fiber systems for future use directly enhances the prospects of better cable TV systems through fiber. So while the cable industry's use of fiber as measured by kilometers is currently small, this indicator is misleading as to what their future role in fiber might be.

Even with all this potential from fiber optics, the cable television industry faces these hurdles in deploying fiber:

Fiber adds little to enhance the business—cable operators are already in the broadband business for entertainment services—and fiber broadcast video alone costs more today than coaxial cable for the distribution portion of a "tree and branch" cable architecture.

Fiber designs such FTTC are challenged to meet the network flexibility of coaxial cable. New homes are routinely wired with 100+ TV channels with coaxial cable. From this standpoint today's fiber systems reduce network services, as no system currently under field testing can match coaxial cable bandwidth for one-way provision of video service all the way to the home.

The constant threat of re-regulation could possibly create an environment in CATV companies that discourages longer term planning and strategic network investments.

Given the re-regulation situation, suppliers to the industry may be uncertain of the industry's prospects or fiber's potential within the industry, so clear incentive to invest in fiber optics technology for this industry is lacking.

C. Economic Arguments Against Fiber Networks

Not everyone believes in fiber networks and fiber-to-the-subscriber. Those skeptical of fiber's potential usually make the following comments:

(1) Cost per subscriber will be too high;

(2) Cost estimates lack consistency;

(3) Total investment costs to rewire the country are too large;

(4) The technology is more expensive today than current alternatives; and

(5) A dominant technology solution does not yet exist.

If these arguments sound oddly familiar, it is because they are probably the same comments made prior to deploying other communications networks: telegraph, telephone, satellite and cable television. And, these are reasonable issues to raise.

With respect to fiber these issues are addressed in detail in the economic review beginning on page 13. A brief response is provided here: comments (1-3) above are probably largely incorrect or at least highly misleading. Argument (4) is true, but misses the point of the discussion: a coax tree and branch network is not optimized to support tomorrow's switched network services. Argument (5) is also true, but is caused primarily by uncertainty about what services various parties will be allowed to provide in the future.

FINANCIAL MOTIVATION FOR NETWORK MODERNIZATION

Who is motivated to make the major investments necessary to deploy a switched broadband network? Among today's wire service providers, telcos in particular may be attracted to new fiber-based video services to improve their rate of return performance. Cable television by contrast, could increase their scale through additional video services.

Evidence of the need for telcos to improve their returns is presented in Exhibit I. This x-axis of the graph shows real cash return on investment over the last three years (1987-1989). The y-axis is current company valuation, expressed in terms of the real market to book ratio. This specific valuation ratio is the current market value (equity plus debt) divided by the inflation-adjusted asset value. The horizontal line at 1.0 means that the business is valued at its real asset value. The vertical line between 7 and 8% is the investors' cost of capital. The best quadrant is the upper right; the worst quadrant is the lower left.

On this graph are cable television companies (only pure play public companies with equity value greater than $100 MM) and an equivalent number of telcos (unfilled circles representing the 7 RHC's, GTE and United Telecommunications). All values are net of inflation. Bubble size is proportional to the market value of the company's equity.

Cable television companies (filled circles) are much smaller in equity value (circle size) than telcos. Cable companies are all valued by the market above their real asset values, and 6 of 9 are earning returns above those of telcos. Roughly half of these companies are earning the cost of capital.

In contrast, none of the telcos earned the cost of capital. Deploying narrowband fiber at cost parity with copper is not likely to raise the returns for telcos above the investors' expected rate of return. All other factors held constant, without access to additional network-based revenues, telcos, would be smart to invest excess funds in other businesses. In fact, they have been active in cellular radio (franchise bypass), international markets, and other activities unrelated to their local franchise. This does not mean that telcos are or should walk away from the local franchise. But it does suggest that additional incentives may be needed for telcos to deploy even narrowband fiber expeditiously—such as the prospect of providing fiber-based broadband services.

CONSENSUS VIEWS FROM ECONOMIC SOURCES

This evaluation included reviewing a number of recent fiber-to-the-subscriber economic assessments available in the public domain. If there was a bias in selecting materials, it was in that the reports, articles and papers that discussed specifics of cost and disclosed principal assumptions were selected over those that did not.

This review of economic assessments of fiber-to-the-subscriber suggest that, absent changes in public policy, we should expect:

Fiber will initially be limited to providing POTS for new builds:

Fiber for narrowband applications will prove-in on the basis of comparable installation economics with copper.

For some time after the narrowband crossover—volume is the unknown factor—fiber optics will lack the economics necessary to substitute for copper in installations other than new build and some rehabilitation applications.

Multiple topologies will be deployed with very different cost structures:

No one fiber design dominates the economic analyses. In addition, it appears that through the years a number of different designs will be deployed based on situation-specific considerations.

It is likely, however, that local exchange carriers will specify features for the systems they prefer to deploy. In today's regulated environment, it is unclear whether cost-effective upgradeability to provide broadband service will be an element of those specifications in the near term.

Fiber will initially stop just short of most homes:

Presently, fiber designs that share optical components among several subscribers have the most favorable economics.

Some of these designs have lean optical content from component sharing. So-called Fiber-Almost-To-The-Home (FATTH) systems appear to have better present economics than Fiber-To-The-Home (FTTH) designs for narrowband services (POTS, etc.). FATTH designs are those architectures or topologies in which fiber stops just short of the home.

Note: The term fiber-almost-to-the-home is often used here instead of the more conventional terms, such as fiber-to-the-pedestal (FTTP) and fiber-to-the-curb (FTTC). Use of these terms sometimes implies specific topologies (triple star and bus, respectively), and sometimes implies specific supplier offerings. However, FTTC is increasingly used to describe all FATTH topologies.

Fiber-To-The-Home systems appear to offer a sound longer term broadband solution, but such systems are too costly for narrowband-only applications.

Broadband capabilities will require volume commitments for cost-effectiveness:

Unlike the present cost effectiveness of selected narrowband fiber topologies, none of the broadband fiber topologies reviewed is at present competitive with today's best broadband technology, coaxial cable. Broadband fiber will require volume commitments to reduce costs to be comparable.

Broadband designs will require significant additional revenues beyond POTS to offset their additional investment costs.

Finally, the recent emergence of FATTH (fiber-to-the-curb) has raised new economic questions about broadband migration economics (installation of narrowband systems today and then upgrading to broadband tomorrow).

OVERARCHING ECONOMIC ISSUES

There are significant uncertainties related to fiber-to-the-subscriber, particularly with respect to deployment economics, the role of different services, services revenue potential and possible changes in public policy.

There are no "logical" answers. Because much of the uncertainty is due to regulatory policy, no amount of analysis will resolve the uncertainty. The central question then is not "what is truth", but whether or not there is a path forward for deployment that makes economic sense.

In evaluating possible paths forward, interested parties need to know as much as possible about the following:

When will fiber-to-the-subscriber be economical?

Are the cost forecasts believable?

Is optical technology ready?

How fast might the technology be deployed?

What will a fiber network actually cost?

Are we making the right choices for the long term?

These issues are addressed individually in the discussion that follows. The basis for the views in this paper on the issues above are the economic source materials listed in the Appendices of this report.

A. What Are The Cost Drivers?

The central engine that drives the cost structure for fiber networks is the well-known learning curve or experience curve phenomenon:

Forecasts based on experience curves take advantage of the strong empirical evidence that costs decline with volume in a predictable manner. Generally speaking, manufacturers' unit costs drop 15-30 percent with each doubling of accumulated production volume. Each product has its own curve; products made of other products have an experience curve that is a composite of those experience curves. It is volume that drives reduction in costs.

The slope of an experience curve is inherent in the product and the process by which it is produced. A mature technology has costs that decline slowly as the product volume becomes "difficult to double" because market growth is too slow. Costs for a new technology move quickly down the experience curve. However, the slope of the curves could be identical.

The total fiber network cost structure is influenced by many different cost drivers. Each cost activity has to be separately calculated and forecasted. The overall forecast is the sum of activity forecasts.

Table II shows at a macro level what factors influence costs. Only opto-electronics components have costs predominantly driven by volume in the local loop. But opto-electronics costs are by far the most significant component cost in the system, and loop volume will reduce these costs by some 30 percent per year in the first years of deployment. Other activities follow different drivers.

TABLE II.—COST DRIVERS AND PRICE TRENDS

Major activity cost	Cost or experience curve driver	Cost vector	Approx. price forecast percent per annum
Telco labor	Inflation	Up	4-6
Fiber	Local loop plus other application experience.	Down	5-8
Opto-electronics	Predominantly local loop experience.	Down	25-35
Electronics	Electronics industry	Down	10-12
Electrical	Electrical goods industry	Down	5

Exhibit II shows a typical experience curve cost forecast for opto-electronic components used by one source of fiber economics. Approximate industry cumulative volume is noted. Cost reductions in the future will be most significant in those topologies that are rich in these opto-electronic devices.

Several different components are shown in this graph. Lasers and LEDs are opto-electronic sources, devices that convert electronic information (e.g., POTS, video, etc) to light for transmission through the optical fiber. APDs, PINs and PINFETs are detectors or receivers, components that convert the transmitted information from optical form back to electronic form.

Component demand or costs for, say 1998, cannot be determined from this graph without assuming a specific topology, the component consumption in that topology and the cumulative number of households wired with fiber through that year. Three sets of these assumptions are displayed in Exhibit III, which shows how the experience curves assumed in Exhibit II would impact forecasts of projected costs for three different loop architectures. The chart distinguishes between 1990 and 1998 costs, and between opto-electronics costs (as would be found in the remote terminal and the optical network interface) and the cost of the fiber itself.

Several observations are worth noting from Exhibit III:

(1) The additional costs in optical topologies are primarily due not to fiber but to opto-electronics.

(2) The difference between topologies is dramatic: the total opto-electronics costs of a 1990 narrowband triple star (fiber-to-the-pedestal) are less than 10 percent of the costs for a 1990 narrowband double star. The optical costs per subscriber in the triple star are almost inconsequential.

(3) The expected opto-electronics cost reductions are considerable (down 70-80 percent over the period), particularly in the most expensive topologies. For the less expensive triple star, opto-electronics costs were down 43 percent.

As shown in the triple star (fiber-to-the-pedestal) example, using a lean opto-electronics topology means that opto-electronics costs will decline more slowly, both in percent and absolute dollar terms.

In FATTH, almost all the costs are for conventional products and installation costs. Cost reduction driven by the experience curve will be more difficult in these topologies. With FATTH costs already close to costs of copper, this is not an impediment to narrowband deployment.

In addition to experience curve effects on costs, this exhibit also shows generic differences in optical consumption across topologies. The differences between the two double star architectures represents a premium required for video services on fiber optics. The different costs between the two narrowband architectures represents the savings between FTTH and FATTH designs.

B. When Will Fiber-to-the-Subscriber Be Economical?

The short answer to this question is that for POTS services, fiber in the local loop will be cost-effective for new builds in the next few years. Broadband may face difficulty in reaching cost-effectiveness without changes in public policy.

Moving from the short answer to specific economics quickly leads to complexity. Even the cost goal for fiber is "fuzzy". Loop cost calculations, whether for copper or fiber, are difficult to perform as hundreds of assumptions must be made. Furthermore, each installation has a different network geography.

Probably the best indicator of the complexity of network economics is that telephone companies do not have one standard for what copper in the local loop costs. Exhibit IV presents various copper costs used in economic assessments. Copper installation ranges from $400 to $1500, depending primarily on whether the installation is a simple rehabilitation or a new build.

Differences in copper costs are not unexpected. Would we expect a townhouse in Manhattan to have the same loop costs as a farm in Iowa? Would we expect the cost of installing a new underground circuit from the central office to the subscriber to be the same as splicing in a spare copper wire in the field?

The exhibit also shows that differences in transport technology (such as DLC) as well as loop architecture (single star vs. double star) can change the copper cost structure. It is the same with CATV costs structures.

The biggest problem with a range of cost targets is that the copper cost assumed in the economic comparison (the $400 to $1500 range) can change the narrowband crossover timing by about two decades! Which is the correct assumption to use? Since the battle between fiber and copper is over the wiring of new builds, the copper cost for new builds is used. A conservative new build cost of $1250 is used here.

Fiber costs are more "fuzzy" than copper. Beyond the complexity of loop cost calculations already discussed, there is considerable debate on how to evaluate the non-cost economics of fiber. Significant speculation is required to account for the potential service revenues that could be created by the availability of a flexible broadband pipe to (and from) the home.

Not surprisingly, with services excluded and little volume, optical technologies are today challenged to their limits to match the economics of 100 year old copper technology. If switched video services are included, fiber optics dominates copper solutions because of the limitations of coaxial cable or copper twisted pair.

Fiber also has life cycle savings over copper: cost savings that accrue from maintenance, administration and operational savings. However, because these savings have not been established in multiple commercial settings, these benefits are usually discounted or ignored. Once an experience base of fiber systems has been accumulated, the life cycle savings can be accurately determined and used, in addition to installed first cost economic advantages, to justify and accelerate fiber's penetration into the local loop. (This savings is often estimated at $150 to 200 per subscriber, on a present value capitalized cost basis. If confirmed, this small number would be sufficient to push fiber lean architectures such as fiber-to-the-curb over the cost hump.)

Much of the debate on how to evaluate fiber economics can be avoided if fiber can prove-in on the same installed first cost basis as copper. But since the presumed purpose of fiber technology in the loop is to advance the service potential of the network, the advantages of fiber should not be ignored in doing economic evaluations.

However, reluctant fiber advocates have been willing to accept the installed first cost challenge partly because fiber is nearly competitive for new builds with copper for the provisioning of POTS—quite remarkable given the current lack of local loop fiber volume.

Costs For Fiber Network—Narrowband

The consensus view in the press is that installed first cost projections put fiber at par with copper (the so-called "narrowband crossover point") for providing today's services (POTS) for new build intallations in the mid-1990's.

Narrowband (non-video) fiber cost estimates for 1990 installation (sources listed in the Appendix) range widely from about $110 to $3750. Why such a large range?

Adjustment for topology assumptions can clarify much of the confusion. Exhibit VI again shows narrowband forecasts, but only those based on the double star architecture. The cost forecasts now show more consistent trends.

An important observation can be made from Exhibit VI. All believe that fiber costs will come down rapidly over this decade: accumulated production volume over time drives optical network costs down the experience curve.

Cost forecasts are based on an "average" loop. Each information source assumes a different average loop, reflecting a different view of the network. Loop calculations by telcos reflect their service area, and not some national average local loop. Change the loop assumptions and the costs must change.

Without understanding the assumptions used, it is difficult to say which forecast in the exhibit is most correct. So sensitive to assumptions are loop calculations that the differences between authors' estimates could be the result of using the same model but with different assumptions.

The information from the exhibits can be used to begin exploring the timeframe in which that fiber might prove-in. Copper double star and digital loop carrier economics have been added to this chart and appear in Exhibit VII. This chart shows why the narrowband crossover is often linked to the "mid-1990's."

Remember, only double star fiber economics appear in this exhibit. The FTTH double star topology is similar to the topology currently used for new copper deployment. Double star is used for comparisons because it is the topology most discussed in economic sources and most frequently tested in field trials. It is currently one of the highest cost technologies for narrowband services, but interest remains strong in double star because it is perceived to offer easy migration to broadband.

Because of the very different installed first costs among topologies, the most useful sources are those that use the same assumptions to explore the economics of multiple topologies for fiber. ElectroniCast is one of the few sources that provides such information. Exhibit VIII shows the cost premium of various fiber topologies versus a copper double star. In this exhibit copper double star costs are netted against the costs of various fiber architectures to determine their premium over copper. It highlights the relative cost differences among topologies. It also demonstrates how the experience curve effect reduces the optical premium (excess installed first cost of fiber vs. copper).

Due to their assumptions on installation costs and capitalized opt-electronics component overhead charges, ElectroniCast generally has the highest forecast costs among sources used for this work. This source also includes costs for running a copper wire for backup power, a particularly troublesome issue with fiber for network planners.

Additionally, for reasons of simplicity, cost forecasts for a given topology usually assume that all loop volume uses that one topology. In practice, many topologies will be used depending on the specifics of the installation and the services to be deployed both now and in the future.

The single and double star FTTH designs in this exhibit are the topologies that take fiber all the way to the home; they are also the most expensive. FATTH designs stop short of the home, usually at a neighborhood pedestal. FATTH designs are much less expensive now than star designs. Note that fiber for residential transmission could be economically justified with FATTH in very selected situations now. These topologies are very new. Service providers and suppliers have indicated that fiber could be deployed with these new topologies after these costs have been verified and after topologies have been proven to be viable in the field.

Finally, these costs are all averages, and no installation is an average installation. In fiber/copper challenges sometimes fiber will be justified sooner than expected; sometimes later.

Fiber local loop cost estimates should be accompanied by specific assumptions concerning the year of deployment, the topology used, the services offered, any special provisioning for broadband upgrades, the cumulative households wired and opto-electronics component price structures. The fiber installed first cost per subscriber is probably most sensitive to these assumptions. As in the case for many new technologies, these are not only the most sensitive assumptions but also the assumptions for which there is the greatest uncertainty.

Costs For Fiber Network—Broadband

Moving from POTS-only narrowband to the variety of potential broadband services introduces considerable complexity into the economic debate. Are we talking about video programming only, B-ISDN, video on demand, interactive video, 2-way interactive video or true broadband switching? How many channels per home? And so on. It is difficult to discuss broadband installation costs outside the context of supplied services.

Those who make broadband fiber deployment timing and cost forecasts often assume that the initial services are POTS and entertainment video, and that deployment begins immediately. The policy question of who supplies what services tends to be ignored.

The focus of this review is limited to what others have studied in detail, in particular the video service assumptions stated above. And, similar to the narrowband situation, the paper relies mostly on those sources that address dollar costs, timing and assumptions together.

Broadband cost forecasts for these types of installations for 1990 range from $3875 to $5650, but forecasts for late in the decade are as low as $1800 for broadband. A scatter diagram of broadband cost forecasts appear in Exhibit IX. As in the narrowband case the forecasts appear quite dispersed despite adjustments for time of deployment.

Broadband double star costs are highlighted in Exhibit X. Again, timeframe and topology can sort out major differences in cost estimates. The cost forecasts now show consistency.

To understand the broadband crossover (for POTS and video services), the combined costs of copper and coaxial cable must be known. These costs are added together because two services will not be provided: One broadband pipe delivers both telephone and video services. For 1990, $1850 is used ($1250 for copper plus $600 for Coax per subscriber from Table III below).

TABLE III.—COAXIAL CABLE COSTS PER SUBSCRIBER

	New build	Historical capital
Bellcore	$600–1,000	
Kagen		603
Shooshan		519
Smiley		592

Double star broadband FTTH designs are the topologies that take fiber all the way to the home; currently they are also the most expensive. FATTH designs stop short of the home. FATTH designs are much less expensive now than star designs. Note that fiber for residential broadband use looks attractive once significant deployment volume accumulates.

A "broadband trigger" allows service providers to deploy fiber-based networks in advance of the timing expected from an installed first cost basis. The short term revenues available from delivering conventional communications and entertainment services, together with the prospect of additional revenues from providing switched broadband services in the future, could prompt local service providers to make the investments necessary to accelerate the discovery of cost-saving technological advances.

A broadband trigger could change the economic prospects for fiber. Broadband triggers are required to achieve the substantial cost-reduction and significant innovation necessary to move broadband costs into a range where these systems can routinely compete with other broadband technologies used today.

As mentioned before, forecasters usually avoid the policy issues and assume video services can be provided. They are, in essence, assuming a broadband trigger in their forecasts.

C. Are the Cost Forecasts Believable?

There are two aspects to this question: (1) are enough experts in agreement, and (2) does their approach make economic sense? Despite some erratic forecasts years ago, the forecasts by experts (and the assumptions on which they are based) are coalescing in a satisfactory manner. Although the small number of independent economic analyses available in the public domain caused some concern, the consistency in logic behind recent forecasts was reassuring.

Why the shortage of information in the public literature? Although many sources discuss either costs or timing, this review of economic assessments in the public literature found those economic assessments frequently lacking in sufficient specifics to compare dollar costs, timing and assumptions together. A shortage of information does not mean a shortage of sources. Because of the complexity of loop calculations, many sources investigate cost sensitivities of narrow technical issues. Others limit discussion to the copper/fiber cost crossover point and particular to the crossover point's sensitivity to various parameters.

Several local exchange carriers have estimated the narrowband fiber/copper crossover as highlighted in the table below, and there is consensus in the forecasts:

TABLE IV.—SAMPLE NARROWBAND CROSSOVER FORECASTS BY TELCOS

	Timeframe	Source
Bellcore	Mid 1990's	P. Shumate.
NYNEX	1993	E. McDonough.
Southwestern Bell	1992	J. Horton.

A second element of forecast believability is whether the assumptions seem valid. The best and most credible forecasts are models based on the experience curve phenomena that link year of deployment, the topology used, the services offered, any special provisioning for broadband upgrades, the cumulative households wired and component (especially opto-electronic) price changes.

As mentioned before, special credence is given to any source of fiber-to-the-subscriber economics that discuss dollar, timing and assumptions together. As shown previously, the sources that were forthcoming in details were in remarkable agreement, thus establishing their creditability.

D. How Fast Might the Fiber Optics Be Deployed?

Exhibit XII shows forecasts of how fast various sources expect fiber to penetrate the residential marketplace. Penetration assumptions, like the cost forecasts, are reasonably consistent. Data is sparse for reasons outlined earlier.

Forecasters build these projections on the basis of separate penetration estimates of new build and rehabilitation requirements. Some of these households will be wired for broadband; in the near term most will be wired for narrowband (POTS only). Each architecture uses different components and requires different costs to support the technology.

Calculating household penetration requires the cost at the time of deployment to be known. Calculating the cost of deployment requires household penetration to be known. This is called an iterative calculation. Change the topology or another key assumption and the entire forecast must change.

Those forecasting fiber penetration must make assumptions on what services will be provided. The importance of service incentives to the question of penetration and timing is suggested by A. Gray Collins of Bell Atlantic Corporation in a statement before the Congress in April, 1990:

"If nothing else happens, we believe we will have a full fiber network all the way out to the homes and near the homes in our territory by the year 2030 or 2040. That's what we're talking about without the incentive to bring fiber in sooner.

"If we accelerate the deployment of fiber . . . we believe that we'll have broadband two-way service available to everybody in the Bell Atlantic territory, including rural areas, by the year 2010."

E. What Will a Fiber Network Actually Cost?

Fiber proponents argue that fiber is nearly at par with copper costs, and that serious deployment will soon begin. Fiber opponents argue that fiber-to-the-home is a 21st century technology that will cost over $450 billion to deploy. Who's right?

It should be clear from earlier economic discussions that no single answer is adequate to describe the cost per subscriber, and, therefore, no single answer will describe the overall costs of a fiber network.

What might be the worst case scenario for fiber deployment? As discussed in the economic section, some FATTH systems with their lean opto-electronic component content, will soon be cheaper for new builds than copper—the cost trends are that overwhelming. In the worst case scenario for fiber optics, fiber technology will be limited to narrowband FATTH installations for predominantly new builds and some rehabilitation projects. As costs progress down the experience curve, in time fiber will capture increasing portions of the rehabilitation market, totally some 2-3% of residential lines per year. This could lead to rewiring half or more of the residential market in 40-60 years, although some estimates are as low as 20-30 years. Telcos will pay for the upgrade as part of their normal, regular maintenance expenditures. The decision to use fiber, copper or any other technology will be made at that time based on its costs to provide a comparable set of services.

If America is indeed rewired with fiber under this scenario, it will result in net savings (both capital and operating) over copper, even in the worst case scenario.

To address the issue of aggregate fiber network costs, we must distinguish between (1) narrowband vs. broadband, and (2) short term vs. longer term perspectives. In addition, per the conclusions broadband economics section, some changes in public policy must be assumed.

First, the issue of deployment timing is addressed. For the longer term perspective, common sense leads us to an answer somewhere between the extreme views on overall network costs: if new services are not allowed or do not materialize, fiber will cost about what copper costs, or it will not be deployed. If public policy on competition in video services is changed and these services do materialize, it will not matter precisely what fiber networks cost as new services will pay for the additional installation costs.

The short term answer to overall fiber network costs depends on what investment fiber will require to get over the hump. For those sources that provide crossover and penetration data together, the burden of this investment can be characterized in terms of percent households wired with fiber either before or after the cost crossover.

After successful prove-in through field trials, a "strategic investment" will probably be required to advance fiber "over the hump" to the crossover point. The strategic investment is the total excess cost of fiber over copper expended in the first few years. This expenditure is required to reduce the investment to acceptable levels by moving the costs down the experience curve—and to break the chicken and egg problem. But it is more than getting the lowest cost solution to the marketplace. It is the investment required so that network engineers can choose from a palette of flexible and financially attractive fiber solutions rather than just the low end solutions available today.

The calculation of the strategic investment is easily done: if the aggregate fiber investments are known, simply subtract what would have been spent on copper. To compute the strategic investment for a given year, multiply the houses to be wired that year times the excess cost of fiber over copper for that year. The cumulative strategic investment is the total for all years to that date. After the crossover, the cumulative strategic investment is reduced as fiber is then cheaper than copper.

Suppose that all houses (really residential access lines) are wired with fiber this year, not with an inexpensive narrowband topology but with full broadband capability. Furthermore, assume that the network in place will last indefinitely, and that copper will never be used again in the loop. The strategic investment with these unrealistic assumptions would be approximately $5,000 × 90 MM homes or $450 billion. This is clearly incorrect.

The magnitude of the strategic investment depends on the winning topologies.

See Exhibit XIII. Here the strategic investment is shown not as an incremental aggregate investment, but instead as an incremental investment per residential access line. Two investments are shown: cumulative through 1993 and 1998. None of the 1993 investments are significant because of the small number of homes likely to have been wired by that year. But even out to 1998, the fiber investment burden is not $5000 per subscriber, but actually much less. In fact, the strategic investment for a (field-tested, fully upgradeable) narrowband fiber system through 1998 is estimated at less than $80 per residence. This strategic investment is difficult to calculate with certainty, as the investment ($7 billion in total) could be reduced almost to zero if systems less costly but perhaps more difficult to upgrade are instead deployed. Furthermore, if volume commitments from customers materialize, suppliers have publicly indicated that the estimate of the strategic investment is more towards the low end of the numbers shown in the exhibit.

The double star strategic investment is much more than FATTH topologies because greater cost reductions are required to get that topology in line with copper costs. Dedicated opto-electronics in designs drive up the strategic investment required to get these designs over the cost hump. The passive star FATTH and passive bus FATTH apparently pay for themselves, although these designs still require field testing and economic confirmation. Costs for opto-electronics in FATTH designs have been spread among many subscribers. Presumably, initial deployment with these designs will begin after field testing has been satisfactorily completed.

To have the broadest set of solutions at hand, some attention will need to be given to even the more costly designs. It would be premature to reject solutions before they have been fully tested, especially for topologies known to offer attractive migration paths to broadband, such as double star. The strategic investment for the narrowband FATTH double star architecture will accrue to about $75 per residence through 1998.

To calculate the excess or strategic investment for broadband fiber systems, the fiber investment is compared to the combined costs of copper and coaxial cable. These costs are added together (sum is currently about $1850) since two services will now be provided: one broadband pipe delivers both telephone and video services. Exhibit XIV shows the strategic investment for broadband. The strategic investment per subscriber is, perhaps surprisingly, about the same as the 1988 strategic investment for narrowband double star. However, this estimate is somewhat misleading as only a small number of homes will be wired with broadband by this year. Furthermore, the timing of this investment is also in question: as mentioned before, deployment really does not begin until public policy has been changed.

The properly calculated strategic investments appears small compared to society gains expected from getting this technology underway. But no one really wants to pay even this strategic investment—not consumers, not taxpayers, not telcos or cable providers and not suppliers. However, until this investment is made, fiber will be stalled on the way to the home.

That does not mean that the strategic investment is being ignored. Suppliers, for example, are making significant investments in fiber techology even with the regulatory uncertainty. In their May 24, 1990 reply comments to the National Telecommunications and Information Administration, Northern Telecom, Inc. noted that:

"Indeed Northern Telecom, Inc. is so committed to providing the benefits of a fiber-optic-based network that, to date, we have invested over $250 million in shareholder funds in FiberWorld-related research. By the end of 1992, we will have invested more than $1 billion and 6,000 person years of scientific and engineering effort into such research."

Knowledge of incremental cost profiles for various services would obviously be useful to facilitate the economic debate. Also useful would be knowledge of the costs to upgrade various narrowband topologies to meet the needs of varous services. Finally, it would be good to know what additional investments would be wise if upgrading to broadband at a later date was a certainty.

F. Are We Making the Right Choices for the Long Term?

The answer depends on where we want to head for the long term. But even if we could agree on objectives, would we even know what the right steps are now? Today's best investments are highly dependent on tomorrow's unknown services. The table below shows some of the tradeoffs that would be made implicitly or explicitly right from the start.

TABLE V.—SAMPLE ARCHITECTURE TRADEOFFS

Network objective	Topology winner	Topology loser
Minimize costs	FATTH	FTTH.
Future flexibility	FTTH	FATTH.
CATV only	Passive star or bus	Double star.
Video on demand	Double and triple star	Passive star or bus.
2-way switched video	To be determined	To be determined.

Note.—Field trial tests may change these observations.

To complicate matters for network planners as well as for public policy-makers, today's lowest installed first cost options are not necessarily the lowest cost system 10 years from now; or best system for migration to switched broadband services.

COMPETITION IN VIDEO SERVICES

It is important to note in this paper that, if the longer term objective of fiber deployment is to modernize our communications network to realize various benefits can expect to be disappointed unless, and until, public policy barriers to providing video services are removed.

Fiber systems are emerging from the regulatory gauntlet with low cost solutions, but these FATTH systems may not necessarily be accompanied by the promised long term benefits of fiber. Furthermore, these FATTH systems may not be deployed expeditiously. The slow depreciation (a problem others have addressed) and economic replacement of the copper-based subscriber loop could cause the "fibering of America" to last perhaps as long as 40-60 years under current replacement economics. There is little that can change that pace of narrowband fibers deployment—a cost decision—other than offering the prospect of additional network revenues, the broadband trigger. Additional revenues could accelerate the investment required for a fiber-based broadband network.

Discussion of broadband fiber deployment raises questions of who should be allowed to provide various services (such as video transport and video programming), who should pay, as well as who will be allowed what returns on the investment required to get those services underway. These issues are beyond the scope of this paper. However, our economic review suggests that service providers need incentives to install broadband or upgradeable narrowband systems. Clearly, the more the network provider is allowed to do, the greater is his incentive to enhance the network to capture those revenues.

If service providers are not allowed to provide multiple video services, broadband fiber to the home will remain stalled. If they are allowed to provide multiple broadband video services, the deployment of both narrowband and broadband fiber optic technologies will be expedited and the process of cost reduction will be hastened.

CONCLUSIONS

Most assessments of fiber-to-the-subscriber economics conclude that declining costs could "soon" result in cost-effective residential fiber deployment for the provisioning of POTS services. Furthermore, service providers and suppliers interested in installing fiber optics for residential service have publicly stated that fiber is within striking distance of copper costs "now", and will be at cost parity when commercial volume purchases materialize. Based on this review of recent economic evaluations available in the public literature, there is agreement in general terms with these economic statements as they relate to narrowband FATTH systems for the provision of POTS. However, the cost premium for broadband FTTH for the provision of new services may remain substantial without commitments for volume deployment.

The objective in this paper has been to determine whether there is reasonable path forward for fiber networks. We conclude that fiber may well be stalled on the way to the home. Fiber optic network economics presumably will prevail, but deployment may occur at a disappointing pace unless changes are made. Service providers lack strong incentives to deploy even narrowband fiber technology expeditiously and systematically. This suggests slow and uneven progress is in store. Without changes in public policy, the prospects for fiber to the subscriber for broadband switched video service—the type of service for which fiber optic technology is optimally suited—are distant at best. Competition in video services could be one way to stimulate investments in a fiber network.

There has also been speculation about the total cost of deploying a fiber network. It should be clear from this paper that calculating this cost is complex, and that there are a range of possible costs for fiber networks. However, the $450 billion estimate used by some is wrong, because it does not reflect the component cost reduction that will occur as volume materializes.

Our attention should instead be focused on the strategic investment—that is, the incremental expense over monies that would have been spent on copper anyway. This investment may be necessary to stimulate the cost reduction process. While it is impossible to calculate with precision the strategic investment to get "over the hump," it is clear that it is not in the hundreds of billions of dollars. Manufacturers have publicly commented that sufficient volume commitments

would make the cost of fiber comparable to copper plus coaxial cable, thus reducing the size of the strategic investment.

But it is important to realize that the timing of this strategic investment—and the rate of broadband fiber deployment—is highly dependent on public policy incentives—or lack thereof. This is summarized in the following table.

TABLE VI.—EFFECT OF COMPETITION IN VIDEO SERVICES ON THE TIMING OF THE STRATEGIC INVESTMENT

	Competition allowed	Competition not allowed
Narrowband	Strategic investment hastened: Upgradeable fiber-to-the-curb immediately deployed.	Strategic investment delayed: Fiber-to-the-curb deployed upgradeability unknown.
Broadband	Strategic investment hastened: Fiber-to-the-home for new services accelerated.	Strategic investment blocked.

Existing public policy has not only created an unintended bias against fiber, but also bias against the development of new services. Until the biases are removed, fiber penetration rates will be very disappointing. Those counting on the benefits of fiber networks to all of society would find it in their best interest to help address regulatory policy now.

APPENDIX I

DOMESTIC RESIDENTIAL FIBER TRIALS—EARLY 1990

Holding Co.	Operating company	Service date	City, State	Location	Services	Number residences now/target [1]	Transmission mode to home [2]	Topology [3]
1986: BellSouth Svcs	Southern Bell	Nov-86	S Orlando, FL	Hunter's Creek	Voice/TWP and CATV	210 now/251	TWP and MM(2)	Double Star/FTTH.
1987: None.								
1988:								
BellSouth Svcs	Southern Bell	Jun-88	N Orlando, FL	Heathrow	Voice, CATV, ISDN	256 now	SM(2)/Digital	Single Star/FTTH.
Bell Atlantic	NJ Bell	Aug-88	S Brunswick, NJ	Princeton Gate	POTS only	45 now/104	SM(4 dual)/Digital	Double Star/FTTH.
BellSouth Svcs	So Central Bell	Nov-88	Memphis, TN	Grove of Riveredge	POTS only	51 now/99	SM(1)	Double Star/FTTH.
Contel	Contel Service	Dec-88	Ridgecrest, CA	Vista Del Cielo	Voice; CATV later	100 now/394	SM(1)/Digital	Double Star/FTTH.
1989:								
Bell Atlantic	Bell of Penn	Mar-89	SW of Pittsbg., PA	Perryopolis	Voice and CATV	66 now/92	SM(2) Anal/MM(2)	Single Star/FTTH.
US West Comm	NW Bell	Jun-89	Mendota Hts. MN	Kensington	POTS only	97	SM/Digital	Double Star/FTTH.
BellSouth Svcs	Southern Bell	Jul-89	Lake Norman, NC	Governor's Island	POTS only	42	SM(1)/Digital	Double Star/FTTH.
BellSouth Svcs	Southern Bell	Sep-89	Savannah, GA	The Landings	POTS only	192 now/216	SM(1)/Digital	Double Star/FTTH.
BellSouth Svcs	Southern Bell	Aug-89	S Orlando, FL	Hunter's Creek II	POTS only	117	SM(1)/Digital	Double Star/FTTH.
BellSouth Svcs	Southern Bell	Jul-89	Miamai, FL	Coco Plum	POTS only	119 now/200	SM(1)/Digital	Double Star/FTTH.
SW Bell	SW Bell Tel	Sep-89	Leawood, KA	Hallbrook Farms	POTS only	132	SM/TWP Hybrid	Double Star/FTTH.
SW Bell	SW Bell Tel	Oct-89	Olathe, KA	Cedar Creek	POTS only	260	SM/Digital	Fiber to Curb/FATTH.
Ameritech	Illinois Bell	Dec-89	NW of Chicago, IL	NW Suburbs	POTS only	300	SM(2)/Digital	Fiber to Ped/FATTH.
SW Bell	SW Bell Tel	Dec-89	Ft Worth, TX	Mira Vista	Voice and CATV	80	SM/Analog video	Double Star/FTTH.
NYNEX	NE Tel/Raynet	Dec-89	N of Boston, MA	Lynnfield	POTS only	100	MM	Fiber to Curb/FATTH.
1990:								
BellSouth Svcs	Southern Bell	Mar-90	Charleston, SC	Lakeview Terrace	POTS only	100	SM(1)/Digital	Double Star/FTTH.
BellSouth Svcs	Southern Bell	Mar-90	Charlotte, NC	Morrocroft	POTS only	96	SM(1)/Digital	Double Star/FTTH.
Bell Atlantic	C&P Tel of VA	Apr-90	New Wash, DC	Cascades	POTS/CATV later	126	Some SM(1)/Digital	Star FATTH and FTTH
BellSouth Svcs	Southern Bell	Jun-90	Atlanta area, GA	NA	NA	NA	NA	NA
BellSouth Svcs	Southern Bell	Jun-90	Columbia, SC	The Summit	POTS only	285	SM(1)/Digital	Double Star/FTTH.
GTE Service Co	Gen't Tel of CA	Jun-90	Cerritos, CA	Cerritos	Voice, CATV, other	705 1st/16000	Coax and SM/Digital	Mixed: Testbed
Contel	Contel of NY	Jun-90	Sidney, NY	Sidney, NY	POTS only	600	SM/Digital	Double Star/FTTH.
United Tel	United Tel of FL	1990?	Ft Myers, FL	The Galeway	Voice and CATV	NA	Coax; fiber delayed	NA
US West Comm	Mountain Bell	1990	Scottsdale, AZ	Desert Hills	POTS only	102	SM/Digital	Double Star/FTTH.

[1] Planned expansions listed, if known.
[2] SM = Single Mode Fiber; MM = Multimode; TWP = Copper Twisted Pair.
[3] FTTH = Fiber To The Home; FATTH = Fiber Almost To The Home.
Completed Trials: Leawood.
Sources: "Lightwave", "The Loop", ComForum, "Cable-Telco Report", Braxton analysis.

APPENDIX II. DESCRIPTION OF LOOP ARCHITECTURES

FTTH—Single Star: Network with one central office mode which is connected to all subscribers in a serving area. Access lines look like rays of a star.

FTTH—Double Star: Network consisting of a central office and remote terminals (RT) with active electronics. Central office connection to RT looks like a single star, RT to subscriber also looks like a star. Similar to current copper topology.

FATTH—Triple Star: An extension of the double star. Instead of two segments there are three, linking the central office, RT's and ONI's (optical network interface).

FATTH—Passive Star: Similar in layout to a single star, but usually has active components only at or near the central office. Conserves usage of optical components.

FATTH—Passive Bus: Signal delivery to many homes fed by a trunk fiber that comes close to the home from a central office site. A tap runs to the home off the bus. Fiber-to-the-curb designs are generally bus topology. Conserves usage of optical components.

FATTH—LAN-Like: A ring layout to which the central office (fiber connection) and residences (copper) are connected.

TABLE VII.—SUMMARY OF FIBER ARCHITECTURES IN THIS STUDY

	Broadband	Norrowband
Single Star		FTTH.
Double Star	FTTH	FTTH.
Triple Star [1]		FATTH.
Passive Star	FATTH	FATTH.
Passive Bus [2]	FATTH	FATTH.
LAN-Like		FATTH.

[1] Also referred to as fiber-to-the-pedestal, and fiber-to-the-curb.
[2] Also referred to as fiber-to-the-curb.

APPENDIX III. SOURCES OF ECONOMIC INFORMATION

"Advanced Fiber Optic Networks," ElectroniCast, 1988-1989.

"Cost Projections for Fiber in the Loop," P.W. Shumate, Jr., IEEE, 2/90.

"Capital Budgeting For Technology Adoption in Telecommunications: The Case For Fiber," B.L. Egan and L.D. Taylor, Center For Telecommunications and Information Studies, 4/89.

"A Cost Analysis of a Fiber Upgrade For a Coaxial Cable Network To Support On-Demand Video," D.P. Reed and M.A. Sirbu, Carnegie Mellon University, 9/89.

"Cost Analysis of Merging Broadband Fiber Loop Architectures," M.I. Eiger, H.L. Lemburg, K.W. Lu and S.S. Wagner, Bellcore, 8/89.

"Cost Comparison if Fiber to the Home Topologies," R.W. Pollock, P.E. Goessing, Siecor Corporation, 9/89.

"Cost Comparison of Emerging Broadband Fiber Loop Architectures," K.W. Lu and S.S. Wagner, Bellcore.

"Cost Sensitivity Study For Fiber Optic Systems in Distribution Plant," J.R. Palladino and L.F. Garbanati, Bellcore, 1989E.

"The Costs of Telephone Company Installation of Fiber To the Home," Research & Policy Analysis Department, National Cable Television, 6/89.

"Economic Considerations of Fiber in the Loop Plant," W.E. Ensdorf (AT&T Bell Labs), M.L. Keller (AT&T Network Systems), C.R. Kowal (Southwestern Bell Telephone), 6/88.

"Economics of Fiber Penetration in the Distribution Plant," S.K. Malhotra, Bellcore (1989E).

"Economics of Fiber-To-The-Home," J. Coleman, Southwestern Bell Telephone.

"An Engineering and Policy Analysis of Fiber Introduction Into the Residential Subscriber Loop," M. Sirbu, F. Ferrante, and D. Reed, Carnegie Mellon University, 1988.

"Fiber in the Subscriber Loop," ComForum, 12/89.

"Fiber Optics & Video: Telcos Vs. Cable Operators in the Battle To Fiber The Home," Probe Research, Inc.

"Fiber Optics To The Subscriber: Objectives, Costs and Technology Assessment.": L.V. Garbanati and J.R. Palladino, Bellcore, 6/88.

"Fiber-Loop Architectures for the 1990s," H.L. Lemburg and S.S. Wagner, "Bellcore Exchange," 1/90.

"Installed First Cost Economics of Fiber/Broadband Access to the Home," K. Lu, R. Wolff and F. Gratzer, Bellcore, 11/88E.

"Lightwave," (Several Issues), 1988-1990.

"An Optical Investment Strategy Model for Fiber to the Home," M.A. Sirbu and D.P. Reed, Carnegie Mellon University, 8/88.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Chair.

(The remarks of Mr. McCLURE pertaining to the introduction of S. 2804 and S. 2805 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolution.")

A TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. CONRAD. Mr. President, today is a remarkable day in the history of a remarkable man: my colleague and friend, QUENTIN BURDICK of North Dakota.

I am not the first to stand in this Chamber and deliver a tribute to QUENTIN BURDICK on his 30th anniversary in the U.S. Senate. But my perspective on QUENTIN BURDICK's long and distinguished career is, I think, more personal than any other Senator's.

When I was a boy growing up in North Dakota, QUENTIN BURDICK was already a political force to be reckoned with, already a seasoned public servant. He was also a frequent guest at our family dinner table. I trace many of my early memories of politics in North Dakota back to those dinner-table talks.

As a boy himself, QUENTIN was present at the creation of the Non-Partisan League, North Dakota's version of the "Prairie populism" that swept the Great Plains during the early part of the century. As a man, he became the standard-bearer for the combined Democrat-NPL Party, perennial candidate for a new political party that slowly remade the political map in North Dakota.

Few people remember today, but QUENTIN took some hard knocks in those early days. He lost his first race. He lost his second race. In fact, he lost six races in a row. Most people would have given up, but not QUENTIN BURDICK.

Then came 1958, the year QUENTIN ran for the U.S. House. He won. It was the first time our party had been successful in North Dakota, and his success galvanized all of us. Less than 2 years later, Bill Langer died, and QUENTIN threw himself into a race with a very popular former Governor. His slogan was "Beat Benson with Burdick." Benson was not his opponent—Benson was the U.S. Secretary of Agriculture.

It was that fight that crystallized what QUENTIN BURDICK stood for, and what he would become for our State. It was a critical time for our farmers and our rural economy. QUENTIN stood up to fight for the farmers and the people of North Dakota. QUENTIN is not a farmer—he's a lawyer. And as a lawyer he had defended farmers in trouble, going to court time after time, to help them keep their land and preserve their way of life.

The people of my State knew him, and they trusted him, and they elected him. He won in 1960. And he has kept right on winning for the past 30 years.

As a young man, I worked for QUENTIN in some of those winning campaigns, and I learned a great deal from him. In North Dakota, we still campaign the old-fashioned way. I was with him when he knocked on countless doors, drank numberless cups of coffee in hundreds of small town cafes, rode in hundreds of Main Street parades, and shook hand after hand after hand in every corner of North Dakota.

I was with him in 1970—a tumultuous time for the Nation and North Dakota. It was also the first time television and modern campaigning came to our State. It was the first time anybody tried the now-infamous "30-second spot" in North Dakota, and QUENTIN was the target of a very nasty attempt to misrepresent his record, and his values.

But I will tell you something. It did not work. It could not. He won in a landslide, because the people of North Dakota knew QUENTIN BURDICK. You couldn't tell lies about QUENTIN BURDICK to the people of North Dakota, because they'd all talked with him, shaken his hand, shared those cups of coffee with him. They had brought him their problems, told him what was on their minds. And they trusted him.

And that is the key to QUENTIN BURDICK, and the secret to his long, successful career. QUENTIN BURDICK never forgets who sent him here, and why. In all these years, he's never caught Potomac fever. He never started thinking he was something special because he served in the U.S. Senate.

He always keeps the concerns of the people of North Dakota first and foremost, always thinks about what is happening back home, not inside the Beltway. His focus has always been on North Dakota, and what he can do to make things better for the people of our State.

And that is why the people of North Dakota have a special fondness for QUENTIN. They've grown up with him. They know he is not here to feather his own nest, or represent some special interest. They know he cares about them, their families, and their future.

I will not even attempt to talk about his long list of legislative accomplishments here, or the role he has played in so many historic debates in this Chamber. I want to talk about his leadership.

We talk a lot about values these days in Washington. QUENTIN does not talk about values, he lives them. In more than 30 years of public service, his values have never wavered, never changed.

QUENTIN believes that every person ought to be able to go as far as talent and hard work will take them. He believes in knocking down the barriers of discrimination, poverty, hatred, and inequality. He believes everybody ought to have a fair chance at the America dream.

And throughout his long career, he has shown a special quality of courage, quietly standing up time after time to represent those values. He has never been flashy; he has never been dramatic or theatrical. He never seeks the spotlight or the glare of the TV lights.

Some people lead with words; others lead by example. For 30 years, QUENTIN BURDICK has led this chamber through quiet integrity, quiet courage, quiet conviction, and quiet effectiveness. The Senate, North Dakota, and the Nation have been the better for it.

Mr. President, let me just conclude by saying I have been close to QUENTIN BURDICK through all of my growing up and all of my adulthood. There is no more decent, better man that I know than QUENTIN BURDICK. He cares deeply about the people of North Dakota.

But even beyond our borders, he cares deeply about the people who need a friend, not because they can provide a campaign contribution, not because they are rich and powerful, not because they can host him at some fancy dinner party, but because he cares about what happens to them, their opportunities in this country.

Mr. President, I think all of us are better for having known QUENTIN BURDICK. With that, Mr. President, I thank the Chair and yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

THE DEFICIT

Mr. NICKLES. Mr. President, with the discussions recently concerning the budget summit negotiations, and taxes. Everything is on the table. We have to reduce the deficit. I thought I would share with my colleagues some information that my staff has compiled concerning the deficit.

Many deficit figures have been bouncing around, and for the most part we hear projections of what the deficit might be in 1991 or 1992, and some people are trying to project what the deficit will be in 1995.

Quite frankly, we have not been very good at projecting what the deficit is going to be in the year 1990. We are now in the ninth month of fiscal year 1990, and the deficit is increasing. The year-to-date deficit through the month of May was $151 billion. That is a 33-percent increase over last year.

A lot of people might say, Why is it higher? What have we done? We did not have a major tax bill last year or really significant spending increases, or changes. I point out to my colleagues, and I will print it in the RECORD, that spending this year as compared to last year has gone up by 8.5 percent. Revenues have not grown as rapidly. Revenues have grown by 4.1 percent.

So spending has been growing twice as fast as revenues. Revenues have been growing just about as fast as inflation, but spending has been growing twice as fast as inflation.

So we have seen the deficit increase. Last year, the deficit in the first 8 months of the fiscal year was $113 billion. This year, it is already $151 billion.

I might tell my colleagues that last year, for the entire year, the Federal deficit was $152 billion. So in 8 months, the deficit this year is almost equal to the deficit we had last year. Again why? Because spending has gone up 8.5 percent compared to last year.

If you compare the first 8 months of last year with the first 8 months of this year, spending has increased 8.5 percent and revenues have increased 4 percent. I make these comments so my colleagues will have the facts. These figures come from the monthly Treasury statement. These are facts, not allegations as to who is at fault.

But I think it very clearly points out that the real problem is that spending is growing far beyond estimates. As a matter of fact, according to the administration's original estimate for 1990, spending would grow at 4.8 percent. It is growing almost twice as fast. They also estimated that revenues would grow at 8 percent, and right now revenues are not growing as fast, only about 4 percent.

Maybe that is because of the slowdown in the economy. Maybe it is because of real estate losses. Perhaps it is for other reasons. Revenues are growing slowly, and expenditures are growing quickly. Instead of having $113 billion deficit as we did last year for the first 8 months, we have a $151 billion deficit that I estimate will probably be much closer to $200 billion at the end of this year.

I make these points for a couple of reasons. One, because people are wrestling with a budget package and are talking about 1991 and the year 1995 and acting like we have precision over the outcome in fiscal matters for the next several years. I make this point; we have not been very good at estimating the year we are in. A couple of recommendations: One is that when we are working off of base figures, we should not add inflation under current services for all programs.

When we are working off of a baseline, we should look at last year's actual expenditures. I think we would have a more concrete starting point on which to base our estimates and projections. I think that would help stem the ever increasing and rapidly growing amount of Federal expenditures.

I might also add, just for my colleagues' information, the percentage of Federal outlay increases for the last couple of years. In 1987, outlays increased only 1.4 percent. That was the lowest amount in the last 20 years. In 1988, outlays increased 6 percent; in 1989, 7.4 percent. I will also quote the increases in receipts, taxes, or growth in income. In 1987, receipts grew by 11 percent; in 1988, by 6 percent; and in 1989, 9 percent. So, historically, revenues have been growing very rapidly. It just happens this year that outlays are growing much faster.

I would encourage the negotiators who are trying to put together a budget package to focus our attention not just on trying to raise revenues—that is what has the media's attention—to work on the real solution to the problem. The problem is that outlays are out of control; far beyond projections, far beyond growth in the last 2 years. So, if we are going to be successful, I think it is vitally important we control outlay growth.

Mr. President, I ask unanimous consent that the two tables that I referred to be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

MONTHLY TREASURY STATEMENT COMPARISONS

[Dollars in millions]

	Monthly receipts	Cumulative	Monthly outlays	Cumulative	Monthly deficit/ (surplus)	Cumulative
Fiscal year 1989:						
October	$63,582	$63,582	$90,590	$90,590	$27,009	$27,009
November	64,320	127,902	93,454	184,044	29,134	56,143
December	93,655	221,557	105,097	289,141	11,442	67,585
January	89,306	310,863	86,500	375,641	(2,806)	64,779
February	61,897	372,760	89,769	465,410	27,871	92,650
March	68,205	440,965	103,984	569,394	35,779	128,429
April	128,892	569,857	88,320	657,714	(40,572)	87,857
May	71,025	640,882	96,491	754,205	25,466	113,323
June	108,249	749,131	100,460	854,665	(7,789)	105,534
July	66,191	815,322	84,430	939,095	18,239	123,773
August	76,136	891,458	98,285	1,037,380	22,150	145,923
September	99,233	990,691	105,299	1,142,679	6,066	151,988
Total		990,691		1,142,680		151,988
Fiscal year 1990:						
October	68,426	68,426	94,428	94,428	26,002	26,002
November	71,213	139,639	100,958	195,386	29,746	55,748
December	89,130	228,769	103,903	299,289	14,774	70,522
January	99,538	328,307	91,271	390,560	(8,267)	62,255
February	65,170	393,477	100,434	490,994	35,264	97,519
March	64,819	458,296	118,155	609,149	53,336	150,855
April	139,624	597,920	97,107	706,256	(42,518)	108,337
May	69,212	667,132	111,764	818,020	42,552	150,889
June						
July						
August						
September						
Fiscal year 1990 compared to fiscal year 1989 (percent):						
October	7.6	7.6	4.2	4.2	−3.7	−3.7

MONTHLY TREASURY STATEMENT COMPARISONS—Continued

[Dollars in millions]

	Monthly receipts	Cumulative	Monthly outlays	Cumulative	Monthly deficit/ (surplus)	Cumulative
November	10.7	9.2	8.0	6.2	2.1	−0.7
December	−4.8	3.3	−1.1	3.5	29.1	4.3
January	11.5	5.6	5.5	4.0	194.6	−3.9
February	5.3	5.6	11.9	5.5	26.5	5.3
March	−5.0	3.9	13.6	7.0	49.1	17.5
April	8.3	4.9	9.9	7.4	4.8	23.3
May	−2.6	4.1	15.8	8.5	67.1	33.1
June						
July						
August						
September						

Source: Compiled from the May 1990, Monthly Treasury Statement.

HISTORICAL BUDGET DATA—1970 TO 1990 PLUS 1991 OPTIONS

[In millions of current dollars]

Year	Total outlays		Total receipts		Federal deficit		Gross Federal debt		Gross National product		Total outlays	Percent of GNP	Total receipts	Percent of GNP	Federal deficit	Percent of GNP
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent						
1970	195,640	NA	192,807	NA	2,842	NA	380,921	NA	990,200	NA	195,649	19.8	192,807	19.5	2,842	0.3
1971	210,172	7.4	187,139	3	23,033	710	408,176	7	1,055,900	7	210,172	19.9	187,139	17.7	23,033	2.2
1972	230,681	9.8	207,309	11	23,373	1	435,936	7	1,153,100	9	230,681	20.0	207,309	18.0	23,373	2.0
1973	245,707	6.5	230,799	11	14,908	−36	466,291	7	1,281,400	11	245,707	19.2	230,799	18.0	14,908	1.2
1974	269,359	9.6	263,244	14	6,135	−59	483,893	4	1,416,500	11	269,359	19.0	263,244	18.6	6,135	.4
1975	332,332	23.4	279,090	6	53,242	768	541,925	12	1,522,500	7	332,332	21.8	279,090	18.3	53,242	3.5
1976	371,779	11.9	298,060	7	73,719	38	628,970	16	1,698,200	12	371,779	21.9	298,060	17.6	73,719	4.3
1977	409,203	10.1	355,559	19	53,644	−27	706,398	12	1,933,000	14	409,203	21.2	355,559	18.4	53,644	2.8
1978	458,729	12.1	399,561	12	59,168	10	776,602	10	2,171,800	12	458,729	21.1	399,561	18.4	59,168	2.7
1979	503,464	9.8	463,302	16	40,162	−32	828,923	7	2,447,800	13	503,464	20.6	463,302	18.9	40,162	1.6
1980	590,920	17.4	517,112	12	73,808	84	908,503	10	2,670,600	9	590,920	22.1	517,112	19.4	73,808	2.8
1981	678,209	14.8	599,272	16	78,936	7	994,298	9	2,986,400	12	678,209	22.7	599,272	20.1	78,936	2.6
1982	745,706	10.0	617,766	3	127,940	62	1,136,798	14	3,139,100	5	745,706	23.8	617,766	19.7	127,940	4.1
1983	808,327	8.4	600,562	−3	297,764	62	1,371,164	21	3,321,900	6	808,327	24.3	600,562	18.1	207,764	6.3
1984	851,781	5.4	666,457	11	185,324	−11	1,564,110	14	3,687,700	11	851,781	23.1	666,457	18.1	185,324	5.0
1985	946,316	11.1	734,057	10	212,260	15	1,816,974	16	3,952,400	7	946,316	23.9	734,057	18.6	212,260	5.4
1986	990,258	4.6	769,091	5	221,167	4	2,120,082	17	4,180,900	6	990,258	23.7	769,091	18.4	221,167	5.3
1987	1,003,830	1.4	854,143	11	149,687	−32	2,345,578	11	4,430,200	6	1,003,830	22.7	854,143	19.3	149,687	3.4
1988	1,064,044	6.0	908,954	6	155,090	4	2,600,753	11	4,792,200	8	1,064,044	22.2	908,954	19.0	155,090	3.2
1989	1,142,900	7.4	990,800	9	152,100	−2	2,866,188	10	5,151,300	7	1,142,643	22.2	990,961	19.2	152,100	3.0
1990 estimate	1,197,236	4.8	1,073,451	8	123,785	−19	3,131,000	9	5,488,900	7	1,197,236	21.8	1,073,451	19.6	123,785	2.3
Budget:																
Base	1,297,000	8.3	1,137,300	6	160,100	29	3,403,000	9	5,892,400	7	1,297,000	22.0	1,137,300	19.3	160,100	2.7
President	1,277,000	6.7	1,151,000	7	127,000	3	3,403,000	9	5,892,400	7	1,277,000	21.7	1,151,000	19.5	127,000	2.2
House	1,279,700	6.9	1,156,300	8	123,400	0	3,403,000	9	5,892,400	7	1,279,700	21.7	1,156,300	19.6	123,400	2.1
Senate	1,269,600	6.0	1,162,300	8	107,300	−13	3,403,000	9	5,892,400	7	1,269,600	21.5	1,162,300	19.7	107,300	1.8
Average yearly increase/decrease		9.1		8.8		65		10.8		8.7		21.8		18.8		3.0

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oklahoma is recognized.

OUR DEPENDENCY ON IMPORTED OIL

Mr. NICKLES. Mr. President, this week the President of the United States made a statement dealing with a moratorium on offshore oil and gas leasing and called for a significant moratorium, a 10-year postponement for leasing in many areas both off the east and the west coasts. His decision may well be a political realization of the political dilemmas that we face in Congress, but I might mention that it leaves something to be desired concerning the realities of our energy dependency on imported oil.

Mr. President, our country is becoming far too dependent on imported oil. The dependency has risen dramatically. The cost to Americans and the export of dollars has also risen dramatically and will continue to rise throughout this decade.

This is a real problem. Most of my colleagues can easily recall we had shortages both 1973 and 1979. The shortage in 1973 was caused because we were importing about 34 percent and there was curtailment. We also had a shortage in 1979. That was when we were importing about 43 percent and there was curtailment because of events that happened in the Middle East. I think my colleagues are well aware of the fact that those events in the Middle East could repeat themselves. The President of Iraq had made some statements saying maybe the oil weapon should be considered again. I just note this from the Wall Street Journal:

> Calls in the government-controlled Iraqi press for an Arab investment embargo and use of the "oil weapon" against Western nations suggested that radical Arabs are groping for ways to impose their will.

They just had their conference in Baghdad where that was mentioned repeatedly.

My colleagues need to be aware of that because that is what happened in 1973. It is what happened in 1979 that caused enormous economic problems for this entire country, and we saw the price of oil rise dramatically as a result. Back then we were importing 43 percent of our oil. Right now today we are importing half of our oil. Those figures will continue to rise.

Our dependency on imported oil has risen dramatically over the last few years. Maybe a lot of people are not aware of it, but in 1985 we only imported 32 percent. That had risen in 1986 to 38 percent; in 1987 to 40 percent; 1988 to 42 percent; and last year, 1989, it was 46 percent of our gross imports as a percent of our consumption was imported oil. This year it would be right at 50 percent. My projection is by the year 1995 it will be 60 percent. And we are talking about a lot of money. In 1989, our country exported $49 billion; that is, 45 percent of our trade deficit was for imported oil—$49 billion.

Mr. President, that was relatively cheap oil. Most of that was $17 or $18 oil. I would not be a bit surprised if

you are looking at significantly higher prices throughout the 1990's.

So, when we start looking at, not 46 percent but maybe 60 percent, or possibly even 70 percent by the end of this decade, and we are talking about $30 oil, you will realize we will be spending $150 billion in exported dollars to purchase imported oil. And that can cause a real problem.

It also means we are going to be very vulnerable to people like Mr. Saddam Husayn, who says they should use oil as a weapon. This is the same individual who said, yes, they should consider the use of chemical weapons against Israel.

So, we are all aware these events could happen. I hope and pray they do not happen in the Middle East. That can trigger, not only a world problem, a Middle East problem, maybe even a Middle East war. I hope that does not happen. Or we could be talking about an oil embargo or even events that really have draconian impacts on the American economy. We need to be aware of it.

I think that means we need to develop our domestic resources and that includes drilling on OCS lands, that includes the development of AMWAR. That includes trying to enhance other sources in the United States, including nuclear power. It includes trying to enhance the domestic oil and gas industry which we have not done very much of, of late.

Mr. President, I noted the President's decision. I cannot say I am surprised. I think he noted political reality, what would happen in Congress if he had come out for an aggressive OCS program, so I am not surprised. But I will say I am disappointed and I will say I am really concerned about what kind of levels of dependency this country will be facing within a very few years. I am afraid it leaves us very vulnerable, very much at the discretion of a few countries, who control the amount of marginal oil for export, primarily in the Middle East. Many of those people have not been friends or allies of the United States.

I yield the floor.

The PRESIDING OFFICER (Mr. KOHL). The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent we might continue for 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECYCLED PAPER FOR THE GPO

Mr. FORD. Mr. President, 1 year ago, the Joint Committee on Printing began buying recycled papers for Government use. Despite the skepticism, we heard then, as to the availability and price of recycled paper, our agent, the Government Printing Office, has found these products available, and on an average at costs 12 percent below what we were paying the year before.

I believe this program is an important first step toward turning the Government into a principal user of recycled paper products. And, I believe we have made a success of it. But, it is only a first step.

The Environmental Protection Agency surveyed the paper industry and recommended the various recycled paper stocks that it felt were available. We adopted these recommendations, but because EPA felt certain products could not be competitively purchased or were not available in sufficient quantity, several of the most commonly used papers have not been purchased as recycled fiber products.

Mr. President, as chairman of the Joint Committee on Printing, I have taken steps to move this process forward—steps that I hope will make recycled paper available in all categories the Government most commonly uses in printing.

I have had new specifications drawn and existing specifications adjusted so that recycled paper for copiers, laser printers, writing stationery and other Government publications is available. In addition, I have written to the Public Printer asking that he purchase recycled newsprint for the CONGRESSIONAL RECORD and the Federal Register.

It may take time to find these recycled products in the marketplace. But, if these products are not available immediately, they will be soon. The American paper industry is a vital and progressive industry adapting to and satisfying customer demands. Federal Government paper purchases amount to 486,000 tons of paper—roughly 2½ percent of the U.S. paper industry's sales. But, I am sure that when the industry reads the Joint Committee on Printing's new specifications and knows exactly the descriptions of what the Government is prepared to buy, it will only be a matter of time before these recycled products are available in sufficient quantity. And, if past practice holds true, State and local governments will set their paper purchase standards along lines similar to ours. Some already have begun this practice.

Mr. President, all of us have been concerned with America's waste problem—landfills reaching capacity—no place to put what our society wants to dispose of. That is why we passed the Resource Conservation and Recovery Act. I cannot tell you how many copies of yesterday's newspaper, how many pounds of junk mail, shredded computer printouts, or other discarded pieces of paper will be taken out of the waste stream and reprocessed and reused because of the changes I have announced here today. Compared to the mountains of trash collected in this country every day, it may appear a modest amount. But, it is another step forward. It does give strength to emerging recycling enterprises. And, it sends the U.S. paper industry an important message—you have a market—make competitively priced recycled paper products and the U.S. Government is prepared to buy them to fill its needs.

DISCOVERY AIRWAYS

Mr. FORD. Mr. President, Cabinet departments as components of the executive branch are expected to promote the policies of the administration. As a member of the opposition party. I may not always agree with those policies and that, as we say in Kentucky, is what makes a horse race.

But I do expect, and we all have a right to expect, that the Cabinet official and the executive department will enforce existing laws. Ideology should not prevail over statute, and exceptions should not displace the rule.

I also expect, and we all should expect, that our Government has an obligation first to serve and protect its own citizens over foreign interests. This seems basic to me, and should not require explanation to anyone engaged in government service.

But I wonder, Mr. President, if we need to help the Department of Transportation understand these concepts. The Department created a bad precedent when they granted temporary operating rights to an airline in Hawaii called Discovery Airways. The Department itself apparently had doubts about Discovery's ownership. There were strong indications that the management and financing and ownership of the airline were not under the control of U.S. citizens, as required by U.S. statute. The Department apparently was worried about the veracity of Discovery's officials in providing information to the Department. How do I know the Department was concerned about these things? Because when they granted the temporary operating rights, they asked an administrative law judge to hold a hearing and determine the facts of Discovery's ownership, as well as its compliance disposition.

Now it seems to me if I have doubts about a company's ownership, and honestly, I would hesitate about giving that company an exemption to a Federal law. But the Department did not. I asked the Department at a hearing why they did not withhold the certificate until these issues were cleared up, and the answer was that it was so important to encourage new entry in the market that Discovery was allowed to go ahead. Discovery was—and is—in competition with two air carriers which are U.S.-owned and managed, as required by statute. Now Discovery

claims it cannot wait for a hearing and has proposed a settlement.

Mr. President, a settlement before they have gone before their administrative law judge.

That settlement was negotiated with the public counsel of the Department of Transportation. This settlement—and get this—admits that Discovery was owned and controlled by non-U.S. citizens—against the law—and further states that Discovery "failed to provide complete, candid and accurate information to the Department in the course of the application proceedings." Discovery is pushing this agreement. They are admitting that they misrepresented the facts.

The settlement further proposes a fine on themselves of $50,000, and further extension—this is the gimmick—but further extension of 6 months or more to allow Discovery time to comply with the law, comply with the ownership requirements of the U.S. law.

In other words, Mr. President, they have been operating illegally for months, competing with our own legal carriers and now are seeking more time to meet requirements the Secretary should have forced them to meet in the first place.

Yesterday the administrative law judge postponed the hearing and forwarded the proposed settlement to the DOT official who will make the final decision. The judge opposed acceptance of the settlement, cited Discovery's continued misrepresentations and stated that "cancellation, not extension of the existing exemption would appear to be the more appropriate action by the Department." Mr. President, I am relieved that finally someone involved in this case seems to show some common sense.

I have written the Secretary of transportation, Mr. Skinner, and have been joined by my good friend, the senior Senator from Hawaii. We have urged him to be wary of accepting such a settlement and of allowing continued operations of a carrier which has misrepresented significant details about its ownership and financing. The Secretary should not get so feverish about competition that he ignores the law on the books, and fails to protect the rights of U.S. carriers who comply with that law. We have told the Secretary that we are reviewing legislation which would prohibit this type of activity in the future and are considering whether a hearing is in order. I hope that reason will prevail, and the Department of Transportation will recognize the importance of protecting U.S. carriers against foreign owned entities which flout our laws.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. DIXON. Mr. President, I want to pay tribute to an extraordinary person, a person who has given his life—including 30 years in the Senate—to his State. Senator QUENTIN BURDICK is this person.

I would like to take a moment to reflect on what a man like QUENTIN means to our Nation. In an era of the megacity, megacorporation, and megastate, QUENTIN BURDICK represents the other side of America. He represents small town and rural America: the farmer, the school teacher, the miner. He represents the average American, people who would have a much smaller voice if it were not for QUENTIN.

The droughts of 1988 and 1989 hit North Dakota and the other farm States hard. QUENTIN BURDICK worked to provide relief for his State. QUENTIN was a strong advocate of the drought relief bill that Congress eventually approved. This timely assistance helped farmers pay their bills and get ready for another year.

One out of every four children in rural America lives in poverty. QUENTIN has worked to improve the lives of these children and their parents. He has defended rural electric programs, transportation services for small towns, and rural health programs.

I would also like to say what QUENTIN BURDICK has done for me. As a new Senator, he went out of his way to befriend me. He did not do it because he wanted something from me. He did it because he wanted to help a new Senator.

QUENTIN comes from a time when being in the Senate meant knowing all 100 colleagues well. It seems these days that we are all pulled apart. We really do not get to know our colleagues well. We do not have the time to discuss the issues of the day together and what they mean to us personally.

QUENTIN has always taken the time to know his colleagues. He is willing to give us the time to talk things through and because of this, he is an irreplaceable asset to his colleagues, to the Senate, and to his State.

QUENTIN BURDICK is also a man known for his good common sense and quiet way of getting things done. He does not make a lot of noise, but he gets a great deal accomplished.

His legislative history includes everything from providing adequate drinking water to supporting Head Start Programs. He has been involved in every major farm bill since 1960, when he first came to the Senate. He formed the Senate Rural Health Caucus to investigate the health care of rural Americans. He has supported the efforts of small towns and rural areas to receive much needed air and train service. He has worked to make sure that good highways reach all Americans, not just the big cities. He has worked to improve education in low population areas. He has done all this quietly. A lot can be learned from a man like QUENTIN BURDICK.

In this large Nation of ours, a man like QUENTIN BURDICK is sorely needed to make sure the people of small town and rural America are heard. He is needed in this Senate and by his colleagues. So I say, Mr. President, thanks QUENTIN BURDICK, for your leadership, your wisdom, your friendship, and your outstanding service.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING QUENTIN BURDICK'S 30 YEARS OF SENATE SERVICE

Mr. DOLE. Mr. President, I rise today to observe a real milestone in Senate history. Thirty years ago today, the people of North Dakota elected QUENTIN BURDICK to the U.S. Senate, where he has served them ever since. Thirty years in this body is impressive enough, but when you consider that some 1,792 Americans have served in the Senate, and only 36 have reached the 30-year mark, his record of service is even more impressive.

QUENTIN BURDICK knows all about the ups and downs of politics. He picked himself up after six electoral defeats before winning election and entering a long and distinguished career in public service. In his years in the Senate, he has served on no fewer than nine different committees, ascending to chairman of the Environment Committee and the Agriculture and Rural Development Appropriations Subcommittee.

As a fighter for rural America, Senator BURDICK was among the first to recognize the problems of health care delivery to small towns. His commitment led him to organize the Senate Rural Health Caucus to tackle an issue that is crucial to our small towns and rural communities.

Mr. President, to last 30 years in this body, you have to be dedicated to the people who elect you. And no doubt about it, QUENTIN BURDICK has gone the distance for his constituents and his State. Being chosen to represent the people of your State six times is perhaps the greatest tribute a Senator can receive. Today we recognize this exceptional man for 30 years of service to his State and to the Nation.

TRIBUTE TO QUENTIN BURDICK

Mr. GORE. Mr. President, it is my privilege to rise today to honor a longstanding Member of the Senate in recognition for his exceptional leadership and tireless efforts on behalf of both the people of the United States and those of his home State, North Dakota. I congratulate Senator QUENTIN BURDICK on his many accomplishments over his 30 years serving in the Senate. Only 35 others have ever reached this benchmark, which in itself is a testimony to the persistence and endurance of Senator BURDICK.

During his career, Senator BURDICK has used his expertise and influence to make significant gains for farmers, the aged, and our global environment, just to name a few areas in which his presence has been felt. As the founder and cochair of the Senate Rural Health Caucus, he is certainly to be commended for his support of affordable health care.

I feel a personal affinity for Senator BURDICK since we are both the sons of Members of Congress. This is heightened by the fact that not only have I had the pleasure of working with Senator BURDICK, but my father before me served with him as well. Senator QUENTIN BURDICK is a man who has certainly left an imprint on the Senate in a way that only very few can even hope to do, and I look forward to serving with this fine statesman for many years to come.

BURDICK TESTIMONIAL

Ms. MIKULSKI. Mr. President, Senator QUENTIN BURDICK's 30 years in Washington are eloquent testimony to his unique blend of partisan savvy and policy skills.

A classic prairie progressive by birth and by choice, QUENTIN BURDICK followed his father into the politics of North Dakota's Non-Partisan League. Worried that the NPL and the Democratic Party were splitting the State's progressive vote, he engineered a union between the two that survives to this day as North Dakota's dominant political force.

But political acumen alone did not carry QUENTIN BURDICK through six straight successful statewide campaigns. He brings a deep understanding of the problems and opportunities faced by North Dakotans, and the skill and patience to deal legislatively with those challenges, to the floor of the U.S. Senate. There is no question that Senator BURDICK is one of the most effective legislators in Washington.

I had the honor of serving with Chairman BURDICK on the Environment and Public Works Committee during my first session as a Senator. As Chairman BURDICK guided us through intricacies of the committee procedure and pending legislation, I was continually impressed by the skill with which he balanced environmental concerns and the needs of his constituents, and by the common sense he brought to the lawmaking process.

I congratulate Senator BURDICK as he enters his fourth decade of service to the people of North Dakota and this Nation, and look forward to serving with him for many more years.

HUMAN RIGHTS IN YUGOSLAVIA

Mr. DOLE. Mr. President, this month the United States is participating in the Copenhagen meeting of the CSCE Conference on the Human Dimension. Last Friday, Ambassador Max Kampelman, who is heading the U.S. delegation, made a speech in Copenhagen addressing the important matter of the protection of minority rights.

In that statement, he raised a number of human rights issues of great concern to myself and some of my colleagues. Of particular note is the fact that he raised the serious matter of human rights abuses against Albanians in the Province of Kosova, Yugoslavia.

With respect to Kosova, Ambassador Kampelman said:

> The problems there will not be resolved until there is a genuine dialogue with democratic Albanian organizations in the area. We urge the government of that country to appreciate that the seemingly never-ending cycle of violence and human rights abuses in the Province of Kosova are matters of great concern to many of us.

Mr. President, Ambassador Kampelman in his speech, stresses that minority rights must be a principle accepted by all States and reminds us that any of us could find ourselves in the minority at some point in time.

I agree with Ambassador Kampelman and I commend him and the U.S. delegation for raising the Kosova issue publicly at the conference.

Since the early part of this year, hundreds of Albanians in Kosova have been arrested and beaten by Serbian police for participating in rallies calling for democracy. Over 30 people have died in Kosova this year alone, as a result of the oppressive measures taken by the authorities of the Government of the Republic of Serbia.

The people of Kosova had lived under martial law for about a year until a few months ago when it was lifted. But, this appears to have been only a temporary reprieve, according to this week's wire reports, the Serbian assembly has declared a so-called state of emergency in Kosova once again.

I am deeply concerned about the continuing repression of the democratic movement in Kosova, and in view of this latest move by the Serbian assembly, I am particularly concerned about the potential for increased violence against the population in Kosova. Yesterday evening, together with Senators PRESSLER and D'AMATO, I sent a telegram to the United States Ambassador to Yugoslavia, Warren Zimmerman, communicating our serious concerns about the situation in Kosova and urging him to closely monitor events there.

In addition, I have cosponsored a resolution, Senate Concurrent Resolution 124, along with Senators PELL and PRESSLER, which expresses the sense of the Congress regarding human rights violations against the Albanian ethnic minority in Yugoslavia. It urges the Government of Yugoslavia to observe fully its obligations under the Helsinki Final Act to assure the full protection of the human and civil rights of the Albanian nationality and all other national groups in Yugoslavia. And, it urges the Government of the Republic of Serbia to begin a genuine dialog with democratic groups in Kosova.

I believe that the United States must take a strong role in the promotion of human rights and democracy. And, in my view, the United States is doing exactly that in Copenhagen. We are being ably represented by Ambassador Max Kampelman—a respected diplomat and negotiator, and a tireless advocate of human rights.

Mr. President, I ask unanimous consent that Ambassador Kampelman's statement be printed in the RECORD. I also ask unanimous consent that the text of the telegram sent by Senator PRESSLER, Senator D'AMATO, and myself also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMBASSADOR ZIMMERMAN: We are extremely alarmed at news reports from Yugoslavia indicating that the Serbian Assembly has declared a state of emergency in Kosova. We are seriously concerned about the potential for increased violence against the Albanian population of Kosova which has already suffered greatly. We request that you inform the Government of Serbia and the Government of Yugoslavia of our concerns on this matter and make clear that the United States will not be deceived by the use of force against the Albanian people under the pretext of law and order. We urge you to watch the situation closely. Please keep us informed of your contacts with the Government of Yugoslavia on this matter. We hope that events in Kosova will not mirror those in Romania.

Sincerely,

BOB DOLE.
LARRY PRESSLER.
ALFONSE D'AMATO.

PLENARY REMARKS BY HON. MAX M. KAMPELMAN, HEAD OF THE U.S. DELEGATION TO THE COPENHAGEN MEETING OF THE CONFERENCE ON THE HUMAN DIMENSION PLENARY, JUNE 22, 1990

Mr. Chairman, We can all agree that the protection of minority rights presents a major challenge to the CSCE states, one that does not lend itself to a facile answer. Governments could become part of the answer or part of the problem. My government is convinced that the spirit and the

letter of the CSCE commitments we already have undertaken require us to become part of the answer.

We must now and after Copenhagen intensify our work to contribute to a broader problem-solving effort. The complexity of this issue is immense. Our work will lead us across the entire spectrum of CSCE.

The United States delegation represents one of the world's largest democracies. We are also one of the world's largest multiethnic societies. This does not qualify us to preach on the subject. I am also not suggesting that the American experience can be automatically transplanted into the soil of other lands with cultures, political traditions and histories quite different from our own. But we do have a distinctive national experience—some of it source of pride, some of it tragic—which can contribute to our deliberations.

The U.S. experience of two hundred years does demonstrate that any society professing to base itself on democratic principles must not only heed the will of the majority, vital as that is. If it is to remain true to its most fundamental democratic values, it must also listen to the voices of the minorities in its midst.

Mr. Chairman, I am reminded of a quotation by an eminent American specialist in Indian law and a close friend of mine, the late Felix Cohen, who likened the fate of Indians to that of the miners' canary. Coal miners would take a caged canary with them down into the mine shafts. If the imprisoned canary expired from lack of oxygen, the miners knew that they, too, were doomed, unless they turned back. The author used the simile to argue for the constitutional rights of American Indians, who, somewhat like the Jews of Europe, were an imperiled minority. If minorities are not protected, we reasoned, then sooner or later, everyone could be endangered and societies could suffer an irreparable loss. Cohen published his views at a time when Europe and the world were emerging from the devastation of a hot war, brought on by a poisonous atmosphere of hostile nationalism. Today, although we live in a different world, mankind's capacity for evil has, unfortunately, not diminished. Our ability to destroy has greatly increased. As the ice of the cold war recedes, we more vividly see still glowing embers of communal and ethnic tension. They have been exposed and are ready to be fanned by the irresponsible.

The dominant theme of our new era, however, is one of liberty. The peoples of Europe have clearly and dramatically chosen to pursue democracy and cooperation. It is the path of justice, security and peace envisioned in the Helsinki final act, that is the evolving dominant theme of our day. Now, therefore, is precisely the time when governments and citizens alike must act with restraint and respect for the human rights of their own citizens and those of their neighbors. Now is when reason and dialogue must prevail over prejudice and violence. No state today can claim it is without room for improvement in the area of minority rights. No society can claim to be rid of prejudice, including my own.

The situation today in a number of participating states is cause for our shared concern. In some areas, conditions are volatile and even potentially explosive. This is particularly true in the countries newly engaged in democracy-building and reform, for these are precisely the countries where until very recently there have been few safeguards for rights of any kind, few precedents for the peaceful resolution of disputes, few reliable means for the redress of grievances, and little belief in the political legitimacy of state authorities.

The reappearance of anti-semitism and the growth of other forms of ethnic, racial, and religious hatred are terrible throwbacks that have no place in civilized society.

Ethnic hatreds already have taken a heavy toll in human life. In Romania, for example, we are deeply concerned about reports that a number of hate-mongering organizations and elements, which advocate the brutal suppression of the rights of the Hungarian minority, are increasingly active. We urge the Romanian government to take decisive steps to curb the violent activities of those who are peddlers of national prejudice. We ask that government, which seeks to assure us of its democratic intentions, to remove the shroud of secrecy and release the results of its fact finding studies on the recent bloody ethnic confrontations in that country. It is the way for us to gain confidence in that government's stated intentions to be guided by the spirit of CSCE.

We welcome the formal decision taken by the federal presidency of Yugoslavia to lift the state of emergency in Kosovo. But the problems there will not be resolved until there is a genuine dialogue with democratic Albanian organizations in the area. We urge the government of that country to appreciate that the seemingly never-ending cycle of violence and human rights abuses in the province of Kosovo are matters of great concern to many of us.

Ethnic violence not only is incalculably costly in terms of human life, great social and economic damage is done as well. The Soviet Union and its people are tragically aware of the pain caused by ethnic conflict and violence in so many parts of that vast and proud country. The reported hundreds of thousands of "internal refugees" now sadly overcrowding and over-burdening Moscow and other metropolitan areas are depressing reminders of the "victims" we can not forget or ignore. They suffer through no fault of their own.

What is needed in areas deeply affected by ethnic peoples, it is attainable for all peoples because human dignity is an aspiration of all peoples. Minority rights must become integral to all of us because of its practical indispensability and because many of us, at any time, in any place, may find ourselves in the minority. It must become a principle accepted and championed by the authorities, by the minorities, and by the majority populations alike.

We recognize that the protection of the rights of minorities will not be easy to accomplish, given the fact that tolerant and democratic political cultures have yet to evolve in some states. But we have all learned that time no longer moves slowly and we all must work toward the day, perhaps not too distant, when ethnic identifications are symbols of societal maturity and cultural enrichment, rather than slurs hurled in the streets, or stigmatizing labels in internal passports making the bearer vulnerable to discrimination.

Resolving these difficult issues is a moral imperative as well as sound, democratic nation-building. Those states which turn a blind eye to these real problems, permit local and even central authorities to ignore festering local problems, perpetuate abuses, and exacerbate minority tensions, do so at their peril. States thereby act as accessories to prejudice and violence, not as legitimate protectors of law and order.

Many CSCE members are engaged in major constitution-building exercises. The time to lay a sound constitutional foundation for ensuring the protection of minority rights is now. Establishing and consolidating a democratic structure of government, rules of governance that place effective restraints against abuses of governmental power, guarantees of equal protection of the law to all citizens—all these form the indispensable basis for protecting minorities and maximizing the contributions they make to society.

Failing in that fundamental task, we leave minority groups in a permanently precarious situation, suspectible to changing political winds, suspicious and fearful of government, and more likely to take matters into their own hands.

A sensible and constructive and proven method for protecting national, religious, and ethnic minorities within a country is granting them considerable local autonomy, while including them, on an equal basis, in an overall powersharing cooperative structure. The principle guiding my country, federalism—the division of power among the national, state and local governments—has proved its mettle over more than 200 years of our constitutional experience, and in the national experience of many other states. This principle can help lay a secure legal and political foundation for amicable relationships among various populations, whatever form it may take or name it may assume.

Democracies, however configured, require free and vigorous participation in the political process of all citizens—irrespective of their ethnic, national, or religious heritage. This enables individuals to form minority groups, to form political organizations, build broader-based coalitions of support, enter into political alliances, and rely on the ballot box as a means of political self-expression. Open, inclusive, democratic systems foster habits of civic responsibility, and the feeling that an individual citizen or a minority group has a direct stake in the betterment of society as a whole. In contrast, disenfranchisement and discrimination lead to destructive feelings of alienation.

Governments can enlist powerful allies in the important task of democracy-building. Large numbers of non-governmental organizations are available to help. Many of the emerging democracies in Europe can testify to the assistance received from trade unions, the churches, political parties, civic organizations. These institutions flourish under democratic pluralism, tolerance and the creation of civil societies. They represent political pluralism in action.

In this regard, we have a responsibility and are pleased to mention and applaud the roles played by religiously-motivated individuals and religious organizations in the transitions to democracy that have taken place in central and eastern Europe over the past year. These individuals and organizations, exercising the fundamental right of religious liberty, have contributed vigorously to the building of civil society in the new democracies. Religious values and religious groups and organizations can play a key role in the defense of fundamental human rights through the rule of law.

Indeed, in this spirit, as our governments go about the never-ending task of nation-building—for true democracies recreate themselves each day in conscious acts of justice—we would all do well to recall the words in the Bible: "Truly, I say to you, as

you did it to one of the least of these my brethren, you did it to me."

Mr. Chairman, minorities often are the least of those among us in numbers and in strength. Governments bear a special responsibility for their protection. Historically, governments have not always lived up to that responsibility. From the "trail of tears" of the Cherokee in my country, to the death camp deportations of Europe's Jews, to the forced explusions of the Meskhetian Turks, and to the continuous and ever-present discrimination against gypsies, we can trace cruel injustices. Their legacy continues to inflict pain on succeeding generations. Contemporary governments bear a heavy responsibility to address such issues with respect and compassion.

I have dwelt this morning upon some of the problems that we associate with fulfilling our CSCE commitments toward minorities. I focussed on the problems because they are serious, they are pressing, and they have the potential to explode into destabilizing violence. In some ways, as our east-west tensions gradually wither away, it is the ethnic and minority tensions that represent an explosion ready to happen. CSCE cannot responsibly fail to make a genuine effort in this meeting and thereafter to contribute to their peaceful solution.

Such a solution would be enriching to us all. Minorities would no longer be seen as peoples posing vexing problems. On the contrary, when minorities live amongst us, when they strengthen the fabric of our societies by fully contributing to them, they help us all to know the splendor of diversity. They show us with crystal clarity the essence of our common humanity.

Let me close my remarks about pluralism with a parable. There once, I was told, was a king who owned a magnificent diamond. One day, a careless servant dropped the diamond and scratched it badly. The king was distraught, and called in all of the stone-cutters of the Kingdom, commanding them to re-polish the diamond and restore its beauty. They all failed; the scratch remained. Some weeks later, a new stone-cutter came to the Kingdom. The king pleaded with him to repair his scratched diamond. The stone-cutter took a different approach: on the surface of the diamond, he carved a rose and by the cunning of his art, he contrived to make the deepest part of the scratch the stem of the rose.

The protection of minority rights is a multifaceted question. By their actions, governments can deepen the fissures among peoples, or they can help shape solutions that enhance and beautify their societies as a whole. The progress we achieve in CSCE on minority rights issues will reflect the choices we make.

Thank you.

Mr. DOLE. Mr. President, I suggest that the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

Mr. HEINZ. I thank the Chair.

(The remarks of Mr. HEINZ pertaining to the introduction of S. 2806 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

VICTIMS OF CHILD ABUSE ACT AMENDMENT TO S. 1970

Mr. REID. Mr. President, I am hopeful and confident that the two leaders will reach an agreement so we can proceed with the crime bill, which is so important.

One of the amendments that has been agreed to be considered is an amendment the Senator from Nevada intends to offer.

I, at this time, feel it appropriate to commend my colleagues for their perseverance, and I say that because this crime bill has been a very hotly contested issue. There are a lot of issues involved in the crime bill that people feel very strongly about. That is the reason it has taken so much time to arrive at a point where amendments can be offered.

This bill is a timely step forward toward improving our society's ability to stem criminal activity. Record high numbers of Americans in rural areas, small towns, and mass urban centers are the victims to crime, often violent crime.

Today I am going to offer an amendment—or tommorrow, whenever it is appropriate pursuant to the leadership agreement—which seeks to protect a particularly vulnerable group of people, namely children.

Yesterday, Mr. President, was a big news day on the issue of child abuse. Two Supreme Court decisions dealing with this important issue were decided: Idaho versus Wright and Maryland versus Craig, two extremely important decisions. Every day, though, should be a big news day until the child abuse stops.

Yesterday, also, the U.S. Advisory Board on Child Abuse and Neglect reported to Congress that the number of reported child abuse cases in 1989 was 2.4 million. That is reported cases. The actual cases, of course, total far more.

Separate and apart from this, I serve on the Indian Affairs Committee. We heard, 2 weeks ago, testimony that was incredible, but it was true. A young man from the State of Minnesota testified about abuse of Indian children, and he advised the committee that in parts of this country 20 percent of the Indian children are sexually abused, one out of every five Indian children.

Children need protection. The amendment that I will offer does this through a number of methods. It includes in-court protections, in-court protections that were just yesterday upheld as constitutional in the Supreme Court case of Maryland versus Craig. For 16 months I have been working on this issue. For 16 months I have been telling everyone that the amendment, the bill, the legislation that I offer is constitutional, that the court would uphold it. Yesterday that prediction came true.

The advisory board further reported that with the huge increase of reported abuse cases, courts are being severely overburdened with child victim cases. This amendment seeks to address some of those increasing needs by establishing grant programs that will help State, local, and Federal justice systems to deal with the special needs of child witnesses.

The Craig decision that was handed down yesterday and the report from the U.S. Advisory Board on Child Abuse and Neglect are strong showings of the increasing awareness of the child abuse crisis, and it is a crisis, and the need to address this crisis. The Supreme Court, in a decision which allows a child to testify outside the courtroom, is no longer willing to coddle the abuser, at the expense of the child victim. I have always said there is no reason that children be treated in a criminal justice system the way adults are treated. When I practiced law, if you had a problem that dealt with a child, it was a separate body of law that affected that child. That child did not have the same rights as an adult accused. Well, I think a child victim should also be treated differently than an adult victim.

As the advisory board pointed out, the highest number of abuse cases ever reported in the United States was in 1989. Every year thousands of these abuse cases deal with the deaths of children. Strong swift action to protect the child and punish the abuser is certainly far overdue. Children must have special protection as victims or witnesses in the justice system because of their age and vulnerability and deserve safeguards to ensure their rights to be free from further emotional harm and trauma occasioned by judicial proceedings, and they must make sure they are protected by the courts. My amendment would ease the process of testifying by allowing the child to give testimony via a two-way closed circuit video—the Supreme Court allowed even one-way—by allowing the use of anatomical dolls to describe acts of abuse, and by allowing a child to have an adult attendant—someone who sees to the child's needs, including emotional needs. These are just a few of the protections offered, Mr. President, to children in this amendment.

I will further describe my amendment in more detail, but, first, I'd like to explain how I got involved in this issue. I learned that even a few years ago the Justice Department found that 90 percent of all child abuse cases do not go forward to prosecution. Less than 10 percent of the reported cases go forward for prosecution. Children rarely go to the courtroom and they do not go, presumably, because we adults do not want them to get hurt. We do not want them to be victimized again—this time through the judicial process. They have already been victimized once.

The parents, police departments, the prosecutors, they say, Do you really want this child to go through further trauma? Ninety percent of the time, there is a general agreement that the answer is no; that we do not want them to be victimized again through the judicial process.

We cannot allow this to go on. We are doing immeasurable harm to children who have been victims by not offering them the opportunity to explain what happened to them and who did it. We are jeopardizing the well-being of children who might be victimized by a repeat offender. If a known child abuser is not convicted because the child in question will not testify, that same child, a brother, sister, schoolmate, or neighborhood friend may also be the victim of physical or sexual abuse.

The court must be a place that protects the child victim. The court must not be the arena for further abuse of an already emotionally and physically battered child. We do not do justice by further traumatizing a victim or by allowing those committing atrocities against children to go free and unchallenged. And that that is what is happening.

I, prior to coming here, Mr. President, practiced law, and I represented the accused on numerous occasions. Many, many times because of trauma to the child and the family, due to what they were going to have to go through in court, the case was simply dropped. It was felt best for all.

Too often we think we are protecting our children who have been abused, by keeping them from the judicial system. We merely bring our children home, send them back to the playground, back to the school, back to the day care center, back to the place where the abuse occurred. Most of the time, the abuser is someone that is close to the victim, a relative, a neighbor, a friend, a teacher. We send these young people back to that environment.

That is wrong. We must change our attitudes, and in doing so, we can change the way our children are treated within our system or justice.

Our treatment of child victims is a classic case of society showing more concern about alleged criminals than about victims. There is not a better example of that any place in our system of justice than how young people are treated, young victims. We have a separate juvenile court system, as I have indicated, for children accused of committing crimes. We recognize these children should be treated differently than adults, and rightfully so. But when the children are the victims, we throw them into our adult court system without any special treatment. My amendment establishes Federal court procedures that recognize the special vulnerabilities of children.

I introduced a bill last November, S. 1923, the child victim's bill of rights. My legislation offers many protections for children both in and outside the Federal court system. S. 1923, which is a substantial part of my amendment which will be offered to the crime bill, allows a child to testify in a room other than the courtroom in order to reduce trauma; allows the use of a child's recorded deposition; allows the use of dolls, and I have talked about before, puppets or other toys to help children describe possible sexual abuse; allows for the child to be accompanied to court by an adult, a counselor, someone appointed by the court, or a guardian; and ensures a speedy trial to minimize the time and length of this young person's stress.

The child victim's bill of rights extends protections to children beyond the courtroom. A critical step in protecting our children is to identify child victims before it is too late.

In the newspapers yesterday, Mr. President, here in our Nation's Capital, there was a headline story about a woman who was 28 years old before she reported an incestuous relationship that had gone on over a period of 15 years. If there had been something like this, possibly, perhaps, hopefully, the young lady would not have had to wait the time that she did.

The child victim's bill of rights extends protection to children beyond the courtroom. A critical step in protecting our children is to identify child victims, as I have said, before it is too late. My proposed bill of rights requires certain professionals to identify who they suspect are victims of abuse and neglect.

Another important protection for children in this amendment is that of mandatory background checks for all employees working with children on Federal land or in Federal facilities.

Mr. President, there is a book called "Unspeakable Acts." It is the story of a series of abuses of children that took place in Florida in a child care facility by an individual, and then his spouse. This individual had been involved in other sexual crimes as it relates to children in other parts of the United States. But, of course, they set up a day care center in Florida and there was no background checks at all required. So this man went on and abused numerous other children.

There is no excuse for our hiring known child abusers to work in child care facilities, classrooms, or as youth group leaders, yet this has happened time and time again, and abuse, preventable abuse, has occurred.

I am extremely encouraged by the overwhelmingly positive response to my child victim's bill of rights. Parents of abused children, lawyers and legal organizations, adults that were abused as children, child advocacy groups and my colleagues here in the Congress, have all expressed strong support for these efforts to protect the rights of child victims of crime.

Since March 1989, when I first introduced child victim protection legislation, to the present day, I have worked closely with the American Bar Association's National Resource Center for Child Advocacy and Protection, the National Victim Center, the National District Attorneys Association's National Center for Prosecution of Child Abuse, the National Center for Missing and Exploited Children, and the National Organization for Victim Assistance, to create a bill which offers much-needed, effective provisions for the protection of our children in and outside of the Federal courts.

Since the time of introducing S. 1923, I have been working with Senator BIDEN and his staff on child victim legislation, S. 1965, and they have been outstanding. In particular, I'd like to thank Ann Howard of Senator BIDEN's staff. S. 1965 includes many of the provisions of my bill, in fact most of them, plus some excellent additions crafted by Senator BIDEN. My amendment reflects that collaborative effort.

Title I of this amendment can be credited to Senator BIDEN. The title adds more bite to my original bill by sending repeat child abusers to prison for many, many years. This title would keep the abusers off the street and away from children once they are convicted.

I commend Senator BIDEN, the chairman of the Judiciary Committee, for recognizing the great need for Federal law that protects the victim of child abuse and that brings child abusers to justice.

Several States have laws to protect child victims, yet those victims whose cases fall in the jurisdiction of the Federal rather than the State system have no laws on the books to protect them. It is my intention that this amendment should, once enacted into law, protect children in Federal courts, in Federal facilities and on Federal lands.

I would also hope that the Victims of Child Abuse Act will serve as model legislation for the States without adequate in-court protections for child

victims, child abuse reporting requirements, or mandatory criminal history background checks of those who work with or near children. This amendment will place the Federal Government in the forefront of child victim protection.

I am sure that children, their parents, child advocacy groups, and victims' rights groups join with me in urging my colleagues to support this amendment.

I would now like to read a list of those organizations which contributed to the language in this amendment and also those which have expressed support for my legislation.

CONTRIBUTORS TO LANGUAGE

American Bar Association
National District Attorneys Association;
National Center for Missing and Exploited Children;
National Organization for Victim Assistance (NOVA);
National Victim Center; and
Children's Defense Fund.

These groups, I have just mentioned, Mr. President, all contributed to language that is in the bill. The bill, which is not my proposed amendment, has been endorsed by the following:

National Network for Victims of Sexual Assault;
National Committee for Prevention of Child Abuse;
Coalition Against the Sexual Abuse of Young Children;
The American Humane Association;
Mississippi Committee for Prevention of Child Abuse;
National Association for Counsel for Children;
State of Utah, Department of Social Services, Division of Family Services;
State of Maine, Department of Corrections;
State of California, Department of the Youth Authority;
State of Georgia, Department of Human Resources, Division of Family and Children Services;
State of Arizona, Governor's Office for Children;
State of Kansas, Department of Social and Rehabilitation Services;
State of Maryland, Juvenile Services Agency;
Anne Arundel County, Maryland, Juvenile Victim/Witness Program; and
Robert W. Ten Bensel, MD, MPH, University of Minnesota, School of Public Health, Division of Human Development.

It has also been endorsed by other groups.

In closing, Mr. President, let me say I thought it was appropriate, while waiting for an agreement on this most important piece of legislation, to talk about an important part of this bill—about why it is so important that this legislation move forward. I also wanted to take this opportunity to commend the chairman of the Judiciary Committee for his perserverance and his integrity in this entire process.

It has been a difficult job, the difficulty of which is probably hard for all of us to imagine. I will again come to the floor to speak when the time comes for the amendment, but because of the importance of my proposed amendment, I thought it important to speak now. The children victims bill of rights will be an integral part of this legislation.

I commend the chairman of the Judiciary Committee who has been at the forefront of this crime legislation. Without his assistance, and that of his staff, we could not have reached the point now where, as I indicated in my initial statement to this body, I will have my amendment considered.

I would not be in a position to have my amendment considered without the assistance of the staff of the Judiciary Committee and the recognition that this is important legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Delaware.

Mr. BIDEN. Mr. President, let me thank my colleague from Nevada for his kind words.

I almost hesitate to say what I was about to say because it gets into a little bit of sounding like this is a mutual admiration society here. But I am compelled to say a couple of things.

First of all, although the Senator from Delaware has been interested in the child abuse issue and the system, in effect, abusing children once they make their claim known, if they can make it known, it really was the Senator from Nevada who has had such a longstanding interest in, and an intimate knowledge of the problems relating to, and a instinct for what should be done. It was not until he brought those instincts and talents to bear that we really began to make some movement.

There is some good news and there is some bad news, Mr. President. Some of the good news is that the Supreme Court ruled on Monday that certain of the things the Senator from Nevada has been arguing for for some time are constitutional.

But, Mr. President, there is some bad news. The bad news is that the reports—and I apologize, I did not hear all of the Senators' statement so if I am repeating anything he said I apologize—but the bad news is that the results reported Tuesday of this week, June 26, in the congressionally created U.S. Advisory Board on Child Abuse and Neglect, found some startling things. They are not startling to the Senator from Nevada, who has been petitioning, who has been pleding with, who has been attempting to educate, who has been pushing individual Senators and the Senate as a whole and the Congress as a whole on these issues; but startling to many of us.

There are 2.4 million children who were abused and neglected in 1989. At last 200,000 more of these defenseless children are going to be victims in the year 1990. Quite frankly, the likelihood is that is a low figure, not a high figure. But it is a figure that is four times what was estimated.

There will be over 2½ million children abused. When the Senator from Nevada and I talk about abused, we are not merely talking about the mother or father who at the dinner table cuffs the kids across the face, which is abuse. We are talking about brutal abuse; burning with cigarettes because they are angry with their child because they did not respond quickly enough; keeping literally caged up in basements or attics their children because they did not like anything from the way they looked to the way they responded; forcibly—and in every case I would argue, every case it would be forcible—forcibly requiring their young children to engage in incestuous relationships; selling their children for sexual purposes. This is not abuse on a small scale. This is not abuse that we would consider, people in this body, people who work here, people who are here today observing the Senate, would consider abuse. This goes above and beyond what we would think reaches the level of abuse.

I find it abuse for a mother or father to constantly reinforce in a child's mind that they are not worth anything; that when they make a mistake they are denigrated, from the time they can remember hearing their parents' voices. That is a horrible abuse but, my God, some of what we are talking about here today is beyond comprehension.

But, you know what, Mr. President? It is not this overwhelmingly rare exception that it has been portrayed to be. It is not this 1 in 1 million, 1 in 10 million chance. In the legislation the Senator is the primary sponsor of and I am delighted to cosponsor, we find out that people do not report abuse.

We are attempting to pass legislation to do something that I will bet everybody in this Chamber thinks already exists, and that is we want a law to say that you are required to report the observable, uncontrovertible abuse of an innocent child if you observe it. We require judges and schoolteachers and professionals to report that. You would say: Wait a minute, that is kind of redundant is it not? Does that not happen already?

The answer is: No, it does not. We still have a Neanderthal mind set among portions of our population here, Mr. President, that says, wait a minute, an abuse is going on next door of Janie or Johnny. It is not my business. Big Clem is the father and Harriet is the mother and it is their children and I am not going to get invovled. One of the things we want to do here is raise the conscience of the American public to the problem. You do have an obligation, a moral obliga-

tion, and we want to make it a legal obligation to do what is right. These children have no way out.

How many children have the capability, the will, the confidence to get up and leave when they are 12 years old because they are being abused in their father's bed every night? Where do they go? What do they do?

It is a little bit like the violence against women legislation I introduced and the Senator from Nevada is very sympathetic toward. We kind of have a mind set that we have not fully gotten over. We are making progress, but somehow this notion of keeping the Government out of family business, which no one supports more strongly than the Senator from Nevada and the Senator from Delaware, both of whom come from strong religious traditions that reinforce that notion, different traditions but strong traditions, we have confused that over the years with fundamental, basic, moral obligations.

I was holding hearings on abuse against women, violent sexual abuse against women. One of the witnesses, I say to my friend from Nevada, asked me rhetorically during the hearing, supportive of what I was doing, but asked me rhetorically, then said, Senator Biden, do you understand where the phrase "rule of thumb" came from?

Obviously, I cannot ask you all to respond in this Chamber. That is not within our rules, but I ask you to think to yourself. Do you know where that phrase came from, the "rule of thumb" on such and such is such and such? It is a phrase you probably heard, if you are as old as the Presiding Officer and me, 1,000 times in your lifetime. Or if you are as young as the pages, you probably already heard 100 times in your lifetime.

Do you know where it comes from? It comes from our English jurisprudential tradition going back to the 13th century when we finally reached the point in our English jurisprudential system where we concluded that there is not an absolute right of a husband to physically beat or abuse his wife. And there should be some limits on it.

So the common law said that a husband was able to take a stick, a rod, a whip to the back of his wife as long as it did not have a thickness that exceeded the diameter of a thumb, the thumb of that person, of that husband. My God, we have rich traditions in our Judeo-Christian ethic. Some of them very poor, though. One of those poor traditions has been not that we conclude we beat our children or that women are chattels, but that Government should basically stay away; it is the business of the family.

Nine years ago, Senator Birch Bayh and I, under Bayh's leadership, introduced a law that said you should be able to be found guilty of rape even if it is your wife, for no woman, under any circumstances, for any reason, regardless of her standing, should ever, ever, ever, ever, ever be put in a position where she is subject to engage in any sexual activity purely as a consequence of the physical force en masse of another person, no matter who it is.

And now what we are trying to do in this legislation is to say to the world, say to the Nation: Parents have disciplinary responsibility and obligations, but there are certain things that transcend the bounds of propriety no matter what. And the most controversial piece of our legislation when we get to it, and we will discuss it in more detail—the Senator from Nevada will be more articulate on it than I can be—we are now saying for the first time I am aware of: By the way, you, the innocent bystander, you, the third party, you have a legal obligation to report when you observe or have reason to believe that an abuse of an innocent child takes place.

Mr. REID. Will the Senator yield?

Mr. BIDEN. I will be delighted to yield.

Mr. REID. I think it is important to note also that the things about which the Senator from Delaware has spoken of are not abstract. These are not things that happen to other people. They are actual things that happen to your friends and your neighbors and your relatives. I wish I did not have in my memory the reason that I feel strongly about this. I can remember one of the first cases I had as a young lawyer was representing, for example, a man accused of sexual child molestation. He was a friend of the family. He related to me, he, the accused, nothing like this had ever happened; that they were making this up; they were just trying to be mean to him.

We went through the preliminary pretrial proceedings. He was out on bail. It came time for his preliminary hearing and he was not there. We were checking as to why he was not. He had a rap sheet for child abuse cases as long as my arm. Here is a man who had gone around the country abusing children, and he avoided prosecution again. He skipped out to abuse again.

The Senator from Delaware has stated this is important legislation. Important it is, because it relates actual case histories of people being abused. As I have indicated earlier, in the newspaper yesterday, incestuous relationships take place. What is the child to do? Where is the child to go?

So I understand—I underline and put emphasis on the fact I understand—the importance of this legislation, generally, and I commend and applaud the Judiciary Committee, the staff and the chairman and the ranking member for the work that they have done in this area. I appreciate very much the kind statements of the Senator from Delaware to the Senator from Nevada.

Mr. BIDEN. I thank the Senator. Let me just give a few statistics and then I will yield the floor. The Advisory Board on Child Abuse and Neglect also estimated that as many as 1,200 children died from abuse in 1989, a 40-percent increase over 1985. The increase in child abuse and neglect cases reported to police, courts, our human services agencies are even more dramatic. In 1977, there were 60,000 cases reported; in 1989 there were 900,000 cases—60,000 in 1977, 900,000 in 1989. This increase is in fact due to more reporting because hopefully the Presiding Officer and the Senator from South Carolina and the Senator from Delaware have been somewhat effective in changing the laws, as has occurred in the States, to make the courts more user friendly, if you will, for children who have their cases brought for them through advocates, civilly or criminally, in the court system. But still 900,000 from 60,000.

Drugs are a major cause of the recent increase in child abuse and neglect. The American Public Welfare Association finds that drugs are involved in 70 percent of the child abuse cases in many areas of this country. The National Committee on the Prevention of Child Abuse finds that drugs are the major cause of child abuse in 22 States and the District of Columbia.

There is much more to say about this when we finally get a unanimous consent and agree to this legislation. But in light of the fact the Senator from Nevada was speaking to it, I thought I would reinforce a few of the points.

It is obviously a major problem, a problem crying out for solution. Mr. President, these are not someone else's children. These are our children. These are America's children. It warrants us doing all we can, as I am sure the Chair, Republicans and Democrats alike, agree; it warrants us giving them greater protection. Once in fact those poor little kids may get dragged into a circumstance where they are having to tell their story of abuse, they will be in a position where the rights of the defendant will not be denied but where they will not become victims of the system very much like they were the victims of the alleged offense.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. Pursuant to the previous order, the Senate is in a period of morning business.

Mr. BYRD. I thank the Chair.

THREE DECADES OF PATRIOTIC SERVICE

A TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. BYRD. Mr. President, I join all of our colleagues in congratulating the distinguished senior Senator from North Dakota, Mr. QUENTIN BURDICK, on the celebration of the 30th anniversary today of his election to the U.S. Senate.

Subsequent to that election, QUENTIN BURDICK was formally sworn into the Senate on August 8, 1960, and on that day he began his illustrious career with us.

During the past three decades, I have been privileged to count Senator BURDICK as a friend, as well as a Senate colleague. I know firsthand of the vital contributions that he has made to our work in this body.

I am particularly pleased to call attention to Senator BURDICK's long years of service and his record, because my association with Senator BURDICK predates 1960. Prior to my own election to the Senate, I was privileged to serve in the House of Representatives for 6 years with Senator BURDICK's father, the Honorable Usher L. Burdick, who represented his area in the House of Representatives.

The Burdick family has enjoyed an enviable number of years of service. One notes from his biography that QUENTIN BURDICK lost six elections for political office before his being elected to the House of Representatives in 1958. Since that 1958 election, the citizens of North Dakota have reconfirmed their confidence in Senator QUENTIN BURDICK six more times, beginning with his special Senate election victory on June 28, 1960.

That long record of electoral struggles and victories is testimony to both QUENTIN BURDICK's courage and his tenacity, and to the depth of conviction that has earned him a distinction as being among only 1 of 36 Senators who will have, as of August 8 this year, reached the 30-year mark out of 1,793 men and women who have served in the Senate since 1789.

Currently, Senator BURDICK serves as chairman of the Senate Environment and Public Works Committee, the first Senate committee chairman from North Dakota since the 83d Congress. Coupled with his chairmanship of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies, Senator BURDICK's Senate responsibilities place him in an especially suited position to serve the needs of the people of North Dakota, as well as the citizens of our entire country.

I congratulate Senator BURDICK on passing an important milestone in his career, and I wish for him many years of continued service in the future.

Mr. President, I yield the floor.

SENATOR QUENTIN BURDICK

Mr. MURKOWSKI. Mr. President, I would like to take this opportunity to honor one of our colleagues. QUENTIN N. BURDICK has served North Dakota in the Senate with quiet distinction for the last 30 years and as one of his slogans states, has truly carried "Clout for North Dakota." We are all familiar with QUENTIN's leadership on the Environment and Public Works Committee and his deep commitment to the people of North Dakota.

I can be especially grateful that I can count QUENTIN BURDICK among my colleagues—not only for his contributions to this body—but pleased to find another Member who shares my taste in vintage Cadillacs. QUENTIN has long been a friend of Alaska and has seen the State grow. He has voted on almost every piece of major legislation that has affected Alaska except for the land purchase of 1867, the Territorial Act of 1912.

He has also seen the Nation grow and has helped define its course. In QUENTIN's 30 years here he has seen the assassination of a President, the enactment of major social legislation, and has been among the leadership of the Nation as they guided us through some of the country's most turbulent times since WWII.

Through QUENTIN and his father, the Burdick name has long been associated with good politics in North Dakota. QUENTIN has carried on the proud tradition of North Dakota's elected politics and has been instrumental in developing the shape and flavor of the U.S. Senate.

I have been privileged to work with Senator BURDICK on projects important to Alaska in his role as chairman of the Environment and Public Works Committee and as a member of the Select Committee on Indian Affairs. My wife Nancy joins me in wishing both QUENTIN and Jocelyn congratulations on not only his 30th anniversary of Senate service but on his family's over half century of service to North Dakota and Congress.

TRIBUTE TO VERA WARREN

Mr. LUGAR. Mr. President, I rise today to pay tribute to a dear friend and perennial member of my staff, Vera Warren. After 11 years of dedicated service in my Washington office, Vera will be leaving the Senate to go back home again to Indiana.

Vera has a long history of public service to Hoosiers, dating back to my first term as mayor of Indianapolis. She ran for and was elected as a local precinct committeewoman. Vera went on to become a founding member of the Indiana Black Republican Council, an active member of the State Republican Party, and was awarded the State's highest civic honor, the "Sagamore of the Wabash." Then-Governor Otis Bowen bestowed this award upon Vera for distinguished achievements in service to the citizens of Indianapolis.

Vera came to Washington, joining my personal staff early in my Senate career. She has fulfilled a number of roles in my office including those of bookkeeper, receptionist, legislative secretary, and assistant to my legislative director. Vera's significant contributions to Hoosiers transcend any description associated with a title.

While becoming something of an institution in the Lugar office, Vera also managed to raise five daughters and is currently the proud grandmother of 11, and great-grandmother to the newest addition to the Warren family, Anthony Evans. As a grandfather, I can appreciate this truly remarkable achievement.

Although Vera will be sorely missed, we are excited about the new opportunities which lie ahead for her. I wish her the best in all that she endeavors to do.

COMMENDATION FOR SENATOR PELL'S WORK TO PROTECT THE ENVIRONMENT

Mr. GORE. Mr. President, I would like to draw my colleagues' attention to an important Op-Ed in last Friday's Christian Science Monitor by my good friend and colleague Senator PELL. For years, CLAIBORNE PELL has been at the forefront of international environmental protection efforts. He has compiled an impressive record of legislative accomplishments in this area, from his early work in the field of protecting biological diversity to this forward thinking proposals for financing international environmental protection. In this light, Senator PELL's comments about the administration's environmental policy formulation process deserve close attention.

In his op-ed entitled "CFC Fund Decision Showed Flaws in U.S. Policymaking," Senator PELL has shown clearly the damage done by administration officials who place ideology and political tactics over our national interests. Senator PELL's message is clear: the President's top environmental advisors must be put back in

charge of our Nation's international environmental policy.

I certainly share this view. The administration's decision last month to oppose the creation of a fund that would assist developing nations in their efforts to comply with an international treaty to protect the ozone layer was an egregious environmental policy misstep. It undermined confidence in the United States' reliability as a partner to existing environmental treaties, and called into question our future reliability as negotiating partner.

Following the administration's decision last month, Senator PELL joined me in introducing legislation to try and put the United States back on the right track. On May 22, we introduced a bill to authorize U.S. contributions to an international fund to protect the ozone layer. Senator PELL and I will be working together in the coming months to push through the appropriate legislation authorizing U.S. support for this urgently needed fund.

Mr. President, Senator PELL has served in the Senate almost 30 years. His experience, his position as chair of the Foreign Relations Committee, and his leadership in promoting international environmental protection, make him one of the body's most important voices on global environmental protection. I urge my colleagues and members of the administration to read his op-ed and I ask unanimous consent that it be printed in the RECORD following my remarks.

There being no objection, the piece was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, June 22, 1990]

CFC FUND DECISION SHOWED FLAWS IN U.S. POLICYMAKING

(By Claiborne Pell)

It is said that a cynic knows the price of everything and the value of nothing. If that is true, then the architects of the Bush administration's widely-publicized decision to oppose the creation of a $100 million fund to help developing nations reduce or avoid dependency on the use of chlorofluorocarbons (CFCs) are indeed cynics.

Fortunately, and to its credit, the administration reversed this decision a week ago. But the way in which the original decision was made and then reversed highlights a serious flaw in the administration's international environmental policy formulation process. This flaw, which puts politics and ideology ahead of serious national interest in protecting the earth's environment, once again reinforced doubts about United States capacity for leadership in environmental diplomacy.

The backdrop to this near debacle was the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer. Signed by 24 nations and the European Community, the treaty commits signatories to 50 percent reductions in CFC emissions by the year 1998. (CFCs destroy the ozone layer and contribute significantly to global warming.) The parties to the protocol are meeting in London this week to formalize agreement on the fund and a complete phaseout of CFCs by the year 2000.

For the treaty to be effective, the signers recognized that developing nations—whose projected increases in CFC emissions as they industrialize would more than offset any decreases in developed countries—would need to adopt more expensive, non-ozone-destroying substitutes. The treaty provides for assistance to the developing countries for this purpose, a concept the administration has in the past repeatedly endorsed.

Nonetheless, at the 11th hour on May 9 in Geneva the administration reversed course, announcing its opposition to the fund and abandoning commitments made earlier. And for no sound reason. The cost to the US of the CFC fund is modest: between $25 million and $75 million over three years, or between $8 million and $25 million per year. Against this must be measured the human suffering and associated medical costs of skin cancer, and the dire consequences of global warming.

On a dollar for dollar basis, the money the fund required is one of the best investments we as a nation can make.

The damaging effects this decision had on the US's environmental diplomacy should not be underestimated. The May decision called into question the US's reliability as a negotiating partner on existing and future treaties and triggered consternation among the signatories to the Montreal protocol. Lobbying by US friends and allies to reverse the position was intense.

The initial decision to oppose the CFC fund illustrates a basic flaw in the way the administration has approached international environmental issues. What we have seen is the dominance of political voices, emanating from the White House staff and the Office of Management and Budget, over the environmental policy experts in the Environmental Protection Agency and the Department of State. Even the welcome reversal of the US position reflects this allocation of priorities: It was released as a statement by the White House Chief of Staff. The message is clear: The president's top environmental experts are to be kept out of the process.

In other areas, such as climate change, the White House has consistently called for more study on causes and consequences, whereas scientists have now reached a consensus that climate change is likely if greenhouse gas emissions are not reduced. Once again, US policy positions are being dictated not by the experts, but by political tacticians in the White House.

As we enter the last decade of the 20th century, protection of the global environment—as in the case of the CFC fund—will be one of the principal goals of international diplomacy. Looking beyond the CFC issue, we can expect to see new, highly technical agreements on such concerns as climate change and protection of biological diversity. Negotiations on these subjects will require the cooperation of all nations to reach a consensus based on the best scientific evidence.

In his campaign, President Bush promised to be "the environmental president." With the growing international consensus that action must be taken to protect the environment, he can only fulfill that promise by moving beyond the confines of our national borders. Success in environmental leadership will increasingly be measured by global efforts to protect our earth. The president must put his top environmental policy advisers in charge of our participation in that process.

TRIBUTE TO QUENTIN BURDICK

Mr. BOREN. Mr. President, rarely does the occasion arise that we have the opportunity to honor a man who has contributed as much to the U.S. Senate as QUENTIN BURDICK. For 30 years he has represented the good people of North Dakota. During this time, my good friend Senator QUENTIN BURDICK has served his constituents with great leadership, hard work, and a sincere dedication to meet the needs of both State and national interests.

As a Senator, QUENTIN has displayed commendable efforts as chairman of the Environment and Public Works Committee, as chairman of the Appropriations, Agriculture, and Rural Development Subcommittee, as a member of the Special Committee on Aging, and as a member and cofounder of the Select Committee on Indian Affairs and Rural Health Caucus. I always welcome the occasion to honor someone who has dedicated his life to public service as Senator BURDICK has. I applaud his dedication and compliment him for serving not only a long period, but also for the exceptional leadership that he has given this body of Congress and our great country.

SENATOR QUENTIN BURDICK

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Senator QUENTIN BURDICK, who is currently serving his 30th year in this legislative body. Only 35 of the 1,793 Senators who have served in the U.S. Senate have reached the 30-year mark. Since his election to the House of Representatives in 1958, and then to the Senate in 1960, Senator BURDICK has selflessly devoted himself not only to the people of North Dakota but to the people of this Nation.

I have the pleasure of serving with Senator BURDICK on two Committees, Appropriations and Environment and Public Works. I have seen him work with dedication for the people of his State and the Nation.

As chairman of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies, Senator BURDICK has continually supported efforts to better the lives of those Americans living in rural areas. Fighting for funding of rural programs and the needs of America's rural population has been Senator BURDICK's major commitment. The improvement of rural conditions can be attributed, in part, to the commitment and dedication Senator BURDICK has provided to the people of these communities.

Throughout his 30 years in the Senate he has also been a key defender of the interests of native Americans. He has developed opportunities and improved conditions in all areas for native Americans. But his contact

with these peoples did not start in the Senate. QUENTIN grew up near a North Dakota reservation and spent time with them, experiencing all aspects of their culture and joining in on various ceremonial activities. He has showed so much admiration and respect for native Americans that the Sioux Nations inducted him into their tribe, giving him the name "Old Bear."

He has led us in the Environment and Public Works Committee, to improve our Nation's infrastructure and to protect our environment. We passed new highway assistance and clean water acts. We passed new laws to protect our beaches and oceans. This year, we have made great progress toward renewing and strengthening the Clean Air Act. Senator BURDICK has personally conducted the affairs of the committee with a sense of fairness and courtesy.

I look forward to continuing to work with my distinguished, colleague, and wish him well on his 30th anniversary of service to the people in the United States.

IN HONOR OF SENATOR QUENTIN BURDICK'S 30 YEARS OF SERVICE IN THE SENATE

Mr. SASSER. Mr. President, I rise today to pay tribute to my good friend and colleague, the senior Senator from North Dakota, QUENTIN BURDICK. I join all of my colleagues in the Senate in honoring him for his 30 years of service to this body and to the citizens of North Dakota and the Nation.

Since his days as an All-American at the University of Minnesota blocking for Bronko Nagurski, QUENTIN BURDICK has been a fighter. His early political setbacks only served to make him stronger and more determined. He almost singlehandedly shaped a new progressive political coalition in his State, becoming the first Democrat elected to Congress from North Dakota.

Since being elected to the Senate in a special election in 1960, Senator BURDICK has won reelection by ever greater margins, culminating in his 20 percentage point victory in 1988. The North Dakota Democratic Party now controls the State's three congressional seats, as well as the State senate and all but one statewide office.

I have had the privilege of serving on the Appropriations Committee with Senator BURDICK, and in our work together there I have had an opportunity to see the same fighting spirit that has characterized his entire political career. Since 1986, as chairman of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies, he has worked successfully to maintain adequate funding for agriculture and rural development programs important not only to North Dakota, but to my own State of Tennessee and the entire Nation.

Perhaps Senator BURDICK's most important accomplishment in the Senate came this year. As chairman of the Committee on Environment and Public Works, he led the fight to enact amendments to the Clean Air Act that will ensure a healthy environment for our children and grandchildren. His work on that bill is but one more highlight of a distinguished Senate career.

I salute the senior Senator from North Dakota on this historic day. His long and distinguished record of service to the Nation serves as an example to all of us. Congratulations, Senator BURDICK, and I hope I will have the privilege of serving with you in the Senate for many years to come.

SENATOR QUENTIN BURDICK

Mr. BRYAN. Mr. President, I rise today to mark an important occasion in the history of the United States Senate. On June 28, 1960, 30 years ago, Senator QUENTIN BURDICK was elected to the Senate. Only 36 U.S. Senators out of the 1,792 men and women who have been privileged to serve in this body, have shown the dedication, and have been shown the reverence, to serve for 30 years. I want to congratulate my good friend and colleague on this achievement and all that he has done for his State and his country.

Upon graduating from the University of Minnesota in 1932, QUENTIN NORTHRUP BURDICK began to make his mark on North Dakota's political landscape. His leadership in switching the Non-Partisan League [NPL] filing from the Republican to the Democratic column on the State ballot, led to a new Democratic-NPL coalition which helped to elect BURDICK the first Democrat North Dakota ever sent to Congress. After winning a special election to the U.S. Senate, QUENTIN BURDICK assumed the position which he holds to this day. As chairman of the Environment and Public Works Committee and of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Chairman BURDICK has been able to effectively serve two of the principal interests of North Dakota—agriculture and infrastructure. Moreover, as we all know, he has led the way to passage of innumerable bills of vital importance to our country. Senator BURDICK's 20 point margin of victory in his last election and the health of North Dakota's Democratic-NPL Party which now controls the State's three congressional seats and the State senate, demonstrate what his constituents think of these accomplishments.

Mr. President, QUENTIN BURDICK's record speaks for itself. I regret that I have not had the privilege to serve very long with Chairman BURDICK in order to witness his legislative mastery and political influence first hand, but I have no doubt that his influence on this body will continue to be felt for some time. I wish my friend well and thank him for all he has done for our country.

A TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. SIMON. Mr. Speaker, you would be hard pressed to find a single North Dakotan who doesn't know the name QUENTIN BURDICK or, indeed, who hasn't met the State's senior Senator.

In North Dakota, QUENTIN BURDICK is a household name. He has quietly, but effectively represented his State for 30 years. North Dakotans know a Senator doesn't have to make long-winded speeches or grab headlines to do the finest job possible. There are many among us who could learn something from QUENTIN BURDICK's steady, low-key style.

Our gentlemanly, jovial colleague continues the family tradition of service his father, Usher L. Burdick, started when he came to the U.S. House of Representatives in 1934. Except for 4 years during the 1940's, North Dakota has been continuously represented by a Burdick since then.

Recently, I was reading an account of the tragic injustices that occurred at Wounded Knee against the Sioux Indians. And in reading about who has stood up on behalf of some kind of compensation, and justice for those survivors some decades ago, lo and behold, I came across the name of then-Congressman QUENTIN BURDICK.

That was no great surprise. Our colleague from North Dakota is a man of principle and a man of courage. During the Vietnam war, QUENTIN BURDICK came out against the war when it was not a popular thing to do.

On a personal note, my wife, Jeanne, remembers how welcome she felt on a trip once to North Dakota when she was warmly greeted at the Fargo Airport by our good colleague and his lovely wife, Jocelyn.

So let me join in paying tribute to and congratulating Senator BURDICK at this time. Thirty years in the Senate is, indeed, a milestone and the residents of North Dakota are rightly proud of their native son.

SENATOR QUENTIN N. BURDICK'S 30TH ANNIVERSARY IN THE SENATE

Mr. NUNN. Mr. President, it is fitting today that we pay tribute to Senator QUENTIN NORTHRUP BURDICK, who is celebrating his 30th year in the U.S. Senate. QUENTIN's leadership over the years—from the courtroom to the House and Senate floors—has contributed enormously to the well-being of the people of North Dakota. His ef-

forts on behalf of agriculture and clean air and water benefit not only the people of his native North Dakota, but all Americans.

QUENTIN BURDICK has long been known to North Dakotans as "YOUNG" BURDICK, to keep his activities separated from those of his father, Usher Burdick. Together, they have served their State for more than half a century. I am sure that one of Usher Burdick's greatest sources of pride was seeing his son follow in his footsteps, knowing that his knowledge and love of public service had been instilled in "YOUNG" BURDICK.

North Dakota is an intensely political State where everyone shares in the responsibilities of the community. The farmers, business and professional people, teachers, and housewives of North Dakota live in the only State in America that does not require voter registration. The people of North Dakota just go to the polls and vote, and they have a tradition of quickly voting out incumbents. Yet for six consecutive terms, they have gone to the polls and voted to send QUENTIN BURDICK to the U.S. Senate. He has served them well.

North Dakota is a young State—it just turned 100 last year. Like QUENTIN—despite its youth—in many ways it keeps alive the virtues of an older time. A larger percentage of the people of North Dakota are farmers than in any other State. They retain the sense of community, love of the land, and stewardship of the land that built this great Nation. QUENTIN BURDICK shares their commitment.

As chairman of the Environment and Public Works Committee and chairman of the Appropriations Committee's Agricultural Subcommittee, QUENTIN has been a leader in the fight for environmental responsibility. He fought for clean water and air and drought relief long before those issues were thrust into the mainstream of the public conscience. He has fought for rural electric programs and health programs and for the homeless. He has always placed the welfare of the Nation above any partisan considerations, and he has consistently had the courage of his convictions.

Just as QUENTIN BURDICK has often been ahead of the trends, so his State is even now in the forefront of gourmet trends in America—North Dakota Durum wheat is the main ingredient of pasta.

QUENTIN, it has been a great privilege to work with you during the 18 years I have served in the Senate. As North Dakota begins its second century and the Burdicks of North Dakota begin their second half-century of leadership in that great State, the Nation joins North Dakotans in congratulating QUENTIN BURDICK on three decades of exemplary service.

SALUTE TO QUENTIN N. BURDICK

Mr. HOLLINGS. Mr. President, permit me to briefly congratulate our distinguished senior colleague from North Dakota, QUENTIN BURDICK, on the 30th anniversary of his election to the U.S. Senate. QUENTIN is, first and foremost, a man of this great Nation's heartland. He is soft-spoken and dignified, yet his voice is heard clearly and powerfully in this body as he stands up for the best interests of his beloved North Dakota.

QUENTIN BURDICK is not just a good friend and respected colleague, he is the genuine article, an all-American gentleman, an authentic voice of the proud American farmer. Moreover, throughout his long and distinguished career, he has remained consistently liberal in the best sense and tradition of that word—a partisan of civil rights for all Americans and a true believer in progressive Government activism on behalf of the less fortunate and in building a stronger American economy.

So, Mr. President, it is with respect and affection that I and so many other Senators rise today to extend our best wishes to QUENTIN BURDICK. May his next 30 years in the Senate be as distinguished as his first 30.

SENATOR QUENTIN BURDICK

Mr. LEAHY. Mr. President, I am delighted to have this opportunity to stand up and talk about my good friend QUENTIN BURDICK.

QUENTIN and I come from the same America—small, rural States, where chances are good that people know their elected officials personally.

North Dakota and Vermont are often dwarfed by the populations of other States. That is why, since coming to the Senate in 1975, I have looked to QUENTIN for guidance on issues important to our States—agriculture, rural health, and small business. His deep appreciation of rural life, and devotion to the people of North Dakota, have made him a role model for me from my first days here.

Since becoming chairman of the Senate Agriculture Committee, I have worked closely with the distinguished chairman of the Agriculture Appropriations Subcommittee. It was QUENTIN who, facing the worst drought his State had seen in decades, helped break the political deadlock in the Senate and forge a drought relief package for farmers in 1988. Thousands of small farmers in his State, and across the Midwest, would have lost their farms had QUENTIN not been there to push his legislation through.

QUENTIN, well aware of the distinct problems rural areas have in providing health care, established the Rural Health Care Caucus. The caucus has been a true advocate for rural people: It has helped keep our small hospitals open and worked to keep doctors, nurses, and other health care providers in areas where they are needed.

I have been to North Dakota with QUENTIN, and I know that the people of North Dakota hold him in high regard. And judging from the many statements made on the Senate floor today in his honor, so does the U.S. Senate.

Senator BURDICK, congratulations on your first 30 years.

TRIBUTE TO SENATOR QUENTIN N. BURDICK

Mr. WARNER. Mr. President, today we celebrate the 30th anniversary of service in the U.S. Senate of our esteemed colleague from North Dakota, QUENTIN BURDICK. Thirty years ago, a profile of the new Senator in the New York Times described him as a man "whose hair never looked as though it had been combed and whose clothes usually look as if he had worn them to bed the night before," and characterized him as a "man of tremendous energy." Whether the passage of years has effected the Senator's sartorial splendor is a matter open to debate. Beyond debate, however, is that 30 years later, he is still a man of tremendous energy.

Senator BURDICK's famous energy has resulted in many accomplishments during his tenure in this body. Throughout his career he has devoted himself to issues such as bankruptcy law, appropriations, agriculture, and infrastructure. I have been privileged to serve on the Environment and Public Works Committee, which the Senator from North Dakota chairs. In this capacity, his quiet persistence is effective leadership as we grapple with issues at the forefront of public policy.

But my dear friend's most steadfast commitment has always been to those issues that stem from his heritage and his constituents. QUENTIN BURDICK has focused his attention on the issues that affect rural America. As an advocate of rural health programs or in efforts to bolster agricultural exports or provide drought relief, the Senator has been a champion of the American farmer and others who live in the rural parts of this great Nation.

I am told that a Sioux Tribe of North Dakota has honored Senator BURDICK by inducting him into their tribe and giving him the name "Old Bear" in recognition for his efforts in the Senate on behalf of native Americans. The Senator from North Dakota has achieved the venerable status of Old Bear in this body as well, and he has done it without sacrificing the manner of a "peppy new Senator," as the New York Times article of so many years ago put it. It is with the greatest respect and admiration that I

salute my colleague, QUENTIN BURDICK.

QUENTIN BURDICK'S 30TH SENATE ANNIVERSARY

Mr. PACKWOOD. Mr. President, it is with a great deal of pleasure that I pay tribute today to North Dakota Senator QUENTIN BURDICK's 30 years in the U.S. Senate.

I came to the Senate in 1968, by which time QUENTIN had already served 8 years. I was wet enough behind the ears then to think that 8 years was a lifetime. Well, 22 years later, I know that he has now given a lifetime of service to the Senate.

Through the years, QUENTIN has worked with diligence and care for his constituents including women, senior citizens, farmers and many, many others. Representing a State like North Dakota means always looking out for the interests of rural residents, and QUENTIN has done this without peer. He has been a tireless advocate for maintaining an infrastructure for rural areas. He has spent considerable time Promoting rural electric programs. He has worked to help rural areas attract and retain medical professionals.

As a Senator who also represents rural areas, I know firsthand that access to quality health care and a strong rural infrastructure are extremely important to the everyday lives of rural residents.

QUENTIN has also been a strong supporter of civil rights and a woman's right to choose. Over the years, we have frequently been on the same side on many civil rights and abortion rights battles. Most recently we have been working together on the Freedom of Choice Act of 1989.

My hat is off the QUENTIN BURDICK. He deserves hearty congratulations for his lifetime of work for the Senate and for the people of North Dakota.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. GARN. Mr. President, it is with great pleasure and respect that I pay tribute today to my colleague from North Dakota, QUENTIN N. BURDICK. Today marks three decades of service by Senator BURDICK as a Member of the U.S. Senate.

During his tenure, Senator BURDICK has distinguished himself through his strong commitment to civil rights, economic development, and the environment.

I have had the opportunity to serve with Senator BURDICK for over a decade on the Appropriations Committee. I particularly have appreciated his leadership as chairman of the Appropriations Agriculture Subcommittee. Under his direction, we have seen the implementation of several critical programs and marked improvement in agricultural research for our Nation. As a Senator representing a State whose primary industry is agriculture, I am particularly appreciative of these efforts.

I applaud Senator BURDICK for his strong commitment to family and his dedicated service to the people of North Dakota, and I am proud to congratulate him for his distinguished and exemplary career.

SENATOR QUENTIN BURDICK

Mr. LIEBERMAN. Mr. President, today one of our colleagues marks an anniversary of special significance—an anniversary which represents a milestone in public service, and which only begins to speak for the years of dedication and commitment he has given to his constituents. Today North Dakota's senior Senator, QUENTIN BURDICK, will observe his 30th year as a Member of the U.S. Senate.

Mr. President, I am proud to stand on the floor of the Senate in recognition of a man who, during his 30 years of public service, has not lost sight of his mission to serve the 700,000 people from the great State of North Dakota. Senator QUENTIN BURDICK is a dedicated leader and an inspiration to those of us who have had the privilege of serving with him. I have especially enjoyed serving with him on the Environment and Public Works Committee, where he has served as chairman since 1986. As a freshman, I have been pleased and honored that Senator BURDICK has allowed me to take an active role in the legislation brought before us on this committee. I thank him for his leadership and guidance as well as the warm welcome he gave me when he learned of my assignment to his committee.

Throughout his Senate career, Senator BURDICK has successfully fought for issues of concern to his constituents. As chairman of the Environment and Public Works Committee, he has helped shape legislation which will clean our air, protect our food supply, and deter those who would break our environmental laws. As chairman of the Agriculture, Rural Development and Related Agencies Subcommittee of the Senate Appropriations Committee, Senator BURDICK has fought to give those who farm the fertile lands of North Dakota the resources they need to help make America the agricultural giant that it is. He has kept the needs and interests of the farmer at the top of his agenda; from those who sow the sugar beet and potato fields of the Red River Valley to the farmers who toil on wheat and soy bean fields on the windswept North Dakota prairies.

In 1981, Senator BURDICK was assigned to the Special Committee on Aging, where he has worked to protect the rights of America's elderly residents. That has been a task which is significantly fitting since North Dakotans have been known for living long, healthy lives and is now home to so many centenarians. And his work on the Select Committee on Indian Affairs has been extremely helpful to the thousands of native Americans who live on North Dakota's four reservations.

Aside from the many legislative accomplishments that Senator BURDICK can claim to his credit, Mr. President, I attest to his genuine sincerity and integrity as a human being.

I have often seen him take the time to chat with his constituents when others might be rushing off to a meeting or hearing. I have heard him call people by name—not just his colleagues and staff—but the many people who work in the Halls and basements of the Senate office buildings.

Mr. President, Senator QUENTIN BURDICK is a man of honor. A tribute to Senator BURDICK cannot be complete without acknowledging his popularity among his colleagues, his constituents and the Nation. As the third highest ranking member in senority in the U.S. Senate, he has served and led with humble authority. As the third lowest ranking member in seniority in the U.S. Senate, I am grateful for his leadership and thankful for his friendship.

SENATOR QUENTIN BURDICK TRIBUTE

Mr. HEFLIN. Mr. President, it gives me great pleasure today to rise to give tribute to Senator QUENTIN BURDICK on the occasion of his 30th anniversary in the Senate.

I think the esteem people of North Dakota have for Mr. BURDICK is reflected in the duration of his tenure here. And I hope the second half of his Senate career is as illustrious as the first.

I have always admired his battle for the farmers.

Senator BURDICK, has done such a formidable job of representing North Dakota that the rest of us with farming interests have to scramble to keep up. Yet Senator BURDICK is no single-issue politician; his farming policies have been farsighted and have benefited the vast majority of America's farmers and rural residents but his other legislative interests have likewise been outstanding.

Through his long career in the Senate, he has retained his ties with the ordinary people of his State. He has not succumbed to the siren call of the power and prestige of his position. Rather, he has worked earnestly and efficiently to best represent his con-

stituents and all the other people in the heartland of this Nation.

Again, my congratulations to Senator BURDICK on his skill, intelligence, dedication, integrity, as well as his congressional longevity.

QUENTIN BURDICK

Mr. ROTH. Mr. President, it's my pleasure to honor a distinguished colleague and good friend, Senator QUENTIN NORTHRUP BURDICK, on his 30th anniversary as a Member of this distinguished body.

It's been my good fortune to have served two of those three decades with him. And I can honestly say that though we sit on the opposite sides of the aisle, we are bound together by our dedication to and support of this great Nation. It's also been my personal pleasure to work with Senator BURDICK on issues involving the North Atlantic Alliance.

On many occasions we've had the opportunity to travel together with our wives, Jane and Jocelyn, to forge a friendship that goes beyond these walls. And I can honestly say that anyone who has ever had the chance see QUENTIN's personality and to talk with him informally comes away with a smile and quiver full of jokes to tell.

It's clear that his character has been molded by America—a well-rounded, strong, resolute manner that is as comfortable on the gridiron as it is in the Cloakroom. But above all, it's marked by wisdom and truth—two genuine down-home ingredients that grow plentifully in his beloved Fargo, ND.

In fact, I think the only times I've ever doubted QUENTIN's stories are when his eyes take on the gleam and he starts to recount his days as a Gopher, on the University of Minnesota football team. All I can figure is that he must have been as good a Jim Thorpe, but he just didn't have the right press agent.

Anyway, I'm grateful to this fine man and all he represents to this important body—even to the United States. For 30 years he has served both honorably and well—a major milestone as only 35 other Senators, of the 1,792 who have served so far, can make the same claim—30 years of service.

As we celebrate those 30 years, I hope the most insightful evidence about QUENTIN's personality is not lost, that he was defeated six times before finally being elected to Congress in 1958. He knows both victory and defeat. Clearly, the sweet taste of victory is better, but more importantly, he has proven that success is not in never falling but in rising every time you fall.

Mr. President, maybe those old Gopher stories are true, after all.

SENATOR BURDICK'S 30 YEARS IN THE SENATE

Mr. LEVIN. Mr. President, today is the 30th anniversary of QUENTIN BURDICK's election to the Senate. To many, and to me, he represents one of the most independent and strong-willed Members of this body. He has the courage of his convictions. He is interested in the impact of a program on the people of North Dakota and on our United States rather than on his personal political fortunes.

Senator BURDICK has always been accessible for advice and counsel and assistance. The only time I have really worried about QUENTIN was when he was ill one time a few years back and we didn't see him on the floor for a while. While most of us in a similar situation would have been running to doctors or the hospital, QUENTIN gained strength in his own quiet and private way and came back to us with renewed vigor.

He and his wife, Jocie, have been institutions around this institution, and Barbara and I wish them our very best as he moves forward from his 30th anniversary to more years of service to his beloved North Dakota and our country.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,930th day that Terry Anderson has been held in captivity in Beirut.

THIRTY-YEAR TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. MCCLURE, Mr. President, I rise today to join with my colleagues in paying tribute to the senior Senator from North Dakota who has devoted the past 30 of this life to serving in this great body. It's not often that Senators can join together to recognize such a remarkable milestone such as the one achieved by Senator QUENTIN BURDICK.

For 30 years, the distinguished Senator from North Dakota has had one goal at the forefront of his agenda; protecting the interests of the people in his State who elected him to represent them in Washington, DC.

Senator BURDICK is not one who has rushed out to jump in the limelight. Instead, he has chosen to step aside, quietly pursuing what he felt was important to the people of North Dakota. A couple of years ago, my friend from North Dakota summed up his service in the U.S. Senate by saying, "I try to represent the people of my State and hope their interests coincide with the national interest."

Senator BURDICK has been involved in many issues that are important to my State and other Western States. North Dakotans, and all Americans, can be proud of the work that my esteemed colleague has forged ahead on in areas of agriculture, education, economic development, and rural health care.

I commend the Senator from North Dakota for his efforts over the past 30 years. His constituents and the people of this great Nation have been well served.

DR. JAMES HOLDERMAN: LAYING THE FOUNDATION FOR GREATNESS AT THE UNIVERSITY OF SOUTH CAROLINA

Mr. HOLLINGS. Mr. President, at the end of this month, Dr. James Holderman leaves the presidency at the University of South Carolina after 13 years of brilliant leadership. In 1977, he came to an institution that was proud and steeped in history, but an institution that was something of an underachiever on the national academic scene. Jim Holderman immediately set about shaking things up, infusing the entire university community with his energy, his dreams, his ambition, and—most importantly—his hot pursuit of academic excellence. He leaves behind a University of South Carolina that is vastly improved, and maybe even a little cocky about is achievements and transformation.

Money is the mother's milk of academia no less than politics. No university can aspire to excellence without a broad and deep financial base. Accordingly, Jim Holderman has worked tirelessly and relentlessly to encourage private and public giving to his school. The University of South Carolina's endowment has grown tenfold in the last decade to $50 million. During the same period, private support has increased 1,748 percent, the highest increase in private support for any university in the country.

This extraordinary financial investment has yielded impressive academic dividends. Research at the University is growing 15 percent per year—5 times the national average. The University's international business program is ranked No. 1 in the Nation. In addition, the South Carolina College has been established with a student body whose SAT scores are in the top 1 percent nationally.

These are just several of the more notable highlights of Dr. Holderman's remarkable tenure as president at the University of South Carolina. He will be greatly missed, but his legacy of achievement and great expectations will continue to propel the University forward.

Certainly, I look forward to a continuing close association with Jim Holderman, and I wish him and Carolina the very best of luck in the new challenges and opportunities that await them.

SENATOR QUENTIN BURDICK

Mr. MOYNIHAN. Mr. President, I take this moment to honor a grand and special achievement. Senator QUENTIN BURDICK, my revered colleague, marks on this day his 30th year as a U.S. Senator. Only 35 other men have served so long in all the splendid chronicle of this august body.

I have enjoyed the great pleasure of serving with QUENTIN for 14 years on the Environment and Public Works Committee, since I first came to the Senate in 1977. We worked together in 1987, when QUENTIN's tenure as chairman commenced, to pass the Surface Transportation and Uniform Relocation Assistance Act. The United States had gone near one-half of a year without a highway program, the longest such time in our modern history. The chairman persisted with firm purpose, gentle manner, and telling effect. Our bill was passed, over the President's veto, and brought us to the end of the interstate highway system project—the largest civil works venture ever.

Mr. President, QUENTIN BURDICK has been all and more than the good people of North Dakota could wish for from their Senator. He has served the past three decades in this Senate with such dignity, humor, and wit that we could not help but be better for it. I join with my colleagues in extending my warmest congratulations to Senator BURDICK on this eminent occasion.

SENATOR QUENTIN BURDICK'S 30 YEARS OF SENATE SERVICE

Mr. PRYOR. Mr. President, today marks the 30th anniversity of the election to the U.S. Senate of my good friend and colleague, QUENTIN BURDICK. He joins a very select group of those 1,792 of us who have been privileged to serve in this magnificant institution: There are now only 35 Senators in this history of the Republic with longer tenures of service than QUENTIN. This is an achievement that in itself merits our respect and admiration, but length of service is not the most distinctive quality of his Senate career.

What distinguishes our colleague's career is his steadfast commitment to serving the people of North Dakota and the Nation and his resolute and unflagging pursuit of this objective in a quiet and unassuming—albeit effective—way. QUENTIN is truly a workhorse in an era when they are outnumbered by showhorses. His commitment to accomplishment was exhibited in his early years at the University of Minnesota when he filled the role of blocking back—an indispensible but unglamorous job—on the football team that included one of the greatest running backs in the history of the sport, Bronko Nagurski.

A workhorse is persistent, steady, tenacious and can be trusted to be there when a challenge looms and the going gets tough. These qualities have been the hallmark of QUENTIN's career. He persisted in pursuing a career in public service, losing seven election contests before he was successfully elected to the U.S. House of Representatives in 1958. He's been a steady advocate for the farming families of North Dakota throughout his career and a tenacious defender of the civil liberties of all Americans. His word is his bond, and he can always be trusted to fulfill a commitment to a constituent, colleague, or friend.

I congratulate Senator BURDICK. I consider it an honor to serve with him and look forward to many more years of service by this great workhorse of the Senate.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. HATCH. Mr. President, I wish to pay tribute to QUENTIN BURDICK from North Dakota, one of our most honored and respected colleagues. He has served the people of his State deligently for 30 years. This is a unique opportunity for us to honor Senator BURDICK for reaching this important milestone in his already distinguished political career.

Senator BURDICK was elected as a U.S. Senator on June 28, 1960. After his initial term in office, he came back to the Senate as a result of consecutive electoral victories in the years 1964, 1970, 1976, 1982, and 1988. He has been an influential member of many varied committees during his extensive Senate tenure. He is currently serving as chairman of the Environment and Public Works Committee and as chairman of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies. Senator BURDICK's devotion to the improvement of our country has been manifested in the progress that has been made in these areas during his service.

I have truly enjoyed my association with Senator BURDICK, and benefited greatly from his wisdom and experience. I salute Senator BURDICK for his valiant effort in the Senate and the contributions he has made to the people of the United States of America.

COMMENDING SENATOR BURDICK

Mr BREAUX. Mr. President, I rise today to join my colleagues in celebrating QUENTIN BURDICK's 30th anniversary of his election to the Senate. With this anniversary, QUENTIN BURDICK becomes the 36th Senator in history to reach this milestone. As a former member of the Senate Environment and Public Works Committee, I had the privilege to work closely with Senator BURDICK on a number of difficult issues. I have always found him to be a voice of reason, and a committee chairman who has treated his colleagues with courtesy and fairness.

North Dakota, as well as the whole country, has been well served by QUENTIN BURDICK for the last 30 years. Throughout these years Senator BURDICK has never forgotten his roots and his commitment to the people of North Dakota could never be doubted. Despite a busy schedule, Senator BURDICK continues to make regular trips to North Dakota. Time and time again, Senator BURDICK has championed the rights of farmers, native Americans, and the needs of rural communities. These interests have been well served through the Senator's positions on the Senate Appropriations Committee, and of course, his chairmanship of the Environment and Public Works Committee.

Under his direction, the Senate Environment and Public Works Committee has passed several very significant pieces of legislation during the Congress. The reauthorization of the Clean Air Act and legislation addressing oilspill liability have been reported out of the Environment and Public Works Committee and passed on the Senate floor. Senator BURDICK will continue to play a leading role in such issues as a new highway bill, and in the water resources bill recently reported out of committee.

Actions speak louder than words, and while QUENTIN BURDICK's face is not a fixture on national television, his voice is an effective and respected one. After 30 years in the Senate, Senator BURDICK retains tremendous energy and commitment. This, combined with the Senator's seniority and experience, has set a high standard for us to strive to achieve.

As Members of this body we are all aware of the enormous toll elections can inflict. Senator BURDICK has won reelection six times in a row. I believe this is reflective of the drive and determination that has served him, and the people of North Dakota, so well and for so long. Senator BURDICK's commitment to public service has never wavered and, despite electoral defeats early in his career, he persevered to reach the lofty position which he now holds.

It is an honor and privilege to serve with Senator BURDICK. This is a special and rarely achieved milestone that deserves recognition and congratulations.

AMBASSADOR MIDDENDORF WARNS AMERICA NOT TO DISARM

Mr. HELMS. Mr. President, during my nearly 18 years in the Senate, I

have found few in this city whose ability to understand the workings of the world equals that of my good friend, the Honorable J. William Middendorf II. Bill, as he is known by those who know him, has served as Secretary of the Navy, and as our Nation's Ambassador to The Netherlands, to the European Economic Community and to the Organization of American States. He has served America with great distinction, and our country could use more like him in public service.

The June issue of the Reserve Officers Association's National Security Report carries an article written by Ambassador Middendorf entitled "Glasnost and Perestroika—Facade or Reality?" In the article, Ambassador Middendorf warns that the cold war may not yet be over and urges that America's defense not be cut until we see tangible reductions in Soviet military capabilities and subversion.

Ambassador Middendorf's article documents how, under Gorbachev, Soviet military capabilities and subversive activities have actually increased. He points out how perestroika was first actually implemented by Lenin in 1921 as a plan to "deceive the West into thinking that the Soviet Union was changing." Of course, the basic nature of the Soviet Union did not change then, and likely will not change now—if Gorbachev gets his way.

The article by Ambassador Middendorf reminds us that despite all of the euphoria over the changes of the past year, we would do well not to forget Soviet history, nor ignore Soviet military preparations and intelligence activities. I hope that Senators will take a few moments to review Bill Middendorf's piece. After so doing, they will see why it is so important that America keep its powder dry.

Mr. President, I ask unanimous consent that the article from the National Security Report written by Bill Middendorf, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the ROA National Security Report, June 1990]

GLASNOST AND PERESTROIKA—FACADE OR REALITY?

(By Ambassador J. William Middendorf II)

Here are a few buzz words that have become part of our lexicon in the last six months. The genie's out of the bottle. The irreversibility of the collapse of communism. Gorbachev's more popular than Bush in the U.S.

There are very serious people who are talking about New Thinking. Is this for real? Can we trust it?

Should we disarm? Is the Cold War over? Should we go home? Should we get about our business of improving the environment or getting more hospitals or roads, and reorganizing our lives? Or is it going to make that much difference? Or in turn, should we remain skeptical, at least for the moment?

First of all, I think it goes without saying that the Soviet Union has declared Chapter 11 and is selling off assets. Where they really are is difficult to tell as they lie about everything, so you never know what their figures are. Even the CIA gets them all jumbled up, and has for years.

There's no consensus in Washington of what they're spending on defense, what percent, what have you, except that we can just get a ballpark figure looking at the weapons systems that they have acquired.

As best as we can figure out, the Soviet Union lost about $64 billion since Gorbachev's been there in oil revenues as the result of a drop in the price of oil. They depended heavily on that for external revenues.

Second thing is that it was costing them huge subsidies to support an already drained and stripped Eastern Europe. After the war the Soviet Union stripped them of just about everything which was worth stripping and in the last few years it's been costing them perhaps $11 billion a year. In addition, it may be costing them $26 billion a year to keep the military forces there.

Who knows what's going to happen a year or two or three down the road? Who knows how to predict the future anymore? How many of us, certainly not me, a year ago could have predicted that we would be looking at a movement toward freedom in Eastern Europe and free elections? Anybody that I know who would have predicted such would have been certified insane, at least in Washington.

At the moment we do know that Gorbachev is being talked about for the Nobel Peace Prize, that he's been smiling, that he's very popular.

We know the early warning time required for NATO forces is no longer a few weeks, but perhaps a couple of months if the Soviets pull back from Eastern Europe.

This means, very importantly, that on combined NATO forces, if we hold them together, is in a better position to parry a nonnuclear exchange with the Soviet Union at the present time. That's very significant.

Is Gorbachev a disguised Mother Teresa who is going to march off into the sunset with us, promote democracy, pray and prize American ways like apple pie and all the other good things? And is he doing it now?

We cannot overlook his military capabilities. First of all, he's spending $5 billion a year on Cuba. He supports corrupt governments in Afghanistan, Angola, and, up until early March, in Nicaragua.

Outrageously, last spring Gorbachev sold to Ghadafi bombers that enabled Libya, the most determined terrorist state in the world, to threaten Israel's existence.

Has there been any reduction in Soviet spying around the world? Judge Webster said recently that this has increased. US technology and vital defense secrets are prime targets.

Perestroika, let's take a look at history. In 1921, less than four years after the Russian Revolution, Lenin instituted the first Soviet perestroika. The New Economic Order it was called at that time. It lasted until 1928, receiving economic subsidies from capitalist countries.

During that time, Lenin often invoked the term perestroika in order to deceive the West into thinking that the Soviet Union was changing. The West, as usual, and as now, provided financial capital and technical assistance.

The Soviet Union is always bankrupt. The system is so incompetent. Who of us would willingly work a day with small rewards if it was all for the state, for 20 million elitists, members of the communist party, who are living well at your expense.

In the early 1970s, they undertook a glasnost policy called detente. We had SALT I and SALT II. For years, the West relaxed its feeling towards the Soviets.

I was in the Pentagon at that time, and toward the end of the Vietnam War I heard everywhere "we need a peace dividend."

In all that euphoria that followed, we lost Nicaragua and we lost a number of other countries. We cut our own defense.

Throughout all these periods of relaxation—I use that word in parentheses—of international tension—the Soviet threat continued to build, as it has recently.

I believe that the Russian mind looks at things in reverse. You make a concession in friendship as you might in a business deal, but they look at it as a sign of weakness and accelerate their building. So it has always been necessary to pay attention to Soviet hardware, not their words.

Those of us who have served in the military look at capabilities, not intentions.

Most experts agree that the Soviets are now spending over 20 percent of gross national product on defense. We're spending about 6 percent.

While the Soviet economy is in dire economic straits, the people have suffered, not defense.

NATO. I think at this moment it's a wonderful force. Cohesive, pulling together, it could handle the Soviets at this stage, even though the Soviets have superiority in tanks and planes and have strategic nuclear weapons targeted at every city in America, and that isn't going away.

Equally serious, is their capability in biological and chemical warfare. Americans don't like to talk about that. Chemical weapons have been used by Iraq, Iran, Ethiopia, and Chad.

Our own Defense Intelligence Agency says that the Soviets have vaccines or antidotes for many of the diseases that might be used in a biological warfare attack. These include those for anthrax, tularemia, plague and botulism. The United States, on the other hand, is not so prepared.

Major propaganda efforts have been undertaken by the Soviets. It is estimated they're spending $4 billion per year on propaganda and intelligence measures to influence the West.

Are we to place our security and our children's security on this one man who's been given unlimited powers in the Soviet Union? He can call a state of emergency at any time. Under ethnic dislocation within his country, upset by unrest at home, facing an upsurge of nationalism, under pressure from the military could he resort to a strategy of threatening perestroika some day to preserve his core?

Europe and the United States must stick together because the possibility clearly exists for a reversal of perestroika. Tensions could arise between old alliances, however, as the European Community moves toward 1992. Trade disputes are inevitable. Most of these will be resolved, but there could be a spillover onto the NATO alliance. If so, the only winner would be the Soviet Union.

Who among us is not thrilled by the wonderful events of the last year? As Romania, East Germany, Czechoslovakia, Hungary, Poland, and possibly, Yugoslavia are all moving toward the Western camp.

We are in a great turning point in history. We must see that the Eastern European

countries survive and succeed in their new experiment towards free markets and success. We have a big stake in that.

A successful Eastern Europe well-blended into Western Europe, and a Western Europe that holds its military strength will serve as a barrier to Soviet expansionism.

It is a golden opportunity for all of us. But we must not talk in terms of unilateral disarmament. A lot of people feel strongly that defense is like a light switch. When you don't need it, you turn it off and go on about building your sewers and schools. You reorientate your priorities. Then when you do need it, switch it on again.

Any fool can tell you when you need it; for example, a Soviet resurgence or the threat of a terrorist country developing strategic weapons. Then turn the switch back on.

The problem is, you don't turn it back on. It takes a decade to build an aircraft carrier from the planning stage. It takes five years to build any kind of major weapons system. And we must keep up our technology to lay the groundwork for future weapons.

We must maintain our priorities. We must not be deceived again.

SENATOR QUENTIN BURDICK: 30 YEARS OF SERVICE TO THE SENATE

Mr. GLENN. Mr. President, I want to join my colleagues in paying tribute to the senior Senator from North Dakota as he celebrates 30 years of service in this body. QUENTIN BURDICK must be recognized not only for reaching this rare milestone, but for the manner in which he has achieved it.

No one would ever accuse QUENTIN BURDICK of being flamboyant. He has been a workhorse and not a show horse. He has never tried to attract undue attention to himself. In 1960, Senator BURDICK began quietly fulfilling his duties to his constituents in North Dakota.

Comparisons to the Senator's football days as a blocking back are frequent and appropriate. While the spotlight fell elsewhere at the University of Minnesota, blocking back QUENTIN BURDICK was doing the less glamorous, but absolutely necessary, work for the team. Senator BURDICK has been fond of telling the story that he scored a touchdown every time he touched the ball. By his own admission, though, he had only been given the ball once.

As a U.S. Senator, QUENTIN BURDICK adopted the same style and worked to help his State and his country. For 26 years he was a blocking back in the Senate. Then, in late 1986, the Senate gave him the ball when he rose to become chairman of the Committee on Environment and Public Works. The Senate and the American people needed him to step into the tailback's role.

I have read that some were surprised at Senator BURDICK's effectiveness in his new role. Anyone who knows the Senator from North Dakota knows that he is one of the hardest working men ever to sit in this body. It is this work ethic that makes him so effective as chairman. Senator BURDICK still can be counted on to score whenever he's asked to carry the ball.

I have the great pleasure of representing Mrs. Eileen Levering in the Senate. Mrs. Levering is QUENTIN'S sister and resides in Fredericktown, OH. Her late husband, the Honorable Robert Woodrow Levering, served in the U.S. House of Representatives in the 86th Congress. Mrs. Levering describes QUENTIN BURDICK as "all work and no play when it comes to the Senate." She notes that he has always been "for the underdog," and proudly states that he has upheld the tradition of their father, the Honorable Usher Burdick.

I am honored to salute my friend Senator QUENTIN BURDICK for 30 years of distinguished and diligent service to the people of North Dakota, this Senate, and our great Nation.

AMERICANS WITH DISABILITIES ACT

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand that the papers regarding the conference report on the Americans With Disabilities Act are at the desk; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask unanimous consent to be able to receive those papers in order to be able to deliver them to the House of Representatives.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. KENNEDY. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection to the request?

Mr. THURMOND. Mr. President, I object.

The PRESIDING OFFICER. The Senator from South Carolina objects.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President I reserve the right to object to the unanimous-consent request. There is no objection to the Senator from Massachusetts. Perhaps the Senator from Nebraska could first proceed to make a statement on some other matter.

Mr. KENNEDY. Mr. President, I will not object. I just would like to inquire of the minority leader what the reluctance is to permit the papers from the Americans With Disabilities Act [ADA] to go over to the House of Representatives, which is now waiting, so that they can take action prior to Fourth of July recess. As we celebrate Independence Day, 43 million disabled Americans would like to have independence from the kind of physical and mental barriers which they have lived with for so long.

I just inquire of the minority leader, what in the world is the reluctance to release this conference report that bears the signature of every Republican and every Democratic Member of the Senate conference committee? What is the reluctance to permit this conference report to follow the traditional path and be acted on by the House of Representatives if that body is prepared to act.

The PRESIDING OFFICER. The Senator from Kansas, the Republican leader, has the floor.

Mr. DOLE. Mr. President, I do not know that it is any reluctance. They can celebrate the Fourth of July and I am part of 43 million that will be celebrating the Fourth of July.

In any event, this bill cannot be signed by the President until somewhere around the 12th of July, and the primary concern we have—in fact initially I had no concern until I checked with the Parliamentarian—is to preserve the rights of Members on this side—I am not one of them—some Members have some concern with certain provisions of the ADA bill, not one—checking true disability, the so-called Chapman amendment, and we have another amendment, the Grassley amendment.

I am advised by the Parliamentarian and by my staff that they would lose certain rights if in fact the papers went to the House, the House acted, then there would not be any conference. You could not recommit the bill to conference because there would not be any conference left because the House will have acted.

So it is that concern. Certainly we have no problem with the bulk of the legislation. I think it certainly, as the Senator from Massachusetts indicated, is a landmark action by the Congress for millions of disabled Americans. But this happened to be a procedure, and I think if I consent to the request of the Senator from Massachusetts, it would undercut and take away some of the rights of my colleagues on this side of the aisle. I cannot do that. Therefore, I will object. That will take care of it.

Mr. KENNEDY. Mr. President, reserving the right to object, we are fol-

lowing the time-honored precedents which the Congress has abided by for 200 years. There is always the possibility that if there is some objection to a conference report by a Member, he can always defeat the conference report. That has been done. I have been involved in that at the time that we had the conference report on the gerrymander bill; the one-man one-vote; the Reynolds versus Sims decision, and we saw the Senate reject the conference report.

If it is the intention of Members to reject it, so be it.

But, Mr. President, we have certainly a right to expect—we have a unanimous vote of Republicans and Democrats alike—that there would not be these objects to be put in the way of one additional extremely important step for the completion of this legislation, which is the ratification by the House of Representatives.

I am informed they are prepared. They announced to their membership, they are prepared. This is basically a ministerial function to transfer these papers, and I understand now that the Republican leader is indicating opposition to what has historically been a ministerial function, thereby denying the House of Representatives its right to proceed on this legislation,

So, I just want the Members to understand when they get inquired of over the course of the Fourth of July recess where this resistance has come from. The conference met earlier this week on Monday, so that we would be able to conform with both House and Senate rules, and to permit this critical action before the recess. And now, at the time when the House of Representatives is prepared to take action, we are not prepared to let them. I am quite prepared to have the conference report considered here in the Senate as well. Evidently there has been objection to considering it here prior to the recess as well, which I find objectionable.

I want to make very clear where the responsibility lies in this matter. This is legislation of the utmost importance and evidently because of some individuals' or individual's objection, we are prohibiting the time-honored traditions of these two institutions, the House of Representatives and the Senate, from moving forward. I find that offensive and I am sure that the millions of Americans across this country who have been waiting for continued action will find it equally offensive.

Mr. DOLE and Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Republican leader is recognized.

Mr. DOLE. Mr. President, I am happy to yield the floor, or whatever.

I think it is fair to say that the sooner we act on this conference report the better. But it is not going to become law until sometime after July 12. As I understand, the President wants a big signing ceremony and a big thing at the White House. The President leaves tomorrow for Kennebunkport. On the Fourth of July he leaves for London, and goes from London to Houston, TX. It will be impossible to take action.

Having said that, I have no quarrel with moving ahead on the conference report. We have not only the Chapman amendment that is controversial, we have another amendment called the Grassley amendment that affects Senators and that is highly controversial. It does not affect House Members; it affects only Senators.

But I would say, putting politics aside, which is difficult for the Senator from Massachusetts, that my obligation on this side as Republican leader is to preserve the rights of the Members on this side. If we do what the Senator from Massachusetts suggests, those rights will be lost to at least two Members on this side, and I would be less than effective as the Republican leader if I permitted that to happen. I do not intend for that to happen, even though I may not agree with either Member.

So it is not a question of the 43 million disabled, or the question of whether we do it today, move very quickly on this bill. It has been bipartisan from the start. Many Members on each side have been very active. The President has been active on this legislation. It is just not going to happen until around July 12.

But, in any event, it will happen. I think that is a very constructive sign. As I understand it, if the majority insists, they do not need our consent to take the papers and take them over to the House side. But there has been an understanding in the last few years, unless there was an agreement, that would not happen. But I think at least two Senators on this side would like their rights preserved and it is my responsibility as the Republican leader to do that. And as I have said before, I respectfully object to the request.

I think the Senator from Utah, who is the ranking Republican on that committee, was very active in this legislation. I think he thought originally it was all right to proceed, but I think he may now understand some Members would lose their right on this side.

I am happy to yield to the Senator from Utah without losing my right to the floor.

Mr. HATCH. Mr. President, I would like to refer to the comments of my friend from Massachusetts.

As the ranking Republican member on the committee, I have to say I believe rights will be lost if we shipped that over there today.

But it is a little more important than that, too. When we negotiated the senatorial coverage of this, as I understood it, the negotiation and agreement was far different from the way it is currently written. And if we shipped it over there right now without making the appropriation changes, we would not only cut off the rights of one of our Senators on that particular issue but we would be sending language that we did not agree to. Because, as I recall, we agreed to use a mechanism similar to the House, still private right of action with regard to congressional coverage, and at the same time we agreed that the only person who could be sued would be the Senate, and that the Senate would have to defend those particular lawsuits. None of that is written in the current draft of the conference report. I was chagrined to find that it was not in there yesterday when we went over some of these matters.

Second, I have been asked to withhold my support for transferring it over there by another colleague who wants to have his rights protected with regard to the Chapman amendment. Mr. President, there is nobody in the Congress who has fought harder for this piece of legislation, with the possible exception of the Senator from Iowa, than myself. I have always fought for the community of persons with disabilities. I will always fight for them.

It does not mean I accept every provision that everybody wants, but I am certainly going to fight for their rights, and I have on this bill. And I have stood here on the floor and played I think a relatively significant role in helping to pass the bill to begin with.

I am not about to ship it over there when we have not corrected the language that we agreed to in the conference, or at least I thought we had agreed to, because some on our side are very upset at any language that gives a private right of action. But I would be upset if we did not at least do what we said we would do. And as I read the conference report as currently drafted, the language is not what we agreed to. I understood we were going to work on that language and get it done properly.

With regard to the Chapman amendment, I have to say that is a close question and it is something that I signed the report but withheld a right to be able to vote whichever way I wanted to on the Chapman amendment when it comes up in the Senate. The only way it can come up is if we retain it in the Senate. I think that is a right that ought to be protected since that is an important issue. Whether we agree with it or not, it is one that ought to be resolved and it ought to be resolved by a rollcall vote.

Now, again, nothing is going to stop this bill in my opinion from passing

and ultimately going to the President and being signed by the President. We may delay it a few weeks but that is not going to be a critical delay. I will do everything in my power to make sure that we push this bill and get it through as we should.

But I agree with the distinguished minority leader. We should not foreclose the rights, legitimate rights, at least in these two areas, of Senators who have had the guts to come out and stand up for the opinions in which they believe. So as much as I share the anguish of my friend and colleague from Massachusetts, as much as I respect him, as much as he deserves great praise for pushing and working on and helping to pass this bill and helping to get it through the conference in a reasonable condition, except for these two provisions, I have to say that I think the minority leader has acted very properly here.

Mr. KENNEDY. Mr. President, we were informed at the end of last week, through Mr. Fred McClure of the White House, head of legislative affairs, that the President desired to sign this bill on Friday. And that was one of the principal reasons that we decided to meet on Monday, and expedite the process. I think, quite frankly, that it would have been a magnificent indication of this Nation's commitment to the disability community in our country.

I am prepared to see that we act here prior to the time that we leave for the Fourth of July recess or stay here until we do pass this legislation. But now there has been objection to our consideration of this measure prior to the recess—despite the fact that every member of the Senate conference committee signed the conference report. I am quite prepared to debate these issues which have been referred to.

The fact of the matter is the language dealing with the private right of action was cleared by the Senator from Utah's own staff. And I do not want it suggested, as the chairman of the conference, that somehow we did not respect what was generally agreed to. So if there is a complaint about the particular language then I would advise my friend and colleague from Utah to take that up with his own staff. Because we have tried to comply with what was agreed to and understood by the conference. Those of us who were in that conference are quite prepared to vote this afternoon, tonight, tomorrow, next week on this matter. We want to make it very clear that we tried to comply with the President's interest to have this measure pass and on its way to the President prior to the time that he left for his Fourth of July recess.

So, Mr. President, we are quite prepared to enter into a time agreement or whatever is necessary. But the record ought to show that the Republican leader as well as the Senator from Utah have objected to consideration of this legislation—for parliamentary reasons—and I find that extremely objectionable. People with disabilities want action. They can get it now from the House of Representatives. That has a great deal of meaning to millions of Americans who have been waiting for too long. And if you want to use some parliamentary mechanism to deny that opportunity and to force them to wait some more, so be it. But this is one Senator that is going to find that offensive. I think the millions of people around this country will find it objectionable, too.

Mr. HATCH. Mr. President, I understand why the distinguished Senator is upset. I think I am part of the blame here because my staff apparently did sign off on the language. But it is clearly not the language that I agreed to in the conference. And there is a legitimate disagreement here that really has to be resolved over what that language should be.

I have to call my distinguished friend's attention to that because he was the one who raised the issue to begin with in a private meeting of the conference, in the inner room of the Labor Committee. We raised these very difficult issues on congressional coverage, and frankly I thought we had an agreement. I have to say that I thought it was going to be incorporated. The first time I saw it was yesterday and it was not incorporated.

Now, I have to say I share part of the blame for that because, apparently, my staff signed off on it thinking that was the correct language. Well, it was not. so there is a legitimate concern about the senatorial coverage in that conference report. And it has to be revisited, in my opinion.

I think the distinguished Senator from Massachusetts would be the first to want to right it.

Second, the other matter is a matter of legitimate concern. It is not some insignificant little matter, it is an important matter. We were directed by this body, by a fairly substantial vote, to keep the Chapman language in the conference report. When we got there I was the only Senator who voted to do that on our conference team—the only one.

I lived up to what the Senate suggested. I have to confess I am probably the only one who believed that language, on balance, was probably correct. But it is a legitimate question. I have to say that nobody is going to be put out, nobody is going to be inconvenienced, nobody is going to have any difficulty because of a few weeks' delay here.

This is not something that is not going to happen. We are going to get this bill. So, to raise this kind of hue and cry when there are clearly legitimate conerns about language in two major parts of this bill, I think is, if not going to an excess, certainly not giving consideration to the importance of the issues that have to be resolved.

I understand my colleague. I have worked with him for almost 15 years and we work side by side on a daily basis and we are generally opposed to each other on a lot of things. But when we get together, it is a true thrill for, I think, a lot of people. And we are together on this bill. We have stood together on it. I feel as deeply as he does. Yes, I would like the President to be able to sign it Friday. But I think I will be just as happy that he signs a correct bill, rather than one that is not correct.

On the senatorial coverage, I think my colleague should be very glad we are protecting the rights of Senator GRASSLEY to have language written in there that makes sense rather than just a blanket coverage of the U.S. Senate.

I am one who has been for the private right of action, something many Senators are not for. And the reason I am for it is because I am tired of us imposing all this legislation on everybody else in the society and not imposing it on ourselves. There is a lot of discontent with that language. The least we can do is to try to work that language out.

I would think the most interested person ought to be the chairman of the committee, and I should be certainly coequal in interest in doing it right.

I do not see any reason for the great big fuss here. It would be nice to be able to sign this Friday but we are going to have the President sign it. It will be a big event. There is no question about it. And everybody in this country is going to be proud that we have done what we have done for the persons with disabilities community. But to make this into something it is not, I think is a mistake.

There are legitimate rights we are protecting on this side. I wish we did not have to. I wish these were matters that were resolved. I wish we did not have any disputes or conflicts, and I wish the language was written right in the doggoned report, but it is not. Just to send it over there to have a victory on Friday—which I would share in and I would be there on—I think is a mistake. Let us do it right. Maybe it takes a few more days but let us get it done right.

I would like the distinguished Members on the other side to be a little bit concerned about those provisions as we have been on our side. We met for a couple of hours yesterday on this and I was shocked to find the language did not read the way I thought it was going to read.

Again, I will take some responsibility for that because I did not go and personally read the report or review it. I had my staff do it. Maybe they were not part of this meeting because part of the meeting did not have staff. So I have to say it is very easy to see how staff might not have observed what I thought we had agreed to in that private meeting.

In any event, I know what I am arguing for, the distinguished Senator from Massachusetts would be for, because we went over these matters and he was one who was concerned about it, as was every other member of that conference committee.

Let us do it right. If it takes a few more days, it is not going to be the end of the world and in the end, we will have a better bill. In the end, we will have protected the Senate as much as we can. In the end, we will feel better because we will not have stamped on the rights of two of our colleagues, albeit they are on this side. I think that is the duty of both the chairman and myself to see it is done right.

I understand the anguish. I understand the pain. I understand the feelings. I understand the desire to have it done tomorrow, but I think, let us get these matters corrected and let us get it done right, and we will all feel better.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the distinguished Senator from Nebraska.

Mr. KERREY. I thank the Chair.

I inquire whether or not we are in morning business?

The PRESIDING OFFICER. We are not.

Mr. KERREY. I ask unanimous consent to proceed as in morning business for a period of 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

SENATOR QUENTIN BURDICK

Mr. KERREY. Mr. President, I take this opportunity to recognize the distinguished achievements and selfless record of public service of the senior Senator from North Dakota.

As we all know, this year marks the 30th anniversary of QUENTIN BURDICK's service in the U.S. Senate. He is one of only 36 Senators in the history of Congress to serve the public for this great length.

His record reflects a devotion to serving the public. But it also reflects a sustained ability to earn the public trust—for more than five consecutive terms—that makes such a record truly remarkable. His willingness to serve and his commitment to the people of his State and our country have already placed him among an elite few in our Nation's history.

As a freshman Senator, I can feel only respect and a certain awe as I attempt to appreciate the sacrifice, discipline, and purpose of duty that 30 years of service in this body must require.

Mr. President, I have the privilege of serving on the Appropriations Subcommittee on Agriculture with Senator BURDICK as my chairman. I can think of no higher compliment to pay him in this role except to say that he is knowledgeable, skilled, and fair.

His expertise in agriculture is illustrated with each issue, whether the subject is exports, nutrition, research, or credit. His acute awareness of farmer's struggle to wrest a living from the land conveys an understanding that has not been diminished by 30 years in Washington. He maintains a feel for the families and communities of his rural State that is not lessened by the many miles that separate Capitol Hill from the vast fields of North Dakota.

Mr. President, the list of Chairman BURDICK's contributions to agriculture is long and innovative. He was a leader in efforts to enact needed drought relief legislation. He has worked steadily to promote agricultural exports through his active role in shaping the omnibus trade bill, the Export Enhancement Program, the Targeted Export Assistance Program, and other landmark measures.

Senator BURDICK recognizes that much of agriculture's strength stems from the hugely successful partnership that agriculture and the Government have forged in the area of research. This understanding is expressed each year in the funding that he ensures for the activities of agricultural education and research institutions throughout the Nation, and in his skillful helmsmanship in making North Dakota the leading recipient of research grants on a per-capita basis.

Over the past 30 years the people of North Dakota have judged Senator BURDICK regularly and each time found him deserving of their support and continued trust. I know from his actions and the way he presses on that, even after 30 years, he views that trust and support as something that still must be earned each day. I comment the people of North Dakota for their good judgment and I wish to add my assurance that their faith has been well placed.

It is my privilege to serve with Senator BURDICK and my honor to regard him as my friend. I congratulate him on reaching this milestone and I am confident that it will provide but one of many more as he continues his work for the people back home.

THE PRESIDENT'S DECISION WITH REGARD TO RAISING TAXES

Mr. KERREY. Mr. President, I rise as well to declare that I am personally a little confused by the reaction of some in not only the Senate but in the Nation to President Bush's decision to raise taxes in order to tackle the deficit. I must say I am particularly confused by the response that this decision is somehow simply a responsible thing that he is doing. I am very nervous about any response that simply gives President Bush the benefit of the doubt, that somehow he has come clean on this issue, and that his decision on taxes is overdue and acceptable.

First, I must honestly say I feel a personal distrust of President Bush's motives when he says he wants to raise taxes, for whatever the reason. I know it sounds disrepectful to say I do not trust the President, but there are many good reasons not to.

The vehemence of his own opposition to a tax increase and the viciousness with which he attacked those who supported proposed tax increases in the past simply cannot be ignored. This is not a simple occasion where a politician has just changed his mind. George Bush made his opposition to a tax increase the central theme of his 1988 Presidential campaign.

The President's assertion that something has suddenly changed to make the deficit worse is simply not true. The annual increase in the United States borrowing in the next fiscal year is not significantly different than the past 2 years.

In his first address to the Congress, President Bush said the deficit would be easy to solve. Just 6 months ago, he said the deficit was well under control.

Now, suddenly, it is so desperately out of control that he is proposing a tax increase.

Mr. President, I say with respect that the only apparent change I see is that the polls are now showing a growing number of Americans who believe the President will eventually raise their taxes. The President did not choose to face the American people as well, directly telling them of this change, and I believe it is significant.

Instead of facing the American people on television and telling them what he intended to do, he sent a written message through his spokesman. Mr. President, I believe that a matter of this importance would deserve a much more direct statement to the American people.

Further, he has given us no blueprint for ways to wisely spend tax dollars. He has shown no willingness to discuss change and structure of the savings and loan bailout bill. He has provided no assurance to us that additional tax dollars will not end up in

the pockets of America's wealthiest sector.

I suggest America's middle class, where the vast majority of our taxes are raised, are willing to pay higher taxes but will not do so blindly. I think that when America's middle class hears the President say he wants to raise taxes, if history is any judge, that the people in the middle class who tend to pay the most are going to be asking how these taxes are going to be collected. I have come to this conclusion, Mr. President, because in the past, the President's own actions have led me to no other.

Moreover, I would further add that the President has been raising taxes on the middle class already. For 10 years, he and President Ronald Reagan cut taxes for the wealthiest Americans while virtually ignoring the tax burden of the middle class. For 10 years, President George Bush and Ronald Reagan cut benefits to the middle class, cut education, cut health care, cut environmental programs, cut programs for the elderly, and cut all sorts of other things that are needed by the people we are now going to turn to and ask for a tax increase.

I believe, Mr. President, that President Bush now wants the middle class, unfortunately, to pick up the tab for the abuses of the wealthy, to get him out of this deficit bind. I see no proposal from the President that indicate that once we are out of his bind that he is ready with proposals at hand to better our society and, in particular, that of the middle class.

I see no education proposals from the "education President" that will address the children of our middle-income people so that they can become better educated as well. I see no health care proposals from the President so that America's growing health care crisis can be solved. I see no proposals to address the growing problems faced by American families struggling to cover the cost of housing, child care, or tuition for college. I see no proposals to address the need of America to come to grips with our stagnant rate of productivity and our declining international competitiveness.

I think the middle class, Mr. President, is rightfully skeptical of any proposal to raise taxes on them when our elected officials seem to be doing less and less for them in return.

I think that the American memory bank tells us that taxes were cut in the 1980's for the rich but not for working Americans. Now in the 1980's, middle-income Americans are being asked to pay more in taxes to pay for the abuses of the rich in the 1980's.

I know some in this body see this the other way, saying almost with no reservations that what the President is doing now is acceptable, that it is overdue. I must say that I believe, and sincerely believe, middle-income Americans have some reservations. I do not believe they will shirk, if presented a proposal by the budget summiteers that addresses the problems of America, in this responsibility. They never have. They have always been there when they are called upon to make America strong. I believe they are paying their fair share now. I believe we must take great care not to impose any additional burdens.

So I must tell you, Mr. President, when I hear the President saying that we have an urgency to bail out the S&L's and he wants additional tax money, and we have a problem now with our deficit and he needs additional tax money, I think middle Americans are saying: "Wait a minute. I see very few people going to jail in the S&L. I do not see people assuring me of saying the hemorrhaging effect of the S&L proposal will be stopped so I will not be asked again perhaps a year from now to pay more taxes for the increased S&L dollars that may be needed at some point down the road."

Mr. President, I believe to middle America this decision on the part of the President is overdue. I think, in fact, for most of them it is unacceptable. Instead, I think this tax increase proposal tells me the President's own economic policy has failed. His answer to the failed policy is not to offer direction for the future but to ask that we pay more in the present.

Offer America solutions, I say, to our educational problems, our health care problems, our agricultural problems, our environmental problems, our drug problems, our infrastructure problems, our trade problems, and I believe America will respond.

Tell Americans that you have abandoned your pledge to cut capital gains taxes to the rich; that you are committed to bringing the still wild defense spending under control; that you have a plan to bring our banking crisis under control; and then come to the middle-class Americans and ask for more tax dollars, and perhaps they will consider the option. But if all we give Americans is a ship adrift and ask that they pay for its upkeep, I think their answer is likely to be no.

Mr. President, I do not want to impair the progress of the budget summiteers. I suspect now they are going to present us with a proposal, and I am intensely interested in that. It is very likely if the package is designed correctly, with the urgency I feel about the deficit, that I will support it.

I am concerned about getting this bone caught out of this great Nation's throat so we can get on with the real problems facing each and every citizen in this country. But I also believe the American people have heard Senator MOYNIHAN; they have listened to him describe what has happened in the 1980's; they have listened to him talk and they are beginning to believe that, in fact, they are continuing to shoulder an increasing amount of the tax burden, and I believe they are growing weary.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senate Republican leader is recognized.

OMNIBUS CRIME BILL

Mr. DOLE. I think in a minute or two—we are prepared—we are going to try to get an agreement. I have discussed with the distinguished majority leader, if we do get the agreement now and get started right now, we probably can conclude tonight by 9 or 9:30 and tomorrow, maybe 6 hours tomorrow, from 8:30 to 2:30 or 9 o'clock to 3 o'clock, and then if we did not complete everything, we would finish that on the Wednesday we come back. That seems to me to be a very fair proposition.

I happen to believe once we start, we are going to be surprised how quickly some of these amendments will go. Maybe we will finish much more quickly than anybody believes. I think it is cleared on this side, with one exception. I want to turn it over to my distinguished right-hand man, Senator ALAN SIMPSON, becuase he has been in contact with Senator GRAMM, who might have an objection.

Since we tried to accommodate everybody and every concern, I think it is time we start on the crime bill. I want to thank the majority leader for his work and diligence, along with Senator BIDEN and Senator SIMPSON and others who have been working on it.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, as the distinguished Republican leader indicated, we have now been in negotiations on this matter for the entire day, which, of course, was just a culmination of several weeks of such negotiations involving dozens of meetings and literally hundreds of hours.

I will now renew my request, with a modification that has been worked out among the interested Senators, and I hope very much that it can be approved.

As the distinguished Republican leader indicated, if we get this approved and start on this bill, it is my hope to get in 6 hours today and 6 hours tomorrow, as much as we can, and then if there is anything left to do, finish that on the Wednesday when we return. We will be on other business on Tuesday.

MODIFIED UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I renew my unanimous-consent request with the following modification: that the Wirth-Heinz and second degree Metzenbaum amendments identified in paragraphs No. 1 and 2 in the proposed agreement be removed from the agreement with the understanding that the principals will attempt to negotiate an agreement which combines them into a single amendment to be in order to this bill prior to final passage; but if no such agreement is arrived at prior to final passage of this bill, then immediately following final passage of this bill, the Senate proceed to the consideration of a Wirth, et al., bill, the text of which is S. 2786, under the following time limitation; 2 hours for debate on the bill to be equally divided between the two leaders, or their designees, with the only amendments in order thereto being the Heinz-Dole amendment regarding the S&L crisis and the Metzenbaum amendment regarding priority of creditors; that there be 1 hour equally divided on each amendment; that each amendment be printed in today's RECORD in order to be in order to the bill; that no motions to commit the bill be in order; that the agreement be in the usual form; that immediately after all time is used or yielded back, the Senate proceed, without any intervening action or debate, to third reading and final passage of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. MITCHELL. Mr. President, there are three other modifications to make to the proposed consent agreement in addition to the one I have just stated. They are as follows: That on the amendment listed under paragraph No. 7, to be offered by Senator D'AMATO regarding the death penalty for drug kingpins, there be 15 additional minutes for debate on this amendment under the control of Senator SPECTER; further, that the amendment identified in paragraph number 13 by Senator DECONCINI regarding law enforcement pay and subject to a second-degree amendment by Senators GLENN and ROTH on the same subject be removed from the agreement; and further, that the last sentence of the agreement be modified to read as follows:

I further ask unanimous consent that there be no motions to commit in order; that when the Senate resumes the bill, Senator Gramm of Texas be recognized to offer the first amendment; and that a vote on final passage of the bill occur no later than 8 p.m. on Wednesday, July 11.

The PRESIDING OFFICER. Is there objection? Does the Senator from Wyoming seek recognition?

Hearing none, it is so ordered.

The text of the agreement follows:

Ordered, That the majority leader, after consultation with the Republican leader, be authorized at any time, notwithstanding the provisions of Rule XXII, to turn to the consideration of S. 1970, the crime bill.

Ordered further, That upon resumption of consideration of the crime bill, that title III (exclusionary rule) and title VI (Department of Justice reorganization) be stricken from the bill.

Ordered further, That the amendments listed below be in the only amendments in order to the bill, notwithstanding the adoption of previous amendments: *Provided,* That time on each second-degree amendment be limited to 30 minutes, and time on each second-degree amendment be limited to 20 minutes, with time on each amendment to be equally divided and controlled in the usual form: *Provided further,* That there be no time on the bill.

Reid—Child abuse; subject to a second-degree amendment by Senator Kohl concerning treatment for victims; subject to a second-degree amendment by Senator Thurmond concerning pornography/penalties;

Hatfield—Mandatory life; subject to a second-degree amendment by Senators Levin and Cranston regarding restitution;

Gramm—Strike title IV and insert mandatory sentences; subject to a second-degree amendment by Senator DeConcini concerning assault weapons and penalties;

Biden/Simon/Baucus/Pryor—Law enforcement;

D'Amato—Death penalty for drug kingpins, with 15 additional minutes of debate to be under the control of the Senator from Pennsylvania [Mr. Specter];

Kerry—State and local law enforcement;

Grassley/Nickles—Victim impact statement and victims' rights;

Akaka—Ice; subject to a second-degree by Senator Gorton on precursor chemicals;

Graham/Lieberman—Race bias study; subject to a second-degree amendment by Senator Hatch limiting the study's scope;

Lott/Dole/Helms—Prison work requirements and tent prisons;

Boschwitz—Kidnapping of children;

Inouye—Death penalty and Indian lands; subject to a second-degree amendment by Senator McClure concerning Indian lands;

Wilson—Death penalty and civil rights;

Levin—Criminal restitution and bankruptcy;

Spector—Police Corps;

Bipartisan managers' amendment.

Ordered further, That it not be in order to offer any amendment to any bill, resolution, or motion, during the remainder of this session of Congress, on the topics of the death penalty, habeas corpus reform, title III of S. 1970, title VI of S. 1970, and the availability of firearms for purchase: *Provided further,* That the above limitation on further amendments not apply to an amendment to a House bill relating to any of these topics, or to a message from the House on S. 1970, so long as such amendment does not exceed the scope of either S. 1970, or the underlying House bill.

Ordered further, That no motions to commit be in order.

Ordered further, That when the Senate resumes consideration of the bill, the Senator from Texas (Mr. Gramm) be recognized to offer the first amendment.

Ordered further, That if Senators Wirth, Heinz and Metzenbaum are able to negotiate an agreement which combines a Wirth amendment on S&L enforcement and penalties, a Heinz amendment on the S&L crises, and a second-degree Metzenbaum amendment to the Heinz amendment relating to priority of creditors, into a single amendment, that amendment be in order to the bill prior to final passage.

Ordered further, That if no such Wirth/Heinz/Metzenbaum agreement is obtained prior to final passage of S. 1970, immediately following final passage the Senate proceed to the consideration of a Wirth, et al., bill, the text of which is S. 2786, under the following time limitation: That there be 2 hours for debate on the bill, to be equally divided between the two Leaders, or their designees, with the only amendments in order thereto to be the following:

Heinz/Dole—S&L crises;

Metzenbaum—priority

Ordered further, That there be one hour, equally divided, on each amendment; that each amendment be printed in the CONGRESSIONAL RECORD for Thursday, June 28, 1990, in order to be in order to the bill; that no motions to commit the bill be in order; that the agreement be in the usual form; that immediately after all time is used or yielded back, the Senate proceed, without any intervening action or debate, to third reading and final passage of the bill.

Ordered further, That a vote on final passage of S. 1970, the crime bill, occur at 8 p.m. on Wednesday, July 11, 1990.

Mr. MITCHELL. Mr. President, I thank my colleagues very much, especially the distinguished acting Republican leader, and most especially the chairman of the Judiciary Committee, who has literally spent days on this agreement, which now enables the Senate to act on this very important matter for the people of our country. And also, Mr. President, I thank the very distinguished former chairman of the Judiciary Committee, who I know has been working on this bill for a couple years and is very anxious that it proceed.

So with that, Mr. President, I will yield the floor.

OMNIBUS CRIME BILL

Mr. MITCHELL. Mr. President, I now ask that the Chair lay before the Senate S. 1970, the crime bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

The Senate resumed consideration of the bill.

Mr. THURMOND. Mr. President, I am pleased that we are again considering this major violent crime proposal. The need for Senate passage of a major crime proposal is critical. Our Nation is facing the scourge of crime. Victims continue to suffer at the hands of those who commit heinous, brutal offenses without regard for the suffering they cause. The crime package pending before this body will make great strides toward deterring vicious attacks on the law abiding. Those who choose to commit violent attacks on the innocent will face swift,

harsh punishment under the provisions in this legislation.

Briefly, I want to mention two of the provisions in the pending proposal. It includes a major death penalty proposal similar to the bill I introduced on the first day of this Congress. This proposal will deter violent crime and will appropriately punish those who choose to commit vicious, heinous murders. The pending bill also includes reform of habeas corpus procedures in death penalty cases. Without question, there has been substantial abuse in the habeas area. I believe the habeas proposal now included in the pending proposal, which I offered along with certain other Members, will make great strides to end the current abuse.

It is now late in the 2d session of the 101st Congress. We started initial debate on this crime package in May. It is imperative that we make progress on this package as soon as possible so that the House will have time to consider the Senate proposal or take action on their own. Swift consideration will enable us to enact this comprehensive, violent crime package this year.

AMENDMENT NO. 2084

(Purpose: To protect the public safety by imposing minimum, mandatory prison sentences for firearm violations, other violent crimes, and drug crimes)

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2084.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, strike line 15 and all that follows through page 53, line 5, and insert the following:

TITLE IV—USE OF FIREARMS IN CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES

SEC. 401. INCREASE MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

Section 924(c)(1) of title 18, United States Code is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subject to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

SEC. 402. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 nor more than 10 years, and may be fined under this title.

"(j) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 403. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 404. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 405 of the Controlled Substances Act (21 U.S.C. 845) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this section shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act (21 U.S.C. 845b) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 405. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

Mr. GRAMM. Mr. President, the issue we are about to address is very simple. Before, when we voted on the gun control issue, it was on a motion to strike the gun control provisions by the distinguished Senator from Arizona [Mr. DECONCINI] so that the choice the Senate faced was gun control or striking the gun control measure.

On that vote, by a margin of one vote, the Senate voted for the gun control measure. What I have sent to the desk in the form of this amendment is an alternative to gun control, which is criminal control.

So that in casting a vote now, we are talking not about a choice of gun control versus nothing. We are talking about a choice between gun control on the one hand and criminal control on the other hand.

Mr. President, this is an issue which has been debated for many hours in the Senate, and it is not an issue that I will belabor for any extended period of time. The case for criminal control as compared to gun control is a straightforward and simple case. I see no evidence whatsoever to substantiate any claim that gun controls are effective.

We have in the District of Columbia the most stringent gun control law in America, and yet the District of Columbia is the murder capital of the country, murders committed by the very guns that are banned by some of the most stringent gun control laws anywhere in America. Gun controls in a country that has 100 million firearms simply are not enforceable. Those who are going to violate the law and use super sophisticated weapons are going to violate gun control provisions. If someone is going to kill somebody with a firearm, they are not going to be deterred by a gun control violation.

The alternative which I have presented in this amendment is criminal control, and it is straightforward and it is very simple. Let me outline it in the simplest of terms.

If a person carried a firearm during the commission of a drug trafficking crime or a violent crime, whether they discharge the firearm or not, the simple possession of that firearm during the commission of a violent crime or that drug felony, if they are convicted of it, will put them in prison 10 years without release, no matter who their daddy is, no matter how they say society may have done them wrong. If they carry a firearm during the commission of a violent crime or a drug trafficking crime and they are apprehended, no matter what sentence they receive for the drug felony or the violent crime, in addition, for having the firearm they are going to prison for 10 years without release.

Second, if they discharge the firearm during the commission of a violent crime or drug trafficking crime, they are going to prison for 20 years without release.

And finally, if they kill somebody, they are going to be subject to the death penalty. But if the Court decides not to impose the death penalty, they are going to serve life imprisonment without release. So we are talking about a simple stairstep procedure; 10 years in prison without release for possessing a firearm during a drug trafficking crime or violent crime; 20 years in prison without release for discharging it; and the death penalty or life in prison if you kill somebody.

Now, in addition to this, the amendment has several other provisions that are important. We have a three-time loser provision so that if you are convicted not once, not twice, but three times, of a combination of violent crimes or drug felonies, you get life imprisonment without release. By that time, it has become clear that someone is a habitual criminal.

In addition, we preserve three provisions of title IV in S. 1970 that were requested by the administration; 10 years as a maximum prison term for smuggling a firearm into the country to be used in drug trafficking or violent crime, 2-year mandatory minimum for theft of a firearm, and mandatory revocation of probation for defendants found to possess a firearm during the probation period.

A final provision of the amendment is nearly identical to a provision that the Senate has adopted overwhelmingly in the past but that the House has never adopted. It is 10 years in prison without release for selling drugs to a minor or for using a minor in the trafficking of drugs and life imprisonment without release for a second offense.

So, Mr. President, I could get into technical details, but I doubt if it would sway a single vote. What we have before us now is criminal control, stiff minimum mandatory sentencing for using firearms in the commission of crimes, stiff minimum mandatory sentencing for selling drugs to a minor, the death penalty for killing somebody with a firearm if the case is deemed to be an aggravated case by the court.

Mr. President, what is going to happen is this: Under the agreement that was necessary in order to bring the bill up, Senator DECONCINI is going to offer his amendment as a second-degree amendment. When we voted on his amendment before, there was one fundamental difference. What was different at that point was that there was no alternative proposal that was presented in lieu of the DeConcini amendment.

So when that was voted, on a motion to strike the DeConcini amendment, Members, on that individual vote, were casting a vote for gun control or for striking gun control.

I ask my colleagues to simply look at the choice which is imposed by the unanimous-consent request. Now they have an alternative to gun control which was not on the table when the previous vote was cast, and that alternative to gun control is criminal control.

So I would like to ask my colleagues to look at the provisions that I have offered. I am convinced that stiff minimum mandatory sentences will have a much more substantial deterrent on the use and possession of firearms during drug felonies and violent crimes that a mere violation of a gun control law.

So I ask my colleagues to defeat the DeConcini amendment and then adopt

my amendment, which would substitute criminal control for gun control.

Mr. President, I thank my colleagues. It has been a long and difficult process reaching this point. Any time that you are asking unanimous consent to limit the ability of people to use the full parliamentary procedure of the Senate, it represents some difficulty.

I would like to thank the distinguished Senator from Ohio. He has agreed to pair his vote with Senator ARMSTRONG. That is an extraordinary gesture, and it allowed the Senate to move in an expedited fashion. I am deeply indebted for that very kind gesture.

Let me also say, Mr. President, I am indebted, as I often am, to the distinguished chairman and our ranking member of the Judiciary Committee, who have worked with me on this matter and whose willingness to work on this matter really is the reason that we are here beginning the debate on this vitally important bill.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I thank my colleague from Texas. As he mentioned, whenever we ask unanimous consent, that is another way of saying that we waive the rules. I remember when I first came here almost 18 years ago when I was somewhat concerned that I did not, as Senator BYRD and a few others and the distinguished Senator from South Carolina did, understand and master the book of the procedures. It is a big, old, black book that is of some consequence. Here it is. It is this think.

I said, "My goodness, I do not know those rules. I am a little concerned." I sat and listened on the floor, as most freshmen do, for some time. I turned to the distinguished Senator from Florida, Senator Chiles, and I said.

Lawton, I do not understand all these rules. It seems like it will take years to memorize them, to know them, and become a master at them.

He looked at me and he said:

There is only one rule you have to know in the Senate. That is, "I ask unanimous consent." It is either granted or not. If it is granted, whatever those rules in there say are obviated; if it is not granted, you are not going to get anything done anyway.

The fact of the matter is the Senator from Texas was fully within his rights to prevent us from being able to move to this. He could have not only disagreed with the unanimous-consent agreement, he could have exercised other rights that are fully within the rights of any single Senator on this floor to prevent us from being able to move to the crime bill. I thank him for accommodating the body, and letting us move to this crime bill.

As I said to him earlier and to others earlier, by his doing that, not only does he reconfirm the notion that he can be of a generous spirit, but it also scares the devil out of me because it makes me think he may have an extra vote. But having said that, let me move on.

Mr. President, I compliment the Senator from Texas on his amendment. I am for it. I am for the amendment of the Senator from Texas with one caveat. Instead of, as he said, having chosen between controlling those God-awful assault weapons like that one we see a picture of sitting up there, the Tec-9, instead of having to choose between those and the other weapons that the distinguished Senator from Arizona will soon speak to, and controlling, as he said, criminals, I suggest we do both. Let us control those God-awful weapons and control the criminals. We have a way to do that. As the Senator from Arkansas has proposed earlier, we have a way to do that. Let us accept all of what the Senator from Texas is suggesting.

Some who do not like the death penalty may not like to accept all of it. I am prepared to accept it all, including the enhanced penalties, not the least of which is the death penalty, under certain circumstances. Let us accept all of that and keep what we voted to do before, keep control on those God-awful, useless assault weapons which are designed for nothing other than killing people.

So, I think the Senator from Texas will have made—I mean this sincerely—a genuine contribution to this piece of legislation, assuming that we are able to accept the amendment from the distinguished Senator from Arizona, who is going to speak in a moment, and I am about to yield to him or whoever else is seeking the floor. Fine. I am for all the Gramm penalties against individuals who wrongly, who with malice aforethought, who with the intent to do harm to someone, used a weapon. But I also want to keep in the prohibition on the manufacture and sale of those God-awful weapons for which no one, in my view, has been able to make a compelling, even an arguable, case for retaining.

(Ms. MIKULSKI assumed the chair.)

Mr. BIDEN. So we can do something very positive here. We can vote for the DeConcini amendment in the second degree, which, I might add, almost every Member in this body has voted on, all but one Member has voted on twice already, and every Member has voted on once. It will be the same exact vote that you have voted twice before. It is the same exact vote. You will be saying that we are not going to allow the manufacture and distribution of those weapons under the following circumstances, which I will not go into now, the same exact vote. So our colleagues who are not able to be here because they are in committee meetings and whose staffs are listening at the moment for them, or who are back in their offices watching this debate, make no mistake, in approximately 30 minutes or 25 minutes, when you come to the floor to vote, you will have two votes you will cast. The first vote you will have already cast twice in the last month. You have cast the same exact vote in the last month. That is the DeConcini vote.

Then you will have an opportunity immediately after that to cast a second vote, and that second vote, assuming the Senator from Arizona prevails, as I hope he will, and if someone does not change his mind and switch from the way they have voted the previous two times, he will prevail.

Then we will have an opportunity to immediately cast a second vote, which was the intention of the Senator from Arkansas and others, as well as the Senator from Texas, and that is to not only come down hard on the manufacturer of these assault weapons, but come down hard upon the misuse of any weapon.

The Senator from Texas, under that circumstance, will have done a great service to the country, a great service to this body. I strongly urge all of my colleagues to vote for Senator GRAMM'S amendment, after Senator DECONCINI'S amendment is adopted.

I say one last thing: I respect very, very deeply the strongly held views, based on the second amendment, that our colleague from Texas and others have. I also respect very strongly the deep moral conviction held by a number of Members on both sides of the aisle about the death penalty. So they may not be able to vote for the Gramm amendment, as amended by DeConcini, God willing, because it contains the death penalty. I respect that. But short of that concern—and it is a major one—this is a very, very, very good bill.

So let us not get ourselves into having to make false choices. The choice is not between dealing with useless weapons in terms of societal value and criminals; that is a false choice. You need not make that choice. You can deal with making society safer by eliminating, to the best of our ability, those useless weapons, and also by enhancing the penalties against useless individuals who use firearms in a way for which they were never intended. You can have both; you need not choose between the two.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes, forty-two seconds.

PROVIDING FOR AN ADJOURNMENT OF THE TWO HOUSES FOR THE FOURTH OF JULY RECESS

Mr. BIDEN. Madam President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 347, providing for an adjournment of the House and the Senate, now at the desk, and that the time for the resolution is not charged against the Gramm amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 347) providing for an adjournment of the two Houses for the July 4th recess.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 347) was agreed to.

The concurrent resolution reads as follows:

H. CON. RES. 347

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 28, 1990, or Friday, June 29, 1990, pursuant to a motion made by the majority leader, or his designee, it stand adjourned until 12 o'clock meridian on Tuesday, July 10, 1990, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on Thursday, June 28, 1990, or Friday, June 29, 1990, or Saturday, June 30, 1990, pursuant to a motion made by the majority leader, or his designee, it stand in recess or stand adjourned until 9:30 ante meridiem on Tuesday, July 10, 1990, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

Mr. BIDEN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OMNIBUS CRIME BILL

The Senate continued with the consideration of the bill.

Mr. BIDEN. Madam President, I have 5 minutes. I will yield the time to my colleague from Arkansas.

Mr. PRYOR. I will take 3 or 4 minutes. I ask unanimous consent that the time used up in the short statement and request by the chairman of the Judiciary Committee not be charged against the time given to the distinguished chairman.

The PRESIDING OFFICER. Without objection. The Senator from Arkansas may proceed.

Mr. PRYOR. I want to make, if I might, two observations this afternoon. One, this morning during the propounding of the unanimous-consent request, the distinguished Senator from Texas actually said that he was trying to wait for a time when the Vice President might be available, in case there was a tie vote. I am only assuming, Madam President, that the Vice President would, therefore, vote in favor of keeping these particular weapons in circulation in our country.

Madam President, I cannot imagine the Vice President of the United States, nor this administration, taking such a position, especially inasmuch as several of these weapons, which are the subject of this debate today, have been banned from import by the President himself. I cannot believe the administration would today allow these weapons to be sold, manufactured and imported in this country.

Finally, on June 6, I received a letter from Michael Wilson. He lives in Wilson, AR. He is a very good farmer. He is by no means a liberal. He is a life-long member of the National Rifle Association.

I will read a paragraph or two from this letter.

DEAR DAVID: * * * The purpose of this letter is to apologize for the vicious, distasteful, and totally disrespectful attack on both you and Senator Bumpers by the NRA as a reaction to your votes on the DeConcini gun bill. It is deeply embarrassing to me to be a member of an organization that would portray you as a "betrayer, liar, double crosser, and as un-American" with "no business being in the United States Senate."

As you know, I have been an NRA member since my discharge from the Army . . . I have contributed to the NRA PAC, and I have lobbied you numerous times in favor of NRA gun ownership positions.

I have watched over the past few years as the NRA has worked itself into a frenzied paranoia while attempting to strong arm its will upon the legislature with its self-perceived national emergencies. I am rapidly reaching the conclusion that the NRA is perhaps the greatest danger to private gun ownership in America.

I am through with the NRA.

Today I have talked with numerous of my gun-owning friends. We all feel the same.

Madam President, I ask unanimous consent that the full body of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LEE WILSON & CO.,
Wilson, AR, June 6, 1990.

Senator DAVID H. PRYOR,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR DAVID. As you know, I have been an NRA member since my discharge from the Army back in the mid-sixties. In the past I have contributed to the NRA PAC, and I have lobbied you numerous times in favor of NRA gun ownership positions. Hunting is my only real pastime and for that reason I am concerned with all gun control legislation.

The purpose of this letter is to apologize for the vicious, distasteful, and totally disrespectful attack on both you and Senator Bumpers by the NRA as a reaction to your votes on the DeConcini gun bill. It is deeply embarrassing to me to be a member of an organization that would portray you as a "betrayer, liar, double crosser, and as unamerican" with "no business being in the U.S. Senate."

I have watched over the past few years as the NRA has worked itself into a frenzied paranoia while attempting to strong arm its will upon the legislature with its self perceived national emergencies. I am rapidly reaching the conclusion that the NRA is perhaps the greatest danger to private gun ownership in America.

I am through with the NRA. Today I have talked with numerous of my gun owning friends. We all feel the same. Our problem is that we have nowhere to go. There is, to our knowledge, no gun owners' organization that lobbies our real concerns in such a manner that we would feel comfortable in recommending your attention.

For myself, I would like to continue communication with you on gun control, but I will do so as an unaffiliated individual, and as an adult.

Sincerely,

MICHAEL E. WILSON.

Mr. PRYOR. I conclude by stating that we have a rare opportunity this afternoon to keep off the streets those guns which were banned by this body on June 5 from manufacture, import, or sale in this country. I truly believe that the additional penalties for using a gun in the commission of a felony, which Senator DECONCINI also supports, will be more than adequate, hopefully, to help deter the crimes which this crime bill is all about.

I yield the floor. I appreciate the chairman allowing me to speak at this time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, is there any time remaining?

The PRESIDING OFFICER. One minute and 30 seconds.

Mr. BIDEN. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Chair wishes to advise all Senators that a second-degree amendment cannot be offered until all time has been either consumed or yielded back.

Mr. BIDEN. Madam President, I ask unanimous consent that the distinguished Senator from Texas have——

Mr. GRAMM. I have 5 minutes remaining.

Mr. BIDEN. The Senator is not allowed to keep it, though.

I ask unanimous consent that the Senator from Texas have 5 minutes at the conclusion of the DeConcini vote and prior to the vote on the Gramm amendment, and that I would have the same amount of time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Delaware?

Without objection, it is so ordered.

The Senator from Arizona.

Mr. DECONCINI. Madam President, the parliamentary procedure is that the Senator from Texas still has 5 minutes remaining on this; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DECONCINI. That time must be used up before the second-degree amendment can be offered?

The PRESIDING OFFICER. It is the Chair's understanding that the Senator from Texas was given 5 minutes after the DeConcini amendment.

Mr. DECONCINI. If the Chair will withhold the question, does that mean the Senator from Texas has yielded back his time for the purpose of his amendment?

Mr. BIDEN. Correct.

Mr. DECONCINI. Is the Senator from Arizona correct on that assumption?

The PRESIDING OFFICER. Would the Senator from Arizona repeat his understanding?

Mr. DECONCINI. I would like to know if the Senator from Texas yielded back time now on his amendment notwithstanding the unanimous-consent agreement about additional time.

The PRESIDING OFFICER. The Senator is correct.

Mr. DECONCINI. I thank the Chair.

The PRESIDING OFFICER. Is that the understanding of the Senator from Texas as well?

Mr. GRAMM. Madam President, that is my understanding.

Mr. DECONCINI. Madam President, I ask how much time is remaining of the Senator from Delaware.

The PRESIDING OFFICER. One minute and 30 seconds.

Mr. BIDEN. I yield back that time as well.

Mr. DECONCINI. Yield the time to me, please.

The PRESIDING OFFICER. Without objection the Senator may proceed for 1 minute and 30 seconds.

Mr. DECONCINI. Madam President, we are here going through what we did before. I wish I had a video for everybody and we could take it easy this afternoon because we are going to look at some pictures we looked at before.

In the crime bill, authored by the distinguished Senator from Delaware and the Senator from South Carolina, is an exclusion of these types of weapons. This is one of them, Tec-9. As the Senator from Delaware pointed out, this is a Miami weapon manufactured at the rate of 3,000 per month. It can hold a clip of 36 bullets. It is really a very economically priced gun. For $380 you can get one of these things. It is one of the 10 assault gun models that account for 90 percent of the crime involving guns, the Tec-9 accounts for one out of every five. It is among the top assault weapons traced in 1988. This just gives you a little idea of what we are talking about and we already agreed will be in the bill.

The next one is the MAC-11. This gun is equipped with a 32-round magazine. It is relatively inexpensive, not more than $300. It is advertised as "the gun that made the eighties roar." Based on 1988 ATF statistics, the MAC-11 accounts for the highest number of traces, 622.

Madam President, then we have the AK-47, that one was just recently used down in Florida by a drive-by shooting where somebody was mad at the people in a bar and they came back—

The PRESIDING OFFICER. The time of the Senator from Arizona is has expired.

Mr. DECONCINI. I thank the Chair.

Mr. KENNEDY. Mr. President, the Senator from Texas proposes to eliminate the restrictions on assault weapons approved by the Senate last month. He proposes to replace those important restrictions with more penalties. No Member of this body opposes tough penalties for these serious offenses. That is why we have increased penalties several hundred times in the past couple of years.

I oppose the amendment of the Senator from Texas. However, I will support the proposal of the Senator from Arizona, despite some of its penalty provisions. I will support it because of the overriding importance of the assault weapons limitation.

Mr. President, I oppose the amendment proposed by the Senator from Texas.

Mandatory minimum sentences decreed by Congress take away the discretion of the U.S. Sentencing Commission and, for that reason alone, the proposed mandatory minimums are a serious mistake. But that's not all; Mandatory minimum sentences remove incentives to plead guilty and they throw the sentencing guidelines out of proportion.

Congress created the Sentencing Commission to formulate a rational, cohesive sentencing system on the basis of "intelligent and dispassionate professional analysis." (S. Rept. 98-225 at 175.) The boundaries of the Commission's decisionmaking are established by statute, but within those boundaries there is a "broad responsibility imposed upon the Commission to assure that sentencing and the administration of sentences fulfill the purposes of sentencing enumerated in section 3553(a) of title 18." (S. Rept. 98-225 at 181.) Mandatory minimum sentences disrupt the cohesiveness of a guidelines system, because dissimilarly situated defendants are bunched together at the mandatory minimum sentencing level.

The sentencing guidelines have brought an end to haphazard sentencing and offenders have paid a price. It is difficult to argue, as the proponents of this misguided proposal must, that the sentencing guidelines are anything but tough on every offender. Indeed, the Sentencing Commission states that average time served will rise by 126 percent from 23.1 months—pre-1986 Act—to 52.2 months after all the guidelines are implemented. So do not vote for this proposal just to seem tough. The U.S. Sentencing Commission is already doing that job for us.

Furthermore, Mr. President, the proposed mandatory minimum sentences should be opposed because of the burdensome effect they have on a court and criminal justice system that is already overwhelmed. Indeed, in many instances our criminal justice system is gridlocked.

Advocating more mandatory minimums not only cripples the entire system, it sacrifices swiftness of punishment in favor of certainty of punishment.

BOSTON BAR ASSOCIATION

Those of my colleagues who are familiar with the 1989 Boston Bar Association reports on the Boston criminal justice system know that a striking conclusion of that report is its criticism of mandatory minimum sentences. The Boston Bar Task Force was comprised of some of the leading attorneys in New England. The task force recommended a sweeping series of reforms to ease the burden on the criminal justice system and provide swift and certain punishment, including mandatory drug testing for offenders and enhanced surveillance. The task force reports also concluded that mandatory minimum sentences cause an "intolerable trial backlog in Suffolk County, making speedy justice all but impossible. It can take up to 2 years to try a drug trafficking case in Suffolk Superior Court." This, the bar association concluded, "is exactly the wrong message to send as a deterrence to illegal drug dealers."

I ask unanimous consent that the relevant portions of the text of these two comprehensive and carefully crafted reports be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. KENNEDY. The bar association's final report added:

Mandatory minimum sentences have clogged the criminal justice system, fail to distinguish between first offenders and repeat offenders, and give no credit for cooperation with law enforcement. In Suffolk County alone, there are 200 pending drug trafficking cases awaiting trial. Even if all of the judges ordinarily assigned to try criminal cases in Suffolk County Superior Court were diverted to these cases, it would take an entire year to dispose of this backlog. * * * The defendants who make bail are back on the street pending trial. Because it takes so long between the time of arrest and the time of trial, mandatory sentences do not provide a meaningful deterrent.

SENTENCING COMMISSION LEGISLATIVE HISTORY

Mr. President, disproportionate sentencing was one of the very problems we sought to remedy in creating the Sentencing Commission. Although subsequent Congresses have passed mandatory minimum sentencing statutes, the drafters of the Sentencing Reform Act apparently recognized this incongruity, when we said:

The [Judiciary] Committee looks with disfavor on statutory minimum sentences to imprisonment since their inflexibility occasionally results in too harsh an application of the law and often results in detrimental circumvention of the laws." S. Rep. 225, 98th Cong., 1st Sess. 89, N. 194 (1983).

As the Justice Department put it in the context of the Senate's consideration of the Genocide Convention:

While mandatory sentences enacted by Congress do not contribute to one of the evils the Sentencing Reform Act was designed to overcome—unwarranted disparity in sentencing—they may contribute to another—a lack of fairness in sentencing. The same required penalty applies to conduct of various degrees of seriousness committed by offenders with different backgrounds. When faced with a mandatory sentencing provision, the Sentencing Commission cannot fulfill its goal of establishing ranges of sentences tailored to classes of similar offenses committed by similar offenders.

JUDICIAL CRITICISM—CIRCUITS

Mr. President, those who should know—the Federal judges—have already begun to take the unusual step of speaking out in various forums against the dangers of congressionally mandated mandatory minimums. The judicial conferences of the third, eighth, and tenth circuits, and the district court judges of the ninth circuit of our Federal court system, as well as the Committee on Criminal Law and Probation Administration of the Judicial Conference of the United States, have adopted resolutions condemning mandatory minimum sentences such as the ones that are being proposed here.

I ask unanimous consent that the text of the Federal circuit court resolutions be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

JUDICIAL CRITICISM—JUDICIAL CONFERENCE

Mr. KENNEDY. Mr. President, a special committee of the Judicial Conference, headed by Judge Becker of the third circuit, reached the very same conclusion.

JUDICIAL CRITICISM—REHNQUIST FEDERAL COURTS STUDY

The 15-member Federal Courts Study Committee, appointed by Chief Justice Rehnquist, and headed by Judge Weis of the third circuit, also reached this conclusion, and recommended that Congress repeal the mandatory minimum sentences now in effect and direct the Sentencing Commission to reconsider the guidelines applicable to the affected offenses. The Federal courts study participants included members of the executive, legislative, and judicial branches, as well as representatives from State governments, academia, and private practice. Hearings were held around the country.

The study committee reported that, "[m]andatory minimum sentence provisions inhibit the efforts of the Sentencing Commission to fashion a comprehensive and rational sentencing system," and "mandatory minimum sentences are seriously impeding the efforts of both prosecutors and judges to handle the growing criminal caseload." The study committee report went on:

Mandatory minimum sentences are intended to control sentencing discretion. Although they perform this function, they do so in a way that is far more rigid than the present Guidelines system, which controls discretion but also tailors sentence to the specific facts of an offense, considering whether a weapon was used, whether the defendant was the instigator and leader or a follower, the nature of the injury, if any, to the victim, etc. We agree with the recommendation of the Judicial Conference Committee on Criminal Law and Probation Administration that the mandatory minimum sentence statutes should be repealed now that the Guideline system is in place. Mandatory minimum sentence provisions inhibit the efforts of Sentencing Commission to fashion a comprehensive and rational sentencing system.

* * * [M]andatory minimum sentences are seriously impeding the efforts of both prosecutors and judges to handle the growing criminal caseload. When lengthy mandatory minimum sentences are applicable, it is difficult to provide any incentive that will induce a defendant to plead guilty, and this is causing increasingly serious problems in many districts. Courts with heavy criminal caseloads depend upon disposing of 85-90% of the cases without a trial. Many of the district court judges who responded to our survey added comments emphasizing the negative effects of mandatory minimum provisions.

Once the mandatory minimum sentence statutes are repealed, the Sentencing Commission should reconsider the Guidelines applicable to the relevant offenses.* * * Given the huge projected increase in the federal prison population, it is important for the Commission to reassess the appropriate Guidelines for these offenses absent the driving force of the statutory minimums.

I ask unanimous consent that the relevant portions of Judge Weis' and Judge Becker's Federal Judicial Committee reports be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

OVERWHELMED COURT DOCKETS

Mr. KENNEDY. Mr. President, as I mentioned, the criminal justice system is gridlocked. Just examined the different components.

At a time when the Federal criminal caseload in many jurisdictions is overwhelming, the numbers of drug prosecutions continue to climb and many prisons are operating beyond capacity, mandatory minimum sentences have heaped more problems on every aspect of our criminal justice system.

In the courts: mandatory minimums take away incentives for defendants to avoid trial by entering a plea. Yet in many jurisdictions where drug cases overwhelm the system, courts have typically relied on guilty pleas to ease the burden. The Federal Courts Study Committee put the number of cases resolved by plea as high as 80 to 90 percent.

Drug cases already clog many courts to the point where they now crowd out civil lawsuits in many jurisdictions. Because they face a mandatory minimum sentence if convicted there is no reason for defendants to plea bargain or plead guilty. Their only chance is to go ahead and gamble that a jury will find them not guilty. This has resulted in a dramatic increase in drug trials, which has pushed other litigation off the dockets.

The Wall Street Journal reported that the situation was especially bad in border areas where drug traffic is greater. In northern Florida, two judges continue to hear civil trials, although they spend 70 percent of their time on criminal cases. But, as the Journal reported earlier this year:

[T]he two judges who hear cases in Tallahassee, Gainesville and Panama City, covering 19 counties, have not had a civil trial since May, according to court records. Chief Judge William Stafford spent 85 percent of his courtroom time last year on criminal trials, virtually all of them drug cases; Judge Maurice Paul devoted 73 percent of his time on drug and other criminal cases. Their calendars are booked to April exclusively with criminal trials.

In a similar vein, U.S. Court of Appeals Judge Edward Becker, who headed the Judicial Conference study, has noted:

The real story is the impact on the civil side, the impact of this relentless onslaught of drug prosecutions. . . . We are reaching the point where well over half of our criminal cases are drug-related, and where the civil side is going to be paralized. Business litigation is plainly being neglected: it's a stepchild.

OVERCROWDED PRISONS

In the prisons: Prison impact assessments following the 1984 and 1986 drug bills have projected massive increases of Federal drug offenders. Those projections predate mandatory minimums enacted in the past 2 years. The Federal prison population was 17,000 in 1950, 24,000 in 1980, 54,000 now. The Sentencing Commission projects that it will be 109,100 in 1997 and 147,000 in 2002. At the State level, largely as a result of overcrowding, 41 States are under a court directive to improve conditions at some or all of their prisons.

Last year, the Nation's prison and jail population passed 1 million for the first time, double the number of 1980. At least another 2.8 million people were on probation and parole, meaning that 1 in every 50 to 75 adults in the United States was under the control of a corrections system.

In an effort to keep up, State spending on corrections jumped 218 percent over the last 25 years, according to the National Conference of State Legislatures. Texas, under court orders to relieve overcrowded and dangerous prison conditions, plans to add nearly 11,000 beds. California doubled its number of prison beds in the last 6 years, but its population remains 74 percent over capacity.

These projections occur at a time when, in no small measure because of mandatory minimums, Federal resources are increasingly devoted to attacking small-scale offenders. These offenders deserve to be punished, but Federal resources would be better spent if they were devoted to collaring drug trafficking kingpins rather than small-time hoods and mules.

The only real hope for a departure from an inappropriate mandatory minimum sentence lies in providing significant cooperation. Certainly prosecutors should maximize these opportunities to obtain information to enable them to bring down kingpins. Yet many offenders who are now exposed to mandatory minimums are such minor players, that they have little if any information to provide.

Those who disagree may not be familiar with the General Accounting Office's recent study of Federal offender characteristics. The GAO found that the bulk of the increase in the Federal prisoner population is due to an influx of first-time drug offenders who tend to have no prior convictions and no violent history.

GAO reported that 57 percent of Federal prisoners with no prior imprisonments were drug offenders, that of all drug offenders, 60 percent had no prior commitments as compared to 20 percent of violent offenders and 30 percent of property offenders. Of those drug law violators with no prior commitments, GAO reported that 94 percent have no history of violence, and of drug law violators with prior commitments, 62 percent have no history of violence. GAO also found that the number of Federal drug offenders serving 5 years or more without parole nearly doubled from September 1986 to September 1988.

Make no mistake, drug offenders ought to be punished. But so should other serious offenders—so should the burglar who enters your home and commits an act of violence or other similarly serious offenders. The problem is that mandatory minimums flood the system and hamper our ability to impose punishment swiftly and in a manner proportionate to the offense.

To make the point differently, an American Bar Association Criminal Justice Section study found that 34 million serious felonies such as murder, rape, robbery, and burglary are committed each year, but arrests are made in only 3 million cases. Using the resources available, we need to make sure that the kinds of cases that are brought and the prison beds that are occupied are used so that we can remove the most serious offenders from our society.

Mandatory minimum penalties cause more lengthy sentences to fall not upon those who had no role in the importation or large-scale distribution of narcotics, but upon marginal players—lookouts or mules hired to carry narcotics from one point to another. Recent articles detail at length the kinds of cases that have confronted Federal judges. Some examples.

A Dominican man with a wife, children and a job in the Dominican Republic, 2 days after arriving in the United States for a visit, was in his brother's New York home when the brother was busted for dealing crack. The visitor from the Dominican Republic has been sentenced to 10 years without parole.

A secretary here in Washington, DC, was arrested when crack was found hidden in her attic and in a locked box in her home. Her son was a dealer. Because he stashed crack at her home, she now serves a 5-year sentence.

An 18-year-old Mexican alien with no prior criminal record, working a series of jobs for several months in the United States received $500 to serve as a lookout for a heroin sale. He was sentenced to 10 years, but the trafficker was never caught.

Judge William Schwarzer, a Ford appointee not known as a light sentencer, became extremely emotional when he was forced to sentence Richard Anderson, a man with no prior convictions who became involved in a small-scale crack sale, to 10 years in prison with no parole. The judge called the sentence, "A grave miscarriage of justice," and termed the law "an unjust statute" that "makes judges clerks or, not even that, computers, automatically imposing sentences without regard to what is just and right."

I ask unanimous consent that a letter from the Sentencing Commission and recent articles describing these incidents in the American Lawyer, the American Bar Association Journal, the Washington Post and the San Francisco Chronicle be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. KENNEDY. Mr. President, clearly, legislating mandatory minimum penalties will inundate criminal justice systems that are already overwhelmed. Too often mandatory minimums have been abused, with the result that the system is overloaded with too many low-level offenders, while dealers and other more suitable targets for prosecution roam free. Many of the criminals swept into the system by these mandatory minimum penalties are so far down the narcotics distribution chain that they have little prosecutorial value as informants.

Prominent attorneys and Federal judges have spoken with eloquence and emotion against congressionally mandated mandatory minimums, because of the havoc they wreak throughout the criminal justice system. Entire judicial conferences have condemned mandatory minimums. I understand and appreciate what the Senator seeks to accomplish with this proposal. However, this body should not be in the business of haphazardly legislating mandatory minimum sentences, particularly when that is the job of the U.S. Sentencing Commission.

EXHIBIT 1

DRUGS IN THE COMMUNITY: A SCOURGE BEYOND THE SYSTEM

(The Final Report of the Boston Bar Association Task Force on Drugs and the Courts)

FOREWORD

This is the Final Report of the Boston Bar Association Task Force on Drugs and the Courts. Our interim report, Drugs and Justice—A System Abandoned, was issued in May of 1989, and since then we have continued to consider various alternatives to resolve the present crisis in the court system arising from the ten-fold increase in serious drug cases over the past decade. Also, we have sought, particularly during the last few months, to measure both the impact which this problem has had on the basic fabric of life in Boston and the extent to which it has undermined public confidence in the criminal justice system. Some small progress has been made in terms of community resolve, legislation and law enforcement cooperation. However, on the whole, there is no major good news to report. This foreword will attempt to address some general concerns that we all share. Specific proposals will follow:

Since the formation of this Task Force in October 1988, the problems caused by drug

abuse in the Metropolitan Boston area have expanded dramatically. While the police have made great efforts to reduce street violence, the arrest rate for drug trafficking and drug-related murder and assault is increasing steadily. Innocent children and adults trying to improve the safety of their local neighborhoods are targets of indiscriminate attack, even murder. Schools must compete with the allure of the drug trade for their students. In far to many cases, the drug trade wins.

The criminal justice system continues to send the wrong message to the public about punishment. When arrests are made for drug-related offenses, we still see inordinate delays at both the District and Superior Court levels. Because our jails are so overcrowded, dangerous people are permitted to remain on the streets while awaiting trial. Even after conviction, serious offenders are released because of overcrowding in the state prison system. This problem is destined to get worse. Neither the jails holding people pre-trial, nor the State prison system where they are sent if convicted, have room for the large numbers who will be arrested and sentenced within the next few years. Thus, we are faced with the anomalous situation of not being able to make the court system more efficient, without causing the collapse of the prison system. The recent suggestion that funds budgeted for the corrections system be reduced exemplifies the alarming tendency to ignore a basic tenet of democratic freedom—government must provide public safety for its citizens.

Public confidence in the criminal justice system is at the lowest point in this century. Neither the Boston police strike in 1919, nor the Boston strangler murders and the organized crime wars of the 1960's, so severely damaged the respect that ordinary citizens had for the criminal justice system. We find no prior instance where such large numbers of the general public have lost faith in the ability of the public safety and legal systems to guarantee safe streets for themselves and their children. As a measure of this deplorable situation, consider the following:

Hundreds of children between ages 9 and 17 are selling drugs.

Whole neighborhood blocks are under the control of drug dealers.

Random shootings of innocent children and adults by drug-crazed terrorists are increasing.

There is an historic rise in the rate of violent juvenile offender cases.

Countless numbers of young women are selling their bodies for drugs, becoming pregnant and delivering drug-dependent babies at birth.

Drugs and guns are in the hands of school children.

Over sixty percent of the population is afraid to walk the streets for fear of being a crime victim.

The continued escalation of violent crime has in recent months elicited an aggressive response from the Boston Police Department. There is no question that such response is both needed and typical of the strategy of other urban police departments who have faced this same problem. However, we must express our concern that the manner in which this aggressive policy is executed might, in and of itself, create a community crisis. We are not in a position to pass judgment on this matter, except to observe that this issue threatens to undermine the little progress that has been made to date. If the community cannot work closely with its police department on a daily basis and develop a bond of respect and trust, then the effort against illegal drugs will simply fail.

This report is filed when the criminal justice system is in the midst of its greatest crisis. It is a crisis founded not only on the apparent callous disregard for the rights of our citizens, whether victims or defendants, to receive fair justice or media attention, but also from an overwhelming sense of hopelessness and despair about the basic fabric of our human existence. After eighteen months of deliberation, we have concluded that the issues of drug use and control of that use cannot and will not be separated from the far broader issues of individual rights and responsibilities. Major segments of the public still believe that police and prosecutors can solve the drug-related crime problem. This belief is unrealistic. Even with an infinite number of police officers, all the prosecutors, all the judges and courtrooms and all the prison space required, the problem would not be solved. Until society realizes that the problem transcends the criminal justice system, there will be no long-term solution. We hope that the discussion in this Final Report will foster a reexamination of some of the basic principles which govern our society.

Much of the detail of our report is legalistic. This is, simply, the area of our expertise and the original mission of this Task Force. It is, however, important to emphasize that we believe that Federal, State and local governments have the responsibility to develop a broad range of programs which will address the core problems in this explosive situation.

There are two matters of overriding concern for which we do not propose any strategy. The first is that of community values. We use that term to relate to the general community attitudes about violent crime. To the extent that the public believes that the criminal justice system is the answer to this issue, they are simply mistaken—some may say tragically mistaken. To focus solely on rehabilitating this system while ignoring basic issues pressing the needy of our community—families, poverty, housing, education, employment and health issues—will guarantee failure. If we fail to carefully and completely deal with these issues in the next decade, we will pay a price far greater than any of us can predict today.

The second matter for which we propose no strategy is money. We do not possess sufficient resources on this Task Force to address in detail that key issue surrounding all our recommendations. To upgrade the deplorable court facilities and to increase salaries of police, prosecutors, public defense lawyers and other personnel will be very costly. To provide treatment on demand to drug-dependent persons will be costly. To give drug traffickers speedy trials and a state prison cell when convicted will be costly. To totally restructure our education system to reduce drug use will be costly. To provide young pregnant women with residential treatment to prevent the birth of babies addicted to or scarred by their mothers' abuse of drugs will be very costly. But, simply put, there are no alternatives to these types of expenditures and many more like them. In the next ten years we will need hundreds of millions of dollars to solve these problems—we cannot accept ten percent reductions. We need whatever it takes to get the job done. If that requires special taxes, then so be it. Our survival as a thriving, caring and safe community is at stake.

THE FINAL REPORT

On May 23, 1989, the Task Force submitted its interim report. At that time we stated our intention to file several detailed "action plans" with this Final Report. Events having a catastrophic impact on the Massachusetts criminal justice system—indeed, on our State government as a whole—have intervened to delay this Final Report in its filing and to make it substantially different from that contemplated last Spring.

In the ongoing effort to cope with the immense societal problem caused by drug and substance abuse, and the offshoots it spawns, much needs to be done to improve the Massachusetts criminal justice system—and further recommendations in several key areas are included in this Final Report. Of vastly greater importance to the people of Massachusetts, however, is a dual message: unless a considerably more responsible approach is taken to supporting and financing the Judicial branch of State government, our once great and cherished court system will fail in the challenge of the drug scourge and may collapse entirely; and, of equal significance, the public must understand that the drug problem cannot be solved by the criminal justice system alone.

THE SYSTEM HAS BEEN ABANDONED

We must expose at the beginning the abandonment by the Executive and Legislative branches of the critical needs of the courts, and the failure of the people to demand more responsible treatment of the only true bulwark to constitutional freedom and a civilized society.

At the time of filing our interim report in May of 1989, Massachusetts was in the early stages of recognizing and beginning the debate on an unraveling fiscal crisis. Regrettably, the response was not a careful and rational analysis, led by thoughtful and caring governmental leaders. Rather, there prevailed a cut-and-slash mentality, fed by a public rejection of all things governmental, and a selfish and mean-spirited attack on anything that cost money. This anti-government frenzy has affected the Judicial branch in a way that threatens its very existence.

In a Commonwealth with an overall budget that exceeds $12 billion, the Massachusetts Trial Court submitted a funding request for the current fiscal year of only $322 million. A Legislative recommendation cut that amount to $266 million and the Governor stripped another $14.9 million by Executive veto. Thus, in a system already operating at a 1979 employee level, there was a net reduction from the initial budget request of over $70 million. This is the same system on which the people, through their elected Representatives and Senators, have imposed the near impossible burden of processing an immensely increased load of criminal and civil business. The volume of new drug cases alone has brought some urban courts to the point of near collapse.

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Consider this startling statistic taken from the November, 1988 report, "Criminal Justice In Crisis", prepared by the special Committee on Criminal Justice in a Free Society of the American Bar Association. The Committee compiled the available data published by the Justice Department through the middle of 1986. This compilation revealed that: "of the approximately 34 million serious crimes committed against persons or property in the United States in

1986, approximately 31 million never were exposed to arrest, because either they were not reported to the police or if reported, they were not solved by arrests."

Thus, if these statistics are accurate, only 9 percent of all major crimes, including drug offenses, ever get into the system—and yet the courts are bogged down and the jails are overcrowded handling even that small percentage.

If drug abuse were simply a criminal problem, the system is woefully inadequate to solve it; in actuality it is much more complicated and pervasive. Drug abuse probably has a greater impact on the health care system than on the courts. Treatment of addicts is a long, expensive and frustrating project and the patients, for the most part, are uninsured.

Even more devastating, both socially and economically, is treating and caring for the ever-increasing numbers of babies born to unwed drug-addicted mothers.

"Where child welfare policy once had to focus on the single-parent family, it now must deal increasingly with the no-parent child. The reason appears to be crack, which is far more popular with women than heroin ever was. As a result, drug abuse now affects far more small children than ever before." The New York Times, December 31, 1989, p. E10.

These tragic "crack babies" enter the world, themselves already afflicted, with their tiny brains permanently scarred from the beginning. The costs to keep them alive are staggering. Babies born to crack addicts tend to suffer low birth weight, brain damage and malformation. A recent report in The New York Times described such a child: "a mere patch of flesh with a tangerine-sized head and limbs like splinters." Intensive hospital care for each crack baby costs about $90,000. The burdens on society of raising and caring for them as they grow to some kind of maturity, however mentally deformed and without stable family support, will surely become one of the great hidden costs of the drug scourge.

Last year marked the second consecutive year that Massachusetts witnessed a sharp increase in reported cases of child abuse. The trend appears largely due to cocaine and alcohol abuse by parents. Thousands of cases of drug-related abuse arise in families where children are deprived of food, milk or diapers by one or both parents ignoring vital needs while tending to their drug habits.

The final week of 1989 saw the Boston Police Department arrest a 9 year-old drug dealer. His source is thought to be a teenager. In our own City children are dealing in death. No mandatory sentence or death penalty will be a deterrence here.

Broken families and lost productivity in the business community are regulatory caused by substance abuse.

The spread of AIDS from the use of dirty hypodermic needles or promiscuous sexual encounters to raise money to support crack habits is another devastating societal implication of the failure to control misuse of narcotics.

No thinking person can assume or expect any criminal justice system, however well supported—and ours, of course, is not—to come close to solving the kinds of human problems this awful scourge presents. We must stop passing off the entire problem on an abandoned court system. It cannot do the job.

OBSERVATIONS SINCE MAY, 1989

The Task Force's interim report, and the good faith efforts of some key government officials and many dedicated citizens, have produced important changes for the better in the effort to beat back the devastation of drugs. We catalogue some of the most notable public efforts.

1. Federal/State/City Cooperation. The interim report lamented the dramatic failure of the three important governments, and the agencies they direct to work together in any coordinated fashion. Since then there have begun a series of Criminal Justice Summit Meetings, led principally by Boston Mayor Raymond Flynn, wherein coordination and common solutions to problems generated by drug abuse have been aired and common efforts have been launched. In addition to the Mayor, our two United States Senators, the Governor, the Attorney General, the United States Attorney, the Director of the Boston Office of the Federal Drug Enforcement Administration, the Suffork County District Attorney, and a list too long to recount of other interested and dedicated City, State and Federal officials, have earnestly set about to find answers to many of the problems that drug abuse has caused. The Task Force applauds these efforts. They are truly responsive to the problem and reflect government and leadership at its best. This kind of cooperative effort should continue.

2. Law enforcement coordination. One of the most glaring deficiencies revealed in the interim report was the lack of coordinated effort between and among the local, State and Federal police agencies. Almost immediately following the filing of the interim report, The Boston Police Department, the M.D. Police, the Brookline Police, the Federal Drug Enforcement Administration, the United States Attorney's Office and the Suffolk County District Attorney's Office announced a coordinated Federal, State and local police/prosecution effort to combat drugs in the Metropolitan Boston area. It appears that the coordinated effort is now underway and is already reporting positive results. This type of police/prosecution coordination has helped in other cities and should work well in Boston. We congratulate all who worked hard to bring this effort about.

It is our opinion that these efforts present the only real answer to the problem of large-scale drug trafficking. We urge the heads of all involved agencies to gradually increase their manpower and resources dedicated to this effort. Many knowledgeable people have recommended that this joint force be tripled in size over the next few years. Every effort should be made to provide support for this work.

3. President Bush Speech/Bennett Report. Although not prompted by any local activity, the Task Force was encouraged to note that President Bush has placed the weight of his high office behind a national effort to combat drugs. The "National Drug Control Strategy", released in September by William Bennett, Director of the Office of National Drug Control Policy, contains many suggestions useful in the attempt to control the problem. While the Bennett Report dwells too heavily on interdiction and enforcement, it nevertheless deserves careful consideration.

4. Governor's Alliance Against Drugs. The Governor's Alliance Against Drugs is another coordinated effort that warrants high praise. The Alliance is making notable strides in its goal to generate a counterforce to the constant peer pressure to abuse alcohol and other drugs as though it were some sort of "rite of passage." The work of the Alliance is to be encouraged and supported throughout the school systems across the state.

5. Governor's Statewide Anti-Crime Council. The Governor's Statewide Anti-Crime Council has the broad base and high leadership to insure a statewide approach to the drug problem. It can, and should, do much to foster coordinated efforts by all facets of the criminal justice system. This Council is an ideal forum to coordinate efforts to obtain federal funds for state and local efforts to combat drug abuse. Without meaning to be in any way negative about the Council's good works, the Task Force suggests that it could be much more aggressive in seeking legislative support for the needs of the criminal justice system.

6. Community Self-Help Activities. In addition to the more prominent efforts noted, the Task Force would be seriously remiss if we failed to mention the numerous neighborhood and city-wide efforts which have continued, and received psychological support from the interim report. The Boston Against Drugs program is an outstanding example; and there are many more. It is unfortunate that the efforts of so many fine, hard-working people go unnoticed and unencouraged by the media. Our study of the drug problem has enable us to meet many, and know about many more, who are working hard in their own communities and neighborhoods to handle the problems born of drugs. We praise them all and encourage more to join with them. It is these kinds of efforts which hold out the best long-term hope for success.

Regrettably, however, almost all of the rest of the recommendations in our interim report remain without serious attention. Indeed, some of the problems described have been exacerbrated by the governmental collapse that surrounds us today. Examples follow:

1. Except for the single coordinated police effort noted above, very little appears to have happened to work around the Balkanized local governmental structure that hampers so much, and so wastefully, a Metropolitan approach to the many aspects of the drug problem.

2. The situation with jails, prisons and sentencing reform are little better than they were in May. Irresponsibly, the House of Representatives, as recently as December, 1989, refused to fund the proposed new jail facility in New Braintree. If there is a revolving-door aspect to the drug problem, much of the blame can, and should, be laid at the feet of those who will not face up to the huge need for additional funding, siting and support for jails and treatment centers, who cut the budget for our courts, and who fail to address the problems caused by mandatory sentencing in the drug laws.

3. The interim report elaborated on the needs of the courts. District and Superior. We noted at the start of this Final Report that the entire Judicial branch has been further abandoned since May, 1989. No governmental leader, Legislative or Executive, can truly be said to have helped in the fight against drugs if he or she has failed to support the relatively modest economic requirements of the Trial Court.

It is extremely difficult for this Task Force to understand why this has happened. The protection of our citizens from murder, assaults and other violent crime is the paramount obligation of all branches of govern-

ment. This obligation must be shared by all lawyers who practice in this Commonwealth. We must continually pressure the Executive and Legislative branches to be more responsive to this crime problem.

4. Compensation for those lawyers on the front lines of the battle against drugs was another focus of the interim report. We observed the low pay for prosecutors, as well as for defense counsel engaged in cases under the auspices of the Committee for Public Counsel Services. Nothing has happened to improve that situation, and the current cutting frenzy on Beacon Hill has only made the matter worse.

5. We cited the confusion in the laws regulating drugs, pointing to the need for a complete review and rewriting. Mandatory sentencing was particularly held up for criticism because of its tremendously negative effect on the ability to move cases swiftly and surely in an underfunded criminal justice system. Despite this clear problem, legislators still clamor for more mandatory sentencing, and some are even promoting a death penalty for Massachusetts. In the utter absence of enough jails, enough courts, enough prosecutors and enough defense counsel, any legislator or governmental leader, in office or seeking it, who advocates more mandatory sentencing or a death penalty without conditioning the legislation on a clearly defined funding package is ignoring recent history. Because we have failed in the past to fully evaluate the impact of certain legislation, the problem has increased exponentially. To continue to do so will only contribute to this crisis.

6. A seemingly minor problem noted in the interim report was the inability of the Public Health Drug Analysis Laboratory at Jamaica Plain to promptly complete its analysis of drugs necessary for swrift prosecution in court. In February, 1989, the average time to analyze a sample was a wholly unacceptable six weeks. For a short while thereafter, there was a slight improvement. By the Fall, however, the situation was worse than ever, with a backlog nearing eight weeks. Budgetary problems are blamed.

7. Treatment for addicts was another area of great importance which needed far more support. Does anyone reading this report know about a significant new treatment program that has been instituted since last May?

8. The massive educational program called for in the interim report is nowhere to be seen. Sporadic local efforts exist, and they are to be greatly commended. But where is the big program supported and funded by the Bar, the medical and health care community, business interests, churches, social clubs and the schools? And what of the media in this effort? The community needs more than sensational stories about devastating crimes. It needs to know what is being done to help, and by whom. Drug education in our schools should be mandatory. Children and adults alike should be taught about the physical and psychological dangers of drugs—and the AIDS, pregnancy complications, violence and economic problems that go along with it. They need education on the devastating long-term problems posed by those poor "crack babies" which make up a growing population of local maternity wards. They need to know and understand the criminal laws and the constitutional rights that are necessary in a civilized community. And what of exposing the emptiness of strong-sounding legislation without funding to enable it to work?

9. The Task Force suggested a prison-inmate impact statement with every new law which would further affect our grossly overcrowded penal facilities. Similar impact statements should be considered for laws which further burden the courts. Nothing has come of those suggestions whatsoever.

FURTHER RECOMMENDATIONS

In addition to reemphasizing the unmet recommendations set forth in the interim report, we list here some more detailed proposals for consideration by those elected or appointed to manage our government in all of its branches.

1. Omnibus Legislation. We are convinced that solutions to the drug use problem cannot be molded on a piecemeal basis. There can never be a coordinated attack against this problem when various components of both state and local government are fighting to survive a budget crisis. In the absence of any overall strategy to combat this problem, continued reliance on conflicting agency priorities will only delay the development of a successful strategy. For these reasons, we recommend that the Legislature form a working group made up of its own members and a few persons knowledgeable in this area. This group should work toward the development of a comprehensive piece of legislation directed at the problem of crime in society as a whole. There should be no limit on the matters to be reviewed. The group should study poverty, housing, education, police, prosecution, defense, courts, probation and prison programs. It should also include input from mental and public health professionals. It is our view that only a system-wide analysis of the crime problem will reveal the correct strategy. It may take several years to develop this legislation and more years to enact it. This delay will be well worth it if by the middle of this decade we have restructured our approach to these issues.

2. Centralized Criminal Court. Any examination of the way in which drug cases, as well as other criminal cases, are processed in Suffolk County will quickly reveal an antiquated, outdated and inefficient system which is wholly inadequate to the task. Persons arrested who cannot make, or are not granted, bail must be detained in the Charles Street Jail (soon the more modern Nashua Street Jail). Because the Charles Street Jail is not large enough for the crush of business, and the Nashua Street Jail may suffer the same problem, it is necessary for the Sheriff of Suffolk County to transport prisoners all around the State to be held elsewhere pending trial. This, of course, is dangerous, time consuming, expensive and interferes with the prisoners' rights to confer with counsel in preparation for trial. The prisoners themselves must then be picked up at distant points and transported back to some City courthouse for a trial-related proceeding. Even those held at Charles Street must be delivered all over the County for court proceedings. Criminal cases can involve several such proceedings and several trips to court.

There are eight District courts, the Boston Municipal Court, the Boston Juvenile Court and the Suffolk Superior Court, all located in various buildings sprinkled around the county, all dealing with various aspects of criminal prosecution. Prosecutors must, therefore, be sent all over the county to manage cases. The small criminal defense bar faces the same burden of dispersal of resources.

The Boston Police Department, which makes the great bulk of arrests, complains constantly of having its officers, who are necessary witnesses in almost every case, regularly summonsed to appear on the same day at the same time in several different courthouses.

The Chief Justice of the District Court Department is frustrated in his ability to assign judges to hear cases because the facilities are spread around in several different buildings. More significantly, even when judges can be moved, the Chief Justice has no power to move court clerks or probation personnel. And if he could ever move all of the people, he still could not move the equipment needed to run the facilities.

It seems too obvious to be considered creative to suggest that the time has come for Suffolk County to consider a single, centralized criminal court building located convenient to the jail for pre-trial detainees. Such a courthouse is clearly required. It should have the full array of courts, Superior, District and Juvenile, all in one building, along with a modern facility for court clerks and probation personnel to be able to work in the coordinated and supportive manner necessary for the criminal business being conducted in the building. A correctly constructed building could even include its own drug testing laboratory so that all involved in that function would be right in the same place. The present District Court buildings could then be converted to judicial and administrative facilities designed to address civil, juvenile, family and other neighborhood and socially related legal problems, with the great mass of criminal cases handled in the central court.

While not pretending to understand the many problems that might be faced in locating such a courthouse, the Task Force suggests two possible sites for serious consideration. The Registry of Motor Vehicles building on Nashua Street has the advantage of being next to the new jail and just blocks away from the existing Suffolk County Courthouse complex. It could be converted to a courthouse, with direct access to the jail. The Registry could be moved to a new building, perhaps on Parcel 18 near Ruggles Station, which would benefit that area at the same time. The other possible site may be more easily adaptable for a courthouse and a drug laboratory. It is the recently vacated English High School building on Avenue Louis Pasteur in the Fenway area. The building is relatively new, has classrooms that could readily be converted to courtrooms, has kitchen facilities, has laboratory facilities and otherwise is designed as a building for public use.

The Task Force strongly urges the immediate formation of an appropriate group from the courts, the Bar, the City and the State to study these and other ideas for a central ciminal court in Boston and the conversion of the existing District Court facilities. We know there will be opposition; there always is. But before giving in to that opposition, the effort and the will must be demonstrated by leaders of government to weigh the options against the deficiencies of the present system and do what is needed.

3. Mandatory Sentences and Expedited Trials. Mandatory minimum sentences have clogged the criminal justice system, fail to distinguish between first offenders and repeat offenders, and give no credit for cooperation with law enforcement. In Suffolk County alone, there are 200 pending drug trafficking cases awaiting trial. Even if all of the judges ordinarily assigned to try criminal cases in Suffolk County Superior Court were diverted to these cases, it would take

an entire year to dispose of this backlog. It currently takes up to two years before a trafficking case is reached for trial in Suffolk County, unless the defendant is in custody. The defendants who make bail are back on the street pending trial. Because it takes so long between the time of arrest and the time of trial mandatory sentences do not provide a meaningful deterrent.

The Task Force believes that the current backlog is the result of the following factors:

a. Mandatory minimum sentences that are generally too high;

b. The elimination of judicial discretion for first offenders or for those cooperating with the Commonwealth; and

c. Failure to provide adequate judicial resources to dispose of the additional trial backlog.

a. Current Mandatory Minimum Sentences Are Too High. In 1988, the Legislature significantly raised the existing mandatory minimum sentences for drug trafficking offenses and added a new category of 14 to 28 grams for the sale and distribution of a Class B controlled substance (crack/cocaine). The present mandatory minimum sentences for trafficking in crack or cocaine are:

14 to 28 grams—minimum of 3 years and maximum of 15 years in State's prison.

28 to 100 grams—minimum of 5 years and maximum of 20 years in State's prison.

100 to 200 grams—minimum of 0 years and maximum of 20 years in State's prison.

200 grams or more—minimum of 15 years and maximum of 20 years in State's prison.

Prior to the 1988 amendment, trafficking offenses for crack/cocaine carried the following mandatory minimum sentences:

28 to 100 grams—minimum of 3 years and maximum of 15 years State's prison.

100 to 200 grams—minimum of 5 years and maximum of 15 years State's prison.

200 grams or more—minimum of 10 years and maximum of 15 years State's prison.

By way of perspective, the Federal drug trafficking laws impose the following mandatory minimum sentences for cocaine:

500 grams to 5,000 grams—5 years.

5,000 grams or above—10 years.

By comparison to the Federal trafficking laws, the mandatory minimum sentences for drug trafficking in the Commonwealth were already at the high end, even prior to the 1988 amendment. In addition to the high mandatory minimum sentence, a defendant is not eligible for parole until the entire minimum sentence has been served, less good time.

The high mandatory minimum sentences do not reflect sentencing reality. Many judges are not imposing sentences higher than the mandatory minimums after a trial. The combination of the high mandatory minimums, and the fact that the courts are routinely not imposing more than the minimums after trial, have created a disincentive for the defendant or his counsel to dispose of the case without a trial. By insisting on a trial, a defendant, if he is on bail, knows that he likely will not be reached for up to 2 years and his sentence after trial will be no longer than the minimum he would have received if he pleaded guilty.

The Task Force recommends that the 1988 amendment be replealed and that mandatory minimum sentences for drug trafficking be returned to their pre-1988 level, which were sufficiently severe in the first place. Study should be given to a further reduction of the mandatory minimums below the pre-1988 levels.

b. Judicial Guidelines for Sentencing First Offenders and Those Cooperating with Drug Investigations. Mandatory sentences are the polar opposite of the normal judicial authority in sentencing, where the punishment is tailored to the seriousness of the crime and the circumstances of the individual. Usually, first offenders, except for the most heinous of crimes, are treated differently from those who have already demonstrated their inability to conform their conduct to the dictates of law. Because of our mandatory sentences, judges have no ability in any circumstance with regard to the imposition of the mandatory minimum. For example, in the case of a 14 gram (½ an ounce) crack case, the first-time offender must be sentenced to 3 years regardless of his role in the offense or other mitigating circumstances. Experience tells us that after 3 years in a penal institution, the likelihood of recidivism for that individual will be quite high. We agree with the National Drug Control Strategy, the Bennett Report, of September, 1989, which recommends that criminal sentences distinguish between serious and non-serious offenses, and that lengthy prison stays in already overcrowded facilities should be reserved for the most serious offenders. Mandatory sentences have increased greatly the inmate population in Massachusetts. The time has come to deal with drug sentencing in a more rational manner.

The Bennett Report also recommends the expansion of alternative sentences for first-time, non-violent offenders. In addition, the Federal Sentencing Guidelines, which took effect November, 1987, recognize that a complete departure from the Guidelines is warranted where cooperation has been certified by the government at the time of sentencing. Our state judges should be given the same powers as federal judges in that regard.

We recommend that judges be given guidelines under which to depart from mandatory sentences in (1) all cases involving cooperation in which the prosecutor certifies that the defendant made a significant contribution to a drug prosecution and (2) for first-time, non-violent narcotic offenders, except for trafficking in amounts in excess of 200 grams. In this limited class of cases, the judge should have the opportunity, with appropriate guidelines, to impose a term of incarceration less than the mandatory minimum or a non-jail sentence.

c. Expanded Use of District Courts to Handle Drug Cases. The Task Force believes that the jurisdiction of the District Courts should be expanded to grant them concurrent jurisdiction with the Superior Court over all drug offenses where the maximum sentence does not exceed 15 years, and that the District Courts should be allowed to impose a state's prison sentence in those cases. Currently, because of the higher mandatory sentences for trafficking offenses, these cases are beyond the jurisdiction of the District Courts. Also, although the District Courts have concurrent jurisdiction over all felonies punishable by a sentence of incarceration at state prison for not more than 5 years, a sentence to state prison is not authorized. The District Courts may impose a sentence of incarceration to a jail, a house of correction, MCI Concord, and MCI Framingham, but the period of incarceration may not exceed two and one-half years for each offense over which they have jurisdiction.

If the District Courts were given jurisdiction over drug offenses where the maximum sentence did not exceed 15 years in state prison, the District Courts could dispose of offenses involving crack or cocaine up to 200 grams. This assumes that mandatory sentences would be reduced to pre-1988 levels. The District Courts could still not take jurisdiction when the drug offense was combined with a non-drug offense over which the District Court does not have jurisdiction. Further, a District Court could continue to decline jurisdiction in those instances in which it felt that the case was more appropriately in the Superior Court. Also, the prosecutor could still directly indict. If the 200 grams or less cases could be disposed in the District Courts, this would significantly reduce the current backlog in the Superior Court. This, in turn, would allow the Superior Court to concentrate on the more significant trafficking cases.

The District Courts have traditionally handled the highest volume of criminal cases in the Commonwealth. Drug cases are frequent fare in the District Courts. Simply because a case involves a larger quantity, or the Legislature has increased the maximum sentence, should not disqualify the District Court from taking jurisdiction of these cases.

4. Expanded Use of Probation for Narcotic Offenses. The Task Force believes that the role of probation can and should be expanded in the monitoring and treatment of drug offenders. Mandatory urinalysis, literacy programs, job training, community service, treatment and counseling are some of the areas in which probation could be used more effectively.

a. Mandatory Urinalysis. Most criminal defendants are placed on probation, and many, if not most, crimes are drug related. An expanded use of mandatory urinalysis for probationers must be implemented towards a goal of a drug-free society. Screening for drug abuse should be done for all probationers, not just those convicted of drug offenses.

The overwhelming majority of drug users will not stay drug free simply by use of the honor system. Mandatory urinalysis compels a probationer to stay off drugs or to face the consequences of serving time for violation of his probation conditions. Just as an alcoholic cannot begin to help himself until he is sober, a drug addict or drug user cannot be expected to hold a job or receive meaningful treatment unless he is off drugs.

Mandatory urinalysis is inexpensive. The costs are approximately $3 per test per drug. We would recommend on-site drug testing in the District Courts to be administered by the probation department or someone under contract to the probation department. Failure to appear for a periodic urinalysis or a positive test could be monitored directly to the court through the probation department and an appropriate sanction imposed.

The Chief Justice of the District Court Department and the Commissioner of Probation should issue protocols regarding the imposition of a mandatory urinalysis program in each of the District Courts of the Commonwealth. The modest costs can be charged to the defendant.

We also recommend the use of longer periods of probation, with mandatory urinalysis, as an alternative to incarceration.

b. Literacy Programs. Attendance at literacy programs should be expanded as a condition of probation. It is axiomatic in our increasingly complex society that one cannot be expected to hold a job unless he or she can read or write.

c. Community Service and Job Training Programs. Probation departments can and should identify all of the non-profit agencies within their communities where probationers could do community service or receive job training and include such information as part of their report to the court.

d. Counseling and Treatment. The probation department should continue and expand its useful work in counseling and treating those individuals with drug problems.

5. Modification of the Grand Jury System. In our opinion the time has come to modify our present grand jury system. By judicial interpretation of our state constitution, it is a requirement that every felony case proceed in the Superior Court by means of a grand jury indictment.

This procedure should not be required for the usual felony case. It has resulted in a tremendous amount of duplication and waste of valuable resources. In most serious cases there has been a full-blown probable cause hearing in a District Court. In cases which do not commence in the court, the prosecutor should be able to initiate a criminal charge by an information or complaint supported to affidavits. A judge could then rule on the probable cause standard. In those cases, a defendant can request a preliminary hearing to contest the adequacy of any probable cause finding. Nothing in this proposal should affect the investigative grand jury process. This modification will require a constitutional amendment and statutory change. It is long overdue. Over two-thirds of the states in this nation have abolished this requirement.

6. Alternatives to Jail for First Offenders and Those Who Cooperate with Law Enforcement. The Task Force restates its recommendation that alternatives to be found to jail sentencing for certain offenders.

The program in place at the Dedham House of Correction provides a model. It costs $55 per day to house an inmate at the Dedham House of Correction and approximately $50,000 to building a new jail cell in Massachusetts.

In the first year (March 1988-March 1989), the Norflok County Electronic Incarceration Program (EIP) (a community-based corrections alternative which allows selected offenders to remain at home under close supervision) saved the Dedham jail 2,249 days of bed space at a cost per offender of $7-$10 per day. Under the program, a tamper-resistant transmitter is attached to the offender's ankle, a receiver is located in the offender's home, and the main computer is located in the Dedham jail. The main computer, capable of monitoring up to 200 inmates at one time, communicates with the receiver and maintains a record of its responses.

Under the EIP program, offenders are permitted to leave their home and work during the day. The Sheriff's Department verifies employment, requires regular drug urinalysis tests, and closely supervises home offenders.

Other sentencing techniques should also be explored. In some drug cases, a "taste" of confinement, short of traditional jail, makes sense. Underused military bases, with excess facilities, such as Fort Devens or Otis Air Base could be converted to anti-drug boot camps where offenders would spend six months. This will, of course, require some additional money, as well as government-to-government coordination on correctional department staffing and other issues. Nevertheless, we believe that first offenders should be given a program of drug therapy, education, physical exercise and discipline modeled on the regimen Army recruits undergo at boot camp.

7. Electronic Surveillance. This Task Force urges the Attorney General and county prosecutors to review the present state of the law governing electronic surveillance. We have received information that current statutory requirements are unworkable and do not meet the challenge of present sophisticated criminal activity.

8. Witness Immunity. There is no question that the state immunity statute needs refinement. The requirement that the immunity process at trial is limited only to those witnesses who received it at the grand jury stage is nonsensical.

9. Search and Seizure Issues. No issue has contributed more to the decline in respect for the criminal justice system than that of alleged illegal searches and seizures, as well as "investigative stops" and interrogation. Recently the City has been exposed to allegations of improper conduct in the application for search warrants. This Task Force cannot overemphasize the importance of this public issue. For the criminal justice system to survive, it needs the respect of the law-abiding population. To the extent that this population questions the fairness and legality of police action, the confidence in our police and courts will continue to decline. If that happens, we are on the road to anarchy.

The Task Force commends the Attorney General for agreeing to look into these issues. However, the long-term solution is that all police officers be trained on the subject and closely supervised in their work. Hopefully, the newly created committee, to be headed by former Chief Justice Edward F. Hennessey, will develop a program to address this serious problem.

10. Treatment on Demand. We agree with William J. Bennett that our drug treatment system must be expanded. This is a particularly acute problem in the case of young pregnant women who are addicted. These programs can work. There must be a major effort to provide treatment on demand. We are absolutely convinced that the cost of such programs will be far less than the cost of using the criminal justice system to solve the failure to provide treatment. Consider statistics gathered by the Federal House Select Committee on Children, Youth and Families that 375,000 babies born last year alone may be harmed by drug exposure. Costs for treatment programs will be far less than costs for supporting, treating and educating those poor children.

11. Legislative Proposals. Much needs to be accomplished on the Legislative front, including much that will not cost more money and in many instances will ultimately save money. Recent passage of the asset forfeiture legislation, advocated by the Attorney General, is welcomed. Creative ways to make that legislation work must be found. It should not be allowed to founder on limitations imposed by the budget crisis.

We recommend immediate consideration of the following:

a. Modification of the requirements of Chapter 579 of the Acts of 1980 to facilitate more rapid construction of prison and treatment facilities;

b. Support for legislation similar to that recommended by Suffolk County Sheriff Robert C. Rufo, to provide for a feasibility study for the establishment of regional lockup facilities.

c. Legislation which mandates a criminal justice impact statement and the appropriation of funding to accomplish that purpose with respect to any new law that would effect the criminal justice system, including laws that would effect prison space, court use and related facilities.

d. Full funding for Chapter 206 of the Acts of 1988, the Judicial Needs Bill and the FY 1990 Trial Court budget as originally requested; and

e. Enactment of legislation increasing the compensation for assistant district attorneys and the rates paid to defense counsel serving under the auspices of the Committee for Public Counsel Services.

12. Demand Side Control through Civil Proceedings and License and Permit Suspension. Because it is our belief that much more effort must be applied to the demand side of the drug problem, the Task Force encourages all programs in that area. In particular, we are concerned about societal ambivalence to the abuse of narcotics. There must be a substantial curtailment of the use of drugs at all levels, including particularly societal leaders and role models. Massachusetts' doctors, lawyers, accountants, athletes, media and entertainment personnel, bankers, brokers, and other professionals and business leaders must take a lead in signaling that drug and alcohol abuse is unacceptable behavior for everyone, not just the urban poor.

To that end, the Task Force recommends the study of legislation which calls for civil administrative proceedings leading to license and permit suspension or loss for any person convicted of illegally using or selling drugs or alcohol. For example, if a lawyer is convicted of illegally using drugs, the Board of Bar Overseers would immediately conduct a hearing and suspend that lawyer's license to practice pending appeal of the charges after proof of conviction, measured by civil standards. If convicted without appeal, or if the conviction is affirmed after appeal, the loss of license for an extended period would be automatic. These suspensions could reach into vast areas of regulated professions, businesses and trades. The Commonwealth should not have to license or grant permits to those who are aggravating such an enormous societal problem.

Each member of society must accept responsibility for his or her own actions. It is our opinion that individuals who purchase drugs must be held accountable for their actions. With that goal in mind, we recommend that legislation be enacted to create civil monetary penalties for drug use; that substantial fines, perhaps $10,000, be available for the first offender with gradual increases to $50,000 for repeat offenders.

These civil fine proceedings should be handled by city law department personnel or local attorneys who are hired as special counsel to the city or town in question. The burden of proof in these cases should be that governing most civil cases—a preponderance of the evidence. There should be a provision relating to illegal searches and seizures. There need be no incarceration arising out of these proceedings except in contempt of a judgement where there is clear and convincing proof that an individual has secreted funds in order to avoid payment. The legislation should permit the judgment to be collected over twenty years; permit the use of liens or attachments; and permit the use of substantial wage garnishment. In the case of first offenders, there should be a community service option—the fair market value of those services to be considered as a reduction of the total judgment amount.

Until we send a message to drug consumers in the more affluent segments of our society that this activity is illegal and subject to sanction, it will be very difficult to convince our young people that we mean business. We would recommend that the funds received from this program remain in the local jurisdiction for treatment and education programs.

13. Increased Probation Resources. This Task Force recommends that the Commissioner of Probation and the Chief Justices of the Superior and District Court consider whether the probation function could be expanded by the use of volunteers. It may be helpful to establish a core group of men and women who, with appropriate supervision, could supervise young people in trouble. Such a program would undoubtedly help young defendants and at the same time alleviate the burdens which probation officers presently endure. This program would also develop a constituency of well-meaning persons who will garner a greater appreciation of the complex nature of the criminal justice system.

14. Upgrade and Fund the Drug Laboratories. Once again, we urge immediate ans serious attention to the problems at the drug analysis laboratories. There can be no excuse for failing to fund and efficiently run these necessary cogs in the wheels of drug enforcement.

15. Drug Czars. Our experience with the drug problem at both the City and State level makes clear that it is large and still largely uncoordinated. Mayor Flynn and Governor Dukakis are given the problem much needed attention. Each of them, however, have huge jobs running a City and a State each beset with many other major problems. The drug crisis is so large and so pervasive as to require at both the City and State level the appointment by the Mayor and the Governor of high-level persons to run and coordinate the efforts both within and without the City and State governments. Leadership by the Mayor and the Governor must remain. But the day-to-day and government-to-government coordination must be put in the hands of aggressive, fully supported, full-time people.

16. Jobs Program. Attention must be given in a major way to the crushing need for jobs and incentives in our crumbing inner-city communities. It is the depression and frustration in those areas, as well as the greed, that foments so many of the drug problems. The Task Force recommends the creation of some kind of realistic jobs program keyed to the "Big Dig" Central Artery/Third Harbor Tunnel projects. These projects provide Boston with a unique opportunity to capitalize on two huge public works efforts as a means of assisting in the upgrading of not only the highway system, but the lives of residents of the more needy neighborhoods as well. We call for a coalition of government, business and organized labor to insure that these massive projects provide jobs and opportunity for those local residents who need them most. Tax incentives for businesses that support the effort and special assistance to labor unions that provide training should be considered. Depression era WPA-type programs might be considered. Alternative sentencing, with picks and shovels on the "Big Dig", should be included.

CONCLUSION

The interim report described a criminal justice system which, wholly apart from the strains imposed upon it by the drug problem, was in desperate condition. We characterized the system as "abandoned". Resources, both personal and physical, and of all kinds, were desperately needed at all levels. We called for a massive effort by all responsible parties and institutions to develop and build support for the Judicial branch. In September, 1989, William Bennett in the much heralded "National Drug Control Strategy" began by saying that: "no strategy designed to combat illegal drug use can succeed if it fails to recognize the crucial role of criminal justice. Americans count on an effective criminal justice system to police our streets, deter crime, prosecute offenders, and punish the guilty."

Mr. Bennett is correct. But, sadly, in Massachusetts, since our interim report in May and the Bennett Report in September, the governmental leadership in the State, the private leadership in the community and the people themselves have utterly failed to demand and support a justice system necessary for the task. Until we do so, the message is all too clear—this State, its leaders and its citizens don't really care about the drug problem.

Of equal significance is a point made in the Task Force's interim report and again emphasized in the Bennett Report. "Whatever gains are made by law enforcement in diminishing local drug problems, a permanent solution require the persistent involvement of an entire community." The problem is societal with roots and causes of wide dimension. It must be attacked at its bases, not just by police, prosecutors, judges and jailors. In our poorer and more segregated communities we need plans and programs to curb depression and hopelessness; ways and means to create a future for our young that lead them away from the siren call of the drug dealer. In all neighborhoods, we must get out the message that drug and substance abuse is destructive in its effect on the person and, worse yet, in the example it sets for those who look for guidance to them who appear to have succeeded. There will never be a solution if the effort is focused almost entirely on supply and punishment. This devastating problem will be overcome only if enough attention and massive education are given to curbing the demand for drugs and by attacking the root causes of the demand.

Respectfully submitted,

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DRUGS AND JUSTICE: A SYSTEM ABANDONED

(Report and Recommendations of the Boston Bar Assiociation Task Force on Drugs and the Courts)

PREFACE

With a current membership of about 7,000, the Boston Bar Association is one of the oldest and most prestigius bar associations in the United States. Historically the Association's activities were concentrated in two areas—its section and committee work dealing with substantive law matters and its pro bono efforts dealing with the delivery of legal services to the poor. At its October, 1988 Retreat, after a long and vigorous debate, the Council (governing body) of the Association decided to add a third focus—active involvement in civic and community affairs. At a Boston City Hall press conference later that month, the Association announced the first specific project undertaken in furtherance of this new goal—the formation of a special Task Force to examine how the criminal justice system is coping with the virtual flood of drug cases entering the system. This report contains the preliminary findings and recommendations of that Task Force.

The observations and finding of the Task Force are disturbing. Essentially the Task Force concludes that we are currently losing the War on Drug. This is a message many will not want to hear. I would suggest, however, that we ignore it at our peril. The group conveying the message has collectively well over a hundred years of experience in dealing with our criminal justice system and no vested interest to protect or further. Their concern is only the well being of our metropolitan community. Hopefully those who share this concern will heed their warning and give prompt and careful consideration to their recommendations.

All of us who are concerned with the health of our community owe a deep debt of gratitude to the Task Force members who have contributed so much of their time to this important effort. This is particularly true with respect to the chair of the Task Force—Allan van Gestel, one of the most able and respected litigators in the city. Our thanks must also go to Allan's firm, Goodwin, Procter & Hoar, and its Chairman Bob Fraser for their unstinting support of the project, both moral and logistical, and to Pandick Press which has printed the report without charge as a public service to the bar and to the community.

EDWARD F. HINES, Jr.,
President.

INTRODUCTION

Over the past six months, the Boston Bar Association Task Force on Drugs and the Courts has conducted a study of the effect of the efforts of public safety forces to enforce the narcotics laws through the criminal justice system in the Boston metropolitan area. Some initial observations and recommendations are reflected in this interim report. We intend to file several detailed "action plans" by September 30, 1989. The focus of those plans will be discussed below.

The members of this Task Force unanimously agree that we are losing the War Against Drugs. On every battlefront the forces of law and order, whether police, prosecutors, judges, probation offices, sheriffs or correction officials are being overrun. In many cases, major elements of our criminal justice systems are in total retreat and chaos.

Of far greater concern to this Task Force is the overwhelming evidence that there is no real strategy to win any major battles, let alone the War itself. We seem determined to arrest more drug offenders without any consideration for the fact that they will not receive punishment for one to two years. We seem determined to increase mandatory sentencing provisions of our drug

laws with no consideration of the substantial evidence that those laws, however well intentioned, have greatly contributed to the collapse of the criminal justice system. The infrastructure itself is literally falling apart. There are too few judges, in too few courtrooms, to send too many inmates to too few jail cells.

In all our work we have discovered one point of consensus. It is the simple truth that "justice delayed is justice denied." We speak not only of the justice for the criminal offender but also for the victims of this drug plague. We have substantial evidence that entire sections of our cities are under the increasing control of drug-based gangs. If we cannot develop a winning strategy in the very near future, then we are destined for total defeat.

The members of this Task Force can assure the Bench, the Bar and the public that recourse to traditional solutions will not have any significant impact in the years ahead. What this crisis demands is a new and invigorated will to set aside agency rivalries, turf battles and personality conflicts. The public wants this problem solved. It is up to our elected and appointed leaders, as well as all members of the legal profession, to demand a strategy based on reason, not emotion or political advantage.

This interim report will focus on much of the evidence we have received describing the magnitude of the problem. It does not, in most instances, offer any detailed program to solve these problems. That is not our purpose here. We seek merely to alert the reader that this problem requires a reaffirmation of our public will to survive as a civilized society as well as our public commitment to share in the solution.

A. OUR LOCAL CRIMINAL JUSTICE SYSTEM

The picture does not improve when we focus on our local criminal justice system.

Here there really is no system at all. Our criminal justice program aptly can be seen as the orphan of government, the wastebasket of society, for what it receives and the manner in which it is treated by almost everyone who comes in contact with it. At every level, and in all departments, we find too few people, with too little financial support, grossly inadequate facilities, shackled by inconsistent and wholly uncoordinated rulings and legislation, for the most part neglected by the executive and legislative branches of government, and ignored by a society which, through its own actions, has revealed a stunning ambivalence to the drug problem. To suggest any modification of the legislated penalties against narcotic use or sale or to suggest decriminalization in any form evokes instant reactions of extreme rejection. These reactions, however, come from the same people who won't hire, train, supervise or pay more police, won't site or build more penal or treatment facilities, won't appropriate more funding for more judges, won't fund more court and probation department support personnel, in short, won't pay for or permit in their neighborhood, any of the several extensive and expensive tools that are needed to enable our criminal justice system to effectively attack the drug problem.

Justice Holmes taught us that the law is not what judges or others say it is, but what actually happens to people who transgress the apparent behavioral code. Thus, the first and largest question to be asked is whether we really are involved in a War Against Drugs, whether society really wants or expects its criminal justice system to solve the narcotics problem. The response to date, at almost all levels, does little to suggest that it does.

The failure to address the problem of drugs in a coordinated and effective way, has overwhelmed the local criminal justice system at all levels. Followers, as well as leaders, have let the system down. There is a crisis of will. Until adequate funding for each of the inter-connected parts of the criminal justice system is provided, and until major changes are introduced, the war will continue as a lost cause.

Drug arrests have increased dramatically in recent years. There are, however, few additional judges, and no additional courtrooms, to try existing or new cases, and grossly inadequate jail space to hold those awaiting trial and after sentence. Because there is no space in the jails, many drug dealers who are awaiting trial are released back into the neighborhoods legitimizing the charge of "revolving door justice". Even if a dealer is not immediately released, mandatory sentences have created an intolerable trial backlog in Suffolk County, making speedy justice all but impossible. It can take up to two years to try a drug trafficking case in Suffolk Superior Court. This is exactly the wrong message to send as a deterrence to illegal drug dealers.

Speedy dispositions of drug cases are not possible under existing circumstances. This leads the residents of communities most impacted to identify the criminal justice system with the problem rather than the solution. Until swift and certain justice is possible, public confidence in the courts will continue to erode.

Today's drug problem is not only different in degree, it is different in kind. Crack, a relatively new drug, can easily be manufactured in the home, creating a growing cottage industry. Barriers to entry into the crack business are virtually nonexistent. Violence on our streets has escalated to an unprecedented level. Sophisticated weaponry, particulary automatic weapons, have proliferated to protect and expand drug networks. Innocent victims have been caught in the deadly crossfire of a private war between competing drug gangs. Drug dealers will become more bold as the perception grows that society is impotent to stop them.

Tragically, drug traffickers have become role models emulated by the young. It is difficult to say "no" to drugs when profits are so large and meaningful punishment only an abstraction.

The criminal justice system can be saved, but only if public indifference to the problem can be moved out of the way.

B. TASK FORCE RESOURCES

Our study included conversations with a wide and diverse number of individuals experienced, involved and interested in all facets of the problem. In each instance, everyone we spoke with was extremely cooperative and supportive of the effort. Included were representatives of Boston Mayor Raymond Flynn; representatives of the Boston Police Department; judges at all levels of the court system, including the Supreme Judicial Court, the Chief Administrative Justice, and the Superior and District Court Departments of the Trial Court; key personnel in the Suffolk County District Attorney's Office; the Sheriff of Suffolk County; the Attorney General and members of his staff; the Governor's Legal Counsel; representatives of the Corrections Department; public and private defense counsel; and private citizen representatives from affected neighborhoods. Visits were made to District Courts in the metropolitan area, the Boston Municipal Court, the Suffolk Superior Court and the Special N Part Narcotics Prosecution Court Project in New York City. Numerous publications from federal and state legislative groups, criminal justice agencies, academics, editorial writers, the local and national press, and others have been gathered and studied. Statutes, court decisions and rules of practice have been reviewed.

C. SIGNIFICANT OBSERVATIONS

In the process, we observed the following:

1. The illegal narcotics problem itself is overwhelming. There are too many narcotics users, too many narcotics dealers, too many narcotics traffickers and too many offshoot narcotics related crimes. The inability to keep illegal narcotics out of our maximum security prisons demonstrates the utter futility of attempting to seal off the borders of Massachusetts or the United States. There are simply too many ways and too many willing participants to ever hope to mount a successful interdiction program which will eliminate the supply of narcotics. In fact, the evidence suggests that as we have stepped up interdiction, the supply of drugs has grown steadily more plentiful, of better quality and of lower prices.

There are misunderstandings at all levels about drugs and the problems they cause. Simplistic solutions overlook the fact that different responses are required to different drugs, different uses of the same drug, and different users. Heroin, for example, with its reliance on needles and tie-in with AIDS, is quite different from cocaine. Snorting cocaine is quite different than smoking crack.

2. Law enforcement agencies appear to be losing an uphill battle and are themselves becoming buried and battered in the process. The largest police department in the metropolitan area, the Boston Police Department, reports making arrests on narcotics charges at a current rate in excess of 7,000 per year. There is no way that 7,000 people can be tried each year in the courts of Suffolk County, or jailed or treated, should it turn out that they warrant or need one or the other.

The Boston Police Department is incapacitated by a Drug Control Unit that is too small, having only approximately 60 officers assigned to it. The DCU is overburdened by court appearances, its officers often being called to testify in multiple courts at the same time on the same day.

Language problems, Hispanic, Oriental, and others, and complications presented by justifiable constitutional limitations, make it nearly impossible for the Boston Police Department to conduct an effective wiretap investigation of a narcotics ring. Seemingly simple things like the safe storage of drugs, money, equipment, and even automobiles, seized by the Boston Police Department present immense problems. The officers assigned to the Drug Control Unit are subjected, on a daily basis, to ever-increasing and deadly personal risks as the greater use of weapons and violence pervades and infects the illegal drug trade. Temptations abound and the potential for corruption within police departments is frightening.

And, as the Boston Police Department gets more sophisticated and more effective, the Balkanized local governmental structure in the greater Boston metropolitan area invites those conducting illegal drug activities to avoid that sophistication by moving their operations a few miles or a few subway stops over the city line to Quincy, or Cambridge, or Chelsea, or Revere, or any of the

other nearby, but wholly-separate governmental entities in the metropolitan community.

Perhaps most significant of our observations about the law enforcement side was the near total lack of trust, cooperation and coordination among and between the agencies involved. In Boston for example, drug arrests are made by the Boston Police, the Metropolitan District Commission Police, the State Police, the MBTA Police, Housing Authority Police and Federal Drug Enforcement Agency officers, to name only the most active of the groups. Those various police agencies seem in constant turf wars and appear wholly distrustful of each other. Certainly they do little to work in any coordinated manner. Not only is this wasteful and duplicative of resources, it is also extremely dangerous for those who are performing undercover operations. On more than one occasion, officers from one force have come close to arresting or shooting at officers from another force that they did not realize were involved in undercover activities. We observe the anomalous situation where the head of the Federal Drug Enforcement Agency in Boston and the newly designated United States Attorney want to join in combat with the Boston Police and the request is rejected.

3. The situation with regard to jails, houses of correction and prison facilities is complicated, expensive and wholly inadequate for the task. The jail problem is probably the biggest current impediment to an effective drug program. Setting aside for the moment the serious societal question of who should be imprisoned, for what, and whether we imprison too many people, it is absolutely clear that police departments, district attorneys' offices and courts are being asked to arrest, prosecute and incarcerate vastly more people than the existing jail facilities can ever hope to accommodate.

The situation is as bad for post-trial incarceration as it is for pre-trial detainees. Almost every local jail has, or is about to have, imposed upon it, by some federal or state court order, a cap or limitation on the number of people it can accept and house. These orders, valid in every instance, come from a variety of different courts and different judges, are not coordinated in any way, and seem oblivious to the realities and burdens placed on the sheriffs and courts which have to deal with the situation.

The example at the Charles Street Jail in Boston is revealing. There a Federal judge has furthered an earlier order of that court regulating conditions at the jail which has resulted in an effective upper limit of 342 inmates. A justice of the Supreme Judicial Court, has issued orders with regard to the steps which can or must be taken by the Suffolk County Sheriff and the Superior Court in attempting to deal with problems when the cap is reached. Those orders require that certain kinds of pre-trial detainees must remain in jail, while others can be considered for release to halfway facilities, or even the street, at the times when the cap is to be exceeded. Until recently, those included among the group who could not be released were people awaiting trial on charges of operating a motor vehicle while under the influence of alcohol, a legalized drug. The result was bizarre. People charged with trafficking in cocaine, an illegal drug, were eligible for release to halfway houses, and in some instances to the street, because there wasn't enough room at the Charles Street Jail, while people charged with operating under the influence of a legal drug were kept locked up.

Even more peculiar is the result that, in order to protect the constitutional rights of prisoners to a single cell at the Charles Street Jail, the Sheriff has had to move prisoners, at enormous expense and personnel dislocation, to other jails throughout the Commonwealth. When moved, however, the detainees often end up in facilities in other counties not subjected to the Federal court order and, therefore, in cell situations with multiple prisoners, under conditions far worse than if they were simply doublebunked at the Charles Street Jail.

The ability of the state and local governments to construct prisons is immensely hampered by the rigid laws which were enacted during the tenure of the Ward Commission, particularly Chapter 579 of the Act of 1980. Worse is the reluctance of the General Court to fund the construction, and the unwillingness of the people themselves, often acting with the assistance of their local state legislators, to allow the facilities to be built in their communities. The construction of jails is a very expensive, time-consuming operation and, it seems, as soon as a new jail is built, it is immediately filled. the numbers being arrested will probably increase rather than decrease, thus still further exaggerating and aggravating the jail problems. No one, however, seems to be considering alternative sentencing for drug offenders.

As bad as the situation may be with the siting, funding and construction of prisons, the problem of treatment facilities is much worse. There is amost no attention or funds, being made available for treatment.

4. The District Courts are the courts closest to the people in our system. The inner-city District Courts, particularly those in Dorchester, Roxbury, West Roxbury and Chelsea, are being swamped with proceedings related to narcotics arrests. Similar problems exist in other urban District Courts, particularly in Springfield, New Bedford, Lawrence, Worcester and Lowell. Of the 69 District Courts in the system, the nine listed here account for nearly 50% of all drug cases.

The court buildings are, for the most part, in deplorable physical condition, understaffed by judges and greatly lacking in sufficient support personnel. The allocation of judicial resources is complicated by the fact that judicial vacancies remain too long unfilled. New judges under last year's Judicial Needs Bill, Chapter 206 of the Acts of 1988, are only now starting to be appointed by the Governor. Their compensation, however, has not been fully funded yet. Additional court support personnel are also in great need. Under an economy measure in the FY '89 budget, vacancies in court support personnel that occur by attrition may not be filled. This has caused a 10% diminution in the number of court employees in a system which needs more, not fewer, people in support positions. An equally serious complication is that although judges can be moved around from court to court under certain circumstances, the same movement of clerk personnel cannot be accomplished under present laws.

It is the belief of some in the District Court Department that a different approach is taken to the inner-city courts from those in the more affluent suburban cities and towns. Conditions that would not be tolerated in the less urban community courts are the routine in places like Dorchester, Roxbury, West Roxbury and Chelsea. These courts have no particular supportive constituency and the neighborhoods themselves seem unable to generate concern on the part of those controlling the situation.

5. The Superior Court in Suffolk County suffers from similar limitations in resources, facilities and support personnel to those which plague the District Courts. There are not enough Superior Court judges, nor are there enough clerks, stenographers and support personnel to assist them. Like the District Court system, the provisions for the Superior Court in the Judicial Needs Bill have been abandoned in the current fiscal crisis. Judicial positions created almost a year ago are just now being filled, and those judicial offices significantly unfunded in the proposed budget.

Demands for creating specialized narcotics court or night courts can hardly be taken seriously when present vacancies and deficiencies in the courts remain unattended to.

Another complicating factor in the Superior Court is the implementation of the Supreme Judicial Court's Time Standards Order. This plan, designed to reduce the huge backlog in civil cases, is already straining the system to the core. Any shift of resources to the criminal side will surely cause that laudable and necessary program to fail.

6. There is concern that the criminal defense bar, both public and private, is, for the most part, too small, too inexperienced and too underfunded to be able to effectively handle the crush of business which could come about if corrections were made in the other parts of the system. Compensation for private counsel, engaged in cases through the auspices of the Committee for Public Counsel Services, remains at $25.00 per hour for out-of-court time and $35.00 per hour for in-court time. These amounts have not been adjusted since 1981. Compensation for entry level prosecutors is equally poor. The Suffolk County District Attorney's office starts its lawyers at as low as $21,780 per year.

There is very little to attract lawyers to criminal defense or prosecution work of the nature needed in the District Courts, and even the Superior Court. Compensation is low, the conditions are as poor as most clients, and, for the defense bar at least, community opprobrium is all too frequent. There is even less to hold them in those kinds of positions when their colleagues can practice civil trial work, or non-trial law, in elegant downtown office buildings and command 2, 3 and 4 times as much in compensation for such "clean" legal work.

7. The laws, decisions and court rules that deal with narcotics cases are a hodgepodge of inconsistency, adopted with the best intentions, but resulting in as much aggravation to the problem as the unwillingness of the other two branches of government to provide the necessary funding and support for the courts. Mandatory sentencing is perhaps the most pernicious of the problems. Intended to show a toughness and intolerance for the evils of narcotic violations, the effect is to clog the courts and make them even less able to handle the crush of business because the opportunity to resolve cases by plea bargaining is all but eliminated. Criminal defense lawyers are forced to "play for the fumble" by raising every conceivable defense and insisting on a full and complete trial in the hopes that the government somewhere along the line will stumble in a way that will provide relief for the accused.

Laws relating to the allocation of jurisdiction, even despite the recent *Cedeno* decision by the Supreme Judicial Court, remain

uncertain. Bail presents similar problems. If it is set too high, it can't be met and the people involved must be held in jail awaiting trial. The jails, however, are subjected to caps and are already crowded beyond the overflowing stage and, therefore, there is no real room. Thus, courts must consciously keep bail at a lower level so that people can post it and return to the street while awaiting trial. As noted earlier, this creates the "revolving door justice" phenomenon, a legitimate concern in the neighborhoods where drug trafficking is rampant, and a source of demoralization and anger for police and other public officials.

8. Given the problems in arresting, prosecuting, trying and punishing those involved with illegal drugs, thoughts turn to the other side, which involves treatment. Here, like everything else, there is far too little available. There is almost no treatment that is realistically up to the task of attempting to cure those who have become seriously addicted. Certainly, there is essentially no treatment in our prisons. Treatment facilities, however, like everything else are expensive and their siting, because people don't like those people who go there for treatment, is as difficult as siting a prison.

9. Even in relatively small and technical areas, problems abound. The Public Health Drug Analysis Laboratory at Jamaica Plain analyzes most of the materials seized in Boston from drug dealers. The laboratory is too slow. The average response time as of this writing is about six weeks. Judges' suggest even longer delays, predicated upon statements by prosecutors that seek trial continuances because the lab reports are not back. It is unclear, however, whether the problem isn't perhaps a bit more complicated. There certainly seems to be room for improvement at the laboratory, a situation that should not be terribly expensive. Simply adjusting the lines of communication between the laboratory, the police and the District Attorney's office would be an easy start.

At the same time, it appears that on some occasions, those responsible for picking up and delivering the drug results, the police department generally, may have been using the laboratory as an excuse for their own purposes. Similarly, there may be occasions in which a prosecutor who is not really ready for trial for another reason uses the laboratory as a convenient scapegoat. Improvements at the laboratory and tightening up on supervision at both the police departments and in the District Attorney's office would seem a simple cure.

10. There is a significant lack of coordination between and among federal, state and local agencies; federal legislative and state legislative bodies; the federal executive branch and the state executive branch; and federal courts and state courts, in their dealings with drug issues. Given the magnitude of the problem and the immense amounts of money that is being spent in connection with it, it is unfortunate that a vastly greater degree of inter-agency, interdepartment and inter-government cooperation cannot be fostered. Many metropolitan areas run coordinated drug task forces where resources of people, information and statutory power are pooled. This not only prevents confusion and waste, but makes available to local authorities the federal resources and forfeiture laws that work.

11. Interdiction, the prevention of the importation of drugs into this country, is a failed effort. The United States' borders are far too large and far too vulnerable to be policed effectively. The American public is far too willing to pay for drugs that are brought in. The business community cites drug use by employees as one of its greatest problems. Foreign countries where drugs are produced are too small, too weak, too corrupt, or too antagonistic toward the United States to mount any effective programs within their own boundaries to control the drug lords who start the entire chain. And even if any of that were effective, it seems certain that the ingenuity of the criminal mind, given the immense temptation of the huge amounts of money involved, would enable those criminals to produce the product within the boundaries of the United States.

12. The pesent approach, criminalizing everything, has not succeeded. It has made many criminals extremely rich, has increased the number of offshoot crimes and violence, and has placed many of the most needy neighborhoods in total jeopardy, held hostage to drugs trafficking and the misery that follows in its wake. This Committee concludes that locally, at least, the problem cannot be solved. Like the medical profession's battle with cancer, the most that can happen is that it can be better controlled and managed. Even the latter, however, will only be a realistic possibility if society demonstrates that it really cares enough to support the effort and demands action from its leaders. We have serious doubts that the Massachusetts Legislature or the Executive, in the absence of strong public demand, will appropriate the funds and revise the legislation necessary to attempt to effectively control the problem. Nevertheless, we reach the following conclusions and make the following recommendations. With regard to each major recommendation, we intend to prepare or commission, and publish, a detailed plan for its implementation. We submit our recommendations now because we believe them important and believe that they will help to provide public understanding and a basis for free and open discussion.

D. CONCLUSIONS

It is clear from what we have observed, that the present strategy is not succeeding; that we need a new set of tools and approaches. To develop those tools, to select policies which have a chance of success, we need to know much more than we do today. The Committee, therefore, publicizes the findings of Mark A. R. Kleiman and Kerry D. Smith of the Program in Criminal Justice Policy and Management at the Kennedy School of Government at Harvard University. In a January 31, 1989, paper in progress, entitled "State and Local Drug Enforcement: In Search of a Strategy" Messr. Kleiman and Smith said:

"In principle, the right way to choose a drug policy for a city would be to describe the problem, invent some alternative approaches to addressing that problem, predict the costs and the likely result of each approach, and choose the least painful. Then, after a while, one could measure the results and compare them with the predictions. Unexpected results or new situations would call for changes in policy.

"In practice, no city has anything resembling a quantitatively accurate description of its own drug problem. Nor is there a well-worked-out body of theory or experience to allow predictions of the likely results of alternative approaches.

"Theory and experience agree that neither high-level enforcement nor unfocused retail-level enforcement is likely to contribute much to solving the problem under current big-city conditions. Yet local drug enforcement consists primarily of a mix of those two strategies. A growing share of local law enforcement budgets is thus being committed to programs that are both unproven and implausible.

"Law enforcement agencies, like boxers, need to learn to fight their weight. In a city that has a small crack market, for instance, investing early and heavily may succeed in keeping the market small or driving it out. Where a large crack market already exists, consideration should be given to whether even maximal efforts are likely to have much effect. There will come a point of diminishing returns, when throwing more police resources into the pot will not longer produce significant social benefits. Refining the techniques for making those calculations poses a substantial intellectual and practical challenge.

"Crackdowns focused on particular neighborhoods have some theoretical advantages, and a little experience to suggest they can work. But the extent to which they simply push the problem around is undetermined. For neighborhood crackdowns to be a viable citywide strategy, it must be possible after a time to move enforcement resources to a new area and repeat the process. That, in turn, requires both the development in the crackdown area of indigenous capacity to resist the return of drug dealing and a willingness on the part of residents to see the focus of police attention shift once the problem has subsided. How local governments can create that capacity and that willingness remains an open problem

"Drug markets dominated by warring youth gangs will leave more corpses behind them than drug markets not so dominated. Routine drug enforcement may have little to contribute to gang control; police need to learn how to make life particularly miserable for gang-related drug dealers (and gang members committing other crimes).

"There is some evidence—not yet much—that putting police in the classroom as "drug education" teachers can reduce the rate at which adolescents are initiated into illicit drug use. Whether such programs are an efficient use of police work-years depends in part on the value of alternative uses of the same work-years. If current drug activities are already overloading the capacity of prosecutors, courts, and jails, the arrests sacrificed by putting some police in classrooms may not matter much.

"Considering how much of the public concern about drugs centers on the link between drugs and crime, it is surprising how ill-designed current policies are to discourage the long drug/crime careers characteristic of heroin users (and almost certainly of some crack users). Mandatory drug abstinence for drug-involved offenders, verified by testing and backed with the threat of reincarceration, ought to be a centerpiece of any serious "career criminal" or "dangerous offender" program.

"Research, which has contributed relatively little to the current decision-making process, seems ill-positioned to contribute much more. The most obvious need is for a set of plausible, computable models of local drug sales activity as a function of local enforcement activity. This would likely involve some combination of microeconomics and operations research.

"But better models will be of limited practical use unless someone collects the data to feed them with. Numbers of users, numbers of sellers, numbers of transactions, total revenue; all of these data are needed, and

needed down to the neighborhood level. This requires some very expensive data collection: surveys, street ethnography, and the development of user, ex-user, and potential-user panels. No police chief will ever know as much about the cocaine market in his or her city as the local manager for R.J. Reynolds knows about the cigarette market, but we can be, and need to be, much closer to that position that we now are.

"One way to start would be to collect more information about drug enforcement. Local, state and national data collection systems often fail to make essential distinctions or to be kept in comparable categories; the Uniform Crime Reports, for example, lump heroin and cocaine together. Questions of the form, "How many crack sellers were arrested in Chicago last year, and how many aggregate years of confinement were they sentenced to?" need to be routinely answerable before any serious study can be made of the results of alternative strategies.

"Beginning to collect at least the minimal level of information would suggest a new level of seriousness about developing responses to the drug problem that produce publicly valuable results. Until then, state and local drug enforcement will remain a collection of activities in search of a strategy."

E. SHORT-TERM RECOMMENDATIONS

1. We conclude that it is far more important that justice be swift, than that sentences be long. Adjustments must be made and programs instituted in the District and Suffolk Superior Court Departments of the Trail Court to provide swift, effcient and certain justice. This should include consideration of a fast-track drug offender's program in the Superior Court and a modification of the New York N Part approach for the District Courts. This system is based on a speedy initial hearing program. In New York, laboratory results are produced within 6 days of arrest. At that time a defendant is given an opportunity to plead an offense for which he will face a less severe penalty or be directly indicted on the most serious charge. District Courts should adopt a similar system supported by speedy test results, swift indictments and the opportunity to plead to a less serious offense in the District Court prior to an indictment.

Early intervention and more careful screening of cases should be instituted in the District Courts by experienced Superior Court Assistant District Attorneys in an effort to dispose of more cases at that level and to determine if the more serious trafficking cases can, or should, be the subject of direct indictments in the Superior Court. The continued use of probable cause hearings in the District Courts is recommended, but they must be tied to better case screening and a better allocation of judicial resources to conduct those hearings, particularly in Roxbury, Dorchester and Chelsea. At the same time, particularly if there is to be a fast-track drug offenders program and more direct indictments, there ought to be assigned 3-4 judge teams to Suffolk Superior Court, each team to sit for 3-6 months, with one judge hearing pleas, deciding motions and assigning trial dates, and the other presiding on trials. Both the District Court N Part type program and the Superior Court drug offenders plan will also require the infusion of money and resources at the laboratory, in order to produce fast and accurate test results.

Attention must be given by the Governor and the Legislature to the implementation of last year's Judicial Needs Bill, such that it gets fully funded and the judges authorized thereunder are promptly appointed. There will be a need for an immediate addition of new court clerk and probation office personnel in those courts most seriously affected (Roxbury, Dorchester, West Roxbury, Chelsea, Suffolk Superior, etc.).

2. Means should be devised for coordination among the critical federal, state and city agencies and among all affected parties. In particular, there should be a major coordination among police departments in the Metropolitan Boston area somewhat like the Allied governments got together and cooperated against a common enemy in World War II. Every opportunity to develop a joint task force should be considered, even if it means hiring more Boston patrolmen or promoting them to detective rank. There also should be coordination among the judges in the various courts including the Supreme Judicial Court, the Appeals Court, the Superior Court, the District Courts, the Boston Municipal Court, the Housing Court and the Federal Court. Similar kinds of cooperation and coordination should be worked out with the offices of the Suffolk, Middlesex, Norfolk and Essex County District Attorneys' offices, the U.S. Attorney's office and the State Attorney General's office. There should be established a permanent coordinating group with representatives of courts, prosecutors, police departments, the organized Bar and neighborhood spokesmen which meets on a regular basis to discuss problems of common interest and avoids inconsistent and counter-productive efforts. A similar multi-interest group should be created to review and assist in the drafting and passage of related legislation.

3. A massive public educational program about the function, role and workings of the criminal justice system and all of its branches, including explanations of the roles of prosecutors, defense counsel, District Courts, Superior Courts, Sheriffs, jails, Probation Departments and explanations of legal principles, such as those relating to bail, jurisdiction, sentencing, constitutional rights, etc., etc., should be undertaken. *The Boston Globe, The Boston Herald* and the major local television and radio stations should be asked to set aside their rivalries and join in this effort. A Special Education Committee or the Criminal Justice Section of the Boston Bar Association could be asked to attend to this task and to coordinate its activities with the Boston Against Drugs program already in place.

4. In order to bring the most affected communities into the process and to provide them with support, the formation of Community Advisory groups should be encouraged in order to coordinate and meet on a regular basis with representatives of the Courts, of the District Attorney's office, of the Police Department, and of such other agencies as may deal with the problem at any given time. The Mayor should consider the appointment of a Deputy Mayor specifically charged to lead this effort.

5. The Police Department needs more, and better trained, officers in its Drug Control Unit. More senior officers need to pay greater attention to the day-to-day activities of the Drug Control officers. The City should provide its Police Department with the facilities necessary for the Drug Control Unit to operate efficiently. These facilities should include ample and secure room for the safekeeping of drugs, money, and other things recovered, and the disposal thereof. There must be far greater coordination between the District Attorney's office and the Police Department so that the officers are given better guidance on the important legal and constitutional principles that apply to their daily activities.

But most of all there needs to be a leadership effort by the Police Commissioner to redirect the police approach to the drug problem. This redirection should be along the lines which proved so successful a decade and more ago when the current Commissioner led the Community Disorders Unit in the battle against racial violence. At one time, as fire bombing and violence engulfed several neighborhoods, that battle too seemed beyond the power of the police alone to win; prejudice and racial hatred was too ingrained in Boston's ethnic neighborhoods, went the prevailing wisdom, for the police and the criminal justice system to turn matters around. But turn them around they did. Through a process of open information exchange between citizens and police, through building a sense of public trust, through never waivering decisions of Superior Court judges in their support of what was lawful and right, the police and the justice system finally made the difference.

It can be done again, but it will require application of the same principles, building the same trust and opening up and keeping open the same informational exchange between citizens and police. It will require true community policing, police that become a part of the neighborhood to which they are assigned. It will require citizens willing to help and assist and inform those police. It will require close coordination with the Drug Control Unit. It will require from the police and courts assurance that punishment for offenders will be swift and certain. It will require the development of ways to mobilize the resources of the local community to work closely with the Police Department. Combined with the other reforms to the criminal justice system suggested by this report, all of these requirements should be capable of being met successfully.

6. The prison system is perhaps the largest single impediment to the effectiveness of the present program. Its solution is complex and expensive. Nevertheless, early attention must be given to commandeering sites to hold pretrial detainees; much more speedy construction of modular prison units must be accomplished; and, as the Government has recently urged, changes in the Ward Commission law, Chapter 579 of the Acts of 1980, must be made to permit faster attention to the construction of new facilities. The Legislature should consider requiring a prison inmate impact statement before any new law becomes effective which would result in increasing the prison population. The Governor and the Mayor must each be convinced to proceed much more aggressively with the siting of facilities and must not permit localized opposition to stand in the way. The Mayor's Office should undertake an immediate program to inventory and identify all unused or underutilized city property to locate sites which can readily be converted to emergency pre-trial holding facilities. A similar project is needed to develop locations for sentenced Suffolk County inmates. The Governor should conduct the same kind of inventory for the same reasons, at the state level. The Federal court should be asked to re-examine its orders regarding the Suffolk County Jail upon completion of the new facility.

In addition, and clearly much more important, there should be careful attention given to alternative sentencing and punishment

techniques. Programs should be devised to control and regulate offenders outside of prisons, using the latter only as a last resort.

7. The laws that relate to drug violations should be subjected to an immediate study with the object of clarifying them, coordinating them, and putting them together in a cohesive whole. In that regard, serious attention should be given to eliminating, or modifying radically, mandatory sentencing to better facilitate plea bargaining and the processing of cases in court. The laws should be amended to permit judges the discretion to override mandatory sentencing for first time offenders and those who cooperate with the prosecution. Defining the crimes themselves in a way that realistically attends to the situation as it exists is equally important. A more clear allocation of jurisdiction between and among the courts is needed. A forfeiture bill, such as that sought by the Attorney General, is highly recommended. At the same time we consider the proposed change in drug sentencing to include a ⅔ parole requirement, rather than the more usual ⅓ provision, to be counterproductive.

8. The Suffolk County District Attorney's office has a unique opportunity to play a leadership role in the fight against drugs. The assistants involved in drug cases need better training and supervision and must be encouraged to work much more closely with the Police Department and neighborhood groups. Far greater flexibility in charging on drug cases should be encouraged. Compensation adjustments are needed to attract more people to longer terms of service as prosecutors.

Similarly, the criminal defense bar needs augmentation and support. Among other things, the budget of the Committee for Public Counsel Services ought to be expanded so that the payment for private counsel can be brought up to more realistic levels above the $25.00/ $35.00 per hour rate currently in effect.

9. The Boston Bar Association ought to give consideration to the creation of a Drug Corps or a Criminal Justice Corps whereby the private civil bar would be encouraged to support, with people, a program that makes bright, young lawyers available: to assist the District Attorney's office as prosecutorial aides; to advise the Police Department as law enforcement counsellors on search warrants, wire taps, etc.; to help the Committee for Public Counsel Services with legal research and case preparation; and to aid the Courts, as research and case management assistants. This would serve the purpose of getting some of the rest of the bar involved directly with the criminal justice system and, hopefully, would have a spill-over effect that would cause an upgrading and greater support for that system.

F. LONG-TERM RECOMMENDATIONS

1. The drug problem is overwhelming and devastating in its effect, not only on Metropolitan Boston, but on Massachusetts and the country as a whole. It is contributing significantly to the breakdown in the criminal justice system. It is in danger of seriously corrupting law enforcement entities. It is causing the expenditure of immense amounts of tax dollars in a losing fight. It is making crimials immesely wealthy and destroying our most vulnerable and needy neighborhoods. Under all of the circumstances, it would be an abdication of responsibility for this Committee not to recommend that a very serious, long-term and detailed study based upon information derived from our conclusion about the need for hard data, should be made of the basic strategic approach we are following in dealing with narcotic drugs.

It may be that expecting the problem to be cured by the criminal justice system is wholly unrealistic and that, in fact, the problem is destroying the criminal justice system and at great expense. It may also be that the problem lies at the other end of the scale and that, in fact, an approach aimed at arresting and jailing all users would be a more effective way to break the drug culture than concentrating only on dealers and suppliers. Society's ambivalence about the use of drugs and its utter unwillingness to date to pay the high cost of having the criminal justice system effectively address the problem, makes the study of basic strategies logical and proper for this Committee to advocate.

2. Our study has revealed a criminal justice system which, wholly separate from the strains imposed upon it by the drug problem, is in desperate condition. It truly has become the orphan of government. Resources, both personal and physical and of all kinds, are needed at all levels. There are not enough judges, and they are not compensated well enough. There are not enough clerks and probation personnel, and they are not compensated well enough. Laws have been passed which inhibit the efficient utilization and mobilization of personnel resources to affected courts and communities. Court buildings are crumbling and falling down around the people who attempt to work in them. The whole system has been grossly neglected. The courts lack an advocate and a constituency. As a result, the system is archaic, medieval, bizarre in its details—wholly inadequate to its high mission of administering and delivering justice to our society.

A massive effort must be made by responsible parties and institutions to develop and build a constituency of support for our state justice system. The courts are not just another agency, they are a co-equal branch of government which, much more than the legislative and executive branches, exist to protect the rights of the people. The Boston Bar Association ought to devise a long-term program, perhaps in conjunction with the Massachusetts Bar Association, whereby ongoing and substantial support for the justice system is made a regular and expected duty of every lawyer who practices in the state. Ways must be found to educate and build a constituency to rebuild this vital branch of our state government.

3. American society imprisons offenders at a far greater rate than any other non-communist society except South Africa and yet, at the same time, we seem to have a crime rate that generally outstrips our civilized neighbors. It is not unusual leniency that distinguishes ourselves from less violent nations. It has been asserted that the United States differs from other industrial societies in several dimensions of social and economic life that are crucial in accounting for our high levels of criminal violence. These include a wider spread of inequality, greater extremes of poverty and insecurity, the relative absence of effective policies to deal with unemployment and subemployment, greater disruption of community and family ties through job destruction and migration, and fewer supports for families and individuals in the face of economic and technological change and material deprivation. Social mobility contributes greatly to the breakdown in societal mores and sociological control.

It is certainly true that the growth and threat of drug-related criminal activities is at its greatest in those communities that suffer most from our extremes of inequality and the wide disparities between the rich and the poor. If, as seems likely, the causes behind the vulnerability of our poorest, most segregated neighborhoods to drugs lie in the social deprivation from which these communities suffer, the lack of decent, affordable housing, good jobs, and an adequate public education system, then the solution must lie in improvements to these areas as well. Simply building more prisons and writing more laws will not be a sensible or productive means of adressing the problem in the long run if major efforts are not begun to improve the conditions of inequality and deprivation under which too many Americans presently live.

Respectfully submitted,

Allan van Gestel, Esq., Goodwin, Procter & Hoar, Committee Chairman, Janis M. Berry, Esq., Ropes & Gray; John F. Bok, Esq., Csaplar & Bok; John P. Driscoll, Jr., Esq., Nutter, McClennen & Fish; Thomas E. Dwyer, Jr., Esq., Dwyer & Collora; John K. Markey, Esq., Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C., Walter B. Prince, Esq., Peckham, Lobel, Casey & Tye; Terry Philip Segal, Esq., Segal Moran & Feinberg.

MAY 23, 1989.

EXHIBIT 2

RESOLUTION CONCERNING MANDATORY CRIMINAL SENTENCES SUBMITTED BY THE DISTRICT AND CIRCUIT JUDGES OF THE THIRD CIRCUIT

Whereas, over the past several years congress has enacted numerous laws requiring the district courts to impose mandatory prison sentences for various offenses;

Whereas, as has been noted by several members of the United States Sentencing Commission, including its Chairman Judge Wilkins, and by a number of Senators including Senators Kennedy and Thurmond, mandatory minimum sentencing laws inconsistent with the scheme of guidelines sentencing and impair the efforts of the Commission to fashion sentencing guidelines in accordance with the dictates of the Sentencing Reform Act;

Whereas, these statutory provisions leave no discretion with the trail courts, forcing the courts in many instances to impose long sentences, not subject to parole, which are inordinately harsh;

Whereas, sentences in such cases would be more appropriately governed by sentencing guidelines in which the Congress directed the Commission to set the guidelines at certain high levels, but would at least permit some measure of flexibility because the guideline structure permits departures in extraordinary cases not fitting the conventional profile of the Guideline involved; and

Whereas, the Judges of the Third Circuit look with disfavor on statutory minimum sentences for these reasons;

Now, therefore, be it resolved that the Third Circuit Judicial Conference urge the Judicial Conference of the United States to submit a resolution to the Congress, urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes, and to establish such alternate Congressional policy as the Congress deems appropriate to retain some degree of flexibility in the criminal sentencing process.

RESOLUTION OF THE EIGHTH CIRCUIT JUDICIAL CONFERENCE, JULY 19, 1989

The Judicial Conference Committee on Criminal Law and Probation Administration's ongoing review of the impact of guideline sentencing on the federal courts has disclosed that a significant number of sentences imposed are effectively determined not by Sentencing Guidelines that reflect the judgment of the United States Sentencing Commission but by mandatory minimum sentences set by the Congress.[1] As has been noted by several Sentencing Commissioners, including its Chairman Judge Wilkins, and by a number of Senators including Senators Kennedy and Thurmond, mandatory minimum sentencing laws are inconsistent with the scheme of guideline sentencing and impair the efforts of the Commission to fashion sentencing guidelines in accordance with the dictates of the Sentencing Reform Act.

Additionally, many district judges have reported that mandatory minimum sentences have frequently had to be imposed in factual situations in which the district judge was convinced that Congress could not have intended that such defendants receive long mandatory minimum sentences without parole. Those judges have also expressed the view that sentences in such cases would be more appropriately governed by sentencing guidelines in which the Congress directed the Commission to set the guidelines at certain high levels. Such Guideline Sentences would, however, import some measure of flexibility into the system because the guideline structure permits departures in extraordinary cases not fitting the conventional profile of the Guideline involved.

Concerned about the matter in view of the foregoing, the Eighth Circuit Judicial Conference (Executive Session) requests the Administrative Office Statistical Analysis and Reports Division, the Federal Judicial Center, the U.S. Bureau of Prisons and the U.S. Sentencing Commission to study the problem, develop data on the number of sentences that are driven by the mandatory minimums, and assess the impact of such sentences on the system.

RESOLUTION NO. 6—MANDATORY CRIMINAL SENTENCES

(Submitted by the Chief District Judges of the Ninth Circuit)

Whereas, over the past several years Congress has enacted legislation requiring the court to impose mandatory prison sentences for various offenses;

Whereas, the statutory provisions leave no discretion with the trial courts, forcing the courts in many instances to impose sentences which are manifestly unjust and harsh;

Whereas, some members of Congress are in the process of urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes;

Whereas, the Chief District Judges of the Ninth Circuit look with disfavor on statutory minimum sentences since their inflexibility often results in too harsh a sentence and detrimental circumvention of the law;

Now, therefore, be it resolved, that the Ninth Circuit Judicial Conference urge the Judicial Conference of the United States to submit a resolution to the Congress, urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes, and to establish such alternate Congressional policy as the Congress deems appropriate to retain some degree of flexibility in the criminal sentencing process.

RESOLUTION—MANDATORY CRIMINAL SENTENCES

(Submitted by the Tenth Circuit District Judges Association)

Whereas, over the past several years Congress has enacted legislation requiring the court to impose mandatory prison sentences for various offenses;

Whereas, the statutory provisions leave no discretion with the trial courts, forcing the courts in many instances to impose sentences which are manifestly unjust and harsh;

Whereas, some members of Congress are in the process of urging the Congress to reconsider the wisdom of all mandatory minimum sentencing statutes;

Whereas, the Tenth Circuit Judicial Conference looks with disfavor on statutory minimum sentences since their inflexibility often results in too harsh a sentence and detrimental circumvention of the law;

Now, therefore, be it resolved, that the Tenth Circuit District Judges Association urges the Judicial Conference of the United States to submit a resolution to the Congress, urging the Congress to revisit and reconsider the wisdom of all mandatory minimum sentencing statutes, and to establish such alternate congressional policy as the Congress deems appropriate to retain some degree of flexibility in the criminal sentencing process.

EXHIBIT 3

REPORT OF THE FEDERAL COURTS STUDY COMMITTEE, APRIL 2, 1990

The following are members of the Committee:

Joseph F. Weis, Jr., of Pittsburgh, is a United States Circuit Judge, appointed in 1973, and serves as Chairman of the Federal Courts Study Committee.

J. Vincent Aprile, II, of Frankfurt, Kentucky, is General Counsel of the Department of Public Advocacy for the State of Kentucky.

Jose A. Cabranes of New Haven, Connecticut, is a United States District Judge, appointed in 1979.

Keith M. Callow of Olympia, Washington, is Chief Justice of the Supreme Court of Washington.

Levin H. Campbell of Boston, is a United States Circuit Judge, appointed in 1972, and served as Chief Judge of the United States Court of Appeals for the First Circuit.

Edward S.G. Dennis, Jr., of Washington, D.C. is Assistant Attorney General for the Criminal Division of the United States Department of Justice.

Charles E. Grassley of Iowa is a United States Senator. He is a member of the Judiciary Committee and is ranking minority member of its Subcommittee on Courts and Administrative Practice.

Morris Harrell of Dallas, a former president of the American Bar Association, is in private practice with the law firm of Locke, Purnell, Rain & Harrell.

Howell T. Heflin of Alabama is a United States Senator. He is a member of the Judiciary Committee and chairman of its Subcommittee on Courts and Administrative Practice.

Robert W. Kastenmeier of Wisconsin is a Member of the United States House of Representatives. He is the ranking majority member of the Committee on the Judiciary and is chairman of its Subcommittee on Courts, Intellectual Property and the Administration of Justice.

Judith N. Keep of San Diego, is a United States District Judge appointed in 1980.

Rex E. Lee of Provo, Utah, Solicitor General of the United States from 1981-1985, is President of Brigham Young University.

Carlos J. Moorhead of Pasadena, is a Member of the United States House of Representatives. He is a member of the Judiciary Committee and is ranking minority member of its Subcommittee on the Courts, Intellectual Property and the Administration of Justice.

Diana Gribbon Motz of Baltimore, is in private practice with the law firm of Frank, Bernstein, Conway & Golden.

Richard A. Posner of Chicago, is a United States Circuit Judge appointed in 1981.

The chapter titled Sentencing *from the complete Federal Courts Study Report follows:*

CHAPTER 7—SENTENCING

The 1984 Sentencing Reform Act created the United States Sentencing Commission and directed it to fashion a comprehensive and rational sentencing system (28 U.S.C. § 991 et seq., esp. § 991(b)). The Act also effected numerous changes in federal sentencing law and procedure. The Commission's statutorily mandated guidelines prescribe sentencing ranges for most federal crimes, which the court adjusts based on various factors particular to the offense and the offender. The guideline ranges are subject to the maximum sentences that Congress has prescribed for each crime and any minimum sentences it may have prescribed for particular crimes. Under the statutory scheme the judge may impose a sentence that is outside the guideline range only if the case presents factors that the Commission did not adequately consider in preparing the guidelines; and sentences outside the guideline ranges ("departures") are subject to appellate review to determine whether they are reasonable. Most federal judges have been imposing sentences under the Act, as amended, since the November 1, 1987, effective date, and all have been doing so since January 1989, when the Supreme Court sustained the constitutionality of the Commission's membership and its authority to promulgate guidelines.

The committee believes there are certain dysfunctions in the current sentencing system and that there may be other dysfunctions.

A. Congress should repeal mandatory minimum sentence provisions, whereupon the United States Sentencing Commission should reconsider the guidelines applicable to the affected offenses.

In recent years, Congress has established, mainly for drug-related crimes, numerous sentences with minimum terms that are much longer than the sentences that would otherwise be imposed under the guidelines and much longer than appear reasonable to many observers. For example, a 1986 statute set a mandatory minimum sentence of five years for possession with intent to distribute five grams of crack cocaine. A 1988 statute created the same mandatory five-year minimum sentence for simple possession of that amount (21 U.S.C. §§ 841(b)(1)(B) & 844(a)). Moreover, persons serve these sentences almost in full; as noted in Chapter 3, § D, the 1984 Sentencing Reform Act abolished parole for crimes committed after Oc-

[1] Moreover, a number of the Guidelines themselves reflect the impact of mandatory minimum sentences that pre-dated the Guidelines.

tober 1987, and it also sharply curtailed any "good time" reductions.

Our point is not to debate whether the criminal law should punish these offenses. That is a decision of substantive legislative policy. Rather, our concern is that the recent mandatory minimums create penalties so distorted as to hamper federal criminal adjudication. They control judicial discretion in a way that is far more rigid than—indeed, inconsistent with—the sentencing approach Congress adopted in the 1984 Sentencing Reform Act. The overarching goal of that legislation is sentences that are less subject to judicial discretion than under the former regime but that will nevertheless vary depending on specified offense and offender factors. The 1984 Act contemplated sentences that would vary, for example, depending on whether the defendant used a weapon, whether the defendant was the instigator and leader or a follower, and the nature of any injury to the victim (28 U.S.C. §§ 994(c) & (d)). The recent mandatory minimum sentence provisions ignore these offender and offense variables and in the process inhibit the efforts of the Sentencing Commission to fashion a comprehensive and rational sentencing system, for the Commission must adjust its guideline ranges to accommodate the legislatively created minima. Repeal of these mandatory minimum sentences would allow the Sentencing Commission to revise its guidelines applicable to the relevant offenses—a compelling need in light of the huge projected increase in the federal prison population.

Moreover, lengthy mandatory minimum sentences seriously frustrate the normal and salutary process of pretrial settlements in criminal cases. Even defendants who have little doubt of the likelihood that they will be found guilty are more likely to take their chances on a trial when faced with the possibility of a lengthy minimum sentence, especially because of the abolition of parole. Many district judges have reported such developments to the committee.

Finally, and with deference, we are bound to suggest that the Congress may not realize the impact of these mandatory minimum sentences. The Judicial Conference's Criminal Law and Probation Administration Committee stated, in urging their repeal, that it had "received reports of a significant number of cases in which mandatory minimum sentences have had to be imposed by district judges in factual scenarios which have persuaded those judges . . . that the Congress could not have intended that such defendants receive long mandatory minimum sentences without parole." It is especially noteworthy that virtually all commentators on our draft proposal on this subject, including present and past members of the Sentencing Commission, support repeal of mandatory minimum sentences.

EXHIBIT 4

U.S. SENTENCING COMMISSION,
Washington, DC, June 28, 1990.

Senator JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Senator STROM THURMOND,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATORS BIDEN AND THURMOND: Recently as work on the 1990 Crime bill has intensified in both the Senate and the House, the United States Sentencing Commission has received a number of inquiries relating to legislation enacting new or increased mandatory minimum sentences. Given that interest, I thought it might be appropriate for me to share with you my views as Chairman of the Commission on this important topic. While the press of events has not permitted the entire Commission to review this letter, I believe the concerns that I shall express generally reflect views held by the other members of the Commission.

First, let me preface my comments by stressing that the Commission takes as a fundamental precept the preeminent right of Congress to set policy in the vital area of sentencing. Just as Congress may make the laws, clearly so may it prescribe what it believes to be appropriate punishment. I want to emphasize, too, that if Congress decides to enact additional or increased mandatory minimums, the Commission stands ready to give them immediate recognition and do its best to integrate them into the existing guideline system. Finally, I am confident that the Commission firmly agrees with the plain intent of mandatory minimum proposals that serious acts of criminal misconduct must be met with an equally serious societal response. The clear message of the 1984 Sentencing Reform Act and subsequent congressional expressions of sentencing policy is that when tough measures are required to deal with crime the Commission should not hesitate to embrace them, and I believe the guidelines we have issued reflect our responsiveness to that message.

Having made these observations, however, I want to share with you my concern that enactment of additional mandatory minimums does not further the landmark sentencing reforms Congress overwhelmingly enacted in 1984 when it established the United States Sentencing Commission and directed it to promulgate a comprehensive set of mandatory sentencing guidelines. For this reason, I would respectfully urge the Congress to be especially cautious about enacting further mandatory minimums and to give full consideration to alternative approaches outlined below that may in the end prove more effective.

Three principal facts underlie my belief that the Congress might want to avoid additional mandatory minimums. The first is that Congress created the United States Sentencing Commission precisely so that there might be an expert body to develop and constantly refine a comprehensive body of effective, consistent, and rational sentencing law. The Commission issued its initial guidelines in November 1987 and since then has begun the careful and time-consuming process of refining those guidelines to make sure they are achieving their congressionally mandated results. Among other things, the Commission is required by statute to ensure to the extent possible that the federal sentencing guidelines are effective in deterring crime, adequately reflect the seriousness of the offense, are fair, and above all reduce the unwarranted sentencing disparity that so concerned Congress when it created the Commission.

To achieve these results, the Commission must continually gather quantitative and qualitative data to assess sentencing practices and their effects. This process, in turn, requires close monitoring of the actions and views of key players in the federal criminal justice community (judges, attorneys, probation officers), and it requires a carefully formulated and wide-ranging research agenda by the Commission's research office. It is not an overstatement to say that the Commission has already garnered greater expertise in this extremely sensitive policy area than any governmental body has ever had before. In short, the Commission is well positioned to evaluate and implement comprehensive, workable sentencing policy, and it has been created by Congress for this very purpose. Enactment of mandatory minimums tends to short-circuit the congressionally-intended role of the Commission in perfecting an overall sentencing scheme that is rational, cohesive, and effective.

The second fact underlying my view that Congress should cautiously proceed before enacting further mandatory minimums is that there is a widespread perception among observers of the federal criminal justice system that some of the mandatory minimums already enacted are straining the proper functioning of that system. From the Commission's most immediate perspective, we know that some mandatory minimums have a tendency to distort the rationality of the guidelines system for similar offense conduct, some versions of whch may be subject to a mandatory minimum because of the statutory violation charged and other forms of which are not. For example, because of a recently enacted mandatory minimum, a defendant convicted of first offense, simple possession of 5 grams of crack is subject, under the statute and the guidelines, to a minimum sentence of 5 years imprisonment. In contrast, a defendant convicted of first offense possession of 4.9 grams of crack or any amount of heroin or other controlled substance is by statute subject to a *maximum* sentence of 1 year. Obviously, these statutory limitations impede the design of a guidelines scheme that rationally enhances punishment according to the quantity and dangerousness of the drug involved.

Beyond these structural problems for the guidelines themselves, many observers also believe that mandatory minimums are undermining effective sentencing practices in other ways. Mandatory minimum sentences do not permit consideration of an offender's possibly limited/peripheral role in the offense and other factors historically found relevant to sentencing decisions (such as whether the defendant voluntarily made restitution or took other actions exhibiting sincere remorse for his criminal conduct). These factors have been carefully defined and limited in the guidelines to rationalize and structure sentencing discretion. But because mandatory minimums do not permit this kind of structural flexibility, many participants in the federal criminal justice system have concluded that mandatory minimums simply sweep too broadly. This view has been endorsed by the Judicial Conference and four Circuit Conferences, the Judicial Conference's Committee on Criminal Law and Probation Administration, the congressionally chartered Federal Courts Study Committee, vast numbers of the defense bar, and privately, by a significant number of federal prosecutors.

As a result, several undesirable effects appear to be occurring. Most importantly, the perception that mandatory minimums sweep too broadly may be encouraging some prosecutors and judges to find ways to circumvent them. This in turn could mean that sentencing disparity—and as Congress found, the disrespect for the law that sentencing disparity breeds—may be reentering the federal sentencing picture through mandatory minimums.

Ironically, an additional practical drawback of mandatory minimum statutes stems from the fact that some judges tend to view the mandatory minimum sentences as the presumptive sentence. The Commission has

learned from its close observation of sentencing practices that some judges, confronted with a fixed minimum sentence, may ignore important aggravating factors present in the case that should increase the sentence above the mandatory minimum.

The third fact underlying my recommendation that Congress act cautiously with respect to additional mandatory minimums is that the Commission has recently initiated a detailed study to determine through hard, empirical research how mandatory minimum sentences are in fact affecting sentencing practices. Sentencing is crucial to effective efforts to combat crime. The Commission's study, which should allow initial findings by next June, will help us learn whether mandatory minimums help, or as many members of the federal court family now complain, hinder those efforts. I should note that early anecdotal information does suggest that mandatory minimums contribute to circumvention of congressional intent through creative plea negotiation.

In the meantime, Congress need not ignore what it believes are important areas for increased attention. First, because Congress has given to the Commission strong research capabilities, Congress may direct the Commission to study and report on appropriate sentencing policy for specific crimes of concern. Far from being an academic exercise, the Commission's ability to *implement* the results of its study through guideline amendments means that knowledge developed through research can and will be applied in the real world to combat crime in the most effective manner.

If Congress believes that adequate information already exists to support increased sanctions for a given crime, Congress may also legislatively direct the Commission to draft guidelines reflecting Congress' sense that sentences for that crime be increased. By working its will through tougher guidelines instead of statutory mandatory minimums, the potential problems of mandatory minimums discussed earlier would be significantly reduced.

Generally speaking, Congress may implement such a directive through either of two methods. The first approach is to employ flexible language by, for example, directing that the Commission "promulgate guidelines, or amend existing guidelines, to provide for a substantial period of incarceration" for a particular offense. Congress used this approach in the Commission's enabling legislation (*see, e.g.*, 28 U.S.C. § 994 (h) and (i)) and most recently in the Financial Institution Reform, Recovery and Enforcement Act of 1989 (FIRREA). The advantage of this approach is that it allows the Commission to apply its own knowledge and expertise to the matter, thereby ensuring that the effectiveness of the new increased penalty is maximized.

A second way Congress may direct the Commission to increase penalties through the guidelines is more specific. Under this approach Congress may mandate that the Commission increase guideline "offense levels" in chapter 2 of the Guidelines Manual for specified crimes. Congress used this approach in the Anti-Drug Abuse Amendments Act of 1988.

Examples of statutory directives previously used by Congress to employ both of these approaches are enclosed with this letter. Should members wish to consider an alternative approach to a mandatory minimum proposal such as those I have just outlined, our General Counsel is available at (202) 626-8500 to provide drafting assistance.

I very much appreciate the opportunity to share these thoughts as well as the continuing support Congress has provided the Commission as it seeks to implement the lofty goals of the Sentencing Reform Act.

With highest personal regards, I am

Sincerely,

WILLIAM W. WILKINS, Jr.,
Chairman.

GENERAL STATUTORY DIRECTIVES TO THE COMMISSION

28 U.S.C. § 994(h) and (i):

(h) The Commission shall assure that the guidelines specify a sentence to a term of imprisonment at or near the maximum term authorized for categories of defendants in which the defendant is eighteen years old or older and—

(1) has been convicted of a felony that is [a crime of violence or specified drug offense];

(2) has previously been convicted of two or more prior felonies, each of which is [a crime of violence or specified drug offense].

(i) The Commission shall assure that the guidelines specify a sentence to a substantial term of imprisonment for categories of defendants in which the defendant—

(1) has a history of two or more prior Federal, State, or local felony convictions for offenses committed on different occasions * * *

FIRREA (Pub. L. 101-73, § 961(m)):

[T]he United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide for a substantial period of incarceration for [a fraud, theft, embezzlement, or related offense] that substantially jeopardizes the safety and soundness of a federal insured financial institution.

SPECIFIC STATUTORY DIRECTIVES TO THE COMMISSION

Anti-Drug Abuse Amendments Act of 1988 (Pub. L. 100-690, § 6482(c)):

Pursuant to its authority under section 994(p) of title 28, United States Code * * * the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that—

(A) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which death results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 26 * * *.

[From the American Lawyer, March 1990]

TEN YEARS FOR TWO OUNCES

CONGRESS IS PACKING PRISONS WITH BIT PLAYERS IN SMALL-TIME DRUG DEALS

(By Stuart Taylor, Jr.)

("For the kingpins—the masterminds who are really running these operations, and they can be identified by the amounts of drugs with which they are involved—we require a jail term upon conviction. If it is first conviction the minimum term of ten years."—Robert Byrd, Democrat of West Virginia, then the Senate minority leader and a principal sponsor of the Anti-Drug Abuse Act of 1986, on September 30, 1986.)

Meet Richard Anderson and Susana Sanchez-Robles, drug kingpins.

Born poor into a Louisiana sharecropping family. Anderson left school in the eleventh grade to work. He fought his way into the longshoreman's union in Oakland in the sixties, when black-white brawls were part of the job. He did well. Now 48 years old, he is a skilled crane operator with a stellar work record after 24 years on the docks.

Anderson was driving his beat-up 1972 Toyota through East Oakland the evening of December 12, 1988, headed for a family birthday party at his sister Marilyn's house. From there he would go to the docks to work the graveyard shift.

Anderson spotted Michael Lucero at a phone both. Lucero, the teenage boyfriend of a friend's daughter, flagged him down. Could he have a ride to Burger King and then home? Sure, for a couple of dollars of gas money.

At the Burger King parking lot, Lucero got out and said he'd be back in a few minutes. Moments later a big man—6 feet 5 inches big—opened the passenger-side door and got in. It was night and a dangerous part of town. Anderson was scared. The big man picked up a yellow paper bag Lucero had left between the two seats. "Is this the stuff?" he asked, "I don't know," said Anderson. "What stuff?" The big man took the paper bag and left.

Now Anderson knew this was a drug deal. He was trying to start his car and leave when men with guns and badges swarmed around him.

That's the way Anderson recalled it at his trial in March 1989 in federal district court in San Francisco. The big man—a federal undercover agent—told a different story about their 20-second encounter:

He had arranged the buy with Lucero earlier that day. Lucero had said a friend would drive him to their Burger King rendezvous in an old beat-up car. Up drove an old beat-up Toyota. Lucero got out and into the agent's waiting car. He said the agent would find a bag of crack cocaine in the front of the Toyota.

The agent had trouble with the Toyota's door. The driver opened it from the inside, as though expecting him. The agent picked up the yellow bag and emptied the crack—a "hard, tan, rocky substance"—into his hand. "Looks good," he said. The driver nodded. The agent asked if he could take it back to his own car. Sure, the driver said.

Back in his own car, the agent settled the price with Lucero: $2,300 for 102 grams (3.7 ounces) of crack. Then he gave a signal. Other agents hidden nearby closed in and arrested Lucero and Anderson.

TEN YEARS, NO PAROLE

The jury believed the agent, and Anderson was convicted on three federal narcotics trafficking charges. The trial judge, William Schwarzer, said at the sentencing that "I might have found differently," but that "the evidence, although marginal, was sufficient" to support the jury's verdict.

The sentence followed automatically: Ten years, without parole.

Ten years. In an extraordinary display of emotion, Judge Schwarzer choked back tears when he had to say those words last September 15. He called the sentence a "grave miscarriage of justice." But he said he had no choice: In the Anti-Drug Abuse Act of 1986 Congress imposed an array of long, mandatory minimum prison sentences for drug crimes, including ten years for anyone involved in distribution of more than 50 grams of crack. Ten years for less than two ounces.

Ten years. "I couldn't believe it." recalls Anderson. Before 1986 many judges would have put him on probation. A tough judge might have given him two years, perhaps four.

Ten years. No matter that, even under the prosecution's theory, he was just a marginal figure in a small-time crack sale, a man with

no prior drug convictions, at most a drug user making a few dollars to support his personal consumption.

Ten years: twice the average federal prison time served for robbery. More than ten times the average time served for bribery, fraud, or embezzlement.

Ten years: Taxpayers will pay more than $200,000 to warehouse this former taxpayer.

Unless Anderson wins his appeal, the earliest he will get out of the federal correctional institution at Pleasanton, California—with the maximum 14 months off for good behavior—is late 1997.

By then he will be 56 years old. "My daughter who's ten will be eighteen," he muses. "The one twelve will be twenty. Sheew. . . .

"That's the only thing hurts me," Anderson says, "thinking about them last two. . . . There's so much corrupt out there on the streets. It's just impossible for a lady to raise two girls and keep'em straight. It's rough out there. . . .

"They're growing up fast, too," he adds. "So fast, sheew. You can't bring that time back. That's lost time, and one might grow up and say. 'Well, you wasn't there when I needed you.' "

Judge Schwarzer, a scholarly, highly respected Ford appointee, is not known as a light sentencer or a man given to displays of emotion. But he suggested at the sentencing that nobody with any sense of justice would put Anderson away for ten years. Halting for long intervals to control his emotions, he bitterly denounced the 1986 law as an "unjust statute" that "makes judges clerks or, not even that, computers automatically imposing sentences without regard to what is just and right.

"In the long run," said Schwarzer during the sentencing, "if that's the task we impose on judges, the kind of judges we will get on the bench are those who have no sense of justice or conscience and who will serve as clerks to carry out the rule of the Congress. If behooves us to think that it may profit us very little to win the war on drugs if in the process we lose our soul."

Schwarzer is one of dozens of federal judges—including many Reagan-appointed conservatives and some former prosecutors—who bitterly denounce the mandatory minimum sentences that Congress has ratcheted upward in a drug-warring frenzy each election year since 1984. "The vast majority of federal judges are extremely concerned over the impact of mandatory minimum sentences," Schwarzer says.

These laws have more than doubled the average time served for federal drug crimes and produced a staggering increase in long-term incarceration of drug offenders. Most are undoubtedly real criminals. But many are marginal players with no prior criminal records—lookouts, drivers, "mules."

Some are naive kids who made one slip, perhaps to save face with friends. Some are guilty at most of helping out in something they suspected, but did not know, was a drug deal. A small percentage, the law of averages suggests, are innocent. Anderson just might be one of those. "I was unaware," he says. "I didn't know what the kid had left in my car. . . . He's the one that sold the stuff to them, not me." Probably he knew more than he admits. Probably. But how much more?

Most of these long-term drug prisoners, like Anderson, are black or Hispanic and were born poor. Many, like him, have had rough lives. Anderson had a violent father who left the family when Anderson was 7 years old and with whom he had frequent fights. During one of them, in 1965, he stabbed his father, who had a heart attack and died. Anderson says his father had been trying to kill him with a gun. He was allowed to plead to manslaughter "without malice . . . in heat of passion" and served only a year in jail.

Anderson was also arrested in 1985 for jaywalking and charged with possession of a small amount of crack. The charge was later dismissed, as was another possession charge after a similar street arrest in 1987. His urine tested positive for cocaine in January 1989, when he was in a halfway house awaiting trial on the Burger King bust.

Joseph Russoniello, the U.S. attorney in San Francisco, says Anderson was apparently "a cocaine user who in all probability [was] lending himself out to the trade to support his habit."

The lawyers handling Anderson's appeal, Charles Breyer and Lisa Van Duyts of San Francisco's Coblent/Cahen, McCabe & Breyer, vigorously reject this bold inference from a couple of minor, unproven possession charges and urine tests.

"If he was involved in this matter at all he was just giving the ride," says Breyer. "What's so offensive about this law is that it makes it impossible to impose just sentences, sentences that fit the crime and the person. This man has been an outstanding citizen for over twenty years."

The grounds for the appeal are that Anderson was incorrectly told by two magistrates, two prosecutors, and his federal public defender before going to trial that the mandatory minimum he faced if convicted was five years when in fact it was ten (they had misread or failed to read the 1986 law); that the evidence was insufficient to support the conviction: and that there was no evidence that Anderson knew the type and quantity of drugs Lucero was selling.

It could have been worse for Anderson. If he'd had one prior drug felony conviction—state or federal—even for simple possession of one marijuana cigarette, his mandatory minimum sentence would have been 20 years. If he had had two prior drug convictions, it would have been life imprisonment without parole.

Virtually all state law drug offenses are also federal crimes. Traditionally federal prosecutors have taken only the biggest cases, involving interstate and international drug networks and major dealers. Now, with Congress imposing mandatory minimum sentences far heavier than those in most states for having relatively small amounts of drugs and with the Reagan and Bush administrations seeming to equate progress in the drug war with locking up as many people as possible for as long as possible, federal prosecutors are deluging the courts with routine penny-ante cases.

FIVE DAUGHTERS, TWO BEDROOMS

Susana Sanchez-Robles was also born poor, 36 years ago in California's Imperial Valley, near the Mexican border. Unlike Richard Anderson, she has remained poor all her life.

An American citizen, she speaks no English. She never knew her mother, rarely saw her father, and was raised by a grandmother in Mexicali, just south of the border.

Yearning for "a family of my own and a little house," she says through an interpreter, she married a Mexican farm worker when she was 15 years old. They eked out a living as migrants picking and packing lettuce and the like. He drank too much, started beating her, and left.

Until her arrest last June 30 on drug-trafficking charges she was raising five daughters alone in a two-bedroom apartment in the run-down Imperial Valley town of El Centro, a half-hour drive from Mexicali. She worked about ten months of the year, rising at 3 a.m. for a long day in the fields. She drew unemployment when work was unavailable.

Now her girls are on their own, separated from their mother by 500 miles and a high fence and completely dependent on welfare. The youngest is 5, the oldest 19. Unless she wins her appeal, their mother won't be home from prison at Pleasanton until 1998—if she earns all possible good-behavior credits.

During the interview, Sanchez-Robles dissolves in tears when speaking of her children. The youngest, Elydia Ivette, was to turn 5 in two days; she would have to wish her happy birthday over the phone.

"The only thing that really, really hurts is the children," she says. Sobbing, she clings for comfort to Martha Hall, her federal public defender from San Diego.

"I try to feel strong, but my strength is just totally defeated when I remember my children." she continues. "Yesterday, when I talked to my baby, she said she cries every evening. She cries when she thinks about me before she goes to sleep, she always cries, and that really, really hurts me. And, she said, "Mom, how come you don't come over?" And Susanita, she's the second youngest, she's six years old, she says, "You're in jail, is that true?" I say, "No, honey, I'm just working." That really, really hurts, for them to think that I don't want to be with them.

Sanchez-Robles's crime was crossing the border from Mexicali in a van loaded with 19.6 kilograms (43 pounds) of cocaine, worth perhaps $300,000 wholesale in Los Angeles, and 189 kilograms (416 pounds) of marijuana, worth far less. The drugs were hidden in special compartments inside the roof, floor and side panels.

Sanchez-Robles asserts passionately that she had no idea the drugs were there: A male friend named Armando, whom she'd met at a dance in Mexicali about a month before, had left the van with her, saying he'd be back the next day. Her four younger girls wanted to go to a taco stand in Mexicali. She took them in Armando's van. They were on their way home when border guards searched the van and found the drugs.

Martha Hall, her lawyer, theorizes that Armando (probably a false name) had brought the drug-laden van over from Mexico and then left it at Sanchez-Robles's apartment without telling her anything for fear he might be under surveillance. Armando was never found. The prosecution's theory was that she must have been paid by a drug ring to pick up the drugs in Mexico.

Sanchez-Robles has a sweet simple demeanor that makes it hard to be sure she is lying. But her story is implausible. Why would this Armando have given her the keys to a van with all these drugs in it? Why go all the way to Mexicali for tacos late at night with small children in tow? Why take Armando's van instead of her own car? How could she have missed the pungent marijuana smell that tipped off the border guards?

"Her story was totally fabricated," says Michael Wheat, the federal prosecutor who tried her case. His cross-examination exposed damaging contradictions in the stories told by her daughters. "She was using these children as decoys to distract the inspectors," Wheat says.

The jury apparently agreed. Sanchez-Robles was convicted in September on four federal charges of cocaine and marijuana trafficking.

But there is no reason to think she was more than a minor cog—a mule—in somebody else's drug enterprise. She had never been arrested before. She and her girls lived in dingy simplicity. Poor Mexican-American women who don't use drugs and know little of them are typically paid only a few hundred dollars for such lowly work, according to Hall. They are given little information about what or how much they are hauling and are often discarded after one or two trips.

Prosecutor Wheat says Sanchez-Robles's pattern of frequent border crossings suggests that she was "part of an original operation" and that she may have made thousands of dollars bringing in drugs from Mexico.

Neither Hall nor Wheat really knows whether Sanchez-Robles took dope across the border more than once, or what she was paid, if anything. In the eyes of the law it makes no difference. To convict Sanchez-Robles of trafficking marijuana and cocaine on June 30, 1989, the jury did not have to find that she knew the type of drugs in the van—or the quantity.

The jury did not even have to find that she knew for certain there were any drugs in the van at all; Judge Judith Keep of the U.S. district court in San Diego explained, in a fairly standard instruction, that it would suffice for the government to prove the defendant had "deliberately closed her eyes" to obvious signs that illegal drugs were stashed somewhere in the van.

The conviction on all counts could thus have rested on no more than a jury finding that Sanchez-Robles must have smelled the marijuana. It mattered not whether she had loaded the drugs, had seen them, or had been paid.

And once convicted, her mandatory minimum sentence under the 1986 law followed automatically: ten years, without parole. The marijuana alone would have brought a five-year sentence. But the mandatory minimum for having more than five kilograms of cocaine is ten years. In the eyes of the law, proof that Sanchez-Robles knew she was hauling cocaine, not just marijuana, was not necessary for her to be sentenced on the basis of the cocaine.

Application of the federal Sentencing Commission's guidelines—which have been skewed upward by using the mandatory minimum statutes as a baseline—actually increased the sentence, to ten years and one month.

Sanchez-Robles says Judge Keep smiled at her, perhaps in an effort to soften the blow, after pronouncing her sentence last December 4. "I'll remember that smile forever," she says.

NO DISCRETION

Anderson and Sanchez-Robles are among hundreds of peripheral players in other people's drug deals who are serving long prison terms under the 1986 law and another mandatory minimum sentencing law that Congress passed in 1988, dramatically ratcheting up the penalties for drug offenses.

These laws remove all judicial discretion by requiring mandatory minimum sentences of five years, ten years, 20 years, or life in prison, without parole, for a wide range of drug offenses. The penalties for first offenders are determined solely by the amounts of drugs, involved, regardless of whether the defendant is the head of the drug enterprise, as one-time lookout, or a driver.

Five years is the minimum for assisting in distribution of five grams of crack (the statutory term is "cocaine base"), 500 grams of cocaine powder, 100 grams of heroin, 100 kilograms of marijuana, or one gram of LSD.

Ten years is the minimum for 50 grams of crack, five kilograms of cocaine powder, one kilogram of heroin, 1,000 kilograms of marijuana, or ten grams of LSD.

The panalties for crack are astronomical: Simple possession of five adulterated grams, weighing less than a quarter and worth a few hundred dollars, carries the same five-year sentence as selling 4,000 grams of pure cocaine, worth as much as $175,000 wholesale.

And the drug quantities for which a defendant can draw five or ten years are small enough to sweep in low-level street dealers and their lookouts, drivers, and runners, and even, in the case of crack, some mere drug users uninvolved in selling. These are people who used to be dealt with by state courts and punished by probation or a prison stint of six months to two years.

One peverse aspect of these laws is that the mandatory minimums are triggered by the weight of the drugs without regard to whether they are pure or adulterated. A half kilogram of highly diluted cocaine in the hands of a small-time dealer will bring a five-year mandatory minimum, while a smaller quantity of pure, much more valuable stuff in the hands of a major tafficker will not.

An additional five years is added to the sentence of anyone who "uses or carries a firearm" in a drug trafficking crime. This has been interpreted to include having an unloaded pistol under your bed along with five grams of crack. The quality-based mandatory minimums are doubled if the defendant has one prior felony drug offense. And the ten-year mandatory minimums are extended to life in prison without parole for defendants who have two prior drug offenses.

There are also mandatory minimums for distributing drugs to persons under 21 and pregnant women, employing minors in drug sales, and distributing within 1,000 feet of a school or college campus or within 100 feet of a playground or video arcade.

If the feds find five grams of crack in your bedroom, you get five years. If you had previously been convicted of even a minor drug felony, you get ten. If they also find an unloaded and licensed pistol that you keep in your closet for protection against burglars—perfectly legal but for the presence of drugs—make it 15.

Don't expect the judge to give you a break just because your role was minimal or you aren't really a drug dealer. The judge has no power to give you a break. The mandatory minimums strip judges of their traditional discretion to fit the punishment to the crime and transfer it to prosecutors, who determine the sentence when they choose from the long menu of charges they could bring.

Congress isn't finished jacking up these penalties yet. After all, it's another election year, and a Gallup poll last year found 92 percent of the public favor tougher penalties for drug dealers. Democrats and Republicans, liberals and conservatives alike are vying for commissions in the drug war by combing through the statute books in search of new ways to increase mandatory minimum sentences.

Last October Senator Phil Gramm, a Republican from Texas, found a nifty one, and the Senate adopted it without recorded dissent: the third increase in three years in the mandatory minimum sentence for distributing drugs to persons under 21, this time to ten years. Gramm cited the need to put away "people who are selling drugs to children." But his amendment would give ten years without parole to an 18-year-old college freshman—a senator's daughter, let's say—who gives her 20-year-old boyfriend 5.1 grams of marijuana, which would make ten cigarettes and cost as little as $10, or one snort of cocaine.

How's that? Here's how: In the eyes of the law, anyone 18 or over deserves special punishment as a corrupter of youth if she distributes even a tiny amount of certain illegal drugs to anyone under 21,. (Congress, perhaps with senators' children in mind, exempts "offenses involving five grams or less of marijuana" from this mandatory minimum.) And distributing includes giving.

One might think that in such a case a sensible federal prosecutor would find a way to avoid charging a defendant—a senator's daughter, at least—under a statute carrying a ten-year mandatory minimum.

But don't count on it. Under a Justice Department policy issued last March by Attorney General Richard Thornburgh, prosecutors are obliged to charge "the most serious readily provable offense or offenses consistent with the defendant's conduct." There's no exception for cases in which throwing the book at a defendant would lead to an unjust or absurd mandatory minimum prison term.

COOPERATE OR ELSE

There is one way—and only one way—for a defendant to get around these mandatory minimum sentences: by coming up with enough information incriminating other people to bargain for a prosecution motion to give the defendant credit for "substantial cooperation." If you will help your federal prosecutor make a case against your business partner, your neighbor, your friend, or your brother, maybe you can cut a deal.

Providing an incentive to snitch—an incentive strong enough to overcome feelings of loyalty and fears of being killed—is thus the only value deemed important enough to release a drug defendant from the inexorable arithmetic of mandatory minimum sentencing. Congress has codifed the value system George Orwell captured in 1984: "Under the spreading chestnut tree, I sold you and you sold me."

But bit players like Anderson and Sanchez-Robles typically don't know enough to get credit for substantial cooperation. Both tried, and both were spurned. Most prosecutors will not make such a motion simply because the defendant tells all he knows. The information has to be of substantial value in making other cases. And Congress has barred judges from giving defendants credit for cooperation unless the prosecution moves for such credit.

The people who have the kind of information needed to cut "substantial cooperation" deals with prosecutors are typically midlevel or high-level traffickers who have been in the business for some time. That is why lowly mules often draw longer prison terms than the career criminals who are using them.

That is also why bit players in drug deals often have little incentive to plead guilty. In many cases they will be in prison just as long if they plead as if they gamble on a

trial and lose. Many judges expect a major increase in the number of drug defendants going to trial. That in turn will aggravate court backlogs and delays; the mandatory minimums could actually increase crime, by defeating the swiftness of punishment that many experts consider a more effective deterrent than long prison terms.

The real kingpins should get long prison sentences. But most don't get caught. Many of those who do get caught are people like that these:

A Dominican man with a wife, children, a job at home, and no criminal record was visiting his brother in Queens when the brother, a crack dealer, got busted. The guest was convicted of assisting in his brother's operation during his brief stay. His sentence was 15 years, without parole, reduced to ten when the appellate court held he was not liable for the gun possessed by a co-defendant. "This sentence was just off the wall, crazy," says the judge who had to impose it. "He has a wife and kids at home. He's in the United States two days. He looked at me and started to cry like a baby. It was a moment I will not soon forget."

Juan, a 20-year-old New Yorker with no criminal record and a job at a transmission shop, was asked by an uncle in Texas one evening to go to Baltimore the next day, meet someone, and pick up a package for $100 or so. The uncle did not say what would be in the package. Juan obliged. At the Baltimore train station, the uncle's contact, an informant, handed him a bag, opened it, told him it contained cocaine, and left. Juan was sitting on a bench thinking about what to do next when federal agents arrested him moments later. With eight kilograms in the bag, the automatic sentence was ten years. "He's a good kid, a nice kid," says his lawyer. "He is confronted with an uncle who asks for some favors. The next day he finds himself sitting in jail for what could be half his life. It is a tragedy."

Robin Nurse, a 27-year-old single mother of a 7-year-old girl, was an office manager for her mother, a Long Island, New York, psychoanalyst. Then she became one of hundreds of mules caught bringing drugs from New York by train through Washington's Union Station. She had no prior convictions. The valuable part of her cargo, four kilograms of cocaine, would have brought a five-year sentence. But she also had 91 grams of crack, which she denied knowing about. The mandatory minimum for that was ten years. Nurse declined to set someone else up in an effort to get a sentence reduction for fear of harm to herself or her family.

Another mule busted at Union Station, a 21-year-old woman described by the judge in her case as a "naive" first offender, got five years for hauling 1.4 kilograms of cocaine. She pled guilty, saying she had been told her cargo was marijuana and had been paid $300 plus train fare.

Jose Alberto Mendez, a high school student, pled guilty to taking $500 to deliver a bag full of 287 grams of heroin to a restaurant rendezvous last May. Federal district judge Robert Sweet of Manhattan termed him "an impressionable young man with no prior criminal record" who had "fallen under the influence of older, hardcore criminals." The judge called the five-year mandatory minimum he had to impose "excessive and counterproductive."

A 19-year-old high school graduate with no prior record was caught with two ounces of crack and a .22 caliber pistol in his car. His mandatory minimum was 15 years—ten for the crack plus five for the gun.

An 18-year-old Mexican alien with no prior record who had been working odd jobs in the United States for a few months was recruited as a lookout for a heroin sale for $500. He was caught. The proprietor was not. That's what lookouts are for. This one got ten years.

A 35-year-old Washington man with a long history of petty crimes was arrested in his bedroom with 21 grams of crack and two pistols, released on bond, and later caught with 28 grams of crack and some other drugs in his car. The judge had to give him 35 years, without parole. "He's just a small-time dealer," the judge says, shaking his head. "Now he'll be in prison until he's at least sixty-five. It's the longest sentence I have ever imposed."

A 40-year-old Syrian immigrant with two small children who ran a juice bar with his wife in New York got involved in selling a few ounces of heroin, because, he said, he needed the money to avoid losing the juice bar and his apartment. He got five years.

A Washington, D.C., secretary got a mandatory five-year sentence: her son sold crack in her house—with her knowledge, the jury found—and some crack was found hidden in the attic and in a locked box in the family room.

DEMONS AND ABSTRACTIONS

It seems doubtful that most members of Congress or most voters would favor such sentences for any of these defendants after seeing them up close and hearing the facts and circumstances that judges and juries hear. A few years ago many would have gotten probation.

But nobody talks about defendants like these when the mandatory minimum laws sweep like tornados across the House and Senate floors, scattering sense and reason in their path. The legislators talk about demons and abstractions—drug lords, kingpins, scourges, plagues, merchants of death, enemies in the drug war. Little thought is given to the application of these laws to real people in real cases.

Among the judges and probation officers (not to mention defense lawyers) who do deal with real defendants, the emerging consensus seems to be that Congress has created a monstrosity, a grotesque engine of injustice that does little to deter crime.

The consternation that has swept through much of the federal judiciary at being required to impose draconian sentences on peripheral players in drug deals is striking. It is not limited to liberals with a soft spot for criminal defendants. Some of the most forceful complaints come from conservative Reagan appointees, including more than ten who have spoken out publicly or were interviewed for this article, four of them former prosecutors.

"It kills you to sentence these mules. It's awful," says a Reagan-appointed former prosecutor who favors very harsh prison sentences for real drug dealers. "All these guys know is that someone named Charlie in the Bronx told them to take it to somebody named Joe in Washington."

"I am putting I don't know how many young Mexicans in jail for mandatory minimums of five to ten years who have absolutely no record and who were making peanuts," says federal district judge James Redden of Portland, Oregon. Noting that he had to sentence two 50-year-old men to about 30 years in prison, he adds, "I guess we can ask the government to put them on life support systems so that they can serve their full sentences."

A Reagan-appointed trial judge in Washington, D.C., who requested anonymity says he does not know of a single judge in his district—which has more than 20 judges—who thinks the mandatory minimum laws make sense. "Every judge in this courthouse has had at least one case in which he was just horrified by the sentence he had to impose," this judge says.

In many cases judges say they are forced to incarcerate minor offenders who present no danger to the community for terms wildly disproportionate to their culpability, locking up peripheral drug defendants for longer terms than many killers, robbers, and rapists. These laws are trashing the careful gradation of penalties in proportion to degree of culpability that Congress professed to be seeking in the Sentencing Reform Act of 1984, which created the Sentencing Commission. And, these judges add, by eliminating all judicial discretion to fit the punishment to the crime, the laws shift to prosecutors the traditional judicial power to determine sentences.

"They've taken the problem of sentencing disparities, put it in the prosecutor's office, and worse, draped it with the mantle of prosecutorial discretion," complains a federal judge who used to be a federal prosecutor. "When two nutball federal judges issued very disparate sentences for similar defendants in the past, at least it was out in the open."

"I'M SORT OF A MOUTHPIECE"

Most judges who express such sentiments decline to speak for attribution. One notes that criticizing any aspect of the drug war could hurt a judge's chances for elevation to an appellate court.

"It takes the judging out of being a judge," Pamela Rymer, a Reagan appointee on the U.S. district court in Los Angeles, who is considered a tough sentencer, told the *San Francisco Chronicle*. "There's no point in you being out there on the bench. I'm sort of a mouthpiece."

Some federal judges have gone beyond complaining about mandatory minimums and have publicly rebelled against them. Judge Robert Schnacke of San Francisco, a Nixon-appointed conservative, took the highly unusual step of telling the jurors at the end of a drug trial in November that the defendant would have to serve life in prison without parole if they convicted him of possessing more than 50 grams of crack. (He had two prior felony drug convictions, one for possessing a tenth of a gram of cocaine, the other for having two ounces for sale.)

Judge Schnacke explained that since sentencing was no longer the province of the judiciary, the jurors "should know what they're doing." After three days' deliberations, the jury acquitted the defendant on the crack charge, while convicting him on a firearm charge.

Most judges who assail mandatory minimums also denounce, as far too rigid, the federal Sentencing Commission's comprehensive sentencing guidelines. The guidelines determine the sentences for crimes not covered by mandatory minimums and the maximum penalties for all crimes. They are based on a "Matrix" system in which the sentencing range (for example, 63 to 78 months) is set by adding "points" for the seriousness of the offense and the defendant's criminal history. "You compute the little numbers and scores, come up with an adjusted offense level, add in the criminal history, and bingo! Where the lines intersect is

your sentence," complains a federal judge in New York.

The complaints about the guidelines resemble those about the mandatory minimums: They give judges too little latitude to take into account mitigating circumstances and the defendant's background; they shift the power to determine sentences from neutral judges to prosecutors; and the sentences for drug offenses are far too harsh across the board. (The Sentencing Commission is dominated by hard-line Reagan appointees and is very much in tune with the lust for long prison terms in Congress and the Bush administration.)

But whatever the problems with the guidelines, the mandatory minimum statutes are both more harsh and more rigid. In the absence of a mandatory minimum, the guidelines at least allow the judge to cut the sentence if the defendant played a minor role or accepts responsibility. They also give judges some latitude to go above or below the guideline range in extraordinary cases.

The mandatory minimums not only eliminate these avenues for judicial discretion, they have driven the guidelines toward greater harshness for all drug offenses. This is because the Sentencing Commission has had to prescribe much longer guideline sentences to incorporate the mandatory minimums and provide proportional guideline sentences for similar crimes not covered by them.

The federal judiciary seems slowly to be preparing to lobby Congress to get rid of the mandatory minimums. Given the apparent futility of trying to get Congress to worry about the simple injustice of overly harsh sentences for minor drug defendants, the main line of attack seems to be that the mandatory minimums are messing up the system of guideline sentencing designed by the 1984 Sentencing Reform Act and will clog up the courts with drug trials.

A committee of the Judicial Conference of the United States headed by Judge Edward Becker of the U.S. Court of Appeals for the Third Circuit resolved last year that mandatory minimum laws "are inconsistent with the scheme of guideline sentencing" under the 1984 Sentencing Reform Act and often lead to unduly harsh sentences in individual cases "that Congress could not have intended." The judges of the Third, Eighth, Ninth, and Tenth Circuits and the 15-member Federal Courts Study Committee, appointed by Chief Justice William Rehnquist, have also suggested with varying degrees of circumspection that the mandatory minimum statutes should be repealed.

"THIS MAN IS ONE OF THE ENEMIES"

Some judges say they have no problems with the mandatory minimums and see them as fitting weapons in the drug war.

In sentencing 22-year-old Richard Winrow to life without parole last December, federal district judge David Williams of Los Angeles said, "Congress has gone out to battle the drug war, and this man is one of the enemies." Winrow was convicted of having 5.5 ounces of crack for distribution in his room in his mother's house; he had three prior cocaine convictions. In state court his maximum sentence would have been four years. But under Congress's Anti-Drug Abuse Amendments of 1988, this small-time drug dealer will be punished more severely than most murderers. Noting that he and the defendant were both black and from the same neighborhood, the 79-year-old judge said drug dealers like Winrow were "making it one of the neighborhoods you can't live in, can't walk down the streets on; my people are the victims."

Prosecutors said afterward that they planned to put up posters in South-Central Los Angeles with Winrow's photograph, his crime, and his sentence to deter other would-be drug dealers.

"Maybe if we want to have a deterrent effect we have to have tough sentences for some minor defendants," says a federal district judge from Tennessee. "It's just as important to deter the little people as the big guys because they can't be in business without the little people."

Many prosecutors like mandatory minimums, which give them the power to determine the sentence as well as enormous leverage to get defendants to turn informant. Some prosecutors say that under the old sentencing system many judges used their broad discretion to let professional drug criminals off with parole or token prison terms.

Russoniello, the U.S. attorney in San Franscisco, says judges had been emasculating the drug laws by giving unduly light sentences. The mandatory minimums, he says, are a welcome congressional "reaction to the judiciary's failure to adequately sentence those involved in drug trafficking." He says "the peril of drug trafficking is so great, the danger and damage in what it does to society is so immediate that those who are criminally culpable albeit peripheral ought to be prosecuted" and sent away for long prison terms.

Russoniello says the tough new laws will have a strong deterrent effect once people realize "that there will be a dire consequence if they get caught." Implicitly rejecting centuries of practice fitting the punishment to the defendant's degree of participation in the crime, he dismisses the "tired argument that persons who have different roles to play in a drug conspiracy are somehow entitled to different treatment at sentence merely because of the level of their involvement."

But most judges say that long prison sentences can provide only modest increments of deterrence at enormous social cost, barely denting the drug problem.

The Rockefeller drug laws in New York in 1973 imposed a regime of mandatory prison terms for minor offenders much like the new federal laws, with little effect on the drug problem. New York reduced the marijuana penalties in 1979, but its penalties for heroin and cocaine remain among the most harsh in the nation, according to Robert Gangi, executive director of the Correctional Association of New York. "The drug problem is worse than ever," he says. Even the liberal use of the death penalty against relatively minor drug offenders in Malaysia and Singapore has not solved the drug problem there.

The people running drug rings rarely get caught. And they have little trouble finding new mules, lookouts, drivers, and the like, no matter how many are locked up.

"It doesn't deter," says Portland, Oregon's Judge Redden. "Certainly not with non-English speaking Mexicans who act as mules. . . . Perhaps it will deter a few young blacks when they see their friends facing a mandatory five or ten years at age eighteen or nineteen. I doubt it."

"Every year there's a new generation of eighteen-year-old kids who haven't gotten the message," says a Reagan-appointed federal judge in New York.

And how meaningful is the retributive purpose of criminal law in dealing with young members of an urban underclass where involvement in the drug culture is increasingly the norm, not the exception, where it is the exceptional teenager who resists the temptations and threats that his peers put before him?

"People born and raised in the inner city, they drop out of school. Even if they complete school they're essentially illiterate: they have no future, their peer influence, everything is negative," says a federal judge. "They have nothing going for them. This life-style that drugs and crime represent is the only thing they reach out for. It's the only thing that's there."

Many, perhaps most, of those sentenced to long terms of incarceration under the new laws are career drug dealers who arguably deserve five or ten years behind bars. Some may even deserve 20. But the Sentencing Commission's guidelines are a strong enough restraint on any soft-hearted judges to ensure that the really bad guys will get long sentences: for these most culpable defendants, the mandatory minimums are largely redundant. Meanwhile, the broad net Congress cast in the mandatory minimums is scooping up schools of minnows.

"My sense is that twenty percent of those who are going to jail now would have received probation under the old law, and they are primarily nineteen-, twenty-, and twenty-one-year-old first offenders," says a veteran probation officer in a large Eastern city. "In my experience their sentences are ranging from eighty-five to one hundred twenty months with no parole. That's a long time. It's just too harsh."

"Most of those sentenced under the mandatory minimums are people in up to their eyeteeth or repeat offenders," says Loren Buddress, chief federal probation officer in San Francisco. "But in a small percentage of the cases there are human beings who come before the court who may be tangentially involved in a large dope case or were not terribly bright or were coerced into it and get stuck with very tough sentences, and it's not just. It troubles me that the judges have absolutely no discretion at all to take mitigating factors into account. All the discretion now lies with the U.S. attorney's office."

Although the full impact of the 1986 and 1988 mandatory minimum statutes and the sentencing guidelines has not yet been felt, available statistics already reveal astonishing increases in the number of people being prosecuted and imprisoned, and the amount of time they are serving for less and less serious drug offenses.

Between 1980 and 1987 the number of federal drug prosecutions rose by 153 percent, the number of convictions by 161 percent, and the number of prison sentences by 177 percent, from 3.675 in 1980 to 10.196 in 1987, according to the Bureau of Justice Statistics. These numbers, which have continued to soar since 1987, compare with a mere 4 percent increase from 1980 to 1987 in the number of violent offenders sentenced to federal prison, from 1.770 to 1.837.

The Sentencing Commission calculates that the average time served for all drug offenses will rise by 126 percent, from 23.1 months before the 1986 Anti-Drug Abuse Act to a projected 52.2 months, after all the new sentencing laws and guidelines are fully implemented.

The number of federal drug offenders serving five years or more without parole nearly doubled from September 1986 to September 1988, according to the General Accounting Office, even though, the GAO found, "moderate drug offenses have re-

placed serious offenses as the largest proportion of drug offenses for which individuals are sentenced." The average time served is pulled below five years by the many defendants convicted of having or selling quantities too small to trigger the mandatory minimum laws.

Mainly because of the new drug sentencing laws, the prison population is growing exponentially, and the proportion of black, Hispanic, and nonviolent first offenders is steadily increasing.

After rising gradually from 17,000 inmates in 1950 to 24,000 in 1980, the federal prison population has more than doubled in the past ten years to 54,500. It is likely to double again by 1997, reaching 109,100, and continue rising to 147,000 by 2002, according to Sentencing Commission projections.

About 80 percent of the increase in recent years is attributable to incarceration of drug offenders. The Bureau of Prisons forecasts that the proportion of drug offenders among all federal prisoners will rise from the current 48 percent to 70 percent by 1995; in 1981 it was 26 percent.

"MY GOD, WHAT ARE WE DOING?"

Most drug offenders who get caught are black or Hispanic. These groups comprised 65 percent of those sentenced in drug trafficking cases under the new Sentencing Guidelines and mandatory minimum laws in the 16 months that ended a year ago. Blacks and Hispanics comprised 53 percent of federal prisoners in May 1989, and the percentage is rising.

Aliens comprise one quarter of the federal prison population. Many are couriers locked up for five or ten years at taxpayers' expense for bringing drugs into the United States once. "When you have a simple mule, a Nigerian woman who's not going to make a thousand dollars in her lifetime, and she smuggles by swallowing drugs in a balloon, and she doesn't even speak English, and we're putting these people away for three, four, and five years," says a federal judge in New York, "my God, what are we doing?"

Most of the drug offenders have never before been incarcerated, and 94 percent of these first-timers have no history of violence, according to the GAO.

The projected increase in the federal prison population will outstrip the government's plans to spend $1.8 billion to double prison capacity by 1995. The system was over its design capacity by 1 percent in 1981; today it is 68 percent over capacity. Even if design capacity is doubled to the planned 64,400 by 1995, the system will still be 53 percent over capacity, based on the Sentencing Commission's "high growth scenario" projection of 98,400 prisoners in 1995.

Where to put all these people? Senator Gramm and House Republican whip Newt Gingrich of Georgia have called for putting them in tents on prison grounds and military bases. They also want legislation to prevent federal courts from curbing prison crowding. And they want to force prisoners to work to pay their keep.

Given the pervasiveness of the drug culture in many inner-city areas, the Gramm-Gingrich approach could begin to approximate simply rounding up young urban blacks and putting them into involuntary servitude on chain gangs.

"We certainly support the spirit of it," White House spokeswoman Alixe Glen said when asked in January about the Gramm-Gingrich package by *The Washington Times*.

Meanwhile, J. Michael Quinlan, head of the Federal Bureau of Prisons, made a revealing comment in a roundtable discussion excerpted in the July-August 1988 *Federal Sentencing Reporter*, a monthly publication of case reports and commentary on sentencing under the guidelines and mandatory minimums: "We're also acquiring college campuses and religious seminaries and converting them into minimum-security facilities."

So that's what we have come to. This is madness. The drug war will not be won, and a just society will not be acheived, by giving ever-longer prison terms to less and less serious, usually nonviolent, black and Hispanic first-time drug offenders.

Yet so far, the congressional urge to throw mandatory minimum sentences at the drug problem seems as politically unassailable as it is legally senseless and morally bankrupt. And many prosecutors and some judges dismiss questions about whether the sentences are unduly harsh with the observation that it is not for them to question what Congress, in its wisdom, has ordained.

Wisdom is not the word that comes to mind in reviewing the congressional process that produced the mandatory minimums required by the 1986 and 1988 drug laws, the 1989 Senate amendments, and other proposals moving through Congress this year.

When Congress was passing the 1986 and 1988 drug laws in election-year fevers of public panic and media hype, "people were trying to figure out every conceivable basis for increasing prison time," says Eric Sterling, who spent eight years as assistant counsel to the House crime subcommittee. He left in January 1989 to found the Criminal Justice Policy Foundation, which opposes overreliance on criminal sanctions to deal with the drug problem.

HELTER SKELTER IN HALLS OF CONGRESS

"The process has deviated from any kind of rational, organized approach." Sterling adds. "The committees with jurisdiction have largely been supplanted by floor action and Senate versus House throwing bills back and forth at each other. By final passage nobody knows what is in these bills. You have maybe an hour or two to review four hundred pages of legislation and your mind glazes over and you say, 'Wait a minute, am I looking at the fifth version or the tenth version?' It was the worst kind of legislating, it was legislating the way the stock market looks on a busy day, and so whether there's any kind of fit between subtitle G and subtitle K is purely accidential."

Sterling cites, as one example, Senator Gramm's 1988 amendment raising the maximum sentence for having narcotics in prison from five to twenty years. "That made the possession of narcotics in prison twice as serious a crime as the possession of a gun or a bomb or a rocket," he says. "I said to Gramm's staff person, 'This is absurd.' But he said Gramm insisted. This was going to be Gramm's part of the package, so it had to be in there."

The 1986 law started as an effort to identify the quantities of various types of drugs that drug kingpins and major dealers characteristically would have. As amendments got thrown on and the bill bounced back and forth between House and Senate, "the quantities kept going down, down, down, recalls Sterling, and the prison terms kept going up, up, up. He adds that "there was this whole offense-stacking process. We had multipliers of mandatory sentences for all kinds of circumstances."

"Congress passes these statutes imagining the worst cases," a Senate aide explaines. "Like the law about selling within a thousand feet of a schoolyard, Congress is picturing a thirty-five-year-old drug kingpin on the corner selling crack to school kids. But the schoolyear statute ends up getting this eighteen-year-old kid selling to his seventeen-year-old friend".

Some members of Congress privately admit that mandatory minimum sentencing statutes are counter-productive. A few—Democratic Senator Edward Kennedy of Massachusetts most conspicuously—have suggested grave doubts as to the wisdom of these laws in floor debate. But they let most of the amendments pushing mandatory minimum sentences ever upward sweep through by voice votes, without recorded dissent.

Last October 5, for example, when Senator Gramm put in his amendment to raise the mandatory minimum for distributing drugs to persons under 21 to ten years in prison. Senate Judiciary committee chairman Joseph Biden, a Democrat from Delaware, put in the record resolutions evincing the concerns of federal judges about mandatory minimums. He said. "I have a practical concern about the ability of the system to tolerate all these mandatory minimum sentences."

But Biden took pains to stress that he was second to none in "wanting to get tough with those who sell to minors" and to say that "I am prepared to accept the amendment." Without further ado the Gramm amendment sailed through on a voice vote. It awaits House action.

"The politics of this issue are just terrible." says a Senate aide. "Nobody on the Hill will allow himself to be out-drugged. It's crazy, where they're voting to shoot down planes. We're going to be creating geriatric wards in prison. On the whole sentencing question the rhetoric is out of the ballpark, and nobody is saying anything reasonable on the other side. What are we doing to ourselves as a country? What kind of system are we creating? The senators up on the Hill don't take time to think about these questions."

The senators are too busy rushing from hearing to floor vote to fund-raising event. Many members apparently have little conception of what they are voting for. One senator, considered among the more thoughtful on legal issues, "didn't want to hear about" problems the mandatory minimums would cause, an aide says. This senator said in discussions of the issues that the life sentences were really only 15-year sentences because prisoners would get out early on parole.

"I had the darnedest time convincing him that parole had been abolished," the aide recalls, not to mention that the senator had voted to abolish it. The 1984 law, which created the Sentencing Commission to write the guidelines, also abolished parole for all crimes committed after the guidelines had taken effect.

"Many of these guys didn't even know that was in there," this aide says; they did not understand that "life in prison means life now," both under the guidelines and under mandatory minimum statutes. Ten years means ten years now, except that those serving less than life terms can earn up to 54 good-time credit days a year, after their first year.

When the Senate was whipping through one mandatory minimum sentencing amendment, a Democratic senator who did understand it turned to an aide and said, "This is the most ridiculous thing." But he added, the aide recalls, that it would be political

suicide to cast a vote against tougher penalties in drug cases.

"We're all being held hostage to fear of another Willie Horton campaign," the aide observes.

Robert Nelson, the assistant public defender in San Francisco who represented Richard Anderson at his trial, feels bad about what Congress has done to his client, and to others like him.

"I can't emphasize enough how strongly I feel about this," Nelson says. "Every time I have a mandatory minimum case I say to myself, this is wrong. It's just wrong. This man is not that bad. He's not a murderer; he's not a rapist. He made a mistake.

"It's just so sad that Congress and society have decided to punish blindly." Nelson adds. "It creates a system where the defendant is completely irrelevant. His prior history is irrelevant. His degree of culpability is irrelevant. His potential for rehabilitation is irrelevant. His ability to contribute to society is irrelevant. It makes me feel that our criminal justice system is bankrupt, that it's not about justice."

[From the ABA Journal, April 1990]

DRUG CASES CLOG THE COURTS

If Manuel Noriega had wanted an immediate trial, U.S. District Judge William Hoeveler would face a major scheduling problem. First on Hoeveler's docket in February were two other major criminal cases, each expected to last six to eight weeks.

But the ousted Panaminian dictator is not the only one waiting for trial. Many civil cases are put on hold in the Southern district of Florida "unless something happens to the judge's calendar and he can squeeze one in," according to Hoeveler. "We're in deep trouble."

The reason for the civil backlog: Miami, a gateway for drugs into the United States, is reeling from an increase of drug and other complicated criminal cases.

The problem experienced by Hoeveler could soon be felt across the nation. In the federal system alone, drug prosecutions increased 280 percent in the last 10 years. Said Georgetown Law Professor Samuel Dash, "In both federal and state courts the logjam will soon make it nearly impossible for civil cases to be tried or will cause long, long delays."

Speaking at two ABA Midyear Meeting programs, Dash and Hoeveler said the increase in drug prosecutions is having another effect: overcrowded prisons. Nationwide, 43 states are under court orders because of overcrowding, and "they can't build the prisons fast enough," Dash said.

John Greacen, clerk of the U.S. Court of Appeals for the 4th Circuit, cited findings by the U.S. Department of Justice's Bureau of Justice Statistics to illustrate the growing strain on America's justice system:

In 1970, less than 200,000 people were jailed in state and federal prisons. By 1989, that number had increased to 673,565.

In 1970, 96 out of every 100,000 adults were in prison; in 1989, the rate of incarceration was 260 per 100,000 people.

One out of every 27 men was either in prison, in jail or under correctional supervision in 1988.

In the first six months of 1989, federal and state prison population increased 7.3 percent, exceeding even the largest annual increase ever recorded. The growth translates to almost 1,800 additional beds a week.

James Neuhard, the immediate past president of the National Legal Aid and Defender Association, reported that increased prosecution and stricter sentencing has had a big impact on the criminal justice system in two states he has studied:

From 1984 to 1988, Michigan's budget for operating prisons increased from 2.8 percent of the state's general-fund budget to 7.2 percent of the budget. At the same time, the education budget decreased from 36.6 percent to 30.1 percent of general-fund revenue.

From 1984 to 1988, Michigan's capital spending for construction, most of which paid for building prisons, increased 482 percent.

The case load of Michigan's Court of Appeals is expected to increase 76 percent from 1984 to 1992.

In 1985, Florida imprisoned 180 people per month. By mid-1988, that number had increased to 780 per month.

In Florida, privately retained lawyers represented 42 percent of those accused of felonies in 1985, but represented only 27 percent in 1987.

"We've got right now the first non-recession budget deficits in many jurisidictions and states that are caused exclusively by prison building," Neuhard said. "[We are] skewing budgets just to feed this voracious furnace, and there's no end in sight."

Another statistic suggests that America's get-tough-on-crime appetite has not been fed by an increase in serious crime: From 1979 to 1988, the rate of murder and nonnegligent manslaughter decreased from 9.7 per 100,000 people to 8.4 per 100,000, a drop of 13.4 percent.

While Dash welcomes increased spending on the courts, he remains pessimistic that more money for the criminal-justice system can solve the drug problem.

He referred to a study he headed, sponsored by the ABA Criminal Justice Section, that found 34 million serious felonies such as murder, rape, robbery and burglary are committed each year, but arrests are made in only 3 million cases.

"As one police chief said, [the criminal-justice system] is like the garbageman," Dash said. "He comes in every day, and he cleans up the garbage, and there will be more garbage again tomorrow. But he has nothing to do with preventing the garbage. He just mops it up."

Hoeveler, Dash, Greacen and Neuhard were among the panelists at an ABA Midyear Meeting program called "Drugs, Our Lives, Our Rights, Our System of Justice" sponsored by the National Association of Bar Executives and the National Conference of Bar Presidents. Dash also spoke at a presidential showcase program called "Community Partnerships for a Drug-Free America."—Debra Cassens Moss.

[From the Washington Post, Aug. 28, 1989]

CRACKING DOWN, RELUCTANTLY, ON LOW-LEVEL DRUG OFFENDERS

(By Tracy Thompson)

Diane Budesky, of Greensburg, Pa., had a cocaine-addicted husband who forced her into prostitution to buy his drugs and once put a loaded gun in her mouth when she didn't cooperate. Last year, she was convicted in federal court in Pittsburgh of cocaine possession. Swayed by arguments that she was more a battered wife than a drug dealer, the judge wanted to give her two years. But the law gave him no choice: five years.

Sylvia Jenkins is a secretary whose 19-year-old son often had friends over to their Northeast Washington home. Last January, after one of the young men sold crack to an undercover officer, police asked Jenkins if they could search her house. They found 120 grams of crack in the attic. Next month, Jenkins, her son and the dealer will be sentenced on federal charges of possession with intent to distribute. For her, too, the law is inflexible: It says she must serve five years.

Both are first offenders, and both stood in the courtrooms of conservative Republican judges who used to be U.S. attorneys. Not exactly the place to expect leniency—yet, in each case, the judge thought the legally mandated penalty too severe.

"I've always been considered a fairly harsh sentencer," said U.S. District Judge Stanley S. Harris, a Reagan appointee who will sentence Jenkins here next month. "But it's killing me that I'm sending so many low-level offenders away for all this time."

Harris and many federal judges who agree with him—including other Reagan appointees—are swimming against a political tidal wave. Poll after poll reflects the public's outrage over drug dealing and demands for tougher penalties. That get-tough atmosphere led to passage of the Anti-Drug Abuse Act of 1986, which, among other things, mandates stiff penalties, even for low-level drug offenders. That's the cause of these judges' discomfort.

Most judges tend to object philosophically to mandatory sentences, which tie their hands. But recently some federal judges have become so disturbed by what they consider the 1986 law's inherent unfairness for some defendants that they have asked Congress to reconsider part of its anti-drug policy.

Last month, the judges of the San Francisco-based 9th Circuit passed a resolution asking Congress to reconsider laws that result in "manifestly unjust and harsh" prison terms. Judges from the St. Louis-based 8th U.S. Circuit last month unanimously approved a similar resolution.

And in June, the committee on criminal law of the Judicial Conference of the United States, a group of federal judges who meet to consider administration of justice issues, released a paper expressing "concern" about mandatory minimum sentences and asking for a study of their effects on federal courts.

Privately, many judges here also express discomfort with mandatory sentencing laws. When they do, they cite case histories—like those of Budesky and Jenkins.

Budesky and her husband, John, lived on the fringes of a motorcycle gang in western Pennsylvania. She testified that her husband regularly beat her. Besides the gun incident, she said, he also broke her arm. John Budesky himself, who is now serving a federal prison term on a drug conviction, told the court that his wife "was doing just what I ordered or told her, more or less," when she bought and carried drugs for him.

The appeals court record of Diane Budesky's case shows that U.S. District Judge Hubert I. Teitelbaum had leaned toward a fairly lenient two-year sentence, but was bound by law to impose five years—a sentence the appeals court was also bound to affirm.

By contrast, Jenkins wasn't intimidated by drug dealers. She says she didn't know she even knew any.

Jenkins has lived in her Northeast Washington neighborhood for about 30 years, often working two jobs to make ends meet. She knew her son's friends often hung out there, she said, but "I do have house rules"—no cursing, no gambling and no drinking.

When police arrived at her door late one January night and asked to search the house, she readily consented. What they found was incriminating: Besides the cocaine in the attic, there were traces of crack in the microwave oven, 21 grams of crack inside a locked box in the family room, and illegal guns in a duffel bag stuffed inside the backyard barbecue.

"I didn't believe that anybody would believe I was guilty of selling drugs," said Jenkins, who is still working while she awaits sentencing. Still, as one police officer at the scene told her, it was, after all, her house. The law makes certain assumptions about owners' knowledge of what goes on under their roofs.

Shelton Poole has no excuse but his own naivete, his mother recalled recently. A 19-year-old now serving a 10-year sentence, Poole thought people got in trouble for drug trafficking only if they made money from it. As it turned out, Poole's friends were making the money. He was a convenient errand boy.

When Drug Enforcement Administration agents caught him in Alexandria last August, Poole was carrying more than 50 grams of crack for his friends. Ironically, he had just earned the right to legal treatment as an adult: His 18th birthday had been two weeks earlier. A recent high school graduate, Poole was working that summer at a salad bar in a local supermarket.

Jo Ann Poole said she believes that because her son grew up without a father, he was attracted to his new friends because they made him feel important. Poole himself told the judge, "I did it for a friend, and I have him to thank for what happened." U.S. District Judge Albert V. Bryan Jr., was obliged to give him five years—though he said at sentencing he didn't want to.

Under the law, the details of these stories make no difference.

Congress's 1986 measure included a number of new mandatory sentences, most of them applying to major drug traffickers. Big dealers usually are charged with major offenses, such as conspiracy and using firearms during the commission of a drug felony. Those charges now carry a minimum sentence of anywhere from 10 to 30 years to life.

But the 1986 law also is sweeping up in its net people who literally get caught holding the bag—people usually charged with possession with intent to distribute. They fall under a provision of the law requiring that anyone caught with more than 5 grams of crack or 500 grams of cocaine powder get at least five years. Those caught with more than 50 grams of crack or 5 kilograms of cocaine powder must get at least 10 years. The sentences must be served without parole.

Many of the defendants who show up in federal court here are couriers arrested at Union Station. Others are underlings working for D.C. street dealers. Most knew exactly what they were doing, but some recent cases have involved defendants who are mentally retarded.

The effects of the 1986 law on low-level offenders may be more apparent in Washington than elsewhere, thanks to the unique structure of the District's court system.

Unlike other major cities, the District has no local prosecutor. The office of U.S. Attorney Jay B. Stephens decides whether to take drug cases to D.C. Superior Court or federal court. His tactic, unencumbered by the political tensions that inevitably crop up between state and local prosecutors, is a simple one: Go where the toughest sentences are:

That means an increasing number of drug cases in federal court. Defendants who a few years ago might have found themselves facing a 20-month sentence in D.C. Superior Court are now looking at a federal judge and serious time. Some walk away stunned.

One deputy U.S. marshal assigned to federal court here recalls escorting back to his cell a defendant who asked, "How much is 240 months?"

"Son," the deputy replied, "I don't want to be the one to tell you."

With the number of drug cases increasing, judges say, the number of cases involving first offenders or extenuating circumstances is also rising. That gives some judges pause, but Stephens offers no apologies.

"Society's not going to say, 'Well, we forgive all because you are not a street dealer,'" he said. "The college students who think they can make 10 grand on the side running drugs from New York to Washington—they're part of the problem."

If polls are any indication, most Americans agree. A recent Gallup poll, for instance, found that 92 percent of its respondents favored tougher penalties for drug dealers. William J. Bennett, the federal drug policy chief, is expected to emphasize even more mandatory prison terms in his major anti-drug plan to be released next month.

"Maybe it's a hard-line position," said Reggie B. Walton, associate director of Bennett's office and a former judge here. "But many of our neighborhoods are being held under siege."

Mandatory sentences even have defenders among judges. William D. Keller, a former prosecutor and a Reagan appointee to the Federal District Court in Los Angeles, acknowledges that some individuals suffer under such laws. But, he said, that's a fact society most be prepared to face.

"I have said to prosecutors, 'This man is paying a dear price for what he did'" Keller said. "But you can lose sight of what you're about when you become too concerned with the individual."

Keller estimates that perhaps as many as one defendant in five gets an unduly harsh sentence under the mandatory sentencing law, and other judges agree.

But many of Keller's fellow judges find that percentage unacceptably high.

"A lot of the mules [cocaine couriers] who come up from South America are mothers of young children," said Edward R. Becker, a Reagan appointee to the Philadelphia-based 3rd U.S. Circuit Court of Appeals. "Fifteen years for a mother of three or four young kids who's a first offender seems harsh."

"It doesn't produce the kind of results you need," said U.S. District Judge Marvin H. Shoob of Atlanta, a Carter appointee. "In one out of every four or five cases that I handle with a mandatory minimum sentence, I feel the result is unfair, and sometimes the result is extremely unfair."

It's not as if the elimination of mandatory minimums would mean probation for drug dealers, some authorities note. New sentencing guidelines that took effect in 1987 already incorporate the stiff sentences. But just as a important, they allow a judge to depart from the guidelines in extraordinary cases, provided the judge gives a written reason.

Becker, who has testified on Capitol Hill about the effects of mandatory sentences, said some lawmakers have privately acknowledged to him that mandatory sentences are inconsistent with sentencing guidelines.

"But they say, 'This is what the public wants,'" Becker added. "I think a lot of them don't realize what's in the [1986] law."

Despite the debate, the law seems unlikely to change. The judges' complaints have caused concern among some senators, notably Edward M. Kennedy (D-Mass.) and Strom Thurmond (R-S.C.). A Kennedy spokesman said the senator plans to bring up the issue this fall when Congress considers Bennett's anti-drug plan. But there isn't much support on Capitol Hill for anything that sounds like leniency for drug crimes.

In the meantime, more defendants are finding out that, as Keller put it, "the feds aren't kidding around now." Some find out too late.

"This is a tragedy of a mandatory minimum sentence," Bryan said when he sentenced Shelton Poole last November. "Ten years is just too much for an 18-year-old, with no record, whose role can't be any more than that of a courier.

"It will, however, be the sentence of the court."

Mr. DURENBERGER. Mr. President, unfortunately, I must vote today against the Gramm amendment to S. 1970, the omnibus crime bill. I do so because it includes the death penalty.

On almost every point I support the Gramm amendment. The only way to control crime is to ensure criminals will be apprehended and sentenced to long terms in prison. The Gramm amendment does this. However, it goes a step further; a step I cannot support: the death penalty.

My record and views on the death penalty are crystal clear and unchangeable: I oppose it in any form and in any circumstance. I have spent my 11 years in the Senate working against such measures, never voting for it or in any way making this reprehensible punishment more likely.

Yet, Mr. President, that is what the Gramm amendment would do. It would expand the use of the death penalty. To me, this is not only bad policy but morally wrong. and, as I have done in the past I will vote against any legislation that includes this extreme and unacceptable punishment.

Mr. KOHL. Mr. President, I fully support the basic thrust of the amendment offered by the Senator from Texas. I firmly believe that the possession or use of a firearm during the commission of a crime warrants a stiff sentence on top of whatever punishment is imposed for the crime itself. When combined with the narrow and restricted gun control provision we previously adopted, I believe that we have a policy approach which can help us reduce the level of violent crime in our society.

While I will vote for this amendment, I do have two reservations which I want to make a part of the record. First, I am obviously disturbed by the provision of the amendment which allows for the imposition of the death penalty. I do not believe that capital punishment is either effective

as a deterrent or appropriate as an act of retribution. I look forward to the opportunity to vote for an amendment which will be offered by Senator HATFIELD to strike all death penalty provisions in the bill. Second, while I support the basic approach of the amendment, I do have some questions about the length of the sentences it requires. Given the crowded conditions of our prisons and the cost and time required to construct additional space, I am not sure that these suggested mandatory sentences are feasible. I trust that this issue will be the subject of additional review as the bill moves through the legislative process.

Mr. KERRY. Mr. President, I remain convinced that what our police really need to fight crime is two things: help from the Federal Government, and a system that imposes tough sentences on criminals to ensure that they serve the hard time they deserve for their crimes. Later in this bill, we will consider my amendment to insure that our local law enforcement people receive more of the help they deserve—$900 million a year from the Federal Government, double the current level of $450 million. This amendment includes those tough sentences, apart from the death penalty language, that I believe are necessary to prevent crime and punish criminals.

I oppose the death penalty. I have opposed it in the past. And I expect to vote against the death penalty later tonight as we give further consideration to the crime bill. My vote in favor of this amendment should, therefore, not be misinterpreted. This vote is not in favor of the death penalty. It is a vote in favor of tough mandatory prison terms for people who commit some of the most repellent crimes in our society. It is a vote in favor of limiting sales of assault weapons, the result of the passage of the DeConcini second degree amendment to this amendment. Were I to be permitted to have voted for those provisions and reject the death penalty, I would have chosen that course. Regrettably, the legislative process prevented me and other legislators from a clean vote provision by provision. This was an either or vote on a package that included two provisions I strongly favor and one provision—an extension of the death penalty—with which I strongly disagree. Therefore, I voted in favor of this amendment.

I remain convinced that death penalty laws are not the solution to fighting crime. I know moreover from personal experience that our legal system can make mistakes. After I left my job as a prosecutor in Massachusetts, I myself represented an individual who spent 15 years in prison for a murder that he did not commit, before I was able to have his conviction overturned and the man set free.

I will have the opportunity later in this bill to vote to strip the bill of the death penalty, and I will vote against the death penalty in that clean, up-or-down vote. In the meantime, I have insured that tough sentences for those who commit our worst crimes will be imposed.

AMENDMENT NO. 2085 TO AMENDMENT NO. 2084

Mr. DECONCINI. Madam President, I send an amendment to the desk and ask for its immediate consideration under the unanimous-consent request.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Arizona.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposed an amendment numbered 2085 to amendment No. 2084.

Mr. DECONCINI. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such as assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models).

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR and FNC.

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime

Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles of knowlingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

"(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

"(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a)."

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

Mr. DECONCINI. Madam President, just to continue for a moment longer here, these are the weapons that we talked about 2 weeks ago. We voted here 52 to 48 to leave them in the bill. There is enough of an argument here to support this bill based on the organizations that support this particular legislation being part of the crime bill listed here. I hope Members will take another look at that. That includes virtually every law enforcement organization. This is not only the hierarchy of their leadership. These are taken from their membership and include sheriff associations, national and local ones, and numerous police associations.

Madam President, the amendment before us now, which is a second degree amendment to the first degree amendment of the Senator from Texas is exactly the legislation we voted on approximately 2 weeks ago. It has the same provisions. It is the antidrug assault weapon limitation act.

Senator GRAMM'S amendment proposes to strike the assault ban weapons, and also proposes to increase the penalty for misuse of firearms. I applaud the effort of the Senator from Texas in coming down tougher on people using these guns illegally or on guns that need to be eliminated for the safety of our policemen. However, I challenge his effort to delegate the proposal that includes the elimination of these assault weapons. The Senate has already spoken twice on the issue and on both occasions the Senate supported the legislation.

Madam President, we all know where we stand on the issue. Nothing has happened in the last month that this Senator can see from any respects to change views on this bill except a lot of mismanaged mail and misstatements being made. Since the last time we voted on this issue, I have heard of two separate incidents right here in the national capital in which young students were found to be carrying the TEC-9 gun. Imagine a teenager or a young person carrying that gun around and the kind of damage they have done.

Since last time we voted on this issue, a Miami man, angry because he could not take a drink outside a bar, drove by that same bar a little later and fired more than 40 rounds with an AK-47. A man was killed and a woman injured.

The drug traffickers have not stopped using assault weapons and are not going to stop using assault weapons. At least we can stop them from using these assault weapons.

I hope the Members who had the courage to vote to retain this prohibition, because of law enforcement asking us to help them help protect society, will maintain that position on this vote. It will be an up-or-down vote, just as it was last time.

I am glad to yield to the Senator from Kansas.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. I yield to the Senator from Kansas, 2 minutes.

Mrs. KASSEBAUM. Madam President, I appreciate the Senator from Arizona yielding time to me.

I rise to speak on behalf of his amendment in the second degree. I am a strong believer in tougher law enforcement and will be strongly supportive of the very measures that the Senator from Texas [Mr. GRAMM] has in his bill. I am also very supportive of the ban on TEC-9 assault weapons so listed. It seems to me they go hand in hand.

I have heard from many Kansans who are concerned about the second amendment and feel this is an infringement on their right to bear arms. I do not view it that way. I am a strong supporter of the right to bear arms. But I think we have found through the debates on the first amendment that we have had here just recently that there are some rights that as a matter of fact from time to time have to be addressed with some responsibilities that do not in any way delete from the importance of the amendment that we are talking to and in this case the second amendment.

I have never viewed this as the camel's nose under the tent. It just seems to me this is the time and the place for us to say that tough law enforcement and a ban on these type of weapons go hand in hand. It seems to me this is the perfect time to support both the second-degree amendment of Senator DECONCINI and the amendment of Senator GRAMM from Texas.

Thank you, Madam Pesident. I yield the floor.

Mr. DECONCINI. Madam President I thank the distinguished Senator from Kansas for her steadfast support, and also the Senator from Arkansas, particularly for his effort in trying to include me in preparing to offer the amendment that did not get offered that would have done, quite frankly, much of what the amendment of the Senator from Texas has done, but would have preserved this bill.

Law enforcement officers all over the country are fighting and they have let us know in no uncertain terms that they are fighting to restrict the use of these guns. They do not want them.

Last week, I was in New York City with my distinguished colleague from New York, the junior Senator, Mr. D'AMATO. We had a hearing there. Before me was the chief of the New York City Police Department, Organized Crime, Narcotics Bureau, as well as three special narcotics prosecutors.

I asked these men, who deal with this on a day-to-day basis, about this legislation. Each of them said to me when asked whether or not this would help, whether they thought it might be of some benefit. They said, "Yes, Senator, we need your bill. We need to

do something about officers being outgunned by drug traffickers."

I do not know what more we can say. This is not an antigun bill, it is an antidrug bill. We have a chance to maybe deal a blow to drug dealers. I hope my colleagues will vote in favor of this second-degree amendment.

Mr. GRAMM. Madam President, I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Madam President, I thank the Chair, and I thank my colleague from Texas, and I commend my colleague from Texas.

It, indeed, may be true, as the Senator from Arizona has said, that this is the same issue. Nothing has happened, except some mail. We had hoped—and I still hope—that one or two Members of the Senate will have looked at the issue dispassionately since the last vote and changed their mind. I understand the Senator from Arizona hopes they do not. That is what changed. Because the hope on our side is, indeed, that reason rather than emotion will prevail.

The Senator from Arizona has suggested that there was, just the other day, a teenager carrying a TEC-9. I say to the Senator, that is already against the law. So what you are going to do is suggest that we will cure the violation of one law by passing another law. We have tried that. The law enforcement community certainly does do exactly what the Senator from Arizona says.

We want to do something about this problem, and I submit to you, yes, let us do something about the problem, the problem of illegal use of firearms. Let us do that and be tough on criminals. Let us stop this charade that says we are going to do something about crime by legislating against firearms. That is the real issue.

In almost every instance you can point to where there has been a misuse of firearms, this kind of legislation does not begin to do anything to correct that problem. Nothing. It is a charade. It is a placebo. It is a Bandaid covering up a wound. It is a way of copping out on the tough issues that we have to confront. And we, as a nation, have to confront really what it is that is causing crime in this country, and it is not guns. Guns are instruments used, but they are not the cause of the crime.

I think for us to continue to do as we traditionally do around here every time there is a problem, we say, "Well, let us do something about the guns." For heaven's sakes, let us do something about the criminals. That is what the Senator from Texas is trying to do. There is an alternative. I hope the amendment of the Senator from Arizona will be rejected as I hoped it would have been the first two times around and I will hope it will go down again sometime in the future. I may not be here, but we will be back.

The 1986 Gun Control Act was a mistake because it was aimed at guns and it took us years to get from there to the point where we finally enacted some sensible changes in the 1986 Gun Control Act. Because it was aimed at the wrong target. It was aimed at the wrong target, I say to Senators. Let us stop this nonsense of saying that you do something about crime by legislating about guns and doing nothing about criminals.

I hope that the amendment of the Senator from Arizona is rejected and the amendment of the Senator from Texas is adopted.

I ask unanimous consent to be listed as a cosponsor of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Madam President, I yield myself as much time as I may use.

The PRESIDING OFFICER. The Chair advises the Senator from Texas he has about 6½ minutes remaining.

Mr. GRAMM. Madam President, there is a fundamental difference between the vote we are about to have and the vote we had a month or so ago. A month or so ago, we had the DeConcini provision before us but there was no alternative to it on the table. So Members had to decide between gun control on one hand and an absence of action on another.

I have presented an alternative and the alternative is criminal control. So I want to ask my colleagues, given that there is a viable alternative on the table, given that there is no evidence, despite the best intentions—and I do not doubt the intentions of anybody that is for the amendment of the distinguished Senator from Arizona. But the plain truth is that gun controls do not work. Stiff minimum mandatory sentences and the death penalty represent our best hope of deterrent.

Madam President, I cannot fail to note the fact that in the example of the kook who used an AK-47, that the amendment before us would ban the sale in the future, but if the kook already has it, it would not take it away from him. So in those cases there would be no impact if the person already had the gun.

Under my amendment, you would be put to death, and my guess is that although he may have been angry, if he knew that death waited at the end of that action, he probably would have done a better job of controlling that anger, and that is what deterrence is about—10 years for possessing a firearm, 20 years for discharging a firearm, the death penalty for killing somebody. That is, Madam President, a viable alternative.

So I ask my colleagues to remember this is not the same vote we cast before because before, it was a motion to table the DeConcini amendment. Today it is a motion that we will be voting down the DeConcini gun control amendment and then we will have an opportunity to vote on criminal control.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes and 10 seconds.

Mr. GRAMM. Madam President, I yield 1 minute to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, as the distinguished Senator from Arizona stated, the bill offered by Senator BIDEN and myself now contains his assault weapons ban.

I want to point out that my original crime package contains the language now being offered by the distinguished Senator from Texas. We believe tougher penalties should be enacted to combat violent crime.

Although the Senate voted earlier and narrowly accepted the DeConcini language, I will support the amendment by my able colleague from Texas to impose harsh penalties against those who use firearms to commit violent crimes.

Mr. GRAMM. Madam President, I am prepared to yield back the remainder of my time.

Mr. DECONCINI. How much time does the Senator from Arizona have?

The PRESIDING OFFICER. The Senator has 3 minutes and 25 seconds.

Mr. DECONCINI. Madam President, let me sum up. The vote now is going to be on the DeConcini amendment, not on the Gramm amendment. The DeConcini amendment does not have the death penalty in it. It is an amendment to put back into the Gramm amendment all of the prohibitions that are already in the bill. It is the same vote we cast here May 25, and the only difference in that vote is that it was a vote to take out the provisions of the DeConcini amendment that is before us today instead of to put it back in.

As 51 Members of this body, 52, actually, with the minority leader voting with us for procedural reasons, voted not to take these guns out of the bill; to keep the prohibition here. There is no death penalty attached to this particular amendment of DeConcini.

I happen to support the part of the amendment of the Senator from Texas that deals with severe enhancement of penalties. We will have an opportunity to vote on that, particularly if we can vote this amendment once again as we did on May 25.

Madam President, I can only say the time has come for us, once again to put this into perspective. We are talking about a war on drugs. We are talking about mobilizing our efforts and

resources in the United States to stop the drug dealers.

The drug dealers in this country are outgunning us. They have more money and they have tougher weapons and, I do not know why, perhaps they are on drugs, some of them. They have a heck of a lot of courage about using these weapons indiscriminately against civilians as well as police officers.

Some of these weapons have such impact we are not sure there even is a bullet-proof vest that can stop them. I have legislation pending to try to set some standards on that issue.

As Chief of Police Gates says, we are in an effort here between the criminals and law enforcement of who is going to outgun the other, who is going to have the most effective weapons.

Gates says, "I do not want to be in an arms race with the drug dealers." That is why the chief of police of the largest metropolitan area, I believe, in the United States, Los Angeles, supports this. He is not someone who wants to infringe on anybody's second amendment rights. This bill does not do that. It provides, as we said before, that people who already possess these guns can keep them. Nobody has to register them any place. You can go ahead and keep your gun.

But, my God, if you are caught with one here, and they are not going to be available, but if you are caught with one you are going to have to really pay a price. It is time we ask the criminals in this country to pay a price for having this kind of gun that is used against law enforcement and innocent citizens.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Is there time remaining?

Mr. DECONCINI. I yield to the Senator from Arkansas.

The PRESIDING OFFICER. Ten seconds.

Mr. PRYOR. I would say there are 29 crimes in this bill, Madam President, to which the death penalty would already apply.

The PRESIDING OFFICER. The Senator from Texas. If the Senator from Texas would withhold a few seconds. All time has expired on the side of Senator DECONCINI.

The Senator from Texas may proceed. He has approximately 2 minutes.

Mr. GRAMM. Madam President, the sad, cold, reality is that drug felons who are smuggling tons of illegal drugs into the country will smuggle firearms into the country. Much as we might wish the problem away, much as we might like to issue decrees that guns would not be obtained by violent criminals, the cold, hard reality is they are going to have the guns.

The question is are we going to have stiff minimum, mandatory prison sentences without release for those who use the guns to violate the law.

We have a clear choice. It is a choice between the old, tried, and proven failure of trying to limit the right of the people to keep and bear arms on one hand, and an effort to grab criminals by the throat on the other; between gun control on one hand and criminal control on the other.

Madam President, I believe the surest way to deter people from using these firearms is to put them in jail for possessing them, put them in jail for a longer period of time for firing them, and stringing them up if they kill somebody. And that is the deterrent that is offered as the alternative.

Madam President, if you are for gun control, then you want to vote for the DeConcini amendment. If you are for criminal control, you want to vote no on the DeConcini amendment and then yes on the Gramm amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

There being no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

Is there a request for the yeas and nays?

Mr. GRAMM. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. METZENBAUM (after having voted in the affirmative). Mr. President, if the distinguished senior Senator from Colorado were present, he would vote "no." I have voted "aye." I withdraw my vote and give him a live pair.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 50, nays 48, as follows:

[Rollcall Vote No. 133 Leg.]

YEAS—50

Adams	Daschle	Kennedy
Akaka	DeConcini	Kerrey
Bentsen	Dixon	Kerry
Biden	Dodd	Kohl
Boren	Fowler	Lautenberg
Bradley	Glenn	Leahy
Bumpers	Gore	Levin
Burdick	Graham	Lieberman
Byrd	Harkin	Mikulski
Chafee	Hatfield	Mitchell
Conrad	Inouye	Moynihan
Cranston	Jeffords	Nunn
D'Amato	Kassebaum	Packwood
Pell	Rockefeller	Warner
Pryor	Sarbanes	Wilson
Riegle	Sasser	Wirth
Robb	Simon	

NAYS—48

Baucus	Garn	McClure
Bingaman	Gorton	McConnell
Bond	Gramm	Murkowski
Boschwitz	Grassley	Nickles
Breaux	Hatch	Pressler
Bryan	Heflin	Reid
Burns	Heinz	Roth
Coats	Helms	Rudman
Cochran	Hollings	Sanford
Cohen	Humphrey	Shelby
Danforth	Johnston	Simpson
Dole	Kasten	Specter
Domenici	Lott	Stevens
Durenberger	Lugar	Symms
Exon	Mack	Thurmond
Ford	McCain	Wallop

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Metzenbaum, for

NOT VOTING—1

Armstrong

So the amendment (No. 2085) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2084

The VICE PRESIDENT. Under the previous order the Senator from Delaware and the Senator from Texas each control 5 minutes on the underlying Gramm amendment, amendment No. 2084, as amended.

Who yields time?

Before we yield time, the Senate will come to order. The Senate will be in order. Senators desiring conversation will please retire from the Chamber.

Who yields time?

Mr. GRAMM addressed the Chair.

The VICE PRESIDENT. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, we now have the Gramm amendment before us. Let me outline very briefly what it does.

The Gramm amendment is a criminal control amendment. It has 10 years in prison without parole for possessing a firearm during the commission of a violent crime or drug trafficking crime. It has 20 years without parole for discharging the firearm, and the death penalty if you kill, with intent, somebody with a firearm during the commission of such a crime. But, if the court does not impose the death penalty, you get a mandatory life imprisonment without parole for killing somebody with a firearm, during the commission of a violent crime, or a drug trafficking crime.

In addition, the amendment has 10 years imprisonment without parole for selling drugs to a minor, or using a minor in drug trafficking, and mandatory life imprisonment without parole,

for the second violation of those offenses.

I urge my colleagues to vote for this amendment. It is the stiffest minimum mandatory sentencing provision that I believe the Senate has ever voted on. I think it is exactly the kind of grab-the-drug-thugs-by-the-throat, get-serious measure we need. I commend it to our Members.

Mr. BIDEN addressed the Chair.

The VICE PRESIDENT. The Senator from Delaware.

Mr. BIDEN. Mr. President, I will not take the entire 5 minutes that I have.

Mr. President, let me compliment the Senator from Texas. I strongly urge my colleagues to support this legislation. They are, in fact, the strongest, toughest penalties that exist, and have existed or will exist for firearms violations. We can now have both the elimination of unnecessary weapons with no social redeeming value——

Mr. FORD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senator from Kentucky is correct. The Senate will come to order.

The Senator from Delaware.

Mr. BIDEN. Mr. President, let us vote for Gramm. I yield the remainder of my time.

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND addressed Chair.

The VICE PRESIDENT. The Senator from Texas has 3 minutes and 38 seconds, and the Senator from Delaware has yielded his time.

Mr. GRAMM. Mr. President, I yield the remainder of the time to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to commend the able Senator from Texas on this amendment. This really puts the teeth into the matter. If we want to really punish people, this is an opportunity to do it. I hope we can agree to this amentment.

The VICE PRESIDENT. Does the Senator from Texas yield the time?

Mr. GRAMM. I yield the remainder of my time.

Mr. LEVIN. Mr. President, I will vote for the Gramm amendment because I support the DeConcini assault rifle language which it contains and because I believe that we should have tougher penalties for the use of firearms in crimes of violence and drug trafficking crimes.

The Gramm amendment also provides for the death penalty under certain circumstances. I have opposed the death penalty and later on during the deliberation on this bill Senator HATFIELD will be offering an amendment to strike the death penalty provisions in this bill. I intend to support Senator HATFIELD's effort at that time.

The VICE PRESIDENT. All time having been yielded, the question is on agreeing to the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. LAUTENBERG). Are there any other Senators in the Chamber who desire to vote?

The results were announced—yeas 87, nays 12, as follows:

[Rollcall Vote No. 134 Leg.]

YEAS—87

Adams	Glenn	Mikulski
Baucus	Gore	Mitchell
Bentsen	Gorton	Moynihan
Biden	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pressler
Breaux	Heflin	Pryor
Bryan	Heinz	Reid
Bumpers	Helms	Riegle
Burdick	Hollings	Robb
Burns	Humphrey	Rockefeller
Byrd	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kerrey	Sasser
D'Amato	Kerry	Shelby
Daschle	Kohl	Simon
DeConcini	Lautenberg	Simpson
Dixon	Levin	Specter
Dodd	Lieberman	Stevens
Dole	Lott	Symms
Domenici	Lugar	Thurmond
Exon	Mack	Wallop
Ford	McCain	Warner
Fowler	McClure	Wilson
Garn	McConnell	Wirth

NAYS—12

Akaka	Danforth	Kennedy
Bingaman	Durenberger	Leahy
Chafee	Hatfield	Metzenbaum
Cranston	Inouye	Pell

NOT VOTING—1

Armstrong

So the amendment (No. 2084), as amended, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, the amendment of the Senator from Texas would provide tough, mandatory minimum penalties for crimes involving firearms as well as for the use of children in committing drug offenses. I support these increased penalties. However, the Gramm amendment also provides for the death penalty for some crimes. I oppose the death penalty for moral reasons. Therefore, I voted against this amendment.

I make this explanation because, during the 8½ years I was a prosecutor, I always requested a significant additional penalty for anyone convicted of using a weapon of any sort during the commission of a crime.

The PRESIDING OFFICER (Mr. LANTENBERG). The Senator from Kansas.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I wonder if I might ask the majority leader or indicate to him that I hope where the two managers find the amendments acceptable we might avoid rollcall votes. There is a good chance we could finish this bill much more quickly than ever anticipated now that we have the agreement. I understand the majority leader agrees. We can accept the amendment. If we can accept the amendment, we should.

Mr. MITCHELL. Mr. President, I not only agree, I strongly urge that course of action. Many individuals have inquired of me individually as to the schedule for tonight and tomorrow.

In my prior discussions with the distinguished Republican leader, I indicated I hoped to get in 12 hours between today and tomorrow. My own personal preference—and I attempt to accommodate the wishes of a majority of Members of the Senate—will be to go as far as possible this evening and try to get as close to that as possible, perhaps not finish but move forward, so that Senators could leave earlier tomorrow than was otherwise the case.

I will be guided by the wishes of the distinguished Republican leader and other Senators in that regard, of course, before making the final decision. I hope we could proceed.

Where all the time is not needed for the amendment, we should not take it. Where recorded votes are not necessary, we should not have them. We could move much faster and accommodate the wishes of more Senators if we could do that.

Mr. DOLE. Mr. President, I indicate what the majority leader said: if we do not need the time, do not take it; if we do not need rollcall votes do not have them; and we might finish action at 9 or 10 o'clock tonight.

Mr. GRAMM. Mr. President, might I suggest we set out a target for reaching so many amendments. If we do that tonight, we might not be in tomorrow. I suggest that would facilitate the process.

Mr. MITCHELL. I will discuss that with the managers and make an announcement on that shortly.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I assure the leaders and anyone else who will inquire probably the only two Senators in here who are more inclined to move this bill along than the two leaders are the two managers. We have been working on this agreement for the better part of 3 weeks to a month

employing thousands of hours and, gosh knows, how many entrees and entreaties to our colleagues.

So I make it clear the Senator from South Carolina and the Senator from Delware have absolutely no desire to have any other votes on this legislation.

But, the one—and I want to make it clear also—the one most contentious and most significant in terms of its consequence, practically and politically, was the one we just disposed of; the two amendments we just disposed of.

The way we are going to work from this time on is the managers of the bill will alternate in choosing to move the particular amendments on each side. I, for one, will tell my Democratic colleagues, the seven remainig Democratic colleagues who have amendments, that I am going to ask my staff to have them in order and I will assume that, if they are here they would like me to propose their amendment and move it along for them.

I know the issue fairly well and I would be inclined to move it along for them. That is how inclined I am to get this done, even risking the wrath of my colleagues at this point that I may propose their amendments for them, because I am such a good-natured fellow.

Having said that, let me yield, without further comment, to my distinguished colleague from Nevada who has a very important amendment of which I am a cosponsor.

I yield the floor.

AMENDMENT NO. 2086

(Purpose: To protect victims of child abuse)

Mr. REID. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2086.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment (No. 2086) is printed in today's RECORD under "Amendments Submitted.)

Mr. REID. Mr. President, yesterday, America's children won a major victory with the Supreme Court decision saying that the protections offered in my proposed amendment are constitutional. Today another victory can be won if we add the children's bill of rights to this, the 1990 crime bill. Let us use the childrens' bill of rights to send a message to the American people. It is time we put the justice system back on track by protecting children and prosecuting child abusers and other criminals who sadistically prey on youngsters.

Mr. President, yesterday was an important day for a number of reasons. Sandra Day O'Connor wrote a brilliant opinion for the U.S. Supreme Court where she said, among other things, in the case of Maryland versus Craig, that it was time that children also be recognized as having rights.

Mr. President, this was an interesting case where a woman had been accused of sexually abusing a number of children. In the specific instance before the Supreme Court, it dealt with a 6-year-old child. In that instance, the Maryland court, through the expert witnesses who appeared before it, said it would be traumatic for the child to be confronted by the person that had allegedly abused her. That in effect is what this case is all about—the confrontation clause—the sixth amendment.

It is also, Mr. President, about something else that happened yesterday.

Yesterday, a congressional creation entitled the "United States Advisory Board on Child Abuse and Neglect" stated, among other things, that last year 2.4 million children were abused. It went on to say that 900,000 of those cases were substantiated. And there is no reason to believe that the other approximately 1½ million cases reported, were without foundation.

The U.S. Advisory Board on Child Abuse and Neglect said this 2.4 million reported cases were just a fraction of the actual instances of child abuse and neglect. The report said poverty, mental health problems, substance abuse, and changes in family structure are associated with abuse and neglect problems.

It said child protection agencies within the State and local governments have not been given the funds to handle these cases. There has been, they further stated, a huge increase in the number of cases expected to be handled by child protection agencies.

They went on to say, each year, hundreds of thousands of children are being starved and abandoned, burned and severely beaten, raped, sodomized, berated, and belittled. The Board recommended Congress view the prevention of child abuse and neglect as a matter of national security. I think that is something that we need do.

The Board went on to say that President Bush should become visible and effecitve in leading efforts to prevent these abuses.

Mr. President, I think it is important to recognize that this amendment is extremely timely—considering the findings in Craig, the Craig opinion, and the report from the U.S. Advisory Board on Child Abuse and Neglect. Clearly, based on the Supreme Court decision and that of the finding of the U.S. Advisory Board, increased awareness of a child abuse crisis and the will to address this crisis is at hand.

The Supreme Court basically said that a child can testify outside of the confines of the courtroom. And it shows that there is no longer a need to coddle the abuser, and in fact that is as it should be.

The Advisory Board points out this is the highest number of abuse cases ever reported in the United States. Every year thousands of these abuse cases go unreported. And it is further interesting to note, and it is discouraging to note, that the Board recognized that there are up to 5,000 deaths each year because of child abuse.

We need strong, swift action to protect the child and punish the abuser. Such action is far overdue. Children must have special protection as victims or witnesses in the justice system because of their age and vulnerability and deserve safeguards to assure they are free from further emotional harm occasioned by judicial proceedings.

This amendment would ease the process by allowing a child to give testimony by way of two-way closed circuit video, by allowing the use of anatomical dolls to describe acts of abuse, and allowing a child to have a child attendant; that is, someone who sees to the needs of that child and including emotional needs.

The child victims bill of rights extends protection to children beyond the courtroom. A critical step in protecting our children is to identify child victims before it is too late. My proposed bill of rights requires certain professionals to identify who they suspect are victims of abuse and neglect.

Another important protection for children in this legislation is that of mandatory check for all employees working with children on Federal land or in Federal facilities. I mentioned earlier today in a statement I gave on this floor, Mr. President, that we had testimony before the Indian Affairs Committee that 20 percent—one out of every five Indian children—are sexually abused; 20 percent. Is there need for this legislation? Of course, there is need for this legislation.

There is no excuse for hiring known child abusers to work in child care facilities, classrooms, as youth group leaders. Yet, it has happened time and time again. And abuse, preventable abuse, has occurred.

I am extremely encouraged by the response to this legislation. We have numerous organizations and individuals who are supporting this legislation, and I ask unanimous consent that a list of these advocacy groups and other organizations be made part of this RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONTRIBUTORS TO LANGUAGE

American Bar Assocciation;
National District Attorneys Association;
National Center for Missing and Exploited Children;
National Organization for Victim Assistance (NOVA);

National Victim Center; and
Children's Defense Fund.

ENDORSEMENTS

National Network for Victims of Sexual Assault;
National Committee for Prevention of Child Abuse;
Coalition Against the Sexual Abuse of Young Children;
The American Humane Association;
Mississippi Committee for Prevention of Child Abuse;
National Association for Counsel for Children;
State of Utah, Department of Social Services, Division of Family Services;
State of Maine, Department of Corrections;
State of California, Department of the Youth Authority;
State of Georgia, Department of Human Resources, Division of Family and Children Services;
State of Arizona, Governor's Office for Children;
State of Kansas, Department of Social and Rehabilitation Services;
State of Maryland, Juvenile Services Agency;
Anne Arundel County, Maryland Juvenile Victim/Witness Program;
National Coalition to Ban Handguns;
Robert W. Bensel, MD, MPH, University of Minnestoa, School of Public Health, Division of Human Develpment.

Mr. REID. I also feel it appropriate to identify and recognize that the chairman of the Judiciary Committee, the Senator from Delaware, is responsible for title I of this amendment. This is to his direct credit. He and his staff have worked for months, in fact 16 months, to arrive at a point where now this legislation is before the Senate.

Specifically, title I is credited entirely to Senator BIDEN. This adds more bite to my original bill, now amendment, by sending repeat child abusers to prison for many, many years. This title will actually keep the abusers off the streets and away from our children.

I commend the Senator from Delaware for recognizing the great need for a Federal law that protects children and allows the crimes that are perpetrated to now be brought before the court. That is what this legislation will do.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Is the Senator from Delaware opposing this amendment?

Mr. BIDEN. No, I say to the Presiding Officer, the Senator from Delaware is supporting and cosponsoring the amendment.

The PRESIDING OFFICER. The time in opposition then, I take it, will be controlled by the Senator from South Carolina.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I fully endorse and support this amendment, and I now yield 5 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I support this bill. I am usually opposed to laws that make Federal crimes out of conduct previously punishable as a State crime. But by federalizing child abuse violations occurring in conjunction with drug activity, S. 1965 will mark such a bold step forward in the ability of prosecutors to discover and punish this form of criminal activity that it should be supported.

It is entirely appropriate that the Federal Government should take the lead in strengthening the ability of prosecutors to bring child abuse cases. For too long it has been the Federal courts—through nonconstitutional rules concerning pretrial interrogation and judge-fashioned exclusionary rules—that have stood in the way of effective enforcement.

The inability of some children to testify effectively is not the only problem with child abuse prosecutions. Another principal reason, if not the main reason, why our system fails is because known, confessed, admitted child abusers are continually allowed to go free—often to return to a home situation in which the abuse occurred. This happens because too many of our Federal judges place a higher value on procedural niceties than on truth.

As regrettable as it is that a criminal who has voluntarily confessed his crime should be allowed to go free, that outrageous result is entirely indefensible in child abuse situations where the criminal and victim are so often related or otherwise linked.

Most State judges would not, I suspect, choose to return an abused child to the home where the abuse was suffered at the hands of an admittedly guilty parent or stepparent, simply because a technical right—unrelated to guilt or innocence—has been violated. But the Federal Government has taken that decision away from the States. If a Miranda violation has occurred, however technical, the confessed defendant cannot be convicted on the basis of his or her confession. All civil rights violations should be punished, but it is simply irresponsible to ignore the plain evidence that a crime against a child has occurred.

I would like to read one quotation that eloquently summarizes the problem:

> [C]rime will not be effectively abated so long as criminals who have voluntarily confessed their crimes are released on mere technicalities. The traditional right of the people to have their prosecuting attorneys place in evidence before juries the voluntary confessions and incriminating statements made by defendants simply must be restored. * * *

I agree with those remarks. They are the views of a majority of the members of the Judiciary Committee of the U.S. Senate, as they stated in reporting 18 U.S.C. 3501 to the floor in 1968, a law that applies only to Federal prosecutions.

By enacting S. 1965 and bringing at least this one limited class of children within the expanded protection for victims that 18 U.S.C. 3501 provides under Federal law, we will finally take a first step in freeing the States from the two-decade old tyranny of the Miranda case.

S. 1965 tells judges in child abuse cases that they no longer have to turn a blind eye to clear instances of child abuse. If, considering all of the circumstances, the court is convinced that the defendant voluntarily confessed to child abuse, then, under 18 U.S.C. 3501, the confession can be admitted in court, and, where appropriate, in proceedings to remove the child from the home. That, I submit, shows true concern for child abuse; not just the ability to throw money at a problem.

S. 1965, by bringing one class of child abuse cases into the Federal system, still ensures that coerced confessions will not be admitted. It just will not allow completely voluntary ones to be withheld, as a rigid application of Miranda too often does.

Let me illustrate my remarks by citing one typical case, in State versus Oldham, a 1981 Missouri case, a stepfather voluntarily confessed—fully and freely—to having committed horrible acts of child abuse with respect to his 2-year-old stepdaughter, acts requiring hospitalization and surgery. However, Oldham's conviction was thrown out of court. Here is why.

When the defendant was first brought to the police station after being arrested he was informed of his Miranda rights. He indicated that he had no statement to make and he spoke by telephone to his attorney who advised him to remain silent. Soon after that time, his arresting officer was relieved of duty.

When a new shift came on, the supervising officer was unable to determine from the file whether Oldham had been read all of his rights. He sent a policewoman to read him his rights again. The policewoman told the defendant that she needed to be certain that he knew his rights. The defendant answered that he did know his rights, had talked to his lawyer, but nevertheless wanted to confess to his crime. As he began to make a statement, the policewoman once more reminded the defendant that he could "stop making a statement at any time he wished." Nevertheless, the defendant continued his confession.

Despite the clear evidence that the confession in the Oldham case was voluntarily given and was not the result of any coercion, two Missouri appellate courts concluded that Federal law required them to release the prisoner. They held that once a defendant in-

vokes his right to remain silent, no subsequent confession is admissible in court. The defendant was allowed to return home to live once more with the stepdaughter he had abused.

It is simply immoral to return an injured child from the hospital straight back to the home of her confessed abuser. Any judge-fashioned remedy that would allow such a thing to happen does not deserve the name of law. It allows judges to think that they are enforcing civil rights while the more important rights—those of a defenseless 2-year-old girl—are simply ignored.

I am for the rights of abused children: I want to see their admitted abusers punished, and I want to see that the crime cannot occur again. That is why I support S. 1965's limited attempt to bring sanity to this area of the law—at least with respect to child abuse occurring in conjunction with drug activity.

Mr. President, I thank the distinguished Senator from Nevada for his leadership in this matter. I appreciate it. I think he is doing the country a great service. He is doing families everywhere a great service, and certainly kids who are subject to child abuse a great service, kids who generally cannot support themselves and defend themselves.

He is doing a great job here today and I appreciate it. I also appreciate the distinguished Senator from South Carolina and his leadership on this issue through the years.

I yield back whatever time I have.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. In just brief response to the Senator from Utah, it is important to note this morning I gave a statement on this subject in this body, and at that time I acknowledged an endorsement that had been given to this legislation by the State of Utah Department of Social Services, Division of Family Services. They have been most helpful, and I recognize the services the State of Utah has rendered, in addition to the Senator from Utah.

I very much appreciate the kind remarks of the Senator from Utah.

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Do the Senators yield back their time on the first-degree amendment?

Mr. BIDEN. Mr. President, I would like to take 60 seconds. What I would like to do is follow what Senator REID had said and not only thank the Senators involved, but, quite frankly, thank Mary Booth, of his staff, who has done a phenomenal job working on this, and Ann Howard, on my staff, on this side of the aisle, who, quite frankly, put an extraordinary amount of work into seeing this come to fruition. I want to thank them both publicly.

We are fully prepared to accept the amendment of the Senator. I understand the Senator from South Carolina now has an amendment in the second degree which, after he presents it, we will accept, and the Senator from Wisconsin has an amendment in the second degree which I believe both sides are willing to accept as well.

Mr. THURMOND. I ask the amendment be reported.

The PRESIDING OFFICER. If the Senator will withhold a second. The Senator from Nevada has to yield back his time in order for us to proceed.

Mr. REID. Mr. President, one housekeeping matter, if I may. I ask unanimous consent that my amendment include as cosponsors Senator LAUTENBERG of New Jersey, and Senator GRAHAM of Florida.

The PRESIDING OFFICER. Without objection, it is so ordered. Does the Senator yield back his time?

Mr. REID. I yield back my time.

The PRESIDING OFFICER. All time is yielded back on the first-degree amendment.

Mr. THURMOND. We yield back our time.

AMENDMENT NO. 2087 TO AMENDMENT NO. 2086

(Purpose: To limit pornography against children and to enhance penalties for crimes committed against children)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, Mr. DOLE, and Mr. HATCH, proposes an amendment numbered 2087 to amendment No. 2086.

Mr. THURMOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Protection Restoration and Penalties Enhancement Act of 1989".

TITLE I—RESTORATION OF RECORDKEEPING REQUIREMENT

SEC. 101. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter nay be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful—

"(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsection (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

"(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce; which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of this statement or the records required to be kept.

"(g) The Attorney General shall issue appropriate regulations to carry out this section.

"(h) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title:

"(2) 'Identification document' has the meaning given that term in section 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

"(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of

this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.".

SEC. 102. EFFECTIVE DATE.

Subsections (d), (f), (g), (h), and (i) of section 2257 of title 18, United States Code, as added by this section shall take effect 90 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by subsections (d), (f), (g), (h), and (i) of section 2257 within 60 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 and of any regulation issued pursuant thereto shall take effect 90 days after the date of the enactment of this Act.

TITLE II—SEXUAL ABUSE PENALTIES

SEC. 301. AGGRAVATED SEXUAL ABUSE OF CHILDREN.

Section 2241(c) of title 18, United States Code, is amended by—

(1) striking "any term of years" and inserting "not less than 30 years";

(2) inserting "(1)" before "Whoever"; and

(3) adding at the end thereof the following:

"(2) Whoever—

"(A) engages in any conduct which violates the provisions of paragraph (1) after a prior conviction under such paragraph has become final; or

"(B) violates the provisions of paragraph (1)—

"(i) by using force against the other person; or

"(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping,

shall be sentenced to mandatory life imprisonment without release.".

SEC. 302. SEXUAL ABUSE OF A MINOR.

Section 2243(a) of title 18, United States Code, is amended by striking "five years" and inserting "15 years".

SEC. 303. ABUSIVE SEXUAL CONDUCT.

Section 2244(a) of title 18, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively; and

(2) inserting after paragraph (1) the following:

"(2) section 2241(c) of this title had the sexual contact been a sexual act shall be fined under this title, imprisoned not more than 30 years, or both;"

SEC. 304. SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended to read as follows:

"(d) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not mroe than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without released and fined not more than $500,000.".

SEC. 305. SELLING OR BUYING OF CHILDREN.

Section 2251A of title 18, United States Code, is amended—

(1) in subsection (a) after paragraph (2) by strriking "20 years" and inserting "30 years"; and

(2) in subsection (b) after paragraph (2) by striking "20 years" and inserting "30 years".

SEC. 306. CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING SEXUAL EXPLOITATION OF MINORS.

Section 2252(b) of title 18, United States Code, is amended to read as follows:

"(b) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not more than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without release and fined not more than $500,000.".

SEC. 307. That section 2252(a) of Title 18, United States Code, is amended—

(1) by striking "or" after the end of paragraph (1);

(2) by inserting "or" after the ";" at the end of paragraph (2); and

(3) by adding at the end of paragraph (2) the following new paragraph:

"(3) knowingly possesses or views any visual depiction that has been transported or shipped in interstate or foreign commerce, or has reason to know that such visual depiction will be transported or shipped in interstate or foreign commerce, by any means including by computer or mail, if—

"(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct;' and

(B) Such visual depiction of such conduct;".

Mr. THURMOND. Mr. President, today, I am offering a second degree amendment to the pending amendment. The underlying amendment offered by my colleague from Nevada is substantially similar to S. 1965, a bill introduced by Senator BIDEN and currently before the Senate Judiciary Committee. The underlying amendment seeks to reform the criminal justice system to achieve three major goals: First, to bring to the bar of justice those who abuse children; second, to treat child victims more gently; and third, to handle child abuse cases more efficiently. Without question, these are admirable goals and I do not oppose the underlying amendment. In fact, the second-degree amendment which I am offering would achieve two additional goals—to ensure that those who abuse and exploit children are appropriately punished; and to prevent the production, dissemination, and possession of child pornography.

This amendment will enhance the current criminal penalties for certain serious crimes against children, corrects a provision of the Child Protection and Obscenity Enforcement Act of 1988 declared unconstitutional by a Federal district court, and prohibits the possession and viewing of child pornography. This amendment is similar to S. 1825, which I introduced along with Senator DECONCINI last November, and S. 2481, which I introduced on April 20, 1990.

Congress, in order to insure that our children are protected from further harm, must continue to strengthen our Nation's criminal laws. This amendment meets this responsibility by enhancing the criminal penalties for various, serious crimes against children. Any individual who chooses to commit a vicious, inhuman act against a child deserves to be punished to the fullest extent of the law.

Mr. President, this amendment enhances the current penalties for certain crimes against children. For example, anyone who commits aggravated sexual abuse against a chld under the age of 12, shall be sentenced to a mandatory minimum sentence of 30 years. In addition, any individual who sexually exploits a minor, any parent who knowingly permits such exploitation, or any person who knowingly distributes child pornography shall be sentenced to a mandatory minimum of 30 years imprisonment. Finally, the current mandatory minimum for the buying or selling of children is increased from 20 to 30 years. Second convictions for any of these offenses results in life imprisonment.

Additionally, the bill includes a provision identical to a bill Senator DECONCINI and I introduced which corrects the record keeping provisions of the Child Protection and Obscenity Enforcement Act so that it will comply with a U.S. district court's decision in the case of American Library Assocation versus Thornburgh. It would require producers of pornographic material to maintain individually identifiable records of every performer's name and age to insure that those performance are not minors. Anyone who fails to keep such records, falsifies such records, or knowingly transfers pornography which does not contain a statement describing where such records can be found, will be subject to up to 2 years imprisonment. In keeping with the district court's opinion, the legislation insures that the information contained in these records, or the failure to keep such records, cannot be used as evidence or child pronography or related offenses. Such information can be used as evidence only to prosecute individuals for a violation of the recordkeeping requirements.

This provision is constitutional and addresses every point raised by the court in the American Library case, those being:

First, the recordkeeping requirement is free standing and creates no presumptions.

Second, the only duty for original records is imposed upon producers, not distributors or retailers.

Third, distributors or retailers need only determine that the material has a statement regarding location of the records and is not responsible for truthfulness.

Fourth, the bill requires records only for material depicting actual sexual conduct.

Finally, this amendment prohibits the possession or viewing of child pornography. Current law prohibits the

knowing transportation, distribution, receipt or reproduction of child pornography which has traveled in interstate commerce. Those who simply possess or view this material are not covered by current law. This legislation corrects this insufficiency. It is consistent with the U.S. Supreme Court's decision in Osborne versus Ohio. Tough penalties for the possession, viewing, and dissemination of this material will be a deterrent to those who would sexually exploit children. Violators of this provision would be subjected to as much as 10 years imprisonment.

Mr. President, these crimes are some of the most heinous acts anyone can commit. Frankly, I am at a loss for any crimes more deserving of these serious penalties than the sexual abuse and sexual exploitation of our young people. Tough penalties which will be a deterrent, and which will appropriately punish those who steal the innocence away from our children, are essential.

For these reasons, I urge each of my colleagues to support this important amendment.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 10 minutes.

Mr. BIDEN. Mr. President, all of us, obviously, hate child pornography and we deplore the exploitation of the most innocent members of our society. That is why this Senator and, I suspect, an overwhelming majority of Senators have voted for the Child Protection and Obscenity Enforcement Restoration Act of 1988. That is why they and I will vote for this pending amendment.

Though I support Senator THURMOND's efforts to stamp out this terrible problem, nevertheless I have some misgivings about the amendment and feel obliged to point them out, notwithstanding the fact I will support the amendment.

These concerns relate to the recordkeeping requirement. My main concern here is that this statute covers not only the child pornography we hate but the adult images that our Constitution protects. In my view, if a judge decides that the interpretation of our recordkeeping statute is correct, the pending amendment does not go far enough to correct an existing constitutional problem.

The amendment would require a host of procedures in the stream of commerce that what the judge found too burdensome to "personally contact the model and performer and personally ascertain the model and/or performer's age, current name, maiden name, professional name, and other information," when, in fact, they are not the producers and distributors of the film. The pending amendment changes only one feature found objectionable by the district court. It is not clear whether it succeeds in that effort.

This amendment would make it a felony to sell constitutionally protected pornography of an adult simply because no records of the adult's age were kept. I abhor child pornography as much as any other Senator, but I also have an obligation to point out that where child pornography is not involved, where the images are of adults and they are not obscene, I have doubts about whether the law will stand constitutional scrutiny. I support the recordkeeping part of the amendment, and I hope that it will work, but I must acknowledge that I do have my doubts.

Notwithstanding that, I fully support the intention of the Senator from South Carolina, and I am prepared to accept the amendment. I suggest we vote on it. I urge the adoption of the amendment of the Senator from South Carolina.

I yield back all time.

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2087) was agreed to.

Mr. BIDEN. Mr. President, I yield to the Senator from Wisconsin, who also has an amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 2088 TO AMENDMENT NO. 2086

(Purpose: To provide funding for the treatment of juvenile offenders who have been the victims of child abuse and neglect)

Mr. KOHL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] proposes an amendment numbered 2088 to the amendment No. 2086.

Mr. KOHL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

SEC. . TREATMENT FOR JUVENILE OFFENDERS WHO HAVE BEEN THE VICTIMS OF CHILD ABUSE AND NEGLECT.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to public and private nonprofit organizations with experience in treating the victims of child abuse and neglect to provide treatment for juvenile offenders who have been the victims of child abuse and neglect.

(b) FUNDING.—There are authorized to be appropriated—

(1) $15,000,000 for fiscal year 1991; and

(2) such sums as are necessary for fiscal years 1992 and 1993,

to carry out this section.

Mr. KOHL. Mr. President, a Federal advisory panel yesterday released a report calling the Nation's attention to the emergency posed by child abuse and neglect. Reported cases of child abuse in this country have soared from 60,000 in 1974 to 2.4 million in 1989. According to the report, countless children each year are being "starved and abandoned, burned and severely beaten, raped and sodomized, berated and belittled." Tragically, many of these children will end up in the juvenile justice system.

As the Judiciary Committee established in 1983 when my distinguished colleague from Pennsylvania, Mr. SPECTER, chaired the Juvenile Justice Subcommittee, there is a clear relationship between child abuse, juvenile delinquency, and adult criminality. Studies indicate that children who have been abused or neglected are five times more likely to be delinquent. A review of juvenile court records in New York State showed that delinquents with a history of child abuse were twice as likely to commit physical assault, 24 times as likely to commit arson, and 58 times as likely to commit rape than their peers.

My amendment is an attempt to break this cycle. It would authorize $15 million to fund treatment for juvenile offenders who have suffered abuse or neglect. At present, only a handful of OJJDP [Office of Juvenile Justice and Delinquency Prevention] dollars are spent on such treatment programs. But experts say that anywhere from 30 to 75 percent of the 700,000 young people who go through the juvenile justice system each year suffered serious physical or sexual abuse as children.

Mr. President, yesterday's report charged "all Americans should be outraged by child maltreatment." It challenged the President, Congress, State, and local governments and the private sector to take immediate action. This amendment offers the Senate an opportuntiy to do just that. I commend Senator REID and the distinguished chairman of the Judiciary Committee, Senator BIDEN, for supporting this amendment. We urge our colleagues on both sides of the aisle to join us.

I thank the Chair. I yield back the remainder of my time.

Mr. BIDEN. Mr. President, the realization that many youth involved in criminal activity have suffered physical and sexual abuse—at home and on the streets—is not new to us. But knowing that a child who has been abused or neglected is five times more likely to be delinquent than a child who has not suffered abuse—and knowing that more child abuse cases were reported last year than ever before—makes it incumbent on us to provide treatment for abused children

who have entered our juvenile justice system.

Without treatment, these children are certain to revisit juvenile detention time and time again, until they wind up, as adults, in prison.

In 1983, this committee—the Juvenile Justice Subcommittee—gathered witness testimony that outlined the relationship between child abuse, neglect, and juvenile delinquency. Testimony revealed that 97 percent of male recidivist hard core delinquents have a history of severe physical abuse.

The committee also learned that in New York State, an abused child is twice as likely to commit a physical assault, 24 times as likely to commit arson, and 58 times more likely to commit rape, than nonabused youth.

Most recent data reveals that on any given day, there are 92,000 youth held in custody by juvenile court facilities. In a year's time, over 800,000 youth will be admitted to juvenile facilities, and thousands more are placed on probation, but not detained by the court.

Reportedly, 90 percent of the children involved with the juvenile court have substance abuse problems. And knowing that 97 percent of hard core delinquents have suffered severe child abuse, we can see a link between—not only between drugs and child abusers, as my bill points out, but also between drugs, the victims of child abuse and juvenile delinquency. Thus, it is appropriate to add Senator KOHL's amendment to my bill which focuses our attention on drug-related child abuse.

Mr. THURMOND. Mr. President, I am in favor of the amendment and willing to yield back our time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment.

The amendment (No. 2088) was agreed to.

Mr. BIDEN. I urge adoption of the Reid amendment, as amended.

The PRESIDING OFFICER. The question is on agreeing to the Reid amendment, as amended.

The amendment (No. 2086), as amended, was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, we are going to alternate amendments on our list between Democrats and Republicans.

Mr. THURMOND. I yield to the distinguished Senator from Mississippi such time as he may require.

AMENDMENT NO. 2089

(Purpose: To require that all prisoners work, to expand prison labor opportunities, and to expand the capacity of the Federal and State prison systems)

Mr. LOTT. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for himself, Mr. DOLE, and Mr. HELMS, proposes an amendment numbered 2089.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following new sections:

SEC. 01. MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include—

(A) State and local public works projects and infrastructure repair;

(B) construction and maintenance of prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—A Federal prisoner may be excused from the requirement to work only as necessitated by—

(1) security considerations;

(2) disciplinary action;

(3) medical certification of nearly total disability such as would make it impracticable for prison officials to arrange useful work for the prisoner to perform; or

(4) a need for the prisoner to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or similar programs in addition to the work program.

(c) USE OF FUNDS.—Except as provided by other law, any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

SEC. 02. EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

Section 1761(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by striking the matter preceding paragraph (2), as redesignated by paragraph (1) of this section, and inserting the following:

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

"(1) are participating in—

"(A) a Federal labor intensive prison work program operated by the Director of the Bureau of Prisons; or

"(B) one of not more than 50 non-Federal prison work pilot-projects designated by the Director of the Bureau of Justice Assistance; and"; and

(3) in paragraph (2), as redesignated by paragraph (1) of this section, by amending subparagraph (B) to read as follows:

"(B) reasonable charges for room and board, as determined by regulations issued by the Director of the Bureau of Prisons, in the case of a Federal prisoner, or the chief State correctional officer, in the case of a State prisoner.".

SEC. 03. EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Director of the Bureau of Prisons shall institute a prison work program through contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

SEC. 04. PRISON EXPANSION AND TENT CAMP ACT.

(a) SHORT TITLE.—This section may be cited as the "Prison Expansion and Tent Camp Act".

(b) TEMPORARY PRISON FACILITIES AND EXPANDED CAPACITY.—

(1) FINDINGS.—The Congress finds that—

(A) the increasing problem of prison overcrowding has reached a point of crisis;

(B) prisoners continue to be released from jail before they have served the full term of their sentences; and

(C) in order to protect society, the Nation must expand the capacity of the Federal and State prison systems through the use of innovative and cost-efficient means, such as old military bases, surplus Federal property, and tent camps.

(2) PRIORITY FOR DISPOSAL OF CLOSED MILITARY INSTALLATIONS.—

(A) PURPOSE OF PARAGRAPH.—The purpose of this paragraph is to clarify that the order of priority for acquiring property and facilities under the Base Closure and Realignment Act for use as prison facilities is first to the Attorney General and second to the States, the District of Columbia, and the territories of the United States.

(B) AMENDMENT OF BASE CLOSURE ACT.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) is amended to read as follows:

"(3)(A) Notwithstanding any other provision of this title or any other law, before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title the Secretary shall—

"(i) notify the Attorney General and the Governor of each State, the Mayor of the

District of Columbia, and the Governor of each of the territories and possessions of the United States of the availability of such real property or facility; and

"(ii) transfer such real property or facility, or portion thereof, in accordance with the procedure set forth in subparagraphs (B), (C) and (D).

"(B) Subject to subparagraph (C), the Secretary shall transfer real property or a facility, or portion thereof, referred to in subparagraph (A) in accordance with the following priorities:

"(i) To the Department of Justice, if the Attorney General certifies to the Secretary that the property or facility, or portion thereof, will be used as a Federal prison or other Federal correctional institution.

"(ii) To a State, the District of Columbia, or a territory or possession of the United States, if the Governor of the State, the Mayor of the District of Columbia, or the Governor of the territory or possession of the United States certifies to the Secretary that the property or facility, or portion thereof, will be used as a prison or other correctional institution.

"(iii) To any other transferee pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(C) The Secretary shall transfer any real property or facility or any portion thereof referred to in this section in accordance with the Federal Property and Adminsitrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(D) Before making a decision concerning a transfer of real property or a facility pursuant to this title, the Secretary of Defense shall—

"(i) consult with the Governor of the State and the heads of the local government of the jurisdiction in which the property or facility is located; and

"(ii) consider any plan by the local government concerned for the use of the property or facility.".

(3) SURPLUS FEDERAL PROPERTY.—

(A) Not later than 180 days after the date of enactment of this Act, the Administrator of the General Services Administration, in consultation with the Attorney General, shall identify and make a list of not less than 20 percels of surplus Federal property, which the Attorney General has certified are not needed for Federal correctional facilities but which may be suitable for State or local correctional facilities.

(B) AVAILABILITY TO STATES.—Notwithstanding any other law, any property that is determined to be suitable for use as a State or local correctional facility under subparagraph (1) shall be made available to a State, the District of Columbia, or a local government, for such use, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(4) COST-EFFICIENT PRISONS: TENT CAMPS.—

(A) AUTHORIZATION.—The Attorney General may use tent housing, on a temporary basis, for Federal prisoners at the military facilities acquired under the Base Closure and Realignment Act and at any other Federal prison facility. The length of the use of such housing shall be at the discretion of the Attorney General.

(B) STATE USE.—The States are authorized and encouraged to consider using temporary tent housing to house prisoners instead of releasing them before they have completed their full sentences.

(C) APPROPRIATE REMEDIES FOR OVERCROWDING.—

(i) Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3626. Appropriate remedies with respect to prison overcrowding and the use of tent housing

"(a) A Federal court shall not hold the use of temporary tent housing unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that such housing causes the infliction of cruel and unusual punishment of that particular inmate.".

(ii) The table of sections for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3626. Appropriate remedies with respect to prison overcrowding and the use of tent housing.".

(c) COST SAVING MEASURES.—

(1) IN GENERAL.—The Director of the Federal Bureau of Prisons (referred to as the "Director") shall seek to cut the cost of prison construction by reducing expenditures for color television, pool tables, cable television, air conditioning, and other amenities.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director shall submit to Congress a description and summary of the results of the cost saving efforts made pursuant to paragraph (1).

Mr. LOTT. Mr. President, before I begin to discuss this amendment, I would like to thank all those who have been involved in working out the process whereby some additional amendments could be offered to this all-important crime legislation. I do not know all those who were involved in the negotiations, but I know our distinguished leader from South Carolina, Senator THURMOND, was involved, along with Senator BIDEN, Senator GRAMM, and a number of others.

I want to thank the leadership, Senator MITCHELL and Senator DOLE, for not giving up on this very important package. I have complained vociferously over the past few weeks; it almost looked like somebody had stolen the crime package. But obviously, thank goodness, they did not.

So here we are this afternoon, going forward with this very important legislation with some extraordinary important amendments. I am pleased we have this opportunity, and I thank the leadership.

I am pleased that a number of Senators support this legislation, but I particularly want to point out that Senator DOLE, who has long been involved in the leadership of the Prison Industry Issue, has language in this amendment, as well as Senator HELMS of North Carolina. So I am very pleased to have them involved in the amendment this afternoon.

Mr. President, in 1990, the American taxpayers will pay over $1.1 billion to house, feed, and service the inmates of our 66 Federal prisons. And yet, after all the money is spent, our prisons will still be overcrowded and our inmates will often return, having been unable to adjust to life outside confinement. This situation has led to an alarming 113 percent increase in our prison population since 1980.

We must reevaluate the priorities of our correctional system and how our money is being spent. We need to search for common sense.

This amendment is a commonsense approach to our greatest correctional problems: recidivism, expense, and overcrowding.

In his article, "Turning Warehouses Into Factories With Fences," former Chief Justice Warren Burger listed the steps necessary to improve our correctional system. His No. 1 recommendation was to require inmates to work.

They should work. They should pay the price of their crimes and should be required to help pay the price of their incarceration.

This amendment would require all Federal prisoners to work as long as they are physically capable and are deemed safe. While the prisoners are learning to hold jobs, they will be providing much needed funds to our corrections budget and a variety of services to the public. Whether cleaning our highways or helping to build new prisons, they will be contributing to society instead of detracting from it. As the former Chief Justice so accurately noted, our prisons must be more than human warehouses.

Many of the jobs they can do, much of the training they can receive, would be beneficial to them after they get out of the prisons.

To create these new jobs for the inmates, this amendment would expand the Private Sector/Prison Industry Enhancement Certification Program, or PIE as it is commonly called.

Created in 1979 with 7 pilot programs, PIE's cap was raised in 1984 to its current level of 20, under the leadership of our distinguished Republican leader, BOB DOLE, and others. Since 1980, PIE has successfully reached its legal limits while working with small business and labor interests. This amendment would allow an additional 30 PIE participants, for a total of 50 non-Federal programs.

By increasing PIE's cap, we could immediately consider the eight current applicants waiting for certification. Those applicants include the departments of corrections in Delaware, Massachusetts, South Dakota, Vermont, and Tennessee.

In Tennessee, prison officials already have plans to employ 100 inmates to produce shoes, and they hope to build to a workforce of approximately 700 prisoners.

In addition, this amendment directs the Federal Bureau of Prisons to initiate PIE programs on the Federal level under the leadership of the Bureau's director. The Federal programs would meet the same standards as the non-Federal programs.

I met today with the director of The Federal Bureau of Prisons to discuss this initiative, and he supports it.

Under PIE, the inmates receive comparable wages with the understanding that deductions will be made. This chart represents those deductions.

The first deduction is State and Federal taxes. They would be paying taxes, and certainly we need that. Paying taxes is a new experience for many of these inmates and one they must learn to accept as law-abiding citizens.

The second deduction is room and board. In most cases, this averages between 20 and 25 percent of the inmate's earnings. This will ease the financial burden on our taxpayers.

Five to twenty percent of the wages are deducted for victim compensation. We cannot forget the victims of these crimes. Often, victims face financial losses that are never regained. The people who cause the problem should pay for the victim's needs. And in this case the prisoners would be able to do that.

Many programs make further deductions as the cases permit. Some programs require the inmates to pay family support, make contributions to their legal expenses, or withhold income for savings programs.

The combined deductions cannot exceed 80 percent of the inmate's gross wages.

This amendment does not grant the prisoners the right to work. It does require the Federal Bureau of Prisons to work the prisoners and offer substantial benefits both to society and the individual inmates.

For the prisoners, many will receive training, and some will save money, which can ease their transition back into society.

I saw a report on one inmate who actually had enough savings that upon his release, he was able to make a downpayment to get into a small business.

By working, prisoners establish a routine similar to the one they will need if they are to become law-abiding members of their communities.

But more importantly, they will redefine how they view themselves. Recently, I watched a number of interviews with PIE participants. The inmates used words such as dignity, respect, pride, responsibility, and self esteem. These are words that are not commonly associated with inmates or their self descriptions.

If we can instill higher self esteems and stronger work ethics in the prisoners, that alone will justify expanding this program.

There are also numerous benefits for society:

In addition to the benefits to taxpayers and victims, communities will have access to a large and cheap labor pool to perform tasks they could otherwise not afford such as street maintenance or landscaping.

The biggest benefit though will be that we will train them, we will have a better motivated ex-convict, who will be able to go out and seek employment. And it will be less likely that he or she will return after repeating the crimes. The bottom line is that prisoners should work.

I urge the Senators to go back to their home States and ask their constituents this question. Should prisoners work? I think most taxpayers would be shocked to realize that prisoners are not actually working.

For their good and for the good of the community they should be working.

On May 24, 1990, the Sun Herald, one of Mississippi's largest newspapers, endorsed this work proposal. The article states:

Honest labor has dignity, it instills a sense of worth and accomplishment and it provides training that can be useful when convicts return to society.

Mr. President, I ask unanimous consent that the entire editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IT'S ABOUT TIME CONVICTS GO TO WORK

Sen. Trent Lott is advocating two radical changes in the lifestyles of federal convicts and both of the changes are long overdue.

For one, he would make it mandatory for all prisoners to work. The only exceptions would be where security, discipline or a health disability mandated otherwise.

Another change would withhold all federal payments of money from everyone in prison for violent crimes or drug trafficking.

The provisions are contained in amendments to a Senate package aimed at strengthening present law, boosting enforcement, facilitating prosecutions and increasing the capacity of federal prisons by adding 24,000 new beds.

Taxpayers have no choice but to bear the cost burdens of prisons to remove offenders from society, but that doesn't mean taxpayers must support a lifestyle of leisure for the convicts.

Honest labor has dignity, it instills a sense of worth and accomplishment and it provides training that can be useful when convicts return to society. Furthermore, any money earned by prison labor would go to operate and build prisons and to compensate victims of crime, both quite appropriate uses for the money.

There is no justification for taxpayers supporting federal payments to criminals while they are in jail. They are being furnished food, clothing and shelter. They should forfeit their right to any loans, grants, Social Security or other federal payments as long as they are incarcerated.

As written, this amendment permits adjustments where needed to prevent dependents of prisoners from suffering impoverishment. The withholding is directed at the lawbreakers, as it should be, and not at innocent dependents.

Congress should enact both of Lott's amendments.

Mr. LOTT. Mr. President, my good friend, the late Congressman Larkin Smith was a law enforcement officer who turned lawmaker as a Member of Congress, and he saw the benefits of inmate work programs. Under his leadership inmates in the Harrison County jail worked and even provided their own food.

In that county we had a vessel that was seized from drug runners. This crabber was taken over by the Coast Guard and taken around to the Mississippi gulf coast. The sheriff used that crabber during the day for the prisoners to shrimp for food which they ate, and at night it became part of his coast patrol force to interdict drug runners. That is getting your money's worth. You take a confiscated crabber, the prisoners used it to work, catch their own food, and at night you use it to fight other drug runners. That can be done, and that story can be repeated all over this country.

He also supported a return to convict road crews. He had a problem housing these prisoners. Do you know where he put them? As Senator HELMS will propose, temporarily he put them in tents. He had a little tent city up there at the fair grounds. It worked great. Tragically Congressman Larkin Smith was killed in a plane crash last August, but his legacy lives on because they now have a brand new jail in Harrison County. They do not have to use tents. But on a temporary basis he used them. Tent prisons could be used in a lot of places. But oh no. Some do not want you to do that. This amendment would allow the use of this innovative measure.

I have vivid memories from my childhood of inmates working on the roads. The message was clear. These were criminals, and this was the price for their crime. It was a deterrent.

The second portion of this bill, entitled "The Prison Expansion and Tent Camp Act," addresses overcrowding problems. I am sure the Senator from North Carolina will discuss the cost effectiveness of this proposal and the fact that we should make use of military bases and tent camps. We must make sure that we do not use overcrowding as an excuse to let these prisoners go.

Finally, the amendment asks the Attorney General to recommend cost cutting measures in the construction of new prisons by limiting the amenities offered inmates. When an individual commits a crime he or she should not expect to have the same luxuries as a law abiding citizen. Shooting pool and watching color TV should be something inmates look forward to after release.

Recently Federal authorities called the sheriff in one of our counties in Mississippi that temporarily houses Federal prisoners who are on the way

to a Federal installation and said, "If you do not get air conditioning we are not going to let you keep our prisoners anymore." Half the people in that county do not have air conditioning, but the prisoners had to have it. And that was taken care of. That is the kind of thing the taxpayers are dealing with.

Mr. President, we have clearly reached the point where changes must be made. With a recidivism rate of over 66 percent in our State and Federal prisons, our current methods have clearly failed.

I strongly urge my colleagues to adopt this amendment and return to commonsense corrections. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, may I ask my colleague? I am not sure it is necessary to have the yeas and nays. In order to save time, we can do this by a voice vote. I do not think he will have any problem prevailing.

Mr. LOTT. Mr. President, I withhold at this point. I would like to check to make sure that is agreeable to everybody. I ask unanimous consent that I may withdraw that request at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I would like, Mr. President, to also ask unanimous consent to insert some material, legislative history, provided by the Senator from Kansas [Mr. DOLE].

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION 01. MANDATORY WORK REQUIREMENTS FOR ALL PRISONERS.

This section is entirely consistent with long standing Bureau of Prisons requirements that all inmates be assigned to work. However, this would add the authority for Federal prisoners, through the Bureau of Prisons, to be assigned to work on state and local public works projects and infra structure repair. Construction and maintenance of prisons includes all buildings and facilities such as factories within the prison setting. Other appropriate labor is anything necessary to assist in the daily operations of the prisons such as preparing of food and cleaning of the facility. The Bureau of Prisons has an outstanding Federal Prison Industry program which is critical to the successful operation of safe, secure, and orderly prisons. Prison industries should continue to strive to employ as many as possible inmates in this constructive and self supporting activity.

While all prisoners shall be required to work, there are of course reasons that inmates may be unassigned from a work detail. Nearly total disability which will make it impractical to work on a long term basis may be infrequent, but short term temporary illness where an inmate may be assigned but unable to report to work would be a fairly regular occurrence. It is recognized that work assignments cannot be inconsistent with medical treatment.

It is also critical for inmates to participate in literacy training, drug rehabilitation problem or similar programs which would take the place of a full time work assignment. These programs are essential in preparing prisoners for release from prison, add to the orderly running of prisons, and assist in development of individuals capable of productive work in free society.

The use of funds generated by labor pursuant to this section which shall be deposited in a separate United States Treasury fund is not to supersede existing Federal Prison Industries funds as currently authorized by Congress. This fund, separate from that operated by Federal Prison Industries using prison industry generated earnings, will be for use by the Attorney General to pay for prison construction, prison operating expenses, and payment of prisoner compensation judgements.

PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM

Section 2 of the amendment gives broad new authority to the Director of the Bureau of Prisons to establish a new labor intensive work program. This program is patterned after the successful but limited program established for state and local corrections industries by the Justice Assistance Act of 1979. That program initially authorized not more than seven to be established. In 1984, that Program was increased to twenty. Although less than 2/10 of one percent of state inmates participated in the program to date, it has been well received by correctional administrators, business, and labor. Inmates have been engaged in productive work, earning prevailing wages and with substantial hope for meaningful employment after release. Now for the first time, the Bureau of Prisons will be authorized to establish a parallel program.

It is envisioned that the Director would establish appropriate procedures patterned after the existing program for the development, review, and approval of these projects. The Director would be the final certifying authority for the programs developed and operated by Federal Prison Industries.

At the same time, the present state and local program would be increased from twenty to fifty. In view of the explosion of inmate populations of both federal and state levels, this is a very modest expansion, amounting to only one project per state. Unlike the Federal system, where the long standing policy has been to provide at least some kind of work experience, at the state level there is widespread and enforced idleness. The pilot projects offer constructive alternatives to meaningless and unproductive confinement in the state systems.

This new authority will mean the establishment of programs where Federal prisonmade goods can be shipped and sold freely in interstate commerce, just as the BJA approved projects can do at the present time at the state level. This indeed is an important exception to the general prohibitions on prison made goods. However, ten years experience at the state and local levels have demonstrated the wisdom and validity of this most critical program. Traditional concerns of labor and business regarding unfair competition from inmate labor have been eased in the operation of the twenty pilot projects. It can be reasonably anticipated that the same experience will be duplicated with the new Federal project.

This Senator wants to emphasize that the intent is to establish labor intensive work programs. This means that jobs will be created in areas where U.S. jobs have already been replaced by foreign labor. Examples that immediately come to mind include. shoe manufacturing and clothing. Electronic assembly work is another industry where the jobs have been lost long ago.

The authority given to charge for room and board applies only to the private sector enhancement program. To the extent possible, the Director will establish regulations that are consistent with those regulations now in place for the state program.

Section 3: The purpose of this section is to clarify the authority of Federal Prison Industries, Inc. to subcontract with government contractors, under such rules and regulations as may be developed by the Director of the Bureau of Prisons. The operations authorized in subparagraph (a) of this section are FPI operations. The operations authorized by subparagraph (b) of this section are operations under the control of the Bureau of Prisons rather than under FPI. Such operations as may be established under subparagraph (b) are separate and distinct from"work release" programs. Work release refers to a situation where the inmate is conditionally released to market his own efforts. Subsection (b) on the other hand refers to a situation where the BOP is the contracting party. The intent is that any funds developed from such a program authorized by subparagraph (b) are to be placed in the general receipts of the U.S. Treasury. Further, the intent of subsection (b) is that only those inmates should be selected for participation who are not currently considered to pose a threat to public safety. The BOP should employ its policies concerning inmate classification to make determinations as to who may participate in such programs.

Page 10: Section 3626(c): Cost Savings Measures:

The Bureau's efforts to contain prison costs will be consistent with its goals of secure, safe, and human incarceration. Actual needs for institutional security and sound inmate management practices shall determine the specific features to be included in prison construction and operations.

Mr. LOTT. I ask unanimous consent that Senator CONRAD BURNS, of Montana, be added as a cosponsor, also that Senator GRAMM of Texas be added as a cosponsor, and that Senator THURMOND be added as a cosponsor.

I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi and Senator from Delaware control the time.

Mr. LOTT. Mr. President, I yield time to the Senator from North Carolina.,

Mr. HELMS. Very well.

Mr. President, I need to inquire how much time remains on this side.

The PRESIDING OFFICER. Three minutes 27 seconds.

Mr. HELMS. Mr. President, we will need a little more than 3 minutes. Do we have some time on the bill to maybe give me 7 minutes?

Mr. BIDEN. Mr. President, if the Senator will yield for a moment, how much time does the Senator from Delaware control?

The PRESIDING OFFICER. The Senator has 14 minutes 38 seconds.

Mr. BIDEN. I am happy to give the Senator from North Carolina 5 minutes of the Senator from Delaware's time.

Mr. LOTT. Will I retain my 3 minutes and 17 seconds, so I can yield to the Senator from Texas? Would that be appropriate?

The PRESIDING OFFICER. If the Senator from North Carolina uses 5 minutes, there would be 2 minutes 45 seconds remaining to the Senator from Mississippi.

Mr. LOTT. Thank you, Mr. President.

Mr. HELMS. Will make out. I think Senator CHAFEE was seeking some time.

The PRESIDING OFFICER. The Senator from Delaware has yielded 5 minutes to the Senator from North Carolina.

Mr. HELMS. Please do not let the clock run yet.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. CHAFEE. Mr. President, I have a quick question of the sponsor. Can he tell me when the total of a minute is gone?

How do the States get into this? We have jurisdiction over Federal prisons? How do States get into that program?

Mr. LOTT. I mentioned that a number of States, including Delaware are interested in the PIE Program. PIE programs currently operate only on non-Federal levels. In the Justice System Improvement Act of 1979, State and local prison systems were given exemptions from various Federal regulations if they met certification standards. By law, seven pilot programs were established. In 1984 the number of non-Federal programs was increased to 20. We now raise the cap to 50, and introduce PIE for the first time on the Federal level.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I am pleased to be a principal cosponsor of this amendment. In order to reduce the number of amendments to the crime bill, the Senator from Mississippi and I agreed to combine our two amendments.

Mr. President, this amendment is very important because our prison system is in a state of crisis. Prisons at both the Federal and State levels are bursting at the seams.

Due to prison overcrowding and court orders, many States release inmates who served only a fraction of their sentences. This is like giving convicted criminals a "Get out of Jail Free Card" to go back to robbing, raping, and killing innocent Americans. The bottom line is that prison overcrowding puts criminals back on the street, thereby increasing crime.

Mr. President, ways must be found to help the States deal with the prison crisis. In order to protect society, we desperately need to increase prison capacity at the Federal level, but also at the State level. The Lott-Dole-Helms amendment will help the Federal Government and the States increase prison capacity by giving them the first shot at some of the bases that will be closed under the Base Closure Act and 20 pieces of surplus Federal property.

Furthermore, the amendment authorizes the use of tent camps at these former military bases, and other prison facilities, on a temporary basis. If tents are good enough for our soldiers, then surely they are adequate for criminals. I think it is time to stop pampering criminals.

And as the Senator from Mississippi explained, the amendment requires prisoners to work. This just makes sense. Finally, the amendment requires the Director of the Bureau of Prisons to cut costs by reducing expenditures for amenities like color television, pool tables, and cable television.

Obviously, it is far better for prisoners to be performing some kind of work instead of playing 8-ball or watching TV all day.

Mr. President, the use of former military bases, surplus Federal property and tent camps are three logical and cost-efficient ways to increase prison capacity and keep criminals in jail—where they belong—instead of back out on the streets robbing and killing people.

Mr. President, if Senators are in doubt that there is a prison crisis, just look at the facts about prisons and the cost to society of crime. As for prison overcrowding, just a few weeks ago, the Department of Justice reported that the Federal prison population reached 52,984, whereas the capacity of Federal prisons is only 32,494. This is 163 percent of their capacity. The State prison population hit 650,703 last June, which is 126 percent of their capacity.

Furthermore, the prison overcrowding problem will only get worse as we crack down on drug dealers and drug users. The Bureau of Prisons projects the Federal prison population will exceed 95,000 by 1995. This past year Congress recognized the need for more prisons and we appropriated $1½ billion for prison construction. This will help increase capacity by 36,000 beds. But the Federal system—under the most optimistic projections—will still be 130 percent over capacity.

The States also are having a very difficult time keeping up with the explosion in prisoners they must incarcerate. As a result, over 41 States are under court order to reduce prison overcrowding.

One way States deal with overcrowding is to release prisoners before they have served their full sentence. In my home State of North Carolina, the typical criminal serves only 29 percent of a sentence for a serious crime and 14 percent for a misdemeanor.

The North Carolina Parole Commission paroled 19,000 prisoners in 1989, which is a 250-percent increase over 1985. Just this past January, the State paroled and released 17 murderers, 23 armed robbers, 23 child molestors, 126 burglars, and 128 drug offenders.

And the story is the same in dozens of other States across the country. This is outrageous, we are putting living time bombs back out onto the streets.

Mr. President, what is the effect of releasing prisoners early? The National Institute of Justice found that 62.5 percent of released prisoners were rearrested within 3 years. The thought of going back to prison doesn't stop 62.5 percent of criminals from committing more crimes once they get out, because they assume they will gain early release again.

A North Carolina official, Secretary Joe Dean, recently gave a good example of how jail time appears to have lost its deterrent effect. He stated that prisoners now refuse even to consider alternatives to jail time, such as electronic monitoring or supervised probation, because they know that if they go to prison, they'll be on the street again in a few months.

The Secretary of Corrections in North Carolina, Aaron Johnson explained that because of the cap on prison population, every time a new prisoner comes in the front door, they must let another prisoner out the back door. As Secretary Johnson says "The public demands more * * * than revolving door justice."

Mr. President, this brings us to the second part of the equation: the cost of society. The National Institute of Justice and the Rand Corp. conducted a study of crimes committed by prisoners in three States. The study found

that the average criminal committed between 187 and 287 crimes per year at an annual cost of $430,000.

This figure dwarfs the average cost of $50,000 to build one new prison bed space. Thus, according to this study, keeping a criminal in jail saves society $380,000 per year.

Finally, a Bureau of Justice Statistics study found that 28 percent of crimes committed would have been avoided if prisoners had served the full length of their sentences. That adds up to hundreds of lives and millions of dollars that could be saved by keeping criminals in jail.

Mr. President, the Lott-Dole-Helms amendment helps increase prison capacity in several ways. First, it gives the Attorney General and States priority to obtain some of the military bases that are being closed. Under current law, the Attorney General must wait in line with all other Federal agencies. The States are even lower on the totem pole.

Mr. President, lest anyone be concerned that this amendment would force any State to put a prison on the old bases being closed in that State, this amendment merely gives the States the first shot at the former bases if the State determines that it wants to put a prison in that facility. Furthermore, the Secretary of Defense must review and consider any alternative plan that the local government may have for the property. This ensures the local governments will have input into the process.

Second, the amendment requires the General Services Administration [GSA] to compile a list of 20 pieces of surplus Federal property that could be used by the States as prisons. This will be particularly useful to those States where there are no military bases being closed.

It's just common sense to convert at least some former military bases, and some surplus Federal property into prisons. It will cost a lost less than building new prisons. The cost could be as low as $4,000 per bed compared to the per bed cost of $40,000 to $100,000 for new prisons. The Federal Bureau of Prisons states in its 1988 report that using former military bases is the most cost efficient method to obtain more space to house minimum security offenders.

President Bush endorsed the idea of using former military bases as prisons in his drug strategy proposal.

Mr. President, the third aspect of this amendment authorizes the Federal Bureau of Prisons and the States to set up tent camps, on a temporary basis, at these former military bases or any other prison facility.

It seems logical that we should do everything possible to avoid the early release of prisoners because of prison overcrowding. If tent camps are needed to keep prisoners locked up, thereby protecting society, we should do so.

Mr. President, the facts show that releasing prisoners early is more costly to society than building more prison space. We have a duty to enact laws that protect society. We can no longer tolerate a prison system that gives prisoners "Get Out of Jail Free" cards merely because of prison overcrowding.

The use of former military bases, Federal surplus property, and tent housing is a cost-efficient method of dealing with the prison crisis and thereby protecting society to a far greater extent than is now the case.

Mr. President, I ask unanimous consent that a letter from Bruce Fein & Associates be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BRUCE FEIN & ASSOCIATES,
Great Falls, VA June 28, 1990.

Hon. JESSE HELMS,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS:

This letter responds to your request for observations on the constitutionality of a statute that addresses Eighth Amendment claims. Your proposed amendment would confine courts to finding an Eighth Amendment violation relating to the use of tents to relieve prison overcrowding only if individual inmates prove that tent shelter inflicts cruel and unusual punishment as to their particular living conditions.

The amendment would clearly pass constitutional muster. Generally speaking, the United States Supreme Court has repeatedly held that any person seeking redress for a constitutional wrong must allege and prove a concrete injury to himself that is caused by the defendant's conduct and that would be repaired by the relief requested. See e.g., *Warth v. Seldon* (1975). Thus, a prison inmate can obtain Eighth Amendment relief from tent shelter only by proving that such housing conditions wantonly inflict pain on him, see *Rhodes v. Chapman* (1981), and that ending tent shelter would end his painful housing plight.

Your amendment does no more than apply the ordinary rules of standing to inmates seeking to prove and obtain relief for constitutional violations based on tent shelter. The amendment would be a salutary reminder to courts narrowly to focus their trial of Eighth Amendment claims on the living conditions of individual inmates, not on penal institutions as a whole. The latter error, for instance, was apparent in *Inmates of Occoquan v. Barry*, (D.C.Cir. 1988).

Sincerely,

BRUCE FEIN.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LOTT. I would like to make note of the fact that the Senator from Texas [Mr. GRAMM] has been very much involved, and I yield him the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas has 2 minutes 36 seconds.

Mr. GRAMM. Let me commend our two leaders on this issue.

We adopted, earlier today minimum mandatory sentencing for firearm violations and for selling drugs to a minor. Those sentences will put people in jail without parole. We are talking about stiff minimum mandatory sentences for extended periods of time.

What this amendment will do is to be sure that while they are in jail, they be put to work. The taxpayers who are paying for the jail have to work. Inmates should be put to work at public parks picking up paper, cleaning up public buildings, helping to build prisons. They can work for private purposes on contracts with private industry where private industry will give them a small portion of their salary, and the remainder of the money will go to the Federal Government to compensate victims and to build prisons. This is exactly the kind of provision we need.

In addition to putting prisoners to work, the provision also sets out a clear procedure, whereby, we can do something that everybody talks about, but until this point we have done nothing about, that is, using closed military bases to set up temporary incarceration centers, so that we can put people in jail, and so that we can end revolving-door justice.

So I think this is a very important amendment.

I commend my colleagues for offering it.

Mr. President, I am very encouraged that we are adopting a crime bill today that is truly worthy of the name, and I think this amendment is an excellent addition to that crime bill.

I yield the floor.

Mr. BIDEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Delaware has 8 minutes and 29 seconds.

Mr. BIDEN. I will take a couple of minutes.

First of all, I hope I did not mislead the Senator from North Carolina when I said there is no need for a rollcall vote. I object to the amendment. I will voice vote against the amendment. I do not agree with the amendment. I will lay out the three reasons why.

There are some very good things in this amendment, though, much of it is redundant. The Federal Bureau of Prisons already has authority to use tents and tent prisons if they wanted. It is the law already. They have that

authority. We can direct them to, but they have the authority.

No. 2, under the statute Senator THURMOND and I passed in 1984, we already have the authority to use abandoned military bases, and the Secretary can pick what bases to use and assign them to the Justice Department for their purposes. So that is already in the law.

In addition to that, No. 3, it is already the policy of the Federal Bureau—not States but the Federal Bureau—to make all prisoners who do not have health problems work. That is already the policy. And I do understand the frustration of my colleagues who have introduced this well-intended legislation. There are a number of pieces of the legislation that are not redundant, that are very positive and are very necessary, and there are other pieces that are, in my view dangerous.

The notion of making it a policy for tent prisons and putting the Carlos Lehders of the world with the Federal prisoners in there, I do not want to be a guard in a tent prison with these drug addicts and dealers in those circumstances, with no television to keep them calm and cool, in the same manner you do with your children—sit them down. And if you ask any prison warden what is the best pal he has available to him or her, he will say it is the television set. That is what they use them for—although, I understand the intention.

Two, I do not want to be a guard. If you ask the Federal Bureau of Prisons' guards, they are not real crazy about this, because they do not want to be marching through a prison with these people who are hardened criminals in tents, able to steal the knives, for example, from the dinner table to slit the tent and walk out and slit their throat, as opposed to being behind big thick bars and locked at night and in a situation where the guard is safe. There are other reasons to be for this, in addition to the ones I have named to be against it.

I understand the votes are here, so I am not going to make a case beyond what I have just made. I would ask nothing more than a voice vote.

As this progresses, and hopefully it will progress through here and into the House, hopefully we can negotiate some of the differences.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. LOTT. Mr. President, the Senator mentioned some points that were good. We were talking about the Prison Industry Enhancement Program and the fact we have an arbitrary cap of 20 now and I would like to get that up to 50 so we can get more States, workers, and prisoners involved.

The Senator's State of Delaware is anxious to have the opportunity. I think he would be very much supportive of it. This is a big part of the bill.

Mr. BIDEN. Mr. President, that is one of the pieces that is very good. As they say, I do not want to make a Federal case against this. There are pieces of it though, on balance, I do not support, but if I thought this was such a pernicious amendment I would want a rollcall vote: I would be lobbying my colleagues and fighting very hard to defeat it.

I am saying this one Senator, the Senator from Delaware, has reservations about enough portions of the amendment that he will vote "no" in a voice vote, but that is the extent. I want my objections just on the record.

Mr. President, I am prepared to yield back my time.

Mr. LOTT. Mr. President, I ask unanimous consent that Senator NICKLES of Oklahoma and Senator WILSON of California be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Carolina.

Mr. HELMS. Mr. President, I think we better have a rollcall vote on this and determine the extent of doubt. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HELMS. I suggest the absence of a quorum.

Mr. BIDEN. Mr. President, I am sure we will get a sufficient second if I could have a moment. I suggest that and I will be delighted to give the Senator a sufficient second. But we have 18 more amendments. We may be able to get through this if we keep moving. The votes are here. If we have a voice vote only, the Senator from Delaware is registering the fact he does not agree with the amendment.

I really implore my colleague to withhold his request for the yeas and nays so we can get a move on and get the bill through. It may mean we may not have to be here tomorrow and not back until Wednesday. I hope he would do that.

The PRESIDING OFFICER. The Chair inquires: Does the Senator from North Carolina withhold his suggestion of the absence of a quorum?

Mr. HELMS. Mr. President, I suggest the absence of a quorum and I ask unanimous consent it be charged to neither side.

The PRESIDING OFFICER. Is there objection to that request?

Mr. BIDEN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have yielded to the blandishments of the distinguished manager of the bill who wants to expedite the process. I shall not ask for the yeas and nays.

Mr. BIDEN. I thank my colleague and I suggest the Senator move his amendment and we have a voice vote.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BIDEN. I yield back all my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 2089) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, in the order in which we have been proceeding to one side and the other on amendments, Senator AKAKA is ready with his amendment and Senator GORTON is in the breach ready to move with his second-degree amendment.

I yield the floor to Senator AKAKA.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 1683

Mr. AKAKA. Mr. President, I call up my amendment numbered 1683 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA], for himself and Mr. INOUYE, proposes an amendment numbered 1683.

Mr. AKAKA. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new title:

TITLE —ICE ENFORCEMENT AND PREVENTION ACT

SECTION 1. SHORT TITLE.

This title may be cited as the "Ice Enforcement and Prevention Act of 1990."

SEC. 2. STRENGTHENING FEDERAL PENALTIES.

(a) Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

(b) Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking the word "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding a new clause (ix) as follows:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline.

SEC. 3. EDUCATION AND PREVENTION.

(a) Not later than six months after the date of enactment of this section, the Department of Education and the National Institute on Drug Abuse shall jointly develop model, community-based curricula for disseminating comprehensive information on methamphetamine, crystal methamphetamine, and chemically related stimulants.

(b) Not later than 12 months after the date of enactment of this section, the Department of Education shall establish not less than four state-wide or regional methamphetamine prevention demonstration programs, including one such project in California, Hawaii, Oregon and such other state that is experiencing serious methamphetamine abuse problems as determined by the Secretary of Education.

(c) There is authorized to be appropriated $4,000,000 in fiscal years 1991 and 1992 to establish and operate the model demonstration programs required under subsection (b) of this section.

(d) Not later than 18 months after the date of enactment of this section, if the Department of Education and the National Institute on Drug Abuse, in consultation with the Secretaries of Education from the States listed under subsection (b), conclude that the model curricula developed under subsection (a) demonstrate practical education merit, the Department of Education shall distribute such model curricula to every primary and secondary school in the country.

SEC. 4. RESEARCH AND TREATMENT

(a) The Director of the National Institute on Drug Abuse, through the Medications Development Program, shall prioritize the development of a drug to treat addictions to:

(1) amphetamine,

(2) methamphetamine,

(3) crystal methamphetamine, and

(4) chemically related stimulants.

(b) The Director of Health and Human Services shall investigate or cause to be investigated the syndrome that results from methamphetamine addiction at birth.

(c) The Director shall, on the basis of the findings from subsection (b), develop a protocol for treating, physically and mentally, newborns afflicted with methamphetamine addiction.

Mr. AKAKA. I offer this amendment on behalf of myself and Senator INOUYE to launch a multipronged attack on crystal methamphetamine, or "ice" as it is known in the streets. This amendment has the support of the chairman of the Judiciary Committee, Senator BIDEN.

I say to our colleagues, ice has the potential to become the drug-abuse epidemic of the 1990's. We must adopt tougher criminal penalties in order to stop this menace in its tracks.

Crystal meth is overtaking crack cocaine as the drug of choice among America's youth. This insidious drug has already inflicted such a heavy toll on Hawaii's youth that there is no doubt in my mind that strong and immediate action is warranted.

Although both crack and ice may be smoked, the similarity ends there: ice is much cheaper. $50 will buy enough of the drug to keep someone high for a week. The high from ice lasts anywhere from 7 to 30 hours. And addicts are prone to extreme, uncontrolled violence.

The centerpiece of my amendment is a series of stiff Federal penalties for the manufacture, sale or distribution of ice. Those caught with large quantities of ice will end up serving at least 10 years in jail. No ifs, ands, or buts. If you are a repeat ice offender, you could face up to life imprisonment. These penalties will send a clear message to ice traffickers: We want ice off the streets, out of the school yard and beyond the reach of our most precious national resource—our children.

Under current law, the penalties for ice are the same as those for the simple form of this drug, methamphetamine. Unfortunately, ice is far more dangerous and far more addictive than methamphetamine. My amendment would take the same penalty scheme now in place for crack cocaine and apply it to criminals who traffic in ice.

Specifically, it provides jail terms of not less than 10 years and up to life imprisonment for anyone caught with 25 grams or more of ice. For 2 grams or more, the term would be not less than 5 years and not more than 40 years. These are tough, no-nonsense criminal penalties. But, the punishment fits the crime.

This amendment also addresses those unfortunate people who suffer from addiction to ice.

Because ice is one of the most psychologically addictive drugs on the streets today, efforts must also be focused on treatment and prevention. My amendment directs the National Institute of Drug Abuse to give highest priority to developing methods of treating ice addiction. Like other forms of chronic drug abuse, ice addiction is a disease which may be treatable by medical science. The NIDA Program would develop treatments designed to lessen, if not cure, addiction to ice.

Something must also be done to help infants who are born into addiction. There is no more chilling experience than to gaze into the eyes of these children and witness the sheer terror experienced by these innocent victims.

My amendment would instruct NIDA to identify and define the syndrome associated with ice addiction in newborns. NIDA would also be responsible for developing protocols for treating, or at least caring for, such infants.

Finally, no program is truly complete without a component which is effective in teaching school-age adolescents to "just say no." My amendment would instruct NIDA and the Department of Education to develop a model curriculum, using Hawaii as a pilot program. The purpose of these programs would be to disseminate comprehensive information on the consequences of abusing ice and related stimulants. This curriculum will eventually be included in every publicly funded antidrug education program.

I also endorse the proposal to establish a system of strict control over the precursor chemicals used to produce ice. If we can prevent clandestine drug labs from obtaining the raw chemicals used to manufacture their illegal products, we will then sever an important link in the chain of drug production. The concept is simple: Cut the supply of precursor chemicals and you attack the problem at its source.

The precursor chemical amendment would expand the list of federally regulated precursor chemicals to include those which the Drug Enforcement Administration has determined are most frequently used in the manufacture of methamphetamines. With this amendment, transactions involving ice precursor chemicals will only be permitted between individuals licensed by the Attorney General.

Finally, the amendment seeks new penalties for environmental contamination by those who operate illegal drug labs. Many of the chemicals used in drug manufacturing are highly toxic. Common sense tells you that people who violate the law to produce illegal drugs have little regard for how or where they dump chemicals or the byproducts of drug production. When these labs are discovered by law enforcement officers, they have already become toxic waste dumps.

Taken as a whole, these amendments represents a start-to-finish offensive against ice. We eliminated access to the chemicals used to make

the drugs. We impose long jail sentence against those who distribute ice. For those who suffer from chronic drug addiction, we institute the necessary treatment programs. Finally, to prevent kids from from getting hooked on ice, we will develop school-based drug education programs to teach them the just say no approach.

I urge my colleagues to support these amendments, and

I yield back the remainder of my time.

Mr. PRYOR. Mr. President, I rise today in support of the methamphetamine enforcement provision contained in the omnibus amendment to S. 1970. Methamphetamine represents a growing threat to our nation, and has been referred to by some as the "drug of the nineties". Of particular concern is ice, a virulent form of methamphetamine which can be smoked like crack cocaine, and which has been spreading through communities up and down the West Coast.

The scourge of methamphetamine is not confined to our Nation's big cities. Methamphetamine producers typically set up their clandestine laboratories in rural areas of our country and then transport their poison to cities and small towns for distribution and sale. For example, in my home State of Arkansas, the number of rural clandestine labs closed by State police increased 59 percent between 1988 and 1989. This year, police are reporting lab closures at a rate equal to or exceeding last year's pace.

The methamphetamine provision in the omnibus amendment was based upon an amendment that I offered along with Senators BAUCUS, HARKIN, and CONRAD. This provision will direct the Attorney General to conduct a study of problems associated with distribution of ephedrine, a key chemical ingredient used in manufacturing methamphetamine. Among the issues that will be addressed by the study are the following:

Whether a 21-day waiting period for the purchase of ephedrine would reduce the manufacture of methamphetamine.

Whether special waivers could be granted to legitimate commercial purchasers of ephedrine.

Whether a uniform purchase application for the purchase of methamphetamine should be developed.

After completion of this study, I hope Congress could move quickly to enact legislation attacking the growing problem of methamphetamine. This worsening crisis requires us to carefully consider all of our policy options and then proceed swiftly to action.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I have a second-degree amendment at the desk, and I would ask the clerk to report it.

The PRESIDING OFFICER. Is all time yielded back on the first-degree amendment?

Mr. THURMOND. Mr. President, we yield back our time on this side.

Mr. BIDEN. Mr. President, before the Senator yields back, will he yield me, on his time, since I have none, 30 seconds?

Mr. THURMOND. I am pleased to yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, I just want to praise Senator AKAKA for what is one of the most important amendments in this bill, because we are all on notice that the ice is on its way. Ice is going to be, and is already in his State and other States, what crack cocaine was 5 years ago.

I praise him and suggest that this amendment may turn out to be one of the more significant pieces of this legislation. I compliment him for his efforts.

I thank my colleague for yielding.

Mr. AKAKA. Mr. President, I commend the chairman for his understanding of this problem. This is really a problem that is like an iceberg. We are just looking at the tip of it and not the rest of it. We need to do that, and this amendment will help us do that.

Mr. THURMOND. Mr. President, I favor the amendment, and I yield back the time.

The PRESIDING OFFICER. All time is yielded back on the first amendment.

The Senator from Washington.

AMENDMENT NO. 2090 TO AMENDMENT NO. 1683

(Purpose: To amend the Controlled Substances Act with respect to the regulation of precursor chemicals)

Mr. GORTON. Mr. President, I have a second-degree amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself, Mr. WILSON, Mr. AKAKA, Mr. HATCH, Mr. INOUYE, Mr. D'AMATO, and Mr. BURNS, proposes an amendment numbered 2090 to amendment No. 1683.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

SEC. . PRECURSOR CHEMICALS.

(a) EXPANDED LIST OF PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by striking subparagraphs (A) through (L) and inserting the following:

"(A) Anthranilic acid.
"(B) Benzyl cyanide.
"(C) Chloroephedrine.
"(D) Chloropseudoephedrine.
"(E) D-lysergic acid.
"(F) Ephedrine.
"(G) Ergonovine maleate.
"(H) Ergotamine tartrate.
"(I) Ethylamine.
"(J) Hydriodic acid.
"(K) Isosafrole.
"(L) Methylamine.
"(M) N-acetylanthranilic acid.
"(N) N-ethylephedrine.
"(O) N-ethylpseudoephedrine.
"(P) N-methylephedrine.
"(Q) N-methylpseudoephedrine.
"(R) Norpseudoephedrine.
"(S) Phenylacetic acid.
"(T) Phenylpropanolamine.
"(U) Phenyl-2-propanone.
"(V) Piperidine.
"(W) Piperonal.
"(X) Propionic anhydride.
"(Y) Pseudoephedrine.
"(Z) Safrole.
"(AA) Thionylchloride.
"(BB) Any salt, optical isomer, or salt of an optical isomer of the foregoing chemicals.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G).

(c) ELIMINATION OF THRESHOLD REQUIREMENT FOR PRECURSOR CHEMICALS.—Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended—

(1) by inserting "any amount of a listed precursor chemical, or" before "a threshold amount, including a cumulative threshold amount for"; and

(2) by striking "listed chemical" the first place such term appears and inserting "listed essential chemical".

(d) RECORDS OF REGULATED TRANSACTIONS.—Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended—

(1) by inserting "any quantity of a listed precursor chemical," after "involving"; and

(2) by striking "a listed chemical" and inserting "a listed essential chemical".

(e) PROVISION TO STATES OF INFORMATION RELATING TO REGULATED TRANSACTIONS.—Section 310(c)(3) of the Controlled Substances Act (21 U.S.C. 830(c)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) cooperate with the authorities of each State by providing information relating to regulated transactions in listed precursor chemicals and anticipated regulated transactions (including impending interstate

deliveries) in such chemicals that might be useful in the enforcement of State laws relating to precursor chemicals, controlled substances, and other illegal drugs.".

(f) LICENSING.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end thereof the following new subsection:

"(d)(1) It shall be unlawful for a person to—

"(A) engage in a regulated transaction involving a listed precursor chemical; or

"(B) manufacture, distribute, import, or export a listed precursor chemical.

without a license required under this subsection.

"(2)(A) The Attorney General shall by rule establish a licensing program for regulated persons and regulated transactions involving listed precursor chemicals under which licenses will be required in circumstances in which the Attorney General determines that requiring licensing will contribute to the achievement of the purposes of this section and to criminal drug law enforcement in general. The Attorney General shall not require a regulated person who maintains a record of all regulated transactions or reports all regulated transactions in accordance with this section to be licensed under this subsection.

"(B) The licensing program described in subparagraph (A) shall require a license application to be made in such form as the Attorney General shall prescribe and may provide for the denial, renovation, or suspension of a license for cause, after opportunity for a hearing on the record.

"(3) Whoever violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 4 years, or both.

"(4) The Attorney General shall by inspection or otherwise provide for the audit and control of listed precursor chemical inventories of persons possessing a license under this subsection.".

(g) APPLICATION OF SECTION.—Section 310 of the Controlled Substances Act (21 U.S.C. 830), as amended by subsection (f), is amended by adding at the end thereof the following new subsection:

"(e) This section does not apply to a transaction or other activity involving a listed chemical contained in a drug that is lawfully marketed or distributed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

(h) MANAGEMENT OF LISTED CHEMICALS.—(1) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921—6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(1) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(2) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.

"(3)(A) A violation of paragraph (1) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of paragraph (1) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (1).".

(2) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

Mr. GORTON. Mr. President, I want to join my distinguished colleague from Delaware, the manager of this bill, in his praise of the first-degree amendment by our newest and very distinguished colleague, the Senator from Hawaii. I believe that the praise was not overstated at all, and that the importance of moving forward, as the Senator from Hawaii wishes to do, in connection with ice and the help which he asks for in his own State are very, very important. I fully agree with and fully support that first-degree amendment.

My second-degree amendment is in no way inconsistent with his first-degree amendment. In fact, I think it moves one logical step further in dealing with a very serious challenge facing the people of the United States today.

Mr. President, this amendment seeks to impose stricter regulation of chemicals used for the illegal production of drugs, particularly methamphetamine and "ice." This amendment is virtually identical to legislation which I introduced with the cosponsorship of Senators HATCH, HATFIELD, ADAMS, INOUYE, COATS, D'AMATO, WILSON, MCCAIN, BURNS, DANFORTH, and the distinguished Senator from Hawaii, Mr. AKAKA. Companion legislation in the House of Representatives was introduced by Congressman DEFAZIO with 69 cosponsors.

This amendment seeks to control the spread of ice, and the proliferation of illegal labs producing these drugs. As you know, ice is to methamphetamine what crack is to cocaine. By all accounts, ice is far more devastating than crack. Users of ice are more violent. They stay high longer. And most disturbing, users and distributors of ice are making this illegal drug at home, with easily purchased chemicals.

In the State of Washington, the Seattle Times last month reported the misfortune of an Edmonds-area family who unknowingly purchased a house that had been used to produce methamphetamine. Nearly 2 years ago, the house had been used to cook meth—a process which leaves toxic residues that permeate walls, carpet, clothes, and furniture.

Medical tests show the family, who moved from the house last year, fortunately did not get blood poisoning from living in the home even though that is the greatest short-term health risk from exposure. Even the children's bedwetting and nosebleeds, symptoms of exposure to the chemicals, stopped shortly after they moved. But the long-term health risk to this and other families exposed to toxic chemicals used to produce meth, and their residues, is still largely unknown.

In Washington State, and across the Nation, neighborhoods and local governments are battling the environmental harm caused by the hazardous wastes of these clandestine labs. In addition to being highly toxic, many of these chemicals are explosive and even radioactive. The chemicals are recklessly being dumped into our streams, sewers, and on the ground—poisoning the land and the ground water.

States including Washington, California, and Texas have laws similar to this amendment to deal with precursor chemicals used to produce illegal drugs. However, when laws in these States are just beginning to work, State officials have found that cooks will simply move to another State or purchase the chemicals from a State with less stringent precursor laws. This problem requires a Federal solution.

In the 1988 drug bill, the Chemical Diversion and Trafficking Act sections are helping to deter the proliferation of illegal drugs in the United States. That act also regulates manufacturers of chemicals that could be diverted to clandestine drug labs abroad. Unfortunately a wave of clandestine laborato-

ries producing illegal methamphetamines such as ice is now sweeping our country. The illegal drug producers are able to purchase the chemicals used to create these illegal drugs by making purchases which fall under current threshold reporting requirements. My amendment addresses the problem of these illegal drug labs and producers here in the United States.

This amendment achieves this goal in three ways. First, my amendment will expand the list of precursor chemicals to include those chemicals that the Drug Enforcement Agency and local law enforcement have found to be most frequently used to manufacture methamphetamines such as ice. Second, it builds on existing law to require that all transactions dealing with listed precursor chemicals be recorded. Finally, this amendment would require the criminal producer of illegal drugs to pay the entire costs of cleanup of the contaminated site—a cost now borne by both Federal and State governments.

Mr. President, I do not believe that we can stand idly by while these purveyors of illegal drugs and toxic sludge destroy our children and our environment. This amendment is urgently needed in our war against drugs and I urge its adoption.

Mr. BIDEN. Mr. President, let me begin, as I say, with the good news, and then move to the bad news. The good news is, I think, the intention of the Senator from Washington is laudable. Frankly, from this Senator's perspective, the bad news is, I think, it is a bad idea for the following reasons.

No. 1, right now, the Attorney General of the United States, by the order of the Attorney General, could accomplish exactly what the Senator is seeking by lowering the threshold. It does not require any law to be passed.

No. 2, right now, there are substantial penalties of up to 10 years for those who violate this law.

No. 3, the problem here is that we find ourselves in a situation where we are going to be with reporting requirements that are incredibly burdensome.

The DEA, the Drug Enforcement Administration, does not support this amendment. The manufacturers, as you might guess, do not support this amendment. I know of no one but the Senator from Washington and the Senator from Hawaii, who spoke favorably about the Senator's amendment, who support this amendment.

One of the problems is this. Right now, the DEA has incredible difficulty keeping up with the legal requirements of the reports, following up on the reports that are required to be filed based on the present threshold. They do not have the manpower nor the capability. If we move to a licensing situation without any thresholds, we are talking about thousands and thousands and thousands of firms being affected. If I am not mistaken, the rough estimate is 12,000 firms that will have to be licensed. Now we have 12,000 independent judgments on licensing undertakings for firms that are as small as very small, two- and three-person medical research teams that would have to be licensed as well as major chemical companies having to be licensed.

It has been 2 years since we have enacted the law that has dealt with precursor chemicals. It has become clear that DEA does not have the resources to even analyze the thousands of chemical shipments that are now reported and shipped every year. That is why the Biden amendment that we will vote on shortly, that I proposed, would add $10 million to DEA for 100 new DEA agents to track down illegal chemical shipments. They do not even have the ability remotely to approach the problem now.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 6 minutes, 55 seconds.

Mr. BIDEN. Let me read from the Drug Enforcement Administration's letter. The DEA are not a bunch of folks who are not concerned about this problem. They usually will not seek additional authority. But, in a letter, they suggest, about the CDTA, which is what Senator THURMOND and I, and Senators DECONCINI and D'AMATO, had introduced and attached last year in S. 2561—which this amendment is based on—

DEA opposes S. 2561 in its present form because:

1. The CDTA has been in effect less than one year. This is not an adequate period to evaluate the need for such wholesale changes as set forth in S. 2561.

2. S. 2561 eliminates a threshold limit for chemical transactions, thus making all transactions, even microgram quantities, covered.

3. All transactions are reportable to DEA, with a requirement for analyzed reports from DEA to the States. This could be 12,000 firms reporting with increased burdens on DEA for data storage, processing and distribution. DEA does not have the resources.

4. S. 2561 establishes a regulative system for an estimated 12,000 persons. DEA does not have the resources to handle such a system.

5. There are several significant problems with the list of chemicals, such as, several (PCP, D-lysergic acid) are already controlled drugs, which would also become listed chemicals; the list does not include salts and isomers of the chemicals as now exists under CDTA.

So, although, as I say, it is very well intended, there is no support from law enforcement agencies straight through to the industry, including the Attorney General, for this proposal. Again, I add, the Attorney General has the authority under current law to set the threshold quantities. If lower thresholds are needed to crack down on illegal chemical shipments intrastate, in-state or out-of-country, the Attorney General should simply establish lower thresholds.

Mr. President, I agree fully with the purposes of this amendment, the crackdown on precursor chemical shipments. I am willing to work with the DEA and with the Senator from Washington to strengthen our current attack on illegal chemical sales. But this amendment would actually impede our current efforts by imposing unnecessary new paperwork requirements on legitimate chemical companies and diverting DEA agents away from high priority chemical investigations to handle the burdensome paperwork requirements, which would involve 12,000 additional companies. That is the reason for my objection.

I respectfully request, and understand if he would not, if the Senator would be willing to withdraw his amendment with the commitment he and I can sit down with the DEA and work out the objectives he seeks. But, absent that, I have to oppose the amendment.

I ask the Senator if he is willing to consider that possibility.

Mr. GORTON. Mr. President, the Senator from Delaware has listed a number of objections, some of which are even legitimate, to S. 2561. They simply do not apply to the amendment. The Senator from Delaware has spoken of reporting requirements contained in S. 2561, which, of course, do require more paperwork.

Because of those objections, both by the chemical companies and by the DEA, the amendment has been changed from the original bill and any company which records its transactions—not reports its transactions—will be free from these licensing requirements and these reporting requirements. But, of course, those records will be available to law enforcement agencies to trace the illegal use of drugs of this sort.

We have worked during the period of time since the bill was introduced with the Chemical Manufacturers Association in order to deal with its legitimate objectives. I am not here to advise that the Chemical Manufacturers Association now supports the amendment. But the chemical manufacturers' official position is that they are not in opposition to the amendment.

The DEA's letter, in other words, is directed at something which is not in this amendment at the present time. The list of chemicals which are included in the amendment comes from those lists which DEA and local law

enforcement have determined to be most used to create methamphetamines.

I respectfully suggest the Senator from Delaware, recognizing these changes, which are directed very specifically at his and their objections, accept the amendment. If he does so, we will then work with him if there are other technical problems with it, one or two of the items on it which should be delisted, other items which ought to be listed, as this goes through the process at the House of Representatives and any kind of conference committee which may take place on this bill.

The problem which we are faced with in this country with the manufacture of ice by criminal elements, its use, the environmental destruction which it causes, is a vital concern to all Americans. It is not going to wait for another 2 or 3 years.

We have met these objections. This amendment is addressing a serious problem. Let us accept the amendment and go on to see whether or not a few minor changes are needed.

That is a question I ask of the Senator from Delaware. We have listened to what he has said and we have responded to it

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, the reporting requirements I am referring to were not additional reporting requirements required by the Senator from Washington. I was making the point that recording requirements already exist. If a company does not report now, they are guilty of violating the law, if they do not do that now. And the licensing requirement that the Senator from Washington is insisting upon is a licensing requirement that exists now, no threshold, they must be licensed, the process of merely being licensed.

The second point about lowering the threshold, the Attorney General has the power to do that now.

We need no legislation to do that. So if there are no reporting requirements now, they are guilty of violating the existing law. And if we wish to lower the threshold, then that is already available to the Attorney General under the law at this moment. Is that not correct?

Mr. GORTON. I have only rarely found that the Senator from Delaware, when he finds something that he thinks is an immediate problem, has been willing to submit to the full discretion of the Attorney General. We have, most particularly on the West coast, a problem now. We seek to address that problem now. We have found house after house which these criminal methamphetamine producers are using as illegal drug labs. This is largely because they are purchasing the precursor chemicals in quantities below the current threshold level. We need this amendment to move forward today.

I am certainly willing to admit that we do not remove the reporting requirements existing under the present law. What we have done, in response to the objections will have come from DEA and the Chemical Manufacturers Association, is to substitute recording for reporting, in this amendment, where it would otherwise create an additional, and I think it is reasonable to say, burdensome reporting requirement. But how the Senator from Delaware can argue against keeping records, so that law enforcement can follow where these chemicals have gone, so that it is easier to find, and stop the criminals who are producing illegal drugs, I really, honestly, find puzzling.

I once again say, if the Senator will accept the amendment, I am perfectly willing to work with him, if we have, in fact, inadvertently created reporting or paper requirements which are unnecessary.

The PRESIDING OFFICER (Mr. GRAHAM). Who yields time?

Mr BIDEN. I yield myself as much time as is necessary.

First of all, let us make sure I understand this correctly, and I think I do. There is a reporting requirement now for those companies that ship quantities above a certain threshold.

Mr. GORTON. That is correct.

Mr. BIDEN. The Senator from Washington is insisting on a licensing of any firm that produces any of these chemicals; is that not correct?

Mr GORTON. Only if they do not keep records of their sales of these chemicals. If they keep precise and exact records, they will not be subject to licensing by the Attorney General.

Mr. BIDEN. If they do not keep precise, exact records now, they do not need a license; they go to jail. They are already guilty of violating the law.

Mr. GORTON. Only if they are over the threshold.

Mr. BIDEN. So the real argument here is, you think the Attorney General is doing a lousy job. That is what this is all about.

Mr. GORTON. The licensing is simply in addition to the criminal penalties.

Mr. BIDEN. Does it not also add to 12,000 firms having to go in and apply and get a license?

Mr. GORTON. No, not if they keep proper records.

Mr. BIDEN. If they do not keep proper records, then the Senator is saying they need a license. I am saying, if they do not keep proper records, they go to jail. I do not want them to get a license, I want them to go to jail. Under the law now, if they do not keep proper records, they go to jail.

The real argument the Senator from Washington has is the reason why the DEA opposes him. He wants there to be no threshold whatsover. The DEA is saying we cannot keep up with what we have now, not even close. The real argument the Senator from Washington has is with his criticism of the Justice Department not doing a sufficiently reasonable job in lowering the threshold. We do not need any law. All we have to do is tell the Attorney General to lower the threshold.

The PRESIDING OFFICER. The time of the Senator from Delaware has expired. The Senator from Washington has 9 seconds.

Mr. GORTON. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 135 Leg.]

YEAS—79

Adams	Garn	McClure
Akaka	Gore	McConnell
Baucus	Gorton	Metzenbaum
Bentsen	Graham	Murkowski
Bingaman	Gramm	Nickles
Bond	Grassley	Packwood
Boren	Harkin	Pell
Boschwitz	Hatch	Pressler
Breaux	Hatfield	Pryor
Bryan	Heflin	Reid
Bumpers	Heinz	Riegle
Burdick	Helms	Robb
Burns	Hollings	Rudman
Chafee	Humphrey	Sarbanes
Coats	Inouye	Sasser
Cochran	Jeffords	Shelby
Cohen	Kassebaum	Simpson
Conrad	Kasten	Specter
Cranston	Kerrey	Stevens
D'Amato	Kerry	Symms
Danforth	Leahy	Thurmond
Dixon	Levin	Wallop
Dodd	Lieberman	Warner
Dole	Lott	Wilson
Domenici	Lugar	Wirth
Durenberger	Mack	
Exon	McCain	

NAYS—20

Biden	Glenn	Moynihan
Bradley	Johnston	Nunn
Byrd	Kennedy	Rockefeller
Daschle	Kohl	Roth
DeConcini	Lautenberg	Sanford
Ford	Mikulski	Simon
Fowler	Mitchell	

NOT VOTING—1

Armstrong

So the amendment (No. 2090) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I would like to extend a sincere thanks to the Senate staffs of my cosponsors on both this amendment and on earlier legislation which I proposed on this subject for their insights, and support. Finally, I would like to thank Tim Treschel of Senate Legislative Counsel for his fine work in the drafting of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii, as amended. Is there any further debate on the amendment of the Senator from Hawaii?

The amendment (No. 1683) as amended, was agreed to.

Mr. BIDEN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. The Senator from Minnesota has an amendment.

AMENDMENT NO. 2091

(Purpose: To increase the penalties for kidnapping children)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Minnesota.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ], for himself, Mr. THURMOND, Mr. GORTON, Mr. HELMS, Mr. BURNS, Mr. ARMSTRONG, Mr. MACK, Mr. KASTEN, Mr. REID, Mr. GRAMM, Mr. LOTT, and Mr. BREAUX, proposes an amendment numbered 2091.

Mr. BOSCHWITZ. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

"(1) TO WHOM APPLICABLE.—IF—

"(A) the victim of an offense under this section has not attained the age of eighteen years; and

"(B) the offender—

"(i) has attained such age; and

"(ii) is not—

"(I) a parent;

"(II) a grandparent;

"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

"(2) MINIMUM SENTENCES.—The sentence shall be imprisonment for life if the offender engages in any conduct described in paragraph (3) of this subsection, and imprisonment for not less than 30 years in any other case. If the offender engages in any conduct described in paragraph (3) of this subsection after a prior conviction under such paragraph has become final, such offender shall be sentenced to mandatory life imprisonment without release.

"(3) AGGRAVATING CONDUCT.—The conduct referred to in paragraph (2) of this subsection is—

"(A) selling the victim of such offense;

"(B) sexually abusing such victim;

"(C) using such victim for pornography;

"(D) intentionally denying such victim food or medical care to a life-threatening extent;

"(E) intentionally harming such victim physically to a life-threatening extent; or

"(F) causing such victim to be subjected to conduct by another which is conduct described in any of subparagraphs (A) through (E) of this paragraph."

Mr. BOSCHWITZ. This amendment has been cleared on both sides. I rise to propose it today and give full credit to Senator THURMOND, the ranking minority member, who really had the idea for this amendment. I offer this on my own behalf and on behalf of Senators THURMOND, GORTON, HELMS, BURNS, ARMSTRONG, MACK, KASTEN, REID, GRAMM, LOTT, and BREAUX.

My amendment is identical to title II of S. 1825, which was introduced by the Republican manager of this bill, Senator THURMOND. My amendment would establish a minimum mandatory sentence of 30 years imprisonment for kidnaping a child. The sentence would be increased to life imprisonment if the kidnaper sells the victim child, physically harms the child to a life-threatening extent, sexually abuses the child, uses the victim for child pornography, intentionally denying such victim food or medical care to a life-threatening extent, or causes the victim to be subjected to any of these offenses by another person.

Mr. President, this amendment would strengthen the penalties for kidnaping a child. I offer this amendment on behalf of myself, Senators THURMOND, GORTON, HELMS, BURNS, ARMSTRONG, MACK, KASTEN, REID, GRAMM, LOTT, and BREAUX. My amendment is identical to title II of S. 1825, which was introduced by the Republican manager of this bill, Senator THURMOND.

Mr. President, there is no greater tragedy for a parent than to have a child abducted by a stranger. Most of us have experienced the panic of losing a child at a parade, in a mall, or even in our own neighborhood. This panic does not dissipate until the child returns safely. It is almost unbearable. Even if they are just a few minutes late, the same question arises: "Where is my child?"

In most cases, they were just running around, looking at toys, or playing with other children. But far too often, the unspeakable occurs: kidnaping. Last October, it happened in my own State of Minnesota. While bicycling home, 11-year-old Jacob Wetterling was abducted at gunpoint by a masked man on a deserted rural road in St. Joseph. Jacob was grabbed by the gunman while the two boys riding with him were ordered to run home or be shot. Young Jacob has not been heard from since.

Unfortunately, this is not an isolated case. According to the national incidence studies on "Missing, Abducted, Runaway, and Throwaway Children in America," between 3,200 and 4,600 abductions in 1988 were classified as "legal definition nonfamily abductions." This category includes those abductions in which a child is taken into a building, a vehicle, or a distance of more than 20 feet; detained for a period of more than an hour; or lured for the purposes of committing another crime.

Another 200 to 300 abductions were identified as stereotypical abductions, or what we would normally consider a kidnaping. This classification requires that the child be gone overnight, be killed, be transported a distance of 50 miles or more, be ransomed, or that the abductor show an intent to keep the child permanently. The case of Jacob Wetterling could be classified as such.

S. 1970 currently would permit the death penalty for kidnaping where death results. According to FBI data, there were an estimated 43 to 147 stranger abduction homicides annually between 1976 and 1987. But what about the 4,000 or more annual stranger abductions where death does not occur? Who are the victims? What are the circumstances? And how severe are the penalties?

Three-fourths of stranger abduction victims are female. Blacks and Hispanics in this group are heavily overrepresented compared to the U.S population. Two-thirds of the legal definition abductions involve sexual assault, over 85 percent involve force, and over 75 percent involve a weapon. In 14 to 21 percent of the stranger abduction cases, the child was known to have been injured as a result of the crime.

It is clear, then, that even in cases where death does not occur, kidnaping is a serious offense and the penalties should reflect that. What are the current penalties? Under present U.S. sentencing guidelines, the base offense level for kidnaping is level 24, or 51 to 63 months—4 to 5 years—for a first of-

fense. If the kidnaping victim is a child, the offense level will be raised to level 26, or 5 to 6 years for a first offense. The offense level would also be increased if a ransom is demanded, if the victim suffers a permanent or life-threatening injury, if a dangerous weapon is used, or for other aggravating factors.

Under these guidelines, it is possible for a first-time offender who uses a dangerous weapon and severely injures the victim to receive a sentence of only 10 to 12 years imprisonment. With parole, the actual time served by the offender would be even less. If Jacob Wetterling's kidnaper is found and sentenced, he could receive as little as 8 to 10 years, if it is a first-time offense and Jacob does not suffer permanent or life-threatening bodily injury. Even if Jacob is hurt, the kidnaper could be sentenced to only 12 to 15 years.

My amendment would establish a minimum mandatory sentence of 30 years imprisonment for the kidnaping of a child. This sentence would be increased to life imprisonment if the kidnaper sells the child, physically harms the child to a life-threatening extent, sexually abuses the child, uses the child for pornography, denies the child food or medicine to a life-threatening extent, or causes the child to be subjected to any of these offenses by another person. These penalties do not apply to family members, legal guardians, or offenders under the age of 18.

This amendment says that kidnaping is a serious offense, whether you ask for ransom money or not, whether you've committed the same offense before or not. If you kidnap a child, you will go to jail and you will be in jail for a very long time.

According to the national incidence studies report, there are 114,600 attempted abductions involving strangers each year. This large number of possible abductions is a threat to families everywhere. A parent cannot be with a child all the time and children cannot be expected to fend off abduction attempts. My amendment would reduce the number of kidnaping and kidnaping attempts by letting potential abductors know that we will not tolerate kidnaping. I ask the Senate to stand with me in protecting the most vulnerable members of our society—our children.

Mr. THURMOND. Mr. President, I rise in strong support of my colleague from Minnesota's amendment. In fact, this amendment is identical to title 1 of S. 1825, which I introduced. This amendment serves an important objective—to ensure that those who kidnap children and harm them are appropriately punished.

Mr. President, vicious, heinous acts similar to those described by my colleague are committed every day in this Nation. The American people are tired of seeing innocent children snatched from their homes, abused, exploited, and, all too often, never seen or heard from again. Congress must do everything it can to ensure that those who prey upon our children are never given the opportunity to do so again.

This amendment will enhance the penalties for those who kidnap children. Anyone who does so will face a mandatory minimum prison senatence of 30 years imprisonment. If the perpetrator abuses, seriously injures, or sexually exploits that child, he will be sentenced to life imprisonment.

Mr. President, I can think of no crime more deserving of these serious penalties. Anyone who preys upon our children should not be dealt with in a lenient manner. Tough penalties which will serve as a deterrent, and which will appropriately punish those who would choose to take the innocence away from our children, are essential.

For these reasons, I support this amendment and strongly urge my colleagues to support it as well.

Mr. BIDEN. Mr. President, we accept the amendment as well.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 2091) was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator from Hawaii withhold? The Senate will be in order. Those who have business other than that before the Senate will please adjourn.

The Senator from Hawaii.

AMENDMENT NO. 2092

(Purpose: To make the death penalty procedures inoperable with respect to murders committed by, or against, Indians in any portion of Indian country that elects to make the procedures inoperable)

Mr. INOUYE. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii, [Mr. Inouye], for himself and Mr. DOMENICI, proposes an amendment numbered 2092.

Mr. INOUYE. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert: "S. 3598. Application of chapter in Indian Country

"Notwithstanding sections 1152 and 1153, a death sentence of murder in the first degree committed by or against an Indian in Indian country (as that term is defined in section 1151) may be imposed under this chapter only if there was in effect at the time of the offense an election, by the governing body of the Indian tribe having jurisdiction over the place where the offense was committed, to have this chapter apply in such cases.".

Mr. INOUYE. I yield to Senator DOMENICI.

The PRESIDING OFFICER. The Senator from Hawaii yields to the Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. How much time do we have on the Inouye-Domenici amendment?

The PRESIDING OFFICER. The proponents have 15 minutes.

Mr. DOMENICI. I yield myself 5 minutes.

Mr. President, there is going to be a lot of discussion here on this Inouye-Domenici amendment that we are exempting the Indian people from the death penalty. Right up front, I want to suggest that we are not. We have in existence in the United States of America a firm policy called Indian self-determination. From that Indian self-determination comes Indian governing bodies. They have their own government bodies, just like States have theirs, and all we are doing in this amendment is saying that all of the Federal offenses such as the killing or attempting to kill a President, that one carries the death penalty, if it occurs in Indian country, or if it occurs in the State of Missouri, or State of Hawaii, or New Mexico, carries the death penalty under this bill. Treason, on an Indian reservation, an Indian pueblo in New Mexico, or Navaho Nation, carries the death penalty. Espionage, hijacking, kidnaping, all of those will continue to retain the death penalty, as provided in this bill.

All the amendment says is for murder, an Indian shoots an Indian, or an Indian kills a non-Indian on an Indian reservation, we are going to treat Indian reservations just like we are going to treat States. If there is in effect the death penalty in that reservation, in that pueblo, in that tribe, then the death penalty will apply.

We, in effect, say to the Indian governing bodies of this country: "You have the opportunity to pass the death penalty, and if you pass it, then murder occurring on an Indian reservation, tribe, or pueblo will be punishable in the Federal courts by death."

So it does not exempt the Indian reservations, tribes and lands jurisdiction, which is under the control of Indian leaders, it does not exempt them from capital punishment. It says something like the following: If you are from the State of Missouri and Missouri does not have the death penalty, the bill before us tonight does not impose the death penalty in the State of Missouri. It imposes the death penalty for these Federal offenses, such as killing the President, treason, espionage, and the like in Missouri or in Florida or in New Mexico. We do not touch that. It goes further, and says we are establishing for the Indian governing bodies and their people the death penalty.

All we say is everything else applies in terms of the Federal offenses, but as to murder on the reservation, if the Indian governing body so chooses, just as the State legislatures in the States of Florida or Hawaii or New Mexico or Missouri or Idaho, if they decide to have the death penalty, it will be in effect.

Frankly, I think this is the way it ought to be. I think the Indian people are entitled to self-determination and self-governance, and not just a piece of it or a part of it, or to us saying, well, with reference to capital punishment we are going to tell you how to do it. I just do not think that is fair.

I believe the same issues will arise in Indian country as have arisen in our States. If indeed the Indian governing body determines that capital punishment will be a deterrent, they will adopt the appropriate legislation and then capital punishment will apply as per this statute.

Why do we even need the statute giving them the authority? Because, in fact, we have jurisdiction over the major crimes on Indian lands. So we must give them in this bill authority to pass the capital punishment and in a sense, that is what the Domenici-Inouye bill is doing, saying, "You have the authority to pass it, but we are not taking away the death penalty for those crimes that bring death in any other State. It will remain such in Indian country."

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Hawaii.

Mr. INOUYE. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Hawaii yields himself 3 minutes.

Mr. INOUYE. Mr. President, the Senator from New Mexico has very clearly explained this amendment. In support of that I would like to give an example of what would happen if this amendment were not adopted.

Suppose an Indian and a non-Indian were codefendants and they were charged together with first-degree murder of a non-Indian victim in Indian country; the same crime, same place, on a reservation. Suppose further, that this State in which the reservation is located does not have a death penalty.

Under those circumstances, because of the law, the Indian will be tried in Federal court with a possible death sentence, and the non-Indian in the State court without a death penalty even though they committed the same crime, at the same time, at the same place.

I think this Congress would be hard pressed to explain that difference in the treatment to Indian leaders. So I hope that this amendment will be adopted.

Mr. President, I am proposing an amendment which will allow tribal governments to affirmatively elect to come under the jurisdiction of the act. The measure before us provides a penalty of death for specific offenses, such as assassination, espionage, treason, and first degree murder. As a recent editorial in the Washington Post has pointed out, Indians who commit murder on the Indian reservations comprise over 60 percent of those charged with first degree murder in the Federal court system. In testimony before the Committee on the Judiciary, Federal public defenders indicated that over 70 percent of the total number of persons actually convicted of first degree murder in the Federal system are Indians. As a result, under this bill as now drafted, perhaps as many as 78 percent of all death sentences imposed pursuant to this law would be imposed on Indians.

I want to make perfectly clear that this inordinate impact upon Indians is not the fault of the judge, the jury, or the Federal justice system. It is not necessarily a matter of racial discrimination. The disparate impact that this measure will have in Indian country is a direct result of the unique legal and political relationship between the United States and the Indian tribes. Because of this relationship, for over a century the Congress has fashioned a statutory framework to conform with our relationship with the Indian tribes.

The Federal Death Penalty Act will impact various jursidictions over which the Congress has exerted its Federal authority. Because of the statutory framework which Congress has fashioned for Indian country, Indian reservations will be among those territories subject to the Federal death penalty. My amendment will conform the Federal Death Penalty Act to a statutory framework affecting Indian country which the Congress long ago fashioned and has historically adhered to.

Some Members have expressed concern that the amendment I am offering singles out one group of people, namely Indians, from the purview of a Federal death penalty statute. My amendment is not racially specific. My amendment is no more intended to single out Indians that is the act itself. Indeed, Indians will still be subject to the Federal Death Penalty Act in other jursidictions subject to Federal authority. Because of geographics and demographics, the Federal Death Penalty Act and my amendment both will have an inordinate impact upon one particular jurisdiction, Indian country, which happens to be disproportionately inhabited by one group of people, American Indians.

Let me provide some of the specifics of this statutory framework affecting Indian country. The differential results of this piece of legislation would come about because of the Indian Major Crimes Act. Although intended to apply uniquely to Indian tribes, the Indian Major Crimes Act withstood a challenge based on equal protection because of Congress' special relationship with the Indian tribes. *United States* v. *Antelope*, 430 U.S. 641 (1977) and *Henry* v. *United States*, 432 F.2d 114 (9th Cir. 1970). Therefore, provisions in this amendment which also uniquely apply to Indians ought to be acceptable if they are tailored only to remedy the potential differential impact of this legislation as applied through the Major Crimes Act. Certainly one requirement of our obligation to Indian tribes is to avoid disparate and differential results of our legislation affecting Indians.

Throughout the debate on the death penalty provisions of this legislation we have heard a parade of examples of truly heinous crimes committed in the country. What we have not acknowledged is that most, if not all, of those examples occurred under State jurisdiction, not Federal. This legislation would have no effect upon them. The fact of the matter is that this legislation is a Federal Death Penalty Act. The President's U.S. sentencing commission states in its 1988 annual report that during the most recent statistical year, of all those convicted of homicide in Federal court, 77.8 percent were Indians. Given the inordinate impact that this act would have on Indians, we should not be surprised that the Indian tribes say we are enacting an Indian Death Penalty Act.

My amendment will alleviate the disparate impact that this legislation will have on Indians within Indian reservations. The amendment will conform this measure to the existing statutory framework affecting Indians and to our government-to-government relationship with the Indian tribes. The amendment would exempt Indian country from the scope of this legislation unless, in an exercise of its self-governing authority, an Indian tribe chooses to be included.

Some members believe they are making a choice on the death penalty itself when deciding whether we should adopt this amendment. I want to make perfectly clear that whether someone favors or opposes the death penalty is entirely, wholly irrelevant to what is at issue in this amendment. This amendment does not decide whether the death penalty will apply in Indian country. This amendment will give Indian tribes a fair chance to exercise their governing powers by deciding whether the death penalty will fit within the public policy of the tribe.

If we make this death penalty apply to Indian country, even if we allow tribes to opt out, we will be facing various scenarios where this law will disparately impact upon Indians. In fact I believe that the impact of this law will not only appear to be differential, but discriminatory. Not only will the result be inconsistent with tribal sovereignty by not allowing the tribe to decide for itself whether a death penalty should apply to tribal members on reservation lands, but this law could also apply the death penalty to a tribe in a State which otherwise does not have a death penalty.

For example, suppose an Indian and a non-Indian were codefendants, charged together with first degree murder of a non-Indian victim in Indian country. Because of statutory and case law development, the Indian will be tried in Federal court and the non-Indian in State court. If that State does not have a death penalty, under this law the Indian would face the death penalty and the non-Indian would not, even though they committed the same crime in the same place against the same victim. This Congress would be hard pressed to explain that difference in treatment to tribal leaders.

Mr. President, again I stress that taking a position on this amendment should not be viewed as taking a position on the death penalty in general. Nor should my amendment be viewed as treating any group of people differently than the rest. My amendment does not blame or burden the judge, the jury, or the judicial system. I am hopeful that whatever politics surround this legislation in general will not influence my colleagues as they vote on my amendment. I am hopeful that we will vote in accordance with our legal obligations to the Indian tribes. I urge my colleagues to adhere to our special obligations to Indian tribes by adopting this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I must oppose this Federal jurisdiction amendment.

The proposed amendment would grant sovereign authority to Indian tribes to establish laws impacting upon the conduct of individuals within the boundaries of a Federal reservation. The amendment would allow an Indian tribe to choose whether to have the Federal death penalty apply to members of that tribe if the murder occurred in Indian country.

This amendment is the result of the jurisdictional issues surrounding the operation of Federal criminal law on Indian reservations. Stated simply, the Indian tribes do not want to have this criminal provision apply to them. This amendment would have the effect of exempting Indians who commit heinous, vicious murders from the death penalty simply because their tribe does not like it. Let me repeat—it will exempt Indians residing on Indian lands from the Federal death penalty, even though they are under Federal jurisdiction, simply because they are Indian. This amendment would set a dangerous precedent. If it passes, what will prohibit every other special interest group from coming to the Senate and seeking an exemption from a criminal statute simply because they are opposed to it? The answer is nothing would.

Supporters of this amendment claim Indians would be treated unfairly under the present bill because they account for a vast majority of the murder cases in Federal court. These numbers ignore the fact that a vast majority of these cases are not capital cases. True, many may qualify as first-degree murders, but they are not capital murders. Simply put, the death penalty would be rarely, if ever, sought in these cases. Again, as in the case of the Racial Justice Act, statistics are being used in an attempt to weaken this bill.

The death penalty title of this bill applies to those who commit heinous, depraved offenses. The legislation applies equally across the board, to anyone who commits such a crime within Federal jurisdiction. This death penalty proposal operates on the nature of the offense committed, not on whether the defendant is an Indian. Supporters of this amendment argue that if an Indian kills an Indian on Indian land, in a State where there is no death penalty, he could face the death penalty. Whereas, if someone commits a murder outside Indian land in the same State, he would not face the death penalty. This argument ignores the fact that currently there are numerous murders presently occurring on Indian land, in as many as 37 States which authorize the death penalty, where the Indian defendant does not face the possibility of a death sentence. Further, this amendment would say that murder victims who are Indian, which account for most of the victims on Indian land, are worth less than other victims of murder where the Federal Government has jurisdiction.

We should view this amendment for what it really is—special interest legislation. The Indians want to control and define criminal law on Indian land. Yet, the question regarding who has criminal jurisdiction within Indian country is controversial and has been debated for decades. Time and time again Federal courts have determined that the Federal Government has this authority. In cases which date back as far as 1831, the Supreme Court of the United States has determined that the Federal Government has the authority to enact criminal laws affecting Indian territory.

This amendment's proponents, in reality, are opening the door to expansion of the Indian territories' role in creating and defining criminal law. In other words, it expands Indian country autonomy despite the fact that the Federal Government has historically asserted and held criminal jurisdiction over Indian land. The supporters of this amendment now want the Federal Government to give up that authority. For the Senate to pass this amendment would be a major precedent which is contrary to decades of Federal law and policy. This amendment would exclude Indians from Federal criminal law by expanding sovereign authority beyond what is appropriate for Indian tribes. Indian tribes, to my knowledge and according to the Select Committee on Indian Affairs, have never had the authority to opt in or out of a particular Federal criminal statute.

Any claim which asserts that to subject the Indians to the death penalty is without precedent is clearly incorrect. Violent crimes involving Indians in Indian country have been subject to Federal law since 1885 when Congress enacted the Major Crimes Act of 1885. Since that time, Indians on Indian land have been subjected to Federal penalties, including the death penalty, for murder, and other serious crimes against Indians. In fact, Indians are currently subjected to the death penalty for certain drug-related murders under the Controlled Substances Act. Federal death penalty statutes are nothing new to Indian country.

In summary, those who commit heinous, depraved murders should face the death penalty. There should be no exception. This legislation applies fairly to all who commit vicious murders.

For these reasons, I strongly oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I yield myself 2 minutes.

I believe that all of us should recall that Indian tribes are sovereign. They have been sovereign from the days of our Founding Fathers. As proof of that, there are 370 treaties in effect at this moment, treaties that have been ratified by the U.S. Senate. As sovereign people, like the sovereign people of Hawaii, they should be given the right to determine whether their people should be subjected to the death penalty.

As I tried to point out, Mr. President, if an Indian and a non-Indian should commit together a crime of murder on an Indian reservation and that reservation happened to be in a State where the death penalty is not a part of the law, the Indian under this law would be facing the death penalty, but the non-Indian would not. This is not special-interest legislation. This is nondiscriminatory, fair legislation, recognizing the sovereignty of Indian people. It is that simple.

Mr. McCLURE. Will the Senator yield to the Senator from Idaho?

Mr. THURMOND. Mr. President, I am pleased to yield 4 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from South Carolina yields 4 minutes to the Senator from Idaho.

Mr. McCLURE. Mr. President, in 4 minutes it is very difficult to outline all the reasons why I think this is bad legislation, but let me try to summarize.

Mr. President, I rise today to make a few remarks on the Inouye amendment to the crime bill which will exempt Indian tribes from having the Federal death penalty apply within Indian country.

This amendment is totally wrongheaded and I will oppose it in its entirety. In my judgment, it is dangerous to start singling out one group or another for exemption from the Federal death penalty. Many figures are going to be quoted about the high percentage of Indians involved in first degree murder cases prosecuted in the Federal system. I do not dispute these figures. I would point out to my colleagues, however that of course there are more Indians being charged with Federal offenses on Federal lands. That only makes sense because many Indians live on Federal land. That is simply a fact of life. It has always been my understanding that Indian tribes have always wanted Federal law, and its many protections, to apply to them. But now, under the guise of exercising treaty rights, we are being asked to exempt Indian country from the Federal death penalty. What if tribes wanted to opt out of complying with the Clean Air Act? Would we allow them to "exercise their treaty rights" and not comply? I think not.

On its very surface, the Inouye amendment is totally wrong. But when you get below the surface, the Inouye amendment is not just wrong, it is so fatally flawed that even my colleagues who would like to support it should vote against it. Let me outline just a few of the problems with this language.

The Inouye amendment relies upon the definition of "Indian country" that appears in 18 U.S.C. 1151. This first definition of "Indian country" is fairly neat and tidy—"land within the bounds of a reservation." However, also included within that definition are "all dependent Indian communities within the borders of the United States" and here the clarity begins to dim. Court decisions attempting to define "dependent communities" have been less than successful at coming to a clear definition. Indeed, in one court decision, United States versus Mound, it was found that:

> The test for determining what is a dependent Indian community, for purposes of Federal jurisdiction, must be a flexible one, not tied to any single talismanic standard such as percentage of Indian occupants, because needs of Indian people must necessarily change with years. * * *

Under the Inouye amendment, it is a given that all reservations would become Federal death-penalty-free zones. According to the BIA, there are 272 reservations in the United States. So that is 272 places in the United States where the Federal death penalty simply would not apply—no matter how heinous the crime. But the situation becomes even more complicated when you begin to ponder what would happen should the Inouye amendment pass when it comes to defining an "Indian community."

Most Americans think that all Indians live on reservations. Of course, that is not true. According to the BIA, approximately 700,000 Indians live off reservations, many in urban areas and in communities largely populated by Indians. Are these then to be considered Indian communities? I do not think we know the answer to that question. But what I do know is that the courts will undoubtedly be clogged with cases testing where we can have a death-penalty-free zone.

For example, consider Oklahoma. Oklahoma is the home to some 40 Indian tribes—but it only has one reservation. In passing the Inouye amendment, it is entirely likely that many communities in Oklahoma will be exempt from the Federal death penalty either by virtue of the number of Indians living there, by the claim to the land Oklahoma Indians have through mineral rights, or because some of the land is allotted.

Consider Alaska. My distinguished friends from Alaska are often telling me that Alaska is different. Upon investigation, my colleagues will find that Alaska does, indeed, have a complicated situation with Alaska Natives. The courts have not yet been able to determine exactly what constitutes Indian country in Alaska but Native Alaskans are asserting jurisdiction over entire non-Native communities and even, as I understand it, over a section of the pipeline at Stevens Village. Alaska Natives are the largest landowners in the world—owning 44 million acres. That is 10 Hawaiis. That is nearly the size of the entire State of Idaho, Idaho having 52 million acres. Under the Inouye amendment, 44 million acres of land could become a Federal death-penalty-free zone.

The Inouye amendment is going to create literally hundreds of pockets in this country where Federal crimes can be committed and the criminal will know, in advance, that the Federal death penalty will not apply. The question of jurisdiction, and fairness, is going to be a nightmare.

Mr. President, the Senator from Hawaii gives one instance. Let me give another. Suppose it is an Indian that murders a white man in Indian country; he would be exempted. On the other hand, if a white man murdered an Indian in Indian country, the white man would be subject to the death penalty in those States where the death penalty is involved. So, instead of being discrimination against Indians, it is, in fact, exactly the opposite.

But let us look at this other question. This happens to be the Nez Perce Indian Reservation in my State. If you look at that map, you will see a number of different colors, but the colors green and yellow are the ones that are involved. In the boundary of this reservation the only lands owned by the Indians or Indian tribe are those colors in yellow and in green. All the rest of it happens to be owned by non-Indians.

As a matter of fact, if you were to have a murder committed in the city of Nez Perce, the city of my wife's home where she grew up, out in the middle of this reservation but entirely surrounded by non-Indian lands and, so far as I know, no Indians living in the community, if it were an Indian murdering a white person in that white community, the Indian could be exempted from the death penalty but any other murder by any other person would be subject to the death penalty.

This reservation happens to be 11 percent owned by Indians or by the tribe and 89 percent by others. So that, as a matter of fact, you have a sweeping prohibition against the death penalty for Indians in a great territory that is within the reservation but not Indian owned or Indian related at all except it happens to be within, historically, the boundaries of that reservation.

Mr. President, I want to emphasize, without getting into the question of what is Indian country and what is not Indian country, and that is another question in this bill, I hope the amendment of the Senator from Hawaii will be tabled. If it is, we will not have to spend the time to debate what is or is not Indian country, in this particular instance what is Indian country.

If we get right outside of the boundaries of Nez Perce Reservation, is that Indian country? Is that, under the definition, going to be subjected to the same kind of discrimination against non-Indians as it would be against Indians?

Let us assume for a moment that a murder were to occur just outside of the reservation boundaries and it was a non-Indian murdered by an Indian. Is the Indian exempted from the death penalty that anyone else in the State of Idaho would be subject to in that instance? And I would say, yes, they would be; this is Indian country.

Now, that, to the best of what I can possibly describe, is the kind of discrimination that nobody wants. I cannot imagine anybody really trying to defend a discrimination that, in effect, gives a license to kill a white. We will post a notice on the boundary of the Indian country, wherever that may be, and say Indians can kill whites here; you are exempt from the penalty. But, whites, you better not commit a murder; you are subject to the penalty.

Now, if that makes any sense, I will eat it. As a matter of fact, what you are doing under this particular amendment is to vulcanize this country into a whole host of different little enclaves of special treatment for people of one race. And no one else gets it, no one else seeks it, just the Indians in what might be defined as "Indian country."

What are you going to do in the State of Oklahoma with 40 tribes and no reservations?

The Inouye amendment is going to create literally hundreds, literally hundreds, of pockets in this country where Federal crimes can be committed and the criminal will know in advance that the Federal death penalty will not apply. That says to someone in those instances, if it is an Indian bent on committing a crime, haul your victim into Indian country to kill him. Do not make the mistake of murdering him somewhere else. Get him back to Indian country and you will be exempt.

No one else has that privilege. It is, as a matter of fact, a discrimination against all of the rest of the population in all of the rest of the country as well as a discrimination against all of the rest of the population in Indian country. This is bad law. It ought to be rejected. At the appropriate time, I hope there will be a motion to table this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I yield myself 1 minute.

Under the Domenici-Inouye amendment, if a non-Indian murders an Indian on an Indian reservation that has voted against the death penalty, that non-Indian would face the charge of murder but would not be subjected to the death penalty. That is the amendment. Without this amendment, if an Indian and a non-Indian should murder an Indian or non-Indian on an Indian reservation and if that reservation is in a State that does not have the death penalty, the Indian would face the death penalty where the non-Indian would not. This makes everything fair. And I think it should be favored by the Senate.

Mr. DOMENICI. How much time remains for the proponents?

The PRESIDING OFFICER (Mr. KERREY). The proponents have 5 minutes and 34 seconds.

Mr. DOMENICI. And for the opponents?

The PRESIDING OFFICER. The opponents have 2 minutes, 48 seconds.

Mr. DOMENICI. I yield myself 2 minutes.

Mr. President and Members of the Senate, I really believe the issue my good friend from Idaho makes with reference to checkerboarded land such as this should not be used to confuse the issue. We are not trying to discriminate against anyone in this amendment. What we are saying is that, in the United States of America, Congress has never tried to tell the State of South Carolina that they shall have capital punishment for first-degree murder. I say that to my distinguished friend who opposes me here on the floor.

We have never tried to tell South Carolina first-degree murder carries the death penalty. We left it up to them. All we ask for the Indian people—and we are sorry if we have jurisdictional issues, in terms of land. We cannot resolve that in a capital punishment statute. We are saying, where there is an Indian government in place that has jurisdiction over the land where a murder occurs, that Indian jurisdictional government should have the same right as the legislature of the State of South Carolina or Idaho or Hawaii to determine whether or not that is capital punishment, death, as a result. That is all we are saying.

There is an entire list of Federal offenses that carry death: killing a President—We are not trying to discriminate and say if it is on Indian land, Indian governments have anything to do with it. That is a Federal offense. We are only saying, when you try to make first-degree murder punishable by death, and only that case, we are saying you either have Indian self-determination or you do not. If you do, let that Indian government decide, as you decide in South Carolina or in Idaho or Nebraska, whether death will ensue.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, will the Senator yield me 1 additional minute?

Mr. THURMOND. How much time have I left?

The PRESIDING OFFICER. The Senator has 2 minutes and 48 seconds.

Mr. THURMOND. I yield the rest of my time.

Mr. McCLURE. I thank the Senator for yielding. I strongly support the Senator from South Carolina in his opposition to this amendment. At some point in the debate, it gets awkward because the Senator from Hawaii made a statement a moment ago which is just flat wrong. There is no way for me to say it, except he has been ill-advised with respect to the particular statute.

Murder by a white on a Indian reservation is prosecuted under State law. I do not care what this amendment says, he is subject to State law. And the Indian could be on that reservation and by the terms of this amendment he would be exempted from the death penalty by the action of the tribe, even though it was in a checkerboard pattern like I have referred to here. But beyond that, that white person who commits the crime cannot be exempted by the tribal action and is subject to the death penalty, if it is applicable in that State. That is just flat fact. There is no way to dispute that fact.

So you have a case of discrimination against the non-Indian who is subjected to a penalty that the Indians, by their own action, can exempt themselves from.

You can talk all you want to about it is fair, let them do it in their own country. I would certainly concede to my friend from New Mexico that in Arizona and New Mexico where they have vast areas of their States covered by Indian reservations, it may be somewhat different. I have five reservations in the State of Idaho. They are relatively smaller portions of the State, although I might just mention this particular reservation I am referring to here, the Nez Perce Indian Reservation, is about the same size as the State of Rhode Island. Within this area, regardless of whether it is Indian-owned or tribal-owned, you are going to say Indians are exempted from the crime that everyone else in the State will be subjected to.

We have never done that before, and I think we ought to make very plain,

this is bad legislation. The Department of Justice opposes it. It will create a hodge-podge and a patchwork of impossible dimensions.

I do hope the Senate in its wisdom will reject the amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, in the United States of America if Nebraska did not have a death penalty and the next-door neighbor State had a death penalty, I could come up with something that would say, if you committed murder in one State and you got the death penalty, and you committed it in the other State and you did not, that is discrimination.

That is not the case. That State had the right to decide capital punishment.

If we want to talk about discrimination, if we table this amendment or defeat it, it is plain and simple one kind of discrimination. It is right there. It is discrimination against the Indian people. You have decided that they have governments but you do not want to give their government the right to determine capital punishment or not.

Mr. McCLURE. That is right.

Mr. DOMENICI. It is that simple. If you do not want to, then vote to table this amendment.

I believe you should give them the right. I do not know why we are so preposterous as to think that they like killing each other. They very well might pass the death penalty in some of the Indian reservations. If I were running there, I would run on that ground, and I would probably get elected, and I would pass the statute and say the death penalty applies.

Is that not how we do it in the United States? Yes, we do it in the United States. But not if it is an Indian tribe, and not if it is Indian government. We concoct all kinds of others things as to why not. I believe they either are governments or they are not. They should be treated like governments or not.

If we do not want to treat them like governments, then deny them the right to determine for their own people and for those who are on their reservation. That is the way you do it in Nebraska. You do not ask, is that a Nebraskan there? If it is somebody from Missouri that is there, you treat them the same way.

So. Mr. President, we ought not table this. We can correct some of these problems of Indian country. That is not the Indian governing body's problem; nor that of the Indians who want the right to determine the death penalty for their own people.

The PRESIDING OFFICER. The Senator from Idaho has 7 seconds.

Mr. McCLURE. Mr. President, the Senator from New Mexico is wrong. We do not give the Indian tribes the authority to pick and choose which Federal criminal statutes they can apply on the reservation. They have never been given that authority. They are not given that authority now. They should not be given that authority in death penalty cases.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I support the Inouye amendment.

As a matter of fundamental fairness, native American tribes should not be subject to the death penalty unless they choose to adopt such a penalty for themselves. The Inouye amendment would exempt offenses committed on Indian reservations from the application of the Federal death penalty for first-degree murder unless the Indian tribe itself votes to be bound by this Federal legislation.

I do not support the death penalty under any circumstances. Capital punishment is wrong in principle and in practice, and it is the wrong response to the epidemic of illegal drug use that has afflicted our Nation. Before turning to the merits of the Inouye proposal, I would like to reiterate briefly the basis of my opposition to the death penalty.

Capital punishment is wrong as a matter of principle, because it violates the eighth amendment's prohibition against cruel and unusual punishment. It is true that the Supreme Court has not yet concluded that the death penalty is unconstitutional in all cases. But I am sure that someday the Court will recognize that this form of punishment is cruel and unusual. The methods of execution are themselves grotesque. Indeed, the United States stands alone among Western democracies in authorizing the death penalty for peacetime crimes.

The death penalty is also wrong as a matter of practice, because of the likelihood that innocent men and women will be executed. No system of justice can eliminate the risk that an innocent person will be convicted of a crime. That is a risk we accept when the punishment is imprisonment, because a jailed man or woman can always be freed. But we cannot tolerate that risk when the punishment is death, because no one can bring the innocent person back to life.

There is no convincing evidence that the death penalty deters crime. For every study claiming deterrence, there are more convicing studies establishing that the death penalty has no deterrent effect whatsoever. In my view, some of the most convincing evidence that the death sentence does not deter murders is found in the experience of other Western democracies. Not one of those countries has capital punishment for peacetime crimes, and yet every one of those countries has a murder rate far less than half that of the United States.

In contrast to the absence of evidence that the death penalty deters crime, there is overwhelming evidence that the penalty is imposed in an arbitrary and racially discriminatory fashion. The Constitution requires that courts and juries be given discretion, within limits, in deciding whether or not a death sentence is appropriate for a particular crime. The exercise of that discretion carries with it the inevitable result that defendants who commit similar crimes are treated differently. Research demonstrates that race is a significant factor in the exercise of sentencing discretion.

Unfortunately, the Senate has already voted to strike from the bill the Racial Justice Act, a provision designed to reduce racial discrimination in capital sentencing. Absent the Racial Justice Act, there is every reason to fear that the death penalty will continue to be applied in an unacceptably discriminatory manner.

In fact, the pending legislation discriminates against native Americans. Because of the nature of Federal jurisdiction, the vast majority of Federal murder prosecutions arise from the context of crimes committed on Indian reservations. According to the U.S. Sentencing Commission, 77.8 percent of all homicide defendants sentenced in Federal court from November 1987 to February 1989 were American Indians and Alaskan Natives. In contrast, for all crimes, Native Americans comprise only 1.7 percent of all defendants.

Of the 65 people prosecuted for first-degree murder in the Federal courts from July 1987 to June 1988, 40 of them—62.5 percent—were convicted for crimes committed on an Indian reservation and all but one of the 40 defendants was a native American.

The significance of these statistics is clear: American Indians are disproportionately affected by a Federal death penalty. The Inouye amendment would remedy this unfairness.

Native Americans have endured a history of oppression and mistreatment at the hands of the National Government. In recognition of their special status, Indian tribes retain certain aspects of sovereignty. Few laws would constitute a greater violation of that sovereignty than the imposition of the death penalty without giving the tribal governing units a role in this decision.

In fact, many Indian tribes are opposed to capital punishment. But those tribes that do wish to have the Federal death penalty apply to crimes committed on their reservations will have that option under the Inouye amendment.

The Inouye amendment will also remedy a gross disparity that would otherwise be created by the pending legislation. North Dakota, for example, does not have a death penalty, but a number of Indian reservations in the State would be subject to the death penalty under this legislation. Whether a defendant convicted of murder in that State is subject to the ultimate penalty of death will depend on an irrelevant factor—whether the crime was committed on an Indian reservation or not. That result is unacceptable.

A disparity is also created among Indian tribes. The treaties and statutes that brought various Indian tribes within the authority of the United States provided different forms of criminal jurisdiction. Some tribes are governed by Federal jurisdiction and others by State jurisdiction. In States that do not have a death penalty, therefore, the pending legislation would mean that some tribes within a State would be subject to the death penalty and others in the same State would not. There is no plausible basis for such distinctions.

The Inouye amendment provides tribes with the option of choosing the death penalty for themselves. This is the only legitimate, democratic process for applying the death penalty in such cases.

Ordinarily, we do not give native American tribes or other groups the choice of whether to be bound by Federal legislation. But death is different. This is a highly emotional issue for many Americans, and we should not, in good conscience, impose this drastic legislation on native Americans without giving them a voice in the process.

I urge my colleagues to support the Inouye amendment.

Mr. McCAIN. Mr. President, today I want to express my strong support for the Federal policy of tribal self-determination and self-governance. This policy is deeply rooted in our Constitution and a long course of dealing with the Indian tribes. A fundamental tenet of this policy is the recognition of the fact that in return for the cession of vast tracts of land to the United States, the tribes retained certain inherent sovereign authority over their reserved lands and their people. A corollary of this policy is the constitutional authority of the Congress to limit or divest inherent tribal sovereignty.

In the area of criminal law, the Congress has limited tribal authority to misdemeanors. Most felonies occurring on Indian land are prosecuted pursuant to the Major Crimes Act. The bills now before us would extend the death penalty to certain offenses which are prosecuted under the Major Crimes Act.

Many Indian tribes have expressed grave concerns about the potential impact of these bills. They point out that in some jurisdictions, as many as 70 percent of the individuals convicted of the offense of murder in the first degree are Indians. The tribes have asked that we consider a variety of means to mitigate what they believe to be a disparate impact on Indian people. In response to these requests, and in recognition of the inherent sovereignty of the tribes, I developed an amendment which would have permitted any tribe to opt out of the death penalty within 1 year after enactment by the Congress. This amendment recognized the need for uniform national law at the same time that it provided tribes with the same flexibility afforded to the States under our Federal system. Unfortunately, my amendment did not receive the support of any of the tribes. Accordingly, I have concluded that there is no point in proceeding to offer it today. I continue to stand ready to work with concerned tribal governments on terms that are consistent with the government-to-government relationship and the sound application of uniform Federal criminal laws.

Regrettably, I must oppose the amendment of the distinguished Senator from Hawaii. I must do so because it sends the wrong message. Every night in America on the evening news we witness the carnage and the astonishing indifference with which criminals violently prey upon the innocent, and we see a reflection of our own indifference. Victims of violent crime have become faceless, nameless numbers—units of measure in a ghoulish accounting of our ineffective effort to provide a domestic peace. But those victims aren't numbers, Mr. President. They are human beings of every color, race and creed. Just like us they love, are loved and depended upon by others. And yes, we care about them. It's time, on behalf of the victims, whether from New York City or the Navajo nation, that we take a stand and let those who would visit death upon their fellow man know that their actions will have a consequence, that the lives of innocent victims matter to all of us and that we will do everything within our means to deter the criminal taking of life.

I must vote against the amendment of my friend from Hawaii, certainly not because I don't believe in the tenets of tribal sovereignty, quite the contrary. I must vote against the amendment because by requiring tribes to opt into application of the Federal death penalty, rather than out, as my amendment would have done, the presumption is against capital punishment. For the reasons I have already stated, this is a presumption I cannot support, not if we are serious about taking the streets back from the violent criminal and restoring the rule of law and order in our towns, cities, and tribal communities.

Mr. DOMENICI. Mr. President, to recapitulate, I rise to join the distinguished chairman of the Indian Affairs Committee in offering this amendment on the application of the death penalty to native Americans.

In New Mexico and several other States, State governments have no criminal jurisdiction over Indians on Indian lands. An Indian charged with a very serious crime, including first degree murder, occurring on a reservation in those States is prosecuted in Federal court under the Major Crimes Act.

As a result, 61 percent of the murder defendants in Federal court from July 1, 1987, to June 30, 1988, were native Americans. Although there are no precise statistics, it is believed that most of the victims are generally Indians as well—tragically, Indian murder cases generally involve family members or acquaintances.

Similarly, if a non-Indian is prosecuted for the murder of an Indian on Indian land, the case is brought in Federal court pursuant to the General Crimes Act. These cases are fairly rare—1 out of 64 during the survey period.

Because of the Federal court authority of the Major Crimes Act and the General Crimes Act, all defendants prosecuted for first degree murder involving Indians in Indian country would be subject to the death penalty if S. 1970 were to pass in its present form.

In these two types of cases, the Federal Government has jurisdiction not because of its inherent authority as the Federal Government, but rather because the Federal Government—as a result of its trust responsibility to the native American peoples—is acting in the place of tribal governments.

I would also note that a non-Indian charged with the murder of a non-Indian on Indian land is prosecuted in State court. He or she would be subject to the death penalty only if the State has a death penalty in effect for such crimes.

Because the Federal Govenment is acting in the place of the tribal governments, the individual Indian tribes should be able to determine whether the death penalty should apply to murders that take place on lands within their jursidiction.

I am pleased to join Senator INOUYE in offering an amendment to grant to the Indian tribes this authority.

The Domenici-Inouye amendment on the death penalty would prohibit the death penalty from being applied to murders committed by or against Indians in Indian country unless the tribe having jurisdiction over the land on which the murder took place had in effect at the time of the murder an

election to have the death penalty apply to such murders.

The amendment will protect tribal self-determination by permitting tribes to determine whether the death penalty will apply in their jurisdictions, just as States do for murders within their jurisdictions.

The death penalty would apply only to tribes that have made an affirmative decision prior to the date of the murder to have the death penalty apply to such murders and have not revoked that decision prior to the date of the murder.

Thus, it grants to tribes the authority to elect to have the death penalty apply or to revoke such an election at any time.

Mr. President, the Domenici-Inouye amendment presents tribes with a reasonable opportunity to elect to have the death penalty apply to murders involving Indians on their reservations. I believe it represents a balanced approach to this issue—one that neither favors or disfavors the death penalty, but rather allows tribes to make the decision for themselves for murders that involve Indians.

The PRESIDING OFFICER. Proponents of the amendment have 10 seconds left.

Mr. INOUYE. I yield the remainder of my time.

Mr. McCLURE. Mr. President, I move to table the amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion of the Senator from Idaho. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado Mr. ARMSTRONG, is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 37, nays 62, as follows:

[Rollcall Vote No. 136 Leg.]

YEAS—37

Baucus	Heflin	Nickles
Bond	Heinz	Pressler
Boschwitz	Helms	Roth
Burns	Hollings	Rudman
Coats	Humphrey	Shelby
D'Amato	Kerrey	Specter
Dixon	Lott	Stevens
Dole	Lugar	Symms
Garn	Mack	Thurmond
Gorton	McCain	Warner
Graham	McClure	Wilson
Gramm	McConnell	
Grassley	Murkowski	

NAYS—62

Adams	Biden	Bradley
Akaka	Bingaman	Breaux
Bentsen	Boren	Bryan
Bumpers	Gore	Mitchell
Burdick	Harkin	Moynihan
Byrd	Hatch	Nunn
Chafee	Hatfield	Packwood
Cochran	Inouye	Pell
Cohen	Jeffords	Pryor
Conrad	Johnston	Reid
Cranston	Kassebaum	Riegle
Danforth	Kasten	Robb
Daschle	Kennedy	Rockefeller
DeConcini	Kerry	Sanford
Dodd	Kohl	Sarbanes
Domenici	Lautenberg	Sasser
Durenberger	Leahy	Simon
Exon	Levin	Simpson
Ford	Lieberman	Wallop
Fowler	Metzenbaum	Wirth
Glenn	Mikulski	

NOT VOTING—1

Armstrong

So the motion to lay on the table the amendment (No. 2092) was rejected.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, if I might have the attention of Senators, upon the excellent suggestion of the distinguished Republican leader, the managers are attempting to schedule for immediate consideration those amendments which will require rollcall votes to minimize the time within which Senators must remain for consideration of this bill.

To further accommodate as many Senators as possible, the remainder of the votes this evening will be 10-minute rollcall votes. There will be an estimated three to five such votes necessary. Managers cannot now be certain. They will occur at intervals of no more than 30 minutes each.

Therefore, Senators should remain in or adjacent to the Capitol so that we can move this along in a way that minimizes the inconvenience of Senators to the extent possible. I ask and encourage all Senators to cooperate in this effort.

The distinguished Republican leader and the managers have been outstanding in moving this along. We can make it possible that Senators could leave at a reasonably early hour this evening, and not be in session tomorrow if we have cooperation in that regard.

I especially want to thank the distinguished Republican leader who made the suggestions that we are now implementing. I yield to him now.

Mr. DOLE. I know everything is very important, and probably should be debated in full, but there may be a few cases where you do not need the full 30 minutes. Some of these matters have been before the Senate a number of times and have been debated fully. Hopefully the managers will encourage Members, particularly if they are going to accept the amendments—my view is if they do not want to be accepted, we will have a vote; if they want them accepted, they will not take so long.

In any event, I think the majority leader is right. We must be able to conclude this bill this evening.

Mr. MITCHELL. I thank my colleagues. I yield the floor.

AMENDMENT NO. 2093 TO AMENDMENT NO. 2092

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho, [Mr. McCLURE], proposes an amendment numbered 2093, to amendment No. 2092.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the amendment (No. 2092), strike out "in Indian country (as that term is defined in section 1151)" and insert in lieu thereof "on any land title to which is held by the United States in trust for an Indian or an Indians tribe or lands title to which is held by Indian or an Indian tribe subject to a restriction by the United States against alienation,".

Mr. McCLURE. Mr. President, I regret the amendment was not tabled, because I think it was not well understood what the implications were. But I am not going to debate that any further.

I do want to appeal to the sponsors of the amendment that it has not been tabled and will ultimately be adopted.

To narrow the definition of where it is applied, the amendment says Indian country, and that by statute includes all the area around an Indian reservation and dependent communities of the Indian communities.

As I pointed out earlier, 89 percent of the Nez Perce Indian reservation is in private lands, non-Indian hands. Only 11 percent of the land within the boundary of the reservation is owned by the tribe or allotted to individual Indian allottees, and yet the amendment says any tribe in that area is exempted or can be exempted by the tribal council.

The amendment which I have offered says that must be on lands owned by the tribe or individual members of the tribe rather than the definition of Indian country.

I appeal to the sponsors of the amendment to accept that change in definition so that it would at least apply to what is truly the lands owned by the Indians and not to the several different communities that we have in or near Nez Perce Indian reservation in which now the tribes can say murders will be exempted; these crimes will be exempted from death penalties.

I reserve the remainder of my time.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield myself such time as may be necessary.

Mr. President, I think the distinguished Senator from Idaho has made a good point. It seems to me it is the only practical course to pursue. For that reason, we favor the amendment.

Mr. STEVENS. Mr. President, I do not have time. But I would like to ask the sponsor of the principal amendment a question if I may. Will the Senator yield for that purpose?

Mr. INOUYE. Yes, I am happy to yield.

Mr. STEVENS. Mr. President, I am interested to know whether the intent of the amendment is to cover those crimes punishable before tribal courts or those punishable before State courts or those punishable before Federal courts. If it is strictly a Federal court concept, and not a State court concept, it is one thing. But, if this is attempting to impose different standards on people who would be tried in the State courts for a State court crime, under the State statutes, as the code provides they may be, then I think it is unfortunate to set up a double standard and, in effect, say to the governing body of a tribe that they can go tell a judge or jury that "We do not elect to have our person tried under a capital punishment statute" whereas a person not an Indian in that area would be subject to the capital punishment of the State law.

Is this the case?

Mr. INOUYE. The amendment would simply say that if an Indian and a non-Indian should commit a first-degree murder on an Indian reservation both of them will be treated alike.

Mr. STEVENS. What about the Indian who commits a crime outside the reservation and in a dependent community as defined under the Federal statute in an area where State law does apply to both the Indian and the non-Indian?

Mr. INOUYE. Section B of 1131, when it speaks of dependent communities, covers rancherias, as you find in California, where they are not called reservations, and those communities like the Cherokee community in Oklahoma where they are not called reservations technically, and Indian villages in Alaska. They are not reservations.

Mr. DOMENICI. Will the Senator yield? May I ask a question?

Mr. STEVENS. If I might pursue one more question. I do not have the floor. Take the reservation of Annette Island, often referred to as Metlakatla, in my State which the Senator is familiar with. It is an executive order reservation. It is subject to State law at the present time. It has no tribal criminal jurisdiction, on or off that reservation. Does this set up a different standard for the members of the Metlakatla community than it does for the community that might live in Ketchikan?

Mr. INOUYE. If the members of that tribe should commit a murder outside the reservation, State laws will apply.

Mr. STEVENS. What about within their reservation; State law does apply to that?

Mr. INOUYE. State law applies,

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Let me respond to the Senator from Alaska, because this is very confusing. I want to be very precise about it. Under the definition in the bill now, if the crime is committed in Indian country by an Indian and the Indian tribe elects not to have adopted the death penalty, it would not be subject to the death penalty.

Mr. STEVENS. Even if they were tried in a State court?

Mr. McCLURE. That is I think very confusing and very uncertain; certainly true in a Federal court situation, certainly true in the tribal court situation. If a white person, a non-Indian person, not necessarily a white person, committed the same crime in the same location, they would be subject to the death penalty.

Mr. STEVENS. Mr. President, I do not have the floor but I was the Solicitor of the Interior Department at one time. If I may for 1 more minute state this, I think it is one of the more complex areas of Federal law there is.

I respect the rights of those people who are Indians who live on treaty reservations, which have the right to try their people and to determine the laws that apply to their people. They are very few in number.

If the amendment is intended to cover them, that is all well and good. If it is intended to cover the case of Indians on or off the reservation who commit a capital crime and give the tribal governing body the option of telling the tryer of the case, whether it is Federal or State, that this person cannot be subject to a capital punishment, I think we are setting up a double standard, and it should not be adopted.

Mr. INOUYE. Mr. President, Public Law 83-280 has provided special powers to several States.

If I may have the attention of the Senator from Alaska—Public Law 83-280 provides special authority to several States: Alaska, Washington, Oregon, California, Arizona, and Oklahoma. In these States, State law will apply, and this amendment has no effect upon it. So if Alaska says no capital punishment, there is no capital punishment. If it says capital punishment, there is.

Mr. McCLURE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 37 seconds.

Mr. McCLURE. I yield myself 1 minute.

I say to the Senator from Alaska that it simply is not true. It would be true off the reservation. I do not want to debate the Inouye-Domenici amendment, which we are really doing. I want to focus for a moment on the definitional question of where does this apply?

Again, I ask the sponsors of the amendement whether or not they can accept the McClure amendment that says it is on tribal land owned by the allotee, so we do not get into this question of where does it apply. We keep talking about if it is on the reservation, but that is not what the amendment says; it says in Indian country. That can be in an Indian-dependent community, not necessarily on the reservation.

As I pointed out, it can also be in a totally non-Indian community within a reservation. I do not think either one of those cases is necessary to the accomplishment of what the Senator from Hawaii and the Senator from New Mexico seek to achieve.

Mr. STEVENS. If the Senator will yield right there.

Mr. McCLURE. I am happy to yield.

Mr. President, what is the difference between the position of the Senator from Idaho and the position of the Senator from Hawaii with regard to crimes punishable under State or Federal law committed outside of a reservation, under this amendment?

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. If the McClure amendment is not adopted, it applies in Indian country, whatever that term means. And it is defined in the statute, but the courts have said we do not really know how to apply this. It has to be adjusted. It is a very loose application of what is meant by term "Indian country" or "Indian dependent communities." I think we will have all kinds of litigation in criminal courts with respect to the application of this amendment, if it is not amended with McClure amendment.

I hope that the amendment can be adopted. I reserve the remainder of may time.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I move to table the McClure amendment.

The PRESIDING OFFICER. There is an order of time remaining.

Mr. DOMENICI. Mr President, I wonder if my friend would yield 1 minute before he does that. I am going to support the distinguished Senator from Hawaii on his motion to table.

This is not the place to determine the issue raised by the Senator from Idaho. If we went his way, we would be very, very greatly limiting what is accepted as jurisdiction by Indian tribal governments. That may be confusing in our country, but to go the other way and narrow it as loosely as he has, when the rest of the statute refers to Indian country, seems to be inappropriate. I think we ought to table it, and I hope we do.

Mr. McCLURE. Mr. President, if I understand the opponents of the amendment, they yielded back the remainder of their time.

Mr. INOUYE. For the purpose of making the motion to table.

Mr. McCLURE. Mr. President, let me stress to my colleagues that this is not a flippant issue. This is a very serious issue with respect to where the jurisdiction starts and ends, to determine whether or not the death penalty shall apply.

The term "Indian country" is not a precise term. The courts said in United States versus Mound that:

> The test for determining what is a dependent Indian community for the purposes of Federal jurisdiction must be a flexible one, not tied to any single talisman or particular standards such as percentage of Indian occupants, because needs of Indian people must necessarily change with years, and method of supervision over them by the United States must change accordingly.

That is only one of a series of court cases that indicate we do not know what Indian country really means, what dependent community really means. Therefore, we will make a case-by-case determination of whether or not it is within Indian country or a dependent community under the statutes, as now written.

I think it is extremely important to at least say, with respect to the application of the death penalty, with a great deal of precision, exactly where we mean it to be. The Inouye-Domenici amendment does not do that. The McClure amendment would accomplish that.

I hope very strongly that the Senate just a few minutes ago did not agree with me with respect to the major application of this principle of law will at least pay attention long enough to say we are not going to be imprecise about where it shall be applied.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. INOUYE. I move to table, Mr. President.

Mr. McCLURE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Carolina [Mr. SANFORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. DECONCINI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—51

Adams	Dodd	Levin
Akaka	Domenici	Lieberman
Bentsen	Durenberger	Metzenbaum
Biden	Ford	Mikulski
Bingaman	Fowler	Mitchell
Boren	Glenn	Moynihan
Bradley	Gore	Packwood
Breaux	Harkin	Pell
Bryan	Hatfield	Pryor
Burdick	Heflin	Reid
Byrd	Inouye	Riegle
Cohen	Johnston	Robb
Conrad	Kennedy	Rockefeller
Cranston	Kerry	Sarbanes
Danforth	Kohl	Sasser
Daschle	Lautenberg	Simon
DeConcini	Leahy	Wirth

NAYS—47

Baucus	Grassley	Murkowski
Bond	Hatch	Nickles
Boschwitz	Heinz	Nunn
Bumpers	Helms	Pressler
Burns	Hollings	Roth
Chafee	Humphrey	Rudman
Coats	Jeffords	Shelby
Cochran	Kassebaum	Simpson
D'Amato	Kasten	Specter
Dixon	Kerrey	Stevens
Dole	Lott	Symms
Exon	Lugar	Thurmond
Garn	Mack	Wallop
Gorton	McCain	Warner
Graham	McClure	Wilson
Gramm	McConnell	

NOT VOTING—2

Armstrong	Sanford

So the motion to lay on the table amendment No. 2093 was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that any rollcall votes ordered on the amendments to the crime bill be 10 minutes votes.

The PRESIDING OFFICER Without objection, it is so ordered.

Mr. MITCHELL. Members of the Senate ought to be aware that the remaining votes will be 10-minutes votes. I have announced it earlier. I understand that some Senators may not have heard that message and the clocks were not changed for this vote. But from now on it is a 10-minute vote. Again, I repeat, I encourage all Senators to remain in the Capitol or nearby, so that we can continue to proceed with dispatch as we have earlier this evening.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment by the Senator from Hawaii [Mr. INOUYE].

The amendment (No. 2092) was agreed to.

Mr. BIDEN. Mr. President, I move to reconisder the vote by which the amendment was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, for those who are here in the Chamber, let me suggest that we really are making significant progress here. With a little bit of luck, we could get down to only 3 more votes, and with a little less luck we will have maybe 5 more votes.

The next order of business we are moving to is the Senator from Oklahoma who has an amendment to be amended in the second degree by Senator GRASSLEY. I expect we can dispose of this entire matter in a matter of about 5 minutes and move to the next piece of legislation.

I expect no rollcall vote on this amendment.

AMENDMENT NO. 2094

(Purpose: To increase the protection of crime victims)

Mr. NICKLES. On behalf of Senator GRASSLEY and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself and Mr. GRASSLEY, proposes an amendment numbered 2094.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 16, between lines 20 and 21, insert the following:

"(g) VICTIM IMPACT STATEMENT.—(1) Prior to hearing any case under this section and as a part of the presentence investigation of such case, a victim impact statement shall be prepared which shall—

"(A) identify the victim of the offense;

"(B) identify the physical injury by the victim as a result of the offense;

"(C) identify any request for psychological services initiated by the victim's family as a result of the offense; and

"(D) contain any other information related to the impact of the offense on the victim or the victim's family as the court may require.

"(2) The information required by paragraph (1) may be obtained from the personal guardian of the victim or such family members of the victim as may be necessary.

"(3) The victim impact statement required by this subsection shall be considered by the court or jury in a hearing held under this section.".

At the end of the bill, add the following:

TITLE ___—PROTECTION OF CRIME VICTIMS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1990".

SEC. ___02. VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC. ___03. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the witness is either required to attend or, under section ___02(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender;

(B) the escape, work release, furlough, or any other form of release from custody of the offender; and

(C) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC. —04. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to re-

flect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued record-keeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is pain in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender."

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. —05. AMENDMENT OF BANKRUPTCY CODE.

(a) AMENDMENT OF CHAPTER 5.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover a civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

(b) AMENDMENT OF CHAPTER 13.—Section 1322(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims that are nondischargeable under section 523(a)(11).".

Mr. NICKLES. Mr. President, I rise today to propose an amendment to guarantee certain rights for victims of crime and to ensure those victims will receive restitution from the offender.

Great strides have been made in the area of victim's rights over the past decade. What was once an experience equally as traumatic as the original crime for victims—the criminal justice system—has been vastly improved as a result of two pieces of legislation: the Victim and Witness Protection Act of 1982, and the Victims of Crime Act of 1984. These two bills, a result of studies by the President's Task Force on Victims of Crime, covered a great many of the task force's recommendations.

The intent behind improving the criminal justice system in the United States is to keep American citizens from becoming victims of crime. No one is naive enough to believe that we can rid the Nation of all crime, but we can continue to try to improve our system of dealing with victims and criminals in the aftermath. Many of my colleagues have worked in the past to assist victims of crime; this amendment is a much-needed step in the right direction.

President Bush, in a 1988 speech, stated his belief that victims should have the statutory right to be informed of and be present at every stage of the criminal justice process. My bill does this. The bill codifies existing guidelines drawn up by the Attorney General in response to the Victim and Witness Protection Act of 1982. These guidelines are to be followed by our U.S. attorneys. Each of the 50 States has already passed statutes containing one or more of the provisions included in the language I am proposing. Victims of Federal crimes should enjoy the same rights. And, this legislation would serve as a model for States as they continue to work on victim legislation.

The amendment ensures victims will be informed of services available to them. They will also be informed, at their request, of progress in the investigation and trail proceedings of the offender. Victims will be allowed to be present at all court proceedings unless the court rules their present would affect testimony.

President Bush has also stated that victims should have the right to full restitution. I agree. The second section of my bill requires the court to order restitution in all criminal cases. Furthermore, the bill requires the restitution order to be for the full amount of the victim's losses. Once the order has been handed down, the court will order the method and timing of restitution payments. taking into account

the financial circumstances and obligations of the offender.

This is a very tought provision. This bill is saying that if a criminal does $100,000 worth of damage to you, he is goind to be liable for $100,000 in restitution. What this bill does is ensure that criminals, in paying their debt to society, will also pay their debt to the innocent victims of their acts.

My amendment also addresses two recent Supreme Court cases concerning restitution orders. First, my legislation will prohibit the discharge of restitution debts as part of chapter 13 bankruptcy proceeding. The law simply cannot continue to allow an order of restitution to be excused when an offender files for bankruptcy. This is a loophold that must be closed.

Second, my amendment will permit courts to consider the entire course of an offender's criminal activity in determing restitution orders for victims of an offense other than the offense of conviction.

Once a sentence has been completed, if time has been served at all, criminals are free, they are given the opportunity to start over. Unfortunately, victims are not given that opportunity. For many, once they have been victimized, they remain victims for the rest of their lives. In some cases, they cannot simply move on with their lives. As a result of the crime committed against them, victims may be physically disabled, financially ruined, or emotionally scarred. They may have lost a child, a spouse, a parent. I believe it is important to ensure not only that victims will be compensated for their losses, but also that offenders be made to realize the extent of their crimes by being required to pay restitution directly to their victims.

Mr. President, this amendment has the support of the National Organization for Victim Assistance, the National Victim Center, the National Coalition Against Sexual Assault, and Mothers Against Drunk Driving. I ask unanimous consent that their letters of support be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NICKLES. Mr. President, I urge my colleagues to support this amendment to afford victims certain legal rights and to require criminal offenders to pay restitution to compensate victims for their losses. With more than 80 percent of U.S. citizens being victimized during their lifetimes, and a violent crime occurring every 20 seconds, we cannot afford to wait any longer. Increasing the rights of victims must be one of our top priorities for legislating judicial reforms. No legislation can completely stop victimization from occurring, but this legislation will help ensure that the trauma victims suffer will not continue in the courts.

Mr. President, it is good legislation. It is overdue legislation. It is legislation that has been supported by the administration and by President Bush during the campaign. I think it is one of the most important pieces of legislation in this entire bill—victims rights, restitution, and making sure that the criminals actually pay the victims for the offenses.

Mr. President, I reserve the remainder of my time.

EXHIBIT 1

NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE,
Washington, DC, June 7, 1990.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: We have reviewed your "Protection of Crime Victims" legislation and extend to you our sincere appreciation for your work in drafting and introducing it.

By way of background, when Senator Heinz first initiated the idea of a federal "victims bill of rights" in 1982, he enlisted the support of Senators Laxault, Thurmond, and Kennedy, soon joined by Representatives Rodino and Fish, to fashion the Victim and Witness Protection Act of 1982 (VWPA). That law was, in essence, a compendium of procedures that the states had enacted to recognize and protect the legitimate interests of crime victims in the justice system.

The strength of VWPA was its comprehensive sweep—indeed, it was judged to be the best legislative expression of victim rights to be found anywhere at that time. Its possible demerits were that, first, It lacked much in the way of affixing responsibility for implementing the law, and second, some of its provisions might later seem a bit timorous.

Your legislation, if enacted, will correct a number of the flaws that have in fact been perceived in the implementation of VWPA. Of special note is your imaginative devise of requiring that a specific individual be named in every agency have implementation responsibilities under the Act—a fair and effective way to bring accountability into the system.

I also particularly commend your efforts to make criminal restitution as effective a form of redress as is civil litigation. It seems absurd that, in most jurisdictions, a victim seeking just reparations must hire an attorney to file a civil suit to get a judge, some years down the road, to declare an abjudicated criminal liable for the economic losses he caused; for the issue of liability had been established years before in the criminal courts—and at a higher standard of proof.

VWPA helped reform that practice by encouraging the issuing of restitution orders and making them convertible into civil judgments. Your bill completes that reform by, in effect, making such orders mandatory, and for the full amount owed even if, for the present, the offender cannot afford to make repayment in full.

Similarly, the permission to discharge criminal restitution in a Chapter 13 bankruptcy proceeding—recently affirmed by the Supreme Court—is a strange, anomalous, and unjust loophole in the Bankruptcy Code that your proposal would close.

In these and other ways, your proposal advances the President's victim rights agenda, outlined on October 10, 1988, and will, we very much hope, inspire the same bi-partisan review and support that occurred nearly a decade ago. We look forward to working with you in the accomplishment of that goal.

Sincerely,

MARLENE A. YOUNG, PH.D., J.D.
Executive Director.

NATIONAL VICTIM CENTER,
Fort Worth, TX, June 27, 1990.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: Thank you for providing the National Victim Center with the opportunity to review and comment on your proposed legislation entitled *Victims' Rights and Restitution Act of 1990.*

The Board of Directors and staff of the National Victim Center would like to express our full support for this important legislation. Both the "Victims' Bill of Rights" and victim notification procedures contained in your bill will strengthen crime victims' rights in accordance with Federal law and, at the same time, enhance their personal rehabilitation and recovery.

Two the most significant components of the *Victims' Rights and Restitution Act of 1990* are those relevant to the U.S. Bankruptcy Code and restitution in cases which are plea bargained. The recent U.S. Supreme Court decision *Commonwealth of Pennsylvania v. Davenport* resulted in crime victims losing virtually all effective means of requiring criminals by whom they were victimized to make restitution for their crimes. Likewise, the High Court's decision in *Hughey v. United States* prevented victims whose cases were not included in plea bargain decisions from obtaining restitution. We're extremely pleased that this bill would reinstate victims' rights to restitution without convicted offenders being allowed to hide behind the cloak of Chapter 13 bankruptcy, and that the countless victims whose cases are not part of plea bargains will still have the crucial right to restitution.

In addition, your bill's language relevant to victim impact statements in capital cases recognizes that the "voice of the victim" is not only critical to insuring a fair and just sentence. For many victims, impact statements held aid their personal recovery and rehabilitation.

The *Victims' Rights and Restitution Act of 1990* is one of the most comprehensive and necessary bills we have seen emerge from Congress. It will undoubtedly change a criminal justice system that for too many innocent victims is more criminal than just.

The Board of Directors and staff of the National Victim Center urge your colleagues in the U.S. Congress to support this fine legislation.

We will be pleased to provide a more in-depth analysis of this bill upon request.

Thank you for your consideration of our opinions. Please call me at (817) 877-3355 if I can offer additional information or assistance.

Sincerely,

ANNE SEYMOUR,
Director of Public Affairs.

NATIONAL COALITION
AGAINST SEXUAL ASSAULT,
Washington, DC, June 18, 1990.

Hon. DON NICKLES,
Washington, DC.

DEAR SENATOR NICKLES: The National Coalition Against Sexual Assault (NCASA) supports your proposed amendment titled Protection of Crime Victims to the Crime Bill. We suggest one addition to include a victims right to have an advocate of their choice present at all proceedings.

We believe the rights you have outlined coupled with our proposed addition would be a substantial improvement in the treatment of victims of crime. It is always encouraging to us when lawmakers approach difficult crime issues using a multi-faceted approach which includes the needs of victims as well as those of law enforcement.

In closing, NCASA appreciates your efforts on behalf of all victims of crime, your obvious commitment is commendable. If I can be of any further assistance please do not hesitate to contact me at (415) 237-0113, 2023 Vale Road, San Pablo, CA 94806.

Sincerely,

MARYBETH CARTER,
President.

MOTHERS AGAINST DRUNK DRIVING,
Hurst, TX, June 27, 1990.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SENATOR NICKLES: I wish to take this opportunity to express the views of Mothers Against Drunk Driving regarding your amendment to the Crime Bill (S. 1970). MADD is happy to support the Victims' Rights and Restitution Act of 1990. As drafted, the intent of the measure promises significant protection for the rights of victims and better judicial response to their unique needs.

MADD hopes your amendment will benefit our nation by addressing the needs of those who have suffered from alcohol- and drug-impaired driving tragedies.

Once again, thank you for contacting MADD to request our support. It is always a pleasure to work with concerned legislators who support responsible legislation such as this. If we may be of assistance to you in the future, please do not hesitate to contact us.

Sincerely,

MICKY SADOFF,
National President.

Mr. GRASSLEY. Mr. President, much of this crime bill debate has been about convicted criminals—their rights of collateral appeals, for example, and whether they can be constitutionally put to death by the State for their crimes.

Other parts of the debate have focused on other substantive and procedural rights of criminal defendants.

This amendment, Mr. President, is different.

It focuses not on the perpetrators of crime, but rather the victims of crime.

This amendment is the product of independent work on my part, and on the part of my distinguished colleague, Senator NICKLES. I am pleased that we have been able to join forces on this amendment to the crime bill to provide the only occasion the Senate will have to support the rights of victims.

Our amendment establishes:

First, a bill of rights for the victims of crime;

Second, services to be provided to crime victims, once they have entered the criminal justice system;

Third, improved means of providing restitution to the victim of a crime;

Fourth, reversal of a recent Supreme Court decision that would allow decrees of bankruptcy to discharge a valid order for restitution on the part of a convicted criminal; and

Fifth, procedural rights for victims to have input in a distinct written statement during the sentencing phase of a Federal capital case.

Mr. President, we all work in what has been called the murder capital of the world—a place where crime scenes are as commonplace as the neighborhood ice cream truck on a June afternoon.

As the victims of violent crime increase in number, our senses get dulled. We necessarily lose our capacity to feel any emotion for the pain that the bloodshed causes victims and their survivors.

Ironically, as the crimes grow more outrageous, we are losing our ability to be outraged, on behalf of crime's victims, and society.

In 1982, Congress enacted the Victim and Witness Protection Act [VWPA] to try to address the rights of crime victims.

This statute is well-intended, and I was pleased to support it. But it needs to be beefed up.

Under current law, the crime victim does not have the right to communicate his or her views distinctly to the sentencing judge in Federal cases.

Federal Rule of Criminal Procedure No. 32(c) provides only that a presentence report be prepared. Among other things, the report, which is prepared by court-appointed officers, is supposed to contain:

> Information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense, and any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense.

Various States, on the other hand, provide victims with the opportunity to communicate to the court through a "victim impact statement" in noncapital cases.

My portion of the Grassley/Nickles amendment would apply this essential rule, in a more direct, distinct, and formal procedure, in Federal capital cases.

No doubt, it will be argued that this amendment is unconstitutional.

In 1987, by a bare 5-to-4 majority in Booth versus Maryland, the Supreme Court determined that the eighth amendment prohibited a jury from considering such a victim impact statement during the sentencing phase of a State capital trial.

But as has been often observed, "the Constitution is what five members of the Court say it is."

This opinion was written by Justice Powell, who is no longer on the Court.

The question is a very close one. Other members of the Court have strongly urged reconsideration. This is the Senate's way to take up the Supreme Court's offer to reconsider.

I believe that a distinct victim impact statement—a truthful statement on the loss of the victim and the impact of that loss on the victim's family—can be presented to the trier of fact during the sentencing phase of the proceeding without violating a convicted defendant's constitutional due process safeguards.

Allow me to describe for my colleagues the circumstances surrounding the deaths of the victims in the Booth case.

I believe it will explain why I am proposing this amendment, why I believe the Court ought to take another look at this issue.

FACTUAL BACKGROUND

Mr. President, in 1983, Irvin Bronstein, aged 78, and his wife Rose, aged 75, were robbed in their west Baltimore home.

The murderers, John Booth and Willie Reid, entered the victims' home for the apparent purpose of stealing money to buy heroin.

Booth, a neighbor of the Bronsteins, knew that the couple could identify him. So, the Bronsteins were bound and gagged and stabbed repeatedly in their chests with a kitchen knife.

The Bronsteins' son discovered the bodies of his parents 2 days later.

A Maryland jury found Booth guilty of two counts of first-degree murder, two counts of robbery, and conspiracy to commit robbery.

The prosecution requested the death penalty and Booth elected to have his sentence determined by the jury rather than the judge.

Before the sentencing phase of Booth's prosecution began, the Maryland State Division of Parole and Probation compiled a presentence report that described Booth's background, education, employment history, and criminal record.

At that time, Maryland law also required a victim impact statement [VIS] be considered during this phase of the criminal proceedings.

The VIS was intended to describe the effect of the crime on the victim and his family. Compiled by the State, the VIS information was to be supplied by the victim or his or her family.

The VIS could be read to the jury during the sentencing phase or the victim's family members could be called to testify as to the information contained in the VIS.

Along with information based on interviews with the Bronsteins' son, daughter, son-in-law, and granddaughter, the VIS contained the conclusion of the State official who conducted the interview:

It became increasingly apparent to the writer as she talked to the family members that the murder of Mr. and Mrs. Bronstein is still such a shocking, painful, and devastating memory to them that it permeates every aspect of their daily lives. It is doubtful that they will ever be able to fully recover from this tragedy and not be haunted by the memory of the brutal manner in which their loved ones were murdered and taken from them.

The jury sentenced Booth to death for the murder of Mr. Bronstein and to life imprisonment for the murder of Mrs. Bronstein.

The Maryland Court of Appeals affirmed the conviction and sentences.

The Maryland court concluded that the death sentence had not been imposed under the influence of passion, prejudice, or other arbitrary factors because the VIS was a "relatively straightforward and factual description of the effects of these murders on members of the Bronstein family." (306 Md., at 223, 507 A. 2d, at 1124—1986.)

SUMMARY OF BOOTH VERSUS MARYLAND (1987)

As I have stated, in 1987, the U.S. Supreme Court—by a bare 5-to-4 majority—determined that the eighth amendment prohibits a capital sentencing jury from considering victim impact statements.

In one of two dissents in the case, Justice White—joined by Chief Justice Rehnquist and Justices O'Connor, and Scalia—relied on a 1976 Supreme Court opinion, *Gregg* v. *Georgia*,—428 U.S. 153, 184, which states in part:

The decision that capital punishment may be the appropriate sanction in extreme cases is an expression of the community's belief that certain crimes are themselves so grievous an affront to humanity that the only adequate response may be the penalty of death.

Justice White continued:

The affront to humanity of a brutal murder such as (the act committed by Booth) is not limited to its impact on the victim or victims; a victim's community is also injured, and in particular the victim's family suffers shock and grief of a kind difficult even to imagine for those who have not shared a similar loss. (*Booth* v. *Maryland*—Slip Opinion at page 1 of Justice White's dissent.)

Justice White continued that the State legislature's judgment to allow a jury to have access to the testimony of a victim's family "is entitled to particular deference" because:

Determinations of appropriate sentencing considerations are "peculiarly questions of legislative policy". (From *Gore* v. *United States*, 357 U.S. 386, 393 (1958)).

He also quoted from Chief Justice Burger's Dissent in *Furman* v. *Georgia* (408 U.S. 238, 383—1872) which declared, in part, that:

In a democratic society, legislatures—not courts—are constituted to respond to the will and consequently the moral values of the people.

Justice White and his three colleagues could see nothing "cruel or unusual" about the decision to enact a procedure to allow for the consideration of a victim impact statement during the sentencing proceeding of a convicted criminal defendant.

I agree and so do the American people.

As Justice White explained:

There is nothing aberrant in a juror's inclination to hold a murderer accountable not only for his internal disposition in committing the crime, but also for the full extent of the harm he caused; many if not most persons would also agree * * *. (*Booth* Slip Opinion at Page 2 of Justice White's dissent.)

If the nature of the harm caused can be considered when punishment is handed down in non-capital cases; why is the same approach unconstitutional in death penalty cases?

And, as Justice White asks in his dissent, does not the State have a legitimate interest to rebut the mitigating factors that the defendant is entitled to have considered?

The opponents of this amendment will argue that a defendant's punishment must be tailored to the personal responsibility and moral guilt of the defendant.

I agree.

However, I cannot agree that the impact of the crime on the family of the victim is irrelevant.

I can make the same argument regarding consideration of mitigating factors. Are they not irrelevant to a defendant's blameworthiness?

The opponents of this amendment appear to be saying that it is unfair to confront a defendant with an account of the loss his or her deliberate act has caused the victim's family and society.

I disagree. Indeed, the amount of harm one causes does bear upon the extent of his personal responsibility.

A defendant's personal responsibility and moral guilt are relevant in determining whether or not that defendant should receive the death penalty.

Most Americans agree.

These Americans believe that in their sentencing decisions, courts have failed to take into account not only the factors aggravating a defendant's moral guilt, but also the amount of harm caused to innocent members of society.

Justice Scalia spoke for many of them in his dissenting opinion in Booth, when he pointed out that:

Many citizens have found one-sided and unjust the criminal trial in which a parade of witnesses comes forth to testify to the pressures beyond normal human experience that drove the defendant to commit his crime, with no one to lay before the sentencing authority the full reality of human suffering the defendant has produced—which is one of the reasons society deems his act worthy of the prescribed penalty.

To require that all mitigating factors which render capital punishment a harsh penalty in the particular case be placed before the sentencing authority, while simultaneously requiring that evidence of much of the human suffering the defendant has inflicted be suppressed, is in effect to prescribe a debate on the appropriateness of the capital penalty with one side muted.

Mr. President, my amendment will give voice to those silenced by a narrow Supreme Court holding.

My amendment will force the court to reconsider its holding in Booth, with its new makeup since 1987.

Mr. President, I am certainly not in the business of predicting how the Court will rule on future cases.

But, I would like to remind some of my colleagues who claim such abilities, that some of them did not do so well on the Flag Protection Act of 1989.

Predictions notwithstanding, as members of a coequal branch of the Federal Government, it is incumbent upon us to promote the highest values and standards of conduct that we can.

I am here promoting the enhancing consideration of the victim during the appropriate phase of a Federal capital proceeding.

I believe my amendment will go a long way to help reestablish some needed balance in the criminal justice system between a convicted defendant and the victim of his heinous actions.

It may also provide the opportunity for a case and controversy to arise in which the court may properly revisit the issues originally presented to it in Booth versus Maryland.

I urge my colleagues to join me and a number of victims' rights organizations—such as:

The National Victim Center in Fort Worth, TX;

The Natio ıal Organization for Victim Assistance in Washington, DC;

The Council for Court Excellence in Washington, DC;

The Stephanie Roper Committee in Upper Marlboro, MD;

The Victims' Constitutional Amendment Network in Fort Worth, TX;

Citizens for Law and Order, Inc. in Oakland CA; and Concerns of Police Survivors in Upper Marlboro, MD. In support of this amendment.

I also ask for unanimous consent to place letters from these organizations, in support of this amendment, in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. President, I am in complete agreement with everything Senator NICKLES has already said about this legislation. I point out to my colleagues that we all work in what has been called the murder capital of the world, a place where crime scenes are as commonplace as a neighborhood ice

cream truck on a June afternoon. As the victims of violent crime increase in numbers, our senses often get dulled. We necessarily lose our capacity to feel any emotion for the pain that the bloodshed causes victims and their survivors. Ironically as the crime grows more outrageous we are losing our ability to be outraged on behalf of the crime's victims and society.

We, in Congress, have tried to improve this somewhat. In 1982, Congress enacted the Victims-Witness Protection Act, to try to address the rights of crime victims. This statute is well intended, and I was pleased to support it at that time. But it needs to be beefed up, including consideration of the impact of a violent crime on the victim, or victim's family.

I am pleased Senator NICKLES and I have been able to join forces on this amendment to the crime bill, to provide the only occasion that the Senate will have to support the rights of victims. I commend his efforts and I urge its adoption.

I reserve the remainder of my time.

EXHIBIT 1

NATIONAL VICTIM CENTER,
Fort Worth, TX, June 13, 1990.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: Thank you for asking the National Victim Center to comment on your amendment to S. 1970 relevant to victim impact statements in capital cases.

For the innocent victims of crime, victim impact statements provide an important means to let the court know exactly how the crime affected them and their loved ones. This "voice of the victim" is not only critical to insuring a fair and just sentence; for many victims, impact statements help aid their personal rehabilitation and recovery.

The National Victim Center was extremely disappointed with the two recent U.S. Supreme Court decisions (*Booth v. Maryland and South Carolina v. Gathers*) that struck down the use of victim impact statements in capital cases. For this reason, the Board of Directors and staff of our Center strongly support the Grassley amendment to S. 1970, with hopes that it will allow victims and survivors in capital cases to have their voices heard once again in our system of justice.

We urge our colleagues in Congress to support this amendment to protect and restore the victim's right to be heard prior to sentencing in capital cases.

We appreciate your consideration of our opinion. Please call me at (817) 877-3355 if I can offer additional information or assistance.

Sincerely,

ANNE SEYMOUR,
Director of Public Affairs.

COUNCIL FOR COURT EXCELLENCE,
Washington, DC, June 18, 1990.

Hon. CHARLES GRASSLEY,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR GRASSLEY: I am writing in my capacity as President of the Council for Court Excellence to offer our support of your victim impact statement amendment to S. 1970 which would ". . . provide for the consideration of a victim impact statement during the sentencing proceedings of a capital case."

The Council for Court Excellence has advocated on behalf of victims' rights for many years and recently offered recommendations to the congressionally chartered Federal Courts Study Committee on ways to improve victims' rights in the federal and state court systems.

One of the Council's recommendations to the Committee was to amend the Federal Rules of Criminal Procedure so that victims of crime may communicate directly to the sentencing judge. We are pleased that your victim impact statement amendment embodies that suggestion and even surpasses our proposal by extending the rights to the families of crime victims as well.

Thank you for your leadership in this most important area of judicial reform.

Sincerely,

CHARLES MCC. MATHIAS, JR.,
President.

THE STEPHANIE ROPER
COMMITTEE, INC.,
Upper Marlboro, MD, June 18, 1990.

Re Grassley Victim Impact Statement Amendment

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of the Stephanie Roper Committee, I would like to extend our strong support in an endeavor to obtain the passage of your proposed victim impact statement amendment. The Stephanie Roper Committee was founded in 1982 after the murder of Stephanie Roper. The Committee has been active in advocating for the rights of victims of crime in the Maryland General Assembly.

The Committee has endeavored to change laws to allow victims the opportunity to have access for participation throughout the criminal justice system.

The Stephanie Roper Committee wholeheartedly supports the concept of requiring judges and juries to consider the effect of the crime on the victim and the victim's family. This Committee has never, and does not at this time, take any position on capital punishment. We believe that victim impact evidence should be admissible in all federal crimes.

We encourage you to broaden your proposed amendment so that it would, in fact, cover all federal crimes.

Therefore, we urge the full Senate and House of Representatives to concur in your proposed victim impact statement amendment.

Sincerely,

ROBERTA ROPER,
Director.

NATIONAL ORGANIZATION FOR
VICTIM ASSISTANCE,
Washington, DC, June 18, 1990.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: The opportunity of crime victim to consult with the criminal justice authorities, if only to convey information about the immediate and lasting injuries done to them, has become the bedrock reform victim advocates seek of our public policy-makers. We therefore commend you for proposing to give victims a limited, indirect voice in the sentencing phase of Federal capital punishment prosecutions.

In reaffirming our long-standing support for the use of "Victim Impact Statements" in sentencing procedures, we appreciate that, in this instance, we seem to be challenging due process rights of convicted defendants, as articulated by the Supreme Court in the Booth and Gathers cases. We have done so for three reasons.

First, as the Congress recently demonstrated in respect to the flag-burning issue, a Congressional effort to create something like a rehearing on a closely-divided issue is a respectful and respectable device. Second, a "rehearing" seems especially appropriate in this instance for, like many others, we infer a request to reconsider Booth among opinions written in Gathers.

And third, on the merits, we have always believed it possible to present VIS information in an objective fashion, as your proposal would cause to happen, and that, we believe, overcomes the primary objections we perceive in the Supreme Court's rulings in this area.

So we applaud your initiative and hope that it receives broad support from your colleagues.

Sincerely,

MARLENE A. YOUNG, PH.D., J.D.,
Executive Director.

VICTIMS' CONSTITUTIONAL
AMENDMENT NETWORK,
June 13, 1990.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: For the past two weeks I have been providing courtroom support to the parents of a 14-year-old girl who was abducted, raped and murdered last fall. Until Kenneth Reed Smith, a previously convicted felon, abducted Amy Lynn Thatcher as she walked to school, her family's life had been fairly normal. They lived, worked and played together as they sought the ultimate American dream; life, liberty and the pursuit of happiness. In less than an hour, the American dream was destroyed for Amy and her family.

Ultimately, the jury will never hear how Amy's death has impacted the lives of her father, mother, brothers, grandparents and others who loved her. However, we can be assured that Smith's family will be called to testify how his life should be spared because he is a very valuable member of their family. No doubt his newborn twin sons will be paraded before the jury, similar to other capital murder cases, in an effort to solicit sympathy. Of course one can only wonder what Amy's future children had she lived, or for that matter Amy herself, would have looked like.

The U.S. Supreme Court's decision in Booth v. Maryland and South Carolina v. Gather striking down the victim's right to present a victim impact statement in capital cases were major disappointments to those who believe in equality within our system of justice. Booth v. Maryland and South Carolina v. Gather demonstrate that equality eludes the innocent victim of crime and that those who are convicted of a heinous murder are protected by omitting pertinent information during the penalty phase of a capital murder trial.

In six states, victims and their supporters have sought and successfully achieved constitutional guarantees for crime victims. Victims believe the right to be heard during critical crimical justice proceedings, including the penalty phase of a capital murder trail, is imperative to their recovery process.

The Grassley amendment to S. 1970 will reinstate the victim's rights to be heard by means of victim impact statement during

the penalty phase of a capital murder trial. The Victim's Constitutional Amendment Network strongly supports the Grassley amendment to S. 1970, and urges members of the U.S. Congress to likewise support this critical legislation.

Sincerely,

LINDA BARKER-LOWRANCE,
Chairperson.

CITIZENS FOR LAW AND ORDER, INC.,
Oakland, CA, June 20, 1990.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington, DC.

SIR: At the suggestion of Anne Seymour of the National Victim Center, Forth Worth, Texas, we are taking this method of informing you of our interest and support of your amendment to the Omnibus Crime Bill.

Citizens for Law and Order, Inc., is a non-profit, volunteer, statewide organization of approximately 5,000 members. Among the general membership as well as those serving on our board of directors are many victims of crime. And, far too many are survivors of victims of violent crime.

Your proposed amendment to S. 1970 is one we support in the strongest possible way. We recently had lengthy discussions with the survivors of two murder victims. At the conclusion of both trials a statement was delivered, one by the parents and sister-in-law of one victim and the other by the widow. These statements contained material relevant to the trials and would have been beneficial to the Court proceedings, however, they were delivered post-trial. Despite the fact that the survivors were not permitted to introduce these statements prior to the sentencing, they nonetheless were of some psychological comfort to the families involved. Is this all we can allow the survivors who are sentenced to a life of mental anguish (with the accompanying physical debility) and, in some cases, financial devastation?

Since it would seem that we can no longer protect the public and/or punish violent criminals we should, at the very least, take whatever steps as are necessary to grant victims and survivors some semblance of justice by allowing them to speak out in court.

Thank you for your efforts and if we may be of some service to you please do not hesitate to contact us.

Sincerely,

PHYLLIS M. CALLOS,
State President.

CONCERNS OF POLICE SURVIVORS,
Upper Marlboro, MD, June 21, 1990.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: We recently received a copy of S. 1970 which would legislate acceptance of the victim impact statement during the sentencing proceedings of a capital case. Speaking in behalf of nearly 4,000 surviving families of law enforcement officers that have been killed in the performance of duty, I can assure you that police surviving families would be delighted to know that this legislation is being introduced.

The law enforcement surviving families of felonious action are no different than any other victim. They, too, feel as though they are spectators at the proceedings in connection with the murder of their loved ones. They feel they should have the opportunity to tell of the aftermath—the trauma that the murder has inflicted on their family. Many of our survivors state that, although legislation specifies the death penalty as a sentence in the murder of a law enforcement officer performing his duty, that sentence is very seldom given or carried out. In fact, many believe that the trial minimizes the loss of the officer's life and that the deceased officer's actions are subjected to criticism by defense attorneys who will use any avenue to try to clear their clients. They feel very strongly about the fact that the victim impact statement is the ONLY time the family is involved with the trial and has an opportunity to talk about the loved ones that they lost.

Concerns of Police Survivors offers whatever assistance maybe needed in having this proposed legislation passed. Please feel free to let us know.

Sincerely yours,

SUZIE SAWYER,
Executive Director.

Mr. BIDEN. Mr. President, this is a difficult vote for me. It is difficult for me to object to the intentions that are behind the Senator from Iowa's amendment. I think the Senator from Oklahoma's underlying amendment is a very solid amendment and I strongly support it. But let me just say in the interests of time that in this Senator's view, the Supreme Court has repeatedly told us that the eighth amendment requires that the death sentence be imposed based upon the defendant's "personal responsiblity and moral guilt." That standard is not met if the jury must consider factors wholly irrelevant to the defendant's guilt; and in many cases occurring after the crime had occurred.

That does not in any way denigrate the object of the Senator's amendment. That is, we pay much too little attention to the impact of violent crime on the victim, and in the case of murder, upon the family and loved ones of the victim. But we have a vehicle which to deal with that and we have a victims' fund, that the Senator from Iowa has supported, and I have supported, and the Senator from South Carolina, that I guess we set up in 1984. That is a vehicle whereby we can, in fact, attempt to do what no one really can do, and that is deal with the suffering and pain and the loss of the survivors of the murder victim.

But, unfortunately, under the eighth amendment as interpreted by the Court, I truly believe this is an unconstitutional amendment. Quite frankly, I think it is probably so appealing to my colleagues tonight that I am not going to ask for a rollcall vote on it and I am not going to continue to debate it. The Senator and I serve on the same committee and we debate this issue often, he and I. We will have plenty of time to attempt to work it out if we get this whole bill passed.

So, Mr. President, I am prepared to yield back the remainder of my time on the Grassley amendment if he is, and ask for a voice vote on the Grassley amendment.

Senator GRASSLEY's amendment would require that juries consider a "victim impact statement" when they decide whether to sentence a defendant to death.

No one here doubts the extraordinary suffering of the victims of such tragedies. Indeed, I suspect that it is difficult for any of us to even imagine the kind of pain endured by familes who have lost their loved ones as a result of such horrible violence.

But we do not vindicate the interests of those families by passing a statute that will have no effect—and it seems fairly clear to me that this statute will have no effect because it will immediately be struck down as unconstitutional.

In Booth versus Maryland, the Supreme Court concluded that the use of victim impact statements in capital cases is a violation of the eighth amendment. The Court explained that such statements create an "impermissible risk that the capital sentencing decision will be made in an arbitrary manner."

The Supreme Court has spoken clearly, and repeatedly, on this issue: Victim impact statements have no place in a system that is intended to focus on the defendant's guilt.

Indeed, such statements focus on factors that are "wholly unrelated to the blameworthiness of a particular defendant."

A defendant is not more blameworthy simply because his victim was a sterling member of the community rather than someone of questionable reputation;

A defendant is not more blameworthy because the family of his victim is more eloquent in expressing its grief than another family might be; and

Certainly, a defendant is not more blameworthy for a crime where the victim's family seeks psychological counseling than for a crime where they do not.

A victim impact statement does not tell the jury why the defendant did what he did or what affected the defendant's decision to kill.

Victim impact statements focus on the victim and not the defendant. Indeed, they focus on considerations that, in many cases, the defendant could not have even known when he committed the crime—the effect of the crime on the victim's family, whether the family underwent psychological counseling, and the family's financial losses.

The Supreme Court has repeatedly told us that the eighth amendment requires that a death sentence be imposed based on the defendant's "personal responsibility and moral guilt." That standard is not met if the jury must consider factors wholly irrelevant to the defendant's guilt and, in

many cases, occurring after the crime ever occurred.

I am the first to acknowledge the importance of the rights that Senator GRASSLEY seeks to vindicate here—the rights of those who survive. I have consistently worked to further those rights—for example, as a coauthor of the victims of Crime Act, through my work with Senator REID on the child abuse bill, or by my recent proposal on violence against women.

Protecting the rights of survivors is crucial to continued confidence in our criminal justice system. Given my belief in the importance of that principle, I would be the first one to offer an alternative to this legislation, or to try a novel constitutional argument, if I thought that it had some chance of furthering victims' interests.

But the constitutional question here is not even close. The Grassley amendment incorporates, almost verbatim, four of the six factors in the Maryland statute struck down by the Supreme Court in the Booth case.

And Booth is now firmly established law. Just last year, it was reaffirmed and extended in South Carolina versus Gathers.

We give nothing but false hope to the survivors of these crimes if we promise them a right that is no right at all. As I read the Supreme Court's decisions, this amendment will not provide victims the forum they seek. For that reason, and only that reason, I oppose Senator GRASSLEY's amendment.

Mr. President, I ask unanimous consent that the decisions in the case of Booth versus Maryland and South Carolina versus Gathers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN BOOTH, PETITIONER *v.* MARYLAND

(No. 86-5020, argued March 24, 1987; decided June 15, 1987)

Defendant was convicted in the Circuit Court, Baltimore City, Edward J. Angeletti, Jr., of murder in the first degree as a principal in the first degree, murder in the first degree of another victim, robbery of two victims, and conspiracy to rob. Defendant appealed. The Maryland Court of Appeals, Rodowsky, J., 306 Md. 172, 507 A.2d 1098, affirmed. Certiorari was granted. The Supreme Court, Justice Powell, held that introduction of victim impact statement at sentencing phase of capital murder trial violated Eighth Amendment, and Maryland statute was invalid to the extent it required consideration of that information.

Decision of Maryland Court of Appeals vacated to the extent it affirmed capital sentence and remanded.

Justice White, with whom Chief Justice Rehnquist and Justice O'Connor and Justice Scalia joined, filed a dissenting opinion.

Justice Scalia filed a dissenting opinion in which Chief Justice Rehnquist and Justice White and Justice O'Connor joined.

CRIMINAL LAW

HOMICIDE

Introduction of victim impact statement at sentencing phase of state capital murder trial violated Eighth Amendment, and Maryland statute was invalid to the extent it required consideration of that information; the information was irrelevant to capital sentencing decision, and its admission created constitutionally unacceptable risk that the jury might impose death penalty in arbitrary and capricious manner. Md.Code 1957, Art. 27, § 413(b); U.S.C.A. Const. Amends. 8, 14.

SYLLABUS *

Having found petitioner guilty of two counts of first-degree murder and related crimes, the jury sentenced him to death after considering a presentence report prepared by the State of Maryland. The report included a victim impact statement (VIS), as required by state statute. The VIS was based on interviews with the family of the two victims, and it provided the jury with two types of information. First, it described the severe emotional impact of the crimes on the family, and the personal characteristics of the victims. Second, it set forth the family members' opinions and characterizations of the crimes and of petitioner. The state trial court denied petitioner's motion to suppress the VIS, rejecting the argument that this information was irrelevant, unduly inflammatory, and therefore violative of the Eighth Amendment. The Maryland Court of Appeals affirmed petitioner's conviction and sentence, finding that the VIS did not inject an arbitrary factor into the sentencing decision. The court concluded that a VIS serves an important interest by informing the sentencer of the full measure of harm caused by the crime.

Held: The introduction of a VIS at the sentencing phase of a capital murder trial violates the Eighth Amendment, and therefore the Maryland statute is invalid to the extent it requires consideration of this information. Such information is irrelevant to a capital sentencing decision, and its admission creates a constitutionally unacceptable risk that the jury may impose the death penalty in an arbitrary and capricious manner. Pp. 2533-2536.

(a) The State's contention that the presence or absence of emotional distress of the victims' family and the victims' personal characteristics are proper sentencing considerations in a capital case is rejected. In such a case, the sentencing jury must focus on the background and record of the accused and the particular circumstances of the crime. The VIS information in question may be wholly unrelated to the blame-worthiness of a particular defendant, and may cause the sentencing decision to turn on irrelevant factors such as the degree to which the victim's family is willing and able to articulate its grief, or the relative worth of the victim's character. Thus, the evidence in question could improperly divert the jury's attention away from the defendant. Moreover, it would be difficult, if not impossible, to provide a fair opportunity to rebut such evidence without shifting the focus of the sentencing hearing away from the defendant. Pp. 2533-2535.

(b) The admission of the family members' emotionally charged opinions and characterizations of the crimes could serve no other purpose than to inflame the jury and divert it from deciding the case on the relevant evidence concerning the crime and the defendant. Such admission is therefore inconsistent with the reasoned decisionmaking required in capital cases. Pp. 2535-2536.

306 Md. 172, 507 A.2d 1098, vacated in part and remanded.

POWELL, J., delivered the opinion of the Court, in which BRENNAN, MARSHALL, BLACKMUN, and STEVENS, JJ., joined. WHITE, J., filed a dissenting opinion, in which REHNQUIST, C.J., and O'CONNOR and SCALIA, J.J., joined. SCALIA, J., filed a dissenting opinion, in which REHNQUIST, C.J., and WHITE and O'CONNOR, J.J., joined.

George E. Burns, Jr., Baltimore, Md., for petitioner.

Charles O. Monk, II, Baltimore, Md., for respondent.

Justice POWELL delivered the opinion of the Court.

The question presented is whether the Constitution prohibits a jury from considering a "victim impact statement" during the sentencing phase of a capital murder trial.

I

In 1983, Irvin Bronstein, 78, and his wife Rose, 75, were robbed and murdered in their West Baltimore home. The murderers, John Booth and Willie Reid, entered the victims' home for the apparent purpose of stealing money to buy heroin. Booth, a neighbor of the Bronsteins, knew that the elderly couple could identify him. The victims were bound and gagged, and then stabbed repeatedly in the chest with a kitchen knife. The bodies were discovered two days later by the Bronsteins' son.

A jury found Booth guilty of two counts of first-degree murder, two counts of robbery, and conspiracy to commit robbery.[1] The prosecution requested the death penalty, and Booth elected to have his sentence determined by the jury instead of the judge. See Md. Ann. Code, Art. 27, § 413(b) (1982). Before the sentencing phase began, the State Division of Parole and Probation (DPP) compiled a presentence report that described Booth's background, education and employment history, and criminal record. Under a Maryland statute, the presentence report in all felony cases[2] also must include a victim impact statement (VIS), describing the effect of the crime on the victim and his family. Md.Ann.Code, Art. 41, § 4-609(c)(1986). Specifically, the report shall:

"(i) Identify the victim of the offense;

"(ii) Itemize any economic loss suffered by the victim as a result of the offense;

"(iii) Identify any physical injury suffered by the victim as a result of the offense along with its seriousness and permanence;

"(iv) Describe any change in the victim's personal welfare or familial relationships as a result of the offense;

"(v) Identify any request for psychological services initiated by the victim or the victim's family as a result of the offense; and

"(vi) Contain any other information related to the impact of the offense upon the victim or the victim's family that the trial court requires." § 4-609(c)(3).

Although the VIS is compiled by the DPP, the information is supplied by the victim or the victim's family. See § 4-609(c)(4), (d). The VIS may be read to the jury during the sentencing phase, or the family members may be called to testify as to the information.

The VIS in Booth's case was based on interviews with the Bronsteins's son, daughter, son-in-law, and granddaughter. Many of their comments emphasized the victims' outstanding personal qualities, and noted

how deeply the Bronsteins would be missed.[3] Other parts of the VIS described the emotional and personal problems the family members have faced as a result of the crimes. The son, for example, said that he suffers from lack of sleep and depression, and is "fearful for the first time in his life." App. 61. He said that in his opinion, his parents were "butchered like animals." *Ibid.* The daughter said she also suffers from lack of sleep, and that since the murders she has become withdrawn and distrustful. She stated that she can no longer watch violent movies or look at kitchen knives without being reminded of the murders. The daughter concluded that she could not forgive the murderer, and that such a person could "[n]ever be rehabilitated." *Id.*, at 62. Finally, the granddaughter described how the deaths had ruined the wedding of another close family member, that took place a few days after the bodies were discovered. Both the ceremony and the reception were sad affairs, and instead of leaving for her honeymoon, the bride attended the victims' funeral. The VIS also noted that the granddaughter had received counseling for several months after the incident, but eventually had stopped because she concluded that "no one could help her." *Id.*, at 63.

The DPP official who conducted the interviews concluded the VIS by writing:

"It became increasingly apparent to the writer as she talked to the family members that the murder of Mr. and Mrs. Bronstein is still such a shocking, painful, and devastating memory to them that it permeates every aspect of their daily lives. It is doubtful that they will ever be able to fully recover from this tragedy and not be haunted by the memory of the brutal manner in which their loved ones were murdered and taken from them." *Id.*, at 63-64.[4]

Defense counsel moved to suppress the VIS on the ground that this information was both irrelevant and unduly inflammatory, and that therefore its use in a capital case violated the Eighth Amendment of the Federal Constitution.[5] The Maryland trial court denied the motion, ruling that the jury was entitled to consider "any and all evidence which would bear on the [sentencing decision]." *Id.*, at 6. Booth's lawyer then requested that the prosecutor simply read the VIS to the jury rather than call the family members to testify before the jury. Defense counsel was concerned that the use of live witnesses would increase the inflammatory effect of the information. The prosecutor agreed to this arrangement.

The jury sentenced Booth to death for the murder of Mr. Bronstein and to life imprisonment for the murder of Mrs. Bronstein. On automatic appeal, the Maryland Court of Appeals affirmed the conviction and the sentences. *Booth v. State*, 306 Md. 172, 507 A.2d 1098 (1986). The court rejected Booth's claim that the VIS injected an arbitrary factor into the sentencing decision. The court noted that it had considered this argument in *Lodowski v. State*, 302 Md. 691, 490 A.2d 1228 (1985), vacated on other grounds, 475 U.S. ____, 106 S.Ct. 1452, 89 L.Ed.2d 711 (1986), and concluded that a VIS serves an important interest by informing the sentencer of the full measure of harm caused by the crime. The Court of Appeals then examined the VIS in Booth's case, and concluded that it is a "relatively straightforward and factual description of the effects of these murders on members of the Bronstein family." 306 Md., at 223, 507 A.2d, at 1124. It held that the death sentence had not been imposed under the influence of passion, prejudice, or other arbitrary factors. See Md.Ann. Code, Art. 27 § 414(e)(1) (1982).

We granted certiorari to decide whether the Eighth Amendment prohibits a capital sentencing jury from considering victim impact evidence. 479 U.S. ____, 107 S.Ct. 269, 93 L.Ed.2d 246 (1986). We conclude that it does, and now reverse.

II

It is well-settled that a jury's discretion to impose the death sentence must be "suitably directed and limited so as to minimize the risk of wholly arbitrary and capricious action." *Gregg v. Georgia*, 428 U.S. 153, 189, 96 S.Ct. 2909, 2932, 49 L.Ed.2d 859 (1976) (joint opinion of Stewart, POWELL, and STEVENS, JJ.); *California v. Ramos*, 463 U.S. 992, 999, 103 S.Ct. 3446, 3452, 77 L.Ed.2d 1171 (1983). Although this Court normally will defer to a state legislature's determination of what factors are relevant to the sentencing decision, the Constitution places some limits on this discretion. See, *e.g.*, *id.*, at 1000-1001, 103 S.Ct. at 3452-3453. Specifically, we have said that a jury must make an "*individualized* determination" of whether the defendant in question should be executed, based on "the character of the individual and the circumstances of the crime." *Zant v. Stephens*, 462 U.S. 862, 879, 103 S.Ct. 2733, 2743, 77 L.Ed.2d 235 (1983) (emphasis in original). See also *Eddings v. Oklahoma*, 455 U.S. 104, 112, 102 S.Ct. 869, 875, 71 L.Ed.2d 1 (1982). And while this Court has never said that the defendant's record, characteristics, and the circumstances of the crime are the *only* permissible sentencing considerations, a state statute that requires consideration of other factors must be scrutinized to ensure that the evidence has some bearing on the defendant's "personal responsibility and moral guilt." *Enmund v. Florida*, 458 U.S. 782, 801, 102 S.Ct. 3368, 3378, 73 L.Ed.2d 1140 (1982). To do otherwise would create the risk that a death sentence will be based on considerations that are "constitutionally impermissible or totally irrelevant to the sentencing process." See *Zant v. Stephens*, *supra*, 462 U.S. at 885, 103 S.Ct. at 2747.

The VIS in this case provided the jury with two types of information. First, it described the personal characteristics of the victims and the emotional impact of the crimes on the family. Second, it set forth the family members' opinions and characterizations of the crimes and the defendant. For the reasons stated below, we find that this information is irrelevant to a capital sentencing decision, and that its admission creates a constitutionally unacceptable risk that the jury may impose the death penalty in an arbitrary and capricious manner.

A

The greater part of the VIS is devoted to a description of the emotional trauma suffered by the family and the personal characteristics of the victims. The State claims that this evidence should be considered a "circumstance" of the crime because it reveals the full extent of the harm caused by Booth's actions. In the State's view, there is a direct, foreseeable nexus between the murders and the harm to the family, and thus it is not "arbitrary" for the jury to consider these consequences in deciding whether to impose the death penalty. Although "victim impact" is not an aggravating factor under Maryland law,[6] the State claims that by knowing the extent of the impact upon and the severity of the loss to the family, the jury was better able to assess the "gravity or aggravating quality" of the offense. Brief for Respondent 21 (quoting *Lodowski v. State*, *supra*, 302 Md., at 741-742, 490 A.2d, at 1254).

While the full range of foreseeable consequences of a defendant's actions may be relevant in other criminal and civil contexts, we cannot agree that it is relevant in the unique circumstance of a capital sentencing hearing. In such a case, it is the function of the sentencing jury to "express the conscience of the community on the ultimate question of life or death." *Witherspoon v. Illinois*, 391 U.S. 510, 519, 88 S.Ct. 1770, 20 L.Ed.2d 776 (1968). When carrying out this task the jury is required to focus on the defendant as a "uniquely individual human bein[g]." *Woodson v. North Carolina*, 428 U.S. 280, 304, 96 S.Ct. 2978, 2990, 49 L.Ed.2d 944 (1976) (plurality opinion of Stewart, POWELL, and STEVENS, JJ.). The focus of a VIS, however, is not on the defendant, but on the character and reputation of the victim and the effect on his family. These factors may be wholly unrelated to the blameworthiness of a particular defendant. As our cases have shown, the defendant often will not know the victim, and therefore will have no knowledge about the existence or characteristics of the victim's family. Moreover, defendants rarely select their victims based on whether the murder will have an effect on anyone other than the person murdered.[7] Allowing the jury to rely on a VIS therefore could result in imposing the death sentence because of factors about which the defendant was unaware, and that were irrelevant to the decision to kill. This evidence thus could divert the jury's attention away from the defendant's background and record, and the circumstances of the crime.

It is true that in certain cases some of the information contained in a VIS will have been known to the defendant before he committed the offense. As we have recognized, a defendant's degree of knowledge of the probable consequences of his actions may increase his moral culpability in a constitutionally significant manner. See *Tison v. Arizona*, 481 U.S. ____, ____, 107 S.Ct.1676, ____, 95 L.Ed.2d 127 (1987). We nevertheless find that because of the nature of the information contained in a VIS, it creates an impermissible risk that the capital sentencing decision will be made in an arbitrary manner.

As evidenced by the full text of the VIS in this case, see Appendix to this opinion, the family members were articulate and persuasive in expressing their grief and the extent of their loss. But in some cases the victim will not leave behind a family, or the family members may be less articulate in describing their feelings even though their sense of loss is equally severe. The fact that the imposition of the death sentence may turn on such distinctions illustrates the danger of allowing juries to consider this information. Certainly the degree to which a family is willing and able to express its grief is irrelevant to the decision whether a defendant, who may merit the death penalty, should live or die. See 306 Md., at 223, 507 A.2d, at 1129 (Cole, J., concurring in part and dissenting in part) (concluding that it is arbitrary to make capital sentencing decisions based on a VIS, "which vary greatly from case to case depending upon the ability of the family member to express his grief").

Nor is there any justification for permitting such a decision to turn on the perception that the victim was a sterling member of the community rather than someone of

questionable character.[8] This type of information does not provide a "principled way to distinguish [cases] in which the death penalty was imposed, from the many cases in which it was not." *Godfrey v. Georgia*, 446 U.S. 420, 433, 100 S.Ct. 1759, 1767, 64 L.Ed.2d 398 (1980) (opinion of Stewart, J.). See also *Skipper v. South Carolina*, 476 U.S. ____, ____, 106 S.Ct. 1669, ____, 90 L.Ed.2d 1 (1986) (POWELL, J. concurring in judgment).

We also note that it would be difficult—if not impossible—to provide a fair opportunity to rebut such evidence without shifting the focus of the sentencing hearing away from the defendant. A threshold problem is that victim impact information is not easily susceptible to rebuttal. Presumably the defendant would have the right to cross-examine the declarants, but he rarely would be able to show that the family members have exaggerated the degree of sleeplessness, depression or emotional trauma suffered. Moreover, if the state is permitted to introduce evidence of the victim's personal qualities,[9] it cannot be doubted that the defendant also must be given the chance to rebut this evidence. See *Gardner v. Florida*, 430 U.S. 349, 362, 97 S.Ct. 1197, 1206, 51 L.Ed.2d 393 (1977) (opinion of STEVENS, J.) (due process requires that defendant be given a chance to rebut presentence report). See also, Md. Ann. Code, Art. 27 § 413(c)(v) (1982). Putting aside the strategic risks of attacking the victim's character before the jury, in appropriate cases the defendant presumably would be permitted to put on evidence that the victim was of dubious moral character, was unpopular, or was ostracized from his family. The prospect of a "mini-trial" on the victim's character is more than simply unappealing; it could well distract the sentencing jury from its constitutionally required task—determining whether the death penalty is appropriate in light of the background and record of the accused and the particular circumstances of the crime. We thus reject the contention that the presence or absence of emotional distress of the victim's family, or the victim's personal characteristics, are proper sentencing considerations in a capital case.[10]

B

The second type of information presented to the jury in the VIS was the family members' opinions and characterizations of the crimes. The Bronsteins' sons, for example, stated that his parents were "butchered like animals," and that he "doesn't think anyone should be able to do something like that and get away with it." App. 61. The VIS also noted that the Bronstein's daughter: could never forgive anyone for killing [her parents] that way. She can't believe that anybody could do that to someone.

The victim's daughter states that animals wouldn't do this. [The perpetrators] didn't have to kill because there was no one to stop them from looting . . . . The murders show the viciousness of the killers' anger. She doesn't feel that the people who did this could ever be rehabilitated and she doesn't want them to be able to do this again or put another family through this. *Id.*, at 62.

One can understand the grief and anger of the family caused by the brutal murders in this case, and there is no doubt that jurors generally are aware of these feelings. But the formal presentation of this information by the State can serve no other purpose than to inflame the jury and divert it from deciding the case on the relevant evidence concerning the crime and the defendant. As we have noted, any decision to impose the death sentence must "be, and appear to be, based on reason rather than caprice or emotion." *Gardner v. Florida*, *supra*, at 358, 97 S.Ct., at 1204 (opinion of STEVENS, J.). The admission of these emotionally-charged opinions as to what conclusions the jury should draw from the evidence clearly is inconsistent with the reasoned decisionmaking we required in capital cases.[11]

III

We conclude that the introduction of a VIS at the sentencing phase of a capital murder trial voilates the Eighth Amendment, and therefore the Maryland statute is invalid to the extent it requires consideration of this information.[12] The decision of the Maryland Court of Appeals is vacated to the extent that it affirmed the capital sentence. The case is remanded for further proceedings not inconsistent with this opnion.

It is so ordered.

APPENDIX TO OPINION OF THE COURT "VICTIM IMPACT STATEMENT

[The Victim Impact Statement in this case was prepared by the Maryland Division of Parole and Probation. See n. 2, *supra*.]

"Mr. and Mrs. Bronstein's son, daughter, son-in-law, and granddaughter were interviewed for purposes of the Victim Impact Statement. There are also four other grandchildren in the family. The victims' son reports that his parents had been married for fifty-three years and enjoyed a very close relationship, spending each day together. He states that his father had worked hard all his life and had been retired for eight years. He describes his mother as a woman who was young at heart and never seemed like an old lady. She taught herself to play bridge when she was in her seventies. The victims' son relates that his parents were amazing people who attended the senior citizens' center and made many devout friends. He indicates that he was very close to his parents, and that he talked to them every day. The victims' daughter also spent lots of time with them.

"The victims' son saw his parents alive for the last time on May 18th. They were having their lawn manicured and were excited by the onset of spring. He called them on the phone that evening and received no answer. He had made arrangements to pick Mr. Bronstein up on May 20th. They were both to be ushers in a granddaughter's wedding and were going to pick up their tuxedos. When he arrived at the house on May 20th he noticed that his parents' car wasn't there. A neighbor told that he hadn't seen the car in several days and he knew something was wrong. He went to his parents' house and found them murdered. He called his sister crying and told her to come right over because something terrible had happened and their parents were both dead.

"The victims' daughter recalled that when she arrived at her parents' house, there were police officers and television crews everywhere. She felt numb and cold. She was not allowed to go into the house and so she went to a neighbor's home. There were people and reporters everywhere and all she could feel was cold. She called her older daughter and told her what had happened. She told her daughter to get her husband and then tell her younger daughter what had happened. The younger daughter was to be married two days later.

"The victims' granddaughter reports that just before she received the call from her mother she had telephoned her grandparents and received no answer. After her mother told her what happened she turned on the television and heard the news reports about it. The victims' son reports that his children first learned about their grandparents death from the television reports.

"Since the Jewish religion dictates that birth and marriage are more important than death, the granddaughter's wedding had to proceed on May 22nd. She had been looking forward to it eagerly, but it was a sad occasion with people crying. The reception, which normally would have lasted for hours, was very brief. The next day, instead of going on her honeymoon, she attended her grandparents' funerals. The victims' son, who was an usher at the wedding, cannot remember being there or coming and going from his parents' funeral the next day. The victims' granddaughter, on the other hand, vividly remembers every detail of the days following her grandparents' death. Perhaps she described the impact of the tragedy most eloquently when stated that it was a completely devastating and life altering experience.

"The victims' son states that he can only think of his parents in the context of how he found them that day, and he can feel their fear and horror. It was 4:00 p.m. when he discovered their bodies and this stands out in his mind. He is always aware of when 4:00 p.m. comes each day, even when he is not near a clock. He also wakes up at 4:00 a.m. each morning. The victims' son states that he suffers from lack of sleep. He is unable to drive on the streets that pass near his parents' home. He also avoids driving past his father's favorite restaurant, the supermarket where his parents shopped, etc. He is constantly reminded of his parents. He sees his father coming out of synagogues, sees his parents' car, and feels very sad whenever he sees old people. The victims' son feels that his parents were not killed, but were butchered like animals. He doesn't think anyone should be able to do something like that and get away with it. He is very angry and wishes he could sleep and not feel so depressed all the time. He is fearful for the first time in his life, putting all the lights on and checking the locks frequently. His children are scared for him and concerned for his health. They phone him several times a day. At the same time he takes a fearful approach to the whereabouts of his children. He also calls his sister every day. He states that he is frightened by his own reaction of what he would do if someone hurt him or a family member. He doesn't know if he'll ever be the same again.

"The victims' daughter and her husband didn't eat dinner for three days following the discovery of Mr. and Mrs. Bronstein's bodies. They cried together every day for four months and she still cries every day. She states that she doesn't sleep through a single night and thinks a part of her died too when her parents were killed. She reports that she doesn't find much joy in anything and her powers of concentration aren't good. She feels as if her brain is on overload. The victims' daughter relates that she had to clean out her parents' house and it took several weeks. She saw the bloody carpet, knowing that her parents had been there, and she felt like getting down on the rug and holding her mother. She wonders how this could have happened to her family because they're just ordinary people. The victims' daughter reports that she had become noticeably withdrawn and depressed at work and is now making an effort to be more outgoing. She notes that she is so emotionally tired because she doesn't sleep

at night, that she has a tendency to fall asleep when she attends social events such as dinner parties or the symphony. The victims' daughter states that wherever she goes she sees and hears her parents. This happens every day. She cannot look at kitchen knives without being reminded of the murders and she is never away from it. She states that she can't watch movies with bodies or stabbings in it. She can't tolerate any reminder of violence. The victims' daughter relates that she used to be very trusting, but is not any longer. When the doorbell rings she tells her husband not to answer it. She is very suspicious of people and was never that way before.

"The victims' daughter attended the defendant's trial and that of the co-defendant because she felt someone should be there to represent her parents. She had never been told the exact details of her parents' death and had to listen to the medical examiner's report. After a certain point, her mind blocked out and she stopped hearing. She states that her parents were stabbed repeatedly with viciousness and she could never forgive anyone for killing them that way. She can't believe that anybody could do that to someone. The victims' daughter states that animals wouldn't do this. They didn't have to kill because there was no one to stop them from looting. Her father would have given them anything. The murders show the viciousness of the killers' anger. She doesn't feel that the people who did this could ever be rehabilitated and she doesn't want them to be able to do this again or put another family through this. She feels that the lives of her family members will never be the same again.

"The victims' granddaughter states that unless you experience something like this you can't understand how it feels. You are in a state of shock for several months and then a terrible depression sets in. You are so angry and feel such rage. She states that she only dwells on the image of their death when thinking of her grandparents. For a time she would become hysterical whenever she saw dead animals on the road. She is not able to drive near her grandparents' house and will never be able to go into their neighborhood again. The victims' granddaughter also has a tendency to turn on all the lights in her house. She goes into a panic if her husband is late coming home from work. She used to be an avid reader of murder mysteries, but will never be able to read them again. She has to turn off the radio or T.V. when reports of violence come on because they hit too close to home. When she gets a newspaper she reads the comics and throws the rest away. She states that it is the small everyday things that haunt her constantly and always will. She saw a counselor for several months but stopped because she felt that no one could help her.

"The victims' granddaughter states that the whole thing has been very hard on her sister too. Her wedding anniversary will always be bittersweet and tainted by the memory of what happened to her grandparents. This year on her anniversary she and her husband quietly went out of town. The victims' granddaughter finds that she is unable to look at her sister's wedding pictures. She also has a picture of her grandparents, but had to put it away because it was too painful to look at it.

"The victims' family members note that the trials of the suspects charged with these offenses have been delayed for over a year and the postponements have been very hard on the family emotionally. The victims' son notes that he keeps seeing news reports about his parents' murder which show their house and the police removing their bodies. This is a constant reminder to him. The family wants the whole thing to be over with and they would like to see swift and just punishment.

"As described by their family members, the Bronsteins were loving parents and grandparents whose family was most important to them. Their funeral was the largest in the history of the Levinson Funeral Home and the family received over one thousand sympathy cards, some from total strangers. They attempted to answer each card personally. The family states that Mr. and Mrs. Bronstein were extremely good people who wouldn't hurt a fly. Because of their loss, a terrible void has been put into their lives and every day is still a strain just to get through. It became increasingly apparent to the writer as she talked to the family members that the murder of Mr. and Mrs. Bronstein is still such a shocking, painful, and devastating memory to them that it permeates every aspect of their daily lives. It is doubtful that they will ever be able to fully recover from this tragedy and not be haunted by the memory of the brutal manner in which their loved ones were murdered and taken from them." App. 59–64.

Justice WHITE, with whom THE CHIEF JUSTICE, Justice O'CONNOR and Justice SCALIA join, dissenting.

"[T]he decision that capital punishment may be the appropriate sanction in extreme cases is an expression of the community's belief that certain crimes are themselves so grievous an affront to humanity that the only adequate response may be the penalty of death." *Gregg v. Georgia*, 428 U.S. 153, 184, 96 S.Ct. 2909, 2930, 49 L.Ed.2d 859 (1976) (opinion of STEWART, POWELL and STEVENS, JJ.). The affront to humanity of a brutal murder such as petitioner committed is not limited to its impact on the victim or victims; a victim's community is also injured, and in particular the victim's family suffers shock and grief of a kind difficult even to imagine for those who have not shared a similar loss. Maryland's legislature has decided that the jury should have the testimony of the victim's family in order to assist it in weighing the degree of harm that the defendant has caused and the corresponding degree of punishment that should be inflicted. This judgment is entitled to particular deference; determinations of appropriate sentencing considerations are "'peculiarly questions of legislative policy,'" *id.*, at 176, 96 S.Ct., at 2926 (quoting *Gore v. United States*, 357 U.S. 386, 393, 78 S.Ct. 1280, 1284, 2 L.Ed.2d 1405 (1958)), and the Court should recognize that "'[i]n a democratic society legislatures, not courts, are constituted to respond to the will and consequently the moral values of the people,'" 428 U.S., at 175, 96 S.Ct., at 2926 (quoting *Furman v. Georgia*, 408 U.S. 238, 383, 92 S.Ct. 2726, 2800, 33 L.Ed.2d 346 (1972) (Burger, C.J., dissenting)). I cannot agree that there was anything "cruel or unusual" or otherwise unconstitutional about the legislature's decision to use victim impact statements in capital sentencing hearings.

The Court's judgment is based on the premises that the harm that a murderer causes a victim's family does not in general reflect on his blameworthiness, and that only evidence going to blameworthiness is relevant to the capital sentencing decision. Many if not most jurors, however, will look less favorably on a capital defendant when they appreciate the full extent of the harm he caused, including the harm to the victim's family. There is nothin aberrant in a juror's inclination to hold a murderer accountable not only for his internal disposition in committing the crime but also for the full extent of the harm he caused; many if not most persons would also agree, for example, that someone who drove his car recklessly through a stoplight and unintentionally killed a pedestrian merits significantly more punishment than someone who drove his car recklessly through the same stoplight at a time when no pedestrian was there to be hit. I am confident that the Court would not overturn a sentence for reckless homicide by automobile merely because the punishment exceeded the maximum sentence for reckless driving; and I would hope that the Court would not overturn the sentence in such a case if a judge mentioned, as relevant to his sentencing decision, the fact that the victim was a mother or father. But if punishment can be enhanced in noncapital cases on the basis of the harm caused, irrespective of the offender's specific intention to cause such harm,[1] I fail to see why the same approach is unconstitutional in death cases. If any thing, I would think that victim impact statements are particularly appropriate evidence in capital sentencing hearings: the State has a legitimate interest in counteracting the mitigating evidence which the defendant is entitled to put in, see, *e.g.*, *Eddings v. Oklahoma*, 455 U.S. 104, 102 S.Ct. 869, 71 L.Ed.2d 1 (1982), by reminding the sentencer that just as the murderer should be considered as an individual, so too the victim is an individual whose death represents a unique loss to society and in particular to his family.

The Court is "troubled by the implication that defendants whose victims were assets to their community are more deserving of punishment than those whose victims are perceived to be less worthy," and declares that "our system of justice does not tolerate such distinctions." *Ante*, at 2534 n. 8. It is no doubt true that the State may not encourage the sentencer to rely on a factor such as the victim's race in determining whether the death penalty is appropriate. Cf. *McCleskey v. Kemp*, 481 U.S.—, 107 S.Ct. 1756, 95 L.Ed.2d 262 (1987). But I fail to see why the State cannot, if it chooses, include as a sentencing consideration the particularized harm that an individual's murder causes to the rest of society [2] and in particular to his family. To the extent that the Court is concerned that sentencing juries might be moved by victim impact statements to rely on impermissible factors such as the race of the victim, there is no showing that the statements in this case encouraged this, nor should we lightly presume such misconduct on the jury's part. Cf. *McCleskey v. Kemp*, *supra*.

The Court's reliance on the alleged arbitrariness that can result from the differing ability of victims' families to articulate their sense of loss is a makeweight consideration: No two prosecutors have exactly the same ability to present their arguments to the jury; no two witnesses have exactly the same ability to communicate the facts; but there is no requirement in capital cases that the evidence and argument be reduced to the lowest common denominator.

The supposed problems arising from a defendant's rebuttal of victim impact statements are speculative and unconnected to the facts of this case. No doubt a capital defendant must be allowed to introduce rele-

vant evidence in rebuttal to a victim impact statement, but Maryland has in no wise limited the right of defendants in this regard. Petitioner introduced no such rebuttal evidence, probably because he considered, wisely, that it was not in his best interest to do so. [3] At bottom, the Court's view seems to be that it is somehow unfair to confront a defendant with an account of the loss his deliberate act has caused the victim's family and society. I do not share that view, but even if I did I would be unwilling to impose it on States that see matters differently.

The Court's concern that the grief and anger of a victim's family will "inflame the jury," *ante*, at 2536, is based in large part on its view that the loss which such survivors suffer is irrelevant to the issue of punishment—a view with which I have already expressed my disagreement. To the extent that the Court determines that in this case it was inappropriate to allow the victims' family to express their opinons on, for example, whether petitioner could be rehabilitated, that is obviously not an inherent fault in all victim impact statements and no reason to declare the practice of admitting such statements at capital sentencing hearings *per se* unconstitutional. I respectfully dissent.

Justice SCALIA, with whom THE CHIEF JUSTICE, Justice WHITE, and Justice O'CONNOR join, dissenting.

The Court holds that because death is a "'punishment different from all other sanctions,'" *ante*, at 2536, n. 12 (quoting *Woodson v. North Carolina*, 428 U.S. 280, 303-304, 96 S.Ct. 2978, 2990-2991, 49 L.Ed.2d 944 (1976) (plurality opinion of Stewart, POWELL, and STEVENS, JJ.)), considerations not relevant to "the defendant's 'personal responsibility and moral guilt'" cannot be taken into account in deciding whether a defendant who is eligible for the death penalty should receive it, *ante*, at 2533 (quoting *Edmund v. Florida*, 458 U.S. 782, 801, 102 S.Ct. 3368, 3378, 73 L.Ed.2d 1140 (1982)). It seems to me, however—and, I think, to most of mankind—that the amount of harm one causes does bear upon the extent of his "personal responsibility." We may take away the license of a driver who goes 60 miles an hour on a residental street; but we will put him in jail for manslaughter if, though his moral guilt is no greater, he is unlucky enough to kill someone during the escapade.

Nor, despite what the Court says today, do we depart from this principle where capital punishment is concerned. The Court's opinion does not explain why a defendant's *eligibility* for the death sentence can (*and always does*) turn upon considerations not relevant to his moral guilt. If a bank robber aims his gun at a guard, pulls the trigger, and kills his target, he may be put to death. If the gun unexpectedly misfires, he may not, His moral guilt in both cases is identical, but his responsibility in the former is greater. Less than two months ago, we held that two brothers who planned and assisted in their father's escape from prison could be sentenced to death because in the course of the escape their father and an accomplice murdered a married couple and two children. *Tison v. Arizona*, 481 U.S. —, 107 S.Ct. 1676, 95 L.Ed.2d 127 (1987). Had their father allowed the victims to live, the brothers could not be put to death; but because he decided to kill, the brother may. The difference between life and death for these two defendants was thus a matter "wholly unrelated to the[ir] blameworthiness," *Ante*, at 2534. But it was related to their personal responsibility, *i.e.*, to the degree of harm that they had caused. In sum, the principle upon which the Court's opinion rests—that the imposition of capital punishment is to be determined solely on the basis of moral guilt—does not exist, neither in the text of the Constitution, nor in the historic practices of our society, nor even in the opinions of this Court.

Recent years have seen an outpouring of popular concern for what has come to be known as "victims' rights"—a phrase that describes what its proponents feel is the failure of courts of justice to take into account in their sentencing decisions not only the factors mitigating the defendant's moral guilt, but also the amount of harm he has caused to innocent members of society. Many citizens have found one-sided and hence unjust the criminal trial in which a parade of witnesses comes forth to testify to the pressures beyond normal human experience that drove the defendant to commit his crime, with no one to lay before the sentencing authority the full reality of human suffering the defendant has produced—which (and *not* moral guilt alone) is one of the reasons society deems his act worthy of the prescribed penalty. Perhaps these sentiments do not sufficiently temper justice with mercy, but that is a question to be decided through the democratic processes of a free people, and not by the decrees of this Court. There is nothing in the Constitution that dictates the answer, no more in the field of capital punishment than elsewhere.

To require, as we have, that all mitigating factors which render capital punishment a harsh penalty in the particular case be placed before the sentencing authority, while simultaneously requiring, as we do today, that evidence of much of the human suffering the defendant has inflicted be suppressed, is in effect to prescribe a debate on the appropriateness of the capital penalty with one side muted. If that penalty is constitutional, as we have repeatedly said it is, it seems to me not remotely unconstitutional to permit both the pros and the cons in the particular case to be heard.

FOOTNOTES

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

[1] Booth's accomplice, Willie Reid, was convicted and sentenced to death as a principal in the first degree to the murder of Mrs. Bronstein. His conviction was affirmed and his sentence is currently under review. See *Reid* v. *State*, 305 Md. 9, 501 A.2d 436 (1985).

[2] When the statute was enacted it was unclear whether a VIS was admissible in a capital case. See § 4-609(c)92)(i) (1986) (VIS required if victim suffered *injury*, whereas for a misdemeanor, VIS required if victim suffers injury *or death*); *Lodowski* v. *State*, 302 Md. 691, 761 490 A.2d. 1228, 1264 (1985) (Cole, J., concurring), vacated on other grounds, 475 U.S. —, 106 S.Ct. 1452, 89 L.Ed.2d 711 (1986). In 1983, the Maryland General Assembly amended the VIS provision to provide that:

"In any case in which the death penalty is requested . . . a presentence investigation, including a victim impact statement, shall be completed by the Division of Parole and Probation, and shall be considered by the court or jury before whom the separate sentencing proceeding is conducted. . . ." § 4-609(d) (1986).

[3] The VIS stated:

"[T]he victims' son reports that his parents had been married for fifty-three years and enjoyed a very close relationship, spending each day together. He states that his father had worked hard all his life and had been retired for eight years. He describes his mother as a woman who was young at heart and never seemed like an old lady. She taught herself to play bridge when she was in her seventies. The victims' son relates that his parents were amazing people who attended the senior citizens' center and made many devout friends." App. 59.

* * * * *

"As described by their family members, the Bronsteins were loving parents and grandparents whose family was most important to them. Their funeral was the largest in the history of the Levinson Funeral Home and the family received over one thousand sympathy cards, some from total strangers." *Id.*, at 63.

[4] The complete VIS is reprinted in the Appendix to this opinion.

[5] The Eighth Amendment provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." The prohibitions of the Eighth Amendment apply to the States through the Due Process Clause of the Fourteenth Amendment. See *Robinson* v. *California*, 370 U.S. 660, 666, 82 S.Ct. 1417, 1420, 8 L.Ed.2d 758 (1962).

[6] Before the jury may impose a capital sentence, it must find that at least one of the following aggravating circumstances are present:

"(1) The victim was a law enforcement officer who was murdered while in the performance of his duties.

"(2) The defendant committed the murder at a time when he was confined in any correctional institution.

"(3) The defendant committed the murder in furtherance of an escape or an attempt to escape from custody, or to evade capture.

"(4) The victim was taken or attempted to be taken in the course of a kidnapping or abduction, or an attempt to kidnap or abduct.

"(5) The victim was a child abducted in violation of § 2 of this article.

"(6) The defendant committed the murder pursuant to an agreement or contract for remuneration or the promise of remuneration to commit the murder.

"(7) The defendant engaged or employed another person to commit the murder and the murder was committed pursuant to an agreement or contract for remuneration or the promise of remuneration.

"(8) At the time of the murder the defendant was under sentence of death or imprisonment for life.

"(9) The defendant committed more than one offense of murder in the first degree arising out of the same incident.

"(10) The defendant committed the murder while committing or attempting to commit a robbery, arson, rape, or sexual offense in the first degree." See Md.Ann.Code, Art. 27, § 413(d) (1982 and Supp. 1986). Because the impact of the crime on the victim is not a statutorily-defined aggravating circumstance, it would not be sufficient, standing alone, to support a capital sentence. § 413(f).

[7] As one state court has noted: "We think it obvious that a defendant's level of culpability depends not on fortuitous circumstances such as the composition of his victim's family, but on circumstances over which he has control. A defendant may choose, or decline, to premeditate, to act callously, to attack a vulnerable victim, to commit a crime while on probation, or to amass a record of offenses. . . . In contrast, the fact that a victim's family is irredeemably bereaved can be attributable to no act of will of the defendant other than his commission of homicide in the first place. Such bereavement is relevant to damages in a civil action, but it has no relationship to the proper purposes of sentencing in a criminal case." *People v. Levitt*, 156 Cal.App.3d 500, 516-517, 203 Cal.Rptr. 276, 287-288 (1984).

[8] We are troubled by the implication that defendants whose victims were assets to their community are more deserving of punishment than those whose victims are perceived to be less worthy. Of course, our system of justice does not tolerate such distinctions. Cf. *Furman v. Georgia*, 408 U.S. 238, 242, 92 S.Ct. 2726, 2728, 33 L.Ed.2d 346 (1972) (Douglas, J., concurring).

[9] See n. 3, *supra*. The Maryland sentencing statute does not expressly permit evidence of the victim's character and community status to be included in the VIS. The Maryland Court of Appeals, however, apparently has determined that the statute only establishes the minimum amount of information that must be provided. Consideration of other information in the VIS is subject to the trial judge's discretion. See *Reid v. State*, 302 Md. 811, 820-821, 490 A.2d 1289, 1294 (1985).

This type of information is not unique to the VIS in Booth's case. In *Lodowski v. State*, the trial court admitted a VIS based on an interview with the victim's wife that said in part:

"[The victim] was the perfect family person, he was totally devoted to his family. It was like a miracle to find a man like him—we had something very special. We had created a love that could withstand anything in life. We were not only husband and wife, but best friends." 302 Md., at 766, 490 A.2d, at 1266 (Cole J., concurring)

The court in *Lodowski* found that VIS evidence in general is not constitutionally proscribed, and is relevant to a capital sentencing determination. *Id.*, at 751, 752, 490 A.2d, at 1259.

[10] Our disapproval of victim impact statements at the sentencing phase of a capital case does not mean, however, that this type of information will never be relevant in any context. Similar types of information may well be admissible because they relate directly to the circumstances of the crime. Facts about the victim and family also may be relevant in a non-capital criminal trial. Moreover, there may be times that the victim's personal characteristics are relevant to rebut an argument offered by the defendant. See, *e.g.*, Fed.Rule Evid. 404(a)(2) (prosecution may show peaceable nature of victim to rebut charge that victim was aggressor). The trial judge, of course, continues to have the primary responsibility for deciding when this information is sufficiently relevant to some legitimate consideration to be admissible, and when its probative value outweighs any prejudicial effect. Cf.Fed.R.Evid. 403.

[11] The same problem is presented by the VIS summary written by the DPP, that might be viewed by the jury as representing the views of the State. As noted *supra*, at 4, the writer concluded that the crimes had a "shocking, painful, and devast[at]ing" effect on the family, and that "[i]t is doubtful that they will ever be able to fully recover." App. 63-64. See Appendix to this opinion.

[12] We note, however, that our decision today is guided by the fact death is a "punishment different from all other sanctions," see *Woodson v. North Carolina*, 428 U.S. 280, 303-304, 305, 96 S.Ct. 2978, 2990-2991, 49 L.Ed.2d 944 (1976) (plurality opinion of Stewart, POWELL, and STEVENS, JJ.), and that therefore the considerations that inform the sentencing decision may be different from those that might be relevant to other liability or punishment determinations. At least 36 States permit the use victim impact statements in some contexts, reflecting a legislative judgment that the effect of the crime on victims should have a place in the criminal justice system. See National Organization for Victim Assistance, Victim Rights and Services: A Legislative Directory 32-33 (1985) (chart); McLeod, Victim Participation at Sentencing, 22 Crim.L.Bull. 501, 507, and n. 22 (1986). Congress also has provided for victim participation in federal criminal cases. See Fed.Rule Crim. Proc. 32(c)(2)(C). We imply no opinion as to the use of these statements in non-capital cases.

APPENDIX FOOTNOTES

[1] Congress considers the effect of crime on its victims a relevant sentencing consideration. Thus, presentence reports prepared pursuant to Federal Rule of Criminal Procedure 32(c)(2) must include "information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense. . . ."

This court's cases also indicate that the harm caused by an offense may be the basis for punishment even if the offender lacked the specific intent to commit that harm. See, *e.g.*, *United States v. Feola*, 420 U.S. 671, 95 S.Ct. 1255, 43 L.Ed.2d 541 (1975) (conviction under 18 U.S.C. § 111 for assaulting a federal officer does not require proof that the defendant knew the victim's status).

[2] I doubt that the Court means to suggest that there is any constitutional impediment, for example, to authorize the death sentence for the assassination of the President or Vice-President, see 18 U.S.C. §§ 1751, 1111, a Congressman, cabinet official, Supreme Court Justice, or the head of an executive department, 18 U.S.C. § 351, or the murder of a policeman on active duty. See Md.Ann.Code, Art. 27, § 413(d)(1) (1982).

[3] The possibility that the jury would be distracted by rebuttal evidence is purely hypothetical since petitioner introduced no such evidence. It is also unclear how distracting (as opposed to offending) the jury would disadvantage the defendant, and why, if there were some disadvantage to the defendant in pressing too hard a rebuttal to a victim impact statement, he should be heard to complain of the consequences of his tactical decisions.

[Supreme Court of the United States]

Syllabus

SOUTH CAROLINA *v.* GATHERS

CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

(No. 88-305; argued March 28, 1989; decided June 12, 1989)

Respondent was convicted of murder and sentenced to death in a South Carolina court. The prosecutor's closing argument at the sentencing phase included his reading to the jury at length from a religious tract the victim was carrying and comments on the personal qualities that the prosecutor inferred from the victim's possession of the religious tract and a voter registration card. Finding that the prosecutor's "extensive comments to the jury regarding the victim's character were unnecessary to an understanding of the circumstances of the crime," the South Carolina Supreme Court concluded that those comments "conveyed the suggestion [respondent] deserved a death sentence because the victim was a religious man and a registered voter," and, in reliance on *Booth* v. *Maryland*, 482 U.S. 496, reversed respondent's death sentence and remanded for a new sentencing proceeding.

Held: "For purposes of imposing the death penalty . . . [the defendant's] punishment must be tailored to his personal responsibility and moral guilt." *Enmund* v. *Florida* 458 U.S. 782, 801. Here, the prosecutor's comments concerned the victim's personal characteristics, and "[a]llowing the jury to rely on [this information] . . . could result in imposing the death sentence because of factors about which the defendant was unaware, and that were irrelevant to the decision to kill." *Booth* v. *Maryland*, *supra*, at 505. The content of the religious tract and the voter registration card could not possibly have been relevant to the "circumstances of the crime." Where there was no evidence that respondent read either the tract or the voter card, the content of the papers the victim was carrying was purely fortuitous and could not provide any information relevant to respondent's moral culpability, notwithstanding that the papers had been admitted in evidence for other purposes. Pp. 4-6.

295 S.C. 476, 369 S.E. 2d 140, affirmed.

BRENNAN, J., delivered the opinion of the Court, in which WHITE, MARSHALL, BLACKMUN, and STEVENS, JJ., joined. WHITE, J., filed a concurring opinion. O'CONNOR, J., filed a dissenting opinion, in which REHNQUIST, C. J., and KENNEDY, J., joined. SCALIA, J., filed a dissenting opinion.

[Supreme Court of the United States]

No. 88-305

SOUTH CAROLINA, PETITIONER *v.* DEMETRIUS GATHERS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF SOUTH CAROLINA

[June 12, 1989]

Justice Brennan delivered the opinion of the Court.

Respondent Demetrius Gathers was convicted of murder and sentenced to death for the killing of Richard Haynes. The evidence at trial showed that Gathers and three companions encountered Haynes, a stranger to them, at a park bench one evening. When Haynes rebuffed Gathers' attempt to initiate a conversation, Gathers and his friends assaulted Haynes, beating and kicking him severely and smashing a bottle over his head. Before leaving the scene, Gathers beat Haynes with an umbrella, which he then inserted into the victim's anus. Some time later Gathers apparently returned to the scene and stabbed Haynes with a knife.

Richard Haynes was about 31 years old and unemployed. For two years prior to his death he had been experiencing "some mental problems," and had been "in and out of [a] mental hospital" three times. App. 4. Although without formal religious training, Haynes considered himself a preacher and referred to himself as "Reverend Minister"; his mother testified that he would "tal[k] to people all the time about the Lord." *Id.*, at 5-6. He generally carried with him several bags containing articles of religious significance, including two Bibles, rosary beads, plastic statues, olive oil, and religious tracts. Among these items, on the evening of his murder, was a tract entitled "The Game Guy's Prayer." Relying on football and boxing metaphors, it extolled the virtues of the good sport. After Haynes was beaten, his assailants went through his belongings, looking (apparently in vain) for something worth stealing. In rummaging through his personal effects they scattered on the ground the contents of his wallet and bags, including the just-mentioned tract.

Gathers was tried in the Court of General Sessions for Charleston County, South Carolina. During the guilt phase the articles found at the scene of the crime were admitted into evidence without objection.[1] The jury found Gathers guilty of murder and first-degree criminal sexual conduct. All of the testimony and exhibits from the guilt phase were readmitted into evidence at the sentencing phase. The state presented no other evidence at the sentencing phase, but the prosecutor's closing argument included the following remarks, which are the basis for the present controversy:

"We know from the proof that Reverend Minister Haynes was a religious person. He had his religious items out there. This defendant strewn *[sic]* them across the bike path, thinking nothing of that.

"Among the many cards that Reverend Haynes had among his belongings was this card. It's in evidence. Think about it when you go back there. He had his religious items, his beads. He had a plastic angel. Of course, he is now with the angels now, but this defendant Demetrius Gathers could care little about the fact that he is a religious person. Cared little of the pain and agony he inflicted upon a person who is trying to enjoy one of our public parks.

"But look at Reverend Minister Haynes' prayer. It's called the Game Guy's Prayer. 'Dear God, help me to be a sport in this little game of life. I don't ask for any easy place in this lineup. Play me anywhere you need me. I only ask you for the stuff to give you one hundred percent of what I have got. If all the hard drives seem to come my

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[1] The objects found scattered around Haynes' body were, for the most part, admitted into evidence during the testimony of Charleston police officer Anthony Hazel. Record 768-790. At no time then, or otherwise during the guilt phase, was there any reference to the *content* of the papers Haynes had with him. For example, the following was the entire colloquy at the time many of the papers were admited:

"Q. Okay . . . . What else?

"A. Point C. we found some personal papers.

"Q. Personal papers that appeared to belong to the victim?

"A. Yes, sir.

"Q. That would be State's Exhibit 19?

"A. Yes" *Id.*, at 782. See also *id.*, at 787.

way, I thank you for the compliment. Help me to remember that you won't ever let anything come my way that you and I together can't handle. And help me to take the bad break as part of the game. Help me to understand that the game is full of knots and knocks and trouble, and make me thankful for them. Help me to be brave so that the harder they come the better I like it. And, oh God, help me to always play on the square. No matter what the other players do, help me to come clean. Help me to study the book so that I'll know the rules, to study and think a lot about the greatest player that ever lived and other players that are portrayed in the book. If they ever found out the best part of the game was helping other guys who are out of luck, help me to find it out, too. Help me to be regular, and also an inspiration with the other players. Finally, oh God, if fate seems to uppercut me with both hands, and I am laid on the shelf in sickness or old age or something, help me to take that as part of the game, too. Help me not to whimper or squeal that the game was a frameup or that I had a raw deal. When in the falling dusk I get the final bell, I ask for no lying, complimentary tombstones. I'd only like to know that you feel that I have been a good guy, a good game guy, a saint in the game of life.'

"Reverend Minister Haynes, we know, was a very small person. He had his mental problems. Unable to keep a regular job. And he wasn't blessed with fame or fortune. And he took things as they came along. He was prepared to deal with tragedies that he came across in his life.

"You will find some other exhibits in this case that tell you more about a just verdict. Again this is not easy. No one takes any pleasure from it, but the proof cries out from the grave in this case. Among the personal effects that this defendant could care little about when he went through it is something that we all treasure. Speaks a lot about Reverend Minister Haynes. Very simple yet very profound. Voting. A voter's registration card.

"Reverend Haynes believed in this community. He took part. And he believed that in Charleston County, in the United States of America, that in this country you could go to a public park and sit on a public bench and not be attacked by the likes of Demetrius Gathers." *Id.*, at 41-43.

Finding that these "extensive comments to the jury regarding the victim's character were unnecessary to an understanding of the circumstances of the crime," the Supreme Court of South Carolina concluded that the prosecutor's remarks "conveyed the suggestion appellant deserved a death sentence because the victim was a religious man and a registered voter." 295 S.C. 476, 484, 369 S.E. 2d 140, 144 (1988). Relying on our decision in *Booth* v. *Maryland*, 482 U.S. 496 (1987), the court reversed Gathers' sentence of death and remanded for a new sentencing proceeding. We granted certiorari, 488 U.S. — (1988), and we now affirm.

Our capital cases have consistently recognized that "[f]or purposes of imposing the death penalty . . . [the defendant's] punishment must be tailored to his personal responsibility and moral guilt." *Enmund* v. *Florida*, 458 U.S. 782, 801 (1982). See also *id.*, at 825 (O'Connor, J., dissenting) ("[P]roportionality requires a nexus between the punishment imposed and the defendant's blameworthiness"); *Tison* v. *Arizona*, 481 U.S. 137, 149 (1987) ("The heart of the retribution rationale is that a criminal sentence must be directly related to the personal culpability of the criminal offender"). Two Terms ago, in *Booth* v. *Maryland*, *supra*, we addressed the question whether use of "victim impact statements" in capital sentencing proceedings violated this principle that a sentence of death must be related to the moral culpability of the defendant. We held that such statements introduced factors that might be "wholly unrelated to the blameworthiness of a particular defendant." 482 U.S., at 504

The statements placed before the jury in *Booth* included descriptions of the victims' personal characteristics, statements concerning the emotional impact of the crime on the victims' family, and the family members' opinions about the crime and the defendant. At issue in the present case is a statement of the first sort—one concerning personal characteristics of the victim. While in this case it was the prosecutor rather than the victim's survivors who characterized the victim's personal qualities, the statement is indistinguishable in any relevant respect from that in *Booth*. As in *Booth*, "[a]llowing the jury to rely on [this information] . . . could result in imposing the death sentence because of factors about which the defendant was unaware, and that were irrelevant to the decision to kill." *Id.*, at 505.

Our opinion in *Booth*, however, left open the possibility that the kind of information contained in victim impact statements could be admissible if it "relate[d] directly to the circumstances of the crime." *Id.*, at 507, n. 10. South Carolina asserts that such is the case here. Brief for Petitioner 25-41. It contends that the various personal effects which were "maliciously strewn around [the victim's] body during the event" were "relevant to the circumstances of the crime or reveal certain personal characteristics of the defendant." *Id.*, at 28.

We disagree. The fact that Gathers scattered Haynes' personal papers around his body while going through them looking for something to steal was certainly a relevant circumstance of the crime, and thus a proper subject for comment. But the prosecutor's argument in this case went well beyond that fact: he read to the jury a length from the religious tract the victim was carrying, and commented on the personal qualities he inferred from Haynes' possession of the "Game Guy's Prayer" and the voter registration card. The *content* of these cards, however, cannot possibly have been relevant to the "circumstances of the crime." There is no evidence whatever that the defendant read anything that was printed on either the tract or the voter card. Indeed, it is extremely unlikely that he did so. The testimony at trial was that Gathers went through Haynes' bags very quickly, "just throwing [his belongings] everywhere, looking through things," App. 27, and that he spent not more than a minute doing so. *Id.*, at 28. The crime took place, moreover, at night, along a dark path through a wooded area. *Id.*, at 17; Record 621-622, 926-927. Nor did the assailants have flashlights. *Id.*, at 622-623. Under these circumstances, the content of the various papers the victim happened to be carrying when he was attacked was purely fortuitous, and cannot provide any information relevant to the defendant's moral culpability. Notwithstanding that the papers had been admitted into evidence for another purpose, their content cannot be said to relate directly to the circumstances of the crime.

The judgment of the Supreme Court of South Carolina is therefore *Affirmed.*

Mr. CHAFEE. I will make this brief, Mr. President.

Am I correct in understanding that the Supreme Court very recently, indeed, as late as June of last year, stated that impact statements were unconsitutional, the admission of the impact statements?

Mr. BIDEN. That is correct. That is why the Senator from Delaware is taking issue with the amendment of the Senator from Iowa because when a State had attempted to do essentially what the Senator from Iowa is attempting to do, the Court ruled that under the eighth amendment it was unconstitutional because "personal responsibility and moral guilt" were the only things that could be considered in determining whether or not to impose the death penalty.

Mr. CHAFEE. So, therefore, we are now passing a statute which would not correct the unconstitutionality?

Mr. BIDEN. That is absolutely correct.

Mr. CHAFEE. It appears quite clear we are passing a statute that is unconstitutional.

Mr. BIDEN. That is correct. In the opinion of the Senator from Delaware that is correct.

Mr. CHAFEE. Admittedly it was a 5 to 4 decision as I understand it. I do not understand what is going to happen next. Did the Senator indicate he was going to work it out?

Mr. BIDEN. What is going to happen next is, the Senator from Delaware is a realist. If we have a rollcall vote on this amendment, the Senator from Iowa will prevail

What is going to happen on this matter is that it will amend the Nickles amendment. It will pass and be part of the crime bill. And when we get to conference, if the House has it in, then it will be determined by the Court as to whether or not it is constitutional.

If the House does not have it in, we will debate, and I am sure the Senator from Iowa, who most assuredly will be a member of that, being a member of the Judiciary Committee, most assuredly will be a member of that conference committee, and will argue like the devil to keep it in, and there will be those who want it out.

That will be the next negotiating place that this matter will be addressed.

If the House has the same amendment in the crime bill that they passed, then it will be a matter left to the Court to determine.

Mr. CHAFEE. Mr. President, I say briefly it is an odd way to do business. I agree with the Senator from Delaware that the portion of the amendment, Senator NICKLES' portion, I certainly agree with, and I think it is a laudable effort. I think the other part is clearly unconstitutional. It goes ex-

actly contrary to what the Supreme Court has said.

But, in order at least to preserve the Nickles amendment portion of it—it is one amendment, is it not?

Mr. BIDEN. It will be one amendment if the Grassley amendment in the second-degree succeeds.

Mr. CHAFEE. I thank the chair.

The PRESIDING OFFICER. The chair is advised by the Parliamentarian that it is now offered as one amendment. Not two amendments.

Mr. BIDEN. I beg the President's pardon. I beg the Chamber's pardon. I thought it was an amendment in the second-degree.

I am sorry, it is one amendment? I am sorry.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I am going to yield back my time. But I want to take just a few seconds to remind the Senator from Rhode Island that the crime bill contains many instances in which we are overturning Supreme Court cases by statute. And we only need to look at the Civil Rights Restoration Act, in which the Congress overturned the Supreme Court's decision in Grove City College.

I hope my colleague is not raising the question that something unique and different is being done here by this amendment?

With that, Mr. President, I yield back the remainder of my time.

Mr. CHAFEE. I do not want to debate the Grove City case here, but there is quite a difference.

The PRESIDING OFFICER. The Senator is yielded time?

Mr. BIDEN. I yield whatever time I have.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. The cases we are citing here, where the Supreme Court said this particular type of language, and; namely, the victim impact statement, was against the Constitution. Whereas, in the other cases, you are dealing with statutes, interpretation of statutes, which is quite different than the situation as it is here.

Mr. GRASSLEY. Mr. President, what about the death penalty against minors? The crime bill before us overturns Supreme Court cases in that area. I hope we have given enough examples.

I yield back the remainder of my time.

Mr. BIDEN. Mr. President, I do not want to prolong this.

For the record, the Supreme Court said that it is all right for a minor to be put to death because the States had not spoken to that issue and the Federal Government had not spoken to that issue. But we all understand the point here.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma and the Senator from Iowa.

The amendment (No. 2094) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2095

(Purpose: To study racial and ethnic bias in the criminal justice system)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. LIEBERMAN, and Mr. BRYAN, proposes an amendment numbered 2095.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) Equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems and in particular that portion of their criminal justice systems relating to the imposition of the sentence of death in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort or by order of the Chief Executive Office of the State a plan for analyzing the role of race in that State's criminal justice system, including in the imposition of the sentence of death. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General with priority being given to those States whose State law provide for the imposition of death for certain crimes. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this section.

Mr. GRAHAM. Mr. President, several weeks ago when we were last on S. 1970, I offered an amendment and spoke in favor of a provision which struck title I from this bill. That was the title which was characterized as the Racial Justice Act.

I did so because I thought that act would not effectively end discrimination in the criminal justice system and because it required a system not suspectible to mathematical predictibility to produce mathematically predictable results.

During the debate there was a great deal of discussion about how to deal with discrimination in the criminal justice system—a goal that every member of this Senate should and I believe does endorse.

With this goal in mind, I have attempted to develop an amendment that offers a proper response to the issue of potential discrimination in our entire justice system.

In analyzing this issue, I had three goals in mind.

First, Congress should do nothing to disrupt the discretionary nature of our criminal justice system. Our system is predicated on individual justice.

Second, our States should not be prohibited from applying their laws in a constitutional manner.

Third, we should attempt to analyze the issue of not only potential discrimination in the capital sentencing process, but also potential bias in the entire judicial system—from our law schools to our courtrooms.

I am convinced that an analysis of these three issues can best be conducted in the individual States.

Mr. President, the State of Florida Supreme Court has established a statewide commission to study the issue of racial and ethnic bias in the criminal justice system.

I understand that the States of New Jersey, New York, Michigan, Washington, California, and Massachusetts have established similar commissions.

In Florida, our commission has been broadly charged by the Chief Justice of the Supreme Court.

Mr. President, in order to give some sense of the issues that I would propose be considered by the panels to be created under this amendment, I would like to read portions of the charge by the chief justice of the Florida supreme court in establishing the Racial and Ethnic Bias Commission.

First, does race or ethnicity affect the dispensation of justice, either through explicit bias or unfairness implicit in the way civil and criminal justice systems operate?

Second, what are th elements of a coherent, long-term strategy to eradicate the vestiges of any legally prescribed discrimination?

Third, are there practical measures which can be taken to alleviate any underrepresentation of disadvantaged minorities from positions of responsibility in the justice system, including judges and court employees?

Fourth, what, if any, measures should be taken by the supreme court, law schools, the board of bar examiners, the profession, and the legislature to accelerate the rate at which disadvantaged minorities enter the legal profession and ascend through its ranks in the public and private sectors?

Fifth, what, if any, changes should be made in the manner of selecting judges to increase the racial and ethnic diversity of the bench?

Mr. President, those are areas that I think are legitimate concerns for those who are interested in a system of true justice and they are legitimate concerns for States which, in our system of justice, our Federal system have the primary responsibility for most of the criminal justice laws.

The proper role of Congress is to encourage our States to look at their entire justice systems and for the States to formulate their own responses to any facial or ethnic bias.

Therefore, I am proposing a amendment that calls for the authorization of $2 million during each of the next 5 years to make grants to States for such studies.

The grants would be administered by the Attorney General, through the Bureau of Justice Assistance.

Any such plans would have to be established by either the highest court of the State, the State legislature, or the chief executive officer of the State.

In awarding grants, the Attorney General would give priority to those States who impose the sentence of death for certain crimes. However, this bill encourages States to look at their entire criminal justice systems.

In establishing criteria for awarding the grants, the Attorney General would take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

Mr. President, it is my hope that States will use these funds to look at their entire justice systems and develop innovative methods of not only dealing with discrimination, but also of encouraging participation in our justice system by all members of our society.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will run on the amendment.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2096 TO AMENDMENT NO. 2095

(Purpose: To limit required studies to instances where constitutional violations have been found or suspected)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The second-degree amendment is not in order as long as time remains on the pending amendment.

Mr. HATCH. Could I ask the manager of the bill to yield back the time on the first-degree amendment?

The PRESIDING OFFICER. The Senator is entitled to ask the author of the amendment.

The Senator from Florida.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the Senator from Utah be allowed to offer his second-degree amendment at this time, reserving the remainder of my time on the first-degree amendment for a period after consideration of the second-degree amendment of the Senator from Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the second-degree amendment of the Senator from Utah.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 2096 to amendment No. 2095.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

"Any study funded or required by this act shall be limited to a consideration of whether the constitutional rights of criminal defendants have been violated."

Mr. HATCH. Mr. President, this amendment is a simple but necessary clarification of the Graham-Lieberman amendment. It guarantees that studies required to be funded under this act will be "limited to a consideration of whether the constitutional rights of criminal defendants have been violated."

This should be a nonobjectionable second-degree amendment. The principal interest Congress has in the State criminal justice systems is the preservation of Federal constitutional rights. My amendment guarantees that courtrooms will remain courtrooms, not sociology labs.

Courts have recently been flooded with prisoner suits raising groundless claims of discrimination. To the extent these suits allege violations of the Constitution they should be heard and Congress should properly fund research of that sort.

But to the extent that prisoners routinely bring claims that have no basis in the Constitution, they should not be heard and Congress should not be funding the research that permits them to clog the courts in this manner.

Recent litigation shows that people have radically different opinions on what constitutes evidence of racial or ethnic bias relative to the criminal justice system. Unless this provision is limited, as my second-degree amendment proposes, then Congress would be authorizing and funding researchers who may advance the most extreme, irrelevant, and argumentative theories of discrimination—one that no court has held or ever will hold to violate the Constitution.

For example, Graham-Lieberman is ambiguous in its attempt to protect "ethnic rights." What are these rights if they are not constitutional rights? My amendment simply places a clear and effective limitation on what would otherwise be a broad and ambiguous provision.

So, Mr. President, I hope that the managers of the bill can accept this amendment. I would be pleased if they did.

Mr. THURMOND. Mr. President, I rise in support of the second-degree amendment of my colleague from Utah to the underlying Graham amendment. The underlying amendment would provide grants to States for the purpose of conducting studies to determine the extent to which ethnicity plays a role in the criminal justice system.

The Graham amendment is an effort to provide States with funding to study whether, in fact, race plays an unconstitutional role in the criminal justice system. However, the amendment does not require that these studies be limited to that scope and provides little guidance to the States on how the money they receive can be utilized. The Hatch amendment makes it clear that these moneys are to be used to study whether racial or ethnic minorities are being discriminated against unconstitutionally. Passage of the Hatch amendment will ensure that these funds are utilized to the betterment of the criminal justice system nationwide rather than for social critiques or for vague irrelevant studies.

For these reasons, I strongly support the Hatch second-degree amendment and urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I strongly oppose the second-degree amendment which essentially eviscerates the concept of this amendment and substantially negates the arguments that many of us made when we were discussing the Racial Justice Act.

The Racial Justice Act, as you recall, Mr. President, was a provision in the original crime bill that would have said if a State had a statistical imbalance as between the composition of its population or various components of its population and those to whom the criminal laws were applied, and particularly the death penalty, then the States assumed the burden of showing that they did not have a racially discriminatory criminal justice system and would be precluded from utilizing the death penalty until they had overcome that presumption.

Mr. President, the argument that many of us made was that the Supreme Court has said that there is no constitutional right to have any particular statistical outcome of your justice system, that our justice system is predicated on individual justice and that constitutional rights are those things that relate to your individual status, and there must be a showing of discrimination in the specific case of the defendant before the bar.

The whole purpose of this proposal is to allow for a broad examination of the justice system, not a narrow examination, as the chief justice of Florida has stated when such a commission was established in my State, to look at issues from the question of are we preparing a sufficient number and properly prepared, trained lawyers that are representative of the population of the State so that they can be available to the justice system; are we training persons to work in our justice system in ways that will give us some assurance that invidious but not necessarily unconstitutional racial and ethnic practices are not being used to distort the justice system.

It is important, Mr. President, not only that the substance of the justice system be upheld but the constitutional standard be maintained. It is also important, Mr. President, that the perception, the perception, the view of justice by the average American man and woman be that this is a fair system. It is to that goal that these studies are directed.

Also these studies are not limited to the specifics of an individual or class of criminal defendant. They are intended to look broadly, systemically, at the process of the justice system within our State.

As I indicated, Mr. President, this is not a novel idea. States as diverse as Florida, New Jersey, New York, Massachusetts, and others have adopted a proposal to initiate similar studies.

The Senator from Utah suggests that these are going to be out-of-control commissions, that they will be turned into sociological laboratories. If we read the proposal, the amendment says that these panels have to be established by one of three groups, either the highest court within the State, or by the legislature of the State, or by the Governor of the State. None of those three convening authorities is exactly likely to lose control of what is expected.

Second, I would point out that it is up to the U.S. Attorney General to pass judgement on specific applications for these grant funds. So a responsible constitutional body within the State must initiate, and the highest justice officer in the U.S. Government must approve and allocate, before these panels to study racial issues within a State's justice system, so they can be funded and can move forward, at least with Federal funds.

The States that have already initiated these studies have done so because they felt it was in their State's interest, sufficiently in their interest, that they would initiate and fund with their State dollars. I believe this is an appropriate area for the Federal Government to further encourage States to look seriously at their justice system, and with that examination to take such steps as that State considers to be appropriate.

I believe and I do not feel I would have any disagreement with either the Senator from Utah or South Carolina, that this is a more appropriate response than the attempt to convert our justice system into a mathematical system, which was the essence of the original title I of S. 1970.

Mr. President, I therefore strongly urge the defeat of this amendment, which would significantly undermine the very purpose for which this proposal is made: to encourage a serious examination of the system of justice within the State, and through that examination to give reassurance to the public that justice for all is, in fact, not only an objective, but a reality within that State's justice system.

Mr. HATCH. Mr. President, I would like to ask how the Senator from Florida can be against my amendment. It just says we are limiting studies to constitutional rights. What rights are enforced by the Senator's amendment if they are not constitutional rights? The States are free to grant greater and more liberal rights to criminals, but I do not see why we in the Congress have to fund their efforts to do so. I think we should enforce the Constitution, not fund the efforts of those who would change the basic consitutional law.

I do not understand how anyone can be against this particular amendment. First of all, if you see the purpose of the Graham amendment as being the protection of constitutional rights, then you cannot object to this amendment stating that. But if you see the Graham amendment as advancing some other agenda, then I suppose maybe you should oppose my amendment.

If you want to arm convicted criminals with new, ingenious arguments to overturn their sentences, particularly their death sentences, then vote against my amendment. Those who are against the death penalty should vote against this amendment because what the distinguished Senator from Florida is trying to do is bring through the back door the Racial Justice Act that was soundly defeated on the floor of the Senate.

Everybody knows the whole purpose of that act is to eviscerate capital punishment and do away with it. The whole purpose of the proposed studies is to do exactly the same thing.

So if you want to arm criminals with new, ingenious arguments to overturn their sentences, particularly their death sentences, then vote against my amendment, because if my amendment passes, there will be no question that the funds authorized by this bill will not be available for that particular purpose.

But if you think that the Federal Government should not be in the business of funding research for the purpose of aiding criminals in making arguments that do not even relate to their constitutional rights, as broad as those are, then I urge you to vote for my amendment, because that is what the issue is.

The Graham-Lieberman amendment will, if unamended by my amendment, fund efforts to change the law. We should instead be funding efforts to enforce the law. That is really the essence of the debate. I find no fault with the distinguished Senator from Florida in wanting to do that. But do not let anybody be mistaken on this thing. If you do not have my amendment added to it, then you are funding efforts to really change the law rather than enforce the law. I think there is no question about it.

What I want to do here is to guarantee that these studies required or funded by the amendment of the distinguished Senator from Florida to this bill will be limited to the question of whether the constitutional rights of criminal defendants have been violated. Therefore, extra legal matters will be precluded.

We ought to limit these studies to legal issues, not sociological matters so the studies funded by this bill will not be used for improper political purposes. If we do not amend the distin-

guished Senator's amendment, then that is exactly what is going to happen, and we are going to be spending money to provide arguments, many of them pseudoarguments, against proper enforcement of criminal laws—in particular the death penalty. So that is what is involved here.

I do not want to take any more time of the distinguished Members of the U.S. Senate. It is as simple as this. If you want to get to the bottom of what really is involved, vote for my amendment. If you want to fund the efforts of those who would get rid of the death penalty, the vote against my amendment. That is what it comes down to.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. How much time remains on the second-degree amendment?

The PRESIDING OFFICER. The Senator from Florida has 2 minutes, 16 seconds; the Senator from Utah has a couple of seconds under 4 minutes; and the Senator from South Carolina controls the total time in opposition, 2 minutes remaining in opposition.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I take strong exception to the characterization that has just been made of this amendment and its purpose by the Senator from Utah. There is no one in this Chamber who has had a longer commitment to capital punishment and more direct experience to capital punishment than, I would suggest, the Senator from Florida.

Mr. President, I have offered this amendment for exactly the opposite reasons than those characterized by the Senator from Utah. I believe it is important that we have a justice system which is, and is seen to be, a just, fair, and equitable dispensation of justice. I do not believe, as the Racial Justice Act of the original version of S. 1970 was to have provided, that we can turn our justice system into mathematical precision.

But I do believe that we can examine our justice system, and that we should have the courage of our wisdom and our convictions to do so; and to make an assessment as to whether in all dimensions our justice system is in fact meeting the standards that we would set for this great Nation and its individual States.

Mr. President, these commissions are going to be established by one of three groups within the individual States' constitutional government: The supreme court of the State, the Governor of the State, the legislature of the State. Those are three bodies, each of which has their own interest in the level of justice within their State. And since most of our States have a capital punishment law, they are not going to be interested in establishing agencies that will contravene their capital punishment law.

I believe that the effect of these studies, as the one that is under way in my State and a half dozen other States in this country, will help to sustain——

The PRESIDING OFFICER. The Senator's time in opposition to the second-degree amendment has expired. The Senator from Florida does have time on the original amendment, however.

Mr. GRAHAM. Mr. President, I ask unanimous consent for 1 additional minute of the time on the first-degree amendment to complete my remarks on the second-degree amendment.

The PRESIDING OFFICER. The Senator from Florida has that time, and it is so ordered.

Mr. GRAHAM. The purpose of this amendment is to encourage the States to undertake the type of analysis which will lead to a rigorous examination and, hopefully, a determination that the system of justice within that State can stand that degree of analysis, so that the supreme court, the legislature, or the Governor could take great pride if that commission should determine that there are areas that required alteration, that would be a State responsibility to do so.

Mr. President, I strongly urge the defeat of the second-degree amendment, which, I suggest, for the reasons stated, would have the effect of eviscerating the purpose of this amendment and the support of other Members of the Senate for this amendment.

Mr. HATCH. Mr. President, as I read this amendment of the distinguished Senator from Florida, there is absolutely no question in my mind, or I think in anybody else's who understands the issue, that the whole purpose of this is to overturn McCloskey versus Kemp. In that particular case, the court recognized that statistical justice is no justice. When it says here that the Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established, by State law and by a court of last resort or by order of the executive officer of the State, a plan for analyzing the role of race in the State's criminal justice system, including in the imposition of the sentence of death, such plan shall include recommendations designed to correct any findings that racial and ethnic bias play such a role.

We suggested that the staff of the distinguished Senator from Florida put "unconstitutional" in front of "racial and ethnic bias." They refused to do so. It is the only issue involved here. If we do not limit this amendment, then we are going to go into all the sociological reasons and give every quack in the world the opportunity of giving opinions on how cases should be decided. We should not undermine the Supreme Court's decision.

I do not mind funding research efforts, if we limit it to constitutional issues. But if we do not limit it to constitutional issues, we will have every Tom, Dick, and Harry with an opinion telling us sociologically, what we might or might not do in these areas. The amendment's purpose is to undermine McCloskey versus Kemp. It comes down to this issue. If you are for the death penalty and you want to enforce the laws of this country, I hope you will vote for my amendment, because that will help us to do that. If you are against the death penalty, and want to fund the efforts of those who would abolish it, vote for this amendment. It is legitimate to argue this. It is, I think, wrong, unless you put the word "unconstitutional" in there, which is basically what my amendment does.

I have time remaining, but I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment of the Senator from Utah.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 138 Leg.]

YEAS—44

Baucus	Gramm	Murkowski
Bond	Grassley	Nickles
Boschwitz	Hatch	Pressler
Burns	Heflin	Roth
Byrd	Heinz	Rudman
Chafee	Helms	Shelby
Coats	Humphrey	Simpson
Cochran	Kassebaum	Specter
D'Amato	Kasten	Stevens
DeConcini	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Ford	McCain	Warner
Garn	McClure	Wilson
Gorton	McConnell	

NAYS—55

Adams	Conrad	Harkin
Akaka	Cranston	Hatfield
Bentsen	Danforth	Hollings
Biden	Daschle	Inouye
Bingaman	Dixon	Jeffords
Boren	Dodd	Johnston
Bradley	Durenberger	Kennedy
Breaux	Exon	Kerrey
Bryan	Fowler	Kerry
Bumpers	Glenn	Kohl
Burdick	Gore	Lautenberg
Cohen	Graham	Leahy

Levin	Packwood	Sanford
Lieberman	Pell	Sarbanes
Metzenbaum	Pryor	Sasser
Mikulski	Reid	Simon
Mitchell	Riegle	Wirth
Moynihan	Robb	
Nunn	Rockefeller	

NOT VOTING—1

Armstrong

So the amendment (No. 2096) was rejected.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SANFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recures on amendment No. 2095. The Senator from Florida has 8 minutes remaining.

The Senate is not in order.

Mr. MITCHELL. Mr. President, may I have the attention of the Senators.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. MITCHELL. May I have the attention of my colleagues.

The PRESIDING OFFICER. The Senate is not in order. The Senate is not in order. The Senator from Florida has the floor.

Mr. GRAHAM. Mr. President, I yield to the majority leader.

Mr. MITCHELL. Mr. President, if I may have the attention of the Senators, and particularly of the Senators from California and New York. There are now, according to the managers, four amendments that will require rollcall votes. One of them is an amendment by the Senator from California [Mr. WILSON]; one of them is an amendment by the Senator from New York [Mr. D'AMATO]. The managers have indicated that they will accept those amendments; that there is no need for a rollcall vote. If those amendments can be accepted without a rollcall vote, that would leave just two amendments requiring full debate and rollcall votes and we could finish within a reasonably prompt time and there would be no session tomorrow.

If, however, those Senators, as they have the right to, insist upon a rollcall vote, that means that there would be four amendments requiring rollcall votes. Many Senators have asked that we not go beyond another hour or so, and that would mean in all likelihood we would have to continue tomorrow.

So I inquire of the Senators from California and New York whether they would be willing to permit their amendments to be accepted and thereby obviating the need for rollcall votes and permitting us to proceed in what I hope is a rather prompt fashion to dispose of the other two amendments which require rollcall votes.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. There might be an alternative and that would be to reduce the time to a very brief 5 minutes on each side—again we understand these amendments; we have debated them 100 times—then have a rollcall. I do not know whether that will work.

Mr. BIDEN. My problem with that is, I am delighted to stay here if you want to keep going. But there are two votes that are prepared to be accepted by your side that are votes that a lot of people do not want to have to make. And one is the Kerry vote, which is the Kerry-Biden legislation to provide for $900 million for local law enforcement, and the other is the Biden amendment providing for more FBI agents, et al. That was going to be accepted.

The problem I am going to have over here is if we insist on the rollcall votes on the two death penalties that we are going to accept—and it is obvious they are only asked for to be given to political reasons—then you are going to have those who want votes on the bills you do not want, and you all are not that crazy about, for purely political reasons.

So if we do that and reduce the time, I do not have any objection. But I have to say to the majority leader that we are now up to six rollcall votes. We can either have two rollcall votes or six rollcall votes, any way we like to have it, because we all know the outcome of those four amendments. The Biden bill and Kerry bill are going to prevail; the D'Amato bill and the Wilson bill are going to prevail, and we can each beat our breast.

I suggest we just release our press releases along with how we voted on the voice vote and move on.

But if we want to go ahead and do it the other way, let us go ahead and do it and there will be six votes.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. I think we made tremendous progress. I hope there is nothing negative about this. I think to have done as much as we have, after waiting 5 hours to get an agreement since about 4:30, is remarkable. I want to commend the two managers.

I did not know those two amendments had ever been listed for votes. I know the other two have been carried all along as being record votes. I do not know why anybody would object to voting for law enforcement on this side.

I think the point is we have some people who would like to complete business tonight. That means by midnight, as I view it. I would not mind doing that. I want to accommodate as many as we can. But to stay until 3 or 4 in the morning, then you're not worth anything tomorrow. In any event, I do not think that is a very good idea.

Perhaps what we might do is to take an amendment right now that we know is going to require a vote and try to see if we cannot talk to our colleagues during the next 15 or 20 minutes. That would still leave the S&L matter unresolved. It was my understanding—maybe I did not have it accurate—That everything had been worked out except one provision that involved Senator ROTH and Senator SIMON. That may or may not be the case. But that is what I am advised.

So if we can figure out some way to resolve that, apparently most everything else has been resolved. That is a very important amendment and hopefully a bipartisan amendment. That would be something else that might take considerable discussion.

Mr. MITCHELL. Mr. President, may I suggest that the most expeditious manner to proceed would be to go to the next amendment which will require a vote, which is that of Senator SPECTER—I ask the Senator whether he would be willing to accept 20 minutes equally divided instead of the 30 minutes allotted—and during that time we will attempt to resolve this, perhaps by reducing significantly the time allotted for the remaining amendments, as has been suggested. And I will decide then either that we are going to go ahead and finish or that we cannot and we will come back tomorrow.

It is my personal preference, and I think that of many Senators, that we finish tonight if at all possible. So I suggest that we proceed with the amendment. If the Senator from Pennsylvania will agree to reduce the time to 20 minutes equally divided, then in that time and the 10 minutes in which it will be required to vote, we will have to make a judgment.

Mr. BIDEN. Will the Senator yield for a moment? Before we move to the Specter amendment, we have the underlying Graham amendment, which I do not think requires a vote and I would suggest we move to that.

AMENDMENT NO. 2095

Mr. GRAHAM. Mr. President, I am prepared to yield back the remainder of my time and then have a voice vote on the underlying amendment if the manager the other side is willing.

The PRESIDING OFFICER. All time having been yielded back, the question is the amendment offered by the Senator from Florida.

The amendment (No. 2095) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time

for debate on the Specter amendment be 20 minutes, equally divided in the usual form.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The Senator from Pennsylvania.

AMENDMENT NO. 1841

(Purpose: To establish a Police Corps program)

Mr. SPECTER. Mr. President, I call up amendment number 1841.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself, Mr. SASSER, Mr. GRAHAM, Mr. HEINZ, Mr. KENNEDY, Mr. COATS, Mr. BRADLEY, Mr. BUMPERS, Mr. KERRY, Mr. HARKIN, Mr. DODD, and Mr. LIEBERMAN, proposes an amendment numbered 1841.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

TITLE —POLICE CORPS PROGRAM

SEC. 01. SHORT TITLE.

This title may be cited as the "Police Corps Act".

SEC. 02. PURPOSES.

The purposes of this title are to—

(1) address the very high level of violent crime and neighborhood deterioration afflicting communities throughout the Nation by substantially increasing the number of trained police on community patrol;

(2) provide educational assistance to those students of ability, character, and dedication who possess a sincere interest in dedicating 4 years to public service and law enforcement; and

(3) establish opportunities for meaningful community service in exchange for educational assistance.

SEC. 03. DEFINITIONS.

For the purposes of this title—

(1) the term "academic year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "Director" means the Director of the Office of the Police Corps appointed pursuant to section 04(b);

(4) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(5) the term "participant" means a participant in the Police Corps program selected pursuant to section 06;

(6) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(7) the term "State Police Corps program" means a State police corps program approved under section 09.

SEC. 04. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program pursuant to this title and shall have authority to promulgate regulations to implement this title.

SEC. 05. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education which the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—(1) Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) work following successful completion of a baccalaureate program and training as prescribed in section 014, for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member; and

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section 014; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) Gross Income.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross

income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 014.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purpose of this section the term "institution of higher education" has the same meaning given such term as in the first sentence of section 1201(a) of the Higher Education Act of 1965.

SEC. 06. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

((B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section 09(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section 08, and such a participant shall be subject to the same benefits and obligations under this title as other participants, including those stated in section (b)(1) (E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section 08, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 25,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 25,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 25,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit appliants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141 (a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(3) If a participant who has taken a leave of absence pursuant to paragraph (1) or (2) fails or is unable to resume educational study, training, or service after the expiration of the leave of absence, the provision of section 05(d) shall apply.

SEC. 07. LAW ENFORCEMENT TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Policy Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing state training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers of course of training substantially equivalent to the Police Corp training program described in this subtitle.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, at times determined by the Director.

(c) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(d) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Board of Directors established pursuant to subsection (f) at the conclusion of each training session in order to remain in the Police Corps program.

(e) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

(f) BOARD OF DIRECTORS.—(1) The training centers shall be administered by a Board of Directors (in this subpart referred to as the 'Board'). The Board shall consist of—

(A) 9 persons outstanding in the fields of law enforcement, education, law and law enforcement education who shall be appointed by the President, by and with the advice and consent of the Senate, 2 of whom shall be members of a national police labor organization and 2 of whom shall be members of a national police management organization;

(B) the Attorney General or a designee of the Attorney General, who shall be an ex officio member; and

(C) the Director, who shall serve as chairman.

(2) The term of office of a member of the Board (other than the Attorney General or designee of the Attorney General and other than the Director) shall be 6 years, except that—

(A) a member appointed to fill a vacancy occurring before the expiration of the term for which the appointee's predecessor was appointed shall be appointed for the remainder of such term;

(B) the terms of office of the members first taking office shall expire, as designated by the President at the time of the appointment, three at the end of 2 years, three at the end of 4 years, and three at the end of 6 years; and

(C) a member whose term of office has expired shall continue to serve until the member's successor is appointed.

(3) Members of the Board, while away from their homes or regular places of business in the performance of services for the Board, shall be entitled to receive compensation at a rate to be fixed by the Director, not exceeding $100 a day, and shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(4) The Director shall obtain the services of such military and civilian instructors and administrative and other employees as may be necessary to operate the training centers. The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including

State and local police forces) to obtain the services of persons qualified to participate in and contribute to the training process.

(5) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(6) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(g) FURTHER TRAINING.—The 16 weeks of Federal training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section 09 shall include assurances that following completion of Federal training each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Federal training, shall be counted toward fulfillment of the participant's 4-year service obligation.

SEC. 08. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the Federal training program established in section 07 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section 05, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, upon satisfactory completion of that service, provide assistance pursuant to section 05.

SEC. 09. APPROVAL OF STATE PROGRAMS.

(a) SUBMISSION OF STATE PLANS.—To participate in the Police Corps program under this subpart, a State shall submit to the Director a plan for impelmenting a State Police Corps program for such State, in a manner consistent with the requirements set forth in this subpart.

(b) APPROVAL OF STATE PLANS.—The Director shall approve a State Police Corps plan that complies with the program requirements set forth in this section.

(c) CONTENTS OF STATE PLANS.—Each State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section 06;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC. 10. REPORTS TO PRESIDENT AND CONGRESS.

Not later than April 1 of each year, the Director shall submit a report to the President and to the Speaker of the House of Representatives and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants;

(3) describe the structure and progress of the program; and

(4) discuss the perceived strength and weakness of the program and any proposals for changes in the program.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice to carry out this title, for fiscal year 1990, such sums as may be necessary to carry out the provisions of this title, and for each fiscal year thereafter such sums as may be authorized in the annual authorization Act for such year.

Mr. SPECTER. Mr. President, this amendment is being considered on behalf of Senators SASSER, GRAHAM, HEINZ, KENNEDY, COATS, BRADLEY, BUMPERS, KERRY, HARKIN, DODD, and LIEBERMAN.

Mr. President, may we have order in the Chamber.

The PRESIDING OFFICER. Senators will cease audible conversation. The Senate is not yet in order. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment would establish two programs to provide educational assistance to individuals interested in serving in law enforcement. One would be for 4-year educational scholarships: the other would be educational assistance to law enforcement personnel currently in service.

The Police Corps Program was developed under a Department of Justice grant by the distinguished New York attorney Adam Walinsky, and a former Philadelphia police officer, Jonathan Rubenstein, and others. This unique program, Mr. President, came to my attention in 1985, and I introduced it in the 99th Congress. It has since that time gained very considerable support. It has received very broad editorial support.

It would add additional police officers who are trained, able to cope with the technical problems on search and seizures, on confessions, on lineups, and the myriad other legal requirements which have been established by the Supreme Court of the United States in the modern era.

Mr. President, there was, early on, some objection from some of the police unions because it was considered that this bill would provide for an elite corps, and I believe that objection has been answered by the provision for in-service educational assistance. This provision will fulfill a very basic requirement for advanced education. The Police Corps Program, which provides preservice educational assistance, is very similar to ROTC, the Reserve Officer Training Corps. It would provide very well trained police officers to help on law enforcement on the streets of the United States where it is well known how serious the problem is.

Mr. President, during the course of just 10 minutes that is a rough outline of the bill.

I believe that Senator GRAHAM of Florida asked for some speaking time. I am glad to yield 2 minutes to the distinguished Senator from Florida at this time.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, this amendment represents an effort by Senators on both sides of the aisle to

enhance the educational status of our Nation's law enforcement officers and to encourage young people to seek careers in law enforcement.

Subtitle B of this amendment, beginning on page 20, is substantially the same as legislation I introduced on March 6—the Law Enforcement Scholarship Act of 1990.

The genesis of the original legislation was a meeting I had with law enforcement officers from South Florida. These officers impressed upon me the increasing burden on local and State law enforcement in staying one step ahead of crime.

The President echoed this sentiment in his drug control strategy. The strategy correctly states that local and State law enforcement is the first line of defense in securing the safety of citizens. State and local governments bear the greatest responsibility for providing safe communities.

The criminal element of our society is becoming increasingly sophisticated, moving into areas like money laundering and computer crime that threatens our national security.

But in many cities and towns, law enforcement is short on human and financial resources. Even more troubling, studies show that today's law enforcement officers are short on education.

Mr. President, the goal of this legislation is to provide educational opportunities to law enforcement. The good news is that the percentage of police officers with some college training has doubled since 1970, and the percentage with a baccalaureate degree has increased nearly sevenfold.

The bad news is that, on average, law enforcement personnel nationwide have little more than 2 years of higher education.

A 1988 nationwide study showed that only 22 percent have 4 years or more of college; another 22 percent have only 2-3 years; 20 percent have less than 2 years; and 34 percent have no college at all.

In my home State, 69 percent of law enforcement officers have only a high school degree. Only 18 percent have completed a bachelor's degree or above.

A study of police administrators by the Police Executive Research Forum indicated that this higher level of education compliments on-the-street experience and training.

College educated officers seem to communicate better with the public and are better decisionmakers.

Officers with higher education are the subject of fewer citizen complaints and are more sensitive to the needs of racial and ethnic groups.

An article by Gerald Lynch—president of the John Jay College of Criminal Justice in New York City—noted that for the last 20 years, every national commission on violence and crime has concluded that college education can improve police performance.

This amendment creates a cooperative program at the Federal, State, and local level to provide financial assistance to sworn, active duty law enforcement and correctional officers seeking associates, bachelors, or graduate degrees.

The Department of Justice would oversee the program—working closely with State and local law enforcement and education agencies to determine where assistance is most needed and what sort of academic programs would best meet the goals of this legislation.

The overall authorization level for the grant program is $30 million.

States and local governments interested in participating would be responsible for 40 percent of the scholarship costs.

Let me emphasize that subtitle B of the amendment provides assistance to those men and women who have already demonstrated their commitment to law enforcement by serving at least 2 years and who would commit to additional service upon receipt of a grant.

Mr. President, this is not a new idea.

Back in 1967, the distinguished Senator from Connecticut, Senator Ribicoff, introduced a very similar proposal which was eventually incorporated into the Omnibus Crime Control and Safe Streets Act of 1968.

Senator Ribicoff described a situation not unlike that which we face today:

> Our first line of defense against the mounting crime rate is the local police force. * * * In this era of modern technology the policy must be able to understand and apply the latest scientific advances in crime prevention and detection.
>
> The police officer cannot do so if he does not posses the requisite education and training to fit him for the task, * * *.

The late Congressman William Anderson of Tennessee proposed similar legislation in the House. In introducing his measure, Congressman Anderson said:

> Education increases the trainability of the policeman for the rapid influx of new devices, procedures, and fresh approaches now being tested by police agencies.
>
> Education not only supplies the man a broad body of knowledge concerning his society and enhances his abilities of reasoning and communication, it is also a shaper of attitudes and concepts concerning the law and the community; concerning the use and abuse of force and authority; and concerning man, state, and diversity in the American system.

The program which resulted from these legislative proposals—the Law Enforcement Education Program—enjoyed great successes, but also some failures.

A 1975 GAO study of LEEP praised its goals and purposes, but criticized its operation.

According to the GAO study, LEEP was plagued by poor management, inadequate administrative staff levels, and deficiencies in accounting.

Failure to completely address these problems and the lack of administration support in the early Reagan administration led to the demise of the program.

Since introducing the Law Enforcement Scholarship Act, I have received a number of calls and letters from LEEP beneficiaries which endorse the revival of such a program.

What this amendment does is revive the concept, but change the operational mechanism to address the criticisms of the LEEP Program.

For example, the original LEEP Program awarded funds directly to educational institutions. The schools were responsible for recruiting students to law enforcement related study and for managing the actual scholarship awards.

The GAO study found that LEEP staff did not have accurate financial data to determine how well schools were managing the funds.

Further, the schools did a poor job of placing graduates in law enforcement related jobs.

Subtitle B of the amendment directs scholarship assistance directly to in-service law enforcement personnel with administrative support and oversight from participating States.

The GAO report also cited deficiencies in securing repayment of student loans.

This amendment, which is entirely a grant program, requires specified amounts of service for assistance received.

If the service requirement is not met—a responsibility easily monitored by a participating State—the grant recipient must repay the program.

Because the States must also make a financial commitment to the program, there is strong incentive for responsible administration of the program.

The approach to enhancing law enforcement education set forth in subtitle B of this amendment is supported by law enforcement executives and officers, including the International Association of Chiefs of Police, the International Brotherhood of Police, the National Association of Police Organizations, the Fraternal Order of Police, and the Police Executive Research Forum.

Subtitle A of this amendment includes a proposal offered by my distinguished colleagues from Pennsylvania and Tennessee, Senators SPECTER and SASSER.

This portion of the amendment would create opportunities for young people enrolling in college to receive financial aid in return for service in local law enforcement.

The amendment we offer today represents the combination of the Police

Corps proposal and the Law Enforcement Scholarship proposal.

By combining the two similar programs into one administrative office, we can obtain some cost savings and simply run a more effective program.

I encourage my colleagues to support this amendment.

Mr. BUMPERS. Will the Senator from Pennsylvania yield 1 minute?

Mr. SPECTER. I will first yield 2 minutes to my colleague from Pennsylvania, Senator HEINZ.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, it is not essential to have a college degree to qualify as a cop. It is essential, however, to have a sense of public service, compassion, and affinity for the law.

But, the 21st century draws near, it is increasingly evident that in order to succeed, a college degree is required. And college degrees are getting more and more expensive to obtain.

So it is not surprising that fewer and fewer college students are pursuing public careers. Public service tends to pay less and doesn't hold a comparable hope of financial opportunity as the private sector.

This Nation is confronting a crime emergency. According to the Federal Bureau of Investigation, the number of serious crimes known to law enforcement rose 3 percent nationwide from 1988 to 1989. The number of violent crimes of murder, forcible rape, robbery, and aggravated assault increased 5 percent, while property crimes of burglary, larceny, and motor vehicle theft increased 2 percent. In Philadelphia, PA, the FBI's crime index total in 1988 included 99,959 crimes committed while in 1989 115,860 crimes were committed.

Mr. President, it does not take a college graduate to conclude that these types of numbers illustrate the need for a greater number of law enforcement officers. A career in law enforcement not only means a great deal of personal sacrifice in terms of spending time with one's family, and a great deal of danger to one's life, it also means tremendous financial sacrifices as it is a public service career. It is little wonder then that many of our college students don't pursue law enforcement careers.

The Specter Police Corps amendment addresses this significant problem by providing federally financed college scholarships for young people willing to serve in police departments. The amendment also includes a proposal by Senator GRAHAM that would provide scholarships to those who have already made the personal sacrifice to become cops, but who also wish to enhance their education.

I urge my colleagues to support this amendment. Like their military counterparts in the Reserved Officer Training Corps, the Police Corps cadets would greatly expand the pool of outstanding police officers while securing our Nation's streets.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 4½ minutes remaining.

Mr. SPECTER. I yield 1 minute to the Senator from Massachusetts. We only have 4 left and we have to have some rebuttal time.

Mr. KERRY. Mr. President, Albert Schweitzer said that, "Truth has no special time. It's hour is now—always." Today we have a truth of special urgency.

The worst part of this truth is that we have allowed the growth in our midst of a dangerous and menacing criminality. Crime and the fear of crime pervade almost every place and part of the nation. Two weeks ago, the New York Times reported that much of the middle class was moving out of Philadelphia. Today it reports that much of the middle class appears about to move out of New York. Tomorrow they may be writing about Boston or about almost any other city in Massachusetts or the Nation. Almost every city has large areas virtually abandoned, their buildings disfigured and gutted, their stores and businesses shattered, their night streets empty and menacing. There are schools from which all learning has almost died, where a quarter of all students report that they carry weapons for protection every day. Many adult citizens do the same, especially when riding public transportation. The danger and destruction of life and property are greatest in the communities of the poor. But there is no one and no community among us that is exempt. Burglary and housebreaking, the first signs of similar crime and disorder have spread relentlessly to ever wider suburban and rural areas. The Department of Justice tells us that 83 percent of all Americans can expect to be the victim of a violent crime at least once in their lives. A Gannett poll showed that one out of every four New York City households had a member who was the victim of a street robbery in a recent year. There are areas of American cities in which a boy baby being born today stands a greater risk of dying by violence than did the average American GI in World War II. So by present rates, 1 out of every 20 black men will die by homicide.

In 1988, according to the FBI, there were reported to the police over 20,000 homicides; 92,000 rapes; 540,000 robberies; and 900,000 felonious assaults. We know that for every violent crime that was reported, there was at least one more that was not reported.

More and more, even the crimes reported to police do not result in an arrest let alone a conviction or imprisonment. The police are not able to make an arrest in three-quarters of all reported robberies, half of all reported rapes. Even in 30 percent of homicides, the police are unable to make an arrest.

The second fact we must understand is that in each of these numbers there is an individual tragedy: a son that a mother loved, a daughter weeping for her father, a struggling business lost to a neighborhood, a teacher disillusioned and lost to the profession, a police officer crippled.

But for all the individual tragedies, for all the blighted lives and families, there is a greater loss. This is a loss of freedom, a loss of the enjoyment of our homes and our neighborhoods and the security of our families. Worst of all, it is a loss of confidence in ourselves and in each other. Relations between the races are poisoned. We learn to look at each other not as friends and fellow citizens, but as alien and foreboding strangers. This is a loss we all share; it is, in some immeasurable sense, a loss of our country. There can be no higher priority for the American Government today than to do everything we can to halt and reverse this seemingly inexorable drift toward chaos; to restore a sense of security, justice, and order to every part of the American Nation.

For the unprecedented rise in crime of the last four decades there are many causes. Dispossessed and largely uneducated rural populations have migrated to the cities, with the attendant social and family dislocation. Too often the opportunity they sought there has been frustrated by economics, lack of education, and racism. Families have disintegrated under the pressures of modern life and benighted government policies, especially a welfare system that has produced idle parents, fatherless children, and a tragic loss of self-esteem and citizenship. We are a rich country. Therefore, we have many goods to steal and theft has seemed an attractive way of life. Children are too often raised on a steady diet of vicarious violence: It is estimated that the average American teenager, by the age of 18, will have seen 16,000 killings simulated on television. To all this must be added the effects of a degraded system of criminal justice which has seemed more interested in the welfare of convicted felons than in assuring justice and protection to honest citizens.

All these undoubted causes of crime cry out for our attention. But of all the causes of crime and disorder in America today, none is so serious, and none requires such immediate attention, as the decline in the strength of the police.

The police are at once the symbol and the force of government authority; and they are the indispensable foundation upon which the life of a

community must be built. The greatest crime that has been committed against the public order and decent life is what we have done to the police.

A generation ago—the last time the country can be said to have enjoyed substantial civic peace—there were three times as many police officers as there were violent crimes.

But today we have exactly reversed the proportion of police officers to violent crimes: instead of 3.2 officers for every violent crime, we have 3.2 violent crimes for every serving officer. In other words, in the Nation as a whole, we are devoting to violent crime one-tenth of the police power we mobilized a generation ago.

For 40 years, the American people have been subjected to violent and vicious assaults on an ever-increasing scale. And in the midst of this war, we have engaged in unilateral disarmament.

As there are many causes of crime, we must act to reduce it in many ways. But the indispensable starting-point, the base on which all our efforts must rest, I believe is a massive rebuilding of the strength of the police. The reasons are these:

First, only much larger numbers of police on patrol, in neighborhoods, can begin to reestablish community order and safety. Police patrol is the key to the very survival of neighborhoods. It is also the only guarantor of the peace of the street, that allows us to meet with each other as fellow citizens to be enjoyed and cherished. I believe that the overwhelming cause of the kind of ugly racial incidents that have disfigured too many of our cities is fear—fear of crime, fear of the stranger, fear of those who we do not know, fear of those whose color is different from our own. I also believe that if we begin to reestablish domestic peace and order, we can begin also to restore our sense of confidence in one another—and so resume our historic march toward the fulfillment of the American promise for all of our people.

Second, we must begin to deter crime before it is committed. The small and weakened police forces of today cannot hope to catch more than a fraction of the many criminals who have adopted crime as a profitable way of life. Most departments do not have the manpower even to investigate thefts of less than many thousands of dollars; thus the goods of the poor and the middle class are in constant danger, though the poor always suffer the most, and black households lose 50 percent more to crime than do white households. Ninety percent of stolen property is never restored to its owners.

Imprisoning more captured and convicted felons has been necessary but it has not proven an answer. Because of longer sentences and lower parole rates, prisons nationally hold 76 percent more criminals than they did a decade ago. But we do not have less crime.

I believe that more police, patroling aggressively and investigating and acting against a greater proportion of crimes, will significantly reduce the present terrible levels of crime.

Most of all, more police can give us a shield, behind which we can begin to rebuild the structure of decent life in communities across the country. If children grow up in the midst of everyday violence, if to survive in their streets they must adopt the morals and style of gangsters, then we can not be shocked if they grow up violent and aggressive, and if they then oppress and prey upon those who are even younger.

The ultimate way to reduce crime is to teach children to grow up as peaceful and decent citizens. To do that we must establish peace and order in their neighborhoods. To do that we require the Police Corps.

We need the Police Corps for these reasons.

First, the Police Corps is the only proposal on the national agenda that would give us larger numbers of new, additional police officers. Under this amendment, we could add 20,000 new officers nationally from every graduating class. When the bill is fully implemented, we could increase our police numbers by more than one-sixth: which would increase our hard-pressed police forces by fully a third.

Second, the Police Corps is more than just a law-enforcement program. In the deepest sense, it is also an education program. Each year, 20,000 students will graduate from college with their educational expenses paid. Each year, 20,000 young people will enter a postgraduate course in service to the Nation serving as police officers. They will get a priceless education in our country and its problems. They will learn also about themselves: about discipline, about courage, about compassion and contribution to others. And then—whether they remain in the corps or return to civilian life—they will be able to use all this education to become the leaders we need, in the coming decades and into the next century.

Third, the Police Corps will be an economical way for local departments to expand their members. Police Corps officers will be full members of their local departments, and receive regular pay and benefits. But when they complete their 4-year terms and return to civilian life, they will all be eligible for the pensions that now represent up to one-third of the cost of employing police.

Fourth, the Police Corps will assure to police departments a ready supply of highly educated and high-quality recruits, many leading chiefs have expressed great concern for the quality of the recruiting pool: this is one of the reasons why such chiefs as Lee Brown of New York, Joe McNamara of San Jose, Pat Fitzsimons of Seattle, and Isaac Fullwood of the District of Columbia are strongly supporting the Police Corps. A Department of Justice survey, carried out principally in the State of Massachusetts, has shown that very large number of students now attending college would be likely or highly likely to join a Police Corps; this interest is especially high among minority students, of whom nearly half might apply. Fifty percent of those expressing interest in the Police Corps, moreover, had grade-point averages of B or better; half had scores of better than 500 on the math portions of the scholastic aptitude test, and 53 percent planned to study for advanced degrees.

Fifth, the Police Corps would therefore make possible the recruitment of the highly qualified and motivated minority officers that almost all departments desperately require; not only for the patrol force, but also to give us the base from which a fair representation of superior officers can be selected.

Sixth, this amendment, which now incorporates Senator GRAHAM's bill for inservice training of police officers, would also open up educational opportunities for officers now serving on the force. Across the country, many of our leading police executives got their college education through the old LEEAP Program. This revival of that program will make the same program possible for this later generation of officers.

Most of all, however, the Police Corps will help us recover our sense of our own neighborhoods, our own cities, our own country. Too often we have come to think of law enforcement as something to be done by the police and other criminal justice professionals, but not as our personal responsibility. And the police have been isolated, expected to perform the most difficult, unpleasant and dangerous of jobs, without the public understanding and support that the police both deserve and require. In the Police Corps, however, thousands of all of our sons and daughters will be helping to enforce the peace, protect our lives together, and serve those in need. During their terms of service, and after their return to civilian life, they will form an indissoluable bridge between the law enforcement community and the citizenry at large. Over time, we can look toward a society in which many of the most prominent citizens have served as police officers; in which more of us therefore take personal responsibility for the public peace, safety, and justice.

This possibility has already appealed to the deans of four of the Nation's leading law schools: Yale, Stanford,

Chicago, and Cardoza. These deans have all said that the Police Corps graduates would have such potential to contribute to American law, that they would receive special consideration for admission to these most select and prestigious institutions.

Congressman JOHN LEWIS has told us that the Police Corps is vital to black Americans, which have been so particularly ravaged by crime and violence. He warns us that "in a very real sense, it is crime that has caused poverty, and is the most powerful cause of poverty today."

But he also says, and we can all echo, that the Police Corps is not a bill for blacks, nor for whites: Rather it is a bill for Americans of all colors and stripes, as this unique collection of sponsors shows. I am proud to be associated with this bill with Republicans and Democrats, across the entire ideological spectrum. The Police Corps is perhaps a resumption of the American partnership. It affirms our deepest traditions of self-defense and self-reliance, of personal action and responsibility; but it also speaks to our best notions of community action and national strength.

It is long past time for us to confront the violence that has disfigured hundreds of communities and the lives of millions of citizens. But as we move to enact and implement the Police Corps, we can also look beyond it—to mobilizing the same voluntary spirit in other vital tasks that are before us. In the years to come, we can call upon the enormous talent, courage and commitment of a great people, to assume command over our lives and liberate all of our streets from thugs. We have been through many searing times, and time and again we have turned to our young people for the strength and the spirit we need. They have never failed us, and as a nation we have not failed ourselves. We will not fail now.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SPECTER. I yield 1 minute to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I will try to yield 30 seconds back.

I just want to lend myself to the effort of the Senator from Pennsylvania. Obviously, criminals are becoming much more sophisticated. The method of crime is becoming more sophisticated: Drug running, money laundering. We are becoming an increasingly violent society.

You do not have to be a college graduate to be a good cop, but there is one thing for sure—it will help. This is a program, in my opinion, that will do more for law enforcement over the long run than just about anything else we are going to do, even in this crime bill we are debating.

I thank the Senator for yielding.

Mr. SPECTER. I yield 1 minute to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I note this evening we may see the achievement of Adam Walinsky who has worked so hard and so long on this matter and serves his country well in this regard.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I oppose this amendment to the crime package. This amendment, offered by my distinguished colleague from Pennsylvania, embodies the Police Corps and Law Enforcement Training and Education Act. This amendment is similar to a bill, S. 1299, introduced by my colleague in July of last year. This legislation proposes to create a Federal program which would pay for college educations for approximately 20,000 entry level police officers annually at an estimated cost to the Federal Government of over $1.5 billion annually. Under this proposal, graduates of the program would be hired by State and local police agencies, which would be required to compensate them at the same rate as other police officers.

Mr. President, this proposal would require the Federal Government to spend substantial resources. The Congressional Budget Office cost estimate for this legislation estimates authorizations of over $1.5 billion every year. Over the next 5 years, estimated cost for this program could total as much as $8 billion. In addition, the estimated outlays required by this bill do not include the most costly aspect of the program—the repayment of educational expense since the first class of students who graduate from the program will not do so until 1996.

Despite the fact that the Federal Government would be spending all of this money to pay for individuals education, there is no certainty that the State and local law enforcement agencies could absorb 20,000 officers every year. Finally, the legislation does not require that students take law enforcement related courses while in college, nor does it require a significant commitment to law enforcement—the individual would only have to stay in law enforcement for 4 years to receive the benefits and then he or she could move on.

The premise behind this proposal is well intentioned—to bring more qualified individuals into law enforcement. Yet, there has been no evidence presented which indicates that current recruits are unqualified. In addition, even if those individuals who participate in the program do prove to be more qualified, there is no guarantee that they will stay in law enforcement.

Mr. President, there have been no Senate hearings on this bill. The Judiciary Committee, which has jurisdiction over this matter, has not held any hearings on this matter. I believe that if the Congress is going to pass a bill which is going to cost the taxpayers as much as $1.5 billion a year, we ought to at least hold hearings on it. Although no hearings have been held on the Senate side, the House Judiciary Committee did hold hearings on the House companion measure. In those hearings, numerous witnesses, in fact, a strong majority of the witnesses, spoke in opposition to the legislation. Opponents included: The National Association of Police Organizations, the Police Executive Research Forum, Chief Isaac Fulwood of the Metropolitan Police Department, Chief Cornelius Behan of the Baltimore County Police, and Assistant Police Chief Raymond Kelly of the New York City Police Department. Their reasons for opposing were diverse. For example, some opposed the measure for reasons I have already mentioned—that a 4-year commitment is too short a time for these young officers to really have an impact. In addition, cost concerns were raised. For example, it was noted that the monies required by this proposal could be better spent by providing direct financial assistance to local law enforcement agencies, investing in new prosecutors and judges, or grants to law enforcement for the purposes of increasing salaries.

Mr. President, the Fraternal Order of Police, the National Association of Police Organizations, Inc., and the International Brotherhood of Police Officers have all contacted my office on previous occasions and expressed strong opposition to the Police Corps proposal. The proponents of this amendment have stated that these three organizations' concerns may have been addressed. However, the reasons for the numerous law enforcement officers' and organizations' opposition are diverse. I ask my colleagues, "Why should Congress rush to create a program that is going to cost the taxpayers of our Nation billions of dollars when it is not clear whether law enforcement even needs or wants it?" No sufficient reason has been given.

In closing, this legislation proposes to spend more money for a big budget program on which no hearings have been held. Although the sponsors of this amendment have nothing but good intentions, it is clear that this proposal should be examined further. It is clear that the money which would be required by this amendment could be spent in other areas where the effect upon crime may be more direct. During this time, when fiscal responsibility is of such importance to the

Nation, Congress should not pass such a costly proposal without subjecting it to close scrutiny and examination.

For these reasons, I oppose this amendment.

Mr. President, the Department of Justice opposes this amendment. In a letter I received, the Department takes the view that this amendment is "simply too high a cost for Federal taxpayers to bear given * * * budget constraints." I ask unanimous consent that this letter which details the Department of Justice's opposition to this legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, March 19, 1990.

Hon. STROM THURMOND,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am writing to express the views of the Department of Justice and the Administration concerning S. 1972, the "Federal Crime Control Act of 1989." While the bill contains certain provisions that are meritorious, it contains many others that are unnecessary or harmful. We strongly oppose enactment of the bill in its current formulation, but would support enactment of select provisions, as discussed below:

I. STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

Section 101. This section of the bill authorizes, in relation to the Drug Control and System Improvement Grant Program, $600 million for FY 1990 and such sums as may be necessary for FY 1991 and FY 1992. This provision is obsolete because the FY 1990 authorization has already been enacted.

Section 102. The Department of Justice opposes this provision, which would establish a new assistance program in the Department for community anti-drug coalitions, because current statutory authority already enables the Bureau of Justice Assistance to support such activities via the discretionary grant program. The existing program provides the flexibility and responsiveness needed to meet and anticipate current and emerging drug control needs. Support for comprehensive community anti-drug programs is also provided through programs administered by the Department of Health and Human Services, and the Administration has proposed major increases in the funding for these existing programs. *See* 1990 National Drug Control Strategy 41-42.

Section 103. This section would require federal prosecutors to present to federal grand juries, and to prosecute in federal court in case of indictment, all cases arising from state and local arrests for drug felonies that occur on a designated day each month. In essence, it would require federal prosecution of an arbitrarily selected sample comprising about 3% of all state drug cases of this type, regardless of any lack of intrinsic importance of particular cases in this category, and regardless of unsuitability for federal prosecution under any rational criterion of selection. This random allocation of limited federal resources would be at the expense of other cases having higher priority for federal prosecution from both state and federal perspectives. The proposed system could also distort state enforcement activities by providing state authorities with an incentive to attempt arrests prematurely, or to delay arrests which should be made, in order to have arrests fall on the designated day and be assured of federal prosecution. The Department of Justice strongly opposes this wasteful and disruptive proposal.

Section 103 would also require every U.S. Attorney to establish a program for using federal forfeiture laws to seize the automobile used in drug offenses, and particularly offenses involving personal use amounts of drugs. We support the use of forfeiture laws to seize and forfeit the vehicles of drug purchasers and users, but oppose this proposal. First, the proposal would curtail the exercise of prosecutorial discretion of U.S. Attorneys, who are in the best position to determine whether seizure is economically and penologically warranted in individual cases. Second, many states have seizure laws of their own, and a rigid rule requiring exercise of federal seizure authority in a class of cases may disrupt federal/state cooperation.

II. FEDERAL LAW ENFORCEMENT AND JUDICIAL ASSISTANCE

Title II of S. 1972 sets out various funding authorizations for federal agencies and functions related to drug enforcement: $57 million for the FBI to hire additional personnel for drug investigations; $47.5 million for DEA, with $10 million allocated to precursor and essential chemicals enforcement and $37.5 million to rural drug enforcement; $9 million for the federal judiciary for additional personnel, including $2 million for sentencing guidelines implementation; $24 million for the U.S. Attorneys to prosecute drug cases arising from state and local arrests and investigations; $8 million for federal defense services to be applied as well to cases arising from state and local arrests and investigations; and $9 million for the U.S. Marshals Service. Title II would also create twenty additional district judgeships to be allocated geographically on the basis of drug felony filings per judgeship in each district.

The proposed authorizations for the U.S. Attorneys and defender services are earmarked for, and in furtherance of, the program proposed in section 103 of S. 1972 which would require federal prosecution of state drug felony arrests occurring on a designated day each month. Since we oppose the underlying program, we also oppose additional funding earmarked for that program.

We oppose the proposed DEA authorization—which is primarily earmarked for the rural drug enforcement program proposed in Title III of S. 1972—and will discuss our reasoning below. Since we oppose the underlying program, we also oppose additional funding earmarked for that program.

Please note as well that the proposal regarding DEA underestimates the costs of the proposed enhancements. The $10 million earmarked for precursor and essential chemical enforcement would pay for 50 agents and 50 diversion investigators but without any allowance for funding support positions. Similarly, the $37.5 million earmarked for rural drug enforcement would pay for 250 agents, but no support positions and funding. When necessary support personnel and functions are taken into account, the actual cost of the proposed increases would be at least $60 million.

In addition, we oppose the proposed FBI authorization. The narrative statement accompanying S. 1972 states that its purpose is to enable the FBI to investigate the drug networks it has identified but is currently unable to investigate because of resource limitations. However, the authorization is based on the false premise that all networks identified by the FBI must be investigated exclusively by the FBI. DEA is the federal agency with the broadest drug enforcement mandate, and thousands of state and local agencies are also involved in drug enforcement. An intelligent assessment of possible increases in investigative resources for drug enforcement must take account of the roles of the many agencies involved and the optimum allocation of proposed resources among these agencies. *Cf.* 1990 National Drug Control Strategy 14, 105 ($151 million funding increase proposed for DEA in FY 1991).

The proposal to create twenty district judgeships, to be allocated geographically on the basis of a later determination concerning per-judgeship drug felony filings, is clearly inadequate. Funding for increased law enforcement personnel and prison space will be ineffective if judicial resources are inadequate to process accused offenders. Congress should enact the full request of the Judicial Conference and the Administration to create 59 additional district court judgeships and 16 additional appellate judgeships. *See* 1990 National Drug Control Strategy 12, 22, 106. This request is based on the federal courts' current caseload and the traditional methods for requesting additional judgeships. It would bring the court system up to the working level that Congress historically considered appropriate when it enacted judgeship bills in 1978 and 1984.

According to the analytic statement for S. 1972, the remaining authorization—$9 million for the U.S. Marshals Service—is meant to enable the Marshals Service to meet the increased caseload arising from other funding authorizations in the title. We oppose an increase in Marshals Service funding that is tied to support for the particular unwarranted programs that other authorizations in this title support. Rather, Congress should enact the $47 million increase proposed by the Administration to support the general operations of the Marshals Service. *See* 1990 National Drug Control Strategy 22, 105.

III. RURAL DRUG ENFORCEMENT

Title III of S. 1972 proposes a program for rural drug enforcement, including a special grant program to assist such enforcement, allocation of DEA agents in accordance with a specified numerical formula for purposes of such enforcement, and doubling the number of rural law enforcement officers in each state that receive training from the Treasury Department. The Department of Justice opposes this proposal.

The current formula grant program administered by the Bureau of Justice Assistance is an effective vehicle for distributing grants with appropriate emphasis on both rural and urban areas. The existing statutory authority provided to the states to set funding priorities under this program in their statewide drug control strategies enables the states to support rural drug enforcement programs as determined by the statewide planning process. The Department of Justice supports this existing state priority-setting process and believes that it should not be superseded by a federal pre-

scription regarding funding allocations to rural drug enforcement.

The Department of Justice opposes the proposed allocation of DEA agents on the basis of a numerical formula for purposes of rural drug enforcement. DEA currently allocates its agent resources in response to drug trafficking problems throughout the world, so as to achieve most effectively the primary strategic goal of immobilizing major traffickers and their organizations. In many cases, this may mean devotion of more resources to rural areas, but in other cases that would be an inefficient use of limited resources. Systematic information on recent supply and demand trends in specific areas, intelligence projections of trafficking trends, and evaluation of law enforcement performance and accomplishments are among the factors in resource allocation actual need should not be hampered by the use of a simplistic forumal as proposed in Title III of S. 1972.

We also oppose a statutorily mandated doubling of the number or rural law enforcement officers to be trained by the Treasury Department. S. 1972 and its analytic statement provide no predicate for this level of increase. The figure appears to have been chosen for dramatic effect, rather than as a reflection of actual need. If enhanced training programs are to be considered, DEA should be considered as a candidate for new resources in addition to the Treasury Department.

IV. MANDATORY DETENTION

Title VI of S. 1972 generally provides for mandatory detention pending sentencing and appeal of defendants convicted of violent crimes, crimes punishable by life imprisonment or death, and drug crimes punishable by ten or more years of imprisonment. It is identical to S. 1259, which was passed by the Senate with the support of this Department, and we continue to support its enactment.

V. FORFEITURE

Title V of S. 1972 consists of amendments to strengthen or improve the federal forfeiture laws. These are generally beneficial measures which merit enactment, with some exceptions discussed below.

Sections 503 through 511. These sections are taken from the Department's "Minor and Technical Criminal Law Amendments" legislation. We support enactment of these sections.

We note further that the final section in this group is of interest to the Treasury Department, as well as the Justice Department. Section 511 would correct an inadvertent amendment to 18 U.S.C. 981 made by the Anti-Drug Abuse Act of 1988. It would remove an impediment to the authority of Treasury and the Postal Service to share with state and local governments, on the basis of their assistance, judicially forfeited assets in money laundering cases. The Departments of Justice and the Treasury strongly support this provision.

Section 501. This section would allow use of money from the Justice Department's Asset Forfeiture Fund to purchase firearms and personal safety equipment for federal officers involved in drug enforcement. We recommend against enactment of this provision. Basic law enforcement operating expenses should generally be funded through the normal appropriations process, rather than from the Forfeiture Fund. Currently authorized uses of the Fund are calculated to increase enforcement efforts likely to result in additional forfeitures. However, the use of the Fund for firearms and other equipment is less likely to yield additional forfeitures than current uses. Additionally, expanding the uses of the Fund might set an undesirable precedent for directing monies from the Fund to other seemingly worthy, but non-forfeiture-related, purposes.

The remaining proposals in section 501 are desirable amendments relating to disbursements from the Fund for storage, protection, and destruction of precursors and essential chemicals, as well as controlled substances; payment of rewards for evidence of money laundering violations as well as drug law violations; and warranting clear title to forfeited property.

Section 502. This section would increase the effectiveness of administrative forfeiture by allowing such forfeiture of property up to $500,000 in value, and of cash in any amount. The Department of Justice supports this proposal.

Section 512. This section is designed to modernize the forfeiture provisions relating to property involved in gambling violations, and to make them comparable to more recently enacted forfeiture statutes in such areas as drug violations and money laundering. The objective of this proposal is laudable, but the language presented is deficient. The proposal should be amended to indicate explicitly that real property is forfeitable under the statute—a question on which judicial authority is now divided—and the proposal improperly cross-references the procedures of 21 U.S.C. 853, a criminal forfeiture statute, where an appropriate reference would be to the civil forfeiture provisions of section 511 of the Controlled Substances Act (21 U.S.C. 881). We would be pleased to work with interested members of Congress in developing appropriate language.

Section 513. An unobjectionable provision, this section would allow payments to state and local police from the Customs Forfeiture Fund for expenses incurred in "assisting" the Customs Service in law enforcement activities. The language of the current statute is narrower, allowing payments only for expenses incurred in "joint law enforcement operations" with the Customs Service.

Section 514. This section amends 18 U.S.C. 3322 to allow government attorneys to use grand jury information in connection with civil forfeitures. As the analytic statement accompanying S. 1972 indicates, the statute already authorizes such use in connection with banking law violations, and it is equally appropriate in other contexts. The Department of Justice supports this proposal.

VI. PUBLIC CORRUPTION

Title VI of S. 1972 has been passed by the Senate as Title IV of S. 1711. It would more fully restore federal jurisdiction over public corruption cases, as it existed prior to the Supreme Court's *McNally* decision limiting the use of the mail and wire fraud statutes in this area, and would extend federal jurisdiction over all drug-related bribery of public officials.

The Department of Justice supports this proposal, but recommends increasing the maximum imprisonment term for covered corruption offenses from ten years to twenty. This would provide more adequate penalty levels for the most aggravated crimes in this area, such as in cases in which an official is bribed to commit a serious crime punishable by more than ten years of imprisonment under state law.

VII. CIVIL ENFORCEMENT

Section 701. This section would add civil enforcement measures, including civil penalties and injunctions and evictions, to the existing criminal penalties for operating drug premises, such as "crack houses" and "shooting galleries." We have no objection to this provision.

Section 702. This section mandates that the Attorney General "aggressively pursue" the use of criminal RICO, civil RICO, and other equitable remedies against drug offenders; requires annual reports to Congress concerning the use and effect of such remedies; and provides that the section shall take effect "one day after enactment."

We support the aggressive use of all legal sanctions and remedies against drug offenders, depending on which provides the most effective law enforcement response in any given context, but we oppose this proposal. We reject the implication that a statutory mandate is required to secure aggressive use of available legal tools by the Department. A statutory directive of "aggressive pursuit" of certain remedies is too vague to require any particular action or program, and may be designed for political purposes rather than practical effect. We also object to the proposed requirement of annual reports in perpetuity to Congress on this subject. Information concerning this issue and other aspects of general enforcement practice is, of course, available on request to members of Congress. Finally, we object to the peculiar statement that the amendments are to take effect "one day after enactment," which seems to contemplate some immediate and abrupt change in enforcement practice based on the enactment. Rather, if any changes in enforcement are found to be warranted, they should be implemented with the usual care and planning.

VIII. JUVENILE JUSTICE ANTI-GANG PROGRAM

Sections 801 and 802. The Department of Justice opposes this proposal, which would create a new grant program directed against juvenile drug use and trafficking. We recognize that because of the significant increase in juvenile drug involvement, and the apparent increase of juvenile participation in illegal gang activities, federal, state, and local governments must devote significant resources to combat this problem. However, the current statutory language is adequate to enable the Department, through the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and other justice assistance activities, to make such a commitment of resources, rendering the proposed new program unnecessary. Support for juvenile anti-gang programs is also available through funding administered by the Department of Health and Human Services. *See* 42 U.S.C. 11801-05, 11841(d).

In addition, we have concerns over the authorized funding level for the program—$100 million—an amount which exceeds the entire current appropriation for OJJDP. These funds would greatly expand existing allocations to the states, raising an issue about their capacity to plan for and utilize these funds. Throwing large amounts of money at a problem, however serious, is no substitute for ensuring that the funding provided is prudently used in the development and implementation of effective drug prevention and intervention efforts. As indicated above, existing programs are adequate to permit and ensure careful planning.

Finally, we note that the drafting of this proposal is defective. It is unclear whether it is meant to go in Part B (Federal Assistance for State and Local Programs) or Part C (National Programs) of the Juvenile Justice and Delinquency Prevention Act. Al-

though the bill language indicates that it is to go in Part B, it is labeled "Subpart III—Juvenile Drug Trafficking and Prevention Grants." Part B currently has no preceding Subparts but Part C does have Subparts I and II. If the new Subpart is supposed to be in Part B, that would have the effect of making inapplicable the competitive grant requirement under Part C.

Section 803. This section would make several changes in the juvenile delinquency statute, 18 U.S.C. 5032. We support subsections (a), (b), (c), (e), and (f), which extend federal juvenile jurisdiction and potential adult prosecution of juveniles to certain cases involving serious firearms offenses, authorize broadened disclosure of juvenile records on the basis of the law of the state in which a federal juvenile delinquency proceeding takes place, and make certain conforming changes in the provisions governing the creation and retention of juvenile records.

Proposed subsection (d) would make some changes in the factors to be considered in deciding on adult prosecution of a juvenile. We see no point in deleting the term "psychological" from the directive to consider "psychological maturity." The term "psychological" does not exclude consideration of any properly relevant matter; on its face, it merely draws a distinction from physical maturity. We would also oppose adding to the factor relating to past treatment efforts and the juvenile's response the phrase "such as rehabilitation and substance abuse treatment." This might encourage some courts not to authorize adult prosecution of a hard-core juvenile criminal who uses drugs just because the juvenile had not been in a drug treatment program.

We do support, however, the final proposal in subsection (d) for consideration of a juvenile's leadership role or influence on others to engage in drug in firearm offenses. The juvenile's role as a gang leader is an important aspect of his actual criminal conduct, which we believe should be the focus of the inquiry concerning the propriety of adult prosecution.

Section 804. This section would add as predicate acts for the Armed Career Criminal Act drug trafficking offenses by juveniles involving quantities of drugs so great that they would be subject to the ten year minimum penalty of 21 U.S.C. 841(b)(1)(A). While this would be some improvement over current law, we recommend instead enacting the more complete coverage of serious juvenile drug offenses proposed in section 106 of the President's violent crime bill, S. 1225, which would encompass drug trafficking offenses by juveniles that would be subject to a maximum penalty of ten years or more of imprisonment.

Sections 805 and 806. These sections merely renumber certain drug offenses, and raise no substantive issues.

IX. DRUG DISASTER AREAS

Title IX of S. 1972 would establish an assistance program for state and local jurisdications experiencing a "major drug-related emergency." Assistance of this kind is currently available under section 1005(c) of the Anti-Drug Abuse Act of 1988, which enables the Office of National Drug Control Policy to direct various forms of federal assistance to High Intensity Drug Trafficking Areas. *See* 1990 National Drug Control Strategy 89-95. The Department of Justice therefore opposes Title IX as redundant.

X. POLICE CORPS

This proposal would require the federal government to pay for college educations for about 100,000 entry level police officers annually (annual graduating class of 25,000) at a cost of up to $10,000 per enrollee per year. The federal government would also provide basic law enforcement training for participants in the program. The graduates of the program would be hired by state and local police agencies, which would be required to compensate them at the same rate as other police officers.

The proposal would obviously involve substantial expenditures, but it contains no authorization of appropriation indicating the amount required to start up the program and the level of expenditures that will be needed once it is fully operational. Based on our reading of the bill, however, the implied first year appropriation could range upward of $1.4 billion. This is simply too high a cost for federal taxpayers to bear given Gramm-Rudman-Hollings budget constraints.

XI. FIREARMS AND RELATED AMENDMENTS

Most of the provisions in Title XI of S. 1972 are taken without substantial change from Title I of the President's violent crime bill, S. 1225. However, sections 1107 and 1113 contain conforming changes reflecting the general ban on certain assault weapons proposed in Title XIII of S. 1972. We oppose Title XIII. Our comments on this title and other provisions that differ significantly from proposals in S. 1225 are discussed below:

Section 1109. Section 112 of S. 1225 would extend the disqualification from firearm ownership based on criminal conviction—now limited to felony convictions—to include convictions for violent crimes, and for drug crimes potentially punishable by more than six months imprisonment. Section 1109 of S. 1972 would limit the proposed disqualification based on misdemeanor convictions to violent crimes involving firearms and drug convictions involving an actually imposed sentence exceeding six months. The effect of section 1109 is that, for example, a violent misdemeanant who had served several relatively short prison terms for drug misdemeanors, could still be entitled to possess firearms. Under section 112 of S. 1225, the misdemeanant would not be entitled to possess firearms. We believe that the disqualification rule proposed in S. 1225 is more conducive to public safety, and that it should not be weakened in the manner proposed in S. 1972.

Section 1113. Section 117 of S. 1225 would generally bar domestic assembly of firearms identical to semi-automatic rifles and shotguns that are barred from importation. Section 1113 of S. 1972 would add a restriction on exporting such weapons, contrary to a proviso in S. 1225 that would permit the domestic assembly of such weapons for export. This would mean, for example, that an American manufacturer could not assemble such weapons to sell to a foreign government for law enforcement use, or to other foreign purchasers for legitimate uses consistent with the laws of their countries. Since we see no justification for taking American manufacturers out of the legitimate international market for such weapons, we oppose this change in the provision.

Section 1114. This section would make two changes to 18 U.S.C. 924(c), which provides mandatory penalties for the carrying or use of a firearm during the commission of a serious drug offense or crime or violence. The first change (which is reflected primarily in subsection (3) of the proposed amendment) would transform section 924(c) from a separate offense to a penalty enhancement provision; the second change would reformulate the repeat offender twenty-year mandatory penalty in the statute so that it would apply only to offenses committed after a previous sentence under section 924(c) "has become final." The Department opposes the first change, and opposes the second change unless modified as suggested herein.

It is well settled that 18 U.S.C. 924(c) is a separate offense, which must be indicted and proved at trial, rather than merely a penalty enhancement. See, e.g., *Simpson* v. *United States*, 435 U.S. 6, 10 (1978). We see no reason to change this provision. Requiring that use of a firearm be established in conformity with the normal criminal standard of proof is not inappropriate in this context. Moreover, separate counts are useful when multiple weapons are charged in connection with the same underlying offense. Accordingly, we oppose the proposal to make section 924(c) into a penalty enhancement provision.

The other aspect of the proposal in section 1114 would effectively overrule *United States* v. *Rawlings*, 821 F.2d 1543 (11th Cir.), *cert. denied*, 108 S. Ct. 494 (1987), which held that the second offender mandatory penalty was triggered by simultaneous convictions of violent crimes committed on different occasions but charged in the same indictment. We do not object to the concept of requiring an intervening conviction before the very severe second offender penalties under section 924(c) come into play. However, we do object to the form and scope of the proposed amendment, since it would not treat a defendant as a second offender, even if he committed a crime of violence using a firearm after an initial conviction under section 924(c), unless the initial conviction and sentence therefor had become "final". This is unduly lenient treatment of recidivist firearms offenders. We see no reason why the second offender provision should not apply to a person who flouts the law by committing a second crime of violence using a firearms while awaiting sentencing for his first conviction or while that conviction is pending appeal. Accordingly, we urge that the language to be inserted in part (2) of the proposed amendment should read: "When a person is convicted under this subsection for an offense that was committed after a prior conviction under this subsection".

Section 1115. Section 109 of S. 1225 would raise the mandatory minimum penalty for using a semi-automatic firearm in a violent crime or drug trafficking crime from five years of imprisonment to ten. Section 1115 of S. 1972 proposes the same change with respect to the use of a short-barreled rifle or shotgun or a destructive device. We support this proposal.

XII. MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

Most of the proposals in this title are taken without substantial change from the Department's "Minor and Technical Criminal Law Amendments" legislation. We continue to support these provisions. However, a few provisions in the title require further comment.

Section 1201. This section is taken from a bill drafted by the Department to facilitate undercover and "sting" operations against trafficking in stolen and counterfeit goods. We support this proposal.

Section 1204. Section 1204 is intended to eliminate the verbose language used in various drug law provisions characterizing recidivists who are subject to enhanced penalties. However, it contains a drafting error.

The section substitutes the phrase "felony drug offense" as a simplified reference to a prior conviction, but fails to provide a definition for this phrase. We would be pleased to work with interested members of Congress in devising a more adequate formulation.

Section 1212. This section, relating to dial-a-porn remedies, is unnecessary because these changes have been enacted in another bill.

Section 1233. This section would improve 18 U.S.C. 3553(e)—which authorizes a court on motion of the government to sentence below statutory minima on the basis of cooperation by the defendant—by providing that a court, under the same conditions, can impose a sentence of probation despite statutory no-probation rules. We support this proposal.

Section 1234. We also support this proposal, which equalizes at eight the number of peremptory challenges provided to the government and the defense in felony cases. Currently, the defendant has ten and the government six. This amendment corrects this disparity and makes such challenges equal for both sides, as in capital cases (20 each) and misdemeanor cases (three each).

Section 1235. We oppose the proposal in this section, which raises many serious problems. In general, this section provides felony penalties for "any person" who, "other than in a manner authorized by law," discloses the contents of an intercepted communication which he has gained knowledge of "in the course of official duties." Section 1235 also generally makes it a crime for anyone to disclose the contents of such a communication in order to obstruct justice.

No criminal statute currently exists which prohibits disclosure by law enforcement officers of the contents of intercepted communications, unless the interception was illegal. While 18 U.S.C. 2517 describes the circumstances under which such officers may disclose or use the contents of lawfully intercepted communications, it does not provide criminal penalties for disclosures in other situations.

Section 1235 of S. 1972 would therefore criminalize disclosure of the contents of lawful interceptions by law enforcement officers for the first time. Since 18 U.S.C. 2517 authorizes such disclosures "to the extent . . . appropriate to the proper peformance of . . . official duties," a determination under this standard would be required in defining the scope of criminal liability. This presents problems of vagueness in the definition of a criminal offense, and also presents a troubling configuration of the law that would effectively require an officer to make disclosures in order to carry out his duties on one side of a vaguely defined line, and prohibit such disclosure subject to criminal penalties on the other side of that line. Moreover, the statute does not specify when disclosure by judges and other non-law enforcement personnel would be appropriate or permitted. The proposed amendment accordingly appears to bar all disclosure by such persons, except for testimony under oath (18 U.S.C. 2517(3)), although there are other circumstances in which disclosure would be proper, such as necessary disclosure to other court personnel for administrative purposes.

The proposed prohibition also seems to cover lawful interceptions not requiring a court order, such as those obtained with the consent of one party to a communication. We question the need to regulate by statute disclosure of interceptions which do not invade any privacy interest recognized by federal law.

Additionally, we note that due to the complex and technical nature of the current statutes, amendments may readily have unintended consequences. For example, 18 U.S.C. 2515 prohibits use of intercepted communications if disclosure would be in violation of the chapter in which it appears. This section now excludes illegally intercepted communications from evidence, but the proposed prohibition on disclosing the contents of lawful interceptions could result in an exclusionary rule for evidence that was lawfully obtained but improperly disclosed.

Finally, we have no general objection to criminalizing disclosures intended to obstruct justice, at least in relation to federal investigations, but question whether there is a sufficient federal interest to support such an offense in relation to state criminal investigation, and note the need to consider the interaction of such a prohibition with 18 U.S.C. 2515 to avoid unintended exclusionary consequences.

XIII. ASSAULT WEAPONS

Title XIII of S. 1972, includes a proposed general ban on "assault weapons," defined as comprising nine specific categories of firearms identified by make and model. We oppose this proposal, and believe that the problem it seeks to address would be dealt with more effectively through enactment of the reforms proposed in Title III and Title I of the President's violent crime bill, S. 1225.

Title III of S. 1225 contains provisions that are designed to place severe restrictions on certain ammunition clips and other ammunition feeding devices that are frequently used with "assault weapons" to enable them to fire a large number of rounds without reloading. Specifically, it would generally ban ammunition feeding devices that are capable of holding more than 15 rounds of ammunition. This limitation would be generally applicable, and would not be confined to particular categories of "assault weapons" or other firearms. Title I of S. 1225 contains a variety of provisions strengthening federal firearms laws and penalties.

The basis for our position on this issue is explained in greater detail in the Department's earlier letter on S. 747, on which Title XIII of S. 1972 is based. *See* Letter of Assistant Attorney General John P. Mackey to Honorable Joseph R. Biden, Jr. concerning S. 747 (Dec. 28, 1989).

We have also received comments from the Department of the Treasury indicating that the regulatory system for "grandfathered" assault weapons proposed in Title XIII is ineptly formulated. The following discussion represents the views of the Treasury Department, in which we concur:

Section 1302 would extend the use of Form 4473 to firearms transactions between nonlicensees and between licensees. Form 4473 currently is required for transactions by a licensee to a nonlicensee.

It is unnecessary to extend Form 4473 requirements to transactions between licensees. Current law already imposes sufficient recordkeeping requirements on all Federal firearms licensees.

Although requiring Form 4473 to nonlicensee transactions is intended to create a "paper trail" to facilitate tracing, section 1302 neither grants the Government access to the forms nor imposes any duty on persons to provide the forms to the Government.

Section 1302 is also unclear in its specifications concerning the recording of transactions. Purchasers are required to fill out a Form 4473 "or equivalent," and where purchase is not from a licensed dealer, both purchaser and sellers are required to maintain a "record" of the sale on the seller's original copy of Form 4473 "or equivalent." The section does not say what information is to be included in the record of a subsequent sale on the seller's original copy or "equivalent" maintained by the seller and purchaser, and does not explain what "equivalent" documents may be used in lieu of Form 4473 or in lieu of the seller's "original" copy of Form 4473.

Finally, we note that section 1305 would amend 18 U.S.C. 924(c) to increase, from 5 to 10 years imprisonment, the mandatory penalty for carrying or using an assault weapon in the commission of a crime of violence or drug trafficking crime. Section 1303, however, defines assault weapons in unacceptably narrow terms, referencing only nine specifically described types of weapons. We prefer the broader approach taken in section 109 of S. 1225, which would include any semiautomatic firearm.

XIV. INTERNATIONAL MONEY LAUNDERING

Many of the provisions in Title XIV of S. 1972, relating to money laundering, are taken from the Department's "Minor and Technical Criminal Law Amendments" legislation. We continue to support these provisions. The only provisions requiring further comment are as follows:

Sections 1401 and 1402. Section 1401 addresses a number of issues concerning money laundering and currency reporting. The following discussion represents the views of the Department of the Treasury, in which we concur.

Subsection (a) would require the Department of the Treasury to report to Congress statistical information regarding compliance with currency reporting requirements under the Bank Secrecy Act and the Internal Revenue Code, and on how that information has been used.

We oppose this provision because it will impose substantial administrative burdens on Treasury; not only would collection of the data required by subsection (a)(3) through (7) be extremely costly and require additional staff, but it would be virtually impossible to report accurately.

Subsection (b) would establish an unnecessary Advisory Group on currency reporting requirements. The Department of the Treasury continually discusses with financial institutions and their trade associations how information is used and how to ensure compliance without imposing unnecessary burdens; it annually participates in dozens of industry seminars and training sessions. We particularly object to subsection (b)(3), which would inappropriately inject a private sector group into federal law enforcement matters.

Section 1402 would direct the Secretary of the Treasury to establish a private sector task force to assess the feasibility of printing U.S. currency with serial numbers capable of electronic scanning. The Department of the Treasury does not object to a requirement that it study the issue of electronic scanning. That Department, however, believes that a task force is unnecessary and strongly objects to its composition.

The task force would have no official participation of government experts. Exclusion of the Bureau of Engraving and Printing (BEP), the Federal Reserve Board, and the U.S. Secret Service deprives the task force

of critical expertise in printing, circulation, and counterfeit deterrence.

Section 1403. This section makes certain conforming amendments to the money laundering statute, 18 U.S.C. 981(i), with regard to equitable sharing by the Attorney General of forfeited property and proceeds with a participating foreign nation. We support this provision, which was taken from the Department's "Minor and Technical Criminal Law Amendments" proposal, but suggest that it be modified to include the Department of the Treasury (in addition to the Justice Department). Since Treasury has jurisdiction under section 981 to conduct certain types of money laundering cases resulting in forfeiture (*see* 18 U.S.C. 981(b)), the authority in suitable circumstances to share the forfeited property or proceeds with a foreign nation that assisted in the investigation should also be reposed in the Secretary of the Treasury.

Section 1407. This section makes certain changes in the money laundering statute (18 U.S.C. 1956), including adding additional offenses to the definition of "specified unlawful activity" in the statute. The amendments in this section appear to be favorable or unobjectionable from a law enforcement standpoint, and we support their enactment.

Section 1408. This section strengthens protections against civil lawsuits for financial institutions that voluntarily disclose possible unlawful activities by customers to the government. This amendment would further the objective of encouraging voluntary cooperation by such institution with law enforcement authorities, and we support it enactment. It could be further improved, however, by adding language which ensures that the protection applies regardless of whether the action of the financial institution occurred before or after the institution provided notice to law endorcement authorities.

Section 1410. This section would amend the money laundering statute, 18 U.S.C. 1956, to enhance the effectiveness of undercover operations against money launderers. In essence, it would extend the effective scope of such investigations to include the offense of transporting or transmitting the proceeds of unlawful activity (18 U.S.C. 1956(a)(2)), as well as the offense of conducting a prohibited financial transaction (18 U.S.C. 1956(a)(1)). We support this proposal.

There is, however, a technical drafting error in section 1410. Instead of reading "Section 1956(a)(2) . . . . is amended." it should read "Section 1956(a) . . . is amended."

XV. ORGANIZED CRIME AND DANGEROUS DRUG DIVISION

The final title of S. 1972 (Title XV) would create an "Organized Crime and Dangerous Drug Division" in the Justice Department. As the Attorney General explained in a letter of December 26, 1989, to Senator Biden, the Department of Justice strongly opposes this proposal. Such a Division would require additional, duplicative sections to review wiretaps, to facilitate extraditions, to manage a witness security program, to forfeit assets, to track money-laundering schemes, and to perform normal administrative overhead functions. Moreover, the creation of such a Division would encourage diversity in prosecutorial standards and philosophy, where consistency is a paramount virtue. The Director of ONDCP, who was commissioned by Congress to study such a reorganization, has recommended against it. He noted that the creation of such a Division would require an inefficient and counterproductive duplication of administrative efforts. Specifically, Director Bennett concluded:

". . . A new Division would add yet another element of bureaucracy to the drug enforcement effort within the Justice Department. That, in our view, would be a significant drawback. Four of the principal organization components of the Department that are directly involved in, or supportive of drug-related prosecution efforts, are in the Criminal Division. That Division is where those components are best placed to support the U.S. Attorneys and the other demands from within the Department. The establishment of a new division is not necessary and would not, by itself, enhance the civil and criminal law enforcement effort (Report at 10)."

At a time when the effort to contain international drug trafficking and money laundering is paramount in both the law enforcement community and the concerns of the American public, what is manifestly not needed is "yet another element of bureaucracy." We wholeheartedly subscribe to Director Bennett's rejection of the suggestion that a separate Division would enhance the effort against drugs.

In sum, while S. 1972 in its current form is unacceptable, certain sections contain proposals for significant criminal justice improvements that merit enactment. It would be unfortunate to deny to our law enforcement agencies—and the public they protect—improved enforcement tools because of their joinder with misinformed or misguided proposals. We recommend discriminating consideration by Congress of the constituent proposals in this bill, and favorable action on the beneficial proposals as discussed above. Should Congress pass S. 1972 without acceptable modification of key provisions, the Department of Justice will recommend a veto.

The Office of Management and Budget advises this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

BRUCE C. NAVARRO,
Acting Assistant Attorney General.

Mr. SPECTER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 1 minute and 50 seconds remaining. The Senator from South Carolina has 3 minutes and 40 seconds remaining.

Mr. SPECTER. I grant the Senator from New Jersey 1 minute maximum.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, every American, every parent, wants the same things for ourselves and our children. We want children to grow up in a neighborhood where they can expand their horizons, to learn and play and walk to the library. We want to be safe in our homes and we want our streets to be as safe and as sociable as a living room. That's what Americans think of as a neighborhood.

Millions of Americans today do not have this security. Throughout this country there are neighborhoods where neighbors no longer set the tone of the neighborhood, because criminals do. Children have no expectation of safety and locks and bars cannot secure a home. Police officers are too few and neighbors worry about the retribution that criminals will exact if they cooperate with the police. We need to do all we can to restore the protections of civilized society to the hard-working citizens of these neighborhoods. Tougher laws will be no help unless we back them up with human reinforcements—dedicated police officers who belong to the communities they are assigned to patrol. Mr. President, the Police Corps amendment will establish this human wall of safety for America's neighborhoods and families.

Our police forces today, in relation to the amount of violent crime, are one-tenth the size of 35 years ago. We need more police that means bringing in people who are willing to devote 4 years of their lives when they are young and at their physical peak to keeping our streets safe. Restoring safety to the streets of many American cities today will demand dedication as great as in time of war. If America had a war to fight, we would not say that people willing to make a lifelong career of it could serve as soldiers. Likewise, we must draw on the millions of Americans who are willing to give a portion of their lives to the service of their communities by participating in the Police Corps.

Mr. President, police work must be among the most prestigious and respected occupations in our society, because it is one of the most essential. For that reasons, police work must not be an alternative to a college education, but an adjunct to a complete education. And like ROTC or other military programs, dedication to public service in the form of a stint in the Police Corps should be a way to pay for college.

Mr. President, we need police who belong to the neighborhoods they patrol. We need younger police who understand how a community can draw its youngest people away from habitual law breaking. Many of the Americans most brutalized by crime are black, and live in largely black neighborhoods, but the police departments assigned to protect them are mostly white. The Police Corps would make a particular effort to recruit minorities, in order to ensure that the new police officers are more likely to be familiar with the neighborhoods they are trying to restore.

Most importantly, Mr. President, I believe there is a great wellspring of eagerness among the young people of our Nation to provide this kind of service to the Nation. Many students entering college today have seen, in just a few years, the neighborhoods in which they played ball and biked and walked safely as first and second grad-

ers turn into combat zones that their younger brothers and sisters watch from behind barricaded doors and windows. Other students recognize that this is a universal problem, that America cannot live up to its promise as a Nation if it cannot offer safety to children and strength to communities. That's why 40 percent of college students polled by the Department of Justice recently said that they would be eager to participate in the Police Corps.

The crime wave of recent years has led many cynics to proclaim a breakdown in civility in America. Rather, Mr. President, I believe, we are witnessing a resurgence of citizenship, a renewed dedication among younger Americans to give something back to this country. The Police Corps will allow us to draw on this renewed sense of citizenship to restore our troubled neighborhoods and ensure that the most modest of American dreams—a life free of violence and terror—is a reality in every city and hamlet in our land.

Mr. KENNEDY. Mr. President, I join in supporting the Police Corps amendment. In my view, it may turn out to be the most innovative idea of all in this crime bill.

The amendment creates a new corps of young men and women willing to commit their talent and energy to law enforcement. Too often, as we have heard in this debate, police forces in communities across the country are increasingly outnumbered in the war on crime. In 1951, cities with populations over 50,000 had an average of three police officers for every crime committed. Today the situation is reversed. In recent years there have been more than three crimes committed for every police officer.

In effect, in 1990, we are providing only one-tenth of the police protection available in 1951. And that is just the average. In Boston and New York, the ratio is over six felonies per officer. In Los Angeles, it is 8.8, and in Portland, OR, it is 11.5. In some urban areas—those most in need of police protection—the ratio approaches an incredible 28.

Today, strong law enforcement requires more police on the beat, which is exactly what the Police Corps is designed to achieve. The amendment provides for 20,000 new police officers each year. The Police Corps will operate in much the same way as the Reserve Officers Training Corps. Interested students will receive scholarships to finance their college education. During the summers after their sophomore and junior years, they will participate in 16-week training courses. When they are fully trained, officers will serve in local and State police departments for 4 years, receiving the same salary as regular officers. Members of the corps who subsequently resume careers outside law enforcement, however, will not receive pension benefits.

Corps officers will receive the same training as regular police recruits. They will begin their service to the community with the same high level of expertise needed for all new police officers.

In addition to providing an incentive for young citizens to enter careers in law enforcement, the amendment also encourages greater education and training for the men and women now serving in law enforcement. During the first 5 years of the program, 10 percent of the scholarships will be available for current police officers.

The Police Corps will be an important addition in our renewed battle against crime. It will also be a significant step in renewing the Nation's commitment to public service. Police Corps officers will make contributions to their communities comparable to those being made by young Americans in Conservation Corps across the country, in the Peace Corps overseas and VISTA here at home, in the National Health Service Corps, the Teacher Corps, and many other endeavors. The National and Community Service Act passed last year by the Senate and now nearing action by the House will extend these opportunities for service to many other young men and women.

Participation in the Police Corps will require a substantial commitment. Enrollees must excel in school, while also disciplining themselves to become law enforcement officers. In particular, the corps is likely to attract many young persons who might otherwise not have considered careers in law enforcement. Highly qualified officers are needed in communities across the country, and the Police Corps can be an effective recruitment mechanism for meeting this need. This amendment holds real promise for the future of law enforcement agencies throughout America, and I urge the Senate to approve it.

Finally, I join my colleagues in paying tribute to the insight and persistence of Adam Walinsky who has devoted many years to the effort to bring this idea to fruition. Adam Walinsky is well-known to many of us in this Chamber. He was a senior aide to Senator Robert F. Kennedy of New York in the 1960's and he has earned distinction in many areas of public service and in private law practice since then. I commend him for this latest example of his ability and commitment and I urge the Senate to pass the Police Corps amendment.

I ask unanimous consent that letters and editorial support for this amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 11, 1990]

SUPPORT YOUR LOCAL POLICE CORPS

In Charleston, S.C., "flying squads" of muscular police officers confront and question drug users on the streets. In Tulsa, Okla., teams of officers work in a drug-infested housing project leading Boy Scout troops, serving as role models for youngsters and enrolling children in a police-run summer camp. In San Diego and Fort Lauderdale, Fla., police team up with firefighters and building inspectors to close down crack houses.

These are all forms of community policing, now spreading from New York and a few other places to cities across America. New legislation before the Senate to establish a Federal Police Corps would give the movement a welcome boost.

There is broad agreement that urban crime problems now demand more from police than traditional patrol and response to calls for help. While community policing and other strategies show promise, a police department's first duty is to respond to the continuing stream of emergency calls. Where staffing is thin and budgets are tight, there may be no way to detach officers for more imaginative, proactive patrolling.

A bill in the Senate, backed by a broad bipartisan coalition, would address the opportunity by creating the Police Corps. This is no Big Brother notion. Washington would provide more than $1 billion annually to give $10,000-a-year scholarships to college students who serve for four years as city police officers after graduation.

Cities would have to pay these corps at the same rates as regulars, but still could save money. The Feds would provide basic training that cities now must pay for, and officers in only for four-year stints would incur reduced pension and other payroll costs.

Benefits of the idea go way beyond such savings. The college-educated cops would likely bring more motivation to community patrolling than civil service recruits. And the four-year cycle of officers through a department could ventilate an inbred squadroom subculture, even as it expanded public understanding of police work.

The proposal now is attached to Senator Joseph Biden's Democratic crime package, legislation that has already drawn fire from President Bush and Senate Republicans. But the Police Corps amendment itself faces no real opposition and ought not to get lost in the wrangling. Washington rarely gets so promising a way to help localities fight crime.

[From Time magazine, Mar. 5, 1990]

FROM COLLEGE TO COPS—THE POLICE CORPS WOULD TRADE TUITION FOR 4 YEARS ON PATROL

(By Michael Kramer)

More cops! Everyone wants them, and everyone believes they are too expensive. Or almost everyone.

An idea that has been kicking around for nearly a decade is at last heading for a vote in the Senate. Called the Police Corps, it could dramatically increase the number of men and women patrolling America's cities.

The Police Corps is the brainchild of Adam Walinsky, a former top aid to Robert Kennedy. Its congressional sponsors run the ideological gamut. In the House the chief proponents are liberal Democrat John Lewis of Atlanta, who views the legislation as

"vital" for his fellow blacks, and conservative Republican Robert Dornan of Orange County, Calif., who insists that "there is nothing partisan here because we're talking about survival."

In a simple notion reminiscent of the Reserve Officers' Training Corps, the Police Corps would offer a swap: each year 25,000 competitively selected high school students would win federal financing for their college education (at an annual cost of approximately $10,000 a student); in exchange, they would agree to serve four years as local police officers after graduation. Fully funded, the program would set the feds back about $1.2 billion a year. Once sworn in, the four-year cops would be a bargain. The localities they serve would pay their salaries but in most cases could avoid paying their pension benefits and seniority raises down the line. Over the long term, corps members would cost far less than career officers—perhaps a third less in union-strong cities like New York.

The Police Corps promises three other benefits. Many urban police departments have trouble attracting qualified black and Hispanic recruits. A Justice Department survey has concluded that many inner-city minority youths would be attracted to the corps's service-for-college trade. Second, the infusion of college graduates would improve the overall educational level of local police forces. Finally, over time a sizable number of civilians would gain a better appreciation of police work because they would have been cops themselves.

The need for more police has never been greater, as one chilling statistic reveals: the ratio of police officers to reported felonies has reversed since the late 1940s. Then there were 3.3 cops for every violent crime reported in big cities. By 1988 there were about 3.2 reported serious crimes for each cop natinwide. In large cities the ratio is even worse—so bad, in fact, that many police departments lack the manpower to respond to all 911 calls. The Police Corps would put cops where they are most needed: on the street. Because rookies begin their careers on patrol, it is estimated that the number of beat pounders could increase by 40%.

Police-union opposition stymied Walinsky's idea for years, but most of that has faded away. Which leaves the Bush Administration. During his 1988 presidential campaign, candidate Bush was prepared to support the corps in a late-October speech. "But after the second debate," says a White House aide, "we were so far ahead of Dukakis that we shied away from proposing anything new."

Where is President Bush now? Some Administration officials cry poverty. Others, like drug czar William Bennett, want scarce crime-fighting dollars targeted for increased prison space and more prosecutors. "Bennett's crazy," says California State Senator Ed Davis, a former Los Angeles police chief. "The truth is we can't begin to confront violent crime unless we have more police on patrol as a deterrent. The trick is to frontload the system, to be there before the crime takes place."

The Police Corps is an idea George Bush almost stole—and should have stolen—in '88. If he acts fast, he can still claim partial credit.

[From the Washington Post, Mar. 7, 1990]

(By William Raspberry)

SMART POLICE

There are, in cities across the country, neighborhoods that have been all but killed by crime: where strong men walk uneasily, where women live in fear and where children grow up hard, uneducated and doomed.

What is to be done? One one side are conservatives urging tougher action against the criminal element: more arrests, longer sentences, more prisons. On the other are liberals insisting that rampant crime is in fact a symptom of such deeper-lying maladies as joblessness, hopelessness, inadequate education and societal abandonment.

And here is Adam Walinsky, a certified liberal (he was an aide to and disciple of Robert Kennedy), with a proposal that has legislators all over the political spectrum nodding in unaccustomed unison.

Walinsky, along with Jonathan Rubinstein, a former policeman, have been urging to passage a bill to establish a Police Corps modeled after the ROTC. College students would get their tuition paid in exchange for an agreement to serve four years on a police force near their home towns. The crime-ridden communities would get the extra police they need (without having to bear the soaring cost of retirement plans), the students would get an education in the fields of their choosing, and residents would once again be in control of their neighborhoods.

It is, Walinsky freely acknowledges, more stopgap than final solution. But he thinks it is a vital step.

"We have got to stop the bleeding," he told me last week. "We've got to get some control over the terrible violence that is ripping the guts out of the lower-class black community, and at the same time we've got to deal with all these white people who are frightened out of their shoes."

The tourniquet he has in mind is a significantly increased police force in areas ruled either by drug-dealing gangs or by chaos.

"The cops used to be there when you needed them," he said. "We don't have that any more. Today they operate from a station house or from squad cars—like Vietnam, doing sporadic battle but not really protecting the hamlets.

"But it isn't just more police. We need better police, much more representative of the community at large. We need smarter cops, and if you want smart people, you have to go to the colleges. But today, the black kids who do manage to get in college are taking five, six and seven years to get out because they have financial difficulties."

The Police Corps bill, sponsored by an array of legislators ranging from Rep. Barney Frank (D-Mass.) to Rep. Robert Dornan (R-Calif.), is a thoughtful proposal that anticipates a host of objections.

Might not some smart alecks be tempted to get their free college training and then arrange to get themselves disqualified for police service? No problem. The tuition of up to $10,000 a year would be in the form of a guaranteed loan to be repaid by police service. An enrollee who is physically unable to perform police work might be assigned to other kinds of duty; the one who conspires to avoid service would still be liable for repaying his loan.

Wouldn't this be a costly way of recruiting police officers? Not as costly as if might seem, given two facts: first, that local communities could quickly increase the size of their police forces but also quickly reduce them as the need diminished; second, that a four-year hitch would leave recruits free to pursue other careers without locking the police department into a lifetime of medical and retirement benefits.

But how many people would actually sign up for such dangerous work? A recent poll indicated that some 40 percent of college students would be likely recruits—45 percent for blacks, 35 percent for women.

Wouldn't major increases in the size of police forces result in increased arrests and the need for expensive new prison capacity? Perhaps at first, Walinsky believes. But in the longer term, he believes greater police visibility would prevent as much crime as it detected.

In order words, the police, on the street and mingling with the people, would once again become servants of the people and the means by which hard-pressed communities regain control of their neighborhoods.

The Police Corps would not address such problems as sustandard schools, fatherless families or inner-city joblessness. But by preventing crime, busting up open-air drug markets and contributing to the internal discipline of neighborhoods, it would buy time for us to address these other more basic problems.

As Walinsky says, the first step is to "stop the bleeding."

[From the New York Daily News, Apr. 13, 1990]

POLICE CORPS IDEA LOGICAL AND CENTSIBLE, TOO

(By William F. Buckley)

Adam Walinsky, the bright lawyer who once aligned himself with Robert Kennedy, came up some while ago with a novel idea for recruiting crime fighters, and last year his idea for a Police Corps was introduced in Senate Bill 1299 under august sponsorship. This included Sens. Specter, Sasser, Bradley, Rudman, Lott, Heinz, Coats, Dodd, Lieberman, Reid, Bumpers, Boren and Heflin.

After a little parliamentary maneuvering, Sen. Joe Biden annexed the bill and added to it everything dear to his ideological heart except maybe a call for a National Biden Day, antagonizing some of the measure's original sponsors.

But now, repristinated under its original sponsorship, it is headed back for consideration and for a vote, and should receive the respectful attention of every American who feels himself less safe in the streets than, say, 40 years ago—which means every American this side of those who inhabit Carthusian monasteries.

There is no doubt that we suffer from a shortage of policemen and a corresponding increase in crime. To cite only the figures for New York City (which, by the way, is not, per capita, the most crime-ridden city in the nation): in 1951, 244 homicides; in 1988, 1,896. Rapes during the same period, up from 904 to 3,912; robberies, up from 7,004 to 86,578.

This translates to 3.2 police officers per felony committed, back in 1951, to 6.1 felonies committed per police officer today.

The principal reason given for the shortage of police is the difficulty in recruiting men (and women) of desired quality and educational background; and the considerable expense of a seasoned policeman, taking into account the responsibility for pensions, health care, etc.

It is the idea of a Police Corps bill to reach out to 100,000 college students and to

treat them for all intents and purposes as we now treat ROTC students.

The deal, carefully crafted, would be as follows: If Johnny agrees to serve in the Police Corps, he can borrow up to $10,000 per year while in college, during which he will study whatever he wishes to study, but will devote the entire summer after his junior year to special training in police work.

After he graduates, he is committed to spending four years in the Police Corps. At the end of those four years' service, his accumulated college debt is cancelled.

If he should step out of the program before his four years' service, the government's guarantee of that debt is canceled and Johnny is faced with a $40,000 bill, plus interest.

The cost of paying Johnny while he is in the Police Corps will accrue to the city that hires him.

But given that he will not be in senior status, or eligible for a pension, this comes to about 70% of the cost of a police officer recruited through normal channels, plus whatever advantage is to be got from deploying a college graduate.

The typical policeman in our cities earns $40,000 per year. The pension cost alone in a city like New York is $19,000 a year per person.

The cost to the government, by current standards, is a negligible $1.4 billion per year for the entire program.

The single opposing body, during the time already given to considering the Police Corps, has been the National Association of Police Officers. But all other associations of policemen have endorsed the plan, as have public officials and public figures, including union leaders and businessmen, law school deans and the Federal Law Enforcement Officers Association.

President Bush's explicit endorsement of the idea was programmed to be revealed immediately after his second debate with Gov. Michael Dukakis, and he was restrained from doing so only by the advice of his tactial lieutenants, who argued that he had done so well on that battleground he should not distract attention from the evanescence of Dukakis.

What we have here, really, is a self-contained division of the idea of national service.

It is unorthodox in that it asks for four years' service instead of the one year that one usually hears about; and the corresponding cost is a bit higher.

But the exception ought not to distract from the support the idea is entitled to.

To the extent a human being can't be safer than he now is, living and working and recreating in an American city, that person is being deprived of his rights under the first 10 amendments to the Constitution, and under the 14th Amendment.

Mr. Walinsky's bright and engaging idea for relief should be welcomed with enthusiasm.

[From the New York Post, Apr. 12, 1990]

TOWARD A NATIONAL POLICE CORPS

Everybody knows that crime is growing in America. But does everybody know by how much?

Consider the following.

In 1951, there were 3.2 cops for every felony committed in the United States. This year, there will be 3.2 felonies committed for every cop.

This dramatic turnaround has police chiefs across the country crying out for more uniformed officers—the foot soldiers in the war on crime. Congress, aware of the crisis, will shortly consider legislation which could swell considerably the ranks of municipal police forces around the country.

Modeled on a plan long championed by New York attorney Adam Walinsky, the bill would create a national police corps—federally financed college scholarships would be awarded to young men and women who, in return, would serve four years as city cops after graduation and a period of training.

The advantages of such a plan are plain—cities would get quality, college-educated cops. The police corps cadets get college degrees at little or no cost to themselves, plus an opportunity for some challenging public service.

The plan also creates an opportunity to carry out a genuine affirmative-action program—blacks and Hispanics can be recruited for the corps and readied for police service. The need for the insidious reverse-discrimination programs in force in many cities would almost certainly be reduced.

When fully implemented, the plan would boost the nation's police strength by 100,000 officers (20 percent) at a cost to the federal government of about $1.4 billion annually—a small investment in view of the benefit.

Municipalities would have to pay each new cop's salary, of course. But they would be freed of pension and other costs, an annual savings of perhaps $20,000 per officer.

Not surprisingly, the plan enjoys widespread, bipartisan support—it's pretty rare that Bob Dornan of California and Barney Frank of Massachusetts sign on to the same piece of legislation. Thus, it should pass the Senate when that body takes it up next month. Success there would pave the way for passage in the House.

A police corps, of course, is no panacea for the crime epidemic. But as a source of first-rate recruits for the nation's hard-pressed police departments, it's a plan that's hard to beat. Adam Walinsky, once an aide to the late Sen. Robert F. Kennedy, deserves a good deal of credit for devising the scheme and for tireless lobbying on its behalf. Now it's up to Congress.

[From the Washington Times, Apr. 3, 1990]

ADMINISTRATION PONDERS COSTLY POLICE CORPS BILL

(By Ralph Z. Hallow)

The budget-conscious White House is torn over whether to endorse a Police Corps bill that would add 100,000 college graduates to undermanned local police forces.

The bill would give competitively selected students up to $40,000 in federal four-year college aid, provided they do a four-year stint on a local police force afterward.

Conservative and liberal backers in Congress say that if the Police Corps can reverse the 55 percent leap in violent crimes over the last decade, it would be well worth the estimated cost of $1.2 billion to $1.4 billion per year.

White House Chief of Staff John Sununu and senior Justice Department officials are partial to the plan, but Budget Director Richard Darman has been leading the opposition, according to administration insiders.

"All I can say is that the administration is still studying the proposal," White House spokesman Alixe Glen said yesterday.

"We certainly like the ideas of getting more local police out on the street, and taking the streets back from violent criminals, but there is obviously concern about the budget," said a Justice Department official familiar with the legislation.

The Police Corps concept, which has united such unlikely political leadfellows as Reps. Barney Frank, massachusetts Democrat, and Bill Danaemeyer, California Republican, would provide four years of tuition aid for 25,000 college students each year.

The Senate is scheduled to debate the measure this week.

In introducing the bill, Sen. Arlen Specter, Pennsylvania Republican, noted that while there were three times more police than violent crimes 40 years ago, today the situation is reversed, with three times more violent crimes than police.

"In many cities, the police are simply overwhelmed by violent crime," Sen. James Sasser, Tennessee Democrat, said in cosponosring the bill.

"Local departments are going to be able to get these police corpsmen, who are better educated, in place of the less qualified and less educated people they now get," said another sponsor, Sen. Trent Lott, Mississippi Republican.

"In many police departments, standards have been lowered in a misguided pursuit of affirmative action," said Adam Walinsky, a former top aide to the late Sen. Robert F. Kennedy: It was Mr. Walinsky who broached the Police Corps idea to President Bush during the 1988 campaign.

"But lowering standards has produced neither adequate numbers of black officers nor effective law enforcement," Mr. Walinsky said. "We need many more minority officers who are more highly qualified."

Rep. John Lewis, Georgia Democrat and a backer of the bill, said that "more blacks, and more highly qualified and educated blacks, are urgently needed in police forces everywhere, from the beat to headquarters. Black and white police have to serve [together in] black and white areas. . . . that is the ideal the Police Corps represents."

Supporters of the bill note that the soaring cost of pension benefits leaves police departments with little money to hire new recruits.

"People are willing to pay tax dollars for more police, but the dollars haven't been directed to that," Mr. Walinsky said. "They've gone to increasing pay and pensions instead."

The bill will help local departments reduce this burden, Mr. Lott said, "because at least some of these corpsmen will plan to leave police work after four years and so won't elect to participate in the pension plans."

As a sweetner to get the police unions on board, the bill provides that children of a police officer killed on the job will get a federally paid for college education but will not have to do a four-year tour of police duty afterward.

In order to ensure that graduates are not employed simply to replace policemen hired in the regular manner, the bill forbids a corpsman from being assigned to a police department "whose size has declined by more than 5 percent since June 21, 1989, or has members who have been lid off but not retired."

A third stipulation designed to molify the police unions requires that corpsmen receive the same pay as regular policemen.

[From the New York Post, Mar. 22, 1990]

HOW TO HALT CITY'S SLIDE INTO SAVAGERY

(By Pete Hamill)

The numbers never explain everything. But in the matter of our slide into municipal barbarism, they are a useful index to parts of the problem.

Consider just a few of them. In 1951 in New York, there were 244 homicides; last year, we had almost 1,900. In 1951, there were 904 reported rapes; by 1988, the figure was 3,912. In 1951, New Yorkers endured 7,004 robberies; by 1988, the number was 86,578.

These numbers are scarier when you remember that in 1951, we had more people (8.1 million) than at any time in our history. (We're now under 7.4 million.) And we had only 19,000 policemen. (Today, we have almost 27,000.) It isn't mindless nostalgia to say that we were a safer people once.

What happened? The single most important factor was the great shift of the city's economy from manufacturing to services. Through most of the '50s, more than 70 percent of our jobs were in manufacturing. We had about the same high-school dropout rate as now, but the dropouts could leave school and go to work, eventually to marry and start families. Those people were the cement of the city, a working-class population that wasn't afraid to dream of a better world for their children. One more stat: Through most of the '50s, there were less than 200,000 people on the welfare rolls; today, we have a million.

In the early '60s, with the escalating loss of that kind of work, everything began to shift. Other factors appeared: drugs, television, guns, highways that took the middle class to the suburbs. Welfare became institutionalized, while other institutions—the schools, churches, Tammany Hall—weakened or collapsed.

Today, we're living with the consequences of those great changes. And while it will take years to repair all of the damage, some actions must be taken now. Yes: It's important to understand the social, cultural and economic factors behind the crime explosion; it's more important to deal with the dailiness of crime itself. If crime isn't brought under control, the middle-class exodus will get worse. We'll never attract companies that can employ our young; we might lose even more of them.

One of the most intelligent solutions might be the Police Corps. Certainly, we desperately need more and better cops. In 1951, in cities with a population over 50,000, there were 3.22 cops for every reported violent felony. Today, there are 3.2 such felonies for every cop. In New York, it's worse: 6.1 felonies for every cop.

But career police officers are expensive. They can retire after 20 years, and draw pensions for another four decades. Pensions and benefits make up as much as one-third of American police budgets. The Police Corps, which was conceived more than a decade ago by Adam Walinsky (former aide to Robert Kennedy) and is supported by liberals and conservatives, would help cut those costs. Under a crime bill to be voted on next week by the U.S. Senate, the Police Corps would be based on the ROTC model. Young men and women (chosen by exams) would receive up to $10,000 a year for four years to go to college. They would train as police in the summer after their junior year, and for another period after graduation.

Then they would be obligated to serve four years as cops. They would be paid by local governments, but cities like New York would save millions in pensions and other benefits. The Police Corps, as it got going, would provide a steady supply of educated, motivated cops who would release more experienced officers for duty on the streets. As short-timers instead of "lifers," they would be free of the internal pressures—the rules of The Club—that often inhibit or demoralize young cops.

We don't need more cops just to make arrests, further jamming courts and prisons. We need them to prevent crimes by their physical presence, to create zones of safety, to make the law visible in places where it has vanished. The Police Corps won't bring back 1951; nothing will. But it would help make this town safer. Our senators should vote for it.

[From the Pascagoula (MS) Mississippi Press, Apr. 1, 1990]

VOLUNTEERISM AIMS AT CRIME

(By Gene Taylor)

WASHINGTON, DC.—We are a nation of volunteers. And not since World War II, or perhaps the founding of the Peace Corps, has any president or any Congress paid so much attention to volunteerism than President George Bush and the 101st Congress.

It was Bush who first likened America's varied volunteer organizations "to a brilliant diversity spread like stars, like a thousand points of light in a broad and peaceful sky." And it has been the Congress' intent to keep the heavens beaming.

Democrat and Republican legislators alike have signed bills to encourage volunteerism and public service by offering generous post-service education or housing benefits. President Bush himself offered a limited "national service" proposal.

But perhaps the most interesting of all of the legislation is the "Police Corps Act," introduced June 29, 1989, in Congress.

The Police Corps Act would establish an "Office of the Police Corps" within the U.S. Justice Department for the purpose of attracting more young men and women to serve their country in the field of law enforcement.

At a time of military cutbacks, the Police Corps would be a good alternative way for young people to serve their country and reap some educational and financial benefits.

In some instances, the program would repay the educational loans of State Police Corps program participants (up to $40,000) and reimburse them for their federal law enforcement training and for four years of state or local police force service.

I don't need to remind you of what society stands to gain. After all, it's state and local lawmen who are forced to serve on the front lines of the anti-drug and anti-crime battles.

So where the Police Corps is one way to encourage young people to give something back to society, I believe it will also help those lawmen who are already dedicated to fighting rising crime rates and the horrible drug problem.

I think it is a good approach to helping solve this nation's problems. We are helping our young people and encouraging them to help society in return.

[From the New York Times, July 14, 1989]

TO FIGHT CRIME: A POLICE CORPS

How do cities beset by drug violence and tight budgets field enough police to secure the streets? Too often, they can't. Sometimes drug gangs seize control of whole neighborhoods or housing projects. Even cities that can afford to hire find it hard to attract recruits capable of handling what has become one of the most demanding jobs in America.

That accounts for a swell of interest in Congress for a national police corps—federally financed college scholarships for young people willing to serve four years as city cops. Adam Walinsky, a New York lawyer, has been promoting the idea at the state level for several years but has found legislatures leery of the cost. With rising public anxiety about drugs and crime, Washington is suddenly receptive

A bill introduced this week by Senators James Sasser, Tennessee Democrat, and Arlen Specter, Pennsylvania Republican, would invite states to set up police corps programs under Federal guidelines. Recruits would receive loans of up to $10,000 per year to finish their college educations and agree to begin police training in the summer of their junior year. After four years of police service, the Federal Government would pay off the loan.

Localities would have to pay the police corps officers at the same rate as regulars and could not use them to replace those laid off in cutbacks. Yet the police corps officers still constitute a bargain. Washington would pay for much of their training in new Federal training centers. They would not require pensions; filling a job slot with young people cycling through four-year terms saves huge amounts over the cost of career officers.

More important, the program would greatly expand the pool of quality recruits. Too many cities have learned how relaxing standards leads to discipline and morale problems.

Ultimately, the regular infusion of fresh talent could bring new spirit to the alienated squad room subculture that feeds cynicism and burnout, even protects the brutal or corrupt. And graduates of the program, returned to civilian life, would spread understanding of the police.

The idea enjoys broad support. The conservative Robert Dornan of California and the liberal Barney Frank of Massachusetts are pushing a version of the bill in the House. Police management groups are enthusiastic, and objections of police unions have faded with inclusion of language guaranteeing equivalent salaries.

Lawmakers have long responded to rising violence with calls for harsher punishment—ignoring that a relatively small percentage of the violent are ever apprehended and actually punished. Expanding and improving the police makes much more sense. The police corps offers an excellent way for Washington to help.

[From the Los Angeles Times, Oct. 22, 1989]

WHY NOT A POLICE CORPS?

Police departments in big cities are fighting a losing battle against a tide of drugs, violence and other crimes. Putting more cops on the streets is one way to cope. At the very least, the law-abiding citizens would feel safer. But it is precisely the big cities whose budgets are too tight to pay for bigger police forces. In the few cities where the dollars are available, large numbers of well-qualified police recruits are hard to find.

Legislation sponsored by Arlen Specter (R-Pa.) in the Senate and Robert K. Dornan (R-Ca.) in the House would create a national Police Corps, patterned after the military's Reserve Officer Training Corps, to

encourage college graduates to serve on local police departments. Under the proposal, the federal government would provide college scholarships for men and women who agreed to serve as police officers for four years after graduation.

The Police Corps would recruit a maximum of 25,000 students a year. At full strength, 100,000 would participate at a federal cost of $500 million. Each of the 50 states would get a share, but no formula has been worked out.

Participants, primarily high school seniors and college undergraduates, would be selected on a competitive basis. The students would take out government-insured loans of up to $10,000 a year for tuition and other costs. Payment would be deferred. After the students completed college, the federal government would repay their debt and local governments would pay their salaries.

During college, participants would complete two federal law-enforcement training programs, each lasting eight weeks. After college, they would complete their department's training requirements, for example, a demanding session at the Police Academy. Functioning as sworn members of the department, they would earn entry-level pay, but they would not earn pension benefits and thus would cost a city less than other recruits.

The Police Corps, which is based on a concept developed by Adam Walinsky, a New York lawyer who was once Robert F. Kennedy's chief aide, enjoys strong bipartisan support in Congress. Although several national police labor groups and management organizations approve, some big-city officers argue that the program is elitist and will produce officers who have no commitment to public safety. There will be a trade-off—youthful enthusiasm for years of experience—but the local departments can put the energetic new recruits to good use for as long as they stay—and for at least four years.

Recruiting in big cities gets harder and harder. The Police Corps would encourage thousands to join and reward them for their public service. It is well worth a try.

[From the Philadelphia Inquirer, July 19, 1989]

A Police Corps

It is an idea that's been around for at least seven years, but it would seem that its time has come: Create a kind of corps of college-educated law-enforcement officers to supplement the undermanned police departments in the nation's cities.

Senator Arlen Specter (R-Pa.) has introduced legislation for the second time in four years that would provide federal scholarship funds for people willing to spend four years patrolling the nation's cities. The difference this time is that he has help from a growing list of influential interest groups and members of Congress, conservatives as well as liberals.

The program seems especially timely since the nation's new "drug czar" has pledged to produce by September a plan for countering drug-related crime and violence that's sweeping many cities—a plan that will almost certainly require more police officers.

The police corps would work like this: Competitively selected volunteers would be offered up to $40,000 in federal loans to complete a four-year college education. The loans would be forgiven if the students completed police training in the summers of their junior and senior years and then served as full-paid officers on an urban police force for four years. The police corps proposal would be a sort of hybridization of the Peace Corps and the military's Reserve Officer Training Corps (ROTC).

The program's initial cost would be just $50 million, but, if the bill's sponsors get their way, the annual price tag would increase to $1 billion in 1995, and result in an infusion of 100,000 young, college-educated police officers into the cities every year.

The police corps recruits would be paid regular police salaries for four years, thereby blunting earlier complaints of police unions, but the police corpsmen would still be a bargain since they would not have to be paid pension and certain other benefits. The plan, when fully implemented, could increase national urban police strength by 20 percent, and because nearly all of the additional officers would be assigned to patrol duty they would increase police presence on the streets by an even greater amount.

No one by now should question the need for more police officers in nearly every major city. Adam Walinksy, a New York lawyer who was part of a panel that first suggested the corps idea in 1982, notes that in 1951 cities with a population of at least 50,000 had an average of three police officers for every violent felony. By 1987 this ratio had reversed, and there were three violent felonies for every police officer—and as many as nine violent crimes per officer in some high-crime cities.

Law enforcement experts also have bemoaned the increasing difficulty of attracting better educated police recruits. The director of testing for New York's Civil Service said that a "functional illiterate" could pass the test there. Philadelphia's police commissioner recently scored a breakthrough—by requiring that new recruits have high school diplomas.

The proposed police corps would not only upgrade the level of recruits policing the nation's cities, but it would encourage the kind of volunteerism and community spirit that President Bush is trying inculcate in America's young. It's a good deal for cities, for police departments, and for Americans—one that should have been grabbed years ago.

[From the Boston Globe, Sept. 12, 1989]

A Home-Front Police Corps

Crime and gang violence are steadily rising, but the strength of the police in America is on the decline.

Despite increased salaries and benefits, only one-ninth of the police power of 35 years ago is being devoted to violent crime. Law enforcement is not drawing the recruits it once did.

What can be done to attract recruits who are qualified and motivated to combat what has become known as a losing war on crime?

One idea that has been kicking around since 1982 and has finally seen the light of Congress is the Police Corps. A national, federally financed program, the Police Corps would add up to 25,000 officers a year across the country.

Modeled after government loan programs such as the Peace Corps and ROTC, the Police Corps would provide recruits—college students—with loans of up to $10,000 a year in return for promises to serve four years on a city or state police force after graduation. Recruits also would train during the summer after their junior year and after graduation.

Upon completion of the requirements, the federal government would repay the loans of the recruits. Once a recruit is employed by a police force, his salary would be paid by that force.

The program, which has received bipartisan support as well as backing from police organizations and unions, would be a sound investment. According to Rep. Robert Dornan (R-Calif.), a sponsor of the Police Corps bill, preventive maintenance is the key. "We all put off tuning our car, and then something blows. With violent crime, it is not just blowing a cylinder in a car; it's dead people lying in the street."

With more dead people expected in this losing battle against crime, the Police Corps is one step toward victory.

[From the New York Post, July 21, 1989]

For Safer Streets: A Police Corps

When it comes to cops, more is better. But in these days of fiscal austerity, more cops are hardly likely.

Or maybe they are.

Legislation was introduced in Washington last week designed to put upwards of 100,000 new cops on the streets of America—at substantially reduced cost to the communities they would serve.

The scheme is the brainchild of Manhattan lawyer Adam Walinsky, a one-time aide to the late Sen. Robert F. Kennedy. The program would underwrite federal college loans to students who agree to work after graduation as cops in states that join the program.

Students would be eligible for loans of upwards of $10,000 a year. After four years of police work, the loans would be forgiven.

Police training would begin during the summer of a student's junior year, with Washington picking up most of the tab.

All this will cost the feds about $1.2 billion a year—a substantial sum, to be sure, but affordable given the circumstances.

Once on the job, the new cops would be paid at prevailing rates. They could not be used to fill holes created by layoffs or other cutbacks.

Deploying Police Corps officers would cost cities money, but not nearly as much as adding a comparable number of regulars. That's because communities would not have to underwrite pensions and certain other benefits—which can add up to as much as 40 percent of salary.

The economics of the program—from a city's perspective, at least—make good sense.

Walinsky, meanwhile, cites a startling non-economic statistic on behalf of the program.

In 1951, he says, there were 3.2 cops on the job for every reported violent felony in American cities with populations above 50,000.

This year, there will be three felonies for every cop.

There's a war out there, in other words, and establishing a Police Corps would be a good way to help fight it.

These would be college-educated, soundly motivated cops, moreover. All in all, it's hard to conceive of reasons to oppose the plan.

That's undoubtedly why it enjoys a rare measure of bipartisan support in Congress—from the ultra-liberal Barney Frank (D-Mass.) to right-wing champion Robert Dornan (R.-Calif.), backers of the plan hail from every point on the political spectrum.

In addition, local police unions across the land favor the Police Corps program. So now the trick will be to get it by congressional budget-cutters. And, of course; to make sure New York state (and city) take

advantage of the opportunity if the bill is actually passed.

We hope Gov. Cuomo, Phil Caruso of the Patrolmen's Benevolent Association and other relevant parties take a hard look at the program—and view it as a solid investment in safer streets.

[From the New York Daily News, July 24, 1989]

FIGHTING CRIME WITH THE POLICE CORPS

Americans are demanding that government do something about crime. Like other elected officials, members of Congress feel the pressure to act. That's why they're giving overdue attention to a smart idea: the Police Corps.

The program is similar to college ROTC. Young men and women would receive federal scholarships for four years. After graduation, they would enter a police department for training and four years of service. That should do for law enforcement what ROTC does for the armed services: Add numbers and quality at an affordable cost.

Affordability: Police Corps cops will work for standard pay in their departments—a point police unions insist on—but they won't draw pensions and seniority raises. So the departments will get full-time fully qualified officers at about two-thirds the cost of career cops—an enormous savings.

Quality: Police professionals agree that college training makes for better cops. But departments are having a hard time recruiting people with advanced education. The Police Corps will put thousands of college grads in blue uniforms. And—key point—they'll be young and energetic. A survey of police chiefs found that young officers make 30% of all arrests, far more than older officers.

Numbers: The Police Corps is a way for beleaguered cities, with federal backing, to expand their police forces without busting their budgets. An expansion is essential because crime is outstripping the cops. In 1951 in America's medium and big cities, there were three officers for every reported violent felony. Today the ratio is reversed—one cop per three violent felonies. And that's just the average. In New York City, it's 5.4 felonies per cop. In Los Angeles, 9. Oakland, 10.7.

The Police Corps isn't a magic bullet. But it is a long step toward beefing up police muscle. And if properly run at the entry level, it can put more minorities on police forces.

Legislation to launch the Police Corps has been introduced in Congress with heavyweight sponsorship from both conservatives and liberals. National police groups that were once skeptical or even hostile now back the program. That should increase chances for approval. But the best chance rests on a simple fact: The Police Corps is an idea whose time has come.

[From the Pittsburgh Post-Gazette, July 26, 1989]

MOBILIZING A POLICE CORPS

This may well be the year that will finally see the creation of a Police Corps to provide local police departments with a pool of college-trained officers.

The bill authored by Sen. Arlen Specter has going for it several elements that previous measures that would have set up an ROTC-like program for police did not.

A key advantage is a diversity of cosponsors in the House as well as the Senate to ensure the bipartisan support necessary to not only sell the concept in the Congress but provide the necessary financing, perhaps as much as $5 million a year.

The Pennsylvania Republican's legislation also has the support of a number of major police organizations, groups traditionally opposed to such an approach, because they saw Police Corpsmen undercutting their pay scales. As now worded, Sen. Specter's bill would require that they be paid the same salaries as officers not hired through the program. It also makes active police officers eligible to participate.

The bill also promises to attract more qualified minority candidates to police work by requiring states administering such programs to give special emphasis to minorities in recruiting and promotion efforts.

Under the program, applicants would have up to $40,000 of their college costs paid in exchange for agreeing to serve four years as police officers on graduation. They would also be required to undergo 16 weeks of training as law-enforcement officers each summer.

It is a costly program but offers a much-needed means of upgrading the level of professionalism of police departments across the country by providing a supply of up to 100,000 college graduates who have also received intensive public-safety training. As we observed before in an earlier editorial, it is an imaginative approach. It deserves Congress' support.

[From the Star Tribune, Oct. 1, 1989]

THE EGGHEADS IN BLUE

In the war on drugs, the policeman is a foot soldier. But many cities are increasingly unable to field enough troops. Cops don't come cheap. And police departments must compete for the best and brightest with other professions, many of them less dangerous and more prestigious. Enter a simple idea: Create a national police corps, modeled after the military's ROTC, which would pay for college in return for a few years of police duty. By getting more and better-educated cops on the streets quickly, the proposal meshes well with other crime-busting legislation now before Congress.

The police corps is the brainchild of New York lawyer Adam Walinsky, a longtime activist who worked with U.S. Attorney General Robert Kennedy. Walinsky proposes that the federal government pay off the college loans of young people who, upon graduation, work four years as police officers. The federal government would pay for the college and some police training; local governments would pay salaries during active duty, but would save on pensions and other costs. Fully implemented by the mid-1990s, the program would involve about 140,000 students in school and put 100,000 more cops on the beat, at an annual cost of some $1.4 billion.

The proposal has bipartisan support in Congress, where it is a candidate for inclusion in the Senate Judiciary Committee's omnibus crime package. It also has support from a wide variety of law-enforcement organizations and police departments, which welcome help with their recruitment problems. Opponents, including some law-enforcement officials from Minnesota, worry that the federal training would duplicate or preempt state programs, or that the college cops would take jobs and promotions away from regular officers. But states could add to the federal training if they chose. And the bill's authors have made concessions to ensure that the college recruits would supplement, not supplant, regular officers.

People from crime scholars to city council candidates say that more cops are needed to patrol the streets of crime-prone neighborhoods, and that more of them must be women and minorities to improve police relations with inner-city communities. But recruiting minorities has proven especially difficult. The police corps could quickly expand the size, caliber and demographic mix of the police recruit pool, build a working bridge between police and the citizens they protect and provide a way for young people to perform civic duty in return for educational benefits.

While it isn't a grand solution to the drug wars, the corps would help shore up the good guys on the front lines.

[From the Clarion-Ledger, Apr. 9, 1990]

LOTT: BEHIND A BILL TO HELP RECRUIT POLICE

U.S. Senator Trent Lott deserves credit for helping to sponsor a novel approach toward recruiting police candidates. He is one of a handful of senators promoting sponsoring the creation of a Police Corps.

According to columnist William F. Buckley, if approved by Congress, the corps would reach out to 100,000 college students and treat them like we now treat ROTC students.

If a candidate agrees to serve in the corps, he can borrow up to $10,000 per year while in college, during which he will study whatever he wants, but will devote the entire summer after his junior year to special training in police work.

After he graduates, he must spend four years in the Police Corps. At the end of those four years' service, his accumulated college debt is canceled. If he reneges, the government's guarantee is void and he's faced with a $40,000 bill, plus interest.

The idea is sound. If it works in the military, why not on the streets? If America is going to successfully wage war against crime, it must recruit the best candidates available. And this could open the way for more minority and disadvantaged Americans to fund a college education.

Certainly, some of these recruits are going to decide police work is what they are after. Armed with a college degree and street experience, they are virtually destined for advancement. And the public is better served in the short term, as well. It's a good idea.

[From the Daily News, Feb. 5, 1990]

A POLICE CORPS COULD BE CITY'S LIFEBOAT

(By Jack Newfield)

As drug-driven violent crime and budget deficits get worse and worse, the idea for a Police Corps looks better and better. For a generation, policymakers have been unable to do anything to stem the crime wave that is destroying urban civilization. Politicians have mouthed empty slogans in public and confessed programatic bankruptcy in private.

And each day, the actual conditions of people's lives have become more unbearable and less safe.

Since 1982, the Police Corps has been an idea that New York's leaders have been either too timid or too rigid to try. For the last eight years, the father of this innovation—lawyer Adam Walinsky—has wandered from office to office, offering it to any official who might have the power to give it life.

Now the U.S. Senate is about to consider a national version of the Police Corps. And

this could be a lifeboat for New York, where the murder rate is now six per day, and the new class at the Police Academy has been canceled.

The national Police Corps program—modeled on the ROTC—would offer recruits loans of up to $10,000 per year to complete their college educations if they begin police training in the summer of their junior year. After they served four years as police officers, the federal government would repay their college loans.

The beauty of this idea is that it: (1) will dramatically increase the number of police on the street in six years; (2) create a police force that is better educated, better trained, younger and more idealistic; (3) and save money because cities won't have to pay pensions or seniority raises to cops who work only four years.

And perhaps the most compelling argument is that enactment of a Police Corps would send the right message about values in this society: We are prepared to take dramatic action to preserve the rule of law in the nation's poor communities.

The cost of the national Police Corps bill would be $1.4 billion, which is the equivalent of bailing out one savings and loan, or building two Stealth bombers.

If the bill becomes law, it would put 100,000 new, college-educated police recruits on the street by 1996, of which about 7,000 would be allocated to New York City.

The other day Adam Walinsky sat in his law office, under a photo of Robert Kennedy, for whom he once worked, and talked about his eight-year obsession.

"The Police Corps will make the police department more representative of the city's population. Right now the NYPD is about 80% white. The Police Corps will attract blacks and Latins. It's economics. Black and Latin students need the tuition assistance. The program comes with a job. That will also attract minorities."

What is politically significant is that the idea has generated enthusiasm across the ideological spectrum. Conservatives like writer William F. Buckley, Rep. Bob Dornan (R-Cal.), Sen. Trent Lott (R-Miss.), and the National Association of Police Organizations have endorsed it. It has also been endorsed by liberals like Sen. Bill Bradley (D-N.J.), Sen. John Kerry (D-Mass.), and Rep. John Lewis (D-Ga.).

Police Commissioner Lee Brown has been an advocate of the Police Corps for several years, since early in his tenure as Houston's chief.

The Police Corps is scheduled to come to the floor of the Senate this week as part of Sen. Joe Biden's (D-Del.) anti-crime bill, which is an alternative to the President's.

"This is my best shot," says Walinsky, who has had to accept much less money from his law firm because of all the hours he has spent on his cause, instead of his clients.

In the decade since he wrote speeches for Robert Kennedy, Walinsky has grown more conservative in many, but not all, ways. In 1982, he advised Republican Lew Lehrman during his losing campaign for governor.

I asked him if his cause owes something to his younger self and to his fallen leader who always insisted that, "one person can make a difference."

"Of course," he answered. "The Police Corps is part of what we started with the Bed-Stuy restoration project in 1966. The country has to confront the disintegration of the poor black family again. It's all part of resisting hopelessness.

"Hundreds of thousands of kids have been lost during the eight years we have tried to get this bill passed. But I never thought about giving up. The alternative is the right-wing's notion of sweep the streets and put them all behind barbed wire. Or else the middle class talks about giving up and moving to New Jersey.

"Nobody has any other solutions. This is the only practical idea on the table. And that's why I can't give it up."

[From Newsweek magazine, Mar. 5, 1990]

ON THE BEAT: ROTC FOR COPS

Can a hybrid of a domestic Peace Corps and ROTC help bring peace to city streets? Next month the Senate will consider the Police Corps Act, a program in which 25,000 participants a year would commit to two summers of training and four years of police work after college. In return, the government would repay up to $10,000 a year in student loans. Developed by lawyer Adam Walinsky, a former aide to Robert Kennedy, the program appeals to both liberals and conservatives. "It will accomplish two high national priorities—stronger law enforcement and improved education," says Pennsylvania GOP Sen. Arlen Specter.

Not all police professionals like the idea. Some see it as a costly (an estimated $1.7 billion by the year 2000) way for college kids to try police work for personal gain. But New York City Commissioner Lee Brown says it could bolster a profession in which the average educational level is two years of community college. It might also broaden civilian understanding of cops. If more policymakers walked a beat, says American University professor James Fyfe, "maybe we wouldn't be discussing inner-city crime on a fifth-grade level."

FRATERNAL ORDER OF POLICE,
Louisville, KY, July 12, 1989.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: The Fraternal Order of Police, the nation's largest law enforcement organization representing 198,000 professional police officers, hereby endorses your efforts in conjunction with the introduction of the proposed "National Police Corps" legislation.

This particular measure, as introduced, will greatly enhance the law enforcement community and the police profession by allowing young Americans to further their educational needs while focusing their future toward a career in public service. This bill will help guarantee the continued availability of qualified individuals for police work in communities throughout the United States.

The FOP applauds the work that you and your staff have put forth to create this critically needed piece of legislation. Please be assured that FOP stands ready to assist you in the legislative process in any manner you deem necessary.

With kind personal regards, I remain

Fraternally,

DEWEY R. STOKES,
National President.

YALE LAW SCHOOL,
New Haven, CT, June 30, 1989.

ADAM WALINSKY, ESQ.,
Kronish, Lieb, Weiner & Hellman, New York, NY.

The proposal and Congress establish a "Police Corps" based on an ROTC model is, I believe, one of the most important pieces of legislation in many years. The Police Corps as described in the proposal takes seriously the problem of crime and of mobilizing our youths to fight it in an effective way. It is good for the young people who will receive an education and use that education to fight crime. It is good for the society which will benefit from the idealism of well trained young men and women. It is good for education in this country because it will enable people who otherwise might have difficulty attending college to do so and then pay back, through public service, the society that helped them. Finally, it will create a group of people who, having had the experience of service in the Police Corps, will, in whatever they do afterwards, bring an extraordinarily valuable experience which will help all of us. As a law school dean, I especially look forward to what those who will go on in law after their service in the Corps will contribute, both in school, and to the profession. I would make special efforts to attract to the Yale Law School qualified applicants who had served in the Police Corps, and would give them special consideration for admission.

GUIDO CALABRESI,
Dean.

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, IL, March 1, 1990.

Mr. ADAM WALINSKY, Esq.,
Kronish, Lieb, Weiner & Hellman, New York, NY.

The Police Corps represents an extraordinarily innovative approach to what has seemed an intractable problem. It holds out real promise to improve the quantity and quality of police protection in our cities and to help break the cycle of misery, poverty and crime that afflicts the "underclass." Moreover, this program will enhance the educational opportunities of a group of idealistic and public spirited individuals. As such, the program will benefit both the individual participants and society as a whole. Indeed, I have no doubt that, in light of the invaluable experience they will gain from their work in the Police Corps and their evident commitment to public service, such individuals, if otherwise qualified, will be especially attractive candidates for legal study at law schools like the University of Chicago once they have completed their term of service.

Sincerely yours,

GEOFFREY R. STONE.

CALIFORNIA STATE SENATE,
Sacramento. CA, October 17, 1989.

Mr. ADAM WALINSKY, Esq.,
Kronish, Lieb, Weiner & Hellman, New York, NY.

DEAR ADAM: The Police Corps is the most constructive law enforcement proposal I've ever seen from the Federal government. Whatever else we do to deal with crime—and much needs to be done—we cannot begin to confront the problem of violent crime unless we have more police on patrol, to be there before the crime takes place. The Police Corps will give us the police we need. I know of no other program with any chance of enactment that would give us both more and better-educated young officers. I support the Police Corps.

Sincerely,

ED DAVIS.

Mr. SPECTER. Mr. President, by way of brief rebuttal of the distinguished Senator from South Carolina, in its present form, the amendment

calls for $430 million a year, a significant reduction from an earlier version. And since the in-service training has been offered, a number of police organizations, including the Fraternal Order of Police, back this amendment.

In general, this amendment would establish two programs, one to provide educational assistance to individuals interested in serving in law enforcement and one to provide educational assistance to law enforcement personnel currently in service. The Police Corps Program would provide 4-year scholarship assistance to individuals willing to make a 4-year commitment to service in a State or local police force. The Law Enforcement Scholarship Program would provide educational assistance to police officers currently in-service. The assistance would be in the form of a grant requiring a 40-percent match. In exchange for such assistance, the police officer would commit to an additional month of police service for each credit hour for which he or she received assistance. The amendment authorizes $400 million for the Police Corps and $30 million for the Law Enforcement Scholarship Program, for a total authorization of $430 million.

POLICE CORPS PROGRAM

BACKGROUND

The Police Corps concept was developed under a Department of Justice grant by a distinguished New York attorney, Adam Walinsky, a former Philadelphia policeman, Jonathan Rubenstein, and others at the Center for Research on Institutions and Social Policy [CRIPS]. The proposal was put forth in a report in 1982, and received considerable media attention and support.

The Police Corps Act has been endorsed by the Fraternal Order of Police [FOP] and the National Organization of Black Law Enforcement Executives [NOBLE]. Support of the Police Corps Act has been urged in editorials by the New York Times, the Los Angeles Times, the Philadelphia Inquirer, the Pittsburgh Post-Gazette, the New York Daily News, and the New York Post. In addition, the Deans of the Yale Law School and the University of Chicago Law School have endorsed the bill.

The Police Corps program is similar to the Reserve Officer Training Corps [ROTC] program in that it would provide educational assistance in exchange for a commitment to postgraduation service.

Through the Police Corps program, a student would receive Federal scholarships of up to $40,000 or be reimbursed for educational expenses up to $40,000. In exchange for this educational assistance, the graduate would serve 4 years in the State police or in a local police department within the sponsoring State. If the Police Corps member failed to complete satisfactorily his or her education, training, or service, the director of the Police Corps program would be authorized to recover any educational assistance provided to the individual plus interest at a rate of 10 percent.

The amendment would establish an office of the Police Corps and law enforcement education within the Department of Justice, under the general authority of the Attorney General. The director of this office, who would be appointed by the President, would administer both the Police Corps and Law Enforcement Scholarship programs.

In order to participate in one or both of the Police Corps or Law Enforcement Scholarship programs, a State would have to designate a lead agency which would submit to the Director a plan for implementing these programs. The State plan would contain assurances that the lead agency would work in cooperation with the local law enforcement liaisons, higher education organizations, representatives of police labor and police managment organizations and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the programs.

Subtitle A describes the Police Corps Program. Police Corps participants are selected on a competitive basis by each State. In order to participate, an individual must meet the requirements for admission as a trainee of the State or local police force which he or she will serve, possess the necessary mental and physical capabilities and to discharge effectively the duties of a law enforcement officer, and agree to complete an educational course of study and accept an appointment and complete 4 years of service.

Each participant inthe Police Corps program enters into an agreement with the Director requiring that the participant will complete satisfactorily an educational course of study and receive a baccalaureate degree or be awarded credit towards graduate courses, complete the required Police Corps training, and serve for 4 years in a State or local police force. In the event that these conditions are not met, the agreement requires that the participant repay all of the scholarship or payment received plus interest at the rate of 10 percent. An applicant's acceptance to the program is conditioned upon the applicant being matriculated in or accepted to a 4-year institution of higher learning.

Participation in the Police Corps program is capped at 20,000 graduates per year nationwide. In a year in which acceptable applications exceed this number, the Director will decide which applications to grant, giving preference to those participating in State plans that provide law enforcement personnel to areas of greatest need. In addition, each State participating in the Police Corps program must make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole.

Police Corps participants will receive two 8-week training sessions during the summers after their sophomore and junior years. In the event that a participant enters the Police Corps program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director. The Director shall designate and/or establish up to 3 training centers to train Police Corps participants. If the Director determines that an existing State training facility offers a course of training substantially equivalent to the Police Corps training program, the Director shall at the request of that facility, contract with that facility to provide the training.

The Director may enter into contracts with individuals, institutions of learning and Government agencies to obtain the services of persons qualified to contribute to the training process. In addition, the Director may enter into agreements to utilize on a reimbursable basis space in Federal buildings and other resources.

Police Corps training is intended to be basic law enforcement training. It does not preclude further training of participants by the State and local authorities to which they will be assigned.

Upon satisfactory completion of the participant's education and training, and upon meeting the requirements of the police force to which the participant is assigned, a participant will be sworn in as a member of the police force to which the participant is assigned and will serve for 4 years as a member of that police force.

A Police Corps participant has all of the rights and responsibilities of and is subject to all rules and regulations applicable to other members of the police force, including those contained in applicable agreements with labor organizations and those provided by State and local law. No Police Corps participants may be assigned to serve with a local force whose size has declined by more than 5 percent since June 21, 1989, or which has members who have been laid off but not retired—this is to prevent Police Corps participants from displacing career officers.

Police Corps participants are to be placed and to the extent feasible kept on community and preventive patrol. While serving as a member of a police force, Police Corps participants are to be compensated at the same rate of pay and benefits and enjoy the same

rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in that police force.

The Police Corps Program is authorized at a level of $400 million for fiscal year 1991 and such sums as are necessary to carry out the program in fiscal years 1992-95.

LAW ENFORCEMENT SCHOLARSHIP PROGRAM

Subtitle B describes the Law Enforcement Scholarship Program which provides educational assistance to police officers currently in service. It is based on Senator Graham's bill S. 2241. In general, the Law Enforcement Scholarship Program makes grants to States to provide educational assistance to police officers currently in service. The amount of the grant to each State is based on the number of law enforcement officers in the State—80 percent—and on the basis of the States's shortage of law enforcement personnel and need for assistance—20 percent. Each State receiving an allotment for this program must insure that each scholarship recipient is compensated at the same rate of pay and benefits and enjoys the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

Scholarships awarded through this program are awarded for a period of 1 academic year and may be used for educational expenses at any accredited institution of higher education. Under this program, the State will pay up to 60 percent of the cost of the scholarship—using Federal funds—to an institution of higher education on behalf of an individual participating in this program. The other 40 percent of the cost of the scholarship must be supplied from sources other than the Federal Government.

To be eligible to receive a scholarship under this program an individual must have been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought. Each individual desiring a scholarship under this program must submit an application to the State, including a description of the academic courses for which financial assistance is sought. In awarding scholarships, each State must give priority to applications for individuals who are members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State and to those pursuing an undergraduate degree.

Each individual receiving a scholarship under this program shall enter into an agreement with the Director which provides assurances that the individual after completion of his/her academic courses, will work in law enforcement in the State which awarded the scholarship for a period of 1 month for each credit hour for which financial assistance is received but for not less than 6 months nor more than 2 years. In the event that this requirement is not met, the recipient must repay all of the scholarship assistance awarded.

The Law Enforcement Scholarship Program is authorized at a level of $30 million for fiscal year 1991 and such sums as are necessary to carry out the program in fiscal years 1992-95.

REPORTS

By April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House, and the President of the Senate. The report shall: State the number of current and past participants in the Police Corps Program, broken down according to levels of educational study and years of service on a police force; describe the geographical dispersion of participants in the Police Corps Program; state the number of present and past scholarship recipients under the Law Enforcement Scholarship Program, categorized according to levels of educational study and years of service in law enforcement; describe the geographical, racial and gender dispersion of Law Enforcement Scholarship recipients; and describe the progress of these programs and make recommendations for changes in them.

The amendment requires that within 6 months of the date of enactment, the Attorney General shall submit a report to Congress containing a plan to expand assistance provided under the Law Enforcement Scholarship Program (subtitle B) to Federal law enforcement officers.

STRENGTHS OF THE POLICE CORPS PROGRAM

More police, patrolling aggressively and investigating a greater proportion of crimes, may significantly reduce criminal activity.

The Police Corps will produce young men and women well qualified to meet the challenges of contemporary law enforcement. The program will yield well-trained, well-disciplined, and well-rounded individuals who bring to the job not only enhanced professionalism, but a great flexibility and sensitivity to the environment in which police must function.

The Police Corps program is likely to result in a police force more reflective of the community it serves because students will fulfill their service commitment in police departments in their home States.

According to student surveys conducted as part of the Police Corps feasibility study, of all college students surveyed, over 40 percent said they would be "very likely" or "fairly likely" to join a Police Corps program.

Student surveys conducted as part of the Police Corps feasibility study revealed that the program will attract many well-qualified minority students, an essential step toward improving police-community relations. Over 45 percent of minority college students surveyed said they would be likely to join. Fifty percent of those likely to join had grade point averages of B or better; half had scored of over 500 on the math portion of the SAT; and 53 percent planned to study for advanced degrees.

The Police Corps program would make large numbers of new police officers readily available to States and localities by guaranteeing a well-qualified pool of recruits.

Police Corps officers should cost jurisdictions less than regular career officers. Because they serve for only 4 years, Police Corps officers remain at the lower end of the pay scale, and will not serve long enough to become vested for pensions.

NEED FOR POLICE CORPS

The underlying causes of crime are with us today as they have been with us for decades. Poverty, lack of housing, lack of adequate education, lack of job training, lack of jobs, lack of family structure—all are root causes of crime in this country. More should be done by the Congress to address these issues. At the same time, it is necessary to address the issues of arrest, prosecution, conviction, rehabilitation where possible, and incapacitation where rehabilitation is not possible.

One of the primary purposes of this bill is to address the very high level of violent crime across the Nation by increasing the number of police on preventive patrol, in direct contact with the community.

A Police Corps feasibility study conducted by the Center for Research on Institutions and Social Policy [CRISP] showed that additional manpower would enable departments to move beyond the basic, minimal services they now provide, and engage in more effective crime-fighting techniques.

Calls for police service have increased—primarily due to the development of the 911 emergency number—often leaving little or no time for police patrol.

The feasibility study emphasized that it would not be effective to deploy more police in the same way they currently are deployed. The best uses of additional police are: foot patrol, slow patrol at night, aggressive patrol, patrol in business districts, and patrol in subways and enclosed areas.

According to a survey conducted as part of the Police Corps feasibility study, 80 percent of police chiefs surveyed regard their departments as undermanned. Survey included all police

chiefs in seven States: California, Florida, Massachusetts, New Jersey, New York, Pennsylvania, and Texas.

Seventy percent of police chiefs surveyed indicated that their ability to fight crime is hampered by shortages of manpower.

Nearly 90 percent of police chiefs surveyed declared a willingness to accept Police Corps officers.

The rate of violent crime in the United States increased by 260 percent between 1960 and 1980. According to the Police Corps feasibility study conducted by the Center for Research on Institutions and Social Policy, in 1983, 70 million people lived in households touched by crime.

According to the Federal Bureau of Investigation's Uniform Crime Report, in 1988, there were approximately 1.56 million violent crimes—homicide, rape, robbery, assault—in the United States, an average of one violent crime every 20 seconds. Compared to 1987, these crimes represented a 2.9-percent increase in murders and nonnegligent manslaughter; 1.5-percent increase in forcible rapes; a 4.9-percent increase in robberies; and a 6.4-percent increase in aggravated assaults. In 1988, 485,566 sworn police officers were available to respond to these crimes; 3.2 reported violent crimes for each officer.

In 1988, in Philadelphia, there were 17,159 violent crimes, and 6,063 sworn officers: a ratio of 2.8 violent crimes for each officer.

In 1988, in Pittsburgh, there were 4,117 violent crimes, and 1,098 sworn officers: a ratio of 3.75 violent crimes for each officer.

In 1988, in New York, there were 162,916 violent crimes, and 26,723 sworn officers: a ratio of 6.1 violent crimes for each officer.

In 1988, in Atlanta, there were 15,911 violent crimes, and 1,395 sworn officers: a ratio of 11.4 violent crimes for each officer.

In 1988, in Los Angeles, there were 66,736 violent crimes, and 7,553 sworn officers: a ratio of 8.8 violent crimes for each officer.

In 1988, in Boston, there were 12,175 violent crimes, and 1,927 sworn officers: a ratio of 6.3 violent crimes for each officer.

In 1988, in St. Louis, there were 10,481 violent crimes, and 1,528 sworn officers: a ratio of 6.8 violent crimes for each officer.

In 1988, in Dallas, there were 21,135 violent crimes, and 2,381 sworn officers: a ratio of 8.8 violent crimes for each officer.

In 1988, in Seattle, there were 6,879 violent crimes, and 1,179 sworn officers: a ratio of 5.8 violent crimes for each officer.

A study released in 1982, by the National Institute of Justice of the Department of Justice, showed that between 1948 and 1978, the number of police per capita increased by approximately 50 percent while crime increased approximately 400 percent.

The same National Institute of Justice study showed a fourfold increase in crime between 1948 and 1978, but only a twofold increase in crime-fighting resources.

The National Institute of Justice study indicated a "markedly similar rise in the reported crime rates for cities with quite different characteristics." The study stated further:

> One conclusion which can be drawn from our analysis is that the rise of reported crime is more a national than a local phenomenon. It was neither isolated to one kind of local community nor was it apparently driven by local characteristics that could be controlled by the local level. * * * The dominant fact is that the rise (in the crime rate) occurred everywhere.

I yield the remainder of the time to the distinguished Senator from Massachusetts [Mr. KERRY].

Mr. KERRY. Is there any time left?

The PRESIDING OFFICER. The Senator from Pennsylvania has 30 seconds remaining.

Mr. SPECTER. He may have the time.

Mr. KERRY. I would like to pay tribute to Adam Walinsky. This is supported by police chiefs across the country. It is supported by police associations, by mayors. It is really largely due to his energy and commitment that that is so.

I thank the distinguished Senator from Pennsylvania for his leadership also.

Mr. SPECTER. May I add in conclusion to that, Mr. Walinsky has performed yeoman service. He had advocated this bill strenuously with virtually all of the Members. He is waiting in the reception room at this time. I hope a resounding favorable vote will be a tribute to the legislation and Mr. Walinsky as the prime author.

The PRESIDING OFFICER. The Senator from South Carolina has 3 minutes 40 seconds remaining.

Mr. THURMOND. Mr. President, I want to say this. We have the biggest debt in the history of this country, over $3 trillion. We have not balanced this budget but once in 28 years. The interest on the loan is the second largest item in the budget, $290 billion a year. This amendment is being offered that will cost $1.5 billion a year.

I again want to remind the Senate there have been no hearings on this matter. We at least ought to have hearings on it and hear both sides of it. In the House, most of the witnesses testified against it. Would these police organizations be coming in and opposing it unless they have a good reason?

I want to repeat again, the National Association of Police Headquarters, the Police Executive Research Program, the Baltimore Police, the New York Police, the Fraternal Order of Police, the biggest organization in the country, the National Association of Police Organizations, the International Brotherhood of Police Officers are all opposed to it and they have testified to that effect. They have sent us letters. We have letters here showing that effect.

I say on account of the cost of it, on account there have been no hearings and on account these police organizations are opposed to it, let us have hearings and then come back and bring out the right kind of a bill. No one wants to support the police more than I do. I have supported them all of my life. But there is reason here to delay this until we can hold hearings and come back with a bill.

The PRESIDING OFFICER. The Senator from South Carolina still retains some time.

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WILSON. Mr. President, I will vote in favor of the Specter amendment, but I do so with significant reservations.

The best part of the amendment, which is strongly supported by law enforcement organizations nationwide, was added by the Senator from Florida [Mr. GRAHAM]. It authorizes $30 million for an education program for law enforcement officers. The proposal contains a local match requirement.

The part about which I am troubled, Mr. President, is the $400 million proposal to establish a "Police Corps."

First, $400 million is a great deal of money. Frankly, I doubt that we will be able to fund it.

Second, the Police Corps concept is strongly, uniformly opposed by the law enforcement community, including Los Angeles Police Chief Darryl Gates and the National Association of Police Organizations.

Third, the money would be best spent, at this juncture, for salary and benefit increases for Federal law enforcement agents, especially for those in high-cost areas of the country. Indeed, the Senator from Arizona [Mr. DECONCINCI] was prevented from offering an amendment to this bill to increase Federal law enforcement pay and benefits. Yet his proposal, which I strongly endorse, would cost about one-half of the total cost for the Specter amendment.

Mr. President, I trust that the conference committee will give a careful second look to this proposal. Because I am hopeful of seeing the Graham proposal enacted, I will support the package, despite my strong reservations about the Police Corps portion.

As for the DeConcini-Wilson pay proposal, I will continue to work with my good friend from Arizona to achieve its enactment this year.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado, [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. SARBANES). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 139 Leg.]

YEAS—64

Adams	Ford	Metzenbaum
Akaka	Fowler	Mikulski
Baucus	Gore	Mitchell
Bentsen	Graham	Moynihan
Biden	Gramm	Nunn
Bingaman	Harkin	Packwood
Boren	Hatfield	Pell
Boschwitz	Heflin	Pryor
Bradley	Heinz	Reid
Breaux	Inouye	Riegle
Bryan	Johnston	Robb
Bumpers	Kasten	Rockefeller
Burdick	Kennedy	Sarbanes
Chafee	Kerrey	Sasser
Coats	Kerry	Shelby
Conrad	Kohl	Simon
Cranston	Lautenberg	Specter
Danforth	Leahy	Warner
Daschle	Levin	Wilson
Dodd	Lieberman	Wirth
Dole	Lott	
Exon	McConnell	

NAYS—35

Bond	Gorton	Murkowski
Burns	Grassley	Nickles
Byrd	Hatch	Pressler
Cochran	Helms	Roth
Cohen	Hollings	Rudman
D'Amato	Humphrey	Sanford
DeConcini	Jeffords	Simpson
Dixon	Kassebaum	Stevens
Domenici	Lugar	Symms
Durenberger	Mack	Thurmond
Garn	McCain	Wallop
Glenn	McClure	

NOT VOTING—1

Armstrong

So the amendment (No. 1841) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the distinguished managers have worked out an agreement, which will be propounded shortly by Senator BIDEN, that would enable us to complete action on all matters other than final passage, and possibly one pending aspect of the bill this evening within approximately 1 hour which would involve four more votes with very reduced time for debate, 5 minutes equally divided on three of them, 15 minutes on one of them.

Therefore, after consultation with the managers and the distinguished Republican leader, I believe, in the interest of the Senate as a whole and the convenience of most Members present, we will attempt to do that this evening, and then we will finish the bill on the Wednesday that we return as under the existing agreement.

So I thank all of my colleagues for their patience. I especially thank the chairman and managers and the distinguished Republican leader.

I yield to the distinguished chairman of the committee.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that at the conclusion of the acceptance, I hope, of this unanimous-consent agreement we move to the following amendments with 5 minutes equally divided on each amendment: The D'Amato amendment, which is a death penalty amendment; the Wilson amendment, which is a death penalty amendment; and the Biden amendment, which goes to resources for law enforcement and other matters; that we debate those three amendments, 5 minutes equally divided, in succession, and we stack those three votes in the following order: D'Amato, Wilson, and Biden; at the conclusion of the vote on the Biden amendment, we immediately proceed to the Hatfield amendment, which will accept the Levin second-degree amendment, and there will be 15 minutes of debate on the Hatfield amendment, 10 minutes controlled by the Senator from Oregon [Mr. HATFIELD], and 5 minutes controlled by the distinguished Senator from South Carolina in opposition to that amendment.

The PRESIDING OFFICER Is there objection to the unanimous-consent request?

Mr. EXON. Mr. President, reserving the right to object, I shall not object, will we be holding to the 10-minute rollcall or 5 minutes?

Mr. BIDEN. We will hold to the 10-minute rollcall vote.

Mr. REID. Mr. President, reserving the right to object, I am wondering if the manager of the bill can tell us whether we can have the debate on all four and have the vote on them at the same time.

Mr. BIDEN. The rationale for that is that the Hatfield amendment strikes all of the death penalty provisions of the entire bill. So we will not know until the D'Amato and Wilson amendments are voted on as to whether or not they have been accepted, and, therefore, it makes sense to have the debate at the conclusion of those three stacked votes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? If not, it is so ordered.

Mr. BIDEN. Mr. President, let me, if I may, ask the majority leader's permission to suggest what would follow after that.

There are a number of you who have amendments that are going to be and have been accepted by the managers. We will dispose of that managers' amendment tonight without a vote, but we will do it tonight. Then the only remaining thing, the only outstanding matter, other than final passage, will be the bipartisan savings and loan package. We are very close on such an agreement. But we do not think we can get an agreement tonight because of the need to get the adminstration to participate in some of the aspects of that agreement.

We will work on that savings and loan amendment between now and the date of final passage, which is the Wednesday after we come back, and, hopefully, be able to voice vote that prior to final passage. In the event that we cannot and it breaks down, the standing unanimous-consent request says that becomes the first order of business as a freestanding matter after final passage on the crime bill.

Mr. LEVIN. In addition to the managers' amendment, after the rollcalls are disposed of, there are, I believe, a number of amendments that will be accepted by the managers in addition to their own amendment. Is that correct?

Mr. BIDEN. Yes. Mr. President, the Senator from New York has 2½ minutes.

Mr. D'AMATO. May I inquire of the manager, do we have 5 minutes equally divided?

Mr. BIDEN. That is correct.

AMENDMENT NO. 2097

(Purpose: To provide for the death penalty for drug kingpins)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. SPECTER, Mr. WILSON, Mr. KASTEN, Mr. DOMENICI, Mr. HELMS, Mr. MACK, Mr. MCCAIN, and Mr. MCCONNELL, proposes an amendment numbered 2097.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it ia so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SECTION . SHORT TITLE.

This subtitle may be cited as the "Drug Kingpin Death Penalty Act of 1990."

SEC. . DEATH PENALTY AUTHORIZATIONS AND PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral Attack on Judgment Imposing Sentence of Death.

"SEC. 3591. SENTENCE OF DEATH.

"A defendant who has been found guilty of—

"(a) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(b) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person; or

"(c) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: *Provided*, That no person may be sentenced to death who was less than eighteen years of age at the time of offense; and provided that if a defendant described in section 3591 (b) or (c) is not sentenced to death, said defendant shall be sentenced to life in prison.

"SEC. 3592. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTIONS OF VIOLENT OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS CONVICTIONS OF DRUG OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(4) PREVIOUS CONVICTIONS OF VIOLENT AND DRUG OFFENSES.—The defendant has previously been convicted of a Federal or State offense, punishable by a term of imprisonment of more than one year, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person, and has previously been convicted of a Federal or State offense, committed on a different occasion and punishable by a term of imprisonment of more than one year, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(5) SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(6) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(7) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act (21 U.S.C. 845) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act (21 U.S.C. 845a) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(9) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act (21 U.S.C. 845b) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(10) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factors exist.

"SEC. 3593. SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factors is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under section 3592(b) is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—

"In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"SEC. 3594. IMPOSITION OF A SENTENCE OF DEATH.

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

"SEC. 3595. REVIEW OF A SENTENCE OF DEATH.

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

(B) the evidence and information support the special findings of the existence of an aggravating factor or factors:

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"SEC. 3596. IMPLEMENTATION OF SENTENCE OF DEATH.

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State Department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activites.

SEC. 3597. USE OF STATE FACILITIES.

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

SEC. 3598. APPOINTMENT OF COUNSEL.

"(a) FEDERAL CAPITAL CASES.—

"(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until

one of the conditions specified in section 3599(b) of this title has occurred.

"(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"SEC. 3599. COLLATERAL ATTACK ON JUDGMENT IMPOSING SENTENCE OF DEATH.

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In any case in which a sentence of death has been imposed for an offense against the United States and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings; and

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offenses for which the death penalty was imposed."; and

(b) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty ..... 3591".

Mr. D'AMATO. Mr. President, the amendment I submitted to the desk provides for the death penalty for major drug dealers, the kingpins. This amendment provides for the death penalty in three instances. One, the kingpin who manufactures, distributes at least 330 pounds of cocaine, or deals with 10 million dollars' worth of drugs during a 12-month period of time. The proposal is constitutional. It has been provided for in the President's crime package under title 5 of the anticrime, antidrug bill.

The first category deals with, again, the major drug dealer, the super kingpins. It would define into legislation those categories where there must be at least three drug violations in concert with at least five other persons, where there are substantial quantities of drugs as outlined in the bill; 30 kilograms of heroin or 150 kilograms of cocaine.

Some may say that you need a killing to impose the death penalty. Senator SPECTER is going to talk to the constitutionality. Let me say this, in the short period of time allocated. We have heard the debates, mainly over major drug dealers, that kingpins responsible for bringing in massive quantities of drugs, responsible for the sale and distribution, are as guilty as taking a gun with malice of forethought and placing it to the head of somebody and executing him. It is about time, if we are going to fight the war on drugs, that we did exactly that.

This measure, in some way, moves in the direction of saying, yes, we are serious, we are committed to this war. I believe it is time to declare war on the major drug traffickers who are killing our kids, our neighborhoods, our communities, and, indeed, this Nation.

I will yield 2½ minutes to Senator SPECTER.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I want 10 seconds. I believe this is unconstitutional. I believe it is required under the Constitution and recent Supreme Court cases that there be a death involved in order for the death penalty to be constitutional.

I yield the remainder of my time to the Senator from Pennsylvania.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 2 minutes, 4 seconds.

Mr. SPECTER. Mr. President, I feel that this is the appropriate time to introduce a bill on a topic that has been a principal concern of mine since I was the Philadelphia District Attorney. Yesterday, the Senate passed legislation providing for the death penalty for terrorists, and the Senate will soon take up broader legislation on the death penalty.

This bill authorizes the death penalty for major narcotics traffickers. It adopts the statutory language of 21 U.S.C. 848 in defining a major trafficker as the principal administrator, organizer, or leader of an enterprise who distributes 300 times the quantities described in subsection 841(b)(1)(B) of title 21 and otherwise meets the requirements of the subsection. Anyone who had at least one prior conviction under the continuing criminal enterprise statute and who trafficked in the requisite amount as a principal administrator, organizer, or leader, would be subject to the death penalty. Examples of threshold amounts would be 30 kilograms of a mixture containing heroin or 150 kilograms of a mixture containing cocaine. This death penalty would be an important weapon in the fight against the purveyors of poison on our streets.

The 1988 drug bill addressed the need for the death penalty where death results from narcotics-related activity. What has not been addressed is the devastation, societal erosion, and virtual institutionalization of violence that have arisen as a direct consequence of organized narcotics distribution in our communities.

On September 19, 1989, during committee hearings on the death penalty, I engaged Assistant Attorney General Edward Dennis in a discussion of the constitutionality of the death penalty for major drug traffickers. At that time, I expressed my sense that public policy dictates, and the public supports, the death penalty for major traffickers. I have developed this sense as a result of my many years as a prosecutor and Senator. As I stated to Mr. Dennis at the hearing, I believe that death is a natural and foreseeable consequence of massive sales of narcotics. I asked Mr. Dennis as the representative of the Justice Department to study the issue and deliver an opinion.

In a subsequent hearing on October 2, 1989, Mr. Dennis expressed the view of the Justice Department on the issues that I had raised with him on September 19. He stated that:

[I]t is the considered view of the Department of Justice that imposition of the death penalty on the leaders of large-scale drug production and distribution operations would be consistent with the proportionality requirement of the Eighth Amendment.

My bill will provide the safeguards required under *Furman* v. *Georgia*, 408 U.S. 238 (1972), and its progeny. I have stated before that while I believe a death penalty is necessary, procedural safeguards must be in place so that it is applied fairly. In Furman versus Georgia, the Court did not conclude that capital punishment is unconstitutional, but only that the procedures of the Georgia statute were constitutionally invalid because it provided unguided discretion to the factfinder.

My bill provides for the death penalty even in situations where death has not been shown to be a direct result of the illegal activities. The Court held in *Coker* v. *Georgia*, 433 U.S. 584 (1984), that the State may not impose a death sentence upon a rapist when the crime does not result in death. The Court thereby announced the standard that punishments are barred by the eighth amendment when they are excessive in relation to the crime committed. A punishment had to meet both prongs of a two-pronged test. A punishment would be considered excessive if it: First, "makes no measurable contribution to acceptable goals of punishment * * *; or is grossly out of proportion to the severity of the crime." However, the Court also stated that public and legislative attitudes, history, and precedent must all go into the analysis of what constitutes excessive punishment.

My amendment would withstand the objective analysis required by Coker. There is much to show that the American people believe that the drug epidemic is the most severe problem confronting our Nation. Few communities have been left untouched by the organized drug gangs as they peddle their deadly wares. With the direct harm that the drugs cause have come the natural byproducts of violence, disease, and social dislocation. Not since World War II has there been such a consensus among the American people about who and what the enemy is. A consensus has developed that the moral depravity and injury to the public caused by large-scale trafficking is at least on a par with that caused by individual murders. The death penalty authorized by my bill would satisfy the goals of retribution and deterrence. Under article I, section 8, clause 18 of the Constitution, Congress has the unique right and responsibility to enact measures that ensure the Nation's security. Because of this right and responsibility, Congress has more leeway than the States to implement the death penalty as a furtherance of this goal.

A recent trilogy of cases provides additional support for the rationale behind my amendment. In *Tison* v. *Arizona*, 107 S. Ct. 1676 (1987), *Cabana* v. *Bullock*, 474 U.S. 376 (1986), and *Enmund* v. *Florida*, 458 U.S. 782 (1982), the Supreme Court held that applying the death penalty to accomplices convicted of felony murder was not violative of the eighth amendment's prohibition against cruel and unusual punishment. The new standard allows defendants to be sentenced under a death penalty statute if it is found that they killed, intended to kill, attempted to kill, or acted with reckless indifference to human life while acting as a major participant in a felony. My bill defines what a "major participant" is. To state that major narcotics traffickers act with "reckless indifference to human life" is to state the obvious. The law recognizes that in many instances, the actions of people indicating a reckless or depraved indifference to human life are as blameworthy and indicate the same level of malice as the actions of people who intend to kill. The law recognizes that a person who fires a gun into a room that he knows is occupied by several people, who plays Russian roulette with another person, or who drives a car at high speed along a major street is engaging in conduct that involves a very high degree of unjustifiable homicidal danger. It is time that we make the statement that major drug dealers, who, unlike the examples above, have targeted every person in this country, will now have to face the ultimate for their conduct.

Drugs are by definition addictive. The more people a drug dealer is able to hook, then the better business will be. A major drug dealer increases the harm to society exponentially with each new regular customer. The harm comes about through overdose, the spreading of disease, families destroyed, and the increase in violence from addicts and the traffickers protecting their markets. The consequences are direct and forseeable.

It is generally accepted that, with certain procedural safeguards, the death penalty for espionage and treason is not cruel and unusual punishment. This is true even where death has not resulted. The use of the death penalty for major narcotics traffickers is at least as compelling.

Accordingly, I urge my colleagues to consider this important issue. It is my present intention to offer this bill as an amendment to the death penalty bill or other drug control legislation.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF DEATH PENALTY.

Section 408(e)(1) of the Controlled Substances Act (21 U.S.C. 848(e)(1), is amended by—

(1) deleting the word "and" at the end of paragraph (A);

(2) deleting the period at the end of paragraph (B) and inserting in lieu thereof "; and"; and

(3) inserting the following new paragraph (C):

"(C) any person who comits an offense in violation of subsection (a) under the conditions set forth in subsection (b) after one or more prior convictions of him under this section have become final, may be sentenced to death, or shall be imprisoned for life and fined in accordance with subsection (a) of this section. In a hearing held pursuant to subsection (i), the trier of fact shall consider those aggravating and mitigating factors hereafter described to the extent they are relevant to an offense which did not directly result in death.".

Mr. SPECTER. Mr. President, it is not easy to deal with the constitutional aspects of this important matter in a very brief period of time, but this bill does raise a serious constitutional issue, because it imposes the death penalty where a specific death does not result from the defendant's act. But it is a natural and probable consequence of the sale of massive amounts of drugs as contemplated in this amendment, that people would die. Although there cannot be a pinpoint as to who specifically will be killed or will have been killed, it is the natural and probable consequence that a death would result.

Under our system of law, the death penalty may be imposed for sabotage, espionage, which are illustrative of a principle that the death penalty may be applied where a specific death does not result. Although the Supreme Court of the United States has stricken the death penalty for rape and in certain cases where the actor is very remote, where there is a major scheme, where there is a very serious societal issue, it is my legal judgment that the death penalty will be compelled and the full sense and reasons are set forth in the statement already incorporated in the RECORD. I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. In 1988, we passed death penalty legislation which became law on November 18, 1988.

That bill provided for the death penalty for a person engaged in felony level drug dealing who kills, causes or orders the killing of another person; and for anyone who kills a law enforcement officer in a drug-related killing.

Mr. President, we need to do more.

Seven months ago, on November 21, I introduced a second death penalty bill (S. 1955), providing for the death penalty for major drug dealers—whether there is a killing or not.

This bill, the Drug Kingpin Death Penalty Act, has 33 cosponsors. It applies to those who:

Manufacture or distribute: 30 kilograms (66 pounds) of heroin; 150 kilograms (330 pounds) of cocaine; 1.5 kilograms (3.3 pounds) of cocaine base or crack; and large quantities of other drugs.

It also applies to those who take in $10 million from drug trafficking in any 12-month period.

This proposal is constitutional. That is why the President has included this death penalty provision as title V of his anti-crime and anti-drug bill, the National Drug Control Strategy Implementation Act of 1990.

The only change I make in the President's proposal is provide that anyone convicted of these crimes who is not sentenced to death shall be sentenced to life in prison.

The first category of drug offenders eligible for capital punishment are offenders who are currently subject to a mandatory term of life imprisonment under 21 U.S.C. 848(b). This is the highest category of major traffickers recognized under Federal law. These are the so-called Super Kingpins.

A person is guilty of engaging in a continuing criminal enterprise [CCE] if he commits a Federal drug felony as part of a continuing series of Federal drug violations which are undertaken in concert with at least five other persons, where the defendant is an organizer, supervisor, or manager of such persons and derives substantial income or resources from the enterprise.

To be subject to mandatory life imprisonment under section 848(b), a continuing criminal enterprise violator must be a principal organizer, leader, or administrator of such an enterprise, and must either commit a violation involving enormous quantities of drugs—that is, 30 kilograms of heroin or 150 kilograms of cocaine—or be a principal organizer, leader, or administrator of a continuing criminal enterprise that has gross receipts of at least $10 million in a 12-month period.

Some may say you need a killing to impose the death penalty. Not true. In the past, Congress has prescribed the death penalty for treason, see 18 U.S.C. 2381, nuclear and other forms of espionage, see 10 U.S.C. 906a, and aircraft piracy, see act of September 5, 1961, 75 Stat. 466 (1961).

This amendment simply recognizes that the current scourge of drug abuse and of drug-related crime and violence represents an equally horrible attack on the security and well-being of the public, and that the use of the ultimate sanction should be available.

I would like at this time to share with my colleagues a few cases that illustrate the need to execute major drug dealers.

First, my first example comes from the case, United States versus Torres. This case involved up to $400,000 in heroin sales every week. The defendants were convicted under 21 U.S.C. 848(b) of being the principal administrators, organizers or leaders of a continuing criminal enterprise that earned at least $10 million over a 12-month period.

In the Court's words:

The Torres brothers founded and led an organization which was responsible for the distribution of millions of bags of heroin into an area already savaged by widespread drug addiction * * *.

The defendants distributed massive amounts of heroin in blatant disregard of the law in order to make a fortune.

It was irrelevant to them that they were capitalizing on the despair and lack of hope that lead to a life of dependency on drugs. They were unconcerned that the effect of their product was to ravage the bodies and minds of their customers.

All they cared about was the wealth they accumulated from the human misery they caused. It is not enough for these dealers in death to forfeit their cars and their cash. It is not enough for them to forfeit their liberty.

Justice will only be satisfied when those who murder our children, and when those who have murdered our domestic tranquility, are put to death for their crimes.

Second, another case involving so-called Super Kingpin is United States versus Monsanto. According to the Government's sentencing memorandum:

Peter Monsanto is the personification of the narcotics kingpin which Congress sought to eradicate permanently when it provided a penalty of life imprisonment without parole in the continuing criminal enterprise statute.

Peter and his brother Steven trafficked in heroin under the brand names "Sudden Death," "Homicide," and "Terror."

This case is particularly important because it illustrates one of the most basic and most persuasive reasons why we need the death penalty for major drug kingpins.

This case proves that not even life in prison will stop the traffickers.

Steven Monsanto ran his heroin network while serving a 30-year prison term, using the phones located at several Federal prisons to procure sources of supply as well as wholesale buyers. By his own admission at trial, he had earned "a couple of million dollars" this way.

According to the Governments sentencing memorandum:

The social costs visited upon the community by the activities of the Monsanto Crew are both severe and immeasurable. The Crew lieutenants poured huge volumes of heroin into some of the most impoverished areas in our region, thereby adding to the levels of crime and human misery in those place. * * *

In a word, each member of the Monsanto Crew dispensed death—sometimes slowly through the effects of addiction and disease; sometimes suddenly and dramatically with

the destructive power of guns and other deadly weapons.

This case shows the bankruptcy of a criminal justice system that fails to execute these animals. Consider Peter Monsanto's criminal history:

March 1971. Possession of narcotics. 3 years' probation.

May 1971. Resisted arrest for driving vehicle with forged drivers license.

December 1972. Charged with possession of a .38 caliber pistol and cocaine. After being sentenced to 3 years in prison, he pleaded for early release to continue his college education. Incredibly—in January 1975—he was released by the parole board.

What did Monsanto do after his release? What do you think? In May 1975, he was arrested for shooting at a police officer who chased him after he shot another drug dealer. Monsanto pled guilty to manslaughter, and was sentenced to 3 to 6 years in prison.

In April 1978, he again asked for early release, because he said:

I've learned since I've been incarcerated that I can't go through life breaking the law. * * * If given this opportunity I promise I won't let you down.

What did the parole board do? They released him again in June 1979.

And what did he do after his release? He began organizing his large-scale, multimillion-dollar heroin distribution business.

The second category of offenders eligible for capital punishment consists of the drug kingpins who attempt to obstruct the investigation or prosecution of their activities by attempting to kill persons involved in the criminal justice process, or knowingly directing, advising, authorizing, or assisting another to attempt to kill such a person.

The defendant would have to be a continuing criminal enterprise principal organizer, administrator, or leader, but would not necessarily have to traffic in the huge quantities that a super kingpin traffics in.

This amendment is a response to the flagrant and growing problem of extreme violence against witnesses in drug cases, as well as the increasing threat and reality of violence directed against criminal justice professionals.

The third category of death-eligible drug offenders fills a gap in existing law.

The Anti-Drug Abuse Act of 1988 enacted provisions authorizing capital punishment for certain drug-related killings, but did not cover killings resulting from aggravated recklessness, such as killings of innocent bystanders during a shoot-out among traffickers, or the death of users resulting from the knowing distribution of bad drugs.

This amendment fills the gap by authorizing the death penalty where the defendant, intending to cause death or acting with reckless disregard for human life, engages in a Federal drug felony, and a person dies in the course of the offense or from the use of drugs involved in the offense.

The standard of reckless disregard for human life refers to the very high level of culpability—that is, knowingly creating a grave risk of death to another—that the Supreme Court approved as adequate to support the imposition of capital punishment in *Tison* v. *Arizona*, 481 U.S. 137 (1987). Tison involved defendants who did not personally kill the victims or intend to cause their death, but who created a situation that resulted in death by freeing two highly dangerous inmates from prison, arming them, and assisting them in waylaying and handling the victims, who were actually killed by the inmates.

The Court states that:

The reckless disregard for human life implicit in knowingly engaging in criminal activites known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment. * * *

Some opponents of the death penalty will say that only crimes involving a killing can be punished by the death penalty, but no Supreme Court decision made so far is definitive on this issue.

In the key case of Coker versus Georgia, decided in 1977, the Supreme Court determined that the proper standard for the death penalty is whether capital punishment is excessive in relation to the crime committed.

Whether one thinks the death penalty is excessive depends on how destructive you think drug trafficking is. I think the evidence is overwhelming that drug trafficking is such a destructive crime that the death penalty is what the major drug dealers deserve.

The drug traffickers know how dangerous their crimes are. They know that others will die as a result of their illegal activities.

They know that it is not one death, but tens of thousands of deaths, that result from their crimes.

The drug traffickers are destroying milions of lives. It is time to stop them. It is time to put them to death.

Mr. President, I will conclude with an excerpt from an article in the Washington Post, entitled, "For Pregnant Addict, Crack Comes First," December 18, 1989:

Crack use by pregnant women is the root cause of a steep rise since January 1988 in the number of babies dying in the city.

An adult who smokes crack stays high for a few minutes and the drug remains in the body for about 48 hours. But the fetus can be exposed to that cocaine for four or five days. The cocaine passes through the placenta and into the baby's system. The placental membranes tighten, slowing or cutting off the flow of oxygen and nutrients to the fetus, whose small world is completely contaminated. Some fetuses can die outright from stroke. Some can be born with deformities. The majority suffer retarded growth and development. * * *

Mr. President, that is what life has become for too many Americans. It is a living death. It is death that comes too soon.

As one drug story says, it is like "Sitting on a Time Bomb Waiting for Kids To Die."

Mr. President, we are sitting on a time bomb. Every hour of every day, we are waiting for kids to die.

This amendment says those who make the time bombs that kill our kids should themselves face death. It is a matter of simple justice.

I urge my colleagues to give this amendment their full support.

Mr. THURMOND. Mr. President, I rise today in support of my distinguished colleague Senator D'AMATO's amendment to provide the death penalty for individuals who engage in large-scale drug trafficking activities. This legislation would provide the death penalty for major drug kingpins, who are currently subject to mandatory life imprisonment, regardless of whether there is a killing. It is similar to legislation which I joined with Senator D'AMATO in introducing during the final days of the last session. This important amendment responds to the call for the expanded use of the death penalty by President Bush and drug czar William Bennett.

In 1988, Congress passed legislation to provide the death penalty for murders by drug kingpins and for drug related murders of law enforcement officers. By passing this important legislation as part of the Anti-Drug Abuse Act of 1988, Congress acknowledged that capital punishment is indeed a needed and proper weapon in our Nation's effort to fight the drug war. This action on the part of the 100th Congress was a valuable first step. However, we did not go far enough. We must send a signal that our Nation is prepared to appropriately punish those who cause so many deaths—major drug kingpins. Drug kingpins are responsible for untold deaths and are as respnsible for drug related murders, which occur on our streets every day, as those who pull the trigger.

Mr. President, this amendment provides that major drug traffickers—organizers, leaders, or administrators of continuing criminal enterprises—may be subject to the death penalty if the enterprise traffics in 30 kilograms of heroin, 150 kilograms of cocaine, or other major amounts of illicit narcotics. They may also be subject to the death penalty if the criminal enterprise receives $10 million in gross receipts during any 12-month period from the manufacture, importation, or distribution of illicit drugs. Under current law, these individuals are subject to mandatory life imprisonment.

Regarding constitutional procedures, this legislation builds upon the death penalty procedures put in place last year. The provisions passed last year and the additional procedures included in this amendment satisfy the constitutional standards set by the Supreme Court. The amendment mandates a bifurcated process which the factfinder must follow when determining whether a sentence of death is justified. This is a two-step process in which the jury must determine the guilt or innocence of the defendant and then a second hearing to determine whether a sentence is appropriate. In addition, the jury must determine whether certain threshold requirements exist. These threshold factors are: First, the defendant has previously been convicted of another major drug offense for which a sentence of death was authorized by statute; second, in the commission of the offense for which he is being punished, the defendant knowingly created a grave risk of danger to the public; or third, the defendant intentionally and specifically engaged in the crime, knowing that the crime created a grave risk of death to a person, such that his participation constituted reckless disregard for human life. If none of these are found to exist, a sentence other than death would have to be imposed.

Mr. President, briefly, I will discuss why the death penalty is constitutional for offense where no death results. Opponents of this legislation will claim that it is unconstitutional to execute an individual where death has not resulted. Yet, the Supreme Court has not addressed this issue on point. The eighth amendment's rule of proportionality requires that the severity of punishment be proportionate to: First, the gravity of the injury caused by the offense; and second, the moral culpability, or blameworthiness, of the offender's state of mind. I believe that the death penalty for certain cases of large scale drug trafficking meets this burden.

In fact, the Department of Justice believes that Congress may constitutionally impose such a penalty on major drug traffickers. As stated by Assistant Attorney General Ed Dennis at a recent Senate Judiciary Committee hearing on the death penalty, "Not since the dawn of the nuclear age, have we faced a threat more pernicious, more dangerous to the security and welfare of the Nation than the current crisis involving the large-scale importation and sale of narcotics." In 1983, it was estimated that the cost of drug abuse to America in terms of lost productivity, crime, and health care services was almost $60 billion. In New York City, in 1988, 90 percent of all male arrestees tested positive for drug use. According to the Department of Justice, over 22 million Americans have tried cocaine and there are between 2 and 3 million cocaine addicts in the United States today. In addition, there are as many as 750,000 heroin addicts. These figures reflect that the importation, manufacture, and abuse of illicit narcotics is indeed one of the greatest problems affecting the health, welfare, and security of our Nation.

Mr. President, recent Supreme Court decisions also support the claim that such a penalty is constitutional. In Tison versus Arizona, the Court found that reckless indifference to the value of human life may be every bit as shocking to the moral sense as any specific intent to kill. The Court stated in its conclusion "that the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment * * *." Most major drug traffickers do act with reckless disregard for human life and should be subject to the death penalty. In fact, one of the threshold factors discussed earlier requires that the defendant have acted with reckless disregard for human life.

Large scale drug traffickers threaten millions of people and engage in this destructive behavior purely for pecuniary gain. The Supreme Court in Gregg versus Georgia determined that the issue of whether the defendant acted for pecuniary gain is a factor to be considered relevant in determining blameworthiness and the appropriate punishment. These cases clearly support the argument that the death penalty is constitutional for nonhomicidal drug traffickers.

In closing, the link between the activities of large-scale drug enterprises and death is unquestionable. Rates of drug related murder continue to rise in cities across our Nation. Reports of bystanders deaths due to drug-related gun fights and drive-by shootings continue to climb. According to drug czar William Bennett, intravenous drug use is now the single largest source of new AIDS virus infections, and as much as one-half of all AIDS deaths are drug related. According to the Department of Justice, in the 4-year period from 1985 through 1988, over 14,000 overdose deaths were reported in 26 metropolitan areas, excluding New York City. It is time for Congress to broaden the category of offenses for which the death penalty can be applied to include those individuals who pose the greatest threat to our Nation's health and safety—drug kingpins. We should not hesitate any longer. The law-abiding citizens of our Nation demand action and they demand it now.

For these reasons, I urge my colleagues to support this important amendment.

Mr. KENNEDY. Mr. President, I oppose the D'Amato amendment to expand the use of the death penalty for drug-related crimes.

Let us tell the American people the truth about this amendment: The death penalty is not the answer to the drug epidemic. We all know the frustration that people feel over the inability of the Government to control drug trafficking. But the solution is not to increase the number of crimes for which defendants can be executed. All we will accomplish by passing this amendment is the diminution of our dignity as a Nation. "Off with their heads" is not the answer to the drug crisis or any other challenges we face.

As an antidrug strategy, the death penalty is a paper tiger. It looks tough. It sounds tough. It does nothing. Real gains against drugs will be made when students are persuaded that drug use is harmful, when communities rally to create a climate in which drug use is unacceptable, and when treatment is provided to all who plead for the chance to kick their drug habit. The death penalty is not helpful in these efforts and it may be harmful. It is full of sound and fury, but it signifies nothing.

The pending amendment would expand the scope of the death penalty in a number of ways. Most significantly, and most objectionably, it would expand the scope of the death penalty already authorized for the crime of engaging in a continuing criminal enterprise. This is a serious crime and it deserves serious punishment. Defendants convicted of violating this statute currently face minimum sentences of 20 years for the first offense, 30 years for the second offense and mandatory life imprisonment for the most culpable defendants. Like all prison sentences imposed since November 1987, these are real time sentences. Federal parole no longer exists.

There is one additional penalty already authorized under this statute. In 1988, Congress established the death penalty for drug kingpins who cause death in the course of their crimes.

These are stiff sentences. Nobody can legitimately call a mandatory life sentence a slap on the wrist. But the proponents of this amendment are not satisfied. They want to make the death penalty applicable to defendants whose crimes do not result in death. This proposal is bad constitutional law and bad public policy.

In my view, imposing the death penalty for a crime in which death does not result is unconstitutional under the eighth amendment. This punishment is excessive in relation to the crime committed, and as such the punishment is cruel and unusual.

Although the Supreme Court has never ruled on this precise question,

two cases are relevant. In Coker versus Georgia in 1976, the Court struck down a Georgia statute that authorized the death penalty for rape. The Court held that the death penalty, which is unique in its severity and irrevocability, is an excessive penalty for the rapist who, as such, does not take human life.

In Enmund versus Florida in 1982, the Court held that the death penalty could not be imposed on the getaway driver in a robbery in which two victims were killed. Even though the defendant was legally responsible for the killings under the felony murder rule, the death penalty could not be imposed because the connection between the defendant's conduct and the deaths of the victims was too indirect.

Enmund remains good law. It has been followed in the recent cases of Cabana versus Bullock in 1986 and Tison versus Arizona in 1987. Those cases refer to the Enmund Rule: To be eligible for a sentence of death, an individual must have actually killed, attempted to kill or intended to kill someone. The Tison case holds that a defendant can be executed if he killed with reckless disregard for life rather than a specific intent to kill. But the law remains that a death must directly result from the defendant's conduct and the killing must be an element of the offense. Neither of those requirements is satisfied in this amendment.

The administration itself has questioned the constitutionality of a proposal similar to the one now being advanced. In testimony before the Judiciary Committee last September, Assistant Attorney General Edward Dennis cited the Enmund case for the proposition that the eighth amendment does more than require that a death-sentenced defendant be legally responsible for the killing as a matter of state law; it requires that he himself have actually killed, attempted to kill, or intended that lethal force be used. Mr. Dennis testified that a death penalty provision should require the specific intent to kill.

Now the administration has changed its tune. Abandoning its defense of constitutional principles and shamelessly whetting the country's appetite for vengeance, the Justice Department has endorsed the pending amendment. The administration may have changed its mind, but the requirements of the Constitution have not changed. Under the relevant Supreme Court precedents, the administration is wrong, and this amendment is unconstitutional.

The central premise of the Supreme Court's death penalty cases is that there must be a specific appraisal of the defendant's personal responsibility and guilt before the death penalty may be imposed. However frustrated we are with the drug epidemic, the Constitution does not permit us to execute scapegoats. We cannot alleviate the current crisis by putting a few drug dealers to death.

In addition to being unconstitutional, imposing the death penalty for a crime in which death does not result is unwise public policy. This penalty does not serve the purpose of deterrence. Drug dealers face the threat of death every day in the increasingly violent drug trade. Yet this daily threat has not put a measurable dent in the availability of drugs.

This amendment is also bad public policy because it violates an important principle of criminal sentencing: proportionality. By punishing people in proportion to their conduct, we provide incentives for people to minimize their criminal conduct. But if a drug kingpin knows that he faces the death penalty whether or not he kills someone in the course of his conduct, he has no reason to refrain from killing.

If there is to be a Federal death penalty, let it at least be characterized by a sense of proportionality. As one Federal judge has put it, it will profit us very little if we win the war on drugs but lose our soul as a Nation in the process. I urge my colleagues to reject this amendment.

Mr. BIDEN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has expired on the D'Amato amendment. Under the unanimous consent request, the Chair recognizes the Senator from California to offer an amendment.

AMENDMENT NO. 2098

(Purpose: To provide additional protections for the civil rights of Americans by authorizing the imposition of the death penalty if death results during the commission of an act in violation of sections 241, 242, 245, and 247 of title 18, United States Code, relating to civil rights)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 2098.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

TITLE —CIVIL RIGHTS

SEC. 01. SHORT TITLE.

This title may be cited as the "Civil Rights Protection Act of 1990".

SEC. 02. DEATH PENALTY FOR MURDER DURING THE COMMISSION OF AN ACT IN VIOLATION OF CIVIL RIGHTS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

Mr. WILSON. Mr. President, the amendment authorizes the death penalty for violations of existing civil rights laws when a death results.

We have long cherished the right of all Americans to seek to pursue their right to vote, to seek educational, economic opportunities, to seek the right to exercise religious beliefs. The story of our Nation is, in fact, a 200-year struggle to secure those rights, and many Americans have risked their lives in order to make that struggle a successful one.

We are reminded of Rosa Parks' refusal to move to the back of the bus. We were inspired by James Meredith's courage in resisting not only taunts, but physical assault in pursuit of higher education and access for blacks. We must never forget the hundreds who suffered physical violence and death simply to exercise their constitutionally protected right to vote. We must not forget the Lemuel Penns, or Max Kowalskys, targets of hatred, victims of murder, simply because one was black and other was a Jew.

My amendment will rightfully impose a level of punishment that matches the values and rhetorical defense we have given to the essential, yet fragile rights of all Americans from the time of George Washington to the time of George Bush. If we are firmly dedicated to preserving those ideals so eloquently stated by our leaders, the time has come to respond with the strongest form of punishment possible. If we are in fact to secure those rights, then let us do so not with eloquence, but by enactment of a kind of protection that will provide a deterrent. By doing so we will also send a message throughout our Nation, that all Americans, regardless of race or religious beliefs, will be protected in the exercise of their civil rights by enforcement of the ultimate penalty and deterrent.

No rhetoric, however eloquent, can be as credible or convincing a declaration that we will safeguard civil rights as will the enactment of this protection.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. I do not see anybody who has decided to argue against this. I am delighted to yield 2½ minutes to the Senator from California if he wants to continue with his exposition.

Mr. WILSON. Mr. President, 2 years ago I stood on the floor of the Senate to introduce the Law Enforcement Protection Act, which authorizes the death penalty for the murder of a law enforcement officer if committed in furtherance of criminal drug activity. This legislation, along with additional provisions authored by my friend and colleague from New York, Senator D'AMATO, were included as part of the Anti-Drug Abuse Act of 1988.

The D'Amato-Wilson death penalty provisions represent a strong and swift response to a problem that continues to plague our Nation. I rise today to propose a similar measure in response to a tragedy with roots that have shaken the foundation of this country since its founding.

Mr. President, my amendment would authorize the imposition of the death penalty in civil rights cases in which someone is murdered. While existing civil rights protection laws provide for up to life imprisonment when a death occurs, my amendment would extend to those protected by these laws the further deterrent effect of the death penalty under the new procedures included in the bill now before us.

We have long stood for the proposition that acts perpetrated against any racial or religious group must not and will not be tolerated. We have long strived for a civilized nation in which we do not just tolerate our racial and religious diversity, but are wise enough to celebrate it.

The writings of our leaders past and present reflect this lofty standard. In a letter to the Hebrew congregation of Newport, RI, George Washington stated:

> For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support. * * * May the children * * * who dwell in this land, continue to merit and enjoy the good will of the other inhabitants, while every one shall sit in safety under his own vine and fig-tree, and there shall be none to make them afraid.

Nearly two centuries later, President John F. Kennedy shared the Father of our Country's time-honored sentiment when he stated:

> This Nation was founded by men and many nations and backgrounds. It was founded on the principle that all men are created equal, and that the rights of every man are diminished when the rights of one man are threatened.

We have made tremendous progress to advance the cause so eloquently stated by these champions of our American heritage. Ours has been a long and intense struggle to dismantle the social and legal barriers that have denied diverse groups access to public transportation and accommodations, quality education, and the fruits of greater economic opportunity.

Yet, despite all that we have accomplished, a small ugly cloud of religious and racial hatred still hangs over this Nation.

According to a 1989 survey published by the Anti-Defamation League, more crimes motivated by racial or religious animosity were committed in the last 2 years than in the previous two decades.

Further, in its most recent survey, the ADL reported that hate crimes against members of the Jewish faith—including murder, bombings, arson, threats, harrassment, and property desecration—last year increased 13 percent nationwide.

The Southern Poverty Law Center released a study of U.S. hate crimes that concluded that neo-Nazi skinheads could be the "domestic terrorists of the 1990's."

If we are a nation committed to overcoming racial and religious intolerance, we must be prepared to enact and enforce laws that are consistent with that commitment. Yet, recent history demonstrates that this has not been the case in the most extreme examples of racial and religious hatred.

In 1965, three men were sentenced to only 10 years for gunning down Army Col. Lemuel Penn. Colonel Penn, who was black, was traveling through Athens, GA, on his way to his home here in Washington. Colonel Penn's tragic death was the culmination of a day-long spree of violent racial harrassment committed by three thugs.

In 1980, Joseph Paul Franklin was found guilty of gunning down two black men as they were jogging in a park in Utah. Franklin stated to the court that they deserved to die for race mixing because they were jogging with two women who were white. He received two consecutive life sentences. Franklin also faced charges of race-related slayings in two other States.

In 1988, Mulugeta Sera, an Ethiopian immigrant residing in Oregon, was beaten to death with a baseball bat by three men associated with a white supremacist skinhead group. One assailant is serving a 30-year sentence for murder, and the other two attackers are each serving 10-year sentences for manslaughter.

That same year, four young men, associated with an anti-Indian organization, a group of psychopaths who called themselves "Dotbusters," brutally murdered a man of Indian heritage in New Jersey. One of the four assailants was 18, but all were convicted of either aggravated or simple assault. The maximum term to which they could be sentenced is 10 years.

Max Kowalsky was a survivor of the Nazi holocaust who came to America to seek an end to the anti-Semitism of Nazi Germany. Yet, the cloud of hatred never left him. Last year, Mr. Kowalsky discovered swastikas painted across the doorway of his apartment in Brooklyn. When he confronted the perpetrator, he was stabbed to death.

Mr. President, my amendment would strike a decisive blow against fatal hate crimes by authorizing the death penalty if death results during the commission of acts in violation of Federal civil rights laws, specifically sections 241, 242, 245, and 247 of title 18, United States Code.

The following types of acts are prohibited by these laws:

When a government official or two or more persons conspire to injure or intimidate an inhabitant of the United States in the free exercise of his or her constitutional or statutory rights.

When a person willfully injures or attempts to injure any person who is attempting to vote, seek employment with the United States, serve as a jury member in a Federal court, testify as a witness in a Federal trial, or obtain benefits of a program receiving Federal assistance.

When a person willfully destroys or attempts to destroy any religious property or facility because of the religious nature of that property, or obstructs an individual's right to freely exercise his or her religious beliefs.

Mr. President, the Judiciary Committee has recommended to the Senate that we authorize the imposition of the death penalty if death results during the commission of the crimes of kidnaping, bank robbery, hostage taking, racketeering, and genocide. It has further proposed that the death penalty be authorized if a Federal prisoner is convicted of murdering a fellow prisoner.

I endorse the committee's proposals. By authorizing the death penalty in such cases, we are making a firm commitment to put an end to these heinous and violent acts. It was that same sense of commitment to end the scourge of drug trafficking that resulted in the enactment of the D'Amato-Wilson death penalty provisions in 1988.

Our commitment to protecting the public from these violent crimes should be extended to include fatal criminal acts motivated by racial or religious hatred. Certainly, a racist skinhead who murders an individual based on his or her skin color or religious heritage should receive the same sentence imposed on a criminal who murders a hostage.

Clearly, the degree of punishment we intend to enforce must be linked to the value that we place on the rights and privileges Americans enjoy. We value the individual's right to live free of the scourge of drugs or the horrors of terrorist acts. That is why the death penalty is imposed on drug kingpins and terrorists who murder during the commission of their crimes.

Mr. President, we have long cherished our right to vote, our right to seek educational and economic opportunities without regard to our race or color, and our right to exercise our religious beliefs. The story of our Nation is a 200-year struggle to ensure that these rights are protected.

Many Americans risked their lives to make this struggle a successful one. We are reminded of Rosa Parks' refusal to move to the back of the bus; we are inspired by James Meridith's quest to seek higher education; and we must never forget the hundreds who suffered physical violence and even death simply to exercise their constitutionally protected right to vote.

Yet, we must not forget the Lemuel Penns and the Max Kowalskys. They were not activists in the causes of civil rights and religious liberty, but they were part of the struggle by their very existence.

My amendment will rightfully impose a level of punishment that matches the values and the rhetorical defense that we have given to these essential yet fragile rights. If we are firmly dedicated to preserving those ideals so eloquently stated by our Nation's founders, we must be prepared to respond with the strongest form of punishment possible against those who murder an individual in an attempt to deny the victim the right to participate in activities protected by law, and by our Constitution.

Mr. President, we may not through the passage of legislation put an end to racial or religious hatred. Yet, we certainly can affect conduct by sending a clear message to those who harbor ill will that we will not stand for and will punish severely acts prompted by such hatred.

And by doing so we can send a message throughout our Nation that all Americans regardless of race or religious beliefs will be protected in the exercise of their civil rights by enforcement of the ultimate penalty and deterrent. No rhetoric, however eloquent, can be as credible or convincing a declaration that we will safeguard civil rights as will enactment of this protection.

Does the Senator from South Carolina wish to make a statement?

Mr. THURMOND. Mr. President, I rise today in support of the distinguished Senator from California's amendment to the underlying crime bill. This important amendment would authorize the death penalty for civil rights violations which result in murder. Under current law, it is a criminal offense for someone, in furtherance of a civil rights violation, to injure, intimidate, or interfere with another person. If, as a result of the offense, death occurs, the defendant is subjected to a possible sentence of life imprisonment. This amendment would amend current law to provide for the possible imposition of the death penalty in such cases.

Title I of the underlying bill contains a comprehensive proposal which would establish the necessary constitutional procedures for the imposition of the death penalty for numerous crimes for which the death penalty is currently authorized. In addition, it would authorize the death penalty, for the first time, for certain attempts to murder the President, murder by a Federal prisoner serving a life term, murder for hire, murder in aid of racketeering, and genocide. This amendment would add an additional crime to the list of death eligible crimes at the Federal level, civil rights murders.

Mr. President, while current civil rights protections provide for up to life imprisonment when a death occurs, this amendment would provide the greater deterrent of the death penalty. Our Nation's commitment to protecting the public from the perpetrators of heinous murders should be extended to protecting the public from similar murders motivated by racial, religious, or ethnic hatred. Without question, a violent skinhead or neo-Nazi who brutally murders someone simply because of his race or religious heritage should be subjected to a possible death sentence.

In closing, I am fully aware that providing the death penalty for civil rights murders will not eliminate racial, religious, or ethnic hatred. However, this amendment sends a message to those who would choose to take the life of someone else in furtherance of their prejudice—that if you do so, you must pay with your life. We should not hesitate to pass this amendment.

For these reasons, I urge my colleagues to support this important amendment.

Mr. KENNEDY. Mr. President, this amendment would authorize the death penalty for Federal civil rights violations in which a death results from the crime. It is an unwarranted expansion of the ultimate penalty of death and is contrary to the civil rights of Americans.

The Wilson amendment may appear politically attractive to some of my colleagues. In a single vote, you can appear both tough on crime and sensitive to civil rights. Well, this amendment accomplishes neither of those goals. For reasons I have explained at length on other occasions, the death penalty is not tough on crime. The death penalty is not a deterrent to crime. And certainly friends of this amendment are not friends of civil rights.

Mr. President, the civil rights community has not sought this amendment, indeed many of the strongest advocates of civil rights oppose this amendment. I ask unanimous consent that the text of letters from the NAACP Legal Defense Fund, the American Civil Liberties Union, and the National Council of Jewish Women be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. Mr. President, it is ironic that the Senator from California would advertise this as a civil rights amendment, because capital punishment itself, as practiced in the United States today, constitutes a gross violation of civil rights. In many jurisdictions, the penalty is imposed in a racially discriminatory fashion. In study after study, experts have found that those who kill white people are many times more likely to receive the death penalty than those who kill blacks. And there is disturbing evidence that black defendants are more likely to be given a death sentence than white defendants.

In an earlier vote on this crime legislation, the Senate struck the Racial Justice Act from the bill. Regrettably, the Senate declined to take legislative action to remove some of the racially discriminatory taint from capital punishment in this country. As a result, there is every reason to expect that the death penalty will continue to be imposed in a manner that is repugnant to civil rights.

I take a back seat to no one in this body in my concern for the civil rights of all Americans. But I will vote against the Wilson amendment because it is not a civil rights measure. It is a wolf in sheep's clothing. It will do damage to the civil rights of Americans by expanding a racially discriminatory penalty to new crimes.

The Wilson amendment is objectionable for another reason. It would authorize the death penalty for crimes in which death resulted, but was not intended. I, for one, continue to believe that the death penalty is cruel and unusual in all circumstances. But even those Senators who support the penalty should see the wisdom of limiting capital punishment to those crimes in which the defendant intended to cause the victim's death. To do otherwise is contrary to the teachings of the relevant Supreme Court precedents and contrary to fundamental principles of proportionality.

In sum, Mr. President, the pending amendment suffers from a bad case of false advertising. It is not a real crime

control measure. It is not a real civil rights measure. It borrows the rhetoric of tough crime control and is wrapped in the mantle of civil rights, but it does damage to the very principles it purports to uphold.

I urge the Senate to reject the amendment of the Senator from California.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.,
New York, NY, June 27, 1990.

Re Senator Wilson's proposed Amendment to S. 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: I have just learned about an amendment to S. 1970 being offered by Senator Wilson. The amendment would provide the death penalty as an alternative punishment for the criminal violations of an individual's civil rights specified in 18 U.S.C. sections 241, 242, 245(b), and 247, if the crime results in the death of the individual.

The Legal Defense Fund believes that the amendment proposed by Senator Wilson exacerbates current problems of racial discrimination in the administration of capital punishment.

The available evidence establishes that the death penalty is applied in a racially discriminatory manner, particularly in relation to the race of the victims of homicide. The Congress' own investigative agency, the General Accounting Office, has unequivocally confirmed the discriminatory application of capital punishment.

There is no reason to believe that a federally-administered death penalty will operate any differently. Black-victim homicides will be punished only rarely with the death penalty. White-victim homicides will be punished, in relative terms, much more frequently with the death penalty.

Further, there is no reason to believe that this racially discriminatory sentencing pattern will be altered by the nature of the crime. In many southern states, black people are already a substantial portion of, if not the majority of, the victims of homicides. Yet, the death penalty is rarely imposed for black-victim homicides as compared to white-victim homicides. Given this phenomenon, it is plain that black people's lives are starkly under-valued in our society—as victims of homicides just as in every other aspect of public life. That the crime for which punishment is sought involves the deprivation of a black citizen's civil rights thus will be immaterial to the evaluation of the seriousness of the crime. Experience has unambiguously taught us that whether the crime is first degree murder or any other classification of homicide, if the victim is black, the crime is viewed as less serious.

In light of the well-established facts concerning race discrimination in the use of the death penalty, it is particularly ironic that Senator Wilson has sought to expand the death penalty to civil rights-violative homicides. On the surface, his proposal may look like a measure protective of civil rights. However, when the reality of racially-biased imposition of the death penalty is examined, it is clear that Senator Wilson's proposal is not protective of the civil rights of victims of civil-rights violative homicides. Indeed, provision of the death penalty for such crimes would have the opposite effect—of interjecting civil rights violations in the prosecution of these crimes.

Finally, it is important to see Senator Wilson's proposal for what it is. To my knowledge, no one in the civil rights community has sought to have the death penalty for civil rights-violative homicides. No one has argued that the death penalty will provide a better deterrent against such crimes than the punishments that are now available. Indeed, many in the civil rights community share LDF's view that the death penalty is never the answer to violent crime in our society; it is not more effective as a deterrent than imprisonment; it costs far more than imprisonment and thus absorbs resources that might otherwise address the roots of violent crime; and it is racist.

Accordingly, Senator Wilson's proposal is merely an attempt to appear even-handed and protective of civil rights. It is, however, a poorly camouflaged ruse. If his concerns were faithful to the concerns of the civil rights community, he would instead champion the Racial Justice Act and seek to limit the death penalty rather than widen its availability.

In view of the above we believe it would be ill-advised for the Senate to adopt Senator Wilson's proposed amendment.

Sincerely,

JULIUS L. CHAMBERS,
Director-Counsel.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, June 28, 1990.

Re Senator Wilson's proposed Amendment to S. 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: We write in opposition to the Wilson amendment to S. 1970 which would allow the states to prosecute criminal violations of civil rights as specified in 18 U.S.C. sections 241, 242, 245(b), and 247, if the crime results in the death of an individual.

The American Civil Liberties Union maintains that the death penalty violates the eighth amendment prohibition against cruel and unusual punishment under all circumstances because it involves no more than the pointless infliction of pain. *Cf. Gregg* v. *Georgia.* There is simply no credible empirical evidence that the death penalty deters crime. The homicide rates of states that have and use the death penalty are indistinguishable as a group from those that impose a punishment other than death for murder.

Moreover, as the General Accounting Office recently documented, the death penalty is used systematically in a manner that undervalues the lives of people of color, by treating crimes against white victims as more serious than crimes against others and by selecting African-American defendants for death under circumstances where similarly situated white defendants would not face such punishment.

The Wilson amendment purports to demonstrate a concern for civil rights by punishing criminal violations of civil rights with death. As is true of the death penalty generally, there is no reason to believe that the Wilson amendment will deter this type of crime. To the contrary, this type of criminal activity is characteristically clandestine with the perpetrators taking care and expecting to avoid detection and apprehension.

Finally, it is hard to imagine that a criminal justice system that has historically and typically undervalued the lives of people of color will now, because of the Wilson amendment, treat these crimes as more serious.

In sum, the Wilson amendment will do nothing to address violations of civil rights. It only expands the bankrupt use of the death penalty to yet another category of crimes.

Very truly yours,

MORTON HALPERIN,
Director.
DIANN RUST-TIERNEY,
Legislative Counsel.

NATIONAL COUNCIL OF JEWISH WOMEN,
New York, NY, June 28, 1990.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the National Council of Jewish Women (NCJW), I am writing in opposition to an amendment that Senator Pete Wilson has proposed to S. 1970. This amendment would authorize the death penalty for criminal violations of an individual's civil rights specified in 18 U.S.C. sections 241, 242, 245(b), and 247, if the crime results in the death of the individual. Section 247 addresses criminal violations of an individual's civil rights which are related to the damage of religious property or obstruction of the free exercise of religious rights.

The National Council of Jewish Women does not believe that capital punishment is the answer to violent crime or to civil rights violations relating to the free exercise of religion. In addition, we are concerned that the Wilson amendment would only serve to further exacerbate racial discrimination in this country, rather than to deter is.

NCJW believes that the best way to show support for civil rights in the context of S. 1970 would be to pass the Racial Justice Act which seeks to eliminate racial discrimination in death penalty sentencing.

Sincerely,

JOAN BRONK,
National President.

The PRESIDING OFFICER. All time on this amendment has expired.

The Chair now recognizes the distinguished Senator from Delaware, the chairman of the committee.

AMENDMENT NO. 2099

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 2099.

Mr. BIDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment (No. 2099) is printed in today's RECORD under "Amendments Submitted.")

Mr. BIDEN. Mr. President, my colleagues have heard this case made a number of times. We have had before us the Director of the FBI on numerous occasions. We have a serious drug problem. If my colleagues will look at the back of the room the two charts at

this hour of the night. The end result of the Biden amendment does two things, it adds 1,000 new FBI agents as the Director of the FBI pointed out, he is only able to target half of the drug organizations in the country now. He needs a minimum of 1,000 additional agents to target the second half.

The second forcus of this amendment is rural crime. Despite the conception that crime is an urban problem, drug trafficking in rural areas is widespread and growing. Adding 250 drug enforcement agents will require a minimum of 3 DEA agents in every State, and in large rural States like Montana, and Idaho, and the State of Washington, they have serious problems with methamphetamine and there are not nearly enough DEA agents to organize local officials to deal with that.

Mr. President, to this point, much of the debate on S. 1970 has focused on the dealth penalty, habeas corpus reform, and firearms.

And while these provisions are certainly needed, and should restore a measure of public confidence in our criminal justice system, candor requires us to admit that they will have little direct impact on the driving force of the violent crime problem in America: Drug trafficking and abuse.

Over the last 6 years, I have worked with Senator THURMOND, law enforcement groups and the administration to give police and prosecutors the tools they need to crackdown on organized crime and drug trafficking. We have passed—literally—thousands of pages of hard-hitting new laws, creating more than 200 new Federal crimes and penalties.

What we need to do now is to enforce these laws. This is the single most effective way to "get tough" on drug traffickers and violent criminals. And fully enforcing these laws will require hundreds of additional prosecutors and thousands of new FBI and DEA agents. That's what this amendment does.

At a hearing last fall, FBI Director William Sessions told my committee that the FBI has identified more than 400 drug trafficking organizations, but is attacking only about one-half of them. The Director stated that we would need approximately 1,000 additional agents to target every group the FBI has identified.

So, my amendment provides those additional 1,000 agents—to go after all the drug-trafficking groups—while, without my amendment, we will be adding only 272 new agents next year.

My amendment also boosts funding for the Drug Enforcement Administration by $100.5 million. These funds are needed to:

Post at least 250 additional DEA agents in rural areas, to work with local police agencies to fight drug trafficking in rural areas;

Increase the number of DEA agents tracking down chemical shipments used to make illegal drugs; and

To expand DEA/State/local task forces to beef-up street-level enforcement efforts.

The second focus of this amendment is rural crime. Despite the common perception that crime is an urban problem, drug trafficking and crime in rural areas is widespread and growing.

Based on Senators BAUCUS' and PRYOR's "Rural Drug Initiative," our amendment substantially increases the Federal commitment to fighting crime in rural America, providing more resources, more manpower, and more training.

There are 20 States in the country that have fewer than 10 DEA agents for the entire State. Worse still, 14 States have fewer than five agents.

Our amendment beefs up the Federal crime fighting effort in these States by adding new grants for rural law enforcement agencies; increasing the minimum number of DEA agents in rural States from 3 to 10; and doubling the number of rural agents who receive specialized drug enforcement training.

The Biden amendment also contains many new legal tools for prosecutors and judges; tools that ensure that offenders are swiftly prosecuted and incarcerated.

Specifically, it includes three proposals to protect the public while breaking offenders' cycle of drug abuse and crime.

First, this amendment includes a proposal written by Senator SIMON which assures that offenders awaiting sentencing and appeal are not free to commit new crimes. This "mandatory detention" policy for dangerous criminals is a much-needed reform.

Second, and again based on a proposal originated by Senator SIMON, this amendment requires drug testing for all defendants released on probation, parole, or supervised release.

And third, the amendment includes provisions that I drafted to provide the Attorney General with new powers to shut down "shooting galleries" and "crack houses."

Finally, the amendment contains several other provisions to strengthen civil forfeiture laws; toughen public corruption statutes; create new penalties for drug-related public corruption; aid undercover investigations of property—such as theft—and more.

In sum, this amendment contains many provisions that would make a real difference in fighting crime in this country, and if the administration and other Senators are as serious about fighting crime as their rhetoric says that they are, they will support our amendment.

I commend to my colleagues the wisdom of this amendment.

I ask unanimous consent to add Senator BRADLEY as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I am proud to join Senators BIDEN, SIMON, BAUCUS, and PRYOR in cosponsoring the law enforcement amendment to S. 1970, the omnibus crime bill. This amendment would add 1,000 FBI agent, 10 DEA agents, 500 border patrol officers, and 480 Federal prosecutors to our Nation's arsenal in the war on drugs. Equally important, for rural America, the law enforcement amendment includes the rural drug initiative which will dramatically improve the law enforcement capabilities of smaller, rural States like Iowa.

The rural drug initiative targets an additional $20 million for law enforcement assistance for rural areas. It calls for the creation of a rural drug policy coordinator—a rural drug czar—within the Office of National Drug Control Policy. And it would assign not less than 10 DEA agents for 18 targeted rural States, including my home State of Iowa.

Mr. President, when the President released his second national drug control strategy in January, I was discouraged to discover that it made only passing reference to the drug problem in rural America.

Unfortunately, the President's plan may have missed rural America, but the drug dealers haven't.

Since the President wasn't prepared to lend our rural communities the weapons they need to win the drug war, I have worked with my colleagues, Senators BAUCUS and PRYOR, to push a rural drug plan through Congress.

Drugs have reached into the heartland of America. From my visits across Iowa, meeting with local police, educators, and community leaders, I was startled to find that crack cocaine is the No. 1 illegal drug of choice.

Since 1983, the street value of cocaine and the number of cocaine seizures has tripled.

The number of people admitted for cocaine addiction treatment in Iowa doubled in 1987, doubled again in 1988, and continues to escalate.

The number of drug related deaths in Iowa increased by 17 percent in 1988 over the 1987 level.

The economic impact of substance abuse in Iowa is over $700 million a year.

Drugs have brought in their wake higher dropout rates, more teenage pregnancies, overburdened social services, and fewer drug-free workplaces.

Make no mistake, Iowa still doesn't have the problem of States like New York or California. But we can't afford to just sit back and wait for our problem to get that bad. We can roll

back the drug problem in rural States like Iowa, if we get sufficient resources now.

This amendment will greatly assist our investigative and prosecutorial capacity by ensuring that rural States such as Iowa are assigned a minimum of 10 DEA agents. Currently, Iowa has only five DEA agents.

I expect and will work to ensure that the Drug Enforcement Agency will assign one of the agents added by this amendment to Sioux City, IA.

The drug problem in the Sioux City area has doubled in just 2 short years. Sioux City serves as the major distribution center for drugs used illicitly in northwest Iowa. Sioux City's drug problem is complicated by the fact that it shares drugs, crime, and gangs with neighboring South Dakota and Nebraska.

For Sioux City, the drug fighters are bound by State borders, but the drug problem isn't. And while drug dealers can cross State boundaries, Federal and State funds can't.

This year, according to Woodbury County Attorney Tom Mullin, the number of local drug arrests, drug prosecutions, and police undercover purchases will be twice those which occurred only 2 years ago. The dollar value of the property of drug traffickers forfeited this year in Woodbury County will likely double or even triple last year's forfeitures.

To make matters worse, Sioux City has begun experiencing gang activity, and it is believed that two Omaha, NE gangs are attempting to establish themselves in Sioux City to compete for a share of the local illegal drug market.

Sioux City's problems are reaching crisis proportions. Now is an especially critical time for the people of Sioux City.

Sioux City is doing something about its drug problem. The city, county, and local governments of the Siouxland area have established a substantial, well-balanced program to address the increasing drug-related problems in the area. They have established a Siouxland Drug Task Force, have assigned a special drug prosecutor, and for the past year have sought a DEA agent to coordinate ongoing drug investigations and prosecutions in the area.

Currently, Mr. President, one DEA agent, who operates out of Sioux Falls, SD, works with the Siouxland Task Force only one-half day per week.

This doesn't even begin to meet the needs of Sioux City.

On October 10, 1989, leaders of Siouxland antidrug efforts asked Secretary William Bennett for a DEA agent for their task force. On November 30, 1989, I joined with the congressional delegation representing the tri-county Siouxland area in writing associate drug czar Reggie Walton, again, requesting a DEA agent.

On March 26, I personally wrote Judge Walton to urge him to assign an agent to Sioux City, and 4 days later, the judge toured areas of Iowa, Nebraska, and South Dakota around Sioux City where local officials tried to persuade him to get a Federal DEA agent stationed in the area.

So far, there has been no response from either Secretary Bennett or Judge Walton.

And if there ever was a case where a city could make good use of DEA agent, that city is Sioux City.

Mr. President, we have written, we have requested, we have pleaded. And now, I'm going to legislate that Sioux City receives a DEA agent.

Sioux City, like the rest of Iowa, is not asking for a handout from the Federal Government. With sufficient help, Iowans can stem the tide of criminal drug activity.

Let's help rural America help itself. We can be a leader in the drug war. We can become drug free. We only need the resources to win the war on drugs in our communities.

I commend to my colleagues testimony presented before the Senate Labor Appropriations Subcommittee, which I chair, at a February 14, 1990, hearing in Sioux City by Tom Mullin, Woodbury County attorney, and Gerald Donovan, chief of the Sioux City Police Department, as well as two letters I have written to Judge Walton requesting a DEA agent for Siouxland. I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF THOMAS S. MULLIN

In just two short years, the drug problem in Northwest Iowa has doubled in scope. The problems we now face are reaching crisis proportions. Now is an especially critical time for us. With sufficient help, we might still be able to stem the tide of criminal drug activity. Without the help we need, I fear the worst problems will become entrenched and unsolvable.

More drug dealers are selling purer, more dangerous, and more highly addictive drugs to more (and younger) drug users. Area drug addiction treatment has become less available to those who need treatment, because of treatment affordability and longer waiting periods. We do not have enough law enforcement officers to even "hold the line"—let alone win the war—against drug traffickers. The abuse of drugs, including alcohol, is a factor in most crimes committed in Northwest Iowa. Drug and alcohol abuse is the primary societal problem plaguing our communities.

As Woodbury County Attorney, I serve as chief criminal prosecutor and chief law enforcement officer for the most populous county in Northwest Iowa. Our largest city, Sioux City, serves as the major "distribution center" for drugs used illicitly in Northwest Iowa. Most drugs coming into or being funneled through the Sioux City metropolitan area arrive directly from California and Mexico (in the case of cocaine) and Oklahoma, Texas, and California (in the case of "crank," or methamphetamine). The drugs arrive mostly by automobile and by air transportation.

This year, according to Sioux City Police Department statistics, the number of local drug arrests, drug prosecutions, and police undercover drug purchases will be twice those which occurred only two years ago. The dollar value of the property of drug traffickers forfeited this year in Woodbury County will likely double or even triple last year's forfeitures.

The degree of purity of cocaine seized by area law enforcement agencies is much greater now than in the recent past, which indicates that major local drug traffickers are now much closer in the distribution chain to the centers of drug manufacturing and drug processing.

Cocaine and methamphetamine have recently captured the lion's share of our area's drug trade. The birth of babies addicted to cocaine at the time of delivery is a recent local phenomenon, and maternal cocaine addiction is increasing sharply in our area. The local use of "crack" cocaine is now in evidence. Sioux City has begun experiencing gang activity, and it is believed that two Omaha, Nebraska gangs are attempting to become better established in Sioux City to vie for a share of the local illegal drug market.

The situation I am describing to you is bleak, and it is getting worse. The depth of the drug problem in our area is recent; our problems are compounded by badly understaffed local law enforcement agencies, and by inadequate drug treatment resources.

The only realistic chance for reversal of these alarming trends will involve quick, meaningful government action. Northwest Iowa communities need immediate and substantial funding to (1) hire more police officers to investigate drug trafficking and arrest more drug dealers, and (2) provide long-term community-based solutions involving more affordable and more available drug treatment resources and expanded drug abuse education programs. By "community-based," I mean giving greater local control in choosing which particular solutions will best match local needs.

The singular area of hope about which I can testify concerns community attitudes. Locally, citizen support for drug-free communities is getting stronger. More Northwest Iowa children are involved with "Just Say No" school programs. More parents are joining alcohol- and drug-abuse prevention "parenting networks." And, since the start of Sioux City's "Report-A-Pusher" Crimestoppers program this April, citizen telephone tips concerning criminal activity have increased six-fold.

In short, our children want to say "no" to drug abuse and alcohol abuse, and our neighborhoods and communities are willing to rise up against drug traffickers. But, our children, and our communities, cannot begin to win the war against drug abuse without immediate and substantial Federal financial assistance. Without such urgently needed help, we will all lose.

STATEMENT OF GERALD DONOVAN

At the present time the Sioux City Police Department has a sergeant, two patrolmen, and one Woodbury County deputy involved in the investigation of narcotics offenses in Sioux City and outlying areas. We also work closely with the Nebraska State Patrol, S/A

Doug Johnson, when working across the river in Nebraska. Currently, the only contacts we have in the South Dakota area for narcotics investigation is with the DEA office in Sioux Falls through S/A Larry Johnson. We also coordinate activities with the Iowa drug agents, one of which is located in Sioux City at this time. Many defendants that we investigate operate not only in the Sioux City, Iowa, area but also in Nebraska and South Dakota and also travel extensively out of the tri-state area to acquire narcotics and transport into the Sioux City area. Because of the Sioux City airport and express carriers in this area, we have been a major crossroads for narcotics coming into the tri-state area and also extending to Sioux Falls to the Iowa great lakes and into Nebraska.

We have not had a Drug Enforcement agent stationed in Sioux City. We have been forced to utilize the assistance of the DEA agents in Sioux Falls who have the responsibility for most of South Dakota and several northwest Iowa counties. For that reason, it is difficult for them to assist us oftentimes because of their heavy caseload in their own areas. In Iowa, the nearest Drug Enforcement agent is in Des Moines where they are involved in extensive investigations in that Des Moines metropolitan area as well as Cedar Rapids and eastern Iowa.

We initiated a federal task force in Sioux City in the summer of 1989 utilizing the three Sioux City narcotics agents, the one Woodbury County deputy narcotic agent and a state drug agent on call to be used when needed. No federal agency was forthcoming with assistance. We do not have a DEA agent or FBI agent assigned to this task force. We currently do not utilize the assistance of Nebraska or South Dakota agents. The Sioux Falls DEA agents are responsible to assist the federal task force when needed and are not here on site to supervise the operation on a day to day basis. This does cause difficulties in organization and purpose as well as funding.

This is one of the reasons that we feel a DEA agent on site could be of great benefit in organizing this task force as the lead agent and also in coordinating the activities of not only our department narcotics agents but also Woodbury County, Nebraska State Patrol and South Dakota state drug agents. A federal agent would be of great assistance in the area of coordinating efforts with the Internal Revenue Service and Customs officers as far as financial backgrounds, tracking assets, determining patterns of drugs coming into this area from the southwest United States and Florida as well as Texas.

We currently do have an assistant U.S. attorney assigned to this task foce to assist in the prosecution of drug cases as well as developing cases for asset seizures, etc. We also feel that a drug enforcement agent could assist the U.S. Attorney in the area of asset seizures as well as providing training for area drug agents in the field of drug investigations, conspiracy cases, financial backgrounds and other investigative techniques utilized in stemming the flow of drugs into our area. It is also felt that a federal agent could assist in the financial end of drug investigations as far as buy money and informant expenses.

We have currently been contacted by counties in northwest Iowa expressing an interest in developing their own drug investigation capabilities and have requested our assistance as far as training and cooperative operations with the Sioux City Police Department Narcotics Unit. A DEA agent on site stationed in Sioux City could assist in these efforts and work with the county sheriffs in northwest Iowa to train and educate their officers in narcotics investigations as well as profile stops on the highways for persons who match the MO of drug traffickers.

Also, at this time we are currently embarking on a plan to work the local airport in the form of drug interdiction with a state agent utilizing a drug sniffing dog to inspect luggage and to identify persons we feel match the profile for drug traffickers coming in and out of the Sioux City airport with narcotics and drug money. We also wish to expand our capabilities to the express carriers and to the United States Post Office who has joined us in a cooperative effort to attempt to locate packages coming in through the U.S. mail containing narcotics. We are sorely in need of a DEA agent to assist us in this effort as well as in the training to conduct these types of investigations. We feel that if we did have an agent stationed in Sioux City we could increase our effectiveness and thereby have a greater impact on the flow of narcotics substances into northwest Iowa as well as Nebraska and South Dakota.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 30, 1989.

Hon. REGGIE B. WALTON,
Associate Director, Office of National Drug Control Policy,
Executive Office of the President, Washington, DC.

DEAR JUDGE WALTON: We, as Members of the Siouxland Congressional Delegation, wish to thank you for taking time out of your busy schedule to meet with us and various Siouxland leaders on Monday, November 27, 1989, regarding the anti-drug efforts of the Iowa, Nebraska, and South Dakota tri-State area.

It is quite clear to us, and now hopefully to you, that the city, county, and local governments of the Siouxland area have established a substantial, well-balanced program to address the increasing drug-related problems in that area. They have done virtually everything they can, yet there is a need for more coordination, and barriers remain which prevent the most effective battle in the war. We believe three specific actions by the Federal Government could help support their efforts and reduce those barriers.

The first step is the assignment of a full-time Drug Enforcement Administration Special Agent to the Siouxland area to work specifically with the Siouxland Drug Task Force which has been established. This agent is desperately needed to help coordinate the ongoing drug enforcement activities of the area. Currently, one DEA agent out of Sioux Falls, South Dakota works with the Task Force one-half day per week. This doesn't even begin to meet the needs of the area. Congress has just provided additional funds to the DEA for Fiscal Year 1990 as part of an anti-drug package supplementing the President's National Drug Control Strategy. We would appreciate your office's support of the expenditure of some of those funds for the provision of a DEA agent specifically assigned to the Siouxland area.

Second, as your office prepares a supplemental drug control strategy scheduled to come out in February, we urge you and Director Bennett to pay particular attention to the drug problems in smaller cities and rural Ameria. As the Siouxland situation exemplifies, there is a need for the formulation of policies at the federal level which focus on the need for regional, multi-state approaches for dealing with illicit drug activity and the particular problems posed by such efforts. One specific reform that would be of great assistance would be the allowance of the use of discretionary and block grant monies across state lines in support of multi-state or other multi-jurisdictional programs. Assistance is also needed to help the leaders of such efforts to cut through the bureaucratic red tape attached to so many of the current programs. Indeed, in many instances, we believe that such regional efforts are the most worthy of federal funding.

The final step is the use of current discretionary monies to fund the Siouxland proposal for addressing the drug war as a demonstration project. We believe it stands out as a perfect one for such funding. The enforcement and treatment infrastructure, community resources, and community commitment are all in place. Additional funding to provide needed coordination of efforts amongst the states is all that is needed to help make the Siouxland plan for combating the drug problem a true model for smaller cities and surrounding rural areas.

We were pleased to hear your comments concerning the possible consolidation of drug-related federal grant program applications in one location, perhaps your office. The Siouxland proposal illustrates the complexity of the current grant process. A clearinghouse mechanism would greatly assist communities in accessing current programs and help prevent the true strength of proposals from being dispersed amongst a handful of grant applications.

Finally, we salute your commitment and attention to small communities and rural areas. We thank you for your offer to visit the Siouxland area early next Spring and witness firsthand the area's increasing drug-related problems and the community's valiant efforts aimed at addressing them. We look forward to a productive relationship with you and the Office of National Drug Control Policy.

Thank you once again for your time and consideration.

Sincerely,

Fred Grandy, Member of Congress (IA); Doug Bereuter, Member of Congress (NE); Tim Johnson, Member of Congress (SD); Charles E. Grassley, U.S. Senator (IA); J. James Exon, U.S. Senator (NE); Larry Pressler, U.S. Senator (SD); Tom Harkin, U.S. Senator (IA); Bob Kerrey, U.S. Senator (NE); Thomas A. Daschle, U.S. Senator (SD).

U.S. SENATE,
Washington, DC, March 26, 1990.

Hon. REGGIE B. WALTON,
Associate Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC.

DEAR JUDGE WALTON: I am pleased to hear that you will be visiting Sioux City on March 30 to examine the scope of the drug problem there. Siouxland faces a growing drug problem, as does the rest of rural America, but the problem is made more difficult by its tri-state nature.

Judge Walton, you could greatly assist ongoing anti-drug efforts in the Sioux City area by assigning a full-time Drug Enforcement Administration Special Agent to the Siouxland area. What better time to announce this long-awaited assignment than during your visit to Sioux City this Friday? The DEA agent could work with the already

established Siouxland Area Drug Task Force.

The congressional delegation representing the tri-state Siouxland area has already written urging you to take this action. In August 1989, I sent a letter to Attorney General Thornburgh concerning the urgent need for a federal agent to head the Siouxland drug task force. Currently, only one DEA agent from Sioux Falls, South Dakota, works with the Task Force—for only a half day a week.

Last year, the U.S. Senate unanimously supported the Rural Drug Initiative, which provides 10 DEA agents for each of 18 rural states, including Iowa. This rural initiative, which I sponsored, was added to S. 1711, the omnibus drug bill, and now awaits action by the House of Representatives. Of the five additional DEA agents that Iowa would receive (we currently have five), it is certain that Sioux City would be awarded at least one when this proposal becomes law.

This DEA agent is desperately needed to help coordinate drug enforcement activities in Siouxland. In Woodbury County, drug charges in May 1989 alone equaled the number of charges for the previous two years. Seventy percent of all crime in the county is drug and alcohol related. The experience in neighboring Dakota County, Nebraska is similar. In Dakota County, the increase in the number of drug-related arrests in 1989 equaled the total number of drug offenses for the last eight years.

As you know, the Congress demonstrated its commitment to federal law enforcement efforts when it approved an additional $64.3 million for DEA in the emergency drug supplement passed last November. I know I speak for the residents of Sioux City and the entire Siouxland area when I request your support for the expenditure of a portion of these funds for assignment of a DEA agent for the Siouxland area.

Thank you for your assistance in this matter.

Sincerely,

TOM HARKIN,
U.S. Senate.

Mr. PRYOR. Mr. President, I rise today in support of the rural law enforcement provisions contained in Senator BIDEN's amendment to S. 1970. I take pride that these provisions are based upon S. 1634, the Drug-Free Rural America Act, that I introduced last year, along with Senators BAUCUS, HARKIN, and CONRAD.

Since introducing S. 1634, we have worked very closely with Senator BIDEN, the distinguished chairman of the Judiciary Committee, who has strongly supported our efforts every step of the way. Last October, the rural provisions contained in today's amendment passed the Senate as part of S. 1711. Unfortunately, the House failed to act on S. 1711, causing us to pursue our initiative again today. I applaud Senator BIDEN for supporting our rural law enforcement proposal last year and for including it again as part of his crime control amendment.

Mr. President, Congress has frequently debated various strategies to address crime and drug abuse in America. However, this spirited debate often ignores the quiet crisis of drug-related crime that is ravaging rural America. Small towns and communities across our Nation are struggling with dramatic increases in crime associated with drug trafficking.

Let me cite a few examples from my home State of Arkansas:

In El Dorado, a town of 25,000 in southern Arkansas, drug arrests have almost doubled in a single year. The police chief attributes almost all of this to the introduction of crack cocaine early last year.

The number of clandestine methamphetamine labs closed by police in Arkansas increased 59 percent from 1988 to 1989.

Los Angeles street gang members have been seen walking the streets of several southern Arkansas communities.

Last year, Arkansas police arrested members of a drug gang with connections reaching all the way to Detroit, MI.

These examples illustrate the growing severity of drug-related crime in rural areas of our country. We cannot delay bringing much-needed Federal resources to State and local police officers who are fighting on the front line of the war against criminals and drug traffickers.

The provisions included in Senator BIDEN's amendment will assist rural law enforcement in the following ways:

Authorize a $20 million supplemental block grant for rural law enforcement, targeting $10 million to special need rural States and channeling another $10 million for use in rural areas in other States.

Require the Attorney General to attempt to assign no fewer than 10 Drug Enforcement Agency agents to each State.

Direct the Federal Law Enforcement Training Center to develop a special training program for rural law enforcement officers.

Establish the position of Rural Drug Policy Coordinator within the Office of National Drug Control Strategy.

I urge my colleagues to support the rural law enforcement provisions contained in Senator BIDEN's amendment. The honest, law-abiding men and women of rural America will surely welcome this assistance in their efforts to rid their communities of drug-related crime.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Mr. President, I believe we can accept this amendment. Senator BIDEN worked tirelessly to remove the controversial provisions from the amendment. Now the amendment enhances our Federal law enforcement effort by providing additional funding to hire FBI, DEA, and INS agents and amends current law to enhance the Nation's efforts against public corruption. In addition the Biden amendment provides for additional DEA agents in rural America.

Mr. President, this amendment is an appropriate addition to the underlying bill.

The PRESIDING OFFICER. Do Senators yield back the time?

Mr. BIDEN. I yield back the remainder of my time, if I have any.

The PRESIDING OFFICER. Does the Senator from South Carolina yield back the remainder of his time?

Mr. THURMOND. Yes.

The PRESIDING OFFICER. All time is yielded back.

VOTE ON AMENDMENT NO. 2097

The PRESIDING OFFICER. Under the unanimous-consent request the vote now occurs on the D'Amato amendment No. 2097.

The question is on agreeing to the amendment of the Senator from New York.

The amendment (No. 2097) was agreed to.

Mr. CHAFEE. What is that?

VOTE ON AMENDMENT NO. 2098

The PRESIDING OFFICER. The question now occurs on amendment No. 2098.

The question is on agreeing to the amendment of the Senator from California.

The amendment (No. 2098) was agreed to.

VOTE ON AMENDMENT NO. 2099

The PRESIDING OFFICER. The question now occurs on amendment No. 2099 under the unanimous-consent request.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

VITIATION OF ACTION ON AMENDMENTS NOS. 2097 AND 2098

Mr. BIDEN. Mr. President, I ask unanimous consent that the adoption by voice vote of the previous amendments be vitiated and the yeas and nays be ordered on all three amendments.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

The unanimous-consent request is granted and the actions on the previous 2 amendments by voice vote are vitiated.

Is there a sufficient second to the request for the yeas and nays on the D'Amato amendment? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 2097

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

On this question the yeas and nays were ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Carolina [Mr. SANFORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—66

Adams	Fowler	McConnell
Baucus	Garn	Murkowski
Bentsen	Gorton	Nickles
Bond	Graham	Nunn
Boren	Gramm	Packwood
Boschwitz	Grassley	Pressler
Bradley	Hatch	Pryor
Breaux	Heflin	Reid
Bryan	Heinz	Riegle
Bumpers	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Humphrey	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Shelby
D'Amato	Kasten	Simpson
Daschle	Kerrey	Specter
DeConcini	Lieberman	Stevens
Dixon	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Wallop
Exon	McCain	Warner
Ford	McClure	Wilson

NAYS—32

Akaka	Glenn	Levin
Biden	Gore	Metzenbaum
Bingaman	Harkin	Mikulski
Burdick	Hatfield	Mitchell
Chafee	Inouye	Moynihan
Cohen	Jeffords	Pell
Conrad	Kennedy	Sarbanes
Cranston	Kerry	Sasser
Danforth	Kohl	Simon
Dodd	Lautenberg	Wirth
Durenberger	Leahy	

NOT VOTING—2

Armstrong	Sanford

So the amendment (No. 2097) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2098

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

Mr. WILSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second,

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Carolina [Mr. SANFORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber who desire to change their vote?

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—43

Baucus	Grassley	Robb
Biden	Hatch	Roth
Bond	Heflin	Rudman
Boschwitz	Heinz	Shelby
Bradley	Helms	Simpson
Burns	Hollings	Specter
D'Amato	Kasten	Stevens
Dixon	Lieberman	Symms
Dole	McCain	Thurmond
Domenici	McConnell	Wallop
Exon	Murkowski	Warner
Fowler	Nickles	Wilson
Garn	Packwood	Wirth
Graham	Pressler	
Gramm	Riegle	

NAYS—55

Adams	Dodd	Levin
Akaka	Durenberger	Lott
Bentsen	Ford	Lugar
Bingaman	Glenn	Mack
Boren	Gore	McClure
Breaux	Gorton	Metzenbaum
Bryan	Harkin	Mikulski
Bumpers	Hatfield	Moynihan
Burdick	Humphrey	Mitchell
Byrd	Inouye	Nunn
Chafee	Jeffords	Pell
Coats	Johnston	Pryor
Cochran	Kassebaum	Reid
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
Danforth	Kohl	Simon
Daschle	Lautenberg	
DeConcini	Leahy	

NOT VOTING—2

Armstrong	Sanford

So the amendment (No. 2098) was rejected.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2099

The PRESIDING OFFICER. The question is on agreeing to the Biden amendment No. 2099.

The yeas and nays have not been ordered.

Mr. BIDEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. I urge Senators to remain here past their votes. We have had two successive votes, and we still could not get everyone in here for a 10-minute vote. I do not want to cut anybody off. There is no reason at this time of night for Senators to inconvenience the vast majority of others by not casting votes within 10 minutes. This is going to be a 10-minute vote.

[Applause.]

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Carolina [Mr. SANFORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—96

Adams	Ford	Mack
Akaka	Fowler	McCain
Baucus	Garn	McClure
Bentsen	Glenn	McConnell
Biden	Gore	Metzenbaum
Bingaman	Gorton	Mikulski
Bond	Graham	Mitchell
Boren	Gramm	Moynihan
Boschwitz	Grassley	Murkowski
Bradley	Harkin	Nickles
Breaux	Hatch	Nunn
Bryan	Hatfield	Packwood
Bumpers	Heflin	Pell
Burdick	Heinz	Pressler
Burns	Helms	Pryor
Byrd	Hollings	Reid
Chafee	Humphrey	Riegle
Coats	Inouye	Robb
Cochran	Jeffords	Rockefeller
Cohen	Johnston	Rudman
Conrad	Kassebaum	Sarbanes
Cranston	Kasten	Sasser
D'Amato	Kennedy	Shelby
Danforth	Kerrey	Simon
Daschle	Kerry	Simpson
DeConcini	Kohl	Specter
Dixon	Lautenberg	Stevens
Dodd	Leahy	Thurmond
Dole	Levin	Wallop
Domenici	Lieberman	Warner
Durenberger	Lott	Wilson
Exon	Lugar	Wirth

NAYS—2

Roth	Symms

NOT VOTING—2

Armstrong	Sanford

So the amendment (No. 2099) was agreed to.

Mr. BIDEN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is recognized.

AMENDMENT NO. 2100

(Purpose: To provide for imposition of the penalty of life imprisonment without release rather than imposition of the death penalty)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 2100.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SEC. . MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE.

Notwithstanding any amendment made by this Act or any other provision of this Act that authorizes the imposition of a sentence of death, such amendment or provision shall be construed to authorize only the imposition of a sentence of mandatory life imprisonment without possibility of release.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator from Rhode Island [Mr. CHAFEE], be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, there are now 24, I believe is my last count, 24 opportunities to exercise the death penalty as it relates to violation of particular laws. This is a moment for reflection. This is an opportunity to recant in this particular action we have taken thus far because I offer now an amendment that would strike all references to the death penalty in this bill and substitute therefor a mandatory life sentence.

Over the years we have heard these arguments from time to time and, of course, most of them are a recitation of gruesome murders and gruesome, horrible, horrendous acts of violence of which none of us approve, none of us can condone, and all of us condemn. Nevertheless, all these arguments have done is to raise the emotional smokescreen, which prevents us from seeing the real issues and making wise decisions.

Let us take this one by one, at least for a few:

Deterrence. Deterrence is usually offered as a justification for the death penalty, despite the fact that this shopworn argument has absolutely no empirical data to support it. In fact, the American Sociological Review has conducted a study, and here is the empirical data. In a painstaking analysis, between 1940 and 1986, Bailey and Peterson, who conducted this particular study, proved that there was absolutely no justification to argue deterrence. They found that the deterrence of executions might very according to publicity and they analyzed and looked at those States which have capital punishment and those which do not have capital punishment. The conclusion was that you are more likely to be murdered in a State with capital punishment than in a State without capital punishment.

The FBI, in 1987, conducted a similar study, and the average murder rate per 100,000 citizens in the 37 States with the death penalty was 6.94. The average murder rate in the 13 States without the death penalty was, however, 5.1. In 1988, the murder rate in States with capital punishment rose to 7.05 percent, whereas in those States without the death penalty, the murder rate dropped down to 4.72 per 100,000. So I think those statistics would indicate that deterrence is nothing but a shopworn argument.

Now, Mr. President, we also live in an imperfect world and human beings are fallible in their judgments, but the death penalty is final. There is no room for correction. In this century alone, according to a study published in 1987, more than 350 people in the United States have been erroneously convicted of crimes potentially punishable by death. One hundred sixteen of them were sentenced to death; 23 were actually executed. No room for correction. Twenty-three innocent lives were taken under the authority of a State. From 1987 to mid-1989 alone, the study shows, 12 people received death sentences, and they have since been determined to be innocent.

Mr. President, the vast majority of the free world has rejected such a barbaric form of punishment. By adopting and implementing the death penalty, the United States stands virtually alone, always touting our human rights commitment. We stand against all of Western Europe, we stand with a major number of our hemispheric neighbors having abolished it, and yet, in contrast, we stand with such countries as Syria, Afghanistan, Iraq, Iran, South Africa, Libya, China, Cuba, Vietnam, North Korea, Lebanon, Albania, and Angola.

In the recent United Nations resolution relating to the death penalty, the United States stood with 21 other nations in opposition to the repeal of the death penalty that was being urged by this resolution upon the civilized countries of the world.

I think we are out of touch with the human rights attitudes throughout the world today as we maintain this gruesome action of the death penalty.

Then we also must recognize that the public does have some outrage, and reason for outrage, when they see heinous crimes committed and those who are convicted for a life sentence out in 5 to 10 years. We are always talking about that action as it relates to the support for the death penalty, but let me call attention to a University of Louisville study recently taken in 1989 where they found that in the State of Kentucky 69.1 percent of the people generally supported the death penalty.

But when they were asked the question if they would accept a mandatory life sentence in lieu of a death penalty, only 36 percent of them then supported the death penalty.

Another survey by Georgetown University, January of this year, was conducted in the State of West Virginia. In the State of West Virginia they found in general 69 percent of the people favor the death penalty. But when the alternative was offered to the people of West Virginia, about a possibility of no release, mandated life sentence, they found that only 19 percent of the people of West Virginia continued to support the death penalty.

So this Georgetown University study conducted in 1990 and all these others indicate that widespread support out, there upon which many people are reflecting their votes, I am sure, reflecting their constituents, when offered the alternative, is a very weak support base.

This amendment again, as I say, is very simply straightforward, mandating a life sentence in lieu of a death penalty and without parole, without release, a mandatory life sentence, period. I believe that this becomes a little more palatable to those who are concerned about human rights around the world. It puts the United States, I think, into a very much stronger position in the world for human rights.

I want to also close my remarks, and then yield some time that I have left to some colleagues.

I saw a headline in one of the southern newspapers recently, "Killer Executed, Crowds Cheer." Is that not an interesting indictment on our society, a primal urge for revenge, sadistic revenge?

That does not ease the pain of the victims or bring back the lives of the victims. Of course we are concerned about the victims of these crimes but what I am saying is as to me and my view, this kind of dehumanization is occurring in a very materialistic society, and I would think that we in the Senate would have an opportunity to at least address that as a part of our national need reversing that kind of dehumanization action that is occurring.

Mr. HATCH. Mr. President, I regret that the distinguished Senator from Oregon did not attend the hearing that the Judiciary Committee held just last fall on the question of whether innocent persons have in fact been put to death—as the Senator alleges.

That hearing was very revealing.

Assistant U.S. Attorney Paul Cassell is the coauthor, with U.S. Attorney Stephen Markman, of the leading study on this subject. Mr. Cassell testified last fall. His study has concluded that not one innocent person can clearly be said to have been executed in the United States. He directly refuted, with convincing evidence, the Bedau and Radelet study that appears to be the basis for Senator HATFIELD's allegations.

But Mr. Cassell made another important point—one that is seldom mentioned. He said there are two sides to the problem of mistake in capital

punishment: First, what if an innocent person is executed; second, what if a person deserving the death penalty is not executed and lives to kill again?

Mr. Cassell concluded that there is not one established case of an innocent person being executed in the United States. More importantly, he testified that there are at least 24 known cases—undisputed cases—where persons have been removed from death row, ultimately released, and later found guilty of murdering more individuals.

There is doubt—serious doubt—that carrying out death sentences ever results in the execution of an innocent man or woman. But there is proof—undisputed proof—that the failure to carry out a death sentence has resulted in the deaths of at least 24, and probably more, innocent persons.

I do not have time to go into the many false claims of wrongful execution that Mr. Cassell refuted before the Judiciary Committee last fall. But I will address the most famous example, from my own State of Utah that was claimed, by Professor Bedau and Radelet, as an example of wrongful execution.

It is the case of Joe Hill, the celebrated union organizer and songwriter. Whatever Hill's accomplishments as a labor leader may have been, he was eventually convicted of a sordid murder that was not motivated by any high purpose whatsoever. He robbed a grocery store on West Temple Street in Salt Lake City, leaving the store owner and his son dead.

For that reason, he was convicted of murder, sentenced to death, and executed.

Yet these scholars have asserted that Joe Hill was innocent and wrongfully executed. What is the authority for their assertion?

One of their principal sources, cited to establish the innocence of Joe Hill is the book by Wallace Stegner entitled "Joe Hill: A Biographical Novel." Now Mr. Stegner is a great and esteemed Utah novelist, but he is a novelist, not an historian. And the forward to his book clarifies this. He notes that the book "is fiction, with fiction's prerogatives and none of history's limiting obligations. * * * Joe Hill as he appears here—let me repeat it—is an act of the imagination."

While citing a work of fiction is bad enough, even more startling is the fact that the novel strongly suggests that its protagonist, Joe Hill, is in fact a guilty murderer! This is not surprising, since Wallace Stegner has published two magazine articles in the New Republic in which he gave his view that the real-life Joe Hill was in fact a killer.

Yet that is the example that these social scientists give of an innocent man being executed in Utah. That is research? Citing a novel? One that finds the man guilty of murder?

I urge my colleagues who have had the criminal justice systems of their own States smeared by this irresponsible research to carefully examine the supposed instances of wrongful conviction that are so casually thrown around.

I am convinced that no innocent man or woman has been executed in Utah. I further believe, on the basis of the available evidence, that each of you is entitled to make the same claim for your own State.

Mr. CHAFEE. Mr. President, we seem to be on a death penalty rampage here today. It seems to me we now have applied the death penalty to everything except school truancy. I am not sure that is not in one of the amendments we have adopted.

Mr. President, I believe the death penalty is not wise for three reasons. First, as Senator HATFIELD said, it is irreversible. Once it has been done, the wrong person has been executed, and nothing can be done about it.

In our State just 145 years ago we executed the wrong person. After that, in 1852, we abolished capital punishment in our State.

The death penalty is not a deterrent. That has clearly been shown from all the statistical evidence that has been assembled.

Finally, the death penalty frequently makes a Roman circus out of the trials wherein the death penalty is a possible penalty, is a possible penalty for the accused.

Mr. President, for those three reasons, it is irreversible, it does nothing to deter, and it makes the trials that involve the accused where death penalty is a possibility—turns it into a Roman circus frequently—for those three reasons, I think we should adopt the amendment.

Mr. HATFIELD. I yield a minute to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to commend the Senator from Oregon for bringing a note of reasonableness and logic to this debate. We sat here for quite a while today, and over the weeks talking about the crime bill as if we were suddenly going to eliminate all the crime in America by capital punishment. Everybody came up with a new idea as to another crime that ought to be subjected to capital punishment. I think the only thing we skipped was some automobile driving violations.

I think the Senator deserves a lot of credit. He knows he is not going to get that many votes because there is the kind of a hullabaloo and excitement about it. You have to be for capital punishment and yet, the fact is so many people have been condemned to death and then found subsequently it was found that somebody else had committed the crime. Sometimes they had already been executed, and sometimes they were still in the penitentiary and could be released.

I appreciate his efforts. I hope we will agree to this amendment.

The PRESIDING OFFICER. The Senator from South Carolina has 5 minutes remaining.

Mr. THURMOND. Mr. President, I oppose the amendment offered by my colleague from Oregon. This amendment would require that capital defendants be given a sentence of mandatory life rather than a possible death sentence. In other words, it would eliminate the death penalty in the federal system.

Mr. President, I respect the Senator from Oregon and agree with him that society must address some of the underlying causes of crime. In fact, the Federal Government has taken great steps to assist those less fortunate than ourselves. However, notwithstanding our Nation's efforts, the fact remains that there are vicious, heinous murders occurring on our streets every single day.

The underlying question this amendment asks the Senate is, Does the death penalty have a legitimate role in our efforts to punish vicious criminals? I believe that it does.

I am convinced that the death penalty is an effective deterrent. The threat of capital punishment does deter violent crime. Not only does it deter individual behavior, it also has value in terms of general deterrence as well. By associating the penalty with the crimes for which it is inflicted, society is made more aware of the horror of those crimes, and there is instilled in the citizens a need to avoid such conduct and appropriately punish those who do not.

In addition, capital punishment serves the society's legitimate interest in retribution. Justice requires that criminals get what they deserve. Justice demands that such inhuman action not be tolerated. The death penalty recognizes society's belief that there are some crimes which are so vicious, heinous, and brutal that no penalty lesser than death will suffice.

Mr. President, the American people agree with me. A recent Gallup poll shows that public support for the death penalty is at the highest point recorded in more than half a century, with 79 percent favoring the death penalty for murder. The public opinion on the issue of capital punishment must not be ignored.

Briefly, I want to discuss a few specific cases where the death penalty is clearly warranted. I believe a discussion of these cases will help my colleagues to understand why we need a Federal death penalty.

In Ogden, UT, Pierre Selby and William Andrews robbed a hi-fi shop and in the course of their armed robbery,

forced five bound victims—three of whom were teenagers—to drink cups of poisonous liquid drain cleaner. Selby also tried to force Orren Walker, the father of one of the teenagers, to pour the drain cleaner down his own son's throat. When Walker refused, Selby attempted to strangle him to death with an electrical cord and then repeatedly kicked a ballpoint pen deep into his ear. Selby then proceeded to shoot each one of his victims in the head.

Another case which was truly heinous and depraved occurred in January of 1988 in a Landover, MD, apartment. Kirk Bruce and two alleged accomplices, in an orchestrated plan, shot and killed four men and a woman. Bruce's victims were shot execution style with close range shots to the head. Some were shot as many as eight times. Others were chased into rooms of the apartment and gunned down. One victim, who survived to testify at Bruce's trial, was hiding beneath a bed, but was discovered and also shot in the head. She laid there critically wounded when one of the murderers came back into the room, told her he knew she was still alive, and shot her again.

Finally, the case of Robert Alton Harris should be mentioned. We must not forget the heinous crime Harris committed. On July 5, 1978, just 6 months after he completed a 2½-year prison term for beating a man to death, Harris decided to rob a bank in San Diego. Looking first for a getaway car, he spotted two teenage boys parked at a fast-food restaurant. Harris forced the youths at gunpoint to drive to a nearby reservoir, where he shot and killed them as they begged God to save them. Later, he ate their unfinished hamburgers.

These cases truly provide examples of individuals who should face imposition of the death penalty. In all of these cases, the defendants received the death penalty. However, under current Federal law, were these cases to occur on Federal land, the death penalty could not even be considered.

In closing, this amendment would prohibit juries from even considering the death penalty for the types of crimes I outlined above. Instead, it would provide for a mandatory life sentence. There are people walking the streets today who were sentenced to a life sentence. The law abiding citizens of this Nation demand action on Federal death penalty legislation, not life imprisonment legislation. They deserve to have a death penalty which will deter violent action against them and will provide swift, appropriate punishment for individuals who choose to commit heinous crimes.

For these reasons, I oppose this amendment.

A case happened in my State, just a few years ago. A young couple was parked out near a church, and two men pulled the boy out of a car, and immediately shot him. They took the girl out, and they raped her, then they shot her, and then they laughed about it.

Just here a few years ago in this area of Washington a young lady was riding along the highway. She had tire trouble, and she stopped to repair the tire. Two men came along on the pretense of helping her. They took her, put her in their car, drove down the road a piece, turned off in the woods, they raped her, killed her, and then they burned the body.

Another case that happened in my State a few years ago, a man came there from another State. He heard about John Turner, a coin collector, a friend of mine. And he went there and robbed him. He killed him. He killed three other people in the process. He killed four people in all, and thought he had killed a fifth one. The fifth one was so disfigured for life we had her come up and testify before the Judiciary Committee this year. We will never forget that testimony, in my opinion.

Finally, he was sentenced to the chair. It took 11 years though before he finally got there. I am glad this bill's habeas corpus provision would end it much sooner. These are just heinous crimes, and to me they deserve the death penalty.

I will not take more time.

The PRESIDING OFFICER. The Senator from South Carolina has 34 seconds remaining. Does the Senator yield back the remainder of the time?

Mr. THURMOND. Does anyone else want to speak?

The PRESIDING OFFICER. All time having been yielded back, the Senator from Michigan is recognized to offer a second-degree amendment.

AMENDMENT NO. 2101 TO AMENDMENT NO. 2100

(Purpose: To require the payment of restitution to victims by defendants sentenced to life imprisonment without possibility of release)

Mr. LEVIN. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes amendment numbered 2101 to amendment No. 2100.

Mr. LEVIN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 3663 of title 18, United States Code, as added by the amendment, is amended by adding at the end the following:

"( ) Notwithstanding any other provision of law, any defendant sentenced to life imprisonment without possibility of release under this chapter or any other provision of law shall be ordered to pay not more than 50 percent of any income received, directly or indirectly, during imprisonment, to the family or the estate of the victim of the crime for which the defendant is sentenced, unless the victim was engaged in criminal activity at the time of the crime for which the defendant is sentenced. In the event that a defendant is sentenced for the death of more than one victim, the amounts paid to the families or the estates of the victims shall be apportioned by the court.".

Mr. LEVIN. Let me commend my friend from Oregon for the battle he is leading here on the floor tonight. I understand that the second-degree amendment is acceptable to him, and I will describe it very briefly.

This amendment would provide for restitution by the criminal who is serving the mandatory life sentence, pursuant to the Hatfield amendment, that restitution consisting of any earnings of the criminal in prison, and that restitution going to the family of the victim.

The crime that results in the death of another person is not only a tragedy because of the immediate loss of a person's life, it is also an act with tragic consequences to others, falling particularly hard on the victim's family and friends. These survivors are also victims of crime. Too often the criminal justice system loses sight of this fact.

There is nothing that we can do, there is nothing the police can do, there is nothing the courts or jails can do to bring the victim back. No legislation can do that. But this amendment is designed to help, to the extent possible, the survivors, while it simultaneously forces the criminal to take responsibility for his or her actions.

Under this amendment, which is cosponsored by Senator CRANSTON, a prisoner serving a life imprisonment without the possibility of release would be required to pay up to 50 percent of his prison wages or other income to the family or the estate of his victim for the rest of his life.

Mr. President, Americans believe in tough penalties for serious crimes. They want to punish criminals effectively and to lock up those who are dangerous, but they also want criminals to repay their debts to society and to their victims and their victim's families. This amendment does that.

Senator HATFIELD's amendment serves society's need to punish criminals and to protect society. This amendment goes further. It reaches up to help the innocent victims of crime, those who have lost a family member to violence. It acknowledges their loss and provides them with some financial compensation, often limited, but at least some financial

compensation from the person who did them harm.

That criminal, that prisoner will be paying for his crime in more ways than one. Under this amendment, he will be paying financially to the victim's family for the rest of his life, while he is serving that mandatory sentence in prison.

This is income the offender receives directly or indirectly during the time he or she serves the sentence of life imprisonment. We say directly or indirectly in the amendment in order to reach any income that may be earned or paid to the offender during the period of imprisonment but actually received by a family or friend or other person on the offender's behalf or at the offender's request.

There is solid public support around the country for this proposal. A poll recently reported in the New York Times shows that many people who support the death penalty in principle prefer a sentence of life imprisonment coupled with restitution by the criminal to the victim's family. In California, 67 percent preferred life imprisonment without parole plus financial restitution: In New York, it was 62 percent; in Florida, 53 percent. The pollsters also asked about life sentences with no possibility of parole for 25 years coupled with restitution to the victim's family; 59 percent of Virginians, 58 percent of Nebraskans, 54 percent of New Yorkers, and 52 percent of Georgians preferred that to the death penalty.

Mr. President, I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I oppose the death penalty for the reasons set forth eloquently by the Senator from Oregon, the Senator from Rhode Island and the Senator from Ohio, set forth eloquently and courageously.

I want to speak to the amendment that Senator LEVIN and I have offered, which is an alternative to the death penalty. Senator LEVIN described it. I want to describe how the public responds when offered this alternative.

Opinion polls show that the American public responding at a time when newspapers and news reports are replete with senseless and vicious killings overwhelmingly favor, generally, the death penalty. But support for the death penalty does not mean a deep, ineluctable and intractable belief that death, and only death, must be our response to certain crimes.

Recent polls show that despite the percentage of those who favor the death penalty, a substantial number, when provided the option, favor instead life without parole with mandatory restitution.

A December 1989 poll showed that 82 percent of Californians favored the death penalty. Yet, that support was turned on its head, literally turned on its head when 67 percent of Californians said that life imprisonment with a requirement of restitution was preferable to the death penalty.

Only 26 percent still favored death when offered this alternative. Californians of all income, age, political and racial distinctions favored life plus restitution over the death penalty.

We Californians are not alone in this view. Several other polls taken in other States show that New Yorkers, Floridians, Georgians, Nebraskans, and Virginians follow the same pattern as Californians. They favor life without any chance of parole and restitution over the death penalty.

We can see from this data that the certainty of a long sentence, when combined with restitution, strikes a deep chord with the public. People want to know that a life sentence means what it says. We all lose confidence in the criminal justice system when a paroled killer kills again.

But it is not just the imposition of a certain life sentence which makes life plus restitution more acceptable than death. It is the restitution component which allows the victim's family and friends to feel that the perpetrator of the crime is literally working to compensate in a small way for his or her crime.

We all know that no prisoner will earn much money from a prison job. Of course, the victim's family understands that very well. However, if the defendant receives indirect or outside income, perhaps from a book deal, or a movie contract about the crime, or dividends from other holdings, a portion of this money should also be used to repay the debt.

This amendment will ensure that these moneys are available for restitution. This poll data that I have cited pierces the rhetorical veil surrounding support for capital punishment. It shows not an unrelenting embrace of the death penalty, but an ambivalence and willingness to consider other approaches to criminal justice. I urge support for this amendment.

Mr. LEVIN. I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Mr. SIMON. Mr. President, and my colleagues, let me add one other point to the basic question that has not been raised. A Stanford University study shows overwhelmingly those on death row have received inadequate counsel. No one receives a death penalty if he has good counsel. There are no millionaires on death row. Capital punishment is a punishment we reserve for people of limited means. And, my friends, that is indefensible.

Mr. HATFIELD. Mr. President, I am willing to accept the amendment in the second degree offered by the Senator from Michigan.

Mr. LEVIN. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from South Carolina yield the remainder of his time?

Mr. THURMOND. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 2101) was agreed to.

CORRECTION OF AMENDMENT NO. 1841

(Purpose: To establish a police corps and law enforcement education program)

Mr. SPECTER. Mr. President, I ask unanimous consent that there be a substitute on the Police Corps amendment. The one on file is the old copy.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator will send the amendment to the desk.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE —POLICE CORPS AND LAW ENFORCEMENT TRAINING AND EDUCATION ACT

SEC. —01. SHORT TITLE.

This title may be cited as the "Police Corps and Law Enforcement Training and Education Act".

SEC. —02. PURPOSES.

The purposes of this title are to—

(1) address violent crime by increasing the number of police with advanced education and training on community patrol;

(2) provide educational assistance to law enforcement personnel and to students who possess a sincere interest in public service in the form of law enforcement; and

(3) assist State and local law enforcement efforts to enhance the educational status of law enforcement personnel both through increasing the educational level of existing officers and by recruiting more highly educated officers.

SEC. —03. ESTABLISHMENT OF OFFICE OF THE POLICE CORPS AND LAW ENFORCEMENT EDUCATION.

(a) ESTABLISHMENT.—There is established in the Department of Justice, under the general authority of the Attorney General, an Office of the Police Corps and Law Enforcement Education.

(b) APPOINTMENT OF DIRECTOR.—The Office of the Police Corps and Law Enforcement Education shall be headed by a Director (referred to in this title as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) RESPONSIBILITIES OF DIRECTOR.—The Director shall be responsible for the administration of the Police Corps program established in subtitle A and the Law Enforcement Scholarship program established in subtitle B and shall have authority to promulgate regulations to implement this title.

SEC. —04. DESIGNATION OF LEAD AGENCY AND SUBMISSION OF STATE PLAN.

(a) LEAD AGENCY.—A State that desires to participate in the Police Corps program under subtitle A or the Law Enforcement Scholarship program under subtitle B shall

designate a lead agency that will be responsible for—

(1) submitting to the Director a State plan described in subsection (b); and

(2) administering the program in the State.

(b) STATE PLANS.—A State plan shall—

(1) contain assurances that the lead agency shall work in cooperation with the local law enforcement liaisons, representatives of police labor organizations and police management organizations, and other appropriate State and local agencies to develop and implement interagency agreements designed to carry out the program;

(2) contain assurances that the State shall advertise the assistance available under this title;

(3) contain assurances that the State shall screen and select law enforcement personnel for participation in the program;

(4) if the State desires to participate in the Police Corps program under subtitle A, meet the requirements of section —16; and

(5) if the State desires to participate in the Law Enforcement Scholarship program under subtitle B, meet the requirements of section —26.

Subtitle A—Police Corps Program

SEC. —11. DEFINITIONS.

For the purposes of this subtitle—

(1) the term "accident year" means a traditional academic year beginning in August or September and ending in the following May or June;

(2) the term "dependent child" means a natural or adopted child or stepchild of a law enforcement officer who at the time of the officer's death—

(A) was no more than 21 years old; or

(B) if older than 21 years, was in fact dependent on the child's parents for at least one-half of the child's support (excluding educational expenses), as determined by the Director;

(3) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses;

(4) the term "participant" means a participant in the Police Corps program selected pursuant to section —13;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; and

(6) the term "State Police Corps program" means a State police corps program approved under section 16.

SEC. —12. SCHOLARSHIP ASSISTANCE.

(a) SCHOLARSHIPS AUTHORIZED.—(1) The Director is authorized to award scholarships to participants who agree to work in a State or local police force in accordance with agreements entered into pursuant to subsection (d).

(2)(A) Except as provided in subparagraph (B) each scholarship payment made under this section for each academic year shall not exceed—

(i) $10,000; or

(ii) the cost of the educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of scholarship assistance received by any one student under this section shall not exceed $40,000.

(4) Recipients of scholarship assistance under this section shall continue to receive such scholarship payments only during such periods as the Director finds that the recipient is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending.

(5)(A) The Director shall make scholarship payments under this section directly to the institution of higher education that the student is attending.

(B) Each institution of higher education receiving a payment on behalf of a participant pursuant to subparagraph (A) shall remit to such student any funds in excess of the costs of tuition, fees, and room and board payable to the institution.

(b) REIMBURSEMENT AUTHORIZED.—(1) The Director is authorized to make payments to a participant to reimburse such participant for the costs of educational expenses if such student agrees to work in a State or local police force in accordance with the agreement entered into pursuant to subsection (d).

(2)(A) Each payment made pursuant to paragraph (1) for each academic year of study shall not exceed—

(i) $10,000; or

(ii) the cost of educational expenses related to attending an institution of higher education.

(B) In the case of a participant who is pursuing a course of educational study during substantially an entire calendar year, the amount of scholarship payments made during such year shall not exceed $13,333.

(C) The total amount of payments made pursuant to subparagraph (A) to any one student shall not exceed $40,000.

(c) USE OF SCHOLARSHIP.—Scholarships awarded under this subsection shall only be used to attend a 4-year institution of higher education.

(d) AGREEMENT.—Each participant receiving a scholarship or a payment under this section shall enter into an agreement with the Director. Each such agreement shall contain assurances that the participant shall—

(A) after successful completion of a baccalaureate program and training as prescribed in section ___14, work for 4 years in a State or local police force without there having arisen sufficient cause for the participant's dismissal under the rules applicable to members of the police force of which the participant is a member;

(B) complete satisfactorily—

(i) an educational course of study and receipt of a baccalaureate degree (in the case of undergraduate study) or the reward of credit to the participant for having completed one or more graduate courses (in the case of graduate study);

(ii) Police Corps training and certification by the Director that the participant has met such performance standards as may be established pursuant to section ___14; and

(C) repay all of the scholarship or payment received plus interest at the rate of 10 percent in the event that the conditions of subparagraphs (A) and (B) are not complied with.

(2)(A) A recipient of a scholarship or payment under this section shall not be considered in violation of the agreement entered into pursuant to paragraph (1) if the recipient—

(i) dies; or

(ii) becomes permanently and totally disabled as established by the sworn affidavit of a qualified physician.

(B) In the event that a scholarship recipient is unable to comply with the repayment provision set forth in subparagraph (B) of paragraph (1) because of a physical or emotional disability or for good cause as determined by the Director, the Director may substitute community service in a form prescribed by the Director for the required repayment.

(C) The Director shall expeditiously seek repayment from participants who violate the agreement described in paragraph (1).

(e) DEPENDENT CHILD.—A dependent child of a law enforcement officer—

(1) who is a member of a State or local police force or is a Federal criminal investigator or uniformed police officer,

(2) who is not a participant in the Police Corps program, but

(3) who serves in a State for which the Director has approved a Police Corps plan, and

(4) who is killed in the course of performing police duties,

shall be entitled to the scholarship assistance authorized in this section. Such dependent child shall not incur any repayment obligation in exchange for the scholarship assistance provided in this section.

(f) GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, a participant's or dependent child's gross income shall not include any amount paid as scholarship assistance under this section or as a stipend under section 14.

(g) APPLICATION.—Each participant desiring a scholarship or payment under this section shall submit an application as prescribed by the Director in such manner and accompanied by such information as the Director may reasonably require.

(h) DEFINITION.—For the purposes of this section the term "institution of higher education" has the meaning given that term in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. —13. SELECTION OF PARTICIPANTS.

(a) IN GENERAL.—Participants in State Police Corps programs shall be selected on a competitive basis by each State under regulations prescribed by the Director.

(b) SELECTION CRITERIA AND QUALIFICATIONS.—(1) In order to participate in a State Police Corps program, a participant must—

(A) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(B) meet the requirements for admission as a trainee of the State or local police force to which the participant will be assigned pursuant to section —15(c)(5), including achievement of satisfactory scores on any applicable examination, except that failure to meet the age requirement for a trainee of the State or local police shall not disqualify the applicant if the applicant will be of sufficient age upon completing an undergraduate course of study;

(C) possess the necessary mental and physical capabilities and emotional characteristics to discharge effectively the duties of a law enforcement officer;

(D) be of good character and demonstrate sincere motivation and dedication to law enforcement and public service;

(E) in the case of an undergraduate, agree in writing that the participant will complete an educational course of study leading to

the award of a baccalaureate degree and will then accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State;

(F) in the case of a participant desiring to undertake or continue graduate study, agree in writing that the participant will accept an appointment and complete 4 years of service as an officer in the State police or in a local police department within the State before undertaking or continuing graduate study;

(G) contract, with the consent of the participant's parent or guardian if the participant is a minor, to serve for 4 years as an officer in the State police or in a local police department, if an appointment is offered; and

(H) except as provided in paragraph (2), be without previous law enforcement experience.

(2)(A) Until the date that is 5 years after the date of enactment of this title, up to 10 percent of the applicants accepted into the Police Corps program may be persons who—

(i) have had some law enforcement experience; and

(ii) have demonstrated special leadership potential and dedication to law enforcement.

(B)(i) The prior period of law enforcement of a participant selected pursuant to subparagraph (A) shall not be counted toward satisfaction of the participant's 4-year service obligation under section ___15, and such a participant shall be subject to the same benefits and obligations under this subtitle as other participants, including those stated in section (b)(1)(E) and (F).

(ii) Clause (i) shall not be construed to preclude counting a participant's previous period of law enforcement experience for purposes other than satisfaction of the requirements of section ___15, such as for purposes of determining such a participant's pay and other benefits, rank, and tenure.

(3) It is the intent of this Act that there shall be no more than 20,000 participants in each graduating class. The Director shall approve State plans providing in the aggregate for such enrollment of applicants as shall assure, as nearly as possible, annual graduating classes of 20,000. In a year in which applications are received in a number greater than that which will produce, in the judgment of the Director, a graduating class of more than 20,000, the Director shall, in deciding which applications to grant, give preference to those who will be participating in State plans that provide law enforcement personnel to areas of greatest need.

(c) RECRUITMENT OF MINORITIES.—Each State participating in the Police Corps program shall make special efforts to seek and recruit applicants from among members of racial and ethnic groups whose representation on the police forces within the State is substantially less than in the population of the State as a whole. This subsection does not authorize an exception from the competitive standards for admission established pursuant to subsections (a) and (b).

(d) ENROLLMENT OF APPLICANT.—(1) An applicant shall be accepted into a State Police Corps program on the condition that the applicant will be matriculated in, or accepted for admission at, a 4-year institution of higher education (as described in the first sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)))—

(A) as a full-time student in an undergraduate program; or

(B) for purposes of taking a graduate course.

(2) If the applicant is not matriculated or accepted as set forth in paragraph (1), the applicant's acceptance in the program shall be revoked.

(e) LEAVE OF ABSENCE.—(1) A participant in a State Police Corps program who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) due to temporary physical or emotional disability shall be granted such leave of absence by the State.

(2) A participant who requests a leave of absence from educational study, training or service for a period not to exceed 1 year (or 18 months in the aggregate in the event of multiple requests) for any reason other than those listed in paragraph (1) may be granted such leave of absence by the State.

(f) ADMISSION OF APPLICANTS.—An applicant may be admitted into a State Police Corps program either before commencement of or during the applicant's course of educational study.

SEC. —14. POLICE CORPS TRAINING.

(a) IN GENERAL.—(1) The Director shall establish programs of training for Police Corps participants. Such programs may be carried out at up to 3 training centers established for this purpose and administered by the Director, or by contracting with existing State training facilities. The Director shall contract with a State training facility upon request of such facility if the Director determines that such facility offers a course of training substantially equivalent to the Police Corps training program described in this subtitle.

(2) The Director is authorized to enter into contracts with individuals, institutions of learning, and government agencies (including State and local police forces), to obtain the services of persons qualified to participate in and contribute to the training process.

(3) The Director is authorized to enter into agreements with agencies of the Federal Government to utilize on a reimbursable basis space in Federal buildings and other resources.

(4) The Director may authorize such expenditures as are necessary for the effective maintenance of the training centers, including purchases of supplies, uniforms, and educational materials, and the provision of subsistence, quarters, and medical care to participants.

(b) TRAINING SESSIONS.—A participant in a State Police Corps program shall attend two 8-week training sessions at a training center, one during the summer following completion of sophomore year and one during the summer following completion of junior year. If a participant enters the program after sophomore year, the participant shall complete 16 weeks of training at times determined by the Director.

(c) FURTHER TRAINING.—The 16 weeks of Police Corps training authorized in this section is intended to serve as basic law enforcement training but not to exclude further training of participants by the State and local authorities to which they will be assigned. Each State plan approved by the Director under section —16 shall include assurances that following completion of a participant's course of education each participant shall receive appropriate additional training by the State or local authority to which the participant is assigned. The time spent by a participant in such additional training, but not the time spent in Police Corps training, shall be counted toward fulfillment of the participant's 4-year service obligation.

(d) COURSE OF TRAINING.—The training sessions at training centers established under this section shall be designed to provide basic law enforcement training, including vigorous physical and mental training to teach participants self-discipline and organizational loyalty and to impart knowledge and understanding of legal processes and law enforcement.

(e) EVALUATION OF PARTICIPANTS.—A participant shall be evaluated during training for mental, physical, and emotional fitness, and shall be required to meet performance standards prescribed by the Director at the conclusion of each training session in order to remain in the Police Corps program.

(f) STIPEND.—The Director shall pay participants in training sessions a stipend of $250 a week during training.

SEC. ___15. SERVICE OBLIGATION.

(a) SWEARING IN.—Upon satisfactory completion of the participant's course of education and training program established in section ___14 and meeting the requirements of the police force to which the participant is assigned, a participant shall be sworn in as a member of the police force to which the participant is assigned pursuant to the State Police Corps plan, and shall serve for 4 years as a member of that police force.

(b) RIGHTS AND RESPONSIBILITIES.—A participant shall have all of the rights and responsibilities of and shall be subject to all rules and regulations applicable to other members of the police force of which the participant is a member, including those contained in applicable agreements with labor organizations and those provided by State and local law.

(c) DISCIPLINE.—If the police force of which the participant is a member subjects the participant to discipline such as would preclude the participant's completing 4 years of service, and result in denial of educational assistance under section ___12, the Director may, upon a showing of good cause, permit the participant to complete the service obligation in an equivalent alternative law enforcement service and, if such service is satisfactorily completed, section ___12(d)(1)(C) shall not apply.

SEC. ___16. STATE PLAN REQUIREMENTS.

A State Police Corps plan shall—

(1) provide for the screening and selection of participants in accordance with the criteria set out in section ___13;

(2) state procedures governing the assignment of participants in the Police Corps program to State and local police forces (no more than 10 percent of all the participants assigned in each year by each State to be assigned to a statewide police force or forces);

(3) provide that participants shall be assigned to those geographic areas in which—

(A) there is the greatest need for additional law enforcement personnel; and

(B) the participants will be used most effectively;

(4) provide that to the extent consistent with paragraph (3), a participant shall be assigned to an area near the participant's home or such other place as the participant may request;

(5) provide that to the extent feasible, a participant's assignment shall be made at the time the participant is accepted into the program, subject to change—

(A) prior to commencement of a participant's fourth year of undergraduate study, under such circumstances as the plan may specify; and

(B) from commencement of a participant's fourth year of undergraduate study until completion of 4 years of police service by participant, only for compelling reasons or to meet the needs of the State Police Corps program and only with the consent of the participant;

(6) provide that no participant shall be assigned to serve with a local police force—

(A) whose size has declined by more than 5 percent since June 21, 1989; or

(B) which has members who have been laid off but not retired;

(7) provide that participants shall be placed and to the extent feasible kept on community and preventive patrol;

(8) assure that participants will receive effective training and leadership;

(9) provide that the State may decline to offer a participant an appointment following completion of Federal training, or may remove a participant from the Police Corps program at any time, only for good cause (including failure to make satisfactory progress in a course of educational study) and after following reasonable review procedures stated in the plan; and

(10) provide that a participant shall, while serving as a member of a police force, be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other police officers of the same rank and tenure in the police force of which the participant is a member.

SEC.—17. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $400,000,000 for fiscal year 1991 and such sums as are necessary to carry out the subtitle for fiscal years 1992, 1993, 1994, and 1995.

Subtitle B—Law Enforcement Scholarship Program

SEC.—21. DEFINITIONS.

As used in this subtitle—

(1) the term "educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of an associate degree;

(B) a course of education leading to the award of a baccalaureate degree; or

(C) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies and related expenses;

(2) the term "institution of higher education" has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(3) the term "law enforcement position" means employment as an officer in a State or local police force, or correctional institution; and

(4) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC.—22. ALLOTMENT.

From amounts appropriated under the authority of section—29, the Director shall allocate—

(1) 80 percent of such funds to States on the basis of the number of law enforcement officers in each State; and

(2) 20 percent of such funds to States on the basis of the State's shortage of law enforcement personnel and the need for assistance under this subtitle.

SEC. —23. PROGRAM ESTABLISHED.

(a) IN GENERAL.—From amounts available pursuant to section —22 each State shall pay the Federal share of the cost of awarding scholarships to in-service law enforcement personnel to enable such personnel to seek further education.

(b) FEDERAL SHARE.—(1) The Federal share of the cost of scholarships under this subtitle shall not exceed 60 percent.

(2) The non-Federal share of the cost of scholarships under this subtitle shall be supplied from sources other than the Federal Government.

(c) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall be responsible for the administration of the program conducted pursuant to this subtitle and shall, in consultation with the Assistant Secretary for Postsecondary Education, promulgate regulations to implement this subtitle.

(d) SPECIAL RULE.—Each State receiving an allotment under section —23 shall ensure that each scholarship recipient under this subtitle be compensated at the same rate of pay and benefits and enjoy the same rights under applicable agreements with labor organizations and under State and local law as other law enforcement personnel of the same rank and tenure in the office of which the scholarship recipient is a member.

(e) SUPPLEMENTATION OF FUNDING.—Funds received under this subtitle shall only be used to supplement, and not to supplant, Federal, State, or local efforts for recruitment and education of law enforcement personnel.

SEC. —24. SCHOLARSHIPS.

(a) PERIOD OF AWARD.—Scholarships awarded under this subtitle shall be for a period of one academic year.

(b) USE OF SCHOLARSHIPS.—Each individual awarded a scholarship under this subtitle may use such scholarship for educational expenses at any accredited institution of higher education.

SEC. —25. ELIGIBILITY.

An individual shall be eligible to receive a scholarship under this subtitle if such individual has been employed in law enforcement for 2 years immediately preceding the date for which assistance is sought.

SEC. —26. STATE PLAN REQUIREMENTS.

A State law enforcement scholarship plan shall—

(1) contain assurances that the State shall make scholarship payments to institutions of higher education on behalf of individuals receiving financial assistance under this subtitle;

(2) identify model curriculum and existing programs designed to meet the educational and professional needs of law enforcement personnel;

(3) contain assurances that the State shall promote cooperative agreements with educational and law enforcement agencies to enhance law enforcement personnel recruitment efforts in high schools and community colleges; and

(4) contain assurances that the State shall not expend for administrative expenses more than 8 percent of Federal funds received under section 23.

SEC. —27. LOCAL APPLICATION.

(a) IN GENERAL.—Each individual desiring a scholarship under this subtitle shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require. Each such application shall describe the academic courses for which financial assistance is sought.

(b) PRIORITY.—In awarding scholarships under this subtitle, each State shall give priority to applications from individuals who are—

(1) members of racial, ethnic, or gender groups whose representation in the law enforcement agencies within the State is substantially less than in the population eligible for employment in law enforcement in the State; and

(2) pursuing an undergraduate degree.

SEC. 28. SCHOLARSHIP AGREEMENT.

(a) IN GENERAL.—Each individual receiving a scholarship under this subtitle shall enter into an agreement with the Director.

(b) CONTENTS.—Each agreement described in subsection (a) shall—

(1) provide assurances that the individual shall work in a law enforcement position in the State which awarded such individual the scholarship in accordance with the service obligation described in subsection (c) after completion of such individual's academic courses leading to an associate, bachelor, or graduate degree;

(2) provide assurances that the individual will repay all of the scholarship assistance awarded under this title in accordance with such terms and conditions as the Director shall prescribe, in the event that the requirements of the agreement under paragraph (1) are not complied with except where the individual—

(A) dies;

(B) becomes physically or emotionally disabled, as established by the sworn affidavit of a qualified physician; or

(C) has been discharged in bankruptcy; and

(3) set forth the terms and conditions under which an individual receiving a scholarship under this subtitle may seek employment in the field of law enforcement in a State other than the State which awarded such individual the scholarship under this subtitle.

(c) SERVICE OBLIGATION.—Each individual awarded a scholarship under this subtitle shall work in a law enforcement position in the State which awarded such individual the scholarship for a period of one month for each credit hour for which financial assistance is received under this subtitle.

(2) For purposes of satisfying the requirement specified in paragraph (1) each individual awarded a scholarship under this Act shall work in a law enforcement position in the State which awarded such individual the scholarship for not less than 6 months nor more than 2 years.

SEC. 29. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $30,000,000 for fiscal year 1991 and such sums as are necessary to carry out the subtitle for fiscal years 1992, 1993, 1994, and 1995.

Subtitle C—Reports

SEC. 31. REPORTS TO CONGRESS.

(a) ANNUAL REPORTS.—No later than April 1 of each fiscal year, the Director shall submit a report to the Attorney General, the President, the Speaker of the House of Representatives, and the President of the Senate. Such report shall—

(1) state the number of current and past participants in the Police Corps program authorized by subtitle A, broken down according to the levels of educational study in which they are engaged and years of service they have served on police forces (including service following completion of the 4-year service obligation);

(2) describe the geographic dispersion of participants in the Police Corps program;

(3) state the number of present and past scholarship recipients under subtitle B, categorized according to the levels of educational study in which such recipients are engaged and the years of service such recipients have served in law enforcement;

(4) describe the geographic, racial, and gender dispersion of scholarship recipients under subtitle B; and

(5) describe the progress of the programs authorized by this title and make recommendations for changes in the programs.

(b) SPECIAL REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to Congress containing a plan to expand the assistance provided under subtitle B to Federal law enforcement officers. Such plan shall contain information of the number and type of Federal law enforcement officers eligible for such assistance.

AMENDMENT NO. 2100, AS AMENDED

Mr. HATFIELD. Mr. President, I ask for the yeas and nays on the underlying amended.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as amended, of the Senator from Oregon.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Carolina [Mr. SANFORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. FORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 25, nays 73, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—25

Akaka	Glenn	Levin
Burdick	Harkin	Metzenbaum
Chafee	Hatfield	Mitchell
Cohen	Inouye	Moynihan
Conrad	Kennedy	Pell
Cranston	Kerry	Rockefeller
Danforth	Kohl	Simon
Durenberger	Lautenberg	
Fowler	Leahy	

NAYS—73

Adams	DeConcini	Humphrey
Baucus	Dixon	Jeffords
Bentsen	Dodd	Johnston
Biden	Dole	Kassebaum
Bingaman	Domenici	Kasten
Bond	Exon	Kerrey
Boren	Ford	Lieberman
Boschwitz	Garn	Lott
Bradley	Gore	Lugar
Breaux	Gorton	Mack
Bryan	Graham	McCain
Bumpers	Gramm	McClure
Burns	Grassley	McConnell
Byrd	Hatch	Mikulski
Coats	Heflin	Murkowski
Cochran	Heinz	Nickles
D'Amato	Helms	Nunn
Daschle	Hollings	Packwood
Pressler	Sarbanes	Thurmond
Pryor	Sasser	Wallop
Reid	Shelby	Warner
Riegle	Simpson	Wilson
Robb	Specter	Wirth
Roth	Stevens	
Rudman	Symms	

NOT VOTING—2

Armstrong Sanford

So the amendment (No. 2100), as amended, was rejected.

AMENDMENT NO. 2102

(Purpose: To provide State and local law enforcement assistance)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. BIDEN, Mr. DECONCINI, Mr. KENNEDY, Mr. BRADLEY, Mr. HARKIN, Mr. METZENBAUM, Mr. LEVIN, and Mr. D'AMATO proposes an amendment numbered 2102.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Base allocation for drug enforcement grants and improving the effectiveness of court process.

(a) Base allocation for drug enforcement grant. Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title."

Mr. KERRY. This is an amendment which has the agreement on both sides. I offer it on behalf of myself, Senator BIDEN, Senator DECONCINI, Senator KENNEDY, Senator BRADLEY, Senator HARKIN, Senator METZENBAUM, Senator LEVIN, and Senator D'AMATO, I wish to thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, for his help on this amendment. If it were not there, this amendment would not be accepted by both sides and we would not be proceeding forward now, and I appreciate his help.

Very quickly, this amendment takes the amount of money that goes to State and local law enforcement assistance from $450 million to $900 million. It does so recognizing that throughout the period of the 1980's, from 1981 to 1989, the total amount of money that was given to State and local law enforcement assistance was $666 million. In 1 year alone in the 1970's, we provided $875 million. Recognizing that this is now the fifth declaration of war on drugs and that the needs of our urban areas, our police departments, our cities, in the effort to fight crime have never be greater. We believe this is not even enough, but it is the best we can do with agreement on both sides.

Mr. President, I do not have to tell you about the close connection between drugs and crime. According to the Bureau of Justice Assistance:

The link between drug use and crime has been firmly established, making it difficult to discuss one to the exclusion of the other.

Despite the obvious link and despite the President's declaration of a war on drugs, I continue to be dismayed by the lack of resources we are willing to commit to local law enforcement.

The problem is that instead of having a national strategy for the war on drugs, we have a Federal strategy. You only have to examine the President's crime package from last year to understand exactly what I am talking about.

As part of the President's package, he proposed providing $846 million to fund 20,000 new Federal prison beds; he proposed $7 million for 108 new FBI agents; and $10 million for 200 new Bureau of Tobacco, Alcohol, and Firearms agents. And after Congress pushed him, he agreed to another $46 million for 707 new DEA positions.

This represents a significant commitment of resources and it will have a significant impact on every State in this country. For example, in my State of Massachusetts, we will receive nearly $10 million for enforcement by the DEA, a 33-percent increase over last year. And the budget of the FBI will rise by over $3 million in my State. But this is all Federal money for Federal law enforcement.

The truth is that we do not need another Federal program. What we do need are more resources at the State and local level, the front lines of the drug war. What we need is recognition from the President and from the Congress that States understand their problems best. What we need is a truly national drug plan that involves all 50 States and is led by the President of the United States.

Just last year, the Subcommittee on Narcotics, Terrorism, and International Operation, which I chair, prepared a report entitled "Drugs in Massachusetts: The Domestic Impact of a Foreign Invasion" based on field hearings in Massachusetts. I want to take a moment to share with you some of the testimony from the State and local officials who testified at those hearings.

In the words of Massachusetts Attorney General Shannon:

The dirty little secret of the criminal justice system, when it comes to drug interdiction, is that all of us sitting at this table know of drug dealers who should be prosecuted, who are out there selling drugs as we speak here now. And we do not have the resources to go after them. That is obscene, but that is the fact.

As Norfolk District Attorney William Delahunt testified:

> We are inundated. We are going literally 24 hours a day in terms of dealing with dealers, with sellers. We do not really have time, but we will make time to deal with the user if we know that there would be an impact * * * [but] we have no place to put users, let alone dealers.

Finally, as Springfield Sheriff Ashe testified:

> Unless we can get appropriate correctional facilities on line quickly in this country, we could have a tragedy on our hands if one of these early released people harms a citizen. I need cells.

It seems clear that we need more police on our streets, protecting our schools and patroling our neighborhoods. Not only is drug-related crime on the increase in this country, all serious crime is on the increase in this country. This past April, FBI Director William Sessions, announced that the number of serious crimes known to law enforcement rose 3 percent nationwide from 1988 to 1989.

FBI Director Sessions also reported that last year violent crime increased 5 percent nationwide and property crimes increased 2 percent. Among the violent crimes, robbery showed the largest increase, up 7 percent. Murder rose 4 percent and aggravated assault was up 5 percent. Of the property crimes reported, motor vehicle theft increased 9 percent and larcency theft, 2 percent.

Cities with populations over 50,000 showed a 3-percent increase in offenses reported to the police. The surburban and rural areas, as well as cities outside metropolitan areas recorded a 2-percent increase.

Within these broad categories there are some alarming trends. I believe there is a perception that crime is an urban problem and that it is primarily centered in the northeast region and in California where many of our big metropolitan areas are located. But consider the following:

In areas with a population of between 10,000 and 25,000, there was a 12-percent increase in murder. This should be contrasted to cities over 1 million where the increase was 7 percent.

In towns of 10,000 or less, violent crime increased by 5 percent. That is exactly the same increase as in cities over 1 million.

The uniform crime report estimates that rape in large cities actually reduced during the last year, but in rural areas forcible rape increased 9 percent.

Aggravated assault in towns of 10,000 or less was up 5 percent the same as in cities of 1 million or more.

Make no mistake about it, crime afflicts small towns and rural areas across this country.

And crime has increased in surburban middle class communities as well, where violent crime is up 5 percent, robbery is up 8 percent and motor vehicle theft is up 7 percent.

Nor is this a problem that is limited to the Northeast. Violent crime has increased 5 percent in the Northeast. It is up 5 in the Midwest. And in both the South and the West violent crime is up 6 percent.

Murder has increased 4 percent in the Northeast and 7 percent in the South.

Forcible rape has increased 1 percent in the Northeast and 4 percent in the Midwest.

Aggravated assault is up 2 percent in the Northeast, but in the West it has increased by over twice that much. It seems clear that crime knows no boundaries. The question is what can we do to bring this spiraling problem under control?

When I was a prosecutor in Middlesex County, MA, in the 1970's there was a program called LEAA [Law Enforcement Assistance Administration]. That program was created in order to provide funds to State and local law enforcement. The budget of LEAA approached nearly $900 million in the late 1970's. Now, I know there were some abuses, but by and large the program was a success.

During the 1980's LEAA was scrapped and, in fact, between 1981 and 1989 the previous administration provided a grand total of $666 million to State and local law enforcement. That was all the Federal money that was available to assist for the 50 States in their attack on street level enforcement, on hiring investigators, prosecutors and judges, and on building prisons. No wonder our crime rate skyrocketed during the 1980's.

This year President Bush has committed $450 million to State and local law enforcement. And next year that will rise to $600 million. That is a big improvement over the previous administration, but it's not nearly enough.

We are giving the Pentagon $1.2 billion to spend in the war on drugs. Why are we giving the military twice as much money as the real soldiers fighting on the front lines of the drug war? We need to provide more resources to the public in our cities and towns and I am proposing that Congress commit $900 million for that purpose.

Mr. President, we know that street enforcement works. We've seen it work in Lynn, MA, where a small task force committed to street level enforcement, in operation for only a short time, cut robberies by 18 percent and burglaries by 37 percent.

But if you don't believe me listen to what the National Director of Drug Policy, William Bennett, in his January drug control strategy report, said:

> Street level enforcement remains the best tool that we have for restoring a sense of order and civility to neighborhoods where drugs—with all their attendant crime, violence, and decay—have wrought havoc.

No community in this country has been spared from crime and street level law enforcement is our best hope. And the Governors in this country know how important street level enforcement is. Just this March, the Governors of New Mexico, Arizona, Texas, and California signed a joint agreement which stated;

> When the Federal role and resources are vital, general success depends heavily on the considered role of State, local and community law enforcement action.

Last year in Albuquerque, NM, there were nearly 40,000 crimes committed, including over 3,400 aggravated assaults and 9,600 larcenies.

Under my amendment, New Mexico, which received $3 million in BJA assistance this year, would see an increase in its assistance of nearly $3.5 million, an increase of 115 percent. According to Gerald Arenberg, executive director of the National Association of Chiefs of Police, it costs $40,000 to put one policeman on the street. This figure includes not only the cost of the officer's salary but the cost of training, insurance, radio equipment, and recruitment. The additional $3.5 million that New Mexico would receive could be used to put another 88 police officers on the streets in that State.

In Aurora, CO, there were 2,300 aggravated assaults and 120 forcible rapes.

Under my amendment, Colorado, which received $5.5 million in BJA assistance this year, would see an increase in its assistance to almost $6.2 million, an increase of 114 percent. This money could be used to put another 155 police officers on the streets.

In Boise, ID, the National Crime Index lists 1,600 bulgaries and over, 4,000 larcenies.

Under my amendment, Idaho, which received $2.4 million in BJA assistance this year, would see an increase in its assistance of over $2.6 million, an increase of 115 percent. This money could potentially be used to send another 65 police officers on the beat.

In Fort Worth, TX, there were 113 murders, 16 more than the year before.

Under my amendment, Texas, which received $24 million in BJA assistance this year, would see an increase in its assistance of $27 million, an increase of 114 percent. This money could be used to put another 675 policemen on the streets.

In Chicago, IL, last year there were 742 murders, 82 more than the year before. Meanwhile, there were over 2,600 more robberies than in 1988.

Under my amendment, Illinois, which received $16.8 million in BJA assistance this year, would see an increase in its assistance of over $19.1 million, an increase of 113 percent.

This money could be used to put another 477 police officers on the street to fight crime in Chicago.

In Lincoln, NE, last year there were more rapes, robberies, aggravated assaults and larcenies than the year before.

Under my amendment, Nebraska, which received $3.2 million in BJA assistance this year, would see an increase in its assistance of almost $3.6 million, an increase of 114 percent. This money could be used to put at least 90 police officers on the street.

In St. Louis, MO, last year there were more murders, rapes, aggravated assaults, and burglaries than in the year before.

Under my amendment, Missouri, which received 48 million in BJA assistance this year, would see an increase in its assistance of $9 million, an increase of 113 percent. This money could be used to put 225 cops on the street to deter crime.

And in Washington, DC, as we are all painfully aware, there were 434 murders last year. Washington, DC, the Nation's Capital, is also known as the murder capital.

Under my amendment, Washington, DC, which received $1.8 million in BJA assistance this year, would see an increase in its assistance of nearly $2.1 million, an increase of 111 percent. This money could be used to put at least 53 cops on the street to crackdown on drug-related crime which everyone agrees has escalated out of control

Another problem, Mr. President, is what to do with the criminals after they have been arrested and convicted.

The Bureau of Justice assistance states in its program guidance kit that—

New judicial and correctional facilities are needed to expedite drug cases and to punish drug traffickers and violent and repeat offenders. Formula funds may be used for actual construction of penal or correctional institutions.

Building prisons is not cheap. According to the Bureau of Prisons building a maximum security 800 bed unit would cost $61.9 million. And a combined medium and mimimum security facility can cost anywhere between $50 and $58 million. Now, obviously, the individual grants to States will now completely support the construction of these types of facilities. But we also desperately need city jails and holding cells as well as county jails and detention centers. We need also to renovate and update many of our local facilities. BJA assistance can help for all of these purposes.

The problem is immense. Prison overcrowding effects virtually every State. Consider the following:

In Rhode Island, there were 2,500 prisoners under the jurisdiction of State correctional authorities in 1989, representing a 30-percent increase.

Under my amendment, Rhode Island would see an increase in its assistance of $2.7 million, an increase of 114 percent. Some of that money could be used to build new prisons to satisfy the burgeoning need revealed by these figures.

In California, there were over 87,000 prisoners under the jurisdiction of State correctional authorities in 1989, representing almost a 15-percent increase. Moreover, the prison population in California has increased a whopping 262 percent during the 1980's, the largest percentage increase in prison population of any State during that time.

Under my amendment, California would see an increase in its assistance of nearly $46 million, an increase of 118 percent. At the minimum, a portion of this money could be used for the construction of new State prisons in a State which clearly has experienced unprecedented increases in their prison population.

In New Hampshire, prisoners sentenced to more than 1 year rose sharply by 257 percent during the eighties. This increase was more than any other State in the United States.

Under my amendment, New Hampshire would see an increase in its assistance of $2.8 million, a 116-percent increase. This money could be used to hire more prison guards and build additional facilities to accommodate their swelling prison population.

In Maryland, last year over 700 women were incarcerated in State institutions, representing a 41-percent increase since 1987. Maryland is second only to Washington, DC, in terms of this rapid growth of women inmates in prisons throughout the country.

Under my amendment, Maryland would realize an increase in its assistance of nearly $8.5 million, a 115-percent increase. This money could be used to build facilities for women inmates.

In Tennessee, more than 2,700 State prisoners were held in local jails because of prison crowding last year, representing 26 percent of all prisoners in that State. More prisoners had to be held in local jails in Tennessee than any other State in the country.

Under my amendment, Tennessee would see an increase in its assistance close to $8.8 million, an increase of 114 percent. This money could be used to build more State prisons which would alleviate the strain on local jails and their limited personnel.

And in North Carolina, there were nearly 4,000 prisoners over the operational capacity in 1989, which is defined by BJA as the number of inmates that can be accommodated based on a facility's staff, existing programs, and services. North Carolina State prisons functioned over their operational capacity by a greater percentage than any other State last year.

Under my amendment, North Carolina would realize an increase in its assistance of over $21 million, an increase of 115 percent. This money could be used to build prisons to compensate for, once again, their relentless overcrowding.

It seems simple to me. In order to effectively combat crime we must say that there will be no street in this country that is not on a policeman's beat. We must say there will be no school in the United States that is not safe for a child to attend. We must say there will be no neighborhood in our land where a drug dealer feels free to conduct open-air transactions and Mr. President, we must say that no dangerous drug trafficker will be released from jail or prison because there is no room

Mr. President, this amendment will not solve America's crime problem, but it is an important additional step in that direction. Moreover, it sends an important message to our courageous police officers. It says we respect your important work enormously, we recognize that it is central to the very functioning of our society, and that help is on the way.

Finally, Mr. President, let me commend the chairman of the Judiciary Committee. He has been a leader in this effort for many years. The committee action has clearly demonstrated the need for this important assistance. I believe this important legislation will send a strong message of support for those fighting on the front line of the drug war.

The PRESIDING OFFICER. Is there further debate? Does the Senator yield back all time?

Mr. KERRY. I yield back whatever time I have remaining, Mr. President.

Mr. BIDEN. I yield back the balance of our time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment.

The amendment (No. 2102) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. Mr. President, I ask unanimous consent that a letter from the National Association of Chiefs of Police be printed in the RECORD

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF CHIEFS OF POLICE,
Washington, DC, June 28, 1990.

Senator JOHN F. KERRY,
Senate Office Building,
Washington, DC.

DEAR SENATOR KERRY: The need by the nations law enforcement community for direct financial support from federal funding to help reduce crime is critical. Your amendment that would require the much needed funds back up a poll that we have just completed of every chief and sheriff of this nation.

We asked if the departments were undermanned and 90% responded that they did not have the people to fight the criminals that have made our streets unsafe. It is a fact that crime for the past ten years has increased more than 30% while actual police manpower has been reduced.

Few, if any departments get any federal assistance in dollars that they can spend on equipment, added men, reserves, or even replacement vehicles.

In 1960 we lost one police officer a week in the line of duty. Today we see a bulletin that lists an officer dead every 57 hours. Many of those deaths could be reduced with funding for bullet resistant vests, for the weapons and training they need. For more officers on the street.

We pray to God that your fellow members of the Senate will support your amendment to increase the direct aid to the thin-blue line.

Sincerely,

GERALD S. ARENBERG,
Executive Director.

AMENDMENT NO. 2103

(Purpose: To amend title 11, United States Code, to provide that certain criminal restitution debts may not be discharged in bankruptcy, and for other purposes.)

Mr. LEVIN. Mr. President, I send an amendment to the desk pursuant to the unanimous-consent agreement and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 2103.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE —CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY

SEC. . CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY.

(a) AUTOMATIC STAY NONAPPLICABLE TO CRIMINAL RESTITUTION DEBT.—Section 362(b) is amended—

(1) in paragraph (12) by striking out "or" at the end thereof;

(2) in paragraph (13) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(14) under subsection (a) of this section, of the payment of any fine or penalty imposed by an order for restitution in any State or Federal criminal judgment, or any related probationary order.".

(b) CRIMINAL RESTITUTION DEBT EXCEPTION TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (9) by striking out "or" at the end thereof;

(2) in paragraph (10) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(11) for a fine or penalty imposed by an order for restitution in any State or Federal criminal judgment, or any related probationary order.".

(c) PAYMENT OF RESTITUTION IN CHAPTER 13 PLAN.—Section 1322(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof;

(2) in paragraph (3) by striking out the period at the end and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for full payment of all claims which are nondischargeable under seciton 523(a)(11) of this title.".

(d) NONDISCHARGE OF CRIMINAL RESTITUTION DEBT UNDER CHAPTER 13 OF TITLE 11, UNITED STATES CODE.—Section 1328(a) of title 11, United States Code, is amended in paragraph (2) by inserting "or (11)" after "section 523(a)(5)".

At the end of the table of contents add the following:

TITLE —CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY

Sec. . Criminal restitution debts nondischargeable in bankruptcy.

Mr. LEVIN. Mr. President, this amendment is very straightforward. Under current law, as interpreted by the Supreme Court a month ago, someone who is convicted of a criminal offense—or who pleads guilty to a criminal offense—and who is ordered to pay restitution as part of his or her sentence can avoid that obligation entirely by filing for bankruptcy under chapter 13 of the Federal Bankruptcy Code. That's all there is to it: File for bankruptcy and your obligation to pay for a criminal violation is wiped out.

I think that is wrong. I think that restitution is an important part of the arsenal of sanctions we have in sentencing criminals and that it is particularly appropriate when the underlying crime involves financial fraud or wrongdoing. It just should not be that easy to avoid. Back in 1978, a House report on the Bankruptcy Code stated, "The bankruptcy laws are not a haven for criminal offenders." I believe Congress shares that view today.

Right now, there is a discrepancy in the bankruptcy law. A few years ago, the Supreme Court rules that criminals could not avoid their restitution debts under chapter 7 of the Bankruptcy Code. (*Kelley* v. *Robinson*, 479 U.S. 36 (1986).) About a month ago, however, the Court came down the other way under chapter 13 of the Bankruptcy Code. (*Pennsylvania Department of Public Welfare* v. *Davenport*, No. 89-156 (May 29, 1990).) Now, for those of us who are not bankruptcy experts, the fundamental difference between chapter 7 and chapter 13 is that chapter 7 calls for liquidation of a debtor's estate while chapter 13 calls for reorganization. That distinction is meaningless when it comes to treating restitution obligations resulting from criminal convictions.

The Supreme Court's recent Davenport decision was decided 7 to 2. It involved a couple in Pennsylvania who pleaded guilty to welfare fraud and were sentenced to 1 year's probation. As a condition of probation, the Davenports were ordered to make monthly restitution payments to the State. Instead of making those court-ordered payments, the Davenports filed for bankruptcy under chapter 13. And the Supreme Court interpreted the Bankruptcy Code as condoning that maneuver as a way around their restitution obligation. The majority of the Court did not say that it was good policy or constitutionally required that restitution debts be excused in these circumstances. It said, based on it's reading of the statute, that is what Congress meant in drafting the Bankruptcy Code.

Well, I do not think that's what we meant or want. I think that the minority had it right. Justice Blackmun wrote, and I agree, that:

"The statutory language, the consistent authority treating criminal sanctions as nondischargeable under the Bankruptcy Act of 1989, the absence of any legislative history suggesting that the code was intended to change that established principle, and the strong policy of deference to State criminal judgments all compel the conclusion that a restitution order is not a dischargeable debt.

Justice Blackmun also wrote for the minority that:

(T)here is no indication that Congress had any intent so drastically to change the established pre-Code practice regarding criminal sanctions.

The Supreme Court has spoken on what it thinks Congress meant. Now let us speak and say what we really mean. Let us fix the Bankruptcy Code so that it is unambiguous. Let us make clear that criminals cannot evade their restitution obligations by filing for bankruptcy, under any section of the Bankruptcy Code. That is what this amendment does.

Mr. President, I understand that this amendment is acceptable to the managers of the bill.

Mr. BIDEN. Mr. President, we think the amendment the Senator suggested is very helpful and important and we are happy to accept it.

The PRESIDING OFFICER. Does the Senator from Michigan yield back all of his time?

Mr. LEVIN. I am happy to yield back.

Mr. BIDEN. Yes, I yield back all my time.

Mr. THURMOND. Mr. President, we have no objection.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 2103) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, this request has been agreed to on all sides.

EXECUTIVE SESSION

NOMINATION OF FREDERICK P. STAMP, JR.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Executive Calendar Order No. 865, Frederick P. Stamp, Jr., of West Virginia, to be U.S. district judge for the Northern District of West Virginia vice William M. Kidd, retired; that the nomination be agreed to; that the motion to reconsider be laid upon the table; that the President be immediately notified of the confirmation of the nominee; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

THE JUDICIARY

Frederick P. Stamp, Jr., of West Virginia, to be U.S. district judge for the Northern District of West Virginia vice William M. Kidd, retired.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

Mr. EXON. Mr. President, I ask unanimous consent that I might be able to proceed as if in morning business.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 2828 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

OMNIBUS CRIME BILL

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who seeks recognition?

The Chair, using his prerogative as the Senator from Kentucky, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2104

Mr. BIDEN. Mr. President, I send an amendment to the desk referred to as the manager's amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 2104.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, depending on what my distinguished senior colleague from South Carolina wishes to do, I am prepared to yield back all time and urge the manager's amendment.

PRIVATE JAILS

Mr. DOMENICI. Mr. President, I am pleased the amendment that we are now considering includes a provision that I authored that would regulate private jails that are utilized by the U.S. Marshals Service.

Clearly, our Nation has a responsibility to provide sufficient jail space for those who break our laws. However, before any new jails are constructed they should meet two requirements.

First, all new jails need to go through a rigorous analysis to determine the need for the jail. Second, jails—whether they are publicly or privately constructed—need to meet certain standards to protect the public.

I became concerned about this issue after a company proposed to build a private jail in my State. After reviewing the matter, it seemed to me that the proposed private jail has not met these two requirements.

It appears that this jail is being built for speculative purposes without a clear determination of the need for the jail. The builders of this jail intend to contract with the U.S. Marshals Service to house Federal detainees. However, I received conflicting information from the Marshals Service on whether they would have an interest in using the jail. Before any jail is constructed for Federal prisoners in New Mexico or any other State, the Federal Government should determine whether such a facility is needed.

There are no applicable Federal standards that would govern this proposed private jail.

Under 18 U.S.C. 4013(a)(3)—which was enacted as section 7608(d)(1) of Public Law 100-690, the Anti-Drug Abuse Act of 1988—the Marshals Service is authorized to house Federal detainees in private jails. Section 4013, however, provides no standards for private jails. The Marshals Service currently is seeking space in private jails in Boston and Kansas City. In these two cases, the standards will be set by a contract between the Marshals Service and the private jail before the jail is constructed.

The proposed jail in New Mexico is different. In that case, the jail will apparently be built first and then the builder will seek to enter into a contract with the Marshals Service. The public needs to be assured, prior to the construction of a jail, that adequate safeguards will be put on place to protect the public.

Mr. President, my provision would amend section 4013 to correct these problems.

The provision would require the Marshals Service to determine whether there is a need for additional jail space in a particular area and will permit the Marshals Service to contract for jail space only in areas where there is a need. This will curb the building of jails for speculative purposes.

In order to determine whether there is a need for additional jail space in an area, the Marshals Service would determine the availability and suitability of existing detention facilities in the area. In evaluating the suitability of existing facilities, the Marshals Service would be expected to take into account the cost, quality, safety, and security of the existing facilities.

The provision also would permit the Marshals Service to enter into contracts only with private jails that meet strict standards designed to protect public safety. Under the provision, private jails with which the Marshals Service contracts must:

First, meet the standards of the American Correctional Association;

Second, have approved fire, security, escape, and riot plans;

Third, comply with all applicable State and local laws and regulations; and

Fourth, comply with any other regulations that the Marshals Service deems appropriate.

There is some concern that the various standards that private detention facilities would be required to meet may impose conflicting obligations on these facilities. In order to prevent such conflicts from arising, the Marshals Service should assure that its regulations for private detention facilities are consistent and nonconflicting.

The provision is identical to S. 2519, which I introduced with Senator BINGAMAN on April 25. Representative STEVE SCHIFF, who represents the district in which the private jail would be constructed, introduced identical legislation in the House of Representatives.

Mr. President, this provision will assure, if any private jails are built to house Federal prisoners, that they are needed and that they are constructed with adequate safeguards to protect the public.

I yield the floor.

ON PLAYGROUND AMENDMENT TO S. 1970

Mr. LEVIN. Mr. President, the amendment I am offering today would expand the law designed to protect children in playgrounds from drug dealers by amending section 405(a) of the Controlled Substances Act.

In 1984 we enacted a special criminal statute with enhanced penalties for drug dealing near a school or playground, for drug dealing using a minor, and for dealing drugs to a minor. Based on an amendment I offered in 1986, we also included a mandatory minimum for prison sentences under this statute.

Recently my staff made inquiries at several U.S. attorneys offices about the extent to which these statutes were being used for drug prosecutions. We found out that they are a very useful prosecutorial tool. We also found out, from the U.S. attorney's office in Los Angeles, that the playground provision was too narrow in its application. Although the statute covers the area within 1,000 feet of a school or college, it covers the area within only 100 feet of a playground. The U.S. attorney's office advised us that since many playgrounds are within larger park areas, it would be advisable and appropriate to include the nearby park area as well. This amendment achieves that by expanding the 100 feet radius to 1,000 feet in the statute.

This amendment is necessary to protect children in playgrounds and the surrounding area where drugs may be sold. It makes not only the playground a drug-free zone, but much of the area used for walking to and from the playground. The 100 foot radius in current law is insufficient to insulate children from the dangers of drug use and drug dealing. This amendment would add the cushion we need to adequately protect our children.

COATS-LEVIN BOOT CAMP AMENDMENT

Mr. LEVIN. Mr. President, I am pleased to join with my colleague from Indiana, Senator COATS, in sponsoring this amendment to provide Federal aid to State shock incarceration programs, also known as boot camp prisons. This amendment would provide States with some of the help they need to establish or expand boot camp programs.

Boot camps provide an intensive, short-time confinement for young adult offenders who have not been imprisoned before. During the 90 to 180 day confinement period, the offenders are subject to rigorous discipline, hard work, physical labor and a military-type atmosphere that leaves no room for street smart talk or actions. If an offender can't make it through the boot camp program, he is either returned to the sentencing judge or, in some States, to the corrections department, for reassignment to a normal prison term, which is generally longer than the boot camp term.

In too many cities and towns today, crack is being sold openly in our streets and neighborhoods. This flagrant drug dealing makes a mockery of law enforcement and of our so-called war on drugs. The harm is compounded when the system works like a revolving door—drug dealers who are arrested too often wind up back on the streets, back to their drug dealing, in no time. When there is not enough room in the prisons to keep drug dealers locked up, it breeds contempt for the rule of law.

Boot camps are a practical approach to ensuring that drug dealers and other criminals face swift and sure punishment. At the same time, boot camps help to break the cycle of crime. Too often, our prisons—State and Federal—are graduate schools of crime. Offenders—particularly the younger ones—often come out of our traditional prisons more hardened and less likely to become useful members of society than when they went in. Boot camp prisons hold promise as a way out of this dilemma.

This is a fairly new phenomenon in corrections—the first boot camp prisons opened in Oklahoma and Georgia in 1983 and 1984. Now, shock incarceration programs exist in 14 States, and at least 8 other States are considering such programs. We've learned a lot about these programs, and one thing we've learned is that they are spreading rapidly because they met States' needs.

The Subcommittee on Oversight of Government Management, which I chair, has held two hearings on boot camp prisons in recent months. The subcommittee staff and I visited boot camps in my home State of Michigan and Florida. We were impressed with what we observed.

These programs are geared to young offenders—18- to 25-year-olds in many States—who are being locked up for the first time. They take people who have been convicted of many kinds of crimes, but they exclude people who are considered real dangers to society.

Shock incarceration is tough. You may have seen pictures on the TV news or in newspapers and magazines with so-called drill sergeants yelling in the face of young prisoners. So there is the paramilitary aspect. But there is more to these programs than that. They are tough because they impose discipline and they demand self-responsibility and respect for authority. They demand that prisoners perform at a high level, physically and mentally. For many of these prisoners, that is quite a shock. They have never had real demands placed on them before, and they have never been held accountable for their actions.

Probation officers have testified that they have been impressed with the positive attitudes of their probationers who had completed shock incarceration.

We learned something else from our hearings and our conversations with State corrections officials. Sending a prisoner to boot camp for 90 days or 180 days—however tough the program is—is not going to turn someone's life around in and of itself. There has to be followthrough. Once a prisoner is done with boot camp, he needs to be placed in a situation where the positive new attitudes and sense of responsibility can grow. This may mean a half-way house or intensive probation; it may mean alcohol or drug abuse counseling; it may mean vocational education or literacy training; or it may mean help finding a job. Whatever it takes in a particular case, the lessons a prisoner learns in boot camp need to be reinforced on the outside if they are going to take hold.

Senator COATS testified at the subcommittee's hearing at the beginning of March, and he talked about a bill he had introduced calling for Federal aid to State boot camps. We agreed to work together to develop a bipartisan proposal which would quickly and effectively get support to the States that are pioneering the way on shock incarceration. We think that we've found a way to do that with this amendment.

The amendment is fairly simple. It calls for a 5-year program of Federal grants to State boot camp prisons, with an authorization of up to $20 million the first year. No State could receive more than $2 million in a fiscal year. It would be up to the State to decide how best to spend the money—on land acquisition, building construction, operation costs, or postincarceration programs. This leaves those decisions to the State corrections officials who are closest to the program and who can target the aid most effectively where it is needed.

The amendment would impose certain minimum requirements on States to be eligible for Federal money. States would have to offer substance abuse treatment, counseling, and literacy education during incarceration, if a prisoner required those programs. States would have to test prisoners periodically for illegal drug use. And States would have to follow up once

prisoners get out of boot camp, by placing offenders in community confinement or under intensive supervision on probation and by continuing substance abuse, drug testing, counseling, and educational programs, as required.

This Federal grant program providing support and incentive for State shock incarceration would be administered through existing channels at the Department of Justice. The Bureau of Justice Assistance currently handles Federal grants to State criminal justice systems, and the Coats-Levin amendment would add the boot camp grants to their jurisdiction.

This amendment already has strong bipartisan support. We think it can make a difference.

COATS-LEVIN BOOT CAMPS AMENDMENT

Mr. COATS. Mr. President, prisons are essential for isolating violent and dangerous criminals. Bars and walls, in these cases, are a type of societal self-defense. They mark the boundaries which the predatory must not cross.

But we cannot fool ourselves that barbed wire and wasted hours are a recipe for rehabilitation. It makes no sense to strip prisoners of their privacy and possessions, expose them to constant threats, warehouse them with hardened criminals, deprive them of meaningful work, and then expect a rejuvenation of morals and manners. Prisons protect society. They don't reform lives.

Prisons have, in fact, been called graduate schools of crime. They leave young offenders instructed in the finer points of lawlessness. They transform the misguided into the hardened, the confused into the violent.

It is clear there is no substitute for the punishment of prison where the violent are concerned. It is equally clear that some other punishment must be found for young, nonviolent offenders. And I mean real punishment—harsh enough to deter, harsh enough, perhaps, to quicken the conscience.

There must be some middle ground between a prison's gradual destruction of the soul, and a half-hearted slap on the wrist.

Mr. President, this is the reason I am offering today, together with Senator CARL LEVIN of Michigan, an amendment to the anticrime package which would authorize the Justice Department, through the Bureau of Justice Assistance, to provide $20 million in special discretionary grants to the States to establish, operate and support boot camp prisons for nonviolent offenders, including drug offenders.

This amendment incorporates the major provisions of S. 2216, the Innovative Boot Camp Prison Act of 1990, which I introduced earlier this year. I am pleased that the original cosponsors of that legislation—Senators ARMSTRONG, BURNS, COCHRAN, D'AMATO, DECONCINI, EXON, GRASSLEY, HATCH, HEFLIN, HELMS, HUMPHREY, LOTT, LUGAR, MURKOWSKI, NICKLES, PRESSLER, REID, SYMMS, THRUMOND, and WALLOP—as well as Senators BENTSEN, BOND, BOSCHWITZ, BREAUX, CONRAD, DASCHLE, DIXON, DOLE, DOMENICI, FOWLER, GARN, GORTON, GRAHAM, GRAMM, KASTEN, LIEBERMAN, MACK, MCCAIN, MCCONNELL, PRYOR, SIMON, STEVENS, and WILSON—a total of 43 other cosponsors—have joined Senator LEVIN and myself in offering this amendment.

Boot camp prisons have developed throughout this country as an alternative to imprisonment for primarily young, nonviolent criminals. They are used by State correctional officials as a means of relieving severe prison overcrowding, at a much lower cost than prison, so that prison space is available to house more violent criminals. Boot camps provide to States and local communities an affordable means of promoting public safety, a respect for law and order, and better citizenship.

Boot camp prisons—or shock incarceration programs, as they are sometimes called—offer a combination of punishment with rehabilitation more appropriate to people convicted of nonviolent crimes, usually drug offenders, white collar criminals, petty thieves, and first-time offenders in their late teens and twenties serving short parole eligible sentences. Corrections officials, judges, law enforcement and parole officers that I have spoken to believe that young offenders will gain positive lessons from the experience, including the value of a work ethic and individual responsibility, a sense of self-worth, self-discipline, an understanding of the consequences of criminal activity. They are also provided education, skills and other tools they will need to return to their families and communities.

Traditionally boot camp inmates are selected from among volunteer prisoners—male and female—who are physically able to undergo the program. Often the sentencing judge assigns the defendant to boot camp or offers him or her the option of participating in a boot camp program, with the promise of a lighter sentence upon successful completion, or serving the full sentence in prison. Sometimes a panel of prison officials will make the selection.

The participants enter boot camp prisons, usually minimum security facilities, for short periods of 3 to 6 months. Separated from regular prison inmates, boot camp participants undergo a rigorous military-style regimen, often 16 hours a day. The program includes military discipline, physical training, hard labor, drill and ceremonial exercise, usually accompanied by drug testing and treatment, counseling, and remedial and life skills education.

If the recruit successfully completes this boot camp program, he is released for a transitional period to closely supervised community service projects and continued programs of drug treatment, vocational education and job training. If he successfully completes both the boot camp and supervised release program, the remainder of his sentence is reduced or suspended altogether and he is discharged for total time served. If the inmate drops out or otherwise fails to graduate from the program, he is usually returned to prison to complete his original sentence.

The concept of using boot camp prisons as alternatives to imprisonment or intermediate sanctions is gaining wide support. It represents the majority view of State corrections officials, law enforcement personnel, criminologists, social workers, community leaders and parents. It has been endorsed by President Bush in his national drug strategy and by William Bennett, the Nation's drug czar.

Boot camps have been funded by the Justice Department. Last year the Bureau of Justice Assistance awarded $500,000 in discretionary grants to two boot camp projects in New York and Louisiana.

The boot camp program has been approved by the U.S. Senate. Last year this body unanimously adopted my amendment to a drug bill directing the Bureau of Justice Assistance to provide funding for State-run boot camp programs for first-time offenders who have committed nonviolent crimes, including drug-related offenses. Unfortunately the House failed to act on the Senate-passed bill.

Boot camp projects are operational in 14 States—New York—which has five camps throughout the State, Mississippi, Texas, Louisiana, South Carolina, Georgia, Oklahoma, Florida, Alabama, Arizona, Michigan, Idaho, North Carolina, and Tennessee. Eight other States—Arkansas, Kansas, Missouri, New Hampshire, New Mexico, Pennsylvania, Utah, and Wyoming—are in the process of setting up programs. Legislation authorizing a boot camp program in Indiana was signed into law this year, but the State lacks the funds needed to begin construction.

Let me discuss briefly the main features of the Coats-Levin boot camps amendment.

First, our amendment would amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Director of the Bureau of Justice Assistance to make grants to the States to set up and operate boot camp projects for those young adults convicted of nonviolent crimes, including drug offenses. The amendment au-

thorizes $20,000,000 for fiscal year 1991 to establish the demonstration grant program and such sums as may be necessary for fiscal year 1992 through fiscal year 1995.

Second, the amendment sets forth conditions under which the State could use the grant. For instance, Federal funds could not be used to supplant State or local funds already earmarked for the project. Although a State would not be required to put up matching funds—a major change from the original bill—the State is encouraged to find private sector contributions—either cash or in kind—and report them. The grantee must also report annually on the impact and effectiveness of a boot camp project using Federal funds. In addition, no State can receive more than $2 million—10 percent of the authorized funds—for any boot camp program in any single year. Again, this represents a change from the bill which set certain allotments for specific uses of the funds.

Thus, under our amendment, Federal assistance would be available to any State, and a big State like California or a small State like Indiana could seek assistance, and could make appropriate use of those funds to meet its most pressing needs. Essentially, the State could apply the funds as it sees fit—to pay for construction or operation or for drug testing and treatment or rehabilitative programs—provided the program is included in the shock incarceration project and not for independent rehabilitation programs alone, however beneficial they may be.

Third, the amendment defines "nonviolent offenders" more clearly than the original bill so as to correspond with actual practice in the State boot camp programs. Boot camp participants must be offenders who have been convicted of offenses which are eligible for parole or probation under State law and for which the sentence is 1 year or longer in prison under State law. Offenders convicted of an offense for which life imprisonment or capital punishment is authorized or convicted of homicide, sexual assault or assault with a dangerous weapon cannot be sent to boot camp. In addition, State officials can reject from boot camp other offenders who they deem to be dangerous or violent.

In summary, to qualify for Federal funding a State-run boot camp program must be used as an intermediate sanction or an alternative to prison for young, nonviolent offenders, including drug offenders, having no or few prior convictions and no violent case histories. Armed robbers, rapists, and murderers need not apply. Boot camps should not be used as a means for violent or dangerous criminals to avoid prison confinement.

Fourth, the amendment establishes certain minimum requirements for a State boot camp project. In addition to the military-style regimen of tough discipline, physical training, hard labor, drill and ceremonial exercise, the shock incarceration program must provide substance abuse treatment, counseling and literacy education. All participants must be subject to periodic drug testing.

All inmates who successfully complete boot camp shall be paroled to home detention, community confinement or intensive supervision. During this period participants must continue to receive support programs to ease their transition back into society. They must also provide restitution and participate in community service projects, as required by the sentencing authority or State law.

During this supervised release they are required to continue to receive periodic substance abuse testing and treatment. Most young nonviolent offenders who are boot camp inmates and graduates were convicted of drug-related crimes or were afflicted with drug addiction or alcoholism problems. They must remain drug free during incarceration and release, or they will almost certainly revert to a life of crime once they are free and unsupervised and return to their homes and communities.

I emphasize that, under this amendment, participants must be provided drug testing and treatment, counseling and literacy education and, to the fullest extent possible, they should also be provided vocational education and job training, throughout both boot camp and the supervised released period. These requirements ensure that State boot camp programs combine punishment with rehabilitation, balancing society's need to deter and punish criminal acts with its desire to offer young offenders a meaningful second chance.

I share the view of most commentators that the success or failure of boot camp projects will depend largely on post-release conditions facing the graduate. The environment of a boot camp is so completely different from regular living conditions that some continuous supervision and assistance is needed to enable the offender to adjust to society. The offender should not be allowed to return immediately to the same unsupervised, value-free, drug-prone and crime-ridden home and neighborhood that may have led to his criminal activity in the first place.

This amendment will ensure that boot camp graduates will receive intensive supervision, community confinement or home detention while serving their term of release, so that they continue to receive the attention and support they will require. Moreover, they will provide restitution to their victims, as a condition of their release, and participate in community service. Taken together, these federally assisted programs will benefit the offenders, their victims, and their communities.

Fifth, the amendment sets forth criteria for awarding grants. The Director of the Bureau of Justice Assistance must consider the overall quality of the State's boot camp project, including the drug testing and treatment, counseling, education and job training programs provided during confinement and supervised release. States with severe prison overcrowding will be given priority. States who do not need the Federal assistance or who have no pressing prison housing problem should not be favored for limited available funds over those States which are facing a crisis in their criminal justice system.

Finally, while the funding we propose is $20 million, regardless of the amount actually appropriated by Congress, it is clear that the Bureau of Justice Assistance may grant additional funding to the States for boot camp prison projects under the Director's discretionary funding authority.

Mr. President, as I indicated earlier, the Bush administration and the Justice Department have endorsed the boot camp concept. Recently, Clifford J. White III, Deputy Assistant Attorney General in charge of the Office of Justice Programs testified to that fact before the Labor and Human Resources Committee.

I am grateful for the warm expression of support I have received from Charles W. Colson of the Justice Fellowship Advocates.

In addition, the Fort Wayne News-Sentinel editorialized on behalf of my boot camp proposal. I also wish to bring to the attention of my colleagues a recent column on alternative sentencing for nonviolent offenders by syndicated columnist Cal Thomas.

Mr. President, at a time when we are urgently fighting a national war on crime and drugs, I believe that boot camp prisons can be an effective weapon in our Federal and State arsenals. By providing an alternative to prison and an intermediate sanction for certain criminals, boot camp prisons will benefit the criminal justice system: they will relieve prison overcrowding and save millions in the costs of incarceration. This form of prison diversion will benefit the community by promoting public safety and civic responsibility. The boot camp experience will benefit individual offenders: the programs are designed to combine punishment with rehabilitation, instill positive values and provide useful skills. Boot camp prisons can deter future crimes and curb the demand for illegal drugs.

Let me remind my colleagues that shock incarceration programs or boot

camps are prisons: they are not country clubs. They are not just convenient ways for offenders to reduce jail time or to get off easy or to avoid punishment altogether. What we are talking about is a form of incarceration that includes an intensive, rigorous, highly regimented program of tough physical training, hard labor, drill and and exercise, combined with substance abuse treatment, drug testing, counseling and life skills education programs, required of every participant, during 18-hour days, over 90 days to 6 months. But the rewards of this program for the graduate and for society may far exceed the cost—which, as I pointed out earlier, is considerably less than the cost of sending that offender to prison.

Mr. President, I hope that the Congress will soon adopt the boot camp concept contained in the Coats-Levin proposal which has already gained wide acceptance in the States. I urge my colleagues to support this amendment and to act quickly to provide the funding necessary to permit the States to continue this bold experiment in law enforcement.

Mr. HELMS. Mr. President, I support the prison boot camp amendment offered by the Senator from Indiana [Mr. COATS]. Senator COATS has pursued the concept of boot camps for several years and he has offered several bills on this subject. I am pleased to be a cosponsor of his bills.

Mr. President, crime and drug use have reached crisis levels in this Nation. As a result, the Nation's prisons are bulging at the seams: Federal prisons are at 163 percent of capacity and State prisons are at 127 percent of capacity.

Innovative ways must be developed to reduce drug use and deal with prison overcrowding. Boot camps can provide more prison space in a cost-efficient manner. More should be done to increase prison capacity instead of releasing prisoners early.

Furthermore, prison boot camps are an effective way to instill discipline into young offenders. Many young offenders come from tough neighborhoods and broken homes. They have never been subject to any form of discipline. Boot camps can be an excellent form of shock therapy.

Such camps may also help reduce the number of criminals that go back to a life of crime. The Department of Justice estimates that 62.5 percent of prisoners are repeat offenders. We must make every effort to reduce the number of repeat offenders.

Boot camps may help reduce the number of repeat offenders because boot camps provide a program of discipline, drug treatment, hard work and education. That is why this amendment is so important.

This amendment will provide grant money for more boot camp projects. Projects such as the one in North Carolina, called IMPACT.

The program is for first-time offenders between the ages of 18 and 25. They are subject to a day of hard work, and 2 hours of education. As Mayor Taylor, the Director of IMPACT, said, this program is an attempt to motivate people "to do right." I applaud the efforts of the corrections officials in North Carolina to rescue our youth from a life of crime.

I urge the Senate to adopt this amendment so that we can give young offenders the type of discipline and skills they need in order to be productive citizens.

Mr. WILSON. Mr. President, there have been recent expressions of concern by Federal district court judges over mandatory minimum sentence requirements. It is certainly reasonable for judges to express their views to the public and to members of the two political branches of Government.

On the other hand, it is outrageous for a judge to carry this view into court and effectively invite the acquittal of a defendant by disparagingly informing the jury of what sentence would be mandated upon conviction. Such action subverts the historic role of the jury and seriously undermines our system of justice as provided by the Constitution.

Unfortunately, this is exactly what happened during a Federal criminal trial in San Francisco last November.

Mr. President, I am offering an amendment that would bar submission to the jury of any information regarding sentencing, other than in capital cases. This amendment simply codifies the time-honored practices of both judge and jury in our judicial system.

I have shared my concerns on this issue with the Department of Justice and I am pleased to report that it supports the amendment.

Mr. President, with the establishment of mandatory minimum sentences, the Nation sent a determined message that drug kingpins and the thugs who work for them will face swift and certain, mandatory punishment for their heinous crimes.

I urge my colleagues to join with me in support of this amendment, which will preserve the historical roles of judge and jury, and reaffirm our commitment to mandatory sentences.

REGARDING WIRETAP PROVISION OF OMNIBUS AMENDMENT TO THE CRIME BILL

Mr. PRYOR. Mr. President, I rise today in support of the wiretap provision included in the omnibus technical amendment to S. 1970. I take pride that this provision was based upon a proposal I made to Senator BIDEN last year. I greatly appreciate his gracious assistance in bringing this proposal to attention of the full Senate.

This wiretap provision is intended to close several loopholes in the current Federal wiretap statute that came to my attention during the impeachment trial of former judge Alcee Hastings. Specifically, the wiretap statute fails to prohibit unauthorized disclosure of lawfully obtained wiretap information made: First, by Government officials who work for non-law-enforcement agencies, for example, judges; or second, for reasons other than obstructing interception of a particular conversation, for example, exposing an undercover investigation. My proposal closes these gaps by expressly prohibiting disclosure of confidential wiretap communications by anyone for the purpose of obstructing a criminal investigation.

Mr. President, undercover investigations employing wiretaps are often sensitive operations that place at risk the lives of law enforcement officers. These officers have the right to know that prosecutors will have at their disposal an unambiguous statute under which to bring charges against any individual who releases confidential wiretap information and thereby jeopardizes the officers' safety. The wiretap provision contained in this amendment gives those law enforcement officers the assurance they deserve.

I urge my colleagues to support the wiretap provision in this amendment.

THE NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990

Mr. McCONNELL. Mr. President, today I rise to offer an amendment that would greatly facilitate search efforts for missing children. This amendment would bolster these efforts by funneling missing children reports from throughout the Nation to a single source—the National Crime Information Center, a division of the Department of Justice.

As my colleagues will recall, in 1987, I introduced legislation which provided States with assistance to establish or expand clearinghouses to locate missing children. Over the past 3 years, these clearinghouses have successfully assisted parents and local authorities in locating thousands of missing children. To date, 48 States have developed such clearinghouses, and the two remaining States are preparing to implement similar programs. These organizations are providing hope to families across America.

However, gaps remain in the system because 71 percent of all missing children leave the State of the reported disappearance. State clearinghouses and local law enforcement authorities are then faced with sorting through missing children reports from multiple States and agencies with disparate reporting systems. This process is slow and inconsistent, wasting valuable time since most children are located within 24 hours of their initial disappearance.

My amendment requires that missing children reports be filed with the National Crime Information Center [NCIC], in addition to their usual reporting procedures. Moreover, the amendment stipulates that the reports to the NCIC—to which every law enforcement agency has access—be of a uniform fashion. Thus, eliminating two major barriers to locating missing children.

A recent study issued by the Department of Justice reveals that in 1988 alone, there were more than 1.3 million cases of missing children in America. Many of these children were located alive by officials in States which have the resources and manpower to disseminate reports through the country. However, more than one-half of the children were not found. This amendment would aid authorities in locating more of these children and it would speed the process.

Currently, missing children and their families suffer from the inefficiencies of an underutilized system. By this I mean that the National Crime Information Center has the technology available to assist law enforcement agencies. Yet, it is not being used because the information is not being put in the network by local and state agencies. It is imperative that we bring the resources of the National Crime Information Center, state missing children and local police agencies together.

With today's technology, we can implement a system through which divisions of the Office of Juvenile Justice could instantly retrieve information relating to every reported case of a missing child in the United States.

I have worked with the Department of Justice, the International Association of Chiefs of Police, and numerous children's organizations in drafting this legislation. These groups agree that a centralized resource center for missing children reports is long overdue. They are confident that prompt access to missing children reports would greatly increase the ability of the law enforcement officials to coordinate and execute search efforts.

Recent events in my home State of Kentucky, underscore the urgent need for this legislation.

In January 1989, a divorced father moved from California to Kentucky, bringing with him his two daughters, ages eight and six. In October of that same year, the 6-year-old was abducted by a stranger while playing in the front yard. The father quickly filed a report with the police and the Kentucky State clearinghouse for missing children. Though search efforts are continuing today, that 6-year-old remains missing.

A little over a month ago, this case took an extraordinary twist. On April 15, the Kentucky State Police found that the 6-year-old had not been missing since October 28, 1989, but, in fact, had been reported missing by their mother since January 2, 1989—the day the father abducted his daughters from their mother in California.

Up to April 15, 1989, that 6-year-old girl was listed missing in both States, but by two different abductors. The father was later taken into custody and the older daughter was returned to her mother in California.

This case highlights the pressing need for uniform, nationwide access to all missing children reports. Seventy-one percent of all missing children leave the State of their reported disappearance. Clearly, this problem transcends State boundaries and is a national issue. This amendment is a national solution.

Currently, the facilities are in place at the National Crime Information Center to receive missing children reports from throughout the Nation. State clearinghouses and police departments are ready to provide the needed information. This amendment is the impetus needed to coordinate local, State, and national resources. It does not cost anything. The computer hardware is already in place and online. All that is needed is for the reports to be entered into the NCIC network.

Companion legislation has been introduced in the House by Congressman ERDREICH. I urge my colleagues to join me in passing this legislation.

FOOD STAMP TRAFFICKING AMENDMENT

Mr. BOSCHWITZ. Mr. President, my amendment is designed to curb the disturbing problem of food stamp trafficking. I am pleased that Senators DOLE, WILSON, LUGAR, MCCONNELL, COATS, and LEAHY have joined me as cosponsors.

As the senior Republican on the Senate Nutrition Subcommittee, I have been a strong supporter of the food stamp program. After working hard to ensure that food stamp benefits are available to those who need them, I find reports of food stamp trafficking activities quite disturbing.

The food stamp program has lost millions of dollars because food stamps have been illegally traded for drugs, guns, and stolen property. These illegal activities cheat those in need, who the food stamp program was designed to help.

In an effort to help stop this illegal activity, our amendment increases the penalty for food stamp traffickers. When a violation occurs involving more than $5,000 worth of food stamp coupons, the maximum penalty would be the same as that for money launderers, a maximum of a $500,000 fine and a 20-year prison sentence. The current maximums are a $10,000 fine and a 5-year prison sentence.

This amendment also increases efforts to monitor food stamp traffickers. Approved retailers would be required to report their employer identification number to USDA.

I urge my colleagues to join me in support of this important amendment. We need to send a strong message that food stamp trafficking must be stopped.

FEDERAL DEBT COLLECTION PROCEDURES ACT OF 1988

Mr. THURMOND. Mr. President, I rise to offer the Federal Debt Collection Procedures Act of 1989 as an amendment to the crime bill.

This amendment will enhance the remedies available to the United States for collection of debt owed to the Federal Government. Incredibly, it has been estimated by the General Accounting Office that the Federal Government has approximately $32 billion of outstanding, nontax delinquent debt, which is collectable.

Currently, the debts owed to the United States must be collected under the laws of the State where the debtor resides. These laws vary greatly from State to State, making enforcement of debt collection extremely difficult and cumbersome. For example, in some States, a debtor can exempt vast amounts of property from execution, whereas a similarly situated debtor in another State is granted no such exemption at all. It is unfair that Federal debtors who reside in States with strong collection laws are made to pay their debts, while others use weak collection laws in debtors haven States to escape repayment of their debt.

Mr. President, this amendment will correct the inequities that exist under the current system. It creates a firm, but fair, comprehensive statutory scheme for the collection of Federal debt. This legislation maintains State law leaving State remedies unaffected in cases where the Federal Government is not a party. This legislation will be used by Federal litigators in Federal courts to collect debts owed to the Federal Government.

The Department of Justice estimates that this act could generate a $54.5 million increase in debt collection for fiscal year 1991. This is an estimate which allows for a 6-month implementation period. A $109 million increase is projected for the following year. It seems appropriate that the increased revenue collected under this amendment could and should be used to help finance law enforcement and fight crime, especially drug related crime.

Mr. President, I offer my amendment as a method to help fund such a massive undertaking.

INTERNATIONAL CHEMICAL CONTROL ACT

Mr. MCCONNELL. Mr. President, the 1988 Chemical Diversion and Control Act gives U.S. law enforcement agencies the ability to monitor, track, and suspend shipments of U.S. produced chemicals based on evidence

they may be diverted to manufacture illegal drugs.

Dozens of shipments to Latin America have been suspended based on information the recipient was fronting for a Colombian drug cartel or might use the chemicals for illegal purposes.

The cartels can't produce cocaine without legal chemicals. We are doing a good job controlling their access to American sources of chemicals, but our law enforcement effort is simply not being matched by an equal effort in Europe, Asia, or the rest of the world.

In fact, there is strong evidence that as American sales have been restricted, European chemical transactions with Latin companies are on the rise.

For example, European exports to South America of methyl ethyl ketone, a key ingredient in cocaine, jumped from 70 metric tons in 1982 to more than 5,000 tons by 1987.

According to the Chiefs of Police Drug Task Force, curbing the cartel's access to chemicals key to cocaine processing could slow production, drive up the street price, and cut down on the number of users.

Unfortunately, European secrecy laws and pressure from chemical companies on their governments have compromised efforts to track transactions.

We won't curb the cartel's access to chemicals without European cooperation.

My amendment generates that cooperation.

In the amendment, the Attorney General is directed to undertake negotiations to reach agreements on the regulation of certain chemicals crucial to illegal drug trade.

Bilateral talks should produce a common list of chemicals which must be tracked, recorded, and, if evidence suggests the possibility of diversion, law enforcement officers would have the authority to suspend shipments.

If foreign companies choose not to respond to our concerns about diversion and pressure their governments out of conducting negotiations, they will lose U.S. market access for their products.

I am banking on the fact that potential chemical sales to Latin America is not as lucrative a proposition for companies as legal, uninterrupted access to the U.S. market.

The penalty is tough, but our drug problem is tougher. And, we are only asking foreign chemical companies to be held to the same standard of conduct we already apply to U.S. companies.

Mr. President, I ask unanimous consent to have printed in the RECORD several letters of support for this legislation which I have received and note with particular emphasis the strong endorsement this amendment has received from the Chiefs of Police Drug Task Force. With that strong support and the DEA's assistance in crafting the amendment, I know of no objection to its adoption.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CHIEFS OF POLICE NATIONAL DRUG TASK FORCE,
Washington, DC, February 28, 1990.

Hon. MITCH MCCONNELL,
U.S. Senate, Subcommittee on Terrorism, Narcotics and International Operations, Washington, DC.

DEAR SENATOR MCCONNELL: We wholeheartedly support S. 2152, a bill to provide for U.S. engagement in international negotiations to achieve an agreement on the regulation and distribution of precursor chemicals critical to the manufacture and trafficking of illicit narcotics. While this bill is specifically designed to stifle the supply of precursor chemicals used in illegal narcotics production, we believe that such measures can effectively curb production sufficiently to reduce the availability of cocaine, drive its price upward, and ultimately reduce user demand.

We commend you for your leadership in introducing this international precursor chemical bill that will ultimately strengthen our united front against drugs. Our nation's experience with the Chemical Diversion and Trafficking Act of 1988 (CDTA) has proven the efficacy of impeding, forestalling, and stifling the supply of U.S. precursor chemicals for illegal narcotics production. Unfortunately, CDTA regulates only U.S. precursor chemical exports and does not impede the international transfer of precursor chemical sourcing by other nations.

Only when we attack the terrible menace of drugs on all fronts will we arrest our nation's number one problem. The international precursor chemical regulatory bill strengthens yet another link of our nation's drug strategy. Thank you for being a "Champion Against Drugs".

Sincerely,

RANDY ANDERSON,
Director.

EXXON CHEMICAL CO.,
Darien, CT, April 25, 1990.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: Exxon Chemical Company supports your bill, S. 2152, which provides for international negotiations on the regulation of certain precursor and essential chemicals critical to the manufacture of illicit drugs.

In our testimony of February 6, 1990, before the Subcommittee on Foreign Commerce and Tourism of the Senate Commerce, Science and Transportation Committee, Exxon Chemical indicated that a multilateral control effort is essential to preventing the illegal diversion of chemical products. A copy of our testimony is enclosed.

Through our membership in the Chemical Manufacturers Association, Exxon Chemical strongly supported the development and passage of the Chemical Diversion and Trafficking Act of 1988 (CDTA). Exxon Chemical has been successful in preventing the illegal diversion of our chemical products through our strict internal policies and procedures. Complementing Exxon Chemical's U.S. policies, we have encouraged our foreign affiliates to exercise similarly stringent precautions in their export activities, and to support CDTA-related activities in their countries.

The war on drugs demands multilateral controls. We believe the CDTA has been effective in helping control U.S. exports. However, the efforts of the U.S. government and the chemical industry in complying with the CDTA must be supplemented by the full cooperative effort of all producing and exporting countries.

We salute the positive step toward multilateral control provided by your bill. We agree with you that the time has come to put an end to illegal diversion of chemical products both at home and abroad.

If your staff would like more detail on Exxon Chemical's policies and procedures in controlling the manufacture and exports of our products, please do not hesitate to contact me.

Sincerely,

H.E. MCBRAYER.

CHEMICAL MANUFACTURERS ASSOCIATION,
Washington, DC, April 9, 1990.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: The Chemical Manufacturers Association (CMA) supports S. 2152, your legislation to provide for international negotiations on the regulation of certain precursor and essential chemicals critical to the manufacture of illicit drugs.

CMA is a non-profit trade association whose member companies represent 90 percent of the productive capacity for basic industrial chemicals in the United States. CMA member companies are involved in the manufacture, export and import of chemical products, some of which are regulated under the Chemical Diversion and Trafficking Act (CDTA) (P.L. No. 100-690). CMA fully supports the goals of the CDTA and believes that the CDTA is a good model for an international diversion control program.

CMA has testified before several congressional committees concerning chemical diversion and is convinced that complete success in eliminating and preventing diversions of chemicals to illegal drug manufacturing will only come with multilateral control efforts. In CMA's view, the unilateral efforts of the United States government and industry have successfully prevented diversions of chemicals from the United States. Chemicals subject to diversion to illegal drug manufacturing are, however, still widely available from foreign sources.

CMA supports S. 2152 and is committed to doing its part in helping eliminate illicit drugs at their source. The cooperative effort of the chemical industry and the government under the CDTA has no doubt imposewd a significant barrier to those intent on diverting chemical shipments to illegal drug production. The level of cooperation attained in the U.S., however, will only be effective once other chemical producing and exporting countries are convinced that diversion control is a necessary national policy. In providing for international negotiations to regulate precursor and essential chemicals, S. 2152 is a constructive step toward preventing the diversion of legitimate chemical shipments to the manufacture of illicit drugs.

If you have any questions, please have your staff contact Claude P. Boudrias at 887-1138.

Sincerely,

TIMOTHY F. BURNS,
Director, Federal Legislative Affairs.

Mr. BIDEN. Mr. President, I yield the remainder of my time.

Mr. THURMOND. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2104) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, there is only, now, one remaining item on this crime bill. The Senator from South Carolina and I got started on this road back last September, on this crime bill.

I personally want to thank all of our colleagues for their cooperation, and particularly I thank the Senator from South Carolina, not only for his cooperation, but for his leadership. He has forgotten more about the legislative process than I am likely to ever learn, or that most of us are.

I must say, I am absolutely, as close as I am to him, as good a friend as I consider myself to be, although we are on opposite sides of the aisle, as often as I see him—I see him more than I see my wife; I see him every single day, almost the whole day—I am absolutely astounded at his stamina and his perserverance in being able to carry through such major initiatives. I want to compliment him publicly.

I want to say one other thing. The one remaining item on the crime bill, save final passage, is the savings and loan bipartisan amendment, which is a multifaceted approach to deal with the enforcement side, primarily, of the savings and loan crisis.

We have had Senator HEINZ, and others as well, on the Republican side; and Senator WIRTH, Senator GRAHAM, and Senator SIMON on the Democratic side, attempting to put together an agreement.

I would like at this time to yield to Senator WIRTH, who is not, as I understand it, about to propound a unanimous-consent agreement. But he is about to outline for the body how far along we are, and at least the broad outlines of what I hope is something very close to an agreement that we will have prior to the final vote on this amendment.

I yield to my colleague.

The PRESIDING OFFICER. There is no time agreement at the moment.

Mr. BIDEN. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, the distinguished chairman of the Judiciary Committee is correct. We have come to agreement on every issue save one. This agreement was reached by negotiations that have been going on for a long time among Senators BIDEN, RIEGLE, HOLLINGS, DOLE, SIMON, ROTH, GRAHAM, DIXON, HEINZ, and myself.

What we would like to do at this point is go through a kind of a script here, Mr. President, and outline what the provisions of agreement are.

The purpose is to outline all of these and tack them down as thoroughly as possible tonight. Then it is our understanding that, over the next week or 10 days, these will be drafted into legislative language and will be offered by unanimous consent as an amendment just prior to the offering of final passage of the overall crime bill.

If I might, with the help of the distinguished Senator from Pennsylvania and the distinguished Senator from Florida, let me walk through this outline and we will try to go through each one of the areas of agreement so everybody will understand what is going to be in this final amendment.

Except as noted below, all provisions covered by the Comprehensive Thrift and Bank Fraud Prosectuion Act of 1990 are agreed to.

The exceptions are as follows: amending the Bankruptcy Code; there are two changes.

First, on behalf of Senator RIEGLE, the bankruptcy provision prevents an individual or corporation from using a bankruptcy discharge to avoid a commitment to maintain a minimum amount of capital at a depository institution.

Senator HEINZ has the other part of the agreement on amending the Bankruptcy Code.

Mr. HEINZ. Mr. President, if the Senator will yield? The second part of the Bankruptcy Code——

The PRESIDING OFFICER. Does the Senator from Colorado yield the floor?

Mr. WIRTH. If I might ask unanimous consent, Mr. President, I ask unanimous consent that going through these points, Senator HEINZ and I might go back and forth; I will maintain the time and yield to him, going back and forth.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, the second bankruptcy code amendment, the one alluded to by the Senator from Colorado, is an amendment which retains Senator DOLE's provision, the Taxpayer Recovery Act, which makes criminal restitution orders not dischargeable in bankruptcy.

Mr. President, before I yield further to the Senator from Colorado, I just want to make the point that the Senator from Colorado has worked really extraordinarily long and hard on this. I have been very privileged to work with him. Also, I might add that the Senator from Florida [Mr. GRAHAM] and the Senator from Utah [Mr. GARN], I would say that all four of us have spent most of the day in these negotiations. If a name is to be given to all of this, it should be something like the Wirth-Heinz-Graham-Garn amendment, if anybody wants to take credit for it.

Mr. WIRTH. The second area of discussion and disagreement was the amendment offered by the distinguished member of the Banking Committee, Senator RIEGLE, related to bank regulation and open enforcement procedures. I yield to Senator HEINZ to describe the resolution of that issue.

Mr. HEINZ. Mr. President, as the Senator from Colorado knows, the Senator from Michigan, Senator RIEGLE, offered in this bill a bank regulator open enforcement amendment. That amendment by Senator REIGLE has largely been adopted, as follows: It requires that, first, any and all notices of the charges filed by banking agencies will be made available to the House and Senate Banking Committee and, second, hearings will be opened to the public unless the banking agency involved—these are administrative law judge hearings—determines that doing so will not be in the public interest.

Mr. WIRTH. The next area of disagreement related to expedited procedures in the courts, and, again, Senator HEINZ will describe that on behalf of himself and the package initially offered by the minority leader.

Mr. HEINZ. Mr. President, on the issue of expedited procedures, the agreement that we have reached retains the fast-track litigation provisions in the Heinz-Dole amendment for actions to recover funds from insolvent S&L's.

Mr. WIRTH. The fourth area in disagreement, Mr. President, was the FBI subpoena authority which, by agreement, has been dropped.

The fifth area of discussion and initial disagreement was the so-called bounty hunter provision. This is the Simon-Roth-Heinz provision and is the only issue, Mr. President, that is remaining in disagreement. It is hoped that this issue will be worked out by July 11 and included in the package.

I yield to the distinguished Senator from Illinois to briefly describe where we are on the Simon-Roth-Heinz provision.

Mr. SIMON. I thank my colleague from Colorado. The original language in S. 2786 includes provision of a bill that I introduced. I have, however, worked with Senator ROTH to get a bipartisan amendment that deals with encouraging private citizens who have original information about fraud to come forward and, if then there are civil penalties, they can, depending on the circumstances, receive a percentage of the award. It is a way of moving

more vigorously and to encourage private citizens to work this out.

Senator ROTH and I had a meeting, and Senator HEINZ was there also, with the new deputy Attorney General designate, Bill Barr. I think we are making progress toward getting this thing worked out. My hope is, as I have expressed to Senator DOLE, that we can get it worked out by the time we come back.

Mr. ROTH. Will the Senator yield for a question?

Mr. WIRTH. I yield to the distinguished Senator from Delaware.

Mr. ROTH. Is it not correct, however, that the Senator had as part of the Wirth-Roth-Heinz and the second-degree Metzenbaum amendment a provision qui tam?

Mr. SIMON. If my colleague will yield, that is absolutely correct.

Mr. ROTH. So that agreement on this provision is essential under the unanimous-consent agreement. Or are we going to the second stage? Is that correct?

Mr. SIMON. If we do not agree on the Simon-Roth amendment, then my original language is part of what carries. Obviously, if we can get this worked out with the Justice Department, that is to everybody's advantage. But some kind of a provision is going to be part of this package as it stands right now.

Mr. ROTH. The point that I am trying to make is that under the unanimous-consent agreement, it is essential, as part of the agreement that we reached, that it cover Senator Simon's provision because he is part of the Wirth-Heinz second-degree Metzenbaum amendment.

Mr. WIRTH. Mr. President, this is a complicated situation. I would like to have the attention of the distinguished Republican leader. We have an agreed upon package on everything except the Simon-Roth agreement. If agreement is reached on Simon-Roth, that will by unanimous consent, of course, be added to this and we are through.

If, however, there is not agreement on Simon-Roth, then it is my understanding that the distinguished Senator from Illinois or the distinguished Senator from Delaware could object to the overall unanimous-consent request of the complete package that we are proposing.

If that were to happen, then that package would fall and we would immediately, following the passage of the full crime bill, have a vote on a separate piece of legislation. That separate piece of legislation would be the initial Biden-Graham-Wirth bill amended by the Dole-Heinz bill, and that would occur immediately after the passage of the overall crime bill.

It is in everybody's interest to work out the Simon-Roth-Heinz amendment so we do not have to go through this enormously complicated piece following the passage of the crime bill.

Mr. DOLE. Will the Senator yield? I want to make one comment. I am not certain I understand the amendment, obviously, as well as the principals. I do want to indicate the Attorney General tried to reach me this evening on a couple of occasions to talk about the amendment. I was unable to take the call at that time. Obviously, I hope we can work it out.

I think there is a genuine effort going on. I think Mr. Barr and others are working in good faith. Hopefully, by the 11th, we can have some resolution that would satisfy both the Senator from Illinois, Senator SIMON, and the Senator from Delaware, Mr. ROTH. If that cannot be done, if we have to go back through this freestanding, then I think what Senator ROTH is indicating, in that event, is that they should be permitted to offer an amendment, even though the Simon amendment would be part of the package.

I am not certain what happens there. But I would say, I will do my best to try to accommodate all Senators, on top of the Attorney General, and hopefully between now and the 11th of July we can resolve it. If not, we will try to work out something so we have a vote on the amendment.

I am not in a position to agree to anything tonight until I have talked to the Attorney General. I think, too, in fairness, we ought to see the language and all the other things that have been discussed by the Senator from Pennsylvania and the Senator from Colorado.

Mr. HEINZ. If the Senator from Colorado will yield, I think the Senator from Kansas, our distinguished minority leader, and the Senator from Colorado have very clearly laid out the options, and they are unusual because the amendment the Senator from Colorado and I are describing can, under the procedure that we are operating under, only be in order if it is agreed to unanimously. So the Senator from Illinois or the Senator from Delaware have the right to object to the amendment. Obviously, those of us who have worked long and hard on the amendment hope that will not happen.

The alternative, of course, would be for them to seek a modification of the existing unanimous-consent agreement; namely, to ask at the appropriate time unanimous consent that their amendment could be considered up or down, which I understand they may seek to do and which I assume might be amenable to many in the Senate, but unfortunately would take unanimity in the Senate. Failing that unanimity for the Senators from Illinois and Delaware to obtain the unanimous consent, it is entirely possible that they at that point would decide to object to the consideration of the compromise amendment which the Senator from Colorado and I are in the process of describing.

If that happens, it is quite correct to say that everything that we have been working to add in the way of strengthening amendments regarding S&L fraud and prosecution to the crime bill will fall.

The crime bill will not contain any of the provisions that we have all been working on and we would, I think, all like to have a part of the crime bill.

So in a sense unless we find a way of accommodating the opportunities for people, we are all going to lose.

We do not necessarily lose everything, but should this series of objections occur, then of course we are left with taking up the unamended Biden bill. Only two amendments are in order to it, one with the unanimous consent described as a Heinz-Dole S&L crisis amendment, and another, which would be a perfecting amendment by Senator METZENBAUM, a priority creditors amendment which we would try to incorporate, I think, in the Heinz-Dole crisis amendment.

So, Mr. President, we have ourselves in a most unusual situation. But if we can work out what has up until now been the contentious issue of the qui tam or bounty hunters provision that the Senators from Illinois and Delaware have been working on, we might be able, under those circumstances, to avoid the confused and confusing situation that I have described. I hope we will be able to do so.

Mr. WIRTH. I will be happy to yield to the Senator from Illinois.

Mr. SIMON. This whole situation is a massive, complex, and unnecessarily complex thing where the irony is that basically the provisions of the Simon-Roth amendment are already in the previous document. I tried to accommodate, tried to work out a bipartisan agreement, and now the Justice Department is opposing, at least temporarily, this attempt for a bipartisan agreement. If they prevail, then we go back to my original language that is in the bill, and then I could object. I do not know that I will.

I join my colleagues in hoping we can work this out. I was trying to accommodate my colleague from Delaware, who had some good suggestions here, and I hope we can get this thing worked out.

Mr. WIRTH. I yield to the Senator from Delaware.

Mr. ROTH. If I may just make a couple of comments. First of all, I think it is important to understand that nothing has to be decided tonight, that the question of whether or not we are in agreement does not become important or critical until Wednesday, at which time the final vote is scheduled.

The second point I want to make is that the Justice Department has indicated and has been willing to try to reach agreement. They have had a number of proposals, modifications, some of which I believe are acceptable. Others we are still examining. So I think it is important that everyone at the Justice Department, and the distinguished Senator from Illinois, and myself, as well as the Senator from Pennsylvania, who is also interested in this matter, seek agreement by that time.

Mr. HEINZ. Mr. President, if the Senator from Colorado will yield further, I want to make this following comment on the so-called Simon-Roth amendment, and it is this, Mr. President: I am not necessarily opposed to the Simon-Roth amendment, but I must tell both the Senator from Illinois and the Senator from Delaware that I came to the Senate floor last week and described with specificity this amendment, which has become the Simon-Roth amendment, the bounty hunter amendment. So I am predisposed toward it.

But I think it needs to be stated that no one knew that this amendment was in the Biden bill until it appeared or in the final version of the Dole bill until it appeared, and I am glad it has appeared. But I just wanted to make the point in terms of the public record, I was pleased to be able to be the first Member of this body to describe this amendment. I do retain an interest in it.

Mr. WIRTH. Mr. President, there are only four more quick items. The next area is the issue of FDIC claims provision, an amendment initially offered by Senator METZENBAUM and modified by Senator HEINZ. The Senator from Pennsylvania will describe the Metzenbaum-Heinz FDIC provision.

Mr. BIDEN. Mr. President, if I could ask for indulgence for a moment——

The PRESIDING OFFICER. Under the circumstances, the Senator may.

Mr. BIDEN. Mr. President, I respectfully suggest, or make an inquiry. Is it not better at this moment and at this hour to list where we are rather than attempt to explain each piece?

Mr. WIRTH. We did that on every one except the previous one.

Mr. HEINZ. Mr. President, I will be brief. The Senator from Colorado described the FDIC claims priority amendment. Essentially this amendment retains the Heinz-Dole FDIC priority in recoveries amendment as in the Heinz-Dole amendment, with a limitation worked out with Senator METZENBAUM to ensure that the FDIC pursues such claims diligently.

Mr. WIRTH. The next amendment is the RICO provision. The Senator from Pennsylvania will describe very briefly the provision on RICO for the Justice Department.

Mr. HEINZ. I will be pleased to do so. This provision is one that Senator BIDEN and I have worked out together with the Department of Justice as under an amendment that was contained last year in the Senate-passed FIRREA bill. It provides the Justice Department with the ability to prosecute bank fraud under RICO for all existing bank fraud statutes.

Mr. WIRTH. The next to the last amendment is the Department of Justice organization provisions changes negotiated by the distinguished Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. I thank the Senator. The agreement establishes a financial institutions fraud unit headed by a special counsel within the Department of Justice. The special counsel will be appointed by the President with advice and consent of the Senate.

The special counsel will be responsible for supervision of prosecutions in the financial services industry. It also provides task forces to integrate Federal agency efforts within designated regions. The language will be substantially the same as the document agreed to by the Department of Justice.

Mr. WIRTH. Finally, Mr. President, for S&L enforcement the agreement was that $162.5 million will be authorized for each of the years 1991, 1992, and 1993.

I thank the distinguished chairman of the committee and the distinguished majority leader. We had wanted to define this so that we could have as little disagreement as possible in the process of negotiation. I thank my colleagues and I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleagues for their statements with respect to this legislation.

Mr. President, I would like, on behalf of all of our colleagues, to especially thank the distinguished former chairman of the Judiciary Committee, Senator THURMOND, and the distinguished current chairman of the Judiciary Committee, Senator BIDEN, who together worked with great perseverance, skill, and patience to gain enactment of this important legislation. No Senator could fail to be impressed with their effort, and I do not know of a more complex, difficult, and controversial bill that has been handled with any more skill and tact than this one has.

I am very deeply grateful to them, and to my good friend and great chairman, Senator BIDEN, my deepest gratitude.

Mr. President, I now yield to the distinguished former chairman of the committee.

COMMENDATION OF SENATORS AND STAFF

Mr. THURMOND. Thank you very much.

I just want to take this opportunity to express my deep appreciation to the able chairman of the Judiciary Committee for his cooperation and leadership in this crime bill.

This crime bill had many facets to it. It took a lot of negotiating. It took a lot of patience and time to work this out. Senator BIDEN was there and did a fine job. I want to commend him for all that he did in connection with the passage up to this point of this particular bill.

I also want to express my appreciation to Senator SIMPSON and Senator HATCH. Both rendered an outstanding service in connection with this bill. Senator SIMPSON proved to be a very fine negotiator in helping to get things done. Senator HATCH negotiated and helped to get amendments agreed to. We deeply appreciate the good work of these fine people.

I want to commend the able majority leader, Senator MITCHELL, for his patience, endurance here in working with us, and he was most cooperative in assisting us in getting their bill passed.

If it had not been for his undue patience, having us in his office, time and time again, and Senator DOLE the same way, meetings we held in his office time and time again, we could not have gotten this bill passed. I am very grateful to both of these fine leaders for what they did.

I would like to thank, on my staff, Manus Cooney for his outstanding work and long hours spent on this bill, and also Terry Wooten and Thad Strom for their tireless efforts. I would like to express my appreciation to Jim Whittinghill of Senator DOLE's staff, and Dennis Shea. They both did a fine job. On Senator BIDEN's staff, several people I think deserve to be commended highly, Ron Klain, Diana Huffman, Victoria Nourse, Scott Green, and John Bentivoglio. We had the cooperation of all these good people. We could not have gotten this bill up to this point if we had not.

I just want to take this opportunity to express my deep appreciation to all who have worked on this bill. This is a very important bill. It will mean a lot to the people of this country. It was necessary that we pass this bill. Crime has become rampant and the steps we are taking in this bill in my judgment are going to curb crime tremendously, and the citizens of this Nation will be grateful to this Congress for passing this bill.

Thank you.

Mr. BIDEN. Mr. President, I will just take 10 seconds. We are going to get a chance to speak to this more on final passage. I will elaborate more. I want to publicly thank a lot of great staff on both sides.

I want to thank Ron Klain. Quite frankly, of a lot of people who I have

had the pleasure of working with, I have never been more impressed or had more able, and who has done a more significant job in moving a piece of legislation, not just here, but in everything, than this young man.

I just hope he remembers me when I have my grandchildren and I come to visit him on the Supreme Court someday. I hope he remembers who I am.

He is a brilliant man. I want to pay tribute to him.

I never thought he would get to this point. I thank the Chair for its indulgence. Everyone is tired of hearing all of this I know, but thanks.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

EL SALVADOR

Mr. SPECTER. Mr. President, an ultimate decision on the appropriate funding level for aid to El Salvador turns on many complex factors; and, as of this moment, I am not certain what my own vote will be expressing my view of United States policy on that subject. While many factors may intervene between now and the time any votes occur, I think it is useful to express some concerns now about what is happening in El Salvador.

As I see it, U.S. policy should be directed toward promoting democracy and peace. We should encourage self-determination and do our utmost to stop civil wars. In the process, we should be careful to ensure that United States aid going to El Salvador be administered by Salvadorans in a position to act responsibly so that we can be confident the aid is serving its intended purpose.

Unfortunately, I believe that there is insufficient information at this point to establish that our military assistance to El Salvador is actually facilitating resolution of the conflict. In fact, the FMLN's major military offensive last November and December and the continuation of human rights abuses by the military suggest that U.S. military aid may not be having the desired effect.

This year's request of $91.4 million in military assistance to El Salvador amounts to approximately a third of the country's defense budget. Along with $284 million in economic support funds, this ranks El Salvador fifth among recipients of United States aid. I am advised that the military assistance effectively pays for day-to-day operations of the Salvadoran military, including maintenance of most of the helicopters and aircraft, ammunition and fuel. Administrative costs, pay and allowances are then usually paid for by the Salvadoran Government. There have also been widespread reports that economic assistance has been siphoned off for military purposes.

I question whether maintaining current military aid levels serves any purpose other than to buttress the military and perhaps provide a disincentive for reform. The problem in El Salvador is that there is very little accountability on the part of the military. Yet to remedy this situation may require a completely new approach toward the role the military should be playing in Salvadoran society and politics.

In addition to the immediate objective of halting the civil war in El Salvador, there are, of course, other important objectives of United States policy, including respect for human rights and promoting fairness and equity in the administration of the civil and criminal judicial systems.

For many years there has not been the proper regard for human rights. The matter came to a head with the murder of the six Jesuit priests, their cook and her daughter on November 16, 1989.

This past April, during a trip to Central and Latin America, I stopped in El Salvador to meet with Embassy officials, including our Ambassador, William Walker, and to talk to Judge Zamora, who is the trial judge in the case, and also to the President Judge of the Supreme Court, Justice Gutierrez.

With regard to the investigation, I understand that many witnesses have been interviewed and documents examined during the course of the investigation. But, there appear to be still significant obstacles blocking further progress on this case. For example, there is a potential problem arising under Salvadoran law, as we were told, about an indicted defendant testifying against another indicted defendant in the same case. Judge Gutierrez explained that Salvadoran law is different from United States law where, as a matter of plea bargain, sometimes a lesser defendant will testify. But even under Salvadoran law, there may be some flexibility if the case is not strong or if the indicted defendant is not central to the offense. This, of course, will have to await further developments.

Another problem has arisen with allegations that several vital pieces of evidence relating to Colonel Benavides have disappeared. It has also been reported that four soldiers with "potentially incriminating" evidence were sent abroad to study and are therefore are unable to testify. Senior judicial officials are said to believe that the loss of this evidence will undercut further action regarding Colonel Benavides.

I am also concerned about the findings of the Speaker's Task Force on El Salvador which indicates that as of mid-April, "the investigation and preparations for prosecuting the case have come to a virtual standstill." The task force report indicates that investigation of senior officer involvement in the murders and compilation of additional evidence has been discontinued, suggesting that the matter may never be resolved.

If this is the best the Salvadoran judicial system can offer on such an important, high visibility case, I wonder whether the multitude of other human rights cases will ever receive a fair hearing. As a result, while President Cristiani appears to be making a good faith effort to bring those responsible for the murder of the Jesuits to justice, much more must be done to determine the level of involvement of the military in this case and others.

Mr. President, I would briefly like to mention several other unresolved cases which leave in doubt the efficacy of the Salvadoran judicial system.

First. A group of military officers and others allegedly kidnaped at least five wealthy citizens between 1982 and 1985 and received ransom payments of approximately $4 million. A subsequent arrest was made in 1986 of those responsible for the kidnaping. In May 1988, the first military court judge responsible for the case, Jorge Serrano, was assassinated. The case was dismissed for lack of evident in March 1989.

Second. Air Force Sublieutenant Manuel Aguilar Mendez along with two enlisted men was allegedly observed beating a young man while interrogating him outside of San Salvador. An arrest followed after an investigation by the Special Investigative Unit [SIU] in 1987. The same year the judge ruled that the report on the recognition of the body did not contain sufficient evidence to establish that the victim had been beaten to death. The Supreme Court has yet to rule on a habeas corpus petition filed by the defense.

Third. In September 1988, soldiers from the army's fifth brigade detained 10 people from the San Sebastian municipality in the San Vicente Department and led them away from the village. Later, persons in the village heard two explosions and small arms' fire; the next day the bodies of the 10 residents were discovered. The five initial investigations were determined to be unsatisfactory by then-President Jose Napolean Duarte. After pressure from Vice President QUAYLE during his February trip to El Salvador a special military honor board dismissed the two officers and seven enlisted men allegedly responsible for the murders and the Supreme Court is expected to

send the case soon to the court of first instance in San Sebastian.

Fourth. In October 1989, 10 persons were killed when the headquarters of the antigovernment National Federation of Salvadoran Workers [FENASTRAS] union and the COMADRES human rights officers were bombed. Extremist death squads are suspected of responsibility for this incident.

These matters and other cases involving allegations of human rights violations require that the Congress should send a strong message to President Cristiani and the military that further delays in these cases risks ending security assistance funding.

The prospects of cuts or even the elimination of military assistance may provide the civilian government with leverage over the military. President Cristiani should use the threat of U.S. cuts in military assistance to persuade the military to support his agenda. If the Salvadoran military could be convinced that the best way to avoid cuts would be to abide by United States demands for reform, then President Cristiani may be able to assert himself in setting terms for a negotiated peace with the rebels.

I was encouraged by President Cristiani's pledge during his inauguration speech that he would attempt to end terrorist violence "through the clear and legitimate enforcement of law." He must now demonstrate his commitment to follow through on this pledge.

In 1984, my amendment was adopted to withhold 30 percent of the aid to El Salvador until the trials were held on those indicted for the murder of the American nuns. That pressure apparently played a role in bringing those defendants to trial. It may be difficult to withhold funds on the specific condition that the culprits be brought to justice where in some cases the perpetrators have not been identified. In other cases the investigations have not been completed and the matters are not ready for trial. It may be, however, that an amendment could be structured to curtail a portion of U.S. aid conditioned on bringing certain of the perpetrators to justice.

Prior legislation has also directed specific sums of money for use in improving the El Salvadoran criminal justice system. It may be that those funds have caused some improvement, but the El Salvadoran judicial system still requires enormous improvement.

In any event, everyone should be on notice that if the situation on human rights is not improved and the criminal prosecutions are not diligently pursued then serious consideration will be given to reduction or even the elimination of all foreign aid.

THE LOS ANGELES LIGHT RAIL SYSTEM ROLLS AGAIN

Mr. CRANSTON. Mr. President, I want to join Senator WILSON in commemorating the opening of the first phase of the light rail system in the Los Angeles area. The new transit system—which runs from Long Beach to downtown Los Angeles—is the first new commuter rail system in Los Angeles in 30 years.

This project was built solely with local funds. The community deserves a good deal of credit for responding with the commitment and significant resources it will take to solve the increasing problems of pollution and congestion.

My colleague from California and I wish to submit the following letter for the record addressed to the people of Los Angeles congratulating them for a job well done. Although this is only the first step in creating a useful rail system in the Los Angeles area, we are optimistic that the system will continue to expand based on the success of this first phase.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 27, 1990.

To the People of Los Angeles:

We are tremendously pleased that on July 14, 1990, after an absence of nearly three decades, rail rapid transit will return to Los Angeles County.

The Metro Blue Line Light Rail system will operate betwen Long Beach and Los Angeles on the old red car's right of way, and is the first in a series of links in a new extensive rail system comprising hundreds of miles of rail transit, commuter rail, and inter-city rail service.

The development of this system will remind Los Angelenos of the old red car system—a system which served Southern California well during its lifetime and whose benefits contemporary Los Angelenos will reap once again.

In addition, the people of Los Angeles should be congratulated for their perseverance and their willingness to develop the Blue Line solely with local funds. And federal support for the rail system as a whole will constitute only 25% of the overall system's cost by the year 2001—a marvelous achievement.

We also must remember that the cost of the Blue Line to Los Angelenos is small compared to its benefits: reduced traffic congestion, reduced vehicle emissions, and increased traffic safety.

Truly, July 14, 1990 is an historic day for the people of Los Angeles and Long Beach. We pledge to continue to work with you to increase the role of mass transit in Southern California, and we are pleased to help you inaugurate this vital first link in the area's transportation network of the future.

Congratulations, and we look forward to riding the rails with you soon.

Sincerely,

PETE WILSON.
ALAN CRANSTON.

INVESTING IN EDUCATION

Mr. PELL. Mr. President, as the threat of the cold war diminishes, and military competition with the Soviet Union is increasingly replaced by economic competition with other nations of the world, we must emphasize rebuilding our Nation's strength by investing in our economy and our people. Once again this country, which in the past has viewed the potential of its citizens as its most stable and abundant resource, will need to rely upon their hard work and ingenuity to succeed.

Our industries will be competitive in the global marketplace only if they can call upon a talented pool of workers who are highly skilled and inventive. This is becoming increasingly difficult to ensure, however, as our schools and and their students are consistently plagued by a growing number of problems directly affecting the quality of education.

In addition, Federal spending on education is actually declining. In 1980 it was 2.5 percent of the budget, today it stands at only 2 percent. Where Federal spending was once just over 10 percent of all spending on education in the United States, it is less than 9 percent today.

The American people continue to voice their concern for education in opinion poll after opinion poll. However, the response at the Federal level remains inadequate to the immense task at hand.

In Rhode Island I am very pleased to report that new ideas are being brought to the fore. Take for example, the Rhode Island Children's Crusade for Higher Education proposal made by the Rhode Island Commissioner of Higher Education. This program would provide postsecondary education scholarships for at-risk students who agree to stay off drugs, be good citizens and graduate from high school. While current budget constraints in the State may severely limit funds available for this proposal, it is noteworthy that business, community, and Government leaders committed to education have begun working together to develop an endowment to be used to administer this important program.

The people of Rhode Island realize the importance of education to the character and health of our citizens. Most, if not all of the students who will benefit from such a program would not, without some type of assistance, have a promising future. Recognizing this, Rhode Islanders are committing the necessary resources to these students today, so that we might all benefit from the broader rewards this investment will offer in the future.

Mr. President, articles recently appeared in the Providence Journal and

State Legislatures which outlined the Rhode Island proposal and its benefits. I ask unanimous consent that they be printed in the RECORD for all of my colleagues to read.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From State Legislatures, March 1990]

RHODE ISLAND PUTS OUT A CONTRACT

(By Megan Seacord)

Half of Rhode Island's city kids are dropping out of high school. Hoping to send some to college rather than into the streets, legislators and educators have come up with a plan.

If Tracy Jones hadn't been matched up with Sybil Bailey through the Providence Urban League's mentoring program, in all likelihood she wouldn't be about ready to start her freshman year at the University of Rhode Island.

Two years ago, Tracy dropped out of high school. But then she earned her GED and was accepted into a university preparatory program created for at-risk students who lack certain courses required for college freshmen. And she met Sybil Bailey.

Bailey has made a difference in Tracy Jones' life. Mentoring requirees "an enormous amount of time and dedication," Bailey says, but there are rewards on both sides. The two have developed a close relationship. "I'm there for Tracy in a way her parents can't be. She knows I care about what happens to her on every level—work, social, academic and personal—and that I'm available."

Tracy's is a success story Rhode Island hopes to repeat many times.

Faced with an inner-city dropout rate of up to 50 percent, a group of Rhode Island educators, businessmen and legislators are developing an incentive program, the Children's Crusade for Higher Education, that will get poor kids ready for college and then pay their tuition. A bill calling for support of the program is making its way through the legislature and state financial aid is expected to augment an endowment fund. Businesses will also contribute. The money, $50 million to be raised over 10 years, will be used to administer the program, establish training centers for mentors, and pay college tuition for successful candidates.

The aim of the Children's Crusade is to give families damaged by chronic poverty, substance abuse, domestic violence, illiteracy and unemployment a guarantee that their children can break the welfare cycle by matching them with mentors who will teach them to help themselves. Mentors will badger kids about grades and aspirations, reviving those age old questions, "How are you doing in School?" and "What do you want to do when you grow up?"

Inspired by successful programs like Head Start, Eugene Lang's I Have A Drean, and Upward Board, Rhode Island's Commissioner of Higher Education Americo Petrocelli has designed a program that will take youngsters from third grade through high school, offering 10 years of a mentor's influence in exchange for some specific behavior. Kids in the program must stay in school, stay off drugs and avoid early parenthood (this goes for boys too). Mentors will review report cards each term.

"We already know what works," says Petrocelli. Ninety-two percent of Rhode Island Upward Bound graduates are awarded scholarships and 76 percent of those students graduate from college.

That's the kind of success Petrocelli hopes will be repeated with the Children's Crusade. He says the plan can break the cycle of poverty for a new generation of Rhode Island kids by establishing "a clear link between aspiration and reward."

It's the same notion, Petrocelli points out, that gained national attention for a Michigan hamburger shop owner, who, after failing to keep kids working for minimum wage, offered to pay their college tuition in exchange for faithful service. The workers stayed, the shop owner saved $40,000 in training expenses in the first year, and youngsters who probably wouldn't have thought about going to college eventually earned degrees.

The Children's Crusade intends to help parents, too. They will be taught to handle better the day-to-day health and emotional needs of their children. Parental involvement is pivotal to a child's success, Petrocelli says.

Many of Rhode Island's poor are single-parent families. Supervising school work and extracurricular activities as well as holding down a full-time job and managing the household can often be too much to handle. In too many cases, says Petrocelli, schoolwork and school-related issues are ignored either from frustration or exhaustion.

If all goes as planned, the Children's Crusade should begin to change all that.

Rhode Island citizens willing to serve as mentors are crucial to the Crusade. Some see that as the biggest obstacle. Petrocelli says mentors will come from all walks of life. Everyone—from college professor to textile mill worker—will be recruited and trained as a role model for the young people in the program.

Naomi Schwartz, mother of three young children, wants to believe the Children's Crusade for Higher Education will work. So does Stephen Kane, principal at the inner-city Providence elementary school where Schwartz's children are enrolled. And while Clare Kirby, director of the Big Sisters Association of Rhode Island knows that mentoring works, she wonders where the volunteers will come from. Each of these people will be directly involved in making the new program succeed, but they all have concerns.

Schwartz, equipped with a master's degree in education, says that one of her qualms about the Children's Crusade has to do with the fact that "the situation in Rhode Island public schools is desperate" and she thinks the $50 million to be raised is money that could be better spent to hire more and better teachers.

Principal Kane predicts that at least 50 percent or 60 percent of the 600 students in his school (kindergarten through fourth grade) could qualify for the Children's Crusade. He wonders where the 300 mentors are going to come from when he has trouble getting 30 volunteers to work in his school's tutoring program. Other problems Kane sees are in eligibility requirements and what happens when a student's status changes. "I'd like to see the mentorship program better prepared so it won't become counterproductive," he says.

Petrocelli, prepared for such questions, says plenty of planning will be done before the program's September 1991 start. He doesn't anticipate a shortage of mentors. A lot of mentoring is already going on, he says. "People just don't realize what it is."

For example, every time a Little League coach says that the only excuse for not being at practice is that you are doing homework—he's mentoring. "It doesn't all have to be done on a one-to-one basis," Petrocelli says. But under the guidelines of the Children's Crusade, the coach would review their report cards and get training in how to help encourage his young charges.

"What we're saying is that we'll have a statewide strategic initiative," explains Petrocelli, adding that the Children's Crusade will not compete with other mentoring agencies, but work hand-in-hand with them. He is adamant about not wanting more bureaucracy—another of Principal Kane's worries. His intention is to trade services with existing helping-hand agencies. "We'll support them by giving their volunteers the necessary training to be effective and they can continue to work through their usual community organizations," Petrocelli says.

"We want to reduce the dropout rate to an unacceptable-but-improved 26 percent from a horrendous 50 percent," he says of the program's early goals.

In response to Schwartz' concerns about financial allocation, Petrocelli says that the $50 million to be spent on the Children's Crusade would be insignificant in a teacher shortage or training problem "I don't think our schools are failing—it's society that is."

Legislators are now hammering out the state's budget for 1991—the year the Children's Crusade will begin. Representative Neil Corkery, a co-sponsor of the bill, says the Children's Crusade "has such strong bipartisan and gubernatorial support" that funding should be guaranteed even in the face of the state's current budget deficit.

Plans for funding call for a financial partnership between the state and business donors. Corporate donations will be returned, Petrocelli says, if the program doesn't work out.

The commissioner hopes legislators will think about the problem, in part, as a medical analogy. "It's a lot easier to prevent a disease than to cure it," he says.

That preventive medicine is what the Children's Crusade is all about.

FOUR STATE SOLUTIONS FOR SENDING KIDS TO COLLEGE

Education incentive programs are starting to snowball across the country. Methods vary but the message is the same: Stay out of trouble, stay in school and get good grades, and you can go to college.

New Mexico's new Scholars Program paid tuition for 300 students last fall, and education commission staffer Jim McLoughlin says the goal for this fall is 450 to 500 students, or about 5 percent of high school graduates. To qualify for free tuition, students must score 25 or above on ACT tests or graduate in the top 5 percent of their class and have an adjusted family income under $30,000.

McLoughlin says future plans include getting businesses and support agencies like Big Brothers and Big Sisters involved in a mentor program to help coax students along so they qualify scholastically when the time comes.

Florida's Endowment Fund for Higher Education, a match of state and private money earmarked for black students, promotes education from first grade on. Regional centers have been established around the state to help black students stay in school and get ready for college.

The centers, operating at university, community college, church and urban sites, meet different needs in each community, but mostly they are places where young people are exposed to supplemental and en-

richment learning activities, and middle-class black families with similar ideas about the importance of education are brought together. High-achievers get special recognition, and seven winners of a black history and culture "Brain Bowl" competition get a free ride to college each year. Twenty-five annual scholarships are awarded to Ph.D. candidates—six have earned doctorates since 1984, 113 are still working on them.

"We're teaching our kids a philosophy that says it's all right to be smart and excel in school," says Earl Young, state coordinator of the centers project.

Florida's program for black youth originated in 1985 with the McKnight Foundation, which put up $1.5 million for the first five centers; today there are 10. Last year the Legislature appropriated $300,000 to the program and will increase that amount this year.

Louisiana launched a tuition plan last fall, but lack of funding and strict academic requirements that disqualified many rural students have sent it back to the drawing board. Larry Tremblay, a researcher for the Board of Regents, says legislation for the incentive program passed too quickly, and bugs need to be worked out. "Not one student in the state knew what the course requirements were going to be," he says. Amendments suggested for the law include a proposal that would allow schools up to three years to offer required courses and waivers for students whose schools do not offer all the courses.

Four-hundred and seventy-six Louisiana students qualified for free tuition last semester, and although funding has not yet been provided, they are in college; costs are being absorbed by the universities.

Beginning in 1991-92, no eligible student in New York will be deprived of a chance to attend college. Under the Liberty Scholarship program anyone can get tuition help if he completes high school or a GED program in the state, starts college within two years, is less than 22 years old at the time of his first award, and meets general eligibility requirements established for other state scholarship and grant programs. Conceived by the governor and passed by the Legislature, the plan provides $10 million in scholarships this year; $90 million by 1994-95.

[From the Providence Journal, May 25, 1990]

CRUSADE TO EDUCATE CHILDREN

(By S. Michael Levin)

We hear disturbing news which must concern many of us about the quality of life we and our children will lead. The world has become more complex and competitive; we face new choices in trying to balance our resources and our lifestyles. And still other problems remain unsolved; Substance abuse, overcrowded prisons, violent crimes, property crimes, child abuse, school dropouts, teen pregnancy, an undereducated workforce, homelessness, budget deficits.

Amidst all this, education is the common thread for survival, maintaining our economic strength, breaking the poverty cycle, and finding answers to other seemingly unsolvable problems. We must broaden the base of our educated population if we are going to have human resources which will contribute to society and be part of the solution, not the problem.

At present, the school dropout rate in Rhode Island for economically disadvantaged children is over 50 percent, and we pay an exorbitant price to support those who have not been educated. Like the man who keeps jumping into the river to rescue drowning kittens, we are not committing our resources effectively to keeping the poor kittens out of the rushing water in the first place. And we continue to pour dollars downstream. We are becoming overwhelmed by the expense and volume of trying, usually too late and unsuccessfully, to save these victims.

But, I believe that we have a practical alternative: The Rhode Island Children's Crusade for Higher Education. Modeled after programs like Eugene Lang's "I Have a Dream" program in New York City, and conceived and developed by the Commissioner of Higher Education, Americo W. Petrocelli, and his staff, the Children's Crusade is a comprehensive, realistic, and ultimately economical program.

Beginning in 1991 and for succeeding years until 2001, all Rhode Island public and non-public third-grade students would be offered what amounts to a contract linking positive performance and behavior with rewards: A college education of other post-secondary education or training. Each child who volunteers to participate agrees to stay in school off drugs, and out of trouble with the law.

They also agree to submit report cards for review, participate in tutorial, mentoring and summer employment programs, and avoid early parenthood.

The net effect will be to substantially increase the number of economically disadvantaged children who graduate from high school, continue their education, and become gainfully employed taxpayers contributing to our economy.

Of course there is a cost for this program, but even this will be minimal compared to the alternatives. The Children's Crusade will be financed by an initial endowment built through contributions from the federal and state governments, colleges, universities, private foundations, business and industry. The program also needs a human resource commitment to provide mentors who will serve as a support mechanism for the children.

Those who think that the price of undertaking such a program is too high in this period of budget constraints must realize that the cost of not starting the program now is far greater. As a former federal prosecutor, and now an attorney in private practice, I have seen the enormous social and economic cost of crime and unemployment, much of which results from undereducation.

Today, it costs an average of $30,000 per year to maintain a prisoner at the Adult Correctional Facility. Now, consider that 70 percent of the prisoners at the ACI are high school dropouts, and that both the state and federal government are looking to build another correctional facility in someone's backyard.

Unfortunately, the correctional system has not been a dependable tool for rehabilitating wasted lives. There is little chance that a sentencing judge who has but a few moments with a defendant can fashion a punishment or rehabilitation program which will succeed where family, educators and clergymen who have had years to make a difference have failed. Nor can we expect overcrowded prisons to provide the nurturing and positive environment needed to reclaim unproductive lives.

It is clear that it is cheaper to educate our children now than to incarcerate them later. We must take the steps necessary to make the Children's Crusade for Higher Education a reality now.

My law firm, Edward & Angell, has offered its support to the Children's Crusade by providing the services of some of its staff members to assist in the development of the program, and urges other firms, businesses and organizations to do the same. The Children's Crusade is an investment that can keep our human resources from being swept away in the rushing stream of poverty, unemployment and crime.

THE UNITED STATES-CANADA RELATIONSHIP

Mr. KENNEDY. Mr. President, the current Canadian constitutional crisis involving issues of national unity and preservation of the French language and culture has focused Americans' attention on Canada. Specifically, it has caused Americans to recognize the distinct differences between our peoples, our cultures, our histories and our views about our governments.

A year ago, I submitted to the RECORD an interesting poll about the attitudes of Canadians and Americans which appeared in Canada's weekly news magazine, Maclean's. This month's edition of Maclean's contains the 1990 poll which again provides an interesting look at our similarities and differences.

Compared with last year, it seems that Americans are recognizing those differences. In 1989, 77 percent of Americans felt that Canadians were the same as Americans but this year that number declined to 69 percent. The majority of Canadians, however, believe that their neighbors to the south are different and the number of Canadians holding that view is increasing.

Last year, the No. 1 concern of Canadians was pollution and that remains their predominant concern. The current preoccupation with the issues of national unity and bilingualism is reflected in this year's poll as the No. 2 concern of Canadians—last year it was of concern to only 5 percent. Not surprisingly, of those polled in Quebec, the national unity issue was the No. 1 concern. In 1990, Americans are primarily concerned with social and moral issues, while concern about drugs dropped to second place.

Americans are also less likely to welcome Canada as our 51st State. Last year, 66 percent of those polled said they would favor Canada and the United States becoming one country, but this year only 47 percent would welcome Canada to the Union. Canadians, on the other hand, continue to be overwhelmingly opposed, by a majority of 81 percent, to having their country join the United States.

Canadian and American perceptions about the United States-Canada Free-Trade Agreement are also very different. Fifty-eight percent of Americans believe that the 18-month-old agreement has made no difference in the

economic condition of America, while the majority of Canadians feel the agreement has hurt their economy. The view from Quebec is less pessimistic; there is an even split between those who believe there is no change and those who feel the economy of Quebec has been hurt.

I believe that this interesting and informative poll will be of interest to all of us in Congress who are interested in United States-Canada relations. I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Maclean's, June 25, 1990]

PORTRAIT OF TWO NATIONS—THE TWO NATIONS POLL, WHERE NORTH AMERICANS STAND ON 32 QUESTIONS

(The Maclean's/Decima Two Nations poll results are based on responses from scientific samples of 1,000 people 18 or older in each country in telephone surveys between May 1 and May 6. Results, presented here in rounded percentages of those polled in each country, are considered statistically accurate for both populations within a range of 3.1 percentage points, above or below the figures cited, 19 times out of 20. The range of potential error is larger for subgroups and regions. In Canada, survey samples were enlarged to permit regional comparisons. The question regarding statehood for Canadian provinces was asked only in Canada. The wording of all other questions, except for country names, was the same in Canada and the United States. Five of the questions, where indicated, were identical or similar to questions asked in the 1989 Two Nations poll. Percentages in all responses may not add to 100 after rounding or when don't know replies or non-responses (DK/NA) are eliminated. Subtotals, derived from actual percentages, may vary marginally from the sum of the rounded figures shown. Responses in Quebec, compared to the rest of Canada, are shown separately when they differ significantly from national responses.)

1. In your opinion, what is the most important problem facing the United States/Canada today, the one that concerns you the most?

	Americans		Canadians	
	1989	1990	1989	1990
Pollution/environment	5	17	16	20
National unity/bilingualism			5	19
Economy/jobs/inflation	12	8	22	19
Govt./deficit/debt	20	9	12	10
Drugs/alcohol problems	18	21		1
Other social/moral issues	25	24	17	6
Taxation (Canada GST)	4	3	4	15
World issues/war/peace	8	5	2	1
Foreign trade/investment	1	2	10	2
No problem/DK/NA	3	10	11	6

	Quebec only	Rest of Canada
Most important:		
Pollution/environment	19	21
Unity/bilingualism	29	15
Economy/jobs/inflation	24	19
Taxes/GST	5	18

2. Would you say that you are much more or a little more pessimistic about the future, neither more optimistic nor more pessimistic, much more or a little more optimistic about the future today, than you were a few years ago?

	Americans	Canadians
Much more pessimistic	15	16
A little more pessimistic	21	26
Total more pessimistic	36	42
Neither	13	17
Total more optimistic	50	40
A little more optimistic	36	29
Much more optimistic	14	11

	Quebec	Rest of Canada
Optimism/pessimism:		
More pessimistic	35	45
Neither	23	15
More optimistic	42	39

3. Who do you feel best serves your personal economic interests—business, government or unions?

	Americans	Canadians
Business	48	56
Government	22	20
Unions	19	20
DK/NA	12	5

	Quebec only	Rest of Canada
Best serves interests:		
Business	67	52
Government	21	20
Unions	9	24

4. Would you describe the tap water in your home as not at all safe to drink, fairly safe or very safe?

	Americans	Canadians
Not at all safe	11	11
Fairly safe	50	54
Very safe	38	34

5. Would you say the quality of air in the area you live in is very poor, poor, fair, good or very good?

	Americans	Canadians
Very poor	4	4
Poor	9	8
Poor/Very poor	13	12
Fair	28	25
Good/Very good	59	63
Good	43	36
Very good	16	27

6. Do you believe you should have the right to drive an automobile anytime or anywhere you want as long as it is within existing laws, or do you feel driving an automobile should and can be restricted further to protect the environment and reduce congestion?

	Americans	Canadians
Drive anytime/anywhere	62	49
Restrict further	34	50

7. Would you oppose or favor shutting down a major company that provided many jobs in your community if it was polluting the environment?

	Americans		Canadians	
	1989	1990	1989	1990
Oppose	33	34	37	36
Favor	64	58	60	60
DK/NA	3	9	3	4

8. Would you describe Canadians and Americans as essentially different, mainly different but with some small similarities, mainly the same but with some small differences, or essentially the same?

	Americans		Canadians	
	1989	1990	1989	1990
Essentially different	6	10	19	25
Mainly different	15	14	24	26
Total different	21	25	43	51
Total the same	77	69	57	49
Mainly the same	60	43	43	37
Essentially same	18	26	13	12

9. Would you strongly oppose, oppose, favor or strongly favor Canada and the United States becoming one country? (1989: Should Canada become the 51st U.S. state?)

	Americans		Canadians	
	1989	1990	1989	1990
Strongly oppose	10	11	54	51
Oppose	22	32	31	30
Total oppose	31	43	85	81
Total favor	66	47	14	18
Favor	54	41	12	14
Strongly favor	12	6	2	4
DK/NA	3	10	1	2

	Quebec only	Rest of Canada
Canada/U.S.A. one country:		
Total oppose	75	83
Total favor	24	15

10. Would you strongly oppose, oppose, favor or strongly favor your province becoming a State of the United States with full congressional representation and rights of American citizenship? (Canadians only asked)

Strongly oppose	57
Oppose	26
Total oppose	83
Total favor	16
Favor	12
Strongly favor	4

	Quebec	Rest of Canada
Your province join U.S.A.:		
Total oppose	78	85
Total favor	20	14

11. As you probably know, for a number of years there has been talk about the province of Quebec separating from the rest of Canada. Do you think the French-speaking majority in Quebec would stand a better

chance of keeping its language and culture as part of Canada or as part of the United States?

	Americans	Canadians
Better as part of Canada	75	90
As part of United States	13	7
DK/NA	12	4

	Quebec only	Rest of Canada
Quebec better:		
As part of Canada	82	92
As part of U.S.A.	12	5

12. If you were given the opportunity to become a citizen of Canada/the United States and to live and work there, would you? (1989: asked only "would you like to live in" Canada/the United States?)

	Americans to Canada		Canadians to U.S.A.	
	1989	1990	1989	1990
Yes	42	30	27	30
No	56	66	73	69

	Quebec	Rest of Canada
Become U.S. citizen:		
Yes	35	28
No	61	72

13. Do you think we should encourage more immigration, keep immigration at existing levels or reduce the number of immigrants allowed into the United States/Canada?

	Americans	Candaians
Encourage more	6	18
Existing levels	6	18
Reduce immigration	58	39

	Quebec only	Rest of Canada
Immigration:		
Encourage more	16	18
Keep present levels	51	39
Reduce number	31	42

14. Would you say that race relations in the community you live in have worsened, stayed about the same or improved in recent years?

	Americans	Canadians
Worsened	17	13
Stayed about same	56	62
Improved	25	23

15. When in private, do you never, rarely, sometimes or often tell ethnic or racial jokes?

	Americans	Canadians
Never	46	38
Rarely/sometimes/often	53	61
Rarely	25	28
Sometimes	25	26
Often	4	7

16. Do you believe all races are created equal or that some are generally superior to others?

	Americans	Canadians
Created equal	86	90
Some superior	12	10

	Quebec only	Rest of Canada
All races:		
Created equal	84	92
Some superior	16	8

17. In the past year or so, have you found yourself more interested in international or national news stories or events?

	Americans	Canadians
International	46	54
National	45	41

18. With the talk of East and West Germany joining after 45 years as separate states, do you think this increases the chances of peace, makes no difference to North America or increases the chances of war?

	Americans	Canadians
Increases chances of peace	60	58
Makes no difference to N.A.	19	28
Increases chances of war	14	11
DK/NA	8	2

19. How about the breakdown of communism in Eastern Europe and the breakup of Soviet Bloc countries? Do you think this increases the chances of peace, makes no difference to North America or increases the chances of war?

	Americans	Canadians
Increases chances of peace	62	60
Makes no difference to N.A.	14	22
Increases chances of war	16	15
DK/NA	8	3

20. With all the changes going on in Europe and the Eastern Bloc countries, do you think the United States/Canada should be decreasing its defence spending, increasing it or keeping it the same?

	Americans	Canadians
Decreasing	41	34
Keep the same	42	52
Increasing	14	12

21. And do you think the strengthening of a European common market will reduce, not affect or increase North America's economic influence in the world?

	Americans	Canadians
Reduce	34	34
Not affect	21	32
Increase	30	28
DK/NA	15	6

22. As you may know, Canada and the United States entered into a Free Trade Agreement about 18 months ago. From what you can tell, has this agreement hurt, made no difference or helped jobs and economic conditions in the United States/Canada?

	Americans	Canadians
Hurt (own country)	8	57
Made no difference	58	34
Helped (own country)	14	7
DK/NA	20	3

	Quebec only	Rest of Canada
Free trade impact:		
Hurt	43	62
No difference	43	31
Helped	10	6

23. And do you feel that Canada has benefited more than the United States from the Free Trade Agreement, that it has had the same effect on both sides of the border or that the United States has benefited more than Canada?

	Americans	Canadians
Canada benefited more	20	4
Same effect both sides	42	24
United States more	10	66
DK/NA	28	5

24. As you might have also heard, there is now some talk of the United States entering into a similar free trade agreement with Mexico. Do you think that would be a very good, good, neither good nor bad, bad or a very bad idea?

	Americans	Canadians
Very good Idea	6	5
Good idea	29	30
Good/very good idea	35	35
Neither good/bad	24	30
Bad/very bad idea	35	30
Bad idea	26	20
Very bad idea	9	10

25. Because Canada and the United States already have a Free Trade Agreement: (a) Some people say that Canada should join in with the United States and Mexico in a full North American common market.

(b) Others say that Canada should not join in the U.S.-Mexico agreement but should have the right to have a say in the negotiations.

(c) Still others say that Canada should stay out of any further talks about new trade agreements between the United States and Mexico.

Thinking about these three points of view, which one best reflects you own?

	Americans	Canadians
Canada should:		
Join full N.A. market	38	24
Not join, have a say	19	30
Stay out	28	43
DK/NA	15	3

26. And do you feel a free trade agreement between the United States and Mexico would weaken, not change or would improve North America's economic influence in the world?

	Americans	Canadians
Weaken	22	21
Not change	32	41
Improve	33	32
DK/NA	12	6

27. Now, suppose for a second that you came into a large sum of money that you had to invest abroad. In which of the following regions would you be more likely to make your investment?

	Americans	Canadians
Canada (asked Americans only)	31	n/a
United States (Canadians only)	n/a	34
Europe	24	29
Japan	37	34
DK/NA	8	3

28. Many people have told us that they have had contact either through work or socially with Canadians/Americans. As a result of your own experience, would you rather deal with someone from Canada or the United States, or have you really not had enough contact to tell?

	Americans	Canadians
Canada	8	39
United States	18	11
Not enough contact	69	44

29. If you had a choice between Brian Mulroney and George Bush as President of the United States/Prime Minister of Canada, which one would you choose?

	Americans	Canadians
Brian Mulroney	8	35
George Bush	81	49
DK/NA	11	15

30. If you were marooned on a desert island, which would you rather have with you—a television set with all the channels and videos you would ever want to see; a library of all the books you would ever want to read; a stereo with all the best music you would ever want to hear; your best friend of the same sex; your current partner or spouse; an atractive member of the opposite sex whom you hardly know?

	Americans	Canadians
Television	7	4
Library	16	14
Stereo music	3	3
Friend same sex	7	5
Partner/spouse	50	61
Opposite sex	13	11

FEMALE RESPONDENTS

31. Which one of the following would you most like to meet and talk to?

	Americans	Canadians
George Bush	43.4	17.2
Brian Mulroney	4.2	21.2
Arsenio Hall	10.8	9.4
Tom Cruise	16.2	18.6
Sean Connery	11.0	12.8
Michael J. Fox	8.2	15.2
DK/NA	6.2	5.6

32. And which one do you think would be the best lover?

	Americans	Canadians
George Bush	4.0	3.8
Brian Mulroney	0.8	3.4
Arsenio Hall	5.2	3.6
Tom Cruise	31.4	34.8
Sean Connery	17.4	18.6
Michale J. Fox	6.6	8.4
DK/NA	34.6	27.4

MALE RESPONDENTS

31. Which one of the following would you most like to meet and talk to?

	Americans	Canadians
Madonna	9.0	16.4
Jane Fonda	14.4	14.4
Barbara Walters	26.4	19.4
Oprah Winfrey	11.0	8.4
Anne Murray	7.8	16.8
Michelle Pfeiffer	18.0	14.8
DK/NA	13.4	9.8

32. And which one do you think would be the best lover?

	Americans	Canadians
Madonna	20.0	28.2
Jane Fonda	15.0	18.6
Barbara Walters	4.8	2.2
Oprah Winfrey	2.0	3.2
Anne Murray	7.2	8.8
Michelle Pfeiffer	25.8	19.6
DK/NA	25.2	19.4

THE 30 YEARS OF SERVICE OF SENATOR BURDICK

Mr. WALLOP. Mr. President, I would like to add my congratulations to my friend and colleague, the senior Senator from North Dakota, QUENTIN BURDICK.

Throughout his 30 years of service, Mr. BURDICK has served well his constituents' needs and the Nation's alike. North Dakota indeed has a friend in the Senate.

Although my colleague and I have not always found ourselves in agreement, I hold the Senator from North Dakota in high regards for his many years in the U.S. Senate. When I first came to the Senate, I served with Senator BURDICK on the Senate Environment and Public Works Committee. Together, we handled many issues including the Clean Air Reauthorization Act of 1977. It only seems appropriate that on his 30th anniversary, we are again trying to solve this difficult issue. I commend Mr. BURDICK for having the stamina to tackle this subject once again.

In short, my colleague has reached a tremendous milestone in his life and I truly wish him all the best.

HONORING SENATOR QUENTIN BURDICK

Mr. DODD. Mr. President, I rise today to recognize the outstanding work of the distinguished senior Senator from North Dakota, QUENTIN BURDICK, who today begins his second 30 years as a Member of the U.S. Senate.

As my colleagues know, QUENTIN BURDICK is not the first of his family to distinguish himself through laudable service to the people of North Dakota, and to the Nation as a whole. QUENTIN's father, the late Usher L. Burdick, was a Member of the House of Representatives from 1935 to 1945, and then again from 1949 to 1959. Young BURDICK, as I understand he is known to many of his fellow North Dakotans, is truly his father's son, in terms of his statesmanlike approach to business, and his forceful advocacy for the people of North Dakota.

QUENTIN BURDICK was elected on a platform which stressed representation of the concerns of North Dakota farmers, and as chairman of the Senate Appropriations Committee's Subcommittee on Agriculture and Related Agencies, he remains a strong voice on these issues to this day. In addition, the Nation is certainly indebted to QUENTIN for his excellent leadership on the many issues that come before the Senate Committee on Environment and Public Works, which he chairs.

Mr. President, I consider myself very fortunate to serve in the same Senate as QUENTIN BURDICK, and to have the opportunity to work with him. I know that I speak for all Members of the Senate in saying that we continue to be inspired by the fine example that this man of integrity sets for his colleagues. As QUENTIN looks back on 30 years of dedicated service to his constituents, I congratulate him on a job well done, and I salute the people of North Dakota for selecting a man of such excellence to represent them in the Senate. As he looks forward to what I hope will be many more years of public service, I wish him continuing success in all his efforts.

SENATOR QUENTIN BURDICK

Mr. SPECTER, Mr. President, on June 28, 1990, our colleague, Sentor QUENTIN BURDICK, of North Dakota, celebrates 30 years as a Member of the U.S. Senate. He has served this body, his State and the Nation with uncommon ability, hard work and devotion. His dedication in pursuing his duties has earned him the esteem, admiration and affection of all of us.

As a member of the Senate Appropriations Subcommittee on Agriculture and Related Agencies, I have had the opportunity to observe Senator BURDICK, our chairman, up close and, often under trying circumstances. Always, he has exhibited those characteristics that mark good leaders: strength tempered by patience; resolution leavened with understanding; and ability unsullied by arrogance. It has been a rewarding experience to have had the opportunity to work with him.

Over three decades, Senator BURDICK has gone about his work with no thought for personal aggrandizement or personal acclaim. He has been a workhorse, not a showhorse.

As he begins a fourth decade as a Member of the U.S. Senate, I take this opportunity to salute him for his excellent record and his outstanding work ethic and to wish him well in all future endeavors.

SENATOR BURDICK'S 30TH ANNIVERSARY IN THE SENATE

Mrs. KASSEBAUM. Mr. President, with many of my other colleagues I want to take note of the fact that 30 years ago today the Senator from North Dakota [Mr. BURDICK] began his valued service in this body.

Because our States have so much in common, particularly a keen concern for each year's wheat crop, I have frequently found myself in agreement with Senator BURDICK on agriculture and other issues. I also have a great appreciation both for his sense of perspective about Washington and his deep concern for the people of North Dakota.

Through all of my years in the Senate, Senator BURDICK and I have argued from time to time about which of our States produces the most sunflowers. On this day at least, I will cede to him the right to claim for his State the title of "The Sunflower State."

A TRIBUTE TO QUENTIN BURDICK

Mr. METZENBAUM. Mr. President, I rise today to pay tribute to my good friend, my seat mate, my colleague, QUENTIN BURDICK. Today is, indeed, a special day for my friend from North Dakota, for on this day of June 28, he will have served in the U.S. Senate for 30 years. This is no small feat. For only 35 other Senators in the history of the Senate have served 30 years. He will become the 36th out of the 1,792 men and women who have served in the U.S. Senate.

QUENTIN BURDICK developed an intense desire to serve the public at an early point in his career as an attorney in Fargo. His father, Usher Burdick, served in the U.S. House of Representatives for 20 years during the late thirties and early fifties. In 1958, QUENTIN won the House seat held by his father, and 2 years later won the special election which brought him to this body on June 28, 1960.

QUENTIN BURDICK has been a diligent and selfless public servant for the people of North Dakota. As the chairman of the Environment and Public Works Committee, and as a member of the Appropriations Committee, he has served the constituents of his home State with diligence and unswerving attention. As the leading spokesman for rural Americans, QUENTIN BURDICK has fought for programs that are essential to the prosperity of our Nation's farms. As the chairman of the Appropriations Subcommittee on Agricultural and Rural Development, QUENTIN BURDICK has worked hard to boost agricultural exports, fund agricultural research, and provide relief for drought stricken farmers. It certainly comes as no surprise to me that North Dakota ranks first in USDA reserach per capita.

The good citizens of the Peace Garden State are not, however, the only beneficiaries of the distinguished service by the Senator from North Dakota. QUENTIN BURDICK has brought a sense of fairness and a voice of reason to this body. As a respected senior Member of this body, QUENTIN BURDICK elevated the concern for people oriented issues to this body which, at times, has been labeled by some critics as insensitive to the needs of the people. I am privileged to serve in this body with QUENTIN BURDICK, a colleague and friend, whose integrity, sound judgment, and profound concern for his fellow man have made him a truly eminent statesman of this body.

ANTI-SEMITISM, THE SOVIET UNION, AND EASTERN EUROPE

Mr. CRANSTON. Mr. President, earlier this year I came to the Senate floor to express my concerns about the resurgence of popular anti-Semitism in the Soviet Union and Eastern Europe. I continue to be deeply concerned.

Most recently, our attentions have necessarily been focussed on the harassment and intimidation of Jewis in the Soviet Union. Virulently anti-Semitic groups such as "Pamyat" have created a feeling of panic, adding impetus to the mass immigration of Jews, first to the United States, and now to Israel. In the last few months, we have worked to respond to this exodus.

I had a unique opportunity to discuss developments in the Soviet Union, especially Jewish emigration and the recent outbursts of anti-Semitism, with Mikhail Gorbachev during his recent visit to the United States. Senator PETE WILSON and I were invited to fly with President Gorbachev from Minneapolis to San Francisco on the Soviet version of Air Force One. We joined the Gorbachevs for an informal in-flight dinner.

I urged President Gorbachev to make a strong statement commanding anti-Semitism in the Soviet Union. We stated that he had already done so in a press conference but that it had not gotten much attention because of other issues he had discussed, and that perhaps he should make a more formal statement. I urged him to do so, saying that a new, forceful, more formal statement would serve a great many useful purposes. A few days later when the leadership met with President Bush, he said that he, too, had urged President Gorbachev to make a strong statement condemning anti-Semitism. Although the Soviet leader did not commit himself to make such a statement, I am very hopeful that he will do so.

In any case, the Soviet leader now knows in no unmistakable terms how important it is to American leaders that he speaks out against anti-Semitism, formally and forcefully.

EASTERN EUROPE

Information about the situation in Eastern Europe has been more sketchy and anecdotal. It has been difficult to assess the impact of democratic reform on these small Jewish communities that have endured years of communist rule—for the most part, aging remnants of their pre-holocaust glory. In an effort to shed more light on the status of the Jews of Eastern Europe, the Anti-Defamation League has sponsored a report, in conjunction with the World Jewish Congress, on the impact of liberalization and revolution on Jewish life in Central and Eastern Europe. The report, compiled by the London-based Institute of Jewish Affairs, reveals a strengthening of Jewish identity and a renewal of Jewish life in the seven countries surveyed. As one who saw the world stand by during the decimation of these communities, I am heartened by this news.

Yet, the findings of this report confirm that there is a dark side to the new freedoms. The liberty to speak one's mind has given extremists elements the license to indulge in anti-Semitic propaganda. Anti-Semitism has emerged as a political theme—except in Bulgaria—marked by attacks on individual Jews who were associated with past regimes or who now play a prominent role in these fledgling democracies.

As we watch these democracies develop and mature, we must realize that they lack the democratic and legal traditions which serve as a check on the forces of extremism and ethnic hatred. We must speak out and condemn these new voices of extremism. We must urge the leaders of Eastern Europe to speak out—and in the past few months a number have—and we must take concrete steps to prevent these forces from flourishing.

Mr. President, anti-Semitism is a terrible scourge, and there is no doubt that it exists, even in free and democratic societies. It is incumbent upon us and all responsible leaders to condemn bigotry and ethnic hatred wherever they occur. The first such step is to educate ourselves about these developments.

Mr. President, I invite my colleagues to read this report, "Central and East European Jewry: the Impact of Liberalization and Revolution," and I ask unanimous consent that it be printed in the RECORD following my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Institute of Jewish Affairs, Research Report, Nos. 2 & 3, 1990]

CENTRAL AND EAST EUROPEAN JEWRY: THE IMPACT OF LIBERALIZATION AND REVOLUTION

Summary: The Jewish communities of Central and Eastern Europe have been deeply affected by the collapse of Communism. Jewish life, even in very small centres of population, is being transformed.

For most, a stagnant stability prevailed, with religion and cultural life rigorously curtailed and controlled by the authorities. Even in countries where some degree of freedom was granted to the Jewish community, the regime's motives were often dubious and their policies two-faced. But political liberalization in the wider society has led to the more open expression of Jewishness in most of the Jewish communities.

The patterns of development in the seven countries covered by the writers of this *Research Report* are remarkably similar albeit varying in intensity: a revival of Jewish cultural life; people who had denied their Jewish origins now identifying themselves as Jews; young people discovering their Jewish identity; the ousting of Jewish communal leaders who had been closely identified with the Community authorities; an increasing desire to participate in European and international Jewish activities.

Of special importance to the strengthening of Jewish identity in the communities is the re-establishment of diplomatic ties between the new governments and Israel. Poland, Hungary and Czechoslovakia have restored full diplomatic relations, Bulgaria is about to do so, East Germany wants to but this now depends on the pace of reunification, and Yugoslavia is currently holding back because of internal ethnic tensions.

The new freedom brings with it the license to indulge in antisemitic propaganda. Apart from Bulgaria, antisemitism has been a political factor in each country. Emerging nationalist groups have made antisemitic statements—even some mainstream political groups have used antisemitic innuendo. Despite such worrying trends, the encouraging possibilities now open to these Jewish communities, many of whom are revising upwards their population estimates, are a wholly welcome consequence of revolution and liberation.—Antony Lerman, Editor.

HUNGARY

Jewish population: 80,000-100,000 (Ashkenazi)—first settlement: Roman times—highest population: 725,000 in 1943—600,000 died in Holocaust—central body; Central Board of Hungarian Jews (affiliated to WIC—26 synagogues—13 rabbbis—1 school—rabbinical seminary—museum, library and central archives—press: *UJ Elet* published fortnightly, SZOMBAT monthly—hospital, nursing home, orphanage, 3 homes for the aged—important Jewish historical sites

Hungary has the largest Jewish population of all East European countries (except the Soviet Union)—80,000 to 100,000 according to conventional estimates. Consequently, Jewish life went on even in the darkest period of the Communist regime. In February 1950 the Hungarian authorities centralized all Jewish activity in the local kehilot, which were combined in one central, national body.[1] Concessions were only made for the orthodox who were allowed to form a special 'section' within the centralized communal structure, in which the majority was Neolog (roughtly corresponding to the Conservative trend in American Judaism). But although all cultural organizations also became part of the centralized structure, the kehilot, for a long time, restricted themselves to strictly religious activities, which they carried out with considerable freedom and even financial help from the government.

Treating Jewry exclusively as a religious community corresponded to how Hungarian Jews saw themselves, as opposed to Jews in neighbouring countries who, between the two world wars, were organzed as national minorities as well as religious communities. It also fitted in well with the Communist approach which regarded anything Jewish beyond the realm of reilgious Judaism as 'national' which, in the context of the politics of the time, would mean 'Zionist.'

The relaxation of Communist rule did not start in Hungary in the years 1988-89. It was a very gradual process, beginning under Janos Kadar in the mid-1960s, and growing in strength as the years went by. From the Jewish point of view, an important date was 1975, when a courageous non-Jewish writer broke the taboo on the Holocaust imposed by the Rákosi regime and wrote a stirring article, later expanded into a book, about the Hungarian nation's responsibility for the extermination of 600,000 Hungarian Jews. This led to a growing debate in the media, gradually encompassing the whole complex of the 'Jewish question,' including the problems of assimilation and antisemitism. Another important date was 1984, the 40th anniversary of the deportations from Hungary, which intensified the debate and led to the publication of a number of imprtant Jewish books on the subject.[2]

Relations with world Jewry

As state control was further relaxed, the community also felt freer to extend its activities beyond the strictly religious, notably by beginning some cultural activity and even establishing contacts with Israel.

World Jewry's awakening interest in the Hungarian community also played a pivotal role in this development. The Memorial Foundation for Jewish Culture, which for some years had supported Jewish publication and research activities, established a centre of Judaic Studies at one of the Budapest universities. However, the most decisive event in the development of relations with world Jewry was the holding of the World Jewish Congress Executive Meeting in Budapest in 1987. The meeting was also a turning-point in relations between world Jewry and the Hungarian authorities.

The WJC meeting was followed by meetings in Budapest of the Memorial Foundation, ORT, and by numerous delegations from other Jewish organizations in the West. A big exhibition on the history of Hungarian Jewry by the Tel Aviv Beth Hatefutzot (Museum of the Diaspora) was also staged in Budapest. The popularity of Hungary as an ideal holiday destination for Israelis, further helped Hungarian Jews to rediscover the living reality of world Jewry. Consequently, official relations with Israel improved, leading to a greater Israeli presence in Hungary, albeit not on a high diplomatic level.

Footnotes at end of article.

The revival of Hungarian Jewish life

This process came to fruition towards the end of 1988, well before the development of the revolutionary movement towards pluralistic democracy. A new generation of Jews—not all young, but almost all seen as a post-Holocaust generation—had come to understand the negative impact of the failed "Communist assimilation" (which followed an equally negative attempt to assimilate to the Magyars' nationally) and also absorbed the positive impact of contemporary Jewish reality. This generation established a new Jewish identity: entirely secular, Jewish only in the ethnic sense, but not to the point of complete separateness; they now declare themselves people of "dual roots" and "dual ties"—Jewish and Magyar—and try to immerse themselves in Jewish culture to satisfy the sense of Jewishness.

In November 1988 a group of young intellectuals—writers, journalists, broadcasters, academics—set up a Hungarian Jewish Cultural association, which generated a remarkably strong response. Some sixteen groups are in operation, representing a wide variety of interests. There is a folk dance group for youngsters, a senior citizens' circle (which includes a literary section), a Chagall circle on art, a Burber Circle for religious and philosophical studies, a Ben Yehuda Circle which runs Hebrew classes, a Yad Vashem Group on the Holocaust, a Hanna Szenes Women's Group, an amateur drama ensemble, a Kadimah Scout Club and a Maccabi Sports Club. There is also a group devoted to Jewish-Christian dialogue and a Herzl Circle (the beginning of a revial of the Zionist movement). In 1988, a Student Section was created which affiliated itself to the World Union of Jewish Students. After a year the section launched a monthly journal, SZOMBAT (Saturday), which is well produced and of high quality. However, they keep apart from the official community, not only because of their secularism but also because they regard the community's leadership as tainted with collaboration with the Communist authorities.

The activism of the Hungarian Jewish Cultural Association jolted the official community out of its previous passive attitude towards non-religious cultural activity and it created a cultural center of its own, which arranges concerts—both classical and liturgical—in the great Dohány Street synagogue, theatre and film performances, commemorative meetings and light entertainment evenings in the community's Goldmark Hall, as well as courses in Hebrew. The community is, of course, better-equipped with premises and financial support than the struggling Cultural Association but lacks the charisma, novelty and popularity of the latter's enthusiastic voluntarism.

Hebrew teaching is now particularly well-developed in Hungary. Learning the language has become a kind of positive symbol of Jewish identity. There are many courses and *ulpanim* in Budapest and three provincial cities, and Hebrew has become part of the curriculum of the Anne Frank Jewish High School. Much of the stimulus for Hebrew came from the presence of Israeli emissaries and teachers sent by the World Zionist Organisation (WZO).

The input from non-Hungarian Jewish organizations is of great importance. Both the World Jewish Congress and the Jewish Agency opened offices in Hungary and the Joint Distribution Committee also extended its activities from welfare work into the cul-

tural field. Some 300 youngsters were invited by the World Zionist Organization to Israel in 1989 to summer camps and kibbutzim and another 200 single people and young families were invited to an aliya orientation programme. Four Israeli emissaries were sent to run the summer camp for Jewish youth in Hungary. Youth leaders and counsellors are taken to Israel for training and the eighteen-member executive of the Cultural Association was invited to Israel for a two-week seminar and orientation programme.

The most recent developments include the purchase of a site for a jewish Youth Camp, to be run by the official community, which can provide holidays for 300 children. The community intends to re-establish a Jewish primary school in a former Jewish school building which has space for 840 pupils. Dissatisfied with the proposed religious character of this new school, the Cultural Association is working to set up its own secular Jewish school. Elections for the leadership of the community are due in June 1990 and it is already clear that many former leaders will be voted out. But an alternative leadership has not yet emerged.

The community and the state

It is of course true that during the years of Communist rule the Jewish community leadership had perforce to work with the government, or rather, according to the instructions of the government, which exercised tight control over all religious denominations through its Office for Church Affairs. This office was disbanded in May 1989 and replaced by a far less important Secretariat for Church Policies under the Council of Ministers. The head of this new Secretariat, and former Deputy Head of the Office for Church Affairs. Barna Sarkadi-Nagy, honestly admitted in a recent interview that the declaration about separation of State and Church simply did not conform to the facts', and that appointments of Church functionaries previously required the approval of the government, not to speak of the other restrictions and the curtailment of Church sovereignty.[3] Whether the Jewish leaders were really serving the regime' or whether, in their inevitable encounters with the government, they did their best to get maximum concessions for maintaining Jewish communal life, only history can judge. Whatever their attitude, they carried on under difficult and sometimes dangerous circumstances (some community leaders were, after all, arrested under Rákosi). Without that, the flame of Judaism might have been completely extinguished.

The impact of Israel can be felt everywhere. The re-establishment of diplomatic relations between Hungary and Israel in the summer of 1989 was a tremendous boost for Jewish self-identification in Hungary. In December 1988—some nine months before diplomatic relations were restored—a Hungary-Israel Friendship Association was established with the help of sympathetic non-Jews, which arranged an impressive Yom Haatzmaut celebration in May 1989 and an even larger commemoration of the 45th anniversary of the execution of Hanna Szenes in November 1989. In both instances, leading government figures participated.

Anti-Semitism and the new Hungarian politics

The new freedom, which has enabled a Jewish revival to take place in Hungary, is not without its dark side. Popular anti-Semitism continued to exist during the years of the Communist regime, but since 1956, there has been no institutional anti-Semitism. As the atmosphere of reform developed, the authorities began to assist Jewish cultural initiatives. For example, the Jewish Museum was renovated and a lavish volume displaying its treasures was published.[4] Also published were an illustrated volume on the (mostly destroyed) synagogues in Hungary,[5] facsimile editions of the rare collection of Judaica (the famous 'Kaufmann collection') belonging to the Hungarian Academy of Sciences, including a beautifully illustrated *Megillat Esther.*

Nevertheless, popular antisemitism has now come disturbingly to the fore and, some claim, with great force. There are numerous stories of individual incidents which are difficult to assess. However, antisemitism is now clearly apparent in the political arena. Some of the new political parties declare themselves 'Christian', which in Hungary has traditionally meant the exclusion of Jews. Many of the parties are openly nationalist. In Hungarian history nationalism has been less a matter of confrontation with an external enemy abroad and more a question of identifying as the enemy the minority groups within the country. Some of the parties have adopted a populist stance. In the past this approach created open conflicts with the so called 'urbanists', the intellectuals and bourgeoisie of the cities, who in Hungary happened to be overwhelmingly Jewish.

The revival of some of these old notions of the 1920s and 1930s frightens Hungarian Jews. The situation is aggravated by the fact that one of the new and more successful political parties, the Free Democractic Alliance (SzDSz), which emerged from former dissident groups, has to a large extent a Jewish leadership. In the electoral battles leading up to the elections of 25 March, this fact led some of their rivals to attack them as 'aliens', rootless cosmopolitans', and pointedly appealed instead for the support of the wishes of the 'true Magyars'.

A reassuring feature is that when the Communist parliament, in consultation with the then extra-parliamentary opposition over reform legislation, agreed to amend the Penal Code and exclude from it all political crimes, they kept one: incitement to racial or religious hatred.

The most recent development is the parliament's adoption of a law allocating parliamentary representation to eight 'national minorities'—including the Jews. As mentioned above, Hungarian Jewry never claimed the status of a national or ethnic minority, and the community is now very divided on whether to avail itself of the offer of this new status.

What happens in the future will partly depend on the outcome of the elections, and on other developments in the rest of Eastern Europe and on Hungary's relations with the West. Meanwhile, Jewish life revives and antisemitism reappears—and there is undoubtedly a connection between the two.—Stephen J. Roth.

ROMANIA

Jewish population: 23,000 (mostly Ashkenazi)—first settlement: 4th century—highest population: 800,000 in 1939—385,000 died in Holocaust—central body: Federation of Jewish Communities (affiliated to WJC)—84 synagogues—talmud torah classes for 500—press: Revista Cultului Mozaic published fortnightly in four languages—convalescent homes, six homes for the aged—historical sites in Dorohoi and Jassy.

Under Nicolae Ceausescu, Romanian official policy towards the Jewish community was two-faced. On the one hand, Romania was the one Soviet bloc country not to have broken off relations with Israel in 1967 and Romania's Jews enjoyed a degree of autonomy unknown in other Communist countries. On the other hand, antisemitic writing of a sometimes virulent nature was tolerated by the authorities. What effect the overthrow of the Ceausescu regime will have on the Jewish community is yet to be determined. One fear is that there will be resentment of the relatively better treatment meted out to the Jews during the Ceausescu dictatorship. Another is that extreme right politicians, emerging from years of silence or returning from exile, will whip up antisemitism.

The Jewish community under Ceausescu

Any account of the experience of Jews in Ceausescu's Romania or, indeed, in post-war Romania is dominated by the person of Rabbi Moses Rosen, who has been Chief Rabbi since 1948. During his term of office Romanian Jews have enjoyed better conditions than Jews in other East European countries and other ethnic minorities in Romania. There are forty-one active synagogues and Hebrew lessons are easily available. There are Jewish choirs, ten kosher restaurants and Jewish old-age homes. Furthermore, Jewish emigration proceeded apace from Romania at a time when it was practically impossible for a Jew to leave the Soviet Union. Over the past forty years, 400,000 Jews have gone on aliya. The estimated 23,000 who are left are mostly old people: it is estimated that 60% are above 65 years of age.

These benefits have not come free, however. On the most basic level, it is claimed that Israel paid Ceausescu dollars (estimates vary between $1,000 and $3,000 and according to one report, 'well-qualified' Jews could fetch up to $25,000) [1] for those Jews allowed to emigrate, and even then, the process often took up to a few years. More complex is the role of Rabbi Rosen. Now that Ceausescu has been overthrown Rabbi Rosen is being accused by certain Jews in the West and in the Israeli press of having compromised himself by remaining silent about human rights abuses in Romania, a silence which greatly helped Romania acquire the economically advantageous most favoured nation (MFN) status with the United States.

Rabbi Rosen consistently rebuffs these charges. In interviews with Western journalists and in a lengthy article in the Romanian Jewish community's paper *Revista Cultului Mozaic* (no. 685, 1 February 1990), he defends his own efforts to obtain MFN status for Romania as his 'duty . . . both for my Jewish brothers and for the Romanian people'. He also contends—citing detailed evidence—that he repeatedly lodged complaints with Ceausescu when the latter wanted to tear down Bucharest's synagogues and when antisemitism surfaced in official publications. Finally, he argues that most of the concessions made to the Jewish community were made before Ceausescu assumed absolute power. The fact is, however, that in a totalitarian state, any of these rights accorded the Jews could easily have been taken away. In his article, Rabbi Rosen says 'Ceausescu was an antisemite'. And antisemitism did not disappear from Ceausescu's Romania. On the contrary, virulently antisemitic poems appeared on several occasions during the 1980s.[2] The poems'

authors were often well-known celebrants of the Ceausescu personality cult. The poems that were in book form were withdrawn from bookstores after several interventions by Rabbi Rosen, an expression of concern from the US State Department and a visit to Bucharest by the B'nai B'rith president, Jack Spitzer. But Ceausescu never made a public disavowal of the antisemitic attacks and never gave the Jewish community permission to publish their own rebuttal of the accusations made in the poems. According to some Romanian Jews,[3] Ceausescu made concessions to the Jewish community in order to marginalize them. Whatever his ultimate intentions, Ceausescu benefited from being seen to grant autonomy to Romania's Jews and from being the only Soviet bloc country not to sever relations with Israel in 1967. Not only did Romania acquire MFN status from the US, it also received millions of dollars worth of credits, some guaranteed by Israel. More recently, when disastrous economic policies and Ceausescu's determination to repay foreign debt created famine conditions, Israel sent food and transport aid.

After Ceausescu

While the momentous changes in the rest of Eastern Europe happened relatively peacefully, it took a bloody revolution to end the dictatorship of Nicolae Ceausescu. Only one Jew, according to reports, was killed in the fighting—by a stray bullet. Rabbi Rosen had pledged his support for the government of the National Salvation Front. The political situation, however, remains extremely unstable and potentially still violent. The question is, will antisemitism become a political tool in the fight between the various forces now vying for power? So far, there are no hard facts to support an argument either way but Rabbi Rosen, for one, warns that a burst of nationalism might well be accompanied by antisemitism, especially because Jews are associated, in the public mind, with the Communist regime. The fact that the present Prime Minister, Petre Roman, is of Jewish descent is being pointed out in nasty graffiti on Bucharest walls and among some opposition politicians.[4] George Galloway, a British Member of Parliament, cites Iftene Pop, the Vice-President of the National Peasants' Party (the leading opposition group), as saying that '[Jews] have made their contribution to our culture—but their influence is now out of proportion in an unhealthy way'.[5] (The present Foreign Minister, Sergiu Celac, and the Front's former 'ideologist', Silviu Brucan, are also of Jewish descent.) More sinister is Mr. Pop's comment, as reported by Mr. Galloway, that the claim that 40,000 Romanian Jews were sent to perish in the Holocaust by the wartime fascist regime was 'an extraordinary lie'. At the same time there are reports in the Romanian press about the return from the West of former members of the wartime fascist Iron Guard. This might very well, however, be part of a campaign to turn people against the newly reconstituted parties like the National Peasant's Party in the run-up to the general elections.

Romania's President, Ion Illiescu, has assured officials from the American Joint Distribution Committee (or Joint) that the present National Salvation Front government will guarantee the wellbeing of the Jewish community.[6] Nonetheless, the Jewish Agency is expecting, according to its chairman Simcha Dinitz, half of Romania's remaining jews to come on aliya this year because of the unstable political situation.[7] Although Illiescu has said that Jews are free to emigrate, or indeed, to go back and forth, this assumption is disputed by other observers of the Romanian situation on the grounds that most Romanian Jews are too old to leave. The Joint is, accordingly, focusing its $4 million annual Romanian programme budget on aid to the elderly. The Joint will also be providing non-sectarian aid to Romania, principally to help in the fight against AIDS, which has affected hundreds of new-born babies.—Maria Balinska.

CZECHOSLOVAKIA

Jewish population: 12,000 (Ashkenazi)—first settlement: 10th century—highest population: 357,000 in 1935—277,000 died in Holocaust—central bodies: Council of Jewish Communities in the Czech Republic and Union of Jewish Communities in the Slovak Republic (observer in WJC)—13 synagogues—1 rabbi—press: *Vestnik* published monthly—outside bodies provide welfare assistance—very important historical sites in Prague.

The liberation of Czechoslovakia from Communist rule has given the country's small Jewish community [1] a new lease on life. It has been freed from the constraints the fallen regime imposed on all religious organizations and from the special limitations imposed on Jews, such as an informal ban on many forms of contact with Israel. Like the rest of the Czechoslovak population, Jews now enjoy complete freedom of travel for the first time since the Communist takeover in 1948. And for the first time since the suppression of the 'Prague Spring' of 1968, Jewish issues are being discussed freely and sympathetically in the mass media.

Since Czechoslovakia has only lived through two brief democratic interludes in the last fifty-two years (1945-48 and 1968-69), many of her people feel that they are emerging from a long totalitarian nightmare. The feeling was aptly expressed in a letter which the leadership of the Czech Jewish community sent from the Old-New Synagogue in Prague on the seventh day of Hanukah—29 December 1989—to Vaclav Havel to congratulate him on his election to the presidency of Czechoslovakia. The signatories said that those present in the synagogue had prayed for Mr. Havel as the head of state, 'according to an ancient tradition'. They went on to say that 'the last time we could and wanted' to follow that tradition was after the election of 1935, when Edvard Benes, the last democratically elected candidate, gained the presidency.[2]

The remarkably swift overthrow of Communist rule in Czechoslovakia started with the brutal suppression of a student demonstration in Prague on 17 November and the resulting wave of public anger at the authorities. Daniel Mayer, the rabbi of the Czech lands, was among the first public figures to protest at the authorities' behaviour. In a letter to Prime Minister Ladislav Adamec, dated 20 November, he said he had been shocked by the merciless and arrogant action of the security forces against peaceful demonstrators and appealed for dialogue as the only way to overcome social tensions.[3] Faced with massive demonstrations which culminated in the two-hour general strike on 27 November, the Communist leadership, headed by Milos Jakes, stepped down and the Party dictatorship quickly crumbled.

Developments in the Jewish community

Events in the Czech Jewish community in the following weeks closely paralleled events elsewhere in society. In many political and social organizations and enterprises throughout the country, members and employees took matters into their own hands and replaced officials and managers tainted by their loyalty to the old regime with men and women who are trusted by their fellow-citizens. In the Czech Jewish community the main issue in this respect was the conduct of Bohumil Heller, the chairman of the Council of Jewish Religious Communities in the Czech Socialist Republic (CJRC), and of Frantisek Kraus, the Council's secretary-general. Both had been criticized from within the community for some time.[4]

The presidium of the CJRC held an extraordinary meeting in Prague on 3 December, at which Mr. Heller was removed from his post and Mr. Kraus stepped down. As in the months preceding the revolution, younger Jews played an important role in the removal of the leadership. Dr. Desider Galský was elected chairman. The latter had, in fact, already held the office between 1980 and 1985, when he was forced out because his close links with the West had made him suspect in the eyes of the authorities.[5] No similar changes have been reported from the Union of Jewish Communities in Slovakia whose leadership has, however, wholeheartedly welcomed the changes in the country at large and drawn attention to the sorry state of synagogues and Jewish cemeteries.[6]

Dr. Galský sees a great potential for extending both the reach of the community and its activities. In his estimate, the number of Jews in the country is three times higher than the number of registered community members. As in 1968, now that being Jewish no longer bears any kind of political stigma, some of the 'unregistered' Jews may come to participate in community activities again. According to Dr. Galský, there are far more young people interested in Jewish religious and cultural activities than is commonly assumed. One new venue for such activities will be the 'Hakoach' association which started its work in January. It wants to educate its members and a wider audience in modern Jewish history, including Zionism, and, being primarily a youth organization, wants to take up the tradition of Jewish sports clubs as well. Another novel feature of community activities will be participation in the work of the newly-established Editorial Board of Religious Life at Czechoslovak Radio. The community also wants to establish a close relationship with the State Jewish Museum in Prague which is itself undergoing restructuring.[7]

Jews in the public arena

As in other East European countries, and possibly more so in the case of Czechoslovakia, the demise of the Communist regime and the emergence of a pluralist democratic system have brought into the forefront of public life a number of personalities who are of Jewish descent. It would be wrong, however, to speak of them as Jews. Due to the high degree of assimilation even in prewar Czechoslovakia, there are many people in the country who are aware of their Jewish ancestry without, however, identifying with Jewishness in any positive way. Czechoslovakia's new ambassador to the superpowers are as good an example as any. Both had spent part of their childhood as emigres in the countries in which they are now accredited, after escaping from the Nazis with their families. The fathers of both were prominent Jewish Communists. Rudolf Slánský junior, the ambassador to

the Soviet Union, is the son of Rudolf Slánský, the former general secretary of the Communist Party of Czechoslovakia who was executed after the most notorious of the antisemitic show-trials in Eastern Europe in 1952. A former party member and dissident economist, Rudolf Slánský junior has no known connection with the Jewish community from which his father was already alienated. The new ambassador to the United States, Mrs. Rita Klímová, is the daughter of Stanislav Budín who was editor of the party daily Rudé Právo between 1934 and 1936. When asked about her background recently by a Czech journalist, she chose a negative definition of Jewishness by saying her family 'were Jews according to the Nuremberg laws'.[8] There is, of course, a whole spectrum of identity varieties among publicly active people of Jewish descent, reaching from Ivan Klíma, one of the best Czech writers, whose sensitive novels and stories contain echoes of his childhood experience in the Theresienstadt ghetto, to Dr. Valtr Komárek, the popular Deputy Prime Minister, whose only Jewish connection seems to be that the Gestapo considered him of Jewish origin and that he was saved from persecution by a brave Czech family who hid him until the end of the Nazi occupation.

This is not to say that there are no Jews active in the larger social arena. At least two, Dr. Leo Pavlát and Dr. Pavel Bergmann, are members of the Civic Forum, the political umbrella organization which emerged during the November upheaval to challenge Communist rule. Both criticized the previous leadership of the Jewish community for their subservience to the authorities.[9] A stronger Jewish presence in public life can also be perceived through the fact that many Jewish émigrés, such as the writer Arnost Lustig and the historian Erich Kulka, have been able to visit their homeland and have been the focus of media attention.

Relations with Israel

Jewish life in Czechoslovakia will naturally be strengthened by the rapid reestablishment of contacts and diplomatic relations with Israel. This has, indeed, been one of the priorities of Czechoslovakia's new foreign policy. President Havel even mentioned the issue in his New Year's Day address in which he said he 'would be happy if before the [first free] elections we succeeded in establishing diplomatic relatins with Israel'.[10] A quick exchange of visits ensued, with a delegation from the Czechoslovak foreign minstry going to Israel in mid-January and Israeli Deputy Prime Minister, Shimon Peres, visiting Prague between 21 and 23 January.[11] The Israeli Foreign Minister, Moshe Arens, who stayed in Prague between 8 and 10 February, was already able to sign an agreement about the full resumption of diplomatic relations.

On 28 February, a WJC delegation led by Edgar Bronfman visited Prague, and was received by President Havel, Prime Minister Marian Calfa and other Czechoslovak ministers and officials. (The WJC delegation had last been in Prague in November 1989, when they met with the soon-to-be-replaced Communist leadership.) At an official meeting with the Prime Minister, discussions took place on relations between Israel and Czechoslovakia and a broad extension of bilateral commercial, tourist and cultural exchanges between the two countries.

Of the five Warsaw Pact countries which had broken off their relations with Israel in 1967, Czechoslovakia was the second after Hungary to 'remedy this nonsense'.[12] President Havel has accepted an invitation to Israel and will probably travel there in late April. He has also suggested that Czechoslovakia could mediate between Israel and the PLO and has invited PLO Chairman, Yasser Arafat, to Prague.[13] Under President Havel's guidance, Czechoslovakia has undertaken to phase out its weapons exports which will be a disappointment to some of her erstwhile Arab clients.

The sudden liberalization of foreign travel in Czechoslovakia and the thaw in relations between Prague and Jerusalem has enabled Rabbi Mayer and Dr. Galský to visit Israel for the first time ever. Dr. Galský attended the international conference of Jewish media in January, while Rabbi Mayer toured Israel in February as a member of an official party headed by Josef Hromádka, the Czechoslovak Deputy Prime Minister in charge of religious affairs. Hromádka's delegation was in Israel at the invitation of Zevulun Hammer, the religious affairs minister, to negotiate the expansion of cultural, educational and religious contacts between the two countries. In the meantime, a Friends of Israel Society was set in Prague to promote bilateral relations. Its preparatory committee is headed by Rudolf Battek, a prominent non-Jewish Social Democrat.[14]

While there is no doubt that the overthrow of Communist rule in Czechoslovakia has had a positive effect on her Jewish population and on her relations to the Jewish state, the future may bring some negative trends as well. The abolition of censorship and other forms of central political control will probably bring forward some expressions of more or less veiled antisemitism from sources different from the official or semi-official ones which peddled their 'anti-Zionist' wares under the Communist regime. The danger seems to be more acute in Slovakia than in the Czech lands. The Slovak press has already noted the appearance of anti-Jewish (and anti-Gypsy) graffiti in Bratislava. There has also been an attempt to justify the anti-Jewish policies of the semi-independent Slovak state during the Second World War, but it has to be noted that this provoked a number of authors to publish refutations.[15]—Peter Bond.

POLAND

Jewish population: 6,000-12,000 (Ashkenazi)—first settlement: 9th century—highest population 3.5 million in 1939—3 million died in Holocaust—central body: Coordination Commission of Jewish Organizations and Institutions (observerr in WJC)—4 synagogues—Jewish Historical Institute, Yiddish State Theatre—press: *Folks-sztyme* published weekly—Central Board of the Cultural and Social Association of the Jews of Poland provides welfare aid—very important historical sites throughout the country.

For Poland, 1989 was, by any measure, a political watershed, most succinctly summed up, perhaps, by the passing of the Polish People's Republic (PRL) and the rebirth of the Republic of Poland (RP). For the estimated 6,000 to 12,000 jews of Poland, the year was not so much a turning-point as a continuation of the existing processes of Jewish-Polish dialogue and of official courting of world Jewish opinion. It was also a year, however, which saw outbursts of antisemitism both during the June election campaign and as a result of the controversy over the Carmelite convent in Auschwitz.

JEWISH COMMUNAL LIFE

For the Jewish community [1] one of the most symbolic events of 1989 was the arrival of Menahem Pinhas Joskowicz (Yoskovich) from Israel as Poland's first resident rabbi since 1968 when over 8,000 Jews left the country as a result of an official antisemitic campaign. This did not happen suddenly, however. Discussions had been going on for years between the religious organization of the Jewish community (Zwiazek Religijny Wyznania Mojzeszowego—Religous Association of the Mosaic Faith) and the Polish government who, initially, were opposed to allowing a non-Polish rabbi to take up a permanent post in Warsaw. In the mid-1980s this attitude changed. They delay of the past few years can be explained by the difficulties of finding a Polish-speaking rabbi willing to live in Poland and the money with which to pay his salary.

The then Communist authorities' receptiveness of Jewish concerns reflected growing popular interest in Poland's Jewish heritage but, more importantly, was the result of a deliberate policy to woo world Jewish opinion. The Jaruzelski régime, isolated in 1981 by its declaration of martial law, was anxious to cultivate a more positive image. By organizing solemn commemorations of the 40th and 45th anniversaries of the Warsaw Ghetto Uprising, to which Jewish leaders from all over the world were invited, the Polish government were appealing not only to Jewish but also to world, and particularly United States, opinion. Nor were they likely to have overlooked the investment benefits that could stem from their efforts. (Some well-known Jews living in Poland—the most prominent of whom was Ghetto Uprising survivor Marek Edelman—denounced the official activities as a public relations stunt and mounted their own commemoration ceremony.)

The conciliatory attitude on the government's part was, however, of direct benefit to Poland's Jews. In addition to allowing a permanent rabbinical post, the government relaxed its restrictions on the activities on international Jewish organizations within Poland. In 1981 the American Joint Distribution Committee (the Joint) which had been expelled twice—in 1950 and again in 1968—was allowed tp provide, once again, financial assistance to the Jewish community. And it is the New York-based Lauder Foundation which is financing the stay of Rabbi Joskowicz. The Lauder Foundation is also involved in assessing how best to preserve the buildings of the Auschwitz concentration camp and has agreed to fund the upkeep of the Jewish Museum's archives. The other foundation to have been active in Poland since the mid-1980s is the Nissenbaum Foundation whose primary concern is the preservation of Jewish monuments, chief among which are an estimated 800 cemeteries. In 1989 restoration work proceeded slowly, however, according to Jewish activists in Cracow and Warsaw—mostly because there is too little money.[2]

Another benefit of the Lauder Foundation's involvement in Poland has been the establishment of camps for young people of Jewish descent to initiate them in Judaism and Jewish culture. Young people have also taken their own initiative. Within the officially-recognized Social and Cultural Association of Jews in Poland (TSKZ), a number of young people (whose ages range from fifteen to forty) set up, in 1989, their own 'youth groups'. Activities include Jewish song and dance lessons as well as lectures in religion and culture. Membership is small—sixty in Katowice and thirty in Warsaw—but their existence is, nonetheless, significant.[3] Ironically, the advent of a Solidarity

government has, temporarily at least, deprived the youth groups of a source of funding. Until now, the TSKZ was financed partly by the government. The new government's economic programme, designed to combat hyperinflation and decentralize the economy, has, among other things, slashed government subsidies to organizations like the TSKZ. What has changed for the better is that the TSKZ will be able to solicit its own funding now: the Communists only allowed donations from the Joint.

Another development of significance to the community is the American Jewish Congress's decision to establish a liaison office in Warsaw. This came about after the AJ Congress's Executive Director, Henry Siegman, and its President, Robert Lifton, visited Warsaw in December and met with both the Polish Prime Minister, Tadeusz Mazowiecki, and the Polish Primate, Cardinal Jozef Glemp. The idea, according to Stanislaw Krajewski, a leading Jewish activist in Poland and the AJ Congress's 'consultant' in Warsaw, is for the AJ Congress to promote better Catholic-Jewish relations in Poland, keep tabs on the building of the new ecumenical centre in Auschwitz and even arrange business contacts for would-be investors. Similarly, other world-Jewish leaders have been visiting Poland. Most recently (27 February), World Jewish Congress leader Edgar M. Bronfman was in Warsaw and met with Prime Minister Mazowiecki and President Jaruzelski but not Cardinal Glemp.[4]

Relations between Jews and Poles

The founding of Solidarity in 1980, and the spirit of pluralism and openness this engendered, also fostered debate on hitherto taboo subjects, including the history of Poland's Jews. Interest in Poland's Jewish heritage continued to grow during the 1980s, expressing itself, for example, in Jewish culture weeks organized by the Club of Catholic Intelligensia, university seminars and conferences, films, books, non-Jewish participation in the effort to preserve Jewish monuments and radio broadcasts on Jewish holidays. Nineteen eighty-nine saw the continuation of this trend. In February Polish radio started broadcasting a weekly thirty-minute programme 'Menura' about Jewish history, culture and customs. There were exhibits in Wroclaw and Kielce about those cities' past Jewish communities. Of particular interest in the latter was the fact that the organizers did not shy away from showing photographs from the pogrom of 4 July 1946. What attracted most attention was the 'Polish Jews' exhibit in Cracow which assembled over 1,000 paintings depicting not only Jewish life in Poland from the seventeenth century to the Holocaust, but also the enormous contribution individual Jews made to the Polish culture Poles know today through painting, music and so on. The exhibit opened in June and was due to close in August but it proved so popular that it was extended and then transferred to Warsaw for a further few months.

In 1989, the establishment of the Polish-Jewish Society and the Polish-Israel Association provided an institutional framework for the promotion of better understanding between the two communities. The fact that the Citizen's Committee, established by Lech Walesa prior to the 1989 Round Table negotiations between the government and the opposition, included an Ethnic Minorities Committee is proof of the importance Solidarity attached to recognizing the needs of the Germans, Ukrainians and Jews living in Poland. The present lower house of parliament (Sejm) also has such a committee.

A balance sheet for 1989 of Polish-Jewish relations would also include negative entries, however. On the most basic level there were several Jewish monuments damaged by vandals. The most serious attack was that against the Jewish State Theatre in Warsaw in October, where the perpetrators scrawled their message on the wall: 'This is for the convent'.[5]

The reference, of course, was to the Carmelite convent at Auschwitz (Oswiecim).[6] According to the 1987 Geneva Agreements between representatives of the Catholic Church and representatives of the Jewish community, the nuns were to have been moved by April 1989 from the present convent, which is on the site of the 'Old Theatre' where the Nazis stored the Zyklon B gas they used in the gas chambers. The deadline was, however, not met and subsequent Jewish protest initially hardened the Church's stand. Cracow's Cardinal Franciszek Macharski (in whose diocese Oswiecim lies) announced he would not honour the agreement, to which he was a party, and Cardinal Jozef Glemp charged the mass media—'which is at the disposal of the Jews'—with 'kindling anti-polonism'. Cardinal Glemp's homily of 26 August [7] has been interpreted by some analysts as an attempt, by appealing to latent Polish antisemitism, to establish a power base for a segment of the Church that would like to ally itself with more radical nationalist opinion. The response from influential Solidarity and lay Catholic circles was swift and critical.[8] And, although many ordinary Poles may have applauded Cardinal Glemp privately and some expressed their approval anonymously in graffiti, their resentment of what they see as the Jews' appropriation of all the suffering of the Second World War has yet to find a choate voice. Meanwhile, the Carmelite controversy appears to be drawing to an end. After an intervention from the Vatican, the Polish bishops pledged to move the nuns and, in mid-February (1990), cardinal Macharski removed the first symbolic spadefuls of dirt on the site of the future interfaith centre. Furthermore, Prime Minister Mazowiecki (who in the past has been instrumental in promoting better understanding between Poles and Jews) has named a commission to recommend changes at the Auschwitz museum itself so that it more accurately reflects the role the camp played in Hitler's plan to exterminate the Jews.

Another potential source of antisemitism is the nationalist message of some of the political parties now emerging (or re-emerging after fifty years). Jews are not only Poles, the argument goes, they are also often associated in the public mind with the previous Communist regime, particularly during the harsh Stalinist years. So far, these newly-constituted parties cannot claim wide popular support. Nor would it be fair to equate all of them, or everyone in them, with anti-Jewish prejudices. It is significant that scurrilous leaflets designed to cast opprobrium on certain well-known Solidarity candidates—the most prominent of whom are Adam Michnik, Deputy and Editor of the Solidarity daily, Gazeta Wyborcza, Bronislaw Geremek, Deputy and Leader of the Solidarity-backed parliamentary group, and Deputy Jan Litynski—in the June 1989 elections by pointing out that Jewish origins had very little effect on people's voting. This may change, however, when the vote is no longer a clear 'no' to Communism and 'yes' to Solidarity and if the economic situation is such that a scapegoat is convenient. In fact various political groups are likely to play the Jewish card to further their political ends. The 27 May local elections will provide some indication of the appeal of these new parties.

Relations With Israel

Poland, like the rest of the Soviet bloc (with the exception of Romania), broke off diplomatic relations with Israel after the Six-Day War in 1967. In the 1980s, parallel to the official courting of world Jewish opinion and with the implicit approval of the Soviet Union, Poland (and also Hungary) began to take steps to renew relations with Israel.[9] In September 1985 it was agreed that interest sections of each country would be opened. Since September 1986, then, Israeli diplomats have been stationed in Warsaw. Then Deputy Premier Shimon Peres' visit to Poland in November 1989 [10] marked a new stage in relations between the two countries and hastened the reestablishment of diplomatic relations which took place on 27 February 1990. The Polish government used this occasion, which took place during Israeli Foreign Minister Moshe Arens' official visit to Warsaw, to apologize publicly for the antisemitic campaign of 1968. Poles also want to improve trade with Israel and Mr. Peres returned to Tel Aviv with requests for Israeli help in the hotel and catering industry as well as in agriculture, health and telecommunications. Mr. Peres predicted that trade between the two countries would double from its present level of $25 million. Improvement in Polish-Israeli relations has been most visible in the steadily increasing number of Israeli tourists in Poland. It is estimated that 30,000 Israelis visited Poland in 1989. Many of them are coming to see the land of their or their parents' birth. Plans to establish a Polish-Israeli-Diaspora foundation for the preservation of Jewish monuments will ensure that the past the two countries have in common will not disappear.—Maria Balinska.

YUGOSLAVIA

Jewish population: 5,500 (equal Sephardi and Ashkenazi)—first settlement: Roman times—highest population: 82,000 in 1941—60,000 died in Holocaust—central body: Federation of Jewish Communities (affiliated to WJC)—12 synagogues—1 rabbi—Hebrew evening classes in Zagreb and Belgrade—Jewish museum, Judaica library, archive collection—press: *Jevrejski Pregled* published bi-monthly—home for the aged—important historical sites.

Today's Yugoslavia, a national patchwork of six republics and two autonomous provinces, has a population of 22 million. According to Yugoslav Jewish communal sources, the current Jewish population is between 5,000 and 6,000. (It numbered some 82,000 before the Nazi invasion in April 1941, and was reduced to approximately 15,000 by the end of the war.) Official Yugoslav statistics, however, indicate that in 1981 there were about 1,385 Jews in the country. According to Yugoslav communal records, the figure of 5,000-6,000 Jews listed includes the spouses and children of mixed marriages.[1]

Yugoslav Jewry is an ageing community with a very low birth-rate. The Jewish population, divided almost equally between Sephardi and Ashkenazi, comprises at the present time over thirty distinct communities. The majority of Yugoslavia's Jews are concentrated in the three major cities of

Belgrade, Zagreb and Sarajevo and most enjoy a relatively high standard of living.

The basic organizational framework of Yugoslav Jewry is the Federation of Jewish Communities in Yugoslavia, which is recognized by the government. President of the Federation since 1964 has been Dr Lavoslav Kadelburg. The individual Jewish communities are voluntary associations which are not entitled to levy taxes and are financed by voluntary donations. Although Jews are formally recognized as a religious group they enjoy many of the rights available also to national groups. The Federation is affiliated as a full member to the World Jewish Congress. For the most part, Jews in Yugoslavia concentrate on their ethnic rather than their religious identity.

Jewish communal life

Basically secular, the Jewish community is vigorous, with a strong sense of cultural identity, and communal life may fairly be described as vibrant. According to many reports, there is now something of a Jewish revival in Yugoslavia, with all the communities reporting a trickle of new members.[2] One of the reasons for this revival is that, with the exacerbation of tensions between the various Yugoslav nationalities, Jews, who do not regard themselves as Serbs, Croatians or any of the other nationalities, are turning to their Jewish roots as a means of discovering their identity. They are sustained by the influence of Israel and there is considerable financial assistance from Western Jewish organizations. The active role Yugoslav Jews played in the Second World War is perhaps the greatest source of their self-respect today.[3]

Perhaps the liveliest Jewish community is that of Zagreb, the second largest community numerically. Slavko Goldstein, the current president of the Zagreb community, is the former director of the Zagreb University Press, a publisher and editor, and was a partisan fighter in the Second World War. The Jews in Zagreb maintain a comprehensive range of cultural and social programmes: lectures, exhibitions, concerts, seminars, a youth club, a Sunday school, a sports club and a women's association all take place in the community building. Also based there is the Mosbe Pijade [4] Zagreb Jewish Choir; not all its members are Jews but the choir features Jewish works in its repertoire and is highly regarded.[5]

In the summer of 1988 the Zagreb Museum sponsored a major exhibition on Yugoslav Jewry in co-operation with the Federation of Jewish Communities in yugoslavia. the exhibition, which included concerts, films and talks, was described by the museum's director as 'the cultural event of the year'.[6] Its 340-page catalogue (available in English) demonstrates the richness of the Jewish heritage in the country, ranging from fourth-century archaelogical finds to a pictorial record of the Nazi era and the heroism of Jewish partisans.[7] At the beginning of 1989 the exhibition was shown in Belgrade. Its organizers hoped to bring it also to London, New York and Jerusalem.[8]

As elsewhere in Eastern Europe, Yugoslav Jewish youth too have rekindled their interest in the Jewish religion. It remains to be seen, however, whether this phenomenon will translate itself into a greater demand among the secularized Yugoslav Jews for religious services: at the turn of the decade, *minyanin* (synagogue quorums) were possible only in three cities in Yugoslavia—Belgrade, Zagreb and Subotica—and there was only one full-time rabbi in the entire country.[9]

At the beginning of 1990, Yugoslav Jews were reported to be optimistic about the future, following the political and economic changes which had taken place in Eastern Europe during the past year. The country's first truly free elections since 1945, scheduled for April 1990, are intended to lead to the creation of a multi-party democracy. From April onwards, Yugoslav Jews expect to play a bigger role in public affairs and, for this reason, to take more interest in the organization of the community and to increase its activities.

There are hopes that the introduction of a free market economy will provide a firmer basis for the funding of communal activities. Attempts are being made to initiate a number of major projects. These include the building of a synagogue and community centre in Zagreb on the site of the building destroyed by the Nazis in April 1941; a new wing for the Lavoslav Schwartz Home for the Aged in Zagreb; and the development of a variety of cultural and educational activities and programmes, including a kindergarten in Zagreb, which is supported by American and British Jewish charities.[10] The energy and vibrancy of the Jews of Yugoslavia belie their small numbers.

Israel and the Middle East conflict

Following the creation of Israel in 1948, Yugoslavia was the only Communist-ruled country which permitted the free emigration of Jews to the Jewish state. Of the 12,495 Jews who had survived the war, 7,578 emigrated to Israel.[11]

Though not a member of the Warsaw Pact, Yugoslavia joined the USSR and several other East European countries in severing diplomatic relations with Israel at the time of the Six Day War in 1967. In order to strengthen her role as a leader of the nonaligned movement. Yugoslavia adopted a strong pro-Palestinian posture. Though Tito supported the 1975 United Nations resolution equating Zionism with racism, he remained opposed to attempts to exclude Israel from the United Nations on the basis that such an action could well lead to the break-up of the world organization.

President Tito's death in 1980 brought about an immediate change in Belgrade's attitude towards Israel and as Yugoslavia's role in the nonaligned movement weakened, some of the new Yugoslav leaders began to indicate their willingness to normalize relations with Israel. A meeting in July 1987 between the then Yugoslav President, Lazar Mojsov, and Israeli Foreign Minister Shimon Peres was widely reported in the Yugoslav media. Several weeks later, Yugoslavia's state-run news agency Tanjug reopened its Tel Aviv bureau for the first time in twenty years.[12]

Despite the absence of diplomatic ties, Yugoslavia has maintained bilateral economic and cultural relations with Israel. However, trade with Israel remains small by comparison with Yugoslavia's other Middle East trading partners. Thousands of Israeli tourists nonetheless visited Yugoslavia in the 1980s, the figure rising steadily.

In May 1988 Jewish and Serbian intellectuals in Belgrade formed the Serbian-Jewish Friendship Society. Within six months the society's membership had grown to 3,500. At the present time, the society's primary goal is the restoration of Yugoslav-Israeli diplomatic relations.[13]

As the 1980s drew to a close, it seemed only a matter of time before Yugoslavia followed the example of several East European states and restored full diplomatic ties with Israel.

Anti-Jewish prejudice

There is no tradition of antisemitism in Yugoslavia, notwithstanding the vigorous pro-Arab orientation of Yugoslav policy after the Six Day War. Yugoslav anti-Zionist rhetoric was not as a rule characterized by the excesses of the propaganda in the USSR and some other Soviet bloc states.

A relatively minor exception to this rule were the apparently spontaneous displays of anti-Jewish feeling—the daubing of swastikas on Jewish targets and suchlike—which followed Israel's intervention in Lebanon in the early 1980s and, in particular, the massacre of Palestinian Arabs in the Sabra and Shatila refugee camps.[14]

As elsewhere in Central and Eastern Europe, however, the increasing *glasnost* in recent years has led to growing antisemitic activity. Not being a member of the Warsaw Pact and having pursued an independent path, Yugoslavia has been subject to considerably fewer constraints with regard to freedom of expression than most of Moscow's allies.

In 1989, a number of fairly serious incidents occurred, among them the publication and distribution of the antisemitic forgery *The Protocols of the Elders of Zion;* following Jewish protests, the publication was banned.[15]

A particularly worrying incident was the publication in the Slovenian republic in 1989 of *Wanderings of Historical Truth,* a book by Franjo Tudjman, a historian and leader of the nationalist Croatian Democratic Union, the largest local opposition party. "A Jew is still a Jew," Tudjman wrote. "Even in the [Nazi] camps they retained their bad characteristics—selfishness, perfidy, meanness, slyness and treacherousness." [16]

At the outset of the 1990s, Yugoslavia continued to be plagued by serious economic and political problems, not least by an outbreak of ethnic violence. There could, of course, be no guarantee that the Jews would remain untouched by these intractable problems.—Howard Spier.

BULGARIA

Jewish population: 5,000 (largely Sephardi)—first settlement: Roman times—highest population: 50,000 in 1945—central body: Social, Cultural and Educational Organization of Jews in Bulgaria and the Jewish Religious Council (observer in VJC)—3 synagogues—press: *Evrejski Vestic* published fortnightly—Sofia Central Synagogue of historical importance.

The 5,000 Jews who live in Bulgaria today are mostly old and assimilated. The Sofia synagogue—one of Europe's most beautiful—has been closed for repairs for a number of years. There are two central communal bodies—the Social, Cultural and Educational Organization of Jews in the People's Republic of Bulgaria (known as OKPOE) and the Jewish Religious Council—but little organized activity. And yet, even this community, situated on the fringe of the Eastern European communities covered in this survey, has been directly affected by the collapse of Communist power in Bulgaria itself, and by the changes elsewhere on the continent.

Todor Zhivkov, who led the Bulgarian Communist Party from 1954, was ousted on 10 November 1989. Since then, the liberalization process has proceeded rapidly. The leading role of the Party has been abandoned, religious freedom has become a fact of life, the press has thrown off the shack-

les of the last four decades, and free elections are to take place in May.

Although the ousting of Zhivkov and the beginnings of democratization took most observers by surprise, pressure for change had been building up for some time among the country's intelligentsia. The regime's close links with Moscow means that Bulgarian intellectuals, reading the increasingly unrestrained Soviet press, demanded the same openness and freedom for themselves.

For the Jewish community, Communist rule in Bulgaria has never meant the same repression and officially inspired antisemitism that have been the rule in other Eastern Bloc countries. Of the 50,000 Jews in Bulgaria at the end of the Second World War, about 90% emigrated to Israel. For many years, Bulgarian-born Israelis have been able to return to Bulgaria to visit their families and friends. And Bulgarian Jews are allowed to travel freely. Bulgaria has no diplomatic ties with Israel—these were severed at the time of the Six-Day War—but since relations between Bulgarian-born Israelis and their country of birth are remarkably good. Israel has maintained good links with the country.[1]

Relations with Israel and world Jewry

Even before the fall of Zhivkov, Bulgaria had begun to show increased openness to Israel and world Jewry. In November 1988, Lyuben Gotsev, Deputy Minister of Foreign Affairs, referred to meetings that had taken place between Petar Mladenov, then Bulgarian Minister of Foreign Affairs but subsequently the reformist successor to Zhivkov as Party leader, and Shimon Peres, then Israel's Foreign Minister.[2] Although Mr Gotsev insisted that Bulgaria was not ready to restore diplomatic relations with Israel, he did refer to the establishment of contacts on other levels, including the economic. In the same month, the European Jewish Congress participated in a two-day conference in Sofia examining Bulgaria's role in saving 50,000 Jews from the Nazis.[3] In July 1989, the government simplified the entry of Israeli tourists into Bulgaria by lifting the requirement on obtaining entry visas before leaving Israel—a sign of increased efforts to promote Israeli tourism to Bulgaria. In the same month, trade agreements between Israel and Bulgaria was formally underwritten, and in December the first formal agreement was concluded for scientific co-operation and exchange between the Hebrew University of Jerusalem and the Kliment Ohridski University of Sofia, although scientific contracts between the Hebrew University and Bulgarian scholars had existed for some time.[4]

On 15 November, Edgar M. Bronfman, President of the World Jewish Congress, visited Bulgaria on the invitation of the former Communist leader. Bronfman, WJC Secretary General Israel Singer and other WJC leaders were the first foreign visitors to meet the newly-appointed Party chief, Petar Mladenov.[5] After the meeting, the WJC reported that Mladenov had given every indication that contacts with Israel would continue to improve, and that there would be increased opportunity for Bulgaria's Jewish community to develop closer ties with Jewish communities in other countries.

Changes within the community

Early in March, the WJC claimed that Bulgaria would soon re-establish full diplomatic relations with Israel and that arrangements were being made for Israel's Foreign Minister, Moshe Arens, to visit Sofia. According to the WJC's executive director, Elan Steinberg, Bulgarian officials in Brussels said 'they would move rapidly toward re-establishing full diplomatic relations with Israel, once internal political conditions in their country were settled.'[6]

Members of the community and observers agree that Jews in Bulgaria suffer no antisemitism. In some other Eastern European countries an upsurge of grassroots antisemitism has accompanied the liberalization process, but since there is no recent history of even suppressed anti-Jewish prejudice, it seems highly unlikely that antisemitism will become a factor in the Bulgarian situation.

The president of OKPOE, Yosef Astroukoff, was removed early in February and replaced by Mr Stein and Mr Samuel Franses. The organization announced its intention to apply for full affiliation to the WJC. The old leadership was closely associated with the regime of the former Communist leader, and it was not unpredictable that in the new, more liberal environment, a reawakened community would wish to sweep away its own old regime.

Not that there is very much in the way of traditional Jewish life. Despite being closed for repairs the Sofia synagogue is open every day for prayers, but there is not always a minyan. Provincial synagogues open for High Holy Days (outside of Sofia, most Jews live in the city of Plovdiv). In 1989, Maxim Cohen, and accomplished Bulgarian physicist by profession, was studying in New York to become a cantor. He announced his intention to return to Bulgaria as the community's cantor, and in the absence of a rabbi (there has been no real rabbi for the past 25 years), he will officiate at weddings, funerals, and synagogue services.—Antony Lerman.

GERMAN DEMOCRATIC REPUBLIC

Jewish population: 400 (Ashkenazi)—first settlement: 4th century—highest population: 503,000 in 1933—170,000 died in Holocaust—central body: Union of Jewish Communities in the GDR (observer in WJC)—6 synagogues—library—press: *Nachrichtenblatt* published quarterly—home for the aged—historical sites in East Berlin.

The momentous events which forced East Germany—one of the most orthodox, and seemingly inflexible Communist regimes—to dismantle the Berlin Wall, hold the first free elections of any former Eastern Bloc country and embrace reunification with West Germany, have obviously affected the tiny Jewish community in the German Democratic Republic, both politically and, even more so, psychologically.

The East German Jewish community is the smallest in Eastern Europe. It has a registered membership of under 400 in eight cities, including 204 in East Berlin, and is much less politicized and was, for that matter, less ideologically Communist than its sister communities in the East. When Helmut Aris died on 22 November 1987, he had been Chair of the Union of Jewish Communities in the GDR for twenty-five years. His death marked a symbolic breaking of the bond between pre-war Jewish Communists and their peers among the Central Committee members of the Sozialistische Einheitspartei Deutschlands (SED), the Socialist Unity Party.

Since 1988 Siegmund Rotstein, 65 the Chair of the Jewish community in Karl-Marx-Stadt (formerly Chemnitz) has been President of the Union of Jewish Communities in the GDR. Dr. Peter Kirchner, 54, is Chair of the East Berlin Community.

In a statement released at the beginning of November 1989, which was reprinted in full on 6 November in the Communist Party's official newspaper *Neves Deutschland*, the Union confronted the Communist regime with longstanding concerns and thus joined the surging demand for reform expressed throughout the country. The statement called on East Germany to accept, after forty years of denial, its responsibility for the Holocaust, to establish diplomatic relations with Israel and to acknowledge the prevalence of antisemitism. The statement expressed support for the reform process and demanded that it include a reassessment of the treatment of the Nazi past, particularly with regard to the rewriting of history textbooks and education of the young in general. Never before in its history has the East German Jewish community been willing and able to speak in such clear terms and be given such wide publicity for its demands.

In addition to the few registered members of the community, it is estimated that there may be up to 5,000 who do not identify themselves as Jews, of whom most were or became Communists, or are the children of prewar party members who denied or were unaware of their Jewish origins. But estimates of unidentified Jews very widely.[1] According to Dr Kirchner, the community might double in size, but, he said, proper registration would depend on rabbinical decision 'and there are rabbis in the GDR.'[2]

No doubt the East Berlin Jewish community will benefit from the services of the well-established West Berlin community. Meetings have already taken place between representatives of the Central Council of Jews in West Germany and Mr Rotstein, and unification of the communal and religious structures in Berlin is, in effect, a matter of practicalities.

The election of Gregor Gysi, 41, who is of Jewish origin, as Chair of the Party of Democratic Socialism (PDS)—to which the no-longer dominant communist SED had changed its name—has to an extent boosted morale among some East German Jews; others see cause for concern. Gysi's father Klaus is only partly Jewish, and he served as Secretary of State for Religious Affairs until his retirement. In this position, he arranged funding for the Jewish community. Gregor Gysi's contact with the East Berlin Jewish community has been through attending their cultural events which bring together younger people who, although they are not practising Jews, are close to the community. His credentials as a reformist and a lawyer who defended dissidents are impeccable.

Because the community is so small and, even under the Communist regime, was able to conduct its internal affairs in relative freedom there have been few internal changes of note. Of particular interest, however, are developments in three important areas: neo-Nazism and antisemitism, reparations and relations with Israel.

Neo-Nazism and anti-Semitism

Newspapers somewhat misleadingly reported a new wave of neo-Nazi and antisemitic incidents, coming in the wake of the political upheavals since November 1989 and affecting the entire country. In great part, this is the continuation of a trend that has been noted for some time.

It has been assumed that the hooliganism and street violence of disaffected East German youth was an expression of apolitical alienation. The politicization of this delinquent behaviour was first indicated in October 1987 when a group of skinheads

stormed the Berlin Zion Church, headquarters of the East German Green movement, shouting 'Sieg Heil!', 'Jewish Swine!' and similar abuse at people attending a punk concert. The incident and the following trial were widely reported in the East German press. After a seven-week trial, four skinheads, aged 17 to 22, were sentenced to between one and four years for 'Western-inspired hooliganism'.

For the last two years, the East German government has been seriously concerned about antisemitic and neo-Nazi activity. The well-publicized attack on the giant Soviet memorial in Treptow, preceeded and followed by incidents of swastika daubings, desecrations of Jewish cemeteries and antisemitic slogans in provincial towns, led a spokesperson for the General Prosecutor's Office to announce that in 1988 there had been 44 court actions over neo-Nazi activities involving 185 people, rising in 1989 (until November) to 144 involving 296 people. Since January 1988, 481 neo-Nazi incidents were investigated by the police and there are about 1,600 neo-Nazi militants.[3]

Paul Hockenos, writing in the *Village Voice*,[4] suggests that fascist-type movements in East Germany tend to fall into three overlapping categories: skinheads, neo-Nazis and 'fascos'. Skinheads, who are between 14 and 20 years old, express the crudest form of reactionary protest, venting their bigotry violently in public places. There are estimated to be about 600 in East Berlin with another 2,000 or so hangers-on. The skinheads' targets are mainly Communists, punks and gays. A more organized and politicized group calling themselves 'neos' (neo-Nazis), split off from the skinheads. Finally there are 'fascos', the least-known and potentially most dangerous right-wing faction. Apparently older and better educated than the neos, they seem to have established contacts with similar groups in the West. They are well-versed in fascist ideology and regard themselves as the future leaders of right-wing extremism in the GDR.

The repressive former SED regime was able to curtail neo-Nazism and extremist and antisemitic activity with its massive security apparatus. Recent events, however, have created a political vacuum and it is widely held that inhibitions against such activity are perceived to be non-existent. A representative poll conducted among 14 to 25-year-olds in 1988 for the Institute for Youth Research attached to the GDR Council of Ministers, revealed that 65% 'totally reject' skins; 30% 'do understand their behaviour'; 4% regard themselves as 'sympathizers' and 1% 'confess to identify [with the skins]'.[5]

Both the government and Mr. Gysi have denounced these developments and expressed serious concern. The authorities are reportedly cracking down on the dissemination of hate propaganda by West Germany's extreme right-wing Republican Party and West German neo-Nazis were stopped and detained when they tried to cross into the GDR. In February, the People's Chamber (Volkskammer) declared as illegal and banned the activity on GDR territory of the Republican Party of any successor or replacement organizations. The SED's reaction was so swift and its rhetoric so dramatic that the party was accused of conjuring up the spectre of fascism to revise its flagging fortunes. In the words of one analyst: 'the charm of the otherwise unelectable party grows proportionally with the perceived strength of the far right'.[6]

Compensation to Jewish victims of Nazism

Since September 1987 East Germany has been reconsidering its long-standing refusal to recognize its responsibility for and compensate victims of the Holocaust. The GDR adopted this position on the grounds that the country only came into existence as an independent nation in 1949 and thus was not responsible for the atrocities perpetrated by the Third Reich. In addition to rejecting any legal responsibility, the SED argued that the GDR is an antifascist state and bears no moral or historical responsibility for the policies of the Nazi regime. Thus the GDR refused to participate in the 1952 Luxembourg Agreement, which was signed by the Federal Republic and the Conference on Jewish Material Claims against Germany, under which West Germany and the GDR were to share the cost of compensation.

Officials continued to stress that the GDR had paid compensation to Poland and the USSR as stipulated by the 1945 Potsdam agreement, which imposed severe material hardships on the country. They also emphasized that the GDR was not a beneficiary of the Marshall Plan that provided West Germany with a massive influx of dollars. Also, the GDR has compensated the Jewish 'victims of Fascism' who live on its territory, through pensions and other material advantages. The GDR has never agreed, however, to compensate Jews who formerly lived on its territory and who suffered or lost property under Hitler. Nor has it paid any compensation for the extensive Jewish communal property that came under state control after 1945.

The first indication of a shift in East Germany's position was reported in January 1988 when a WJC spokeperson quoted GDR officials as saying they no longer object in principle to the payments. US State Department sources confirmed this when they disclosed that the then-GDR Foreign Minister, Oskar Fischer, had taken a similar position in discussion with the Secretary of State George P. Shultz and leaders of Jewish organizations in September 1987. Further credence was given to the January 1988 report when Heinz Galinski, Chair of the Central Council of Jews in (West) Germany, announced, after meeting with East German state and party leader Erich Honecker in East Berlin in June 1988, that the GDR was ready to pay up to $100 million to Holocaust survivors. This was Mr. Honecker's first official meeting with a West German Jewish leader.

Only a few days before meeting Mr. Galinski, Mr. Honecker held talks with Siegmund Rotstein and other members of the Jewish community's Presidium. During the meeting, which was prominently reported in *Neues Deutschland* early in June, Mr. Honecker proposed to set up a foundation to raise money to restore the Oraninburger Strasse Synagogue in East Berlin that was burnt down by the Nazis and badly damaged during the war. Mr. Honecker's publicly announced support for paying reparations marked an important step in the GDR's rapprochement with its Jewish community. But political observers suggested that these moves were addressed to Washington to help obtain a preferential trade agreement—most favoured nation status—for the GDR.

On Mr. Honecker's invitation, the WJC President, Edgar M. Bronfman, went to the GDR for a three day visit in October 1988. Mr. Bronfman expressed satisfaction with his talks and noted with pleasure that the the GDR was 'taking on its responsibilities' for the Holocaust.

Following Mr. Bronfman's visit, very little progress was made in talks between East Germany and the Claims Conference. But since the GDR was soon experiencing its most dramatic upheavals since the war it is understandable that there was little development on this front.

Nevertheless, the change in the GDR's attitude was a real one. It therefore came as no surprise to observers when, on 1 February 1990, East Germany's new Prime Minister, Hans Modrow, wrote both to the government of Israel and the President of the WJC, officially accepting the principle that the GDR pay restitution to the victims of the Holocaust.[7]

Given Mr. Modrow's many domestic political problems, this commitment signified the importance the GDR government attached to mending its links with Jewish communities and Israel. How the new government, formed after the 18 March elections, will fulfill its commitment remains to be seen. When the GDR is integrated into the Federal Republic, meeting the claim for reparations will become the responsibility of the new united Germany.

Relations with Israel

East Germany has never had diplomatic relations with Israel. When international recognition of the GDR was achieved in 1973, the ruling SED's pro-Arab foreign policy and its open hostility to Israel, under the banner of 'anti-Zionism,' were firmly in place.

Since 1986, however, a low level GDR diplomatic initiative has been evident, involving contacts between Israeli and East Germany institutions. In June 1986, the GDR Writers' Union officially welcomed a delegation of Israeli writers led by A. B. Yehoshua and the Member of Knesset Mordechai Virshubsky. In 1987 Gershom Schocken, the publisher of Israel's most respected daily, *Ha'aretz*, visited the GDR as a guest of Klaus Gysi. Mr. Schocken was followed by Professor Shlomo Avineri of the Hebrew University, a former Director General of Israel's Foreign Ministry, who delivered a series of lectures at East German universities. In July 1988, Israel's senior chess coach, Yisrael Galfer, was invited to lecture at an international conference.

The Israeli Philharmonic Orchestra performed in East Berlin and Leipzig, and the famous Berliner Ensemble theatre group and GDR film-makers visited Israel in return. The Leipzig Radio Choir visited Israel on a concert tour in January 1989. At the same time, Klaus Gysi's successor as Secretary of State for Religious Affairs, Dr. Kurt Loeffler, visited Israel for a week, becoming the first GDR official to make such a trip.

Dr. Loeffler's visit, facilitated by the WJC, was ostensibly at the invitation of Yad Vashem, the Martyrs' and Heroes' Remembrance Authority in Jerusalem, where an exchange of archive material on the Holocaust was discussed. He also met his Israeli counterpart, the Minister for Religious Affairs, Zevulun Hammer. In December 1989, a delegation of East German historians and archivists handed over to Yad Vashem 50,000 documents pertaining to the persecution of Jews during the Second World War.

In September 1989, representatives of the GDR's tiny Jewish community published a New Year message to their fellow Jews in the official community publication *Nachrichtenblatt* with one significant change

from previous years: they expressed the hope that the establishment of diplomatic relations between the GDR and Israel 'will logically unfold.' The publication noted that the outgoing year was the first one in which East German Jews were permitted to observe Israel's Independence Day.

Stronger signals that the GDR was disposed to improve its relations with Israel were given by the Foreign Minister, Oskar Fischer, who was interviewed by *Ha'aretz* in late November 1989. The interview was reported in *Neues Deutschland*.[8] He disclosed that he had had talks with Israel's Foreign Minister, Moshe Arens, in New York in September. He also acknowledged that the question of reparations was the one major obstacle between them. In December, while drastic changes swept through the SED, Gregor Gysi, backed by Mr. Modrow, reiterated the need to establish diplomatic relations with Israel.

Michael Shiloh, senior adviser to Moshe Arens, and Reiner Neumann, from the GDR Foreign Ministry, met for secret talks in Copenhagen at the end of January 1990. This resulted in Mr. Modrow's historic 2 February statement on paying compensation to Holocaust victims. Israel's Deputy Foreign Minister, Binyamin Netanyahu, said the issue of East Germany's acceptance of responsibility for Nazi crimes was the only outstanding obstacle to the establishment of diplomatic relations, as far as Israel was concerned.

Other developments indicate further progress in relations between the two countries. After many years, the GDR has ended its military training programme for Palestinian terrorist groups and asked those still in the country to leave. The shipment of weapons to the Palestine Liberation Organization has also been halted. The two state airlines, El Al and Interflug, have reached an agreement facilitating the interchange of tickets between the two carriers.[9]

One can confidently predict that full diplomatic relations between the GDR and Israel will be established in a matter of months. (A second round of talks between Israeli and GDR officials began on 7 March.[10]

However, this timetable may well be superseded if the unification process is rapid.—Michael May.

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FOOTNOTES

Hungary

[1] György Száraz, 'Egy elöitélet nyomaban' (In the footsteps of a prejudice), *Valosag*, August 1975; published as a book by Magvetö Publishers, Budapest 1976.

[2] Most important was Hanák Péter (ed.), *Zsidókérdés, asszimilácio, antiszemitizmus* (The Jewish Question, Assimilation, Antisemitism) (Budapest 1984).

[3] Ilona Benoschosky and Sándor Scheiber (ed.), *A budapest Zsidó Muzeum* (The Jewish Museum of Budapest), (Budapest 1987).

[4] *Magyarországi zsinagogák* (Synagogues of Hungary) (Budapest 1989).

[5] *Nèpszabadság*, 5 September 1989.

Romania

[1] See Glen Frankel, ' "Saving Jews": Ceausescu's high price', *International Herald Tribune*, 22 February 1990.

[2] See Vladimir Socor, 'Antisemitism in official Romanian publication recurs', Radio Free Europe, Romanian SR, 14 June 1984.

[3] See 'Roumanie: les libertes en suspens', *L'Arche*, February 1990.

[4] See Peter Hillmore, 'Nasty writing on the wall for Jews', *Observer*, 11 February 1990.

[5] See George Galloway, 'Fresh horrors haunt a troubled land', *Sunday Times*, 25 February 1990.

[6] See Gil Sedan, 'Romanian Jews worry about future, despite assurance from government', Jewish Telegraphic Agency Daily News Bulletin (JTA), 16 February 1990.

[8] See 'Ceausescu fall spurs exodus', *Jewish Chronicle*, 12 January 1990.

Czechoslovakia

[1] The number of Jews registered with Jewish religious communities is usually given as 6,000, of whom about 1,000 live in Prague. There is, however, confusion as to whether the total figure refers to the whole of Czechoslovakia or the Czech lands only. See, for example, Michael Wise, 'Czech Jews dump hardline leaders', *Jerusalem Post*, 19 December 1989, and Jana Smídová, 'They used to be here . . . and they are here!', *Svobodnè Slovo* (Prague), 17 February 1990.

[2] The letter was published in the February issue of *Vestnik*, the Czechoslovak Jewish monthly published in Prague. It was signed by Rabbi Daniel Mayer, Dr. Desider Galský (chairman of the Council of Jewish Religious Communities in the Czech Socialist Republic), Viktor Feuerlicht (chairman of the Prague Jewish community) and Dr. Pavel Bergmann (who included a reference to his membership of the Co-ordinating Council of Civic Forum, the highest organ of the anti-Communist coalition).

[3] *Vestnik*, December 1989.

[4] See Joan Friedman, '"The last Jews of Czechoslovakia?', *Soviet Jewish Affairs*, vol. 19, no. 1, 1989, and Michael Wise, 'Prague Jews blast leaders', *Jerusalem Post*, 23 May 1989.

[5] *BBC Summary of World Broadcasts for Eastern Europe* (SWB, EE), 7 December 1989. Cf. Michael Wise, 'Czech Jews . . .', *Jerusalem Post*, 19 December 1989.

[6] *Vestnik*, January 1990.

[7] Jana Smídová, *Svobodnè Slovo; Jewish Chronicle* (London), 8 December 1989; *Vestnik*, February 1990.

[8] Ivana Hudcová, 'The ambassadress', *Kvety* (Prague), no. 5, 1 February 1990.

[9] A year ago, Pavlat was the first signatory of a letter criticizing conditions in the community. The text of the letter is included in the documents section of the forthcoming issue of *Soviet Jewish Affairs* vol. 19, no. 3, 1989.

[10] An English translation of Havel's speech can be found in *Eastern European Reporter* (London), vol. 4, no. 1, winter 1989/90.

[11] See Jirí Pehe, 'Diplomatic relations with Israel to be resumed', Radio Free Europe *Report on Eastern Europe*, vol. 1, no. 5, 2 February 1990.

[12] Thus Czechoslovakia's Foreign Minister, Jirí Dienstbier (Czechoslovak Radio, 9 February 1990).

[13] The mediation offer was repeated as a press conference given by President Havel during his recent trip to the United States at the United Nations headquarters (RFE correspondent's report from New York, 22 February 1990).

[14] Czechoslovak Radio, 29 January 1990, 12 February 1990; SWB, EE, 26 January 1990.

[15] For a reference to the graffiti, see *Smena* (Bratislava), 13 February 1990. The controversy over the treatment of Jews by the Slovak state resulted from reports about a public appearance of Pavol Carnogurský, who had been a member of the Slovak parliament during the Second World War and is the father of Ján Carnogurský, a deputy prime minister in the current Czechoslovak government. For the reports and rejoinders from various authors, including the younger Carnogurský, see *Smena*, 28 December 1989, 6, 11 and 20 January; *Lud* (Bratislava), 12 January 1990.

Poland

[1] For a detailed account of Jewish community life in Poland in the 1980s see Lukasz Hirszowicz, 'Judaism in Poland', *Religion in Communist Lands*, vol. 15 no. 1, 1987.

[2] For a progress report on the restoration of Jewish monuments see interview with Jan Jagielski in *Folks-sztyme*, 1 December 1988. More recent information obtained in telephone interviews with Jewish activists in Cracow and Warsaw.

[3] Interview with Piotr Kadlcik who is one of the organizers of the youth groups.

[4] For report on Mr. Bronfman's visit see *Gazeta Wyborcza*, 28 February 1990.

[5] Associated Press dispatch, 'Jewish threatre vandalized, revenge for convent claimed', 8 October 1989.

[6] See Karen Adler. 'Controversy over the Carmelite convent at Auschwitz', *IJA Research Reports*, no. 6, 1989.

[7] For a full text of Cardinal Glemp's homily see *Christian Jewish Relations*, vol. 22, nos 3 and 4, 1989.

[8] See Wladyslaw Bartoszewski, 'Polish responses to the Carmelite convent controversy', *IJA Research Reports*, no. 5 (forthcoming).

[9] See Raphael Vago, 'Recent trends in Soviet and East European relations with Israel', *IJA Research Reports*, no. 2, 1988.

[10] For a report on Peres's visit see Roman Stefanowski, 'Peres visit points to improvement in Polish-Israeli relations', Radio Free Europe, *Report on Eastern Europe*, vol. 1, no. 2, 33-4.

Yugoslavia

[1] See Ivo Goldstein, Yugoslav twilight', *The Jewish Chronical* (London), 1 November 1985.

[2] See, for example, Wendy Rosen, 'Yugoslavian Jewry said to be experiencing rebirth', *Canadian Jewish News*, 29 January 1987; William Frankel, 'Yugoslavia: better times ahead', *Jewish Chronicle*, 3 February 1989; Edward Serotta, 'The rebirth of Yugoslavian Jewry', *Forward* (New York), 12 May 1989.

[3] Richard Burns, 'Exhibition in Belgrade', *Jewish Chronicle*, 10 February 1989.

[4] Moshe Pijade was an outstanding Jewish combatant in World War II. A close associate of Marshall Tito, he died in 1957, while president of the National Parliament.

[5] Frankel.

[6] Burns.

[7] Frankel.

[8] Burns.

[9] JTA, 7 December 1988.

[10] See Srjdan Matić, 'Yugoslav hopes for future', *Jewish Chronicle*, 12 January 1990.

[11] Slobodan Stanković, 'Yugoslav-Israeli relations to be normalized?', *Radio Free Europe*, 15 December 1986.

[12] Milan Andrejevich, 'Yugoslav-Israeli relations heading toward normalization', *Radio Free Europe Research*, 26 August 1987.

[13] Paul Lungen, 'Society links Jews and Serbs in friendship', *Canadian Jewish News*, 25 January 1990.

[14] Stanković.

[15] See Srdan Matić, 'Anger over historian's slur'. *Jewish Chronicle*, 16 February 1990.

[16] Ibid.

Bulgaria

[1] Thomas S. Kahn, 'Hanging on. Yes, there are still Jews in Bulgaria', *Jewish Monthly*, November 1989; *Jewish Chronicle*, 15 December 1989.

[2] Bulgarian Telegraph Agency, 18 November 1988, *BBC Summary of World Broadcasts for Eastern Europe (SWB, EE), 28 November 1988.*

[3] *Forward*, 28 April 1989.

[4] Isreal Defence Forces radio, 11 July 1989, SWB, EE; *Folks-sztyme*, 4 August 1989; *New Zealand Jewish Chronicle*, December 1989.

[5] JTA, 21 November 1989.

[6] JTA, 5 March 1989.

German Democratic Republic

[1] Dr Irene Runge, of East Berlin's Humboldt University, who is also spokesperson for the Jewish community, says there are 'probably 1,000 or so in East Germany who could be counted as Jews under Hitler's race laws' (*New York Times*, 11 December 1989).

[2] *Allgemeine Judische Wochezeitung*, 15 February 1990.

[3] Hermann Baumann, 'Die DDR und die Rechten', *Allgemeine Judische Wochenzeitung*, 18 January 1990; see also Christopher Husbands, 'Haunted by the ghost of Nazism', *Independent*, 10 January 1990.

[4] Reprinted in *New Statesman and Society*, 12 January 1990.

[5] Wilfried Seiring, 'Neonazistische Aktivitäten von Skinheads—Vom Totschweigen bis zur Hysterie'. *Allgemeine Judische Wochenzeitung*, 18 January 1990.

[6] Anne McClvoy, 'Fictitious Fascists', *Spectator*, 3 February 1990.

[7] See for example *Jerusalem Post*, 9 February 1990, *Frankfurter Allgemeine Zeitung*, 10 February 1990, *International Herald Tribune*, 10 February 1990.

[8] Both papers were quoted in JTA, 28 November 1990.

[9] JTA, 2 March 1990 and 23 February 1990.

[10] *BBC Summary of World Broadcasts for Eastern Europe*, 10 March 1990.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ellen Lovell:									
Panama	Dollar		150.00						150.00
Robert Paquin:									
Panama	Dollar		460.00						460.00
Total			610.00						610.00

PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Apr. 18, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William A. Gillon:									
United States	Dollar				2,424.92				2,424.92
Switzerland	Franc	1,166.14	716.30					1,166.14	716.30
Belgium	Franc	4,623	118.81					4,623	118.81
John J. Ziolkowski:									
United States	Dollar				2,424.92				2,424.92
Switzerland	Franc	1,166.14	716.30					1,166.14	716.30
Belgium	Franc	4,404	113.56					4,404	113.56
United States	Dollar				2,051.00				2,051.00
Egypt	Dollar		600.00						600.00
Charles H. Reimenschneider:									
United States	Dollar				2,174.81				2,174.81
Switzerland	Franc	1,282.90	796.00					1,282.90	796.00
Senator J. Robert Kerrey:									
United States	Dollar				5,820.00				5,820.00
West Germany	Deutsche mark	1,009.47	570.00					1,009.47	570.00
Austria	Schilling	2,165.90	179.00					2,165.90	179.00
Czechoslovakia	Crown	939	392.00				30.28	939	422.28
Italy	Lira	799,236	604.00					799,236	604.00
France	Franc	3,718.11	627.00				42.50	3,718.11	669.50
William Shore:									
United States	Dollar				3,769.00				3,769.00
Czechoslovakia	Crown	939	392.00				30.28	939	422.28
Austria	Schilling	2,165.90	179.00					2,165.90	179.00
Italy	Lira	799,236	604.00					799,236	604.00
France	Franc	3,718.11	627.00				42.50	3,718.11	669.50
Graham Chisholm:									
United States	Dollar				2,219.00				2,219.00
West Germany	Deutsche mark	1,009.47	570.00					1,009.47	570.00
Czechoslovakia	Crown	939	392.00				30.28	939	422.28
Total			8,196.97		20,883.65		175.84		29,256.46

PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Mar. 30, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jerry L. Bonham:									
Mexico	Peso	1,149,170	440.97					1,149,170	440.97
Senator Patrick J. Leahy:									
Panama	Dollar		250.00						250.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Eric D. Newsom:									
Panama	Dollar		250.00						250.00
James D. Bond:									
Panama	Dollar		250.00						250.00
Senator Robert W. Kasten, Jr.:									
Federal Republic of Germany	Deutsche mark	754.43	448.00					754.43	448.00
Senator Warren B. Rudman:									
Federal Republic of Germany	Deutsche mark	501.83	298.00					501.83	298.00
Senator Ted Stevens:									
Federal Republic of Germany	Deutsche mark	413.68	245.65					413.68	245.65
James D. Bond:									
El Salvador	Colon	1,714.02	231.00		673.00			1,714.02	904.00
Richard L. Collins:									
Australia	Dollar	1,222.18	928.00					1,222.18	928.00
Mary C. Marshall:									
Italy	Lira	544,102	442.00					544,102	442.00
Federal Republic of Germany	Deutsche mark	1,299.96	828.00					1,299.96	828.00
England	Pound	263.30	446.00					263.30	446.00
France	Franc	3,789.54	666.00					3,789.54	666.00
United States	Dollar				2,622.80				2,622.80
Charles J. Houy:									
Italy	Lira	544,102	442.00					544,102	442.00
Federal Republic of Germany	Deutsche mark	1,299.96	828.00					1,299.96	828.00
England	Pound	263.30	446.00					263.30	446.00
France	Franc	5,052.72	888.00					5,052.72	888.00
United States	Dollar				2,622.80				2,622.80
Senator Barbara A. Mikulski:									
Federal Republic of Germany	Deutsche mark	754.43	448.00					754.43	448.00
Steven J. Cortese:									
Italy	Lira	544,102	442.00					544,102	442.00
Federal Republic of Germany	Deutsche mark	1,299.96	828.00					1,299.96	828.00
England	Pound	394.95	669.00					394.95	669.00
United States	Dollar				2,951.00				2,951.00
J. Keith Kennedy:									
Italy	Lira	544,102	442.00					544,102	442.00
Federal Republic of Germany	Deutsche mark	1,299.96	828.00					1,299.96	828.00
England	Pound	394.95	669.00					394.95	669.00
United States	Dollar				2,951.00				2,951.00
Total			12,653.62		11,820.60				24,474.22

ROBERT C. BYRD,
Chairman, Committee on Appropriations, June 1, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Warren W. Kane:									
Federal Republic of Germany	Deutsche mark	2,165.20	1,191.00					2,165.20	1,191.00
Israel	Dollar		894.00						894.00
Portugal	Escudo	52,390	338.00					52,390	338.00
United States	Dollar		3,559.00						3,559.00
John G. Shank:									
Federal Republic of Germany	Deutsche mark	2,165.20	1,191.00					2,165.20	1,191.00
Israel	Dollar		894.00						894.00
Portugal	Escudo	52,390	338.00					52,390	338.00
United States	Dollar		3,559.00						3,559.00
Deborah A. Dawson:									
Egypt	Dollar		404.00						404.00
	Dollar				2,651.00				2,651.00
	Dollar						200.00		200.00
Irma Hanneman:									
Egypt	Dollar		404.00						404.00
United States	Dollar				2,651.00				2,651.00
Egypt	Dollar						200.00		200.00
Eric D. Newsom:									
Morocco	Dollar		484.00						484.00
Egypt	Dollar		611.00						611.00
Israel	Dollar		505.00						505.00
James D. Bond:									
Morocco	Dollar		484.00						484.00
Egypt	Dollar		611.00						611.00
Israel	Dollar		505.00						505.00
Senator Barbara A. Mikulski:									
Federal Republic of Germany	Dollar		382.00						382.00
Poland	Dollar		250.00						250.00
Hungary	Dollar		348.00						348.00
Tim Rieser:									
Zaire	Dollar		254.00						254.00
Kenya	Dollar				30.00		20.00		50.00
Uganda	Dollar				115.00		60.00		175.00
United States	Dollar				3,700.00				3,700.00
Total			17,206.00		9,147.00		480.00		26,833.00

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Jan. 22, 1990.

ADDENDUM TO THIRD QUARTER REPORT, CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22. P.L 95–384—22 U.S.C 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Robert W. Kasten, Jr:									
Latvia	Dollar		550.00						550.00
United States	Dollar				4,579.00				4,579.00
Tim Rieser:									
El Salvador	Dollar		420.00						420.00
El Salvador	Dollar				78.00				78.00
Senator Jim Sasser:									
United Kingdom	Dollar		624.00						624.00
United States	Dollar				1,544.00				1,544.00
Robert M. Walker:									
United Kingdom	Dollar		1,040.00						1,040.00
Belgium	Dollar		380.00						380.00
Germany	Dollar		178.00						178.00
Belgium	Dollar				63.00				63.00
Germany	Dollar				1,544.00				1,544.00
Germany							98.00		98.00
Total			3,192.00		7,808.00		98.00		11,098.00

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Feb. 20, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John McCain:									
Federal Republic of Germany	Deutsche mark	416.12	247.10					416.12	247.10
Senator John Glenn:									
Federal Republic of Germany	Deutsche mark	60.02	35.64					60.02	35.64
Judith A. Freedman:									
Federal Republic of Germany	Deutsche mark	754.43	448.00					754.43	448.00
Brian D. Dailey:									
Federal Republic of Germany	Deutsche mark	754.43	448.00					754.43	448.00
James M. Bodner:									
Federal Republic of Germany	Deutsche mark	658.66	391.13					658.66	391.13
Anthony H. Cordesman:									
Federal Republic of Germany	Deutsche mark	754.43	448.00					754.43	448.00
Patrick A. Tucker:									
Belgium	Franc	14,240	400.00					14,240	400.00
United States	Dollar				2,437.00				2,437.00
Federal Republic of Germany	Deutsche mark	1,538.08	918.00					1,538.08	918.00
Czechoslovakia	Koruna	3,204.60	196.00					3,204.60	196.00
Austria	Schilling	4,450.60	374.00					4,450.60	374.00
France	Franc	1,289.82	222.00					1,289.82	222.00
Brian D. Dailey:									
United States	Dollar				2,437.00				2,437.00
Belgium	Franc	14,240	400.00					14,240	400.00
Federal Republic of Germany	Deutsche mark	1,538.08	918.00					1,538.08	918.00
Czechoslovakia	Koruna	3,204.60	196.00					3,204.60	196.00
Austria	Schilling	4,450.60	374.00					4,450.60	374.00
France	Franc	1,289.82	222.00					1,289.82	222.00
Senator Richard C. Shelby:									
United States	Dollar				1,985.97				1,985.97
Russia	Dollar		350.00						350.00
Greece	Drachma	8,885	56.52					8,885	56.52
India	Rupee	3,888	229.50					3,888	229.50
Iraq	Dinar	146.30	480.00					146.30	480.00
Thomas K. McConnell:									
Federal Republic of Germany	Deutsche mark	808.28	484.00	66.80	40.00			875.08	524.00
Senator John McCain:									
Taiwan	Dollar	11,383	435.29					11,383	435.29
Korea	Won	243,916	358.70					243,916	358.70
Japan	Yen	60,790	417.81					60,790	417.81
Anthony H. Cordesman:									
Taiwan	Dollar	13,546	518.00					13,546	518.00
Korea	Won	408,000	600.00					408,000	600.00
Japan	Yen	71,295	490.00					71,295	490.00
Marshall A. Salter:									
Taiwan	Dollar	12,246	468.30					12,246	468.30
Korea	Won	408,000	600.00					408,000	600.00
Japan	Yen	71,295	490.00					71,295	490.00
Frederick F.Y. Pang:									
Federal Republic of Germany	Deutsche mark	1,781	1,052.00					1,781	1,052.00
Jonathan L. Etherton:									
Federal Republic of Germany	Deutsche mark	518.28	308.50					518.28	308.50
United Kingdom	Pound	390.29	651.00					390.29	651.00
Mark B. Robinson:									
United Kingdom	Pound	809.10	1,302.00					809.10	1,302.00
Senator Richard C. Shelby:									
United States	Dollar				4,084.30				4,084.30
Belgium	Franc	13,896	400.00					13,896	400.00
Austria	Schilling	2,265.60	192.00					2,265.60	192.00
Federal Republic of Germany	Deutsche mark	693.45	414.00					693.45	414.00
Senator Timothy E. Wirth:									
Japan	Yen	106,943	735.00					106,943	735.00
Korea	Won	544,000	800.00					544,000	800.00
Russia	Dollar		1,068.00						1,068.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jefferson B. Seabright:									
Japan	Yen	106,943	735.00					106,943	735.00
Korea	Won	544,000	800.00					544,000	800.00
Russia	Dollar		1,068.00						1,068.00
John J. Hamre:									
Belgium	Franc	20,480	589.52					20,480	589.52
Austria	Schilling	2,219	188.05					2,219	188.05
Federal Republic of Germany	Deutsche mark	581.50	347.17					581.50	347.17
Senator John W. Warner:									
Costa Rica	Dollar		298.00						298.00
Guatemala	Dollar		1,365.00				50.00		1,415.00
Grayson F. Winterling:									
Costa Rica	Dollar		298.00						298.00
Guatemala	Dollar		100.00		403.00				503.00
Madelyn R. Creedon:									
United Kingdom	Pound	135	223.00					135	223.00
Federal Republic of Germany	Deutsche mark	1073	603.00					1073	603.00
Italy	Lira	552,500	442.00					552,500	442.00
United States	Dollar				2,958.00				2,958.00
Leon Fuerth:									
Russia	Dollar		800.00		800.00		25.00		1,625.00
Robert E. Bayer:									
Federal Republic of Germany	Deutsche mark	847.10	498.00					847.10	498.00
United States	Dollar				2,542.00				2,542.00
Total			27,493.23		17,687.27		75.00		45,255.50

SAM NUNN,
Chairman, Committee on Armed Services, Apr. 3, 1990.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Edward M. Kennedy:									
United Kingdom	Dollar		446.00						446.00
Russia	Dollar		267.00						267.00
United States	Dollar				5,119.00				5,119.00
Nancy E. Soderberg:									
United Kingdom	Dollar		446.00						446.00
Russia	Dollar		267.00						267.00
United States	Dollar				3,357.00				3,357.00
William J. Lynn:									
United Kingdom	Dollar		446.00						446.00
Russia	Dollar		267.00						267.00
United States	Dollar				2,948.00				2,948.00
Total			2,139.00		11,424.00				13,563.000

SAM NUNN,
Chairman, Committee on Armed Services, May 1, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ronald P. Kelly:									
Philippines	Dollar				8.00		119.50		127.50
Japan	Dollar				19.29		150.83		170.12
Judith A. Freedman:									
Saudi Arabia	Riyal	708.75	189.00					708.75	189.00
Egypt	Pound	1,156.51	453.00					1,156.51	453.00
Israel	Shekel	1,274.88	664.00					1,274.88	664.00
Brian D. Dailey:									
Saudi Arabia	Riyal	708.75	189.00					708.75	189.00
Egypt	Pound	1,156.51	453.00					1,156.51	453.00
Israel	Shekel	1,274.88	664.00					1,274.88	664.00
Durwood W. Ringo, Jr.:									
Saudi Arabia	Riyal	708.75	189.00					708.75	189.00
Egypt	Pound	1,156.51	453.00					1,156.51	453.00
Israel	Shekel	956.16	498.00					956.16	498.00
Romie L. Brownlee:									
Saudi Arabia	Riyal	708.75	189.00					708.75	189.00
Egypt	Pound	1,156.51	453.00					1,156.51	453.00
Israel	Shekel	956.16	498.00					956.16	498.00
Senator Jeff Bingaman:									
Japan	Yen	212,268	1,470.00			47,522	329.10	259,790	1,799.10
United States	Dollar				4,865.00				4,865.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Edward McGaffigan:									
Japan	Yen	212,268	1,470.00					212,268	1,470.00
United States	Dollar				2,757.00				2,757.00
Patrick Von Bargen:									
Japan	Yen	212,268	1,470.00					212,268	1,470.00
United States	Dollar				2,757.00				2,757.00
William H. Smith:									
Japan	Yen	212,268	1,470.00					212,268	1,470.00
United States	Dollar				2,757.00				2,757.00
Richard E. Combs, Jr.:									
Russia	Dollar		260.00		62.00				322.00
Total			11,032.00		13,255.29		599.43		24,856.72

SAM NUNN,
Chairman, Committee on Armed Services, Jan. 17, 1990.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 93–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1, TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Edward M. Kennedy:									
United States	Dollar				4,069.00				4,069.00
Belgium	Franc	7,488	200.00					7,488	200.00
Switzerland	Franc	630	398.00					630	398.00
William J. Lynn:									
United States	Dollar				2,355.00				2,355.00
Belgium	Franc	14,976	400.00					14,976	400.00
Switzerland	Franc	630	398.00					630	398.00
Nancy E. Soderberg:									
United States	Dollar		400.00		2,405.00		72.96		2,877.96
Belgium	Franc	7,488	200.00					7,488	200.00
Federal Republic of Germany	Deutsche mark	1,038.85	573.00					1,038.85	573.00
Total			2,569.00		8,829.00		72.96		11,470.96

SAM NUNN,
Chairman, Committee on Armed Services, Jan. 22, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM OCT. 1, TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bob Graham:									
United States	Dollar				293.00				293.00
Alfred Cumming:									
Guatemala	Quetzal	287	81.17					287	81.17
United States	Dollar				437.00				437.00
Total			81.17		730.00				811.17

DONALD W. RIEGLE,
Chairman, Committee on Banking, Housing and Urban Affairs,
Jan. 30, 1990.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Bob Graham:									
El Salvador	Dollar		51.00						51.00
United States	Dollar				220.00				220.00
Alfred Cumming:									
Honduras	Dollar		97.00						97.00
El Salvador	Dollar		120.00						120.00
Total			268.00		220.00				488.00

DONALD W. RIEGLE,
Chairman, Committee on Banking, Housing, and Urban Affairs,
Jan. 30, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Douglas Olin:									
New Zealand	Dollar		300.00						300.00
United States					4,243.00				4,243.00
Total			300.00		4,243.00				4,543.00

JIM SASSER,
Chairman, Committee on the Budget, Mar. 7, 1990.

CONSOLIDATED REPORT OF EXPENDITURES OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Martin P. Kress:									
Spain	Dollar		785.00		1,382.27		400.00		2,567.27
Louis C. Whitsett:									
Spain	Dollar		1,256.00		1,050.00		394.00		2,700.00
Total			2,041.00		2,432.27		794.00		5,267.27

ERNEST F. HOLLINGS,
Committee on Commerce, Science and Transportation,
Feb. 12, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Allen P. Stayman:									
Micronesia Palau	Dollar		1,677.79		846.00				2,523.79
Daryl Owen:									
Micronesia Palau	Dollar		1,494.39		846.00				2,340.39
Total			3,172.18		1,692.00				4,864.18

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, June 13, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM OCT. 1 TO DEC 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Rita W. Scott:									
Austria	Schilling	16,866.08	1,232.00					16,866.08	1,232.00
United States	Dollar				2,435.00				2,435.00
Total			1,232.00		2,435.00				3,667.00

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, Jan. 22, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384–22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dan M. Berkovitz:									
England	Pound	136	223.00					136	223.00
West Germany	Deutsche mark	1,025.71	603.00					1,025.71	603.00
Italy	Lira	550,000	440.00					550,000	440.00
United States	Dollar				2,949.00				2,949.00
Richard Innes:									
England	Pound	136	223.00					136	223.00
West Germany	Deutsche mark	1,025.71	603.00					1,025.71	603.00
Italy	Lira	550,000	440.00					550,000	440.00
United States	Dollar				2,949.00				2,949.00
Mark Reiter:									
England	Pound	136	223.00					136	223.00
West Germany	Deutsche mark	1,025.71	603.00					1,025.71	603.00
Italy	Lira	550,000	440.00					550,000	440.00
United States	Dollar				2,949.00				2,949.00
Carolyn Jourdan:									
Sweden	Krona		300.00						300.00
France	Franc	5,719.36	976.00					5,719.36	976.00
United States	Dollar				1,284.80				1,284.80
Total			5,074.00		10,131.80				15,205.80

QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works, Apr. 12, 1990.

CONSOLIDATED REPORT OF EXPENDITURES OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mike E. Weiss:									
West Germany	Deutsche mark	1,002.82	551.00					1,002.82	551.00
England	Pound	277.63	434.00					277.63	434.00
France	Franc	3,356.55	548.00					3,356.55	548.00
United States	Dollar				2,877.00				2,877.00
David M. Strauss:									
West Germany	Deutsche mark	1,002.82	551.00					1,002.82	551.00
England	Pound	277.63	434.00					277.63	434.00
France	Franc	3,356.55	548.00					3,356.55	548.00
United States	Dollar				2,877.00				2,877.00
Taylor Bowlden:									
West Germany	Deutsche mark	1,002.82	551.00					1,002.82	551.00
England	Pound	277.63	434.00					277.63	434.00
France	Franc	3,356.55	548.00					3,356.55	548.00
United States	Dollar				2,877.00				2,877.00
Roy W. Kienitz:									
West Germany	Deutsche mark	1,002.82	551.00					1,002.82	551.00
England	Pound	277.63	434.00					277.63	434.00
France	Franc	3,356.55	548.00					3,356.55	548.00
United States	Dollar				2,877.00				2,877.00
Jean S. Lauver:									
West Germany	Deutsche mark	1,002.82	551.00					1,002.82	551.00
England	Pound	138.81	217.00					138.81	217.00
France	Franc	3,356.55	548.00					3,356.55	548.00
United States	Dollar				2,877.00				2,877.00
Nadine R. Hamilton:									
West Germany	Deutsche mark	1,350.44	742.00					1,350.44	742.00
England	Pound	277.63	434.00					277.63	434.00
France	Franc	3,356.55	548.00					3,356.55	548.00
United States	Dollar				963.79				963.79
Andrew Samet:									
West Germany	Deutsche mark	1,647.22	911.00					1,647.22	911.00
England	Pound	277.63	434.00					277.63	434.00
France	Franc	3,356.55	548.00					3,356.55	548.00
United States	Dollar				3,327.36				3,327.36
Daniel J. French:									
West Germany	Deutsche mark	1,002.82	551.00					1,002.82	551.00
England	Pound	277.63	434.00					277.63	434.00
France	Franc	3,356.55	548.00					3,356.55	548.00
United States	Dollar				2,877.00				2,877.00
Delegation expenses:									
France	Franc					1,350	228.81	1,350.00	228.81
Total			12,598.00		21,553.15		228.81		34,379.96

QUENTIN N. BURDICK,
Chairman, Committee on Environment and Public Works, Feb. 7, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Lloyd Bentsen:									
Russia	Dollar		350.00						350.00
England	Pound	262.80	434.00			88.91	149.85	351.71	583.85
United States	Dollar				4,454.94				4,454.94
Jeffrey M. Lang:									
Russia	Dollar		350.00						350.00
England	Pound	262.80	434.00			88.91	149.85	351.71	583.85
Belgium	Franc	14,224	400.00					14,224	400.00
United States	Dollar				3,042.00				3,042.00
Brad Figel:									
Switzerland	Franc	953.30	628.00					953.30	628.00
United States	Dollar				638.00				638.00
Senator John C. Danforth:									
Japan	Yen	101,438	674.90			2,000	13.30	103,438	688.20
United States	Dollar				4,556.00				4,556.00
Marjorie Chorlins:									
Japan	Yen	100,063	665.75			2,000	13.30	102,063	679.05
United States	Dollar				4,556.00				4,556.00
David Racine:									
Japan	Yen	98,336	654.26			2,000	13.30	100,336	667.56
United States	Dollar				4,556.00				4,556.00
Total			4,590.91		21,802.94		339.60		26,733.45

LLOYD BENTSEN,
Chairman, Committee on Finance, Apr. 20, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Marcia E. Miller:									
Switzerland	Franc	1,184.55	745.00					1,184.55	745.00
United States	Dollar				737.00				737.00
Total			745.00		737.00				1,482.00

LLOYD BENTSEN,
Chairman, Committee on Finance, Jan. 30, 1990.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John C. Danforth:									
England	Pound	206.04	352.00					206.04	352.00
West Germany	Deutsche mark	236.16	125.00					236.16	125.00
Belgium	Franc	9,916	244.00					9,916	244.00
France	Franc	2,108	334.07			157.75	25.00	2,265.75	359.07
United States	Dollar				4,738.00				4,738.00
Senator John H. Chafee:									
England	Pound	206.04	352.00					206.04	352.00
West Germany	Deutsche mark	236.16	125.00					236.16	125.00
Belgium	Franc	9,916	244.00					9,916	244.00
France	Franc	2,108	334.07			157.75	25.00	2,265.75	359.07
United States	Dollar				4,738.00				4,738.00
Marjorie Chorlins:									
England	Pound	206.04	352.00					206.04	352.00
West Germany	Deutsche mark	236.16	125.00					236.16	125.00
Belgium	Franc	9,916	244.00					9,916	244.00
France	Franc	2,108	334.07			157.75	25.00	2,265.75	359.07
United States	Dollar				2,575.00				2,575.00
Michael Platner:									
England	Pound	206.04	352.00					206.04	352.00
West Germany	Deutsche mark	236.16	125.00					236.16	125.00
Belgium	Franc	9,916	244.00					9,916	244.00
United States	Dollar				2,505.00				2,505.00
Total			3,886.21		14,556.00		75.00		18,517.21

LLOYD BENTSEN,
Chairman, Committee on Finance, Jan. 30, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Christopher J. Dodd:									
Costa Rica	Colon	28,928	344.99					28,928	344.99
Panama	Dollar		91.00						91.00
Guatemala	Quetzal	568.07	165.13					568.07	165.13
Nicaragua	Dollar		400.00						400.00
Nicaragua	Dollar		700.00						700.00
United States	Dollar				538.59				538.59
Senator Connie Mack:									
Switzerland	Franc	236	157.00					236	157.00
United States	Dollar				4,284.00				4,284.00
Senator Charles S. Robb:									
Thailand	Baht	9,212	360.00					9,212	360.00
United States	Dollar				1,824.00				1,824.00
Evelyn Boyd:									
Hong Kong	Dollar	2,498	320.00	163.00	20.87			2,661	340.87
Thailand	Baht	8,701	340.00			1,522.77	58.73	10,223.77	398.73
Philippines	Peso	4,810.93	214.00					4,810.93	214.00
Papua New Guinea	Kina	447.81	468.00	192.00	200.65			639.81	668.65
Australia	Dollar	197.83	155.00					197.83	155.00
United States	Dollar				6,130.00				6,130.00
Geryld Christianson:									
Nicaragua	Dollar		389.00		11.00				400.00
Austria	Dollar				270.00				270.00
Robert Dockery:									
Costa Rica	Colon	32,328	384.85					32,328	384.85
Guatemala	Quetzal	1,259.02	365.99					1,259.02	365.99
Guatemala	Dollar		50.00						50.00
Panama	Dollar		91.00						91.00
Nicaragua	Dollar		400.00						400.00
Nicaragua	Dollar		715.00						715.00
United States	Dollar				538.59				538.59
Richard Kessler:									
Philippines	Peso	24,054.67	1,070.00					24,054.67	1,070.00
United States	Dollar				2,914.93				2,914.93
Janice O'Connell:									
Nicaragua	Dollar		715.00						715.00
United States	Dollar				538.59				538.59
Nicaragua	Dollar		400.00						400.00
Costa Rica	Colon	18,328	218.19					18,328	218.19
Panama	Dollar		91.00						91.00
Guatemala	Quetzal	1,259.02	365.99					1,259.02	365.99
Guatemala	Dollar		50.00						50.00
Bruce Rickerson:									
South Africa	Rand	2,670.65	991.00	1,145.00	394.05			3,815.65	1,385.05
France	Franc	1,984.44	344.00					1,984.44	344.00
United States	Dollar				3,333.00				3,333.00
Barry Sklar:									
Nicaragua	Dollar		40.00						40.00
Saul Singer:									
Switzerland	Franc	236	1,57.00					236	157.00
United States	Dollar				2,420.00				2,420.00
Frank Sieverts:									
Germany	Deutsche mark	2,801.55	1,647.00			567.72	336.15	3,369.27	1,983.15
Jay Winik:									
Thailand	Baht	18,425	720.00					18,425	720.00
United States	Dollar				2,720.00				2,720.00
Barry Sklar:									
Chile	Peso	149,760	480.00					149,760	480.00
Argentina	Austral	1,419,600	312.00					1,419,600	312.00
Uruguay	New Peso	82,890	90.00					82,890	90.00
Paraguay	Guarani	266,200	220.00					226,200	220.00
Bolivia	Boliviana	265	85.00					265	85.00
Total			14,107.14		26,138.27		394.88		40,640.29

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, May 15, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Geryld Christianson:									
West Germany	Deutsche mark	1,460.19	824.00					1,460.19	824.00
United Kingdom	Pound	270.79	434.00					270.79	434.00
Richard Kessler:									
Thailand	Baht	39,444	1,530.02					39,444	1,530.02
United States	Dollar				2,717.00				2,717.00
Janice O'Connell:									
Jamaica	Dollar	4,066.08	688.00					4,066.08	688.00
Costa Rica	Dollar		456.00						456.00
United States	Dollar				559.00				559.00
Amendments to the 1st quarter 1989:									
Senator Nancy Kassebaum:									
Israel	Dollar		600.00						600.00
Jordan	Dollar	26,400	54.00					26,400	54.00
Syria	Pound	1,853	165.45					1,853	165.45
Egypt	Dollar		296.00						296.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Lori Murray:									
Israel	Dollar		600.00						600.00
Jordan	Dollar	26,400	54.00					26,400	54.00
Syria	Pound	1,853	165.45					1,853	165.45
Egypt	Dollar		296.00						296.00
Peter Galbraith:									
Philippines	Peso	2,690.26	126.00					2,690.26	126.00
Pakistan	Rupee			1,388.00	190.60			1,388.00	190.60
Egypt	Dollar		98.00						98.00
Amendments to the 2d quarter 1989:									
Senator Connie Mack:									
El Salvador	Colon	770	154.00					770	154.00
Senator Charles Robb:									
El Salvador	Colon	770	154.00					770	154.00
Saul Singer:									
El Salvador	Colon	770	154.00					770	154.00
Jay Winik:									
El Salvador	Colon	770	154.00					770	154.00
Honduras	Lempira	194	97.00					194	97.00
Thomas Kleine:									
Pakistan	Rupee	1,220	57.87					1,220	57.87
United States	Dollar				3,544.72				3,544.72
Michael Pillsbury:									
Pakistan	Rupee	1,220	57.87					1,220	57.87
United States	Dollar				3,544.72				3,544.72
Amendments to 3d quarter 1989:									
Senator Connie Mack:									
Korea	Won	200,400	300.00				340.85	200,400	640.85
Taiwan	Dollar	10,100	313.00				223.00	10,100	536.00
United States	Dollar				2,545.00				2,545.00
Saul Singer:									
Korea	Won	183.80	274.22					183.80	274.22
Taiwan	Dollar	10,100	313.00				223.00	10,100	536.00
United States	Dollar				2,545.00				2,545.00
Peter Galbraith:									
Pakistan	Rupee	12,849	611.00					12,849	611.00
Nepal	Dollar		212.50						212.50
Sri Lanka	Dollar		75.00						75.00
United States	Dollar				4,463.00				4,463.00
Total			9,314.38		20,109.04		786.85		30,210.27

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, May 15, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mary K. Vinson:									
Spain	Peseta	53,081	447.00					53,081	447.00
United States	Dollar				771.00				771.00
Harry G. Broadman:									
Venezuela	Boliviana		656.00		362.00		250.00		1,268.00
Stephen H. Levin:									
Spain	Peseta	53,081	447.00					53,081	447.00
United States	Dollar				771.00				771.00
Leonard Willis:									
Spain	Peseta	53,081	447.00					53,081	447.00
United States	Dollar				771.00				771.00
Total			1,997.00		2,675.00		250.00		4,922.00

JOHN GLENN,
Chairman, Committee on Government Affairs, Jan. 25, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jerry M. Tinker:									
Switzerland	Franc	520.90	316.00					520.90	316.00
United States	Dollar				3,039.00				3,039.00
United States	Dollar				4,829.00				4,829.00
Great Britain	Pound	105.67	167.00					105.67	167.00
Ethiopia	Birr	1,041.63	347.21					1,041.63	347.21
Pakistan	Rupee	3,764.70	300.25					3,764.70	300.25
India	Rupee	5,231.50	306.00					5,231.50	306.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kay L. Anske:									
United States	Dollar				1,815.00				1,815.00
Italy	Lire	1,238,088	948.00					1,238,088	948.00
Richard W. Day:									
United States	Dollar				4,829.00				4,829.00
Great Britain	Pound	105.67	167.00					105.67	167.00
Ethiopia	Birr	1,041.63	347.21					1,041.63	347.21
Pakistan	Rupee	3,764.70	300.25					3,764.70	300.25
India	Rupee	5,231.50	306.00					5,231.50	306.00
Total			3,504.92		14,512.00				18,016.92

JOE BIDEN,
Chairman, Committee on the Judiciary, Mar. 28, 1990.

ADDITIONAL REPORT TO THE ORIGINAL CONSOLIDATED REPORT SUBMITTED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384–22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
J. Michael Myers:									
United States	Dollar				1,315.76				1,315.76
Mexico	Peso	1,566,500	650.00	195,024	80.92			1,761,524	730.92
Total			650.00		1,396.68				2,046.68

JOE BIDEN,
Chairman, Committee on the Judiciary, Mar. 28, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Mary Sturtevant			849.00		2,405.00				3,254.00
Senator Arlen Specter			1,281.20						1,281.20
C. Charles Battaglia			2,165.11						2,165.11
Carl Feldbaum			1,594.37						1,594.37
Marvin Ott			749.00		2,830.28				3,579.28
David Holliday			1,831.27		2,390.00				4,221.27
Larry Kettlewell			1,615.26		2,510.00				4,125.26
Christopher Straub			1,612.51		2,510.00				4,122.51
L. Britt Snider			646.70		3,608.00				4,254.70
Donald Mitchell			646.70		3,608.00				4,254.70
James Currie			194.45						194.45
L. Britt Snider			161.00						161.00
Christopher Mellon			190.00						190.00
Richard Combs			190.00						190.00
Senator John Danforth			300.00						300.00
Jonathan Chambers			300.00						300.00
John Elliff			550.00		2,312.00				2,862.00
Gary Sojka			100.00						100.00
Senator Alfonse D'Amato			400.00						400.00
Total			15,376.57		22,173.28				37,549.85

DAVID L. BOREN,
Chairman, Select Committee on Intelligence, Apr. 1, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David Holiday			365.00						365.00
James Currie			365.00						365.00
Christopher Straub			367.00						367.00
James Dykstra			794.00		2,620.00				3,414.00
Mary Sturtevant			794.00		2,620.00				3,414.00
Donald Mitchell			552.04		1,856.80				2,408.84
Edward Levine			698.00		2,630.00				3,328.00
L. Britt Snider			975.00		2,512.00				3,487.00
Marvin Ott			975.00		2,512.00				3,487.00
Jonathan Chambers			975.00		2,512.00				3,487.00
Charlene King			1,196.00		2,927.00				4,123.00
Regina Genton			835.00		2,778.00				3,613.00
Marvin Ott			1,190.00		2,717.00				3,907.00
Jonathan Chambers			1,190.00		2,717.00				3,907.00
John Despres			124.00		2,507.00				2,631.00
Total			11,395.04		30,908.80				42,303.84

DAVID L. BOREN,
Chairman, Select Committee on Intelligence, Jan. 23, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
James L. Price:									
United States	Dollar				2,086,00		80.00		2,166.00
Total					2,086,00		80.00		2,166.00

LEE H. HAMILTON,
Chairman, Joint Economic Committee, June 6, 1990.

CONSOLIDATED REPORT OF EXPENDITURES OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM OCT. 1 TO DEC. 1, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
James Price:									
United States	Dollar				2,379.80				2,379.80
France	Franc	1,896	303.85					1,896	303.85
David Malpass:									
United States	Dollar				434.51				434.51
Japan	Yen	82,713	573.00					82,713	573.00
Soviet Union	Dollar		650.00						650.00
Total			1,526.85		2,814.31				4,341.16

LEE H. HAMILTON,
Chairman, Joint Economic Committee, June 6, 1990.

CONSOLIDATED REPORT OF EXPENDITURES OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jane S. Fisher:									
United States	Dollar				2,646.96				2,646.96
France	Franc	1,641.65	286.00					1,641.65	286.00
Austria	Schilling	8,400	700.00					8,400	700.00
West Germany	Deutsche mark	527.59	312.00					527.59	312.00
Samuel G. Wise:									
United States	Dollar				1,458.00				1,458.00
Austria	Schilling	9,781.80	822.00					9,781.80	822.00
West Germany	Deutsche mark	1,058.92	624.00					1,058.92	624.00
Heather F. Hurlburt:									
United States	Dollar				4,921.00				4,921.00
Russia	Dollar		700.00						700.00
Austria	Schilling	80,008.55	6,736.00					80,008.55	6,736.00
West Germany	Deutsche mark	791.38	468.00					791.38	468.00

CONSOLIDATED REPORT OF EXPENDITURES OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John J. Finerty:									
United States	Dollar				2,451.00				2,451.00
Russia	Dollar		1,150.00						1,150.00
Judith Ingram:									
Russia	Dollar		1,450.00						1,450.00
United States	Dollar				2,639.00		59.06		2,698.06
Hungary	Forint	56,649.20	868.00					56,649.20	868.00
Ann W. Banchoff:									
United States	Dollar				2,813.81				2,813.81
Russia	Dollar		2,600.00						2,600.00
Michael J. Ochs:									
United States	Dollar				1,347.00				1,347.00
Russia	Dollar		2,090.00						2,090.00
Orest Deychakiwsky:									
United States	Dollar				1,652.00				1,652.00
Russia	Dollar		900.00						900.00
Beth L. Ritchie:									
United States	Dollar				2,102.20				2,102.20
West Germany	Deutsche mark	2,650.65	1,561.00					2,650.65	1,561.00
Total			21,267.00		22,030.97		59.06		43,357.03

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe,
May 2, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ronald J. McNamara:									
Austria	Schilling	14,233.60	1,071.00					14,233.60	1,071.00
United States	Dollar				1,196.00				1,196.00
Robert A. Hand:									
Bulgaria	Dollar		3,400.00						3,400.00
United States	Dollar				1,431.00				1,431.00
Switzerland	Franc	1,420.14	1,134.00					1,420.14	1,134.00
United States	Dollar				635.00				635.00
Orest Deychakiwsky:									
Bulgaria	Dollar		3,000.00						3,000.00
Russia	Dollar		850.00						850.00
United States	Dollar				2,292.00				2,292.00
Jane S. Fisher:									
Bulgaria	Dollar		1,850.00						1,850.00
Russia	Dollar		850.00						850.00
United States	Dollar				5,789.00				5,789.00
Jesse L. Jacobs:									
Russia	Dollar		850.00						850.00
United States	Dollar				2,880.00				2,880.00
Samuel G. Wise:									
Bulgaria	Dollar		940.00						940.00
United States	Dollar				1,604.00				1,604.00
Total			13,945.00		15,827.00				29,772.00

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe,
Feb. 6, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Morgan Hardiman:									
Panama	Dollar		138.30						138.30
Zenia Mucha:									
Panama	Dollar		134.30						134.30
Senator Alfonse D. Amato:									
Panama	Dollar		119.30						119.30
Total			391.90						319.90

JOSEPH R. BIDEN,
Senate Caucus on International Narcotics Control, Mar. 20, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY MAJORITY LEADER FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Frank M. Potter:									
Soviet Union	Dollar		1,500.00						1,500.00
Germany	Dollar		740.00						740.00
Switzerland	Franc	719.20	471.00						471.00
United States	Dollar				2,152.00				2,152.00
Walter J. Stewart:									
Poland	Dollar		625.00						625.00
United States	Dollar				2,370.00				2,370.00
Jeri Thomson:									
France	Franc	3,258	579.00					3,258	579.00
Poland	Dollar		750.00						750.00
United States	Dollar				1,688.80				1,688.80
Walter Oleszek:									
France	Franc	3,258	579.00					3,258	579.00
Poland	Dollar		750.00						750.009
United States	Dollar				1,688.80				1,688.80
John Hardt:									
France	Franc	3,258	579.00					3,258	579.00
Poland	Dollar		750.00						750.00
United States	Dollar				1,688.80				1,688.80
Robert Harris:									
France	Franc	3,258	579.00					3,258	579.00
Poland	Dollar		750.00						750.00
United States	Dollar				1,688.80				1,688.80
Yvonne Hopkins:									
Belgium	Franc	11,979.56	338.31					11,979.56	338.31
France	Franc	2,284.92	396.00					2,284.92	396.00
United Kingdom	Pound	279.04	446.00					279.04	446.00
United States	Dollar				662.00				662.00
John Hardt:									
Austria	Schilling	4,608	384.00					4,608	384.00
United States	Dollar				1,077.00				1,077.00
Total			10,216.31		13,016.20				23,232.51

GEORGE J. MITCHELL,
Majority leader, June 11, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert H. Dockery:									
Costa Rica	Dollar		456.00						456.00
United States	Dollar				559.00				559.00
Edward L. King:									
Mexico	Peso	272,340	102.00					272,340	102.00
Jan Paulk:									
Mexico	Peso	223,872	82.64					223,872	82.64
Total			640.64		559.00				1,199.64

GEORGE J. MITCHELL,
Majority Leader, Jan. 23, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM JAN. 1 TO MAR. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William V. Roth, Jr.:									
France	Franc	973.52	172.00					973.52	172.00
Belgium	Franc	25,382	725.00					25,382	725.00
United States	Dollar				835.10				835.10
R. Ian Butterfield:									
France	Franc	2,513.04	444.00					2,513.04	444.00
Belgium	Franc	28,008	800.00					28,008	800.00
United States	Dollar				737.10				737.10
Wayne Schley:									
Poland	Dollar		500.00						500.00
United States	Dollar				1,364.00				1,364.00
Total			2,641.00		2,936.20				5,577.20

ROBERT J. DOLE,
Republican Leader, June 6, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM OCT. 1 TO DEC. 31, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator William V. Roth, Jr.:									
Germany	Deutsche mark	695.24	382.00					695.24	382.00
Belgium	Franc	15,256	400.00	17,100	456.00			32,356	856.00
England	Pound	417.15	615.00					417.15	651.00
Switzerland	Franc	958.20	596.71					985.20	596.71
Austria	Schilling	6,539.40	519.00					6,539.40	519.00
United States	Dollar				1,064.00				1,064.00
R. Ian Butterfield:									
England	Pound	417.15	651.00					417.15	651.00
Switzerland	Franc	638.80	398.00					638.80	398.00
Austria	Schilling	6,539.40	519.00					6,539.40	519.00
United States	Dollar				1,471.00				1,471.00
Total			4,116.17		2,991.00				7,107.71

ROBERT J. DOLE,
Republican Leader, Feb. 1, 1990.

CONSOLIDATED REPORT OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER DEC. 10–16, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Robert J. Dole:									
Bolivia	Boliviana	108.41	37.00					108.41	37.00
Argentina	Austral	189,000	189.00					189,000	189.00
Paraguay	Guarani	82,096.5	68.70					82,096.5	68.70
Venezuela	Bolivar	4,007.06	91.59					4,007.06	91.59
Senator Orrin G. Hatch:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Senator Larry Pressler:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Senator Christopher S. Bond:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	212,000	212.00					212,000	212.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Senator Trent Lott:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Karen Dvorak-Dolman:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Alfred Lehn:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Joyce McCluney:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Jan Paulk:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Alan Porter:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Richard Quinn:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Johnathan Raymond:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00

CONSOLIDATED REPORT OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER DEC. 10–16, 1989—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Walt Riker:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Pamela Rucker:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Carolyn Seely:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
James Whittinghill:									
Bolivia	Boliviana	225.61	77.00					225.61	77.00
Argentina	Austral	312,000	312.00					312,000	312.00
Paraguay	Guarani	149,375	125.00					149,375	125.00
Venezuela	Bolivar	5,425	124.00					5,425	124.00
Trinidad	Dollar	415.91	98.00					415.91	98.00
Delegation expenses:									
Bolivia	Boliviana	.	.			5,871.59		.	5,871.59
Argentina	Austral	.	.			3,836.90		.	3,836.90
Paraguay	Guarani	.	.			3,507.33		.	3,507.33
Venezuela	Bolivar	.	.			2,551.15		.	2,551.15
Trinidad	Dollar	.	.			2,631.88		.	2,631.88
Total			11,326.29			18,398.85			29,725.14

Note.—Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977.

ROBERT J. DOLE,
Republican Leader, Mar. 30, 1990.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER AUG. 18–29, 1989

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Robert J. Dole:									
Morocco	Dirham	5,211.60	606.00					5,211.60	606.00
Poland	Zloty	639,100	83.00					639,100	83.00
Alfred Lehn:									
Morocco	Dirham	5,211.60	606.00					5,211.60	606.00
Poland	Zloty	1,155,000	150.00					1,155,000	150.00
Netherlands	Guilder	725.35	328.00					725.35	328.00
Jan Paulk:									
Morocco	Dirham	5,211.60	606.00					5,211.60	606.00
Poland	Zloty	396,550	51.50					396,550	51.50
Netherlands	Guilder	725.35	328.00					725.35	328.00
Walt Riker:									
Morocco	Dirham	5,211.60	606.00					5,211.60	606.00
Poland	Zloty	1,155,000	150.00					1,155,000	150.00
Netherlands	Guilder	725.35	328.00					725.35	328.00
Alan Porter:									
Morocco	Dirham	5,211.60	606.00					5,211.60	606.00
Poland	Zloty	1,155,000	150.00					1,155,000	150.00
Netherlands	Guilder	725.35	328.00					725.35	328.00
Richard Quinn:									
Morocco	Dirham	5,211.60	606.00					5,211.60	606.00
Poland	Zloty	1,155,000	150.00					1,155,000	150.00
Netherlands	Guilder	725.35	328.00					725.35	328.00
Delegation expenses:									
Morocco						4,020.35			4,020.35
Russia						450.89			450.89
Poland						1,221.97			1,221.97
Netherlands						1,998.38			1,998.38
Total			6,010.50			7,691.59			13,702.09

Note.—Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977.
Final accounting from the Department of State was received Mar. 30, 1990.

ROBERT J. DOLE,
Republican leader, Mar. 30, 1990.

THRIFT SAVINGS PLAN AMENDMENTS

Mr. STEVENS. Mr. President, I am pleased that the Senate last night passed H.R. 2514, the Thrift Savings Plan Technical Amendments Act of 1990—and I would like to commend the chairman of the House Post Office and Civil Service Committee, Mr. FORD of Michigan, for helping to give employees a greater say in managing their retirement accounts. I would also like to commend the members of the Federal Retirement Thrift Investment Board for their good work and relentless perseverance.

Retirement planning is complex. It requires employees to think about their future and to financially plan for it. This bill allows employees more freedom of choice and places more responsibility upon them to shape their retirement future.

The Thrift Plan, in particular, is a several billion dollar version of the tax deferred 401(k) plans that are available to many workers in the private sector. At present, the Thrift Plan is a thriving, growing account and is no longer the unknown that it was in 1987.

Our efforts in the past and on this important legislation have produced a sound system that offers our civil servants a competitive, secure, and improved retirement plan. This bill provides, in pertinent part, for the more timely removal of limitations on thrift savings plan investments by Federal employees who are participants in the Federal Employees' Retirement System [FERS] and the Civil Service Retirement System [CSRS].

Employees will now have more flexibility in contributing between the G fund, which is based upon Treasury securities, the C fund, the Common Stock Index Investment Fund, and the F fund, the Fixed Income Investment Fund. The growth in these funds has been astronomical, considering that the G fund commenced operations in April 1987, and the C and F funds began operations in January 1988.

The bill allows CSRS participants to contribute to all three investment funds for the first time.

The bill also authorizes Federal agencies to pay earnings lost as a result of employing agency error regarding their employees' thrift savings plan accounts.

In addition, this bill provides for a number of technical changes which further serve to improve retirement planning for Federal employees and to strengthen our retirement systems.

I commend these changes that will allow an employee to choose the retirement plan that is best suited to his or her needs.

SENATOR QUENTIN BURDICK

Mr. KENNEDY. Mr. President, it is a great pleasure to join so many other Senators in paying tribute to our extraordinary colleague and friend from North Dakota, Senator QUENTIN BURDICK. Three decades ago today, Senator BURDICK was first elected to the U.S. Senate. Two years before that, he had made history as the first Democrat to be sent to Congress from North Dakota. Obviously his constituents recognized his outstanding public service from the beginning, and they have been sending him to Washington ever since.

Throughout his long and brilliant career in this Chamber, Senator BURDICK has earned the respect and appreciation of his colleagues and those he represents so well. He has set a standard of excellence as an advocate for the citizens of North Dakota and the Nation, and as a powerful voice on a wide range of vital national concerns.

He has provided landmark leadership on environmental issues. It was QUENTIN BURDICK who led the Senate in overriding President Reagan's veto of the Clean Water Act in 1987. Under his leadership, the Environment Committee made history this year with far-reaching and long overdue revisions to the Clean Air Act.

Senator BURDICK has also been a tireless supporter of elementary and secondary education, the Star Schools Program, student loans, vocational education, and the school lunch program. He has demonstrated his commitment to farmers, to senior citizens, and to native Americans on countless occasions. No Senator has done more to bring attention to the pressing need for decent health care in rural America. These are but a few examples of how QUENTIN BURDICK has used his remarkable energy, skill, and determination to serve the people of North Dakota and the Nation.

I salute our colleague and our friend on this 30th anniversary of his election to the U.S. Senate, and I look forward to working closely with him in the years ahead.

DR. HENRY BRILL

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues of the recent death of Dr. Henry Brill, a distinguished pioneer in the field of psychiatry.

Dr. Brill was prominently associated with Pilgrim State Hospital, beginning as director In 1958. Pilgrim State was then the world's largest institution for the mentally ill. During Dr. Brill's tenure the field of psychiatry underwent a period of tremendous change. Dr. Brill was among the first to recognize and advance the prospect of drug treatment for the mentally ill. Treatment drugs and community homes began to take the place of the straitjacket. At his retirement in 1974 the patient population at Pilgrim State had been reduced by well over half.

But Dr. Brill also foresaw the hazards of this deinstitutionalization. President Kennedy signed the Mental Retardation Facilities and Community Health Centers Act of 1963. The number of patients in mental institutions has declined dramatically over the past 25 years. That legislation put in place a system whereby 2,000 community mental health centers would be built by the year 1980.

It was initially proposed that there be one such center for every 100,000 persons. In the end there were only 768 constructed. Thus commenced the problem we face today. Our city streets are filled with men sleeping on grates and women carting about their life's belongings in shopping bags. This turned out precisely as Dr. Brill thought that it might.

Mr. President, I ask unanimous consent that a tribute to Dr. Brill which appeared in New York Newsday be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

[From New York Newsday, June 21, 1990]

BRILL CALLED "PIONEER" IN FIELD OF PSYCHIATRY

(By Roni Rabin)

Isidore Shapiro no longer remembers why, years ago, a mental patient flagged down Dr. Henry Brill, then-director of Pilgrim State Hospital, as he drove through the Brentwood complex. Nor does Shapiro remember what the patient's question was. But he remembers how Brill answered.

"The question was inappropriate, and I don't even know if the patient knew who he was talking to," said Shapiro, who now heads Nassau County's Mental Health and Retardation Department. "But Brill was very responsive, very considerate, speaking just like one should talk to any person. That made a tremendous impression on me."

Brill, one of the first psychiatrists to offer the hope of drug therapy to the mentally ill and the director who guided Pilgrim State Hospital through changes that took patients from straitjackets to halfway houses, died Sunday at the age of 83 and was buried yesterday in Bay Shore.

"He was a giant, a pioneer, a leader," said Stephen Rachlin, chairman of the psychiatry department at Nassau County Medical Center. "You don't work in psychiatry in Long Island without knowing Henry Brill."

Colleagues described him as a gentle man who "always had time for everyone" and who treated patients with dignity and respect.

"He never took the attitude that, 'This person is mentally ill and there's nothing you can do.' His philosophy was that there is always something that can be done," said Dr. Shafi Ahmad, chairman of psychiatry at Pilgrim.

A graduate of Yale University's medical school, Brill in 1958 was appointed director of Pilgrim, which became the world's largest institution for the mentally ill with 15,000 patients. By the time he resigned in 1974, the population had dwindled to about 6,000.

During his tenure at Pilgrim, Brill experimented with insulin shock therapy, one of the first therapies to offer hope of a cure to the severely ill, and later conducted massive experimentation with tranquilizing drugs.

Learning that mental illness was responsive to therapy was a revelation in the 1950s, and Brill recorded his satisfaction in his diary. The insulin shock treatments "showed me we were dealing with a treatable condition," he wrote.

During his more than four decades in the profession, the field of psychiatry underwent enormous changes. As drugs became available, replacing straitjackets, the practice of warehousing patients gave way to a patients' bill of rights and efforts to place them in community homes.

But Brill himself recognized the failures of deinstitutionalization, said Shapiro.

"He minded that it was done so precipitously and without forethought," Shapiro said.

Brill also taught at several universities, and was considered an expert in the then-emerging drug-abuse field. He chaired Suffolk's Narcotics Addiction Control Commission and was vice chairman of a state-level commission with the same name.

Later, from 1974 to 1976, he served as regional director of the state Office of Mental Hygiene.

Although he retired at the age of 70, the man some have characterized as a workaholic volunteered his services to the Catholic Charities of Nassau County.

Medicine, however, was not his sole interest. Friends said he was well-versed in many fields, enjoyed discussing mysticism and philosophy, was mechanically inclined and even took shorthand.

Months before his death, Brill, stricken with Parkinson's disease that caused typographical errors to be sprinkled on the page, typed an essay he co-wrote with his wife, Wenonah, in which he said that despite the vagaries of old age they looked forward to the future "with pleasure and confidence."

HONORING SENATOR BURDICK ON 30 YEARS OF SERVICE IN THE SENATE

Mr. GRASSLEY. Mr. President, I would like to take this opportunity to recognize a fellow midwestern colleague today. Senator QUENTIN BURDICK was first elected to the Senate 30 years ago, and since that time has served the State of North Dakota and our Nation well.

During his tenure on Capitol Hill, Senator BURDICK has earned the respect and praise of his colleagues and constituents. As a member of the Senate Agriculture Appropriations Subcommittee, I appreciate his leadership as chairman in working toward improving America's food supply and its rural and farm economy.

Additionally, he cofounded and cochaired the Senate Rural Health Caucus and served on a host of committees—the Interior and Insular Affairs, Labor and Welfare, Judiciary, and Aging—to name a few. As chairman of the Committee on Environment and Public Works, Senator BURDICK has always been helpful to me on transportation and public works concerns of my State.

Senator BURDICK, your dedication to your constituents and to the citizens of this country is commendable.

Again, I want to join the rest of my colleagues in congratulating you on 30 outstanding years of service, to the people of North Dakota and to the Nation. And to extend a special "thank you" for your tireless work and dedication to this institution and your colleagues.

THE NATIONAL AFFORDABLE HOUSING ACT OF 1990

Mr. DOMENICI. Mr. President, I was most happy to support the National Affordable Housing Act of 1990 as it overwhelmingly passed the Senate by a vote of 96 to 1 yesterday. As most of the discussion on this bill has been on the national impact of this legislation, I would like to focus the Senate's attention on some of the important changes this bill can mean to New Mexico.

SECTION 202 ELDERLY AND HANDICAPPED HOUSING

An important provision in this bill will help tremendously in streamlining the long bureaucratic process now in place to construct HUD section 202 projects for the elderly and handicapped. This bill solves the problems of applying HUD "fair market rents" to determine each project's financial viability.

I was not too surprised to learn that several section 202 projects in New Mexico might not be built as planned under current law. These were hard-won competitions for about 140 units of new housing in New Mexico. The obstacles are the fair market rents as evaluated by HUD.

This kind of problem has come up in the past, and through extra efforts on my part we eventually made the adjustment necessary to move forward. Once again, Tierra del Sol in Las Cruces, NM, has been denied the "conditional commitment" that follows "fund reservation." This means the projects in Las Cruces and Sunland Park are stalled and could be lost to New Mexico. The 70 units involved in these two projects have problems similar to projects in Roswell and Albuquerque.

With the new section 202 housing development provisions passed by the Senate last evening, these delays will be a thing of the past. The National Affordable Housing Act shifts the mortgage commitment analysis from "fair market rents"—currently depressed in New Mexico according to HUD—to local development costs.

This approach will eliminate the long arguments about ways to update or otherwise modify the fair market rents so that mortgage commitments will fall into place.

Rose Garcia of Tierra del Sol could today be moving ahead with plans to build the 70 units in Las Cruces and Sunland Park. Instead, Rose is faced with waging a long battle with HUD to seek every possible avenue of reevaluating the current projected deficits that result from the HUD calculations of fair market rents.

I know Rose is not alone in facing this problem, and I am sure my colleagues can tell similar horror stories about the lengthy delays caused by this misused but legally mandated evaluation process based on fair market rents.

If the section 202 provisions of this bill become law, Rose and others like her will be able to concentrate on building needed and affordable housing units rather than flying to Fort Worth, TX, and Washington, DC, to engage in long and often fruitless negotiations.

HOUSING FOR THE HOMELESS

Under current law, programs to help the homeless must compete in a national competition for scarce housing dollars. The Senate bill would eliminate the competition for housing dollars to help the homeless. This bill assures each State of a minimum of $250,000 in a consolidated homeless housing program.

I am particularly glad about this consolidated housing provision because it complements a new and expanded approach to homeless prevention and service programs offered in a Kennedy-Domenici amendment. The Senate voted 89 to 11 in favor of our amendment, which includes major provisions of a bill I introduced, S. 2747, PATH [Projects to Aid the Transition from Homelessness] grants, authorized at $120 million.

PATH funds will also be distributed by formula to States and large cities to provide expanded outreach, treatment, and referral services to homeless people who suffer from serious mental illnesses and/or addictions to alcohol or drugs.

Thus, those kind hearts who work daily to improve the lives of homeless people will get a boost in direct assistance for these target groups who are very difficult to treat.

Under my PATH grant formula, each State will receive a minimum of $500,000 to expand these services. The consolidated homeless housing programs will mean another $250,000, for a total of $750,000 to New Mexico under this bill. The McKinney Act will continue to provide other related services like primary health care, education assistance, and job training.

While the entire homeless housing allocation to New Mexico may also be used for families with children and individuals with debilitating conditions, the mentally ill and substance abusers should be able to receive a better chance of support for a permanent place to live. Providing such a new

"home" or group home will definitely enhance their chances of getting better while they are being treated for their serious mental illness, drug addiction, or alcoholism.

With PATH grants in place, a greater effort will be made to locate and treat homeless people whose lives are a daily struggle against their afflictions. After improved outreach and engagement efforts, these homeless people will receive better psychiatric treatment or substance abuse treatment as needed.

Case managers will help to enroll them for appropriate benefits like Medicaid, supplemental security income, food stamps, veterans' benefits, primary health care, and educational and job training opportunities.

A few housing benefits are eligible in PATH grants—minor rehabilitation or repairs, security deposits for group homes or apartments, and one-time payments to prevent eviction.

The prevention activities in the Kennedy-Domenici amendment should be helpful in reducing the incidence of homelessness by providing extra assistance to very low income people in danger of becoming homeless.

NEIGHBORHOOD HOUSING SERVICES

This bill will also expand the type of neighborhood housing services operating successfully in Albuquerque and Santa Fe. These two New Mexico cities could be joined by another neighborhood housing service program in Las Cruces, for example, with the use of the increased authorization to $28 million.

The Downtown Neighborhood Association, one of the original 10 such programs in the United States, has successfully revitalized a vital neighborhood between downtown and Old Town Albuquerque. Other neighborhoods, like Sawmill, could benefit from a similar decade or two decade long effort to improve housing and business conditions.

PUBLIC HOUSING

Those low-income New Mexicans who rely on public housing for a place to live will receive more assistance for modernization and operating funds under this bill. These projects are scattered around the State from Farmington to Raton, from Lordsburg to Santa Fe, and from Gallup to Espanola.

If a public housing project is ripe for tenant ownership, a competitive grant will be available under the HOPE Program to help the tenants with financing and operations while they begin the road to homeownership. This aspect of Secretary Kemp's housing policy proposals could have a large impact on the future of public housing in New Mexico.

INCREASING AFFORDABLE HOUSING

Innovative ways to convert existing buildings or rehabilitate houses for low- and moderate-income New Mexicans will find support from the Housing Opportunity Partnership [HOP] Grants Program established in this legislation. Interest rates can be written down, equity can be provided, or other forms of assistance can be leveraged to help finance new or rehabilitated affordable housing.

RURAL AND INDIAN HOUSING

The successful Farmers Home Administration housing programs for rural New Mexico can also be expanded under the $300 million increase in authorization levels in this bill. Indian housing authorization is also increased to a level of 3,000 units per year nationwide. With commensurate funding, there can be new housing units constructed at New Mexico's 19 pueblos, two Apache tribes, and the Navajo Nation.

CONCLUSION

With potential like this in New Mexico, Mr. President, I was most happy to vote in support of the National Affordable Housing Act as it passed overwhelmingly in the U.S. Senate.

I am pleased that we have made some excellent progress in creating new ways to address affordable housing for low-income and homeless people in New Mexico and the Nation while preserving the financial health of FHA for first time home buyers.

RETIREMENT OF JACQUELINE IGNACIO

Mr. MACK. Mr. President, today I would like to take a moment to recognize the contributions by a member of my staff who is retiring at the end of this week.

Jacqueline Ignacio has unselfishly given almost 25 years of her life to serving in both the executive and legislative branches of government. I have had the pleasure of having Jackie as a member of my staff for almost 5 years, both in the House and in the Senate.

Jackie exemplifies everything that is good about a public servant. Her tireless efforts have truly made a difference. She has served the people of this country well and contributed to the greatness of the State of Florida and the Nation. I wish Jackie, and her husband Mac, many happy years.

TIME FOR CHANGE IN CUBA

Mr. PELL. Mr. President, recent events in Cuba have caused me to reevaluate my position on United States policy toward that country. For 30 years I have advocated normalization of relations between Cuba and the United States, and the lifting of economic sanctions against Cuba. In that period I have made three trips to Cuba, the most recent in November 1988. At the time of that trip some very positive things were happening in Cuba, including greater freedom for the small human rights groups that had formed, improved prison conditions, and the release of a number of political prisoners.

During my last meeting with President Castro, I handed him a list of suggestions for a series of mutually beneficial steps that the United States and Cuba could take to prepare the way for an eventual normalization of relations. Following my visit, the Cuban Government released a number of political prisoners, including most of those referred to as "historic plantados," some of whom had been in prison for up to 25 years. I was grateful that these prisoners were released, and some of their families have expressed gratitude to me for my efforts. But aside from that there has been no sign that President Castro really wants an improved relationship with the United States.

I recognize that the Cubans, and President Castro in particular, have reasons to be cautious about the United States—past United States-sponsored attempts at assassination and invasion head the list. Perhaps it is Castro's assessment that the Bush administration is not ready to improve relations with Cuba at this time. But in the 18 months since my trip I have not seen any evidence of a desire by Cuba to even explore steps toward an improvement of relations.

Adding to my disappointment is the reverse direction in which President Castro is steering his country. While almost the entire communist world is changing and moving toward democracy, greater individual freedoms, and more open and free market economies, Cuba is moving in an opposite direction. Recent actions, including the placing of hand-picked military commanders in key political positions, indicate that Castro is tightening his grip on the country. In a speech on March 7 he lamented the downfall of socialism in Eastern Europe and declared that Cuba would have to go it alone. His constant use of a new slogan "Socialism or death" is further evidence that his response to the changes in Eastern Europe is to dig in his heels.

In refusing to follow Gorbachev's lead on perestroika and glasnost, it seems that Castro does not care if Cuba becomes the Albania or the North Korea of the Caribbean. Even Albania, to my amazement, seems to be responding to the changes in Eastern Europe. President Castro should realize that it is time for the Cuban system to permit greater political and economic freedom for the Cuban people.

The fact that more and more people in Cuba are speaking out, despite the great risks involved, is evidence that

significant dissent and dissatisfaction exists. Rather than accept and deal with these forces in a positive and constructive way, President Castro appears to have decided to clamp down and deal harshly with political and human rights activists. Severe prison sentences are meted out for what the Cuban Government calls treasonous acts against the state, but which most of the world would consider mere expressions of universally accepted rights.

Human Rights activist Elisardo Sanchez, head of the Cuban Commission for Human Rights and National Reconciliation, with whom I met during my November 1988 visit to Cuba, was sentenced to a 2-year jail sentence for making statements to the international press after the trial of General Ochoa last summer. A few weeks ago, the Inter-American Commission on Human Rights of the Organization of American States [OAS] stated that the measures taken against Sanchez and his two associates violated international norms that protect freedom of expression and association.

On March 6, 1990, a United Nations Human Rights Commission resolution referred to the Cuban Government's arrest, harassment, and other forms of reprisal against human rights activists who testified before the Commission during its earlier visit to Cuba. The following day, President Castro declared that Cuba would never comply with the Commission's resolution, which was supported by some of Cuba's former socialist bloc allies. A few days later, several human rights activists, including Tanya Diaz Castro, the leader of the Cuban Human Rights Party, were arrested after sending a letter of congratulations to the United Nations Commission. They are still being held without charges. Since the passage of the U.N. resolution, over 20 human rights activists have been arrested and detained.

The Inter-American Human Rights Commission of OAS in its annual report published on May 17, stated that the Cuban Government has stepped up repression "through a genuine campaign of harassment, court sentencing without due process, deprivation of work and imprisonment under extremely negative conditions." The Cuban Government's dismissal of the human rights movement as a creature of United Sates policy is a self-deluding refusal to acknowledge the repression being inflicted on the Cuban people.

Pressures within Cuba are sure to intensify as the people begin to feel the effects of reduced economic help from the Soviet Union and look with envy on the fall of the communist regimes of Eastern Europe. It is for the Cuban people and the Cuban people alone to decide if they still want to follow the policies of Fidel Castro and communism as their system of government. My own view is that they, on their own, would decide to follow the recent example of Eastern Europe and Nicaragua, letting political and economic freedom prevail.

I believe that conditions in Cuba and the attitude of President Castro have deteriorated in the past year to a point that a new approach in dealing with Cuba is required. It is for this reason that last month I joined Senator GRAHAM in asking the President to urge the Soviets to end military assistance to Cuba. I have also supported an effort by Senator MACK to tighten economic sanctions against Cuba.

It is time for the Cuban people to determine their own future in a democratic manner. I therefore would ask President Castro to convene free and fair elections under international supervison. Until he does so, it is my view that he and his government must be made to understand that they are paying an increasingly high price for resisting the march of freedom.

A STEP BACKWARD IN YUGOSLAVIA: REPRESSION OF THE ALBANIAN POPULATION IN KOSOVO CONTINUES

Mr. PELL. Mr. President, I have just heard a disturbing report regarding events in Yugoslavia. Yesterday, the Serbian Assembly passed a law stating that special circumstances have arisen which enable the Serbian Assembly to take necessary measures in Kosovo. The law authorizes Serbian Republic authorities to take over enterprises and potentially, the judicial and legislative system in Kosovo. In essence, this language strengthens Serbian control over the Province of Kosovo, where ethnic Albanians comprise approximately 90 percent of the population.

This action, tantamount to the reimposition of martial law, is a disturbing step backward. Just 2 months ago, the Federal Presidency of Yugoslavia finally lifted the state of emergency that had existed in Kosovo for more than a year. We welcomed that measure as an important first step toward restoring the freedoms that long have been denied to the Albanian population in Kosovo. We had hoped that the Government of Yugoslavia soon would reestablish full autonomous status to the Province of Kosovo.

Kosovo had been an autonomous region of Serbia up until the spring of 1989, when Serbia sent troops and armed police to strip Kosovo of most of its legal authority. Since then, the Republic of Serbia, with support from the Yugoslav national government, has waged a campaign of repression against the people of Kosovo.

In the past year, several hundred deaths and casualties have occurred due to unrest in the region. I am most concerned that the law passed yesterday could precipitate further violence and bloodshed, and I urge the United States administration to join the Congress in condemning the egregious human rights violations occurring in Yugoslavia.

Last week, the Foreign Relations Committee reported favorably a resolution that I authored regarding the human rights abuses against the Albanian ethnic minority in Yugoslavia. The resolution is cosponsored by the distinguished Republican leader, Senator DOLE, and by my colleague on the Foreign Relations Committee, Senator PRESSLER.

Among other things, Senate Concurrent Resolution 124 urges the Government of Serbia to begin a genuine dialog with the recently formed Democratic Alliance Movement and other democratic forces in Kosovo. It calls for Kosovo's autonomy to be restored, and it makes clear that the United States Congress will not tolerate continued repression against Albanians in Kosovo.

Although democracy is on the move in other parts of Eastern Europe, it is Serbian soldiers who are on the march in Kosovo. I urge the Government of Yugoslavia, and particularly on the leaders of Serbia, to fulfill their obligations under the Helsinki Final Act and the United Nations Declaration on Human Rights. They must stop persecution of Albanians whose only desire is to enjoy the freedom of democratic expression being exercised elsewhere in Eastern Europe.

TRIBUTE TO CHAIRMAN BURDICK

Mr. BAUCUS. Mr. President, today, June 28, 1990, marks a historic day for the Senate and the State of North Dakota. On June 28, 1960, QUENTIN BURDICK was elected to this body. I congratulate my chairman on this important milestone.

QUENTIN BURDICK is a trusted friend and a valued neighbor. Montana and North Dakota share a common border and concerns. In the 11 years we have served together, I have been privileged to work closely with Senator BURDICK on countless issues of vital concern to both North Dakota and Montana. As chairman of the Agriculture and Rural Development Subcommittee, he can be relied upon to be a friend of the family farmer. He has worked to make certain that our rural health care system is preserved. As chairman of the Environment and Public Works Committee he has labored to insure that the transportation needs of sparsely populated States like ours are adequately addressed. Through the years Senator BURDICK has made certain that the concerns of North

Dakota and rural America are on the table and fully addressed.

In this Congress Senator BURDICK has played a major role in the crafting changes in the Clean Air Act. In characteristic fashion, he quietly and effectively made certain that North Dakota's interests were fully represented while allowing the Senate's consideration of this complex legislation to proceed in timely fashion.

By his own admission Senator BURDICK came here to assist farmers. Over the course of the past 30 years, rural America has had no better friend. His philosophy of government has remained constant. The Government has an obligation to assist those in need. QUENTIN BURDICK has met that obligation every day for the past 30 years.

On behalf of their many friends and neighbors in Montana, Wanda and I send our congratulations and best wishes to QUENTIN and Jocelyn on this historic day.

THE 30TH ANNIVERSARY OF SENATOR QUENTIN BURDICK IN THE U.S. SENATE

Mr. HARKIN. Mr. President, today I am proud to speak in commemoration of a great day in the life of one of our colleagues, and in the life of the Senate.

On June 28, 1960, the good people from the State of North Dakota elected QUENTIN BURDICK to the U.S. Senate.

Today we are honored to call him the senior Senator from that great State, and the third most senior Member of our body.

But Senator BURDICK has not always enjoyed such seniority.

Growing up in Williston, and later serving as a trial lawyer in Fargo, QUENTIN saw his father, the late Usher L. Burdick, play a pivotal role in the development of the Non-Partisan League, and later serve North Dakotans in the U.S. House of Representatives.

To this day, we sometimes refer to the Senator from North Dakota as the "YOUNG BURDICK." And despite being born during the Presidency of Teddy Roosevelt, no one can question that he is still young and spry in spirit.

When it comes to the issues that matter most—justice for family farmers, the environment, homelessness, and rural health and education—his commitment has been unwavering, his will unrelenting, and his strength unbroken.

In 1958, YOUNG BURDICK led the NPL's switch to the Democratic Party as he was elected to the U.S. House. And neither the NPL, the North Dakota Democratic Party, nor QUENTIN BURDICK have looked back since.

In his 30 years in this distinguished Chamber, the Senator from North Dakota has chalked up an incredible record of accomplishment—a record to which we should all aspire.

He has served terms on nine different Senate committees, and currently chairs the Environment and Public Works Committee.

Here, he has overseen two of the greatest legislative achievements of the last decade: the Clean Water and the Highway Acts—passing both of them over Presidential vetoes.

Over in the Appropriations Committee, the distinguished Senator has chaired the Agriculture Subcommittee. There he is a leader in the fight against excessive corporate farm payments. He has fought to save rural electric co-ops. And in one of the worst decades for America's family farmers, he has been on the forefront in securing drought relief and reforming the Farm Credit System.

The Senator from North Dakota serves on my Labor, Health and Human Services, and Education Subcommittee, and I could not ask for a stronger ally in the fight for school lunch programs, rural education, job training, food stamps, and rural health—just to name a few.

Back in 1985, Senator BURDICK asked me to join him in starting up the rural health caucus. And since that time, I've seen him lead the organization in helping reduce health care costs, increasing access to basic health care for all, and in providing adequate numbers of health professionals to rural sectors of the country.

The people of North Dakota have much to be proud of in QUENTIN BURDICK. For no matter what the issue, he has always stood as a proud advocate and defender of his home State.

I have heard the Senator say that New York does not grow much wheat, and California does not worry much about rural schools. But I know that QUENTIN BURDICK has made sure that the interests of his native State are never forgotten, and never ignored.

Mr. President, I've only been in the Senate a few short years. But in that time, I have countless times come to rely on the counsel, the wisdom, and the friendship of the great Senator from North Dakota.

It is an honor and a privilege to serve in the same Chamber as Senator QUENTIN BURDICK, and I congratulate him on 30 years of service to America and to the great State of North Dakota.

YUGOSLAVIA

Mr. D'AMATO. Mr. President, I rise today to bring to the attention of my colleagues a crisis in Yugoslavia with potentially grave consequences.

This Tuesday, the Parliament of Serbia passed two laws which effectively allow the authorities of the Republic of Serbia to take over all institutions in the semiautonomous province of Kosovo.

This action was evidently taken because the assembly of Kosovo was considering adopting a resolution proclaiming them an equal Republic in the Yugoslav federation.

This effort to deny the province of Kosovo to exercise the will of the overwhelming majority of its people is rooted in an ethnic conflict. Kosovo is 90 percent Albanian, with a small Serbian minority. Serbia, however, views Kosovo as part of its historical heritage. The desire of Serbians to govern Kosovo in spite of the fact that they represent less than 10 percent of its population has caused a great deal of friction. Twice in the past decade demonstrations have been brutally crushed with the loss of many lives by the Serbian authorities. I believe a third, and far more violent occurrence, may result from Serbia's most recent actions.

Mr. President, the question in Kosovo is crystal clear. On one side are Communist Serbians who are resisting democratic reforms and on the other side are prodemocracy Albanians who seek only self-government and equality under Yugoslav law. Unfortunately, history clearly shows that the Serbians are likely to resort to force in order to prevail in Kosovo. Amnesty International, Helsinki Watch, and the U.S. State Department have all documented extensive human rights abuses in Kosovo. The rights of free assembly, free speech, and free association have all been tossed aside in every crisis by the Serbian authorities. Albanians are rounded up and held, often for months, without trial. The most basic rights have been violated by the Serbians in their effort to control Kosovo.

Mr. President, these actions deserve a response from the United States. Yesterday, I joined Senator DOLE and Senator PRESSLER in sending a telegram to Ambassador Zimmerman urging him to contact the Government of Serbia and the Federal Government of Yugoslavia to inform them of our deep concern with developments in Kosovo.

I fear that a situation, much like that which recently occurred in Romania, is about to happen. The Serbian authorities must be told that the United States will react swiftly and harshly to any such action. What we have here is another situation like Lithuania—a Communist government is threatening to use every means at its disposal to prevent people from exercising their basic right to self-government. That is wrong. And we should condemn it in the strongest terms.

The Yugoslavs are attempting to fix a faltering economy. In order to do that, they rely on World Bank loans

that this country helps fund. This Senator will oppose any new loans to Yugoslavia if the Federal Government there does not step in and protect the rights of the Albanian minority in that country.

In an era where freedom is breaking out all over the world, the Serbians represent a throwback to the days of oppression and terror. We in the free world must stand up and condemn that in the strongest terms.

Thank you, Mr. President.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States, transmitting treaties and a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE FEDERAL COUNCIL ON AGING—MESSAGE FROM THE PRESIDENT—PM 129

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with section 204(f) of the Older Americans Act of 1965, as amended (42 U.S.C. 3015(f)), I hereby transmit the Annual Report for 1989 of the Federal Council on the Aging. The report reflects the Council's views in its role of examining programs serving older Americans.

GEORGE BUSH.

THE WHITE HOUSE, *June 28, 1990.*

PROPOSED RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 128

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Armed Services:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report eight proposed rescissions totalling $327,375,000.

The proposed rescissions affect programs of the Department of Defense. The details of the proposed rescissions are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *June 28, 1990.*

MESSAGES FROM THE HOUSE

At 12:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 280) to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4721. An act to designate the Federal building located at 340 North Pleasant Valley Road in Winchester, Virginia, as the "J. Kenneth Robinson Postal Building."

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 347. A concurrent resolution providing for an adjournment of the two Houses for the July 4th recess.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 2124. An act to authorize appropriations for the National Space Council, and for other purposes; and

S.J. Res. 278. Joint resolution designating July 19, 1990, as "Flight Attendant Safety Professionals Day."

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore [Mr. REID].

At 4:34 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1457. An act to improve Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about source reduction, and for other purposes; and

H.R. 5149. An act to amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amounts returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred on the fiscal year 1990.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 770. An act to entitle employees to family leave in certain cases involving a birth, an adoption, or a serious health condition and to temporary medical leave in certain cases involving a serious health condition, with adequate protection of the employee's employment and benefit rights, and to establish a commission to study ways of providing salary replacement for employees who take any such leave; and

H.R. 5075. An act to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore [Mr. REID].

At 5:27 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 271. Joint resolution to designate July 10, 1990, as "Wyoming Centennial Day."

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 599. Joint resolution to designate July 1, 1990, as "National Ducks and Wetlands Day."

At 7:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 1630) to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Energy and Commerce, for consideration of the Senate bill (except that portion of section 702 adding a new section 512(a) to the Clean Air Act), and the House amendment, and modifications committee to conference: Mr. DINGELL, Mr. SCHEUER, Mr. WAXMAN, Mr. SHARP, Mr. THOMAS A. LUKEN, Mr. SWIFT, Mr. SYNAR, Mr. TAUZIN, Mr. WYDEN, Mr. HALL of Texas, Mr. ECKART, Mr. SLATTERY, Mr. SIKORSKI, Mr. BOUCHER, Mr. ROWLAND of Georgia, Mr. MANTON, Mr. LENT, Mr. MADIGAN, Mr. MOORHEAD, Mr. DANNEMEYER, Mr. WHITTAKER, Mr. BLILEY, Mr. FIELDS, Mr. OXLEY, Mr. NIELSON of Utah, and Mr. BILIRAKIS.

From the Committee on Public Works and Transportation, for consid-

eration of sections 106 (g) and (h) of the Senate bill, and that portion of section 101(c) adding a new section 110(m) to the Clean Air Act, sections 101(f) and 102(g) of the House amendment, and modifications committed to conference: Mr. ANDERSON, Mr. ROE, Mr. MINETA, Mr. OBERSTAR, Mr. NOWAK, Mr. RAHALL, Mr. APPLEGATE, Mr. SAVAGE, Mr. BOSCO, Mr. BORSKI, Mr. KOLTER, Mr. VALENTINE, Mr. LIPINSKI, Mr. VISCLOSKY, Mr. TRAFICANT, Mr. LEWIS of Georgia, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. STANGELAND, Mr. CLINGER, Mr. MCEWEN, Mr. PETRI, Mr. PACKARD, Mr. BOEHLERT, Mr. LIGHTFOOT, and Mr. HASTERT.

From the Committee on Public Works and Transportation, for consideration of sections 103, 106(f), those portions of section 106(g) adding new sections 108(f) (3) and (4) to the Clean Air Act, those portions of section 107 adding new sections 183(b)(4)(B) and (c)(1) to the Clean Air Act, that portion of section 108 adding a new section 189(a) to the Clean Air Act, 222, 226, and that portion of section 301 adding a new section 112(n) to the Clean Air Act of the Senate bill, and for sections 102(d), those portions of section 103 adding new sections 182(c)(5), (d)(1), and (e)(4) to the Clean Air Act, that portion of section 104 adding a new section 187(a)(2) to the Clean Air Act, 108(a) and that portion of section 301 adding a new section 112(n)(1) to the Clean Air Act of the House amendment, and modifications committed to conference: Mr. ANDERSON, Mr. ROE, Mr. MINETA, Mr. HAMMERSCHMIDT, and Mr. SHUSTER.

Except that, for consideration of that portion of section 301 adding a new section 112(n) to the Clean Air Act, of the Senate bill, and for consideration of that portion of section 301 adding a new section 112(n)(1) to the Clean Air Act, of the House amendment, Mr. NOWAK is appointed in lieu of Mr. MINETA, and Mr. STANGELAND is appointed in lieu of Mr. SHUSTER.

From the Committee on Ways and Means, for consideration of that portion of section 702 adding a new section 512(a) to the Clean Air Act of the Senate bill, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, and Mr. ARCHER.

From the Committee on Ways and Means, for consideration of section 111 of the House amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. FORD of Tennessee, Mr. DOWNEY, Mr. PEASE, Mr. MATSUI, Mrs. KENNELLY, Mr. ANDREWS, Mr. COYNE, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. JACOBS, Mr. JENKINS, Mr. GUARINI, Mr. RUSSO, Mr. ARCHER, Mr. VANDER JAGT, Mr. CRANE, Mr. FRENZEL, Mr. SCHULZE, Mr. GRADISON, Mr. THOMAS of California, Mr. MCGRATH, Mr. CHANDLER, and Mr. SHAW.

From the Committee on Ways and Means, for consideration of those portions of section 103 adding new sections 183(e) (4), (e)(5), and 185 to the Clean Air Act, that portion of section 108 adding a new section 302(y) to the Clean Air Act, and that portion of section 401 adding a new section 401(b)(3) to the Clean Air Act, and section 802 of the House amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. PICKLE, Mr. RANGEL, Mr. ARCHER, and Mr. VANDER JAGT.

Except that, for consideration of section 802 of the House amendment, Mr. GIBBONS is appointed in lieu of Mr. RANGEL.

From the Committee on Education and Labor, for consideration of section 303 of the Senate bill, and sections 112–114, and 302 of the House amendment, and modifications committed to conference: Mr. HAWKINS, Mr. FORD of Michigan, Mr. GAYDOS, Mr. CLAY, Mr. MILLER of California, Mr. MURPHY, Mr. KILDEE, Mr. WILLIAMS, Mr. MARTINEZ, Mr. OWENS of New York, Mr. HAYES of Illinois, Mr. PERKINS, Mr. SAWYER, Mr. PAYNE of New Jersey, Mr. POSHARD, Mrs. UNSOELD, Mr. GOODLING, Mr. GUNDERSON, Mr. HENRY, Mr. SMITH of Vermont, Mrs. ROUKEMA, Mr. FAWELL, Mr. BALLENGER, Mr. PETRI, Mr. GRANDY, and Mr. ROBINSON.

From the Committee on Interior and Insular Affairs, for consideration of section 112 of the Senate bill, and section 712 of the House amendment, and modifications committed to conference: Mr. UDALL, Mr. MILLER of California, Mr. LEVINE of California, Mr. YOUNG of Alaska, and Mr. CRAIG.

From the Committee on Merchant Marine and Fisheries, for consideration of section 112, that portion of section 301 adding a new section 112(n) to the Clean Air Act, 411, and 412 of the Senate bill, and that portion of section 103 adding a new section 183(f) to the Clean Air Act, that portion of section 301 adding a new section 112(n)(1) to the Clean Air Act, sections 712, 805, and 901(e) of the House amendment, and modifications committed to conference: Mr. JONES of North Carolina, Mr. STUDDS, Mr. TAUZIN, Mr. DAVIS, and Mr. SHUMWAY.

From the Committee on Science, Space, and Technology, for consideration of that portion of section 304 adding a new section 129(e)(7) to the Clean Air Act, sections 310, 408, and 1103 of the Senate bill, and titles IX and X of the House amendment, and modifications committed to conference: Mr. ROE, Mr. BROWN of California, Mrs. LLOYD, Mr. GLICKMAN, Mr. VOLKMER, Mr. MCCURDY, Mr. MINETA, Mr. VALENTINE, Mr. TORRICELLI, Mr. STALLINGS, Mr. NOWAK, Mr. NAGLE, Mr. HAYES of Louisiana, Mr. COSTELLO, Mr. TANNER, Mr. BROWDER, Mr. WALKER, Mr. SENSENBRENNER, Ms. SCHNEIDER, Mr. BOEHLERT, Mr. LEWIS of Florida, Mr. MORRISON of Washington, Mr. PACKARD, Mr. HENRY, Mrs. MORELLA, and Mr. CAMPBELL of California.

From the Committee on Science, Space, and Technology, for consideration of those portions of section 301 adding new sections 112 (n) and (r) to the Clean Air Act of the Senate bill, and those portions of section 301 adding new sections 112 (i) and (n)(1) to the Clean Air Act of the House amendment, and modifications committed to conference: Mr. ROE, Mr. BROWN of California, Mrs. LLOYD, Mr. WALKER, and Mrs. SCHNEIDER.

As an additional conferee, for consideration of subtitle B of title I of the House amendment, and modifications committed to conference: Mr. WISE.

As an additional conferee, for consideration of section 709 of the House amendment, and modifications committed to conference: Mr. COOPER.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5021. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The message further announced that the House has agreed to the following resolution:

H. Res. 423. A resolution requesting the Senate to return to the House of Representatives the bill (H.R. 4653) to reauthorize the Export Administration Act of 1979, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1457. An act to improve Environmental Protection Agency data collection and dissemination regarding reduction of toxic chemical emissions across all media, to assist States in providing information and technical assistance about source reduction, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5021. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3209. A communication from the Secretary of Defense, transmitting, a draft of proposed legislation to amend title 10, United States Code, to authorize separation pay for Regular component enlisted members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

EC-3210. A communication from the Assistant Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the first biennial report to Congress on progress made in implementing the Interstate Management Plan; to the Committee on Environment and Public Works.

EC-3211. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report to Congress on the implementation of Section 403(c) of the Clean Water Act; to the Committee on Environment and Public Works.

EC-3212. A communication from the Administrator of the Office of Federal Procurement Policy, transmitting, a draft of proposed legislation that identifies procurement sensitive information, establishes penalties for the misuse of such information, and clarifies ethical standards that apply to procurement personnel and other Federal employees; to the Committee on Governmental Affairs.

EC-3213. A communication from the Counsel for the Pacific Tropical Botanical Garden, transmitting, pursuant to law, the audit report prepared by KPMG Peat Marwickfor the Garden for the period from January 1, 1989 through December 31, 1989; to the Committee on the Judiciary.

EC-3214. A communication from the Attorney General of the United States, transmitting, a draft of proposed legislation entitled the "Victims of Crime Technical Amendment Act of 1990" to extend the deadline imposed by the Anti-Drug Abuse Act of 1988 (ADAA) for states receiving crime victim compensation funding; to the Committee on the Judiciary.

EC-3215. A communication from the Secretary of Labor, transmitting, a draft of proposed legislation to assure the confidentiality of essential statistical programs of the Bureau of Labor Statistics; to the Committee on Labor and Human Resources.

EC-3216. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, three reports of violations; to the Committee on Appropriations.

EC-3217. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc.; to the Committee on Appropriations.

EC-3218. A communication from the Secretary of Defense, transmitting, pursuant to law, an annual report on U.S. efforts to promote the standardization of equipment with North Atlantic Treaty Organization members; to the Committee on Armed Services.

EC-3219. A communication from the Assistant Secretary of the Air Force, transmitting, a draft of proposed legislation to amend section 403(1) of title 37, U.S. Code, to delete the line-of-duty requirement for surviving dependents of members of the uniformed services occupying family housing or receiving basic allowance for quarters; to the Committee on Armed Services.

EC-3220. A communication from the Secretary of Commerce, transmitting, pursuant to law, an annual report on the administration of the provisions of Title IV of the Outer Continental Shelf Lands Act Amendments of 1978; to the Committee on Commerce, Science, and Transportation.

EC-3221. A communication from the Secretary of the Federal Maritime Commission, transmitting, pursuant to law, a report of Extension of Proceedings pursuant to section 3 of the Intercoastal Shipping Act, 1933; to the Committee on Commerce, Science, and Transportation.

EC-3222. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of Interior, transmitting, pursuant to law, a notification to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-3223. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of the Interior, transmitting, pursuant to law, a notification to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-3224. A communication from the Deputy Associate Director for Collection and Disbursement of the Department of the Interior, transmitting, pursuant to law, a notification to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-3225. A communication from the Deputy Associate Director for Collection and Disbursement, transmitting, pursuant to law, a notification to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-3226. A communication from the Secretary of Transportation, transmitting, pursuant to law, the eleventh annual report on administration of the Offshore Oil Pollution Compensation Fund from October 1, 1988 through September 30, 1989; to the Committee on Energy and Natural Resources.

EC-3227. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report to study two types of tank systems that are exempt from the provisions of Subtitle I and report to the President and Congress whether they should be subject to these provisions; to the Committee on Environment and Public Works.

EC-3228. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, an annual report on the progress of the research, development, and demonstration program authorized under Title III of the Superfund Amendments and Reauthorization Act of 1986; to the Committee on Environment and Public Works.

EC-3229. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report to Congress on "Medical Waste Management in the United States"; to the Committee on Environment and Public Works.

EC-3230. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on standards that might be established under the Medicare program for clinical laboratories to ensure the health and safety of individuals whose diagnostic tests are submitted for payment under the program; to the Committee on Finance.

EC-3231. A communication from the Assistant Legal/Advisor for Treaty Affairs of the Department of State, transmitting, pursuant to law, agreements in accordance with the provisions of the Case-Zablocki Act; to the Committee on Foreign Relations.

EC-3232. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports released in May 1990; to the Committee on Governmental Affairs.

EC-3233. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-221, adopted May 29, 1990; to the Committee on Governmental Affairs.

EC-3234. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 8-222, adopted May 29, 1990; to the Committee on Governmental Affairs.

EC-3235. A communication from the Chairman of the U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report titled "Working for America: a Federal Employee Survey"; to the Committee on Governmental Affairs.

EC-3236. A communication from the Inspector General of the General Services Administration, transmitting, pursuant to law, the Audit Report Register for the six month period ending March 31, 1990; to the Committee on Governmental Affairs.

EC-3237. A communication from the Vice-President of the Western Farm Credit Bank, transmitting, pursuant to law, the 1989 Annual Report and audited financial statements prepared by Price Waterhouse; to the Committee on Governmental Affairs.

EC-3238. A communication from the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, the Annual Report of the S.E.C. on the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs.

EC-3239. A communication from the Chairman of the Board for International Broadcasting, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1989 through March 31, 1990; to the Committee on Governmental Affairs.

EC-3240. A communication from the Director of the Norfolk Naval Shipyard Co-Operative Association, transmitting, pursuant to law, the Annual Report of Federal Pension Plans for the year 1988; to the Committee on Governmental Affairs.

EC-3241. A communication from the Director of Administrative Office of the United States Courts, transmitting, a draft of proposed legislation to provide additional judicial positions for seven of the twelve regional United States Courts of Appeals and for forty-five of the ninety-four district courts; to the Committee on the Judiciary.

EC-3242. A communication from the Attorney General of the United States, transmitting, pursuant to law, a study on Identifying Persons, Other than Felons, Ineligible to Purchase Firearms; to the Committee on the Judiciary.

EC-3243. A communication from the Acting Assistant Attorney General, transmitting, a draft of proposed legislation entitled the Computer Security Improvements Act of 1990; to the Committee on the Judiciary.

EC-3244. A communication from the Secretary of Education, transmitting, pursuant to law, a report on the recommendations of a Presidential advisory committee; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-533. A joint resolution adopted by the Legislature of the State of Alaska to the Committee on Appropriations.

"HOUSE JOINT RESOLUTION 96

"Whereas the United States and Canada entered into an agreement to reconstruct and pave the Alaska Highway from the Alaska-Canada border to Haines Junction, Yukon Territory, Canada, and the Haines Cutoff Highway from Haines Junction, Yukon Territory, Canada to the Alaska-Canada border near Haines, Alaska, known as the Shakwak project, as authorized in the Federal-Aid Highway Act of 1973; and

"Whereas the Congress has authorized $59,000,000 for the project and has appropriated $38,000,000 to the Federal Highway Administration for actual construction by Canada; and

"Whereas the Congress has not appropriated additional direct funding for the project; and

"Whereas in the last decade the state has provided $37,000,000 of state federal-aid highway apportionments to assist in meeting the obligations of the agreement; and

"Whereas the estimated amount necessary to complete the entire project is in excess of $200,000,000 U.S. dollars; and

"Whereas the state prefers a system of federal administration with state concurrence, rather than state administration, of this construction project;

"*Be it resolved*, that the Alaska State legislature respectfully requests the United States government and the Canadian government to honor their agreement and provide the additional funds necessary through direct federal appropriations to complete the remaining portions of the Shakwak project; and be it

Further resolved, that the Congress is respectfully requested to immediately appropriate up to $59,000,000 to allow work on additional project segments to proceed; and be it

Further resolved, That the Alaska State Legislature endorses federal administration, with state concurrence, for the Shakwak project."

POM-534. A resolution adopted by the Senate of the State of Illinois; to the Committee on Banking, Housing, and Urban Affairs:

"SENATE RESOLUTION 1002

"Whereas savings and loan associations have provided services critical to the economic welfare of the State of Illinois by reinvesting savings of Illinois residents in the home loan mortgages, small business, college, and automobile loans and other investments essential to the vitality of urban and rural communities throughout Illinois; and

"Whereas in 1989 there were 243 savings and loans in Illinois with total assets in excess of $60 billion, 20,000 employees, and combined net profits of $16 million—the sixth consecutive profitable year for the industry in Illinois; and

"Whereas by March of 1990 Illinois savings and loans with more than $30 billion in assets or 50% of the total assets of all Illinois savings and loans had either been seized by the federal government for sale or liquidation (31 institutions with $7.6 billion in assets) or were threatened with imminent seizure and liquidation (55 institutions with $23.4 billion in assets); and

"Whereas this substantial federal seizure of the Illinois savings and loan industry has been undertaken as a part of a federal restructuring of the savings and loan industry under the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA) that has substantially changed and increased the financial requirements for operating savings and loans; and

"Whereas nationally 402 institutions with $230 billion in assets in 40 states have been seized, and between 600 and 1,000 additional savings institutions are threatened with seizure and liquidation; and

"Whereas the federal seizure of savings and loans under FIRREA has resulted in rapidly escalating, unanticipated costs, the elimination of locally managed savings institutions, the loss of jobs, and ultimately the loss of savings institutions in many urban and rural communities; and

"Whereas savings and loans seized by the federal government have lost $40 million per day since January 1989; and

"Whereas the General Accounting Office estimated on April 6, 1990, that the total cost of the FIRREA restructuring of the savings and loan industry is estimated to be between $325 billion and $500 billion—an increase of $68 billion over the GAO's 1989 estimates and an increase of at least $160 billion over the August 1989 estimates made by the President and Congress when FIRREA was enacted; and

"Whereas as an alternative to federal seizure of savings and loans, the FIRREA legislation provides that one thrift assistance may be made available to help institutions meet FIRREA's new financial requirements, if the assistance would be less costly than seizure and if the institutions—pre-FIRREA—were well-managed and profitable; and

"Whereas many of the 55 Illinois institutions now threatened with seizure were profitable and well-managed before imposition of the new FIRREA standards; and

"Whereas the preservation of such well-managed, profitable Illinois institutions through open thrift assistance may be beneficial to Illinois citizens, less destructive to local economies, and less costly to the federal government than seizure; and

"Whereas no open thrift assistance under FIRREA has been provided to any savings and loan in the United States, even though L. William Seidman, chairman of the Resolution Trust Corporation (RTC), which manages seized savings and loans under FIRREA, has strongly endorsed open thrift assistance as a more cost-effective alternative than seizure; and

"Whereas the State has a vital interest in the maintenance of a strong and stable savings and loan industry in Illinois; therefore, be it

Resolved, by the Senate of the Eighty-Sixth General Assembly of the State of Illinois, That the Senate respectfully urges the United States Congress and the RTC Oversight Board to adopt and implement an open thrift assistance program that will provide to savings and loans financial assistance necessary to meet the new FIRREA financial requirements, if such assistance is less costly than seizure of institutions that were well-managed and profitable prior to FIRREA; and be it further

"*Resolved*, That the Senate respectfully urges the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC), the RTC Oversight Board and the RTC to provide Illinois institutions threatened with seizure with a reasonable opportunity to qualify for open thrift assistance before any such institutions are taken over under the newly imposed FIRREA financial requirements; and be it further

"*Resolved*, That a suitable copy of this preamble and resolution be presented to the President of the United States, the President of the Senate and Speaker of the House of the United States Congress, each member of the Illinois Congressional Delegation, the Chairman of the FDIC, Chairman of the OTS, and the RTC Oversight Board."

POM-535. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on the Budget:

"HOUSE RESOLUTION 249

"Whereas the Federal Highway Trust Fund was established in 1956 for the specific purpose of financing improvements to highway systems and the user fees collected into this fund are allowed to be spent for transportation purposes only; and

"Whereas in recent years the Highway Trust Fund has been made a part of the Unified Federal Budget, thereby subjecting it to arbitrary expenditure ceilings for the purpose of reducing the national deficit, despite the fact that Trust Fund expenditures do not contribute to the federal deficit; and

"Whereas the imposition of such expenditure limitations has resulted in the accumulation of over $9.0 billion in unapportioned highway funds; and

"Whereas the unapportioned funds and withheld interest in the Highway Trust Fund have been borrowed for non-highway related purposes and this cash balance has been replaced by U.S. Treasury notes against the General Fund; and, therefore,

"*Be it resolved by the House of Representatives of the Fifteenth Legislature of the State of Hawaii, Regular Session of 1990*, That this body petitions the United States Congress to remove the Highway Trust Fund from the Unified Federal Budget and to protect the Trust Fund from predatory proposals to divert highway user revenues to programs unrelated to the transportation purposes for which it was established; and

"*Be it further resolved*, That this body petitions the United States Congress to have those funds repaid to the Highway Trust Fund which have been borrowed from it and that the excess funds accumulated be paid out for highway projects over a five-year period, beginning in fiscal year 1992; and

"*Be it further resolved*, That certified copies of this Resolution be transmitted to the President of the United States, the Secretary of the Department of Transportation, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and Hawaii's congressional delegation."

POM-536. A concurrent resolution adopted by the Legislature of the State of Indiana; to the Committee on Commerce, Science, and Transportation:

"HOUSE CONCURRENT RESOLUTION 79

"Whereas, The federal government has spent two years and committed $6,500,000 on an airport study for the location of a new international airport off the southern tip of Lake Michigan;

"Whereas, The Gary Regional Airport is one of four sites that have been included in that study since it began, the other three being south of Chicago in Illinois;

"Whereas, Recently, when promoting a fifth site for the proposed airport, the mayor of Chicago referred to Gary as "deadhead space", while a spokesman for the mayor recalled that FAA officials have denigrated Gary Regional's suitability for airport development;

"Whereas, It has been reported that United States Transportation Secretary Sam Skinner, who is from Chicago, has given verbal support to the late entry of a fourth site in Illinois for the location of the new airport, even though $6,500,000 has been committed by the FAA to a study that confines consideration to the other four sites; and

"Whereas, Gary Regional Airport is ideally located for the convenience of the people in northwestern Indiana and northeastern Illinois and is an area in great need of economic development: Therefore,

"Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

"Section 1. That we urge United States Transportation Secretary Sam Skinner and the Federal Aviation Administration to disavow the inflammatory remarks of the mayof of Chicago concerning Gary, Indiana.

"Section 2. That we urge Secretary Skinner to make an unqualified statement that the plan of the mayor of Chicago will not be considered because it was suggested more than two years too late, and that the site chosen will be one of the four that have been under consideration since 1986, if not earlier.

"Section 3. That we urge Secretary Skinner and the Federal Aviation Administration to select Gary Regional Airport as the site for the new international airport south of Lake Michigan.

"Section 4. That copies of this resolution be sent to United States Transportation Secretary Sam Skinner, the Federal Aviation Administration, the presiding officers and the majority and minority leaders of both houses of Congress, and to each member of the Indiana congressional delegation."

POM-537. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Governmental Affairs:

"HOUSE RESOLUTION 350

"Whereas, the federal government has the power of eminent domain to take private property for public use; and

"Whereas, that power to deprive an individual of ownership of private property has been described as a power that can be used to terrorize and oppress the owner of property unless that power is kept in check by clear and specific limitations which are designed to protect the property rights of the individual; and

"Whereas, inherent in the reason for the power of eminent domain is the dedication of the property to the public use for which the property is condemned; and

"Whereas, if the property so condemned is no longer utilized or required for the public use initially intended under the condemnation, the reason for the condemnation no longer obtains; and

"Whereas, the original private landowners of such condemned properties should have a right to regain ownership of their properties which are no longer being used for the particular public use for which it was originally condemned under the federal government's eminent domain powers; now; therefore,

"Be it resolved by the House of Representatives of the Fifteenth State Legislature of the Regular Session of 1990, That it is the sense of this body that all lands originally condemned by the federal government for particular public uses and which are no longer used for such particular public uses should be returned to the original landowners on mutually acceptable terms and conditions with the federal government; and

Be it further resolved, That the Congress of the United States be and is hereby requested to fashion, consider, and enact appropriate legislation to provide for the return of lands originally condemned by the federal government for public uses and which are no longer used for such public uses to the original landowners on equitable terms, and compensation; and

Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and Hawaii's congressional delegation."

POM-538. A resolution adopted by the City Council of Seattle, Washington proclaiming June 27, 1990 as National Endowment for the Arts Day in Seattle; to the Committee on Labor and Human Resources.

POM-539. A resolution adopted by the City Council of Sweetwater, Florida supporting the adoption of the proposed amendment to the Constitution of the United States relative to desecration of the Flag of the United States; ordered to lie on the table.

POM-540. A concurrent resolution adopted by the Legislature of the State of Kansas; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION 5047

"Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature of the State of Kansas, pursuant to Article V of the United States Constitution, hereby ratifies an amendment to the Constitution of the United States proposed by resolution of the First Congress of the United States in New York, New York, on September 25, 1789, which reads as follows, to wit:

" 'Article the second . . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.'; and

"Be it further resolved: That the legislature of the State of Kansas acknowledges that the above-quoted article of amendment to the United States Constitution has already been ratified by the legislatures of the following states on the dates indicated, to wit:

"Maryland on December 19, 1789;

"North Carolina on December 22, 1789;

"South Carolina on January 19, 1790;

"Delaware on January 28, 1790;

"Vermont on November 3, 1791;

"Virginia on December 15, 1791;

"Ohio on May 6, 1873 [70 *Ohio Laws* 409-10];

"Wyoming on March 3, 1978 [124 *Cong. Rec.* 7910; 133 *Cong. Rec.* S12949];

"Maine on April 27, 1983 [130 *Cong. Rec.* H9097, S11017];

"Colorado on April 18, 1984 [131 *Cong. Rec.* S17687; 132 *Cong. Rec.* H6446];

"South Dakota on February 21, 1985 [131 *Cong Rec.* H971, S3306];

"New Hampshire on March 7, 1985 [131 *Cong Rec.* H1378, S3597];

"Arizona on April 3, 1985 [131 *Cong Rec.* H2060, S4750];

"Tennessee on May 23, 1985 [131 *Cong Rec.* H6672, S1097, S13504];

"Oklahoma on July 10, 1985 [131 *Cong Rec.* H7263, S13504];

"New Mexico on February 13, 1986 [132 *Cong Rec.* H827, S2207-8, S2300];

"Indiana on February 19, 1986 [132 *Cong Rec.* H1634, S4663];

"Utah on February 25, 1986 [132 *Cong Rec.* H6750, S7578; 133 *Cong Rec.* H9866];

"Arkansas on March 5, 1987 [134 *Cong Rec.* H3721, S7518];

"Montana on March 11, 1987 [133 *Cong Rec.* H1715, S6155];

"Connecticut on May 13, 1987 [133 *Cong Rec.* H7406, S11891];

"Wisconsin on June 30, 1987 [133 *Cong Rec.* H7406, S12948, S13359];

"Georgia on February 2, 1988 [134 *Cong Rec.* H2638, S5239];

"West Virginia on March 10, 1988 [134 *Cong Rec.* H2492, S4784];

"Louisiana on July 6, 1988 [134 *Cong Rec.* H5783, S9939];

"Iowa on February 7, 1989 [135 *Cong Rec.* H836, S3509-10];

"Idaho on March 23, 1989 [135 *Cong Rec.* H1893, S7911];

"Nevada on April 26, 1989 [135 *Cong Rec.* H2054, S10826];

"Alaska on May 5, 1989 [135 *Cong Rec.* H5485, S8054];

"Oregon on May 19, 1989 [135 *Cong Rec.* H5692, H5972, S11123, S12150];

"Minnesota on May 22, 1989 [135 *Cong Rec.* H3258, H3678, S7655, S7912]; and

"Texas on May 25, 1989 [135 *Cong Rec.* H2594, S6726-27]; and

"Be it further resolved: That the legislature of the State of Kansas acknowledges that resolutions to ratify the above-quoted article of amendment to the United States Constitution have been adopted by the Senate of the State of California on June 30, 1988, and again on May 24, 1989; the Senate of the State of Michigan on March 15, 1989; and the House of Representatives of the State of North Dakota on January 26, 1987, and again on February 3, 1989; and

"Be it further resolved: That the legislature of the State of Kansas acknowledges that the above-quoted article of amendment to the United States Constitution may still be ratified by states' legislatures as a result of the ruling by the United States Supreme Court in the landmark case of *Coleman* v. *Miller,* [307 U.S. 433 (1939)] in which it was opined that if Congress does not specify a deadline on a particular amendment's consideration by the state legislatures, then Congress itself is the final arbiter of whether too great a time has elapsed between Congress' submission of the particular amendment and the most recent state legislature's ratification of same assuming that, as a consequence of that most recent ratification, 38 states have at one time or another ratified it; and

"Be it further resolved: That the Secretary of State of the State of Kansas shall notify the Archivist of the United States (pursuant to 1 U.S.C. 106b and 112, as amended by PL98-497 [98 Stat. 2291]) of the action of the 1990 Regular Session of the Kansas Legislature by sending to the Archivist a duly authenticated copy of this resolution; and

"Be it further resolved: That the Secretary of State of the State of Kansas shall also send duly authenticated copies of this resolution to both United States Senators from Kansas, to the Vice-President of the United States and to the Speaker of the United States House of Representatives with the

request that it be printed in full in the *Congressional Record.*"

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 436. A bill to strengthen the protections available to employees against reprisals for disclosing information, to protect the public health and safety, and for other purposes (Rept. No. 101-349).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 203. A bill to authorize research into ground water contamination and remediation, and for other purposes (Rept. No. 101-350).

S. 1045. A bill to establish a National Environmental Policy on the participation of the United States in international financing (Rept. No. 101-351).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments and an amendment to the title:

S. 1089. A bill to authorize appropriations for the Office of Environmental Quality, for fiscal years 1989, 1990, 1991, 1992, and 1993, and for other purposes (Rept. No. 101-352).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 1893. A bill to reauthorize the Asbestos School Hazard Abatement Act of 1984 (Rept. No. 101-353).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendment:

S. 2371. A bill to direct the National Academy of Sciences to conduct a study of the feasibility of an umbrella research arm to support research on a variety of environmental issues (Rept. No. 101-354).

By Mr. NUNN, from the Committee on Armed Services, without amendment:

H.R. 4252. A bill to authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, New Hampshire.

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 2017. A bill to provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 2787. A bill entitled the "Iraq International Law Compliance Act of 1990."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Leon Snead, of Maryland, to be Inspector General, Department of Agriculture;

James R. Moseley, of Indiana, to be an Assistant Secretary of Agriculture;

Catherine Ann Bertini, of Illinois, to be a Member of the Board of Directors of the Commodity Credit Corporation;

Bruce L. Gardner, of Maryland, to be a Member of the Board of Directors of the Commodity Credit Corporation; and

Jo Ann Doke Smith, of Florida, to be a Member of the Board of Directors of the Commodity Credit Corporation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Ex. B, 95-1. Additional Protocol No. 3 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on October 12, 1929, as Amended by Protocols done at The Hague, on September 28, 1955, and at Guatemala City, March 8, 1971 (hereinafter, Montreal Protocol No. 3); and B. Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on October 12, 1929, as Amended by the Protocol done at The Hague on September 8, 1955 (hereinafter, Montreal Protocol No. 4) (with minority views) (Exec. Rept. No. 101-21).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Stephen Anthony Trodden, of Virginia, to be Inspector General, Department of Veterans Affairs; and

James Wilson Holsinger, Jr., of Virginia, to be Chief Medical Director, Department of Veterans Affairs, for a term of four years.

By Mr. NUNN, from the Committee on Armed Services:

Gilberto Guardia Fabrega, a citizen of the Republic of Panama, to be Administrator of the Panama Canal Commission. (Exec. Rept. No. 101-22).

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. SIMON, Mr. HARKIN, Mr. DOLE, Mr. STEVENS, Mr. WILSON, Ms. MIKULSKI, and Mr. SYMMS):

S. 2803. A bill to amend the Internal Revenue Code of 1986 to allow a charitable deduction for certain contributions of depreciable business property; to the Committee on Finance.

By Mr. McCLURE (for himself, Mr. ADAMS, Mr. BAUCUS, Mr. BURNS, and Mr. SYMMS):

S. 2804. A bill to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCLURE (for himself and Mr. SYMMS):

S. 2805. A bill to amend the Federal Power Act; to the Committee on Energy and Natural Resources.

By Mr. HEINZ (for himself, Mr. DOLE, Mr. MOYNIHAN, Mr. SPECTER, and Mrs. KASSEBAUM):

S. 2806. A bill to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System; to the Committee on Environment and Public Works.

By Mr. McCAIN:

S. 2807. A bill to direct the Secretary of the Interior to establish and implement power operating criteria at Glen Canyon Dam, to protect the environmental and recreational resources of Grand Canyon National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON:

S. 2808. A bill to restrict the availability of assistance for Turkey unless certain conditions are met; to the Committee on Foreign Relations.

S. 2809. A bill to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail; to the Committee on Energy and Natural Resources.

By Mr. MACK (for himself and Mr. GRAHAM):

S. 2810. A bill to prohibit the Secretary of the Interior from issuing oil and gas leases on certain portions of the Outer Continental Shelf off the State of Florida; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE:

S. 2811. A bill to amend the State Dependent Care Development Grants Act to reauthorize such Act and to strengthen the program for grants to States for dependent care programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HEFLIN:

S. 2812. A bill to provide assistance to the George C. Wallace Community College in Hanceville, Alabama in the construction of a fitness training facility; to the Committee on Labor and Human Resources.

By Mr. GRAHAM (for himself, Mr. CRANSTON, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BRADLEY, Mr. COATS, Mr. COCHRAN, Mr. DODD, Mr. DOMENICI, Mr. EXON, Mr. INOUYE, Mr. NUNN, Mr. PRYOR, and Mr. RIEGLE):

S. 2813. A bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEAHY (by request):

S. 2814. A bill to provide comprehensive regulatory supervision over stocks and stock derivative instruments, to protect investors and assure the stability of the United States capital markets, to enhance innovation and competition in financial products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GARN (for himself and Mr. HATCH):

S. 2815. A bill to establish the Kokapelli National Outdoor Theater in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GARN:

S. 2816. A bill to disclaim all right, title, and interest of the United States in and to certain private lands conditionally relinquished to the United States under the Act of June 4, 1987 (30 Stat. 11, 36), and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ADAMS (for himself and Mr. GORTON):

S. 2817. A bill to authorize a joint Federal and State study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2818. A bill to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN (for himself, Mr. INOUYE, Mr. DOLE, Mr. DECONCINI, and Mr. DASCHLE):

S. 2819. A bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself, Mr. DECONCINI, and Mr. MOYNIHAN):

S. 2820. A bill to amend the Public Health Service Act to establish and expand grant programs for evaluation and treatment of parents who are substance abusers and children of substance abusers, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. BOSCHWITZ, Mr. HARKIN, Mr. LUGAR, Mr. WILSON, Mr. GRAMM, and Mr. DOLE):

S. 2821. A bill to resolve emergency funding crises in the Special Supplemental Food Program for Women, Infants and Children, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LAUTENBERG (for himself, Mr. D'AMATO, and Mr. MITCHELL):

S. 2822. A bill to promote and strengthen aviation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH:

S. 2823. A bill to authorize civil actions to recover civil penalties and damages in connection with depository institution criminal offenses; to the Committee on the Judiciary.

By Mr. JOHNSTON:

S. 2824. A bill to suspend temporarily the duty of Pigment Blue 60 and Pigment Blue 16; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2825. A bill to provide for an enhanced science and technology program to ensure continued United States leadership in those elements of manufacturing technology essential to the defense of the United States; to the Committee on Armed Services.

By Mr. LIEBERMAN:

S. 2826. A bill to require the establishment of a capital projects bureau within the Agency for International Development, to clarify the authorities in the Export Administration Act of 1979 and the Arms Export Control Act, and for other purposes; to the Committee on Foreign Relations.

By Mr. GARN:

S. 2827. A bill to improve the administration of the Federal Deposit Insurance Corporation and to make technical amendments to the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EXON (for himself and Mr. KERREY):

S. 2828. A bill entitled the "Joe the Magpie Act of 1990"; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself, Mr. DIXON, Mr. KERRY, and Mr. BRYAN):

S. 2829. A bill to require the President of the United States to make reports to the Congress on the Status of the savings and loan crisis, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMON:

S.J. Res. 342. A joint resolution designating October 1990 as "Ending Hunger Month"; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. BOND, Mr. BOSCHWITZ, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. D'AMATO, Mr. DOLE, Mr. DURENBERGER, Mr. GORTON, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LOTT, Mr. MCCLURE, Mr. MURKOWSKI, Mr. PRESSLER, Mr. ROTH, Mr. SIMPSON, Mr. SPECTER, Mr. THURMOND, Mr. WARNER, Mr. WILSON, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BRADLEY, Mr. BREAUX, Mr. BURDICK, Mr. CRANSTON, Mr. DECONCINI, Mr. DODD, Mr. GLENN, Mr. GORE, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MOYNIHAN, Mr. PELL, Mr. PRYOR, Mr. SASER, Mr. SHELBY, and Mr. WIRTH):

S.J. Res. 343. A joint resolution to designate August 13 through August 19, 1990, as "Home Health Aide Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. SIMON, Mr. HARKIN, Mr. DOLE, Mr. STEVENS, Mr. WILSON, Ms. MIKULSKI, and Mr. SYMMS):

S. 2803. A bill to amend the Internal Revenue Code of 1986 to allow a charitable deduction for certain contributions of depreciable business property; to the Committee on Finance.

CONTRIBUTIONS OF DEPRECIABLE BUSINESS PROPERTY

Mr. HATCH. Mr. President, I rise today to introduce legislation that will help disadvantaged Americans become more productive employees in today's technologically advanced work environment. I am joined in this effort by Senators SIMON, HARKIN, DOLE, STEVENS, WILSON, MIKULSKI, and SYMMS.

Unfortunately, Mr. President, millions of Americans today are finding themselves unemployed or underemployed. This situation is often the result of the individual's lacking the necessary skills to qualify for work in our technologically changing workplace. In many cases, those wanting to find a job are disabled or disadvantaged in one way or another. Whatever the reasons, each person in our society needs and deserves a chance to better himself or herself through meaningful job training. This bill will help make that job training available to more of our disadvantaged citizens.

During the 1990's, over 40 million computers will become commercially obsolete. Most of these computers, still fully functional, will be liquidated, banished to indefinite storage, or even scrapped. Why? Because there is little incentive for businesses to donate fully depreciated business equipment to charitable organizations.

This legislation will provide an income tax deduction for business equipment donated to charitable organizations that use the equipment solely for the training of individuals who are disabled or needy. This tax deduction will be equal to the lesser of the fair market value or the original cost of the equipment.

Let me give you an example, Mr. President, of the effect of this bill. Suppose a corporation decided to replace its computer system, which it has had for 8 years and is technologically obsolete, though still fully functional. This equipment, which cost $6,000 when new, now has a fair market value of $500. Under the current tax law, the corporation would receive no tax deduction for donating this equipment to charity, even though it is worth $500. This is because the equipment is fully depreciated, and the donation of fully depreciated equipment does not give rise to a tax deduction. Therefore, there is little incentive for the corporation to make such a donation. This legislation would allow the corporation to take a charitable contribution deduction of $500 if the computer is donated to an organization that uses the machine in the training of the disabled or needy. This increases the incentive to donate and should greatly increase the availability of machines to organizations that are engaged in training such individuals.

As my colleagues are aware, by the year 2000 this country will be facing a shortage of properly skilled workers. In the year 2000, it is estimated that 9 out of 10 new jobs will require computer skills in one degree or another. Currently, only one of five jobs require such skills. Many of these jobs will be data entry or similar jobs. Others will require programming skills and years of training. One thing that all of these jobs will have in common, though, is the necessity of a computer to train the job seeker.

For persons with disabilities, as well as for the disadvantaged, technology is capable of providing new opportunities, powers, and freedoms. Technology will provide millions with the chance to learn more effectively, to function more independently, and to meet the demands of a broader range of career goals. The key to this power, however, is training. Training the disabled or the disadvantaged for computer skills requires several things. Foremost, it requires access to a computer. For persons with special needs, funding for the acquisition of computers is one of the biggest barriers to the opportunities that technology offers. Unfortunately, the disabled and the

disadvantaged are often the last in our society to gain access to this important tool. This is why a special incentive to donate obsolete equipment is needed. We need to get this equipment into the hands of these people so they can begin to learn the skills they need to advance in the workplace of today and of the future.

It is important to recognize, Mr. President, that although most of the property that this legislation targets is technologically obsolete, this equipment still has great value as a training tool. Computer technology has greatly changed over the past few years, yet the basic concepts underlying the use of these machines is still the same. A 10-year-old personal computer that has been replaced with a faster and more powerful machine may be considered a dinosaur in the corporate office where it once resided. But in the hands of an unemployed welfare mother, or for a teenager who is disabled, that machine could open the door to a brighter future.

Let me emphasize that this bill does not apply only to computers. The bill would allow a deduction for the donation of any business property to an organization that uses the equipment in the training of the disabled or needy. This donation could be a telephone system, for example. Or it could be a copy machine, a desk, a table, a television, a video camera, or any other item that could be used to train underemployed individuals.

This bill is very narrowly drafted, Mr. President. The restrictions on the organizations able to receive the equipment are purposefully strict. One result we want to avoid is that of the donated equipment merely being moved from the donor's warehouse to the charity's warehouse. We want these machines in the hands of trainees. Therefore, the bill contains four restrictions on the donation. In order for the donor to receive a tax deduction for the contribution first, the donee must, as part of its basis for tax exemption, be engaged in the training of the disabled or needy; second, the property is to be so used within 90 days after donation; third, the donated property is not to be transferred by the donee for money, other property, or services; and fourth the donee must give the donor a written statement certifying that the above qualifications will be met by the donee organization.

This legislation will also help America's businesses better meet the skilled labor shortages that, in some cases, are already upon us. One way to overcome this problem is to train individuals from previously underutilized labor pools, such as Americans with disabilities and the disadvantaged. In order to help fill the gaps, these individuals must be taught basic skills. These basic skills increasingly include computer skills. Studies have shown that workers with disabilities perform very well when compared with nondisabled peers. Proper training is the key, and computers can be an important part of the training program. This bill will help provide the computers.

Mr. President, two-thirds of all Americans with disabilities between the ages of 16 and 64 are not working. Of these, two-thirds say they would like to work. This number accounts for approximately 8½ million people. Individuals who are now dependent and receiving Governmental support can become productive, tax paying, independent citizens when meaningfully employed. Additionally, approximately 25 million Americans are functionally illiterate. Over 40 percent of inner city youth drop out of school. Dropouts have more than twice the rate of unemployment as those who complete high school. Early intervention for some and remedial training for others can route people to a lifetime of meaningful work. What better way to help these people gain the basic job skills they need than computer training?

We can help fill our country's labor needs and provide new growth and work opportunities for our fellow citizens who are disadvantaged by encouraging corporate America to donate its old computer and other equipment to charitable organizations that use such equipment to train the needy and the disabled. Everyone will win: Businesses will gain skilled workers, the Naiton will benefit from increased tax revenues and reduced welfare payments, and Americans with disadvantages will have enhanced opportunities to become more positive contributors to society.

By Mr. McCLURE (for himself, Mr. ADAMS, Mr. BAUCUS, Mr. BURNS, and Mr. SYMMS):

S. 2804. A bill to amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

NEZ PERCE NATIONAL HISTORICAL PARK

Mr. McCLURE. Mr. President, I am pleased to introduce today legislation which will expand the Nez Perce National Historical Park, to include additional historically significant sites in my own State of Idaho, as well as in Oregon, Washington, Montana, Wyoming, and Oklahoma. This legislation is the result of a lengthy study conducted by the National Park Service, which identified a series of historical sites for potential inclusion in the existing Nez Perce National Historical Park headquartered in Spaulding, ID. I am pleased to note that this legislation has the bipartisan support of Senators from each of the States containing sites, and also has the strong support of the Nez Perce Tribal Executive Committee, the governing body of the tribe, located in Lapwai, ID, that is so much a part of the history of our Nation and the more recent history of the Pacific Northwest.

Since the time when the Nez Perce National Historical Park was established by act of Congress on May 15, 1965, additional attention has been devoted to the study of the Nez Perce war of 1877, the last military action in which the United States of America and an Indian tribe were engaged in hostilities. Beyond the scholarly research and study that has occurred over the last 35 years, there remains an image of Chief Joseph of the Nez Perce, retreating from the Northwest, engaging in battle after battle against a superior force of U.S. soldiers and arms, as he led his band in a more than thousand-mile journey across Idaho, Wyoming, and Montana. Military historians to this day recognize the Nez Perce efforts as one of the great tactical retreats in military history. The citizens of my State are proud to have the existing, unique Nez Perce National Historical Park located in the State of Idaho. It involves cooperative management of 24 sites by the National Park Service, the Nez Perce Tribe, the State of Idaho, the U.S. Forest Service, the Bureau of Indian Affairs, and private landowners. Only four of the current sites are owned by the National Park Service.

The present geographical limitation in the statute specifying sites located only in the State of Idaho, requires that this unique park be limited to telling only a part of the story of Chief Joseph and the Nez Perce war of 1877. Such borders did not, however, exist during the fall and winter of 1877 when Chief Joseph led his band of Nez Perce on a forced march across more than a thousand miles of unforgiving wilderness, the U.S. Army hot on their heels.

Unwilling to give up claims to historic homelands in the Wallowa Lake area of northeastern Oregan—Joseph's birthplace—and move quietly onto a Government reservation near present day Lewiston, ID, he tried to negotiate a solution to the problem that would allow both sides to save face and avert an all-out war.

But, the Army was not the only problem Joseph had to contend with. He even had trouble convincing some of his own people that a peaceful solution was best. Unable to get the Army to negotiate, he moved his camp to Tolo Lake near the present town of Grangeville, ID. It was from this camp that several young men rode, anxious to test their mettle by challenging Joseph's authority. Riding south along the nearby Salmon River, they attacked and killed a number of white miners and ranchers. The final spark

had been ignited. The Nez Perce war—the last action in which the U.S. Army and an Indian tribe were engaged in hostilities—had begun.

After the raids on Salmon River, Joseph was left with few choices. He could either surrender and submit his people to whatever punishment the Army deemed appropriate or, he could attempt to lead them to a sanctuary beyond the reach of the Federal Government. He chose the latter, ordered the camp to prepare to march and set out for Canada.

Over the next 5 months, under constant pressure from the relentless pursuit of the trailing soliders, he led his band of men, women, and children along a winding path that led them through parts of Idaho, Wyoming, and Montana.

Joseph's fighting force was both outgunned and outnumbered by the Army and the trek became a series of rearguard skirmishes for them. Choosing to avoid the fighting and killing whenever possible, he managed—on more than one occasion—to avoid the Army's best laid plans to entrap him. Military historians recognize the Nez Perce efforts as one of the greatest tactical retreats in recent history. During the march, members of the band lived in a state of extreme deprivation and constantly found themselves under threat of attack by the Army. Despite all the odds against them, it appeared as if they might actually make it to Canada as Joseph swung his band northward shortly after crossing the extreme northwest corner of what is now Yellowstone National Park.

But Joseph's luck had run out. On October 5, 1877, he surrendered to General Miles following the final confrontation with the Army at the Bear Paw battlefield in north central Montana—only 40 miles short of the Canadian sanctuary he sought for his people.

Instead of being returned to the reservation in Idaho, Joseph and his band were exiled to Oklahoma's Indian territory where scores died.

These and other important chapters of the saga, occurring while the war was in progress and after Chief Joseph and his band were exiled to Oklahoma, unfortunately remain unmarked and untold. The purpose of this legislation is to fill in those chapters, by including those historically significant sites that are critical to a full understanding of the importance of the Nex Perce Tribe in the history of our Nation. Our bill would expand the Nez Perce Park to include sites ranging from Wallowa County in northeastern Oregon, Chief Joseph's birthplace, and a crucial, part of the 1877 war, to the Bear Paw battlefield in Montana, where the Nez Perce surrender occurred. In addition, the legislation includes the site of Chief Jospeh's final resting place in a graveyard in Nespelem, WA, on the Colville Indian Reservation, and also makes it possible to later include historically significant sites in Wyoming and Oklahoma that are also very much part of the Nez Perce's fascinating history.

It is a fitting tribute to Chief Joseph's memory, and an inspiring commentary on the centennial spirit that binds our States in the Northwest that brings the sponsors of this legislation to the floor of the U.S. Senate to introduce this legislation today. I urge my colleagues to work with us to see that this legislation is passed and signed by President Bush during the 101st Congress.

Mr. President, I want to reemphasize that in this case all 50 States joined in the appeal to the Supreme Court of the United States. I look forward to very broad and bipartisan support to this legislation. I think it is an action that should be taken. We should take the invitation of the Court to legislate very seriously. This legislation is, I think, due and timely.

Mr. BURNS. Mr. President, it is with great pride I rise today to join my colleagues in cosponsoring the Nez Perce National Trail Amendments Act of 1990.

In the summer of 1877 a small group of Nez Perce Indians began a journey from the tip of eastern Oregon, through the Idaho Territory, and over the Bitterroot Mountains into Montana Territory stopping finally at the Bear Paw Mountain just south of Canada.

Five Nez Perce bands were involved in this venture, numbering about 800 people, including 125 warriors. They trailed more than 2,000 head of horses along with their personnel possessions. They made this historic trek in less than 4 months.

Chief Joseph was forced to flee from his home country in the Wallowa Valley where Oregon, Washington, and Idaho meet today, because he was driven to surrender by General Howard of the U.S. Army.

General Howard, under increasing criticism from local residents and from newspapers throughout the country, summoned troops from up and down the west coast to begin an encircling movement to trap the elusive Nez Perce.

On July 11, Howard's forces met the Nez Perce near the Clearwater River, and they fought for 2 days with neither side winning. Finally, the Nez Perce withdrew, once again evading capture by a much stronger force.

It was now clear to the nontreaty Nez Perce that they could not escape from the Army in Idaho Territory. In council, the five bands agreed to follow the leadership of Chief Looking Glass, who persuaded them to turn their backs on their homeland and head east to join the Crow Tribe in buffalo country. They would follow the Lolo Trail, which Nez Perce hunters had used for centuries, and join the Crows in Montana Territory. The Nez Perce wished only to find a place where the Army would leave them alone and where they would be far enough from settlements to avoid further clashes.

Chief Joseph's important role in this effort was to shepherd the Nez Perce dependents along the way; his hope was to bring them back home again when things settled down.

By early August, the Indians had crossed the mountains and reached the Bitterroot Valley in Montana. They were among friendly Montana settlers, and General Howard was far behind them. But a second force, Gen. John Gibbon, who commanded the 7th U.S. Infantry in the western part of Montana Territory, had entered the valley in pursuit.

Chief Looking Glass, unaware of Gibbons forces, slowed the pace of travel even though some of the chiefs and warriors urged haste.

On August 7 Chief Looking Glass reached the banks of the Big Hole Valley. He felt that there was enough time and space between he and any danger. They set up a camp of 89 teepees and celebrated for the first time in many weeks.

During the night General Gibbons and his men moved in on the unsuspecting Nez Perce. At dawn shots were fired and the beginning of what would be a 2-day bloody battle. The Nez Perce were able to recover from their surprise and hold their own against the Army; they forced the intruders back across the river. Quickly they gathered themselves and headed south.

Knowing they had suffered a major loss of warriors they decided to head toward the Crow reservation to ask for assistance in the battle with the returned threat of the Army. They were rejected by the Crow and the Shoshone because of their decision to avoid trouble with the Army.

On September 30, in the Bear Paw Mountains of Montana, just south of the Canadian border, the Nez Perce were surprised by Army troops under the command of Col. Nelson A. Miles. The chiefs rallied their followers, but after 5 days of fighting and intermittent negotiations, they finally surrendered to Miles, more from exhaustion than from defeat.

Of the 800 nontreaty Nez Perce who had started the trek to Canada, some had been killed in battles or skirmishes en route, some had succeeded in reaching Canada, some were hiding out in the hills, and others had found sanctuary with other tribes. Only 480 were left to surrender, and they had traveled almost 1,700 miles, only to be stopped 30 miles short of sanctuary. In

the end, it was the loss of fighting men, as well as the emotional blow at Big Hole, that broke the Nez Perce power to resist.

The following words express the harrowing desperation of the people in the statement of Chief Joseph to Colonel Miles:

Tell General Howard I know his heart. What he told me before I have in my heart. I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Too-hul-hul-sote is dead. The old men are all dead.

It is the young men who say yes or no. He who led the young men is dead. It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills, and have no blankets, no food; no one knows where they are perhaps freezing to death. I want to have time to look for my children and see how many of them I can find. Maybe I shall find them among the dead. Hear, my chiefs. I am tired; my heart is sick and sad. From where the sun now stands I will fight no more forever.

Mr. President, I look forward to the day this bill passes and completes the recognition my colleagues have given to this important amendment. I would also like to recognize Gov. Stan Stephens of Montana for his generous cooperation in donating the Bear's Paw Battlefield Park from the State of Montana to the National Park Service to complete this well deserved project. His hard work and foresight have aided in the completion of this amendment and I salute him for his efforts.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, I rise in support of the bill offered by my colleague from Idaho.

For nearly a century, the citizens of the State of Montana have been proud of the fact that one of America's most important and significant battlefields is in our State.

We hope that this bill to make the Bear Paw battlefield and other significant sites, a part of the Nez Perce National Historical Parks of the National Parks Service, will provide the maintenance and protection this site deserves.

The Nez Perce war of 1877 began on June 17 with the White Bird Battle in Idaho and ended on October 5, 1877, in the Bear Paw Mountains in Montana. In that final battle, which lasted for 6 days, Chief Joseph and his band suffered heavy losses, including his own brother Ollokot.

Only 40 miles from the Canadian border, with winter approaching, the Nez Perce were cut off from further retreat by Gen. Nelson A. Miles who was later joined by Gen. O.O. Howard, who had been pursuing Joseph and his band for the previous 4 months. At the time of his surrender, Chief Joseph was leading 86 men, 184 women, and 147 children.

The Nez Perce had won the sympathy of non-Indian citizens throughout the United States as the details of their attempted retreat to Canada were reported in local news stories.

Outnumbered and outgunned, the Nez Perce evaded capture. Their sleeping village was attacked in the early morning hours of August 9 along the Big Hole Creek in Montana and they suffered their first serious fatalities.

Between 60 and 90 of their people, including many women and children and 12 of their best warriors were killed. Yet, they continued on, eluding the growing number of soldiers in pursuit which eventually totaled more than 2,000.

The Nez Perce again lost their pursuers when they detoured through the Yellowstone National Park in Wyoming and then headed north for Canada.

Unable to catch up with the Nez Perce, General Howard sent word to General Miles who was stationed in Fort Keogh near the present day Miles City, MT, to head northwestward and head off the Nez Perce.

Then, just 40 miles from the Canadian border, the Nez Perce stopped to rest and in the cold of the Bear Paw Mountains made their final camp. General Miles attacked their camp on September 30 and the battle produced heavy casualties for both the Nez Perce and General Miles' troops. In the face of Nez Perce resistence, General Miles set up a seige line around the camp.

The soldiers and Nez Perce dug shallow rifle pits and exchanged fire. The Nez Perce surveyed their dead and wounded. Several escaped through the lines and made it safely to Canada, but most stayed at Big Paw. Snow began to fall and an early winter cold threatened the lives of those who had survived.

Finally, after 6 days of fighting, Chief Joseph signaled his desire to stop the fighting and made his surrender speech to General Miles and General Howard who had arrived:

Tell General Howard I know his heart. What he told me before, I have it in my heart. I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Toohoolhoolzote is dead. The old men are all dead. It is the young men who say, yes or no. He who led the young men (Ollokot) is dead. It is cold, and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills, and have no blankets, no food. No one knows where they are—perhaps freezing to death. I want to have time to look for my children, and see how many of them I can find. Maybe I shall find them among the dead. Hear me, my chiefs! I am tired. My heart is sick and sad. From where the sun now stands I will fight no more forever.

Mr. President, it is an honor for me to offer my support for this legislation to recognize the Nez Perce people, the history of the Nez Perce War of 1877.

Mr. ADAMS. Mr. President, I rise in support of the legislation introduced this morning amending the Nez Perce National Historical Park in the State of Idaho, and want to express my appreciation to the Senator from Idaho, Mr. McCLURE, and the Senator from Montana, Mr. BAUCUS, for their work in drafting this amendment to the statute that created the Nez Perce National Historical Park. I request that I be added as an original cosponsor of this bill. The story of Chief Joseph of the Nez Perce, and his courageous lifelong efforts on behalf of his people is one of the truly inspiring chapters in the history of the great Northwest. Every school child, growing up in the Northwest, learned the saga of Chief Joseph at an early age. The existing sites contained within the Nez Perce National Historical Park in Idaho are a unique, national asset, telling important parts of the story of Chief Joseph and the Nez Perce.

However, I fully agree with the Senator from Idaho, when he states that there are other important chapters to that story that deserve to be included in this park. Some of the final chapters in the life of Chief Joseph were lived and written in my State, and I am honored to join as an original cosponsor of this effort.

In 1885, Chief Joseph and the 267 other survivors of the difficult years in exile in Oklahoma were allowed to return to the Northwest, with Joseph and his band eventually being housed on the Colville Reservation in eastern Washington. For the remaining years of his life, Chief Joseph continued to seek the return of his people to their beloved Wallowa Valley in Oregon. In 1897 he traveled to Washington, DC seeking protection from the miners who were encroaching on the land set aside for his people on the Colville Reservation. After securing the assistance of General Miles for his effort to return to the Wallowa Valley, Chief Joseph accompanied General Howard and Miles to participate in the dedication of the tomb of Ulysses S. Grant, the President whose change of policy had led to his being ousted from the Wallowa. As a guest of Buffalo Bill Cody, Chief Joseph stayed at Astor House, and returned to Nespelem after securing a promise from the Bureau of Indian Affairs to investigate his case.

In 1899, Chief Joseph visited the Wallowa for the first time since the war, and was told that settlers in the valley would oppose his resettlement in his ancestral lands. Shortly thereafter, the chief began communicating with Prof. Edmond S. Meany of the University of Washington, beginning a friendship that culminated in an invitation to the school where he attended a football game, and addressed the student body where he stated, in part:

In my declining years, I long to return to my old home in Wallowa Valley, where most of my relatives and friends are sleeping their last sleep. I have repeatedly petitioned the Great Father in Washington to transfer myself and small band to our old home, that

we may die in the country, having so many tender memories. I have made frequent visits to Washington and have met many persons high in official life. They have all promised to render their assistance, but it has been wait, wait, wait. On my last visit to the Capital City, I had the honor and pleasure of meeting President Roosevelt who treated me with much kind consideration. He assured me that a committee would be sent out to investigate my condition and surroundings. This committee was to be at my home last July but they have not yet come. This is but one instance of the duplicity shown me by the Government. I hope you will all help me and render me what assistance you can in securing long delayed justice. To return to Wallowa Valley, is a wish I cherish very dearly. That is all.

In the spring of 1904, Chief Joseph returned once again to the East, attending the commencement exercises at the Carlisle Indian Industrial School, where he noted the presence of several Nez Perce students. He spoke with fondness of his dinner companion, General Howard, saying "Friends, I meet here my friend, General Howard, I used to be anxious to meet him. I wanted to kill him in war. Today I am glad to meet him, and to be friends with General Howard. We are both old men, still we live and I am glad. Chief Joseph traveled on to the St. Louis Expositon, and returned to Nespelem in time for the annual July Fourth celebrations over which he presided each year.

On September 21, 1904, Chief Joseph died at Nespelem, ending a life that is best remembered for the months of war and retreat that had occurred in 1877. The years of exile in Indian country, the visits east to plead with Presidents and statesmen, and the eventual return to the Northwest, an exile still from his homelands in the Wallowa Valley are less well known to students and scholars. Yet, those later years in the long saga of Chief Joseph of the Nez Perce displayed a side of the man that deserves to be studied and understood.

The official account of the death of Chief Joseph appears in the annual report of the Commissioner of Indian Affairs, provided by Capt. John McA. Webster:

I sincerely regret to report that Joseph, chief of the Nez Perce, is dead at Nespelem, on the Colville Reservation. His death, resulting from heart failure, occurred at 5:45 p.m., September 21, and he was buried at noon on the following day. Most of his people were absent from Nespelem at the time on their annual pilgrimage to the hop fields around North Yakima. * * * Chief Joseph has been ailing for some time past. Some six weeks ago he drove 75 miles over very rough roads to pay his respects to me here. At the time he looked thin, broken in spirit, and complained of always feeling tired.

In a simple graveyard in Nespelem, WA, he is buried beneath a monument that was paid for by Edmond Meany and the Washington State Historical Society. The monument reads, "Chief Joseph, Hin-mah-too-yah-lat-kekt (Thunder rolling in the mountains); he led his people in the Nez Perce war of 1877." For those many citizens who will follow the Nez Perce Historical Trail, searching for a greater understanding of the tragedy that led to war, exile, and a place in our history books for the Nez Perce Tribe of Idaho, the trail will end in this little graveyard. This site, and all the other locations contemplated in this legislation, will add the missing chapters to the saga of Chief Joseph, and I urge my colleagues to join us in passing this legislation as soon as possible.

By Mr. McCLURE (for himself and Mr. SYMMS):

S. 2805. A bill to amend the Federal Power Act; to the Committee on Energy and Natural Resources.

FEDERAL POWER ACT AMENDMENTS

Mr. McCLURE. Mr. President, on May 21, 1990, the Supreme Court rendered a unanimous opinion in the case of California versus Federal Energy Regulatory Commission, commonly referred to as the Rock Creek case. In its opinion, the Court declined to overrule its decision in *First Iowa Hydroelectric Cooperative* v. *FPC* (328 U.S. 152).

In part the Court held that:

Were this a case of first impression, petitioners argument based on the statute's language could be said to present a close question. As petitioner argues, California's minimum stream flow requirement might plausibly be thought to "relat[e] to the control, appropriation, use, or distribution of water used . . . for . . . other uses," namely the generation of power or the protection of fish. This interpretation would accord with the "presumption against finding preemption of state law in areas traditionally regulated by the States" . . . Just as courts may not find state measures preempted in the absence of clear evidence that Congress so intended, so they must give full effect to evidence that Congress considered and sought to preserve the State's coordinate regulatory role in our federal scheme.

While I would have hoped that the Court would have then reexamined the basis for its holdings in First Iowa, Pelton Dam, and the other progeny of its narrow reading of sections 9 and 27 of the Federal Power Act that was not the case. The Court was satisfied to say simply that even though it might have decided differently had this been a matter of first impression, it would not overturn "long-standing and well-entrenched decisions * * * for here, unlike in the context of constitutional interpretation, the legislative power is implicated, and Congress remains free to alter what we have done." This legislation which I am introducing today would do precisely that. The legislation has bipartisan support with a companion measure being introduced in the House and represents the position taken by all 50 States in the Rock Creek case.

I think it is far too late to reexamine the entrails of the legislative history which attended the consideration and passage of the Federal Power Act. Whether Congress intended to limit the role of the States in the use of their waters, as the Court suggests, or whether Congress intended to respect principles of federalism and, especially in the West, longstanding congressional recognition and deference to the particular water regime which had developed in those States is no longer relevant to consideration of the Federal Power Act. Personally, I think the Congress intended in section 27 to respect the right of the States to decide how their waters would be used and require an applicant to obtain a license from the Federal Government for projects subject to the Federal Power Act and obtain the necessary water rights pursuant to State law.

The State of Idaho filed an amicus brief in support of the State of California in Rock Creek. That brief was joined by the other 48 States. There is an extensive discussion of the congressional deliberations which led to the passage of the Federal Power Act, and I would commend the brief to my colleagues. The history is clear that Congress recognized that an applicant had to obtain water rights pursuant to State law.

As Justice Douglas stated in his dissent in the Pelton Dam decision:

The reason is that the rule adopted by the Court profoundly affects the economy of many States, ten of whom are here in protest. In the West, the United States owns a vast amount of land—in some States, over 50 percent of all the land. If by mere Executive action the federal lands may be reserved and all the water rights appurtenant to them returned to the United States, vast dislocations in the economies of the Western States may follow . . . Federal officials have long sought that authority. It has been consistently denied them. We should deny it again. Certainly the United States could not appropriate the water rights in defiance of Oregon law, if it built the dam. It should have no greater authority when it makes a grant to a private power group. (*FPC* v. *Oregon*, 349 U.S. 435, 457 (1955)).

I want to make it clear that this is a narrowly drafted amendment. It does not seek to upset the carefully crafted compromises enacted in the Electric Consumers Protection Act on the role of FERC in setting terms and conditions on licenses. It does not, and I want to emphasize this, grant the States authority to impose incidental requirements as a condition of obtaining a water right. It speaks solely to the right of the States to control the use of water within its jurisdiction. The laws of each State are different with respect to both substance and procedure. The applicant for a license must take those laws as he finds them. If California wants to require a minimum flow as a condition of its grant of a right, that is California's right and FERC should be bound by that determination. If Idaho requires that a

right for power be subordinated to other beneficial uses, that is Idaho's right. If another State chooses to deny a right altogether, so be it. The role of FERC remains unaltered save by the parameters placed on the use of water by the affected State.

This amendment is neutral with respect to hydroelectric development. It is designed solely to rectify decisions by the Supreme Court in the interpretation of sections 9 and 27 of the Federal Power Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2805

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That Section 9(a) of the Federal Power Act is amended by adding a new paragraph (3) at the end thereof as follows:

"(3) No license may be granted for any project subject to the provisions of this Act unless the applicant complies with all procedural and substantive requirements of the laws of the State or States in which the project is located with respect to the acquisition of water rights and administration of the use of water. Any such license shall be subject to the applicant obtaining any water rights needed for such project in accordance with such requirements.".

SEC. 2. Section 27 of the Federal Power Act is amended:

(a) by deleting "used in irrigation or for municipal or other uses", and

(b) by deleting "therein." and inserting in lieu "therein; and no license granted pursuant to this Act shall relieve any licensee or applicant for a license from complying with all procedural and substantive requirements of the laws of the State in which the project is located with respect to any water rights needed for such project, including any terms, conditions, limitations, or other restrictions attached to such rights. Nothing in this Act nor in any other Act may be construed to constitute a preemption or intent to preempt the procedural and substantive requirements of State law with respect to the acquisition of water rights and administration of the use of water or with respect to any terms, conditions, limitations, or other restrictions which a State may attach to any such water rights for such project.".

Mr. SYMMS. Mr. President, I am proud to rise today in support of legislation being introduced by my senior colleague from the Great State of Idaho, Senator MCCLURE. His bill will clarify that the States control flowing waters within their borders, not the Federal Government.

In the recent United States Supreme Court decision, California versus FERC, it was determined that the Federal Energy Regulatory Commission [FERC] can establish water levels in dams or water projects that have received Federal funds. This decision sets a potentially disastrous precedent.

A time-honored concept of water law is that States have primary jurisdiction over ground waters, rivers, and lakes within their borders. This premise of law can now be challenged from a variety of legal angles. For example, organizations now can sue States to overrule State water plans, State water quality laws, and even perhaps State-recognized water rights.

As they do this, they will contend that the Federal Government knows best how to protect the Nation's water. This is ridiculous. It is a fundamental truth that Idaho's water can be better managed from the banks of the Snake River than from the banks of the Potomac River. I will continue to fight for Idaho and all of the States to continue to have the right to control their waters.

Senator MCCLURE's legislation is an important first step to bring that right back to the States and to keep that right from being challenged in the future. I strongly urge my colleagues to cosponsor this legislation, as I have, as soon as possible.

By Mr. HEINZ (for himself, Mr. DOLE, Mr. MOYNIHAN, Mr. SPECTER, and Mrs. KASSEBAUM):

S. 2806. A bill to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System; to the Committee on Environment and Public Works.

DWIGHT D. EISENHOWER INTERSTATE HIGHWAY SYSTEM

Mr. HEINZ. Mr. President, on behalf of Senator DOLE, Senator MOYNIHAN, Senator SPECTER, and Senator KASSEBAUM, I am introducing today legislation that would redesignate the National System of Interstate and Defense Highways, as it is formerly known, instead as the Dwight D. Eisenhower Interstate System.

At the time when President Eisenhower assumed office, he came to recognize that the Nation's highway transportation system was utterly insufficient to support the needs of national commerce and the traveling public, as well as any repetition of the kind of international conflict that he was so familiar with in World War II.

In particular, the U.S. economy experienced such a revival during the postwar years that our highways became tremendously clogged. Our economy experienced this surge because Americans had a good deal of spending money from their wartime savings. As just one measure of this, the automobile market, in response to the demands for new vehicles to replace the outdated and sometimes wornout models which survived the war years, saw an increase from 1945 production levels of some 56 times—56 times—the 1945 production level within just 4 years.

As might be expected, there was an all-time high for registered vehicles, and by 1947, there were over 37.4 million autos traveling America's roadways. The roads were narrow. The trucks were large, and there was increasing truck traffic. I remember it too well, as a little child, driving on very narrow highways, through cornfields where the corn was above the car on one side. And when a truck came by on the other side, you and your car and the corn vibrated for about 15 seconds. So the results were often dangerous, and they were costly.

The highways were also not only heavily traveled, but were in severe disrepair, and we as a country were poorly prepared for increased flow of automobile traffic. Urban areas in particular were marked by expanses of highways that were "functionally obsolete because of narrow pavements, ribbon development, and insufficient capacity." That was as described by the Federal Highway Administration, not in 1945, but in the 1940's, before the war.

By the 1950's when President Eisenhower was elected to office, the situation had become not just serious, but critical. Our decaying highways were exacting tremendous economic costs and huge safety tolls on our Nation. In his 1954 State of the Union message, President Eisenhower pledged "to protect the vital interest of every citizen in a safe and adequate highway system."

He said:

We are pushing ahead with a great road program, a road program that will take this Nation out of its antiquated shackles of secondary roads all over this country and give us the types of highways that we need for this great mass of motor vehicles.

One year later, in a 1955 "Special Message to Congress Regarding a National Highway Program," President Eisenhower said, and he stressed:

Our unity as a Nation is sustained by free communication of thought and by easy transportation of people and goods. The ceaseless flow of information throughout the Republic is matched by individual and commercial movement over a vast system of interconnected highways, criss-crossing the country and joining at our national borders with friendly neighbors to the north and south.

Consequently, on March 28, 1956, the Wall Street Journal chronicles some of these steps taken by President Eisenhower with regard to the interstate system, and that article in part stated that:

Until a year or so ago, there was no compelling demand that the country's highway problem be tackled in any overall fashion. Then, at a 1954 conference of Governors of all 48 States, Mr. Eisenhower called for an appraisal of highway needs, and a "grand plan" to solve the problems of "speedy, safe transcontinental travel, inter-city transportation, access highways, farm-to-market movement, metropolitan area congestion, bottlenecks, and parking."

The President appointed an advisory committee headed by General Lucius D. Clay. * * * This group worked with a seven-man committee appointed by the Governors Conference, and early in 1955 handed Mr. Eisen-

hower a comprehensive report titled "A Ten-Year National Highway Program." This so-called Clay report proposed a sweeping overall road modernization program to cost $101 billion over the next decade.

I ask unanimous consent that the Wall Street Journal article to which I referred be printed in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. HEINZ. Based on the Clay report President Eisenhower actively sought efficient, safe, and economical travel for the citizens of the United States. His proposed interstate system was bold and expansive: He proposed creating more than 41,000 miles of roadways; joining 42 State capitals and 90 percent of all cities with populations exceeding 50,000. The late President remained committed to these reforms, submitted in a 10- to 13-year agenda, throughout the duration of his 8-year term in office.

Far beyond facilitating automobile travel for the people of the United States, Dwight D. Eisenhower's interstate program invigorated the Nation's industrial sector. The July 2, 1956, Wall Street Journal described the highway program approved by Eisenhower as a "quick shot in the arm" of the economy, and a "major boost" to industry. In 1956 alone, officials of the Associated Contractors of America predicted an additional $400 million of construction, credited to Eisenhower's interstate program.

President Eisenhower's adherence to the vision of American mobility was most certainly the main driving force behind the creation of the modern Interstate Highway System. The Federal Highway Acts of 1954, 1956, and 1958 had as their impetus Eisenhower's insistence that Congress and the administration act swiftly to address this Nation's severe infrastructure problems.

October 14 of this year marks Dwight D. Eisenhower's centennial birthday. Next year marks the completion of the National System of Interstate and Defense Highways, the fruition of the project Eisenhower envisioned, authored, and pursued as our Nation's 34th President. Now is a fitting time to recognize and commemorate these historic events.

Mr. President, as a Senator from Pennsylvania, where Eisenhower kept his Gettysburg home upon retiring from office, and privileged as I am to be a member of the Eisenhower Centennial Commission, I strongly believe it is befitting to pay tribute to and remember this great, late President by naming the Interstate Highway System after the man who strived so hard to make it reality.

I hope that Congress will agree with our suggestion to rename our Interstate Highway System the Dwight D. Eisenhower Interstate System. In this way all Americans can join us in recognizing the impact of his contributions above and beyond his outstanding military service to this country as well as to our allies.

It is with these considerations that I urge my colleagues to support this legislation. Let us honor our late President's efforts for a modernized National Interstate System through this symbolic and appropriate gesture.

EXHIBIT 1

[From the Wall Street Journal, Mar. 28, 1956]

ROAD BLOCK: CONGRESS BACKS AWAY FROM A "MASTER PLAN" FOR UPDATING HIGHWAYS

(By Ellis Haller)

Election-year politics has shoved a roadblock into the path of the Eisenhower Administration's hopes for a vast, long-range construction program to bring the nation's highways up to date.

This doesn't mean the current record rate of outlays for building and improving roads in all parts of the country won't continue in the immediate future. More than $4.8 billion was spent by Federal and local governments on road construction in 1955, not counting an additional $2.4 billion for maintenance. Plans already authorized contemplate totals at least as large for 1956.

But ballot-conscious legislators in Washington aren't disposed to authorize an expensive new highway program that would have to be financed by heavy taxes. Instead of okaying the start of a "master plan" for highway improvement, it appears that Congress this year will be content to continue the existing Federal-aid program, with perhaps a few modest increases. State lawmakers are equally leery of voting new taxes to pay for road projects. New York State's legislature has turned thumbs-down on a gasoline tax boost, and similar fuel-tax proposals face strong opposition in Massachusetts, Arizona and other states.

MANY INDUSTRIES INVOLVED

As a result, the varied industries that benefit from road construction find they can make only vague estimates on the size of the markets they're likely to have in the next few years. Among these industries are supplies of cement, sand and gravel, explosives, bituminous materials, steel, lumber, trucks and road machinery, and highway signs and markets.

"We're at the nail-biting stage," a producer of crushed stone and gravel declares. "We're pretty sure demand will stay high, but we don't know what level it may reach in any particular year, or what the peak load on our facilities may be." Local shortages of aggregates exist in widely scattered parts of the U.S. and long hauls are necessary to bring sand, gravel and stone to such shortage areas.

A sampling of views in other parts of the construction-supply field shows the difficulty of making definite estimates. For instance, Joseph S. Young, president of Lehigh Portland Cement Co., notes that while his industry is "naturally favorable to passage of a Federal highway bill," it can't forecast the extent of demand for cement for road building until a basic program has been shaped.

An official of Atlas Powder Co. believes every additional $1 billion spent on highways, on top of the present rate of spending, will increase the demand for explosives by 3.5% to 4%. Part of the increase would be for explosives used directly in excavating and grading roads, while the rest would help produce the crushed rock, cement and other materials going into the roadways.

PAVERS AND SPREADERS

W. Cordes Snyder, president of Blaw-Knox Co., says each additional $1 billion of highway construction should result in an estimated increase in demand for the types of construction equipment his company makes, of about $19 million. These products include concrete pavers and spreaders, batching plants, finishing machines, truck mixers, and bituminous pavers, spreaders and finishers. Blaw-Knox would expect its share of such an increase in business to be perhaps $6 million to $8 million, Mr. Snyder said.

U.S. Steel Co., and Bethlehem Steel Co. are the country's two largest manufacturers of structural steel of the type needed for bridges, and for paving and reinforcing work on highways. Recently, there have been shortages of many types of structural steel; a sharp rise in requirements for highway use would intensify spot shortages and delivery delays.

Uncertainty about the probable dimensions of an expanded road building program isn't confined to businessmen whose companies would supply the needed materials. Most highway users and taxpayers are confused over how much construction is really needed, what steps have been taken to accelerate road building, and how an enlarged program would be paid for.

There's no disagreement, however, over the fact that many of the nation's roads and streets are obsolete for today's traffic. Motor vehicle registrations soared from 9 million in 1920 to 60 million in 1955; it's estimated they'll be close to 82 million by 1966 as the population moves toward the 200 million mark. Most highways grew out of early trails and wagon routes. Despite sporadic improvements, and the occassional construction of new expressways and toll roads, the highway system as a whole is outmoded.

"JERRY-BUILT" HIGHWAYS

"American highway construction has for the most part followed a system of jerry-building," one construction expert says. "The pattern has developed largely from local needs and has evolved successively from the buffalo trail and the Conestoga road to the turnpike and military road and finally to the superhighway with no eye toward the solution of the main national problem."

This antique road network is costly. One engineering estimate indicates that vehicle operating costs are at least a cent a mile less on uncongested highways than on crowded roads. This figures out to a $5 billion annual total at the current volume of traffic. Indirect costs of inadequate roads are even greater; more than 35,000 people die in highway accidents each year. Safety experts say many of these fatalities are caused by poor roads.

Until a year or so ago, there was no compelling demand that the country's highway problem be tackled in any overall fashion. Then, at a 1954 conference of governors of all 48 states, Mr. Eisenhower called for an appraisal of highway needs, and for a "grand plan" to solve the problems of "speedy, safe trans-continental travel, intercity transportation, access highways, farm-to-market movement, metropolitan area congestion, bottlenecks, and parking."

The President appointed an advisory committee headed by Gen. Lucius D. Clay,

chairman of Continental Can Co. Other members were S. Sloan Colt, president of Bankers' Trust Co.; David Beck, president of the Teamsters' Union; William A. Roberts, president of Allis Chalmers Manufacturing Co., and Stephen D. Bachtel, president of Bechtel Corp. This group worked with a seven-man committee appointed by the Governors Conference, and early in 1955 handed Mr. Eisenhower a comprehensive report titled, "A Ten-Year National Highway Program." This so-called Clay Report proposed a sweeping overall road modernization program to cost $101 billion over the next decade.

CONGRESS TALKS IT OVER

Congress held lengthy hearings last year and debated a bill which would have provided a start on this ambitious scheme. But the measure foundered when the lawmakers turned down a proposed Federal corporation to issue and market 30-year bonds to finance the program. Meanwhile, the Senate last year passed a bill offered by Sen. Albert Gore (D., Tenn.) which would boost appropriations for highway building in each of the next five years. This measure calls for no important change in basic highway legislation but would boost the total amount of money the Federal Government would pour into roads. Says the Senator, "There's nothing wrong with our present program which more money and a shift in emphasis will not cure." But his bill has been stymied, awaiting a fresh approach to the subject in the House.

Now Congress again is tackling highway-improvement legislation. But it's obvious that the bold "grand plan" envisioned in the Clay Report has been sidetracked in favor of a more modest approach. Whatever highway law is finally approved will be a pay-as-you-go measure with financing provided from tax revenues.

No legislation ever has been proposed to carry out all the Clay Report recommendations. The report was intended to be a listing of the desired objectives to provide a national highway system adequate for traffic needs in 1975. Some construction people felt the "needs" that were listed—based on recommendations from highway officials of all 48 states—while thoroughly desirable, were somewhat inflated. As one engineer put it. "If you ask a man how many autos he'd like to own, he may say two or three, even though he could get along very well with only one."

The legislation now being debated actually is split into two separate bills—one called the Fallon bill, which would authorize a Federally-sponsored road modernization program, and a second called the Boggs bill, which would levy taxes to pay for it.

THE CURRENT ROAD BILL

The Fallon bill (introduced by Rep. George Fallon (D., Md.), chairman of the House subcommittee on roads) advocates a 13-year $27 billion road-building program for completion of the basic network of interstate highways, with the Federal Government paying 90 percent of the cost. It also calls for a two-year program for other major roads and urban projects at a cost of $3 billion, with Federal-state funds matched on a 50–50 basis.

The companion Boggs bill, presented by Rep. Hale Boggs (D., La.), proposes to boost the Federal taxes on gasoline, diesel fuel, tires, trucks, buses and trailers, and would levy a new tax on camelback used in retreading tires. Once details are ironed out, the Boggs bill would be incorporated into the Fallon bill.

While the House may pass this combined authorizing and financing program, chances are considered less sanguine in the Senate. A long-time observer of highway legislation comments, "My guess at the moment is that this measure won't be enacted. I'd say the best bet is for continuation of the present Federal road program, under which Uncle Sam puts up $875 million a year for primary, secondary and urban roads, with a similar sum matched by the various states. In addition, we may get authorization for $1 billion a year for modernizing highways. At the moment, everything's up in the air."

To understand what all the discussion is about, it's important to know just how the nation's sprawling highway network fits together, and who pays for it.

MANY DIFFERENT SYSTEMS

There are, of course, many separate systems of roads in the U.S. Mostly, they're built and maintained by cities, townships, counties and states, and the money to pay for them is raised through taxes at the state or local level. By far the greater percentage of the country's road mileage falls within these locally-financed systems. But in addition, the Federal Government contributes financially to three other highway systems which are the most heavily-traveled routes. It's on these roads that there's the greatest current need for rebuilding and improvement.

The tri-partite Federal-aided road system breaks down like this:

Federal-aid Primary System consists of 234,407 miles of roads connecting all principal cities, county seats, ports and other traffic-generating areas. Included are some 18,000 miles of congested roads in cities and suburban areas. This system carries about 32% of all road traffic.

Federal-aid Secondary System is made up of about 508,000 miles of rural roads linking farms and smaller communities of the country with the primary system. It includes rural mail routes and school bus routes. Known as the "farm to market system," it carries about 22% of all rural traffic.

National System of Interstate Highways is the most important single system of roads and streets. It was designated by Congress in 1944 and limited to not more than 40,000 miles. It connects by direct routes the nation's main cities and industrial centers and connects at border points with principal roads in Canada and Mexico. In case of national emergency, it would be the key defense highway system. Although the mileage in this network is only about 1% of all the country's roadway and street mileage, it handles more than 14% of all traffic.

The Clay Report suggested that top priority in any overall highway modernization program be given to this interstate system, which the planners think should be completely rebuilt in the next 10 years. Some 7,000 miles out of the 40,000-mile grid would remain two-lane highways, though rights-of-way would be purchased for expansion in the future. The rest would be four, six and eight-lane roads. There would be extensive use of cloverleafs, overpasses and underpasses to speed through traffic and eliminate cross traffic.

TURNPIKES COMPLETED

Some states already have built sections of the interstate network in the form of toll roads. Examples: The New York State Thruway, Pennsylvania Turnpike, New Jersey Turnpike. The planners have recommended that states get credit or reimbursement for these roads provided the funds are used for additional road construction. This is one of the more controversial points in pending legislation, and no final decision has been reached on it.

The Federal Government, under general supervision of the Commerce Department's Bureau of Public Roads, shares construction costs of the first two of these systems on a 50–50 basis with the states. The annual contribution is determined by a formula based on each state's land area, road mileage and population. In the case of the Interstate system, Uncle Sam contributes up to 60% of the cost of improvements.

The separate states decide which of their roads shall be eligible for Federal aid, subject to approval of the Bureau of Public Roads, which passes on the disbursement of all Federal road money. Congress appropriates road funds for two-year periods. But the mere granting of a Federal appropriation doesn't necessarily mean any roads are built. Each state's decision to accept the money is optional. As one highway authority point out, "One current problem is the slowness of many states to claim their full share, out of inability or unwillingness to meet the matching requirement. Thus at mid-year 1955, almost $800 million of available Federal-aid money had not actually gone into highway construction. Though some of it was programmed, the figure still means that about $1.6 billion worth of highways which could have been abuilding in 1955, were not."

The administration and upkeep of all three Federal-aid road systems remains with the individual states or one of their political subdivisions, even though part of the money comes from Washington. A given section of road, of course, may be simultaneously on the state primary road system, the Federal-aid primary system, and the Interstate system.

Even if no new program is okayed in Washington this Congressional session, highway spending this year and next likely will reach new high levels. For the two fiscal years starting July 1, 1955 and July 1, 1956, Congress boosted the Federal-aid total by $300 million annually, to a new high of $875 million a year. It allocated $175 million in each of the two years to the interstate road network.

Various states also have undertaken important road construction projects and toll roads that will use large amounts of materials and manpower. Fifteen states now have toll roads abuilding, with a total mileage in excess of 1,300 miles and an estimated cost of $2.2 billion. Nineteen other toll roads of 4,200 miles all told have been specifically authorized, at an estimated cost of $5.2 billion, and an additional 3,785 miles have been proposed.

Mr. HEINZ. I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, the Interstate Highway System shall be redesignated as the Dwight D. Eisenhower Interstate Highway System.

(b) Any reference before the date of enactment of this Act in any provision of law, regulation, map, sign, or otherwise to the

Interstate Highway System shall be deemed to refer, on and after such date, to the Dwight D. Eisenhower Interstate Highway System.

Mr. DOLE. Mr. President, I rise to speak on behalf of the bill just introduced by Senator HEINZ—a bill proposing to redesignate the national system of interstate and defense highways, "The Dwight D. Eisenhower Interstate Highway System" because 1990, as we are probably all aware, is the centennial year of Dwight Eisenhower's birth. The year's celebrations began in March with the joint meeting of Congress in Ike's honor, and will not conclude until his birthday on October 14. Throughout the year, Dwight Eisenhower is being remembered as the man, the soldier, the statesman. From the early stages of planning for this centennial, the widespread sentiment has called for a centennial with more than just a good bit of nostalgia. I think Senator HEINZ' bill will serve well the desire to bestow an appropriate, timely, and certainly long-lasting honor on a truly deserving individual.

President Eisenhower was, after all, the driving force behind the creation of the interstate highway system. With the completion of the national system of interstate and defense highways scheduled for next year, and Ike's centennial this year, I believe this to be a fitting tribute to our Nation's 34th President.

Mr. President, I would like to thank my good friend from Pennsylvania for both his good work on behalf of the Eisenhowever Centennial Commission, and for introducing this legislation today. I think it is especially appropriate that Dwight Eisenhower be paid tribute in this fashion, and I appreciate the initiative on the part of Senator HEINZ.

Also, Mr. President, I would like to confirm several matters with the sponsor. It is my understanding that this bill is intended to refer to the interstate system in its entirety, and it is not intended to preclude any existing highways or parts of highways already named for individuals. Is this correct?

There have also been some concerns expressed about the cost of this redesignation. Is it correct that the redesignation would not require current signage referring to the interstate highway system to be changed to indicate the redesignation as "the Eisenhower Interstate Highway System?"

By Mr. MCCAIN (for himself, Mr. DECONCINI, and Mr. BRADLEY):

S. 2807. A bill to direct the Secretary of the Interior to establish and implement power operating criteria at Glen Canyon Dam, to protect the environmental and recreational resources of Grand Canyon National Park, and for other purposes; to the committee on Energy and Natural Resources.

GRAND CANYON PROTECTION ACT

Mr. MCCAIN. Mr. President, today, on behalf of myself, Senators DECONCINI and BRADLEY, I am introducing the Grand Canyon Protection Act of 1990. This legislation seeks to remedy a critical environmental problem facing our Nation's most precious natural treasure—the Grand Canyon. The problem I refer to is the continued degradation of natural resources within the canyon due to current operational practices at Glen Canyon Dam—a structure located on the Colorado River, 30 miles upstream from Grand Canyon National Park.

In a report released in January 1988, the Department of the Interior, determined that certain aspects of dam operations are having a substantial adverse impact on a variety of downstream environmental and recreational resources. The affected resources include Colorado River beaches, endangered fish species, a blue-ribbon trout fishery and white water river rafting.

The Grand Canyon Protection Act includes four primary objectives in the effort to remedy these adverse impacts, and to preserve the park's resouces for the enjoyment of this and future generations. First, the bill requires the Secretary of the Interior, as manager of the dam, to ensure that dam operations protect, mitigate damages to and, if possible, improve the condition of the natural resources of the Grand Canyon.

Second, the bill provides for the timely completion of an environmental impact statement of the dam operations. This study will provide the Secretary with the scientific data he needs to make responsible operational decisions and to fulfill his duty to protect canyon resources.

Third, because the EIS process is expected to take up to three years to complete, the bill calls on the Secretary to implement protective interim flows to mitigate adverse environmental impacts while the search for long term solutions is underway. Finally, the bill requires the Secretary to develop and implement a longterm monitoring program to ensure we continue to meet our stewardship responsibilities in the future.

I have explained what the legislation does, now let me tell you why it is necessary.

Mr. President, I know many of my colleagues have been to the Grand Canyon and understand just what a special place it is. I will refrain from trying to describe its inspiring beauty and its timeless significance as the crown jewel of our Nation's natural heritage. Frankly, I have found such an endeavor an impossible task and doubt whether there are words in the English language to capture its true essence. Anyone who has beheld a sunrise at Navajo Point, hiked the backcountry on the Tanner Trail or run the rapids at Lava Falls understands the frustration of trying to describe the indescribable, so I shall not try.

Suffice it to say the Grand Canyon is a unique and irreplaceable gift which we have a moral duty to preserve, protect and to hold in trust for our children and those who follow. That duty is why legislation is necessary.

The impact of Glen Canyon Dam on the Grand Canyon has been the focus of enormous attention over the past several years. Constructed in 1963, the Dam is a major component of the Colorado River Storage Project. The structure impounds water critical to meeting the needs of the Colorado River basin states. It provides flood control, generates clean and economical hydro-electricity and offers recreational opportunities to millions of Americans every year. While this multi-purpose facility provides many benefits, the operational priorities we have established appear to be costing us a priceless part of our natural heritage—a cost we are just now beginning to truly appreciate and properly address.

What exactly are these costs? Eight years ago, when concern about the impact of dam operations on the canyon was first coming to the fore, then Secretary of the Interior, James Watt initiated the Glen Canyon environmental studies to answer some of these very difficult questions. Phase I of the studies were concluded in 1988. The study indicated that power operations at the dam are having a substantial adverse impact on three important downstream Colorado River resources: beaches, endangered fish and recreation.

I would like to briefly describe, in general terms, the correlation between dam operations and the degradation identified by the Department of the Interior. For those interested in a more detailed scientific analysis, I would recommend reading the reports published by the Department on phase 1 of the Glen Canyon environmental studies.

First, let us address the beaches. The Glen Canyon environmental studies found that widely fluctuating water releases from the dam, primarily for the maximum generation of hydroelectric peaking power, are contributing to the irreversible erosion of river beaches. It's critical to recognize that river beaches are not merely convenient resting spots for river rafters, hikers, and Grand Canyon campers. The beaches are extremely valuable biological resources which support riparian vegetation and diverse forms of wildlife. They are precious and fragile ecosystems which are as vital a part of the canyon as a view from the South Rim and just as deserving of protection.

Some maintain that there is no problem with beach erosion. They assert that the river beaches are actually better off because of the dam. They cite the fact that, historically, pre-dam flood flows raging down the river would, occasionally, scour the canyon leaving little in their wake, and that "taming" the river has put an end to such events. There is no doubt that certain flood flows inflicted enormous damage on beaches reducing drastically their size and number. No responsible student of the river would suggest otherwise. It must be pointed out, however, that before the dam was constructed, sediment was permitted to flow down the Colorado River unimpeded. That sediment would typically recollect forming new beaches, enabling the river to repair itself as it had over the millennia.

Today, however, conditions are different. The dam restricts sediment transport which seriously reduces the building blocks for natural creation of beaches. Without this vital sediment transport, the widely fluctuating flows from Glen Canyon Dam along with very high water flows are gradually and irreversibly eroding Canyon beaches. I'm sure most of my colleagues would agree, we simply cannot sit idly by and watch a vital part of the Grand Canyon environment wash away into oblivion.

Another resource affected by dam operations is native fish species, including the endangered humpback chub. Post-dam changes in water temperature and fluctuating releases have changed the environment in which these species are expected to survive. The exact impact of current operations and the potential benefits of operational changes will continue to be examined during the environmental impact statement currently underway. Clearly, we have an obligation to assist these species in their fight for survival and, if changes in dam operations can promote their recovery, as suggested by the Glen Canyon studies, then we must do what we can.

Finally, we must consider the impact of dam operations on recreation—including river rafting and the world-class trout fishery at Lee's Ferry. There is no doubt that without the dam there would be no trout fishery, and Glen Canyon Dam has had some positive effects on white water boating including extending the boating season. Those factors should not mean, however, that these recreational activities should receive second-rate status, nor does it mean that we should disregard opportunities to improve the conditions of these resources as dam operations are developed.

According to the GCES final report, fluctuating releases during the winter months reduce the natural reproduction of trout by exposing spawning beds and denying access of reproducing adults to tributaries. Furthermore, fluctuations and low minimum flows have an adverse impact on river rafting. Operational changes can be made to improve these recreational resources, and it's time they receive the consideration they deserve in the decisionmaking process.

While, in sum, the impact of current Glen Canyon Dam operations on the canyon is generally bad news, the good news is that the dam can be operated in a manner which will better protect the environmental and recreational resources of the Grand Canyon. Exactly how that will be accomplished is up to the dictates of science and the findings of the environmental impact statement.

With an EIS underway some might wonder why legislation is necessary. I, along with Senator DECONCINI, wrote to the Secretary urging him to order the environmental impact statement, and subsequently we called on the Secretary to implement protective interim flows. I respect and support the Secretary's decision to pursue those vital courses of action. The Grand Canyon Protection Act, however, is important and necessary because its enactment will place us irreversibly on the road to making lasting and important decisions on how the Grand Canyon fits into Glen Canyon Dam operations. Most importantly, the legislation should leave no doubt about the Secretary's responsibility to protect the natural resources of the Grand Canyon and the will of Congress toward that end.

Let there be no mistake, as I said, Glen Canyon Dam has provided and will continue to provide us with bountiful gifts—clean and dependable energy to light countless homes and to help power the region's tribal, municipal and industrial growth. It provides water for people to survive and for our crops to grow, and its progeny—Lake Powell, has become a recreational center for millions. The mightly Colorado and the Glen Canyon Dam have provided us with very special gifts indeed—supporting a wide array of interests and uses. This legislation does not suggest that we forego these many gifts. In fact, it recognizes that nothing can or should interrupt the water storage and delivery requirements pursuant to the Colorado River compact. And we will continue to enjoy the fruits of clean and economical hydroelectric power. This legislation merely ensures that we put our priorities back into balance. It requires that we do not allow our constructive use of one valuable resource to result in the abuse of another.

I would like to say that I do not mean to suggest that operational changes are the only means we must employ to meet our conservation goals. Certainly, we must look at all management decisions and practices affecting the canyon to make sure we observe a high standard of resource protection. We must endeavor to employ the most reasonable and sensitive means of meeting our obligations to each other, the canyon and the people of tomorrow for whom we hold this natural wonder in trust.

I know this is not a perfect bill. I have received comment from many different groups, including representatives of the power and water community, who serve the needs of millions of people in the region and who have a very legitimate interest in this issue and this legislation. I know that these communities, as well as the environmental community will have many insights, comments and suggestions which I invite. It is my hope that the legislation will receive an exhaustive hearing and I look forward to working with the various groups to make sure we produce the best and most responsible final product.

In conclusion, I would like to remember Theodore Roosevelt, one of the first and most dedicated supporters of the Grand Canyon. It was almost 90 years ago, that President Roosevelt stood at the edge of the Grand Canyon and marvelled at the magnificence he beheld. Moved by its grandeur, the President admonished those assembled to "Leave the canyon as it is." "You cannot improve on it," he said, "the ages have been at work on it, and man can only mar it. What you can do is to keep it for your children, your children's children, and for all who come after you."

Those simple words articulate the responsibility with which we—the present day stewards of the Grand Canyon—have been vested. Let us fulfill that responsibility faithfully.

Mr. President, I ask unanimous consent that a letter in support of this legislation from the Grand Canyon Trust be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GRAND CANYON TRUST,
Washington, DC, June 27, 1990.

Senator JOHN MCCAIN,
Senator DENNIS DECONCINI,
U.S. Senate Washington, DC.

DEAR SENATOR MCCAIN AND SENATOR DECONCINI: I am writing to express the Grand Canyon Trust's strong support for the Grand Canyon Protection Act of 1990, a bill which will halt the ongoing, irreversible damage which Glen Canyon Dam operations are inflicting on Grand Canyon National Park. The need for such legislation could not be more urgent and warranted.

The Grand Canyon Protection Act of 1990 accomplishes several important objectives. First, it requires the Secretary of the Interior to protect the downstream environmental and recreational resources in the Grand Canyon when making decisions about Glen Canyon Dam operations. Second, the bill provides clear and unequivocal guidance to the Secretary of the Interior and to the

Western Area Power Administration ("WAPA") as these two federal agencies prepare Environmental Impact Statements on policies and actions which affect Glen Canyon Dam operations. Third, the bill requires the Secretary of the Interior to set interim operating criteria for Glen Canyon Dam which will protect the downstream environment in the Grand Canyon during the preparation of the Bureau of Reclamation and WAPA's Environmental Impact Statements. Fourth, the bill provides for a long term scientific research and monitoring program to evaluate the effect of dam operations over time so that adjustments can be made to operating procedures based on the most up-to-date, accurate information.

The Grand Canyon Trust supports the introduction of this legislation and looks forward to working with you to secure its expedient passage. We also wish to express our appreciation for your leadership and for your commitment to protecting the crown jewel of our National Park System, Grand Canyon National Park.

Cordially,

EDWARD M. NORTON, Jr.
President.

Mr. McCAIN. Mr. President, I also ask unanimous consent that a copy of the bill appear in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Grand Canyon Protection Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) current operational practices at Glen Canyon Dam, including fluctuating water releases made for the enhanced production of "peaking" hydroelectric power, and flood releases, have substantial adverse effects on downstream Colorado River environmental and recreational resources, including resources in Grand Canyon National Park;

(2) the Secretary of the Interior (referred to as "the Secretary") announced on July 27, 1989, the preparation of an environmental impact statement to evaluate the impacts of Glen Canyon Dam operations on downstream Colorado River environmental and recreational resources;

(3) based on existing information and with information developed during preparation of the environmental impact statement, the Secretary will be able to make informed decisions regarding possible changes to current power operational criteria and practices for Glen Canyon Dam and to take other measures to protect, mitigate adverse impacts to, and improve the conditions of downstream environmental and recreational resources;

(4) the substantial adverse effects of current power operations of Glen Canyon Dam can be at least partially mitigated by the development and implementation of interim power operating criteria pursuant to section 4, pending development of power operating criteria pursuant to section 5 of this Act; and

(5) the Act of August 25, 1916 (39 Stat. 535, chapter 408; 16 U.S.C. 1 et seq.) (commonly known as the "National Parks Organic Act"), the Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.) (commonly known as the "Colorado River Storage Project Act"), the Colorado River Basin Project Act (43 U.S.C. 1511 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other Federal laws require the Secretary of the Interior to operate Glen Canyon Dam in such a manner as to protect, mitigate adverse impacts to, and improve the conditions of the natural resources of Grand Canyon National Park and Glen Canyon National Recreation Area, in a manner consistent with the water storage and allocation purposes of the Glen Canyon Dam established pursuant to the Colorado River Compact, consented to by the Act of August 19, 1921 (42 Stat. 171, chapter 71) and approved by section 13 of the Act of December 21, 1928 (45 Stat. 1064, chapter 42) and other laws relating to regulation of the Colorado River.

SEC. 3. PROTECTION OF GRAND CANYON NATIONAL PARK.

The Secretary of the Interior shall operate Glen Canyon Dam in such a manner as to protect, mitigate adverse impacts to, and improve the conditions of the natural resources of Grand Canyon National Park and Glen Canyon National Recreation Area, under operating criteria that are consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to allocation of the Colorado River.

SEC. 4. INTERIM POWER OPERATING CRITERIA FOR GLEN CANYON DAM.

(a) IN GENERAL.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary shall determine whether the scientific data that are available as of that date are reasonably sufficient to permit the implementation of interim power operating criteria for Glen Canyon Dam that would, without impeding the conduct of research flows for the purpose of completing the environmental impact statement, increase the protection and improvement of the condition of the natural resources of Grand Canyon National Park and Glen Canyon National Recreational Area.

(2) If, pursuant to paragraph (1) the Secretary determines that the available scientific data are reasonably sufficient to permit the implementation of the interim power operating criteria described in paragraph (1), the Secretary shall implement such criteria not later than 30 days thereafter.

(3) If, pursuant to paragraph (1) the Secretary determines that the scientific data are not reasonably sufficient to permit the implementation of the interim power operating criteria described in paragraph (1), the Secretary shall—

(A) submit a report to Congress stating the nature of the scientific data that are lacking so as to preclude the immediate implementation of interim power operating criteria pursuant to paragraph (2);

(B) proceed as quickly as possible to procure such data; and

(C) implement such criteria not later than 30 days after adequate scientific data become available, and in no event later than the earlier of—

(i) 30 days after the cessation of research flows for the purpose of completing the environmental impact statement; or

(ii) September 1, 1991.

(b) OBJECTIVES.—The interim power operating criteria described in subsection (a) shall be designed to—

(1) not interfere with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to regulation of the Colorado River;

(2) minimize the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam;

(3) adjust fluctuating water releases used for the production of peaking hydroelectric power and adjust rates of flow changes for fluctuating flows that will minimize adverse downstream impacts;

(4) minimize flood releases, consistent with section 3;

(5) maintain sufficient minimum flow releases from Glen Canyon Dam to minimize—

(A) adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreational Area downstream of Glen Canyon Dam; and

(B) protect fishery resources; and

(6) limit maximum flows released during normal operations to—

(A) minimize the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation downstream of Glen Canyon Dam; and

(B) protect fishery resources.

(c) CONSULTATION AND PUBLIC PARTICIPATION.—The Secretary shall develop and implement the interim power operating criteria described in subsection (a) in consultation with—

(1) appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming; and

(4) Indian tribes; and with the full participation of the general public, including representatives of environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) RELIANCE ON DATA.—The Secretary shall develop and implement the interim power operating criteria described in subsection (a) using the best and most recent scientific data available.

(e) TERMINATION.—The interim power operating criteria shall terminate upon compliance by the Secretary with section 5.

(f) DEVIATION FROM CRITERIA.—The Secretary may deviate from the interim power operating criteria described in subsection (a) upon a finding that such deviation is necessary and in the public interest—

(1) to comply with the requirements of section 3;

(2) to respond to hydrologic extremes or power system operating emergencies; or

(3) to further reduce adverse impacts on downstream Colorado River environmental and recreational resources.

SEC. 5. GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; POWER OPERATING CRITERIA FOR GLEN CANYON DAM.

(a) STUDIES.—(1) Not later than 3 years after the date of enactment of this Act, the Secretary shall complete a final Glen Canyon Dam Environmental Impact Statement, in accordance with the National Envi-

ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) The Comptroller General shall audit the costs and benefits to water and power users and to recreational and environmental values of management policies and operating criteria identified pursuant to section (a)(1) and report the results of the audit to the Secretary and the Congress.

(b) OPERATING CRITERIA.—(1) Based on the findings, conclusions, and recommendations made in the studies and the statement prepared pursuant to subsection (a)(1) and the audit performed pursuant to subsection (a)(2), the Secretary shall implement power operating criteria for Glen Canyon Dam that will ensure that Glen Canyon Dam is operated in a manner consistent with this Act.

(c) REPORT.—Upon adoption of permanent power operating criteria under subsection (b), the Secretary shall submit to the Congress—

(1) the environmental impact statement described in subsection (a); and

(2) a report describing the power operating criteria and other measures taken to protect, mitigate adverse impacts to, and improve the condition of the environmental and recreational resources of the Colorado River downstream of Glen Canyon Dam.

(d) COSTS OF PREPARING ENVIRONMENTAL IMPACT STATEMENT.—All direct costs of preparing the environmental impact statement described in subsection (a) shall be nonreimbursable.

SEC. 6. LONG-TERM MONITORING.

The Secretary of the Interior shall establish and implement long-term monitoring requirements that will ensure that Glen Canyon Dam is operated in a manner consistent with the requirements of section 3.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. McCAIN. I express my appreciation for the patience of my colleagues and the indulgence of the Presiding Officer.

By Mr. SIMON:

S. 2808. A bill to restrict the availability of assistance for Turkey unless certain conditions are met; to the Committee on Foreign Relations.

RESTRICTIONS ON ASSISTANCE TO TURKEY

● Mr. SIMON. Mr. President, I rise today to introduce a bill that I hope will send a strong and clear message to our friends in Turkey who are still occupying 40 percent of Cyprus. This legislation is designed to demonstrate United States frustration with the footdragging that has, unfortunately, been the hallmark of the Turkish Cypriot position in the U.N.-sponsored talks on Cyprus's future.

My bill will gradually wind down United States military and economic assistance to Turkey over the 5-year period beginning in fiscal year 1991 and running through fiscal year 1995. It cuts 20 percent each year, so that in fiscal year 1991, for example, only 80 percent of the amounts allocated under the Foreign Assistance Act of 1961 and the Arms Export Control Act for Turkey could be delivered. The cuts are conditioned on one simple step: All Turkish military forces in excess of the 1960 Treaty of Guarantee must leave Cyprus and all illegal colonies must be withdrawn as well.

This is not an unreasonable step. The Berlin Wall has fallen, the Iron Curtain has been ripped to shreds, and the cold war has drawn to a close. The Warsaw Pact is finished as a military alliance. Yet the Green Line on Cyprus still separates Cypriots from one another, maintained by force of arms in an illegal occupation. It just doesn't make sense to forge a new, positive relationship with our former adversaries while allowing a conflict between two of our closest allies, Greece and Turkey, to fester.

This bill is similar to S. 22, Senator LARRY PRESSLER's legislation, except that Senator PRESSLER's approach includes several additional conditions and would terminate all assistance immediately. It is my hope that this alternative would get the same point across to our friends in Ankara, but do it in a way that retains leverage for us and doesn't cut them off completely and all at once.

It is clear that the U.N. negotiations are stalled. I am concerned that these talks not drag on indefinitely, with the Turkish Cypriots and the Turks in Ankara finding new ways to stop progress, for example, by questioning the right of the United Nations Secretary General to produce a draft agreement on his own, and for demanding recognition of the Turkish Cypriot state before an agreement is reached. These preconditions cannot produce an agreement that will keep Cyprus whole and unified.

My hope is that this bill will not be necessary by the time it is enacted. My hope is that the negotiations will soon yield a peace dividend so badly needed by all the people of Cyprus. But I do not think we ought to wait any longer on good faith negotiating efforts. We have to say to our friends in Turkey, and they are our friends, that there is a price to pay for violating international law. There is a price to pay for militarily occupying a sovereign state.

Mr. President, I urge my colleagues to join with me and cosponsor this legislation. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled; That (a) not more than the following percentages of assistance allocated for Turkey under chapters 2, 4 or 5 of part II of the Foreign Assistance Act of 1961 or under the Arms Export Control Act for each of the following fiscal years shall be made available for Turkey unless the President certifies to the appropriate congressional committees that all Turkish military forces, in excess of those permitted by the 1960 Treaty of Guarantee, and all illegal Turkish colonists are withdrawn from Cyprus;

(1) For Fiscal Year 1991, 80 percent;

(2) For Fiscal Year 1992, 60 percent;

(3) For Fiscal Year 1993, 40 percent;

(4) For Fiscal Year 1994, 20 percent.

(b) Notwithstanding any other provision of law, for Fiscal Year 1995 and thereafter, no funds available under chapters 2, 4 or 5 of part II of the Foreign Assistance Act of 1961 or under the Arms Export Control Act may be made available until the certification described in subsection (a) has been made.

(c) For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.●

By Mr. SIMON:

S. 2809. A bill to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail; to the Committee on Energy and Natural Resources.

UNDERGROUND RAILROAD HISTORIC TRAIL

● Mr. SIMON. Mr. President, I am introducing a bill today that will amend the National Trails System to provide for the study and designation of the Underground Railroad Historic Trail. This bill will provide for the establishment of the Underground Railroad Historic Trail and would help identify and preserve the many homes, churches, and farms which were used to secretly aid fugitive slaves reach places of security in the free States and Canada prior to the conclusion of the Civil War.

The Underground Railroad was a most important network in the development of our country. It was the secret avenue from the bondage of slavery in the Northern States and Canada for between 30,000 and 100,000 slaves from 1815 through the 1860's. Slaves were hidden in stables, attics, and secret passages in the homes across our land. Many of these sites are still standing today.

In an effort to keep the memories of those who so valiantly carried the torch of freedom, it is important to recognize, in a tangible way, the brave men and women who supported the Underground Railroad.

I urge my colleagues to join in commemorating the brave deeds of those who took a stand for freedom in this heroic way through their support of this legislation.●

By Mr. RIEGLE:

S. 2811. A bill to amend the State Dependent Care Development Grants Act to reauthorize such Act and to strengthen the program for grants to States for dependent care programs, and for other purposes; to the Committee on Labor and Human Resources.

STATE DEPENDENT CARE GRANTS IMPROVEMENT ACT

● Mr. RIEGLE. Mr. President, in recent decades, we have seen a number of momentous social changes including the civil rights and environmental movements, the rise of drug usage, and the mass culture of McDonald's and television. Equally as dramatic has been the gender revolution and the consequent entry of millions of additional women with young children into the labor force. It is estimated that between 1985 and the year 2000, 65 percent of new labor force entrants will be women. Furthermore, the labor force participation rates of women and mothers are projected to continue rising through the rest of the century. In 1988, 73 percent of mothers with children aged 6 to 13 were in the labor force, and 75 percent of these mothers worked full-time.

Clearly, there are many school-age children, so-called latchkey children, who do not have a parent who remains at home full-time or even part-time. In fact, of the 25.7 million children between the ages of 6 and 13 who are living in families, 16.1 million, or 72 percent, have mothers who work outside the home. Of these, as many as 7 million are left alone each day before and after school. By 1995, over three quarters of school-age children will have mothers in the workforce.

To respond to the need for before and after school care for those children who do not have a parent to send them off to school or to greet them after school, I sponsored legislation in 1984 that created the State Dependent Care Development Grants Program. Now, 6 years later, I rise again to introduce legislation calling for the program's reauthorization through 1994 and for a change in the program that would remove the prohibition, in certain circumstances, against using program funds for the ongoing operation of the programs that were established or improved with State Dependent Care Development Grants.

The State Dependent Care Development Grants Program was conceived in order to aid communities in their efforts to provide both before and after school child care to school-age children and assistance to parents and guardians in their search for quality dependent care services. Two types of programs are funded by State Dependent Care Developmental Grants. The grants support the planning or improvement of before and after school child care in schools and community facilities. The grants also support the planning or improvement of resource and referral systems that assist parents and guardians in finding quality care for children and dependents of all ages, including elderly and disabled persons.

Before and after school programs address a critical need for school-age child care. Children who participate in these programs are protected from potentially serious risks of physical and psychological harm associated with self-care in the absence of adult supervision. Children who are most at risk in self-care arrangements are those whose families are least likely to be able to afford program fees for the care. These lower income children may lack family resources that can lessen the risks of self-care. There is strong evidence that existing before and after school programs are inaccessible to economically disadvantaged children. Programs are rarely developed in areas where families cannot pay program fees to cover ongoing operating costs. In other communities, more affluent families may support a program developed by the State Dependent Care Development Grants Program, but lower income families are shut out because the program fees are beyond their financial means.

By removing the prohibition against the use of funds used for program operation to lower income families, this bill would increase participation of our most vulnerable children in before and after school child care programs.

The removal of the same prohibition in the use of funds for resource and referral systems would improve the long-term viability of the valuable services these systems provide. The accessibility of high quality care for children, elderly, and disabled persons is greatly increased by resource and referral systems which provide technical assistance to providers and information about quality dependent care services to parents and guardians. For most families in need of dependent care, a resource and referral service means the difference between guessing at what might be an adequate care arrangement and making an informed choice.

In order to successfully assess the use of State Dependent Care Development Grants for future planning, this bill specifies important information that States will provide to the Secretary of Health and Human Services about the children and other dependents that are served by the program.

Mr. President, I reiterate my wholehearted support for the successful continuation of the State Dependent Care Development Grants Program and urge adoption of the suggested change that would allow more families of all income ranges to benefit from the program. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Dependent Care Grants Improvement Act of 1990".

SEC. 2. REAUTHORIZATION.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended by striking out "and 1990" and inserting in lieu thereof "1990, 1991, 1992, 1993, and 1994",

SEC. 3. OPERATION COSTS OF AFTER SCHOOL CARE PROGRAMS AUTHORIZED.

(a) USE OF ALLOTMENTS.—

(1) IN GENERAL.—Section 670D(a)(1) of the State Department Care Development Grants Act (42 U.S.C. 9874(a)(1)) is amended by inserting "operation," after "establishment,".

(2) OPERATION.—Section 670D(b)(1) of such Act (42 U.S.C. 9874(b)(1)) is amended by inserting "operation," after "establishment,".

(3) PARTICIPATION OF CERTAIN CHILDREN.—Section 670D(b)(1) of such Act is further amended by adding at the end thereof the following new sentence: "Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.".

(4) RESOURCE AND REFERRAL SYSTEM.—Section 670D(f) of such Act (42 U.S.C. 9871(f)) is amended by inserting "operate," after "expand,".

(b) LIMITATIONS.—Section 670D(d) of such Act (42 U.S.C. 9874(d)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) by striking out paragraph (3); and

(4) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3) respectively.

SEC. 4. REPORT BY GRANT RECIPIENTS.

(a) IN GENERAL.—Section 670E(c) of the State Department Care Development Grants Act (42 U.S.C. 9875(c)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The chief executive officer of each State shall include in such report—

"(A) the number of children served in before and after school child care programs assisted under this subchapter;

"(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

"(C) the salary level and benefits paid to employees in such child care programs;

"(D) the number of clients served in resource and referral systems assisted under this subchapter;

"(E) the characteristics of clients served in resource and referral systems assisted under this subchapter, including disability categories.".

(b) DATE OF REVISION.—Section 670E(c)(1) of such Act (as redesignated by subsection (a)) is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1991".●

By Mr. HEFLIN:

S. 2812. A bill to provide assistance to the George C. Wallace Community College in Hanceville, AL, in the construction of a fitness training facility; to the Committee on Labor and Human Resources.

39-059 O-91-44 (Pt. 11)

ASSISTANCE FOR FITNESS TRAINING FACILITY

● Mr. HEFLIN. Mr. President, I rise to introduce a bill to provide assistance to George C. Wallace Community College in Hanceville, AL.

My bill will authorize the appropriation of funds to construct a fitness training facility at George C. Wallace.

This wellness facility will accommodate the elderly and industrial workers as well as possibly provide a day care center. With the many health programs at George C. Wallace Community College already in place, the school will be able to do a great deal of health screening for the citizens of the Cullman County area.

The construction of this training center will play an integral role in the economic development of the entire north Alabama region. The growth of the recreational, sports, and wellness industries will be directly related to the availability of trained, qualified personnel working in these industries.

This project will result in 156 jobs for the construction of this facility and as a result of the existence of this facility, an additional 557 jobs will be created in the service areas at George C. Wallace Community College.

The entire project will be located on the campus of Wallace State Community College which is in the city of Hanceville. George C. Wallace Community College is in the center of the northern half of Alabama, about midway between Huntsville and Birmingham. Although north Alabama is considered rural/agricultural, the industrial growth in recent years has been impressive. The unemployment rate of north Alabama has remained about average. Many industries and businesses have closed or decreased their work force. The job market has been poor for the unskilled worker.

This project will certainly result in an economic shot in the arm for the entire north Alabama area. The project will benefit all north Alabama counties, and will substantially increase the employment prospects for individuals in these counties.

It is a pleasure for me to introduce this legislation on behalf of George C. Wallace State Junior College, which is a rapidly developing institution in the State of Alabama.●

By Mr. GRAHAM (for himself, Mr. CRANSTON, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BRADLEY, Mr. COATS, Mr. COCHRAN, Mr. DODD, Mr. DOMENICI, Mr. EXON, Mr. INOUYE, Mr. NUNN, Mr. PRYOR, and Mr. RIEGLE):

S. 2813. A bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games; to the Committee on Banking, Housing, and Urban Affairs.

1992 OLYMPIC COMMEMORATIVE COIN ACT

● Mr. GRAHAM. Mr. President, I rise today to introduce a bill to authorize the minting of coins commemorating the 1992 Olympics. I am pleased to have Senator CRANSTON and several of my Senate colleagues joining me as original cosponsors.

The Olympics provide our Nation with a tremendous source of pride and glory. They invigorate all nations with a peacetime comradery that is unsurpassed. In 1992, each of our athletes will compete with the hope of winning a gold medal and having the Stars and Stripes raised above all others.

The bill I am introducing today will authorize the minting of coins to commemorate the 1992 Olympics. The revenue from the sales of these coins will help support and promote the training of our athletes. Similar coin sales took place before the 1984 and 1988 Olympics and resulted in significant contributions to the American participants.

In 1980, as Governor of Florida, I oversaw the birth of our own olympic-style sports festival, the Sunshine State games. These games provide Florida athletes of all ages with amateur sports experience, developing their potential with the ultimate goal of Olympic participation. The Sunshine State games have grown from a mere idea requiring State appropriations to an event with over 25,000 participants annually.

My interest in the development of American athletes has found a new home on the national level as the 1992 Olympic games approach. The athletes who will represent America in the forthcoming international competition deserve the utmost in moral and financial support. Congress has the opportunity to do its part with passage of the 1992 Olympic Coin Commemorative Act. This Act, in addition to providing the Olympic athletes with their sole source of public funding, will send a message to the American public, and to the athletes, that their government is behind the effort to bolster our athletic excellence on the international level.

I urge my colleagues to join me in support of this bill. In doing so, they will be expressing their support for the spirit of competition, for pride in America, and for our amateur athletes vying for the gold at the 1992 Olympic games.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2813

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "1992 Olympic Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLALR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall issue not more than 1,000,000 $5 coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such $5 coins shall be emblematic of the participation of American athletes in the 1992 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 10,000,000 $1 coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the $1 coins shall be emblematic of the participation of American athletes in the 1992 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) SILVER BULLION.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(a) GOLD BULLION.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the United States Olympic Committee and the Commission of Fine Arts.

SEC. 5. SALE OF THE COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the $5 coins and $7 per coin for the $1 coins.

SEC. 6. ISSUANCE OF THE COINS.

(a) GOLD COINS.—The $5 coins authorized under this Act shall be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) SILVER COINS.—The $1 coins authorized under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike each such quality.

(c) SUNSET PROVISION.—No coins shall be minted under this Act after June 30, 1993.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United States Olympic Committee. Such amounts shall be used by the United States Olympic Committee for the objects and purposes of the committee as established in the Amateur Sports Act of 1978.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the United States Olympic Committee as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this Act shall result in no net cost to the United States Government.

(b) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.●

Mr. CRANSTON. Mr. President, I am pleased to join Senator BOB GRAHAM as an original cosponsor of the 1992 Olympic Commemorative Coin Act.

This bill will authorize the striking of gold and silver coins to honor American athletes participating in the Olypmic games and commemorate the spirit of excellence embodied in their achievements.

The finest athletes from across the entire country have already begun to train in the hope of representing the United States in the 1992 Olympics. This training often involves much personal sacrifice and financial expense as the cost of competing in the games continues to escalate.

These commemorative coins are designed to generate proceeds to support the training of these athletes. A surcharge is added to the price of each coin which will be paid to the U.S. Olympic Committee. In 1984 and 1988 Congress authorized the striking of similar Olympic commemorative coins. These coin programs were very successful, raising nearly $100 million for the training of U.S. Olympic athletes. The coins are self-financing, resulting in no net cost to the government.

These Olympic commemorative coins will pay tribute to the dedication, perserverance and athletic prowess of our athletes while providing the financial support necessary to accomplish their ambitious goals.

By Mr. LEAHY (by request):

S. 2814. A bill to provide comprehensive regulatory supervision over stocks and stock derivative instruments, to protect investors and assure the stability of the United States capital markets, to enhance innovation and competition in financial products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CAPITAL MARKETS AND COMPETITION, STABILITY, AND FAIRNESS ACT

Mr. LEAHY. Mr. President, last year, the Senate Agriculture Committee reported to the floor the toughest reform of the futures industry in decades. Since then, every effort has been made to block a floor vote on that bill, S. 1729, the Futures Trading Practices Act of 1989.

The Committee acted last year in response to an unparalleled crisis in the regulation of our Nation's commodity futures markets.

Futures trading practices had been under a cloud since the January 1989 disclosure of a criminal probe directed against traders on the Chicago Board of Trade and the Chicago Mercantile Exchange, the two largest futures markets in this country. Last August, this investigation resulted in indictments against 45 Chicago traders for defrauding customers.

The Chicago criminal probe continues to this day and more indictments are likely.

Weeks earlier, in mid-July, an emergency in the Chicago soybean futures market raised alarms among farm producers. In September, the General Accounting Office reported that there were serious flaws in floor oversight systems at exchanges in both Chicago and New York. Last December, our colleague, former Senator Tom Eagleton resigned his public director's seat at the Chicago Mercantile Exchange to protest insider domination of exchange affairs.

S. 1729 is designed to restore public confidence in these markets by producing two results. First, any broker on an exchange floor who considers cheating a customer will know that he will be caught and severely penalized. Second, exchanges will know that their business is the public's business and that the public must play a key role in making exchange decisions.

Despite the clear need for prompt reform, Senate action on S. 1729 has been stalled now for more than 7 months now by a controversy unrelated to last year's crisis—a proposal to strip the CFTC of jurisdiction for stock-index futures contracts and shift this responsibility to the Securities and Exchange Commission. I strongly oppose this idea.

The purpose of S. 1729 is to strengthen the CFTC, to change its character from that of a lapdog to that of a tiger. Stripping CFTC jurisdiction will do the opposite: It will weaken the agency, damage its standing at a time when it needs more backbone, not less, and it will hand over stock-index products to an agency, the SEC, which does not have a staff or program in place to police them.

In short, this proposal cuts the heart out of our futures trading reforms. The big winners are the trading crooks and lawyers; the big losers are farmers and consumers across the country.

What concerns me most is that movement on S. 1729 today continues to be stalled by political jockeying and turf battles over the stock-index jurisdiction debate. In the 3 weeks since the Department of the Treasury submitted a proposal to implement the jurisdiction-transfer idea—the Capital Markets Competition, Stability, and Fairness Act of 1990—Senators have placed "holds" on S. 1729, largely, I understand, at the behest of the Treasury Department, which feels it needs more time to lobby in favor of its proposal.

Senator LUGAR and I have been fully prepared for 7 months now to bring S. 1729 to the Senate floor and allow a clear up-or-down vote on the jurisdiction-transfer proposal. On May 14, we wrote letters to Senators MITCHELL and DOLE asking them to schedule the bill as soon as possible. The Senate leadership is ready to go forward.

The administration cannot have it both ways. On one hand, it claims that urgent action is needed to restore investor confidence in Wall Street. On the other hand, it plays for time so the securities industry firms can spend hundreds of thousands of dollars lobbying Members of Congress on behalf of their proposal.

Time is growing short in the 101st Congress. Already, the Senate floor schedule is filling with possibly lengthy debates on appropriations bills, the budget, the farm bill, and other priority items. Further delay cannot help but jeopardize prospects for action on S. 1729. We must move the legislation to a vote quickly; we

cannot afford to let the administration drag its heels.

Every day we delay passage of S. 1729, we increase the odds of another scandal in the commodity markets. And if the legislation is killed as a result of political gamesmanship, the price will be high indeed. Key commoity reforms will die:

First, futures exchanges will not be required to implement precise, tamper-proof audit trail systems.

Second, customers will remain barred from suing for punitive damages against floor traders and brokerage firms.

Third, the CFTC will not be empowered to force exchanges to improve their self-regulatory systems through "deficiency orders."

Fourth, conflict of interest rules will not take effect. Exchanges will not be forced to include 20 percent public directors on their governing boards.

Fifth, dual trading will continue unchecked.

Sixth, the CFTC will remain weak and feeble. Not only will it not gain the proposed new legal powers but the continuing "turf battle" will sap its strength. The CFTC's small staff will remain preoccupied fighting off the SEC; its budget will be open to attack for lack of an authorizing statute; and its credibility will remain in question.

With a weak CFTC, more trading abuse scandals are inevitable; the CFTC's ability to manage the next major market crisis—be it in soybeans, heating oil, silver, or stocks—will be compromised. Even the risk to the stock market is magnified. The CFTC's working relationship with the SEC cannot help suffering from the continuing turf war. This complicates the job of sharing data and monitoring the highly related stock and stock-index futures markets.

In short, if this current stalemate causes futures reform legislation to die in this Congress, the American people will know it was the Committee on Agriculture, Nutrition, and Forestry that has pushed for action on this issue, and that the blame lies squarely on the administration's shoulder.

Mr. President, I understand that the Treasury Department has raised an issue of high public importance through its proposal: How are we best to restore investor confidence in Wall Street, encourage innovation, and improve intermarket coordination?

Inasmuch as the Executive communication containing the administration's jurisdictional proposal was referred by the Senate Parliamentarian to the Committee Agriculture, Nutrition, and Forestry—EC-3136—I am taking the step today of introducing the bill, by request, recognizing my deep opposition to it.

In a nationally published advertisement earlier this week, Charles Schwab and Co. complained that opponents of jurisdictional change "can use their clout to keep the President's new bill bottled up in Congress indefinitely." This is exactly wrong. It is not the opponents of the President's proposal who are keeping it bottled up; it is the supporters. I want to see this proposal debated and voted on promptly. Let's stop the delays and adopt futures trading reforms of S. 1729.

Mr. President, I ask unanimous consent that a section-by-section analysis of the legislation be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1: SHORT TITLE

This section provides that the short title of the bill is the "Capital Markets Competition, Stability, and Fairness Act of 1990".

SECTION 2: PURPOSES

This section finds that the markets for stocks and stock derivative instruments function as one market and provides that the purposes of the Act are to promote the efficiency, coordination, and stability of the stock and stock derivative markets; to facilitate the development of financial products; to enhance the competitiveness of the United States financial markets; and to foster the trading of innovative financial products.

SECTION 3: REGULATION OF STOCK INDEX PRODUCTS

This section amends the Securities Exchange Act of 1934 and the Commodity Exchange Act to transfer to the Securities and Exchange Commission the authority under the Commodity Exchange act to regulate stock index products.

Section 4C of the Securities Exchange Act—Regulation of Stock Index Products by the Securities and Exchange Commission. Section 3(a) of the bill adds a new section 4C to the Securities Exchange Act. This transfers to the Securities and Exchange Commission the powers and responsibilities currently exercised by the Commodity Futures Trading Commission under the Commodity Exchange Act concerning the following: stock index products; any person purchasing, selling or advising with respect to such products; any exchange for such products; and any futures association whose members include any of the foregoing. Stock index products are defined in subsection (d) to mean any contract of sale (or option on such contract) for future delivery of a group or index of equity securities (or any interest therein or based on the value thereof).

This provision and the parallel provision added to the Commodity Exchange Act give the Securities and Exchange Commission authority to regulate transactions in stock index products and persons who engage in those transactions. The Securities and Exchange Commission and the Commodity Futures Trading Commission should assist each other to the maximum extent possible in carrying out the purposes of this bill.

New section 4C also incorporates into the Securities Exchange Act the provisions of the Commodity Exchange Act (as amended by this bill and in effect on the effective date of this bill) to be administered by the Securities and Exchange Commission pursuant to its authority and responsibility concerning stock index products. Accordingly, these provisions become a part of the federal securities laws. In addition, rules adopted by the Securities and Exchange Commission under this new authority will be codified with the other rules under the Securities Exchange Act.

Provisions of the Securities Exchange Act that refer to "this title and the rules and regulations thereunder" include the incorporated provisions of the Commodity Exchange Act and the rules and regulations thereunder adopted by the Securities and Exchange Commission concerning stock index products and the persons specified above whose activities with respect to such products give the Securities and Exchange Commission jurisdiction over them. Provisions of the federal securities laws that refer to the Commodity Exchange Act, such as the statutory disqualification provisions, will continue to apply to persons regulated under this section. The Securities and Exchange Commission will be entitled to deference in exercising its authority under these provisions independent of the Commodity Futures Trading Commission.

The provisions of the Commodity Exchange Act incorporated into new section 4C may be amended in the future only through amendment to the Securities Exchange Act. Any future amendments to provisions of the Commodity Exchange Act will have no effect on the provisions incorporated in new section 4C, unless an amendment to that section is also expressly provided.

New section 4C also authorizes the Securities and Exchange Commission to adopt rules relating to stock index products that are reasonably designed to prevent fraud. This authority, like that provided in Section 15(c)(2) and other similar sections of the Securities Exchange Act, will permit the Commission to adopt rules reasonably designed to proscribe fraudulent activity that do not depend on the presence of scienter or any other state of knowledge.

The Securities and Exchange Commission is given specific authority to exempt persons from requirements imposed by virtue of Section 4C. Such authority permits the agency to avoid imposing additional regulatory requirements on persons when their activity in stock index products is de minimis and such additional requirements would not serve the purposes of this bill.

Finally, new Section 4C also specifically provides that, in promulgating rules in the exercise of the powers and responsibilities granted by this bill, the Securities and Exchange Commission is required to consider the sufficiency of any existing rules as well as the views of the Commodity Futures Trading Commission. This is similar to the provision in the Government Securities Act that requires the Treasury Department to consider the views of the Securities and Exchange Commission in promulgating rules relating to government securities. This consultation requirement has worked well in the regulation of government securities, and the purpose of the similar provision here is to promote the greatest degree of cooperation between the two Commissions, particularly during transition, with minimum disruption to the regulation and operation of the markets for stock index products markets.

Section 2(a) of the Commodity Exchange Act—Securities and Exchange Commission Authority Over Stock Index Products. Section 3(b) of the bill amends section 2(a) of the Commodity Exchange Act to add a pro-

vision, parallel to new section 4C of the Securities Exchange Act described above, that transfers to the Securities and Exchange Commission the authority in the Commodity Exchange Act over stock index futures (ans options thereon). With respect to such products, the term "Commission" as used in the incorporated provisions of the Commodity Exchange Act means the Securities and Exchange Commission, other than when that term is used in section 2(a), except for the last two sentences of section 2(a)(1)(A) and clauses (ii) and (iii) of section 2(a)(1)(B).

Section 3(a)(10) of the Securities Exchange Act—Definition of Security. Section 3(c) of the bill amends the definition of "security" under the Securities Exchange Act to treat equity index futures and options thereon as securities for specific, limited purposes relating to general antifraud prohibitions and related enforcement authority. The amendment to Section 3(a)(10) provides that transactions in equity index futures or options thereon are deemed to be transactions in securities for purposes of the general antifraud prohibition (§ 10(b)) and related enforcement authority (§ 21) of the Securities Exchange Act. Accordingly, the Securities and Exchange Commission and private litigants have the ability to enforce and bring private damage actions under Rule 10b-5, including actions relating to insider trading, fraudulent sales practices, and other causes of action under that rule, where the violative conduct occurred in connection with the purchase or sale of an equity index future or option thereon. Related authority concerning investigations, injunctions, and prosecution of offenses (§ 21) is also made applicable to transactions in equity index futures and options thereon.

Under Section 10(b) the Commission also has the ability to engage in additional rulemaking concerning manipulative or deceptive devices or contrivances relating to transactions in equity index futures or options thereon. This amendment would not extend the applicability of other provisions of the federal securities law relating to securities nor would it extend the applicability of the Securities Investor Protection Act to customer claims based on equity index futures or options thereon.

Section 3(a) of the Securities Exchange Act—Definition of Stock Index Products. Section 3(d) of the bill adds a new definition to section 3(a) of the Securities Exchange Act of 1934. The term "stock index product" is defined as any contract of sale (or option on such contract) for future delivery of a group of index of equity securities (or any interest therein or based on the value thereof).

Section 14 of the Commodity Exchange Act—Reparations. In providing for reparations proceedings with respect to stock index products, section 3(e) of the bill explicitly allows the Securities and Exchange Commission to enter into an agreement with the Commodity Futures Trading Commission to administer such proceedings in order to take advantage of economies of scale. This permits efficient handling of complaints involving both stock index and other futures and will permit the Securities and Exchange Commission to arrange with the Commodity Futures Trading Commission for the CFTC administrative law judges and their clerical support unit to handle such proceedings through the initial decision. Any person filing a complaint involving transactions in stock index products will have a right to appeal to the Securities and Exchange Commission the findings of the administrative law judge employed by the Commodity Futures Trading Commission.

SECTION 4: MODIFICATION OF REGULATION OF INNOVATIVE FINANCIAL PRODUCTS

Section 2(a)(1)(B)—Modification of Regulation of Certain Financial Products. Section 4(a) of the bill amends section 2(a)(1)(B) of the Commodity Exchange Act to address issues relating to the exclusivity of jurisdiction of the Commodity Futures Trading Commission over financial instruments that have any degree of "futurity." By adding a new clause (vi), the amendment: creates a new, broader exception from the exclusivity provision of the Commodity Exchange Act for transactions involving securities, including government securities; clarifies other existing exceptions currently found in the "Treasury Amendment" to the Commodity Exchange Act; and clarifies that swap agreements are not subject to the Commodity Exchange Act provided they are undertaken by the parties to the agreement in conjunction with their business (including financial intermediation) or risk hedging activities. The definition of swap agreements for purposes of this section parallels the definition of swap agreements in proposed new section 560 of the Bankruptcy Code.

The purpose of the swap agreement provision is to exclude from coverage the swap market as it exists today and as it may develop in the future, except to the extend that swap agreements might be developed that are marketed to the general public. The requirement that swaps be undertaken in connection with the parties' business is intended to include within the exception swap agreements entered into by an entity to lower or fix interest or other costs related to the entity's business (such as the cost of fuel for a large hospital). It also permits financial intermediaries to engage in swaps and permits swaps for risk hedging proposes. Since swap agreements are not amenable to trading on futures exchanges, this provision clarifies that standardization of terms of swap agreements can occur free of concern that such standardization will cause such transactions to fall within the coverage of the Commodity Exchange Act. This is particularly important for provisions that represent prudent business practice, such as those that would facilitate a system of margining or more efficient clearing of swap transactions.

The only instance when the Commodity Exchange Act or the provisions incorporated by new section 4C of the Securities Exchange Act would be applicable to transactions involving the instruments listed above is when they are contracts of sale of a commodity for future delivery and are conducted on a designated contract market. In addition, as described below, the Commodity Futures Trading Commission is given specific authority to exempt certain financial instruments from regulation under the Commodity Exchange Act if such an exemption would be consistent with the public interest.

The intent of the new exception for transactions involving securities is to overrule the decision of the U.S. Court of Appeals for the Seventh Circuit in *Chicago Mercantile Exchange* v. *SEC,* 883 F.2d 537 (7th Cir. 1989), *petitions for cert. filed sub nom. American Stock Exchange, Inc. et al.* v. *Chicago Mercantile Exchange et al.,* 58 U.S.L.W. 3642 (U.S. March 22, 1990) (No. 89-1502) and *Philadelphia Stock Exchange, Inc.* v. *Chicago Mercantile Exchange et al.,* 58 U.S.L.W. 3642 (U.S. March 26, 1990) (No. 89-1503). The result of this decision and the lack fo specific exemptive authority has been to impede the development of innovative financial instruments that may have some aspect of futurity. The amendment provides that instruments with, for example, characteristics of both futures and securities can be traded either on designated contract markets or in the securities markets. As a result, the regulatory regime will be determined by the market and the nature of the product rather than by protracted litigation.

Section 4(b) of the bill amends section 2(a)(1)(B) of the Commodity Exchange Act to state expressly that nothing in the Commodity Exchange Act limits the jurisdiction of the Securities and Exchange Commission. This section is not intended to override the effect of the amendment discussed in the preceding paragraph, which provides that a futures contract trading on a designated contract market shall be regulated solely pursuant to the Commodity Exchange Act.

Section 4—Exemptive Authority. Section 4(c) of the bill amends section 4 of the Commodity Exchange Act to provide the Commodity Futures Trading Commission with the authority to exempt certain transactions that might otherwise be subject to the Commodity Exchange Act. The amendment permits exemption of transactions involving financial instruments that arguably have some degree of futurity (but do not involve delivery of a tangible commodity) from regulation under the Commodity Exchange Act if the exemption would be consistent with the public interest. With this exemptive authority, the CFTC can facilitate the development of additional new products that might be considered futures contracts but which are not amendable to trading on futures exchanges.

SECTION 5: MARGIN AUTHORITY WITH RESPECT TO STOCK INDEX FUTURES

Section 5a(12) of the Commodity Exchange Act—Approval of Contract Market Margin Rules. Section 5(a) of the bill amends section 5a(12) of the Commodity Exchange Act to remove the exemption from agency review that currently applies to contract market rules that set margin levels on stock index products. As a result, the Securities and Exchange Commission would have the authority to review and approve or disapprove margin rules of contract markets concerning stock index products. This authority is similar to the current review and approval authority that the SEC exercises over margin rules for options, which has in effect been delegated to the SEC by the Federal Reserve. As with margins on options, this provision does not set pre-established margin limits by statute.

Section 8a(7) of the Commodity Exchange Act—Altering or Supplementing Rules of Contract Markets. Section 5(b) of the bill amends section 8a(7) of the Commodity Exchange Act to remove the requirement to make a request in writing that a contract market change its own rules before commencing a proceeding to amend the rules of a contract market for stock index products. This allows the Securities and Exchange Commission to commence a proceeding immediately to determine if changes in the rules of a contract market are necessary or appropriate for the protection of specified persons or to ensure fair dealing.

This section of the Commodity Exchange Act is also amended to add to the persons whose protection is to be considered in amending contract market rules "other par-

ticipants in the contract market or in the equity securities markets." In addition, the bases for amending contract market rules are expanded to include the furtherance of the public interest. Finally, the limitations on amending rules that set levels of margin are eliminated for margin relating to stock index products.

SECTION 6: RECOGNITION OF LINKED MARKETS

Section 3—Purposes for Regulation. Section 6(a) of the bill amends section 3 of the Commodity Exchange Act to add to the purposes for regulation. As amended, the section states that trading in stock index products is directly related to trading in the underlying securities markets and that, accordingly, regulatory coordination is required.

Section 2(a)(i)(B)—Approval of Equity Index Products. Section 6(b) of the bill amends section 2(a)(i)(B) of the Commodity Exchange Act to add a new standard for the designation of contract markets for stock index products. This standard requires the Securities and Exchange Commission to consider whether such a contract is consistent with the fair and efficient operation of the stock index futures markets and the maintenance of fair and orderly markets in any securities composing the index underlying such contract.

SECTION 7: CONTINUATION OF STATUS OF REGISTERED AND DESIGNATED PERSONS

This section provides continuity for the contract markets and regulated persons whose activities in stock index products thereon bring them under the jurisdiction of the Securities and Exchange Commission. Under this section the only change that occurs automatically on the effective date (which is ninety days after the date of enactment) is the change in regulators.

Subsection (a) provides that the persons currently registered pursuant to the Commodity Exchange Act are deemed registered with the Securities and Exchange Commission.

Subsection (b) provides that the contract markets designated pursuant to the Commodity Exchange Act for trading stock index products are deemed to be similarly designated by the Securities and Exchange Commission.

Subsection (c) provides that the National Futures Association is deemed registered with the Securities and Exchange Commission.

Under subsection (d) all orders, rules and regulations, and interpretations under the Commodity Exchange Act, rules of the contract markets, and rules of the National Futures Association, relating to stock index products and the persons listed above reamin in effect until modified, terminated, set aside or superseded in accordance with applicable law.

Finally, subsection (e) provides that this bill does not affect rights and duties existing before the effective date, including any reparation proceeding filed with the Commodity Futures Trading Commission. In addition, this bill does not affect any proceeding commenced by or against the Commodity Futures Trading Commission.

SECTION 8: REPORT

This section provides that, within eighteen months of the Act's effective date, the Securities and Exchange Commission will report to the Congress on the need for further legislation to achieve the purposes of this bill with respect to the appropriate regulation of stock index products.

SECTION 9: TECHNICAL AMENDMENTS

This section contains various technical amendments to the Commodity Exchange Act. Section 9(a) of the bill amends section 2(a)(1)(A) of the Commodity Exchange Act to remove the "SEC Savings Clause." This provision is no longer necessary in light of the amendment to section 2(a)(1)(B) described above.

Section 2(a)(1)(A) is also amended to remove the "Treasury Amendment," which involves financial instruments that currently receive exemptive treatment under the Commodity Exchange Act. This amendment is no longer necessary in light of the amendment (described above) that clarifies that the Commodity Futures Trading Commission does not have jurisdiction with respect to securities and other enumerated instruments unless they are futures contracts traded on a designated contract market.

Section 9(b) of the bill amends section 2(a)(1)(B) of the Commodity Exchange Act to delete the time limitation on the definition of "security" with respect to the standards for equity index futures and futures on individual securities, in order to assure that other amendments made by this bill will be effective. Other technical amendments relate to the transfer of functions from the Commodity Futures Trading Commission to the Securities and Exchange Commission.

SECTION 10: EFFECTIVE DATE

This section provides that the provisions in the bill will become effective ninety days after the date of enactment.

By Mr. GARN (for himself and Mr. HATCH):

S. 2815. A bill to establish the Kokapelli National Outdoor Theater in the State of Utah, and for other purposes; to the Committee on Energy and Natural Resources.

KOKAPELLI NATIONAL OUTDOOR THEATER

● Mr. GARN. Mr. President, with Senator HATCH, I am today introducing legislation to establish a national outdoor theater in southeastern Utah to promote western and native American culture, the performing arts, and other educational programs.

The legislation will authorize the construction of the Kokapelli National Outdoor Theater in Moab, UT, which will be an extension of the University of Utah's fine arts division.

The members said the theater will be named in honor of Kokapelli, a divine spirit in Hopi mythology who symbolizes prosperity and abundance and the peaceful union of tribes.

"The University of Utah's fine arts program has achieved national prominence. This theater, located in the beautiful, scenic area outside Moab, UT, will attract top-quality performers from across the country and help promote the university's superb tradition of performing arts," they said.

The delegation bill authorizes $6 million in Federal funds and requires a minimum 35 percent matching contribution from non-Federal sources. The total cost for the design and construction of the facilities is estimated to be $9.5 million.

Significantly, the legislation designates the Bureau of Land Management to manage the facility as an outdoor amphitheater similar to the Wolftrap National Outdoor Theater in suburban Washington, DC.●

By Mr. GARN:

S. 2816. A bill to disclaim all right, title, and interest of the United States in and to certain private lands conditionally relinquished to the United States under the Act of June 4, 1987 (30 Stat., 11, 36), and for other purposes; to the Committee on Energy and Natural Resources.

CHANGE IN STATUS OF CERTAIN LANDS

● Mr. GARN. Mr. President, this bill is only the latest in a series of measures responding to problems that arose from the so-called forest lieu selection section of an 1897 Act that came to be called the Forest Management Act. That Act itself arose from congressional reaction to the controversial actions of President Grover Cleveland in establishing forest reserves through issuance of proclamations that adopted recommendations of a committee—including Gifford Pinchot—of the National Academy of Sciences. These reserves were the foundations for the National Forest System.

Under the forest lieu selection part of the 1897 Act, the owner of an unperfected bona fide claim or a tract of patented land within a national forest was authorized to relinquish or reconvey that land to the United States, and to select in lieu thereof an equal acreage of vacant public land open to settlement.

Because this right of exchange was not limited to actual settlers on the lands involved, but extended to owners generally, it had broad application that led to many controversial transactions. As described in the "History of Public Land Law Development" by Paul W. Gates, prepared in 1968 for the Public Land Law Review Commission:

> By permitting owners of near-worthless land within the forest reserves to exchange them for equal acreages of the very choicest timberlands outside, Congress was setting up a system that invited wholesale abuse and deprived the government of valuable resources. * * *
>
> The land grant railroads were the principal beneficiaries and next to them were speculators who acquired control of the state school lands within the forest reserves * * * Some 343,907 acres of school land in California and Oregon had been so bought and exchanged, a considerable part of which was carried through by fraud * * *. It is impossible to find in Federal legislation a more one-sided and unfair exchange provision which dealt private interests all the high cards.

In 1905, upon the recommendation of President Theodore Roosevelt, Congress repealed the lieu selection authorization, but protected contracts and selections previously made.

Three later acts also have a bearing on this subject. Under the 1897 Act, some owners had relinquished their inholdings by providing a deed, but for one reason or another had not received any other lands. In 1922, Congress provided that these cases could be resolved either through transfer of lands to the parties involved or by allowing the parties to cut and remove National Forest timber. In either case, the basis for resolution would not be equal acreage, but equal value; and, as an alternative, if such an exchange could not be agreed upon, reconveyance of the inholding back to the party involved was authorized. However, only persons filing within 5 years were eligible for any of these options, and evidently many did not meet that deadline.

In 1930, a further act that dealt with a wide variety of public-land situations, evidently reopened the possibility of reconveyance of the inholdings back to their original owners. This seems to have had little effect, however, until the 1950's, when it evidently began to be used as a means of obtaining reconveyance of lands that were within National Forests and in some cases National Parks that had been established on lands that had been National Forest areas.

The result was public and congressional concern that led to enactment of Public Law 86-596, sometimes referred to as the Sisk Act after Representative Sisk of California, in 1960.

The Senate committee's report on the bill that became Public Law 85-596 explains that:

At hearings held by the House Subcommittee on Public Lands in Fresno California, and in Washington, it was learned that 'there is a considerable acreage of land, mostly within the national forests and parks, which was relinquished or conveyed to the United States under the 1897 Act but with respect to which the lieu selections there authorized were never completed. Estimates of the land involved ranged from 25,000 to 100,000 acres. Some of the tracts were identified at the hearings as among the choicest in the Sierra and Sequoia National Forests and in the Sequoia and Kings Canyon National Parks.

It also developed at the hearings that certain persons have, in recent years, been making a practice of acquiring, from the original landowner or from one or more of his heirs, quitclaims, assignments, or other forms of transfer of rights supposedly retained in the conveyed or relinquished land * * * with the assignment in hand and after various intermediate steps * * * demand is made upon the Interior Department for reconveyance of the land under the Act of April 28, 1930. * * *

The Department of the Interior has, after necessary investigations of the validity of the claims made upon it under the 1930 Act, been reconveying the lands demanded. From March 1954 to August 1959 there were 71 such reconveyance, involving a total of nearly 14,500 acres.

The situation, particularly in California and other parts of the Southwest, has reached what the public press, conservation interests, and others regard as being virtually a "give-away" of public resources approaching a scandal. The committee concurs in this view * * *.

In response Public Law 85-596 authorized those asserting that the United States had failed to provide "in lieu" lands or other compensation for inholdings previously, relinquished to file a claim within 1 year after enactment; that is, by July 6, 1961, with the General Accounting Office; valid claims would be entitled to compensation at a rate of $1.25 per acre—the 1897 standard rate for public lands—plus 4 percent per annum interest since the relinquishment of the inholding. The right to receive this compensation was not assignable. And section 4 of the 1960 law provides that any lands for which such payments either are or might be made "shall (unless it has heretofore been disposed of by the United States) be a part of the national forest, national park, or other area * * * shall be administered as a part thereof, and shall be subject to the laws, rules, and regulations applicable to land set apart and reserved from the public domain in that national forest, national park, or other area."

Claims were not submitted within the deadline for all of the relinquished inholdings for which claims might have been made. The status of these lands is controlled by section 4 of Public Law 85-596. The Forest Service's view has been that at least so far as it affects lands within national forest boundaries, that section has the effect of vesting title in the United States. The same analysis would seem to apply to lands within national parks and other designated areas withdrawn or reserved from the public domain, but the Solicitor of the Interior has indicated that the situation is different when the lands are outside such areas.

Some of the lands for which claims might have been filed under the 1960 act were occupied by private parties prior to that act and some are so occupied now. In recent years, the Forest Service has determined that in those instances in which it would not be inconsistent with national forest purposes or other public policy, it would be desirable to be able to reconvey these lands to their occupants, thus giving the occupants clear title.

In 1989, in response to an inquiry from Chairman VENTO and Representative LAGOMARSINO, the Forest Service provided a draft of legislation to authorize such reconveyances in appropriate cases. Meanwhile, representatives of some of the parties occupying or claiming some of these lands had organized and drafted a legislative proposal, which has now been introduced as H.R. 4429.

While the Forest Service's draft legislation would have given the Secretary of Agriculture discretion to reconvey particular lands to private parties, the bill takes an opposite approach. Section 2(a) would disclaim all right, title, and interest in the United States in those lands—to be identified by the Secretary of the Interior in consultation with the Secretary of Agriculture—that were inholdings relinquished under the 1897 act for which no lands or other consideration was provided by the United States and which have not been deeded back by the United States.

Listed lands that are within wilderness, wild and scenic rivers, national trails, national recreation or scenic areas, the National Park System, or are BLM lands with "important public values that require Federal ownership" could be purchased by the Secretary at fair market value—by condemnation if no agreement has been reached within 1 year after enactment—but if they are not acquired or covered by a condemnation proceeding within 2 years after enactment, the Secretary would have to provide a recordable instrument disclaiming all Federal interests in the land.

In short, the bill would be the reverse of the 1960 Sisk Act, which put the burden on claimants to come forward. H.R. 4429 would resolve all disputes over the listed lands against the United States and in favor of the other parties involved, and place the burden on the United States to act to eliminate inholdings from the conservation areas.●

By Mr. ADAMS (for himself and Mr. GORTON):

S. 2817. A bill to authorize a joint Federal and State study for the restoration of the fishery resources of the Chehalis River Basin, WA, and for other purposes; to the Committee on Environment and Public Works.

CHEHALIS RIVER BASIN FISHERY RESOURCES STUDY AND RESTORATION ACT

● Mr. ADAMS. Mr. President, today I am pleased to introduce legislation on behalf of Senator GORTON and myself authorizing the study and restoration of the fishery resources in the Chehalis River Basin of Washington State.

The Chehalis River Basin is our State's second largest river system. It includes approximately 1,400 separate rivers and streams totaling nearly 3,400 miles in length. The Chehalis River Basin has a long history as one of the greatest fish runs in our State. The fishery resources in the basin have supported recreational, commercial, and Indian fisheries in the basin and in the ocean off the shores of Washington, Canada, and Alaska. The basin is home to large runs of anadromous fish, including steelhead and cutthroat trout, chinook, coho, chum and salmon, sturgeon and shad.

Unfortunately, over the past few decades the fish runs have been in constant decline. Today the number of

fish produced in the basin is one-half of what it was in 1935. It appears that the Chehalis River problems stem from the survival of juvenile fish. These fish appear to be dying from problems existing in the lower part of the river and the industrialized inner harbor.

Many parties, including recreational and commercial fishing interests, State and local governments, Indian tribes, industry and public utilities, have made attempts to determine the causes of these problems. However, these efforts have met with limited success.

The legislation I am introducing today is intended to help fund and coordinate the work of these interested parties. This bill authorizes a 3-year, $2.5 million program to be conducted by the U.S. Fish and Wildlife Service. One-fifth of the appropriated sum will be made available to the Chehalis Tribe and the Quinault Indian Nation for their participation. Contributions from State, local, and other entities will provide an additional $500,000. The assistance of the State and Indian tribes is very important to the success of this project. The tribal governments in western Washington and the State of Washington have made great strides in their mutually supportive efforts to protect, manage, and enhance our region's anadromous salmon fisheries resources. The cooperation between the tribes and the State has evolved into a working model of possible accomplishments when entities join to achieve common objectives. I expect through the introduction and implementation of the proposed Chehalis River Basin study legislation that this tribal-State fisheries management relationship will be strengthened through fisheries habitat improvements.

The legislation is divided into two components. First, the parties will review existing studies to identify data needs. Second, the act directs the participating groups to conduct additional studies to develop goals for restoring the fisheries resource in the Chehalis River Basin. Participants in this process will include a variety of State and Federal agencies as well as the local governments, tribal interests, commercial and recreational fishing interests, and other affected entities.

Mr. President, this legislation is very important to my State. It is supported by all the parties I have mentioned, as well as the administration which already endorsed a companion bill in the House. I would like to close by expressing my admiration to Congresswoman JOLENE UNSOELD and Jim Hoff on her staff for their outstanding work on this bill. I hope that we may move this bill through the Senate quickly and begin the study of this important problem.

Mr. President, I ask unanimous consent that the bill be included in full following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chehalis River Basin Fishery Resources Study and Restoration Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Chehalis River Basin in southwestern Washington, including Grays Harbor and its tributaries, has approximately 1,400 separate rivers and streams totaling nearly 3,400 miles in length which flow into the Pacific Ocean through Grays Harbor, a major west coast estuarine system.

(2) The Basin historically produced large runs of anadromous and resident fish that supported important commercial, recreational, and tribal fisheries within the Basin and off the coast of the States of Washington and Alaska and Canada; however, the population of these fishery resources is less than one-half the levels that occurred prior to 1935.

(3) The decline in productivity of the Chehalis system is thought to result from a number of activities. Ongoing studies by the State of Washington and others have linked significant mortality of Chehalis River salmon to water quality degradation, sedimentation of spawning gravels, reduced stream flows, and reduced spawning escapements.

(4) The Federal Government has a substantial interest in the fishery resources of the Basin because important interjurisdictional (including international) and tribal fisheries are involved and several federally constructed, permitted, and licensed water projects are located in the Basin.

(b) PURPOSES.—The purposes of this Act are—

(1) to require a comprehensive study of the causes of the decline of fishery resources originating in the Chehalis River Basin;

(2) to develop recommendations for a program to address the causes of those declines; and

(3) to restore those fishery resources in a reasonable period of time.

SEC. 3. JOINT FEDERAL, STATE, AND TRIBAL STUDY AND RECOMMENDATIONS.

(a) STUDY.—Subject to section 5, the Director of the United States Fish and Wildlife Service shall undertake a comprehensive study of the fishery resources and habitats of the Basin and, on the basis of such study, develop goals and recommend short- and long-term actions for achieving those goals and maximizing the restoration and conservation of those fishery resources and habitats. The Director shall submit the study, goals, and recommended short- and long-term actions to the Congress before October 1, 1992.

(b) PARTICIPATION OF STATE OF WASHINGTON.—

(1) INVITATION.—In carrying out subsection (a), the Director shall invite the heads of the departments of Fisheries, Wildlife, and Ecology of the State of Washington to participate jointly in undertaking the study and developing goals and recommending actions.

(2) MEMORANDUM OF UNDERSTANDING.—The Director, the head of the Council of the Chehalis Tribe, the head of the Council of the Quinault Indian Nation, and each head of a State department participating pursuant to paragraph (1), shall enter into a memorandum of understanding setting forth the respective responsibilities of each entity in carrying out the study and making recommendations regarding fishery resource restoration under subsection (a).

(c) CONSULTATION.—In carrying out this Act, the Director shall, to the maximum extent practicable, consult with the National Marine Fisheries Service, Army Corps of Engineers, Environmental Protection Agency, Federal Energy Regulatory Commission, Soil Conservation Service, State of Washington agencies, including the Department of Natural Resources, the Northwest Indian Fisheries Commission, affected local governments, appropriate commercial, recreational, and Tribal fishing interests, other affected or interested entities, and (if the joint participation referred to in this section is not effected) the heads of the Departments of Fisheries, Wildlife, and Ecology of the State of Washington.

(d) MAPS.—The Director shall prepare and maintain maps depicting the Chehalis River Basin for use in fulfilling the purposes of this Act.

SEC. 4. STUDY CONTENTS.

The study under section 3 shall take advantage of and build upon ongoing watershed planning and research efforts to identify fishery resource problems in the basin to complete the following:

(1) DESCRIPTION OF BASIN.—A physical, hydrographic, economic, and social description of the Basin.

(2) HISTORICAL FISHERY RESOURCES AND HABITATS.—A historical account of the fishery resources and habitats of the Basin.

(3) DESCRIPTION OF FISHERY RESOURCES AND HABITATS.—A comprehensive description of the fishery resources and habitats of the Basin, including—

(A) population estimates of fishery resources in the Basin that are of sport or commercial value, important forage resources, or otherwise of significance;

(B) an analysis of the current status and trends of the Basin's fishery resources and their use, and the cause of any decline in population of each such species, including the extent and causes of environmental problems in Grays Harbor and the lower Chehalis River and other impediments to smolt and adult migration in the Basin;

(C) an identification of the location, quantity, and extent of utilization of existing adult holding, spawning, and juvenile rearing habitat, as well as the location of degraded fish habitat, and impediments to use of potential adult holding, spawning, and juvenile rearing habitat in the Basin;

(D) estimates of instream flows needed where insufficient stream flows occur due to human activities and development of instream flow strategies to address these problems; and

(E) a projection of the problems that the species identified as a result of subparagraph (A) are expected to encounter in the future.

(4) EFFECTS OF LAND USE ON FISHERY RESOURCES.—An analysis of how Basin characteristics and past, current, and projected land and water use within the Basin have affected, and can be expected to affect, its

fishery resources and habitats, including documentation of the nature, source, and magnitude of point and nonpoint pollution, sedimentation, and runoff characteristics.

(5) REVIEW AND EVALUATION OF AVAILABLE INFORMATION AND RESTORATION STUDIES AND ACTIONS.—(A) A review of past and ongoing research on the decline of Chehalis Basin fishery resources and the results of existing or previous attempts to address the declines.

(B) Based on the review under subparagraph (A), an evaluation of the adequacy of the information that is currently available, and specification of the additional types, quantity, and periodicity of information that must be obtained, for the purposes of restoring and conserving the fishery resources and habitats of the Basin.

(6) FEDERAL, STATE, TRIBAL, AND LOCAL GOVERNMENT ROLES.—A discussion of Federal, State, Tribal, and local goverment statutory authorities and programs that pertain to the conservation and restoration of the fishery resources and habitats of the Basin, with particular attention being given to the fishery management plans and programs of those jurisdictions and the relationship to applicable private fishery conservation and management activities.

(7) RESTORATION PROGRAM RECOMMENDATIONS AND RESPONSIBILITIES.—A comprehensive statement of fishery resource restoration goals and objectives for fish originating in the Basin and the remedial actions and programs necessary to achieve those goals and objectives. The statement shall designate the authorities responsible, together with a projected timetable, for taking such actions and carrying out such programs. In addition, the statement shall prescribe the areas and priorities for any additional studies needed to restore fishery resources in the Basin.

SEC. 5. COST SHARING.

(a) REQUIREMENT FOR SHARING.—The State of Washington may not participate in undertaking the study under section 3, including developing goals and recommending actions for the restoration and conservation of the fishery resources and habitats of the Basin, unless the Director is satisfied that non-Federal and nontribal participants in the study will pay in the aggregate at least one-sixth of the cost of the study.

(b) IN-KIND CONTRIBUTIONS.—

(1) IN GENERAL.—The non-Federal share required by subsection (a) may be in the form of cash or services, or other in-kind contributions, fairly valued, including the time of State employees not funded from Federal sources.

(2) QUALIFICATIONS AND OTHER STANDARDS.—The Director shall by regulation establish—

(A) the training, experience, and other qualifications which volunteers must have in order for their services to be considered as in-kind contributions; and

(B) the standards under which the Director will determine the value of in-kind contributions for purposes of this subsection.

Valuations made by the Director under this subsection are final and not subject to judicial review.

(c) LIMITATION.—The Director shall not consider the expenditure, either directly or indirectly, of Federal moneys received by the State of Washington or any local government of such a State to be a financial contribution from a non-Federal source. For purposes of this section, funds provided to the tribes under authority of the Indian Self-Determination Act (25 U.S.C. 450f-450n) shall not be considered Federal moneys.

SEC. 6. DEFINITIONS.

As used in this Act:

(1) BASIN.—The term "Basin" means the Chehalis River Basin in the State of Washington, including the Chehalis River in southwestern Washington and its drainage basin as well as Grays Harbor and the remainder of its drainage basin.

(2) DIRECTOR.—The term "Director" means the Director of the United States Fish and Wildlife Service, acting for the Secretary of the Interior.

(3) FISHERY RESOURCES.—The term "fishery resources" means—

(A) any stock of fish;

(B) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographic, scientific, recreational, or economic considerations;

(C) any species of fish; or

(D) any habitat of fish.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director not more than $2,500,000 to carry out this Act, to remain available until expended. One-fifth of any amounts appropriated under the authority of this section shall be made available to the Chehalis Tribe and Quinault Indian Nation to carry out their responsibilities under a memorandum of understanding entered into and pursuant to section 3(b).●

● Mr. GORTON. Mr. President, the legislation introduced today in the Senate by Senator ADAMS and myself will, when enacted, provide for a study of the Chehalis River Basin in Washing State.

The word "Chehalis," is an Indian term meaning "shining sands." Many members of the Chehalis Indian tribe still rely upon the river for their vocation and recreation.

The Chehalis river flows through southwest Washington from the Cascade Crest to the Pacific Ocean. The River is the lifeblood for people, communities, wildlife and fish. In recent years concern for the viability of the fish runs in the river system has risen.

It is high time that we initiate this proposed joint Federal-State and tribal study. This study is money well spent. The cost to the taxpayers and the region of failure to understand the basin's problems and react accordingly would be enormous. I hope that all members of the Senate will join Senator ADAMS and I in seeing this legislation enacted promptly.●

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 2818. A bill to provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts; to the Committee on Energy and Natural Resources.

SALEM MARITIME NATIONAL HISTORIC SITE VISITOR CENTER

● Mr. KERRY. Mr. President, I rise today with my senior colleague Senator KENNEDY to introduce a bill that will authorize funds for a visitor's center in the city of Salem, MA, for the Salem Maritime National Historical Site.

In 1938, Congress established Salem Maritime as this country's first National Historic Site. The motives behind this far-sighted congressional action remain clear today. The Salem waterfront played an important role in America's national and economic development and the historical site provides people with a unique educational and recreational opportunity.

Over the years, visitors from around the world have come to this nine-acre site to visit its buildings and old wharves and learn about the golden age of sail. In 1989 the Salem Maritime site continued its long process of improvement and renovation by acquiring the St. Joseph's Polish Club and its irreplaceable museum objects and artifacts. That same year, according to the National Park Service, the site was visited by nearly 700,000 people. It is expected that the number of tourists and visitors will continue to increase, and more than 1 million people are expected to come to Salem in 1992 to mark the 300th anniversary of the famous Salem witchcraft trials.

In order to better understand the problems and possibilities inherent in the enormous public appeal of this historical site, officials at Salem State College undertook a Visitor's Use Survey earlier this year. The survey pointed out the need for Salem Maritime to have a visitor's center where people could get information and orientation. The current center is small and is poorly located in the middle of a rotary and is, in fact, dangerous to reach.

The survey determined that the center would be best located at the Salem Armory. This legislation that we are introducing today will achieve three things. First it will enable the Park Service to establish a visitor's center in the city of Salem. It will also give the Park Service the authority to acquire to lease up to 12,000 square feet for this purpose. It lastly directs the Park Service to do an economic analysis on whether acquiring space or leasing space is more economically feasible and appropriate. Our bill gives the Park Service access to the armory which is not federally owned. I should point out that the mayor of Salem and other local officials are in full agreement with this recommendation and enthusiastically support this legislation.

Mr. President, the creation of a visitor's center at the Salem National Historic Site before the 300th anniversary of the Salem witch trials is essential. Furthermore, establishing a visitor's center is an important step in fulfilling a goal set forth by Congress over 40 years ago. It will help us enrich our future by learning more about our past. I urge my colleagues to join us in

supporting this worthy project and this needed legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VISITOR CENTER FOR THE SALEM MARITIME NATIONAL HISTORIC SITE.

Section 1(b) of the Act entitled "An Act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes" (102 Stat. 659) is amended—

(1) by striking "LANDS.—The" and inserting "LANDS.—(1) The"; and

(2) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), the Secretary may acquire under this subsection property or an interest therein in the city of Salem for use as a visitor center for the national historic site. The Secretary shall conduct an economic analysis of the costs and benefits of acquiring such property or interest therein. Funds appropriated for the development and operation of the visitor center may be expended on property in which the Secretary has acquired less than a fee simple interest.

"(B)(i) Any acquisition under this paragraph shall provide that—

"(I) under any lease, the leased period shall not be less than 25 years and shall contain an option to renew for an additional 26 years;

"(II) the owner of the property shall maintain the property to a standard acceptable to the Secretary;

"(III) under any lease, rental amounts paid by the Secretary may not exceed the fair market value of the leased premises, as determined by an independent party acceptable to both the lessor and the Secretary; and

"(IV) under any lease, rental payments be reduced by the fair market value of improvements in the leased premises made by or at the expense of the Secretary.

"(ii) The Secretary may not acquire an interst in more than 12,000 square feet under this paragraph.

"(iii) The Secretary shall submit the economic analysis, together with any proposed acquisition, to the appropriate committees of Congress for their review at least 120 days before the effective date of such acquisition.".●

Mr. KENNEDY. Mr. President, I am pleased to cosponsor the important legislation introduced by my colleague, Senator KERRY, on behalf of Salem, MA. This bill provides the lynchpin in Salem's revitalization efforts.

The Salem Maritime National Historic Site, established in 1938, is the oldest historic site in the National Park Service. This legislation authorizes the Park Service to use the State-owned armory to house a new visitors center, which will showcase Salem's many historic treasures.

Nearly 700,000 people visited Salem in 1989, and over 1 million are expected to participate in the upcoming 300th Anniversary of the Salem Witch Trials in 1992. At present, there is only a small information booth to greet visitors, and that is located in the middle of a fast-moving rotary. The armory building has been identified in a study undertaken by Salem State College as the ideal, central location to provide visitors with information and orientation. That location is supported by the Park Service, local officials, and the Salem Partnership comprised of members of the business community, nonprofit organizations, and individual citizens.

This bill gives the Park Service the flexibility to determine whether it will be more economical to lease space in the armory from the Commonwealth, or to assume full ownership of that portion of the building that is needed for the visitors center. The Park Service is authorized to lease or acquire up to 12,000 square feet for this purpose.

I urge my colleagues to support this legislation that will allow the Park Service to develop a much-needed visitors center in time to greet the crowds expected in 1992, and to fulfill the vision of our predecessors who established Salem Maritime over five decades ago.

By Mr. MOYNIHAN (for himself, Mr. INOUYE, Mr. DOLE, Mr. DECONCINI, and Mr. DASCHLE):

S. 2819. A bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes; to the Committee on Finance.

COMMUNITY MENTAL HEALTH CENTER SERVICES ACT

Mr. MOYNIHAN. Mr. President, today, I rise to introduce the Community Mental Health Center Services Act of 1990. Joining me in this effort are Senators INOUYE, DOLE, DECONCINI, and DASCHLE. This bill modifies legislation which I introduced last year. That bill, S. 1591 was introduced near the end of the first session of the 101st Congress and one provision of it was included in the Omnibus Budget Reconciliation act which passed last fall.

The bill I introduce today will extend direct Medicare part B reimbursement for "partial hospitalization services" which are outlined in the text of the bill. These rehabilitative and therapeutic intensive ambulatory treatment services already are provided for in current law and are directly paid for by Medicare when they are offered in a hospital setting.

Community mental health centers provide these exact same services. Indeed, partial hospitalization services, which might be thought of as a day treatment program which in part offers individual and group therapy, occupational therapy, nonself administered drugs, family therapy, patient training and education, are a major component of any CMHC.

In addition to partial hospitalization services, this bill will extend direct Medicare reimbursement to three groups of qualified mental health professionals when their services are provided within a community mental health center. The three groups of providers include psychiatric nurses, marriage and family therapists, and clinical mental health counselors. Professionals included under these titles include only those individuals who have demonstrated specific and rigorous training and experience in the delivery of mental health services. Appropriately recognizing providers of care and increasing access to care is essential if the full range of services are to be provided to the elderly and the disabled who are in need of community based mental health support services. Mental health care is a complex association of services and therapies for wellness and well being. As of 1980, the population of State hospitals and residential care facilities nationwide was 255,000 patients. Many of these individuals will continue to be deinstitutionalized or will be in and out of hospitals over the course of their lifetimes. Some of these will become homeless without followup care. The National Institute of Mental Health states that "in a course of any 6-month time period, 19 percent of adult Americans suffer from at least one disorder classified as psychiatric." Schizophrenia affects at least 1 percent of the population, while major depressive illness affects 5 percent. The costs of these illnesses are staggering. Thirty-six billion dollars are spent annually in direct care costs—excluding alcohol and drug abuse treatment. Schizophrenia alone accounts for 40 percent of all long-term care hospital days, compared to 27 percent for cardiovascular diseases. The elderly suffer from the highest rate of suicide in the population—nearly one-quarter, 22 percent, of all suicides occur in elderly Americans 65 years old and older.

Despite inadequate and often inappropriate institutionalization and continued deinstitutionalization, patients ready to be integrated into the community must rely on community support services and in particular community mental health centers and the variety of professionals who offer their specialized training to them. Followup care—that which follows psychiatric hospitalization—is vitally important in the treatment program of the mentally ill if rehospitalization is to be avoided. We attempt to address the problems of followup care by expanding services and access and by increasing understanding of the nature of the problems associated with mental illness.

Despite the occurrence of mental illness in the population, the origins of which are now thought to be biological as well as psychological, society still hasn't gotten entirely beyond prejudices and stigmas. Mental illness and its associated disorders are prevalent in the population and their early diagnosis and treatment within a community based center are effective. In addition, preventive community support programs, such as those which are provided by CMHC's including case-managed psychotherapeutic services, residential care, rehabilitative services, and substance abuse assistance, among others, to the young, to adults and to the elderly, are cost-effective alternatives to primary, inpatient hospital based care.

For those individuals who find themselves in life crises in later years, mental health care can be effective as well as cost-effective. The elderly husband of an Alzheimer's patient is under tremendous stress throughout the process of providing basic care to his spouse. Stress can have particularly devastating effects not only on the emotional well being of the individual but also on the physical condition of the body. The elderly, often the most reluctant population to utilize mental health support services because of stigmas, guilt, or inaccessibility, are perhaps the most likely to benefit from such community sponsored mental health support services. Indeed, in our society where families are now more widely disbursed than at any other time and as the population ages, intervention services can relieve depression and other emotional disorders which may be associated with the aging process including loneliness, fustration, boredom, reactions to medicines, and failing health generally.

While there is little doubt of the need among the elderly for supportive community based therapeutic services, indeed, that older patients who utilize mental health treatment reduce medical expenses more than young ones do, studies indicate that older patients underuse these services primarily because of the stigmas attached to mental health treatment and, also, because of insufficient access to appropriate mental health care.

We can correct these problems by public education and outreach, which is already being done by some CMHC's, and by enhancing individual's access to appropriate mental health treatment.

Extending direct Medicare reimbursement for partial hospitalization services as well as to those who provide qualified professional clinical mental health services to the elderly and disabled in rural and underserved areas within community mental health centers, is a large step to recognizing the goals President Kennedy set for us now on 25 years ago when he first signed the Mental Retardation Facilities and Community Health Centers Construction Act of 1963; namely the enhanced well-being of the individual supported by the family and by the community.

I would ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Mental Health Center Services Act of 1990".

SEC. 2. COVERAGE OF MENTAL HEALTH SERVICES AS PARTIAL HOSPITALIZATION SERVICES.

(a) DEFINITION OF PARTIAL HOSPTIALIZATION SERVICES EXPANDED.—Section 1861(ff) of the Social Security Act (42 U.S.C. 1395x(ff)) is amended to read as follows:

"(1) The term 'partial hospitalization services' means the items and services described in paragraph (2) prescribed by a physician and provided under a program described in paragraph (3) under the supervision of a physician pursuant to an individualized, written plan of treatment established and periodically reviewed by a physician (in consultation with appropriate staff participating in such program), which plan sets forth the physician's diagnosis, the type, amount, frequency, and duration of the items and services provided under the plan, and the goals for treatment under the plan.

"(2) The items and services described in this paragraph are—

"(A) individual and group therapy with physicians or psychologists (or other mental health professionals to the extent authorized under State law),

"(B) occupational therapy requiring the skills of a qualified occupational therapist,

"(C) servcies of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients,

"(D) drugs and biologicals furnished for therapeutic purposes (which cannot, as determined in accordance with regulations, be self-administered),

"(E) individualized activity therapies that are not primarily recreational or diversionary,

"(F) family therpay (the primary purpose of which is treatment of the condition of the individual),

"(G) patient training and education (to the extent that training and educational activities are closely and clearly related to the care and treatment of the individual),

"(H) diagnostic services,

"(I) qualified psychologist services,

"(J) qualified mental health professionals services; and

"(K) such other items and services as the Secretary may provide (but in no event to include meals and transportation);

that are reasonable and necessary for the diagnosis or active treatment of the condition of the individual, are reasonably expected to improve or maintain the condition of the individual and functional level and to prevent relapse of hospitalization, and are furnished pursuant to guidelines relating to the frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of medical practice and the reasonable expectation of patient improvement).

"(3) A program described in this paragraph is a program—

"(A) which is furnished by a hospital to outpatients of such hospital and which is a distinct and organized intensive ambulatory treatment service offering less than 24-hour daily care; or

"(B) a program which is furnished by a community mental health center (as defined in subsection (jj) of this section) to outpatients of such community mental health center and which is a distinct and organized intensive ambulatory treatment service offering less than 24-hour daily care.

"(4) A community mental health center furnishing a program described in paragraph (3) shall meet the applicable licensing or certification requirements of the State in which such program is furnished.".

"(b) DEFINITION OF COMMUNITY MENTAL HEALTH CENTER.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by the Medical Catastrophic Coverage Repeal Act of 1989 and the Omnibus Budget Reconciliation Act of 1989, is amended by inserting after subsection (ii) the following new subsection:

"COMMUNITY MENTAL HEALTH CENTER

"(jj) The term 'community mental health center' means a comprehensive program of mental health services described in subparagraph (A) of section 1916(c)(4) of the Public Health Service Act (42 U.S.C. 330x-4(c)(4)) which includes—

"(A) outpatient services, including specialized outpatient services for children, the elderly, individuals who are chronically mentally ill, and residents of the mental health service area of the community mental health center who have been discharged from inpatient treatment at a mental health facility.

"(B) 24-hour-a-day emergency care services,

"(C) day treatment or other partial hospitalization services, or psychological rehabilitation services,

"(D) screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission; and

"(E) consultation and education services".

SEC. 3. COVERAGE OF QUALIFIED MENTAL HEALTH PROFESSIONALS SERVICES.

"(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) by striking "and" at the end of subparagraph (M);

(2) by adding "and" at the end of subparagraph (N); and

(3) by adding at the end of the paragraph the following new subparagraph:

"(O) qualified mental health professionals services;".

(b) PAYMENT OF BENEFITS.—Sections 1833 of such Act (42 U.S.C. 13951), as amended by the Medicare Catastrophic Coverage Repeal Act of 1989 and the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) in subsection (a)(1) by inserting after subparagraph (L) the following new subparagraph: ", (M) with respect to qualified mental health professionals under section 1861(s)(2)(N), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or the amount determined by a fee schedule established by the Secre-

tary for the purposes of this subparagraph.".

(2) in subsection (p), by amending the first sentence to read as follows:

"(p) In the case of—

"(1) certified nurse-midwife services,

"(2) qualified psychologists services,

"(3) clinical social worker services; and

"(4) qualified mental health professionals services,

for which payment may be made under this part only pursuant to subparagraphs (L), (M), (N), and (O) of section 1861(s)(2), respectively, payment may only be made under this part for such services on an assignment-related basis.".

(c) OTHER DEFINITIONS.—Section 1861 of such Act (42 U.S.C. 1395x), as amended by section (2)(b) of this Act, is amended by adding at the end the following new subsection:

"(kk)(1) The term 'qualified mental health professionals services' means such services and such services and supplies furnished as an incident to services furnished by a marriage and family therapist (as defined in paragraph (2)), a psychiatric nurse (as defined in paragraph (3)), or a clinical mental health counselor (as defined in paragraph (4)), on-site at a community mental health center (as defined in subsection (jj)), and such services that are necessarily furnished off-site (other than at an off-site office of such therapist, nurse, or counselor) as part of a treatment plan because of the inability of the individual furnished such services to travel to the center by reason of physical or mental impairment, because of institutionalization, or because of similar circumstances of the individual, which the marriage and family therapist, psychiatric nurse, or clinical mental health counselor is legally authorized to perform under State law (or the regulatory mechanism provided by State law) as would otherwise be covered if furnished by a physician or as an incident to a physician's services.

"(2) The term 'marriage and family therapist' means an individual who—

"(A) possesses a minimum of a masters degree in a field related to marriage and family therapy,

"(B) after obtaining such degree has performed at least 2 years of supervised clinical experience in the field and marriage and family therapy; and

"(C)(i) is licensed or certified by the State in which such services are performed as a marriage and family therapist, marriage, family and child counselor, or is licensed under a similar professional title; or

"(ii) in the case of an individual in a State which does not provide for licensing or certification, is eligible for clinical membership in a national professional association that recognizes credentials for clinical membership for marriage and family therapists (as determined by the Secretary).

"(3) The term 'psychiatric nurse' means an individual who—

"(A) is licensed to practice professional nursing by the State in which such individual practices nursing,

"(B) performs such psychiatric nursing services as are authorized under the law of the State in which such individual practices psychiatric nursing; and

"(C)(i) possesses a minimum of a masters degree in nursing with a specialization in psychiatric and mental health nursing or a related field; or

"(ii) possesses a minimum of a masters degree in a related field from an accredited educational institution and is certified as a psychiatric nurse by a duly recognized national professional nurse organization, as determined by the Secretary, or is eligible to receive such certification.

"(4) The term 'clinical mental health counselor' means an individual who—

"(A) possesses a minimum of a masters degree in mental health counseling or in a related mental health field (as defined by the Secretary),

"(B) after obtaining the degree described in subparagraph (A), has performed at least 2 years of supervised clinical mental health experience in the field of mental health counseling; and

"(C)(i) is licensed or certified by the State in which the services are performed as a clinical mental health counselor or is licensed under a similar professional title in the State; or

"(ii) in the case of an individual in a State which does not provide for licensing or certification for the title of clinical mental health counselor or a similar professional title, meets the standards established by a national organization that specifically certifies clinical mental health counselors (as defined and determined by the Secretary).".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to services performed on or after January 1, 1991.

By Mr. DODD (for himself, Mr. DECONCINI, and Mr. MOYNIHAN):

S. 2820. A bill to amend the Public Health Service Act to establish and expand grant programs for evaluation and treatment of parents who are substance abusers and children of substance abusers, and for other purposes; to the Committee on Labor and Human Resources.

CHILDREN OF SUBSTANCE ABUSERS ACT

● Mr. DODD. Mr. President, I rise today to introduce legislation on a subject of much concern to me as chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism. The plight of children who are innocent victims of substance abuse draws from us many emotions, from deepest pity to sharpest anger. It challenges our ability and commitment to reach out to even the most troubled parents. I strongly believe, however, that our success in responding to the problem will be measured more by our compassion than our condemnation. Accordingly, I am introducing the Children of Substance Abusers Act of 1990 which is based on the principle that extending help early and providing comprehensive health and social services is the best way to protect children and preserve families.

I won't recite all the statistics about drug-exposed infants. But testimony from my hearings suggests staggering costs to society—as much as $20 billion for infants born exposed to cocaine in just 1 year. In the neonatal intensive care unit at New York City's Metropolitan Hospital, which I visited, 30 percent of the children are drug-exposed. In my own State of Connecticut, a study at Yale-New Haven Hospital found that 19 percent of women giving birth used illegal drugs within 48 hours of delivery. We are only beginning to glimpse what the future holds for these children. Research suggests a cluster of subtle developmental problems. Head Start teachers say they already are seeing a pattern of behaviors including short attention spans, delayed speech, and combative or exaggerated behavior that can be traced to drug exposure.

The impact of substance abuse on children extends far beyond drug-exposed infants. The National Committee for the Prevention of Child Abuse estimates that 675,000 children annually are seriously mistreated by a caretaker who is a substance abuser. The abuse these children experience is more severe and the neglect more complete than anything seen in the past.

Mr. President, some weeks ago I was astonished to hear a news report that the Director of the Office of National Drug Control Policy, Mr. Bennett, suggested removing children in drug-plagued homes and neighborhoods and placing them in orphanages. I was astonished because so far our response has been to remove these children from their homes. Child welfare professionals will be the first to say this isn't the answer. But drug and alcohol treatment services tailored to women and children are in short supply. We all recognize that, sadly, some children must be removed from their homes. But it is tragic when children must be removed because we as a society are unwilling to invest in certain families, writing them off as unworthy of our support.

The Children of Substance Abusers Act of 1990 will begin to make that investment. The heart of the bill is a children of substance abusers, or COSA, program that would provide $100 million for comprehensive services to children and their families. This bill is unique in its extension of help beyond the prenatal period and its inclusion of any child of a substance abuser. It thus provides a continum of health and social services ranging from parenting education to pediatric care. A primary goal of the COSA program is to preserve families, but children cared for by relatives, foster parents, and adoptive parents also are included.

We cannot wait, however, to reach out to high-risk families until an infant is born addicted, or a toddler doesn't get his immunizations, or a mother abandons her child. We have to intervene early. Thus, the COSA bill incudes a $50 million home visiting program to provide outreach to pregnant women. Home visitors provide help ranging from information on parenting and child development to simply giving support and encouragement. These programs have repeatedly

been shown to contribute to improved child health and material-child interaction.

Other parts of the COSA bill strengthen provisions in the alcohol, drug abuse, and mental health block grant directed at women. The bill doubles the block grant's set-aside for women, increasing it from 10 to 20 percent. Finally, the bill requires States to provide treatment on demand for pregnant women and women with children or take steps to reach this goal.

I want also to mention that the Connecticut legislature recently enacted legislation sponsored by State Senator Przybysz and State Congressman Courtney for model residential treatment programs for women and their children. I am proud that my own State has taken the lead with this landmark legislation that responds to the specific needs of women and children without punitive measures.

Mr. President, I have spent a great deal of time over the past 6 months visiting comprehensive treatment programs. I have talked with recovering substance abusers and professionals who work with them and their children. I have learned that parental substance abuse forces wrenching choices about the future of individual children and their families. But one theme has echoed throughout. If we make the investment, if we provide the services and the support and above all the hope, some of these families—not all by any means, but some of them—will make it and be able to stay together. It we do not, then Mr. Bennett's chilling prophecy of a generation of children being raised in orphanages may well come true. And that will be the most wrenching choice of all. So, I urge my colleagues to support this COSA bill and signal that these troubled families are worthy of our concern.

Mr. President, I ask unanimous consent that several letters endorsing the bill be printed in the RECORD. I also ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2820

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children of Substance Abusers Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to increase the availability of treatment for parents, particularly mothers, who are substance abusers;

(2) to ensure that the physical, emotional, and psychological needs of children of substance abusers, including children exposed to drugs or alcohol before birth, are identified, assessed, and addressed;

(3) to promote the economic and social well-being of families in which a parent is a substance abuser by providing comprehensive services directed at the entire family; and

(4) to prevent child abuse and preserve families by improving parenting skills and providing support systems of social services.

TITLE I—TREATMENT

SEC. 101. ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICE BLOCK GRANTS.

Section 1916 of the Public Health Service Act (42 U.S.C. 300x-4) is amended—

(1) in subsection (c)(14), by striking "10 percent" and inserting "20 percent";

(2) in subsection (c), by adding at the end the following new paragraph:

"(22) The State agrees—

"(A) to ensure that treatment services for the abuse of alcohol and drugs that comply with minimum standards established by the State are available to each woman in the State who—

"(i) is pregnant or has a child;

"(ii) seeks or is referred to treatment services; and

"(iii) would benefit from treatment services;

"(B) in carrying out subparagraph (A)—

"(i) with respect to programs in the State that provide treatment services for the abuse of alcohol and drugs to women described in subparagraph (A), to—

"(I) identify the programs;

"(II) publicize the availability of treatment services from the programs; and

"(III) provide to the Secretary a list of the programs and an assessment of the capability of the programs to meet the treatment needs of women described in subparagraph (A); and

"(ii) to require that, in the event that a treatment program has insufficient capacity to treat a woman described in subparagraph (A), the program shall refer the woman to the State for referral to a program with the capacity to provide treatment services; and

"(C) if the State or the Secretary determines that the capacity of treatment programs in the State is insufficient to comply with subparagraph (B)(ii), that the State will establish quantitative goals and develop and implement a program, approved by the Secretary, for the provision of adequate treatment capacity to meet the needs of each woman described in subparagraph (A) in the State."; and

(3) in subsection (f), by striking the second sentence and inserting the following new sentence: "The report shall include—

"(1) a detailed description of the programs and services;

"(2) an assessment of the adequacy of the programs and services in meeting—

"(A) the alcohol and drug abuse treatment needs of women; and

"(B) the mental health needs of severely disturbed children and adolescents;

"(3) with respect to programs and services provided in accordance with subsection (c)(14)—

"(A) a description of the process used to award funds to the programs and services;

"(B) a description of the programs and services provided by the State that constitute—

"(i) services for children of substance abusers, as defined in section 399(5);

"(ii) services that provide substance abuse and other treatment both to substance abusers who are mothers and to their children;

"(iii) outpatient services that provide treatment both to substance abusers who are mothers and to their children; and

"(iv) residential treatment services that provide treatment to substance abusers who are mothers and allow their children to reside with the mothers during treatment;

"(C) information concerning the number of spaces available for pregnant women, mothers, infants, and children in each of the types of services described in clauses (i) through (iv) of subparagraph (B); and

"(D) an evaluation of the extent to which the programs and services increase the availability of spaces for pregnant women, mothers, infants, and children in the services described in clauses (i) through (iv) of subparagraph (B); and

"(4) such other information, including legislative and administrative recommendations, as the Secretary determines to be appropriate.".

TITLE II—HOME-BASED SERVICES FOR AT-RISK FAMILIES

SEC. 201. HOME-BASED SERVICES.

Part K of title III of the Public Health Service Act is amended—

(1) by redesignating sections 399 and 399A (42 U.S.C. 280c-4 and 280c-5) as sections 398A and 398B, respectively; and

(2) by adding at the end the following new subpart:

"Subpart III-Grants for Home-based Services for At-risk Families.

"SEC. 398K. DEFINITIONS.

"As used in this subpart:

"(1) ELIGIBLE FAMILY.—The term 'eligible family' means a family that includes—

"(A) a pregnant woman who is at risk of delivering an infant with a health or developmental complication; or

"(B) a child below the age of 3 who has experienced or is at risk for a health or developmental complication.

"(2) HEALTH OR DEVELOPMENTAL COMPLICATION.—The term 'health or developmental complication' means—

"(A) low birthweight;

"(B) a physical or developmental disability;

"(C) exposure to maternal substance abuse; or

"(D) exposure to child abuse or neglect.

"(3) HOME VISITING SERVICES.—The term 'home visiting services' means services that provide—

"(A) assistance in obtaining health care, including continuous prenatal care;

"(B) education on pregnancy, infant care, parenting, child development, and child abuse prevention;

"(C) assistance in developing support networks, including relationships with mentors and other female or maternal models;

"(D) assistance in obtaining necessary health, mental health, and social services, including services offered by maternal and child health programs, the special supplemental food program for women, infants, and children, authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), and early and periodic screening, diagnostic, and treatment services, as described in section 1905(r) of the Social Security Act (42 U.S.C. 1396d(r));

"(E) respite services; and

"(F) consultation and referral regarding subsequent pregnancies and life options, including education and career planning.

"(4) HOME VISITOR.—The term 'home visitor' means a person who provides home visiting services.

"SEC. 398L. HOME-BASED SERVICES.

"(a) ESTABLISHMENT.—The Secretary shall make competitive grants to eligible entities

to pay for the Federal share of the costs of providing home visiting services to eligible families. The Secretary shall award grants for periods of at least 3 years, but no more than 5 years.

"(b) PURPOSES.—The purposes of this section are—

"(1) to increase the use of prenatal care;

"(2) to reduce the incidence of infants born prematurely, with low birthweight, or with other impairments associated with maternal substance abuse;

"(3) to assist pregnant women and mothers of children below the age of 3 whose children have experienced, or are at risk of experiencing, a health or developmental complication in obtaining treatment for drug or alcohol abuse and other services necessary to meet the special needs of the women;

"(4) to reduce the incidence of child abuse and neglect; and

"(5) to promote other measures to encourage appropriate growth and development of children.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to entities that—

"(1) have experience in providing outreach services and preventive public health services to at-risk populations; and

"(2) have demonstrated a commitment to serving low income and uninsured individuals and families.

"(d) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary by regulation requires. At a minimum, each application shall contain—

"(1) a description of the population to be targeted for home visiting services;

"(2) a description of the services to be provided by the entity and the means the entity will use to provide outreach to eligible families;

"(3) information demonstrating the existence of adequate health and social services in the community and the ability of the applicant to obtain access to the services for eligible families;

"(4) assurances that the entity will provide case planning for eligible families that incorporates an interdisciplinary approach and, to the extent practicable, interagency involvement;

"(5) a description of the types and qualifications of home visitors used by the entity;

"(6) a description of the process by which the entity will provide continuing training, adequate supervision, and sufficient support to home visitors to ensure that home visitors are competent to render effective home visiting services;

"(7) assurances that the entity will provide home visiting services conducted by—

"(A) public health nurses, social workers, or other health or mental health professionals who are trained or have experience in home visiting services; or

"(B) teams of home visitors, which shall include at least one individual described in subparagraph (A) and which may include volunteers trained in home visiting services;

"(8) assurances that the entity will provide home visiting services with reasonable frequency—

"(A) to families with pregnant women, as early in the pregnancy as is practicable, and until the infant reaches at least 1 year of age;

"(B) to other eligible families, for at least 1 year;

"(9) assurances that, in allocating home visiting services to eligible families, the entity will give priority to the families of women who abuse drugs or alcohol and seek or are referred for treatment;

"(10) assurances that the entity will deliver home visiting services in a manner that accords proper respect to the cultural traditions of the eligible families;

"(11) information demonstrating that the applicant is familiar with the socioeconomic and cultural groups who will receive home visiting services from the entity;

"(12) an assurance that the applicant will obtain at least 30 percent of the costs of providing home visiting services from non-Federal funds; and

"(13) an assurance that the applicant will spend no more than 10 percent of the Federal funds received under this subpart on other administrative costs, exclusive of training.

"(e) ELIGIBILITY.—Entities eligible to receive a grant under this section shall include public and private nonprofit entities that provide health or other social services to disadvantaged populations, including community-based organizations, hospitals, community health centers, and agencies providing support services to families.

"(f) FEDERAL SHARE.—The Federal share of grants provided under this section shall be 70 percent. No more than 10 percent of Federal funds provided under this subpart may be used for other administrative costs, exclusive of training.

"(g) REPORT AND EVALUATION.—

"(1) REPORT.—To be eligible to receive a grant under this section, an entity shall agree to submit an annual report on the services provided under this section to the Secretary in such manner and containing such information as the Secretary by regulation requires. At a minimum, the entity shall report information concerning eligible families, including—

"(A) the use, type, and location of the provider of preventive health services, including prenatal, primary infant, and child health care;

"(B) the incidence of low birthweight and premature infants;

"(C) the length of hospital stays for post partum women and their children;

"(D) the incidence of child abuse and neglect for all children within participating families;

"(E) the number of emergency room visits for routine health care; and

"(F) the number and type of referrals made for other social services.

"(2) EVALUATION.—The Secretary shall periodically conduct evaluations to determine the impact of programs supported under subsection (a) on the criteria specified in paragraph (1).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for the 1991 fiscal year and such sums as may be necessary for subsequent fiscal years.".

TITLE III—SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

SEC. 301. SERVICES.

Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) (as amended by section 201 of this Act) is further amended by adding at the end the following new part:

"Part L—Services for Children of Substance Abusers

"SEC. 399. DEFINITIONS.

"As used in this part:

"(1) CARETAKER OF A CHILD OF A SUBSTANCE ABUSER.—The term 'caretaker of a child of a substance abuser' means a birth parent, foster parent, adoptive parent, or relative of a child of a substance abuser.

"(2) CHILD OF A SUBSTANCE ABUSER.—The term 'child of a substance abuser' means any child of a substance abuser, including a child born to a mother who is a substance abuser.

"(3) COMMUNITY OUTREACH SERVICES.—The term 'community outreach services' means services provided by a public health nurse, social worker, or similar professional, or by a trained volunteer supervised by a professional, to—

"(A) accomplish early identification of substance abusers;

"(B) accomplish early identification of children affected by parental substance abuse consistent with the early intervention services in part H of title VI of the Education of the Handicapped Act (20 U.S.C. 1471 et seq.);

"(C) provide counseling to substance abusers on the benefits and availability of substance abuse treatment services and services for children of substance abusers;

"(D) assist substance abusers in obtaining and using substance abuse treatment services and services for children of substance abusers; and

"(E) visit and provide support to substance abusers, especially pregnant women, who are receiving substance abuse treatment services or services for children of substance abusers.

"(4) RELATED SERVICES.—The term 'related services' means services provided by—

"(A) early intervention programs such as the program established in part H of title VI of the Education of the Handicapped Act (20 U.S.C. 1471 et seq.);

"(B) education and special education programs;

"(C) Head Start programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

"(D) other early childhood programs;

"(E) employment and training programs;

"(F) public assistance programs provided by Federal, State, or local governments; and

"(G) programs offered by vocational rehabilitation agencies, recreation departments, and housing agencies.

"(5) SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.—The term 'services for children of substance abusers' includes—

"(A) in the case of children of substance abusers—

"(i) periodic evaluation of children for developmental, psychological, and medical problems;

"(ii) primary pediatric care, consistent with early and periodic screening, diagnostic, and treatment services described in section 1905(r) of the Social Security Act (42 U.S.C. 1396d(r));

"(iii) other necessary and mental health services;

"(iv) therapeutic intervention services for children, including provision of therapeutic nurseries; and

"(v) referral to related services, and assistance in establishing eligibility for related services;

"(B) in the case of substance abusers—

"(i) assessment of adult roles other than parenting, including periodic evaluation of social status, economic status, educational level, psychological condition, and skill level;

"(ii) primary health care and mental health services, including prenatal and post partum care for pregnant women;

"(iii) consultation and referral regarding subsequent pregnancies and life options, including education and career planning;

"(iv) remedial education services; and

"(v) referral to related services, and assistance in establishing eligibility for related services; and

"(C) in the case of substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of children of substance abusers, and other people significantly involved in the lives of substance abusers or the children of substance abusers—

"(i) therapeutic intervention services, including parental counseling and joint counseling sessions for families and children;

"(ii) child care and respite care services;

"(iii) parenting education services and parent support groups;

"(iv) support services, including, where appropriate, transportation services; and

"(v) aftercare services, including continued support through parent groups and home visits.

"(6) SUBSTANCE ABUSE.—The term 'substance abuse' means the abuse of alcohol or a drug.

"(7) SUBSTANCE ABUSER.—The term 'substance abuser' means a pregnant woman, mother, or father who abuses alcohol or a drug and seeks or is referred for substance abuse treatment.

SEC. 399A. GRANTS FOR SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—The Secretary shall make grants to eligible entities to pay for the Federal share of the costs of establishing programs to provide community outreach services and services for children of substance abusers.

"(b) USE OF FUNDS.—

"(1) SERVICES PROVIDED.—An eligible entity shall use grants made under subsection (a) to provide, either directly or by contract or agreement—

"(A) the services described in section 399(5)(A) and community outreach services to the children of substance abusers, including children not living with their parents;

"(B) the services described in section 399(5)(B) and community outreach services to substance abusers; and

"(C) the services described in section 399(5)(C) to substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of children of substance abusers, and other people significantly involved in the lives of substance abusers or the children of substance abusers.

"(2) SERVICE CHARACTERISTICS.—A program established through a grant made under this section shall—

"(A) provide comprehensive services directed at the needs of the entire family, including caretakers of children of substance abusers;

"(B) be accessible to recipients of community outreach services and services for children of substance abusers;

"(C) maintain the confidentiality of information about substance abusers with respect to substance abuse treatment;

"(D) coordinate the referral and provision of services with other services for children of substance abusers, substance abuse treatment services, and related services;

"(E) use service providers from a variety of disciplines;

"(F) provide long-term services; and

"(G) provide a range of services corresponding to the varying needs of recipients of community outreach services and services for children of substance abusers.

"(c) GRANT AWARDS.—In making grants under subsection (a), the Secretary shall ensure that the grants are—

"(1) reasonably distributed among the three types of eligible entities described in subsection (e);

"(2) distributed to an adequate number of eligible entities that—

"(A) provide residential treatment to substance abusers and allow the children of substance abusers to reside with their parents during treatment; or

"(B) provide in-home and community-based services on an out-patient basis; and

"(3) distributed to give priority to areas with a high incidence of low-income families, children of substance abusers, infant mortality, or child abuse.

"(d) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary by regulation requires. At a minimum, each application shall contain—

"(1) a description of the services to be provided, which shall meet the requirements of subsection (b)(2);

"(2) information demonstrating the involvement of public agencies responsible for health, mental health, child welfare, education, juvenile justice, and substance abuse treatment programs that the public agencies will cooperate in planning and providing community outreach services, services for children of substance abusers, and substance abuse treatment services;

"(3) information demonstrating that the applicant has established a relationship with child welfare agencies and child protective services that will enable the applicant, where appropriate, to—

"(A) provide advocacy on behalf of substance abusers and the children of substance abusers in child protective services cases;

"(B) provide services to help prevent placement of children in substitute care; and

"(C) promote reunification of families;

"(4) an assurance that the applicant will obtain at least 20 percent of the costs of providing services for community outreach services and services for children of substance abusers from non-Federal funds;

"(5) an assurance that nonresidential programs, if any, will incorporate home-based services;

"(6) an assurance that the applicant will initiate and maintain efforts to enter substance abusers to whom they provide services into appropriate substance abuse treatment programs; and

"(7) an assurance that the applicant will submit to the Secretary an annual report containing—

"(A) a description of specific services and activities provided under the grant;

"(B) information concerning the extent of use of services provided under the grant, including number of referrals to related services;

"(C) information concerning the costs of services provided;

"(D) information concerning—

"(i) the number and characteristics of families, parents, and children served, and an analysis of the number of children served by age;

"(ii) the number of children served who remained with their parents during the period in which entities provided services under this section;

"(iii) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

"(iv) the number of children described in clause (iii) who were reunited with their families; and

"(v) the number of children described in clause (iii) who were permanently placed in out-of-home care; and

"(E) such other information as the Secretary determines to be appropriate.

"(e) ELIGIBILITY.—Entities eligible to receive a grant under this section shall include—

"(1) alcohol and drug treatment programs that provide treatment to pregnant women and mothers;

"(2) public or private nonprofit entities that provide continuing services to promote child development and assist parents in developing parenting skills, and have—

"(A) expertise in applying the services to the particular problems of substance abusers and the children of substance abusers; and

"(B) an affiliation or contractual relationship with one or more substance abuse treatment programs; and

"(3) consortia of public or private nonprofit entities that include at least one substance abuse treatment program.

"(f) FEDERAL SHARE.—The Federal share of grants provided under this section shall be 80 percent. The Secretary shall accept the value of in-kind contributions made by the grant recipient as a part or all of the non-Federal share of grants.

"(g) EVALUATION.—The Secretary shall periodically conduct evaluations to determine the effectiveness of programs supported under subsection (a)—

"(1) in reducing the incidence of alcohol and drug abuse among substance abusers participating in the programs;

"(2) in preventing adverse health conditions in children of substance abusers;

"(3) in improving the health, developmental, and psychological status of children receiving services under the program; and

"(4) in reducing the incidence of out-of-home placement for children whose parents receive services under the program.

"(h) REPORT.—The Secretary shall annually prepare and submit to appropriate committees of Congress a report that contains a description of programs carried out under this section. At a minimum, the report shall contain—

"(1) information concerning the number and type of programs receiving grants;

"(2) information concerning the type and use of services offered;

"(3) information concerning—

"(A) the number and characteristics of families, parents, and children served;

"(B) the number of children served who remained with their parents during the period in which entities provided services under this section;

"(C) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

"(D) the number of children described in subparagraph (C) who were reunited with their families; and

"(E) the number of children described in subparagraph (D) who were permanently placed in out-of-home care;

analyzed by the type of eligible entity described in subsection (e) that provided services;

"(4) an analysis of the access provided to, and use of, related services through programs carried out under this section; and

"(5) a comparison of the costs of providing services through each of the types of eligible entities described in subsection (e).

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for each of the 1991 and subsequent fiscal years.

"SEC. 399B. GRANTS FOR TRAINING TO PROVIDE SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—The Secretary shall make grants to eligible entities to pay for the costs of training staff and volunteers in programs specifically designed to provide community outreach services and services for children of substance abusers, for the purpose of improving the delivery of the services.

"(b) USE OF FUNDS.—An entity shall use a grant made under subsection (a) to develop and disseminate training materials, and provide training, covering specialized training in techniques for providing community outreach services and services for children of substance abusers.

"(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall submit an application to the Secretary containing—

"(1) a description of the training to be provided;

"(2) a description of the qualifications of the entity, and the staff of the entity, to provide training; and

"(3) such other information as the Secretary determines to be necessary.

"(d) ELIGIBILITY.—Entities eligible to receive grants under this section shall include entities providing community outreach services and services for children of substance abusers. The Secretary shall by regulation determine additional eligibility criteria for entities to receive a grant under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the 1991 and subsequent fiscal years.

"SEC. 399C. GRANTS FOR TRAINING TO WORK WITH FAMILIES OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—The Secretary shall make grants to eligible entities to pay for the costs of training professionals whose regular duties involve providing services to families of substance abusers or to caretakers of children of substance abusers.

"(b) USE OF FUNDS.—

"(1) TRAINING SUBJECTS.—An entity shall use a grant made under subsection (a) to develop and disseminate training materials, and provide training, covering—

"(A) identification, referral, and evaluation of substance abusers, family members affected by substance abuse, and caretakers of children of substance abusers; and

"(B) specialized training in techniques for providing services to substance abusers, affected family members, and caretakers of children of substance abusers.

"(2) TRAINING RECIPIENTS.—The entity that receives a grant made under subsection (a) shall conduct training for agency and other professionals who provide services that bring the professionals into contact with substance abusers, children of substance abusers, or caretakers of children of substance abusers, and persons who act as resource persons for, or assist, the professionals, including—

"(A) child protective services and child welfare staff;

"(B) medical staff;

"(C) education staff, including school administrators, social workers, and teachers;

"(D) mental health staff;

"(E) judges and other legal professionals; and

"(F) public health, mental health, and social services staff.

"(c) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall submit an application to the Secretary containing—

"(1) assurances that the applicant will include in individual training classes representatives from at least two of the target groups described in subparagraphs (A) through (F) of subsection (b)(2).

"(2) information indicating a commitment from at least two of the target groups described in subparagraphs (A) through (F) of subsection (b)(2) to participate in training; and

"(3) such other information as the Secretary determines to be necessary.

"(d) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section—

"(1) shall include public or private nonprofit entities with expertise in providing training or services involving substance abuse or the children of substance abusers; and

"(2) may include entities that provide community outreach services and services for children of substance abusers described in section 399A.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the 1991 and subsequent fiscal years.

SEC. 399D. GRANTS FOR HOME-BASE SUPPORT FOR CARETAKERS OF CHILDREN OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—The Secretary shall make grants to eligible entities to train interdisciplinary teams to provide support to, and arrange services for, caretakers of children of substance abusers.

"(b) USE OF FUNDS.—An entity may use a grant made under subsection (a) to provide training (as specified in subsection (c)), case support, and consultation to interdisciplinary teams of personnel from—

"(1) child protective services or child welfare agencies; and

"(2) public health, mental health, or social services agencies.

"(c) REQUIREMENTS.—An entity that receives a grant under subsection (a) shall provide training—

"(1) that includes instruction on—

"(A) the effects of prenatal substance abuse;

"(B) the implications of prenatal substance abuse on infant care, health, and development; and

"(C) the methods of providing instruction and support for caretakers of children of substance abusers;

"(2) that supports an approach to service delivery that is—

"(A) interagency;

"(B) interdisciplinary;

"(C) comprehensive;

"(D) oriented toward case management; and

"(E) focused on improving the health and development of the child;

"(3) in sessions that include participants from both agencies specified in subsection (b); and

"(4) in classroom, home-based, and clinical settings.

"(d) APPLICATION.—In order for an entity to be eligible for a grant under subsection (a), the entity shall submit an application to the Secretary—

"(1) jointly with representatives of the agencies specified in subsection (b);

"(2) containing assurances by the agencies specified in subsection (b) that the agencies—

"(A) ensure participation by staff members in the training program, and

"(B) agree to continue to use the approach to service delivery described in subsection (c)(2) to address cases involving children of substance abusers; and

"(3) at such time, in such manner, and containing such additional agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the 1991 and subsequent fiscal years.".

CHILDREN'S DEFENSE FUND,
Washington, DC, June 25, 1990.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR DODD: The Children's Defense Fund is pleased to offer its support for the Children of Substance Abusers Act—another example of your strong commitment to improving the lives of our nation's children. The Act recognizes the critical need for a significantly expanded response to children and familes whose lives are being ravaged by alcohol and drug abuse.

Your measure would strengthen existing health, mental health, substance abuse treatment and child welfare systems so that they are able to more adequately protect children and address families' needs for comprehensive treatment and services. We are pleased that the Act not only encourages interdisciplinary service programs, but also recognizes the need for joint efforts across child-serving systems.

The Act's provisions will ensure children and their families a full range of health, mental health, substance abuse treatment, and social services. The Act also takes additional steps which we believe are extremely important. It provides for enhanced outreach, through home vistor programs, to ensure that families actually receive these services and also encourages the development of community and extended family supports and after care services to help sustain the benefits which families receive from treatment and services. The provisions for staff training also help maximize the benefits of these new services.

We are pleased that the Act addresses the special needs of pregnant women who abuse substances and children born exposed to substances, and also recognizes the ongoing supports needed by these women, their infants, other children, and extended family members. The comprehensive services and supports you propose will help promote more positive birth outcomes, minimize impairments to children from parental substance abuse, and protect children from abuse and neglect in the future.

The Children of Substance Abusers Act represents an important step forward in protecting our next generation and our nation's future. My staff and I look forward to working with you toward its enactment.

Sincerely yours,

MARIAN WRIGHT EDELMAN.

CHILD WELFARE LEAGUE OF AMERICA, INC.,
Washington, DC, June 27, 1990.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Children, Family, Drugs and Alcoholism, Hart Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Child Welfare League of America (CWLA) would like to thank you for your leadership on the impact of substance abuse on the children and families served by the child welfare system.

CWLA views the Children of Substance Abusers Act of 1990 as a vital piece of legislation that will begin to support children and families struggling to survive in dysfunctional environments due to drug abuse. These families are in need of health services as well as social services if they are to stay together. Your bill provides just that. This program is comprehensive in that it provides a range of services including access to drug and alcohol treatment for women, treatment for children of substance abusers and, promotes home-based treatment. In addition, the bill authorizes programs to train professionals providing services to these families.

The Child Welfare League of America endorses the Children of Substance Abusers Act of 1990 and commends your efforts to reach out to these families. We pledge our support and assistance in seeing this bill through to enactment.

Sincerely,

DAVID S. LIEDERMAN,
Executive Director.

THE NATIONAL ASSOCIATION OF CHILDREN'S HOSPITALS AND RELATED INSTITUTIONS, INC.
Alexandria, VA, June 21, 1990.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Children, Family, Drugs and Alcoholism, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: NACHRI, the only national and voluntary association of children's hospitals, commends your efforts to address the needs of children and families impacted by drug abuse. Your legislation, the Children of Substance Abuser Act of 1990, is the first to provide comprehensive, coordinated health and supportive services for children and families to meet the longterm needs of the tragic victims of substance abuse.

Children's hospitals around the country are now seeing children with both immediate and longterm health problems resulting from their perinatal drug exposure. An informal survey of selected children's hospitals indicates that the children's hospitals are caring for an increasing number of newborns and infants who have been exposed to cocaine, crack, alcohol and other drugs in growing numbers. Their care needs are complex and require multidisciplinary services which go far beyond their clinical care to intensive family interventions and longterm developmental and rehabilitative services. In the face of this escalating problem, children's hospital staff are learning quickly how to identify these babies, how to develop multidisciplniary approaches to their care, and how to coordiante community-based services for them and their mothers after they leave the hospital. However, their work is hampered by the lack of drug treatment programs which will treat women, particularly women with young children, by the lack of available family support services in the community, and by an extremely overburdened child welfare system.

NACHRI is gratified that your bill would create, for the first time, a coordinated and comprehensive approach to the multidisciplinary health needs of children of substance abusers and their families. It recognizes the social supports required to preserve the family unit and the dire need for this nation to come to grips with the crisis it faces in drug treatment programs. The growing, tragic problem of perinatal substance abuse does not begin or end when the baby is born. Your bill acknowledges this fact by increasing the funds available to provide drug treatment to all women, by creating a preventive home visitors program for identified high-risk pregnant women and their children, by providing a wide range of longterm coordinated services for those families impacted by perinatal substance abuse, and by creating training programs to equip our health, education, justice, and social service professionals to provide the necessary services to these families. We recognize the immediate need for the services provided for in the Children of Substance Abuser Act of 1990.

Sincerely,

ROBERT H. SWEENEY,
President.

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, June 14, 1990.

Hon. CHRISTOPHER DODD,
U.S. Senate, Washington, DC.

DEAR SENATOR DODD: On behalf of the Academy, whose 39,000 members are dedicated to the promotion of maternal and child health, I want to inform you of our strong support for your proposed amendment to the Public Health Service Act establishing and expanding grant programs for evaluation and treatment of parents who are substance abusers, and children of substance abusers.

This important new measure, the Children of Substance Abusers Act, would help increase the availability of treatment for parents, particularly mothers, who are substance abusers. It would help ensure that the physical, emotional and psychological needs of children of substance abusers, including children exposed to drugs or alcohol before birth, are identified, assessed and addressed. The economic and social well-being of families in which a parent is a substance abuser would be enhanced. By providing comprehensive services directed at the entire family, it would help prevent child abuse by improving parenting skills and providing support systems of social services.

Under your leadership, it is our hope that the Senate will act expeditiously in support of this legislation during the current Congress.

Sincerely,

BIRT HARVEY, M.D.,
President.

NATIONAL CHILD ABUSE COALITION,
Washington, DC, June 27, 1990.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Children, Family, Drugs and Alcoholism, Hart Building, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: On behalf of the National Child Abuse Coalition I am pleased to write in support of the Children of Substance Abusers Act and to commend your efforts to improve the lives of the child victims of substance abuse.

Substance abuse has become the single greatest problem contributing to child maltreatment and child fatalities due to abuse and neglect. Over the past two years, the majority of states surveyed have cited parental substance abuse as the dominant characteristic among their child abuse caseloads. As a result, child protective services are overwhelmed.

With less than half the states in 1989 receiving any legislative increases in their child welfare budgets—generally simply for cost of living increases—additional funding is needed to help child abuse agencies cope with the demanding caseloads due to drug abuse. Special training and expertise is needed with rapidly increasing numbers of more complex, drug-related cases requiring greater attention to parents resistant to typical remedies for child maltreatment, and children needing placement out of the home to insure their safety.

In its report issued today concluding that child maltreatment in this country represents a "national emergency", the U.S. Advisory Board on Child Abuse and Neglect suggests that "the dramatic increase in the use of crack-cocaine has put families and children at risk" and that "the child protection system simply does not have the resources to protect drug-affected children from harm." The advisory board recommends that "all relevant aspects of the national effort to control substance abuse are coordinated with efforts to prevent and treat child abuse and neglect."

Provisions in the Children of Substance Abusers Act providing home-based services to families of children at risk of abuse and neglect and home-based care for infants exposed to substance abuse as well as offering training to volunteers and professionals working with substance abusing parents and their children can go far to help an enormously overburdened child protection system care for children whose lives are threatened by drugs and alcohol.

We salute your attention to the needs of children endangered by substance abusing parents, and we look forward to working closely with you in the future to shape legislation aimed at improving children's lives.

Sincerely yours,

THOMAS L. BIRCH,
Legislative Counsel.

CHILDREN OF ALCOHOLICS FOUNDATION, INC.,
New York, NY, June 26, 1990.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Children, Family, Drugs and Alcoholism, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: The Children of Alcoholics Foundation supports your efforts to expand services to children of alcoholics and other drug abusers through the Children of Substance Abusers Act of 1990.

There are 28 million children of alcoholics in the United States, 7 million of whom are under the age of 18. Because alcoholism runs in families, children of alcoholics are three to four times more likely to become alcoholics than other children. They are also at greater risk to abuse other drugs, drop out of school and attempt suicide. The physical, mental and emotional problems caused by parental drinking affect children without regard for their ethnic background or socioeconomic status.

The Children of Substance Abusers Act correctly recognizes that it is not necessarily enough to help a parent who is abusing alcohol or other drugs. Children need and deserve help for themselves if they are to learn to cope and to avoid the tragic cycle of

family alcoholism and drug abuse. This bill also provides for training in parenting skills, an important service, especially for those parents who themselves may come from families plagued with alcoholism and drug abuse.

Passage of the Children of Substance Abusers Act would offer hope and help to the millions of Americans who live in the shadow of alcohol and drug abuse. We applaud your leadership in proposing this legislation.

Sincerely,

JAMES T. DOWELL,
Executive Director.

FAMILY RESOURCE COALITION,
June 28, 1990.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD: On behalf of the Family Resource Coalition, I am pleased to express our support for the "Children of Substance Abuser Act of 1990" which you are sponsoring.

The Family Resource Coalition represents thousands of family resource and support programs which assist parents by providing a wide range of needed services in neighborhoods and local communities. Certainly, one of the greatest threats to family stability, and to parents' capacity to care for their children adequately, is the prevalence of substance abuse. Further, there is a critical shortage of drug and alcohol prevention and treatment programs that could address this problem. The lack of substance abuse resources is particularly acute for pregnant women and young mothers and their children.

The legislation you are sponsoring, "The Children of Substance Abuser Act of 1990," would expand the availability of important services for substance abusers. It also recognizes that the only way such services can be successful is if they provide a continuum of supports for the parent, child, and the entire family so that the situations and stresses which often contribute to a substance abuse problem are addressed simultaneously. Because of this approach, we believe this legislation is "family supportive" in a way that will be effective in both human and fiscal terms.

In sum, this legislation is important for vulnerable children, parents, and local communities, and we will provide every support for it that we can.

Sincerely,

FRANK FARROW,
Chairman.●

By Mr. LEAHY (for himself, Mr. BOSCHWITZ, Mr. HARKIN, Mr. LUGAR, Mr. WILSON, Mr. DOLE, and Mr. GRAMM):

S. 2821. A bill to resolve the emergency funding crises in the Special Supplemental Food Program for Women, Infants, and Children, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

WIC EMERGENCY FOOD ACT

● Mr. LEAHY. Mr. President, earlier today I addressed the House-passed bill, H.R. 5149 on the WIC Program. Most of my earlier comments are equally applicable to the bill I am now introducing. I want to restate some of those earlier remarks for the record and also address the differences between my bill and the House version.

Mr. President, one of our most important nutrition programs is facing a financial crisis.

Because of unexpected increases in food costs, 27 States are denying benefits to 275,000 infants, children, and pregnant women that have been certified "at risk" by qualified medical professionals.

The program is WIC—the Supplemental Food Program for Women, Infants, and Children.

Created in 1972, it is universally acclaimed as one of our Nation's most successful nutrition programs.

WIC serves children at some of the most critical times of their lives.

It feeds their mothers when they are pregnant or breastfeeding.

And it feeds children during their important, early development years.

Because of the budget squeeze, WIC children with medical needs or inadequate diets will be denied food.

They will be denied the right start in life.

WIC is designed to increase infant birthweights and reduce birth defects by providing nutritious food to pregnant women.

It is designed to combat the problems cited by the Surgeon General—that babies with low birthweights are at greater risk of having "developmental handicaps, birth defects, respiratory and other infectious diseases, behavior problems and [other] complications." (Surgeon General's Report on Nutrition and Health 1988.)

Other experts agree.

In testimony before the Senate Budget Committee, Dr. Buford Nichols of the Baylor College of Medicine's Department of Pediatrics said that "20,000 infant deaths can be prevented each year by improving prenatal nutrition and care."

According to the Surgeon General, the average medical cost of a low birthweight baby can exceed $39,000. The average cost of the WIC package is $30 a month.

Today, with Senators HARKIN, BOSCHWITZ, LUGAR, WILSON, and DOLE, I am introducing the "WIC Emergency Food Act" which allows States to spend $100 million more between now and the end of the year.

This will solve this financial crisis facing WIC.

If enacted, States will be able to keep feeding the 275,000 needy newborns, children, and pregnant women.

I appreciate working with Representative TONY HALL on this issue. We have had several discussions on this matter and we have worked out a good solution to this financial crisis. I have great admiration for Congressman HALL's expertise in this area.

But let me put Congress on notice. The WIC Emergency Food Act only solves part of the problem.

WIC now serves over 4.5 million low-income women, infants, and children.

But due to funding limitations, over 40 percent of those eligible—over 3 million Americans—are not served.

Funding a program at 60 percent is like asking mothers to feed their kids only two meals a day.

When the funds for next year's budget are being appropriated, I will again fight for more money for WIC.

WIC drives home a basic fact—poor nutrition and hunger jeopardize the future of our entire Nation.

America is the richest, most self-sufficient Nation on Earth. Yet millions go to bed hungry every night.

Hunger is not limited to the homeless living on our street corners and in our subway stations. It is far more extensive.

It is time to get our priorities straight.

Who in this Chamber can walk away from a hungry newborn? It is time to vote for this bill.

I am aware that the House has passed a bill that would only allow States to spend around $66 million to address this crisis. For the great majority of States that is sufficient. However, for some it will not be enough. I am aware that we may need to accept the House language to avoid a conference when the House gets back from its 10-day recess and to get this to the President immediately.

I will continue to fight for WIC funding.

Mr. President, I ask unanimous consent that the chart on proposed WIC cutbacks be inserted in the RECORD immediately following my remarks.

There being no objection, the chart was ordered to be printed in the RECORD, AS FOLLOWS:

PROJECTED WIC CUTBACKS

Projected caseload cutbacks in WIC Program

[March-September 1990]

State:	*Cutbacks*
Alaska	*2,500
Arizona	3,304
California	56,273
Colorado	9,482
Connecticut	3,552
Florida	23,102
Georgia	20,480
Hawaii	967
Iowa	3,792
Kansas	921
Kentucky	2,741
Maine	*1,062
Minnesota	2,951
Missouri	8,344
Nevada	524
New Hampshire	5,878
New York	*31,000
North Carolina	11,689
North Dakota	863
Ohio	2,659
Oklahoma	15,544
Oregon	*2,000
Puerto Rico	19,269
Rhode Island	509
Texas	16,986
Utah	21,423

Virginia	1,801
West Virginia	2,103
Wisconsin	2,697
Wyoming	1,369
Indian Agencies	*1,849
Total	277,634

Source: USDA except for those marked by an asterisk (*), which are from a National Association of WIC Directors.

10 hardest hit States

[Percentage caseload reduction between March-September 1990]

State:	*Reduction*
Utah	45
New Hampshire	36
Oklahoma	28
Colorado	19
Missouri	15
Wyoming	15
Puerto Rico	14
Florida	13
Georgia	12
California	11

Based on USDA data on March participation levels and data from USDA survey on September participation levels, except in States where more current data were subsequently provided.●

● Mr. BOSCHWITZ. Mr. President, I am pleased to join with my distinguished colleagues today in introducing the WIC Emergency Food Act.

As has been reported in the media several times recently, we are facing a cutback in those who can be served by the Special Supplemental Food Program, better known as WIC.

WIC provides supplemental foods and nutrition education to low-income pregnant women, mothers, infants, and children up to 5 years old. WIC participants must be at nutritional risk and have income not greater than 185 percent of the poverty level to qualify. Generally WIC participants receive vouchers which can be redeemed when purchasing food at local grocery stores.

As the senior Republican of the Senate Nutrition Subcommittee, I have been a strong WIC supporter. WIC has been an excellent investment for our Government. Many studies have shown the effectiveness—higher birthweights of babies, fewer premature births, better diets for infants and WIC moms, and less anemia in low-income children. Studies have also documented savings in medical costs from WIC participation.

While other programs have faced spending cuts over the years, we've been fortunate to be able to provide funding increases for WIC. The WIC Program began as a pilot program in 1974, serving 205,000 individuals. By 1980, the WIC Program had grown to 1.9 million participants with Federal funding of $725 million. This year funding was $2.126 billion and over 4.4 million women and children are being served monthly.

Reports in the media about the current funding situation are extremely disturbing. Because of unanticipated price increases in foods such as milk and orange juice, many States have indicated they will be forced to reduce the amount of food provided to participants or to discontinue serving women and children entirely.

This bill addresses this unanticipated change in food prices. In short, it makes the problem more manageable for those who are administering the WIC Program. State agencies would be able to use a portion of next year's appropriation in this fiscal year to combat the unexpected food price increases.

I must make it clear that this is intended to be a one-time solution for this fiscal year. This change should not be interpreted as setting a precedent for future years or for other programs.

We need to continue to push for additional funding increases for WIC, so that more of those eligible can be served by this vital program. Indeed, the Mickey Leland Memorial Domestic Hunger Relief Act, of which I'm a coauthor, calls for an increase of $150 million over inflation for WIC for fiscal year 1991.

Again, I am pleased to be an original cosponsor of this important bill. I urge my colleagues to support the WIC Emergency Food Act.●

● Mr. LUGAR. Mr. President, I rise today to join my colleagues in introducing this legislation to provide additional funds in fiscal year 1990 for the Supplemental Food Program for Women, Infants, and Children.

The WIC Program serves some 4.5 million persons, including almost one-third of all infants in the United States. It provides monthly food supplements and nutrition education to low-income pregnant and nursing mothers, and infants and children under age 5 who are at risk because of inadequate nutrition or health care.

WIC is one of our wisest investments in our future. That is why WIC enjoys such widespread bipartisan support. In fact, WIC has received an increase in funding every year since 1980. From 1980 to 1989, WIC funding increased by 162 percent, or an increase of over $1 billion. Funding increases of that magnitude are an indication of the priority which Congress places on WIC.

However, some State WIC programs are facing an unexpected funding problem this year. According to the Congressional Research Service, this supplemental food shortage occurred because of unexpectedly high food price inflation, increased administrative spending, overly optimistic expectations of substantial food cost savings from infant formula contracts and frequent legislative changes.

Because of these problems, States have been forced to reduce expenditures. Several States have changed their food packages to reduce costs. A number of States have had to reduce their caseloads. According to CRS, most States report that they planned to reduce caseloads by not filling vacancies, or by not recertifying participants that otherwise would have been recertified for extended benefits, or by some combination of both. No recipients are expected to lose benefits before the end of their original certification period.

This bill is designed to help States reduce the immediate effect of this problem. Current law allows States to borrow, in effect, 1 percent of the following year's appropriation in the current year. This bill would allow, on a one time basis, States to spend up to 5 percent of the fiscal year 1991 appropriation for supplemental foods in fiscal year 1990 and receive a later reimbursement.

The bill further requires that the additional money be used for food, not administration. It requires that States which intend to use this authority submit a plan to the Secretary showing how the caseload will be managed. The Secretary is required to give these plans expedited review. A further limitation is that States may not increase their caseload level above the highest monthly level achieved to date in fiscal year 1990.

This bill is intended to help alleviate the current problem in fiscal year 1990. It is not meant as a precedent for the future for WIC or any other program.

Mr. President, I am aware that today the House passed a bill similar to the one we are introducing. The House bill, H.R. 5149, allows for 3 percent rather than 5 percent. Since the House apparently does not plan to be in session tomorrow and in order to avoid a time-consuming conference, my colleagues on the Agriculture Committee and I intend to support the House bill.●

● Mr. HARKIN. Mr. President, I am pleased to be a sponsor, along with Senators LEAHY, LUGAR, and BOSCHWITZ, of this important emergency legislation, which will help to alleviate a serious shortfall in the funding available for the Special Supplemental Food Program for Women, Infants, and Children [WIC].

Increases in food prices far exceeding expectations have generated a shortfall in funding for the WIC Program currently estimated to reach about $72 million for fiscal year 1990. Unless action is taken to remedy the shortfall, it is projected that WIC caseloads in 27 States will have to be cut back nearly 280,000 by the end of this fiscal year, according to data from USDA and a survey conducted by the National Association of WIC Directors. That means that well over a quarter of a million fewer low-income infants, children, and pregnant or nursing women who are at nutritional risk will receive supplemental food through the WIC Program. In my State of Iowa it is estimated that the

WIC caseload will have to be cut by about 4,000 eligible people.

This legislation would allow State agencies that administer WIC programs to satisfy funding shortfalls for fiscal year 1990 by spending up to 5 percent of the amount of funds allocated to the agency for the WIC Program for fiscal year 1991. Use of this procedure by a State agency would require approval by the Secretary of Agriculture. States would not be allowed to rely on this legislation to increase their WIC caseloads.

Allowing the shifting of expenditures between fiscal years in this way is an unusual step. It is a step that is warranted in this case, however. The WIC funding shortfall has only recently come to light and was not brought to the attention of Congress in time to be dealt with appropriately in the supplemental appropriation measure for fiscal 1990. Hence there is at this time no feasible alternative to this legislation for solving the problem.

Mr. President, it would be unconscionable to fail to take the steps necessary to provide emergency funding for the WIC Program. The WIC Program is one of the most beneficial and cost effective of all Federal programs. WIC provides nutritional assistance to help children at critical times in their development: before they are born, when they are nursing, and during the early years of their lives.

The WIC program provides pregnant women with nutritional assistance and prenatal care that helps to increase birth weights and reduce the incidence of birth defects, developmental handicaps, infectious diseases, behavior problems, and other complications. It is estimated that for each dollar invested in the WIC Program the Federal Government avoids spending $3 in medical costs.

The better nutrition and prenatal care provided pregnant women in the WIC Program very effectively reduces infant mortality. With the United States now ranked 19th among the world's nations in the rate of infant mortality, we cannot cut back our commitment to the WIC program.

The early investment in WIC pays off in reduced health care costs and in more capable and productive citizens. Moreover, children who lack adequate nutrition and care early in life are denied the opportunity to reach their human potential for leading healthy, satisfying, and full lives. That is a tragedy not only for the individuals affected, but for society as a whole, which is deprived of their potential contributions.

Failing to address the current shortfall would only exacerbate the chronic limitation of funds in the WIC Program. In ordinary times, funding limitations cause over 40 percent of those eligible to remain unserved by the WIC Program. Thus, although over 4.5 million low-income women, infants, and children are helped by the WIC Program, over 3 million are not.

It is a matter of grave moral significance that in this affluent Nation of ours over 3 million young Americans—the embodiment of our country's future—who are at nutritional risk go without the food they need because we cannot find room in our trillion-dollar Federal budget to help them. I will continue to seek WIC funding that will enable a larger share of the eligible population to be served.

Mr. President, I urge the expeditious adoption of this emergency legislation.●

By Mr. LAUTENBERG (for himself, Mr. D'AMATO, and Mr. MITCHELL):

S. 2822. A bill to promote and strengthen aviation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AVIATION SECURITY IMPROVEMENT ACT

Mr. LAUTENBERG. Mr. President, today I am introducing the Aviation Security Improvement Act of 1990. The intent of this legislation is to implement the recommendations of the President's Commission on Aviation Security and Terrorism, as presented to the President on May 15, 1990.

I was honored to have been a member of that Commission. It is a pleasure to have as my principal cosponsor Senator D'AMATO, who was also a member of the Commission. I also note that Congressmen OBERSTAR and HAMMERSCHMIDT, who served with us on the Commission, are introducing companion legislation in the other body.

As my colleagues will recall, the President appointed this bipartisan commission after continuing pressure from the Congress and the families of the victims of the bombing of Pan Am 103. An independent, comprehensive review was necessary because, months after the bombing, troubling questions still lingered, going unanswered. Those questions were serious ones: how could this have happened? Where did the system break down? What had been done to improve safety? What more needed to be done to protect traveling Americans?

These were the questions the Commission asked. The role of the Commission was to investigate the aviation security system, with particular focus on the events surrounding the Pan Am 103 bombing. There is an ongoing criminal investigation into who was responsible, who put the bomb on board. The Commission's job was to look at the overall aviation security system, find the weaknesses that might have allowed the bombing to take place, and recommend changes to the system to make it as difficult as possible for a terrorist to carry out another bombing.

As I note, a few weeks ago, we presented to the President the report of the Commission on Aviation Security and Terrorism. I commend my colleagues to review the report. I won't repeat its contents here. But I think my colleagues will see that this was a thorough, comprehensive assessment of the aviation security system, and what needs to be done to make it better.

When we submitted the report, I said that this was one Commission report that woundn't gather dust. That report was a call to action—and this bill represents the next step in that action.

In this bill, we call for major changes in the way the Federal Government approaches aviation security. As with other team efforts, an aviation security system is only as strong as its weakest link. When we on the Commission looked at the existing system, we found a chain with weaknesses at virtually every link. The bill reflects those findings, and proposes means to address the weaknesses.

The reforms have to come in all areas.

We need to make organizational changes, to make sure that security is given the priority it deserves, and isn't lost in the bureaucracy of the Federal Government.

We need a more focused and higher profile research and development program. We can't continue to allow third world terrorists to have the technological edge on us. We need to catch up, and anticipate new forms of threat.

We need tighter standards and procedures, to make sure that security requirements are being met.

We also need a more effective and compassionate means of responding to the needs of U.S. citizens when tragedies like Pan Am 103 do happen.

We need to have the will, as a nation, to treat terrorists like the outlaws that they are, and do everything within our grasp to fight back and defeat them. And we have to recognize that terrorism like the Pan Am 103 bombing is an act of war, directed not against specific individuals or companies, but against the United States. To deal with that threat, we need greater governmental accountability.

With that as a backdrop, let me cite for my colleagues a few key provisions of the Aviation Security Improvement Act of 1990.

The bill calls for an onsite security manager at all high risk airports, to make sure that security laws and regulations are being adhered to. These managers would be given the authority to oversee security operations, and the responsibility to make sure they're being carried out properly.

The bill also calls for training standards for security personnel. This was a major weakness identified by the Commission. Too often, people hired to perform security functions are unqualified, poorly trained, or otherwise unable to perform those functions adequately. Further, little attention is given to trying to maximize the performance of those who comprise the human element of the security system. The importance of factors such as foreign language skills for those posted abroad is often overlooked.

This bill addresses those problems, and requires the development of regulations and procedures to help ensure that the people on the front lines of our security efforts are able to do the job we ask of them.

Another key is research and development. This bill directs the FAA to undertake a comprehensive, intensive program to develop and put into place technologies and procedures that will provide more than just a sense of security.

I've referred to this new program as a "Manhattan Project." I've said that not because there is any similarity in the goals of the programs, but because I think that's the type of concerted effort, the type of dedication and resources, that we need to accomplish the job.

Over the last 3 years, fiscal year 1988-90, the administration has requested a total of $37.3 million for aviation security research and development. As chairman of the Transportation Appropriations Subcommittee, I've worked to make sure that we not only met those requests, but exceeded them, by over 13 percent.

The R&D efforts have produced results. But those efforts didn't have the basic guidance and priority to do the full job that's needed. With this bill, we seek to give FAA's R&D Program the focus and priority it needs to help us meet the challenges presented by the increasingly sophisticated terrorist.

This bill also would lead, for the first time, to the establishment of uniform guidelines for issuing public notification of threats to civil aviation. As we looked into the events surrounding the Pan Am 103 bombing, an area of great sensitivity was the question of selective notification. In this case, it was clear that information about a possible threat was made available to some, and not others. The Commission did not find any clear evidence that that selective notification led to any individuals changing their plans, and saving their lives, while others unknowingly boarded that plane.

But the idea of selective notification is unacceptable. And this bill would make it clear—there will be no selective notification.

Another important part of this bill is the requirement for the FAA and FBI to conduct a thorough assessment of the threat to the domestic aviation system. So far, we've been spared the tragedy of an attack like Pan Am 103 within U.S. borders. But, we can't assume that will always be the case. The idea here is to find out where the vulnerabilities are, and fix them, before a tragedy happens. It's part of an attempt to change the way this country has approached security. We need to start being proactive, anticipating and preempting changes in methods; rather than being reactive, waiting until something happens before we act.

This legislation also would make structural changes that would help make sure that security is given the priority it deserves. When the Commission looked at those responsible for security functions, they found them buried deep within the bureaucracy. They were isolated from the top decisionmakers, having no direct access to the FAA Administrator, and even less connection to the Secretary of Transportation.

The bill would change that. First, a new Assistant Secretary of Transportation for Security and Intelligence would be created, to be responsible for security policy and planning. Like the existing Assistant Secretaries, this person would report directly to the Secretary, and have the power and authority of that position clearly behind his or her efforts.

Similarly, the security functions remaining within the FAA would be elevated, and placed under a new Assistant Administrator. These changes will help ensure that security needs are not forgotten among the other responsibilities of the Department and the FAA.

This bill also addresses a crucial area in which our government performed so badly in the wake of Pan Am 103—the treatment of the families of the victims.

With the bombing of that plane and loss of their loved ones, these people had already been brutalized. They lost children, siblings, people in the prime of their lives. To then deal with a government that was unprepared to react with compassion and efficiency, added insult to an already grievous injury.

The bill directs the State Department to take the necessary steps to make sure that, in the event of another tragedy, the United States Government is ready to respond, and respond quickly, compassionately, and effectively.

Mr. President, these are only a few key areas of this bill. It is a far-reaching piece of legislation, as was the Commission's report. It's comprehensive because the Commission found that the aviation security system, as a whole, needed major improvements.

The bill we're introducing today takes the next step to make those improvements. It's essential that we proceed, and not be content with having identified the problems. The terrorists are not giving up, and neither can we.

As long as they're willing to wage their cowardly wars, we've got to fight back. That's what this bill does—outlines a way to fight back against terrorism. Its enactment will help make travel safer for all Americans. In introducing it, we're carrying on with our commitment to do all we can to keep more families from suffering the tragedy of having loved ones killed by terrorists.

This legislation is supported by Commission Chairman Anne McLaughlin, who guided the Commission's efforts in a professional and objective manner that helped ensure a report that would meet the toughest scrutiny. It is also supported by the families of the victims of the bombing of Pan Am 103. I want to commend them for their continuing vigilance, and their insistence on making the system safer for others. I pledge my continuing efforts, and look forward to continuing to work with them to see the Commission's recommendations implemented.

Mr. President, before closing, I would like to note that the distinguished majority leader, Senator MITCHELL, is joining us as an original cosponsor of this bill. Senator MITCHELL played a vital role in seeing that the Presidential Commission was established. His cosponsorship of this legislation is proof of his continuing efforts to improve aviation security and respond to the tragedy of Pan Am 103.

I urge my colleagues to consider this legislation, and support it. It's my hope that we'll be able to move ahead with a strong legislative package before the end of this Congress, and I look forward to working with my colleagues to achieve that goal.

Mr. President, I ask unanimous consent that the full text of the Aviation Security Improvement Act of 1990 and a section-by-section analysis of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Security Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Ensuring the safety and security of passengers of United States air carriers against terrorist threats is the responsibility of and should be given the highest priority by the United States Government;

(2) As detailed in the May 15, 1990, report of the President's Commission on Aviation Security and Terrorism, current aviation se-

curity systems are inadequate to provide such protection;

(3) The United States Government should take immediate steps to ensure fuller compliance with existing laws and regulations relating to aviation security;

(4) The United States Government should work through the International Civil Aviation Organization and directly with foreign governments to enhance aviation security on foreign-flag carriers and at foreign airports;

(5) The United States Government should ensure that enhanced security measures are fully implemented by both United States certificated and foreign-flag air carriers;

(6) At the upcoming meeting of the Summit Seven, the United States should call for the nations belonging to the Summit Seven to promptly amend the Bonn Declaration to extend sanctions for all terrorist acts, including attacks against airports and air carrier ticket offices;

(7) the United States Government should continue to rely upon bilateral negotiations to achieve aviation security objectives with foreign governments;

(8) The United States should have in place a mechanism by which the Government notifies the public, on a case by case basis and through the application of a uniform national standard, of certain credible threats to civil aviation security;

(9) The United States has a special obligation to the victims of acts of terrorism directed against this Nation, and it must assure that the Government provides prompt assistance to the families of such victims and that fair and prompt compensation be provided for such victims;

(10) The United States should work with other nations to treat as outlaws state sponsors of terrorism, isolating such sponsors politically, economically, and militarily;

(11) The United States must develop a clear understanding that state-sponsored terrorism threatens United States values and interests, and that active measures are needed to counter more effectively the terrorist threat; and

(12) The United States must have the national will to take every feasible action to prevent, counter, and respond to terrorist activities.

SEC. 3. ESTABLISHMENT OF POSITION OF ASSISTANT SECRETARY FOR TRANSPORTATION SECURITY AND INTELLIGENCE.

(a) ASSISTANT SECRETARY FOR TRANSPORTATION SECURITY AND INTELLIGENCE.—Subsection (e) of section 102 of title 49, United States Code, is amended by striking the number "4" in the first sentence and inserting in lieu thereof the number "5", and by inserting immediately after the first sentence the following: "There is an Assistant Secretary for Transportation Security and Intelligence, who shall be appointed by the President for a term of 5 years and shall not be removed except for cause."

(b) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof "Assistant Secretary of Transportation for Transportation Security and Intelligence".

(c) FUNCTIONS.—The Assistant Secretary shall be responsible for those functions cited in section 4(a)(2) (A), (B), and (C), in addition to such functions as may be prescribed by the Secretary.

SEC. 4. TRANSFER OF AVIATION SECURITY FUNCTIONS.

Subsection (g) of section 106 of title 49, United States Code, is amended by striking the word "and" at the end of paragraph (1), renumbering paragraph (2) as paragraph (3), and inserting a new paragraph (2) to read as follows:

"(2) sections 315 and 316 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1356-1357) other than—

"(A) the receipt, assessment, and distribution of intelligence involving transportation security;

"(B) the development of transportation security policies, strategies, plans, and a comprehensive security program based on a systems planning approach; and

"(C) planning involving transportation security, including the coordination with other appropriate Federal agencies of countermeasures; and".

SEC. 5. ANNUAL AVIATION SECURITY REPORT; BUDGET.

(a) REPORT BY SECRETARY OF TRANSPORTATION.—Section 308 of title 49, United States Code, is amended by adding the following new subsection:

"Annual Report

"(f) The Secretary of Transportation shall submit an annual report concerning transportation security, together with such recommendations as desirable. This report shall not duplicate information required by sections 315(a) and 1115(c) of the Federal Aviation Act of 1958. The Secretary of Transportation shall submit a copy of such report to the appropriate committees of the Congress. The report may, as necessary, be in two parts, one being classified in nature and one being unclassified.

"(1) CONTENTS OF REPORT.—The report required by this subsection shall include, among other things, the following:

"(A) summary of activities by the Assistant Secretary for Transportation Security and Intelligence during the 12-month period preceding such report;

"(B) assessment of trends and developments in terrorist methods and other threats to civil air transportation;

"(C) recommendations for focus of research, engineering, and development activities relating to transportation security;

"(D) legislative and regulatory recommendations if appropriate;

"(E) funding and staffing requirements of the Assistant Secretary;

"(F) an assessment of the funding and staffing requirements, and attainment of existing staffing goals for the security functions remaining within the Federal Aviation Administration;

"(G) an identification of the scope and success of cooperative efforts with other Federal intelligence agencies;

"(H) evaluation of cooperation with foreign civil aviation authorities;

"(I) status of implementation of the recommendations of the President's Commission of Aviation Security and Terrorism and the 1987 Department of Transportation Safety Review Task Force; and

"(J) evaluation of the progress in implementation of changes identified as necessary in the review required in section 8(a) of the Aviation Security Improvement Act of 1990.".

(b) BUDGET.—The annual budget submission for the Department of Transportation shall include a specific request for the office of the Assistant Secretary for Transportation Security and Intelligence. In determining the budget request for the Assistant Secretary, the Secretary shall take into consideration the annual report required by section 308(f) of title 49, United States Code. The Secretary shall transmit to the Congress the budget requested by the Assistant Secretary.

SEC. 6. FEDERAL SECURITY MANAGERS.

The Federal Aviation Act of 1958 (49 App. U.S.C. 1301, et seq.) is amended by adding at the end thereof the following:

"FEDERAL SECURITY MANAGERS

"SEC. 319. (a)(1) The Administrator shall, within 90 days following the date of enactment of this provision, establish the position of Federal Security Manager (hereinafter referred to as 'manager'), and initiate placement of such managers at each high risk airport within the United States, and abroad.

"(2) A manager shall report directly to the Assistant Administrator for Civil Aviation Security.

"(3) In stationing managers, the Administrator shall give priority to category X airports, as defined by the Administrator, within the United States.

"(4) The responsibilities of a manager at an airport facility shall be subject to the Administrator's direction and authority and include, but not be limited to—

"(A) receipt of intelligence relating to aviation security;

"(B) in coordination with affected air carriers and airport facility operators, development of a comprehensive security plan for such facility;

"(C) oversight and enforcement of implementation by air carriers and airport operators of Federal security requirements, including the comprehensive plan described in subparagraph (B) of this paragraph;

"(D) requiring modifications in procedures, staffing, or other areas by air carriers or airport operators in order to ensure compliance with Federal security requirements and goals;

"(E) serving as a focal point for authority over matters relating to aviation security within a facility;

"(F) coordination of Federal activities relating to aviation security at that facility;

"(G) coordination with local law enforcement efforts relating to aviation security; and

"(H) coordinating, as appropriate, activities with those of Federal Security Managers at other airport facilities.

"(5) Managers at foreign airports shall also serve as the Assistant Administrator's liaison with foreign aviation security authorities with regard to implementation of Federal security requirements, and discharge their responsibility under paragraph (4)(A) consistent with the laws and requirements of host governments.

"Long-Term Implementation

"(b) The Administrator shall, within 180 days following the date of enactment of this subsection, prepare a plan to fully implement the requirements of this section. The plan shall include a schedule for implementation and an assessment of the personnel and funding needs required, and shall be submitted to the appropriate committees of Congress.".

SEC. 7. AIR CARRIER AND AIRPORT SECURITY PERSONNEL.

Section 316 of the Federal Aviation Act of 1958, as amended (49 App. U.S.C. 1357), is amended by adding at the end thereof the following:

"Employment Investigations

"(g)(1)(A) In order to ensure the security of aircraft and their passengers, crew, and cargo, the Administrator is authorized to require by regulation that specified categories

of persons, as described in subparagraph (B) of this paragraph, be subjected to such initial and periodic employment investigations, including fingerprinting, as the Administrator determines to be appropriate.

"(B) The categories of persons who may be required by the Administrator to undergo employment investigations are those who are employed, or who occupy positions in which they may authorize others, to have unescorted access to air carrier or foreign air carrier aircraft or to secured areas of United States airports serving air carriers or foreign air carriers.

"(C) Any air carrier, foreign air carrier, or airport operator who employs persons described in subparagraph (B) of this paragraph, or authorizes or contracts for the services of such persons, shall take such actions as are necessary to assure that all employment investigations required by the Administrator are performed.

"Criminal History Records Check

"(2)(A) If the Administrator requires fingerprinting to conduct a criminal history records check, such fingerprints shall be submitted to the Attorney General of the United States, through a person or persons designated by the Administrator in consultation with the Attorney General, for identification and a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the employer. Notwithstanding any other provision of law, the Attorney General may provide, for the purposes of this subsection, all the results of the search to such person or persons as may be designated by the Administrator in consultation with the Attorney General.

"(B) For purposes of administering this subsection, the Administrator shall also prescribe regulations to—

"(i) implement procedures for the taking of fingerprints; and

"(ii) establish the conditions for use of information received from the Attorney General in order to limit the dissemination of such information, and assure that such information is used solely for the purposes of this subsection.

"(C) An individual subject to fingerprinting shall have the right to complete and correct the information contained in his or her criminal history records prior to any final employment decision being made on account of that information.

"Employment Restrictions

"(3)(A) Except as provided in subparagraph (B) of this paragraph, no air carrier, foreign air carrier, or airport operator shall employ, or authorize or contract for the services of, any person in duties for which an employment investigation is required by the Administrator either in the absence of such an investigation or if the results of such investigation include a conviction, in any jurisdiction, within the 10 years preceding the date on which such employment investigation is concluded for: any of the crimes set forth in subsections 902(b), (c), (h), (i), (j), (k), (l), (m), (n), (q), or (r) of this Act or in section 32 of title 18, United States Code; murder; assault with intent to murder; espionage; sedition; treason; kidnapping; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; or conspiracy to commit any of the aforementioned criminal acts. The Administrator may specify other factors which he has determined warrant exclusion from access to such aircraft or secured areas.

"(B) It shall not be a violation of subparagraph (A) of this paragraph for an air carrier, foreign air carrier, or airport operator to employ, or authorize or contract for employment of, any person in duties that include unescorted access to air carrier or foreign air carrier aircraft, or secured areas of United States airports serving air carriers or foreign air carriers, a person with respect to whom an investigation under this subsection has not been conducted, if such access is carried out pursuant to a plan approved by the Administrator which provides alternate security arrangements.

"Recovery of Costs

"(4) The Administrator and the Attorney General shall establish reasonable fees and charges to recover the United States costs in administering this subsection, and shall proportionately credit to the appropriations affected any moneys collected under this subsection.

"Employment Standards

"(h) The Administrator shall, within 270 days from the date of enactment of this subsection, prescribe standards for the hiring and continued employment of air carrier, airport, and contract security personnel. Such standards shall include, but are not limited to—

"(1) minimum training requirements for new employees;

"(2) minimum education levels for employees, as appropriate;

"(3) periodic retraining for employees;

"(4) requirements for minimum staffing levels, as appropriate; and

"(5) minimum foreign language skills, as appropriate.

"Human Factors

"(i) The Administrator, in coordination with air carriers, airport operators, the Secretary of Labor, and others as appropriate, shall review issues relating to human performance within the aviation security system, with the goal of maximizing such performance. Not later than 270 days after the date of enactment of this subsection, the Administrator shall recommend guidelines and prescribe appropriate changes to existing procedures to improve human performance.

"Training for Air Carrier and Airport Security Personnel

"(j) Within 180 days following the date of enactment of this subsection, the Administrator shall prescribe standards for the education and training of—

"(1) ground security coordinators;

"(2) security supervisory personnel; and

"(3) airline pilots as in-flight security coordinators.

The education and training programs required shall include but not be limited to (A) initial education and training and (B) regular, periodic retraining and continuing education. The Administrator shall prescribe standards against which persons described in paragraphs (1) and (2) of this subsection shall be measured annually.".

SEC. 8. DOMESTIC AIRPORT SECURITY.

(a) SURVEY OF DOMESTIC SECURITY.—In coordination with the Federal Bureau of Investigation, the Administrator of the Federal Aviation Administration shall conduct an assessment of the current and potential threats to the domestic air transportation system. Such assessment shall include, but not be limited to, consideration of—

(1) the extent to which there are persons with the capability and intent to carry out terrorist or related unlawful acts against the domestic aviation system and the likely methods that such persons might utilize;

(2) the adequacy of security procedures relative to the handling and transport of checked baggage;

(3) space requirements for security personnel and equipment;

(4) separation of passengers, baggage, cargo, and mail from baggage, cargo and mail to be screened;

(5) separation of controlled and uncontrolled areas of airport facilities;

(6) coordination of the activities of security personnel of the United States Customs Service, Immigration and Naturalization Service, Federal Aviation Administration, air carriers, and other law enforcement personnel; and

(7) the vulnerability of individual airports within the United States to terrorist activity.

(b) REPORT TO CONGRESS.—The Secretary of Transportation shall, not later than 1 year after the date of enactment of this Act, and annually thereafter, submit to Congress the results of this assessment.

(c) SURVEY.—In developing airport construction standards under section 612(d) of the Federal Aviation Act of 1958, the Administrator shall take into consideration the results of the assessment of domestic airport security conducted under subsection (a) of this section.

SEC. 9. RESEARCH AND DEVELOPMENT.

Section 316 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1351) is amended by redesignating subsections (d)(1) and (d)(2) as (d)(1)(A) and (d)(1)(B), respectively, and by adding the following new paragraphs:

"Accelerated Program

"(2)(A) The Administrator shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation.

"(B) Within 180 days of the date of enactment of this paragraph, the Administrator, in consultation with the Scientific Advisory Board established under this section, shall complete an intensive review of the threats to civil aviation, with particular focus on—

"(i) the explosive materials presenting the most significant threat to civil aircraft;

"(ii) the minimum amounts, configurations, and types of explosive material that can cause catastrophic damage to the commercial aircraft now in service and expected to be in service over the next 10 years following the date of the enactment of this paragraph;

"(iii) the amounts, configurations, and types of explosive material that can reliably be detected by existing or reasonably anticipated, near-term explosive detection technologies;

"(iv) the feasibility of employing various methods to minimize the damage that could be caused by explosive materials which cannot be reliably detected by existing or anticipated near-term explosive detection technologies;

"(v) the ability to screen such different entities as passengers, carry-on baggage, checked baggage, mail, and cargo; and

"(vi) the technologies that might be utilized in the future to attempt to destroy or otherwise threaten commercial aircraft and the methods by which such technologies can be effectively countered.

"(C) The results of such review shall be used by the Administrator in developing the focus and priorities of the program specified in paragraph (2)(A).

"(D) In designing and implementing the program, the Administrator shall—

"(i) consult and coordinate with other Federal agencies conducting similar research;

"(ii) identify those agencies that would benefit from such research; and

"(iii) seek cost-sharing agreement with those agencies that would benefit from such research.

"Goal

"(3) It shall be the goal of the accelerated program to develop and have in place within 60 months following the date of the enactment of this paragraph such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

"Human Factors

"(4) The program established by the Administrator under this section shall include research and development of both technological improvements and ways to enhance human performance.

"Grants and Cooperative Agreements

"(5) From the amounts appropriated for each fiscal year pursuant to the authorization under paragraph (8) of this subsection, the Administrator shall make available amounts, by way of grants, to colleges, universities, and other appropriate research institutions and facilities with demonstrated ability to conduct research authorized under this section. Such grants may be in such amounts, and subject to such terms and conditions, as the Administrator may prescribe. The Administrator may also enter into such cooperative agreements with other governmental entities such as he determines appropriate.

"Review

"(6) In the administration of the program specified in paragraph (2)(A) of this subsection, the Administrator shall review and consider the annual reports of the Secretary of Transportation submitted to the Congress on transportation security and intelligence.

"Scientific Advisory Board

"(7) The Administrator shall establish a Scientific Advisory Board for the purpose of reviewing, commenting on, and advising the Administrator on the progress of and any needed modifications to the program authorized in paragraph (2) of this subsection. The Board shall consist of persons with expertise in explosive detection, representing—

"(A) Federal research facilities;

"(B) educational institutions;

"(C) the National Academy of Sciences;

"(D) the Office of Technology Assessment;

"(E) private industry; and

"(F) others, as deemed appropriate by the Administrator.

"Authorizations

"(8) Upon the completion of the review required in paragraph (2)(B) of this subsection, there are authorized to be appropriated, from the Airport and Airway Trust Fund, for the purpose of carrying out the grant program contained in paragraph (5), such sums as may be necessary.".

SEC. 10. ASSISTANT ADMINISTRATOR FOR CIVIL AVIATION SECURITY.

The Federal Aviation Act of 1958 (49 App. U.S.C. 1301, et seq.) is amended by adding at the end thereof the following:

"CIVIL AVIATION SECURITY

"SEC. 318. (a) There is established within the Federal Aviation Administration the position of Assistant Administrator for Civil Aviation Security.

"Reporting

"(b) The Assistant Administrator for Civil Aviation Security shall report directly to the Administrator of the Federal Aviation Administration, and shall be subject to the Administrator's direction and authority.

"Responsibilities

"(c) The responsibilities of the Assistant Administrator for Civil Aviation Security shall include—

"(1) day-to-day management of and operational guidance to field security resources, including Federal Security Managers;

"(2) enforcement of security-related requirements;

"(3) oversight of research and development of security-related projects,

"(4) inspections of security systems;

"(5) reporting to the Assistant Secretary of Transportation for Transportation Security such information as necessary to allow the Assistant Secretary to fulfill assigned responsibilities; and

"(6) such other functions as deemed necessary and appropriate by the Administrator.".

SEC. 11. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

The Federal Aviation Act of 1958, as amended (49 App. U.S.C. 1301, et seq.), is amended by adding at the end thereof the following:

"DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT

"SEC. 320. No further deployment or purchase of any explosive detection equipment pursuant to sections 108.7(b)(8) and 108.20 of title 14 of the Code of Federal Regulations, or any similar rule, shall be required, unless the Administrator certifies that, based on the results of tests conducted pursuant to independently developed protocols reviewed and approved by the Scientific Advisory Board established pursuant to section 316 of this Act, such equipment can reliably detect the minimum amounts, configurations, and types of explosive material that can cause catastrophic damage to commercial aircraft of 60 or more passenger seats.".

SEC. 12. THREATS TO CIVIL AVIATION; PUBLIC NOTIFICATION.

The Federal Aviation Act of 1958 (49 App. U.S.C. 1301, et. seq.) is amended by adding at the end thereof the following:

"REPORTING OF THREATS TO CIVIL AVIATION

"SEC. 321. (a) Any air carrier, airport operator, travel agent, or person employed, directly or through contractual agreement, by such an entity, receiving information, other than through a communication directed by the Federal Government, of a threat to civil aviation, shall immediately provide that information to—

"(1) an official of the Federal Aviation Administration as designated by the Administrator;

"(2) the Assistant Secretary of Transportation for Transportation Security and Intelligence; or

"(3) other appropriate officials, as specified by the Administrator.

"Flight Cancellation

"(b) In the event that a determination is made that a threat to civil aviation cannot be addressed in a manner adequate to ensure, to the maximum extent feasible, the safety of the passengers and crew of a particular flight or series of flights, the Administrator shall order such flight or series of flights to be cancelled.

"Guidelines for Public Notification

"(c) The Administrator shall, in coordination with the Secretary of State and Attorney General of the United States, develop guidelines for issuing notification to the public of threats to civil aviation.

"Responsibilities

"(d)(1) The guidelines developed pursuant to (c) shall identify officials responsible for—

"(A) determining, on a case-by-case basis, if public notification of a threat should be made;

"(B) ensuring that public notification, when deemed appropriate, is made in a timely and effective manner, including through the use of a toll-free telephone number; and

"(C) cancelling the departure of a flight or series of flights pursuant to subsection (b).

"(2) Such public notification shall—

"(A) in the case of a threat to domestic aviation, be made by the Attorney General; and

"(B) in the case of a threat to aviation abroad, be made by the Secretary of State.

"Criteria

"(e) The guidelines required pursuant to subsection (c) shall provide for the consideration of—

"(1) the specificity of the threat;

"(2) the credibility of intelligence related to the threat;

"(3) the ability to effectively counter the threat;

"(4) the protection of intelligence sources and methods;

"(5) cancellation, by the air carrier or by the Administrator, of a flight or series of flights in lieu of public notification;

"(6) the ability of passengers and crew to take steps to reduce the risk to their safety as a result of any notification; and

"(7) other factors deemed appropriate by the Administrator.

"Distribution

"(f) The guidelines shall be distributed for use by appropriate officials of the Department of Transportation, Department of State, and Department of Justice.

"Selective Notification

"(g) In no event shall there be notification of a threat to civil aviation to only selective potential travelers unless that threat applies only to them.

"Access to Information

"(h) In conjunction with the Secretary of State, Attorney General of the United States, intelligence agencies, law enforcement officials, and others involved in the collection and analysis of intelligence relating to aviation security, the Administrator shall develop procedures to minimize the number of persons having access to aviation threat information. Any restrictions adopted pursuant to this subsection shall not diminish the ability of the Federal Government to effectively discharge its responsibilities relating to aviation security.".

SEC. 13. SCREENING OF MAIL AND CARGO.

The Federal Aviation Act of 1958 (49 App. U.S.C. 1301, et seq.) is amended by adding at the end thereof the following:

"DEFINITION OF MAIL

"SEC. 322. (a) Not later than 180 days after the date of enactment of this section, the Postmaster General of the United States shall by regulation modify the definition of mail 'sealed against inspection', to preclude from such classification items capable of containing explosive materials that can cause catastrophic damage to commercial aircraft.

"Screening Criteria

"(b) The Postmaster General of the United States shall by regulation permit the screening by air carriers of mail not sealed against inspection as required by the Administrator.

"Regulation

"(c) The Administrator shall require the screening of mail and cargo, except as prohibited under any international treaty or convention, by air carriers or their agents prior to the transport of such materials. In developing such requirements, the Administrator shall consider, among other things—

"(1) existing and reasonably anticipated explosive detection technologies capable of screening mail and cargo;

"(2) the compatibility of screening procedures for mail and cargo with procedures for checked baggage;

"(3) the variation in threat presented by mail and cargo from various locations;

"(4) the use of inspection procedures specific to mail and cargo;

"(5) the protection, to the extent possible, of the privacy of the senders and recipients of mail;

"(6) precise detection of explosive materials that can cause catastrophic damage to commercial aircraft; and

"(7) the desirability of not unduly delaying the delivery of mail or cargo.

The Administrator may provide for the phasing in of requirements for screening of mail and cargo by air carriers.".

SEC. 14. AIRPORT CONSTRUCTION STANDARDS.

Section 612 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1432) is amended by adding at the end thereof the following:

"Airport Construction Standards

"(d) The Administrator, in consultation with airport authorities, air carriers, and such others as the Administrator deems appropriate, shall develop model standards for airport design and construction to allow for maximum security enhancement.".

SEC. 15. CIVIL PENALTIES.

Section 901(a) of the Federal Aviation Act of 1958 (499 pp. 1471(a)) is amended by designating the existing text of paragraph (2) as paragraph (2)(A), and inserting immediately after such paragraph the following:

"(B)(i) Whenever the Administrator has reason to believe that a violation by an air carrier or airport operator of this Act, or any rule, regulation or order issued pursuant thereto, involving security contributed to the loss of life or serious injury of a person, the Administrator may impose a civil penalty for such violation in an amount not to exceed 3 times the amount which could have otherwise been imposed for such violation under paragraph (1) of this subsection.

"(ii) A determination by the Administrator that there is 'reason to believe' shall be based on investigative results of the Federal Aviation Administration, Department of Transportation, National Transportation Safety Board, parallel foreign investigative entities, or law enforcement officials.".

SEC. 16. DEPARTMENT OF STATE REPORT.

The Secretary shall report, not later than one year after the date of enactment of this Act, and annually thereafter, to the Congress on the status of efforts to implement the recommendations of the President's Commission on Aviation Security and Terrorism.

SEC. 17. NEGOTIATIONS WITH FOREIGN GOVERNMENTS.

(a) INITIATION OF NEGOTIATIONS.—The President is requested within 180 days following the date of enactment of this section, to initiate negotiations, or the processes leading to negotiations, with foreign governments relative to improving civil aviation security.

(b) NEGOTIATIONS.—Such negotiations should include the subjects of—

(1) enhanced standards for security at airports and other areas related to transportation;

(2) enhanced cooperation among nations on civil aviation and other transportation security matters; and

(3) the ability of United States air carriers operating at foreign airports to implement at those airports security requirements imposed by the United States Government.

(c) COOPERATION.—In initiating the negotiations described in subsections (a) and (b), the President is encouraged to work through existing organizations, such as the International Civil Aviation Organization, as well as directly with foreign governments.

SEC. 18. UNITED STATES GOVERNMENT COMPENSATION FOR VICTIMS OF TERRORISM.

(a) COMPENSATION.—The President shall submit to the Congress, not later than one year after the date of the enactment of this Act, a legislative proposal to authorize the United States to provide fair and prompt compensation, which may include, but not be limited to, monetary benefits or limited relief from Federal taxation, to United States citizens who are victims of terrorism including terrorist incidents which occurred on or after December 21, 1988.

(b) BOARD.—The President may establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

SEC. 19. PASSENGER MANIFEST.

(a) MANDATORY AVAILABILITY OF PASSENGER MANIFEST.—The Federal Aviation Act of 1958 is amended by adding at the end thereof the following:

"PASSENGER MANIFEST

"SEC. 323. (a) Not later than 60 days after the date of the enactment of this subsection, the Administrator shall require all air carriers, including foreign air carriers, to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State not more than one hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight.

"Information

"(b) For purposes of this section a passenger manifest should include the following information:

"(1) the full name of each passenger;

"(2) the passport number of each passenger, if required for travel; and

"(3) the name and telephone number of an emergency contact for each passenger.".

(b) IMPLEMENTATION.—In implementing the requirement under the amendment under subsection (a) of this section, the Administrator shall—

(1) require United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to such requirement; and

(2) restrict United States landing rights to foreign carriers that implement a requirement comparable to that imposed pursuant to subsection (a).

(c) INFORMATION FROM UNITED STATES PASSPORTS.—The Secretary of State, in coordination with the Director of the Immigration and Naturalization Service, shall take such steps as necessary to ensure the installation and use of passport reading machines at international gateway airports. Notwithstanding any other provision of law, for any fiscal year and in amounts determined by the Secretary of State, passport fees collected by the Department of State may be credited to a Department of State account and may be available without fiscal year limitation. Amounts credited to that account shall be available only for the purchase and installation of machines able to read United States passports and facilitate the collection of data for the purposes of section 323 of the Federal Aviation Act of 1958.

SEC. 20. DEPARTMENT OF STATE NOTIFICATION OF FAMILIES OF VICTIMS.

(a) DEPARTMENT OF STATE POLICY.—It is the policy of the Department of State pursuant to section 43 of the State Department Basic Authorities Act to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall ensure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) DEPARTMENT OF STATE GUIDELINES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented.

SEC. 21. DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON AND TOLL-FREE FAMILY COMMUNICATIONS SYSTEM.

(a) DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster involving United States citizens abroad, if possible, the Department of State will assign a specific individual, and an alternate, to each family of such a citizen as the Department of State liaison.

(b) TOLL-FREE COMMUNICATIONS SYSTEM.—In the establishment of the Department of State toll-free communications system to facilitate inquiries concerning the affect of any disaster abroad on United States citizens residing or traveling abroad, the Secretary of State shall ensure that a toll-free telephone number is reserved for the exclusive use of the families of citizens who have been determined to be involved in any such disaster.

SEC. 22. DISASTER TRAINING FOR STATE DEPARTMENT PERSONNEL.

(a) ADDITIONAL TRAINING.—The Secretary of State shall institute a supplemental pro-

gram of training in disaster management for all consular officers.

(b) TRAINING IMPROVEMENTS.—

(1) In expanding the training program under subsection (a), the Secretary of State shall consult with death and bereavement counselors concerning the particular demands posed by aviation tragedies and terrorist activities.

(2) In providing such additional training under subsection (a) the Secretary of State shall consider supplementing the current training program through—

(A) providing specialized training to create a team of "disaster specialists" to deploy immediately in a crisis; or

(B) securing outside experts to be brought in during the initial phases to assist consular personnel.

SEC. 23. DEPARTMENT OF STATE RESPONSIBILITIES AND PROCEDURES AT INTERNATIONAL DISASTER SITE.

(a) DISPATCH OF SENIOR STATE DEPARTMENT OFFICIAL TO SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of a major aviation disaster involving United States citizens abroad not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of such disaster.

(b) CRITERIA FOR DEPARTMENT OF STATE STAFFING AT DISASTER SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate criteria for Department of State staffing of disaster sites. Such criteria shall define responsibility for staffing decisions and shall consider the deployment of crisis teams under subsection (d). The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement criteria developed pursuant to this subsection.

(c) STATE DEPARTMENT OMBUDSMAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster involving United States citizens abroad not less than one officer or employee of the Department of State shall be dispatched to the disaster site to provide on-site assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies.

(d) CRISIS TEAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate procedures for the deployment of a "crisis team" which may include public affairs, forensic, and bereavement experts to the site of any disaster involving United States citizens abroad to augment in-country embassy and consulate staff. The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement procedures developed pursuant to this subsection.

SEC. 24. RECOVERY AND DISPOSITION OF REMAINS AND PERSONAL EFFECTS.

It is the policy of the Department of State (pursuant to section 43 of the State Department Basic Authorities Act) to provide liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as the disposition of personal effects. The Secretary of State shall ensure that regulations and guidelines of the Department of State reflect such policy and that such assistance is rendered to the families of United States citizens who are killed in terrorist incidents and disasters abroad.

SEC. 25. ASSESSMENT OF LOCKERBIE EXPERIENCE.

The Secretary of State shall compile an assessment of the Pan American Airways Flight 103 aviation disaster over Lockerbie, Scotland on December 21, 1988, and the Department of State response, together with guidelines for future Department of State responses to comparable disasters, for general distribution to all embassy and consular posts abroad.

SEC. 26. OFFICIAL DEPARTMENT OF STATE RECOGNITION.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate guidelines for appropriate ceremonies or other official expressions of respect and support for the families of United States citizens who are killed through acts of terrorism abroad.

SEC. 27. OVERSEAS SECURITY ELECTRONIC BULLETIN BOARD.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and regulations as may be necessary to establish, under the Bureau of Consular Affairs, an electronic bulletin board assessable to the general public. Such bulletin board shall contain all information, updated daily, which is available on the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

SEC. 28. COORDINATOR FOR INTERNATIONAL AVIATION SECURITY.

There is established within the Department of State the position of Coordinator for International Aviation Security. The Coordinator shall be appointed by the President, with the advice and consent of the Senate, and shall have the rank of ambassador.

SEC. 29. INTERNATIONAL NEGOTIATIONS CONCERNING AVIATION SECURITY.

(a) UNITED STATES POLICY.—It is the policy of the United States—

(1) to seek bilateral agreements to achieve United States aviation security objectives with foreign governments.

(2) to continue to press vigorously for security improvements through the Foreign Airport Security Act and the foreign airport assessment program; and

(3) to continue to work through the International Civil Aviation Organization to improve aviation security internationally.

(b) NEGOTIATIONS FOR AVIATION SECURITY.—It is the policy of the United States that the Department of State, in consultation with the Department of Transportation, shall be responsible for negotiating requisite aviation security agreements with foreign governments concerning the implementation of United States rules and regulations which affect the foreign operations of United States air carriers, foreign air carriers, and foreign airports.

(c) SPECIFIC EXCEPTION.—In any case in which, and to the extent that, a rule or regulation cannot be implemented without the cooperation and approval of a foreign government, such rule or regulation shall not apply to the applicable foreign operations of United States air carriers, foreign air carriers, and foreign airports.

SEC. 30. EFFECTIVE DATES.

This Act shall take effect on the date of enactment, except that the provisions of section 4(a) shall take effect upon the date of expiration of the 180-day period following the date of the enactment of this Act. A person performing functions referred to in section 4(a)(2) (A), (B), and (C) on the date of the enactment of this Act shall continue to perform such functions as directed by the Federal Aviation Administrator or the Secretary of Transportation.

SECTION-BY-SECTION SUMMARY AVIATION SECURITY IMPROVEMENT ACT OF 1990

This legislation is intended to implement the recommendations of the President's Commission on Aviation Security and Terrorism. Those recommendations were presented to the President on May 15, 1990.

SECTION 1. SHORT TITLE

Aviation Security Improvement Act of 1990.

SECTION 2. FINDINGS

Expresses the Sense of the Congress with regard to broad responsibilities for counterterrorism, aviation security, and victim compensation.

SECTION 3. ESTABLISHMENT OF ASSISTANT SECRETARY FOR TRANSPORTATION SECURITY AND INTELLIGENCE

Creates a new, additional Assistant Secretary within the Department of Transportation. Assistant Secretary would be appointed for a 5-year term, and would have responsibility for security policy and planning.

SECTION 4. TRANSFER OF AVIATION SECURITY FUNCTIONS

Assigns the security policy and planning functions now vested within the FAA to the Assistant Secretary for Transportation Security and Intelligence.

SECTION 5. ANNUAL AVIATION SECURITY REPORT, BUDGET

Requires the Secretary of Transportation to submit to the Congress, on an annual basis, a report summarizing a number of things, including the activities of the Assistant Secretary for Transportation Security and Intelligence; an assessment of trends and developments in terrorist methods and other threats to civil aviation; legislative and regulatory recommendations; an evaluation of cooperation with foreign civil aviation authorities relative to aviation security; and status of the implementation of recommendations of the President's Commission on Aviation Security and Terrorism.

The Secretary is also required to submit a specific request for the Assistant Secretary for Transportation Security and Intelligence as part of the Department's budget request.

SECTION 6. FEDERAL SECURITY MANAGERS

Establishes the position of Federal Security Manager at high risk airports, in the U.S. and abroad. These individuals would devlop comprehensive security plans for the airports at which they are posted, would oversee compliance with security laws and regulations at those facilities, and would be the focal point for authority at those facilities.

Initial placement of these personnel would be on a priority basis, at the airports presenting the greatest risk. The FAA Administrator is directed to prepare a plan for full deployment of security Managers. They would have direct access to the FAA's Assistant Administrator for Civil Aviation Security.

SECTION 7. AIR CARRIER AND AIRPORT SECURITY PERSONNEL

Establishes standards and procedures for the hiring of airport and air carrier security personnel, including: the use of criminal background checks; minimum education and

training requirements; the development of procedures to improve human performance within the aviation security system.

SECTION 8. DOMESTIC AIRPORT SURVEY

The FAA and FBI are directed to conduct an assessment of the security threat to domestic airport facilities, reviewing a number of factors, including: the existence of persons with the capability and intent to carry out terrorist acts against civil aviation; the adequacy of baggage handling procedures; and the coordination of the activities of various U.S. law enforcement and intelligence agencies.

SECTION 9. RESEARCH AND DEVELOPMENT

The FAA is directed to initiate a focused, intensive counter-terrorism research and development program, with a goal "to develop and have in place within 60 months . . . such new equipment and procedures as are needed to meet the technological challenges presented by terrorism."

To set the focus for this program, the FAA is directed to first complete a short-term review of the nature of the threat to civil aviation, and the types and minimum amounts of explosive materials needed to inflict catastrophic damage on civil aircraft.

The R&D effort is to focus not only on technology, but also on human factors. The program would be reviewed by a scientific advisory board, and would be carried out in conjunction with other Federal agencies, as appropriate.

SECTION 10. ASSISTANT ADMINISTRATOR FOR CIVIL AVIATION SECURITY

Establishes an Assistant Administrator for Civil Aviation Security within the Federal Aviation Administration, and vests with that person the responsibility for day-to-day management and oversight of field security resources; enforcement of security-related requirements; oversight of research and development projects; and the inspection of security systems.

SECTION 11. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT

Requires that, prior to any regulatory requirement for further deployment of explosive detection equipment, the FAA must certify that such equipment meets criteria established by independent protocols, to ensure that the equipment would be capable of detecting explosive materials in the configurations and amounts necessary to inflict catastrophic damage to civil aircraft.

SECTION 12. THREATS TO CIVIL AVIATION; PUBLIC NOTIFICATION

Requires air carriers, airport operators, and travel agents to report to the FAA any threat to civil aviation.

Directs the FAA to cancel a flight if necessary to protect the safety of passengers and crew of that flight.

Directs the FAA, in coordination with the Department of State and Justice Department, to develop guidelines for the issuance of public notification of threats. Prohibits selective notification.

SECTION 13. SCREENING OF MAIL AND CARGO

Directs the Postmaster General to redefine mail that is "sealed against inspection" to provide for more effective security screening of mail. The FAA is directed to require the screening of mail and cargo prior to its transport by air carriers.

SECTION 14. AIRPORT CONSTRUCTION STANDARDS

The FAA, in consultation with airport operators, air carriers, and others, is directed to develop model standards for airport design and construction to allow for maximum security enhancement.

SECTION 15. CIVIL PENALTIES

Authorizes the FAA to impose civil penalties on air carriers or airport operators if a finding is made that violation of aviation security requirements contributed to the serious injury or loss of life of an individual. Imposition of fine would be based on the completion of an FAA investigative proceeding.

SECTION 16. DEPARTMENT OF STATE REPORT

Requires the Secretary of State to submit to Congress annual reports on the status of implementation of the Commission's recommendations.

SECTION 17. NEGOTIATIONS WITH FOREIGN GOVERNMENTS

Requests that the President initiate negotiations, or the steps leading to negotiations, with foreign governments with the goal of improving aviation security. Among the items that should be discussed are: enhanced minimum standards for all facilities; enhanced cooperation among nations on aviation security matters; and the ability of U.S. carriers operating at foreign airports to comply with requirements of the U.S. government.

SECTION 18. COMPENSATION TO VICTIMS OF TERRORISM

Directs the President to submit to the Congress, within one year, recommendations for providing fair and prompt compensation to victims of terrorism, including civilians not in the service of the government. Those benefits would be applicable to incidents occurring on or after December 21, 1988.

SECTION 19. PASSENGER MANIFEST

Requires air carriers to provide to the Department of State, within one hour of having learned of an aviation incident, a passenger manifest containing the full names and passport numbers, if applicable, of passengers; and names and phone numbers of emergency contact persons for each passenger.

Also requires the installation and use of passport-reading machines at international gateway airports.

SECTION 20. DEPARTMENT OF STATE NOTIFICATION OF FAMILIES OF VICTIMS

Requires the State Department to provide prompt notification of a terrorist incident to the families of victims, regardless of whether or not such notification is also made by another party.

SECTION 21. DESIGNATION OF STATE DEPARTMENT FAMILY LIAISON AND TOLL-FREE FAMILY COMMUNICATIONS SYSTEM

Requires the State Department to develop clear guidelines to provide for the prompt assignment of Departmental liaisons to families of victims of terrorism. A communications system for the exclusive use of families is to be provided.

SECTION 22. DISASTER TRAINING FOR STATE DEPARTMENT PERSONNEL

Requires the State Department to institute a supplemental training program in disaster management.

SECTION 23. DEPARTMENT OF STATE RESPONSIBILITIES AND PROCEDURES AT INTERNATIONAL DISASTER SITE

Requires State Department to develop guidelines to provide for the dispatching of a senior Consular Affairs officer to the site of a major aviation disaster. Requires development of criteria for Departmental staffing at disaster sites, including the placement of an ombudsman in matters involving foreign local governmental and social service agencies.

SECTION 24. RECOVERY AND DISPOSITION OF REMAINS AND PERSONAL EFFECTS

Clarifies that it is the policy of the Federal Government to provide assistance to families in obtaining and returning remains and personal effects of victims of terrorism, and requires the State Department to ensure that procedures for providing that assistance are in place.

SECTION 25. ASSESSMENT OF LOCKERBIE EXPERIENCE

Requires the State Department to compile an assessment of the Department's response to the Pan Am 103 bombing, and distribute it, along with guidelines for future responses, to all embassy and consular posts.

SECTION 26. OFFICIAL DEPARTMENT OF STATE RECOGNITION

Requires the State Department to develop guidelines for appropriate ceremonies or other formal official recognition of victims of terrorism.

SECTION 27. OVERSEAS SECURITY ELECTRONIC BULLETIN BOARD

Requires the State Department to make available to the general public the information now provided to businesses and other abroad through the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

SECTION 28. COORDINATOR FOR INTERNATIONAL AVIATION SECURITY

Establishes within the State Department an ambassadorial position of Coordinator for International Aviation Security.

SECTION 29. INTERNATIONAL NEGOTIATIONS CONCERNING AVIATION SECURITY

Clarifies that the State Department is to be the lead representative of the U.S. in aviation security negotiations with foreign governments, in consultation with DOT. Reaffirms policy of seeking specific aviation security agreements through bilateral negotiations, while seeking to elevate general aviation security standards through appropriate international entities.

SECTION 30. EFFECTIVE DATES

Except where otherwise noted, all provisions take effect on the date of enactment.

Mr. D'AMATO. Mr. President, I rise to join my distinguished colleague Senator LAUTENBERG in introducing the Aviation Security Improvement Act of 1990. Nine months ago Senator LAUTENBERG and I were appointed by President Bush to serve on the Commission on Aviation Security and Terrorism. On May 15, the Commission presented its report to the President. Today, we are proposing legislation to implement the many recommendations contained in the report.

We have had the cooperation of the Departments of Transportation and State in drafting this bill. Further, I am gratified that Secretary Skinner has wasted no time in taking interim steps to improve aviation security. However, permanent law still is needed to change the way FAA and the State Department handle aviation security and acts of terrorism. We must assure the traveling public that

regardless of who is in charge at our agencies, that a statutory framework exists to take effective steps to enhance aviation security.

For example, legislation is needed to mandate that the public be warned of credible aviation threats that cannot be met with countermeasures. Also, Federal security managers must be placed at high risk domestic and foreign airports, and scientific review of bomb detection devices must take place before their widespread installation. The public should not be lulled into thinking these expensive detection devices will protect them without evidence showing that they will reliably detect the small amounts of explosives that can bring down a large aircraft.

This bill is the first legislative proposal based on the Commission's report. Less than 50 days remain in the legislative session, and the Senate must act quickly. Although international relations have improved in Europe, terrorists have been escalating their violence in the Middle East and extreme uncertainty exists. In the last five years, there have been 1,030 air passenger deaths and 112 injuries from terrorist bombs.

It is clear that American air travelers remain vulnerable today, 18 months since Pan Am 1083 blew up over Scotland killing 270 persons, to the cruel acts of terrorists. Our bill will help to plug the security gaps that enabled terrorists to bring down Pan Am 103.

This bill covers important changes recommended by the Commission such as:

Creation of a DOT Assistant Secretary for Security and Intelligence—a new high-level position.

Creation of an FAA Assistant Administrator for Civil Aviation Security—a new high-level position.

Screening of Mail and Cargo—Air carriers must screen mail and cargo. U.S. Postal Service must redefine mail "sealed against inspection" to permit more inspections.

Delaying Deployment of Explosive Detection Equipment—Thermal Neutron Analysis [TNA], or other devices will not be installed until proven effective, by independent scientific review.

Requiring Passenger Manifests—U.S. and foreign airlines must turn over manifests—passenger name, passport number, and next-of-kin data—within 1 hour of an incident.

Creation of Federal Security Managers—Within 90 days, Managers must be placed in high risk airports in the US and abroad. Managers report to the new FAA Assistant Administrator.

Creation of Tough Hiring and Training Standards, and Background Checks—for airport and airline security personnel.

Requiring an Annual Domestic Airport Security Survey by FBI and FAA.

Accelerating FAA's Research and Development Program—multi-year program for new counter terrorism equipment and procedures.

Requiring Threat Notification—Airlines must notify FAA of threats. Public to be warned of threats that cannot be countered, guidelines to be written by DOT—Justice Department will warn for domestic flights; State Department for foreign flights.

Clarifying that State Department is the Lead Negotiator with Foreign Authorities.

Imposing Civil Penalties—FAA must assess penalties against airports or airlines that violate security/safety rules and cause death or serious injury to passengers.

Requiring Airport Construction Standards—non-binding security-minded standards to be developed.

Increased Compensation to Victims of Terrorism—President to make recommendations to Congress within one year on fair and prompt compensation to all victims of terrorism.

Mr. President, I am encouraged that we will see prompt action on this bill. The Commerce Committee has indicated that hearings will be scheduled in the coming weeks, and the House is also moving on a fast track. With the help of the leadership in both houses, I believe it is possible to pass a bill this session. The vast majority of the Pan Am 103 families are behind this effort and we welcome their support.

In the race against terrorism, terrorists are miles ahead of us. It's time to close the gap. Mr. President, I urge my colleagues to consponsor this bill and to push for its early passage.

Thank you, Mr. President.

Mr. MITCHELL. Mr. President, I am pleased to be an original cosponsor of the Aviation Security Improvement Act of 1990. The legislation proposes the recommendations of the President's Commission on Aviation Security and Terrorism, which were issued in a report on May 15, 1990.

On August 4, 1989, President Bush issued Executive Order 12686 establishing the Commission, following consultations with the Republican leader, Senator DOLE, and myself. Earlier in the year, I had joined Senator FORD, Chairman of the Senate Aviation Subcommittee in introducing legislation to establish such a commission.

In consultation with the Republican leader and me, the President later appointed Senator LAUTENBERG and Senator D'AMATO to serve on the Commission. Introduction of this legislation today is a logical extension and fulfillment of the confidence placed in them as the Senate's representatives on the Commission.

The legislation also is the result of the terrorist bombing of Pam Am flight 103 on December 21, 1989, which resulted in the deaths of 270 persons. Every American grieved for the victims of flight 103, and has shared the grief of their families.

In a statement to the Senate at the time the President's Executive Order was issued, I indicated that the support of the victims' families for an investigatory commission was an indication of their devotion to the memories of those loved ones whom they had lost, and their devotion as American citizens in asking for greater aviation security for us all. I also indicated my expectation that the Commission report would serve as the basis for Congressional hearings and consideration of possible legislation that might move us toward that goal.

The Commission's recommendations should be given careful, but expeditious consideration. I do not necessarily endorse every Commission recommendation. In some instances, the recommendations may need to be considered relative to other bills that already may be pending.

Before making a decision on any specific provisions, I will want to consider further recommendations by Senate committees of jurisdiction. Nonetheless, the recommendations of the President's Commissions should be considered and acted upon. I am cosponsoring this legislation in support of that overall purpose and goal.

By Mr. ROTH:

S. 2823. A bill to authorize civil actions to recover civil penalties and damages in connection with depository institution criminal offenses; to the Committee on the Judiciary.

FINANCIAL INSTITUTIONS' CRIMES ASSET RECOVERY ACT

● Mr. ROTH. Mr. President, I rise to introduce a bill titled the Banking Crimes Asset Recovery Act of 1990.

In 1986, when the Republicans controlled the Senate, we enacted two fraud-fighting statutes, one providing an administrative remedy for small frauds against the United States and the second providing for major frauds. While the major thrust of these statutes was against defense procurement fraud, an area in which I have taken a strong interest, the provisions are not, in fact, so limited. The major fraud statute contains a provision which I believe may be very relevant to our current efforts to combat fraud against financial institutions. That is the provision authorizing qui tam actions by private individuals in the name of the United States. This concept did not originate here but owes its authorship to President Lincoln who was also concerned about fraud against the Government in his day.

In studying the availability of qui tam actions in the context of S&L fraud, I found certain questions as to its applicability. Does every S&L fraud inflict a loss on the United States itself or merely on the insurance fund

or the shareholders? How can we maximize our efforts to recover civil damages of penalties retroactively, that is, against S&L fraud that has already occurred? Does the public notification provision of the law effectively bar use of qui tam actions against a failed S&L? Unfortunately, it does, as written.

My legislation adopts this fraud-fighting tool to these circumstances. Actions are authorized to recover penalties for fraud without having to prove that the loss is one the Treasury itself suffered. Where such penalties may be thought insufficient, or inapplicable, actions are authorized to recover for losses to the United States or to an insurance fraud. This common law recovery option might allow us to go further back in time than some of the more recently enacted civil penalty provisions.

Also, my bill would adapt the public notification provision to this context. The legislation I have drafted would not authorize every law firm in the country to sue for S&L fraud, as politically tempting as that may be. It would require that the person initiating the action be the original source of nonpublic information that leads to a recovery. That is a responsible restriction on these actions. It would also modify a provision that states, in effect, that when any governmental action is taken with respect to a matter, no qui tam action may be brought. That means that if the Government closes an S&L, no qui tam action for fraud may be brought even though the Government has no information regarding fraud in its possession. That is too restrictive, in my opinion. My legislation corrects that.

Mr. President, the American taxpayer may be expected to pay dearly for the cleanup of the savings and loan scandal. Much of this loss was a direct result of criminal activities by officers, directors, and related parties at the failed institutions.

Although it is critical to deter financial misconduct by putting people behind bars, it is equally as important that those who participated in a fraud do not profit from their crime and that as much of the stolen assets as possible are recovered to reduce the impact of this unmitigated debacle on the taxpayer. Therefore, it is important that we make every effort to prosecute the outstanding cases involving financial misconduct and recover for the taxpayer any amounts that can be recovered from those responsible for the scandals and the failures.

The legislation which I am introducing today is designed to provide the Attorney General a means for putting a full court press on those retaining ill-gotten gains from failed savings and loans. The primary provisions of the proposal are:

First, to authorize the Attorney General to contract for private counsel to investigate, negotiate, litigate, compromise, and settle civil cases to recover stolen assets taken by fraud from financial institutions. The private counsel could be paid on a service rendered basis or on a contingent fee basis;

Second, to authorize persons to bring civil actions in the name of the United States for assessment of a civil penalty and for recovery of assets taken by fraud from financial institutions.

The first authority permits the Attorney General to contract for private counsel to investigate, negotiate, compromise, settle, and litigate civil cases which are predicated on violations or allegations of violations of the banking fraud statutes and the predecessors to these statutes. This bill authorizes the Attorney General to compensate private counsel from the proceeds of recoveries. He may also pay private counsel on either a services rendered basis or a contingent basis. Using the contingent fee basis, the Attorney General has the potential to expand his resources at no up-front cost.

The second authority for the Attorney General is new arsenal is what many consider a magic bullet—qui tam actions. Under a qui tam action, private individuals possessing hitherto nonpublic information may sue on behalf of themselves and the U.S. Government to recover damages to the U.S. Government. Such causes of action using the resources of the private sector have been used effectively in cases involving procurement fraud and Medicare fraud. Bringing this powerful tool into the banking arena provides additional resources that can be directed to the recovery of stolen assets.

The act will also strengthen the statory protections afforded whistleblowers by allowing for double damages in the event the whistleblower is fired or otherwise discriminated against.

The assumption underlying this proposal is that fraud against banking institutions will necessarily require the perpetrator at some time or another during the commission of the fraud to violate one of several title 18 United States Code sections which are set out in the act. Proof of a violation would be the predicate for civil actions by either the United States through its various agencies including the banking agencies and the Department of Justice using its own resources, by private counsel or by private persons under qui tam actions.

The bill transplants major sections of the False Claims Act (31 U.S.C. 3729-3733) into FIRREA section 933 which provides for rewards for information leading to recoveries or civil penalties. This is natural extension of this section of FIRREA and avoids some of the problems associated with the other proposals. This bill will provide a means for actions both before and after an institution fails. Specifically, to accomplish the goals I mentioned earlier, this bill will:

First, identify the banking crimes and related criminal statutes from title 18 as a basis for civil recovery;

Second, preclude awards to the qui tam plaintiff under more than one section for the same issue or matter;

Third, permit action when the governments fails to act after public disclosure; and

Fourth, extend the statute of limitations to allow more time for recovery.

Others, in their proposals, have suggested use of qui tam provisions to recover assets. However, our analysis show that their proposals will not address crimes associated with already failed institutions. The qui tam model that is available to us from the False Claims Act has been interpreted by the courts to preclude those actions that are already public knowledge. The closing of an institution, for example, could give public notice of a basis for action. For this reason, under the Flase Claim Acts, a qui tam action would not be allowed. However, the fact that public notice of a basis for action has occurred does not change the law's requirement for sources of original information. When an institution fails, its corpus is little more than a great heap of paper. Making sense of this paper is a difficult and time consuming task if there is no guide. The witness that can make the trip through this paper more efficient is absolutely necessary. Without this guide who will provide original information, recovery from failed institutions will often be impossible.

This proposal will address those failed institutions by permitting qui tam actions should the Government fail to act within 1 year of the public disclosure of a basis for action. Of course, a recovery for the individual would be permitted only if he was the original source of nonpublic information that led to the Government's recovery.

Other proposals would permit the banking regulatory agencies to retain attorneys on such terms and conditions as deemed appropriate including contingent fees. I think this is a good idea. We are extending the same authority to the Attorney General because we know that he has a backlog of several thousand uninvestigated allegations of fraud and corruption in failed institutions. We are also granting the Attorney General the authority to pay for private counsel out of the recovered proceeds. Without this provision, private counsel may not be eager to take an assignment from the Attorney General on a contingent fee basis since the payment of the fee

would be conditional on an appropriation.

I believe that this proposal is worthy of your support. I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Institutions' Crimes Asset Recovery Act of 1990".

SEC. 2. CIVIL ACTIONS FOR CIVIL PENALTIES AND DAMAGES.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 35. CIVIL ACTIONS FOR CIVIL PENALTIES AND DAMAGES.

"(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall investigate violations of sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation, or for a conspiracy to commit such an offense. If the Attorney General finds that a person has violated or is violating any of those sections, the Attorney General may bring a civil action under this section against the person to collect any civil penalties payable in connection with such offense under this Act or section 951 of the Financial Institutions Reform Recovery and Enforcement Act and to recover damages for losses incurred by the United States or a deposit insurance fund.

"(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of the sections referred to in subsection (a) for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

"(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

"(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

"(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall—

"(A) proceed with the action, in which case the action shall be conducted by the Government; or

"(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

"(5) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

"(c) RIGHTS TO THE PARTIES TO QUI TAM ACTIONS.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

"(2)(A) The Government may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

"(B) The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

"(C) Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

"(i) limiting the number of witnesses the person may call;

"(ii) limiting the length of the testimony of such witnesses;

"(iii) limiting the person's cross-examination of witnesses; or

"(iv) otherwise limiting the participation by the person in the litigation.

"(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

"(3) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests. It shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

"(4) Whether or not the Government proceeds with the action, upon a showing by the Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

"(5) Notwithstanding subsection (b), the Government may elect to pursue its claim though any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the proceeding sentence, a finding or conclusion is final if it has been finally determined on appeal of the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

"(d) AWARD TO QUI TAM PLAINTIFF.—(1) If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. However, a person may not receive an award under this section and under section 34 of this Act in the same matter.

"(2) If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

"(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.

"(4) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

"(e) CERTAIN ACTIONS BARRED.—(1)(A) No court shall have jurisdiction over an action brought under subsection (b) against a Member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought.

"(B) For purposes of this paragraph, 'senior executive branch official' means any officer or employee listed in section 201(f) of the Ethics in Government Act of 1978 (5 U.S.C. App.)

"(2) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of the civil suit or an administrative civil money penalty proceeding in which the Government is already a party.

"(3)(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, unless—

"(i) the action is brought by the Attorney General or the person bringing the action is an original source of the information, or

"(ii) the Government fails to act within 1 year of the disclosure.

"(B) For purposes of this paragraph, 'original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

"(f) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

"(g) FEES AND EXPENSES TO PREVAILING DEFENDANT.—In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28, United States Code, shall apply.

"(h) PROTECTION.—Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.

"(i) PROCEDURES.—(1) A subpoena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States.

"(2) A civil action under this section may not be brought—

"(A) more than 10 years after the date on which the violation of the provision of law referred to in subsection (a) is committed, or

"(B) more than 5 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed,

whichever occurs last.

"(3) In any action brought under this section, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

"(4) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendre, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in criminal proceeding and which is brought under subsection (a) or (b).

"(j) CONTRACTS FOR PRIVATE COUNSEL.—

"(1) IN GENERAL.—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, and litigation, in the case of any violation of any of the sections referred to in subsection (a). Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private practice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services. Nothing in this paragraph shall relieve the Attorney General of the competition requirements set forth in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

"(2) REFERRAL BY REGULATORY AGENCIES.—The head of an appropriate Federal banking agency may, subject to the approval of the Attorney General, refer to a private counsel retained under paragraph (1) of this subsection, suspected and actual violations of the sections listed in subsection (a).

"(3) REPRESENTATION.—Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, a private counsel retained under paragraph (1) of this subsection may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel under paragraph (1) of this subsection.

"(4) CONTRACT PROVISIONS.—A contract made with a private counsel under paragraph (1) of this subsection shall include—

"(A) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is for the convenience of the Government; and

"(B) a provision requiring the private counsel to transmit monthly to the Attorney General a report on the services relating to the matter rendered under the contract during the month and the progress made during the month.

"(5) COUNTERCLAIM.—Any counterclaim filed in any action which is brought on behalf of the United States by private counsel retained under this subsection may not be asserted unless the counterclaim is served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is brought. Such service shall be made in accordance with the rules of procedure of the court in which the action is brought.

"(6) FEE.—Notwithstanding section 3302(b) of title 31, United States Code, a contract under paragraph (1) of this section may provide that a fee a person charges to recover indebtedness owed the United States Government is payable from the amount recovered.".

SEC. 3. WHISTLE-BLOWER PROTECTION.

Section 33(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831(c)(2) and section 213(c)(2)) of the Federal Credit Union Act (12 U.S.C. 1790b(c)(2)) are amended to read as follows:

"(2) to pay 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees; or".

SEC. 4. CONFORMING AMENDMENT.

Section 34(a)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)(1)(B)) is amended—

(1) by inserting"287," after "215,", and

(2) by inserting "1001," after "657,".●

By Mr. BINGAMAN:

S. 2825. A bill to provide for an enhanced science and technology program to ensure continued U.S. leadership in those elements of manufacturing technology essential to the defense of the United States; to the Committee on Armed Services.

DEFENSE MANUFACTURING TECHNOLOGY ENHANCEMENT ACT

● Mr. BINGAMAN. Mr. President, I rise today to introduce the Defense Manufacturing Technology Act of 1990. This legislation is intended to bolster U.S. performance in manufac-

turing technology, especially those elements that are essential to this country's defense. Let me describe the problems that prompted this legislation, and how this bill addresses these problems.

In both the civilian and defense sectors, manufacturing is proving to be America's Achilles heel. The United States dominates the world in science and technology. American companies make most of the world's major technological discoveries. But as we move toward exploiting our technology, the competition quickly comes down to engineering and manufacturing, where U.S. firms continue to lag in many areas.

In industry after industry, American companies are slow to invest in and adopt advanced process technologies and innovations, including up-to-date equipment and organizational practices. The litany is familiar. Americans use only one-third as many robots as the Japanese, and 60 percent of those are owned by IBM and the Big Three automobile makers. Ninety-three percent of Japanese steel is continuously cast; the comparable figure for the United States is 60 percent. The average Japanese auto plant turns out cars with little more than half the defects of cars assembled in U.S. plants, and does it in 40 percent less time.

The U.S. electronics industry is the latest victim of this country's inattention to manufacturing. Only a decade ago, semiconductor production was dominated by a group of small entrepreneural firms located in Silicon Valley. Their strength was in designing novel chips. Today most semiconductors are mass produced, and the industry is dominated by the Japanese with their superior process technology and manufacturing capability.

The U.S. defense industry exhibits the same patterns as the civilian sector. Despite leadership in product development, DOD contractors have lagged in the adoption of new process technology and production management techniques. A recent National Research Council panel on defense manufacturing identified these concerns with our defense industrial base:

Rapidly rising equipment costs;

Inadequate product quality;

Lack of surge capability;

Increasing lead times for new products;

Lack of cost-reducing capital investments; and

Lack of parts suppliers, despite excess capability at the prime contractor level.

As in the civilian sector, defense subtier suppliers—the small and medium-sized firms that are the backbone of manufacturing—have been especially slow to invest in manufacturing technology, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing hardware and software.

With these problems in mind, the Defense Manufacturing Technology Enhancement Act of 1990 is designed to expand Federal support for research and development in four broad ways.

First, the act establishes a Joint Manufacturing Technology Office—to be staffed by all four military services as well as DARPA—with responsibility for virtually all manufacturing technology activities within DOD. This office is charged with developing a national defense manufacturing technology plan, to provide consolidated guidance for all involved Federal agencies, and to be a link to private industry.

Second, the act charges DOD with promoting basic research in scientific areas applicable to manufacturing, creating mechanisms to transfer the results of this research to U.S. industry, and with providing financial support for the education and training of engineers and technical personnel in manufacturing technology.

Third, the act calls for actions by DOD to promote concurrent engineering and computer integrated manufacturing. Concurrent engineering—the integration of product design and manufacturing activities—recognizes that up to 90 percent of production costs are preordained by design decisions made long before the blueprint reaches the shop floor. DOD's acquisition policy, by separating procurement in the design and production phases discourages contractors from adopting this approach. This bill charges DOD with removing obstacles to concurrent engineering in acquisition policy and encouraging the use of concurrent engineering development of military weapons systems by other means.

Computer integrated manufacturing is a complementary strategy that is particularly well suited to defense production, 90 percent of which is done in small lot sizes. This act calls for DOD to support industry-led R&D consortia in technologies related to computer integrated manufacturing, such as computer-aided designs and robotics. It directs the establishment of demonstration projects through DOD laboratories that support the transfer of these technologies to industry, especially second and third tier suppliers. Finally, it calls on DOD to continue its participation in programs intended to increase the use of computer automation, interactive data bases and standardized data on product design to support the flexible, rapid manufacture of parts needed for weapons systems.

Finally, to further promote the upgrading of defense subtier suppliers, this legislation calls for DOD to make use of existing programs and centers, funded largely by the States, which are providing manufacturing extension services to small- and medium-sized manufacturers. Modeled after the well-established Agriculture Extension Service, these programs use industrially experienced engineers and other specialists to help smaller firms solve production problems, boost quality and productivity, introduce new technology, and improve worker training.

This act also charges DOD with negotiating matching-fund grants, contracts, or other agreements with existing manufacturing extension programs. The intent of this is to better disseminate manufacturing technology and know-how and to upgrade defense production practices in subtier suppliers. DOD shall also fund and evaluate competitively chosen pilot extension projects that target defense subtier suppliers.

In addition, the act provides for a financial incentive to defense prime contractors who successfully transfer new manufacturing technology to their subtier suppliers. Under this provision, prime contractors would be eligible for an award fee for implementing technologies developed under DOD's MANTECH Manufacturing Program in defense subtier supplier firms.

In closing, let me express my belief that these efforts to enhance our Nation's manufacturing technology will benefit both the national defense and our own national economic competitiveness as well. DOD's role in the overall economy is substantial. Approximately one out of every three scientists and engineers is supported by the defense budget. One in five of the Nation's manufacturing workers are supported by the defense budget. A comparable share of this country's investment in plants and equipment is defense related. If DOD can bring about improved manufacturing technology and production practices among its own family of firms, that improvement will speed these changes throughout all of American industry and make it once again the innovative leader throughout the world.●

By Mr. LIEBERMAN:

S. 2826. A bill to require the establishment of a capital projects bureau within the Agency for International Development, to clarify the authorities in the Export Administration Act of 1979 and the Arms Export Control Act, and for other purposes; to the Committee on Foreign Relations.

TRADE AND COMPETITIVENESS ACT

● Mr. LIEBERMAN. Mr. President, today I am introducing the Trade and Competitiveness Act of 1990.

Benjamin Franklin said that no nation was ever ruined by trade. The United States may be in the process of proving him wrong. Since the mid-eighties, we have been running trade deficits well over $100 billion. This year's projected deficit of less than

$100 billion is considered to be a dramatic improvement.

There is something wrong when a nation considers a $90 billion-plus trade deficit an improvement. Relatively speaking it may be an improvement, but the underlying problem that is exposes-that America is not competing well in the international marketplace—has to be dealt with in a direct and aggressive manner.

I come from a State that exports more per capita than any other State in the Union. A May 20 article in the Hartford Courant by David Lightman stated that 7 percent of Connecticut's work force deals with exports, compared with 4.5 percent nationally. The dollar volume of State exports grew by 18 percent last year. But international competition is increasing, and there is no guarantee that Connecticut's exporters will continue to remain strong.

One of our primary problems is that our exporters in Connecticut and across the country are at a competitive disadvantage because they do not have the kind of Government support that their counterparts from Japan and the nations of the European Community do. They need Government support to compete. Congress and the administration must reach out to our exporting community and help them capture new markets. Our products are often competitive with the products of other nations, but it is our terms of trade—the packaging of a transaction—that makes life difficult for American exporters.

A primary difficulty confronting them is the issue of export financing and tied aid—the tying of economic aid to export sales. This predatory form of financing was supposed to have been put to rest with the Arrangement on Guidelines for Officially Supported Export Credit—the Arrangement. The Arrangement is an informal agreement among 22 of the 24 Organization for Economic Cooperation and Development [OECD] countries to set guidelines on export financing. It first came into existence in 1978, but its roots can be traced back to the 1960's.

The most recent negotiations under the framework of the Arrangement, put into place in 1987, is known as the Tied Aid Credit Agreement. The basic premise of this Agreement is that a 35-percent minimum of concessionality—that is, the grant portion of a deal—must be reached in order to put forward a tied aid credit package.

It is important to remember that this 35 percent was designed to make tied aid too expensive a proposition for nations to pursue. If the threshold had been 20 percent or even 25 percent, a government might consider pursuing this kind of deal in order to help out an exporter; 35 percent was considered to be too expensive—at least in theory. The problem is that tied aid activity has increased since the 1987 version of the Arrangement was put into place because our foreign competitors remain committed to the practice of using tied aid to help their exporters.

A new round of negotiations is going on at the OECD, but unless the United States has contingency plans in place to combat the tied aid practices of foreign nations, then no negotiations or agreement will help. There are two tied aid programs on the books at the present time. Neither program has been adequately funded because of the emphasis that has been put on the Arrangement as a solution to the problem, because official Government support for exporters goes against traditional U.S. policy of not mixing development aid and support for exports, and because tied aid is very expensive.

Yet, the lack of commitment by the Government to an aggressive tied aid program has caused U.S. exporters to lose out their competitors in valuable overseas markets, including such areas as computers and telecommunications. According to Ambassador Ernie Preeg, a former chief economist at AID and one of the foremost experts on this issue, the "current market for capital goods transaction * * * which is inaccessible to U.S. exporters because of other governments, is $10 to $12 billion per year, resulting in an estimated $2.4 to $4.8 billion annual loss to U.S. exports. Future U.S. export loss in high-growth developing country markets could be far greater."

Using Ambassador Preeg's thoughts on this issue as a framework for the first title of my legislation, I have developed a program that I hope will help our exporters get back in the game of winning contracts in developing country markets. I also want to take a moment to acknowledge the leadership of Senators BYRD, BOREN, and BENTSEN on this issue. I believe my bill to be complementary to their efforts. In my legislation, I put special emphasis on AID as a source of funding for tied aid transactions.

While AID can potentially play an important role in helping our exporters meet the tied aid offers of their foreign competitors, the bill also includes a $500 million authorization for the Eximbank's war chest for fiscal years 1991 and 1992. The Eximbank remains the key agency in the tied aid battle. Finally, the bill contains special programs that will help American exporters get more involved in Eastern Europe.

The premise of title I of my bill is to establish a Capital Project Bureau at AID that would work with the other AID bureaus in putting together capital projects that would be beneficial to our exporters. These projects would be developmentally sound and consist of a 40-percent grant element. The annual budget for the newly formed Capital Projects Bureau would be $500 million.

Within the Bureau, there also would be a special program for Eastern Europe. Initially the Bureau would conduct a study of the various sectors of the economies of the nations of Eastern Europe that are most in need of rebuilding. Those sectors would become eligible for assistance under the Capital Projects Bureau and cooperative programs between it, the Eximbank, and the Trade and Development Program [TDP]—another government agency which has a tied aid program. The Bureau would establish desk officers and in-country presence for the nations of Eastern Europe.

The bill also sets up a Capital Projects Interagency Board that would be administered by AID, Eximbank, and TDP. They would be the judge and jury over which tied aid projects should go forward. Such a board would bring these agencies even closer together as they deliberate on tied aid projects. Presently the National Advisory Committee [NAC] decides whether or not a tied aid deal will go forward. The new Interagency Board will be better suited to handle this issue since that will be its sole function, unlike the NAC which has a number of other issues with which it must contend.

The final portion of title I puts forward guidelines for our negotiators at the OECD talks on tied aid. These guidelines are designed to be supportive of U.S. efforts to combat the practice of tied aid. The Capital Projects Bureau will strengthen the hand of our negotiators so that the other participants in the talks will know that we are serious about being ready to compete for exports markets.

Title II of the bill clarifies what is meant by a defense article to be controlled by the Arms Export Control Act [AECA]. The bill states that articles which are specially designed for military purposes should be included, but that items which are used in commercial applications or are not on the International Munitions List agreed to by our allies in Cocom should not be. Those items should be controlled under the authority of the Export Administration Act [EAA].

This title also provides that the agency administering the AECA must coordinate with the agency administering the EAA. This should force a commodity jurisdiction dispute resolution system within the executive branch in which the State Department and the Commerce Department are coequals, and serious disputes would have to be settled by the President.

I hope that this would clarify which articles are controlled under which legislation—AECA or EAA. Where disputes do arise, one agency would not

be favored over another. These changes will assure that our high technology companies receive faster and more consistent service from our Government, and help prevent U.S. companies from facing a different set of rules than their foreign competitors face.

This title also would amend the Arms Export Control Act by extending export guarantees for defense exports with friendly foreign countries or international organizations if the project is financed by private sources and in accordance with human rights language in the Foreign Assistance Act.

In addition, this title would put the AECA under the same managerial practices and accountability in munitions licensing as is required in strategic goods licensing under section 10 of the EAA. Revisions in the EAA in 1985 required the Department of Commerce to take several administrative and regulatory steps to ensure timely processing of most export license applications. It is my understanding that as a result of these changes the Commerce Department has significantly improved its processing times on almost all export applications. Such a change in the AECA will ensure that the same thing will occur at the State Department.

These provisions of title II of my bill, on export controls and export financing, are designed to help our exporters, but particularly high technology, aerospace, and defense exporters, with their overseas business. These are important industries for my State, and they are also crucial sectors of the country to exploit if we are to get our trade deficit under control. Since the bill only permits guarantee authority for defense export sales to our allies, our security interests are protected. In addition, the export control provisions are in keeping with the spirit of change concerning the whole issue of export controls that the United States and other Cocom nations have already undertaken. I'd like to take a moment here to commend my colleague from Connecticut, Representative SAM GEJDENSON. His fine work in the Foreign Affairs Committee and on the floor of the House has led the way on the whole issue of export controls.

There was a time in our Nation's recent history when trade was considered a kind of foreign aid program for our friends and allies. After World War II, we developed a world trading system that was really designed to give foreign nations access to our market while allowing them to protect their own. Well this system worked—too well. Now we run trade deficits that are out of control.

In order to take control of our economic desitny, we must eliminate our trade deficit. One of the most effective ways of achieving this is to reach out to our exporters and help them compete on a level playing field. I hope my bill will play a role in achieving this.

Mr. President, I ask unanimous consent that a summary of the bill and a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TRADE AND COMPETITIVENESS ACT OF 1990

SEC. 101. SHORT TITLE.

This title may be cited as the "Trade and Competitiveness Act of 1990".

SEC. 102. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) United States exporters are shut out of $10 billion to $12 billion worth of capital projects per year because of an inadequate tied aid or mixed credit program, resulting in a loss of $2.4 billion to $4.8 billion in exports;

(2) foreign governments actively support their nations' companies by providing a large share of their economic aid for capital projects, by making mixed-credit offerings, through the blending of aid and official export credit agency loans;

(3) the Federal Government must change its ineffective tied aid policy to one that is more aggressive and consistent;

(4) the Federal Government must make better use of existing government agencies that are able to help combat the tied policies of other Organization for Economic Cooperation and Development (OECD) nations;

(5) the Federal Government must strengthen tied aid programs already in existence in the Export-Import Bank of the United States, the Agency for International Development (AID), and the Trade Development Program, fostering more and consistent cooperation between these agencies and establishing new programs at these agencies where necessary;

(6) a new more aggressive tied-aid policy by the United States Government should remain in place until a successful and satisfactory agreement can be worked out at the OECD on eliminating or lessening the problem and expense of tied-aid programs; and

(7) traditional development aid programs for health, education, and agriculture should not suffer as a result of the new aggressive tied-aid policy.

SEC. 103. SPECIAL PROGRAM FOR EASTERN EUROPE.

(a) IN GENERAL.—The Export-Import Bank of the United States shall examine the possibility of establishing a special "bundling" program similar to the one already in existence for Mexico and other Latin American nations for the countries of Eastern Europe, including an examination of the need for export credits for small businesses in those nations and consideration of the extent to which such a program could facilitate access to funds in capital markets for those nations.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Export-Import Bank of the United States shall transmit to the Congress a report on the progress made in carrying out subsection (a).

SEC. 104. TIED-AID CREDITS.

(a) AUTHORIZATION.—Section 15(c)(1) of the Export-Import Bank Act of 1945 is amended to read as follows:

"(c)(1) There are authorized to be appropriated to the fund $500,000,000, for each of the fiscal years 1991 and 1992, and such sums as may be necessary for each fiscal year thereafter.".

(b) COORDINATION.—Section 15(b)(2)(C) of the Export-Import Bank Act of 1954 is amended by inserting "the Capital Projects Advisory Board and" after "consultation with".

SEC. 105. CAPITAL PROJECTS BUREAU WITHIN AID.

(a) ESTABLISHMENT OF BUREAU.—The Administrator of the Agency for International Development (AID) shall establish within the Agency a capital projects bureau to carry out the purposes described in subsection (b). The capital projects bureau shall be headed by an Assistant Administrator of AID.

(b) PURPOSES OF BUREAU.—The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration the export opportunities of United States firms; and

(2) to specifically consider opportunities for United States high-tech firms, including small- and medium-sized firms in putting together capital projects for developing nations and the nations of Eastern Europe.

(c) ACTIVITIES OF AID.—The Administrator of the Agency for International Development (AID), acting through the capital projects bureau in coordination with the Export-Import Bank of the United States and the Trade and Development Program—

(1) shall participate in putting together capital projects involving 40 percent grant element and 60 percent financing in developing nations and the emerging democracies of Eastern Europe;

(2) shall periodically review infrastructure needs in developing nations and Eastern Europe and shall explore commercial opportunities for United States firms in the development of new capital projects in these nations keeping both United States firms and Congress informed of these reviews;

(3) shall judge whether each capital project undertaken is developmentally sound, as determined by the criteria developed by the Development Assistance Committee of the OECD; and

(4) shall coordinate its activities with other AID bureaus, particularly the regional bureaus, working with each AID country representative in developing capital projects and commercial opportunities for United States firms in a manner which in no way interferes with their primary mission to help these nations with traditional development projects.

SEC. 106. ROLE OF THE CAPITAL PROJECTS BUREAU WITH EASTERN EUROPE.

In addition to the activities of section 4(c), the Administrator of the Agency for International Development, acting through the capital projects bureau—

(1) shall play a special role in helping to develop the infrastructure of the nations of Eastern Europe by meeting the challenge of mixed credit offerings of foreign governments to the nations of Eastern Europe and, at the same time, to help these nations rebuild their infrastructures;

(2) shall undertake a comprehensive study of the infrastructure of the various nations of Eastern Europe and—

(A) the study shall identify those sectors in the economies of these nations that are most in need of rebuilding;

(B) those sectors in those nations could then be eligible for assistance from the capital projects bureau of the Agency for International Development, including joint projects of the Export-Import Bank of the United States and the Agency for International Development; and

(C) included in the study shall be an examination of the state of technology in these nations and the opportunity for United States high technology firms to help develop a technological infrastructure in these nations, as well as an assessment of export opportunities for United States high technology companies; and

(3) upon completion of the study on Eastern Europe, shall establish an Eastern Europe program within the capital projects bureau of the Agency for International Development which—

(A) shall monitor the infrastructure needs of these nations;

(B) shall continue to help United States companies with their efforts to be a part of the rebuilding of the infrastructure of these nations;

(C) shall make a special effort to help United States high technology firms explore opportunities with the rebuilding of these nations' technological infrastructures;

(D) shall be able to make use of all existing programs of the Agency for International Development; and

(E) shall have in-country representation in Eastern Europe that is assigned duties respecting that country or region.

SEC. 107. AVAILABLE FUNDS.

(a) TRANSFER AUTHORITY.—For each of the fiscal years 1992 and 1993, the President shall transfer to the capital projects bureau of the Agency for International Development, to be available for programs, projects, or activities administered by that bureau, $500,000,000 of unobligated funds allocated for balance of payments support under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund).

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the President for each of the fiscal years 1992 and 1993 an amount equal to $500,000,000 minus the amount transferred under subsection (a) for that fiscal year for the purpose of carrying out programs, projects, or activities administered by the capital projects bureau of the Agency for International Development.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 108. CAPITAL PROJECTS INTERAGENCY BOARD.

(a) ESTABLISHMENT.—There is established the Capital Projects Interagency Board (hereafter in this section referred to as the "Board").

(b) COMPOSITION.—The Board shall consist of the following officers or their designees:

(1) The President of the Export-Import Bank of the United States.

(2) The Administrator of the Agency for International Development, who shall serve as Chairman.

(3) The Director of the Trade and Development Program.

(4) The Secretary of State, serving as an ex officio, nonvoting member.

(5) The Secretary of Commerce, serving as an ex officio, nonvoting member.

(6) The Secretary of the Treasury, serving as an ex officio, nonvoting member.

(c) STAFF FOR THE BOARD.—The Agency for International Development, the Export-Import Bank, and the Trade and Development Program shall make available to the Board such staff as may be necessary for the Board to carry out its duties.

(d) DUTIES OF THE BOARD.—The Board shall—

(1) establish criteria to determine when a mixed credit offer should be made, taking into consideration—

(A) how developmentally sound a project is, using as a standard criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development,

(B) the environmental impact of such offer,

(C) the cost of such offer, and

(D) all other factors used by the Export-Import Bank of the United States and by the Agency for International Development on the date of enactment of this Act in determining whether or not to make a mixed credit offer,

(2) monitor, to the extent feasible, the mixed credit offers, being made by other countries, and

(3) report to the Congress every 6 months on—

(A) mixed credit offers made;

(B) mixed credit offers completed; and

(C) any data received from the Organization for Economic Cooperation and Development (OECD) on mixed credit offers made by other OECD countries.

(e) EFFECT OF BOARD DECISIONS.—Each decision by the Board as to whether or not to make a mixed credit offer shall be considered as final.

SEC. 109. UNITED STATES NEGOTIATING POLICY.

(a) POLICY.—It is the sense of the Congress that United States representatives at meetings of the Organization for Economic Cooperation and Development (OECD), when putting forth the United States position on limiting tied offers made by other participants in the arrangement, should state that it is the United States position—

(1) to attempt to take the commercial incentive out of tied-aid offerings to the nations of Eastern Europe, making Eastern Europe in effect a tied-aid free zone;

(2) to carry out paragraph (1) in coordination with the OECD Center for Economic Transition;

(3) to raise the grant element for mixed credit offerings from 35 percent to 50 percent;

(4) to move capital projects financing to the multilateral financial institutions as developing countries become more industrialized;

(5) to make certain that all nations follow established criteria as to what constitutes a developmentally sound capital project;

(6) to set up a monitoring mechanism within the OECD to determine compliance to the arrangement; and

(7) to setup procedures for the tracking of tied-aid offers and projects made by the signatories of the arrangement, establishing very specific criteria as to what constitutes a tied-aid offer, keeping statistics on all offers and agreements.

(b) REPORT.—The President shall periodically submit to the Congress a report on the progress of these talks including the extent to which issues described in subsection (a) have or will become part of the arrangement and, in the case of those positions that have not been accepted, an analysis of why they have not been accepted.

TITLE II—EXPORT CONTROL RATIONALIZATION ACT OF 1990

SEC. 201. SHORT TITLE.

This title may be cited as the "Export Control Rationalization Act of 1990".

SEC. 202. EXCLUSION FROM THE UNITED STATES MUNITIONS LIST.

Section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778) is amended by adding at the end thereof the following: "To be so designated, such items must have been specially designed, developed, configured, adapted or modified for military or intelligence application, but shall not include items which are used in civilian applications, or which are included on the Industrial List of the group of countries known as the Coordinating Committee for Multilateral Export Controls (COCOM). Items which otherwise would be eligible for inclusion on the United States Munitions List shall not be eligible if—

"(A) they are used in commercial, civil, nonmilitary or intelligence applications;

"(B) they are used in defense articles or services where the performance or functionality or application is essentially equivalent to that found in the commercial or civil sector; or

"(C) they are not on the International Munitions List (IML) agreed to by COCOM.".

SEC. 203. COMMODITY JURISDICTION UNDER THE EXPORT ADMINISTRATION ACT OF 1979.

Section 17 of the Export Administration Act of 1979 (50 U.S.C. 2416) is amended—

(1) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) COMMODITY JURISDICTION.—The following categories of articles shall be subject to export controls under this Act, and not under the Arms Export Control Act:

"(1) items that are not specially designed, developed, configured, adapted, or modified for military or intelligence application;

"(2) items designed, developed, configured, adapted, or modified for military and space application which are used in commercial or civil (nonmilitary/intelligence) applications;

"(3) items used in defense articles or services where the performance or functionality or application is essentially equivalent to that found in the civil or commercial sector; or

"(4) items on the International Industrial List agreed to by the group known as the Coordinating Committee (COCOM).".

SEC. 204. COORDINATION.

Section 44 of the Arms Export Control Act (22 U.S.C. 2793) is amended—

(1) by inserting "(a)" before "No"; and

(2) by adding at the end thereof the following subsection:

"(b) The authority granted by the President under this Act shall be exercised in such a manner as to achieve effective coordination with the authority exercised under the Export Administration Act of 1979.".

SEC. 205. PRIVATE DEFENSE EXPORT FINANCING.

The Arms Export Control Act is amended by inserting after chapter 6 the following new chapter:

"CHAPTER 7—PRIVATE DEFENSE EXPORT FINANCING

"SEC. 71. PARTIAL GUARANTIES.—(a) the President may guarantee not to exceed eighty per centum of the contract value of a defense export project with friendly foreign countries or international organizations if the project is financed by any individual, corporation, partnership, or other juridical entity doing business in the United States (excluding United States Government agencies).

"(b)(1) A defense export project shall be eligible for partial financing under this section, subject to such regulations as the guaranty issuer may publish, if it involves the acquisition by one or more friendly foreign countries or international organizations of defense articles, defense services, or design and construction services. Private financing provided for such projects shall be deemed to be funds made available under this Act solely for the purpose of section 42(c) of this Act.

"(2) For the purposes of this chapter, the contract value of a defense export project shall be expressed in United States dollars and shall include any downpayment, prepayment, or other consideration furnished pursuant to the terms of the contract to the suppliers, whether financed or otherwise paid.

"SEC. 72. NOTIFICATION.—A guaranty may be issued under this chapter only upon the expiration of 15 calendar days after the issuer thereof has notified in writing the Committees on Armed Services, Foreign Relations, and Appropriations of the Senate and the Committees on Armed Services, Foreign Affairs, and Appropriations of the House of Representatives of the details of the proposed guaranty and the related defense export project.

"SEC. 73. FULL FAITH AND CREDIT.—Guaranties shall be issued to and held by eligible lenders under this chapter against political and credit risks of nonpayment, including nonpayment of interest, and shall be backed by the full faith and credit of the United States. Claims arising under such guaranties shall be satisfied out of any unappropriated money in the Treasury upon certification by the issuer thereof to the Secretary of the Treasury of the validity of such claims and the amounts due thereon.

"SEC. 74. HUMAN RIGHTS PROTECTION.—Nothing in this section shall be in violation of or otherwise exempt from section 502B of the Foreign Assistance Act of 1961.".

SEC. 206. ARMS EXPORT LICENSING.

Section 38(g) of the Arms Export Control Act (22 U.S.C. 2778(g)) is amended—

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following:

"(9) In order to assure prompt processing of license applications under this section, the office primarily responsible for export licensing functions under this section shall—

"(A) assign case numbers to all applications for export licenses and other requests within 5 working days of receipt of such requests;

"(B) notify applicants, within 10 working days of receiving such an application or other request, of any and all outside agency referrals which the application or request must undergo;

"(C) set 40 calendar days as a target for making a determination on applications for export licenses to any member country of the North Atlantic Treaty Organization (NATO) and other major allies, as determined in accordance with section 27 of this Act;

"(D) set 60 calendar days as a target for making a determination on all other applications not described in clause (C);

"(E) promptly notify exporters of any application that cannot be processed within the target period, for the reason that more review time is needed, and advise the applicant of the status of all pending applications at each 30-day interval beyond the original target date;

"(F) maintain accurate application processing statistics concerning clauses (A) through (D); and

"(G) report on a quarterly basis to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives as to what percentage of cases handled in the previous period have fallen within these time frames.".

SUMMARY OF "TRADE AND COMPETITIVENESS ACT OF 1990

TITLE I

This title requests that the U.S. Export-Import Bank establish a special "bundling" program for the nations of Eastern Europe, similar to the program already in existence for Mexico. Such a program could help facilitate access for these nations to financing, particularly export financing from international capital markets. A report to Congress from the Bank on the progress of implementing such a program is required. In addition, the bill authorizes $500 million for the Eximbank's war chest for fiscal years 1992 and 1993.

This title also establishes a Capital Projects Bureau at USAID. The Bureau would work with existing bureaus at AID to develop a program that would focus on developmentally sound capital projects. Projects put together by the Bureau would be coordinated with the Eximbank and the Trade and Development Program [TDP]. They would involve a 40 percent grant element and 60 percent financing. The Bureau would play an active role in leading U.S. efforts in the fight against tied aid policies of our OECD competitors.

The Bureau would also have a special program for the nations of Eastern Europe. Initially, it is required to do a study of the infrastructure of the nations of Eastern Europe, identifying those sectors in the economies of these nations that are most in need of rebuilding. Those sectors in those nations could then become eligible for assistance from the Bureau. There would be a special emphasis on helping to develop the high technology sector of these economies, while at the same time, seeking exporting opportunities for U.S. high tech firms to help with that process.

The Bureau would have an annual budget of $500 million taken from unobligated funds allocated for balance of payment support or from a new appropriation.

There is also established within this title a Capital Projects Interagency Board to consist of representatives from AID, Eximbank, and TDP. Treasury, State, and, Commerce would be ex officio members of the Board. The Board would oversee and decide upon which mixed credit offers should be made by the combined or individual programs of the three agencies involved with the Bureau. This Board would take the place of the National Advisory Committee [NAC], which now has authority over mixed credit offerings.

The final piece of this title outlines negotiating instructions for U.S. representatives to the OECD discussions on tied aid and mixed credits.

TITLE II

This title clarifies what is meant by a defense article that should be controlled by the Arms Export Control ACT [AECA]. The premise of this language is that articles specially designed for military purposes should be included, but that items that are used in commercial applications or are not on the international munitions list agreed to by COCOM should not be. Those items, if they are not to be controlled by the AECA, should be controlled under the authority of the Export Administration Act [EAA]. The bill would also force the agency administering the AECA, State, and the agency administering the EAA, Commerce, to coordinate with each other as coequals, giving Commerce and State the same authority in these matters.

This title would also put the AECA under the same managerial practices and accountability in munitions licensing as is required in strategic licensing under Section 10 of the EAA. Revisions in the EAA in 1985 required the Department of Commerce to take several administrative and regulatory steps to ensure timely processing of most export license applications. Such a change to the AECA would ensure that the same thing would occur at the State Deparment.

The final provision of this title provides guarantee authority under the foreign military sales program for the sale of defense exports to friendly countries or international organizations. The guarantee covers 80 percent of the value of the contract. There is also a human rights provision, making certain that no transaction is in violation of section 502(b) of the Foreign Assistance Act.●

By Mr. GARN:

S. 2827. A bill to improve the administration of the Federal Deposit Insurance Corporation and to make technical amendments to the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL DEPOSIT IMPROVEMENTS ACT

● Mr. GARN. Mr. President, today I am introducing legislation, for discussion purposes, based largely on recommendations suggested by the Federal Deposit Insurance Corporation. These recommendations are designed to improve the efficiency of the agency, and to provide the agency with some additional tools in preventing fraud and abuse and recovering funds from those who have looted our thrift institutions. In addition, the bill contains provisions designed to clarify certain provisions of existing law. These provisions, found in title II of the bill, are not intended to change existing law. The legislation also makes changes of a clerical nature to clean up drafting mistakes made through the years. Finally, the bill also contains provisions to protect the Federal banking agencies, insured institutions, and other lenders from unnecessary liability arising from their lending or governmental actions. This section of the bill rep-

resents a revised version of legislation I introduced earlier this year.

I hope that we will be able to hold hearings on this proposal in the near future. I believe that this legislation contains important provisions that deserve serious consideration by Congress. I'm looking forward to hearing from the agencies, industry experts, public interest representatives, and other interested parties on this proposal and possible improvements that they may suggest.●

By Mr. EXON (for himself and Mr. KERREY):

S. 2828. A bill entitled the "Joe the Magpie Act of 1990"; to the Committee on Environment and Public Works.

JOE THE MAGPIE ACT

Mr. EXON. Mr. President, I rise today to offer legislation to reunite "Joe the Magpie" with its loving friends Bill and Mildred Peterson.

Mr. President, on Monday June, 11, 1990, agents from the U.S. Fish and Wildlife Service came to the home of Bill and Mildred Peterson to confiscate their pet bird of 16 years. Joe is a Magpie, a handsome member of the Jay family. Over the years, Joe has been the pride and joy of the Petersons, a retired couple in Red Cloud, NE. Joe was treated better than some children.

Joe brought great happiness to the Petersons, who lived a quiet life in the beautiful town of Red Cloud, NE. The Petersons played with Joe, and taught him how to talk. Joe's skill is amazing. The bird imitates family pets, coughes, laughes, and welcomes visitors. He also knows when to wake Bill up from his daily nap. When Rick, the Petersons nephew would pull into the driveway with his truck, Joe the Magpie would greet him by repeating Rick's name three times.

Joe also had a sense of humor. When the Culligan man knocked on the door, Joe answered "come in." When he entered the house Joe kept quiet and the Culligan man got scared and left.

The love and care that Joe received is evidenced by his advanced age. At 16, he is something of a Magpie senior citizen. Magpies live between 2 and 5 years in the wild.

As a bird protected under the Migratory Bird Treaty, the U.S. Fish and Wildlife Service explained to the Petersons that Joe could not be kept as a pet. They proceeded to confiscate Joe and take him to the Grand Island Zoo.

The Petersons are heartbroken and worried about the safety of Joe. As wonderful as the Grand Island Zoo is, for Joe, it is not home. In an effort to protect Joe the Magpie, the Fish and Wildlife Service is actually placing this talented bird in danger.

I am told that the Peterson's went to Grand Island to visit Joe, and when they entered the room, Joe got excited, perked up, and recognized them.

Mr. President, the story of Joe the Magpie has caught the attention and tugged at the heartstrings of people across Nebraska. I have received petitions signed by dozens of the Peterson's friends and neighbors.

The law protecting migratory birds clearly gives the Secretary of the Interior the power to grant special purpose permits to individuals. To date the U.S. Fish and Wildlife Service has resisted this suggestion. I have written the Secretary of the Interior asking special consideration of this particular case. If this request is not granted, I serve notice with the introduction of this bill that I will pursue legislation to return Joe the Magpie to his loving, safe, and soon to be happy home.

Mr. President, the American people can help my effort by sending a simple message to Manuel Lujan, the Secretary of the Interior asking that "let Joe the Magpie go home."

Mr. President I ask unanimous consent that the Joe the Magpie Act be printed in the RECORD.

I also ask unanimous consent that my letter to the Secretary of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this Act may be cited as "The Joe the Magpie Act of 1990."

SEC. 2. The U.S. Fish and Wildlife Service shall return the magpie, known as "Joe", confiscated on June 11, 1990 to its home at the residence of Bill and Mildred Peterson of Red Cloud, Nebraska.

SEC. 3. Bill and Mildred Peterson of Red Cloud, Nebraska shall immediately be granted a special purpose permit to possess and protect the magpie known as "Joe".

SEC. 4. The activities of Bill and Mildred Peterson related to the care, feeding or possession of the magpie known as Joe shall be considered "important research" under 50 CFR 21.27.

SEC. 5. Bill and Mildred Peterson shall not be subject to any penalties, fines or punishment related to the care, feeding or possession of the magpie known as "Joe".

U.S. SENATE,
Washington, DC, June 28, 1990.

Hon. MANUEL LUJAN,
Secretary of the Interior, Department of the Interior, Washington, DC.

DEAR SECRETARY LUJAN: Enclosed are articles about the June 11th confiscation of Joe the Magpie from the home of Mildred and Bill Peterson. Until that fateful day in June, Joe lived for sixteen happy and healthy years with the Petersons where they shared joy and happiness.

I understand that Magpies are covered under the Migratory Bird Treaty Act, however, under 50 CFR 20.27, you have the power to grant special purpose permits to individuals who "for reasons of human concern for individual birds" make a showing of benefit to the migratory bird. Since the confiscation, attempts to secure a permit have been unsuccessful.

I ask you to immediately seek the return of Joe to his home with the Petersons in Red Cloud, Nebraska, and to immediately grant the Petersons a special purpose permit to continue to care, feed, and possess Joe the Magpie.

This section would protect the letter and spirit of the law and bring a great amount of happiness to a retired couple in Red Cloud.

I thank you for your assistance.

With best wishes.

Sincerely,

JIM EXON,
U.S. Senator.

[From the Hastings Daily Tribune, June 14, 1990]

WILDLIFE OFFICIALS TAKE FAMILY PET

(By Tracy Merz and Larry Haller)

RED CLOUD.—Bill and Mildred Peterson lost a close companion Monday.

Federal and state game wardens unexpectedly visited their Red Cloud home and confiscated their pet magpie, Joe.

"It's just like they took a member of your family," Mrs. Peterson said.

Joe, who has lived with the Petersons for 16 years, was featured in a Hastings Tribune article April 11. The article was picked up by the Associated Press and appeared in a number of Nebraska newspapers, including the Grand Island Independent and the Omaha World-Herald.

Cleveland Vaughn, a special agent for the U.S. Fish and Wildlife Service in Omaha, noticed the article in the Omaha newspaper May 23. The Petersons had no idea Joe would be removed until the wardens arrived and confiscated the bird.

Craig Faanes, an ornithologist with the U.S. Fish and Wildlife Service in Grand Island, said Joe was taken to the Grand Island Heritage Zoo. Vaughn was unavailable for an interview.

"We were told that if we would turn the magpie over to a zoo, they wouldn't prosecute," Mrs. Peterson said. 'Otherwise, it might be a $5,000 fine or 10 years in jail."

Faanes said all birds except for the house sparrow, European starling, rock dove and gallinaceous birds, such as pheasants and grouse, are protected by the Migratory Bird Treaty Act which became law when the United States and Great Britain signed it in 1916.

"The treaty act says it is unlawful at any time by any means or in any manner to pursue, hunt, shoot, wound, kill, trap, capture or collect or attempt to do any of those things (to birds protected by the treaty) unless a person has a permit," he said.

Corvidae birds, which include crows, jays and magpies, were not included in the act until 1972. "At the request of Mexico they were added to the act," Faanes said.

Joe, who will be missed by the Petersons and their friends, is no ordinary magpie. He impersonated guests, the family dog and cat, and laughed constantly. He knew some people by name and told guests knocking at the door to "come in."

An article about Joe in Country People magazine about 10 years ago went unnoticed, Mrs. Peterson said. "One woman called from South Dakota and even asked if we had magpies to sell."

"The game wardens told us that when people started calling and asking why can't we have this bird or that bird for a pet, that

they had to take some action," Mrs. Peterson said.

[From the Hastings Daily Tribune, Apr. 11, 1990]

MAGPIE UNPREDICTABLE

(By Tracy Merz)

RED CLOUD.—Bill and Mil Peterson of Red Cloud are raising a difficult teen-ager. Joe is stubborn, rude, unpredictable and uncontrollable. Sometimes he talks and sometimes he doesn't.

But the Petersons don't punish Joe. He's their pet.

Joe, a 16-year-old talking magpie, has lived with the Petersons since he was about a month old. They take the bird's eye view seriously as his words usually have meaning.

"He's just like a kid," Mrs. Peterson said. "You want him to show off, and then he'll be stubborn and won't say a thing."

Joe tells visitors to "come in" if he hears a knock at the door, whether or not the Petersons are home. He calls "Mil" if Mr. Peterson teases him, and he knows many relatives by name. He even calls "kitty, kitty," and meows after the family cat, Snoopy.

"I think he could copy anything," Mrs. Peterson said.

Joe also barks, coughs and laughs, depending on his mood.

Mrs. Peterson remembers a greeting she received one day from Joe. "As I got to the front door, he started in laughing. I thought 'Joe's not in his cage.' There he sat on top of the stove. He knew he'd done something bad."

Joe's voice is near human quality. Many people who hear him talk won't believe it's the bird, the Petersons said. One winter, their grandchildren were sleeping upstairs near Joe. When their mother heard someone say, "I'm cold," she went to cover one of her kids, but it was just Joe.

Joe knows when it's hot or cold. The Petersons and other family members were working on a hot day when they heard someone say, "Damn, it's hot." They couldn't figure out who said it because no one in their family swears. It was Joe again.

Joe isn't the first bird the Petersons have persuaded to talk. The couple had six other magpies and a crow while living on their farm southwest of Inavale. Mrs. Peterson said she's been fascinated with talking birds since she was a child and had several pet crows while growing up on a farm.

"Magpies always talked clearer. A crow's voice always sounded like it was coming from a deep throat," she said.

Mrs. Peterson said she'd get the magpies while they were still fuzzy and raise them in the house. They couldn't survive in the wild because they'd become tame. Joe has lived in his cage from the start.

"Something always happened to the others. That's why I told her this one had to be in a cage," Mr. Peterson said.

They found Joe near Cowles 16 years ago in June. He started talking the following Thanksgiving when Larry, a nephew, worked with him "Before the day was over, he was saying 'Larry.' That was his first word," Mrs. Peterson said.

Another nephew, Rick, is also popular with Joe. "Everytime that bird would hear Rick's pickup driving up in the yard, he would start yelling, 'Rick, Rick, Rick,' " Mrs. Peterson said.

Joe's first diet was simple: Bread and water. Now he eats from a bird's gourmet menu: ice cream, egg yolks, apples, cherries, corn, peas, beans in the pod and most other table food.

He used to eat raw hamburger but now prefers it cooked. Mrs. Peterson said he's become finicky throughout the years.

Although Mr. Peterson said "Mil is Joe's best friend," Mil said Joe is sometimes mean to her. She said she used to let him perch on her arm, but after a few severe pecking incidents, she stopped.

Joe also gave her the silent treatment for about a year.

"He wouldn't talk for me at all, but he would for everybody else. As soon as I came in sight, he'd just clam up," she said. "I had no idea why."

A brother-in-law once persuaded Joe to talk after a quiet spell, Mrs. Peterson said, and received an answer. "Bill got Joe to talking and he asked, 'Joe is that all?' and Joe said, 'Yeeaah."

Joe has also been ornery to visitors. One day the Culligan man was expected at the Petersons while they were away. When the man knocked on the door and Joe said "come in," he entered the house. When no one was there and Joe didn't say anyting else, the man got scared and left.

"It spooked him so he ended up a mile east instead of a mile west. He was so scared," Mrs. Peterson said.

A neighbor with a smoker's cough used to visit the Petersons until Joe began imitating the cough. "My sister said 'that bird has pneumonia,' and the neighbor wouldn't come over anymore," Mrs. Peterson said.

The magpie, characterized by black and white coloring and noisy chattering, is a soft-billed bird belonging to the crow family. A long, tapering tail separates it from the crow.

"(Joe) should have a big, long tail, but it grows in crooked because of some vitamin deficiency and he pecks it off," Mrs. Peterson said.

And every day, Mr. Peterson and Joe take a 15-minute nap. When the time is up, Joe starts coughing quietly to wake up Mr. Peterson.

"He never makes a noise during that time. He puts his head down too, but he always wakes me up right on time," Mr. Peterson said.

Joe also coughs whenever Mr. Peterson tries to pick him up. "He's kind of a comic," he said.

[From the Omaha World Herald, May 23, 1990]

RED CLOUD MAGPIE HAS PLENTY TO SAY

RED CLOUD, NE.—Bill and Mil Peterson of Red Cloud are raising a difficult teen-ager. Joe is stubborn, rude, unpredictable and uncontrollable. Sometimes he talks and sometimes he doesn't.

But the Petersons don't punish Joe. He's their pet.

Joe, a 16-year-old talking magpie, has lived with the Petersons since he was about a month old.

JUST LIKE A KID

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Joe's voice is near human quality. Many people who hear him talk won't believe it's the bird, the Petersons said. One winter, their grandchildren were sleeping upstairs near Joe. When their mother heard someone say, "I'm cold," she went to cover one of her kids, but it was just Joe.

Joe isn't the first bird the Petersons have persuaded to talk. The couple had six other magpies and a crow while living on their farm southwest of Inavale, Neb. Mrs. Peterson said she's been fascinated with talking birds since she was a child and had several pet crows while growing up on a farm.

"Magpies always talked clearer. A crow's voice always sounded like it was coming from a deep throat," she said.

LIVED IN CAGE

Mrs. Peterson said she'd get the magpies while they were still young and raise them in the house. They couldn't survive in the wild because they'd become tame. Joe has lived in his cage from the start.

"Something always happened to the others. That's why I told her this one had to be in a cage," Peterson said.

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Another nephew, Rick, is also popular with Joe. "Every time that bird would hear Rick's pickup driving up in the yard, he would start yelling, 'Rick! Rick! Rick!,' " Mrs. Peterson said.

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SILENT TREATMENT

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Joe also gave her the silent treatment for about a year.

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Every day, Peterson and Joe take a 15-minute nap. When the time is up, Joe starts coughing quietly to wake up Peterson.

"He never makes a noise during that time. He puts his head down too, but he always wakes me up right on time," Peterson said.

Mr. EXON. Mr. President, one final note: I would like to indicate to the Senate that this matter has been taken up with the chairman of the Environmental and Public Works Committee which will be the committee of jurisdiction. They intend to handle this very promptly. I appreciate the

offer of help from the chairman of the committee.

Mr. President, I yield the floor.

By Mr. GRAHAM (for himself, Mr. DIXON, Mr. KERRY, and Mr. BRYAN):

S. 2829. A bill to require the President of the United States to make reports to the Congress on the status of the savings and loan crisis, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATUS OF SAVINGS AND LOAN CRISIS

Mr. GRAHAM. Mr. President, the American taxpayers are on the hook for this S&L bailout—thousands of dollars per taxpayer.

Taxpayers—inadvertently—have become stockholders in the biggest bailout in history.

Those who own stock in companies get regular reports—and the stockholders in this S&L bailout deserve no less.

We want to know how the bailout money is being spent, how many crooks have gone to jail and how much money is recovered from S&L assets.

The American taxpayers deserve a full public accounting of this bailout.

Today, we are introducing legislation to require a monthly update on the S&L bailout.

The monthly report would include information on the cost of the bailout, the effort to prosecute fraud and the disposition of assets through the Resolution Trust Corporation.

In the past, the American people have not received the full story on the S&L bailout, which underscores the need for a full accounting today.

Over the past 24 months, the administration has continued to add zeros to the S&L bailout.

On May 26, 1988, Danny Wall of the Federal Home Loan Bank Board testified before the Banking Committee that:

We believe we have the resources available * * *

On August 2, 1988, Treasury Undersecretary George Gould said:

From the administration's perspective, it is unnecessary to transfer resources from the American taxpayer to FSLIC so FSLIC in turn can close—or warehouse—insolvent savings institutions in this country.

So, we have gone from no problem to a $130 billion problem in less than 24 months.

The American people, the administration and the Congress will be better served by a full accounting of this debacle.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

(a) The current crisis in the savings and loan industry can only be effectively dealt with through a dedicated effort of the Congress of the United States and the Executive Branch.

(b) The factors affecting the savings and loan crisis are complicated and require careful evaluation of the reasons for the crisis, efforts being undertaken to solve the crisis and efforts being undertaken to ensure that the American people are not faced with the prospects of paying for similar problems in the future.

(c) Such an evaluation can be undertaken by the Congress only with adequate and accurate information concerning the entire savings and loan crisis.

(d) Such information is maintained by various agencies in the Executive Branch and is oftentimes not readily available among the executive agencies and to the Congress of the United States.

(e) There is a critical need for both the Congress and the Executive Branch to be able to review comprehensive information relating to the savings and loan crisis on a periodic basis.

SEC. 2. REPORTS.

The President shall make monthly reports to the Congress of the United States. Such monthly reports shall, at a minimum include the following:

(a) Information concerning the condition of the savings and loan industry, including the following information concerning the institutions within the jurisdiction of the Resolution Trust Corporation or the Office of Thrift Supervision: (A) the number of such institutions; (B) the number of such cases by charter type that are in conservatorship, marked for conservatorship, solvent but capital impaired, or resolved; (C) the geographical location of such cases; (D) the profitability of these cases within groups of 0-3% tangible equity capital, 3-6% tangible equity capital and greater than 6% tangible equity capital; (E) a balance sheet analysis and earnings report analysis for each such institution, including an analysis of cost of funds, net worth, goodwill and value of assets; (F) the status of business plans for those institutions whose plans have been approved and their efforts to continue to meet the requirements of those plans; and (G) the status of those institutions whose business plans have not been approved.

(b) With respect to institutions within the jurisdiction of either the Resolution Trust Corporation or the Office of Thrift Supervision, the report shall also contain information and records of the sale of assets by appropriate federal agencies including the estimated value of the assets sold and the dollar amount actually received; amounts still to be sold and the impact or expected impact of such sales or expected sale on the real estate market in the geographical area in which such property is located.

(c) Such report shall also include the actual and projected costs to the taxpayers and to the savings and loan industry, including interest costs, costs per dollar of savings and loan assets, financing needs and the economic assumptions used to make such projections.

(d) The amount of housing made available under the Affordable Housing program and the amount actually transferred to the private sector by geographic region.

(e) The number of pending causes, matters, investigations, cases, defendants and files in the area of criminal activity involving financial services and financial institutions, including penalties imposed, which shall specify the number of such cases relating to the savings and loan industry.

(f) Records of on-going enforcement activities by regulators including cease and desist orders, prohibitions and removal orders and civil penalties imposed.

(g) Other information that the President feels is reasonably necessary to the current activities of the federal government in undertaking an analysis of the savings and loan crisis.

(h) Any other information related to the savings and loan crisis that either the Chairman of the Senate Committees on Banking, Housing and Urban Affairs or Judiciary or the House Committees on Banking, Finance and Urban Affairs or the Judiciary shall request to be included in such report.

SEC. 3. AGENCY ASSISTANCE

The President shall consult with the Resolution Trust Corporation, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Department of Justice, the Department of the Treasury, the Office of Management and Budget and any other federal entity in connection with the preparation of this report.

By Mr. SIMON:

S.J. Res. 342. Joint resolution designating October 1990 as "Ending Hunger Month"; to the Committee on the Judiciary.

ENDING HUNGER MONTH

● Mr. SIMON. Mr. President, in the House of Representatives, Mr. SMITH of Florida has introduced a joint resolution designating October, 1990 as "Ending Hunger Month." Today I am introducing this joint resolution in the Senate, as I did last year, in order to heighten public awareness of the hunger problem.

Hunger takes the lives of 13 to 18 million people every year, three quarters of whom are children. These deaths are the result of famines, which draw a significant response from the public, but also of chronic hunger and malnutrition, problems which draw less attention. We must recognize that hunger and poverty are serious problems that affect all of us and demand our constant attention.

The United Nations and the U.S. Congress have already designated October 16, 1990 as World Food Day. In keeping with this, I hope to designate the entire month of October as "Ending Hunger Month."

I urge my colleagues to join me in sponsoring this legislation, and I ask unanimous consent that the text of the joint resolution be included in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 342

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to

18,000,000 people each year, 75 percent of whom are children under the age of 5;

Whereas, while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas the United Nations and the United States Congress have designated October 16, 1990, as World Food Day and have called upon all people to take appropriate actions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "Ending Hunger Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.●

By Mr. DOMENICI (for himself, Mr. BOND, Mr. BOSCHWITZ, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. D'AMATO, Mr. DOLE, Mr. DURENBERGER, Mr GORTON, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LOTT, Mr. MCCLURE, Mr. MURKOWSKI, Mr. PRESSLER, Mr. ROTH, Mr. SIMPSON, Mr. SPECTER, Mr. THURMOND, Mr. WARNER, Mr. WILSON, Mr. ADAMS, Mr. AKAKA, Mr. BINGAMAN, Mr. BRADLEY, Mr. BREAUX, Mr. BURDICK, Mr. CRANSTON, Mr. DECONCINI, Mr. DODD, Mr. GLENN, Mr. GORE, Mr. HEFLIN, Mr. HOLLINGS, Mr. INOUYE, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MOYNIHAN, Mr. PELL, Mr. PRYOR, Mr. SASSER, Mr. SHELBY, and Mr. WIRTH):

S.J. Res. 343. Joint resolution to designate August 13 through August 19, 1990, as "Home Health Aide Week"; to the Committee on the Judiciary.

HOME HEALTH AIDE WEEK

Mr. DOMENICI. Mr. President, today I am introducing a joint resolution designating the week of August 13 through August 19, 1990, as Home Health Aide Week.

Health care is one of the most important issues facing the Nation today. The citizens of this country are made increasingly aware of the cost of receiving medical care.

As the population of the United States continues to grow, the number of Americans who will require some form of health care is growing. Be it a member of our own family or even ourselves, at some point in our lives we become dependent on someone else.

This past month, I sponsored a conference in New Mexico on a number of these issues. I was pleased that the Secretary of Health and Human Services, the honorable Louis Sullivan, was the featured speaker. I am committed to addressing the issues facing this Nation's health care system. Among the subjects discussed were those relating to the provision of access for affordable quality health care.

Home health aides are an important part of the solution to many problems. A home health aide is a person responsible for providing care to those in need, a person who assists members of the health profession in patient care, and more important, a person who fills a critical void.

Home health care is one of the most popular ways of reducing costs. In addition, it provides people with the opportunity to stay in the comfort and security of their own home surrounded by family and friends. Familiar surroundings facilitate the healing process.

Seventy-five percent of all home care is provided by unlicensed health care workers. The home health aide is a vital member of the health care teams. As the need for the home health provider increases, it is essential that this group be encouraged to choose this as their vocation, one filled with compassion and dedication. They are the quintessential example of the President's spirit of volunteerism.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objecton, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 343

Whereas a home health aide is a person who is a member of a multi-disciplinary team which provides health care for patients in a home environment;

Whereas the personal care and health-related services provided by a home health aide are a vital part of the services provided by home care companies and hospices and help to maintain a patient's physical and emotional well-being;

Whereas a home health aide is responsible for assisting members of a health-care team in following a pragmatic, goal-oriented plan of patient care;

Whereas the duties performed by a home health aide include assisting patients in their daily living activities, providing them with a clean and safe environment, providing them with personal care rehabilitative and supportive services, and observing and reporting to other members of the health-care team significant changes in the status of the patient; and

Whereas by providing such important health-care services, a home health aide has a significant beneficial impact on the lives of the patients served by the aide: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of August 13 through August 19, 1990, is designated as "Home Health Aide Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 416

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost-of-living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 700

At the request of Mr. DOMENICI, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 700, a bill to amend the Internal Revenue Code of 1986 to meet the growing challenge of America's infrastructure needs.

S. 930

At the request of Mr. DODD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 930, a bill to amend the Occupational Safety and Health Act of 1970 to establish an Office of Construction, Safety, Health, and Education within OSHA, to improve inspections, investigations, reporting, and recordkeeping in the construction industry, to require certain construction contractors to establish construction safety and health programs and onsite plans and appoint construction safety specialists, and for other purposes.

S. 1511

At the request of Mr. PRYOR, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1511, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

S. 1628

At the request of Mr. BENTSEN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1628, a bill to amend the Internal Revenue Code of 1986 to authorize a deduction for the expenses of adopting a special needs child and to amend title 5, United States Code, to establish a program providing assistance to Federal employees adopting a special needs child.

S. 1675

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1675, a bill to provide financial assistance for teacher recruitment and training, and for other purposes.

S. 1811

At the request of Mr. COHEN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1811, a bill to amend the Public Health Service Act to improve health conditions in health manpower shortage areas, and for other purposes.

S. 1812

At the request of Mr. COHEN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1812, a bill to require the Secretary of Health and Human Services to conduct a study concerning the area health education center program and submit recommendations for the improvement of such program, and for other purposes.

S. 1823

At the request of Mr. BENTSEN, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1823, a bill to amend the Social Security Act to increase the amount of earnings exempt from reduction under the retirement test under title II of such act.

S. 1834

At the request of Mr. LIEBERMAN, the names of the Senator from California [Mr. CRANSTON], the Senator from Nevada [Mr. BRYAN], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Illinois [Mr. SIMON], the Senator from Alaska [Mr. MURKOWSKI], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 1834, a bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

S. 1911

At the request of Mr. DODD, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1911, a bill to provide assistance in the development of new or improved programs to help younger individuals through grants to the States for community planning, services, and training; to establish within the Department of Health and Human Services an operating agency to be designated as the Administration on Children, Youth, and Families; to provide for a White House Conference on Young Americans; and for other purposes.

S. 1970

At the request of Mr. GORTON, the names of the Senator from Indiana [Mr. COATS], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 1970, a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

S. 1974

At the request of Mr. HARKIN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1974, a bill to require new televisions to have built in decoder circuitry.

S. 1978

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 1978, a bill to establish as an executive department of the Government a Department of Industry and Technology, to establish within such Department the Advanced Civilian Technology Agency, to add the Secretaries of the Treasury and Industry and Technology and the United States Trade Representative to the National Security Council, and for other purposes.

At the request of Mr. GLENN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1978, supra.

S. 2017

At the request of Mr. PELL, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2017, a bill to provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

S. 2048

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2048, a bill to provide for cost-of-living adjustments in 1991 under certain Government retirement programs.

S. 2080

At the request of Mr. BOSCHWITZ, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2080, a bill to provide law enforcement authority for criminal investigators of Offices of Inspectors General, and for other purposes.

S. 2098

At the request of Mr. BENTSEN, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 2098, a bill to amend title XVIII of the Social Security Act to provide Medicare coverage of Erythropoietin when self-administered.

S. 2112

At the request of Mr. METZENBAUM, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2112, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

S. 2149

At the request of Mr. BOSCHWITZ, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2149, a bill to amend the Internal Revenue Code of 1986 to stimulate employment in, and to promote revitalization of, economically distressed areas designated as enterprise zones, by providing Federal tax relief for employment and investments, and for other purposes.

S. 2252

At the request of Mr. SIMON, the name of the Senator from North Dakota [Mr. CONARD] was added as a cosponsor of S. 2252, a bill to encourage and facilitate entry into the teaching profession, and for other purposes.

S. 2257

At the request of Mr. PELL, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2257, a bill to terminate the Ground-Wave Emergency Network [GWEN] Program.

S. 2274

At the request of Mr. GLENN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2274, a bill to establish a Federal pay system with locality-based adjustments.

S. 2307

At the request of Mr. RIEGLE, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2307, a bill to require the Secretary of Health and Human Services to provide intensive outreach and other services and protections to homeless individuals.

S. 2368

At the request of Mr. MOYNIHAN, the names of the Senator from California [Mr. CRANSTON], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 2368, a bill to establish a national policy for the conservation of biological diversity; to support environmental research and training necessary for conservation and sustainable use of biotic natural resources; to establish mechanisms for carrying out the national policy and for coordinating related activities; and to facilitate the collection, synthesis, and dissemination of information necessary for these purposes.

S. 2413

At the request of Mr. KERRY, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2413, a bill to make eligibility standards for the award of the Purple Heart currently in effect applicable to members of the Armed Forces of the United States who were taken prisoner or taken captive by a hostile foreign government or its agents or a hostile force before April 15, 1962, and for other purposes.

S. 2459

At the request of Mr. BENTSEN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2459, a bill to amend title XIX of the Social Security Act to provide improved delivery of health care services to low-income children by extending Medicaid coverage to certain low-income children, and for other purposes.

S. 2569

At the request of Mr. LEVIN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 2569, a bill to amend the Trade Act of 1974 to strengthen and expand the authority of the U.S. Trade Representative to identify trade liberalization priorities, and for other purposes.

S. 2720

At the request of Mr. SASSER, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2720, a bill to encourage employee ownership of, and participation in, companies in the United States.

S. 2729

At the request of Mr. CHAFEE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2757

At the request of Mr. MOYNIHAN, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Ohio [Mr. GLENN], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2757, a bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Lithuanian people to alleviate suffering during the current emergency.

S. 2787

At the request of Mr. PELL, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2787, a bill entitled the "Iraq International Law Compliance Act of 1990".

S. 2789

At the request of Mr. GORE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2789, a bill to authorize appropriations for the Earthquake Hazards Reduction Act of 1977, and for other purposes.

S. 2800

At the request of Mr. BURNS, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2800, a bill to permit telephone companies to engage in video programming.

S. 2801

At the request of Mr. DOLE, the names of the Senator from South Dakota [Mr. PRESSLER], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 2801, a bill to direct the Secretary of Health and Human Services to phase in the update to the area wage index used to determine the amount of payment made to a hospital under part A of the Medicare Program for the operating costs of inpatient hospital services for inpatient discharges occurring during fiscal year 1991, and for other purposes.

SENATE JOINT RESOLUTION 276

At the request of Mr. LIEBERMAN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of Senate Joint Resolution 276, a joint resolution designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 277

At the request of Mr. LUGAR, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Joint Resolution 277, a joint resolution designating October 6, 1990, as "German-American Day."

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990, as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 292

At the request of Mr. PELL, the name of the Senator from South Carolina [Mr. HOLLINGS) was added as a cosponsor of Senate Joint Resolution 292, a joint resolution to designate the year 1991 as the "Year of the Lifetime Reader."

SENATE JOINT RESOLUTION 293

At the request of Mr. RIEGLE, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 293, a joint resolution to designate November 6, 1990, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 313

At the request of Mr. HEFLIN, the names of the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Louisiana [Mr. BREAUX], the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. CRANSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Ohio [Mr. METZENBAUM], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL], the Senator from Nevada [Mr. REID], the Senator from Michigan [Mr. RIEGLE], the Senator from Virginia [Mr. ROBB], the Senator from Maryland [Mr. SARBANES], the Senator from Tennessee [Mr. SASSER], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Kansas [Mr. DOLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. HATFIELD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Indiana [Mr. LUGAR], the Senator from Idaho [Mr. MCCLURE], the Senator from Oregon [Mr. PACKWOOD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], the Senator from South Carolina [Mr. THURMOND], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 313, a joint resolution designating October 3, 1990, as "National Teacher Appreciation Day."

SENATE JOINT RESOLUTION 335

At the request of Mr. JOHNSTON, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from Alaska [Mr. STEVENS], the Senator from Nebraska [Mr. EXON], the Senator from Delaware [Mr. BIDEN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Oklahoma [Mr. BOREN], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 335, a joint resolution designating July 1, 1990 as "Imported Oil Dependence Day."

SENATE JOINT RESOLUTION 338

At the request of Mr. BOSCHWITZ, the names of the Senator from Washington [Mr. ADAMS], the Senator from Arkansas [Mr. BUMPERS], the Senator from Nevada [Mr. BRYAN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from New York [Mr. D'AMATO], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Kansas [Mr. DOLE], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from Washington [Mr. GORTON], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. HATCH], the Senator from Alabama [Mr. HEFLIN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wisconsin [Mr. KOHL], the Senator from Florida [Mr. MACK], the Senator from New Jersey [Mr.

LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Mississippi [Mr. LOTT], the Senator from Rhode Island [Mr. PELL], the Senator from South Dakota [Mr. PRESSLER], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. RIEGLE], the Senator from North Carolina [Mr. SANFORD], the Senator from Tennessee [Mr. SASSER], the Senator from Illinois [Mr. SIMON], the Senator from Wyoming [Mr. SIMPSON], the Senator from Wyoming [Mr. WALLOP], the Senator from Virginia [Mr. WARNER], the Senator from California [Mr. WILSON], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of Senate Joint Resolution 338, a joint resolution to designate July 1, 1990 as "National Ducks and Wetlands Day."

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Concurrent Resolution 63, a concurrent resolution to recognize the uniqueness of and express strong support for the maritime policy of the United States, and to urge the President in the strongest possible terms to ensure that the United States does not propose maritime transportation services for inclusion in the General Agreement on Tariffs and Trade discussions and that any proposal that would consider maritime transportation as an area for negotiation is actively opposed by the United States.

SENATE CONCURRENT RESOLUTION 125

At the request of Mr. COHEN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Concurrent Resolution 125, a concurrent resolution expressing the sense of Congress regarding adequate funding for long-term health care services provided through the medicare and medicaid programs.

AMENDMENTS SUBMITTED

OMNIBUS CRIME ACT

GRAMM, (AND McCLURE) AMENDMENT NO. 2084

Mr. GRAMM (for himself and Mr. MCCLURE) proposed an amendment to the bill (S. 1970) to establish constitutional procedures for the imposition of the sentence of death, and for other purposes, as follows:

On page 46, strike line 15 and all that follows through page 53, line 5, and insert the following:

TITLE IV—USE OF FIREARMS IN CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES

SEC. 401. INCREASE MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

Section 924(c)(1) of title 18, United States Code is amended to read as follows:

"(c)(1)(A) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States—

"(i) possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(ii) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(iii) possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subject to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be eligible for parole, nor shall such person be released for any reason whatsoever, during a term of imprisonment imposed under this paragraph.

"(B) For the purposes of paragraph (A), a person shall be considered to be in possession of a firearm if—

"(i) in the case of a crime of violence, the person touches a firearm at the scene of the crime at any time during the commission of the crime; and

"(ii) in the case of a drug trafficking crime, the person has a firearm readily available at the scene of the crime during the commission of the crime.

"(C) This subsection has no application to a person who may be found to have committed a criminal act while acting in defense of person or property during the course of a crime being committed by another person (including the arrest or attempted arrest of the offender during or immediately after the commission of the crime).".

SEC. 402. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 nor more than 10 years, and may be fined under this title.

"(j) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 403. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 404. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 405 of the Controlled Substances Act (21 U.S.C. 845) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this section shall be not less than one year," and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this

subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 405B of the Controlled Substances Act (21 U.S.C. 845b) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be a mandatory term of life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 405. LIFE IMPRISONMENT WITHOUT RELEASE FOR CRIMINALS CONVICTED A THIRD TIME.

Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by striking "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term" and inserting "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B or a crime of violence after two or more prior convictions for a felony drug offense or crime of violence or for any combination thereof have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'crime of violence' means an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and the term".

DECONCINI (AND KERRY) AMENDMENT NO. 2085

Mr. DECONCINI (for himself and Mr. KERRY) proposed an amendment to amendment No. 2084 proposed by Mr. GRAMM to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE.

This title may be cited as the "Antidrug, Assault Weapons Limitation Act of 1989".

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended by adding at the end thereof the following:

"(q)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer, import, transport, ship, receive, or possess any assault weapon.

"(2) This subsection does not apply with respect to—

"(A) transferring, importing, transporting, shipping, and receiving to or by, or possession by or under, authority of the United States or any department or agency thereof, or of any State or any department, agency, or political subdivision thereof, of such as assault weapon, or

"(B) any lawful transferring, transporting, shipping, receiving, or possession of such a weapon that was lawfully possessed before the effective date of this subsection.

"(r)(1) It shall be unlawful for any person to sell, ship, or deliver an assault weapon to any person who does not fill out a form 4473 (pursuant to 27 CFR 178.124), or equivalent, in the purchase of such assault weapon.

"(2) It shall be unlawful for any person to purchase, possess, or accept delivery of an assault weapon unless such person has filled out such a form 4473, or equivalent, in the purchase of such assault weapon.

"(3) If a person purchases an assault weapon from anyone other than a licensed dealer, both the purchaser and the seller shall maintain a record of the sale on the seller's original copy of such form 4473, or equivalent. The purchaser and seller shall both retain copies of such form for all subsequent transactions regarding such assault weapon.

"(4) Any current owner of an assault weapon that requires retention of form 4473, or equivalent, pursuant to the provisions of this subsection who, prior to the effective date of this subsection purchased such a weapon, shall, within 90 days after the issuing of regulations by the Secretary pursuant to paragraph (5), request a copy of such form from any licensed dealer, as defined in this title, in accordance with such regulations.

"(5) The Secretary shall, within 90 days after the date of enactment of this section, prescribe regulations for the request and delivery of such form 4473, or equivalent.".

SEC. 3. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end thereof the following:

"(25) The term 'assault weapon' means any firearm designated as an assault weapon in this paragraph, including:

"(A) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models).

"(B) Action Arms Israeli Military Industries UZI and Galil,

"(C) Beretta AR-70 (SC-70),

"(D) Colt AR-15 and CAR-15,

"(E) Fabrique Nationale FN/FAL, FN/LAR and FNC.

"(F) MAC 10 and MAC 11,

"(G) Steyr AUG,

"(H) INTRATEC TEC-9, and

"(I) Street Sweeper and Striker 12.".

SEC. 4. SECRETARY TO RECOMMEND DESIGNATION AS ASSAULT WEAPON

Chapter 44 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following new section:

"§ 931. Additional assault weapons

"The Secretary, in consultation with the Attorney General, may, when appropriate, recommend to the Congress the addition or deletion of firearms to be designated as assault weapons."; and

(2) in the table of sections by adding at the end thereof the following new item:

"931. Additional assault weapons.

SEC. 5. ENHANCED PENALTIES.

Section 924(c) of title 18, United States Code, is amended by inserting "and if the firearm is an assault weapon, to imprisonment for 10 years," after "sentenced to imprisonment for five years,".

SEC. 6. PENALTIES FOR IMPROPER TRANSFER, STEALING FIREARM, OR SMUGGLING A FIREARM IN DRUG-RELATED OFFENSE.

Section 924 of title 18, United States Code, is amended by—

(1) redesignating subsections (f) and (g), and any references to such subsections, as added by section 6211 of Public Law 100-690, as subsections (g) and (h), respectively; and

(2) adding at the end thereof the following:

"(i) Whoever knowingly fails to acquire form 4473, or equivalent (pursuant to 27 CFR 178.124), with respect to the lawful transferring, transporting, shipping, receiving, or possessing of any assault weapon, as required by the provisions of this chapter, shall be fined under this title, imprisoned for not more than 6 months, or both.

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than 2 or more than 10 years, and may be fined under this title.

"(k) Whoever, with the intent to engage in, or to promote, conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3));

smuggles of knowlingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than 10 years, fined under this title, or both.".

SEC. 7. DISABILITY.

Section 922(g)(1) of title 18, United States Code, is amended by inserting before the semicolon at the end thereof the following: "or a violation of section 924(i) of this chapter".

SEC. 8. REVOCATION OF SUPERVISED RELEASE.

Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions

of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 9. STUDY BY ATTORNEY GENERAL.

"(a) IN GENERAL.—The Attorney General is authorized and directed to investigate and study the effect of the provisions of this title and the amendments made by this title and any impact therefrom on violent and drug trafficking crime. Such study shall be done over a period of 18 months, commencing 12 months after the date of enactment of this title.

"(b) REPORT.—No later than 29 months after the date of enactment of this title, the Attorney General shall prepare and submit to the Senate of the United States, a report setting forth in detail the findings and determinations made pursuant to subsection (a).

SEC. 10. SUNSET PROVISION.

Unless otherwise provided, this title and the amendments made by this title shall become effective 30 days after the date of enactment of this title. This title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsections (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be effective for a period of 3 years. At the end of such 3-year period this title and the amendments made by this title, except for paragraph (1) of section 406, portions of paragraph (2) of section 406 adding subsection (j) and (k) to section 924 of title 18, United States Code, and section 408, shall be repealed.

REID (AND OTHERS) AMENDMENT NO. 2086

Mr. REID (for himself, Mr. LEVIN, Mr. LAUTENBERG, and Mr. GRAHAM) proposed an amendment to the bill S. 1970, supra, as follows:

At the end of the bill, add the following: None of the provisions of this Act shall take effect unless the following is enacted:

TITLE ____—VICTIMS OF CHILD ABUSE ACT OF 1990

SEC. 1551. SHORT TITLE.

This title may be cited as the "Victims of Child Abuse Act of 1990".

CHAPTER 1—DRUG-RELATED CHILD ABUSE; HABITUAL CHILD ABUSE OFFENSE

SEC. 1555. ABUSE OF CHILDREN IN CONNECTION WITH VIOLATIONS OF THE DRUG LAWS.

(a) IN GENERAL.—Chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 16. Abuse of children in connection with drug offenses

"(a) Whoever, in a circumstance described in subsection (b), commits a crime of violence (as defined in subsection (c)) in violation of the laws of the State in which the act takes place, or of the United States, in which the victim is a person under the age of 18, shall be guilty of a class B felony.

"(b) There is Federal jurisdiction for an offense described in subsection (a) if the offense was committed in furtherance of, during and in relation to, or as part of an attempt to conceal or avoid apprehension for, a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).".

"(c) This section only applies to: 1. Persons who are at least 18 years old and who are at least 4 years older than the victim; 2. A crime of violence defined as a felony offense against a person that has as an element they attempted use or threatened use of physical force.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 7 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"116. Abuse of children in connection with drug offenses.".

(c) DIRECTION TO THE ATTORNEY GENERAL.—Not later than 90 days after the date of enactment of this chapter, the Attorney General shall amend the United States Attorneys' Manual to reflect the intent of Congress that Federal prosecution occur only in egregious cases of drug-related abuse and neglect.

(d) DIRECTION TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate guidelines or amend existing guidelines to provide that a defendant convicted of an offense under section 116 of title 18, United States Code, who has previously been convicted on 2 separate occasions in the court of any State or the District of Columbia, or of the United States, of any crime of violence (as defined in subsection (c)) in which the victim was a person under the age of 18, shall receive the maximum punishment authorized by law.

CHAPTER 2—IMPROVING INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES

SEC. 1561. FINDINGS.

The Congress finds that—

(1) over 2,000,000 children are abused or neglected each year, drug abuse accounting for one-third of the cases;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(4) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(5) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.

SEC. 1562. AUTHORITY OF THE ADMINISTRATOR TO MAKE GRANTS.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention (referred to as the "Administrator"), in consultation with officials of the Department of Health and Human Services, shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Administrator shall establish the criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a program—

(A) include a written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services;

(B) identify an appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect (referred to as the "counseling center");

(C) refer all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse;

(D) conduct all initial interviews jointly by personnel from law enforcement, health, and social service agencies;

(E) require, to the extent practicable, the same agency representative who conducts an initial interview to conduct all subsequent interviews;

(F) require, to the extent practicable, that all interviews and meetings with a child victim occur at the counseling center;

(G) coordinate each step of the investigation process to minimize the number of interviews that a child victim must attend;

(H) designate a director for the multidisciplinary program;

(I) assign a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of judicial proceedings; and

(J) meet such other criteria as the Administrator shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Administrator shall ensure that grants are distributed to both large and small states and to rural, suburban, and urban jurisdictions.

SEC. 1563. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et. seq.) to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

SEC. 1564. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $20,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under section 1562.

CHAPTER 3—COURT-APPOINTED SPECIAL ADVOCATE PROGRAM

SEC. 1565. FINDINGS.

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical as-

sistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

SEC. 1566. PURPOSE.

The purpose of this chapter is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

SEC. 1567. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to expand the court-appointed special advocate program.

(b) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section.

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association, including the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court-appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

SEC. 1568. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this chapter—

(1) $5,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

CHAPTER 4—CHILD ABUSE TRAINING PROGRAMS FOR JUDICIAL PERSONNEL AND PRACTITIONERS

SEC. 1571. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) PURPOSE.—The purpose of this chapter is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

SEC. 1572. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

SEC. 1573. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide, contract for, or implement—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with chapter 2.

SEC. 1574. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $10,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992, 1993, and 1994.

(b) USE OF FUNDS.—Of the amounts appropriated in paragraph (a), not less than 80 percent shall be used for grants under section 1573(b).

CHAPTER 5—FEDERAL VICTIMS' PROTECTIONS AND RIGHTS

SEC. 1575. CHILD VICTIMS' RIGHTS.

(a) CRIMINAL PROCEDURE.—The Federal Rules of Criminal Procedure are amended by inserting after rule 52 the following new rule:

"Rule 52.1 Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.—

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, or a guardian ad litem appointed under subdivision (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorney for the government and the attorney for the defendant not including an attorney pro se for the defendant shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (h);

"(ii) persons necessary to operate the closed-circuit television equipment;

"(iii) a judicial officer, appointed by the court; and

"(iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, in view of the child, and the voice of the judge.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for the government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorney for the government;

"(II) the attorney for the defendant;

"(III) the child's attorney or guardian ad litem appointed under subdivision (h);

"(IV) persons necessary to operate the videotape equipment;

"(V) subject to clause (iv), the defendant; and

"(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, in view of the child, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court Review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.—

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted to be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorney for the government;

"(C) the attorney for the defendant;

"(D) a court reporter; and

"(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the government and the attorney for the defendant including an attorney pro se for the defendant. The court may permit an attorney but not a defendant acting as an attorney to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of the government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) *Filing Under Seal.* All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) *Protective Orders.* (A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) *Disclosure of Information.* This subdivision does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the government's specific compelling interest.

"(f) VICTIM IMPACT STATEMENT.—In preparing the presentence report pursuant to rule 32(c), the probation officer shall request information from the multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subdivision (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

"(g) USE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.

"(1) *In General.* A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the government shall consult with the multidisciplinary child abuse team as appropriate.

"(2) *Role of Multidisciplinary Child Abuse Teams.* The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including—

"(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

"(B) telephone consultation services in emergencies and in other situations;

"(C) medical evaluations related to abuse or neglect;

"(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

"(E) expert medical, psychological, and related professional testimony;

"(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

"(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

"(h) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. The extent of access to grand jury materials is limited to the access routinely provided to victims and their representatives. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in subpart (2).

"(i) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.

"(j) SPEEDY TRIAL.—In a proceeding in which a child is called to give testimony, on motion by the attorney for the government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

"(k) EXTENSION OF PERIOD OF LIMITATIONS.—Limitation of time within which a prosecution must be commenced for a sex crime involving a child victim, regardless whether the crime involved force or resulted in serious physical injury or death is 5

years after the child reaches age 18. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subdivision, a criminal action is pending until its final adjudication in the trial court.".

(b) CIVIL PROCEDURE.—The Federal Rules of Civil Procedure are amended by inserting after rule 43 the following new rule:

"Rule 43.1 Child Victims' and Child Witnesses' Rights

"(a) DEFINITIONS.—For purposes of this rule—

"(1) the term 'adult attendant' means an adult described in subdivision (g) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

"(4) the term 'exploitation' means child pornography or child prostitution;

"(5) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(6) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(7) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(8) the term 'sexual contact' means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; and

"(9) the term 'sex crime' means an act of sexual abuse that is a criminal act.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.

"(1) *Child's Live Testimony by 2-way Closed Circuit Television.*

"(A) In a proceeding involving an alleged offense against a child or involving a child witness, the child's attorney or a guardian ad litem appointed under subdivision (f) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the parties, jury, judge, and public, for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(iv) The child suffers a mental or other infirmity.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record.

"(D) If the court orders the taking of testimony by television, the attorneys for the parties not including an attorney pro se for the defendant shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (f);

"(ii) persons necessary to operate the closed-circuit television equipment;

"(iii) a judicial officer, appointed by the court; and

"(iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the parties, jury, judge, and public. The parties shall be provided with the means of private, contemporaneous communication with their attorneys during the testimony. The closed circuit television transmission shall relay the child's testimony into the courtroom and the judge's voice into the room in which the child is testifying.

"(2) *Videotaped Deposition of Child.* (A) In a proceeding involving an alleged offense against a child or involving a child witness, the attorney for a party, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (f) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the parties, jury, judge, and public for any of the following reasons:

"(I) The child will refuse to testify despite the court's request to do so.

"(II) The child will be unable to testify because of fear, failure of memory, or similar circumstances.

"(III) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(IV) The child suffers a mental or other infirmity.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only other persons who may be permitted to be present at the proceeding are

"(I) the attorneys for the parties;

"(II) the child's attorney or guardian ad litem appointed under subdivision (f);

"(III) persons necessary to operate the videotape equipment;

"(IV) subject to clause (iv), the parties; and

"(V) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of one of the parties, the court may order that the party, including a party represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that a party be excluded from the deposition room, the court shall order that the party be provided with a means of private, contemporaneous communication with the party's attorney during the deposition.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court Review. The videotape shall become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.

"(1) *Effect of Federal Rules of Evidence.* Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) *Presumption.* A child is presumed to be competent.

"(3) *Requirement of Written Motion.* A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) *Requirement of Compelling Reasons.* A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) *Persons Permitted to be Present.* The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorneys for the parties;

"(C) a court reporter; and

"(D) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) *Not Before Jury.* A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) *Direct Examination of Child.* Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorneys for the parties including a defendant acting as an attorney pro se. The court may permit an attorney but not a defendant acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) *Appropriate Questions.* The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) *Psychological and Psychiatric Examinations.* Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.

"(1) *Confidentiality of Information.* (A) A person acting in a capacity described in subparagraph (B) in connection with a civil proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of any government agency that may become connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the parties and employees of the parties, including the attorneys for the parties and persons hired by the parties or an attorney for a party to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) *Filing Under Seal.* All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record.

"(3) *Protective Orders.* (A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) *Disclosure of Information.* This subdivision does not prohibit disclosure of the name of or other information concerning a child to a party, an attorney for a party, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate.

"(f) GUARDIAN AD LITEM.

"(1) *In General.* The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) *Duties of Guardian Ad Litem.* A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. (The extent of access to grand jury materials is limited to the access routinely provided to victims and their representatives.) The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) *Immunities.* A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in subpart (2).

"(g) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child.".

(c) EVIDENCE.—The Federal Rules of Evidence are amended by inserting after rule 803 the following new rule:

"Rule 803.1 Child Victims' and Child Witnesses' Testimony

"(a) Hearsay exception for out-of-court statements—

"(1) In general.—An out-of-court statement made by a child of less than 13 years of age concerning conduct related to alleged completed or attempted crimes of sexual abuse, physical abuse, or exploitation of the child or concerning a crime against another person witnessed by the child that is not otherwise admissible in a judicial proceeding is not excluded by the hearsay rule if—

"(A) the child testifies at the proceeding, or testifies by means of videotaped deposition or closed-circuit television, and at the time of the taking of the testimony is subject to cross-examination concerning the out-of-court statement;

"(B) the court finds that the child's out-of-court statement possesses particularized guarantees of trustworthiness; and

"(C) the court finds that the child is unable to testify effectively for any of the following reasons:

"(i) The child persistently refuses to testify despite the court's request to do so.

"(ii) The child is unable to testify because of fear, failure of memory, or similar circumstances.

"(iii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court or by means of videotaped deposition or closed-circuit television.

"(iv) The child suffers a mental or other infirmity.

"(v) A privilege precludes taking the child's testimony in open court or by means of videotaped deposition or closed-circuit television.

"(vi) The child has died or is absent from the jurisdiction.

"(2) Guarantees of trustworthiness.—In determining whether a statement possesses particularized guarantees of trustworthiness under paragraph (1)(B), the court may consider—

"(i) the child's knowledge of the event;

"(ii) the age and maturity of the child;

"(iii) the degree of certainty that the statement was in fact made by the child;

"(iv) any apparent motive the child may have had to falsify or distort the event, including bias, corruption, or coercion;

"(v) the timing of the child's statement;

"(vi) whether more than one person heard the statement;

"(vii) whether the child was suffering pain or distress when making the statement;

"(viii) the nature and duration of any alleged abuse;

"(ix) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's experience;

"(x) whether the statement has internal consistency or coherence and uses terminology appropriate to the child's age;

"(xi) whether the statement is spontaneous or directly responsive to questions;

"(xii) whether the statement is suggestive due to improperly leading questions; and

"(xiii) whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

"(3) NOTICE.—The proponent of the admission of an out-of-court statement shall notify the adverse party of the proponent's intention to offer the statement and of the content of the statement sufficiently in advance of the proceeding to provide the adverse party with a fair opportunity to prepare a response to the statement before the proceeding at which it is to be offered.

"(4) FINDINGS.—The court shall support with findings on the record any rulings pertaining to the child's inability and the trustworthiness of an out-of-court statement.

"(b) TESTIMONIAL AIDS.—The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.".

(d) VIOLATION OF RULE REGARDING DISCLOSURE.—

(1) PUNISHMENT AS CONTEMPT.—Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. Protection of the privacy of child victims and child witnesses

"A violation of rule 43.1(d)(1) of the Federal Rules of Civil Procedure or rule 52.1(d)(1) of the Federal Rules of Criminal Procedure shall constitute a criminal contempt classified as a Class A misdemeanor.".

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 21, United States Code, is amended by adding at the end thereof the following new item:

"403. Protection of the privacy of child victims and child witnesses.".

SEC. 1576. CHILD ABUSE REPORTING.

(a) IN GENERAL.—A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d).

(b) COVERED PROFESSIONALS.—Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, and alcohol or drug treatment personnel.

(2) Religious healers, persons rendering spiritual treatment through prayer, and persons licensed to practice the healing arts.

(3) Psychologists, psychiatrists, and mental health professionals.

(4) Social workers, licensed or unlicensed marriage, family, and individual counselors.

(5) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(6) Child care workers and administrators.

(7) Law enforcement personnel, judges, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(8) Foster parents.

(9) Commercial film and photo processors.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child;

(2) the term "exploitation" means child pornography or child prostitution;

(3) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(4) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral anal contact, whether between persons of the same or of opposite sex;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse; and

(5) the term "sexual contact" means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person.

(d) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) REPORTING FORM.—In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) IMMUNITY FOR REPORTING AND ASSOCIATED ACTIONS.—All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses.

(g) CRIMINAL PENALTY FOR FAILURE TO REPORT.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2258. Failure to report child abuse

"A person who, while engaged in a professional capacity or activity described in subsection (b) of section 502 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.".

(2) The chapter analysis for chapter 110, United States Code, is amended—

(A) by amending the catchline to read as follows:

"CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN";

and

(B) by adding at the end thereof the following new item:

"2258. Failure to report child abuse.".

(3) The item relating to chapter 110 in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"110. Sexual exploitation and other abuse of children ..... 2251".

(h) CIVIL LIABILITY FOR FAILURE TO REPORT.—(1) A person who fails to make a report when required under subsection (a) shall be liable to a child who, after the time at which the person learns the facts that give rise to the requirement to report, suffers an incident of child abuse.

(2) In an action brought under paragraph (1), the plaintiff shall have the burden of showing that—

(A) the defendant learned of facts that did give or reasonably should have given the defendant reason to suspect that the child on whose behalf suit is brought had suffered an incident of child abuse; and

(B) after the time that the defendant learned of such facts—

(i) the defendant failed to make a timely report as required by subsection (a); and

(ii) the child suffered an incident of child abuse.

(3) In an action brought under paragraph (1), the plaintiff may recover damages for physical, mental, and emotional injury caused by incidents of child abuse that occur after the time that the defendant learned of the facts described in subparagraph (A), without regard to whether any other person learned of such facts and failed to make a report.

(4) A plaintiff who makes the showing described in paragraph (2) shall be entitled to recover unless the defendant shows that—

(A) the defendant made a report to the agency as soon as it was possible to do so;

(B) the agency to which the report was required to be made acquired knowledge of the facts of which the defendant had learned, or of the incident of child abuse whose occurrence was suggested by those facts, at a time prior to the occurrence of the incident of child abuse for which recovery is sought sufficient to have allowed the agency to take action that might have prevented the incident; or

(C) the agency could not have prevented the incident of child abuse for which recovery is sought.

(i) PRIVILEGES ABROGATED.—For the purposes of this section, and in any investigations or judicial actions resulting from a report of abuse or neglect, the privileged nature of any communications between physician and patient, psychotherapist and patient, psychologist and client, social worker and client, any other health care provider and patient, and husband and wife are abrogated.

(j) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

CHAPTER 6—CHILD CARE WORKER EMPLOYEE BACKGROUND CHECKS

SEC. 1581. REQUIREMENT FOR BACKGROUND CHECKS.

(a) IN GENERAL.—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this chapter, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) CRIMINAL HISTORY CHECK.—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.—Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.

THURMOND (AND OTHERS) AMENDMENT NO. 2087

Mr. THURMOND (for himself, Mr. DOLE, and Mr. HATCH) proposed an amendment to amendment No. 2086 proposed by Mr. REID (and others) to the bill S. 1970, supra, as follows:

At the appropriate place insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Protection Restoration and Penalties Enhancement Act of 1989".

TITLE I—RESTORATION OF RECORDKEEPING REQUIREMENT

SEC. 101. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter nay be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful—

"(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsection (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

"(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce; which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of this statement or the records required to be kept.

"(g) The Attorney General shall issue appropriate regulations to carry out this section.

"(h) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title:

"(2) 'Identification document' has the meaning given that term in section 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

"(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.".

SEC. 102. EFFECTIVE DATE.

Subsections (d), (f), (g), (h), and (i) of section 2257 of title 18, United States Code, as added by this section shall take effect 90

days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by subsections (d), (f), (g), (h), and (i) of section 2257 within 60 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 and of any regulation issued pursuant thereto shall take effect 90 days after the date of the enactment of this Act.

TITLE II—SEXUAL ABUSE PENALTIES

SEC. 301. AGGRAVATED SEXUAL ABUSE OF CHILDREN.

Section 2241(c) of title 18, United States Code, is amended by—

(1) striking "any term of years" and inserting "not less than 30 years";

(2) inserting "(1)" before "Whoever"; and

(3) adding at the end thereof the following:

"(2) Whoever—

"(A) engages in any conduct which violates the provisions of paragraph (1) after a prior conviction under such paragraph has become final; or

"(B) violates the provisions of paragraph (1)—

"(i) by using force against the other person; or

"(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping,

shall be sentenced to mandatory life imprisonment without release.".

SEC. 302. SEXUAL ABUSE OF A MINOR.

Section 2243(a) of title 18, United States Code, is amended by striking "five years" and inserting "15 years".

SEC. 303. ABUSIVE SEXUAL CONDUCT.

Section 2244(a) of title 18, United States Code, is amended by—

(1) redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively; and

(2) inserting after paragraph (1) the following:

"(2) section 2241(c) of this title had the sexual contact been a sexual act shall be fined under this title, imprisoned not more than 30 years, or both;"

SEC. 304. SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended to read as follows:

"(d) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not more than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without released and fined not more than $500,000.".

SEC. 305. SELLING OR BUYING OF CHILDREN.

Section 2251A of title 18, United States Code, is amended—

(1) in subsection (a) after paragraph (2) by striking "20 years" and inserting "30 years"; and

(2) in subsection (b) after paragraph (2) by striking "20 years" and inserting "30 years".

SEC. 306. CERTAIN ACTIVITIES RELATING TO MATERIAL INVOLVING SEXUAL EXPLOITATION OF MINORS.

Section 2252(b) of title 18, United States Code, is amended to read as follows:

"(b) Any individual who violates this section shall be fined not more than $250,000, shall be imprisoned for not less than 30 years and not more than life, or both. If such individual has a prior conviction under this section, such individual shall be sentenced to life imprisonment without release and fined not more than $500,000.".

SEC. 307. That section 2252(a) of Title 18, United States Code, is amended—

(1) by striking "or" after the end of paragraph (1);

(2) by inserting "or" after the ";" at the end of paragraph (2); and

(3) by adding at the end of paragraph (2) the following new paragraph:

"(3) knowingly possesses or views any visual depiction that has been transported or shipped in interstate or foreign commerce, or has reason to know that such visual depiction will be transported or shipped in interstate or foreign commerce, by any means including by computer or mail, if—

"(A) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct;' and

(B) Such visual depiction of such conduct;".

KOHL AMENDMENT NO. 2088

Mr. KOHL proposed an amendment to amendment No. 2086 proposed by Mr. REID (and others) to the bill S. 1970, supra, as follows:

At the end of the amendment, add the following:

SEC. . TREATMENT FOR JUVENILE OFFENDERS WHO HAVE BEEN THE VICTIMS OF CHILD ABUSE AND NEGLECT.

(a) IN GENERAL.—The Administrator shall make grants under subpart II of part C of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.) to public and private nonprofit organizations with experience in treating the victims of child abuse and neglect to provide treatment for juvenile offenders who have been the victims of child abuse and neglect.

(b) FUNDING.—There are authorized to be appropriated—

(1) $15,000,000 for fiscal year 1991; and

(2) such sums as are necessary for fiscal years 1992 and 1993,

to carry out this section.

LOTT (AND OTHERS) AMENDMENT NO. 2089

Mr. LOTT (for himself, Mr. HELMS, Mr. DOLE, Mr. BURNS, Mr. GRAMM, Mr. THURMOND, Mr. NICKLES, and Mr. WILSON) proposed an amendment to amendment No. 2086 proposed by Mr. REID (and others) the bill S. 1970, supra, as follows:

At the appropriate place in the amendment, insert the following new sections:

SEC. 01. MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include—

(A) State and local public works projects and infrastructure repair;

(B) construction and maintenance of prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—A Federal prisoner may be excused from the requirement to work only as necessitated by—

(1) security considerations;

(2) disciplinary action;

(3) medical certification of nearly total disability such as would make it impracticable for prison officials to arrange useful work for the prisoner to perform; or

(4) a need for the prisoner to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or similar programs in addition to the work program.

(c) USE OF FUNDS.—Except as provided by other law, any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

SEC. 02. EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

Section 1761(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by striking the matter preceding paragraph (2), as redesignated by paragraph (1) of this section, and inserting the following:

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

"(1) are participating in—

"(A) a Federal labor intensive prison work program operated by the Director of the Bureau of Prisons; or

"(B) one of not more than 50 non-Federal prison work pilot-projects designated by the Director of the Bureau of Justice Assistance; and"; and

(3) in paragraph (2), as redesignated by paragraph (1) of this section, by amending subparagraph (B) to read as follows:

"(B) reasonable charges for room and board, as determined by regulations issued by the Director of the Bureau of Prisons, in the case of a Federal prisoner, or the chief State correctional officer, in the case of a State prisoner.".

SEC. 03. EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Director of the Bureau of Prisons shall institute a prison work program through contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

SEC. 04. PRISON EXPANSION AND TENT CAMP ACT.

(a) SHORT TITLE.—This section may be cited as the "Prison Expansion and Tent Camp Act".

(b) TEMPORARY PRISON FACILITIES AND EXPANDED CAPACITY.—

(1) FINDINGS.—The Congress finds that—

(A) the increasing problem of prison overcrowding has reached a point of crisis;

(B) prisoners continue to be released from jail before they have served the full term of their sentences; and

(C) in order to protect society, the Nation must expand the capacity of the Federal and State prison systems through the use of innovative and cost-efficient means, such as old military bases, surplus Federal property, and tent camps.

(2) PRIORITY FOR DISPOSAL OF CLOSED MILITARY INSTALLATIONS.—

(A) PURPOSE OF PARAGRAPH.—The purpose of this paragraph is to clarify that the order of priority for acquiring property and facilities under the Base Closure and Realignment Act for use as prison facilities is first to the Attorney General and second to the States, the District of Columbia, and the territories of the United States.

(B) AMENDMENT OF BASE CLOSURE ACT.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) is amended to read as follows:

"(3)(A) Notwithstanding any other provision of this title or any other law, before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title the Secretary shall—

"(i) notify the Attorney General and the Governor of each State, the Mayor of the District of Columbia, and the Governor of each of the territories and possessions of the United States of the availability of such real property or facility; and

"(ii) transfer such real property or facility, or portion thereof, in accordance with the procedure set forth in subparagraphs (B), (C) and (D).

"(B) Subject to subparagraph (C), the Secretary shall transfer real property or a facility, or portion thereof, referred to in subparagraph (A) in accordance with the following priorities:

"(i) To the Department of Justice, if the Attorney General certifies to the Secretary that the property or facility, or portion thereof, will be used as a Federal prison or other Federal correctional institution.

"(ii) To a State, the District of Columbia, or a territory or possession of the United States, if the Governor of the State, the Mayor of the District of Columbia, or the Governor of the territory or possession of the United States certifies to the Secretary that the property or facility, or portion thereof, will be used as a prison or other correctional institution.

"(iii) To any other transferee pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(C) The Secretary shall transfer any real property or facility or any portion thereof referred to in this section in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(D) Before making a decision concerning a transfer of real property or a facility pursuant to this title, the Secretary of Defense shall—

"(i) consult with the Governor of the State and the heads of the local government of the jurisdiction in which the property or facility is located; and

"(ii) consider any plan by the local government concerned for the use of the property or facility.".

(3) SURPLUS FEDERAL PROPERTY.—

(A) Not later than 180 days after the date of enactment of this Act, the Administrator of the General Services Administration, in consultation with the Attorney General, shall identify and make a list of not less than 20 parcels of surplus Federal property, which the Attorney General has certified are not needed for Federal correctional facilities but which may be suitable for State or local correctional facilities.

(B) AVAILABILITY TO STATES.—Notwithstanding any other law, any property that is determined to be suitable for use as a State or local correctional facility under subparagraph (1) shall be made available to a State, the District of Columbia, or a local government, for such use, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(4) COST-EFFICIENT PRISONS: TENT CAMPS.—

(A) AUTHORIZATION.—The Attorney General may use tent housing, on a temporary basis, for Federal prisoners at the military facilities acquired under the Base Closure and Realignment Act and at any other Federal prison facility. The length of the use of such housing shall be at the discretion of the Attorney General.

(B) STATE USE.—The States are authorized and encouraged to consider using temporary tent housing to house prisoners instead of releasing them before they have completed their full sentences.

(C) APPROPRIATE REMEDIES FOR OVERCROWDING.—

(i) Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3626. Appropriate remedies with respect to prison overcrowding and the use of tent housing

"(a) A Federal court shall not hold the use of temporary tent housing unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that such housing causes the infliction of cruel and unusual punishment of that particular inmate.".

(ii) The table of sections for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3626. Appropriate remedies with respect to prison overcrowding and the use of tent housing.".

(c) COST SAVING MEASURES.—

(1) IN GENERAL.—The Director of the Federal Bureau of Prisons (referred to as the "Director") shall seek to cut the cost of prison construction by reducing expenditures for color television, pool tables, cable television, air conditioning, and other amenities.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director shall submit to Congress a description and summary of the results of the cost saving efforts made pursuant to paragraph (1).

GORTON (AND OTHERS) AMENDMENT NO. 2090

Mr. GORTON (for himself, Mr. WILSON, Mr. AKAKA, Mr. BURNS, Mr. INOUYE, Mr. D'AMATO, Mr. HATCH, and Mr. COATS), proposed an amendment to amendment No. 1683 proposed by Mr. AKAKA to the bill S. 1970, supra, as follows:

At the end of the amendment, add the following:

SEC. . PRECURSOR CHEMICALS.

(a) EXPANDED LIST OF PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by striking subparagraphs (A) through (L) and inserting the following:

"(A) Anthranilic acid.
"(B) Benzyl cyanide.
"(C) Chloroephedrine.
"(D) Chloropseudoephedrine.
"(E) D-lysergic acid.
"(F) Ephedrine.
"(G) Ergonovine maleate.
"(H) Ergotamine tartrate.
"(I) Ethylamine.
"(J) Hydriodic acid.
"(K) Isosafrole.
"(L) Methylamine.
"(M) N-acetylanthranilic acid.
"(N) N-ethylephedrine.
"(O) N-ethylpseudoephedrine.
"(P) N-methylephedrine.
"(Q) N-methylpseudoephedrine.
"(R) Norpseudoephedrine.
"(S) Phenylacetic acid.
"(T) Phenylpropanolamine.
"(U) Phenyl-2-propanone.
"(V) Piperidine.
"(W) Piperonal.
"(X) Propionic anhydride.
"(Y) Pseudoephedrine.
"(Z) Safrole.
"(AA) Thionylchloride.
"(BB) Any salt, optical isomer, or salt of an optical isomer of the foregoing chemicals.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended—

(1) by striking subparagraph (E); and

(2) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G).

(c) ELIMINATION OF THRESHOLD REQUIREMENT FOR PRECURSOR CHEMICALS.—Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)) is amended—

(1) by inserting "any amount of a listed precursor chemical, or" before "a threshold amount, including a cumulative threshold amount for"; and

(2) by striking "listed chemical" the first place such term appears and inserting "listed essential chemical".

(d) RECORDS OF REGULATED TRANSACTIONS.—Section 310(a)(1) of the Controlled Substances Act (21 U.S.C. 830(a)(1)) is amended—

(1) by inserting "any quantity of a listed precursor chemical," after "involving"; and

(2) by striking "a listed chemical" and inserting "a listed essential chemical".

(e) PROVISION TO STATES OF INFORMATION RELATING TO REGULATED TRANSACTIONS.—Section 310(c)(3) of the Controlled Substances Act (21 U.S.C. 830(c)(3)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) cooperate with the authorities of each State by providing information relating to regulated transactions in listed precursor chemicals and anticipated regulated transactions (including impending interstate

deliveries) in such chemicals that might be useful in the enforcement of State laws relating to precursor chemicals, controlled substances, and other illegal drugs.".

(f) LICENSING.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end thereof the following new subsection:

"(d)(1) It shall be unlawful for a person to—

"(A) engage in a regulated transaction involving a listed precursor chemical; or

"(B) manufacture, distribute, import, or export a listed precursor chemical.

without a license required under this subsection.

"(2)(A) The Attorney General shall by rule establish a licensing program for regulated persons and regulated transactions involving listed precursor chemicals under which licenses will be required in circumstances in which the Attorney General determines that requiring licensing will contribute to the achievement of the purposes of this section and to criminal drug law enforcement in general. The Attorney General shall not require a regulated person who maintains a record of all regulated transactions or reports all regulated transactions in accordance with this section to be licensed under this subsection.

"(B) The licensing program described in subparagraph (A) shall require a license application to be made in such form as the Attorney General shall prescribe and may provide for the denial, revocation, or suspension of a license for cause, after opportunity for a hearing on the record.

"(3) Whoever violates paragraph (1) shall be fined under title 18, United States Code, or imprisoned not more than 4 years, or both.

"(4) The Attorney General shall by inspection or otherwise provide for the audit and control of listed precursor chemical inventories of persons possessing a license under this subsection.".

(g) APPLICATION OF SECTION.—Section 310 of the Controlled Substances Act (21 U.S.C. 830), as amended by subsection (f), is amended by adding at the end thereof the following new subsection:

"(e) This section does not apply to a transaction or other activity involving a listed chemical contained in a drug that is lawfully marketed or distributed under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).".

(h) MANAGEMENT OF LISTED CHEMICALS.—(1) Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001 through 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921—6925).

"(b)(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(1) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(2) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(c) The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.

"(3)(A) A violation of paragraph (1) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of paragraph (1) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) The Court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (1).".

(2) Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) for costs assessed under section 311(b) of the Controlled Substances Act.".

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 2091

Mr. BOSCHWITZ (for himself, Mr. THURMOND, Mr. GORTON, Mr. BURNS, Mr. ARMSTRONG, Mr. HELMS, Mr. MACK, Mr. KASTEN, Mr. REID, Mr. LOTT, Mr. GRAMM, and Mr. BREAUX) proposed an amendment to the bill S. 1970, supra, as follows:

At the appropriate place, add the following:

SEC. . SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

"(1) TO WHOM APPLICABLE.—IF—

"(A) the victim of an offense under this section has not attained the age of eighteen years; and

"(B) the offender—

"(i) has attained such age; and

"(ii) is not—

"(I) a parent;

"(II) a grandparent;

"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

"(2) MINIMUM SENTENCES.—The sentence shall be imprisonment for life if the offender engages in any conduct described in paragraph (3) of this subsection, and imprisonment for not less than 30 years in any other case. If the offender engages in any conduct described in paragraph (3) of this subsection after a prior conviction under such paragraph has become final, such offender shall be sentenced to mandatory life imprisonment without release.

"(3) AGGRAVATING CONDUCT.—The conduct referred to in paragraph (2) of this subsection is—

"(A) selling the victim of such offense;

"(B) sexually abusing such victim;

"(C) using such victim for pornography;

"(D) intentionally denying such victim food or medical care to a life-threatening extent;

"(E) intentionally harming such victim physically to a life-threatening extent; or

"(F) causing such victim to be subjected to conduct by another which is conduct described in any of subparagraphs (A) through (E) of this paragraph."

INOUYE (AND DOMENICI) AMENDMENT NO. 2092

Mr. INOUYE (for himself and Mr. DOMENICI) proposed an amendment to the bill S. 1970, supra, as follows:

At the appropriate place, insert: "S. 3598. Application of chapter in Indian Country

"Notwithstanding sections 1152 and 1153, a death sentence of murder in the first degree committed by or against an Indian in Indian country (as that term is defined in section 1151) may be imposed under this chapter only if there was in effect at the time of the offense an election, by the governing body of the Indian tribe having jurisdiction over the place where the offense was committed, to have this chapter apply in such cases."

McCLURE AMENDMENT NO. 2093

Mr. McCLURE proposed an amendment to amendment No. 2092 proposed by Mr. INOUYE (and Mr. DOMENICI) to the bill S. 1970, supra, as followed:

In the amendment (No. 2092), strike out "in Indian country (as that term is defined in section 1151)" and insert in lieu thereof "on any land title to which is held by the United States in trust for an Indian or an Indian tribe or lands title to which is held by Indians or an Indian tribe subject to a restriction by the United States against alienation,".

NICKLES (AND GRASSLEY) AMENDMENT NO. 2094

Mr. NICKLES (for himself and Mr. GRASSLEY) proposed an amendment to the bill S. 1970, supra, as follows:

On page 16, between lines 20 and 21, insert the following:

"(g) VICTIM IMPACT STATEMENT.—(1) Prior to hearing any case under this section and as a part of the presentence investigation of such case, a victim impact statement shall be prepared which shall—

"(A) identify the victim of the offense;

"(B) identify the physical injury by the victim as a result of the offense;

"(C) identify any request for psychological services initiated by the victim's family as a result of the offense; and

"(D) contain any other information related to the impact of the offense on the victim or the victim's family as the court may require.

"(2) The information required by paragraph (1) may be obtained from the personal guardian of the victim or such family members of the victim as may be necessary.

"(3) The victim impact statement required by this subsection shall be considered by the court or jury in a hearing held under this section.".

At the end of the bill, add the following:

TITLE____—PROTECTION OF CRIME VICTIMS

SEC.____01. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1990".

SEC.____02. VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

SEC.____03. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the witness is either required to attend or, under section _____02(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender;

(B) the escape, work release, furlough, or any other form of release from custody of the offender; and

(C) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;

(ii) a legal guardian;

(iii) a parent;

(iv) a child;

(v) a sibling;

(vi) another family member; or

(vii) another person designated by the court.

SEC.____04. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued record-keeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender."

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

___05.

SEC. —05. AMENDMENT OF BANKRUPTCY CODE.

(a) AMENDMENT OF CHAPTER 5.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; or"; and

(3) by adding the following new paragraph at the end thereof:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover a civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

(b) AMENDMENT OF CHAPTER 13.—Section 1322(a) of title 11, United States Code, is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims that are nondischargeable under section 523(a)(11).".

GRAHAM (AND OTHERS) AMENDMENT NO. 2095

Mr. GRAHAM (for himself, Mr. LIEBERMAN, and Mr. BRYAN) proposed an amendment to the bill S. 1970, supra, as follows:

At the appropriate place, add the following:

SEC. . RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) Equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems and in particular that portion of their criminal justice systems relating to the imposition of the sentence of death in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort or by order of the Chief Executive of the State a plan for analyzing the role of race in that State's criminal justice system, including in the imposition of the sentence of death. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General with priority being given to those States whose State law provide for the imposition of death for certain crimes. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out the provisions of this section.

HATCH AMENDMENT NO. 2096

Mr. HATCH proposed an amendment to amendment No. 2095 proposed by Mr. GRAHAM (and others) to the bill S. 1970, supra, as follows:

At the end of the amendment, add the following:

"Any study funded or required by this act shall be limited to a consideration of whether the constitutional right of criminal defendants have been violated."

D'AMATO (AND OTHERS) AMENDMENT NO. 2097

Mr. D'AMATO (for himself, Mr. SPECTER, Mr. WILSON, Mr. KASTEN, Mr. DOMENICI, Mr. HELMS, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. MURKOWSKI, and Mr. STEVENS) proposed an amendment to the bill S. 1970, supra, as follows:

At the appropriate place insert the following:

SECTION . SHORT TITLE.

This subtitle may be cited as the "Drug Kingpin Death Penalty Act of 1990."

SEC. . DEATH PENALTY AUTHORIZATIONS AND PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral Attack on Judgment Imposing Sentence of Death.

"SEC. 3591. SENTENCE OF DEATH.

"A defendant who has been found guilty of—

"(a) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(b) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person; or

"(c) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: *Provided*, That no person may be sentenced to death who was less than eighteen years of age at the time of offense; and provided that if a defendant described in section 3591 (b) or (c) is not sentenced to death, said defendant shall be sentenced to life in prison.

"SEC. 3592. FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified for an offense described in section 3591, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTIONS OF VIOLENT OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS CONVICTIONS OF DRUG OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(4) PREVIOUS CONVICTIONS OF VIOLENT AND DRUG OFFENSES.—The defendant has previously been convicted of a Federal or State offense, punishable by a term of imprisonment of more than one year, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person, and has previously been convicted of a Federal or State offense, committed on a different occasion and punishable by a term of imprisonment of more than one year, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(5) SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(6) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(7) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405 of the Controlled Substances Act (21 U.S.C. 845) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405A of the Controlled Substances Act (21 U.S.C. 845a) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(9) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved a violation of section 405B of the Controlled Substances Act (21 U.S.C. 845b) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(10) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factors exist.

"SEC. 3593. SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED.

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice—

"(1) that the Government in the event of conviction will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors enumerated in section 3592 and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a)(2) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

Information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factors is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under section 3592(b) is found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist outweigh any mitigating factor or factors. The jury, or if there is no jury, the court, shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—

"In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"SEC. 3594. IMPOSITION OF A SENTENCE OF DEATH.

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release or furlough.

"SEC. 3595. REVIEW OF A SENTENCE OF DEATH.

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

(B) the evidence and information support the special findings of the existence of an aggravating factor or factors:

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"SEC. 3596. IMPLEMENTATION OF SENTENCE OF DEATH.

"(a) A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) No employee of any State Department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the em-

ployee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

SEC. 3597. USE OF STATE FACILITIES.

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such as an official employed for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

SEC. 3598. APPOINTMENT OF COUNSEL.

"(a) FEDERAL CAPITAL CASES.—

"(1) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this subsection shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(2) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this subsection shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(3) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this subsection for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (A) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (B) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (C) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this paragraph shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(4) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this subsection, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(5) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this subsection, the provisions of section 3006A of this title shall apply to appointments under this subsection.

"(6) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(b) STATE CAPITAL CASES.—The laws of the United States shall not be construed to impose any requirement with respect to the appointment of counsel in any proceeding in a state court or other state proceeding in a capital case, other than any requirement imposed by the Constitution of the United States. In a proceeding under section 2254 of title 28, United States Code, relating to a state capital case, or any subsequent proceeding on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Such appointment of counsel shall be governed by the provisions of section 3006A of this title.

"SEC. 3599. COLLATERAL ATTACK ON JUDGMENT IMPOSING SENTENCE OF DEATH.

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In any case in which a sentence of death has been imposed for an offense against the United States and the judgment has become final as described in section 3598(a)(3) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(a)(3) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings; and

"(2) the failure to raise the claim is (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable: or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offenses for which the death penalty was imposed."; and

(b) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty ..... 3591".

WILSON AMENDMENT NO. 2098

Mr. WILSON proposed an amendment to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

TITLE —CIVIL RIGHTS

SECTION 01. SHORT TITLE.

This title may be cited as the "Civil Rights Protection Act of 1990".

SEC. 02. DEATH PENALTY FOR MURDER DURING THE COMMISSION OF AN ACT IN VIOLATION OF CIVIL RIGHTS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

BIDEN (AND OTHERS) AMENDMENT NO. 2099

Mr. BIDEN (for himself, Mr. BRADLEY, and Mr. HARKIN) proposed an amendment to the bill S. 1970, supra; as follows:

At the end of the bill, insert the following new title:

Subtitle A

SEC. 701. MAINTAINING FUNDING FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1986, as amended section 211 of the Department of Justice Appropriations Act, 1990, (Public Law 101-162), is amended by striking "1990" and inserting in lieu thereof "1991".

( ) IMPROVING THE EFFECTIVENESS OF COURT PROCESS.—Paragraph (10) of section 501 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender and judicial resources, and implementing court delay reduction programs;"

Subtitle B. National Crime Information Center Project 2000

SECTION 1. SHORT TITLE.

This section may be cited as the "National Law Enforcement Cooperation Act of 1990."

SEC. 2. FINDINGS.

The Congress finds that—

(1) cooperation among federal, state and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

(2) the National Crime Information Center, which links more than 16,000 federal, state and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

(3) major improvements to the National Crime Information Center are needed because the current system is more than twenty years old; carries much greater volumes of enforcement information; and at this time is unable to incorporate technological advances that would significantly improve its performance; and

(4) the Federal Bureau of Investigation, working with state and local law enforcement agencies and private organizations, has developed a promising plan, "NCIC 2000," to make the necessary upgrades to the National Crime Information Center that should meet the needs of U.S. law enforcement agencies into the next century.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated the following sums to implement the "NCIC 2000" project:

(1) $17,000,000 for fiscal year 1991;

(2) $25,000,000 for fiscal year 1992;

(3) $22,000,000 for fiscal year 1993;

(4) $9,000,000 for fiscal year 1994; and

(5) such sums as may be necessary for fiscal year 1995.

SEC. 4. REPORT.

By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.

TITLE VIII—FEDERAL LAW ENFORCEMENT AND JUDICIAL ASSISTANCE

SEC. 801. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following sums (which shall be in addition to any other appropriations)—

(1) For the Federal Bureau of Investigation, $98,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration, $100,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals;

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents and necessary support personnel to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries; and

(C) not to exceed $15,000,000 to expand DEA State and local task forces, including payment of State and local overtime equipment and personnel costs;

(3) For the United States courts, $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States attorneys, $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For defender services, $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies; and

(6) For the United States marshals, $9,000,000; and

(7) For the Immigration and Naturalization Service United States Border Patrol, $45,000,000 to be allocated as follows:

(A) $15,000,000 for the hiring, training, and equipping of no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $25,000,000 for INS criminal investigations and the expeditious deportation of criminal aliens from detention; and

(C) $5,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems, and 4-wheel drive law enforcement vehicles for the United States Border Patrol.

TITLE IX—RURAL DRUG ENFORCEMENT

SEC. 901. SHORT TITLE.

This title may be cited as the "Rural Drug Enforcement Act".

SEC. 902. LEADERSHIP ON RURAL DRUG POLICY.

(a) DESIGNATION OF OFFICIAL.—The Director of National Drug Control Policy (hereafter in this title referred to as the "Director") shall designate an official in the Office of National Drug Control Policy to act as the Rural Drug Policy Coordinator.

(b) DUTIES OF OFFICIAL.—The Rural Drug Policy Coordinator shall—

(1) examine the special needs of rural areas in drug interdiction;

(2) recommend to the Director policy options for the enhancement of drug interdiction in rural areas;

(3) coordinate the drug interdiction efforts of Federal agencies (including the Drug Enforcement Administration, Bureau of Land Management, the Bureau of Indian Affairs, and the National Forest Service) in rural areas; and

(4) make available to law enforcement agencies in rural areas materials pertinent to drug interdiction in rural areas.

SEC. 903. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding a new section 509 as follows:

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 509. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992.

"(b) Of the total amount appropriated for this section in any fiscal year:

"(1) 50 per centum shall be allocated to and shared equally among rural States as described in subsection (c); and

"(2) 50 per centum shall be allocated to the remaining States for use in non-metropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in clause (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(c) For the purpose of subsections (b) and (c), the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.".

(b) SEPARATE GRANT REQUEST.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by—

(1) at the end of paragraph (10) strike the "." and insert in lieu thereof "; and";

(2) inserting a new paragraph (11) as follows:

"(11) A separate and detailed request for a grant under section 509 of this subpart, including how the funds provided by a grant under section 506 shall be coordinated with funds provided by a grant under section 509.".

SEC. 904. FEDERAL DRUG ENFORCEMENT ASSISTANCE.

(a) GENERAL STATE ASSISTANCE.—In order to provide adequate Federal drug enforcement assistance to each of the several States, and to encourage Federal, State and local drug enforcement cooperation, the Attorney General shall assign not less than ten Drug Enforcement Administration special agents to each of the several States.

(b) RURAL STATES.—In order to provide adequate Federal drug enforcement assistance to rural States for any rural State that is currently assigned less than ten Drug Enforcement Administration special agents, as of the date of enactment of this Act, the Attorney General shall assign not less than four additional Drug Enforcement Administration special agents to each rural State as defined in section 903 of this title.

SEC. 905. TRAINING FOR RURAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Treasury, acting through the Federal Law Enforcement Training Center, shall develop a drug training program for law enforcement officers in rural areas.

(b) TRAINING.—By not later than September 30, 1991, the Secretary of the Treasury shall double the number of law enforcement officers from rural jurisdictions in each of the several States that receive drug enforcement training.

(c) AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the fiscal years 1991 and 1992 to carry out the purposes of this title.

TITLE X—MANDATORY DETENTION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 1002. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

SEC. 1003. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a)(1) of section 3143 of title 18, United States Code, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

TITLE XI—FORFEITURE

SEC. 1101. USES OF JUSTICE FORFEITURE FUND.

(a) PURCHASE OF FIREARMS.—Section 524(c)(1) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by redesignating subparagraph (H) as subparagraph (I);

(3) by inserting a new subparagraph (H) as follows:

"(H) for any fiscal year, not to exceed $10,000,000 for the purchase of firearms, ammunition, protective body armor, and other personal safety equipment for investigative and enforcement personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service who devote a substantial amount of their time to drug law enforcement activities; and";

(4) in subparagraph (A)(ii) by—

(A) inserting a comma after "forfeitable assets";

(B) inserting "or listed chemicals (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))" after "storage, protection, and destruction of controlled substances".

(5) in subparagraph (B) by inserting before the semicolon ", or the money laundering offenses set forth in sections 1956 and 1957 of title 18 and sections 5313(a) and 5324 of title 31"; and

(6) in subparagraph (C) by inserting before the semicolon "or the money laundering provisions in sections 981 and 982 of title 18".

(b) DEFINITIONS AND PROCEDURES.—Subsection 524(c) of title 28, United States Code, is amended by adding at the end the following new paragraphs:

"(11) For the purposes of this subsection, the term 'firearm' means any rifle, handheld pistol or revolver, or other weapon that is authorized by the Attorney General, or his designee, to be carried by personnel of the Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, and the Immigration and Naturalization Service.

"(12) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his or her discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

(c) CONFORMING AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended by striking "and (G)" and inserting "(G) and (H)".

SEC. 1102. INCREASING EFFECTIVENESS OF ADMINISTRATIVE FORFEITURES.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—Subsection (a) of section 607 of the Tariff Act of 1930 (19 U.S.C. 1607(a)) is amended—

(1) in paragraph (1) by striking "$100,000" and inserting "$500,000";

(2) by striking "or" at the end of paragraph (2); and

(3) by inserting "or" after the semicolon at the end of paragraph (3); and

(4) by adding after paragraph (3) the following:

"(4) such seized merchandise is monetary instruments;".

(b) CONFORMING AMENDMENT.—The section heading for section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 1607. SEIZURE; VALUE $500,000 OR LESS, PROHIBITED ARTICLES, TRANSPORTING CONVEYANCES.".

SEC. 1103. FORFEITURE OF INSTRUMENTALITIES OF A FOREIGN DRUG OFFENSE.

Section 981(a)(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "proceeds obtained directly or indirectly from" the words "or which represents the instrumentalities of"; and

(2) by adding at the end thereof the following: "No conveyance shall be forfeited under this paragraph to the extent of an interest of an owner by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 1104. CLOSING OF LOOPHOLE TO DEFEAT CRIMINAL FORFEITURE THROUGH BANKRUPTCY.

(a) TITLE 18.—Section 1963(a) of title 18, United States Code, is amended by inserting after "shall forfeit to the United States irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this chapter".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413(a) of the Controlled Substances Act (21 U.S.C. 853(a)) is amended by inserting after "shall forfeit to the United States, irrespective of any provision of State law" the following: ", or of any bankruptcy proceeding instituted after or in contemplation of a prosecution of such violation".

SEC. 1105. NONABATEMENT OF CRIMINAL FORFEITURE WHEN DEFENDANT DIES PENDING APPEAL.

(a) TITLE 18.—Section 1963 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

(b) THE CONTROLLED SUBSTANCES ACT.—Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by adding at the end thereof the following new subsection:

"Nonabatement of Forfeiture Order

"(q) An order of forfeiture under this section shall not abate by reason of the death thereafter of any or all of the defendants or petitioners or potential petitioners.".

SEC. 1106. FORFEITURE OF PERSONAL PROPERTY USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end thereof the following new paragraph:

"(10) Any weapon, computer, or electronic communications device used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

SEC. 1107. FORFEITURE OF PROCEEDS TRACEABLE TO CONVEYANCES USED TO FACILITATE DRUG VIOLATIONS.

Section 511(a)(4) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) by inserting "and any proceeds traceable to such conveyances" after "property described in paragraph (1) or (2),";

(2) in subparagraph (A), by inserting ", and no proceeds traceable to such conveyance," before "shall be forfeited"; and

(3) in subparagraphs (B) and (C), by inserting "and no proceeds traceable to such conveyance" before "shall be forfeited".

SEC. 1108. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY AND ADMINISTRATIVE USE.

(a) CLARIFICATION OF AUTHORITY.—Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting ", by public sale or any other commercially feasible means," after "sell".

(b) ADMINISTRATIVE EXPENSES.—Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)(1)) is amended by adding at the end thereof the following: "In determining the equitable share of proceeds for a State or local law enforcement agency from a drug-related asset seizure under subparagraph (A), the Attorney General shall not retain more than 10 percent of the total proceeds to cover the costs of administrative expenses.".

SEC. 1109. CLARIFICATION OF CIVIL FORFEITURE SEIZURE WARRANT AUTHORITY.

Section 981(b)(2) of title 18, United States Code, is amended by striking "has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure" and inserting "has obtained a warrant for such seizure in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure".

SEC. 1110. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a) (2) or (3) which cannot be separated safely from such raw materials or products" after "this title" wherever it appears.

SEC. 1111. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE TREASURY DEPARTMENT AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 1112. FORFEITABILITY OF REAL PROPERTY UNDER GAMBLING STATUTE.

(a) IN GENERAL.—Section 1955 of title 18, United States Code, is amended to read as follows:

(1) in subsection (d), by striking ", including money," and inserting "of any kind, real or personal, tangible or intangible,"; and

(2) by inserting at the end the following:

"(f) Any person convicted of a violation of this section shall forfeit to the United States, irrespective of any provision of State law, or of any bankruptcy proceeding instituted after or in contemplation of a prosecution under this section—

"(1) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation; and

"(2) any of the person's property used or intended to be used, in any manner or part, to commit or to facilitate the commission of such violation.

The provisions of 511 of the Controlled Substances Act (21 U.S.C. 853) shall apply to property subject to forfeiture under this section, to any seizure or disposition thereof, and to any administrative or judicial proceeding in relation thereto, if not inconsistent with this section.".

(b) TECHNICAL AMENDMENT.—Section 1955(a) of title 18 is amended by striking out "shall be fined not more than $20,000 or" and inserting "shall be fined under this title,".

SEC. 1113. CUSTOMS FORFEITURE FUND.

Section 613A, subsection (a)(3)(F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: "payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

TITLE XII—PUBLIC CORRUPTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1990".

SEC. 1202. OFFENSE.

Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, or political subdivision of a State, shall be fined under this title, or imprisoned for not more than ten years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, run-off, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than ten years, or both.

"(c) Whoever, being a public official or an official or employee of a State, or political subdivision of a State, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State or political subdivision conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than ten years, or both.

"(f) Whoever being an official, or public official, or person who has been selected to be a public official, directly or indirectly, discharges, demotes, suspends, threatens, harasses, or, in any manner, discriminates against any employee or official of the United States or any State or political subdivision of such State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to five years or both.

"(g)(1) Any employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, three times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the dis-

crimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual is not eligible for such relief if that individual participated in the violation of this section with respect to which such relief would be awarded.

"(3) A civil action or proceeding authorized by this subsection shall be stayed by a court upon the certification of an attorney for the Government, stating that such action or proceeding may adversely affect the interests of the Government in an ongoing criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 of this title; the terms 'public official', and 'person who has been selected to be a public official' shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that he or she controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce.".

SEC. 1203. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF SECTIONS.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption.".

(b) RICO.—Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(c) INTERRUPTION OF COMMUNICATIONS.—Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 1204. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended by—

(1) striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(2) inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) CONFORMING AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended by striking "Fraud by wire, radio, or television" and inserting "Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 1205. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by inserting after section 219 the following new section:

"§ 220. Narcotics and public corruption

"(a) Any public official who, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person in return for—

"(1) being influenced in the performance or nonperformance of any official act; or

"(2) being influenced to commit or to aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State;

shall be guilty of a class B felony.

"(b) Any person who, directly or indirectly, corruptly gives, offers, or promises anything of value to any public official, or offers or promises any public official to give anything of value to any other person, with intent—

"(1) to influence any official act;

"(2) to influence such public official to commit or aid in committing, or to collude in, or to allow or make opportunity for the commission of any offense against the United States or any State; or

"(3) to influence such public official to do or to omit to do any act in violation of such official's lawful duty;

shall be guilty of a class B felony.

"(c) There shall be Federal jurisdiction over an offense described in this section if such offense involves, is part of, or is intended to further or to conceal the illegal possession, importation, manufacture, transportation, or distribution of any controlled substance or controlled substance analogue.

"(d) For the purpose of this section—

"(1) the term 'public official' means—

"(A) an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof in any official function, under or by authority of any such department, agency, or branch of Government;

"(B) a juror;

"(C) an officer or employee or person acting for or on behalf of the government of any State, territory, or possession of the United States (including the District of Columbia), or any political subdivision thereof, in any official function, under or by the authority of any such State, territory, possession, or political subdivision; or

"(D) any person who has been nominated or appointed to be a public official as defined in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed;

"(2) the term 'official act' means any decision, action, or conduct regarding any question, matter, proceeding, cause, suit, investigation, or prosecution which may at any time be pending, or which may be brought before any public official, in such official's official capacity, or in such official's place of trust or profit; and

"(3) the terms 'controlled substance' and 'controlled substance analogue' have the meaning set forth in section 102 of the Controlled Substances Act.".

(b) CONFORMING AMENDMENTS.—(1) Section 1961(1) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "Section 201 (relating to bribery),"; and

(2) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 220 (relating to narcotics and public corruption)," after "section 201 (bribery of public officials and witnesses),".

(c) SECTION ANALYSIS.—The section analysis at the beginning of chapter 11, title 18, United States Code, is amended by inserting the following:

"220. Narcotics and public corruption.".

TITLE XIII—CIVIL ENFORCEMENT

SEC. 1301. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following:

"(c) The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking place. The court in which such action is brought shall determine the existence of a violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions and evictions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 1302. USE OF CIVIL INJUNCTIVE REMEDIES, FORFEITURE SANCTIONS, AND OTHER REMEDIES AGAINST DRUG OFFENDERS.

The Attorney General shall—

(1) aggressively pursue the use of criminal penalties authorized by section 1963 of title 18, United States Code, civil remedies authorized by section 1964 of title 18, United States Code, and other equitable remedies against drug offenders, including injunctions, stay-away orders, and forfeiture sanctions; and

(2) submit a report to Congress annually on the manner and extent to which such remedies are being used and the effect of such use in curtailing drug trafficking. The amendments made by this section shall take effect one day after enactment.

SEC. 1401. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNNUMBERED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating unnumbered paragraphs (1) through (11) as subsections (a) through (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as so designated by this section, is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section

5032(d) of title 18, United States Code, as so designated by this section is amended—

(1) by striking "A juvenile" and inserting "(1) Except as provided in paragraphs (2) and (3), a juvenile";

(2) by striking ", except that," and designating the following matter up to the semicolon as paragraph (2);

(3) by striking "however" after the semicolon and designating the remaining matter as paragraph (3); and

(4) by inserting in paragraph (2) "or section 924 (b), (g), or (h) of this title," after "959),".

(d) FACTORS FOR TRANSFERRING A JUVENILE TO ADULT STATUS.—Section 5032(e) of title 18, United States Code, as so designated by this section, is amended—

(1) by inserting "(1)" before "Evidence";

(2) by striking "intellectual development and psychological maturity;" and inserting "level of intellectual development and maturity; and";

(3) by inserting ", such as rehabilitation and substance abuse treatment," after "past treatment efforts";

(4) by striking "; the availability of programs designed to treat the juvenile's behavorial problems"; and

(5) by adding at the end the following:

"(2) In considering the nature of the offense, as required by this subsection, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use and distribution of controlled substances or firearms. Such factors, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of such factors shall not preclude a transfer to adult status.".

(e) WAIVING CONFIDENTIALITY IN CERTAIN JUVENILE PROCEEDINGS.—Section 5038 of title 18, United States Code, is amended by adding at the end the following:

"(g) In addition to any other provision of this section regarding disclosure of records if the law of the State in which a Federal juvenile delinquency proceeding takes place would permit or require the disclosure of records and information relating to a juvenile delinquency proceeding in certain circumstances, such disclosure shall be permitted under this section whenever the same circumstances exist.".

(f) CONFORMING AMENDMENT ADDING CERTAIN CONTROLLED SUBSTANCES OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.—Sections 5038 (d) and (f) of title 18, United States Code, are amended by striking out "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting in lieu thereof "or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841) or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, or 960(b)(1), (2), or (3)), or section 924 (b), (g) or (h) of this title,".

SEC. 1402. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding a new clause (iii), as follows:

"(iii) any act of juvenile delinquency that if committed by an adult would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 1403. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT PERTAINING TO CHILDREN.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended—

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)".

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.

"419. Distribution or manufacturing in or near schools and colleges.

"420. Employment of persons under 18 years of age.

"421. Denial of Federal benefits to drug traffickers and possessors.".

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.

"519. Production control of controlled substances.".

SEC. 1404. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by section 1507 of this Act) is amended—

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

SEC. 1615. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by (1) inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for ten years," after "sentenced to imprisonment for five years,", and (2) inserting "or a destructive device," after "a machinegun,".

TITLE XVII—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

SEC. 1701. RECEIVING STOLEN PROPERTY.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

"Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term "official representation" means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1702. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking out "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 1703. MARITIME DRUG LAW ENFORCEMENT AMENDMENTS.

Sections 3142 (e) and (f) of title 18, United States Code, and sections 994(h) (1) and (2) of title 28, United States Code, are each amended by striking out "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

SEC. 1704. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 1705. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 1706. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 1707. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) LARGE AMOUNTS.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) SMALL AMOUNTS.—Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

SEC. 1708. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended by striking "The Government, with the personal approval of the Attorney General or the Solicitor General, may file a notice of appeal in the district court for review of" and inserting "The Government, with the approval of the Attorney General or the Solicitor General, may appeal".

SEC. 1709. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 1710. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 1711. CORRECTION OF MISSPELLED WORDS, TYPOGRAPHICAL ERRORS, AND MISDESIGNATIONS.

(a) Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking out "stimulent" each place that word appears and inserting in lieu thereof "stimulant";

(b) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out "suspervised" each place that word appears and inserting in lieu thereof "supervised";

(c) Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are amended by striking out "any of the substance" and inserting in lieu thereof "any of the substances";

(d) Section 151 of title 18, United States Code, is amended by striking out "mean" and inserting in lieu thereof "means";

(e) Section 665(c) of title 18, United States Code, is amended by striking out "Any person whoever" and inserting in lieu thereof "Any person who";

(f) Section 794(d)(4) of title 18, United States Code, is amended by striking out "all amount" and inserting in lieu thereof "all amounts";

(g) The second section 798 of title 18, United States Code, entitled "Temporary extension of section 794" is designated as section 800 of such title, and the table of sections for chapter 37 of such title is amended accordingly;

(h) Section 3125(d) of title 18, United States Code, is amended by striking out "A provider for a wire or electronic service," and inserting in lieu thereof "A provider of a wire or electronic service,";

(i) Section 4285 of title 18, United States Code, is amended by striking out "exced" and inserting in lieu thereof "exceed";

(j) Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845(c)) are amended by striking out "have become final" and inserting in lieu thereof "has become final";

(k) Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)";

(l) Section 12 of title 18, United States Code, is amended by striking out "every officer and employee of that Service, whether he has taken the oath of office" and inserting in lieu thereof "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office";

(m) Section 1546(a) of title 18, United States Code is amended by striking out "Shall be fined not more than in accordance with this title" and inserting in lieu thereof "Shall be fined in accordance with this title";

(n) Section 3563(b)(3) of title 18, United States Code, is amended by striking out "section 3663 and 3664" and inserting in lieu thereof "sections 3663 and 3664";

(o) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "paraphenalia" and inserting in lieu thereof "paraphernalia";

(p) Section 219(c) of title 18, United States Code, is amended by striking out "branch of Governments" and inserting in lieu thereof "branch of Government";

(q) Section 513(c)(3) of title 18, United States Code, is amended by striking out "15 U.S.C. 1693(c)" and inserting in lieu thereof "15 U.S.C. 1693n(c)";

(r) Section 665 of title 18, United States Code, is amended in the section heading by striking out both colons and inserting in lieu thereof semicolons;

(s) Section 844(d) of title 18, United States Code, is amended by striking out "this subsection,," and inserting in lieu thereof "this subsection,";

(t) Section 1466(b) of title 18, United States Code, is amended—

(1) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(2) by striking out "subsection (b)" and inserting in lieu thereof "this subsection";

(u) Section 1963(a) of title 18, United States Code, is amended by striking out "both.," and inserting in lieu thereof "both," ';

(v) Section 2254(e) of title 18, United States Code, is amended by inserting the following subsection heading: "Non-applicability to visual depictions.—";

(w) Section 3583(e) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking out "or" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(3) by redesignating paragraph "(5)" as paragraph "(4)";

(x) Section 3077(4) of title 18, United States Code, is amended by striking out the semicolon at the end and inserting in lieu thereof a period;

(y) Section 3166(b)(8) of title 18, United States Code, is amended by striking out "extention" and inserting in lieu thereof "extension"; and

(z) Section 4352(c) of title 18, United States Code, is amended by striking out "Each recipient of assistance under this shall" and inserting in lieu thereof "Each recipient of assistance under this title shall".

SEC. 1712. CORRECTION OF ERRONEOUS CROSS-REFERENCE.

Section 2703(d) of title 18, United States Code, is amended by striking out "section 3126(2)(A) of this title" and inserting in lieu thereof "section 3127(2)(A) of this title".

SEC. 1713. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.

Section 2705(a)(1)(B) of title 18, United States Code, is amended by inserting "or trial" after "grand jury".

SEC. 1714. REDESIGNATION OF PARAGRAPHS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating the first paragraph (m) which reads "any conspiracy to commit any of the foregoing offenses." as paragraph (o);

(2) by striking out "and" at the end of paragraph (m); and

(3) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and".

SEC. 1715. TABLE OF SECTIONS AMENDMENT FOR THE INTERSTATE AGREEMENT ON DETAINERS.

The table of sections for the Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following: "9. Special Provisions when United States is a Receiving State.".

SEC. 1716. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Section 232 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(b) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(d) Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(e) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(f) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(g) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(h) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(i) Section 1952(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" after "As used in this section"; and

(2) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(j) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(k) Section 1958(b) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(l) Section 2313 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(m) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(n) Section 5032 of title 18, United States Code, is amended—

(1) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 1717. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(a) Section 45 of title 18, United States Code, is repealed.

(b) The table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 1718. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

(a) Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(b) Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 1719. DELETION OF REDUNDANT PROVISION AND CORRECTION OF CITATIONS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by striking out "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (j), by striking out "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(o)(2)) or sections 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472(i) or (n))".

SEC. 1720. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 1721. CLARIFICATION OF ONE-YEAR PERIOD.

Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one-year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.".

SEC. 1722. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service".

(b) Section 1714 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is repealed.

(c) Section 1718 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

SEC. 1723. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further,*".

SEC. 1724. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "if the property is not disposed of by marshal's sale".

SEC. 1725. CORRECTION OF CROSS-REFERENCE.

Section 4247(h) of title 18, United States Code, is amended by striking out "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsection (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

SEC. 1726. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.

(a) INCLUSION OF THIRTEEN- AND FOURTEEN-YEAR-OLDS.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of twelve years; or

"(2) has attained the age of twelve years but has not attained the age of fourteen years, and is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Section 2241(d) of title 18, United States Code, is amended by striking out "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENT TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking out "12" and inserting "14" in lieu thereof.

(d) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT REGARDING PERSONS UNDER SIXTEEN YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking out "or" after the semicolon;

(2) in subparagraph (C) by striking out "; and" and inserting "; or" in lieu thereof; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(e) CONFORMING AMENDMENT TO DEFINITION OF SEXUAL CONTACT.—Paragraph (3) of section 2245 of title 18, United States Code, is amended by inserting ", but does not include the conduct described in paragraph (2)(D)" after "of any person" the second place it appears.

(f) DESIGNATION OF SECTION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(g) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(h) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking out "2245" and inserting "2246" in lieu thereof; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 1727. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.

Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within sixty days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 1728. TECHNICAL AMENDMENTS.

(a) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests".

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(f) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 1729. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 1730. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended—

(1) by striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 1731. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 1732. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

SEC. 1733. AMENDMENT TO WIRETAP STATUTE.

(a) IN GENERAL.—Section 2511(1) of title 18, United States Code, is amended by—

(1) striking "or" at the end of paragraph (c);

(2) inserting "or" after the semicolon at the end of paragraph (d); and

(3) adding the following new paragraph:

"(e) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by this chapter, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, with intent to obstruct, impede, or interfere with a criminal investigation;".

(b) ADMISSION OF EVIDENCE.—Section 2515 of title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of section 2511(1)(e).".

SEC. 1734. MANDATORY MINIMUM SENTENCES FOR DRUG OFFENSES INVOLVING MINORS.

(a) DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE.—(1) Section 405(a) of the Controlled Substances Act (21 U.S.C. 405(a)) is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405(b) of the Controlled Substances Act (21 U.S.C. 405(b)) is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(3) Section 405 of the Controlled Substances Act (21 U.S.C. 405) is amended by adding at the end thereof the following: "Suspension of sentence; probation; parole.

"(c) In the case of any mandatory minimum sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(b) DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES.—(1) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 405a(a)) is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended—

(A) in paragraph (1)(B) by striking ", or a fine up to three times that" through "or both"; and

(B) by inserting after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a person shall be sentenced under this subsection to a term of imprisonment of not less than three years".

(3) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended—

(A) in the first sentence by inserting "mandatory minimum" after "any";

(B) in the first sentence by striking "subsection (b) of"; and

(C) by striking the second sentence and inserting "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(c) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—(1) Section 405B(b) of the Controlled Substances Act (21 U.S.C. 405b(b)) is amended—

(A) in the first sentence by striking ", or up to twice the fine otherwise authorized, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under subsection (a) to a term of imprisonment of not less than one year".

(2) Section 405B(c) of the Controlled Substances Act (21 U.S.C. 405b(c)) is amended—

(A) in the first sentence by striking ", or up to three times the fine otherwise authorized, or both,";

(B) by adding after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(3) The second sentence of section 405B(e) of the Controlled Substances Act (21 U.S.C. 845b(e)) is amended to read as follows: "An individual shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as enhanced by this section.".

SEC. 1735. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Notwithstanding section 503 of this Act, section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State or the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 1736. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Notwithstanding section 510 of this Act, section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 1737. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12 month period".

SEC. 1738. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

TITLE XVIII—FEDERAL PRISONER DRUG TESTING

SEC. 1801. SHORT TITLE.

This title may be cited as the "Federal Prisoner Drug Testing Act of 1990".

SEC. 1802. CONDITIONS ON PROBATION.

Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof "; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant—

"(A) pass a drug test prior to the imposition of such sentence;

"(B) refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance"; and

(4) by adding at the end thereof and the following: "No action may be taken against a defendant pursuant to a drug test administered in accordance with paragraph (4) unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United

States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 1803. CONDITIONS ON SUPERVISED RELEASE.

Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. 1904. CONDITIONS ON PAROLE.

Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance the provision of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

HATFIELD (AND CHAFEE) AMENDMENT NO. 2100

Mr. HATFIELD (for himself and Mr. CHAFEE) proposed an amendment to the bill S. 1970, supra, as follows:

At the end of the bill add the following:

SEC. . MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE.

Notwithstanding any amendment made by this Act or any other provision of this Act that authorizes the imposition of a sentence of death, such amendment or provision shall be construed to authorize only the imposition of a sentence of mandatory life imprisonment without possibility of release.

LEVIN AMENDMENT NO. 2101

Mr. LEVIN proposed an amendment to amendment No. 2100 proposed by Mr. HATFIELD to the bill S. 1970, supra, as follows:

Section 3663 of title 18, United States Code, as added by the amendment, is amended by adding at the end the following:

"( ) Notwithstanding any other provision of law, any defendant sentenced to life imprisonment without possibility of release under this chapter or any other provision of law shall be ordered to pay not more than 50 percent of any income received directly or indirectly, during imprisonment, to the family or the estate of the victim of the crime for which the defendant is sentenced, unless the victim was engaged in criminal activity at the time of the crime for which the defendant is sentenced. In the event that a defendant is sentenced for the death of more than one victim, the amounts paid to the families or the estates of the victims shall be apportioned by the court.".

KERRY AMENDMENT NO. 2102

Mr. KERRY proposed an amendment to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following: Base allocation for drug enforcement grants and improving the effectiveness of court process.

(a) BASE ALLOCATION FOR DRUG ENFORCEMENT GRANT.—Paragraph (5) of section 1001(a)of part J of title I of the Omnibus Crime control and Safe Streets Act of 1968 is amended to read as follows:

"(5) There are authorized to be appropriated $900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title."

LEVIN AMENDMENT NO. 2103

Mr. LEVIN proposed an amendment to the bill S. 1970, supra, as follows:

At the end of the bill, add the following new title:

TITLE —CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY

SEC. . CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY.

(a) AUTOMATIC STAY NONAPPLICABLE TO CRIMINAL RESTITUTION DEBT.—Section 362(b) is amended—

(1) in paragraph (12) by striking out "or" at the end thereof:

(2) in paragraph (13) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(14) under subsection (a) of this section, of the payment of any fine or penalty imposed by an order for restitution in any State or Federal criminal judgment, or any related probationary order.".

(b) CRIMINAL RESTITUTION DEBT EXCEPTION TO DISCHARGE.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (9) by striking out "or" at the end thereof;

(2) in paragraph (10) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(11) for a fine or penalty imposed by an order for restitution in any State or Federal criminal judgment, or any related probationary order.".

(c) PAYMENT OF RESTITUTION IN CHAPTER 13 PLAN.—Section 1322(a) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking out "and" at the end thereof;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for full payment of all claims which are nondischargeable under section 523(a)(11) of this title.".

(d) NONDISCHARGE OF CRIMINAL RESTITUTION DEBT UNDER CHAPTER 13 OF TITLE 11, UNITED STATES CODE.—Section 1328(a) of title 11, United States Code, is amended in paragraph (2) by inserting "or (11)" after "section 523(a)(5)".

At the end of the table of contents add the following:

TITLE —CRIMINAL RESTITUTION DEBTS NONDISCHARGEABLE IN BANKRUPTCY

Sec. . Criminal restitution debts nondischargeable in bankruptcy.

BIDEN AMENDMENT NO. 2104

Mr. BIDEN proposed an amendment to the bill S. 1970, supra, as follows:

At the appropriate place, insert the following:

SEC. . FUNDS FOR STATE "BOOT CAMP" SHOCK INCARCERATION PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated under this section $20,000,000 in a special discretionary fund for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995, for use by the Director of the Bureau of Justice Assistance (referred to as the "Director") to make grants under this section. The Director is authorized to make grants to States to establish, operate, and support shock incarceration programs, also known as special alternative incarceration or boot camp prisons, as an intermediate sanction or as an alternative to conventional prisons.

(b) DEFINITION.—For purposes of this section the term "shock incarceration program" means—

(1) a correctional program in which adult offenders who have been convicted of offenses for which the sentence authorized by state law is 1 year or longer in prison are required to participate in a highly regimented program that provides strict discipline, physical training, hard labor, and drill; and

(2) a program that does not include offenders who are—

(A) convicted of offenses for which probation or parole is not available. If State law provides for probation or parole for certain offenses;

(B) convicted of an offense for which a sentence of life imprisonment or capital punishment is authorized by state law; and

(C) convicted of homicide, sexual assault, or assault with a dangerous weapon.

The State officials responsible for selection or confinement decisions for prisoners in a shock incarceration program may exclude offenders other than offenders described in paragraph (2) who are deemed by such officials to be dangerous or violent offenders.

(c) PROGRAM.—In carrying out a project pursuant to this section, a State shall provide that—

(A) all offenders who are confined to shock incarceration programs shall be offered substance abuse treatment, counseling, and literacy education during confinement, as required, and shall be subject to periodic testing for illegal drug use;

(B) all offenders who successfully complete shock incarceration shall—

(i) serve a form of community confinement or be placed under home detention or intensive supervision upon release;

(ii) be subject to periodic testing for illegal drug use;

(iii) continue to receive substance abuse treatment, counseling, and literacy education, as required; and

(iv) provide restitution and participation in community service programs, as required; and

(C) to the fullest extent possible, all offenders who are confined to shock incarceration programs shall be offered vocational education and job training both during confinement and during community confinement, home detention, or supervised release.

(d) APPLICATION BY STATE.—To request a grant under subsection (a) of this section, the chief executive of a state corrections department shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

(1) a certification that federal funds made available under this section will not be used to supplant State or local funds that would, in the absence of Federal funds, be made available to carry out such project;

(2) a statement as to whether the State will make use of contributions by private entities, in cash or in kind;

(3) a description of the method the State will use to carry out the evaluation required by paragraph (4); and

(4) an assurance that after each fiscal year in which funds for a grant made under this section are expended, the State shall submit to the Director an evaluation of the impact and the effectiveness of the project for which such grant is made.

(e) SELECTION CRITERIA.—For purposes of determining whether to make a grant under this section, the Director shall—

(1) consider the overall quality of an applicant's shock incarceration program, including the existence of substance abuse treatment, drug testing, counseling, literacy education, vocational education, and job training programs during incarceration or after release; and

(2) give priority to States that clearly demonstrate that the capacity of their correctional facilities is inadequate to accommodate the number of individuals who are convicted of offenses punishable by a term of imprisonment exceeding 1 year.

(f) GRANTS LIMITS. Notwithstanding subsection (e), the Director shall not approve a grant under this section to any State—

(1) in an amount that exceeds 10 percent of the aggregate amount appropriated for such fiscal year to carry out this section; or

(2) for substance abuse treatment, drug testing, counseling, literacy education, vocational education, or job training, independent of a shock incarceraton program.

(g) ADDITIONAL FUNDING.—Notwithstanding the amount of any funds appropriated under this section, the Director may grant discretionary funding for shock incarceration projects under this general discretionary funding authority.

At the appropriate place, add the following:

TITLE .—NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990

SEC. 01. SHORT TITLE.

This title may be cited as the "National Child Search Assistance Act of 1990".

SEC. 02. REPORTING REQUIREMENT.

(a) IN GENERAL.—Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 18 reported to such agency to the National Crime Information Center of the Department of Justice.

(b) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such reports including procedures for carrying out the purposes of this title.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the reports received under this title.

SEC. 03. STATE REQUIREMENTS.

(a) IN GENERAL.—Each State reporting under the provisions of this title shall—

(1) ensure that no law enforcement agency within the State establishes or maintains any policy which requires the observance of any waiting period before accepting a missing child report;

(2) provide that all necessary and available information, which shall include—

(A) the name, date of birth, sex, height, weight, and eye and hair color of the child;

(B) the date reported missing and the last known location of the child; and

(C) the category by which the child was abducted,

is entered into the State law enforcement system and the National Crime Information Center computer networks and forwarded to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports as established in title IV of the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93-415); and

(3) provide that after receiving reports as provided in paragraph (2), the Missing Children Information Clearinghouse or designated agency shall—

(A) notify all other law enforcement agencies in the State;

(B) verify and update with any additional information the original entry made into the State law enforcement system and National Crime Information Center computer networks;

(C) institute or assist with appropriate search and investigative procedures; and

(D) maintain close liaison with the National Center for Missing and Exploited Children for the exchange of information and technical assistance in the missing children cases.

(b) LIMIT ON GRANTS.—Any State not complying with the provisions of subsection (a) shall be denied any grant, cooperative agreement, or other assistance authorized by the Missing Children's Assistance Act (Public Law 98-473).

At the appropriate place in the bill, insert the following:

SEC. . SUPPORT OF FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.

Section 4013 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(b)(1) The United States Marshals Service may designate districts that need additional support from private detention entities under subsection (a)(3) based on—

"(A) the number of Federal detainees in the district; and

"(B) the availability of Federal, State, and local government detention facilities.

"(2) In order to be eligible for a contract for the housing, care, and security of persons held in custody of the United States Marshal pursuant to Federal law and funding under subsection (a)(3), a private entity shall—

"(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

"(B) meet the standards of the American Correctional Association;

"(C) comply with all applicable State and local laws and regulations;

"(D) have approved fire, security, escape, and riot plans; and

"(E) comply with any other regulations that the Marshals Service deems appropriate.".

"(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3).".

At the appropriate place, insert the following:

SEC. . AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended—

(1) in subsection (a) by—

(A) striking "playground."; and

(B) inserting "or a public or private playground." after "university."; and

(2) in subsection (b) by—

(A) striking "playground."; and

At the appropriate place, insert the following:

SEC. . GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Gun-Free School Zones Act of 1990".

(b) PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(q)(1)(A) It shall be unlawful for any individual knowingly to posses a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"(B) Subparagraph (A) shall not apply to the possession of a firearm—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the firearms is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) which is—

"(I) not loaded; and

"(II) in a locked container, or a locked firearms rack which is on a motor vehicle;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in his or her official capacity; or

"(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private land open to hunting, if the entry on school premises are authorized by school authorities.

"(2)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another to discharge or attempt to discharge a firearm in a place that the person knows is a school zone.

"(B) Subparagraph (A) shall not apply to the discharge of a firearm—

"(i) on private property not part of school grounds;

"(ii) as part of a program approved by the school in the school zone, by an individual who is participating in the program;

"(iii) by an individual in accordance with a contract entered into between a school in

the school zone and the individual or an employee of the individual; or

Section 613A, subsection (a) (3) (F), of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows: payment of overtime, salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in assisting the United States Customs Service in law enforcement activities.".

At the appropriate place, insert the following:

SEC. . PROHIBITION OF CERTAIN DRUG ADVERTISEMENTS.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting a new subsection (c) as follows:

"(e)(1) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any direct or indirect advertisement, knowing, or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote or facilitate the distribution or transfer of a Schedule I controlled substance.

"(2) As used in this section, the term 'indirect advertisement' means an advertisement for a catalogue of Schedule I controlled substances, the name, address, phone number, or similar information relating to a contact for obtaining a Schedule I controlled substance, and any similar advertisement whose purpose is to indirectly promote or facilitate the transfer or distribution of a Schedule I controlled substance.".

At the end of the bill add the following new title:

TITLE ____—FOOD STAMP CRIMINAL PROVISIONS

SEC. ____01. SHORT TITLE.

This title may be cited as the "Food Stamp Trafficking Prevention and Penalty Act of 1990".

SEC. ____02. TAXPAYER IDENTIFYING NUMBERS OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by adding at the end the following: "Such regulations shall require each applicant retail food store or wholesale food concern, and each approved retail food stores or wholesale food concern, to submit to the Secretary the taxpayer identifying number applicable under the Internal Revenue Code of 1986 to such store or concern.".

SEC. ____03. UNLAWFUL USE OF COUPONS IN LAUNDERING MONETARY INSTRUMENTS.

Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by adding at the end the following:

"(h) For purposes of section 1956 of title 18, United States Code, a violation of this section shall be considered to be a specified unlawful activity (as defined in section 1956(c)(7) of such title) if such violation involves a quantity of coupons that has a value of not less than $5,000.".

SEC. ____04. FORFEITURE OF PROPERTY.

(a) CIVIL AND CRIMINAL FORFEITURE.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 23. FORFEITURE OF PROPERTY.

"(a) PROPERTY SUBJECT TO FORFEITURE.—The following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(1) All coupons which have been used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsection (b) or (c) of section 15.

"(2) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), except that—

"(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it appears that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of subsection (b) or (c) of section 15;

"(B) no conveyance shall be forfeited under this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

"(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed, or omitted without the knowledge, consent, or willful blindness of the owner.

"(3) All books, records, microfilm, tapes, and data which are used, or intended for use, in violation of subsection (b) or (c) of section 15.

"(4) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for coupons in violation of subsection (b) or (c) of section 15, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of subsection (b) or (c) of section 15, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(5) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of subsection (b) or (c) of section 15 punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(6) All coupons which have been involved in violation of subsection (b) or (c) of section 15.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS; ISSUANCE OF WARRANT AUTHORIZING SEIZURE.—Any property subject to civil forfeiture to the United States under subsection (a) may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

"(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

"(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this Act;

"(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

"(4) the Attorney General has probable cause to believe that the property is subject to civil forfeiture under subsection (a).

In the event of seizure pursuant to paragraph (2), proceedings under subsection (d) shall be instituted promptly. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under subsection (a) in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF ATTORNEY GENERAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this Act, the Attorney General may—

"(1) place the property under seal;

"(2) remove the property to a place designated by him; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—The provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims;

shall apply to seizure and forfeitures incurred, or alleged to have been incurred, under this Act, insofar as applicable and not inconsistent with the provisions hereof, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this Act by such officers, agents, or other persons as may be authorized to be designated for that purpose by the Attorney General unless such duties arise from seizures and forfeitures effected by any customs officer.

"(e) DISPOSITION OF FORFEITED PROPERTY.—

"(1) METHODS.—Whenever property is civilly or criminally forfeited under this section the Attorney General may—

"(A) retain the property for official use or, in the manner provided with respect to transfers under section 1616a of title 19, United States Code, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

"(B) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

"(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

"(D) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in a seizure or forfeiture of the property, if such a transfer—

"(i) has been agreed to by the Secretary of State;

"(ii) is authorized in an international agreement between the United States and the foreign country; and

"(iii) is made to a country which, if applicable, has been certified under section 2291(h) of title 22, United States Code.

"(2) USE OF PROCEEDS FROM SALES.—The proceeds from any sale under paragraph (1)(B) and any monies forfeited under this section shall be used—

"(A) first, to reimburse the Department of Justice for the costs incurred by the Department to initiate and complete the forfeiture proceeding that caused the sale that produced such proceeds;

"(B) second, to reimburse the Department of Agriculture for any costs incurred by the Department to assist the Department of Justice to initiate or complete such proceeding; and

"(C) third, to reimburse the State agency for any costs incurred by the State agency to assist the Department of Justice, or the Department of Agriculture, to initiate or complete such proceeding.

The amount remaining, if any, shall be available to the Secretary to carry out this Act.

"(3) TRANSFER OF PROPERTY.—The Attorney General shall ensure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

"(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local law enforcement agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.

"(f) FORFEITURE AND DESTRUCTION OF COUPONS.—All coupons that are used, transferred, acquired, altered, possessed, or presented or caused to be presented for payment or redemption in violation of subsection (b) or (c) of section 15 shall be deemed contraband, and seized and summarily forfeited to the United States. Similarly, all coupons which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

"(g) VESTING OF TITLE IN UNITED STATES.—All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF CIVIL FORFEITURE PROCEEDINGS.—The filing of an indictment or information alleging a violation of section 15 which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

"(j) AGREEMENT BETWEEN ATTORNEY GENERAL AND POSTAL SERVICE FOR PERFORMANCE OF FUNCTIONS.—The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.

"(k) EXPEDITED PROCEDURES FOR PROPERTY OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.—

"(1) PETITION FOR EXPEDITED DECISION; DETERMINATION.—(A) A retail food store or wholesale food concern may petition the Attorney General for an expedited decision with respect to property used to carry out its food sale operations if such property is seized under this section and if such store or concern filed the requisite claim and cost bond in the manner provided in section 1608 of title 19, United States Code. The Attorney General shall make a determination on a petition under this subsection expeditiously, including a determination of any rights or defenses available to the petitioner. If the Attorney General does not grant or deny a petition under this subsection within 20 days after the date on which the petition is filed, such property shall be returned to the owner pending further forfeiture proceedings.

"(B) With respect to a petition under this subsection, the Attorney General may—

"(i) deny the petition and retain possession of such property;

"(ii) grant the petition, move to dismiss the forfeiture action, if filed, and promptly release such property to such store or concern; or

"(iii) advise the petitioner that there is not adequate information available to determine the petition and promptly release such property to such store or concern.

"(C) Release of property under subparagraph (A) or (B)(iii) does not affect any forfeiture action with respect to such property.

"(D) The Attorney General shall prescribe regulations to carry out this subsection.

"(2) WRITTEN NOTICE OF PROCEDURES.—At the time of seizure, the officer making the seizure shall furnish to any person in possession of such property a written notice specifying the procedures under this subsection. At the earliest practicable opportunity after determining ownership of the seized property, the head of the department or agency that seizes such property shall furnish a written notice to such store or concern, and other interested parties (including lienholders), of the legal and factual basis of the seizure.

"(3) COMPLAINT FOR FORFEITURE.—Not later than 60 days after a claim and cost bond have been filed under section 1608 of title 19, United States Code, regarding property seized under this section, the Attorney General shall file a complaint for forfeiture in the appropriate district court, except that the court may extend the period for filing for good cause shown or on agreement of the parties. If the Attorney General does not file a complaint as specified in the preceding sentence, the court shall order the return of such property to such store or concern and the forfeiture may not take place.

"(4) BOND FOR RELEASE OF PROPERTY USED IN FOOD SALE OPERATION.—Any retail food store or wholesale food concern may obtain release of property used to carry out its food sale operations by providing security in the form of a bond to the Attorney General in an amount equal to the value of such property unless the Attorney General determines such property should be retained (A) as contraband, (B) as evidence of a violation of law, or (C) because, by reason of design or other characteristic, such property is particularly suited for use in illegal activities.".

(b) CONFORMING PROVISIONS.—(1) Section 15 of the Food Stamp Act of 1977 (7 U.S.C. 2024) is amended by striking subsection (g).

(2) Sections 981 and 982 of title 18, United States Code, shall not apply with respect to a violation of section 1956 of such title that, as a result of the amendment made by section 3 of this Act, is based on a violation of section 15 of the Food Stamp Act of 1977.

SEC. ____05. EFFECTIVE DATES.

(a) REGULATIONS.—The amendment made by section ____02 shall take effect 60 days after the date of the enactment of this Act.

(b) LAUNDERING AND FORFEITURE.—The amendments made by sections ____03 and ____04 shall take effect on the date of the enactment of this Act.

TITLE XVII—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

SEC. 1701. RECEIVING STOLEN PROPERTY.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by adding at the end thereof a new section, as follows:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

"Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, such element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated. For purposes of this section, the term "official representation" means any representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1702. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended by striking out "narcotic or other dangerous drugs" each place those words appear and inserting in lieu thereof "a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

SEC. 1703. MARITIME DRUG LAW ENFORCEMENT AMENDMENTS.

Sections 3142 (e) and (f) of title 18, United States Code, and sections 994(h) (1) and (2) of title 28, United States Code, are each amended by striking out "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting in lieu thereof "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

SEC. 1704. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 1705. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 1706. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 1707. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) LARGE AMOUNTS.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) SMALL AMOUNTS.—Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

SEC. 1708. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended by striking "The Government, with the personal approval of the Attorney General or the Solicitor General, may file a notice of appeal in the district court for review of" and inserting "The Government, with the approval of the Attorney General or the Solicitor General, may appeal".

SEC. 1709. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 1710. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 1711. CORRECTION OF MISSPELLED WORDS, TYPOGRAPHICAL ERRORS, AND MISDESIGNATIONS.

(a) Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking out "stimulent" each place that word appears and inserting in lieu thereof "stimulant";

(b) Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking out "suspervised" each place that word appears and inserting in lieu thereof "supervised";

(c) Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are amended by striking out "any of the substance" and inserting in lieu thereof "any of the substances";

(d) Section 151 of title 18, United States Code, is amended by striking out "mean" and inserting in lieu thereof "means";

(e) Section 665(c) of title 18, United States Code, is amended by striking out "Any person whoever" and inserting in lieu thereof "Any person who";

(f) Section 794(d)(4) of title 18, United States Code, is amended by striking out "all amount" and inserting in lieu thereof "all amounts";

(g) The second section 798 of title 18, United States Code, entitled "Temporary extension of section 794" is designated as section 800 of such title, and the table of sections for chapter 37 of such title is amended accordingly;

(h) Section 3125(d) of title 18, United States Code, is amended by striking out "A provider for a wire or electronic service," and inserting in lieu thereof "A provider of a wire or electronic service,";

(i) Section 4285 of title 18, United States Code, is amended by striking out "exced" and inserting in lieu thereof "exceed";

(j) Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845(c)) are amended by striking out "have become final" and inserting in lieu thereof "has become final";

(k) Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)";

(l) Section 12 of title 18, United States Code, is amended by striking out "every officer and employee of that Service, whether he has taken the oath of office" and inserting in lieu thereof "every officer and employee of that Service, whether or not such officer or employee has taken the oath of office";

(m) Section 1546(a) of title 18, United States Code is amended by striking out "Shall be fined not more than in accordance with this title" and inserting in lieu thereof "Shall be fined in accordance with this title";

(n) Section 3563(b)(3) of title 18, United States Code, is amended by striking out "section 3663 and 3664" and inserting in lieu thereof "sections 3663 and 3664";

(o) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "paraphenalia" and inserting in lieu thereof "paraphernalia";

(p) Section 219(c) of title 18, United States Code, is amended by striking out "branch of Governments" and inserting in lieu thereof "branch of Government";

(q) Section 513(c)(3) of title 18, United States Code, is amended by striking out "15 U.S.C. 1693(c)" and inserting in lieu thereof "15 U.S.C. 1693n(c)";

(r) Section 665 of title 18, United States Code, is amended in the section heading by striking out both colons and inserting in lieu thereof semicolons;

(s) Section 844(d) of title 18, United States Code, is amended by striking out "this subsection,," and inserting in lieu thereof "this subsection,";

(t) Section 1466(b) of title 18, United States Code, is amended—

(1) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(2) by striking out "subsection (b)" and inserting in lieu thereof "this subsection";

(u) Section 1963(a) of title 18, United States Code, is amended by striking out "both.," and inserting in lieu thereof "both,";

(v) Section 2254(e) of title 18, United States Code, is amended by inserting the following subsection heading: "Non-applicability to visual depictions.—";

(w) Section 3583(e) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking out "or" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(3) by redesignating paragraph "(5)" as paragraph "(4)";

(x) Section 3077(4) of title 18, United States Code, is amended by striking out the semicolon at the end and inserting in lieu thereof a period;

(y) Section 3166(b)(8) of title 18, United States Code, is amended by striking out "extention" and inserting in lieu thereof "extension"; and

(z) Section 4352(c) of title 18, United States Code, is amended by striking out "Each recipient of assistance under this shall" and inserting in lieu thereof "Each recipient of assistance under this title shall".

SEC. 1712. CORRECTION OF ERRONEOUS CROSS-REFERENCE.

Section 2703(d) of title 18, United States Code, is amended by striking out "section 3126(2)(A) of this title" and inserting in lieu thereof "section 3127(2)(A) of this title".

SEC. 1713. CONFORMING AMENDMENT TO THE ELECTRONIC COMMUNICATIONS PRIVACY ACT.

Section 2705(a)(1)(B) of title 18, United States Code, is amended by inserting "or trial" after "grand jury".

SEC. 1714. REDESIGNATION OF PARAGRAPHS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating the first paragraph (m) which reads "any conspiracy to commit any of the foregoing offenses." as paragraph (o);

(2) by striking out "and" at the end of paragraph (m); and

(3) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and".

SEC. 1715. TABLE OF SECTIONS AMENDMENT FOR THE INTERSTATE AGREEMENT ON DETAINERS.

The table of sections for the Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following: "9. Special Provisions when United States is a Receiving State.".

SEC. 1716. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Section 232 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(b) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(d) Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(e) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(f) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(g) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(h) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(i) Section 1952(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" after "As used in this section"; and

(2) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(j) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(k) Section 1958(b) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(l) Section 2313 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(m) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(n) Section 5032 of title 18, United States Code, is amended—

(1) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 1717. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(a) Section 45 of title 18, United States Code, is repealed.

(b) The table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 1718. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

(a) Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(b) Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 1719. DELETION OF REDUNDANT PROVISION AND CORRECTION OF CITATIONS IN WIRETAP LAW.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by striking out "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (j), by striking out "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(o)(2)) or sections 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472(i) or (n))".

SEC. 1720. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 1721. CLARIFICATION OF ONE-YEAR PERIOD.

Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one-year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.".

SEC. 1722. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service".

(b) Section 1714 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is repealed.

(c) Section 1718 of title 18, United States Code, is repealed and the section analysis for such section in chapter 83 of title 18 is likewise repealed.

SEC. 1723. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further,*".

SEC. 1724. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "if the property is not disposed of by marshal's sale".

SEC. 1725. CORRECTION OF CROSS-REFERENCE.

Section 4247(h) of title 18, United States Code, is amended by striking out "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting in lieu thereof "subsec-

tion (e) of section 4241, 4244, 4245, or 4246, or subsection (f) of section 4243,".

SEC. 1726. SEXUAL ABUSE AMENDMENTS RELATING TO MINORS.

(a) INCLUSION OF THIRTEEN- AND FOURTEEN-YEAR-OLDS.—Section 2241(c) of title 18, United States Code, is amended to read as follows:

"(c) WITH CHILDREN.—Whoever, in the special maritime and territorial jurisdiction of the United States or in a Federal prison, knowingly engages in a sexual act with another person who—

"(1) has not attained the age of twelve years; or

"(2) has attained the age of twelve years but has not attained the age of fourteen years, and is at least four years younger than the person so engaging;

or attempts to do so, shall be fined under this title, imprisoned for any term of years or life, or both.".

(b) CONFORMING AMENDMENT FOR STATE OF MIND PROOF REQUIREMENT.—Section 2241(d) of title 18, United States Code, is amended by striking out "knew" and all that follows and inserting in lieu thereof "knew—

"(1) the age of the other person engaging in the sexual act; or

"(2) that the requisite age difference existed between the persons so engaging.".

(c) CONFORMING AMENDMENT TO SECTION 2243.—Paragraph (1) of section 2243(a) of title 18, United States Code, is amended by striking out "12" and inserting "14" in lieu thereof.

(d) DEFINITIONS OF SEXUAL ACT AND SEXUAL CONTACT REGARDING PERSONS UNDER SIXTEEN YEARS OF AGE.—Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking out "or" after the semicolon;

(2) in subparagraph (C) by striking out "; and" and inserting "; or" in lieu thereof; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

(e) CONFORMING AMENDMENT TO DEFINITION OF SEXUAL CONTACT.—Paragraph (3) of section 2245 of title 18, United States Code, is amended by inserting ", but does not include the conduct described in paragraph (2)(D)" after "of any person" the second place it appears.

(f) DESIGNATION OF SECTION.—Section 2245 of title 18, United States Code, is redesignated section 2246.

(g) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(h) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking out "2245" and inserting "2246" in lieu thereof; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 1727. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.

Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within sixty days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 1728. TECHNICAL AMENDMENTS.

(a) ELIMINATION OF DUPLICATE SECTION NUMBER.—(1) Section 3117 of title 18, United States Code, as enacted by Public Law 100-690, is redesignated as section 3118.

(2) The section analysis for chapter 205 of title 18, United States Code, is amended by striking "3117. Implied consent for certain tests" and inserting "3118. Implied consent for certain tests".

(b) INSERTION OF MISSING WORD.—Section 1716A of title 18, United States Code, is amended by inserting "fined" after "shall be".

(c) CORRECTION OF CROSS-REFERENCE.—Section 1958 of title 18, United States Code, is amended by—

(1) striking "1952B" and inserting "1959";

(2) inserting "or who conspires to do so" before "shall be fined" the first place it appears; and

(3) striking "not more than $10,000", "not more than $20,000", and "not more than $50,000", and inserting in each instance "under this title".

(d) ELIMINATION OF LANGUAGE MISTAKENLY INCLUDED.—Section 3125(a)(2) is amended by—

(1) striking the quotation marks;

(2) inserting a comma after "installation and use"; and

(3) beginning the indentation of the text following such comma at the margin.

(e) CORRECTION OF CROSS-REFERENCE.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)" each place it appears.

(f) ELIMINATION OF DUPLICATIVE PENALTY.—Section 1864 of title 18, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as (c).

SEC. 1729. CLARIFICATION RELATING TO POLLUTING FEDERAL LANDS.

Section 401(b)(6) of the Controlled Substances Act (21 U.S.C. 841(b)(6)) is amended by striking "who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land," and inserting "who knowingly uses a poison, chemical, or other hazardous substance on Federal land with the intent to commit an act in violation of subsection (a),".

SEC. 1730. REVOCATION OF PROBATION FOR POSSESSION OF CONTROLLED SUBSTANCE.

Section 3565(a) of title 18, United States Code, is amended—

(1) by striking "to not less than one-third of the original sentence" and inserting "to a term of imprisonment that was available under subchapter A at the time of the initial sentencing"; and

(2) by striking "of modifying" and inserting "or modifying".

SEC. 1731. EXCEPTION TO BAR ON PROBATION FOR COOPERATING WITNESSES.

Section 3553(e) of title 18, United States Code, is amended by—

(1) inserting "a" before "minimum sentence", and inserting after "minimum sentence" the following: ", or to impose a term of probation notwithstanding any statutory bar to such sentence,"; and

(2) striking the last sentence and inserting: "Such sentence shall be imposed in accordance with the sentencing guidelines and with the policy statements issued by the Sentencing Commission".

SEC. 1732. PEREMPTORY CHALLENGES.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(b) PEREMPTORY CHALLENGES.—If the offense charged is punishable by death, each side is entitled to 20 peremptory challenges. If the offense charged is punishable by imprisonment for more than one year, each side is entitled to 8 peremptory challenges. If the offense charged is punishable by imprisonment for not more than one year or by fine or both, each side is entitled to 3 peremptory challenges. If there is more than one defendant, the court may allow both sides additional peremptory challenges: *Provided*, That the Government shall not have more challenges than the total allocated to all defendants. The court may permit multiple defendants to exercise peremptory challenges separately or jointly.".

SEC. 1733. AMENDMENT TO WIRETAP STATUTE.

(a) IN GENERAL.—Section 2511(1) of title 18, United States Code, is amended by—

(1) striking "or" at the end of paragraph (c);

(2) inserting "or" after the semicolon at the end of paragraph (d); and

(3) adding the following new paragraph:

"(e) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by this chapter, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, with intent to obstruct, impede, or interfere with a criminal investigation;".

(b) ADMISSION OF EVIDENCE.—Section 2515 of the title 18 is amended by adding at the end the following new paragraph:

"This section shall not apply to the admission into evidence of the contents of a wire or oral communication, or evidence derived therefrom, which has been disclosed in violation of section 2511(1)(e).".

SEC. 1734. MANDATORY MINIMUM SENTENCES FOR DRUG OFFENSES INVOLVING MINORS.

(a) DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE.—(1) Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b) is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,".

(B) by adding after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(3) Section 405 of the Controlled Substances Act (21 U.S.C. 845) is amended by adding at the end thereof the following: "Suspension of sentence; probation; parole.

"(c) In the case of any mandatory minimum sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(b) DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES.—(1) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a) is amended—

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,".

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended—

(A) in paragraph (1)(B) by striking ", or a fine up to three times that" through "or both"; and

(B) by inserting after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a person shall be sentenced under this subsection to a term of imprisonment of not less than three years".

(3) Section 405A(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) is amended—

(A) in the first sentence by inserting "mandatory minimum" after "any";

(B) in the first sentence by striking "subsection (b) of"; and

(C) by striking the second sentence and inserting "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(c) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—(1) Section 405B(b) of the Controlled Substances Act (21 U.S.C. 845b(b)) is amended—

(A) in the first sentence by striking ", or up to twice the fine otherwise authorized, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under subsection (a) to a term of imprisonment of not less than one year".

(2) Section 405B(c) of the Controlled Substances Act (21 U.S.C. 845b(c)) is amended—

(A) in the first sentence by striking ", or up to three times the fine otherwise authorized, or both,";

(B) by adding after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(3) The second sentence of section 405B(e) of the Controlled Substances Act (21 U.S.C. 845b(e)) is amended to read as follows: "An individual shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as enhanced by this section.".

SEC. 1735. CONFORMING AMENDMENT OF PROVISION RELATING TO THE EQUITABLE TRANSFER TO A PARTICIPATING FOREIGN NATION OF FORFEITED PROPERTY OR PROCEEDS.

Notwithstanding section 503 of this Act, section 981(i) of title 18, United States Code, is amended—

(1) by striking "In the case of property subject to forfeiture under subsection (a)(1)(B), the following additional provisions shall, to the extent provided by treaty, apply:";

(2) in paragraph (1), by striking the first two sentences and inserting the following: "Whenever property is civilly or criminally forfeited under this chapter, the Attorney General may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer (i) has been agreed to by the Secretary of State or the Secretary of the Treasury, (ii) is authorized in an international agreement between the United States and the foreign country, and (iii) is made to a country that, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961."; and

(3) in paragraph (1), by striking the last sentence.

SEC. 1736. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Notwithstanding section 510 of this Act, section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

SEC. 1737. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or the offenses giving rise to the forfeiture, conducted 3 or more separate transactions involving a total of $100,000 or more in any 12-month period".

SEC. 1738. MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who attempts or conspires to commit any offense defined in this section or in section 1957 of this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.".

SECTION. 1. PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS.

(a) PAYMENT.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsections (c) and (d) by striking "(b)" each place it appears and inserting "(c)",

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively,

(3) by inserting after subsection (a) the following:

"(b) In any case in which the Bureau determines, under regulations issued pursuant to this part, that a public safety officer has become permanently and totally disabled as the direct, result of a catastrophic personal injury sustained in the line of duty, the Bureau shall pay a benefit of $100,000, adjusted in accordance with subsection (g), to such officer.", and

(4) by adding at the end thereof the following:

"(j)(1) No benefit is payable under this part with respect to the death of a public safety officer if a benefit is paid under this part with respect to the disability of such officer.

"(2) No benefit is payable under this part with respect to the disability of a public safety officer if a benefit is payable under this part with respect to the death of such public safety officer.".

(b) LIMITATIONS.—Paragraphs (1), (2), (3), and (4) of section 1202 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) are each amended by inserting "or catastrophic injury" after "death".

(c) DEFINITION.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796c) is amended—

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) 'catastrophic injury' means consequences of an injury that permanently prevent an individual from performing any gainful work;".

SEC. 2. RESCUE SQUAD AND AMBULANCE PERSONNEL.

Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended in subsection (2) (relating to the definition of firefighter) by—

(a) adding "." after "ambulance crew "; and

(b) striking "who was responding to a fire, rescue or police emergency.".

SEC. 3. EFFECTIVE DATE.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), the amendments made by this Act shall take effect on July 1, 1986.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to injuries occurring before the effective date of such amendments.

Insert in the appropriate place:

TITLE I—MANDATORY DETENTION

SEC. . SHORT TITLE.

This title may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. . MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting "(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A) (i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting "(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following;

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: "Upon an appeal of the Government, a person who has been detained by the judicial officer pursuant to section 3143 (a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143 (a)(1) or (b)(1), may be ordered released, under appropriate conditions, by a court of appeals or a judge thereof, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.

TITLE II—INCREASED PENALTIES

SEC. . MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

SEC. 2. Section 924(c)(1) of title 18, United States Code, is amended by inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for 10 years," after "sentenced to imprisonment for five years.".

(2) inserting "or a destructive device" after a machine gun.

TITLE III—FEDERAL PRISONER DRUG TESTING

SEC. . SHORT TITLE.

This title may be cited as the "Federal Prisoner Drug Testing Act of 1990".

SEC. . CONDITIONS OF PROBATION.

Section 3563(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking out "and";

(2) in paragraph (3), by striking out the period and inserting in lieu thereof"; and";

(3) by adding a new paragraph (4), as follows:

"(4) for a felony, a misdemeanor, or an infraction, that the defendant—

"(A) pass a drug test prior to the imposition of such sentence;

"(B) refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance"; and

(4) by adding at the end thereof and the following: "No action may be taken against a defendant pursuant to a drug test administered in accordance with paragraph (4) unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. . CONDITIONS ON SUPERVISED RELEASE.

Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "The court shall also order, as an explicit condition of supervised release, that the defendant pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the court) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance the provisions of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

SEC. . CONDITIONS ON PAROLE.

Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "In every case, the Commission shall also impose as a condition of parole that the parolee pass a drug test prior to the imposition of such sentence and refrain from any unlawful use of a controlled substance and submit to at least 2 periodic drug tests (as determined by the Commission) for use of a controlled substance. No action may be taken against a defendant pursuant to a drug test administered in accordance the provision of the preceding sentence unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such a test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy.".

TITLE IV—LAW ENFORCEMENT FUNDING

SEC. . (a) Amendment of Section 211 of the Department of Justice Appropriations Act. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act; 1990 (Public Law 101-162), is amended by striking "1990" and inserting in lieu thereof "1991".

At the appropriate place, insert the following:

CRIMINAL FORFEITURE IN CASES INVOLVING CMIR VIOLATIONS

Section 982(a) of title 18, United States Code, is amended by inserting ", 5316" after "5313(a)".

DEFINITION OF "FINANCIAL TRANSACTION"

Section 1956(c)(4) of title 18, United States Code, is amended by—

(1) inserting "(A)" before "a transaction" the first place it appears and inserting "(B)" before "a transaction" the second place it appears; and

(2) inserting "(i)" before "involving" the first place it appears and inserting "(ii)" before "involving" the second place it appears.

SEC. . MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting the following before the period: "unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period".

SEC. . ENVIRONMENTAL CRIMES AS MONEY LAUNDERING PREDICATES.

Section 1956(c)(7) of title 18, United States Code, is amended by—

(1) striking "or" before "section 16"; and

(2) inserting before the period the following: ", section of the Resource Conservation and Recovery Act (42 U.S.C. 6928 (d) and (e)), section of the Federal Water Pollution Control Act (33 U.S.C. 1319(c)), section of the Clean Air Act (42 U.S.C. 7413(c)), section of the Toxic Substances Act (15 U.S.C. 2615(b)), section of the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136L(b)), or section of the Ocean Dumping Act (33 U.S.C. 1415(b))".

At the end of the bill insert the following:

SEC. . AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1991, to carry out the activities of the Department of Justice, such sums as are necessary for the allocation of $1,000,000 for the establishment, in consultation with national organizations that operate anonymous tip hotlines, and operation of a national drug and related crime tip hotline program, which shall—

(A) provide a means for persons to make anonymous reports of drug and related crimes to a central location for dissemination to Federal, State, and local law enforcement agencies;

(B) assure complete anonymity of reporting persons and confidentiality of the information that is reported;

(C) provide trained professional interviewers;

(D) provide toll-free access;

(E) provide interviewers fluent in languages other than English, as needed;

(F) maintain close liaison and data-sharing facilities in all jurisdictions; and

(G) submit a report to Congress, not later than 6 months after the date of enactment of this Act and thereafter on March 1 of each year, describing the assistance to law enforcement authorities that the program has provided.

Section 406 of title IV of S. 1970 is amended as follows:

On page 50, line 15 strike "under this title," and insert in lieu thereof "no more than $1,000 (in accordance with 18 U.S.C. 3571(e)),". Section 402 of title IV of S. 1970 is amended as follows: on page 47, line 22 strike the following sentence, "The purchaser and seller shall both retain copies of such

form for all subsequent transactions regarding such assault weapon."

TITLE I—DEBT COLLECTION PROCEDURES

SEC. 101. Title 28 of the United States Code is amended by inserting immediately after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and General Provisions 3001
"B. Prejudgment Remedies 3101
"C. Judgments; Liens 3201
"D. Postjudgment Remedies 3301
"E. Exempt Property 3401
"F. Fraudulent Transfers 3501
"G. Partition 3601
"H. Foreclosure of Security Interests 3701

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Definitions.
"3002. Rules of construction.
"3003. Nationwide enforcement.
"3004. Priority of claims of the United States.
"3005. Claims of United States not barred by State statute of limitations.
"3006. Right of set-off or recoupment.
"3007. Discovery.
"3008. Affidavit requirements.
"3009. Perishable property.
"3010. Immunity.
"3011. Proceedings before United States magistrates.
"3012. United States marshals' authority to designate keeper.
"3013. Co-owned property.
"3014. Assessment of charges on a claim.
"3015. Funding.
"3016. Investigative authority.
"3017. Subrogation.
"3018. Effective Date.

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"§ 3001. Definitions

"As used in this chapter—

"(a) 'claim' means amounts owing on account of direct loans or loans insured or guaranteed by the United States and all other amounts due the United States from or on account of fees, duties, leases, rents, services, sales of real or personal property, overpayments, fines, assessments, penalties, restitution, damages, interest, taxes, bail bond forfeitures, reimbursements and recovery of costs incurred and other sources of indebtedness. This definition includes amounts due the United States for the benefit of an Indian tribe or individual Indian.

"(b) 'Counsel for the United States' shall include for the purposes of this chapter, a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, an attorney with the United States Department of Justice or other Federal agency having litigation authority and any private attorney authorized by contract to conduct litigation for collection of debts on behalf of the United States.

"(c) 'Court' means any court created by the Congress of the United States exclusive of the United States Tax Court.

"(d) 'Debt' means liability to the United States on a claim.

"(e) 'Debtor' means a person who is liable to the United States on a claim.

"(f) 'Debt collection personnel' means personnel employed by any agency of the Federal government whose primary duties are the collection of the debts owed to the United States.

"(g) 'Disposable earnings' means that part of the earnings remaining after all deductions required by law have been withheld and 'nonexempt disposable earnings' means 25 percent of disposable earnings.

"(h) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(i) 'Garnishee' means a person other than the debtor who has, or is thought to have, possession, custody or control of any property of the debtor, including obligations owed to the debtor whether such obligations are past due or have yet to become due, against whom a garnishment has been issued by the clerk of the court.

"(j) 'Judgment' means a judgment, order or decree entered in favor of the United States in any court whether arising from a civil or criminal proceeding regarding a claim.

"(k) 'Judgment creditor' means the United States in situations in which the United States has judgments in its favor, whenever referred to in this chapter.

"(l) 'Judgment debtor' means a person against whom the United States holds a judgment on a debt.

"(m) 'Person' includes a natural person, including individual Indians, a corporation, a partnership, an unincorporated association, a trust or an estate or other entity, public or private, including local governments and Indian tribes.

"(n) 'Prejudgment remedy' means the remedies of attachment, garnishment, replevin, receivership, sequestration, injunction or a combination of any of the foregoing that are sought prior to judgment.

"(o) 'Property' includes any present or future interest in real, personal (including, but not limited to, earnings, goods and choses in action), or mixed property, whether legal or equitable, tangible or intangible, vested or contingent, and wherever located and however held, whether held as a tenancy in common, joint tenancy, tenancy by the entirety, community property, in partnership, or in trust (including spendthrift and pension trusts), and excludes any property held in trust by the United States for the benefit of any Indian tribe or individual Indian or any Indian lands subject to restrictions against alienation imposed by the United States.

"(p) 'Service' under the provisions of this chapter shall be in accordance with the Federal Rules of Civil Procedure.

"(q) 'State' includes the several states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Marianas and any of the territories and possessions of the United States.

"(r) 'United States' includes an officer or agency thereof, a Federal corporation, Federal instrumentality, department, commission, board or other Federal entity.

"(s) 'United States marshal' means the United States marshal, his designee or contractor.

"§ 3002. Rules of construction

"In this title—

"(a) 'includes' and 'including' are not limiting;

"(b) 'or' is not exclusive;

"(c) the singular includes the plural;

"(d) the provisions are general and intended as a unified coverage of the subject matter;

"(e) if any provision or amendment made by this chapter or application thereof to any person is held invalid, the provisions of every other part and their application shall not be affected thereby;

"(f) the cases arising under the provisions herein shall not affect cases arising under admiralty jurisdiction;

"(g) the provisions of this chapter do not and should not be construed to curtail or limit any rights the United States has to collect taxes under any other provision of Federal law;

"(h) the provisions of this chapter do not, and should not be construed to, curtail or limit any rights the United States has under any other provision of Federal law to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case; and

"(i) the provisions of this chapter do not, and should not be construed to, curtail or limit the rights the United States has under any other provision of Federal law to appoint receivers.

"§ 3003. Nationwide enforcement

"Notwithstanding any other provision of law, any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State and may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"§ 3004. Priority of claims of the United States

"The priorities established by the various provisions of this chapter shall be superseded by the provisions of section 3713 of title 31, United States Code, when the debtor or, if deceased, his estate is insolvent as determined under that section and the priority of the United States shall be in accordance therewith.

"§ 3005. Claims of the United States not barred by State statute of limitations

"The United States shall not be barred by the statute of limitations of any State in the enforcement of any of its claims.

"§ 3006. Right of set-off or recoupment

"Except as specifically provided for in this chapter, nothing in this chapter shall be construed to affect the common law or statutory rights to set-off or recoupment.

"§ 3007. Discovery

"(a) The United States may have discovery from any person including the debtor regarding the financial condition of the debtor in any case in which the United States seeks to enforce a claim. Such discovery may be before judgment or after judgment is entered in the case and in the manner in which discovery is provided for in the Federal Rules of Civil Procedure.

"(b) After judgment, the United States may also subpoena the judgment debtor or a third party to appear before the court at a location consistent with the Federal Rules of Civil Procedure with all records, books and other documents and to answer under oath questions regarding the debtor's financial condition and ability to satisfy the judgment.

"(c) The court shall impose appropriate sanctions as provided by the Federal Rules of Civil Procedure or the court's contempt power, including arrest of the offending person or debtor, for failure to comply with these discovery procedures.

"§ 3008. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made upon information and belief, where reliable and reasonably necessary, establishing with par-

ticularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3009. Perishable property

"At any time during any proceedings, other than those under section 3103(a), the court may determine on its own initiative or upon motion of any party, that any seized or detained property, or any portion thereof, is likely to perish, waste, or be destroyed, or otherwise depreciate in value during the pendency of the proceedings. The court shall order the sale of the property or portion thereof and require the proceeds to be deposited with the clerk of the court. For purposes of liability on the part of the United States, the price paid at any such sale shall be conclusively presumed to be the fair market value.

"§ 3010. Immunity

"Counsel for the United States, but excluding any private attorneys authorized by contract to conduct litigation for collection of debts on behalf of the United States, and non-attorney debt collection personnel shall have absolute immunity in their individual and official capacities from any liability arising from errors, omissions or negligence in performance of their official debt collection duties.

"§ 3011. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States. A district court may adopt appropriate rules to carry out any such assignment.

"§ 3012. United States marshals' authority to designate keeper

"Whenever the United States marshal is authorized to seize property pursuant to the provisions of this chapter, the United States marshal shall be authorized to designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3013. Co-owned property

"The remedies available to the United States under this chapter shall be enforced against property which is co-owned by a debtor and others to the extent allowed by the law of the State where the property is located.

"For the purposes of this section, 'property' does not include the rights or interest of an individual other than the debtor in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof. A 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or regulation pursuant to statutory authority.

"§ 3014. Assessment of charges on a claim

"The United States may assess on a claim a charge of 10 percent of the amount of the claim to cover the cost of processing and handling the litigation and judicial enforcement of the claim.

"§ 3015. Funding

"It is hereby authorized that such sums be appropriated as may be necessary to carry out the provisions of this chapter. Appropriations authorized under this section shall remain available for obligations necessary to implement this chapter for 1 year.

"§ 3016. Investigative authority

"When the United States has reason to believe that an activity in violation of legal standards threatens to deprive it of a claim, the appropriate United States Attorney may commence a proceeding against named or unknown parties for the purpose of determining whether a claim for relief should be asserted under applicable law, and all discovery proceedings available under the Federal Rules of Civil Procedures shall be available in such proceeding.

"§ 3017. Subrogation

"When the United States asserts a claim against a debtor for sums alleged to be due the United States, the United States may name as an additional defendant then or by way of amendment of its complaint, any party reasonably believed to owe sums to the debtor arising out of the transaction or occurrence giving rise to the obligation to the United States, including but not limited to obligations on account of requirements to provide goods or services pursuant to a loan or loan guarantee extended pursuant to Federal law. If such party pays or is found liable, any amounts paid to the United States shall be credited to the account of the debtor.

"§ 3018. Effective date

"This Act and the amendments made by this Act shall take effect 180 days after the date of enactment and shall apply to all claims and debts owed to the United States and judgments in favor of the United States.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies with prior notice.
"3102. Prejudgment remedies without prior notice.
"3103. Attachment.
"3104. Garnishment.
"3105. Injunctions.
"3106. Sequestration.
"3107. Replevin.
"3108. Receivership.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"§ 3101. Prejudgment remedies with prior notice

"(a) APPLICATION.—(1) The United States may in conjunction with the complaint or at any time after the filing of a civil action, make application, under oath, to the court to issue any prejudgment remedy allowed by law.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall state that the party against whom any prejudgment remedy is sought shall be afforded an opportunity for a hearing.

"(b) GROUNDS.—Any prejudgment remedy may be issued in favor of the United States by any court of the United States on application before judgment when—

"(1) the application sets forth with particularity, that all statutory requirements for the issuance of such prejudgment remedy sought under this chapter have been complied with by the United States; and

"(2) the court finds that the United States has shown the probable success of its claim.

"(c) NOTICE; FORM OF NOTICE.—Upon the filing of an application, the clerk of the court shall issue a notice directed to any person against whom any prejudgment remedy would operate, substantially in the following form—

"NOTICE

"You are hereby notified that your [property] may be taken away from you by the United States, which says that you owe the United States a debt of $[amount]. The United States wants to take your property so that it can be sure you will pay if the court decides that you owe this money.

"If you do not want to have your property taken away, you may ask for a hearing before this court. You may ask for the hearing anytime within 20 days from the date that this notice was mailed as indicated below. The hearing, if you so demand, will take place within five working days after you notify the court, or as soon thereafter as is practicable. You may ask for the hearing by checking the box at the bottom of this notice and filing it with the court at the following address: [address of court]. You must also send a copy to counsel for the United States at [address], so that the United States knows that you want the hearing.

"At the hearing, the court will decide whether the claim against you is probably valid and whether other legal requirements have been met. In addition, there are certain exemptions under Federal law which you may be entitled to claim with respect to the property.

"If you do not check the box requesting a date for a hearing and take this notice to the court within twenty days, the court will automatically assume you do not want a hearing and you will lose your right to a hearing before the United States may take your property with the court's permission.

"If you have any questions concerning your rights or this procedure, you should consult an attorney.

"DATE OF MAILING: _____

"(d) SERVICE OF NOTICE AND APPLICATION.—(1) A copy of the notice and a copy of the application for issuance of any prejudgment remedy shall be served by counsel for the United States by first class mail on each party against whom any remedy is sought. If such service is not possible, then service may be made under rule 4 of the Federal Rules of Civil Procedure, as appropriate.

"(2) Proof of service by mail may be made by affidavit or certification of mailing and shall set forth the actual date of mailing.

"(e) TIME TO REQUEST HEARING DATE; FORM OF REQUEST.—(1) Each person served with a copy of the notice set forth above and the application for any prejudgment remedy may request a date be set for the hearing on such application by filing with the clerk of the court within 20 days after service of the notice a written request for hearing date. The request for hearing shall be made by using the form provided or in some other writing. A copy of the request for hearing date shall be mailed by the person requesting the hearing to counsel for the United States.

"(2) The clerk of the court shall apprise counsel for the United States and the person requesting the hearing of the date of hearing.

"(f) WAIVER OF HEARING.—(1) If no request for hearing date is filed within the required time, counsel for the United States shall file an affidavit of default setting forth that service was made, that no request for hearing date was filed and that the party against whom any prejudgment remedy is sought has apparently waived any hearing. Counsel for the United States shall also file a proposed form of the written order requested. Upon filing of such affidavit, the clerk shall enter the order of waiver of record and any party so defaulted loses his right to a hear-

ing prior to the issuance of the prejudgment remedy sought.

"(2) Upon entry of the order of waiver, the clerk shall immediately deliver the court file to the judge to whom the matter is assigned.

"(g) JUDICIAL REVIEW APPLICATION; ISSUANCE OF PREJUDGMENT REMEDIES WITH NOTICE.—(1) The court shall, within 5 days after hearing or the entry of the order of waiver, or as soon thereafter as is practical, review and examine all pleadings, evidence, affidavits and documents filed in the action to determine the following:

"(A) that evidence of service has been filed together with the original of the application and copy of notice;

"(B) where an order of waiver has been entered, that the affidavit of default has been filed and the order entered by the clerk;

"(C) that the claim or claims of the United States are based on facts established by the evidence or stated in the affidavit are sufficient to show that such claim or claims are probably valid; and

"(D) that any statutory requirement of this chapter for the issuance of any prejudgment remedy has been shown.

"(2) Upon the court's determination that the requirements of subsection (g)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Prejudgment remedies without prior notice

"(a) GROUNDS.—Any prejudgment remedy may be issued by any court without prior notice to the person against whom it will operate when the United States has a reasonable cause to believe that—

"(1) the person against whom the prejudgment remedy is sought is about to leave the jurisdiction of the United States with the intent to hinder, delay, or defraud the United States and has refused to secure that debt, or is a fugitive from justice;

"(2) such person has secreted or is about to secrete property;

"(3) such person has or is about to assign, dispose, remove, or secrete property, wholly or in part, or that such person is about to assign or dispose of property with the effect of hindering, delaying, or defrauding creditors;

"(4) the United States is the owner, lessor or otherwise is lawfully entitled to the immediate possession of the property claimed and is seeking a prejudgment remedy in the nature of replevin, receivership or sequestration;

"(5) a prejudgment remedy is required to obtain jurisdiction within the United States;

"(6) a constructive or resulting trust should be impressed on the property in favor of the United States if such person is likely to put the property beyond the reach of the United States;

"(7) the person against whom the prejudgment remedy is sought is converting, is about to convert or has converted his property of whatever kind, or some part thereof, into money, securities, or evidence of debt in a manner prejudicial to creditors;

"(8) the person against whom the prejudgment remedy is sought has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States; or

"(9) the debt is due for property obtained illegally or by fraud.

"(b) APPLICATION; AFFIDAVIT; BOND; ISSUANCE OF WRIT.—(1) Contemporaneously with or at any time after the filing of a civil action, the United States shall file an application supported by an affidavit made upon information and belief, where reliable and reasonably necessary, establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim and the right of the United States to recover what is demanded in the application. The application shall state the amount of the debt owed the United States, including principal, interest, and costs, if any, and one or more of the grounds set forth in section 3102(a) and the specific requirements of the specific remedy sought.

"(2) No bond is required of the United States.

"(3) Upon the court's determination that the requirements of subsection (b)(1) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"(c) NOTICE AND HEARING; WAIVER OF HEARING.—(1) Upon filing of an application as provided in this section, the clerk shall issue notice in substantially the following form to the counsel for the United States for service upon the party against whom any prejudgment remedy is sought in accordance with subsection (3) of this section—

"NOTICE

"You are hereby notified that your [property] is being taken away from you by the United States, who says that you owe it a debt of $[amount]. The United States is taking your property because it says

[Insert one or more of the specific grounds set forth in section 3102(a).]

"In addition, you are hereby notified that there are certain exemptions under Federal law which you may be entitled to claim with respect to your property.

"If you disagree and think you do not owe the United States, or that you have not done what is stated above, then you can ask this court to hear your side of the story and give your property back to you. If you want such a hearing, it will be given to you within five working days if you so demand after you notify the court that you want one. To do so, check the box at the bottom of this notice or prepare your request in writing and mail it or take it to the clerk of the court at the following address: [address]. You must also send a copy to counsel for the United States at [address], so that the United States will know you want a hearing.

"If you do not request a hearing within thirty days from [date of issue] your property may be disposed of without further notice.

"You should consult a lawyer if you have any questions about your rights about this procedure.

"(2) When a prejudgment remedy is issued under this section, the person against whom it is sought may immediately move to quash such order and the court shall on the request of the debtor hear such motion within 5 days from the date the request was filed. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim or claims of the United States and any defenses and claims of exemptions of the party against whom such prejudgment remedy will operate; and

"(B) the existence of any statutory requirement for the issuance of any prejudgment remedy sought, plus the existence of any ground set forth in section 3102(a) of this chapter.

"(3) Counsel for the United States shall, at the time of the seizure, attachment or garnishment, or within 3 days thereafter, exercise reasonable diligence to serve the person against whom a prejudgment remedy is sought with an application, order and prescribed notice of the seizure, impoundment or such other act ordered by the court and of said person's right to an immediate hearing contesting the same.

"(4) If no request for a hearing is filed with the clerk within 30 days after the notice of seizure is issued by the clerk, the United States may dispose of the property as provided for in this subchapter.

"§ 3103. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) All property of the debtor or garnishee, except earnings and property exempt under the provisions of this chapter, may be attached pursuant to a writ of attachment in any action in which a debt or damages are recoverable and may be held as security to satisfy such judgment and costs as the United States may recover.

"(2) The amount to be secured by an attachment shall be determined as follows—

"(A) the amount of the debt owed to the United States by the defendant; and

"(B) the estimated amount of interest and costs likely to be taxed by the court.

"(3) In any action or suit for an amount which is liquidated or ascertainable by calculation, no attachment shall be made for a larger sum than the amount of the debt and such additional amount as is reasonably necessary to provide for interest thereon and costs likely to be taxed in the action.

"(b) AVAILABILITY OF ATTACHMENT.—The United States after complying with the provisions of section 3101 or 3102 may, in the following cases, have the property of the defendant attached as security for satisfaction of any judgment which may be recovered by the United States—

"(1) in an action upon a contract, express or implied, for payment of money which is not fully secured by real or personal property, or, if originally so secured, the value of such security may, without any act of the United States or the person to whom the security was given, be substantially diminished below the amount of the debt;

"(2) when an action is pending for damages in tort and the defendant is about to dispose of or remove his property beyond the jurisdiction of the United States;

"(3) in an action for damages or upon contract, express or implied, against a defendant not residing within the jurisdiction of the United States; or

"(4) in an action to recover fines, penalties, or taxes.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) A writ of attachment shall be issued by the court directing the United States marshal of the district where the property is located to attach so much of the defendant's property as will be sufficient or is available to satisfy the debt of the United States.

"(2) Several writs of attachment may, at the option of the United States, be issued at the same time, or in succession, and sent to different districts until sufficient property is attached to satisfy the debt.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the court title and the docket number and name of the cause of action;

"(C) the name and last known address of the defendant;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to the extent available.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the defendant found within his dis-

trict, unless otherwise directed by counsel for the United States. The marshal shall not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the defendant. In cases where the writ is issued pursuant to section 3101, the marshal shall not enter into a residence or other building except upon specific order of the court.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the defendant in the same manner that a summons is served in a civil action and make his return thereof. If the United States marshal is unable to serve the writ upon the defendant, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the defendant in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with his action endorsed thereon or attached thereto and signed by him, to the court from which it was issued within 30 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it, state the location where it was attached, when it was attached and the disposition made of the property. If no property was attached, the return shall so state.

"(3) When personal property has been replevied as authorized by section 3103(j), the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(4) When the property levied on is claimed, replevied or sold after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment creates a lien on the property in favor of the United States.

"(2) The levy of the writ of attachment upon any property of defendant subject thereto is a lien from the date of the levy on the real property and on such personal property as remains in the custody of the attaching United States marshal and on the proceeds of such personal property as is sold.

"(3) The lien in favor of the United States marshal shall be ranked ahead of any other security interests perfected after the time of levy and filing of a copy of the notice of levy pursuant to subsection (d)(3) of this section.

"(4) The lien shall arise from the time of levy and continue until a judgment in the case is obtained or denied, or the action is otherwise dismissed. The death of the defendant whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(5) Upon entry of judgment for the United States, the court shall order the proceeds of the personal property, if any has been sold, to be applied to the satisfaction of the judgment, and also order the sale of any remaining personal property and the sale of any real property levied on to satisfy the judgment.

"(g) ATTACHMENT OF PERISHABLE PROPERTY; SALE; PROCEDURE.—(1) When personal property that has been attached is not replevied, the court may order it to be sold when it appears that the property is in danger of serious and immediate waste or decay, or that keeping it until trial will result in such expense or deterioration in value as substantially will lessen the amount likely to be realized therefrom.

"(2) In ascertaining whether the property is in danger of serious and immediate waste or decay or that keeping of the property until trial will result in such expense or deterioration in value as will substantially lessen the amount likely to be realized therefrom, the court may require or dispense with notice to the parties and may act upon such information provided by affidavit, certificate of the United States marshal or other proof, as appears sufficient to protect the interest of the parties.

"(h) DISPOSITION OF PROCEEDS OF SALE OF PERISHABLE PROPERTY; REPORT OF SALE.—Within 5 days after sale, the proceeds of the sale as provided in subsection 3103(g) after deduction of the United States marshal's expenses therefrom shall be paid by the United States marshal making the sale to the clerk of the court. The proceeds shall be accompanied by a statement in writing and signed by the United States marshal, to be filed in the action, stating the time and place of sale, the name of the purchaser and the amount received with an itemized account of expenses.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed or sold, the court may make such order for its preservation or use as appears to be to the interest of the parties.

"(j) REPLEVIN OF ATTACHED PROPERTY BY DEFENDANT; BOND.—At any time before judgment, if the property has not previously been sold, defendant may replevy the property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the amount of the debt.

"(k) JUDGMENT WHERE PERSONAL PROPERTY REPLEVIED.—When personal property under attachment has been replevied, the judgment which may be entered shall be against defendant and also against the sureties on his replevin bond for the amount of the judgment, interest and costs.

"(l) RESTORATION OF PROPERTY OR EXONERATION OF BOND; LEVY ON EXEMPT PROPERTY.—(1) If the attachment is vacated or if the judgment is for defendant, the court shall order the property or proceeds thereof restored to defendant or exonerate the replevin bond. The court may determine under what circumstances the defendant is entitled to receive the proceeds rather than the attached property.

"(2) When any property claimed to be exempt is levied upon, defendant may, at any time after such levy, apply to the court for vacation of such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to defendant.

"(m) REDUCTION OR DISCHARGE OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the defendant or person whose property has been attached may submit a written motion to the court which issued the writ for a reduction of the amount of the attachment or its discharge. Notice of such motion shall be served upon the United States in accordance with the Federal Rules of Civil Procedure. The defendant may move for reduction or dissolution of attachment as appropriate.

"(2) The court shall order a part of the property to be released, if upon hearing the court finds that the amount of the attachment is excessive or unreasonable or where the attachment is for a sum larger than the liquidated or ascertainable amount of the debt plus an amount necessary to include interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"§ 3104. Garnishment

"(a) All prejudgment garnishments shall meet the requirements of sections 3101 and 3102.

"(b) All prejudgment garnishments as authorized by the court hereunder shall be issued and answered in the same manner and to the same extent as set forth in section 3306 with the following exceptions—

"(1) The writ shall specify the date that the order authorizing prejudgment garnishment was entered.

"(2) The writ shall specify the amount claimed by the United States.

"§ 3105. Injunctions

"Whether or not there are other remedies available to the United States under this chapter, nothing in this chapter shall be construed to preclude or otherwise limit the United States or any other party from obtaining injunctive relief under the Federal Rules of Civil Procedure in actions for debts owed the United States.

"§ 3106. Sequestration

"(a) APPLICATION FOR WRIT OF SEQUESTRATION AND ORDER.—If the United States claims in its complaint the right to title or possession of property or seeks to enforce a lien or security interest in such property, the United States may file an affidavit showing—

"(1) a description of the property sufficient to identify it;

"(2) the approximate value of the property;

"(3) the location of the real property, or in the case of personal property, the last known and likely locations of the property;

"(4) the availability of sequestration.

"(b) AVAILABILITY OF SEQUESTRATION.—The United States after complying with, or in addition to, the provisions of sections 3101 or 3102 may have property sequestered—

"(1) upon a showing that there exists an immediate danger that the debtor or garnishee of such property will ill treat, waste, destroy or convert to his own use the property, which includes, but is not limited to, crops, timber, rents, perishable goods, livestock or the revenues therefrom; or

"(2) upon a showing that title to or possession of such property has been secured by the debtor or other defendant or the party in possession by surreptitious means, trick, scheme, fraud, force, violence, claim of adverse possession or such other claims or any means adverse to the claim in title or possession, or both, of the United States.

"(c) ISSUANCE OF WRIT.—A writ of sequestration shall be issued by the court directing the debtor or other defendant or party in possession to sequester the property and deliver it to the United States.

"(d) Unless inconsistent, the provisions governing section 3103 (g) through (l) shall be applicable to this section.

"(e) These writs shall be served in accordance with the Federal Rules of Civil Procedure.

"§ 3107. Replevin

"(a) APPLICATION FOR WRIT.—If the United States claims in its complaint the right to possession of specific personal property, the United States may, at any time after complying with the provisions of section 3101 or 3102, file an affidavit showing—

"(1) that the United States is the owner of the property claimed, or is lawfully entitled to its immediate possession;

"(2) a description of the property;

"(3) that the property is wrongfully detained by the defendant;

"(4) the approximate value of the property.

"(b) SEIZURE.—If the court determines the United States has met the above requirements, it shall order that the United States marshal take possession of the specified property and deliver it to the United States.

"(c) REDELIVERY OF POSSESSION TO DEFENDANT.—The defendant may obtain redelivery of the property or any part thereof by giving bond as set forth in section 3103(j).

"§ 3108. Receivership

"(a) APPOINTMENT OF A RECEIVER.—The United States may apply for the appointment of a receiver for property in which it has an interest and which is or is to be the subject of an action in court. The application may be filed at any time prior to judgment or during the pendency of an appeal if there is a danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, mismanaged or the United States has otherwise established grounds for such relief under section 3101(a) or 3102(a). However, when the security agreement so provides, a receiver shall be appointed without notice or without regard to adequacy of security. An application made by the United States when it is not already a party to the action constitutes an appearance in the action and the United States shall be joined as a party.

"(b) POWERS OF RECEIVER; EMPLOYMENT OF COUNSEL.—The court appointing a receiver may authorize him to take possession of real and personal property and sue for, collect and sell obligations upon such conditions and for such purposes as the court shall direct and to administer, collect, improve, lease, repair or sell such real and personal property, as the court shall direct. A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property. Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers or other professional persons. Upon motion of the receiver or a party, powers granted to a receiver may be expanded or limited. A receiver appointed under the terms of a security agreement shall be entitled to recover the rents and profits of the property covered by the security agreement as additional security and to pay them over to the United States in payment of any amount due arising from a default by the debtor.

"(c) UNITED STATES AS SECURED PARTY.—In the event of any default or defaults in paying the principal, interest, taxes, water, rents, or premiums of insurance required by the security instrument or in the event of a nonfinanced default or defaults, the United States in any action to foreclose the security interest shall be entitled, without notice and without regard to adequacy of any security for the debt, to the appointment of a receiver of the rents and profits of the premises covered by the security interest, and the rents and profits of the premises are assigned to the United States as further security for the payment of the debts.

"(d) DURATION OF RECEIVERSHIP.—In an action to foreclose a security interest, the receivership shall terminate when the purchaser at the foreclosure sale takes lawful possession of the property unless the court directs otherwise. In all other actions, the receivership shall not continue past the entry of judgment unless the court orders it continued under section 3302(b) or unless the court otherwise directs its continuation.

"(e) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds and his accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the United States with a copy thereof.

"(f) REMOVAL.—Upon motion of any party or upon its own initiative, the court which appointed the receiver may remove him at any time with or without cause.

"(g) PRIORITY.—If more than one court appoints a receiver, the receiver first qualifying under law shall be entitled to take possession, control or custody of the property.

"(h) COMMISSIONS OF RECEIVERS.—

"(1) GENERALLY.—A receiver is entitled to such commissions not exceeding 5 percent of the sums received and disbursed by him as the court allows unless the court otherwise directs.

"(2) ALLOWANCE WHERE FUNDS DEPLETED.—If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remained unpaid.

"(3) PROCEDURE.—At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by him.

"SUBCHAPTER C—JUDGMENTS; LIENS

"Sec.
"3201. Judgment by confession.
"3202. Judgment lien.
"3203. Sale of property subject to judgment lien.
"3204. Interest on judgments.

"SUBCHAPTER C—JUDGMENTS; LIENS

"§ 3201. Judgment by confession

"(a) GENERAL PROVISION.—On application, a court may enter a judgment by confession in favor of the United States without the filing of a civil action for money due and owing.

"(b) VENUE.—The confession of judgment shall be filed in the district in which one or more of the defendants reside, can be found, are doing business at the time of the application, or in cases proceeding by in rem or quasi in rem jurisdiction where the property sought to be adjudicated is located.

"(c) STATEMENT BY DEFENDANT; CONTENTS.—Before a judgment by confession shall be entered, a sworn statement in writing shall be made and signed by the defendant after default and subsequent notice by the United States and filed with the court along with the application, stating—

"(1) the amount for which judgment may be entered and authorizing the entry of judgment;

"(2) the facts out of which the debt arose and that the amount confessed is justly due; and

"(3) that the person signing the statement understands that a judgment by confession allows the entry of judgment without further proceedings and authorizes enforced collection of the judgment.

"(d) ENTRY OF JUDGMENT.—The confession of judgment may be filed with the clerk of the court. The clerk shall enter a judgment for the amount confessed.

"(e) CONFESSION BY JOINT DEBTORS.—One or more joint debtors may confess a judgment for a joint debt due. Where all the joint debtors do not join in the confession, the judgment shall be entered and enforced against only those who confessed it. A confessed judgment against some of the joint debtors is not a bar to an action against the other joint debtors.

"(f) ENFORCEMENT OF JUDGMENT BY CONFESSION.—Judgments by confession shall be enforced in the same manner as other judgments.

"§ 3202. Judgment lien

"(a) CREATION OF LIEN GENERALLY.—A judgment shall be a lien upon all real property of a judgment debtor upon filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under section 6323(f) (1) and (2) of the Internal Revenue Code of 1986.

"(b) IN CRIMINAL CASES.—A judgment obtained by the United States in a criminal case shall create a lien as provided in sections 3565 and 3613 of the Internal Revenue Code of 1986.

"(c) IN TAX CASES.—A judgment obtained by the United States in a tax case shall create a lien co-extensive with any lien created prior to judgment under section 6321 of the Internal Revenue Code of 1986; if no lien was so created prior to the judgment, then the procedure in subsection (a) shall be followed.

"(d) AMOUNT OF LIEN.—A lien created hereunder is for the amount necessary to satisfy the judgment, including costs and interest.

"(e) PRIORITY OF LIEN.—A lien created hereunder shall have priority over any other lien or encumbrance which is perfected later in time. However, liens created under sections 3565 and 3613 of the Internal Revenue Code of 1986, regarding criminal judgments or under section 6321 of the Internal Revenue Code of 1986, regarding tax

judgments shall have priority as otherwise provided by law.

"(f) DURATION OF LIEN; RENEWAL.—(1) A lien created hereunder is effective, unless satisfied, for a period of 20 years.

"(2) The lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment was filed and shall relate back to the date the judgment was filed. The notice of renewal must be filed before the expiration of the first 20-year period to prevent the expiration of the lien.

"(3) The duration and renewal of a lien created under sections 3565 and 3613 of title 18, United States Code, regarding criminal judgments, or a lien created under section 6321 of the Internal Revenue Code of 1986, regarding tax judgments shall be as otherwise provided by law.

"(g) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released upon the filing of a satisfaction of judgment or release of lien in the same manner as the judgment was filed to obtain the lien.

"(h) EFFECT OF LIEN UPON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—Any person who has a judgment lien against his property for any debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which such person is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency responsible for such grants and loans may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and loans.

"§ 3203. Sale of property subject to judgment lien

"Upon application to the court, the court may order the United States to sell pursuant to the provisions of sections 2001 and 2002 of title 28, United States Code, any real property subject to its judgment lien. This provision shall not preclude the United States from using an execution sale to sell real property subject to a judgment lien.

"§ 3204. Interest on judgments

"(a) Judgments for money, other than criminal or tax judgments, shall bear interest at the greater of—

"(1) the rate in an express contract or negotiable instrument, if the action was brought for the recovery of an amount due on the contract or negotiable instrument; or

"(2) the rate established by statute or regulation applicable to the debt owed;

"(3) the judgment interest rate established in accordance with this section.

"(b) The judgment interest rate, where applicable, shall be calculated from the date of the entry of the judgment, at a rate equal to 150 percent of the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of 52-week United States Treasury bills settled immediately prior to the date of the judgment. The Director of the Administrative Office of the United States Courts shall distribute notice of that rate and any changes in it to all Federal Courts.

"(c) Interest on judgments shall accrue daily from the date of entry of the judgment at the rate determined herein and shall be compounded annually to the date of payment.

"(d) Interest on tax judgments obtained under the Internal Revenue Code shall be allowed under section 6621 of such Code.

"(e) Interest on criminal judgments shall be allowed as provided in title 18, United States Code.

"(f) Nothing in this section shall preclude the assessment of prejudgment interest that is otherwise allowable by law.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"Sec.
"3301. Enforcement of judgments.
"3302. Orders in aid of execution.
"3303. Restraining notice.
"3304. Execution.
"3305. Installment payment order.
"3306. Garnishment.
"3307. Modification of protective order; supervision of enforcement.
"3308. Power of court to punish for contempt.
"3309. Arrest of judgment debtor.
"3310. Discharge.

"SUBCHAPTER D—POSTJUDGMENT REMEDIES

"§ 3301. Enforcement of judgments

"(a) A judgment may be enforced by any of the remedies set forth in this subchapter, and the court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to supplement these remedies, subject to the provision of rule 81(b) of the Federal Rules of Civil Procedure.

"(b) The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 of title 28, United States Code, or by execution sale pursuant to section 3304(g) of this subchapter.

"§ 3302. Orders in aid of execution

"Where the judgment debtor has an ownership interest of any kind in property which is not exempt and cannot readily be attached or levied on by ordinary legal process, the United States is entitled to aid from the court by injunction or other appropriate order to reach the property to satisfy the judgment whether the property is located in the same district or other districts.

"(a) ORDER.—The court may order the property, together with all documents or records related to the property, that is in or subject to the possession or control of the judgment debtor or another person, to be turned over to the United States for execution or otherwise applied toward the satisfaction of the judgment. Where the judgment debtor or other person refuses to turn over the property, the court may enforce the order by proceedings for contempt or other appropriate order provided the judgment debtor or other person, as appropriate, is served with a copy of the order or has actual notice of the order.

"(b) RECEIVER.—The court may appoint a receiver of property where appropriate in accordance with section 3108 of this chapter.

"(c) SAME OR INDEPENDENT SUIT.—These proceedings may be brought by the United States in the same suit in which the judgment is rendered or in a new and independent suit.

"(d) COSTS.—Upon request, in a proceeding under this section, the United States shall recover from the judgment debtor 10 percent of the reasonable costs. This provision shall apply to the extent that recovery of costs by the United States is not provided for under other applicable provisions of Federal law.

"§ 3303. Restraining notice

"(a) ISSUANCE; ON WHOM SERVED; FORM; SERVICE.—A restraining notice may be issued by the clerk of the court or counsel for the United States as officer of the court. It may be served upon any person, except the employer of a judgment debtor where the property sought to be restrained consists of earnings due or to become due to the judgment debtor. It shall be served personally in the same manner as a summons. It shall specify all of the parties to the action, the social security number of the judgment debtor, if known, the date the judgment was entered, the court in which it was entered, the amount of the judgment and the amount when due thereon, and the names of all parties against whom the judgment was entered. It shall set forth the requirements of subsection (b) below and shall state that disobedience is punishable as a contempt of court.

"(b) EFFECT OF RESTRAINT; PROHIBITION OF TRANSFER; DURATION.—(1) A judgment debtor who is served with a restraining notice shall not sell, assign, transfer or hypothecate any property, except as may be reasonably necessary for the maintenance or support of the debtor or a dependent of the debtor and if the debtor is engaged in business, as may be reasonably necessary for the payment of expenditures for the continuation, preservation, and operation of such business.

"(2) A person other than the judgment debtor who is served with restraining notice shall not—

"(A) repay any obligation to the judgment debtor;

"(B) return any property to the judgment debtor; or

"(C) sell, assign, transfer or hypothecate any property—

"(i) specifically described in the restraining notice;

"(ii) that the other person knows to be owned by the judgment debtor; or

"(iii) in which the other person could have reason to believe by the exercise of due diligence that the judgment debtor has an ownership interest.

"(3) The restraining notice shall remain in effect for 1 year from the date the notice is served, or until the judgment is satisfied or the restraining notice is vacated by order of the court, whichever occurs first.

"(c) DISCLOSURE.—The person upon whom a restraining notice is served, other than the judgment debtor, shall disclose to the counsel for the United States, in writing under oath within 10 days after receipt of the restraining notice, the type or nature and value of such property of the judgment debtor as may be in his possession or custody. Upon such person receiving or acquiring property of the judgment debtor after receipt of a restraining notice, that person shall disclose to counsel for the United States, in writing under oath within 7 days of receipt of the property, the type or nature and value of such property of the judgment debtor as may be in his possession or custody.

"(d) DISCOVERY.—Any discovery request under the Federal Rules of Civil Procedure which accompanies this restraining notice and which seeks the disclosure of the type, nature and value of property of the judgment debtor must be responded to within 10 days of service of the notice and discovery request or within 10 days after property of the judgment debtor comes into the posses-

sion of the person served. Upon request, a reasonable extension may be granted.

"(e) SUBSEQUENT NOTICE.—Leave of court is required to serve more than one restraining notice upon the same person, other than the judgment debtor, with respect to the same judgment.

"(f) NOTICE TO JUDGMENT DEBTOR.—A copy of the restraining notice shall be mailed by first class mail by counsel for the United States to the judgment debtor within 4 days after the time of service of the restraining notice on a person other than the judgment debtor.

"§ 3304. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property which the judgment debtor possesses and in which the judgment debtor has an interest shall be subject to levy pursuant to a writ of execution; co-owned property shall be subject to execution to the same extent as it is under the law of the State in which it is located. The judgment debtor must identify any property claimed to be exempt under the provisions of subchapter E.

"(b) EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied upon under a writ of execution and shall date from the time of the levy. This lien shall have priority over all subsequent liens and shall be for the amount due on the judgment. If the United States has a judgment lien, the execution lien shall relate back to the judgment lien date.

"(c) FORM OF WRIT OF EXECUTION.—

"(1) GENERAL REQUIREMENTS.—An execution writ shall specify the date that the judgment was entered, the court in which it was entered, the amount of the judgment if for money, the amount of the costs, and the sum actually due when the writ is issued, the amount of interest due, the rate of post-judgment interest, and the name of the party against whom the judgment was entered. The writ shall direct the United States marshal to satisfy the judgment out of all property, real and personal, of the judgment debtor not otherwise exempt pursuant to this chapter. An execution writ shall direct that only the property in which a named judgment debtor, who is not deceased, has an interest be levied upon or sold thereunder, and shall state the last known address of that judgment debtor.

"(2) EXCEPTION.—There shall be no requirement that personal property be levied upon and sold prior to levy and sale of real property of the judgment debtor.

"(3) EXECUTION FOR DELIVERY OF CERTAIN PROPERTY.—An execution issued upon a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(4) EXECUTION FOR POSSESSION OR VALUE OF PERSONAL PROPERTY.—If the judgment is for the recovery of personal property or its value, the writ shall command the marshal, in case a delivery thereof cannot be had, to levy and collect the value thereof for which the judgment was recovered, to be specified therein, out of any property of the party against whom judgment was rendered, liable to execution.

"(d) ISSUANCE.—(1) The clerk of any court where a judgment is docketed, entered or registered, upon written application of counsel for the United States, shall, and without other or further order of a judge of that court, forthwith issue writs of execution. The writs shall be addressed to "Any United States Marshal," and may be served and executed in any judicial district of the United States, but shall be returnable to the issuing court. The writ shall be signed by the clerk of the court issuing the writ.

"(2) Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(e) RECORDS OF UNITED STATES MARSHAL.—(1) The United States marshal receiving the execution shall endorse thereon the exact hour and day when he received it. If he receives more than one on the same day against the same person, he shall number them as received.

"(2) The United States marshal shall make a memorandum in writing of the date of every levy and specify the property upon which the levy has been made on the process or in an attached schedule. The memorandum or schedule shall also set forth the marshal's costs, expenses and fees.

"(f) LEVY OF EXECUTION.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property of the debtor found within his district, unless otherwise directed by counsel for the United States.

"(2) In performing the levy, the United States marshal may enter onto the lands and into the residence or other buildings owned, occupied or controlled by the debtor.

"(3) When real property is levied upon, the United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3202. The United States marshal shall also serve a copy of the writ and notice of levy upon the debtor in the same manner that a summons is served in a civil action and so make his return thereof. If the United States marshal is unable to serve the writ upon the debtor, he shall post the writ and notice of levy in a conspicuous place upon the property and so make his return thereof.

"(4) Levy upon personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense, may be made by affixing a copy of the writ and motion of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied upon. A copy of the writ and notice of levy shall also be served upon the debtor in the same manner that a summons is served in a civil action. Upon completion of the levy of personal property, the United States marshal shall so make his return thereof.

"(5)(A) Real property subject to a security interest or conveyed in trust as security for any debt or contract may be levied upon and sold on execution against the interest of the judgment debtor, subject to such mortgage, and the terms and conditions thereof.

"(B) Personal property pledged, assigned or security for any debt or contract, may be levied upon and sold on complying with the conditions of the pledge, assignment or security interest.

"(g) EXECUTION SALE PROCEDURES.—

"(1) SALE OF REAL PROPERTY.—

"(A) Real property, or any interest therein, shall be sold for cash at public auction at the courthouse of the county, parish or city in which the greater part of the property is located or upon the premises or some parcel thereof.

"(B) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first of these publications shall appear not less than 25 days immediately preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, and the time and place of sale; it shall also contain a brief description of the property to be sold, sufficient to identify the property, such as a street address the urban property, and the survey identification and location for rural property, but it shall not be necessary for it to contain field notes.

"(C) The United States marshal shall give written notice of public sale by personal delivery, or certified or registered mail, to persons and parties known to him to claim an interest in property under execution, including lienholders, co-owners and tenants, at least 25 days prior to the day of sale, to the last known address of such persons or parties.

"(2) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel must be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(3) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the debtor may divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court, furnish a survey of such prepared by a registered surveyor, and designate the order in which those lots shall be sold. When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(4) SALE OF PERSONAL PROPERTY.—

"(A) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, or at the courthouse of the county, parish or city wherein it is located, or at some other place if, owing to the nature of the property, it is more convenient to exhibit it to purchasers at such place. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale, except shares of stock in corporations, and in cases, when by reason of the type or nature of the property, it is impractical to exhibit it, or where the debtor has merely an interest without the right to the exclusive possession, in which case the interest of the debtor may be sold and transferred without the presence of the property.

"(B) Notice of the time and place of the sales of personal property shall be given by posting notice thereof for 10 days successively immediately prior to the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made, and by mailing a copy by registered or certified mail to the judgment debtor at his last known address, or by personal delivery.

"(5) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time continuing the posting of notice and/or publication of the notice until the date to which the sale is postponed, and appending, at the foot of such notice of each successive postponement the following:

"The above sale is postponed until the _____ day of _____, 19___, at _____ o'clock ___ .M., _____, United States Marshal for the District of _____, by _____, Deputy, dated _____.

"(6) BIDDING REQUIREMENTS; LIABILITY OF BIDDER; RESALE.—

"(A) The United States marshal may require of any bidder at any sale a cash deposit of as much as 20 percent of the sale price before the bid is received.

"(B) The cash deposit of any successful bidder at an execution sale shall be forfeited to the United States if he fails to comply with the terms of the sale; in addition, he shall be liable to the United States for all losses incurred by the United States at a subsequent sale of the same property. The liability for losses shall be limited to the difference between the amount of the deposit which was forfeited and the amount accepted by the United States as the highest bid by the defaulting bidder at the defaulted sale plus the costs of the defaulted sale. This liability shall be reduced by the amount the United States realizes from the subsequent sale, if any.

"(7) RESALE OF PROPERTY.—When the terms of the sale are not complied with by the bidder, the United States marshal shall proceed to sell the property again on the same day, if there is sufficient time; but if not, he shall readvertise and sell the property.

"(8) TRANSFER OF TITLE AFTER SALE.—

"(A) When the sale has been made and its terms complied with, the United States marshal shall execute and deliver any and all documents necessary to transfer ownership to the purchaser, without warranty, all the rights, titles, interest, and claims that the judgment debtor had in the property sold to the purchaser.

"(B) If the purchaser dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the estate of the purchaser, and it shall have the same effect as if accomplished during the lifetime of the purchaser.

"(9) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution is considered to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the defendant.

"(10) NO RIGHT OF REDEMPTION.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(11) DISTRIBUTION OF SALE PROCEEDS.—

"(A) The United States marshal shall first deliver to the judgment debtor, or his agent or attorney, such amounts to which he is entitled from the sale of partially exempt property as set forth in subchapter E of this chapter.

"(B) The United States marshal shall retain from the proceeds of a sale of property an amount equal to the reasonable expenses incurred in making the levy and keeping and maintaining the property.

"(C) The United States marshal shall deliver the balance of the money collected on execution to the counsel for the United States at the earliest opportunity.

"(D) If more money is received from the sale of the property than is sufficient to satisfy the executions held by the United States marshal, he shall pay forthwith the surplus to the judgment debtor or his agent or attorney.

"(h) REPLEVY.—(1) Any personal property taken in execution may be returned to the defendant by the United States marshal upon the delivery by the defendant to him of a bond or upon satisfaction of the judgment and any costs incurred in connection with scheduling the sale prior to the execution sale, payable to the United States, with two or more good and sufficient sureties, to be approved by the United States marshal, conditioned upon the delivery of the property to the United States marshal at the time and place named in the bond, to be sold according to law, or for the payment to the United States marshal of a fair value thereof, which shall be stated in the bond.

"(2) Where property has been replevied, as provided above, the judgment debtor may sell or dispose of the property paying the United States marshal the stipulated value thereof.

"(3) In the case of the non-delivery of the property according to the terms of the delivery bond, and non-payment of the value thereof, the United States marshal shall forthwith endorse the bond 'Forfeited' and return it to the clerk of the court from which the execution issued; whereupon, if the judgment remains unsatisfied in whole or in part, the clerk shall issue execution against the principal judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, upon which execution no delivery bond shall be taken, which instruction shall be endorsed by the clerk on the execution.

"(i) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ must be recognized and enforced by the court having jurisdiction over the estate of the deceased. The execution lien may be enforced against the executor, administrator, or personal representative of the estate of the deceased; or if there be none, against the heirs or devisees of the property of the deceased receiving same, but only to the extent of the value of the property coming to them.

"(j) WHEN EXECUTION NOT SATISFIED.—When the property levied upon does not sell for enough to satisfy the execution, the United States marshal shall proceed on the same writ of execution as to other property of the judgment debtor.

"(k) RETURN ON EXECUTION.—(1) The United States marshal shall make a written return on each writ of execution to the court from which the writ was issued and deliver a copy to counsel for the United States who requested the writ. It shall be returnable 90 days from the date of issuance unless counsel for the United States has specified an earlier date. The return shall be filed by the clerk of the court from which the writ was issued.

"(2) The United States marshal shall state concisely what was done in pursuance of the requirements of the writ.

"(3) The return shall be made forthwith if satisfied by the collection of the money, or if ordered by counsel for the United States, which order shall be noted on the return.

"§ 3305. Installment payment order

"Where it is shown that the judgment debtor is receiving or will receive money from any source or is attempting to impede the United States by rendering services without adequate compensation, upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration the reasonable requirements of the judgment debtor, any payments required to be made by the judgment debtor or deducted from the money he would otherwise receive in satisfaction of other judgments, the amount due on the judgment, and the amount being or to be received, or, if the judgment debtor is attempting to impede the United States by rendering services without adequate compensation, the reasonable value of the services rendered.

"Upon motion of the United States, and upon a showing that the debtor's financial circumstances have changed or that assets not previously disclosed by the debtor have been discovered, the court may increase the amount of payments or alter their frequency or require full payment.

"§ 3306. Garnishment

"(a) GENERAL.—A court may issue writs of garnishment, either prejudgment or postjudgment against the property of a debtor which is in the possession, custody or control of a third person in order to satisfy a judgment against the debtor; co-owned property shall be subject to garnishment to the same extent as it is under the law of the States in which it is located. The United States may request and a court shall issue simultaneous separate writs of garnishment to several garnishees. All writs of garnishment issued pursuant to these provisions shall be continuing and shall terminate only as provided herein.

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment, the following:

"(A) any matters required by section 3104 when seeking prejudgment garnishment;

"(B) the debtor's name, social security number, if known, and the debtor's last known address;

"(C) the nature and amount of the debt alleged to be owed and that demand on the debtor for payment of the debt has been made, but the debtor has not paid the amount due. A money judgment must be alleged for postjudgment garnishment; and

"(D) that the garnishee is believed to be indebted to the debtor or have possession of property of the debtor.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) Where property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable instrument is not outstanding, the corporation, or the president or treasurer of the association, shall be the garnishee.

"(B) Where property consists of a right to or interest in a decedent's estate or any other property or fund held or controlled by a personal representative or fiduciary, the personal representative or fiduciary shall be the garnishee.

"(C) Where property consists of an interest in a partnership, any partner other than the debtor, shall be the garnishee on behalf of the partnership.

"(D) Where property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, docu-

ment or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee; except that in the case of a security which is transferable in the manner set forth in State law, the firm or corporation which carries on its books an account in the name of the debtor in which is reflected such security, shall be the garnishee; *Provided, however*, That if such security has been pledged, the pledgee shall be the garnishee.

"(c) ISSUANCE OF WRIT.—

"(1) CLERK'S REVIEW.—The clerk or the court shall review the application for postjudgment writs of garnishment and if it meets the requirements set forth herein, shall issue an appropriate writ. The clerk shall issue prejudgment writs of garnishment as authorized by the court.

"(2) FORM OF WRIT.—

"(A) GENERAL PROVISIONS.—The writ shall state—

"(i) The nature and amount of the debt. If interest is accruing, the rate of accrual thereafter shall be stated. If a judgment is involved, the amount of any costs included in the judgment should be stated.

"(ii) The name and address of the garnishee.

"(iii) The name and address of counsel for the United States.

"(iv) The last known mailing address of the debtor.

"(v) That the garnishee shall answer the writ within 10 days of service of the writ.

"(B) EARNINGS GARNISHMENT.—The United States may apply for garnishment of the nonexempt disposable earnings of a natural person. The writ for the garnishment of earnings shall direct the garnishee to withhold and retain the nonexempt earnings for which the garnishee is indebted to the debtor at the time of receipt of the writ and may thereafter become indebted to the debtor pending further order of the court.

"(C) GARNISHMENT OF OTHER PROPERTY.—As to all non-earnings property of a debtor who is a natural person and all property of other debtors in the possession, custody and control of the garnishee at the time the writ is received by the garnishee and anytime thereafter, the writ shall direct the garnishee to retain possession, custody and control of and not to transfer or return the property pending further order of the court.

"(D) SERVICE OF WRIT.—The United States may serve the garnishee with a copy of the writ by first class mail or by delivery by the United States marshal as provided by rule 4 of the Federal Rules of Civil Procedure. The United States shall, at the same time, serve the debtor with a copy of the writ by first class mail to the debtor's last known address; counsel for the United States shall certify to the court that this service was made. The writ of garnishment shall be accompanied by instruction explaining the requirement that the garnishee submit a written answer to the writ of garnishment and instructions to the debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(E) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath whether it is indebted to the debtor or has custody, control or possession of the debtor's property; a description of the indebtedness or property; whether the indebtedness or property is subject to any prior garnishments or levies and a description of any such claim; and whether the indebtedness or property is subject to any exemptions from garnishment. In addition, if the writ of garnishment is against the earnings of the debtor, the garnishee shall state whether the debtor was employed at the time the writ was received, and, if so, how much was owed at the time; and whether the garnishee anticipates owing earnings to the debtor in the future, and, if so, the amount and whether the pay period will be weekly or another specified period. In all cases, the garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States. Any garnishee, including a corporation, may file an answer without the representation of an attorney.

"(F) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the debtor and the United States may file a written objection to the answer and request a hearing on the objection. The party objecting must state the grounds for the objection and bears the burden of proving them. A copy of the objection and request for hearing shall be served on the garnishee and the other party. The court shall set a hearing within 10 days after the date the request was received by the court, or as soon thereafter as is practicable, and give notice of the date to all parties.

"(G) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer or pay within the time specified, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ or pay by the appearance date. If the garnishee fails to appear or does appear and fails to show good cause why he failed to comply with the garnishment writ, the court shall enter judgment against the garnishee for the full amount of the past debt owed by the debtor. The court shall award reasonable attorney's fees to the United States and against the garnishee if the writ has not been answered within the time specified therein and a petition requiring the garnishee to appear was filed as provided in this section. Failure to answer or pay within the time specified in the writ may also be punished as a contempt of the court.

"(H) DISPOSITION ORDER.—After the garnishee files its answer and if no hearing is required, the court shall promptly enter an order directing the garnishee as to the disposition of the debtor's property. If a hearing is required, the order shall be entered within 5 days of the hearing, or as soon thereafter as is practicable.

"(I) PRIORITIES.—Court orders and garnishments for the support of a person shall have priority over a writ of garnishment issued pursuant to these provisions. As to any other garnishment or levy, a garnishment issued pursuant to these provisions shall have priority over those which are later in time and shall be satisfied in the order in which the writs are served upon the garnishee.

"(J) ACCOUNTING.—The debtor or garnishee may request an accounting on a garnishment within 10 days after the garnishment terminates. The United States shall give a written accounting to the debtor and garnishee of all earnings and property it receives under a writ of garnishment within 20 days after it receives the request of the debtor or garnishee. Within 10 days after the accounting is received, the debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting must state grounds for the objection. The court shall set a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(K) DISCHARGE OF GARNISHEE'S OBLIGATION.—A garnishee shall be discharged as set forth in section 3311 of this subchapter.

"(L) TERMINATION OF GARNISHMENT.—A garnishment proceeding hereunder can be terminated by—

"(i) the court quashing the writ of garnishment;

"(ii) exhaustion of earnings or property in the possession, custody or control of the garnishee, unless the garnishee reinstates or reemploys the debtor within 90 days of dismissal or resignation; or

"(iii) satisfaction of the debtor's obligation to the United States.

"§ 3307. Modification or protective order; supervision of enforcement

"Within the provisions of this chapter, the court may at any time on its own initiative or the motion of any interested person, and upon such notice as it may require, make an order denying, limiting, conditioning, regulating, extending or modifying the use of any enforcement procedure.

"§ 3308. Power of court to punish for contempt

"A court shall have power to punish a civil or criminal contempt committed with respect to an enforcement procedure or order under this chapter.

"§ 3309. Arrest of judgment debtor

"Upon motion of the judgment creditor without notice, where it is shown by affidavit or otherwise that the judgment debtor is about to depart from the jurisdiction of the United States, or keeps himself concealed therein with intent to hinder, delay or defraud the judgment creditor, and that there is reason to believe that the judgment debtor has in his possession or custody nonexempt property in which he has an interest, the court may issue a warrant directed to the United States marshal to arrest the judgment debtor forthwith and bring him before the court. The United States marshal shall serve upon the judgment debtor a copy of the warrant and supporting documents at the time of arrest. When the judgment debtor is brought before the court, the court may order that he give a bond or undertaking in a sum to be fixed by the court, that he will appear before the court for examination and that he will obey the terms of a restraining notice contained in the order.

"§ 3310. Discharge

"A person who pursuant to an execution or order pays or delivers to the United States, a United States marshal or receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt he owes the judgment debtor, is discharged from his obligation to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER E—EXEMPT PROPERTY

"Sec.

"3401. Exempt property.

"3402. Limitation on exempt property.

"SUBCHAPTER E—EXEMPT PROPERTY

"§ 3401. Exempt property

"Except as provided under section 3402, the following property of natural persons shall be exempted from the enforcement procedures under the provisions of this chapter as to debts owed the United States—

"(a) the debtor's aggregate interest, not to exceed $7,500 in value in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in

a cooperative that owns property that the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor;

"(b) the debtor's interest, not to exceed $1,200 in value, in one motor vehicle;

"(c) the debtor's interest, not to exceed $200 in value in any particular item or $4,000 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(d) the debtor's aggregate interest, not to exceed $500 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor;

"(e) the debtor's aggregate interest in any property, not to exceed in value $400 plus up to $3,750 of any unused amount of the exemption provided under subsection (a) of this subsection;

"(f) any unmatured life insurance contract owned by the debtor, other than a credit life insurance contract;

"(g) the debtor's aggregate interest, not to exceed in value $4,000 less any amount of property of the estate transferred in the manner specified in section 542(d) of title 11, in any accrued dividend or interest under, or loan value of, any unmatured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent;

"(h) the debtor's aggregate interest, not to exceed $750 in value in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor;

"(i) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(j) the debtor's right to receive—

"(1) a social security benefit, unemployment compensation, or a local public assistance benefit;

"(2) a veterans' benefit;

"(3) a disability, illness including Medicaid and Medicare, or unemployment benefit, and AFDC benefits;

"(4) alimony, child and spousal support or separate maintenance paid or received, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(5) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless—

"(A) such plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under such plan or contract arose;

"(B) such payment is on account of age or length of service; and

"(C) such plan or contract does not qualify under section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409).

"(k) the debtor's right to receive, or property that is traceable to—

"(1) an award under a crime victim's reparation law;

"(2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of such individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(4) a payment, not to exceed $7,500, on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(5) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.

"§ 3402. Limitations on exempt property

"(a) Property upon which a judgment debtor has voluntarily granted a lien, shall not be exempt to the extent of the balance due on the debt secured thereby.

"(b) If, within 90 days prior to judgment or thereafter, the debtor has transferred non-exempt property and as a result acquires, improves or increases in value exempt property, his interest shall not be exempt to the extent of the increased value.

"(c) The United States may require the judgment debtor to file a statement with regard to each claimed exemption; the original shall be filed with the court in which the enforcement proceeding is pending, and a copy served upon counsel for the United States. The statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the judgment debtor's ownership interest.

"(d) The United States, by application to the court where an enforcement proceeding is pending, may request a hearing on the applicability of any exemption claimed by the judgment debtor. The court shall determine whether the judgment debtor is entitled to the exemption claimed and the value of the property with respect to which the exemption is claimed; unless the court finds that it is reasonably evident that the exemption applies, the judgment debtor shall bear the burden of going forward with evidence and of persuasion.

"(e) Assertion of an exemption shall not prevent seizure and sale of the property to which such exemption applies. However, where an exemption has been validly and properly asserted, the sale proceeds for that item of property must be applied first to satisfy the dollar value of the exemption and then to the balance of the judgment. Any excess remaining after payment of judgment shall be paid to the judgment debtor.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"Sec.

"3501. Definitions.
"3502. Insolvency.
"3503. Value.
"3504. Transfer fraudulent as to the United States on present and future claims.
"3505. Transfer fraudulent as to the United States on a present claim.
"3506. When transfer is made or obligation is incurred.
"3507. Remedies of the United States.
"3508. Defenses, liability and protection of transferee.
"3509. Supplementary provision.

"SUBCHAPTER F—FRAUDULENT TRANSFERS

"§ 3501. Definitions

"As used in this subchapter—

"(a) 'Affiliate' means—

"(1) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor other than a person who holds the securities—

"(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(B) solely to secure a debt, if the person has not exercised the power to vote;

"(2) a corporation 20 percent or more of whose voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds a securities—

"(A) as a fiduciary or agent without sole power to vote the securities;

"(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(b) 'Asset' means property of a debtor, but does not include—

"(1) property to the extent it is encumbered by a valid lien; or

"(2) property to the extent it is exempt under subchapter E of this chapter.

"(c) 'Insider' includes—

"(1) if the debtor is an individual—

"(A) a relative of the debtor or of a general partner of the debtor;

"(B) a partnership in which the debtor is a general partner;

"(C) a general partner in a partnership described in subsection (c)(1)(B); or

"(D) a corporation of which the debtor is a director, officer, or person in control.

"(2) if the debtor is a corporation—

"(A) a director of the debtor;

"(B) an officer of the debtor;

"(C) a person in control of the debtor;

"(D) a partnership in which the debtor is a general partner;

"(E) a general partner in a partnership described in subsection (c)(2)(D); or

"(F) a relative of a general partner, director, officer, or person in control of the debtor.

"(3) if the debtor is a partnership—

"(A) a general partner in the debtor;

"(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(C) another partnership in which the debtor is a general partner;

"(D) a general partner in a partnership described in subsection (c)(3)(C); or

"(E) a person in control of the debtor.

"(4) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(5) a managing agent of the debtor.

"(d) 'Lien' means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceeding, a common law lien, or a statutory lien.

"(e) 'Relative' means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

"(f) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(g) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

"§ 3502. Insolvency

"(a) A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) A debtor who is generally not paying his debts as they become due is presumed to be insolvent.

"(c) A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets and the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

"§ 3503. Value

"(a) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) For the purposes of sections 3504(a)(2) and 3507, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, non-collusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

"(c) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3504. Transfer fraudulent as to the United States on present and future claims

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States, whether its claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation—

"(1) with actual intent to hinder, delay, or defraud the United States or any other creditor of the debtor; or

"(2) without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor—

"(A) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(B) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(b) In determining actual intent under subsection (a)(1), consideration may be given, among other factors, to whether—

"(1) the transfer or obligation was to an insider;

"(2) the debtor retained possession or control of the property transferred after the transfer;

"(3) the transfer or obligation was disclosed or concealed;

"(4) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(5) the transfer was of substantially all of the debtor's assets;

"(6) the debtor absconded;

"(7) the debtor removed or concealed assets;

"(8) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(9) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(10) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(11) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3505. Transfer fraudulent as to the United States on a present claim

"(a) A transfer made or obligation incurred by a debtor is fraudulent as to the United States on its claims which arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.

"(b) A transfer made by a debtor is fraudulent as to the United States on its claim which arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time, and the insider had reasonable cause to believe that the debtor was insolvent.

"§ 3506. When transfer is made or obligation is incurred

"For the purposes of this subchapter—

"(a) a transfer is made—

"(1) with respect to an asset that is real property, other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and

"(2) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that the United States on a simple contract cannot acquire a judicial lien otherwise than under this subchapter that is superior to the interest of the transferee.

"(b) If applicable law permits the transfer to be perfected as approved in subsection (a) and the transfer is not so perfected before the commencement of an action for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action.

"(c) If applicable law does not permit the transfer to be perfected as provided in subsection (a), the transfer is made when it becomes effective between the debtor and the transferee.

"(d) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(e) An obligation is incurred—

"(1) if oral, when it becomes effective between the parties; or

"(2) if evidenced by a writing, when the writing was executed by the obligor is delivered to or for the benefit of the obligee.

"§ 3507. Remedies of the United States

"(a) In an action for relief against a transfer or obligation under this subchapter, the United States, subject to the limitations in section 3508, may obtain, subject to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the claim of the United States;

"(2) an attachment or other remedy against the asset transferred or other property of the transferee in accordance with the procedure described by this chapter.

"(b) If the United States has obtained a judgment on a claim against the debtor, if the court so orders, it may levy execution on the asset transferred or its proceeds.

"§ 3508. Defenses, liability and protection of transferee

"(a) A transfer or obligation is not voidable under section 3504(a) against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

"(b) Except as otherwise provided in this section, to the extent a transfer is voidable in an action by the United States under section 3507(a)(1), it may recover judgment for the value of the asset transferred, as adjusted under subsection (c), or the amount necessary to satisfy its claim, whichever is less. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee other than a good faith transferee who took for value or from any subsequent transferee.

"(c) If the judgment under subsection (b) is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) A transfer is not voidable under section 3504(a)(2) or section 3505 if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform

Commercial Code or its equivalent in effect in the jurisdiction where the property is located.

"(f) A transfer is not voidable under section 3505(b)—

"(1) to the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the inside; or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose, as well as an antecedent debt of the debtor.

"§ 3509. Supplementary provision

"Unless displaced by the provisions of this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

"SUBCHAPTER G—PARTITION

"Sec.
"3601. Action by United States for partition.
"3602. Service of process in partition action.
"3603. Trial; commissioners; decree of partition.
"3604. Partition by sale.
"3605. Costs.

"SUBCHAPTER G—PARTITION

"§ 3601. Action by United States for partition

"(a) The United States, as co-owner or claimant of real or personal property, or an interest therein, may compel a partition of the property among the co-owners and tenants.

"(b) The district court shall have original jurisdiction of any civil action brought by the United States for the partition of property. The action for partition shall be filed in the judicial district in which the property, or a part thereof, is located. An action in a State court in which the United States is a defendant and in which the United States seeks partition may be removed to the district court.

"(c) The United States shall file a complaint stating—

"(1) the name and residence, if known, of each co-owner or claimant to such property;

"(2) the share of interest, if known, of each co-owner or claimant in such property;

"(3) a description of the property sought to be partitioned; and

"(4) the estimated value of the property for which partition is sought.

"§ 3602. Service of process in partition action

"(a) Personal service of summonses and complaints and other process shall be made in accordance with rules 4 (c) and (d) of the Federal Rules of Civil Procedure upon a defendant who resides within the United States or its territories or insular possessions and whose residence is known.

"(b) Upon the filing of a certificate by counsel for the United States stating that it is believed that a defendant cannot be personally served, because after diligent inquiry within the State in which the complaint is filed his place of residence cannot be ascertained by the United States or, if ascertained, that it is beyond the territorial limits of personal service as provided in rules 4 (c) and (d) of the Federal Rules of Civil Procedure, service of Notice of Summons and Complaint shall be made on that defendant by publication in a newspaper published in the county where the property is located, or if there is no such newspaper, then in a newspaper having a general circulation in the State where the property is located, once a week for 3 successive weeks. Prior to the last publication, a copy of the notice shall also be mailed to a defendant who cannot be personally served as provided in this rule but whose place of residence is then known. Unknown owners may be served by publication in like manner by a notice addressed to 'Unknown Others.' Service by publication is complete upon the date of the last publication. Proof of publication and mailing shall be made by certificate of counsel for the United States, to which shall be attached a printed copy of the published notice with the name and dates of the newspaper marked thereon.

"§ 3603. Trial; commissioner; decree of partition

"(a) All questions of law or equity affecting the title of the property which may arise, and the determination of the share or interest of each of the co-owners or claimants shall be tried by the court without a jury.

"(b) The court shall determine whether the property, or any part thereof, is susceptible of partition. If the court determines that the whole, or any part of the property is susceptible of partition, then the court shall enter a decree directing the partition of the property which is held to be susceptible of partition, describing it and specifying the share or interest to which each party is entitled. The court shall then appoint three or more competent and disinterested persons as commissioners to make the partition in accordance with the court's decree, the majority of the commissioners may act.

"(c) The court may appoint a surveyor to assist the commissioners in making a partition of real estate. The commissioners may cause the real estate to be surveyed and partitioned into several tracts or parcels.

"(d) The court may appoint an appraiser or appraisers to value the property and file an appraisal report with the court and the commissioners, as the court directs.

"(e) The commissioners shall divide the property into as many shares as there are persons entitled thereto, as determined by the court, having due regard in the division of the property to the situation, quantity, and advantage of each share, so that the shares may be equal in value, as nearly as may be, in the proportion to the respective shares or interests of the parties entitled thereto.

"(f) The commissioners shall report in writing to the court; and the report shall be determined by a majority of the commissioners and the contents shall be governed by the provisions of rules 53(e) (1) and (2) of the Federal Rules of Civil Procedure. The report shall also contain the following—

"(1) The several tracts, units, or parcels into which the property was divided (describing each particularly);

"(2) the number of shares and the estimated value of each share;

"(3) the allotment of each share; and

"(4) field notes and maps as to each estate, as may be necessary.

"The findings and reports of the commissioners shall have the effect, and be dealt with by the court in accordance with the practice prescribed in rule 53(e)(2).

"(g) The decree of the court confirming the report of commissioners in a partition of property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by warranty deed as in the case of real property or by bill of sale as to personal property, from the other parties in the action.

"(h) All conditions, restrictive covenants, and encumbrances against the property that applied to the property prior to the partition shall remain against the property as partitioned unless those restrictions, covenants and encumbrances have been included and are subject to the partition action.

"§ 3604. Partition by sale

"Should the court determine that a fair and equitable division of the property, or any part thereof, cannot be made, the court shall order a sale of that part which is incapable of partition, which sale shall be for cash, or upon such other terms as the court may direct, and shall be made as provided by title 28, United States Code, chapter 127, or through a receiver, as the court so orders. The proceeds of such sale shall be paid into the court and partitioned among the persons and parties entitled thereto according to their respective interests.

"§ 3605. Costs

"Costs shall be taxed against each party to whom a share has been allotted in proportion to the value of such share.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"Sec.
"3701. United States foreclosures governed by Federal law.

"SUBCHAPTER H—FORECLOSURE OF SECURITY INTERESTS

"§ 3701. United States foreclosures governed by Federal law

"Unless the documents specifically adopt State law, any action by the United States to foreclose security interests in real property shall be governed by the Federal statutes and applicable regulations, provisions set forth in the transaction documents and by Federal common law where there is no governing statute, applicable regulation or provision, and not by the State law where the real property is located. This shall include, but not be limited to, questions regarding redemption rights and deficiency judgments.

"§ 3702. Deficiency rights on federally guaranteed or insured loans

"Unless the documents specifically adopt State law, the right of the United States to collect a deficiency following the foreclosure of a loan guaranteed or insured by the United States or any agency thereof shall be governed by Federal statutes, applicable regulations, and the provisions set forth in the transaction documents. The rights of the United States under this section shall apply notwithstanding the provisions of any State law and without regard to the method used by the loan holder to foreclose the loan.".

TITLE II—AMENDMENTS TO OTHER PROVISIONS OF LAW

SEC. 201. Section 505 of title 11, United States Code, is amended by adding at the end thereof the following subsection:

"(d) Payments of taxes under this title to a governmental unit may be applied by the governmental unit in a manner that preserves alternative sources of collection, if any.".

SEC. 202. Section 523(a) of title 11, United States Code, is amended as follows:

(a) by deleting the word "or" at the end of section 523(a)(9); and

(b) by deleting "." at the end of section 523(a)(10) and adding "; and" in lieu thereof; and

(c) by adding the following subsections at the end of section 523(a):

"(11) to the extent that such debt arises from a violation by the debtor of a civil or criminal statute, or a regulation, rule, or order issued pursuant thereto, enforceable by an action by a governmental unit to recover restitution, damages, civil penalties, attorney fees, costs, or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit of the United States Government; or

"(12) to the extent such debt arises from a criminal appearance bond.".

SEC. 203. Section 523(a) of title 11, United States Code, is amended to read as follows:

(a) subsection (8) is amended to read as follows:

"(8) for an educational benefit overpayment or loan made, insured or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless—".

(b) subsection (8)(A) is amended to read as follows:

"(A) such loan, benefit, scholarship or stipend overpayment or loan first became due 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 204. (a) Section 1129(a)(9)(C) of title 11, United States Code, is amended to read as follows:

"(C) with respect to a claim of a kind specified in section 507(a)(7) of this title, the holder of such claim will receive on account of such claim deferred cash payments, over a period not exceeding 6 years after the date of assessment of such claim or 6 years after confirmation for such claims that have not been assessed, of a value as of the effective date of the plan, equal to the allowed amount of such claim.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end thereof the following:

"(e) For purposes of determining the value of deferred cash payments under a plan with respect to a secured or unsecured tax claim, the appropriate interest rate shall be the statutory rate applicable to unpaid taxes owing to the governmental unit holding the claim.".

SEC. 205. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require.".

SEC. 206. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond.".

SEC. 207. Section 3142(g)(4) of title 18, United States Code, is amended by—

(a) striking out "(c)(2)(k)" and inserting in lieu thererof "(c)(1)(B)(xi)"; and

(b) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 208. (a) Section 3552(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.".

(b) The amendment made by subsection (a) shall take effect as if enacted on the date of the taking effect of section 3552(d) of title 18, United States Code.

SEC. 209. Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "by execution against the property of the defendant"; and

(2) in paragraph (1) by striking out "civil cases." and inserting in lieu thereof "accordance with chapter 176 of title 28. The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case."; and

(3) in paragraph (4), by deleting the word "Salaries" and inserting in lieu thereof the following:

"Notwithstanding any contrary provision in chapter 176 of title 28, United States Code, salaries."; and

(4) in paragraph (5), the second sentence should be deleted.

SEC. 210. Section 3579(f)(4) of title 18, United States Code, is amended by—

(a) striking out the "." at the end thereof; and

(b) adding at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 211. (a) Section 3613 of title 18, United States Code, is amended—

(1) in subsection (d), as added by section 212(a) of the Comprehensive Crime Control Act of 1984, by striking out the second sentence; and

(2) in subsection (e), as added by section 212(a) of the Comprehensive Crime Control Act of 1984 by—

(A) striking out "by execution against the property of the person fined";

(B) striking out "civil cases," and inserting in lieu thereof "accordance with chapter 176 of title 28,"; and

(C) adding at the end thereof "The United States may elect at its discretion to use any remedy available under this chapter or chapter 176 of title 28 or any combination of such remedies in the same case.".

(b) The amendments made by this section shall take effect as if enacted on the date of the taking effect of such section 3613.

SEC. 212. Section 3663(f)(4) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: "only if they are in fear of contact with the defendant.".

SEC. 213. Section 524 of title 28, United States Code, is amended by adding at the end thereof the following:

"(d)(1) There shall be established in the United States Treasury a special fund to be known as the Department of Justice Debt Collection Fund (hereinafter in this subsection referred to as 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purposes set forth herein.

"(2) There shall be deposited in the fund 5 percent of all net amounts realized from the debts collected by the divisions of the Department of Justice and all United States attorney's offices. Deposits to the fund shall begin the day after the date of enactment, from all amounts collected on and after that date.

"(3) The fund may be used for the following purposes of the Department of Justice:

"(A) the training of personnel of the Department of Justice in debt collection;

"(B) services pertinent to debt collection, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations related to locating debtors and their property; and

"(C) expenses of costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs;

"(4) Amounts in the fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by the United States.

"(5) For fiscal years 1990, 1991, 1992, and 1993 there are authorized to be appropriated such sums as may be necessary for the purposes described in subsection (3). At the end of each fiscal year, any amount in the fund in excess of the amount appropriated, shall be deposited in the general fund of the Treasury of the United States, except that an amount not to exceed $5,000,000 may be carried forward and be available in the next fiscal year.

"(6) For the purposes of these subsections, amounts from debt collection efforts of the Department of Justice shall include amounts realized from actions brought by or judgments enforced by Department of Justice personnel, including those in all United States attorneys' offices, whether civil or criminal, and whether involving tax or non-tax debts owed to the United States, except as deposit of such amounts into other special funds is required by law.".

SEC. 214. Section 550 of title 28, United States Code, is amended by striking out "assistants and messengers" and inserting in lieu thereof "assistants, messengers, and private process servers.".

SEC. 215. Section 1961(c)(1) of title 28, United States Code, is amended to read as follows:

"(c)(1) The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 216. Section 1962 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "The provisions of this section do not apply to judgments entered in favor of the United States.".

SEC. 217. Section 1963 of title 28, United States Code, is amended by adding the following after the first sentence thereof: "Such a judgment entered in favor of the United States may be registered as specified any time after judgment is entered.".

SEC. 218. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following section:

"§ 2044. Payment of fine with bond money

"Upon motion of the United States attorney, the court shall order any money belonging to and deposited by the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution or penalty imposed upon the defendants. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing, except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This does not apply to any third party sureties.".

(b) The table of sections for chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2044. Payment of fine with bond money.".

SEC. 219. Section 2410(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

SEC. 220. Section 2413 of title 28, United States Code, and the item relating to section 2413 in the table of sections for chapter 161, are repealed.

At the appropriate place in the bill, insert the following:

SEC. . JURY INSTRUCTIONS.

(a) The Congress finds that—

(1) The historic province of the jury in a criminal trial is solely to determine the issue of guilt or innocence of a defendant;

(2) The historic province of the court in a criminal case is, upon conviction, to impose sentence as provided by law; and

(3) Any provision to a jury of information relating to what sentence may be imposed subverts the historic role of the jury and undermines our system of justice as provided by the Constitution.

(b)(1) The punishment provided by law for the offense or offenses charged in an indictment or information is a matter exclusively within the province of the court, as provided by law, and no information concerning the length of incarceration which may or must be imposed upon conviction may be made available to the jury at any time.

(2) The provisions of paragraph (1) shall not apply in capital cases.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437 d(k)) is amended by adding the following new subsection: "(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit."

Section 6(k) of the United States Housing Act of 1937 is amended by striking the last sentence and inserting the following:

"An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug related criminal activity, that adversely affects the health, safety and welfare of the public housing tenants on the premises provided that the agency notifies the tenant of the reason for the action to evict or terminate tenancy.

At the appropriate place add the following:

SEC. . Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended by striking "by cultivating a controlled substance".

At the appropriate place, insert the following:

(a) NEGOTIATIONS.—(1) The Attorney General shall enter into negotiations with the appropriate law enforcement and judicial agencies and any other officials of any foreign country with jurisdiction over companies who manufacture, market, sell or purchase certain precursor and/or essential chemicals used in the production of illicit narcotics. The priority of negotiations should be determined based on an assessment by the Attorney General which countries have jurisdiction over companies that may be knowingly or unknowingly supplying chemicals for the illicit manufacture of controlled substances.

(2) The purposes of the negotiations shall be to (a) establish a list of precursor and essential chemicals contributing to the illicit manufacture of controlled substances, as defined in the Section 102 Controlled Substances Act (21 U.S.C. 802); (b) reach one or more international agreements on a method for maintaining records of transactions of these listed chemicals; (c) establish a procedure by which such records may be made available to (and kept confidential as necessary by) U.S. law enforcement authorities for the exclusive purpose of conducting an investigation relative to precursor chemicals, essential chemicals and/or controlled substances contributing to the manufacture of illicit narcotics; (d) encourage chemical source countries to enact national chemical control legislation which would (i) impose specific recordkeeping and reporting requirements for domestic transactions involving listed chemicals; (ii) establish a system of permits or declarations for imports and export of listed chemical; and (iii) authorize government officials to seize or suspend shipments of listed chemicals based on evidence that they may be destined for the illicit manufacture of controlled substances.

(b) REPORTS.—Not later than one year after the date of enactment of this Act, the Attorney General shall submit an interim report to the Judiciary Committee and the Foreign Relations Committee of the Senate on progress in the negotiations. Not later than eighteen months from date of enactment, the Attorney General shall submit a final report to the aforementioned Senate Committees on the result of negotiations identifying countries with which agreements have not been reached and which have jurisdiction over companies believed to be engaged in the manufacture, marketing, sale or purchase of precursor and/or essential chemicals used in illicit manufacture of controlled substances.

(c) PENALTIES.—After consulting with the Attorney General and the Director of National Drug Control Policy, the President shall impose penalties or sanctions includign temporarily or permanently prohibiting any corporation, partnership, individual or business association (i) refusing to maintain records for the purpose of monitoring and regulating transactions of listed precursor chemicals, or (ii) refusing to make such records available to U.S. law enforcement authorities for investigating purposes from engaging in any or all transactions within the commerce of the United States.

(d) DEFINITIONS.—A record under Subsection (a) shall be retrievable and include the date of the transaction, the identity of each party to the transaction, including the ultimate consignee, an accounting of the quantity and form of listed chemical(s) and a description of the method of transfer.

(e) This Act shall not apply to the manufacture, distribution, sale import or export of any drug which may, under the Federal Food, Drug and Cosmetic Act be lawfully sold over-the-counter without prescription.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. This Act may be cited as the "Drunk Driving Victims' Protection Act".

SEC. 2. Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1), by striking out "or";

(2) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) of the kind specified in section 523(a)(9) of this title.".

SEC. 3. Paragraph (9) of section 523(a) of title 11, United States Code, is amended to read as follows:

"(9) to any entity, to the extent that such debt arises from a judgment or consent decree entered in a court of record against the debtor wherein liability was incurred by such debtor as a result of the debtor's operation of a motor vehicle while legally intoxicated or impaired by use of alcohol or drugs under the laws or regulations of any jurisdiction within the United States or its territories wherein such motor vehicle was operated and within which such liability was incurred;".

SEC. 4. Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (12), by striking out "or";

(2) in paragraph (13), by striking out the period at the end and inserting in lieu thereof "; or"; and

(3) by adding the following new paragraph:

"(14) under subsection (a) of this section, of the commencement or continuation of an action on a claim of the type described at section 523(a)(9) of this title.".

SEC. 5. Section 523(a) of title 11, United States Code (as amended by section 3 of this Act) is further amended—

(1) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following:

"(11) to the extent that such debt arises from a proceeding brought by a governmental unit to recover civil or criminal restitution, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit.".

SEC. 6. Section 1322(a) of title 11, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and "; and

(3) by adding at the end thereof the following new paragraph:

"(4) provide for the full payment, in deferred cash payments, of all claims which would be nondischargeable under section 523(a)(11).".

Subtitle B—Drug-Free School Zones

SEC. 3051. DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS.

(a) IN GENERAL.—The Attorney General shall develop a model program of strategies and tactics for establishing and maintaining drug-free school zones.

(b) ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The program required by subsection (a) shall be designed to provide State and local law enforcement agencies with materials, training, and other assistance to establish, enforce, and evaluate the effectiveness of drug-free school zone enforcement efforts.

(c) PROGRAM CRITERIA.—The program required by subsection (a) shall—

(1) define the criminal justice community's role in creating and maintaining drug-free school zones;

(2) develop a framework for law enforcement collaboration with the school system and community resource network;

(3) identify a core law enforcement drug demand reduction program plan;

(4) provide materials and technical assistance for demarcating and establishing drug-free school zones;

(5) create a coordinated publicity plan with the school system and community resource network;

(6) identify and develop model drug-free school zone law enforcement strategies and tactics;

(7) develop a model coordinated strategy for prosecuting violations within the zones;

(8) create a uniform framework for monitoring and evaluating the effectiveness of drug-free school zones to determine which strategies and tactics succeed under various conditions and constraints; and

(9) provide support materials and exemplary program overviews.

(d) PREFERRED APPROACHES.—In establishing the program required by subsection (a), the Attorney General shall prefer approaches to drug-free school zone enforcement that unite the criminal justice community, the education community, and the network of community resources in meaningful collaboration to reduce the availability of and demand for drugs in a drug-free school zone.

(e) REPORT.—At the conclusion of the program required by subsection (a), the Attorney General shall submit a report to Congress describing the strategies and tactics that are found to be successful in establishing, enforcing, and maintaining drug-free school zones.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1991.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steroid Trafficking Act of 1990".

TITLE I—ANABOLIC STEROIDS

SEC. 101. STEROIDS LISTED AS CONTROLLED SUBSTANCES.

(a) ADDING STEROIDS TO SCHEDULE II OF THE CONTROLLED SUBSTANCES ACT.—Subdivision (b) of schedule II of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by inserting at the end thereof the following:

"(22) Anabolic steroids.".

(b) DEFINITION.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end thereof the following:

"(41) The term 'anabolic steroids' means—

"(A) any drug that is chemically and pharmacologically related to the male hormone testosterone and that promotes or purports to promote muscle growth, including any amount of the following chemical designates and their salts, esters, and isomers:

"(i) boldenone,
"(ii) chlorotestosterone,
"(iii) clostebol,
"(iv) dehydrochlormethyltestosterone,
"(v) dihydrotestosterone,
"(vi) drostanolone,
"(vii) ethylestrenol,
"(viii) fluoxymesterone,
"(ix) formobulone,
"(x) mesterolone,
"(xi) methandienone,
"(xii) methandranone,
"(xiii) methandriol,
"(xiv) methandrostenolone,
"(xv) methenolone,
"(xvi) methyltestosterone,
"(xvii) mibolerone,
"(xviii) nandrolone,
"(xix) norethandrolone,
"(xx) oxandrolone,
"(xxi) oxymesterone,
"(xxii) oxymetholone,
"(xxiii) stanolone,
"(xxiv) stanozolol,
"(xxv) testolactone,
"(xxvi) testosterone,
"(xxvii) trenbolone, and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in subparagraph (A), or any substance labeled as being or containing any such drug.

As used in schedule II, such term shall not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration, except that if any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed a steroid in schedule II of this Act.".

(c) EFFECT OF SCHEDULING ON PRESCRIPTIONS.—Any prescription for anabolic steroids subject to refill on or after the date of enactment of the amendments made by this section may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C. 829(a)).

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 102. REGULATIONS BY ATTORNEY GENERAL.

(a) ABUSE POTENTIAL.—The Attorney General, upon the recommendation of the Secretary of Health and Human Services, shall, by regulation, exempt any compound, mixture, or preparation containing a substance in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 101 of this Act) from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture or delivery system, it has no significant potential for abuse, and, at a minimum, shall exempt estrogens, progestins and corticosteroids.

(b) DRUGS FOR TREATMENT OF RARE DISEASES.—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 101 of this Act) is—

(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

(2) does not have a significant potential for abuse,

the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

(c) DATE OF ISSUANCE OF REGULATIONS.—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this Act, except that the regulations required under subsection 102(a) shall be issued not later than 180 days after the date of enactment of this Act.

TITLE II—HUMAN GROWTH HORMONE

SEC. 201. AMENDMENT TO THE FOOD, DRUG AND COSMETIC ACT.

Section 303 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

"(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition pursuant to the order of a physician is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States Code, or both.

"(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

"(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such Act.

"(4) As used in this subsection the term 'human growth hormone' means—

"(A) somatrem, somatropin, and any of their analogs; and

"(B) any substance which is purported, represented or labeled as being or containing any amount of any drug described in clause (A)(i), or anv substance labeled as being or containing any such drug; and

"(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.".

SEC. 202. CONVICTION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed.

At the appropriate place in the bill, insert the following:

SEC. . AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Except as otherwise specifically provided in this section, whenever in this section an amendment is expressed to a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(b) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) is amended—

(1) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(2) by adding at the end thereof the following new paragraph:

"(9) one who has been convicted of an aggravated felony, as defined in subsection (a)(43).".

(c) BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended

by striking out "or within ten years" and inserting in lieu thereof "or at anytime thereafter".

(d) CUSTODY PENDING DETERMINATION OF EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end thereof the following new subsection:

"(e)(1) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction.

"(2) Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 243(g) exists.

"(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

"(A) a procedure for review of each request for relief under this subsection has been established,

"(B) such procedure includes consideration of the severity of the felony committed by the alien, and

"(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property."

(e) SUSPENSION OF DEPORTATION PROHIBITED.—Section 244 (8 U.S.C. 1254) is amended by adding at the end thereof the following new subsection:

"(g) No alien convicted of an aggravated felony (as defined in section 101(a)(43)) shall be eligible for suspension of deportation under this section.".

(f) EFFECT OF FILING PETITION FOR REVIEW.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended—

(1) by striking the semicolon at the end of paragraph (3) and inserting in lieu thereof "; or" and

(2) by adding at the end thereof the following: "unless the alien is convicted of an aggravated felony, in which case, the Service shall not stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;".

(g)(a) CLARIFICATION OF AGGRAVATED FELONY DEFINITION.—Section 101(a)(43) is amended—

(1) by inserting "any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including" after "murder,", and

(2) by adding at the end the following; "such term applies to offenses described in the previous sentence whether in violation of Federal or State law."

(b) EFFECTIVE DATE.—The amendments made by section (a) shall take effect as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

(h) TREATMENT OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.—Section 241(b) is amended—

(1) by inserting "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section".

(i) REQUIRING FINGERPRINTING AND PHOTOGRAPHING OF CERTAIN ALIENS.—(1) Section 287 is amended by adding the following new subsection:

"(f)(1) Under regulation of the Attorney General, the Commissioner of the Immigration and Nationality Service shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

"(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.

"(3) The Attorney General, using the authority provided under section 534 of title 28, United States Code, shall acquire, collect, classify, preserve, and exchange records and information pertaining to aliens for whom an arrest warrant has been issued under this title for failure to appear at a proceeding commenced against the alien under section 242 or for failure to appear for deportation ordered under this title."

(2) Section 264(b) is amended by inserting "(1) pursuant to section 287(f)(2), and (2)" after "only".

At the end of the bill, add the following:

TITLE —VICTIMS OF CHILD ABUSE ACT OF 1992

SEC. 1551. SHORT TITLE.

This title may be cited as the "Victims of Child Abuse Act of 1990".

CHAPTER 1—DRUG-RELATED CHILD ABUSE; HABITUAL CHILD ABUSE OFFENSE

SEC. 1555. ABUSE OF CHILDREN IN CONNECTION WITH VIOLATIONS OF THE DRUG LAWS.

(a) IN GENERAL.—Chapter 7 of title 18, United States * * *

At the appropriate place in the bill insert the following:

"SEC. . REPORT ON MANDATORY MINIMUM SENTENCING PROVISIONS.

"(a) REPORT.— Not less than six months after the date of enactment of this legislation, the United States Sentencing Commission shall transmit to the respective Judiciary Committees of the Senate and House of Representatives a report on mandatory minimum sentencing provisions in federal law.

"(b) COMPONENTS OF REPORT.—The report mandated by subsection (a) shall include:

"(1) a compilation of all mandatory minimum sentences in federal law;

"(2) an assessment of the effect of mandatory minimum sentencing provisions on the goal of eliminating unwarranted disparity;

"(3) a projection of the impact of mandatory minimum sentencing provisions on the federal prison population;

"(4) an assessment of the compatibility of mandatory minimum sentencing provisions and the sentencing guidelines system established by the sentencing Reform Act of 1984;

"(5) a description of the interaction between mandatory minimum sentencing provisions and plea agreements;

"(6) a detailed empirical research study of the effect of mandatory minimum penalties in the federal system;

"(7) a discussion of mechanisms other than mandatory minimum sentencing laws by which Congress can express itself with respect to sentencing policy, such as:

"(A) specific statutory instructions to the Sentencing Commission;

"(B) general statutory instructions to the Sentencing Commission;

"(C) increasing or decreasing the maximum sentence authorized for particular crimes;

"(D) Sense of the Congress resolutions; and

"(8) any other information that the Commission would contribute to a thorough assessment of mandatory minimum sentencing provisions.

"(c) AMENDMENT OF REPORT.—The Commission may amend or update the report mandated by subsection (a) at any time after its transmittal.".

At the appropriate place, insert the following:

SEC. . WAITING PERIOD FOR THE PURCHASE OF EPHEDRINE.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall study the problems associated with the purchase of ephedrine and report to the Congress and the President whether a 21-day waiting period for any purchase of ephedrine would reduce the manufacture of methamphetamine.

(b) SPECIFICS OF REPORT.—The Attorney General shall include in the report required by this section the following:

(1) a recommended uniform purchase application form to be filled out by persons or companies desiring to purchase ephedrine;

(2) a recommendation whether or not vendors of ephedrine should be required to submit purchase applications to the Government or keep private files;

(3) criteria to ensure the privacy of the ephedrine purchaser if the Government has access to the purchase applications;

(4) an estimate of the cost to the vendors of collecting purchase information;

(5) an estimate of the cost to the Government of any application process;

(6) recommendations on how to implement waivers to the waiting period taking into consideration legitimate purchasers of ephedrine and how to ensure their continued access without a waiting period requirement;

(7) a recommendation whether or not a waiting period would be beneficial in reducing the incidence of the purchase of ephedrine for the manufacture of controlled substances; and

(e) any other criteria necessary to ensure a thorough examination of the situation.

On page 51, strike everything from line 23 until page 55, line 5.

Subtitle D—Other Justice Improvements

SEC. 6401. ALTERNATIVE METHODS OF INCARCERATION.

In section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351), as amended by the Anti-Drug Abuse Act of 1988 (P.L. 100-690) 42 U.S.C. 3751(b)), add the following:

"(22) innovative intermediate sanctions programs, in combination with drug testing, including boot camps, house arrest, electronic monitoring, intensive supervision, and community service.".

SEC. 6402. CLOSE LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497) is amended by adding "or $500, whichever is greater" after "value of the article.".

SEC. 7211. ENLARGEMENT OF FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended by striking out "the payment of award for information or assistance leading to civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.)" and inserting in lieu thereof "the payment of awards for information or assistance leading to a civil or criminal forfeiture under any law enforced or administered by the Department of Justice."

SEC. 7213. CONFORMING OF OLDER INNOCENT OWNER PROVISIONS WITH THOSE ENACTED IN THE ANTI-DRUG ABUSE ACT OF 1988.

(1) Sections 511(a) (6) and (7) of the Controlled Substances Act (21 U.S.C. 881(a) (6) and (7)) are each amended by striking "without the knowledge or consent of that owner" and inserting in lieu thereof "without the knowledge, consent, or willful blindness of the owner"; and

(2) Section 981(a)(2) of title 18, United States Code, is amended by striking "without the knowledge of that owner or lienholder" and inserting in lieu thereof "without the knowledge, consent, or willful blindness, of the owner or lienholder".

SEC. 7214. ADDITION OF CONFORMING CRIMINAL FORFEITURE PROVISION FOR CASES INVOLVING CMIR VIOLATIONS.

Section 982(a) of title 18, United States Code, is amended by inserting ", 5316" after "5313(a)".

SEC. 7215. CLARIFYING GRAMMATICAL CHANGES IN DEFINITION OF "FINANCIAL TRANSACTION" FOR THE MONEY LAUNDERING STATUTE.

Section 1956(c)(4) of title 18, United States Code, is amended by inserting "(A)" before "a transaction" the first place it appears, inserting "(i)" before "involving" the first place it appears, inserting "(ii)" before "involving" the second place it appears, and inserting (B) before the phrase "or a transaction."

SEC. 7216. LIMITATION OF EXCEPTION TO MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting before the period the following: "unless the defendant, in committing the offense or offenses giving rise to the forefeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period".

SEC. 8102. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a violation of section 401 (d) or (g)(1) of the Controlled Substances Act (21 U.S.C. 841 (d) or (g)(1)) (relating to precursor and essential chemicals)".

SEC. 9105. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958 of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 9106. AMENDMENT TO CLARIFY APPLICATION OF SENTENCING REFORM ACT TO ASSIMILATIVE CRIMES.

Section 3551(a) of title 18, United States Code, is amended by inserting "including sections 13 and 1153 of this title," after "any Federal statute,".

SEC. 9107. TECHNICAL CORRECTION TO INTERNAL REVENUE CODE.

Section 7203 of the Internal Revenue Code of 1986 is amended by replacing the last sentence thereof with the following sentence: "In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting 'felony' for 'misdemeanor' and '5 years' for '1 year'."

Subtitle B—Miscellaneous and Technical Amendments

SEC. 9201. CONFORMING AMENDMENTS TO SUBSTITUTE A REFERENCE TO THE FDIC FOR THE NOW ABOLISHED FSLIC IN TWO BANKING OFFENSES.

Sections 67 and 1006 of title 18, United States Code, are each amended by striking out "the Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "the Federal Deposit Insurance Corporation".

SEC. 9202. TECHNICAL AMENDMENTS TO MONEY LAUNDERING OFFENSES.

(a) Paragraph (a)(2) and subsection (b) of section 1956 of title 18, United States Code, are amended by striking out "transporation" each place it appears and inserting in lieu thereof "transportation, transmission, or transfer";

(b) Subsection (a)(3) of section 1956 of title 18, United States Code, is amended by striking out "represented by a law enforcement officer" and inserting "represented".

SEC. 9221. CLARIFICATION OF APPLICABILITY OF 18 U.S.C. 1952 TO ALL MAILINGS IN FURTHERANCE OF UNLAWFUL ACTIVITY.

Section 1952(a) of title 18, United States Code, is amended—

(1) by inserting "the mail or" after "uses"; and

(2) by striking out "including the mail,".

SEC. 9222. ADDITION OF DRUG CONSPIRACY AND ATTEMPT OFFENSES COMMITTED BY JUVENILES AS WARRANTING ADULT PROSECUTION.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph by striking out "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substance Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3))," and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), or (3), or 963),"; and

(2) in the fourth undesignated paragraph—

(A) by striking out "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844 or 846), or section 1002(a), 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b) (1), (2), or (3), or 963)"; and

(B) by striking out "subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3))" and inserting in lieu thereof "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1) (A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A), (B), or (C), (d), or (e), 844 or 846) or section 1002(a), 1003, 1009, 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), or (3), or 963)".

SEC. 9225. ARREST OF FUGITIVE ABOUT TO ENTER UNITED STATES.

Section 3184 of title 18, United States Code, is amended by inserting "or, if there is reason to believe the person will shortly enter the United States" after "if the whereabouts within the United States of the person charged are not known".

SEC. 9226. ELIMINATION OF SUPERFLUOUS LANGUAGE IN 18 U.S.C. 510.

Section 510(b) of title 18, United States Code, is amended by striking out "that in fact is stolen or bears a forged or falsely made endorsement or signature".

SEC. 9227. CORRECTION TO REFERENCE TO NON-EXISTENT AGENCIES IN 18 U.S.C. 1114.

Section 1114 of title 18, United States Code, is amended—

(1) by striking out "any officer or employee of the Department of Health, Education, and Welfare," and inserting in lieu thereof "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and

(2) by striking out "the Federal Savings and Loan Insurance Corporation,".

SEC. 9229. USE OF A SEARCH WARRANT TO OBTAIN CONTENTS OF A STORED WIRE COMMUNICATION.

Section 2703(a) of title 18, United States Code, is amended by inserting "or wire" after "the contents of an electronic" both places those words appear.

SEC. 9230. AUTHORITY FOR STATE GOVERNMENT PERSONNEL TO ASSIST IN CONDUCTING COURT-AUTHORIZED INTERCEPTIONS.

Section 2518(5) of title 18, United States Code, is amended by inserting "(including personnel of a State or subdivision of a State)" after "Government personnel".

SEC. 9233. TECHNICAL AMENDMENT OF 31 U.S.C. 5325.

(b) Section 5325 of title 31, United States Code, is amended—

(1) by deleting the word "transaction" in subsection (a)(1);

(2) by adding the words ", as defined by the Secretary," after the word "account" in subsection (a)(1); and

(3) by deleting subsection (c).

SEC. 9234. ONDCP TRANSFER AUTHORITY.

Section 1502(d) of title 21, United States Code, enacted by section 1003(d) of the Anti-Drug Act of 1988, is amended by—

(1) deleting the word "and" at the end of subparagraph (6);

(2) deleting the period at the end of subparagraph (7)(B) and inserting in lieu thereof "; and"; and

(3) inserting a new subparagraph (8) as follows:

"(8) transfer funds from the Special Forfeiture Fund referred to in section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), as well as other funds appropriated by Congress to the Office of National Drug Control Policy for assistance to high intensity drug trafficking areas, to federal agencies and departments for the purpose of executing the National Drug Control Strategy."

"(9) transfer funds appropriated to the Office of National Drug Control Policy for a specified purpose to appropriate Federal agencies and departments for the same purpose.".

SEC. 48. STRUCTURING TRANSACTIONS TO EVADE CMIR REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" at the beginning before "No person"; and

(2) by inserting at the end the following new subsection:

"(b) No person shall for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file a report required under section 5316;

"(2) file, or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments."

(b) CONFORMING AMENDMENT.—Section 5321 of title 31, United States Code is amended in subsection (a)(4)(C) by striking "under section 5317(d)."

SEC. . CONFORMING AMENDMENTS CONCERNING MARIHUANA.—(a) Section 401(b)(1)(D), of the Controlled Substances Act (21 U.S.C. 841 (b)(1)(D)) and section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) are each amended by striking out "with respect to less than 50 kilograms of marihuana" and inserting in lieu thereof "with respect to less than 50 kilograms of a mixture or substance containing a detectable amount of marihuana";

(b) Section 1010(b)(4) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(4)) is amended by striking out "except in the case of 100 or more marihuana plants" and inserting in lieu thereof "except in the case of 50 or more marihuana plants."

TITLE III— DRUG PARAPHERNALIA AMENDMENT.

SEC. 3001. DRUG PARAPHERNALIA AMENDMENT.

(a) CIVIL FORFEITURE AND CIVIL ENFORCEMENT.—Section 1822 of the Anti-Drug Abuse Act of 1986 (P.L. 99-570; 21 U.S.C. 857) is amended—

(1) in subsection (c), by inserting "pursuant to section 413 of the Controlled Substances Act (21 U.S.C. 853)" after "subject to seizure and forfeiture";

(2) in subsection (b), by striking "not more than $100,000" and inserting "under title 18, United States Code;" and

(3) by adding the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates the provisions of this section. The action may be brought in any district court of the United States or the United States courts of any territory in which the violation is taking or has taken place. The court in which such action is brought shall determine the existence of any violation by a preponderance of the evidence, and shall have the power to assess a civil penalty of up to $100,000 and to grant such other relief including injunctions as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

(b) CIVIL FORFEITURE FOR DRUG PARAPHERNALIA.—Section 1822 of the Anti-Drug Abuse Act of 1986 (P.L. 99-570; 21 U.S.C. 857) is amended by inserting the following as a new subsection (h):

"(h) CIVIL FORFEITURE; APPLICABILITY OF THE CUSTOMS LAWS.—Any drug paraphernalia and other property, real or personal, involved in any violation of subsection (a) of this section, and any property traceable to such property, shall be subject to seizure and forfeiture. All provisions of law relating to seizure, summary and judicial forfeiture and condemnation for violation of the Customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims and award of compensation to informers in respect to such forfeitures shall apply to seizures and forfeitures incurred under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof.".

SEC. 5119. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking out the phrase "except that the period of limitation shall be 6 years" and inserting in lieu thereof the phrase "except that the period of limitation shall be five years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be 6 years".

SEC. 5120. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18 of the United States Code is amended by inserting the words "or possess" after the words "to receive".

SEC. 5121. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18 of the United States Code is amended by redesignating subjection (c) as subsection (c)(1) and by adding paragraphs (2), and (3), as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge or consent,

"the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 5122. SUMMARY FORFEITURE OF UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.

SAVINGS AND LOAN AMENDMENTS

SIMON AMENDMENT NO. 2105

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to savings and loan legislation, as follows:

At the appropriate place insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Institutions' Anti-Fraud Enforcement Act of 1990".

SEC. 2. CIVIL ACTIONS FOR CIVIL PENALTIES AND DAMAGES.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 35. CIVIL ACTIONS FOR CIVIL PENALTIES AND DAMAGES.

"(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall investigate violations of sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation, or for a conspiracy to commit such an offense. If the Attorney General finds that a person has violated or is violating any of those sections, the Attorney General may bring a civil action under this section against the person to collect any civil penalties payable in connection with such offense under this Act or section 951 of the Financial Institutions Reform Recovery and Enforcement Act and to recover damages for losses incurred by the United States or a deposit insurance fund.

"(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of the sections referred to in subsection (a) for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

"(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

"(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

"(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall—

"(A) proceed with the action, in which case the action shall be conducted by the Government; or

"(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

"(5) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

"(c) RIGHTS TO THE PARTIES TO QUI TAM ACTIONS.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

"(2)(A) The Government may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

"(B) The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

"(C) Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

"(i) limiting the number of witnesses the person may call;

"(ii) limiting the length of the testimony of such witnesses;

"(iii) limiting the person's cross-examination of witnesses; or

"(iv) otherwise limiting the participation by the person in the litigation.

"(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

"(3) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

"(4) Whether or not the Government proceeds with the action, upon a showing by the Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

"(5) Notwithstanding subsection (b), the Government may elect to pursue its claim though any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the proceeding sentence, a finding or conclusion is final if it has been finally determined on appeal of the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

"(d) AWARD TO QUI TAM PLAINTIFF.—(1) If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based primarily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. However, a person may not receive an award under this section and under section 34 of this Act in the same matter.

"(2) If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

"(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.

"(4) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

"(e) CERTAIN ACTIONS BARRED.—

"(1) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of the civil suit or an administrative civil money penalty proceeding in which the Government is already a party.

"(2)(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, unless—

"(i) the action is brought by the Attorney General or the person bringing the action is an original source of the information, or

"(ii) the Government fails to act within 1 year of the disclosure.

"(B) For purposes of this paragraph, 'original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

"(f) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

"(g) FEES AND EXPENSES TO PREVAILING DEFENDANT.—In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28, United States Code, shall apply.

"(h) PROTECTION.—Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status

such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.

"(i) PROCEDURES.—(1) A subpena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States.

"(2) A civil action under this section may not be brought—

"(A) more than 10 years after the date on which the violation of the provision of law referred to in subsection (a) is committed, or

"(B) more than 5 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed,

whichever occurs last.

"(3) In any action brought under this section, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

"(4) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendre, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in criminal proceeding and which is brought under subsection (a) or (b).

"(j) CONTRACTS FOR PRIVATE COUNSEL.—

"(1) IN GENERAL.—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, and litigation, in the case of any violation of any of the sections referred to in subsection (a). Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private practice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services. Nothing in this paragraph shall relieve the Attorney General of the competition requirements set forth in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

"(2) REFERRAL BY REGULATORY AGENCIES.—The head of an appropriate Federal banking agency may, subject to the approval of the Attorney General, refer to a private counsel retained under paragraph (1) of this subsection, suspected and actual violations of the sections listed in subsection (a).

"(3) REPRESENTATION.—Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, a private counsel retained under paragraph (1) of this subsection may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel under paragraph (1) of this subsection.

"(4) CONTRACT PROVISIONS.—A contract made with a private counsel under paragraph (1) of this subsection shall include—

"(A) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is for the convenience of the Government; and

"(B) a provision requiring the private counsel to transmit monthly to the Attorney General a report on the services relating to the matter rendered under the contract during the month and the progress made during the month.

"(5) COUNTERCLAIM.—Any counterclaim filed in any action which is brought on behalf of the United States by private counsel retained under this subsection may not be asserted unless the counterclaim is served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is brought. Such service shall be made in accordance with the rules of procedure of the court in which the action is brought.

"(6) FEE.—Notwithstanding section 3302(b) of title 31, United States Code, a contract under paragraph (1) of this section may provide that a fee a person charges to recover indebtedness owed the United States Government is payable from the amount recovered.".

SEC. 3. WHISTLE-BLOWER PROTECTION.

Section 33(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831(c)(2) and section 213(c)(2)) of the Federal Credit Union Act (12 U.S.C. 1790b(c)(2)) are amended to read as follows:

"(2) to pay 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees; or".

SEC. 4. CONFORMING AMENDMENT.

Section 34(a)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)(1)(B)) is amended—

(1) by inserting"287," after "215,", and

(2) by inserting "1001," after "657,".

HEINZ (AND OTHERS) AMENDMENT NOS. 2106 AND 2107

(Ordered to lie on the table.)

Mr. HEINZ (for himself, Mr. DOLE, and Mr. GARN) submitted two amendments intended to be proposed by them to savings and loan legislation, as follows:

AMENDMENT No. 2106

At the end of the bill, add the following:

TITLE —ENFORCEMENT OF LAWS RELATING TO DEPOSITORY INSTITUTIONS

SEC. 01. AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Title 11, United States Code, is amended—

(1) in section 523—

(A) by striking out "or" at the end of subsection (a)(9);

(B) by striking out the period at the end of subsection (a)(10) and inserting in lieu thereof a semicolon;

(C) by adding at the end of subsection (a) the following:

"(11) for restitution that the debtor has been ordered to pay by any court of the United States, or of any State, in any criminal proceeding arising from any act that caused loss to any depository institution or insured credit union; or

"(12) for any damages, penalty, fine, forfeiture, restitution, reimbursement, indemnification, or guarantee against loss, provided in any judgment, order, or consent order or decree entered in any court of the United States or of any State, issued by the appropriate Federal financial institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union."; and

(D) by adding after subsection (d) the following:

"(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsections (a) (4) or (12).

"(f) Notwithstanding subsection (a)(2)(B)(iii) of this section, reliance by a creditor will not be required to establish an exception to discharge under subsection (a)(2) (A) or (B) of this section if the creditor is the appropriate Federal financial institutions regulatory agency that is a successor to a depository institution or insured credit union.

"(g)(1) Notwithstanding any other provision of law, a complaint objecting to the discharge of any debt owed to—

"(A) a depository institution or insured credit union that is closed, is in receivership or conservatorship, is sold to (or has its assets and liabilities assumed by) another depository institution or insured credit union in a transaction assisted by the appropriate Federal financial institutions regulatory agency, or

"(B) the appropriate Federal financial institutions regulatory agency, may be filed on or before the date that is the later of 120 days after the date of the debtor's first meeting of creditors, as provided under section 341 of this title, or 120 days after the date of the appointment of a conservator or receiver by the appropriate Federal financial institutions regulatory agency for the depository institution or insured credit union with respect to which the debt arises.

"(2) The provisions of this subsection shall not extend the period of limitations prescribed by section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(4)).

"(h) For purposes of this section—

"(1) The term 'depository institution' means a depository institution as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(1)) or an insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

"(2) The term 'insured credit union' shall have the same meaning as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)).

"(3) The term 'appropriate Federal financial institutions regulatory agency' means the office of Thrift Supervision, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation in any of their capacities, including their corporate, receivership, or conservatorship capacities.

"(4) The term 'institution-affiliated party'—

"(A) with respect to a depository institution, shall have the same meaning as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) but without regard to whether the depository institution is an insured depository institution; and

"(B) with respect to an insured credit union, shall have the same meaning as defined in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).";

(2) in section 1328, by amending subsection (a)(2) to read as follows:

"(2) of a kind specified in—

"(A) section 523(a)(5) of this title; or

"(B) section 523(a) (2), (4), (6), (7), (11), or (12) of this title, including but not limited to debts owed to the appropriate Federal financial institutions regulatory agency (as defined in section 523), or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))).''; and

(3) in section 522, by amending subsection (c)(1) to read as follows:

"(1) a debt of a kind specified in—

"(A) section 523(a) (1), (5), (11), or (12) of this title; or

"(B) section 523(a) (2), (4), or (6) of this title owed to an appropriate Federal financial institutions regulatory agency (as defined in section 523), or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))); or".

SEC. ___02. ADDITIONAL RESOURCES FOR THE DEPARTMENT OF THE TREASURY AND THE DEPARTMENT OF JUSTICE.

There is authorized to be appropriated for fiscal year 1991, to remain available until expended—

(1) to the Internal Revenue Service, Department of the Treasury, to hire and train 160 special agents or revenue agents, and for investigation violations of the Internal Revenue Code of 1986 and related statutes concerning the thrift industry, $16,000,000; and

(2) to the Attorney General, for the purposes of investigations, prosecutions, and civil proceedings involving financial institutions, $9,000,000, in addition to amounts authorized by section 966 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Public Law 101-73).

SEC. ___03. INTERAGENCY COORDINATION.

Notwithstanding any other provision of law:

(1) The Attorney General may accept, and Federal departments and agencies, including, but not limited to the United States Secret Service, the Internal Revenue Service, and the Office of Thrift Supervision, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government, to assist the Department of Justice in the investigation and prosecution of fraud or other criminal or unlawful activity in or against the savings associations industry.

(2) Any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought. Any law enforcement personnel or other employees of the Department or agency whose services are accepted pursuant to paragraph (1) shall also serve subject to the general supervision of the Attorney General.

SEC. ___04. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) BREACH OF FIDUCIARY DUTIES.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(p) BREACH OF FIDUCIARY DUTIES.—A finding of a Federal court, State court, or the appropriate Federal financial institutions regulatory agency that an institution-affiliated party of an insured depository institution has breached any fiduciary duty to that institution shall, once such finding has become final, constitute a defalcation while acting in a fiduciary capacity within the meaning of sections 523(a)(4) and 523(a)(12) of title 11, United States Code. The liability arising from such breach shall constitute a debt not dischargeable in a case under title 11, United States Code.".

(b) PRIORITY OF CERTAIN CLAIMS.—

(1) IN GENERAL.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end thereof the following:

"(q) PRIORITY OF CERTAIN CLAIMS.—In any proceeding related to any claim acquired under sections 11 or 13 of this Act against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim or cause of action brought by the Corporation shall have priority over any other suit, claim, or cause of action asserted by depositors, creditors, or shareholders of the insured depository institution, except for claims of other Federal agencies or the United States. This priority shall apply to both the prosecution of any suit, claim, or cause of action, and the execution or satisfaction of any subsequent judgment resulting from such suit.

"(r) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

"(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of any appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, shall be filed within 10 days of the entry of that order. Hearing of the appeal shall be within 60 days of filing of the notice. The appeal shall be decided within 90 days of the notice.

"(2) SCHEDULING.—Consistent with section 1657 of title 28, United States Code, the courts of the United States shall expedite the consideration of any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution. As far as practicable the courts will give such cases priority on their dockets.

"(3) JUDICIARY DISCRETION.—Any judge may modify the schedule and limitations of paragraphs (1) and (2) as applied to a specific case, based on a specific finding that the ends of justice served by making such a modification outweigh the best interest of the public in having the case resolved expeditiously.".

(2) APPLICABILITY.—The provisions of section 11(q) of the Federal Deposit Insurance Act, as added by this section, shall not apply to suits, claims, or causes of action asserted by depositors, creditors, or shareholders of insured depository institutions commenced on or before the date of enactment of this Act.

(c) FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States on a temporary or permanent basis for such purposes.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—On request from a foreign banking authority, the appropriate Federal banking agency may provide assistance in accordance with this paragraph if the requesting authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The appropriate Federal banking agency may, in its discretion, conduct investigations to collect information and evidence pertinent to a request for assistance. Any such investigation shall be conducted consistent with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.".

(2) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is further amended by adding at the end thereof the following:

"(s) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office on a temporary or permanent basis to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

(d) LIMITATION ON DISPOSITION OF CERTAIN ASSETS.—

(1) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following:

"(4) In any action brought by an appropriate Federal banking agency and the Resolution Trust Corporation in any capacity pursuant to paragraph (1), or any other civil action for money damages or injunctive relief the court may, upon application of the agency, issue ex parte a restraining order which prohibits any person subject to the proceeding under such paragraph from withdrawing, transferring, removing, dissipating or disposing of any funds, assets or other property and which appoints a temporary receiver to administer such restraining order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

(2) Amendment to the criminal code.—Section 1345 of title 18, United States Code, is amended by striking the first sentence thereof and inserting in lieu thereof: "Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter, or a banking law violation as defined in section 3322(d) of this title, or of section 287 or section 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or section 1001 of this title, or is engaged or intends to engage in any alienation or disposition of any property obtained from any such violation, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such violation or such alienation or disposition of property or assets of equivalent value. In any such case, the Attorney General may petition for a restraining order to prohibit any person from withdrawing, transferring, removing, dissipating or disposing of any such funds, assets, or other property and to appoint a temporary receiver to administer such restraining order. In a case involving a banking law violation, as defined in section 3322(d) of this title, the petition may be ex parte. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

(e) SUBPOENA AUTHORITY FOR FDIC AND RTC ACTING AS CONSERVATOR OR RECEIVER.—Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver of an insured depository institution, exercise any power described in section 8(n) in the same manner as provided in such section.

"(ii) LIMITATION.—A summons may be issued under clause (i) only by, or with the prior written authorization of, the Board of Directors.

(f) FRAUDULENT CONVEYANCES AVOIDABLE BY RECEIVERS.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end thereof the following:

"(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, as conservator or receiver, may avoid any transfer of any interest of any institution-affiliated party, or any person who the Corporation determines is a debtor of the institution in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with actual intent to hinder, delay, or defraud the insured depository institution.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property from—

"(i) the initial transferee of such transfer or the instituion-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

"(ii) any immediate or mediate good faith transferee of such transferee.".

(g) TECHNICAL AMENDMENT.—Section 8(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(4)) is amended by deleting "subsections (c), (d), (h), (i), (k), (l), (m), and (n)" and inserting in lieu thereof "subsections (c) through (s) and subsection (u)".

SEC. ___05. CONCEALMENT OF ASSETS FROM FEDERAL BANKING AGENCIES ESTABLISHED AS CRIMINAL OFFENSE.

Chapter 47 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following:

"SEC. 1032. CONCEALMENT OF ASSETS FROM FEDERAL BANKING AGENCIES.

"Whoever knowingly conceals from an appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), whether such agency is acting as an agency, in a corporate capacity, or as a receiver or conservator, any assets or property against which either such Corporation (as conservator or receiver) or such Office may have a claim shall be fined not more than $1,000,000, or imprisoned not more than 5 years, or both.";

and

(2) by amending the table of sections for such chapter by inserting after the item relating to section 1031 the following:

"1032. Concealment of assets of insured depository institution.".

SEC. ___06. CIVIL FORFEITURE.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C), by inserting "or a violation of section 1341 or 1343 of such title affecting a financial institution" before the period;

(2) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(3) in subsection (e)(4), by striking "(if the affected financial institution is in receivership or liquidation)".

SEC. ___07. TECHNICAL AMENDMENTS.

(a) CRIMINAL CODE..—Title 18 of the United States Code is amended—

(1) in section 656—

(A) by inserting "bank or savings and loan holding company," before "national bank" the first time it appears in the first sentence; and

(B) by inserting "or company" after "such bank" each time it occurs in the first paragraph;

(2) in section 657—

(A) by striking "Home Owner's Loan Corporation," and inserting in lieu thereof "Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Federal Deposit Insurance Corporation";

(3) in section 1005, by inserting "or company" after "such bank" each time it appears in the first paragraph;

(4) in section 1006—

(A) by striking "Home Owner's Loan Corporation," and inserting in lieu thereof Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Federal Deposit Insurance Corporation";

(5) in section 1014, by inserting "Office of Thrift Supervision," after "the Federal Home Loan Bank System," each time it appears;

(6) in section 1341, by inserting ", credit," after "money";

(7)(A) in section 1343—

(i) by inserting ", credit," after "money";

(ii) by striking out "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting in lieu thereof "uses or causes to be used any facility of interstate or foreign commerce";

(iii) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice"; and

(iv) by amending the heading to read "Fraud by use of facility of interstate commerce"; and

(B) in the table of sections for chapter 63 of title 18, United States Code, by striking out the item relating to section 1343 and inserting in lieu thereof:

"1343. Fraud by use of facility of interstate commerce.";

(8) in section 2314, by inserting "or foreign" after "interstate";

(9) in section 3289, by striking out "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting such stricken language after "within 6 months of the expiration of the statute of limitations,"; and

(10) in section 981(b), by inserting "the Attorney General or" after "property subject to forfeiture under subsection (a)(1)(C) of this section may be seized by".

(b) RIGHT TO FINANCIAL PRIVACY ACT.—Section 1101 of the Right to Financial Privacy Act (12 U.S.C. 3401) is amended in subsection (6)(B) by striking out "section 3(f)(1)" and inserting in lieu thereof "section 4(f)(1)".

SEC. ___08. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in subsection (1)(c)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to false statements to financial institutions)," before "sections 1503,";

(C) by striking out "section 1343 (fraud by wire, radio, or television)," and inserting in lieu thereof "section 1343 (fraud by use of facility of interstate commerce), section 1344 (relating to bank fraud),"; and

(D) by striking out "the section of chapter 65 relating to destruction of an energy facility,";

(2) by redesignating the first paragraph (m), which reads "any conspiracy to commit any of the foregoing offenses," as paragraph (o);

(3) by striking out "and" at the end of paragraph (m);

(4) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and"; and

(5) in paragraph (j), by striking out "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(c)(2)) or sections 902 (i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472 (i) or (n))".

SEC. ___09. ADDITIONAL SPECIFIED UNLAWFUL ACTIVITIES TO MONEY LAUNDERING STATUTE.

Section 1956 of title 18, United States Code, is amended in subsection (c)(7)(D)—

(1) by inserting "section 1014 (relating to false statements to financial institutions)," before "section 1201"; and

(2) by inserting "section 1343 (fraud by use of facility of interstate commerce)," before "section 1344".

SEC. ___10. ENHANCEMENT OF ABILITY TO ORDER RESTITUTION IN CERTAIN FRAUD CASES.

Section 3663(a) of title 18, United States Code, is amended by adding at the end thereof the following: "For the purposes of this section, the term 'victim of such offense' shall include any victim of a banking law violation (as defined in section 3322 of this title) irrespective of whether the defendant was convicted of an offense involving that victim or of an offense involving the property of the victim for which restitution is to be ordered".

SEC. 11. CIVIL ACTIONS FOR CIVIL PENALTIES AND DAMAGES.

(a) DEPOSITORY INSTITUTIONS INSURED BY THE FDIC.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 35. CIVIL ACTIONS FOR CIVIL PENALTIES AND DAMAGES.

"(a) RESPONSIBILITIES OF THE ATTORNEY GENERAL.—The Attorney General diligently shall investigate violations of sections 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of title 18, United States Code, affecting a depository institution insured by the Federal Deposit Insurance Corporation, or for a conspiracy to commit such an offense. If the Attorney General finds that a person has violated or is violating any of those sections, the Attorney General may bring a civil action under this section against the person to collect any civil penalties payable in connection with such offense under this Act or section 951 of the Financial Institutions Reform Recovery and Enforcement Act and to recover damages for losses incurred by the United States or a deposit insurance fund.

"(b) ACTIONS BY PRIVATE PERSONS.—(1) A person may bring a civil action for a violation of the sections referred to in subsection (a) for the person and for the United States Government. The action shall be brought in the name of the Government. The action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.

"(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so orders. The Government may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.

"(3) The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2). Any such motions may be supported by affidavits or other submissions in camera. The defendant shall not be required to respond to any complaint filed under this section until 20 days after the complaint is unsealed and served upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure.

"(4) Before the expiration of the 60-day period or any extensions obtained under paragraph (3), the Government shall—

"(A) proceed with the action, in which case the action shall be conducted by the Government; or

"(B) notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action.

"(5) When a person brings an action under this subsection, no person other than the Government may intervene or bring a related action based on the facts underlying the pending action.

"(c) RIGHTS TO THE PARTIES TO QUI TAM ACTIONS.—(1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the limitations set forth in paragraph (2).

"(2)(A) The Government may dismiss the action notwithstanding the objections of the person initiating the action if the person has been notified by the Government of the filing of the motion and the court has provided the person with an opportunity for a hearing on the motion.

"(B) The Government may settle the action with the defendant notwithstanding the objections of the person initiating the action if the court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable under all the circumstances. Upon a showing of good cause, such hearing may be held in camera.

"(C) Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as—

"(i) limiting the number of witnesses the person may call;

"(ii) limiting the length of the testimony of such witnesses;

"(iii) limiting the person's cross-examination of witnesses; or

"(iv) otherwise limiting the participation by the person in the litigation.

"(D) Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.

"(3) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action. If the Government so requests, it shall be served with copies of all pleadings filed in the action and shall be supplied with copies of all deposition transcripts (at the Government's expense). When a person proceeds with the action, the court, without limiting the status and rights of the person initiating the action, may nevertheless permit the Government to intervene at a later date upon a showing of good cause.

"(4) Whether or not the Government proceeds with the action, upon a showing by the Government that certain actions of discovery by the person initiating the action would interfere with the Government's investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay such discovery for a period of not more than 60 days. Such a showing shall be conducted in camera. The court may extend the 60-day period upon a further showing in camera that the Government has pursued the criminal or civil investigation or proceedings with reasonable diligence and any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceedings.

"(5) Notwithstanding subsection (b), the Government may elect to pursue its claim though any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty. If any such alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section. Any finding of fact or conclusion of law made in such other proceeding that has become final shall be conclusive on all parties to an action under this section. For purposes of the proceeding sentence, a finding or conclusion is final if it has been finally determined on appeal of the appropriate court of the United States, if all time for filing such an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

"(d) AWARD TO QUI TAM PLAINTIFF.—(1) If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to the second sentence of this paragraph, receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person substantially contributed to the prosecution of the action. Where the action is one which the court finds to be based pri-

marily on disclosures of specific information (other than information provided by the person bringing the action) relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award such sums as it considers appropriate, but in no case more than 10 percent of the proceeds, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation. Any payment to a person under the first or second sentence of this paragraph shall be made from the proceeds. Any such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant. However, a person may not receive an award under this section and under section 34 of this Act in the same matter.

"(2) If the Government does not proceed with an action under this section, the person bringing the action or settling the claim shall receive an amount which the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement and shall be paid out of such proceeds. Such person shall also receive an amount for reasonable expenses which the court finds to have been necessarily incurred, plus reasonable attorneys' fees and costs. All such expenses, fees, and costs shall be awarded against the defendant.

"(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.

"(4) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.

"(e) CERTAIN ACTIONS BARRED.—(1)(A) No court shall have jurisdiction over an action brought under subsection (b) against a Member of Congress, a member of the judiciary, or a senior executive branch official if the action is based on evidence or information known to the Government when the action was brought.

"(B) For purposes of this paragraph, 'senior executive branch official' means any officer or employee listed in section 201(f) of the Ethics in Government Act of 1978 (5 U.S.C. App.)

"(2) In no event may a person bring an action under subsection (b) which is based upon allegations or transactions which are the subject of the civil suit or an administrative civil money penalty proceeding in which the Government is already a party.

"(3)(A) No court shall have jurisdiction over an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, unless—

"(i) the action is brought by the Attorney General or the person bringing the action is an original source of the information, or

"(ii) the Government fails to act within 1 year of the disclosure.

"(B) For purposes of this paragraph, 'original source' means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government before filing an action under this section which is based on the information.

"(f) GOVERNMENT NOT LIABLE FOR CERTAIN EXPENSES.—The Government is not liable for expenses which a person incurs in bringing an action under this section.

"(g) FEES AND EXPENSES TO PREVAILING DEFENDANT.—In civil actions brought under this section by the United States, the provisions of section 2412(d) of title 28, United States Code, shall apply.

"(h) PROTECTION.—Any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.

"(i) PROCEDURES.—(1) A subpena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States.

"(2) A civil action under this section may not be brought—

"(A) more than 10 years after the date on which the violation of the provision of law referred to in subsection (a) is committed, or

"(B) more than 5 years after the date when facts material to the right of action are known or reasonably should have been known by the official of the United States charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed,

whichever occurs last.

"(3) In any action brought under this section, the United States shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.

"(4) Notwithstanding any other provision of law, the Federal Rules of Criminal Procedure, or the Federal Rules of Evidence, a final judgment rendered in favor of the United States in any criminal proceeding charging fraud or false statements, whether upon a verdict after trial or upon a plea of guilty or nolo contendre, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in criminal proceeding and which is brought under subsection (a) or (b).

"(j) CONTRACTS FOR PRIVATE COUNSEL.—

"(1) IN GENERAL.—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, and litigation, in the case of any violation of any of the sections referred to in subsection (a). Each such contract shall include such terms and conditions as the Attorney General considers necessary and appropriate, including a provision specifying the amount of the fee to be paid to the private counsel under such contract or the method for calculating that fee. The amount of the fee payable for legal services furnished under any such contract may not exceed the fee that counsel engaged in the private practice of law in the area or areas where the legal services are furnished typically charge clients for furnishing legal services. Nothing in this paragraph shall relieve the Attorney General of the competition requirements set forth in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

"(2) REFERRAL BY REGULATORY AGENCIES.—The head of an appropriate Federal banking agency may, subject to the approval of the Attorney General, refer to a private counsel retained under paragraph (1) of this subsection, suspected and actual violations of the sections listed in subsection (a).

"(3) REPRESENTATION.—Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, a private counsel retained under paragraph (1) of this subsection may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel under paragraph (1) of this subsection.

"(4) CONTRACT PROVISIONS.—A contract made with a private counsel under paragraph (1) of this subsection shall include—

"(A) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is for the convenience of the Government; and

"(B) a provision requiring the private counsel to transmit monthly to the Attorney General a report on the services relating to the matter rendered under the contract during the month and the progress made during the month.

"(5) COUNTERCLAIM.—Any counterclaim filed in any action which is brought on behalf of the United States by private counsel retained under this subsection may not be asserted unless the counterclaim is served directly on the Attorney General or the United States Attorney for the judicial district in which, or embracing the place in which, the action is brought. Such service shall be made in accordance with the rules of procedure of the court in which the action is brought.

"(6) FEE.—Notwithstanding section 3302(b) of title 31, United States Code, a contract under paragraph (1) of this section may provide that a fee a person charges to

recover indebtedness owed the United States Government is payable from the amount recovered.".

SEC. 12. WHISTLE-BLOWER PROTECTION.

Section 33(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831(c)(2) and section 213(c)(2)) of the Federal Credit Union Act (12 U.S.C. 1790b(c)(2)) are amended to read as follows:

"(2) to pay 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees; or".

SEC. 13. CONFORMING AMENDMENT.

Section 34(a)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)(1)(B)) is amended—

(1) by inserting"287," after "215,", and

(2) by inserting "1001," after "657,".

AMENDMENT No. 2107

At the end of the bill, add the following:

TITLE —ENFORCEMENT OF LAWS RELATING TO DEPOSITORY INSTITUTIONS

SEC. 01. AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Title 11, United States Code, is amended—

(1) in section 523—

(A) by striking out "or" at the end of subsection (a)(9);

(B) by striking out the period at the end of subsection (a)(10) and inserting in lieu thereof a semicolon;

(C) by adding at the end of subsection (a) the following:

"(11) for restitution that the debtor has been ordered to pay by any court of the United States, or of any State, in any criminal proceeding arising from any act that caused loss to any depository institution or insured credit union; or

"(12) for any damages, penalty, fine, forfeiture, restitution, reimbursement, indemnification, or guarantee against loss, provided in any judgment, order, or consent order or decree entered in any court of the United States or of any State, issued by the appropriate Federal financial institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union."; and

(D) by adding after subsection (d) the following:

"(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsections (a) (4) or (12).

"(f) Notwithstanding subsection (a)(2)(B)(iii) of this section, reliance by a creditor will not be required to establish an exception to discharge under subsection (a)(2) (A) or (B) of this section if the creditor is the appropriate Federal financial institutions regulatory agency that is a successor to a depository institution or insured credit union.

"(g)(1) Notwithstanding any other provision of law, a complaint objecting to the discharge of any debt owed to—

"(A) a depository institution or insured credit union that is closed, is in receivership or conservatorship, is sold to (or has its assets and liabilities assumed by) another depository institution or insured credit union in a transaction assisted by the appropriate Federal financial institutions regulatory agency, or

"(B) the appropriate Federal financial institutions regulatory agency, may be filed on or before the date that is the later of 120 days after the date of the debtor's first meeting of creditors, as provided under section 341 of this title, or 120 days after the date of the appointment of a conservator or receiver by the appropriate Federal financial institutions regulatory agency for the depository institution or insured credit union with respect to which the debt arises.

"(2) The provisions of this subsection shall not extend the period of limitations prescribed by section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(4)).

"(h) For purposes of this section—

"(1) The term 'depository institution' means a depository institution as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(1)) or an insured depository institution as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

"The term 'insured credit union' shall have the same meaning as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7)).

"(3) The term 'appropriate Federal financial institutions regulatory agency' means the Office of Thrift Supervision, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation in any of their capacities, including their corporate, receivership, or conservatorship capacities.

"(4) The term 'institution-affiliated party—

"(A) with respect to a depository institution, shall have the same meaning as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) but without regard to whether the depository institution is an insured depository institution; and

"(B) with respect to an insured credit union, shall have the same meaning as defined in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)).";

(2) in section 1328, by amending subsection (a)(2) to read as follows:

"(2) of a kind specified in—

"(A) section 523(a)(5) of this title; or

"(B) section 523(a) (2), (4), (6), (7), (11), or (12) of this title, including but not limited to debts owed to the appropriate Federal financial institutions regulatory agency (as defined in section 523) or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))).."; and

(3) in section 522, by amending subsection (c)(1) to read as follows:

"(1) a debt of a kind specified in—

"(A) section 523(a) (1), (5), (11), or (12) of this title; or

"(B) section 523(a) (2), (4) or (6) of this title owed to an appropriate Federal financial institutions regulatory agency (as defined in section 523), or a conservator or receiver of an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2))) or insured credit union (as defined in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7))); or".

SEC. 02. ADDITIONAL RESOURCES FOR THE DEPARTMENT OF THE TREASURY AND THE DEPARTMENT OF JUSTICE.

There is authorized to be appropriated for fiscal year 1991, to remain available until expended—

(1) to the Internal Revenue Service, Department of the Treasury, to hire and train 160 special agents or revenue agents, and for investigation violations of the Internal Revenue Code of 1986 and related statutes concerning the thrift industry, $16,000,000; and

(2) to the Attorney General, for the purposes of investigations, prosecutions, and civil proceedings involving financial institutions, $9,000,000, in addition to amounts authorized by section 966 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Public Law 101-73).

SEC. 03. INTERAGENCY COORDINATION.

Notwithstanding any other provision of law:

(1) The Attorney General may accept, and Federal departments and agencies, including, but not limited to the United States Secret Service, the Internal Revenue Service, and the Office of Thrift Supervision, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government, to assist the Department of Justice in the investigation and prosecution of fraud or other criminal or unlawful activity in or against the savings associations industry.

(2) Any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the general supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform, whether or not the attorney is a resident of the district in which the proceeding is brought. Any law enforcement personnel or other employees of the Department or agency whose services are accepted pursuant to paragraph (1) shall also serve subject to the general supervision of the Attorney General.

SEC. 04. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) BREACH OF FIDUCIARY DUTIES.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(p) BREACH OF FIDUCIARY DUTIES.—A finding of a Federal court, State court, or the appropriate Federal financial institutions regulatory agency that an institution-affiliated party of an insured depository institution has breached any fiduciary duty to that institution shall, once such finding has become final, constitute a defalcation while acting in a fiduciary capacity within the meaning of sections 523(a)(4) and 523(a)(12) of title 11, United States Code. The liability arising from such breach shall constitute a debt not dischargeable in a case under title 11, United States Code.".

(b) PRIORITY OF CERTAIN CLAIMS.—

(1) IN GENERAL.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end thereof the following:

"(q) PRIORITY OF CERTAIN CLAIMS.—In any proceeding related to any claim acquired under sections 11 or 13 of this Act against an insured depository institution's director,

officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim or cause of action brought by the Corporation shall have priority over any other suit, claim, or cause of action asserted by depositors, creditors, or shareholders of the insured depository institution, except for claims of other Federal agencies or the United States. This priority shall apply to both the prosecution of any suit, claim, or cause of action, and the execution or satisfaction of any subsequent judgment resulting from such suit.

"(r) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

"(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of any appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, shall be filed within 10 days of the entry of that order. Hearing of the appeal shall be within 60 days of filing of the notice. The appeal shall be decided within 90 days of the notice.

"(2) SCHEDULING.—Consistent with section 1657 of title 28, United States Code, the courts of the United States shall expedite the consideration of any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution. As far as practicable the courts will give such cases priority on their dockets.

"(3) JUDICIARY DISCRETION.—Any judge may modify the schedule and limitations of paragraphs (1) and (2) as applied to a specific case, based on a specific finding that the ends of justice served by making such a modification outweigh the best interest of the public in having the case resolved expeditiously.".

(2) APPLICABILITY.—The provisions of section 11(q) of the Federal Deposit Insurance Act, as added by this section, shall not apply to suits, claims, or causes of action asserted by depositors, creditors, or shareholders of insured depository institutions commenced on or before the date of enactment of this Act.

(c) FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States on a temporary or permanent basis for such purposes.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—On request from a foreign banking authority, the appropriate Federal banking agency may provide assistance in accordance with this paragraph if the requesting authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The appropriate Federal banking agency may, in its discretion, conduct investigations to collect information and evidence pertinent to a request for assistance. Any such investigation shall be conducted consistent with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.".

(2) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is further amended by adding at the end thereof the following:

"(s) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office on a temporary or permanent basis to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

(d) LIMITATION ON DISPOSITION OF CERTAIN ASSETS.—

(1) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end thereof the following:

"(4) In any action brought by an appropriate Federal banking agency and the Resolution Trust Corporation in any capacity pursuant to paragraph (1), or any other civil action for money damages or injunctive relief the court may, upon application of the agency, issue ex parte a restraining order which prohibits any person subject to the proceeding under such paragraph from withdrawing, transferring, removing, dissipating or disposing of any funds, assets or other property and which appoints a temporary receiver to administer such restraining order. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

(2) AMENDMENT TO THE CRIMINAL CODE.—Section 1345 of title 18, United States Code, is amended by striking the first sentence thereof and inserting in lieu thereof: "Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a violation of this chapter, or a banking law violation as defined in section 3322(d) of this title, or of section 287 or section 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or section 1001 of this title, or is engaged or intends to engage in any alienation or disposition of any property obtained from any such violations, the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such violation or such alienation or disposition of property or assets of equivalent value. In any such case, the Attorney General may petition for a restraining order to prohibit any person from withdrawing, transferring, removing, dissipating or disposing of any such funds, assets, or other property and to appoint a temporary receiver to administer such restraining order. In a case involving a banking law violation, as defined in section 3322(d) of this title, the petition may be ex parte. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.".

(e) SUBPOENA AUTHORITY FOR FDIC AND RTC ACTING AS CONSERVATOR OR RECEIVER.—Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator or receiver of an insured depository institution, exercise any power described in section 8(n) in the same manner as provided in such section.

"(ii) LIMITATION.—A summons may be issued under clause (i) only by, or with the prior written authorization of, the Board of Directors.

(f) FRAUDULENT CONVEYANCES AVOIDABLE BY RECEIVERS.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end thereof the following:

"(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, as conservator or receiver, may avoid any transfer of any interest of any institution-affiliated party, or any person who the Corporation determines is a debtor of the institution in property, or any obligation incurred by such party or persons, that was made within 5 years of the date on which the Corporation was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with actual intent to hinder, delay, or defraud the insured depository institution.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation may recovery, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

"(ii) any immediate or mediate good faith transferee of such transferee.".

(g) TECHNICAL AMENDMENT.—Section 8(b)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(4)) is amended by deleting "subsections (c), (d), (h), (i), (k), (l), (m), and (n)" and inserting in lieu thereof "subsections (c) through (s) and subsection (u)".

SEC. 05. CONCEALMENT OF ASSETS FROM FEDERAL BANKING AGENCIES ESTABLISHED AS CRIMINAL OFFENSE.

Chapter 47 of title 18, United States Code, is amended—

(1) by adding at the end thereof the following:

"SEC. 1032. CONCEALMENT OF ASSETS FROM FEDERAL BANKING AGENCIES.

"Whoever knowingly conceals from an appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), whether such agency is acting as an agency, in a corporate capacity, or as a receiver or conservator, any assets or property against which either such Corporation (as conservator or receiver) or such Office may have a claim shall be fined not more than $1,000,000, or imprisoned not more than 5 years, or both."; and

(2) by amending the table of sections for such chapter by inserting after the item relating to section 1031 the following:

"1032. Concealment of assets of insured depository institution.".

SEC. 06. CIVIL FORFEITURE.

Section 981 of title 18, United States Code, is amended—

(1) subsection (a)(1)(C), by inserting "or a violation of section 1341 or 1343 of such title affecting a financial institution" before the period;

(2) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(3) in subsection (e)(4), by striking "(if the affected financial institution is in receivership or liquidation)".

SEC. 07. TECHNICAL AMENDMENTS.

(a) CRIMINAL CODE.—Title 18 of the United States Code is amended—

(1) in section 656—

(A) by inserting "bank or savings and loan holding company," before "national bank" the first time it appears in the first sentence; and

(B) by inserting "or company" after "such bank" each time it occurs in the first paragraph;

(2) in section 657—

(A) by striking "Home Owner's Loan Corporation," and inserting in lieu thereof "Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Federal Deposit Insurance Corporation";

(3) in section 1005, by inserting "or company" after "such bank" each time it appears in the first paragraph;

(4) in section 1006—

(A) by striking "Home Owner's Loan Corporation," and inserting in lieu thereof Office of Thrift Supervision, the Federal Home Loan Bank System, the Resolution Trust Corporation,"; and

(B) by striking "Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "Federal Deposit Insurance Corporation";

(5) in section 1014, by inserting "Office of Thrift Supervision," after "the Federal Home Loan Bank System," each time it appears;

(6) in section 1341, by inserting ", credit," after "money";

(7)(A) in section 1343—

(i) by inserting ",credit," after "money";

(ii) by striking out "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting in lieu thereof "uses or causes to be used any facility of interstate or foreign commerce";

(iii) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice"; and

(iv) by amending the heading to read "Fraud by use of facility of interstate commerce"; and

(B) in the table of sections for chapter 63 of title 18, United States Code, by striking out the item relating to section 1343 and inserting in lieu thereof:

"1343. Fraud by use of facility of interstate commerce.";

(8) in section 2314, by inserting "or foreign" after "interstate";

(9) in section 3289, by striking out "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting such stricken language after "within 6 months of the expiration of the statute of limitations,"; and

(10) in section 981(b), by inserting "the Attorney General or" after "property subject to forfeiture under subsection (a)(1)(C) of this section may be seized by".

(b) RIGHT TO FINANCE PRIVACY ACT.—Section 1101 of the Right to Financial Privacy Act (12 U.S.C. 3401) is amended in subsection (6)(B) by striking out "section 3(f)(1)" and inserting in lieu thereof "section 4(f)(1)".

SEC. 08. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in subsection (1)(c)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to false statements to financial institutions)," before "sections 1503,";

(C) by striking out "section 1343 (fraud by wire, raido, or television)," and inserting in lieu thereof "section 1343 (fraud by use of facility of interstate commerce), section 1344 (relating to bank fraud),"; and

(D) by striking out "the section of chapter 65 relating to destruction of an energy facility,";

(2) by redesignating the first paragraph (m), which reads "any conspiracy to commit any of the foregoing offenses," as paragraph (o);

(3) by striking out "and" at the end of paragraph (m);

(4) by striking out the period at the end of paragraph (n) and inserting in lieu thereof "; and"; and

(5) in paragraph (j), by striking out "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of United States Code" and inserting in lieu thereof "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) (49 U.S.C. App. 1679a(c)(2)) or sections 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy) (49 U.S.C. App. 1472 (i) or (n))".

SEC. 09. ADDITIONAL SPECIFIED UNLAWFUL ACTIVITIES TO MONEY LAUNDERING STATUTE.

Section 1956 of title 18, United States Code, is amended in subsection (c)(7)(D)—

(1) by inserting "section 1014 (relating to false statements to financial institutions)," before "section 1201"; and

(2) by inserting "section 1343 (fraud by use of facility of interstate commerce)," before "section 1344".

SEC. 10. ENHANCEMENT OF ABILITY TO ORDER RESTITUTION IN CERTAIN FRAUD CASES

Section 3663(a) of title 18, United States Code, is amended by adding at the end thereof the following: "For the purposes of this section, the term 'victim of such offense' shall include any victim of a banking law violation (as defined in section 3322 of this title) irrespective of whether the defendant was convicted of an offense involving that victim or of an offense involving the property of the victim for which restitution is to be ordered.".

METZENBAUM AMENDMENTS NOS. 2108 and 2109

(Ordered to lie on the table.)

Mr. METZENBAUM submitted two amendments intended to be proposed by him to the amendments intended to be proposed by Mr. HEINZ (and others) to savings and loan legislation, as follows:

AMENDMENT NO. 2108

In the pending amendment in the section entitled "SEC. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT." strike "(b) PRIORITY OF CERTAIN CLAIMS—" through 'suit.".' and insert the following:

"(b) PRIORITY OF CERTAIN CLAIMS.—

(1) Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is further amended by adding at the end thereof the following:

(a) PRIORITY OF CERTAIN CLAIMS.—In any proceeding related to any claim acquired under section 11 or 13 of this Act against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any other such suit, claim or cause of action asserted by depositors, creditors, or shareholders of the insured depository institution, except for claims of federal agencies or the United States, unless the Corporation is notified in writing of the commencement of such other suit, claim or cause of action and fails to file its suit, claim or cause of action against the same defendant within 90 days of such notification. The sole effect of this provision shall be to afford the Corporation priority with respect to the execution of any subsequent judgments resulting from such suit to the extent the assets involved would be available to the Corporation."

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to suits, claims or causes of action of depositors, creditors, or shareholders commenced before the date of enactment of this Act."

AMENDMENT NO. 2109

In the pending amendment in the section entitled "SEC. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT." strike "(b) PRIORITY OF CERTAIN CLAIMS—" through 'suit.".' and insert the following:

"(b) PRORITY OF CERTAIN CLAIMS.—

(1) Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is further

amended by adding at the end thereof the following:

(a) PRIORITY OF CERTAIN CLAIMS.—In any proceeding related to any claim acquired under section 11 or 13 of this Act against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other party employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any other such suit, claim or cause of action asserted by depositors, creditors, or shareholders of the insured depository institution, except for claims of federal agencies or the United States, unless the Corporation is notified in writing of the commencement of such other suit, claim or cause of action and fails to file its suit, claim or cause of action against the same defendant within 90 days of such notification. The sole effect of this provision shall be to afford the Corporation priority with respect to the execution of any subsequent judgments resulting from such suit to the exent the assets involved would be available to the Corporation."

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to suits, claims or causes of action of depositors, creditors, or shareholders commenced before the date of enactment of this Act."

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to advise the public and my colleagues in the Senate that the Subcommittee on Public Lands, National Parks and Forests has scheduled an oversight hearing on July 25 beginning at 2 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to consider the findings and recommendations contained in two recent reports concerning the management and operation of the National Park Service's concessions program. The two reports are, "Report of the Task Force on National Park Service Concessions," dated April 9, 1990, prepared at the request of the Secretary of the Interior, and "Followup Review of Concessions Management, National Park Service," Report No. 90-62, dated April 1990, prepared by the inspector general of the Department of the Interior.

Witnesses will be asked to testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510.

For further information regarding the hearing, please contact Tom Williams of the committee staff at (202) 224-7145.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 28, 1990, at 10 a.m. to hold a hearing on the most tragic victims of drug abuse, infants, and other young children.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on June 28 after the first afternoon vote, to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on compensation and other benefits and health-care legislation on Thursday, June 28, 1990, at 9:30 a.m. in SR-418.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 28, 1990, at 2 p.m. to hold a closed markup on the fiscal year 1991 intelligence authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS COMMITTEE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, June 28, 1990, at 9:30 a.m. The committee will hold a hearing to examine the impact of Social Security payroll taxes on small businesses.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PATENTS, TRADEMARKS, AND COPYRIGHTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks, and Copyrights of the Committee on the Judiciary, be authorized to meet during the session of the Senate on June 28, 1990, at 2 p.m., to hold a markup on S. 1198, a bill to amend title 17, United States Code, to provide certain rights of attribution and integrity to authors of works of visual art.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, June 28, at 9:30 a.m. for a hearing on the subject: vulnerability of the Nation's electrical system to multisite terrorist attack.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, OCEAN, AND WATER PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 28, beginning at 9:30 a.m., to conduct a markup on S. 1697, the Radon Testing for Safe Schools Act; and immediately following the markup to conduct a hearing on S. 2706, the Beaches Environmental Assessment, Closure, and Health Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 28, 1990, at 2 p.m. on the nomination of Christopher Hart, of the District of Columbia, to be a member of the National Transportation Safety Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 28, 1990, for a hearing to receive testimony on the Department of Energy's uranium enrichment enterprise and the independent financial assessment prepared by Smith Barney, Harris Upham & Co.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 28, 1990, for a hearing to receive testimony on S. 2273, a bill entitled the "Greens Creek Exchange Act."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 28, at 10 a.m. to consider and vote on pending legislation and treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs and the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 28, at 2 p.m. to hold a hearing on proposed U.S. military training for Peru.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CRISIS FACING WIC

● Mr. LEAHY. Mr. President, one of our most important nutrition programs is facing a financial crisis.

Because of unexpected increases in food costs, 27 States are denying benefits to 275,000 infants, children, and pregnant women that have been certified at risk by qualified medical professionals.

The program is WIC—the Supplemental Food Program for Women, Infants and Children.

Created in 1972, it is universally acclaimed as one of our Nation's most successful nutrition programs.

WIC serves children at some of the most critical times of their lives.

It feeds their mothers when they are pregnant or breastfeeding.

And it feeds children during their important, early development years.

Because of the budget squeeze, WIC children with medical needs or inadequate diets will be denied food.

They will be denied the right start in life.

WIC is designed to increase infant birthweights and reduce birth defects by providing nutritious food to pregnant women.

It is designed to combat the problems cited by the Surgeon General—that babies with low birthweights are at greater risk of having "developmental handicaps, birth defects, respiratory and other infectious diseases, behavior problems and [other] complications."—Surgeon General's Report on Nutrition and Health 1988.

Other experts agree.

In testimony before the Senate Budget Committee, Dr. Buford Nichols of the Baylor College of Medicine's department of pediatrics said that "20,000 infant deaths can be prevented each year by improving prenatal nutrition and care."

According to the Surgeon General, the average medical cost of a low-birthweight baby can exceed $39,000. The average cost of the WIC package is $30 a month.

I will work today to send H.R. 5149 to the President.

I have worked with Congressman TONY HALL on figuring out a solution to the WIC crisis. The final version of H.R. 5149 is not everything I wanted but it is a good effort which I support. I also appreciate the efforts of Senator HARKIN and Senator BOSCHWITZ in working to address this WIC crisis.

This will solve the financial crisis facing WIC.

If enacted, States will be able to keep feeding the 275,000 needy newborns, children, and pregnant women.

But let me put Congress on notice. The WIC Emergency Food Act only solves part of the problem.

WIC now serves over 4.5 million low-income women, infants, and children.

But due to funding limitations, over 40 percent of those eligible—over 3 million Americans—are not served.

Funding a program at 60 percent is like asking mothers to feed their kids only two meals a day.

When the funds for next year's budget are being appropriated, I will again fight for more money for WIC.

WIC drives home a basic fact—poor nutrition and hunger jeopardize the future of our entire Nation.

America is the richest, most self-sufficient Nation on Earth. Yet millions go to bed hungry every night.

Hunger is not limited to the homeless living on our street corners and in our subway stations. It is far more extensive.

It is time to get our priorities straight.

Who in this Chamber can walk away from a hungry newborn. It is time to vote for this bill.●

ALLEVIATING THE HOUSING CRISIS IN ISRAEL

● Mr. BOSCHWITZ. Mr. President, recently, Congress agreed to provide Israel with $400 million in housing loan guarantees for the purpose of helping it build decent, inexpensive homes for the massive number of Soviet Jews who are expected to arrive there over the next several years. There was a clear recognition by legislators that after years of calling upon the Soviet Union to allow its citizens—both Jewish and non-Jewish—to emigrate, we had an obligation to help Israel absorb the immigrants who chose to go there.

Israel urgently needs additional housing to meet the demands that this huge influx of new citizens has placed upon its limited resources. The immigrants are currently arriving at the rate of about 10,000 per month and the available stock of empty apartments in Israel is nearly exhausted. As many as a million Soviet Jews are expected by 1995, if the doors stay open and high rates of immigration continue as expected. The Soviet Jews are jumping at their newfound opportunity to leave the U.S.S.R., where the combination of a sinking economy and rising anti-Semitism is giving them visceral fears about the future.

For almost a year, it has been apparent that Israel would need to prepare for the arrival of massive numbers of Soviet Jews. Friends of Israel would have thought that Israeli officials would have made the obvious conclusions about the need to begin to build new housing and infrastructure prior to the arrival of hundreds of thousands of new citizens. Common sense dictates that you don't wait for the flood to hit before you take steps to prevent damage.

But that has not been the case in Israel. I was simply amazed to read last week that the housing situation is so serious that young Israelis are being forced to vacate their apartments for tents because landlords are charging rents that the Soviet immigrants, with government subsidies, can afford but the young Israelis cannot. Even more incredible has been the fact that not one single unit of housing has been built specifically for new Soviet immigrants; that not one acre of the 93 percent of Israel's land that is under government control has been made available for new housing; and that Israel's new construction over the past 18 months is not enough to fulfill the demand for housing among Israelis, let alone that required by the more than 50,000 immigrants who have arrived there so far this year.

The announcement this week that Israel will import 40,000 prefabricated homes for the Soviet immigrants is welcome news that will help to ease the strain that the immigrants' arrival has produced. But Israel needs to do much more if both recently arrived immigrants and future immigrants are to have decent housing within a relatively short time of their arrival.

Many of the problems affecting the provision of housing for the Soviet immigrants are an outgrowth of practices which have affected the Israeli housing sector for years. Israel's housing scene is beset with poor policies that create terrible overpricing of land; long delays in getting needed construction permits; and enormous import fees, duties, taxes, and other charges. Cartels or monopolies unfairly control the supply of many building materials.

I must tell my Israeli friends that it is time to change the way they are doing business. It is time to reform land policies so large amounts of land

can be available at a fair price, and to put to rest the bureaucratic morass that produces so much mindless red-tape that it can take an astounding 2 years or more to build an apartment house. It is time to lay aside the inter-party politics that prevents such overdue moves as letting the Housing Ministry, which is responsible for constructing the homes the immigrants need, have oversight over the Israel Lands Authority, which controls the land on which those houses would be built. And it is time to end the influence of the special interests who want to stifle competition in the housing and construction sectors and maintain the current, hugely inefficient system that profits no one but themselves.

Recently, I saw a diagram of the steps an Israeli has to go through to receive all the permits and approvals needed to build a house. I counted 65 arrows on that diagram, each corresponding to a specific step in the process. The diagram was entitled "Who wants to build a house?" It might better be labeled "Who has the patience to build a house?" The diagram told a truth about the Israeli system: It is designed to thwart the entrepreneur, not to help him.

Nothing would make the Israeli housing industry—indeed, the entire economy—more efficient and productive than long overdue reform that would force it to engage in open competition in a free market. Excessive government interference has, more than any other factor, damaged every sector of Israel's economy. It is my hope that, in the process of discussing the implementation of the housing loan guarantees, the United States begin a serious dialog with Israel to encourage it to open up its housing industry to the influence of free market forces.

Any further delays in reforming Israel's housing sector will compound the current unsatisfactory situation. I call upon Israel to take the necessary steps to bring order out of the chaos that its policies have produced.

I ask that an article from the June 22 edition of the New York Times on the housing situation in Israel be printed at the conclusion of my remarks.

The article follows:

IN EMIGRÉ CRUSH, TENT TOWNS SPROUT FOR ISRAELIS

(By Joel Brinkley)

RISHON LE ZION, ISRAEL, June 21.—Little tent towns began springing up across the nation this week.

In Haifa, Netanya, Karmiel, Jerusalem, Beersheba and in this affluent city just south of Tel Aviv, young families with infant children are heating baby formula over small gas grills, hanging laundry from trees and sleeping on blankets spread across the ground.

In Karmiel, some families have begun moving into city bomb shelters, too.

The tent towns fulfill the worst fears of those who have been warning for many months that the Government should have begun to build housing for new Soviet immigrants more than a year ago. But the residents of these growing campsites are not Soviet immigrants. They are young, native Israelis who are being forced out of their homes.

RENTS RISING RAPIDLY

So many immigrants are arriving here—more than 50,000 so far this year—and housing is now in such short supply that rents are rising beyond the reach of many newly married couples.

These are young adults just starting out who had managed to grab only the bottom rung of Israel's economic ladder. Now, by the hundreds, they are falling off, victims of what is commonly known here as the "immigrant housing crisis."

"We're not against the immigrants," 24-year-old Ofer Bitton said. He, his wife and their newborn son set up their tent in the city park two nights ago. In the 36 hours since, 23 other families have joined them, each apparently bringing their own tent.

"We love the immigrants," he added. "But they've got money from the Government, and we don't." Immigrants are given a Government housing subsidy of between $300 and $350 a month for the first year. "So the immigrants are coming in over our backs."

TAKING EVERY SPACE

Mr. Bitton, a truck driver not long out of the army, had paid $250 a month for his two-room apartment. But for the last few months thousands of Soviet immigrants have been pouring through Rishon le Zion, looking for apartments with the Government rent money in hand, taking every space that was available and some that weren't.

The Bittons did not have a lease; others may be in the same predicament or may have leases that expired.

Landlords across the nation are evicting people like the Bittons and other bottom-rung tenants in favor of the new citizens who, at least for the first year, can afford to pay more. The original tenants are usually given the opportunity to pay the higher rent, but those who have been forced to move into tents were unable to match the new price. With the nation's housing supply nearly used up, the young Israelis find they have no place to go.

Nationwide, there may be just a few hundred families in the tent cities. But for all those who live in tents, there are certainly many more who have moved in with friends or family members.

Mr. Bitton is angry, bitter. "I spent four years in the army, and I still get called into the reserves every two months," he said. "But I have no place to live."

More than 10,000 Soviet Jews arrived in Israel in April and again in May. The arrival rate so far this month suggests that June's total will be even higher.

A MILLION VISAS

In Moscow, the Israeli Government reports, 1,700 Soviet Jews are applying for visas to immigrate to Israel every day, or 52,000 a month. More than 1 million Soviet Jews already hold emigration visas, the Jewish Agency, the quasi-governmental office with central responsibility for immigration, reported early this month.

And yet, Israel still has not built a single new apartment for the immigrants. Only 7,500 new housing units have been built nationwide in the last 18 months—not enough even for Israel's normal population growth.

Testimony before the Parliament's Immigration and Absorption Committee this week showed that contractors have not bought a single plot of land from the Government, which controls land sales, for new immigrant housing projects.

For the last 10 months, ever since the immigrant wave started to mushroom, there have been plans, pronouncements and news conferences almost every week to announce major new programs to provide housing for the immigrants. But nothing has been done.

"CHANGED ALL THE RULES"

"For years they could have been building apartments, and now it's impossible to do anything instantly," said Mira Bitton, who moved into a tent earlier this week. She is no relation to Ofer Bitton.

Another park resident, 26-year-old Orna Ben Yeshi, said: "We are not asking for anything for free. But the Government didn't plan, and now it's coming down on our backs."

Michael Kleiner, chairman of the Parliament's Immigration and Absorption committee, said: "We had thousands of apartments, but suddenly came such a number of people that they changed all the rules of the game.

"The only thing that can change the crisis is having more supply," he added. "The only remedy to the upsurge of prices is building immediately and very quickly—more apartments, even ready-made buildings imported from abroad."

NEW HOUSING MINISTER

To accomplish this, Prime Minister Yitzhak Shamir appointed Ariel Sharon the Housing Minister when his new Government was formed early this month. Mr. Sharon has the additional charter of overall responsibility for immigration policy.

"He's a bulldozer," Mr. Shamir's chief of Staff, Yossi Ben Aharon, said with a smile early this week. But Mr. Sharon has been in office only two weeks, and his aides say he is still studying the problem, formulating his plans.

For now, the lead editorial cartoon in the daily newspaper Haaretz today shows a small family sleeping on a park bench. Wrapped around them for warmth is a large schematic diagram entitled "Government Program for Settling Immigrants."

The United States Embassy says American contractors are willing to help. An American official said American manufacturers "are dying to ship prefabricated housing over here."

"Sitting on dock in the United States the houses go for $25,000," the official said. But here, the manufacturers would have to charge between 10 and 50 percent more, depending on the building materials, because of stiff Israeli import duties. That makes selling them here economically unfeasible.

The United States has tried to persuade Israel to lower the duties—even as Washington is considering a request for $400 million in special loan guarantees for Israel to pay for new immigrant housing. But as with many things here, the request for lower duties seems lost in the bureaucracy.

Even if Israel started buying prefabricated housing from the United States or elsewhere, Israeli building contractors made it clear on Wednesday that they would lie down on the ground in the path of the bulldozers before they would allow foreign made housing to be put up here. But the

Government says contractors are not putting up any housing either.

In the United States, the United Jewish Appeal is in the middle of a campaign to raise $400 million over three years to help Israel absorb the new immigrants from the Soviet Union.

Land is also a problem. The government Israel Lands Authority, a part of the Agriculture Ministry, releases all public land for building. Mr. Shamir is trying to move the Lands Authority to the Housing Ministry to eliminate the need for another ministry's approval before land can be assigned for housing, thus giving Mr. Sharon a free hand.

But a religious party in the governing coalition is angry with Mr. Shamir because one of the party's members is under police investigation for fraud. The party, the Sephardic Torah Guardians, won't vote for the move, blocking it and limiting the Government's ability to free up land.

PLEAS FOR A SOLUTION

A Haaretz editorial today urges the Government to solve these and many other problems, "if the Government wishes to insure that the immigrants arriving in Israel will also remain here."

In the meantime, in the tent city that has gone up in a Jerusalem city park, Tal Yaacov of Holon is living in a tent with her 3-year-old son while she worries about her brother.

"Next month he is getting out of the army, and he has no home," she says. "And so he is going on an airplane, going on a trip. And I don't know if he's going to come back."●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Ms. Lisa Caputo, a member of the staff of Senator WIRTH, to participate in a program in Taiwan, sponsored by the Soochow University, from July 4-11, 1990.

The committee has determined that participation by Ms. Caputo in the program in Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.●

The select committee has received a request for a determination under rule 35 for George Pickart, a member of the staff of Senator PELL, to participate in a program in Taipei, sponsored by the Chinese Culture University, from July 2-8, 1990.

The committee has determined that participation by Mr. Pickart in the program in Taipei, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

TRANSITION NEVER EASY

● Mr. BOREN. Mr. President, the transition from tyranny to democracy is never an easy one, and it is made more difficult when such a transition is carried out in times of social upheaval. Sometimes disastrous mistakes are made in such periods. It was for instance, during such a period of transition that the German National Socialists took their first steps to power.

Thus this type of transition is one which those who care for democracy should watch, to ensure that the new democracy's first faltering steps do not go back toward greater repression. The Soviet Union is at such a stage. There the problems could be especially large. Gennadi Gerasimov, Soviet Foreign Ministry spokesman, commented "we have no history of democratic experience. Freedom to some means anarchy." The strong resurgence of nationalism in many of the Soviet republics has, in the case of Azerbaijan and Armenia, led to outbreaks of very violent anarchy, which have attracted the attention of the world.

Less well reported has been the reemergence of a xenophobic, menacing Russian nationalism. The intellectual basis for this new movement was provided by Igor Shafaravich in his recent book "Russophobia." Shafaravich called for the Russian nation to reject democracy as a system with "no organic connection with this country" and instead return to an agrarian society and the Russian Commune. Those who argue against such a system—who argue for the rights of the individual above those of the nation—are, announces Shafaravich, those of another nation, an alien cancer in the body of the Russian people, those who hate because "The hatred against one nation is most certainly connected to the acute sense of one's belonging to another one." It is the Jews, argues Shafaravich, who have pushed for the evil system of democracy; the Jews who have "contributed to the disintegration of historical traditions and the destruction of historical roots"; the Jews who organized the revolution of 1917; and the Jews who played a large role in the Stalinist purges.

Such ideas have gripped a disturbingly sizeable part of the Russian intelligentsia. A meeting last November of The Russian Federation Writers' Union was violently split between those who wished to cut off their Leningrad chapter, because it contained a large number of Jews, and those who continued to support it. Further, Shafaravich's ideas have been picked up by many in the lower ranks of party and state bureaucracy, afraid of losing their jobs in major reform, and others of the Spastati—the dissatisfied peoples of all classes.

The spread of Russian nationalism had led to the formation of such groups as Pamyat, who threaten to "finish what Hitler started." They disrupt meetings attended by Jews with shouts of "Yids, get out to your Israel" and "Today we are here with loudspeakers, tomorrow we will come with guns." The Congress of Jewish Organizations, held in Moscow last December—itself a target for Pamyat demonstrations—documented 50 desecrations of Jewish cemeteries and over 1,000 anti-semitic rallies. An Italian teacher who attended one such meeting wrote "it seemed to me that I was attending a replay of a fascist rally during the 1930s." New recruits to Pamyat must prove their racial purity and provide the home addresses of five Jews in preparation for the Pogroms to come.

So far there have been few reports of actual violence, but many Jews are worried. Polls indicate that as many as 75 percent of Jews consider themselves in danger from racist groups. Jewish writer Grigory Kanovich described "Clouds of pogroms * * * gathering over our heads." Such fears can only be exacerbated by the long history of anti-semitic aggression in Russia, aggression that has led to the brutal murder of many thousands of Soviet Jews.

Yet the reaction from the Soviet Government has been far from decisive. The KBG, in an appeal for calm, has said "there is no concrete evidence" for the rumors of pogroms. A tower block in Moscow with a high percentage of Jewish occupants has been placed under police guard and the head of Pamyat has been warned against stirring up national hatred. President Gobachev, however, is yet to comment. A petition signed by 200 members of the Congress of People's Deputies calling for a meeting between Gorbachev and Jewish leaders was stricken from the list of petitions submitted to the presidium—effectively burying it.

If Gorbachev is to live up to the promises of Glasnost and if we are to see the U.S.S.R. as a European state as he wishes us to see it, his stand against Pamyat and "the neo-Stalinists of the New Right" must become more open, for at the moment the improvements in conditions for Jews which Glasnost has brought are being undermined. Just as the greater religious freedom brought in under Gorbachev's reforms allow for the reopening of synagogues, the New Right's vandalism closes them. As Jewish cultural societies spring up in a new age of reduced censorship, Pamyat intimidation threat-

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ens their survival. Just as the government is beginning to tell the truth about Soviet history, authors such as Shafarevich re-write it again to blame failure and decay on the Jews.

While Gorbachev works to ensure that the state becomes less the source of religious and social oppression, he must also ensure that "Nationalists" do not take over the same role. Meanwhile, we to should remain vigilant. So far, the wave of fear among Soviet Jews is based more on the increased brazenness of anti-semitism rather than particular acts of violence. But if we wait to act until actual violence has begun to express our concern, we will have waited too long.●

H.R. 2514, THRIFT PLAN TECHNICAL AMENDMENTS ACT OF 1990

● Mr. PRYOR. Mr. President, yesterday the Senate approved H.R. 2514, the Thrift Plan Technical Amendment Act. The bill makes a number of amendments to the Federal Employees' Retirement System Act [FERSA] to further improve the operation of the thrift savings plan [TSP].

After its creation, the Thrift Investment Board established a process by which an agency could correct any errors it made in contributing to the plan on behalf of its employees. However, the Comptroller General issued a decision which states that "there is no statutory basis for agencies to pay into employee TSP accounts earning lost due to agency's delay in making contributions to those accounts." This bill simply gives the agencies the statutory authority to make up any lost earnings which result from agency error. I expect that claims for lost earnings will be handled by agencies with little controversy. However, in an unusal situation where a dispute concerning lost earnings cannot be resolved with the agency, the provisions of FERSA provides a mechanism for the employee to seek appropriate relief from the agency in Federal court.

There are three funds available in the thrift savings plan: The G fund, the C fund, and the F fund. This bill eliminates a 10-year phase-in period for FERS participants' investments in the C and F funds. The original intent of the phase-in was to avoid any budget impact. However, OMB and CBO have decided to treat the thrift plan as off-budget and, therefore, there is no need to protect the budget. The bill also allows CSRS participants to invest in the C and F funds. That restriction was originally intended to encourage Federal employees to switch into FERS. That dynamic is no longer present and the CSRS restriction should also be removed.

The bill also: exempts TSP annuities from State and local premium taxes, as Congress did for the Federal Employees Group Life Insurance Program in 1980; clarifies the distinction between the date an annuity is purchased and the date an annuity commences; authorizes the Board to make cash payments to an employee who separates from Government service with a final TSP account balance of $3,500 or less and who does not select one of the other options available; broadens existing authority to allow certain career Senior Executive Service employees who are appointed to executive level positions, or positions whose salaries are linked to the Executive Schedule, to elect to retain their SES benefits; and deletes the expiration date from the TSP fiduciary indemnification provisions in current law.

These amendments are intended to make it easier for the Thrift Investment Board to administer the plan. I am pleased that the Senate acted quickly to approve this legislation.●

GRAND JUNCTION / MESA COUNTY COLORADO RIVERFRONT PROJECT

● Mr. WIRTH. Mr. President, I would like to take a moment to recognize and salute the Grand Junction/Mesa County Colorado Riverfront project, a truly inspirational example of how community enthusiasm and private-public sector cooperation can work for a better economy and a cleaner environment.

Through the efforts of the Colorado Riverfront Commission, this project is in the process of restoring the banks of the Colorado River, and will result in a mecca for outdoor recreation enthusiasts. Many trails set aside for walking, biking, and running will line the river and provide prime fishing opportunities. A river corridor of such character and quality winding through the Grand Valley, will add a tremendous amount of appeal to this community.

Efforts like this underscore a community awareness of the environmental concerns that face us all and prove that it is possible to enhance our surroundings for a safe and prosperous environment. On a recent visit to the riverfront to celebrate Earth Day, I was amazed by the amount of work that has gone into the planting of hundreds of willow and cottonwood trees. This work not only beautifies the river but also helps reestablish the natural habitat of the river and its surroundings.

While esthetic and recreational benefits to the community are the Riverfront Commission's most visible accomplishments, the commission boasts many other note-worthy achievements.

The Riverfront Commission has organized intensive cleanup efforts, working with the local business community to remove eyesore salvage yards from the river banks. By helping to coordinate the efforts of local, State and Federal agencies, the commission have been helped to speed the relocation of uranium mill tailings that had been left alongside the river. A strict timetable is now being followed to rid the area of the tailings, adding more room for expansion of parks and trails.

The grassroots campaign that initiated this effort adds an extra dimension to this community project and has helped assure its success. Hundreds of volunteers, from boy scouts to senior citizens, from school children to organized service clubs, from environmental groups to local businesses and development interests, are working to make the dream of a riverfront retreat a riverfront reality. And the dream has not gone unnoticed. One visitor from Oregon wrote the Grand Junction Daily Sentinal, "I've been in a lot of towns in my 80 years, but never have I ever found anything so peaceful."

The contributions, donated lands and grants are extensive and along with the hand-on expertise and dedication of the Grand Junction and Mesa County Planning personnel, this project is a success story that ought to be shared.

I would like to take this opportunity to salute the communities of Grand Junction, Palisade, Fruita, and Mesa County, CO, and especially the committed leadership of the Colorado Riverfront Commission for giving us all something we can enjoy and draw inspiration from. I want to give a special heartfelt thanks to all the volunteers, and I would like to invite other States to examine the Grand Junction/Mesa County Riverfront project as a model for potential projects which may better their communities as well.●

WHY I AM PROUD OF AMERICA

● Mr. ROTH. Mr. President, recently, I read a speech by a young man from my State of Delaware. I found this speech to be a breath of fresh air, a reminder that young people do understand what America is all about. The speech is entitled, "Why I Am Proud of America," and it tells, in simple poetic strokes, the story of the young man's father and his journey to this country after World War II. In many ways, it is the story of one family and a father's soaring vision of what he hoped to find in America. But in many other ways, it is really the story of all of us.

The young man who wrote the speech is Christopher Castellani, a senior who recently graduated from Salesianum High School in Wilmington, DE. Christopher submitted his speech to the Voice of Democracy con-

test sponsored by the Veterans of Foreign Wars, and they honored him with a first place in our State and a sixth place in the Nation. As we approach the Fourth of July, and our Nation's 214th birthday, I can think of no better tribute to America, and to our future, than this deeply felt story of family and country. I ask that the speech be printed in the RECORD.

The speech follows:

WHY I AM PROUD OF AMERICA

There is one story my father likes to tell more than any other. When he tells it, a glaze comes over his eyes as he looks far in the distance, like he can see it clearly though it happened over forty years ago.

The story is about a man, himself, leaving his love of many years behind and sailing to America after World War II. He faces a big country alone, ignorant of its language, and devoid of any skills except those learned from a third-grade education.

The ride to America is long. Fifteen days long. But when he sees its shores, a feeling erupts uncapturable by poets or even dreamers. What is before him is his life, in all its possibilities; his life, in all its promises.

He stays in America for a while, working in a small bakery, saving up enough to send for his love, who he is to marry. But instead of just sending for her, he goes himself, because he wants to be there when she, too, first sees America; when her eyes grow red and heavy, when she sees what can really be theirs.

At this point my father usually stops, and remarks how maybe someone who hadn't sacrificed thirteen Christmases in a row working in a hot bakery might not realize the absolute luxury of a warm bed, and three meals a day, and a gathered, happy family.

But I know. I look into my father's eyes and know why I am proud of America. It is because if a man so alone and unlearned as my dad was can become a father of three grown, happy children; a husband of thirty-five years; an owner of a paid-for house; and a happy citizen above all; then it is a direct result of the opportunity America gave to him. It is a result of the hope that was inspired in him by that first sight of land. But most of all, it is because America was and is a gift to all men and women. A gift that never goes out of style, or fades, or gets lost. It is the gift of self-betterment.

When I look at my family, and realize it came from nothing, I really do think I can feel what my father must have felt when he first saw the flag flapping in a forgotten breeze, or when he was first able to utter words in English, or when he saw his first child being born an American. I, too, can feel the passion because it is part of my everyday life: passion for family, and happiness, and for what is yet to come. For the possibilities are endless in a country where a leader can rise from ruin, and a saint from despair, all because of the freedom this country bestows on its every citizen.

So I am not only proud, but honored, to say Thank You, America, for the opportunity you gave to a young, scared man long ago, and for the hope you keep giving as an example to the world of a dream's immense power.●

DEMOCRACY FOR ROMANIA

● Mr. KENNEDY. Mr. President, last week, two of Romania's courageous defenders of democracy—human rights activist, Doina Cornea and editor of Romania's well-known opposition newspaper, Petre Bacanu—visited the United States seeking assistance for their country's struggling democracy.

During the brutal dictatorship of Nicolae Ceausescu, Doina Cornea dared to speak out against the repressive policies and for a just, fair, and democratic Romania. She was severely beaten for her courageous opposition to Ceausescu's policies and for even talking to foreign journalists. She strongly opposed Ceausescu's plans to destroy entire villages under the guise of modernization and staged a hunger strike in her efforts to save the villages inhabited mostly by Romania's ethnic minorities.

In 1989, Petre Bacanu was branded a traitor and condemned to death for his efforts to publish an unauthorized newspaper. He spent many months in solitary confinement awaiting his execution. The overthrow of the Ceausescu regime in December saved his life, but did not end the repression against him and against his efforts to promote a free press. Bacanu's newspaper, Romania Libera, has been frequently harassed for publishing anti-Government articles; distribution to its 1.5 million readers has been sabotaged; and the newspaper was shut down for 5 days after its offices were ransacked in violence earlier this month.

Cornea and Bacanu have called for freedom of the press in Romania, including permission for the establishment of an independent television station. They have also called for freedom for political parties to function without intimidation and for the respect for human rights.

All friends of freedom are concerned about the continuing repression in Romania and President Iliescu's decision to call out the Romanian miners to break up anti-Government protests in University Square in Bucharest. At least 6 people were killed and 1,000 injured. More than 1,000 were detained, of whom as many as 100 remain in custody. These actions are abhorrent to a democratic system of government and call into question the commitment of the Iliescu government to a free, open, and democratic society.

While in Washington last week, Ms. Cornea and Mr. Bacanu expressed concern for those who were arrested during the violence, especially Marian Munteanu, Dumitru Dinca, and Nica Leon. Munteanu, president of the Students League at the University of Bucharest, who was beaten during the violence, was recently moved from a public hospital to a hospital under the control of the Interior Ministry. Last week, Romania's Interior Ministry announced that Mr. Dinca, a factory worker and Government opponent, had been arrested for instigating criminal acts. Mr. Leon, an engineer and president of one of the country's centrist parties, has been charged with destroying public property.

Ms. Cornea and Mr. Bacanu's concerns and demands are legitimate and essential to the establishment of a just and fair democracy in Romania. It is my hope that Mr. Iliescu's government will permit the voices of opposition, such as those of Doina Cornea and Petre Bacanu, to be heard without fear of reprisals. The Government of Romania should release all those arrested earlier this month for expressing their views, and permit the Romanian press to operate freely and independently. The people of the United States stand ready to assist in the building of a just and democratic Romania. But first, the Government must respect these basic freedoms.

I ask that a Washington Post article on the visit of Doina Cornea and Petre Bacanu may be printed in the RECORD.

The article follows:

[From the Washington Post, June 25, 1990]

ACTIVISTS ATTEST TO ROMANIA'S IDEA OF DEMOCRACY

(By Michael J. Ybarra)

Petre Bacanu, sentenced to die for starting a clandestine newspaper during the regime of Romanian dictator Nicolae Ceausescu, spent almost a year in prison, watching rats crawl out of the toilet in his tiny cell.

Doina Cornea, a noted human rights activist, was followed everywhere by Ceausescu's hated securitate. Once when she tried to meet with foreign journalists, the not-so-secret police threw her to the ground. Five times she tried to rise; five times she was beaten down, she said.

Then came the revolution. Then went the revolution.

Cornea, 61, whose treatment under Ceausescu was the subject of an Amnesty International "urgent action" alert, first grew skeptical of how much things had changed the day after the December revolution. She found out from the radio that she had been included as a member of the National Salvation Front, the new government, along with many old communist faces. She had had nothing to do with her inclusion.

Bacanu, 48, editor of the opposition newspaper Romania Libera, understood the new government's character when about 100 tons of donated U.S. newsprint intended for him ended up being used for the mouthpiece of the Front.

But the fragility of Romania's fledgling civil society did not become clear to the rest of the world until 10 days ago, when miners summoned by the government to clamp down on student protesters rampaged through Bucharest, clubing anyone in their path and sacking the offices of the opposition political party and Romania Libera.

Cornea and Bacanu were both in Canada at the time, attending an international conference. Shocked at the violence, they arranged a hasty trip to Washington for three days of meetings with members of Congress, administration officials and private groups.

Seeking assistance for the opposition and trying to convince U.S. policymakers of the new regime's perfidy, the duo ran from office to office, slept little and left for home exhausted but pleased with the reception for them and their cause.

"If we'd kept them up 24 hours a day, they would have gone 24 hours a day," said a staff member at National Strategies, the group that picked up the tab for the visit with contributions from Freedom House and the German government's Marshall Fund.

Their days were a blur of meetings: Sen. Howard M. Metzenbaum (D-Ohio), President Bush's deputy national security adviser Robert M. Gates, a reception at a Romanian Orthodox church in Bailey's Crossroads and many more. One meeting with a State Department official went to 1 a.m.

At each stop, the two repeated their simple message: Democracy in Romania is in dire need of help.

"We thought fear in Romania was over. We thought everyone will be free to say what they want," Bacanu said, in a quick interview between stops. "It was just a temporary joy. We soon realized that the people in power were not able to think differently than the communists."

Cornea said each day makes it clearer that the Front lives up to its name, that it is nothing more than a facade for former party hacks who have simply renamed the security apparatus Ceausescu put in place.

"The elections were not free," she said, "the elections we waited for so long." If the government won the vote, it was only because of its tight grip on the media, she said.

It's a grip Bacanu has felt too many times. A journalist for 30 years, the last 20 with Romania Libera—even under Ceausescu the most liberal of the nation's papers—he was constantly threatened, moved from section to section of the paper, his byline sometimes forbidden.

Finally he was arrested as a leader of a dissident group. Then the revolution flung open the door to his cell. "Now we can write anything," he said.

Getting it printed is another matter. The government runs the only printing plant in the country and also controls circulation. Nevertheless, Romania Libera is the largest paper in the country and had a circulation of 1.5 million until the Front decreed a paper shortage, halved Libera's allocation and started up two official publications.

Bacanu has been asking U.S. help so Romania Libera can get its own press and with it independence.

Cornea's weapon has been her conscience. At first she only encouraged her students at Cluj University, where she taught French, to think for themselves.

But after smuggling a letter critical of Ceausescu to Radio Free Europe, she was fired in 1983. Beatings, internal exile and hunger strikes for better treatment followed.

Now, Cornea said, she would like nothing more than to go back to her beloved books. That seems unlikely.

"If the concepts stay at just an inellectual level, they are dead," she said.●

DENVILLE DRUG AWARENESS PROGRAM

● Mr. BRADLEY. Mr. President, the drug crisis challenges all of our communities. In my home town of Denville, NJ, a group of caring citizens have joined together to form the "Denville Kids R Smart and Won't Start" program. I ask my colleagues to join me in commending the children and adults of Denville for responding to the drug crisis with creativity and compassion.

The Denville Kids R Smart and Won't Start program builds on the sense of community spirit that already exists in Denville. One of the most admirable aspects of this program is that it reaches out to all members of the community—children, parents, teachers, health professionals, businesses, and government. It shows young children that they are not alone in fighting the temptation to use drugs. I am convinced that this kind of early involvement will help children stay away from drugs for the rest of their lives.

A highlight of the program was a Drug Awareness Day, which included a parade, speakers, musicians, and games—all of which carried the drug-free message. The parade helped show the children that their community stands behind them, and against drugs.

All of those involved—including Bette Engelhardt, Mayor James Dyer, the town council and board of education of Denville—as well as the many volunteers—are to be congratulated for donating their time and their talents to teach our children to stay away from drugs.

The Denville Kids R Smart and Won't Start program is a model for our national war against drugs. It shows that the power to fight drugs lies in united communities, and in each citizen.●

WELLSBURG WELLNESS PROGRAM

● Mr. ROCKEFELLER. Mr. President, today I wish to speak in praise of a West Virginia community that has achieved national and international acclaim as a model for a community-wide wellness program.

Each year in West Virginia, over 3,000 persons die as a result of smoking; almost 5,000 men and 1,600 women die prematurely from heart disease. In 1986, 21 percent of the babies born to white teenagers had low birth weights. Low birth weight babies are 40 times more, likely to die in the first 28 days of life and 20 times more likely to die in infancy.

What makes these statistics even more depressing is that most of these very real human tragedies could have been, and are, preventable. In the past 2 years, with the investment and interest of the Bayer Co., Wellsburg has been able to turn that trend around.

Besides the obvious individual health benefits that are a direct result of the wellness program, community spirit is alive and thriving in Brooke County, WV. The wellness program struck a chord with many community residents and, as a result, real differences in health, nutrition, and lifestyle have been achieved. Over 500 people participated in this program from beginning to end. Their successes can be measured by documented declines in blood cholesterol, body fat, blood pressure, and heart rates.

Voluntarism has been the cornerstone of Wellsburg's success and I would like to acknowledge the efforts of the citizens of Wellsburg in making a reality, what started out as a novel, and largely untested, approach to promoting wellness.

I would also like to acknowledge Dr. Bill Reger's accomplishments as program director of the Bayer Wellness Program. Dr. Reger's enthusiasm for his work and commitment to wellness are a big reason the Bayer Wellness Program has been such an overwhelming success.

The Wellsburg Wellness Program is a model that I hope will be emulated all across West Virginia and the country. As the "baton" is being passed from the Bayer Co. to the citizens of Brooke County, in particular to the newly formed Brooke County Wellness, Inc., led by their board of directors, Charles Bell, Jr., Anthony Paesano, Elmer Vincent, Romie Castelli, David Law, Richard Whitehead, and John Bertram, I wish them luck, and long and healthy lives.●

CADMIUM PAINTS AND OUR ARTISTIC HERITAGE

● Mr. DOMENICI. Mr. President, on any number of occasions in the past I have spoken on the Senate floor about the many problems artists confront in dealing with the Federal Government, concerns that go well beyond the controversy over the Nation's Endowment for the Arts.

Essentially artists want the liberty to do their work in peace, yet Congress always finds a way to complicate their lives.

Take 1986. Congress passed the uniform capitalization rules as part of tax reform. The result was to force artists to become accountants. I helped pass legislation to exempt them from rules that absolutely made no sense.

And here we go again in 1990. In the name of environmental improvement, legislation is now proposed that would force artists to paint a listless sunset or a bland field of poppies.

Section 108 of S. 1112, the Solid Waste Source Reduction and Recycling Act would prevent painters from using the cadmium pigments, a basic tool of their creative trade.

Cadmium pigments are some of the best, most color-fast, and versatile paints known. Cadmium pigments are extremely stable and absolutely permanent in all mediums. Permanence in

an artists' pigment means that the color will not be altered by any condition the painting will encounter.

And Mr. President, there are no reliable or acceptable substitutes for cadmium colors, the medium on which so many oil painters and water colorists depend.

It must also be noted that artists use less than 5 percent of this country's cadmium, with very little disposed of into the environment. Paintings are seldom thrown away, and empty paint tubes are just that—empty.

By contrast, other sources of cadmium do pose an environmental threat. More than 80 percent of cadmium usage goes to the manufacturing of plastic products, ranging from football helmets to automobile dashboards.

Historically, the creations of the art world have been the most long-lasting and meaningful preservations of our culture. Without masterpieces painted with cadmium colors, our view of the world would be far more narrow.

One prominent painter, Robert Cottingham, put it this way: "It is like asking a chef to cook without garlic, or a writer not to use e's, m's, and t's."

The French impressionists were among the first to use cadmium pigments, men such as Monet, Van Gogh, and Matisse. Cadmium paints were the medium of choice of many great American painters, such as John Singer Sargent and Frederick Church.

The medium was used extensively among the Taos school of artists: Walter Ufer, Herbert Dynton, Bert Phillips, Joseph Sharp, and Victor Higgins.

California impressionists continued the tradition: Alson Clark, Guy Rose, Grandville Redmond, Edgar Payne, and many others.

One art dealer told me that Georgia O'Keeffe would never have painted like the Georgia O'Keeffe we love if she had been denied cadmium pigments.

Many modern painters, such as Mark Rothko, have depended upon cadmium. A recent New York show of 30 contemporary artists was even entitled "Waiting for Cadmium." Each artist in the show frequently used cadmium as a medium.

Many of the oil and watercolor artists living in New Mexico today use cadmium pigments. Turning the pages of gallery guides and art collecting magazines the names of contemporary New Mexico artists who rely on cadmium pigments reads like the Who's Who and Who's Hot in the art world today.

James Cramer, James Asher, Bettina Steinke, Doug Higgins, Clark Hulings, Gary Niblett, Wayne Wolfe, and countless others depend on cadmium paints.

These are the men and women who make Santa Fe the third largest art market in the country after New York City and Los Angeles.

Professional artists in my State believe that a ban on cadmium would unnecessarily limit their creativity, blocking their choices of colors, and sacrificing durability since cadmium is one of the most scientifically permanent pigments known. Further, cadmium is unequaled for intensity of color and resistance to fading.

Cadmium colors are made in a variety of shades, many opaque. Cadmium barium reds are obtainable in a variety of shades from vermilion to deep maroon. Monet's poppy fields and flower gardens exemplify these reds. Other noncadmium red pigments darken, turn brown, and experience other undesirable results. Bold yellows can only be obtained with a cadmium pigment.

Indeed, cadmium can become toxic, but that occurs when the cadmium is heated in an incinerator. Because few works of art are burned, an insignificant amount of the cadmium pigments ever reaches the solid waste system.

Professional artists are acutely aware that many materials they handle can be toxic. They make every effort to handle them with caution and responsibility. This includes disposing of used paint tubes appropriately. Cadmium is a material that is potentially toxic but, except for incineration, it is only injurious upon digestion.

Artists know that many of their supplies, including cadmium paints, must be treated with care, so they take the necessary precautions.

The amendment I shall offer on the Senate floor, if necessary, would permit a cadmium ban, "except for use in prepared artists' colors or dry pigments for artists' use." A similar exception was made for artists' white lead pigment when the use of lead was restricted several years ago. In Sweden, relief to artists from the cadmium ban has already taken effect. We should follow suit.

The broader proposed ban contained in S. 1112 is unnecessary. The goal of preventing toxic substances from seeping into ground water supplies is an absolute priority, and should be examined carefully. However, cadmium paints do not pose a threat to humans or the environment.

I have talked with my good friend, the distinguished Senator form Rhode Island [Mr. CHAFEE], who is the author of S. 1112, and I am hopeful that an appropriate exemption for cadmium pigments can be worked out. Senator CHAFEE has been an advocate of the arts in the past. He cosponsored S. 2724, a bill intended to improve arts and humanities programs, museum services, and arts and artifacts indemnification.

The distinguished chairman of the Committee on Environment and Public Works, Mr. BURDICK, responded to a letter I wrote to him on this issue. He wrote: "I can assure you, PETE, that when we proceed with the reauthorization of the Resource Conservation and Recovery Act next year, we will look long and hard before banning cadmium pigmented artists' paints. I have little doubt that artists, as a group, are among our most environmentally concerned citizens."

Mr. President, this is an important issue to artists across this Nation. It is an important issue for our cultural heritage.●

CURRENT SUGAR POLICIES

● Mr. ROTH. Mr. President, I rise today to speak about our Sugar Program which is in drastic need of reform. A recent Wall Street Journal article dramatically depicts the inequities that the excess profits to sugar growers can cause in our farm communities. In large part because of these inequities, the administration will support an amendment that Senator BRADLEY and I intend to offer to reduce the loan rate for sugar by 2 cents when the full Senate takes up consideration of the farm bill. This reduction is the same as that experienced by other major commodities—but escaped by sugar—in the 1985 farm bill.

Mr. President, I ask that a copy of the Wall Street Journal article of June 26, 1990 be printed in the RECORD.

The article follows:

RANGE WAR—SMALL MINNESOTA TOWN IS DIVIDED BY RANCOR OVER SUGAR POLICIES

(By Bruce Ingersoll)

MAYNARD, MINN.—At the Lutheran Church here, some families refuse to worship in the same pew. Elderly farm women no longer get together once a week for coffee. Boyhood friends shun each other.

Resentments are eroding even the most enduring rite of rural life, the wave hello. Farmers sometimes pass on Chippewa County 17 without even a nod of acknowledgement.

What caused this rupture? Sugar.

Residents of this heartland hamlet (population 128) are embroiled in a modern-day range war, this one pitting the "beeters"—the sugar beet growers—against their grain-farming neighbors. Many farmers fume that the rich beeters are getting richer at their expense—thanks to preferential treatment by the federal government.

Across a broad swath of southern Minnesota and elsewhere, beeters, flush with sugar profits, are outbidding other farmers whenever land is rented or a farm is sold. They are driving up land prices and rents, and crowding less fortunate farmers off the land. "We've lost a whole generation of young farmers," asserts Owen Gustafson, a Maynard grain grower and a leader of Fair Farm Policy, a group protesting "inequities" of sugar subsidies.

A VERY SWEET DEAL

The protests extend to international trade negotiations and Congress, where the sugar

program is under sharp attack as lawmakers debate the 1990 farm bill. Arguably, it's the sweetest deal in American agriculture: The government props up domestic sugar prices by curtailing imports of lower-cost sugar. Producers are guaranteed a "market stabilization price" of 22 cents a pound, about nine cents higher than the current world market price.

The result: although some other crops are also subsidized, sugar beets often bring growers four times more per acre than wheat and corn. Large beeters here reap $100,000 to $200,000 each in annual sugar benefits. That's not money from the government, but from consumers in the form of higher prices. Republican Sen. Richard Lugar of Indiana claims this "hidden tax" costs consumers $2.4 billion a year—although sugar growers contend the figure is far-fetched.

"That's super-welfare—that isn't a safety net," says Thomas Hammer, chief lobbyist for major sweetener users, which are allied with Fair Farm Policy in seeking cutbacks in sugar price supports.

Counters Irvin Zitterkopt, president of Southern Minnesota Beet Sugar Cooperative: "We aren't making as much as some of the people using our products, like candy makers and cereal people."

A DIVIDED FAMILY

For the farmers in this area, the debate taking place in Washington couldn't hit closer to home. "What we re trying to do is save our hides," says 51-year-old David Hovda, a Renville County cattle feeder. "They [the beeters] have really been endowed by the government.* * * They're going to drive us all out."

In Maynard and nearby Clara City and other small towns, widespread fear for the future, edged by envy of wealthy neighbors, is turning farmer against farmer, family against family—even dividing families.

Marvin Freiborg, a member of a large family of beet growers who himself worked with hogs, assailed the sugar program two months ago in a letter to the editor of the Clara City Herald. "I've kept quiet longer than I should have," he wrote. "I'm tired of watching the majority of beet growers outbid neighbors on land, expand their operations year after year, drive nice pickups, buy new equipment. * * *

"My mom was just disgusted with me," says Mr. Freiborg, who had to give up his land last fall when his landlord raised the rent. "But I told the truth about what's happening. I had an awful lot of people call me, thanking me. They're just too timid to speak out."

The range war has been building for several years. It broke out into the open here when Mr. Gustafson, 39 years old, went to Washington early last year to protest the sugar program. He and his brother, Philip, have lost three pieces of rented land totaling 188 acres to higher-building beeters since 1985.

Driving home one night, Mr. Gustafson passes a gently swelling field. 160 acres of soft black earth under a canopy of stars. He and his brother had rented it for $63 an acre per year. It was sold last year, and the new owner rented it to a big beet grower from the town of Sacred Heart for more than $100 an acre. "There's no way we can pay that," he says. What's more, the Gusafsons aren't members of the local cooperative, so they can't profitably switch to growing sugar beets.

Accompanying Mr. Gustafson to Washington was an equally feisty neighbor, Ronald Carpenter, 43, who says that when he showed up at a land-rent auction here at LaRae's Cafe, along among 20 beeters, "They laughed at me. They knew I couldn't afford the cash rent. I bid just to run up the price."

Soon after the men returned from Washington, vandals broke into Mr. Carpenter's machine shed while he and his family slept. They dumped sugar into the gas tank of a tractor and spray-painted farm equipment with graffiti like this, still emblazoned on the side of his old pickup: "We Love Sugar."

On Maynard's main street, business at the Hair Affairs, the beauty salon run by Mr. Carpenter's wife, Mary Ann, has fallen 50% from last year because of a boycott by some wives and daughters of beeters.

Her mother-in-law's coffee klatch has broken up. "She used to have coffee once a week with neighbor ladies," says Mrs. Carpenter. "They had been friends for 40 years. They just stopped calling."

The dispute is two-sided. "One farmer purposely sprayed herbicide so that the wind would drift it into the end rows of a beet field and kill the beets," says the Rev. Martin Scott Lucin, co-pastor of Immanuel Lutheran Church in Clara City.

Nobody is more troubled about the schism than the small-town ministers, who have been trying to help the antagonists better understand each other. In a sermon last year, the Rev. Ronald Duty pastor of the Maynard Lutheran Church admonished his parishioners: "When we are jealous of another's prosperity or greedy for their land, instead of helping them to preserve their economic livelihoods * * * we do damage to the human community."

But for now, neither side is in the mood for reconciliation. Mr. Lucin recounts a farmhouse visit last year to a man dying of cancer: "He looked out the window and he vowed, "The sugar beet guys aren't coming over here even after I'm gone.' "

Wayne Schwitters, a Clara City beet grower, telling of a lost friendship with a local farmer, chokes up and looks away—"Him and I can't talk in church."

The rancor saddens Mr. Schwitters, one of the biggest beet growers in an area homesteaded a century ago by immigrant sodbusters, mostly from Scandinavia and Germany. "I feel sorry for those people raising corn and soybeans," says the 40-year-old farmer. "I think in reality corn and beans are way too cheap, and they are having a tough time."

Sugar also is making things tense in the Red River Valley along the Minnesota-North Dakota border. "Wheat farmers are starting to hate sugar beet growers," says Jacob Bakke, an elevator manager in Prosp, N.D. "It's unfair that they are just breaking even and the beet growers are raking big bucks."

And in southern Louisiana, the expansion sugar-cane planters is raising tempers in Cajun country. "These guys net more than I can gross per acre," complains Bill Burley, a soybean grower in Youngsville, LA.

Economic dislocations from the sugar program extend far beyond the Farm Belt. To guarantee U.S. sugar cane and beet growers the market-stabilization price, the government slashed imports of raw sugar to 1.25 million tons last year from four million a decade ago. Critics of the sugar program say this has deprived numerous sugar producing nations in the Caribbean. Latin America and Far East of export earnings, harmed their economies and caused political instability, while increasing Third World demand for U.S. foreign aid.

At home, the sugar program has helped make possible the spectacular rise of the high-glucose corn syrup industry—to the point that Americans now consume more corn sweetener than refined sugar. The syrup industry itself is not covered by the U.S. program. But by pegging their prices just below the sugar support price, corn-sweetener producers captured not only market share but huge profits.

Sugar producers contend that the program protects U.S. consumers from wild swings in world sugar prices while shielding the producers from the sugar-dumping practices of exporters, particularly the European Community, which heavily subsidizes production.

Minnesota and North Dakota beet growers say they wouldn't mind fending for themselves in a free market, but only if all sugar producers were put on equal competitive footing around the world.

The sugar program is under broad attack. At the urging of Australia, the General Agreement on Tariffs and Trade has decreased U.S. sugar-import quotas illegal. The Bush administration appears ready to phase out the sugar program and other forms of protectionism in its quest for a breakthrough GATT agreement to end trade distorting farm subsidies.

In Congress, strong bipartisan support is building for an overhaul of the sugar program, beginning with a 10% cut in sugar price supports.

Opposing change is Big Sugar's lobby and its phalanx of political-action committees, long fabled on Capitol Hill for their generosity. From 1983 through mid-1989, sugar and corn-sweetener lobbyists supported their pitches to members of Congress with $3.3 million in campaign contributions, according to an analysis of Federal Election Commission records by Public Voice for Food and Health Policy, a Washington-based consumer group.

That's a lot of money from about 10,000 beet growers in the Midwest and the West; 1,000 cane producers, dominated by a few big sugar planters and corporations in Florida, Louisiana and Hawaii; plus a handful of sugar processors and corn refiners. But they can afford it.

Two of the biggest beneficiaries of the sugar program are the U.S. Sugar Corp. and the Cuban-born Fanjul family of Palm Beach, Fla., led by Jose (Pepe) Fanjul, who contributed $100,000 toward Republican campaigns in 1988 alone, and his brother Alfonso, who is similarly generous toward Democratic Party endeavors. Between them, U.S. Sugar, based in the sugar mill town of Clewiston, Fla., and the Fanjul corporate empire control more than 60% of Florida's cane acreage and produce more than 25% of the nation's cane sugar. Together they collected what the sweetener-users groups calls a "windfall" of $180 million in sugar benefits last year.

Here in southern Minnesota, beet growers such as Mr. Schwitters say that other farmers could be growing beets if they hadn't passed up chances to buy shares in the Southern Minnesota Beet Sugar Cooperative in 1974, when it was organized, and four years later, when it was rescued from ruin by a government-guaranteed $11.5 million bailout.

To grow sugar beets, farmers must join the cooperative, which is the only processor in the area. But for most farmers, the cost of joining—currently at $900 per share—is prohibitive, and the number of shares available is limited. (Typically, one share entitles

a farmer to plant one acre of beets.) Many of the transactions occur between members of beet-growing families. With the future of the sugar program in doubt, other farmers would have trouble getting financing for a new co-op.

Mr. Schwitters's rewards for taking the initial risk? A diamond-studded stickpin in his tie. A 3,800-acre farming operation, including 1,700 acres of beets. Seven hired hands and seven families of migrant farm workers. A big house with two-story cathedral ceilings and a veranda where, his wife Jan says, "it's fun to sit and see the crops coming up and the migrants working out there."

Similarly rewarded are 330 other co-op shareholders. Last year, they reaped an estimated $35 million in sugar price-support benefits.

Wheat, corn and some other crops are subsidized, but they aren't protected by federal import controls as sugar is. A Fair Farm Policy study of Minnesota farm data calculates that the beet growers made an average profit of $206.40 an acre from 1984 through 1988—about eight times what corn and soybeans brought in at $25.53 and $25.94, respectively.

The beet growers say that profit figure is greatly exaggerated, although Mr. Schwitters concedes that beeters earn more per acre than other farmers. "By golly, if I didn't, I'd quit," he says. "It's a lot more work. It's a specialized crop."

The beet growers also maintain that local land prices and rents haven't gone up nearly as much as the opposition says. "Yes, there are rents in excess of $100" an acre, says William Rudeen, a beet grower near Bird Island, Minn., and current cooperative chairman. "But we're too small to have the impact they say we have."

Their neighbors also are irritated that the beeters, in addition to sugar benefits, also collect wheat and feed-grain subsidies for the part of their land devoted to those crops.

But while the government limits subsidized grain acreage each year to try to prevent surpluses, beeters can plant as many beets as the cooperative's plant in Renville can process. The result: Sheltered from foreign competition to a great extent, they have expanded their beet acreage over 50% since the cooperative started.

The disparity deepens the local rifts, and merchants are under pressure to take sides. "It's a tough fence to sit," acknowledges one farmer, Rolan Ammermann. His father-in-law, a Clara City insurance agent, was aghast to hear from a beet grower that Mr. Ammermann was baling oat straw for the beeters' arch-foe, Ron Carpenter. Alarmed about appearances, his father-in-law called him up. "It got real tense for a while," says Mr. Ammermann. "I just told him it's a business deal."

Also caught in the middle are landlords, including retired farmers and widows. One young farmer, Randy Berends, has been all but dispossessed because he can't afford to rent his retiring father's 320 acres at $105 an acre. All he figures he can afford is $70.

"You can't blame the landlords for taking top dollar," he says. "It would have been crazy for Dad to rent to me."●

HIGH PRICE FOR ENERGY FUTURE

● Mr. KERRY. Mr. President, a recent article in the New York Times, entitled the "High Price of Energy Freedom," noted that freedom from the Soviet Union may lead to increased pollution problems for many countries eminating from and within Eastern Europe. The countries of Eastern Europe have been receiving 80 percent of their energy supplies from the Soviet Union who now wants hard cash instead of bartered goods in payment. The only alternative for Eastern Europe, the Times forecasts, may be to burn their own brown coal for energy.

These Eastern European countries have been reported by many observers to have the most severe sulfur dioxide, carbon monoxide, and lead contamination problems in the industrialized world. Even if they started to clean their air and water today, it may not be enough to bring the rivers, farmland and forests back to life. Cleaner use of coal and other fossil fuels, coupled with energy conservation practices and more aware behavior patterns, may help things for a while. But it is not going to work for very long. These emerging democracies need a long-term energy strategy that will help them achieve stability—in the marketplace, in the home, in ways to maintain a living standard for a population with high expectations.

A major component of this strategy can and should be based on the use of renewable energy systems—systems that have been developed, tested and proven right here in the United States. We currently have more than 2 million buildings in our country using passive and active solar water and space heating equipment and technology. Ethanol fuels supplement 5 percent of the motor fuel used in the United States. Photovoltaics, wind, solar, thermal, and geothermal, along with the direct combustion of wood and biomass, produce more than 7,000 megawatts of electricity. Our Government has spent billions of dollars over the past two decades to help American industry develop safe, clean renewable energy systems. The United States can do a great service to the people of Eastern Europe by sharing our technologies with them.

Instead of bankrupting their nations' treasuries by paying for imported oil, why do we not show them how to use their technologies to tap into the renewable energy in their own backyards? And if saving their economies is not enough reason to share this technology, how about saving their lives? As this Senator and others have frequently observed, the lack of environmental control equipment in Eastern Europe has caused widespread smog, chronic respiratory diseases, and the spread of toxic emissions that have killed much of the forests while steadily attacking the people themselves. This is one reason why I proposed and Congress enacted environmental protection provisions to the Eastern European aid legislation which is now law.

These people have the natural resources. We have the technology. I do not think a better match could possibly exist. Renewable energy systems offer many opportunities for utilizing power at affordable costs. Homes can be built with passive solar principles such as natural daylighting, shading and ventilation to save 20 to 40 percent on energy bills while increasing the indoor comfort level. Active solar water heating equipment can provide the home's residents with enough hot water—even in the northern climates of Eastern Europe. And the same types of photovoltaic cells that power calculators, watches and space satellites can bring safe, reliable, clean power for lighting, communications, emergency assistance, rural PV/diesel hybrid systems, and many other needs for remote villages and inaccessible rural areas that would otherwise have no power source.

We need to show them how to use these renewable energy systems to create electrical power for their utilities and remote energy systems, and how to use basic energy conservation and renewable systems to reduce energy demand, especially during high usage times.

All of us have a stake in the way these people adjust to freedom and where they go from there. Our own security and economic stability is closely tied to the rest of the world. Rather than sitting idly by while the nations of Eastern Europe continue to rely on imported fuel and continue to destroy their environment, I say it is time that we showed them a better path to their energy futures. That path is the utilization of a resource they already have in abundant supply. The United States has much to offer in solar and renewable energy, and we should not miss this opportunity.

Mr. President, I ask that the recent New York Times article entitled "High Price for Energy Freedom" be printed in the RECORD.

The article follows:

HIGH PRICE FOR ENERGY FREEDOM

(By Matthew L. Wald with Marlise Simons)

For the nations of Eastern Europe, freedom may be far dirtier than they expected.

The nations' desire to curb their dependence on Soviet oil and gas, a legacy of the region's satellite status, is colliding with another goal—cleaning up the environment by burning less of its native dirty brown coal.

Eastern Europe's energy predicament has become increasingly obvious in recent weeks, officials in the region and Western analysts say. Moscow has told its former satellites that it wants to be paid for oil and gas in hard currency, rather than bartered goods, turning what had been an energy subsidy into a burden. Then last month, the Soviets unleashed their "oil weapon" in response to independence moves in the republic of Lithuania.

A REMINDER OF DEPENDENCE

The Russian strategy in Lithuania—sending out valve turners rather than tanks—has reminded the countries of Eastern Europe that they are also very dependent on the Soviet Union, which supplies 80 percent of the region's energy imports. Even though the dependence is to some degree mutual, since the Soviets need a market for their exports, Moscow already sells large amounts of oil and gas to the West for hard currency and could sell much more, experts say.

Moscow's tough new approach to energy exports to Eastern Europe could also seriously hamper the region's efforts to clean up pollution. Since the Eastern European nations are short of hard currency, the new Soviet requirement that oil be paid for with cash may give the countries of the region no choice but to become even more dependent on brown coal, their main domestic fuel.

Eastern Europe is at the end of a vast umbilical cord reaching from western Siberia and the Ural Mountains, feeding oil and gas, and sometimes electricity, to Poland, East Germany, Czechoslovakia, Hungary, Romania and Bulgaria.

Even the uranium for nuclear reactors in Eastern Europe comes from the Soviet Union. Moreover, officials in Eastern Europe say Moscow has told them it plans to raise fuel prices sharply in January and charge a portion of the cost in hard currencies, like United States dollars or West German marks, which can be readily exchanged on international markets.

Soviet cutbacks in oil deliveries may drain Eastern Europe of its reserves of hard currencies by forcing the nations to buy OPEC oil on the open market, as some have already done. In addition, it may deprive them of an indirect source of hard-currency revenue; Christina House, an independent oil consultant, says some Eastern European countries have resold Soviet oil at market prices to Western countries, a practice that has annoyed Moscow.

The energy changes in the East are important to the West, because for years the availability of oil—and hence its price—has been heavily affected by huge Soviet exports. The Soviet Union is the world's largest oil producer, although its production is sharply dropping partly because of continuing unrest in Baku, a petroleum center. Ms. House said that if the trend set in the first quarter of this year continues, the decline by the end of the year will be 500,000 barrels a day, to less than 12 million barrels a day.

Suddenly, the new economic ministers of Eastern Europe are confronting a host of problems their Communist predecessors never had to face. They have to grapple not only with the uncertainties of dealing in the world energy market, but also with possibly seeking new buyers for a wide range of goods that has long been swapped with the Soviet Union for oil.

"We knew this was coming, but we needed more time," a Czech official said noting that much industry in Czechoslovakia and other nations was geared in supplying the Soviet Union with goods in exchange for oil, rather than selling products on the world market. These outdated industries were also geared to using inordinately large quantities of cheap oil and gas.

"We are in the middle of very complicated negotiations with Moscow," said Laszlo Lang, deputy director of the Hungarian Institute for International Relations. But, he said, Hungary's dependence on the Soviet market for industrial exports was perhaps an even greater problem than the country's dependence on Soviet energy.

In fact, the region's total energy needs are not large by the standards of Western industrial countries. Individually, the Eastern European countries are energy midgets, experts say, also even large-percentage changes in production and consumption will have a small global effect. Combined, the former statellites use only about as much oil and gas as does West Germany, and about one-seventh as much as the United States. Total energy consumption from all sources is about one-fourth that of the United States.

CONSUMPTION LIKELY TO JUMP

Clearly, the countries in revolution have grand energy plans. From Albania, which bans private ownership of cars, and Romania, where the deposed Ceausescu regime sharply reduced energy use to cut imports and raise exports, paying off foreign debt, Eastern Europeans aspire to use more.

The region's dominant fuel, coal, is burned with virtually no environmental-control equipment, and sulfur and ash emissions are so high, especially in winter, that they cause widespread smog and chronic respiratory diseases. Soot and sulfur have already blackened cities and killed forests.

Yet even environmentally conscious leaders, including President Vaclav Havel of Czechoslovakia, contend that for now coal remains indispensable not only as the cheapest from of heat and electricity, but also as a source of tens of thousands of jobs.

DISTRUST OF NUCLEAR POWER

Nuclear power once looked like a clean substitute, but it has been bitterly opposed since the Chernobyl accident in 1986.

"Nuclear plants everywhere have become associated with centralized, secretive and even repressive power, and this feeling is very strong in Eastern Europe," said a Western expert who recently finished an energy fact-finding mission in the region's capitals. "No politician here is willing to push hard for nuclear energy, even Western nuclear energy," the expert said.

East Germany, in fact, has been passed by Bonn into shutting down two nuclear reactors for safety repairs, and more may be closed when the West German inspection is completed.

In a study presented last month at a seminar on Eastern Europe organized by the International Research Center for Energy and Economic Development, at the University of Colorado, John Etling Treat, a vice president of Booz Allen & Hamilton Inc., found that the energy supplied to the region by the Soviet Union accounts for 25 percent of its consumption.

POSSIBLE ENERGY SOURCES

The new governments of Easter Europe would nonetheless like to move away from dependence on the Soviets.

Poland is discussing with Algeria a proposal to import liquefied natural gas through the Baltic Sea. Afsane Mashayekhi, chief of Natural Gas Development at the world Bank, said the Poles would like to build the tankers for the Algerians in Gdansk.

The Poles are also discussing the purchase of natural gas from Norway, which would require extending a pipeline from Denmark.

Currently, Mr. Treat said, Poland imports all of its oil and half of its gas and has pipeline links only to the east. Czechoslovakia has the same problem, he noted, and is also landlocked.

Hungary, another landlocked country, has already begun to turn around the situation, quite literally. In January it reversed the flow in a pipeline that used to carry petroleum to tankers in Rijeka, Yugoslavia, on the Adriatic Sea. Now it carries products in the other direction.

Hungary, which gets 28 percent of its electricity from the Soviet Union, is discussing linking its electric grid with France's. "The Russian grid is not very stable," said one official in Hungary, "and they can drain electricity off our net. We need a safeguard and linkup with the West."

Western companies are lining up to sell generating equipment to the East, but this, too, will require capital. At present, the electrical grids of Eastern and Western Europe do not mesh because of technical differences, making power transfers cumbersome.

CONSERVATION AND EFFICIENCY

Still, Eastern Europe's best chance of reducing energy dependence on the Soviet Union in the near future may be greater conservation and more efficient use of fuel. There is considerable room for improvement: Jochem H. Mohnfeld, head of the oil industry division of the Federal Economics Ministry in Bonn, says West Germany uses precisely half as much energy as East Germany for each $1,000 worth of goods and services produced.

Mr. Treat's study showed that Romania uses more than one-third more energy per unit of production than does the United States, and more then double what Japan uses. Travelers to the region report that homes in Eastern Europe and the Soviet Union lack basic energy-saving devices like thermostats.

But improving efficiency would not stop growth. West Germany uses 2.5 times more energy per capita than East Germany. Yet as the two Germanys are unified, the expected increase in East German economic activity and living standards is expected to raise energy consumption. And more advanced economies burn a higher proportion of oil and less coal. For example, West Germany's energy consumption is 42 percent oil, compared with 13 percent in East Germany.

But another energy option is coming into focus: local production. Thomas O'Connor, senior petroleum engineer for the World Bank, said, "The technology they've got access to is state-of-the-art for the 1950's, and they can't find all the subtle stuff." But with computers and seismic techniques, he said, several Eastern European nations could find enough small deposits of oil and gas to make a big difference in their level of self-sufficiency.

Yet shopping abroad for that technology is difficult for the nations of Eastern Europe, and not just because they lack hard currency. For example, Ms. Mashayekhi said Poland was finding that after a half-century of energy policy made in Moscow, it had no legal framework for Western-style oil and gas exploration and production. There is no one, she said, who is familiar with negotiating energy deals.●

STEEL SUBSIDY OF THE DAY NO. 5: NETHERLANDS

● Mr. HEINZ. Mr. President, today I want to present a further installment in my series of steel subsidies of the day. These statements have sought to focus attention on the persistent use

of steel subsidies by foreign governments and how that practice is unfair to American steel firms. Furthermore, by highlighting the fact that subsidization is so widespread, this series will hopefully revitalize the negotiations for an international steel agreement, which President Bush wants completed by March 31, 1992.

Today's subsidy of the day comes from The Netherlands. Like Italy, which I have discussed previously, The Netherlands has continued to apply for and receive European Community regional development aid, contrary to that entity's bilateral consensus agreement with the United States. In November 1989, the Hoogovens Groep Co. was granted an $84 million loan from the Community. This is the second such loan to Hoogovens in a short period of time, and it is reportedly on extremely favorable terms. In addition, government-backed, below-market financing has helped this same company keep up its investment in new plant and production capacity, including a new galvanizing line.

Unfortunately, The Netherlands is not the only country which subsidizes its steelmakers. If it were the only one, we could focus all our energy on making it mend its ways. Unfortunately, Mr. President, subsidization is practiced by the many, not the few and that is what makes the administration's current initiatives so very important. Not only must America vigorously enforce the agreements which already exist, but the President must redouble his efforts to reach a worldwide consensus in this area. I urge my colleagues to do all they can to encourage and assist this process.●

SURVIVING NUCLEAR WARHEADS UNDER START

● Mr. LEAHY. Mr. President, the debate over the B-2 is continuing in earnest in the House and Senate. Floor action on the defense authorization bills should occur in both Houses before the August recess.

The most visible battle line being drawn between proponents and opponents of this plane is over cost. Is the B-2 worth the billions American taxpayers are spending on this plane? CBO estimates that Secretary Cheney's plan to purchase 75 planes will cost $65 billion or $860 million per plane.

B-2 proponents, including several prominant Air Force officials claim the United States must have the plane in order to exploit the bomber counting rule under the START treaty—and damn the expense.

START goals are to reduce Soviet and United States arsenals to 6,000 nuclear warheads on each side. But there is a special START math that leaves us with many more nuclear warheads than 6,000. Under the treaty, bombers that will fly into the Soviet Union and drop nuclear bombs long after the initial exchange will count as one warhead, even though each plane can carry up to 20 nuclear weapons.

B-2 supporters have gone so far as to link their support for a START treaty to full funding for the B-2 bomber. They insist that without the B-2 our national security is at risk—implying that nuclear deterrence would be on shaky ground without the B-2.

I find that argument obscene. The American people are being blackmailed with the completion of the B-2 program at a cost of $30 billion to get the first arms control agreement between the United States and the Soviet Union in over a decade. With nuclear weapons on Trident submarines, the MX, the Minuteman II, the Minuteman III, air launched cruise missiles, the advanced cruise missile, B-52's and B1-B bombers, I feel deterrence is secure.

I recently asked the Congressional Research Service to prepare an analysis of United States and Soviet nuclear forces under START without the B-2 bomber. The findings, prepared for me in a memorandum by National Defense Specialist Steven Hildreth, confirm my belief that our national security is secure without the B-2.

CRS calculates that there will be over 9,400 warheads in the U.S. strategic nuclear arsenal if B-2 production is halted now. The Soviet Union will have around 7,800 warheads. The CRS report also calculates the survivability of U.S. forces.

To quote from the report, survivability "relates to the concepts of deterrence and stability. If, the theory goes, Soviet military planners believe that sufficient numbers of U.S. forces could survive an attack to endanger the Soviet Union with a credible retaliatory response, they will be deterred from attacking."

CRS determined that nearly 5,000 United States warheads will survive a surprise Soviet attack even if the United States has only 15 B-2 bombers. By purchasing 75 B-2 bombers the number of surviving warheads will increase by 1,000.

Mr. President, I think CRS has found the bottom line in the cost argument. The American taxpayer needs to cough up $30 billion to complete the B-2 program and buy 6,000 surviving warheads instead of 5,000. That comes out to $30 million a warhead for 1,000 extra warheads.

But do we need to buy these additional warheads? No military planner is going to attack the United States knowing that we will have 5,000 warheads to fire back. That is enough weapons to make the Soviet Union a pile of rubble. Buying 1,000 additional warheads for $30 billion is folly.

Mr. President, I ask that a copy of the CRS report be printed in the RECORD so that all Senators and their staffs may review this information.

The report follows:

[From the Congressional Research Service, the Library of Congress, June 11, 1990]

To: Hon. Patrick J. Leahy, Attn. J. P. Dowd.
From: Steven A. Hildreth, Specialist in National Defense.
Subject: Analysis of U.S. Strategic Force

This memorandum responds to your request for a brief analysis of the U.S. strategic force posture under a START agreement. The scenarios you requested that we examine include a force of 15 B-2A bombers (the force size if production were terminated this year) and 75 B-2A bombers (the force size now requested by the Administration). Also included is a projected Soviet START force. The survivability of these projected U.S. forces under a surprise attack is assessed, as you requested. An Appendix details current U.S. and Soviet strategic nuclear forces.

INTRODUCTION

Recently, considerable debate has arisen over the future of the U.S. bomber force, particularly with respect to the need for 132 B-2A "Stealth" bombers. The Pentagon has long argued that the B-1B bomber was planned to serve only an interim penetrating bomber role. Its ability to penetrate Soviet air defenses would be questionable by the late 1990s. Hence, the Pentagon viewed the need to develop and deploy a bomber that could penetrate in spite of Soviet air defense modernization as critical to the U.S. strategic deterrent.

A more recent part of the debate has centered on the relationship between the prospective Strategic Arms Reduction Treaty (START) and the requirement for a force of 132 B-2A bombers. Senior U.S. military leaders, such as General John T. Chain, Jr., commander of the Strategic Air Command and director of the Joint Strategic Target Planning Staff, testified before Congress that, in addition to the rest of the U.S. strategic force, a minimum of 132 B-2A bombers was needed to enable the United States to meet its targeting requirements. General Chain testified that the United States needed about 10,000 strategic nuclear warheads to meet these targeting requirements under START, and that 132 B-2A bombers were needed to assure this.[1]

In April, in light of the diminished military threat in Eastern Europe and domestic pressures to reduce defense spending, the Administration reduced the planned number of B-2As to 75.[2] It could be inferred

[1] See for example, Defense Daily, March 7, 1990, p. 355. Becasue of the START bomber counting rules, which deeply discounts bomber weapons, a force of 132 B-2A bombers alone would allow the United States to deploy over 2,300 strategic nuclear weapons that would not be counted under the START ceiling of 6,000. Even with the existing bomber force and fewer B-2A, the size of the U.S. strategic force under START could exceed 10,000 warheads, compared to about 12,000 today.

[2] Secretary of Defense Cheney told Congress that the B-2 force could be scaled down to 75 "without excess risk" and because of "the changing face of Europe and promising trends in the Soviet Union." See, Aviation Week and Space Technology, May 14, 1990, p. 33.

that as the number of strategic targets in Eastern Europe wane, U.S. strategic planners might reduce the numerical targeting requirements commensurately, permitting a reduction of the B-2A force.

This memorandum examines the START-compliant force structure implications of two different scenarios, one that includes the Administration-planned force of 75 B-2A bombers, and one that stops procurement this year and includes a force of 15 B-2A bombers. The overall survivability of these forces when faced with a surprise attack by a likely Soviet START force is also assessed.

LIMITS ON HEAVY BOMBERS

At the START negotiations, the United States and the Soviet Union have for the most part agreed on the provisions that would limit heavy bombers and their armaments. START will likely include the limits and restrictions detailed in Table 1. The one remaining issue concerns whether and how any restrictions on the controversial Soviet Backfire bomber might be included in START.

TABLE 1.—START LIMITS ON HEAVY BOMBERS & ALCMS

Each heavy bomber counts as 1 SNDV (strategic nuclear delivery vehicle) under the 1,600 START SNDV ceiling.

Each heavy bomber equipped only for gravity bombs and SRAMs (short-range attack missiles) counts as 1 warhead under the 6,000 START warhead ceiling.

An agreed number of heavy bombers could be removed from the START SNDV ceiling—by conversion to a conventional-only capability.

AIR-LAUNCHED CRUISE MISSILES (ALCMS)

START will limit nuclear ALCMs with a range in excess of 600 km (there is no upper range limit).

Heavy bombers equipped for nuclear ALCMs will be distinguishable from other heavy bombers.

Each current and future U.S. heavy bomber equipped for nuclear ALCMs will count as 10 warheads under the START 6,000 warhead ceiling; each bomber may actually be equipped for no more than 20 nuclear ALCMs. This counting rule applies for the first 150 U.S. heavy bombers equipped to carry nuclear ALCMs; for any heavy bombers in excess of 150, the number of accountable warheads will be the number of nuclear ALCMs for which the bombers are actually equipped.

Each current and future Soviet heavy bomber equipped for nuclear ALCMs will count as 8 warheads under the START 6,000 warhead ceiling; each bomber may actually be equipped for no more than 12 nuclear ALCMs. This counting rule applies for the first 210 Soviet heavy bombers equipped to carry nuclear ALCMs; for any heavy bombers in excess of 210, the number of accountable warheads will be the number of nuclear ALCMs from which the bombers are actually equipped.

New, conventionally armed ALCMs that are distinguishable from nuclear-armed ALCMs, including the U.S. Tacit Rainbow ALCMS, will not be limited.

UNITED STATES AND SOVIET STRATEGIC FORCES UNDER START

Table 2 shows several possible U.S. strategic force structures under START. Forces 1 and 2 include 75 B-2A bombers, the difference being that Force 1 includes a force of mobile ICBMs that might be deployed by the year 2000. Forces 3 and 4 include 15 B-2A bombers, the difference being that Force 3 includes mobile ICBMs. From the table, one can see that the difference in the total of actual weapons in each case is due to the different bomber force, specifically the number of B-2A bombers. For example, 75 B-2A bombers could carry 1,500 bombs and short-range attack missiles (SRAMs), while 15 B-2A could carry only about 300.

It should be pointed out that several important assumptions were used in generating these projections:

For SLBMs: (1) Trident SSBNs would be deployed at the current planned rate of one per year for a force of 22 by 2000; and, (2) two Trident SSBNs would be in overhaul at any given time and their 48 missiles removed from their launch tubes during overhaul would not be counted against the START SNDV and warhead limits.[3]

For ICBMs: (1) Minuteman II missiles (currently 450) would be destroyed; (2) Minuteman III missiles (currently 500, with 3 warheads apiece) would be converted into a force of 1-, 2-, and 3-warhead systems in order to keep these 500 missiles with a maximum number of ICBM warheads, given 20 START accountable Trident SSBNs.[4]

For heavy bombers: (1) given the two B-2A force choices (75 or 15), the bomber force shows reflect the maximum number of bomber weapons that could be deployed under the START counting rules; and (2) the B-1B bomber force would not be converted to an ALCM role by the year 2000; to do so would require reducing the B-52H bomber force or the ballistic missile force to comply with START.

TABLE 1.—PROJECTED U.S. STRATEGIC FORCES UNDER START

	FORCE 1		FORCE 2		FORCE 3		FORCE 4	
	SNDV's	RV's	SNDV's	RV's	SNDV's	RV's	SNDV's	RV's
ICBM's								
Minuteman III	50	150	150	450	50	150	150	450
Minuteman IV (1 RV)	300	300	206	206	300	300	206	206
Minuteman V (2 RV's)	150	300	144	288	150	300	144	288
MX (Rail-Garrison)	50	500	0	0	50	500	0	0
MX (silo)	0	0	50	500	0	0	50	500
Small ICBM (road-mobile)	190	190	0	0	190	190	0	0
Subtotal	740	1,440	550	1,444	740	1,440	550	1,444
SLBM's								
Trident D-5 (20 Trident SSBN's; 48 SLBM's in overhaul exempted)	432	3,456	432	3,456	432	3,456	432	3,456
Heavy Bombers								
B-52H (Standoff/Penetrate)	91	1,820	91	1,820	95	1,900	95	1,900
B-1B (Penetrate)	95	2,280	95	2,280	95	2,280	95	2,280
B-1B (Standoff/Penetrate)	2	32	2	32	2	32	2	32
B-2A (Penetrate)	75	1,500	75	1,500	15	300	15	300
Subtotal SNDV's	263		263		207		207	
Subtotal bomber weapons		5,632		5,632		4,512		4,512
Subtotal START-count bomber weapons		1,100		1,100		1,080		1,080
Total SNDV's	1,435		1,245		1,379		1,189	
Total actual warheads		10,528		10,532		9,408		9,412
Total START-count warheads		5,996		6,000		5,976		5,980

The force structures shown in Table 2 illustrate two key points. First, with either a force of 75 or 15 B-2A, the United States would be able to deploy 3,400-4,500 bomber weapons above the 6,000 START warhead ceiling, for a total of around 10,000, which General Chain has identified as necessary to ensure U.S. targeting requirements. Second, the primary difference between either force is about 1,100 bomber weapons under START.

Table 3 details a likely Soviet START force for comparative purposes. It assumes the Soviets would dismantle their older ICBMs in favor of deploying as many newer, mobile ICBMs as they can under START. Nonetheless, the net reduction of Soviet ICBM warheads would likely be more than 40 percent from their present level (See Appendix). The Soviet SLBM force would likely be reduced significantly from 61 sub-

[3] The U.S. START position is that 72 submarine-launched missiles in overhaul be exempt from the Treaty limits. But the number eventually agreed upon, and a more realistic number of Trident SSBNs in overhaul at any given moment, may actually be 48 submarine-launched missiles. In either case, the total warhead count would not vary because ICBM warheads would probably be destroyed to accommodate a large START-accountable Trident SSBN force.

[4] The exact composition or mix of this Minuteman force can vary according to specific, future requirements. The main point here, however, is that a maximum number of available Minuteman warheads are deployed on 500 Minuteman III missiles.

marines to perhaps as few as 16-17. It seems unlikely the Soviets would seek to exploit the START bomber weapon counting rules to the same extent as the United States. To do so, would require them to deploy large numbers of expensive Blackjack bombers, planes with which the Soviet have had considerable technical problems.

PROJECTED SOVIET STRATEGIC FORCES UNDER START—CIRCA 2000

	SNDV's	RV's
ICBM's		
SS-18	154	1,540
SS-25 (road-mobile)	500	500
SS-24 (rail-mobile)	60	600
SS-24 (silo)	60	600
Subtotal	774	3,240
SLBM's		
6 Typhoon (SS-N-20)	120	1,200
7 Delta IV (SS-N-23) (10 Delta IV SSBN's; 48 SLBM's, or 3 SSBN's, in overhaul exempted)	112	448
Subtotal	232	1,648
Heavy Bombers		
Bear H (Standoff)	130	1,560
Blackjack (Penetrate)	60	1,400
Subtotal SNDV's	190	
Subtotal bomber weapons		3,000
Subtotal START-count bomber weapons		1,100
Total SNDV's	1,423	
Total Actual warheads		7,888
Total START-count warheads		5,988

SURVIVABILITY IMPLICATIONS

One major aspect of the congressional debate over strategic force modernization concerns the adequacy of U.S. retaliatory capabilities. In other words, what is the relative ability of U.S. strategic forces to survive a Soviet nuclear first-strike attack and deliver a retaliatory strike. Survivability is a term that is frequently used in discussions about strategic nuclear forces. Although it is a common term, it lacks precise definition. In reference to a specific force structure, survivability means the ability of that force to ride out an attack by enemy nuclear forces and have some number or fraction of weapons remaining for a credible retaliatory strike.[5]

A useful way to compare the survivability of the four projected U.S. START forces shown in Table 2 is to model a force-on-force attack. Graph 2 illustrates the degree to which these four forces might be destroyed by a Soviet START-limited force under a surprise attack around the year 2000.[6]

It can be seen that with a small Soviet attack of less than 100 warheads, some 4,000 to 5,000 U.S. strategic nuclear warheads can be destroyed, or about half of each of the illustrative START force structures. This is largely because bombers not on alert and submarines in port would be destroyed in a surprise attack. ICBMs in silos and any mobile MX missiles would also be destroyed, unless they were launched while under attack. The mobile Small ICBM would be survivable, but in this time frame, the year 2000, less than 200 could be deployed, so their overall numerical contribution to a surviving U.S. force would be minimal.

The graph also shows that after an initial attack, a continued attack against U.S. forces would seem fruitless because submarines at sea, bombers on alert that had dispersed, and any dispersed mobile ICBMs would survive and be available for a retaliatory response. In other words, no matter how much larger the scope of a Soviet attack, the aggregate number of surviving U.S. warheads would persist at 5,000 to 6,000. Whether this surviving triad [7] is sufficient to ensure deterrence and represent a credible retaliatory response would depend on one's point of view.

Finally, looking more specifically at one of the key implications of different B-2A forces, the difference in the number of surviving warheads between deploying a force of 75 B-2As or deploying a force of 15 B-2As is about 600-700 bomber weapons. The overall contribution of 600-700 bomber weapons surviving on a larger B-2A force (75 as compared to 15) is a key policy question. Air Force planners will argue the necessity of these having these highly accurate and powerful bomber weapons because they could provide close to a 100 percent probability of destroying a high-value, heavily-defended target. In contrast, they would argue, a ballistic missile warhead such as the MX or the Trident D-5, might provide only a 60-80 percent probability of destroying the same target.

While an attack under generated alert, with strategic warning of hours or days, would result in a much larger total survivable force (primarily because of non-alert bombers on bases and submarines in port that had dispersed), the difference in the number of surviving warheads between deploying a force of 75 B-2A and 15 B-2A would be around 1,000. In other words, will some 600-700 more bomber weapons available after a surprise attack, or 1,000 bomber weapons surviving with generated alert, make the difference between acceptable or unacceptable risk in a post-START environment?

APPENDIX

Current U.S. strategic forces

ICBM's:	
MX (silo)	50
Minuteman III (MK 12A)	300
Minuteman III (MK 12)	200
Minuteman II	450
Subtotal SNDV's	1,000
Subtotal RV's	2,450
SLBM's:	
C-3 (14 Poseidon)	224
C-4 (12 Poseidon)	192
C-4 (8 Trident)	192
D-5 (2 Trident)	48
Subtotal SNDV's	656
Subtotal RV's	6,080
SSBNs	36
Heavy Bombers:	
B-52G (Standoff)	62
B-52H (Standoff/Penetrate)	95
B-1B (Penetrate)	95
B-1B (Standoff/Penetrate)	2
B-2A Stealth	3
Subtotal SNDV's	257
Subtotal bomber weapons	5,016
Total SNDV's	1,913
Total warheads	13,546

Current Soviet Strategic Forces

ICBM's:	
SS-18	308
SS-25 (road-mobile)	220
SS-24 (rail-mobile)	27
SS-24 (silo)	40
SS-19	300
SS-17	100
SS-13	60
SS-11	360
Subtotal SNDV's	1,415
Subtotal RV's	6,590
SLBM's:	
SS-N-20 (6 Typhoon)	120
SS-N-23 (6 Delta IV)	96
SS-N-18 (14 Delta III)	224
SS-N-8 (4 Delta II)	64
SS-N-8 (18 Delta I)	216
SS-N-17 (1 Yankee II)	12
SS-N-6 (12 Yankee I)	192
Subtotal SNDV's	924
Subtotal RV's	3,636
SSBN's	61
Heavy bombers:	
Bear G (Penetrate)	60
Bear H (Standoff)	80
Blackjack (Penetrate)	17
Subtotal SNDV's	157
Subtotal bomber weapons	1,608
Total SNDV's	2,496
Total warheads	11,834

THE 125TH ANNIVERSARY OF THE MICHIGAN BEEKEEPERS ASSOCIATION

● Mr. RIEGLE. Mr. President, I rise today to celebrate the 125th anniversary of the Michigan Beekeeping Association.

On April 7, the Michigan Beekeeping Association was founded as the first beekeepers' organization in the country. On that day 60 beekeepers met in Jackson, MI, to share ideas and discuss their common craft. Since that time, the beekeepers of Michigan have shared their techniques and technology with beekeepers around the world.

During the 1880's Michigan was a leading honey producer in the Nation and today continues to rank among the top States in annual honey production. Over the history of the Michigan Beekeepers Association many

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[5] From the military planner's point of view, the size of U.S. forces takes into account, among other things, some notion of the number or fraction of forces that must survive. Survivability assumes U.S. nuclear forces need not be launched preemptively for fear of losing them to an enemy attack nor would they be rendered ineffectual from a surprise attack. Survivability is an expression of the offensive capabilities of Soviet nuclear weapons relatives to the defensive capabilities of U.S. weapons.

Survivability also relates to the concepts of deterrence and stability. If, the theory goes, Soviet military planners believe that sufficient numbers of U.S. forces could survive an attack to endanger the Soviet Union with a credible retaliatory response, they will be deterred from attacking.

[6] The Soviet attacking force used is the one shown in Table 3. Continued modernization and increased accuracy of Soviet ICBMs is assumed. It is also assumed that 67 percent of the total U.S. Trident force is at sea; that 55 percent of the B-2A force and 30 percent of the rest of the bomber force is on alert; that 15-20 minutes of dispersal time is available for any mobile ICBMs deployed; and that U.S. ballistic missiles are not launched while under attack.

[7] That is, a large force of Trident submarines at sea with the D-5 missile, about half of the B-2A force deployed and about a third of the other bomber force, and any mobile ICBMs that had dispersed.

great leaders have helped facilitate the art of beekeeping as a hobby as well as an industry. They have made tremendous accomplishments in the areas of advanced disease control and inspection procedures while remaining at the forefront of national beekeeping research.

The Michigan Beekeeping Association shares a long and prestigious history with the art of beekeeping itself. Records show that beekeeping for honey and hobby originated centuries ago in Asia and Europe. In fact when the American colonists missed honey as a sweetener, honeybees were imported from Europe to Jamestown, VA, as early as the 1600's. During the next 200 years beekeeping grew steadily until honeybees became a familiar sight across North America. Today about 250,000 beekeepers, manage over 4 million colonies in every State of the Nation.

Recently, the American Honey Institute was established. In the 1990's, beekeepers have new concerns such as tracheal and varroa mites. These imported pests pose new problems in the beeyards as well as threaten agricultural production. The Michigan Beekeepers Association, in conjunction with major research institutions, has been a leader in working to find treatments for the dangerous mites.

Each year in the United States honeybees produce about 250 million pounds of honey, which is estimated to be valued at $200 million. Honeybees also manufacture 4 million pounds of beeswax each year and several lesser known byproducts such as bee pollen, bee venom, and royal jelly. All these substances are important ingredients in a variety of products.

It is with great pride that I pay tribute to the Michigan Beekeepers Association for their 125 years of service to their members in Michigan. It is quite evident that they serve a vital part in the lives of the many Michigan beekeepers and of the industry.●

DR. WIMBERLY C. ROYSTER

● Mr. FORD. Mr. President, I rise today to honor a dedicated scholar and educator, Dr. Wimberly C. Royster, who is retiring after some 40 years of devoted service in research and graduate studies at the University of Kentucky. I ask the Senate to join me, his wife of almost 40 years—Betty Jo, the faculty of the university, and the Commonwealth of Kentucky in paying tribute to this man who has made so many contributions to the growth and development of research and graduate education in Kentucky and our Nation.

Known as "Judge" by family and friends in his native Henderson County, KY, Wimberly C. Royster completed his Ph.D. in mathematics at the Univeristy of Kentucky in 1952, and thus began his steady climb through the academic ranks, moving from assistant to associate professor in 1958, then to full professor in 1962. During the last 25 years, his talents have been utilized increasingly at the university as an administrator, moving from chair of the mathematics department (1963-69), to director of the School of Sciences (1967-69), to dean of the College of Art and Sciences (1969-72), to dean of the graduate school (1972-88), to coordinator (1972-82) and then vice chancellor for research (1982-88). In 1988 he was named the university's first vice president for research and graduate studies.

Throughout his distinguished career, Dr. Royster's leadership has contributed to the growth and development of research and graduate education not only at the University of Kentucky, but throughout the Commonwealth, the Southeast region, and the Nation as a whole. He has served as both vice president (1980-81) and president (1981-82) of the conference of Southern Graduate Schools [CSGS], receiving its highest honor for "Significant Contributions to Graduate Education in the Southern Region" in 1987. Dr. Royster served on the council (1974-78) and the board of directors (1978) of Oak Ridge Associated Universities, and as a member of the board and chair of the South-East for Consortium for International Development (1977-83). He has also served on numerous committees of the Southern Association of Colleges and Schools [SACS], in leading several SACS site visit teams to various universities. Following his 1984 appointment to the board of trustees of the Southeastern University Research Association, Dr. Royster served as vice president (1985-89) and as chair of the trustees beginning in 1990.

On the national level, Dr. Royster has also served in capacities which benefit graduate education and university-based research. In 1983 he served as chair of the board of directors of the Council of Graduate Schools. He has served as a member of the National Research Council (1972-75), the Graduate Record Examination Board (1981-84), which he chaired (1981-84), as a member of the American Council of Education (1982-83), and the Graduate Education and Research Policy Committee of the National Association of Land-Grant Colleges and State Universities (1976-79, 1982-90). In addition, he headed two teams of American leaders in graduate education to assist the People's Republic of China develop a national system of graduate and advanced studies (1984, 1986).

Dr. Royster is a revered member of the university community, respected by students, faculty, and the administration as a scholar and effective administrator with impeccable integrity and foresight, whose adherence to principle and sense of professional ethics are such that many seek to emulate him. His good judgment has been regularly sought by both experienced administrators as well as those who have only recently gained positions of prominence in their chosen field. It is thus fitting to take the occasion of his retirement from full-time administrative responsibilities as an opportunity to recognize Dr. Royster's lifetime of service to American higher education and to highlight his contributions to our Nation's university-based research and graduate education.

The Commonwealth, and the University of Kentucky in particular, have indeed been fortunate to have had the leadership of Dr. Royster over these many years. I count him as a friend, and personally value his contributions to not only the university, but our entire Nation. I wish him and his family well as he begins his new endeavors and look forward to his continuing presence in the university community.●

WE NEED TO SUPPORT THE SPACE EXPLORATION INITIATIVE

● Mr. BOSCHWITZ. Mr. President, on June 20, the President visited the Marshall Space Flight Center, Huntsville, AL, to re-emphasize his commitment to the exploration of space.

Regrettably, what should have been a completely positive visit had to occur in the wake of a very harmful vote in the House Appropriations Subcommittee overseeing NASA. Instead of being able to express the support of the American people for this grand mission, the President had to deal with the short-sighted vote of the subcommittee.

On July 20, 1990, the President announced a long term goal of the completion of Space Station Freedom before the end of the nineties, a return to the Moon to stay, and the exploration of Mars. Later, he asked that other nations cooperate with us, and promoted the development of alternative approaches at lower costs that current technology allows.

But the President's efforts have been the subject of partisan sniping. The 1991 budget included $188 million for new work for SEI, that is, items that would not be in the budget had it not been for SEI. In addition, approximately $700 million was included for items that are related to SEI but are not in the budget solely because of SEI. The appropriations subcommittee cut $300 from the SEI request. The total NASA budget request was $15.125 billion, and the appropriations subcommittee provided 14.3 billion.

Yesterday, the recommendations of the appropriations subcommittee were upheld by the full House Appropriations Committee.

This is distressing news. This initiative is the focus of our thrust in space. If we reject the goal of long-term space exploration, do our other efforts, such as the space station and the shuttle itself, have long-term purpose and meaning? What signal are we sending when we make these kinds of cuts?

The fact is that space exploration is a vital part of our entire effort to remain at the cutting edge of science and technology. The benefits of the President's efforts, along with the efforts of the dedicated staffs of NASA and its contractors, will be new, now-unimagined engineering and technological feats. What a gift to our children and grandchildren!

Mr. President, I am comforted by the fact that the Senator from Utah [Mr. GARN] has taken up the challenge to confront these cuts. I commend to the attention of my colleagues Senator GARN's cogent remarks on this matter that appeared in the CONGRESSIONAL RECORD of June 21, on page S8434, and where the President's remarks are also reproduced. I look forward to working with the Senator and others to assure that reasonable funding for this meritorious initiative is included in our spending plans this year.●

AUTHORITY FOR COMMITTEES TO REPORT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate committees may file reported Legislative and Executive Calendar business on Friday, June 29, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRETARY—TREATY DOCUMENT NO. 101-19

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from protocols to treaties with the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapon Tests and Underground Nuclear Explosions for Peaceful Purposes, Treaty Document No. 101-19, transmitted to the Senate today by the President.

I also ask that the protocols be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Underground Nuclear Weapon Tests, and the Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on Underground Nuclear Explosions for Peaceful Purposes (the Protocols). The Protocols were signed at Washington on June 1, 1990. I transmit also, for the information of the Senate, the Report of the Department of State on the Protocols, including section-by-section analyses of the Protocols and letters exchanged by the Heads of Delegation to the Nuclear Testing Talks, which will implement certain aspects of the Protocol to the Treaty on the Limitation of Underground Nuclear Weapon Tests.

The Protocols provide for effective verification of compliance with the Treaty on the Limitation of Underground Nuclear Weapon Tests, signed on July 3, 1974, and the Treaty on Underground Nuclear Explosions for Peaceful Purposes, signed on May 28, 1976 (the Treaties). These Treaties, which limit the yield of nuclear weapon tests and individual nuclear explosions for peaceful purposes to no more than 150 kilotons, were transmitted to the Senate for its advice and consent to ratification on July 29, 1976. The Protocols replace, and should be substituted for, the protocols that were submitted with the Treaties at that time. In addition, the Administration remains committed to the nuclear testing treaty safeguards that were submitted to the Senate in 1987, which are essential to the national security and to the maintenance of a credible nuclear deterrent.

The Protocols represent the successful culmination of several years of effort to provide for effective verification of compliance with the Treaties. Negotiations to develop new Protocols to verify compliance with the limits established by the Treaties began in November 1987 and continued until May 1990, when the Protocols were completed. The Protocols provide for a variety of activities related to verification, including the use of the hydrodynamic yield measurement method. Operational changes in the U.S. nuclear test program, including changes at the Nevada Test Site, which implementation of the verification measures will entail were considered carefully and have been judged manageable and therefore acceptable in the interest of effective verification.

I believe these Treaties are in the national interest. Therefore, I urge the Senate to give early and favorable consideration to the Treaties including their Protocols and to give its advice and consent to their ratification.

GEORGE BUSH.

THE WHITE HOUSE, *June 28, 1990.*

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 858, John K. Lauber, to be a member of the National Transportation Safety Board;

Calendar 859, Olin L. Greene, Jr., to be Administrator of the U.S. Fire Administration;

Calendar 860, Ming Hsu, to be a Federal Maritime Commissioner;

Calendar 861, Michael L. Williams, to be Assistant Secretary for Civil Rights, Department of Education;

Calendar 862, Richard F. Suhrheinrich, to be U.S. circuit judge;

Calendar 863, Karen LeCraft Henderson, to be U.S. circuit judge;

Calendar 864, David C. Norton, to be U.S. district judge;

Calendar 866, Lourdes G. Baird, to be U.S. attorney;

Calendar 867, Julie E. Carnes, to be a member of the U.S. Sentencing Commission;

Calendar 868, Michael S. Gelacak, to be a member of the U.S. Sentencing Commission;

Calendar 869, A. David Mazzone, to be a member of the U.S. Sentencing Commission; and

The following nominations reported today by the Committee on Agriculture, Nutrition, and Forestry:

James R. Moseley, to be an Assistant Secretary of Agriculture;

Jo Ann Doke Smith, to be a member of the Board of Directors of the Commodity Credit Corporation;

Bruce L. Gardner, to be a member of the Board of Directors of the Commodity Credit Corporation; and

Catherine A. Bertini, to be a member of the Board of Directors of the Commodity Credit Corporation.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL TRANSPORTATION SAFETY BOARD

John K. Lauber, of Maryland, to be a member of the National Transportation Safety Board for the term expiring December 31, 1994.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Olin L. Greene, Jr., of Oregon, to be Administrator of the U.S. Fire Administration.

FEDERAL MARITIME COMMISSION

Ming Hsu, of New Jersey, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1991.

DEPARTMENT OF EDUCATION

Michael L. Williams, of Texas, to be Assistant Secretary for Civil Rights, Department of Education.

THE JUDICIARY

Richard F. Suhrheinrich, of Michigan, to be U.S. circuit judge for the Sixth Circuit.

Karen LeCraft Henderson, of South Carolina, to be U.S. circuit judge for the District of Columbia Circuit.

David C. Norton, of South Carolina, to be U.S. district judge for the District of South Carolina.

DEPARTMENT OF JUSTICE

Lourdes G. Baird, of California, to be U.S. attorney for the Central District of California for the term of 4 years.

U.S. SENTENCING COMMISSION

Julie E. Carnes, of Georgia, to be a member of the U.S. Sentencing Commission for a term expiring October 31, 1995.

Michael S. Gelacak, of Virginia, to be a member of the U.S. Sentencing Commission for the remainder of the term expiring October 31, 1991.

A. David Mazzone, of Massachusetts, to be a member of the U.S. Sentencing Commission for a term expiring October 31, 1995.

DEPARTMENT OF AGRICULTURE

James R. Moseley, to be an Assistant Secretary of Agriculture.

COMMODITY CREDIT CORPORATION

Jo Ann Doke Smith, to be a member of the Board of Directors of the Commodity Credit Corporation.

Bruce L. Gardner, to be a member of the Board of Directors of the Commodity Credit Corporation.

Catherine A. Bertini, to be a member of the Board of Directors of the Commodity Credit Corporation.

STATEMENT ON THE NOMINATION OF MICHAEL GELACAK

Mr. BIDEN. Mr. President, I rise to express my support for the nomination of Michael Gelacak to be a Commissioner on the U.S. Sentencing Commission.

As a coauthor of the act that created the Sentencing Commission, I have a great interest in seeing that its mandate is carried out. The importance of the 1984 crime bill cannot be overstated: Among other things, it instituted truth in sentencing by abolishing parole; and it ended disparity in sentencing by creating the Sentencing Commission, which has established guidelines to ensure that similar crimes receive similar punishment.

In short, the 1984 crime bill overhauled—and vastly improved—the system by which we punish Federal crimes.

But the work is not over. The Sentencing Commission is charged with monitoring the application of the sentencing guidelines and with making appropriate adjustments. The work toward fair and firm punishment continues.

If approved by the Senate, Michael Gelacak will bring to the Commission a strong and diverse background in criminal sentencing matters. He has seen criminal punishment from a variety of perspectives. He has been involved in litigation as well as legislation; he has been a prosecutor as well as a defender; and he has worked with businesses as well as individuals.

Mike began his legal career at Syracuse University, where he received his law degree in 1968. He went to work for a Buffalo, NY, law firm, practicing corporate, banking, and real estate law, and in 1973, he became the assistant district attorney in Buffalo.

In 1977, Mike came to work for me on the Senate Judiciary Committee: he was chief counsel of the Penitentiaries Subcommittee from 1977 to 1978; he was staff director of the Criminal Justice Subcommittee from 1979 to 1981; and he was minority staff director from 1981 to 1982.

Mike then worked for 3 years as my legislative director before returning to private law practice. He is now with the McNair law firm here in Washington, DC.

Mike Gelacak knows criminal law. As a district attorney, he prosecuted serious felonies, including murder, manslaughter, rape, and assault. As a private litigator, he handled complicated business matters, including mergers and antitrust violations. And as my legislative aide, he was a valuable adviser during work on the Comprehensive Crime Control Act of 1984, the very law that created the Sentencing Commission.

Mr. President, I have the greatest confidence in Michael Gelacak's abilities to perform the duties of Commissioner of the Sentencing Commission. In the past, he has been of invaluable assistance to me; and in the future, I know he will be a tremendous asset to the U.S. Sentencing Commission.

STATEMENT ON THE NOMINATIONS OF A. DAVID MAZZONE, JULIE E. CARNES, AND MICHAEL S. GELACAK

Mr. KENNEDY. Mr. President, I am pleased to support the nominations of three distinguished and qualified individuals to the U.S. Sentencing Commission.

Serving as a member of the Sentencing Commission calls for broad knowledge and experience in criminal law and punishment. Accordingly, these nominees will bring to their positions extensive experience in the criminal justice system. Julie E. Carnes served as a law clerk to a Federal circuit judge and is a career Federal prosecutor, with a brief period as a special counsel to the Sentencing Commission. Michael S. Gelacak has worked in private practice and as a local prosecutor, and as a staff member here in the U.S. Senate, including positions as the staff director of the Judiciary Committee and as counsel to what was once the Penitentiaries Subcommittee.

The Commission's third nominee, U.S. District Judge A. David Mazzone, has already been confirmed by the Senate for his Federal judgeship. For that reason and in keeping with Judiciary Committee practice with previous Sentencing Commission nominees serving in posts for which they had already been approved by the committee, no hearing was necessary for Judge Mazzone's Sentencing Commission nomination.

Through his distinguished career, Judge Mazzone has been involved in an extremely wide spectrum of legal issues as an attorney in private practice, a prosecutor and a judge. Since 1963, he has shared that wealth of experience as an instructor at Boston University and Harvard University Law Schools. Judge Mazzone has served as a Federal district judge since 1978, having served before that on the Massachusett's State Superior Court. Judge Mazzone played a powerful role in the Massachusetts judiciary, presiding over a variety of matters, including cases involving the clean up of Boston Harbor and the reorganization of Continental Investment Corp.

Many of my colleagues, particularly those who serve on the Judiciary Committee, have been increasingly concerned about the delay in filling the three vacancies at the Sentencing Commission. The vacancies have meant that any one of the current four commissioners holds a potential veto over Commission action. With the confirmation of these nominees, we will once again have a full complement of Commissioners and, with this talented group, the Commission will be better able to confront a host of challenging issues, including the development of sentencing guidelines for corporate crime and myriad problems associated with mandatory minimum sentencing.

Mr. President, 6 years ago, one of the most important and needed criminal justice reforms in modern American history became law. With it came an end to a sentencing system that has long been a national disgrace. The purpose of the Sentencing Reform Act of 1984 was straightforward: To reduce the unjustified disparity in sentences that had long plagued our Federal criminal justice system. The landmark changes brought about the Sentencing Reform Act were the result of a comprehensive bipartisan effort, including extensive hearings and debate spanning 14 years.

Throughout this lengthy period of congressional review, scores of witnesses with widely differing philosophies and expertise presented a troubling analysis of sentencing under what was then the law. They showed that the old system was irrational, unpredictable, and unfair. To cite just one example, judges from one Federal judicial circuit were asked to determine sentences based on identical presentence reports involving the same actual case. Yet, the sentences they recommended in one extortion case ranged from 3 years and no fine to 20 years and a $65,000 fine.

Combined with the people system, the old sentencing regime amounted to a chaotic system that was not fair to victims, not fair to offenders and bred disrespect for the law.

The Sentencing Reform Act provided a comprehensive solution to this problem. The cornerstone of the act was the creation of a Sentencing Commission, whose first members were appointed by President Reagan in 1985.

The Commission's mandate is to develop guidelines that channel the previously unfettered sentencing discretion of judges into a system of sentencing that is coherent and fair. The act furthered this "truth-in-sentencing" approach by abolishing parole, so that the sentence given is the sentence served. Judges need not follow the Commission's guidelines if there are sound reasons for departure, but if they do not follow the guidelines, their reasons must be stated on the record. For the first time under Federal law, sentences are subject to appeal. A number of States are adopting sentencing guideline systems modeled on our Federal system.

Congress understood that a comprehensive system of guidelines would inevitably require refinement as time goes on. The Commission is a permanent body and will continue to monitor the guidelines to see where adjustments may be needed.

Mr. President, in closing, I quote the committee report that accompanied the 1984 act:

> The extraordinary powers and responsibilities vested in the Commission, as well as the enormous potential for unparalleled improvement in the fairness and effectiveness of Federal criminal justice as a whole, demanded the highest quality of membership. For such a critical position, Presidential appointments based on politics rather than merit would, and should, be an embarassment to the appointing authority * * * without superior and professional members the Commission, and indeed sentencing reform, can never achieve the progress so sorely needed.

STATEMENT ON THE NOMINATION OF MR. DAVID C. NORTON

Mr. THURMOND. Mr. President, I rise today to voice my strong support for the nomination of Mr. David C. Norton, of Charleston, SC, who was nominated by President Bush on April 18, 1990, to be a U.S. district judge for South Carolina. Mr. Norton's confirmation hearing was held on June 11, 1990, and the Judiciary Committee favorably reported his nomination on June 27, 1990.

Mr. Norton's background has prepared him well for this position. He was born in Washington, DC. He attended the University of the South in Sewanee, TN where he obtained his bachelor of arts degree in 1968. Following his undergraduate studies, he served in the U.S. Navy for 3 years. Mr. Norton then attended the University of South Carolina Law School where he received his juris doctorate in 1975. During law school, he was a member of the law review and was elected to the Order of the Wig and Robe.

Following law school, he became an associate in the law firm of Holmes & Thomson. In 1977, Mr. Norton was appointed to South Carolina's Solicitor's Office for the Ninth Judicial Circuit where he served as assistant solicitor and then as deputy solicitor. In 1980, he reentered private practice with the fine law firm of Holmes & Thomson and is currently a partner with that firm. Mr. Norton has been actively involved in his local bar association. In 1982, he was elected secretary/treasurer of the Charleston County Bar and has been reelected each year since that time. In 1988, he was elected to serve a 3-year term as a member of the executive committee of the South Carolina Defense Trial Attorney's Association. Mr. Norton has also served as chairman of the board of directors of the Charleston County Public Defenders' Corp.

Additionally, Mr. Norton has served his community in many ways. He serves on the University of South Carolina Law School board of advisors, and he has served as a member of the board of directors of the Florence Crittenton Society and the American Cancer Society. Also, he was the first chairman of Comprehensive Emergency Services, a child abuse advocacy organization.

Mr. Norton has an excellent record which demonstrates he possess the necessary ability, integrity, and judicial temperament for the position to which he has been nominated. These characteristics, in combination with his experience in both State and Federal courts, handling both civil and criminal matters, should insure that he will serve in an exemplary manner as a Federal district judge. Mr. President, it is with great pleasure that I recommend Mr. Norton to the Senate and urge that my colleagues vote in favor of his confirmation.

STATEMENT ON THE NOMINATION OF JUDGE KAREN LECRAFT HENDERSON

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Judge Karen LeCraft Henderson, President Bush's nominee to be a judge on the U.S. Circuit Court for the District of Columbia. Judge Henderson was nominated for this position on May 8, 1990. Her confirmation hearing was conducted on June 11, 1990, and the Judiciary Committee favorably reported her nomination on June 27, 1990. Judge Henderson currently serves as a U.S. district judge for South Carolina and is well qualified for the position to which she has been nominated.

Judge Henderson was born in Oberlin, OH. She graduated in 1966 from Duke University where she received her bachelor of arts degree. She then attended the University of North Carolina School of Law and received her juris doctorate degree in 1969. From 1969 until 1971, she was a practicing attorney in North Carolina, and in 1973 she was admitted to the South Carolina Bar.

From 1973 until 1982, Judge Henderson served with distinction with the Office of the Attorney General for the State of South Carolina. She served in several capacities, assistant attorney general, senior assistant attorney general, director of special litigation, and director of the criminal division. Mr. President, it should be noted that Judge Henderson served as the first woman deputy attorney general for the State of South Carolina. In 1983, Judge Henderson joined the law firm of Sinkler, Gibbs & Simons.

Judge Henderson was nominated by President Reagan in 1986 to be the first woman appointed to the Federal court in South Carolina. She has served with great distinction on the district court. Mr. President, it is with great pride that I urge my colleagues in the Senate to vote favorably to confirm this fine nominee for elevation to the appellate court. I am confident that she will be an outstanding addition to the U.S. Circuit Court for the District of Columbia.

JOINT REFERRAL OF DEPARTMENT OF ENERGY NOMINATION

Mr. MITCHELL. As if in executive session, I ask unanimous consent that the Senate enter into the following standing order.

All nominations received by the Senate for the position of Assistant Secretary of Energy for Environmental Restoration and Nuclear Waste Management, or any successor titles to that position having responsibility for environmental restoration and waste management, be jointly referred to the Committees on Armed Services and Energy and Natural Resources and that the referral be subject to the following conditions:

First, that if one committee reports the nomination to the Senate, the other committee shall have 30 days—following the date on which the nomination is reported—within which to report the nomination.

Second, that if the other committee fails to report on the nomination within the 30-day period, it shall be automatically discharged from further consideration of the nomination.

Third, that in computing the 30-day period, days on which the Senate is not in session because of an adjournment or recess of more than 3 days to a day certain shall be excluded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the Secretary of Energy is planning to use existing authority to create an Assistant Secretary's position for Environmental Restoration and Nuclear Waste Management.

The role of this Assistant Secretary would be to implement the environmental cleanup of the Department of Energy's nuclear defense facilities, to coordinate and oversee both civilian

and defense nuclear waste management technology, and to undertake an aggressive research and development program for cleanup technology. Programs that would be included in this new office would be transferred from the existing Offices of Defense Programs, Nuclear Energy, Energy Research, and Environmental Safety and Health.

The Committee on Armed Services and the Committee on Energy and Natural Resources share jurisdiction over these programs. Both committees agree that the Senate should enter a standing order providing for joint referral of nominations for this position. This arrangement will reflect the jurisdiction interests of both committees.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

WIC FUNDING AUTHORIZATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5149, a WIC funding authorization bill, just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5149) to amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amounts returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990.

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BURDICK. Mr. President, this legislation will allow any State to overspend its allocation for the WIC Program with the expectation that it will be reimbursed next year for this amount—up to 3 percent of this year's allocation. While I do not oppose this legislation to provide assistance to those States that are having difficulty maintaining their caseloads under the WIC Program, I do have some concerns about it that I want to express.

First of all, there is no guarantee that there will be an appropriation for WIC next year—although the likelihood is that money will be apportioned for the program. However, if none were appropriated, States would not be reimbursed for the amount overspent.

Second, as chairman of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies, I want to make it clear to all of the States that there is no implication from this legislation that the fiscal year 1991 appropriation for WIC will be increased to cover any amount a State may choose to spend over and above its fiscal year 1990 allocation.

This subcommittee has been very generous to the WIC Program by providing significant increases over the last 10 years, and I hope to be able to continue that trend. But there is no guarantee that the trend can continue given the budgetary constraints we face.

I want to make it clear that the problems certain States are experiencing this year are not due to a lack of money, because for 1990, we provided an increase of $197 million over the 1989 level—an increase of more than 10 percent. Rather, the problems are due to unexpectedly high food costs. And, not all States are having problems; some have implemented food item substitutions and adopted other management practices to avoid caseload reductions.

Mr. President, with these cautions, I do not oppose passage of this legislation.

Finally, I ask unanimous consent to print in the RECORD a news release from the Department of Agriculture which indicates that 46 States are receiving an additional $11 million for the WIC Program. This money comes from an annual reallocation of unspent and carryover WIC funds.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATES TO RECEIVE MORE MONEY FOR WIC PROGRAM

WASHINGTON, June 26.—The U.S. Department of Agriculture today announced forty-six states will receive an additional $11 million through USDA's annual reallocation of funds for the Special Supplemental Food Program for Women, Infants and Children, commonly known as the WIC Program.

USDA's Food and Nutrition Service, which administers WIC nationally, regularly reallocates unspent and carry-over program funds. This year FNS has made available almost $9 million to help state programs continue serving as many clients as possible, plus about $2 million to assist states in administrative funding.

About half of the states have been facing budgetary problems with WIC, mainly due to unexpectedly high food costs, especially for dairy and citrus products. In those states, changes have been made in the program to save costs by adjusting food packages or reducing services to some lower-priority clients.

"Many states have managed their WIC caseloads carefully enough that they aren't having any budgetary problems," said FNS Administrator Betty Jo Nelsen. "Others have had to economize in the face of increased costs, just as a family does, by choosing less expensive but nutritious foods. This extra money from the reallocation will help those states which are dealing with particularly tight budgets keep up services to as many of their clients as possible."

Nationally, the reallocated money will allow states to provide an additional 300,000 food packages to clients over the next three months which will end fiscal year 1990.

The funds will be available to states on July 1 and will supplement the more than $2 billion allocated for WIC this fiscal year. Over 4.5 million women, infants and children participate in the WIC program.

The following is a list of states, including Guam and Puerto Rico, which will receive reallocated funds:

States:	*Reallocated amount*
Alaska	$9,407
Arizona	268,601
Arkansas	370,537
California	1,422,431
Colorado	91,733
Connecticut	44,279
District of Columbia	12,881
Florida	693,139
Georgia	297,474
Guam	8,867
Idaho	117,228
Illinois	517,904
Indiana	358,805
Iowa	150,472
Kansas	118,026
Kentucky	158,623
Maine	57,549
Maryland	167,096
Massachusetts	169,027
Michigan	215,490
Minnesota	129,346
Missouri	283,778
Montana	41,174
Nebraska	61,030
Nevada	26,719
New Hampshire	16,223
New Jersey	294,132
New Mexico	68,983
New York	1,033,117
North Carolina	323,085
North Dakota	25,145
Ohio	286,840
Oklahoma	195,547
Oregon	219,926
Pennsylvania	554,853
Puerto Rico	551,264
Rhode Island	13,195
South Dakota	58,121
Texas	1,160,818
Utah	191,668
Vermont	15,241
Virginia	264,946
Washington	182,096
West Virginia	101,088
Wisconsin	154,914
Wyoming	11,419

Mr. DOLE. Mr. President, I am pleased to join in support of this important bill, which will help alleviate the crisis facing many State WIC programs. We have all read the distressing accounts in the press about the steps many States are having to take to stay within their fiscal year 1990 WIC budgets—reducing WIC food packages, letting vacated slots go unfilled, even dropping participants from the rolls. Those affected are some of the most vulnerable members of our society: Low-income women, infants, and children at nutritional risk.

States find themselves in this situation primarily because of higher-than-expected price increases for some of the main components of the WIC food

package. As the distinguished Senator from Vermont has described, the measure we are introducing today will help address the problem by allowing States to use up to 5 percent of their fiscal year 1991 WIC supplemental food allocation in the present fiscal year, instead of the maximum of 1 percent allowed under current law. I want to emphasize that this is a one-time administrative fix, and for it to work, States will have to pay especially close attention to the management of their WIC caseloads in the coming fiscal year.

Mr. President, enactment of this bill will have an immediate impact on the nutritional well-being of many thousands of our Nation's neediest women, infants, and children. It deserves our colleagues' support and speedy consideration.

Mr. LUGAR. Mr. President, the Supplemental Food Program for Women, Infants, and Children is facing a unique funding problem this year. Earlier today, the House passed this bill in an attempt to lessen the effects of this unique problem.

Current law allows States to borrow, in effect, 1 percent of the following year's appropriation in the current year. This bill would allow, on a one-time basis, States to spend up to 3 percent of the fiscal year 1991 appropriation for supplemental foods in fiscal year 1990, and receive a later reimbursement.

The bill further requires that the additional money be used for food, not administration. It requires that States which intend to use this authority submit a plan to the Secretary showing how the caseload will be managed. The Secretary is required to give these plans expedited review. A further limitation is that States may not increase their caseload level above the highest monthly level achieved to date in fiscal year 1990.

This bill is intended to help alleviate the current problem in fiscal year 1990 by giving States the opportunity to take a longer view in managing their caseloads. It is not meant as a precedent for the future for WIC or any other program.

Mr. President, I would like to inquire of my friend, the distinguished chairman of the Agriculture Committee, if he agrees with my asessment of the unique nature of this situation and its lack of precedential value.

Mr. LEAHY. I would respond to my friend from Indiana that I agree that this bill should not be viewed as a precedent. We are responding to a unique combination of circumstances this year. That is why we have specifically limited this change to this year only.

Mr. LUGAR. I thank my friend.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5149) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE 1991 MOUNT RUSHMORE COMMEMORATIVE COIN ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 1028, 1991 Mount Rushmore Commemorative Coin Act, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1028) to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Maine?

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. PRESSLER. Mr. President, this is a historic day in the life of one of our Nation's most cherished monuments, Mount Rushmore. As the Senate prepares to give its final approval to the 1991 Mount Rushmore Commemorative Coin Act, I would like to thank my colleagues for helping to recognize the importance of the Shrine of Democracy located in western South Dakota.

I've been working with the Mount Rushmore Memorial Society, the nonprofit organization associated with Mount Rushmore, for many years on a a number of projects in order to prepare for Mount Rushmore's golden anniversary in 1991. The highest priority project was the development of a commemorative coin in honor of the upcoming event.

This bill has an extensive legislative history. The proceeds from the sale of Mount Rushmore commemorative coins will help make much-needed improvements at the memorial. Nearly $20 million will be generated for use at the memorial. An equal amount will go to reduce the Federal deficit. I first introduced the Mount Rushmore coin bill on May 24, 1988. I reintroduced the coin bill on January 25, 1989, and used my new position on the Senate Banking Committee to move the legislation ahead. I sent a copy of my bill to my distinguished House colleague and invited him to introduce it in that Chamber. He graciously complied. The Senate bill, S. 148, passed the Senate on November 3, 1989.

That legislation was passed by the House 6 months later as H.R. 1028. The House made slight modifications in the wording to appear on the coins. I appreciate the assistance of our House colleagues in moving our Mount Rushmore coin bill. I note with some humor that my legislation came back as a House bill. In the interest of getting it to the President's desk as quickly as possible, I will forgo the advice of a colleague and not send this back with its original number.

Mr. President, working on this bill has been a highlight of my experience in the Senate. I appreciate the opportunity to develop legislation that not only directly helps my home State but also benefits the entire Nation. This bill does exactly that. As author of the 1991 Mount Rushmore commemorative coin bill, I am honored to recommend its final passage by Congress.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment.

If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1028) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of Calendar Nos. 573, 575, and 608; that the one committee amendment be agreed to; that the resolutions, as amended, be passed; that the amendment to the preambles, where appropriate, be agreed to; that the preambles, as amended, where amended, be agreed to; that the title amendment, where appropriate, be agreed to; and that the motion to reconsider the passage of these resolutions be laid upon the table.

Mr. President, I further ask unanimous consent that any statements relating to these Calendar items appear at the appropriate place in the RECORD, and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREVENTING THE SPREAD OF NUCLEAR WEAPONS

The concurrent resolution (S. Con. Res. 137) to express the sense of Con-

gress that the 1990 Nuclear Non-Proliferation Treaty [NPT] Review Conference should reaffirm the support of the parties for the objectives of the NPT, in particular preventing the spread of nuclear weapons to additional countries, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 137

Whereas the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow on July 1, 1968, and which entered into force on March 5, 1970, is the principal legally binding, international instrument to prevent the spread of nuclear weapons to additional countries;

Whereas the NPT, with 140 parties, is the most widely adhered to and successful multilateral arms control treaty in history and is central to international security and stability;

Whereas the NPT has also facilitated international cooperation in the development of peaceful uses of nuclear energy under international safeguards of the International Atomic Energy Agency;

Whereas since its negotiation the NPT has been strongly supported by every United States administration and is considered essential to United States foreign and national security policy;

Whereas at the 1985 NPT Review Conference the parties to the NPT expressed their conviction that universal adherence to the NPT is the best way to strengthen the barriers against the proliferation of nuclear weapons to additional states and urged all States not party to the Treaty to accede to it;

Whereas during the past five years the United States and the U.S.S.R. have been involved in a wide variety of negotiations on arms control and disarmament matters and successfully concluded the Intermediate Nuclear Forces Treaty, and that this period has witnessed more progress in arms control than any other period in history;

Whereas in a world undergoing significant political and security changes and in view of the continuing threat that proliferation of nuclear weapons would pose, the NPT continues to be highly relevant and important;

Whereas the fourth five-year conference to review the implementation of the NPT will be held in Geneva, Switzerland, from August 20–September 14, 1990;

Whereas 25 years after the entry into force of the NPT, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods;

Be it resolved that it is the sense of the Senate (the House of Representatives concurring) That—

1. The NPT continues to be of great benefit to the United States and the international community since it remains essential to preventing the spread of nuclear weapons and to preserving international peace and security; and,

2. All States which have not yet adhered to the NPT should do so promptly, a step which would significantly strengthen the international non-proliferation regime; and

3. The parties to the NPT are encouraged to undertake a fair and balanced review of the NPT at the upcoming fourth NPT Review Conference, recognizing the significant efforts that have been made to implement its provisions.

RELEASE OF PRISON RECORDS OF RAOUL WALLENBERG AND ACCOUNTABILITY FOR HIS WHEREABOUTS

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 60) expressing the sense of the United States Senate that the Soviet Union should release the prison records of Raoul Wallenberg and account for his whereabouts, which had been reported from the Committee on Foreign Relations with an amendment.

The reported amendment was agreed to.

The concurrent resolution, as amended was agreed to.

The reported amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution, as amended, and the preamble, as amended, are as follows:

S. CON. RES. 60

Whereas Raoul Wallenberg, a Swedish citizen and diplomat, was responsible for saving thousands of innocent people from being killed by the Nazis during World War II;

Whereas at the request of the United States war Refugee Board and the World Jewish Congress, Raoul Wallenberg went to Budapest in 1944 to organize rescue operations and save Hungarian Jews from being massacred in Nazi death camps;

Whereas Raoul Wallenberg used "protective passports" passes to save Hungarian Jews targeted for extermination in death camps in Eastern Europe from being executed;

Whereas Raoul Wallenberg courageously issued Swedish passports to more than 15,000 Jews and indirectly helped approximately one hundred thousand Hungarian Jews to escape Nazi plans for their extermination;

Whereas on January 17, 1945, Raoul Wallenberg was escorted by two Soviets to the Russian front, ostensibly to discuss arrangements for emergency supplies to be sent to the Jewish ghettos in Hungary, where he was taken into protective custody;

Whereas Raoul Wallenberg was arrested on charges of spying and taken by Soviet troops to the Lubianka prison in Moscow and held here;

Whereas Raoul Wallenberg was taken into Soviet "protective custody" in volation of international standards of diplomatic immunity;

Whereas the Soviets claim that Raoul Wallenberg died in a Soviet prison in 1947 at the age of thirty-five of a heart attack, but neither his remains nor any other evidence of his death have ever been produced by the Soviets to verify his death;

Whereas there have been a number of sightings and accounts of Raoul Wallenberg that indicate that he may still be alive and in Soviet custody;

Whereas the Soviet Union released existing prison records and personal effects of Raoul Wallenberg to his family in October 1989;

Whereas the contributions of Raoul Wallenberg to fight for human rights and against the Nazi-orchestrated holocaust must be acknowledged; and

Whereas the truth about the whereabouts of Raoul Wallenberg must be made public: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Senate—

(1) gratefully acknowledges the presentation of the existing Soviet prison records and personal effects of Raoul Wallenberg to his family;

(2) requests that all alleged sightings of Raoul Wallenberg since July 17, 1947, be thoroughly and impartially investigated and that the results of such investigations be made public; and

(3) requests that the President pursue, through diplomatic actions with the Soviet Union, such investigations.

The title was amended so as to read: "A concurrent resolution expressing the sense of the United States Senate that an impartial investigation of all alleged sightings of Raoul Wallenberg since 1947 be made".

MORATORIUM ON COMMERCIAL KILLING OF WHALES

The concurrent resolution (H. Con. Res. 287) calling for a U.S. policy of promoting the continuation, for a minimum of an additional 10 years, of the International Whaling Commission's moratorium on the commercial killing of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale populations, was considered, and agreed to.

The preamble was agreed to.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that Calendar 574, Senate Concurrent Resolution 126, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1990

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4525, the Ethics in Government Act Amendments of 1990, just received from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4525) to amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LEVIN. Mr. President, H.R. 4525 would amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics [OGE]

from $3.5 to $5 million for each of the next 5 years, beginning with fiscal year 1991. As chairman of the Subcommittee on Oversight of Government Management which has jurisdiction over OGE, I support this increase. The agency has an important mission, and, according to the administration, it simply needs more money to do its job effectively.

In 1988, we passed a bill authorizing up to $3.5 million per year for OGE. At that time, on the advice of the administration, we thought that would be enough for the next 5 years. The administration now tells us that the previous amount is insufficient and that a modest increase in the authorization level is necessary. Based on that representation, I support this bill.

Both Congress and the President have assigned new tasks to OGE in the last few years. Overall, OGE is responsible for promoting—and to the extent possible, ensuring—ethical conduct throughout the executive branch. That includes setting standards of conduct, providing instruction and guidance, monitoring agencies' ethics programs, reviewing financial disclosure reports, and ordering corrective action. That is a tall order for a small agency—now just 41 people. Moreover, with passage of the Ethics Reform Act of 1989, OGE has been faced with a substantial increase in responsibilities for interpreting, and issuing new regulations on, those changes to our ethics laws.

Earlier this month, the Oversight of Government Management Subcommittee held a hearing on OGE's oversight of agency ethics programs. We found that OGE was way behind in its audits of executive branch agencies, in large part because of a lack of staff. The goal of reviewing each agency's ethics program every 3 years is apparently unattainable given the current workload and staff constraints.

The agency has recently hired new staff and reorganized in order to discharge its responsibilities more quickly and effectively. The President has finally—after a year's delay—nominated a new OGE Director, Stephen D. Potts, to provide the leadership that has been missing. This vacancy was truly unfortunate, and for the last 6 months I had been urging the President to make an appointment to this post a top priority. I am pleased that the nomination has finallly been made; I remain disappointed that it took so long. We will try to make up for some of that delay by giving this nomination prompt consideration in the Governmental Affairs Committee.

Mr. President, these are positive developments, but they won't let OGE live up to its obligations unless increased funding goes along with the new responsibilities. I hope the Senate will support the administration in seeking this relatively modest increase in its funding, from $3.5 million to $5 million, for each of the next 5 years.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4525) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Nos. 648, 649, 650, 651, 652, and 653; the resolutions be deemed read a third time and passed; that the preamble be agreed to; that the motion to reconsider the passage of these resolutions be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL REHABILITATION WEEK

The joint resolution (S.J. Res. 279) to designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 279

Whereas the designation of a week as "National Rehabilitation Week" gives the people of this Nation an opportunity to celebrate the victories, courage, and determination of individuals with disabilities in this Nation and recognize dedicated health care professionals who work daily to help such individuals achieve independence;

Whereas there are significant areas where the needs of such individuals with disabilities have not been met, such as certain research and educational needs;

Whereas half of the people of this Nation will need some form of rehabilitation therapy;

Whereas rehabilitation agencies and facilities offer care and treatment for individuals with physicial, mental, emotional, and social disabilities;

Whereas the goal of the rehabilitative serices offered by such agencies and facilities is to help disabled individuals lead active lives at the greatest level of independence possible; and

Whereas the majority of the people of this Nation are not aware of the limitless possibilities of invaluable rehabilitative services in this Nation: Now, therefore, be it

Resolved by the Senate and House Representatives of the United States of America in Congress assembled, That—

(1) the week of September 16, 1990, through September 22, 1990, is designated as "National Rehabilitation Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities, including educational activities to heighten public awareness of the types of rehabilitative services available in this Nation and the manner in which such service improve the quality of life of disabled individuals; and

(2) each State governor, and each chief executive of each political subdivision of each State, is urged to issue proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to observe such week in the manner described in paragraph (1).

DECADE OF THE CHILD

The joint resolution (S.J. Res. 282) to designate the decade beginning January 1, 1990, as the "Decade of the Child," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 282

Whereas the ability of our Nation to complete in a global marketplace depends on our ability to produce confident, caring adults who possess both job and social skills;

Whereas an investment in our children is an investment in the future of our Nation;

Whereas all children need, and are entitled at a minimum to, a safe and secure environment in which to live, beginning with the healthy, drug- and alcohol-free pregnancy of their mothers, and a home environment without child abuse, alcoholism, or drug use by their parents;

Whereas all children must be healthy, both in mind and body, to lead productive lives;

Whereas all children need the best educational system our Nation can provide inorder to be stimulated to learn;

Whereas all children must have role models to provide individual attention, caring, and guidance and to foster greater self-esteem, pride of accomplishment, and initiative;

Whereas preventive programs such as early childhood education and prenatal care reduce costs to the Nation in terms of human suffering, taxes, and private expenditures;

Whereas efforts to eradicate the scourge of illegal drugs from the Nation reduce a threat to the lives of all Americans, especially those of our youth;

Whereas social and child development services for which we now pay taxes too often fail to reach the children for whom they are intended, requiring much improved intra- and inter-governmental coordination and communication in order to benefit our Nation's children;

Whereas the complex problems that affect our children require comprehensive solutions, continually reinforced by all of society including family, community, government, and the private sector;

Whereas the declaration of the Decade of the Child will focus the Nation's attention on the educational, developmental, and health needs of our children: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the decade beginning January 1, 1990, is designated the "Decade of the Child"; and

(2) the President is authorized and requested to issue a proclamation calling on all public officials and the people of the United States to observe the decade with appropriate programs and activities.

NATIONAL TEACHER APPRECIATION DAY

The joint resolution (S.J. Res. 213) designating October 3, 1990, as "National Teacher Appreciation Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 313

Whereas education of the Nation's youth is the foundation of the Nation's future;

Whereas education is a lifelong process which is beneficial to the individual and thus beneficial to the entire Nation;

Whereas teachers deserve credit for their invaluable role in providing education;

Whereas teaching not only involves traditional areas of education, but today also includes vocational education, continuing education, and education for special needs;

Whereas teachers contribute not only to the academic growth of students, but also to their ethical, social, and emotional development;

Whereas a student's respect for his or her teacher is essential to the student's ability to learn; and

Whereas the contributions of teachers should be celebrated often in order to honor the role of teachers in society and to affirm and foster respect for teachers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 3, 1990, is designated as "National Teacher Appreciation Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

WEEK OF NATIONAL OBSERVANCE OF THE 50TH ANNIVERSARY OF WORLD WAR II

The joint resolution (S.J. Res. 324) to designate June 3 through June 9, 1990, as "Week of the National Observance of the 50th Anniversary of World War II," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 324

Whereas the brave men and women of the United States of America made tremendous sacrifices during World War II to save the world from tyranny and aggression;

Whereas the winds of freedom and democracy sweeping the globe today spring from the principles for which over 400,000 Americans gave their lives in World War II;

Whereas World War II and the events that led up to that war must be understood in order that we may better understand our own times, and more fully appreciate the reasons why eternal vigilance against any form of tyranny is so important;

Whereas the World War II era, as reflected in its family life, industry, and entertainment, was a unique period in American history, and epitomized our Nation's philosophy of hard work, courage, and tenacity in the face of adversity;

Whereas, between 1990 and 1995, over 9,000,000 American veterans of World War II will hold reunions and conferences and otherwise commemorate the 50th anniversaries of various events relating to World War II: and

Whereas June 4, 1990, marks the anniversary of the Battle of Midway and June 6, 1990, marks the anniversary of the D-Day battle: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 3 through June 9, 1990, is designated as "National World War II Observance Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate activities and ceremonies.

DAY OF OBSERVANCE FOR THE VICTIMS OF TERRORISM

The joint resolution (S.J. Res. 326) to designate December 21, 1990, as a "Day of Observance for the Victims of Terrorism," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 326

Whereas, on December 21, 1988, Pan American World Airways Flight 103 was destroyed over Lockerbie, Scotland, by a terrorist bomb, resulting in the death of 270 people, including the airline passengers and crew and persons on the ground;

Whereas, the United States Government has a special obligation to the innocent victims of acts of terrorism that are directed toward the United States and not at innocent persons;

Whereas, the United States must remain ever vigilant in protecting the citizens of this Nation against acts of terrorist violence; and

Whereas, it is appropriate for the people of the United States to commemorate the innocent victims of terrorism and the tragic suffering that results from acts of terrorism: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 21, 1990, is designated as a "Day of Observance for the Victims of Terrorism", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies, activities, and programs.

HELSINKI HUMAN RIGHTS DAY

The joint resolution (S.J. Res. 339) to designate August 1, 1990, as "Helsinki Human Rights Day," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 339

Whereas August 1, 1990, is the fifteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, the Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki accords;

Whereas the Helsinki accords recognize the inherent relationship between respect for human rights and fundamental freedoms and the attainment of genuine society;

Whereas the Helsinki accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to, race, sex, language or religion";

Whereas the Helsinki accords also express the commitment of the participating States to guarantee the effective exercise of human rights and fundamental freedoms which derive from the inherent dignity of humanity and are essential for the free and full development of that dignity;

Whereas the participating States have committed themselves to "protect and create the conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory," as well as to "respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others";

Whereas the Helsinki accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia International Covenants on Human Rights, by which they may be bound";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, includ-

ing those relating to territorial integrity of States";

Whereas the participating States have recognized that respect for human rights is an essential aspect for the protection of the environment and for economic prosperity;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States have made it their aim to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries";

Whereas the dramatic changes which have occurred within the last year in many signatory States have brought the human rights promises of Helsinki close to fruition;

Whereas despite significant improvements, all participating States have not yet full implemented their obligations under Principle VII of the Helsinki accords to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and under Basket III of the Helsinki accords to promote free movement of people, ideas and information;

Whereas on January 19, 1989, representatives from the signatory States agreed on the Concluding Document of the Vienna Follow-Up Meeting, a document which has added clarity and precision to the obligations undertaken by the States in signing the Helsinki accords;

Whereas by agreeing to the Concluding Document, the signatory States "reaffirmed their commitment to the CSCE process and underlined its essential role in increasing confidence, in opening up new ways for cooperation, in promoting respect for human rights and fundamental freedoms and thus strengthening international security";

Whereas the Conference on Security and Cooperation in Europe of the thirty-five signatory States of the Helsinki accords has made major contributions to the positive developments in Eastern and Central Europe, including greater respect for the human rights and fundamental freedoms of individuals and groups; and

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled That—

(1) August 1, 1990, the fifteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designed as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory nations to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of the Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory nation which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing address the major problems that remain, including the question of self-determination of peoples.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

DRUG TREATMENT WAITING PERIOD REDUCTION GRANT PROGRAM REAUTHORIZATION AND IMPROVEMENTS ACT

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 643, S. 2461, regarding drug treatment waiting period reduction grant program.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2461) to reauthorize appropriations to provide for and improve the drug treatment waiting period reduction grant program under the Public Health Service Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Treatment Waiting Period Reduction Grant Program Reauthorization and Improvements Act of 1990".

SEC. 2. IMPROVEMENT OF DRUG ABUSE TREATMENT WAITING PERIOD REDUCTION PROGRAM.

Section 509E of the Public Health Services Act (42 U.S.C. 290aa-12) is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting after subsection (b) the following new subsection:

"(c) Subject to the availability of qualified applicants, in awarding grants under subsection (a), the Secretary shall give priority to applicants that provide, directly or through arrangements with public and non-profit entities—

"(1) drug treatment services to pregnant and post-partum women; or

"(2) after-care services to prevent renewed substance abuse by individuals to whom a substance abuse program that receives assistance under this section has provided treatment services, except that a grantee shall not expend in excess of 50 percent of the amount of a grant awarded under subsection (a) to develop and provide such services."; and

(3) in subsection (e)—

(A) by redesignating paragraph (3) as paragraph (4);

(B) by striking out "and" at the end of paragraph (2); and

(C) by inserting after paragraph (2), the following new paragraph:

"(3) in the case of an applicant that is not a State, an agency of the State in which the applicant is located certifies that the applicant satisfies the conditions described in subsection (b); and ".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 509E(f) of the Public Health Services Act (42 U.S.C. 290aa-12(f) is amended—

(1) in paragraph (1), to read as follows:

"(1) In addition to amounts otherwise appropriated to carry out this section prior to fiscal year 1991, there are authorized to be appropriated an additional $40,000,000 to carry out this section, "; and

(2) in paragraph (3), by striking out "$100,000,000" and inserting in lieu thereof "$140,000,000".

SEC. 4. REPORT.

Not later than 6 months after the enactment of this Act, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall prepare and submit, to the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce, a report concerning the waiting period reduction grant program under section 509E of the Public Health Service Act (42 U.S.C. 290aa-12). Such report shall include—

(1) a list and description of the programs that have been awarded grants under such section;

(2) a description of the process by which funds awarded under such section are expended for treatment services, including a description of the process by which grantees obligate and draw-down funds received under such section;

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of treatment need, a description of other, more accurate means of measuring treatment need;

(4) the views of State, local, and nongovernmental treatment experts with respect to the validity of waiting lists as a measure of treatment need and with respect to the efficacy of the waiting period reduction grant program;

(5) an assessment of the effectiveness of the treatment programs that receive funding under such section, including the usefulness of mechanisms, such as drug testing, that detect renewed substance abuse, and information with respect to the current use of such mechanisms; and

(6) any other information that the Administrator determines to be necessary to a thorough appraisal of the efficacy of the program under such section.

The PRESIDING OFFICER. The bill is before the Senate and open to

amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DUCKS AND WETLANDS DAY

Mr. MITCHELL. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 338 designating National Ducks and Wetlands Day and that the Senate proceed to it immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 338) designating National Ducks and Wetlands Day.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 338

Whereas the United States converts almost 500,000 acres of wetlands to other uses each year;

Whereas the Department of the Interior annually issues a Federal duck stamp and uses all funds raised by the sale of the stamp to acquire wildlife habitat in the form of wetlands that support both waterfowl and other wildlife;

Whereas the Postal Service sells more than 1,500,000 duck stamps annually;

Whereas citizens of the United States have purchased duck stamps for over half a century to support the conservation benefits of saving wetlands;

Whereas the sale of duck stamps has raised more than $400,000,000 since the inception of the program, and these proceeds have been used to acquire almost 4,000,000 acres of prime habitat for the National Refuge System;

Whereas on Sunday, July 1, 1990, the Fish and Wildlife Service of the Department of the Interior will issue a Federal duck stamp that will go on sale at post offices nationwide;

Whereas according to popular tradition, the artist who designed the new stamp will be honored at the First Day of Sale Ceremony, to be held near the hometown of the artist;

Whereas the United States Postal Service will host a ceremony at the new Minnesota Valley Wildlife Refuge Visitors Center to honor the fourteenth duck stamp designer from Minnesota, Wildlife artist Jim Hautman of Plymouth, Minnesota; and

Whereas the citizens of Minnesota have dedicated an afternoon program of ceremony, information, and family activities to support the conservation of wetlands and waterfowl: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) July 1, 1990, is designated as "National Ducks and Wetlands Day"; and

(2) the President is authorized and directed to issue a proclamation calling on the people of the United States—

(A) to recognize the day with appropriate ceremonies and activities; and

(B) on the day and thereafter, to recognize and support conservation efforts to save wetlands by purchasing duck stamps.

Mr. MITCHELL. Mr. President, I merely would like to note for the record that the Senate joint resolution regarding National Ducks and Wetland Day was authored by the distinguished Senator from Minnesota, who is the acting Republican leader this evening. I wish to commend him on that measure.

Mr. BOSCHWITZ. I thank the majority leader.

Mr. MITCHELL. I move to reconsider the vote.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DUCKS AND WETLANDS DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 599, now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 599) to designate July 1, 1990, as "National Ducks and Wetlands Day."

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 599) was ordered to a third reading, was read the third time, and passed.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, shall the joint resolution pass?

So the joint resolution (H.J. Res. 599) was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PURCHASE OF CERTAIN PROPERTY AT PEASE AIR FORCE BASE, NH

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4252, regarding the purchase of property at Pease Air Force Base, just reported by the Armed Services Committee.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4252) to authorize the Secretary of the Air Force to purchase certain real property at Pease Air Force Base, NH.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the bill.

Mr. NUNN. Mr. President, I rise to support the passage of H.R. 4252, a bill which authorizes the Secretary of the Air Force to purchase certain property at Pease Air Force Base, NH.

In recent days, my colleagues from New Hampshire, Senators RUDMAN and HUMPHREY, have brought to my attention the pressing difficulties facing approximately 50 Air Force military personnel who are stationed at Pease Air Force Base. Through a series of ill-considered judgments by the Air Force, financial institutions, and the individuals themselves, these airmen and women find themselves facing reassignment from Pease AFB because the installation is closing, and are unable to liquidate the mortgages they hold for mobile homes which are situated at the base's mobile home park.

Because the Air Force unwittingly created an artificial market for these homes, their value escalated independently from any intrinsic or fair market value. Additionally, because of the peculiarities of State law, the owners are precluded from selling these structures on the local market. In the face of pending reassignment and no way to liquidate their mortgages, these individuals face default on their mortgages and potential bankruptcy.

Legislation recently passed in the other body, H.R. 4252, provides financial relief to these individuals which is generally based upon the assistance currently provided to Defense Department employees who face the distressed sale of their homes in markets which are substantially depressed because of a base closure. The pending

legislation would provide these 50 mobile homeowners the lesser of 90 percent of the purchase price, or the amount of their outstanding mortgages which were attributable to the purchase or improvement of these homes.

According to Air Force estimates, the total cost of this bill would be no more than $1,300,000. Because of the Air Force's role in creating this unfortunate situation, the service is willing to absorb this cost. The administration supports this bill, and I ask unanimous consent that a letter to that effect be printed in the RECORD.

Mr. President, because of other pressing business, the Armed Services Committee has not had an opportunity to report out this bill. However, it has been carefully reviewed and enjoys bipartisan support. In light of the personal hardship which these mobile homeowners face and the uncertain time at which this provision would be enacted if it were incorporated in the national defense authorization bill for fiscal year 1991, I support discharging the bill from the committee and its early passage.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC, June 22, 1990.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Secretary of Defense on S. 2449, 101st Congress, a bill "To authorize the Secretary of the Air Force to purchase the mobile homes of certain members of the Air Force stationed at Pease Air Force Base, New Hampshire. The Secretary of Defense has delegated to the Department of the Air Force responsibility for expressing the views of the Department of Defense.

This legislation would pay the service member an amount equal to the greater of: 1) the fair market value of mobile home would have if the mobile home were located in an existing mobile home park in a community near or adjacent to Pease Air Force Base; or 2) a sum of the initial down payment, the closing costs, the unpaid balance on the mortgage, and the balance on any second mortgage.

The Department of Defense favors the intent of this bill but is unable to agree with the payment provisions. Option one, paragraph 1(b)(1), will offer more reimbursement to the owners of mobile homes than is available to non-mobile home owners through the Homeowners' Assistance Program. Paying fair market value, based on the hypothetical situation that the homes were off base, could increase the value of each mobile home to as much as $70,000 per unit. This would almost double the estimated value on-site of the mobile homes prior to the closure announcement and increase the cost of this bill to approximately $3.5 million. Payment option two, paragraph 1(b)(2), would also go far beyond the Homeowners' Assistance Program. Owners would receive virtually their entire outlay, rather than the 85% of fair market value currently paid under the Homeowners' Assistance Program.

We recommend that the Senate adopt the amended version of H.R. 4252, as it passed the House on May 21. It provides for payment of 90% of purchase price, or the amount of outstanding mortgages attributable to purchasing the unit or making capital improvements to it. This formula represents an adaptation of the Homeowners' Assistance Program provisions to the unusual circumstances of this case. We believe it represents a fair compromise of an unfortunate situation.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

BRETT M. DULA,
Brigadier General, USAF, Director, Legislative Liaison.

Mr. HUMPHREY. Mr. President, the pending closure of Pease Air Force Base, NH, has created an unforeseen financial crisis for 50 Air Force families residing in the on-base mobile home park. Through a unique set of circumstances, these families are unable to sell locally, or transfer their mobile homes to new duty locations. Indeed, through no fault of their own, these personnel are confronted with possible bankruptcy and financial ruin.

The Pease dilemma results from a well intentioned, yet ill-advised decision by the Air Force to waive certain mobile home housing regulations at Pease. The waiver, which circumvented the standard waiting list for base housing, permitted the sale of on-base mobile homes to the highest bidder. Since base and peripheral housing was in short supply, the waiver artificially inflated the competitive resale market. As a result, the trailers were purchased at exorbitant and unrealistic prices.

Even with the inflated costs, resale was never a problem because of the ever intense competition for base housing. However, the inclusion of Pease on the December 1988 base closure list effectively dissolved the market. Since New Hampshire law prohibits local sale or transfer of the trailers from existing sites, the Pease mobile homeowners are now stuck paying excessive mortgages on property they cannot liquidate. Further exacerbating the crisis, these personnel must depart for new duty locations within the next few months.

Public Law 89-754, which established the Homeowner's Assistance Act, authorizes financial assistance to civilian and military homeowners whose property devalues due to a base closure or realignment. Under the act, the Secretary of Defense is authorized to purchase real property, improved with a one or two family dwelling, from affected personnel. However, by definition, mobile homes located on leased lots in an Air Force or commercial mobile home park are excluded from coverage. Thus, absent legislative relief, these 50 Air Force families face imminent financial ruin.

Mr. President, H.R. 4252 represents a fair and appropriate solution. Specifically, the legislation authorizes the Secretary of the Air Force to purchase the Pease mobile homes for either 90 percent of the member's purchase price or, if elected by the member, the amount of outstanding mortgages. The Air Force may then sell, donate, trade, or otherwise dispose of the acquired properties as appropriate.

As a result, the Pease families receive relief comparable to that provided by Public Law 89-754, and the Air Force retains the properties for subsequent disposal and revenue generation.

Frankly, Mr. President, the Air Force should never have allowed this problem to develop and perpetuate. However, these families should not be penalized for the Air Force's poor judgment and lack of foresight. The situation is unique, and requires a specific legislative remedy. H.R. 4252 provides that remedy.

I wish to thank Congressman MARTIN for his interest and support in developing this important legislation, and I urge its immediate adoption.

Mr. RUDMAN, Mr. President, I rise to endorse immediate passage of H.R. 4252, a bill to authorize the Secretary of the Air Force to purchase the mobile homes on Pease Air Force Base from the military personnel who own them. This measure, which passed the House by voice vote on May 21, has been discharged favorably from the Senate Armed Services Committee and has the strong support of the administration. It would require the Secretary to pay an amount equal to either 90 percent of the owner's purchase price of the mobile home, or if the owner so desires, the amount of the outstanding mortgages on such housing that are attributable to purchasing the home or making a capital improvement to it.

I believe the legislation is necessary to redress an inequity afflicting the 50 mobile homeowners at Pease Air Force Base. Pursuant to section 3374 of title 42, the Secretary of Defense may purchase the homes of military or civilian Federal employees adversely impacted by a base closure or major realignment. As my colleagues may know, this is the Homeowners Assistance Program, or HAP. Unfortunately, the HAP covers only fixed structures, and thus does not apply to mobile homes.

Pease Air Force Base contains a mobile home park with 50 developed lots. In 1985, the Air Force waived the normal "first-come-first-served" method of assigning lots and permit-

ted the development of, in effect, and active real estate market in mobile homes among departing and incoming military personnel. As a result, and given the artificially inflated value of the Federal land on which they were located, the value of the homes skyrocketed. The current residents have a substantial investment in their home, which they purchased with the expectation that they would enjoy the same benefits as mobile homeowners among the general public. The Air Force has admitted its oversight and advocates this legislation as an appropriate remedy.

These mobile homeowners have been placed in an untenable position with the upcoming closing of Pease Air Force Base. They must sell their homes because they are being reassigned, but there are no new military personnel—the only eligible buyers—arriving at Pease to sell to. As a result, they are unable to sell their homes. They thus face a substantial loss due to the combination of the Air Force's decision in 1985 and the imminent closing of Pease.

Mr. President, Pease Air Force Base is scheduled to be closed in just a few months. The need for this bill is compelling and time is of the essence. Equity demands assistance for the mobile homeowners from the Government they have volunteered to serve. I wish to thank the chairman and ranking member of the Armed Services Committee, Senators NUNN and WARNER, for their cooperation in advancing this meritorious legislation in a timely fashion. Moreover, I think it only fitting that we recognize the principal sponsor of this measure in the House, Congressman DAVID MARTIN of New York, who championed the cause of non-constituent mobile homeowners after visiting Pease and being made aware of their plight. I would thus urge my colleagues to pass H.R. 4252 forthwith.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 4252) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BOSCHWITZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MODIFICATION OF UNANIMOUS-CONSENT AGREEMENT—S. 1970

Mr. MITCHELL. Mr. President, I ask unanimous consent that the previous unanimous consent agreement regarding a possible savings and loan bill to be considered following the crime bill be modified to reflect that the Metzenbaum amendment is a second-degree amendment to the Heinz-Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT OF CONFEREES—H.R. 3033

Mr. MITCHELL. Mr. President, does the Chair have an announcement regarding conferees?

The PRESIDING OFFICER. Under the previous order, the Chair appoints the following conferees on H.R. 3033:

From the Committee on Foreign Relations: Mr. PELL, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. RIEGLE, Mr. HELMS, Mr. PRESSLER, Mr. MCCONNELL, and Mr. GARN.

From the Committee on Finance for any provisions regarding sanctions upon imports into the United States: Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. PACKWOOD, and Mr. HEINZ.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. MITCHELL. Mr. President, today is an historic occasion. Today we mark the 30th anniversary of Senator QUENTIN BURDICK's tenure in the Senate. For three decades, Senator BURDICK has been an effective advocate of the needs of North Dakota. He has had the vision to see the positive force government can have in people's lives by helping farmers, those who live in small rural communities, labor and others in need.

First elected to the Senate in a special election in 1960, Senator BURDICK was the first Democrat elected by North Dakotans to represent them in the U.S. Senate He was a good choice then and he is a good choice now.

As chairman of the Environment and Public Works Committee, Senator BURDICK has steered an impressive number and variety of bills through committee. From clean air to water resources, Chairman BURDICK has quietly reminded his colleagues that we are here to legislate and the Committee has an obligation to act on legislation expeditiously.

Chairman BURDICK has had an illustrious career in the Senate, protecting the interests of those who often have few champions. He has made history in his involvement in agricultural and environmental policy.

Senator BURDICK has had a Senate career of which we can all be proud. He continues to accomplish a great deal as chairman of the Environment and Public Works Committee and chairman of the agriculture subcommittee on Appropriations. We are honored to have a man of his integrity and dedication in the Senate and we look forward to working with him in the years to come.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. BOSCHWITZ. Mr. President, I also would like to add a word about my colleague, Senator BURDICK. The distinguished majority leader traced his career in the Senate. Two years prior to his coming to the Senate in 1958, he was elected to the House of Representatives, where he replaced his father, Usher Burdick, who had served in the House for 20 years prior to him.

So, between his father and himself, the Burdicks have now been in the Congress of the United States for over half a century.

I have a special regard for Senator BURDICK because, for a certain number of months each year, he is a constituent of mine, as are many North Dakotans. We sometimes make light of that in Minnesota because so many of our neighbors come and spend their summers in our State, our many thousands of lakes, and among those people who come from North Dakota is the distinguished Senator, Senator QUENTIN BURDICK.

He has a summer home near Detroit Lakes, MN, and serves in Detroit Lakes on each July 4 as the grand marshall of the parade and invites me each year to come up and join him in that capacity.

It is a joy to serve with Senator BURDICK here in the Senate. It is a joy to have him as a neighbor from North Dakota. I join with the majority leader in honoring our distinguished colleague on his three decades of service to the U.S. Senate.

SENATOR BURDICK'S 30TH ANNIVERSARY

Mr. BIDEN. Mr. President, enshrined in both the college and professional football halls of fame is one of the greatest running backs of all time, the late Bronko Nagurski, who first made his reputation at the University of Minnesota.

What is not so well known is that Nagurski's blocking back at Minnesota, the man who cleared the lanes for this great runner, was our colleague, Senator QUENTIN BURDICK. And while I do not profess to be a great source of sports information, I think that this story says a great deal about a man who for 30 years has graced this body with his charm, his dedication, and his compassion.

Because QUENTIN BURDICK, from his football days through his six terms here in the Senate, has sought, not the headlines, but rather the satisfaction that comes from genuine accomplishment through teamwork. He understands that the Senate is more

than simply a debating society, that what we do here profoundly affects the lives of millions of Americans, and that only by working together and not worrying about who gets the credit can we effect the good that Government can bring to people's lives.

I doubt very much that there is a single Member of this body who, at one time or another, has not been able to count upon Senator BURDICK's sense of teamwork and cooperation. I also doubt that there is anyone in the State of North Dakota, from the small businessman to the family farmer to the young children who rely upon our rural health programs, who has not been the recipient of QUENTIN BURDICK's strong sense of compassion and empathy.

You can bet that on the frozen football fields of Minnesota, Bronko Nagurski knew that he could count on QUENTIN BURDICK. Just as the people of North Dakota know that they can count on him today.

And just as his colleagues here in the Senate hope that we may continue to count on him for many years to come.

As QUENTIN BURDICK makes his 30th anniversary of service in the Senate, all of us commend him and wish him well.

Mr. MITCHELL. Mr. President, I am pleased to yield to my distinguished colleague from Florida.

The PRESIDING OFFICER. The Senator from Florida.

QUENTIN BURDICK

Mr. GRAHAM. Mr. President, as a junior member of the Environment and Public Works Committee, I would like to add my words of commendation and appreciation and gratitude to Senator BURDICK for his long service to this Nation. He has extended his experience and his affection to all the members of the committee. For that I am greatly appreciative and look forward to continuing to serve with him.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2829 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The majority leader.

ORDERS FOR TUESDAY, JULY 10, 1990

AD. ,URNMENT UNTIL 9:30 A.M.; MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate adjourns today, it stand in adjournment until 9:30 a.m. on Tuesday, July 10; and that, when the Senate reconvenes on Tuesday, July 10, the Journal of proceedings be deemed to have been approved to date; the call of the calendar be waived, and no motions or resolutions come over under the rule; and that the morning hour be deemed to have expired; I further ask unanimous consent that, following the time for the two leaders, there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL. Mr. President, I further ask unanimous consent that on July 10 the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, it is my intention to proceed on July 10 to the civil rights bill and also possibly to the conference report on the Americans With Disabilities Act.

ADJOURNMENT UNTIL 9:30 A.M., TUESDAY, JULY 10, 1990

Mr. MITCHELL. Mr. President, if there is no further business to come become the Senate today, I now ask unanimous consent the Senate stand in adjournment, under the provisions of House Concurrent Resolution 347, until 9:30 a.m. on Tuesday, July 10, 1990.

There being no objection, the Senate, at 1:33 a.m., Friday, June 29, 1990, adjourned until Tuesday, July 10, 1990, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate June 28, 1990:

DEPARTMENT OF JUSTICE

J. MICHAEL LUTTIG, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE WILLIAM PELHAM BARR.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 29, 1990:

NATIONAL TRANSPORTATION SAFETY BOARD

JOHN K. LAUBER, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE TERM EXPIRING DECEMBER 31, 1994.

FEDERAL EMERGENCY MANAGEMENT AGENCY

OLIN L. GREENE, JR., OF OREGON, TO BE ADMINISTRATOR OF THE U.S. FIRE ADMINISTRATION.

FEDERAL MARITIME COMMISSION

MING HSU, OF NEW JERSEY, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1991.

DEPARTMENT OF EDUCATION

MICHAEL L. WILLIAMS, OF TEXAS, TO BE ASSISTANT SECRETARY FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION.

DEPARTMENT OF AGRICULTURE

JAMES R. MOSELEY, OF INDIANA, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE.

CATHERINE ANN BERTINI, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

BRUCE L. GARDNER, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

JO ANN DOKE SMITH, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE STATE.

THE JUDICIARY

RICHARD F. SUHRHEINRICH, OF MICHIGAN, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT.

DAVID C. NORTON, OF SOUTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA.

KAREN LECRAFT HENDERSON, OF SOUTH CAROLINA, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

FREDICK P. STAMP, JR., OF WEST VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF WEST VIRGINIA.

DEPARTMENT OF JUSTICE

LOURDES G. BAIRD, OF CALIFORNIA, TO BE U.S. ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR THE TERM OF 4 YEARS.

U.S. SENTENCING COMMISSION

JULIE E. CARNES, OF GEORGIA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1995.

MICHAEL S. GELACAK, OF VIRGINIA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 31, 1991.

A. DAVID MAZZONE, OF MASSACHUSETTS, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1995.

EXTENSIONS OF REMARKS

THE ROLE SUBMARINES HAVE PLAYED IN OUR NATION'S DEFENSE

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. GEJDENSON. Mr. Speaker, as the Congress debates the future of the appropriate structure of our Armed Forces, it is imperative that we recognize those capabilities which have proven to be cost-effective and directly contribute to ensuring our security interests. In response to an editorial, "The sky isn't falling," which appeared in the New London Day, Mr. A.T. Mollegen, Jr., chairman and president of Analysis & Technology, Inc. wrote a thoughtful and insightful letter to the editor on the role submarines have played in our Nation's defense. I encourage my colleagues to review the arguments Mr. Mollegen so cogently presents on why our nuclear submarine capabilities provide us with the most flexible deterrent of our weapons carrying systems.

To the Editor of the Day:

Your editorial "The sky isn't falling" (Saturday, May 26) raises the issue of how the Senators and Congressional Representatives of EB's employment area might help the area's economy. Your recommendation was that they help hurry up the defense budget decisions so that the economic uncertainty will be over with quickly. Your position is incredibly short-sighted.

While part of the budgeting delay may be due to sound-bite-grabbing aspects of the political process, there is also a very serious debate going on as to what our country's future defense and arms policies should be. As a generation who have benefitted substantially from the foresight of our predecessors, we should have higher goals than rushing through major decisions to prevent minor disruptions in the local economy. Many of our country's past leaders must be resting uneasily in their graves if thoughts such as yours are typical of today's citizens. Among those who would be distressed, I suspect, would be: the people who designed wiser peace treaties after WW II than after WW I, so that the mistakes of the past weren't repeated; the people who set up the Marshall Plan to help revitalize Europe; the people who set up and have maintained NATO (and installed a tactical nuclear deterrent that worked—it deterred), causing the longest European period without war in 400 years; and the people who set up the strategic nuclear deterrent, so that in the late 1950s the overt military spread of Communism was brought to a halt (to name only a few).

Perhaps a more far-sighted set of suggestions could be made to the Congressional delegation which represents the EB employment area. (I count the delegation as including at least six people: two Senators each from Connecticut and Rhode Island, plus one Representative from Eastern Connecticut and one from Western Rhode Island.) This delegation could serve us and the country better if they were all to become highly vigilant watchdogs, to make sure that submarines are given appropriate consideration in the strategic planning debate that is going on now at the highest levels of our country and its allies. This is not just a matter of regional self-interest, it is a matter of creating a better future for the world.

In the last few years, submarine capabilities have been changing so rapidly that the proper role of submarines in the US defense line-up is no longer well-understood by many of our leaders. Because of the special importance of submarines to this region of the country, our delegation has a special role to play in making sure that the nation's new strategies reflect the new realities of the 1990s and beyond.

Some of these realities are as follows:

Because the US and many of our allies are so dependent on sea-surface trade, the US must maintain the strength to guarantee freedom of the seas almost anywhere. This fact is of course not new, but much of the debate still ignores it. Anyone who remembers the gasoline waiting lines of the 1970s should have a very good feel for how dependent our country is on trade, using ships for transportation.

The principal threat to US control of the seas, world-wide or in many local regions, comes from submarines. (The next most important threat is from mines.) The fundamental reason for the importance of submarines (and of antisubmarine warfare) is that submarines are far more cost-effective than other kinds of ships. Submarines are a very attractive way to build sea power for anyone who has budget constraints—and who doesn't? At the end of WW II, 45 years ago, six countries had submarines. Today, 43 countries have submarines. How many more countries will have submarines 45 years in the future, when the last ships of the new SEAWOLF class will be reaching the end of their life?

The highly attractive cost-effectiveness of the submarine derives principally from the fact that the submarine regularly goes into dangerous areas alone, carrying a crew on the order of 125 to 150. Other kinds of ships normally go in groups, with a combined crew of 6000–7000 when there is a carrier involved. While it is certainly true that there are some important jobs that can be done a lot better by a carrier task group than by a submarine, it is well to consider that some of the old decision rules may need updating. For instance, all the ordnance that a few years ago was dropped in the vicinity of Mr. Khadaffy's tent—by fighter-bombers dependent upon many in-air refuelings on the way to and from Great Britain, plus aircraft from a carrier positioned a safe distance offshore—could today be delivered by one attack submarine, using long-range cruise missiles. Mr. Khadaffy has perhaps been thinking that he can breathe more easily when the local carrier isn't within attack range of his tent; if so, he should update his thinking. Perhaps also the Medellin drug cartel should wonder if there is a US attack submarine off their shore, with cruise missiles that could reach their strongholds. (US submarines thus can be seen to have potential roles in situations involving developing and/or Third World countries.)

The Congressional debate about submarines is not taking place at a very high level of sophistication. For instance, the purchase price of a new nuclear submarine is often compared disparagingly to that of oil-fired surface ships. However, the nuclear submarine comes pre-fueled, with about 15 years' worth of fuel. This fuel not only has a present economic value, but since the fuel is built-in you can be sure that the nuclear submarine will be able to go to work when you need it. In contrast, during the oil problems of the 1970s, some US Navy surface warships couldn't participate in readiness exercises because their fuel was rationed. Among surface forces, the term "hollow Navy" was heard at the time.

In much of the budget debate, the SEAWOLF class is being talked about as though they will be just another group of submarines—and gold-plated ones at that. Nothing could be further from the truth. The SEAWOLF is an important leap ahead. SEAWOLF's magazine capacity will be immense, in submarine terms. With cruise missiles, one SEAWOLF will be able to mount an attack with effects that compare to a bombing attack by all the fighter-bombers on a supercarrier. This attack can be against land targets within a few hundred miles of shore, as well as against ships. (Of course, the carrier can support repeated attacks, which one submarine cannot, but as can be seen by the examples cited above concerning Mr. Khadaffy and/or the Medellin drug cartel, not all scenarios require sustainability.)

Further, it is being argued by some that construction of the SEAWOLF class should be delayed because its combat system may not be ready. Even if the SEAWOLF class were to have to operate for a year or two with only a portion of the total capability of its new combat system (a matter being debated), it will still be the most formidable submarine at sea.

SEAWOLF's highly sensitive sonars, augmented by SEAWOLF's unique rapid localization capability, will make it the best type of ship for hunting down enemy submarines of all types: modern nuclear submarines built by the Soviet Union (and sold or leased to who knows whom in the future); modern non-nuclear submarines such as those being built today by private industry in several European countries and being sold to lots of countries; or modern non-nuclear submarines built by the Soviet Union or Red China, and being sold to people that you and I don't want them to be sold to. In the Falklands War, when British ships were destroyed by Argentinian-launched French-made cruise missiles, and in the Persian Gulf, when a US ship was put out of action by Iraqi-launched French-made cruise missiles, it was demonstrated beyond any doubt that one does not have to be a super-power country to make effective use of modern, high-tech weapons. Since the same principles will apply in the future, doesn't it make sense to place high emphasis on building

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the one kind of ship that even the best capabilities of the highest-tech nations can't counter?

Another misguided notion showing up in the debate is the idea that it might be smart for the US to start building diesel-powered submarines. It is true that a diesel-powered submarine can be a very formidable opponent when it is loitering on battery power. It is then, in a lot of respects, like a manned mine field. However, against modern sonar systems, a diesel submarine is extremely vulnerable when it must move to another location. Put differently, diesel submarines today can be useful close to home, but are much less useful for assignments in faraway locations. (Such was not the case in WW II, because in those days there were no long-range sonars.) Does it really make sense to switch US emphasis from ships of worldwide applicability to ones which have high value only near our coastlines?

Still another misguided notion has to do with the morality of nuclear weapons, and of nuclear submarines. Of the thousands of nuclear weapons that have been built, only two have ever been used to attack people. The effect was to end within about ten days what was already the world's most tragic war. For nearly 45 years thereafter, nuclear weapons have deterred war. For a weapon, what could be a greater success story?

The success story of the nuclear weapon is rivalled only by that of the nuclear submarine. In the 35 years since the launching of the first nuclear submarine, only one has fired a weapon in anger—when a British nuclear submarine fired a WW II-style torpedo and sank an Argentinian warship during the Falklands war. The rest of the world's nuclear submarines have effectively deterred large-scale war at sea, not to mention helping deter global thermonuclear war.

However, it is only with great care that the lessons of the past can be applied to the future. We cannot count on the future's being very much like the past. We must do our very best to recognize what may be different in the future, and then also resist becoming overconfident that we have predicted the future correctly. (The Maginot line mentality was also one of the contributors to WW II, because the Nazis understood better how things would really happen than did the French.)

An extremely important characteristic of any strategy is thus its robustness: how well will our strategy work, if future events are not what we have assumed? Clearly the most robust armament strategy is to build the least-counterable weapons and weapons platforms. This clearly indicates nuclear weapons (as well as conventional weapons) and the modern nuclear submarine.

Even then, the history of the last 70 years testifies that strength alone is not enough. In the years preceding WW II, Axis leaders did not doubt that the US could make a dangerous and perhaps overwhelming opponent. However, both Hitler and the Japanese leaders made the same mistake: they misjudged our will to fight. (The Argentinian generals made the same mistake about Margaret Thatcher.) These identical mistakes about national will were not only tragic for the decision-makers' own countries, but for others as well. To prevent people from again making this mistake about the US, with possibly much more tragic results, we must continue to demonstrate our will, as well as maintaining our strength. Maintaining our readiness through continuing modernization, as well as by maintaining adequate numbers of forces, is the only means of doing so. These principles will be as valid in the multi-polar world in future decades as they have been in the basically bi-polar world of the last 45 years.

Our Congressional delegation thus would serve well the peoples of the world, in addition to those of their own areas, by keeping the defense debate focused on the right issues, and using the most current concepts of submarine warfare. Because of their special constituency, our delegation has a special calling to make sure that the debate is based on a proper understanding of the role of the submarine in the forthcoming multipolar world, where our country will have potential regional conflicts to deter, as well as potential super-power conflicts. In the world of the next 50 years, the nuclear submarine will probably be the world's most necessary, most cost-effective, and perhaps even most broadly relied-upon deterrent. Its role as a deterrent to regional war and Third World conflicts is not widely understood and must be clearly explained.

SUMMARY

In these times of radical geopolitical change, with so much at stake, redesigning our nation's strategy is worth taking time over. If nothing were going on, then I would agree with The Day in wanting to shorten our region's period of uncertainty. But a great deal is at stake, so let's call upon our delegation to help keep the debaters well-informed about submarines. And let us ourselves keep the debating delays in perspective! The future deserves our patience, as well as our diligence and our foresight.

Sincerely,

A.T. MOLLEGEN, Jr.

A CONGRESSIONAL SALUTE TO JACK W. JOHNSTONE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding community leader. On Wednesday, June 27, 1990, Jack W. Johnstone will be retiring as chapter manager of the Greater Long Beach Red Cross after 15 years of service. This occasion gives me the opportunity to express my gratitude and appreciation for his many years of service.

As the son of second generation Salvation Army officer parents, Jack grew up knowing the value of humanitarian service. After his graduation from high school and service in WWII, he went on to college at the University of Washington. During his third year in school, he entered the Salvation Army School for officers training in San Francisco. Subsequently, he spent his next 13 years as a Salvation Army officer serving in Arizona, Wyoming, Nevada, and California.

The service Jack provided to the Salvation Army was immeasurable. However, it was only the beginning of his lifelong career. He spent the next 8 years after his Salvation Army service as the United Way Executive in the Greater Long Beach area. During his service, he directed eight fundraising campaigns that exceeded previously set goals. Later, he was promoted to the United Way Corporate Office in Los Angeles, where for 3 years he headed the agency relations and allocations department.

While the service Jack provided to the Salvation Army and the United Way are immeasurable and commendable, it is for his specific service to the Red Cross that he is being honored on June 27. After his service with the United Way, Jack became the Red Cross manager for the Greater Long Beach area, where he has spent the past 15 years. During his time with the Red Cross, significant strides have been made. During his early leadership, he established a program to clear the Greater Long Beach Red Cross of severe indebtedness. Not only was he successful, the chapter is now used as a model for other Red Cross chapters. Throughout his tenure, he has provided leadership and dedication that has moved the Greater Long Beach Chapter of the American Red Cross to the forefront of human service. After 15 years of service, Jack has decided to pass the torch.

On this worthy occasion, my wife Lee joins me in extending our thanks and our heartfelt congratulations. We wish Jack, his wife Joyce, and the rest of their family all the best in the years to come.

A TRIBUTE TO THE NATIONAL CONFERENCE OF PUERTO RICAN WOMEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity and recognize the wonderful National Conference of Puerto Rican Women's Miami chapter. On Saturday, July 7, the Miami chapter will be holding its annual picnic to celebrate the Women's History Month, and award scholarships to outstanding students in the local Puerto Rican community at Tropical Park.

Since its foundation in 1977, the Miami chapter of the National Conference of Puerto Rican Women has taken a leading role in the creation and development of educational scholarship programs for Puerto Rican and Hispanic women. These programs are designed to foster and encourage leadership among Hispanic women, by means of providing much-needed funds in the area of education.

The National Conference of Puerto Rican Women has held several fundraising activities during the year for the purpose of providing financial assistance to local high school graduates who want to continue their education. The recipients of these scholarships are selected based on their academic performance during high school, and upon an evidentiary showing of financial need. The academic criteria used for determining eligibility for these scholarships is an accumulative grade point average of 3.0 in a 4.0 scale. In addition, the student must show proof of extracurricular activities such as membership in school organizations whose agendas are directed toward involvement in the community by way of pro-

viding voluntary services in areas of local concerns.

Special recognition goes to the board of directors, founding presidents, past presidents, and present members of the National Conference of Puerto Rican Women, which include the following: Alicia S. Baro, founding president; Lydia Medrano Ph.D., executive board president; Ivette Vallejo, first vice president; Norah Venegas, second vice president and chairman of the activities committee; Alba Arevalo, recording secretary; Sonia Flores, corresponding secretary; Sylvia Girona, treasurer; Laura Rosas, vice treasurer; delegates to the national board; Alicia Baro, Esther Bou, Judy Freyre; alternate delegates; Francisca Arnal, Betzaida Ferrer, Irma Robert; past presidents; Lydia M. Sosa, Amparo Del Toro, Barbara Ibarra, Lola D. Grave, Emma Chaves, Ivette S. Morgan Ph.D., Alicia S. Bravo.

Mr. Speaker, I feel very privileged to have this opportunity to thank the members of the Miami chapter for their wonderful contributions to the betterment of our community in Miami. As a Florida certified teacher, I know the importance of education and the excellent job being done by the chapter in their efforts toward educational excellence.

A SPECIAL TRIBUTE FOR SID MEDLIN

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. KOLTER. Mr. Speaker, I rise today before the full U.S. House of Representatives to honor an esteemed gentleman, Sid Medlin, a resident of my Fourth Congressional District of Pennsylvania, whom I respect very much.

The youngest of 10 children, Sid was born on Ross Township and attended high school there. He moved to Big Beaver Borough in 1957 with his wife Edith.

Sid first entered political life as a borough councilman in 1963. His peers immediately saw his tireless devotion to Big Beaver Borough and elected him council president just 3 years later. As council leader, Sid developed many projects that will have an everlasting benefit to Big Beaver Borough. He served on the advisory board which supervised the expansion of the Pennsylvania Turnpike. Further, he worked hard and obtained grants to purchase 140 acres of land for Big Beaver Park. Today, many children are playing in the sunshine of a wonderful program that Sid initiated. Mr. Medlin also monitored the building of a convenient and modern shopping plaza in the heart of Big Beaver and brought the prosperous Holiday Inn francise to Big Beaver. Also, in his administration, he expanded the community police force from three part-time employees to its present day total of three full-time and four part-time individuals. He also oversaw many paving projects to improve transportation. However, in 1978, perhaps his best accomplishment was construction of the new Big Beaver Borough Building. This project, which Sid oversaw, reaped may rewards for the entire area.

In 1986, Mr. Medlin was elected mayor of Big Beaver Borough. As in the private sector, he distinguished himself in his community as a man who will help anyone at any time. He put aside all personal matters to volunteer his help for his fellow man following a deadly and destructive tornado that struck surrounding areas in Beaver County. He also joined with the U.S. Army Corps of Engineers to assist the cleanup effort. Further, he was a member of the recreation board to help with activities for Big Beaver Borough. He was also a volunteer fireman.

Sid will always be rememberd as a man in public service who has always helped, placing his community above everything. He is deserving of this special recognition, and that is why I rise before the U.S. House of Representatives to honor him today.

CHILD CARE LEGISLATION

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. STENHOLM. Mr. Speaker, having had an opportunity during the past 3 months to reflect on and study the debate which occurred during the House's consideration of child care legislation, and with this legislation still in conference between the House and Senate, there are several essential points which I would like to enter into the RECORD at this time.

Throughout this entire debate, three crucial words have surfaced repeatedly. Today, I would like to focus on those three words: availability, affordability, and quality.

AVAILABILITY

To begin with, I believe there has been serious questions raised about the veracity of any wholesale shortage in child care slots or situations. Indeed, a study of nationwide vacancy rates conducted by the National Child Care Association [NCCA] indicates that there are large vacancies, ranging between 14 and 30 percent. This is not to say that there are not pockets of need, specific needs in some areas for infant and toddler slots, and fluctuations due to local economic conditions. Universal and massive child care shortages, however, simply cannot be documented.

What is highly disturbing, however, is the fact that with the passage of H.R. 3—as amended with the text of H.R. 4381—availability could become a serious problem. There seems to be an implication that child care provided by government-sponsored institutions is preferable and far more worthy of Federal financial support than any other form of care. The result of a Federal bias toward one form of care could well mean the reduction of other avenues of care, and availability would be lessened.

For example, I believe that the provisions contained in title II of H.R. 3, the school-based title, are ill-advised. Under this language, care for 4- and even 3-year-olds would be virtually monopolized in the public schools. This could be devastating to the proprietary or for-profit centers—representing about 55 percent of all center-based care—and religiously sponsored programs—approximately 30 percent of center care. The devastation comes because these centers cannot economically survive if 4-year-olds are subsidized into the public schools, which would be handed an enormous competitive advantage. For-profit centers would be particularly disadvantaged because they are entirely excluded from even competing for contracts with the schools.

Child psychologists and early childhood educators have voiced severe reservations about the premature establishment of a new Federal public school pre-school policy for 4- and 3-year-olds. Dr. David Elkind, past president of the National Association for the Education of Young Children [NAEYC] has warned about psychological stress and "miseducation" if 4-year-olds are cared for in formal public school structures.

Similarly, the National Association of State Boards of Education [NASBE] in its 1988 major report, "Right From the Start," stressed the importance of multiple sponsorships of pre-school care.

Finally, in the only study to date on State-initiated public school programs for 4-year-olds, the 1989 "Public School Early Childhood Study," Anne Mitchell of the Bank Street College and her colleagues found the programs in 1,200 school districts to be failing the needs of both children and parents.

I am not delivering here an indictment of the public school system. Far from it, since I was, in a previous life, a public school teacher. Rather, I am citing these authorities to raise the question of how appropriate it is for the Federal Government to embark upon a policy of moving large numbers of 4- and even 3-year-olds into a public school environment, under H.R. 3.

Currently we have a rich mosaic of creative arrangements involving relatives, friends, neighbors, churches, for-profit providers, and even libraries. In fact, in many places it is private providers, such as Teddy Bear Daycare under contract with the Alexandria, VA, public school system, which are leading the way in creative approaches to before and after school care. We do not need to create a public monopoly, with competition prohibited or severely restricted.

If availability of care truly is our concern, let us not create child care shortages by legislating proprietary and religious centers out of business.

AFFORDABILITY

One of the greatest shortcomings of the ABC grant approach, which remains in the Senate's bill and has residue in the House bill, is that the funds are spread over too many required programs, too broad an age and income spectrum, and inevitably, too great a bureaucracy required to administer these new programs.

Far preferable to ABC is the approach combining an increased earned income tax credit with a title XX social services block grant earmark for child care.

As the Urban Institute's Sandra Hofferth testified in 1989 before both House and Senate committees, poorer families tend to spend 25 percent and more of their family income on child care. Middle income families generally spend about 10 percent of their incomes. Refundable credits and certificates, or vouchers, would best reduce that large percentage of income required by the low and

modest income families. The EITC and title XX certificates will put money into these folk's pockets so that they can decide how best to care for their own children.

QUALITY

In particular, I would like to comment on child safety and health, and the preparedness of child care teachers.

Quality must be the No. 1 concern of every child care provider, but assuming we can guararantee quality through Federal mandates is either naive or intentionally misleading. The States, together with local professional and parent/consumer input, are best prepared to set standards in the commonly accepted categories affecting health, safety, and child development.

To act from "on high"—federally—even by model standards—which can so easily become mandates—runs the risk of pricing child care out of the reach of many families, as providers encounter greater costs just to meet possibly unnecessary Government regulation.

I have noted with pleasure the recent initiatives coming forth from the for-profit child care center owners. They have inaugurated two new national organizations: To help teachers, the American Association of Early Childhood Educators; and for parents, the Childcare Parents Association. I am particularly proud of the recent training of 2,000 teachers in Texas and Arizona.

If we are to finally achieve a child care bill which the President can sign into law, we must target our funding to those who are most needy, in an unbiased manner. We must leave to parents and the States their proper roles in decisionmaking. We must ensure that we truly care for our Nation's children in the best way possible.

THE LINKS, INC. 1990 NATIONAL ASSEMBLY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. DELLUMS. Mr. Speaker, it is with great pleasure that I give recognition to the Links, Inc. on the occasion of their 1990 national assembly.

The Links, Inc., have been serving the African-American community, as well as African and Caribbean countries, for over 46 years. This service has included a commitment to educational, civic, and intercultural activities in the arts, services to youth, and national and international trends and services. Through these commitments the Links have helped to eliminate problems of African-American youth and their families, provided cultural enrichment across the Nation, addressed issues and concerns that impact our quality of life, and have rendered assistance to global friends in Africa and the Caribbean.

This July, the Links will meet in Washington, DC, for their national assembly. The purpose of this assembly is to set goals for the coming 2 years and recognize achievements made by local chapters. Yet, one of the most significant contributions made at the national assembly is the awarding of over $1 million to organizations committed to the advancement of African-Americans.

I am proud to pay tribute to such a distinguished service organization on their 1990 national assembly.

A TRIBUTE TO HON. JAMES E. MULLEN, MAYOR OF PENNSBURG, PA

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. SCHULZE. Mr. Speaker, it is with immense pleasure that I pay tribute to Mayor James E. Mullen of the Pennsburg Borough of Pennsylvania. Jim has devoted his life to serving his community—first as a history teacher, then as an elected official. And he has been honored by his community with numerous awards—the Upper Perkiomen Valley Chamber of Commerce award for Outstanding Service to Business and Industry; the Junior Chamber of Commerce Outstanding Citizen Award; the Four Chaplains' Award for Humanitarian Service; and the prestigious National Freedom Foundation of Valley Forge Schoolmens' Medal Award. Some might ask, "Why pay tribute to Mayor Mullen, the mayor of a Pennsylvania borough with a population of 2,300? His community has already recognized Jim's service. Why honor him on the floor of the U.S. House of Representatives?" Let me explain why.

In a community the size of Pennsburg, people don't turn to their newspapers, radios, or televisions to find out what their elected officials are up to. If they want to know what he or she has been doing, they knock on the door and ask. Or they stop to talk in the market, or the library, or the park. My esteemed colleagues—that is accountability. It is a responsibility that few can shoulder. Yet Jim Mullen has not only accepted that responsibility, he has carried out the duties of his office with an energy and vitality that has brought honor to both his position and his community.

I've had the privilege of working with Jim on many occasions. He asked for my help when Pennsburg's Post Office was threatened with closure. Jim said that the post office is one of the few universal services; it's used by rich and poor alike. He explained that it would be a hardship on his town because a small town is identified by its post office. I wrote a letter that opened the door, but it was Jim who walked through it and convinced the officials of the importance of the post office to his community, and to the local business that is concentrated around the post office. He explained that closing it would be a terrible inconvenience to businesses in his area. After Mayor Mullen presented the facts the decision was made to keep it open.

That wasn't the first time Jim was a friend to business. He believes that a community should find out the needs of business and satisfy those needs as best it can because a healthy business environment results in a healthy community. JIm believes that one of the functions of government is to provide an environment conducive to successful business operations. Many at the Federal level could learn from James Mullen.

In 1973, Jim helped bring a police department to Pennsburg by joining with the people of East Greenville to create one force to serve both communities. This was a pioneer undertaking at the time, but it was so successful that these two communities were joined in 1980 by the community of Red Hill.

Jim did not stop with a police department. He knew the residents of Pennsburg desperately wanted a nursing home in their community, but there was a lot of competition for the few licenses issued by the health system agency. The citizens of his area had to drive 25 to 40 miles to visit friends and family needing nursing home care. Jim saw that many of the friends of the elderly patients were elderly themselves and could not drive the long distances to visit. This was a hardship on the patients, the friends, and the family members. Jim worked hard to solve this problem, and that hard work paid off for his community which, in 1982, obtained a 120-bed nursing home. Not only did this facility provide convenient nursing care for the people of his area, but it provided revenue and jobs.

I am delighted to pay tribute to Mayor Mullen today. His work and diligent service is a standard by which we can all measure our own dedication to the people whom we serve.

When asked of what he is most proud, Jim Mullen said it is the fact that the people of Pennsburg have had the confidence in him to put him back in office for six consecutive 4-year terms. After looking at this record, I'm sure you will applaud their wisdom.

I thank you for this opportunity to pay tribute to a man worthy of our respect. In paying tribute to Jim, I salute the finest men and women throughout this country who serve in the boroughs, villages, and hamlets—and the people who elect them.

PATIENT SELF-DETERMINATION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. LEVIN of Michigan. Mr. Speaker, this week the Supreme Court ruled in the case of Nancy Cruzan, who has been in a persistent vegetative state for several years, kept alive by tubes implanted in her stomach. The Court wrestled with whether Ms. Cruzan would have wanted this kind of treatment to be continued, and whether the informal statements she'd made while conscious were sufficient proof of her wishes.

This is the first such case that the Supreme Court has ruled on, but it is clearly not the only recent instance where important and difficult issues have been raised about people's ability to choose the kinds of medical treatment they want.

In Cincinnati, a hospital was sued for not honoring the patient's wishes not to be resuscitated. A New York nursing home was held liable for $100,000 worth of treatment to a woman whose family had decided on an alternative course of treatment. A doctor in Michi-

gan assisted in the suicide of an Oregon woman. There is great confusion about treatment decisions that has caused great harm and suffering, as well as poor judgment and unethical behavior.

Mr. Speaker, 47 States have passed legislation to try and avoid many of the cases like Nancy Cruzan's. These "living will" and "durable power of attorney" laws help patients retain the ability to decide about how they'd like to be treated if they should lose the ability to communicate. And yet very few people know about these opportunities to make their wishes known. Even doctors, according to recent surveys, are unaware of their own State laws. One possible result of this ignorance is that physicians may make treatment decisions based on unfounded fears of malpractice liability rather than on sound medical judgment and discussion with patients and families.

The Patient Self-Determination Act, H.R. 5067, which I've sponsored along with Representatives SWIFT, WAXMAN, MOODY, MCDERMOTT, JOHNSON of Connecticut, and others, will educate both patients and health care professionals. It will lead to better communication among patients, their doctors, and their families. It will enable people to discuss their wishes, so that their medical decisions are not made by lawyers and judges who don't even know them.

The bill is very straightforward. Health care agencies would be required to provide information to patients or residents about the opportunities they have to create living wills or durable powers of attorney. The agencies would document whether or not the patient has an advance directive. And they would educate their staff and the community about advance directives.

Finally, it is important to recognize what this bill does not do. It does not create any new rights. It only says that people should know what rights they already have. The bill does not tell people what decisions to make. It empowers people to make their own decisions, in consultation with family and their physician. And the bill does not require anybody to execute advance directives.

It is ironic that many people lose the capacity to make health care decisions just at times when the most important decisions need to be made. We want to prevent some of the cumbersome and tragic situations that can arise from this lack of communication by empowering individuals and their doctors to collaborate in making good health care decisions.

NEZ PERCE NATIONAL HISTORICAL PARKS

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. CRAIG. Mr. Speaker, today I have introduced a bill that reflects a bipartisan effort to amend the Nez Perce National Historical Parks authorizing legislation, Public Law 89–19. This bill will allow the addition of several sites of national and historical significance to this unique element of the Park System.

The National Park Service undertook a major review of the Nez Perce National Park System in 1988. The study was in response to concerns from citizens in northeastern Oregon, the Umatilla Tribe of Oregon, and the Nez Perce Tribe of Idaho to protect the grave site of old Chief Joseph located near the banks of Wallowa Lake, and the need to recognize within the Park System sites that are central to the history of the Nez Perce Tribe.

The authorizing language for the existing park system calls for sites to be recognized in the State of Idaho. My legislation amends the law to authorize the addition of 13 sites to the Nez Perce National Historic Park, five of these sites are located in my home State of Idaho. The other sites are in the States of Oregon, Washington, and Montana. The authorization also recognizes the Nez Perce involvement in Wyoming and Oklahoma, although no specific sites in these States are named.

The inclusion of these sites is justified for a couple of reasons. First, the Nez Perce people occupied a traditional homeland, which exceeded 27,000 square miles. Second, the battles of the Nez Perce war trace a path from the banks of the Snake River dividing Oregon and Idaho, through Idaho to Wyoming and Montana, up to the Canadian border in Montana. This legislation will allow recognition of the sites where this history was made.

The sites which the National Park Service has recommended to be included in the Nez Perce National Historical Park are such places as, old Joseph's grave on Wallowa Lake, OR; young Chief Joseph's grave in Nespelem, WA; the Bear Paw Battlefield in Montana; Camas Meadows Battle sites in Idaho and other sites of great importance to the protection and interpretation of Nez Perce history and culture. While the National Park Service did not examine sites in Oklahoma, this bill lists the State of Oklahoma as eligible for sites to be considered under this Park System due to the fact that Chief Joseph and his band were imprisoned in Oklahoma for a length of time at the conclusion of the Nez Perce war.

Mr. Speaker, as a native of the State of Idaho, I learned the story of the Nez Perce war and of the bravery and leadership of Chief Joseph. He was one of this Nation's finest statesmen, an eloquent leader who wanted nothing other than to protect his people from harm. The Nez Perce war of 1877 was the last official conflict between the United States and an Indian tribe. It marked the turning of an era and set the stage for modern day relationships between the United States and the Nez Perce Tribe. The statesmanship of Chief Joseph won him international praise and support for his requests to be returned from Oklahoma to his home in the Northwest after the war.

I am pleased to offer this bill to commemorate the sites of this important part of western history.

This bill will allow the National Park Service to maintain, protect and interpret some of the most important battlefields, campsites, and other significant areas in our Nation's history. I urge my colleagues to assist us in passing this legislation.

INTRODUCTION OF A BILL TO ESTABLISH THE CURECANTI NATIONAL RECREATION AREA

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, 1990 is the 25th year since the Curecanti National Recreation Area [NRA] was first recognized through an agreement between the National Park Service and the Bureau of Reclamation.

This 40,000-acre recreation area served over 1 million visitors last year, making it one of the most popular attractions in Colorado.

Although the area has been operating under a cooperative agreement, approved by the Secretary of the Interior, Congress has never formally recognized it, making it difficult for the Park Service to secure adequate funding. Today, I am introducing a bill to accomplish this unfinished goal.

This proposal legislatively establishes the boundaries of the NRA on existing Federal lands, and legislatively acknowledges the recreational purpose for which the land has been set aside. The bill accomplishes the goal in accordance with section 1 of the park, Parkway, and Recreation Area Study Act of June 23, 1936, and section 8 of the Upper Colorado River Storage Project Act [CRSP] of April 11, 1956. I believe it will also gain administrative support because the Park Service and the Bureau agree this legislation is necessary.

The bill grandfathers in such existing uses as grazing, hunting, fishign, off road vehicle use, snowmobiling and other uses which do not interfer with the primary purpose of the CRSP Act, which was water storage and power generation.

This 25th anniversary celebration also provides an opportunity to reflect on the accomplishments of the man who wrote the CRSP Act—former Interior Committee Chairman Wayne Aspinall.

Aspinall helped shape the natural resource policies of the West and is directly responsible for ensuring projects like the Glen Canyon Dam, Navajo, Flamming Gorge, and the Aspinall unit of CRSP that bears his name, would be built to make it possible to store water for municipal use, industrial use and for irrigation in a semiarid region.

I believe formally recognizing the Curecanti National Recreational Area will make millions more Americans aware of the excellent natural and cultural resources available on Colorado's western slope. It doesn't matter how you choose to recreate, if it can be done in public, and outdoors, you'll be able to do it at Curecanti.

SUPPORT FOR H.R. 770

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. SCHNEIDER. Mr. Speaker, I rise in strong support of H.R. 770, the Family and Medical Leave Act. The administration says no to a national leave policy because it thinks that Congress should not mandate employee benefits. This position misses the point of this bill. The Family and Medical Leave Act sets a minimum standard of conduct, just as do child labor laws which protect our children, and the Fair Labor Standards Act, which mandates payment of a minimum wage to workers.

Lack of a minimum leave standard, like lack of minimum standards regulating the employment of children, is not only ethically questionable; it is extraordinarily costly. Lack of medical leave alone costs taxpayers $4.3 billion a year. This far exceeds the projected $183 million in total annual costs to employers for enacting the Family and Medical Leave Act. In fact, the cost of this bill to business is only $5.50 per covered employee.

Furthermore, small businesses are not affected by the legislation. With the employer exemption set at under 50 employees, over 90 percent of small business employers are exempt from the legislation.

It is imperative that jobs be secure in times of personal crisis or emergency. This bill does just that while at the same time providing covered businesses with a low cost policy that makes economic sense.

LET PHONE COMPANIES PROVIDE INFORMATION SERVICES

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. HASTERT. Mr. Speaker, the 101st Congress has been an active one for reconsideration of the divestiture agreement resulting from the 1984 break-up of AT&T. The Senate Commerce Committee, in May, approved a bill to eliminate the restriction on the Bell companies' ability to manufacture customer premises equipment and manufacture and provide telecommunications equipment. On the House side, the Telecommunications Subcommittee is scheduled to consider legislation later this summer which will go to the heart of modifying the three restrictions on the seven Bell companies—manufacturing, long distance, and providing information services.

With regard to information services, in a recent op ed piece in the June 25, 1990 Chicago Tribune, Stanford L. Levin, chairman of the economics department at SIU and a former member of the Illinois Commerce Commission (1984–86), accurately described the present state of information services—an industry in its infancy. Without the ability of the local Bell companies to provide these services, from electronic yellow pages to health monitoring and sports scores and stock market results, this industry will never reach its full potential.

At this time, Mr. Speaker, I would like to insert Mr. Levin's op ed piece in the RECORD:

[From the Chicago Tribune, June 25, 1990]

LET PHONE COMPANIES PROVIDE INFORMATION SERVICES

(By Stanford L. Levin)

The former Bell system telephone companies may finally get a chance to provide information services to their customers, thanks to a recent decision by the U.S. Court of Appeals for the District of Columbia. The court said the standard for determining if these companies can go into information services is whether their entry into the field would be "within the reaches of the public interest." That standard, still subject to Supreme Court review in the case, would replace a more stringent one involving degree of competition and the exercise of monopoly power.

The provision of information services by local telephone companies does fall within a contemporary definition of the public interest in telecommunications. And the opposition of competitors to a phone company role may be misguided.

The original definition of the public interest dates to the Communications Act of 1934 and has become known as universal service. Today, however, the universal service standard is inadequate, for two reasons. First, over 96 percent of U.S. households have telephones or access to them, and programs are targeted to low-income and rural areas with low telephone penetration rates.

Second, and perhaps more fundamental, while a rose may be a rose, a telephone is not necessarily a telephone. Rapid changes in the technology of telecommunications and new uses of the telecommunications network mean that just having a phone connected to a telephone network is no longer sufficient. For example, a phone and a simple terminal could bring all Americans easy access to electronic yellow pages and rich data bases offering government, educational, medical and cultural information.

Unlike in 1934, when the potential of the telephone industry consisted of linking all Americans via a single, publicly accessible communications system, the potential of today's industry is vastly greater. This potential must be incorporated into a new view of the public interest in telecommunications. It requires that the people of the U.S. receive both universal service and access to information services provided over the public network.

The prohibition on the former Bell system companies from entering into information services has likely prevented these services from being broadly available to the public. Although customers with personal computers can subscribe to information services, access to the services is unnecessarily limited and costly. It may be restricted to people with special equipment or to those who can use special, private networks. The result is a two-tiered services industry, with information "haves" and "have-nots."

Local phone companies are in a good position to provide information services easily accessible to everyone connected to the public network. They can furnish their own or others' services in a uniform, easily used format. Without this ability, which competitors like Prodigy exploit, it is not surprising that information service gateways now provided by local phone companies meet with only limited success.

Moreover, objections of information service competitors to local phone company entry could be based on a misconception. Other information services markets may have failed to grow rapidly because accessing these services is needlessly difficult and because the services are not attractive enough to customers. Independent providers have not yet overcome these limitations, but the local phone companies may be able to.

In the past, an anchor department store in a shopping center often would want to be the only large store, believing that limiting direct competition would be best for it. Eventually these stores discovered that the more anchor stores in a shopping center, the better all of them do. Letting local telephone companies provide information services may finally allow the services to reach their potential and may benefit the telephone companies, other information service providers and customers.

THE 50TH ANNUAL JULY 4 FESTIVAL OF FREEDOM

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. OAKAR. Mr. Speaker, I am pleased today to call attention to the upcoming 50th annual Fourth of July celebration in my hometown of Cleveland, OH. The origin of what is now known as the Festival of Freedom, can be traced to the year 1938 when 260,000 persons, 80,000 of whom packed Cleveland Municipal Stadium, gathered for a "Festival of Beauty and Fire," culminating in a $4,000 fireworks display, "* * * the greatest ever seen in Cleveland," according to the Plain Dealer.

The festivals continued through the years of the Second World War, helping to stimulate Cleveland's "Win the War" spirit. Through the 1940's, the Festival of Freedom became a Cleveland tradition, growing into what the Plain Dealer called the largest mass observance of Independence Day in the Nation.

Larger fireworks shows and music accompaniment have helped attract record crowds in recent years—375,000 in 1988—including 2,500 boats which anchor in Lake Erie off Edgewater Park. This year, a 30-minute fireworks show costing approximately $60,000 will entertain the hundreds of thousands of festival goers.

The festival has proven to be an enduring celebration. Neither world wars nor major construction could force the cancellation of the pageant. In fact, the festival has been forced to cancel only twice in its history, both times due to heavy rains. The festival has always been meaningful to my family. My dad was born on the fourth of July and was part of our family's celebration for my father's birthday and our Nation's birthday.

Mr. Speaker, I am pleased to note that after half a century, the Festival of Freedom is still totally underwritten by Greater Cleveland businesses, organizations, and individuals—a ringing testimonial to the pride of my community. A volunteer group of Cleveland business people, the Cleveland Independence Day Association, remains as the event's sponsor; the State of Ohio and the city of Cleveland are cosponsors.

This year's festival promises to be bigger and better than any of the preceding events. It

is truly family fun in the best tradition of America and I look forward to taking part in my hometown's celebration of my country's independence.

SUPPORT FOR H.R. 4808

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MAVROULES. Mr. Speaker, I would like to take this opportunity to commend the House Subcommittee on Energy and Power, and Chairman PHIL SHARP for their work on H.R. 4808, the Solar, Wind, and Geothermal Power Production Incentives Act of 1990.

This bill, which would remove the size limitations on renewable energy projects qualified under PURPA's rules, is a step in the right direction toward allowing these technologies to develop to their full potential. At the present time, these facilities are forced to scale back their operations to comply with regulations limiting their output to 80 megawatts, even though it would be more cost-effective to have higher outputs at a specific facility. By allowing these plants to operate at a capacity determined by engineering and the marketplace, solar, geothermal, and wind power facilities will be able to take full advantage of the economies of scale, thereby enabling them to reduce their cost per kilowatt hour and become competitive with other sources of power.

As reported by the subcommittee, H.R. 4808 also provides a level playing field for renewable sources of electric power compared with cogeneration facilities, which currently have no cap on their output. This will enable renewable power generators to cut out the cost of duplication of facilities due only to the necessity of complying with this artificial cap. For example, according to the statement of Charles T. Condy, chairman and chief executive officer of California Energy Co., Inc., a geothermal power producer, at the June 15, 1990 hearing the company's COSCO generators are artificially "throttled back." If the 80-megawatt limit were repealed, they could simply "turn a few valves" and increase output by 25 percent, with almost no additional cost. This would significantly lower their cost per unit of power.

Once plant facilities are in place, increasing energy output does not take significantly more personnel. Nor are the costs of paperwork, legal advice, or other attendant costs greatly increased by adding more output. Removing the cap will also eliminate the need for many small separate facilities, which are located a mile or two apart only to comply with PURPA regulations, but which can be consolidated after the lifting of the cap, with the realization of much savings in duplicated facilities.

Along with encouraging additional energy sources at lower per unit cost, the use of solar, geothermal and wind energy has other advantages. These renewable energy facilities operate at higher capacity factors than similar fossil fuel and nuclear plants. For example, California Energy Co., geothermal facilities have operated at a capacity factor—percent of time online out of total time—of 92 percent, versus 80 percent for oil and gas facilities, 75 percent for coal and 60 percent for nuclear plants. This points to high reliability in these facilities.

In addition to high reliability, solar, geothermal, and wind energy facilities are relatively nonpolluting or lesser polluting than comparable fossil fuel plants. With the new clean air regulations, utilities can augment their conventional power sources with newer technologies which do not cause air pollution. Since these energy sources require no combustion, the amount of air pollution resulting from their use is much lower than conventional facilities. Solar and wind energy produce no hydrocarbons, sulfur dioxides, nitrogen oxides, or toxics to generate power; geothermal power, based on natural underground steam, producers significantly less sulfur and nitrogen oxides than oil, gas, or coal-powered plants. It also emits little or no carbon dioxide into the atmosphere, thereby not contributing to global warming.

While removing the artificial cap on output, I am pleased to see that this legislation retains the mandatory purchase and interconnection provisions of PURPA, thereby providing a market for these facilities, while allowing them to take advantage of existing power grid structures.

THE FARM BILL IS COMING, THE FARM BILL IS COMING

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. PORTER. Mr. Speaker, I rise today to warn my fellow colleagues to watch out, the 1990 farm bill is coming.

Watch out, food processors—beware, consumers—stay alert, emerging democracies—know the details, Caribbean Basin—and my warning for our international trade negotiators at the GATT is be ready to hide your head, because what is coming down the track directly contradicts the free and fair trade dictum we are trying to enforce abroad.

Mr. Speaker, I implore the membership to pay attention to this farm bill. We have decided tough issues before, and I know we still can, when challenged, do the fiscally responsible thing. We shouldn't protect one sector of our economy at the expense of another but that is what our farm programs mostly do.

So, let's get ready for the farm bill, and ready for necessary, fiscally responsible amendments to get our farm programs—tobacco, peanuts and sugar—under control.

CIVITAN CLUBS: A LEGACY OF SERVICE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, there are many fine service clubs across this great Nation of ours that have contributed greatly to their respective communities. I would like to recognize the efforts of one such organization in Miami, the Civic Center Civitan Club.

This outstanding organization was founded in 1917 by a group of Birmingham, AL, business and professional men who gathered weekly to discuss community improvement projects.

In fact, the effectiveness of the Birmingham Civitan Club soon spread so that it became a pattern for an international organization of Civitan clubs. Therefore, in 1920, Dr. Courtney W. Shropshire, a prominent physician, established the international organization, Civitan International.

Civitans, through their clubs, seek out community needs and work to fulfill them. Civitan clubs mainly deal with projects such as special olympics, playground and park construction, and funding for the purchase of schoolbuses, firetrucks and ambulances.

The ethical principles on which Civitan clubs are based have spread throughout many regions. Currently the Tropical District Civic Center Civitan Club in Miami, FL, is being organized. Members come from various different backgrounds and professions. Thanks to the hard work of Dr. Harold Lannom, retired doctor of education; Mildred Baggett, retired schoolteacher; and Helen Glogger, retiree, the Tropical District Civitan Club has 15 members, which include Ms. Baggett and Ms. Glogger, as well as the following individuals: Dr. John Thomas Coursey, Marion Baker, Diana Petitto, Roxanne Singler, Tim Murphy, June Parker, Dr. Paul Benke, John Scheidt, Edward C. Pombier, John Lesley, Freddie Woodson, John Williams, and Lisa Lannom. This group met on June 28 at the Holiday Inn in the Miami Civic Center and will be meeting every Thursday from 1 to 2 p.m.

It is through the actions of concerned individuals that human needs, not met by other groups, are fulfilled. Today, I am proud to recognize Civitan clubs around the Nation and thank them for providing hope for a better community and world.

QUEENS COUNCIL, BOY SCOUTS OF AMERICA, HONORS JERRY LASURDO

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to recognize the significant and special work conducted by the Queens Council, Boy Scouts of America. The Boy Scouts of America's mission is to foster and refine our children's values. In Queens, there are over 20,000 Cub Scouts, Boy Scouts, and Explorers who partake in such activities as collecting food for the needy. This summer over 500 disadvantaged children will have the opportunity to go to Scout camp due to the efforts of the Queens Council.

On June 28, 1990, the Queens Council will honor Jerry Lasurdo for his support of Scouting and many other civic and charitable organizations. Lasurdo recently retired as chairman of the Green Point Savings Bank of

Flushing, Queens County, NY, after over 50 years of service. Under his guidance, Green Point became an important participant in the banking industry. Jerry Lasurdo is a gentleman who has managed, through the years, to find the time in his busy schedule to devote energy to various charitable causes and endeavors. In recognition of his humanitarian efforts, Jerry Lasurdo has received many honors including the "Good Scout' award given by the Greater New York Councils, Boy Scouts of America. Lasurdo also serves on the boards of numerous organizations, including the American Cancer Society, New York City division, the Booth Memorial Medical Center, and the Brooklyn Arts and Cultural Association. In addition, over the years, Lasurdo has been actively involved with the Greenpoint YMCA and Flushing YMCA.

Mr. Speaker, I call upon all my colleagues in the U.S. House of Representatives to join me in paying tribute to Jerry Lasurdo and the Queens Council, Boy Scouts of America.

A CONGRESSIONAL SALUTE TO BILL MacALPIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding community servant who has devoted his last year to the presidency of the North Redondo Beach Rotary. On Saturday, June 30, Bill MacAlpin will be honored as president of this organization after 1 year of tireless service. This occasion gives me the opportunity to express my sincere appreciation for his commitment and efforts.

During Bill's tenure the Redondo Beach Rotary was extremely successful in raising money. More than $20,000 raised during his tenure was distributed among the community's less fortunate. Among the Rotary's additional accomplishments under Bill's leadership were the entry of a Miss Teen Age California Pageant; student trips to Sacramento and Washington, DC; a safe school program; the Redondo Beach Police Chaplins Corps; the Redondo Beach DARE Program; and the Redondo Beach Red Ribbon Day for the Prevention of Drug Abuse. Moreover, he oversaw the addition of 10 new members and had a combined membership totaling over 40 active members. From the aforementioned accomplishments, it is no wonder why he will be so missed.

The positive impact that Bill MacAlpin has had on the North Redondo Beach Rotary and our community, is unmatched. He is a tireless servant to his fellow man who expects no recognition in return. However, Mr. Speaker, I submit to my colleagues today, this most deserving congressional salute in his honor. My wife, Lee, joins me in extending our heartfelt thanks and congratulations. We wish Bill and his children, Geri, John, William, all the best in the years to come.

INTRODUCTION OF A BILL TO AMEND THE FEDERAL POWER ACT, ENSURING STATE CONTROL OVER STREAMFLOW DECISIONS

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. CRAIG. Mr. Speaker, I rise today to join my colleagues from Idaho, both in the House and Senate, in introducing a bill very important to our State of Idaho and the other 49 States of the Union. It would ensure that State governments—not the Federal Government—are the principal authority over streamflow decisions.

The U.S. Supreme Court's decision in California versus Federal Energy Regulatory Commission, also known as the Rock Creek decision, threatens a century-old standard of State water control. The ability of a State to make the principal and critical water allocation and appropriation decisions has been at the heart of Idaho law since we were admitted to the Union. That principle is in jeopardy as a result of the Supreme Court's recent ruling.

It's our belief that rulings like the Rock Creek decision are based upon an incorrect interpretation of the Federal Power Act. Our legislation will clarify that act to ensure that States have no diminished decisionmaking authority when it comes to water allocation decisions.

Specifically, the legislation would amend sections 9 and 27 of the Federal Power Act to clarify that an applicant for a license must comply with a procedural and substantive requirements of State law in acquiring water rights and in the administration of the use of water.

Mr. Speaker, as you will recall, I introduced H.R. 4921 on May 24, 1990, to address the Court's decision by amending section 27 of the Federal Power Act. Today's legislation is entirely consistent with the approach in that bill and serves to further clarify State primacy in this area of water law. With several cosponsors to H.R. 4921 already, I am confident we will find similar support for this new legislation.

Finally, I am happy to acknowledge the hard work of Idaho State water and legal officials and others around the country who helped draft this legislation, and look forward to their continued cooperation.

I urge my colleagues in both the House and Senate to join our delegation by cosponsoring this important legislation.

DEATH OF HOYT B. HILL, JR.

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MONTGOMERY. Mr. Speaker, I regret to inform the House of the death of Hoyt B. Hill, Jr., the former longtime director of the South Carolina Department of Veterans Affairs. Mr. Hill played a major role in getting the 220-bed veterans nursing home established in Anderson, SC. The nursing home will be completed sometime in August and will begin receiving patients in early October. Efforts are already underway to name the main courtyard off the recreation hall in Mr. Hill's memory.

Mr. Hill was born in Lake City, SC, June 27, 1920, and graduated from Clemson University in 1941. He served during world War II with the 126th Infantry, 32d Infantry Division, in New Guinea in the Buna Campaign. He was awarded the Combat Infantryman's Badge and the Bronze Star for his World War II service.

After World War II, Mr. Hill became employed with the South Carolina Department of Veterans Affairs. He was appointed assistant director in 1951 and was appointed director following the retirement of R. Stedman Sloan, Sr., in 1961.

On June 30, 1988, Mr. Hill retired after 44 years of outstanding service to South Carolina veterans and their dependents. Because of his vast contributions to the betterment of life for so many, Mr. Hill received many awards—including the Order of the Palmetto, the highest presentation the State of South Carolina can give—which was presented by Gov. John C. West in November 1974.

Mr. Hill served as president of the National Association of State Directors of Veterans Affairs for the year 1985.

Mr. Hill is survived by his wife, Mrs. Floride Nelson Hill.

Veterans throughout the State of South Carolina and our Nation will miss the dedication of this great man.

IN MEMORY OF A HERO

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. GALLEGLY. Mr. Speaker, earlier this week I rose to inform my colleagues about a brave young sailor from my hometown of Simi Valley who was fighting for his life after last week's tragic explosions aboard the U.S.S. *Midway*. Today, sadly, I must tell you he has died.

Fireman Shane Kilgore was just 22 years old and 2 years into his Navy enlistment. More than anything, he wanted to be a firefighter, and he joined the Navy to serve his country, and to obtain the experience he needed to fulfill his goal when he returned to civilian life.

Naturally, Shane knew firefighting is dangerous work. I'm sure that my colleagues will agree that all too often we forget just how dangerous it is. Like most Americans, sometimes we take for granted the bravery and dedication our firefighters demonstrate every day. Although they usually won't admit it, they are heroes. Shane Kilgore was a hero, too.

It's not anyone who could open a smoke-shrouded hatch aboard an aircraft carrier at sea, not knowing what lay beyond. Yet Shane and his colleagues didn't hesitate. They knew that the lives of their crewmen potentially were at stake. And so they opened the hatch, and Shane and several of his comrades paid the price. Tragically, several others may still lose their lives as well.

Yet other firefighters quickly secured the situation and averted what could have been a major disaster. And that's what Shane would have expected. The sea is unforgiving and exacting in her ways, and every sailor knows that sometimes the few must fall so that the many may live. Shane, you and your comrades didn't die in vain.

Mr. Speaker, I speak for all my colleagues in expressing my deepest sympathies to Shane's family. Be assured his sacrifice won't be forgotten.

SAN JUAN BASIN TECHNICAL CORRECTION

HON. STEVEN SCHIFF

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. SCHIFF. Mr. Speaker, today I, along with Congressman JOE SKEEN and Congressman BILL RICHARDSON, am introducing a bill to make a technical correction in a land description contained in the San Juan Basin Wilderness Protection Act of 1984. A section of the statute authorizes the Secretary of the Interior to convey to Sumner Lake Corp. certain land situated in Lake Sumner State Park, NM. For this land transfer to take place, the description should refer to section 33 instead of section 34. The original bill inadvertently used the wrong section number and this was only recently discovered. The Department of the Interior has determined that this correction cannot be effected administratively, but requires congressional action.

INTRODUCTION OF MOUNT. SOPRIS TREE NURSERY LAND EXCHANGE

HON. BEN NIGHTHORSE CAMPBELL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, today I am introducing legislation to allow Pitkin and Eagle Counties to acquire an 186 tree nursery in the White River National Forest in exchange for roughly 1,344 acres of patented mining claims which are owned by the counties.

The tree farm has been targeted for exchange, transfer or sale by the General Services Administration [GSA]. The counties intend to use the tree farm to develop recreational facilities, for open space, and to build a senior center. This exchange also protects the property from future private development because it contains a clause which directs that all the proceeds from any sale or lease would go to the United States.

As you know, the ski areas of Vail, Beaver Creek, and Aspen are world reknown. This recognition has not been without cost. A tremendous amount of stress has been placed on local facilities and property values are ski high. The county needs land to fulfill responsibilities that local governments have, but are often overlooked by the public.

The bill also sets up an orderly process to address any claims which may arise when the United States is granted title to the patented mining claims. This is necessary to prevent any further forest management problems which could arise.

The Forest Service and the counties have been attempting to complete this exchange administratively for many years. Unfortunately, the cost of clearing the title on every acre of property makes this infeasible in light of the stressed Forest Service and county budgets. This exchange will serve a valuable public purpose—and save the Government money.

MEDICAL INSURANCE SAFETY NET MISSING FOR MILLIONS OF CITIZENS

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. GEJDENSON. Mr. Speaker, I am sure that my colleagues are well aware of the vast number of individuals—the poor, the unemployed, the working uninsured, and in fact, the many children—who are without health insurance coverage. Currently, an estimated 32 to 37 million individuals live on a day-to-day basis without a medical safety net. They cannot afford visits to the family doctor, have no access to preventive care, no means to obtain prenatal care, and no protection in case of a medical emergency. Several worthy proposals have already been introduced by Members of this body which seek to address the problems of the uninsured.

Mr. Speaker, legislators and other individuals in the State of Connecticut have also grappled with this difficult issue. On May 17, 1990, Gov. William O'Neill approved a far-reaching plan to make health insurance cheaper and more accessible to the uninsured. As many as 37 disparate groups of individuals were involved in the drafting of this legislation, ranging from citizen-action groups to insurance industry representatives.

The new law will extend health coverage to an additional 60,000 Connecticut representatives, at a cost of $2 million. This is a significant step toward a resolution of the health access crisis on a State level. I would first like to commend my colleagues in Connecticut for all of their efforts in this area. As well, I would encourage legislators from other States and at Federal level to give this legislation close consideration:

AN ACT CONCERNING THE RECOMMENDATIONS OF THE BLUE RIBBON COMMISSION ON STATE HEALTH INSURANCE

Summary: This bill expands access to and increases the availability of health care services and insurance coverage to people currently without health insurance or with inadequate coverage. It allows expansion of Medicaid, within available appropriations, to serve more children, pregnant women, elderly, and disabled people. It also requires granting presumptive eligibility to pregnant women applying for Medicaid. The bill expands a current Medicaid waiver program assisting disabled children and adults. It also allows for a Medicaid "buy-out," within available funds, to encourage Medicaid-eligible people to accept employment-based health coverage.

The bill allows the Department of Health Services [DOHS], based on available funding, to contract with insurers to develop both subsidized nongroup health insurance for children and pregnant women, and insurance for people with disabilities.

DOHS can establish, again based on available funding, a grant program to expand access to primary care services.

The bill requires creation of "special health care plans" offered by health insurers and health care centers—HMO's—for a limited time to small employers who are not currently offering their employees any coverage. It is also available to individuals. Special health care plans must be available to certain low-income individuals through the existing Health Reinsurance Association [ERA].

The bill includes a number of small group market reforms designed to increase affordability and accessibility of insurance through creation of a reinsurance pool, limits on premiums that can be charged, limits on use of pre-existing condition clauses, disclosure of specified rating practices, and other measures.

Under the bill, the Commission on Hospitals and Health Care [CHHC] must address Medicare cost shifting and improvements in its data gathering.

Finally, the bill creates a Health Access Commission within the legislative branch charged with monitoring the programs to be developed under the bill and their effect on addressing trhe uninsured population.

WELCOMING THE THAI PRIME MINISTER'S VISIT TO UNITED STATES, AND ENDORSING THAI ANTIDRUG EFFORTS AS A MODEL FOR THE REGION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. RANGEL. Mr. Speaker, last week the Thai Prime Minister, Chatichai Choonhavan, visited the United States. Thai antidrug efforts serve as a model for Asia. I am pleased that the Thai Minister met with President Bush during his visit here.

Under Prime Minister Chatichai Choonhavan, the Thais have become leaders in Asia on drug control. We need Thailand, as the economic and political leader of Southeast Asia, to forge a regional strategy to stop the production and flow of narcotics from the Golden Triangle.

I want to commend Prime Minister Chatichai Choonhavan for recently appointing and arranging for me to meet a new minister, Korn Dabbaransi, the Thai National Drug Policy Coordinator. In addition, our committee has seen first hand, during several study missions—the most recent being in January 1990—the very effective Thai crop substitution program to reduce opium cultivation through growing rice, coffee, and beans. Thailand has also improved its infrastructure with the construction of roads to move these goods.

Burma and Laos continue to be the major producers of heroin and opium in Southeast Asia. We have recently begun narcotics con-

trol efforts in Laos, and the recent electoral victory of the democratic opposition in Burma raises hope for expanded efforts in that nation in the future. With Thailand's established successes in drug control, it should take the lead and work with its neighbors in developing a regional narcotics control strategy.

NO ON RADWASTES

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. SCHNEIDER. Mr. Speaker, I must express my strong opposition to the Nuclear Regulatory Commission's deregulation of low-level radioactive wastes to below regulatory concern. This may appear to be a way to cut the cost of using and disposing radioactive materials, but it simply runs counter to good health practices. This represents unacceptable procedures that will unduly put at risk many generations to come who will receive none of the benefits and all of the burdens of containing and maintaining this long-lived waste product.

It is unfathomable, that at a time when organizations such as the Coalition of Northeast Governors are engaged in developing innovative policies and practices for removing a range of hazardous and toxic materials from our voluminous waste stream—as a precautionary move to prevent leaching of these materials into ground water supplies—that the NRC would contemplate imposing an additional risk factor.

Under this policy, as I understand it, 30 percent or more of the low-level radioactive waste of nuclear powerplants could find its way into the environment. This could occur through incineration of these wastes, burial in landfills, releases into rivers, and even reuse in consumer products.

As my colleagues well know, low-level waste is not synonymous with low-risk. It includes radioactive materials that is not high-level waste or irradiated nuclear fuel. It includes reactor piping and parts, sewage and tank sludges, resins, filters, contaminated oil and soils, sandblasting grit, condenser tubes, concrete used in reactor construction, as well as booties and gloves used by nuclear workers. These biologically active contaminants will remain hazardous for hundreds to millions of years.

The NRC's proposed policy flies in the face of a mounting number of cities and counties across the Nation who are passing resolutions prohibiting the disposal or recycling of radioactive materials in their communities. Their actions are readily understandable. According to research results released by the National Academy of Sciences, low-dose radioactive exposures will cause three to four times more fatal cancers and leukemias than previously thought.

I am most dismayed that if the NRC's policy is allowed to go into effect, once these radioactive wastes are unregulated there will be no records kept on the kinds of waste disposed, nor the location of disposal, nor the radioactivity contained in the waste. This point has been made by Dr. Martin Steindler, a member of the NRC's Advisory Committee on Nuclear Waste, who pointed out that if mistakes are made in the decisions on BRC levels, or if later scientific studies find that risks were underestimated, it will be too late to turn back the clock. Future generations would have to live at higher risk, and incur burdensome costs, because of the NRC's imprudent action.

The NRC proposed action also goes against the flow of public policy practices that are assessing and incorporating the external costs of each energy resource. More than a dozen public utility commissions, for example, have assessed or are assessing a surcharge on fossil fuels, to account for their negative environmental and public health effects. Low-level radioactive wastes also constitute a negative environmental and public health effect, and these costs should be fully reflected in their proper disposal, rather than imposing these external costs on future generations.

I think my colleagues can agree that the potential for great abuse exists if low-level wastes are reduced to below regulatory concern. Other regulated wastes could be purposely or inadvertentlly mixed in with BRC wastes. Communities would have no way of knowing whether such wastes conform with the law or not. For these, and other equally compelling reasons, I strongly urge my colleagues to join me in expressing strong opposition to the Commission's policy of downgrading low-level radioactive wastes to below regulatory status, and call for reversing their decision.

TRIBUTE TO THE DADE COMMUNITY BLOOD CENTER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I recognize today an organization that has served the Miami area exceptionally. This organization is the Dade Community Blood Center.

The Dade Community Blood Center is a nonprofit and all-volunteer blood collection agency and has served Dade County hospitals and patients since 1986. The Dade Center is affiliated with the Broward Community Blood Center, which was started in 1975. This has resulted in efficient, technically advanced network, and a vast range of services for southeastern Florida residents. On Wednesday, July 11, 1990, the Dade Community Blood Center will be celebrating the grand opening of a new blood center, as well as the main office of the National Hispanic Committee for Bone Morrow Transplants.

The Dade Community Blood Center will also be honoring Mrs. Eugenia Sierra, first president of the Hispanic Volunteer Committee, without whom the blood center would not be able to run. Thanks to Mrs. Sierra and others like her organizations such as the blood center can function at a low expense and still serve the public in need of its services.

Congratulations to the Dade, Broward, and new blood centers; the National Hispanic Committee for Bone Morrow Transplants; Mrs. Eugenia Sierra of the Hispanic Volunteer Committee; and Mr. Willimeim Kane, director of the Dade Community Blood Center for their admirable work and may they have continued success.

FORMULATING NATIONAL TELECOMMUNICATIONS POLICY

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. HASTERT. Mr. Speaker, last Thursday, the House Republican Policy Committee, of which I am a member, debated a resolution, cosponsored by our colleague from New York, Mr. WALSH, proposing that Congress reassert its rightful and lawful role as the branch of government charged with establishing national telecommunications policy as stated in the Commonwealth Act of 1934.

Congress, not the unelected, life-tenured Federal judiciary, should formulate national telecommunications policy. With the dramatic changes which have occurred in the telecommunications industry during the last decade, it is imperative that Congress should set telecommunications policy with appropriate delegation to the Federal Communications Commission and the various State regulatory commissions.

The House Telecommunications and Finance Subcommittee is scheduled to consider this matter later this summer. I would appreciate its consideration of my resolution.

At this point, Mr. Speaker, I would like to insert this resolution in the RECORD for the benefit of all our colleagues:

DRAFT RESOLUTION—HOUSE REPUBLICAN POLICY COMMITTEE

Whereas the Republicans find that—

(1) the national welfare will be greatly enhanced by fostering the development of advanced public telecommunications networks capable of ensuring that innovative technologies will be universally available to the American people, at affordable rates;

(2) continued economic growth and the competitiveness of all American companies in the global information and high technology marketplace are dependent upon—

(A) the full participation of the entire telecommunications industry in bringing telecommunications products and services to the domestic and global marketplaces;

(B) the rapid introduction of new and innovative telecommunications services for American residential and business consumers; and

(C) the continued development of an efficient, reliable and state-of-the-art public telecommunications network to serve the needs of the people of the United States;

(3) the Federal Communications Commission (FCC) was created by Congress over 50 years ago as the expert, independent federal agency to promote national telecommunications policy goals and objectives;

(4) the United States' balance-of-trade in telecommunications equipment has deteriorated from a trade surplus of $275 million in 1982 to a $2.6 billion telecommunications trade deficit in 1988; and

(5) the unelected, life-tenured Federal judiciary is formulating national telecommunications policy, and even national tax policy, which is exclusively within the purview of the legislative branch: Now, therefore, be it

Resolved, That—

(1) national telecommunications policy should be established by the Congress, not by the Federal judiciary, as explicitly stated in the Communications Act of 1934;

(2) Congress should assume its rightful jurisdiction over subject matter pertaining to dramatic changes in the telecommunications industry during the last decade using the public interest standard because it is relevant to the furtherance of national telecommunications policy goals and objectives;

(3) Congress should continue to monitor the FCC through its oversight function to ensure that the agency adheres to national telecommunications policy as set by the Congress; and

(4) Congress should set national telecommunications policy with appropriate delegation to the FCC and the various state regulatory authorities.

THE CLARK R. BAVIN NATIONAL FISH AND WILDLIFE FORENSICS LABORATORY

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. JONES of North Carolina. Mr. Speaker, today I have introduced a bill to honor a dedicated employee of the U.S. Fish and Wildlife Service, Clark R. Bavin. Since 1972, Mr. Bavin has served with distinction as the Chief of the Division of Law Enforcement for the Service. Under his highly professional supervision and guidance, the agency's law enforcement program has grown in sophistication and effectiveness to the point where it is the finest fish and wildlife enforcement organization in the world and the envy of all nations.

The current stature of Federal wildlife law enforcement is due in large part to the vision and dedication of Mr. Bavin. He has been actively involved in many wildlife legislative issues before Congress and is recognized as a tireless fighter for greater funding for the enforcement of the wildlife laws of this Nation. From past amendments to the Lacey Act to the passage of the Endangered Species Act, Clark Bavin has sought greater protection for the wildlife heritage of our country and has succeeded in achieving this goal. Our wildlife resources are under constant siege from those who would profit from the illegal trade in protected wildlife. Future generations of Americans will still be able to appreciate and enjoy these resources, however, due to the professionalism and dedication of the Federal and State wildlife law enforcement officials of this country. Mr. Bavin has been a true leader in this effort and because of that is owed a debt of gratitude by this country that can never be adequately repaid.

Perhaps the most appropriate symbol of Clark Bavin's vision of the future for wildlife law enforcement is the new National Fish and Wildlife Forensics Laboratory in Ashland, OR. Outfitted with state-of-the-art computers that far surpass anything comparable in the rest of the world, the forensics laboratory has Mr. Bavin's personal priority project during the many years it took to make it a reality. It has provided a tremendous boost to efforts to prosecute violators of our wildlife laws and has placed the Fish and Wildlife Service's Division of Law Enforcement on solid scientific footing for the 21st century. Now that a tragic illness has ended Mr. Bavin's many years of dedicated service to this country, I can think of no more fitting tribute than to rename the forensics laboratory the "Clark R. Bavin National Fish and Wildlife Forensics Laboratory." I would urge my colleagues to join me in supporting my bill as a way of saying thanks to Clark Bavin and his family for his many contributions to the field of wildlife law enforcement.

U.S. POLICY HINDERS PEACE IN ANGOLA

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. DELLUMS. Mr. Speaker, the President has repeatedly requested increased covert aid to UNITA, an organization dedicated to the overthrow of the Government of Angola. Most recently, President Bush asked the Permanent Select Committee on Intelligence to augment this year's $80 million budget for UNITA's paramilitary operations.

These developments occur against a background of sincere reform efforts by the Angolan Government. In compliance with the Brazzaville accords, for instance, Cuban troops have been withdrawn from Angola; a ceasefire in the civil war with UNITA has been agreed to, along with face-to-face negotiations; the Government has agreed in principle to open elections in a multiparty system; and, movement toward a free-market economy with private ownership of businesses and land has taken place.

The United States should discontinue lethal aid to UNITA in light of these steps. Additionally, steps should be taken toward recognition of the Angolan Government, with establishment of diplomatic relations to follow.

The United States can no longer justify its inflexibility with regard to Angola in the context of superpower conflict. Moreover, events in Eastern Europe belie fears of Soviet domination and make a policy formulated on that basis obsolete. Most tragically, failure to change our policy may result in the loss of an historic opportunity to reach a peaceful resolution of the Angolan civil war.

The following editorial, reprinted from the June 25, 1990 Christian Science Monitor, argues for just such a reassessment of our policy. I commend this article to the attention of my colleagues, and hope that you will consider the views presented herein.

[From the Christian Science Monitor, June 25, 1990]

RE-EVALUATE, RECOGNIZE ANGOLA

(By Stephen Zunes)

Despite the euphoria resulting from independence in Namibia and prospects for negotiations in South Africa, another conflict in that region continues—and the United States is fanning the flames. The United States Government continues to arm UNITA, a rebel organization seeking to overthrow the Angolan Government. Angola's civilians are the principal victims.

Angola, with its large oil reserves, is potentially one of the richest countries in Africa. Yet thanks in large part to the chaos wreaked by UNITA, the country ranks near the bottom of the world's nations in providing its citizens with even the most basic needs. In 15 years of war since independence, over 200,000 Angolans have been killed and more than 20,000 children orphaned UNITA's use of landmines has produced a gruesome statistic: over 50,000 Angolans have been left amputated, the highest per capita in the world. Many of these mines come courtesy of the U.S. taxpayer.

UNITA's sabotage of highways and rail lines has severely disrupted the economy—already strained by drought—and has made it difficult to transport food and necessities to remote regions of the country. Even international relief workers are threatened by UNITA attacks as they try to get food to starving peasants.

Other African countries are damaged as well. The Benguela Railway, a favorite target of UNITA assaults, is the only outlet besides South Africa from mineral-rich areas of Zambia and Zaire. Indeed, these attacks force nations to depend on South Africa and its ports to move minerals to market, a result that motivates the apartheid state to join the United States in supporting UNITA.

Unlike the contras of Nicaragua, UNITA has its roots in the anti-colonial struggle against the Portuguese. It has a popular base. However, this support comes almost exclusively from the minority Ovimbundo tribe. It's far from unanimous. UNITA's alliance with South Africa, their disruption of the economy and attacks have damaged their claim to be a legitimate liberation movement.

While the Bush administration and most of Congress have lauded UNITA leader Jonas Savimbi as a freedom fighter for democratic ideals, only a few years ago this Chinese-trained guerrilla leader was depicted as a Maoist terrorist. Though there's been much speculation regarding the reasons for Savimbi's flip-flop, it seems little more than crass opportunism. Savimbi's main interest is personal power.

Last year, with the assistance of 18 African countries, UNITA and the Angolan Government signed a peace agreement providing an end to the fighting, and a framework for democratization and reconstruction. No sooner had the ink dried than Savimbi reneged and ordered his forces to resume attacks. Despite this violation of the Gbadolite Accords, United States aid to UNITA continues.

Currently, among the minority of Americans who understand Angola there is little support for U.S. policy toward that country. In addition to the peace organizations, church groups and intellectuals who normally raise questions about U.S. intervention in the third world, opposition to U.S. support to UNITA comes from less likely sources as well.

The conservative National Review has attacked UNITA as "Leninist," and condemned it for its authoritarian organizational structure and ruthless treatment of internal dissidents. Major oil companies doing business in Angola have lobbied vigorously against United States aid to the

rebels, citing attempted sabotage by UNITA against their facilities. (The same investments were guarded from UNITA attacks for several years by Cuban soldiers.)

There's no logic to U.S. support for UNITA other than a knee-jerk cold war reaction) that if a government professes a belief in Marxism and receives support from the U.S.S.R. it is simply illegitimate. Even this justification is outdated: The Soviets have cut back aid considerably. Cuban troops have withdrawn, and the Angolan government has pledged to build a free-market economy and develop a pluralistic political system when a cease-fire is permanent.

Supporting the overthrow of an established government—a member of the Organization for African Unity recognized by virtually all African countries—severely damages U.S. relations throughout the continent. That such a policy directly allies the United States with South Africa harms our credibility even more. Not only that, the U.S. is alone among its Western allies in its refusal to recognize the Angolan Government.

It's time Congress and the White House re-evaluated United States policy in Angola. Interventions in Third World conflicts, taken without concern for a region's complex and changing realities have repeatedly proven disastrous—for the countries on the receiving end, and the United States.

FOOD FOR PEACE AND AGRICULTURAL EXPORT PROGRAM ACT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. GEJDENSON. Mr. Speaker, today I am introducing the Food for Peace and Agricultural Export Promotion Act. This legislation is identical to the text approved on June 5, 1990, by the Foreign Affairs Subcommittee on International Economic Policy and Trade, which I chair.

In reauthorizing the Food for Peace Program, this legislation clarifies the authorities of USDA and AID in an effort to increase accountability and to reduce the bureaucratic turf fights that have come to characterize the program. USDA will be responsible for the title I concessional loan program which will have market development as its mandate. That agency will be responsible for choosing the commodities sold, the countries eligible for loans, and the market development activities to be funded by the local currencies generated from the program.

AID will be responsible for a new title I grant program that will be devoted to economic development. It will be responsible for selecting the commodities to be used in the program, the countries chosen for grant aid, and the economic development activities to be funded by local currencies.

Title II of Food for Peace will continue to be a commodity donation program for disaster relief, economic development, and feeding programs in the poorest countries. As in current law, title II will be managed by AID, with private voluntary agencies and cooperatives responsible for running most of the program.

This legislation has a new title II program of agricultural assistance to emerging democracies. Entitled "Food for Freedom" this is a program of up to $120 million annually in sales or grants of commodities to countries that are on a path to representative government and market-oriented economies. Many countries in Eastern Europe will be eligible for title III assistance.

U.S. agricultural export promotion programs are also reauthorized by this legislation. The primary export promotion efforts reauthorized by the bill include the Export Promotion Program, the GSM-102 and GSM-103 programs, and the Market Promotion Program, which is currently called the Targeted Export Assistance Program.

This legislation will increase exports of U.S. agricultural commodities and products by making export promotion programs more cost-effective, by increasing funding and guarantee authorization levels for certain programs and by ensuring that export promotion programs meet the challenges posed by economic and political reform in Eastern Europe and Latin America.

Specifically, this legislation, in addition to reauthorizing all U.S. agricultural export promotion programs for 5 years, provides new loan guarantee authority under GSM-102 and GSM-103 to guarantee agricultural exports to emerging democracies. It would also provide new agricultural fellowships to students from emerging democracies and authorize a new program of exchanges of agricultural experts between the United States and emerging democracies.

This bill would also require significant improvements in USDA administration of all agricultural export promotion programs, to ensure that U.S. taxpayer dollars are not wasted.

USDA would also be required, for the first time, to create a long-term strategy governing the implementation and coordination of U.S. agricultural export promotion programs over 3 years, instead of the current 1-year agricultural trade strategy currently required.

This legislation would also denounce the potentially negative impact of the European Community's product standards and testing policies upon U.S. agricultural exporters, and urges the President to use all available means to change these policies.

STRONGER PROVISIONS ON FOREIGN DIRECT INVESTMENT AND NATIONAL SECURITY NEEDED NOW

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. WALGREN. Mr. Speaker, President Bush, in his inaugural address, used the phrase that we were meeting on America's front porch. The difficulty is that although we may not know it, we might not own America's front porch, and worse than that, we may assume that we own it and be disappointed.

Americans have the right to know what foreign interests are buying up our country, and the Federal Government must have the tools and the will to protect America's national economic security interests.

For this reason, I am introducing legislation today to give the President new powers to restrict foreign takeovers, especially of U.S. high technology firms. The legislation would also ensure that foreign acquisitions involving important U.S. technologies would be subject to a complete and thorough investigation before being allowed to go forward.

I do so not to discourage appropriate foreign investment which brings capital to the United States and creates jobs, but to guarantee that the security interests of the United States are not compromised by wholesale foreign control of sectors of our economy vital to our future.

Much of the recent skyrocketing wave of foreign investment—foreign investment in the United States has risen from $500 billion in 1980 to $2 trillion as of last year—was brought on by the disastrous economic policies of the 1980's, which tripled the national debt and cheapened the dollar on world markets. Foreign investors now own 13 percent of the U.S. manufacturing base, and 50 percent of the vital consumer electronics industry. Between 1980 and 1988, foreign direct investment in the U.S. electronics industry alone tripled to over $12 billion.

The average citizen in every town in our country wants to know if anyone in Washington knows what is going on and what is the Federal Government doing to guard against unacceptable foreign control. As research and technology, which are the real source of economic wealth, are put daily on the international auction block, we transfer to foreign purchasers more and more of the economic advantages that America will need in the future. Those nations that are behind in new technology fall progressively farther behind. Those nations that are ahead advance progressively farther ahead.

When a foreign investor buys a U.S. firm, it often means that U.S. technology is transferred abroad and research and technolgy are reduced in the United States. U.S. customers of that new foreign-owned firm often are supplied only after the needs are met of their foreign competitors that have bought the U.S. firm.

This is not a new problem we face. It is an old and obvious one, so obvious that we even have a committee wihin the executive branch which is dedicated to the review of the implications of direct foreign investment.

But as obvious as the problem may be, this committee is failing to protect critical American interests because the administrations of the last 10 years have been paralyzed by devotion first to a free-trade ideology, and second, by their overriding fear that foreign investors may stop refinancing large national budget deficits. To date, this committee has received more than 350 notices of foreign takeovers of U.S. firms, but only 10 investigations have been conducted, and only 1 takeover blocked.

Despite the strategic importance of the semiconductor industry to our Nation's defense, as well as economic strength, the President has failed to block a single foreign takeover of the equipment and materials man-

ufacturers that supply this critical industry. The aggressive targeting of the U.S. semiconductor supplier industry by foreign investors has led some to call for a moratorium on foreign acquisitions in this essential industry.

For example, over 95 percent of the United States domestic production of silicon wafers is now foreign owned, with Japan controlling about 65 percent of the capacity. With the foreign acquisition of Union Carbide's polysilicon facility about to go through, 71 percent of United States polysilicon production will be owned by the Japanese.

Sony's acquisition last year of Materials Research Corporation [MRC] means Japan now dominates 70 percent of the United States sputtering target production, a key component in the production of semiconductors.

Through recent acquisitions, Japan also now controls 45 percent of United States specialty gas production, and through yet another takeover, Japan is about to take control of 40 percent of the United States gas containment distribution market. These acquisitions will make Japan the world's leader in semiconductor gas production and distribution systems.

The Commerce Department recently issued its long-awaited report on the competitiveness of the United States electronics industry which said that in the next few years, Japan, not the United States will dominate the world electronics market. The American electronics industry was, in their words, being eclipsed, and despite the real and present threats to our Nation's security that fill virtually every page of that report, there was no agenda for action that offered even a remote hope of bringing us back from the edge of economic disaster.

The report identifies our electronics industry's growing dependence on foreign sources of materials and components as a weakness with clear implications for our national security. But, this same administration has repeatedly failed to use authority it has to block foreign acquisition of vital U.S. producers on which the entire electronics industry must depend.

Our Government has become fearful, and until we put that fear behind us and take charge of our own economic destiny, our future will be filled with shining examples of economic success abroad and stagnation and decline here at home. America deserves better.

The legislation I am introducing today would lead to a more aggressive defense of vital U.S. national economic interests. It would give our Government the power to put conditions on foreign acquisitions of U.S. firms limiting technology transfer, guaranteeing the continued supply of U.S. customers and other requirements that may impact national security. It would require that full investigations be conducted of any foreign takeover which involves acquisition of an essential U.S. technology.

It would also ensure that the Commerce Department and the Defense Department, the two principal agencies involved in investigating foreign takeovers, have the ability to initiate a formal investigation when they feel the matter requires it. The bill would also require the President to identify those parts of the U.S. defense industrial base that are being hollowed out, as foreign investors acquire U.S. firms which are major suppliers to Defense contractors.

Mr. Chairman, I hope my colleagues will support this legislation which I strongly believe is needed now to prevent further erosion of the technology base of our country.

AMENDMENT OF SECTION 842 OF THE INTERNAL REVENUE CODE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. LEVIN of Michigan. Mr. Speaker, today I am introducing, along with Mr. VANDER JAGT, a bill to amend section 842(b) of the Internal Revenue Code which affects the taxation of foreign companies carrying on an insurance business within the United States. This legislation is intended to correct certain technical problems and inequities in the current section 842(b).

Section 842(b) was added to the Internal Revenue Code as part of the Omnibus Budget Reconciliation Act of 1987 to address a concern that foreign insurance companies were able to minimize the amount of net investment income subject to U.S. taxation. Section 842(b) sets out rules for calculations "required U.S. assets" and a "minimum effectively connected net investment income." Under section 842(b), the net investment income of a foreign insurance company that is effectively connected with the conduct of an insurance business in the United States may not be less than the required U.S. assets of the company multiplied by the domestic investment yield applicable to the company for the taxable year. "Required U.S. assets" is the product of the foreign insurance company's U.S. insurance liabilities and the domestic asset/liability percentage. Once this minimum amount of effectively connected net investment income is calculated, the insurance company pays tax under the regime set out in subchapter L of the Internal Revenue Code—but using the greater of this minimum amount or the company's actual amount of effectively connected net investment income as the amount of its net investment income.

The amending legislation changes current section 842(b) in three mechanical ways but does not change the fundamental concept set out in the 1987 amendments. Under current section 842(b), Treasury has been using 2-year-old financial statement data from the annual statements of the domestic insurance companies—the so-called NAIC annual statements—as the representative domestic company data to determine the domestic asset/liability percentage and domestic investment yield. The domestic asset/liability percentage and the domestic investment yield are then used by the foreign insurance companies to calculate their minimum effectively connected net investment income.

The amending legislation requires that Treasury use domestic company tax return data from the same taxable year as the year for which the section 842(b) calculations are being done. Since foreign insurance companies are taxed on the basis of the domestic asset/liability percentage and the domestic investment yield calculated under section 842(b), it seems only fair and reasonable that the same year tax return data be used rather than 2-year-old financial statement data. These amendments change the calculation of the minimum amount of effectively connected net investment income so that it is based upon amounts of net investment income on which domestic companies have been taxed. Finally, the amending legislation provides for a carryover account to account for ordinary year-to-year differences in portfolio trading practices from company to company.

The use of 2-year-old data from domestic insurance companies to calculate the domestic asset/liability percentage and the domestic investment yield creates a serious distortion in calculating the appropriate tax liability for foreign insurance companies. The 2-year lag has created a particularly serious problem given the effective date of section 842(b). The first taxable year for which section 842(b) is applicable is 1988. Thus, 1986 investment yields will be used under existing section 842(b) to calculate the minimum which will be compared with the foreign insurance company's 1988 actual effectively connected net investment income. Investment yields for 1986 were much higher than the investment yields earned by both domestic and foreign companies in 1988. The 1986 domestic investment yield, as calculated by Treasury, was 10 percent. The comparable domestic investment yield for 1988 has been estimated to be 8.9 percent, a difference of more than 100 basis points. This problem can reoccur year to year as yields fluctuate.

A second problem with current section 842(b) involves the source of the data being used by Treasury to calculate the domestic asset/liability percentage and the domestic investment yield. In both Notice 89-96 and Notice 90-13, Treasury stated that it utilized NAIC annual statement data to determine both the domestic asset/liability percentage and the domestic investment yield. Tax return net investment income can vary significantly from NAIC annual statement income. Congress recognized this year point in section 56(f)(1) which provides that, for taxable years 1987, 1988, and 1989, a corporation must increase its alternative minimum taxable income by 50 percent of the difference between financial statement income, as adjusted, and alternative minimum taxable income computed without regard to section 56(f)(1). Using NAIC annual statement data for section 842(b) purposes has the effect of taxing foreign life insurance companies based upon the financial statement income of domestic life insurance companies, even though there is no assurance that domestic life insurance companies have been or will be actually subject to tax on that amount of net investment income.

Perhaps the most significant difference between NAIC annual statement data and tax return data is in the calculation of net capital gains and losses. For NAIC annual statement purposes, gains and losses are calculated using NAIC asset values, not actual tax costs. NAIC asset values are subject to write-downs and write-ups, with conservative guidelines mandated for use in the preparation of the NAIC annual statement dictating more write-

downs than write-ups. This results in a book value which is generally less than tax cost and therefore NAIC annual statement capital gains greater than capital gains on a tax basis. Such overstatements inflate the domestic investment yield. This inflation of domestic investment yield is inappropriate since the U.S. insurance companies are not being taxed on the gains calculated in this manner.

A third problem with section 842(b) which is addressed by this legislation involves the whipsaw effect of section 842(b)'s year-by-year comparison of the required minimum amount of effectively connected investment income and the company's actual net investment income.

Under current law section 842(b), in any taxable year, a foreign insurance company is subject to tax on the greater of first, its actual effectively connected net investment income and second, its minimum effectively connected net investment income, with the minimum being calculated using domestic company financial statement data from 2 years previous to the current year. This greater-of approach will result in a foreign insurance company being subject to tax on net investment income greater than either it or a representative domestic insurance company earns over any measured period of time.

For example, if foreign company investment yields over time are identical to domestic company investment yields during the same period but differ on a year-by-year basis, under current section 842(b), because of the greater-of approach of section 842(b), exacerbated by the 2-year lag and data collection problems, the foreign company will be subject to tax on a greater cumulative yield over the period than either it or the representative domestic companies earned during that period. A small difference in investment yield can create large distortions in the calculated minimum under section 842(b). This distortive impact can create a U.S. tax liability for a foreign insurance company that exceeds its U.S. net income.

A carryover account is needed even though the amending legislation eliminates the use of 2-year-old data. The carryover account is needed to account for year-by-year differences in trading practices, year-to-year investment performance, portfolio mix, and the timing of realization of capital gains and losses between a foreign insurance company and the representative domestic insurance company which can result in significant year-by-year differences between the domestic and foreign yields, even where the yields are identical on a cumulative basis over time.

The use of a carryover account is necessary to ensure that trading differences and timing issues do not result in a foreign insurance company being subject to income tax on a cumulative amount of net investment income that exceeds both what the foreign insurance company and the representative domestic insurance company actually earned over that period of time. The carryover account would keep track, on a yearly basis, of the cumulative difference between actual effectively connected net investment income and minimum effectively connected net investment income. The intent of the carryover account is to ensure that a foreign insurance company will be subject to tax on the greater of its cumulative actual effectively connected net investment income and the cumulative minimum effectively connected net investment income. The greater-of concept is measured on a cumulative basis, not an annual basis.

While current section 842(d)(2) provides that Treasury shall issue regulations that provide for adjustments in future years where actual effectively connected net investment income in a year exceeds minimum effectively connected net investment income for that year, no regulations have been issued on this point. The amending legislation clarifies that adjustments would be made so that the foreign company will be subject to tax over the cumulative period on the greater of what it actually earns over that period and what the average domestic company earns over that same period. If, due to poor investment performance, the foreign company earns less than the cumulative required minimum over the period, the foreign company would be subject to tax on the cumulative minimum. If the foreign company earns more than the cumulative required minimum over the period, the foreign company would be subject to tax on its cumulative actual.

Current section 842(b) is objectionable in a number of ways. In addition to the problems laid out above, it may violate the nondiscrimination articles found in many of our income tax treaties in that section 842(b) taxes a foreign insurance company less favorably than domestic insurance companies are taxed. The amending legislation is intended to make section 842(b) work in a manner that is both fair and consistent with our international obligations.

I have requested a revenue estimate from the Joint Committee on Taxation for this legislation and am awaiting a response. Of course, in these times of fiscal austerity, the revenue consequences of any proposal, even one firmly grounded in good tax policy as I believe this one is, may constrain the Congress in addressing a problem in the Tax Code. However, I strongly feel that revenue costs alone should not prevent us from seeking to implement our Tax Code fairly. For these reasons, I urge the House to give serious consideration to these important reforms.

FAIRLY APPORTIONING INTEREST ALLOCABLE TO ECA'S

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation to eliminate a penalty that is imposed by the tax laws on certain U.S. taxpayers that acquire or construct property to control pollution or otherwise improve the environment. The penalty has a detrimental effect on the international competitiveness of U.S. business and provides a disincentive to reducing pollution in the United States.

To reduce pollution voluntarily or in compliance with U.S. environmental laws, such as the Clean Air Act, companies often acquire or construct property. To pay for this property, companies must either incur debt or transfer funds from other operations and ultimately incur additional debt or pay down debt more slowly. However, only certain companies can fully deduct interest on this debt. U.S. companies with solely domestic operations and U.S. subsidiaries of foreign companies may fully deduct the interest against U.S.-source income. In contrast, the benefit of a full interest deduction is denied to most U.S. companies with foreign operations.

This disparity arises because U.S. companies with foreign operations are required to apportion interest expense between U.S.-source and foreign-source income and because current rules result in an overapportionment of interest to foreign sources. If an interest deduction reduces foreign-source income, it reduces the U.S. taxes attributable to foreign-source income and, therefore, the foreign tax credit. As a result, foreign-source interest deductions do not reduce U.S. tax liability for most U.S. companies with international operations. This is a particular problem when an expense is apportioned to foreign sources for U.S. tax law purposes, but the expense is actually attributable to domestic activity and, therefore, is not allowed as a deduction by foreign countries.

U.S. tax law overapportions interest expense to foreign sources because apportionment generally is based on the tax book value of assets—that is, their adjusted basis for regular income tax purposes. Assets with proportionately greater tax book values will have proportionately more interest apportioned to them. But assets used abroad tend to have greater tax book values than similar assets used in the United States. This is because, under our tax law, assets used abroad are depreciated less rapidly than assets used in the United States. As a result, interest is overapportioned to assets used abroad. This overapportionment to foreign sources means that interest on indebtedness attributable to pollution control property is overapportioned to foreign sources, and companies subject to this overapportionment are denied the full benefit of the interest deduction related to such pollution control property.

I am certain that Congress never intended this overapportionment to penalize companies that seek to control pollution. This penalty is especially counterproductive at a time when we are asking U.S. companies to invest substantially in equipment designed to reduce pollution. The United States already spends some $90 billion each year controlling pollution, and the Clean Air Act amendments that are currently pending in Congress are expected to add at least another $22 billion in additional pollution control costs. These expenditures generally will not generate new income for American business. Instead, they will increase borrowing and decrease profits. To magnify these costs by effectively denying interest deductions would be terribly unfair.

The interest penalty is also unfair because it applies only to U.S. companies that participate in foreign markets—and the greater the participation the greater the penalty.

The proposed legislation would eliminate this anticompetitive, counterproductive and unintentional penalty by reducing the overap-

portionment of interest attributable to the acquisition or construction of assets needed to reduce pollution, increase recycling and otherwise improve our environment. It would directly allocate interest to new environmental assets and generally treat that interest as U.S. source. To ensure that the bill does nothing more than eliminate a penalty, the total interest apportioned to U.S. sources will be no greater than the amount that would be apportioned if the location of an asset did not affect how rapidly the asset is depreciated for tax purposes. I strongly urge my colleagues to support this legislation that is essential to our continuing efforts to improve the environment.

A technical explanation of the bill follows:

TECHNICAL EXPLANATION OF PROPOSED LEGISLATION THAT FAIRLY APPORTIONS INTEREST ALLOCABLE TO ENVIRONMENTAL CONTROL ASSETS

SUMMARY

The provision would directly allocate a portion of a taxpayer's interest expense to environmental control assets ("ECAs"). The portion generally would be apportioned to U.S.-source income and, therefore, would not reduce the taxpayer's foreign source income. The remainder of the taxpayer's interest expense would be apportioned in accordance with the principles of present law. The total interest apportioned to domestic sources would not exceed the total amount that would be so apportioned if E&P basis were used for apportionments based on assets.

ALLOCATION TO ENVIRONMENTAL CONTROL ASSETS

A taxpayer would determine for each taxable year its weighted average interest rate on its debt. The average would be based only on "fungible" interest and debt; the average would include only interest (and the related debt) that is subject to apportionment based on asset values (basis or fair market value) under current law. For example, interest on nonrecourse debt and other interest that is directly allocated to specific assets under Temp. Reg. § 1.861-10T would not be included in the average. The interest allocable to ECAs would be determined by multiplying the weighted average interest rate by the average adjusted basis (as determined for earnings and profits) of ECAs. As under current law (Temp. Reg. § 1.861-9T(g)(2)), the average adjusted basis for the year would be the average of adjusted bases at the beginning and end of the year.

The allocation rules described above would not apply to ECAs to the extent that the direct allocation rules of Temp. Reg. § 1.861-10T apply. Thus, the present direct allocation rules for nonrecourse debt and integrated financial transactions would prevail over the allocations under the proposed legislation.

APPORTIONMENT OF INTEREST

Interest expense that is allocated to ECAs would be apportioned in accordance with the source of income generated by the ECAs or the assets to which they relate. All other interest expense would be apportioned in accordance with the applicable interest expense apportionment rules under Code section 864 and Treasury regulations under section 861. However, under the principles of present regulations (Temp. Reg. § 1.861-9T(g)(iii)), which for general apportionment purposes reduces the value or basis of assets to which interest is directly allocable), the basis or fair market value of ECAs generally would not be taken into account when applying the rules for apportionment based on assets.

CAP ON REAPPORTIONMENT

The total amount of fungible interest that can be apportioned to domestic sources under these rules may not exceed the interest that would be apportioned to domestic sources if E&P basis, rather than tax basis or fair market value, were used for apportionments based on assets.

ENVIRONMENTAL CONTROL ASSETS

The term "environmental control assets" includes equipment and facilities that reduce or eliminate the emission of pollutants into the environment, reduce the generation of waste, convert or recycle waste into usable products, or allow taxpayers to comply with environmental law. Only assets used in the United States would qualify. The provisions would apply in tax years beginning after December 31, 1989, with respect to assets placed in service after such date.

RECOGNIZING MIAMI-DADE COMMUNITY COLLEGE ALUMNI ASSOCIATION BOARD OF DIRECTORS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the Miami-Dade Community College Alumni Association Board of Directors. This fine educational institution has been teaching the people of Miami for many years and, today, I would like to pay a special tribute to those people whose involvement and dedication to the school make Miami-Dade Community College the outstanding center of learning that it is.

On Thursday, June 28, a special reception honoring the 1990-91 Alumni Association Board of Directors will be held. The reception will be held at the Wolfson Campus, 300 Northeast Second Avenue from 6 to 8 p.m. Hosting the event will be Dr. Robert H. McCabe, president of Miami-Dade Community College and Ana Maria Fernandez Haar, president of the Miami-Dade Community College Alumni Association. Both Dr. McCabe and Ms. Haar have demonstrated outstanding ability and commitment for this event, which will undoubtedly be successful.

The 1990-91 Miami-Dade Community College Alumni Association Board of Directors are: Ana Maria Fernandez Haar, president; Reydel (Sonny) Santos, vice president, membership and chairman, Council of Alumni Presidents; Jim Gall, vice president special events; Charlotte Lorber, public affairs; Robert P. Hialy, Jr., treasurer; and Members at Large: Steffie Durnberg, Helen T. Erstling, Richard Gropper, H. Clayton Hamilton, Denna Laster, Marta Medina, S. Ahmed Merchant, Cynthia A. Allen, Nancy Anderson, Robert L. Bergmann, Barry Burak, Anne Calandrino, Frank J. Cobo, Kelsey Dorsett, Mercedes Quiroga, and Vera Sincavage.

There are many people who make Miami-Dade Community College an outstanding educational institution, but the Alumni Association Board of Directors continue to demonstrate their concern for the school and the community. I congratulate them on a productive and successful year.

BIG NAMES, NOT BIG CHANGES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. PORTER. Mr. Speaker, Fang Lizhi and his wife Li Shuxian have left the People's Republic of China. We all rejoice with them and celebrate their freedom.

The credit for this event belongs to Fang and his wife—their perseverance and bravery—not to the Chinese Government. The only reason they were released was because Beijing wants to curry favor at the upcoming economic summit, and avoid MFN withdrawal.

Remember that Fang and Li would be arrested today were they to take one step on the soil of their homeland. And that thousands of Chinese remain in prisons and millions are denied fundamental human freedoms.

The release of Fang and his wife was not farsighted, it was a cynical public relations gesture aimed at influencing U.S. policy. We should respond by saying, "Try again." People have rights, they are not just bargaining chips.

THE NATIONAL WRITING PROJECT'S PROGRAMS

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MAVROULES. Mr. Speaker, today I am joining in cosponsoring H.R. 5127, legislation sponsored by Representative GEORGE MILLER, which would support the National Writing Project. This legislation will help address one of our Nation's most intractable education problems: The lack of writing skills among our students.

H.R. 5127 enhances the National Writing Project's programs throughout our country. These programs have been very effective in improving student learning ability, performance, and test scores, and have been endorsed by the American Association for Higher Education, the Carnegie Foundation for the Advancement of Teaching, and the National Endowment for the Humanities. They have been funded by the National Endowment for 10 years, as well as by other private and public agencies, and has expanded to include more and more sites.

Partly as a result of this success, funding has not kept pace with this expansion, and some local sites have been forced to cut back or close. Representative MILLER's legislation addresses this problem in a practical and cost-effective manner. By funding 50 percent of individual sites up to $40,000, the program aids local agencies in funding, while requiring significant local support and responsibility. This represents a true partnership between the Federal Government and local/private organizations.

In addition to the funding of individual sites, this legislation also would provide matching grants for research into effective classroom methods of teaching. It would also aid the National Writing Project in disseminating such information to teachers. This will assist those teachers who want to improve their skills, but lack the knowledge and resources to do so.

By providing $500,000 for the Office of Educational Research and Information [OERI] in the U.S. Department of Education to conduct research on the best methods of teaching writing, this measure will help improve teaching techniques in this vital area of education. Research into using writing as a learning tool to improve other aspects of education is another goal supported by this legislation. There is evidence form the National Writing Project that students who become proficient writers can use their writing skills to improve their knowledge in other areas. Such a multidisciplinary approach to learning, and teaching, shows some promise in addressing our Nation's educational concerns.

Mr. Speaker, there is a writing project in my home State of Massachusetts which is located in Boston. This bill will help support the Boston Writing Project which has been effective in enabling the teachers of my State, and district, to focus on improving our students' writing skills. Several communities in my district, including Salem and Ipswich, have benefited from the Boston Writing Project. With additional support, more communities and schools will be able to profit from this program in the future. Such Federal support is particularly critical given the international competition our citizens and Nation as a whole are currently experiencing. We must find ways to enable our young people to become better writers and better educated individuals. Partnerships between the Federal Government and local entities represent a balanced, effective way to address our Nation's educational challenges. Support for the National Writing Project is one way to accomplish our goals of effectively educating our students to take their place in our increasingly competitive world.

KERR-McGEE MUST EXAMINE ITS ENVIRONMENTAL CONSCIENCE

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. HASTERT. Mr. Speaker, Within the appropriations bill we debate today is an appropriation of $1 million for the Robert S. Kerr Environmental Research Laboratory at Ada, OK. I do not rise to take issue with the funding of this project, but to point out a degree of irony. It is my understanding that the $1 million will be designated to study techniques for the containment and disposal of radioactive waste—specifically the contamination of groundwater.

In the city of West Chicago, IL, which is within my congressional district, the Kerr-McGee Corp. is the owner of the second largest radioactive waste site in the Nation. The State of Illinois and many others have been battling with Kerr-Mcgee to ensure that 13 million cubic feet of radioactive waste in the middle of West Chicago is removed. Kerr-McGee has attempted to thwart the State's efforts to require safer, off-site disposal, preferring to dispose of this nuclear waste by leaving it right where it is; in the middle of a town of 12,000 people, and surrounded by five local schools.

My hope is that the Robert S. Kerr Environmental Research Laboratory, named after the distinguished late Senator from Oklahoma, and former chairman of the board of the Kerr-McGee Corp., will actively demonstrate to the Kerr-McGee Corp. that sweeping this mess under the rug will lead only to a big hole in that rug. The citizens of West Chicago deserve better treatment, and I hope the Kerr-McGee Corp. will take a lead from the positive environmental legacy left by its former chairman.

ST. MARON'S CHURCH 75TH ANNIVERSARY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. OAKAR. Mr. Speaker, St. Maron's Church is celebrating its 75th anniversary in Cleveland, OH. The following history was given by Isabel Thomas:

This year, St. Maron's Maronite Catholic Church of Cleveland, Ohio is celebrating seventy-five years of serving Cleveland's Lebanese, Syrian, and American Maronite communitites. The vitality of this community is the fruit of dedicated perseverance for many years.

When Catholics of the Maronite Rite first immigrated to Cleveland, they did not have their own place of worship. Instead, they attended various Latin and ethnic churches throughout downtown Cleveland.

Once the First World War erupted, members of our community were unable to communicate with family and loved ones across the seas. Cut off from their families, they turned to each other, and the core of the Maronite community started to solidify. Collectively, they formed the St. John Maron Society which fulfilled not merely a social function, but an economic function as well by raising funds to purchase property for their own church. The St. John Maron Society assembled in various homes in the Woodland, Orange, Broadway, Central, Bolivar, Eagle, and West 14th Street areas of Cleveland.

Seventy-five years ago, in 1915, they acquired an old red brick, two-story, flat-roof residence on East 21st Street. Although a simple building, in an attempt to create a more sacred space for worship, they pasted colored pieces of paper in the windows to simulate stained glass.

In 1927, Rev. Joseph Komaid, Missionary Apostolic of Lebanon of the Crimean Order, led the church, and under his leadership, in 1939, they moved to St. Anthony's Church on Carnegie Avenue. The church, adorned with gorgeous art reminiscent of the Italian Renaissance, was dedicated on April 7, 1940, and in 1951, a new rectory was built and furnished by the parishioners. The centralized location of the chruch provided wider access to the parishioners living in different areas.

Father Komaid served in our parish until June 29, 1952. On the very day his friends celebrated his 50th Jubilee of Ordination and his 25th anniversary as St. Maron's Pastor, he died of a heart attack.

Father Joseph C. Feghali, who had arrived at our Parish in 1951, followed Father Komaid as Pastor. In 1957, he was bestowed with the title of "Very Reverend Monsignor" due to his exemplary leadership. In 1972, he was given the title of "Chor-Bishop" by Archbishop Francis M. Zayek.

Father Feghali's service transformed St. Maron Parish in Cleveland into one of the foremost in the Maronite Diocese. He was transferred to Detroit in 1976.

Succeeding Chor-Bishop Feghali were Msgr. Elias El-Hayek, and then Father Elias Abi-Sarkis. During Father Abi-Sarkis's tenure, a major fundraising campaign was undertaken in 1980 to further renovate the church. In 1983, a second building of Middle Eastern architecture went up serving as the administration building. The new complex provided a better space for us to celebrate our cultural traditions.

Following Father Elias Abi-Sarkis, Chor-Bishop Dominic Ashkar served as Pastor from 1986 to 1987.

In 1987, Father Bernard Khachan, who was born in Ibreen, Lebanon, was assigned to our parish. He speaks Spanish and French fluently, as well as Arabic and English. Shortly after his arrival in Cleveland, he was raised to the esteemed level of Monsignor by the request of Archbishop Francis M. Zayek.

Mr. Speaker, we are proud of the leadership of our pastor, Msgr. Bernard Khachan. Also, we are fortunate to be one of the few in the Maronite Diocese of the United States to have both a deacon, Mr. James Peters, and a subdeacon, Rev. George Khoury.

Once again, I applaud the 75 years of the St. Maron Church in Cleveland, and I look forward to the contributions of this community in the years ahead.

With which on a personal note this is a church in Cleveland my family identifies. My parents were active members who taught their children to respect and love St. Maron's Church.

AUTHORITY FOR STATE WATER CONTROL

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. CRAIG. Mr. Speaker, I rise today to join my colleagues from Idaho, both in the House and Senate, in introducing a bill very important to our State of Idaho and the other 49 States of the Union. It would ensure that State governments—not the Federal Government—are the principal authority over streamflow decisions.

The U.S. Supreme Court's decision in California versus Federal Energy Regulatory Commission, also known as the Rock Creek decision, threatens a century-old standard of State water control. The ability of a State to make the principal and critical water allocation and appropriation decisions has been at the heart of Idaho law since we were admitted to the

Union. That principle is in jeopardy as a result of the Supreme Court's recent ruling.

It's our belief that rulings like the Rock Creek decision are based upon an incorrect interpretation of the Federal Power Act. Our legislation will clarify that act to ensure that States have no diminished decisionmaking authority when it comes to water allocation decisions.

Specifically, the legislation would amend sections 9 and 27 of the Federal Power Act to clarify that an applicant for a license must comply with all procedural and substantative requirements of State law in acquiring water rights and in the administration of the use of water.

Mr. Speaker, as you will recall, I introduced H.R. 4921 on May 24, 1990, to address the Court's decision by amending section 27 of the Federal Power Act. Today's legislation is entirely consistent with the approach in that bill and serves to further clarify State primacy in this area of water law. With several cosponsors to H.R. 4921 already, I am confident we will find similar support for this new legislation.

Finally, I am happy to acknowledge the hard work of Idaho State water and legal officials and others around the country who helped draft this legislation and look forward to their continued cooperation.

I urge my colleagues in both the House and Senate to join our delegation by cosponsoring this important legislation.

EL SALVADOR

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. SCHEUER. Mr. Speaker, last week I had the pleasure of meeting with Julio Garcia Prieto, an El Salvadoran union official. Mr. Prieto is the general secretary of the Union of the Coffee Industry, SICAFE.

SICAFE organizes workers who process coffee beans. These are workers who earn a minimum wage of less than 20 cents an hour. These are workers who vitally need a union to represent them. But, in El Salvador, agricultural unions are illegal.

And because they are illegal, Mr. Prieto must perform his valuable and courageous work in secret. Indeed, he spends most of his time in hiding. We know that if he did not hide, he very well might join the list of 45 SICAFE activists who have been murdered since 1980.

The Government of El Salvador's human rights record is abysmal, including under current President Cristiani. Our continued high levels of military assistance to these butchers makes a mockery of our Nation's commitment to human rights and democracy.

Mr. Speaker, the democracy we see today emerging in Eastern Europe did not emerge because we poured billions of dollars into SDI and the MX missile, it occurred because working men like Lech Walesa in Poland organized unions, rallied, fought, swam against the current, and—in the face of severe adversity and repression—triumphed in the name of freedom.

Last month, the Bush administration, ignoring these recent lessons from Eastern Europe, denied Mr. Prieto a U.S. visa. Only after myself, Congresswoman PELOSI, and several of our colleagues—and American labor officials—stepped in, did the administration yield.

As a result of Mr. Prieto's visit, the United States Congress and the American people will have the benefit of his insight and counsel on El Salvador from the perspective of its working men and women. That is a major step forward that only can help the cause of peace and justice in Central America.

LA CANTINITA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate La Cantinita restaurant for being cited by Hispanic magazine's first annual survey of the Nation's 50 best Hispanic restaurants.

La Cantinita which is located in Arlington, VA, is a prime example of how the Cuban-American community has combined ethnic heritage with American opportunity to excel in this great Nation.

Hard work and dedication to the principles of freedom have allowed the Cuban-American community in the United States to grow and prosper. The devotion to freedom by Cuban-Americans is great, and is exemplified by the many veterans who have proudly served this country in time of need, including Mr. Arnaldo Rodriguez, owner of La Cantinita, who is a Vietnam veteran.

I would like to applaud La Cantinita's owner, Mr. Arnaldo Rodriguez, for operating such a fine establishment and for the success that he has found in this country. His drive and accomplishments should be an inspiration to us all.

COUNCIL FOR UNITY HONORS FRANK J. DeCUZZI, SANDRA FELDMAN, WILLIAM D. FUGAZY, AND CHARLES HUGHES

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. ACKERMAN. Mr. Speaker, as our country grapples with ways in which to combat serious racial problems, I would like to take this opportunity to recognize the successful efforts of the Council for Unity, Inc., in promoting cooperative multicultural relations. Founded in 1975, the council follows a philosophy that stresses the creation of a dialog among different religious, racial, and ethnic groups to alleviate intergroup tensions. The council has implemented many activities including multicultural assembly programs in elementary, junior, and senior high schools, conflict mediation and networking programs, and a senior citizen escort service that allows individuals to interact on a personal level. Once the individuals are working together the fear and isolation that contributes to racial tension is replaced by trust and understanding.

At this time, it is appropriate for the council, an organization that facilitates cooperation among diverse groups, to recognize Frank J. DeCuzzi, Sandra Feldman, William D. Fugazy, and Charles Hughes for contributing so much of their time to enhance racial, ethnic and cultural harmony. On June 21, 1990, the council held its annual induction dinner dance to honor Frank J. DeCuzzi as man of the year, Sandra Feldman as woman of the year, William D. Fugazy as humanitarian of the year, and to present Charles Hughes with the leadership in labor award.

Over the last 31 years, Frank J. DeCuzzi has successfully risen through the ranks of the New York City Board of Education to the position of director of special projects in the Office of School Food and Nutrition Services. At the end of this month, Frank J. DeCuzzi will retire from his position and will be sorely missed. DeCuzzi has devoted a large amount of time and effort to numerous charities. He serves as vice president and a member of the board of directors of the Coalition of Italo-American Associations and as vice president and a member of the board of directors of the National Ethnic Coalition of Organizations. In addition, he has received many honors, including the 1985 Christopher Columbus Civic Association's "Man of the Year" award and a proclamation for outstanding citizenship by the city council of the city of New York. DeCuzzi has been honored by the Flushing Boys Club for his dedication and devotion to community youth. He also serves as a member of Queens Community Board 7.

Over the last 25 years, Sandra Feldman has risen through the ranks of the United Federation of Teachers, the largest local union in the United States, to the position of president. Sandra Feldman, a highly regarded authority in education in New York City, has served on many commissions, including her appointment by President Jimmy Carter to the congressional panel for the review of laboratory and center operations, the New York State Job Training Partnership Act Committee, and the New York State Child Care Commission. In addition, Feldman is actively involved in community and civic organizations, including the Center for Women in Government, the Organization for Rehabilitation through Training [ORT], and the League for Industrial Democracy.

William D. Fugazy, president of Fugazy International, has dedicated vast amounts of time and effort to numerous charitable causes. In recognition of his humanitarian efforts, William D. Fugazy has received many honors, including the 1989 Italian American Student Association's "Most Outstanding Role Model Award" and the 1986 "Man of the Year Award" given by John Cardinal O'Connor. In addition, Fugazy was appointed chairman of the New York Statute of Liberty Centennial Commission by Gov. Mario M. Cuomo, and in 1989 named honorary chairman of the Dr. Martin Luther King, Jr., National Holiday Celebration.

Charles Hughes, president of Local 372 N.Y.C. Board of Education Employees, has played an important role in the improvement

of New York City's education system. Hughes has been an important supporter of the policy of providing students in all New York City schools with at least two balanced and nutritious meals daily. In recognition of his humanitarian efforts, Charlie has received numerous honors, including the "Harriet Tubman Achievement Award" from the New York Chapter of the Coalition of Black Trade Unionists, the Congressional Black Caucus "Recognition Award," and the "Distinguished Services Award" from the New York State Black and Puerto Rican Legislative Caucus. In addition, Hughes was appointed to the New York City Youth Board and Commission on Black New Yorkers by former Mayor Edward I. Koch. He currently serves as a member of the Governor's School and Business Alliance Task Force and Mentoring Subcommittee.

Mr. Speaker, I call upon all my colleagues in the U.S. House of Representatives to join me in paying tribute to Frank J. DeCuzzi, Sandra Feldman, William D. Fugazy, Charles Hughes, and Council for Unity.

SUFFERING OF KURDISH REFUGEES IN TURKEY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thurday, June 28, 1990

Mr. PORTER. Mr. Speaker, Kurdish refugees in Turkey continue to suffer.

It has been almost 2 years since 70,000 Kurds fled Saddam Hussein's chemical attack. Tragically, they have been treated not much better in Turkey.

News reports indicate that Turkish refugees camps are in miserable condition, lack basic amenities and isolate Kurds from employment opportunities. Since Turkish authorities refuse to grant Kurds refugee status, they live in squalor. International efforts to build them permanent housing were canceled by the Turkish Government. President Ozal appears to want Kurds to return to Iraq. There they will undoubtedly face further persecution.

Mr. Speaker, Kurdish refugees in Turkey must be granted access to interntional refugee agencies and proper care. In addition, we must insist that Iraq, Iran, and Turkey respect fully the rights of their Kurdish citizens.

CREATING AN ACQUISITION WORK FORCE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MAVROULES. Mr. Speaker, as we all well know, defense acquisition reform is a perennial topic in Washington. Spare parts scandals erupt roughly once a generation. The $100 hammer isn't really very new—or, now, the $999 pair of pliers. Some people around this town will still remember the "Chamber of Horrors" created by Representative F. Edward Hébert when he was chairman of the Armed Services Investigations Subcommittee a quarter-century ago. He displayed a vacuum tube for which the military had paid big bucks beside an identical tube he had bought up the street for just pennies. These spare parts scandals are interspersed with exposes of outrageous cost overruns. An historian has dug up the fact that the *USS Constitution,* the Navy's first warship, had a cost overrun of the magnitude of 175 percent.

So there's nothing new under the sun. Acquisition poses ageless problems that come back to haunt us with amazing regularity. With each new scandal, the public loses more confidence in the Pentagon and becomes more convinced that the military is acting irresponsibly with the taxpayers' money. The question is, what do we do about it?

Well, with each scandal that erupts, the Congress enacts a new set of laws. As Vice Adm. R.C. Gooding said, "The Congress continues to subscribe to the national fallacy that if one requires the generation of enough paper, one can thereby avoid technical and other problems and thus prevent nasty surprises." After the Congress legislates—and often, even when it doesn't—the Pentagon gets into the act and writes a new set of regulations. Then the bureaucracy levies a new set of recordkeeping requirements on contractors, making the process more and more cumbersome.

This, in my judgment, is treating symptoms. Government excels at treating visible symptoms. If the newspapers are dominated by tales of $6,000 coffee makers, we will write enough rules, hire enough auditors, and force contractors to leap enough hurdles that we can guarantee there will never again be an $6,000 coffee maker. Of course, in the process we may spend far more of the taxpayers' money than we save. And a few years later, we will have a new scandal—maybe a $5,000 teapot—and so the cycle continues.

This year in Congress we are trying something fresh and hopefully unique. There is no new scandal that demands a bandaid this year. So, instead we will try to grapple with root causes. This won't be as dramatic or sexy as mounting a white charger and going after the day's headlines. But I have no doubt it will mean more for the future.

To be specific, Congressman LARRY HOPKINS, the ranking Republican on my Investigations Subcommittee, joined me today in introducing a proposal to create a professionalized acquisition workforce and corps within each of the military services and the defense agencies. This legslation is aimed at the people who make the acquisition system work.

In the past, we have focused our attention on just two elements of the defense acquisition system—the process and the structure. We have amended the laws to tell the people in the acquisition system what policies and procedures they should use to buy the equipment, and we have amended the laws to juggle the organizations that execute those policies. In other words, we have been merely shifting people from one organizational box to another. While these are obviously critical elements and may need additional focus in the future, it seems appropriate at this time to focus on the third element—the people themselves.

Historically, we have placed less emphasis on improving the quality and professionalism of the defense acquisition work force. This seems to be shortsighted given that it is the people who make the process and structure work, not the other way round.

We clearly need to pay more attention to the people in the acquisition field. We need to train them better. We need to pay more attention to their career paths. We need to prepare them as professionals. We need to reward them for the important and critical functions they perform. A little TLC goes a long, long way.

With this emphasis, we are facing the fact that many of our acquisition problems can be traced back to inadequate oversight, poor decisionmaking and improper implementation of laws.

By addressing the people behind the acquisition scene, by improving their lot, we hope to be able to get a handle on the things Defense buys. No, we won't eliminate procurement scandals, but I believe we can reduce the volume of scandals and, more important, more qualified people should make for a more efficient acquisition system that will give us more bang for the buck.

I want to stress, however, that this legislation should not be viewed as the perfect solution to all our acquisition problems. We are simply targeting one part of the problem, but a major part that has been overlooked too long.

Now, where is this all leading us?

BRINGING CULTURAL CHANGE TO DOD

For years we have tinkered at the edges. Those of us who have been workng acquisition issues recognize that the many approaches of the 1980's failed to achieve the cultural changes that are essential for making acquisition reform work.

For example, J. Ronald Fox, a professor of management at the Harvard Business School, wrote in 1974 that the "most far-reaching reform would be the establishment of a clearly defined procurement career field within the military, with senior procurement managers controlling assignments and promotions. Anything short of this will not resolve the continuing crisis in procurement management." Writing 14 years later in 1988, Fox observed that efforts to establish military career programs for program managers and procurement personnel had been resisted by the services. Fox, testifying before my subcommittee in April, further noted that reform efforts usually fade once the initiator moves on, and within a year or two the same set of problems resurface, indicating that little has changed.

I recognize that bringing about a cultural change can be a long, arduous task. What is needed—and I believe the time is now ripe—is candid and open discussion about root causes—to wit, what is wrong, what should be fixed, and how can we go about doing that?

BRITISH AND FRENCH ACQUISITION SYSTEMS

Prior to considering any proposal for improving the acquisition workforce, my subcommittee staff undertook a year-long review of the state of the acquisition workforce.

As part of our initial analysis, we looked at France and Britain. Why did we search abroad for answers to problems of a domestic nature?

First, in contrast to the way we currently do business, both France and Britain employ cen-

tralized acquisition organizations. The utility of these centralized organizations and their possible application in the United States has elicited considerable interest and debate. Second, both France and Britain have had experience with acquisition reorganization over the last 20 years. The rationale for their sweeping changes was to eliminate the duplication of weapons development efforts among the services, to reduce counterproductive service competition, to rationalize the process of deciding what would be acquired, and finally to achieve greater efficiency in acquisition.

It is rarely feasible to copy a foreign system outright. But often, it is possible to learn from their approaches and adapt certain features of their systems. There are three aspects of the French and British systems that are particularly important. They are:

First, a trained and professional body of acquisition personnel—in other words, smart people made smarter by the way you train them;

Second, a stable budget environment—in other words, you can't expect even geniuses to have rational plans if you keep snatching resources away from them; and

Third, "chains of command" that provide both authority and independence—in other words, once you've got smart people in the job and given them resources, let them get on with the job.

With regard to the third point, I am reminded of when Lyndon Johnson was asked if he was going to fire the individual responsible for mucking up one of his pet programs. Johnson is said to have replied: "Fire him! I can't even find out who the (expletive deleted) is."

Before progressing further, I wish to commend my colleague from Michigan, DENNIS HERTEL. He was in charge here. He led the pioneering efforts toward the creation of a professional acquisition corps and an independent acquisition organization.

Mr. HERTEL has long advocated the creation of a defense procurement corps under the Secretary of Defense to be a "hearable voice" on R&D and acquisition, along with the establishment of a defense acquisition management university to train the highest caliber personnel.

SUBCOMMITTEE STUDY

Looking at our own acquisition system, the subcommittee found that our current personnel system does have its problems. In part, these problems stem from the nature of the beast.

Too many people can say no, while too few can say yes with authority. We need to empower a few who can give a yes that will stick. The program managers—the people who head the offices buying the Abrams tank or the F-16 Falcon or the Aegis cruisers—whether civilian or military, either work for or belong to one of the military services. As such, they depend upon the military chain of command for promotion and other career rewards. In effect, the program manager is asked to apply sound business practices while at the same time answering to a superior whose primary interest is purely and simply the delivery of a weapon system. The same applies to contracting officers, the men and women with the authority to obligate the Government to pay contractors.

Giving these key officials greater independence, although they would continue to be an integral part of their military service, will make it more difficult for other Pentagon bureaucrats to exert undue influence as they now do. In the Army, it is said that division commanders have the authority to make it rain. Program managers also need the power to call up a rain shower now and then.

Good people at the top require good subordinates. Can we attract, train and keep the right people?

We recognize that character often is far more important than organization, procedures, or individual technical skills. But there is no way Congress can ever legislate standards of character for admission to the acquisition corps. So we will concentrate on their skills, their experience, their education, and their training.

As former Deputy Secretary of Defense David Packard said in 1983: "Major weapon systems are complex, they are large, they require advanced technology. We, unfortunately, have a system where we do not train and put the best management people in charge of these programs."

Certainly, there is never any guarantee that good managers will solve our problems. Indeed, good managers can make bad programs. But I am convinced that by improving the lot of the acquisition personnel, we will resolve many of our problems.

STUDY FINDINGS

Our year-long study showed major gaps in the acquisition personnel system. Here are a few things we've learned:

Half of all the people who work in contracting lack a college education. Historically, we have treated contracting as a "clerical" function, whereby one follows rules and regulations in rote fashion. The complexity of the acquisition process makes it virtually impossible to rely on rules and regs in every situation, however. We need people who can and will exercise their judgment when buying on behalf of the taxpayer.

The fragmented, scattered, and diffused training system requires 12 courses on contracting but none for systems engineering or logistics, although these are key drivers of equipment costs. A large part of the contracting workforce still remains untrained even after the establishment of mandatory courses 30 years ago.

The course designed to train management officials graduates five times as many people as will ever fill program manager slots. Yet, all three services have failed to fill program manager positions with graduates of this course, even though it is required by law. For example, less than a third of those assigned as program managers of major Navy systems have ever attended the course.

While the mix of civilians and military is varied among the services, no service has been in compliance with longstanding policies to appoint civilians to positions not requiring a military officer.

The turnover in program managers is too rapid. In 1984 we enacted a law requiring that program managers of major programs stay on the job for 4 years or until a major milestone was completed. The services have failed to comply with this tenure requirement. For example, in all the services since 1984, only 6 of 94 program managers have served either a 4-year tour of duty or until a major milestone. Clearly, the executive branch is not being a responsible steward of the taxpayers' money when it runs executives through major programs so quickly they never have time to learn where the restroom is. Program manager assignments have taken on the aura of ticket punching as a short way station for careerists.

INDEPENDENT COMMISSION RECOMMENDATIONS

In light of the evidence, we must ask ourselves how we can address these people issues.

Actually, there should be little debate about the broad guidelines of what needs to be done. Since World War II, no less than six commissions have grappled with the problems of military acquisition and offered prescriptions to fix them. These commissions—including the two Hoover Commissions of 1949 and 1955, the Fitzhugh Commission of 1970, the Commission on Government Procurement in 1972, the Grace Commission of 1983, and the Packard Commission of 1986—have all recognized the need for competent, trained, and educated civilian and military acquisition personnel. Their recommendations have been echoed by many outside experts for more than four decades. The problem has been in implementing these recommendations. There has been plenty of talk and lots of paper, but there has not been a lot of action.

Now we have the Defense Management Review. Issued by the Pentagon in July 1989, the DMR picks up on some of the old recommendations. Quoting the Packard Commission findings, the DMR states: Compared to its industry counterparts, this work force is undertrained, underpaid, and inexperienced. Whatever other changes may be made, it is vitally important to enhance the quality of the defense acquisition work force—both by attracting qualified new personnel and by improving the training and motivation of current personnel.

Mind you, that is the Pentagon speaking, not some outside critic throwing brickbats.

LEGISLATIVE OUTLINE

After all this buildup, what do I propose? My intention here is to ensure that the sound, commonsense recommendations made by all those numerous commissions are, in fact, implemented. And I believe that legislation is needed to ensure that the changes we propose are institutionalized since you and I—and our friends at the Pentagon—might not be here tomorrow.

In developing this legislation, we talked with knowledgeable people in uniform, in the civil service, in the private sector, and in academe. We also talked to former civilian officials and retired uniformed officers.

Let me now outline the specifics of the legislation we are looking at.

We would require the Secretary of Defense to establish minimum education, training, and experience requirements for all acquisition positions.

We would direct the Secretary of Defense to establish a career management system within each military department for acquisition personnel.

At the senior levels of the acquisition workforce, we would create an elite acquisition corps, comprised of both military and civilian personnel—the senior 10 percent to 15 percent of the workforce—those individuals who by virtue of their expertise have achieved a certain rank or grade and who should be recognized as professionals in their own field.

We would direct that all critical acquisition jobs, requiring special qualifications, be held only by acquisition corps members.

We would require that all acquisition positions be filled by the best qualified individual—either military or civilian; no longer will civilians be shut out of senior jobs.

We would assure that military program managers and other senior acquisition officials be kept on the job longer than in the past to provide greater continuity of management and personal accountability, and at the same time encourage the rotation of senior civilian personnel so they get career broadening experience.

We would create a Defense acquisition university to be the center for all acquisition education, training and research, a focal point for acquisition excellence that will oversee instruction in the whys and wherefores of acquisition as well as promote research leading to improvements in acquisition management.

We would provide that the Pentagon's Under Secretary of Defense for Acquisition oversee acquisition workforce policies to ensure uniformity.

While we want separate Army, Navy, Air Force, and Marine acquisition corps, we do not want them flying off in separate directions. For that reason, our proposal would put the No. 3 man in the Pentagon, the Under Secretary of Defense for Acquisition, in overall charge. The USD(A), under the direction of the Secretary of Defense, must ensure that comprehensive career programs are established for the acquisition workforce—both civilian and military—within the Army, Navy, Marine Corps, Air Force, Defense Logistics Agency, and the other defense agencies. These career programs should include the elements of accession, education, training, experience, assignment, promotion and retention.

Within each military department, we envision a pyramid consisting of all acquisition positions. At the mid-level point, acquisition personnel may apply to enter the acquisition corps. As an acquisition corps member, they are eligible for the critical corps positions that are at the very top of the pyramid.

Among the key acquisition personnel, the service acquisition executive, or SAE, is the Government official in each military department overseeing the acquisition process.

Other key officers would include the program executive officers, PEO, and program managers, or PMs, who, along with the SAEs, comprise the backbone of the military departments' three-tiered program management chain. This corps would also include other key program management officials and senior acquisition personnel from service research and development and acquisition commands, contracting officers and critical service headquarters acquisition management personnel.

Among the key acquisition officials reporting to the SAE, none is more important than the program manager who oversees the management of the weapons system acquisition. The PM needs to make tradeoffs among cost, schedule and performance, as technologies and requirements change.

I want to say here that some may suggest we are setting up a new bureaucratic monster, one that could create new complexities, rather than smoothing things out. There is even some concern that the acquisition community, already insular to a degree, may become more so. But I must stress that we are not proposing an independent acquisition workforce and corps outside the services as the French have done. Our workforce, with its leadership corps, will remain within each military department.

I have spent a lot of time discussing the broad philosophy behind our proposal. Now I would like to focus on three key areas that we will be addressing—experience, education and training, and tenure requirements—along with the appropriate civilian/military mix in personnel, mobility requirements and budget considerations.

EXPERIENCE NEEDS

In our current system, one outstanding problem is that too many people in the senior ranks don't have enough acquisition experience to be effective stewards of the billions and billions of dollars being spent on military equipment. They work at acquisition in one assignment and then are sent off to command a base or lead a battalion or solve some budget problem. Many of them are good, talented people. I have no intention of demeaning or belittling them. But I do intend to demean the system that puts these people in positions for which they are not properly trained and for which they lack sufficient experience. To address that, we would set up a professional acquisition corps and require that all key jobs be filled only by members of that acquisition corps. To become a member, military officers and civilians—we will treat them equally—would have to chalk up substantial experience exclusively in the acquisition area—including that with other agencies or private industry.

TRAINING AND EDUCATION

Another issue deals with training and education. In our report, we found that the training system is very fragmented and diffused. Training and education need to be taken more seriously, and managed coherently.

Inadequate training of program management and procurement personnel has frequently been the cause of costly acquisition deficiencies. Mandatory DOD training requirements for civilian contracting personnel date back to 1962. The military services, however, have traditionally paid minimal attention to these rules. A 1984 DOD Inspector General report found that 67 percent of the required contracting courses had not been completed by required personnel from the 24 activities reviewed. Today, a significant number remain untrained. How many? No one knows because currently the services are incapable of tracking the training records of their personnel.

We intend that the Under Secretary of Defense for Acquisition, through a director of acquisition career management, be responsible for establishing—and carrying out—additional mandatory education and training requirements.

To help get at the training problem, we would establish a defense acquisition university that would be responsible for all acquisition courses required for acquisition personnel. The university would provide centralized direction, operation, control, and accountability of the Defense Department's education and training program for all acquisition personnel.

We are not necessarily talking, however, about a new bricks and mortar university or a football team. We are talking about the guiding force behind a rational training program based on feedback from people in the field. Depending on how it is shaped by the Secretary of Defense, the university could be the intellectual centerpiece of the entire acquisition system—a place where seminars and thought-provoking meetings—intellectual ferment—can help to change the mindset, to bring about a lasting cultural change, throughout the acquisition system.

Education—one key element of professionalism—is of crucial importance in developing a quality acquisition workforce.

Specifically, to recruit civilians into the workforce, our proposal would direct the DOD to establish a program for recruiting college graduates. DOD would provide college education assistance through scholarship programs similar to the ROTC, a graduate degree program similar to that for active duty military personnel and reimbursement for course work of employees who go to school on their own time. Establishing a cooperative education program and an intern program are steps that we believe DOD should consider in its recruitment procedures.

We want professional people. That means we want the bulk of these people to have college degrees. They don't have to have degrees, but ought to. We would provide a standard for entry. That standard would include a college degree with 24 semester credit hours in the applicant's career field.

But what about those late bloomers who didn't go to college. Or the divorced mother of two young children who cannot take the time for those night courses, but who is a proven performer? For them, we would provide a test as a substitute and to demonstrate their capabilities. But I know of many people who are test-shy. They are brilliant performers and the kind of people we want, but tests aren't their bag. Again, we will provide the authority for the career management board to fully waive either of the entry standards—the college degree or 24 credit hour standards.

Recognizing that those with 10 years or more experience in the acquisition field generally have proven their ability to perform in their field, we have totally grandfathered these individuals.

We heard from many individuals in academia on the education provisions, and I appreciate their comments. Again, as I said education has a special place in our proposal but we don't want to just hustle people through paper mills or turn education into ROTC training. Dr. I.B. Holley, a history professor at Duke University had an especially noteworthy comment. Dr. Holley is the author of the magisterial study on Army aircraft procurement in World War II and a retired major general in the Air Force Reserves. He wrote: Educating

acquisition types is a good idea, but I very much fear the education will turn into training. Some of each, of course, will be necessary, but we won't get the broad gauge men and women of vision we need unless the corps stresses true education. This—requires a recruitment and selection process which is able to find and attract individuals with imagination, initiative, and intellectual energy as well as character—meaning of course those who don't need regulations to tell them what a conflict of interest is.

GREATER TENURE

The first point I mentioned was that the people leading the acquisition field need to be more experienced. The second point was that training and education need to be improved. The third point is greater tenure. There's simply too much turnover at the top.

For example, we looked back at the report of the Second Hoover Commission, which reviewed acquisition in the early 1950's. The Hoover Commission said one major problem was the program managers turn over far too rapidly. They weren't kept on the job long enough to do the job right. Too much turmoil at the top meant too much turmoil in programs that cost billions of dollars. Hoover said that in 1955. Fifteen years later, in 1970, David Packard, who was then Deputy Defense Secretary, saw that no one had paid any attention to Hoover. Packard ordered that the standard tour for a program manager be 4 years. But once Packard left office, the 4-year tour became history. Therefore, in 1984, Congress enacted legislation requiring that program managers for major systems be retained at least 4 years or until the program passed a major milestone, such as the shift from development into production. Yet when the investigations subcommittee looked at program manager tenure this past year, we found PM's average only 21 months on the job. Some cases are especially egregious. We found one program whose last three program managers spent, respectively, 14 months, 9 months, and 3 months on the job. Since we passed that law, as I mentioned earlier, only 6 of 94 program managers have served to a major milestone or for a 4-year tour—according to the Department's own figures. That simply isn't good enough. As Norman Augustine, chairman and CEO of Martin-Marietta, has stated, "We need multi-year people in acquisition."

I echo the sentiments of those who feel that continuity in key acquisition positions is essential. Shifting the leadership every 2 years, or less, does not give us the necessary continuity. Almost everyone who has reviewed this proposal agrees that tenure requirements are needed; some have suggested even longer time periods.

We have put teeth into the requirement that program managers serve longer. We would no longer require them to serve 4 years or until a major milestone has been reached. We would require them to serve until a major milestone and at least 3 years. In fact, we require a 3-year minimum assignment period for all critical acquisition positions.

CIVILIAN-MILITARY MIX

The acquisition corps in each service will include both military and civilian personnel. The best candidate will be chosen for open assignments; there should be no bias toward either civilians or the military.

In all stages, clear standards indicating the desired characteristics of corp members in terms of experience, education, and training, will be established and all who meet the criteria should be eligible for the job. In other words, this criteria should be neutral in terms of military and civilian personnel. We want the best people, with the right talents and the right motivation—be they military or civilian—to do the job.

The issue of the roles of military officers and civilian employees and their proper mix or ratio within the Defense work force has been recurrent throughout the history of the Defense Department. The Department established assignment policies in the 1950's which stated that civilians should be placed into positions requiring skills of the civilian economy and military officers should normally occupy such positions—for example, contracting positions—only if there is a legitimate military reason. We found that the services were completely ignoring this policy. Today, looking at the ranks of program managers, we must ask why so few are civilians.

The argument is made that no one should manage an aircraft program who doesn't know how to fly. That misses the point. No one should manage an aircraft program who doesn't know how to manage. That's the key.

As Ronald Fox stated in his April testimony before the Investigations Subcommittee:

> It is obvious that a program manager cannot be assigned as a wing commander without years of carefully programmed flight training and experience. By the same token, a pilot cannot manage effectively a complex industrial program without extensive experience and carefully programmed assignments in the acquisition process and in industrial cost control.

We heard several war stories that described what happens in these cases. One commenter wrote the subcommittee about his friend who is a major in the Army:

> His specialty is armor. His subspecialty is contracting. Just last summer we visited and he commented to me that soon he would be assigned to a procurement office for a tour of duty. He then confided that he knew absolutely nothing about contracting! Yet he will be required to make decisions over individuals (civilians) who have been working in the activity for years.

Still, many officers with whom we have spoken feel very strongly that exposure to the operational environment is essential. I don't dispute that. But, as retired Air Force Gen. Lawrence Skantz suggested, "This could be done adequately by simply placing a military or civilian acquisition work force member for 6 months with an operational unit, say with a Tactical Fighter Wing or Avionics Maintenance Squadron."

The goal is to put better trained, more experienced managers into the top acquisition jobs. The pilots, the seamen, the tank drivers, and the other users are an essential part of any procurement. But their skills should not be confused with that of the manager of the acquisition process.

MOBILITY

The military has long been biased against civilian personnel because civilians are perceived as less receptive to change. Unlike military personnel, civilians tend to remain in one job longer. Furthermore, civil servants are harder to remove if they are not performing effectively, nor do they have the broad, well-rounded experience that the military looks for in its personnel. In this respect, we can counter the bias against civilians by encouraging a policy of mobility for civilians.

To prevent stagnation and bureaucratic entrenchment, we are proposing that civilians in key acquisition positions be reviewed for rotation every 5 years. If the needs of the organization warrant, the individual will be asked to move to a new assignment. This may not actually be a physical geographical move, but merely a reassignment from one division to another in the same location. We recognize that exceptions must be considered, but feel that a general expectation of mobility is essential. While in some cases long-term continuity is reasonable and even desirable, by and large periodic rotation should be considered essential.

I believe this concept is philosophically sound, and is in fact, used often in the private sector. We recognize, however, that this could discourage many capable people from pursuing careers in acquisition simply because the Government pays a fixed salary regardless of whether a person is sent to a high- or low-cost area. We try to address this issue with a variable housing allowance, similar to the VHA provided to military personnel, that will be adjusted in line with housing costs around the country.

BUDGET IMPACT

Those are the changes we are proposing. In the current budget environment, it is fair to ask what all of this will cost. Many aspects will add nothing to our budget tab. For example, we do not propose to establish another layer of bureaucracy on top of the existing layers. What we propose are small, well-run organizations within the office of the Secretary of Defense and the military departments, staffed from existing personnel who currently are all too often engaged in check-mating each other's work. These organizations will have access to the senior acquisition officials within each Department and will use data systems to monitor, evaluate, and report on the effective implementation of the acquisition personnel enhancements we are proposing.

We are requiring that the Department of Defense develop and use data systems to manage the workforce. This only makes sense and is in line with what several Secretaries of Defense have sought to accomplish. Cost should be minimal because each service is currently developing data systems.

There could be significant cost increases in the personnel accounts for variable housing, education assistance, et cetera. This fact is undeniable and must be addressed head on. However, the costs involved must be compared to the benefits that accrue. We could spend tens of millions of dollars on housing, education, moving costs, and the like—but if we improve management only so much as to save one-half of 1 percent of current procurement outlays, we could save $600 million a year—which is conservatively 10 times the most this bill will cost. Acquisition personnel

are really unique in government in that an investment aimed at improving quality offers payoffs of truly immense proportions.

The budget decline expected with the end of the cold war does not mean acquisition is any less important. On the contrary, acquisition reform is even more important as defense budgets tighten and fiscal constraints force the Congress and executive branch to make ever harder spending choices.

In his testimony to the Investigations Subcommittee, Norm Augustine succinctly summed this up: "As we learn how to manage peace, the need for a highly qualified and professional acquisition workforce has never been greater."

CONCLUSION

These are the highlights of the philosophy that is behind our legislation. It would aim to create a very professional acquisition workforce and its leadership corps in each of the military services. We want that acquisition workforce and corps to be respected and seen by everyone—inside the military, within the business community, and among the public at large—as an outstanding group of identifiable professionals who are responsible and able stewards of the public's funds.

The 240,000 persons who are currently part of the acquisition workforce oversee the procurement of more than $120 billion in military goods and services each year. Even accounting for the huge budget cuts we anticipate this decade, we will still be talking about a procurement system that is larger than the GNP of all but a handful of nations.

This demands skills that stem from professionalism, from education and solid training, and from substantial work experience. This is the goal we are pursuing.

This is a proposal of historic proportions that should result in a cultural change in the way the Department of Defense approaches acquisition. No longer would acquisition assignments be made as rewards for performance in unrelated fields, or for officers who want to civilianize their résumés. No longer would key acquisition assignments, such as program managers, be given to amateurs or dilettantes. Only qualified professionals would be allowed to hold key acquisition jobs. They would be appointed by the individuals responsible for acquisition in the Department of Defense and their performance would be evaluated by these same people.

Despite the far-reaching nature of this legislation, what we have proposed should not be startling or esoteric: It is really based on common sense and sound management principles.

Improving the Defense Department's acquisition process is one of our country's most pressing national security problems. By addressing the people issue, we take a big step in that direction.

BONDS FOR NON-VESSEL-OPERATING COMMON CARRIERS

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. JONES of North Carolina. Mr. Speaker, today I introduce a bill to provide for the bonding of non-vessel-operating common carriers, and for other purposes.

The Shipping Act of 1984 ("1984 act") defines a "non-vessel-operating common carrier" [NVOCC] as "* * * a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier." 46 U.S.C. app. § 1702(17). NVOCC's hold themselves out to the public to provide common carriage. They generally consolidate the shipments of small shippers and take advantage of full container rates that are offered by ocean common carriers. NVOCC's assume full responsibility for the shipments that they handle and issue bills of lading to the underlying shippers.

Although NVOCC's act as intermediaries like ocean freight forwarders, unlike forwarders, NVOCC's are not licensed or bonded by the Federal Maritime Commission [FMC] or otherwise subject to any restrictions on entry. However, as common carriers, NVOCC's are subject to the tariff filing requirements of section 8 of the 1984 act, 46 U.S.C. app. § 1707, and to the prohibitions set forth in section 10 of the act, 46 U.S.C. app. § 1709. There are approximately 1,450 NVOCC's operating in the U.S. foreign commerce.

Over the past several years, the FMC has received an increasing number of complaints concerning the activities of NVOCC's. During fiscal year 1989, the FMC's Office of Informal Inquiries and Complaints dealt with 61 informal complaints about NVOCC practices. The complainants included representatives from many segments of the ocean transportation industry—shippers/importers, ocean freight forwarders, ocean common carriers, terminal operators, and ports. Their complaints reflected an increasing pattern of unlawful conduct by NVOCC's that has had significant adverse impacts. These problems are often exacerbated by the fact that many NVOCC's lack tangible assets.

One of the recurring problems is the situation where a shipper prepays freight charges to an NVOCC, but when the consignee attempts to obtain release of the cargo, it discovers it must first pay the ocean carrier because the NVOCC has failed to do so. In other instances, NVOCC's have gone bankrupt and shippers or consignees have had to pay duplicate charges to obtain release of cargo. NVOCC bankruptcies have also affected ocean carriers and inland carriers who are owed money by such NVOCC's. In addition, ocean freight forwarders have indicated that NVOCC's have failed to pay them compensation for their services.

A bonding requirement for NVOCC's should ameliorate most of these problems. A bond, obtained through an acceptable surety company, would be available to pay any judgment for damages arising out of an NVOCC's activities as a common carrier providing ocean transportation services. The bond could also be used to satisfy any order of reparations issued pursuant to section 11 of the 1984 act. Consistent with an NVOCC's status as both a shipper and a carrier under the 1984 act and its relationship with ocean common carriers and underlying shippers, the bill would protect all who are injured by an NVOCC's activities. Shippers who rely upon NVOCC's would be primarily protected, but so also would ocean carriers, and others involved in ocean transportation system.

The bond would also be available to satisfy any penalty assessed against an NVOCC pursuant to section 13 of the 1984 act. All too often the FMC has initiated proceedings against an NVOCC, found that violations of the act have occurred, assessed appropriate penalties, and then had to engage in lengthy, resource intensive efforts to collect those penalties. Permitting the FMC to move against the bond will make its enforcement efforts much more effective and efficient.

The bill sets a minimum amount for an NVOCC bond—that is, $50,000. The FMC can set a higher level after notice and comment rulemaking. It will have the continuing flexibility to adjust the level of the bond as changing circumstances warrant.

In an effort to achieve parity of treatment, the bill will affect all NVOCC's operating in the U.S. foreign commerce. This will include a larger number of NVOCC's who are foreign-based but who are presently subject to existing tariff filing requirements. They will also be required to obtain a bond from a surety found acceptable by the U.S. Department of the Treasury.

The bill does not contain distinct penalties for noncompliance. Inasmuch as the bill provides for an additional section to the 1984 act, the penalties set forth in section 13 of the act, 46 U.S.C. app. § 1712, will apply to any violation of the instant provision or of any regulation issued thereunder. This would result in a penalty of not more than $5,000 for each violation unless it was willfully or knowingly committed, in which case the amount of the penalty would be not greater than $25,000 for each violation. In addition, the bill would amend the 1984 act so that the FMC can suspend or cancel an NVOCC's tariff if it fails to maintain the requisite bond or does not designate a resident agent for service of process. As is the case with an ocean freight forwarder's license under section 19(b) of the 1984 act, the FMC will be able to suspend or cancel an NVOCC's tariff without a formal hearing.

The bill also adds new prohibited acts to section 10 of the 1984 act. Ocean common carriers will be prohibited from accepting any cargo from or transporting cargo for the account of an NVOCC that is not bonded or does not have a valid FMC tariff on file. Similarly, ocean common carriers will be prohibited from entering into service contracts with NVOCC's who are not bonded or are untariffed. This includes not only service contracts in which an NVOCC is the signatory shipper but also contracts in which an NVOCC is listed as an affiliate. As a result, ocean carriers will need to ascertain whether an NVOCC seeking its services is indeed bonded and tar-

iffed. Appropriate procedures could be established by the FMC to facilitate the carriers' ability to meet this requirement. The refusal of vessel space to NVOCC's who are not bonded or fail to file tariffs should serve as a significant incentive to comply with the requirements of the act.

The bill also amends section 13(b)(1) of the 1984 act so that the FMC can suspend an NVOCC's tariff for violation of section 10(a)(1) of the 1984 act. If an NVOCC engages in rebating activity in its capacity as a common carrier, its tariffs can presently be suspended pursuant to section 13(b)(1). The amendment simply accords like treatment to an NVOCC who engages in rebating activity in its capacity as a shipper.

Because a larger number of NVOCC's are located overseas, the bill requires such NVOCC's to designate a resident agent in the United States for service of judicial or administrative process. This will permit the FMC and others to initiate and conduct proceedings, including the service of subpoenas and other legal process, against foreign-based NVOCC's without the obvious difficulties inherent in attempting to effect service of process overseas. This should serve to assist the FMC in its regulation of the NVOCC industry.

COMMENDATION TO FLORIDA INTERNATIONAL UNIVERSITY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased today to recognize Florida International University in Miami, FL, which recently underwent reaffirmation of its accreditation and was proclaimed to have one of the finest self-study documents involved in reaccreditation.

Dr. Modesto (Mitch) Maidique is to be commended for leading the charge toward excellence. FIU continues to strive to become one of the country's truly outstanding public universities. It is accomplishing this by recruiting professors who are at the top of their field, such as Dr. Joyce J. Elam, a James L. Knight eminent scholar, who will be joining the Department of Decision Sciences and Information Systems as the endowed chair in the College of Business Administration in August and the renowned documentary filmmaker, Frederick Wiseman, who has been named the first Edna Gene and Jordan Davidson eminent scholar of the humanities.

Additionally, in April, the new FIU–Health and Rehabilitative Service [HRS] Professional Development Center at North Miami was dedicated and will serve as a training center in the child welfare and juvenile delinquency fields.

Furthermore, FIU's outstanding achievements have been recognized by Florida's best high school students. These students named FIU as 1 of their top 10 choices. In fact, an even greater number of exceptional students will be attracted to FIU as the new interdisciplinary Honors Program is initiated in the fall of 1991.

Due to all these recent achievements, I would like to commend Dr. Maidique and the following Florida International University Board of Trustees officers for their continued progress and commitment to excellence in education: Alvah H. Chapman, Jr., chairman; Albert Morrison, Jr., vice chairman; Patricia Frost, secretary; Graham W. Denton, Jr., treasurer; Maryellen Canfora, assistant secretary; and Ronald G. Arrowsmith, assistant treasurer. Also to be commended are the following board of trustees: Neal O. Amdur, Carlos J. Arboleya, Jose I. Astigarraga, Victor E. Clarke, Robert H. Coords, Patricia L. Crow, Carlos M. de la Cruz, Sr., Graham W. Denton, Jr., Albert E. Dotson, Carlos Fernandez, Patricia Frost, Susan Gilbert, H.C. [Buddy] Henry, Jr., Sherrill W. Hudson, David S. Kenin, Cal Kovens, Morris Levitt, W. James Orovitz, David R. Parker, David L. Perlman, John E. Porta, Alan H. Potamkin, Lewis Schaffel, Theodore Spak, Amancio V. Suarez, R.E. [Bob] Tallon, Parker D. Thomson, Sherwood M. Weiser, Norman R. Weldon, Seth Werner, Herbert A. Wertheim, Richard F. Wolfson, and Juan A. Yanes.

CONGRESSMAN KILDEE HONORS DAVID E. SMITH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the U.S. House of Representatives to join me in paying tribute to an outstanding resident in my congressional district, Mr. David E. Smith.

Mr. Smith was recently named Michigan's Outstanding Disabled Veteran of the Year. He was honored at the Michigan Disabled American Veteran State Conference on June 9, 1990. Mr. Smith has been recognized for his inspirational efforts on behalf of other disabled veterans in Michigan. He is a member of the DAV Genesee Chapter 3 in Burton, MI, and he has been active in the DAC for 14 years.

Mr. Smith is a Vietnam-era veteran who became disabled as a result of severe rheumatoid arthritis while serving with the 1st Armored Division at Fort Hood, TX, in 1965. He continued to work as a sergeant in the communications division and eventually was assigned to build a signal unit utilized in Vietnam. During his work on the signal unit, Mr. Smith's disability became so severe he was issued a medical discharge. Soon afterward, he began his service with the DAV.

It was this same selfless dedication to service that has led to his success in service to others in the DAV. He has endured 14 surgical procedures during his tenure with the DAV, but after each procedure he returned with renewed enthusiasm for serving his fellow veterans. He has proven there are no insurmountable challenges in this life. Throughout painful surgical procedures and recuperation periods, Mr. David E. Smith has maintained his commitment to assisting his fellow veterans. Mr. Smith has served as the DAV chapter's service officer for the past 7 years. He now serves as the chapter's senior vice commander.

Mr. Speaker, it is indeed an honor and a pleasure to pay tribute to a true hero, David E. Smith. He has shown tremendous courage in facing difficult situations and overcoming obstacles in his efforts on behalf of Michigan veterans. I know the entire U.S. House of Representatives joins me today in honoring this fine American, David E. Smith.

IN HONOR OF LETTER CARRIER JAMES KINNEY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. GILMAN. Mr. Speaker, recently a letter carrier from Yonkers, NY, rescued three people from a fire. James Kinney was making his daily postal rounds when he saw flames coming from a New Rochelle apartment building. Despite the obvious danger, he entered the building and saved the lives of an infant and two elderly residents.

Mr. Kinney is truly a hero and a great source of pride for the U.S. Postal Service. He was commended for his bravery by the East River Savings Bank and Congresswoman NITA LOWEY soon after the event, but I do not feel that was enough. It is rare that anyone goes so far beyond the call of duty, putting their life in jeopardy for the sake of others.

Mr. Speaker, in order to share this courageous deed with my colleagues, I request that the full text of the article that appeared in the May 1989 issue of the Westchester Postal Press regarding Mr. Kinney's heroic actions be inserted at this point in the CONGRESSIONAL RECORD. Jim Kinney is an American civil servant we can all be proud of.

[From the Westchester Postal Press, May 1989]

I'm No Hero . . . I Just Did What I Had To Do.

James Kinney, a New Rochelle letter carrier . . . who in the best tradition of the United States Postal Service saved three lives from a burning building on March 11, 1989 . . . while making his daily rounds at 45 Charles Street in New Rochelle.

Kinney, 32, saw raging flames and rushed into a wood frame building to rescue an infant from the second floor and help two elderly residents to safety from the smoke-filled structure before picking up his mailbag and continuing on his way to complete his route.

More than two-dozen firefighters converged on the burning apartment house within minutes after the blaze was reported.

By the time the blaze was declared under control nearly three hours later, only a charred shell remained and at least twenty people occupying six apartments in the 3-story building were left homeless.

The cause of the fire remained undetermined, although New Rochelle's Deputy Chief William Stone said it was thought to be accidental.

Tenants and neighbors said letter carrier James Kinney of Yonkers had to dodge flames when he raced to the smoke-filled second floor of the building to make his daring rescue. Kinney said he was "just doing my regular rounds" when he spotted flames on the third floor of the building. "I was one of the only ones outside to see it flame up," he explained. "I heard glass

shatter, exploding from the heat and the flames that was coming out of the top floor."

Kinney said he hesitated for a second before going in. "I didn't know how dangerous it was or if anyone was inside," he said. "I'm engaged to be married in October, and you never know what may happen to you when you're trying to help others in a bad situation."

But Kinney said he made up his mind to go into the building as soon as a neighbor told him she thought people were inside.

"A lady came up and said her baby was in there. Something told me I had to go in, even though I didn't want to. It was a strange feeling." he explained.

Kinney said he ran to the second floor, informed a family the building was on fire and carried the infant to safety.

On the way out he helped two elderly residents who had trouble descending the stairs. "The floor above was burning and the people I helped outside hadn't really known that there was a fire," Kinney said. "I told them come on, you have to get out now, right now."

Once outside, he said, he looked back and saw that the fire had begun to spread to other floors. But with the tenants all safe, his mind turned to other matters. "I still had about a dozen houses to do, and so I got my mailbag and finished my rounds, so I'd get back to the post office on time," he said. "After work, I went back to ask if everyone had gotten out safely."

"But I'm no hero," he quickly added. "I just did what I had to do."

A tenant who lives on the second floor had only words of praise for Kinney. "That mailman is a real Samaritan. He came and told us there was a fire and helped us out of the building. I can't thank him enough." she exclaimed. "When we got out, the building was in flames. It went up just like an inferno."

Kinney said a man who operates an electrician's business across the street called the Fire Department and helped the letter carrier evacuate two elderly people from the burning side of the second floor.

A third floor tenant said he was in his apartment when Kinney alerted his family to the danger. "My daughter smelled smoke, then it began coming through the walls and the floorboards," he said.

"Our regular postman, Jimmy, he came in and got us and helped us out. We just got downstairs and out as fast as we could," he said.

Another tenant related his close brush with the fire. "As I emerged from the bathroom, I noticed flames racing up the walls of my third-floor apartment. "He said he tried to douse the flames with a bucket of water before he fled with his 4-year-old.

In recognition for his heroism, the East River Savings Bank, a division of the River Bank America, honored Carrier Jim Kinney at the New Rochelle Post Office on March 30, 1989. In presenting a plaque to Postmaster Henry Iarocci, East River's Westchester Regional Manager Kathy Mazzillo said, "Mr. Kinney's exemplary act was in the best tradition of the United States Postal Service. The Bank is pleased to pay tribute on behalf of a grateful community." Mrs. Mazzillo was joined in the ceremony by Joseph Charla, Executive Vice-President of the Bank. Jim was additionally presented with a Passbook Savings Account with a $500 deposit. The plaque commemorating his courage will hang in the rotunda of the New Rochelle Post Office main lobby.

Congresswoman Nita Lowey, D-20th District, Harrison, gave Kinney a Certificate of Appreciation for outstanding community service, saying "It's individuals like you who make our community stronger—ones who have integrity and character and a real commitment to people."

Kinney said that things are back to normal, except that friends and strangers alike often congratulate him. "Comments from people always surprise me, and then I think, wow, I really helped people. It's a little overwhelming and wonderful. Jim has been a letter carrier in New Rochelle since April 1983. He is a involved in the Yonkers Police Athletic League, Golden Gloves boxing competition, and he belongs to the Army Reserve.

PLAYS FOR LIVING

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. GREEN of New York. Mr. Speaker, I rise today to call the attention of my colleagues to "Plays for Living" [PFL], which maintains its national headquarters in New York City. That organization strives to give a voice to compelling social problems by developing plays about acute family and community issues.

Since the group was organized almost 50 years ago, PFL has performed over 70 plays involving such topics as AIDS, teen pregnancy, and illiteracy. Each half-hour drama is written by a professional playwright and tested before target audiences. Each play is also open-ended so that the audience may actively take part in a postperformance discussion. The dramas are used by schools, corporations, correctional facilities, and civic organizations as valuable aids in communication, training, and education.

Plays for Living dates back to World War II. Some of the favorite plays performed since that period include: "Ever Since April," "The Man Nobody Saw," and "How Was The Trip." In 1960, "Ever Since April" was performed before the White House Conference on Aging because of its topic of compulsory retirement. "The Man Nobody Saw" dealt with racial discrimination while in a courtroom setting. In 1978, "How Was The Trip," a play about drug abuse, was performed four times before the U.S. Department of Health, Education, and Welfare in Washington, DC.

Once again, I should like to join my colleagues in recognizing all those individuals involved with "Plays for Living" for 50 years of dedication to the critical issues confronting our Nation.

A MASON MEETS SOLIDARITY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. BROOMFIELD. Mr. Speaker, in the latest copy of the Scottish Rite, fellow Mason Hyde Murray (32°) wrote an article about his meeting with the new Solidarity members and staff of the Polish Parliament. Mr. Murray is now Assistant Director, National Affairs, American Farm Bureau. However, he is well known in Congress since he served the House of Representatives for 30 years, 20 years as counsel and minority staff director of the House Agriculture Committee and 10 years as minority counsel of the House. I am sure my colleagues will find his article of interest.

A MASON MEETS SOLIDARITY

Recently some of the new Solidarity members and staff of the Polish Parliament were in our country to meet with American business, labor and government leaders.

While in Washington, DC, they also attended a special course on Congress designed and presented by Congressional Quarterly (CQ), a private Washington-based think tank that specializes in reporting and teaching about the way our government functions.

This course was designed to help our foreign visitors understand the theoretical as well as the practical aspects of governance in our democratically pluralistic country. As it turned out, I was one of the instructors for this course. When I got a call from (CQ) asking me to conduct a session on "Leadership in the House of Representatives," I was both flattered and awed.

I was flattered to be asked to participate in the making of modern history—of meeting and greeting some of the people who pushed the first domino of freedom in Eastern Europe, thus causing more dominoes of opportunity and enterprise to tumble all the way to that bastion of Marx, Engles, and Lenin, the Soviet Union itself.

I was even more awed, however, by the realization that these people were listening to and learning from Americans like me about how our government and society function so that they could apply some of those lessons back home.

Of course I said I would participate! What a wonderful opportunity to tell about our constitutional system, the best on earth!

I soon found, however, that a nagging set of questions began to arise in my mind.

What should I emphasize about our Congress?

How much time should I spend on the people who framed it?

How much detail would they be able to absorb about the current House leadership and the roles they play in our national legislative drama?

And most of all, what values, ideals and ideas are so vital and durable that they would apply in Warsaw just as well as in Washington?

How would you answer these questions?

As Masons we believe in our constitutional system with its federated strength tempered by those twin insurance policies of freedom: the Bill of Rights and the doctrine of Separation of Power.

As Masons we know that freedom is not a gift from government; it is a gift from God.

And as Masons we know that kindness, respect, gentleness, patience and tolerance are the essential, if unwritten, elements of a democratic society.

About this time, a new set of haunting questions echoed in my heart from thirty years in that pragmatic political arena known as the House of Representatives, where the idealists and the altruists are continuously contested by the cynics and the selfish.

I reflect on our very own Constitution hammered and drawn a bicentennial ago in

Philadelphia, only four years before Poland adopted the first written constitution in Europe.

As great as it was, our Constitution was flawed. As Thomas Jefferson would later observe on the festering issue of slavery, the nation "had a wolf by the ears," and it could neither "hang on nor let go."

Perhaps that could be a lesson to our friends in Poland just awakening from a 200-year constitutional sleep: don't expect perfection at the beginning.

Clearly, Poland's road to democracy won't be easy either. Even through the Solidarity movement swept the recent elections for the senate, the Communists still hold a majority in the Sejm (the lower house) and they control the key ministries of Internal Affairs, National Defense, Foreign and Economic Relations and Transport. In addition, the President is a Communist who holds broad parliamentary powers. And on top of that the current economic problems in that country are truly staggering.

So then you ask, what words of wisdom did I share with our Polish visitors?

First of all, we dissected the concept of political power into its three components—compensatory, condign and conditioned—and how legislative leaders use these forms of powers in the House of Representatives.

Compensatory power is the power of reward combining the power of recognition and the power of financial gain.

Condign power is the power of force. Mao Tse Tung said "all political power comes out of the barrel of a gun," but then what did he know about democracy?

Finally, conditioned power is the power of persuasion, philosophy, religion, and reason.

Of these three forms, one could fairly observe that in the U.S. Congress, the leaders use the latter form the most. They are, after all, peers representing the same numbers of constitutents. Rewards and "armtwisting" are not unknown, of course, but eventually a leader's influence comes down to his or her ability to persuade and convince one's peers.

Another observation I shared with our Polish visitors concerned the three roles legislative leaders must fill.

First, they must represent their states and district. Their home constituency is the source of their power in Washington and "oldtimes there are not forgotten" without great political peril to an incumbent.

Second, they are part-time partisans and leaders of their political parties, and in some cases they even act as national spokesmen.

Finally, they face an institutional obligation to defend the prerogatives of a free and unfettered legislature. That means they are the executors of our constitutional legacy of separation of powers and defenders of the speech or debate privilege lodged solely in the Congress under our Constitution.

As you know, and I hope our Polish visitors saw, all three of these roles are difficult to play, but it is axiomatic that leadership always faces difficulty.

And speaking of leadership, I shared with our visitors these eight characteristics of good leadership which are based on observation made during my three decades on Capitol Hill.

A good leader:

1. Has a goal, a plan, an objective, and serves some cause bigger than himself.

2. Recognizes realistically both has resources and his limits.

3. Has a touch of charisma, mystery and aloofness (but not too much so as to lose the common touch).

4. Has the ability to persuade, to inspire and to motivate others.

5. Has high skill in the arts of politics, both substantive and procedural.

6. Has courage, character, firmness, unselfishness and even a willingness to self-sacrifice if necessary.

7. Has the communication skill of speaking well and listening even better.

8. Finally, he cares about his followers and supporters and always remembers that loyalty flows both up and down.

As I cited these eight characteristics, I couldn't help but think to myself how germane and how hazardous some of them must be to the Solidarity leaders as they edge their country out of the shadow of totalitarian tyranny, how remarkable it is that the human spirit has an unquenchable thirst for freedom, and how fortunate we are indeed to live in a place called the United States of America.

That's how this Mason met Solidarity.

A TRIBUTE TO TEMPLE BETH RAPHAEL'S 25TH ANNIVERSARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to pay tribute to Temple Beth Raphael of Miami Beach, FL, on its 25th anniversary.

Rabbi Ralph Carmi of Temple Beth Raphael will also be observing his 40th year in the Rabbinate in addition to his 40th wedding anniversary with his wonderful Rebetzin, Rosalie Carmi.

On Sunday, December 16, 1990, Temple Beth Raphael will honor Rabbi and Mrs. Carmi as well as their own temple with a testimonial dinner at the Royal Hungarian in the Cadillac Hotel. The temple is also honoring the triple Simcha with a souvenir journal whose proceeds will be used to make improvements on their honored synagogue building as well as finance some religious, educational, and social programs provided by the congregation.

I congratuate and hold deep respect for the Rabbi and Mrs. Carmi, as well as Temple Beth Raphael and its congregation who are being honored. May they have continued success.

A TRIBUTE TO JOSEPHINE SALGADO

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. DYMALLY. Mr. Speaker, I would like to extend a warm birthday wish to a very special lady, Ms. Josephine Salgado. She will turn 80 this month.

Josephine Salgado was born in La Puente, CA on June 22, 1910. She attended and graduated from Puente Union High School. She is the widow of Frank Salgado, who died in December 1974.

Josephine and Frank were active in the Los Angeles County Foster Care Program for over 20 years. They graciously provided a home to more than a dozen foster children; who, incidentally, still refer to her as "Mom" and their children call her "Grandma." For the past 15 years she has been an active member of the United Friends Senior Citizens Club at Salazar Park in Los Angeles.

Josephine's hobbies include reading, traveling, and watching the soaps on channel 7.

Josephine and Frank also raised two daughters, Helen Salgado and Diane Sandoval, as well as two nieces, Mary Louise Saldana and Amanda Ruiz. Josephine has one granddaughter, Michele Sandoval, who is currently attending Loyola Marymount University.

ROBERT SPICER'S ART

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. SUNDQUIST. Mr. Speaker, I want to call the attention of this House to a gentleman from my district whose contribution to traditional folk dancing has won him national recognition.

Robert Spicer of Dickson, TN, was recently named 1 of 13 recipients of a National Heritage Fellowship. These fellowships honor master practitioners of America's traditional arts. Mr. Spicer, who is 69 years young, is a prize-winning buck dancer and dance caller, who has taught literally thousands of Tennesseans these traditional dances.

Buck-and-wing dancing, as this art is properly known, is a solo tap dance with sharp foot accents, springs, leg flings and heel clips. I'm told it was adapted from a blend of Irish and black clog dancing. Mr. Spicer has been at it since 1928.

I want to congratulate Mr. Spicer on this very significant honor, and I took forward to welcoming him when he comes to Washington in the fall to receive his fellowship.

AN ARTISTIC DISCOVERY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. CARR. Mr. Speaker, today we honor the winners of "An Artistic Discovery," our ninth annual high school art competition. These student artists epitomize the excellence which we are striving to achieve in the arts and in education in America.

We are celebrating the incredible talent and potential that young artists from all across America possess. In these artworks, we can not only appreciate the tremendous talent which young artists have but gain a special insight into our young people's thoughts and visions.

During a time when funding for the National Endowment for the Arts has fallen under close scrutiny, here today we can actually see the positive effects of support for the arts. Congress can be proud of this bipartisan effort to foster opportunities for arts and education. Throughout the country, elementary and secondary school students are learning to

appreciate the arts and to use them as a tool for analyzing the past and preparing for the future.

There are a number of people who have worked hard to make "An Artistic Discovery" such a success. This has been a bipartisan effort by many Members of Congress and staff. Together we recognize the importance and value of encouraging young artists. We are honored to have with us today Martha Plimpton and Christian Slater, two of our most popular young film stars, who exemplify that artistic success can come at a young age with hard work and dedication. To George White, Architect of the Capitol, we extend our thanks to his staff in facilitating this professional exhibit. Also, we would like to recognize General Motors for providing both resources and encouragement.

Finally, and most importantly we wish to thank the students, teachers, and parents who helped make "An Artistic Discovery" a truly great celebration of the creative spirit of today's young people.

ADDED COSPONSORS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. FALEOMAVAEGA. Mr. Speaker, yesterday, House Joint Resolution 577, which designated November, 1990, as National American Indian Heritage Month, passed the House of Representatives. I was the sponsor of the resolution.

Congresswoman JILL LONG, and Congressmen ROBERT WISE, DAVID BONIOR, and FLOYD SPENCE wished to be cosponsors of the resolution, but were inadvertently omitted from the list of cosponsors. This was an error on my part and I wish the CONGRESSIONAL RECORD to reflect their desires to be included as cosponsors.

THE 90TH ANNIVERSARY OF MOSAIC LAW CONGREGATION

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MATSUI. Mr. Speaker, it gives me great pleasure to congratulate the Mosaic Law Congregation on its 90th anniversary celebration. For 90 years, this distinguished organization has served the Sacramento Jewish community and it continues to make significant contributions to important Jewish causes as well as to the entire Sacramento community.

Now under the leadership of president Steven Mopsick and Rabbi Lionel Moses, the Mosaic Law Congregation has entered into this new decade prepared for growth and further achievements. The synagogue has established a fine youth program. Young members of the synagogue have brought credit to the congregation through their receipt of coveted regional and national united synagogue youth awards and through their development and expansion of the youth chorale. Additionally, many of the adult members of the synagogue have become prominent leaders of the community and national organizations such as AIPAC, United Jewish Appeal [UJA], Hadassah, Organization for Rehabilitation and Training [ORT], Anti-Defamation League [ADL], and Bnai Brith, to name a few.

With an enormous agenda in front of them, the Mosaic Law Congregation plans to further develop their adult and children educational programs, reshelve their library with books, renew their commitment to their youth program; and focus on the expansion of membership, while they continue to serve and meet the needs of present members. It also should be noted that Mosaic Law began in 1900 with only seven families. Since then, it has expanded into the ninety's with a membership of 500 families.

I salute the members of the Mosaic Law Congregation as they forge ahead into the 21st century, committed to the enhancement of their founders' commitment to improving traditional Jewish life and contributing to the betterment of the entire community. I commend all of you on your efforts and accomplishments and I offer my best wishes for the organization's continued success.

ARUNDEL ON THE BAY

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to the community of Arundel on the Bay. Arundel on the Bay is celebrating its 100th birthday this week; celebrating the longevity of a town that displays the type of civic pride and individual involvement that provides the base for this country.

Located on a peninsula jutting into the Chesapeake Bay, the citizens of the town formed the Property Owners Association of Arundel on the Bay, Inc. to expand their influence over the issues that most strongly affect such small communities. This expression of concern has resulted in the maintenance of the coastline, to prevent erosion, and the establishment of special services that have acted to knit this community together.

Arundel on the Bay is a model community; proving that civic virtue is thriving in the towns of Maryland. These 300 property owners and their families, and 100 years of history, deserve the well-wishes of all of us. I congratulate Arundel on the Bay on its 100th birthday celebration.

SHORTFALLS IN MEDICARE AND MEDICAID

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. ATKINS. Mr. Speaker, I rise today to make the House aware of the acute financial crisis that the hospitals of Massachusetts are presently faced with, a situation that is due in part to payment shortfalls in Medicare and Medicaid.

Today, the Massachusetts health care system is in grave jeopardy. A number of new patient care challenges, including a marked increase in patients with AIDS, a growing elderly population, and the increasing number of uninsured patients all play a role. The fiscal health of the hospitals in Massachusetts is tremendously worsened, however, by the growing payment shortfalls in Medicare and Medicaid. The lack of sufficient funding must be rectified.

The growing payment shortfalls in Medicare and Medicaid have limited the financial capacity of many hospitals to meet the needs of their patients. Since 1983, the cost of goods and services purchased by hospitals has risen twice as fast as Medicare hospital rates of payment. Over the last 3 years, Medicare prospective rates have increased by under 4 percent while the costs of providing essential medical care have increased at over three times this rate. In Massachusetts, hospitals will be paid roughly 10 percent below their costs for treating Medicare patients in fiscal year 1990. In addition, the Medicaid Program has arbitrarily frozen or delayed millions of dollars for services Massachusetts hospitals have already provided, thereby creating severe cash shortfalls. Consequentially, over 60 percent of the acute care hospitals in Massachusetts operated at a loss in 1989.

When one begins to "crunch" numbers and analyze figures, it is all too easy to forget exactly what the issue is ultimately about. The issue of payment shortfalls of Medicare and Medicaid, as complex as it may appear on a ledger sheet, is ultimately about people. From the newly born, to the aged and infirm, it is my heartfelt belief that every American ought to have the right and the opportunity to receive sufficient and adequate medical attention. If present levels of funding are not adequately increased, we will face disaster in our health care system, both in Massachusetts, and across the Nation.

As can be seen, any financial situation which adversely affects these hospitals would also have an adverse affect upon the entire State. Destroying our economic infrastructure and our capacity to provide adequate medical care will only increase the amount that has to be paid in the future. It is time that we stop deferring necessary expenditures. Now is the time to increase funding of Medicare and Medicaid.

THE MEDICARE HOME DIALYSIS STAFF ASSISTANCE COVERAGE ACT OF 1990

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MOODY. Mr. Speaker, I am introducing today legislation to provide Medicare coverage for a staff assistant for certain individuals who suffer from end stage renal disease [ESRD] and are dialyzed at home. Five other members of the Ways and Means Subcommittee on Health—Representatives CHANDLER,

PICKLE, LEVIN, CARDIN, and JOHNSON—have joined me as original cosponsors of my bill, "The Medicare Home Dialysis Staff Assistance Coverage Act of 1990."

Faced with massive overpayment for staff-assisted home dialysis, Congress last year capped the ESRD method II payment rate at the method I rate. Although I supported that action, one unintended side effect was that the economic incentives to provide staff assistants for home dialyzers were essentially eliminated. As a result, we have now discovered that no home dialysis provider is willing to offer staff assistance.

Most home dialyzers who need assistance have been successfully placed with renal dialysis facilities. Unfortunately, problems remain for a small number of patients, most of whom are too frail for the rigors of being transported to and from a facility.

My bill would provide a fixed payment, regionally adjusted, for staff assistants for home dialyzers. The bill does not repeal last year's OBRA 1989 provision capping method II payments, but would instead provide a staff assistant to a medically needy group of ESRD patients for whom transportation to and from a dialysis facility is a real medical hardship.

The bill would authorize payment for staff assistance to ESRD home dialysis patients who are certified by a physician or nephrologist as being confined to a bed or wheelchair, unable to transfer without assistance, and without access to transportation services, or who are suffering from a serious medical condition—as specified by the Secretary of Health and Human Services—which would be exacerbated by travel to and from a dialysis facility.

In addition to these two new "medical hardship" eligibility criteria, the bill would also give ESRD patients who are now ambulance transported the option of switching to staff-assisted home dialysis if the change would cost no more than the cost of the ambulance transportation. This option is good health policy. It may also prove to be highly cost-effective, since ambulance transportation can be extremely expensive and a staff-assisted benefit may thus provide better care to the patient at lower cost.

My bill also requires annual Peer Review to ensure that patients initially certified as meeting the eligibility criteria remain eligible. I stress that PRO's would not be reviewing the entire ESRD program. Instead, they would simply be directed to ensure that patients remained eligible for the staff-assisted benefit.

Finally, the bill directs the General Accounting Office to review the costs and effectiveness of the new coverage, and to provide a report, together with recommendations, by July 1, 1992.

Mr. Speaker, this bill offers a carefully crafted compromise between cost and effectiveness. Its adoption would restore, on a very limited basis, a useful Medicare benefit to frail patients who should not be required to withstand the rigors of regular transportation to a dialysis facility when such transportation may put their health at risk. I urge my colleagues to support the bill.

A brief analysis of the Medicare Home Dialysis Staff Assistance Coverage Act of 1990 follows:

SUMMARY OF THE MEDICARE HOME DIALYSIS STAFF ASSISTANCE COVERAGE ACT OF 1990

I. Eligibility: Patients must fall into one of two categories:

(1). "Medical Hardship": Patients would have to be certified by their attending physician or nephrologist as being either:

A. confined to bed or wheelchair, unable to transfer without assistance, and without access to transportation services to and from a dialysis facility, or

B. suffering from a serious medical condition (specified by Secretary of HHS) which would be exacerbated by travel to and from a dialysis facility.

(2). "Ambulance Transported": Patients who are receiving ambulance service to transport them to and from a dialysis facility may opt for the staff assisted benefit if it would not cost more than the ambulance service.

There is no "coercion" with this criterion. In other words, the Secretary could not require a switch from ambulance service to staff-assisted benefit for cost-savings, but the beneficiary could not make the switch if the staff assisted benefit costs more than the ambulance service (an unlikely event).

II. Reimbursement: Reimbursement for staff assisted services is provided at a fixed rate:

$50 per treatment for non-RN, regionally adjusted.

$80 per treatment by RN, regionally adjusted.

The rate is based on the national average salary for non-RNs or RNs times the actual time required to deliver the service.

Home dialysis aides would qualify under standards developed by the Secretary, or if they meet standards established by the dialysis facility employing the aide.

III. Pro review: The bill requires annual PRO review to ensure that certified patients remain eligible for the benefit.

IV. GAO report: The bill requires a GAO study and recommendations on the cost and effectiveness of the staff assisted benefit by July 1, 1992.

V: Supporters: The American Association of Kidney Patients (AAKP) and the National Renal Administrators Association (NRAA) are the prime supporters.

INTERNATIONAL RECOGNITION EXTENDED TO MICHEL HALBOUTY

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MILLER of Ohio. Mr. Speaker, as Vice Chairman of the Technology Assessment Board of the Office of Technology Assessment, I would like to take this opportunity to bring to your attention an outstanding honor which was recently bestowed on Mr. Michel Halbouty, a member of the Office of Technology Assessment Advisory Council. This Advisory Council, appointed by the Board of OTA, is made up of 10 public members eminent in science, technology, and education. These members advise the Board on OTA Assessments and provide us with invaluable expertise.

Mr. Halbouty was recently awarded an honorary degree of doctor of geoscience from the U.S.S.R. Academy, the chief coordinating body for scientific research in the Soviet Union. This award is especially notable as Mr. Halbouty is the first foreigner to receive this high honor and recognition from the Academy.

Receipt of this distinguished honor once again reaffirms the universal contributions and achievements which Mr. Halbouty has made to the science of geology and I think the Congress of the United States is extremely fortunate to have an individual of his high standing and caliber associated with its OTA advisory panel.

TRIBUTE TO EUGENE HARNED

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to Mr. Eugene Harned for his 50 years of dedicated service to company No. 2 of the Mineola, Long Island Fire Department.

Mr. Harned joined the Mineola Fire Department on April 9, 1940. During his career as a firefighter, Mr. Harned served as an executive secretary to the department, a warden from company No. 2, and a president of the Department Exempts and Benevolent Association.

Mr. Speaker, the volunteer fire department is one of the great institutions in America today. Thousands of our citizens freely give their time, effort and, sometimes their lives in order to protect our communities.

For the past 50 years, Eugene Harned has proudly upheld this tradition. On countless occasions, Mr. Harned answered the call for help in his community without regard to the time of day, or to the possible danger to himself. He has served his community with pride and distinction.

Mr. Speaker, I take great pride in the many volunteer fire departments throughout the Third Congressional District of Long Island. Those who serve these departments prove that the values of community pride and volunteerism are still alive and well in America today.

On September 29, 1990, the Mineola Fire Department and the entire community will honor Mr. Harned at a dinner to be held at the Knights of Columbus Hall in Oyster Bay. I am honored to add to this tribute and wish Mr. Harned well in all of his future endeavors.

REPORT TO THE PRESIDENT ON GATT, POLAND, AND CZECHOSLOVAKIA

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. ROSTENKOWSKI. Mr. Speaker, earlier this year I was privileged to have been asked by the President of the United States to be his Special Representative to the 1990 Poznan International Trade Fair in Poland. I was particularly pleased to accept for many reasons, including the fact that this would be the fifth

consecutive President for whom I have performed this mission.

I have now returned from this most interesting and productive trip, and have submitted a report to the President on my meeting and other activities as his Special Representative. The report covers meetings and events regarding: (1) the Uruguay round of multilateral trade talks taking place at the GATT in Geneva, Switzerland; (2) the political, economic, and foreign trade situation in Poland; and (3) the same, but to a lesser extent, in Czechoslovakia.

Knowing as I do of the pronounced interest of many Members in the subjects covered in the report, I ask that it be printed at this point in the CONGRESSIONAL RECORD in its entirety. I stand ready to elaborate on any point in the report which is of special interest to any Member. Thank you. The text of the report follows:

REPORT TO THE PRESIDENT BY HON. DAN ROSTENKOWSKI, SPECIAL REPRESENTATIVE OF THE PRESIDENT OF THE UNITED STATES TO THE 1990 POZNAN INTERNATIONAL TRADE FAIR

DEAR MR. PRESIDENT: Earlier this year, you appointed me to serve as your Special Representative to the 1990 Poznan International Trade Fair in Poland.

Pursuant to my appointment, I formed an official delegation and traveled to Poland from June 9 through June 12, 1990. There, I participated in the official opening of the U.S.A. Pavilion at the Poznan Fair, hosted the traditional "American Day" reception, and held meetings in a number of locations around Poland on the subjects of U.S.-Poland trade, Polish economic reform, and U.S. aid to Poland.

In addition, I took the occasion of this trip to call on U.S. and foreign officials involved in the Uruguay Round of negotiations on the General Agreement on Tariff and Trade (GATT) in Geneva, Switzerland on June 8; and to meet with officials and entrepreneurs in Czechoslovakia on June 13, regarding America aid and American investment there.

This report contains summaries of discussions I held and activities I undertook as your Special Representative. In many events described herein I was accompanied by members of my delegation and by U.S. Embassy personnel assigned to that particular country. Both groups were of great assistance, to me and to those with whom I met, in reaching a full understanding of the issues being discussed.

GENEVA, SWITZERLAND

GATT discussions

On June 8, the delegation called on United States Ambassador Rufus Yerxa, Deputy U.S. Trade Representative on permanent assignment to the GATT, for a review of the status of the "Uruguay Round" of multilateral trade negotiations currently underway. As you know, the Committee on Ways and Means will play a prominent role in Congressional deliberations over the legislation necessary to implement any agreements reached in the negotiations.

After receiving Ambassador Yerxa's assessment of the situation, I met for two hours in round-table discussions with GATT Director-General Arthur Dunkel, GATT Deputy Director-General Charles Carlisle, and the permanent representatives to GATT from Canada, Brazil, Australia, the Philippines, Japan the European Community, and Poland.

The discussion was frank, especially with regard to the recitation by each country's representative of its most prominent concerns. Each Ambassador listed those open issues most important to his or her own government. There were no real surprises among the listings but the exercise did demonstrate that there remains a large number of varied issues still open to negotiation in the Round.

Beyond the individual country concerns, a clear consensus does exist on the larger question of the need for the negotiations to conclude with a "big" agreement reached on a timely basis. It was agreed that a "big" agreement cannot be reached without a solution on agriculture, considered by all to be the most difficult of the issues still open in the negotiations.

Several participants, especially Ambassador Hidetoshi Ukawa of Japan and Ambassador Paul Tron from the European Community, queried whether the support for GATT in the United States was deep enough and "visionary" enough to take those actions necessary to support a "big" agreement, such as possibly giving up the "American exemption" on agriculture and drawing back on "Section 301."

In his summary remarks, GATT Director-General Dunkel said that the next few weeks represent the "moment of truth" on whether the Round will result in a timely agreement, since members must be presented with legally binding, clear, credible, and precise agreement documents by the end of the Round scheduled for December of this year. These documents will obviously take a great deal of time to prepare properly.

Director-General Dunkel expressed the view that expansion of GATT into the many new areas under discussion cannot proceed without equal or better progress in the "old" areas—with special mention of agriculture as the linchpin example.

Finally, Mr. Dunkel indicated that he sees to possibility that the December deadline can be extended—if the pressure of the coming deadline fails to yield the necessary result, more time will not help. Moreover, speculation on whether there might be more time can only hurt the prospects for an agreement by the end of this year.

In response, I reviewed the prerequisites of the "fast track" legislative process under which the implementing legislation would be taken up by the Congress, if such legislation is timely proposed by the Administration.

I assured the participants that the Administration and the Congress are preparing, and will be prepared, to take up the hard questions raised by a "big" agreement. I acknowledged that the current mood of the Congress, perhaps held over from the trade debates of the past few years, is not running in the "visionary" direction mentioned in the opening comments. I further acknowledged the difficulty of bringing protectionist elements of the Congress to a new way of thinking on world trade. I added, though, that there is strong support in the Administration and the Congress for bringing much more of the world's trade into a uniform system of laws and enforcement and that I was looking forward to the opportunity to convince my colleagues of the promise represented by a "big" Uruguay Round agreement.

Noting that the United States can be expected to act in its own best interest, I went on to say that any agreemeunt would be very carefully weighed in the United States. I added that a balanced and promising agreement, encompassing necessary sacrifices and desired gains for all countries, would be in the best interests of any country which aspires to be a trading partner with every other country in the world.

In a lively period of questions and answers, these positions were explored and elaborated on, along with further discussions on other matters, including the importance of a broad, long-range agreement on trade to the emerging market economies of Eastern Europe.

I concluded from these talks that it is very important for Washington to be giving all possible assurances to our trading partners:

(1) that we recognize the importance of the Uruguay Round and its potentially dramatic and long-term positive effects on all countries of the world, including the United States;

(2) that the standard of success of these four years of talks will be the arrival at a "big" agreement, to include agriculture as well as meaningful agreements in the new areas of services, intellectual property, and investment;

(3) that we are prepared to debate the hard questions which will arise in connection to the sacrifices required by such an agreement, with a sharp eye toward whether those sacrifices are adequately off-set by gains in other sectors; and

(4) that we insist on a timely conclusion of the talks, lest we lose the advantages of considering the implementing legislation under the "fast-track" process contemplated in the Trade Reform Act of 1988.

THE REPUBLIC OF POLAND

Children's Hospital in Krakow, Poland

As I have done on two previous occasions, I visited the Institute of Pediatrics, known more commonly as the "American Children's Hospital," in Krakow, Poland.

There, I met with Professor Jan Grochowski, M.D., the Director of the Institute, Mr. John Walsh of Project Hope, which helps to manage the hospital, and other Institute officials. The delegation toured the hospital generally, including special attention to the recently-opened premature birth unit, the new rehabilitative wing, the oncology center, and the kidney dialysis unit.

We also toured the construction site of the Clement J. Zablocki Memorial Outpatient Facility, being built with U.S.-owned local currencies generated by the sale of U.S. food-aid commodities donated to Poland years ago. Expenditures for the Zablocki Wing are authorized by Public Law 98-266, and it is expected to be completed in 1991.

Finally, I inspected the potential site of a new hospital building intended to house permanent and visiting medical staff. One of Poland's greatest problems is a housing shortage, and the Krakow area around the Institute is no exception. This makes it difficult for the Institute to fulfill its mission of training Poland's pediatric doctors and surgeons in the latest techniques and practices. It is hoped that a housing wing for resident and visiting doctors will make it possible to reach many more Polish practitioners.

The Cracow (Krakow) Industrial Society

After touring the Children's Hospital, I met with three representatives of the Cracow Industrial Society: Lech Jeziorny, Vice-President, Leslaw Kuzaj, Member of the Board, Thomasz Gizbert-Studnicki,

Member of the Board, at the residence of American Consul General Michael Barry. We were joined by our Ambassador to Poland, John Davis, and other embassy personnel.

The Cracow Industrial Society brings together private entrepreneurs, professionals, and scholars who advocate a free market economy based on the principles of private ownership and competition. Its objectives are to foster private business initiatives, to dismantle bureaucratic barriers to free market progress, and to promote the ethic of the honest and uncorrupted entrepreneur.

The members of the Society believe that good progress is being made in attracting American investors to Poland, as evidenced by the large number of projects being studied in the Krakow area alone. Due to the environmental degradation suffered by that region, most projects known to the Society are designed to be environmentally sound, which adds to the cost, of course. Financing continues to be the primary obstacle, but the members were confident that it will eventually become more available.

We discussed the outcome of the recent local elections. The members of the Society seemed satisfied that, at least in the Krakow area, good and responsible people had won, but now needed time to learn how to govern. They believe that, in the long run, the change in local government leaders promises a better environment for the promotion of private enterprise.

The discussion did not yield a clear picture on how the regulation of businesses would be divided between the central government in Warsaw and the local governments. The members agreed that the following system might work best: no government approval of enterprise formation required, just registration at local level; central regulation of such things as occupational safety, wage laws, tax programs, etc., i.e. more or less our federal model.

We also discussed the role of lawyers in Polish society. It was noted that a much smaller number of lawyers hold elective or appointive office in Poland than is the case in the United States. Nevertheless, as the rule of law and private legal actions becomes more prominent in Poland, we can expect a rise in the importance of business lawyers, at least.

The members of the Society brought us up-to-date on some of their other activities, including conducting a "summer school of business" with the Polish Institute of Science and Culture (they already have a waiting list), creating an organization for the promotion of small business in particular, and the establishment of a bank, including a school for banking skills, with some of the instruction to come on-the-job in the United States.

They were quite happy to learn that the Administration and certain Members of Congress, myself included, are devising new programs and new opportunities to encourage Americans with technical skills to donate significant periods of time to come to Poland (and other emerging democracies) to help restructure the old system into something efficient and productive. I spoke specifically of your intention to organize a "Citizens Democracy Corps" of volunteers, and my proposal to create tax incentives to encourage voluntarism and the provision of technical training. I observed that I was working closely with the Administration to try to meld the two ideas and to enact them before the end of the year.

In closing, the members of the Society expressed their thanks to you and to the Congress for the various aid programs put into place by the U.S. to help Poland help itself. They petitioned for continued support for programs which help to create conditions for the growth of private enterprise in Poland.

Meeting with Minister of Health and local elected officials

Over dinner in Krakow, I conducted an extensive and wide-ranging discussion with Mr. Andrzej Kosiniak, Polish Minister of Health, and with Mr. Mieczyslaw Gil, Ms. Jozefa Hennelowa, Mr. Jan Rokita, and Mr. Jerzy Zdrada, Deputies in the Sejm (lower house of the Polish Parliament) elected in 1989 with backing from Solidarity. Also present were Polish and American doctors and American businessmen associated with the American Children's Hospital and Project Hope, as well as Ambassador Davis and Consul General Barry.

Among many other topics, we covered the need to restructure Poland's health care delivery system and the process by which that can be done, the further funding of the American Children's Hospital by both the Polish and the American governments, and the difficulties of conducting a democratic, pluralistic, representative form of government in general.

In regard to the latter, I went to some lengths to supply the elected members of the parliament with examples of how their inclination to enact broad programs in the interest of the entire country might conflict with the immediate and short-term interests of their constituencies. My frank advice to them was "Legislate from the heart; but use your head."

The 1990 Poznan International Trade Fair

After one day in Krakow, I traveled to Poznan for the purpose of officially opening the U.S.A. Exhibition. I can report to you that America is firmly back to full strength as a major attraction at this important East-West trade forum.

The U.S.A. presented a sharp-looking and packed pavilion of exhibit booths. We clearly had "sold" every foot of available space—so much so that the offices of our organizing officials had to be installed on a new second-floor platform.

Most of the booths presented useful information, and some of them were quite imaginative. A very few served merely as meeting places for those who had rented the space. I suppose this is a legitimate use of space, but when there is a waiting list, maybe some additional thought should be given to whether we are using limited space to the maximum impact.

Although I did not have the opportunity to visit other pavilions at the Fair, I did hear that the West German exhibit has a particularly effective "down-to-business" look, as opposed to the usual "show-and-tell" exhibits. I have asked the gentleman who brought that to my attention to elaborate on the point in a letter to the Foreign and Commercial Service.

Soon after the ribbon to the U.S.A. exhibition was cut, I greeted the official Polish touring party, headed by Prime Minister Tadeusz Mazowiecki. The Prime Minister took a careful and thoughtful tour of our exhibits, spending an especially long time at the Curtis International booth, which promoted the construction of pre-fabricated housing units—one of Poland's most pronounced needs at present.

Meeting with Prime Minister Tadeusz Mazowiecki

Prime Minister Mazowiecki interrupted his official tour of the Fair pavilions in order to hold a short meeting with me and Ambassador Davis in the "business center" portion of the pavilion.

Primary among the Prime Minister's concern was Poland's foreign debt situation, and his hope that the United States will take the lead among official creditors (in the "Paris Club") and commercial creditors (in the "London Club") in reducing or eliminating the debt his government inherited from the prior regime.

I reported to the Prime Minister that there was considerable support in Washington for a debt reduction program for Poland and informed him that a number of Members of Congress had just written to you suggesting that the subject be put on the agenda for the economic meetings coming up in Houston. He was pleased to hear this and hopes that you will find a way to act favorably on the request.

The Prime Minister also noted the sense of loss that he and all of Poland will feel upon the departure of Ambassador John Davis, who has come to be known as a trusted adviser to the new government.

In answer to a question from Ambassador Davis, the Prime Minister said that the political situation in Poland had stabilized into a basic framework. He said that, sometimes, the Western world looks on the Polish situation with too much nervousness—thinking that one strike, such as the recent rail strike, puts everything in danger. He and I agreed that the press is capable of overstating the situation and that we hope historians will consult other than just contemporaneous reports as source material. I also told him, though, that the mere perception of political instability would serve as a further deterrent to cautious investors and lenders.

That lead to a quick review of the situation in regard to American investment in Poland. It was Mr. Mazowiecki's observation that American entrepreneurs and investors are, perhaps, suffering from an excess of caution. "They come here, make wise statements, study the situation, talk to all our people—and then go back to America to think. I want them to start signing," he added. I told him that I could not agree more.

Meeting with Trade Minister Wojcik

Later on the opening day of the Fair, I met with Mr. Andrzej Wojcik, Deputy Minister of Foreign Trade Relations, in the Trade Fair Headquarters building. Ambassador Davis and Commercial Attache Edgar Fulton joined us.

Minister Wojcik, whom I have met on numerous occasions in the past, indicated that his Ministry intends to identify a few prominent projects which are close to fruition and "put them over the top" as a demonstration that good deals can be made with and in Poland. He hopes that a number of these can be brought to full maturity in the next two to three months.

Industry sectors offering the most promising candidates for this streamlined treatment seems to be telecommunications and the manufacturing of computer industry goods.

Minister Wojcik next argued for liberalization of export controls, urging a full realization of the promise contained in the recent talks in Paris. He said that the Polish government is prepared to give all necessary assurances that heretofore restricted goods

would not be used in a way inconsistent with the interests of the United States. He said that certain legislation was being prepared in the Polish parliament fully to take advantage of new opportunities and that Poland's ultimate objective is to have itself eventually removed from the list of proscribed destinations.

Turning to the recently signed treaty between the U.S. and Poland, Minister Wojcik urged me to convey Poland's hope that the treaty will soon be ratified by the Senate. He predicted that one possible "stormy" area will be the provisions on the protection of intellectual property rights.

He further noted the dire need to establish private banks in Poland. He said that American banks seemed to be interested in debt-for-equity arrangements, but that Poland is not.

(When pressed for reasons later, the Minister stated that the opposition to debt-for-equity stemmed from the fact that such arrangements are inconsistent with pure debt forgiveness or reduction. Since debt reduction is the primary economic objective of the Polish government at the moment, talk of other approaches is not being entertained.)

We then explored the ramifications of these points, including a detailed review of one of the hoped-for "demonstration projects." This project is more in the nature of a sale than an investment. A California semi-conductor chip maker is upgrading its operations to make the next generation of chip. The transaction under discussion is to sell the old chip-making facility intact to a Polish state-owned enterprise, complete with installation and technical training in its operation. Included in the deal is a contract to purchase a significant portion of the Polish output, once the old plant is back up and running. Financing has yet to be finalized, but parties on both sides of the transaction are pushing hard to get it finalized sooner rather than later. It is anticipated that the Polish enterprise will eventually be privatized, with as much as 20% of the ownership ending up in the hands of the workers, made possible by a discounted price on the enterprise's stock, once offered.

Minister Wojcik stated that he is "rather optimistic" about prospects for American investment and business in Poland. He says it is important to be able to tell entrepreneurs that financing is available in the U.S. He also said that having mid-term (3-5 years) guarantees available from the Export-Import Bank (a recent development) will help to instill a little more confidence—even though he doubts that the guarantees will need to be extensively invoked.

As to the Polish-American Enterprise Fund, Minister Wojcik said that, although the Fund has not had an opportunity to really help yet, it is good to know that the long waiting period for its establishment is over.

As a last matter, the Minister brought up debt reduction, Poland's primary economic objective. He stated that they have come a long way in convincing Polish businesses to "think export," but fears that enthusiasm will be lost if all hard currency earnings are seen to be siphoned off for external debt service. (I should add that, on the way to the fairgrounds from the Poznan airport, I saw a large billboard reading "Export—It's OK.")

"America Day" reception at Poznan Trade Fair

The popularity of the American presence at the Poznan Fair was again confirmed on the second day of the Fair (June 11) when, along with Ambassador Davis and Commercial Attache Edgar Fulton, I hosted the "American Day" Reception at the venerable Poznan Opera House.

Despite the fact that the reception was held in a location somewhat removed from the fairgrounds, a large assemblage of exhibitors, American entrepreneurs, Polish officials, fairgoers, and other interested parties attended. I took the occasion to note the dramatic growth in interest in doing business with and in Poland, and urged them to follow the old saying:

Go not where the path leads;
Go instead where there is no path;
And leave a trail.

Later during the reception, I had the privilege of announcing that a group of Americans had founded an American Chamber of Commerce in Poland and had applied to the Chamber of Commerce of the United States for formal recognition. Many of the founding members have been active in the Polish-American Economic Council for years, and were present for the announcement. The Economic Council is organized under the auspices of the Chamber, but this latest step constitutes a significant increase in commitment and interest. These businessmen deserve our thanks for their efforts.

Meeting with Polish Ambassador-Designate to the United States, Kazimierz Dziewanowski and other new diplomats

While in Warsaw, after my Poznan appearances, I was pleased to accept an invitation by Ambassador Davis to participate in a farewell, or send-off, dinner in honor of several Polish diplomats departing for their foreign posts. Among them was Kazimierz Dziewanowski who, along with a number of others, is soon to arrive in the United States to represent the Republic of Poland as Ambassador.

Also present for the dinner were some of the leading intellectual lights behind the Polish democratic revolution. It was a pleasure to meet some of the people we have heard so much about—and whose thoughts will be studied for many years, I predict. Both for myself and for members of my delegation, the dinner offered an excellent opportunity to appreciate a variety of perspectives on the political situation in Poland, especially regarding recent actions taken by Lech Walesa.

The dinner also gave me a chance to advise the Ambassador-designate on many aspects of political life in Washington, and the problems he will encounter as he represents his government before the American people and their elected and appointed leaders.

Mr. Dziewanowski is a quiet, dignified, yet humorous man who reflects the manner of Prime Minister Mazowiecki. Like the Prime Minister, he is also a man of considerable intellect, having worked as a highly recognized journalist most of his adult life. In fact, as you might have heard, he is credited with composing the first draft of the remarkable address delivered by Lech Walesa to the joint meeting of the House and Senate last November. Characteristically, he handles conversation about it most modestly.

This will be Mr. Dziewanowski's first diplomatic post, but I came away from the encounter with the feeling that you will like him and that he will do fine in Washington.

Meeting with Lech Walesa

On Tuesday, June 12, my delegation traveled to Gdansk for the purpose of meeting with Lech Walesa, Chairman of Solidarity, at the Solidarity headquarters building.

It was my intention to have a general discussion with Mr. Walesa, along with members of the delegation, and then to repair to a private room for further consultations about the dangers of the appearance of political instability at this stage of Poland's economic reform.

Mr. Walesa agreed to this format but, as it turned out, the initial stage of the meeting became the only stage—complete with a number of television cameras and correspondents. At one point in the proceedings, I suggested that the time was right to break off into the private setting, but Mr. Walesa stated that he wanted everyone to hear his views. Later, at the conclusion of an hour's give-and-take, he asked whether I still wanted to meet with him privately. Having by then said everything I had intended to say, I declined, and we faced the press together for some follow-up questions.

As to the conversation itself, I can say that it was one of the most vigorous of my political career. I was at first taken aback, somewhat, by what I saw as an aggressively defensive posture assumed by Mr. Walesa. Nevertheless, we proceeded to explore each other's position on the causes and consequences of apparent rifts between Mr. Walesa and other Solidarity-backed leaders.

I went into the meeting with the opinion that some of the actions and positions attributed to Mr. Walesa of late bordered on being counterproductive, on grounds that they create a perception of political instability in Poland at exactly the moment that those who can help the most—bankers, investors, entrepreneurs—are looking for the opposite signal. My long conversation with Lech Walesa did not change my mind.

If I understood him correctly, it is Chairman Walesa's position that the Polish democratic revolution is not complete. He fears that, having thrown out the one-party rule of the Communist Party, Poland now could find itself in another one party situation—namely, Solidarity.

He believes that Poland must struggle through to real pluralism, through the establishment of what he calls "new structures," which I took to mean new political parties.

Now, Poland has plenty of political parties—maybe a hundred or more—but none has been able to mount a significant challenge to Solidarity in either parliamentary or local elections. In an interview taken a few days before my visit, Mr. Walesa had stated that he wants Poland to benefit from the full spectrum of political debate.

In our meeting, he referred repeatedly to his support for Mazowiecki and others in power, and to his admiration of them as Polish leaders. He also referred to this fear that Poland will come to rely too heavily on having wise and dedicated leaders for some time to come, while not building the mechanisms of pluralistic democracy under the current leaders. With "new structures," Poland will have something to fall back on, should these leaders stumble or fall. He committed himself to loyal but oppositional criticism of any policy or action taken by those currently in power which militates against that underlying objective.

For my part, I did my best to convey the idea that the very appearance of a split between Lech Walesa and the leaders swept into office under the Solidarity banner does not bode well for Poland. Whether fairly or not, the more perception of instability at this time could give potential investors an-

other reason to be skittish and skeptical, with the result that those in the best position to help Poland help itself will find something less speculative to do with their money.

I applauded Walesa's dedication to his objective of true pluralism, but voiced my concern that the economic conditions under which it might best be realized might well be forfeited if too much is attempted too soon. "It is time to consolidate your gains," I told him, "while not losing sight of the ultimate goal. You don't have to get everything done at once. You do have to sustain the conditions under which those objectives can be reached."

We each had our own interpreter and the conversation was very fast-paced, so much so that the sequential translation soon became simultaneous, sometimes resulting in four animated voices going at the same time. I cannot report that I convinced Chairman Walesa of anything, but he said that he would think about what I said and I believe that he will. As for me, I will read the continuing reports of unrest in the Polish political and economic community in a new light, but with no less concern about its effect on those who are trying to decide whether to bet on Poland's future.

Delivery of Little League scoreboard

One of the most enjoyable moments of my visit came at the American Embassy on June 12, where I had the pleasure of delivering to Polish little league officials a scoreboard donated by the American Little League organization. I understand that you, Mr. President, have shown a pronounced personal interest in exporting baseball to Poland—with great success. There were enough Polish boys and girls on hand, in colorful American tee-shirts and caps, to start a good game. I admit to being tempted to call off my meeting schedule for a few hours.

The scoreboard is destined for a new little league field being constructed in the small Polish town of Jaslo with funds donated by American Little League supporters in the Syracuse area. The scoreboard was made and donated by Colorado Time Systems, Mr. Bret Jacomet, President.

Also on hand for the ceremony were Ambassador Davis, other embassy personnel, USIA personnel associated with the Sports America program, American Little League's representative in Poland, Mr. Stan Kokoska, and some very proud parents.

Honorary degree ceremony at University of Warsaw

For purposes of filing a complete report, I also must inform you, Mr. President, that while in Poland, I was awarded an honorary doctorate from the University of Warsaw. It was a ceremony marked by simplicity and warmth, and some of the most beautiful Polish patriotic singing I have ever heard.

The case for my being honored was delivered by the Marshal (presiding officer) of the Polish Senate, Andrzej Stelmachowski, which was a great honor in and of itself. Marshal Stelmachowski is one of the most accomplished members of the Polish society. He is a member of the faculty of the University and has performed long and faithful service in the area of agricultural law. Most importantly, perhaps, he represented the Solidarity forces at the very difficult agricultural discussions during the famous "round table" talks of early 1989.

After receiving the awarded honorary doctorate, I was given an opportunity to respond. I have appended the text of my short acceptance speech to this report, for your information.

THE CZECH AND SLOVAK FEDERAL REPUBLIC (CZECHOSLOVAKIA)

Meeting with Minister of Foreign Trade Barcak

After our three day visit to Poland, we traveled to Prague, Czechoslovakia, for the day of June 13. I received an excellent briefing from Ambassador Shirley Temple Black and members of the embassy staff. We then proceeded to a meeting with Mr. Andrej Barcak, Minister of Foreign Trade, in his office.

As expected, the first items of conversation dealt with U.S. trade programs not yet in place for Czechoslovakia, namely, Most-Favored-Nation (MFN) status and Generalized System of Preferences (GSP) treatment. I assured the Minister that there was no objection to these programs being put into place for Czechoslovakia and, in fact, more than ample support for doing both. I explained to him the legislative footing on which they stand. In this case, favorable action on both of these popular ideas is being held up temporarily by the failure of the House-Senate conference committee to reach agreement on other provisions of H.R. 1594, "The Customs Trade Act of 1990."

The Minister urged all expedition, citing especially the MFN designation as a great symbolic reinforcement for the Czech and Slovak people as they continue to try to transform their economy to one directed by market forces.

Minister Barcak reported that documents related to the business and investment treaty signed with the United States are being finalized, and cited a number of specific large-scale business decisions which are expected to fall into place as soon as the treaty is ratified. He named several large, well-known American companies poised to start projects in Czechoslovakia once all official barriers are finally removed.

Minister Barcak inquired about the legislation known as "SEED II" (amendments to the Support for Eastern European Democracy (SEED) Act of 1989, now contained in H.R. 4610, "The International Affairs Authorization Act of 1990," reported favorably by the House Foreign Affairs Committee on May 2, 1990). He demonstrated specific knowledge of those portions of SEED II which seek to create the conditions under which private enterprise can flourish in Czechoslovakia, and urged their enactment.

He listed what Czechoslovakia needs most from the United States: technical training and business-infrastructure construction and repair. He cited the need for accountants, appraisers, lawyers (although they do not want to repeat the error of excess made by the Americans in regard to the number of lawyers in general, and the number of lawyers in government in particular).

Also prominently mentioned was the need for technical advice on how to set prices—lest the foreign investor always get his or her way to the detriment of Czechoslovakia. "The privatization process is most likely to appeal to those who draft it," he said, in a clear reference to the advisability of Americans getting involved in the process immediately.

Meeting with Finance Minister Klaus

Finally, over dinner, I had a long conversation with Finance Minister Vaclav Klaus, along with Ambassador Black. The conversation was wide-ranging and useful. Again, emphasis was placed on the need, symbolic and otherwise, to put MFN and GSP programs in place for Czechosolvakia. We also discussed the role of the United States in helping emerging democracies help themselves, the political situation in Czechoslovakia, and the role of the country in a restructured Europe.

Also in attendance were representatives of a number of U.S.-based firms actively exploring the Czech and Slovak markets and the feasibility of opening offices in Prague and elsewhere. From my contact with them, I concluded that, to a large extent, the decision to do business in an emerging capitalist market could be seen as a "self-fulfilling prophecy." That is, the conditions under which a profit can be made can be created by the effort to make that profit. If every potential entrepreneur waits until those conditions exist, they never will exist. The same can be said for Poland.

CONCLUSION

Mr. President, I want to thank you for this important opportunity for me to travel to Poland, Geneva, and Prague under your auspices. It was a most rewarding trip in terms of what I was able to learn from political leaders, entrepreneurs, charitable organizations, and our excellent diplomatic team in all three countries.

From my discussions and observations, I conclude that there is plenty of reason to be optimistic about the future of political and economic reform in that part of the world—but only cautiously optimistic. There is still much that can go wrong.

The deepest basis for my optimism is that there is no slackening of the dedication to freedom, democracy and self-determination on the part of the people of Poland and the Czech and Slovak Federal Republic. This finds its expression in public and critical debate, active electoral politics, and capitalism at a personal and individual level.

No one can see the impromptu markets springing up all over Warsaw, Krakow, Poznan, Gdansk, and Prague—on blankets, and out of car trunks, or in whole fields of used cars for-sale-by-owner, without knowing that the spirit needed to transform whole countries is there waiting to be tapped—waiting not to be allowed to wither away.

American entrepreneurs can be found all over Poland and Czechoslovakia—they are welcome everywhere they go. We must continue to find ways by which the government can help create the conditions which will convince them to stay and try to make a go of it—but we must also urge them to have a little faith.

As I told those who came to the "America Day" reception in Poznan:

Go not where the path leads;
Go instead where there is no path;
And leave a trail.

I think that it can be made to happen and I look forward to the continuation of our work together toward that goal. Thank you again for the most welcome appointment. I look forward to the opportunity to elaborate on any portion of this report which you or members of your Administration might wish.

Respectfully submitted,

DAN ROSTENKOWSKI,
Member of Congress.

ACCEPTANCE SPEECH BY HON. DAN ROSTENKOWSKI ON THE OCCASION OF BEING AWARDED AN HONORARY DOCTORATE BY THE UNIVERSITY OF WARSAW

Dr. Rector, Marshall Stelmachowski, Faculty, Students, and Friends: It is a great

honor and privilege to me now to be identified so splendidly with the University of Warsaw—known throughout the world not just as a great seat of learning but as a crucible of freedom as well.

Tomorrow, I will travel to Gdansk, where I will visit what is popularly known as the "birthplace of Solidarnosc"—the work-place of laborers who refused to be oppressed any longer.

But the genius of the great Polish democratic revolution of the 1980's, of course, has been that the workers have not acted alone. It was the uniquely Polish marriage between the workers and the intelligentsia that made it work.

So, if the shipyard at Gdansk is the birthplace of Poland's liberation, then the University of Warsaw can be considered to be the scene of its conception.

This distinction is entirely in keeping with the traditions of the University—traditions I am now most proud to be able to call my own, thanks to having received this great honor.

The University of Warsaw has long stood for the preservation, the nurturing, and the spreading of intellectual integrity against the greatest odds. It is the symbol of resistance to the temptation to give in to less honest—more opportunistic—ways of thinking.

During periods of occupation and other forms of repression based on force and intimidation, the University of Warsaw has stood as a place where the truth could be taught, and learned, and cried outloud.

Whether it was in the classrooms, or the basements, or the streets of Warsaw—through hardship and danger—the University of Warsaw has kept Poland's, and the world's, eyes on the truth—and the truth has set Poland free again—and it is spreading.

In the United States, we have enjoyed the fruits of freedom for more than 200 years without interruption, thanks in no small measure to the contributions of many freedom-loving Poles of long ago—like Pulaski and Kosciuszko.

We have learned that freedom—and the control of one's own fate that comes with it—never gets easy; and that there is always the need to be intellectually honest—especially with ourselves.

Recently, I have been engaged in a personal campaign to urge my colleagues to be honest with their constituents, and to urge the American people to be honest with themselves.

We must admit to ourselves that we need to get our financial house in order, sooner rather than later.

We must admit to ourselves that the answer to ever-increasing debt is not to keep borrowing from foreign countries and promising that our children will pay it back later.

We must admit to ourselves that we cannot hope to pursue all the things we want to do—like helping Poland help itself—without collecting the means to pay for it.

I have been making some progress, but now—with my new credentials in hand—I expect to command a little more respect. Thanks to this generous—and most sincerely appreciated—act on your part today, I will carry on the great traditions of the University of Warsaw, and I will succeed.

Thank you again for this great honor.

CATHOLIC RELIEF SERVICES IN INDIA

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. CARDIN. Mr. Speaker, back in May, the Washington Post ran an article about Catholic Relief Services, in India. Following that article, the Post published two important letters to the editor that I think are worth calling to the attention of my colleagues.

CATHOLIC RELIEF SERVICES IN INDIA

A recent article in the Post spoke of evidence that India's Catholic Church "misused" American food supplies [front page, May 25]. I am an American Jesuit priest who has been a member of "India's Catholic Church" for the past 40 years. I've been in the United States since April 25 and will return to India on June 20. The report was painful to read.

When it says that "some bishops, priests and nuns . . . could have misused" American food supplies, the impression could be created that these same cleric and religious have personally benefited financially from these supplies. I think the word "misused" is poorly chosen. The fact is, the auditors found in some of the 4,600 centers receiving supplies that the books were not properly kept and the many detailed instructions issued were not followed perfectly. In most cases the food supplies have reached the poor, but the distributing agent didn't give a full report of the distribution, or the distribution was made in a way more adapted to the place and the needs of the people.

I have administered Catholic Relief supplies and have seen the good done by this help to people in need. I have seen farmers helped by the food-for-work projects, which provided wells in villages that had no source of drinking water. I have seen babies and mothers regain their health thanks to the mother-and-child-care program. Children without enough to eat at home have been able to get an education because along with reading, writing and arithmetic, they were given a meal when they came to school. These and many other relief and developmental projects have successfully aided the poor through the supplies given by the Catholic Relief Services (CRS).

Are some supplies misused? Yes. Is the misuse widespread? No. Helping the poor effectively to raise their standard of living is not easy. Frequently the parish is the center of the CRS distribution work. Because of many other activities and obligations, the pastor entrusts much of the work to others, and since the food is to be given to all, irrespective of caste or creed, non-Christian organizations are also asked to help. Most distributors live up to the confidence placed in them, but some few don't and take advantage of their position. These few should be identified and corrected.

I have visited the CRS office in Baltimore and have been in contact with their personnel in India and know that they are examining the report of the auditors very carefully so that they can make the right changes.

There are thousands of honest administrators of CRS programs in India who are very careful to see that the supplies reach and help the poor. The food supplies should continue; they are a real help to the poor.

JOHN F. GUIDERA, S.J.,
Baltimore.

I was shocked by The Post's article titled "Clergy Said to Misuse Aid to India," because I know the conditions under which many of the clergy work in India and other developing countries. They live and work in areas where the poverty is so abject that few would choose even to visit such impoverished communities.

The people receiving food aid through India's Roman Catholic Church and Catholic Relief Services are often the poorest of the poor. Assuming that all the infractions cited in the article resulted in a 15 percent to 20 percent loss of food aid, The Post's Delhi correspondent, Price Waterhouse and U.S. officials fail to address the 80 percent to 85 percent of food aid that reached desperately poor women and children through the CRS program in India. A success rate of that magnitude would rank the CRS-India food aid program well above most international assistance programs and certainly well above our own savings and loan debacle.

Catholic Relief Services' commitment to assisting the developing world's poor is a matter of record; to fail to cite its long and successful history of service to mankind is a journalistic disservice.

CHARLES SYKES,
Vice President of CARE, Reston.

THE GAS RELATED ACTIVITIES ACT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. WALGREN. Mr. Speaker, today I am introducing the Gas Related Activities Act. Joining me as original cosponsors are Congressmen ECKART, OXLEY, RITTER, MURPHY, and BLILEY.

The Gas Related Activities Act is a very simple, straightforward bill. It would allow the three gas companies currently registered under the Public Utility Holding Company Act of 1935 [PUHCA], Columbia Gas System, Inc., Consolidated Natural Gas Company, and National Fuel Gas Co., to participate on an equal footing with other gas companies in developing new markets.

These three registered gas companies are integrated gas holding companies. They own subsidiaries engaged in all phases of the gas business. They explore for and produce natural gas. They own pipeline subsidiaries which transmit and store natural gas. And they own local distribution companies which act as utilities selling gas to end-users—residential, commercial, and industrial—at retail. They are registered under PUHCA because they are holding companies which own gas utility subsidiaries. It is important to note that there are many other gas companies which are similarly organized, but which are exempt from PUHCA for a variety of reasons.

Under section 11(b)(1) of PUHCA, the three companies may only engage in activities which are "reasonably incidental or economically necessary or appropriate to the operation" of their gas utility operations. This has sometimes been called the functional relationship test; that is, their activities must be functionally related to the sale of natural gas at

retail. For example, the companies have been permitted to build pipelines to transport gas, explore for and produce gas, and so forth, but they would not be permitted to buy drug stores of other businesses not functionally related to selling natural gas.

The Natural gas industry has undergone enormous change in the last 10 years. The Federal Energy Regulatory Commission [FERC] has opened access to pipelines so that end-users of natural gas may contract directly with producers while the pipelines serve as common carriers. State public utility commissions have sought to pass the benefits of a newly competitive gas market to consumers by requiring local distribution companies, the local gas utilities, to purchase the cheapest gas they can find within the bounds of prudence rather than relying on historical suppliers.

New competition within the gas market has led to decreased prices for natural gas and to enormous savings for consumers.

Unfortunately, the Securities and Exchange Commission [SEC], which has responsibility for enforcing PUHCA, has recently interpreted the functional relationship test to mean that the three registered gas companies must direct their nonutility activities—exploration and production, pipeline transmission, storage, marketing, and other activities related to the supply of natural gas—primarily for the benefit of their utilities, the local distribution companies. The SEC staff has asserted that the test to determine whether nonutility functions are directed primarily for the benefit of utility functions is a bright line 50-percent test. For example, the SEC staff interpretation would require that 50 percent of the gas flowing through one of the registered company's pipelines must flow to one of that company's subsidiary local distribution companies. At the same time, the FERC policies and State public utility commission policies are pushing local distribution companies to aggressively seek the cheapest supplies possible while maintaining reliable service.

The SEC interpretation of PUHCA is in conflict with FERC and State efforts to bring the benefits of competition to consumers and does not recognize the dramatic changes that are still occurring in the natural gas industry.

Last winter's nationwide cold snap, which caused shortages of fuel oil and propane, and resulting dramatic price fly-ups, emphatically demonstrated the need to improve gas deliverability in the Northeast and Midwest. The three registered gas companies happen to be three of six companies geographically situated to move quickly to develop new gas markets in this region. Under the SEC's interpretation of PUHCA, however, it is unlikely that these companies will be able to play a role in bringing gas supplies to a region that needs them. It makes no sense to arbitrarily block half of the potential entrants to a new market, thereby denying consumers the benefit of increased competition.

The Gas Related Activities Act simply would declare activities related to the production, transmisison and marketing of gas, and similar activities, for purposes of PUHCA, are reasonably incidental or economically necessary or appropriate to the operation of gas utilities. That's all, nothing more. It affects only the so-called functional relationship test of section 11(b)(l) of the act. It specifically leaves in place all other sections of PUHCA from its purview with the following unambiguous language, "Nothing herein shall be construed to affect the applicability of any other provisions of the Public Utility Holding Company Act to the acquisition or retention of any such interest by any such company." This new provision will not allow gas companies to expand into other fields of business. Rather, it allows them to participate fully in the natural gas market that FERC has created.

I understand that there are many bills before the House relating to electricity regulation under PUHCA. I want to state clearly that my bill has no relation to these much more controversial questions. Those issues need careful and thoughtful consideration. However, it is my hope that this bill will be seen as a bipartisan and noncontroversial effort to bring PUHCA regulation of natural gas companies up to date and conform it with the regulation at FERC and the State level.

In February of this year, the National Association of Regulatory Utility Commissioners [NARUC] adopted a resolution supportive of this legislation. The resolution found, among other things, that "(r)estrictions on functionally related activities of the registered gas companies place them at a competitive disadvantage and are contrary to the best interests of their customers" and that "(r)estrictions on gas-related activities could prevent the registered gas companies from expanding their pipeline systems or from participating in joint ventures with other gas systems to expand pipeline service to areas of the country where enhanced transportation capability is necessary * * *." In view of these findings, NARUC resolved, unanimously, that Congress be called upon to enact this legislation "to clarify PUHCA to secure the benefit of competition among gas systems for natural gas customers."

I urge my colleagues to join me in cosponsoring this bill. We need to move quickly to prevent a duplication of last winter's skyrocketing fuel prices. Passing the Gas Related Activities Act is one simple, prudent step toward doing that.

STAND UP FOR OUR POW/MIA'S

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MILLER of Washington. Mr. Speaker, veterans who served in Korea did so because they believed in their country. They left their homes and their families to fight for freedom far away, and many of them never returned home.

All they asked was that they be remembered. In this week of the 40th anniversary of the Korean war, I remind my colleagues that we have an obligation to those missing and their families to keep the POW/MIA issue at the top of the national agenda.

Although we have heard stories of POW's in Vietnam, we rarely hear about the more than 8,000 servicemen still unaccounted for from the Korean war. I am concerned that these men may not just have been confined within North Korea, but that they may have been shipped across China to prison camps in the Soviet Union. After that, we have had no way to account for these men.

Now after digging through stacks of declassified documents, information is finally emerging regarding our lost men.

I have spoken with some of the family members of POW's from my First District in Washington State. One of them, Bill Sowles of Edmonds, came to talk with me about his father, who was an OSS agent after World War II and in the army in the Korean war. Bill Sowles' father was captured in November 1950, but was transferred to the presumed dead list in 1953. He also found an old picture of POW's held in Korea. One of the men in the photo closely resembled his father.

On Monday, the USA Today published an article specifically mentioning Bill Sowles and his father, explaining the predicament many POW/MIA families are facing.

Forty years after the start of the Korean War on June 25, 1950, the fate of thousands of U.S. POWs/MIAs—8,177 by official count—is still unknown. Their families and friends live in a limbo of grief and hope.

An examination of U.S. documents and interviews with Korean War veterans indicate hundreds or even thousands of POWs/MIAs were never returned after being shipped to hospitals, military posts and labor camps in China and Siberia.

China, which send several divisions to fight alongside the North Koreans and captured thousands of United Nations troops, supposedly released the last of its Korean War military prisoners—U.S. and Canadian air crews—in 1955.

North Korea has always insisted that all live U.N. POWs from the 36-month long war—except for 22 so-called "turncoats" who chose to remain behind—were returned in the 1953 POW exchange.

But only one of North Korea's POW camps, most along the Yalu River on the Manchurian border, was opened to International Red Cross inspection.

The hard-core communists regime in North Korea gave five sets of remains that may be U.S. POWs to a U.S. delegation on Memorial Day 1990. Until then, no information about the U.S. troops unaccounted for from the Korean War had emerged since North Korea returned the last remains in 1954.

Many MIAs surely lie in unmarked graves in North Korea. But backing up reports of POWs in Siberia are declassified documents and public statements confirming that U.S. officials believe some POWs survived into the mid-1950s, when the U.S. waged a futile campaign to make China and North Korea account for them.

Some evidence, hidden away for years in classified volumes, was convincing enough for the U.S. government to ask the Soviets in May 1954, to explain reports that hundreds of men in U.S. military garb were being shipped by train to Siberia.

The Soviet reply called the reports "clearly contrived." The matter was dropped.

The U.S. government's public demand for an accounting of all POWs and MIAs—especially 389 singled out by repatriated POWs and named or seen in the enemy's own propaganda broadcasts, photos and films—eventually fell silent.

The Pentagon and State Department say there is no evidence that U.S. POWs were still alive in communist hands after the Korean armistice. All are "presumed dead."

But U.S. generals, admirals and diplomats spoke openly and angrily of such evidence in the months following the armistice.

Loved ones at home, after years of trying to get answers, feel betrayed.

Rita Van Wees of New York believes she saw a 1951 photo, in a 1954 *Life* magazine, of her POW son being marched through Seoul.

"We've never stopped trying to get the government to do something. They never mention anything about Korea. You'd think no one is missing except from Vietnam."

Ho Jong, head of North Korea's mission to the United Nations, emphatically denies that any U.S. POW's remain alive today. But reports of POW trains headed for Siberia, letters families received from sons or husbands after they were captured—and even an unconfirmed 1979 sighting of Westerners in North Korea by a Romanian engineer—help sustain the hopes of some survivors.

Serban Oprica, now a U.S. resident, says in October 1979, while he was helping build North Korea's first TV factory, he saw about 50 Westerners working in a field near Pyongyang, the capital. Fellow Romanians who had been there longer told him they were U.S. POWs from the Korean War, "something normal in a communist country."

Despite the passing of decades, the American Red Cross has accepted its first Korean War MIA case. A "tracer" on Army Sgt. Lewis Sowies, captured in 1951 but never returned, has gone to the International Red Cross in Geneva, Switzerland.

His son, Bill Sowies of Edmonds, Wash., who saw his father in a Chinese propaganda film and believes he may be among those shipped to China or Siberia, gave the agency a list of possible contacts, including the Romanians who were with Oprica.

Many Federal agencies have information about missing servicemen, including live sighting reports, which has been kept classified on the grounds of national security. But, beyond protecting intelligence sources and intelligence gathering methods, there are no other security considerations to justify keeping this information secret any longer.

I say we make these files public—for our national conscience, for the morale of our veterans, and for the families of these soldiers.

And, we can accomplish this with H.R. 3603, the truth bill. The truth bill would open up these Federal Government files to the families of those left behind. This legislation would do no harm to the families, nor the Federal Government. The families' rights and privacies would be protected because no information mentioning a serviceman's name could be released without the consent of the family. Meanwhile, the Government would not be required to release information that would compromise national security.

Mr. Speaker, we cannot turn our backs on those 8,000 men left from the Korean war, and I call on my colleagues to stand up for our POW/MIA's.

AIDING IRANIAN EARTHQUAKE VICTIMS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, the call to aid victims of a devastating earthquake in Iran has raised the question of whether the United States Government or its people should assist these victims.

Americans will never forget the barbaric treatment of our Embassy personnel, who were held hostage by the Iranian regime of the Ayatollah Khomeini. We still are aware that the Iranian Government either encourages or countenances hostage taking.

But thumbing our noses at human suffering in order to extract retribution from Iran would only bring discredit on ourselves and our laudable tradition of responding positively to human tragedy. Regardless of our contempt for Iran and its Government, we should not turn our backs on those in great need.

Our Government and its people should willingly provide humanitarian aid to earthquake victims, who now include 50,000 fatalities and 400,000 hungry and homeless. In that spirit, I commend to my colleagues' attention an incisive editorial from the heartland.

The editorial from the June 27, 1990, issue of the Fargo Forum follows.

[From the Fargo (ND) Forum, June 27, 1990]

U.S. HELPS BECAUSE U.S. CAN

We were taken back somewhat by the simmering anger demonstrated by Americans interviewed about the United States sending aid to earthquake victims in Iran.

In "people-on-the street" spots on network and local news programs certainly not scientific sample) most of those interviewed were against helping Iran in any way. They cited the Iranian hostage crisis at the end of the Carter administration and Iran's continued sponsorship of hostages taking and terrorism as reasons not to send humanitarian aid into the quake zone.

Granted, it's difficult to feel anything but contempt for a country whose leaders insist on calling the United States "the great Satin." The evidence linking Iran to radical organizations holding Americans in Lebanon is solid—yet another reason for some American to revel in Iran's earthquake disaster.

The key word, however, is humanitarian. More than 50,000 people were killed in the massive quake and hundreds of thousands are homeless and injured. If the United States is a humanitarian nation, it must help because among all nations, America can help.

President Bush was right to be among the first world leaders to offer medical supplies, tents, blanks and other needed items to the Iranian government. Iran did not respond immediately, and when it did, Iranian leaders said they would accept aid from all but two countries (Israel and South Africa), never acknowledging the U.S. offer.

No surprise in that. We would not expect Iran to come hat-in-hand to the U.S., given the animosity between the two nations. Indeed, Americans might not get so much as a thank you from the ayatollahs.

Nevertheless, the supplies arriving in the quake-ravaged cities and rural areas show the made-in-the USA label; the people of Iran will know where the help is coming from. It is possible that the immense tragedy of the earthquake could become the means by which Iran and the U.S. begin to normalize relations.

This nation's first impulse should be to help. The tendency toward perverse joy over Iran's misfortune (shown in the television interviews) does not represent what American want to believe about themselves. If Iran choose to politicize quake aid by refusing help from Israel and South Africa, the United States need not follow suit. If Iran opts to devalue human life in war and by terrorism, no one in the United States should conclude "it OK" for Iranians to die and suffer in a natural disaster. We march to a different drum.

If helping Iran results in a lessening of tensions between Iran and the United States, wonderful. If it does not, however, American will still have done its part as a civilized member of the family of nations.

MISCONCEPTIONS ABOUT THE CHILD CARE AGREEMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. HAWKINS. Mr. Speaker, during last week's debate on the motion to instruct the House conferees on H.R. 3 to reject the ABC Grant Program, Members made a number of statements about the conference agreement which require clarification.

First and foremost, the House conferees did not accept the Senate's ABC Grant Program. Rather, we adopted a Child Care Block Grant Program which allocates funds to the States for child care services under a targeted formula. The block grant does not require a new bureaucracy at the State or Federal level. It does not establish new standards.

I would also like to set the record straight about other claims made last week by some of my colleagues:

First. Claim: Under the conference agreement, there is a State advisory committee on child care.

Fact: There is no State advisory committee established under the conference agreement. There is, however, a State coordinating committee which is responsible for reviewing and coordinating a variety of child care services in the State, including Head Start, latchkey programs, new and existing State-funded early childhood education programs, tax credits, and child care services under the Social Services Block Grant.

Second. Claim: The conference agreement retains the Federal-recommended standards for child care.

Fact: These same recommended standards are in title IV of the bill which the House passed earlier this year.

Third. Claim: The agreement requires that there be federally mandated standards for child care in certain categories.

Fact: There are no federally mandated standards. The conference agreement pro-

vides that States establish their own standards in certain categories. That provision is also in the House-passed bill.

Fourth. Claim: The conference agreement establishes a Child Care Standards Improvement Program.

Fact: This provision which is in title VI of the House-passed bill, creates a Child Care Standards Improvement Program with a separate authorization of $75 million for fiscal year 1991–98, 3 years beyond the life of the authorization. The conference agreement provides for $50 million for fiscal years 1994 and 1995 for standards improvements.

Fifth. Claim: There are mandated training requirements for child care workers.

Fact: Under the Ways and Means Committee's amendment to title XX of the House-passed bill there is a requirement that all child care providers who receive public funds for child care services and are required to be licensed or regulated in the State complete annually an average of 15 hours of training. The conference agreement requires that States, after 3 years, establish their own requirements for training without specifying a certain number of hours.

Sixth. Claim: The conference agreement established a Federal Advisory Committee on Child Care.

Fact: There is no such committee established in the conference agreement.

Seventh. Claim: There are mandated announced and unannounced inspections of centers and family-based child care programs.

Fact: The Ways and Means Committee's title XX of the House-passed bill contains this same provision.

Eighth. Claim: States may not reduce standards or regulations without explicit permission from the Government.

Fact: The Ways and Means Committee's title XX of the House-passed bill contains this provision.

Ninth. Claim: Only providers who are licensed or regulated by the State may receive funds.

Fact: The Ways and Means Committee's title XX of the House-passed bill states that eligible child care providers must meet applicable standards of State and local law and that services funded under this title must meet all applicable child care standards and licensing and registration requirements.

These provisions have not been rejected by the House. They are in the bill which passed the House on March 29 by a vote of 265 to 145.

Less than a month ago, 40 children under the age of 10 were found in a basement in Prince Georges County, MD, along with another 13 babies in an upstairs bedroom. Only one 18-year-old was in the house. The owner, who was not at home, has been charged with operating an unlicensed, unsafe day car center. Do we want programs operating throughout the country like the one in Prince Georges County which violate space, staffing, and safety requirements or do we want to establish a safe system of quality child care which provides peace of mind for parents who work outside the home? In the face of real and potential tragedies like the one in the Prince Georges County, the administration notified us just last week that the President will not sign a bill that requires States to establish standards. I don't believe it.

We should not risk the precious futures of our Nation's children by compromising away standards which assure at least minimum health and safety requirements. We should send this conference agreement, along with a tax component, to the President. The children of this country deserve no less.

A SALUTE TO 21ST CONGRESSIONAL DISTRICT "ARTISTIC DISCOVERY" CHAMPIONS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. STOKES. Mr. Speaker, beginning this week and continuing through May 1991, the corridors of the U.S. Capitol will be adorned with beautiful artwork from around the Nation. This special exhibit represents the culmination of "An Artistic Discovery 1990," the ninth annual art competition for high school students administered by the Congressional Arts Caucus. "An Artistic Discovery" provides us a unique opportunity to recognize and pay tribute to the artistic talents of America's gifted young artists. Competitions are conducted in Members' congressional districts and the winning artwork from each district is delivered to our Nation's Capitol for inclusion in the special exhibition.

I am pleased to report "An Artistic Discovery 1990" includes winning artwork from my congressional district. I want to take this opportunity to congratulate Kurtis Latimore of Cleveland, winner of the 21st District art competition. His entry entitled, "House," is a beautiful watercolor.

Mr. Speaker, "An Artistic Discovery" has proven very successful in my congressional district. This year's competition attracted 144 entries from 12 high schools. In addition, the community was actively involved and very supportive of the program.

Mr. Speaker, it is an honor and I am proud to salute the 1990 "Artistic Discovery" competitors from the 21th District of Ohio.

1990 ART DISCOVERY COMPETITION PARTICIPANTS

Bedford High School: Allan Beasley, Dan Chadwill, Mark A. Hicks, Jennifer King, Eric J. King I, Richard J. Obert, Tony Riley, Adam Scheff, James E. Smith, and Alicia Taylor; art instructors: Mr. Rabatin and Mr. Wallace.

Bellefaire: Daniel Burton, Bruce Hill, Melanie LeRoy, Adam McCall, Liesse Potter, Josh Schaffer, and Chris Webster; art instructor: Karen Baldrey.

Cleveland Heights: Lochen Wilder Brown, Sherrie Cass, Alzbeta Damakos, Laeh Le Vert, Andrew Peet, Rebecca Silverman, Matt Smith, Mandy Taft, and Kenneth White; art instructor: Mary Braun.

Collinwood: David Brabson, Michael Canady, Robert J. Green, Tim Nathan, Jason Suminguit, and Christopher H. Young; art instructor: Jerry Dunnigan.

East High: Bernard Calloway, Leonard Craddock, Donnell Davis, Alex Ford, Joy Heathfield, and Tracy Parks; art instructors: Mrs. Testa and Ms. Watkins.

John Adams: Latonya Butler, Shereda Lynn Finch, James Hastings, Demetris Hopkins, George Lee, Israel Rosa, Tonya Renee Sorrell, Ronard Williams, and Kevin Wright; art instructors: Dale Lintala and Harry Petaway.

John Hay: Nicole Bridget, Contessa Crawford, Lamark Crosby, Shirlyn Davis, Denise Forthner, Richard Hart, Amy Hufstetler, Michael Hurt, Anita Della Jones, Brian Karn, Sean Karn, Nicole Petty, Sabrina Satterwhite, and Terrence White; art instructor: Kathy Yates.

Lincoln West: Robert Ward, Patricia Fowler, Ronald Ivy, Ben Johnson, and Cris Maragh; art instructor: Joseph Martin.

THE EQUAL TREATMENT FOR CIGARETTES ACT OF 1990

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. THOMAS A. LUKEN. Mr. Speaker, today I am introducing legislation to give the Environmental Protection Agency [EPA] the same authority to regulate tobacco products that it has to protect all of us from other dangerous products.

In 1976, Congress passed the Toxic Substances Control Act [TSCA], which gives EPA authority to regulate chemical substances and mixtures which present an unreasonable risk of injury to health or the environment. At that time there was little scientific evidence that cigarette smoke caused death and illness among nonsmokers, and Congress excluded tobacco products from coverage under TSCA.

However, in 1986 the surgeon general concluded that cigarette smoke caused a substantial number of lung cancer deaths among nonsmokers, and the following year Congress banned for 2 years smoking on all scheduled domestic airline flights of 2 hours or less. Last year Congress approved a permanent ban on smoking on almost all scheduled domestic flights.

EPA has now issued a draft report which concludes that about 3,800 nonsmokers die annually from lung cancer as a result of secondhand tobacco smoke. But, under current law, EPA can do nothing about this dangerous product.

The Equal Treatment for Cigarettes Act repeals the tobacco exemption in TSCA. There is no reason why the tobacco companies should continue to be shielded from a law that regulates all other chemical substances and mixtures.

Mr. Speaker, this bill has bipartisan support. Mr. WHITTAKER, the ranking Republican on our subcommittee, is an original cosponsor. Other original cosponsors include Mr. DURBIN, Mr. MRAZEK, Mr. ATKINS, Mr. CHANDLER, Mr. WYDEN, Mr. WAXMAN, and Mrs. COLLINS. I urge my colleagues to join with us in giving EPA the power to treat cigarettes like other products.

Mr. Speaker, I ask that a letter from the American Heart Association, the American Cancer Society, and the American Lung Association endorsing this bill be included at this point.

COALITION ON SMOKING OR HEALTH,
Washington, DC, June 27, 1990.

Hon. THOMAS A. LUKEN,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN LUKEN: The American Heart Association, the American Cancer Society and the American Lung Association, unified as the Coalition on Smoking OR Health, applaud the introduction of your bill to amend the Toxic Substances Control Act ("Act") to make that statute applicable to tobacco products. The "Equal Treatment for Cigarettes Act of 1990" would repeal the unjustified exclusion of tobacco products from the chemical substances covered by the Act.

The step you propose is long overdue. Tobacco use is the greatest, single cause of premature death and disability in the United States, claiming the lives of 390,000 of our citizens every year. More Americans are killed in a year by cigarette smoking than have died in all of the wars fought by the United States in the 20th century. Tobacco kills 65 times as many of our citizens as heroin and cocaine.

Yet tobacco products remain one of the least regulated products in the United States, excluded from regulation under the very health and safety laws that Congress has enacted to protect the public from harmful products. Tobacco is exempted from regulation under not only the Toxic Substances Control Act, but also the Consumer Products Safety Act, the Fair Labeling and Packaging Act, the Controlled Substances Act and the Federal Hazardous Substances Act. The Food and Drug Administration, in addition, has declined to regulate tobacco products under the Food, Drug, and Cosmetic Act.

Even if it were not enough that tobacco kills approximately one-third of its consumers when used precisely as intended by the manufacturer, its regulation under the Toxic Substances Control Act and the other acts cited above should be mandated because tobacco contains nicotine, a drug at least as addictive as cocaine and heroin.

The "Equal Treatment for Cigarettes Act of 1990" would continue to allow tobacco products to be manufactured and marketed in this country. It would, however, mandate the reasonable step of giving the Federal Government authority to regulate this addictive and lethal drug for purposes of health and safety. Our citizens deserve no less.

Sincerely,

FRAN DU MELLE,
Chairperson, Coalition on Smoking OR Health, Director of Government Relations, American Lung Association.

SCOTT D. BALLIN,
Legislative Counsel and Vice President for Public Affairs, American Heart Association.

JOHN H. MADIGAN, Jr.,
Assistant Vice President for Public Affairs, American Cancer Society.

THE EFFORTS OF THE TUCSON BUSINESS COALITION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. KOLBE. Mr. Speaker, many of us have heard horror stories from constituents and businesses in our districts of their encounters with the resolution trust corporation [RIC] or their problems that have resulted from the crisis in the savings and loan industry.

We have also heard the reports of a new credit crunch in the United States that has resulted as banks have overreacted to the savings and loan crisis, the new regulatory climate, and shaky underpinnings of many regional economies.

I'm sure, in hearing of these problems, my colleagues have also shared in feelings of frustration that come from an inability to do anything to solve these problems.

Well, I'm proud to say that a group of entrepreneurs from Tucson, in the Fifth District of Arizona, aren't taking this problem sitting down. Instead of waiting for someone else to handle the crisis, they are tackling these issues headon, and fighting to keep businesses, many of which were built from nothing, alive, despite these mounting odds.

On Monday of this week, the Wall Street Journal featured an article on their efforts. I would like to submit this article for the RECORD, and commend my colleagues to the efforts of the Tucson Business Coalition. Perhaps the example they set can be carried to the businesses in other districts which face similar problems.

[From the Wall Street Journal, June 25, 1990]

MILITANT SMALL-BUSINESS COALITION IS FIGHTING CITY HALL—TUCSON, AZ, ENTREPRENEURS PROTEST GOVERNMENT POLICIES, TIGHT CREDIT

(By John R. Emshwiller)

In most struggling regions, scared and angry entrepreneurs voice their frustrations mainly to each other. But in Tucson, Ariz., they are marching on city hall.

Angry at the effects of a credit crunch, regional economic slowdown and government policies, Tucson entrepreneurs organized the Tucson Business Coalition last February to fight back. Leaders of the grass-roots organization say membership is already at 1,400 and still growing.

In April, the coalition organized a protest march to a city council meeting by several hundred business people, who wore buttons and carried banners and signs in the coalition's colors of red and black. The black, says an organizer, is to mourn the businesses that have died while red is for the ones still alive but bleeding.

Being law-abiding citizens, marchers were careful to stay on the sidewalk and cross with the lights, organizers add. Confronted with a mass of angry business owners, the council moved to the nearby convention center to hear them out. A similar march was held the next day to Pima County's board of supervisors meeting.

"We haven't had much help from the big boys. So we are going to do some things on our own," says Byron Howard, coalition co-chairman and owner of B&H Properties, a local land-developer.

Similar groups are forming in other Arizona cities, say coalition leaders, and the protest may eventually go nationwide. "We would like to take this movement right into Washington, D.C.," says Bruce Greer, the coalition's other co-chairman and owner of Bruce Greer Construction Inc.

Some observers believe the ground is getting more fertile for such militancy. "There is a rising anger among small-business people" over government-imposed costs and tight credit, says John Galles, executive vice president of National Small Business United, a 67,000-member advocacy group based in Washington, D.C.

Commerce Secretary Robert Mosbacher earlier this month said a "serious" credit crunch is beginning to grip small business and other sections of the economy.

However, Tucson coalition leaders are finding their messsage isn't universally welcomed. For instance, Mr. Greer says some of his construction equipment was recently vandalized. He says the grafitti on the machines indicated it was done by people who objected to some of his pro-development stands on behalf of the coalition.

The coalition aims to prune the size and cost of government and get it out of competition with private enterprise. It also hopes to lessen the dependence of small businesses on big financial institutions; coalition members assert the institutions have turned their backs on lending to small businesses. Local bankers reply that they are still interested in lending to small businesses but say the slowing economic growth rate has hurt the ability of many firms to qualify for loans.

Dozens of coalition members are spending evenings and weekends combing through city and county budgets looking for spending for the governments to slash. The coalition is even trying to set up an alternate banking arrangement for members through a local credit union.

Tucson Mayor Thomas Volgy decries some of the group's "slash-and-burn" tactics, but says it is emerging as a force to be reckoned with. Mr. Volgy says the coalition's rise helped kill a recent move to increase business licensing fees. Because of the coalition, "government is much more sensitive on a day-to-day basis to the needs of small business," he says.

Tucson's business problems can be traced to the boom times of the mid-1980's when Arizona was one of the U.S.'s fastest-growing states. Then, the biggest credit problem was finding ways to spend the multimillion-dollar loans that banks and thrifts were spewing out.

All that easy money led to some business binges, especially in real estate. Now Tucson is feeling the hangover. While population and income levels are still growing at about 2% a year, that's only a third of the rate of the mid-1980's. Since most businesses had geared up for the faster growth, the slowing "feels like a recession," says Marshall Vest, an economist at the University of Arizona. Bankruptcy filings in metropolitan Tucson last year hit a record 3,700 and in the first quarter of this year were up another 27%, he says.

Exacerbating the slower pace, most of the state's major savings and loans have been taken over by the federal government and have adopted lending procedures that make Uncle Sam look like Uncle Scrooge. Tucson residents joke that the government has taken the "L" out of their S&L's.

While commercial banks are in better shape, they also have turned more cautious, Tucson business people and economists say. Georgia Carlson and her husband, Glenn, recently discovered just how cautious when their bank told them it was calling in the $500,000 credit line on their two businesses, which supply various items to the construction industry.

Mrs. Carlson says the businesses have never missed a payment on the credit line. But both were hard hit by the construction downturn, and the Carlsons' banker told

them their firms "had become bad risks," Mrs. Carlson recalls. She says that unless they can come up with some way to pay off the outstanding bank balance, they face bankruptcy and possible loss of their home. (The credit line was personally guaranteed.) "I'm damn mad and I'm not going to take this," says Mrs. Carlson, a leader in the business coalition.

Such anger was a driving force behind the coalition's formation. But the specific catalyst came from a local talk-radio show that began airing small-business owners' complaints. Then the station, KTUC, decided to hold a luncheon earlier this year where business people could give local politicians a piece of their mind. 'People told me we would be lucky to get a couple of dozen people there," recalls Tom Hassey, KTUC's owner.

Some 500 showed up, along with most major local politicians. Attendees say the business people ran out of time before they ran out of gripes. For instance, Nicholas Locastro, a restaurant owner and coalition activist, says his property taxes more than doubled since 1983 and his liquor license fees went up 50% in the past two years.

Given the outpouring, some entrepreneurs decided an organization was needed. "Instead of just lone whining businessmen, we thought we'd at least have a bunch of whining businessmen," jokes Jim Hilkemeyer, who operates two fitness centers.

Membership in the coalition is restricted to locally owned small businesses, says Mr. Howard, the co-chairman. "We aren't the chamber of commerce or old guard," he says with some disdain. "We want people who know what it is like to have a Friday morning with a $150,000 payroll due and only $30,000 in the bank."

Entree costs $25 and as much free time as an entrepreneur can devote. Hundreds of volunteer hours are being put into searching for ways to cut government budgets, merge departments and privatize such activities as printing and street construction. Mayor Volgy says the coalition's efforts have led to a "department-by-department examination of what is and isn't being contracted out."

Coalition leaders say they aren't sure how much lasting change all this activity will produce. But it has already led some business people to do things they wouldn't have dreamed of a year ago.

Bob Jones, president and part owner of Apache Business Systems Inc., says he always disdained protest marches and made fun of participants. But when the coalition marched on city hall, he was among the protesters. "I put my dignity aside. We had to get [people's] attention," he says.

NEUROLOGICAL ILLNESS IMPAIRS FORMER TWIN ALLISON'S FUTURE

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. BURTON of Indiana. Mr. Speaker, several years ago I had the privilege of meeting Bob Allison, the great former Minnesota Twins left fielder. Over the years, Bob and I have become very close friends and golfing buddies.

I was distressed to learn not too long ago that Bob is suffering from a very rare disease called olivo-ponto-cerebellar atrophy ataxia. This disease is taking a terrible toll on Bob, but he is fighting it the same way he has fought for success throughout his life.

There was an article written by a Mr. Charley Walters recently that tells about Bob's plight. It also points out that Bob was not only successful at baseball, but he is a civic leader and successful businessman.

I truly believe, Mr. Speaker, that this article will benefit anyone who reads it, and, maybe, inspire some others who are suffering like Bob, to continue fighting because they have a role model in Bob Allison.

I would like to end by saying, Mr. Speaker, if everyone was like Bob Allison, the world would be a much better place. He was not only a great baseball player and a fine American, but he is a wonderful guy as well. I hope Bob recovers and that he and his lovely wife, Lori, have many more wonderful years of happy married life together.

NEUROLOGICAL ILLNESS IMPAIRS FORMER TWIN ALLISON'S FUTURE

(By Charley Walters)

Bob Allison paused too long between slurred words.

"I'm very emotional about this," he said softly.

He paused again.

"I'm concerned about how far this is going to go," he said. "Will it keep eating away until I'm in a wheelchair and can't talk?"

Want to feel bad? Or lucky? Want to cheer for a good guy? Go ahead. Read.

Allison, 55, the best left fielder ever to play for the Minnesota Twins and one of the best guys you'll ever know, has an incurable, uncommon illness. It's called olivo-ponto-cerebellar atrophy ataxia. It may one day be called Bob Allison's disease, just as amyotrophic lateral sclerosis is called Lou Gehrig's disease.

"Bob has a condition which affects his nervous system or affects his brain, those systems or parts of the brain that have to do principally with coordination," said Dr. Richard Price, who is chairman of the Department of Neurology at the University of Minnesota.

As a result, Allison's walk and all other motor activities, as well as his speech, are impaired. But his thinking and mental processes are entirely intact and normal.

"The cause of the illness is unknown; it's one of these diseases of the nervous system that is poorly understood," Price said. "It affects certain populations of nerve cells—neurons—and causes them to die prematurely."

So what does this mean for Allison?

"We're not sure about how things are going to go in the future," Price said. "In general, these are progressive disorders, but of uncertain speed."

Dr. Larry Schut also is a neurologist who has been evaluating and treating Allison. "It's a drunken appearance without being drunk," Schut said of the disease.

Price added, "One of the things we talked about with Bob is that if one sees him, superficially one could think it seems like he's drunk because the speech and the uncoordination are very much like what happens when you're drinking. But, in fact, the thinking isn't impaired like it is with drinking."

Allison, a striking silver-haired, robust 6-foot-4, 225-pounder who hit 256 home runs during 12 terrific seasons in the major leagues, began noticing his ailment three years ago during a Twins old-timers game at the Metrodome.

"I was trying to run in the outfield and I couldn't keep my balance," he said.

Allison showed up for last summer's Twins old-timers game at the Dome and took batting practice.

"I could hit the doggoned ball," he said. "I could hit the ball pretty good up until last year."

A few onlookers around the batting cage noticed Allison's peculiarities that day, the slurred speech, the imbalance. There was some whispering, a few raised eyebrows and wondering. But Bob insisted the matter remained private. So it would.

Allison loves to play golf. He earned a reputation across the country for his prodigious drives in celebrity-charity events. Three hundred yards and more, and that's not an exaggeration.

He's a popular member at Olympic Hills Golf Club in Eden Prairie, where he used to own a 9 handicap.

Now, a few years later, he plays to a 30 handicap.

"I play now, but sometimes I miss the ball when I swing," Allison said.

Frustrating?

"Yeah," he said.

Will Big Bob ever play golf well again?

"No," he said. "I think the doctors will tell you that it probably will get worse."

Dr. Price said, "The falling off of his golf game has been an index of what has happened. And the fact that he can play even as well as he does now is remarkable."

There's some hope, though.

"If all of a sudden they find out what genes are involved in this," Allison said. "Maybe through the ataxia foundation they'll be able to do laboratory tests to come up with the proper treatment."

Just as Cal Stoll, the former University of Minnesota football coach who three years ago received a heart transplant, has become highly active in the case for organ donor awareness, so will Allison become publicly active in Minnesota's Department of Neurology Center for Clinical Care and Research for Ataxia.

Jim Kaat, his former teammate and good pal who has become a nationally renowned broadcaster, will become Allison's spokesman for ataxia.

"This is hard to deal with," Allsion said. "But I'm going to deal with it in a positive manner."

Allison left baseball 20 years ago. He was the American League's rookie of the year in 1959. He played on three all-star teams. He made that incredible, legendary catch in left field in the 1965 World Series. He was a star running back in football at the University of Kansas and later was the most feared physical base runner in the American league.

He retired two years ago from Coca Cola Midwest Bottling, where he spent 28 years and was general manager of the Twin Cities division of sales and marketing. He became a civic leader and president of the Twin Cities Minutemen.

Allison has an apartment in Minneapolis and last year built a beautiful new home in Rio Verde, Ariz., where he plays golf during the winter.

"I try to," he said.

Allison will play in the Twins' chapter of Major League Baseball Alumni Association golf tournament June 25, at the Braemar course in Edina.

The worst part of his illness?

"Dealing with it," Allison said. "It knocks the hell out of you emotionally. But I have

no pain, no nausea, no nothing. I feel great. I sleep good, eat good, rest well. My blood pressure is great—it was 112 over 70 the other day."

Allison's house in Rio Verde is occupied now by Harmon Killebrew, his close pal and former teammate who is having a tough time recuperating from emergency surgery for a collapsed lung because of a perforated stomach.

"Harmon tells me to hang in there," Allison said. "That's what he's doing—hanging in there."

Killebrew, 53, said he talks with Allison every day.

"This deal with Bob is a sad one," Killebrew said. "I think it's great that he's come out with this and is drawing attention to it. I love Bob and I just want him to get well again."

Harmon, his voice soft, too, paused between words, just like Allison. "You know, my mother used to say the most important thing you have is your health," Killebrew said. "And she was absolutely right."

RURAL TOURISM

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. SKELTON. Mr. Speaker, last week I had the opportunity to testify before the House Energy and Commerce Subcommittee on Transportation concerning H.R. 4369, the Tourism Policy and Export Promotion Act. I am pleased to express my support for this legislation, and particularly my support for the establishment of a Rural Tourism Foundation. I believe that such a Rural Tourism Foundation could provide a mechanism to promote tourism development—and more importantly, economic enhancement through small business development—in the small towns and communities throughout our Nation. At this time, I ask that the text of my written testimony be included in the Extension of Remarks of the CONGRESSIONAL RECORD.

THE TOURISM POLICY AND EXPORT PROMOTION ACT

Mr. Chairman and members of the subcommittee, I thank you for the opportunity to testify before you on H.R. 4369, the Tourism Policy and Export Promotion Act. I congratulate you, Mr. Chairman, for introducing and holding hearings on this important legislation. I also applaud the efforts of our colleague on the other side of the Hill, Senator Rockefeller, for all of the work he has done to further this legislation.

In my testimony, I have been asked to address issues relating to the impact of tourism on small business and the importance of tourism as a means of rural economic development. As many of you may know, I have worked with both of these issue areas in the House for some time. I currently serve as Chairman of the House Small Business Subcommittee on Procurement, Tourism, and Rural Development. In recent years my subcommittee has held more than ten tourism hearings focusing on international, domestic, and rural issues. I also serve on the steering committee of the Congressional Travel and Tourism Caucus, and I am Chairman of the Congressional Rural Caucus.

In years past the travel and tourism industry in the United States has been perceived as a frivolous field, and the true impact of the industry has not been fully understood, by the general public and by policymakers alike. But today there is a growing awareness and recognition around the country of the economic contribution of the tourism industry, including its potential contribution to rural areas. And no wonder—we are talking about an industry with annual expenditures totaling over $300 billion. We are talking about an industry that is the third largest in the nation, ranked after automobile dealerships and food stores.

We are also talking about an industry that is predominantly made up of small businesses, and the success of small business is economically important to the U.S. and its place in the world economy. Of the more than one million public and private enterprises in the United States involved in tourism, approximately 98 percent are classified as small businesses by the U.S. Small Business Administration.

For the past two years one of my major areas of concern in the tourism industry has been the development and promotion of rural tourism. As an international tourist destination, the United States has often been seen as two coasts with nothing much in between. Fortunately, that view is now changing as states and regions capitalize on curiosity about "the real America". Most inbound tourists still gravitate toward our coastal gateway cities, but repeat customers are bginning to explore mid-America and other sites that are off-the-beaten-path.

Why the sudden interest in rural America? Fundamentally, the word "rural" conjures up thoughts of wide-open spaces and a culture that represents the pioneering spirit of our country. In addition, people are increasingly seeking experience only found in the American countryside. At the same time, rural communities are examining ways to stimulate economic opportunities through tourism while preserving and enhancing the special qualities that make small-town American life unique. Rural America offers much to international visitors, but by the same token the promise of tourism development offers many communities a chance for new life as well.

In recent years many of my colleagues in the Congress and I have been very concerned about the conditions in rural America. Hard times have caused the quality of life in many of our rural communities to decline—many of our small towns are literally disappearing. Yet, there are shining examples of rural communities that have been revitalized. In some regions, innovative leaders have linked their fortunes and their futures to tourism development and have embarked upon an authentic rural renaissance.

Responding to concern about the quality of life in rural America, the Congress directed the U.S. Travel and Tourism Administration to conduct a study to determine the ways in which small businesses in rural areas can be promoted through travel and tourism. The study also examined whether there is a need for federal policy concerning the development and promotion of small businesses in rural communities through travel and tourism. The final report of the National Policy Study on Rural Tourism and Small Business Development, released last October, concluded and confirmed that there is a need for federal policy on rural tourism and that travel and tourism can be an important tool for rural economic revitalization.

As a means of rural economic development, tourism has often been ignored. This is unfortunate, because in many ways travel and tourism—and the predominant nature of small business in this industry—seems particularly well-suited to help diversify and strengthen economies in small towns and rural communities.

For the visitor, rural tourism is a chance not only to see what America is all about—our history, culture, and heritage—it is also a chance to escape and take pleasure in our past. We don't have to go into a museum and look at our history behind a glass—we can participate in it. Visitors to rural areas may be looking to relive another era, or perhaps they want to learn about America at historic sites that are still as they were then, or maybe they just want to get away from it all and enjoy our country's natural beauty.

Recent articles have reported that in the state of Iowa, a modern pig farm is a popular attraction with the Japanese tourists; Europeans are venturing to inland ethnic pockets that still exist in many American communities; others want to visit Indian reservations, and still others are drawn to the sun, sand and surf of our beautiful beaches.

The variety is endless—from bed and breakfasts to farm vacations, to recreational trail networks, to lease hunting and fishing, to harvest festivals. All these and more are inspired by the rural flavor and natural resources found in small town America.

Rural tourism is my hometown of Lexington, Missouri. It is Dahlonega, Georgia and Maggie's Valley, North Carolina * * *. It is the Village of Smokey Hills and Gunflint Trail in Minnesota. It is Dodge City, Kansas. It is small towns, historic battlefields, old mills, apple festivals, county fairs, and Ozark Mountain Music * * *. Even now many communities are just beginning to realize what they have to offer. In many cases, things local residents see and experience every day are just that * * *. Everyday things to them. But to the potential traveler they are a vacation experience.

As a nation we have been content to believe that our overseas visitors want to visit New York, Los Angeles, and let's not forget Disney World. While these will certainly be highlights of their tours, we should not assume that they will not want to see other less well-known attractions. It is rural America that will display another side of American life to these visitors. I am convinced that these are the sights that reflect the "real America."

Statistics from the U.S. Department of Commerce indicate that more than 70 percent of overseas visitors coming to this country are here for a repeat visit, which helps to explain why people are actively seeking new horizons to explore. Many are ready and anxious to see something beyond the gateway cities, something different that is not to be found on every travel itinerary.

Another consideration is that many of our most famous national parks and attractions are over-visited. There are plenty of other equally spectacular parks, but which don't experience the overcrowding problems. By encouraging our visitors to get "off-the-beaten-path," we will be more able to preserve our nation's natural treasures as well as improve the quality of their experience.

The question is—how do we attract international visitors to rural America? It is my belief that establishing a Rural Tourism Foundation, as proposed in Section 8 of H.R. 4369, would help meet the needs of

rural communities as identified by the National Policy Study on Rural Tourism. It also would significantly contribute to rural tourism development and tourism promotion overseas. And finally, it would help us maintain the tourism surplus in our international balance of trade recently achieved by the United States.

The Rural Tourism Foundation would be a charitable, non-profit corporation, based in part upon the existing Park Service Foundation and similar to a bill I introduced several years ago to establish a Tour USA Foundation. The Foundation would assist the USTTA in the development of rural tourism by planning, promoting, and implementing projects that could increase tourism revenues by attracting visitors to rural America. Such a Foundation should become involved in both national and specific regional projects, and would also promote rural America as a prime destination for foreign visitors.

The Foundation would have a Board of Directors consisting of federal government representatives from federal agencies (including USTTA and land management agencies), as well as private citizens. The Senate Commerce Committee report indicates that the Foundation will operate under the auspices of the Travel Industry Association of America, but authority is provided to enable the Foundation to be housed within the USTTA should it be necessary, or should the Under Secretary prefer such an arrangement.

The Foundation would be allowed to accept donations, but the Senate bill also provides that up to $500,000 of the funds authorized for USTTA may be made available to match, partially or wholly, the amount or value of contributions made to the Foundation, and to provide administrative services for the Foundation. I would favor a similar provision in the House bill. This limited federal support is necessary to enable the Foundation to become viable and self-supporting. Beyond the initial funding, the Senate Commerce Committee anticipates that the Foundation will support its activities by fostering partnerships among private and public sector travel and tourism interests, including small businesses and larger companies, individuals, state and local governments, federal agencies, and trade and destination promotion organizations who would benefit from the growth of rural America as an international tourism destination.

One of the primary functions of the Foundation would be to act as a clearinghouse for rural tourism development programs and other related assistance. One of the most telling findings of last year's National Policy Study on Rural Tourism and Small Business Development was that although a good number of organizations—local, state, federal, public, and private—had programs to assist rural tourism development, there did not exist a central source of contact for local leaders and communities to learn about development options and opportunities. In fact, there seemed to be an important lack of communication and potentially beneficial cooperation between agencies. The Foundation could become a central point of contact, giving direction to any and all parties interested in rural tourism and rural tourism development.

Most of you are aware of how well-planned and well-managed tourism development can positively effect a community. Tourism doesn't just happen—it requires leadership and community commitment. Small businesses and local leaders must be prepared to provide a tourism infrastructure. They need federal help to do international promotion that could systematically attract foreign visitors. The USTTA and a Rural Tourism Foundation would fill this role.

People come to visit the United States to see particular "places" and "things", but they go home remembering America's "people". That's what really makes our country different. In America we have the most friendly people in the world. We enjoy showing our country off to those who come to visit. It is the friendly character of the American people that will keep visitors returning to our shores again and again, ensuring that tourism remains one of our nation's largest and most important exports. By sharing the flavor of America's small towns and rural communities, we are giving our visitors a taste of America at its best.

In closing, I would just add that I fully support the proposed legislation. Our goal is to achieve a tourism export surplus, and last year, for the first time, we met that goal. The challenge before us now is to maintain this achievement and improve upon the performance of last year. Support for USTTA, including sufficient levels of appropriations, can help in that effort.

Only last week, I had the opportunity to meet with a group of international tour operators visiting Washington. Their number one concern was USTTA. The support of these international tour operators for American tourism was evident, but without the promotional and technical support of USTTA they face serious obstacles when trying to convince their clients to visit the United States. They let us know in no uncertain terms that we must be prepared to match the promotional efforts of our international competitors or continue to lose market share.

I couldn't agree with them more. I am encouraged by the introduction of this legislation, and I hope that through the efforts of this subcomittee, Congress can be persuaded to move quickly to show our support for USTTA, for international tourism, and for rural economic development through travel and tourism.

THE INTRODUCTION OF THE ICE ENFORCEMENT AND PREVENTION ACT OF 1990

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MINETA. Mr. Speaker, I would like to invite my colleagues to become cosponsors of a bill to keep a serious drug problem from getting beyond our control—the Ice Enforcement and Prevention Act of 1990.

The drug known as ice is a smokeable form of methamphetamine, or speed.

I believe the evidence shows that ice has the potential to overtake crack as the drug of choice on our Nation's streets.

In many ways, this drug is more dangerous. Its effects last from 7 to 24 hours and can induce extreme and uncontrolled violent behavior. In contrast, a crack high lasts only 20 or 30 minutes.

Because of its long-lasting effects, drug users consider the drug a good value.

Perhaps most dangerously, ice is much easier to make than crack. Illegal methamphetamine manufacturers do not need an imported base of coca as cocaine chemists do. Instead, the ingredients for the drug ice are available here in the United States and can be processed in simple laboratories into rocks of smokeable methamphetamine.

And it is profitable. It costs about $300 to buy equipment and chemicals to make methamphetamine. The drugs produced can be sold for over $100,000 at current rates.

The drug is extremely harmful. Habitual users can develop mental disorders and are prone to hallucinations. Hospitals have recorded fatal lung and kidney damage caused by this drug.

Babies born to mothers addicted to the drug ice are afflicted with the same problems we have seen in crack babies. They are sickly. They are unable to bond with parents and are prone to developing sociopathic traits as they grow older. They do not learn quickly as other children do and never catch up. Nurses report that ice babies are more impaired than crack babies in this respect.

Rehabilitation clinics in Hawaii now have as many ice addicts as they have cocaine addicts. Withdrawal from methamphetamine is even more difficult than withdrawal from cocaine for many people.

Mr. Speaker, the use of the drug ice has unfortunately become widespread in the State of Hawaii, where its damaging effects are burdening its schools, its health care system, and its drug treatment centers. In only 4 years, it has passed marijuana and cocaine as that State's top drug problem.

I believe we should nip this problem in the bud before it spreads nationwide. It has already begun to surface on the west coast.

Last year, there was a 70-percent increase in ice-related hospitalizations across the country. Emergency rooms in my own district have seen cases recently and other cities in California have reported more use.

This bill would attack distribution by allowing sharply increased jail sentences for ice dealers. As crack is a potent form of cocaine, ice is a more powerful and dangerous form of methamphetamine. This bill would follow current law relating to crack and toughen penalties for crystal methamphetamine dealers.

Someone who sells 5 grams of crystal methamphetamine—enough for 200 hits—would face 40 years in prison—double the current penalty. Smaller scale dealers would receive a penalty of 10 years, up from 5.

Another portion of the bill would direct the National Institute on Drug Abuse to develop methods of treating ice addicts and to help treat babies born under the influence of methamphetamine. Finally, it would develop educational programs to inform kids about the dangers of this terrible drug.

Mr. Speaker, we should learn from the past that we need to act before a drug becomes a serious problem. The social costs of inaction are simply too high.

This bill will crack down on people who want to spread this drug to our kids. It will work to get people off this drug. And it will keep people from starting in the first place.

This bill parallels legislation by Senator DANIEL AKAKA of Hawaii which is pending before the other body.

I invite my colleagues on both sides of the aisle to join me as cosponsors of the Ice Enforcement and Prevention Act of 1990.

OVERTURNING SUPREME COURT DECISION IN HUGHEY VERSUS UNITED STATES

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. GEKAS. Mr. Speaker, I will be introducing legislation soon to overturn the result of the Supreme Court decision in the recent case of Hughey versus United States—No. 89-5691—decided on May 21, 1990.

In that decision, the Court held that the language of the Victim Witness Protection Act precluded the award of restitution by a sentencing judge unless granted for those who were victims of the particular crime for which the defendant was convicted. The effect of that decision is to negate restitution as an effective sanction in criminal cases and to disadvantage victims of virtually every kind of crime.

My legislation will make it clear that restitution can be ordered for appropriate victims in cases involving schemes or conspiracies and for victims of conduct incident to criminal behavior.

Mr. Speaker, this legislation is absolutely necessary to address the kind of situation that we face with savings and loan convictions wherein restitution is a major sentencing tool. Unless the Court can look at the broad range of a defendant's conduct in these types of cases, restitution will be reduced to a nullity.

When the Congress developed restitution as a part of the Victim Witness Protection Act of 1982, we intended it to be a strong and effective measure to make victims whole. We intended that criminals no longer be allowed to avoid their responsibility to the victims that they had created.

Mr. Speaker, I urge the support and cosponsorship of all my colleagues and the prompt action of this body for the sake of all victims of crime.

The language of that legislation is as follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equity for Victims Act of 1990".

SEC. . CHAPTER 232 AMENDMENTS.

(a) CIRCUMSTANCES IN WHICH RESTITUTION MAY BE ORDERED.—Section 3663(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) For the purposes of restitution, a victim of an offense includes—

"(A) any person harmed by the defendant's criminal conduct during the criminal episode in which the offense occurred; and

"(B) in the case of an offense involving as an element a scheme, a conspiracy, or a pattern of criminal activity, any person harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

"(3) The court may also order restitution in any criminal case, to the extent agreed to by the parties in a plea agreement under the Federal Rules of Criminal Procedure.".

(b) USE OF MAGISTRATES AND SPECIAL MASTERS.—Section 3664 of title 18, United States Code, is amended by adding at the end the following:

"(f) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

TROUBLED WATERS: SAFETY RECORD OF OIL TANKERS IS NOW UNDER FIRE

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. SIKORSKI. Mr. Speaker, I rise to bring to the attention of my colleagues the following article from the June 20, 1990, Wall Street Journal. This article outlines in incredibly frightening detail the sorry state of this Nation's oil tanker transportation system. While recently, several major oilspills have attracted national attention, most Americans do not realize that on 2 out of every 3 days, there is an oil tanker accident in U.S. waters. The oil transportation industry is increasingly cutting corners, laying off workers and reducing maintenance. Meanwhile the oilspill liability bill conference committee has met but once since the bill was passed last November.

I urge my colleagues to read this article and I urge the conferees to send a strong bill out of conference quickly, so that these numerous problems can be rectified.

[From the Wall Street Journal, June 20, 1990]

TROUBLED WATERS: OIL TANKERS' SAFETY IS ASSAILED AS MISHAPS AVERAGE FOUR A WEEK

(By Caleb Solomon and Daniel Machalaba)

By the time he saw the oncoming ship, it was too late.

The pilot of a Panamanian-registered tanker was completing a complicated turn into the cramped Houston Ship Channel last summer when he saw heading toward him a tugboat pushing an oil-filled barge.

The pilot, Michael B. Gale, frantically radioed the tugboat. "I can't, I can't stop this thing," he said.

The tugboat operator, Mason T. Ware, responded: "I can't stop now. Lord of Mercy, Skipper."

Five seconds later, Mr. Ware cleared his throat and said, "There ain't nothing I can do, Cap."

The collision came 2½ minutes later, as the Panamania ship, the Rachel B. plunged into the barge, ripping open a hole through which 240,000 gallons of oil flowed into the water near the Gulf of Mexico.

CASUALTY COUNT

As this and countless other incidents-such as last week's fire aboard the tanker Mega Borg-Illustrate, the nation's system of transporting oil by tanker is a wreck. On two out of every three days, on average, an oil tanker in U.S. waters catches fire, explodes, collides with a dock or another ship, breaks apart, experiences mechanical failure, runs aground or winds up in some other kind of accident. Coast Guard accident reports indicate.

"This is the single most important issue we see right now," says Admiral J. William Kime, the Coast Guard commandant.

Last week's Mega Borg incident could have become the biggest spill in U.S. history. For four agonizing days last week, fire roared from the 886-foot Norwegian supertanker. Crippled, it settled lower and lower, threatening to dump a staggering 38 million gallons of oil into the Gulf of Mexico.

Then, slowly, firefighters won control. In the end only 3.9 million gallons of crude leaked, and most of that burned in the holocaust or evaporated in the searing Texas sun. An environmental disaster had been averted. This time.

"There are problems at all levels of the oil transportation system, including the design and construction of the ships, control of traffic in the harbors, the training and competence of ship crews and the ability of the regulators to oversee the whole operation," declares Peter Johnson, senior associate of the Office of Technology Assessment in Washington.

What put the oil transport system on the rocks, experts say, is a decade of corner-cutting driven by slumping revenues. As crude-oil prices crashed from $40 a barrel in 1981 to as low as $10 five years later, the industry hacked spending, reduced tanker crews and began to stretch equipment. Excess capacity and collapsing revenues also spurred independent tanker operators, who transport the bulk of the nation's crude, to delay maintenance and repairs, and to hire cheaper and fewer sailors.

Things are likely to get worse, too. Now demand for oil and tankers to move it is rebounding. Currently, an average of 52 tankers a day deliver 462 million gallons of crude oil, gasoline and other petroleum products to U.S. ports, up from 400 million gallons five years ago, the American Petroleum Institute estimates. Because the U.S. is increasingly dependent on foreign oil both numbers are rising steadily.

But the system is fatigued. Many ships are in poor shape, crews inadequate and practices sloppy. Industry experts expect accidents to increase right along with imports, and possibly faster.

Many new ships are designed and built with less steel, which can make them more vulnerable than old ones. And some government steps intended to prevent problems may have actually made them worse.

"The whole industry has changed and these people have to modernize," insists Sen. Brock Adams, the Washington state Democrat who is pushing various tanker-related legislation. "You now have such a massive world-wide movement of oil you have to treat it as dangerous."

Industry officials don't wholly disagree. They too worry about aging ships and human error by poorly qualified crews and officers. "There is room for considerable improvement," concedes Tormod Rafgard, managing director of the International Association of Independent Tanker Owners, a trade group in Norway. "But it is exaggerated to say this is an unsafe system; 99.99% of the oil is coming in without problems. It is a good system."

In fact, while definitive statistics on all tanker troubles aren't available, the number of large spills (10,000 gallons or more) in the

U.S. has held at six or seven a year for a decade, says Richard Golob, publisher of Golob's Oil Pollution Bulletin. But expectations of safety have risen mightly, especially since the Exxon Valdez dumped nearly 11 million gallons of crude into cold Prince William Sound 15 months ago.

"The boundary between acceptable and nonacceptable accidents has changed," says Terje Staalstrom, a manager for Oslo-based det Norske Veritas, a ship classification society.

And during the '80s, the pressure to save money also intensified. So upkeep of ships, new and old, has suffered. "The majority of large tankers are out of date, over-age and in many cases poorly maintained," Paul Slater, chairman of the ship finance firm First International Financial Corp., told a tanker conference in California last week.

A long period of depressed shipping rates that began in the mid-1970s encouraged owners to postpone maintenance, particularly on idled vessels. By 1985, a typical large 250,000-deadweight-ton tanker was fetching a spot charter rate of around $5,000 a day. But the bare-bones cost to run it was $6,000 to $7,000 a day, says George Blake, a director of Overseas Shipholding Group.

Even today's day rates for large tankers of close to $30,000 are $10,000 below what's needed to justify replacing an old ship with a new one, says the tanker-owner trade group. So, says the group's Mr. Rafgard, while the "tanker fleet is getting older, this problem certainly will not disappear."

Some of the ship classification societies that inspect vessels before they can be insured now are cracking down. "We deleted four ships in April due to overdue maintenance or noncompliance with requirements and we deleted 24 in March," says Mr. Staalstrom of det Norske Veritas. "I'm not afraid of old ships. I'm afraid of a management that isn't taking care of its ships," he says. "You have accidents."

While the cause of the Mega Borg fire is still unknown, an inquiry has turned up 14 pieces of equipment or parts of the ship overdue for maintenance and inspections. In the pump room, where the fire may have begun and traditionally one of the most dangerous areas of a tanker, oil may have been leaking from a gauge, according to testimony at an investigatory hearing. The captain, C.M. Mahidihara, told the panel the ship was operating with a cracked storage tank.

PROBLEMS WITH NEW TANKERS

New tankers ought to be less troublesome, but that may not be so. In recent years, large tankers have been built with 10% less steel. Architects have tried to compensate for the lighter weight with computer-aided design, high-strength steel and improved coatings to protect the thinner metal from cracking and corrosion.

Some experts endorse such designs. "Before, we had to put in more steel because we weren't quite sure how close to limit we were," says Garry Beaumont, chief ship surveyor of Lloyd's Register of Shipping, a London-based ship-classification society. But he concedes that strong-but-thin steel "will age faster and use up its corrosion resistance quicker," and he frets that the next generation of tankers is being designed with even less steel.

Some are outraged by use of thinner steel. Modern tankers are "flimsy and have too narrow a margin for error," says Arthur McKenzie, director of the Tanker Advisory Center in New York and a former Exxon Corp. shipping executive. Lloyd Bergeson, a retired naval architect, says modern tankers may be "perfectly adequate in strength to withstand buffeting by ocean waves, but when they hit the ground they don't have the strength to withstand the impact."

Mr. Bergeson labels the Exxon Valdez, launched in 1986, an example of "a modern ship that has been cost-engineered too far." Another naval architect contends that the Valdez and Exxon Long Beach, its sister ship, have the least steel weight for their size of any U.S. tanker.

COAST GUARD STUDY

Exxon defends the Long Beach and the Valdez, saying the Valdez hit Bligh Reef so hard that even a double hull like those now urged in some quarters would have torn.

In any case, an internal Coast Guard tanker study commissioned after that spill reveals a "significant number of failures in ships over 700 feet in length and less than 15 years old." In particular, tankers on Alaskan runs were "experiencing a significant number of serious structural failures" that had frequently resulted "in significant loss of cargo," the study says.

Quality of construction in newer vessels is also a problem, the Coast Guard says, so it is increasing inspections of some U.S. tankers. "We found that the workmanship in the shipyards with high-tensile steel was not as good," says Adm. Joel D. Sipes, chief of the agency's Office of Marine Safety, Security and Environmental Protection. He says shipbuilders have difficulty welding the material, and often internal framework is improperly designed.

Three months before the Exxon Valdez spill, oil was discovered leaking one night from a tanker called the Thompson Pass while it was loading crude at the Port of Valdez. Some 71,000 gallons spilled, most of which was recovered. Divers discovered three long fractures in the ship's bottom plating, according to an Alaskan water-pollution report. It concluded that fractures in the Thompson Pass, built in 1978, were "most probably a result of original construction heat-treatment procedures, plus nine years of North Pacific operations."

Says William Lockwood, president of Interocean Management Corp. of Philadelphia, manager of the ship: "We have had a problem with the design and have taken steps to correct it" by adding structural members to alleviate stresses.

TIRED CREWS

Another big problem with tanker transport is that many vessles now operate with a third less personnel than a decade ago. "We have seen a dramatic decline in the size of crews, and critical tasks are falling to a very few number of people," says John Bobb, of the Maritime Institute of Technology Graduate Studies, which trains officers in Linthicum Heights, Md. "Fatigue is beginning to take its toll," he says.

In its report following the Exxon Valdez spill, the Coast Guard devotes an entire section to oil-tanker crew fatigue and manning problems in the industry. Sixteen-hour work days are common, it says. Coast Guard inspectors tell of taking to chief mates immediately after their arrival in port to set up inspection schedules. "Some mates were so exhausted that they fell asleep during these meetings," the report says.

Aboard the Union Oil Co. tanker Coast Range, "a lot of machinery is not taken care of because we have no time," says boatswain George Lua. "There aren't enough people. There's just too much work." The ship, which makes frequent stops between Puget Sound and Los Angeles, "is in and out of port so much that we are too busy hooking up hoses and tying up the ship, docking and undocking," to do regular maintenance, Mr. Lua says.

A Unocal spokesman dismisses Mr. Lua's grievances as a "standard seaman's complaint." The spokesman says, "You'll get that comment from any seaman that there isn't enough time to do the work." He says the Coast Range is a modern, well-maintained, double-bottom tanker.

A short-handed and exhausted crew on the Greek tanker World Prodigy contributed to the spill last June of 290,000 gallons of oil into Narragansett Bay, according to a suit filed against the ships owners by Rhode Island. The weather was clear and the seas tranquil that afternoon. But Captain Iakovas Georgoudis had been working almost nonstop for a full day and a half before the ship hit a reef, he told a National Transportation Safety Board hearing.

Then the half-hour preceding the accident turned hectic.

The World Prodigy was informed it would unload at two ports instead of one. As the tanker appoached the hard-to-navigate shoreline, the captain testified, the chief officer went below to calculate what the ship's new distance from the ocean floor would be following the discharge of some of its cargo. As the only officer on the bridge, the captain became lookout and navigator. He had to make sure his orders were carried out, and he had to plot positions on navigation charts. When the chief officer returned with incorrect calculations, the captain started redoing the math himself. As a local harbor pilot was about to board, the World Prodigy hit a reef.

Thomas H. Walsh Jr., an attorney for the World Prodigy (which is managed by International Maritime Agencies Co. of Athens), argues that the ship had the full complement of seamen required for vessels flying the Greek flag. The captain, he maintains, wasn't fatigued because he had been able to take naps on a cot on the bridge. The suit is pending.

Tankers face some of their biggest risks pulling in and out of port, since the ports themselves are changed little while ships have grown. Some lanes in the Houston Ship Channel, connecting the city's port to the Gulf of Mexico 50 miles away, are so tight that when two vessels approach each other, one often has to give away and risk grounding along the side. Local seamen call the process "Texas Chicken."

Last summer's Rachel B incident in the channel occurred when the Rachel B was trying to avoid a jutting sandbank. Had the channel been dredged, "this accident most probably would not have happened," the Coast Guard says.

OFFSHORE HAZARD

Giant tankers too big to come into most ports pose other problems. They anchor at sea and pump their cargo into smaller vessels that can dock. The practice, called "lightering," is what the Mega Borg was doing when it exploded. The oil industry estimates giant oceangoing tankers lighter between 12 million and 63 million gallons of crude daily off the U.S. coastline, and the amount is increasing as imports rise. Lightering entails risks of a collision in addition to pump, hose or other problems that could cause a spill. Shipping executives insist there's little hazard.

Dave Caldow, Chevron Corp.'s assistant fleet manager and a former captain of a

vessel lightering between the Gulf of Mexico and a port in Pascagoula, Miss., says all 16 years the company has operated there have been incident-free.

As was the case with the Mega Borg, most lightering occurs beyond the 12-mile limit of U.S. waters, which basically puts any foreign-flag vessels involved beyond the reach of U.S. law. "You don't have the Coast Guard on top of you," says Gary Gehring, an instructor at the U.S. Merchant Marine Acadmey in New York.

Even in the U.S., much of the oversight—that is pertaining to construction and maintenance—is in the hands of classification societies, which are paid by ship owners to prove their vessels are worthy of insurance. But the credibility of these organizations is under attack.

They've become "immersed in a bitter competitive battle to class ships," says Harry Keefe, chairman of the American Institute of Marine Underwriters. "This has had a big impact on their effectiveness. Some ship owners want to go with the society that will cost them the least." Now some Scandinavian insurance underwriters are establishing their own corps of ship inspectors to avoid reliance on the societies.

Foreign tankers that never enter U.S. waters need no insurance for oil spills. If they cross the territorial boundary they must post bond with the Coast Guard based on their size, but it's a minimum. For instance, though it had some $700 million of insurance, the Mega Borg legally had to have just $10.3 million, insufficient for a major cleanup.

Current law puts all the liability on the tanker owner, not on the owner of the oil it's carrying. Congress is considering whether also to make the owner of the oil partially liable.

Congress is also considering raising minimum liability insurance levels and setting maximums, a move opposed by many in the oil industry. "As you continue to raise liability requirements and punishments, you're going to have good operators say it's not worth putting myself in jeopardy," says Jerry Aspland, president of Atlantic Richfield Co.'s marine subsidiary.

ARCO plans to stop transporting other companies' oil on its tankers through Cook Inlet, Alaska, because of spill liability fears. And already, one of the world's largest oil companies, Royal Dutch/Shell Group, is curbing the number of its ships in U.S. waters and will hire more independents instead.

The most controversial solution has been the push for double hulls. Proponents argue that by adding a second, protective hull on the bottom and sides of a tanker, spills from groundings and collisions would be reduced.

Critics—and there are many among oil executives—say any extra protection isn't worth the expense, though it's unclear what that would be. Some advocates say a double hull adds about 10% to the cost of new $90 million tanker built in a Far Eastern shipyard. But others advocate designs that could raise costs as much as 25%. Opponents also argue that double-hulled tankers face a greater risk of losing bouyancy after a severe grounding, complicating salvage efforts.

Some propose more offshore unloading facilities like the giant Louisiana Offshore Oil Port, a platform 19 miles off the coast but designated by law as a U.S. port. Tankers unload about 12 million gallons of crude a day that moves to shore via pipeline. Built by five oil companies for about $800 million, the facility says it has had no major spill in its eight years of operation. Advocates say if there were one, it would be a long way from beaches.

Phillips Petroleum Co. says it and other companies are looking at the idea of building such a port off Texas. Cost estimates range from $500 million to $1 billion. That's substantially less, proponents note, than the more than $2 billion Exxon has spent so far for its Alaskan cleanup.

THE PERILS OF TRANSPORTING OIL BY SEA

Among the most common problems and mishaps facing oil tankers:

Fires and explosions: These can happen at almost any stage of a tanker's journey but are most likely when the tanks are empty (the ballast voyage). Fumes trapped in the tanks are ignited by sparks generated by the cleaning process. Vapors can also build up in the pump room, which may have been the case in the Mega Borg spill.

Collisions at the entrance to or in ports. In the collision of the Phillips Oklahoma and another ship in the River Humber, England, in September 1989, its side tanks were penetrated and it lost 750 tons of crude oil.

Breakups in heavy weather. In 1988-89 three tankers—the Athenian Venture, carrying 30,000 tons of products, the Odyssey, carrying 130,000 tons of oil, and the Maasguar, carrying 30,000 tons of chemicals—all sank fully loaded, with the loss of all 79 crew members.

Running aground while entering or leaving ports. This has caused many spills including the disastrous Exxon Valdez spill in March 1989.

Overflows while loading or discharging oil. In August 1989 the Minerva over-filled tanks and discharged 2 tons of crude into the Delaware River.

Hull cracks, especially on large American tankers making the Alaska run. In January 1989 the hull of the Cove Leader cracked while loading in Alaska, spilling 10 tons of crude.

Poor maintenance and poor design: These may have contributed to the loss of a plate on the Pacificos, which spilled 10,000 tons of oil off the coast of Africa in October 1989.

Contact damage: Hitting the dock or another ship can rupture the hull. In 1989 the Stolt Sea was hit while moored at Avondale, La., on the Mississippi River, losing 200 tons of bunker fuel oil.

THE INSULTS WERE OUT OF ORDER

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. OWENS of New York. Mr. Speaker, Nelson and Winnie Mandela are like commandoes on furlough from a desperate and bloody war. Oppression is still intense in South Africa. Innocent people are still being killed daily. Twenty-four million black people are still being treated like inmates in a concentration camp. Daily life is still a battleground.

The majority of Americans have received the Mandelas with full recognition of the heroes that they are. Only a few leaders have chosen to behave like thugs and hurl insults at our noble guests. Some of these slurs have stooped so low as to charge that Nelson Mandela is like H. Rap Brown and Willie Horton. These base remarks were more than merely bad manners and poor taste. Such derogatory references designed to degrade our guests have given comfort to the enemy and encourages possible violent actions by fanatics and terrorists.

Common sense and courtesy require that these soldiers from the most heinous struggle for freedom on this globe be treated with dignity and respect. We have had one Holocaust in this century and we deepy regret the fact that we could not prevent it. In South Africa there is a desperate war against genocide raging and we are all in a position to stop that war and create a new democracy.

To the fascists who hurl slurs, I offer the following Rap poem as a summary of my indignation:

DON'T INSULT MISTER MANDELA

In South Africa
Fires still burn
Hungry children still bleed
The majority are still the victims
Of elite apartheid greed.
Critics snug in a safe powerful land
Fire petty questions at the iron-willed man.
Hitler's ghost
Stands at the door
Adolf is messing with Mandela
On the U.S. House Floor.
They do the hoodlum sin
They throw slime at great men
Loud mouths mark the terrorist target.
Please no more assassination
In this generation
For a starter
Forget the making of a martyr.
Mandela begs for peace
Let all false indictments cease.
Verbose vermin be still
Some heroes you'll never kill
Your gall and envy has no sting
Defiant Nelson still says his thing.
Fascist go home!
For you the House chamber
Is nowhere to roam.
Let's put all Nazis to bed
Let's make Hitler real dead.
Go tell the headline hunting scavenger
That "Willie Horton is more like" his mama!
Time to use our star spangled clout
Time to vote bold bigots out.
Mandela begs for peace
Let all evil indictments cease.

CENTERS FOR DISEASE CONTROL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. JACOBS. Mr. Speaker, the following are excerpts from the volume entitled "And the Band Played On" by Randy Shilts. The book has been described by Newsweek as "compelling and often shocking" and "The best book yet on AIDS."

CENTERS FOR DISEASE CONTROL, ATLANTA

The vial with two ounces of LAV arrived at the Atlanta airport shortly after midnight. Given the fact that the last batch of LAV, packed in dry ice in Paris and shipped to Atlanta through the mail, had been dead on arrival, Dr. Cy Cabradilla from the CDC molecular virology lab took no chances this

time, clearing the virus's passage through New York quarantine authorities himself and personally waiting for the plane from JFK airport to arrive. As soon as he got the virus back to his CDC lab, Cabradilla started tests to make sure it had survived. By the next morning, he had isolated the virus and begun growing it in lymphocytes extracted from the umbilical cords of newborn infants. With this virus, the CDC could make its own antibody tests, which would allow researchers to trace LAV in the blood and tissue samples they had been collecting in the two and a half years of AIDS work.

By the end of the week, excitement had spread through the cluster of brick buildings on Clifton Road. The virus was growing rapidly. Soon, lab staffers were to test stored specimens. One after another, the blood revealed the presence of LAV antibodies. The positive antibody tests came from all the AIDS risk groups, including gay men, Haitians, drug abusers, hemophiliacs, addicts' female sexual partners and their babies. Fresh blood samples from AIDS patients were flown in from Los Angeles and San Francisco, and the results were the same. These people were infected with LAV. The French had discovered the cause of AIDS.

MARCH, WASHINGTON, DC

"We know we have the cause of AIDS for sure," said Bob Ballo.

Jim Curran had flown to Washington from Atlanta with the codes on 200 blood samples of AIDS cases and controls that the Centers for Disease Control had sent Gallo in January. Sitting with Gallo in a French restaurant, * * *.

After the years of frustration, the announcement of the HTLV-III discovery deserved elation, Don Francis thought as he watched the live Cable News Network coverage of the Heckler press conference in the CDC's television studio with other members of the AIDS Activities Office. Instead, he felt burdened by the conflicts he saw ahead. The French were being cheated of their recognition and the U.S. government had taken a sleazy path, claiming credit for something that had been done by others a year before. Francis was embarrassed by a government more concerned with election-year politics than with honesty. Moreover, he could see that suspicion would play a greater, not a lesser role in the coming AIDS research. Competition often made for good science, Francis knew, lending an edge of excitement to research. Dishonesty, however, muddied the field, taking the fun out of science and retarding future cooperation.

The New York times echoed the concern in an editorial shortly after the announcement. "What's going on?" the piece asked. "Since even certain discovery of the guilty virus will not produce a vaccine for at least two years, and even better blood screening cannot occur for months, what you are hearing is not yet a public benefit but a private competition—for fame, prizes, new research funds * * *. Some kind of progress is surely being made. The commotion indicates a fierce—and premature—fight for credit between scientists and bureaucratic sponsors of research. Certainly no one deserves the Nobel Peace Prize."

In Paris, the Pasteur scientists were aghast at the short shrift their work was given. Willy Rozenbaum considered Heckler's performance no more than a political stump speech. "Elect us and we give you antibody test in six months," he mimicked bitterly. "Elect us and we give you vaccine in two years."

Three days later, Luc Montagnier revealed his own suspicions when he told * * *.

The United States government, which had so brazenly transformed Gallo's work into political capital for the Reagan administration, tenaciously held on to the myth that Gallo had discovered the AIDS virus. This meant adhering to Gallo's notion that the virus was a relative of the HTLV family that Gallo also had discovered, and that he had the right to name the virus, as viral discoverers always do. Ultimately, it had taken an international committee to rule that, no, this was not a leukemia virus and, no, Dr. Gallo did not have the right to name it. to smooth ruffled feathers, however, the committee arrived at a compromise name. Human Immunodeficiency virus, or HIV.

Throughout 1986, however, the Pasteur pursued its depositions and Freedom of Information Act requests against the National Cancer Institute. It slowly became obvious to even the most obdurate government lawyers that the lawsuit could prove very embarrassing for the United States government. A pithy memorandum from Dr. Don Francis on the potential of such a suit warned the administration, "If this litigation gets into open court, all of the less-than-admirable aspects will become public and, I think, hurt science and the Public Health Service. The French clearly found the cause of AIDS first and Dr. Gallo clearly tried to upstage them one year later." On the most central issue of whether HTLV-III was the product of viral pilfering, Francis posed the hypothetical question: Could the prototype isolates of HTLV-III and LAV be identical merely by coincidence? And he answered, "Probably not." However, two years later, at the request of Dr. Gallo, Francis wrote to Gallo, "I do not now, nor ever have, supported the claim that you or anyone in your laboratory 'stole' LAV."

For his part, Gallo dismissed the notion with a wave of his hand. He already was a star in the field of human retrovirology without the discovery of HTLV-III, he said. Of course, he wanted a Nobel Prize and he believed he deserved one, but he would not commit a scientific felony to achieve it.

Facing the possibility of open court hearings, the U.S. government began to reconsider fighting the French. In the early months of 1987, Dr. Jonas Salk shuttled between the warring scientists like an ambassador at large, forging a compromise. Ultimately, the settlement was signed by President Reagan and French President Jacques Chirac in a White House ceremony. It was one of the first times in the history of science that heads of state were called upon to resolve a dispute over a viral discovery.

The settlement accorded each researcher partial credit for various discoveries on the way to isolating HIV. It was from this settlement, and because none of the mainstream press had pursued the controversy in any depth, that the pleasant fiction had arisen that Drs. Robert Gallo and Luc Montagnier were "co-discoverers" of the AIDS virus. To this extent, Gallo had won. Now, moments before the president was to deliver his first speech on the epidemic, Gallo accepted his award for being a "co-discoverer" of HIV.

BAN THE AERIAL SPRAYING OF TOXIC PESTICIDES

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. BATES. Mr. Speaker, today I introduce legislation to prohibit the aerial spraying of toxic substances over densely populated areas.

There is an injustice being perpetrated upon the people of the State of California including those in my district. Aerial spraying of toxic pesticides continues unabated, spraying pesticides whose properties and health risks are, at best, unknown. One commonly used pesticide malathion, has been linked with nausea, dizziness, behavioral changes, and other symptoms. The long-term risks associated with this pesticide are unknown.

Yet, when a state of emergency is declared because of an infestation of crop-destroying insects, spraying occurs over heavily populated areas even before the residents of that area are allowed to voice their concerns in a public forum.

The most comprehensive study done on malathion's effects was performed by the Japanese. The research concluded that malathion is extremely toxic to the central nervous system, and its application by aerial spraying should be banned. Thirty years ago, the Japanese Government heeded the words of this research and as of today, the aerial spraying of malathion over rice fields is still banned.

Mr. Speaker, even if no conclusive or comprehensive studies in this country have proven dangers of malathion to humans, I feel it is imperative to ban at least the wide-scale and indiscriminate spraying of this toxic pesticide. I urge my colleagues to cosponsor this legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Federal Insecticide, Fungicide, and Rodenticide Act, the Administrator of the Environmental Protection Agency shall, not later than 6 months after the date of the enactment of this Act, classify under section 3(d) of such Act toxic pesticides for a use which prohibits the aerial spraying of the toxic pesticides over areas which have population density greater than 1,000 persons per square mile.

AID FOR TRADE ACT

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. GEREN of Texas. Mr. Speaker, in these times when the cold war is coming to an abrupt end, a great sense of victory is being felt by freedom-loving people everywhere. But as with any war, great rebuilding is left to do, and it is incumbent on the victors to provide the helping hand.

Our ability to extend that hand, however, is now tempered by our limited resources. Al-

though still one of the richest countries on earth, our generosity must be tempered by the reality of our ever-increasing national debt. We would like to help rebuild Eastern Europe from the ruins of communism, much like we did in the period after World War II, but we simply do not have the wallet.

Unlike the days of yesterday, when world power was measured in military might, power today is measured in economic strength and stamina; and unlike the days following the Second World War when we were the only economic power left standing, today we have many economic competitors. We have fallen behind in the manufacture of many goods, and are being aggressively pursued in others. It is time to take care of our own and turn our good-will toward home.

Today, I have introduced the Aid for Trade Act, a bill designed to get a return on our foreign aid investment. The Aid for Trade Act would limit the use of unconditional foreign aid, and would tie U.S. aid to the purchase of U.S. goods and services. It would also require that at least 40 percent of all U.S. aid be used for the construction, design, and servicing of capital projects.

This aid concept is proudly practiced by our trading partners. Canada, Japan, West Germany, France, Italy, and Britain provided over $10 billion in similarly restricted foreign aid and mixed credit assistance to other countries in 1988. Often, these countries will use engineering and design aid to write specifications for projects that can only be met by their goods, guaranteeing a market for those goods. Mr. Speaker, it is time we wised up.

The concept of tied aid has been the norm for our economic partners and competitors for years. For example, from 1984 to 1987, Japan, West Germany, and France restricted 70 percent of their foreign aid to capital intensive projects that produced large amounts of capital goods exports for their domestic industry. During that same period, we freely gave away 94 percent of our foreign aid in cash grants.

This bill would establish a $1 billion Eastern Europe loan guarantee program to provide risk and default insurance for American companies operating in the newly opened markets of Eastern Europe. Small business would get a boost as well from a $20 million direct loan program administered by the Overseas Private Investment Corporation.

While giving lipservice to the aid-for-trade idea, the administration has done little to put it into practice. These are revolutionary times that call for revolutionary changes in the way we do business with the world. Foreign aid must be seen as an investment in the future of our country as well as a part of our effort to help the less fortunate around the world.

We have an opportunity to help fledgling democracies along their path to maturity, but our responsibility to ourselves has been neglected far too long. Aid for trade is tried and true. We need only look to the record of our competitors to see the results. It is time we took a chapter from their book and embark on an approach to foreign aid that makes sense for America. Mr. Speaker, I ask for the speedy consideration and passage of the Aid for Trade Act.

CONGRATULATIONS TO MARTIN HUMM ON 30 YEARS OF SERVICE

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. POSHARD. Mr. Speaker, I rise to congratulate a great friend of mine and a great American.

Martin Humm is the county chairman of the Democratic Party in Hardin County, IL. Hardin County is along the Ohio River in deep southern Illinois, a place of tremendous natural beauty, and some of the finest people I have ever encountered.

I rise to salute Martin because this weekend he will celebrate his 30th year of service in his post as county chairman. That's a distinguished record of service by any standard, and apparently the people in Hardin County agree, because Martin has never been challenged in a single election. After first becoming involved in 1960 as a precinct committeeman, Martin was only 2 weeks later elected chairman, and he has served in that capacity ever since.

You want a Yankee Doodle Dandy? Martin was born July 3, 1921, and he has lived in southern Illinois all his life. He is 1 of 10 children, the 7th son, and he and his wife, Pauline, are the proud parents of one son, Michael, who along with his wife, Maryl, have blessed Martin and Pauline with three grandchildren, Spencer, Kate, and Marty. Marty is named for his grandpa. Martin has dedicated himself to a life of hard work and devotion to his family and his community. He is very justly recognized today.

One highlight of his came in 1960 when he shook hands with President John F. Kennedy during a stop in Paducah, KY. Like me he shares a great reverence for President Kennedy.

Later President Jimmy Carter called Martin at work to get his advice on how to run his campaign. There are few if any public servants in Illinois, including this one, who have not at one time or another sought Martin's advice and counsel.

Martin's guiding motto during all of this time has been to help anyone and everyone who needed it. That's what public service is really all about, and although Martin has been helpful to the Democratic Party, he has really been helpful to all of southern Illinois.

Congratulations to him on his years of public service, and here's wishing you many happy returns.

We need more people like Martin Humm. But short of that, I'm extremely proud to say I know the original.

HOUSE JOINT RESOLUTION 588, SOUTH AFRICAN FREEDOM WEEK

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mrs. LOWEY of New York. Mr. Speaker, as a cosponsor, I rise in strong support of House Joint Resolution 588, to designate the week of Nelson Mandela's visit to the United States as "South African Freedom Week."

This resolution is an appropriate gesture of respect and support for Nelson Mandela and his tireless efforts to end apartheid. It is also an important reaffirmation of our support for ending the racist system of apartheid, which continues to brutally oppress the black majority in South Africa.

The policy of apartheid is a policy of racism, violence, and oppression. It is incumbent upon freedom-loving people in the United States and around the world to do everything we can to bring an end to this ongoing travesty of justice. We must not rest until the last vestiges of apartheid have been completely eliminated. To do anything less would be to abandon the values of freedom and democracy for which our Nation stands.

Since my election to Congress in 1988, I have been extremely active in the battle to end apartheid in South Africa. One of my first actions as a Member of Congress was to cosponsor H.R. 21, a bill to impose additional, stiff economic sanctions against the racist regime in Pretoria. This bill, which is sponsored by Representative RON DELLUMS, contains the most comprehensive economic sanctions against South Africa that have yet been proposed.

In June 1989, I joined 50 of my colleagues in writing to President Bush to urge him not to meet with F.W. de Klerk, who was then in line to succeed former President Botha of South Africa, unless the Government of South Africa released all political prisoners, terminated the state of emergency, and legalized all political organizations.

In addition, I participated in a press conference with other antiapartheid Members of Congress, publically urging President Bush not to legitimize Mr. De Klerk by meeting with him at a time when South Africa was demonstrating complete intransigence on the subject of reform. As a result of these efforts, President Bush did not meet with Mr. De Klerk, who soon after became the leader of the racist apartheid regime.

In August 1989, I joined 57 members of the Congressional Human Rights Caucus in writing to President Botha to urge him to grant clemency to 14 South African activists who were sentenced to death based on the doctrine of common purpose. This controversial doctrine has been used with alarming frequency to sentence people to death for engaging in political protests against the injustices of apartheid. It has resulted in the deaths of innocent people in South Africa.

In March 1990, following Nelson Mandela's release from prison, I joined other Members of Congress in cosponsoring House Concurrent Resolution 270, a resolution expressing the sense of Congress that existing sanctions against South Africa should remain in place so long as the fundamental structure of apartheid has not been dismantled.

It is true that the Government of South Africa has taken some steps toward reform, including the release of Nelson Mandela, the lifting of the state of emergency, and the decision to lift the ban on black political organizations. These actions were steps in the right direction.

However, the structure of apartheid remains in place in South Africa. The Government is still holding thousands of political prisoners, and the black majority is still being denied fundamental human rights. Under existing laws, black South Africans cannot choose where to live, work, or send their children to school. Even Nelson Mandela, although he is free, is still being denied the basic right to vote and thus have a say in how the future of South Africa is determined.

I am firmly convinced that recent changes in South Africa, including the release of Nelson Mandela, are a direct result of international pressure. It would be a grave mistake to ease that pressure now. Only by maintaining sanctions can we help to speed the process of inevitable change in that nation.

As a Member of Congress, I have been extensively involved in efforts to combat apartheid, because I believe that all of us have a responsibility to take a strong stand against racism, bigotry, and oppression, wherever they may be.

For that reason, I am proud to strongly support House Joint Resolution 588, designating "South African Freedom Week." This resolution should be a reminder to us all that we cannot stand idly by as the racist system of apartheid continues to terrorize the black majority of South Africa. The United States as a whole must stand firm against apartheid, and we must do everything we possibly can to bring about fundamental change in South Africa.

On the occasion of Nelson Mandela's visit, we pay tribute to the conviction with which he has fought the scourge of apartheid. But we must do more. We must remember that it is our responsibility to take strong actions to ensure that Nelson Mandela's vision of freedom and democracy becomes a reality for all South African citizens.

THE NEED TO CUT PENTAGON SPENDING

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. ATKINS. Mr. Speaker, I rise today to urge my House colleagues who are participating in the budget summit negotiations to support real cuts in the Pentagon budget that will bring defense spending in line with the threats we face.

Since 1981, spending on the military has gone up nearly 25 percent with an adjustment for inflation, while spending on nondefense domestic discretionary programs has decreased 19 percent. While no one would debate the need for a strong national defense, the need for excessive Pentagon spending at a time when the threat of armed confrontation has clearly diminished, and when we face strong economic challenges from abroad, must be debted. Do we need 75 B–2 bombers at a cost of $62 billion, an MX missile rail-mobile system at a cost of $5.4 billion, 845 Trident II (D–5) missiles at a cost of $36 billion, and the strategic defense initiative at a cost of over $500 billion, when our health care and education systems are in shambles, our infrastructure is crumbling, our economic competitiveness is lagging, and our environment is in dire need of further protection? I say "no."

Obviously, the decisions we face on where to cut our defense budget will not be easy ones. Almost all of us have defense facilities or defense-related industries in our districts, and we will all be tempted to support defense cuts not in areas where they make the most sense, but in areas where they will do the least economic harm to our constituents. I believe, however, that we must resist the temptation to turn the defense budget into a public works budget, and instead take a long, hard look at the threats we face and what resources we need to control those threats.

Furthermore, I believe that if the diminishing threat to our military security is not enough to bring about real cuts in the defense budget, then a close look at the urgent domestic needs we face should be.

As a freshman member of the House Appropriations Committee, I have been amazed to see just how thin crucial domestic spending programs have been stretched. As a member of the subcommittee that oversees funding for the Environmental Protection Agency, for example, I have heard from countless State and local officials about the enormous costs they face in attempting to construct new sewage treatment facilities and filtering plants to comply with the Clean Water and Safe Drinking Water Acts. That same subcommittee funds the Department of Veterans Affairs, and I have heard from scores of doctors, administrators, and veterans at VA hospitals about sick and aging vets who must wait weeks or months for treatment due to inadequate staffing and facilities. And it funds the National Science Foundation, whose scientists continue to plead for help in improving the sorry state of math and science education in our country.

The list goes on and on. Quite simply, we as a nation face crucial domestic spending needs, and we have not been providing the funds we need to address them. The biggest losers have been our State and local governments. Our last two administrations have conjured up the charade of lowering the Federal tax burden and Federal contributions to crucial domestic programs so that State and local governments are forced to pick up the tab themselves. Well now the joke is on all of us, as over 35 of our Nation's 50 States are currently experiencing severe budget woes of their own. Sadly, it is the programs that really matter to future generations—programs such as education and environmental protection—that are now being underfunded. It clearly is time to take advantage of the outbreak of peace in Europe, and to once again embrace the Federal responsibility of investing in America's future.

Mr. Speaker, we obviously will need to look at a number of different options for reducing our budget deficit in the coming months. However, when a nation isn't producing the scientists and engineers it needs to compete in the future global marketplace, when close to 100 of its cities aren't complying with the most basic clean air laws, when 41 percent of its bridges are either structurally deficient or obsolete, then its biggest national security threat comes from pressing needs at home, rather than from antiquated fears left over from the cold war. It is for this reason that I recently joined several of my colleagues in signing a letter to the House Members who are participating in the budget summit expressing the belief that the single biggest contribution to the deficit reduction process should come from the Pentagon. It's time to get our spending priorities in order, and direct taxpayers dollars to areas that will truly keep America strong.

THE DEFENSE ENVIRONMENTAL ACTIVITIES ACT

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to announce introduction of the Defense Environmental Activities Act. This legislation is a bipartisan effort to increase the Department of Defense's ability to clean up its facilities nationwide and bring its activities into compliance with this country's environmental laws.

The act also provides for increased research into clean up technologies and pollution prevention by the military services, establishes a category for environmental activities within the defense budget, and requests a report on management of personnel carrying out the Pentagon's environmental program.

Original cosponsors of this legislation include Representatives CHARLES E. BENNETT, JOSEPH BRENNAN, GEORGE E. BROWN, Jr., NORMAN D. DICKS, LANE EVANS, VIC FAZIO, PETE GEREN, LEE H. HAMILTON, FRANK HORTON, RAYMOND J. MCGRATH, FRANK PALLONE, Jr., MARTIN OLAV SABO, ROBERT F. SMITH, JOHN S. TANNER, and JOLENE UNSOELD.

No one should underestimate the task before the Pentagon. While many are aware of the problems facing the Department of Energy, fewer are aware of the environmental issues facing the Department of Defense [DOD]. According to the February 1990 annual report on the Defense Environmental Restoration Program for fiscal year 1989, 14,401 sites were identified at 1,579 military installations in the United States which require evaluation for problems that may pose hazards to public health or the environment.

Since these figures were compiled in September 1989, however, the number of sites has already grown to over 15,000, and more

are expected to be identified. There are an additional 7,100-plus formerly used properties which DOD may be responsible for evaluating and cleaning up. Furthermore, the DOD has been named as a potentially responsible party at Superfund sites. Federal properties under the Pentagon include Navy, Army, Air Force, and Defense Logistics Agency installations.

Of the sites evaluated to date, nearly 70 percent are found to require further work. However, the 1990 annual report states that only 287 of the 14,401 sites had completed cleanups. While another 905 have work underway, clearly the Pentagon has a huge task on its hands. The DOD is responsible for the greatest number of Federal facilities that generate and dispose of hazardous waste, as well as the greatest number of hazardous waste sites in this country.

The cost of cleanup and compliance with existing and anticipated environmental laws for the military facilities will cost billions of dollars and affect every State in the Nation. Without the needed funds, however, the Pentagon will be unable to carry out the job it needs to do. That is why we are introducing this bill today.

The Defense Environmental Activities Act will increase the Pentagon's budget request by $333 million to $1.15 billion in fiscal year 1991 for the defense environmental restoration account [DERA], which provides for site evaluations and cleanups; will provide an additional $285 million for environmental compliance activities, above the Pentagon's designation of $915 million for this area; and makes $80 million available for research into cleanup technologies and pollution prevention. These funds would be provided from shifts within the defense budget once the level of defense spending is established for fiscal year 1991.

DOD has already demonstrated its unmet needs of at least $200 million with requests for a $145 million in fiscal year 1990 reprogramming and an expected $60 million in fiscal year 1991 reprogramming.

In addition, this legislation establishes a budget category for environmental activities and requests a report on management of the personnel carrying out the Pentagon's environmental program. Every aspect of the military's budget is affected by environmental requirements—military construction, operations and maintenance, research and development—yet it is difficult determining how the Pentagon's dollars are being spent in this area.

Given the size of this program, DOD can not afford to underfund its activities, especially if it is ever going to get beyond the basic site inspections to the actual work of designing cleanup plans and doing restoration work. Since current funding to sites is based on a worst first approach, thousands of sites are in line for funding that will take years to get. Only 189 remedial actions were taken in 1989 and 118 of those were at the very worst case national priority list [NPL] sites. Less than 100 of DOD's installations are listed on the NPL. Even at NPL sites only half received remedial actions by 1989, and some still have not even had the basic second stage remedial investigation/feasibility study.

The Pentagon states that approximately $915 million is currently spread throughout the budget for compliance activities. This figure, DOD acknowledges, only covers requirements for class I compliance—those of the highest priority—and does not fund class II or III. These are not luxuries—without funding for class II, DOD knows that they will not meet compliance requirements next year. This makes DOD vulnerable to legal problems.

With the growing level of environmental laws, this could be one of the greatest, and least recognized, expenses facing the Federal Government. A recent Congressional Budget Office report on Federal facilities estimates that DOD's activities on behalf of just one law alone, CERCLA—Superfund, will cost between $10 and $17 billion.

Compliance covers both short- and long-term activities required for the DOD to meet the environmental standards set by law and regulation—including the cost of preparing to be in future compliance. Cost categories include operational compliance, that is, monitor soil and ground water at sites; corrective action, that is, upgrade waste treatment facilities; investigation and cleanup that is, remove and treat contaminated ground water; and R&D, that is, design radioactive waste immobilization technology. Estimated of DOD compliance activities are very preliminary, but will be in the billions—approximately $5 billion over the next 4–5 years.

Basic research activities are critical for long-term efforts at cleaning up these sites and preventing future pollution. The Defense Environmental Restoration Program annual report states that DOD invested about $27 million in its Research, Development and Demonstration [RD&D] Program in fiscal year 1989, $13 million of which came from DERA's "Other Hazardous Waste Program." The remaining funds came from the services' own research and development [R&D] efforts. Since R&D is seen as the background work needed for future cleanup efforts, this is an investment in the future. DOD estimates that approximately $41 million is in the fiscal year 1991 budget request for services R&D. This bill will double that amount, making R&D funding at a level closer to 10 percent of the overall environmental account.

This legislation should help the Pentagon move faster. Many tasks remain, obviously. The Pentagon has not identified, for example, the cost and compliance issues involved in cleaning up military bases overseas. Federal estimates of the total cost of DOD's environmental activities, which currently range from $15 to $40 billion, may need to be reassessed as more is learned about the work required at the DOD Federal facilities.

Mr. Speaker, the Pentagon must move more quickly to clean up the pollution at our military bases. This bill will help them do just that.

ODYSSEY OF THE MIND: CULTIVATING THE CREATIVITY OF OUR STUDENTS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to recognize a very important program designed to challenge the creativity of our students: the Odyssey of the Mind competition.

The program's mission is to promote analytical thinking through complex problem solving. Odyssey of the Mind tests the students' ability to reason and problem-solve in mathematics, science, social studies, and the language arts.

Students solve the problems together in teams, instilling self-confidence in each student as well as pride in team accomplishment.

Team competition begins at the regional level and proceeds through State competition into the national finals. The program has become successful internationally and students from the Soviet Union, Mexico, China, and Japan now participate in Odyssey of the Mind competitions.

For the 1990 Odyssey of the Mind competition, the Whitney M. Young Elementary School of Louisville was one of 14 teams that won the Kentucky State competition and advanced to the world finals in Ames, IA.

The team's coaches were Claire Drucker and Brender Luster, and the students who traveled to Ames include Mary Browning, Timothy Learn, Jessica Bressler, Jason Hurt, Benjamin Fryar, Joshua deGeorge, and Alan Stilts.

While the Whitney Young team did not win first prize at Ames, it won first prize with the Louisville community and with me when I visited the team at school on the eve of their trip. They were a very enthusiastic and talented bunch of youngsters who are definitely on their way to exercising leadership in our community and in this Nation in the years ahead.

LEGISLATION SAFEGUARDS TRADITIONAL STATE CONTROL OF WATER RESOURCES

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. STALLINGS. Mr. Speaker, I am pleased to join with the other members of the Idaho congressional delegation today in introducing legislation to address the serious problems arising from the recent decision of the U.S. Supreme Court in California versus FERC.

Last month, the Supreme Court ruled that the Federal Government had authority to supersede State regulations governing streamflow and water allocations. I was deeply disturbed and disappointed with the court's decision. It threatens a century-old standard of State water control and poses a serious risk to future management of our rivers and streams.

I will fight vigorous this latest attack on the State of Idaho and am very pleased to join

with my Idaho colleagues in condemning this Federal interference. This bill will clarify the Federal Power Act to ensure that States have no diminished decisionmaking authority when it comes to water allocation decisions.

Specifically, the legislation would amend sections 9 and 27 of the Federal Power Act to clarify that an applicant for a license must comply with all procedural and substantive requirements of State law in acquiring water rights and in the administration of the use of water.

In Idaho, we have taken great care to ensure that our limited supplies of water are managed to meet the many competing needs of our citizens. As a result of conficts over allocation of water resoures in Idaho, the State has embarked on the preparation of a comprehensive State water plan for all of its rivers and streams and the adjudication of all water rights in the Snake River basin.

Through these two efforts, the State hopes to settle the conflicts that have arisen over the use of water in Idaho. In one decision, however, the Supreme Court threatens to undo the gains the State of Idaho is making in the effective and sound management of its water resources.

In our State, water is scarce. We must carefully allocate the water among the many uses. This is done through a water rights system known as the prior appropriation doctrine. The essence of this doctrine is that the first person who puts water to beneficial use has the first right.

In deciding who will be permitted to use water, the State balances each proposed use against the existing and potential future uses. In addition, the State takes into account the local public interest, whch includes consideration of the impact of a particular use on water quality, fish and widlife, and other resources.

In California versus FERC, the Supreme Court suggests that licensees under the Federal Power Act may be exempt from the State of Idaho water rights law. If this is true, the water right laws of Idaho would be rendered meaningless. Two systems of water law would reign side-by-side, neither one of which would be effective in taking into account the impacts arising from uses authorized by the other sovereign.

The problem is not unique to Idaho. Every State in the Union joined in support of California before the Supreme Court in California versus FERC. At the heart of the controversy is the historical right of each State to regulate water in a manner that meets the needs of its citizens.

What we are proposing today in our legislation is not a change in the Federal Power Act, but rather an amendment that will achieve what we believe to be the original objective of the act. This bill will remove any ambiguity created by the Supreme Court decision regarding the double licensing requirements originally intended by the Federal Power Act. It is consistent with Congress' traditional deference to State water law and the principles of cooperative federalism.

The Snake River serves as the lifeblood of Idaho's economy and quality of life. Irrigation, energy production, fish and wildlife, recreation, and other uses all benefit from effective stewardship of our water resources. Idaho is very fortunate to have in place a State water plan which serves as a guiding document in water resource management decisions. It has served us well over the years.

In order to maintain State authority, however, we cannot afford to give the Federal Government or out-of-State interests an opportunity to interfere with State decisions on water allocation and stream flows. This legislation reverses the effect of the high court ruling and safeguards historic State control over our water resources.

Mr. Speaker, I urge my colleagues to consponsor this critical bill, and I look forward to its consideration by the House.

IMPORTANT HEARINGS IN NEW YORK CITY ON PUERTO RICO PLEBISCITE

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. FUSTER. Mr. Speaker, a most important hearing by the House Subcommittee on Insular and International Affairs took place in the Spanish Harlem sector of New York City on Monday, June 25. It was held there to accommodate the many representatives of mainland Puerto Rican communities who had asked for imput into pending legislation is the House and Senate which would authorize a political status plebiscite in Puerto Rico next year between the options of statehood, independence, and an enhancement of the existing commonwealth status.

This New York City hearing was very capably chaired by my colleague from New Mexico, BILL RICHARDSON, sitting in for our subcommittee chairman, RON DE LUGO, who was still in Bethesda Naval Hospital, recovering from a recent illness. As a member of the subcommittee, I was glad to be there, along with members of the New York City delegation, my distinguished colleageus CHARLIE RANGEL, BILL GREEN, TED WEISS, AND JOSÉ SERRANO, as we explored the role of mainland Puerto Ricans in any future exercise of self-determination in legislation pending in the Congress.

The significant interest in this issue can be seen, Mr. Speaker, by the large number of witnesses—about 50—who testified at last Monday's hearing and who represented the civic, commercial, labor, academic, religious, and political leadership of the mainland Puerto Rican community. They came not only from New York City but also from upstate New York, Philadelphia, Chicago, Connecticut, and New Jersey. The extraordinary range of people who testified constitute the front lines of the Puerto Rican community on the mainland.

They represented both Democratic and Republican viewpoints, not to mention the positions of the three status formulas in Puerto Rico itself; the interesting thing is that they all had one thing in common—that for the plebiscite to be a meaningful exercise in self-determination the results must be binding. That is, Congress must be committed to honor the results of the plebiscite.

Moreover, Mr. Speaker, there is a consensus that any decision made on the ultimate political status of Puerto Rico must be made by Puerto Ricans themselves without any pressure or intervention by the White House or the Congress. In no case should the Federal establishment show preferences in the plebiscite process. Also it was reiterated at the New York hearings that under any of the three status options, it must be made clear that the Spanish language, culture, and heritage of the Puerto Rican people cannot be compromised or jeopardized.

Finally, Mr. Speaker, it became obvious at the New York City hearings that the right to participate in the plebiscite should be extended to all Puerto Ricans, not only those in Puerto Rico itself but also those mainland Puerto Ricans born on the island or the children or parents born in Puerto Rico. There is a common vision that the people of Puerto Rico are one people, that their homeland is Puerto Rico, that they are Puerto Ricans first, and that Puerto Ricans constitute a cultural nationality—not merely an ethnic minority within a pluralistic society.

I hope this vision will be taken seriously and be taken into account as Congress moves to consider the plebiscite bill, Mr. Speaker. The mainland Puerto Rican community is a large one, and efforts are being made by those at the New York hearings to contact their Congressman throughout the United States about this issue. I am sure we will be hearing more about this issue as this year continues in Congress, and I hope my colleagues will focus more clearly on the matter of Puerto Rico's ultimate political status.

THE BRADY BILL

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. GOSS. Mr. Speaker, on the morning of March 30, 1990, a Russian emigre living in Fort Myers, FL, purchased a .38 caliber Taurus revolver. That night he called his wife and two daughters into the dining room—a family he had spent years trying to reunite—sat them down at the table and began shooting. When the bullets stopped flying the man's wife and one daughter were dead. The second child escaped with serious injuries, including a bullet in one eye.

In April, a Lee County, FL, man suffering from deep depression about an illness purchased a .22 caliber pistol. Within the next few days, he killed himself with a gunshot to his head.

In May, a Sarasota, FL, man shot and killed his estranged wife during a meeting about selling the couple's furniture as part of a divorce proceeding. The gun, a Taurus .38 caliber five-shot revolver, was purchased the day before the shooting.

And very recently, a Venice, FL, couple died in a murder-suicide, a tragic incident that began when a distraught man went to a neighbor asking where he could buy a gun.

Not long afterward, the man shot his wife and then turned the gun onto himself.

I could go on. After a survey of the local law enforcement officials in my district, I found that deadly crimes of passion are occurring at an alarming rate in our communities.

In fact, such tragic incidents are happening across the country. In fits of depression, uncontrollable rage, and mental instability people are buying guns with the intent to kill.

By requiring a 7-day waiting period—or cooling off period—for the purchase of a handgun, H.R. 467 has the potential to save lives. A week's lag time between the time of attempted purchase and the time when a gun was available to any of the would-be killers in southwest Florida might have meant the difference between life and death.

James Brady, a former White House Press Secretary for whom this legislation has been named, is one of the luckier victims of tragic shootings involving a gun hastily purchased by an unstable person. When John Hinckley went to purchase that gun with the crazed notion of killing President Ronald Reagan, he was able to lie on the registration form and walk out with a handgun the very same day.

By implementing a national 7-day waiting period, the Brady bill provides much-needed consistency for States and localities seeking to prevent violent crime. Although a background check is not mandated by this bill, its provisions give local law enforcement a window of opportunity to conduct their own investigations to ensure that criminals, the mentally ill, minors, illegal aliens, and drug addicts are not able to obtain handguns.

Twenty-two States have already passed waiting period laws for the purchase of handguns, as have many counties and municipalities. Because the reasons for owning a gun in an urban environment often differ from the purposes behind gun ownership in a more rural area, logically gun control should best be emphasized at the State and local levels. However, I support the Brady bill because it offers consistency for the entire Nation.

I continue to believe that the experienced criminal will find ways to obtain firearms in spite of such important legislation as the Brady bill. We must ensure that such criminals are severely punished for their actions—that they know that committing a violent crime with a gun means they will do time.

Honest, law-abiding citizens have a right to own guns for hunting, recreational sporting purposes, and personal security. The Brady bill—H.R. 467—does not infringe upon that important right. This legislation does not apply to rifles or other firearms used for sporting purposes—it applies exclusively to handguns. In addition, the Brady bill is not a national gun registration law—as a matter of fact it requires that applications of individuals whose gun purchases have been approved be destroyed by law enforcement officials within 30 days.

By allowing time for a simple background check to ensure that only law-abiding, mentally competent citizens have legal access to handguns—and by providing a buffer for highly emotional people to get control of themselves before a tragedy happens, the bill simply offers individuals greater protection.

A local newspaper editorial in my district said it well: "How many times have all of us read stories in the newspaper about basically normal, rational thinking people who, because of a tragedy or an emotional blow in their lives, lose it mentally, go out and buy a gun and kill a neighbor or loved one?"

The answer is "too many." As one of the Brady bill's 150 cosponsors, I urge this House to move quickly and get this legislation passed.

NATIONAL COUNTY GOVERNMENT WEEK

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. ERDREICH. Mr. Speaker, today I am introducing a joint resolution designating April 7 through April 13, 1991, as "National County Government Week."

County government has become increasingly important in most States as a provider of areawide and local municipal services. In addition to running the jails, the courts, the elections, and collecting the taxes, counties have become the governments of last resort in providing services for the poor, the homeless, and disadvantaged citizens. My home district of Jefferson County is a perfect example of what is happening all over the country in terms of the services provided by county governments. In 1982, the budget was around $100 million. It is now $220 million, $40 million of which is devoted to providing health care to low-income patients of the county hospital.

In promoting greater economic development, Jefferson County has joined with the city of Birmingham and other municipalities to help existing businesses and to attract new ventures. The city of Birmingham and Jefferson County together built a civic center and a flagship hotel. The county has also been instrumental in developing a new research park and also provides low-interest loans to small businesses thus helping to create jobs.

What is happening in my home county is happening all over the country. The phenomenal growth in services provided by counties is evidenced by the corresponding increase in county expenditures. Counties spent almost $103 billion last year compared to only $13 billion in 1970. Likewise, over 1.9 million people are now employed in county government nationwide. Certainly, each of you has felt the growing influence of county government in your district.

I am sure you are aware that many Members of Congress served in county government at one time in their careers. In fact, 74 Representatives are former county officials. Another 13 Senators also served in county government. I myself served for 8 years as a county commissioner in Jefferson County, AL, and have witnessed the dedication and effectiveness of those who work in county government.

In light of the tremendous contributions made by county governments nationwide, I believe it is appropriate that we designate April 7 through April 13 as "National County Government Week." I urge my colleagues to support this joint resolution.

THE BUSH PLAN FOR LATIN AMERICA

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. LaFALCE. Mr. Speaker, yesterday, President Bush made an important contribution to the future prospects for economic growth in Latin America through new proposals for increased U.S. trade, investment, and debt relief.

I want to particularly commend the President for including, for the first time, official debt relief and an increased role for the Inter-American Development Bank as important ingredients in his plan.

While it has been overshadowed by the more dramatic changes in Central Europe, many nations of Central and South America have made significant advances in reforming of their economies as well as political systems. Like the former Soviet satellites, many of these Latin nations have recently shed themselves of totalitarian governments in favor of democracies. Now, they are liberalizing trade, privatizing state-owned enterprises, and taking the tough steps necessary to tame inflation and capital flight. Of course, their problems are severe and deeply rooted, and no government will be able to turn its nation's economy around overnight.

Nonetheless, as these nations make the necessary domestic changes, many are still being crushed by a huge burden of debt—both commercial and official. This stubbon problem forces these nations to send hard-earned foreign currency abroad in the form of debt and debt service payments, instead of investing in needed technology, infrastructure improvements, education, and other important purposes.

It became clear to many of us in the Congress several years ago that we could not expect a turnaround in this region until these nations were given substantial and meaningful debt relief, tied to economic reforms.

As a result, we have urged the President to take a lead role in developing a framework in which commercial banks would offer debt relief, while securing the remaining claims. Last March, the administration responded with the Brady plan to try to achieve this goal.

Since then, three commercial debt workouts have been negotiated. We are hopeful that the amount of debt relief provided will be adequate to help restore economic growth.

Debt relief can take many forms. I have been interested for some time in the idea of debt-for-environment swaps in which debt could be paid in local currency which would then be devoted to conservation or environmental cleanup. I have offered such a proposal as part of the legislation authorizing U.S. participation in the new European Bank for Reconstruction and Development. The new bank should work together with the World Bank and IDB to make such swaps routine in Central Europe, Latin America, and elsewhere.

Now, the President has gone further. He has offered to negotiate forgiveness of debts these countries owe to the U.S. Government.

This is a significant development that deserves congressional support. Further, I am hopeful that this important decision by Mr. Bush will serve to unlock additional concessions from the commercial banks, who must contribute their fair share to the resolution of this problem.

For many small countries, particularly in Central America, official debt makes up the bulk of foreign debt. In these cases, a Brady plan deal, though helpful, would not really alter the outflows of scarce capital. However, forgiving or reducing official debt, as President Bush now supports, can clearly free up significant resources for investment within these nations.

I am also very pleased that the President has specifically asked for an increased role for the Inter-American Development Bank [IDB] both in quickening the pace of economic reform in the region, and as a more active partner in working toward more comprehensive commercial debt reductions.

The most recent IDB reauthorization bill passed by the Congress included an amendment, which I authored, directing our Government to negotiate with the other shareholders of the IDB to determine ways in which the additional resources raised by the bank could be used for debt and debt service reduction. I am glad to see that President Bush has decided to bring this to fruition.

In light of our enormous trade deficits and the growing economic competition we face from Asia and Europe, it is increasingly important that we find markets for U.S. exports. A growing Latin America can be such a market. The steps President Bush announced yesterday can be an important step toward the goal of a prosperous and democratic Western Hemisphere.

COME TO BARING AND SEE YOUR FRIENDS

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. VOLKMER. Mr. Speaker, it is with great pleasure that I rise today to honor a great community in my district as they prepare to celebrate their 100th year of existence. Baring, MO, in Knox County in my congressional district has adopted the slogan "Come See Your Friends" and this certainly is an opportune time for everyone to come back to Baring to see your friends as they celebrate their centennial on July 7, 1990.

Baring is one of those many towns that sprang up with the development of the railroad. When the Atchinson, Topeka & Santa Fe Railway started laying track in 1887 things changed very quickly in the community. The first train ran on January 1, 1888, which in turn brought the need for communication, so the first postoffice was established. How Baring was named is still a mystery, however, there are two stories. The first was that a bank in London, Baring Brothers lent large amounts of money to the railroad, the other that two brothers named Baring owned a commissary car which travelled with the railroad and sold to the working man.

Baring boasted many businesses at the turn of the century, including lumberyards, grocery stores, hotels, stables, banks, and hardware stores. There were also public schools for first through twelfth grades, two churches, and of course, the depot.

The depot was a very busy area as people from great distances traveled to bring their livestock for shipment. As Baring has always supported a community of hard working people, area businessmen got together and decided the people of the area needed some relaxation on holidays and Sunday. This dream became a reality with the purchase of the railroad reservoir and the building of the Baring Country Club. This came about when the railroad changed from steam engine to coal. Today, the Baring Country Club is still in existence with boating, fishing, skiing, and swimming.

Baring has experienced hard times as well, especially with major fires in 1911 and 1915. The love of their small towns the depression for bigger towns and cities.

After the war, however, Baring experienced a time of growth during the 50's and 60's. Baring has won several awards for the improvements that were made. In recent years the city has updated its waterplant, built a water tower as well as improved the overall system.

Through good times and bad, Baring has prospered because of its people, always willing to help others through rough times and celebrating through good like to add my congratulations to Baring on this great day and say as they say, "come to Baring and see your friends." I certainly plan to be there.

UNCLE SAM IS PART OF HEALTH CARE COST PROBLEM

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. DANNEMEYER. Mr. Speaker, I urge my colleagues to read the attached article from the June 26 edition of the Wall Street Journal. It illustrates how the increase in governmental regulation has affected a small hospital in northern California over the last 24 years. This hospital treats the same number of patients today as it did in 1966, but, thanks to the proliferation of Federal regulations, requires hundreds of additional workers to handle all the paperwork generated by these regulations.

As this article makes clear, increases in the size of the Federal health care bureaucracy require hospitals and other health care entities to expand their staffs as well. When we examine ways to control the cost of health care, we must look first to the effect that Federal policies have had on the cost of that care. We should begin from the assumption that Uncle Sam is part of the problem.

ONE HOSPITAL TELLS THE COST OF REGULATION

(By Sidney Marchasin)

The groans you hear coming from your local hospital are not all emanating from patients. They're the protests of nurses, hospital personnel and physicians who are forced to live with a hodgepodge of expensive, contradictory and confusing bureaucratic regulations.

The federal government must be held responsible for many of the basic costs that now confound the health-care industry. Legislators, official commissions and bureaucrats in Washington document deficiencies in our health-care system, point out the need for corrective action, and then invoke all sorts of rules, regulations and paper work.

What are the total national costs attributable to regulating the hospital industry? Nobody knows for sure. But the experience at Sequoia Hospital, a 430-bed not-for-profit, general hospital in the San Francisco Bay area, may provide some insights. The price tag for dealing with various regulatory bodies and government mandated paper work at my institution is approximately $7.8 million annually.

The change in the U.S. government's attitude—and the resultant burden on hospitals—is reflected in changes at Sequoia. The average number of inpatients today is the same as it was in 1966. The staff is about 175% the size it was then. Some of the rise is because the number of outpatients has grown. Some of it is because patients need more intense care than they did then—the hospitalized are sicker because government regulations prohibit admitting many patients at the point they used to enter the hospital. Much of it, though, is due to new requirements of government.

To comply with the string of regulations and government directives requires a staff of 140 full-time employees. Not included in this count is the vast number of hours physicians devote helping the institution comply with mandated government audits and utilization review programs.

The federal government insists that medical care be continually assessed and audited for quality and appropriateness. At Sequoia, four full-time employees and one part-timer spend all their time reviewing patient records. Nine or 10 employees appraise the appropriateness of hospitalization.

The Federal Peer Review Act mandates that all hospital work paid for by the government be reviewed by an independent agency under contract to the Health Care Finance Administration. Providing duplicate hospital records, lab reports, X-ray data and billing information to outside "peer review agencies" is an enormous task requiring 20 additional staffers. As for Medicare funds, to get those the hospital must undergo a third audit, by the Joint Commission on Accreditation of Health Care Organizations.

Each auditing agency issues directives, generating multiple forms that must be filled out by nurses, hospital pharmacists, record-room personnel and doctors. To lighten the paper-work load for practicing physicians, the hospital has added four people to its medical staff office. The government forms require formatting by three data processors. Paper work also eats away at nurses' time.

If Sequoia's experience is typical—and there's no reason to suspect it is not—healthcare regulatory costs' nationwide measure in the billions of dollars.

When allocations are scarce, available resources should be spent in wisdom, not in folly. Excessive regulatory activity has not only failed to produce a health-care system to carry us into the next century; it has weakened what we already have. In the exhilaration of forging a new health-care system, the government has put providers into a regulatory straitjacket. Only a radical

restructuring of all these rules and regulations will bring order out of the present chaos.

The best way to start solving the health-care cost crisis is to suggest that many of the government's regulators resign en masse, and then accept these resignations so fast they don't even have time to hit the table. The patients would not lose much of value. And I would surmise that people would be much happier knowing their taxes were being spent on older peoples' medical needs rather than on a massive government bureaucracy.

Am I suggesting that Uncle Sam relinquish all oversight activities? Not at all. Oversight is not a dirty word, and every effort should be made to conduct a review of medical practice on a rational basis. The question is not whether Medicare needs oversight, but the kind of oversight that is appropriate. Uncle Sam has not been the solution to soaring medical costs; he has been part of the problem.

SAME HOSPITAL, BIGGER STAFF—SEQUOIA HOSPITAL

	1966	1990
Average number of inpatients per day	250	250
Staff:		
Business office and accounting	26	70
Admitting and outpatient registration	13	18
Utilization review	0	10
Social services	0	9
Medical records	17	41
Quality assurance	0	5
Data processing	0	9
Medical staff office	0	4
Administration	4	9
Nurses	374	533
Maintenance	16	28
Total	448	734

Note: Sequoia serves roughly the same number of inpatients it did in 1966. It serves more outpatients now. But more nurses are needed in general because patients these days are sicker and government paperwork takes nurses' time. Sequoia estimates that Medicare and other government programs mean it has to hire 35 more nurses than it would otherwise need.

Numbers may not compute because of rounding.

Source: Sequoia Hospital, Redwood City, Calif.

CLEAN AIR: THE FUTURE TO HOUSTON'S ECONOMY

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. ANDREWS. Mr. Speaker, Houston's economic future was significantly affected when the U.S. House of Representatives overwhelmingly passed the Clean Air Act recently.

The act is a tremendous step toward ridding Harris County of the ugly brown smog hanging over us and repealling prospective industries from settling here.

Clean air is vital to attracting new businesses. An area's quality of life is a top criteria when new companies look for new sites, and few will want to call Houston home if our air quality gets worse.

Harris County has worked hard to clean our air since the 1970's. Through largely voluntary measures, we have reduced pollutants like carbon monoxide and upgraded monitoring to get a better handle on size of the problem.

But even with those efforts, our pollution ranks as one of the worst in the country. Studies show us with the fourth worst ozone pollution problem behind cities like Los Angeles, New York, and Chicago.

Just consider that smog is mostly ozone. In the last 10 years, Houston exceeded Environmental Protection Agency standards for ozone pollution 537 times. That's over a year and a half of days of breathing dangerously dirty air.

That's why the Clean Air Act's alternative fuels and tailpipe emission standards are so important to us. Half of our smog comes from cars, trucks, and buses. Harris County has one of the largest fleet vehicle and van pool programs in the country, which causes a lot of this smog. Tightening emissions standards for these vehicles will reduce our pollution and begin improving our air.

But to really clean our air, we need a long-term alternative fuels program. We now have the techology to run vehicles on clean-burning alternative fuels—like natural gas—and cut smog-forming emissions by over half.

To get these alternative fuel vehicles on the road as soon as possible, the Clean Air Act phases-in an alternative fuel vehicles program for fleets by 2000. A recent study shows that a strong program switching fleet vehicles to natural gas—such as the one passed by the House—would remove enough pollution each year to fill 12 Astrodomes.

Not only will such fuels reduce our smog, but they will create jobs and new businesses here and across our State. By one estimate, significantly increasing the use of natural gas will create 15,000 jobs for Texans.

We'll also benefit from the energy security that alternative fuels provide. The U.S. currently imports over 50 percent of its oil, while we in Texas have plenty of natural gas. Natural gas is cleaner, cheaper, and more domestically abundant than other fuels.

Alternative fuels are simply a no lose proposition for Harris County. Without this act—and especially without a strong clean fuels program—Houston would be condemned to dirty air

ENVIRONMENTAL CONSCIOUSNESS OF A THOUGHTFUL CONSTITUENT

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. MURTHA. Mr. Speaker, thank you for letting me speak today on a project which is very important to me and the residents of Westmoreland County, PA.

Language was included in the fiscal year 1991 Appropriations Subcommittee on VA, HUD, and Independent Agencies' report, stating "Finally, the Committee recognizes the importance of the trash clean up project in Hempfield Township, PA. Although the Federal Government is not in a position to fund these types of projects, we strongly support the concept of cleaning our roadways and restoring their natural beauty."

I wanted to take this opportunity to explain what is happening in Hempfield Township, PA. The project started last spring during the 11th annual "Keep Pennsylvania Beautiful Day" sponsored by our State department of transportation. Numerous residents, led by Mrs. Sue Wiseman, joined forces to rid their community of litter, especially trash nearby the residents' homes in an area which became somewhat of a dumping ground.

The group has been successful in many cases at identifying the culprits of the illegal dumping and the dumpers have been fined and/or forced to remove the trash. In cases whereby the parties could not be identified, the individual residents of Hempfield Township have taken it upon themselves to remove and sometimes recycle the dumped trash. The garbage has included glass, cans, bottles, aluminum, clothes, curtains, pillows, tires, old carpeting, scrap wood, mattresses, broken furniture, refrigerator parts, and much more.

Mrs. Wiseman is currently in the process of organizing a nonprofit organization in the area called Cleanway to deal with their litter problems.

They are rounding up volunteers who want to help keep their neighborhoods beautiful. The group will also be looking at long-term solutions to their trash dumping problems. Mrs. Wiseman is concerned with the aesthetic and environmental impact garbage has on a community. She and her group are focusing on public education and public awareness activities.

I wholeheartedly commend Mrs. Sue Wiseman and her group for their innovative efforts and determination to make our community a better place for our children to live. She has faced an uphill battle, and will probably continue to face adversity. I am confident, however, her determination and dedication to this project will enable her to prevail in the rebeautification of our rural roadways.

I am very proud to be able to represent Mrs. Sue Wiseman and hope others who learn of her project will follow her lead in keeping our community a safer and cleaner place to live.

TECHNOLOGY AND COMPETITIVENESS

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. VALENTINE. Mr. Speaker, the Committee on Science, Space, and Technology recently reported the bill, H.R. 4329, the American Technology Preeminence Act of 1990. While recognizing the primary responsibility of the private sector in the commercializing of technology, the committee is convinced that comprehensive national technology policy is urgently needed. The solutions to American competitiveness extend far beyond appropriate levels for Government research and development, measures which were once thought to be sufficient. The urgency of this legislation is highlighted by a recent joint publication of the Japan Society and the Council on Competitiveness, entitled "Technology and Competitiveness: New Frontiers for the United States and Japan."

As Technology and Competitiveness emphatically states, the rules of the game for technological innovation have changed. "Imagine," the authors state,

A customer in Boise, Idaho decides to purchase a customized pager—with its own radio frequencies and features. Seventeen minutes after his special order is placed, an automated bar-code reader begins scanning a blank circuit board in Motorola's state-of-the-art pager factory in Boynton Beach, Florida. The bar code contains all the information the factory needs to make the pager. As the board travels down the assembly line, each robot reads the bar code and executes the instructions. Two hours later, the pager is complete—ready to be shipped overnight to the customer in Boise. The user can expect less than one failure in 100 product-years of use.

Halfway around the world, in a forest at the foot of Mt. Fuji, a factory uses Fanuc robots and machine tools to make more Fanuc robots and machine tools. In vast rooms filled with machines but almost no people, computerized equipment checks the quality of incoming components, machines new parts and tests them. Unmanned carriers move parts to and from the automated warehouses. Automated machine tools fed by robots grind out parts all night with only a night watchman on-site. Banners overhead proclaim: "People can work normal hours because the robots and machines work overtime."

These are the new frontiers of technology. According to Technology and Competitiveness, there are two models to describe how science and technology contributes to commercial competitiveness. These models for innovation are the "ladder" process and the "cyclic-development" process.

In the ladder process a breakthrough in basic research leads to a new technology. For example, 40 years ago the discovery of the structure of the atom led first to the atomic bomb and eventually, through a long development process, to today's nuclear power industry. The United States has dominated the science-driven phase of this process, yet other countries have been more successful in harnessing its technological and commercial benefits.

The cyclic-development process, on the other hand, emphasizes making steady, incremental improvements in existing products and processes. Japan, since World War II, has been the acknowledged master of the cyclic-development process, and one of the hallmarks of this success is its $50 billion trade surplus with the U.S. The examples of the Motorola and Fanuc factories show how technology is developed by today's economic superpowers. Although there are a number of world-class American manufacturers, too few U.S. companies can compete in the new high technology arena. In order to reduce our trade deficit with Japan, we must learn to play by the new rules, and we must learn quickly.

The authors of Technology and Competitiveness have identified six skills that are common to a mastery of the cyclic-development process. The first skill is speed. In the marketplace of today the race goes to the swift. The company who can bring a product successfully to market before its competitors has a headstart on the cycle of development for the next phase, and over a few years can capture a commanding lead over its competitors.

Teamwork is the second essential skill. Close ties between the manufacturing and development process can shorten the cycle as well as raise quality and reduce costs. The process by which designers simply hand an idea to manufacturers who are responsible for making a product is costly and time-consuming, and can no longer support technological leadership.

Simplicity, or starting with what is easy, is the third key skill. An example of this is the development of carbon fiber. While Europeans tried to introduce carbon fiber into their space program, the Japanese first used the material in golf clubs, tennis rackets, and fishing poles. The Japanese now control 60 percent of the market.

Total quality control is the fourth vital factor. It is often the difference between success and failure. One of the contributors to Technology and Competitiveness, Hajime Karatsu, professor of research and development at Tokai University in Japan, stated that:

Manufacturing is a battle against a million different possible breakdowns. It is a battle against errors, such as mistakes in planning schedules, incorrect design or an accidental mixture of materials other than the one originally arranged. Machines do not always work properly. Moreover, it is quite possible that factory workers will make mistakes. If these errors accumulate, the result will be a pile of defective goods.

We cannot predict where and how such errors will occur, however. Everyone in the factory must cooperate, looking for any potential problems and taking care of them in order to prevent future trouble. Basically, this is Japan's total quality control system.

The fifth key skill in mastery of the cyclic-development process is borrowing technology discovered elsewhere. There are only a few times during a development and production that new ideas can be absorbed, so trying to "push" a new idea into a company from the outside is rarely successful. The successful development and manufacturing team pulls new ideas into the process.

The sixth crucial skill in mastering the cyclic-development process is the practice of lifelong learning. The "half-life" of an engineer's knowledge is about 5 years. The challenge of continually reeducating and retraining employees is especially important for U.S. industry as our country faces a shortage of technically skilled workers.

Where do we stand in our ability to develop new technologies, as compared with Japan? According to the Japanese Ministry of International Trade and Industry [MITI], the United States lags behind Japan in the development of nearly all critical new technologies.

MITI ASSESSMENT OF U.S AND JAPANESE TECHNOLOGY

[Comparative Standing]

Technology	1983		1988	
	Level of technology	Technology development capability	Level of technology	Technology development capability
Data base	U.S.	U.S.	U.S.	U.S.
Semiconductor memory devices.	Equal	Equal	Japan	Japan.
Computers	U.S.	Equal	Equal	Equal.
VCR's	Japan	Japan	Japan	Japan.
D--PBX	U.S.	U.S.	Equal	Japan.
Micro-processors.	Equal	Equal	Equal	Japan.
Laser printers	U.S.	Equal	Equal	Japan.
Copy machines.	Equal	Equal	Equal	Japan.
Assembly robots.	Equal	Japan	Equal	Japan.
CAD/CAM	U.S.	Equal	Equal	Japan.
Communica-tions satellites.	U.S.	Equal	Equal	Equal.
Photovoltaics	Japan	Equal	Japan	Japan.
Aircraft engines.	U.S.	U.S.	U.S.	Equal.
Skyscrapers	U.S.	U.S.	Equal	Equal.
Advanced composite mat'ls.	U.S.	U.S.	Equal	Equal.
Fine ceramics	Equal	Japan	Japan	Japan.

Source: MITI, Trends and Future Tasks in Industrial Technology, 1988 White Paper.

This disturbing assessment underscores a new reality—that the United States can no longer rely on a lead in its level of technology to overcome shortfalls in its ability to develop new technology. Even more disturbing, there is no area where the United States has been able to recover or extend a lead over Japan. As policymakers, we cannot afford to ignore the evidence that our economic security is at risk.

Government policy alone cannot solve our competitiveness problems. However, Federal support for research and development on precompetitive technologies, along with a redoubled effort to make R&D activities at Federal laboratories more relevant and accessible to the private sector, can help U.S. manufacturers increase the speed—the crucial first factor in the cyclic-development process—with which new technologies can be marketed, in addition, Government policies on issues such as education, cooperative research and development ventures, cost of capital for long-term investment, and intellectual property protection create an environment which either fosters or hinders investment in innovation and increased productivity. Mr. Speaker, the American Technology Preeminence Act of 1990 makes a significant contribution to providing just such a favorable environment to develop the new technologies which support our economy in the years to come.

ROSELLE PARK FIRST AID SQUAD 50TH ANNIVERSARY

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. RINALDO. Mr. Speaker, on June 2, 1990, the Roselle Park, NJ, First Aid Squad celebrated its 50th anniversary. Kicking off the celebration was a parade comprised of ambulance, rescue, and fire units from throughout the State. I was pleased to participate in marking this special event and would like to share with my colleagues my remarks made on that special occasion.

I want to congratulate all of the men and women, past and present, who are responsible for the success of the Roselle Park First Aid Squad. You've gone through good times and bad. But you persevered. You raised money, and obtained community support and volunteers from every part of the borough.

You've enlisted women and young people into your ranks. Few organizations are as uniquely an American institution as our first aid squads. You represent the spirit of neighbor helping neighbor.

You responded to over 1,000 calls for assistance. You were always there. And equally important to the citizens of Roselle Park was the knowledge—the certainty—that if there was an accident in their home, on the street, at school, or at work, the Roselle Park First Aid Squad would respond.

You have been one of this community's brightest points of light for 50 years. In appealing to Americans to volunteer for their communities, and for their country, President Bush said that any definition of a successful life must include serving others.

Well, the men and women who have served in the Roselle Park First Aid Squad during the last 50 years have met that standard and been a great success.

You are a special breed. Ready to give help to trauma victims; aid strangers on a highway; resuscitate someone having a heart attack; bind the wounds of the injured; and be compassionate and cool even under the most stressful circumstances when someone's life is on the line.

It's impossible to say how many lives you have saved that otherwise might have died. But each squad member who has been called out in the middle of the night on an emergency call should feel a tremendous satisfaction in doing good.

The roster of people who have served in the first aid squad is an honor roll of good citizens. I can't think of a higher tribute than to have your name inscribed alongside those people like William Perry, Fred Boyne, Sr., Joe Iungerman, Ralph Scull, Jim Clark, Phil Preie, and Joseph Caffrey, and more recently, Rita Kliminski, your first female line officer, and Kathy Bonavita, your first woman president.

You have come a long way since that Studebaker ambulance 50 years ago rushed out to answer the first emergency call for help.

You're as much a part of the tradition of Roselle Park as Herm Shaw Field, the post office, and the high school.

So today, we salute you and thank you for all you've done to make Roselle Park a better place in which to live.

Thank you for inviting me, and congratulations once again to all of you. You exemplify the best in America.

JUNE IS TURKEY LOVERS' MONTH

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. LANCASTER. Mr. Speaker, as the month of June comes to a close, I wanted to remind my colleagues that the National Turkey Federation has named this month as Turkey Lovers' Month. The turkey industry has joined together to support the first-ever June is Turkey Lovers' Month to celebrate the importance of the turkey industry to the agricultural community. There is also a need to create a public awareness of the rapid growth and changes now taking place in the turkey industry.

North Carolina now leads the Nation in the production of turkeys. Duplin County, which is part of my congressional district, raises over 12 million turkeys each year. This amounts to 20 percent of the State's production, and makes Duplin the largest turkey-producing county in the Nation. I am proud of the turkey industry and its phenomenal growth in my congressional district, and throughout North Carolina.

Turkey is, of course, the favorite entree for Thanksgiving dinner. But is has taken a giant leap off the holiday table to become a year round treat. Thirty years ago, 90 percent of the turkey consumed in this country was in the form of the whole bird, and during the last 2 months of the year. Today, only 17 percent of the turkey consumed is during the Thanksgiving and Christmas season.

Moreover, consumers have created a demand for convenient, low-fat turkey products throughout the year. Research shows that turkey is now consumed by over 41 percent of Americans at least once in a 2-week period. That is an increase of 63 percent from just 4 years ago. Last year, on average, each American ate 16.9 pounds of turkey.

With consumer demand growing for turkey during the summer months, June was a good month to celebrate Turkey Lovers' Month. At this time of the year, more than any other, consumers are looking for food that is delicious, light, nutritious, and above all, convenient. Turkey meets all those requirements. I urge my colleagues to join me this summer in honoring our turkey producers throughout the Nation.

THE VINCENT GARVEY FAMILY HONORED AS PENNSYLVANIA STATE FAMILY OF 1990

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Vincent Garvey Family of Hazleton, PA, who were selected as the Pennsylvania State Family for 1990 by the Pennsylvania State Council of the Knights of Columbus.

The award is presented to a family who has inspired their community, church, and council through their support and commitment to christian family life. At a time when this country is concerned with the erosion of traditional family values, it is especially heartening to recognize the contributions of a family like the Garveys.

An active member of the Knights of Columbus for 38 years, Vincent Garvey is a former district deputy of the 25th Pennsylvania District and a Past Faithful Navigator of Benedict XV Assembly. Currently, he is a member of the master's staff of the Fourth Pennsylvania District. He also serves as historian and presiding officer of the fourth degree team, and is a member of the first, second, and third degree teams.

Vincent Garvey and his wife, Dorothy Garvey, have three daughters and three sons. They are the proud grandparents of five grandchildren, two girls and three boys.

The backbone of this great country is the American family. Families are a constant source of love and support. In the day-to day interaction with family members we learn the importance of cooperation, compromise and responsibility. Much of what we bring to the world is rooted in our family.

Mr. Speaker, distinguished colleagues, I ask that you join with me and the Members of the 11th Congressional District of northeastern Pennsylvania in saluting the Vincent Garvey family of Hazleton, PA. It is my hope that the example they have set will be repeated across this great land.

ROMANIA: HOPES AND DISAPPOINTMENTS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. HOYER. Mr. Speaker, the peaceful demonstrations in University Square represented an attempt by many who felt cut out of the political process in Romania to find a voice. Over the course of 7 weeks, they called for a return to the ideals of the December revolution: unity, tolerance, mutual respect, and the right to free expression and honest competition for public support of political views. The ideals that erupted in December bringing down the Ceausescu reign of terror have been cast aside by the Iliescu government.

It is true that the brutal legacy of Ceausescu poses a particularly difficult path for Romania to travel in order to achieve true political pluralism in which diversity is not merely tolerated but a means by which democracy is assured. Years of degradation of a nation's body and spirit surely cannot be overturned immediately. The revolution was the first step toward gaining freedom—more steps are necessary to build democracy.

The government of President Iliescu must use the great opportunity that lies before it to pave the way. At a minimum the Government must assure the safety of its citizens who seek the right to free expression and it must engage in a dialog with not just opposition groups but all of Romanian society. President Iliescu should seek ways to heal a nation ripped apart by years of deprivation and not use methods that further a dangerous polarization.

The Helsinki Commission is disappointed. But it is not dissuaded from continuing to voice its concerns on Romania's future. As it has said from the beginning silencing dissent does not bring an end to discontent. It merely delays its rupture.

VOTING AGAINST H.R. 5114

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. TAUKE. Mr. Speaker, it was with mixed emotions that I joined 116 of my colleagues yesterday in voting against H.R. 5114, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991. I recognize that there are many valuable and important provisions in the bill that will further U.S. interests around the world. These include funding to promote American exports, aid to our allies in the Middle East—Israel and Egypt, and aid to the emerging democracies in Eastern Europe. However, I have received a loud and clear message from my constituents in Iowa regarding increased Federal spending. They have made a clarion call for restraint in all new Federal spending. The bill called for spending above and beyond what was requested by the President.

I have pledged to oppose appropriations bills that call for spending increases above the rate of inflation. While this measure had many merits, I had to apply the same standards as those I apply to all spending bills.

TRIBAL CATTLE HERD PILOT PROJECT

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. JOHNSON of South Dakota. Mr. Speaker, today, I have introduced legislation known as the TRICAPP bill. The Tribal Cattle Herd Pilot project will establish a low-interest loan program through the Bureau of Indian Affairs for cattle purchases by five Northern Great Plains Indian Tribes.

The 5-year pilot project would authorize the Cheyenne River Sioux, Crow Creek Sioux, Oglala Sioux, Fort Belknap, and the Northern Cheyenne to secure loan guarantees or direct loans to purchase cattle herds which will be used to reestablish and expand individual cattle operations run by tribal members who meet specific eligibility criteria. Many ranchers on Indian lands are land-rich and cash poor and my proposal is designed to address this problem. The Interior Committee has recommended $500,000 to the Agriculture Subactivity. The BIA has already committed to $15,000 in technical assistance for this initiative.

Mr. Speaker, I am responding to tribal requests for aid in reestablishing the cattle industry in Indian country. In fact, the TRICAPP bill incorporates much of qualities of the now defunct but successful BIA Revolving Cattle Program. The project includes a research and technical assistance component to be provided by South Dakota State University and Montana State University in order to improve individual and tribal cattle management and marketing.

THE NEED FOR CONGRESSIONAL OVERSIGHT OF U.S. TELECOMMUNICATION POLICY

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 28, 1990

Mr. WALSH. Mr. Speaker, I am glad to have the opportunity to speak to you today about the need to coordinate our national telecommunication policy. During my 15 years of service at NYNEX, I witnessed the telecommunications industry transformation from a completely regulated monopoly to the aftermath of AT&T divestiture that established the seven regional holding companies commonly referred to as the "Baby Bells." The AT&T divestiture has been successful in some areas and a failure in other aspects but that's not the point. The point is that Congress has gradually given up its responsibility to deregulate the telecommunications industry since the enactment of the Communications Act of 1934. Congress did this through its legislative inaction and by allowing the Federal Judiciary to dominate the debate. As telecommunications technology advanced in quantum leaps and has information services and the need for those services expanded exponentially, the industry has been hamstrung by the judicial review process.

The U.S. telecommunications industry has lost its leadership role in the global marketplace. Dramatic evidence of the U.S. decline is apparent in recent U.S. trade figures. The U.S. trade balance has dropped dramatically from a $275 million surplus in 1982, when the terms of the consent decree were announced to a $2.6 billion deficit in 1988. These discouraging trends have convinced me that the time for Congress to address these shortfalls and to promote U.S. competitiveness is now.

In achieving a balanced national telecommunications policy Congress should assume its rightful jurisdiction, using the public interest standard for the furtherance of national telecommunications policy goals and objectives. Furthermore, Congress should shift the oversight of our national telecommunications policy to the Federal Communications Commission [FCC] where Congress will have the authority to monitor the FCC. I firmly believe that this approach is the most effective method of promoting and encouraging competitiveness and continued innovation in the U.S. telecommunications industry.